

# THE CONGRESSIONAL GLOBE:

CONTAINING

## THE DEBATES AND PROCEEDINGS

OF

### THE FIRST SESSION

OF

### THE THIRTY-EIGHTH CONGRESS.

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BY JOHN C. RIVES.

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# THE CONGRESSIONAL GLOBE.

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THIRTY-EIGHTH CONGRESS, 1ST SESSION.

SATURDAY, APRIL 30, 1864.

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sumed the consideration of the bill (H. R. No. 395) to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof, the pending question being on the amendment of Mr. POMEROY to the amendment of the Committee on Finance to the forty-first section of the bill. The amendment of the committee was to strike out the following clause in the forty-first section:

And nothing in this act shall be construed to prevent the taxation by States of the capital stock of banks organized under this act, the same as the property of other moneyed corporations for State or municipal purposes; but no State shall impose any tax upon such associations, or their capital, circulation, dividends, or business at a higher rate of taxation than shall be imposed by such State upon the same amount of moneyed capital in the hands of individual citizens of such State: *Provided*, That no State tax shall be imposed on any part of the capital stock of such association invested in the bonds of the United States deposited as security for its circulation.

And in lieu thereof to insert the following:

And in lieu of all other taxes every association shall pay to the Treasurer of the United States, in the months of January and July, a duty of one half of one per cent. each half year from and after the 1st day of January, 1864, upon the average amount of its notes in circulation, and a duty of one quarter of one per cent. each half year upon the average amount of its deposits, and a duty of one quarter of one per cent. each half year, as aforesaid, on the average amount of its capital stock beyond the amount invested in United States bonds; and in case of default in the payment thereof by any association the duties aforesaid may be collected in the manner provided for the collection of United States duties of other corporations, or the Treasurer may reserve the amount of said duties out of the interest as it may become due on the bonds deposited with him by such defaulting association. And it shall be the duty of each association within ten days from the 1st days of January and July of each year to make a return under the oath of its president or cashier to the Treasurer of the United States, in such forms as he may prescribe, of the average amount of its notes in circulation, and of the average amount of its deposits, and of the average amount of its capital stock beyond the amount invested in United States bonds for the six months next preceding said 1st days of January and July, as aforesaid; and in default of such return, and for each default thereof, each defaulting association shall forfeit and pay to the United States the sum of \$200, to be collected either out of the interest as it may become due such association on the bonds deposited with the Treasurer, or, at his option, in the manner in which penalties are to be collected of other corporations under the laws of the United States; and in case of such default the amount of the duties to be paid by such association shall be assessed upon the amount of notes delivered to such association by the Comptroller of the Currency, and upon the highest amount of its deposits and capital stock, to be ascertained in such other manner as the Treasurer may deem best: *Provided*, That nothing in this act shall be construed to prevent the market value of the shares in any of the said associations, held by any person or body corporate, from being included in the valuation of the personal property of such person or corporation in the assessment of all taxes imposed by or under State authority for State, county, or municipal purposes; but not at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of such State. And all the remedies provided by State laws for the collection of such taxes shall be applicable thereto: *Provided*, also, That nothing in this act shall exempt the real estate of associations from either State, county, or municipal taxes to the same extent, according to its value, as other real estate is taxed.

The amendment of Mr. POMEROY was to strike out the first proviso of this amendment, and in lieu of it to insert:

*Provided*, That nothing in this act shall be construed as exempting the capital stock of an association, beyond the amount invested in United States bonds and deposited with the Treasurer of the United States as part of its capital or as security for its circulating notes, from being subject to the same rate of State and municipal taxation as is imposed upon other personal property in the State, city, or town in which the association is located.

Mr. POMEROY. I should like to have the vote taken on this amendment. We are still in Committee of the Whole, and we are yet upon the amendments made by the Committee on Finance. This is simply an amendment to the amendment proposed by that committee. I should like to have a vote on this, and then we can proceed with the other amendments moved by the committee; and if this should be voted down we can move it again, I suppose, when we come into the Senate.

Mr. FESSENDEN, Mr. CLARK, and others. Withdraw it now and offer it in Senate.

Mr. POMEROY. I do not care to divide the Senate now.

Mr. CLARK. I suggest to the Senator that he had better perhaps let us act on the commit-

tee's amendment, and he can move this amendment when the bill comes in the Senate.

Mr. POMEROY. I am told it is not within the rules to amend the committee's amendment in the Senate after we have concurred in the amendment.

Mr. CLARK. Undoubtedly we can amend it in the Senate, because the question arises there on concurring in the amendment, and it is perfectly proper to concur with an amendment.

Mr. POMEROY. It is entirely immaterial to me where the vote is taken.

Mr. CLARK. There cannot be any question about the point of order.

The PRESIDING OFFICER. Does the Senator from Kansas withdraw his amendment?

Mr. POMEROY. I am not particular where the vote is taken, whether now or in the Senate.

Mr. SHERMAN. I think we may as well take it now, and settle the question.

Mr. FESSENDEN. This amendment of the Senator from Kansas settles the question of taxation by the States.

Mr. SHERMAN. I call for the yeas and nays on that amendment, because it involves the whole question. The amendment of the Senator from Kansas involves the question as to whether the right of the States and cities to tax shall be reserved, and I would, therefore, like to have the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. POMEROY. I will only say one word, as I suppose the Senate precisely understands this amendment. It is that municipal taxation shall extend to the entire capital of the bank not invested in Government bonds; that it shall extend to the buildings of the corporation, and to every facility that the corporation affords, except that this amendment makes it in harmony, as I conceive, with the existing law in providing that that portion of capital invested in Government bonds shall not be taxed except by the Government. The bill provides previously that one half of one per cent. every half year on the circulation, and one quarter per cent. semi-annually on the deposits, shall be paid to the General Government. I have no objection, as the Senator from Ohio has suggested, to increase that tax. It is the principle I want to save; that is that that portion of the capital invested in Government bonds shall be taxed only by the Government of the United States, and not by municipal authority. That is precisely this amendment. It has been discussed again and again here, and the Senate must understand it. I shall content myself with letting the vote be taken.

Mr. CLARK. The Senator may be contented with taking the vote, and the Senate may understand it. I have no doubt they do; but I shall content myself if I make a few remarks. I do not suppose by the remark of the Senator from Kansas that he meant to intimate that I or anybody else should not be permitted to speak. I do not understand it in that light.

Mr. POMEROY. I only meant that I thought the Senate was ready to vote.

Mr. CLARK. I am desirous that we shall come to a vote as early as possible, but I want to make a few suggestions to the Senate; they may be of no avail in determining anybody's vote, but I shall have had the satisfaction of stating my views to the Senate.

I have looked at the Senator's amendment, and what is it? The committee propose to allow the States, the counties, the cities, and the towns to tax the shareholders of a bank, not to take and tax the capital stock of the bank to the bank, but to tax the shareholder for as many shares as he may have in the bank. For instance, if my colleague, or one of his friends in Dover, should own a share in a bank in Portsmouth, he would be taxed for that share in Dover, as a shareholder in the bank. I understand this operation to be entirely within the case of *McCulloch vs. Maryland*, and it was decided in that case (which the Senator from Massachusetts said was pure reason, and we will take the decision then as con-

clusive,) that the shareholder may be taxed. The Senator from Kansas proposes to strike this entirely out, not to allow the States or the county of the town to tax the shareholder, nor the State where the bank is, nor the town where the bank is, to tax any portion of the capital of the bank except that which is invested in other securities besides the national bonds. Now, I want the attention of the Senator from Massachusetts a moment to this very case of the Bank of Commerce, which we propose to admit here as a national bank. That bank has \$10,000,000 capital. Suppose it invests every dollar of it in the national securities. It takes therefore \$9,000,000 of circulation if it chooses. Suppose it puts that \$9,000,000 of circulation into its vaults and does not circulate a dollar.

Mr. COLLAMER. Allow me to say to the Senator that they have \$16,000,000 of United States bonds now.

Mr. CLARK. I am aware how much they have. That is another point. They have \$16,000,000 of the bonds, but their bank capital is \$10,000,000. They take then \$10,000,000 of their \$16,000,000 of bonds, and put their capital into those bonds. Then their bank capital is all invested in Government stocks, and they cannot, therefore, be taxed on that. They put no bills in circulation, and therefore they pay nothing as a tax on circulation. They cannot be taxed by the State, they cannot be taxed by the city; they pay one half of one per cent. a year to the Government, that is, one fourth of one per cent. every six months, under this bill, on that capital, and that is all they do pay. They have \$25,000,000 of surplus, I think. How are you going to reach that surplus? If the amendment of the committee prevails the share of each shareholder, estimated at its market value, can be taxed, and that of course embraces the surplus, because the value of the share is affected by the surplus.

Mr. SHERMAN. If the Senator wants an answer, I will give it in figures. The Bank of Commerce, if I understand, under the proposed amendment—because if the amendment of the Senator from Kansas shall be adopted, I shall follow it with an amendment which I have already indicated—will pay one per cent. on \$16,000,000 of deposits. Their average of deposits is about sixteen millions. That would be \$160,000.

Mr. CLARK. I do not know what percentage the Senator may propose. I am talking of it as it now stands, and I am talking of the rate, not of the amount, and I am talking about the surplus, not about the deposits. The rate here fixed is one half of one per cent. a year upon those deposits; but what would be the tax on its surplus?

Mr. SHERMAN. One per cent.

Mr. CLARK. Where is that provided?

Mr. SHERMAN. It is provided for all excess of capital beyond the bonds. The Senator does not distinguish between investments and capital. The capital is \$9,000,000 and the surplus \$2,000,000. All in excess of the capital is taxed one per cent.

Mr. CLARK. But this is not surplus capital. It is a surplus in the bank. It is no part of its capital; it is surplus earnings.

Mr. SHERMAN. It is all taxed.

Mr. CLARK. Is there any provision in the bill for taxing it? Will the Senator turn me to it?

Mr. SHERMAN. In this same section.

Mr. CLARK. I have read it very carefully to see whether it is there, and I do not find it. I may be mistaken, however, and I will read it again:

"In lieu of all other taxes, every association shall pay to the Treasurer of the United States, in the months of January and July, a duty of one half of one per cent. each half year, from and after the 1st day of January, 1864, upon the average amount of its notes in circulation."

That is fixed, but they have no circulation in the case supposed, and of course they do not pay that tax.

"And a duty of one quarter of one per cent. each half year on the average amount of its deposits."

Of course they will have deposits and pay one half per cent. a year on whatever they are.

"And a duty of one quarter of one per cent. each half

year, as aforesaid, on the average amount of its capital, beyond the amount invested in United States bonds."

Is that what the Senator means? But its capital is fixed at \$10,000,000. By its articles of association it is fixed; it is neither enlarged nor decreased.

Mr. SHERMAN. Under the construction put upon it, undoubtedly the accumulated profits will be considered as capital to be taxed under that section; but if there is any doubt about that, it is very easy to make it certain by the change of a few words. I do not think there is any doubt.

Mr. CLARK. I think there is a doubt, because in New Hampshire we have found the necessity of passing a special law for that purpose to meet a case of that kind. The taxing of shareholders and the taxing of the bank did not reach its surplus because it was not a part of its capital, but was a part of its surplus earnings liable to be divided out at any time by a vote. Then if that is the provision which the Senator refers to I will not read the section any further, because I do not understand that provision to be what he supposes it to be.

Now, let me go into another case. Here is a bank of \$100,000 capital, say in my own State. It has invested its capital in insurance stock, in other bank stock, all outside of the Government bonds. That bank wants to go into this national system. It takes its \$100,000 in Government bonds, and puts them into its capital, and relieves all the other stock which it has. What is the effect of that? It has relieved itself from all taxes, State, county, and municipal. Before it helped us to support our State government; and it held just so many of the bonds of this Government. It helped to support our county expenses, but it has relieved itself of that. It helped to support our town expenses and city expenses, but it has relieved itself of all that just by the operation of turning over its hand and investing its capital in the United States bonds. You have withdrawn all that capital from that taxation.

Now, Mr. President, as I said yesterday, the burdens of taxation upon the country are to be enormous, and they are to be the burdens which will be felt the longest. In this present crisis we think nothing of taxation compared with the loss of life, and it is to be considered as nothing with the loss of life; but years roll by and time heals up the wounds that are made by the loss of friends; they pass away and memory rolls over them; but the burdens of taxation will last from year to year and year to year, and they will be constantly returning upon your people, and your people will be constantly regretting the good Government which they had, and complaining, perhaps, of their burdens. No, I do not know that they will complain, for I think this people will bear almost anything to preserve their Government; but they will be constantly reminded of the taxation. I desire simply to make this taxation equal when you impose it. I will vote for as large taxes as any man, on all sorts of property, for the purpose of maintaining this Government, but I wish that you shall make that taxation equal.

In the State of New Hampshire, in all of the States of this Union, there are large State debts. My State never was in debt before this rebellion. It perhaps had to borrow \$20,000 or \$25,000 in anticipation of the State tax, but when the year rolled around it was entirely free from debt. Now it is largely in debt. It is willing to be in debt to preserve the Government; but the State does ask, and I ask for it, that when that State has got itself in debt for the purpose of supporting your General Government you shall not take the property from that State which is liable to taxation and give it entirely to the General Government. The people will complain.

I want to say a word here in regard to the argument that was used by the Senator from Massachusetts the other day, and that was that it was desirable to make the tax upon the national banks uniform. That might be so if everybody paid a uniform tax, but if people in different localities do not pay a uniform tax I contend that there is no justice in making one species of property pay less or more than another. Let me illustrate. It was said by the Senator from Michigan that property in Detroit, I think, paid three per cent. Did I understand him aright?

Mr. CHANDLER. About that.

Mr. CLARK. About that; I will take it in

round numbers. Very well; your taxes in Detroit are, say, three per cent. You establish a national bank there, and by the establishment of the bank you do not pay two per cent. nor one and a half per cent.; what then? The result will have been that you have taken just the amount of capital that you have put into the national bank in Detroit from under that taxation of three per cent., and made the tax on other property just so much the heavier.

Mr. LANE, of Kansas. The bonds are not taxed now.

Mr. CLARK. I understand that the bonds are not taxed now, except by the income tax; but let the Senator from Kansas bear in mind that when we excused the bonds from taxation we excused them as bonds, but when individuals put them into banking operations and invest them as banking capital, and thereby get the privilege of having ninety per cent. of those in circulation as notes for which they pay no interest, that circulation and the money made upon it and the value of the shares as they stand ought to be taxed. So long as your bonds remain as the bonds of individuals you cannot tax them except by the income tax; but it is their option to put them into a bank and go into the business of banking, which is a very profitable business. Then you propose to excuse them from taxation also. The argument of the Senator from Vermont the other day was a very forcible one, that the people will not bear to see excused the rich men of the country by paying lighter taxes, as in the case in Detroit, if you please, the other citizens in Detroit will not bear to see excused the moneyed men who put their capital into banks and let the taxes fall on somebody else. There is injustice in it, and constant source of complaint, and it will work you more mischief than your national banks, in my judgment, will do you good.

I am willing to assist the Government. I desire to vote for the bill. I desire that such inducements shall be held out, and they are large, to the banks as will induce your State banks to come into this system; but I do not desire to see the people oppressed by the relief of one portion of the capital of the country, and a double imposition on the rest; but it must be so as it stands.

Let me illustrate. In my own city right about me there is \$500,000 of bank capital, none of it invested in the bonds of the Government as I understand, but all those banks carrying an amount of the bonds equal to their capital. Under this they can just turn their capital into the bonds of the Government and relieve everything else they have from taxation. What better will the Government be? Not a new bond will be taken.

Mr. LANE, of Kansas. Will they not hold property besides the bonds and be taxed on it?

Mr. CLARK. How can it be taxed under the provision here? It is a national institution. You cannot reach the shareholder. It is no part of its capital. How do you propose to reach it?

Mr. LANE, of Kansas. They will withdraw it from the bank.

Mr. CLARK. They will withdraw it from the bank, the Senator says; but if they withdraw it, it is to be taxed; if they keep it in the bank it will not be taxed. Will not that induce them to keep it there?

Mr. LANE, of Kansas. I am desirous to hear the Senator from New Hampshire; and I am going to vote for this bill, if I vote for it, very reluctantly; and I will not consent to vote for it if any portion of the property contained in a bank anywhere is placed in a different position from all the rest of the property in that district.

Mr. CLARK. I am glad to hear the Senator say so. I stand in precisely the same position that he does.

Mr. LANE, of Kansas. This is what I desire to call out from the Senator from New Hampshire. He says a bank in his town has \$100,000 of money, of property, and can relieve that from taxation by having \$100,000 of Government bonds. Does he mean to have me understand that they will keep that \$100,000 relieved in the bank, producing nothing, or will they withdraw it and invest it otherwise and have it subject to taxation?

Mr. CLARK. The Senator does not understand me fully. I will put the case again. The capital of the bank now is invested in insurance stock and in bank stock outside, which pay divi-

dends. They shift the capital from these bank stocks and insurance stocks into the Government bonds. They relieve them as stocks invested in capital, and hold them in the bank as stocks upon which they get their dividend. It is not money without interest.

Mr. LANE, of Kansas. Would they not have to give an account of that to the assessor?

Mr. CLARK. Not under this bill.

Mr. LANE, of Kansas. I suppose that we shall arrange the bill so that they shall be taxed for the property they have.

Mr. CLARK. That is just what we are looking after, and these are the deficiencies I am pointing out in this whole scheme.

Mr. LANE, of Kansas. I hope we shall reach that.

Mr. CLARK. I hope so, too; but then beyond this I have an objection to this scheme, and I desire to state it to the Senate; and that is that there must necessarily be an inequality between this bank property and the other property, and that should not be. If a bank exists in my city I contend that that bank should pay an equal share of the taxes of that city, whether they be lower or higher than in another place. If they be lower than elsewhere, you should not make that bank pay any more than is paid there because another bank in another State pays higher; and if they be higher, you should not excuse it from taxation because another bank in another State pays less. It may be that this very bank has grown up by the improvements in that city which have made the taxes high; and shall it therefore be excused from paying them? In my judgment the true way is to leave all the taxes to fall upon property, the whole property; let the national Government come with its collector and its assessor, and assess all the property that it is proper to assess, and assess it equally; then let the States come, each within its own sphere, and assess the property for State purposes; and then let the county assess for its own purposes, and each town and city for itself. Then no property is separated from the rest, each bears its share of the burden, each bears its share of the national burden, each bears its share of the State burden, each bears its share of the county burden, and each of the town burden; and I beg Senators to remember that some of the worst difficulties there ever have been in any nation have grown up because the common people complain that the nobles and the clergy were not taxed as much as the people.

Let your bank bill go into operation in this form and the people will not believe always that it is taxed as much as it is. They are very ready to get up a cry that it is not taxed, and they will become discontented. But put them all into the assessor's list together, put in the millionaire with the man of moderate means, assess them according to their ability for all these several objects, and let them stand together, and there is no cause of complaint. I deprecate this segregation of any portion of the property. This is our country, the States are the upholders of the country, the counties are the upholders of the States, the towns are the upholders of the counties. We are all within one another, and when you separate one from another, or weaken one at the expense of another, you derange the whole and produce conflict and complaint.

It was said by the Senator from Michigan that a bank could not go into operation with the tax that would be imposed on it. Then I ask, why should that bank go into operation? I want to know why the General Government should take from under the burdens which the towns and counties and States have incurred, any portion of that property and make the tax to fall lighter on it? If there be \$500,000 in the city of Detroit ready to go into a national bank and to be assessed at a less rate than you assess the rest of the people of Detroit, I ask what justice there is in doing it. I say let us stand together in support of the Government, and let these burdens rest upon all alike.

I would not have a rush for national bank stock; I would not have a rush to change one security to another. I would appeal to the people and ask them to take the Government debt, and they will take it. They may not take it very readily at five per cent. when you have fed them with six per cent. and then propose to strike it down to five. I find no fault with the policy of



the Government; I am desirous to support the Government in any policy that can consistently, which they may adopt, and I will do it unflinchingly; but I have a right to ask, as a legislator, that in imposing these burdens, or in granting these privileges as I may say, you shall remember the people behind that have got the rest of the taxes to pay.

I listened with pain to the argument of the Senator from Massachusetts the other day. I should not have said "the argument." I do not regard it as an argument. I listened with pain to the ridicule he sought to throw upon the position of those like myself under the name of State rights, and he appealed to the Senate not to listen to this provision to have taxes assessed by the States because the claim was made in the name of State rights, and he wanted to induce the Senate, because Mr. Mason, or somebody else, had stood up here in the Senate and said he owed no allegiance to the Government—

Mr. SUMNER. I never alluded to that.

Mr. CLARK. I know the Senator did not allude to it in terms, but the abuse and the odium produced upon State rights is done by that very thing, which is included as the less is included in the greater.

Now, sir, while I deprecate the use that was made of State rights, and while I repudiate the doctrine of State rights entirely as they held it, I say the States have rights, and the States have duties, and nobly have the loyal States performed those duties; and it is not fair to the States to try to cast this odium upon them. Why, sir, if it had not been for these loyal States—and they claim nothing under State rights—you could not have put your men in the field; and if it had not been for the banks in the States the States could not have put their men in the field. Break down the banks in my State, and you break down the institutions which carry the State debt, you break down the institutions which carry the county debt, and you break down the institutions which carry the town debts to a very great extent, and you leave us entirely just as you would be left if you had no moneyed institutions. In my judgment, it is quite as well that the Government should be left without banks as it is that the States should be left without banks. It is the part of patriotism for us all to stand together, each bearing, as I said, its share. There should be no complaint of one class from another. I would leave the towns to tax their shareholders where the shares of the stock are held. We have had the experience of it for thirty years; we have found it to be an experience that has worked well, and we are loth to quit it and try new schemes, especially schemes which separate one portion of property from another, one class of men from another, and impose a burden on one which they do not impose on another.

These are my views, Mr. President, shortly, succinctly expressed. But I do say that I should deprecate, as I deprecate anything of this kind, the removal of this class of property from the taxation of the States. I say you should let the States tax the shareholders in your national banks, and bring the States into the support of your national banks, not into hostility to them. If you allow the States to derive the same advantage from these banks by taxation which they derive from other property they will come to your support, they will allow the State banks to be changed without much objection, if any, readily, in order to support the Government; but let it be understood that you are going to withdraw the capital of these banks from the control of the States, that you are going to take it away from their control for taxation and give it to this Government entirely, leave them to defray alone the debts of the States, the debts of the counties, the debts of the towns and cities, and the support for years and years as they will of the families of the men who have gone out to sustain your Government, and they will feel it to be a hardship—not that they will hesitate in their loyalty; they will stand by the General Government; they will stand by the General Government to the last, well knowing that when the Government goes it goes with a sweep that sweeps everything away; but they do ask you so to arrange this matter of business that they and you can stand together and have equal shares and parts in this great Government which they help you to preserve.

Mr. LANE, of Kansas. I want to reserve the right of taxation to the States, counties, and towns, for the reason that it has in it the power to destroy these institutions if necessary. The time may come, as it once was, when the people of this country will not want a United States bank; and I desire to give to every city, county, and State the power to destroy it if that time shall come. I vote for this bill because it is deemed by the Secretary of the Treasury a necessity for the maintenance of the country at this crisis. But for that, any United States bank bill would meet my fiercest opposition.

If our country were at peace I should feel it to be a duty that I owed to my constituents to ask for time from the Senate to denounce this scheme. I opposed it when it was in existence; I spat upon its grave after it was buried; and I am now induced to support it because my country demands it; and when the Senator from Michigan tells me that the power to tax these institutions gives to the people the power to destroy it, I am satisfied. I should vote that authority to the cities, counties, and States.

Mr. SUMNER. If it were in order I would move an amendment to the proposition under consideration; but as it is not I propose to make it in the form of a suggestion to my friend who has moved this amendment. It is not in order I take it, because the amendment now under consideration is an amendment to an amendment, and that is as far as we can go. I understand from the Senator who has offered this amendment that he desires to exempt the shares of individual proprietors from local taxation.

Mr. POMEROY. Will the Senator be pleased to read his amendment that we may see what it is?

Mr. SUMNER. On a careful study of the Senator's amendment I do not think it is successful in carrying out that idea, and I therefore propose to add these words, "but the shares of the stockholders shall not be subject to any State, county, or municipal taxation." These words will come in at the end of the Senator's amendment, and they will make his idea perfectly clear, so that hereafter there can be no question if the Senator accepts the proposition.

Mr. POMEROY. My amendment displaces precisely that language in the amendment reported by the committee on Finance. My amendment is in the place of the proviso in the amendment reported by the committee; and I think that as it stands it does not allow the shares to be taxed to anybody.

Mr. SUMNER. It seems to me from reading the amendment of the Senator, that if it were left to stand as it is, the shares of individual proprietors would be liable to local taxation. I must say that is my opinion on considering the amendment, and I find that it is the opinion of other Senators about me who have considered it carefully also.

As I have said already in this debate, what I am ready to do I want to do thoroughly, and as I have made up my mind to support this measure and to organize this national bank, I want to do what I can, to the extent of my vote and my counsels, so far as they may be of any value—I set very little on them myself—to make the institution as strong as possible. We cannot hope that it can succeed unless we make it as strong as possible. If we leave it exposed to any hostile influence from without, from another jurisdiction whether State or municipal in any way, I feel that we do not do justice to our own work; we leave it exposed.

I think, therefore, the idea of the Senator whose amendment is under consideration will be carried out and completed if he accepts the words which I now propose.

Mr. POMEROY. I think it is not in my power to accept the Senator's proposition, because the yeas and nays have been ordered upon my amendment, and I think my amendment is more perfect without those words than with them.

Mr. SUMNER. Very well, then; it is not in my power to move it. Perhaps at some other stage it will be.

Mr. POMEROY. If the amendment which I have moved shall prevail, the Senator can then move further to amend by adding the words he proposes.

Mr. COWAN. Mr. President, the question

involved is whether the shareholders in the national banks shall be subject to taxation by State and municipal authority. It is argued that they should not on the ground of hardship, and hardship enough to defeat the measure. Let us see.

The capital stock of these banks is or may be wholly indebtedness of the United States to the shareholders, or, in other words, they have made loans to the Government, which are evidenced by Government bonds bearing six per cent. interest payable as well as the principal in gold. Upon depositing these bonds in the Treasury, Government furnishes to the bank ninety per cent. of their value in bank notes intended for circulation, and imposes one per cent. annually as a tax upon that circulation.

The first thing to be noted is, that the bond deposited bears interest at six per cent. in gold, which would not be extravagant if the lender had lent gold. Such, however, was not the case; the loan was made in currency, to-day worth say sixty cents on the dollar, would reduce the actual value of a \$1,000 bond to \$600. For this \$600 Government pays \$60 in gold, equal to ten per cent. per annum. This \$60 may be sold for \$100 in currency, thus raising the rate to sixteen and two thirds per cent. in paper, which, so far as the Government is concerned is the same as gold, because it is bound to redeem it in gold. Whatever his bond may have been worth, he receives annually for the use of it \$100 in currency—at least a fair compensation. The Government, however, by this scheme proposes to do still better, and when the bond becomes bank stock delivers to him ninety per cent. or \$900 of bank notes for circulation. Three fourths of this amount he may, as banker, realize interest upon again by either loaning it to the Government or to the people. Suppose to the latter at six per cent., he would then receive \$40 50; and from this sum one per cent. on the \$900, or \$9 must be deducted, leaving \$31 50. This added to the \$100 received on the bond makes \$131 50 clear per annum for the use of \$600 real or \$1,000 paper, which one would think was doing very well by way of compensation. And yet it is argued that this bondholder, thus receiving thirteen per cent. upon an investment of \$1,000, which was really worth but \$600, cannot afford to pay his share of the local taxes. What is there to prevent him from reinvesting his interest or his profits in Government stocks and Government banks again on the same terms, and thus receive in the end the whole in gold? In this aspect the rate of the profit rises enormously, for, starting with the \$600 originally loaned, it becomes nearly twenty-two per cent. I beg Senators to make this calculation for themselves, because it seems to me there is great misapprehension as to the real nature of the working of the laws of a depreciated currency, and of the amount to be realized by shareholders out of these banks. If I am right, I think it impossible that any one can complain of the provision made by the amendment of the Committee on Finance, and I hope that the amendment proposed here may fail.

Mr. JOHNSON. Mr. President, I inquired just now of the Senator from Kansas whether his amendment does more than is done by that part of the bill that came from the House of Representatives which is proposed by the Finance Committee to be stricken out, and whether, if I was right in that, he proposed to substitute his for what is to be stricken out on the recommendation of that committee. That part of the bill which the committee advise us to strike out says:

"Nothing in this act shall be construed to prevent the taxation by States of the capital stock of banks organized under this act the same as the property of other moneyed corporations for State or municipal purposes; but no State shall impose any tax upon such associations, or their capital, circulation, dividends, or business, at a higher rate of taxation than shall be imposed by such State upon the same amount of moneyed capital in the hands of individual citizens of such State: *Provided*, That no State tax shall be imposed on any part of the capital stock of such association invested in the bonds of the United States deposited as security for its circulation."

I am not sure that I have collected the true meaning of the amendment offered by the member from Kansas; but so far as I understand it, it does no more than is done by the bill as it came from the House of Representatives; so that it leaves subject to State taxation everything of capital in the bank, and all the business of the bank except such portion of its capital as may be in-

vested in the bonds of the United States. Feeling, as I stated the other day when the bill was before us, that the States have a very deep interest in the questions which this measure presents, and that its success will very materially interfere with that interest, I beg leave to add now a word or two more for the purpose of showing what will be the effect of the bill if it shall pass as is proposed, and more especially the effect of the bill if it shall pass with a prohibition upon the States taxing the capital of these banks.

The first effect of the bill will be to transfer the whole capital now invested in banks in the States into the banks contemplated by this law; and another and an equally certain effect will be to induce everybody who has money to make such an investment, to place his money in these associations. The honorable member from Pennsylvania has, as I think, very conclusively proved that the profit which these banks will make will be very much greater than any profit which can be made by any existing bank operating under a State law. Without going into all the particulars to which the honorable member adverted, I ask the Senate's attention for a moment to the strong inducement which the law will offer to all State bank capital and to all State capitalists to invest their respective funds in these associations.

A thousand dollars in gold now if loaned out at six per cent. interest would bring only sixty dollars. That \$1,000 of gold, at what I believe is the depreciation of the governmental currency, will purchase \$1,800, and that \$1,800 in the governmental currency under this bank bill, if it passes, may be invested, the whole of it, in United States bonds bearing an interest of six per cent., and that interest and the principal when the principal matures payable in gold; and the bank can loan out to its customers \$1,800, and if the rate of interest in the State is six per cent., which I have assumed in relation to the item of gold, it will receive \$108 as interest on that \$1,800; and while it is receiving by lending to its customers \$108 on the \$1,800, the representative of that \$1,800 is not in the vaults of the bank bearing no interest, but is in the bonds of the United States bearing interest during the whole time that the loan is going on and during the whole period that the bonds may be held by the bank, and that gives \$97.20 in gold. But in order to simplify the calculation, supposing gold to be worth when it is received only the par of the governmental currency, the receipts for the year upon an investment of \$1,000 will be \$205 and some cents—more than twenty per cent. on \$1,000 of investment.

That is not all. The rest of the calculation cannot be made because the element cannot be ascertained upon which it would depend. These banks will be authorized to loan upon their deposits; and if the deposits are \$1,000,000, they can loan just as much as they think proper, keeping within the limit of the law; they may loan the whole \$1,000,000 and be receiving six per cent. interest upon that \$1,000,000; and the amount that they will realize by that six per cent. on the deposits upon which they are paying no interest is to be added to the two hundred and odd dollars which they are receiving upon the loan of their \$1,800 and upon the \$1,800 worth of bonds.

Mr. HENDRICKS. I wish to call the Senator's attention to the fact that the interest on the \$1,800 of bonds will be paid in gold that is worth one half more.

Mr. JOHNSON. I said that. The difference between the value of gold and of currency is to be added, of course. Now this being the operation of the bill as a financial operation upon the part of those who may invest in it, it seems to me to be very evident that all the State banks will come into the scheme, and that the individual capitalists will come into the scheme, so that the whole banking capital of the States and the whole capital in the hands of the citizens of the States may become invested in these banks, and if so invested be removed from State taxation.

How are we to meet our engagements? As I stated the other day, it is a very great mistake to suppose that the credit of this country depends upon our being able to meet merely our national obligations. It is as much involved in the ability of the States to meet their State obligations as it is involved in the ability of the United States to meet their own obligations. But not only will

it affect our reputation, although we may be able to meet our own national obligations, if we shall prove unable to meet our State obligations, but the existence of the last fact will be certain in the end to produce an inability on the part of the General Government to meet its national obligations.

Now, another word. The Supreme Court, in the case so often quoted, of *McCulloch vs. The State of Maryland*, not only cautiously abstained from deciding that it is in the power of the General Government to take out of the taxing power of the States the property of the citizens of the States invested in the stock of the Bank of the United States, but affirmatively declared that each of the States will have the power, and has the power, to tax each of her citizens upon each of his shares of stock in the bank. What Maryland attempted to do was to impose a tax in the way of a license to the Bank of the United States to establish a branch within her limits. It was a tax, therefore, upon the franchise, a tax upon the corporation, a tax upon the means selected by the Government, and, as the court decided, constitutionally selected, for the purpose of carrying out the powers of the Government. But no judge thought, and no member of the bar, as far as I can collect from the reports, and as far as my memory will serve me, for it was my good fortune to have been present at the argument, no judge and no member of the bar who argued the cause dreamed of denying that it would be in the power of the States to tax the property of their citizens invested in the stock of the Bank of the United States. On the contrary, the objection urged upon the part of the counsel of Maryland was that a denial to Maryland of the right to pass the law which she had passed was to deny to Maryland the right of taxing at all the property which her citizens might have in the bank. The counsel for the bank met that by saying that that was by no means true; that was not what Maryland had done; Maryland had attempted to impose a tax upon the bank itself as a franchise, upon the right of the bank to bank at all; and the Supreme Court, in answering the argument made by the counsel for Maryland in support of Maryland's right to pass the law which was in question in that case, took precisely the ground taken by the counsel for the bank; that is to say, they said in the conclusion of the opinion as given by Mr. Chief Justice Marshall that their opinion was not to be understood at all as interfering in any way with the right of Maryland to tax the real estate of the bank, or to tax the interest which her citizens might have in the shares of the bank—

Mr. SUMNER. May I interrupt the Senator just there?

Mr. JOHNSON. Certainly, sir.

Mr. SUMNER. Do I understand that that point was in question before the court?

Mr. JOHNSON. Directly.

Mr. SUMNER. The latter point?

Mr. JOHNSON. I do not know what you mean by "in question." It was in argument.

Mr. SUMNER. It was not necessary to the decision. Do I understand the Senator as affirming that the Supreme Court have passed finally, definitively, and in the sense of a judicial decision by a judicial tribunal, upon that question?

Mr. JOHNSON. Mr. President, what I said was that the question itself was distinctly argued. In arguing the proposition whether the law passed by Maryland had been constitutionally passed, the counsel for Maryland insisted that if it was unconstitutional it would have been equally unconstitutional if she had taxed the real estate of the bank or taxed the interest which her citizens held as shareholders. The counsel for the bank admitted, as the honorable member from Massachusetts will find, that a law passed by Maryland to tax the shares of her citizens, and to tax the real estate which might be held by the bank, would be constitutional; and the Supreme Court closed their opinion, so as to exclude any conclusion which could be drawn as against the taxing power of the States on that point by saying that it is to be understood that Maryland has the right, and every State in which there may be a bank of the United States, either the mother bank or a branch, has the right to tax the real estate which the bank may hold within that State, and to tax the shares of her citizens in that institution. And

the honorable member will find by looking at the dissenting opinion—I have not read it for some time; but I speak, I am sure, correctly, for it is a case in which I participated with the present Chief Justice in behalf of the State of Maryland—the honorable member will find in the dissenting opinion of Mr. Justice Thompson, in the case of *Brown vs. The State of Maryland*, which involved the right of Maryland to exact a license to entitle one of her citizens to sell goods imported in the original packages, that he states, and without contradiction, and Mr. Chief Justice Marshall, who gave the opinion against the State in that instance said the same thing, that it had been decided in the case of *McCulloch vs. The State of Maryland*, had been decided, not *arguendo*, not as a mere *obiter*, but had been decided that, although the Bank of the United States was in one respect, and was in point of fact, as far as the constitutional question was concerned, a fiscal agent of the Government, (the right to charter the bank as a fiscal agent of the Government being constitutional because necessary in the judgment of Congress, and over the question of necessity the judiciary had no right to interfere,) and was necessary to enable the Government to execute its powers of collecting its debts, and regulating commerce, and a variety of other things, it would yet be in the power of the States to tax that portion of the capital which the bank might have invested in real estate, and to tax the interest which her citizens might hold in it as shareholders.

In each of those cases, and in several other cases the names of which I do not now recollect, where the same propositions were before the court, it was held that there is no authority to tax any of the means of the Government, to interfere by State taxation with any of the powers of the Government, that under the Constitution Congress has the right to borrow money; and as she may borrow to better advantage, or might not be able to borrow at all unless she had that advantage, by exempting what she gave as security for the loan from State taxation, she had a right to exempt from State taxation the bonds which she might give or the stock she might issue. But what is proposed to be done in this case I think is far beyond the principle involved in that.

Mr. SUMNER. May I interrupt the Senator just there? I simply wish to call his attention to what seems to me to be a point in issue, and certainly it is only with a view of having it elucidated.

Mr. JOHNSON. I do not object at all.

Mr. SUMNER. I understand that the Senator admits that under the Constitution the States may not tax any instrument or means of the national Government. Now, does the Senator intend to limit that proposition to a direct tax, or also to include under it an indirect tax? If an indirect tax is included under that proposition, that is, if a State may not impose an indirect tax upon an instrument or means of the national Government, then I ask on what principle a State can impose a tax upon the shares in a bank? It cannot impose a tax upon the bank directly or upon its capital stock directly. May it impose a tax upon the shares, and thus do indirectly what I understand the Senator to admit it cannot do directly?

Mr. JOHNSON. I will answer the honorable member by resorting to what is often done in his section of the country—asking another question. Does the honorable member suppose that the States cannot tax the real estate which the bank may purchase? Is he willing to deny to the States the power to tax the real estate? I do not think he is; and yet does he not see that in one sense that is an indirect tax upon the bank itself? What is to prevent the Government from chartering a bank with a capital altogether invested in real estate? Now, suppose he has said that there would be no right in such a case—he has not said it yet—to tax the real estate; the United States go to Massachusetts and say, "We will have a bank in Massachusetts founded upon real estate exclusively; each farmer in Massachusetts"—as has been done in many State institutions—"may subscribe his farm as capital to a fiscal agent of the Government." The country needs it, says the honorable member, cannot get on without it; it becomes, therefore, one of the instruments by which the Government will be enabled to carry out its admitted and exclusive power. If it be



true that the States would have no authority to tax in such a case as that, then it would be in the power of the United States to take the whole real estate of any State into its own hands for the purpose of raising revenue, and exclude the State from the privilege of supporting herself by taxing the same article of property.

If the honorable member will look at the case of *McCulloch*—I have it not by me—he will see that the court, because as they admit in so many words the great importance and the vital importance of preserving the power of State taxation, are very cautious in laying down the proposition upon which in that case they decided the law of Maryland to be unconstitutional, to guard against the conclusion that it was, in the judgment of the court, not in the power of Maryland to tax the property which her citizens might have taken and invested in the bank.

I do not deem it necessary to argue the question which the honorable member has suggested whether there can be a right to tax indirectly one of these instruments, if there is no right to tax directly. The only answer I have to give, so far as that question is applicable to the case before us, is that the Supreme Court held that what the honorable member says is an indirect tax is a constitutional tax, and that what he says is a direct tax they held to be an unconstitutional tax, and that the latter tax they considered as exclusively applicable to a tax upon the franchise itself, the right to bank.

Now, what have we told the holders of our bonds? The honorable member from Massachusetts, say, has loaned \$10,000 to the Government, and they have said that upon the bonds which they have given him in return for his \$10,000, he shall not be subject to taxation by the States. The Government issue those bonds under the authority to borrow money; the bonds are the evidence of the loan; and as mere bonds they are exempt from State taxation. But what is proposed to be done now? You by this law say to these bondholders, "Exchange your bonds for bank stock, bank upon it; make it capital; and if you exchange your bonds for bank stock the States lose the right to tax the bank stock." That is a very different thing. In *McCulloch* vs. Maryland the court put the inability of the State to tax upon the ground that the subject which Maryland had attempted to tax was a subject brought into existence for the first time by a law of the United States; it was the franchise; it was not property before within the State or anywhere else; it grew out of the powers of the General Government, existed nowhere else; it was as much an instrument of the Federal Government as the Army or the Navy, in the view that the Supreme Court took in discussing the constitutionality of that act which they first disposed of, I mean the constitutionality of the act chartering the bank which they first disposed of. But in this case you are about to say to every citizen, "Bring all your property into this institution; if you bring it in as money you are liable to State taxation; but if you will go into the market and buy up our bonds, and the bank is willing to take the bonds in payment of your subscription for the stock, then you at once become exempt from State taxation."

I submit, Mr. President, in the first place, without proposing to discuss it any longer, that you have no right to do any such thing; and in the next place, that if you had the right to do it, it would be most inexpedient to do it. It would be reducing the States almost to a condition of pauperism. I feel, in common with every member of the Senate, a desire to strengthen the Government as much as possible, but I must do it respecting at the same time the support which the States demand, which the interests of the public demand.

But there is another view which has suggested itself. You are now, by this proposition and what you have been doing, telling our citizens to come in and buy the five-twenty bonds and the ten-forty bonds, as you are now doing; and you have told them that you want it done because you want to get the currency out of circulation. "The currency is too inflated, bring it in, and we will give you bonds in exchange;" and everybody is coming in as fast as he can come in, for he makes a very good bargain as times are in buying the bonds, being payable in coin, principal

and interest. You get the circulation in, and now what do you propose to do by this bill? "Take your bonds, invest them in bank stock, and you may circulate as bankers a certain proportion—\$675 out of \$1,000; you may issue a circulation for that amount, and we, the United States, will guaranty the payment of that circulation." Do you not suppose these banks will issue a circulation to the whole amount authorized. Who can doubt that? Then what is the practical result of it? You take out of circulation the Treasury notes and you substitute for them these bank notes for which the United States stand as guarantors. So far as the public is concerned, what possible difference does it make; if the inflation of the currency is the cause of the present embarrassments of the money market, what possible difference can it make whether that inflation is caused by the issue of bank circulation, or whether, in the absence of bank circulation, it is caused by the issue of governmental circulation? It is but a new name for the same thing. The first are notes, Treasury notes, issued by the Government; the next are notes issued by these fiscal agents of the Government, guarantied by the Government. I know, at least I think I know—I speak of course under the restraint which I feel when I differ from others, especially when I differ from any of the gentlemen who are supporting this bill and the Secretary of the Treasury, who I understand is in favor of the bill—I think I know that the measure will operate most prejudicially to the States, while, at the same time, it will afford no revenue to the Government in the particular in which it is supposed to be important.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kansas [Mr. POMEROY] to the amendment reported from the Committee on Finance, and upon that question the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 11, nays 28; as follows:

YEAS—Messrs. Chandler, Conness, Harding, Howard, Lane of Indiana, Pomeroy, Ramsey, Sherman, Sprague, Sumner, and Wilkinson—11.

NAYS—Messrs. Buckalew, Carlile, Clark, Collamer, Cowan, Davis, Dixon, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Henderson, Hendricks, Howe, Johnson, Lane of Kansas, McDougall, Morgan, Morrill, Nesmith, Powell, Riddle, Ten Eyck, Van Winkle, Willey, and Wilson—28.

So the amendment to the amendment was rejected.

Mr. HOWARD. I propose to amend the amendment of the committee in the sixty-third line on page 35 by inserting, after the word "purposes" the words "in the State where the bank is situated;" so that the clause will read in this way:

*Provided*, That nothing in this act shall be construed to prevent the market value of the shares in any of the said associations, held by any person or body corporate, from being included in the valuation of the personal property of such person or corporation in the assessment of all taxes imposed by or under State authority for State, county, or municipal purposes in the State where the bank is situated; &c.

My object is this: that the States in which the banks are situated shall have the benefit of the taxation of the banks, and that the States where the capitalist owning the stock may happen to reside shall not, on account of that residence, be entitled to the benefit of the taxation. I am quite aware of the principle of the common law that personal property is supposed to follow the owner wherever he may be, and that, in contemplation of that code, a man's personal property is attached to him and belongs to his residence. If the bill shall pass without this amendment, this will be the result: that where the owners of the stock reside, for instance, in the State of Massachusetts or Maine, and their money is invested and employed in banking operations in Michigan or Indiana or Ohio, or any other western State where capital is not so abundant, the money thus invested will be taxed by the State of Massachusetts or Maine, and the tax put into the treasury of those States instead of going into the treasury of the State where the bank is in its actual operation. Unless my amendment is adopted, therefore, this will exempt a vast proportion of the stock thus invested by non-resident capitalists from local taxation, and I think will be, and very justly be, a cause of serious complaint on the part of the people where the banks happen to be

situated. My amendment is offered for the purpose of curing that evil.

The Senate will perceive with what facility a non-resident stockholder may conceal the fact that he is the owner of stock invested and employed in a State where he does not reside. The assessors know nothing of it ordinarily, and it would be rather an abnormal and singular process for the assessor to inquire of every man and ascertain from him where every cent of his money is invested. Indeed there would be no way, no convenient way at least, of ascertaining what the man really owned and where it was.

Now that I am up I beg to say another word on this subject. I confess that in voting for this clause of the bill I act with considerable hesitation and doubt as to the right of Congress to give this authority to the States to tax the stock of these banks. It is said that that question has already been definitely settled by the Supreme Court of the United States. I do not so regard it. I speak with great deference to the opinion of other Senators who may entertain a different idea; but for one I cannot regard it as a settled question that the State has the right to tax the stock of a stockholder in one of these national banks, and I do not consider the Supreme Court of the United States as having settled that question. In the case which is so frequently alluded to, that of *McCulloch* vs. The State of Maryland, that question was not raised. It was not raised, because it could not be raised on the record in that case, and if the Supreme Court assumed to determine that question in that case, I think their opinion is *obiter*, and not binding as being connected with the issue before the court.

The suit was brought by the State of Maryland for the purpose of recovering from Mr. McCulloch, who, I believe, was the cashier of the branch bank of the United States, if I recollect rightly, a penalty imposed by a statute of the State of Maryland for carrying on the business of banking within that State, which was not authorized by the laws of Maryland. The statute is very brief, and I beg the patience of the Senate a moment while I read it:

"Be it enacted by the General Assembly of Maryland, That if any bank has established, or shall, without authority from the State first had and obtained, establish any branch, office of discount and deposit, or office of pay and receipt, in any part of this State, it shall not be lawful for the said branch, office of discount and deposit, or office of pay and receipt, to issue notes in any manner, of any other denomination than five, ten, twenty, fifty, one hundred, five hundred, and one thousand dollars, and no note shall be issued except upon stamped paper of the following denominations."

Then follows the mere denomination of the notes:

"Provided always, That any institution of the above description may relieve itself from the operation of the provisions aforesaid, by paying annually, in advance, to the treasurer of the Western Shore, for the use of the State, the sum of \$15,000."

Now comes the clause of the act under which the suit seems to have been brought:

"And be it enacted, That the president, cashier, each of the directors and officers of every institution established, or to be established as aforesaid, offending against the provisions aforesaid, shall forfeit a sum of \$500 for each and every offense; and every person having any agency in circulating any note aforesaid, not stamped as aforesaid directed, shall forfeit a sum not exceeding \$100; every penalty aforesaid to be recovered by indictment, or action of debt, in the county court of the county where the offense shall be committed, one half to the informer, and the other half to the use of the State."

The person accused here was carrying on the business of banking in the State of Maryland without paying any regard whatever to this statute of that State, and an action of debt was brought against him for the purpose of recovering the penalty thus imposed. It is very true, as the court say, that the act of Maryland tended to prevent the operations of the Bank of the United States. It was not a tax upon the franchise so much as an embarrassment of the operations of the bank; and because that statute tended thus to embarrass the operations of the bank the Supreme Court held that the State statute was void. At the close of the opinion the learned Chief Justice uses this very cautious, circumspect, and well-guarded language:

"This opinion does not deprive the States of any resources which they originally possessed."

That every one admits. The opinion does not deprive the States of any resources which they originally possessed, and it was not intended to deprive the States of any such resources:

"It does not extend to a tax paid by the real property of

the bank in common with the other real property within the State."

That is perfectly certain. The opinion does not extend to any such question, because the issue did not and could not relate to that question, and therefore the court cautiously avoided passing any opinion on that question. The Chief Justice speaks with perfect truth, but with his characteristic cautiousness: the opinion does not extend to any such question. He continues:

"Nor to a tax imposed on the interest which the citizens of Maryland may hold in this institution, in common with other property of the same description throughout the State."

My remarks are equally true respecting this clause of the opinion, and for the same reason, that the question of the power of Maryland to tax the stock in the hands of the stockholders of that bank was not before the court. The Chief Justice proceeds:

"But this is a tax on the operations of the bank, and is, consequently, a tax on the operation of an instrument employed by the Government of the Union to carry its powers into execution. Such a tax must be unconstitutional."

The point of the decision is this: that a tax upon the operations of the Bank of the United States was unconstitutional because it tended directly to prevent the operation of a lawful instrument of the United States in carrying out its powers. I beg to know what distinction in principle there is between a proposition to tax the operations, or, if you please, the franchise of a bank, and one to tax the stock in the hands of the stockholder. It is said in this opinion that if the State may tax the operations of a bank to the amount of one per cent., it may tax it to such an amount as to compel it to close up its business, and thus it will be in the power of the State Legislature to prevent the operations of a national bank. But if the State can tax the stock of such a bank in the hands of a stockholder, it may carry this taxation to such an extent as completely to deprive that stock of all value, and thus it may ruin the institution and bring about precisely the same result as if its taxation had been confined to the mere franchise for the operations, that is, the working of the bank itself. I think when Senators undertake to draw a distinction between the one kind of taxation and the other, they seek to get up a distinction where there is no difference, for the reasoning applies, in my judgment, as strongly against the right to tax the stock in the hands of a stockholder as to tax the franchise of a bank. Hence, as I remarked before, it seems to me that we are endeavoring to exercise a very doubtful power under the Constitution.

But if the States possess the power to tax the individual stockholders in this bank, what power have we to restrain or trammel or limit the power of that State taxation? And still both the original bill and the amendment of the committee, which is now under consideration, assume thus to limit the power of a State over this now called one of the ordinary subjects of taxation. If the States have the power to impose taxes on this stock, they have it irrespective of us; they have it in virtue of their original sovereignty as States, and it is incompetent, as it seems to me, for Congress to restrain, modify, or limit that power of State taxation. If the States have it not, then it is equally idle, still more idle for us to undertake to restrain it. In short, sir, if we have the power of taxation in such cases, if Congress have that power, is it not an exclusive power—exclusive because it is imposed upon a species of property which has existence and existence only under and by an act of the United States—property which previously had no existence? I refer to the certificates of stock. That is the *ius ad rem*, the right to a proportionate share in the distribution of the corporate funds; for it is not pretended that the individual stockholder has the *ius in re*, has any absolute possessory right to the thing itself. If we have the power of taxation ourselves, and that seems to be conceded, it seems to me to be an exclusive power. If the States have it not as States, then it is impossible for us to impart it to them. It is certainly a very singular notion about State rights that the Congress of the United States can give to States rights of legislation which they did not previously possess.

I hope, sir, that my amendment will meet the approbation of the Senate; for if the bill is to pass I think that will be a very material safe-

guard in it, and one which will make it more acceptable to the people of the States where stock is not subscribed as readily as in other States than it would be without such an amendment.

Mr. JOHNSON. I do not propose to discuss the question as one now for the first time arising whether there is not a distinction between the authority of the States to tax the shares which their citizens may invest in a bank or not. The honorable member from Michigan says that that particular question was not involved in the case of McCulloch. In one sense he is correct; that is to say, the case might have been decided without saying anything about the right of a State to do anything more than impose such a tax as Maryland attempted to impose in that case; I referred to the decision in the case of McCulloch, not for the purpose of showing the very point was decided as being necessary to the decision of that particular case, but that it was admitted by the court, who denied the power of Maryland to impose that particular tax, that she would have a right to impose a tax in a different mode.

Mr. HOWARD. If the honorable Senator will excuse me, I do not understand the court to have made any such admission. Certainly if we construe the language of the Chief Justice with any strictness—and we know he was in the habit of writing very carefully—we will find no such admission, as I think.

Mr. JOHNSON. It has been read several times, and it is rather fatiguing to the Senate to recur to it again. The honorable member says that there is no admission on the part of the Chief Justice or of the court—the court were unanimous—that the State would have a right to lay a tax upon the shares of its citizens or the real estate of the bank. The honorable member is now of the opinion, and so is the honorable member from Massachusetts—

Mr. HOWARD. I said nothing about real estate, however.

Mr. JOHNSON. They were both of the opinion that the principle involved in the case of McCulloch and the United States Bank denies to a State the authority to tax the shares or the real estate of a bank; the shares at any rate.

Mr. SUMNER. The shares.

Mr. JOHNSON. The argument made in support of Maryland's taxation was that if the right to impose that particular kind of taxation did not exist, then Maryland would not have a right to impose the other kind of taxation, or rather to impose a tax in a different form, a tax upon the shares of her citizens in the bank. What do the court say? The honorable member reads it as not implying an admission on the part of the Chief Justice that Maryland would have a right to impose such a tax as the counsel for Maryland insisted she would be excluded from imposing provided the court should decide that she had no right to impose the particular tax which was in question. What does the judge say?

"This opinion does not deprive the States of any resources which they originally possessed."

So far there is an admission that there were resources originally possessed before the bank was chartered. What are they?

"It does not extend to a tax paid by the real property of the bank, in common with the other real property within the State, nor to a tax imposed on the interest which the citizens of Maryland may hold in this institution, in common with other property of the same description throughout the State."

What is the inference to be drawn from the two sentences I have read? The property which Maryland's citizens are investing in the bank existed antecedent to the bank. It was feared on the part of Maryland that if her act was not sustained she would not have a right to tax that property if it were invested in the bank stock; but the Chief Justice says no such thing: we tell you expressly, in so many words, that this property existing before this decision, it does not deprive you of the right to impose such taxation. When the case came before the court again as an authority in the case of Brown vs. The State of Maryland, to which I adverted just now from recollection, the honorable member will find in the dissenting opinion of Mr. Justice Thompson upon the general question that he relied upon what was done in the case of McCulloch vs. The State of Maryland to show that what Maryland proposed to do in this case she had a right to do; and what does he say was done in McCulloch vs.

The State of Maryland? After citing the case, he says:

"It is there admitted that the power of taxation is an incident of sovereignty, and is coextensive with that to which it is an incident, and that all subjects over which the sovereign power of a State extends are objects of taxation."

He then goes on to speak of the Bank of the United States being brought into existence by the General Government, and therefore not subject to taxation. He continues:

"And it is expressly admitted in that case?"—

I am reading the words of the dissenting judge, and they all concur in that—

"And it is expressly admitted in that case that the opinion did not deprive the State of any resources they originally possessed; nor to any tax paid by the real property of the bank, in common with the other real property within the State; nor to a tax imposed on the interest which the citizens of Maryland may hold in the institution in common with other property of the same description throughout the State."

Mr. HOWARD. That is a repetition of the same language used in the other case.

Mr. JOHNSON. I know it is; but I refer to it for the purpose of showing that one of the judges who participated in McCulloch vs. The State of Maryland says it was admitted that the States had the power to lay taxes of this description. It is rather broader.

Mr. HENDRICKS. I move that the Senate adjourn.

Mr. SHERMAN. I trust the Senator will allow us to get through with this troublesome question. There are no other amendments scarcely to the bill.

Mr. HENDRICKS. If we wait to dispose of that we shall get no dinner to-day.

Mr. SHERMAN. I do not think there will be any further debate.

Mr. HOWARD. I wish to say just one word. The PRESIDENT *pro tempore*. The question of adjournment must first be determined, and that is not a debatable motion.

Mr. HENDRICKS. At the solicitation of the Senator from Ohio I will withdraw the motion.

Mr. HOWARD. I desire to say simply this: I am as anxious as the Senator from Maryland or any other Senator to subject these funds in the hands of the stockholders to State taxation if it can be done legally, for I see the inconvenience which would arise from the exemption of that vast fund from State taxation; but what I fear is this: that we shall be enacting a series of lawsuits which will keep the country in a state of turmoil and disturbance on the subject of this currency, and thus injure the public interests. That is one great ground of my fear. Another is this: that we cannot impart to the States a power of taxing this species of property by any act of ours if they have it already in virtue of their sovereignty, so to speak, as States.

Mr. HALE. It strikes me the amendment of the Senator from Michigan would introduce a new and dangerous principle into legislation; for it would enable, for instance, the Legislature we will say of Massachusetts to tax the citizens of New Hampshire. If a bank happens to be located in Boston and a man in New Hampshire owns \$50,000 of its stock, that is personal property owned in New Hampshire over which the State in virtue of its sovereignty has the right to exercise the power of taxation; and that has never been denied by the decisions which have been read. This amendment of the Senator from Michigan proposes to let the State of Massachusetts tax this \$50,000.

Mr. HOWARD. No, sir. I propose that the tax shall be imposed in the State where the fund is used and where it gains its profits. I think that is fair.

Mr. HALE. I understand it. In other words, it allows the State of Massachusetts to tax the holders of personal property existing in New Hampshire, Vermont, or any other State. It seems to me that that would be a dangerous innovation and a dangerous provision, and one that the States would never submit to. Besides, you could not by this means deprive the State of the power of taxing its own citizens for its own property, and they would tax it; and in that way you would subject them to a double tax. It seems to me that it would be unjust in that respect.

I think it is obnoxious also to the criticism which the Senator from Michigan himself makes when he says we cannot give nor confer upon the



States any power to tax. I agree to that entirely. We have a navy-yard situated in Massachusetts, another one situated in Maine, and another one in Pennsylvania, and they are now exempt from taxation. But suppose Congress consent that for State and municipal purposes the State of Pennsylvania or the State of Massachusetts or the cities of Boston and Philadelphia may tax the navy-yards and the property there. That is not conferring any power upon the State; but the General Government simply lets go of an exemption which they now enjoy.

It strikes me we had better leave this power of taxation of personal property where it now is; and it results in no great practical difficulty that I know of. I suppose the States all over this Union exercise the power of taxing the personal property of their citizens invested in bank shares, no matter where the banks are located. If a citizen of New York invests property in bank shares in Massachusetts, the State of New York taxes that property and the State of Massachusetts does not. Besides, it seems to me it would be unjust in many respects, because the property might be subjected to taxation in a foreign jurisdiction in which the individual who was taxed would have no interest and from which he would receive no benefit. I think it is perfectly clear, from the authorities that have been read, that this power of taxing the shares of a bank of the United States or of any bank that may be incorporated by the General Government does not come by grant from the General Government, but it resides in the States, as the exercise of a sovereign power which they have the right to exercise, to tax the property of their own citizens. It seems to me it had better be left there.

Mr. HOWARD. One word further as to the justice of this amendment, the equity of imposing a tax upon the stock by the State within whose limits the bank operates. What is this stock? In reality it is this: if I am a subscriber to one of these banks, and I reside in Boston, and become the owner of this stock, say to the amount of \$10,000, and the bank is located in Detroit, Michigan, the \$10,000 which I contribute as a stockholder ceases to be my personal and individual property. It passes into the possession and enters into the corporate property of the bank itself. It becomes, in short, the property of the corporation itself, and I can never withdraw it. It is, as I said before, not a *jus in re* but a *jus ad rem*; and while it is employed by its owner, the bank in Michigan, for the purpose of gaining a profit in banking transactions, I beg to know in what respect it differs from the same amount of personal property or money in the actual possession of a citizen in Michigan residing at the same place. Certainly the State has the right to tax that citizen. Why should the State then be deprived of the power of taxing this fund which is used within its limits for the purpose of making gain in precisely the same sense in which the property of an individual residing there is used? I can see no distinction in point of justice, in point of principle; as I said before, in this way this bank stock will be taxed, and the States will derive a certain amount of revenue from it; whereas, if no amendment of this kind is inserted in the bill, the right of taxation will adhere to the States within whose limits the stockholder resides. If its authorities can ascertain that he is a stockholder, they may, perhaps, impose a tax and collect it; but I tell you, sir, that in nine cases out of ten this whole fund of these stockholders will escape taxation. I think that is a danger against which we ought to guard if we can.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Michigan to the amendment of the Committee on Finance.

Mr. HOWARD. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. FESSENDEN. Before the vote is taken I wish to make a suggestion. I understand the Senator to propose to insert this amendment after the word "purposes."

Mr. HOWARD. Yes, sir.

Mr. FESSENDEN. The Senator will observe that by coming in there it will make the whole clause without meaning. It will apply to the preceding sentence. If he is to move the amendment at all I think it should come in after the

words "such State," in the sixty-fifth line, and be in lieu of the subsequent provision. As it is now proposed the clause will read:

From being included in the valuation of the personal property of such person or corporation in the assessment of all taxes imposed by or under State authority for State, county, or municipal purposes where said bank is situated.

It would hardly apply there.

Mr. HOWARD. I think the amendment is in the proper place. It strikes me that it would give the State the right of local taxation.

Mr. FESSENDEN. Of course "all taxes imposed by or under State authority, for State or other purposes," are imposed in the State where the bank is located.

Mr. HOWARD. Not of course, Mr. President. There is the very point on which the Senator and I should differ. By the common law the owner is supposed to have the personal property about him; it pertains to his person, and if the owner does not reside in the State where the bank is, that State does not obtain the taxation.

Mr. SHERMAN. If the amendment of the Senator from Michigan should be adopted, I think it will be necessary when the bill is reported to the Senate to change its phraseology a little, but we can test the sense of the Senate upon it now.

Mr. HOWARD. Yes, sir.

Mr. FESSENDEN. It would come in in another place a great deal better.

The question being taken by yeas and nays, resulted—yeas 11, nays 27; as follows:

YEAS—Messrs. Chandler, Conness, Harlan, Hendricks, Howard, Morrill, Pomeroy, Ramsey, Sherman, Sumner, and Wilkinson—11.

NAYS—Messrs. Anthony, Buckalew, Clark, Collamer, Cowan, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Henderson, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Nesmith, Powell, Riddle, Sprague, Ten Eyck, Van Winkle, Wiley, and Wilson—27.

So the amendment to the amendment was rejected.

Mr. CHANDLER. I move to strike out in the sixty-second line of the amendment after the word "State" the words "or other," so that it will read "for State purposes."

Mr. FESSENDEN. That has already been amended. Those words have been stricken out, and the words "county or municipal" inserted, so that it reads, "State, county, or municipal purposes."

Mr. CHANDLER. Then I move to strike out the words "county or municipal," so that it will read "State purposes."

Mr. SHERMAN. That is not now in order, because those words have just been voted in.

The PRESIDENT *pro tempore*. The amendment will not be in order in committee.

Mr. CHANDLER. Then I offer the following proviso—

Mr. HENDRICKS. I renew the motion for an adjournment. There is no probability of getting through with this matter to-night.

Mr. SHERMAN. Let us dispose of this amendment.

Several SENATORS. Oh, no; let us adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

FRIDAY, April 29, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.  
The Journal of yesterday was read and approved.

### SEA-WALL AT BUFFALO.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting, in compliance with a resolution of the House, a report with reference to the sea-wall at Buffalo by Colonel J. D. Graham, United States engineer; which was laid upon the table, and ordered to be printed.

### TAX BILL.

Mr. ELDRIDGE. I ask the unanimous consent of the House to record my vote on the tax bill, as I was unable to be present last evening.

There was no objection, and Mr. ELDRIDGE recorded his vote in the negative.

Mr. JOHNSON, of Pennsylvania. I ask it be the unanimous agreement that members on both sides of the House who were not present shall have the right to record their votes on the passage of the tax bill.

Mr. BALDWIN, of Massachusetts. I object. Mr. BLAIR, of West Virginia. If I had been here I would have voted in the affirmative.

Mr. BALDWIN, of Massachusetts. I withdraw my objection.

Mr. HOLMAN. I think that the members ought also to have the privilege of recording their votes on all questions before the passage of the bill.

The SPEAKER. That might change the result on some of the amendments.

Mr. STEVENS. I object. It is the duty of members to be present attending to the public business.

Mr. VOORHEES. I had no idea that the vote would be taken on the tax bill so early in the evening as it was. I was on my way to the House when I heard that the vote had been taken and the bill disposed of. I therefore ask that I shall have leave to record my vote. I should have voted against the bill had I been here.

Mr. SPALDING. I object.

Mr. ANDERSON stated that if he had been present he would have voted in favor of the passage of the tax bill.

### IOWA MAIL FACILITIES.

Mr. PRICE, by unanimous consent, submitted the joint resolution of the State of Iowa asking for additional mail facilities; which was referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

### PACIFIC RAILROAD.

Mr. COLE, of California. I ask the unanimous consent of the House for leave to make a report from the select committee on the Pacific railroad that it may be ordered to be printed.

Mr. VOORHEES. I object.

### CHARGES AGAINST A MEMBER.

Mr. HIGBY. I desire to call up the report of the special committee appointed to investigate the charge against Hon. F. P. BLAIR, presented by Hon. J. W. McClurg, for the purpose of having it, together with the evidence, ordered to be printed.

Mr. McCLURG. In accordance with the notice I gave on Saturday last, the tax bill having been disposed of, I rise to a question of privilege.

Mr. VOORHEES. I rise to a point of order. What is the question before the House?

The SPEAKER. A question of privilege called up by the gentleman from California, who has charge of it.

Mr. HOLMAN. Is it a question of privilege with respect to any but the gentleman from Missouri, [Mr. BLAIR?]

The SPEAKER. The question of privilege could not be confined to any particular member, but, as in contested elections, all members are interested in it.

Mr. VOORHEES. I hope the Chair will pardon me for asking a question. What constitutes it a question of privilege except that it affected the private character of the gentleman from Missouri, [Mr. BLAIR,] who is not here?

The SPEAKER. It affects a member of the House, and is therefore a question of privilege.

Mr. VOORHEES. To the House, or to him alone?

The SPEAKER. To the House as well as to himself. The gentleman from Missouri [Mr. BLAIR] put it upon the ground that if the charges were true he was not fit to be a member of the House.

Mr. CLAY. My opinion is that it has already been ordered to be printed.

The SPEAKER. A motion to print was pending when the gentleman from Missouri made his speech, and then the question went over.

Mr. VOORHEES. Is it not the fact that the gentleman from Missouri [Mr. BLAIR] had to obtain unanimous consent to speak?

The SPEAKER. The Globe of yesterday states the matter correctly. There was a motion pending, made by the gentleman from Vermont, [Mr. MORRILL,] that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union on the tax bill, and the Chair then decided as follows:

"The gentleman from California has a right to present his report as a matter of privilege, if the gentleman from Vermont withdraws his motion."



Mr. VOORHEES. The gentleman from California used the following language, to which I heard no dissent from the Chair:

"I understand that it is in the power of any one member to object; that unanimous consent is required for the gentleman from Missouri to proceed, without my motion. I prefer, therefore, to leave it to the House, and withdraw the motion to lay it upon the table."

The SPEAKER. The Chair is not responsible for what other gentlemen may state, although he is for what he states himself. If he were to interpose always when gentlemen make statements in regard to parliamentary proceedings, he would be occupying more time than the House might deem proper. The Chair remembers remarking that if the motion to lay upon the table were withdrawn, the gentleman from Missouri [Mr. BLAIR] would be entitled to the floor.

Mr. HIGBY. I only want the report and evidence printed. I think that they should be printed; and I shall seek an opportunity, when the testimony is printed, to rise to a question of privilege, in order to place myself right upon this matter before the House. The gentleman from Missouri, [Mr. McClurg,] by some understanding with the House, has an opportunity to speak, and if he seeks that opportunity now it is by no understanding with me. I have risen for the purpose, and for no other, of having this report printed. This case is in the hands of the House and not in mine.

The SPEAKER. The Chair desires to say that by no understanding of the Chair with the gentleman from Missouri is that gentleman upon the floor now. The gentleman rose upon his own motion. The Chair was not aware that he intended to rise; but as he did rise he has a right to proceed.

Mr. McCLURG commenced his remarks, but before he had proceeded far was interrupted by

The SPEAKER. The Chair is of opinion that the remarks of the gentleman from Missouri are not in order. He must confine himself to the report of the select committee.

Mr. McCLURG. I merely made these remarks as introductory to what I have to say upon this report.

The SPEAKER. If the House grants unanimous consent to the gentleman as it did to his colleague, [Mr. BLAIR,] to proceed without regard to the rules the Chair has no objection; but without that, the Chair must hold, as he did in the case of his colleague, that the gentleman must confine himself to the report of the select committee.

Mr. STEVENS. It will be remembered that after the same ruling the other day in reference to the gentleman from Missouri, [Mr. BLAIR,] the House allowed him to go on in his own way. I move that the same course be pursued in reference to the gentleman now upon the floor.

Mr. VOORHEES. There can be no earthly objection.

No objection being made, Mr. McCLURG was allowed to proceed in his own way.

Mr. McCLURG. Mr. Speaker, in accordance with notice given last Saturday, as labors have ended upon the tax bill, I rise to a question of privilege on the motion to print the evidence and report of the committee appointed to investigate the charges said to have been made by myself against Hon. F. P. BLAIR, member from the first district of Missouri, and to inquire into the truth or falsity of a certain alleged liquor order. I regret it was not the pleasure of the House for me to speak then while "the military member" [Mr. BLAIR] was present. It will be remembered I desired to speak then, but submitted to a vote of the House desirous of considering the tax bill; neither do I consider it unfair for me now, in his absence, to comment on the testimony when the first assault in this House was made by this military "member," and in a clandestine manner by inserting his personal remarks, not uttered in the House, into his printed speech. But I regret the necessity of asking the attention of the House to the subject now presented when the people are calling for immediate action upon bills of importance to our afflicted country. But, forced into my present position by another, I also regret that I cannot ask your indulgence beyond the one-hour rule. It is impossible in one hour to do justice to the case and properly expose the witnesses, from their own testimony, who have come for-

ward and testified, as I believe I can show, to save themselves or others from disgrace. I desire to show up in distinct colors those who would rule, in corruption, my beloved but unfortunate State, and who have their counterparts in the other border slave States.

As my language will go to the public, it is due to myself, to truth, and the cause of freedom in Missouri, on which my heart is fixed, to remind this House, and thus inform the country, that I was drawn reluctantly into this discussion, that I was forced into it, that I remained in almost disgraceful silence after I had been, without provocation, attacked in my character for truthfulness by a colleague—excuse me, "the military member" from the first district, [Mr. BLAIR]—on the 5th day of February last, and until after a second attack by the same "member" on the 27th day of the same month. In his first attack he spoke distinctly of the four radicals from his State, and in reference to General Schofield said: "After accepting the concession, these parties flew from their agreement." Notwithstanding a colleague from the seventh district [Mr. LOAN] in a personal explanation pronounced it "false," thereby directing his, "the military member's" [Mr. BLAIR's] attention to his language, he did not in his second speech, although twenty-two days after the first, retract, but attempted to add insult to injury. It was after all this that I condescended to make a defense, and still "the military member" [Mr. BLAIR] had the audacity on the 23d instant to say that "vindictive persons had pursued him to this place." It is known to all that he first attacked. The radical members from his State had agreed with themselves to remain silent with regard to the past if unprovoked, believing it possible he might, if left to himself, advance again to the attack he had once led upon the enemy of the country, slavery, and rejoin those who had outstripped him, and regardless of him, were pressing up the heights and driving back the foe. But he went over to the enemy and attacked his former friends who had never on any occasion abused him.

In my defense I did not therefore conceive it to be my duty merely to have parried off his thrusts at my character, but, having been forced by him into the contest, to bring down a few blows upon the head of one I regarded and still regard as a political trickster, that his future attacks upon myself or others would be weakened and powerless for harm; to exhibit the character of one who would make all others bow before him, not because of worth, but because of the fortuitous position of birth and a name which he has failed to honor. His own conduct, therefore, as you know, forced me to notice him. The result was he was unable to defend himself in arguments and facts, and called for a committee of investigation on what he called "the charge of violating the laws in the matter of an alleged liquor speculation." We will therefore see what charges I made and whether or no I am sustained by the evidence. My belief is that if I had made a direct charge of "violating the laws in the matter of an alleged liquor speculation" I could sustain the charge and myself before an impartial and intelligent public. But I did not so charge. What was my language? We will refer to the Globe—good authority—of 12th March, containing my speech of the 9th. My language appears as follows:

"My colleague from the first district has much to say about trade regulations, 'trade friends,' 'trade stores.' It may therefore be well to display without comment, for they are a commentary within themselves, the copies of a certain 'order' and certain 'invoice,' and which will not be denied to be true copies of the originals, to which access can be had in a proper manner."

Copies of the order and invoice are then set forth. My language then is:

"It is only necessary to say they did not reach their destination. Trade regulations prevented. Probably \$30,000 were not made. Politicians should have some honorable way of making bread and meat when they do not own lead mines. Probably there was an interference when an attempt may have been made to smuggle liquors contrary to existing regulations. Fortunes in anticipation from sale of poor whisky at rich prices may have been lost."

Not another word in my speech of March 9 did I utter with regard to the order or the speculation. Is there in them a charge of violating laws? Nothing of the kind. There is no charge. And if the "military member" had remained as cool as he should be when going into battle, and had

asserted the order to have been altered from a small amount, the whole liquor discussion might there have ended. But he could not control his vindictive spirit, and took occasion to again attack the Secretary of the Treasury through the special agents. He directly, in emphatic language, charged two of the agents with forgery, and gave the name of Mr. Bonner as one. We now know he alluded to Michael Powers, his own agent "to procure the liquors," as the other; and it is in evidence that he was never what is known as a Treasury agent, but had been, prior to the purchase of liquors, a steamboat revenue aid, appointed by Mr. Howard, a witness in this case, collector of the port at St. Louis, a personal and political friend of "the member," [Mr. BLAIR,] appointed, not by Mr. Chase, but by the President, and that appointment procured, Mr. Howard in his testimony "supposes," through his friend "the member," [Mr. BLAIR,] All this is in the evidence. But the name of Mr. Powers, who, as it appears in the testimony, held letters of recommendation from the "military member," was not mentioned. Mr. Bonner's name was made prominent because he was not a political friend. He, "the member," [Mr. BLAIR,] used this language in his interruption:

"It is acknowledged now to have been a forgery on the part of these two agents of Mr. Chase." \* \* \* \* \*

"When these miserable miscreants committed this forgery."

Now, as I remarked, it is in evidence Powers never was a Treasury agent, and at date of the purchase of liquors was not even a revenue aid. It is also in evidence that Mr. Bonner was not a Treasury agent until weeks after the purchase and shipment, and knew nothing about the case until after the seizure of the liquors at Cairo. And it is not in evidence that the order was ever under the control of any one except Powers, the agent of "the military member," after it was delivered to him and before it went into the customhouse. He and his friends wrote and signed and controlled it. And in the face of this positive testimony, which I hope will be printed, that it may be read by the public, "the general-member" [Mr. BLAIR] on last Saturday said, "Evidence shows that the forgery was made public by a Treasury agent, who knew it to be of that character." I assert the evidence does not so show. It shows only that Mr. Bonner did what any honest office-holder should do: gave to one of the sovereign people a copy of the order and invoice, not believing that the corruption of those in power should be kept concealed. It shows that Mr. Bonner never acknowledged that he believed there was a forgery. To be sure, Mr. Howard testifies that he (Bonner) "tacitly" acknowledged it; acknowledged by saying nothing. I say Mr. Howard, who I will show you, before I close, contradicts himself when on oath.

Now, as "the general-member" [Mr. BLAIR] has uttered as a fact what the testimony proves to be false, I merely ask, what are the anonymous letters worth which he produced and read containing denunciations of Secretary Chase? The letters may be genuine; they may not. They may be from those of like character with himself. I shall not, therefore, be led away from the points in this case to an unnecessary defense of the Secretary of the Treasury. I will only remark I am a great admirer of the photographic art, and will imagine a scene that may find its way to canvas and appear among others of the naval engagements of this war: a mammoth iron-clad with six-inch plating, the S. P. Chase, lying undisturbed upon the bosom of the quiet deep, and "an individual," bearing the name of a major general, firing upon her paper wads from an alder popgun, and the sentinel not aroused from his slumber. As my speech will show, I then stated that I would retract if Mr. Bonner's acknowledgment should be at any time presented. I remained in silence two weeks. "The member" [Mr. BLAIR] did not produce Mr. Bonner's acknowledgment, nor did he retract. It therefore became incumbent upon me to defend Mr. Bonner against so false a charge. When on the 23d March I did so, and had Mr. Bonner's letter read, what charge did I make? None but what I am sustained in by the evidence. And it was to investigate "the charge" made in this speech that "the military member" [Mr. BLAIR] called for a committee. The most pointed language used in those re-

marks upon which it is possible to base anything like a "charge" is the following:

"What becomes of his maddened attempt to relieve himself of the 'suspicion' of an effort to speculate by smuggling liquors in violation of regulations?"

If afterwards I use the words "condemned criminal" in comparison, they could only apply to the charge "of suspicion." I will show you enough in the testimony to convince you that he was suspected, that he should have been suspected, and that, by this investigation, he has indelibly stamped "suspicion" upon his character. An intelligent public will pronounce a correct verdict, and consign to a political grave a political demagogue.

I say "suspicion." Let us see the language of his own witnesses and friends on this point, for no others did he have, save a Mr. Finney, whose testimony is so insignificant and manifestly partial that I shall not further notice him.

Mr. CLAY. I wish to remark to the gentleman that being a member of the committee, I patiently heard all the testimony in the case, and there is not a particle of evidence going to show that General BLAIR was implicated in this matter at all. There was not even a suspicion cast upon him. The matter is as plain as day is from night. There was not one particle of evidence during that whole investigation showing, or tending to show, that Mr. BLAIR was engaged in liquor speculation.

Mr. McCLURG. My speech may go forward to the public, and they will judge for themselves. I here give the language of that testimony, and I contend that it does throw suspicion upon him. If I come to a false conclusion, it is my fault; if the House come to a false conclusion, it is their business and not mine. I will give the language, and I am willing that it should go before the public in that way.

But before I proceed to the definite language of the witnesses, I wish to give you a hasty insight into the case from a correct point of view. Then I will endeavor to make your view more distinct. The order was signed by "the military member" [Mr. BLAIR] as general commanding a division near Vicksburg, 3d June, 1863, and by eight of his staff officers, the last one, Doyle, having signed it at Memphis. The order empowered one Michael Powers to procure liquors, &c., "for their own use." The order, according to its present face, is for twenty-five gallons brandy "each," and other articles in proportion, such as whisky, ale, wines, cigars, &c. The order is as appears in the photographs now distributed in the House. Michael Powers, the agent, purchased from one David Nicholson of St. Louis, as the original invoice will show, which is in evidence, nine times, \* with two small variations, the amounts of each article named in the order, interpreting the order as it reads, "each" being after the word brandy, the first item, and dotted for the others, nine being the number of officers. The shipment was made and the application for the shipment was made at the custom-house, and permit granted. Mr. Howard, the friend of "the general-member," [Mr. BLAIR] is the custom-house officer, the collector of the port. The original application for the permit to ship is in evidence, and that application embodies the affidavit of a clerk of Mr. Nicholson, who sold the liquors, &c., his statement, sworn to, that "the goods, wares, and merchandise are owned by Powers," and again that "M. Powers is the owner," &c. This application and affidavit are dated 15th June, 1863.

The liquors, &c., succeeded in reaching a point near Vicksburg; but a military order of General Grant, dated 15th June, prevented their going ashore in a formal manner. They remained in the boat, (so much as were not sold or used up,) and after some weeks were seized at Cairo on their passage up the river by the collector for alleged violation of regulations. At length Mr. Bonner, special Treasury agent at St. Louis, the same individual who is charged with forgery by "the member," [Mr. BLAIR] who was not appointed an agent for weeks after the purchase and shipment, ordered the liquors, &c., to St. Louis, and turned them over by his order to the owner, Mr. Powers, and he immediately to Mr. Nicholson, who, you will see, swears he was, and who acts as the owner. They arrived at St. Louis in process of time. A loss was the result to somebody, if testimony be true. Bad feelings were aroused.

Treasury agents were abused. A defense had to be made. The newspapers were resorted to. The so-called "liquor speculation" was discussed; it was defended; it was excused. Letters were written early in September by Mr. Nicholson, the vender of "the goods." Those letters are in evidence. In October, Michael Powers, the agent, appeared in a published letter excusing "the member" for having signed the order, as the sutlers were selling at prices too high to the soldiers. The order and invoice appeared in the newspapers, and "the Blair liquor speculation" became a subject of common conversation. During that entire discussion it was never intimated by either "the member" [Mr. BLAIR] or by any of his friends to the public that a forgery had been committed. This is the evidence. Notwithstanding "the member" was in St. Louis in July, which will not be denied, and it is in evidence he was there in September, and made a speech, in which he abused Mr. Chase, and notwithstanding it is in evidence that the witnesses, the staff officers, and Mr. Howard and Mr. Nicholson saw the publication of the order and invoice, still, as they themselves testify, there was no allegation that a forgery had been committed. Nothing of the kind appeared until a letter of Mr. Howard appeared in print, dated 4th of February last, and that was indefinite in its language, and three or four months after the lengthy discussion. Therefore there was before the public *prima facie* evidence that somebody violated the "laws in the matter of an alleged liquor speculation." As "the member's" [Mr. BLAIR's] name was about that time prominent as one indorsing an emancipation ordinance, "declaring slaves free at their death," and as his name was first to this order for liquor, it was natural and reasonable that "suspicion" should have rested upon him.

Then when he, unprovoked, attacked my character twice, was it to be expected that I would not let fly an arrow, knowing him to be vulnerable not only in the heel, but in all parts of his body? And was it to be supposed I would not aim at a vital point? The poisoned arrow which deprived "the member" of his self-possession was the words, "how can he relieve himself of the suspicion?" The committee is constituted to investigate, and the vender of the liquors, the collector who permitted the shipment, and four staff officers, whose names are signed by themselves to the order, interested witnesses, appear to testify. I produce, of course, the *prima facie* proof, the order. They swear that the amount of the order has been increased by addition of figures and the word "each." I might here let the case rest, as I have made no charge except of "suspicion," and as there is not one word of evidence to show, indeed, no attempt to show, that Mr. Bonner heard of the order until the liquors were seized at Cairo. I have made no charge, and Mr. Bonner is proven not to be a forger, which "the member" distinctly charged him to be. But had I been disposed to have not argued this case further than this point, and to have suffered "the member" to escape unharmed, in case he had shown that magnanimity which I am satisfied an innocent man would have shown when apparently a load of suspicion was removed, all such disposition was eradicated by "the member" himself, by his cross-examination of Mr. Bonner, which covers fifty-seven pages of foolscap paper, throughout which his vindictive spirit is clearly manifest. I am under no obligations to be lenient, and it is my duty to give fearlessly my opinion formed from the testimony. The frowns of those I shall speak of I do not fear; their favors I do not ask. I shall give testimony as the reasons for my opinions. If testimony shall not sustain them of course they will be harmless. If it should the public should know them.

On page 18, of the manuscript testimony, Captain George A. Maguire, a staff officer, who signed the order, testifies that "the affair, commonly called 'BLAIR's liquor speculation,' was discussed in the papers of St. Louis." On page 22 a letter or card of Captain Maguire appears, dated 28th March last, last month, after my speech of 23d, when I exhibited the order, and he says "the question of General BLAIR's liquor speculation" having been recently renewed by the agents of the Treasury Department, &c.—"renewed." It had been. On page 35 "the member's" [Mr. BLAIR's] first question to his own witness, Mr. Howard,

collector, is, "Do you recollect anything in regard to this order for stores, liquors, &c., which has been so much commented on in the newspapers, called the 'BLAIR liquor speculation'?" And the answer is, "I do not recollect a great deal about it until after it was seized and made a matter of notoriety." On pages 55 and 60 this witness testifies that "during the months of September and October, 1863, he saw the discussion in regard to the 'so-called liquor speculation'." On page 73, the first question asked by "the member" of Mr. Nicholson, his own witness, the vender of the goods, is, "Did you ship the goods named in this 'famous BLAIR liquor speculation'?" On page 116, is a lengthy printed publication signed by this same David Nicholson, dated 31st October, 1863, and this communication has for its caption, "More of that liquor speculation." Still, as I have said, not one word, in all their communications, is uttered intimating a forgery until in February, 1864, and then the language is indefinite. "The member," in attempting to prove that Mr. Bonner knew of the forgery, asked Mr. Howard, I believe, with apparent astonishment, if Mr. Bonner knew it for three months, and would not do him the justice to publish it. With astonishment may I not ask why "the member's" personal friends, the collector, the merchant, his staff officers, who have lately come to the rescue, suffered at least four months to pass without attempting to do him justice, when, during that time, printed letters, making excuses for having signed the order, appeared?

Captain Maguire, who does not appear in the testimony in a very enviable light, which I will show should I have the time, on page 19, after saying he looked over the order and invoice a few days after the publication and satisfied himself that the forgeries had been committed, testified that he stated it was a forgery, "to all his friends." Still, he testified that about that time he did not write and have published a card. Why did he not come to the rescue of his friend at that time, when he could have so easily defended him by exposing the forgery? Why did none of his friends? He stated it to "all his friends." Surely a staff officer had friends who were friends of the general. But none would defend him. On page 21, he, Captain Maguire, says "he saw two communications from Mr. Nicholson and one from Michael Powers and did not recollect that they stated it was a forgery." And, on same page, he testified "he did not see in any of those communications that a forgery had been committed." But he had satisfied himself and he and "all his friends" remained silent. But he did not show himself a lagard, when, on the 28th March, he dated a printed letter, after the exposure in this House on the 9th and again on the 23d of that month. We can suppose there was time for a proper understanding.

Even Collector Howard, the personal and political friend, and who "supposes" "the member" used his influence to have him appointed to office of collector, did not come to his friend's relief, but in silence suffered him abused, for he testifies, on page 39, that he "thought he discovered the alterations and forgery some time in September or October, after the order had been published." Still this same partisan friend, after publicity of the order, remained silent until the 4th of February last, when he appeared in a letter published and in evidence on page 36 and said that Mr. Bonner would inform that the documents, on which the charge of "General BLAIR's liquor speculation" is founded, "are base forgeries." He commences his testimony by saying, "the presentation of the original papers by Colonel McCLURG, in the House of Representatives on the 23d of March, 1864, demands this explanation." The presentation of the copies to the public in September or October did not demand from this personal and political friend even a letter to the public for four months. And when, on the 8th of February last, a letter appeared in the papers from Mr. Bonner, to disgrace whom the attempt has been so persistently made, which, in his too great kindness, he was induced to write by "the member's" friends, in which he did not inform the public as Mr. Howard had expressed, but stated merely that Mr. Howard stated that a member of General BLAIR's staff had, on examination of the paper, pronounced the word "each," as it appeared in the order, also the last item on the order, as forgeries, and that Mr. Howard

also gave it as his opinion at the time that the same were forgeries and that to his mind there was a dissimilarity between the words mentioned and the body of the order; yet he (Howard) did not object but suffered the charge against his friend to remain with such an explanation for two months more, until he was called to the witness-stand. Still "the member" asks for a committee to investigate my charge: "how does he expect to relieve himself of suspicion?" He did not in September attempt to remove it; when absent his friends did not; when again in St. Louis in December he did not. Why, it even appears on page 50, from Mr. Howard's own testimony, notwithstanding he severely censured Mr. Bonner for giving a copy of the order, that, in his anxiety for his friend, he underscored some words and figures and sent the original order by mail to the President, and that it was seen by the Postmaster General also. But the forgery was not apparent enough for them to have made a publication in "the member's" behalf. Could it then be expected that I would not suspect, who had not at the time of my first speech seen the order; when now, having seen it and heard witnesses, I conscientiously believe every word and figure to have been made by Captain E. M. Joel, except the last item of canned fruits? If no suspicion, what had removed it? There was no proof, no declarations. I think, then, that if my language amounted to a charge at all, I stand justified in the opinion of all.

But I will now ask in all sincerity, where do those nine officers who signed that order stand? By their own testimony, if they are not guilty—those who testified—of perjury, they are morally, every one who has had knowledge of a forgery, guilty of that forgery. If their testimony be true, they knew the order went into the hands of Michael Powers, their own agent, and that as he made the purchase and shipment, and the order was enlarged to enable him to do so, he committed the forgery or procured it done. By their own testimony they knew of the forgery for months and remained silent, although their own characters were suffering. From their own mouths are they condemned. They knew a felony had been committed. "The member" knew it, for, as is in evidence by Mr. Howard, "he [Mr. BLAIR] wrote from the Army that a forgery had been committed," but he did not produce the letter. They knew who the felon was. They concealed the crime and the criminal, not only for a day or a week, but for months. If not accessories before the fact, by their own testimony they are after the fact; certainly morally if not legally. They will so stand condemned in the eyes of God and man. "The member" would not have him—Powers—who is guilty, by their direct testimony, if any one is, of the forgery, subpoenaed as a witness. I did, knowing he could give the required light. Before I put him on the witness-stand, I informed the committee I knew what he would swear to. He testified as he stated to me, and covered himself with shame, if capable of shame. I did not believe his testimony. I do not now. Even upon the witness-stand "the member" came to the defense of him he would have us believe committed the forgery; for so soon as he—Powers—had testified to answer "the member's" purposes, as it would seem, he came to his relief and objected to my question, saying "I had no right to bring down my own witness;" but he should have added his own friend, either the perjurer or the forger, who knew how to testify so as not to criminate himself, as it is but reasonable to suppose he had been taught.

But there is another proposition I will make which will scarcely be controverted. It is this: "The member" [Mr. BLAIR] and staff officers are not only morally but legally bound by the acts of Michael Powers. He was their agent; and, admitting for argument's sake for the time being the forgery to have been committed, they ratified his acts. Their subsequent silence was a ratification and adoption of the acts of the agent by the principals. In sixty-sixth section, second volume, Greenleaf on Evidence, the truth of this proposition is enforced in these words:

"When the principal is once fully informed what has been done in his behalf, he is bound, if dissatisfied, to express his dissatisfaction within a reasonable time, and if he does not his assent will be presumed."

Then it is hardly competent for these principals to come in, interested witnesses, and by their own

oaths repudiate the acts of their own agent. It is hardly competent for them to censure others for confirming, in words, the truth of what they themselves were confirming in actions.

Do I not therefore stand guiltless of undue severity in my language when I made the charge of "suspicion?" Is it improper to breathe "suspicion" upon one when exalted when the same act would brand the humble citizen with infamy? Are the exalted not to be brought low by their complicity in crime or acts in violation of laws? The people will answer that question correctly, and, thank God, they, the honest masses, constitute a tribunal, a committee of the whole, that never fails to pronounce a correct verdict. To that tribunal this case will go, and I doubt not the result.

My only witnesses examined were Mr. Powers, the agent of "the member," Mr. Bonner, and a Mr. Conner, of Washington city. Mr. Conner was summoned merely to show an irregularity even in Captain Joel's signatures by producing a number from the quartermaster's department. Mr. Bonner was only subpoenaed that he might defend himself against the charge of forgery made by my colleague. My only reliance, therefore, to convince others that my opinion is correct, is upon the testimony of my colleague's interested witnesses. My candid, deliberate conviction that Captain Joel wrote all, except "25 box can fruits," and that all the staff officers and my colleague were cognizant of the same; that when they were detected they conceived it to be better for one to suffer than all, and better for that one to be the more obscure and unfortunate one, rather than a major general and staff, if that individual could be induced to take the whole load of disgrace upon himself. To be sure, in doing so, he would not so testify as to jeopardize his liberty by confinement within the walls of a penitentiary. His having written "25 box can fruits," probably, and I think most probably, by consent, but certainly afterwards, as I have shown, acquiesced in, would aid in placing suspicion on him; but it would not be necessary, if subpoenaed, to criminate himself, and he would be able to explain it away as a good opportunity to make some money. And who knows that he has not made money by testifying as he has? If guilty of a high crime, as his own testimony indicates, to make money, would he not perjure himself for money? I am irresistibly brought to this conclusion by the appearance of the order itself and by the testimony of these interested witnesses. In the remaining time left me I cannot do justice to them. My analysis must be too brief. Either one would require my whole remaining time.

Captain George A. Maguire, of the staff, testified that he signed the order, but did not know at first where, but recollected "very distinctly what was in it," even without inspecting the order. But subsequent testimony disclosed the fact that he had examined the order months before in St. Louis, and another witness testified that "a photographic copy of the order obtained from me had been examined in Washington city by the staff." Of course his testimony corresponded with Captain Joel's: "that the word 'each' was inserted, the item of canned fruits added, the first five twos and three in first column prefixed, the fours in twenty-four boxes Catawba and claret altered from sixes, (which is the only perceptible truth in the whole, except the canned fruits), the cipher added in thirty boxes cigars, the cipher added in twenty boxes champagne, and doubts as to whether four boxes tobacco is or not an alteration from one," (and the sixes may have been altered to fours by Captain Joel.) This is the same witness, Maguire, that discovered the forgery months since, but remained silent, but now comes boldly up to the work. He remembered "very distinctly," at length, Powers "coming to Haines's Bluff, on a mule." It was seven to eleven miles from the boats. "He [Powers] offered to bring down a small lot of liquors and cigars." "He made the offer." "He had more facilities." "Liquors, &c., that were shipped to us were constantly stopped by special Treasury aids and revenue aids and were seized." "Captain Joel was our quartermaster, and wrote the order, and presented it to us." "We signed it." "I examined it." "It was a very small one."

Let us notice whether or no his language does not recoil and show corruption and falsity on its

face so as to destroy his testimony. Mr. Powers, who, as in evidence, was "not a personal friend," but bore "letters of recommendation" from "the member," [Mr. BLAIR,] rode fourteen to twenty-two miles on a mule, in June, in a hot climate, to "offer" to "bring down a small lot of liquors!" One instance of disinterested benevolence! They cannot now say his object was to commit a forgery, for his request, "not being a friend," was unreasonable, and, if true, he would have been suspected. Captain Joel says he remained at headquarters that day. But we were not informed whether or no he slept with the general, "who was not a personal friend," to talk over the "sheriff's bonds" against themselves, (and I might say the judgments for twenty to thirty thousand dollars; but that is not in evidence, as it was left out of Mr. Powers's testimony from considerations on my part that I consider were afterwards abused by the "general member,") or merely to procure those "letters of recommendation" which Mr. Powers admitted he had. He "offered" to bring. Ah! there is such a thing as proving too much. No less than four times, in one answer to one question did this witness use this language, on pages 13 and 14.

I have not time to describe the affecting scene which can be imagined at headquarters (and which might be photographed to grace bar-rooms) when in the morning this benevolent man (Powers) on his mule took his departure; and the many admiring eyes followed him as his retreating form disappeared in the distance, and heartfelt wishes ascended that there might be a speedy return of the "whisky" and "brandy," which soothe all care, drive away fogs and sorrows, and aid in charging fortifications. He bore the order which would bring gladness and comfort to nine officers, and, of course, many friends. And, according to the testimony of these witnesses, what was it? Five gallons brandy, five gallons whisky, three boxes cigars, and a few other articles! The enormous quantity of one third of a box of cigars each and two and two ninths of a quart of whisky and same of brandy! And to procure this supply a major general and one of his staff, the quartermaster, signed the order, and that quartermaster hunted up and presented it to six other staff officers for their signatures, and the ninth signed it at Memphis. Why was all this necessary for two and two ninths quarts each of whisky, and two and two ninths quarts of brandy? There is too much proven. Why, Mr. Howard, the collector of the port, testified, in one answer, that the name of a general was sufficient, (meaning for any amount;) and here we have the names of nine for a morning dram! And we are told by a witness that Powers could take the liquors down without charge and without interruption. That is, Michael Powers could run the gauntlet between the Treasury agents; and Captain Maguire on that point indulges in these words: "Liquors, &c., that were shipped to us were constantly stopped by special Treasury aids." Of course, shipments were constantly being made to have been constantly stopped, and the disappointment was so great that in that warm climate the thirst became intense, and in desperation it was resolved to have two quarts each, &c.; and, to obtain it, to become accessories before the fact to a violation of the regulations, as implied in the fact that liquors were being stopped by the Treasury agents. This they knew, for one most aggravated case is mentioned by Captain Joel, the quartermaster, who "went with some others of the member's" staff officers to the custom-house at Cairo, and found an "empty demijohn there with General Blair's name on it, a three or a five-gallon demijohn!" We were not informed who emptied it or how many demijohns might have been found all along the river with General Blair's name and empty. I doubt not the whole truth would make an interesting record.

Of this witness, Captain Maguire, I have only time to add that he testified as to when he first saw the original order after its publication, and then, in a printed letter of 28th March, 1864, which he indorsed as true under oath, he states, in referring to the second time he attempted to see it, that he was informed at the custom-house that Mr. Bonner had "purloined" it. It is clearly shown by Mr. Bonner's and Mr. Howard's testimony that Captain Maguire's statement was false, although Mr. Howard attempted deception by giving the



names of those who could give information at the custom-house, whom, on cross-examination, he acknowledged to be only porters. The maxim, "false in one, false in all," brings the whole testimony of this witness to the ground. And he, as is in evidence, some months since stated to friends that "each" and "canned fruits" were forgeries, and then comes and testifies distinctly to additions of figures, two and a three and two ciphers. And he testifies that the order "plainly shows the forgeries in a different handwriting from the body of the permit," to discover the falsity of which it is only necessary for any man to inspect the order.

Another witness, Dr. Franklin, the surgeon, a staff officer, I will pass by. It may be his first erroneous step; it may be his last. His recollection seemed distinct. He had seen the photograph; he "did not read the communications," as he did not "take the papers," and immediately says, "I saw the publication of it in the paper."

In turning attention to Mr. Howard I regret I cannot pay more respect to this personal and political friend of "the member." He is collector of the port, grants permits for shipments, &c. As to questions of veracity between himself and Mr. Bonner, irrelevant to the case, I must pass by them. Where the two are known, Mr. Bonner cannot suffer. For my present purpose, it is enough to show he contradicts himself, and at last is compelled to disclose the fact that he violated the regulations, and, of course, then, his oath of office, in granting the permit to ship the liquors. And here I would direct attention to the language of the committee in their report. The language is correct, but minds of others may be misled. The committee say, "At the time the order was delivered to Powers there was no law or military regulation in any way prohibiting it."

Mr. CLAY. I think the whole point of this part of the gentleman's speech is founded upon a mistaken idea. If I understand the facts, Mr. BLAIR never charged Mr. Bonner with forgery at all. He charged one of the agents with forgery and another with publishing the forged order. Mr. Bonner is the one he charged with publishing. Therefore, the burden of this part of the gentleman's speech, trying to convince the House that he charged Bonner with the forgery, is without foundation, for that charge was never made by Mr. BLAIR at all.

As to the matter of trade regulations, there were no trade regulations as we could understand from the collector. He said decidedly that there were no trade regulations, and that the permit was not given in violation of any orders whatever. That is my understanding, and that is the statement of the collector of the port. Therefore I think the gentleman is entirely mistaken in stating that the committee overlooked the matter.

Mr. McCLURG. I think the gentleman will be convinced, when I shall have quoted the language of the witness, that he did knowingly violate the regulations. I am aware that in the haste of the committee they overlooked that portion of the testimony, and I will make that clear to the gentleman himself before I am done. In the quotations I have made from the remarks of the military gentleman it is shown that he did distinctly make an allegation of forgery against Mr. Bonner. It is most clear and definite.

Bear in mind the committee say only that there was no regulation prohibiting "the order." That is true; a general could order what he pleased. But the committee do not say there was no violation of regulations in making the shipment. "The general member" did not violate the regulations in making the order; but Mr. Howard, the collector, as his own testimony shows, and Mr. Powers, the agent, violated the regulations by permitting and making the shipment; and I contend that the silence of these parties ratified all that was done and made the violation of regulations their own.

On Mr. Howard's cross-examination, page 55, he answered that "the regulations of the Treasury Department and military orders" governed him. To another question he answered, "I think then (meaning June, 1863) they could ship on a military order solely; of a major general's, for instance. Now I think the signature of the commander of the district is required, as well as that of the general commanding. There are now two." That answer not satisfying me, I asked, "Whose

signature was required in June, 1863?" The answer came: "I think that of the major general commanding the department or district." The truth at last came contradicting his former testimony. "The member" [Mr. BLAIR] did not command a department or a district, but a division, as designated in the order itself, in his signature. This true answer is confirmed by Mr. Bonner, the special Treasury agent. Then, what is Mr. Howard's testimony worth? What value can be given to his opinions? What to his judgment, when he underscored, as forgeries, four figures and words and left five not underscored, which some others testify to as palpable forgeries?

A few words as to Mr. Nicholson, another witness, who sold the liquors. He testifies that he is the owner; that he and Powers were the only ones interested; that he sustained losses, saying nothing about Powers's losses. He testifies that they were turned over again to the owner, and that they were turned over to Mr. Powers. Here is a contradiction. The invoice is made out to Mr. Powers, and Mr. Nicholson's clerk swears "Powers is the owner." The bill of lading shows "M. P." as the mark, and it is sworn to as correct. There are printed letters of this witness in evidence, in which he writes authoritatively as the owner. He paid the five per cent. at the custom-house. This witness, as his testimony shows, labors to establish the belief that the Treasury agents are corrupt plunderers, seizing goods without giving receipts, and not accounting for the same, but appropriating to their own use. And when I attempted to, and did show by himself, that the liquors, &c., were in charge of his own clerk, specially appointed, he even attempted to disguise the truth by saying "they were in the hold of the boat, if that was being in his charge." But he had to acknowledge that the liquors, &c., were in the charge of his clerk and Mr. Powers, his clerk being present all the time, until they arrived at Cairo, and he had to acknowledge that he sold a part of the "canned fruits" and butter, and fifty half barrels ale, and that he could produce no account of what arrived at Cairo, merely relying upon a statement of the clerk, who may have disposed of much more. There is further proof, in Captain Maguire's testimony, that he "thought they (those who gave the order) procured some of those liquors, &c., from Powers by an order from General Grant's adjutant." There is not a word of evidence, as the committee will say, to show that a Treasury agent committed a wrong, except in not rigidly enforcing the regulations and disposing of these liquors, &c., for the Government. For it will be remembered there was no order or permission for the purchase from a department or district commander, and nothing to show that a shipment of one dollar's worth of liquor without such order was not a violation of the regulations. The regulations made no difference, although a custom was yielded to. Mr. Howard, however, testified that he "thought all orders (large and small) required the words in the order before us, 'for our own use.'" And this in part accounts for those words being in this order.

I leave the witness Nicholson to drown his conscience in liquors and sustain his character at home. Before proceeding to the next witness, I will state that Mr. Howard produced a memorandum book of Mr. Powers to prove that "25 box can fruits" and "each" and the additional figures were made by Mr. Powers. I believe after an examination of that book "25 box can fruits" to have been written by Mr. Powers, but whether consent of the principals was given or not it was useless for me to attempt to prove. The word "each" and other figures resemble those in Powers's book about as much as an ox cart resembles a pleasure carriage. It is evident to any observer that "can fruits" and "each" were not written by the same hand.

Now, my few remaining minutes to the last, but not least, witness, I shall notice—Captain E. M. Joel, the quartermaster, who acknowledges to have written the body of the order.

Bear in mind that positive swearing does not always convict even of the crime of murder. A perjurer might acknowledge himself guilty to save friends, character being gone and the grave opening to receive him. But he would not be recognized, if the footprints of another, marked with blood, were truly traced from the bleeding corpse.

We will see the evidences of guilt, in my opinion, covering this witness. On page 4 "the member" asked the question, "Is there a palpable difference between the additions and the body of the order as written by you?" The answer is, "Yes, sir; there is a very large difference." Question. "Compare the capital E in your signature with the same letter in the word 'each.'" The answer is, "The letter has no resemblance to my style of writing." Therefore, on page 6, I ask this witness to point out in what respect the figure 2 in the line "2 doz. bitters," acknowledged to have been made by him, differs from the other figures 2 claimed to have been added, and you could not imagine the answer of one who had just said "a very great difference." His answer was, "They look very much alike." To the question, "Do not the figures 5 appear to have been altered as much as any others?" he answered, "It does not make any difference whether they look so." I then asked him to point out any difference in the shading of the lines, the quantity of ink used, or in any other respect, between the word "each" and the rest of that line. The answer is, "I am not sufficiently posted to tell whether it is done with a different pen or with different ink. It looks pretty much alike, though it may have been with other ink altogether." He says E in "each" is not his E, because it differs from E in his name. Cast your eyes to the order, or to the photographic copies, and you will see as great a difference in C in "Capt." in his name and C in "Catawba" and C in "claret," "cigars," and "Charles" as between the E's. Again, see H in "each" and it resembles most strikingly the H in "Michael," in "half," and in "whisky." Again, the order as it now is bears evidence of hurriedness. The letters in "each" are not well formed, neither are they in "Catawba," "tobacco," and "genuine." Again, the 4 in "bales tobacco" was originally a 4, because "bales" is in the plural and not altered. The same hand that formed 4 to bales formed all the fours as they now are. The ciphers in "30 boxes cigars" and "20 boxes champagne" appear to have been made by the same hand, at the same time. Obliterate those ciphers and see how you destroy the beauty of the order by leaving wide spaces. As it is, the order presents a neat and business-like appearance, though hurried.

There is one peculiarity which please notice. The left margin, beginning with first figure and ending with four presents a straight line, but not perpendicular, but inclining regularly from the right to the left. And that your imaginations may not be taxed too severely, please observe the photographs made to correspond with Captain Joel's oath and you will see the order which he swears he wrote. Is there a man who believes him? Is it not more than ridiculous, more than absurd, inconsistent with reason and truth? The whole beauty and harmony is destroyed. The first five figures in the right hand column incline somewhat to the right. Then the next figure is commenced a half inch to the left and a wide space left between it and the B. The next line, which he acknowledged he wrote, is written properly. In the next there is a wide space between the 2 and B. The margin from 3 down is regular and in harmony and inclines from the right to the left, and it requires the very figures as they appear in the order as it now is to place the margin in that harmony which we observe in the original order, and which alone is consistent with the evident business qualifications and neatness of this quartermaster. Captain Joel was the quartermaster, a business man, and such an order as he represents himself to have made is supremely ridiculous, and every candid man must say he has attempted to prove too much. If they had relied only upon the words "each" and "canned fruits" they might have induced some to doubt. As it is, it is evident they have been caught in their own net. Even Michael Powers, the agent who made the purchase, could not swear to anything definite; all that he seemed to know was that the order had been for a smaller amount, and that "each" had been inserted. He could not point out where one figure had been added; he would not swear he made the alterations; he would not criminate himself.

Look at the photograph of the order, omitting the alleged forgeries which makes it as Captain Joel swore he wrote it, and ask yourself why is

the margin so different, from figure 3 down, from that of the part above; from 3 down inclining gradually to the left and the other somewhat to the right? Why a space after the 3, giving ample room for inserting a cipher? Why same space after 2 in line for champagne? Why, but that figures could be inserted and a regular margin made as now appears in the order that has been published? An inspection of the photographic order omitting the alleged forgeries will remove all doubts. No one can doubt that Captain Joel either swore falsely or carefully wrote the order that the forgeries might be perpetrated. And as "the general-member" [Mr. BLAIR] said, "He could congratulate himself that the photographic art was applied to detecting criminals," I would suggest that he have the photograph of the order, as sworn to have been made by this witness, placed in the "rogues' galleries," with his quartermaster's likeness as executing it, and his own looking on complacently and approvingly. And here I leave them, in their disgrace, to themselves, their God, this House, and an intelligent public.

But before I take my seat I desire to read a letter. It may still be contended by some that the anonymous letters read by "the military member" [Mr. BLAIR] have some force when used against the Secretary of the Treasury. I therefore desire to close by reading the following:

CAMP THIRD REGIMENT MISSOURI INFANTRY VOLTS.,  
WOODVILLE, ALABAMA, April 6, 1864.

Sir: Permit us to make to you a statement which may, probably, draw some light upon the whisky-speculation case of General BLAIR, now before the House committee. While our regiment was encamped at Young's Point, Louisiana, (opposite Vicksburg,) in the spring of 1863, we were in the habit of frequently visiting the sutler's establishment of the thirtieth Missouri infantry regiment, then belonging to General BLAIR's brigade. The sutler always kept a fine stock of ale, wines, liquors, and can fruits, which he was selling to officers and men. To our great surprise we found that boxes containing the above mentioned articles were marked "General F. P. BLAIR," and it greatly astonished us to see that the sutler sold such articles as were marked as above stated. It is not our wish to accuse General BLAIR and blame him for this transaction, as he may not have had anything to do with it, but there must have been some swindle in some quarter, and it may be interesting for you to know it. At the same time we do not wish that this note be published, as it may injure us, but should you think our evidence desirable in the investigation of the liquor case, we declare our willingness to give it cheerfully, and so contribute anything that may enlighten the subject.

We have the honor to remain, sir, very respectfully, your obedient servants.

Lieutenant Third regiment Missouri infantry,  
Third brigade, First division, Fifteenth Army corps.

First Lieutenant Third Missouri volunteer infantry.

Hon. J. W. McCLELLAN, of Missouri.

This letter was unexpected, unsolicited, and the authors are personally unknown to me. I would merely suggest that it may be an excusable offense "to suspect" that an individual who seems to have been engaged in one dishonorable transaction in the spring, may have been so engaged in another in the summer.

Here I leave this subject, with "suspicion" in my mind confirmed of guilt resting upon an individual who it seems to begin to appear, was only a pseudo-member.

Mr. HIGBY. I did not intend when I moved this morning to have this evidence printed with the report to say anything at this time, neither did I expect that any one else would. I supposed after the printing of the evidence that I would be allowed to rise to a question of privilege to vindicate myself from the position, rather a false one, in which I was placed on Saturday last as chairman of the committee by the gentleman against whom the charges were made. That was the only part I intended to take in this matter.

#### INCREASED PAY TO SOLDIERS.

Mr. SCHENCK. Will the gentleman from Pennsylvania permit me, as the chairman of the Committee on Military Affairs, to occupy the attention of the House for a moment in order to report a bill increasing the pay of soldiers, and have it printed?

Mr. HIGBY. I yield for that purpose.

The SPEAKER. The Committee on Military Affairs have a right to report the bill back at any time.

Mr. SCHENCK. Then I report back from the Committee on Military Affairs bill of the Senate No. 115, to equalize the pay of soldiers in the United States Army, and I move that it be printed and recommitted to the Committee on Military

Affairs. I propose to call the bill up for action as soon as it shall be printed; if possible to-morrow.

Mr. HOLMAN. I suggest to the gentleman that the bill be made the special order for some early day, say Monday or Tuesday next.

Mr. SCHENCK. I should be glad if that could be done by general consent.

Mr. HOLMAN. Say Tuesday next, after the morning hour.

Mr. SCHENCK. There are a great many special orders now.

The SPEAKER. The business of the House is so blocked up now with special orders and postponements that a special order made to-day for to-morrow or Monday or Tuesday next would not be reached for some time.

Mr. HOLMAN. Is there a special order for Tuesday?

The SPEAKER. The special orders already on the docket will consume a great deal of time.

Mr. SCHENCK. I move, then, that the bill be recommitted and ordered to be printed. I will then enter a motion to reconsider the vote to recommit, and I can call up that motion to reconsider at any time, when I suppose the question will be before the House.

Mr. HOLMAN. Cannot we do it more effectually by authorizing the committee to report at any time?

Mr. SCHENCK. Will that give the House an opportunity to consider the bill when it shall be reported back?

The SPEAKER. It will.

Mr. SCHENCK. That is all I want.

The SPEAKER. Then if there be no objection the bill will be ordered to be printed and re-committed to the Committee on Military Affairs, with authority to report it back at any time.

No objection was made; and it was so ordered.

#### INTERNAL REVENUE BILL—RECORDING VOTES.

Mr. KNAPP. I ask leave to record my vote on the passage of the internal revenue bill.

No objection was made.

Mr. KNAPP. I vote "no."

Mr. HARRIS, of Maryland. I ask the same privilege.

Mr. STEVENS. I have objected to anybody recording his vote.

The SPEAKER. That objection does not apply to the present time. The gentleman from Illinois [Mr. KNAPP] has just obtained consent to record his vote.

Mr. VOORHEES. The gentleman from Pennsylvania allowed the gentleman from Illinois to record his vote, and I hope now he will accord the same privilege to others.

Mr. STEVENS. There are a great many gentlemen upon this side of the House who want to vote, but I cannot agree to it, for I think they ought to have been here.

Mr. HIGBY. I learn that I have acted under a misunderstanding of the rules of the House, not being familiar with them, and that if final action should be taken on the question of printing the testimony now, I would not have an opportunity when the evidence is printed of submitting the few remarks I desire to make. I could have made them in much less time if I had had the printed testimony before me; but as I cannot have an opportunity then, I must say what I have to say now.

Mr. VOORHEES. With the permission of the gentleman, I desire to state to the gentleman from Pennsylvania [Mr. STEVENS] that there will be no objection to his recording his vote on the tax bill, which I find is not recorded, if he will allow gentlemen on this side of the House the same privilege.

Mr. STEVENS. I voted. I do not know whether my vote is recorded or not.

The SPEAKER. The gentleman is not recorded.

Mr. STEVENS. Well, sir, I voted. [Laughter.]

Mr. VOORHEES. I must object to his voting at this time. He may have the Journal corrected if he will allow me to vote.

The SPEAKER. It is too late to correct the Journal now, the Journal of yesterday having been read and approved.

Mr. STEVENS. I care nothing about it. I was not in my own seat, but I was in the House and voted. If my vote is not recorded, I care nothing about it.

The SPEAKER. The vote of the gentleman from Pennsylvania is not recorded on the Journal, nor is it in the papers of this morning.

Mr. STEVENS. I voted very distinctly.

Mr. VOORHEES. I simply wished to do the gentleman a kindness, that he might be on the record on his own bill.

Mr. STEVENS. I was not in my own seat, but I was sitting yonder opposite the Clerk's desk, and voted at the time. But I care nothing about it. If my vote is not recorded, I cannot help it.

Mr. VOORHEES. I made the suggestion in the kindest spirit. I thought there might be some misunderstanding in the public mind from his name not appearing on the record in support of the Government.

Mr. GARFIELD. Scores of men heard the gentleman from Pennsylvania vote.

The SPEAKER. The gentleman from Pennsylvania moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table; and the Chair therefore supposed he had voted.

Mr. STEVENS. I did vote.

The SPEAKER. The Chair has no doubt of what the gentleman states, and if the Journal had not been approved, the Chair would have ordered the correction to be made.

Mr. STEVENS. I care nothing about it. I do not ask to have my name recorded on the Journal.

Mr. DAWSON. I think my colleague should be allowed to record his name on that vote.

Mr. VOORHEES. I ask the gentleman from Pennsylvania if it was not with a good deal of reluctance that he voted for the bill?

Mr. STEVENS. It had become so mangled that I almost wished I had been a Loco-foco to enable me to vote against it. [Laughter.]

Mr. VOORHEES. Very good. That is all I want.

#### CHARGES AGAINST A MEMBER.

Mr. HIGBY. I shall occupy but a few minutes' time, and then I shall move the previous question, and I hope that that will close up the Missouri controversy in this House and that we will hear no more of it. I do not know that any one has become surfeited, almost to disgust, more than I myself, because a local question and not a national one. Had the gentleman from Missouri [Mr. BLAIR] confined himself, in his remarks on Saturday, exclusively to what was reported by the committee, I should not have taken the opportunity to say anything on the question one way or the other. In what I have to say I shall confine myself entirely to my duties as a member of that committee, and to the final action in that report.

The question was raised in regard to the subject on which the committee should make its final report. The members of this House have already learned that in a large part of the report the whole committee agree, but that there was something appended to its conclusion on which no two members of the committee agreed. It will be recollected that the chairman came to the conclusion from the evidence that certain charges made by the honorable gentleman from Missouri, [Mr. BLAIR], in his reply to the charges made against him, had not been sustained by the evidence. The gentleman from Missouri denied that the order referred to was genuine. The committee sustains that declaration. The report exculpates him from being engaged in liquor speculations.

But in connection with the gentleman's reply he made charges of a character which the people would probably like to know something about. Much evidence was introduced in regard to those charges which he made. I call the attention of members of the House to what took place at the time the resolution was introduced by the member from Missouri who asked for a committee of investigation. It will be borne in mind that the distinguished gentleman from Pennsylvania [Mr. STEVENS] rose and asked that the resolution be amended. If the amendment had been substituted in place of the original, it would have confined the duties of the committee to the simple business of ascertaining whether the order referred to was genuine or was forged. That would have been the whole business of the committee, and would have been all accomplished in three hours' work. Let me read the resolution as introduced in the first instance:

"That a select committee of three members be appointed

by the Speaker, with power to send for persons and papers, to investigate the charges made by Hon. J. W. McGurk, of Missouri, against F. P. BLAIR, a member of the House of Representatives from the first district of Missouri, of violating the laws in the matter of an alleged liquor speculation."

That was the resolution as introduced by Mr. BLAIR. Then the gentleman from Pennsylvania [Mr. STEVENS] rose and proposed an amendment which was adopted, and was as follows: "and to inquire into the genuineness or falsity of the alleged order for the purchase of liquor, dated June 3, 1863." That amendment was adopted, although the gentleman from Missouri who introduced the original resolution objected to it, lest it would limit him in the introduction of certain testimony outside of the mere sustaining of his denial of being engaged in that kind of business. He wanted to introduce proof to sustain the charges he made against certain Government officials for being engaged in the forging of that order. The gentleman from Missouri [Mr. BLAIR] went before the committee and insisted on introducing proof to that point. This proof comprises more than half of the evidence taken before the committee.

When the committee had gone to the length of tolerating the introduction of that testimony and deemed it to be legitimate under the resolution I, for one, deemed it my duty to report whether Government officials had or had not been engaged in forging such orders. The people of the country, I knew, would be anxious and sensitive upon that point—whether Government officials would be tolerated in their places after committing such criminal acts. That was the reason why I deemed it my duty to report upon it. We should not make ourselves such laughing stocks as to sit day after day taking testimony and pay no attention to that evidence in our report. It was for that reason that I did assert as a member of that committee in conclusion of the report my judgment as to the conclusions to be arrived at from the evidence in the case as to the charges which the gentleman from Missouri made which were criminal in their nature. I did not deem it proper to refer to any mere matter of imprudence or indiscretion. I leave that matter to them in the settlement of their local difficulties. But when charges are publicly made against officers of the Government criminal in their nature the people are anxious to know something about them, especially when those charges are under investigation, and I deemed it my duty as a member of the committee to include that matter in our report. But it seems I stood alone in that.

Well, sir, the gentleman from Missouri, [Mr. BLAIR,] after being present at the taking of all this testimony and after reading the report of the committee, saw fit on Saturday, when that report was read, to rise in his place here and reiterate the language used when he made his charges in reference to Government officers. He did it in the face of and against the proof in the case, and he knew it when he asserted it. The proof shows this beyond contradiction. The very witnesses he called in reference to the matter proved who was the man that *did* commit the forgery, and I will not be mealy-mouthed about it. I do not want to go around it, as a portion of the committee did. I wanted to assert directly in the report that Michael Powers committed that forgery. There was an abundance of proof distinctly and directly to the fact that he was the man that altered the order. I did not feel that there was any delicacy in the matter when the man Powers came before the committee, after three men had testified who had signed the paper and pointed out the alteration made in it after it was signed. More than that, the surveyor of the port (Mr. Howard) examined the paper before the committee, and said that a certain word, the word "each," the word that has been spoken of so much here, was, in his judgment, put in by Mr. Powers; that he was familiarly acquainted with Mr. Powers's handwriting, had often seen him write, and had an abundance of his handwriting in his possession; and he stated under oath that, in his opinion, Mr. Powers made the alteration which was made in that order. More than that, we compared the handwriting with that of other writing of Powers's in his possession, and found them to be similar. More than that, Mr. Powers himself, when brought before the committee, admitted that the order passed into his hands after it

had been signed by these parties. And when the question was put to him whether the order was altered after it came into his hands, he said it was, "Who made these alterations?" Well, he does not like to answer that question if he can get along without it.

Now, there is no lawyer in this House who has been in the practice of the law for a term of years who would hear a witness undertake to evade a question in that way; and not say, "You are the criminal!" First, the circumstantial proof was directly to the point; and secondly, his own evasion of that question and another similar one put to him, left no doubt in the mind of any one that he was the guilty person. For these reasons I wanted to insert in that report the fact that Mr. Powers was the man who committed the forgery.

Now, sir, who was this man Powers? The gentleman from Missouri has no right to rise and say here, or anywhere else, that I have no right to ask that question, because he introduced the proof before the committee, and directed their investigations directly to this point; and it was through the testimony thus introduced by him that proof was brought before the committee that Powers was the man who committed the forgery. His mouth is therefore shut forever from any complaint in this connection.

Now, sir, I repeat, who is this man Powers? The gentleman from Missouri on Saturday last asserted that he was a Government agent—"one of Chase's understrappers." He asserts when he makes the charges in the first place that it was one of Chase's agents who committed the forgery. Mr. Howard is called as a witness on the part of BLAIR; and his evidence was directly to the point, and cleared up the matter. He is called upon to state, as surveyor of the port of St. Louis, in what capacity this Mr. Powers was acting.

Mr. Powers, at the time of this transaction, at the making of this order and the sending of these liquors and other articles down the river, was acting in no official capacity. He had been a Treasury aid previous to that time. By whom was Mr. Powers appointed when he had that office of Treasury aid? The question is asked Mr. Howard. "I appointed him," said Mr. Howard in answer. "By whom, Mr. Howard, were you appointed to occupy the position you do as surveyor of the port of St. Louis?" He replied "By Abraham Lincoln." If there were a shadow of a possibility of that man Powers acting as a Government official at that time, the appointment came from Abraham Lincoln and not from Mr. Chase. But that would not suit the purpose of the gentleman from Missouri, [Mr. BLAIR.]

There is not, however, the head of any Department of the Government, from the President down, who is not fully and completely exonerated from the charge made by that man on Saturday last. And I am only astonished a man who occupied the position that he here did as a member of this House, a Representative of the people—of one hundred thousand and more if his district be full—I am astonished, sir, that a man occupying such a position should get up here and make such a barefaced statement in defiance of the testimony taken in the case.

As I said before, I would have preferred not to have said a word. I would have been glad to have called the previous question at the outset. I did move that the report should be laid upon the table, and ordered to be printed; and if it had not been for the importunity all around me I would not have withdrawn that motion. I believed that we had had already enough of discussion on the subject. I would not have said a word if the gentleman from Missouri [Mr. BLAIR] had not made charges entirely unwarrantable by the testimony taken in this case.

I now close by stating in reference to the evidence that members may refer to it conveniently. I refer them to the testimony, so far as the report is concerned, of Captain Joel, Franklin, the surgeon, and one other, whose name I do not remember; to the testimony of Mr. Howard, surveyor of the port of St. Louis, and also to the testimony of Mr. Powers. I think then that they will find no difficulty in coming to the same conclusion that the committee did. I think when they examine the testimony of Mr. Powers they will find that the conclusion of the report made by the chairman is entirely sustained; that the charge of criminality against any Government

officer is not sustained in the least. If the testimony had been printed I would have had it read from the Clerk's desk; but as it is in manuscript, and would have occupied a great deal more time, I have not seen fit to do so.

With these remarks I close, and now demand the previous question.

Mr. CLAY. I ask my colleague to yield to me to submit some remarks.

Mr. HIGBY. I withdraw the demand for the previous question for that purpose.

Mr. CLAY. Mr. Speaker, it was not my intention to have said anything to the House on this subject until the testimony was printed and laid upon the desks of members, and when that was done I proposed to submit such remarks as might seem to me just and proper. This discussion, however, having sprung up this morning, and other members having spoken, if the House will indulge me I will say at this time what I had expected to say on some future occasion.

Mr. Speaker, it is an unpleasant business at all times to be placed upon a committee to investigate charges against honorable members of this House. I would have avoided it if I could; I knew that some gentleman had to perform the duty, however unpleasant it might be, and when the House put me on this committee I determined to do my duty, and to continue to do it by stating the facts as I understand them in a plain and straightforward manner.

Mr. Speaker, I shall not go into the details of the testimony taken before the committee, but I shall speak of the facts as they are impressed upon my mind. I may be inaccurate in regard to some of the dates, but in regard to the main facts I do not think I can be mistaken. I will endeavor to make my remarks short. The committee sat many nights and days, and full latitude was given to the parties to bring out all of the facts, and from those facts our inferences were made.

Now, what are the facts? It seems that charges were made against General BLAIR of being engaged in a liquor speculation in Mississippi. From the evidence which was produced before the committee it appears that it was necessary, according to what was usual, and according to the recommendation of the surgeon of the corps which General BLAIR commanded, that General BLAIR and his staff, while in the service of the United States in Mississippi, performing duty near Vicksburg, should use moderately some stimulant as a kind of antidote to the diseases which prevailed in that country.

This man Powers came to General BLAIR and his staff, representing himself as a Treasury agent, and supposing that he had facilities for doing so, while traveling up and down the river as such agent, he offered to supply them with such liquors as were needed and were necessary. He said that if they would give him an order he would supply them with such liquors as they desired. Therefore it was that upon the application of this man that order was drawn. It was written by one of General BLAIR's staff, Captain Maguire. He testified himself that he wrote the order and presented it to General BLAIR, and then to the remainder of the staff of General BLAIR, making in all nine persons who signed the order. Powers received that order, and after he received it, according to the testimony, and according to his own confession, he altered it. He did not exactly say that he committed a forgery, because after acknowledging that it had been altered he was asked who made the alteration, and at the same time he was informed by the committee that he was not bound to criminate himself, and he did not answer that question. Yet he answered it sufficiently to convince the committee that he was the forger, as the honorable chairman of the committee has said. After receiving this order, Powers returned to St. Louis, and there he concluded that there was a good chance under that order to make a speculation for himself. As he said himself, he thought he was not cheating the Government, because he paid the proper percentage upon the goods shipped; and that he was not cheating General BLAIR, because he was not bound for the goods which he got under the changed order. As liquors were very high, and it was difficult to get them shipped to that country, Powers concluded it was a fine chance to make a speculation, and the result was the forgery of this order.



Now, gentlemen, I will draw your attention to the order itself. The original order was given, for instance, for five gallons of whisky. By putting the figure "2" before the "5" it made it "25," and then by putting the word "each" after that, it made the amount nine times that amount, because nine persons signed the order. So in regard to the other articles the amount of which was changed. For instance, five gallons of brandy was changed to thirty-five gallons, and then to nine times that amount, by virtue of the word "each." Thus it happened that the order which in the beginning would probably amount to \$150 was absolutely forged so as to amount to eight or nine thousand dollars. The evidence before the committee was conclusive to my mind that General BLAIR never saw the order after he signed it, and that he never saw the individual who received the order, and of course that he had no complicity with the man who altered the order. So far as General BLAIR was concerned in regard to this speculation, the committee were unanimous.

This man Powers went to St. Louis, and after having obtained a permit from the proper department to ship the goods, went to a grocer to purchase the goods, but not having the means of paying for them, the grocer entered into an arrangement with him by which he was to send an agent down the river with Powers to receive the money whenever the goods were sold; thereby having a joint occupation of the goods for the purpose of receiving the money. In this transaction BLAIR's name was not known. Powers merely showed the permit from the custom-house, and this grocer was anxious to fill that order and anxious to sell the goods, because it was difficult in those times to sell goods at all. Then so far as General BLAIR is concerned, in my judgment, he has completely exculpated himself from all connection with this matter further than the signing of a simple order for a quantity of liquor which was not unreasonable for himself and his staff.

In regard to some other matters the committee were not entirely unanimous. On some points I came to a different conclusion from the chairman, and I will state the reasons upon which I formed my judgment upon this matter. Under the resolution adopted by the House it was a matter of doubt whether we had a right to investigate or report upon charges made by parties outside of this House. We thought the investigation ought to be confined to parties, members of this House, and that outside parties ought to be left alone to take care of themselves, and that we had no right to exculpate or implicate them in any way whatever. If they were implicated by the testimony taken, let it go to the world, and let the world decide without the House troubling itself about the matter. That was the opinion of the majority of the committee, but the chairman differing with us and being disposed to bring other matters in, I had no particular objection to its being done, reserving my right to give my reasons why I dissented when the report should be presented to the House. I will quote the charge made in this House from the speech of the gentleman from the fifth district of Missouri, [Mr. McClurg:]

"Mr. BLAIR, of Missouri. I ask my colleague if he does not know that the order which he has quoted here was a forgery committed by one of Mr. Chase's agents, and that its publication was procured by another of Mr. Chase's agents, who knew it to be a forgery, in a paper which was in the pay of Mr. Chase. The whole thing can be traced to malice and malevolence. It is acknowledged now to have been a forgery on the part of these two agents of Mr. Chase."

Now, here was a distinct charge made by General BLAIR that the forgery was committed by one of Mr. Chase's agents and published by another.

Mr. BALDWIN, of Massachusetts. Will the gentleman allow me to ask him a question?

Mr. CLAY. Certainly.

Mr. BALDWIN, of Massachusetts. Do I understand the gentleman from Kentucky to say that Powers at the time of this transaction was an agent of the Treasury Department?

Mr. CLAY. I will explain the matter if the gentleman will allow me.

Mr. BALDWIN, of Massachusetts. He was not.

Mr. CLAY. I will explain that matter if the gentleman will listen to me patiently. I am speaking of the charge made by General BLAIR, so that we may know what the charge is which we are here to consider.

Mr. McCLURG. I ask the gentleman from Kentucky to read a little more of that language.

Mr. CLAY. I am going to read it presently. But I wish to say here in advance that so far as Mr. Chase is concerned I have nothing to say about him, for I do not see that he figures in this matter at all. In speaking of Mr. Chase's agents in my remarks, I merely allude to the Treasury agents. I shall not indulge in any such technicalities as to draw a distinction between men appointed by the President and men appointed by Mr. Chase, or men appointed by the surveyor of the port. They are all, in the true sense and meaning of language, agents of the Treasury, and Mr. Chase is the head of the Treasury. I have no charges whatever to make against Mr. Chase, for I do not see that he has anything to do with this matter. I wish to be confined to the testimony in the case. I wish to give a fair detail of all the facts, and to state my conclusions from those facts, and then let the House and the country judge.

I go further, and will say that so far as these two gentlemen from Missouri are concerned, I never knew either of them until I came into this House. I am not a personal friend of either of them. I have no particular feeling of friendship or hatred for either. I look upon both as honorable gentlemen and members of this House, and equals with the rest of us; but as the gentleman from the fifth district of Missouri has thought proper to make a speech reflecting upon the committee I felt as if I was bound to notice it, and to give my version of the story as the correct interpretation of the evidence.

Mr. McCLURG. I intended no reflection upon the committee and cast none.

Mr. CLAY. Now, Mr. Speaker, I want to show what the charges are in this matter. In the first place, I have read from General BLAIR's interruption in the speech of his colleague from the fifth district [Mr. McClurg] to show that the charge was that the forgery was committed by one Treasury agent and published by another. I read further to show that the gentleman's endeavor to represent Mr. BLAIR as charging Bonner with committing the forgery is not borne out. I read from the same point in the speech and from Mr. BLAIR's interruption:

"I was in the field doing my duty when these miserable miscreants committed this forgery which the gentleman parades here. I suppose he has seen the denunciation of that pretended order as a forgery in a St. Louis paper, and he may have all the credit he can get for circulating the forgery of Mr. Chase's agents."

"Mr. McCLURG. Will my colleague give us the name of the person he alludes to?"

"Mr. BLAIR, of Missouri. I allude to Mr. Bonner."

Mr. HIGBY. I would ask the gentlemen what construction he puts on the language of Mr. BLAIR, "when these miserable miscreants committed this forgery?"

Mr. CLAY. Here is the explanation. Here is the direct charge that Mr. Bonner published the forgery. The extracts I have read show to me conclusively that General BLAIR charged Powers with committing the forgery, and Bonner with the publication. That was the charge made by General BLAIR, and in my judgment the testimony bears it out.

Now, sir, who was this man Powers? When he received this order he represented himself to be a Treasury agent, or, in the gentleman's phrase, a "Treasury aid." He had been going up and down the river as a revenue aid, and so reported himself at the time he received this order. I do not think that the testimony exactly shows the time at which this gentleman was dismissed from the service. He had been a revenue aid, and so represented himself at the time he received this order; and it is plain to my mind that Powers was the forger, and that he was or had been a Treasury agent.

I now come to Mr. Bonner, and what does he say? How does this gentleman stand according to the testimony before the committee? It has been denied over and over again that he acknowledged knowing this paper to be a forgery; but it is proven by Mr. Howard, the surveyor of the port, that he did acknowledge it to him in a conversation. And what does Mr. Bonner himself say? I will read you what he says:

Editors Missouri Democrat:

I am requested by personal friends of F. P. BLAIR to state what has come to my knowledge with reference to a cer-

tain order made by General BLAIR and members of his staff, on which Mr. Michael Powers obtained a permit from the collector of this port for the shipment of a certain lot of liquors to Vicksburg, and as to the forgery of any part of said order.

I will state that I never saw the order referred to until after the liquors were seized at Cairo. No suspicion was raised in my mind as to any part of the order being a forgery until after there had been some newspaper criticism in relation to the shipment, when Mr. Howard, the collector, called my attention to the original order, stating that a member of General BLAIR's staff had, on examination of the paper, pronounced the word "each," as it appeared in the order, also the last item on the order, as forgeries. Mr. Howard also gave it as his opinion at the time that the same were forgeries, and while I am not prepared to charge that any gentleman connected with this transaction would perpetrate a forgery, I will state that to my mind there does exist a dissimilarity between the chirography of the word "each," also the last item of the order, and the balance of the order.

Yours, very respectfully,

B. R. BONNER.

Now, Mr. Bonner says he never had any suspicion of this paper being a forgery until a certain time. The inference is that after that time he did believe it to be a forgery. What is Mr. Bonner that he should be vindicated by members on this floor because he is an agent of the Treasury Department? Mr. Bonner is one of the special Treasury agents at St. Louis, and has figured very largely in this matter. The goods were shipped from St. Louis by the authority of the Government, and when they got near Vicksburg they were met by an order from General BLAIR to turn back. They were unshipped at Cairo, and there placed in the care of Government officials. And Mr. Nicholson swears that when he received the goods back they were minus \$2,000 worth, which had been abstracted while in the hands of these Government officials.

In that state of the case Bonner comes here and imposes on the gentleman from Missouri, [Mr. McClurg.] Or, if he did not impose on him, if he communicated all the facts, then the gentleman from Missouri [Mr. McClurg] is as guilty, in a moral sense, as the forger himself. I consider that the man who knowingly publishes a fraud or forgery upon another is as guilty as, if not more so than, the man who originally commits the forgery. The latter has not the manhood to stand up and make the charge boldly, but he skulks behind some other individual to shield himself from responsibility. Mr. Bonner had access to the records of the custom-house where these papers were. He took out the papers, and while they were in his possession he gave copies of them to individuals. In that way the matter got into the journals, and this order was brought here as a genuine paper while it was known to be false. The man who could sit and listen deliberately to all that testimony when there was no rebutting testimony to leave a doubt on his mind, and who can then come and reiterate such charges here, ought to receive the contempt and indignation of every member of the House.

Now, Mr. Speaker, there is an attempt here to incorporate other charges. What are they? While General BLAIR is released from all stigma in this matter, they try to brand the forgery on his aids and on his associates in arms—men who were fighting our battles while these recreants were trying to make political capital out of them. It appears, sir, not only by Powers's acknowledgment but by Mr. Howard, that this forgery was committed by Powers. There is no doubt about it. Four members of General BLAIR's staff certify to the same thing. They all stated it was a forgery. And I put this question to the surgeon, who seems a most intelligent man: "Doctor, could you, under any circumstances whatever, have been induced to sign such an order as this?" Said he, "It is impossible I ever could have signed an order of that magnitude." He said he had no use for it and had no way of taking care of it, and that if it had been an order of that description it would have struck him immediately. Therefore the proof, in my judgment, is conclusive on all these points. There is the forger. There is the man guilty of it, and there are the men who are endeavoring to make capital out of it.

Mr. Speaker, I should not have gone so particularly into the matter but for the remarks of the gentleman from Missouri [Mr. McClurg] and of the chairman of the committee, [Mr. HIGBY.] We differ upon that point. I have no doubt that it is an honest difference of opinion.

But I felt that I owed it as a duty to myself and to this House and to the parties concerned that I should speak freely and fearlessly upon all matters and persons connected with this transaction.

Mr. HIGBY. I now demand the previous question on the motion to print.

The previous question was seconded, and the main question ordered to be put.

The motion was agreed to.

Mr. HIGBY moved to reconsider the vote ordering the report printed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MILITARY POSITION OF A MEMBER.

Mr. DAWES. I now call up the question of privilege presented last evening, and demand the previous question upon it.

The SPEAKER. The question will then be upon the adoption of the following resolution, yesterday submitted and laid over for one day:

*Resolved*, That the President be requested to communicate to this House copies of the notes, letters, telegrams, orders, entries, and other documents which are referred to by him in his message sent to the House this day, which have connection with the answer made by him in that message to the resolution requesting him to inform the House whether FRANCIS P. BLAIR, jr., of Missouri, holds now any appointment or commission in the military service of the United States.

#### ENROLLED BILL AND JOINT RESOLUTION.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill and joint resolution of the following titles; when the Speaker signed the same:

An act to increase the compensation of inspectors of customs in certain ports; and

Joint resolution to increase temporarily the duties on imports.

#### MILITARY POSITION OF A MEMBER—AGAIN.

Mr. BLAIR, of West Virginia, moved to lay the resolution on the table; and on that resolution demanded the yeas and nays.

On ordering the yeas and nays, 12 voted in the affirmative, and 57 in the negative.

Mr. BLAIR, of West Virginia, called for tellers on the yeas and nays.

Tellers were ordered; and Messrs. BLAIR, of West Virginia, and HIGBY, were appointed.

The House divided; and the tellers reported—yeas 25, noes 54.

So the yeas and nays were ordered; more than one fifth voting therefor.

The question was taken; and it was decided in the negative—yeas 28; nays 84; as follows:

YEAS—Messrs. Alley, Ames, Arnold, Jacob B. Blair, Brandegee, Broomall, Dawson, Dixon, Eliot, Ganson, Grier, Hall, John H. Hubbard, King, Knapp, McAllister, Amos Myers, Orth, William H. Randall, Edward H. Rollins, James S. Rollins, Ross, John B. Steele, Stuart, Thomas, Elihu B. Washburne, Whaley, and Fernando Wood—28.

NAYS—Messrs. Allison, Ancona, Anderson, Augustus C. Baldwin, John D. Baldwin, Baxter, Blaine, Blow, Boyd, Brooks, Chauler, Cobb, Cole, Cox, Creswell, Henry Winter Davis, Dawes, Deming, Denison, Donnelly, Driggs, Eckley, Eden, Eldridge, English, Finck, Garfield, Griswold, Harding, Harrington, Benjamin G. Harris, Herrick, Higby, Hotchkiss, Asahel W. Hubbard, Philip Johnson, William Johnson, Kernan, Law, Le Blond, Loan, Long, Longyear, Marcy, Marvin, McBride, McClurg, McKinney, Samuel F. Miller, William H. Miller, Moorhead, Morrill, Daniel Morris, James R. Morris, Morrison, Leonard Myers, Noble, Odell, John O'Neill, Pendleton, Perham, Price, Radford, Samuel J. Randall, John H. Rice, Schenck, Scofield, Shannon, Sloan, Smith, Spaulding, Stevens, Stiles, Strouse, Thayer, Upson, Wheeler, Chilton A. White, Joseph W. White, Williams, Wilder, Wilson, Windom, and Yeaman—84.

So the resolution was not laid on the table.

The question recurred on seconding the demand for the previous question.

Mr. BROOKS. I hope the gentleman from Massachusetts will permit me to offer an amendment to his resolution.

Mr. DAWES. I will withdraw the demand for the previous question for the purpose of hearing the gentleman's amendment.

Mr. BROOKS. I propose to amend by adding as follows:

And that the President be also requested to report as soon as possible to the House all facts or depositions which are or have been in his possession, or in the possession of the Secretary of the Treasury or the Solicitor of the Treasury, respecting the printing in the bureau in the Treasury building, where are printed the public money, the bonds, and other obligations of the United States.

The SPEAKER. The Chair will state that if the gentleman from Massachusetts yields for

the purpose of allowing the amendment to be offered, it can only be done by unanimous consent, it not being germane to the original proposition.

Mr. DAWES. If there be no objection, I will not object.

Mr. UPSON. I object.

Mr. STEVENS. Let the gentleman's amendment come in as an independent proposition.

Mr. BROOKS. Will the gentleman give me the opportunity to introduce it as an independent proposition?

Mr. STEVENS. I will give the gentleman an opportunity of asking the general consent of the House. [Laughter.]

Mr. DAWES. If the amendment can be introduced I am willing to have the information, but if it is objected to of course it would do no good for me to yield. I therefore renew the motion for the previous question.

Mr. BROOKS. I hope the gentleman from Massachusetts then will allow me to speak on this resolution. I promise to renew the demand for the previous question.

Mr. SCHENCK. So far as the resolution itself is concerned I have no objection, but the other proposition has nothing to do with it, and I object to the gentleman debating that on this resolution.

Mr. BROOKS. I rise to speak to the resolution itself.

Mr. UPSON. I object to the gentleman from Massachusetts yielding, unless he yields unconditionally.

Mr. DAWES. I yield unconditionally, understanding that the gentleman will renew the demand for the previous question.

Mr. BROOKS. I am surprised that there should be such sensitiveness on the part of gentlemen on the other side of the House in granting the opportunity of submitting a few remarks on a resolution calling on the President of the United States for information. I am not able to comprehend that sensitiveness, or to understand why there should be any objection. I am quite sure there can be no apprehension on the part of these gentlemen who have so much confidence in the President, when a resolution calls upon him, and especially when that resolution is introduced by an honorable gentleman from Massachusetts, that any damage could result as the gentleman from Michigan seems to apprehend from such information coming from the President, or that there should be any desire to conceal that information. Under our form of Government we are entitled to all the information from the Executive which is not detrimental to the public interests; and the resolution of the gentleman from Massachusetts, [Mr. DAWES,] as it is proposed to be amended by me, will not be detrimental to the public interests, but on the contrary will subserve the public good. The demand upon the Executive for information should be allowed at all times and on all occasions, except in case of war, and when the publication of information would be detrimental to our foreign relations or our domestic safety.

Nor can I comprehend the objection which was made, I think, by the honorable gentleman from Michigan [Mr. Upson] to the amendment which I proposed to the resolution of the gentleman from Massachusetts, and which, under the ruling of the Chair, I was compelled to withdraw.

Sir, we not only have the right to know what is going on in all of the Executive Departments, but I think that it would be satisfactory to the public. The Representatives of the people always have the right to know what is going on in other departments of the Government.

Mr. Speaker, the House will recollect that after the close of the Christmas holidays I made some remarks here especially in reference to the subject of the printing of the public money in the Department of the Treasury. There seemed then on the other side of the House some little disposition that there should be some inquiry on the subject. I made allegations as to the character of the printer, and I submitted the documents. The debate was in print, the documents given in here, and all could be referred to, as they were on the records of the House. I waited until the month of February, when I again called the attention of the House to the fact that the gentlemen on the other side had made no use of the testimony which I had submitted. I then expressed my surprise that no attention had been

given to a subject so important to the welfare of the country.

Mr. CRESWELL. I rise to a question of order. The gentleman from New York is speaking to the resolution which he proposed as an amendment to the resolution of the gentleman from Massachusetts, [Mr. Dawes,] and which was ruled out of order. He is not speaking to the question before the House. The gentleman is therefore out of order.

Mr. KERNAN. Discussion is allowable on the resolution to show the importance of obtaining information from the Executive Departments. My colleague's remarks are to show the necessity of passing the pending resolution.

The SPEAKER. The point of order is not debatable, but the gentleman from New York [Mr. Kernan] has seen fit to counsel him as to the manner in which it should be decided, which counsel he has listened to cheerfully, although compelled to differ from him.

The Chair decides that the remarks of the gentleman from New York [Mr. Brooks] are not in order. He must confine his remarks to the resolution of the gentleman from Massachusetts, [Mr. Dawes.]

Mr. BROOKS. I assure the gentleman from Maryland that it is utterly impossible to defeat my purpose to get this information out. If debate be choked in this House, it is utterly impossible to suppress the newspapers of the land. If I am not allowed to say what I have to say here, I can say it any time in the newspapers. Gentlemen might, therefore, allow me at this time to say what I have to say as well as at some other time. If on mere points of order members shut me off here I will go before the country through the newspapers; and the facts I have will only be the more damaging if Republicans suppress them here. What I have to say is in reference to peril of plunder in the Treasury and to the stealing of the public money. Will the gentleman make his point of order after that allegation?

Mr. CRESWELL. The propriety of restraining the paper with which the gentleman is connected is a question of public morals, and cannot be reached by a point of order. I can only say that it is a matter of very little moment what may be said in the New York Express. Gentlemen on this side do not read it, because they do not regard it as a reputable paper. I call the gentleman to order.

The SPEAKER. The gentleman's remarks are not in order here. The Chair has no control over the other arena to which the gentleman from New York referred.

Mr. BROOKS. The honorable Speaker belongs to that arena, and feels the force of my appeal. Now, the question of public morals—

The SPEAKER. That is not in order. [Laughter.]

Mr. BROOKS. The question is whether in the discussion of this matter we can discuss the obtaining of executive information, not only on these "notes," "telegrams," and "documents," but of kindred subjects connected with them, involving the disbursement and use of the public money. The question which has been discussed before the House during the greater part of this day has been upon a certain order for a certain quantity of liquors, and those liquors must have been paid for by somebody's money; and in the course of that discussion there has been brought before the House all the various parties connected with the matter and with the Secretary of the Treasury. The broadest latitude of discussion has been admitted in reference to one member of the Cabinet, or in reference to the brother of one member of the Cabinet, but when I approach another member of the Cabinet an honorable gentleman upon the other side of the House rises and puts in an objection upon the ground that it may be offensive to public morals.

Well, sir, I know the narrow limits in which the strict and rigid rules of order and the keen eye of the Speaker will be able to confine me in the course of my remarks. But I assure honorable gentlemen upon the other side of the House it is bad party policy. Ten years ago, here, on the Whig side of the House, and in the midst of a Whig representation, I rose on the Galphin matter, surrounded by my Whig friends, and protested against the frauds connected with the Galphin claim, and a majority of my Whig friends



years ago stood with me and did not shut me off on points of order. There was a scene of two hours in the House, but the Whigs let me in as a Whig. I then rose to avert from the Whig party the facts which I foresaw the Democratic party would use against the Whig party in connection with the Galphin claim or fraud; and yet now, as I approach this subject connected with the Treasury, there arises a universal clamor upon the other side the very moment I approach it. I tell gentlemen they had better permit me to go on, and I ask permission to go on.

Mr. BALDWIN, of Massachusetts. I object to the gentleman proceeding otherwise than in order.

The SPEAKER. The Chair will have the Clerk read the resolution now before the House, to which the gentleman from New York will direct his remarks.

The resolution of Mr. DAWES was again read.

The SPEAKER. The Chair will state to the gentleman from New York that the general question whether the President shall give information to the House upon various subjects is not now under discussion, as the Chair believes; but the question is whether the House desires the orders, telegrams, notes, &c. mentioned in the resolution, and debate relating thereto is in order.

The Chair will say in relation to the allusion to the strict manner in which the Chair administers the rules, that he has endeavored to administer them with equal impartiality upon both sides of the House, as he did upon the gentleman from Missouri [Mr. McClure] who spoke an hour or two since, and upon the gentleman from Missouri [Mr. Blair] who spoke a few days since upon the same subject.

Mr. BROOKS. The House gave him permission to proceed just as he chose.

The SPEAKER. The gentleman can proceed in the same manner if there is no objection. Is there objection?

Mr. SLOAN. If the gentleman will wait and introduce his resolution as an independent proposition I believe it will pass, and that this side of the House will vote for it. I certainly will.

Mr. BROOKS. I hold in my hand the resolution which I desire to introduce, and I ask that it may be read.

The SPEAKER. Another resolution is before the House, but the resolution can be read for information, if there is no objection.

No objection was made.

The resolution was read, as follows:

Whereas the disbursements of the Treasury now amount very nearly to one thousand million dollars per annum, mainly obtained through loans; and whereas the business of the Department has grown to proportions never contemplated by the framers of the Government, and as Congress has conferred upon the Secretary of the Treasury not only the power to receive and make disbursements of the public funds, but also the power of making and issuing the evidences of the public debt; and whereas the business of the Department is now conducted as it was originally organized, no change having been made in its internal operations except the enlargement of the several bureaus thereof:

Be it resolved, That a committee be appointed to examine into and report upon the management and condition of the Treasury Department, and especially into the bureau where is printed the legal tender, or money, or bonds of the United States, with power to employ such experts as may be required, and that such committee be instructed to suggest and recommend any changes in the organization of the Department for facilitating its business and the protection of the public interest as they may deem necessary, with power to publish and report the testimony thus taken at any time.

Mr. GARFIELD. I ask the gentleman to allow me to have read a resolution which I desire to offer as a substitute for his.

Mr. BROOKS. I yield for that purpose.

The resolution was read, and is as follows:

Resolved, That the committee on the conduct of the war be directed to summon Hon. JAMES BROOKS, a member of this House, to give testimony in regard to any and all frauds of which he may have any knowledge connected with the Treasury Department.

Mr. BROOKS. I accept that.

The SPEAKER. The Chair will state that these resolutions have been read for information, and are not subjects for debate at the present time.

Mr. BROOKS. I am sorry for that. Permit me one word in reply to the honorable gentleman from Ohio, [Mr. GARFIELD.]

The SPEAKER. The Chair will not call the gentleman to order unless a point of order is raised on the floor.

Mr. STEVENS. Let us go on and decide the

question before us, and then we will hear the other.

Mr. BROOKS. I suggest this is not fair.

Mr. STEVENS. The gentleman from Ohio has not made any remarks that I know of.

Mr. BROOKS. He introduced a resolution seemingly reflecting upon me.

Mr. STEVENS. I must object.

Mr. BROOKS. I will not object to the resolution of the gentleman from Ohio, if he will consent that my resolution shall come in immediately afterwards; and I will abandon the floor, and not say another word if I may be permitted to publish my speech in the Globe to-morrow.

Mr. CRESWELL. I object to printing what the gentleman, who is out of order, would have said if he had been in order.

Mr. COX. I object to this debating by the gentleman from Maryland.

Mr. BROOKS. Then I understand that the gentleman from Maryland, who made the point upon public morals, objects to the publication of my remarks in the official organ of the House of Representatives?

Mr. STEVENS. Yes; as against public morals. [Laughter.]

Mr. DAWES. The gentleman from Pennsylvania [Mr. STEVENS] charged me a moment ago with having opened the flood-gates upon the House in this way by yielding as a matter of courtesy to the gentleman from New York. I do not know what the gentleman meant by the remark. I have only to say, Mr. Speaker, that without any knowledge of the character of the remarks which the gentleman desired to submit to the House, I yielded as a matter of courtesy to him. But I have this further to say, with the leave of the House, that no man who ever offered a resolution in this House calling for an investigation into the official conduct of any man, whether he be a political friend or a political opponent of mine, has ever found any opposition from me, for I have learned in my experience that it did my friends more harm to attempt to defend them by covering up than it did to give the largest liberty to anybody who desired to investigate their official conduct. If a man brings a foundationless charge against any official, you have but to let him have rope enough and he will hang himself; if you do not, he will hang you. [Laughter.] That is the only difference.

Mr. BROOKS. Well, I ask permission to hang myself. [Laughter.]

Mr. GARFIELD. I move that permission be granted. [Renewed laughter.]

Mr. DAWES. Without having any knowledge of these charges, I am not to have the rule of conduct by which I am to be governed laid down by the gentleman from Pennsylvania. That is all I have to say upon the subject.

Mr. BROOKS resumed the floor.

Mr. CRESWELL. I hope I may be permitted to make an explanation.

[Shouts of "Order!"]

Mr. BROOKS. I cannot yield to the member from Maryland again. He is not a member of the House by election but by force. He is only the representative of the bayonet. He has no moral or constitutional right to be heard here at all.

Mr. GARFIELD. The gentleman from New York has just expressed a wish that he may be permitted to hang himself. I move that he have the consent of the House. [Laughter.]

The SPEAKER. The motion is not in order.

Mr. BROOKS. I understand that the gentleman from Ohio [Mr. GARFIELD] now allows me to proceed without objection.

The SPEAKER. The gentleman from Massachusetts [Mr. BALDWIN] made the objection.

Mr. BROOKS. I am quite sure that the gentleman from Massachusetts, if for no other reason than that he belongs to the same profession I do, and is for free speech and a free press, will permit me to go on without interruption.

Mr. BALDWIN, of Massachusetts. I wish to go on with the business of the House.

Mr. CRESWELL. I wish to say in regard to this matter—

[Loud cries of "Order!" "Order!"]

The SPEAKER. The gentleman from Maryland is not in order unless he rises to a point of order.

Mr. CRESWELL. I do rise to a point of order. I insist that the rule be enforced as the

gentleman from New York persists in proceeding out of order.

The SPEAKER. The gentleman from Maryland insists that the rule shall be enforced. The Chair will have the rule read.

The Clerk read, as follows:

"61. If any member, in speaking or otherwise, transgress the rules of the House, the Speaker shall, or any member may, call to order; in which case the member so called to order shall immediately sit down, unless permitted to explain."

The SPEAKER. The gentleman from New York has been called to order, and the Chair has decided that his remarks have not been germane to the resolution before the House. As the rule is required to be enforced the gentleman must sit down unless permitted to explain.

Mr. BROOKS. Does the Chair enforce that point of order?

The SPEAKER. The Chair does not desire to enforce it if the gentleman will proceed in order.

Mr. BROOKS. I was trying, when interrupted by gentlemen upon the other side of the House, to adhere to the decisions of the Chair. My profession is not the legal profession. I was not educated as a lawyer, and know little of legal matters.

The SPEAKER. The Chair would respectfully state to the gentleman from New York that that is not embraced in the resolution.

Mr. BROOKS. It is impossible for me, a journalist, to adhere as strictly to the rules of order, even when acting in good faith, as gentlemen who have been bred to the legal profession, but I will try to do it to the best of my ability.

When I was interrupted here by gentlemen on the other side, I was dwelling upon the importance of obtaining information from the Executive Departments of the Government; and I was about to illustrate the evils, the dangers, and the perils to the community when information is not allowed to be had from these Executive Departments of the Government. In order to show why this resolution should pass as submitted by the honorable gentleman from Massachusetts, it is necessary for me to illustrate not only on the point of telegrams, notes, et cetera, but on the general peril of concealing information from the people which the people should have and can have from this House when it is permitted to call on the Executive Departments for information. One of these evils which I was about to illustrate was that when I at an early period of the session called upon the other side of the House in this matter of printing public money, I gave them an opportunity of correcting that great evil which, because they did not correct, has led to the peril of the sacrifice of millions and millions of public money in the printing bureau of the Treasury of the United States and to the conversion of the Treasury Department into a house for orgies and bacchanals. If I had been allowed at that time and am allowed at this time, and if the galleries are cleared so that charges can be made which are not fit for female ears, I will show the country that every word I have said is truth and more than truth.

Mr. BROOMALL. Is that in order?

Mr. SPEAKER. The Chair can do no more than state to the gentleman from New York, as he has repeatedly, that in his opinion his remarks have no bearing on the resolution.

Mr. BROOMALL. If I have a right to do so, I ask that the rule be enforced.

Mr. JOHNSON, of Pennsylvania. Does my colleague raise a point of order for the Chair to decide?

The SPEAKER. He does.

Mr. JOHNSON, of Pennsylvania. Will the Chair state that point, and give his opinion on it, so that we can have a record of it?

The SPEAKER. The Chair decides that the debate must be confined to the resolution offered by the gentleman from Massachusetts, [Mr. DAWES], and that in his opinion the remarks of the gentleman from New York are not confined to that resolution.

Mr. MILLER, of Pennsylvania. Is it the ruling of the Chair that it is not in order to tell the truth upon this floor?

The SPEAKER. The ruling of the Chair is that the debate must be confined to the subject under discussion. A gentleman might be telling truth in regard to matters in California, but unless

Mr. BROOKS. I want the gentleman to know that I am his peer here. This is not Baltimore [Cries of "Order!" "Order!" from the Republican side of the House.] This is the Capitol of the country and the gentleman does not command

Mr. BROOKS. I will not struggle much more. The discussion I wish to make I have put on paper a little more precisely. The question to be

Mr. DAWES. I will not proceed with an apology unless the House are willing to hear it. If there be no objection, I desire to apologize to the gentleman from Pennsylvania [Mr. STEVENS] for a remark made to him and to the House for anything that has transpired of an unpleasant nature.

character through any instrumentality of mine. I wish to say that in introducing the resolution which preceded the present resolution I did not undertake it on my own motion. I was preceded by the gentleman from Pennsylvania himself, who undertook, though unsuccessfully, to institute this investigation. I repeat that I regret exceedingly that I yielded the floor to the gentleman from New York. I should not had I known the course of debate he proposed to indulge in. I think I ought to be permitted to say, after what has transpired, that there is no man in this House who has a firmer confidence in the Secretary of the Treasury than myself.

The SPEAKER. The gentleman is not in order in referring to the Secretary of the Treasury, unless the consent of the House is given.

Mr. SHANNON. I object.

Mr. DAWES. I was aware that I was not confining myself to the resolution; but I thought I had the permission of the House to make an explanation.

The SPEAKER. The Chair has not put the question to the House on giving the gentleman permission.

Mr. DAWES. I am aware that I am out of order in saying what I propose to say; and I will not undertake to say it without that permission. I ask it.

Mr. SPALDING. I object.

Mr. ARNOLD. I rise to a point of order. I understood that the gentleman from Massachusetts asked and obtained leave to make this explanation.

The SPEAKER. The Chair does not understand that leave was obtained.

Mr. WASHBURN, of Illinois. I move that the gentleman be permitted to proceed in order.

The SPEAKER. That would leave the matter precisely where it is now.

Mr. DAWES. I will not without the leave of the House attempt to proceed. I demand the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the resolution was agreed to.

Mr. DAWES moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ORDER OF BUSINESS.

The SPEAKER. The next business in order, the morning hour having expired, is the bill in regard to the rebellious States, upon which the gentleman from Pennsylvania [Mr. SCOFIELD] is entitled to the floor.

Mr. SCOFIELD took the floor.

The SPEAKER. The Chair will state before the gentleman from Pennsylvania proceeds, that under the order of the House the evening sessions continue until otherwise ordered.

Mr. WASHBURN, of Illinois. I move that the evening sessions be dispensed with.

The SPEAKER. The Chair will state that the order we are now entering upon will be the special order until the adjournment, unless the House previously goes into the Committee of the Whole, or by unanimous consent proceeds to the consideration of other business.

Mr. COX. I thought the evening sessions were to continue only until the tax bill was disposed of.

The SPEAKER. They were to continue until otherwise ordered. The gentleman from Illinois moves that the evening sessions be dispensed with from and after to-day.

Mr. WASHBURN, of Illinois. If it is desirable for the House to have evening sessions for discussion only and not for business I have no objection. We have full time to do all our business by daylight, and I object to evening sessions for business.

Mr. SCOFIELD. I will not yield to the motion now, but when I get through gentlemen will have an opportunity to settle the matter.

The SPEAKER. If the gentleman desires to speak a full hour, he will be taken off the floor by the arrival of the hour of four and a half o'clock. At that time the Chair will have to declare a recess whether the gentleman is through or not.

Mr. SCOFIELD. I shall not occupy my full

hour. However, I will yield to the wishes of gentlemen.

Mr. WASHBURN, of Illinois. The gentleman says he will yield that we may determine the question whether we will have an evening session or not.

Mr. MORRILL. I hope the House will consent to have evening sessions, as there are so many gentlemen who desire to speak upon the matter now before the House, but with the understanding that no business should be done.

Mr. PENDLETON. I object.

Mr. WASHBURN, of Illinois. I move that the evening sessions be continued for discussion only, and not for business.

The SPEAKER. That motion can be adopted by a majority vote.

Mr. WASHBURN, of Illinois. I demand the previous question upon it.

The previous question was seconded, and the main question ordered to be put.

Mr. PENDLETON. Can a majority of the House make the order?

The SPEAKER. A majority of the House can change the order of business. The whole order of business has been under the control of a majority of the House since the tax bill was taken up for consideration.

The motion was agreed to.

So it was agreed that there should be evening sessions for debate only, and that no business should be transacted.

Mr. STEVENS. I want to know whether it is understood that we can go on with the same subject and debate it?

The SPEAKER. If at the time of taking the recess the bill in relation to the rebellious States is under consideration, that subject will be debated during the evening session.

Mr. GANSON. I desire to know whether the discussion can be upon matters of business before Congress, or whether it must be upon matters foreign to business?

The SPEAKER. That will depend entirely upon the action of the House. If when the House takes a recess they are discussing the rebellious States, that, being a special order, will be the only subject under discussion during the evening. If the House should be in Committee of the Whole upon the President's message, debate would be unlimited.

Mr. GANSON. I understood that the resolution of the gentleman from Illinois precluded the right to talk upon matters of business during the evening session.

The SPEAKER. That is not so.

#### THE REBELLIOUS STATES.

Mr. SCOFIELD. The continuity of constitutional government in the seceded States has been broken, the regular transmission of political power interrupted. How shall the severed thread be joined? By the unconstrained action of the people themselves, say the gentlemen in opposition. Very good, sir. I most heartily indorse that sentiment. When the people of these States shall voluntarily ground the arms of their rebellion, and uncoerced take upon themselves the easy yoke and light burden of the ever-gentle Federal Government, it will mark a glad day in these uncheerful years of our history. For one, I will be ready to hail it. I presume I may speak for my political associates; we will all be ready to hail it. Your care-worn President and weary Army—*weary with, but not of, the battle*—will be ready to hail it. The Federal arm, now raised in such terrible power in defense of the life and liberties of the nation, will fall as gently as the tenderest sympathizer will ask upon the heads of repentant and pardoned offenders. But that bright day does not yet dawn. These erring prodigals still prefer the husks of transgression to the fattened calf with which their old political allies would entice them back to party, perhaps to duty. Your calf has grown to be an ox, so long do they tarry in revolt; and I fear they will continue to neglect your feast until our gallant Army shall bring them to their stomachs.

In the meanwhile some kind of government ought to be established in those States from which the hostile army has been excluded; and while we wait the return of friendly popular action there, Congress must legislate or leave the people in the rough hand of military law. This bill, designed

to discharge that congressional duty, provides a temporary government and a practical mode of State restoration. I will not enter into a criticism of its many details, for I suppose they will be generally acceptable to any one who concedes the propriety of any congressional action. Its three prohibitions, as it strikes me, are the most noticeable and perhaps only debatable points. It prohibits the assumption of rebel debts, prohibits rebel officers from voting, and prohibits involuntary servitude.

The first I will pass by with the single remark that to assume the rebel debt would be to offer a high bounty for future rebellions, and I suppose we will have enough of this one never to want another.

I have but a word for the second prohibition. The ballot is the sovereign of this country, and if you permit these officers to vote you make them, to the extent of their numbers and influence, the rulers of the land. To-day you meet them in battle as outlaws and traitors, conquer them, and crown them your king to-morrow. If ordinary criminals are properly excluded from the polls, upon what principle of comparative justice can these men, guilty, not as subordinates or accessories but as contrivers and leaders of a crime recognized by all Governments as the highest or deepest that can be committed against human laws, ask the high privilege of the ballot through which they may complete the ruin of the country they were not quite able to destroy in the field? Of the third prohibition I have something more to say.

Mr. Speaker, if God shall give us victory, and enable us to subdue or scatter the army of the enemy, is a voluntary reunion of the States possible? I say *voluntarily* because I suppose nobody desires a Union always to be maintained by force; and I use the word *reunion* because nobody proposes a form of Government different from our present system of State brotherhood. I am not now speaking of the several plans of reconstruction, for they are designed only as temporary devices, looking to a reunion—a kind of scaffolding for repairs, to be torn away when the repairs are completed. My question looks beyond the battle and beyond reconstruction. When the victory is won, if won it shall be, and the transition over, will the insurgent States *willingly stay* where they have been *forcibly put* in their old places in the old Union? It has been said by gentlemen in opposition, and it seems to me with great truth, that as at present constituted or situated, they will not. They disliked the Union three years ago too much to remain in it, and dislike has deepened into hate now by the severity of the war. They tell us that Ireland, Poland, and Hungary—suggestive names, I admit—after so many years of compulsory alliance, do not yet fraternize with their political associates. They still sigh for separation, and impatiently await the opportune hour in which to strike for independence. What then? Shall these States be permitted to depart? No, sir. The great Republic could not survive the amputation. Shall they be retained, then, in the long future by military force? No, sir. Our own liberties could not survive their permanent subjugation. When the Federal Government becomes strong enough to hold eleven States as colonies, it will be too strong, I fear, for the people's liberties. To repeat my idea, if you allow a single stone to drop from the national edifice, the whole structure may fall; but if that stone must be held in its place by drafts upon its surroundings, supporting nothing itself, the building were stronger without it. This brings me to the paradoxical conclusion that we can neither *allow* these States to depart, nor forever *force* them to remain. How can the paradox be solved? By making them *willing* to remain, or, if this language still sounds paradoxical, I will say by removing all motive to depart. How can that be done?

Mr. Speaker, similarity of ideas is the bond of nationality. Contiguity of territory is nothing, natural boundaries are nothing, except as they are tributary to unity of thought. Ireland is indeed restless, but her restlessness is not owing to unslumbering animosities of civil wars. Such wars have been more frequent and more severe between different parts of England and between England and Scotland than they ever were between England and Ireland; and yet the people of these sections of the British empire cordially



fraternize. Nor is it owing to English subjugation, for Ireland is no more subjugated to England than Massachusetts is to New York. She is a part of the United Kingdom of Great Britain possessing the same rights as any other part, with a proportionate representation in Parliament and all departments of Government. English people and Irish people do not think alike. That is the trouble. They differ in religion—a difference that more than anything else has been the cause of popular estrangement throughout the world. They have each a long independent national history, full of glorious traditions; and national thoughts and feelings, long flowing in a particular direction, cut their channels rudely, but deep, and do not readily follow new though better channels of political science. These differences of sentiment are only removed by years, perhaps centuries, of political and social intercourse. But in the case of Ireland this necessary intercourse was cut off by an intervening sea, a sea that under the old system of navigation was as wide, almost, as an ocean in our day. The same or similar things may be said of Poland and Hungary. They had even a greater difference in language, and in the case of Poland there was a wide difference in the form of government. Having been accustomed to a kind of republic, she was placed under the control of a solid, silent, cast-iron, absolute monarchy. There is no analogy between these countries and ours. All our States prefer a government republican in form. Even the insurgent States adopted a constitution almost exactly like the one they attempted to abandon. We have the same national history. Whatever there may be in the past, either of suffering or achievement, worthy to be remembered or cherished is the common property and pride of all the States. We follow the same fashions, speak the same language, and worship at the same altar. No mountains, no seas divide us. On the contrary the shape of your territory and the course of your rivers are of themselves a revelation that the Union of the States is an ordinance of God.

We have but one cause of estrangement, the difference of opinion upon the subject of slavery. Upon that subject can the North and the South be induced to think alike? Can the North be induced to sanction slavery and think with the South, or can the South be induced to abandon slavery and think with the North? Either course would accomplish the purpose. Is either practical, and if so, which is most practical? For I will not now ask which is most just. Many persons will not consider these questions because they think there is an easier and better way. Let the North and the South, say they, agree to disagree about slavery, each section retaining and acting upon its own opinions unmolested by the other. This theory is plausible; it involves no expensive and troublesome change. I blame no one for adopting it, for I am myself one of its aforetime believers. I never could bring my mind to doubt its practicability until I actually saw the dissatisfied States go out. Even when warned in advance that these States would secede unless the North suppressed their own views of slavery and adopted or silently acquiesced in the views of the South, I confess I was incredulous. I still believed we could hold the Union together and each section retain and utter its own sentiments. But the moment the people decided that a man holding the sentiments of the North was not thereby disqualified to hold a Federal office, secession followed. Experience, that high-priced school in which it is said the dumbest learn, has taught its lesson. The theory has failed upon trial. Each section, I know, charges the failure to the other. "You wrote and spoke and agitated against slavery," says the South, "and thus irritated and maddened our people into rebellion;" "and you," says the North, "annexed Texas and tried to annex Cuba for the sake of slavery, and insisted upon extending it to California and Kansas, and thus forced us to discuss its merits." Blame whom you please, the slaveholders, the abolitionists, or both; the fault was in the theory. It was not possible to ignore a great subject like slavery, connected, as it was, with all our business and all our politics, in this busy-thinking, many-tongued Republic.

The Democratic party North that clung to this theory so long, and sacrificed to it so much of party ascendancy, acting, quite likely, from pa-

triotic motives, are very slow to comprehend and accept its fallacy, now so clearly demonstrated, although they were the prophets of its failure. They cannot see, they say, why slavery and freedom cannot coexist in the same country. Why, sir, they can coexist, but not in a country of unlicensed presses and uncensored debates without provoking discussions on many questions of conflicting interest, and this discussion they concede, nay, they charge, provokes rebellion. The revolted States, knowing that discussion was irrepressible, and fearing that it was inimical to their institution, gathered up their slave investments and walked out of the Union, leaving their old allies doubly amazed—amazed to see the theory in which they had so long believed fail, and the prophecy of its failure, in which they never did believe, fulfilled. A witty Democrat, in speaking of this prophecy by one party and its denial by the other, said to me the other day there was this difference between us, "You lied when you thought you were speaking the truth, and we spoke the truth when we thought we were lying." They are still bewildered. I can think of no apter comparison than a hen with a double brood of chickens and ducks. Sometimes they try by tender clucking to call back to the peaceful shore the brood of secessionists, hatched by their false theories of State sovereignty and concessions to the slave power, and again they flutter to the water's edge and contemplate embarking with them upon the chill waves of revolution. The wild ducks of the South took readily to this dangerous element, but so far their twin-hatched chickens have been content to cackle on land.

But to come back to the point. Our fathers, say the advocates of this theory, lived in peace upon the same principle; a precedent is always good with a lawyer and if our fathers lived in peace if only for half a century upon this compromise, we can certainly follow their example. But those who cite the precedent mistake the facts in the case. The compromise of our fathers was, that slavery should be tolerated for a time with the understanding that it should be gradually relinquished. They did not expect both ideas, slavery and freedom, to go hand in hand throughout the whole life of the Republic. Slavery was to recede slowly and freedom follow steadily. Upon that basis they did get along very well, and so could we. Territorial acquisitions and certain discoveries in the material arts, as it is said, changed the attitude of slavery altogether. Instead of consenting to go out, it demanded expansion and perpetuity. Instead of remaining subordinate it claimed to be the national idea and denounced freedom as sectional. This was just reversing the compromise of our fathers, and of course it had to be discussed, and at this the slave interest took umbrage and resorted to secession and war. If, then, these two systems cannot coexist without causing discussion, and slavery will not brook discussion, it is clear we cannot have a voluntary reunion unless one sentiment or the other becomes predominant. The North and the South must learn to think alike upon this subject, or agree to submit their differences to general and free debate, taking no appeal from popular legislation, and judicial action and decision, except according to the forms of the Constitution, or, upon a rehearing, to ask the second sober thought of the people upon any point supposed to be settled wrong. But the slave interest, anticipating unfavorable action and therefore refusing to abide by the decisions of this constitutional umpire, leaves us no alternative. To live in peace together we must embrace slavery or they must abandon it.

"Homogeneity," said Jeff. Davis at Montgomery. His opinion, I know, is very poor authority with this House, but I believe he has thought more profoundly upon this subject than any muddle-brained advocate of mixture in the country. His head is clear though his heart is cold. Just the reverse is true of those well meaning and perhaps patriotic gentlemen with us who still believe in the union of opposites and the harmony of extremes; their hearts are tender and so are their heads.

If, then, likeness of sentiment is the surest bond of a permanent and peaceful Union, which can be most easily adopted as the national standard, slavery or freedom? To adopt slavery involves a change of opinion on the part of a great many

people, twenty millions in the free States alone; for slavery never had any real friends in the free States. Those who are sometimes so considered were only its apologists. How can you change the opinions of twenty or thirty million people? Remember, sir, that opinions are not voluntary things, to be taken up and laid down at pleasure. The mind deals in proofs. Belief follows evidence. But if three years ago slavery could find no real admirers in the free States, who will be its champions now, since it has crowned its many alleged offenses against the rights of man with this bloody treason against the mild and most beneficent Government in the world? Many, I am sure, who took its dark hand then, not in friendship, but only in token of constitutional obligation, will recoil from it now in horror when they see it extended reddened with the blood of our thousands slain. On the other hand, to adopt freedom as the national idea, involves only a change of investment. That may not be easy, it will be attended with loss, trouble, and sacrifice; but still it is possible, while a change of opinion without new proofs is not. It is from this view of the case that thousands of men formerly pro-slavery from principle and practice, have become anti-slavery from Union-policy. Living in slave States, they did not regard the institution as immoral, and therefore sanctioned it. But when they saw it used by anti-republicans and disguised monarchists for the subversion of popular liberty and the division of this Government—a Government weak, indeed, when in conflict with the feelings of its honest citizens, but always majestically strong when its flag was assailed—into two insignificant, wrangling, and hostile nationalities, they rose above local prejudices and State policy and personal interest, and said to anti-slavery men and patriotic men everywhere, we will join you to save our country, to overthrow the rebellion, and to break into fragments the stone upon which it is built. For the present extinguish the great conflagration; for the future remove the inflammable material from which it was kindled. For the present seize the mad revolutionists of the South; for the future destroy the virus that poisoned their blood.

In the debate here a few days ago, the consistency of some gentlemen from the loyal slave States who were said to be moderate emancipationists many years ago, and are only moderately so now, was contrasted with the alleged changes of their more radical colleagues. Gentlemen who boast of their consistency seem often to forget that there is such a thing as being upon different sides of the same question at different times and each time right. The question itself often changes sides. I can very well understand how a citizen of a slave State many years ago giving little attention to the morality of the institution might fall in with the settled policy of his section and decline to disturb the harmony of his neighborhood by what might seem to him then the unnecessary or untimely introduction of abolition agitation, and yet now become an earnest and honest emancipationist in the belief that emancipation alone could preserve the unity of the country. There is such a thing as being right in the wrong time and wrong in the right time. I do not say that those who introduced emancipation in the slave States many years ago were right in the wrong time, but sure I am that all such gentlemen who retard emancipation now are wrong in the right time. But this plan of Union does not necessarily involve immediate emancipation, and I therefore hail all whose labors tend, however slow, to the general result as co-workers for a voluntary and peaceful reunion of all the States.

In these remarks I have confined myself to a single point, the presentation of slavery as an element of discord and disunion, and as such asked its removal. I have waived its inhumanity to the slave, its corruption of the master, its injustice to white labor, its impoverishment of the soil, its intolerance in politics, its despotism in government, its inconsistency in all things. Advocating State sovereignty, it blots out all divisions of its empire, molds all its States into a single power, and calls it the "South." Professing liberality, it yet proscribes from the lowest office the most exalted patriotism, the most brilliant abilities, the highest learning, and the purest integrity, if found blended with the slightest compassion for the slave. Claiming to be law-abiding, the mob, the

bowie-knife, and the bludgeon are its chief ministers of justice. Professing to be constitutional, it suspends the great writ of liberty in time of peace, tramples down the trial by jury when found in its way, contracts freedom of speech to the right to advocate its unchristian cause, revives constructive treason, and in Philadelphia, Boston, and Kansas indicts of that high crime respectable citizens who spoke too rudely of its traffic in men. All this, and much more, I have omitted because they were not in the line of my present purpose.

And now I call upon those gentlemen who think there are some concessions within the range of possibility which if made would conciliate the slave power, and restore the Union without the necessity of resorting to emancipation, to point out what they are. Name the items. Of course you will not mention the proclamation, confiscation, and what you call the unconstitutional acts of the Administration, for the rebellion preceded all these. On the territorial question there was nothing left to concede. The Wilmot proviso had been voted down, the Missouri compromise repealed, and the Dred Scott opinion ordered and obtained. Even James Buchanan, so gifted in abasement, could find nothing more in the shape of theory to give them, and in its stead tendered them the low villainy of Lecompton. The fugitive act of 1850, with its slave-hunting officers, the *posse comitatus*, the conclusive affidavit of the master, *habeas corpus* and trial by jury abolished, and the United States to foot the bill, left nothing more to be conceded here.

Concession exhausted and conciliation still a failure! Hereafter let all concession be in favor of freedom; and in all our legislation let us approximate, as rapidly as the interests of the two races will permit, the homogeneity of universal emancipation, and upon that basis make the Union perpetual.

Mr. DAWSON obtained the floor.

Mr. LAZEAR. Will my colleague yield to me to move a recess?

Mr. DAWSON. I will yield for that purpose.

Mr. LAZEAR, (at twenty-five minutes after four o'clock, p. m.) I move that the House take a recess.

Mr. GARFIELD. I ask the gentleman from Pennsylvania to yield to me to offer a resolution to which I think there will be no objection.

Mr. DAWSON. I will yield for that purpose if my colleague will withdraw his motion for a recess.

Mr. ANCONA. I object to the gentleman yielding.

The question was taken on Mr. LAZEAR's motion; and the House refused to take a recess.

The SPEAKER. The gentleman from Pennsylvania [Mr. Dawson] will proceed with his remarks.

Mr. HOLMAN. I suggest that the gentleman from Ohio be permitted to offer his resolution now, and that we then take a recess. At least let it be read for information.

Mr. DAWSON. I give way for that purpose.

#### CHARGES AGAINST SECRETARY CHASE.

Mr. GARFIELD. I ask leave to offer the preamble and resolution which I send to the Clerk's desk.

The Clerk read the preamble and resolution, as follows:

Whereas in the House of Representatives, on the 23d instant, Hon. FRANCIS P. BLAIR, jr., made the following declarations, as reported in the Globe:

"Mr. BLAIR, of Missouri, (resuming.) Now, I propose to show that the Secretary of the Treasury, with all the commerce of the country in his hands, with the collection of our foreign revenues and of the vast internal revenues in his hands, is using these abandoned plantations and grasping at all power and patronage for the purpose of providing a fund to carry on the operations of the Pomeroy committee to carry on his war against the Administration which gave him place."

"Nobody is simple enough to believe that the distinguished Secretary has really retired from the canvass for the nomination to the Presidency, although he has written a letter declining to be a candidate. That letter was written because the 'strictly private' circular of the Pomeroy committee unearthed his underground and underhand intrigue against the President. It was such a disgraceful and disgusting sight to make use of the patronage and power given him by the President against his chief, that even Chase got ashamed to occupy such a position publicly. For that reason his letter was written; he wanted to get down under the ground and work there in the dark as he is now doing, and running the Pomeroy machine on the public money as vigorously as ever."

And whereas in the World, a journal published in New York on the 28th instant, it is declared that "developments

of the most astounding character have just come to light in the fractional currency and printing bureaus over which Mr. Clark presides;" and the Constitutional Union of this city, in its number of the 28th instant, declares as follows:

"If this whole bureau is so utterly foul and corrupt as the prevalent rumors would indicate, there is no security for the accuracy and integrity of its work; because a shameless disregard of morality and decency in any vital point of conduct is certain to taint the whole character and entail a thorough demoralization in all its aspects. It would indeed be a frightful thing, were it true, that the manufacture of paper money by the Government is placed in the hands of persons known to be guilty of the gross delinquencies freely charged upon one of the leading officers of the Treasury Department."

And whereas Hon. JAMES BROOKS, a member of this House, has this day, in his place here, repeated the substance of the above charges: Therefore,

Resolved, That a committee of five be appointed by the Speaker of the House to investigate and report upon the truth of the allegations above quoted and of any other allegations which have been or may be made affecting the integrity of the Administration in the Treasury Department; and that said committee have power to send for persons and papers and to employ a stenographer.

Mr. ANCONA, (in his seat.) I object to the resolution.

Mr. WASHBURN, of Illinois. Who objects?

The SPEAKER. The gentleman from Pennsylvania, Mr. ANCONA.

Mr. WASHBURN, of Illinois. Let it go upon the record that the resolution was objected to on the other side of the House.

Mr. HOLMAN. I hope my friend from Pennsylvania will withdraw his objection. I make the point of order that no gentleman rose in his place and objected.

The SPEAKER. The Chair sustains the point of order. The Chair has repeatedly decided that gentlemen making objections must rise.

Mr. ANCONA, (rising.) I object now.

Mr. WASHBURN, of Illinois. That objection is good, and it comes from the other side of the House.

Mr. HOLMAN. I wish to say that we on this side of the House are very anxious to have this investigation.

The hour of half past four having arrived, the House now took a recess until seven o'clock p. m.

#### EVENING SESSION.

The House reassembled at seven o'clock, p. m., very few members being present.

Mr. SCOFIELD moved to take a further recess for fifteen minutes.

The motion was agreed to.

The House again came to order at a quarter past seven o'clock, p. m., and resumed the consideration of the bill in reference to the

#### REBELLIOUS STATES.

Mr. DAWSON resumed the floor.

Mr. STEVENS. I ask my colleague if he will allow me one moment to offer an amendment to the bill, merely for the purpose of having it printed. It is a substitute for the bill now under consideration.

The SPEAKER. The order of the House was that no business should be done at this evening's session. But the Chair supposes the gentleman can give notice of his amendment; it would not be in order now, because there is a motion to recommit pending.

Mr. STEVENS. Who has control of the motion to recommit?

The SPEAKER. It is in the power of the gentleman from Ohio, [Mr. ASHLEY.] The gentleman from Pennsylvania can give notice of his amendment, however, and move to have it printed.

Mr. STEVENS. I then give notice of my amendment, and I ask that it be printed.

It was so ordered.

Mr. DAWSON. Mr. Speaker, this is the earliest moment that I have been able to get the floor, to say that the gentleman who represents the district of Pittsburgh [Mr. MOORHEAD] has seen proper to make my speech of the 24th of February the subject of one delivered by himself on the 26th ultimo. I regret that I cannot characterize the gentleman's effort as an argument. There is, indeed, very little in it that rises to that level. I had scarcely supposed it necessary to notice it on this floor. It is profuse in denunciations of disloyalty and of alleged sympathizers with the rebellion. They constitute, indeed, the staple of his speech. While to me he disavows any intention of giving them a personal bearing, yet by implication they are regarded as personal, and his friends, at least, have made the application.

In his opening remark, in the declaration that I had stated with great frankness and clearness the grounds of my opposition to the war, he has been guilty of a gross misstatement. In common with the party with which I have the honor to act, from its first outbreak I accepted the war as a necessity, and, while I have fearlessly condemned the policy which governs it, have never hesitated to support it within what I deemed the constitutional limits. The Democratic party have acted throughout these trying troubles with a magnanimity and greatness of purpose that no other political organization ever exhibited. They did try to avoid the war. War is the greatest of all national misfortunes; a civil war is the worst of wars, and this promised to be the most gigantic of civil wars. They opposed abolitionism because they knew it would bring war and desolation in its train. They tried their utmost to bring all difficulties between the North and the South to a peaceful and an honorable settlement; and they failed not for want of will but want of power. When the war came, when the vindictive stubbornness of abolitionists and secessionists left no choice but support of the Government by arms or submission to a rupture of the Union, the Democracy offered their blood and money for the Union freely, without stint, without reservation, without measure. All they asked in return was that the party in power should conduct it honestly and fairly, for the purpose of restoring the Union and saving the Constitution.

My colleague falls readily into the trite and well-worn style of reply which his party leaders have taught him. If any Democrat objects to an act of the Administration, he raises the cry of disloyalty, and insists that we should employ our time solely in denouncing secession. If we see the money of the nation squandered, the Constitution trampled upon, the laws disregarded, public liberty endangered, the right of suffrage taken away, the freedom of speech and of the press restricted and punished, the Union for which we are bleeding laughed at as a thing of the past, we must, according to my colleague's code of political morals, find no fault with those who do these wrongs, ask for no reform, seek no change. The respect I have for my colleague forbids me to say that this is the mere twaddle of the demagogue. Such abject submission is only fit for a slave, wholly unfit for a freeman.

He pronounces a eulogy upon General Cass. That great old man will be filled with grief if he hears that an avowed and open abolitionist has spoken of him in such terms. It was heartless cruelty to vex the evening of that venerable patriot's life by praise which implies that his whole public career has been a false one. What has General Cass done to deserve such a eulogy from him? He claims the right to speak of him because "he and I once and again, but vainly, labored" to make him President. It is true that while my colleague professed to be a Democrat he also professed to be a Cass man. After the battle of Buena Vista, however, he deserted his friend Cass and went over to General Taylor. The Whigs of that day were not willing that "Rough and Ready" should be so unceremoniously appropriated, and my colleague early in 1848 came back to General Cass with professions of loud devotion, quite as loud as they are now for Abraham Lincoln. After the October elections of that year which indicated that General Taylor was to be the lucky candidate, my colleague's zeal suddenly evaporated, and at the presidential election which followed he failed to vote for General Cass.

My colleague has repeated what he alleges was said to him by General Cass. It is not in good taste, nor is it by any means a safe practice, to repeat private conversations. The old-fashioned notions of society which regulated intercourse between well-bred people always discountenanced the practice. I know my colleague with a manly bearing condemned the stone-breakers for their private revelations in the memorable contest in 1838, when he and I joined hands for the elevation of David R. Porter to the chief magistracy of Pennsylvania. But having assumed the responsibility to repeat, he has no right to report him in a way which would make the General seem false to the faith of his fathers. I tell my colleague that that great man for more than twenty years had warned the country that the Union would be

destroyed if a sectional President should be elected upon a platform which ignored the Constitution. After the elections of 1860 had shown that all his efforts to avoid such a result had failed, well might he have said, "We are lost and destroyed." And my colleague quotes the language in which the patriot mourned over the triumph of abolitionism as evidence that the patriot himself was an apostate to the unsullied record and noble example of his life.

If the retirement of General Cass from office in the winter of 1861 be construed as just condemnation, how shall we construe that of Mr. Holt, who remained in his place as Secretary of War until the 4th of March, and gave his most earnest support to the Buchanan Administration, and at the close of it expressed his most cordial approbation of all the President had done, as well as all he had forborne to do. In his letter of the 2d March, 1861, filed in the State Department, resigning the office of Secretary of War at the close of Mr. Buchanan's Administration, Mr. Holt bears attestation "to the enlightened statesmanship and unsullied patriotism of the President." Mr. Holt has the confidence of President Lincoln, and holds by his appointment at this time the responsible office of Judge Advocate General. General Dix, Secretary of the Treasury in the Cabinet of Mr. Buchanan, now a major general in the Army, appointed by Mr. Lincoln, in his address on retiring from the Cabinet and referring to Mr. Buchanan, declared himself "impressed with the purity of his motives, his conscientiousness, his thorough acquaintance with the business of the Government in its most complex details, and his anxious desire that the unhappy questions which distract the country may have a peaceful solution."

It is surprising that my colleague, in his assault upon the Administration of Mr. Buchanan, repeats here in his place the stale charge that Floyd, the Secretary of War, stole a large portion of the public arms and transferred them to southern arsenals. The allegation is of little importance, except as far as it misrepresents a Democratic Administration. My colleague was a member of the Thirty-Sixth Congress, and should have known that a committee constituted by the House, of which Mr. Stanton, a leading Republican, was chairman, and of which a majority were Republicans, reported on the 18th day of February, 1861, that the southern States received in 1860 less, instead of more, than the quota of arms to which they were entitled by law; and that three of them, North Carolina, Mississippi, and Kentucky, received no arms whatever, and this simply because they did not ask for them. I refer my colleague to the report, which will be found in the second volume of Reports of Committees of the House for 1860-61.

It is stranger still that my colleague has repeated that the Administration were derelict in not arresting the progress of the rebellion in its early stages. I reassert what I stated in my remarks of the 24th of February, that the law of the 28th of February, 1795, did not confer upon the President sufficient power to employ military force to execute the laws and protect the public property, and that Mr. Buchanan, in his message to Congress on the 8th of January, 1861, asked for such authority. Congress failed to grant it. My colleague was a member of that Congress. It is a sad commentary on the degeneracy of the times that he should stand up here in the broad light of the heavens to revile the then President for omitting to do what he, among others who constituted a majority in Congress, failed to grant the power to do. This is a gross abuse of our patience, to which the boldness of Catiline would scarcely have been equal, and if he had been blessed with Catiline's sagacity he would have seen that it was useless.

The gentleman asserts that our financial success has become the wonder of the world. I agree with him that it is a wonder. On the 1st of January, 1861, prior to the commencement of hostilities, the entire circulation of all the banks, North and South, was but a fraction over \$202,000,000, while on the 1st of January, 1863, in the States known as the loyal States, the circulation exceeded \$238,500,000. Add to this the United States Treasury notes, interest-bearing Treasury notes, fractional currency, and certificates of indebtedness, all of which circulate as currency,

and it amounts to over \$779,000,000. Put to that the issue of the new national banks, which in the aggregate swell the volume of circulation to more than \$1,000,000,000, and he will learn the magnitude of the Government issues. The legitimate business of the entire country before the war could be transacted upon a circulation of a fraction over \$202,000,000. Now, with a divided country and with commercial intercourse comparatively restricted, the circulation is increased to more than \$1,000,000,000, deranging the measure of all values, one dollar in gold, the constitutional currency, commanding \$1 81 in greenbacks. Well may it be pronounced a wonder. Prior to 1861, the average daily clearances in the clearing-house of the city of New York were only about \$22,000,000, while of late they have averaged over \$115,000,000, and have even run up as high as \$146,000,000 in one day. My colleague should read much and reflect more before venturing to become a public instructor.

But notwithstanding the freedom with which the gentleman impeaches the motives of classes as well as individuals, I look over his speech in vain for any condemnation of the usurpations of those in authority, and especially for the slightest reflection upon the miserable crowd of sappers and miners—the contractors who have fattened themselves on the blood and tears and distresses of the nation—whose howl is ever fiercest for the war, whose policy it is to prolong it, and who denounce without measure all who seek to give it a proper direction or a speedy termination. We in Pennsylvania have seen these harpies feeding on the life-blood of the State, and my colleague knows—none knows better than he—the paralyzing and consuming power of the frauds on which he chooses to preserve a silence so profoundly loyal. As a faithful sentinel on the watchtower of the nation, why has he never given notice that this same class of persons are gnawing its foundations away? It was Madame Roland who, when the caldron of the Revolution was boiling over in France, weeping over the degradation of society and the frauds that were everywhere apparent, exclaimed: "O Liberty!"—and I might add, O loyalty!—"what crimes are committed in thy name!"

I have great respect, Mr. Speaker, for an argument, for statesmanlike views, and for a candid and honest difference of opinion; but it required a great deal of assurance, almost the audacity of ignorance to charge me with no expression of sympathy for the soldiers who had defended his home and my home, when since the commencement of the session I have been laboring in his presence in obedience to the united sentiment and instruction of my party, and against the opposition of him and his friends, to secure to the soldier a just compensation for his services. The soldier wants and is entitled to substantial aid, not mere expressions of admiration and sympathy, but something to supply his physical wants and comforts, and especially those of his wife and children in his absence. This material aid the Democratic party as a unit have repeatedly offered on this floor, and as often has it been ruled out of order and defeated. He cannot forget, and if he does I refer him to the remarks which I had the honor to submit on the 17th of February, the occasion on which I offered a proposition to increase the soldiers' pay and declared that they had performed their duty with noble fidelity and zeal, and that Antietam, Vicksburg, Gettysburg, and Chattanooga were monuments of their bravery and patriotism that would bear their fame to a distant and admiring future, and were at least entitled to our justice. I may further say that on that occasion I declared that wherever any part of that great Army had moved on the water or upon the land its ranks had been filled with thousands of gallant Democrats, many of whom now sleep in soldiers' graves.

But, Mr. Speaker, such exhibitions are not uncommon in struggles like the present, when the country is in the throes of revolution. The tenor of his speech is the same which pervades a thousand speeches since these troubles commenced. Notwithstanding the evils which civil war bring to the masses, there are always some dashing patriots who scout the magnitude of the trouble, and flourish in the general ruin, like the storm bird which careers in the tempest which is devastating the face of nature. Those parties are ever ready

to impeach such as have the courage to expose corruption and to labor in a spirit of true patriotism for the welfare of their country.

My colleague would like to make the country believe that he is especially devoted to the preservation of the Union, and to the prosecution of the war for that end. How sincere he is in his professions appears from his course on the following resolutions, which I had the honor to introduce on the 18th day of January last:

"Whereas a great civil war like that which now afflicts the United States is the most grievous of all national calamities, producing, as it does, spoliation, bloodshed, anarchy, public debt, official corruption, and private immorality; and whereas the American Government cannot rightfully wage such a war upon any portion of its people except for the sole purpose of vindicating the Constitution and laws and restoring both to their just supremacy; and whereas this House, on the 22d day of July, 1861, speaking in the name of the American people, in the face of the world, solemnly and truly declared that it was waged for no purpose of conquest or oppression, but solely to restore the Union with all the rights of the people and of the States unimpaired; and whereas in every war, especially in every war of invasion, and most particularly if it be a civil war between portions of the same country, the object of it ought to be clearly defined, and the terms distinctly stated upon which hostilities will cease, and the advancing armies of the Government should carry the Constitution and laws in one hand while they hold the sword in the other, so that the invaded party may have its choice between the two: Therefore,

"Resolved, That the President be required to make known, by public proclamation or otherwise, to all the country that whenever any State now in insurrection shall submit herself to the authority of the Federal Government as defined in the Constitution, all hostilities against her shall cease, and such State shall be protected from all external interference with her local laws and institutions, and her people shall be guaranteed in the full enjoyment of all those rights which the Federal Constitution gave them."

"Mr. STEVENS moved to lay the preamble and resolution on the table.

"Mr. DAWSON demanded the yeas and nays.

"The yeas and nays were ordered.

"The question was taken; and it was decided in the affirmative—yeas 79, nays 56; as follows:

"YEAS.—Messrs. Allison, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Francis P. Blair, Jacob B. Blair, Boutwell, Brandegee, Broomall, Ambrose W. Clark, Freeman Clarke, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Briggs, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, Hulburd, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Longyear, Lovejoy, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorehead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Charles O'Neill, Orth, Patterson, Pike, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Smith, Smithers, Spalding, Stevens, Thayer, Thomas, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Wiley, Williams, Wilson, Windom, and Woodbridge—79.

"NAYS.—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Bliss, Brooks, James S. Brown, William G. Brown, Chanler, Coffroth, Cox, Dawson, Denison, Eden, Edgerton, Eldridge, English, Flack, Ganson, Grider, Griswold, Hale, Hall, Harding, Harrington, Benjamin G. Harris, Herrick, Holman, Hutchins, William Johnson, Kernan, Lazear, Le Blond, Long, Marey, McAllister, McDowell, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Pendleton, Robinson, Ross, John B. Stote, Stiles, Stuart, Sweat, Voorhees, Wadsworth, Wheeler, Chilton A. White, Joseph W. White, Fernando Wood, and Yeaman—56.

"So the preamble and resolution were laid upon the table."

It is thus seen that, under the lead of the chairman of Ways and Means, my colleague [Mr. MOOREHEAD] voted to lay these resolutions upon the table. By that vote he has declared that the war should not terminate though the people of the South should lay down their arms and submit to the authority of the Government. Although the war has lasted for nearly three years, and has spread death and desolation in its path, though it has broken up our industry, burdened us with mighty debts, shingled us with taxation, and demoralized our people; though it threatens the overthrow of our republican system and the substitution of a despotism in its place, yet he refuses by his vote to adopt the only basis upon which peace and order and stability can be again secured. His policy means abolition, subjugation, and extermination. Fresh hecatombs must be offered to appease his insatiable appetite for blood.

It is my solemn conviction that it is only upon the basis of those resolutions that this struggle can be brought to a peaceful and successful termination. To this conclusion we must come at last. Fanaticism and evil men may delay this result, and the country may have to be exhausted by the fires of civil war ere it becomes a reality.

When the world, as related by the sacred historian, was buried under the deluge, and Noah and his family were the sole survivors of the human race, it will be recollected that the dove was sent



forth from the ark for some token of the reappearance of the land. After traversing for many days the waste of waters she found no rest for the sole of her foot, and returned again to Noah. A second time she was sent forth, and this time she brought back the olive-branch, the harbinger of certain subsidence of the waters. A third time she was sent for encouraging indications, and this time she returned no more, for the waters had retired to their recesses in the great deep, and the world was redeemed from the curse. Let the friends of constitutional government derive encouragement from the lesson. The substance of the resolutions may yet, like the dove, find amid the deluge of domestic troubles a secure resting place, and restore a nation from the grasp of dissolution.

My colleague, in the conclusion of his speech, says, "With the rebellion thus suppressed" the great country shall become the "asylum of the down-trodden and oppressed of every nation." Here we join hands in cordial agreement. I only regret the memory as well as the record of the fact that my colleague, although the son of an Irishman, joined the Know-Nothing lodge, and engaged in the crusade to deprive Irishmen of the rights of citizenship, and Catholics of their religious liberties. The Germans, too, he aimed to make the victims of his vengeance. But the countrymen of Emmett and Curran and Grattan still live, and are marching in thousands by the side of the hardy German, carrying the flag of the Union through blood and fire to defend for him that home from which he would have excluded them.

My colleague for the greater part of his life has been a Democrat, at least in profession. In those days abolitionism was powerless and he was opposed to it. It comes with an ill grace from him now, indeed. It is a slander to say that the Democratic party has sympathy with the rebellion. It is a slander repeated by the lowest as well as those favored with position.

It has been conceded by members of the Democratic party that there was provocation for the rebellion but no justification. In my remarks of the 24th of February I characterized secession as treason. I endeavored to show that, as a legitimate result of the State rights doctrine, secession and nullification have no warrant in the Constitution. Yet my colleague, with great facility of conclusion, pronounces this the doctrine of John C. Calhoun. He has sadly changed since the days when he was a Democrat and claims to have been the friend of General Cass; the days when he prospered on the patronage of that great organization whose policy and patriotism upheld this Government for three quarters of a century, and which is still willing to shield it and save it or perish in the effort. Then he believed that if ever abolitionism got the Government in its hands the country would rush headlong to ruin. Now he gloats over the fulfillment of the prophecy. Now he votes to give this Hall for a British enemy of the Union to lecture in, and assists to degrade the nation by approving a eulogy on John Brown, the traitor and the murderer. When he bows down in homage to George Thompson, the man who for thirty years has been plotting the destruction of this Republic, he should be careful how he applies the word disloyal and make no reference to General Cass, the patriot who gave his days and nights during all that time to the safety of the nation.

Mr. Speaker, the motives of the Democratic party require no defense. It has ever been the party of freedom and of progress, ever the defender of the Constitution, the laws, and the union of the States. At the present moment that great old party, covered all over with truth, like the armor of Achilles, may well say, "Thrice is he armed who hath his quarrel just." That great party clings to the Constitution, and does not change its principles nor its independence for the favor of a President who is but temporarily in power. The one it regards merely as a man, the sun of whose official life is fast going down, and soon there will be an end of his power and importance. The other, the Constitution, is the Magna Charta of their liberties, in which is stored the hopes of the present and of millions to come after us, and in the preservation of which is centered the interests of the people of every clime.

I will now yield a part of my time to my col-

league [Mr. MOORHEAD] to reply to what I have said, if he desires to do so.

Mr. MOORHEAD. Mr. Speaker, I have listened with a certain degree of satisfaction to the learned remarks of my distinguished colleague, [Mr. DAWSON.] It is true, he has made some allusion to my unlearned effort, and has stated that he likes to see such subjects treated in a statesmanlike manner. I have always given my colleague a good deal of credit as being one of the statesmen of the age, and I am glad that he has come up to that high standard on this occasion, even if I failed to do so.

My colleague has indulged in very bad associations. He speaks of former associations with me and with other gentlemen in supporting this Government. But I am sorry to say that he abandoned such associations, and that about the time this great fabric was beginning to crumble, and this Union to fall to pieces, his close, familiar, and distinguished associates in the city of Washington were—whom do you suppose, Mr. Speaker? John C. Breckinridge, R. M. T. Hunter, Jesse D. Bright, and Jefferson Davis. I do not think I need tell the House who these gentlemen are. But I would ask, where are they now? John C. Breckinridge, one of my colleague's closest and most distinguished friends, is a general in the rebel army. R. M. T. Hunter, who was his model patriot and statesman, is a representative in the confederate senate. Jesse D. Bright, perhaps my colleague's bosom friend, was expelled from the Senate of the United States. I need not say anything about Jefferson Davis. The House knows who he is and where he is.

I say, therefore, that my colleague has fallen into bad associations. I do not think him bad at heart or disloyal. I have hopes of him yet. I had great hopes of him when I made that speech which seems to have affected him so much. I had great hopes that the teachings of that speech, when taken home and studied over by him as I knew it would be, would bring him back to the true faith, and I regret to find, from his remarks here to-night, that it has not done so; yet I have faith in the political salvation of men, as I have in their religious salvation:

"For while the lamp holds out to burn,  
The vilest sinner may return." [Laughter.]

And although my colleague's political sins are many, yet still I have hopes that he will return to the support of the Government of the country. My colleague spoke of my being a demagogue, and then, to my utter surprise, and I think to the surprise of the House, he introduced the subject of a resolution which he offered here to increase the pay of the soldiers and to pay them in gold, when he knew that the Treasury was unable to meet such a draft upon it.

Mr. DAWSON. No, sir, I did not; but to pay them in gold or its equivalent.

Mr. MOORHEAD. He charged me with being a demagogue; and yet he introduced that resolution here, showing that it emanated from him, and that he wanted the credit of it. And what has been my colleague's course here during the session? Endeavoring to cripple the operations of the Treasury. What was his course no longer ago than last evening? After opposing the internal revenue bill here, we find on the final vote some thirty-three members voting in the negative, and my distinguished colleague was one of them.

Mr. DAWSON. I stated distinctly this evening, and stated when I introduced the resolution, proposing to pay the soldiers in gold or its equivalent, that I introduced it in obedience to the instructions of the Democratic party.

Mr. MOORHEAD. Then you do not make a merit of it yourself; you disclaim it.

Mr. DAWSON. No, sir; I do not disclaim it.

Mr. MOORHEAD. The House understood you to disclaim it.

Mr. DAWSON. By no means. As to the tax bill to which the gentleman refers, the chairman of the Committee of Ways and Means [Mr. STEVENS] stated in the House to-day that it was so mangled that he almost wished he had been a Locofoco that he could have voted against it.

Mr. MOORHEAD. I want my colleague either to take the responsibility of it, or to disclaim it. If he disclaims it I will let him off.

Mr. DAWSON. No, sir. I introduced it in obedience to the instructions of the Democratic party, and it met my own approval. Indeed I ap-

prove it fully, and I cannot in justice appropriate to myself all the credit of its introduction.

Mr. MOORHEAD. My colleague charges me also with having been in a Know-Nothing lodge. So far as I have any knowledge of the gentlemen who went to such places, I never knew a disloyal man among them. I have shown who were my colleague's political associates, and I am told that there is a Golden Circle association; whether he or they belong to it I do not know.

Mr. DAWSON. I know nothing of it.

Mr. MOORHEAD. I do not think my colleague does. But I have shown the associations he has kept, and I think the loyalty of these bosom friends of his is not above suspicion. And while they are fighting against us in the South, I regret to say that my distinguished colleague, whom I have loved as much as any man on this floor, is, I will not exactly say aiding them, but doing nothing to sustain the Government.

Mr. WILLIAMS. Mr. Speaker, I have some thoughts on the state of the Union, and the process of bringing back to our system the wandering stars which have shot so madly from their orbits, that I would have desired to ventilate on the occasion of the discussion here of the resolution for the amendment of the joint resolution of July, 1862, in relation to the extent of the forfeiture for treason against the Government. I was not so fortunate as to agree with a majority of my colleagues on the Judiciary Committee, either as to the meaning of the Constitution or the curative virtues of the amendment. I would have preferred to vote for the absolute repeal of that disabling feature on grounds outside of the constitutional provision in regard to cases of judicial attainder, and upon considerations looking to the final settlement of the great internecine struggle which has cast us loose from our ordinary moorings, and suggested so many new and dark problems of State for our solution. I thought the question of the times was involved in that discussion, as it widened, and deepened, and swept within its current—and that too by an inevitable and inexorable logic—the great considerations of the status of the rebel States, and the means whereby the broken column and the crumbling arch were to be restored, and the fragments of the shattered urn gathered up and reunited, so as to give back, if possible, its original strength along with its original perfume. It struck me that these were questions which must be first settled before we could legislate understandingly or safely upon almost any others. They were not to be postponed or evaded. We could not escape or ignore them by burying our heads in the sand like the ostrich. They met us on the very threshold at the organization of this House. They have confronted us from day to day, at every turn, in the reports of committees, where sound conclusions have been sometimes reached—by a very indifferent logic, of course—from unsound premises, and erroneous conclusions sustained here, almost without discussion, in apparent unconsciousness of the dangers with which they were pregnant. It seemed to me that we were at sea, drifting without rudder or compass at the mercy of the winds and currents. I wished a reckoning of our position. I desired some landmark, some safe anchorage to which we might grapple, some common center, at least, about which we might gravitate in orbits "centric or eccentric," as our several idiosyncrasies might prompt. I proposed, therefore, to try the experiment in a modest and suggestive way only, as becomes any man who is called upon to deal with such questions as these, of indicating a star by which we might possibly navigate in safety. While I waited, however—as I always prefer to do—to hear what others might have to say, the doors were closed upon me, and the debate arrested by the operation of the previous question. It occurred to me then that I might possibly generalize my notions in such a way as to render them acceptable to a majority of this House, as I have accordingly attempted to do in a series of resolutions which I have had the honor to spread upon your records. This bill, with the amendment offered this evening by my colleague [Mr. STEVENS] by way of substitute therefor, comes in opportunely as a practical measure, resting, as I think, upon the same general principles, and enabling me to develop the leading idea of those resolutions in the remarks which I propose to make, in a somewhat desultory

way, and without reference to its details, upon the relations established by the war, and the rights and duties bearing upon the question of reconstruction that have grown out of it.

And first, as to the status of the rebel States, and the law which is to govern our relations and intercourse, and sit as umpire in the progress and adjustment of the pending controversy.

These States are either in the Union, or they are not. Some people may think it makes no practical difference how we conclude on this point while the war is flagrant. That is not my judgment. It has seemed to me that all the irresolution, all the unsteadiness in our counsels, all the doubt and hesitation and delay, all the apparent obtuseness and obliquity of the moral sense, and many of the differences between good and loyal men here, were mainly referable to the fact of the failure to settle this great question, and settle it correctly, in advance. The war was inaugurated on the theory that they were *in*, when the great fact of war, which individuals cannot wage in the social state, and peoples do not wage upon themselves, was a proclamation that they were *out*. The Democrats of the North were willing to accept the fact that they were out, *without war*—to adopt the principle of the *laissez-nous faire*—the “let us alone” of the rebel authorities, and to treat with them upon the idea of a *reconstruction*, upon that kind of compromise which involves generally a traffic in principles, and that sort of mutuality where all is demand on the one side and concession on the other; where everything is surrendered and nothing obtained, or even stipulated for in the way of equivalent; to treat, in short, either for their return, or for the privilege of going out along with them, and leaving New England in the cold. They were willing to waive the right and the treason absolutely, and declined the alternative of war on the ground that the obligation was an imperfect one, whose performance depended upon the mere will of the contracting parties, and could not be enforced. With them it was peaceful secession, with *reconstruction by treaty*. The ruling thought was, of course, to spare, to save, to do as little harm as possible to those who were not our enemies, but our brethren—*sisters*, perhaps, I should say, albeit a little “wayward,” whose anger was to be kissed away—or sweethearts, rather, who were to be mollified into tenderness by dulcet phrases and costly love tokens, or hugged into quietude by the anaconda process of compression, or the sublime mysteries of strategy. The rebels were Democrats, whom it would be a sin to kill, and a greater sin to rob of their sacred property in slaves. Better a hundred thousand free white northern youth should die, than one negro slave should be lost to his proprietor, or employed in arms against him. To carry out this policy we wanted conservative generals who would be sure to hurt nobody, and saw men made *heroes*—by newspaper process, as great men are now made since that manufacture seems to have passed out of the hands of Providence—not because they fought, and fought successfully, but because they would not fight at all. We wanted generals who had constitutional scruples about the right of invading the sacred soil of a sovereign State; who had “kind regards” for the worst and meanest of felons, and were ready to grant *paroles of honor* to men who, by an act of treason intensified by ingratitude and perjury, had basely deserted the flag they were sworn to defend, as no more Swiss, no soldier of fortune who hired out his steel, could have done without a deep stain upon his escutcheon. But while we were dealing with the heresies and subtleties of the Virginia and Kentucky resolutions of 1798, those fruitful sources of our present woes, instead of striking at once at the heart of the rebellion, that rebellion, thus nursed and cherished and rocked and dandled by ourselves, was swelling in volume, and organizing and hardening into constance behind the storm-cloud which was gathering and blackening and muttering its thunders within sight and hearing of this very Capitol, where an American Congress was legislating under its shadow. But the light which was struck out from the collision of hostile bayonets, struggling up through the haze in which we were enveloped, began to dawn slowly upon the country. It was soon reflected back upon these Chambers, and statesmen began to feel that they were in the presence of a great fact that could not be conjured

down by empiricism, or reasoned down except by the logic of artillery. But still they hesitated to accept the fact, and the law of the last session, halting between the two opinions—beginning with the idea of treason and ending in the alternative of war—although right in itself, was but the expression of the lingering doubt whether these States were still in the Union or out of it.

How does the case then stand upon the facts? It cannot be questioned, I think, that in this view the severance is or has been as complete—the *spes recuperandi*, the mere hope of recovery, excepted—as if our forces had been withdrawn, and their independence recognized. They have seized our property and expelled us from their territories. They have declined the Federal jurisdiction, and ceased to live under the Federal law. They have altered their constitutions of government, and transferred their allegiance to a foreign power. They have invaded our soil. They have claimed and exercised, with the consent of the great Powers of Europe, the rights of belligerents upon the ocean. Under the stern logic of facts we have assented to all this, by releasing the crews of their privateers, instead of dealing with them as pirates, and exchanging prisoners captured on land, instead of hanging them as traitors. We have distinguished between the mere guerrilla and the commissioned soldier of the confederacy. We have blockaded their ports. Treating them as a government *de facto*, and therefore entitled to the allegiance of all its citizens, we have allowed them to shoot as deserters, without retaliation, the unwilling conscripts who have fled to our arms for the protection which we were bound to give them; we have interdicted commercial intercourse with them on the part of the citizens of the loyal States; and we have put them by our legislation, one and all, without distinction as to loyalty, under the ban of the Union, as alien enemies. Nor have we been guilty of any inconsistency herein. The revolt was not of individuals, to be dealt with by the ordinary process of law, like the whisky insurrection, with which it has been improperly compared. It rose at once to the dimensions of a civil war. It was the result of the corporate, political action of organized communities, sweeping the reluctant and the innocent into its impetuous current, and then merging the individuality—dissolving, as I think, the very life—of these communities, in the revolutionary act of compounding them into a separate and independent nationality. As such we have treated with it in the matter of exchanges, and ignored accordingly the members of which it was composed. We could not do otherwise under the law to which the insurgents successfully appealed, when they repudiated the authority of any common superior, and carried their case before that dread tribunal of nations, where the sword is the arbiter, and the voice of God and humanity, thundering out of the smoke and carnage of the battle-field, is the only one that can be listened to in the adjustment of the controversy.

And now let us inquire for a moment how the public law of Christendom, as declared in the opinions of the publicists; and the practice of enlightened nations, squares with the great facts to which I have referred.

It will be found, I think, that the most eminent of these writers are agreed in the opinion that the parties to a civil war, having no common judge, or common superior on earth, “must necessarily be considered as constituting, at least for a time, two separate bodies, two distinct societies,” and that “when a nation becomes divided into two parties absolutely independent, and no longer acknowledging a common superior, the State is dissolved, and the war between the two parties stands on the same ground, in every respect, as a public war between two different nations.” This is the language of Vattel, (pp. 425, 427,) and the learned Barbeyrac, in his notes on the treatise of Grotius, (Book 3, cap. 6, sec. 27,) affirms the doctrine by the remark that “in case of the rising of a considerable part of the State against the sovereign, as for an alleged violation of the fundamental law of the nation, the Government is dissolved, and the State divided into two distinct, independent bodies; and much more does that take place in the civil wars of a republican State, in which the war immediately, of itself, dissolves the sovereignty that subsists solely in the union of its members.”

It is in direct antagonism therefore to the law which governs now, as to the facts, to say that these States are still in the Union as they were before. The theory that this Union was indissoluble refers only to the right, to its organic law, and to the purposes of the men who welded these States together; but never was intended to imply that it could not be ruptured by violence, as it has unquestionably been, leaving to the wronged and adhering States their remedy for the breach; not by enforcing a specific performance, which is impossible, but by the recovery of the territory which is ours by the contract, and the expulsion of the delinquents, with the forfeiture of all their rights in and under the Union, from which they have withdrawn. To say with a gentleman from Kentucky [Mr. WADSWORTH] that this is an admission of the right to secede, is to confound the fact, which is one thing, with the right, which is another. To assert with the gentleman from Missouri [Mr. BLAIR] that this is a concession of their independence, which would authorize their recognition by foreign Powers, is to forget that we have rights which no violation of the contract by the other party can destroy. It would be just as sensible to insist that a judgment of outlawry was a release of the traitor from his allegiance, and authorized the Government to which he fled, to espouse his quarrel and adopt him as its citizen.

Upon this question of the forfeiture of political rights some further light may be borrowed from the practice of nations in the application of the *jus postliminii*, which refers, according to Grotius and Bynkershoek, as well to cases of territorial recapture where a whole community is involved, as to those where the goods of a subject once seized as prize of war are afterwards retaken from the hands of the captors. And here I think it will be found that even the provinces of a confederation which have been wrested from it by an enemy have not always been reinstated in their original privileges, as reason would seem to adjudge that they ought to be.

Thus the inhabitants of the district of Drenthe were in 1580 admitted into the confederation of Utrecht, but their country was afterwards invaded and occupied by the Spaniards. After the enemy had withdrawn and evacuated their territory, although it seemed clear to Bynkershoek that they had recovered all their former rights by virtue of the law of postliminy, nevertheless, although they several times petitioned the States General to be readmitted into the Union, no order was taken, and afterwards, in 1650, when their deputies attended at a meeting of the States, they were refused admittance.

Again, the provinces of Guelderland, Utrecht, and Overysseel were taken by the French and afterwards recovered. Bynkershoek remarks thereupon, that while they were in the power of the enemy they certainly were not entitled to their former rights as confederates, and on that account their delegates were very properly ordered not to attend any longer at the meetings of the States General; but when they came again into the possession of the States they were readmitted by a decree of that body, restoring them to their former municipal and confederate rights, except that Guelderland was deprived of one vote in the assembly, and several other conditions were imposed, one of which was that they should swear anew to the articles of the confederation as if they were admitted for the first time.

These, however, were cases of seizure and occupation by an enemy; ours, of a voluntary abdication of Federal rights and an organized resistance by governmental action to the Federal law. There is no case here, therefore, for the application of the law of postliminy. Some of these States, on the contrary, constructed out of Territories purchased by this Government, were lifted from the posture of subject and dependent provinces upon the platform of the Union, on the condition of obedience to its laws, and by their voluntary abdication of the privileges so conferred have, as it seems to me, by an inevitable logic, lapsed back again into the territorial condition. There is no ground upon which it can be claimed that any of them have been the victims of a public enemy, who has wrested them from the possession of their local governments. The action was corporate and social. It was the local governments themselves that sinned. Where they have been recaptured the local Gov-



errors have fled, the local organizations have been dissolved, and their territories are now under military occupation by the armies of the Union, or under provisional governors appointed by the Executive. This fact alone, as it seems to me, involves the admission that they are no longer in the Union. If they are, that occupation is unlawful. If their governments are dissolved, however, they must, of course, be reconstituted under the auspices of the conquering power, and that not by the Executive, but by the Legislature of the Union, whose sword he bears, and which only, consistently with the genius of our institutions, the past practice of the Government, and the letter as well as spirit of the Constitution, can venture to determine what use shall be made of the territories conquered by it, and when and upon what terms they shall be readmitted into full communion as members of this Government. It is not certainly the military power that is to reorganize, and modify, and breathe new life into their defunct constitutions. Until the end of subjugation is achieved and the resistance entirely overcome, so as to give place safely to the reestablishment of the civil authority, a military occupation is indispensable, of course. When that period arrives, the sword must be sheathed, and the Territory return to the direction of the law-making power, which will prescribe the rule for its government, and allow to its people the privilege of reorganizing under republican forms. I call it Territory and invoke the law that governs there, because I know of no intermediate condition. To permit any executive officer to declare its law, and set it in motion, and place it under the control of a minority—a mere tithe of its citizens—with power to send delegates to Congress with representation unimpaired and unaffected—even though he should reenact a part of its abrogated constitution—would be, as I think, a monstrous anomaly, a violation of fundamental principles, and a precedent fraught with great danger to republican liberty. Here is the dilemma. To come back into the Union, it must either be born anew or come back with all its rights unimpaired, except those material ones which have been destroyed in the progress of the war. There is, I think, no middle ground, as there is no power either here or elsewhere to prescribe terms which shall abridge the rights or privileges of a State that has not been out of the Union, or returns to it in virtue of its original title.

When I suggest, however, that these States are out, it is with this important qualification, that they are out in point of fact, with a forfeiture of all their franchises as members thereof, whenever the issue of battle shall have been decided against them; but subjects of it still—members, if you choose—in legal contemplation, so far as regards their obligations and duties under the Constitution, and our right to visit them with punishment for the delinquency, proportioned to the magnitude of their offense. They are in for correction, but not for *heirship*; just like the unnatural child who has attempted the crime of parricide, and only succeeded in dyeing his murderous hands in the blood of his loyal brethren. It is bad logic to infer that because they are out without our consent, and have forfeited their rights thereby, that fact must be attended with a like forfeiture of our own. Nor would I, as already intimated, be understood as admitting that they are out as to foreign Powers, who must respect our *title*, although our possession may be ousted, and treat the contest in all respects as a domestic one. No American of the right spirit would allow even a question of this sort to enter into our diplomatic correspondence with foreign Powers, or consent to compromise our dignity and self-respect, which are at last the best security of nations, by uncovering the maternal bosom to the rude and insulting gaze of the stranger, and inviting his interference, either by misrepresenting the aims of our loyal citizens, or beseechingly deprecating his displeasure. I trust that our just pride as a people will not be again wounded by the production of another book like the diplomatic confessions of 1862.

It is suggested, however, by a gentleman from New York, on the other side of the House, [Mr. FERNANDO WOOD,] that while we on this side are claiming to be for the Union, the enunciation of these doctrines by my able colleague [Mr. STE-

VENS] amounts to a declaration that we are no longer a Union party. The meaning of this, if it means anything, is, that because the rebel States are out, without any agency of ours, but with a large share of the responsibility on the heads of those who, like the gentleman himself, encouraged the defection by their servility or by the assurance that they were opposed to coercion—as they oppose it now—and taught them to believe that they could go out with perfect impunity, and that New York and Pennsylvania would go out along with them—the mere statement of the fact that they were out is evidence that the party of the Administration on this floor is not in favor of the preservation of the Union! Well, we are in favor, at all events, of preserving all that is left of it, and intend, with the blessing of God, to win back the residue, and pass it through the fire until it shall come out purged of the malignant element that has unfitted it for freedom. But what does the honorable gentleman himself, what do those who vote with him really think on this subject? Does he, do they believe that the rebel States are not out? If he does not look upon them as a new and independent power in the commonwealth of nations why does he propose to treat with them, not with the revolting States singly, but with “the authorities at Richmond?” How is it that in his own resolution he proposes, *in totidem verbis*, the “offer to the insurgents of an opportunity to return to the Union?” Who are the “authorities at Richmond?” Will he inform us whether they are a people known to our Constitution, or how these States are to return to the Union if they were never out of it? His tongue confesses it unwittingly—I will not say like Balaam’s, who blessed when he intended to curse—but just as did that of the Louisiana claimant who, professing to rest on the same doctrine, stood before this House unconsciously testifying in the same way. He stands, therefore, self-condemned by his own logic, as no Union man. I will allow him, however, the advantage of the admission that it is but a slipshod logic that cannot distinguish between the law and the fact. But that is true of himself and his party which he unjustly charges upon my colleague. The difference is just this, that although the rebels have spurned and spit upon their northern auxiliaries, rejected all their overtures, and declared that they will no longer associate with them upon any terms, and are not willing that they should even come “betwixt the wind and their nobility,” he wishes to treat for the privilege of serving them, while we propose to fight for the purpose of chastising them into submission. This may be the result only of a difference of taste; but all history attests that there always are, as there always will be, men who love to wear the livery of a master, and are uncomfortable without it; who regard the collar as a badge of distinction, and would, at all events, rather carry it than quarrel with it. No wonder, therefore, at the opinion so often expressed by men of this sort in relation to the black man, that he would neither run away, nor bear arms against his master or anybody else. They did him injustice in supposing that he was like themselves. Pompey, who was an involuntary slave, is tending toward the north star with a musket in his hand, while his white non-combatant substitute, a voluntary slave, is rushing southward with the olive-branch in his hand, into the patriarchal arms.

The objection rests, however, as I suppose, upon the remark that our right to deal with the rebel States after they shall have been reduced to submission by force of arms is not a question under the Constitution but outside of it. I desire to say, once for all, that I do not concur in this opinion, because I find the war power in the Constitution with all its incidental consequences. If it is not there, the case is without remedy.

The doctrine of my colleague, that these States are out of the Union, may seem at first blush extreme. Some people may think it radical, but it is none the less palatable to me on that account. War is a radical disease, and radical diseases are only to be treated by radical means. One earnest and decided man is worth, in times like these, a regiment of temporizers; and that is precisely the reason why the inherent weakness and poverty of the insurgents have been able to match the overwhelming numbers and resources of the North. These are no times for what are falsely

called *conservative* men, just because they are wedded to old abuses, and only hug them the closer when they have proved most destructive. I like bold thinkers and operators. Timid counsels have ruined many a State; they have never saved one, and never will. It may be a paradox, but if conservatism has ever operated to save a nation in such a crisis as ours, it has only been, as here, by acting as the dead-weight upon the plowshare, which has retarded its progress, but made it run so deep into the virgin soil as to make its work a radical one. The man who is ahead of his contemporaries is always denounced as a daring and dangerous innovator, and happy if he is not martyred as the apostle of a new faith for the singularity of his opinions. I beg gentlemen to reflect, however, whether there is any solid ground short of this on which they can put down their feet with safety. The “middle passage”—it was the same, I believe, in which the negro was heaved overboard—the “*medio tutissimus ibis*”—the path of traffic and of compromise—is not the one which we can hold safely in a storm like this. If these States are in the Union, with all their rights and privileges unimpaired, they may return to-morrow, even without submission, after being conquered in the field, to conquer their conquerors in the councils of the nation. The most accomplished of the Roman poets remarks that “conquered Greece subdued her barbarian conqueror, and introduced the arts into unpolished Latium.” The contrary will be the case here. The barbarian will come back into your Halls. The northern Democrat will rush into his arms. The two elements, like kindred drops, by an attraction a good deal stronger than that of miscigenation, will melt incontinently into one. The old bargain will be renewed—“Give us the spoils, and you may take the honors and the power, and rob the northern soldier, the sick and the maimed, the widows and the orphans of the gallant dead, of the miserable pittance which this Government is pledged to provide for them.” The proclamation of freedom will be revoked; your acts of Congress repealed; your debt repudiated unless you will assume theirs; and yourselves, perhaps, ejected from these Halls. The result is already foreshadowed in the events of the present Congress, wherein—not to speak of other of your past experiments in dealing with that element—a signer of the secession ordinance of Louisiana, permitted to walk the streets of this capital, and enter this Hall, as others were permitted, less than three years ago, to go out of it, unquestioned, was allowed to vote upon a bogus certificate of a bogus governor, and to vote negatively with the Democracy upon the qualifications of the members of Congress now representing the loyal State of Maryland. And the effect will be, that for all your great expenditures and all your bloody sacrifices, you will have won back, not peace, but a master—the “old master,” in negro phraseology—who governed you before—as turbulent, as vindictive, and as ferocious as ever. If they had chosen to remain with us, under the idea that they were not out, they might, by their superior tact and address, and their habitual control of the northern Democrats, have so embarrassed us as to render it utterly impossible to carry on a war against them. If they had consented to return in answer to the prayers of their bereaved friends, or to the message sent through Count Mercier to Richmond, about which an adjourned question of veracity is still, I believe, depending between very friendly belligerents, who exchange hostile messages in the improved shape of invitations to State dinners, we should have been lost. I have always regarded it as a special providence that the arrogance engendered by their ownership in men, both white and black, and the contempt with which they looked upon their vassals here, should have prevented them from retaining or returning to their places in Congress, or even holding out the idea that a compromise was possible. Say that they are in the Union as before, and all your sacrifices have been idle, and all the blood spilled by you has sunk into the earth in vain. Bring them back, and you cannot even bind them by gratitude, or purge them by oaths, of which they make no account, as the whole history of the rebellion, which began in perjury, abundantly shows—which are like the ribbons that were insultingly stretched by the Parisian mob in front of the Tuilleries to protect the ill-fated king and

queen of France—and which grave Senators have so recently denied your power to prescribe. The President has dealt kindly with the *neutrals*. Has he propitiated any of them? Our predecessors here have followed the example. Look at the facts attending our organization, and say whether even confidence and charity are followed by either gratitude or loyalty. No, you must throw the dissevered fragments, the "*disiecta membra*" of this great Government, into a caldron, with a hot fire beneath, and you may evaporate the virus, but not otherwise.

Taking them, however, to be out, or that the case has passed from under the municipal into the domain of public law, what is the authority which that law gives us over the rights and property of an enemy?

Before entering on this question, however, I desire to say a few words in relation to the supplementary resolution which we have been endeavoring to amend. I would have been glad, as I have already stated, to vote for its unconditional repeal, for the reason that the confiscation and distribution of the great baronial possessions of the rebel leaders were, in my judgment, an essential element in any feasible plan of reconstruction, and that there were other means under the Constitution than the very inadequate one of the judicial attainder, to reach the estates of those who had broken the covenant between the Government and people. That, as it seems to me, was the opinion of the men who framed the original act of 1862. It is tolerably clear, I think, from the history of the resolution by which it was unfortunately supplemented, that it was not in accordance with the sentiments of that Congress—as I think it is not with the opinion of the present one, or of a majority of the people whom it represents. It was thrown in only, as I understand it, to remove the scruples of the Executive, and to make the best bargain that could be had at that time. That was eighteen months ago. But nothing was ever said more truly than that "times change, and we along with them," even to our material framework, which we shift off as well as our opinions. The world does move—as Galileo still insisted even when he was obliged to recant his astronomical heresies—although it sometimes moves slowly. The President moves too, and slowly also, as he needs must, who is called upon "to bear upon his shoulders the weight of mightiest monarchies." Everything moves—except some of our generals—because war is a great teacher, and thought quickens and ripens rapidly under the fires of revolution. Even our reluctant and unsympathizing friends on the other side are hurried along by the resistless current that sweeps our statesmen like straws upon its surface. Nay, even some of my own Republican auxiliaries on this side have been drifting with the tide into waters too deep to have been even searched by the plummet of conservatism. But a little over three years ago, as I can testify, he was a bold man, as he was sure to be a badly abused one, who would have invoked coercion by force of arms, and ventured to hint at the possibility of the negro, as the soldier who was to be thrown at last, like the sword of Brennus, as the make-weight into the scale. Two years ago there was scarcely a Republican in this House who would have voted for the latter proposition. One year ago every gentleman on the other side would have revolted at it, as they had done before the bombardment of Sumter against coercion. Six months ago the unarmed and defenseless negro was flying like a hunted stag and flying for his life before a cowardly and brutal mob in the streets of the very metropolis of the western hemisphere. Two years ago the dark-skinned child of the tropics was struggling slowly up to the unwonted privilege of cracking his whip over a Federal mule-team, to the horror of all political ethnologists and unbelieving conservatives, who howled denunciations at the Pathfinder of the West, and shouted hosannas to the loiterer at Manassas, and the author and promulgator of Order "No. 3." Now Scipio (Africanus) has a musket in his hand, and stands revealed as a soldier and a man, of higher physical and moral type than his persecutors themselves, in the light of the fiery surge that swept the trenches of Fort Wagner, and under the iron storm that flashed from the blazing ramparts of Port Hudson. The flesh that fed and crisped and crackled in the flames of a

metropolitan *auto da fé*, has turned out to be human, and the blood that was licked up by the devouring element, to be as red and warm as our own, the physiologists and philosophers to the contrary notwithstanding. And now behold the miracle! But yesterday, as it were, only forty-one members of the negro-hating and negro-disparaging party on this floor—hating him in the name of Democracy as a freeman, but loving him too much as a slave to peril his valuable life—could be brought to vote against buckling the harness of the Union on his back, and anointing him as the soldier of the great Republic. Yes, the world does move, and the Executive along with it. Looking as he does now from a different standpoint from that occupied by him eighteen months ago, I would not despair of his approval of a bill to repeal absolutely the unfortunate, emasculating, and, as I think, ill-advised joint resolution of 1862. With all his habitual caution, yielding slowly to his strong convictions of duty and taking no step backward, he has made even greater strides than this. I have confidence in his judgment, as the nation has in his integrity. I have sometimes thought that he was a little slow in a case where promptitude was worth armies, although I could well appreciate the sense of responsibility that must necessarily weigh upon the man who holds a trust the most responsible and novel that has been cast upon any man in the world's history. I dread nothing but the excess of that conservative element which is so ill-suited to occasions like the present. These are times when men cannot afford to doubt, and fear cannot be safely allowed a place in public counsels. The aphorism of Junius is but the translation of the thought of a greater than himself:

"Our doubts are traitors,  
That make us lose the good we oft might win,  
By fearing to attempt."

While I would have voted, however, for the repeal of the supplementary resolution, it was not to that portion of the act providing the punishment of treason in the ordinary forums that I would have looked for such a remedy as the case seemed to me to demand. With every disposition to allow the fullest effect to the argument that looks in what might be called the radical direction, and claims that the forfeiture may be, in cases of attainder under the Constitution, of the whole estate in lands, and with the knowledge that a controlling reason for the change in the English law, which we had copied, was to be found in the tendency of the earlier practice to break up the estates and families of the great nobility and accumulate their possessions in the hands of the Crown, I could not permit myself to be beguiled by my wishes into the belief that the framers of the Constitution intended anything but what they have so obviously said. Taking as my guide the plain language of that instrument, the state of the law in England and of the prevailing public opinion there and here at the time of its adoption, together with the contemporaneous exposition which it received at the hands of the men who shared so largely in its preparation and advocacy, and the construction given to the disputed clause by all the commentators, without a single exception, so far as I am advised, I cannot bring myself to doubt at this late day as to its meaning and purpose, however much they may run counter to my own inclinations. To yield to them, with my strong convictions, would be to involve me in an act of infidelity as well to my profession as to my legislative trust, by making the wish and not the judgment "father to the thought." I must take the Constitution as I find it written, in spite of the supposed absurdity of authorizing a forfeiture for life in the case of a crime whose usual penalty is death, and where the very attainder, which is a legal and social death, determines that part of the punishment at the very point where it begins. If ingenious gentlemen here had adverted to the process of outlawry, so familiar to British jurisprudence in precisely such cases, and not entirely unknown to our own, or to the possibility of annexing a punishment less than that of death to the highest of crimes, they would not, perhaps, have considered the *reductio ad absurdum* as quite so complete as they seemed to think it. If we are to punish those who flee from justice into other lands by judicial process, we shall have to draw from the lumber rooms of the profession the old machinery of the *exigent*. That we may

come to treat the highest of crimes as worthy only of the lightest of punishments is not improbable when we find it not only dealt with as eminently chivalrous and respectable, but absolutely rewarded, by allowing its perpetrators to vote with the minority in the organization of the great council of the nation itself, and granting funeral honors to their families, without even a rebuke.

With this reading of the disputed clause of the Constitution reluctantly conceded, and even under the opposite hypothesis—supposing it to be the true one—I can see nothing practical in the attainder by judicial process, and no remedy therein for present or prospective evils, in the infliction of punishment upon the guilty. The Constitution provides that "the trial of all crimes except in cases of impeachment shall be by jury, and such trial shall be held in the State where the said crimes shall have been committed;" and again, that "no person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment by a grand jury;" and further, that "in all criminal prosecutions the offender shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed." How, then, are you to try, how convict under such limitations as these, where your jurisdiction is ousted, where you are without courts, and where the jury of the vicinage—the peers of the delinquent—are the very partners of his guilt? It would be the merest of mockeries to attempt it. If the arch-apostate himself were to stalk again to-morrow into the Senate Chamber of this nation, reasserting his rights, and reclaiming his abdicated seat in that body, you might arrest him, it is true, but there is no jurisdiction this side of the Potomac—that river of oblivion which sweeps around your capital walls—that could take cognizance of his manifold crimes. These salutary guards which have been borrowed from Magna Charta and thrown around the person of the criminal were not intended for a condition of things like the present. They suppose a state of universal peace, where the law shall speak its potential voice in all its forums, and through all its accredited organs, and not a condition of things where its oracles are silenced, and its priests driven from their very altars. The maxims of peace are not suited to a condition of war. It has run into a proverb that the laws are silent amid the tumult of arms. Where the ordinary jurisdiction has been declined and no common superior is recognized, the case has passed, *ex necessitate*, into a higher tribunal by the election of the recusant himself, and must be left to the arbitrament which he has chosen, with all the consequences of a judgment there. It has not passed, however, beyond the domain of the Constitution, as the language of my learned and able colleague [Mr. STEVENS] would seem to import. The men who framed that instrument foresaw the exigency with their usual perspicacity, and with their usual wisdom have provided for it, as I think, abundantly. If they have not, then the late Attorney General was right in declaring that there was no warrant for waging this war against the rebellious States, and wrong in presenting himself and his party at the recent elections in Pennsylvania as the advocates of its vigorous prosecution; and then there is no authority for shooting down a rebel on a battle-field. Those who insist that there shall be no punishment for the traitor except by the process of judicial attainder intend that he shall not be punished at all; mean, if they know whereof they speak, entire immunity as well to him as to his wife and children for all his crimes.

I make no account, therefore, of the first four sections of the act of 1862, which, by the way, involve no forfeiture except of property in slaves. True, they impose fines which may result, as it was no doubt intended they should do, in the divestiture of the fee, but whether those fines are in conflict or not with that provision of the Constitution which declares "that excessive fines shall not be imposed or cruel and unusual punishments inflicted," I shall not stop to inquire, for the reason already suggested, of the utter impracticability of making that portion of the law effective in its application to the guilty parties.

Upon the remaining sections of that act, however—always excepting its *expatriation* clause, whose wisdom at a time when the country so much wants

soldiers for its armies and laborers for its fields is not any more obvious to me than that of the repeal of the edict of Nantes or the expulsion of the Moors from Spain—I could have planted myself with assured confidence. I find nothing there that looks to an attainder, nothing that even touches the person, nothing but authority to seize enemies' property and carry it into court for condemnation by a proceeding *in rem*—against the thing itself—as lawful prize of war. The question of treason is practically adjourned, although not absolutely waived, by the posture of the belligerents. The framers of that law have obviously looked to this as the alternative, well knowing that, although it is a maxim of the common law that there is no wrong without a remedy, there was no remedy here if this one failed.

And this leads me back to the question what is the authority that the public law, which is the law of the case, and *pro hac vice* the law of the Constitution, gives us over the rights and property of an enemy? And on this point Bynkershoek, of whom Chancellor Kent remarks in *Griswold vs. Waddington*, (16 Johnston, 438), that he is "one of the most distinguished writers on public law, and that his treatise on the law of war has been more quoted and relied upon as authority in Europe and America than that of any other writer," says that "if we take for our guide nature, that great teacher of the law of nations, we shall find that anything is lawful against an enemy," (p. 2); and further, that a nation that has injured another is considered, with everything that belongs to it, as being confiscated to the nation that receives the injury, (p. 4); and also that "if we follow the strict law of war, even immovables may be sold and their proceeds lodged in the public treasury, as is done with movables, though throughout almost all Europe immovables are only registered, that the treasury may receive during the war their rents and profits, and at the termination of the war, the immovables themselves are by treaty restored to their former owners." The same doctrine is laid down by Wildman, (vol. 2, p. 9); and in the case of *Brown vs. The United States*, (8 Cranch, 110,) the broad principle was assumed that war gave the sovereign full right to take the property of the enemy wherever found, and that the mitigations of this rigid rule, which the wise and humane policy of modern times has brought into practice, may more or less affect the exercise of the right, but cannot impair the right itself. It has never been disputed, however, that the property of the sovereign may be confiscated, and this on the ground that public wars are wars only between sovereigns.

And now let us look at the practice.

On the 2d of April, 1599, the States General issued an edict with regard to all kinds of property, wherever found, which is in these words: "We declare lawful prize all persons and goods"—the word *bona* in the civil law including every kind of property, but chiefly applicable to real estate—"situate or being under the jurisdiction of the King of Spain, wherever the same may be taken."

And again, the States General, on the 14th of July, 1584, declared the people of Bruges and Vrye, who had gone over to the Spaniards, to be their enemies, and ordered all their goods, actions, and credits, public as well as private, to be confiscated. And afterwards, when the people of Venloo had also gone over to the Spaniards, the Earl of Leicester, by his edict of July 9, 1586, declared them guilty of the crime of high treason, and ordered all their goods, movable and immovable, and all their actions and credits, to be confiscated. "Nor must it be believed," says Bynkershoek, "that these things were decreed concerning those of Bruges, Vrye, and Venloo, merely because they were not so much enemies, as traitors."

It seems, then, that though the strict law which authorizes the seizure of everything, has been modified by the usages of nearly all Europe, so as to restore it by treaty in the cases cited—which by the way are more than five hundred years after the Norman conquest—the practice was otherwise in one of the most liberal, enlightened, and republican nations of that continent, as it certainly was during the earlier ages of republican Rome. There is as much difference, however, between usage and law, as there is between gen-

erosity and justice, in dealing with the affairs of nations.

In the conquests of ancient times, however, even individuals lost their lands. "Nor is it a matter of surprise," remarks Vattel, "that in the early ages of Rome such a custom should have prevailed. The wars of that era were carried on between popular republics and communities. The State possessed very little, and the quarrel was in reality the common cause of all the citizens. But at present one sovereign wars against another sovereign, and not against unarmed citizens," (p. 388.)

The gentleman from Kentucky [Mr. WADSWORTH] states the rule which rests upon this idea, and distinguishes between the sovereign and the subject, without reference, however, to the question whether the citizen is armed or not, as he is unquestionably in the present quarrel. He does not deny, if I have correctly understood him, that the property of the sovereign himself may be lawfully taken. In the same speech, however, he declares, and rightly, too, that the sovereignty here is in the people. By his own logic, therefore, the property of individuals may be lawfully taken in a war between republican States which, as Vattel remarks, is in reality the common cause of all the citizens.

But we are not yet done with Vattel. He says further:

"But a conqueror who has taken up arms not only against the sovereign but against the nation herself, and whose intention it is to subdue a fierce and savage people, and once for all to reduce an obstinate enemy, may with justice lay burdens on the conquered nation, both as a compensation for the expenses of the war and as a punishment." (*Ibid.*, 389.) "He may, according to the degree of indolence apparent in their disposition, govern them with a tighter rein, so as to curb and subdue their impetuous spirit; he may even, if necessary, keep them for some time in a kind of slavery."

And again: "Although," as he suggests, "towns and countries should not be deprived by their conqueror of their liberties, privileges, and immunities on account of his quarrel with their sovereign," he adds:

"Nevertheless, if the inhabitants have been personally guilty of any crime against him, he may, by way of punishment, deprive them of their rights and privileges. This he may also do if the inhabitants have taken up arms against him and have thus directly become his enemies. In that case he owes them no more than what is due from a humane and equitable conqueror to his vanquished foes. Should he merely and simply incorporate them with his former State, they will have no cause of complaint." (*Ibid.*, 387.)

And further:

"The whole right of the conqueror is derived from justifiable self-defense, which comprehends the support and prosecution of his rights. When therefore he has totally subdued a hostile nation, he undoubtedly may in the first place do himself justice respecting the object which has given rise to the war, and indemnify himself for the expenses and dangers he has sustained by it. He may, according to the exigency of the case, subject the nation to punishment by way of example. He may even, if prudence requires, render her incapable of doing mischief with the same ease in future. Some princes have contented themselves with imposing a tribute on the conquered nation, others with depriving her of some of her rights—taking from her a province, or erecting fortresses to keep her in awe." (*Ibid.*, 388.) "But if he has to do with a perfidious, restless, and dangerous enemy, he may by way of punishment deprive him of some of his towns or provinces, and keep them to serve as a barrier to his own dominions. Nothing is more allowable than to weaken an enemy who has rendered himself suspected and formidable. The lawful end of punishment is future security." (*Ibid.*, 384.)

Grotius remarks, however, that "in civil wars, be they great or small, there is no change of property but by the sentence of a judge;" but the learned Barbeyrac, in a note on this passage, says that the civilian Ulpian distinguishes between a *real* war and a *civil* war, on the ground that the former is made between those who are enemies, and animated by the spirit of enemies, which prompts them to endeavor the ruin of each other's States; whereas in a civil war, however pernicious it often proves to a State, both parties are supposed to intend the preservation of the State. The one is only for saving it in one manner, and the other in another. So that they are not enemies, (*inter quos jura captivitatium aut postliminium fuerunt*, &c.,) and every person of the two parties continues always a citizen of the State so divided.

The result of all these authorities, then, is that the present is not a *civil* war only, but a *real* war; that by the law of nature and of nations in such cases, the treatment of the conquered depends on the particular circumstances of the case; that everything is lawful; that everything belonging to the

offending party is confiscated; that the practice of nations has authorized the forfeiture even of the real estate of individuals; that this was more especially authorized in quarrels between republics; that where the quarrel is not with the sovereign, but with the nation, and the intention is to subdue a fierce and savage people, the conqueror may lay burdens on them, not only by way of compensation but of punishment; that if they have been personally guilty of any crime, and have taken up arms against him, he may deprive them of their rights, and owes them no more than what humanity and equity require; that he may do himself justice respecting the object which has given rise to the war, and indemnify himself for the expense and damage he has sustained; that he may subject his enemies to punishment; and that he may render them incapable of further mischief. *Indemnity, security, and punishment* are all, therefore, means of self-defense which may be legitimately used.

And now let us inquire whether the forfeiture of the estates and property of the traitors—of those who have been actually in arms against us—whether they consist of lands or slaves, is required for these purposes. If it be, there is an end of the question. I have no desire, individually, that anything shall be done for purposes of vengeance only. "*Vae victis*" is not the maxim of a humane conqueror. "*Percere subjectis, debellare superbos*" is the rule by which I would be governed. I would not exclude the idea of mercy. I agree with the great poet of human nature that

"It becomes  
The throned monarch better than his crown:  
And earthly power then shows likest God's,  
When mercy seasons justice."

I am not clear, however, as to the wisdom of a proclamation of amnesty in advance as a measure of pacification, without limits as to time, and where submission after conquest, and when it is no longer a virtue but a necessity, is to be rewarded with the same impunity as a voluntary return to duty before that time. But what is the offense, how much have we suffered from it, and how is its recurrence to be prevented?

I think I may safely say that human history presents no parallel to this rebellion. Since the revolt of the rebel angels there has been no example of an insurrection so wanton, so wicked, so utterly causeless, and so indescritably ferocious and demoniac as the present. It was not the case of the oppression of a Government whose weight had borne heavily upon the people. It was none of a violation of the fundamental law. The object was not redress, like that of our Revolution, but destruction. It was a rebellion against the majority rule for the purpose not of reforming, but of overthrowing the Government, and erecting upon its ruins another of an oligarchic cast, whose corner-stone was property in man. It was the product of a system which threw all the lands of the South into the hands of a few men. It involved an act of aggravated treason against a humane, paternal, and unoffending Government. It has been conducted with a degree of inhumanity that has no example except in barbarian wars. It has involved to us an enormous expenditure of money and of blood. Its suppression has become impossible without removing the cause of strife, and disabling our enemy by liberating his slaves, and arming them against him. It cannot be repaired. There is no reparation possible that would be commensurate with the injury. Can you breathe new life into the bones that ornament the necks and fingers of southern dames, or bleach unburied, without even the humble privilege of a grave, on southern battle-fields? Can you reclothe them with the comely vesture that has been given to the vultures of the southern skies? Who shall restore the shattered limb; who fill the vacant chair at the family fireside; who give back the husband and the father, or dry the tears of the widow and the orphan? What trump, but that of the dread archangel, who gathers the tribes of the earth for the last solemn judgment, shall awaken the gallant dead who sleep in bloody garments in their beds of glory, from their deep repose? Mock not the grief that is unutterable by the suggestion of indemnity or reparation. "Give me back my legions!" was the passionate exclamation of the Roman Augustus, when a swift messenger brought to him the tidings of the slaughter of Varus and his brave companions in



the forests of Germany. "Give me back my children!" is the wailing cry that will burst from the bosom of the American mother, who weeps like Rachel for her first-born, by the waters of the Merrimac and the Ohio—or mock me not with the idea of reparation. There is no reparation for it, as there can be no punishment; except in the divestiture of the rights and the seizure of the estates of the guilty leaders. There is no security except in the distribution of the latter, and the complete exorcism of the hell-born and hell-deserving spirit that has wrought all this world-wide ruin.

These things are necessary. Is there anything in the law of nature to prevent them? Gentlemen object that to seize the inheritance would be to visit the sins of the guilty upon the innocent. They plead for the wife whose counsels have driven the husband into rebellion. They weep crocodile tears for the offspring who have been taught to spit upon the flag of their country, who are without title until the decease of a parent who may happen to die intestate, and upon whom no law of nature, but only the law which he has violated, would in that case have devolved the succession. The widow and the children of those, however, who have fallen in the effort to suppress this unholy rebellion have no share in their sympathies. The chances of war may strip them of their inheritance, but that makes no difference with them. They take no account of the fact that nature and Providence have alike decreed that the sins of the fathers, and even their misfortunes, shall be visited upon their children, and that the law which authorizes the sale of the estate for the debts of the former has everywhere affirmed its justice. The misfortunes of a northern man and his death in righteous battle at the hands of a southern assassin, may reduce his offspring to beggary. All this is right; but to allow the family of the traitor who has dealt a foul blow at the social state, and stricken down all the securities of property, to suffer, is regarded as a great injustice. The felon-brood may run its plowshare over the bones of the loyal martyr, while his children are perhaps eating the bread of charity in their northern homes, and it is all right, because the former are the salt of the earth, and a just punishment would only exasperate them into a new rebellion. Let them rebel. A just poverty will render their efforts harmless, and, by teaching them the value and respectability of labor, make them only wiser and better men. With my consent they shall never trample upon the relics of a northern soldier. I would carve out inheritances for his children upon the soil that his sword has ransomed, and his blood baptized and fertilized. God's justice demands it, and the heart and conscience of the American people will say, Amen.

But gentlemen here insist that we cannot subdue the revolted States, and ask triumphantly where there is an independent Government with ten millions of people, maintaining itself for three years, that has ever been conquered? What do they mean by this language? Do they intend that we shall not conquer them if they can prevent it? Why do they insist on exaggerating the numbers and prowess and resources of the enemy, and ignoring the facts of history, to show that subjugation is impossible? Do they participate in the feeling which they have done so much to inspire, that one of this barbarian rabble which claims to belong to the master race, and rejoices to hear itself called a nation of Cavaliers by degenerate spirits on this floor, is equal to at least six northern freemen with all the advantages of an unbounded credit and a high civilization? When they say here, and say to the country, that twenty-three million white men with four million blacks, all battling for liberty, and with these great advantages in the struggle, are unable to subdue less than four millions of their own race, without credit or resources, and with no higher inspiration than slavery, they libel the people of the North, by declaring in effect that they are not worthy to be free. But what do they propose in view of these opinions, supposing them to be true? They say that they wish to preserve the Union, but that this is not to be accomplished by fighting for it. They desire to treat for its restoration. Their nostrums are, in the language of a gentleman from Indiana, "conciliation and concession." Well, the former has

been tried under border State counsels. We carried on the war for eighteen months on the principle of doing as little harm as possible to our enemy. They have declared, however, again and again that they will only treat on the footing of their entire independence. Negotiation admits the fact of secession, if not the right, and involves only the alternatives of recognition or reconstruction on such terms as they may choose to dictate. Do gentlemen here propose to avoid dismemberment and preserve the Union by going into the confederacy? Is this the concession that is to be the peace-maker? Is this the errand on which we are to send ambassadors to pass under the Caudine yoke? No. Gentlemen here may humble themselves to the dust, and confess their unworthiness in the presence of this superior race, but they have mistaken their masters, the people, if they suppose that they have any idea of falling into the barefooted procession of mendicants which is endeavoring to find its way South, in order to kiss the black stone at the Mecca of treason, to which they turn so reverentially in their speeches here. The people are high-spirited, if their servants are not. They know that if we have not whipped the rebels it is only because we have taken counsel from the men who thought we could not. They intend to clear up this aspersion on their manhood by showing that they can not only subjugate the rebels in the South, but that they can do the same, if necessary, with their sympathizers in the North. They have made up their minds to chastise the self-abasing thought out of those who have entertained it, and to preserve this Union at any sacrifice, and woe to him who ventures to gainsay their decision!

But then there is a difference of blood, which renders conquest, and would, by the same logic, render a harmonious reunion, impossible. Gentlemen on the other side insist upon distinguishing, to their own disadvantage, between the North and South in this particular. They tell us that the latter are a nation of Cavaliers, while we are only Puritans or Quakers or Pennsylvania Dutch. Well, if it were true, and they were twice as numerous as they are, there is nothing in the facts of history to warrant the servile reiteration here, of the Richmond vaunt that they cannot be conquered, and will die in the last ditch, if necessary. The little island of Great Britain holds in bondage the Celt of Ireland and the hundred millions of India, while the Manchou Tartar dominates over three hundred and fifty million Chinese. Alexander left the world as a legacy to his generals, and the Ottoman still sits upon the Bosphorus, and sways his scepter over the imperial city of the East. But it is not true. Gentlemen on the other side are as much out, I think, in their ethnology as in their history. There is no distinction of blood, and none of habit or opinion, except that which must prevail between a higher civilization and a lower one. If they mean that the men who colonized the South were a superior variety of the same stock, they speak in ignorance of the fact that the New England Pilgrims were the very highest and purest type of the genuine Englishman, abandoning high social positions and comfortable homes, in the quest of liberty in the New World, while the colonists of the South were, with a few exceptions, a motley and miscellaneous herd of mere adventurers, some flying from their creditors at home, and others rejected by the stomach of the Old World, and vomited *per force* upon our shores. If they mean that they are of the class which believes in the divine right of kings, in the idea of an exclusive caste, and that free society is a failure, then they are, perhaps, right. But these opinions were not imported by them. They are of indigenous growth. They are the legitimate offspring of the institution which turns the man into a chattel, and makes him the property of his fellow. They are the results of a social system that ignores the idea of republican equality, and cannot possibly exist, as it never yet has existed, in any other than an essentially aristocratic State, which it must necessarily engender, if it does not find it ready-made. In this sense of the word they are indeed a sort of bastard Cavaliers—with this difference, however—that the type of the class was a pattern of knightly faith, who honored and worshipped his God, his lady, and his king; while this, the counterfeit presentment, is a sort of Jothan Wild—half highwayman and half footpad—re-

joicing in treason, murder, perjury, and robbery, and signaling his faith and gallantry by lynching Methodist preachers, selling or burning negroes, or hunting them with blood-hounds, and persecuting helpless and unoffending Yankee school-masters. And yet there is not a miserable sand-hiller in the Carolinas who does not claim, upon northern testimony, such as we listen to here, a lineal descent from the companions of the Conqueror, and strut and swagger with an air even more lordly than the sans-culotte Mosquito king, or the equally ambitious and pretentious native of the Gold Coast, who, in complete destitution of all nether integuments, buttons up his superior man, and treads the deck of a man-of-war in the regimental coat of a British officer.

There is one fact I admit, and it is the only one that does seem to indicate an ethnological difference, and that is that the newly invented Cavalier, like the Frenchman and the Spaniard and the other dark-skinned races of southern Europe, crosses readily with the black man, as the Teuton rarely does with either the black man or any of the Celtic tribes, whose politics, ignoring generally the individual man, know no Government without a king, as their religion knows no Church without a pope. The blood of these two great families of man, flowing side by side in parallel currents for more than a thousand years in France, has never intermingled, and the example of the French and Spanish settlements in Louisiana, Florida, and the Canadas, is evidence that they do not intermingle here, but that the Latin races, like the Indian, are dying out under the shadow of the paler Northman. I leave the negro, however, and his place in nature and the social scale to the ethnologists like the gentleman from Ohio, only advising further researches in this new and interesting branch of political science. I am not personally averse to these speculations. I do not know whether the question of politics may not turn out at last to be no more than a question of ethnology. Setting the darker races aside, I have been sometimes tempted to think that I could almost determine *a priori* from the physiognomies around me here the political complexions of the men to whom they respectively belonged. On this hypothesis I should have put the gentleman from Ohio just where I find him.

I do not, however, insist upon the fact just mentioned as conclusive upon the point of consanguinity, and am still willing to confess, if their friends here will consider it no disparagement to the chivalry, that we belong to the same family. I would not underrate the stock either in its courage or capabilities. They are just as good in that respect as ourselves; and no better. That we do not harmonize is only attributable to the institution that makes them fierce and proud and barbarous, and haters of everything that savors of democracy. Take that away, and we shall run together again like two globules of mercury. Take that away, and there never was a people more homogeneous than ourselves, with the exception of the one disturbing element, the Celtic Irishman, who, with high courage and quick and generous impulses, if he cannot be absorbed—or, if gentlemen on the other side prefer the etymological hybrid, *miscegenated*—will probably be subdued into habits of republican obedience under the instruction of the Yankee schoolmaster. Take that away, and we shall have no one cause of discord left.

Rather, however, than do this simple thing—demanded as well on grounds of consistency as of security—gentleman on the other side, who admire the Cavalier and dislike the Puritan, would prefer to treat with the former at the expense of the latter. In the Cincinnati convention of 1856, a delegate from Pennsylvania declared that in case of a separation that State would go with the South. New York was expected to take the same direction, and upon these assurances the South went out. The programme was that the pestilent Puritan, who would think and talk at all hazards, because he claimed it as his birthright, must be excluded. There was no place in any plan of reconstruction for him. New England was to be left out in the cold.

Leave out New England in the cold! Well, I am no Yankee. No drop of my blood has ever filtered through that stratum of humanity. I claim, however, to be a man. I think I love liberty above all things. I know that I can respect

and admire courage, and constancy, and high thought, and heroic achievement, wherever I may find them. I would not quarrel even with an overstrung philanthropy. I can always excuse the errors that lean on the side of virtue, and find fanaticism much more readily in that devil-worship of slavery, that would be willing to sacrifice not only all New England but even the Union itself upon its horrid altars, than in those noble spirits whose sin is only their excessive love for man. I may speak, therefore, without prejudice.

Leave out New England in the cold! I doubt whether even this would chill her brave heart, or quiet its tumultuous throbbings for humanity. Though no ardent southern sun has quickened her pulses, or kindled her blood, into lava, no frigid neutrality has ever frozen her into stone when the interests of liberty appealed to her for protection. She has been ever faithful to the memory of the great idea which brought her founders across the ocean, as the only colony that landed in this newly discovered hemisphere upon any other errand than the search for gold. I cannot forget that it was this proscribed race that inaugurated the Revolution, by forging in their capital the thunderbolts that smote the tyranny of England, and dyeing their garments with its first blood upon the commons of Lexington. Leave out New England in the cold! You may look unkindly upon her, but you cannot freeze her into apathy any more than you can put out the light of her eyes, or arrest the missionary thought which she has launched over a continent. It was not New England that stood shivering in cold indifference when the boom of the first rebel gun in Charleston harbor thrilled along her rock-bound coast. Taking no thought of cost or consequences, she rushed down like an avalanche to avenge the insulted flag of our fathers, and Massachusetts was glorified by a second baptism when the blood of her sons dyed the paving-stones of the city of Baltimore. I would it had been my own great State, whose drum-beat was the first that waked an echo in these Halls, which had won the honor of that sacrifice. But it was not so ordained.

Mr. KELLEY. With the permission of my colleague I will remark that five companies of Pennsylvania troops came through Baltimore on the 18th of April, a day preceding the appearance of the sixth Massachusetts in that city, and the blood of some of them was shed, though not unto death, in the streets of that city. He may therefore truthfully claim that the first blood shed in this war was that of Pennsylvanians.

Mr. STROUSE. Allow me to say that the first blood shed was the blood of a negro from my district who accompanied the first companies that came here for the defense of the capital.

Mr. KELLEY. Yes, the first man that bled in this war was a negro by the name of Nicholas Biddle, a constituent of my colleague. [Laughter.]

Mr. STROUSE. I did not say he was a constituent of mine.

Mr. WILLIAMS. Leave out Massachusetts in the cold! What matters it that no tropical sun has fevered her northern blood into the delirium of treason? I know no trait of tenderness more touching and more human than that with which she received back to her arms the bodies of her lifeless children. "Handle them tenderly," was the message of her loyal Governor. Massachusetts desired to look once more upon the faces of her martyred sons, "marr'd as they were by traitors." She lifted gently the sable pall that covered them. She gave them a soldier's burial and a soldier's farewell; and then, like David of old when he was informed that the child of his affections had ceased to live, she rose to her feet, dashed the tear-drop from her eye, and in twenty days her iron-clad battalions were crowning the heights, and her guns frowning destruction over the streets of the rebel city. Shut out Massachusetts in the cold! Yes. You may blot her out from the map of the continent; you may bring back the glacial epoch, when the Arctic ice-drift that has deposited so many monuments on her soil swept over her buried surface—when the polar bear, perhaps, paced the driving flocks, and the walrus frolicked among the tumbling icebergs—but you cannot sink her deep enough to drown the memory of Lexington and Concord, or bury the summit of the tall column that lifts its head over the first of our battle-fields. "With her," in the language of her great son, "the past at least is secure."

The muse of history has flung her story upon the world's canvas in tints that will not fade and cannot die.

But while we are told by gentlemen on the other side that we cannot conquer the South we are somewhat inconsistently charged in almost the same breath with a desire to protract the war for the purpose of perpetuating our own power, and asked imperiously how long it is to continue, and when and how it is to end. Allow me to say, in the first place, that the prolongation of the war is not the means which a rational man would adopt to secure the ascendancy of the Republican party. No administration in any free country has ever been strong enough to stand up successfully in the face of a long and expensive war, where results have proved incommensurate with means, and enormous armies that wanted to fight were compelled to stagnate in inglorious repose. None has been strong enough to carry on its shoulders many such generals as the unready captain who is the idol of the Democracy, or him who was just half an hour too late at Williamsport. No rebellion was ever put down by heroes of the Fabian type or instrumentalities like the spade. No country is rich enough to hold such masses of men inactive for indefinite periods of time, and under the command of generals who fortify when they ought to attack, and turn away whenever the enemy turns upon them. If there is anything I dread and deplore it is the tenacity with which such men are retained after repeated failures. If there is anything which gentlemen on the opposite side desire it is to see this struggle protracted under the auspices of just such leaders, who have invariably been their especial favorites, until the patience of the country is exhausted and its credit entirely ruined. I think I understand them. They want no Grants or Butlers; but they know that another McClellan will arm them with the argument that a Republican Administration is inadequate to the times. They do not want this war to terminate until the next presidential election.

To the question, however, how long it is to continue, an apt response might readily be found in the stormy exordium of the Roman orator when he drove the infamous Catiline from the hall of its august senate: "How long, O Catiline, wilt thou abuse our patience? How long wilt thy unbridled audacity parade itself insultingly here?" That, however, would savor too much of the Yankee by answering one question with another. Allow me then to respond a little more directly that it will continue just so long as the interrogator and his confederates here and elsewhere shall continue successfully to embarrass the Government in its prosecution, and to encourage protracted resistance by assurances so often repeated on this floor, and so eagerly caught up and reiterated by the rebel presses, that we cannot conquer the insurgents. The last hope of the rebels is confessedly in the success of their sympathizers here.

But these gentlemen, the neutrals of the border and the conservatives of the North, Arcadian all, have, I think, about performed their mission. They have done, not the work they intended, but the one they have been put upon by the great Ruler of nations. It was a bloody work, but it was, perhaps, a necessary one. A blow struck at the heart of the rebellion at its outset, in the spirit of the proclamation of Fremont, would probably have made an end of it for the time being, while it preserved its cause. The conservative statesmen were wanted to make the remedy radical and sure, by prolonging and exasperating the strife, and intensifying and universalizing the very partial abolition feeling of the North. It was the voice of Jehovah that spake from the iron throats of those engines that hurled their defiant missiles against our flag at Sumter, just as the same voice thundered from the clouds and darkness of Sinai, when it promulgated to the world the great law of humanity. It was the great proclamation of freedom to the oppressed, anteceding that of the President by nearly two years, that pealed in the ears of the lordly chivalry who held high carnival on that memorable day on the boulevards of Charleston. The light that blazed from the muzzles of those guns flashed over the American firmament with a radiance like that which flooded chaos at the fiat of Omnipotence on the first morning of creation. Thinking people saw it and rejoiced. It was "the beginning of the end" of the long

agony under which this nation had been sweating, as it were, great drops of blood. The war had become a necessity, which politicians were powerless either to postpone or avert. Though no abolitionist—till then—I saw it and rejoiced along with them. I thanked God, as I do now, that by an act of sublime justice, such as the pen of inspiration had never recorded and the genius of the drama never imagined, He had put out the eyes of the slave-owner and guided his own hands to the pillars of the temple which protected him; that He had made him drunk with arrogance, and decreed a transcendent suicide, by making himself the Nemesis, the instrument of the great work, which no merely human agencies could have accomplished. But that work would have been imperfect without more; and, by an act of justice equally sublime, He called into counsel the statesmen of the border, along with the advocates of human bondage in the North, and neutrality and conservatism stood hand in hand by the bedside of the sufferer, helping it into eternity, and mistaking all the while—like the lachrymose and lugubrious gentleman from Indiana—in the sepulchral gloom of that chamber of mortality, the unburied and offensive corpse over which he still sobs, for the image of a dead or dying Union. If the border States, if Kentucky especially has suffered, as she is claimed to have done, if her dwellings have been desolated and her soil drenched with the blood of her people, she has to thank her statesmen, as we of the free States do for all the sacrifices it has cost us to save the negro, while we were throwing away the priceless jewels of the North. If, instead of a neutrality which was only another name for treason—which the law of Solon would have denounced as the worst of crimes, and the fierce genius of Dante would have gibbeted in immortal and withering verse—if, instead of denying to the General Government and even to her own citizens, the privilege of organizing troops upon her soil, she had but opened her arms to a deliverer, a hundred thousand northern bayonets would have belted her round as with a wall of fire, and no hostile foot would ever have left a mark upon her soil. She chose the other part. Neutrality flushed slowly into the sickly and livid hue, the pale, disastrous twilight of conservatism, and sat upon her chest and ours until its pulses were almost hushed; and, as a consequence of all this, the bravest of her sons have died ignobly in the effort to destroy the Union of their fathers, and the most honored of her names have gone down in darkness among the nameless and undistinguished dead, and found and now sleep in felons' graves, unknelt, uncoffined—"unwept, unhonored, and unsung."

But what is to be the end? Who doubts it that trusts in Providence and knows that God is just? In the darkest hour of our trial, when the gallant bark that bears our fortunes had disappeared among the mountain billows that threatened to engulf it, and the lowering clouds shrouded in temporary darkness the glorious constellation of our fathers—when all monarchical Europe clapped its hands and sang psalms of joy as the great Republic reeled and staggered under the felon blows that were so treacherously aimed at her life by the hands of her own unnatural children—I, for one, never doubted or faltered. I knew that its timbers might be strained and its prow dip deeply in the trough of the sea, but I read "resurgam" on its keel. I had a faith that it must come up again, with the old flag—that God-blessed banner of our fathers, type of regenerated humanity, symbol of hope to the nation—still flying at its peak, its only stain washed out, like the star that guided the magi over the plains of Bethlehem, to light the oppressed of the Old World to a knowledge of their rights and capabilities. If it might be permitted to the great captain who conquered the liberties of Rome to say to the trembling pilot, "Why fear you? you carry Cæsar," how much more may we—with such a freight as no vessel ever bore since the ark of the patriarch rocked upon the heaving tides of the deluge, or grounded upon the lofty summits of Ararat—say to the trembling cowards who despair of the Republic, and even yet sit down and wring their hands like women over the impossibility of saving it, "O ye of little faith! Up, if ye are men! A world's hopes are staked upon your manhood!" Yes, there is no throb of this great heart that does not pulsate through the nations as they stand at gaze, looking with sus-

pendent breath upon the swaying fortunes of this Titanic struggle. It is the great battle of the ages. It is universal humanity in its last death-wrestle with the powers of despotism. It is a narrow view of this controversy to suppose it a question of freedom to the negro only. The chain that binds four millions black men and as many white, both North and South, reaches not only to far distant Africa, but grasps in its iron links the men of all climes and complexions, from the green island that hangs at the belt of Britain to the gorges of the snowy Caucasus—from the Hindoo who bathes in the Ganges to the Kalmuck who pastures his flocks upon the steppes of Tartary.

I trust we shall not either ignore or underrate our mission. We are in the midst of a new experiment upon the grandest theater that the world ever saw. God has so fashioned this country as to make it an indissoluble unit. What He has so joined together all the powers of earth and hell cannot rend asunder. The man who would consent to divide it upon any terms is like the false mother who was willing to take the mutilated half of the child. The individual who would treat for its severance, or even send an embassy to those who insist that nothing short of this will satisfy them—if an American—is a man I cannot comprehend. I do not claim any more natural sensibility than other men, but when the dome of this Capitol first rose before me in the spring-time of life, I looked upon it with a feeling to which no words of mine could give expression. It was not the colossal pile of masonry—it was not the Doric column, or the storied architrave, or the frescoed wall, or the tessellated floor, or any of the wonders of Grecian or Italian art, which the last few years have so multiplied around us. It was the great thought of the Union, embodied—it was the great fact of the Union, idealized in stone; it was the starry ensign that fluttered over these Halls where the nation's Representatives were assembled; it was the reflection that there, under that banner, in these seats, and hanging in these galleries, were congregated the representative men of half a continent—from the icy lakes of the North to the orange groves of Louisiana—from the men who hunted the moose on the hills of the Aroostook to those who chased the buffalo over the great prairies of the West; men who never met elsewhere, but were here commingled in common brotherhood, in devotion to the one great idea for the development of which this vast continent seems to have been specially reserved.

Away with the jargon of art in such a presence as this! Blood, pulse, and heart confessed the power of that overmastering thought. It was a part of the education of the boy; and as I come back now, in the maturity of years, to take my seat in these Halls—enlarged and beautified as they have been—as one of the Representatives of a domain which dwarfs the empire of the Macedonian; to realize that yonder imperial bird, which stoops over your head—the sea-eagle of the vikings—a little rapacious perhaps at times—has swept within almost a generation, with a pinion stronger than that of the eagle of the Caesars, over a region almost as wide as any that ever owned their sway, while the establishments of the Old World have paled with affright at the rush of its mighty plumes; blood, pulse, and heart still recognize the sublime idea that was responded to by the bounding pulse of boyhood. God of our fathers! what an inheritance for humanity, and what a theater for the sublimest of its developments, and what a trust too for us who have been summoned here in the hour of the nation's agony to witness the new birth that is to be the resurrection to a new and better life! And who is the degenerate American in this great assemblage that would even hold counsel with those that would imagine its dismemberment? Who is it that, in view of the past fate of all who have faltered in the hour of the nation's trial, and of the resistless current that is now drifting the feeble and the faint-hearted into oblivion, will be foolhardy enough to attempt to stem that avalanche of opinion which has just swept down from the White mountains of New Hampshire, and will strew all the other States with monuments of the public wrath in the wreck that it is making of the anti-war party of the North? Thank God! the dark hour has passed. The skirts of this mighty storm are drawing off. The fields that have been watered by its bloody shower

will soon be green again. We shall come out of this war with a development of muscle and manhood that will shame our former degeneracy and make the world tremble at our power. We shall have passed the ordeal that was to try us as a nation, when we shall have walked the burning plowshare of revolution—as we shall walk it—with our garments unsinged, and demonstrated—as we shall demonstrate—under trials that would have shaken down the proudest monarchies of Europe, the intelligent, affectionate, and unwavering loyalty of a self-governing people, and the sublime energy and indestructible vitality of the republican idea. Our Government will be no longer an experiment, but a fact of history; and we shall resume our no longer questionable rank among the great Powers of the earth, as first among our peers, the great Republic of the Western Hemisphere, one and indivisible.

Mr. BALDWIN, of Michigan. Mr. Speaker, the bill under consideration is one of serious importance, and involves principles that controvert and overthrow all our preconceived ideas of the admission of States into this Union, and ought not to be adopted without due deliberation. I believe it to be an utter subversion of the Constitution; that we have no warrant or justification whatever for it, in that instrument, even by giving it the most latitudinarian construction. In my opinion it embraces a plan that can never be enforced except by the military arm; and it is only the precursor of the establishment of a despotism, instead of the republican form of government upon which we have so long been accustomed to pride ourselves.

The proposed plan and that of the President are fraught with so many objections that prudence would dictate their abandonment. I believe the great question is not the reconstruction of State constitutions, when we have not a foothold in one of those that seceded that could be retained for a day upon the withdrawal of our armies; and, with the exception of Tennessee and probably Arkansas, the portions we occupy in every other are but a small fraction of the whole State.

But, sir, let me first recur to the past. It is but a few years since an American citizen could look upon the broad map of his country, and with a laudable pride truthfully exclaim, "It is the only free one upon the globe!" Our commerce penetrated every sea, and there was no nation so presumptuous as to dare with impunity interfere with our flag. Agriculture, manufactures, in fact all the industrial callings, teemed with their painstaking devotees. There was a general distribution of employments, each avocation providing for its proportion of the workers of our country. The rich prairies and the once dense forests gave unmistakable evidence of the industry, patience, and perseverance of our people, and the churches and school-houses afforded proof of their virtue and intelligence. To the eye of the traveler all this betokened that ours was indeed a happy country, and only needed prudence in our rulers, and patriotism, conciliation, and a due attention to the requirements of our Constitution and the genius of our Government among all classes to make those enjoyments perpetual. Then we had comparatively no national debt, and the Government was wholly supported without resort to taxation or levying money upon the States. Then the rights of each individual, however humble, were respected, and no infringement thereof, except by due course of law, was tolerated. If illegally incarcerated, the *habeas corpus* was a remedy, and a denial of the writ would not have been for a moment permitted. The freedom of elections was another of the rights of which our people were justly proud; and any illegal interference therewith by the strong arm of an Administration would have aroused, without distinction of party, the entire population. All these matters were the birthright and the pride of our citizens, and they had fondly cherished the opinion that no power could arise that would dare strike a blow at those privileges, dear-bought and inborn in the American heart, and which they deemed they cherished as their life-blood, and would protect at every sacrifice. Then, too, the national and the State governments had their respective powers properly defined, and each was considered sovereign in its sphere. Our Constitution was held sacred, and its support and maintenance the pride as well as the duty of every friend of freedom. It

was "no North and no South," the Union, and the whole Union. Happy but unfortunate delusion! How changed, however, the scene!

But three years have passed, and our citizens are incarcerated for months in loathsome dungeons, and then discharged, even without their offense or the cause of the arrest having been made known. The elective franchise has been interfered with; and free-born citizens have been compelled to abstain from the exercise of the rights of suffrage, or vote at the instigation of the bayonet for the person prescribed. The writ of *habeas corpus* has been denied, the freedom of speech interfered with, and our rights as freemen imperiled; the whole industrial pursuits of the country diverted, our commerce nearly banished from the ocean, a debt already counted by thousands of millions of dollars incurred, taxation to meet our expenses imposed and to be imposed in every imaginable form, and to an unlimited extent, and yet our resources not sufficient by hundreds of millions of dollars to defray our annual current expenses. We have also a bloody, intestine war, and a divided country.

The historic annals of no nation present such a rapid change as ours. We have descended from the height of prosperity to the depths of a profound abyss, where we find ourselves without a guide, and no apparent way of escaping. The prospect before us may indeed appal the stoutest heart; and to extricate our country requires far wiser counsels and more stability of purpose than has been manifested by those who now have charge of the administration of our affairs. It is now over three years since the accession of Mr. Lincoln to the presidential chair; and we can well pause and take a brief retrospect of the past, review his changing policy, and learn, if we can, the fortune the future has in store for our country. This ought to be done with all sincerity and fairness, but with such freedom as the subject requires. The times demand such a course; and Mr. Lincoln or any other individual is comparatively of no consequence when the "life of the nation," to borrow a hackneyed expression, is at stake.

During this Administration its peculiar devotees have endeavored to make the terms "Administration" and "Government" synonymous, and to charge the person as either a traitor or a rebel sympathizer who had the temerity to canvass the wisdom of any of the acts adopted by the dominant party or to doubt their expediency. Since the rising of the star of Fremont these terms have become less common; and by this slight diversion in their ranks reason has partially resumed her throne, and an intelligent and discerning people have dissipated the gossamer web with which the demagogue surrounded his specious reasoning, and they have learned that the "Administration" is composed of those servants, elected for the time being to execute the laws of their country, amenable, like the mass of that people, to those laws and responsible for any violation.

Our country would indeed be in a sad condition if in the three centuries' progress since the days of the Tudors we could not have the privilege of canvassing the acts of our rulers. It was then said by men like Lord Bacon "that the royal prerogative was not to be canvassed nor disputed nor examined; that absolute princes, such as the sovereigns of England, were a species of divinity; that it was in vain to attempt trying the queen's hands by laws and statutes," and "that God hath given that power to absolute princes which He attributes to Himself." And Mr. Secretary Cecil, with all the zeal of some of our modern administrative zealots, exclaimed, "Before I would speak and give consent to a case that should debase the prerogative or abridge it, I would wish that my tongue were cut out of my head."

This doctrine of the days of Elizabeth is especially commended to those blind devotees that deprecate any canvassing the acts of the present Administration; but to that class of our citizens who cherish the memory of our revolutionary fathers, and are intent upon the preservation of their constitutional rights, it is as odious as that of its correlative, which requires for the present Executive entire immunity from discussion. It should be our pride to receive lessons from the historic past, and profit by them when applicable to our own case, and those base sycophants who would sap the foundations of our liberty, and pave the way



for the introduction into this country of the arbitrary code of despotism of the sixteenth century, that our enlightened English brethren long since discarded, should receive the execrations of freemen.

That Administration that will not bear to have its acts discussed in the press and by the people is unworthy of a free people's support; and when discussion is interfered with, and a quiet acquiescence follows, the liberties of the people are rapidly waning, and it will soon require a herculean effort to rescue them from total destruction. Though the attempt may be intermitted, yet if irresponsible power have been once exercised, and quietly though temporarily submitted to by a subdued people, there is no surety upon the recurrence of a supposed necessity when it becomes indispensable to prolong an Administration that like arbitrary power may not be again grasped. In times like these, with the evidences of an implicit obedience by a portion of the military to the more than imperial behests of the Executive, it behooves us to be doubly active in the preservation of these rights.

We hear it daily bruited, both in this House and in the Administration press, that we have much denunciation of them, and none for the rebellion. The Democracy of this country have no sympathy or favor for the rebellion. In all their acts and speeches they have evinced as sincere devotion to the Union as have the peculiar friends in the majority. They have rightly deprecated the cause that has precipitated the war upon us, and tried to fix the divided responsibility where it belongs, yet they have given the Administration every constitutional aid in bringing it to an honorable issue, with our Union and our Constitution preserved intact. We have voted men and money for that purpose; we have encouraged the enlistment of our friends in our gallant Army, and have bid them God-speed and a glorious success in their efforts to restore the whole Union. Have the Republicans done more than this? Is it necessary now to continue mere shouting? Will denunciation insure success? Will words frighten the rebel army? Experience teaches the reverse. Sacred history informs us that the walls of an ancient city were destroyed by the blowing of rams' horns, and the majority seem to be of the opinion that success will crown their miserable parody of a like feat. I have ever believed that patriotic action was superior to denunciation; and if the party in power had omitted the latter, and in good faith devoted themselves and the country wholly to a restoration and preservation of the Union, that happy consummation would long since have been realized.

But, sir, we have one thing to console us. No conservative speaker, no conservative paper has advocated the doctrine of secession. We have not, like President Lincoln, told the people of the South that they, "being inclined and having the power, have the right to rise up and shake off the existing Government and form one that suits them better." And I would recommend my friend from Illinois, [Mr. ARNOLD,] in his next edition of his laudations of Mr. Lincoln to incorporate this, that our President may not be interfered with in his copyright title as one of the original advocates of the doctrine of secession. We have not, like distinguished Senators and others holding high offices and high places in the confidence of the Administration, advocated a dissolution of the Union; but have ever, as in 1813-14, when a band of traitors assembled at Hartford for that purpose, and in 1830, when South Carolina attempted to nullify the laws, stood by the Government and endeavored to preserve it and our Constitution as our fathers made them. We have ever wished, and I trust we will continue so to do, to preserve that country and that sacred instrument both from enemies and traitors within and without. Our record in this respect is one of which any party might be proud; and when pseudo-patriots arise in our midst and arrogate to themselves all the Unionism and all the loyalty of the country, with such a history as their leaders present, we may well pause and inquire the causes of their strange conversion.

I could occupy more than my hour in brief selections from the public speeches of these gentlemen showing that the Union they favor is not the Union of Washington and Madison, but a new one of their own devising; and prove that if their wish

cannot be obtained they will not only prevent that consummation, the restoring our old Union, but will aid in forming another. They take to their bosoms and cherish men whose boast it is they have devoted their lives to a destruction of the old Union—men who have proclaimed that our "Constitution was a covenant with death and an agreement with hell." The Helpers and the Giddings and their pestilent coworkers in dissension and disunion occupy high positions, while the consistent patriot, who will not give his assent to every act of the Administration and approve its usurpations of despotic power, is denounced as a traitor!

I will not on this occasion attempt to enumerate the various encroachments upon the liberties of the people and the palpable violations of the Constitution of which the dominant party have been guilty. I know it is claimed because that portion of our once prosperous Union now in rebellion have discarded that instrument that we are also justifiable in departing from its conditions. I believe, sir, that our Constitution contained sufficient to enable any Administration to protect this Government from the attack of every enemy without adding to or departing from any of its provisions. To make our Government respected requires stability in its administration. The citizen should derive his knowledge of his own and his rulers' duties from the written and the established laws of the country; nor under any circumstances should a departure therefrom be permitted. If Mr. Lincoln, as he and his friends claim they have a right to do, for any cause, transcends the limitations provided for the performance of his constitutional duties in one respect, he may in another. It matters little how praiseworthy his motives or how honest his intentions, the act is none the less a violation of the Constitution he has sworn to "preserve, protect, and defend." The argument because the South have done the same is of no avail; and the consequence is, if the doctrine prevail, we have no guarantee whatever for our protection. The violation of to-day is a precedent for to-morrow; and it will require but a few years for our people, if they submit as quietly in the future as they have in the immediate past to a power based, not upon a written Constitution, with the terms of which they are familiar, but upon the varying whims and caprices of that individual who is fortunate enough to fill the presidential chair, to reconcile themselves to a kingly power.

Criminations and recriminations now will not atone for the past; but I believe no exigency has arisen in our history to render any infraction of this kind necessary or that afforded even a palliation. But we are told if we will only aid now in putting down the rebellion, upon the return of peace all will be well, and we can live once more in a reunited country purged of every foul blot upon her escutcheon. Such language as this is an insult to the conservative men. Never have they swerved in their devotion to the Union, and in the first half of Mr. Lincoln's administration they gave him, in all his consistent and constitutional efforts in that behalf, as earnest a support as did his own chosen followers. True, they did not approve his principles nor of the manner in which he was administering the affairs of the nation, but upon the great question of no disintegration of our Republic there was then, as there is now, no division of sentiment. The vacillating course of the Administration has served to disgust even the warmest of its radical friends, and can it be supposed that those who are in favor of consistency and a constitutional Administration, can approvingly follow in all the meanderings of the Executive? Besides, does an acquiescence in or an approval of the prosecution energetically of the war for a restoration of the Union, or the giving every constitutional aid compatible for that object, render it incumbent upon us to adhere under all circumstances to such an Administration as we now have? Such has not been the practice heretofore, and I trust it will never be so long as a vestige of the rights of free discussion and freedom of opinion remains. A blind adhesion to such doctrines would be but the forerunner of a blotting out of those great principles we have been taught to venerate.

At the commencement of hostilities it was distinctly avowed that the war was not upon the local institutions of any portion of the country,

but to retain the unity of the whole, and when that was accomplished strife would cease.

Mr. Lincoln gave repeated assurances of his intentions in his various public papers, and it will be well to refer to them. In his inaugural he said:

"Apprehension seems to exist among the people of the southern States that by the accession of a Republican Administration their property and their peace and personal security are to be endangered. There has never been any reasonable cause for such apprehension. Indeed, the most ample evidence to the contrary has all the while existed, and been open to their inspection. It is found in nearly all the public speeches of him who now addresses you. I do but quote from one of those speeches when I declare that 'I have no purpose, directly or indirectly, to interfere with the institution of slavery in the States where it exists. I believe I have no lawful right to do so, and I have no inclination to do so.' Those who nominated and elected me did so with full knowledge that I had made this and many similar declarations, and had never recanted them. And more than this: they placed in the platform for my acceptance, and as a law to themselves and to me, the clear and emphatic resolution which I now read:

"Resolved, That the maintenance inviolate of the rights of the States, and especially the right of each State to order and control its own domestic institutions according to its own judgment exclusively, is essential to the balance of power, on which the perfection and endurance of our political fabric depend; and we denounce the lawless invasion by armed force of the soil of any State or Territory, no matter under what pretext, as among the gravest of crimes."

This was a voluntary pledge of the present Executive upon his induction to office. On the 4th of July following, in his message to Congress, he announced to the country that

"Let there be some uneasiness in the minds of candid men as to what is to be the course of the Government toward the southern States after the rebellion shall have been suppressed, the Executive deems it proper to say it will be his purpose then as ever to be guided by the Constitution and the laws; and that he probably will have no different understanding of the powers and duties of the Federal Government relatively to the rights of the States and the people, under the Constitution, than that expressed in his inaugural address. He desires to preserve the Government, that it may be administered for all as it was administered by the men who made it. Loyal citizens everywhere have the right to claim this of their Government, and the Government has no right to withhold or neglect it. It is not perceived that in giving it there is any coercion, any conquest, or any subjugation in any just sense of those terms."

And again, in December, 1861, in his annual message he reiterated those sentiments as follows:

"The inaugural address at the beginning of this Administration, and the message to Congress at the late special session, were both mainly devoted to the domestic controversy, out of which the insurrection and consequent war have sprung. Nothing now occurs to add or subtract to or from the principles or general purposes stated and expressed in those documents."

In July, 1862, an almost unanimous Congress passed the Crittenden resolutions, which were approved by the President, again reiterating the like objects for the prosecution of the war; and I fearlessly assert that if no change in the programme had been made, the rebellion would ere this have ceased. What these changes have been is too fearfully evident. Fanatical radicalism has gained the ascendancy, and the war for the last eighteen months has been prosecuted, not for the restoration of the Union, but for the destruction of the South; and in the blow aimed at them we believe it is the intention that all the reserved rights of the States of the Union be obliterated, and a vast centralized Government formed.

If this war had simply been prosecuted only for a restoration of the Union a hundred thousand lives would have been saved, and \$1,000,000,000 would be deducted from our national debt. I am not one of those who would stop to count the cost of preserving our Union in any war. Every man owes a debt to his country, and we should stand by that country under every circumstance, correcting what is amiss, but with a firm determination to preserve the nation at all hazards. And let the consequences be what they may, the property and lives of every individual should be freely granted to give success to the effort for that purpose.

Sir, I have been in favor of the adopting of such energetic measures in the prosecution of this war as would soonest terminate the unnatural conflict, restore harmony throughout the land, and save the nation from the incubus of an intolerable debt, and the awful destruction of its sons.

The question now arises whether wisdom and patriotism do not require an entire change of policy, and a return to the original avowed object; to abandon all plans of reconstruction which only tend to intensify hate and put further off the

day of peace. I am aware to the enthusiastic there is sweet music in the catch-words hourly used on this floor, of the "life of the nation" and the "removing all causes of the war," but, sir, they are not employed with any intention of settling our difficulties, but to prevent all settlement prior to utter extermination. That it was intended that the amnesty proclamation of last December would hasten the end of this strife, I do not believe. We are told that nearly every southern paper published it, and it only nerved them to the performance of more earnest deeds.

I do not propose to examine in detail either the amnesty proclamation and the reconstruction plan therein set forth, nor the bill this House has under consideration. Both, I believe, are more intended to obtain votes from those reconstructed States to perpetuate the present party than for any purpose of restoring the States to the Union. I assume, too, if that policy is persisted in, this war has but commenced, and our people should resign themselves to the continued conflict until utter financial and physical exhaustion result.

It is well for us before we adopt any other schemes to examine our present condition, that we may better judge of the propriety of a measure that will crystallize the South into a determined opposition to any future union with us.

We have the authority of the President as late as July, 1861, for saying that "it might be questioned whether there is to-day a majority of the legally qualified voters of any State, except perhaps South Carolina, in favor of disunion," and in the same message he recommended Congress, that the war might be a short and decisive one, to place at his control for the work at least four hundred thousand men and four hundred million dollars. That number of men and this sum of money have been increased, the former over five-fold and the latter nearly tenfold, and to-day, by the vacillation, the waywardness, the insane interference, the blunderings, and the corruption of the Administration, final success and peace are not apparent.

I insist, sir, that the Administration have never appreciated the power of the enemy, but have had a too overweening confidence in itself, and that it has adopted ultra paper fulminations when it ought to have relied upon the stern realities of war, with the sword in one hand to subdue the armed forces of the South, and the olive-branch in the other, to welcome any recusant and repentant State that was ready to return to its allegiance and submit to the requirements of the Constitution. By the census of 1860 there were in those States now in rebellion about three million white males, and in the free States about nine million. There were also nearly two million male slaves in the South, which for most practical purposes were as available and efficient as the whites. Then the proportion of numbers was, as near as may be, two to one. The people of the South were upon their own soil, acclimated, and they had been educated to believe their rights were invaded and that this war was one of invasion and extermination. It requires but a little imagination to judge where the odds would be when these millions of people were engaged in a war on their own soil, nerved to the belief that their property, their lives, and their children, their household gods, and their altars depended upon their success. True, they were laboring under a hallucination, but Mr. Lincoln and his advisers are responsible for changing the original object of the war, and aiding the rebel leaders in educating a now almost unanimous South in this delusion.

I have fondly cherished the hope that our armies might speedily be successful. To attain success I would have put forth every effort and submitted to any sacrifice; but, sir, with the policy of the President and Congress before me to be persisted in, that day is in the far distant future. We have little means of knowing the casualties of war in the South, but it is probably no greater proportionally than ours, and by the natural increase of population and the greater facility for moving their forces, they can continue them in the future numerically as available as in the past. We know the expense of our own transportation and the necessity of having large armies inert to guard the various posts and fortifications. We have learned the power of endurance of the southern people, and these various facts ought to afford sufficient inducement for us to adopt wise and

humane measures to recall them to their allegiance.

It is estimated that over a quarter of a million northern lives have been lost by reason of this war. Their blood has fertilized many a hard-fought battle-field, and their bones lie bleaching in every rebel State. Not a northern household but that mourns some near and dear friend who has thus been sacrificed upon the altar of his country. The habiliments of mourning meet us at every step, and we are momentarily admonished of the grief of the mothers, wives, and friends, weeping and wailing for those who will return no more. One fifth of the male population has gone forth, thus making any future calls fall with redoubled effect upon those remaining. Last year hundreds of fields were uncultivated for the want of laborers, and this year thousands of acres of our rich lands will go unplowed and no crops be produced, because the calls to arms have taken away the young.

But, sir, the extravagant action of the past has entailed upon us a fearful national debt. It has been our pride that this bane of the Old World has found no lodgment in America. How we have exulted in the proud satisfaction that while England has a debt of \$4,000,000,000 we were free from the incubus! This was three years ago. How stands the record now? You will pardon me if I go somewhat into detail in this matter, because it is one that concerns every property-holder or tax-payer, and every patriot in the country, and appeals to us to pause before we devise any means so odious as this pretended reconstruction, that will assuredly force us to double if not quadruple our present gigantic debt. Let us view its progress. By reference to the report of the Secretary of the Treasury, page 47, it will be seen that on March 4, 1861, our total outstanding indebtedness was \$68,482,686 19. By referring to the same page it was stated on the 30th of September, 1863, \$1,222,113,559 86. The estimate of the Secretary (page 8) fixes the public debt July 1, 1864, at \$1,656,956,641 44. This is only for forty months since the inauguration of Mr. Lincoln, and shows an increase of debt over and above all the enormous taxes levied in every conceivable way of over forty-one million dollars per month.

But this does not cover all the indebtedness. Already has Congress had two deficiency bills of about one hundred and ten million dollars to act upon, neither of which are considered in the report. This was for only a few items connected with the War Department, but it was so much increase of our debt. Time will not permit me to enter into any minute specification. The unsettled items, if all provided for, would make the debt on the 30th of July next over three billion dollars. If we could stop here, we might still have hope. But there are claims springing up in every direction for damage done by our forces to the property of loyal men, and in numerous instances for the absolute destruction of such property to prevent its falling into the hands of the rebels. The principle that in all such cases the loss must be borne by Government is too well settled to be now discussed; and though we may put off the evil day, and refuse now to pay or liquidate this class of claims, that pay day must come.

From the Potomac around to the Mississippi, through Arizona, and in fact from nearly every quarter where our armies have been, these claims must arise. One recently came before the Court of Claims from the far-off Territory of Arizona, and Judge Wilmot delivered the able opinion of the court, fixing the claimant's damage, in that single case, at \$41,530, and held the United States liable. He said:

"We hold in this case that the property was destroyed by the rightful order of the commanding officer, and upon an urgent and pressing necessity, and to prevent it from falling into the hands of the public enemy, and those hostile to the United States; that it was a taking for public use, and that the Government is bound under the Constitution to make just compensation to the owner."

Judge Wilmot cannot be accused of having any prejudices adverse to the Administration, and this opinion of his will warm into life a startling array of like claims that will be presented for adjustment. Their names will be legion, and must amount to untold millions.

But, sir, the official document shows that for the first forty months of this Administration the expenditures exceeded all its receipts, except from loans, at the rate of over forty-one million dollars

per month. I believe the real facts are that they exceeded over seventy millions per month.

For the next fiscal year we have the estimate of expenditures, nearly \$752,000,000, and the total receipts to be only \$207,000,000, leaving an estimated increase of debt of \$544,978,548 93.

I know, sir, that this is a dull subject, but it is an exciting one when the pay day comes; and, as this enormous sum of money must be paid, it is a duty incumbent upon us to examine it in all its aspects. We are making a fearful legacy for posterity; but we ought not to shrink from a full gaze at our terrible folly or criminal extravagance. I will not now inquire where this money has gone, or how it has been spent. The reports of your numerous investigating committees in the last Congress showed that corruption was rampant in every direction. It is useless to particularize. We have not learned from experience; and the result of our three years' experiment of Republicanism will be a mortgage upon our national domain, upon the firesides, the earnings, ay, the heart's blood of our sturdy yeomanry, when all outstanding claims are liquidated, of over three thousand million dollars. We cannot escape it; but, sir, by proper economy, a proper management of our military forces, an honest desire to end this war, with our Constitution and the rights of the States and the people intact, over one half of that vast outlay might have been saved, our Union restored, and peace brought once more to our distracted country.

Radicalism must have its way. "*Delenda est Carthago*" has been the war-cry from that side of the House, and their leaders have feared that the war would end before they had satisfied their vengeance upon the South. To create delusive hopes throughout the States in rebellion, they have proclaimed that the conservatives in the North sympathized with the South, thus, by a refined species of political dissembling, endeavoring to incite a disturbance here, while encouraging the enemy with these false statements to persist in their contest, and thus enable the rebel leaders to force the people to become a unit in deadly opposition to our Government.

But, sir, we have the enormous national debt upon our hands, and it must be paid. We have been accustomed to boast of our prosperity and to refer to the tables produced from our decennial census returns as an evidence of this fact. I wish to educe a few lessons from the same source. In my calculations I shall assume our national debt to be on June 30, 1864, only \$2,000,000,000, which I believe, with all due deference, is not two thirds the actual sum. In the preliminary report of the eighth census, page 195, the total true value of all the real and personal estate of the entire country is put at \$16,159,616,068. In this sum is included the value of nearly four million slaves, as estimated prior to the war. Putting these at the very low estimate of \$400 each, \$1,600,000,000 is to be deducted. If this approximates correctness, and it was as near as could be attained, our national debt at this low estimate would now equal one seventh of all the real and personal property in the States and Territories in our Union in 1860.

The Secretary estimates the increase of the debt for the current year at over \$588,000,000, nearly \$50,000,000 per month; and for the ensuing year at the sum of \$544,978,548 93, giving, according to his estimate in the official report, a liquidated debt in July, 1865, of \$2,232,000,000. Taking these figures, if we should then be so fortunate as to have a restored Union, and this debt, no portion of which rests upon an estimated or problematic basis, but upon stern facts, and is now \$1,000,000,000 less than the actual sum, be fairly apportioned *pro rata* according to the representation of all the States in this House, it would be over \$9,250,000 for each congressional district in the Union "as it was." Nine and one quarter million dollars debt for each congressional district in the entire Union! The very idea is appalling. Is it possible by any imposition of taxes to make the hardy yeomanry of the West, who have felled the dense forests or reclaimed the rich prairies, take from their hard earnings sufficient to pay even the interest upon this enormous sum? Why, sir, at six per cent. the interest will be \$550,000 annually for each congressional district, provided we can include the now rebellious States and all the Territories. But instead of having two hundred and forty-one congressional districts repre-



the world was money squandered as it has been by

# THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY EIGHTH CONGRESS, 1ST SESSION.

MONDAY, MAY 2, 1864.

NEW SERIES....No. 125.

Yet, sir, with our armies occupying only the outskirts of the rebellious States, a million men standing in hostile array, our very authority scouted within cannon-shot of this Capitol, and no indication that a single rebellious State wishes to return, we are endeavoring to reconstruct and form anew governments for those States. It is well known that the people of the South pride themselves more upon their State rights principles than the people of any other section of the Union. We have caused the entire mass of the South to believe that we are warring upon their institutions, and this opinion they have formed mostly from our acts. Let us pass this bill, and the proof to them and to the world is positive, and we shall nerve our enemies to desperation, and God only knows how the conflict will end. We have no means to squander in Utopian schemes. We have been endeavoring by our action this winter to make our country a vast negro poor-house and a negro primary school, and now, with the result of the President's political campaign in Florida, and the disgraceful butchery at Olustee before us, we ought to pause and cast aside experiments and devote ourselves to the stern realities of the war and the salvation of our country. When the rebellion is subdued it will then be time for political quacks to administer their nostrums.

In this connection, to prove that patriotism is not the inspiring motive of this proposed reconstruction, I have a few facts to relate of an incident in Michigan. On the 3d of November last an election was to be held for city officers in Detroit; and as that city furnishes two Republican Senators in the other branch of this body it was necessary for that party to carry the election. At the time companies of the provost guard were stationed in Detroit. These were soldiers of the volunteer force in the service of the United States drawn from all parts of the country.

To aid in the project, and give a quasi-legal character to the proceedings, and it may be to initiate a system and furnish a plan for like voting in the reconstructed States, the following was procured:

UNITED STATES DISTRICT ATTORNEY'S OFFICE,  
DETROIT, MICHIGAN, October 23, 1863.

GENTLEMEN: I have received your request for my opinion as to the question whether the soldiers now in the barracks in your ward are entitled to have their names registered and to vote there. The military post is the home of the soldier; the law compels him to abide there, no matter where his wife and children dwell, or where he exercises his calling in time of peace. A soldier, in contemplation of law, is without family or calling outside of camp. He cannot go where his family is, and would be disfranchised were it not that his residence is held to be where the military order fixes it. In my opinion the married as well as the single soldier is entitled to be registered and to vote. The provision of the constitution of Michigan, article seven, section five, refers, I think, to the service of the United States in the regular and not in the volunteer army. It is to be interpreted with reference to the state of things existing in 1850, when the constitution was formed and when the existence of a volunteer army, such as there is now in the country, was not anticipated.

As to the other question, volume twelve United States Statutes, page 597, provides that any alien of the age of twenty-one years, who has enlisted in the United States Army, and has been honorably discharged, may be admitted a citizen without any previous declaration of intention. I think that the requirement of article seven of the constitution of Michigan as to declaration of intention is satisfied by proof of a compliance with United States statute referred to, that is to say, that the fact of enlistment and discharge is equivalent to the ordinary declaration of intention.

Very respectfully, your obedient servant,

ALFRED RUSSELL,  
United States District Attorney.

The intention of the persons interested in this communication is too apparent. It will be noticed that it bears date October 23, 1863. November 2 and 3 the following orders were issued:

OFFICE OF UNITED STATES MILITARY COMMANDER,  
DETROIT, November 2, 1863.

Lieutenant JOHN VAN STAN, Detroit Barracks:

Your friends in town expect activity from you to-morrow. Senator Howard spoke to me about you. Soldiers can be allowed to visit the nearest polls in small squads to cast their votes, and return immediately, in order that others may go.

Truly yours,

J. R. SMITH,  
Lieutenant Colonel.

DETROIT BARRACKS, November 3, 1863.

Sir: This being the day of the annual election in this State, in obedience to orders issued by Lieutenant Colonel J. R. Smith, military commander, you will detail good, efficient non-commissioned officers to take charge of detachments of such members of the provost guard as are voters, to escort them to the polls of the several wards of which they may be voters, that they may have the privilege of exercising the rights belonging to every American citizen, and, when they shall have so cast their votes, return them to camp; and here allow me to suggest that, while your commander would not attempt to dictate the manner in which the members of the provost guard shall vote, I may, perhaps, say that it is very desirable, in fact, our duty, to sustain the Administration both by word and deed.

E. D. ROBINSON,  
Captain Commanding Michigan Provost Guard.  
Lieutenant JOHN T. VAN STAN, Michigan Provost Guard.

Officers of the day will pass Lieutenant Van Stan, with such members of the provost guard as he may designate, during the day, until six o'clock this p. m.

E. D. ROBINSON,  
Captain Commanding Michigan Provost Guard.

These orders, and the opinion, form a curious commentary upon the purity of elections, and give us an impressive lesson of what we may expect where the civil and military authorities combine to overthrow the voice of the people. The district attorney of Michigan is not a law officer of the State, nor is he the official adviser of the board of registration or election. There are officers designated by the State laws upon whom is devolved this duty to advise, yet we find a letter directed to a board in the tenth ward of Detroit advising a nullifying the laws of the State. Then we have the military commandant issuing his order requiring "activity," and announcing that Senator HOWARD "spoke to me about you." This was followed by an order from a subordinate requiring the soldiers to be "escorted" to the polls in "squads" under charge of three officers, and, "after voting, to be returned to camp!" And to cap the climax of this attempt to trample upon the rights of the freedmen of Detroit, the soldiers are very gravely informed, "it is their duty to sustain the Administration, both by word and deed!"

Ordinary language is inadequate to properly comment upon these proceedings. I will not speculate upon the length of time necessary, if such a course be persisted in without opposition, for our liberties to be obliterated. The ballot-box becomes a stupendous farce, a free election a "presidential joke."

Let us apply this case to the bill under consideration. A registration of the votes is required, and if one tenth of those registered take the oath the election can be held. Now, suppose some facile district attorney should decide that the soldiers "not in the regular Army" who have been in a State for a given length of time were citizens, and could be registered, take the oath, and vote. There are thousands of our volunteer forces in many of the seceded States who have resided there over two years. Their "home" is the military post, and if any question arises as to the legality of their rights, this opportune decision from Michigan is in point, and the fact is accomplished.

I will dwell no longer upon this subject. The principles involved in the bill are of too serious a nature to permit it to pass with less than I have said. I am no friend of the rebellion or of the rebel States. I fervently desire to see our armies successful, the Union restored, and peace and harmony once more prevail. I do not belong to that class of individuals who believe that we can have peace without a decisive, overwhelming victory, nor do I suppose it can be obtained if the present policy of the Administration be persisted in. I am in favor of rendering every constitutional aid to sustain, encourage, and reinforce our gallant Army now marshaled under our flag, and I have voted for every measure having in view that object. I shall continue so to do. However much of vacillation or incompetency may curse and impede our progress toward victory, we should not abandon our brave soldiery nor despair of the Republic, nor forsake it in this its hour of direst need. The day of peace may be distant, but the nation's honor is with us; and what-

ever may be the character of the Administration, our solemn duty is to stand by the Government and protect and preserve it, that its administration may pass into the keeping of wiser, more patriotic and energetic counsels, with the Constitution in a condition to be restored to its original purity.

Mr. THAYER obtained the floor, but yielded to Mr. CRAVENS, who moved that the House adjourn.

The motion was agreed to; and thereupon the House (at fifty minutes past nine o'clock, p. m.) adjourned.

## IN SENATE.

SATURDAY, April 30, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of yesterday was read and approved.

## PETITIONS AND MEMORIALS.

Mr. SUMNER. I offer three different memorials from women of Dryden, New York, asking Congress at the earliest practicable day to pass an act emancipating all persons of African descent held to involuntary service or labor. I move that they be referred to the committee on slavery and freedmen.

The motion was agreed to.

Mr. GRIMES. I present the petition of M. W. Galt & Brothers, and as I am told nearly all the persons who own or occupy stores and dwellings on Pennsylvania avenue and the streets adjacent thereto, constituting the principal business part of the city of Washington, who represent that very few appropriations have been made by the city councils for these localities, but that large amounts have been annually expended for the improvement of the suburbs of the city. They therefore pray Congress to pass a law requiring the paving, draining, cleaning, and watering of the avenue and the streets adjacent thereto under the control of a competent engineer, the expenses thereof to be defrayed by the property-holders. I move that the petition be referred to the Committee on the District of Columbia.

The motion was agreed to.

Mr. HOWE presented a petition of citizens of Big Lawrence, Brown county, and a petition of citizens of Little Lawrence, Oconto county, Wisconsin, praying for the establishment of a tri-weekly mail route from the northern terminus of the Northwestern railroad at Fort Howard, to Stiles, Oconto county, Wisconsin; which were referred to the Committee on Post Offices and Post Roads.

He also presented a petition of citizens of the city of Green Bay, Wisconsin, praying for the establishment of a tri-weekly mail route from the Northwestern railroad at Green Bay, to Stiles, Oconto county, in that State; which was referred to the Committee on Post Offices and Post Roads.

## BILLS INTRODUCED.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 262) to provide for the greater efficiency of the civil service of the United States; which was read twice by its title.

Mr. SUMNER. As there is no committee of the body that might properly take the subject of this bill into consideration, I shall ask that it lie upon the table, and be printed. The object of the bill is to provide a competitive system of examination in the civil service of the United States.

The bill was ordered to lie upon the table, and be printed.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 48) concerning appointments in the military service; which was read twice by its title.

Mr. GRIMES. I should like to hear the resolution read at length.

The Secretary read it. It provides that no officer of the regular or volunteer forces, whose appointment is required by law to be made by the President, by and with the advice and con-

sent of the Senate, and who shall have resigned his commission, and whose resignation shall have been accepted, shall be entitled to hold or exercise command in those forces until again appointed thereto by the President, by and with the advice and consent of the Senate; but the President may fill vacancies that may happen during the recess of the Senate by granting commissions which shall expire at the end of their next session.

Mr. WILSON. I move the reference of the joint resolution to the Committee on Military Affairs and the Militia.

The motion was agreed to.

#### RIGHTS OF COLORED VOLUNTEERS.

Mr. SUMNER submitted the following resolution:

*Resolved*, That the President of the United States be requested to furnish to the Senate, if not incompatible with the public interests, a copy of any opinion by the Attorney General on the rights of colored persons in the Army or volunteer service of the United States, together with the accompanying papers.

Mr. POWELL. I object to its present consideration.

The PRESIDENT *pro tempore*. Objection being made, it lies over.

#### ARMORED VESSELS.

Mr. SHERMAN submitted the following resolution; which was considered by unanimous consent, and referred to the Committee on Printing:

*Resolved*, That three thousand extra copies of the letter of the Secretary of the Navy, relating to armored vessels, be printed for the use of the Senate.

#### SAN RAMON LAND GRANT.

Mr. HARDING. The Committee on Public Lands, to whom was referred the bill (H. R. No. 371) for the relief of the settlers upon certain lands in California, have had the same under consideration, and directed me to report it back to the Senate with a recommendation that it pass. It is a short bill, and I will ask for its immediate consideration; I think it will excite no discussion whatever.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that any and all persons claiming, whether as preëmptors or settlers, or under any grant or title, any of the lands included within the exterior boundaries of a certain grant for the rancho San Ramon, situate in the county of Contra Costa, in California, made to Bartolo Pacheco and Mariana Castro by Don Jose Figueroa, Governor of Upper California, on or about the 10th of June, 1833, and which claim, or two leagues thereof, has been confirmed by the district court of the United States in separate moieties, one in the name of Horace W. Carpenter, and the other in the name of Rafael Soto de Pacheco and others, by a decree of the court made and entered on or about the 4th of June, 1862, shall have the right in all courts to contest the correctness of the location of the lands so confirmed, within those exterior boundaries, notwithstanding any official or approved survey thereof now made or hereafter to be made under the decrees of confirmation, and notwithstanding any stipulation or consent given by the district attorney of the United States authorizing such locations. In case it shall be found that the United States have title to any of the lands within those exterior boundaries, which have been settled upon and improved by any person, in good faith, under a *bona fide* claim of title, such occupant, and each settler upon the lands so situated, is to be entitled to enter and receive a patent for one hundred and sixty acres of land, including his improvements, upon payment, at the proper land office, of the Government price of \$1 25 per acre, and proving that he was one of the actual and *bona fide* settlers on the lands and had made improvements thereon.

Mr. JOHNSON. This seems to be an effort to reverse a decision of the Supreme Court of the United States.

Mr. HARDING. I do not so understand it. The two leagues were authorized by the district attorney to be taken or surveyed within the exterior boundaries of the grant which embraced some six leagues, and the survey is in this shape, [exhibiting a map to the Senate.] The survey has not been passed upon by the district court, but is on file in the clerk's office. I do not un-

derstand that it has been passed upon by the court.

Mr. JOHNSON. I ask for the reading of the bill again.

The Secretary again read it.

Mr. JOHNSON. The Senator from Oregon will find on looking at the act passed in July, 1862, I think, that persons who have an interest in the location of grants which have been confirmed by the Supreme Court of the United States, or by the district court where there is no appeal, have a right to intervene on the question of location. The very object of the act of 1862 was to settle the correctness of the location as between all contesting claimants. Now for aught that I can know, or for aught that the Senator can know unless he has got a telegram to-day, the district judge below may have confirmed the survey.

The honorable member gives me a slip from a newspaper which I suppose has been some twenty or thirty days in getting here.

Mr. HARDING. Thirty.

Mr. JOHNSON. It has been thirty days in getting here, and in the mean time the survey may have been acted upon, and we should therefore be doing what I think, even if we have the power to do it, is quite bad in point of policy.

These Mexican grants in California are generally grants of lands within certain external boundaries. The rule which governs at common law, as the Senate is perfectly aware, is that the physical external boundaries govern the course of the distance and govern the location. If the grant, therefore, professes to be a grant included within certain external boundaries, although it is represented to contain only one league or two leagues, and in point of fact it includes twenty leagues, the grantee is entitled to the whole twenty; but the Supreme Court of the United States, in the case of Fossatt, decided, the question being directly presented there, that the true construction of a Mexican grant, which in that particular was to be governed by the Mexican law, was that the course and the distance of the outer boundary were not to be considered as paramount in controlling the construction of the grant or in ascertaining the quantity of the land granted, but that the party under a grant of that description was entitled only to hold the quantity of land called for in the grant, and that the only effect of calling for the exterior boundaries was that he was obliged to locate that quantity within those exterior boundaries.

In this case, as I understand it, there are two leagues to which the grantee is entitled under a grant by boundaries which may include some fifteen or twenty leagues, or whatever may be the quantity the boundaries will include. This grant is brought up here and is confirmed by the Supreme Court of the United States. The decision of the Supreme Court of the United States is a decision only affirming the validity of the grant. It does not give to the grantee any specific portion of the land included within the external boundaries. It is necessary under the act of 1851 and the act of 1862 that the decision should go back to the district court, and that the survey should be made there by the surveyor general.

As the law stood originally, before the act of 1862 was passed, there was no mode in which any person claiming an interest in having that survey correctly made could interfere at all. Justice, it may be supposed, was secure by the act of 1851, providing that the judgments in these cases should only be conclusive as against the United States and the claimant. But in order to settle the whole dispute in controversy, the act of 1862 was passed, and that act provides that any person who may have and can show to the court that he has an interest in the survey of the grant has a right to intervene and contest any survey that has been made, if he thinks that it operates prejudicially to his interest and satisfies the court he has an interest.

Now, for aught I know, the preëmptors, or those claiming to be preëmptors by virtue of actual possession in this case, may have gone before the court below and contested the correctness of this survey, and the survey may have been confirmed. If so, we are legislating away, if we pass this measure, what is now the title of the grantee without giving him an opportunity to be heard, and contrary to the decision of the Su-

preme Court, as that decision is carried out by the district court. If the decision of the district court has been already pronounced and is erroneous, and these adversary claimants have made themselves parties to the proceeding, as they were authorized to do, as I have just stated, under the act of 1862, they can bring it up to the Supreme Court and have the controversy decided there. That was done in the case of Fossatt at the last term. Fossatt claimed under a title, the validity of which was not disputed, to be entitled to what was called the New Almaden quicksilver mine. Whether he was or was not, depended on the manner in which his land was to be located. There was another grant issued to a man by the name of Berreyesa, and the holders under that grant insisted upon it that the true location of that grant, which was prior in point of time to Fossatt's, was to include the New Almaden mine; and if they had succeeded in that they would have been the owners of that mine. That question was tried here in the Supreme Court, and the court decided that the true construction of these two conflicting contentious grants, Berreyesa's being the elder and Fossatt's the younger, was to give to the junior tract the mine, because the true running of the elder tract did not include the mine; and that settled the dispute.

It would seem to me, and I submit it to the honorable member from Oregon, that what he is now about to do would be precisely what would be done if this was proposed: Fossatt has got the mine by a decision of the Supreme Court; there are a great many other persons who claim that the mine is really upon public land, and they may be in possession. Suppose they were to come in here and ask us to pass a law saying that the decision of the Supreme Court of the United States giving the land to Fossatt should not be conclusive, but that they might prosecute their claims as against Fossatt. That would be in direct conflict with the decision of the Supreme Court, and unjust as it seems to me in point of fact; certainly it would be inexpedient in regard to policy.

I submit, therefore, to the honorable member that perhaps it would be better to let the bill lie on the table until we can ascertain more particularly what is to be the operation of it. These lands are very valuable, I suppose, though I know nothing about this tract, and never heard of it before; but these lands in California are valuable, and there has always been a contest between the grantee and what are called squatters. California was settled early by every variety of an enterprising population. There was nobody there hardly who could tell what lands were granted and what lands were not granted, or what were the bounds of the granted lands; and men would take possession of everything which in point of fact was not in the actual possession of somebody else. That has produced a conflict between what are called squatters and those who are called grantees, and it was with a view to settle all those disputes as rapidly as Congress supposed justice required they should be settled that the act of 1862 was passed.

Mr. HARDING. It appears to me that a statement of this case should satisfy the Senate of the propriety of passing this bill.

The claimants under this Mexican grant brought suit in the United States district court, or rather a suit was brought in the United States district court, the claimants being one party, and the United States, represented by the district attorney, another party. The claim was for two leagues. The two leagues had been marked and the boundaries affixed, as it was ascertained in the court, and the court made a decree granting to the claimants two leagues of land by the boundaries. From that decree the claimants appealed to the Supreme Court of the United States. After the appeal was taken the district attorney of the United States, in consideration that the claimants would abandon their appeal, consented that the claimants might locate their two leagues of land anywhere within the exterior bounds, or the bounds which they originally claimed. In accordance with that stipulation the claimants went on and made their survey, something like eleven miles in length, I think, running around all the points of the hills and taking all the arable land that could be reached, by taking the two leagues and extending them out into all sorts of shapes



and forms. It is if the marks on this paper [exhibiting a map] can be seen as represented there, perfectly spider-shaped.

The Senator from Maryland, as I think, applies his argument to cases between different Spanish claimants; and the act to which he refers relates to claimants under Spanish grants, and not to cases between claimants and settlers on the public lands under the laws of the United States. Am I correct?

Mr. JOHNSON. It includes everybody.

Mr. HARDING. The persons who desire to contest this grant are settlers on the land which they supposed to be Government or public land. They ask now the privilege of contesting the right of these Spanish claimants or Mexican grantees to that part without the two leagues. They are not claimants under a Mexican grant. They have no right to the land except as preëmptors. They cannot preëmpt until the land is surveyed and brought into market; and the land cannot be surveyed and brought into market, as I understand it, until this Mexican grant is disposed of. Therefore it is necessary to pass this bill to give them the right to preëmpt and settle the boundaries of this claim. That is the whole matter, as I understand it.

Mr. FESSENDEN. I should like to know whether that Mexican grant has been confirmed.

Mr. HARDING. The survey has been filed in the district court, and the district court at the last dates had not confirmed the survey.

Mr. FESSENDEN. It is still an open question, then.

Mr. CONNESS. I will begin by responding to the remark of the Senator from Maine. I heard him say that it was still an open question. It is not an open question in this, that the United States district attorney has stipulated that part of the case valuable to these settlers away, and which comprehends their rights. This is simply a case involving the question of whether certain settlers upon the land in question may go into court and reopen what was stipulated away against them by the United States district attorney.

Let me present the case so that I think I can make it understood. This land claim is located in what is known as Contra Costa county in California; it is a hilly or mountainous district lying east of the city of San Francisco and across that bay. The larger portion of the country is mountainous and hilly land, the smaller portion of it valley land. In many instances the valley land is found in very small nooks made by the ravines that run down from the mountains at their termination. The grantees in this case were determined by the United States courts to be entitled to two leagues of land. The next question involved was where those two leagues of land should be located. As stated by the Senator from Oregon while an appeal was pending to the Supreme Court of the United States, involving a question of title, the grantees entered into an agreement with the district attorney who was prosecuting the case on the part of the United States, that if they would withdraw their appeal he would agree on the part of the United States that the grantees might locate their two leagues of land wherever they saw fit. The result has been that they have located their two leagues of land in a form that is not only inconsistent with all ideas of public surveys, but they have drawn their net about the settlement of every man living within miles of where their land should be located. Wherever they found a valuable settlement, an improved piece of property, there they ran their survey out and took it in, and I have before me here the tracings of a map which requires only to be looked at to establish its fraudulent character. It is an outrage upon those men so gross that it bears the stamp and impress of fraud upon its face. These men, upon whose efforts the prosperity of our country rests, are to be despoiled and deprived of their valuable holdings and homes by the stipulation and agreement of the United States district attorney, not now in office, made without their consent, without their being parties to it, and every valuable acre of land in the vicinity is to be taken up by these parties, and the valueless hills and mountains left to the Government.

The idea connected with all these questions of the location of land within the exterior boundaries alluded to, is that when the land is located it shall be located within a compact body; that the

parties shall take it for better or for worse; that they shall take a part of the mountains and a part of the valleys; that they shall not run it into angles wherever they find a man's holding or his settlement improved by his labor, which they have done in this case.

The bill before us is not a general act; it is a special act applicable to a special case where a gross and outrageous wrong has been perpetrated. The general principles involved in the question of the location of lands within the exterior boundaries of these Spanish grants will be properly in discussion when the bill that I introduced in this body, and which now is upon our table, shall be taken up, which I will move very shortly. But this bill involves the simple question whether these people shall be allowed to go into court, notwithstanding the stipulation made by the district attorney against them; by which they are despoiled of their homes, and reopen the case and get an honest and fair adjudication of it. I will not continue to waste the morning hour further upon this question, but hope the Senate will pass the bill.

Mr. JOHNSON. As I stated just now I have not the slightest knowledge of this particular case, but reading the paper which the honorable member from Oregon gave me I am satisfied that the policy of a measure like this bill is very objectionable. This I suppose is from a California paper.

Mr. HARDING. The Alta.

Mr. JOHNSON. The Alta. It is headed "The Slander Refuted."

"THE SLANDER REFUTED.—This is the dignified heading of a communication in yesterday's Alta in defense of Judge Hoffman, signed by J. B. Crockett. After quoting our strictures on the outrageous survey of the San Ramon grant, now on file in the United States district court, he proceeds to refute what he is pleased to term a 'slander,' but in reality succeeded in making a stronger case against Judge Hoffman than we did ourselves. He says:

"A stipulation was entered into between the United States district attorney and the claimant, Carpenter, by which the latter abandoned his appeal from the decree limiting the quantity to two leagues, in consideration of which the district attorney, on behalf of the United States, consented that Carpenter might select and locate the two leagues anywhere within the exterior limits of the general tract. A decree was entered, founded on this stipulation."

Now, the Senate will see that so far the United States, as represented by the district attorney, and the claimant are dealing with the public lands of the United States, or rather with lands which would be the lands of the United States but for this grant. It can operate only, therefore, if permitted to operate at all, upon such lands as belong to the United States. That is all. Now, it seems from what I have read that the decision of the district court limited the quantity that the claimant insisted upon it that he was entitled to under the circumstances of that case, he claiming a larger quantity than the quantity stipulated for in the grant.

Mr. CONNESS. I never knew one of these claimants that did not.

Mr. JOHNSON. Very well, then, there are two parties. The claimant says in this case, (I assume that now by way of illustration,) "I am entitled under my grant to four leagues;" the district attorney says, "You are entitled to but two;" the district judge decides that he is entitled to but two; but he takes an appeal from that decision to the Supreme Court of the United States. How that appeal would result nobody could tell. It might have been successfully prosecuted, and the United States would have lost four leagues of the lands that they claimed. In that state of the controversy the district attorney, in behalf of the United States, says to the claimant, "Abandon your appeal, admit that you are entitled only to two leagues, and you may locate your two leagues upon any part of the lands within the outer limits of the grant that belong to the United States." That is all. "Go anywhere within these exterior limits." In one sense he had a right to go anywhere within the exterior limits.

The honorable member from California says that where the quantity called for is less than the quantity included in the exterior limits, the quantity called for must be located together in a body. I do not know any law that requires it to be located in a body. The practice may be to give such a location as will make the two leagues one body of land. I do not understand that this survey—I have not looked at the survey—does not give to the grantee two leagues in one body. It

may not be in the body that the honorable Senator thinks would be right; but it is in the body. It is not in one form, it is in another form; but there is no intervening land between the land laid out to the claimant by the survey under the stipulation and the land belonging to the United States or belonging to any other claimant.

In the first place, then, this would seem to have been a valid agreement as between the United States and the claimant. But how does it stand? This paper goes on to say, after denouncing Judge Hoffman for having sanctioned that stipulation:

"We ask what right has Judge Hoffman to countenance, by his decree, stipulations that would warrant so outrageous a survey? On what ground of right or justice could he have traded off the homes of settlers who were never before included in the grant in consideration of the pretended concessions of Carpenter? We are told that Judge Hoffman has not yet passed upon this survey; indeed, Mr. Crockett avers that it has in no manner been brought to his attention hitherto. It is true that he has not as yet passed on the survey; but that it has been before him Mr. Crockett himself must be aware; for some time in January he himself appeared before the court on behalf of the conflicting Romero grant, and objected to the survey. But the main point of objection to Judge Hoffman's action in the matter is, that he should by solemn decree have justified and indorsed the stipulations on which this survey is based; that instead of requiring Carpenter to take his land in a compact mass, he should have authorized him to run the most unnatural lines over a vast extent of country in order to gobble up the farms of men who were never before presumed to be on the San Ramon grant."

The case then is this: the survey is before the district court unacted on. Have not these parties a remedy if they think proper to avail themselves of it? Let us see what are the provisions of the act of 1862, to which I adverted just now. After saying in what manner the surveys were to be made, it provides:

"Provided, however, That all parties claiming interest under preemption, settlement, or other right or title derived from the United States, shall not be permitted to intervene severally, but the rights and interests of said parties shall be represented by the district attorney of the United States, intervening in the name of the United States, aided by counsel acting for said parties jointly, if they think proper to employ such counsel."

So that every man, whether he claims a right or an interest under a preemption title, under a settlement without any preemption title, or by any "other right or title" in the language of the act, is at liberty to go before the court and contest the survey.

Mr. HARDING. I do not understand it so. "Shall not be permitted to intervene" is the language.

Mr. JOHNSON. The honorable member has read it hastily. That is not my case, for I have had occasion to read it very often. In the case of persons claiming under the United States, they are not permitted to intervene separately, but they may intervene collectively, and they are at liberty to employ counsel, and it is the business of the district attorney of the United States to represent them, too, it being the purpose of the Government, of course, to see that justice is done between conflicting claimants.

Mr. CONNESS. These settlers are not conflicting claimants in any sense.

Mr. JOHNSON. Why not? If they are not, it is because they have no rights.

Mr. COWAN. They are no claimants. They only propose to come in in case the United States shall be found to have title.

Mr. JOHNSON. They may come in in behalf of the United States. This bill goes far beyond the act of 1862. The second section of this bill provides:

That in case it shall be found that the United States have title to any of said lands within said exterior boundaries, which have been settled upon and improved by any person, in good faith, under a bona fide claim of title, such occupant, and each settler upon said lands so situated, shall be entitled to enter and receive a patent for one hundred and sixty acres of land, including his improvements, upon payment, at the proper land office, of the Government price of \$1 25 per acre, and proving that he was one of the actual and bona fide settlers on said lands and had made improvements thereon before the passage of this act.

This assumes that the lands to be operated upon by the second section of this bill are public lands, and not the lands of the individual claimant; and the question is now a question between the United States and the particular claimant under this Mexican title, what portion of the lands within the exterior boundaries is the claimant under the Mexican title entitled to. That depends upon the true location of the Mexican title. If it is not truly located by the district judge, let them go before the district judge and prove it. If the district

judge decides against these settlers let them prosecute on appeal. That act gives an appeal. But how can you know, how do we know but that is a correct location? How do we know that the district attorney who represented the United States had not a right to enter into that stipulation on behalf of the United States? That is a question to be decided upon judicially. If he had the right, then the grantee is entitled to all the lands included within the survey made according to that stipulation. But you are now about to legislate wholly regardless of the fact whether the district attorney had the right or not, and wholly regardless also of the fact whether independent of such stipulation that survey would have been a correct survey.

As I have before stated, I have not the slightest knowledge of the particular claim or the claimant, but it seems to me that this bill is in effect a direct interference with the judiciary.

Mr. CONNESS. Mr. President—

Mr. HARDING. Let us have a vote.

Mr. CONNESS. Very well.

Mr. COWAN. I think there is some misapprehension, perhaps, about the facts here, as there is no report accompanying this bill, and I should be somewhat sorry to see it pass exactly in this form. As I understand the circumstances, the claimants named here sought to recover eight leagues of land, and obtained a judgment therefor, from which the United States appealed; and then a compromise was effected between the district attorney of the United States and the claimants, by which the claimants agreed to take two leagues.

Mr. HARDING. The claimant appealed, not the United States.

Mr. COWAN. That is not the information I have. I am instructed to say that the United States appealed, and that is the difficulty—

Mr. JOHNSON. I will state to the honorable member, with his permission, that, as I collect from these papers, the first controversy between the United States and the claimant was whether the claimant had any title at all, whether his grant was a good one. The United States appealed from the decision that it was a good title, and the Supreme Court sustained the title, decided that the grant was valid. They sent it down to the district court, and the stipulation was then entered into in consequence of the district judge having decided that he was entitled to only two leagues. From that decision the claimant appealed; and in order to induce him to abandon his appeal, the district attorney said, in behalf of the United States, "If you will agree to take only two leagues, and abandon your appeal, you may locate your two leagues on any of the public lands within the outer boundaries."

Mr. COWAN. That is the way I understood the Senator to make the statement before; and I am instructed by a party who claims to have some interest here to say that the case is different. If this compromise was made on behalf of the United States by the proper officer, and made without any fraud, I should think it ought to be respected; and it would be mischievous to allow these people who have no claim, who only pretend to have a claim in behalf of the United States, to go into court and involve the real owners in additional litigation. As I understand, there is no law to be repealed by this bill, which is said to be mischievous in its operation, or which has operated to prevent these men from enjoying any rights that they have ever heretofore had; but it is simply to allow them to get behind a decree of the court, and compel the owners to try the case over again. If that be the case, and that is the way it looks to me at the present time, I shall be obliged to vote against this proposition.

Mr. CONNESS. I will only occupy a few moments of time—

Mr. COLLAMER. I wish the Senator would meet this point: why it is that these people cannot come in under the act of 1862.

Mr. CONNESS. Because they have no rights.

Mr. JOHNSON. Exactly.

Mr. CONNESS. Exactly. The Senator laughs. I wish, without wishing the Senator any harm, that he had had some of the experience of these parties.

Mr. JOHNSON. Does the member allude to me as laughing?

Mr. CONNESS. Yes, sir.

Mr. JOHNSON. I was not laughing at the Senator.

Mr. CONNESS. I did not understand the Senator as laughing at me.

Mr. JOHNSON. I was laughing at something else.

Mr. CONNESS. All right; there is no harm done.

The PRESIDENT *pro tempore*. The Chair must at this time call up the special order of the day.

Mr. CONNESS. I hope that will be informally laid aside.

Mr. SHERMAN. I am satisfied that it will be almost impossible to get a vote now without considerable discussion. Some Senators want to look into this matter, and I think it had better lie over. I have no objection to the bill myself, but I prefer now going on with the special order.

Mr. CONNESS. These bills in relation to our country lie over week after week, and the session is drawing to a close. I think I can appeal to the Senator from Ohio and say to him that I show no disposition in this body to shirk the consideration of public questions, questions of great public interest, and we rarely occupy much of the time of this body. We are now on this subject; I think we can get a vote on it in a very few minutes. It is a very clear case. I was simply about to address myself to the point that the stipulation entered into by the district attorney in this case—

The PRESIDENT *pro tempore*. It is the duty of the Chair to interrupt the Senator from California unless a motion be made to lay aside the special order.

Mr. CONNESS. I move that the special order lie over until a vote be taken on this subject.

Mr. SHERMAN. If the Senator desires it, I have no objection that the special order shall lie over informally in order to test the point whether this bill will take much time.

Mr. CONNESS. I am willing to waive discussion and let the vote be taken.

Mr. SHERMAN. Then let the special order be laid aside without any formal vote, by unanimous consent.

Mr. FESSENDEN. I suggest, though I do not wish to interfere in this matter, that it may be as well to let this bill be disposed of. I am rather unwell to-day, and I do not think from the indications we can make much progress with the special order.

Mr. SHERMAN. I propose to pass over the special order informally for a few minutes to see whether the Senator from California can get through with the bill.

Mr. CONNESS. I am willing to have a vote taken.

The PRESIDENT *pro tempore*. Is there any objection to laying aside the special order to dispose of this bill? The Chair hears no objection, and the bill is still before the Senate, and the Senator from California is entitled to the floor upon it.

Mr. CONNESS. I am willing to waive all further discussion, and let the vote be taken.

The bill was reported to the Senate without amendment, and ordered to a third reading. It was read the third time; and Mr. HARDING called for the yeas and nays on its passage, and they were ordered.

Mr. DOOLITTLE. Before the roll is called I wish to say that the Senator from New Jersey [Mr. TEN Eyck] has been called home to New Jersey in consequence of the sickness of one of the members of his family, his daughter, and he requested me to State the fact as explaining his absence from the Senate.

The question being taken by yeas and nays, resulted—yeas 33, nays 4; as follows:

YEAS—Messrs. Anthony, Buckalew, Cardie, Chandler, Collamer, Conness, Davis, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harding, Harlan, Henderson, Howard, Howe, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Powell, Ramsey, Riddle, Sherman, Sprague, Sumner, Van Winkle, Wilkinson, Wiley, and Wilson—33.

NAYS—Messrs. Clark, Cowan, Hendricks, and Johnson—4.

So the bill was passed.

#### LAND GRANT TO A MINNESOTA RAILROAD.

Mr. HARLAN. I desire to make a report from the Committee on Public Lands, and to have it considered at this time. The House of Representatives made several amendments to Senate

bill No. 31, making a grant of land to the Lake Superior and Mississippi Railroad Company, in the State of Minnesota, to aid in the construction of the railroad of said company from St. Paul to Lake Superior. Those amendments were referred to the Committee on Public Lands, and the committee now recommend that the Senate concur in the House amendments with amendments; and as I suppose there will be no dispute about it, I ask that the report be acted on now.

The report was read, as follows:

The Committee on Public Lands, to whom was referred Senate bill No. 31, with amendments proposed by the House of Representatives, have had the same under consideration, and instructed me to report the same, with the following recommendation:

1. That the Senate concur in the first amendment with an amendment, so as to read, "Strike out after the word 'the,' in line three, all to the word 'so,' in line twenty-four, and insert in lieu thereof the words 'State of Minnesota for the purpose of aiding in the construction of a railroad in said State from the city of St. Paul to the head of Lake Superior,' every alternate section of public land of the United States, not mineral, designated by odd numbers, to the amount of five alternate sections per mile on each side of the said railroad, on the line thereof, within the State of Minnesota; but in case it shall appear that the United States have, when the line or route of said road is definitely fixed, sold, appropriated, reserved, or otherwise disposed of any sections, or any part thereof, granted as aforesaid, or that the right of preemption or homestead settlement has attached to the same, then it shall be the duty of the Secretary of the Interior to select from the lands of the United States nearest to the lines of sections above specified in alternate sections or parts thereof."

2. That the Senate concur in amendments two, three, four, five, six, seven, eight, nine, ten, eleven, and twelve.

3. That the Senate concur in the thirteenth amendment with an amendment, so as to read "Strike out the word 'ten' and insert the word 'eight' in lieu thereof."

4. That the Senate concur in the fourteenth amendment.

5. That the Senate concur in the fifteenth amendment with an amendment, so as to read:

Add the following as a new section:

SEC. 8. And be it further enacted, That any railroad which may hereafter be constructed from any point on the bay of Superior, in the State of Wisconsin, shall be permitted to connect with the said railroad, for the construction of which the said lands are hereby granted, at any point which may be selected by the president and directors of said railroad company so permitted to connect their said road, and the said railroad company so permitted to connect shall have the right and privilege to transport or have transported over the track of said railroad for the construction of which the said lands are hereby granted, all or any of its cars, passengers, or freights, and the said railroad company controlling the said road for the construction of which the said lands are hereby granted shall have the same right and privilege to transport or have transported all or any of its cars, freights, or passengers over the track of the said railroad of the company so permitted to connect, and said transportation shall be paid by the railroad company using to the railroad company according the same at the usual rates or charges which may be imposed by the said company upon all other cars, freights, or passengers.

Mr. HOWARD. I should like to hear some explanation of those amendments from the chairman of the Committee on Public Lands.

Mr. RAMSEY. I hope the Senator from Michigan will not object.

Mr. HOWARD. I want to know what we are voting upon.

Mr. HARLAN. The Senate bill made a grant of lands to a railroad company organized by the Legislature of Minnesota. The House of Representatives struck out the name of the company and inserted the name of the State, so that the grant will go to the State of Minnesota and not to the company. There is another amendment which is incomplete, probably owing to an inadvertence in the other House. I refer to the provision requiring the land outside of the ten miles granted to make up deficiencies within the ten miles, to be taken in alternate sections. By some oversight in drawing the amendment in the House of Representatives, the provision as to alternate sections was omitted, so that the grant would be a solid grant outside of the ten miles, unless the amendment that the committee now propose to the House amendment be adopted.

The eighth section, which the House of Representatives proposes as the last amendment, contemplates that the grant shall be made to the company; but if the Senate shall adopt the first amendment of that House, changing the grant from the company to the State, then of course there should be a change in the eighth section to make it correspond with the body of the bill.

I think I have now stated the substance of the amendments proposed by the Senate committee to the amendments of the House of Representatives to the Senate bill.

The PRESIDENT *pro tempore*. The Chair will put the question on the whole report to-

gether, unless some Senator desires a separate vote on each amendment.

Mr. HOWARD. I desire to ask the Senator from Iowa whether the present bill as reported by the Committee on Public Lands allows the State of Minnesota to dispose of these lands to any other company except the one which is mentioned in the Senate bill.

Mr. HARLAN. If the amendment shall be concurred in by the Senate the grant will be to the State of Minnesota, and will be under the control of the Legislature of Minnesota.

Mr. RAMSEY. It is satisfactory to us.

Mr. HOWARD. Very well.

The report was agreed to.

#### NATIONAL CURRENCY.

The PRESIDENT *pro tempore*. The special order will now be taken up.

Mr. LANE, of Kansas. I move that the Senate proceed to the consideration of executive business.

Mr. SHERMAN. I trust the Senate will so far indulge us as to allow the formal amendments of the Committee on Finance to the bank bill to be acted on, and then I shall ask nothing further to-day on that subject. I do not think it will take more than a few minutes to go through with those amendments.

Mr. LANE, of Kansas. It is very important for the interests of my State that we should have an executive session of about five minutes.

Mr. SHERMAN. You can have it after a while.

Mr. LANE, of Kansas. If the Senator from Ohio desires to press his bill, I withdraw my motion for the present.

Mr. CHANDLER. I desire to have action on the amendment I offered last night to the bank bill.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 395) to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof, the pending question being on the amendment of Mr. CHANDLER to the amendment of the Committee on Finance to the forty-first section. The committee's amendment was to strike out the following clause in the forty-first section of the bill:

And nothing in this act shall be construed to prevent the taxation by States of the capital stock of banks organized under this act, the same as the property of other moneyed corporations, for State or municipal purposes; but no State shall impose any tax upon such associations, or their capital, circulation, dividends, or business, at a higher rate of taxation than shall be imposed by such State upon the same amount of moneyed capital in the hands of individual citizens of such State: *Provided*, That no State tax shall be imposed on any part of the capital stock of such association invested in the bonds of the United States deposited as security for its circulation.

And in lieu thereof to insert:

And in lieu of all other taxes, every association shall pay to the Treasurer of the United States, in the months of January and July, a duty of one half of one per cent. each half year from and after the 1st day of January, 1864, upon the average amount of its notes in circulation, and a duty of one quarter of one per cent. each half year upon the average amount of its deposits, and a duty of one quarter of one per cent. each half year, as aforesaid, on the average amount of its capital stock beyond the amount invested in United States bonds; and in case of default in the payment thereof by any associations, the duties aforesaid may be collected in the manner provided for the collection of United States duties of other corporations, or the Treasurer may reserve the amount of said duties out of the interest as it may become due on the bonds deposited with him by such defaulting association. And it shall be the duty of each association within ten days from the 1st days of January and July of each year, to make a return under the oath of its president or cashier to the Treasurer of the United States, in such form as he may prescribe, of the average amount of its notes in circulation, and of the average amount of its deposits, and of the average amount of its capital stock beyond the amount invested in United States bonds for the six months next preceding said 1st days of January and July as aforesaid; and in default of such return, and for each default thereof, each defaulting association shall forfeit and pay to the United States the sum of \$25, to be collected either out of the interest as it may become due on such association on the bonds deposited with the Treasurer, or, at his option, in the manner in which penalties are to be collected of other corporations under the law of the United States; and in case of such default the amount of the duties to be paid by such association shall be assessed upon the amount of notes delivered to such association by the Comptroller of the Currency, and upon the higher amount of its deposits and capital stock, to be ascertained in such other manner as the Treasurer may deem best: *Provided*, That nothing in this act shall be construed to prevent the market value of the shares in any of the said associations, held by any person or body corporate, from being included in the valuation of the personal property of such person or corporation in the assessment of all taxes imposed by or under State authority for State, county,

or municipal purposes, but not at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of such State. And all the remedies provided by State laws for the collection of such taxes shall be applicable thereto: *Provided*, Also, That nothing in this act shall exempt the real estate of associations from either State, county, or municipal taxes to the same extent, according to its value, as other real estate is taxed.

The amendment of Mr. CHANDLER was after the word "best" and before the proviso to insert:

*Provided*, That all taxes, State, county, and municipal, shall not exceed the amount of taxes assessed by the State upon its local banks.

Mr. FESSENDEN. I suggest to the Senator that his amendment does not come in at the proper place, because as he has it the exception would come before the subject-matter to which it is a limitation.

Mr. CHANDLER. Very well, then, let it be put at the end of the proviso.

Mr. SHERMAN. I think it would come in better at the end of the section.

Mr. CHANDLER. Very well, let it be put there.

Mr. FESSENDEN. It is covered now, however, by a previous provision that the taxation shall not be at a greater rate than the taxation on moneys in the hands of individual citizens; but I see the object is to prevent a State making a different rule to favor its local banks.

Mr. CHANDLER. Precisely; that is the object.

Mr. FESSENDEN. I prefer that the Senator should withhold that until we come into the Senate. I should like to look further into it.

Mr. CHANDLER. At the request of the chairman of the Committee on Finance I withdraw the amendment now, but I shall renew it when the bill comes into the Senate.

The PRESIDENT *pro tempore*. The amendment of the Senator from Michigan being withdrawn, the question is on the amendment of the Committee on Finance.

The amendment was agreed to.

The next amendment of the committee was in section forty-four, which provides for the transfer of State banks to the national system, to strike out in lines thirty-four, thirty-five, and thirty-six the words "*\$100,000 nor less than \$200,000 if in a city of more than fifty thousand inhabitants*;" so as to make the proviso read:

*Provided, however*, That no such association shall have a less capital than the amount prescribed for banking associations under this act.

The amendment was agreed to.

The next amendment was after the word "currency," in line eighteen of section forty-six, to insert the words "retaining a copy thereof."

The amendment was agreed to.

The next amendment was in line nineteen of section forty-six, to strike out "and," after "default;" and in line twenty, before the word "notice," to strike out "his," and after "notice" to insert "by him."

The amendment was agreed to.

The next amendment was to strike out the word "equal," before "amount," in line twenty-four of section forty-seven.

The amendment was agreed to.

The next amendment was in section fifty-three, line eight, after the words "United States" to insert the words "in a suit brought for that purpose by the Comptroller of the Currency;" so that it will read:

That if the directors of any association shall knowingly violate, or knowingly permit any of the officers, agents, or servants of the association to violate any of the provisions of this act, all the rights, privileges, and franchises of the association derived from this act shall be thereby forfeited. Such violation shall, however, be determined and adjudged by a proper circuit, district, or territorial court of the United States, in a suit brought for that purpose by the Comptroller of the Currency, before the association shall be declared dissolved.

Mr. JOHNSON. I should suppose it was doubtful whether under the amendment proposed by the committee it would not be necessary to bring the suit in the name of the United States. That, I understand, is not the purpose. I propose, therefore, to amend the amendment by inserting after the words "Comptroller of the Currency" the words "in his proper name."

Mr. SHERMAN. I think that would be the effect of the committee's amendment. He would have to bring it in his name with the description of his office.

The amendment to the amendment was agreed to.

Mr. HENDERSON. I move to amend the amendment of the committee as amended by inserting after the word "name" the words "or by some other person."

Mr. SHERMAN. What is that for?

Mr. HENDERSON. The object of my amendment is to permit any other person to go into court and allege that the bank has violated its charter, and ask that the charter be forfeited. The Comptroller of the Currency may not be so well advised on that subject as individuals.

Mr. SHERMAN. That certainly would be very hard indeed. By this section, wherever any bank has violated the provisions of the act, it is made the official duty of the Comptroller of the Currency to commence the suit. I do not think the Government should subject the bank to the suit of every individual.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Missouri to the amendment of the committee as amended, after the word "name" to insert "or by some other person."

Mr. HENDERSON. In lieu of those words I will move to insert the words "or by some other person having an interest."

The PRESIDENT *pro tempore*. It will be so modified.

Mr. SHERMAN. If the Senator will read this section in connection with the preceding sections I do not think he will insist upon his amendment. It is made the duty of the Comptroller very peremptorily, under a severe penalty, for any violation of this act, to close these banks; but it was felt to be unjust to allow this authority to close the banks unless in pursuance of judicial proceedings; and therefore the duty is imposed on the Comptroller of the Currency to commence proceedings in order to ascertain and place beyond doubt the commission of the act of violation or bankruptcy. If you extend that power beyond the Comptroller of the Currency it would be very hard.

Mr. JOHNSON. There might be a dozen suits at the same time for the same purpose, and thus cause the bank a great deal of trouble. The general rule is, as the Senate of course are aware, that a corporation can only be declared forfeited by some special provisions of the franchise. If the amendment is adopted it appears to me there might be several suits brought on at the same time to establish the same fact, and they might not always be decided in the same way. Some of them might be decided in favor of the bank and some against the bank.

Mr. HENDERSON. I am not at all desirous to have inserted in the bill any new or strange provision. It is the case in my State now that any individual may go into court, and, by a declaration, set out the fact that any corporation in the State has violated its franchises and ask what is intended to be asked here only by the Comptroller of the Currency. If the Senator having this bill in charge will look at this section, he will see that some other parties than the Comptroller of the Currency might know of a violation of the provisions of this act much better than the Comptroller himself. For instance, there is a provision in this bill saying that a certain rate of interest, and no more, shall be charged. How will the Comptroller of the Currency know whether these banks have charged more than the regular rate of interest or not upon their local loans? How will the Comptroller of the Currency know whether they have charged more than the usual rate of exchange between one point and another? Those facts cannot possibly be known under any report the banks are required to make to the Comptroller. The individuals from whom money has been extorted in the shape of interest or unreasonable exchange would be a great deal more likely to understand the violation on the part of the corporation than the Comptroller himself. In fact, the Comptroller cannot possibly know—it is out of his power—whether these violations have been made or not. The section now reads:

That if the directors of any association shall knowingly violate, or knowingly permit any of the officers, agents, or servants of the association to violate any of the provisions of this act, all the rights, privileges, and franchises of the association derived from this act shall be thereby forfeited. Such violation shall, however, be determined and adjudged by a proper circuit, district, or territorial court of the United States, in a suit brought for that purpose by the Comptroller of the Currency.



I desire to add the words "or by some other person having an interest." I do not think it very likely that parties will go into court and ask that the franchises of one of these corporations shall be forfeited unless he has some good reason for it; and I suggest to the Senator from Ohio that the reports required to be made by the banks under this law are certainly very inadequate to enable the community to understand the condition of the banks.

I do not know to what extent banks may be incorporated under this bill. The Senate will recollect that it is not only banks of circulation that may be incorporated. Every savings bank, every bank doing a business by paying and selling bills of exchange and receiving money on deposit, may commence business under the provisions of this bill. In fact, every savings bank and every insurance company throughout this country may be organized under the provisions of this bill. In my State insurance companies are permitted to do a banking business such as is described in this bill. They receive money on deposit, loan money at interest, and sometimes discount bills. Why cannot they be incorporated under this bill? It is not absolutely essential that they shall issue paper; but all the banking capital of this country may be incorporated under this bill. It is true that not over \$300,000,000 may be issued as a circulation; but all the banking capital of the United States may be incorporated under this bill. It will put beyond any surveillance or control of the States an immense amount of capital; and I think we ought to be a little careful and guarded in the adoption of any measure whatever that shall put this immense amount of capital beyond our control. So far as the reports of these banks are concerned, I do not look upon them as amounting to anything at all.

I might instance many other violations of their franchises by these banks that might take place, and by which the community might be greatly outraged and wronged; and when was it that capital ever failed to inflict those wrongs on a community when it could? It has always been done, and I suppose always will be. I think we ought to guard this measure so that any one in the community in which these banks are incorporated may, at any time upon a violation of the provisions of their charter, go into court and ask that their privileges be forfeited. I think it is nothing but a reasonable provision. I am perfectly willing, if the Senator from Ohio desires it, that the party who comes into court and asks that the privileges of the bank be forfeited, if he fails to prosecute his suit successfully, shall be required to pay the costs. I think it is nothing but proper that he should do so. That would be the case without a provision to that effect. That will be a sufficient restraint upon individuals. They will not be likely to go into the courts of the United States and ask for the forfeiture of the charter of a bank unless they have a case.

Mr. SHERMAN. I do think this is capacious—I will withdraw that, as it may be considered an unpleasant word—but I do think that this is not a time to make small points on a bill of this kind. It seems to me this amendment would not have been offered if the Senator had read the four or five preceding sections—

Mr. HENDERSON. I have read them very carefully.

Mr. SHERMAN. If the banks commit any violation whatever of the provisions of this act, they forfeit their charters. The fifty-second section of the bill provides:

That all transfer of the notes, bonds, bills of exchange, and other evidences of debt owing to any association, or of deposits to its credit; all assignments of mortgages, sureties on real estate, or of judgments or decrees in its favor; all deposits of money, bullion, or other valuable thing for its use, or for the use of any of its shareholders or creditors; and all payments of money to either, made after the commission of an act of insolvency, or in contemplation thereof, with a view to prevent the application of its assets in the manner prescribed by this act, or with a view to the preference of one creditor to another except in payment of its circulating notes, shall be utterly null and void.

Then the next section, which is the one under consideration, goes on to provide that if they shall do anything inconsistent with the provisions of this act it shall be the duty of the Comptroller of the Currency to commence a suit to set aside their franchise. It declares that the effect of any violation of the act shall be to forfeit their entire franchise and all their property, and requires the

Comptroller to appoint a receiver, seize upon their assets, and commence a suit to ascertain whether the act of bankruptcy has been committed. To subject these banks to suits by everybody who is disposed to annoy them I think would be an attack upon the system that would be entirely unjustifiable. It is made the official duty of the Comptroller to commence these suits, and that is all that ought to be asked. I think, therefore, that the amendment of the committee which was intended to guard the public very carefully should be allowed to stand.

I might show that this proposed amendment was an absurd proposition. There might be fifty or one hundred suits pending under it at the same time in different tribunals. The judgment of those tribunals might be diverse. Some might direct the appointment of a receiver; some might not. Some might declare that the act of bankruptcy was excusable; some that there was no act of bankruptcy; some that an act of bankruptcy had occurred. They may select different charges, different accusations. There must be some one whose duty it shall be to commence this suit. It seems to me, therefore, a proposition of this kind ought not to receive the assent of the Senate.

The PRESIDENT *pro tempore* put the question upon the amendment to the amendment as amended, and declared that the yeas appeared to have it.

Mr. HENDERSON. I shall not call for a division upon it now, but I give notice that I shall offer it in the Senate.

The amendment of the committee as amended was adopted.

Mr. WILSON. I ask the Senator from Ohio if he will not allow this bill to go over until Monday at one o'clock.

Mr. SHERMAN. There are no other important amendments, I think, and we may as well read the bill through to-day, and then I shall have no objection.

The next amendment was in section fifty-nine, line twenty-two, after the word "and" to strike out the words "to be."

The amendment was agreed to.

The next amendment was in section sixty-one, line seventeen, after the word "third" to strike out the words "to suggest."

The amendment was agreed to.

The next amendment was in section sixty-one, line twenty-one, after the word "fourth" to strike out the words "to report."

The amendment was agreed to.

The next and last amendment of the committee was in section sixty-four, line two, to strike out the words "reserves the right" and insert the word "may;" and after the word "time" to strike out the word "to;" so that the section will read:

That Congress may at any time amend, alter, or repeal this act.

The amendment was agreed to.

Mr. LANE, of Kansas. I now renew my motion to proceed to the consideration of executive business.

Mr. WILSON. I hope not. We can have an executive session in a few minutes; but I desire to have action now on two or three important things that I think we ought to act upon. There is a conference report and a small bill which I want passed. I move that this bill be postponed until Monday next.

Mr. SHERMAN. Let it lie over informally, because I wish it to remain as the unfinished business.

The PRESIDENT *pro tempore*. Does the Senator from Kansas withdraw his motion?

Mr. LANE, of Kansas. No, sir. I desire to have an executive session.

Mr. WILSON. We can get an executive session in a few moments.

Mr. LANE, of Kansas. I insist on my motion, to test the sense of the Senate.

Mr. COWAN called for the yeas and nays; and they were ordered.

The Secretary proceeded to call the roll, and Mr. ANTHONY answered to his name.

Mr. LANE, of Kansas. As my object is likely to be defeated by the call of the yeas and nays, I will, with the consent of the Senate, withdraw the motion.

The PRESIDENT *pro tempore*. It can be with-

drawn only by the unanimous consent of the Senate, the call of the roll having commenced.

Mr. GRIMES and Mr. DAVIS. I object. The PRESIDENT *pro tempore*. Objection being made, the call will proceed.

The Secretary concluded the calling of the roll. Mr. FOOT. There is no quorum and no probability of securing the attendance of a quorum, and I therefore move that the Senate adjourn.

Mr. FOSTER. There has been no announcement of the vote showing that there is no quorum.

Mr. COLLAMER. I will inquire, if such is the result of the vote, is it not proper that that result be announced? Otherwise, if we adjourn now, the call will begin when we meet again where we leave off to-day.

The PRESIDENT *pro tempore*. It should be announced undoubtedly, and the motion to adjourn is not in order until it is announced.

The result was then announced—yeas 18, nays 17; as follows:

YEAS—Messrs. Buckalew, Collamer, Cowan, Davis, Doolittle, Foot, Grimes, Harding, Henderson, Lane of Indiana, Lane of Kansas, Morgan, Powell, Riddle, Sherman, Van Winkle, Wilkinson, and Wiley—18.

NAYS—Messrs. Anthony, Carlile, Chandler, Clark, Conness, Foster, Hale, Harlan, Hendricks, Howard, Howe, Johnson, Morrill, Ransley, Sprague, Sumner, and Wilson—17.

The PRESIDENT *pro tempore*. There is no quorum voting.

Mr. CONNESS. I move that the Senate adjourn.

Mr. ANTHONY. What does the vote lack of a quorum?

The PRESIDENT *pro tempore*. One.

Mr. GRIMES. I call for the question on the motion of the Senator from California.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

SATURDAY, April 30, 1864.

The House met at twelve o'clock, Mr. Prayer by Row. F. H. HEDGE, D. D., of Brookline, Massachusetts.

The Journal of yesterday was read and approved.

LCRETIA M. PERRY.

Mr. BRANDEGEE, by unanimous consent, introduced a bill for the relief of Lucretia M. Perry, widow of Thomas Perry, United States Navy; which was read a first and second time, and referred to the Committee on Invalid Pensions.

## PRINTING OF EXECUTIVE COMMUNICATIONS.

Mr. WASHBURN, of Illinois. I desire to report from the Committee on Commerce two important communications from the State and Treasury Departments relating to our foreign commercial relations, which I ask to have printed and recommitted to the Committee on Commerce.

There being no objection, the communications were recommitted and ordered to be printed.

## UNION PACIFIC RAILROAD.

Mr. STEVENS, from the select committee on the Pacific railroad, by unanimous consent, reported a bill to amend the act chartering the Union Pacific Railroad Company; which was read a first and second time, recommitted to the committee, and ordered to be printed.

Mr. STEVENS. I ask the consent of the House for leave to report the bill back at any time.

Mr. HOLMAN. Is that the Union or People's Pacific railroad?

Mr. STEVENS. The Union Pacific railroad. There being no objection, leave was accordingly granted.

## CHARGES AGAINST TREASURY DEPARTMENT.

Mr. GARFIELD, by unanimous consent, offered the following resolution:

Whereas in the House of Representatives, on the 23d instant, Hon. FRANCIS P. BLAIR, JR., made the following declarations, as reported in the Globe:

"Mr. BLAIR, of Missouri, (resuming.) Now I propose to show that the Secretary of the Treasury, with all the commerce of the country in his hands, with the collection of our foreign revenues and of the vast internal revenues in his hands, is using these abandoned plantations and grasping at all power and patronage for the purpose of providing a fund to carry on his war against the Administration which gave him place."

"Nobody is simple enough to believe that the distinguished Secretary has really retired from the canvass for the nomination for the Presidency, although he has written

a letter declining to be a candidate. That letter was written because the 'strictly private' circular of the Pomeroy committee unearthed his underground and underhand intrigue against the President. It was such a disgraceful and disgusting sight to make use of the patronage and power, given him by the President, against his chief, that even Chase got ashamed to occupy such a position publicly. For that reason his letter was written; he wanted to get down under the ground and work there in the dark as he is now doing, and running the Pomeroy machine on the public money as vigorously as ever."

And whereas in the *World*, a journal published in New York, on the 28th instant, it is declared that developments of the most astounding character have just come to light in the fractional currency and printing bureaus over which Mr. Clark presides; and whereas Hon. JAMES BROOKS, a member of this House, did yesterday in his place repeat the substance of the above charges in the words following, taken at the reporter's desk:

"At an early period of the session I called on the other side of the House in this matter of printing public money, and I gave them an opportunity to correct that great evil, which, because they did not correct, has led to the sacrifice of millions and millions of the public money in the printing bureau of the Treasury of the United States, and to the conversion of the Treasury Department into a house for orgies and bacchanals." Therefore,

Resolved, That a committee of nine be appointed by the Speaker of the House to investigate and report upon the truth of the allegations above quoted, and of any other allegations which have been or may be made, affecting the integrity of the administration in the Treasury Department; and that said committee have power to send for persons and papers, and to employ a stenographer.

Mr. HOLMAN. I would suggest to the gentleman from Ohio that that committee ought to be as large as the largest committees of the House. I will suggest, therefore, that the committee consist of nine members, and that they have leave to report at any time.

Mr. GARFIELD. I accept that modification. Mr. BROOKS. I do not desire to object to the resolution, but I object to the recitation in the preamble of my remarks of yesterday as incorrect.

Mr. GARFIELD. I beg to say to the gentleman that I have quoted the gentleman's language precisely as given by the reporter for the *Globe*.

Mr. BROOKS. Let the quotation be read again. I will stand by what I said.

The Clerk read the quotation referred to from the preamble.

Mr. BROOKS. What I said was in substance this:

"Mr. Brooks, after the noise had somewhat subsided, said millions of public money had been in peril of being sacrificed in the Bureau of Printing, and much evil produced by the conversion of the Treasury building into a house of orgies and bacchanals. If the galleries were cleared, so that language could be uttered not fit for female ears, he could show every word he said was true."

I ask the gentleman to conform his preamble to that statement.

Mr. GARFIELD. I have the exact words of the gentleman, as given by the official reporter at the desk; and I cannot change them.

Mr. BROOKS. If the gentleman will give me an opportunity to say what I have to say upon that subject, I will be satisfied.

Mr. GARFIELD. I will yield to the gentleman for that purpose, if there be no objection.

Mr. BROOKS. May I be permitted, then, to say what I was deprived of the opportunity of saying yesterday?

Mr. BROOMALL. I object to the gentleman continuing his speech of yesterday.

The SPEAKER. Does the gentleman object to the resolution?

Mr. BROOKS. I do not object to the resolution. I object to the misrecitation of my remarks in the preamble of the resolution; but I will not stand in the way of the investigation even though it is in part based upon a misrecitation of my own remarks. I accept the recitation, and am ready to go before the country upon it.

There was no objection; and the resolution was introduced and agreed to.

Mr. GARFIELD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. GARFIELD. I wish to request that I may not be placed on this committee at all.

#### ARMY APPROPRIATION BILL.

Mr. STEVENS. I ask to report from the Committee of Ways and Means the amendments of the Senate to the Army appropriation bill. They are few, and I shall ask that they be acted on at the present time.

Mr. HOLMAN. With the understanding that after these amendments shall be disposed of the House shall take up the ordinary private business of this day, I will raise no objection.

The SPEAKER. This is not private bill day under the order under which the House is now acting.

Mr. HOLMAN. Then with the understanding that this shall be considered as private bill day.

The SPEAKER. The majority of the House can change the order of business.

Mr. HOLMAN. I hope there will be no objection to my proposition.

The SPEAKER. Then it is the understanding that these amendments of the Senate shall now be taken up for action.

Mr. HOLMAN. With the understanding that this shall be considered as private bill day.

Mr. FERNANDO WOOD. The regular order of business has been called for.

The SPEAKER. The Committee of Ways and Means has the right to report in reference to appropriation bills at any time.

Mr. HOLMAN. I hope that the amendments of the Senate will be read and considered in the House as in the Committee of the Whole on the state of the Union.

Mr. STEVENS. There will be no difficulty about that. I will not call for the previous question if the gentleman desires to make any remarks.

The amendments of the Senate were read; and those on which separate votes were not asked were concurred in.

The Clerk read the following amendment of the Senate:

Add as follows:

Be it further enacted, That all persons of color who have been or may be mustered into the military service of the United States shall receive the same uniform, clothing, arms, equipments, camp equipage, rations, medical and hospital attendance, pay and emoluments, other than bounty, as other soldiers of the regular or volunteer force of the United States, of the like service, from and after the 1st day of January, 1864; and that every person of color who shall hereafter be mustered into the service shall receive such sums in bounty as the President shall order in the different States and parts of the United States, not exceeding \$100.

The SPEAKER. The Committee of Ways and Means recommend a concurrence in that amendment.

Mr. HOLMAN. Mr. Speaker, the compensation now fixed by law is thirteen dollars per month for a white soldier and ten dollars per month for a colored soldier. This proposition is, from the 1st of January last, to fix the compensation of both classes at the same rate: that both white and colored soldiers shall receive thirteen dollars per month. Of course there can be no misapprehension on the subject. There is no proposition at all to increase the pay and emoluments of white soldiers. The provision is only that the pay of the colored soldier shall be increased from ten dollars to thirteen dollars per month.

That is the effect of the proposed amendment; and while this provision does not give a bounty of \$100 to the colored soldier, it gives the President the power to do so if he thinks fit. It is to place the colored soldier on the exact footing of the white soldier in reference to pay, equipments, rations, and in every other respect.

Now, without saying anything of the comparative merits of these two classes of soldiers, without indulging in any remarks on the question whether the African soldier is worth as much to the Government as the white soldier, I desire to call the attention of the House to one fact, ignoring all questions of feeling, of passion and prejudice in favor of the white race and against the black race, and that is, that in placing colored soldiers on the same footing in regard to the monthly pay with the white soldier, you do not, in fact, place the two classes on the same footing as to compensation, for while you make no provision for the support of the wives and children of the white soldier, you actually provide for the support of the wives and children of the colored soldier out of the public Treasury. By this Senate amendment, which you seem resolved to adopt, you raise the pay of the colored troops to exactly the same as the white troops, and yet you pay no attention to the wives and children of the one, and very generously support the wives and children of the other, an actual discrimination in favor of the negro troops. The discrimination is an im-

mense one. You are not equalizing. No, sir; when you furnish the wife and children of the white soldier with daily rations, as you have been doing and are doing for those of the black soldier, and make that your permanent policy, then and not till then it may be pretended that you are placing our soldiers, white and colored, upon exactly the same footing. I am not willing that this proposition shall be misapprehended. You discriminate clearly, and in this, that while you are supporting by rations and in every other way the wives and children of colored soldiers, you furnish no such advantage, no benefits whatever to the wife and child of the white soldier.

Away, then, with this pretense of equalizing; instead of equalizing you are discriminating, discriminating in favor of the colored soldier and against the white soldier. I have said this much: taking your own ground that these two classes of soldiers, as soldiers, are exactly equal. But by no word of mine will I allow the inference to be drawn that I regard these two classes of soldiers as equal, either as soldiers or in any of the qualities which give value to the elements of a republican Government. You cannot make them equal. Since the Government has determined to employ them as soldiers, however unwise the determination, the Government should act justly toward them. If they must be employed, the citizen who has disapproved that policy must still desire that it should not prove unfortunate for his country. Inasmuch as you are determined upon that policy we can but desire to make the services of these colored people as valuable as possible. That does not require any such legislation as this. I do not think they ought to have been employed as soldiers. I think they should have been employed in pursuits to which, by their habits and condition, they are well and manifestly adapted. They could have been so employed in valuable service in every one of your armies; but they have not been so employed. They have not been employed so as to relieve the citizen soldier from oppressive and unaccustomed labor in the hot, sunny fields of the South, a labor congenial to the negro but destructive to the soldier of the North, but you have placed arms in their hands, left them in your camps and abandoned fortifications for many months, while the white soldier has been toiling under the hot and fiery sun of the South, to which they are not accustomed, sacrificing thousands to your visionary idea that "the African is the coming man." I say deliberately, and with some knowledge of the subject, that all the able-bodied colored men whom you have reached by your arms might have been properly employed, and with the general consent of the country, in services and pursuits to which they are adapted, to the relief of your armies, in the building of roads, fortifications, and countless other labors of your armies. But this would not harmonize with your political theories. But this discussion is not necessarily raised by the pending amendment. What I protest against is the discrimination; not a discrimination in favor of white soldiers, but against white soldiers. And no gentleman will tell me that this discrimination does not exist.

Mr. UPSON. I desire to ask the gentleman one question. Does he assert that this bill discriminates against the white soldier?

Mr. HOLMAN. It does.

Mr. UPSON. Wherein?

Mr. HOLMAN. I have attempted to explain it; while you place the white and colored soldiers, by this bill, upon the same footing as to pay, clothing, equipments, and bounty, you furnish no rations or other support to the wives and children of white soldiers, as you do to the wives and children of colored soldiers. Is not this a manifest and an important discrimination?

Mr. ELIOT. I would like to inquire of the gentleman upon what ground he makes that statement? Where have there been rations furnished by the Government to the wives and children of black soldiers? I want to know whether he means anything more than this, that upon the Mississippi and elsewhere, where our armies have gone, where there have been wives and children of freedmen and fugitives dependent entirely for support, they have been to a certain extent supplied; whether he means to say that the wives and children of black men, as such, have been taken charge of by the Government while their husbands have been paid as soldiers in the

field. And if he does mean that, I hope he will let us know the fact. I deny it.

Mr. HOLMAN. The great body of colored soldiers have been drawn together in the Mississippi valley and on the coasts of North and South Carolina. All the way from Memphis to New Orleans, wherever you have established "contraband camps" you have enrolled all able-bodied colored men into your Army as soldiers, and then the remaining body of the colored population thus gathered together into these contraband camps, embracing the women and children, the feeble and infirm, amounting to hundreds of thousands, have been and still are supported by the Government, so far at least as furnishing them with supplies, rations, and superintendence is concerned. And I presume the gentleman from Massachusetts will not question that.

Mr. ELIOT. It amounts only to this: that where in the South, in rebel districts, there have been colored men enrolled, and at the same time contraband camps have existed, and want has been felt among the women and children, there to a certain extent that want has been supplied by the Government. And from that he argues there has been a discrimination made in favor of the black soldiers. I would ask the gentleman whether he would have those women and children who have gone into contraband camps starved for want of aid from the Government. I ask him what he would have done.

Mr. HOLMAN. What would I have done? The gentleman does not understand me as complaining of the fact that the Government has shown a proper regard for humanity toward these unfortunate people. Not at all. I am complaining that while you do supply, as the gentleman frankly admits, the wives and children of these black soldiers so drawn together in the South, from the necessities of the case, you now propose to pay the black soldiers thirteen dollars a month, and the white soldiers the same, while you make no provision whatever for the wife and children of the white soldier. Whether it be the result of a necessary humanity or not the fact remains that you do provide for the wives and children of the blacks in your employment and do not provide for the wife and children of the white soldier. I am not questioning the duty of humanity rendered imperative by your policy, but the actual inequality it produces when you make the pay of the white soldier and black soldier the same, and provide for the wife and child of the one and not of the other.

Mr. ELIOT. I do not admit any such thing. There may have been supplies made, but not to these people as wives of soldiers. Nobody knows whether they are the wives of soldiers or not. They are there in contraband camps and have been supplied, not as wives but as human beings. Now, the distinction is this: that the white soldiers from the loyal States who have left their wives and families at home, are under pay from the Government at the rate of thirteen dollars a month, while their wives and families are in charge of their friends at home, supported by their husbands or their friends at home. On the abandoned plantations these people who are said to be supported by the Government in a large majority of cases are supported by their own labor. In exceptional cases there may have been supplies given to persons who happened to be wives, as far as they can be wives at all, of soldiers enrolled in the Army, but that any such system has been adopted as to supply the wives and children of black soldiers I deny, and the gentleman cannot make it out.

Mr. HOLMAN. That is a mere difference in words. The gentleman does not pretend but what supplies have been furnished to these colored people from whom your colored soldiers have been drawn, but they have not been supplied "as the wives and children of the colored soldiers," but only as contrabands. Where is the difference?

Mr. ELIOT. Not more than they have to the wives of whites.

Mr. HOLMAN. White soldiers! I would like to see a dollar that the Government has paid for the support of the wives and children of any white soldiers from my own State or any other.

Mr. ELIOT. Read the correspondence of General Butler.

Mr. HOLMAN. The point I make is this: the gentleman does not pretend but that these bodies of contrabands that have been got together upon

the Mississippi and elsewhere, and from which your colored soldiers have been drawn, have not been supported by the bounty of the Government.

Mr. ELIOT. Not as wives.

Mr. HOLMAN. Not as wives! You may not call them wives. They are women and children composing the bodies from which your colored soldiers were drawn.

Mr. ELIOT. Nobody knows whether they are or are not.

Mr. HOLMAN. Well, what of that? It may not be "as the wives and children" of the colored soldiers that they are supported; but that is a mere begging of the question. You have gathered together at your contraband camps many hundreds of thousands of negroes as your armies have advanced, and from these camps you have enrolled many thousands of negro troops, probably sixty or seventy thousand from these sources alone, and put them into the Army. The balance of these people at these camps, as the gentleman well knows, are provided for out of the Treasury. They are furnished with food and clothing. It is just and proper, I admit. After the Government has adopted the policy of gathering them together from their homes, it could not well do anything else; but does this change the fact that the negro soldiers—I speak of the general rule—have no wives or children to support? If they have any they are provided for by the Government, while the white soldier must provide for his wife and children or leave them to the kindly charity of friends at home.

But the position I have assumed remains, that while these negroes thus gathered together are supplied and supported by the Government directly and immediately, there is no such pretense of compensation in any shape or form to the wives and children of white soldiers. And yet you say there is no discrimination. Again, let me say to the gentleman, that of the white refugees who have come within your lines, driven from their homes by the iron heel of this rebellion, from southwestern Missouri, Arkansas, and middle and eastern Tennessee, North Carolina, and Alabama, thousands and tens of thousands of whom have gone into your service, not one dollar of money has ever been appropriated by the Government for the support of their wives and children. You see them, here and elsewhere, thousands, actual objects of generous commiseration even for the cause in which they have suffered; yet this very bill contains an appropriation of a million and a half of money to the hospital department for the support of these very "contrabands," not blacks employed by the Government, but contrabands in camps who are rendering you no service and entitled to no greater consideration or greater favor even in the eye of humanity than this great body of white Union refugees who have been thus driven from their homes. Yet the contraband suffers from your policy, not because he supports your cause, while the white refugee suffers for his devotion to the Union.

Mr. GANSON. I would like to ask the gentleman from Massachusetts [Mr. Eliot] if a large number of the black soldiers are not slaves, or were not up to the time of the rebellion?

Mr. ELIOT. Does the gentleman inquire of me whether in my judgment a large part of the black soldiers were not slaves?

Mr. GANSON. I supposed that the gentleman was a frank person. I put to him a direct question.

Mr. ELIOT. State it again.

Mr. GANSON. It is whether they were not in a condition of slavery at the time of the rebellion?

Mr. ELIOT. Where?

Mr. GANSON. The black soldiers in our service everywhere.

Mr. ELIOT. Why, if the gentleman asks my opinion about it, I have very little doubt that it is so.

Mr. GANSON. I simply asked the question for information.

Mr. ELIOT. Has not the gentleman the same judgment as I have?

Mr. GANSON. I have not the same information.

Mr. ELIOT. I apprehend that the gentleman has the same means of information.

Mr. GANSON. I asked the question because

the gentleman is chairman of the select committee on the Freedmen's Bureau; and I supposed that he had been attending to his duties, and had obtained some information on the subject which persons not upon the committee could not obtain.

Mr. ELIOT. So far as my information goes, I can say to the gentleman that I have no doubt that a very large proportion of the negroes now serving in our armies in the South were, at the beginning of this rebellion, in the condition of slaves.

Mr. GANSON. I now desire to ask the gentleman from Massachusetts if the relations that exist between these black soldiers and their women and children are the same in the eyes of the law that exist between white men and their wives and children?

Mr. ELIOT. I should like to know if the gentleman supposes that because I was chairman of that committee I have any means of informing him on that point also. He is mistaken; and I am not going to do it, either.

Mr. GANSON. Then the gentleman does not know as much as I thought he did.

Mr. ELIOT. And the gentleman from New York knows more than he thought he did.

Mr. GANSON. I therefore state that the relations between the white soldiers and their wives and children are not the same as the relations between the black soldiers and their women and children. The children and wives of white soldiers, freemen, can legally contract debts against the heads of the families for the necessities of life. The women and children of slaves can do no such thing. Therefore it is that a portion of the money payable to the black soldier, for bounty and pay, should be, by the Government, secured for the benefit of their women and children.

Mr. ELIOT. That is then on the ground that black soldiers have the same relations to their wives and children as white soldiers have to their wives and children.

Mr. GANSON. On the ground that they have not the same relations; because the women and children of the black soldiers have, in law, no right to contract any debt against the fathers of the children for the necessities of life, whereas the wife and children of the white man have a right, so far as the necessities of life are concerned, to contract a legal obligation against the father and husband.

Mr. ELIOT. Mr. Speaker, we on this side of the House believe that, in the sight of God, when a black man marries a black wife, whether at the North or South, he is married to her just as the honorable gentleman and myself are married to our respective wives. In the eyes of slaveholders of the South it is not so. But the opinion of the gentleman from New York, if it is entertained by my honorable friend from Indiana, furnishes an answer to the position taken by the gentleman from Indiana, because if it is true that the relations which exist between black men and their wives is different from those which exist between husbands and wives at the North, then it follows that it is not true that the Government which provides for the support of a certain number of destitute black women and children does supply their wants as the wives and children of black soldiers.

Mr. GANSON. I am very glad that the gentleman from Massachusetts has at last found out that I am in his favor. If he had not so many party prejudices he would have found it out sooner.

Mr. ELIOT. I will be always glad to find that, sir.

Mr. GANSON. We all know that in the ordinary walks of life these black men, even if they have wives and children in the free States, never receive for their labor the same rate of compensation that white men do, because their services are not so valuable.

Mr. ELIOT. I beg the gentleman's pardon.

Mr. GANSON. I except New England, for I think they may be a little more valuable than white men there.

Mr. ELIOT. No, sir; the gentleman is wrong again.

Mr. HOLMAN. This discussion, Mr. Speaker, is somewhat technical. I do not care, for the purpose of my argument, what may be the relation between the negroes in your employment to the women and children from whom they were taken. The fact is manifest that in a large body of negroes gathered anywhere, a portion of them men, and a portion women and children, it must



be presumed that there is some relation existing between them which approximates to the legal position of husband and wife. I have assumed no other position. If these women and children are the wives of your negro soldiers they are supported by the Government; if they are not, they are supported by the Government. It does not matter which ground you assume; if the negro soldiers have wives and children, they are the women and children you are supporting. The white soldiers have wives and children, and you do not support them. You pay both classes of soldiers the same, and yet you dare to say there is no discrimination, when the one supports his wife and children and the other does not. I see, however, that Mr. Mellen, the general superintendent of contrabands on the Mississippi, as Mr. Chase's agent, is trying to compel a system of marriage among the negroes of his department. I refer to his recent report. That report shows not only the vast number of these negroes who are now living on your bounty, the heavy outlays you are incurring, but the army of officials in your employment, paid out of your Treasury, to superintend the interests of the women and children connected with the black soldiers of your Army; and yet you say there is no discrimination! Whatever may be the relations held by your negro soldiers to this great body of half a million people which this Government is now supporting, and which General Butler and others are so eager to increase, the result is exactly the same. You are supporting them by your bounty.

Mr. ELIOT. The gentleman will allow me to say that what he now states is to some extent true. A great majority of these women and children, however, are not supported by the Government, but by their own labor. It is only those who have been disabled by the treatment they have received in the service they were in before they came within our lines who are supplied with rations by the United States Government. They are the exceptions and not the rule. It is only those who have become disabled by the oppression they have undergone during their whole lives that are to any extent supported by the Government.

Mr. HOLMAN. Does the gentleman mean that this new form of slavery which has been inaugurated on the Mississippi river and the coast, by which these negroes are placed under new masters in the form of agents and lessees you have placed over them, has had the effect of improving their condition—a form of servitude as revolting as the system you would abolish?

Mr. ELIOT. No, sir.

Mr. HOLMAN. And that by that agency the Government is able to provide for them? The gentleman must have known of the appeal which has come here in behalf of these negroes, who are being oppressed by their new masters. The gentleman cannot be ignorant of the fact. He must know as chairman of the Bureau of Freedmen's Affairs of the inauguration of this system of leasing out plantations and of placing these negroes under taskmasters; under masters who have no interest in them or sympathy with them except to obtain the benefit of their labor; and that while doing this, without benefiting the negro, you rather increased than diminished the burdens upon the Government, by throwing constantly on its hands for support numbers of such as were unable to perform labor on account of the cruelty and injustice to which they had been exposed.

Mr. ELIOT. The gentleman is wrong in his facts.

Mr. HOLMAN. Does the gentleman deny the fact? It was not many days ago, certainly not a month, that benevolent gentlemen from the Mississippi valley came here for the purpose of getting the Government to do something for these unfortunate negroes whom your benevolence has placed under the control of men who only seek to aggrandize their fortunes by the unrequited toil of the negroes placed under their control.

Mr. ELIOT. I know very well that there has been iniquity and injustice enough practiced upon these people; but the gentleman is getting away from the point in issue. I admit that injustice has been practiced; but when the gentleman calls upon me to say that there has been there a system of slavery initiated and carried on, I deny

it. But the point is, whatever has been the system of labor, whether the Government has been subjected to expense for the support of these people. I ask the gentleman if he can deny that these people have, up to the present time, much more than defrayed the expense of their support. Sir, each one of them has more than repaid the Government for the outlay which has been made.

Mr. HOLMAN. Will the gentleman point to some published record showing that the Government have received back more than their outlay, or any part of their outlay?

Mr. ELIOT. The gentleman will find, if he will examine the statistics of the western country, very much more has been received by the Government than has been expended upon the contrabands.

Mr. HOLMAN. Will the gentleman point to some public record that will show that fact? No statistics have reached us showing one cent of return to the Treasury. The gentleman may say that we on this side of the House have not the same facilities for ascertaining all the statistics of the Treasury Department that he has; and therefore I ask him to show some published record to prove that any reimbursements have been made of the vast sums we have expended.

Mr. ELIOT. I ask the gentleman if he has read the report of the Secretary of the Treasury.

Mr. HOLMAN. I have run over it.

Mr. ELIOT. The gentleman must have run over it very hastily if he has not seen this official statement.

Mr. HOLMAN. The House is familiar with that report. I state this in general terms, and I defy gentlemen to contradict it, that out of the millions you have expended—I do not say improperly or unnecessarily, at least not all of it, in the view of the policy you have inaugurated, for justice and humanity still remain, whatever may be the want of wisdom in your policy—out of the millions you have already expended not a single dollar has come back into the Treasury. Excuse me if I say another thing, that with reference to the handful of colored soldiers you have gathered together from the State of Massachusetts—and it may be true as to the colored soldiers exported from my own State of Indiana to Massachusetts to be organized into regiments to fill your quotas—that while their wives and children are not provided for by the Government, still in reference to the balance of the colored population brought into our lines by your policy, by the encouragement and solicitude of Generals Banks and Butler, and other commanders, I ask whether the great body of them are not now receiving their support at the hands of the Government, without any pretense of any return. I speak of general rules and not of exceptions.

Mr. KELLEY. Does the gentleman know that the Government has furnished rations for the families of any of the eight regiments of colored soldiers recruited at Camp William Penn, at Philadelphia?

Mr. HOLMAN. When I mentioned Maryland and Massachusetts I intended to embrace such as were recruited in the States outside of the operations of the Army. They are a mere handful of all our colored troops if the President is right, that one hundred thousand or more of these troops are in the service. The number drawn from Massachusetts, Maryland, New York, and Pennsylvania are a mere handful in comparison.

But I have not spoken in reference to particular cases; I have referred to the immense body of negroes you have gathered together in the advance of your armies, from which you collected the great body of your colored soldiers now under the pay of the Government.

Mr. CLAY. With the permission of my friend from Indiana, I wish to answer the gentleman from Massachusetts, [Mr. ELIOT,] because he seems to be ignorant upon the subject. I will tell him that the agents of Massachusetts and other States and of the Government are not only in the western States drumming up recruits, but they are going about robbing and plundering—I may say stealing the property of my constituents, and yet he seems not to know it. I have certificates in my possession that troops of the United States have gone to plantations, the property of my constituents and others, and have swept away not only negroes, but stock, cotton, and everything else they could lay their hands

upon of value, even household furniture and wearing apparel; a portion of the negroes having been put into the army and the balance of them, women and children, gathered in fields and supported at the expense of the Government of the United States without any law for it. Where is the law for giving rations to these women and children? Yet gentlemen sit complacently in their seats and seek to continue the appropriation for contrabands not in Government employ, which passed this House a few days ago, to legalize this robbery, if you will allow me so to call it, because by the laws of my State and others it is robbery, and men found guilty of the offense are put into the penitentiary or hung.

If gentlemen want to they can see these certificates, sworn to before a magistrate. I hope now that gentlemen will understand that such is the case—that agents are going about stealing and robbing, and that the officials of the Government are sanctioning it. Indeed, gentlemen here seem to be justifying these things. Where is the law, where is the authority to do these things? If the gentleman from Massachusetts will call on me, and wishes to see them, I can show letters from as good and responsible men as are in this House. They state that these things have been transpiring for months past. No wonder, then, that the expenses of the Government have been accumulating, and that they now reach such large figures. It is because of these illegal expenditures of money out of the Treasury of the United States.

According to the report of the adjutant general of Kentucky we have furnished fifty-seven thousand men for the armies of the United States; and while these brave men are fighting the battles of the Union, spilling their blood and leaving their bones to bleach upon southern plains, their wives and children, whom they have left behind them, are plundered and robbed of their property left for their support. It is as true as that I stand upon this floor. I know it to be true. I have suffered myself. I know it to be true, and I dare gentlemen to deny it. I can prove it in any court of justice. I ask nothing for myself, but when the laws of my State are violated and trampled under foot I have the right to protest against it and do now offer my protest against it.

Mr. ELIOT. I understood the gentleman from Kentucky [Mr. CLAY] to make certain charges against officers of the Government. I have yet to learn that any statement that officers under the Government have been into his country stealing negroes rests upon truth.

Mr. CLAY. I say it is.

Mr. HARRIS, of Maryland. And I too.

Mr. ELIOT. Then I should think the gentleman from Kentucky would find proper redress in going to the Government.

Mr. CLAY. I have suffered in that way myself, and know the statement to be true.

Mr. HARRIS, of Maryland. And so have I suffered by Benjamin F. Butler. [Laughter.]

Mr. ELIOT. I submit that the gentleman from Kentucky has made clean his breast of the grievance he has suffered. That he has lost negroes, may be true; that any negroes have been stolen by officers of the Government, I deny.

Mr. CLAY. One remark more.

Mr. ELIOT. I cannot yield.

Mr. HARDING. I rise to a point of order. The gentleman from Massachusetts was speaking with the consent of the gentleman from Kentucky.

The SPEAKER. The floor is in possession of the gentleman from Indiana, [Mr. HOLMAN,] and he yielded it to the gentleman from Massachusetts.

Mr. ELIOT. All this is outside of the question before the House, and I have nothing more to say upon the matter except to thank the gentleman from Indiana for the opportunity he has given me to interrupt him. Let us confine ourselves to the point. All this is a diversion which does not meet the question which the House is called upon to settle.

Mr. HOLMAN. I differ with the gentleman from Massachusetts as to this being foreign to the question. I desire to ask the gentleman from Massachusetts, as it is probably within his knowledge, a question bearing upon the main question. It is a well-known fact that more or less colored men have been gathered together under arms in this District and adjacent portions of Virginia and Maryland. I desire to know from the gentleman

how large a number of persons, including men, women, and children, are now and have been for months and months past receiving their regular rations at the hands of the Government within the limits of this District and the adjacent portions of Virginia and Maryland.

Mr. ELIOT. All the persons who have been receiving anything have been paying more than they have received.

Mr. HOLMAN. In what way?

Mr. ELIOT. By the proceeds of their services, which proceeds have been paid into the Treasury. If the gentleman will go to the freedmen's camp at Arlington—

Mr. HOLMAN. I know the negroes of this District have been employed as teamsters and as—

Mr. ELIOT. And otherwise.

Mr. HOLMAN. What I refer to is the women and children, and I want to know how they are employed by the Government.

Mr. ELIOT. I say to the gentleman that the proceeds of the labor of these women and children have gone into the Treasury, and when I last had the opportunity of knowing about it there was from thirty to fifty thousand dollars standing to the credit of that fund.

Mr. HOLMAN. Will the gentleman refer to some particular record of the revenues received by the Government from these sources? There is a "contraband camp" at Arlington, beyond the Potomac, where I understand thousands of contrabands are gathered together from various parts of Maryland and Virginia, brought in by our troops. A village has been built there at the expense of the Government—quite a city, indeed, substantially built, and inaugurated four or five months ago with some ceremony—for the support and residence of these persons, superintended by many salaried agents. I have seen in the public journals official advertisements for the ordinary and usual supplies for the benefit of this contraband camp. Will the gentleman point out the source of revenue which he refers to as coming to the Government from these persons?

Mr. ELIOT. The services of those parties, women and children.

Mr. HOLMAN. How are they employed?

Mr. ELIOT. Partly upon the land there in raising products which go into the market, partly as teamsters, as the gentleman says, and otherwise.

Mr. HOLMAN. Now, the gentleman must know that since that village was established there has never been an opportunity of realizing from it one copper. The Government cannot employ those women.

Mr. ELIOT. If he will go there he will now find them engaged working for the Army with their sewing machines furnished to them for that purpose. He will find also an account is kept of the proceeds of their labor, and he will find furthermore a balance of money in their favor.

Mr. HOLMAN. Will the gentleman produce the evidence which will satisfy the House? Some official report? Some statement from officers or agents? We have seen, as a common spectacle, trains of wagons loaded with women and little children brought from their homes in every section of the country, from the most loyal parts of Maryland, and taken into this contraband camp to be supported by the Government; and I would like to know how they are to be a source of revenue. That such a village for many thousands of people, built at great expense, furnished with every appliance for domestic life, and conducted by salaried agents, established four or five months ago, can be a source of revenue, by raising agricultural products or otherwise, to the Government is simply impossible; and until the gentleman can present to the public some evidence of the expenditures and receipts we cannot ignore the evidence which appeals to our senses and experience everywhere around us. The truth is you have not a particle of evidence of even the amount expended, much less of revenue received from any source whatever. The public money is expended, and this House and the country have not and never will have any account of it. In matters of public expenditure and public revenue no mere statement of gentlemen amounts to anything. The people have the right to know from official statements what becomes of their money. If the gentleman will present any such official statement, such as

we have for all other expenditures, we will submit to them with pleasure; but none such can be produced, or ever will be. I will now yield to my friend from Kentucky.

Mr. CLAY. I will say to the gentleman from Massachusetts that these servants are congregated in camps with no employment whatever. They are brought together by thousands and are now dying with diseases of every description that a man can imagine, and instead of being put to work they are lying there and literally rotting in their filth.

Mr. ELIOT. Let me say to the gentleman that it has been my earnest wish to have a Freedmen's Bureau organized for the purpose of correcting this very evil.

Mr. CLAY. You are just murdering them by thousands. I have information in my possession showing that on some different plantations more than one third of the negroes have died. This is the result of your system. Northern men are sending their agents to that country and by fraud and bribery are enticing away the able-bodied negroes—leaving the women and children to starve—and putting them in the armies of the United States to fill their quota, thereby saving themselves from having to serve. It is literally selling them to the Government of the United States. It amounts to that. For every such negro you put into the Army they save six or seven hundred dollars in their own pockets, for in many places bounties are offered as high as \$800; this they pocket and never give to the negro recruit. They give a small bribe to the slave to entice him to leave his master and put him in the Army, and thus save the bounty they would have to give if one of their own citizens should enter the service. In fact, they are selling these negroes to the Government of the United States at an enormous price and saving their own citizens and making money by the operation. You are here now, knowing these things, legalizing these acts. You care no more for the negroes than you do for a hog; not a bit more. You have not half the humanity that the slaveholders have. Your course in this matter is dictated solely by your own interests. You are governed by dollars and cents.

Sir, as a slaveholder I have been scoffed at here and vilified for the last four or five months. I have held my tongue and refrained from answering; but my patience is worn out by this continual abuse of slaveholders. I would rather be a slaveholder than one of you who sit here and legalize this robbery and stealing all over the country. That is what I think about it. I do not profess to belong to the other side of the House, (Republican;) but I must admit that all my feelings and inclinations disposed me to go with them. Why? Because I supposed that they were in favor of sustaining and supporting this Government. We have pledged ourselves to the last man and dollar to go with you to accomplish that purpose. I do not intend to be driven from my purpose. I shall remain firm and steadfast, no matter what you may do; but yet while I pledge you the last dollar, if necessary, I do not mean that you shall come and rob me of my last dollar now, and turn me out on the cold charities of the world. I am willing to give dollar for dollar with you, but I am not willing that you shall come and rob me now. That is what I complain of.

I will just say now, in conclusion, that this system which you have inaugurated is a most abominable one. It is worse than slavery itself. Your agents cheat the negroes out of half their earnings, and rule them with an iron rod. They are worse than any slaveholders in the South. You talk about freedom! Is there any freedom or humanity in taking a negro from his home, where he is well fed and clothed and well treated, and putting him in the charge of an agent whose sole object is gain, and who has no sympathy for him, and will cheat him out of the fruits of his labor? Is that the kind of slavery you wish to inaugurate in this country?

Sir, it is an abominable system, and one which I believe the people of the United States will never consent to. The people will never suffer that kind of slavery to exist in this country. Do you suppose that they will permit the control of all this class of people to be in the hands of the Secretary of War and controlled by him as provided for in your bill which has passed the House, con-

trary to the constitution and laws of the different States? I hope not. If they do, the Secretary will be the great slave autocrat of the country; he will have more agents and sub-agents under his control, with large salaries drawn from the Treasury of the United States, thereby sucking the very life-blood of the nation, to control and take care of these four million slaves, to furnish them employment, clothing, and food, and provide them with homes upon the abandoned plantations of the South, as is provided for by the gentleman's bill, than there are now slave-owners in all the southern States. I ask nothing for my people but what is guaranteed to them by the Constitution of our country, and I would scorn to ask as a boon that which they are justly entitled to under the laws of the land.

Mr. HOLMAN. I have but another remark to make. A great portion of this discussion of course has not been pertinent to the real issue. There are but two questions presented: first, shall we place these colored soldiers on the same footing with white soldiers as to pay and every other condition of the private soldier? That is the first question presented. There are but two arguments against it. One of them I have presented already—the impolicy and injustice of the Government providing for the women and children of colored soldiers and not for the wives and children of white soldiers. I have thought that the discrimination made of three dollars a month was at the very least a fair discrimination, as you are resolved on employing negroes as soldiers, even admitting that white and black soldiers are equally valuable to the Government, inasmuch as you support the wives and children of the one and not of the other. I have said on this point all I desire to say.

The other question is this, and I come now to what I conceive to be the main question: are we prepared by a solemn act of legislation to place the colored soldier on exactly the same footing with the white soldier? There is the question naked and unvarnished. That is the issue now presented, placing the negro on the same footing exactly with the white private soldier, for you assume that negroes are not equal under any circumstances to white officers. You propose only to equalize the negro with the white private soldier. Gentlemen have to meet that question. It is fairly presented by the pending amendment. It cannot be evaded on this vote. On the yeas and nays which will be taken this House will determine the question so far as this body is concerned whether the negro soldier and the white private soldier are to be put upon an equality; whether the African who has submitted to ages of servitude shall be placed—not in fact but in legislation—on the same high platform of equality, equalized as far as it is in your power to equalize, so far as legislation can do it, with the white soldier proud of his traditional courage. We have seen the spectacle within a few days past of an effort to place these two races on the same footing in the Territory of Montana by an act of Congress the fate of which is still in suspense, and now we see this further step taken to equalize by law the gallant private soldier with the African troops, and then the argument is that a race that has fought for the public safety must enjoy every right of the citizen. Is not this the secret of your policy?

I do not believe that any gentleman who hears my voice to-day thinks that in any of the social, moral, intellectual, or political elements, or so far as moral or even physical courage and endurance are concerned, there is any kind of equality between the two races. There may be such, but I believe that this paradox of equalization is purely political. The one race is famous and has been for uncounted ages, not only for its courage but for those qualities which spring out of moral and physical courage, the great and fundamental principles of progress and civilization. The power which has laid the foundations of empire and has pressed forward the march of civilization develops itself in the white race; while the African, with similar opportunities for progress, with civilization existing on the borders and established within the limits of his continent by the white race for many centuries, has remained absolutely unchanged. To say that these two races are equal in the elements of progress and civilization, that they are equally valuable as soldiers, equal in their influence in controlling and directing events, equal in their capacity to endure, to apprehend, and to

comprehend, equal in everything that enters into the high qualities of a soldier—as you propose to do by this bill—is an insult to the universal experience of mankind. The races are not equal in the elements of greatness and power. You cannot make them equal by law; and this attempt to equalize them will not elevate the negro nor add to the courage and manhood and martial spirit of the white men of your Army.

Mr. SHANNON. I rise to a point of order. The only question before the House is: "Shall Americans of European descent rob Americans of African descent of the fruits of their labor?"

Mr. HOLMAN. I did not hear the point made by the gentleman, but judge from the good humor elicited by it that it must have been considered very witty. Sir, the right to bear arms is the peculiar right of the free citizen in a free Republic. It is not so much a duty as a right, the highest right of the citizen. In conferring this right or imposing this duty on the African you do not elevate the white soldier. You do not stimulate him with new impulses of patriotism and honorable ambition. You cannot get rid of the ancient prejudices existing in the Army and everywhere else against a people who have submitted to servitude, not a generation, but for ages, and still submit without an effort to regain their freedom. While there is no reluctance on the part of the Army to see the negro stop the ball which might strike the white soldier down, there is this feeling: that the attempt to place the negro on an absolute legal equality with the white soldier who went to the field of his own free will, who came to the salvation of the country when the first tocsin of alarm was sounded, is an insult to him, an unjust disregard of his sentiments and opinions, of his high appreciation of the right to bear arms for the defense of his country, and a poor recompense for his chivalrous bearing on every field of battle, which only a traditional sense of honor could inspire. If a servile race, servile for submitting for ages to servitude, can at once assume equality with the private soldiers of the most masculine race that ever upheld empire, what becomes of the pride of military glory?

I warn you, Mr. Speaker, I warn gentlemen in their eager haste to equalize the races for unworthy political ends, to break down those barriers which have stood for ages, perhaps reared by prejudice but still actual and real, that in doing this they do not permit their interest in the negro to overshadow their patriotism, and impair if not destroy the martial spirit of our armies; that they do not, in their efforts to encourage black troops, discourage white troops, in their eager efforts to strike down this terrible rebellion, which can only be mastered by the strong grasp and irresistible will of the white race. This is a blow at the private white soldier; if you impair his manly, patriotic spirit, you sap the foundation of your Army.

Mr. PRICE. Will the gentleman from Indiana allow me to ask him a question? I wish to ask him whether General Jackson, at New Orleans, did not put the negro soldier upon the same footing with the white.

Mr. HOLMAN. That question has been asked so often that I really cannot take the time to answer it.

Mr. PRICE. I want an answer—yes or no.

Mr. HOLMAN. I cannot yield the floor to the gentleman for any such stereotyped question. It has been asked over and over again on this floor by those who believe the negro at least equal to the white man, and it has been answered as often. I say to the gentleman that General Jackson employed the black man just as he ought to have been employed in this war. He employed him in those acts of physical labor for which he is admirably adapted, especially in a southern climate. On this point there is no ambiguity in history. If you had employed him during this war as your Army reached him in its advance, as he was employed then, in relieving our own gallant soldiers from that extreme physical labor to which they have been subjected under the hot sun of the South, and refrained from making him the corner-stone of your political edifice, the element of your fanatical and impracticable policy, every man in the country would have come up with one voice, and that voice in favor of crushing this rebellion at whatever sacrifice of life and treasure, without question, without qualification. It is by deviating from the policy of those worthier

patriots of the past age, of the prudent counsels and practical statesmanship of the earlier and better days of the Republic, by deviating from their conservative wisdom, that these misfortunes have crowded upon us, that the nation trembles in agony. But fanaticism is deaf to every appeal of reason. It exults in its own blindness though it walks in the midst of burning plowshares.

Now, sir, without extending these remarks, entered upon on the spur of the moment, I have but to repeat that these negro troops have been employed at ten dollars a month, while our white soldiers have received only thirteen dollars a month, a discrimination of only three dollars a month in their favor. It is now proposed to increase the pay of the negro troops to thirteen dollars per month, and no increase in the pay of the white soldier. It is against this that I enter my protest, not that it is of such moment in itself, but because it is a part of your intemperate policy. I protest against it in the name of that gallant Army of private soldiers who have borne "the burden and heat of the day," who have pressed forward with the indomitable will of the white soldier to so many glorious victories, and won such imperishable honor. I protest against it as but a part of your general policy which seeks by the force of power to extinguish every vestige of the old Republic of our fathers, wild, reckless, impracticable. I protest against it in the name of a distracted and bleeding country, which, struggling with defiant treason, and demanding prudence and patriotism in the conduct of its affairs, and the noblest incentives to constancy and courage, receives at your hands only the paralyzing counsels of fanaticism and passion.

#### MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. NICOLAY, his Private Secretary, informing the House that he had approved and signed a joint resolution and bills of the following titles:

Joint resolution (H. R. No. 67) to increase temporarily the duties on imports;

An act (H. R. No. 367) to provide for the collection of hospital dues from vessels of the United States sold or transferred in foreign ports or waters;

An act (H. R. No. 62) fixing certain rules and regulations for preventing collisions on the waters; and

An act (H. R. No. 408) for the relief of postmasters who have been robbed by the confederate forces or rebel guerrillas.

#### ARMY APPROPRIATION BILL.

Mr. STEVENS obtained the floor.

Mr. PRICE. If the gentleman from Pennsylvania will allow me for a moment, I desire an opportunity of saying a word in reference to the question I put to the gentleman from Indiana, and which he declined to answer either in the affirmative or negative. I do not propose to allow this matter to go to the country with the statement of the gentleman from Indiana upon it, diametrically opposed as it is to the facts of the case.

General Jackson had the reputation in his day of being a statesman and a patriot, a genuine and not a bogus Democrat. The word Democrat with him meant something, and it did not mean the Democracy of the present day. General Jackson in his day knew something—although he lived in a slave State—of the value of negro soldiers as well as white soldiers, and he placed them upon an equality as to pay and rations. And no man who knows anything about the history of his country or has any care for justice or veracity will dare to deny it.

Now, sir, these being the facts, as they are recorded in history, every sensible man and every honest man will acknowledge the wisdom of the course which he pursued. And are we to be lectured here because we propose to place them to-day exactly where the old hero of the Hermitage placed them in 1814? No, sir; the good sense and patriotism of this country are in favor of placing them just where he placed them, and that is what I hope this Congress will not fail to do. And these negroes, who are being fed and clothed by the Government, are not fed and clothed by it because they are the wives and children of negro soldiers, but because it is an act of humanity to keep them from starving. They are not fed be-

cause they are black, because in the region where they are fed the white people are taken care of by the Government just as well as the negroes are, if not a great deal better.

Now, as to the argument whether they are equal to white men, it has nothing to do with this question. White men are not equal physically or mentally or in any other respect whatever; and as to this law making them equal to white men, so far as we are concerned on this side of the House, I will say that we are not afraid of it. I will tell the gentleman and those who sympathize with him, who, notwithstanding the few advantages of education that negroes have had, have a big scare upon them that they will get ahead of the white race, that we do not believe they will, even if we put them into the Army at thirteen dollars per month.

Mr. GARFIELD. In order that I may not embarrass action on the resolution adopted this morning on my motion, I withdraw the request I then made. I made it because I had already a great deal of work to do. I leave the matter with the Speaker.

Mr. STEVENS. Mr. Speaker, I do not see any particular reason for excitement in discussing the present question. I know it is natural for some gentlemen on the other side of the House who are interested in the institution of slavery to become excited, and therefore it is not to me at all surprising. It is the last convulsive spasm of the struggle which I have seen going on for twenty years on this floor, of a power which dominated this Union, and which I never expected to live to see conquered. But my life has been spared to see it subdued, exhausted, and trembling in the last agonies of death as we have seen to-day. I do not think it strange, nor do I reproach it for that last natural convulsive effort which we have seen to-day. It ought to affect but a few, and it does affect but a few.

But, sir, I shall try to confine myself to the question in hand, and not follow the wild rambling of the gentleman from Indiana [Mr. HOLMAN] and other gentlemen, who have gone away from the question to inquire into the robbery of property—that is, slaves—of those gentlemen who have been oppressors so long that they are unwilling to come down to the democratic level of freemen who tolerate freedom.

Sir, the question now is whether the soldiers of the United States, who wear the livery of the Union, who march under the banner of the Union, who, in common with the armies of the Union, expose themselves in the battle and to death, shall be placed on an equality, or whether in that position and under that glorious flag we are to keep up the distinctions which have been the infamy and disgrace of the Union and the age, and which existed when slavery did. I take it for granted that the day has passed when any man, who is not either a lover of slavery or a demagogue, will attempt to maintain the position that any of the soldiers who bear their arms in battle shall be treated as inferior to any other men who stand up by their side. I care not whether the soldiers are of Milesian, Teutonic, African, or Anglo-Saxon descent. I despise the principle that would make a difference between them in the hour of battle and of death. The idea that we are to keep up that distinction is abhorrent to the feelings of the age, is abhorrent to the feelings of humanity, is shocking to every decent instinct of our nature; and I take it that no man who is not wedded to the institution of slavery, or does not foster it for the sake of power, will go with the gentleman from Indiana.

Sir, why should they not be all paid alike? Why should they not all be clothed alike? Why should they not be all armed alike? Why should they not all charge the rebels alike, and die alike in defense of the Union? Because they are of different descent. Why did you put it upon the mere complexion, and not upon the nationality? Indeed, sir, if any were to have a preference over others in pay and in inducements to join the service, it ought to be that class of men whose perils are greatest when they go into our Army. The black man knows when he goes there that his dangers are greater than the white man's. He runs not only the risk of being killed in battle, but the certainty, if taken prisoner, of being slaughtered instead of being treated as a prisoner of war. And these are the men that the gentleman from



Indiana would degrade, and sink, and treat differently from those who, when they are taken, are treated as prisoners of war and their lives spared. Sir, I will make no distinction. If black men, knowing, as they do, their greater peril, will consent to fight at our sides, die in our stead, and save our brethren and sons and fathers from slaughter, although I would make no distinction in pay and rations, yet I cannot fail to award to them equal, if not more, honor than to those who, from their social position and the certainty of their position when they go into battle, have more inducements to defend their country. If there is to be any distinction anywhere, it should be in favor of the black man.

Does the gentleman from Indiana pretend that these colored soldiers, who have already appeared in arms and fought, have not fought as gallantly and died as freely as our own white brethren? The records of all battles in which they have been engaged would give him the lie if he dared to say so. At Fort Hudson, at Fort Wagner, and wherever they have been engaged, the uniform testimony is that they have been no less gallant, no less brave, no less faithful, than the white men who fought by their side. And yet this infamous and degrading distinction is sought to be kept up between men who thus fight and thus die and the white soldiers. Let not this nation for a moment sanction it. Let it not go forth as the opinion of this House that the black man or the red man or any other man who bears our arms and fights for our liberty is not to be treated like every other man. But the gentleman says we are discriminating against the white man. He thinks so, no doubt, but he thinks a thing that is not. There is no such discrimination anywhere. By the section under consideration we put, from the 1st of January, all men of all colors, black and white, married and unmarried, upon precisely the same footing. We do not legislate in regard to their families nor with regard to their wives.

I heard it said here, much to my astonishment, that the reason why we should not give black men the same chance with white men is because by some of their infernal laws the black man who is married to a black woman is not married, but that the marriage is a nullity, and those infernal laws, which ought to be scouted by every Christian man, are brought forward here as an excuse for not treating the black man as we treat the white man.

Mr. HOLMAN. I trust the gentleman from Pennsylvania will not attribute any such view as that to me.

Mr. STEVENS. I do not attribute that language to the gentleman from Indiana.

Mr. GANSON. I presume the gentleman refers to me.

Mr. STEVENS. I refer to the gentleman from New York.

Mr. GANSON. I made that point upon the subject of reserving a portion of the money appropriated to the soldiers for the support of these women and children, and I did it for the reason that they had not a legal claim upon the head of the family, under the law as it exists.

Mr. STEVENS. Then the gentleman was not speaking to the amendment. The amendment had no reference to that, nor did the gentleman move any such amendment.

Mr. GANSON. My colleague from New York informed me that there was such a provision in this bill; but he now says, after examining the matter, that it is in another bill. I should have moved it if I had supposed it was not in this bill, because I think it is a proper provision, and I think the gentleman from Pennsylvania concurs with me on that point.

Mr. STEVENS. I have no doubt it might be proper to have a provision by which a certain portion should be reserved, not because they are their wives and children, but because they are less provident in attending to them; and for the further reason that while at home the cities, towns, and townships make provision for white men's wives, they make none for black men's wives.

But, sir, why does the gentleman from Indiana say that we discriminate in favor of the black man? Because, he says, that in these contraband camps we support the wives of these black soldiers independent of their pay. Sir, I know not how that is. I do know that they are set to work

and expected to pay their way, and I do know further that regulations have been made by which the contrabands who are soldiers contribute a portion of their pay to the support of their families. There is no such discrimination. It is a false position; undoubtedly an innocent mistake of the gentleman from Indiana, who wants to get up a clamor that we are discriminating against white men. We are attempting to put both classes upon a perfect equality in our Army, and the gentleman mistakes the American heart when he says that this will be looked upon abroad in the country with disgust and dislike.

I remember when first the question was raised in this Hall about arming black men how scenes occurred far worse than the scene we have witnessed here to-day. All sides were a little tainted then with the miasma—well I do not know what to call it, but it was said that it would not do, and I remember it was said upon this floor that a distinguished gentleman from Illinois, General Logan, had stated that his soldiers would lay down their arms if negroes were enlisted. He may have said so, but I do know that that same gentleman a year and a half ago took the stump, in company with Adjutant General Thomas, and traversed the valley of the Mississippi, making speeches in favor of the liberation of the slaves and of arming them against their masters. I do know that, for I have seen his speeches, and have heard him say that his whole view was changed, that no soldiers fought better than the negroes, and that there was no prejudice against them in the Army.

Mr. GANSON. I would ask the gentleman if he has a provision in this bill opening the door to the promotion of colored soldiers? I understand that under the existing regulations they do not commission any of these black soldiers. I would like to know why that discrimination is made?

Mr. STEVENS. There is nothing relating to that question in this bill. We have not deemed it imperative to make any provision on that subject. We leave it to the sound discretion of a very discreet Executive.

Mr. GANSON. Who is the person to whom the gentleman alludes?

Mr. STEVENS. A person the gentleman has heard of and will hear of again for four or five years to come. [Laughter.]

Now, sir, I do not want to go on and discuss this question. I remember that when I first moved something of this kind in this House it got but thirty votes. That day, thank God, has passed. The day of liberty, of universal liberty, has dawned upon the country, and, thank God, it is growing brighter and brighter and will be until no man will rise here and talk about "stealing" his property in slaves. Men will be ashamed that they ever had anything to do with the institution.

The reason why negroes heretofore have been allowed but ten dollars a month is because the Department has misconstrued the law. We passed an act in 1862 authorizing the President to employ contrabands. We did it very gingerly. We had to wrap it up in such a way that the gentleman from Indiana could not use it before his constituents. [Laughter.] We did not say that they should be used as soldiers at all. We authorized the Executive to employ them in and about the Army in such way as he might deem best, and pay them ten dollars a month. That was not making soldiers of them. We intended that, but we only referred then to the contrabands who came over, and who were to be employed and paid ten dollars a month, and then out of that amount the cost of their clothing was deducted, and three dollars more was deducted for some fund—I do not know what it is called. But I never supposed then that if we went on to arm the free people of color they were not to be put upon the same footing with the whites. That law was intended to apply only to contrabands, who could not complain considering the great boon they received in their freedom. But the Department construed that law to apply to every colored soldier who was enlisted, which was a great wrong.

Now, sir, the Committee of Ways and Means propose to go a little further than the Senate; and we have provided in a subsequent amendment that where freedmen have been enlisted, no matter

when, their pay and emoluments shall refer to the time of their enlistment; and where contrabands are enlisted we deduct from them the bounty, supposing that their freedom is a sufficient equivalent for the bounty. I think that these provisions ought to be made. I admire the conduct of the fifty-fourth Massachusetts regiment, which, when it was offered by the government of that State the difference of pay between ten and thirteen dollars a month refused to take it from the State government; and I am informed that they never have received it to this day. Can the gentleman from Massachusetts [Mr. DAWES] inform me how that is?

Mr. DAWES. They have never received it.

Mr. STEVENS. And when Massachusetts, with her usual liberality, offered to make up the difference, and pay it to those who marched from her soil and under her banner, they refused, with a magnanimity and a spirit which would do credit even to the men of Indiana, to take it; and they refuse to take it to this day, and I honor them for that. I beg pardon of the House for saying so much on this subject.

#### CHARGES AGAINST TREASURY DEPARTMENT.

The SPEAKER announced that he had appointed Messrs. GARFIELD, WILSON, BROOKS, DAVIS of Maryland, STUART, FENTON, DAWSON, JENCKES, and STEELE of New Jersey, a special committee under the resolution adopted to-day for investigating charges against the Treasury Department.

#### ARMY APPROPRIATION BILL—AGAIN.

Mr. HOLMAN. I wish to modify my amendment by increasing the soldiers' pay to eighteen dollars a month.

Mr. KELLEY. Mr. Speaker, the fact that we are at this late day discussing the proposition before us, that of giving equal pay, rations, clothing, and arms to all our soldiers without regard to their complexion, is pregnant evidence of the terrible weight of prejudice which has clouded the judgment and conscience of the American people. It, however, gives us hope that that prejudice is disappearing, and that peace will soon come to our country and prosperity thenceforth abide within its borders. But for our pride of race and prejudice against color we would not now be providing the means to carry on a war. I allude not to the fatal truth that despots in the South and demagogues in the North fostered this prejudice, and found in it the means of inducing a people devoted to personal liberty to acquiesce in, and in some instances to battle for the extension of the area and the perpetuation of human slavery. No, sir, I pass by the question of the cause of the war, and say that but for our unchristian contempt for the colored race we would now be at peace; that the authority of our Government would have long since been reestablished over all our territory; or that if the spirit of the rebellion had still required to be repressed by the presence of military power, an army of disciplined freedmen would have relieved the men of the North of the duty of maintaining it, and permitted them to return to their families and the profitable avocations of peaceful life. Has not our prejudice furnished men, money, and supplies to our enemy, while enfeebling our Army, restraining it from action, and paralyzing a large part of our naval power? The cry that the war was no longer for the Constitution, but had been perverted into a war for the negro, has had but little influence in preventing brave and loyal men from rallying "round the flag."

I allude not to that mere hiss of a venomous serpent, but to the fact that but for this pervading and controlling prejudice we would have long since drawn from the laborers of the South an army of three hundred thousand men. This prejudice it was that prevented the country from demanding of the President an early proclamation promising freedom and protection to all loyal people of the South who might make their way to our lines, and arms to such as would enter our service. The demoniac howl that went forth at Fremont's order was but an expression of the prejudice the prevalence of which made Cameron's proposition to arm slaves impracticable and constrained the disbanding of the regiment of colored men enlisted by General Hunter. In those days men would rather die or give their sons victims to the pestilential swamp or battle-field than

accept the idea that the negro was fit to be a free-man or a soldier. Congress, slowly escaping from this prejudice, halted in its great duty, and our good and sagacious President could not see a "military necessity" in a measure which he was led to believe would demoralize the Army and arrest enlistments. Meanwhile the men who would so gladly have earned their freedom by serving us were coffed and driven South to raise supplies for the rebel army, to labor in forge and foundry, to dig trenches and rear breastworks, and to man guns aimed at those whose presence among them they were ready to hail as a Heaven-granted blessing.

Sir, the sailor who enters our Navy gets no bounty. He accepts the chance for prize money as its fair equivalent; yet a few weeks ago we passed an act authorizing the transfer to the Navy of twelve thousand soldiers to whom we had given Government and municipal bounties. It was not that they could be spared from the Army; for while the measure was under consideration, or about that time, the President issued a call for two hundred thousand more soldiers. I marked the coincidence, and thought that God was thus teaching us the folly, the stupid, wicked folly of yielding to that prejudice which gentlemen on the other side of the House are now striving so ingeniously to exasperate. At the time we passed that act the press of the country was denouncing the inefficiency of the blockade and proclaiming the relative cheapness and abundant supply of foreign goods in confederate ports, and steamers and monitors which might have made the blockade effective lay at rented wharves in northern ports, the Department being unable to procure sailors to man them. No one will deny that the negro makes a good sailor. He seems to have a natural aptitude for the profession. You find him in the merchantmen of all nations, and he is welcomed by officers and men on all our national vessels. In this branch of the service negroes have always been employed, and our naval records vindicate them abundantly from the charge of cowardice with which honorable gentlemen on this floor so meanly asperse them. They constituted a large part of every crew our Department sent forth in the war of 1812, and their courage, as the records prove, did much to add that effulgence to the stars of our flag in the light of which the "meteor flag of England" paled and grew dim. Had we welcomed the slaves of the South to our service, and treated them as men, the sails of our ships would not have flapped idly at city wharves and our country suffered because they were not filled by the free winds of the ocean. When will we learn that the justice of God permits no wrong to go unpunished?

History, it is said, reproduces itself. We speak of coincidences in history, and are often reminded that on the 19th of April, in two great national eras, Massachusetts blood was shed at the opening of great wars; and I may take the liberty, in the course of this discussion, of reminding the House that the first blood shed in each era was that of a negro. The first that flowed in Massachusetts was prior to that which sanctified the plains of Lexington. It was the life-blood of Peter Attucks, a negro man, who died leading a Boston mob against British soldiery; and, as I had occasion to suggest to the House last evening, before the blood of Massachusetts had dyed the streets of Baltimore that of a negro man, Nicholas Biddle, hastening with less than five hundred volunteers from Pennsylvania to the defense of this capital, had stained the streets of that city through which the little column marched.

It may be a mere coincidence; but these certainly are facts which it becomes a body of legislators, who profess to believe that "all men are created equal," to bear in mind. They are facts which should have done something to remove the prejudice which has cursed us so heavily, especially within the last three years, almost as heavily, indeed, as it has cursed the five million colored Americans against whom it operates.

The gentleman from Indiana [Mr. HOLMAN] tells us that he does not think that negro troops ought ever to have been enlisted. Sir, does he still think that the rebellion would have been feeble with twelve million people to sustain it than we have found it with but eight millions? Does he believe that it were better to-day that the one hundred and thirty thousand negro soldiers

who are in arms to fight the rebels should be in arms to fight our sons and brothers and friends? I ask him to explain whether his sympathies are with the white men in the North or are with the rebels in arms against their country. Why should these one hundred and thirty thousand fighting men be handed over to the other side, or be deducted from our strength? There is not, sir, in the ranks of our Army a soldier who will agree with the gentleman from Indiana. There is not a mother at home, praying night and morning for the welfare of her first boy on the field, who does not thank God that there are in the Army with him one hundred and thirty thousand men whom the gentleman from Indiana would transfer to the enemy, or doom to inaction. There is not a man who loves his country who will not arraign the patriotism of one who would strike such a force from our ranks, whether he would absolutely hand it over to the enemy or not. They ought not to have been enlisted, says the gentleman; and they have not been used so as to protect our soldiers. Ah! sir, if his son or brother be in the Army, or if the sons and brothers of his friends are there, they will rejoice that the honors of Milliken's Bend, Port Hudson, Fort Wagner, and Olustee were won by colored regiments, and not by those to which they were attached. Whose blood would the gentleman from Indiana have desired to see shed there? Will he tell his constituents that the men from his district should have kept the negro safe from the batteries of Wagner and Hudson and Olustee? Will he go into his district and complain that they were not Indiana troops who were hacked to death, crucified, and burned in Fort Pillow? No, sir, he will not so argue to his constituents. When he confronts them on this subject he will cavil, he will qualify, he will explain, he will protest that the report which will go forth is garbled; that in his opinion it is well to use the negro to save the white man; that he rejoices that other men, men of darker hue than his friends and constituents, were put into the imminent deadly breach on those occasions.

It is well that we have enlisted these men. They have been used for the protection of white men, for the protection of the white man's Government, for the protection of the white man's flag, and when so used have fought gloriously in the hope of removing from the mind and heart of the white men of America, who have mind and heart, that prejudice which while it has oppressed them has cursed those whom it has controlled.

Sir, when it was talked of enlisting negro soldiers we were told on the other side of the House that it would reduce our great army—then under command of General McClellan—to the condition of Falstaff's ragged corps; that white soldiers would lay down their arms; that the announcement that we would permit negroes to bear arms would assure the success of the rebellion by a general exhibition of treason and desertion on the part of our armies. They were fools or traitors who believed that the hatred of our soldiers of the negro was more intense than their love of their country.

Tell me, you, or any of you who witnessed the passage of Burnside's splendid corps through this city the other day, whether you wished those eight thousand stalwart men of African descent were not in the Army. Tell me whether, as they marched down the broad streets, crowds of the wounded and maimed soldiers of the veteran reserve corps did not cheer them on. Tell me which of you did not admire the cheerfulness with which they marched toward the field which has been so fatal to those of their race who have been permitted to precede them. Tell me whether picked men from all your States are not ready to take command among them. I do not believe that able and tried soldiers are anxious to move at the head of a column of cowards, and I know that in our Philadelphia school for the instruction of officers for these regiments the gentleman's State is largely represented by men who are used to the whistling of the rifle-ball and the boom and roar of the cannon. Two, at least, of the Indiana soldiers who graduated there had received the sanguinary baptism of battle at Pea Ridge.

The gentleman talks about the courage of these people, and doubts it. Sir, has he slept from the beginning of this war? Has he read no page of martial history? He says they will degrade our

Army. Will he tell us what influence the Turks have exercised upon the armies of France? Will he tell us what influence the Sepoys have exercised upon the army of Great Britain? Will he enlighten us as to the complexion of the British, French, and Dutch armies in the West Indies? They are negroes, negroes all. And, sir, it is impossible to conceive that mere ignorance or prejudice against the negro alone would exclude him from our Army and Navy. The opposition to this measure, conceal the fact as gentlemen may, springs from sympathy with the rebellion or blind devotion to human slavery. It is a shrewd device by which it is hoped to impose such grievous burdens upon the people of the North as will make them yield to suggestions of peace. It can come from no other motive than love of slavery or sympathy with the so-called confederacy.

Mr. Speaker, the men of this era of whom the poet will sing in highest strains, the men whom the orator will most eulogize, the men in this grand civil war of whom the historian will write his most glowing panegyrics, are the negro soldiers of the loyal Army. I never see a wounded soldier that I do not honor him. I cannot behold a column of citizen soldiers moving over yonder bridge or embarking for the field of battle without the tenderest emotions. I read the story of the battle-fields enriched by the blood of the cultivated, beautiful, and brave, and my heart swells with pride as I contemplate the gallantry of our countrymen. But white men fight for their country, for the glorious traditions of their ancestors, for their homes, their wives, and their children. Not so with the poor negro of the southern States. He has no country, and wanting that, lacks all else.

I hail it as a sign of progress that gentlemen on the other side of the House talk to-day of a slave's wife and children. Oh! have three years brought you so far forward that you behold in the mother of a slave's child a woman and a possible wife? Have three years of terrible war brought you so far forward that in that little breathing, immortal being you see the child and not the chattel? Who will deny that we are making progress? It may be slow, but when you admit that they are wife and child it shows that some little progress has been made where, judging by the light of experience, it would be least expected.

Sir, I found in a paper from my city, the Press of yesterday, the story of the death of one with whom I played in the earliest days of my childhood of which memory has a hold. We were then younger than the light-haired child that stands by the corner of the Clerk's desk. He grew to manhood an elegant gentleman; he was skilled in art and gifted with a rare voice, and a proficient in music. His education was liberal, and his manners and tone those of a gentleman. In early manhood he found admission to society from which his wife and sisters, who, though worthy, well educated, and well bred as he, were excluded. They could suggest that their father was a soldier of the revolutionary army and had endured the horrors of the British prison-ship, and point with just pride to his high standing as a man of enterprise and probity during the many years in which he was a leading sail-maker of what was then the first commercial port of the country; and they could speak of the incidents of foreign travel; but they were, in the estimation of people like the gentleman from Indiana, incapable of the courtesies of life, and of a race that is deficient in courage. To escape from degradation he went to London and engaged in business, and was prosperous. I ask the Clerk to read why he returned, where he is, and how he was borne thither.

The Clerk read, as follows:

"A SOLDIER'S FUNERAL.—The military escort which surrounds the hearse, bearing through our streets to the grave the body of one who has died in the service of his country, has familiarized the people with the last form of respect that is given to a soldier's memory. Yesterday, military ceremonies and honors were paid for the first time in this city to the remains of a colored man. The body of Robert Bridges Forten, late sergeant major forty-third regiment United States colored troops, was deposited in the family vault in the cemetery attached to St. Thomas's church, Fifth below Walnut street, with military honors. Sixteen of his late comrades, commanded by a sergeant, formed the funeral escort, and fired the three volleys of musketry over his grave prescribed by the Army regulations.

"Sergeant Major Forten was the son of the late James

Porton, so long and so favorably known in this community, especially to the merchants and mariners of our city. He was liberally educated. For several years past he resided in London, and was a commercial agent for an extensive stationery house in the Poultry. On observing that the Government had summoned the colored race to arms, and was organizing a colored army for the defense of the Union and the salvation of liberty itself, he at once canceled his business engagements in England and hastened to this his native city to offer his services to his country. Finding that by the existing laws he could not be commissioned an officer to command colored troops, though qualified by education and peculiarly fitted by general character for such a responsible position, he resolved to enlist as a private. When counseled to reflect again on his determination, and advised that his age, about fifty years, made it doubtful whether he could undergo the fatigues and privations of the service, that his education was vastly superior to his fellow-soldiers, that his habits and associations were strikingly dissimilar, and that no consideration or allowance could be given to these peculiarities, he replied that the reasons urged why he should not go into the service, with the exception of the one regarding his age, were incentives for him to volunteer. His country, he said, asked her colored children to rally to her defense, and those of them who had been blessed with education should be foremost in responding to the call. Actuated by these patriotic motives, he enlisted in the forty-third regiment, in which his talents were soon remarked, and he was made sergeant major. He was soon detailed on special service and ordered to report to Colonel S. M. Bowman, chief master and recruiting officer for colored troops for the State of Maryland. He entered into the business of recruiting in that State with intense zeal, and showed ability of the highest order. In the many speeches he made to the colored men of Baltimore, and by his logic, his eloquence, and his example, he largely contributed to the great success which has attended Colonel Bowman's efforts to raise colored troops in Maryland. That officer, in reporting to the Philadelphia supervisory committee, commended him as a soldier and a gentleman. Impelled by zealous devotion to the cause of his race and his country, he exerted himself beyond his powers of endurance, and, when attacked by sickness, it was soon seen that his prolonged labors had undermined his constitution. He died suddenly with dyspepsia. He leaves a wife and boy in London, and a daughter, a teacher in the camp of the freedmen at Port Royal."

**Mr. KELLEY.** Sir, among the colored men of the North—

**Mr. CRAVENS.** If the gentleman will yield to me, I will move that the House adjourn.

**Mr. KELLEY.** I do not wonder that the gentleman wants the House to adjourn, but I decline to yield.

Sir, as I was about to remark, among the colored men of the North there are many other instances like that of the playmate of my young childhood. Men of high culture and considerable estates, men of refinement and accomplishments, who at ten dollars per month, and with no chance of promotion, have hurried into the ranks of our Army to fight for the preservation of a country, the logic of whose institutions assures freedom at some future day to their posterity and race. They have gone relying on the justice of the American people for the just reward of their valor and patriotism. Surely such men will be remembered in song and history.

But the four millions of the South fight without a country, without a home, without a family; nay, such are the blessings of the institution of slavery which the gentleman from Kentucky so lauds, that they have not even been permitted to have a name lest it might tempt them to think of securing a home and maintaining the integrity of their family. Sir, home and family are very dangerous to such despotism as has prevailed in the South.

**Mr. CLAY.** As the gentleman seems anxious to hear me, I will interrupt him for a moment.

**Mr. KELLEY.** Be brief.

**Mr. CLAY.** The gentleman seems to be a profound scholar of history. He knows the history apparently of all the nations of the earth, and of every individual in those nations. But he seems to be deficient in the history of his own State. I refer him back to the war of 1812-14. The State of Pennsylvania as well as other States sent brave troops to fight the British, but when these troops reached the northern part of our territory, near the lakes, there was a question raised about State lines and State boundaries.

**Mr. KELLEY.** As that was before my birth I do not remember about it.

**Mr. CLAY.** I want to inform the gentleman, and he refuses to yield for the purpose.

**Mr. KELLEY.** It has no pertinency to the pending question.

**Mr. STEVENS.** I should like to know whether the negroes or the white men raised that question?

**Mr. CLAY.** I am coming to that.

**Mr. KELLEY.** I decline to yield further. I never heard that my State had any negroes in the Army in 1812, and we are now discussing the con-

duct and capabilities of that race. I say that the gentleman lauds the institution of slavery—

**Mr. CLAY.** I ask the gentleman from Pennsylvania to yield to me for a few moments.

**Mr. KELLEY.** If the gentleman will hear the sentence I am about to utter, perhaps there will be no necessity for him to interrupt me.

**Mr. CLAY.** They are putting the negroes of Kentucky under people who are cheating them of half their earnings. My friend from Massachusetts [Mr. Eliot] admitted it was probably true.

**Mr. KELLEY.** I decline to yield further. The gentleman's rambling remarks have nothing to do with the question under consideration. In the general discussion he complained of the treatment the freedmen are receiving at the hands of Government officials and others who employ them. He says these people cheat them out of half their earnings. I fear this may be true; and to prevent it I have implored Congress to establish a Freedmen's Bureau. But it is apparent that the gentleman's sympathies are not excited by the wrongs perpetrated on the poor negroes. His complaint is not that they are cheated out of half their earnings, but that it is done by "thieves," "robbers," "scoundrels," and other official personages who have relieved them from slavery—a system which, under color of law, cheated them out of all their earnings, and appropriated their babes as chattels for the market. Unhappy as their present condition may be, it does leave them at least the ownership of the children of their loins; it does secure them transportation beyond the lines of their former owners' plantation; and it does open the way through freedom to a better life to those of the race who have capacity and energy and feel the glow of emulation. It is too late for the gentleman to hope to make converts by sounding the praises of slavery in comparison with any phase of freedom.

**Mr. Speaker,** I repeat that when we remember the cool and determined courage with which these men, without country, home, family, or name, save such as Tom, Jim, or Dick, fight without pay, and in the face of almost certain death, for the flag and institutions which inspire their poor hearts with hope for their race, we cannot doubt that the poet, orator, and historian will find inspiration in their unselfish devotion to a great cause. But dark will be the colors in which they will paint the actions of those who, while accepting the services of such heroes, would withhold from them the recognition of their common humanity. Let such men not hope that posterity will fail to do them justice too.

The bill before us is the more important because our enemies are fiendishly discriminating against negro soldiers. They deny the colored prisoner of war all the rights of a soldier; they murder him in cold blood, and then turn to us and cite our example in proof of the propriety of the prejudice that governs them. "Why," say they, "shall we recognize the negro as a soldier entitled to equality with our men while the Congress of the United States, the War Department, and the President withhold from them such recognition? They make them fight without equal pay, and without hope of rank, and who shall brand us for discriminating against them in pursuance of such precedents as these?"

To obliterate this unjust and odious distinction is our privilege. Gentlemen on the other side of the House may consistently vote for its continuance; but the power of the House and the responsibility is with us of the Republican side, and should we fail to recognize the common manhood of our soldiers the page of history which records our failure will be one the perusal of which will suffuse the cheeks of children with the burning blush of shame.

**Mr. MORRILL.** I ask the unanimous consent of the House to make a verbal correction. On page 7 of the bill, in line eight, the word "army" should read "arms," and a comma should be inserted after it; so that the clause will read, "manufacture of arms, accouterments," &c.

**The SPEAKER.** This is in the text of the bill which has been agreed upon by both branches of Congress, and the Chair knows no way in which it can be changed. The question has been so ruled in the other end of the Capitol, and the Chair is of opinion that it cannot be touched.

**Mr. MORRILL.** I have received a notice from the Senate that it ought to be amended.

**The SPEAKER.** It might be made as an amendment and the Senate asked to concur in it.

**Mr. MORRILL.** I move that amendment, as it is very important that it should be made.

**The SPEAKER.** The Chair hears no objection; and a message will be sent to the Senate, with a request to make the change in that way.

**Mr. PATTERSON.** I wish to say a word by way of correction of the remarks made by the gentleman from Pennsylvania, [Mr. Williams.] He stated what I have heard frequently stated upon the floor, and what I have seen stated in the public prints of the country, that the first man whose blood was shed in this war was from the State of Massachusetts. Now, sir, no man honors the State of Massachusetts more than I do, but she can well afford, her quiver is so full of glorious arrows, to give to the little State of New Hampshire the glory which belongs to her. The man who first poured out his blood in this contest, and who enlisted in a Massachusetts regiment in the city of Lowell, was a brave boy of the little town of Alexandria in my district; and when his remains were borne homeward to the spot which he glorified, they were deposited in the quiet little churchyard of his native village in New Hampshire.

I merely wished to utter these words of explanation, because I believe it is due to my own State, and she should not be robbed of that glory by another.

**Mr. STEVENS.** I now call the previous question.

**Mr. HOLMAN.** I have modified my amendment, which was to strike out the word "pay," by moving to strike out the word "pay" and all that follows it in that section, and inserting the following:

As other soldiers in the regular or volunteer service: *Provided, however, that the pay of the private soldier of the Army shall be twenty dollars per month from and after the 1st day of January, 1864, with a corresponding increase in the pay of the non-commissioned officers.*

**Mr. STEVENS.** I suggest that this has nothing to do with fixing the pay of the regular Army.

**The SPEAKER.** The Chair now regards the amendment as out of order from the fact that it changes the existing law.

**Mr. HOLMAN.** It is too late to raise that point of order.

**The SPEAKER.** The gentleman must not state that it is too late, because he has but just modified his amendment.

**Mr. HOLMAN.** The provision from the Senate also changes the existing law.

**The SPEAKER.** The gentleman is probably aware, from his long service here, that in the Senate it is allowable under their rules that amendments changing existing laws shall be offered when reported by a standing committee of that body. But in the House of Representatives we act under a different rule.

**Mr. HOLMAN.** But when the Senate makes a change in the existing law is not a modification founded upon that change in order?

**The SPEAKER.** An amendment offered here must be in accordance with the rules of the House.

**Mr. HOLMAN.** I must, although reluctantly, take an appeal from the decision of the Chair, upon the ground that if the Senate has a right to insert in such a bill as this a legislative provision affecting an existing law, certainly the House must have a right to amend the provision they insert.

**The SPEAKER.** The Chair is placed here to enforce the rules of the House and not those of the Senate. He decides, according to the rules of the House, that the amendment is not in order, as it changes the existing law. From that decision the gentleman from Indiana appeals, and the question is: "Shall the decision of the Chair stand as the judgment of the House?"

**Mr. WASHBURN,** of Illinois. I move to lay the appeal upon the table.

**Mr. ELDRIDGE.** Upon that motion I demand the yeas and nays.

**The SPEAKER.** The Chair would prefer that the appeal should be voted on directly.

**Mr. WASHBURN,** of Illinois. This will be a test vote.

The yeas and nays were ordered.

**Mr. HOLMAN.** The Chair will allow me to state that my point of order is that if the Senate can change an existing law, the House may modify the amendment of the Senate.



Mr. COX. That is to say, if the amendment offered in the House be germane to that of the Senate.

The SPEAKER. The Chair is here to administer the rules of the House, and the rules of the House, differing from the rules of the Senate, provide that amendments changing existing laws are not in order on appropriation bills.

The question was taken; and it was decided in the affirmative—yeas 95, nays 25; as follows:

YEAS—Messrs. James C. Allen, Alley, Allison, Ames, Ancona, Anderson, Arnold, Bailey, John D. Baldwin, Baxter, Beaman, Blaine, Jacob B. Blair, Boutwell, Boyd, Brundage, Broomall, William G. Brown, Chandler, Cobb, Cole, Creswell, Henry Winter Davis, Dawes, Deming, Dixon, Donnelly, Eckley, Eliot, Furnsworth, Fenton, Frank, Garfield, Grinnell, Herrick, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, Hubbard, Hutchins, Jenekes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, King, Knapp, Loan, Long, Longyear, Marvin, McBride, McClurg, McIndoe, Moorhead, Morrill, Daniel Morris, Morrison, Anos Myers, Norton, Odell, Charles O'Neill, Orth, Patterson, Perham, Perry, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Spaulding, Stevens, Strouse, Stuart, Thayer, Thomas, Upson, Elihu B. Washburne, William B. Washburn, Whaley, Wheeler, Chilton A. White, Williams, Wilson, Windom, Fernando Wood, and Yeaman—95.

NAYS—Messrs. Cox, Dawson, Denison, Eden, Eldridge, Flinn, Grider, Harding, Harrington, Benjamin G. Harris, Holman, Philip Johnson, Law, Le Blond, McDowell, McKinney, William H. Miller, Noble, John O'Neill, Samuel J. Randall, Robinson, James S. Rollins, Ross, John B. Steele, and Stiles—25.

So the appeal was laid on the table.

During the roll-call,

Mr. ELDRIDGE stated that Mr. BROWN, of Wisconsin, was detained from the House by sickness in his family.

Mr. COX announced that Mr. PENDLETON had paired off with Mr. KASSON.

The result of the vote was announced as above recorded.

Mr. HOLMAN. I now renew my original motion to strike out the word "pay."

The SPEAKER. The Chair doubts whether the gentleman can renew it.

Mr. HOLMAN. Is not the motion still pending?

The SPEAKER. The gentleman from Pennsylvania demanded the previous question. The gentleman from Indiana modified his amendment, and the Chair ruled it out of order. From that decision the gentleman appealed, and the appeal has been laid upon the table.

Mr. HOLMAN. I asked leave to modify it, and the Chair did not receive the modification.

The SPEAKER. The Chair will entertain the motion. It is to strike out the word "pay."

Mr. STEVENS. That original motion was modified and a new one was made, which has been ruled out of order, and of course he cannot now go back to the first.

The SPEAKER. The gentleman from Indiana was correct in his statement. He originally moved to strike out the word "pay" and then he sought to modify it. The Chair pronounced the modification out of order, and from that decision the gentleman from Indiana appealed. The decision of the Chair was sustained; and therefore the original amendment remained.

Mr. SCHENCK. With the permission of the gentleman from Pennsylvania, I desire to make some little explanation in reference to the Committee on Military Affairs.

Mr. STEVENS. If the gentleman from Ohio will renew the motion for the previous question, I will withdraw it.

Mr. SCHENCK. I will renew it. Mr. Speaker, observing that this relates to equalizing the pay of soldiers of the Army, gentlemen have come to my desk repeatedly to inquire about the bill, supposing that it emanates from the Committee on Military Affairs. I have been asked, too, in the same connection why, if it were a bill coming from the Committee on Military Affairs, there was nothing contained in it about increasing the pay of the soldiers generally. I will take advantage of the permission given me by the gentleman from Pennsylvania [Mr. STEVENS] to explain the status of this question, as it presents itself now before the House.

The Senate passed a bill (No. 145) to equalize the pay of soldiers of the United States Army. That bill on reaching this House was referred to the Committee on Military Affairs. We reported it back yesterday with some modification of the sections relating to the equalization of the pay of

the colored troops with that of the whites, and appended to it several other sections increasing the pay of all the soldiers of the Army, and providing for some other matters in connection with Army pay. The Senate growing impatient, perhaps, for action on bill No. 145, has taken that same bill which was referred to the Committee on Military Affairs in the House and has attached it to the Army appropriation bill. And thus it is that this subject comes before the House now from the Committee of Ways and Means as an amendment to the amendment made by the Senate.

As this whole subject has been before the Committee on Military Affairs, and as that committee has discussed and considered and reported upon it, I propose, with the leave of the chairman of the Committee of Ways and Means, to take so much of this bill which was reported back yesterday as covers this very ground, as embodies in the main what is here before us to-day, and move it as a substitute for these three sections which the Senate has put in this bill as part of its amendments.

Mr. WASHBURN, of Illinois. Being interested in the proposition, I would like to know from the gentleman from Ohio how he proposes to get it in.

Mr. SCHENCK. By being permitted to offer it as a substitute.

Mr. WASHBURN, of Illinois. That would be an amendment in the third degree.

Mr. SCHENCK. I think not. I was prepared for that exception, and as I saw that the gentleman from Indiana [Mr. HOLMAN] had caught my friend from Pennsylvania [Mr. STEVENS] I fell back upon the bill, and propose my amendment as a substitute for the original text.

The SPEAKER. The Chair supposes that the amendment may be germane to the eighth amendment of the Senate, but it is the sixth that is now under consideration.

Mr. SCHENCK. This sixth amendment consists of what are called sections two, three, and four. I propose to strike out these sections two, three, and four, and to insert the matter we have reported.

The SPEAKER. The gentleman from Ohio is not correct. The House has not reached the fourth section. That is the eighth amendment of the Senate. We are now considering the sixth amendment, which ends at the close of the second section.

Mr. SCHENCK. Am I to understand that there is no possibility of reaching by any action these subsequent sections?

The SPEAKER. Certainly, when we reach them. The House has considered five amendments, and is now considering the sixth.

Mr. SCHENCK. Does the previous question apply to all of the amendments?

The SPEAKER. The Chair understood it only to apply to the sixth amendment.

Mr. STEVENS. I did not make that distinction. I supposed I was moving the previous question on all the amendments.

The SPEAKER. That would cut off the gentleman from Ohio from offering his amendment.

Mr. SCHENCK. By an arrangement with the chairman of the Committee of Ways and Means it was understood that the Committee on Military Affairs should have the opportunity of presenting such modifications as they have agreed on to the amendments of the Senate.

The SPEAKER. If the gentleman from Pennsylvania will call the previous question only upon this amendment of the Senate the gentleman from Ohio will then have an opportunity of presenting his amendment to the eighth amendment of the Senate, to which it properly applies. The sixth amendment of the Senate now is only under consideration.

Mr. SCHENCK. Will the Chair be kind enough to state what this sixth amendment is?

The SPEAKER. It has been reported by the Clerk.

Mr. SCHENCK. What does it include?

The SPEAKER. A variety of appropriations of various kinds.

Mr. SCHENCK. Does it involve what is designated there as section two of the bill?

The SPEAKER. It does.

Mr. SCHENCK. And it applies to nothing else?

The SPEAKER. Nothing else.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. HICKEY, their Chief Clerk, informing the House that the Senate had passed a bill of the House (No. 371) for the relief of the settlers upon certain lands in California, without amendment.

Also, that the Senate had passed a bill (No. 185) to establish a branch of the Mint of the United States at Dalles City, in the State of Oregon; in which he was directed to ask the concurrence of the House.

#### ARMY APPROPRIATION BILL—AGAIN.

Mr. STEVENS. Well, Mr. Speaker, the amendment of the gentleman has, in my judgment, one very obnoxious feature in it; but I am willing to submit it to the vote of the House. I will therefore consider his amendment as in, and call the previous question upon it.

Mr. SCHENCK. We propose but one amendment to the sixth amendment of the Senate; and that is, to strike out the word "January" and insert the word "May." Having provided for this equalization, but the matter having gone on until the present time without its being a provision of law, we thought it better that it should commence at the present time.

The SPEAKER. The Chair hardly thinks that would be pertinent to the amendment that is now pending.

Mr. SCHENCK. To obviate that objection, then, I will move to strike out the whole section, and to insert in its place the same section with the amendment I have suggested.

Mr. SHANNON. Is that in order?

The SPEAKER. The gentleman from Pennsylvania withdraws the demand for the previous question to enable the gentleman from Ohio to offer his amendment.

Mr. STEVENS. I do not think the House ought to adopt the amendment, but as the gentleman desires it I am willing a vote should be taken upon it.

Mr. STEELE, of New York. I rise to a question of order. Does not this amendment involve a change of the existing law?

Mr. SCHENCK. I will state to the gentleman that it is precisely the same with the alteration of a single word.

Mr. STEELE, of New York. And I submit that that single word changes the existing law, and therefore renders the amendment out of order.

The SPEAKER. The Chair thinks it is germane for the reason that it is precisely the amendment of the Senate with the exception of changing the word "January" to "May." The amendment of the gentleman from Indiana changed the pay of a different class of soldiers from that provided for by the amendment of the Senate.

Mr. STEELE, of New York. I do not wish to discuss the question, but I understood the Chair to state in respect to the amendment of the gentleman from Indiana that the word "May" could not be substituted for "January."

The SPEAKER. The Chair did not so state. The Chair stated that the amendment of the gentleman from Indiana changed the existing law, but the Chair now decides that the amendment of the gentleman from Ohio changing "January" to "May" is germane, and therefore in order.

Mr. SCHENCK. I will not undertake to make any further explanation upon that point. I desire to make a single remark to explain why we have not introduced a provision for increasing the pay of all the soldiers. These amendments of the Senate are in reference to the pay of colored troops only. If that portion of the appropriation bill relating to the pay of the soldiers in the Army is again before us for consideration, as it probably will be, we shall then report an amendment in favor of increasing the pay of our Army; therefore I have proposed nothing whatever upon that subject at present. I would like now to have our entire amendment to the remaining amendments of the Senate read for the purpose of saving the necessity of any further explanation in the matter.

The Clerk read, as follows:

That all persons of color who have been or may be mustered into the military service of the United States shall receive the same uniform, clothing, arms, equipments, camp equipage, rations, medical and hospital attendance, pay and emoluments, other than bounty, as other soldiers of the regular or volunteer forces of the United States of like arm of the service, from and after the 1st day of May, 1864, and that every person of color who shall hereafter be

mustered into the service shall receive such sums in bounty as the President shall order in the different States and parts of the United States, not exceeding \$100.

Sec. 2. *And be it further enacted*, That any colored person enlisted and mustered into service as a volunteer under the call dated October 17, 1863, for three hundred thousand volunteers, who was at the time of enlistment actually enrolled and subject to draft in the State in which he volunteered, shall receive from the United States the same amount of bounty as was paid to white soldiers under said call, not exceeding in any case \$100.

Sec. 3. *And be it further enacted*, That in every case where it shall be made to appear to the satisfaction of the Secretary of War, that any regiment, or any battery, or any company of cavalry, of colored troops, has been enlisted and mustered into the service of the United States, under any authorized assurance given by any officer or agent of the United States, or by any Governor of any State, authorized thereto by the President or the Secretary of War, that the non-commissioned officers and privates of such regiment, battery, or company, should be paid the same as other troops of the same arm of the service, then they shall be so paid for the period of time counting from the date of their being respectively mustered into the service to the 1st day of May, A. D. 1864.

Sec. 4. *And be it further enacted*, That there may be reserved at the discretion of the Secretary of War, and under such regulation as he may prescribe, a portion of the pay of any colored soldier, not exceeding in any case more than one third thereof, to be applied to the support of the family of such soldier, or of other near relatives dependent on him for support.

Mr. SCHENCK. It will be observed that the amendment I have moved has received the assent of the Committee on Military Affairs of this House. I do not intend to occupy the attention of the House further than to explain the amendment we propose to the bill of the Senate, and which I have just moved to the pending measure.

In the first section we propose to strike out January, so that the equalization shall commence in May, that is to-morrow, instead of dating it back to January.

In the next section we have moved to amend so as to put it in the singular number instead of the plural number; and at the conclusion of it we move to strike out the words "without regard to color," and in lieu thereof to insert the words "as was paid to white soldiers under said call, not exceeding in any case \$100." The bill of the Senate limits it perhaps to \$100. It is not certain that it does. It is not certain that under it they may not get \$402 and \$300 added together. To make that clear we have expressly provided that the bounty shall not in any case exceed \$100.

The next section is expressly intended to apply to the regiments which entered the service with the assurance that they would be paid as other troops. I speak of the fifty-fourth and fifty-fifth Massachusetts regiments, and the first South Carolina regiment. The Senate provide that—

All persons of color who have been enlisted and mustered into the service of the United States shall be entitled to receive the pay and clothing allowed by law to other volunteers in the service, from the date of their muster into the service: *Provided*, That the same shall have been pledged or promised to them by any officer or person who, in making such pledge or promise, acted by authority of the War Department; and the Secretary of War is hereby authorized to determine any question of fact arising under this provision.

The Committee on Military Affairs amended that so as to make it provide that—

In every case where it shall be made to appear to the satisfaction of the Secretary of War that any regiment, or any battery, or any company of cavalry, of colored troops, has been enlisted and mustered into the service of the United States, under any authorized assurance given by any officer or agent of the United States, or by any Governor of any State, authorized thereto by the President or the Secretary of War, that the non-commissioned officers and privates of such regiment, battery, or company, should be paid the same as other troops of the same arm of the service, then they shall be so paid for the period of time counting from the date of their being respectively mustered into the service to the 1st day of May, A. D. 1864.

The Committee on Military Affairs have not thought, the Department have not thought, the Senate have not thought it necessary to go back and apply this provision to all the colored troops. There are some particular regiments, batteries, or companies who entered the service under the assurance that they should have the same pay as other troops, and those we want paid. There are a number of negroes who have enlisted—I know it to be the case in Maryland—into the military service on the assurance that they would only receive ten dollars a month, and have not expected any more. But there are regiments who expect more, and which have a right to expect more. The Department, the Senate, and the Committee on Military Affairs have thought that those who had this assurance should be paid; we provide for them and no further.

The next section, which the gentleman from Pennsylvania [Mr. STEVENS] thinks more objectionable than any other, provides that

There may be reserved, at the discretion of the Secretary of War, and under such regulation as he may prescribe, a portion of the pay of any colored soldier, not exceeding in any case more than one third thereof, to be applied to the support of the family of such soldier, or of other near relatives dependent on him for support.

The gentleman from New York [Mr. GANSON] in this discussion, thought that that was in the pending amendment from the Senate. He was led into the error, I presume, by hearing that it was in the bill reported from the Committee on Military Affairs of the House. The reason which induced the committee to report that as a modification of this section of the Senate is simply this: while there are a number of colored soldiers who have enlisted in Massachusetts and other free States, and who are able to take care of the money they may receive, there are large numbers who have been recruited in the slave States who are careless, improvident, or so situated that it is thought necessary in their absence that their families should be looked to, and that a portion of their pay should be reserved for that purpose. It is for a guardianship over that class of colored soldiers who come to us frequently from plantations. It is not a subtraction from their pay, but an application of a portion of it for the benefit of their families, which application they are not able to make themselves.

Now, sir, the first question is upon the amendment to the first section to strike out "January" and insert "May," and I shall need make no further explanation when the other questions come up in the bill.

Mr. STEVENS. Will it be in order by general consent for the gentleman to move what he refers to as a substitute for what was reported from the Committee of Ways and Means?

The SPEAKER. It would be in order, but the amendment reported by the Ways and Means was to the eighth amendment of the Senate.

Mr. SCHENCK. Then I will move to strike out the second, third, and fourth amendments, and insert the same matter as modified by the Committee on Military Affairs.

Mr. STEVENS. What I propose is that the vote shall be taken at once upon this substitute.

Mr. J. C. ALLEN. Unless the amendments are opened to further amendments, I object.

Mr. COX. Give us a vote upon the amendment offered by the gentleman from Indiana.

Mr. STEVENS. I move, then, the previous question upon the sixth amendment of the Senate.

The previous question was seconded, and the main question ordered to be put.

The first question being on the amendment offered by Mr. HOLMAN, to strike out the word "pay"—

Mr. ANCONA called for the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the negative—yeas 52, nays 84; as follows:

YEAS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Jacob B. Blair, Brooks, William G. Brown, Chandler, Clay, Cox, Cravens, Dawson, Denison, Eden, Eldridge, Finck, Grider, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Haw, Hackett, Holman, Philip Johnson, Kernan, King, Knapp, Law, Lazaar, Le Blond, Long, Marcy, McDowell, McKinney, William H. Miller, James R. Morris, Morrison, John O'Neill, Perry, Radford, Samuel J. Randall, Robinson, James S. Rollins, Scott, Smith, John B. Steele, Stiles, Strouse, Voorhees, Wheeler, Chilton A. White, Fernando Wood, and Yeaman—52.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Bailly, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Boyd, Brandegee, Broomall, Cobb, Cole, Creswell, Henry Winter Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Fenton, Frank, Ganson, Garfield, Grinnell, Griswold, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubard, Hutchins, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Norton, Odell, Charles O'Neill, Orth, Patterson, Perlman, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Spalding, Stevens, Thayer, Thomas, Upson, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, and Windom—84.

So the amendment was not agreed to.

During the call of the roll,

Mr. McKINNEY stated that Mr. J. C. WHITE was detained from the House by sickness.

The question recurring on adopting the substitute offered by Mr. SCHENCK, which was the same as the Senate bill except that the word "January" was changed to "May," the House was

divided thereon; and there were—yeas 61, nays 61.

The SPEAKER. The Chair votes in the negative; and the amendment is not agreed to.

Mr. SCHENCK. I demand tellers upon the amendment.

Tellers were ordered; and Mr. SCHENCK and Mr. DAWSON were appointed.

The House divided; and the tellers reported—yeas 58, nays 65.

So the amendment was not agreed to.

The question recurring upon agreeing to the amendment of the Senate,

Mr. HOLMAN called for the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 80, nays 49; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, John D. Baldwin, Baxter, Beaman, Blaine, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, Cobb, Cole, Creswell, Henry Winter Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Grinnell, Griswold, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubard, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Norton, Odell, Charles O'Neill, Orth, Patterson, Perlman, Pomeroy, Price, Samuel J. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Spalding, Stevens, Thayer, Upson, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, and Windom—80.

NAYS—Messrs. James C. Allen, Ancona, Brooks, William G. Brown, Chandler, Clay, Cox, Dawson, Denison, Eden, Eldridge, Finck, Grider, Hall, Harding, Harrington, Charles M. Harris, Herlick, Holman, Kernan, King, Knapp, Law, Lazaar, Le Blond, Long, Marcy, McDowell, McKinney, William H. Miller, James R. Morris, Morrison, Noble, John O'Neill, Perry, Robinson, James S. Rollins, Ross, Scott, Smith, John B. Steele, Stiles, Strouse, Voorhees, Wheeler, Chilton A. White, Fernando Wood, and Yeaman—49.

So the amendment of the Senate was agreed to.

During the call of the roll,

Mr. ALLISON stated that Mr. KASSON was necessarily absent, and was paired off with Mr. PENLETON.

Mr. STEVENS moved to reconsider the vote by which the Senate amendment was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. STEVENS. I now call the previous question on the balance of the amendments of the Senate.

Mr. SCHENCK. I hope the gentleman will allow me to offer some amendments.

Mr. STEVENS. I withdraw the previous question long enough to say a single word. The chairman of the Committee on Military Affairs has already submitted to us what he intends as a substitute for the balance of the amendments. I greatly prefer the amendments of the Senate, and I will call the previous question and let the vote on that be a test vote between the two. We may just as well take a test vote in that way as in any other.

Mr. SCHENCK. That will be no test vote. We will all go for the previous question in order that we may get on with our business.

Mr. STEVENS. Well, as the gentleman from Ohio seems anxious to have a vote on his amendments, I suggest to him that he offer them as a whole as a substitute for the balance of the amendments of the Senate.

The SPEAKER. The only embarrassment about that course is that the Committee of Ways and Means recommend an amendment to the eighth amendment of the Senate.

Mr. STEVENS. The gentleman can move to strike out the whole of the Senate amendments, and insert his own in place of them.

The SPEAKER. Is there objection to that course being pursued?

Mr. J. C. ALLEN. I object.

Mr. STEVENS. Then I am embarrassed to know what to do.

Mr. SCHENCK. Abide by your agreement, and let me offer my amendment. There is no difficulty about that.

Mr. STEVENS. Well, sir, let the gentleman offer his amendment, and then I will call the previous question.

The seventh amendment of the Senate was read, as follows:

Sec. 3. *And be it further enacted*, That all persons enlisted and mustered into the service as volunteers under the call dated October 17, 1863, for three hundred thousand

# THE CONGRESSIONAL GLOBE.

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volunteers who were at the time of enlistment enrolled and subject to draft in the States in which they volunteered, shall receive from the United States the same amount of bounty without regard to color.

Mr. SCHENCK. I offer the following as a substitute for that amendment, to come in after the enacting words:

That any colored person enlisted and mustered into the service as a volunteer under the call dated October 17, 1863, for three hundred thousand volunteers, who was at the time of enlistment actually enrolled and subject to draft in the State in which he volunteered, shall receive from the United States the same amount of bounty as was paid to white soldiers under the said call, not exceeding in any case \$100.

Mr. STEVENS. As I do not see any difference between that and the Senate amendment, I am willing that it shall be adopted.

Mr. FARNSWORTH. I understand, if my recollection serves me, that when we passed the enrollment bill there was incorporated into it a provision that the \$100 bounty to slaves should be paid to the master.

Now, this amendment, as I understand it, provides that the bounty money shall be paid to the colored man who enlists, not exceeding \$100. I want to know whether this is to be in addition to the \$100 paid to the master, or whether it is intended to repeal that provision of the enrollment bill which provides for the payment of the \$100 to the master. If this is a repeal of that provision, I am for it; if it is an additional bounty of \$100, I am against it. I am in favor of paying the bounty to the man who enlists, and not to his master or any other man.

Mr. SCHENCK. My own impression is that this does not interfere with the existing law to which the gentleman has referred. It pays the bounty to volunteers without regard to color.

The amendment which I offer is, I think, clearer and in better shape in the first part of it than the section as it comes from the Senate, so far as the phraseology is concerned; and by distinctly specifying at the close that the bounty shall be limited to \$100, it prevents a construction by which volunteers might receive \$300 or \$402.

Mr. STEVENS. I have no objection to this amendment, and now call the previous question.

Mr. COX. Is it too late to raise a point of order on this last amendment?

The SPEAKER. It is too late.

Mr. COX. I think the amendment interferes with the existing law.

The SPEAKER. It is too late to raise the point.

Mr. MORRISON. I ask the gentleman from Pennsylvania to withdraw his demand for the previous question, in order that I may offer an amendment to the amendment.

Mr. STEVENS. No, sir; I cannot.

The previous question was seconded, and the main question ordered; and under its operation the amendment offered by Mr. SCHENCK was agreed to.

The question recurred on the Senate amendment as amended.

Mr. ELDRIDGE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 78, nays 51; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, John D. Baldwin, Baxter, Beaman, Blaine, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, Cobb, Cole, Cresswell, Henry Winter Davis, Dawes, Denning, Dixon, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Grinnell, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenekes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Norton, Odell, Charles O'Neill, Orth, Patterson, Perkins, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Schenck, Scofield, Shannon, Sloan, Spalding, Stevens, Thayer, Upson, Ethel B. Washburne, William B. Washburn, Williams, Wilder, Wilson, and Windom—78.

NAYS—Messrs. James C. Allen, Augustus C. Baldwin, Chandler, Clay, Cox, Cravens, Dawson, Denison, Eden, Eldridge, Finck, Ganson, Grider, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Holman, Hutchins, Kernan, King, Knapp, Law, Lazear, Le Blond, Long, Marcy, McDowell, McKinney, William H. Miller, James R. Morris, Morrison, Noble, John O'Neill,

Perry, Radford, Samuel J. Randall, James S. Rollins, Ross, Scott, Smith, John B. Steele, Stiles, Strouse, Voorhees, Whaley, Wheeler, Chilton A. White, and Fernando Wood—51.

So the Senate amendment as amended was concurred in.

Mr. STEVENS moved to reconsider the vote by which the amendment was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The eighth amendment of the Senate was reported, as follows:

And be it further enacted, That all persons of color who have been enlisted and mustered into the service of the United States shall be entitled to receive the pay and clothing allowed by law to other volunteers in the service from the date of their muster-in to the service: *Provided*, That the same shall have been pledged or promised to them by any officer or person who in making such pledge or promise had the authority of the War Department; and the Secretary of War is hereby authorized to determine any question of fact arising under this provision.

The Committee of Ways and Means recommended to strike out all after the enacting clause and to insert as follows:

That all free persons of color who have been or may be mustered into the military service of the United States shall from the date of their enlistment receive the same uniform, clothing, arms, equipments, camp equipage, rations, medical and hospital attendance, pay and emoluments, and bounty as other soldiers of the regular or volunteer forces of the United States of like arm of the service.

Mr. SCHENCK. I propose to offer as a substitute for the amendment reported by the Committee of Ways and Means the following, agreed upon by the Committee on Military Affairs:

That in every case where it shall be made to appear to the satisfaction of the Secretary of War, that any regiment, or any battery, or any company of cavalry, of colored troops, has been enlisted and mustered into the service of the United States, under any authorized assurance given by any officer or agent of the United States, or by any Governor of any State, authorized thereto by the President or the Secretary of War, that the non-commissioned officers and privates of such regiment, battery, or company should be paid the same as other troops of the same arm of the service, then they shall be so paid for the period of time counting from the date of their being respectively mustered into the service to the 1st day of January, A. D. 1864.

That there may be reserved at the discretion of the Secretary of War, and under such regulation as he may prescribe, a portion of the pay of any colored soldier, not exceeding in any case more than one third thereof, to be applied to the support of the family of such soldier, or of other near relatives dependent on him for support.

I propose both of those sections in lieu of the one section reported by the Committee of Ways and Means. The House has already determined to equalize the pay of the colored and the white troops retroactively, beginning on the 1st day of January last. The Committee on Military Affairs preferred that it should begin to-morrow, but the committee was misunderstood, and members seemed to think that it was not in favor of equalizing the pay. The Committee on Military Affairs did propose to equalize the pay, but beginning to-morrow the 1st of May. The House, however, has carried back the principle to the 1st of January. The Committee of Ways and Means proposes now to go still back of the 1st of January, and to pay to all colored troops enlisted in the free States the full pay given to white soldiers from the time of their enlistment. The committee does not even say, from the time of mustering-in, which is, perhaps, what was intended, but proposes to go back in all cases and pay to colored troops enlisted in the free States this full pay from the time of their enlistment. That would exclude all the colored troops enlisted in Maryland, and they would come in only under the January clause. It would exclude all the colored troops from the slave States, who would come only under the January clause.

But what the Committee on Military Affairs propose is not to go behind the 1st of January, or before the 1st of January if you please to call it so, to increase the pay of these colored troops generally, but to go back and increase the pay of those only who were enlisted with the assurance that they were to receive the same pay as white troops. It would include, as I understand, the fifty-fourth and fifty-fifth Massachusetts regiments,

the first South Carolina, and I think perhaps one battery and one company of cavalry. These are, perhaps, the only ones that were recruited upon the assurance that they should be paid the same as white soldiers, but who have not been so paid. This, then, is the distinction of the Senate in respect to the equalization of their pay. It is, perhaps, justice to the Committee on Military Affairs to say that they were all the time in favor of equalizing the pay of those in military service, and gentlemen who supposed they were not have fallen into a mistake from the fact that we considered it a matter of equal justice to all that the change in the pay of those colored troops should commence with the present time. But now, as the House has decided to go back to the 1st of January, we propose to go to no period antecedent to that time, and in this we agree both with the Senate and the War Department, except where they have enlisted upon the assurance I have suggested. Gentlemen can easily perceive into what difficulties we might be carried by going beyond that. For instance, intelligent and capable colored men have enlisted from Maryland, and there is no reason why they should not receive the same pay as those from Massachusetts and South Carolina, except that they were given the assurance when they enlisted that they should be so paid.

Mr. GANSON. I would like to ask the gentleman whether this assurance was made by the General Government or by the States.

Mr. SCHENCK. By the General Government, by officers duly authorized, or by the Governor of some State who had been so authorized by the Government of the United States.

Mr. GANSON. Does the gentleman say that the Governor of Massachusetts was authorized by the General Government to give that assurance?

Mr. SCHENCK. I understand that to be the fact. I understand that assurance to have been given upon the authority of the General Government in respect to the two Massachusetts regiments I have named, and the first South Carolina regiment. But we provide that the proof shall be made to the satisfaction of the Department that such assurances, on proper authority, were given, and that upon that assurance only shall this additional pay be given.

Mr. ELDRIDGE. I desire to inquire of the gentleman from Ohio whether there was any authority in the General Government to make these assurances, or to authorize officers in particular States to make them, and whether, if they were so made, it is not an act of injustice to discriminate against other States in that respect.

Mr. SCHENCK. I reply to the gentleman from Wisconsin, that it has been a matter of doubt whether, in view of the law for paying these troops ten dollars per month, the assurances given had any legal obligation. But, as they have been given, we propose to settle the matter by legalizing those assurances that far, but to go no further.

Mr. RADFORD. Will the gentleman name the States in favor of which it is proposed to discriminate?

Mr. SCHENCK. I have already stated that this provision will include two Massachusetts regiments, one South Carolina regiment, which was enlisted at Hilton Head, and then there is a question whether such assurances were or were not given to a battery and company of cavalry from one of the northwestern States. I have forgotten which. The other amendment to which I wish to ask attention, is a provision in regard to the application of one third of this money to be paid to these troops, under regulations to be prescribed by the War Department, for the support of their families. We propose that as a substitute for the amendment of the Committee of Ways and Means.

Mr. DAVIS, of Maryland. If I understood the amendment of the gentleman from Ohio, it meets my approval entirely, except as to that portion which proposes to retain a part of the colored troops' pay, to be expended under other



auspices than their own, for the support of their families. Now, while we are professing to put these people upon an equality, let us put them in fact upon an equality. If the colored soldier is to be paid equally with the other soldiers of the United States, let us treat him as a rational being, equally competent to take care of himself and of his family with the white soldier. I beg the gentleman from Ohio to take that portion out of his amendment, and let the equality which we propose to give be real.

Mr. SCHENCK. That can be accomplished by calling for a division of the question, taking first the vote on one section and then on the other.

The SPEAKER. The amendment is not divisible. It must be voted on as a whole.

Mr. SCHENCK. Is it not in order to move to strike out that section?

The SPEAKER. The power of amendment has gone to the fullest extent.

Mr. STEVENS. I hope that the amendment of the gentleman from Ohio will not be adopted in either shape, for this reason: the amendment proposed by the Committee of Ways and Means is simply that all free persons of color, whether living in Maryland or anywhere else, who are enlisted and mustered into the service of the United States, shall be put precisely upon the same footing with all other soldiers from the time of their enlistment. The gentleman from Ohio proposes to make a distinction between those who had no special assurance and those who enlisted under the assurance that they would be paid the same as other soldiers. That is unjust. There is no reason why those in Massachusetts or in any other State who were told what they should get shall be allowed this amount, while others enlisted without any assurance shall get a less amount.

Besides that, it puts the War Department to the trouble of inquiring in each case what was the assurance of the recruiting officer. The whole thing is complicated and impracticable. In reference to the "contrabands," while we increase their pay from the 1st of January, we consider their freedom as an offset to the bounty. We include all freemen as entitled to bounty, and to be paid from the time they were mustered into the service.

I hope that the gentleman's amendment will be voted down, and that we will do justice throughout. I hope that the amendment of the Committee of Ways and Means will be adopted, and then the amendment of the Senate as amended concurred in.

Mr. DAVIS, of Maryland. I ask the gentleman from Ohio to withdraw the last resolution for the present.

Mr. STEVENS. I must call for the previous question.

Mr. SCHENCK. The difficulty is that many members vote for an increase of the pay of the colored soldiers provided a portion will go to their families.

Mr. STEVENS. I insist on my demand for the previous question.

The previous question was seconded, and the main question ordered.

Mr. SCHENCK's amendment was disagreed to.

The question then recurred on the amendment of the Committee of Ways and Means.

Mr. FINCK demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 73, nays 54; as follows:

YEAS—Messrs. Alley, Allison, Ames, Arnold, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Boyd, Brandegee, Broomall, Cobb, Cole, Creswell, Henry Winter Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Eckley, Eliot, Fenton, Frank, Garfield, Grinnell, Higby, Hooper, Horchies, Asahel W. Hubbard, John H. Hubbard, Hubbard, Jencks, Julian, Kelley, Francis W. K. Klogg, Orlando Kellogg, Leach, Longyear, Marvin, McBride, McClurg, McDowell, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Norton, Charles O'Neill, Orth, Perkins, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Seafield, Shannon, Sloan, Spalding, Stevens, Thayer, Upson, Elihu B. Washburne, Williams, Wilder, Wilson, and Windom—53.

NAYS—Messrs. James C. Allen, Alcona, Anderson, Augustus C. Ballwin, Jacob B. Blair, Brooks, William C. Brown, Chandler, Clay, Cox, Cravens, Dawson, Elda, Eldridge, Frank G. Garrison, Grider, Griswold, Hobb, Harding, Harrington, Benjamin G. Harri, Charles M. Harris, Herick, Holman, Patrick Johnson, Kennan, King, Knapp, Law, Le Blond, Long, Marcy, William H. Miller, James R. Morris, Monison, Noble, John O'Neill, Perry, Radford, Robinson,

James S. Rollins, Ross, Scott, Smith, John B. Steele, Stiles, Strouse, Voorhees, Whaley, Wheeler, Chilton A. White, Fernando Wood, and Yeaman—54.

So the amendment was agreed to.

During the vote,

Mr. ROBINSON asked leave of absence for his colleague, Mr. J. C. ALLEN, for two weeks from Monday next.

Leave was granted.

Mr. RADFORD asked for leave of absence for Mr. WINFIELD for a week from to-day.

Leave was granted.

Mr. JOHNSON, of Pennsylvania, stated that his colleague, Mr. COFFROTH, was detained from the House by sickness in his family.

The vote was then announced as above recorded.

The Senate amendment as amended was then concurred in.

The next amendment of the Senate was read, as follows:

And be it further enacted, That the same premium shall be allowed for each colored recruit now mustered or hereafter to be mustered into the service of the United States as is or shall be allowed by law for a white recruit: *Provided*, That the Secretary of War shall give his assent to the same.

Mr. STEVENS. That is in another bill.

The amendment was non-concurred in.

Tenth amendment:

Sec. 6. And be it further enacted, That the enlistments hereafter made in the regular Army of the United States during the continuance of the present rebellion may be for the term of three years.

The amendment was agreed to.

Eleventh amendment:

Add to the title of the bill the words "and for other purposes."

The amendment was agreed to.

The SPEAKER. The amendments of the Senate are all disposed of.

GAS-LIGHT COMPANY OF THE DISTRICT.

Mr. FENTON. I ask unanimous consent to introduce, for the purpose of reference merely, a bill to extend the time for opening the books of subscription to the capital stock of the Union Gas-Light Company of the District of Columbia, and for other purposes.

Mr. DAWSON objected.

Mr. DAVIS, of Maryland. I move that the House take a recess until half past seven o'clock this evening, for debate only.

Mr. COX. I move that the House adjourn.

The motion was not agreed to.

The motion of Mr. DAVIS, of Maryland, was agreed to.

The House accordingly took a recess until half past seven o'clock, p. m.

EVENING SESSION.

The House resumed its session at half past seven o'clock.

THE REBELLIOUS STATES.

The SPEAKER. The House resumes the consideration of the bill in regard to the rebellious States, upon which the gentleman from Pennsylvania [Mr. THAYER] is entitled to the floor.

Mr. THAYER. Mr. Speaker, our experience, in the solution of the political problems which have arisen out of the war, should teach us at least this lesson, that however great at first sight may appear to be the difficulties which confront us, a wise, prudent, and patriotic use of the powers delegated by the people of the United States to the national Government is sufficient to overcome them. When the war broke out, we were immediately encompassed by a multitude of new, strange, and difficult questions, all of them growing out of the peculiarities of a political system for the most part new in the history of man, and for which no exact precedent or parallel had existed in the experience of the world. This system rested upon a written Constitution at once so complex in its structure, yet so simple in its practical operation, that to this day it has not ceased to perplex the statesmen and politicians of the Old World, who, accustomed to more arbitrary forms of government, were unable to comprehend entirely a system presenting all the features of a great and powerful nationality, yet embracing within itself, for the purposes of local government, thirty-four subordinate States, each with its three departments of government modeled in exact accordance

with their great pattern, and all, until the rebellion, moving in harmonious action with the supreme national sovereignty, and sending to it, as rivers send to the sea, their combined strength and power. Sir, the history of the human race does not exhibit any monument of ingenuity at all comparable with this great framework of American political society, which, notwithstanding its magnitude, the extent of its operations, its complicated arrangements, and the greatness of the resources it commanded and of the power it wielded, yet rested upon the shoulders of the people as lightly as the atmosphere which they breathed. It was a law of necessity that when traitors applied the torch to a portion of this great and beautiful structure, much ruin should ensue, and that much perplexity should be felt in putting out the conflagration which their disappointed ambition had kindled, and in rebuilding the waste places which their insane fury had destroyed. When the ruin is repaired and the edifice rises again before the eyes of the nations in renovated splendor, the loyal people of this country will demand that those persons shall not again pass its protecting portal or enter its sacred precincts until they are purged of their treason, have cast off their political vices, and given bonds for our future security.

From the beginning it was apparent that there existed in this country a school of politicians whose principles were hostile to the perpetuity of our system, and whose favorite dogma of State sovereignty was absolutely inconsistent with the existence of the national Government. The baneful influence of these principles was foreseen by the great men who were principally instrumental in the formation of the Constitution and who labored to protect it against them. Therefore it was that Hamilton declared: "A national Government ought to be able to support itself without the aid or interference of the State governments, and therefore it is necessary to have full sovereignty." And therefore it was that Madison exclaimed: "I am for a national Government, though the idea of Federal is, in my view, the same," and on another occasion when he declared, "I apprehend the greatest danger is from encroachment of the States on the national Government. This apprehension is justly founded on the experience of ancient confederacies, and our own is proof of it." Therefore it was that the fathers of the Republic in making a Constitution, made, as the result of this war will demonstrate, not a league between States, but a Government for the American people; a Government which exists not by the consent of the sections but by the will of the majority of the whole people; which makes laws not for States but for a nation, and whose authority passes over State lines with as little notice of them as the winds which blow across them. The idea of State sovereignty as understood by the school of politicians referred to is fundamentally opposed to the Constitution of the United States, and as inconsistent with it as the proposition that in the material world two different substances can occupy in space the same position at the same time.

But from the foundation of the Government to the present time this pestilent heresy has notwithstanding had its disciples and propagandists. When the Democratic party, in the convention of 1850, adopted the resolutions of 1798, which affirmed the right of a State to interpose its authority against the acts of the United States, (which is the very germ of secession,) it became apparent that the time must come when this false principle must grapple in deadly conflict with the true theory of the Government, and one or the other of them perish in the encounter. That time has come, and the war which now desolates the land is the legitimate offspring of this pernicious error. I know, sir, how much the abominable institution of human slavery had to do with the origin of the war. I know that in our present miseries we but realize those fearful apprehensions expressed by Mr. Jefferson in his Notes on Virginia, when he exclaimed, "Indeed, I tremble for my country when I reflect that God is just." Slavery was undoubtedly the proximate cause of the war; nevertheless it was only its foster-mother. It was born of State sovereignty, though suckled into strength and vigor by this monster of cruelty. Indeed the parent itself was chiefly indebted to the same sustenance for the danger-

ous proportions to which it grew, for slavery encouraged and exalted it as the necessary bulwark of its own existence. Hence in the southern States this doctrine of State sovereignty has for the last thirty years been a favorite idea, and has come to be a principle so generally believed in that the people of those States have not hesitated to cast off their allegiance as they would a worn-out garment, and at the command of a few political demagogues to precipitate the country into the horrors of the present civil war.

The growth of this idea in the southern States kept pace with the rapid corruption of the public sentiment upon the subject of slavery. As slavery was at first humble, then apologetic, then respectable, then justifiable, then necessary, then a blessing, then divinely appointed, then ambitious, then aggressive, then domineering, then insulting, then rebellious, so the doctrine of State sovereignty was at first a political theory, then an active principle, then a political dogma, then a party war-cry, then a conspiracy against the Government, then a usurping power, then an armed rebel and public enemy. As slavery impaired the moral sense of the people so State sovereignty corrupted their political faith; and their combined influences destroyed their loyalty to their country and drove them into the desperate war which they now wage against it. Both evils must be forever expiated before the country can enter again upon a career of permanent peace and prosperity. The bill now before the House, while it aims to extinguish forever one cause of the existing rebellion, has for its chief object, as I understand it, the vindication of the national authority and the assertion of its perpetual sovereignty; and for this reason should command the support of every man who believes in human liberty and desires that his children should not be left without a country, without a Government, without a future.

The extraordinary subserviency of the Democratic party of the North to the pro-slavery doctrines of the South, and the controlling power which the representatives of the latter obtained over the former—a power which was a reproach to free labor and a scandal to the principles of democratic Government—were mainly attributable to the assiduity with which southern politicians propagated this destructive doctrine of State sovereignty, and its final adoption by the Democratic party. Having committed itself to this fatal heresy, it followed blindly the path of its southern leaders until in the beginning of the year 1861 its northern adherents found themselves standing upon the edge of rebellion and civil war, and invited by those who had led them thither to descend into its fiery gulf. The deceived and betrayed masses who had followed its fortunes in the North drew back with horror and declared their determination to maintain the integrity of their country at all hazards; but even then, in that hour of supreme agony in which the destinies of the country trembled in the balances of fate, the recreant voice of their President was heard reasserting this false doctrine amid the recent ruin which it had made, and declaring that the Constitution conferred no power upon the Government to coerce "a sovereign State."

Sir, no power of language at my command can fitly describe the great treachery which was then committed against the American people, and I forbear, for the man, although he still moves among living men, has really passed away. Dante, in his journey through hell, relates that as he passed through that dismal region, in which he beheld traitors frozen up in swathes of ice, their eyes incrustured with their frozen tears as in a crystal visor, he met the friar Alberigo. "What!" exclaimed Dante, "art thou no longer, then, among the living?" "Perhaps I appear to be," answered the friar, "for the moment any one commits a treachery like mine his soul gives up his body to a demon who thenceforward inhabits it in the man's likeness. Thou knowest Branca Doria who murdered his father-in-law, Zanche? He seems to be walking the earth still, and yet he has been in this place many years." "Impossible!" cried Dante; "Branca Doria is still alive; he eats, drinks, and sleeps like any other man." "I tell thee," returned the friar, "that the soul of the man he slew had not reached that lake of boiling pitch in which thou sawest him ere the soul of his slayer was in this place, and his body occupied by a demon in its stead."

The loyal people of the North of all parties rejected with scorn the proposition that the Government of the United States had no power to compel obedience to its laws, and to preserve itself from disintegration and destruction. The answer of the people was like the roar of many waters, revealing the fact that the instinct of nationality was as deeply seated in the hearts of the American people as that of life and self-preservation in the bosom of human nature. The doctrine of State supremacy, culminating as it did in treason and rebellion, was exhibited in all its monstrous deformity, and people who had watched its tendencies and reflected upon its disastrous consequences began to hope that from the North at least it had disappeared forever. But as the war progressed, and party spirit, freed from the temporary paralysis which it had suffered, began again to display itself, with it reappeared the old enemy of our national existence; and this pernicious doctrine is now, and for the last two years has been, the chief weapon in the hands of the party opposed to the Administration with which it carries on its opposition to the measures which are necessary for the successful prosecution of the war.

This was their principal argument against the conscription law; and cannot better illustrate the subject than by a brief reference to it. Their desire to make use of their favorite dogma of State sovereignty against that measure led them into the greatest absurdities. No proposition can be plainer than this, that every citizen owes military service to his country, if it be necessary to defend it against foreign invasion or internal rebellion. From the times in which the Roman consul or prætor was accustomed every year to assemble in the Campus Martius all the citizens who were bound to participate in the formation of the four legions which they annually raised, down to the present time, this principle has been held by every organized political society. The works of Montesquieu, Puffendorf, Grotius, Locke, Vattel, and all the writers on Government perfectly attest it. Indeed no nation can permanently exist without it. Carthage alone among ancient States disregarded it, relying for support upon levies drawn from Africa, Spain, Gaul, &c. The penalty she paid for it was, as every school-boy knows, the loss of her liberty and her existence. The duty of personal military service by the citizen to the State is recognized by the constitution of almost every State in this Union. The raising of armies by compulsory draft was a thing perfectly well known in the history of the several States and of the Revolution. The plan of General Knox, Secretary of War, submitted to Congress by General Washington in January, 1790, contemplated as liable to service all persons between the ages of eighteen and sixty; and stated explicitly that, "every man of the proper age and ability of body is firmly bound by the social compact to perform personally his proportion of military duty for the defense of the State." (7 Niles's Register, p. 296.) Here is a contemporaneous construction of the Constitution adopted by General Knox, and approved by General Washington.

Rhode Island was the last State which ratified the Constitution. On the 29th May, 1790, their convention proposed certain amendments to the Constitution, one of which was as follows:

"No person shall be compelled to do military duty otherwise than by voluntary enlistment except in cases of general invasion, anything in the second paragraph of the sixth article of the Constitution, or any law made under the Constitution, to the contrary notwithstanding."—*Elliot's Debates*, 371.

Another contemporaneous exposition, the force of which cannot be depreciated. On the 17th October, 1814, Mr. Monroe, then Secretary of War, with the approbation of Mr. Madison, proposed to Congress a plan for a compulsory draft, (7 Niles's Register, 137,) which no doubt would have been adopted and carried into effect had not peace soon ensued thereafter.

Indeed, I believe there is but one American document which can be cited as authority against the power of Congress to compel military service by a draft; and that is the resolution of the Hartford Convention in 1815. (7 Niles's Register, 307.) Yet, in the face of history, in the face of the express grant of power in the Constitution, and of the construction, both contemporaneous and subsequent, of that grant, and in the face of the sol-

emn decision of the Supreme Court of the United States in *Gibbons vs. Ogden*, (9 Wheaton, 196,) that all the powers vested by the Constitution in Congress are complete in themselves, and may be exercised to their utmost extent, and that there are no limitations upon them except such as are prescribed in the Constitution, we have heard gentlemen upon the other side of this House, day after day, denouncing the draft as an invasion of State sovereignty. Are they ignorant of the history of their own country and of its public men? If not, they must be aware that Mr. Calhoun himself—to them *hæd ignobile nomen*—advocated the proposition that Congress should raise an army by a draft, expressing his views upon that subject in his speech in the House of Representatives January 31, 1816, on the motion to repeal the direct tax, as follows:

"Although militia freshly drawn from their homes may in a moment of enthusiasm do great service, as at New Orleans; yet in general they are not calculated for service in the field until time is allowed them to acquire habits of discipline and subordination. On land your defense ought to depend on a regular draft from the body of the people. You will thus in time of war dispense with the business of recruiting, a mode of defending the country every way uncongenial to our republican institutions. I know that I utter truths unpleasant to those who wish to enjoy liberty without making the efforts necessary to secure it. Her favor is never won by the cowardly, the vicious, or indolent."—*Calhoun's Works*, vol. 2, p. 146.

Some of the most violent of the denunciations of that measure have come from gentlemen upon the other side of the House from the State of New York, commencing with the gentleman from the fifth district of that State, [Mr. FERNANDO WOOD,] who stigmatized the war for the preservation of the Union as a "hellish crusade of blood and famine," and ending with the gentleman from the thirteenth district, [Mr. STEELE,] who in his recent speech upon the national currency bill made the measure referred to the subject of fresh attack, denouncing it as odious, unnecessary, and oppressive, and as calculated to subvert the liberties of the people, and centralize power in the General Government.

Have these gentlemen forgotten the history of their own State? If they have not, they must remember that the first constitution of New York, made in 1777, declared "that it is the duty of every man who enjoys the protection of society, to be prepared and willing to defend it." They must also remember that during the second war of independence, Mr. Van Buren introduced into the Senate of that State a bill to raise twelve thousand men by drafting, to be placed in the service of the United States, which, after being amended became a law on the 24th October, 1814. It was stigmatized as a conscription bill by the opposition of that day, but it was approved by Governor Tompkins—who was twice elected Vice President of the United States—and sustained by the judges of the Supreme Court. Nor can I suppose them to be ignorant of the fact that the laws of the State of New York expressly recognize the constitutional right of the national Government to raise an army by a draft; the act of 1854, passed before the war, enacting, that "all able-bodied white male citizens between the ages of eighteen and forty-five years, residing in this State, not exempted by the laws of the United States, shall be subject to military duty," (Act 1854, ch. 398, tit. 1, sec. 1, 1 Rev. Stat., 715,) and the same act requiring the assessors to include in their assessment rolls the names of all persons between the ages of eighteen and forty-five years "liable to be enrolled by the laws of the United States," (Id., 723,) and the same act yet more plainly declaring that "whenever the President of the United States or the Commander-in-Chief shall order a draft from the militia for the public service, such draft shall be made in the following manner," which manner is then expressed. (1 New York Rev. Statutes, 744.)

But, Mr. Speaker, I must beg pardon of the House for this digression in regard to the conscription law. My object in it has been to show the errors and absurdities into which men are driven by this phantom of State sovereignty. It might be illustrated by reference to the opposition which has been made to other measures of great importance, especially by that made to the national currency bill, which many intelligent gentlemen upon this side of the House refused to support unless the capital of the national banks should be subjected to State taxation, which, to say noth-

ing of the inequality which such a provision would introduce, would place the very existence of institutions created by the national Legislature and intended to be entirely under its control and regulation at the mercy of political parties in thirty-four different Legislatures. Indeed, scarcely any national measure of importance can be started here that is not destined to be fatally crippled in its usefulness or absolutely turned into stone by this Medusa's head. The cry of centralization and consolidation is raised by shallow minds against everything of an exclusively national character which originates here. From a certain school of theorists and politicians this is to be expected. Their political cogitations revolve upon an axis but have no orbits. The axis is State sovereignty, around which they spin continually but make no progress. Sir, the people of the United States have by their Constitution made themselves a nation, and such, by the blessing of God, they intend to remain. It is time that their Representatives should comprehend this great fact. There is in this country but one sovereignty. That resides in the people of the United States in their collective capacity; and of that sovereignty there is but one organ, and that organ is the Government of the United States, consisting of its three factors, Congress, Judiciary, and Executive.

If any one shall ask what this discussion has to do with the present measure before the House, I answer, much. For in this great fact, that in the national Government alone is deposited the sovereignty of the people, lies the solution of the difficulties which lie in our path in rebuilding that portion of our inheritance which the rebellion has laid waste. The powers delegated by the people of the United States to the national Government are sufficient for the great work we have before us.

That the time has come in which Congress in the exercise of the great powers conferred upon it by the people should settle and authoritatively declare the terms and conditions upon which the people of the rebellious districts should be restored to their State privileges and resume their just relations to the national Government does not admit of doubt. Large portions of territory have been wrested from the rebellion. Order, law, and the national authority must be reestablished in those regions. The people who inhabit them, or at least such of them as are willing to return to their allegiance to the United States and to acknowledge its sovereignty and obey its laws, should be restored with the least possible delay to the privileges of representative Government. Humanity demands this; the pacification of the country demands this; the principles of our political system demand it; justice, expediency, and the welfare of the whole country alike demand it. Passing events admonish us that we can no longer delay the exercise of our powers in this respect without justly subjecting ourselves to the charge of neglecting both our own duty and the highest interests of the people. Here alone resides the power. Congress alone can enact the laws which are to reconstruct the political societies in which the fundamental principle of loyalty to the national Government and obedience to its laws and respect for its authority have been obliterated by the violence of rebellion. The President of the United States cannot enact these laws, and it is in my opinion a reproach to Congress that by its inaction up to the present time it has rendered it necessary that the national Executive should be obliged by a sense of obligation to the public welfare to resort to temporary expedients for the preservation of public order and the assertion of national supremacy in those districts and States which the valor of our soldiers has redeemed from the insulting domination of the rebel army.

With regard to what has been done, the pressing necessities of the case demanded executive action in the absence of action here. The President would have violated his obligations to the country if he had neglected to reestablish the authority of the United States in the regions which have been recovered from the public enemy, and to restore to the people of those regions the protection of the United States, and of a temporary government administered by those who represented its authority and would see that it was enforced and respected. What has been done in that respect by the President I believe to have been well done, wisely done, and patriotically done, and to have been demanded alike by the

necessity of the case and for the welfare of the Republic. But it is the duty of Congress to put an end to the necessity which existed for executive action, and by the exercise of that exclusive authority over the subject which belongs to it by the Constitution to relieve the Executive Magistrate as speedily as possible from any further action or responsibility in the matter. To us, and to us alone, belong the duty and the responsibility of declaring the terms upon which the communities which have revolted from the United States, and which have by the success of our arms been again subjected to its authority, shall be restored again to the privileges and immunities which belong to American citizens. To us alone belongs the making of the laws which are to accomplish this great object, and which are to place upon secure foundations the future authority and prosperity of the United States. Let us no longer delay the performance of this great duty, but enter upon it with a determination so to build that this great house of freedom shall not again be undermined or shaken by the evil influences which have caused the present disaster.

Sir, we have heard much said upon the question whether the rebel States are now in or out of the Union. Much ingenuity and many arguments have been expended upon it. But in my judgment such discussions are as useless as those in which some ancient lawyers have indulged in their efforts to determine where the remainder is in case of a lease for life remainder to the right heirs of J. S. then living; whether it is in abeyance, *in gremio legis*, or *in nubibus*. There are well-founded objections to its being in either place, and so there may be to any direct answer given to the question with which gentlemen have exercised their intellectual faculties. This has been a favorite question with the gentlemen who sit on the opposite side of this House, and they have built lengthy arguments and wasted much breath upon the answers to it so obligingly given on this side. If it is answered that the rebel States are in the Union they immediately respond that they are then entitled to all the advantages of that position, and to the protection of the Constitution, and that their State organizations have been unaffected by the rebellion. If it be answered that they are out of the Union they immediately demand by what authority, then, we can treat them as rebels. It matters not in either case that the conclusion drawn is based upon a bald and familiar fallacy. In both cases the answer is alike favorable to their friends.

Whatever difficulties such minds may have in regard to the present condition of the rebel States, this much is plain to all who deny the right of secession and who believe in the right of the people of the United States to preserve their Government from destruction and their country from dismemberment, namely, that both the territory which has been subjected to rebel control and the people who inhabit it are lawfully subject to the authority of the United States, and must be made to respect and obey it. The question before us is, in what manner and upon what conditions the people of those States may, as rapidly as by the blessing of God upon our arms the national sovereignty is reestablished in those regions, be restored to the right of self-government and of representation in the national Legislature.

That in doing this it is our duty to adopt such safeguards as may be necessary to protect the country against future outbreaks of a similar character, to insure permanent peace and tranquility, and to settle upon secure foundations the authority of the national Government, would seem to be a proposition too clear for debate. If we neglect these precautions we are false to the great trust which the people have reposed in our hands. Much has been said from time to time in regard to the subjugation of the South, and it has been made the theme of much party clamor. But I am not aware that either the Government or any one else has proposed more in this respect than to reestablish the authority of the United States in that portion of its domain, and to exact such conditions from its people, as preliminary to their restoration to the full rights of citizenship, as may be necessary to the safety of our republican system. These conditions are to be prescribed by the representatives of the people, assembled in the Congress of the United States. If to be restored to the national protection, to be subjected to the

national authority, to enjoy the privileges of American citizenship and the blessings of representative government, upon conditions entirely compatible with personal and political liberty, but involving unqualified allegiance to the supreme authority of the Union and the total extirpation of the very root of the rebellion—if this be subjugation, then they must pass beneath the yoke.

To reward the perpetrators of this great crime against civil liberty by welcoming them back to the Union without securities for the present or pledges for the future; to place the destinies of the country in the hands of their representatives without any safeguard against the repetition of the treason which has desolated the land with fire and sword, which has created burdens under which our posterity must toil for generations, which has filled a continent with groans of anguish, and made our sufferings the jest and mockery of every despot in the world—this would indeed be a folly unequalled in the history of time, a crime against the living and the dead. Every soldier who has given his life for this great cause, from Big Bethel to Gettysburg, and who died that his country might live, would upbraid us from his heroic grave for an infidelity so great as this. No, sir. They who have at such great cost saved the present demand that we should make the future secure. All the sufferings and sacrifices of the past, all the struggles of the present, all the hopes of the future implore, nay, demand of us that as the rebel armies are forced back, and the territory of the Union is reclaimed from the rebellion, such conditions shall be imposed and such measures enacted that the peace which is attained shall, in its glory and its permanency, be proportioned to the self-devotion, the sufferings, and the heroism by which it was achieved. If we fail in this we fail alike in our duty to our country and our gratitude to those who have saved it from disruption, debasement, and perpetual war.

Upon what conditions, then, if successful in the present struggle, must we insist, as preliminary to the reorganization of local governments in the rebel States in accord with the Government of the United States? There are three which in my opinion are indispensable to our self-respect and our future security; and it is because these three conditions are contained in the bill now before the House that I shall give it my support, content to abide by such alteration in the details of the measure proposed as Congress may in its wisdom see fit to adopt, while these conditions, which I regard as the essential features of any plan for the restoration of the rebel States to their proper position in the American Union, are preserved:

1. Any governments there organized must be based upon the principle of unconditional and perpetual loyalty to the Government of the United States, subordination to its power, and submission to its Constitution and laws.

2. The institution of slavery in those States must be totally extirpated and forever prohibited by their fundamental law.

3. Compulsory repudiation of the rebel debt.

The local governments in the rebel States have been violently driven from their natural and proper orbits and brought into destructive collision with the national Government around which they have heretofore peacefully revolved. All their powers and resources have been perverted from their true purposes and concentrated in the unnatural war which they have waged against the Government of the United States. The prosecution of that war has been the chief object of their legislation for the last three years. They have attempted not only to break that bond of eternal allegiance which bound them to the General Government, but to substitute for it an alliance with another and hostile government, the creature of their own treasonable revolt, and supported it by their governors, their representatives, their judiciary, their supplies, their money, and their men. They have in their legislative acts, in the proclamations of their governors, in the judgments of their courts, by every public officer in their service, and by every function at their command, forsworn their allegiance to the United States, banished its officers, seized its property, reviled its sovereignty, and made war upon its loyal citizens. Every officer, civil and military, in their service is a sworn enemy of the United States.



Are governments constituted in this manner, thus administered and thus officered, to be received into the bosom of the Union, unwashed of their great crime and prepared to commence again upon the first favorable opportunity their schemes of disunion and civil war? Have all the sacrifices to which we have submitted been made for this? Is it for this that our soldiers have shed their blood and given up their lives upon a hundred battle-fields which their courage and constancy have made immortal? Is it for this that we have submitted to foreign insult, to domestic feuds, to domestic sorrows, to pecuniary distress and all the cloud of horrors through which we have passed? History presents no example of a political blindness and infatuation greater than that which such a course of action would involve. The safety of the country, its future repose, the continuance of the Union, and the firm establishment of our political system imperatively demand that in the reorganization of local governments in the rebel States the foundations of such governments must rest upon the principle of submission to the Constitution and laws of the United States. This must be the chief corner-stone of the whole structure. Any other will be but a foundation of sand, which will again imperil the whole fabric of American liberty.

In order to accomplish this effectually this principle must be incorporated in their organic law and assume the character of an authoritative declaration by the people themselves. The seventh section of the bill now before the House contains a provision for this purpose, and is in my opinion a necessary condition of any plan for the proposed object. It is also necessary to guard the elective franchise and the privilege of holding office in those States against the intrusion and treachery of all who have in any sense been leaders in the present rebellion. For this purpose prudence requires that all who have held office under the pretended rebel government should be excluded from these privileges. It does not, however, appear to me to be necessary to exclude all who have held office under the State governments. The chief officers of those governments, such as governors and other high officers, all of whom have been chief actors in the rebellion and have promoted it by every means in their power, should be excluded; but I do not believe that either necessity or sound policy requires the exclusion of the large number of ministerial subordinates who have participated in the administration of local affairs, who have not been leaders of the rebellion, and who are willing to return to their allegiance to the United States.

I would not increase unnecessarily these restrictions. I would not extend them one whit beyond what is absolutely required for the public safety. I for one am willing to extend to the people of those States, upon their returning to their allegiance, every benefit and of restoring to them every right which is consistent with the permanent reestablishment of the authority of the United States. It is our duty, in my opinion, to make the path to this object as easy as possible. Any such path, containing the necessary conditions for this purpose, will to most of them appear at first rugged and humiliating. This is the necessary result of their failure to overthrow the Government of the United States. But it would appear to me to be wise and just and humane and politic to place no unnecessary difficulties or obstacles in the way of an early and complete pacification of the whole country. For these reasons I would prefer to see some modifications of this feature of the seventh section of the bill. I believe that every essential purpose would be answered by excluding from office and the elective franchise all officers of the pretended confederacy, and such high officers of State, under the local governments, as have been chiefly instrumental in aiding and abetting the rebellion. To all other classes of the free male white population of these States I would confidently surrender the privileges of the elective franchise and the same rights of citizenship which we ourselves enjoy, upon their laying down their arms and returning to their true allegiance. Nothing, I believe, could be further from the wishes of the people of the United States than to deprive the masses of the southern people, who are willing to return to their allegiance to the Government of their fathers, of one solitary right which they themselves enjoy.

The compulsory repudiation of the rebel debt, by which I mean all debts of the pretended confederate States and State debts contracted solely for the prosecution of the war against the United States, is a measure which, in my opinion, is demanded on the part of the United States, if successful in the present struggle, not only by a just self-respect, and as a proper and necessary vindication of its own sovereignty, but in order that it may remain a lasting monument of the wickedness and folly of the present rebellion. It is also a just and merited punishment to be inflicted upon those who have lent substantial aid to the rebellion; and it has the further merit that it reaches with its retributive justice those foreign speculators in our sufferings who, at a safe distance, have wickedly connived at, encouraged, and aided in the attempt to break in pieces our nationality and to destroy our free institutions. This feature of the bill meets with my entire approval. I would, not, however, in doing this unsettle any State debt which may have been contracted for the purpose only of carrying on the civil affairs of the State, and which had not for its object the prosecution of the war or the strengthening of the pretended confederacy. I would therefore prefer to see the third condition specified in the seventh section of the bill so modified that it should declare that no debt of the pretended confederate States, and no debt contracted by the State for the purpose of prosecuting the war against the United States or of giving aid to its enemies, shall be recognized or paid by the State.

That slavery must, as a necessary consequence of this war, forever disappear from the American Republic I believe to be a conclusion long since reached by a large majority of the loyal people of the United States. So far as relates to the border States, which have nobly stood by their allegiance to the national Government, I am not in favor of any interference with it, because under our present Constitution we have no such right of interference, and honor and duty alike require that we should refrain from such interference. I am in favor of leaving to the people of those States the entire control and management of this question. I fully believe that they will find it for their interest and welfare at no great distance of time to make their institutions in this respect correspond with those of the free States. The recent action of the people of Maryland upon this subject, by which, on the 6th day of April, they declared themselves by a large majority in favor of immediate emancipation, and forever destroyed the political significance of Mason and Dixon's line, gives assurance, I believe, of what will be the ultimate action of the people of all the border States in reference to this matter. But however this may be, I regard it as a question entirely for themselves; and while the Constitution remains as it is and they adhere steadfastly to their allegiance I believe it to be our duty to abstain from any interference except it be at their own request by way of aiding them in the great reform.

But as regards the rebel States I hold an entirely different opinion; and this leads me to answer the interrogatory of the honorable gentleman from Illinois [Mr. J. C. ALEX.] when he asks from whence Congress derives the power to frame these provisions and to dictate what shall be the character of the constitutions and laws of those States. It is certainly a most singular and extraordinary doctrine which seems to be held by some members of this House, including the gentleman from Illinois, that the people of the States who have thrown off all the restraints of the Constitution, who have abjured its ties, and who have for three years waged war for the purpose of overthrowing it, should be entitled to demand its protection while engaged in armed hostility to it. It is as if an alien enemy who has broken and trampled upon all existing treaties should demand in the midst of flagrant war their enforcement in his own favor. Sir, the people of those States have placed themselves beyond the pale of the Constitution. They have no right to appeal to one of its provisions. They are estopped by their own acts from claiming the protection of a single line in that instrument. They have placed themselves toward this Government in a state of war, and we have a right to use against them all powers which we might lawfully

use against any belligerent, and among those powers is the right to demand, if successful in that war, whatever conditions this Government may choose to impose for its own safety and security hereafter. This is a part of the law of nations.

By what right did the allied Powers restore Louis XVIII to the throne of France after the defeat of Bonaparte? By what right did Sardinia, more recently, annex Lombardy to its dominions after the defeat of the Austrians at Solferino? It belongs, sir, to the successful belligerent to dictate the terms of peace; and when those terms are not only consistent with humanity but imperatively demanded for our own security, who shall arraign us for demanding them? By the laws of war we have the right to emancipate the slaves of our enemies, and by the law of nations we have the right to demand of a defeated belligerent such changes in his own political condition as are necessary for our own protection. These are principles which have been declared and acted upon by all nations. They are principles which have been substantially asserted by the Supreme Court of this country in its decision in the prize cases. (2 Black's Rep.) They are principles which are now, for the first time, contravened in argument here. Nay, they are principles which are acknowledged and publicly avowed by the rebels themselves. Yet we are told here, that the Government of the United States has no right to impose conditions upon people who have taken up arms and waged relentless war against it; who have invaded their territory and captured their ships upon the high seas. Away with such sophistry and such empty subterfuges. The people of the rebellious States have, in the language of the Supreme Court, in the case to which I have referred, "cast off their allegiance and made war on their Government, and are none the less enemies because they are traitors." If they are enemies, then we have as regards them all the rights of enemies, and among these rights none is better established than the right, if we are victorious, to dictate such terms as regards their future political condition as may be necessary for our own safety and tranquility.

But if the gentleman is really anxious to find in the Constitution an express warrant for our proposed action he may find it not only in that clause which declares that the United States shall guarantee to every State in the Union a republican form of government, and shall protect each of them against invasion, but he can draw it also from that great reservoir of powers in the first article, which gives to Congress the right to make all laws which shall be necessary and proper for carrying into execution all powers vested by the Constitution in the Government of the United States, or in any department or officer thereof; for among those powers is a power to require the laws to be faithfully executed, and if the laws of the United States cannot be faithfully executed in those revolted districts without these fundamental changes in their condition, which changes we have also by the laws of war the right to impose, let the gentleman upon this ground satisfy his cravings for constitutional authority, and vote for this measure, which is necessary, not only for the continued and peaceful execution of the laws, but also necessary in order to preserve a perfect Union, to establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity.

[Here he hammered fell.]

Mr. HOLMAN. Mr. Speaker, I move that the gentleman from Pennsylvania have permission to proceed with his remarks.

The SPEAKER. The Chair hears no objection. The gentleman from Pennsylvania will proceed.

Mr. THAYER. Mr. Speaker, the voice of the people of the United States cannot be mistaken. They demand of us, their Representatives, that the institution of human slavery which has from the beginning been our national reproach, the fruitful source of sectional enmity and strife, the obstacle to the development of one half of our territory, the secret enemy which has for seventy years sown our vineyard with tares and brambles, which has alienated brethren of the same blood, which has proscribed education, fomented discord, encouraged opposition to our republican system, weak-

ened the ties of national allegiance, and at last arrayed itself in bloody war against the Government, shall be forever blotted out in the rebel States, and that upon its ruins shall be written a legend like that which indignant France wrote over the gateway of rebellious Lyons, "Slavery made war upon the Republic; slavery is no more!" They demand this as the right of war against the public enemy. They demand it in the name of that very Constitution which is sought here to be made its shelter and its shield. They demand it as the only adequate compensation for the sacrifices which they have made and the sufferings which they have endured. They demand it in the name of liberty and humanity. They demand it as the only pledge of future union and tranquillity. They demand it for their own peace and safety and for the repose and security of their children. Already its grim and terrible form, weakened by its wounds, begrimed with the dust of battle, and covered with the blood of brave men which has been shed in this sanguinary war, cowers and reels before the banners of the Republic. As it falls let it hear ringing in its ears the decree for its extermination pronounced here by the Representatives of the people.

Sir, I rejoice that I shall be able to say, when I go home, to my constituents, that whatever differences of opinion in regard to public affairs may prevail among the members of this House, I believe that those among them who are not true and loyal to their country at this critical moment of its existence are few in number and insignificant in influence. Greater responsibilities never rested upon the representatives of a free people than those which weigh upon us. If we perform the sacred trust which has been confided to us, with courage and fidelity, we shall receive the thanks of a grateful people, and will not be unremembered in that bright and happy future when our vast and fertile country, stretching from sea to sea, and from the frigid to the torrid zone, with her millions of rejoicing people, shall come forth from her present trials, purified and strengthened by the terrible ordeal, and put on her garments of peace again. When the storm-clouds of the present disastrous time shall have cleared away, and our country shall emerge from them clothed with new vigor, with renewed strength, and with indestructible unity, History will take up her pen, and, in the clear sunshine of that proud and prosperous day, record on her enduring tablets the names of those who were true to its liberty, its unity, and its glory. And she will also, I am compelled to add, at the same time write in her eternal record the severe and unalterable verdict of posterity against those who, without the excuse of passion or the temptation of self-interest, abandoned in the moment of her most imminent and deadly peril the country which gave them birth; who denied her great struggle for self-preservation; who would have struck from her hand the sword which she had drawn to protect her honor and her life; who sympathized with her foes, and gave them moral if not material aid; who contemplated with unconcern the threatened dissolution of the Government and the country, and whose voices were only heard in this Hall as the echoes of those of her enemies.

Mr. YEAMAN. Mr. Speaker, the bill before us is generally called the reconstruction bill. Viewing it simply in the light of the Constitution, I am unable to see our power to legislate away the laws and institutions of States, though the people of such States be in rebellion. As a measure of policy it seems to me not well to fix in advance an ideal or legislative standard to the measure of which we will feel bound to work in practice, although a restoration might forthwith appear practicable or be sought for on a different plan. Having pledged ourselves to this plan, and the fruits of the plan to those whom it purports to free, are we bound to go to this preadvanced mark, though it be through a sea of our own blood? Viewing it from the standpoint of those who desire universal abolition, it would seem to be idle and premature legislation, because without military success the law is a dead letter, and with military success under the present programme, abolition is accomplished without the law. We present the curious spectacle of legislating for a vast region which our arms cannot to-day penetrate, and while the wager of battle hangs in doubt. Here I might stop. But as we are try-

ing to mend the Government, I propose to inquire what ails the Government, and the result of the inquiry will be to show that there is and can be no reconstruction without a more thorough and fruitful military success than has yet crowned our arms; that we as a people must come out of this contest with a new and a better political education, an education having for its basis the idea that we are a nation, only being careful that the excessive rebound which secession may give the public mind does not absorb all to the nation, and obliterate the idea of local or municipal administrations without which no great empire can exist except as a despotism. It is plain that in this idea of our political situation it is immaterial what becomes of slavery as a form of labor, just so the maelstrom that wrecks it does not also wreck our free institutions. I speak plainly and earnestly about the first necessity of our political salvation. I mean the success of our arms. Without that we have lost the prize at stake in this great game. With that, so we carry the Constitution with the sword, reconstruction or restoration will come without any bill of forms and conditions for that purpose. Government will spring in full-grown beauty from the American mind like Minerva from the head of Jupiter, so soon as that mind can work free of rebel compulsion, and sees that it must work in the precincts of the Union. It hardly needs argument to show that we retard the formation of that Government, and increase the measure of blood it must cost by prescribing in advance any other conditions for it than that it must be republican in form. Moreover, I deem it not unfair to regard this bill as a link in the great legislative system embracing enlistments, emancipation, confiscation, bounty lands in the South, and that political status of the negro pointed to by the Senate bill regarding this District, and the recent bill regarding negro suffrage in Montana Territory.

I propose then, as being germane to the subject, to discuss the origin, progress, and consequences of our present troubles in the light of our institutions, more especially of democracy, African slavery, and the relation of the States to the national Government, and in the light of the great contests of parties which mediately and immediately preceded the outbreak. However remote some of these may appear, their connection is continued and regular if not direct. We are too much in the habit of considering great events by themselves, or at most only in relation to those causes visibly and presently connected with them, and often fail to discern the real causes of a great social or political revolution by failing to look far enough into the past, or deep enough into our own nature and consciences to find them. Great changes in the habits or institutions of men, though sometimes suddenly developed, are never suddenly or slightly caused. There are conspirators or leaders in all civil commotions, but men are not foolish, or unjust, or tyrants by whole populations, and we should accept some explanation of any great popular movement or convulsion more creditable to human nature than the universal falsehood or insanity of our kind. An earnest disciple of a well-known school in our politics believes in the divine ordination of servitude and the right of State secession as profoundly as the disciple of other schools believes that all men were created equal, and that the Constitution is the framework of a nationality. A fervent soul at Paris in 1791, or at Washington in 1864, confounds perfect equality with pure liberty, and then as if to deny inequality a place in all the universe, exalts human nature to a par with Deity. One decorated and worshiped a beautiful courtesan as the goddess of reason, that reason which had discovered the human race to be the only sovereign of the universe; and the perfect equality of that race its only rule of action. The latter from the same cause mistakes his theory of human existence for the revelations of divine will, and rejects all laws, human and divine, which mar his theory. It is thus the enthused democrat of the abolition school, without knowing it, makes his politics his religion, and thinks he hates slavery as a sin against the law of God, when his hate is solely because slavery is a refusal of his demand for the perfect equality of an unrestrained cosmopolitan democracy. The proper admixture of democracy and republicanism in our institutions is the highest political achievement of man. Guizot,

in his learned History of Civilization, shows that in Europe the tendency is toward the democratic equality of the individual and the concentration or centralization of power in the Government. Paradoxical as this may seem it is true; and no less so in America just now than in Europe for the last three centuries. It has been going on since the Crusades. It has been rapidly developed since the decay of the feudal system, and is to-day the chief feature in the political growths of France, Russia, and England. These tendencies may reach a crisis with us in the progress of the present revolution.

In that admirable work upon our own institutions, by De Tocqueville, it is observed that—

"The advent of democracy as a governing power in the world's affairs, universal and irresistible, was at hand." "The gradual development of the principle of equality is a providential fact. It has all the chief characteristics of such a fact; it is universal, it is durable, it constantly eludes all human interference; and all events, as well as all men, contribute to its progress." "To others it seems irresistible, because it is the most uniform, the most ancient, and the most permanent tendency to be found in history."

In this he is probably not mistaken. Governments did not begin in democracy, but in tribes, clans, castes, kingdoms, despotisms; and it is against these that "the permanent tendency" of democracy has set its current. While there have been many interruptions in all ages and countries to this general tendency of mankind toward democracy, the fact remains that it is ancient, constant, and powerful, if not irresistible. The checks it has received have been as often from its own excesses as from the successes of its rivals, absolutism, "divine right," and legitimacy as applied to crowns. Some of the bitterest woes that have cursed the world in politics and in war have followed the convulsive efforts of democracy to abolish too suddenly and too thoroughly the forms, distinctions, and prerogatives to which it is a natural enemy. The idea that it is better for men and Governments wisely to adapt themselves, their institutions and interests, to this majestic tendency of the human mind, this living demand for the equality of democracy, by a judicious accommodation to it, rather than be broken or uprooted in stiffly resisting it, has nowhere been better illustrated than in monarchical and aristocratical England, where the process has been going on for six centuries; in the baptism of fire and blood through which France passed in the attempt to accomplish it in a trice; and in the success of our own system of delegation and balances and checks in which democracy was at once demanded, adopted, restrained, and tempered. In France, where the aspiration had long been pent up and fretted by other traditions and dominant castes, its ebullition was sudden and volcanic, and then, as if alarmed at itself, it nearly as suddenly subsided into a tame submission to the forms it had overthrown. But in again accepting the form of monarchy it did not throw away its ideas, and much of the power of these remains as the fruit of the Revolution. In England the dominant castes have preserved the form of monarchy and aristocracy by slowly yielding to the spirit of democracy, which, by its constant demands, has at length become a chief if not the real governing power in the British empire.

"In the designs of God time appears an element of truth; yet to demand from a single day the definite truth is to ask of nature more than she can afford. Impatience creates illusions and ruins in the place of truth."

"To discover the law of God in society and conform it to the laws of the legislator without forestalling the truth by chimeras and time by impatience—this is wisdom; to mistake the desire for realization, and sacrifice the real to the imaginary and unknown—this is folly. To grow furious at obstacles and at nature, and to crush whole generations beneath the ruins of imperfect institutions, instead of guiding them in security from one stage of society to another—this is crime."

In our own case the question is complicated, and made more difficult to understand and control, by the fact that the democratic tendency is, besides its ordinary political effects, essaying to control the relations between the two races, dominant and servient. Our contest appears on the surface to be between a pro-slavery secession and an anti-slavery nationality. The causes are behind both. The currents that clash and contend on the surface receive their impulse from the same internal heat. This struggle is the final development or paroxysm of a disease or tendency of which other matters are only the symptoms. The cause is twofold—excessive democracy and

antagonism of race. I use democracy in the European sense of equality, which, as every student knows, does not mean liberty. I use antagonism of race to express that instinct of man that speaks on every page of the world's history, sometimes as war, sometimes as expulsion, sometimes as slavery, and sometimes as extermination. If there were but one of these elements at work, the political diagnosis would be more simple, but being combined, sometimes working together and sometimes in opposition, has made our trouble a great mystery. At the North democracy assumes a personal character, demanding the equality in freedom of all men, which has been intensified by the movement in the South to destroy the Government with the view of preserving the inequality of master and servant classes. At the South, democracy, though extreme, assumed a political aspect rather than a personal character, claiming the equality of each State with the entire nation, which is now intensified by the attempt of the personal democracy at the North to destroy the relation as it exists at the South. At the North, this element, in its eagerness to attain its ends is running into national centralization, by that massing of power that always comes of earnestness and unity. It does this while maintaining its individuality of effect on persons. The same thing has been done elsewhere, but has always been followed by results which we would wish to escape. At the South, democracy, in its eagerness to resist the same element in a different form at the North, exalts the State into an equality with the nation, and plunges into the political death of secession to break our nationality, and to preserve an inequality which is the foundation of their labor system. At the South, antagonism of race, to say nothing of interest, custom, and example, has enslaved the negro. The same influence is much more jealous to keep him enslaved than it was to enslave him, for the freedom of the long-enslaved negro would offend the admitted democratic equality of the individuals of the dominant race. At the North the same element manifests itself differently, and, at first glance, inconsistently with their democratic element. While their democracy demands the dissolution of the relation of master and slave, as being the basis and essence of an artificial or legal inequality which they hate, yet their notorious demand for free territory, free States, "free land and free government for free men," coupled with the legal exclusion of free blacks from many northern States, all of which were manifested before this fight commenced, show this antagonism most conclusively. At a distance from the slave they strike the manacles from him; brought into contact with the negro, they will thrust him out of their way when his room is needed.

Thus the struggle is affecting not only persons and races, but the whole theory and system of our Government. Let us take a short retrospect. During the revolutionary war, and before we had passed from the condition of a league or confederacy of States to that of a self-consolidated nation of people, there were already two parties, two ideas; one the national, headed by Hamilton, and the other the confederate or State sovereignty, headed by Jefferson. The same conflict of ideas and theories was repeated in the Convention in the process of framing the Constitution, in the conventions of the people called to consider its adoption, and in the partisan constructions contended for after it was adopted. The two ideas were coeval with our independence, and seem to have entered as contending elements into the national conception. And when the infant nation was born of the sovereignty of the people, when the Constitution, the covenant of the people, was substituted for the covenant of the States, the theory of the latter survived and grew among men when its reality reposed in the tomb of the "Articles of Confederation."

One marked moral and logical advantage remained with the defenders of the national idea. In the contest for the adoption of the Constitution its opponents warmly resisted it because of its admitted nationality, which was denounced as an independent, self-executing, centralized power in whose presence the States could not long survive; and after its adoption these objectors formed the nucleus and the intellect of a party who sought to avoid this once admitted nationality of the in-

strument by applying, in its construction, a principle which was repeatedly rejected in its formation and adoption. After the establishment of the Government the first well-defined parties were Federalists and Republicans, the former in the main combining the conservative elements of the country, maintaining the nationality of the Government, and adopting a liberal construction to that end. The latter embraced the more democratic elements, particularly touching the relations between the General and State governments, diminishing the former and exalting the latter, and for this purpose adopting a federalist construction. The most memorable contest between these two ideas was over the Virginia and Kentucky resolutions of 1798-99, which affirmed the Constitution to be only a compact between the States, who, as such, had no common judge; and that each State had the right to judge for itself of the infractions of the Constitution and of the mode and measure of redress, and to enforce its adverse construction or judgment by the nullification of a law of Congress. Since nullification, to be made effective, must always end in the practical and political independence of the dissenting State, it was a substantial assertion of the right of secession. The word "palpable," as applied to a supposed infraction of the Constitution, did not in the least alter the case since the States were to judge what was palpable. The doctrine was at first indignantly and contemptuously rejected by most of the States; and Mr. Madison, who had espoused these resolutions, in his celebrated report to the Virginia Legislature gave evidence of an anxious desire to explain away the force of that which was in itself indefensible. The founders and framers of the Constitution, and those who had favored its adoption, generally adhered to the Federal or national party. Those who had resisted its adoption upon the ground that it was too national, too centralized, generally adhered to the Republicans and the State right construction. There were two notable exceptions to this. Mr. Madison, who had so much to do in framing and adopting the Constitution, seemed for a while to be troubled with this heresy, though he so clearly and ably exploded it thirty years afterwards, when South Carolina came to act upon it; while Patrick Henry, who had earnestly resisted the adoption of the Constitution upon the ground that its powers were too great, too central, too national, made the greatest argument of his life against those resolutions in reply to John Randolph.

The theory expressed in those resolutions was the fatal blow in our political history. It was the commencement of a process, the adoption of a principle, which, if persevered in, must of necessity end in national disintegration or in an armed contest to establish the nationality of the Constitution and the authority of the Government in lines of blood, that color, unfortunately for man, in which all his greatest and best institutions and his mightiest reforms have been written. The tendency of democracy, under whatever name it acts, is to alter or destroy the existing order of things so far as that order is not expressed in equality. The Republicans of the Jefferson school did this powerfully and successfully in regard to the established Constitution in an honest attempt to define and preserve it. They would have the States severally equal to the nation. It was applying to the States that principle of equality which he had applied to persons in the social compact. It was the honest error of a mind more clear and intense than comprehensive.

The next grand division of the people of America into political parties were the organizations known as Whigs and Democrats. In the history, dogmas, and contests of these two great parties there appears the strangest medley of names and principles. The Whigs, who adopted the name of the liberal and progressive party in England and in the colonies, gave a liberal construction to the Constitution, with a view to enlarge the powers of the Government over commerce, manufactures, roads, canals, and the circulating medium, and thus far in the management of the Government were in a certain sense democratic—I mean democratic as to the number of the objects upon which and the extent to which the common Government might use its powers; and yet anti-democratic so far as this constructive vesting of power in the Government would tend to a consolidated

mastery by the Government over the people and their interests. As between the States and General Government, on questions of power and jurisdiction, they inclined to the general or national Government; and as that is the one which had, relatively, been losing ground ever since its formation, they were to that extent the conservative party. In the schemes of the Democratic party for the extension and multiplication of the subjects of universal suffrage in the affairs of the State governments, the Whigs generally, though not uniformly, went against the tendency to radicalism and pure democracy, and were in this respect the real conservative party of the country. In their attempt to hedge about executive power in the matter of patronage, limiting it to one term, and refusing it a veto, the Whigs were democratic in their theories, but never succeeded in putting them into effect. Upon the whole they were the conservers of the country. Their system of interpretation, as compared with that of the Democrats, strengthened the powers of the General Government, but made the application of those powers democratic in regard to the number of the subjects and the various interests of the people to which they were applied, though their adversaries charged with too much plausibility that in the manner of applying these constructive and derivative powers to commerce, manufactures, and currency, they did not promote that equality of condition and privilege which is the leading feature and constant tendency of democracy. But it was in the position they occupied in regard to the relative, concurrent, and conflicting powers of the General and State Governments that the Whigs were preeminently the conservatives of the country, preserving the General Government from the attacks of the States, and the State governments from the attacks of pure democracy. They were the successors of the Federalists. The Democrats were the successors of the Republicans, and often adopted the resolutions of '98 and '99 as a part of their platform. The Democrats, in their theory of strict construction, were conservative in a legal or technical sense. Strict construction, so it be reasonable, would conserve the Constitution in its original purity. But in practice they carried the principle much too far, and in their extreme anxiety to prevent a consolidated or centralized Government, they granted it too little and gave too much to the States. In respect to the southward wing of that party it would be more accurate to say, instead of a strict construction of powers granted, they adopted a view which fundamentally affected the theory, scope, and operation of the Government. In their constant distinction between the Government as an agent and the people as principals, they were eminently democratic.

In their doctrines about hard money, currency, government, and bank issues, in resisting protection to manufactures and certain measures of encouragement to commerce, as tending to monopolies and a moneyed aristocracy; in their fervent laudations of agriculture, and their policy that it should be encouraged as our natural and national pursuit, they but repeated the democratic ideas of all countries and all ages. They expressed the sentiments of the lovely pastorals of Horace and Virgil, (with the beauty omitted) of the stern and leveling democracy of the code of Lycurgus was imitated while modified; and the theories, though not the intensity, of France under the Revolution, and of the Roundheads under the Commonwealth, were repeated. They were truly, in their day, the democrats of the country. They have since been outstripped by a swifter current of democracy rushing in a different channel and aimed at a different object of attack. This party were generally successful, and naturally so. With a vast consolidated despotism—a phantom of their own creation—to declaim against, with State pride and local prejudices and local patriotism to appeal to, with a name that is in itself a charm and a power, and, more than all, being ever aided by that great undercurrent of the human mind whose tendency is so ancient, so modern, so universal, and so powerful, it would have been wonderful if they had not generally vanquished their opponents and obtained possession of the Government. The Whigs, so often defeated, became disorganized; but politically they had little affection for their old opponents, rivals, and conquerors, and sought whereby to reclaim the Government from their possession. This



could be done only by being more democratic than the Democrats. At the North recourse was had—shrewdly by some, unwittingly by others—to the great tendency so well defined by De Tocqueville. There had been from the foundation of the Government an institution or interest at the South which in its political influences had latterly been with the Democratic party, because that party, by its system of construction, curbed the power of the General Government and enhanced that of the States which had immediate jurisdiction over the subject. That institution was African slavery, the subjection of a servient to a dominant class. Nothing was easier than to array against this institution a sentiment more democratic, more radical, more leveling than the tenets of the Democratic party either North or South. This opposition at first found expression full enough for its purposes in the proposition to exclude slavery from the Territories, while disclaiming any intention of interfering with it in the States. The success of this movement at the North was owing to the democratic character of its anti-slavery element. It was congenial to the honest opposition felt by thousands to the extension of an institution to which they were opposed on principle. I speak not now of that seditious higher-law faction who are to-day and always have been rebels and revolutionists. Nay, more; they were secessionists. They long advocated secession, or a division of the Union, to be rid of slavery, until the South attempted it in behalf of slavery; then they resented secession, but not very promptly. Many of their leaders, some of them now in high places, would have allowed the movement to go by default, when Sumner was bombarded, had not the indignant uprising of the nation forced them into the ranks of the Union. Being avowed revolutionists, they would use the war to accomplish their revolution. Failing in that, they would again become secessionists in times of peace.

This movement at the North could not have succeeded but for the character of resentment imparted to it by the imperious demand of the South that slavery might go and be protected everywhere, the mischievous repeal of the Missouri compromise line effected by the South and their party allies at the North, and the shameless attempt to fix upon Kansas by fraud and force a pro-slavery constitution against the known wishes of the people. These measures, as was foreseen, by prudent men, aroused the full volume of the anti-slavery feeling of the North. The position of the Democratic party upon these and all kindred measures was an anomaly. Whoever has traced the origin of that party, and has studied what Lord Brougham once called "the fierce democracy of Jefferson," must see at once that it would probably and on principle have been the first and greatest anti-slavery party in the United States but for the fact that abolition by the nation ran counter to their favorite dogma of State sovereignty and control over the institution.

Having traced some of the elements and habits of political thought and influences that prepared men's minds and feelings for a rupture, we pass by the facts of its actual development, so recent in the memory of all, to note the increased part which these ideas and influences have played in the progress of the strife, and the results they are destined to work in the end. As the struggle deepened and passions heated, the ordinary historical phenomena began to develop themselves. An extreme democratic impulse, in attempting to attain its ends by the force of arms in the midst of a revolution, has a singular proneness toward vesting supreme power in the executive head as a means of giving vigor to its blows, and often manifests a willful or contemptuous disregard of such written laws and constitutions as stand in the way of the end to be accomplished. Zeal makes unity of effort, and confers executive power corresponding with that fervor. This is fully shown in all the conflicts of democracy with crowns, castes, and prerogative in all countries. Our own great civil war has not been an exception. At the South to-day centralization is so great that the name of "State rights" is a mockery, and personal liberty is only remembered as other lost blessings of good government; while the candid friends of our own Administration will admit that we are demanding, approving, or submitting to executive measures which before the

war would have been regarded as a revolution in the Government. But a part of this, it must be said, is owing to the fact of closer study, larger views, and a better education as to the extent and character of the powers of the Government in the midst of war. I am less alarmed on this subject than I was one year or two years ago. We are in the midst of a revolution that will run its course, and when that is done we will settle down into our former ways as other nations have, and I deem it not vain to say that our capacity for improving on experience is equal to that of any other race. I believe it is true that no great and violent convulsion ever was settled or accommodated according to the form and letter of the law existing anterior to the strife. The lightning of the storm illumines the way of escape, and so it will be with us.

A people accustomed to think that their will is the foundation of their Government and laws are for that very reason, out of pride and self-esteem, the most obedient to laws and Government in times of peace. But when men are moved by the passions and ideas of a great convulsion, and desire to accomplish a given end which the limited written powers will not quite reach, the Constitution is invariably exceeded, and by a simple process. *The will of the people* is held the supreme law, the political god of the land. All it needs, it is said, is expression. They discover that will moving in a given direction, in which it has not had expression in a legal form. Indeed, the Constitution stands in the way of that expression, or at best is too slow, and then the same pride and self-esteem that have been fed from this all-pervading idea of the power of the people become restive. That which caused implicit obedience to the Constitution as the *expressed* will now makes that Constitution an object of indifference or hostility, because it fails to give expression to that will, or stands in the way of it. Then this newly expressed will of the dominant party is elevated above the Constitution, and becomes the rule of action in its stead, a condition of things that never has endured long, and never can. It is thus that in revolutionary times ideas are obeyed as everything, while the forms of the written law are lightly esteemed or even treated as the natural enemies and proper victims of the new ideas. While this has sometimes been carried to excess by our own Administration and people, as all ideas are in revolutionary times, it must be admitted that objectors have to some extent committed the opposite fault of looking at two contending revolutions through the technical glasses of a good attorney at the bar rather than with the clear, undimmed gaze of the citizen philosopher.

The customs, traditions, or written institutions of one age will give way to and be overridden by the changed will and opinion of another generation. If circumstances, pride, interest, dullness, prevent the expression of that changed will in a legitimate form, it will yet be expressed in a violent form. This has led some to doubt whether under democratic governments written constitutions or fundamental laws have any real utility, and whether under such governments the legislature, through which the people speak, had not as well be left supreme, as it really is in England. This has its advantages and disadvantages. Changes would be more gradual and never either so radical or so violent, but they would be more frequent, and agitation for them more constant. The greatest argument in favor of written constitutions is that a majority is frequently the hardest master, and a constitution, until overcome by a tempest of opinion and passion, serves the minority as the law and the courts serve the weak man.

It is now more than probable that the war caused by secession and its armed violence, and the opinions generated and developed by the war, have loosened the fastenings of African slavery on this continent, let the result of the war be as it may in regard to the union of the States. The perpetuity of involuntary servitude has always proved impossible in every country, and in this country its friends, by an ill-timed and insane effort in its behalf, have placed it in the process of rapid and final extinction. It is an impulse with man in resenting a wrong to strike at whatever appears to be identified with the wrong. This may work injustice, but it is always done. Secession, and rebellion, and guerrilla thefts, and murders, have drawn upon slavery much of the oppo-

sition and hatred that were due only to those crimes. To my mind the danger to both races seems that the transition will be too rapid and too violent, and the duty of the statesman may soon be to retard and ameliorate the pangs of a dissolution that has now become so much accelerated by the vicissitudes of war.

War is a great stimulator of new ideas, and frequently develops the opposite of the theory it was intended to defend. A war to-day in Italy to increase and extend the prerogatives of the church would break down the papal power. A war in England to extend and increase the prerogatives of king and nobles would make England a democracy. A war in the United States in behalf of slavery is rapidly propagating anti-slavery ideas in the slave States. A war to enforce the theory of secession will end in an increased consolidated nationality. For three fourths of a century the people of America had appealed to the legislature and the judiciary for a construction of their Constitution, and while upon the law question the decision has uniformly been in favor of our nationality, the Administration has nearly as uniformly been in favor of those interested in slavery. Not satisfied with this uniform current of exposition and administration, an appeal has been made to the sword. The sword is now giving its construction. It is cutting the gordian knot that wranglers tied. Any institution is stable while permitted to remain stationary. Any institution is more than half overthrown when friend and foe alike admit its dissolution is possible. The rebellion has done this for slavery. But few institutions can afford to be aggressive. History mentions but two that have not become the objects of successful hostile combinations on becoming aggressive in their character or being represented by propagandist disciples. Those two are Christianity and Democracy. Democracy has been assailed and combined against everywhere and in every age, by every antagonist institution, idea, interest, and tradition. But it has made the villain of England and the serf of Russia free; the blood of the vassal courses through the veins of his descendant risen to the peerage; and France under imperial Napoleon is to-day more democratic in some of the elements of her polity than the United States. The statesmen or conspirators of the South committed the egregious blunder, as well as crime, of making their ideas of slavery and political disintegration aggressive. Not content that slavery should remain an economic institution, a form of labor, a question of profit and loss, a thing inherited from their fathers, both Cavalier and Puritan, a *fact* in their midst over which they could have little control, they sought to convert it into an active commercial and political power. Slave labor made cotton, and cotton was king. First demanding non-intervention in the Territories, it was suddenly discovered that intervention for slavery was the duty of the Government. And it would be idle to deny that in all the slave States, not excepting the border States, that have clung to the Union there has long been as an offset to impertinent northern agitation a persistent attempt to hedge slavery about with a divinity that would make it an offense to oppose or doubt it. In some localities of the South this spirit and policy amounted to a pro-slavery terrorism and made white men slaves to slavery. This was as unnecessary as injurious. The friends of any matter have already condemned it when they insist it shall not be discussed or inquired of.

The rebellion has made this not only a question of military force, but has added import and point to the issue by making it a question of moral and political values. The love of the people for their Government, which is in itself a conservative element, has been to a great extent converted into a radical element by the attack of the rebellion on the Government. The policy of the insurgents seems from the beginning to have been to force upon the minds of men the question, which is the more valuable, the Government of the Union or the institution of slavery, by falsely alleging the latter could no longer exist under the former, and by violently offering to destroy one as a means of protecting and extending the other. It has inaugurated an unequal contest. It has raised a false but a terribly practical issue. It has arrayed a mere form of labor against the existence of the Government. Upon the success of the pres-

idental candidate of the Republican party, a success the conspirators purposely procured by dividing and demoralizing the only party which could prevent it, before that man was inaugurated as President, before he had an opportunity to do aught that was wrong if he had so intended, while the Government was still being administered by a President the choice of southern people, the process of State secession was commenced, based not upon wrongs done but upon wrongs said to be intended. And this was the great issue made against the Government, that upon the accession of the Republican party to power it had become necessary, in order to protect, defend, expand, and to save the institution of African slavery, that the States where it existed should withdraw from the Government and divide the Union on the slave line. The issue was made, that to preserve slavery the Government must be destroyed. They might have anticipated the counter-issue, equally false, so soon afterward made by the enemies of the institution, that to save the Government slavery must be destroyed. Amid the heats of civil war it was easy to pass from the policy of restriction to the policy of destruction. It has been said extremes meet. They first beget each other.

It will require but little observation of the forces thus arrayed against each other to determine which must ultimately succeed. I do not allude to the material resources for war. I mean the political, agricultural, and commercial influences that must and will crown the war for the Government and the unity of the Republic with success. Upon one hand we have a unity of territory inhabited and controlled by a race that is one; and these unities are only made the more perfect by that diversity in the productions of the parts and the wants of the people which makes them dependent upon and interested in each other. The territory of the United States, bounded on the east by the Atlantic, on the west by the Pacific, on the north by the great lakes, and on the south by the Gulf, with all our great rivers running from north to south, our only two mountain chains ranging north and south, with no deep water-course, high mountain ridge, or desert tract bisecting the continent from east to west, so as to form a natural boundary line between two nations, North and South, makes a fit area for one empire, one people, one Government; and the natural domain of the Republic remains to-day as it came from the hands of the Creator, the Architect of the universe, a geological and geographical unit. This grand temple was inhabited, owned, and governed by one people. The white race of America are one by blood, one in language, one in civilization, one in manners, and one in religion; one by all the material interests on this continent, one by all the strong ties that have ever constituted a unity of race. Upon these two natural and historical unities—unity of territory and unity of inhabitants—are naturally based the union of the States and the oneness of the national Government. Against them we find the avowed that these unities must be severed and destroyed, the Government overturned, and both the territory and the people made twain to preserve a given form of labor, one species of property, the institution of African slavery. Besides the falsity of the issue, aside from the fact that the property or institution to be saved was already infinitely safer under one Government, one territory, and one system of laws than it ever possibly could be under a separate code and government, contiguous to a foreign and hostile nation, it was a fatal error in another view. It was an affirmation that the Government known as the Union was incompatible with the stability of the institution. It was a distinct affirmation and adoption, from a different stand-point, of the doctrine of an irrepressible conflict. The rebels did not seem to perceive the breadth of the issue at arms which they offered the Government. It was more than a mere assertion of incompatibility. It was an avowal that the two could not exist together. This was wholly untrue; exactly the contrary was true.

But from these false premises it was easy to draw the conclusion that one must be destroyed to save the other. The effect of the issue being made and sustained by force of arms, was none the less disastrous by its being untrue. It was a dangerous question to present to the minds of men. It widened and deepened the opposition and created it where it had not before existed.

And many minds not imbued with this opposition, and many who, cherishing it only as an abstraction, would never have sought to make it a political force or element in the administration of the Government, when told by the patrons of the institution that it and the Government could not coexist, were not long in disposing of the question, as they would any other question of value, and easily and correctly decided that as the Government was more valuable to them than any species of property, they would adhere to the Government through all the phases the question might assume. It was a cruel and foolish experiment, this arraying an interest, an institution otherwise much debated, in hostility to the Government, and thus make it the subject of attack and demolition. It gave to the abolition element of the North a new direction and an increased momentum. Many of the party who had merely sought to save the Territories for white men, then became a leveling agrarian democracy who gladly accepted the issue, and now openly and fiercely seek to make this a war for universal emancipation, and the parceling out of the large landed estates of rebel masters. The border State Union men and the war Democrats of the North rejected this feature of the issue offered by the rebellion. The only issues we accepted were the question of our nationality, the question of the right of secession by States, and the military contest for the supremacy of the Government. We would wage the war regardless of the negro, except that being property he is subject to the rules of war, and, if you please, being a man is subject to the command of the Government. Our theory has been to make the war a contest between the power of the Government and armed rebels in the field, and not to embarrass its progress, divide our friends, and consolidate our enemies by side issues of a political character. We would not have the overthrow of slavery as an end or aim of the war, but only the overthrow of the rebellion. We would have the war against armed rebellion pushed to a successful issue, and if injury or even destruction to slavery comes, as I now think it will, as the unavoidable result of "the friction and abrasion of war" let it come; and if there is any responsibility in the matter we will answer by asking, "Who made the war?"

The restoration of the Union under the Constitution, by the surrender of the rebellion before the exigencies of war have done their work, is the only hope for the South and her institutions. It is believed such an offer would be met by a vast majority in the loyal States who would prefer the Union on the old basis to the further carnage, untold debt, and grinding taxes that would come from an indefinite war for any other purpose. But if persistent rebellion requires the war to proceed, there may yet be a Union as it was not under a Constitution as it will be, and such new order of things will be acquiesced in and preferred to secession by many who now ardently long for the Union as it was. But the restoration of the Union as it was, while the very best thing for the South, would not fully restore the institution as it was. Its power as a controlling element in our politics is gone. The opposition to it has been increased. Its territory has been diminished. The rebellion, in its spasmodic attempt to enlarge the area of slavery, has caused it to be driven from West Virginia and the great State of Missouri, and by suicidal violence in its behalf has planted a leaven against it in Maryland, Tennessee, North Carolina, Louisiana, Arkansas, and Kentucky, that will more likely live and grow than die. And other causes are at work. The intelligence, the volition, and the locomotion that distinguish this from other property are excited, educated, and brought into play by the events passing before him and in which he is mingling, an education that would not cease for want of lessons after the success of the rebellion. This kind of education is all against the interest of his master and the peace of society. With him the pageantry of review in his rebel master's camp is not merely pride, pomp, and circumstance. He is learning the effectiveness of arms and the power of combination. With him the labor he performs in the Federal camp is not all mere drudgery. He is becoming educated. He is learning war from the ditch to the evolution of the battalion. From a being of mere imitation and submission he becomes a man of self-confidence and reliance. Add

to all this the fact which cannot be kept concealed from him, that the two extremes are claiming the contest to be about him and his condition, and who shall say what such seeds will not bring forth? And when they have borne their fruit what will it be? I confess the future of his relations to his white neighbor is a picture of darkness and gloom to my mind.

The success of the rebellion might postpone but could not avert the doom that now awaits the institution and the race. Under the confederacy abolition and a war of races would come, just as surely (though from different causes) as they now seem to be approaching. The retirement of the seceding States from the Union would result in compulsory relinquishment of all common territory not erected into States. Any attempted expansion toward the Southwest or into Central America, whether Mexico or France be in the way, could only be accomplished by conquest; for though Napoleon may intrigue with the rebels for our injury he cannot venture to become a pro-slavery propagandist. In any such attempt they would have combined against them the Powers of this continent and of Europe, an opposition that has not been lessened by instructions already issued to rebel diplomatic agents abroad to enter into no negotiations looking to the suppression of the African slave trade, accompanied by a construction of the rebel constitution giving to each State the right to open that trade at pleasure. Having achieved their independence they would find themselves surrounded on the West and Southwest by a cordon of free States, which, backed by the sentiment, and, if need be, by the power of the world, would forever bar the door to expansion in that direction. Manifest causes would rapidly shift the slave line southward, and the cotton States would soon find all the slaves of the continent crowded into their borders. While the ratio or relative increase of the blacks would be thus accelerated, that of the whites in the same locality would be decreased by manifest influences. The labor of the blacks would soon place in the possession of the masters all the desirable lands of that region. The poorer and laboring whites would in one generation find themselves the necessary tenants of the swamps, sand ridges, and mountain sides. By a rule of physiology well known they are the people who furnish all the muscle and most of the brains for a nation. Their loss could not be repaired. Their political influence would soon correspond with their meager agricultural resources, and they would seek to relieve themselves from a secondary position in society and government, and better the condition of themselves and posterity by emigration North and West. Already thousands of refugees from Arkansas, Tennessee, Carolina, Virginia, and Kentucky have sought safety, quiet, and a subsistence in that direction. The blacks in the slaveholding regions would soon become far the most numerous. In 1810 there were 1,191,364 slaves in the United States. In 1860 there were 3,953,587, an increase of 300.32 per cent. in fifty years. The same rate of increase would give 11,873,936 in 1910. The increase might not be quite so rapid in the next fifty years, and it would be inaccurate to assume that all of the slaves of 1860 and their increase would be crowded into the cotton States in 1910, though evidently much the larger portion of them would be. We may safely assume 8,000,000 slaves in the States of Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, and South Carolina in 1910. In the whole United States the ratio of increase of the white population is greater than that of the blacks. In the States just named that of the blacks has been greater than the whites for several decades. In 1860 there were in the States just named 2,618,754 whites. How many will there be in 1910? Allowing the same increase as for the blacks there would be 7,864,991. Considering the influences we have just discussed, would there be near so many? Under the system of emigration that would drain those States 4,000,000 would approximate nearer the truth. This disparity and its natural results would soon become apparent to both races. The whites would seek to avoid its results in one of two ways. The master would seek to maintain his authority by increased kindness and conciliation, resulting in the thousand nameless favors by one and liberties by the other, known only between master

and slave; or he would attempt to maintain the same authority by increased rigor and severity, on his own part, in the law, and in armed patrols. I now speak of master and slave to represent the whole dominant and servient populations. The first plan would rapidly grow into a system of contract, hiring, villenage, tenantry, losing all the features of the absolute control incident to slavery, until it would merge into the practical, and ultimately the legal freedom of the black man. This process would be greatly hastened if it were sought to lessen their numbers while flattering their vanity by training them to the use of arms to assist in the almost constant state of war that must exist between the two Governments, by the confidence and importance such a course would impart to them; a policy that would also be invited by the scarcity of laboring whites from whom to replenish their armies. This course of events is far less probable than the other; that of increased rigor. That would first be manifested on the plantation and in the domestic circle; but as the disparity in the two populations grew apace, the preservation of the relation of master and slave would become one of the chief objects of legislation. To accomplish the end it would be found that the white or master class would rapidly assume the character of a military police, embracing a vast majority of its members, who would live upon horseback, and wield the arms of the light cavalry service, almost as uniformly as would the blacks the plow and hoe. How long would be required for society to assume this phase, or how long it could be preserved when assumed, are questions not so material as the fact that it would not endure a great while, and would find its denouement in a San Domingo struggle, in which if the whites were successful the blacks would be exterminated as a necessity, and if the blacks were successful the whites would be destroyed as an act of bloody and malignant revenge, leaving that skirt of country in the possession of the black man. And how long would he hold it? Not a half, a quarter, nor a tenth so long as the Indian did after the white race set foot on Plymouth rock. While these events were passing in the South, the North would in the mean time become pressed with a redundant, active, aggressive, adventurous population, sprung from a blood that loves land and power, does not fear war, and despises all inferiors. They would seek an establishment and an easier subsistence in the more genial climes of the South. Pretexts, possibly good causes, for war would not be long wanting, nor would it require much argument in the mind of the northern conqueror to persuade him that his black neighbor was his natural enemy, and that nothing less than his entire landed estate (so illy gotten anyhow) would constitute indemnity for the past and security for the future. But may not all this reasoning as to the course of slavery under the confederacy be illy founded, because it implies the notion that a confederacy based on secession could last two or three generations? Is it not far more probable that a much earlier solution would be had in the shattering and breaking to pieces that must come of secession and petty civil wars run *ad infinitum*?

Those who dream of elevating the African in our midst to a moral, social, and political equality with the white man will be disappointed. Secessionists and abolitionists are all alike in one respect, and their children will be as their fathers. The freed man will enter the lists as a competitor, and as such will go down. Our blood loves land, loves money, loves power, and despises inferiors, especially Indians and negroes. We will out-work him, out-thrive him, out-trade him, out-learn him, out-fight him, out-vote him if need be; in short, beat him in the great game of life, and he will disappear, partly by violence, partly by that kind rule of diminished increase that favors a race in that condition, and partly by those irregularities that will throw the blood of the two races into an intermediate channel. When war and democracy have done all they can, dissolved the bonds of the slave, it will then be found that the equality of democracy is confined to the limits of a race of equals. Mark already the constitutional provisions to exclude the blacks from several of the free States. When the "American citizen of African descent" shall demand that his equality of freedom gives him a right to social and political equality he will have a smile from a faction

and a scowl from the mass. Christianity has been invoked in this great undertaking. Christianity is in some respects the most democratic and in some respects the most conservative power among men; conservative in its precepts for domestic government and obedience to rightful authority, and democratic in its freedom of thought and injunctions of personal justice. This great power is active and aggressive; it goes everywhere and permeates all institutions; and a wholesome democracy, either latent or developed, follows in its wake. It has converted the white master and the black slave, brought them into the same sanctuary where they attend upon the same ministrations, and, in thousands of cases, they kneel in prayer every night around the same family altar. But Christianity has not made the two equal as races, and democracy will fail to achieve what Christianity has omitted to attempt. Democracy equalizes in a legal sense the son of the President and the son of the pauper; in a few generations it brought to an equality the son of the hereditary nobleman and the son of the meanest feudatory. But this is only equalizing castes and discrepancies of position among men of the same blood. Accident, force, law, custom, separated them for a while, but democracy brought them together on the same plane. It has not done this and will not be able to do it for the Caucasian and the African. This demand for a forced and sudden equality of all men, when it reaches the point of popular or epidemic political fever, not only demands the abolition of all privilege and distinction for the future, but cries for blood as a revenge for the past. Persons perfectly innocent, or even useful or amiable in their own characters, are ruthlessly destroyed for being the representatives of an hereditary and condemned inequality. It demands there shall be no distinctions of authority but those founded on virtue and genius; that every avenue in society and State shall be open to every human being; soon punishes as a crime distinction won by virtue and genius, and ends by submitting to power won by crime. Fame is an inequality, and its possessor must be beheaded or banished. Hemlock and ostracism were the familiar rewards of citizens grown too great among the ancients. In France the Convention, the Commune, and the Committee of Public Safety beheaded one set of generals for being defeated, on the ground of complicity with the enemy; and beheaded another set for being successful and winning the confidence of the soldiers, on pretense of fearing a dictator. Their popularity was dangerous; it was a conspiracy because it might be improperly used. Whether used well or ill it was an inequality not to be allowed. Under other forms of government great deeds excite gratitude or patriotic ambition; under a pure democracy they are only a passport to destruction or exile. Republics are not ungrateful, but democracies are terribly jealous. We have not yet reached that point in our fever. We may reach it and suffer its delirium and cruelties, and pass into the cold sweat of collapse in the attempt to make an equal of the negro, and then find we have not accomplished what God did not will should be.

"Nature is an aristocrat," exclaimed Lamartine, himself a democrat. If he meant as to persons he said too much, if as to races he said the truth. Again, "Equality is written in the law long before it is established in races." If he meant between men or castes of the same race he is right, for there equality is oftener a political idea and a legal right than a personal fact. If he meant equality of or between races it does not exist. Those who think emancipation will solve the whole problem in this vexed matter, have not yet seen the greatest trouble in the case. Dispose of the slavery question and the negro question remains. The same spirit, the same interests, that give freedom to the slave, when brought in contact with the negro will go for thrusting him out of the community as a foreign substance offensive to their theory, one for whom there is neither room nor honey in our social and political hive, whose ejection is demanded by public economy, the public peace, and that public equality they will continue to teach. Viewed from a distance, the relation of master and slave excites their democracy. Brought in contact with the race, the same inexorable demand for equality, coupled with the manifest impossibility of its accomplishment, and the passion

of our blood for land and dominion, will make them the enemy of the race. When well analyzed this will be found the chief element and motive power with the extremes in this movement on both sides; and this remark is none the less true because a vast majority of those who rush or float with the tide honestly think they are acting from other motives, and have not yet discovered the real propelling power that is behind them. The form of democracy I speak of is energetic and severe while it lasts, but never lasts long. It is not in the nature of things that it can make a protracted and sustained effort in one direction for even one generation. It subsides, but the leaven of democracy works forever. Our political pendulum, in counting off the centuries of our career, may swing to and fro, but events on this continent will verify what reason teaches, that a pure democracy, or any very near approach to it, is the most impracticable and short-lived of all forms of administration for an extensive empire and a large population; and as often as we are compelled to return from either extreme to our system of delegated or representative authority, and the checks of our three departments, it will be with a renewed appreciation of their value and importance.

A question of race, and, connected with that, a question of land, is the ulterior form which this matter will assume. The system of servitude by which a hundred men work an estate for one owner, and the three fifths rule by which that one owner votes equal to sixty non-slaveholders, are elements that excite democracy, jealousy, and cupidity. The master's power is to be shorn, the slaves to be freed, hired, and cheated, and the land divided among those who win it in battle. I do not mean to speak harshly or unjustly, but this does seem to me to be the tenor and effect of our legislation. A century or half century hence the white man, moved by the same impulses about equality, and the same idea about land, and the same feeling about race, will advance a long but easy stride from the abolition of slavery to the expulsion or abolition of the race he really feels is in his way. To doubt this for a moment is to ignore history and human nature and the fate of the red man. It is proved by the willingness and even the anxiety to thrust the negro into the war; to hold him up as a dark shield between our bosoms and the fire of the rebel hosts. It is claimed that it saves the lives of white men. That is true, and is to the point in more senses than one. It can only save white men by exposing black men to destruction, and then when the war is over that displacement of the race so much desired will have been partially effected. While the antagonism of race is assuming this form of expression at the North, it is assuming quite a different and yet quite a natural form at the South. What has enabled the leader to get into the rank and file of his army, and to make so determined a soldier of the poor and laboring white man of the South? Was it that he had been wronged by our Government, or felt any real opposition to it as such? Not at all. It was accomplished by making him believe the negro was to be set free and made his equal, and that a State had the right to secede to prevent this. He fights for these reasons, and so would many northern men similarly situated. Reverse positions and educations, and many an advocate of universal emancipation would be a devoted soldier under the stars and bars of rebellion, while many a soldier of the pro-slavery secession would be a zealous advocate of universal emancipation. And all for the same causes, developed in different forms and under different lights; democracy and race.

If this ultimate contest of race, and its disastrous result to the black man be thought a harsh or unjust view of human nature, I answer I am not defending the morality of the result, but am only getting my own consent to see a great truth pointed to by the history and the constitution of man, the jealousy and antagonism of races; that latent, instinctive hostility which, when brought into action, sometimes assumes the form of slavery, sometimes of war, sometimes expulsion, and sometimes extermination. It is an instinct among men as it is among animals, and therefore is confined to no age, no climate, no race, no color. It existed between Egyptian and Israelite; between the polite nations and barbarians; between Jew and Gentile; between Roman and Carthaginian; between Castilian and Moor; between the



Tartar and the rest of Asia; between the "pale-face" and the red man; it built the great wall fifteen hundred miles long between the Chinese and his enemy, and has existed in all ages between the Ethiopian and the rest of mankind. Similarity of republican institutions did not prevent the free States of the North from volunteering freely to aid in the conquest of the territory of a neighboring republic of a different race, in a war ostensibly to defend the previous acquisition of a slave State, nor prevent the terrible political contest that ensued on their demand that this black race should be excluded from the vast dominions wrenched from Mexico. The free negro exclusion clause of the constitution of Indiana was adopted by a majority of ninety-four thousand votes; and the convention of a political party in that State simply spoke for our race when they said that this vote meant that "the honest laboring white man should have no competitor in the black race; that the soil of Indiana should belong to the white man, and that he alone was suited to her free institutions."

The other really great power in this controversy is the question of secession as a State right, assumed on one side and denied on the other, a question involving the existence of all government. It is the white man's question in this contest, and the effect upon him will be as secession is successful or defeated. With the triumph of the theory of secession as a principle or element in our system of Government, we will repeat and perpetuate on a larger scale the modern history of Mexico, not omitting subjugation by foreign Powers and petty empires under European protection and control. But if this principle is defeated and the success of the Federal arms is accompanied by a constant and earnest recognition of the fact that the Constitution is the "supreme law of the land," our institutions will have been purified rather than consumed by the fire, and strengthened rather than sundered by the iron of war. Its effects upon the political and national education of the people will be that the Constitution is not a loose league between separate and independent sovereignties, to be abandoned at pleasure by the States; but that it constitutes a Government, that it is a charter of powers emanating from and acting upon the sovereigns of that Government, the people. My own views of the way of our political salvation are well defined. We must have the complete, lasting, and overwhelming success of our arms on the field, while the civil law must be wielded at the hands of men who know and feel that the Constitution is a higher law than their own views, their own feelings, their own schemes, and their own prejudices. It is to obey the law ourselves and enforce it upon the rebels at all hazards and all costs. I know this involves a hardship. There are thousands at the South who are fighting for what they honestly believe "a State right"—the right of secession. They have been taught it from infancy, and political error, like error in religion, is believed more ardently than truth. Many more still have been forced into the battle against their will by the unsparing command or the irresistible local torrent of the revolution. But epochs, crises, and generations have their sacrifices, which must be referred for final account to the great system of providential compensations. The time had come when it was necessary to determine whether the United States were a Government. If that question is determined aright, the decision will be worth all its cost, and if it is decided amiss, the children of the rebels of to-day will pray it had gone against their fathers.

Let those who would use the war to destroy anything but the military power of the rebellion beware they do not destroy the Government as well. We may loose a storm we cannot direct as we ride it, nor stay it when we would. Remember that when a republican constitution had been adopted by the Constituent Assembly of France and accepted by the king, La Fayette, Barnave, and others, demanded a declaration that the Revolution was accomplished and that there it should stop. Robespierre and his party urged it forward. It went forward, demanding equality—blood; the king's head fell, then Robespierre's, and the same mob who had followed Louis to the scaffold amid cries of "Vive la republique," a few years afterwards lifted the child of destiny to his vacant throne, making the welkin ring with cries

of "Vive l'empereur." A man, a nation, is always equal to duty, not always to destiny or misfortune. There are times when a people cannot control their own movements, but rush headlong with the current, and the current is turned or set by accident. We can avoid this by doing our one duty of fighting the rebellion and leaving the balance with God. By reaching too far we waste our power and miss the mark we might have hit. If this war fail of its original object it will be by attempting too much. If this rebellion succeeds, it will be much indebted for the moral aid sometimes loaned it by ourselves. While there is no safety without military success, our safety does not lie altogether there. We must show that a war for the life of a republic need not become the rude funeral of the liberties of the citizen. We must not press the triple, yet one, idea of "liberty, fraternity, equality," that triune godhead of revolution, so far that our heads shall all come together in a bloody embrace of emphatic equality in a basket under a guillotine we made for others.

If the views I have here presented have foundation in truth the ideas now arrayed against each other and represented by the hostile armies in the field may be classed as follows:

#### *Southern, or Rebel.*

1. A fallacious and long-continued political education upon State rights and State sovereignty involving nullification, (the Jefferson school,) and the vicious ambition of secession and southern confederacy, (the Calhoun and Davis school.)
2. The insulence of pro-slavery propagandists and southern leaders, and the jealousy toward free negroes by the southern laborer.
3. Antagonism of Race; manifesting itself at the South in a desire to retain the negro in slavery, and among non-slaveholders in an intense aversion to the personal and political equality of the race.

#### *National, or Union.*

1. The unity and the nationality of the Government and its direct action on men and things, (the Hamilton school;) the supremacy of the national Constitution and laws, the political and territorial integrity of the Republic, (the Webster and Jackson school.)
2. The equality of Democracy arrayed against the regulation of master and slave by the Republican and Abolition parties.
3. Antagonism of Race; manifesting itself at the North in the demand for free territory, free States, and the exclusion of the black race from free States; recently demanding their deportation, now desiring them as soldiers and laborers; and will ultimately destroy them by neglect, discrimination, and superior thrift—possibly by war. I apply the latter thought to our race, and not to any party.

I have purposely left out of the account the hate felt by many southerners for "Yankees" and "abolitionists," and by many northerners for "slaveholders" and "slavedrivers," as being prejudices not entitled to the dignity of real, moving, living powers in a great event—prejudices which the much good fighting done on both sides will not fail to dispel. It is to these prejudices and the heated blood of the occasion that we must refer nearly all the irregularities, ungenerous warfare, and unsoldierly cruelties that have occasionally stained this; and this not nearly so much as other civil wars. The combatants are learning from each other that men are not cowards or heroes by races, or by sections; that both qualities are found among all men; and that many more men of all races, States, and conditions have sufficient animal courage to make good soldiers than have moral courage to believe the truth. War is the rude, commerce the gentle pacificator of peoples and civilizations. The first chroniclers of the Crusaders were all harshness, contempt, and bitterness toward their enemies. The latter chroniclers were softer, truer, juster, at times filled with admiration. The East and West learned each other, and mingled their manners and their knowledge, increasing the one and polishing the other. The North and the South will do the same.

A word about Mr. Jefferson. I have meant no disparagement of him by classing him with Calhoun and Davis. But it is a little remarkable that a statesman of such clear and forcible views, such ardent patriotism and renowned services, should have promulgated a doctrine which for a while misled and seduced Mr. Madison, furnished Mr. Calhoun with the material for the political error of a lifetime, the abolitionists with authority for much of their mischief, was the authority for South Carolina nullification; was quoted substantially in the report of the Hartford Convention, and a text for Mr. Davis, who has been a con-

spirator ever since he entered public life. There is little more similarity in the politics and character of Jefferson and Davis than there was in those of Hamilton and Jackson. Yet it must be admitted that upon the great antagonistic ideas that have agitated and distressed our national existence they are properly classed—Jefferson with Davis on the side of State independence and nullification, and Jackson with Hamilton on the side of our nationality.

I have not discussed the war so much as the political elements that have led to it, have directed it, and are being developed by it. The subject is intricate. I hope I have been understood. The results will be commensurate with the issues joined. With intemperance we may repeat some of the features of the decline and fall of another great Power, not omitting the sale of the Government to the best bidder by a praetorian band. But avoid the breakers indicated by the miscarriages of other nations, destroy secession, restore the Constitution, and our future, our very near future, will be what no other people have achieved; what no other form of Government can bestow; to combine upon a scale of unprecedented magnitude the homebred and fireside blessings of small States and local administrations, with the security, influence, and power of a great empire. By relying solely on the federative principle for a general Government the centrifugal forces in politics will surely part the Republic. By relying solely on a centralized nationality for all purposes, the centrifugal forces in Government will freeze and disaffect the extremities and engorge the vitals. The happy mean between the two does not need to be invented, but only to be discerned and followed in the skillfully graven lines of our constitutional chart. We are fighting for a Government, for existence as a nation. If, as many suppose, we are remitted from the Constitution to the laws of war, of nations, and of conquest, we are still not without the best of guides for our conduct. There has been no improvement upon the text of Montesquieu in his *Spirit of Laws*. It is owing to this law of nations, that among us victory leaves these great advantages to the conquered, life, liberty, laws, wealth, and always religion; where the conqueror is not blind to his own interest.

Mr. LONGYEAR. Mr. Speaker, it has been my intention, during the present session at least, to content myself with being a silent spectator, and not take up the time of the House with speaking; while action was of so much more importance to the interests of the country in its present perilous condition.

But the novelty and importance of the measure now under consideration, the anomalous condition of the country out of which it arises, the imperative necessity for action of some kind by Congress now, the great and absorbing interest felt and manifested in regard to it, not only justify debate but demand the freest and fullest discussion.

And the business of the House having been so arranged that debate upon this measure does not stand in the way of progress in those other great measures of the session for supplying men and means for carrying on the war and to sustain the credit of the country, I propose to discuss briefly the bill now before us.

I shall not attempt to go over the whole ground, but content myself with noticing a few of the leading questions involved in it.

Mr. Speaker, I have listened attentively to the speeches of gentlemen on the other side of the House, made in the course of this discussion, to get an idea, if possible, of the grounds of their opposition to this bill. But thus far I have listened in vain. They have, with scarcely an exception, evaded and dodged the question throughout. My colleague from the fifth district [Mr. BAKWELL] in his speech of nearly an hour in length scarcely alluded to the subject. Has he no reason to give for his opposition to this vital measure? Or does he suppose that his constituents will be willing to accept a hackneyed tirade against the present Administration as a reason why Congress should not make some provision to bring order out of the chaos in which nearly one half of the country is involved by a wicked and causeless rebellion?

Let me remind my colleague that the people have put upon those old complaints against the Administration their seal of condemnation; that his

party has been before the people with that same tissue of misrepresentation and misconstruction of the acts of the Administration, and met with a most disgraceful defeat and merited rebuke.

But my colleague's acts, according to his own admissions, are inconsistent with his expressed sentiments. In one breath he tells us that this Administration is corrupt, and that it is conducting this war for its own aggrandizement and the perpetuity of its power; and in the next breath he tells us that he votes for all measures for carrying on the war. In one breath he tells us that the enormous expenditure of money by the Government is for private speculation, for filling the already plethoric pockets of Government contractors and corrupt rulers; and in the next he tells us that he votes for all appropriations the Administration asks for. I suppose this is what he calls being a "war Democrat." Does he thus vote, Mr. Speaker, because he disbelieves the sentiments expressed by him? Or does he feel himself compelled to do so by the indignant frowns of his constituents into whose minds he has not yet succeeded in instilling those sentiments? Sir, a compulsory patriotism of this sort is poor material upon which to rely for the support of the Government and the salvation of the country in perilous times like these.

Mr. Speaker, it has been asked wherein lies the necessity for action upon this measure at this time, and it has been said, Subdue the rebellion first, and it will then be time to talk about governing the country. My reply is this: the necessity for some kind of government goes hand in hand with subjugation. If civil government is not provided for it must be a military government—a thing inimical to the spirit of our institutions, and unknown to them except by the laws of war, and then of doubtful application except to foreign territory and a conquered foreign people. Pass a judicious enabling act, with proper safeguards, of which the people may avail themselves to organize civil governments at the very earliest opportunity, and it will afford a rallying-point for the Union sentiment remaining there, and tend to foster it and nourish it into a healthful and vigorous existence. It will prevent perplexing and complicated irregularities and diversities of action, and tend largely to harmony and strength in our future deliberations. No stronger illustration of the necessity and propriety of immediate action need be given than the case of Tennessee, Louisiana, and Arkansas.

The President's proclamation does not solve the difficulty. As a proclamation of amnesty, as a general outline or plan for organizing new State governments, as a prescription of safeguards and conditions precedent to such organization, it will ever stand as a bright and glorious page in the history of the present Administration. But it is incomplete for lack of constitutional power. That can be conferred by Congress alone, under the power to admit new States.

I am aware that a wide diversity of opinion exists as to the true, logical condition or status of the rebellious States, both while in rebellion and after the rebellion shall have been subdued by force of arms. Some contend that, to all intents and purposes, these States are out of the Union—territory and people—and that they are foreign Powers, and that when subdued we hold both as by conquest, with all the rights of a conqueror on our part, and the rights and disabilities of a conquered foreign Power on their part. Others contend that merely the governments of the States are subverted and overthrown, but that by some kind of spiritualization the States still exist and are in the Union, and that when the rebellion shall have been subdued, all we have to do is to rehabilitate or reimbody that supposed spirituality with such habits and or such body as we may see fit; and that when that is done we have the same old State we had before, but born into a new life. Others, again, contend that the State governments are not subverted or overthrown; that they still exist, with all their rights and obligations, as States of this Union, but that their functions are merely suspended by force of the rebellion; that it is a case of suspended animation merely, and that when the pressure of the military power of the insurgents shall be removed, these governments will spring into action again with full life and vigor, and with all their former powers, rights, and immunities unimpaired. Their motto is, "Once a State of

the Union always a State of the Union," on the monarchical idea, I suppose, that the king never dies.

In order fairly to consider these several theories, and intelligently to advance my own, I propose to take a few bearings from an original standpoint.

What is a State, in a general sense, and what is it to become and to be a State of this Union, and what are the true relations of the States in rebellion to the General Government while at war with it, and what will be those relations when those States are conquered?

What is a State? Chancellor Kent, in his Commentaries, (p. 189, n. b.) says:

"A State, in the meaning of public law, is a complete or self-sufficient body of persons united together in one community for the defense of their rights, and to do right to foreigners. A State has its affairs and interests; it deliberates and becomes a moral person, having an understanding and will, and is susceptible of obligations and laws."

Such, then, is a State. The people in their primary capacity do not constitute a State. It is the union of the people into one body for the purposes named. Such union is effected through the forms of government. Under our system, those forms of government are made up of and consist in constitutions and laws; from which it necessarily follows that whenever the constitution and laws of any State are by any means subverted, abrogated, or overthrown, the union of the people which made them a State is gone, and they cease to be a State.

One of the attributes of government is sovereignty. Under our theory of government, sovereignty is vested primarily in the people, but, as just shown, the people are not therefore a State. When the people, by virtue of that sovereignty, unite themselves together into one body for the purposes named above, through the forms of government, they breathe the breath of life into that body by investing it with sovereignty; and then, and not until then, does the State exist. When, therefore, the government, the body of the State, dies, what becomes of that sovereignty with which it was so invested, and by virtue of which alone it was made a living soul? It returns to the people, and may be exercised by them *de novo*, the same as though no government had ever existed.

So much as to the general characteristics of a "State."

Under the definitions above given, and within the general meaning of the term, the Government of the United States is "a State." It is a union of the people, and of all the people, into one body or community for the purposes named in the definition given by Chancellor Kent. "We, the people of the United States, in order to form a more perfect Union," &c., is the language of the preamble to the Constitution. It is the supreme State in all matters within the scope of its powers and jurisdiction. It was invested by the people with a sovereignty superior to, and supreme over, all others that may or can exist anywhere within its jurisdiction.

To become and to be a State of the Union requires the express action of Congress, admitting it as such, and its submission to the Constitution and laws of the Union.

Each State, therefore, owes its existence originally to the mandate and express consent of the supreme State, the General Government; and all the people of each State, and the States themselves, owe primary allegiance to that superior sovereignty.

My view, then, is this: the Government is the State; its soul and essence is the sovereignty with which the people have invested it for certain specified ends; among which ends is obedience to the national Constitution and laws. When such government becomes subversive of those ends, or seeks, by virtue of that sovereignty with which it has been invested, to bring the people in conflict with that superior sovereignty to which they owe allegiance, or when such government becomes abrogated or destroyed by any means, the sovereignty with which it was invested returns to the people, to be exercised by them *de novo*. When a State has thus, by its own act, become divested of its sovereignty, its soul and essence are gone, and it ceases to exist as a State of the Union.

It does not go out of the Union; that is im-

possible. That idea involves the absurdity that a State of this Union can exist outside of the Union. It simply ceases to exist when it ceases to be a State of the Union. If in such case it continues to maintain the forms of an existence, by force or otherwise, it is an excrescence upon the body-politic of the nation, to be removed and dissolved to make room for the exercise of national sovereignty and for legitimate State organizations by the people.

The superior sovereignty and jurisdiction cannot be destroyed or impaired by the destruction, subversion, or abrogation of the inferior. And hence when the inferior ceases to exist the national authority remains as complete as before over the entire territory and people.

Territory is not the State. It is the habitation of the State. It prescribes the boundaries of its local jurisdiction. In a governmental sense territory is national, and remains national the same after a State organization as before. To illustrate: the people of any portion of the national territory may go through the forms of organizing a State government by adopting a constitution and electing officers under it, but it cannot occupy a single foot of territory as a State anywhere within the national boundaries, and has no standing; whatever, without the previous consent of Congress. When Congress yields its assent and prescribes the boundaries of the new organization, then, and not until then, it has a footing to stand upon; but national jurisdiction over such territory is not thereby supplanted or impaired. The new organization comes in under and subject to national jurisdiction and sovereignty. And what folly would it be to contend that the national Government could not afterwards assert its jurisdiction and sovereignty over such territory to the entire exclusion of a foreign Power usurping such State government, and even of such State government itself, if subverted and sought to be maintained in defiant opposition to the national authority!

And yet there are those who contend, notwithstanding a State is in open and defiant rebellion against the Federal authority, yet that it is entitled to the rights, privileges, and immunities to which it became entitled on being admitted into the Union. This doctrine involves the absurdity that, although it was necessary for such States to submit themselves to the superior binding force of the national Constitution and laws in order to become a State, and be entitled as such to the rights, privileges, and immunities of a State of the Union, yet that a continuance of its existence as a State of the Union and of its rights and privileges as such does not depend upon a continuance of its submission to national authority.

This brings us to a more minute consideration of the questions, "What are the true relations of the States in rebellion to the General Government while at war with it?" And "What will be those relations when those States are conquered?"

We speak of them as States in rebellion. It will be seen that this is not a contradiction in terms, as might at first appear; but that in this idea lies a strong argument that by their rebellion they have ceased to be States of the Union. Those organizations now at war with this nation are not new organizations, endeavoring to supplant and usurp the territory and jurisdiction of the old. They are the same old organizations, operating under the same old constitution and laws. We are not contending to prevent some foreign Power from usurping the government of those States. From the very nature of the case we are not spending all this blood and treasure in endeavoring to aid those States to sustain their position in the Union, and as a part of it, against the depredations and usurpations of some foreign Power. No, sir. As has been already shown, those States have by their own acts ceased to be States of the Union. But they keep up the form of a State government—the same form as before. They have entered into a new confederacy. In both these capacities they constitute a power *de facto*; and as such power they are endeavoring, not to supplant and usurp the old State governments—it is absurd to say that a power is endeavoring to supplant itself—but the effort on their part is to supplant and usurp the national Government; and it is against that usurpation that we are contending.

We speak of them as States, and call them by

their old names; but it is a mere matter of description; a convenient mode of expression. They once were States of the Union. In form they still maintain the same organization and the same geographical boundaries; and as a convenient and ready designation of them as a power *de facto* we call them by the same old names.

In calling them States, and treating them as powers *de facto*, we do not concede the right or the legal power of secession. We deny the right of secession, and yet, as in the case of these States, it may become a fact. It has become such, but by wrong, by the highest of crimes, treason, robbery, and murder; nevertheless it is no less a fact. By it, however, came death and dissolution to the body-politic of those States, not by virtue of their resolutions and official or conventional declarations of secession alone, for these were mere nullities, and they were meaningless until followed by action. When followed by action, by forcible resistance to Federal authority, these resolutions and declarations had a meaning. They showed the *animus* of such resistance, the intention of it, and the extent to which it was intended to reach. They tended to show that such resistance was intended to be by the States in their corporate capacity. They showed that such resistance was not for redress of grievances under the national Government, but for its entire abrogation and destruction, so far as they were concerned; that they became and now are enemies within our borders and upon our own territory; and that the war has been, is, and must continue to be on our part for the maintenance of the existence of the national Government and the integrity of its territory.

We recognize them, however, as belligerents only. They have not been recognized by us or by the nations of the world in any other capacity. When an insurrection becomes civil war and the necessity occurs to treat the insurgents as belligerents has been so ably discussed and elucidated by the gentleman from Pennsylvania [Mr. Broomall] and others on this floor, who have preceded me, that I will not take up the time of the House with any remarks upon that point. It is sufficient for my present purpose that it has been authoritatively determined by judicial decision, and by the action of all the branches of the Government, that this contest is war, and that the rights and immunities of belligerents attach. From which it follows that the contest must be conducted under the rules of war, recognized as such by civilized nations; and further, that in its conclusion and results the contending parties must be governed by the same rules.

The "southern confederacy" and the States of which it is composed have no standing, therefore, except by virtue of those belligerent rights. And hence they must stand or fall by the rules of war. They are belligerents because of their military power; and they will remain belligerents so long, and so long only, as they have an organized army in the field, and because they have it. Everything depends upon the success or defeat of their arms. If they succeed, they then emerge into a civil government, and are entitled to be placed among the nations of the earth. If they fail, if their military power is broken up and destroyed, they are destroyed with it and are nothing. The rebellious States have submitted their right to national existence to the fate of war, and by that fate they must abide.

But who are the parties to the war, and what are the immediate results of conquest by either? The parties are, upon the one side, a portion of the people of this nation in insurrection, organized into a formidable military power and assuming to exercise all the functions of civil government, (through the forms and machinery of government known as States, which had once existed under and as a part of the national Government,) seeking a dismemberment of the nation and the establishment of their own independence; and upon the other side the national Government itself seeking to maintain its integrity.

The integrity of the Government, as before shown, is to be maintained by breaking up the military power of the insurgents, which, as we have seen, must be done under the laws of war. According to those laws the successful party is conqueror and the other is the conquered; and all the rights, liabilities, and disabilities of conquest follow. If we succeed we make no conquest of

territory, because that is already ours. We simply succeed, in that respect, in bringing that which is our own again under our control. But we do make conquest of the people, and of the entire people, within the insurrectionary district; because by the rules of war all the people within the enemy's jurisdiction are enemies. By the same laws we succeed to the right not only to govern the conquered but to dictate to them the form of government which they shall adopt, limited only by our own constitutional powers.

It is absurd, and illogical, and in contravention of the plainest rules of war, to contend that States, which have thus formally forsworn their allegiance to the Government and submitted the question to the arbitrament of war, are entitled nevertheless to all their rights and immunities under the national Constitution and laws. As well might it be said that nations at war with each other might insist upon the observance of former treaties of commerce and of diplomatic courtesies. No, sir, war abrogates all compacts, and the belligerents are remitted to the inexorable laws of war in all their intercourse with each other. And there is no difference in this respect between a civil war and a war with a foreign nation.

In our case, so far as State rights are concerned, and to the extent to which those rights exist, we may treat the enemy, when subdued, as a conquered foreign Power; but so far as the powers and jurisdiction of the General Government are supreme or even concurrent, the people at war with it are domestic enemies and traitors, and on being subjugated are liable to be treated as such. Hence, the States thus at war are liable to have their respective State governments and their existence as States treated as abrogated and at an end, in the same manner and to the same extent as in the case of a subjugated foreign Power. But while this is the case the powers and jurisdiction of the General Government remain just as they were before the war, unaffected and unimpaired, over all the territory of those States, and all the people which shall be found remaining there; and that to the same extent and to be exercised in the same manner as if such State governments had never existed. If rebels and traitors are found there, treat them just as you would rebels and traitors found anywhere within our jurisdiction; convict them and hang them, or grant them amnesty, as may seem meet.

So far, then, as those organizations known as States are engaged as such in this contest it is war to all intents and purposes; and so far as the people in their character as citizens of the United States are concerned it is civil war; in each of which conditions, however, the national Government has the same rights and powers as in the other.

In deciding the prize cases, so called, in 1862, the Supreme Court of the United States laid down the following doctrine in relation to the present contest:

"The present civil war between the United States and the so-called confederate States has such character and magnitude as to give the United States the same rights and powers which they might exercise in the case of a national or foreign war."—2. *Black*, 636.

And again, quoting Vattel as authority, the court say, (page 667:)

"A civil war," says Vattel, "breaks the bands of society and government, or at least suspends their force and effect; it produces in the nation two independent parties, who consider each other as enemies, and acknowledge no common judge. Those two parties, therefore, must necessarily be considered as constituting, at least for a time, two separate bodies, two distinct societies. Having no common superior to judge between them, they stand in precisely the same predicament as two nations who engage in a contest and have recourse to arms."

In this view of the case, and so far as we have the right by the laws of war to dictate terms to the conquered, and grant amnesty to domestic enemies, the proclamation of the President, accompanying his last annual message to Congress, was not only competent, right, and proper, but was clearly within the scope of his war powers as Commander-in-Chief of the military and naval forces of the nation. But when these people, or any portion of them, wish to organize a State government, and be admitted as one of the States of the Union, the consent of Congress is necessary, and upon this point there seems to be no difference of opinion. It is one of the features of this bill to provide for such emergency.

But Congress has not the power to create State

governments for the people; it has the power only to admit them as States when organized by the people. Congress, nevertheless, has the power to prescribe the terms upon which such new States may be admitted, and to govern the territory, and the people until State governments are organized and admitted as such. It is another of the features of this bill to meet this latter emergency.

Such, then, are my views of the status of the rebellious States, and the power of the national Government over the territory and people of which they were made up, deduced from principle and authority.

I will not detain the House with any argument to show the justice of the retribution thus brought upon those States by their crime. It seems like a waste of time to discuss so self-evident a proposition.

So much, then, as to the power of the national Government over the people and territory involved in the rebellion. What is its duty toward them for the good of the whole people and the future peace and stability of the Government is still another question.

In ordinary transactions in life, when we set about remedying an evil, our first step is to search for and destroy or remove its cause; or, if the cause be already removed or destroyed, then our efforts, if wise, are directed toward avoiding or preventing its recurrence.

That slavery is the cause of the present rebellion no sane man doubts; and no man whose judgment is not warped by interest or trammelled and tied down by old party bonds, and perverted by old party dogmas, will deny or even cavil about it. And it is equally clear to all thinking men whose minds are free to think correctly upon this subject, that the insurgents will continue the war upon this Government so long as there remains a vestige of the accursed institution to fight for, and they have an army left in the field.

Yes, sir, slavery has hung upon the nation like an incubus ever since it has had an existence. It is no part of the body-politic of the nation. It is an excrescence upon it, a horrible disease that has been festering upon its surface, enfevering the entire system, until at last it has struck at the very vitals of the nation; and unless destroyed and entirely removed the body must die.

As in the animal economy, when any portion of the body is so diseased that the functions of life and growth are materially interfered with, so in this. If there be sufficient vitality remaining, there will be formed what the surgeons call a line of demarcation between the diseased flesh and the healthy, and the former dies and sloughs off, and the body is saved. And as in such cases the skillful surgeon watches for this indication of nature, and when it appears, at once amputates the diseased part, and thus aids nature in restoring the body to health, so in this case the line of demarcation formed, and by the breaking out of the rebellion it became clearly delineated upon the body-politic. The diseased portion—slavery—at once commenced to die and slough off. The President, like the skillful surgeon, although perhaps a little tardy, applied the knife of emancipation; but it remains for Congress to finish the operation. Let us complete the work with a bold hand and strong nerves, and at once and forever remove this poisonous ulcer, this vile excrescence, from the body of the nation, and thus not only save its life, but restore it to renewed health and vigor. To aid in bringing about this result is still another feature of this bill.

I have said that slavery constitutes no part of the body-politic. That is so. It is no part of the national Government. It is neither head, body, limb, hand, nor foot, and constitutes none of its vital functions. The Constitution and the Government are complete without it. What branch of the Government cannot be conducted without the existence of slavery? What part of the motive power, what portion of the fundamental framework or machinery of the Constitution do you remove or interfere with by destroying slavery?

The fundamental elements of the Constitution are those which establish the principles and policy upon which the Government shall be conducted. Slavery was not among the principles thus established. Neither did it constitute any part of the policy upon which the Government was to be conducted. It existed before the Constitution, and that instrument silently suffers its continuance.



Simply that and nothing more. This being the case, how can it be said that we cannot have "the Constitution as it is" unless slavery is reestablished, or at least permitted, in all the territory in which it formerly existed?

That slavery exists by virtue of State laws alone, is a proposition which cannot be, and I believe is not, controverted. Therefore, when those laws cease, no matter by what means, the shackles of the slave fall from his limbs and he is a free man, and that without, and, if you please, in spite of presidential proclamations, and without any legislative or constitutional enactments whatsoever.

As I have before shown, the constitutions and laws of the States in rebellion have ceased to exist, and the people are remitted to their original right to organize new State governments under the Constitution and laws of the Union. As one of the results of this state of things, slavery has ceased to exist. The only object and purpose to be effected now by congressional enactment and constitutional amendment is to prohibit its reestablishment forever; and while we are about it, let the prohibition be universal throughout the entire length and breadth of the national boundaries.

That it is the duty of the Government to do this has become too well established to even admit of argument. It has been adjudicated and determined by the verdict and judgment of the people. It is right in and of itself. It is just, and the people demand that it shall be done. If this Congress does not take the initiative, the next will be composed of men who will. The people are awake to this subject and understand its merits. They are moving, and in the right direction, and almost unanimously in the same direction, that of right, of justice, and of humanity.

True, there still exists a remnant of a once powerful party, but now weak and insignificant in numbers, which from interest or blind party prejudice, or both, still clings to the failing fortunes, and tottering form of slavery, and seems determined to "sink or swim, survive or perish" with it. And notwithstanding that the vanishing demon, proud and self-sufficient even in the very jaws of death, derides their sycophantic fidelity, while it accepts the fruits of their cooperation, yet, with all the tenacity (but none of the purity) of the love and fidelity of Ruth toward her mother-in-law, upon bended knees and with outstretched arms they beseech their once powerful protector as Ruth besought Naomi:

"Entreat me not to leave thee, or to return from following after thee; for whither thou goest, I will go; and where thou lodgest, I will lodge; thy people shall be my people, and thy God my God; where thou diest, will I die, and there will I be buried: the Lord do so to me, and more also, if I ought but death part thee and me."

Sir, in respect to slavery and the slave power, we are in the midst of *revolution*. This proposed legislation and this discussion are because we are involved in revolution, and are themselves parts of it. In respect to slavery, it is not *change* merely that is taking place, it is *radical substitution*; and of what? Of freedom for slavery; and why? Because slavery proved itself inimical to civil liberty, to the Constitution, and to republican institutions.

The slave power, not content with the enslavement of its immediate victims, insisted upon and for a long series of years was conceded the control of the Government, and the enslavement in fact of all its energies, its power, its wealth and its emoluments. At length, through congressional enactments controlled by its interests, and subsidized judicial decisions in furtherance of its purposes, its encroachments became intolerable; and a cry went up from the great body of the people of the free States, and from many in the slave States, against the aggressions of the slave power, and demanded that it should confine itself to its own particular domicile, and not stretch its arms over the entire nation, and attempt to control the liberties of the entire people. It was the voice of Liberty, demanding of this modern Pharaoh to "let the people go." But, like its ancient prototype, its heart was hardened, and it refused. At length the people arose in their might and asserted their right under the Constitution to rule, and said to the slave power, "Henceforth this Government shall be in truth what it is in form, a Government by the people, and you may exist forever,

if you will, where you are, but no further shall you go."

Then the slave power rebelled, and, like the ancient Egyptians, sought to destroy the nation it could no longer enslave. For a time we seemed to be drifting about, we scarcely knew whither. But the pillar of cloud by day and of fire by night kept us on our way. Slavery, however, lay before us, stretched out across our pathway, and, like the Red sea before the ancient Israelites, seemed an impassable barrier to our further progress, while the hosts of the enemy were threatening death and destruction in our rear.

At length the President of the United States, in obedience to a Power mightier than he, like Moses of old, stretched out his hand over the sea, and a strong east, and a north and a west wind as well, blew, and caused the sea to go back and the waters to be divided, and we went into the midst of the sea upon dry ground; and now those dark waters of slavery that seemed an impassable barrier to us have become a wall of protection unto us, on our right hand and on our left.

The hosts of rebellion, impelled by the same unseen power, are still pursuing, even into the midst of the sea, where certain destruction awaits them. Already are they troubled. Their chariot wheels are taken off that they drive them heavily. Soon the waters will come again—ay, are coming now in the form of a hundred thousand armed men that once were their slaves—upon them, upon their chariots, and upon their horsemen, and all the hosts of the rebellion that shall have come into the midst of the sea after us, together with all those that voluntarily adhere to them, will be engulfed by the closing waters and utterly destroyed, and there shall not remain so much as one of them! And this people shall walk upon dry land, and emerge into renewed national life and vigor, holding an unbroken Union in the one hand, and in the other liberty undefiled and unadulterated, liberty without contradictions, liberty regulated by law, liberty that makes a people free indeed.

Mr. DONNELLY obtained the floor, but yielded to.

Mr. O'NEILL, of Pennsylvania, who moved that the House adjourn.

The motion was agreed to.

The House accordingly (at ten o'clock and fifty minutes, p. m.), adjourned until Monday morning.

#### IN SENATE.

Monday, May 2, 1864.

Prayer by the Chaplain, Rev. Dr. SUMNERLAND. The Journal of Saturday was read and approved.

#### PETITIONS AND MEMORIALS.

Mr. GRIMES. I present the petition of Commanders James F. Armstrong, William Roncken-dorf, G. H. Cooper, and Lieutenant Commanders McCauley, Potter, McDougal, Temple, Chandler, and a great many other officers of the Navy, who represent that for more than twenty years the number of commanders in the Navy was ninety-seven and that of captains sixty-five, the vessels of our Navy then numbering less than one hundred, and these officers were not deemed too many for the exigencies of the service; and yet at a time when the Navy is being enlarged three-fold in men and ships and subordinate officers, the grade of commander was reduced to seventy-two and that of captain to thirty-six. The result has been to stop promotion among commanders and lieutenant commanders. They say that while the duties and responsibilities of these grades are considerably increased, they are imposed on officers of inferior rank; that is to say, it is required of lieutenant commanders to fill the place of commanders and of commanders that of captains. They represent that we have lieutenant commanders in some instances commanding frigates and serving as fleet captains to large squadrons and filling the duties of captains—their labors alone and not their rank with its immunities at all increased. The pay, too, of these grades was at the same time materially reduced. Feeling aggrieved as the case now stands, they earnestly beg that these two grades of captain and commander may be increased at least to their old figures, which would not increase the aggregate expenses of the Navy, provided the lieutenant commanders, now one hundred and forty-four in

number and found by experience to be excessive, be reduced to the necessary limit. I move that the petition be referred to the Committee on Naval Affairs.

The motion was agreed to.

Mr. CONNESS. I suggest to the honorable Senator that some instruction should go with that petition to the committee.

Mr. GRIMES. I trust there will be no necessity for any instruction on the subject. Let it be simply referred to the committee without instructions. It is not usual, I believe, to accompany the reference of a petition with instructions.

Mr. CONNESS. I was going to suggest that the committee be directed to report at an early day. I think that is entirely in order and usual; and I make that motion.

The PRESIDENT *pro tempore*. The petition has already gone to the committee.

Mr. HOWARD presented a petition of citizens of Livingston county, Michigan, praying for an increase of the duty on imported wool to at least fifteen cents per pound; which was referred to the Committee on Finance.

Mr. SUMNER presented a petition of men and women of Belgrade, Maine, praying for the abolition of slavery, and such an amendment of the Constitution as will forever prohibit its existence in the United States; which was referred to the select committee on slavery and freedmen.

Mr. CONNESS presented a telegraphic dispatch to him, from citizens of San Francisco, California, in relation to an extension of the time for payment of duty on goods in bond; which was referred to the Committee on Finance.

He also presented a memorial of James W. Nye and other territorial officers and citizens of the Territory of Nevada, praying for such amendments to the act authorizing the people of that Territory to form a constitution and State government as will change the time of voting on the question of adopting such constitution from the second Tuesday in October to the first Wednesday of September of the present year, the day of the general election in that Territory, and that so much of said act as inhibits the taxing of lands until three years after sale by the Government may be repealed; which was referred to the Committee on Territories.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting, in answer to a resolution of the Senate of the 27th ultimo, information in regard to the condition of affairs in the Territory of Nevada; which, on motion of Mr. WILKINSON, was referred to the Committee on Territories, and ordered to be printed.

#### REPORTS FROM COMMITTEES.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the petition of Isaac Reede, a soldier in the war of 1812, praying for a pension, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Helen M. Stansbury, widow of Major Howard Stansbury, of the corps of topographical engineers of the United States Army, praying for a pension, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Mrs. Jane M. McCrabb, widow of Captain John W. McCrabb, praying for arrears of pension, submitted an adverse report thereon; which was ordered to be printed.

Mr. WILLEY. The Committee on Naval Affairs, to whom was referred the petition of Alfred A. Belknap, a paymaster in the United States Navy, praying to be relieved from all responsibility for a certain sum of money belonging to the United States which was stolen from him in the city of New York in April, 1863, have directed me to make a written report asking to be relieved from the further consideration of the petition for the present. I move that the report be printed.

The report was agreed to, and ordered to be printed.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom was referred a bill (S. No. 225) for the relief of certain friendly Indians of the Sioux nation in Minnesota, reported it with amendments.

## BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 263) to grant one million acres of public lands for the benefit of public schools in the District of Columbia; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 49) to provide additional ground for a cemetery at the Soldiers' Home; which was read twice by its title.

Mr. WILSON. I move the reference of this resolution to the Committee on Military Affairs. It will be remembered that Congress authorized the President to procure grounds in and about Washington in which to bury our deceased soldiers, and certain grounds were taken near the Soldiers' Home. Six thousand soldiers are now buried there, and additional lands are wanted. The grounds adjoining should be taken if needed. I understand there is some opposition to those grounds being taken, and the idea is to start a new cemetery over the river. The spot where our soldiers are buried will be of intense interest to this capital for ages to come. It is proposed to send the deceased soldiers who may hereafter die over the river to be buried. I hope that we shall have but one burying-ground near the capital for the soldiers that may fall or die in the war. I move the reference of the resolution to the Committee on Military Affairs and the Militia.

The motion was agreed to.

## PRINTING OF AN AMENDMENT.

Mr. WILKINSON submitted an amendment to the bill (H. R. No. 159) for a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of a railroad in said State; which was referred to the Committee on Public Lands, and ordered to be printed.

## BILLS BECOME LAWS.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that the President had approved and signed, on the 29th of April, the following acts:

An act (S. No. 66) to increase the compensation of inspectors of customs in certain ports; and  
An act (S. No. 181) in reference to donation claims in Oregon and Washington.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLORD, its Chief Clerk, announced that the House of Representatives had passed a bill (No. 405) to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes; in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had agreed to the first, second, third, fourth, fifth, sixth, and tenth amendments; and disagreed to the ninth amendment of the Senate to the bill of the House (No. 198) making appropriations for the support of the Army for the year ending the 30th of June, 1865; and it had agreed to the seventh and eighth amendments of the Senate to the said bill, with amendments, in which it requested the concurrence of the Senate; also, that the House of Representatives had made two amendments to the text of the bill, in which amendments it requested the concurrence of the Senate.

## ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; which were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 47) for the relief of William C. Walker and others;

A bill (H. R. No. 388) for the relief of Jesse Williams; and

A bill (H. R. No. 371) for the relief of the settlers upon certain lands in California.

## ARMY APPROPRIATION BILL.

The Senate proceeded to consider its amendments to the bill of the House (No. 198) making appropriations for the support of the Army for the year ending the 30th of June, 1865, disagreed to by the House of Representatives, with the amendment of the House to the seventh and eighth

amendments of the Senate to the said bill, and the amendments of the House to the text of the bill; and

On motion of Mr. FESSENDEN, it was

Ordered, That they be referred to the Committee on Finance.

## INTERNAL REVENUE BILL.

The bill (H. R. No. 405) to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes, was read twice by its title, and referred to the Committee on Finance.

Mr. FESSENDEN. I wish to move that an extra number of copies of that bill be printed for distribution. I do not know how many, but I suppose the motion must go to the Committee on Printing.

The PRESIDENT *pro tempore*. It must go there unless by the unanimous consent of the Senate.

Mr. WILSON. I think there will be unanimous consent.

Mr. FESSENDEN. I will move that one thousand extra copies of the bill be printed for the use of the Senate, and, if there be no objection, I will ask for action upon the motion now.

The motion was agreed to.

Mr. FESSENDEN. I move that these extra numbers be printed in pamphlet form, as that will be the better form for distribution.

Mr. SHERMAN. That will cost more, as the type will have to be reset.

Mr. FESSENDEN. I am informed that that will add to the expense, and I withdraw the motion.

## SOLDIERS' HOME.

Mr. HALE. I submit the following resolution, which I desire to have considered in connection with a joint resolution introduced by the Senator from Massachusetts this morning:

*Resolved*, That the Committee on Military Affairs and the Militia be instructed to inquire into the expediency of continuing the relief to soldiers at the Soldiers' Home, inquiring into the manner in which the funds for the said institution have been managed, the present condition of the same; and also whether the benevolent purposes of the Government in establishing the same might not be better carried out by repealing the law, abandoning that mode of relief, and substituting therefor pensions to those at present by law entitled to its benefits.

The resolution was considered by unanimous consent, and agreed to.

## RIGHTS OF COLORED VOLUNTEERS.

Mr. SUMNER. I ask the Senate to take up a resolution that I offered on Saturday calling on the President for certain papers, which was objected to by the Senator from Kentucky, [Mr. POWELL.]

Mr. DAVIS. What is that resolution?

Mr. SUMNER. A call on the President for certain papers.

Mr. DAVIS. Let it be reported.

The Secretary read the resolution, as follows:  
*Resolved*, That the President of the United States be requested to furnish to the Senate, if not incompatible with the public interests, a copy of any opinion by the Attorney General on the rights of colored persons in the Army or volunteer service of the United States, together with the accompanying papers.

The motion to take up the resolution for consideration was agreed to.

Mr. SUMNER. I wish to call attention to the character of that opinion by reading two sentences from it.

Mr. GRIMES. There is no objection to the resolution.

Mr. SUMNER. Of course there will be no objection to it; but I merely wish to call attention to the character of the opinion. It relates to a question that has been much discussed in the Senate during this session, and on which there have been opposite opinions. Certain Senators have alleged, on grounds of law and of Constitution, that the colored soldiers had no rights to equality in the Army or volunteer service of the United States. We have now the opinion of the Attorney General to this effect:

"I do not know that any rule of law, constitutional or statute, ever prohibited the acceptance, organization, and muster of persons of African descent into the military service of the United States as enlisted men or volunteers."

And then, in another part of this opinion, after referring to the proviso regulating the pay of soldiers of African descent, he says as follows:

"The act of which the proviso is a part was not intended,

in my opinion, either to authorize the employment or to fix the pay of any persons of African descent except those who might be needed to perform the humble offices of labor and service for which they might be found competent."

I understand that this opinion is accompanied by certain papers, among others an important letter from Governor Andrew, of Massachusetts, which ought to be printed in connection with the opinion that the whole case may be fairly understood.

The resolution was adopted.

## RANCHO BOLSA DE TOMALES.

Mr. CONNESS. I move to postpone all prior orders for the purpose of taking up Senate bill No. 216. It is a bill that will occupy but very little time. It has been reported from the Committee on Public Lands.

The motion was agreed to; and the bill (S. No. 216) to grant the right of preemption to certain settlers on the Rancho Bolsa de Tomales, in the State of California, was read the second time, and considered as in Committee of the Whole. It provides that it shall be lawful for the Commissioner of the General Land Office to cause the lines of the public surveys to be extended over the tract of country known as the Rancho Bolsa de Tomales, in Marin county, California; the claim to which, by James D. Galbraith, has been adjudged invalid by the Supreme Court of the United States, and to have approved plans thereof duly returned to the proper district land office; but the actual cost of such survey and platting is first to be paid into the surveying fund by settlers, according to the requirements of the tenth section of the act of Congress approved May 30, 1862, to reduce the expenses of the survey and sale of the public lands in the United States.

After the return of such approved plans to the district office, it is to be lawful for individuals, settlers upon the Rancho Bolsa de Tomales, to enter, according to the lines of the public surveys, at \$1 25 per acre, the land settled upon by them to the extent to which the same had been reduced to possession at the time of the adjudication of the Supreme Court, joint entries being admissible by continuous proprietors, in order that their respective boundaries may be adjusted in accordance with their several possessions.

All claims within the purview of this act are to be presented to the register and receiver within twelve months after the return of such surveys to the district land office, accompanied by proof of settlement, and the extent to which the tracts claimed had been reduced into possession at the time of the adjudication; and thereupon each case is to be adjudged by the register and receiver, under such instructions as shall be given by the Commissioner of the General Land Office; to whom the proof and adjudication are to be returned by the local land office, and no adjudication is to be final until confirmed by the Commissioner; but the confirmation by the Commissioner is to be conclusive and final between continuous proprietors, and the correctness thereof is not to be open to contestation in any action at law or suit in equity between them or between parties claiming under them by title subsequent; but any claim not brought before the register and receiver within twelve months is to be barred, and the lands covered thereby, with any other tracts within the limits of the rancho, the titles to which are not established under this act, are to be dealt with as other public lands, but subject to the adjudicated boundaries of the claims which are presented within the limit of the time prescribed. No person under the provisions of this act is to be allowed to enter a greater quantity of land than three hundred and twenty acres.

Mr. CONNESS. A few words to explain this bill. It has been reported by the Committee on Public Lands favorably. It is a bill to enable the settlers upon what was an alleged Spanish or Mexican grant in California to obtain their lands from the United States, the grant having been rejected by the Supreme Court of the United States, and they having settled upon the land and made their improvements and homes there. There are no counter rights to be affected by it.

Mr. JOHNSON. I ask the honorable member from California if the title to the rancho has been settled by any judicial decision in any controverted case.

Mr. CONNESS. Yes, sir; and rejected by the Supreme Court.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### TRADE ON THE NORTHERN FRONTIER.

Mr. MORRILL. I ask the Senate now to take up and consider at this time Senate bill No. 223. The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 223) to regulate the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, and for other purposes.

It provides that any boat, sloop, or other vessel of the United States, navigating the waters on our northern, northeastern, and northwestern frontiers, otherwise than by sea, shall be enrolled and licensed in such form as may be prescribed by the Secretary of the Treasury; which enrollment and license is to authorize any such boat, sloop, or other vessel to be employed either in the coasting or foreign trade; and no certificate of register is to be required for vessels so employed on those frontiers; but such boat, sloop, or vessel is to be, in every other respect, liable to the rules, regulations, and penalties now in force relating to registered vessels on our northern, northeastern, and northwestern frontiers.

In lieu of the compensation provided by the fourth section of the act of March 2, 1831, to regulate the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, and for other purposes, each of the several collectors of customs in the following districts: Pembina, Chicago, Milwaukee, Sault Saint Marie, Detroit, Miami, Sandusky, Cuyahoga, Presque Isle, (hereafter to be called Erie), Dunkirk, Buffalo, Niagara, Genesee, Oswego, Cape Vincent, Oswegatchie, Champlain, and Vermont are to receive an annual compensation of \$1,000, and, in addition thereto, the fees now collected under the general regulations of the Treasury Department of February, 1857, and a commission of three per cent. on all moneys collected and accounted for by them respectively; but the aggregate compensation derived from salary, fees, and commissions is not in any case to exceed the sum of \$2,500 per annum, subject to the provisions of the act relative to collectors and other officers of the customs, approved February 11, 1846. Whenever the aggregate of salary, fees, and commissions in any case exceeds the sum of \$2,500, after deducting the necessary expenses incident to the office, for and during the same period for which the compensation is allowed, the excess is, in every such case, to be paid into the Treasury of the United States. The fees and emoluments of all kinds are to be accounted for as provided by the twelfth section of the act of the 7th of May, 1822.

The collectors and other officers of customs on the frontiers are to be authorized to charge and collect the same fees as are now allowed by law to be charged and collected by the collectors and other officers of customs.

All the territory, harbors, and waters on the eastern shore of the State of Wisconsin, bordering on Lake Michigan, heretofore embraced in the district of Michilimackinac, and lying within the limits of the State of Wisconsin, are attached to and made a part of the collection district of Milwaukee, in the State of Wisconsin.

There are to be designated and appointed in the mode provided by law two local inspectors of steamboats for the collection district of Oregon, at an annual compensation of \$500 per annum, to be paid as provided by law in the case of other like inspectors.

All bonds given by collectors of customs, naval officers, surveyors, and by all officers of the customs throughout the United States are to be approved by the Commissioner of Customs, in whose office they are now required to be filed.

This bill is to take effect from and after June 30, 1864.

The act entitled "An act to regulate the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, and for other purposes," approved March 2, 1831, and all other acts or parts of acts inconsistent with this act are to be repealed.

The PRESIDENT *pro tempore*. The first question will be on the amendments reported from the Committee on Commerce.

Mr. POWELL. I should like the gentleman having the bill in charge to explain the effect of the law this bill proposes to repeal—I do not know what it is—and whether it confers on these vessels any greater privileges, before we proceed to act upon the amendments.

Mr. MORRILL. Perhaps I ought to explain the general character of the bill. The Senate will perceive that it relates entirely to the commerce on the northern, northeastern, and northwestern frontiers. It has no application to the sea-coast. In answer to the inquiry of the Senator from Kentucky, I will state that it repeals the act of 1831, and provides otherwise than that act did for the commerce in that section of the country. By the second section of that act it will be seen that British colonial boats, vessels, &c., entering these waters were placed upon precisely the same terms as American vessels. This bill changes that rule, and places British vessels navigating the lakes upon precisely the same footing with British vessels navigating the seas.

The second section of the act of 1831 provided for licensing vessels upon the northern, northeastern, and northwestern frontiers; but it was not uniform with the system adopted upon the coast. This bill repeals that section, and, as will be seen by the first section, provides that they "shall be enrolled and licensed in such form as other vessels." The only effect of this is to produce entire uniformity. I am not aware that in the question of fees or emoluments or anything of that sort it makes the slightest difference.

The fourth section of the act of 1831 provided for the compensation of these officers; and it will be seen by reading the section that it is quite difficult to know what that compensation is. The section is in these words:

"That in lieu of the fees, emoluments, salary, and commissions now allowed by law to any collector or surveyor of any district on our northern, northeastern, and northwestern lakes and rivers, each collector or surveyor, as aforesaid, shall receive, annually, in full compensation for these services, an amount equal to the entire compensation received by such officer during the past year."

That is to say, if we wish to find out what shall be the salary of any of these officers for any future year, we must ascertain what their salary was for 1830. How is that to be ascertained? The compensation of these officers is made up principally by fees, fines, forfeitures, &c., which they collect. The custom-house officers upon the lakes were peculiar in that respect. They had no fixed salary. Their compensation, therefore, depended entirely upon what they could collect from fines, forfeitures, &c., and it was various. This bill provides that at certain points, enumerating them, ten in number, I think, along the northern and northeastern coast, they shall receive a compensation of at least \$1,000 a year, and they shall have such compensation as arises from commissions.

Mr. POWELL. Does that make their pay greater or less than the compensation they have heretofore received?

Mr. MORRILL. It is greater in some respects, and less in others. It has been very disproportionate. At Buffalo, Oswego, and some other points, the compensation was very large, while at other points it was merely nominal, demanding no service and securing no fidelity. This bill goes upon the idea that if it is important to protect the commerce of that section of the country it is important to secure the services of men worth at least \$1,000 per annum.

Mr. COLLAMER. As collectors?

Mr. MORRILL. Yes, sir. The committee believe that the commerce on that frontier is, particularly at this time, of such importance as to demand an agent in the interest of the Government who is worth at least in that business \$1,000. We say, therefore, that at certain points, taking into consideration the importance of those points as we have been able to ascertain them, there may be custom-house officers appointed whose salaries shall be \$1,000 per annum, and as much more as they are able to collect out of certain emoluments that are established by the general law of the country. That is the provision of the second section of the bill.

Mr. COLLAMER. That includes all the northern frontier?

Mr. MORRILL. The whole northern, northeastern, and northwestern frontiers.

One other thing, and then I have stated the

whole effect of the bill. The custom-house officers on the interior lakes have never had the same compensation and fees as the custom-house officers on the coast. There has been a distinction. We abolish that distinction by the third section of this bill, which is in these words:

"That the collectors and other officers of customs on the said frontiers shall be authorized to charge and collect the same fees as are now allowed by law to be charged and collected by the collectors and other officers of customs."

So that in this respect, as in the respect I have already stated in regard to registering vessels, it makes entire uniformity throughout. This, I believe, is a succinct statement of the effect of this bill.

Mr. HARDING. Will the Senator inform me why the committee propose to strike out the fifth section of the bill?

Mr. MORRILL. I omitted that. The fifth section provides for the appointment of two local inspectors of steamboats for the collection district of Oregon. That was not congruous to this bill; and upon consultation with the Secretary of the Treasury he consented, or rather recommended, that that section should be stricken out with a view of providing for the matter contained in the section, which he recommends as a necessity, in connection with the establishment of similar officers at other points. There is a bill already reported in the other branch of Congress which makes the same provision, and for that reason we propose to strike this fifth section out of the present bill. The first amendment of the committee was in section one, line six, after the word "as" to strike out the words "may be prescribed by the Secretary of the Treasury," and to insert "other vessels;" so that the clause will read:

"That any boat, sloop, or other vessel of the United States, navigating the waters on our northern, northeastern, and northwestern frontiers, otherwise than by sea, shall be enrolled and licensed in such form as other vessels."

The amendment was agreed to.

The next amendment of the committee was in section one, line nine, after the word "trade" to insert "on said frontiers;" so that the clause will read:

"Which enrollment and license shall authorize any such boat, sloop, or other vessel to be employed either in the coasting or foreign trade on said frontiers."

The amendment was agreed to.

The next amendment of the committee was in section one, line fourteen, after the word "registered" to insert "and licensed," and after the word "vessels" to strike out "on our northern, northeastern, and northwestern frontiers;" so that the proviso will read:

"Provided, That such boat, sloop, or vessel shall be, in every other respect, liable to the rules, regulations, and penalties now in force relating to registered and licensed vessels."

The amendment was agreed to.

The next amendment of the committee was to strike out the fifth section of the bill, in the following words:

Sec. 5. And be it further enacted, That there shall be designated and appointed, in the mode provided by law, two local inspectors of steamboats for the collection district of Oregon, at an annual compensation of \$500 per annum, to be paid as provided by law in the case of other like inspectors.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading; was read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LYON, its Chief Clerk, announced that the House of Representatives had passed a bill (No. 377) making appropriations for the payment of the awards made by the commissioners appointed under and by virtue of an act of Congress entitled "An act for the relief of persons for damages sustained by reason of the depredations and injuries by certain bands of Sioux Indians," approved February 16, 1863.

The message further announced that the House of Representatives had passed the bill of the Senate (No. 198) to aid the Indian refugees to return to their homes in the Indian Territory.

The message further announced that the House of Representatives had concurred in the amendments of the Senate to the following bills of the House:

A bill (No. 119) to regulate the admeasurement



# THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

TUESDAY, MAY 3, 1864.

NEW SERIES.....No. 127.

of tonnage of ships and vessels of the United States; and

A bill (No. 220) to vacate and sell the present Indian reservations in Utah Territory and to settle the Indians of said Territory in the Uinta valley.

## BILLS BECOME LAWS.

The message also announced that the President of the United States had approved and signed on the 29th of April the following acts and joint resolutions:

An act (H. R. No. 62) fixing certain rules and regulations for preventing collisions on the water;

An act (H. R. No. 367) to provide for the collection of hospital dues from vessels of the United States sold or transferred in foreign ports or waters;

An act (H. R. No. 408) for the relief of postmasters who have been robbed by confederate forces or rebel guerrillas; and

A joint resolution (H. R. No. 67) to increase temporarily the duties on imports.

## CLAIMS OF WISCONSIN.

Mr. HENDRICKS. I ask the Senate to suspend all prior orders and take up the joint resolution (S. No. 8) for the relief of the State of Wisconsin.

The motion was agreed to.

Mr. SHERMAN. If it is in order, I will move to discharge the Committee on the Judiciary from the further consideration of the resolution in regard to a quorum, with a view to have it before the Senate. I do not propose to press it to a vote now; but I should like to have the committee discharged from its further consideration. I will state very frankly the reason why I make this motion. The chairman of the committee [Mr. TRUMBULL] is detained from his seat by illness in his family, and will not be here for some time. The Senator from New York, [Mr. HARRIS], who is also a member of that committee, is also absent, and it is scarcely worth while for us to wait for the report of that committee. I therefore move to discharge the Committee on the Judiciary from the further consideration of the resolution, so that it may lie on the table, and I shall call it up for a vote at some future day.

The PRESIDENT *pro tempore*. It can only be done by unanimous consent; another subject being before the Senate.

Mr. DAVIS. That is a matter of such fundamental importance that I think it absolutely indispensable that the report of the Committee on the Judiciary should be made on the subject.

The PRESIDENT *pro tempore*. Does the Senator from Kentucky object?

Mr. DAVIS. Yes, sir, I object.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. No. 8) for the relief of the State of Wisconsin.

Mr. HENDRICKS. I shall not take up the time of the Senate to explain the merits of the measure before the Senate unless objection be made to it. If Senators do not wish to discuss it, I do not. I think it is plainly the right of that State to have her fund.

Mr. FESSENDEN. Perhaps we may as well take up the subject at the present as at any other time, but there are only ten minutes left of the morning hour, and I wish to say something to the Senate upon it. I think it hardly worth while to take it up for ten minutes.

The PRESIDENT *pro tempore*. The resolution is already before the Senate.

Mr. HENDRICKS. I desire to state to the Senator from Maine that after this evening I am compelled to be out of the city for a few days, and I should like very much to have this resolution disposed of to-day if possible.

Mr. FESSENDEN. I thought the Senator was not disposed to say anything about it.

Mr. HENDRICKS. I do not care to discuss it unless objection be made to it.

Mr. FESSENDEN. I have some objection to it; but I do not wish to interfere with the Senator if he is going away.

Mr. HENDRICKS. If a vote cannot be had to-day, I do not care about taking it up; but I hope the Senate will continue the consideration of it until it is disposed of.

Mr. GRIMES. You have only got ten minutes.

Mr. HENDRICKS. I hope the Senate will extend the time and pass it to-day. If this resolution should not pass at an early day, there is great doubt about its receiving the consideration of the House of Representatives, and it is a matter that ought to be disposed of. It has been hanging for some time in an unsettled condition, and it is the right of the State of Wisconsin, I think, to have this money.

The resolution, in the first place, provides that the accounts of the State of Wisconsin for her five per cent. fund shall be adjusted in the Interior Department, and the amount found due to her shall be paid, deducting what she and the Territory of Wisconsin have received upon the sale of one hundred and twenty-five thousand acres of land, under what was known as the canal land grant of 1838, subject to a credit, however, for the amount of money expended by the Territory and State upon that work; and also providing for an adjustment of equities of the canal company in respect to that grant.

I received, Mr. President, a communication from the Commissioner of the General Land Office, informing me that the amount due to the State of Wisconsin upon her five per cent. fund, in 1861, was \$249,768 70, and that the adjustment up to 1862, added \$370 41, making the entire amount at the close of the year 1862, \$250,139 11; and I presume, as the Commissioner has not informed me of any subsequent adjustment of the accounts, that none has been made since 1862; and it is known to Senators that the sales of the lands since 1862 have been so inconsiderable that probably a subsequent adjustment will add but very little to this amount, so that the amount in round numbers is \$250,000, due to the State of Wisconsin upon her five per cent. fund.

In 1838 there was chartered by the Territory of Wisconsin a corporation known as the Milwaukee and Rock River Canal Company. The charter of the Territorial Legislature authorized the company to apply to Congress for a grant of lands to aid in the construction of the work. That application was made by the company, pursuant to the provisions of the charter, in the summer of 1838. Congress receiving the petition, made an appropriation or grant of lands of alternate sections, which would have amounted, I believe, to about two hundred thousand acres if the entire amount had been received by the Territory. This grant was made to the Territory, but for the benefit of the canal company. The company was organized. There was a subscription of stock, and money was paid in by the subscribers in the expectation that this land would be used to aid in the construction of the work, and would secure its completion at an early day. According to the charter and the land grant, the Territory of Wisconsin became the trustee for the benefit of the canal company; the company was the beneficiary; and it was provided in the charter that the State of Wisconsin after her admission into the Union should have the right to buy out the stockholders, and that this canal should become the property of the State of Wisconsin, but that the State should impose no tolls except so far as would be necessary to maintain the canal and pay expenses. The act of Congress of 1838 granting the land to the company, in view of that provision of the charter provided that if the State purchased the canal from the company and made it a free canal, she should not be required to pay to the company the cost of the canal so far as that cost was paid out of the proceeds of these lands; but that if the State failed to buy the canal from the company and to pay the stockholders their subscription and the interest upon it, then the dividends upon the State stock derived from the sale of these lands and any other portion of the proceeds of the sale of the granted lands should go

to buy out the company and to pay the stockholders. This was the equity of the company.

In 1842 the Territorial Legislature of Wisconsin became dissatisfied with its connection with the grant as trustee and its responsibility as such, and petitioned Congress to relieve it from all responsibility about it, and that these lands should be used for general purposes of internal improvement in the Territory, or that the State should repeal the grant. That came before the House of Representatives in 1842, and the chairman of the Committee on Public Lands, now a Senator of this body, the Senator from Michigan, [Mr. HOWARD] made a very able and elaborate report on the subject, in which he said that because of the provisions of the charter and because of the provisions of the land grant itself, the canal company had acquired a vested right which could not be disturbed by the joint action of the Territorial Legislature and of Congress, that the company was interested in that land grant to secure a completion of the work, that subscriptions were made to the work by stockholders in the expectation that the land grant would go to secure a completion of the canal, that their stock depended in its value upon the completion of the canal, because if it was left incomplete and unfinished the stock would be worthless; if it was a completed work by the use of the granted land, then their stock would be valuable. This was the argument of the chairman of the Committee on Public Lands, in the House of Representatives, in 1842, and that report resulted in the adoption of this resolution by the House of Representatives.

"Resolved, That Congress ought not to interfere with the act of cession without the consent of the Milwaukee and Rock River Canal Company."

I ask the privilege of the Senate to read very briefly from the report made to the House of Representatives in 1842, by the present Senator from Michigan:

"A more important question arises. The company have refused their assent to this proposition of the territorial Legislature; and the inquiry presents itself whether, without that assent, the Federal Government can rightfully exercise the supposed power of repealing the act of cession. From the recitals made above from the charter, and from the act of June 18, it is manifest that the company have an interest in the proceeds of the lands. They constitute an estate in trust, the use of which is to be enjoyed by the company under its charter. The Territory, as a party, can assert no beneficial or pecuniary interest in the fund: its character is entirely fiduciary, and its rightful action can only be in subordination to the objects authorized by the charter. This grant was made for the sole purpose of aiding the company in opening the canal. To this aid, to this pecuniary benefit, they have an undoubted right. If the trustee discharge the duties which it has voluntarily assumed, if it proceed to sell the lands and expend the proceeds, conjointly with the funds of the company, in completing the work, as it is bound to do, it adds greatly to the profits of the company, who are plainly entitled to receive the accruing dividends; and it is the right to the employment of this fund in prosecuting this public improvement, and making it valuable to them—a private, pecuniary right, springing from an executed contract by the United States—that, in the opinion of the committee, erects an insuperable barrier to the repeal of the law without the consent of the company."

The PRESIDENT *pro tempore*. The Chair must interrupt the Senator to announce the order of the day.

Mr. HENDRICKS. I ask the unanimous consent of the Senate to proceed with the consideration of this measure. It will not require much time, I presume. I shall not take much of the time of the Senate in explaining what I think are the rights of the respective parties in this matter.

Mr. SHERMAN. Under the circumstances stated by the Senator from Indiana, I have not the slightest objection to have him finish his remarks, as he desires to go away this evening, but I shall object to further debate on the proposition.

Mr. HENDRICKS. I should like, of course, to hear the points that may be made against this measure.

Mr. SHERMAN. But the effect will be substantially to take the whole day from the bank bill.

Mr. HENDRICKS. If it be the pleasure of the Senate I will complete what I desire to say now.

Mr. SHERMAN. I move that the special

order be laid aside informally that the Senator may conclude.

The PRESIDENT *pro tempore*. If there be no objection, that course will be pursued. The Chair hears no objection. The Senator will proceed.

Mr. HENDRICKS. It will be observed by Senators that the Committee on Public Lands of the House of Representatives in 1842 arrived at this conclusion, that by the grant of land to the Territory of Wisconsin in 1838 the Territory became the trustee and the canal company the beneficiary, and that the Territory and Congress together could not repeal that grant so as to divest the beneficial interests of the canal company, and a resolution of the body indorsed that view of the committee.

In 1860 the question was before the Legislature of Wisconsin, and the committee on the judiciary of the Senate of the Legislature of Wisconsin made a report upon this subject, and took the same view that was taken by the Committee on Public Lands of the House of Representatives in 1842, so that the House of Representatives of the United States and the Senate of Wisconsin concur in the view that the grant was for the benefit of the canal company, and that the Territory was but the trustee to hold that grant for such benefit. But in 1844 and 1846 the territorial Legislature of Wisconsin showed a disposition to throw off the responsibility that was upon it as the trustee for the canal company, and in 1846 the territorial Legislature passed an act declaring that the Territory would no longer act as a trustee for the canal company, but that these lands should be held for another purpose, and that the money then in the treasury from the lands already sold should be appropriated, not to the construction of the canal, but to the payment of the expenses of the constitutional convention and other territorial expenses. This was the first act of direct repudiation on the part of the territorial Legislature of its obligations under the grant of 1838. From that time forward none of the funds arising from the sales of the granted lands were used in the construction of the canal, but the funds were used in payment of the expenses of the constitutional convention and other territorial expenses of the Territory of Wisconsin. But when the territorial Legislature refused further to apply the funds received from the sale of the granted lands to the construction of the canal, and violated its obligation under the trust, it had the good conscience to provide "that the faith of the Territory and future State of Wisconsin is hereby pledged to repay to the said canal fund the sum which shall be diverted in pursuance of the above resolutions to the purposes aforesaid, whenever the same shall be required to be repaid, for the purpose of executing the trust created by Congress in making the 'canal grant,' and all laws contravening these are hereby repealed." So that when the territorial Legislature said that the money received from the sale of the granted lands should be used for the payment of the territorial expenses, it said that the faith of the Territory and the faith of the new State of Wisconsin should be pledged to return to the canal fund the money which should be thus diverted.

During the same year, 1846, Congress passed an act to enable the people of the Territory of Wisconsin to form a State government and a State constitution. One of the provisions of that law I will read:

"That five per cent. of the net proceeds of sales of all public lands lying within the said State, which have been or shall be sold by Congress, from and after the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to the said State for the purpose of making public roads and canals in the same, as the Legislature shall direct."

This is the ordinary appropriation to the western States upon their admission into the Union of five per cent. of the proceeds of the sales of the public lands; but in this case by the act of 1846 this five per cent. fund was to be used in the construction of public roads and canals in the State of Wisconsin. The constitutional convention which was organized pursuant to this enabling act met in 1848, and among other resolutions adopted these:

"1. Resolved, That the Congress of the United States be, and is hereby, requested, upon the application of Wisconsin for admission into the Union, so to alter the provisions of an act of Congress entitled 'An act to grant a quantity of land to the Territory of Wisconsin for the purpose of aiding in opening a canal to connect the waters of

Lake Michigan with those of Rock river,' approved June 18, 1838, and so to alter the terms and conditions of the grant made therein, that the odd numbered sections thereby granted and remaining unsold may be held and disposed of by the State of Wisconsin as part of the five hundred thousand acres of land to which said State is entitled by the provisions of an act of Congress entitled 'An act to appropriate the proceeds of the sales of public lands and to grant preemption rights,' approved the 4th day of September, 1841."

It will be recollected by Senators that under the act of 1841 the new States were entitled each to five hundred thousand acres of the public lands. This first resolution of the constitutional convention of Wisconsin asked Congress so to modify the canal grant that the unsold portion of the granted land should constitute a part of the five hundred thousand acres coming to the State of Wisconsin. The fourth resolution was:

"4. Resolved, That Congress be requested, upon the application of Wisconsin for admission into the Union, to pass an act whereby the grant of five hundred thousand acres of land, to which the State of Wisconsin is entitled by the provisions of an act of Congress entitled 'An act to appropriate the proceeds of the sales of public lands, and grant preemption rights,' approved the 4th day of September, 1841, and also the five per cent. of the net proceeds of the public lands, lying within the State, to which it shall become entitled on its admission into the Union by the provisions of an act of Congress entitled 'An act to enable the people of Wisconsin Territory to form a constitution and State government, and for the admission of such State into the Union,' approved the 6th day of August, 1846, shall be granted to the State of Wisconsin for the use of schools, instead of the purposes mentioned in said acts of Congress respectively."

By the act of Congress of May 29, 1848, admitting the State into the Union, it was provided:

"That the assent of Congress is hereby given to the first, second, fourth, and fifth resolutions adopted by said convention, and appended to said constitution; and the acts of Congress referred to in the said resolutions are hereby amended so that the lands granted by the provisions of the several acts referred to in the said first and fourth resolutions, and the proceeds of said lands, and the five per cent. of the net proceeds of the public lands therein mentioned, shall be held and disposed of by said State in the manner and for the purposes recommended by said convention."

"Provided, That the liabilities incurred by the territorial government of Wisconsin under the act entitled 'An act to grant a quantity of land to the Territory of Wisconsin for the purpose of aiding in opening a canal to connect the waters of Lake Michigan with those of Rock river,' hereinbefore referred to, shall be paid and discharged by the State of Wisconsin."

These are the laws to which I feel it important to call the attention of the Senate, to understand the respective rights of the General Government and of the canal company, and the obligations of the State of Wisconsin, from which the Senate will perceive that the land grant of 1838 was made by Congress to the Territory, not for its own benefit, but for the benefit of the canal company, to raise a fund to complete the construction of the canal, and after the canal should be constructed, to secure the payment to the subscribers of the money subscribed by them with seven per cent. interest thereon; that the Territory became the trustee, the canal company the beneficiary; that in 1846 the Territorial Legislature repudiated the trust, disregarded its obligation after it had in part sold the lands, and after a portion of the proceeds of the sales of those lands were in the territorial treasury it directed the appropriation to other purposes not in accordance with the obligations of the trust, and in 1846 Congress enabled the people of the Territory to form a State constitution and State government, and said to the people that they should have five per cent. of the proceeds of the sales of the public lands for the construction of roads. The convention then asked Congress to modify that so that this five per cent. should be used not for the construction of roads and canals, but for the benefit of common schools in the State of Wisconsin. Congress agreed to that, agreed that this land grant should no longer be used for the purpose of constructing the canal; Congress agreed to the application of the convention that the proceeds of these lands should not go to the subscribers of the amount of money paid in in accordance with the original obligation, but that it might become a part of the five hundred thousand acre grant under the act of 1841.

Now, what was the effect, sir, upon the canal company? It was to defeat the construction of the canal, to leave it an incomplete work; no proceeds could come from it; there could be no dividends upon the stock; the stock was left worthless upon the hands of the subscribers in consequence of the breach of the trust by the joint action of the General Government and of the Territory of Wisconsin. But when Congress agreed

to this diversion of the fund it provided that the State of Wisconsin should pay to the canal company what was her due, as I construe this last provision of the law:

"Provided, That the liabilities incurred by the territorial government of Wisconsin under the act entitled 'An act to grant a quantity of land to the Territory of Wisconsin for the purpose of aiding in opening a canal to connect the waters of Lake Michigan with those of Rock river,' hereinbefore referred to, shall be paid and discharged by the State of Wisconsin."

What was the obligation of the Territory of Wisconsin which Congress said should be discharged by the State of Wisconsin? That obligation we find in the resolutions of 1846 passed by the Territorial Legislature, to the effect that because the Territorial Legislature had diverted this fund and had used it to pay the ordinary expenses of the territorial government, the State of Wisconsin should refund to the canal company the amount of money that was taken out of the fund. Congress said that obligation should be discharged by the State of Wisconsin, inasmuch as the Territory had disregarded the obligations of the trust, and had said that the faith of the Territory and the faith of the State should be pledged to the refunding to the fund of the amount thus diverted.

It may be claimed, sir, that under the original grant of 1838 the State of Wisconsin owes an obligation to the General Government to pay all the money that has been realized from the sale of these lands back to the general Treasury of the United States. I do not think so. From an intimation made by the Senator from Maine the other day, I think he so understands the obligation of the State of Wisconsin. I will give two or three reasons, which I think that Senator will very readily appreciate, why there is no such obligation. The language of the act of 1838 in the sixth section is:

"Sec. 6. And be it further enacted, That the said State of Wisconsin shall be held responsible to the United States, and for the payment into the Treasury thereof, of the amount of all moneys received upon the sale of the whole or any part of said lands, at the price at which the same shall be sold, not less than \$2 50 per acre, if the said main canal shall not be commenced within three years and completed within ten years, pursuant to the provisions of the act creating said canal corporation."

The ten years expired in 1848; but this diversion took place before the expiration of that time. The money that was realized from the sales of the granted lands was diverted by the Territorial Legislature to other purposes prior to the expiration of the ten years. Now, what obligation does this impose on the State of Wisconsin? It is provided in the land grant, I admit, in the sixth section, that the State of Wisconsin shall pay to the General Government all money that shall be realized from the sale of these lands if the canal is not completed within ten years; but I ask Senators to refer to the seventh section upon this subject, in which it is provided:

"That, in order to render efficient the provisions of this act, the Legislature of the State to be erected or admitted out of the territory now comprised in Wisconsin Territory, east of the Mississippi, shall give their assent to the same by act to be duly passed."

The State of Wisconsin has never given such assent; she has never assumed this responsibility. Taking these two sections together, then, they amount to just this: that the State of Wisconsin shall be responsible to the General Government for the amount of the sales of these lands at \$2 50 an acre if the canal is not completed within ten years, provided the State of Wisconsin, by an act duly passed, shall agree to this responsibility. The State of Wisconsin never did agree; she never was a trustee; she never had any obligation to complete this canal.

But there is another and a very powerful reason upon my mind why the State of Wisconsin is not responsible under this sixth section, even if the seventh section were not found in the same act; and that is, that the General Government itself was a party to the diversion of this fund from the purpose to which it was granted. If the Territorial Legislature had diverted the fund; if the Territorial Legislature had reduced the price of these lands, and had used the money for other purposes than those contemplated in the grant, there would be some force in the argument if it were not for the seventh section; but this diversion of the canal fund was agreed to by the General Government. The constitutional convention asked Congress, when it admitted Wisconsin into

the Union, to agree that this fund should be thus diverted, that the canal grant should no longer exist, but that the lands granted by the act of 1838, instead of being used as they were pledged to the canal company for the construction of the canal, for the payment to the subscribers of the money that they had invested in this work on the faith of the grant of these lands, should become a part of the grant under the act of 1841. Congress agreed that these lands should be no longer a fund for the construction of the canal; should be no longer a fund to repay to the subscribers what they had thus invested, but that these lands should become a part of the five hundred thousand acres to which the State of Wisconsin was entitled under the act of 1841. Congress itself agreed to this diversion of the fund. Can it now say to the State of Wisconsin, "You are responsible in law or equity because you have thus diverted it?" Can Congress say to the State of Wisconsin, "We will hold you responsible for the penalty, because this canal was not completed in ten years," when prior to the expiration of the ten years Congress itself said that a very material fund should be diverted from the completion of the canal? I say that in equity Congress cannot say so, without reference to the provision of the law which said that the State should not be responsible unless she agreed by an act duly passed to assume such responsibility.

Mr. President, I should like, if I had the time, to read the very able report in full which was made to the House of Representatives in 1842; but I shall not occupy the attention of the Senate long enough to do that. I beg leave, however, to call the attention of Senators to that report, which they will find incorporated in the report that I have felt it to be my duty to make to the Senate on this question. I also ask the attention of Senators to the report made by the judiciary committee, in the Senate of Wisconsin, recognizing these equities and obligations. The whole question is this: Congress, in admitting the State of Wisconsin into the Union, said to her, "You shall discharge the obligations that were upon the Territory of Wisconsin," and I ask Senators what were the obligations upon the Territory? They were the obligations of a trustee, as if I held land in trust for the benefit of the Senator from the State of Wisconsin, and I diverted the fund, I abused the trust, and instead of using the trust property according to the contemplation of the trust itself used it for another purpose. Such was the condition of the Territory of Wisconsin. She accepted this trust, because after the grant was made she by an act of her Territorial Legislature, in 1839 or 1840, appointed officers to take charge of these lands; she authorized them to sell the lands, to take charge of the funds, and to pay the funds out as the work upon the canal progressed. She accepted the trust, and accepting the trust she incurred the responsibility and obligation of a trustee for the benefit of the canal company, and in 1846, when she violated this trust, she said that her faith was pledged, and that the faith of the State of Wisconsin should be pledged to the canal company to place back in this fund the money thus diverted.

Then if Congress in admitting the State of Wisconsin imposed upon the State the obligation which rested upon the Territory, that obligation is a very plain one. The Territory was under no obligation to pay any money to the General Government. That was not in the law making the grant; and by the act of admission Congress simply required the State of Wisconsin to meet the obligations of the Territory; not any new obligation, not the obligation that might have been resting on the State of Wisconsin under the act of 1838; but Congress required the State of Wisconsin to discharge the obligations that were upon the Territory of Wisconsin. What were they? Not to refund to the national Treasury the proceeds of the sales of these lands. That was not imposed on the Territory. It was attempted by the act of 1838 to impose that obligation upon the State of Wisconsin, if she should assent thereto, by an act duly passed; but such an obligation never rested upon the Territory of Wisconsin. The Territory assumed to the canal company the obligation to pay into that fund again the money which had thus been diverted, and Congress said to the State, "If you come in under these resolutions, if you are allowed to use your five per

cent. fund as a part of the school fund instead of a fund to construct roads and canals, you shall consent to discharge the obligations of the Territory toward this canal company." It seems to me to be a very plain question. It is simply, what was the obligation of the Territory toward this company? It was the obligation of a trustee, as I have already said, an obligation which she recognized in the resolutions of 1846, to refund all the money that had been diverted contrary to the letter and spirit of the act making the grant.

This was regarded, Mr. President, as a very important grant to the Territory of Wisconsin, then sparsely settled. It was desired by the Territorial Legislature to encourage settlement in that portion of the Territory between Milwaukee and Rock river, and for that purpose this corporation was established by the charter, with authority to come to Congress to secure this grant. It was not the Territory that applied to Congress; it was the corporation that applied to Congress for the grant of lands, pursuant to a recommendation in the charter. The corporation got the grant for its benefit, recognized to be for its benefit everywhere, plainly for its benefit, so recognized by the United States House of Representatives in 1842, so recognized by the judiciary committee of the Senate of Wisconsin in 1860. It procured the grant and enjoyed it until 1846, when the Territorial Legislature said, "We will use this money not to complete this canal, but to pay the expenses of the Territory." It was so used; but the Legislature said, "We will refund this; we will pay it back to this fund." And Congress said to the State when the State was admitted, "You shall assume the obligation and responsibility that is upon the Territory;" and that was a plain obligation. It was not a confused obligation, not an uncertain one, but it was a plain one, the obligation of a trustee to respond in equity for the abuse of the trust, an obligation which the trustee has recognized.

It may be asked why the adjustment of the questions in dispute between the State of Wisconsin and the canal company should be brought before Congress in connection with the proposition to pay to the State of Wisconsin her five per cent. fund. The reason of that is plainly this: when Congress said in 1848 that the State of Wisconsin might come into the Union, it said that the State should enjoy this five per cent. fund, provided she paid to the canal company the money that had been taken out of that fund; the constitutional convention in 1848 asked Congress to modify the grant; Congress did so modify it, both in respect to the land grant and in respect to the five per cent. fund, making them both a school fund instead of a road fund; but Congress said in making that modification that it was upon the condition that the State of Wisconsin should discharge all the obligation that there was upon the Territory of Wisconsin in respect to this trust; Congress did not provide that the five per cent. fund should go to the State except upon that condition; and now when the State asks to receive this five per cent. fund, it is the duty of Congress to say to the State, "You shall discharge that obligation before you have the five per cent. fund." In 1848 Congress connected these rights and obligations together; they have remained together ever since; and Congress in adjusting the one must adjust the other.

I suppose no Senator doubts that the State of Wisconsin is entitled to her five per cent. fund. That is not questioned. It is the plain law, recognized in two enactments. The act providing for holding a convention to form a State constitution said that the new State should have the benefit of five per cent. of the sale of the public lands within her border. The act admitting her into the Union said that she should have this five per cent. fund. That cannot be questioned. It is her legal right, her plain right, accompanied, however, with the condition that she shall pay into the canal fund the money that had thus been diverted.

I apprehend, however, that the only question which can be made in respect to this claim is one to which I have adverted, and that is that the State of Wisconsin is bound to pay into the national Treasury the proceeds of the sales of these lands at \$2 50 an acre. I think I have sufficiently answered that objection in advance. I think I have answered it sufficiently by referring

to the very next section of the act of 1838, which provides that the State of Wisconsin shall not be thus bound to pay this money into the national Treasury unless she first agrees to it by an act duly passed. I think I sufficiently answer it in the equity that the legislation of Congress has raised in respect to this matter. Congress agreed to the diversion of this fund; Congress, before the ten years had expired, agreed that a very important fund for the construction of the canal need not be used for that purpose, but that it might be used for the maintenance of common schools in the State of Wisconsin; Congress said in 1838, by the sixth section of the act, that if this canal was not constructed in ten years the State of Wisconsin should pay into the national Treasury the amount of the proceeds of the sales of these lands at \$2 50 an acre, but the next section said that the State should first assent to this by an act duly passed; but further than that, Congress agreed before the ten years expired that instead of making that canal, these lands should go to maintain schools in the State of Wisconsin.

Now, can Congress claim that the State shall respond for these lands? Can Congress say that there is a forfeiture on the part of the State in not completing the construction of the canal within ten years, when Congress agreed to the diversion of the fund which was to secure its construction? If the ten years had fully elapsed before the diversion, there would be some force in the argument; but they had not elapsed, the work was then incomplete, the time had not expired, and Congress said: "You may use these lands and their proceeds for another purpose; we absolve you from the obligation to make the canal and the obligation to pay the money into the Treasury dependent upon the non-completion of the canal." Who, then, can say that there is an obligation on the part of the State of Wisconsin, after Congress has assented to a change of the grant from the purpose of constructing the canal to the purpose of maintaining schools in Wisconsin, that the State of Wisconsin is bound to pay anything into the Treasury of the United States?

The proposition before the Senate is that there shall be paid to the State of Wisconsin what shall be found her due upon an adjustment of the accounts by the Commissioner of the General Land Office, under the supervision of the Secretary of the Interior, for the five per cent. fund; that she shall be charged, however, as against that fund with the lands sold, but credited with the amount that was appropriated in the construction of the canal, and she shall be credited with the amount that is to go to the payment of the canal company for the rights secured under the grant, under the charter, and under the resolution of 1846. After a very careful examination of this question I became thoroughly satisfied that the resolution which the committee has reported to this body secures the legal rights and equities of the General Government, the State of Wisconsin, and the canal company.

The PRESIDENT *pro tempore*. This joint resolution will now be laid aside and the regular order of the day taken up.

#### NATIONAL CURRENCY.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 395) to provide a national currency, secured by the pledge of United States bonds, and to provide for the circulation and redemption thereof.

Mr. DOOLITTLE. On the subject of currency and banking now pending before the Senate, I desire to submit two or three sections which I may offer as amendments to the bill in the Senate, and I ask that they may now be received informally, and be ordered to be printed.

The order to print was made.

Mr. DAVIS. I move to amend the bill by inserting after the word "section," in line seven-teen of section twenty-eight, the words:

Nor shall it hold the possession of any real estate under mortgage or hold the title of any real estate for a longer period than five years.

It will be seen from the provisions in the bill that there is no inhibition upon any of these associations from taking possession of or receiving the profits of mortgaged property indefinitely. There is an express provision in the section which I have moved to amend, allowing any of these associations to purchase real estate, in dis-



charge of its debts, at sales for that purpose; but there is no limitation upon the time that the associations shall hold that real estate. The result might be that these associations might become large landholders, large monopolists of real estate, and they would have the privilege of holding it indefinitely. It seems to me to be a mistaken policy to authorize so gigantic an institution as this an unlimited power to acquire, by purchase at sales in discharge of its own debts, real estate, and to hold that real estate indefinitely. My amendment proposes that no association shall hold the title and possession of any real estate for a longer period than five years. It may be convenient sometimes, and it may be necessary to the interests of the institution, that it and some of the associate institutions should have the privilege of purchasing real estate to satisfy their own debts; but when they have made such purchases, it seems to me that good policy, to prevent a large and exorbitant accumulation of real property in the hands of these associations, especially those that may be most wealthy, would require that they be restricted as to the time that they may hold the possession and title to the estate.

Mr. GRIMES. The amendment does not except the banking houses I think.

Mr. DAVIS. It relates only to the real estate they may acquire by sales under judgment.

Mr. SHERMAN. Let it be read.

The amendment was again read.

Mr. SHERMAN. The clear legal effect of the language would be to prevent their holding their own banking house.

Mr. DAVIS. I thought I had made the provision in conformity to the suggestion of the Senator from Iowa, but I see I have not, and I will now put it in this form:

Nor shall it hold the possession of any real estate under mortgage or hold the title and possession of any real estate purchased to secure any debts due to it, for a longer period than five years.

Mr. SHERMAN. I have known in my own practice cases where creditors have been unable to sell property for a longer period than five years by reason of the laws of the States. This provision may operate very injuriously and be hard on the banks. They may not have the power to sell the property under a foreclosure, or upon a judgment, or upon their lien within the five years although they may advertise it every quarter day. I think the limitations contained in the bill are ample. We provide, first, that they shall hold no real estate except for the accommodation of their business as a banking house; second, that they shall only take mortgages for preexisting debts, that they shall not take mortgages as securities for debts but only for a preexisting debt; third, they may hold real estate deeded to them in satisfaction of a debt; fourth, that they may hold land purchased at sales upon judgments, decrees, and mortgages held by the association. I think we have limited them so far as any banking law I ever heard and probably a little further. I wish to accomplish the object the Senator has in view, to prevent the banks from accumulating a large amount of real estate, but I think the provision proposed by him may restrain them or compel them to sell unreasonably or may even impose on them an impossible condition. I have no objection to any reasonable restraint on their acquisition of real estate.

Mr. DAVIS. As I understand the provisions in the bill, as explained by the Senator from Ohio, there is no restriction upon any association as to the amount of real estate it may purchase in discharge of its debts at a sale to satisfy its debts, and there is no restriction as to the length of time during which such property shall be held by the association. So long, then, as the association exists as a corporation, it may hold real estate to any amount that it may purchase. A banking association authorized to issue \$300,000,000 of paper, located in its branches all over the United States, might by the effect of these provisions acquire an enormous amount of real estate. I do not recollect exactly whether this general banking association is to exist forever or only for some definite number of years; but as long as the association continues to have a legal existence, it may purchase without limit real estate in satisfaction of its debts, and it may hold all that it may thus purchase as long as its legal existence continues. It seems to me that it would be impolitic and

might turn out to be mischievous to allow a bank thus indefinitely to acquire and indefinitely to hold the title and possession of real estate. I think it is a monopoly in the acquisition of real estate that ought not to be allowed to a bank. The time of five years which I have fixed within which to compel it to part with the title and possession of real estate that it may purchase in satisfaction of its debts, may be too short, but I should think it would be ample. If that time is too short, let a further extension within a reasonable period be proposed. It seems to me that five years is ample time to enable a bank to make every prudent and proper arrangement in the disposition of any real estate it may purchase in satisfaction of its debts.

The amendment was agreed to.

Mr. DAVIS. I have another amendment to offer, to come in at the end of the thirty-first section:

But every association doing business under this act shall, within six months after the existing insurrection and rebellion shall have been suppressed and the laws of the United States shall be duly and regularly executed in the States where their execution is now obstructed, redeem with gold or silver coin of the United States their notes of circulation at its own office.

Mr. President, I am no friend to this measure, and I never profess friendship to men or measures unless I feel it. I entertain the deepest hostility to this scheme, but still if it is to become a law my desire is that it shall be as perfect of its kind as practicable. I think the first amendment which I suggested was proper, and will improve to some extent the bill if it becomes a law, and that the bill will become a law I suppose there is no doubt. The amendment that I now propose I think of the most vital importance.

There never was a highly commercial country on the earth that had for any considerable length of time an irredeemable paper currency. There is a higher and a more imperative law in relation to currency than can be imposed by the legislation of the Congress of the United States, or even by our Constitution, and that is the general law of the world. By the universal practice, by the inexorable judgment of the whole commercial world from ancient times to the present, money, the great representative of value, has been gold and silver coin. There have been, to a limited extent, exceptions in other metals throughout all time as to coins of a small fractional value, which are made sometimes of copper and sometimes of other metals; but the great currency, the great representative medium, the money of the commercial world, has always been in the main constituted of gold and silver. It will remain so in the future as it has been in the past. The Congress of the United States cannot by its act change that inexorable and uniform law of the world. Whatever measure we may pass and whatever arrangements may be adopted by our Government for the purpose of establishing a permanent irredeemable paper currency will prove futile and we will have to return to the metallic standard. The process of transition from a metallic currency to irredeemable paper is always attended with a vast degree of inconvenience, of loss, and of ruin; and so is the transition back to a gold and silver or mixed currency. There may be certain exigencies, certain great necessities in the condition of a country, that require a temporary resort to an irredeemable paper currency, but whenever they occur, as in our revolutionary war, they are of temporary duration; they are transitory and fugitive in their nature; the exigency that demands them must soon pass away; and then it is a law of commerce and trade, required by the universal usage of the world, that the country having made this temporary resort shall return to the uniform and universal money of gold and silver, according to the practice of all commercial nations. The nation that persistently stood out against this general law of currency would be subjected to a commercial outflow.

I think it was a great mistake, and a most mischievous policy on the part of Congress, when two years ago we resorted to the issue of demand notes, and made them a substitute for a metallic currency by making them a legal tender. I voted for the first proposition to issue demand notes, and I voted for it, not that demand notes were, or could be made by a law of Congress, money in the sense of the Constitution of the United States, for I entertained no such opinion as that. The idea of coining money out of paper, in the

sense in which the Constitution and those who made it understood the coining of money, to my mind was an absurdity; but from the condition of the country at that time, the inability of our Government to obtain money by loan from Europe, and the pressing demands, as represented to us by the Secretary of the Treasury and his friends in the Senate, for an immediate supply of money to the amount of some twenty-five or thirty or forty millions—I do not recollect the exact sum—and the utter impracticability, as it seemed to me, to obtain it in time to answer the extreme exigencies of the Government in any other mode, I was induced, against the powerful argument of the honorable Senator from Vermont, [Mr. COLLAMER,] to vote for the demand notes, and to give them the characteristic of a legal tender. The argument of the honorable Senator staggered my mind in relation to the legality and the constitutionality of making that kind of paper a legal tender, even to answer any need of the Government, however extreme. I have investigated the question more maturely since, and my subsequent inquiries and reflections have satisfied me beyond all doubt that there was no authority in the Constitution for attempting by legislation to give any such character to our demand notes. I see from a paper which has reached me this morning from Kentucky that one of our judges has decided that the "greenbacks," as they are termed, are not a legal tender, because they are not money according to the sense in which the Constitution of the United States uses that term, and therefore that Congress, under its power to coin money has no authority whatever to establish such a laboratory for irredeemable paper money as now exists at the Treasury Department.

The resort to such a system ought never, according to my poor opinion, to be tolerated unless under the most extreme and pressing necessity, and a necessity of such a nature that the evils resulting from the failure to such resort would be overwhelming, of such a character as beyond all question vastly to outweigh any inconveniences and injuries that might result from the resort to an irredeemable paper.

Mr. President, I have always entertained the opinion, at least since the decision of the case of *McCulloch vs. The State of Maryland*, that for the purposes of a fiscal agency Congress had a right to charter a United States bank; but I have doubted the power of Congress to authorize the bank to issue a currency. That it would have the power to give the other functions of a bank to its fiscal agent for the convenience of the collection, custody, disbursement, and transfer of its funds from one point to another, I entertain no doubt; but I seriously distrust the correctness of the position that Congress, under the power "to coin money and regulate the value thereof," can resort to any such indirect and irregular power as to authorize its fiscal agent to issue paper to circulate as money, even though it is redeemable in gold and silver; but that Congress have no power to substitute a declared irredeemable paper money as the medium of values, as the representative of the commercial transactions of the country, under its power "to coin money and regulate the value thereof," in my own mind I entertain no doubt whatever.

Well, now, sir, this act proposes to organize and give permanence to a gigantic association to issue upon the basis of the bonds of the United States a paper currency which is to exclude all other paper currency, and itself to carry no obligation or promise, nor to have any provision whatever for its redemption in gold or silver. The project is against the usage, the practice, the uniform, irreversible and immovable judgment of the commercial world, present and through all the past ages, and will prove to be not only impracticable and worthless, but the cause of enormous disorder, mischief, and ruin in the public affairs and private business of the whole country. As long as it exists and operates it will exclude from circulation the only legitimate measure of value, in which the balances of the trade of all nations are settled, and indispensably necessary to the vast internal trade and business of the United States, and substitute for it a spurious paper currency whose daily fluctuations would cause an amount of confusion, loss, and ruin too wide-spread and great to be estimated. It would

bring the finances of the country, public and private, its trade, its entire business into general disorder and chaos, and our only deliverance its utter repudiation, and a return to the only legitimate, safe, and universally recognized measure of values, a gold and silver coin; and yet the return to the true principle would inevitably cause more of bankruptcy and demolition than the whole course of the aberration from it.

I therefore conclude that if Congress had the power to establish this Briarean paper monster, it would not only be unwise but fatal legislation. All the attempts of other nations to establish and continue a permanent irredeemable paper medium, and to force it to be received even in the transactions of their own people, have signally failed. It requires great public stress to give it even a fugitive existence and toleration; and so soon as that passes the people on whom it was intended to be fastened rise in irrepressible force against it, and they are urged forward and sustained by the outside pressure of the world. I think the time has come when Congress, and particularly the Senate, should renounce distinctly all purpose to give permanency, even continuance after this war shall be over, to any such monetary monster. There ought to be a reasonable time for the country to make the transition from the present exclusive and greatly depreciated paper currency to a mixed one of paper and metal, and a notification in the solemn form of this amendment would not be too early or too long.

It is the suddenness of the transitions from a metallic to an irredeemable paper currency, then of the change back again to a specie currency, that falls so calamitously upon the country. Where those changes are inevitable and must be submitted to there ought to be timely and reasonable notice given of them, that the merchants and business men and the whole community may adapt their transactions to the coming change. An omission to make such a notification at this time would not impart to the proposed measure any more effectiveness for good, but might leave it greatly more potent for evil. The whole brotherhood would be admonished to do their business so prudently as always to be prepared to redeem their circulating notes with specie, if thus cautioned; if not, they might aggravate existing evils by the excess of their issues and business.

Mr. JOHNSON. I suppose we all concur with the honorable member from Kentucky, that as soon as possible there should be a resumption of specie payments by these banks, and by all other banks in the United States; but in order to accomplish that, I think my friend from Kentucky will at once see that it will be necessary that the United States should also resume specie payments. As long as the United States has outstanding her currency which she has made a legal tender it will be impossible for these banks to resume; and after the United States shall have withdrawn from circulation her legal-tender notes, the banks will be under an obligation to resume specie payments. It seems to me, therefore, with due deference to the better judgment of my friend from Kentucky, that it is premature now, for that reason, if there were no other, to offer such an amendment as he has suggested, although, to repeat, I am sure we shall all agree in hoping that the time will soon come when that object can be accomplished.

But it is unnecessary, as far as the banks to be organized under this bill are concerned, for another reason. The last section of the bill reserves to Congress a right to change the charter in any way, at any time; and whenever, during the existence of the rebellion, or after the existence of the rebellion, Congress shall see proper to require it, they may require these banks to resume specie payments.

There is another reason that operates on me which I will briefly suggest for the consideration of my friend from Kentucky. These banks will, of course, have very extensive loan transactions all over the country. They are organized for that purpose, and they will be sure to carry it out to the whole extent of the power, if they can do it with anything like safety to themselves. Their loans, therefore, will be very heavy; and it is necessary, also, as they are to substitute to a certain extent the currency which the Government is issuing, that that currency should be outstand-

ing as long as the rebellion lasts. The only excuse, if I may be permitted to apply that term to legislation that Congress has already adopted, for the existing legislation in relation to the currency is the necessity in which the country is placed, the war being upon us, and it being supposed, in the judgment of Congress, that you could not carry it on upon a currency based upon specie. They were obliged, therefore, as they thought, to go further than had ever been done before to make these Treasury notes, or certain of those notes, a legal tender.

The honorable member's amendment professes only to begin to date its operations from the period when the rebellion shall have been put down and the authority of the Government and of its laws reinstated; and when the rebellion is to be put down and when the authority of the laws is to be reinstated nobody can tell, or how it is to be brought about; whether it is to be the result only after a long contest, wasting individual wealth as well as national wealth, or whether it is to be brought about suddenly as the consequence of some decided and crushing victory which the United States will obtain over their foes, nobody can tell. One thing we know, at least I think we must know, that as long as it lasts we cannot return to a specie-paying currency. If I am right in that, in what condition would the country be placed as far as the customers with these banks are concerned, if the banks, when the rebellion shall be put down, are required to return to specie payments within six months? How are they to accomplish it? They are to contract all their loans at a fearfully rapid rate of discount. Every man who is indebted to them \$10,000 has to pay it in six months, when without ruin he would perhaps not be able to pay it for four, or five, or six years. We have the example of England, an instance which shows that we ought to be very cautious, as I think, in fixing any specific period, and particularly if that period is made comparatively a very short one, for a resumption of specie payments. I do not think I am mistaken when I say that the Bank of England was authorized to arrest her specie payment during the wars of England with Napoleon, and it was not until six years after the termination of that struggle that she was able to resume, or if she was able or would have been able by pressing her own debtors, it was, in the judgment of Parliament, improper that those debtors should be called upon to pay their debts, except during a period of six years. The ability of the bank to meet her payments while preserving at the same time the interests of the customers of the bank, in the judgment of Parliament was thought to require that the bank should have the prolonged time in which to resume specie payments, and it was given her.

Now, what would be the situation of my friend's State if his amendment should receive the sanction of Congress? The banks in Kentucky or the banks elsewhere—for these banks may loan everywhere—may loan to citizens of Kentucky some six or seven or eight million dollars, whatever may be the amount, take mortgages to secure the debt, get judgments binding the real estate of their debtors; they may be perfectly willing to give time; the mortgages may be an effectual security, in the judgment of the bank, if the Government do not interfere; and so in relation to the land affected by the judgments. But if the bank is compelled to return to specie payments within six months from the period when the rebellion shall be closed, and the rebellion is closed soon after those debts are contracted, Kentucky would be ruined, or rather such of her citizens as might become borrowers of the banks.

I submit to him, therefore, first, that it is not necessary to make such a provision as this, because under the law we may do it at any time hereafter, and we cannot now know the circumstances which may render it improper to impose so hard a condition upon the banks or the customers of the banks; and secondly, because when the Government herself resumes specie payments, by withdrawing her own circulation effectually these banks will be compelled to pay specie, and they cannot be compelled before, because they will have the same right that everybody else has to use the currency which the Government itself has declared is a legal currency.

Mr. DAVIS. Mr. President, I suppose that

confidence is always the basis of credit; and that one reason why greenbacks now are at such a heavy discount is the great distrust which is felt in the country of their ultimate redemption. That want of confidence results in a large degree from the quantum of greenbacks that have been issued as well as from the suspension of specie payments by the Government. I believe the Government suspended specie payments before the banks. The banks of New York continued to redeem their paper, if I understand the fact, although they had nominally suspended, after the Government had suspended specie payments.

Mr. SHERMAN. I do not wish to interrupt the Senator, but I beg leave to correct him as to the matter of fact. The banks resolved to suspend and did suspend specie payments before the Government did; and they gave as a reason for suspending that they supposed the Government would have to suspend, but they suspended first as a matter of fact.

Mr. DAVIS. So I understand the fact, sir; that the banks of New York city made an order to suspend specie payments; but nevertheless they continued to redeem their paper in gold and silver until after the Government had suspended.

Mr. COLLAMER. Until after the Government had got away from them from one hundred and thirty to one hundred and ninety million dollars in gold.

Mr. DAVIS. I am aware of that. The Government gathered together all of the gold and silver of the banks, and instead of drawing drafts upon the banks that had made subscriptions to the Government loans and allowing those drafts to be met at the counters of the banks, if I recollect aright the Government distributed that specie widely over the country, and therefore made it in a great degree unavailable for the convenient business of the banks and for the interests of the country.

But, Mr. President, I was making this general remark: that depreciation in paper marks the degree of want of confidence in its redemption, as a general rule, and that the great depreciation in greenbacks now results from the deep distrust of the country of the ability of the Government to redeem them; and that this want of confidence has been increased essentially by the quantity of greenbacks that has been thrown into circulation. The agents of the Government reproach the State banks with having created this inordinate circulation of paper, whereas the contrary is the fact. By the evidence of one of the financial officers of New York, Mr. Van Dyck, the amount of issues by the banks of New York is less by a million and a fraction of dollars in this year, 1864, than it was in 1854; and in fact, the actual circulation, by the retention by some of the banks of large amounts of their own paper, was six or seven millions less than the amount of paper they had been allowed to put in circulation. The agency that has brought this great excess of irredeemable paper circulation upon the country has been the Government, acting principally by the Secretary of the Treasury; and the reproach which has been cast by the Administration and its supporters upon the banks of having created this ruinous excess of circulation is true of and ought to be made against the Government and the Secretary of the Treasury instead of the banks.

This circulation has become so redundant, so excessive, as to create serious and general apprehension that it might never be redeemed. The consequence has been that its depreciation as compared with gold and silver has progressed from time to time until it has reached its present great point; and how long it will be before it will attain a still lower depth and become as valueless as Continental money, nobody can tell. Certain it is that if this war continues upon its present scale with its gigantic expenditure of money, and with the enormous and still increasing circulation of irredeemable paper, the credit of that paper must be wholly lost, and it will be regarded by the country as worthless, and will cease to answer any of the purposes of money.

Mr. CHANDLER. Will the Senator permit me to correct a statement he has just made?

Mr. DAVIS. Certainly.

Mr. CHANDLER. I hold in my hand a tabular statement of the circulation of the banks of New York, showing an increase of \$8,629,799 in the last year.

Mr. DAVIS. I have got a table too, which makes a very different showing.

Mr. CHANDLER. This is a statement of the banks of the whole State, not of the city of New York alone.

Mr. DAVIS. My statement was made by Mr. Van Dyck. It is succinct and very luminous. He says:

"The public should be aware that all the plates of all the banks in this State, corporate, associated, and individual, are in my possession, sealed against use and securely locked from reach of the banks. Not a dollar can be printed without an order from this department, and not a dollar is furnished save upon the deposit of security. Hence our books furnish an incontestable data of the amount of currency delivered to the banks. And what do we find as the result? I take the close of the fiscal year for ten years past as a criterion by which to judge the present, and it shows as follows."

He then proceeds to give the amount of capital and circulation for each year. I will only read the amount of circulation:

Date.	Circulation.
Sept. 30, 1854.....	\$43,962,535
" " 1855.....	41,159,794
" " 1856.....	43,492,485
" " 1857.....	41,243,922
" " 1858.....	35,607,180
" " 1859.....	36,581,276
" " 1860.....	38,024,300
" " 1861.....	36,606,140
" " 1862.....	45,239,836
" " 1863.....	42,192,045
April 18, 1864.....	42,802,310

"Thus it will be seen that the aggregate circulation issued and outstanding at this time is more than a million dollars less than it was in 1854; although the banking capital has increased more than twenty-five million dollars within that period. The amount of circulation above stated includes all ever issued to the banks and not returned. More than a million dollars belonging to institutions which have passed out of existence has probably been lost, burned, or otherwise destroyed. Then again, of the circulation thus standing charged on the books of this department, less than thirty-five million dollars was in actual circulation on the 12th of March, 1864, as appears from the sworn statements of the banks just made in obedience to law—the balance being in their possession, unissued. With these official facts and figures in view will any person kindly inform the public where the charge of 'inflating the currency' comes in, as it regards the banks of this State?"

The circulation of the banks of Kentucky was restricted in a greater ratio in that period of ten years than was the circulation of the banks of New York. I suppose, from the inferences authorized to be drawn from the circulation of those two States, that the amount of State bank circulation in 1864 was less than it was in 1854. I think it is stated, as a general truth, that the amount of the circulation of the State banks is about one hundred and sixty or one hundred and seventy millions, while the Government paper, irredeemable in its character, is enormously over that sum in its aggregate amount. The great and ruinous circulation of irredeemable paper which so disorganized all the commercial transactions and business of the country, threw everything into confusion, and produced such fluctuation in prices, was produced mainly by the Government of the United States.

Mr. CONNESS. Right at this period of the Senator's statement I will ask him if he noted that it was authoritatively stated that temporary credits had been extended recently by the banks of the city of New York alone to the extent of \$200,000,000; and whether inflation and speculation are not founded upon those extensions of credits as much or more than upon bank issues?

Mr. DAVIS. I was not advertent to the matter of speculation at all. I was limiting my remarks exclusively to currency and to the effects of currency upon trade and prices.

Mr. CONNESS. I knew the line of the Senator's argument very well; but the entire argument went to prove that the Government was responsible for all the inflation that occurred in trade.

Mr. DAVIS. No, sir; I did not say in trade. The inflation of paper that is to be received as money in all Government and private transactions, of course, is the cause of the increase of prices. That is said to be the paper representative of prices. If that paper representative of prices assumes an irredeemable feature, and is increased four or five fold in the course of something like two years, it must necessarily produce a great augmentation in the prices of all property when measured in that paper, that paper being irredeemable, and being at a heavy discount in gold and silver. I believe it has reached as high a point as to require \$180 in paper to purchase

\$100 in gold. The Government has endeavored to inculcate the banks as the authors of this great inflation of the circulating medium, although the Government itself has been the chief agent in producing the excess of paper issue, and consequently is more responsible for the heavy depreciation in the paper circulation, under the par of gold and silver, than the banks.

But these remarks were incidental and are leading me away from the point upon which I was commenting, and it was simply this: that for a paper currency to receive the confidence of the country and to circulate at anything near par, there must be a stable and general belief that it will be redeemed in gold and silver. Why, sir, it is that convertibility that is the true responsibility of a paper currency. It is its attribute to be redeemed by those who issue it in gold and silver at the pleasure of the holder that imparts to it the faculty of money. Whenever this responsibility to be redeemed in gold and silver coin by tale is dispensed with by the laws of Congress, or ceases from any other cause, the inevitable consequence is depreciation in the value of the paper. The Government itself has been the principal author of the great depreciation of its own paper: first, by issuing it without any promise or obligation to redeem it in coin; secondly, by its frequent and excessive issues. If the Government had not interfered with the banks it is a problem whether they would have been driven to the suspension of specie payments at all; certainly not in the condition in which the country and business then were.

But to maintain at anything like par in gold and silver the credit of this paper issued by the Government, or of these notes of circulation which it proposes to give to every association that will do business under this act, there must be a firm confidence in the country that it will ultimately be redeemed in gold and silver. Unless you can produce that conviction and that faith the credit of this paper will fluctuate from causes that cannot be controlled, and eventually in a short time it may become as worthless as the Continental money itself. Anything that tends to sustain the credit of that paper would be beneficial to the country. Any feature in this bill that would restrict the issue of paper by these associations, and that would command the faith of the country that it would so operate, would help to sustain the credit of their paper and proportionately to keep down inflation of prices.

It seems to me that the amendment I propose, if it should be adopted, would have such a result. It would satisfy the people, as far as they could be assured by the legislation of Congress, that specie payments were to be resumed within a reasonable time, when every holder of a dollar of this paper might calculate upon receiving for it a dollar in gold or silver. It would admonish those who are to manage these associations not to do a business so large as to leave them unable upon short notice to redeem their paper with gold and silver. They would ponder well their contingent obligation to redeem their paper, and the probability of the occurrence of the events upon which that obligation was to become absolute, and they would keep prepared by the most prudent banking. In that way it seems to me that two essential elements of confidence in this paper on the part of the people would be established.

Again, the act of Congress organizing this system, making an imperative requisition on the whole association to redeem their paper with the precious metals, would have the effect to assure the public that such redemption would be made at no very distant day, and thus aid materially not only to prevent further depreciation, but to enhance the present value of that paper.

If the Government of the United States were to retire now one half of its paper that is in circulation by funding it, what would be the certain and immediate effect? The confidence in that paper, in the ability and the disposition of the Government to redeem it within a reasonable time, would at once greatly increase; the discount upon it and the price of gold would decline; the commercial and general business transactions of the country would assume a more stable and healthy character. Any causes which would curtail the present enormous paper circulation of the Government and would keep down its future issues and restrict the circulation of these associations would be productive of great good, and ought to be favored

both by Congress and the Executive, and the amendment which I have proposed should therefore be adopted. It would tend materially to prevent excessive and fraudulent banking by these associations and mitigate the inevitable evils consequent upon their coming to specie payments, to which the honorable Senator from Maryland [Mr. Johnson] adverted.

The PRESIDING OFFICER (Mr. Foster in the chair) put the question on the amendment, and declared that the yeas appeared to have it.

Mr. DAVIS. I will ask for the yeas and nays. Mr. CONNESS. Wait until we get into the Senate.

Mr. DAVIS. Very well. I will withdraw the call now; but I give notice that I shall ask for the yeas and nays on this amendment in the Senate.

ONE HUNDRED DAYS' WESTERN VOLUNTEERS.

Mr. FESSENDEN. I ask the permission of the honorable Senator from Ohio to report from the Committee on Finance a bill which is considered rather important to be passed to-day if we can. It is a very simple one, making an appropriation for the purpose of paying the troops that have been accepted by the President from the western States. It is the joint resolution (H. R. No. 69) for the payment of volunteers called out for not less than one hundred days. I am directed by the Committee on Finance to report it back without amendment, and with a recommendation that it pass. I am also directed by the same committee to report back the Senate resolution on the same subject, (No. 47,) to appropriate \$25,000,000 for the subsistence and pay of militia called out by the President, with a recommendation that the committee be discharged from the further consideration of the subject.

The motion to discharge the committee was agreed to.

Mr. FESSENDEN. I should like to have action at once upon the House resolution, if there is no objection.

There being no objection, the Senate as in Committee of the Whole proceeded to consider joint resolution (H. R. No. 69) for the payment of volunteers called out for not less than one hundred days, which appropriates the sum of \$25,000,000 for arming, equipping, clothing, subsisting, transporting, and paying volunteers that may be received by the President for any term not less than one hundred days.

Mr. HALE. I object to its consideration to-day.

Mr. FESSENDEN. We may as well consider it now as to-morrow unless the Senator wants time to look into it.

Mr. HALE. I do not want time to look into it; but I am opposed to the adoption of the resolution. I think it unwise. I think our experience in three years of war, if it has learned us anything on earth, has learned us, in the first place, that the calling out of three months' men at first was an unwise measure, and the calling out of nine months' men was an unwise measure. I do not know whether we have had any six months' men or not.

Mr. WILSON. Yes, sir.

Mr. HALE. We had some six months' men, I understand, and I think the calling of them out was an unwise measure. I think if we pass this resolution it will be throwing away \$25,000,000. Such an appropriation as this will show that we are in that unhappy position spoken of by the younger Pitt in his answer to Walpole, that we "remain stupid in spite of experience."

Mr. FESSENDEN. I can only say that whatever might be my own opinions about that act adopted by the Secretary of War and the President, of course under the advice of the most eminent military authority with reference to the condition of things at present, this measure is thought to be advisable and indeed of great importance at the present time.

Mr. JOHNSON. These troops have been called into service according to law; have they not?

Mr. FESSENDEN. They have been received by the President under a tender of them by the Governors of the States.

Mr. JOHNSON. There is an act of Congress authorizing it?

Mr. FESSENDEN. Yes, sir. I do not know that there is any special call under the act of Congress, but the troops have been offered by the Gov-



errors of the States and the President has accepted them.

Mr. JOHNSON. So I understand. What I intended to ask was, whether the act of Congress authorizes the call.

Mr. FESSENDEN. The law authorizes, as I understand it, precisely this: the President is authorized to call out, for any term not exceeding a certain term, any number of the militia of the States or volunteers that he may see fit. I do not understand that there has been a distinct call in this case; but there has been what perhaps may be equivalent to it—an offer by the Governors of the States to furnish this number of troops within a given time, and the acceptance of that offer by the President. It is very easy for him to change it into a call, if he should see fit to do so. The thing being done essentially according to his right under existing laws, there is nothing for us to do but to make the appropriation.

Mr. HALE. Is there a law for it?

Mr. FESSENDEN. Yes, sir; a law of long standing; that is to say, not exactly in its present shape; but it is always in his power to call out the militia to suppress insurrection and repel invasion; and two years ago we altered that law, and extended the time for which he might call out the militia.

Mr. WILSON. We extended the term of the militia called out to nine months.

Mr. FESSENDEN. Under the old law the militia were authorized to be called out for a term of three months. At the last Congress we extended the time to nine months. In the present instance these troops have been tendered; the highest military authorities have recommended their employment; and under present circumstances it would be wise, and under some contingencies may be very important. They will relieve a large number of troops in different localities, and enable them to be placed in active service. Whatever, therefore, might be my own opinion, which would be good for nothing on the subject, as it is a military matter, the law standing as it is, the thing being done, and the House of Representatives having passed it with great unanimity and at once, I did not feel authorized, and the Committee on Finance did not feel authorized, to say that they would not recognize it.

Mr. SHERMAN. Here is the law which authorized it to be done, and it makes it perfectly clear that the President has the power to call out the militia:

"That whenever the President of the United States shall call forth the militia of the States, to be employed in the service of the United States, he may specify in his call the period for which such service will be required, not exceeding nine months; and the militia so called shall be mustered in and continue to serve for and during the term so specified, unless sooner discharged by command of the President."

The only question that could be raised, therefore, would be whether the acceptance by the President of an offer of militia by the Governors of the States is a call within the language of the law. On that subject I do not think there is any reasonable doubt.

Mr. FESSENDEN. I have not seen; and I do not know that there is any specific call; but it is taken in that way. The troops were offered and accepted. It is very easy for the President to change it into a call, and he would undoubtedly do it if it were necessary, but that would only occasion delay. They can be brought out and duly mustered into the service of the United States just as well under this tender by the Governors as under a specific call by the President. It may be said that we give it our sanction by passing this resolution; but that is a mere matter of form.

Mr. POMEROY. I should not like to oppose any measure that the Administration might think necessary for the suppression of the rebellion; but it does seem to me that this is a most expensive service. When we consider the cost of transportation of these men, their outfit and their arming, and the short time they will render service, I repeat it seems to me the most expensive service that the Government could employ. I should not like to vote against it or oppose it; but I confess the whole policy of it looks bad to me.

Mr. HALE. If I understood that anything was done under this call which the public faith was pledged to meet, of course I would not hesitate to vote the appropriation, more or less; but I do not understand it so.

Mr. SHERMAN. I will state to the Senator that after this offer was accepted by the President, the militia of my own State, which had been organized under the law of the State, was actually called into the service; and I notice in the Ohio papers that I receive that many of the regiments met at the rendezvous yesterday and to-day, with a view to receive orders, and they are now actually under orders. Whether this kind of service is a very expensive one or not is a question on which I may differ with the Administration, but undoubtedly the President has the power to call out the militia of the States, under the act of 1795, and also the act to which I have already referred, the act of July, 1862. That he has accepted the offer of these troops, which is substantially a call, there is no doubt; and, indeed, they are to-day mustered into the service of the United States, and are being organized and enrolled. They were mustered yesterday and to-day in Ohio, and I notice in the papers that in Indiana the same process is going on.

Mr. HALE. Mr. President, I do not like to give up entirely in regard to these public measures the discretion which is vested by the Constitution in members of Congress. I do not pretend to be a military man, nor to have the slightest knowledge on earth about this subject aside from that which necessarily accompanies a little mite of plain common sense, which I do pretend to have; but in my humble judgment a more unwise measure than this has not been started since the war commenced. I think it would be well for the Senate to vote against this appropriation in order that it might be taken as an expression of opinion by the Senate of what was wise and what was unwise; and then, after we have refused this appropriation, if we shall refuse to give our sanction to what I think is a very unwise measure, I would go with the Senator from Ohio or anybody else, as far as anybody, to meet the public faith and keep public faith with the soldiers who have been called out under this offer of the Governors of the States and accepted by the President. Believing it, however, to be unwise, believing it to be a measure that can operate no practical utility under heaven for the country, I am opposed to this appropriation of \$25,000,000. I wish to take this opportunity of expressing that opinion; and I ask for the yeas and nays on the passage of the resolution.

Mr. SUMNER. What will the Senator do with the troops called out?

Mr. HALE. I have just stated, if the Senator had listened to me.

Mr. HENDERSON. I suppose this resolution is intended to appropriate funds to pay the troops alluded to by the Secretary of War in his letter to General SCHENCK, of the House of Representatives, of the 25th of April, in which he says:

"The Governors of Ohio, Indiana, Illinois, Iowa, and Wisconsin have tendered to the President, on the 23d instant, a large number of volunteers from their respective States for service during the present campaign. They are expected to number from eighty thousand to one hundred thousand men; their term of service one hundred days from muster in. It is believed they can render useful service. They are to be paid no bounty, and are not to diminish or delay the draft for three years' men in States where the quota of pending draft is not filled up."

I have not looked to ascertain whether the President has the right under the existing laws to call out one hundred days' men; but I presume that an affirmative vote upon this resolution on my part would indicate to the President that I was in favor of calling out this force of one hundred days' men. I will state to the Senate what I believe to be the case: I do not believe the one hundred days' men will be of any service. I think it is perfect humbug; and although I am disposed to support the Administration in anything and everything calculated to put down the rebellion, I will not vote for this measure. I will not vote for it under any circumstances whatever. I do not think the financial condition of the country is such that we can afford to throw away \$25,000,000 and perhaps \$50,000,000 upon an unavailable and unserviceable lot of men that will do no good whatever. Why, sir, can you drill these men in one hundred days? Will it be possible to have them so that they could be taken into battle within the one hundred days? But it will be answered that they can go into the fortifications; that they can be placed behind our armies; that they can guard trains—

Mr. GRIMES. The Senator will allow me to ask him how long the troops that fought at Wilson's Creek, and who I believe fought very well, had been in the public service?

Mr. HENDERSON. The battle of Wilson's Creek, I believe, was fought in August, 1861. It was fought by troops in the State of Missouri who had been principally in military companies in the city of St. Louis and had been drilled for a number of years. They were as well-drilled men, generally speaking, when they went into the service as there are now in the army of the Potomac. I do not mean to say that all the men who were engaged in that battle were such; but I speak of the Missouri troops. I believe there were some Iowa troops there, but I cannot speak with reference to them.

But, sir, in my opinion, the body of men now called out will be of no service whatever. If it is intended that my vote affirmatively upon a proposition of this character is to authorize the President to call out this body of men, I cannot give it. If the President takes the responsibility of calling out one hundred thousand men for one hundred days to aid in suppressing this rebellion, and then calls upon us to make good their payment by an appropriation here, I will go back and look to the law and see whether the President had the power to call out those men, and if so, I will vote to appropriate the money. But, sir, he must take the responsibility of this act, not myself. I will not vote for any such measure. If the draft is to be enforced why not go on and enforce it? Why not raise troops for three years or during the war? That is the character of troops we want. I see that a draft has been ordered in my State and one or two others; perhaps in Ohio. Am I correct?

Mr. SHERMAN. In all the States named the quota is full, except in the State of Ohio, where there is a deficiency, I am told, of between seven and eight thousand, and that, I have no doubt, will be filled up this week by draft or voluntary enlistments; so that in all the States named the quota of three years' men is full.

Mr. HENDERSON. That cannot be so in Ohio, because a draft has been ordered there.

Mr. SHERMAN. I say that in Ohio there is a deficiency of between seven and eight thousand, which is being filled up now, and I suppose will be entirely filled up this week.

Mr. HENDERSON. If troops are needed for three years or during the war, the length of time required originally, let them be called out, and I will vote to appropriate any amount of money to pay those men; but I am not in favor of calling out a mob that five or six thousand disciplined troops could run off any field of battle.

Mr. SHERMAN. When the Governors were here I stated to the Governor of my State my objection to this mode of calling out three months' or one hundred days' men. I did not believe it was wise to do it. My opinions on that subject are well known. I think the draft ought to have been enforced long ago, and we ought to rely on a draft for men to serve during the war. But that is not now the question. This offer of the Governors was a patriotic one, intended to enable the Government to withdraw all the regular troops along the frontier and replace them with these one hundred days' men to serve during this campaign. The offer was made from patriotic motives by the Governors representing these great States of the West when they were here. It was accepted by the President of the United States. The men were called out. When I looked at the law I found that the power of the President was ample. By the act of 1795 the President is authorized to call out the militia of one or more of the States to suppress insurrection or repel invasion. Under the act of 1795, therefore, he would have had ample power to call out the militia of any State in the Union for that purpose; but under the law of July 17, 1862, his powers are still more enlarged. It provides:

"That whenever the President of the United States shall call forth the militia of the States, to be employed in the service of the United States, he may specify in his call the period for which such service will be required, not exceeding nine months; and the militia so called shall be mustered in and continue to serve for and during the term so specified, unless sooner discharged by command of the President."

The only question that can arise is whether these men were called for by the President. I

take it as a matter of course that an offer by the Governors of these States which is accepted by the President, and a general order issued in pursuance of that acceptance, amounts to a call. It is a call even in the technical sense. He may call for the militia of one State, or of one State and a portion of another State, or of three States; so that there is no doubt about the power.

Mr. HENDERSON. While the Senator is on that point, lest I should forget it, permit me to ask him if an order has been issued by the President on this subject. I have seen no such order, and I have looked to this matter because I was astonished at the proposition when I first heard of it. But I have not seen any order from the President to this effect, and I desire to know if such an order has been issued.

Mr. SHERMAN. I can only refer the Senator to the Military Committee. I suppose as a matter of course that such an order has been issued, because we are asked by the Department for this appropriation. That of itself is sufficient; and I know as a matter of public notoriety that the militia of my own State have responded in regiments to this call, and are to-day being mustered into the service of the United States.

Mr. HENDERSON. Let me ask the Senator if the militia of Ohio were not being mustered into service by the Governor of the State of Ohio previous to the date of the letter of the Secretary of War, the 25th of April?

Mr. SHERMAN. The militia of Ohio was organized under a law of the State a year or two ago.

Mr. HENDERSON. Did not this recent muster by the Governor take place before the date of the Secretary's letter?

Mr. SHERMAN. No, sir; it is taking place in consequence of this call. Governor Brough telegraphed a very patriotic order from here, which I suppose has been seen by Senators, which has been published in the Ohio papers, calling on the enrolled militia to turn out. A number of the militia of Ohio are ready now and probably mustered into the service. The only question is whether we shall deny to these men the pay provided by law. On that question I have no doubt.

Mr. GRIMES. It seems to me there is a very small question before us. It is admitted on all hands that the President has the authority to call for these troops. He is the Commander-in-Chief of the Army, and authorized by the laws that we have ourselves enacted to call for them. And now the question simply is, will we pay for them after they have thus been legally called for by the President of the United States?

Mr. HENDERSON. Where is the evidence that they have been called for?

Mr. LANE, of Indiana. They have been regularly called for by the Secretary of War, who issued the call with the indorsement of the Governors of these several States; and in accordance with that call very many of these men have volunteered. Perhaps more than ten thousand in my own State have been mustered in.

Mr. GRIMES. That seems to put to rest the question as to whether they have been regularly called for by the Commander-in-Chief of the Army and Navy of the United States; and now the question is, whether we will do our duty by making the necessary appropriation, in order to pay these troops after they have thus been regularly called for. We may entertain whatever opinions we see fit individually or as a body as to the value of these troops when they are called out; but it matters not what may be our opinion on that point; the person who is constituted by the Constitution and the laws of the United States the proper authority to determine their value has settled that question.

The Senator from Missouri will, I trust, permit me to refresh his memory a little in regard to the battle of Wilson's Creek. If I remember correctly, several of those independent companies from the city of St. Louis, who fought so well and to whom is to be attributed, in his estimation, that victory, were under the command of General Sigel, and made a detour around the force of the enemy and did not acquire any particular glory.

Mr. HENDERSON. I desire to ask the Senator from Iowa if he understood me to take the glory of that battle for Missouri troops.

Mr. GRIMES. That was the fair inference that was to be drawn from the Senator's remarks.

Mr. HENDERSON. I neither said then nor do I say now anything from which such an inference could be drawn.

Mr. GRIMES. I am indebted to the Senator for correcting me, for certainly such was the impression I had from his remarks.

Mr. HENDERSON. You will find that no such inference can be drawn from my language as reported.

Mr. GRIMES. In the first place, the Senator failed to allude to any other troops than those of Missouri.

Mr. HENDERSON. I understood the Senator to ask me in regard to my own personal knowledge of the length of time the troops of Missouri engaged in that battle had been in the service. I stated distinctly that I could not tell in reference to the troops of Iowa, but only in reference to the troops of my own State. Of course I had no personal knowledge of the Iowa troops.

Mr. GRIMES. I think there were two Kansas regiments in that battle; one, certainly.

Mr. POMEROY. Two.

Mr. HENDERSON. I believe that to be the case.

Mr. GRIMES. And there was one from the State which I have the honor in part to represent. Neither one of those regiments had been in the service, I think not even the Missouri regiments, but certainly neither the Kansas nor Iowa regiments, had been in the service exceeding one hundred or one hundred and two days. I believe the regiment from my State staid in the service twelve days over their time for the sake of having a fight.

Mr. POMEROY. That battle was fought on the 10th of August, and the Kansas regiments engaged in it had been in service only thirty days.

Mr. HENDERSON. I desire to state once for all, if the Senator will permit me, that the troops on the other side at Wilson's Creek were just as raw as our troops, and the whole argument amounts to nothing. I do not know that there was anything very glorious in the battle. If there was any glory about it the glory was just as much shared by the raw troops on the rebel side as on our own. I suppose it was a victory for the rebels. However, they had some three or four to one of our troops. I know there was some very brave fighting done there. I know that there was some very brave fighting by the Iowa regiment, because I believe General Lyon was leading the Iowa men at the time he fell. I think that was the case; and I do not wish to detract anything from the Iowa troops; but that is no argument in favor of the employment of these one hundred thousand troops now, because the rebels were then just as raw as our own men.

Mr. GRIMES. It only shows that these troops will fight if you put them in the right positions, and if they are properly handled. Why, sir, at the battle of Gettysburg, as I understand, three regiments from the State of Vermont stood in the forefront of the fight, and no troops behaved more bravely or rendered the country more service than those regiments did from Vermont, freshly recruited from the Green mountains. It depends altogether on the character of the man who handles the troops. Whatever may be our opinions as to the value of these troops when brought into the public service—and we do not know in fact where they are going to be placed; we do not know whether they are going to be placed in fortifications that are almost impregnable now or not—it seems to me there is only one course for us to pursue, and that is to pass the appropriation that is asked for to pay them, they having been, as all admit, legally and constitutionally called into the public service.

Mr. CARLILE. Mr. President, if the history that we get of this call in the papers be correct, there cannot be very many of these troops as yet mustered into the service under it. It has only been about a week or ten days since the Governors of these States made this visit. This call did not proceed upon the motion of the President himself, upon whom the law confers the power to call out the militia of the States; but these Governors assemble in the city of Washington and ask the President if they may bring into the service of the United States for one hundred days one hundred thousand men from the different States. To this proposition of these Governors, after a day or two, we are informed, the President has assented.

Now, sir, although, strictly speaking, the law may confer on the President this power, which is given to him to provide for emergencies when the exigencies of the country will not admit even of a consultation of the representatives with the people, I think it would have been at least respectful on the part of the Executive to consult with that department of the Government to whom belongs exclusively the right of imposing taxes on the people to pay the expenses of these calls before he assented to this proposition made to him by the Governors of the States. I am therefore disposed to let this matter stop here at this point—the call being acknowledged to be within the power of the President—to meet the expenses already incurred and which it may be incumbent on Congress to bear; but stop it here. Let us in that way express our opinion to the President that when the representatives of the people are assembled in the Capitol of the nation he should consult with them before he accepts propositions made to him by the Governors of the several States for incurring an unknown liability. A proposition like this places the Treasury of the Union directly under the control and power of the President, who it was intended by the organization of our Government should not control and dispose of it, and the representatives of the people merely sit here to vote money out of the Treasury, without discretion left to them to determine whether they ought to so vote or not. I shall therefore vote against the resolution.

One word more, sir. I doubt if there is a Senator here who is prepared to say that the sum appropriated by this resolution will defray the expense of these one hundred days' men. It may amount to double \$25,000,000. We cannot tell what will be the cost. It is not only the pay that is due to them, but they are to be clothed; their transportation is to be paid for; and they are to be taken from the industry of the country at a period of the year when their labor would be more valuable and more productive, so far as the legitimate results of this war are concerned, than any services they can render by being in the Army of the United States for the short period of time for which they are called into the service.

Mr. WILSON. Mr. President, in the lights of the present this call for militia does not appear to me to be a wise one. After this offer by the Governors was submitted I expressed the opinion that I did not believe it ought to be accepted. But, sir, we, the Congress of the United States, have authorized the President at his discretion to call out the militia for any period not exceeding nine months. The Congress of 1795 gave the power to the President to call out the militia. It has existed for about seventy years. The last Congress extended the power and the time for which the militia might be called out. The President, therefore, is clothed by Congress with ample power to call out any number of militia he pleases.

Mr. POMEROY. Under the law of 1795, was not his power to call out the militia limited to the time when Congress was not in session?

Mr. WILSON. The Senator will remember the law was amended so as to give him power to call them out at any time; and we also extended the term of service. The President is clothed with the power to call out the militia. The authority on his part to accept them is in accordance with the laws of the country. I doubt very much the wisdom of this call, for I fear that the money we expend will be to a great extent thrown away. I think the troops we raise ought to be raised for a longer period. In my judgment, the energy, the vigor, and the enthusiasm that will be gotten up in these western States to place these eighty or one hundred thousand militia in the field will spend itself for no great purpose. If this money, this vigor, and this energy were expended upon raising troops for a longer period, we could obtain them. However, the President had the right to do it; and he has made the call, or rather he has accepted the offer of these Governors.

I think it was unwise for another reason—Mr. HENDERSON. Will the Senator permit me to ask him if this acceptance is in writing or is it a mere verbal acceptance? Did the Governors call on the Executive and propose to him to do this thing, and did he verbally accept the proposition? If there is anything in writing, I should like to hear it.

Mr. WILSON. I understand that the offer was made and that it has been accepted officially and formally, and that before it was accepted the commander of the Army in the field, General Grant, approved of it and advised it. I may be mistaken in this information. This joint resolution was enclosed in a letter written by the Secretary of War to the chairman of the Military Committee of the House of Representatives and of the Senate. I think, therefore, nothing can be said in regard to the power of the President to call out these troops; nothing can be said in regard to the mode in which they have been called out. We may doubt the wisdom of this call for militia. If the question were submitted to us to authorize the President to call out one hundred thousand men for one hundred days, I would not vote for it; but the President has exercised the power with which we have clothed him; he has made the call; and many thousands of these men are already embodied and organized. I shall therefore vote for the proposition and leave the responsibility where it belongs, upon the President of the United States.

Mr. HENDERSON. I desire to call the attention of the Senator to the letter of Mr. Stanton to General SCHENCK. At the close of it he says:

"The impending operations render it expedient that there should be early action by Congress upon the proposition, so that, if sanctioned, all needful provisions may be made in due season."

Meaning thereby that he would not accept the proposition until Congress acted upon it, and if Congress accepted the proposition then he would make provisions for calling out these troops. This is a very late letter, dated on the 25th of April, and I have seen nothing from the President since in regard to it at all.

Mr. WILSON. I think the Senator must be satisfied that the call was made, or rather the offer accepted, formally and officially; that these Governors have issued their proclamations; and that several thousand men have been embodied or are now organizing under this action of the President.

I understand that these troops are to be used in the fortifications and posts to be held in order to allow the veteran troops to go forward and join the armies in the field. There have arrived in this city to-day several companies of heavy artillery from Massachusetts, who have been brought here to man the fortifications while the veteran troops go forward to the front.

We need all the men we have on our farms, in our workshops, and in our manufacturing establishments. I have urged that we should have authority to raise men by the use of our State and local bounties in the rebel States, both black and white; and it has been met with persistent opposition. I think one of the greatest objections to calling out these eighty or one hundred thousand western men is, and will be felt to be, that it takes those men from the cultivation of their farms—from the raising of crops which are necessary to support the country. I want to put all the men in the field that we need, and overwhelm the rebels; but I want to raise all the men we can in the rebel sections of the country to help to fight our battles. The price of labor has risen every where; the needs of labor are every where upon us both in the workshops and in the fields; and we ought to raise all the black men and all the white men we can in the rebel States. I hope, therefore, that Senators will remember when I call up the bill from the House, as I hope to do in a day or two, to allow us to raise men in the rebel States, that we should favor our own loyal sections of the country, take care of our own labor and material interests, and put the burdens of the war as much as we can upon those States that have raised the banners of treason.

Mr. CLARK. I concur with much that has been said in regard to the calling out of these men for one hundred days; but it seems to me there is another and a further view which the Senate ought to take in regard to this matter. It is admitted that the President has the power to call them out. We gave him by law the liberty to exercise his discretion. He has exercised that discretion.

Mr. POWELL. Will the Senator from New Hampshire be kind enough to tell us what law authorizes it?

Mr. CLARK. I cannot tell the precise date of it. It is the law which has been referred to by the Senator from Ohio.

Mr. POWELL. That is the law of 1862. I

have just examined it, and in my opinion it does not meet the case at all.

Mr. CLARK. That is not the point I propose to argue. I understand the law to give him the power to exercise his discretion to call out troops. I understand him to have exercised that discretion, and to have determined that it was wise to call out these men. It appears that he has done it on consultation with the general commanding in the field and on high military authority. It is known to the country that we are undertaking a great campaign. It is said by the Senator from Massachusetts that money is plentier than men. It is known to the country that we have not got all the men required under the last call; that some places have not filled up their quotas. Now this is the point: when this great campaign is coming off; when our armies are expected daily to meet the enemy in the field, when we need every man we can muster, when the General-in-Chief has said these men are needed, when the Governors of the States have offered them, and when the President has concluded to accept them, I want to know where is the Senator that will say these troops shall not come upon the knowledge he has? I would not have ordered them without more information than I now have; but I certainly will not take the responsibility of casting a vote which shall prevent their coming. It may be that this great campaign may fail for the want of these very men, and the man who refuses them takes the responsibility of defeat.

It is very true, as has been stated by the Senator from Massachusetts, that the troops which were enlisted to remain in the States for their defense have been ordered forward. The troops that were enlisted to defend Boston harbor as heavy artillery have been ordered here. Troops enlisted in my State with a promise that they should not be called without the State have been called here, and the men come without a murmur. They say, "We are ready if the country needs us." They enlisted for the State service, but they say, "We will go if we are needed." The Governor of my State has found it necessary to call into the field troops to replace those he has taken out of the fortifications. Will Senators say that these troops shall not come, when the President says he needs them, when the Secretary of War says he needs them, when General Grant says he needs them, and advises that they be brought? Here are five or six companies of a regiment of cavalry that was being enlisted in my State. They could not remain at home until they were mounted. They are ordered here for an emergency; and if those men are wanted in the front they will take their arms and they will go on foot.

The Government mean, I hope, to make this campaign decisive, and will you say it shall not be decisive? Will you say that for \$25,000,000 these troops shall not come to the aid of the Government? I for one shall not take the responsibility of throwing a vote against this measure. If my opinion had been asked some time ago, I might have said it was not wise; I might say now, with the information I have, that it may not be wise; but the President has adjudged upon it, the Secretary of War has adjudged upon it, these Governors have adjudged upon it, the commander-in-chief has adjudged upon it, and these men are asked for and called for. Shall they not come? I shall not take the responsibility of giving a vote against it.

Mr. FESSENDEN. I feel bound, having reported this joint resolution, that so far as I am concerned the Senate shall not act under any misapprehension of fact. There has been no call, in the technical sense of the word, to my knowledge, and I presume there has not been. The simple fact is that the Governors of these States, believing that it would be well to liberate the regular soldiers there and that these troops would render essential service, and all of them, as stated by the Senator from Ohio, having filled their quota, offered the services of a certain number of men to the Government for a specific period of one hundred days just at the most important period of the campaign, and the President agreed to accept their services. The arrangement was made so that the matter stands precisely thus: the President expected a certain number of men for a certain number of days. The ground on which I put it is, though it is not a call technically it is sub-

stantially; under the law the President undoubtedly has the power to call out the militia of the States.

Mr. POWELL. I ask the Senator to tell me what act gives the power.

Mr. FESSENDEN. The act which the Senator has in his hands.

Mr. POWELL. I think if the Senator examines that act he will be of a different opinion.

Mr. FESSENDEN. If the Senator is right I am mistaken.

Mr. JOHNSON. Will the Senator permit me a moment?

Mr. FESSENDEN. Let me get through. I rose simply to set myself right, because I never want to convey to the Senate any idea that is wrong. My notion was that the President had the power; that he could exercise it at any moment. If we do not choose to accept it as it stands, he can, if he pleases, make a formal call, and then we must do it, unless we repeal the law. If I am right in my construction of the law, that having been decided upon, I think it unnecessary and unwise to raise any technical questions upon the manner in which he has acted, he being Commander-in-Chief and having the authority to call out troops.

To be sure it may be said that by this appropriation we take the responsibility, we indorse it. So we indorse action whenever we make an appropriation. All the power that we have in these cases, beyond the power of merely looking into the matter and seeing whether the law has been specifically complied with, is to make or to withhold appropriations. In a time of war, when the military authorities are conducting it, whatever may be my opinion as to the wisdom of their action in a particular line, I am not to cripple the authorities, especially when I cannot understand and there is no reason why I should be made to understand (not being a military man or connected with these things) the wisdom of a particular thing; but I know what my duty here is, and that is to furnish the means. It is very different, as my friend from New Hampshire says, in these days from days of peace, when we can scrutinize their action as much as we please. If I were to be asked my opinion I should say that the men at the head of the Government are but men, and are liable to mistakes, a good many of them; and I think they have in some instances made them; but at the same time when I say that I should say in addition that I do not claim to be even as wise as they are, and not having their amount of knowledge I am more liable to be mistaken than they are in reference to the wisdom of their action, because they are acting in their sphere and I am acting in mine, I believe I have said all I know about this matter.

Mr. JOHNSON. Mr. President, I know of no statutes upon this subject except the original statute of 1795 and the act to which the honorable member from Ohio referred of the 17th of July, 1862, which is an amendatory act to the act of 1795, or, in the language of the profession, supplementary to the act of 1795. The two acts, therefore, are to be considered together.

It was assumed by my friend from Ohio—of course he thought it was very clear at the time, and the honorable member from Maine has taken the same view—that it was very clear that under the supplementary act of 1862 the President would have had a right to call for the troops who have been offered and accepted by him, and that it is therefore merely a question more of etiquette than anything else, a question of form, whether these men are properly in the service of the United States or not.

The act of the 28th of February, 1795, was passed for the purpose of meeting one of two emergencies: the first was an invasion by a foreign nation or by the Indian tribes; the other was an insurrection in some one of the States, and it was proposed, in anticipation of such an insurrection as we had afterwards in Pennsylvania, to give to the President the authority to call out for a limited period the militia upon the occurrence of either of these events, foreign invasion or domestic insurrection. The act therefore provides—

"That whenever the United States shall be invaded, or be in imminent danger of invasion from any foreign nation or Indian tribe, it shall be lawful for the President of the United States to call forth such number of the militia of the State or States most convenient to the place of danger or scene of action, as he may judge necessary to repel



such invasion, and to issue his orders for that purpose to such officer or officers of the militia as he shall think proper."

That is, without consulting the States or the authority of the States; and the next clause covers the case of an insurrection, and is in these words:

"And in case of an insurrection in any State, against the government thereof, it shall be lawful for the President of the United States, on application of the Legislature of such State, or of the Executive, (when the Legislature cannot be convened,) to call forth such number of the militia of any other State or States as may be applied for, as he may judge sufficient to suppress such insurrection."

In relation to the last, therefore, domestic insurrection, he is only authorized to call the militia from a State in which the insurrection does not take place, as he may be requested by the Legislature of the State if it is in session, or, if it is not in session, as he may be requested by the Executive. Then the second section of the act provides—

"That whenever the laws of the United States shall be opposed, or the execution thereof obstructed, in any State, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by this act, it shall be lawful for the President of the United States to call forth the militia of such State, or of any other State or States, as may be necessary to suppress such combinations, and to cause the laws to be duly executed; and the use of the militia so to be called forth may be continued, if necessary, until the expiration of thirty days after the commencement of the then next session of Congress."

It is obvious that under that act the President would have no right to do what is done in this instance.

Mr. COLLAMER. That does not confine him to calling them out only when Congress is not in session.

Mr. JOHNSON. Then what is the meaning of saying that they shall be continued only until thirty days after the commencement of the then next session of Congress? "Then next session of Congress" to what? To the call.

Mr. COLLAMER. But if he calls them during the session they would remain in service until thirty days after the beginning of the next session.

Mr. JOHNSON. I may be wrong, but as I understand it the law goes on the assumption that Congress, when in session, will take care of the matter itself. It is a *quasi*-matter of war, and the whole war power being in Congress, the object of the act was to put it in the power of the President to provide for a contingency which could not be provided for by Congress because Congress was not in session, and it therefore stated that if he made the call the militia called out should be continued until the expiration of thirty days after the commencement of the then next session of Congress. "Then next session of Congress" to what? The next session of Congress convening after the call.

Mr. COLLAMER. That does not deny him the authority to call them out during the session.

Mr. JOHNSON. I rather think it does. He is only authorized to call them out by the law, and the men he is to call out are to go out of service within thirty days succeeding the next session of Congress; and it seems to me just as plain as words could make it that he cannot call them out when Congress is in session; Congress must do that. Then comes this act of 1862, and it provides—

"That whenever the President of the United States shall call forth the militia of the States, to be employed in the service of the United States, he may specify in his call the period for which such service will be required, not exceeding nine months."

It is not necessary to read further, except the next sentence:

"And the militia so called shall be mustered in and continue to serve for and during the term so specified, unless sooner discharged by command of the President."

The whole difference between the powers given by the supplement and the powers given in the original act, if I am right about the meaning of the second section of that act, in regard to which I differ from the honorable member from Vermont, is, that in his call the President is to specify the period for which service shall be required, but not to make it more than nine months, and the militia so called and so mustered shall continue in service for and during that specific period unless sooner discharged by command of the President. It repeals that part of the provision which says they are to go out of service at the expiration of thirty days after the meeting of Congress

by providing that they are to remain for the whole number of days that the President by his call specifies; that they shall be in the service that number of days, but not more than nine months from the period they are mustered in.

It seems to me, therefore, that under neither of these acts could the President do what has been done in this case, and, in my judgment, it was unwise as a mere matter of expediency. We are all anxious to put an end to the trouble in which we are; all equally anxious, I am satisfied. So far as any Senator has spoken on the subject, there is a concurrence of opinion that if he had been asked to decide upon the propriety of such a call as this he would have decided against it. I assume, therefore, that every member of the Senate thinks that this measure is a very imprudent one, a very impolitic one, certainly a very costly one. The only question is, if we shall be of that opinion, whether we are to sanction it by an appropriation of \$25,000,000, which in all probability will not be more than one half the expenditure that will be actually required, or stop it here.

Mr. FESSENDEN. I will say to the Senator that this is an estimate of what will be required for the pay, equipments, &c.

Mr. JOHNSON. I understand. There are always estimates, and yet at every session we have to make provision for very large deficits. That, I think, judging from the past, is likely to be the case in the present instance; but that of course is mere matter of speculation.

Two things to me seem rather singular, if not unaccountable. How did it happen that the Governors of only three States of the United States thought proper to make this suggestion?

Mr. HENDERSON. Five.

Mr. SHERMAN. Ohio, Indiana, Illinois, Wisconsin, and Iowa.

Mr. JOHNSON. Have they consulted the Governors of the other States? I suppose not. Has the same thing suggested itself to the Governor of any other State? I suppose not. How happened it that neither the President of the United States, nor any member of the Administration, nor the commanding general in the field, nor any man in the military service of the United States, as far as we have any knowledge, ever had the thought in his own mind of calling out these troops for this period of time? The Governors come here and they make the proposition to the President, and the President after a while agrees to accept it. If he has accepted it so as to bind us under a law which we have passed giving him the authority to accept it so as to bind us, there is an end of it; good faith requires that we should make it good; but taking the view I do, that we are under no such obligation, I feel constrained to vote against this appropriation.

Mr. WILSON. There is one law to which the Senator from Maryland has not referred that I think makes this subject very clear—the act of July 29, 1861, which provides—

"That whenever, by reason of unlawful obstructions, combinations, or assemblages of persons, or rebellion against the authority of the Government of the United States, it shall become impracticable, in the judgment of the President of the United States, to enforce, by the ordinary course of judicial proceedings, the laws of the United States within any State or Territory of the United States, it shall be lawful for the President of the United States to call forth the militia of any or all the States of the Union, and to employ such parts of the land and naval forces of the United States as he may deem necessary to enforce the faithful execution of the laws of the United States, or to suppress such rebellion in whatever State or Territory thereof the laws of the United States may be forcibly opposed, or the execution thereof forcibly obstructed."

Then the next section provides—

"That whenever, in the judgment of the President, it may be necessary to use the military force hereby directed to be employed and called forth by him, the President shall forthwith, by proclamation, command such insurgents to disperse and retire peaceably to their respective abodes within a limited time."

The third section provides—

"That the militia so called into the service of the United States shall be subject to the same rules and articles of war as the troops of the United States, and be continued in the service of the United States until discharged by proclamation of the President: *Provided*, That such continuance in service shall not extend beyond sixty days after the commencement of the next regular session of Congress, unless Congress shall expressly provide by law therefor."

Mr. JOHNSON. That law has expired.

Mr. WILSON. No, sir. It was passed during the extra session of Congress in 1861, and the President has availed himself of the right to

call out the militia under it; and the militia were called out, it will be remembered, in 1862, to the extent of about seventy thousand men; and we passed a law subsequently, allowing them to be called out for a period not exceeding nine months.

Mr. CONNESS. Mr. President, as I shall cast a vote, I desire to say why it shall be cast in the way it will be upon this measure. Ordinarily I sit here from day to day and vote affirmatively upon all measures that are deemed necessary by the administrative power for carrying on this war. I frequently give those votes when I have considerable doubts as to the propriety and wisdom of the measures; but I feel it my duty in these times to give by my vote such support as it can give to those who are engaged in administering the Government. Whenever those measures coincide with my judgment it affords me a peculiar pleasure to give those votes. I regret to say that the measure now before this body does not secure the concurrence of my judgment.

When the enrollment bill was before the Senate the Senator from Massachusetts, the chairman of the Committee on Military Affairs, proposed to limit the services of the troops to be called out under that act to two years rather than three. It will be remembered that I made some opposition to that suggestion of the honorable Senator. I did it because I believed that no half-way dealings would ever result in the suppression of the rebellion. I did it because I believed that such a proposition as he made would dampen the spirit of the country and would affect the confidence of the country in the administrative and legislative branches of the Government. But, Mr. President, what shall I say of this measure, which proposes that one hundred thousand men shall be called into the field for one hundred days, at an expense proposed now to be appropriated of \$25,000,000, perhaps to be doubled, perhaps to be quadrupled?

And, sir, what account do we get of this measure? The first knowledge that I had of it came to me from the public press. It was stated that certain gentlemen, Governors of the States, were coming to Washington to propose a measure of this kind, and next it was stated that they had arrived in Washington and were engaged in making the proposition. I have great respect for those gentlemen; I believe each one of them to be a patriot and a valuable adjunct of the country at this time; but I ask who appointed them to generate and originate measures for carrying on this war? Is the measure before us in any respect properly one of their functions, or is it not, if it be a measure of war at all, more properly, and indeed exclusively, the function of the President of the United States and his Cabinet? I would have respect for this measure, even with its one hundred days hanging to it, if it had originated in the mind of the President, was the reflex of his Cabinet, or was an original demand of the lieutenant general commanding the armies of the United States. That, however, is not the case. It is a proposition coming from patriotic Governors, and then accepted by the President, we are told, and then accepted by General Grant. If that be so, this part of the war is clearly being conducted by the Governors of the States, five of them. I object to that. It can get no vote of mine. I think that is not the way to deal with this war. I ask the question here as a Senator, and as one who can say without any boasting that he feels as profoundly impressed with the exigencies of these times as a human being can; I ask in God's name why the President of the United States, if he wanted additional men now, did not call for one hundred thousand three years' men, two hundred thousand three years' men, or five hundred thousand three years' men, and inspire the nation, rather than trifle with its temper, engage in modifying its courage and abating it, and in proposing, for that goes with it, an expenditure of money that we know we do not possess, though we may vote it here to-day.

Mr. President, it must be known and understood that I make these remarks as a friend of the Administration, for it has no better friend within the confines of this nation, though I say it; but it belongs to the people, it is their due—it belongs to us—to seize this rebellion and grapple it by its throat, not with hundred day men, but with the strong arms of the nation, as many of them as are needed; and we all say here from day

to day that we have the power to summons them to the field, to command their services, and if they are not yielded, to compel their services in behalf of the Republic. I think, sir, and I feel, it is time we resorted to other measures than this. I often vote away my judgment. I do it willingly. I differ from my friend on my right here in that, [Mr. DAVIS.] I consider my judgment a small consideration in view of the great conditions and considerations that are passing in review before me, and I am willing to repeat that action. But I confess that when I am asked, as an Administration measure, as a measure to put down this rebellion, to strengthen the hands of the Government, to vote these \$25,000,000, and thus initiate an expenditure that promises no results of equal profit and benefit to us, it sickens me at heart, and I cannot, sir, I cannot yield the vote.

I do not raise the question which has been presented by the honorable Senator from Maryland, as to whether this or that statute gives the President the power. I but ask from him and from those that are his constitutional advisers manly, strong, firm, decided action; action that gives promise of results, promise of compensation for the great expenditures that we are making. I think it would be wise to vote this measure down here to-day, and I am free to say that if the country did not approve it I would yet do it, for we know that measures like this will never win this great fight in which we are engaged. Nearly every man of us feels in his heart that means of this kind do not become us as a nation; do not become us as a Senate.

But it has been said by some that this call has been made; by others that it has not been made. I care not whether it has been made or not. I say it would be wise, in my opinion, to stop it here, and to demand that the President shall issue his call for half a million of men if necessary, and, as I said before, inspire the nation and talk to the nations of the earth, and show them that we mean to sustain this Government, though the entire face of the land be devastated in the process of doing it. Let a little spirit of that kind be manifest, and I tell you that these rebel armies will soon dissolve before the spirit and blows of the nation. But your one hundred day men and your measures suggested by patriotic Governors that make a tour to the national capital, will not, in my judgment, accomplish that result. Therefore, Mr. President, I shall content myself by voting, and taking the responsibility of voting, against this bill.

Mr. LANE, of Indiana. Mr. President, with the permission of the Senate, and their kind indulgence, I will say a very few words to give my opinions in reference to the joint resolution now pending before the Senate. As I understand it, this is a resolution to appropriate \$25,000,000 for the payment of certain troops who have been offered by the Governors of five States, and accepted by the President of the United States, to serve for one hundred days after they shall have been mustered into the United States service. I take it for granted, from the two acts to which reference has been made, that the President had the power to make the call. I am equally certain that the President has made the call substantially. I have here a proclamation of Governor Morton in reference to twenty-five thousand troops to be raised in Indiana under this call, in which he recites the offer of the Governors of Ohio, Indiana, Illinois, Iowa, and Wisconsin to raise one hundred thousand volunteer troops for the service of the Government; and of that hundred thousand the Secretary of War and President of the United States accepted to the extent of eighty thousand, and upon that acceptance proclamations have been issued by these several Governors, in which they recite the offer and the acceptance of the offer by the President of the United States; and that is to all intents and purposes a call for these troops, an effectual call for these troops, and an acceptance of the offer.

Now, how can the President raise troops upon a call under your laws? In one of two ways: either by conscription and draft, or by accepting volunteers. Here he proposes to accept volunteer troops. Here is no draft proposed in any of these States to raise these troops. It is voluntary on the part of the Governors, voluntary on the part of the soldiers. But we are told that the proposition came first from the Governors, and

did not originate with the President and his Cabinet. Why should not the call have come first from the Governors of Ohio, Indiana, and Illinois? Only last year Indiana and Ohio were invaded by John Morgan, and several millions worth of property were destroyed, and many lives sacrificed, and John Morgan marched for more than six hundred miles unimpeded through those two States simply because there was not upon the border such an organized force as we now propose; and recently within sight of the shores of Illinois there was a bloody attack upon Paducah, in Kentucky, and within sight of the shores of Missouri the terrible massacre at Fort Pillow. These Governors, whose sworn duty it is to command the militia of their respective States, to suppress insurrection and repel invasion, and preserve the peace within their borders, saw the importance of the immediate organization of this force. It was right and proper and patriotic that the call should have come from these several Governors.

Sir, I have uniformly opposed short enlistments and favored a vigorous conscription law, a law which shall deny the right of commutation, and I am prepared to-day to vote for a law which shall also deny the right of substitution. I have always been prepared to draft soldiers for three years; but yet I am not prepared to say that this is not a wise measure now, and the wisest possible measure that the wisest men upon earth could have devised to meet the emergency which now stares us in the face. What need have you for your soldiers, and what duties have they to perform? We have a frontier line of more than fifteen hundred miles; we have a blockade system involving a coast line blockaded of more than a thousand miles. We have taken posts there, and made them depots of provisions and arms and munitions. They have to be garrisoned and defended, or you give up your whole blockade system. You have ordered your armies into the rebel States. We have to keep up their communications, to defend their munitions and arms by garrisoning posts along that line of fifteen hundred miles of frontier. We need soldiers to advance into the rebel States to crush their military power, and we equally need soldiers to man the fortifications and preserve our communications. I believe that these troops mustered in for one hundred days will be as effective as any other troops within these fortifications to defend the fortifications and to keep up your line of communication and to protect the transportation of arms and munitions to your armies in the field.

How many soldiers have you now in garrison on your coast and in garrison on your frontier and protecting your communications? More than eighty thousand; and for every single volunteer accepted under this call you release a veteran soldier to go into the armies to fight the battles of the country; and you will need them all, and need them all within the next ten days. There are two great strategic points where the two contending armies are being concentrated, upon the Rapidan and in northern Georgia. You need every veteran soldier you have. These volunteers, if immediately called into the service, will fill the places of the veterans now in garrison, and the soldiers in garrison will march to the front; and I believe it is a wise provision.

But gentlemen say you call for these men just at the planting season in the planting States, and take them from their ordinary labors. Who complains of that? This call has been made some six or eight days in the State of Indiana, and in every county, town, and township in the State, almost, we have called meetings, characterized with the utmost enthusiasm; and perhaps while we are deliberating here to-day, Indiana has ten thousand of these volunteer soldiers in rendezvous at Indianapolis ready to go wheresoever you order them. They have not complained, and they have the most interest. I am receiving letters daily, and I have watched our papers, and no one in Indiana or in Illinois, or in any of these other States, so far as I know, has complained of the hardship of the call. Let the complaint come from those who are interested. Let us not imagine it.

I do not know that the Administration, strong as it is in patriotism and in the confidence of the people, is prepared to disregard the patriotic suggestions of five Governors from noble loyal States.

I think, under all the circumstances, this is a wise measure. Whom does it take from the workshop and the farm? No one who is not willing to go.

But gentlemen argue as though these were raw troops who had never been drilled, who had never held arms. We have in the State of Indiana sixteen thousand of the home legion, who have been armed and drilled for some twelve months; and many companies, without a single exception, have volunteered for this hundred days' service, and many regiments have volunteered almost entire. I think we need their services; we need to swell our armies; and I believe that within twenty days you may have under this call eighty thousand troops who will take the place of eighty thousand veteran troops, and in fortifications do good service. But, sir, the history of the war shows the raw, green regiments that gentlemen speak of have done noble fighting in the open field. One brigade at Pittsburg Landing, composed partly of Ohio and Indiana troops, three days after they received their arms, went into that bloody fight and covered themselves with glory. I hope much from this volunteer force, and I trust the joint resolution will be passed.

The joint resolution was reported to the Senate without amendment.

Mr. WILSON. I move to amend the resolution by adding the words "after their muster into the service of the United States by regiments," so as to get a hundred days' service out of them after they are mustered in as regiments.

Mr. SHERMAN. I trust that amendment will not be adopted. These men are called from labor which would yield them from two to ten dollars a day; they drop their tools at the workshop; they leave the farm; they leave the counting house; they answer your call in a moment; and it seems to me that from the very day their militia organization moves from the place of their residence their pay ought to commence; and remember they ask no bounty. There is not a man of this force who will come from the State of Ohio that will not make a sacrifice more than we are called upon to make here, and I think therefore it is a very idle thing to undertake to limit their term of service except from the time when they leave their homes.

Mr. WILSON. I am certainly in favor of paying these men for every day's service they render, and if the Committee on Finance think we have got security that these men will serve the country a hundred days, I am willing to withdraw my amendment. What I desire to accomplish is to prevent the hundred days being squandered in raising and organizing these regiments without securing their actual service.

Mr. JOHNSON. That is one of the objections to the system. They are called only for one hundred days. If you make the one hundred days to commence from the time the man first volunteers his services, we shall not get the benefit of him for sixty days at least. There is now a dispute between the Government and some of the soldiers belonging to the regiments of New York and a large portion of some of the regiments of Pennsylvania, and the Legislature as well as the Executive of Pennsylvania are siding with their troops, as to whether their term of service expires at the expiration of three years from the period when they enlisted or three years only from the time they were mustered into the service. The Government have decided, and I have no doubt decided properly—certainly if they have not the right to do so, they ought to have it—that the service commences from the time they were mustered in.

Now you are about to provide, unless some such amendment as that suggested by the chairman of the Military Committee is adopted, that these three months' men are to be paid from the day they leave their homes. If you do that, you will have to pay the troops of Pennsylvania and the rest too for the additional period they are made to serve by the decision of the War Department. I know the Department and the officers of the Government think it all-important that the obligation of the United States to pay should commence from the period of muster into service in order to compel them to go into the service at the earliest moment. It may be hard on these men from Ohio, I know, that they should lose their time altogether without any compensation.

Mr. SHERMAN. Allow me to make a suggestion here. There are thirty regiments ordered from Ohio, I think, almost two from every congressional district. Now, there are no mustering officers at their places of rendezvous. They are called upon to rendezvous at the centers of their regiments.

Mr. FESSENDEN. Let me set my friend right. He is going on a supposition. If Senators think it necessary to provide for this by law, it can be done; but the Secretary of War expressly stated to me that the offer of the Governors and the President's acceptance was specific; that the men are to serve one hundred days from the time they are mustered into the service of the United States.

Mr. SHERMAN. If there is any stipulation of that kind I have no objection.

Mr. JOHNSON. Then they will not be paid.

Mr. SHERMAN. And there is no use in the amendment.

Mr. FESSENDEN. That is the statement made to me; and I think there is something said about their being mustered in in the resolution itself. Let it be read.

The joint resolution was again read.

Mr. FESSENDEN. Nothing is said there except that they are for a period of not less than one hundred days; and the Secretary stated to me expressly, for I inquired about it, that the term of service was to be one hundred days from the time they are mustered into the service of the United States. Of course they cannot be paid for more.

Mr. JOHNSON. Then the mischief of which the Senator from Ohio speaks will occur.

Mr. SHERMAN. There is no mustering officer at the place of rendezvous, and they will march to Cincinnati before being mustered in; but I am perfectly willing to leave that without any provision of law, for I think the justice of the Government will pay them, but I do not wish them to be excluded by an amendment like that of the Senator from Massachusetts.

Mr. FESSENDEN. The offer was as I have stated, and that was the acceptance, and of course they will not be paid for anything except the service they render according to the tender and the acceptance.

Mr. HOWE. I would not have said a word in this debate but for one feature that has developed itself in it. Several Senators have spoken upon this proposition as if it was a boon they were about to grant to these States to be allowed to raise eighty thousand men to serve for one hundred days. So far as the State of Wisconsin is to participate in this bounty, I feel authorized to say that she would be entirely willing to relinquish it. The State of Wisconsin has furnished her quota under all your calls for all your periods that you have assigned to the service of the different detachments of your Army, and now she stands ready, I understand, to furnish her quota of these eighty thousand men to serve for one hundred days. If the Government wants these men she is willing to supply them in addition to all she has done heretofore; and labor is as much to her as it is to any State in New England or any State in the Union. She is willing to make this sacrifice, but it is not a privilege for her citizens to enter upon your service and serve one hundred days, or ten days, or one day, for thirteen dollars a month. It is not a favor that she asks, it is not a privilege that she craves. If you want these services she will contribute them; and if she contributes them I ask you in common justice to give to her citizens the pay of soldiers—that is small enough, everybody knows—and give them that pay from the time they enter into your service, and do not treat this offer as if Wisconsin came here a mendicant asking to fight your battles for you. The Senator from Indiana has told you rightly that this proposition puts not merely eighty thousand raw troops into the service, but it makes eighty thousand veteran soldiers available in fighting the battles of this coming campaign. I do not undertake to say for that reason that it is a wise measure. I believe it is a wise measure. I believe the General-in-Chief who now leads your armies knows how to dispose of eighty thousand raw troops so as to add to your securities for success. I think so; and therefore I do not unite with those who pronounce this a silly, and absurd measure; but if you think it an absurd measure reject it altogether, and do not draw our

men from home; but if you draw them from home pay them honestly and squarely.

Mr. CONNESS. I understand there is no amendment pending.

The PRESIDENT *pro tempore*. There is none pending.

Mr. CONNESS. I offer the following amendment:

*Provided*, That it shall be conditioned by the War Department that the troops to be organized under the call referred to herein shall, if the public exigencies require it, be required to serve for the period of six months from the time of muster.

I fear that if this measure shall pass these troops will be mustered out of the service or will be entitled to be mustered out just when we want them most. On the 1st of August or thereabouts these troops will be entitled to their discharge. It appears to me that this war is going to last beyond that, and that if the campaign of this year amount to anything, we must make calculations beyond that time.

It also occurs to me that if the soldiers are willing to serve for three months, so far as they are concerned, they will be willing to serve in the midst of the war, but it is our duty to provide that they shall before this measure shall pass. I hope the amendment will receive the concurrence of the Senate. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. LANE, of Indiana. These troops were offered by the several Governors for one hundred days. That offer was accepted. A great many of them have already volunteered under that call. Now, can we extend the time to six months without releasing all who have volunteered? It strikes me as utterly absurd.

The question being taken by yeas and nays, resulted—yeas 11, nays 25; as follows:

YEAS—Messrs. Chandler, Conness, Davis, Harding, Harlan, Henderson, Howard, Nesmith, Pomeroy, Ramsey, and Sprague—11.

NAYS—Messrs. Anthony, Buckalew, Carlile, Clark, Collamer, Cowan, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Powell, Riddle, Sherman, Sumner, Van Winkle, Willey, and Wilson—25.

So the amendment was rejected.

Mr. HENDERSON. I offer this amendment to come in by way of proviso at the end of the resolution:

*Provided*, That no part of this appropriation shall be used in paying, subsisting, or transporting troops that may be mustered into the service after the 10th day of May, 1864, unless they shall be mustered in for a period of six months, if not sooner discharged by the President.

I presume that the object of this measure on the part of its friends is to have a large force thrown into the field to assist in the spring campaign. There is, however, no limitation upon the resolution as it now stands, and I suppose these troops can be received, one regiment after another, during the whole summer and fall. If there is any virtue in it, let them all be called in at once and immediately. I insist that some limitation of time should be fixed by Congress beyond which these troops shall not be received unless they enlist for a longer term. If we are bound to adopt this proposition because the President has accepted the offer made to him, though we were in session, I think we have a right to put some limitation upon it.

Mr. JOHNSON. Have you not made it too short?

Mr. HENDERSON. I think not; but if it is, let additional time be allowed. My impression is that if these troops are to be of any service, they ought to be at the points where the battles are to be fought in the course of the next two or three weeks. I understand from Senators these troops are already organized and ready to be mustered in. I understood the Senator from Ohio to say so.

Mr. SHERMAN. I think that is only so in Ohio.

Mr. LANE, of Indiana. And about half of them in our State.

Mr. HENDERSON. Then it will not require more than eight days to get the rest. I am willing, however, to modify my amendment by fixing the 15th of May as the date.

Mr. LANE, of Indiana. I hope no such amendment will be adopted. Here was an offer of troops for one hundred days which has been accepted, and the Governors have all issued their proclamations under it. In the first place, if you make

any amendment the resolution must go back to the House of Representatives and be subjected to delay there. In the second place, if you adopt this amendment, the Governors will have to issue new proclamations and resort to new machinery. I hope we shall let the matter stand as it is.

Mr. HENDERSON. Certainly the Senator does not understand the amendment. It does not affect the calling into service of those troops that may be mustered in prior to the period limited.

Mr. SHERMAN. With the leave of the Senator from Missouri I will mention a case. Troops will be organized all over the State of Ohio. They cannot find a mustering officer probably for eight or nine days; probably Cincinnati is the first point where they will reach a mustering officer, and it may take some of them ten days to get there.

Mr. FESSENDEN. Cannot mustering officers be easily sent to the various points?

Mr. HENDERSON. The amount of it is that we are called upon now to vote an appropriation of \$25,000,000, and, as has been very properly stated by the Senator from Maryland and other Senators, this is only a beginning; it will take twenty-five or thirty or forty or fifty millions more in order to meet all the requirements that will be thrown upon us by the passage of this resolution. I am as well satisfied of it as I am that I am standing here. The transportation alone of one hundred thousand men to the seat of war and back again is an immense item at the present prices of transportation. Then they are all to be armed, and the arms never will be returned; they will be as effectually destroyed in the hundred days as if they were in the hands of men to serve during the war, for these troops will not expect to need them longer than their time, and there will be extravagance and folly among them, as we all know exists with troops of this character. Besides we are passing the resolution in such a shape that during the whole summer and fall and next winter the President may go on receiving hundred day troops, and it will amount to nothing. If there is any virtue in this proposition it consists in the fact that these men are to be thrown in a vast body into the field in the course of ten, fifteen, or twenty days from the present time to enable veteran troops to go to the seat of war in order that the rebels may be crushed. For that reason I desire to have some limitation placed upon the time when these men shall be received for this purpose; and I modify my amendment by inserting the "15th" of May, instead of the "10th."

Mr. GRIMES called for the yeas and nays, and they were ordered.

Mr. BUCKALEW. I wish to suggest to the Senator from Missouri that the language of his amendment should be, "at least six months," leaving a discretion for a longer time.

Mr. HENDERSON. I have no objection to that; and I will so modify my amendment.

The PRESIDENT *pro tempore*. The modification requires unanimous consent. The Chair hears no objection, and the amendment will be so modified.

The question being taken by yeas and nays, resulted—yeas 17, nays 19; as follows:

YEAS—Messrs. Buckalew, Carlile, Chandler, Conness, Davis, Hale, Harlan, Henderson, Howe, Johnson, Pomeroy, Ramsey, Riddle, Sprague, Sumner, Willey, and Wilson—17.

NAYS—Messrs. Anthony, Clark, Collamer, Cowan, Doolittle, Fessenden, Foot, Foster, Grimes, Harding, Howard, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Powell, Sherman, and Van Winkle—19.

So the amendment was rejected.

The joint resolution was ordered to a third reading, and was read the third time. On the question of its passage,

Mr. GRIMES called for the yeas and nays; and they were ordered.

Mr. DAVIS. There was an old lawyer in Kentucky a good many years ago who established a manufactory of young lawyers, [laughter,] and he required his apprentices to serve for three months, when he turned them out. He turned them out about as good lawyers as this term would make soldiers, and I think his mode of tuition was about equivalent to the system on which it is proposed to get these volunteers. But, sir, the ways of the President of the United States to me are past finding out. Kentucky knocked at the door of the Executive Mansion and of the Senate for about eighteen months, for the privi-



lege of raising twenty thousand volunteers to serve for six months or twelve months in defense of that State. That State was subjected to continual raids and invasions along about half its exterior border. There never was a people on earth more anxious for the passage of a measure than were the loyal men of Kentucky for the passage of that measure. Our Governor and one of our principal generals came on here together to importune the Government, and to beset members of Congress, in season and out of season, to get that measure passed.

Mr. HOWE. Allow me to remind the Senator that the objection to raising those troops was that they were to be raised for the service of Kentucky.

Mr. DAVIS. It was proposed that that force should be a volunteer or State militia force for the defense of Kentucky. When Lee invaded Pennsylvania and Maryland last summer, the President, impromptu, of his own motion, issued first a proclamation to raise one hundred thousand six months' volunteers for the defense of those States, and in two or three days he enlarged the number to one hundred and twenty thousand. After a long delay we succeeded in securing the passage by the House of Representatives of our bill authorizing us to raise twenty thousand volunteers, by a vote of about two to one, and after it had been suspended before the Senate for twelve or fifteen months this body did us the grace and the special favor to pass it, with an amendment providing that all the force which might be raised under the bill should be at all times subject to be ordered by the President in other service than the defense of the State. That condition did not satisfy us, but we accepted it, and our Governor went on and raised upwards of seven thousand troops under that law, and he had scarcely got them assembled together at a general rendezvous when the President ordered them all into other States. Here is the difference between localities. It shows that "kissing goes by favor."

Mr. GRIMES. That is the way the world over. Mr. DAVIS. Yes, the world over. Pennsylvania and Maryland could get a spontaneous proclamation from the President to raise one hundred and twenty thousand troops for their defense, and here these five Governors can get authority to call out these troops, though I have heard it insinuated that they originated this measure for electioneering purposes, and to carry their States at the next fall election. I suppose under the interior lights that have been given to the President and to gentlemen who are in the secrets of the party the measure is to pass for that special service, and that is the amount of duty that these one hundred thousand hundred day men are to perform at a proposed cost of \$25,000,000 now, but which, I have no doubt, will eventually rise to \$100,000,000 before Uncle Sam has paid all the bills.

The question being taken by yeas and nays, resulted—yeas 22, nays 13; as follows:

YEAS—Messrs. Anthony, Clark, Collamer, Cowan, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Howard, Howe, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Sherman, Sumner, Van Winkle, Wiley, and Wilson—22.

NAYS—Messrs. Buckalew, Carlile, Chandler, Conness, Davis, Harding, Henderson, Johnson, Nesmith, Pomeroy, Powell, Riddle, and Sprague—13.

The PRESIDENT *pro tempore*. There is not a quorum voting; no other business is in order. Mr. POWELL. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

Monday, May 2, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of Saturday was read and approved.

The SPEAKER. The first business in order is the call of committees for reports to go upon the Calendar, and not to be brought back by a motion to reconsider.

J. W. NOKES.

Mr. BROWN, of West Virginia, from the Committee of Claims, reported a bill for the relief of J. W. Nokes; which was read a first and second time, and referred to the Committee of the Whole House, and ordered to be printed.

## JURISDICTION OF THE COURT OF CLAIMS.

Mr. THOMAS, from the Committee on the Judiciary, reported back, with amendments, a bill concerning the jurisdiction of the Court of Claims; which was read a first and second time, referred to the Committee of the Whole House, and the bill and amendments ordered to be printed.

The SPEAKER. The committees having been called through, the next business in order is the call of States for resolutions.

## AFRICAN SLAVERY.

Mr. FRANK presented joint resolutions of the Legislature of the State of New York for the final abrogation of the system of African slavery; which were referred to the Committee on the Judiciary, and ordered to be printed.

## BOUNTIES TO VOLUNTEERS.

Mr. CHANLER presented a joint resolution of the Legislature of the State of New York in reference to bounties to volunteers; which was referred to the Committee on Military Affairs, and ordered to be printed.

## HALL OF THE HOUSE OF REPRESENTATIVES.

Mr. PIKE introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Buildings be requested to inquire into the practicability of making such change in the Hall of the House of Representatives as shall carry at least one side of the Hall to the outer wall of the building, and report the most feasible plan and the probable expense of the same.

The call of States having been completed, the House proceeded, as the next business in order, to the consideration of resolutions laid over one day under the rule.

## DEBT INCURRED BY THE STATES.

A resolution directing the Secretary of the Treasury to report the amount of debt incurred in the several States in their efforts in suppressing the rebellion, introduced by Mr. BLAINE on the 7th of January last, was taken up, and, on motion of Mr. GARFIELD, referred to the Committee on Military Affairs.

## TWO PER CENT. LAND FUND.

A resolution offered by Mr. MORRISON on the 11th of April last, requesting the Secretary of the Treasury to furnish to the House, at as early a day as possible, information showing, first, the amount received into the Treasury of the United States from the two per cent. fund, arising from the net proceeds of the sales of public lands made in the State of Illinois since January 1, 1819, and reserved in her enabling act for road purposes; giving the dates from time to time when so received, and the respective amount of each payment opposite such dates; secondly, whether anything is charged in the Treasury Department against any fund, or any offsets exist against it there, and if so, when and how did such charges occur or were such offsets made, and upon what basis, stating particularly the amounts and dates of said charges or offsets, and the respective times, mode, or manner in which such two per cent. fund was expended, and where, if at all, and the evidence of such expenditure, and the authority therefor, was next taken up for consideration.

Mr. MORRISON. Upon that resolution I demand the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the resolution was agreed to.

## RESTORATION OF REBELLIOUS STATES.

The SPEAKER stated that the next business in order was the consideration of resolutions upon which debate had arisen, and which had been laid over under the rules. The first resolution in order of this class was the following resolution offered on the 14th of December last by the gentleman from Kentucky, [Mr. HARDING:]

Resolved, That the Union has not been dissolved, and that whenever the rebellion in any one of the seceded States shall be put down and subdued, either by force of the Federal arms or by the voluntary submission of the people of such State to the authority of the Constitution, then such State will be thereby restored to all its rights and privileges as a State of the Union under the constitution of such State and the Constitution of the United States, including the right to regulate, order, and control its own domestic institutions according to the constitution and laws of such State, free from all congressional or Executive control or dictation.

Mr. HARDING. Mr. Speaker, some time

since in Committee of the Whole on the state of the Union I delivered something like the remarks I intended to have delivered when this resolution came up in its regular order. I take it for granted that no Union man can object to this resolution. It takes the ground that the Union has not been dissolved, and the remainder is the necessary sequence from that.

Mr. ASHLEY. Is debate in order?

The SPEAKER. Certainly. The resolution gave rise to debate, and went over, and it is now in order to debate it.

Mr. HARDING. The question upon which this whole controversy turns is whether the Union has or has not been dissolved. If it has not been dissolved, then whenever the rebellion in any one of these States is subdued the authority of the Constitution and laws of the United States are immediately restored, and neither the President, nor Congress, nor any other department has any shadow of constitutional right to dictate to the people of those States in regard to the form of government which they shall set up, nor in regard to any matter pertaining to their local jurisdiction. Whoever contends that this resolution is wrong places himself in the position of declaring that this Union has been dissolved. He must either be a revolutionist or he is a secessionist. A man who takes the ground that the Union is dissolved can oppose this resolution, but no other man can.

I know, sir, that it has become quite common nowadays for gentlemen who once espoused the cause of the Union with great ardor, men who once stood where President Lincoln stood in his inaugural address when he declared that the Union was not dissolved and that it could not be dissolved, who are now repudiating that whole doctrine, to take the ground that the Union has been dissolved, and that these southern States constitute a foreign government.

Sir, if it be true that the Union has been dissolved, then by what authority is it that taxes are being collected in the seceded States; by what authority is it that their lands are being sold and parceled out? If the Union has been dissolved, how did it take place? Was it by virtue of these ordinances of secession? Is there any gentleman here prepared to acknowledge that there was virtue in those ordinances of secession to dissolve this Union? If not, then how did the Union become dissolved? Was it by force of the confederate arms? Could that which was void and nugatory be made operative by violence and force and bloodshed? Were their ordinances of secession utterly null and void? Gentlemen say they were. How then was the Union dissolved? Was a void act made operative and obligatory by force and bloodshed? No man can say that. The Union, therefore, has not been dissolved. What then is the matter? Why, there is a rebellion there among a portion of the people. When that rebellion shall be subdued by force of the Federal arms the only justification of the war will be gone. The only thing that could justify the President in moving at all by force of arms is the rebellion, and the moment that rebellion is subdued and put down the cause of the war ceases, and with it the war must cease also; and if the President or this Congress should, for abolition purposes, protract the war a solitary day beyond the suppression of the rebellion, then you become rebels; you rebel against the Constitution; you change places with the rebels, and become revolutionists and rebels yourselves.

My resolution then takes the ground that the Union has not been dissolved, and that when the rebellion is suppressed by force of the Federal arms, or by the voluntary submission of the people of those States to the authority of the Constitution, then that State is thereby restored to all its rights and privileges under the Constitution, may send Representatives to Congress, and do all other acts which any other State in the Union can do.

Sir, what difference is there between the States in the Union, the rebellion being suppressed? There is no more constitutional power to intermeddle with the local institutions of the State of Louisiana than with those of Massachusetts, and any attempt to do it is nothing more nor less than a revolution, as unjustifiable in its character as the revolution in the South, because it is equally a revolution against the Constitution of this Gov-

ernment; it seeks its subversion and utter overthrow. Any attempt to control a State organization after the rebellion shall have been overthrown proceeds upon the ground that the Union is dissolved. What right can we have to reestablish State governments in the South if the southern States be still in the Union? The very idea of reconstruction is an absurd and revolutionary idea, because it admits the dissolution of the Union. There can be no reconstruction of a State government that is still in existence. I move the previous question on the adoption of the resolution.

**Mr. ASHLEY.** I move that the resolution be referred to the committee on the rebellious States.

**The SPEAKER.** The motion is not in order during the pendency of the previous question.

**Mr. UPSON.** I move to lay the resolution on the table.

**Mr. HOLMAN.** On that I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 67, nays 56; as follows:

**YEAS—Messrs.** Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blow, Boutwell, Boyd, Brandegee, Broomall, Cole, Henry Winter Davis, Denning, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Grinnell, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Julian, Kelley, Francis W. Kellogg, Loan, Longyear, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Perham, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Spalding, Stevens, Thayer, Upson, William B. Washburn, Williams, Wilder, Wilson, and Windom—67.

**NAYS—Messrs.** Ancona, Baily, Augustus C. Baldwin, Jacob B. Blair, Brooks, William G. Brown, Chandler, Clay, Cox, Dawson, Denison, Eden, Eldridge, Finck, Ganson, Grider, Griswold, Hall, Harding, Harrington, Charles M. Harris, Herrick, Holman, Hutchins, Philip Johnson, William Johnson, Kernan, King, Knapp, Law, LeBlond, Long, Mallory, Marcy, McDowell, McKinney, Morrison, Noble, Perry, Radford, Robinson, James S. Rollins, Ross, Scott, Smith, John B. Steele, Stiles, Strouse, Stuart, Whaley, Wheeler, Chilton A. White, Joseph W. White, Fernando Wood, and Yeaman—56.

So the resolution was laid on the table.

During the roll-call,

**Mr. STILES** stated that his colleague, **Mr. MILLER**, had been called home on account of sickness in his family.

**Mr. UPSON** moved to reconsider the vote by which the resolution was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### STATE RIGHTS.

**The SPEAKER** stated that the next business in order was a resolution introduced on the 14th of December last by the gentleman from Kentucky [**Mr. WADSWORTH**] and laid over under the rule (debate arising thereon,) declaring that the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people, and the Federal Executive can neither directly nor indirectly exercise any of the powers thus reserved, or lawfully restrict or obstruct the exercise thereof by the people.

**Mr. FARNSWORTH.** I move that the resolution be referred to the committee on the rebellious States, and on that I move the previous question.

**Mr. HARDING.** Representing my colleague who is absent, I had risen to move the previous question on the resolution.

**Mr. COX.** I move to lay the resolution on the table, for the purpose of getting a vote on its merits, and on that motion I call for the yeas and nays. I will vote in favor of the resolution if I get a chance.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 6, nays 118; as follows:

**YEAS—0.**

**NAYS—Messrs.** Alley, Allison, Ames, Ancona, Anderson, Ashley, Baily, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Boyd, Brandegee, Brooks, Broomall, William G. Brown, Chandler, Clay, Cobb, Cole, Cox, Dawes, Dawson, Denning, Denison, Dixon, Donnelly, Driggs, Eckley, Eden, Eldridge, Eliot, Farnsworth, Fenton, Frank, Ganson, Garfield, Grider, Grinnell, Griswold, Hall, Harding, Charles M. Harris, Holman, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Julian, Hutchins, Philip Johnson, William Johnson, Kelley, Orlando Kellogg, Kernan, Knapp, Law, LeBlond, Loan, Long, Longyear, Marcy, McBride, McClurg, Mc

Dowell, McIndoe, McKinney, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Morrison, Amos Myers, Leonard Myers, Noble, Norton, Charles O'Neill, John O'Neill, Orth, Perham, Perry, Pike, Pomeroy, Price, Radford, Alexander H. Rice, John H. Rice, Robinson, Edward H. Rollins, James S. Rollins, Ross, Schenck, Scofield, Scott, Shannon, Sloan, Smith, Spalding, John B. Steele, Stevens, Stiles, Strouse, Stuart, Thayer, Upson, William B. Washburn, Wheeler, Chilton A. White, Joseph W. White, Williams, Wilder, Wilson, Windom, Fernando Wood, and Yeaman—118.

So the resolution was not laid on the table.

**Mr. COX.** Is not the next question on the motion to refer?

**The SPEAKER.** It is.

**Mr. COX.** I ask the gentleman from Illinois [**Mr. FARNSWORTH**] to withdraw that motion and let us have a fair vote on the resolution instead of smothering it. It is part of the Constitution of the United States. [Calls to "Order."] Will not the gentlemen give us a vote on the Constitution?

**The SPEAKER.** The gentleman from Ohio is not in order.

The previous question was seconded, and the main question ordered.

**Mr. COX** called for the yeas and nays upon the motion to commit.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 70, nays 50; as follows:

**YEAS—Messrs.** Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Boyd, Brandegee, Broomall, Cobb, Cole, Dawes, Denning, Dixon, Donnelly, Driggs, Eliot, Farnsworth, Fenton, Frank, Garfield, Grinnell, Higby, Hotchkiss, Asahel W. Hubbard, Hulburd, Julian, Kelley, Orlando Kellogg, Loan, Longyear, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Perham, Pike, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Smith, Spalding, Stevens, Thayer, Thomas, Upson, William B. Washburn, Whaley, Williams, Wilder, Wilson, and Windom—70.

**NAYS—Messrs.** William J. Allen, Ancona, Baily, Augustus C. Baldwin, Brooks, William G. Brown, Chandler, Cox, Denison, Eden, Eldridge, Finck, Ganson, Grider, Griswold, Hall, Harding, Benjamin G. Harris, Charles M. Harris, Herrick, Holman, Hutchins, Philip Johnson, William Johnson, Kernan, King, Knapp, Law, LeBlond, Long, Marcy, McDowell, McKinney, Morrison, Noble, Perry, Radford, Robinson, James S. Rollins, Ross, Scott, John B. Steele, Stiles, Strouse, Stuart, Wheeler, Chilton A. White, Joseph W. White, Fernando Wood, and Yeaman—50.

So the resolution was referred.

During the call of the roll,

**Mr. COX** stated that **Mr. PENDLETON** had paired with **Mr. KASSON**.

**Mr. FARNSWORTH** moved to reconsider the vote by which the resolution was referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by **Mr. NICOLAY**, his Private Secretary.

#### WASHINGTON CANAL.

**Mr. JOHNSON**, of Pennsylvania, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Whereas the health of this city is of paramount importance, and the same is greatly endangered by an immense accumulation of filth in the Washington canal, from which a most deleterious miasma is continually rising to impregnate the atmosphere already charged with poisonous vapor from surrounding hospitals, which, in all probability, will be largely increased during the present summer: Therefore,

*Resolved*, That the Committee for the District of Columbia be directed to inquire into the expediency of draining by culvert, or in some way improving the Washington canal that it may be cleansed and the health of the city preserved, and that they report by bill or otherwise.

#### LEAVE OF ABSENCE.

On motion of **Mr. STILES**, by unanimous consent, leave of absence for ten days was granted to **Mr. MILLER**, of Pennsylvania.

#### RECORD OF VOTES.

**Mr. WHALEY.** Some days ago I paired with **Mr. STROUSE**, on account of feeble health. After returning, though still in feeble health, I thought it right to allow **Mr. STROUSE** to vote. I forgot to state to the gentleman from Pennsylvania that I could not possibly be here to vote upon the passage of the internal revenue bill, and **Mr. STROUSE** voted upon the passage of this bill. Under these circumstances, I ask permission to record my vote in the affirmative upon that bill.

There being no objection, the vote of **Mr.**

**WHALEY** was accordingly recorded in the affirmative.

**Mr. SMITH.** I ask consent, also, to record my vote upon the passage of the internal revenue bill.

**Mr. ANCONA.** I will make no objection if the same courtesy is extended to gentlemen on this side of the House.

**The SPEAKER.** Is there objection to allowing all gentlemen who desire it to record their votes on the internal revenue bill?

**Mr. SPALDING.** I have objected uniformly and I now object.

**Mr. SMITH.** I desire then to say that if I had been here I would have voted in the affirmative.

**Mr. LE BLOND.** I desire to say that I was unavoidably absent, from illness, from the House on Saturday. I ask the consent of the House to record my vote upon the various amendments to the bill in regard to soldiers.

There was no objection.

**Mr. ROLLINS**, of Missouri. I ask the consent of the House to record my vote upon the internal revenue bill.

**The SPEAKER.** The gentleman from Ohio [**Mr. SPALDING**] objects.

**Mr. SMITH.** I hope the gentleman from Ohio will withdraw his objection.

**Mr. SPALDING.** If I were to withdraw my objection for our friends I certainly could not object for gentlemen on the other side. I will withdraw my objection altogether.

There being no objection, several members recorded their votes upon the passage of the internal revenue bill. The vote as changed stands as follows:

**YEAS—Messrs.** Alley, Allison, Ames, Anderson, Arnold, Baily, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Freeman Clarke, Cobb, Cole, Cravens, Creswell, Henry Winter Davis, Dawes, Denning, Dixon, Donnelly, Driggs, Eckley, Eliot, English, Farnsworth, Fenton, Ganson, Garfield, Grider, Grinnell, Griswold, Hall, Harding, Higby, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Hutchins, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, King, Loan, Longyear, Marvin, McAllister, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Nelson, Norton, Odell, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, Radford, Samuel J. Randall, William B. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, James S. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Spalding, John B. Steele, William G. Steele, Thayer, Thomas, Upson, Elihu B. Washburn, William B. Washburn, Webster, Whaley, Wheeler, Williams, Wilder, Wilson, Windom, Winfield, and Yeaman—107.

**NAYS—Messrs.** James C. Allen, William J. Allen, Ancona, Brooks, Chandler, Cox, Dawson, Denison, Eden, Eldridge, Finck, Harrington, Benjamin G. Harris, Herrick, Philip Johnson, William Johnson, Knapp, Law, LeBlond, Long, Marcy, McDowell, McKinney, James R. Morris, Morrison, Noble, John O'Neill, Pendleton, Perry, Robinson, Ross, Stiles, Strouse, Stuart, Ward, Chilton A. White, Joseph W. White, and Fernando Wood—38.

**Mr. WILSON**, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Navy be directed to furnish this House with all the information in his possession concerning the construction of the rebel ram which participated in the recent rebel attack on the United States forces and vessels at and near Plymouth; also, to inform the House why the construction of said ram was not prevented; whether any steps were taken to prevent the same, or to guard against the action of said ram; also, what action was taken in relation to the subject of this inquiry, and why the same was not effective.

#### HEIRS OF JOHN E. BOULIGNY.

**Mr. THAYER**, by unanimous consent, from the Committee on Private Land Claims, reported a bill for the relief of the heirs of John E. Bouligny; which was read a first and second time, recommitted to the Committee on Private Land Claims, and ordered to be printed.

#### LEAVE TO RECORD VOTE.

**Mr. L. MYERS.** I ask unanimous consent to record my votes upon the various amendments to the bill equalizing the pay of soldiers, which was considered by the House on Saturday.

No objection being made, leave was granted.

**Mr. L. MYERS** subsequently recorded his vote in the affirmative upon every amendment the object of which was to equalize the pay of United States soldiers.

#### ADMEASUREMENT OF TONNAGE.

On motion of **Mr. ELIOT**, the bill (H. R. No. 119) to regulate the admeasurement of the ton-

nage of ships and vessels of the United States, with the amendments of the Senate thereto, was taken from the Speaker's table for consideration.

#### First amendment:

On page 1, line three, strike out "six" and insert "five;" so that the words shall read "eighteen hundred and sixty-five."

The amendment was agreed to.

#### Second amendment:

At the end of line eight, on the same page, add the following:

*Provided*, That any ship or vessel built within the United States after the passage of this act may be measured and registered in the manner herein provided.

The amendment was agreed to.

Mr. ELIOT moved to reconsider the votes by which the amendments were agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE PRESIDENT.

The SPEAKER, by unanimous consent, laid before the House a message from the President of the United States, in answer to a resolution of the House of Saturday last, calling upon him for copies of certain orders, messages, telegrams, &c., referred to by him in his message relating to the appointment of FRANCIS P. BLAIR, Jr., as major general.

Mr. DAWES. I move that the message be referred to the Committee of Elections, and be printed.

The motion was agreed to.

Mr. DAWES moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act for the relief of settlers upon certain lands in California; when the Speaker signed the same.

#### DAMAGES BY INDIANS IN MINNESOTA.

Mr. WINDOM, from the Committee on Indian Affairs, reported back with an amendment a bill (H. R. No. 377) making appropriations for the payment of the awards made by the commissioners appointed under and by virtue of an act of Congress entitled "An act for the relief of persons for damages sustained by reason of the depredations and injuries by certain bands of Sioux Indians," approved February 16, 1863.

The bill, which was read, appropriates the sum of \$928,411, or so much thereof as may be necessary, out of any money in the Treasury not otherwise appropriated, for the payment of the several amounts awarded by the commission appointed under and by virtue of an act for the relief of persons for damages sustained by reason of the depredations and injuries by certain bands of Sioux Indians, approved February 16, 1863, to the several persons and firms respectively to whom such amounts were awarded by the commissioners, excepting certain persons and firms named in the bill.

It also appropriates the further sum of \$241,963, or so much thereof as may be necessary, for the payment of so much of the awards made by the commissioners to the persons and firms specifically named in the first section of the bill, as the Secretary of the Interior shall upon examination find to be due to them respectively, under the act approved February 16, 1863.

Mr. WINDOM. I ask unanimous consent that the bill may be considered in the House the same as it would be considered in the Committee of the Whole on the state of the Union.

Mr. HOLMAN. The amount appropriated is very considerable, and it seems to me the bill should be considered more deliberately than it can be in the House.

Mr. WINDOM. I propose that it receive the same consideration in the House as it would in committee.

Mr. HOLMAN. Of course then it will be subject to the same rules as to amendments, &c.

Mr. WINDOM. Yes, sir.

No objection being made, the House proceeded to consider the bill under the same rules as if in committee.

Mr. WINDOM. The committee have reported

an amendment in the nature of a substitute, and before it is read I will say that it is substantially the bill as printed. As there were some fifteen or twenty mistakes made in printing the names of parties contained in the bill, the committee thought it the easiest way to correct the mistakes by offering a substitute.

The substitute was read.

Mr. WINDOM. I ask that a letter from the Secretary of the Interior on this subject may be read.

The letter was read, and is as follows:

DEPARTMENT OF THE INTERIOR.  
WASHINGTON, D. C., April 15, 1864.

SIR: After a perusal of House of Representatives bill No. 377, making appropriations for the payment of the awards made by the Sioux commissioners, I have to express my satisfaction with its provisions, and hope, in view of the extreme want of a large majority of the claimants, your committee will meet with no difficulty in pressing the bill to a speedy passage through the House.

Owing to the pressure of business incidental to the presence of Congress, I regret to say that I have found it impossible to give that close personal attention to the claims of the merchants and traders which justice to the claimants requires, and have, therefore, in preference to hasty conclusions, which may be damaging to these gentlemen, determined to retain them until such an examination can be had as will prove to my own mind that the proper basis has been gained, and the Department thereby enabled to adjust the claims satisfactorily, as I trust, to all concerned.

Very respectfully, your obedient servant,

J. P. USHER, Secretary.

Hon. WILLIAM WINDOM, Chairman Committee on Indian Affairs, House of Representatives.

The substitute was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WINDOM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### INDIAN REFUGEES, ETC.

Mr. WINDOM also, from the Committee on Indian Affairs, reported back a bill (S. No. 198) to aid the Indian refugees to return to their homes in the Indian department.

The bill, which was read, appropriates for the removal and temporary relief of Indian refugees and destitute Indians in the southern superintendency, \$52,000; for temporary subsistence in the Indian country to the close of the present fiscal year, \$153,000; and for seeds, plows, and agricultural implements to enable them to raise a crop the present season, \$18,000.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. WINDOM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### CLAIMS OF KANSAS INDIANS.

Mr. WILDER also, from the Committee on Indian Affairs, reported back, with a recommendation that it do pass, bill of the House No. 425, for the relief of the Wea, Peoria, Kaskaskia, and Piankeshaw Indians of Kansas.

The preamble recites that the sum of \$89,865 72, being proceeds of the lands of said Indians sold at Paola, Kansas, in June and July, 1857, under the treaty of May 30, 1854, was vested in stocks of the following States: Florida, \$37,000; Louisiana, \$15,000; North Carolina, \$42,000; and South Carolina, \$3,000; and that the interest in arrear and up to July 1, 1864, on said stocks amounts to \$19,455, but calculated at five per cent. on said sum invested amounts to but \$14,010 35.

The first section of the bill provides that the sum of \$89,865 72 shall be placed to the credit of the Wea, Peoria, Kaskaskia, and Piankeshaw Indians, on the proper books of the Treasury of the United States, and bear interest from the 1st of July, 1864, at the rate of five per cent. per annum till paid, as hereinafter provided.

The second section directs that the aforesaid sum shall, on the requisition of the Secretary of the Interior, be paid at such times and in such installments as may be found necessary, on a consultation with the Indians, by the President of the United States, from time to time; and in each such payment shall be included the amount of interest then accrued at the rate aforesaid.

The third section provides that the sum of \$14,010 35, the interest up to the 1st of July, 1864,

at five per cent., on the said sum of \$89,865 72, shall be paid by the Treasurer of the United States the 1st of July, 1864, on the requisition of the Secretary of the Interior, and that no further appropriation shall be required to carry out the provisions of this act.

The fourth section provides that the bill shall be in force from its passage.

The bill, which by unanimous consent was considered in the House, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. SPALDING. I would like to know what has become of these funds.

Mr. WILDER. I have a letter here from the Commissioner of Indian Affairs, and I ask that it be read.

The Clerk read, as follows:

DEPARTMENT OF THE INTERIOR.  
OFFICE OF INDIAN AFFAIRS, March 28, 1864.

SIR: In reply to your letter of the 25th instant, requesting me to inform you if I have any knowledge of a consultation having been held by the President with the confederated tribe of Kaskaskia, Peoria, Wea, and Piankeshaw Indians, after the sale of their trust lands at Paola, Kansas, in the year 1857, in reference to vesting the proceeds of said sales; also, wishing to learn whether the amount thereof that said tribe needed or desired was paid to them, I have to state that by reference to the records of this office, I can find no evidence of such consultation having been held, but do ascertain that on the 3d of August, 1857, Agent M. McCasin addressed a letter to the Superintendent at St. Louis, who forwarded the same to this office, calling the attention of the Commissioner to the treaty of 1854, and stating that the sales of their trust lands had taken place, and that he was requested by a council of said tribe to say that a small delegation of the tribe would be held in readiness to go to St. Louis, Washington, or elsewhere, as might be directed by the Commissioner, for the purpose of settling points contemplated by the treaty of 1854. It not being deemed expedient to incur the expense of a trip to Washington by said delegation, a report was made by the acting Commissioner to the Secretary of the Interior, stating all the facts in the case, and recommending that \$275,000 of the proceeds of said sale be invested in bonds, that \$10,000 be paid to the agent for disbursement to the tribe *per capita*, and the balance be held to pay the expenses attending the survey and sale of said lands. The Secretary of the Interior referred said report to the President for his approval, which was approved by him and returned to the Secretary, a copy of which was then forwarded to this office, after which the investment was made, and the \$10,000 forwarded to the agent as recommended in the report.

Very respectfully, your obedient servant,

W. P. DOLE, Commissioner.

Hon. A. C. WILDER, House of Representatives.

Mr. SPALDING. I wish to know what has become of these bonds.

Mr. WILDER. The funds were invested in bonds of South Carolina, Florida, and other southern States, and no interest has been paid on them.

Mr. SPALDING. What does this bill propose?

Mr. WILDER. Merely to pay the interest on the funds thus invested by the Government.

The bill was passed.

Mr. MORRILL. I move to reconsider the vote by which the bill was passed. This question, in my judgment, ought certainly to be further investigated. It is one of considerable importance. The bill establishes a new principle. It proposes that the Government shall assume the debt of Florida. I would rather that the vote should be reconsidered, and the bill referred to the Committee on the Judiciary.

Mr. KING. I wish to make some explanation in reference to this matter, but perhaps I had better wait until the question is taken on reconsideration.

Mr. MORRILL. I think this is a question of sufficient importance to be thoroughly investigated.

Mr. KING. I will say to the gentleman from Vermont that if the matter of the sale of the lands of these Indians which yielded \$367,000 in gold were thoroughly investigated it would be shown that there never has been such bad treatment in all the bad management of the Indian department as has been shown toward these Indians.

In the first place, by the seventh article of the treaty, the proceeds of these lands, after deducting the expenses, were to be invested by the Government. When these Indians, who live in Kansas on the border of Missouri, were persuaded to sell their lands, they were induced to take what are called "head rights," and in consideration that they were induced to do that and to put themselves in the way of learning the arts of agriculture and farming, such part of the money derived from the sale of their lands as they might designate was to be applied to settling them up in that



way, and the balance, upon consultation with the President of the United States, was to be invested, in the language of the treaty, by the United States in "safe and profitable stocks." Instead, however, of consulting the Indians or allowing them to consult the President and to make their wishes known, a part of the money was invested in these stocks.

A part of the bonds purchased for these Indians were among those abstracted from the Interior Department some year or two ago. By an act passed in 1862, I believe, Congress assumed the amount of those abstracted bonds and made them good to the Indians at five per cent. Now, if they had had the benefit of the treaty of 1854, and had been allowed to designate how the money should be disposed of, and had taken it all for themselves, as they could have done if they had chosen to, it would have been worth ten per cent. to them. But Congress assumed to allow them five per cent., and there is no trouble or controversy about that. I only mention it to show one of the circumstances of the case.

The Government invested a large part of their funds, not in "safe and profitable stock," but in stocks of Florida, South Carolina, North Carolina, and Louisiana. In utter violation of the seventh article of the treaty, the money was invested in these stocks. The Indians have thus been deprived of their means of subsistence for a number of years, and they ask that Congress shall assume the amount to the extent of five per cent. and take these stocks. No gentleman will contend that they were "safe and profitable stocks." The Indians never gave their assent to the investment. The investment was made in violation of the treaty, because the Indians ought to have been consulted. They notified the President that they were ready to come on here and consult with him as to the disposition of the money; but instead of inviting their delegation here, the money was invested in these stocks without consultation with them at all.

The question is, will the Congress of the United States refuse to indemnify these Indians under the circumstances under which their money has been disposed of? Their lands were sold for \$365,000 in gold. Forty thousand dollars of it was kept five or six or seven years without investment. On that not one cent of interest has been paid to these Indians. According to the treaty, such sum was to be retained as would pay the expenses of the sale. Here is an account showing that the officer who conducted that sale, which lasted only three weeks, had \$17,000 allowed to him. I suppose it came out of the Indian money. The register and receiver of the land office received each \$2,500. Four thousand dollars was charged for clerk hire—the whole amount running up to seventeen or eighteen thousand dollars. The Indians have a right to come before Congress on this subject.

But the simple proposition in this bill is that Congress shall assume the amount of the bonds invested in Florida, North Carolina, South Carolina, and Louisiana stock, amounting to \$89,000. The Indians only ask that this amount shall be invested for them in bonds of the United States at five per cent. The Government invested the money of these Indians without their consent and against their protest.

And, Mr. Speaker, there is a precedent for this act. I find one, at least, in which where States have been in default, the Government has assumed the interest on the bonds in which it had invested. When Indiana was in default at one time for two or three years, the interest on its bonds invested in behalf of the Indians was assumed and paid by the Government. It is a matter of simple equity and justice toward these Indians. The Government of the United States stands in the nature of a guardian or curator to these Indians; but they have not been treated as wards ought to be treated by their guardians or curators, but rather as step-children, and are very badly treated at that. The seventh article of the treaty shows precisely what I have stated in regard to the position in which the Indians stood toward the Government as regards investment of their money.

Mr. MORRILL resumed the floor.

Mr. HOLMAN. I wish to ask a question of the gentleman from Missouri.

Mr. MORRILL. I yield for that purpose.

Mr. HOLMAN. This being a new question

before the House, I wish to inquire of the gentleman from Missouri whether there is any charge of bad faith against the Government in the management of this fund, and whether, if the Government made an investment of this fund with such reasonable care as a trustee might be required to exercise, the Government should be held responsible for the losses that have accrued?

Mr. WILDER. I will say to the gentleman from Indiana that the letter from the Commissioner shows the fact that the Indians were not consulted as to the buying of these bonds, although it was expressly stipulated that they should be consulted.

Mr. HOLMAN. The main point is this: the gentleman from Missouri puts the case on the ground of the ordinary liability of a trustee. That liability does not exist where the trustee makes a *bona fide* investment which proves to be unfortunate. I ask whether in this case the Government was required to consult the Indians?

Mr. KING. It was.

Mr. HOLMAN. And if not so required, was the investment made in good faith, or not?

Mr. MORRILL. Mr. Speaker, this appropriation may be all right, but my experience in this House leads me to look at all these Indian claims with more or less suspicion. This claim comes up here in a form which, if we sanction it by the passage of a law recognizing the fact that the United States is to guaranty all the bonds of the southern States in which it may have invested, will involve large sums of money.

Then the question of fact in relation to our obligations, that we ought to have consulted the Indians in relation to the investment of their money, is a matter that should be thoroughly investigated. I trust that a measure of this importance will not be allowed to pass by merely a dozen votes in the House, for I certainly think there were not more than a dozen members who were paying the slightest attention to the matter. I trust the bill will be referred to the Committee on the Judiciary, and will be examined by them before it shall be allowed to become a law. I demand the previous question on the motion to reconsider.

The previous question was seconded, and the main question ordered to be put.

The SPEAKER stated the question to be upon the motion to reconsider.

The House divided; and there were—ayes 54, noes 50.

Mr. VOORHEES demanded the yeas and nays.

The yeas and nays were ordered.

Mr. VOORHEES. I desire to say a word upon this motion.

The SPEAKER. Debate is not in order.

Mr. VOORHEES. I desire, then, to ask the Chair a question. I inquire whether this bill was not reported regularly by the Committee on Indian Affairs, considered in the House, and passed; and whether the proposition of the gentleman from Vermont is not now to recommit this bill, not to the Committee on Indian Affairs, who have had the matter under investigation, but to the Committee on the Judiciary, who have not had it under consideration?

The SPEAKER. It is not; the question is on the motion of the gentleman from Vermont to reconsider the vote by which the bill passed.

Mr. VOORHEES. Does not the motion also include the reference of the bill to the Committee on the Judiciary?

The SPEAKER. It does not. That motion would not be in order.

Mr. MORRILL. I will say, however, that if the motion to reconsider is carried, it is my purpose to move to commit the bill to the Committee on the Judiciary.

Mr. VOORHEES. I hope that will not be done.

Mr. MORRILL. I hope it will be done.

Mr. DENISON. I move to lay the motion to reconsider on the table, and on that motion demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 57, nays 54; as follows:

YEAS—Messrs. William J. Allen, Ancona, Anderson, Bailly, Augustus C. Baldwin, Jacob B. Blair, Blow, Boyd, Broomall, Chanler, Denison, Eckley, Eden, Eldridge, Finck, Ganson, Grider, Hall, Harding, Charles M. Harris, Herrick, Hutchins, Philip Johnson, William Johnson, King, Knapp, Law, Le Blond, Loan, Long, Marey, McBride, McCune, McDowell, McClure, Noble, Perham, Perry, Price,

Rafford, Samuel J. Randall, Robinson, James S. Rollins, Ross, Scott, Shannon, Sloan, John B. Steele, Stiles, Thayer, Voorhees, Wheeler, Chilton A. White, Joseph W. White, Wilder, Windom, Fernando Wood, and Yeaman—57.

NAYS—Messrs. Alvey, Allison, Ames, John D. Baldwin, Baxter, Beaman, Blaine, Boutwell, Brandegee, William G. Brown, Freeman Clark, Cobb, Cole, Creswell, Dawes, Dawson, Dixon, Eliot, Farnsworth, Fenton, Frank, Garfield, Grinnell, Higby, Holman, Hooper, Hotchkiss, Ashel W. Hubbard, John H. Hubbard, Hubbard, Julian, Orlando Kellogg, Kernan, Longyear, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Anos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Pike, Pomeroy, John H. Rice, Schenck, Scofield, Spalding, Thomas, Upson, William B. Washburn, and Wilson—54.

So the motion to reconsider was laid on the table.

#### REMOVAL OF WISCONSIN INDIANS.

Mr. McINDOE, from the Committee on Indian Affairs, reported a bill providing for the removal of certain stray bands of Indians from the State of Wisconsin; which was read a first and second time.

Mr. McINDOE. I ask that the bill may be put on its passage.

Mr. HOLMAN. I think it is the safest to refer these bills to the Committee of the Whole on the state of the Union. This bill makes an appropriation, and I make that question of order.

Mr. McINDOE. I move to suspend the rules to enable us to consider the bill in the House.

The motion was not agreed to, two thirds not having voted therefor.

The bill was therefore referred to the Committee of the Whole on the state of the Union.

#### OREGON INDIANS.

Mr. McBRIDE, from the Committee on Indian Affairs, reported a bill to authorize the President of the United States to negotiate with certain Indians of middle Oregon for the relinquishment of certain rights secured to them by treaty; which was read a first and second time.

Mr. HOLMAN. I think these bills all require some consideration, and I therefore make the question of order that this bill makes an appropriation, and must therefore go to the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair sustains the question of order. The bill is therefore referred to the Committee of the Whole on the state of the Union.

#### INDIAN RESERVATIONS IN UTAH.

Mr. WINDOM, from the Committee on Indian Affairs, reported back, with a recommendation that they do pass, the Senate amendments to the bill (H. R. No. 220) to vacate and sell the present Indian reservations in Utah Territory, and to settle the Indians of said Territory in the Uinta valley.

The amendments were taken up for consideration.

#### First amendment:

Strike out the words "and so situated as to best adapt them to the natural facilities of the country for the purposes of irrigation," and insert in lieu thereof the words "under the general direction of the Commissioner of the General Land Office," so as to cause the lands to be surveyed under the general direction of the Commissioner of the General Land Office.

The amendment was agreed to.

#### Second amendment:

Insert after the word "advertisement," in the clause "shall cause said tracts or lots to be sold upon sealed bids, to be duly invited by public advertisement, to the highest and best bidder," the words "for a period of not less than three months in a newspaper of general circulation, published in the Territory of Utah, and also in a newspaper published in Washington."

The amendment was agreed to.

#### Third amendment:

Insert after the word "bidder," in the same clause, the following:

And said bids may be filed with the Governor of said Territory, at the seat of government thereof, and with the Secretary of the Interior in Washington; such bids as may be received by said Governor shall, without opening the same, be forwarded to the Secretary of the Interior, when the same, with the bids filed with him, shall be opened in the presence of the Secretary of the Interior, the Commissioner of Public Lands, and the Commissioner of Indian Affairs, and any bidders who may choose to be present at the opening thereof.

The amendment was agreed to.

#### Fourth amendment:

After the word "shall," in line thirteen, insert the words "Secretary of the Interior."

The amendment was agreed to.

Mr. WINDOM moved to reconsider the several

# THE CONGRESSIONAL GLOBE.

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votes by which the amendments were agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

THOMAS J. GALBRAITH.

Mr. WINDOM also, from the Committee on Indian Affairs, reported a joint resolution for the relief of Thomas J. Galbraith, of Minnesota.

The resolution was read a first and second time.

The resolution directs the proper accounting officers of the Interior and Treasury Departments to settle and adjust the money and property accounts and claims of Thomas J. Galbraith, agent of the United States for the Sioux Indians of Minnesota, upon principles of equity and justice, under certain regulations and restrictions prescribed in the bill.

Mr. WINDOM. I desire to state briefly the grounds upon which the committee reported the resolution. Mr. Galbraith was agent for the Sioux Indians. At the Indian outbreak in 1862 his office was broken open and his papers destroyed. There are certificates of his own to the amount of \$5,507 for which there are no proper vouchers. This resolution authorizes the proper accounting officers to settle with him upon his affidavit, and if they think proper to call in other evidence to substantiate the affidavit to do so.

The resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WINDOM moved to reconsider the vote by which the resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MANAGEMENT OF THE INDIANS.

Mr. WINDOM also, from the Committee on Indian Affairs, reported back a bill for the benefit of and better management of the Indians.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WINDOM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

LOUIS ROBERTS.

Mr. WINDOM also, from the Committee on Indian Affairs, reported back a bill (S. No. 234) for the relief of Louis Roberts.

The bill, which was read, directs the Secretary of the Treasury to pay to Louis Roberts the sum of \$2,740 99, that being the amount of money advanced by said Roberts out of his own means to replace certain Indian indemnity goods accidentally destroyed by fire in November, 1855, while being transported by him from St. Paul to Redwood agency for R. J. Murphey, Indian agent, for the Sioux Indians, in Minnesota.

Mr. ANCONA. As that bill contains an appropriation, I object to its being considered in the House.

The bill was accordingly referred to the Committee of the Whole on the state of the Union.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, informed the House that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

An act (No. 216) to grant the rights of preemption to certain settlers on the Rancho Bolsa de Tomales, in the State of California; and

An act (No. 223) to regulate the foreign coasting trade on the northern, northeastern, and northwestern frontiers, and for other purposes.

B. F. KENDALL.

Mr. WINDOM, from the Committee on Indian Affairs, reported back a bill (H. R. No. 414) for the relief of the estate of B. F. Kendall.

The bill, which was read, authorizes the proper accounting officer of the Treasury to allow, in the settlement of the accounts of B. F. Kendall, late

superintendent of Indian affairs in Washington Territory, the sum of \$2,108 30, the same being the amount shown to have been disbursed by him in his lifetime, and for which no vouchers were to be found.

Mr. HOLMAN. I desire to raise a point of order upon this bill. I understand that it was introduced into the House and referred to the Committee on Indian Affairs. I make the point of order under the act organizing the Court of Claims. The second section of that act provides that all petitions and bills praying or providing for the satisfaction of private claims against the Government founded upon any law of Congress, or upon any regulation of any Executive Department, or upon any contract, express or implied, with the Government of the United States, shall, unless otherwise ordered by the resolution of the House to which the same are presented or introduced, be transferred by the Secretary of the Senate or the Clerk of the House, with all the accompanying papers, to the Court of Claims.

Now, it is very true that if this bill did not come within either of those definitions it might have gone to the Committee on Indian Affairs, but if it comes within either of the classes embraced in the law, it must go to the Court of Claims.

I make this point of order because I find that the Senate are making the same point of order on the bills which go from this House to that body.

The SPEAKER. The Chair overrules the point of order on the ground that the House has ordered by resolution that this bill should be sent to the Committee on Indian Affairs. They have, therefore, complied with the law.

Mr. HOLMAN. Where a bill is introduced into the House and ordered, without any special resolution, to be referred to a particular committee, does the Chair regard that as a resolution of the House, within the meaning of the law?

The SPEAKER. It is an order of the House, which is a resolution of the House.

Mr. HOLMAN. I believe the bill does not make an appropriation.

The SPEAKER. It is not in technical language an appropriation.

Mr. ALLEY. I would like to ask the gentleman from Minnesota [Mr. WINDOM] if this Mr. Kendall is the Indian agent who was murdered last year?

Mr. WINDOM. He is the Indian superintendent who was murdered.

Mr. ALLEY. I will say, then, that I understood incidentally his accounts were behind. I would like to know how that is.

Mr. WINDOM. I would like to know what the gentleman means by "incidentally."

Mr. ALLEY. I heard soon after the murder that his accounts were in a bad state.

Mr. WINDOM. I desire to have a letter from the Acting Commissioner of Indian Affairs read, which will explain this matter.

The Clerk read, as follows:

DEPARTMENT INTERIOR,  
OFFICE INDIAN AFFAIRS, April 27, 1864.

SIR: I have to acknowledge the receipt of your letter of the 21st instant, inclosing copy of House bill No. 414, for the relief of the estate of B. F. Kendall, late superintendent of Indian affairs for Washington Territory, and asking my opinion as to whether the account should be allowed, and other information touching said account from papers and documents on file in this office.

In reply, I have to state that the final accounts of late Superintendent Kendall were presented for settlement by Edward Lander, administrator of his estate, and upon examination they were found correct and in due form, excepting the sum of \$2,108 30, under the head of Nez Perces agency, appropriation for beneficial objects, &c., which Superintendent Kendall brought on to his account current as disbursed under that head, referring to a receipt marked "A." This receipt was not with the accounts when presented to this office for settlement, and from the statement of Mr. Lander, it was not found among any of the papers of the deceased when he took charge of his affairs. The entries upon the accounts appear to have been made by Mr. Kendall himself before his death, and it is fair to suppose that he would not have brought this amount upon his account as disbursed, the same time referring to a certain voucher or receipt, without first having the proper receipt for the money so disbursed.

I inclose herewith a copy of the statement of Agent Hutchins made to this office relative to a conversation that

took place between himself and Superintendent Kendall when Mr. Kendall turned over to him the balance of the money in his hands belonging to the Nez Perces agency, which seems to corroborate the statement of the account.

There are no papers on file in this office that give further information on the subject than what I have before stated. But in view of the circumstantial evidence in the case, and the fact that all of Mr. Kendall's transactions with the Department heretofore having been found correct, I am of the opinion that no further testimony can be adduced in the premises, and have no reason to presume that the amount, \$2,108 30, was not faithfully disbursed.

Very respectfully, your obedient servant,  
CHARLES E. MIX,  
Acting Commissioner.

J. T. WILLIAMS, Esq.,  
Clerk of Indian Committee, House of Representatives.

Mr. WINDOM. I desire to say, in further answer to the gentleman from Massachusetts, that it appears from this letter that all of Mr. Kendall's accounts were settled with the exception of this item. It also appears from the statement of Judge Lander, on file in the case, that among his accounts there was found after his death a paper in his own handwriting stating that this amount had been paid as per voucher "A." That voucher has never been found. There is another item of proof tending to show that this money was actually paid, to wit, that in a conversation with Hutchins, he declared to Hutchins, in paying him an amount of money, that that was all that was due to this Nez Perces agency, showing that previously to that there must have been some other money paid. The fact is, that Mr. Kendall was killed in his office, and never had an opportunity of speaking to any one in reference to his accounts.

The Committee on Indian Affairs were unanimous in reporting this bill, believing that the claim is a just one and ought to be paid.

Mr. ALLEY. I will state that I made the inquiry because I remember distinctly that shortly after the time Mr. Kendall was murdered, I was at the Department, and they were there relating the circumstances; the statement was made that his accounts were in a bad state, and that he was probably a defaulter to a small amount. I am perfectly satisfied, however, with the explanation of the gentleman from Minnesota, and shall vote for the bill.

Mr. WINDOM. I move the previous question on the bill.

The previous question was seconded, and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WINDOM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

A. M. CLENNEY.

Mr. WINDOM also, from the same committee, reported back adversely a petition for the relief of A. M. Clenney, of New Mexico; which was laid on the table.

NORTHERN INDIAN SUPERINTENDENCY.

Mr. WINDOM also, from the same committee, reported back adversely a bill (H. R. No. 399) to abolish the northern Indian superintendency, and asked that it be laid on the table.

Mr. HUBBARD, of Iowa. Mr. Speaker, that appears to be a bill which I introduced; and I apprehend that the Committee on Indian Affairs has come to a wrong conclusion in respect to it.

The SPEAKER. The question is not debatable.

Mr. HUBBARD, of Iowa. I would like to have the bill referred to the Committee of the Whole on the state of the Union, in order that I may bring it up and discuss it at some suitable time.

Mr. WINDOM. I have no objection.

The bill was thereupon referred to the Committee of the Whole on the state of the Union.

Mr. WINDOM. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. BLAINE in the chair,) the business reported from the Committee on Indian Affairs having precedence.

#### INDIANS IN WISCONSIN.

The first business before the committee was a bill providing for the removal of certain stray bands of Indians from the State of Wisconsin.

The bill was read. It authorizes the President of the United States to appoint two commissioners whose duty it shall be to collect together certain stray bands of Winnebago and Pottawatomie Indians and transport them to their tribal homes in Kansas and Dakota. The second section provides that the commissioners shall receive such reasonable compensation, in proportion to the time employed, as the Secretary of the Interior may deem just. The third section appropriates \$30,000, or so much thereof as may be necessary to carry out the provisions of the first section, to be disbursed under the direction of the Secretary of the Interior.

The report was read.

Mr. MCINDOE. I ask for the reading of a letter from the Department of the Interior:

The letter was read, as follows:

DEPARTMENT OF THE INTERIOR,  
OFFICE INDIAN AFFAIRS, February 10, 1864.

SIR: I herewith return a communication addressed to you on the 9th instant by Hon. W. D. MCINDOE and by you referred to this office for report, in which that gentleman states that he is directed by the House Committee on Indian Affairs to inquire as to the necessity for the removal of certain Pottawatomie and Winnebago Indians from the State of Wisconsin to their respective tribes in Kansas and Dakota.

From the best data in my possession it appears that there are from seven to nine hundred of these Indians. They are disconnected from their tribes, have no agent residing with them, do not receive annuities, have no settled habitation, and are not under the control of this Department.

They appear to be Indians who have refused to go with their respective tribes at the time of their removal or have since abandoned them, and are now leading a wild vagabond life, gaining a precarious subsistence by the chase, petty pilfering, or begging. They are doubtless a source of great annoyance to the settlements through which they roam, and during last summer caused great alarm by the threatening attitude they assumed toward the whites and by the commission of several murders attended with circumstances of peculiar atrocity. For full and specific information upon these points I respectfully refer to the recent annual report from this office, pages 356 to 374, inclusive.

I have no doubt that the situation of the Indians would be much improved if they were removed to and compelled to remain with their respective tribes; and it is quite certain that the prosperity of the settlements through which they now wander is retarded by their presence, and that the Indians are exceedingly troublesome and vexatious to the whites composing those settlements.

In regard to the probable expense of removing these Indians I can only say, that in case they can be collected without an unusual amount of trouble the expense will, in my opinion, not exceed thirty five dollars per head, which (estimating their numbers at nine hundred) will amount to \$31,500, for which an appropriation must be made, there being now no funds applicable to that object. It should, however, be remarked that in consequence of the indisposition of the Indians to remove to their respective tribes there is reason to apprehend that a military force will be required to collect them and enforce such removal.

Very respectfully, your obedient servant,

W. F. DOLE, Commissioner.

Hon. J. P. USHER, Secretary of the Interior.

Mr. HOLMAN. I move to amend the third section by striking out \$30,000 and inserting \$20,000. I submit the amendment for the purpose of saying a word upon this subject. This bill is in very wonderful contrast with the humanitarian theories which now prevail in this country. There is a general desire to ameliorate and alleviate all classes of people everywhere; and it is the theory of the philanthropists all over the country that if you would improve the condition of the Indian you must bring him under the influence of civilization, and subject him to the restraints and moral forces which pervade civilized society. That theory has been applied to another race, a subject race in this country, and there seems to be no good reason why it should not also be applied to the Indian tribes. While so much humanity is being displayed in other fields of benevolence, it is a remarkable fact that you propose by this bill to appropriate by military force these scattered bands of Indians to a region of country where they can be under no humanizing influence. I do not know but that it might be better for the single State of Wisconsin that the Indians shall be removed, but at the same time it is tremendously in conflict with the theories of humanity which seem to pervade the country. If we were

to apply the same principle to the other race to which I have alluded, and which was brought here, to be sure by force, while the Indians are here by nature—if we were to propose to remove the Africans, there would be a universal expression of indignation. The proposition would shock public sensibility everywhere. It would not be tolerated for a moment, and yet you cannot say that in the one case you would be acting humanely and in the other acting inhumanely.

If I lived in the State of Wisconsin I think I should be in favor of the removal of these Indians. But I do submit that gentlemen who favor these schemes of philanthropy and humanity, and who profess to carry them out to their utmost limit or extent, show a rather singular mode of exhibiting that sentiment in reference to these unfortunate sons of the forest who happen to be living within the reach of civilization.

The proposition is not only to appropriate money out of the public Treasury to remove these Indians, but to remove them by military force, to drive them out. And it is put upon the ground that the General Government having bought their land and sold it to white settlers, now owes it to white settlers to remove these incumbrances from their land because they are troublesome. Now I think it would be better to try to humanize and civilize these Indians, to make them proper inhabitants of a civilized community, rather than by the sword and the bayonet to drive them out, and remove them beyond all the influences of civilization, and consign them to the life of the barbarian and savage.

Mr. ELDRIDGE. I can hardly appreciate the argument which my friend from Indiana uses, coming from the source it does. If it had come from any of my friends on the other side of the House I think I should have fully appreciated it. He seems to be "chuck-full" of humanity to-day, and I believe that it is a new thing with him.

I am further inclined to think that the gentleman only makes use of the argument for the purpose of suggesting to our friends on the other side of the House in support of his position. But, Mr. Chairman, there is a pressing necessity for the removal of these Indians from the State of Wisconsin. They are constantly committing depredations upon the inhabitants to whom the Government has sold lands, and which they perhaps purchased from these Indians in the first instance. These depredations are not confined merely to thieving and robbing, but they actually commit murder and every crime known to the law. If the parents are gone the children are maltreated and perhaps murdered. If the husband is gone the wife is the object of their violence. There are many instances I could relate, upon the border settlements of Wisconsin, where all these crimes have been committed upon the inhabitants. It is not proposed to drive them out by military force; it is proposed that we should appoint commissioners who will go there and induce them to go and join their own tribes; that they shall gather up the scattered individuals of these tribes and take them to their homes, where the great body of the tribes are located.

I do not know as to the amount that will be required for the removal of these Indians. My colleague, [Mr. MCINDOE,] who has had charge of the bill, is satisfied that the amount named is the proper one. I have not considered that question at all. But as to the necessity for their removal, both as regards their interests and the interests of the inhabitants living upon the borders, I say to the House that there is a pressing necessity for it. It ought to be done.

The gentleman admits the necessity of this bill when he says that if he lived in Wisconsin he would want these Indians removed. Yes, sir, I apprehend that if he lived there, and his wife and children were in the border settlements of Wisconsin, he would want them removed. Well, sir, I cannot see how he should oppose it with that admission, although he does not reside in Wisconsin. It seems to me that a Representative upon this floor ought to go somewhat beyond the State bounds of Indiana, that he ought to be willing, acknowledging the necessity for the removal of these Indians, to make the necessary provision for it, even if they are in the State of Wisconsin.

Mr. HOLMAN. I will say to the gentleman from Wisconsin that I made the few remarks I did upon this bill for the purpose of showing gen-

tlemen upon the other side of the House where their own policy would lead them, and for the purpose of illustrating the difference in the policy of gentlemen upon the other side of the House in reference to two classes of population, neither of which, at least in my State, are considered desirable.

Mr. ELDRIDGE. I thought I comprehended the gentleman's position in time, and I did not expect it was necessary for me to do anything more than to draw the tap to have another just such speech as he made upon the subject of philanthropy.

Mr. HOLMAN. I withdraw my amendment. Mr. ELIOT. I move to amend by inserting the following proviso:

*Provided*, That the compensation to be paid to the commissioner shall not exceed the sum usually paid for similar services.

The amendment was agreed to.

The bill was then laid aside, to be reported to the House with a recommendation that it do pass.

#### INDIANS IN OREGON.

A bill (H. R. No. 442) to authorize the President of the United States to negotiate with certain Indians in middle Oregon, for the relinquishment of certain rights secured to them by treaty, was next taken up.

The bill, which was read, authorizes the President of the United States to negotiate with the tribes known as the confederated tribes of middle Oregon, for the relinquishment of certain rights guaranteed to them by the third article of the treaty made with them in 1859, and appropriates the sum of \$5,000 for that purpose.

Mr. McBRIDE. I ask to have an extract read from the report of the Commissioner of Indian Affairs.

The Clerk read, as follows:

"At the Warm Springs reservation are located the confederated tribes of middle Oregon, numbering from one thousand to twelve hundred souls. Their reservation is completely isolated, and on that account is valuable for the purpose for which it is intended. The Indians are reported to have made greater progress during the past year than in any preceding period of five years. Many of them have built for themselves houses, and have opened and are cultivating small farms, from which they derive a comfortable subsistence. But for an unfortunate provision in their treaty, by which the privilege of leaving their reservation for the purpose of fishing and grazing stock is secured to them, it is not doubted that the Indians would rapidly improve. Under this provision they claim and exercise the right of leaving the reserve and visiting the fisheries upon the Columbia and other rivers, and are thus enabled to procure large quantities of whisky, which, besides its pernicious effects upon them, causes them to be exceedingly annoying to the whites. The superintendent is of the opinion that for \$3,000, in presents of agricultural implements and other useful articles, they would be willing to abrogate this provision of their treaty. If this be so, I know of no like expenditure that would be productive of more beneficial results, and I respectfully request that an appropriation of that amount be solicited for the purpose indicated."

Mr. McBRIDE. I ask that there may also be read an extract from the report of the superintendent of Indian affairs in Oregon.

The Clerk read, as follows:

"On the contrary, there is an ample amount of good land to raise food for all the Indians located upon it, a sufficient supply of timber and water, and its location, far away from any of the great routes of travel and the new gold fields, will permit the Indians, if confined to the reservation, to be kept away from the contaminating influences of white associations. But, unfortunately, the treaty of April 18, 1859, with the confederated tribes and bands of middle Oregon, provides in article one that the Indians shall have the right to fish in common with the citizens of the United States at the fisheries on the lower Des Chutes and Columbia rivers, and to pasture their animals, hunt, gather berries and roots, on unclaimed lands outside of the reservation. The effect of this unfortunate provision of the treaty is to permit the Indians to leave the reservation whenever they choose, and they really reside at the reservation but a small portion of the year. Under pretense of fishing and herding their stock, they infest the towns along the Columbia river, and defy all the efforts of the agent to prevent their procuring whisky. The sales of fish and ponies, and the prostitution of their women afford them plenty of money, and render them less desirous than they otherwise would be to engage in agriculture."

"From information received of Agent Logan, and from conversations with the Indians during my visit in June last, I am confident that for a moderate sum invested in clothing, agricultural implements, team, &c., they would be willing to give up the right, and consent to be confined to the reservation. This, if accomplished, would relieve the white settlements of a very great nuisance, and very much better the condition of the Indians. I recommend an appropriation of \$3,000, to be paid in two annual installments, for that purpose."

The bill was then laid aside to be reported to the House with a recommendation that it do pass.



## TITLE TO INDIAN LANDS IN UTAH.

A bill (H. R. No. 222) to extinguish the Indian title to lands in the Territory of Utah suitable for agricultural and mineral purposes, with the amendment thereto in the nature of a substitute, was next taken up.

The substitute, which was read, authorizes the President of the United States, by and with the advice and consent of the Senate, to enter into treaties with the various tribes of Indians of Utah Territory, upon such terms as may be deemed just to the Indians and beneficial to the Government of the United States, provided such treaties shall provide for the absolute surrender to the United States, by the Indians, of their possessory right to all agricultural and mineral lands in the Territory except such agricultural lands as by treaties may be set apart for reservations for the Indians; and provided also that all such reservations shall be selected at points as remote as may be practicable from the present settlements in Utah Territory. It further provides that in agreeing with the Indians upon the amounts to be paid to them under the provisions of the treaties to be negotiated in pursuance of the act, care shall be taken to obtain from the Indians, to the greatest possible extent, their consent to receive for such payments agricultural implements, stock, and other useful articles rather than money.

The bill further appropriates the sum of \$25,000 to carry out the provisions of the act.

Mr. HOLMAN. I believe there is no provision in the substitute for the appointment of any agents. Is there a general provision of law fixing the salaries of agents who may be appointed?

Mr. WINDOM. There is. This substitute was prepared by the Secretary of the Interior, and it meets with his approbation.

The substitute was agreed to.

The bill was then laid aside to be reported to the House with a recommendation that it do pass.

Mr. WINDOM. I move that the committee rise and report the several bills to the House.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BLAINE reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and especially certain bills referred to it from the Committee on Indian Affairs; and had directed him to report the same to the House, two with and one without amendments.

## WISCONSIN INDIANS.

The House proceeded to the consideration of the bills reported from the Committee of the Whole on the state of the Union, as follows:

A bill (H. R. No. 441) providing for the removal of certain stray bands of Indians from the State of Wisconsin; reported to the House with an amendment.

Mr. WINDOM demanded the previous question.

The previous question was seconded, and the main question ordered to be put.

The first question being on the amendment, it was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WINDOM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## INDIANS IN OREGON.

A bill (H. R. No. 442) to authorize the President of the United States to negotiate with certain Indians in middle Oregon for the relinquishment of certain rights secured to them by treaty was next taken up, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. McBRIDE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## INDIAN LANDS IN UTAH.

A bill to relinquish the Indian title to lands in the Territory of Utah suitable for agricultural and mineral purposes, reported from the Com-

mittee of the Whole, with an amendment in the nature of a substitute, was next taken up.

Mr. HOLMAN. I move to lay the bill upon the table; and upon that I call for tellers.

Tellers were ordered; and Mr. McINDOE and Mr. SCOTT were appointed.

The House divided; and the tellers reported—ayes 18, noes 80.

So the House refused to lay the bill on the table.

The substitute reported from the Committee of the Whole was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WINDOM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## STAFF OF LIEUTENANT GENERAL.

Mr. WASHBURN, of Illinois. I ask the unanimous consent of the House to introduce and have passed a joint resolution, to which I think there will be no objection. It is a joint resolution in relation to the pay of staff officers of the Lieutenant General.

The joint resolution was read. It provides that staff officers on the staff of the Lieutenant General shall be entitled to receive the same pay, emoluments, and allowances as staff officers of the same grade on the staffs of corps commanders, the same to take effect on the day of their appointment on the staff of the Lieutenant General.

Mr. WASHBURN, of Illinois. If the House desires any explanation on the subject, I will send up a letter from the Lieutenant General. [Cries of "Oh, no!" and "All right!"]

The joint resolution was received and read a first and second time.

It was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

## MINNESOTA RAILROAD GRANT.

Mr. DONNELLY. I ask the unanimous consent of the House to take from the Speaker's table Senate bill No. 31, making a grant of lands to the Mississippi and Lake Superior Railroad Company in the State of Minnesota, to aid in the construction of the railroad of said company from St. Paul to Lake Superior. The bill passed the House with certain amendments; and the Senate has made certain amendments to those amendments, which are chiefly of a verbal and unimportant character. I ask that the bill be taken up, and that the House concur in those amendments.

The amendments of the Senate were read, and, no objection being made, the bill was taken up.

Mr. HOLMAN. I would inquire of the Chair what would be the effect of a motion to lay the amendments of the Senate upon the table?

The SPEAKER. It would carry the bill with it.

Mr. HOLMAN. Then I make that motion.

Mr. DONNELLY. Let me say that the principal amendment of the Senate limits the company to the alternate sections, whereas the amendment of the House allowed them to take lands within fifteen miles from any of the sections. The amendment of the Senate is, therefore, against the railroad company and for the benefit of the Government.

Mr. HOLMAN. I have no objection to the amendments of the Senate. But this bill, and the series of bills of which it is one, passed through the House, in the first place without more than the usual consideration, and no test vote as to the policy of appropriating public lands for this purpose has yet been taken. I have no more objection to this bill than I have to all of the series of bills of this character which will be brought before the House for consideration by Senate amendments. I make the motion to lay upon the table for the purpose of calling the attention of the House to the question, so that we may decide upon the record whether we propose to appropriate this vast body of public lands for this pur-

pose at this time, when every acre of the public domain ought, if possible, to be retained as the basis upon which the credit of the country shall rest, or else for the next best purpose, that of providing homesteads for actual settlers. It is for that reason and that only, that I make the motion.

Mr. DONNELLY. I will say, with the gentleman's permission, that it is hardly fair to raise this question at this time. This bill has passed the House. The amendments of the Senate, now before us, are either merely verbal or are against the interests of the railroad company. I trust that if the question of the appropriation of public lands for railroad purposes is to be raised in this House it will not be upon this bill or at this stage. It is not fair, Mr. Speaker, and especially upon a motion which precludes debate, to raise that question. I am occupying the floor only by the sufferance of the gentleman from Indiana.

Mr. HOLMAN. I withdraw the motion to lay on the table unconditionally.

Mr. DONNELLY. I will say, then—although I did not expect to have to discuss this question at this time—that if any bill which has passed this House appropriating lands for railroad purposes has merit, this certainly is that bill. It proposes to connect the great Mississippi valley, around the head waters of which our State lies, with the head of Lake Superior, forming part of the northeastern boundary of our State. It thus proposes a connection between the two great navigable water systems of our country, the Mississippi river and its tributaries, and the chain of great lakes. The distance between those two water systems is one hundred and forty miles. The greater part of that distance is through a country of comparatively little value, most of it being in the nature of a water-shed, as it is termed, the land being to a great extent poor and swampy.

This road affords to the people of Minnesota an outlet to the great lakes. Before the outbreak of the rebellion the outlet for the grain crop of our State was, to a great extent, by way of the Mississippi valley to the city of St. Louis. The war and the derangements of commerce consequent upon it have interfered with that outlet, and the people of Minnesota now have to reach a commercial market by way of the great lakes. Heretofore their course has been over the railroads running across the State of Wisconsin to Lake Michigan, a distance in all of three or four hundred miles. The people of Minnesota are a frontier people, and are dependent entirely for their prosperity upon the growth of wheat and the other cereals. And I say to this House that the monopoly of the Wisconsin railroads, by means of which alone our people gain an outlet to the great lakes, is worse than the monopoly of which we have heard so much here of the railroads running across the State of New Jersey. Three or four years ago these railroads carried the wheat raised by the farmers of Minnesota at the rate of from eight cents to twelve cents a bushel; the next year the rate of freight was raised to fifteen cents a bushel, and the following year to eighteen and twenty cents a bushel; and now it is proposed, as I am informed, to tax the raisers of wheat thirty cents a bushel. The House can easily see that where wheat is raised in the frontier States at a considerable distance from the great markets, the imposition of such a tax as this is the virtual annihilation of the main support of the people, and the destruction of the industry of the State. They therefore unanimously ask Congress for a grant of land to enable them to construct this road, one hundred and forty miles in length, from the head of navigation of the Mississippi river to the head of Lake Superior. So important do the people of my State esteem this measure to all their interests, that the State has already granted to this railroad company a grant of the swamp lands lying within a certain distance of the road, and the city of St. Paul, the capital of the State, has voted \$250,000 as a bonus to the company. Our whole people watch the course of this bill with the greatest anxiety, because, as I have attempted to show, their agricultural prosperity rests upon its passage.

I have nothing to say, Mr. Speaker, as to other land grants made by Congress for similar purposes. I have no doubt they have been all proper and just; but I will say one word in answer to that doctrine which has been very extensively

broached here of late—that we should reserve these lands for the benefit of the creditors of the country. On the route on which this road is proposed to be run, the lands have been in the market for twelve years without being purchased; not an offer has been made to purchase them; and they will remain a quarter of a century longer without being purchased unless they are opened up by this railroad. If you would make the public lands valuable to the nation it must be by their development. If you go to any of the land offices in my State, even in the most favored regions, as, for instance, the country west of St. Cloud, you will find whole tracts of country, entire counties, that have been put up for sale without finding purchasers. Lands in such a condition are not a security, and are of no benefit to the country; but if you do as proposed here, if you encourage capital to build great lines of roads through them, the Government reserving to itself the alternate sections, those alternate sections will be worth more than the whole land before the grant was made; the country will be settled up and become populated, and you can then obtain a ready sale and a remunerative price for your lands, and in addition you will find that you have added to the taxable population of the country new, vast, and prosperous communities.

I shall not trespass further upon the time of the House, except to repeat that I think it unfair and unjust to raise such a question at this stage of the bill. This bill was introduced into the Senate at the commencement of the session; was passed by the Senate; was for two months in the hands of the Committee of the House on Public Lands, was reported back unanimously by the committee, (with the exception of one member [Mr. DAWSON] from Pennsylvania,) and passed this House without division; and I therefore think it most unfair and unjust to raise such a question at this time and in this manner. Let the gentleman from Indiana [Mr. HOLMAN] introduce a prospective resolution, declaring it to be the sense of the House that no more such land grants shall be made; and let him test the sense of the House fairly and fully on that question. Or let him attack, if he chooses, all the other bills of this character, of Wisconsin, Iowa, Michigan, &c., and ask for a reconsideration of the vote by which they all passed; but let him not raise a general and abstract question of public policy on this particular local measure at the stage which it has now reached.

Mr. SLOAN. Will the gentleman from Minnesota give way to me for a moment?

Mr. DONNELLY. Yes, sir.

Mr. SLOAN. The gentleman from Minnesota has referred to the monopoly which Wisconsin at present enjoys of the carrying trade of Minnesota. It is true as he states it, but I can assure him and the House that Wisconsin does not desire to control or monopolize that great carrying trade at the expense of the interests of Minnesota. We fully appreciate the fact that this road, to aid in the construction of which it is proposed to give this grant of land, is of vital consequence to the State of Minnesota, and hence the members on this floor from Wisconsin favor it.

In answer to the gentleman from Indiana [Mr. HOLMAN] I desire simply to say a word. If the gentleman seeks to make these lands lying in the northern portions of the States of Minnesota and Wisconsin of any value whatever to the Government, he must give us railroads for opening them up to settlement, for they will never be sold unless railroads are built. In all these land grants the alternate sections reserved by the Government where the roads are built are worth more to the Government than all the lands would be without the roads. And it is the only means by which these lands will ever be settled. They will remain a waste for twenty, thirty, or forty years, unless these roads are built.

In relation to the other point made by the gentleman from Indiana, that these lands should be reserved for homesteads for actual settlers, I can tell the gentleman that any man who is familiar with that section of country, the northern part of Minnesota and Wisconsin, knows that settlers will not locate on these lands unless they have facilities for carrying their produce to market and bringing back the necessities of life to the settlements. Any man in that section of country who is located more than twenty miles from the line

of a railroad has gone so far that it is utterly impossible for him to cultivate the soil, or engage in agricultural pursuits with any hope of profit to himself. It is a losing business for him; he cannot afford it. The only means by which that country can ever be settled will be by Congress exercising the wise policy of giving these grants of the public domain in alternate sections for the construction of railroads. In that way a population will be brought to settle in that portion of the country. The country itself is desirable; the soil is fertile, susceptible of cultivation, and its settlement will add to our wealth and prosperity. It will add a hardy people to the population of this country.

In my judgment the views which have been expressed upon this floor in hostility to these land grants are based upon a narrow, illiberal policy, and upon an ignorance of the true condition and wants of that great section of our country.

The section of country in Wisconsin, through which the line of road passes for which a grant of land has been made, for a hundred miles contains no settlements whatever, but remains an unbroken wilderness stretching away to the shores of Lake Superior. By giving these alternate sections of lands you will introduce a population and settlement upon these lands, and by that means the Government will be able to sell the lands reserved by it.

I do not desire to occupy the attention of the committee, but it seems to me the arguments are strong and irrefutable in favor of grants of this kind. No gentleman, even though he may live upon the seaboard, who has given any attention to the condition of this country should refuse, in view of the great interests at stake, to give his vote in favor of these grants.

Mr. BLAINE. I desire to make a single remark in reference to the last observation of the gentleman from Wisconsin, from which the inference would be drawn that it is from gentlemen on the seaboard that the opposition to these land grants comes. Let me say to the gentleman that there is no class of Representatives in this Hall who have voted so consistently and generously for grants of lands for railroads in the West as those coming from the seaboard.

Mr. HOLMAN. Maine, I believe, has had a little railroad matter on hand lately.

Mr. GRINNELL. I wish to say to the gentleman from Maine that we do not regard the gentleman from Indiana as living in the West.

Mr. HOLMAN. My State is not, in the proper sense of the term, a western State.

I desire to say a single word in reply to the gentleman from Minnesota. Upon my own part there is no hostility to the granting of public lands having public ends only in view for proper purposes. I submit, however, that the argument that this is the only way by which the lands in the western sections of the country can be populated is not sustained by the history of the population of the Northwest. The great States of Indiana, Ohio, Illinois, and Iowa, to a great extent, and indeed almost the whole western country, have been settled by the great advancing tide of population from the East to the West, without any artificial aids; and a more solid, homogeneous population was never gathered together on the face of the earth, possessing one remarkable attribute—that of almost perfect equality in wealth and knowledge. A country populated at once from various sections, under the influence of artificial agencies, must inevitably be a country in which there will be great differences and extremes among the people—extremes of wealth and poverty. The railroad power is a centralizing power. It is so in the old sections of the Union; and it is found to be a tremendous centralizing power in the western States, furnishing to fortunate adventurers facilities for immense fortunes.

I know there is an anxiety upon the part of gentlemen to have the western country settled at as early a day as possible, but it will only hasten on the bitter fruits of the dense population of the Old World. It is infinitely better and wiser that the lands should be settled slowly, thereby securing a solid population, equal in wealth and equal in condition, securing a continued outlet for our people, than that they should be settled and the lands appropriated at once. We ought not to legislate for a day or a year, but with reference

to the permanent and enduring interests of the country. And I say again that the monopoly of this vast amount of public lands, millions upon millions of acres, held by overgrown corporations, has the inevitable tendency to centralize the wealth of the country, aid the tendencies of this centralizing war. Take, for instance, the great Illinois Central Railroad Company, which now holds one quarter of the public lands originally granted to it by the Government. It now proposes to sell those lands at enormously advanced prices, not prices advanced by the influence of the railroad itself, but by the tide of population which has invaded and which would have invaded that State had there been no railroad in the State, robbing the people of homesteads. I would far sooner see the country fill up gradually with a population equal in wealth and condition, than to see it filled up by those artificial agencies, by which inequality of wealth, education, and condition is inevitably created, tending to subvert those republican principles of free government which must ever rest on the comparative and general equality of the people.

Mr. DRIGGS. I desire to say to the House that this bill has already passed both Houses, and that we are only acting now upon amendments proposed by the Senate.

Mr. DONNELLY demanded the previous question upon the Senate amendments.

Mr. DAWSON. I demand the yeas and nays, because I am opposed to the bill, and want to vote against it.

The yeas and nays were not ordered.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the several amendments of the Senate were agreed to.

Mr. DONNELLY moved to reconsider the vote by which the several amendments were agreed to; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### NAMES OF VESSELS.

On motion of Mr. WASHBURN, of Illinois, the bill of the House for the prevention and punishment of frauds in reference to the names of vessels, returned from the Senate with an amendment, was taken from the Speaker's table, and the Senate amendment concurred in.

Mr. DAVIS, of Maryland. I move that the House now take a recess until seven o'clock this evening.

The motion was agreed to.

So the House (at four o'clock, p. m.) took a recess until seven o'clock.

#### EVENING SESSION.

The House resumed its session at seven o'clock, p. m.

#### REBELLIOUS STATES.

The SPEAKER. The House resumes the consideration of the bill in regard to the rebellious States, upon which the gentleman from Minnesota [Mr. DONNELLY] is entitled to the floor.

Mr. DONNELLY. Mr. Speaker, the task is imposed upon this Congress of prescribing the shapes into which the institutions of the rebellious States shall mold themselves when the mighty agitations of the civil war have subsided and peace is once more restored to society. It is not possible to avoid the responsibility of this task. We must meet it in all its magnitude. The necessities of the time—the time itself—require it of us.

Surely, Mr. Speaker, the human mind never addressed itself to the solution of any problem more grave or more momentous than this. The immediate consequences to ourselves of any course we may see fit to adopt are great enough to give us pause; but when we look down the long vista of the world's future we cannot but perceive that the results of our presentation will stretch away through all the coming ages, and act and react upon human society so long as our race continues to inhabit the globe.

The great struggles of European politics—hitherto the chief subjects of history—dwarf and shrink into insignificance beside this mighty problem; the destiny of a hemisphere, and in that destiny the fate of mankind.

The past history of the struggle in which we are now engaged has been comparatively simple.

It was not difficult to foresee that the mass of the people, influenced by all those ties which bind men to their flag and their country, would gather to the defense of the nation against destruction. Even about the condition of war itself there is a certain degree of simplicity. It is but physical force contending against prescribed obstacles, and it goes forward with all the directness and precision of a purely physical power. But when the war is ended, when physical force has played its part, when the sword is sheathed in the scabbard and the face of the soldier is turned homeward, when the country is restored to that condition of things out of which the war arose, then, and not till then, will come the true difficulties of our position. The struggle will pass from the field of battle to the arena of politics; to that terrible arena where death can be inflicted and no sword be lifted, where a nation can perish and no blood mark the spot where it fell.

It is easy to say that the fate of this rebellion will prevent all future rebellions. Great events do not repeat themselves. This has been a struggle in which insurgent populations struck at constituted authority; the next may be waged by the forces of evil clothed in all the sanctities of office against the liberty of the nation. We cannot draw precedents out of revolutions. It is not given to the cunning of man to conceive the thousand hues which the warp and woof of circumstances will assume under the shifting hand of time.

We have already had upon this continent many instances wherein republican institutions have given birth to a long succession of anarchical revolutions; not one where the dreadful progeny has stopped with the first birth, and where an appeased struggle has been followed by a perpetual peace. It would seem to be a rule of nature that these monsters of the political world should procreate their species; and it will require upon the part of the American people the broadest wisdom, the wisest statesmanship to root out from the soil of the country forever the spirit of anarchy which has obtained such a strong foothold upon it.

Surely, Mr. Speaker, we should approach this grave and solemn question with none of the bitter sentiments of partisans. Ages after the froth of our declamations has disappeared in that oblivion which swallows up so much of human toil and endeavor the consequences of our present action will remain, massive and momentous in the midst of the world, working misery or conferring happiness upon untold millions of men. In the presence of that august future the language of reproach and recrimination should die upon our lips, and we should address ourselves to the problem before us with but one absorbing thought—the safety of the nation.

This, after all, Mr. Speaker, must be the central core of all that can be said on this question. The safety of the nation! Beside this what can be counted important? Laws, constitutions, governments, are but means to this end, and this end includes all for which laws, constitutions, and governments are valuable.

The mass of the people should understand that they are the stake involved in this contest. The rich and the great float above the reach of misgovernment and thrive even upon the surface of despotism; but as we descend the scale of society the consequences of misgovernment become more and more apparent, and when at last we reach the basis of the social structure they stand out in characters never to be mistaken. The contrast between the prosperous laborers of America, the peasantry of France, and the lazzaroni of Italy, marks with precision the difference between the three Governments. It is upon the poor man, after all, the base of the column, that the whole weight of the superincumbent mass must rest. Let no man think, therefore, that his poverty or obscurity will screen him from the results of an unwise adjustment of our present troubles; those results will be as universal and as inevitable as death itself; they will follow him to his hovel; they will track him as he flies out into the pathless wilderness.

What, then, will insure the safety of the nation? There is but one answer: the prevention of that state of things out of which the rebellion arose.

I need not stop to discuss the right of the nation to take all measures necessary for its own existence. When a human being enters into the dread-

ful vortex of death the hand of the law is withdrawn from him. To save that life which God has given him, his first great right, he may commit all the crimes in the calendar. The sinking mariner has a right to shake off into the jaws of the tempest the drowning wretch who clings to the plank beside him. The claim to life stands higher than any known law.

Shall less be said of a nation, which is an association of men, with a life as dear to all as the life of any one man is to himself? Who shall assume that among the very safeguards which surround a nation something may be found with which to assassinate it?

While events move forward with gigantic steps they are rapidly trampling into the ground that poor, lame, blind absurdity, State sovereignty, that bastard of the old Confederation, that prolific parent of many of the woes which have fallen upon us, that bulwark behind which even yet treason betakes itself in its hour of terror. The American people are determined to be one nation; one absolute, supreme, irresistible nation; not in the words of Washington, as applied to the Confederation, "one nation to-day and thirteen to-morrow," not a Polish diet with as many vetoes as members, not a mere rope of sand, but one nation, for good and ill, now and forever one nation. The absolute power which rests somewhere shall rest in the hands of this Government. It matters nothing in what way the nation arose; whether from its creative abundance it gave birth to the States, or whether it grew from a congelation of the States. Possessing existence and being sovereign it has a right to all things necessary to a continuance of its life and sovereignty.

We who come, Mr. Speaker, from the far West have not that deep and ingrained veneration for State power which is to be found among the inhabitants of some of the older States. We have found that State lines, State names, State organizations, are in most cases, the veriest creatures of accident. To us there is no savor of antiquity about them. Our people move into a region of country and make the State. We feel ourselves to be offshoots of the nation. We look to the nation for protection. The love of our hearts gathers around the nation; and there is no prouder and no gladder sight to our eyes than the flag of the nation fluttering in the sunshine over our frontier homes. We are willing to trust the nation. We have never received aught at its hands but benefits. We need erect no bulwark of State sovereignty behind which to shelter ourselves from the gifts which it so generously and bountifully showers upon us; and when the order of nature is reversed and it calls to us in its extremity for help and protection, the farmer will be found leaving his plow in the furrow, and the woodman the tree half felled in the forest, to fly to its assistance. Part of a mighty nation, we feel that our fame and our greatness reach to the uttermost ends of the earth, over all the seas, and through all the continent. Citizens of States, we are lost and buried from the gaze of mankind, the tributary Nubias of those governments which control the mouth of our Nile; without commerce, without a navy, without a flag; the merest insignificant accidents. Be assured, sir, those interior States will forever insist upon "the Union," and will continue to insist upon it, even if abandoned by all the rest of the nation. It is their right to reach the sea in every direction over kindred territory; nay, it is more than their right; it is their necessity.

There is, then, one solidified sentiment in the hearts of our people, one sentiment which will not be denied, one sentiment which rises above all political considerations—this nation must live. What shall stand in the way of its life? The institution of slavery? Put the nation and slavery in the balance and ask the people of the Northwest to choose between them. What is slavery to them? Unfitted for their climate, repugnant to their tastes, destructive to their interests, bloody with the blood of their children, onerous with the weight of taxation to themselves, and terrible with portents of ruin to the nation in the future, what interest have they in the preservation of slavery? Will they for slavery give up that kind and generous Government which has so long blessed and protected them? Will they for slavery see their fair, bright flag, with all its clustering stars and all its lines of light, torn into shreds and trampled

in the dust? Will they for slavery drag down upon themselves the fabric of their Government and bury themselves beneath mountains of anarchy and destruction? Never! It needs but to present the question to call forth a unanimous answer. Let that man step forth who is willing to bring calamity and ruin upon himself and family that a gigantic crime may continue to exist, undisturbed, a thousand miles away; who is willing to sacrifice the enjoyments of earth that hell may escape annoyance.

But it may be said slavery and the nation may continue to exist in unison. I appeal to history. Scarce had our Government taken shape when the anti-slavery agitation commenced under the lead of that great and good man, Benjamin Franklin; he who dragged the lightnings from heaven and the scepter from the grasp of tyrants. From that day to this the history of the country has been the history of slavery. For this end were our acquisitions of territory—Louisiana, Florida, New Mexico. For this end was the Mexican war. For this end were our conventions, our platforms, our fugitive slave laws, our compromises. Not content with the wide scope afforded in our own country, the demoniacal energy of slavery swept over the margin of the nation and invaded with armed expeditions the islands of the Gulf and the territories of the Isthmus. It even plumed its dark wings for a wilder flight, and sought the reopening of the African slave trade, the terror, the horror, and the disgrace of mankind. At length assailed and resisted by a people who had either to resist or fall prostrate before it, its accumulated vengeance burst forth in a tempest which now shakes the world to its center.

And now—what now? Why, we are asked to call, nay, to coax back this restless, insatiate, grasping, ungovernable monster, now clouding the horizon of the world and filling the air with the clangor of his arms, into the casket from which he escaped, to be held in peace forever under the Solomonic seal of the Constitution! It was permitted us to make of the cub of the lion a plaything and a pet; but the beast has reached the age of maturity; his eye-balls have learned to roll and his mane to bristle; he has broken loose from his fastenings, and betaking himself to the forest has brought horror and death upon a whole country-side; and now, now we are soberly asked to restore him, untamed and unharmed, to the tender bosom of our family circle, to become once more the fondling of our laps and the plaything of our children!

Mr. Speaker, so surely as God lives, there is no safety for this nation so long as a spark of vitality remains in the institution of slavery. Let us read history, and gather from it, as Lord Bolingbroke advises us, "not heat but light."

What have caused the most continuous and persistent wars? The answer is, the attempts of de-throned dynasties to regain power.

Turn to England. What were the wars of the Roses but the struggles of families? How many bloody battles, persecutions, and insurrections did not the Stuart family bring upon England? Cromwell supposed when he had lopped off the head of the king and driven the heir apparent headlong out of the country that the nation had seen the last of them; but scarce had the Lord Protector grown cold in his grave before the whole troop came back amid bonfires and illuminations. Once more, in the person of James II, they were driven out, and again, not only England, but Ireland and Scotland, were drenched in blood in their mad efforts to regain power.

Turn to France. The men of the great Revolution recognized both king and nobility as their natural enemies, and proceeded to behead them as fast as they laid hands upon them; it was their purpose to annihilate them. But the vitality of the dynasty and the caste survived the wrath of the people; it survived the reign of terror; it survived the consulate; it survived the empire; it survived even the mighty triumphs of Napoleon, and rose again to power upon his ruins. Again it fell; and now, seventy years after its first downfall, the Bourbon stands without the gate of France, patiently waiting for that hour when he may rush in and once more, at any cost of blood and treasure, seize upon the throne.

And yet what dynasty, what family, what race of men so permanent or so powerful as this in-



stitution of slavery, appealing at once to the pride and the purses of its votaries? It has in it the soul of a thousand Stuarts; the blood of ten thousand Bourbons. If the lapse of three quarters of a century has not taught the royal family of France forgetfulness, what lesson shall it bring to this proud, ambitious system, humiliated but not subdued, scotched but not killed? And yet the comparison is scarcely a just one. France drove forth the Bourbons, and England the Stuarts. Let us suppose them retained in their midst; let us suppose that they had nurtured and fostered them, and in the engrossment of other pursuits had afforded them free scope for every machination which cunning and ambition could devise. What, Mr. Speaker, would have been their fate, but well-deserved, complete, and continuous ruin?

Yet this is what we are asked to do with this dynasty, slavery! Worn with fruitless struggles against us, dusty and bloody from a thousand fields, with drooping jaws, glazed eyes, and dejected visage, he asks shelter at our feet, repose, protection; space to stretch his weary limbs; time for the exhausted juices of his body to resume their accustomed flow. Spare him but this little while, and once more the monster will be upon his feet, once more his roar will shake the world, once more his talons will be clothed with the flesh and blood of those near and dear to you and I and all of us. God in His infinite mercy spare us such a fate! Let death fall upon the offender, slavery! This is no wrestling match which the nation can relinquish and resume at pleasure. This struggle means, and has meant from the beginning, death to one of the combatants. Why hesitate? Death let it be to the conquered. Let slavery die that the nation may live!

But we are told that we cannot subdue the South. Our answer is, *we are doing it!*

But we are told by the gentleman from New York [Mr. FERNANDO WOOD] that no purely agricultural people ever have been subdued. Our reply is, that if that be so, we are great enough to create precedents.

But I deny the statement. The gentleman from New York has read history to little advantage if he does not know that the record of the world is underlaid by two great facts—conquest and subjugation. Turn to any point and the instances crowd upon us. There are the vast conquests of the Romans, and in turn the conquest of Rome itself and its provinces by the northern tribes, a conquest and subjugation which have endured from that day to this. Upon what does the dynasty and the nobility of England now rest but upon a conquest achieved in a single battle, and upon a subjugation which has remained unquestioned for nearly a thousand years? Upon what, until the close of the last century, did the dynasty and nobility of France rest but upon a similar conquest and subjugation? The great Revolution was but the rising up of the subject Celt against the dominant Goth. To come to a later epoch: did not the French people, the most warlike in the world, but a short time since fall utterly conquered and subdued at the feet of Europe, and accept at its hands and obey for fifty years a form of government and a dynasty repugnant to its desires? Where is Poland? Alas! we hear its unhappy cries ringing in the air. Is there no such thing as the conquest and subjugation of a purely agricultural people? Let Poland answer! In short, if we take away from the history of mankind this rising up of race over race, this giving way of the weaker people to the stronger, its great salient features are destroyed, and it ceases to be a record of our race.

How then does this question present itself? If the destruction of slavery, its utter and absolute destruction, is necessary to the safety of the nation, nothing must be left to chance in reaching that end. The seeds of evil take root in the interstices of chance.

If, then, the system proposed by the President, while admirable in its general intent, is deficient in the machinery which will insure safety, it is our duty to supply that defect. The plan of the President, unsupported by any action on our part, hangs upon too many contingencies. It may be repealed by his successor; it may be resisted by Congress; it may be annulled by the Supreme Court. It rests the welfare of the nation upon the mind of one man; it rests the whole structure

of social order upon the unstable foundation of individual oaths.

The events of this war have not strengthened popular faith in the efficacy of oaths. One of the rebel generals, Jeff. Thompson, tells us that in traveling through those regions alternately overrun by the contending armies, when he spoke with the citizens they would consult their notebooks to see which oath of allegiance they had taken last before daring to express their sentiments. How many hundreds, yes thousands, of rebel dead have been found upon our battlefields with oaths of allegiance, sworn and subscribed, in their pockets? If oaths could bind these men we should have had no rebellion; for what leader among them has not sworn a score of times fidelity to the Constitution? No, sir, it is the conscience of the Thug makes him an assassin; and these men conscientiously commit perjury. But even if such perjury be a violation of conscience, will that man shrink from violating conscience who has set his all, wealth, family, and life itself, upon the hazard of the die? Is perjury greater than treason and murder? Verily, this is attempting to bind Samson with burnt withes!

Can any sane man doubt that if you give the powers of State governments into the hands of any part of these people you will not only have to protect them from the rest of the population but you will have to protect yourselves from them? It was but the other day, as we are informed, that the wise counsels of one man were all that prevented the Union Governor of Kentucky from plunging that State into rebellion and civil war. And this was Kentucky—not South Carolina!

All other considerations aside, the safety of the nation requires that we should never permit this assassin, slavery, to rise to his feet, though he should fill heaven with his oaths and promises.

Is there any man who desires to see this war fought over again? If so, let him stand forth and raise his protecting hands over slavery. Is there any man who desires the nation to recommence where it commenced in the dark and awful days of 1861? If so, let him step forth and protect slavery. Are there fathers who have new sons, yet scarce bearded, for new battle-fields in the bloody South? If so, let them step forth and protect slavery. For one, I prefer the honesty and the candor of banners and long lines and glittering steel and bellowing cannon, rather than the bitterness of battle hidden under the honey of peace, rather than the stiletto of some eloquent traitor driven home into the heart of an unsuspecting and unguarded people in the hours consecrated to peace and rejoicing.

Then, Mr. Speaker, I am for the bill introduced by the gentleman from Maryland, [Mr. DAVIS,] and if any measure of greater security can be devised I am for that. I am for an amendment of the Constitution to prohibit slavery as soon as that is attainable. I am for any and every measure which will add, in this respect, to the security of the people.

I am aware, Mr. Speaker, of the great claims which President Lincoln has upon the people of the United States. I recognize that popularity which accompanies him, and which, considering the ordeal through which he has passed, is little less than miraculous. I recognize that unquestioning faith in his honesty and ability which pervades all classes, and that sincere affection with which almost the entire population regard him. We must not underrate him even in our praises. He is a great man. Great not after the old models of the world, but with a homely and original greatness. He will stand out to future ages in the history of these crowded and confused times with wonderful distinctness. He has carried a vast and discordant population safely and peacefully through the greatest of political revolutions with such consummate sagacity and skill that while he led he appeared to follow; while he innovated beyond all precedent he has been denounced as tardy; while he struck the shackles from the limbs of three million slaves he has been hailed as a conservative! If to adapt, persistently and continuously, just and righteous principles to all the perplexed windings and changes of human events, and to secure in the end the complete triumph of those principles, be statesmanship, then Abraham Lincoln is the first of statesmen.

In so far as his amnesty proclamation springs from the tenderness and kindness of his heart, it is worthy of him, and worthy of the merciful, christianized, and civilized American people, who, while demanding all things necessary to their own safety, will ask nothing for revenge.

If the end of the war is to be a restoration of the appearance of the old Government; a patching together of the broken shreds and fragments; a propping up of the fabric in such style that the next Administration may possibly get out from under it before it falls, then that proclamation may be found all-sufficient. But for all other purposes it will be utterly unavailing. It does not reach the heart of the distemper:

"It will but skin and flim the ulcerous part,  
Whiles rank corruption, mining all beneath,  
Infects unseen."

We owe more than this to ourselves; we owe more than this to the South. We must regenerate the South. We must plant a free press firmly upon its soil; we must guaranty freedom of speech throughout its entire length and breadth; we must enforce education upon its people, black and white. The day of ignominious martyrdom for opinion's sake is past forever within the limits of the United States. Never again shall the reading of a certain newspaper or the holding of certain political doctrines be an indictable offense. Resting as our Government does upon the enlightened judgment of the people, we cannot permit crops of ignorance to ripen into harvests of rebellion. Thought must range unfettered over the whole extent of the South, and education be everywhere as free, as pure, and as abundant as the air we breathe.

It is said that we propose to oppress the people of the South. It would be well if such oppression could cover the whole surface of the known world! Ours is an oppression which makes free; ours a despotism which builds the school-house and the printing-office; ours a tyranny which sets the plow moving in the furrow and covers the lakes and the rivers with the white wings of commerce. God give the world abundance of such oppression!

But there is behind all this a further consideration. There is a vast population of human beings in the South hitherto held as slaves. They are now freemen. Many of them have fought under our banners and suffered wounds in our cause. Can we permit a doubt to rest upon the future of these men? Can we permit their freedom to hang upon a hazard? Can we leave them, helpless and ignorant, to the mercy of their late masters? Can we give them the name and the semblance of freedom and yet leave them to all the horrors of renewed slavery? Is it the part of a great nation

"To keep the word of promise to the ear,  
And break it to the hope?"

No; the Government must be present to protect these men from a hate and a prejudice bitter than death. It must educate them; it must civilize them; it must afford them every opportunity for development and advancement; it must faithfully carry out, in spirit and in letter, the promise of liberty held forth to them.

Shall we have no return for all this? Ah, Mr. Speaker, we shall then have, not alone a miserable and dissatisfied population clinging to an institution which the nation abhors, which the civilized world abominates, ready to vote for it, to fight for it, seething in one perpetual mass of discontent, and ready at all times in all emergencies to rise against the nation. No, Mr. Speaker; no such miserable sight presents itself to my eyes; but I can see down the long vista of time a vast population to whom the word "Union" shall signify home, hope, prosperity, liberty; and as they rise—for they will rise, for who can live in the midst of civilization and resist its influences?—as they rise, Mr. Speaker, every new privilege wrung from prejudice by the sweat of their industry or the development of their intelligence, shall light up in the heart of that swarthy multitude new devotion to the great word "Union," new love for that banner which is at once to them a glory, a protection, and a prophecy. God grant them prosperity and the fullest development of which they are capable; I say God grant it from the very bottom of my heart! Not that I would rate them above or even equal to our own proud, illustrious, and dominant race—our imperial race, the colonizers of the continents, the rulers of the

seas, the masters of the globe. But these men are our human kindred—poor, patient, helpless, and unhappy—appealing by their miseries to our mercy, by their manhood to our sense of justice. Who will lend a hand to crush this poor and unfortunate people still further into the dust? Who will beat down those whom fortune has already so bitterly afflicted? Let that man stand forth who will give to patience blows and to poverty oppression, and who can find in the dreadful extreme of human suffering and degradation only opportunity for the exercise of brutality and cruelty. For myself I shall strive at all times to do them complete and entire justice; and I thank God that the work of justice to the wretched goes hand in hand with devotion to the best interests of our beloved country.

But there is still another consideration. So far I have striven to conduct this argument with a view only to its political relations, to the effect of the questions involved upon the material welfare of the people.

But there is something beyond all this. There are considerations as far above all this as the heavens are above the earth. To every man comes home this question: Shall I take my place in the ranks of that continuous and unending procession of events, which, since the revival of civilization in Europe, has been steadily pressing forward over the world and through the centuries? Or shall I be of those frail and feeble ones who present their breasts as barriers and bulwarks against the rising flood which the breath of God is swelling and lifting over all the wrongs and iniquities of the world?

And who will dare to say that in the long fight of the centuries error is not hourly losing blood and strength and life; that truth is not each day arming itself with new and more formidable weapons, shining each day with more glorious and more effulgent radiance?

Let us take to ourselves the consolation afforded by this thought—that truth is imperishable, and that no human power is sufficient to destroy it. It is a subtle essence—the soul of the material world. The heavens and the earth may pass away, but truth shall not pass away. We have seen it in all the past liberated by the blows aimed at its destruction. We have seen it passing, upon golden wings, out through all the meshes with which the perverted skill of the human mind sought to entangle it.

Let us remember, then, that in so far as we contribute, however humbly, to the cause of truth, we are identifying our temporary existence with an eternal work. This is a posterity which shall never die; this shall live and brighten and keep green our memories when the descendants of our bodies have disappeared from among the things of the world.

For myself, I can see the welfare of my country only in those things which widen the opportunities and elevate the dignity of mankind. I cannot perceive the advantage to any man of the degradation of any other man; and I feel assured of the greatness and perpetuity of my country only in so far as it identifies itself with the uninterrupted progress and the universal liberty of mankind.

Mr. DENISON. Mr. Speaker, I am opposed to the bill under discussion, and I am gratified with this opportunity to explain my views upon the subject. The name of the bill is "A bill to guaranty to certain States, whose governments have been usurped or overthrown, a republican form of government."

The object of the bill is to change the relations between certain States and the General Government, and to make it impossible for the States referred to, under any circumstances, to hold slaves or to be organized under a constitution which permits slavery. I do not think that any political party, or any great number of men, excepting the abolitionists in the northern States, ever cared anything about the extension, perpetuity, or destruction of slavery. They have not been interested in the subject further than they were benefited by the cheap system of labor in the South, and the market which their manufactures found in that portion of our country. But that the General Government should assume the right to control, by act of Congress, the domestic institutions of sovereign States, is a different question.

The State of Pennsylvania a few years back in

her history determined to abolish slavery. What would have been the condition of the question if the General Government had denied the power of that State to dispose of a mere question of property in any manner which the people of that State might choose? Such assumption of power would have been resisted by all the people of every State in the Union as an encroachment upon the reserved rights of the States. And such would be the case if the people of that State should see fit to adopt slavery at this time. There is not, under the theory of our Government, any power delegated to the General Government to prevent that condition of things, or we have all greatly misunderstood our own Government and the relation which each of the States has held to the national Government. The proposed law will change that relation, not over new States asking admission into the Union, but over States heretofore existing as a part of the national Government, and which still exist as States as fully as ever they did, even if the language of the bill be true that the State authority has been usurped or overthrown. If the people of the State have committed treason the municipal corporation cannot be guilty of treason, nor forfeit any of its rights as a State any more than a township could cease to be a part of a county because all the able-bodied men should move out of it, or be convicted of larceny. When other men should come or children grow to be men to fill the offices necessary in a municipal corporation it would still be a township and a part of the county as much as if the municipal offices had never been vacant. And such will be the condition of the States referred to unless by this law or the amendment of the Constitution now pending we change that state of things.

The law proposed is especially intended to govern men who are not represented in the passage of the bill, and at a time when we have not the power to reconstruct a single State, and if such law could ever become proper that time has not arrived. This is only one step further toward centralizing all power in the General Government which has been pursued by Congress in the passage of laws, and by the President in his proclamations. Each of these departments of Government has treated the States as if they had no reserved rights. State lines have been disregarded, and all State constitutions have been trampled upon, and the rights of the citizen everywhere have been placed at the mercy of the military power, and a solemn act of Congress has been passed to indemnify and protect the agents of this military power in the perpetration of any crime which they may see fit to inflict. The passage of this law will be the final gathering up of the reserved rights of States, and the last vestige of protection of the citizen under State constitutions will be taken away, and all power centralized in the General Government. This state of things I am not prepared to sanction by my vote.

But I have another reason for my opposition to the bill, and it is the fact that it is founded upon and intended to legalize and perpetuate the unconstitutional acts and proclamations of the President. I say unconstitutional acts of the President, and if my position be correct then any laws founded upon these proclamations will be looked upon and actually be the extreme of folly.

The acts and proclamations of which I complain and to which I allude are those which the President has done and proclaimed in pursuance of his war power and as Commander-in-Chief of the Army. The Constitution makes "the President the Commander-in-Chief of the Army and Navy and of the militia of the several States when called into actual service of the United States." But before entering upon the duties of his office he is required to take his oath that he will faithfully execute the office of President of the United States, and to the best of his ability preserve, protect, and defend the Constitution of the United States. It is by virtue of these provisions of the Constitution that a President elect enters upon his duties and gets control of his powers. It will be observed that the only thing which the President is required to take an oath to do is to "preserve, protect, and defend the Constitution of the United States." In all other of his official acts nothing is required of him but to act faithfully; but in the defense and protection of the Constitution there must be no question, and that is the only one thing especially mentioned in his official oath.

As if the framers of the Constitution regarded the protection and defense of that instrument as the paramount and principal business of the President, and in order that he might have the necessary power to perform that duty, he was made Commander-in-Chief of the Army and Navy, and of the militia of the States whenever in the actual service of the United States.

But he must, from the nature of the case, be Commander-in-Chief of the Army and Navy in a qualified sense of the word. It is not presumed that a mere civilian should have the qualifications of a general in the field, and if he were qualified he could not attend to the duties of a military commander and all the various duties of his office as President at the same time, nor could he command the Army and Navy at the same time. The Constitution presumes that the President is a statesman. It is not the presumption of that instrument that he is either a military or a naval officer. And with very few exceptions the Presidents of the United States have not possessed any knowledge of either military or naval affairs. By virtue of his office he can remove and fill the places of all the civil officers of the Government, and by virtue of his office as Commander-in-Chief he can appoint and remove the officers of the Army, and in that way may control the Army as he does control the Treasury Department and Post Office Department, and in fact all of the Departments of Government. Nor was it intended by the framers of the Constitution that he should be Commander-in-Chief of the Army in any other sense than as he is controller of the Post Office, the Treasury Department, the Mint, &c. He had taken an oath to "preserve, protect, and defend the Constitution." The Constitution was the dearest thing in the minds of the American people. That Constitution had made their Union of States, it contained the civil and religious liberties of their children, and was their Government, the life of the nation, and without this great covenant between the rulers and the people there was no Government and no nation; and to "preserve, protect, and defend" that evidence of the sovereign will of the people, it was necessary to lodge power somewhere, and the Constitution placed it in the President. They could look back over the history of the past and see the whole ocean of time filled with fragments of republics which had fallen sacrifices to the usurpations and encroachments of military ambition and military power, and therefore the Constitution, which he had sworn to "preserve, protect, and defend," gave him power to remove any military chief who should encroach upon the Constitution. He had power to surround the civil office of President with a wall stronger than adamant, and that power he had taken his oath to exert in the protection of the Constitution. That such is the war power of the President is shown in the history of the country. No former President ever attempted to act as Commander-in-Chief of the Army, except in this qualified sense.

At the time of the whisky rebellion in Pennsylvania the President, General Washington, refused to take command of the Army as Commander-in-Chief. He went as President in his civil capacity. The reason given for this military usurpation is the example General Jackson set at New Orleans; but he was not then President, but a purely military officer, and he suspended the writ of *habeas corpus* only in the city of New Orleans and in the immediate vicinity of the operations of the Army and only for the time necessary to prepare for and fight the battle, and then it was restored, and he submitted to and paid the fine imposed by the court, and thus acknowledged the supremacy of the civil over the military authority under the Constitution. And the American Congress, after a period of many years, approved of his use of this war power, and confirmed the interpretation which I claim for the Constitution by refunding to him the fine and its interest.

The Constitution provides "that the privilege of the writ of *habeas corpus*" shall not be suspended, "unless when in cases of rebellion or invasion the public safety may require it." This power is not among those enumerated in the Constitution as belonging to the President, nor among those granted by that instrument to Congress. If this power belongs to the President as a part of his war power then the Government and the people and all of their rights are at his mercy and

liable to share the fate of all former republics. But if the actual commander of the Army in the field is the person intended for the exercise of this power, he would have the opportunity of knowing when the operations of the Army were likely to be interrupted by the civil authority, and he could suspend the writ without danger to the liberties of the people; and if he should make an improper use of the power and encroach upon the liberties of the people without this necessity, there would stand the President, armed with his war power and bound by his oath to remove such officer and place a safer and better man in his place. And that, in my view, is the limit of his legitimate war power.

Nor have any of the Presidents of the United States, from the foundation of the Government, taken upon themselves any of the responsibilities or duties of a Commander-in-Chief of the Army in the field, until since the 4th day of March, A. D. 1861. Since that time a new interpretation has been given to the President's war power.

This power was given to the President that he might defend himself and the dignity of his office, and that he might have power to maintain the supremacy of the civil over the military power of the country, that he might "preserve, protect, and defend the Constitution," that he might secure to the people the elective franchise free from military interference, and to every citizen of this broad land the right of trial by a jury of his equals, and, above all other rights, to protect the people from the suspension of the writ of *habeas corpus* by his military commanders, excepting in cases "when the public safety" might require the suspension. This new interpretation makes the war power of the President a weapon for the overthrow and destruction of the very powers and rights which it was placed in his hands to protect and defend from the assaults and usurpations of the military power. The liberties of the people and the perpetuity of our form of government cannot be preserved under any such interpretation of this war power of the President, and the proof of this position is written in the history of this country during the past three years.

Look a moment at this history, marked and bloody with the record of blunders occasioned by this new interpretation of the President's war power. It was from this city and from this power that emanated the cry of "On to Richmond!" that ended in the disgraceful defeat at Bull Run, and sent our Army back to this city a disorganized and a dangerous mob. It was the controlling influence of this power in the hands of the President that disposed of our forces and led to our defeat at the battle of Fair Oaks and the seven days' fighting in front of Richmond. And when Burnside asked that he might not fight the battle of Fredericksburg, his orders from our Commander-in-Chief were to fight the battle, and thousands of our best and bravest men were left heaped up dead upon that unfortunate field, sacrificed to the military ambition of a mere civilian, in his attempt to be the Commander-in-Chief of the Army, and one hundred thousand widows and orphans are to-day heaping curses upon his head for thus attempting to use a power that was placed in his hands for a different purpose. When we look through this history we cannot fail to see enough to make us doubt the interpretation that places this war power in the President to control our generals in the field, embarrass our armies, and sacrifice our soldiers. It must have been placed there for a very different purpose. The assumption of this war power has made the army of the Potomac almost worthless in this war; and it now remains to be seen whether General Grant will be permitted to command that army or whether the disappointments and disgrace of his predecessors await him. This power proved the disgrace of Pope and Burnside, and the sacrifice and removal of McClellan. If the President believed McClellan incompetent for his position, or dangerous to the liberties of the people, or liable to encroach upon the Constitution, then it was his duty to remove him and appoint his successor, and that was the limit of his war power under the Constitution.

But when we turn from the consequences of this new interpretation of the war power upon the Army to its effects upon the Government, the Constitution, and the civil institutions of the country, we see the danger of this interpretation. It was to

protect this Government, the Constitution, and these civil institutions, that he, as the servant of the people, was invested with this power, and it was for this purpose alone that his official oath was required of him. Our fathers left us, reared and finished, a temple of liberty, so high that the oppressed of all lands could see it, and its shadow fell upon and protected the rights of every human being in this great land, and so simple and so beautiful that a child could comprehend and admire it. This bright temple has been torn down, and a most cruel, wicked, and monstrous military despotism has been reared upon its ruins. The rights of citizens are not respected under the laws of States or the Constitution and laws of the United States, and all the protection afforded by State courts and State laws and constitutions to the citizen is set aside and disregarded.

The Constitution declares that "the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it." What rebellion has there been, or is there now, in the State of New Hampshire? In what respect did the public safety require its suspension in the State of Pennsylvania? And yet there is not legal power enough in that State to take a man, unjustly restrained of his liberty, from this military power and secure him a trial. Men are arrested without warrant, condemned without trial, and punished without conviction.

It is said in the discussions upon this subject that slavery must be abolished to produce sameness in our institutions, our interests, and our opinions; and it is called "homogeneity," and is stated in another way by the words "irrepressible conflict." The man who first made use of the term "irrepressible conflict" did not say a new thing, but a very wicked one. Philip II of Spain was accomplishing the same thing when he attempted to make all of his subjects of one religion; he inaugurated an "irrepressible conflict" to compel all of his subjects to think and believe as he did, and at a period when Spain was the most powerful nation on earth, with a continual stream of gold running into his treasury, he carried on a most cruel and destructive war for thirty years, with all the power of his great empire, against a few Dutchmen in the Netherlands and was beaten and defeated in the contest. He failed to either "conquer or exterminate" them. The Puritans of New England were attempting the same thing when they burned the Quakers and drove clergymen from their colonies. And if it were not the negro and the South toward which this fanaticism is directing its energy, its zeal, and its vengeance, it would be the Quakers, the Catholic religion, or some temperance question.

The trouble is not that slavery existed, but that a wild, unrelenting, vindictive, wicked, and cruel fanaticism existed, and happened to fasten its deadly fangs upon slavery. This necessity for abolishing slavery is an effort upon the part of the strong to justify its crimes against the weak. This sameness of institutions, interests, and opinions cannot be accomplished, and it would be wrong to do so if it could. As well might we attempt to level the mountains and fill up the valleys and the rivers and lakes and oceans, and make the whole earth one dead level plain and worthless.

God made the mountains and the valleys and the rivers and oceans for our good, and He gave men different minds, interests, institutions, and opinions for our good, and the remedy for those who differ with others in institutions and opinions is for every man, and the people of every State and of every Government, to mind their own affairs, and respect the opinions and the interests and institutions of others, and not arrogate to themselves the right to manage the affairs of others. Our system of government is founded upon this idea, and it had better be respected.

The bill speaks of States whose authority has been usurped or overthrown. That happens to be the condition of all the States, North and South, and we might turn our attention to the reconstruction of our own States; or it might be interesting to inquire whether some gentlemen in the southern congress, (rebel, if you please,) like the author of this bill, anxious for notoriety and perhaps a position at the head of a bureau, might not be organizing a system for reconstructing the northern States, with constitutions requiring a

republican form of government with slavery. Neither party has power to enforce such law if passed.

This word reconstruction appears to charm the advocates of the bill. The only reconstruction there ever can be is to spread the broad powers and the kindly influence of the Constitution and laws over all the land, when the usurpations of this military war power shall be removed; and this applies as well to the North as to the South. I do not justify the secession of the southern States. It was brought about by wicked and foolish men, who deserve punishment—wicked, for they preferred their ambitious projects to the good of their country; foolish, because they should have fought their battles within the Union and under the Constitution and the laws, and not upon their ruin. But I have believed, and still do, that there are good men, patriots enough, North and South, to control and dispose of the abolitionists and secessionists and once more restore our glorious old Union.

The Constitution was the only bond of union that bound the States together, and that instrument has been equally suspended and destroyed North and South, and there is no Union; all laws and all constitutions have been swallowed up by the new interpretation given to this war power. There is no Union to-day among the States not in rebellion; they are kept together by this war power, the force of habit, and the influence of money and plunder, and the necessity of meeting a common foe. We are now floating at the mercy of chance and the waves upon a mere fragment of our broken Union, and our pilot is bewildered by the contradictory "pressure" of his advisers. And the New England wreckers are not burning blue-lights to render aid and comfort to the enemy, but they are holding up false lights that will complete the wreck.

One set of men tell him that universal emancipation and reconstruction without slavery, as proposed in this bill, will save his craft. I tell him it will extinguish State rights and make our form of government different from that left us in the Constitution. Another set of men tell him to confiscate the lands of the South in fee and in violation of the plain provision of the Constitution will restore the Union. I tell him that it will destroy the last hope of reconstruction, and bring us to the painful alternative of recognizing or annihilating the South, and to neither of these conditions am I prepared to give my consent. You speak of bringing the South back. I ask, back to what? back to where? It cannot be back to the Constitution, for that Constitution has been destroyed, and all civil rights have been destroyed with it. And should they come back to the crude and chaotic proclamations of the President's military war power, that has made a camp of the entire land? They have enough of war power at home; and with this war power and its proclamations, and our confiscation acts and reconstruction bureaus, there is no motive for the South to come back. They can but fare worse than to fight, and fight they do.

One hundred and forty thousand of the American people in my district have sent their sons to the Army to fight for and maintain their Government as laid down in the Constitution. They have sent me here as their representative to maintain the same thing, and in their name I ask what you have done with their Government? On the 4th day of March, 1861, they placed their Government in your hands. And in that Government was secured to the people free speech, a free press, security of person and property, and the elective franchise undisturbed by military power, and to those suspected of crime a fair and speedy trial, and to all the benefit of the great right of the writ of *habeas corpus*. What have you done with this Government? The one which you have furnished secures none of these rights. Shall I tell them you are not bound by your oath in time of war; that when you made your oath to "preserve, protect, and defend the Constitution" it was upon condition that we had no war? When do you propose to restore to the people their Government?

The interpretation which I claim for the President's war power is the only one which will perpetuate our republican form of Government. The history of every day which passes over our heads is full of meaning and confirms this position.



There does not exist on earth a more despotic Government than that of Abraham Lincoln. He is a despot in fact, if not in name. The constitutional right of the citizen to bear arms has been denied, and houses searched and arms taken from the citizen; the right of trial denied, and citizens have been banished the country without trial or conviction; and I only mention some of the outrages perpetrated by this war power to say that if our Government has been fairly administered under this new interpretation of the war power for the last three years it does not matter how soon it is destroyed. It is not worth to the people a dollar or a battle or a man. And it does not matter to the people whether their liberties have been taken away by Abraham Lincoln as President or as Commander-in-Chief of the Army; he is no less a despot and they no less slaves.

It is more than eighteen hundred years since a Roman emperor first employed spies and informers to watch the citizen, overhear his private conversation in hours of social intercourse, for information to convict the best and wealthiest citizens of disloyalty, and their property was then confiscated and divided between the Government and the informer. This was less than seventy years before the Roman empire was put up at auction by the imperial cohorts and city guards to the highest bidder. And the right to govern that vast empire was purchased by a jeweler, who had heaped up great wealth by selling jewelry to the army contractors, the men who had made haste to get rich out of the corruptions of the times; but the city of Rome had then been founded more than eight hundred years before an emperor could be found wicked enough and a people corrupt enough to inaugurate this state of things. We have not existed as a nation a century, and yet we hear of spies and detectives, and are pained to know that American citizens can be found debased enough to act in that capacity; and this is one of the results of the exercise of this war power.

The President, by virtue of this new interpretation of his war power, makes laws by proclamation, and does really dispense with the action of Congress. He usurps in himself all the powers of Government—judicial, legislative, and executive—and believing, as I do, that his proclamation of freedom to the slaves is not only a violation of the Constitution but of his official oath, I shall not vote to sanction any such interpretation of the Constitution, nor for any law intended to perpetuate that proclamation. And the hour is just before the American people when they must choose between the Administration, with its peculiar views of its war power, and their liberties. If the people permit this power, as assumed by their agents, to be continued another term of four years, whether by votes or military dictation, I for one shall regard our old form of government and the liberties of the people as at an end, gathered up by this stupendous war power. And it is for the people, whose liberties have been trifled with, and whose business it is to make their decision, to settle this great problem for themselves. I have thus warned them, and I have cleared my skirts of the responsibility.

Mr. STEVENS. Mr. Speaker, I take this occasion to say a few words which have been long delayed, as I was unwilling to interrupt more important business. What I have to say is mainly supplemental to a speech which I made early in the session. I desire to restate some of the positions I then advanced, that they may not be misunderstood nor longer misstated as they have sometimes been. I should have preferred an earlier time, when some members now absent were present. I wish to reassert them, as I deem them essential to the final success of the cause of the Union. I have offered a substitute to the bill of the committee because that does not, in my judgment, meet the evil. It partially acknowledges the rebel States to have rights under the Constitution, which I deny, as war has abrogated them all. I do not inquire what rights we have under it, but they have none. The bill takes for granted that the President may partially interfere in their civil administration, not as conqueror, but as President of the United States. It adopts in some measure the idea that less than a majority may regulate to some extent the affairs of a republic. But what I deem most objectionable, it seems to me to take away the chance of the confiscation of

property of the rebels. But I will proceed to the main object of my remarks.

When the confiscation bill was under consideration I stated my views as to the condition of the seceded States. I spoke of their rights under the Constitution and municipal laws of the Union. I came to the conclusion that they were entitled to no rights under the Constitution and laws, which as to them were abrogated; that they could invoke the aid of neither in their behalf; that they could claim to be treated during the war as belligerents according to the laws of war and the law of nations; that they could claim no other rights than a foreign nation with whom we might be at war; and that they were subject to all the liabilities of such foreign belligerent.

I did not undertake to examine what rights the parent Government might have against rebel individuals under its claim for violated sovereignty when the laws should resume their empire. I inferred that under the laws of war the conqueror had the right to seize the property, real and personal, of the enemy and appropriate it to the payment of the expenses and damages of the war, and make provision for our wounded soldiers, and for the families of the slain. I stated that although the women and children and all persons domiciled within the belligerent territory were enemies, yet in enforcing the rights of conquest the innocent should be spared; that even those actually bearing arms against us who were compelled by the laws of their government to enter their armies should also be spared; but that the property of the morally and politically guilty should be taken for public use.

These positions have been extensively and sharply criticised. That was neither unexpected nor unpleasant. New ideas are always received with distrust, and even when true either rejected or accepted with reluctance. Thorough examination is always desirable. If the positions are sound, discussion will eventually establish them; if unsound, they ought to be exploded.

The discussion in this House was conducted with unusual ability, and until lately with great courtesy and great fairness, except by a single member. His remarks, fraught with demagogical insinuations and personal allusions, excited more disgust than surprise. He belongs to no recognized party. Having apostatized from all the principles which once gave him credit with the people, he has no sympathy with any body of men, in or out of the House, except his own family circle. He stood amidst us a political Ishmael.

I will now notice some of the objections taken to my views. The gentleman from Kentucky [Mr. WADSWORTH] has conducted the argument with great ability and with equal candor and courtesy. He agrees with me that the Confederate States are a belligerent power; that they are entitled to the treatment accorded by the laws of war and the law of nations, both in their rights and liabilities; that they have no rights under the Constitution of the United States, and could plead none of its provisions in their defense. He adds more stringent penalties against them than the course of my argument renders it necessary for me to discuss. He says that they are still liable to be proceeded against for treason when peace shall be restored. I agree with him, as I long ago stated on this floor, that before they became belligerents they had, many of them, committed treason. But under the laws of war they cannot be tried for that offense by a military tribunal. A belligerent composed of traitors and rebels stands in a much worse predicament than an innocent foreign nation. And when we come to enforce the rights of conquest we should be justified in insisting upon the extreme rights of war, without yielding to the mitigations dictated by modern usage with regard to belligerents originally composed of foreign nations engaged in war which they deemed just.

The fact of their being rebels as well as belligerents only extends our rights and justifies the *summum jus* of martial law. To allow them to plead in palliation that they were our "erring brethren" would be to allow malefactors to take advantage of their own wrong.

But it is said that the confiscation of the property on land of private individuals is not sanctioned by modern practice. As a general rule this is true. But that is owing to the forbearance

of the conqueror. The right still exists and may be exercised when the offense of the belligerent is so great, the war so unjust, as to deserve punishment.

Halleck, following all other writers, says, page 457:

"Some modern text-writers, Hantefeuille for example, contend for the ancient rule, that private property on land is subject to seizure and confiscation. They are undoubtedly correct with respect to the general abstract right, as deduced from the law of nature and ancient practice; but while the general right continues, modern usages and the opinions of modern text-writers of the highest authority have limited this right by limiting the rule of general exemption."

When nations wage war for what they suppose their rights, each party has a right to call the war just. Modern usage then does not sanction the forfeiture of private property on land for purposes of punishment. But when the war is palpably unjust, then Vattel says:

"The whole right of a conqueror is derived from justifiable self-defense, which comprehends the support and prosecution of his rights. When, therefore, he has subdued a hostile nation, he undeniably may, in the first place, do himself justice respecting the object which has given rise to the war, and indemnify himself for the expenses and damages he has sustained by it."

And further, page 389:

"A conqueror who has taken up arms not only against the sovereign but against the nation herself, and whose intention it was to subdue a fierce and savage people, and once for all to reduce an obstinate enemy, such a conqueror may with justice lay burdens on the conquered nation, both as a compensation for the expenses of the war and as a punishment."

In short, the well-established rule is that as a strict right the conqueror can confiscate all the property of the conquered nation; but unless the enemy has engaged in an unjust war requiring punishment, or are a stubborn people requiring severe treatment, the private property on land of individuals is left untouched.

I leave the House and the country to decide whether this is an unjust war, worthy of vengeance; whether the enemy is obstinate and fierce who ought to bear the burdens of the war. If they answer in the affirmative, then the strict right attaches. But in my remarks I did not insist on the execution of the strict right. I thought that the women and children, the non-combatants, and those who were forced by the laws of their State into the armies, should be spared; and the property of the guilty, morally as well as politically guilty, only should be taken. And yet we hear a howl of horror from conservative gentlemen at the inhumanity of the proposition. A band of men, sufficiently formidable to become an acknowledged belligerent, have robbed the Treasury of the nation, seized the public property, occupied our forts and arsenals, severed in twain the best and most prosperous nation that ever existed, slaughtered two hundred thousand of our citizens, caused a debt of \$2,000,000,000, and obstinately maintain a cruel warfare. If we are not justified in exacting the extreme demands of war, then I can hardly conceive a case where it would be applicable. England and France compelled China to pay the expenses of the war because they said they were waging a just war. In this, however, the world does not agree with them.

The learned gentleman from Kentucky contends that only the property of the sovereign should be taken. I have conceded that in a war which each party could claim as just such was the modern practice. In responsible or limited monarchies the private property of the king is spared, because it does not belong to the Government, but to the individual who occupies the throne. In many European nations now, however, the law vests such private property in the Crown.

But when a monarch is absolute, when he holds the whole sovereign power, his private property is subject to confiscation according to the most modern construction of the law of nations. In Chitty's Vattel, in note to page 366, it is said:

"In case the territory of a foreign sovereign or a part of it is captured, the sovereign of the conquering State is entitled to all the property there of the conquered sovereign, (Amerschand's case, Knapp's R., 329); and the same case establishes that there is no distinction in this respect between the public and private property of an absolute monarch."

The gentleman from Kentucky [Mr. WADSWORTH] inquired where the sovereignty was lodged in a republic, and he answered very truly in the people. The people are the absolute sov-

reigns. They act through their representatives and executive officers, but they are the responsible, the absolute sovereigns. Does it not follow as inevitable logic that when they make an unjust war, if conquered, all their property, public and private, is subject to forfeiture? "Whoever takes up arms without a lawful cause can absolutely have no right whatever." (Vattel, 378.) It was on this principle that the Romans took private property. "In wars between republics, the quarrel was in reality the common cause of all the citizens," says Vattel, 388. The war was theirs and the property was theirs. They were the absolute sovereigns, as was well said by the gentleman from Kentucky, [Mr. WADSWORTH.] The confederate States is a republic, however bad may be its citizens. The majority necessarily speaks for all. Their sovereign power have declared war, and all their property is subject to the laws of war. As I have often said, no one advises the execution of the extreme right. But the right exists and ought to be enforced against the most guilty. To allow them to return with their estates untouched, on the theory that they have never gone out of the Union, seems to me rank injustice to loyal men.

The gentleman from Missouri, [Mr. BLAIR,] whose speech contains the distilled virus of the copperhead, who is not present, but has patriotically gone forth to command large armies without a commission, is as unhappy in stating the positions of his opponents as he is in answering the true ones. He says:

"The gentleman from Pennsylvania [Mr. STEVENS] adopts the plan of making the penalty of death and levying a fine and selling in perpetuity the estate of a person attainted of treason, accomplishing what a parliamentary attainder did in England."

I said no such thing. On the other hand I said there could be no such thing as attainder under our laws. The Constitution forbids the passing such a bill; and conviction for treason works no such consequence here. I contended for the forfeiture of the property of the rebels as *enemies*; and so is the act of Congress.

He says that the gentleman from Pennsylvania "treated with scorn the idea that States held in duress by the rebel power have any right to look to our laws and Constitution for protection." This is a false statement of my position. If the armies of the confederate States should overrun a loyal State and hold it in duress, that State would have a right to appeal to the Constitution for protection. But a State which by a free majority of its voters has thrown off its allegiance to the Constitution, and holds itself in duress by its own armies, is estopped from claiming any protection under the Constitution. To say that such a State is within the pale of the Union, so as to claim protection under its Constitution and laws, is but the raving of a madman.

To escape the consequence of my argument he denies that the confederate States have been acknowledged as a belligerent, or have established and maintained independent governments *de facto*. Such assurance would deny that there was a sun in the heavens. They have a congress in which eleven States are represented; they have at least three hundred thousand soldiers in the field; their pickets are almost within sight of Washington. They have ships of war on the ocean destroying hundreds of our ships, and our Government and the Governments of Europe acknowledge and treat them as privateers, not as pirates. From whom do privateers get their commissions except from a Power independent either *de jure* or *de facto*? There is no reasoning against such impudent denials.

But not only the member from Missouri, but gentlemen of much more importance deny that the rebel States, so far as they are concerned, are out of the Union. It follows that, being in the Union, they have all the rights of other States. If they have such rights and should come here at the next presidential election and claim them, where does such doctrine lead you to? It leads you into subjection to traitors and their northern allies. If they are in the Union, where are their representatives on this floor? Every one of the United States is entitled to have members here and Senators in the other branch. Where are these evidences of existing States? They are at Richmond, where the Congress of the Union does not sit.

But it is said that the Constitution does not al-

low them to go out of the Union. That is true, and in going out they committed a crime for which we are now punishing them with fire and sword. What are we making war upon them for? For seceding, for going out of the Union against law. The law forbids a man to rob or murder, and yet robbery and murder exist *de facto* but not *de jure*.

The gentleman, with characteristic modesty, says that those who declare the States outlawed to the Union preach the doctrine of secession as much as Jeff. Davis. Does the man who declares that murder or larceny exists give countenance to those felonies? The one is as reasonable a deduction as the other. If the fiction sometimes used in courts of equity that whatever ought to be shall be considered as existing be true in fact, then the rebel States are in the Union. If the naked facts palpable to every eye, attested by many a bloody battle-field, and recorded by every day's hostile legislation both in Washington and Richmond, are to prevail, then the rebellious States are no more in the Union, *in fact*, than the loyal States are in the confederate States. Nor should they ever be treated so until they repent and are rebaptized into the national Union.

The gentleman from Missouri, fatally bent on mischief, anxious to distract and destroy the Republican party, and to alienate the President from his true friends, that he and his household may reign supreme, proceeds through most of his speech to assail the motives of members of the House, to attack a member of the Cabinet, and allege that the doctrines held by a majority of our friends, of all who went for the repeal of the restraining resolution, were uttered with a view to assail the President and play into the hands of a rival candidate for the Presidency. He speaks of the doctrines proclaimed by the organ of the Treasury Department. Who does he mean? Who is the organ of the Treasury Department here? Sir, I believe there is no such organ among us. But in his insatiable hate he must drag in the name of the Secretary of the Treasury to vent his malignity. I had heard of such assaults before. I do not know what cause of offense the gentleman has against the Secretary. His attack, however, will not prevent the people from giving credit to that gentleman for great ability and unspotted purity of character. Since the days of Alexander Hamilton no abler or honest man ever filled that place. But that gentleman would not thank me for attempting his defense until some more dangerous enemy assails him. He speaks of our attempts to sacrifice the whites to the blacks, to introduce amalgamation of the races and to create negro equality. When the gentleman thus accuses the Republican party he knows that he utters a foul and malignant libel. The Republican party never held such doctrines, never uttered such a wish. I rejoice that in the vote which was taken soon after his speech not a man was found with him who ever belonged to the Republican party. He only was found voting with the hereditary enemies of the Administration. That was right. "He went to his place."

The gentleman speaks of my remarks as an "entanglement of contradiction" and "a catalogue of inconsistencies." As this only touches my capacity for argument, I take no offense at it. The gentleman cannot think more humbly of my abilities than I do myself. When he comes to speak of motives, however, it is a different thing. To show the temper which animated him, I will give a few extracts from his carefully prepared speech. He says:

"No gentleman, either North or South, ever asserted the secession cause so boldly in the forum as the gentleman from Pennsylvania. It looks like an attempt to play into the hands of some rival candidate for the Presidency, who would array a party against the President to drive him to surrender his convictions and break his oath to support the Constitution. I am apprehensive that the gentleman is anxious to saddle the President with the odium of doctrines which are known to be those of rival aspirants for the Presidency. Of a piece with the ingenious but rather disingenuous assault of the gentleman from Pennsylvania on the President is an occurrence which took place in the other end of the Capitol."

When I state that I had made no allusion to the gentleman from Missouri, that I gave no pretext for hostility, I leave the House to discover if it can the motives which dictated such gratuitous attacks.

The gentleman says that the Republicans do not agree with the President on the question of

colonization; that he is for the segregation of the races, while we are for leaving them on the soil to cultivate it for wages. In that he is probably correct. There is a difference of opinion among the friends of freedom on that question. But that does not imply hostility to each other. It is a question on which men may honestly differ. I have never favored colonization except as a means of introducing civilization into Africa. Its effect upon slavery was injurious. It was a salve to the consciences of slaveholders and their advocates. As a means of removing the Africans from the country it was puerile. All the revenue of the United States would not pay for the transportation of one half their annual increase. The scheme of colonizing them in South America (which, I believe, was the gentleman's plan) was a very shallow vision. They were averse to removing from their native land; their forcible expatriation would be as atrocious a crime as stealing them in Africa and reducing them to bondage. Five hundred were lately seduced to go to an island near St. Domingo. Such as have not died in six months have been brought back at our expense. I hope this will be the last of the unwise and cruel schemes of colonization which were fostered and procured by the gentleman's advice.

The gentleman cannot conceive that those who advocated the repealing resolution were actuated by patriotic and disinterested motives. He says it is an attempt to play into the hands of some rival who would array a party against the President. Sir, no one but a mousing politician would seek for such motives for the action of members in the discharge of their official duties. If his supposition be true, how few friends the President has in this House is shown by the vote. Not a man of the Republican party can be found recorded among his friends, for they all voted for the resolution. His friends must be sought for on that theory among the respectable copperheads on that side of the House, and the few non-descript allies who went with the gentleman from Missouri. But, sir, the truth is otherwise. The friends of the President and the friends of freedom are the majority who passed that resolution. I will not say that all others are the enemies of freedom, but they are certainly not friendly to the Executive.

None but demagogues incapable of lofty thought would ever have charged on the Republicans the designs imputed to them by the gentleman from Missouri. No other gentleman was found so uncharitable or ungentelemanly as to do it.

As to rival candidates for the Presidency I know of none such. I do not believe that the present discreet Executive has made any movement or expressed any wish for reelection. I think the same of all the members of the Cabinet. I suppose that no man, whether in or out of the Cabinet, would oppose his wish to the will of the people if they should call upon him to serve. But his appetite for office must be morbid who would covet the presidential chair in these troublesome times unless he believed he could render essential service to the nation.

The charge that these principles are invented to serve a presidential candidate is absurd. I held and promulgated precisely the same doctrine in 1861 when there was no thought of the presidential election. I believe now among the people there is entire unanimity. Every man, except the friends of the great Cunctator, believes Mr. Lincoln to be an honest and patriotic man. So far as I have observed they look to him to end this rebellion and extirpate slavery. I do not believe he is in any danger of becoming unpopular through his own acts; nor do I believe that even the constant boast by the gentleman from Missouri and his kindred that they are the especial friends and organs of the President can sink him. If that cannot, certainly nothing else can. I admit that the organization of his Cabinet is not satisfactory to the country. But the people make proper allowance for the difficulties of his situation; they understand how he has probably been deceived, in common with the Republican party, by the apostasy of men who had his and his party's confidence. The people regret the malign influence which has ostracized one at least of our ablest and purest major generals. If they believed that his next Cabinet would contain men who denounced the ultra-Republican or anti-slavery party as seeking to

"make a caste of another color by amalgamating the black element with the free white labor of our land, and would make the manumission of the slaves the means of infusing their blood into our whole system by blending with it *amalgamation, equality, and fraternity*," (see Rockville speech,) while it might possibly not defeat him and overcome his well-earned fame, it would certainly jeopardize more than one loyal State. It is right to warn the President that the people will not suffer such vile, false, and malignant libels upon themselves, upon all the true friends of freedom, to be uttered and reiterated in the name of the President by those who claim to be his friends *par excellence*, and see such claim repudiated by no signal act, without expressing their indignant rebuke.

It gives me little concern to see my views or myself severely criticised. But it does give me uneasiness to see such foul assaults made upon perhaps the most important member of the Administration. I cannot help seeing that if anything can defeat the friends of the Union and give the ascendancy to those with whom the gentleman has cast his lot, it is the course pursued by him in stealing the mantle of the President and stabbing his friends in his name.

I have said that the roughest criticisms of my principles can never offend me. But personalities are always unpleasant. I have made it the rule of my public life never to begin a personal controversy; but I did not see how I could permit so wanton, unprovoked, and malignant an attack to pass unnoticed.

In the midst of these perplexities and personal bickerings, there is a compensating pleasure in witnessing the rapid march of correct ideas; in beholding the dawn of the day of universal liberty. The House has already established the fundamental principle for which I contended.

Some weeks since it passed without division the following resolution:

"Resolved, That the present war which this Government is carrying on against armed insurrectionists and others banded together under the name of 'southern confederacy,' was brought on by a wicked and wholly unjustifiable rebellion, and those engaged in or aiding and encouraging it are *public enemies, and should be treated as such.*"

This is the doctrine for which I have been contending. The "confederate States" being declared a *public enemy, engaged in a public war*, all the consequences which I sought to establish follow as an inevitable corollary. It gives me enhanced pleasure that the resolution was proposed and offered by the able and gallant gentleman from Ohio, [Mr. SCHENCK], the chairman of the Committee on Military Affairs. I have lived to see the triumph of principles which, although I had full faith in their ultimate success, I did not expect to witness. If Providence should spare me a little longer, until this Government shall be so reconstituted that the foot of a slave can never again tread upon the soil of the Republic, I shall be content to accept any lot which may await me.

Mr. STROUSE. Mr. Speaker, I do not clearly understand what is meant by "reconstruction," but I do know that some immediate healing panacea is demanded of those who have sworn to be the defenders and protectors of the Union, or the "Union" will exist only in theory, or as a matter of the past, and never again in fact.

The act of secession of the southern States was pronounced as treason by jurists and statesmen; and when the rebellion first assumed shape and form by its armed hosts in the field to make war upon the Government of the United States, the people of the North, with one voice and in general accord declared against this most wicked and monstrous outrage. Men of all parties, of all sections, from all localities, went forth to maintain and defend the Union and the Constitution, to preserve and uphold the integrity and entirety of our Government. No conscription act was necessary then; no forced draft was required to raise an army to bear aloft the flag of the Union against secessionists and traitors. No bounties and extra pay and extraordinary inducements were wanted to obtain volunteers for the Army of the Republic. But, Mr. Speaker, "*tempora mutantur, et nos mutamur in illis.*" It is scarcely three short years that the citizens of the North, the East, and the West, singly, in companies, and in battalions, applied willingly, urgently, and most patriotically to the authorities to be permitted to

enter the military service in defense of the old flag. No extraneous inducement or mercenary stimulus was needed to arouse the patriotism of the people to rush to the tented field. Men of all classes, of all climes, of all creeds, of all conditions, the citizens by birth and the citizens by adoption, left the peaceful walks and avocations of life at the first blast of the clarion of war.

How is it now? Why this marvelous change? What has wrought this apathy and indifference, this positive aversion in the minds of men to volunteer? The rebellion still exists. The enemy, armed and equipped, is still at our door. Many towns, forts, and public places are still in the hands of the rebels. The authority of the United States is still defied and ignored. The strife, which was then confined to a narrow circle, has assumed the vast proportions of the greatest war of ancient or modern times. Are the American people less patriotic in 1864 than they were in 1861? Have we not the same prize at stake, and is not the country still in great danger of dismemberment? Surely there is yet much danger, and we must not underrate the enemy's strength nor doubt his prowess. I would ask, then, why is it that almost every man in the community fit for military duty is devising "ways and means" to avoid the draft? Certain it is, that some great change has come over the spirit of the dreams of the people. That change, sir, is founded on the fact that the war has been, and is now, perverted from its original object. Independent of and apart from all the "pomp and circumstance" attending the reenlistment of the brave and gallant veterans and the volunteering of men under the liberal operation of national, State, and local bounties, it cannot be denied that the eager desire of the citizens to join the Army, freely and voluntarily, exists no more. The House of Representatives in 1861, immediately after the first Bull Run disaster, almost unanimously resolved,

"That this war is not waged in any spirit of oppression, or for any purpose of conquest or subjugation, or purpose of overthrowing or interfering with the rights or established institutions of these States, but to defend and maintain the supremacy of the Constitution and to preserve the Union, with all the dignity, equality, and rights of the several States unimpaired, and that as soon as these objects are accomplished the war ought to cease."

This, Mr. Speaker, was statesmanship. This was the talisman that aroused our people to renewed energies and efforts. The solemn declaration of the popular branch of Congress that the purpose of the war was solely to defend and maintain the supremacy of the Constitution and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired, made us a band of brothers in the North, and held out strong hopes of relief to the suffering Union men of the South. There was no division of opinion among the men of the North at that time, whatever their previous political predilections may have been. So many volunteers offered their services during the autumn of 1861 that the chairman of the Military Committee of the Senate declared that recruiting and volunteering must be stopped. This rush to arms by the patriotic citizens who left all home comforts, parents, wives, children, occupation, everything behind them, was in pursuance of the sublime declaration I have just quoted. Other and further assurances were given by Mr. Lincoln, by members of his Cabinet, and by high officials in the confidence of the President, that the laws and local institutions of the States should remain unimpaired.

Is it necessary to prove that the plighted faith of the Administration in this matter has been most wantonly violated and disregarded? It is patent to all that the object of the war has been perverted from its original, lawful, and constitutional purpose to that of the abolition of slavery, the confiscation of the property of the southern people, guilty or innocent, the subjugation of the white citizens of the South, the obliteration of State lines, and the reduction of the States or sovereign Commonwealths to territorial lands to be parceled out and to be held as allodial estates by traveling "loyal-leaguers," strong-minded females, and the horde of sycophants and flunkies of our "wise and beneficent" Administration. The flagrant violations of the fundamental law of the land, the substitution of proclamations and orders in place of constitutional enactments, the utter disregard of the rights of the Union men

South, and the wrongs and injuries inflicted on law-abiding citizens of the North, have produced their painful results. We have no peace yet! We have thousands of our best and bravest men slain, thousands of destitute and sorrowing widows, thousands of poor and unprotected orphans, thousands of maimed and invalid men. We have sorrow, suffering, and ghastly want in many, many once happy and prosperous homes; we have a distracted and devastated country; we have a diminished and disturbed commerce; we have irredeemable paper promises in place of the lawful coin of the United States; we have exorbitant prices for every article used by the poor man; we have a national debt of such magnitude, the contemplation of which must appall the heart of every man, except courtly officials, shoddy contractors, and swindlers. We have something more which the good people of this once happy land will not forget, nor their children's children. I mean taxes. It is said that a national debt is a national blessing. If that be so, no people were ever blessed as we are, and it must be consoling that this blessing increases at the rate of \$2,000,000 per day. Notwithstanding the frightful condition of our financial affairs, and the impending crash in commercial circles, we are cheerfully informed by the stipendiaries and "Swiss-guards" of the Administration that "we are all prosperous; money is plenty, and everybody is doing well." I will not insult the House of Representatives by discussing this soap-bubble of seeming prosperity. One thing is certain, our heirs-at-law will all inherit—taxes.

Notwithstanding the strength of the rebellion and the desperation of the leading rebels, we would have had peace, ay, a lasting and honorable peace, with all the States restored and true in the Union, if the Constitution, the organic law, in all its sections and articles had been kept inviolate. It was the duty of the Administration to develop and foster the Union sentiment which undoubtedly existed in every seceded State. Not only was it a duty but the very best policy to convince the true Union men of the South that we wage no war for conquest nor for subjugation nor for the emancipation and taking away of their chattels, known in the South as negroes and in Abolitiondom as sweet-scented American citizens, but solely and only to enforce the laws made in pursuance of the Constitution. The acts of the last and of the present Congress, the proclamations and orders of the President, and the general policy of the Administration, have, in my judgment, dispelled all hope of a reunion so long as this policy is adhered to. It has made rebels of those who were well disposed toward us before. What is to be done? What remedy is there at hand? We cannot exterminate this nation of eight million free white men, nor can we hold them in peaceable subjection or in a provincial condition. The history of Ireland, Venetia, Algeria, Hungary, and Poland is the best evidence of the impossibility of affiliating a hostile people with their conquerors. We cannot repeat the atrocities, destruction, and devastation of the Thirty Years' War or the Seven Years' War in continental Europe, the fruits of which, after peace was obtained through the exhaustion of the peoples, are described by the historian as "a country wasted by fire, sword, and plague; a scene of desolation and disorder; a bad currency; a deficiency of laborers, and great want. The art of war was the only thing that gained anything." We want no such trophies.

This Administration ought to retrace its steps and return to the monumental tree of the Constitution as its landmark. In the first place, Mr. Lincoln must divest himself of the fallacy that he is the Government. The Government of the United States is a representative democracy, having for its base the Constitution, the *lex scripta*, which, as the supreme law, governs the three coordinate branches, to wit, the legislative, the judicial, and the executive. The Administration consists of the persons elected by the people under the Constitution and laws to manage and administer the affairs of the country. The framers of the Constitution never intended to make the President and his Cabinet "the Government." On the contrary, they have clearly defined the powers and duties of the officers as administrators of the laws enacted by the representatives of the people. In absolute monarchies, where no written



law exists, where the divine right of kings is acknowledged, where the idea that "the king can do no wrong" is still upheld, the reigning monarch may well be styled "the Government." There the emperor, the czar, or the king, in his own person, is, and represents, the Government. He makes laws by imperial or royal decrees, proclamations, and orders; the people, subjects or plebeians, must obey the peremptory mandate of the one who titles himself "We, by the grace of God!" The laws of the United States, in pursuance of the rights and grants in the Constitution, are enacted by the national Legislature, interpreted and expounded by the Judiciary, and executed by the President and his legally appointed officers. The incontrovertible fact that the officers of the Government are the servants of the people, carries with it the undoubted right to criticize the acts and conduct of our servants whom we have temporarily clothed with limited power. The subordinates of this Administration, acting under "orders," dispute the right to discuss the course and policy of the Administration, and designate every expression of disapprobation as "disloyal practices." In this they are sustained by the leading men of a mongrel party, who are now arrayed against the Constitution and against the maintenance and supremacy of the civil law.

We have had numerous instances of illegal and arbitrary arrests, imprisonments, banishments, suppression of public newspapers, and other tyrannical acts committed against the constitutional rights of the citizen by petty despots of accidental power under the usurper's plea of "military necessity." The doctrine is put forth that "*inter arma leges silent*"—the laws are silent in the midst of arms. Now, whether this is considered as a civil war or as a public war; whether the secessionists are rebels in arms or belligerents, the laws need surely not be silent in the peaceful northern and western States, or, as the new lexicographers term them, the "loyal States." There is no war raging in the eastern, northern, middle, or western States. Why should the law be silent? Why should the citizen be arrested without probable cause? Why deny the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed? Why suspend the prerogative writ of *habeas corpus*, the bulwark of the citizen's liberty, grantable under the Magna Charta of England, and under the Constitution of the United States, *ex debito iustitia*? It is because the public expression of opinion of the conduct of the war to suppress the rebellion is distasteful to the Administration. It is because the Democracy do not approve of the course of our rulers to abolitionize this country and carry on the war for the pecuniary and political benefit of abolition politicians, Army contractors, servile office-holders, mushroom generals, and a brood of abject demagogues and toadies who sing the loyal-league psalms and shout hosannas for the Government and their aromatic brethren and sisters. These are the people—venal and corrupt—who traduce and malign the law-abiding, honest Democratic citizens, whom they in their self-righteousness and loyal zeal are pleased to designate as "secessionists," "sympathizers," and sometimes "traitors." The latter term, however, only when they are two to one!

The Democrats are with heart and soul in favor of restoring the seceded States to their former status, and establishing again what we have had for eighty years, "a more perfect Union." We are in favor of quelling the rebellion for the purpose of preserving the Constitution intact, and grant to the several States their rights and privileges, as they enjoyed them before the rebellion, and to which as commonwealths in themselves they are entitled. We are opposed to waging war for the purpose of equalizing the negro with the white man, and we are opposed to shedding the white man's blood, beggar and devastate the country to satisfy the insane and unnatural demands of the abolition hypocrites of New England or the humanitarian bigots and fanatics of old England. We deprecate the abolition idea of negro equality and the consequent commingling of the Ethiopian with the pure Saxon and Celtic blood. We believe the President's schemes of emancipation and confiscation as expressed in his proclamations to be gross infractions of the Constitution which he

swore to support and defend, and from which no sophism of "war power" can absolve him. For this lawful opposition to the unconstitutional acts of the party in power we are called "disloyal." Well, Mr. Speaker, if this is an evidence of disloyalty, then there are upward of a million and a half of free white citizens in the North who are very disloyal according to the translation of that foreign word "loyal" by the Jacobins of America. The Democracy revere the Constitution and acknowledge it in all its parts as the supreme law. We cheerfully obey the laws of the Federal Government and of the States, but we do not believe in that "higher law" which pronounces the Constitution made by the fathers and founders of the Republic "a covenant with death and an agreement with hell." It is a right and privilege to canvass the acts of our public men and to criticize the conduct of those whom the people have placed in power.

This inherent and fundamental principle of the American citizen is now attempted to be denied by the abolition saints, of whom the sage and patriot Henry Clay more than twenty years ago expressed his opinion as follows:

"With them [the abolitionists] the rights of property are nothing; the deficiency of the powers of the General Government is nothing; the acknowledged and incontestable powers of the States are nothing; the dissolution of the Union and the overthrow of a Government in which are concentrated the hopes of the civilized world are nothing. A single idea has taken possession of their minds, and onward they pursue it, overlooking all barriers, reckless and regardless of all consequences."

Recent events and daily occurrences prove how true, how prophetic, were the words of Kentucky's lamented statesman.

Mr. Speaker, time will not allow me to speak at length of the causes of the war; it suffices to say, what history has already proved, that the fell fanaticism of the North, the ambition for office, the lust for power, and the hereditary hostility of the descendants of the Mayflower cargo to liberal principles and democratic sentiments have brought this great calamity upon us.

The constant clamor against slavery, a subject with which the people of the North had nothing whatever to do; the preachings of the "irrepressible conflict" and the doctrine that "the nation cannot exist half slave and half free," (when in fact we had existed happily and prosperously for eighty years,) superinduced the acts of secession, rebellion, violence, and bloodshed. The originators and instigators of this most unnatural and fratricidal war are now the most "loyal" men in the land. They not only occupy the fat offices and places of emolument, but are even the high priests in the grand abolition sanhedrim, pure, undefiled, and godlike. Yes, the men who for years before there was any rebellious outbreak were offering resolutions and presenting petitions in Congress for the dissolution of the Union; who wanted "no fellowship with slaveholders," although willing to fit out ships to engage in the slave trade for a valuable consideration; who were willing to "let the Union slide," long before Jeff. Davis & Co. thought of sliding, have suddenly transmuted themselves into the most intense Union men and devout patriots, and pharisaically denounce all others, who do not as they do, as disloyal and anti-Union.

While I condemn and denounce secession and hate the very idea of a dissolution of the Union as much as any man in the land, I cannot shut my eyes to the great fact that the constant agitation of the subject of slavery by the abolitionists is the first and prime cause of secession and all its horrible consequences. It is true that for many years the abolition party *per se* was insignificant in numbers, and no danger was apprehended from its ravings and dangerous doctrines; but slavery was a hobby for the opponents of the Democratic party to ride, and, by a grand combination of all the remains, fragments, and debris of the defunct political clans, to overthrow the Democracy and the Republic. The one is identical with the other. There can be no republican form of government, no representative democracy such as ours, without the principles of democracy as the cornerstone.

We have had an anti-Union, anti-democratic party, an aristocratic party opposed to equal rights and the obligations of the Constitution, from the time of the formation of the Union to the present day. The democratic sentiment established

the Republic and maintained it until the present sectional conglomeration came into power. Democracy is ever the same; it has not changed and is not changeable in principle or in name. The Opposition is classified historically in the following order:

In 1775, Loyalists, or loyal to King George, or Tories.

In 1776, Loyal Tories.

In 1780, Nova Scotia Cow-Boys and Tories.

In 1786, Convention Monarchists.

In 1789, Black Cockaders.

In 1808, Anti-Jefferson Improvement Men.

In 1811, British Bank Men.

In 1812, Peace and Submission Men.

In 1813, Blue Lights.

In 1814, Hartford Conventionists.

In 1816, Washington Society Men.

In 1818, No-Party Men.

In 1819, Federalists.

In 1820, Federal Republicans.

In 1826, National Republicans.

In 1828, Anti-Masons.

In 1834, Anti-Masonic Men.

In 1836, Conservatives.

In 1837, Independent Democratic Whigs.

In 1838, Abolitionists.

In 1839, Log Cabin, Hard Cider, Democratic-Republican Abolition Whigs.

In 1843, Native American Whigs.

In 1844, Coon Party, or Anti-Annexation Whigs.

In 1845, The Whig Party.

In 1846, Mexican Whig Party.

In 1847, Anti-Mexican-War Party.

In 1848, Rough and Ready Party.

In 1850, Clay Whig Party.

In 1852, Scott Whigs.

In 1854, Know-Nothings.

In 1855, Native Americans.

In 1856, Fremonters, or Abolitionists and Know-Nothings.

In 1857, Black Republicans.

In 1859, Opposition and People's Party.

In 1860, Wide-Awakes Cap and Cape Party.

In 1862, No Party.

In 1863, Union-League-No-Party-Emancipation-High-Taxation-Centralization-Confiscation-Negro-Equalization-Usurpation-Abolition-Administration-Party.

In 1864, Miscegenationists.

What it will be next spring has not yet been announced by the "white spirits and blue; the gray spirits and black."

I charge that abolitionism is the cause of the war. We had lived happy and content for eighty years. The citizen of Maine was welcome in Louisiana. Our political union and good-fellowship produced their natural and beneficial results. We prospered as a nation as no people prospered before on the face of the earth. The valuable southern products furnished the cargoes for our ships, materials for our factories, and wealth to our people of all sections, and through which our country became one of the great commercial and maritime Powers of the world. The southern people were willing to confine themselves to the peaceful pursuits of agriculture, willing and glad to exchange commodities with us, and in no instance did any southern statesman interfere or attempt to interfere in the institutions and affairs of the North. They conceded to us the manufacturing and carrying trade of the whole country, and willing that we should enjoy prosperity and wealth in common with them, but they demanded that the behests of the Constitution, the articles of our partnership, should be strictly observed, and that the obligation of the original contract should not be impaired. They wanted no interference in their local institutions on the part of the North, no intermeddling with slavery, a system of labor which existed before the Revolution, and which was an undenied right and colonial establishment at the time the colonies became States, and the States formed the Union. Have we fulfilled our part of the original pactum? Have we stood by the great contract, the original covenant, when the partnership was entered into by South Carolina and Massachusetts, Virginia and New York? We have not. The North for years has preached from the text, "no Union with slaveholders," and "the Union cannot exist half slave and half free." I have never heard any explanation of this proposition why the Union could not

continue so to exist after a prosperous and glorious existence for upwards of eighty years.

After the thorough organization of the remnants and rag-ends of all the political clans and tribes, and the founding of a systematic anti-slavery party, eight or ten years ago, the attacks on the South and southern institutions were commenced. In the pulpit, the forum, the halls of justice, the school, the stump, everywhere, anywhere, were the anathemas hurled against slavery and slaveholders. My allotted time will not allow me to quote the opinions, writings, and teachings of the leading abolitionists and politicians for many years back; but I will confine myself to a few of the saints of the latter days—to the shining lights who were the immediate instruments of dissolution and destruction, and who now, singularly enough, are baptized as "Union men." In 1857 an individual by the name of Helper, who was compelled to leave North Carolina, his native State—not for stealing negroes—and who is now an office-holder as a reward for his services, published the book entitled *The Impending Crisis*. This book recommended direct warfare on southern society, "be the consequences what they might." This book was adopted as the campaign document of the Republican party, and its infamous teachings indorsed by sixty-eight Republican members of Congress, and by all the prominent leaders of the party.

I will make a few quotations from the *Alcoran* of the modern Ishmaelites, showing the piety, purity, and patriotism of abolitionism:

"1. We unhesitatingly declare ourselves in favor of the immediate and unconditional abolition of slavery."—Page 26.

"2. We cannot be too hasty in carrying out our designs."—Page 33.

"3. No man can be a true patriot without first becoming an abolitionist."—Page 116.

"4. Slaveholders are more criminal than common murderers."—Page 140.

"5. All slaveholders are under the shield of a perpetual license to murder."—Page 141.

"6. It is our honest conviction that all the pro-slavery slaveholders, who are alone responsible for the continuance of the baneful institution among us, deserve to be at once reduced to a parallel with the basest criminals that lie fettered within the cells of our public prisons."—Page 158.

"7. Were it possible that the whole number [of slaveholders] could be gathered together and transferred into four equal gangs of licensed robbers, ruffians, thieves, and murderers, society, we feel assured, would suffer less from their atrocities than it does now."—Page 158.

"8. Once and forever, at least so far as this country is concerned, the infernal question of slavery must be disposed of. A speedy and absolute abolishment of the whole system is the true policy of the South, and this is the policy which we propose to pursue."—Page 121.

#### "WE UNFURL OUR BANNER TO THE WORLD."

"Inscribed on the banner which we herewith unfurl to the world, with the full and fixed determination to stand by it or die by it, unless one of more virtuous efficacy shall be presented, are the mottoes which, in substance, embody the principles as we conceive should govern us.

#### "The Mottoes on Our Banner."

"1. Thorough organization and independent political action on the part of non-slaveholding whites of the South.

"2. Ineligibility of slaveholders; never another vote to the trafficker in human flesh.

"3. No co-operation with slaveholders in politics; no fellowship with them in religion; no affiliation with them in society.

"4. No patronage to slaveholding merchants; no bequest to slave-waiting hotels; no fees to slaveholding lawyers; no employment to slaveholding physicians; no audience to slaveholding parsons.

"5. No recognition of pro-slavery men except as ruffians, outlaws, and criminals.

"6. Immediate death to slavery, or, if not immediate, unqualified proscription of its advocates during the period of its existence."—Pages 155, 156.

"7. Thus, terror-engenderers of the South, have we fully and frankly defined our position; we have no modifications to propose, no compromises to offer, nothing to retract. Flown, sirs, fret, foam, prepare your weapons, threat, strike, shoot, stab, bring on civil war, dissolve the Union, nay, annihilate the solar system, if you will—do all this, more, less, better, worse, anything—do what you will, sirs, you can neither foil nor intimidate us; our purpose is as firmly fixed as the eternal pillars of heaven; we have determined to abolish slavery, and, so help us God, abolish it we will."—Page 187.

This language, so amiable and fraternal in its character, was very much calculated to cement the bonds of union between North and South. No one but an idiot could help foreseeing the inevitable consequences of such declarations and threats. We have the opinions and counsels of the great abolition captains by the hundred; a few extracts will suffice to show the general tenor, intent, and purpose.

Opinion of A. Lincoln, President of the United States:

"I believe this Government cannot endure permanently half slave and half free."

Cassius M. Clay, the present minister of the United States in Russia, expressed himself thus:

"Our Legislatures, State and Federal, should raise the platform upon which our free colored people stand; they should give to them full political rights to hold office, to vote, to sit on juries, to give their testimony, and to make no distinction between them and ourselves. The instrument called the Constitution, after pronouncing all men equal and having equal rights, suffers slavery to exist, a free colored person to be denied all political rights, and, after declaring that all persons shall enjoy a free intercourse with the States, suffers the free negro to be driven out of all, and excluded from such rights. Deliver me from such an instrument thus partial, thus unjust, that can be thus perverted, and made to sanction prejudices and party feelings, and note the accidental distinction of color."

Wendell Phillips, a bishop in the abolition church, gave his honest opinion in the following style:

"No man has a right to be surprised at this state of things. It is just what we [abolitionists and disunionists] have attempted to bring about. It is the first sectional party ever organized in this country. It does not know its own face and calls itself national; but it is not national—it is sectional. The Republican party is a party of the North pledged against the South.

"No act of ours do we regard with more conscientious approval or higher satisfaction, none do we submit more confidently to the tribunal of Heaven and the moral verdict of mankind, than when, several years ago, on the 4th of July, in the presence of a great assembly, we committed to the flames the Constitution of the United States."

I could cite similar language from the speeches and writings of hundreds of the leading men of the Republican-abolition party, but it would only be cumulative evidence of facts that cannot be controverted. I ask reasonable men, honest, unprejudiced men who love their country, and who can look on the present and the past condition of the Republic, whether the conduct of the abolitionists was not the cause of the secession of the southern States. We all remember the acts and deeds of John Brown, the murderer and thief, and how he was canonized by the fanatics of the North because he was hanged for crime. Of him the present Governor of Massachusetts, John A. Andrew, spoke as follows:

"John Brown and his companions in the conflict at Harper's Ferry, those who fell there and those who are to suffer upon the scaffold, are victims and martyrs to an idea. There is an irrepressible conflict [great applause] between freedom and slavery as old and as immortal as the irrepressible conflict between right and wrong. They are among the martyrs of that conflict. John Brown was right. I sympathize with the idea, because I sympathize with and believe in the eternal right. They who are dependent upon him and his sons and his associates, in the battle of Harper's Ferry, have a right to call upon us who have professed to believe or who may have, in any manner or measure, taught the doctrine of the rights of man, as applied to the colored slaves of the South, to stand by their brave movement. We are to-night in the presence of a great and awful sorrow, which has fallen like a pall upon many families whose hearts fail, whose affections are lacerated, and whose hopes are crushed, all of hope left on earth destroyed by an event which, under the providence of God, I pray will be overruled for that good which was contemplated and intended by John Brown."

After all this, who, I ask, is responsible for southern secession, bloodshed, ruin, and desolation? This war, civil war, internecine war, bloody, desperate, and unnatural as it is, is the effect of the abolition cause.

The abolitionists were the original anti-Union men, a fact that admits of no denial; and when we hear the howlings now for a restoration of the Union by the men who have destroyed it, they simply mean the abolition of slavery, extermination of the white population South, and propagation of a Yankee colony, with the negroes as vassals to raise cotton, rice, sugar, and tobacco for the benefit of the modern Vandals and Goths who claim title under the confiscation act.

The Union is broken! How can we restore it? How reconstruct? How again reunite the North and South? By a vigorous prosecution of the war? The war has lasted for three years; it has been vigorous. We have an immense Army and a powerful Navy, brave men and good commanders, and we are still drafting and recruiting for the further vigorous prosecution of the war. How long shall this continue? We cannot subjugate nor conquer the South in the sense in which these terms are usually applied and understood. War will make no Union, no fellowship, no fraternity. The feeling of the South is bitter, the hearts of the people alienated and estranged from

us, and hence the desperation with which they resist in behalf of their homes, their lands, and their institutions. Unless the illegal steps taken by our rulers are retraced, unless the Constitution is adhered to, and all arbitrary proclamations and orders recalled, and unconstitutional legislation repealed, the southern people assured that they can have equal rights with us in the Union; in short, unless the olive-branch accompanies the sword we will never again have a Union. It is a sad spectacle to contemplate; but so it is. This once great and happy country, established by the blood and sufferings of noble patriots of both hemispheres, whose proud flag waved in the most distant breeze, this glorious fabric of Heaven-inspired men, this magnificent Republic, truly the asylum of the oppressed of all lands, is suddenly and violently rent asunder and destroyed by the degenerate sons of those who were born and reared under its protecting banner of liberty.

The remedy is with the people. Let the great and honest yeomanry of the land, the farmers, the mechanics, the miners, the laborers, all classes who work for their living and earn their daily bread by the sweat of their brow, rise in their strength and in their majesty as freemen, and come to the rescue of imperiled liberty! Thank God! the ballot-box still exists, and although infringed on in many parts of the country we have yet the power to protect the sacred urn from the janizaries and satraps of modern despotism: Place statesmen at the head of the Government; men free from bias, fanaticism, and treason, who will administer the laws impartially and constitutionally. If this is not done, if the people will continue the present party, with its avowed anti-Union policy, in power, then no man born can foretell the sad fate of this country. The angel of liberty may, from on high, point to the land from the St. Lawrence to the Gulf, and mournfully exclaim, 'This was the Republic of the United States!'

Mr. CRAVENS. Mr. Speaker, I have had neither inclination nor ambition during this session of Congress for participating in general debate. On the contrary, I have preferred to remain silent and to record my vote on the merits of each question as presented to the House for action. And to-day, if I could satisfy my mind that I had faithfully performed my duty to my constituents and to my country by remaining longer silent, I should most cheerfully do so. I feel, however, that something more is required at my hands, and I shall proceed to state briefly my views on some of the questions at issue before the country. I am aware that whoever attempts to warn the people of approaching danger, or opposes the wild and revolutionary policy of those who are controlling the affairs of the nation at this time, subjects himself to the charge of disloyalty and treason. With that class no distinction is recognized between fidelity to the Government and fidelity to the Administration. I acknowledge my obligations to the former, to the latter I do not; and charges coming from that quarter will not be likely to deter me from expressing my opinions freely upon questions of public policy. I acknowledge in the fullest sense all the responsibilities that belong to my position as a member of this body, and I shall observe the strict rules of decorum in what I have to say.

On taking my seat here as a member of this House, I took upon myself a solemn oath to support the Constitution of the United States. I took that oath without any mental reservation, and I shall to the best of my ability keep it sacred and inviolate.

The Democratic party, of which I am an humble member, and whose principles I indorse, has raised the banner of the Constitution and the Union, and we are determined to defend it against whoever may oppose, come the opposition from what quarter it may. Sir, in this dark hour of tempest and storm there is no hope or safety for us as a nation but in strictly adhering to the letter and spirit of the Constitution. Depart from that bond of union, and we may prepare to reap the consequences—anarchy first, and then despotism. It is no part of my purpose to inquire who is most to blame for the inauguration of the bloody and desolating civil war in which the nation is now unhappily involved. We are called upon to deal with the facts as they exist; to find the road

that will lead us through our great troubles, and at the same time save the Union and preserve to us the blessings of civil and religious liberty as we have hitherto enjoyed them. Show me that path, and I am ready to move at once upon it. When passion, prejudice, and fanaticism have run their wild course, and reason resumes her throne, then and not until then will we be able to realize to their full extent the blunders that have been committed in this great struggle for national life.

I am of the opinion that this cruel war would have been ended and the Union would have been restored if the abundant means that have been furnished by a patriotic people to the Government had been honestly and wisely applied, and if the Administration had rigidly adhered to the policy avowed in the beginning of the war. But the means furnished by the people have not been wisely or honestly used, and the Administration has entirely changed the policy of the war.

In the beginning of the war the policy was to put down armed rebellion and restore the Union under the Constitution, leaving all the States in the full possession and enjoyment of all their constitutional rights. That this was well understood to be the object of the war when it was commenced, there is, I presume, no one to question.

If there should be, I will call the attention of such to a few facts that have now gone into history, and that will be considered important by whoever may in after times desire to examine the principles for which this great struggle was made on our part.

Mr. Lincoln in his inaugural address, under all the solemnities of an oath and after several States had passed ordinances of secession, and had organized a government and had raised a military force to defend it, said:

"I have no purpose, directly or indirectly, to interfere with the institution of slavery in States where it exists. I believe I have no lawful right to do so. I have no inclination to do so. That the maintenance inviolate of the rights of the States, and especially the right of each State to order and control its own domestic institutions according to its own judgment, exclusively, is essential to that balance of power on which the perfection and endurance of our political fabric depend."

In order that other nations might fully understand and comprehend the true nature of the struggle in which we were about to engage, and to secure the good opinion and sympathy of all Europe, Mr. Lincoln, through his Secretary of State, caused to be sent instructions to our foreign ministers, in which the following passages occur.

Under date of April 10, 1861, Mr. Seward wrote to Mr. Adams, the American minister to England, and in his official instructions to him spoke as follows:

"You will indulge in no expressions of harshness or disrespect, or even impatience, concerning the seceded States, their agents or their people; but you will, on the contrary, all the while remember that those States are now, as they always heretofore have been, and notwithstanding their temporary self-delusion they must always continue to be, equal and honored members of this Federal Union; and that their citizens, throughout all political misunderstandings and alienations, still are and always must be our kindred and countrymen."

On the 22d day of April, 1861, Mr. Seward, writing to Mr. Dayton, our minister at the court of the Emperor Napoleon, and treating of the subject of the present rebellion, said:

"I need not further elaborate the proposition that the revolution is without a cause: it has not even a pretext. It is just as clear that it is without an object. Moral and physical causes have determined inflexibly the character of each one of the Territories over which the dispute has arisen, and both parties after the election harmoniously agreed on all the Federal laws required for their organization. The Territories will remain in all respects the same whether the revolution shall succeed or shall fail. The condition of slavery in the several States will remain just the same whether it succeed or fail. There is not even a pretext for the complaint that the disaffected States are to be conquered by the United States if the revolution fail; for the rights of the States and the condition of every human being in them will remain subject to exactly the same laws and forms of administration whether the revolution shall succeed or fail. In the one case the States would be federally connected with the new confederacy; in the other they would, as now, be members of the United States; but their constitutions and laws, customs, habits, and institutions in either case will remain the same.

"It is hardly necessary to add to this incontestable statement the further fact that the new President, as well as the citizens through whose suffrages he has come into the administration, has always repudiated all designs whatever and whenever imputed to him and them of disturbing the system of slavery as it is existing under the Constitution and laws. The case, however, would not be fully presented

if I were to omit to say that any such effort on his part would be unconstitutional; and all his actions in that direction would be prevented by the judicial authority even though they were assented to by Congress and the people."

These official declarations had the effect to quiet in some degree the public mind at the North, and prepare it for the contest.

The period for compromise that would have avoided the war had been permitted to pass, by the Republican party then in power refusing to adopt the resolutions known as the Crittenden compromise. Mr. Davis, then a Senator of the United States, and now the president of the southern confederacy, said in his place in the Senate that these resolutions, although they did not embrace all the South had a right to demand, yet as a measure of adjustment would be accepted by that section. Mr. Douglas in the Senate charged that if we failed to adopt measures of adjustment, by which alone war could be avoided, the sole responsibility of the defeat of those measures would rest with the Republican party, and he asserted most emphatically that the Democratic party in the House and in the Senate were ready and willing to do their part in adjusting those questions of national trouble which he plainly saw must end in a rupture between the North and the South without a settlement. The records of the Senate and the House will show that the Republican party refused their consent to those measures, and war was the consequence. War was foolishly and wickedly commenced by the rebels firing on Fort Sumter, in Charleston harbor. The President called for seventy-five thousand men to defend the capital, and for other purposes. The loyal States furnished them promptly. Congress was convened in extra session in July, 1861. During that session, on the 20th of July, the first great battle of the war was fought at Bull Run, in Virginia, a short distance from this city. Our Army was defeated; routed and demoralized it returned to Washington on the 21st, but little better than a mob. To prepare for the great struggle in which we were fairly embarked, and to unite the people, and to leave nothing doubtful or conjectural as to the objects for which the war was to be prosecuted and when it should cease, amidst the gloom of that sad day on which the fragments of our Army wandered about the streets of this city, Mr. Crittenden, a wise and patriotic statesman, submitted to the House this resolution, which was adopted with great unanimity by both branches of Congress:

"Resolved, That the present deplorable civil war has been forced upon the country by the disunionists of the southern States, now in arms against the constitutional Government, and in arms around the capital; that in this national emergency Congress, banishing all feeling of mere passion or resentment, will recollect only its duty to the whole country; that this war is not waged on their part in any spirit of oppression, or for any purpose of conquest or subjugation or purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union, with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished the war ought to cease."

This resolution was adopted by a vote of 30 to 5 in the Senate, and by 117 to 2 in the House of Representatives.

This action of Congress, without respect to party, had a happy effect in uniting the people. Nor was the President idle in his efforts to satisfy the public mind on the subject, for to the clergymen who importuned him to issue a proclamation of emancipation to all the slaves he replied that a proclamation of that kind would have about as much effect as the Pope's bull against the comet. He revoked the proclamations of generals and removed them from their respective commands because they had attempted to liberate slaves in contravention of his avowed war policy.

This fair understanding between the Administration and the people left no alternative but to be for or against the Union, and to be for the Union it was essential to break the force of armed rebellion. The appeal was made to every friend of the old Government by all the cherished memories of the past and the bright hopes of the future. All party distinction was to be ignored, and he was branded as wanting in patriotism who was unwilling to lay aside his party prejudices and join in the great cause of restoring the Union. No people ever loved their Government as ours did, and no people ever had the same cause to love

a Government. It was therefore easy to unite them in its defense. No sacrifice at that time was considered too great to be made for the cause of the Union. The father gave his first-born, and the widow her only son. So sweeping in my district was the enthusiasm that one old man who had five sons gave them all and then went himself. The records of the War Office tell the sad fate of that family. A poor widow of my town gave two boys, her only children; both fell for the cause of the Union and the Constitution. These instances are but too common, and are only named because they illustrate the patriotism and devotion of the whole people.

Under this policy the Administration asked Congress for an appropriation of \$400,000,000 and to authorize the raising of four hundred thousand men. Such was the confidence reposed in the fidelity of the Administration at that time that the people's representatives with unanimity appropriated \$500,000,000 and authorized the raising of five hundred thousand men, exceeding by one hundred thousand in each case the request of the Administration. It was then no trouble to raise men without bounty by volunteering. General McClellan was called from a successful campaign in Western Virginia to the command of the whole Army. He soon brought order out of confusion, and organized the finest Army in the world. He submitted his plans of military campaign to the President, and they were considered wise and conservative. He commenced to operate on those plans, and everywhere the Union cause was triumphant. The people rejoiced in the bright prospect of a speedy peace under a restored Union. The cause of the rebellion seemed to be hopeless. There was manifest division in their counsels. Davis was openly denounced throughout the southern confederacy, and the deep-toned mutterings of an outraged people manifested all the outward signs of a counter-revolution against the rebel leaders. There was a wait that came up from the camp of the insurgent soldiery that stamped the rebel banner with all the signs of complete failure. All that seemed to be wanting on our part was to break the military force of the rebellion and lift its pressure from the people, to throw the protecting arms of the Government around the Union men wherever they could be found, no matter how small their number, and place in their hands the evidence to show to their friends who had been deluded that the Government was not aiming to make war on any right secured to them by the Constitution, and at the same time show to them that there was force enough in the Union to save the national life, and magnanimity to defend the constitutional rights of each section. If this had been our policy, and it had been adhered to, I have not the least doubt in my mind but that to-day the Union would have been restored. No one questions the fact that in the beginning of the war there was a large Union sentiment in all the seceded States. Mr. Lincoln, in his first message to the Thirty-Seventh Congress, said:

"It may well be questioned whether there is to-day a majority of the legally qualified voters of any State, except perhaps South Carolina, in favor of disunion. There is much reason to believe that the Union men are the majority in many if not in every one of the seceded States."

I firmly believe that the President did not overestimate the Union sentiment at that time. If it is less to-day, there is a cause for it; and I will endeavor to show that cause before I close my remarks. It is a well-known fact that many of the ablest statesmen of the South were opposed to leaving the Union, and defended it until the last moment and until they were completely overwhelmed by the tide. Among the number I will call your attention to the speech of one that I have held in the highest admiration. I have read the speech of Mr. Stephens, of Georgia, made in reply to Mr. Toombs, of that State, with the most profound interest. His vindication of the Government of the United States, and his exposition of the folly and crime of attempting to leave the Union, have not been equaled by any statesman North or South, and will adorn the brightest and best page in his history. I would commend the whole speech to every American. I can only give a very short extract on this occasion. Mr. A. H. Stephens, of Georgia, the vice president of the confederate States, in a speech delivered before the Legislature of Georgia on the 14th day of November,



1860, after the election of Mr. Lincoln, used the following language:

"The first question that presents itself is, shall the people of the South secede from the Union in consequence of the election of Mr. Lincoln to the Presidency of the United States? My countrymen, I tell you frankly, candidly, and earnestly, that I do not think that they ought. In my judgment, the election of no man constitutionally chosen to that high office is sufficient cause for any State to separate from the Union. It ought to stand by and aid still in maintaining the Constitution of the country. To make a point of resistance to the Government, to withdraw from it because a man has been constitutionally elected, puts us in the wrong. We are pledged to maintain the Constitution. Many of us have sworn to support it. Can we, therefore, for the mere election of a man to the Presidency, and that, too, in accordance with the prescribed forms of the Constitution, make a point of resistance to the Government without becoming the breakers of that sacred instrument ourselves, withdraw ourselves from it? Would we not be in the wrong? Whatever fate is to befall this country, let it never be laid to the charge of the people of the South, and especially to the people of Georgia, that we were untrue to our national engagements. Let the fault and the wrong rest upon others. If all our hopes are to be blasted, if the Republic is to go down, let us be found to the last moment standing on the deck, with the Constitution of the United States waving over our heads. Let the fanatics of the North break the Constitution if such is their fell purpose. Let the responsibility be upon them. I shall speak presently more of their acts; but let not the South, let us not be the ones to commit the aggression. We went into the election with this people. The result was different from what we wished; but the election has been constitutionally held. Were we to make a point of resistance to the Government and go out of the Union on that account, the record would be made up hereafter against us."

Can any one doubt that if our policy had been wise and conciliatory all that conservative class of men at the South of which Mr. Stephens was the representative would have sought the first occasion to return to the Union? I do not doubt it for one moment. But, sir, fanaticism has ruled, and we must drink the bitter cup. By changing our policy we have united the South and divided the North. You had a splendid Army in the field, and the people were fully committed to the war. Immense sacrifices of blood and treasure had already been made. The leaders of the Republican party (a name synonymous with abolition) demanded a change in the entire policy of the war, and I believe they demanded the change because they believed that the rebellion would be put down, and the Union would be restored, before their long-cherished political project of abolishing slavery could be accomplished. Having determined to force the change they no longer sought to ignore party, but everywhere proscribed men for opinion's sake. The offices of the Government, both civil and military, were filled from the ranks of their own most extreme partisans, and that without regard to merit or qualification.

But, sir, with this bright prospect before us, with a splendid Army, such as no nation could ever boast before, with a united people and overflowing Treasury, with a divided and discouraged enemy, you forced the change in the policy of the war to suit your own peculiar views and to accomplish political ends. McClellan was too conservative to suit you, and he was becoming too popular with the Army and the people. You demanded his removal, the President refused to remove him. You threatened the President, and demanded a division of the army, and the army of the Potomac was divided into three or four separate commands. The defeat and disaster attending each command will forever attest the folly and wickedness of that division, made to subserve political purposes.

I believe that our failure to obtain important military success through the instrumentality of the army of the Potomac is not attributable to any want of courage or prowess in that army, but that failure in every instance is traceable to unwarranted interference by those radical politicians who have not dared to risk their own lives in the field, and who have not been content to let the movements of the Army be controlled by those whose position, education, and profession entitled them alone to determine wisely its action. The Army has had a bold, brave, and desperately determined foe to contend with, led by able commanders. It has required the highest skill and ability in its commanders, with the most patient endurance, complete discipline, and exalted courage on our part to meet the adversary. And no mere political juggler has any more right to interfere with the movements of the Army than the Army has to interfere with the legislation of the country.

I desire now to turn my attention to the action

of Congress during this momentous struggle. And before I proceed to speak of any specific measure I will state what I believe the action of the majority in this body will prove, and that is that the Republican party is in all essentials an abolition party; that if there ever was any difference there is none now; that you have forced a change in the policy of the war, not from any military necessity but to enable you to accomplish your purpose in liberating the slaves and elevating the negro to political and social equality with the white man; that you do not intend to restore the Union under the Constitution, but that you are determined to violate that sacred instrument whenever and wherever it comes in conflict with your political dogmas; that you will continue to adopt one measure after another, under the plea that it is for the salvation of the Union, until you will have divided the people, robbed them of their natural and constitutional rights, and finally, losing all hope of saving the Union, you will have established a centralized despotism. You are now following to the letter the predictions made by the immortal Webster. No photograph was ever more lifelike than that given by that great statesman, who warned the people of the danger to be apprehended by your elevation to power. He said:

"If the infernal fanatics and abolitionists ever get the power in their hands they will override the Constitution, set the Supreme Court at defiance, change and make laws to suit themselves, lay violent hands on those who differ with them in their opinions or dare question their infallibility, and finally bankrupt the country and deluge it with blood."

If the description given by Mr. Webster is not complete, allow me to give you another from the master hand of Kentucky's gifted son; one whose loyalty was never called in question. Mr. Clay said of them as a class:

"With them the rights of property are nothing; the deficiency of the powers of the General Government is nothing; the acknowledged and incontestable powers of the States are nothing; the dissolution of the Union and the overthrow of a Government in which are concentrated the hopes of the civilized world are nothing. A single idea has taken possession of their minds, and onward they pursue it, overlooking all barriers, reckless and regardless of all consequences."

I ask you who in the midst of this great struggle for national life, with a mind to comprehend the magnitude of the issues before us, does not tremble for the fate of this nation? Is not the question of civil liberty involved? Is not the great problem of man's capacity for self-government under process of solution to be worked out in blood? Is not the question of free and independent government on trial, and will it not require the best and most united efforts of all the people to save the ship of State? Can the party that can carry an election successfully put down this rebellion? Can you who are in power afford to ignore one million and a half of Democrats in this great contest? If you cannot afford to lose their support why do you labor so hard to prove that all who do not subscribe to the infallibility of this Administration are disloyal and traitors? Why do you indulge in low abusive phrases against them in debate? Why do you constantly keep before Congress side issues which have nothing to do with putting down the rebellion? Do you desire to save the Union of our fathers or do you desire a Union formed to suit your higher-law doctrines; one that is not held together by interest and the strong cords of fraternal love and affection, but one that is held together by bayonets?

The gentleman from Pennsylvania [Mr. SCOTFIELD] talks about a homogeneity of ideas which is to be produced by his force policy in abolishing slavery. Why, sir, you might as well talk about forcing all men to look alike as to talk about forcing all men to think alike. God has not designed that all men should think or look alike; and having organized men's minds so that they will feel and think differently, in order that they may live peaceably in society they must compromise and concede something to each other's views. Governments are founded on much the same principles, and our Government is one peculiarly of compromise; and without that principle it could never have been formed.

But if you really desire the restoration of the Union, why do you keep constantly before Congress and the country the negro? You seem to have given far more importance to the interest of the African race than you have to the interest of

the white race. Mr. Clay says that one idea has seized your minds; and onward you pursue it, reckless and regardless of all consequences. Is not this true? When did you shed the tear of sympathy over the afflictions of the sick or wounded soldier in camp or hospital; or over the distressed widow and orphan at home, made so by the war? If you are unable to answer me these questions, answer me another. When, since you have been in power, have you failed to have before Congress some subject relating to the negro? Look at the list of measures that you have passed on that interesting subject—a list disgraceful to you and ruinous to the country. You commenced the agitation by abolishing slavery in the District of Columbia, at a cost of millions of dollars. Then came the repeal of the law against the transportation of the mails by negroes. We all witnessed the great agony and discussion in the Senate of the United States over the ejection from the street cars of this city by the conductor of one Major Charles Augusta, an impudent negro; who, because he had shoulder straps on, felt licensed to thrust himself on the car seats by the side of white ladies. Look at the discussion on this subject, and you will find that a distinguished Senator [Mr. GRIMES] declared that it was a greater disgrace for this negro to be put out of the cars than it would have been to have done the same by the Senator from Indiana, [Mr. HENDRICKS.]

And again, the question of the organization of the new Territory of Montana is before the Senate. That august body debates and finally adopts an amendment to the bill providing that negroes may vote. The amendment was adopted on a call of the yeas and nays, 20 for and 17 against. The vote in the House on its return from the Senate, on the question of laying the bill on the table, was a tie vote, and the Speaker gave the casting vote against laying on the table. But to my list once more.

The amendment of the Articles of War, so as to make it a high offense for an officer of the Army to return a runaway slave to his owner;

The refusal to make it an offense of like character for an officer to entice away a slave;

The passage of a law recognizing as our equals the negro Governments of Liberia and Hayti;

The passage of a confiscation bill aimed at slavery;

The act authorizing the President to call negroes into the military service of the United States;

The admission of the new State of West Virginia, in violation of the Constitution of the United States, provided she would abolish slavery;

Prohibiting slavery in all the Territories of the United States.

Add to these measures—

The six hundred free negroes sent to the island of Avache, and finally returned after a pleasant excursion at sea at the public expense;

The bill to establish a Freedmen's Bureau, at an immense cost to the Government;

The bill to reconstruct rebel States, in which the negro is to be forever free;

The bill providing temporary territorial governments for seceded States, in which the lands are to be leased to negroes under overseers, and schools are to be established for the negroes;

The proposition to amend the Constitution of the United States, abolishing slavery in all the States where it now exists by law, and forever forbidding it;

The various propositions to increase the pay of the negro soldier, with your manifest indifference about the increase of the pay of the white soldier;

The eulogium of the gentleman from Pennsylvania [Mr. KELLEY] on the life and death of some negro friend of his;

And finally, and to cap the climax of negroism, we have the President's amnesty proclamation, reconstructing rebel States and fixing the qualifications of voters, who are, before being entitled to vote, required to take an oath to support all the proclamations that he—the President—has issued or that he may hereafter issue on the negro question.

Sir, can any man of sound mind look over this list of measures, which is by no means full, and then read the immense volumes of speeches made in behalf of the negro, and not be impressed with the idea that you are more concerned about the

abolition of slavery than you are about the restoration of the Union, or the liberties of the white race on this continent? Indeed, am I not warranted in saying that you would not accept the Union of our fathers to-day if it was tendered to you by the rebels laying down their arms and asking to return? Look at the declarations of some of your ablest leaders. Many quotations might be made from others on that side of the Chamber; but I will take, as a sample, what I think is the sentiment of a large majority of your side of the House. Mr. STEVENS, of Pennsylvania, in discussing the question of the admission of West Virginia into the Union—and he has reiterated the same sentiment at this session—said:

"I will not stultify myself by supposing that we have any warrant in the Constitution for this proceeding. This talk of restoring the Union as it was and under the Constitution as it is, is one of the absurdities which I have heard repeated until I have become sick of it. There are many things which make such an event impossible. *This Union never shall, with my consent, be restored under the Constitution as it is.*"

Hear what my colleague from the burnt district of Indiana [Mr. JULIAN] has said. On the 14th of January, 1862, in a speech on this floor, he is reported to have used the following language:

"Cases may arise in which patriotism itself may demand that we trample on the most vital principles of the Constitution; and this has been done already by the present Administration under the exigencies of the war."

And again, during this session, he made a speech in which he said:

"Now is the time to begin this work; we must not only cut up slavery root and branch, but we must see to it that these teeming regions shall be studded over with small farms, and filled by free men."

And he further adds on the same occasion:

"Should both Congress and the courts stand in the way of the nation's life, then the red lightning of the people's wrath must consume the recreant who refuses to execute the popular will." \* \* \* "Not even the Constitution must be allowed to hold back the uplifted arm of the Government."

These sentiments are expressed by bold and able men; but they are no longer entitled to be called pioneers. They may have been so in days that have passed, but the majority of those with whom they train are up with them now, and many of them a bow-shot ahead.

It is useless to quote any further, for these sentiments and expressions abound and are to be found on almost every page of your Congressional Debates for the past three years.

Now, sir, what I desire to know is this: if a man in the South is a rebel because he sets the Constitution at defiance and refuses to live under it, and will not consent that the Union shall be restored under the Constitution as it is, what then is a man in the North who swears to support the Constitution, and then declares that the Union shall never be restored under it if he has the power to prevent it? I can find you plenty of such cases on this floor. If one man can say that he will not consent that the Union shall be restored under the Constitution for one reason, why cannot another man say the same thing for another and different reason? If the one is a patriot and the other a traitor, what saves the one and damns the other? Is it the saving grace of negro equality?

Sir, I am sick and tired of this constant agitation of the negro subject. The agitation of that question is the Pandora's box from which has come evil, and only evil. I have no hostility to the poor down-trodden African, and if slavery is dead or dying I shall not be a pall-bearer or mourner at the grave. But I have yet to learn that by all your speeches or votes on the subject you have conferred upon the negro one single, solitary, substantial advantage or benefit. You have taken them from happy homes and sent them wandering vagabonds and outcasts to die of starvation, or be huddled like sheep in contraband camps, there to be fed at the public expense, from the sweat and toil of white people. You have determined that the Union shall not be restored until slavery is abolished, and yet you have never been able to tell what you are going to do with the four million blacks when you have liberated them. You will not send them out of the country. Your experiment with the six hundred that I have referred to settles that question.

I am aware that some of you do entertain the idea that you will ultimately exterminate the fight-

ing men of the South, or expatriate them, confiscate their homes and send their families wandering through the country, after which you hope that a new population will take the place of the present occupants and owners of the soil, and then you expect to see the negro population flourish in all the enjoyment of social and political equality. Sir, this idea is as visionary and as baseless as the fabric of a dream. Why, sir, you do not know the people of the South. If you had the power to overrun the entire South with your Army, and exterminate every soldier under arms to-day in the South, and if you could confiscate their lands and give them to the negroes and to Yankee adventurers, do you suppose that you could possess them in peace? Not a bit of it. At every returning ebb and flow of manhood, as the generations grow up, they would fight you, and they would fight you for a thousand years. You may as well dismiss that idea at once. Then what else can you do? Your scheme to colonize them on the Rio Grande will not work. They would at once become the prey of the avarice and cupidity of the white sharks, who will hang about them as office-seekers or missionary agents. The people of the North will not receive them with the view to making them their equals, politically or socially, although the doctrine of miscegenation is beginning to be popular with the abolitionists. Then what next? Mr. Lincoln says, after much fighting and much loss on both sides, and no gain on either, you have the same question before you yet to settle. I may not have given his words, but his ideas and substance I have. Suppose you succeed in forcing the States to liberate their slaves, and you permit them to remain on the soil where they have been born and raised, will not the boasted freedom you give the enfranchised slave after all be merely nominal? Will he not be found in a short time a vassal, a serf, or a peon? To my mind it is clear that he will. There is no philanthropy in your visionary and wicked policy, and the sooner the people see it the better.

Sir, I desire to see this Union restored, and I desire to see it restored on such principles as the South will feel satisfied with, if such a thing is possible. I want no thorns left in the side of the body-politic, but that we may live together as kindred and countrymen should live. I am a plain man, and I represent a plain, honest, and patriotic people—a people whose interest is in the Union, and not out of it. We have been faithful to observe all our constitutional obligations to each and every section of the Union. My people are mainly agricultural, living in the great West, on the Ohio river. They are compelled to have the markets of the South for their surplus produce, and for transportation we are bound to have the free navigation of the Ohio and the Mississippi rivers. The free navigation of these waters is as essential to our material prosperity as the rain that falls on our fertile lands is to the growth of vegetation. And come what may, we never will give up that boon of God to any power on earth while we can float brains, blood, or muscle on the bosom of these great natural thoroughfares.

I have stood by this Administration in all the measures that I have believed would aid in restoring the Union. I have voted to raise men and money for the war. I have voted to lay the burdens of taxation on the people, and my constituents have borne all this uncomplainingly. We have had no other object in view than that the South should be compelled to respect the law and the Constitution. I feel that I have a right to complain when you do not live up to the law and the Constitution yourselves. Sir, who is at fault that we have not put down the armed rebellion, and restored the Union? That now becomes an important question. The fault does not lay with the people, for there never was a people on earth who have supported an administration more faithfully than have the people of the loyal States. The fault is not with the Army, for I maintain that it has accomplished all that it could under the circumstances. It is not the fault of the Democratic party that you have not succeeded, for I put it to you as gentlemen and as men of honor to say whether or not the Democratic party has failed to respond to any call made on them for men or money. Why, sir, in my own State where all have done well, the district the most tardy in responding to the calls for men is the district the most abolitionized—the one represented

here by Mr. JULIAN. It is not because you have not had abundant means under your control.

Let us look for one moment at what you have had of men and money. The calls for men may be found to be about as follows, to which the people have promptly responded:

April 16, 1861.....	75,000
May 4, 1861.....	64,748
From July to December, 1861.....	500,000
July 1, 1862.....	300,000
August 4, 1862.....	300,000
Draft, summer of 1863.....	300,000
February 1, 1864.....	500,000
March.....	200,000
April, for one hundred days.....	100,000
Total.....	2,339,748

This is the aggregate of the calls for men in the Army alone, while the naval service foots up as follows, as shown by the recent reports of the Secretary of the Navy:

Vessels in service and building.....	588
Total tonnage.....	498,000
Number of guns.....	4,443
Number of seamen, July 1.....	34,000

The known cost of all this it is impossible fully to state, but the following figures show the loans and liabilities authorized by various acts of Congress:

Loan of 1842.....	\$242,621
Loan of 1847.....	9,415,250
Loan of 1848.....	8,908,341
Texas indemnity loan of 1850.....	3,481,000
Loan of 1858.....	20,000,000
Loan of 1860.....	7,622,000
Loan of 1861.....	18,415,000
Treasury notes, March, 1861.....	512,900
Oregon war loan, 1861.....	1,016,000
Another loan of 1861.....	50,000,000
Three years Treasury notes.....	139,679,000
Loan of August, 1861.....	400,000,000
Five-twenty loan.....	104,933,103
Temporary loans.....	155,918,437
Certificates of indebtedness.....	114,115
Unclaimed dividends.....	500,000
Demand Treasury notes.....	397,767,114
Legal tenders, 1862.....	104,969,937
Legal tenders, 1863.....	50,000,000
Postal and fractional currency.....	118,000
Old Treasury notes out-standing.....	900,000,000
Ten-forty bonds.....	500,000,000
Interest-bearing Treasury notes.....	
Total.....	\$2,774,912,818

This sum is startling, but it will fall but little short, at the end of this year, of four thousand million dollars; and then I have not taken into the account the immense amounts appropriated by States, counties, cities, towns, townships, and individuals. When the entire sum is estimated, it will be more than one half of all the real and personal property of the loyal States, and fully two thirds of all the arms-bearing men in those States. All this vast sum of money and these vast numbers of men have been under the control of one man. What has he done with the nation's blood and treasure? The proudest monarch on earth never had so much power. What are the results? The money is still flowing and the soldier is still bleeding, and the Union is not saved. Taxation increases \$3,000,000 a day, and the population of the country is being rapidly wasted away by death and disease. Go to the crowded hospitals and look on those emaciated forms who inhabit them in pain, in sorrow, and in despair. Go to the vast fields of graveyards around this city and all over the country, where dead heroes sleep; view the dark horizon of this awful war in all its frightful aspects; and you will begin to comprehend the responsibility which will attach, in the minds of the people and of future ages, to the party, the faithless, profligate, and corrupt party, now in power.

We see the President openly admitting his infidelity to principle. On a recent occasion he says that he has not controlled circumstances, but that circumstances controlled him. We see him apologizing for his flagrant violations of the Constitution on the ground that his usurpations were dictated by necessity. We see him withholding his proclamation, which is forced by military necessity, as he alleges, until he obtains the success for which it was issued. See the letter of the late Owen Lovejoy to William Lloyd Garrison, published in the Boston Liberator, for the truth of what I say. We see the President at the side-shows of this city, where the Constitution and the old Union are discarded by travail-

# THE CONGRESSIONAL GLOBE.

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ing, strong-minded women, who talk not about love and mercy, peace on earth and good-will to man, but about copperheads; all manner of wriggling things compared with Democrats; blood; no compromise with traitors, and no Union as our fathers made it; and at the close of the performance he receives a nomination for the Presidency. His ears are constantly made familiar with the teachings of willful disregard for the Constitution, to such an extent that I feel that it is eminently dangerous. See his excellency, too, giving his official sanction to the speech of a notorious disturber of the public peace of this country, that vile enemy of our Constitution, George Thompson, who has been sent here from England to teach Americans their duty in this great struggle. He spoke in this Hall on the evening of the 6th of April, 1864, to the President and Vice President, and, as far as I have been able to learn, to their entire satisfaction. His speech was reported in the official organ of the President, the *Daily Morning Chronicle*, of this city, on the morning of the 7th, from which I will read an extract or two, to show its character and the character of the man:

"Not only is the North awake, but free! Always a giant, she was long bound by constitutional cords; but now she is free to put forth her strength. No constitutional obligations fetter her. No three-fifths clause sends members to this House to defeat justice and give added power to slavery. No rendition clause now prevents her from fulfilling the divine command. The only domestic insurrection the President is now called upon to put down is that which was hatched in the bosom of the Constitution, against which it now directs its poisoned and malignant fangs; and, in this good work, the people of the North are with him, to sustain and aid him until the entire brood of serpents, copperheads and all, are banished from the soil." [Great cheering.]

"Within the last three or four years it may be said, almost literally, (with regard to the United States,) that a nation has been born again in the cause of freedom. [Great applause.] That noble martyr of liberty, John Brown, [cheers,] the hero of Harper's Ferry, [cheers,] by his magnanimous devotion and death, sent a thrill of new life to the nation's heart of hearts. [Cheers.] The moral electricity of that grand human soul not only galvanized the dead bones of social rottenness in the South, [laughter and applause,] but awakened to new life and to new hope the drooping spirits of the North. [Cheers.] Had it not been for John Brown's immolation on the altar of liberty and patriotism, honest Abraham Lincoln could not have been President of the Union, [cheers,] and thus be enabled to become the second deliverer of the nation. [Cheers.] And had not Mr. Lincoln been elected, the cause of negro emancipation would have gone backward, probably, for half a century. [So! and applause.] It was the time and crisis of the nation's utmost social, political, and moral need, and the providence of God, blessing the efforts of good men, raised up a man who had a heart, a conscience, and a soul above the tricks of politicians and the subtleties of diplomacy." [Cheers.]

He tells the President that had it not been for that old murderer, John Brown, he could not have been elected President. A high compliment to be paid by a hired Englishman to the President of the United States! I wonder that his cheeks did not burn under such compliments from such a source. Sir, he is indeed the creature of circumstances; and if he is honest he is to be pitied. Taking that view of his case, I will commend to him a chapter in the *History of Rome* by Gibbon. That historian describes the character of a wise old prince who had resigned the crown after having faithfully served the people, and who, when in his retirement, in answer to those who desired to see him again on the throne, would repeatedly say:

"It is the interest of four or five ministers to combine together to deceive their sovereign; secluded from mankind by his exalted dignity, the truth is concealed from his knowledge; he can see only with their eyes; he hears nothing but their misrepresentations; he confers the most important office on vice and weakness, and disregards the most virtuous and deserving among his subjects. By such infamous arts the best and wisest princes are sold to the venal corruption of their courtiers."

Is not all that was said by that old Roman true of the President to-day, save the "exalted dignity?" Does he not confer the most important office on vice and weakness? And does he not disregard the most virtuous and deserving? Is merit rewarded by him? Are men not entirely ignored because of their modesty and good breeding, which forbid them thrusting themselves be-

fore him daily? Is he not sold to the venal corruptions of his courtiers? All, and much more, is true.

Mr. Speaker, is the attention of the people not yet arrested nor their anxiety aroused? Are they not startled at the monstrous strides that have been made toward centralized and despotic power? Three years of this Administration have passed over us; three years of mournful and bloody war have been suffered and endured by the people; three years we have been here legislating in the midst of a great military camp; our ears are never relieved from the sound of the drum or the tramp of armed men; and what have we accomplished? By sales of southern lands for taxes, by confiscation, and by a policy for the management of abandoned estates, the Administration and its favored supporters are acquiring the control of the lands of the South, and the Government is attempting to cultivate these lands thus secured to the Government under a system of overseership, adopting slavery by the wholesale, all under the control of executive favor. We have on our statute-book a law suspended but for one year, which taxes real estate of all kinds at the North, with a provision for the forfeiture to the Government of all real estate on which the taxes are not promptly paid. As a matter of course farms forfeited will have to be cultivated, and the system adopted at the South may and probably will be adopted at the North. It will, under this central power, be easy to select that class of labor best suited to the notion of radicals who may prefer the introduction of miscegenation.

The President now controls an army more powerful than the world ever saw. He dispenses a patronage more universal than ever corrupted any people. The enormous sums of money he controls are counted by the thousands of millions, and to make his power absolute a system of national banks is established, centering in the hands of his appointees the custody of millions that are to be used to control the trade, the commerce, and the business of the country.

What more is there to wait for to arouse our fears? If the Administration is seizing the lands, the sword, and the purse, and the enormous patronage and the banking machinery, what more can be added to its power to alarm the people? But we are not allowed to stop at this point. By the President's proclamation, which was delivered with his last message, he assumes the power to reconstruct States, to modify their constitutions, and prescribes the qualifications of voters; a power not exercised by Congress, not allowed but forbidden by the Constitution; a monstrous usurpation of the rights of the States. If all these rights of the States and the people are centralized in one man, and the people acquiesce, what more can I add to define a centralized despotism?

Sir, in my whole course here as a Representative I have been guided by a sincere and earnest sense of duty. I have at all times and under all circumstances endeavored to strengthen and uphold the hands of those who were endeavoring to uphold the Constitution. I came here with high hopes that an enlightened, conservative policy would be pursued that would speedily give us union and peace. This was all that was needed, as I have shown. The people were ready and anxious to do their part. But step by step the prosecution of this war has been loaded by measures of a purely partisan character until now the country is staggering and reeling under their weight like a drunken man. Sir, I shall no longer hope for relief at the hands of the madmen who now rule the ship of State. They are in mutiny against their great commander, the Constitution. They have proven false to all their oaths, to every promise. They have made a mockery of their obligations to law, liberty, and union. They talk much about the life of the nation. They themselves are destroying it with fearful rapidity. They are preying on its vitals like hungry vultures. I turn from them and their party insanity in this hour of our deepest peril to their master

and sovereign as well as mine—the people. In them I yet have faith. I yet believe in man's capacity for self-government. But if the people would preserve republican institutions in this land, if they would bequeath liberty to their children, if they would save the dear and blessed Union of our fathers, let them awake at once to the dangers which are upon us. There is not an hour to lose. If this summer be past and our Union is not saved we may look for a day of darker gloom than ever settled down on any nation. Financial ruin, anarchy, and civil commotion in the North, popular discouragement and discredit and chaos everywhere. If this miserable fate is to be avoided it can only be done by a change in the administration of our public affairs. My hope and trust and prayer to God is that the people will be warned by the fatal calamities that are just impending over them, and that they will rally to the rescue; that they will in November next elevate to the Chief Magistracy one who loves his country above party, who loves his own race better than the inferior African, who cherishes liberty regulated by law, and who, when he has taken the oath to support the Constitution of the United States, will not repudiate it with mockery and jest whenever his partisan schemes require it.

There must, in my candid judgment, be a change, or ruin and disaster will as certainly overwhelm us as that darkness follows the light when the sun has disappeared at night. I speak not as a partisan. I have no feeling except to save my country. I can safely appeal to my whole course on this floor and at home before my constituents in confirmation of that fact. But my confidence in the salvation of this country by the party now in power is all gone. Whatever of hope I have left, lies in a free ballot-box and an intelligent and virtuous people. I will trust to a brave army in the field. They may be wielded by wicked, political aspirants for a brief season, but they will not at last, when the truth reaches them, fail to see the true issue. They went to fight for the Union, and the Union alone. They love their country, and their whole country, and nothing else in this contest. They want no side issues. They did not go into the Army to elevate the negro, make him a voter, and place him on an equality with themselves, at the expense of their own blood so freely shed on so many fields of battle. Let the soldier have light on these questions and I do not fear the result. I feel that I have a right to speak thus for the soldier, for no one has ever dared to question my devotion to his interest, here and everywhere. Those who have gone to the field from my district and State without regard to party have been followed in an especial manner by my love and care.

I would call then upon the people, I would call upon the Army, I would call on all honest men everywhere, I would call on the Lord to combine, if it is His will, all the elements of national strength for the good of the country and the preservation of the Union. It is in danger from traitors North and South. There are false men in power in Washington as well as in Richmond. Let them all be crushed in both sections and the day of our deliverance will soon dawn. I am determined to stand on the deck of the old ship while there is a plank above the waves. I have spoken freely and candidly my views on the issues that now face us, and I have spoken on the very eve of that great battle which is to shake the world to its center. The long roll is about to sound in camp on the Rapidan, if it has not this day sounded, which will call the three hundred thousand warriors that are now waiting on their arms to the work of death. May God direct the issue for the good of humanity, and save the country.

Mr. PERHAM obtained the floor, but yielded to

Mr. BOUTWELL, who moved that the House adjourn.

The motion was agreed to.

The House accordingly (at ten o'clock and twenty minutes p. m.) adjourned.



## IN SENATE.

TUESDAY, May 3, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.  
The Journal of yesterday was read and approved.

## PETITIONS AND MEMORIALS.

Mr. COWAN presented a memorial of agriculturists, miners, and manufacturers of Pittsburgh, Pennsylvania, praying for the enactment of suitable laws for the encouragement of foreign immigration; which was referred to the Committee on Agriculture.

Mr. POMEROY presented the memorial of Francis A. Gibbons and F. X. Kelley, praying to be reimbursed for money alleged to have been advanced and materials furnished in the construction of light-houses in California and Oregon in the year 1853; which was referred to the Committee on Claims.

Mr. SUMNER presented a petition of men and women of Hartford, Oneida county, New York, praying for the abolition of slavery, and for such an amendment of the Constitution as will forever prohibit its existence in any part of the Union; which was referred to the select committee on slavery and freedmen.

Mr. HARLAN presented a petition of men and women of the United States, praying for the abolition of slavery, and for such an amendment of the Constitution as will forever prohibit its existence in any part of the Union; which was referred to the select committee on slavery and freedmen.

Mr. FOSTER presented the petition of Mary C. Hamilton, widow of Captain Fowler Hamilton, United States Army, deceased, praying for a pension; which was referred to the Committee on Pensions.

Mr. WILSON presented a memorial of medical officers in the United States service, praying for an increase in the rank and pay of medical directors of Army corps and of surgeons serving under bonds as medical purveyors, equal to that of chief quartermasters and commissaries of Army corps; which was referred to the Committee on Military Affairs and the Militia.

Mr. WILLEY presented the petition of Frederick Bauer, in behalf of the German Evangelical church, of Martinsburg, Virginia, praying for compensation for the loss of their house of worship, alleged to have been burned while being used by Union soldiers; which was referred to the Committee on Claims.

Mr. JOHNSON presented a memorial of the Board of Trade of Baltimore, Maryland, remonstrating against the abrogation of the reciprocity treaty between the United States and Great Britain; which was referred to the Committee on Commerce.

He also presented a memorial of the Board of Trade of Baltimore, Maryland, praying for the establishment of steam lines between the United States and the most important commercial marts of the world; which was referred to the Committee on Post Offices and Post Roads.

## REPORTS FROM COMMITTEES.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 177) to authorize the construction of a street railway in the District of Columbia, and for other purposes, reported it adversely.

Mr. HARLAN, from the Committee on Public Lands, to whom the subject was referred, reported a bill (S. No. 264) for the disposal of coal lands, and of town property in the public domain; which was read and passed to a second reading.

He also, from the same committee, to whom were referred the amendments of the House of Representatives to the bill (S. No. 160) granting lands to aid in the construction of certain railroads in the State of Wisconsin, reported a recommendation that the Senate agree thereto. The Senate proceeded to consider the amendments of the House of Representatives; and they were agreed to.

Mr. HENDERSON, from the Committee on the District of Columbia, to whom was referred a bill (H. R. No. 383) to incorporate the "home for friendless women and children," reported it adversely.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a motion to print the petition of George B. Simpson, inventor of

the submarine telegraph cable insulated with gutta percha, praying that he may be remunerated for his invention, or that the Commissioner of Patents may be authorized to rehear his claim, and adjudicate it upon its merits, reported adversely thereon.

## ARMY APPROPRIATION BILL.

Mr. FESSENDEN. The Committee on Finance, to whom was referred the action of the House of Representatives on the Senate amendments to the bill (H. R. No. 198) making appropriations for the support of the Army for the year ending June 30, 1865, have instructed me to move that the Senate agree to the amendment of the text of the original bill proposed by the House of Representatives, which is the substitution of one word for another which entirely changes the sense, the word "Army" having been inserted in a clause of the original bill in place of "arms," which would limit the operation of the appropriation very much, and embarrass the Department. In regard to the amendments of the Senate, in one of which the House of Representatives non-concurs, the committee recommend that the Senate insist on its original amendment. Then there are several amendments concurred in with amendments. The committee recommend that the Senate disagree to these amendments of the House of Representatives, insist on our amendments, and ask for a conference on these subjects.

The PRESIDENT *pro tempore*. The first question will be on agreeing to the amendment proposed by the House of Representatives to the original text of the bill, which is on page 7, line eight, to strike out "Army" and insert "arms," and to insert a comma after "accouterments."

The amendment was agreed to.

The PRESIDENT *pro tempore*. It is further moved that the Senate disagree to the amendments of the House of Representatives to its own amendments, and insist on its own amendments, and ask for a conference on the disagreeing votes of the two Houses.

The motion was agreed to.

The PRESIDENT *pro tempore*. How shall the committee be appointed?

Mr. FESSENDEN. By the Chair.

The PRESIDENT *pro tempore*. That course will be pursued if there be no objection. The Chair hears none.

Mr. FESSENDEN, Mr. WILSON, and Mr. HENDERSON were appointed conferees on the part of the Senate.

## BILL INTRODUCED.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to bring in a bill (S. No. 265) to expedite and regulate the printing of public documents, and for other purposes; which was read twice by its title, and referred to the Committee on Printing.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had agreed to the amendment of the Senate to the bill of the House (No. 360) for the prevention and punishment of frauds in relation to the names of vessels.

The message further announced that the House of Representatives had agreed to the amendments of the Senate to the amendments of the House to the bill of the Senate (No. 31) making a grant of lands to the Lake Superior and Mississippi Railroad Company in the State of Minnesota to aid in the construction of the railroad of said company from St. Paul to Lake Superior.

The message further announced that the House of Representatives had passed the following bills and joint resolutions; in which it requested the concurrence of the Senate:

A bill (No. 193) for the benefit and better management of the Indians;

A bill (No. 222) to extinguish the Indian title to lands in the Territory of Utah suitable for agricultural and mineral purposes;

A bill (No. 414) for the relief of the estate of B. F. Kendall;

A bill (No. 425) for the relief of the Wea, Peoria, Kaskaskia, and Piankeshaw Indians, of Kansas; A bill (No. 441) providing for the removal of certain stray bands of Indians from the State of Wisconsin;

A bill (No. 442) to authorize the President of the United States to negotiate with certain Indians of middle Oregon for a relinquishment of certain rights secured to them by treaty;

A joint resolution (No. 71) for the relief of Thomas J. Galbraith, of Minnesota; and

A joint resolution (No. 72) relative to pay of staff officers of the Lieutenant General.

The message further announced that the House of Representatives had passed a resolution requesting the Senate to return to the House the bill (No. 159) for a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of a railroad in said State, and for other purposes, for the purpose of correcting an error in the engrossment of the bill.

## ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills; which thereupon received the signature of the President *pro tempore*:

A bill (S. No. 198) to aid the Indian refugees to return to their homes in the Indian territory;

A bill (H. R. No. 220) to vacate and sell the present Indian reservations in Utah Territory, and to settle the Indians in the Uinta valley; and

A bill (H. R. No. 360) for the prevention and punishment of frauds in relation to the names of vessels.

## HOUSE BILL RETURNED.

The Senate proceeded to consider the resolution of the House of Representatives requesting the return of the bill of the House (No. 159) for a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of a railroad in said State, and for other purposes; and

On motion of Mr. HARLAN, it was

Ordered, That the Secretary be directed to return the said bill to the House of Representatives agreeably to its request.

## HOUSE BILLS REFERRED.

The following bills and joint resolutions from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 377) making appropriations for the payment of the awards made by the commissioners appointed under and by virtue of an act of Congress entitled "An act for the relief of persons for damages sustained by reason of the depredations and injuries by certain bands of Sioux Indians," approved February 16, 1863—to the Committee on Finance.

A bill (No. 193) for the benefit and better management of the Indians—to the Committee on Indian Affairs.

A bill (No. 222) to extinguish the Indian title to lands in the Territory of Utah suitable for agricultural and mineral purposes—to the Committee on Indian Affairs.

A bill (No. 414) for the relief of the estate of B. F. Kendall—to the Committee on Indian Affairs.

A bill (No. 425) for the relief of the Wea, Peoria, Kaskaskia, and Piankeshaw Indians, of Kansas—to the Committee on Indian Affairs.

A bill (No. 441) providing for the removal of certain stray bands of Indians from the State of Wisconsin—to the Committee on Indian Affairs.

A bill (No. 442) to authorize the President of the United States to negotiate with certain Indians of middle Oregon for a relinquishment of certain rights secured to them by treaty—to the Committee on Indian Affairs.

A joint resolution (No. 71) for the relief of Thomas J. Galbraith, of Minnesota—to the Committee on Indian Affairs.

A joint resolution (No. 72) relative to pay of staff officers of the Lieutenant General—to the Committee on Military Affairs and the Militia.

## CONSTITUTIONAL QUORUM.

Mr. HOWE. I move that the Senate resume the consideration of the unfinished business of the morning hour of yesterday.

Mr. SHERMAN. I am very anxious to obtain the decision of the Senate on the question of a quorum in order to expedite business; and that is a privileged question, according to the decision of the late Presiding Officer of the Senate. I trust the Senator from Wisconsin will allow me to submit a motion that the Committee on the Ju-

diciary be discharged from the consideration of the resolution concerning a quorum of the Senate, and that we may settle that question this morning. I do it simply to expedite business. I think if we adopt that resolution it will enable the Senator to get rid of his bill much better, and enable us to dispose much better of all the business of the Senate. I will submit that motion, with his consent.

Mr. HOWE. Very well.

Mr. FOSTER. Before the question is taken, I simply wish to say that that resolution has been considered in the Committee on the Judiciary, and that an expression of opinion adverse to its passage has been expressed by a majority approaching to unanimity in the committee. At the last meeting of the committee prior to the absence of the chairman in consequence of the ill health of his family it was discussed, and as it was not supposed that the Senate were in special haste in regard to the matter it was laid by until another meeting of the committee, which will occur tomorrow.

Mr. SHERMAN. In making the motion I did not wish for a moment to reflect on the Judiciary Committee. I knew that the chairman of the committee was detained from the Senate by sickness in his family; I believe by the death of one member of his family and the sickness of another; and another member of the committee is also absent. I therefore made the motion in order to expedite the business of the Senate, without any desire to trouble the Senate with any longer discussion on the subject.

The motion was agreed to.

Mr. SHERMAN. I offered a series of resolutions which were referred to the committee. I ask for the reading of the first resolution, which is the only one upon which I now desire action. I do not wish to delay the Senate by taking up the others.

The PRESIDENT *pro tempore*. The first question will be on postponing all prior orders and taking up the resolution for consideration.

The motion was agreed to; and the Senate proceeded to consider the following resolution, submitted by Mr. SHERMAN on the 7th of March last:

*Resolved*, That a quorum of the Senate consists of a majority of the Senators duly chosen or qualified.

Mr. SHERMAN. I will read the clause of the Constitution upon which this whole matter turns. It is the first clause of the third section of the first article:

"The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote."

The only question is whether a quorum of the Senate consists of a majority of those duly chosen by the Legislatures of the States, or whether it consists of a majority of all who by possibility may be elected members of the Senate. I think the grammatical construction is perfectly plain. The Senate is to consist of "two Senators from each State, chosen by the Legislature thereof;" but until a person is chosen by the Legislature he is not a Senator and cannot be counted. The grammatical construction is so plain that I cannot add to it. Can a man be a Senator until he is chosen by the State Legislature? That is all I wish to say about the grammatical construction.

As regards the precedents, they have been both ways. The honorable Senator from Vermont, [Mr. FOOT], in the very able argument that he made on this subject during the last Congress, introduced most of the precedents. I am not going over those precedents, but of the first two precedents that were introduced by him, one was for and the other against his position. I have them now before me. The second one I will read:

"January 4, 1790. There being twelve States entitled to twenty-four members, of whom twelve appeared on 6th January; and were considered a quorum."

Twelve are not a majority of twenty-four, but they were considered a quorum.

"But it is supposed that the seat of one of the Senators of Virginia [Mr. Grayson] had been vacated by his death, the date of which is not stated, but his successor was appointed 31st March, 1790."

Showing that in this case, the second time the question ever came before the Senate, a majority of those elected were considered a quorum. As twenty-four was the number that could be elected,

twelve were considered a quorum. There being one vacancy, the number was reduced to twenty-three, and twelve were a majority of those elected.

But again, the Constitution uses precisely the same language in regard to the House of Representatives. The first clause of the second section of the first article provides:

"The House of Representatives shall be composed of members chosen every second year by the people of the several States," &c.

The language is precisely the same; but the House of Representatives have definitely settled this matter. Upon an appeal from the decision of the Chair, by an almost unanimous vote they have declared that the majority of those chosen or elected members of that House constituted a quorum. Here is the action of the House of Representatives upon precisely the same language, which is a precedent to some extent.

But I think the Senate decided this question substantially for itself by a very important vote, to which, by the way, the chairman of the Judiciary Committee called my attention, and told me it would probably influence his vote on the subject; and that is a vote which was taken on the 2d of March, 1861. It will be remembered that Congress at that time passed a resolution proposing a certain amendment to the Constitution of the United States. When that resolution was under consideration in the Senate, the point was made by the Senator from Illinois [Mr. TRUMBULL] that it required two thirds of the whole Senate to concur in the proposed amendment.

"Mr. TRUMBULL raised a question of order whether, the joint resolution being a proposition to amend the Constitution of the United States, it did not require an affirmative vote of two thirds of the members composing the Senate."

The language of the Constitution upon which this point was raised is this:

"The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution," &c.

The question was, whether "two thirds of both Houses" did not require two thirds of all that could by possibility be in the Senate or House of Representatives. The point was distinctly raised, and the Senate by an almost unanimous vote—by a vote of 33 yeas to 1 nay—decided that it only required two thirds of those present.

I say then, Mr. President, on the ground of grammatical construction, on the ground of precedent, and I might add on the ground of necessity, the construction I put upon the Constitution is the plain one. The framers of the Government never intended that their schemes should be broken up and this Government disorganized by the absence of the representatives of some of the States caused by death, secession, or anything of that kind. We are now just in that critical condition when we cannot call for a division on a question. We are afraid to call for a division, we are afraid to take the sense of the Senate, for fear we shall be left without a quorum. At five o'clock last night on the passage of an important bill we were left without a quorum. Under these circumstances I deem it my duty to bring the question to the attention of the Senate with the hope that we may now have a vote upon it.

Mr. FOSTER. I am not about to detain the Senate from the vote which the honorable Senator from Ohio wishes to have taken. I expressed my views briefly on this subject at a former session, and am not now disposed to repeat them. They would not be strengthened by repetition. I may be wrong certainly (and when I differ from the honorable Senator from Ohio perhaps the presumption is that I am wrong) in my construction of the Constitution. The general ground, however, on which he puts it, to wit, the necessity of the case, I submit to him with great confidence does not by any means exist, nor will the change of the quorum obviate the evils of which he complains. He says that we adjourned last evening at five o'clock for want of a quorum. It is true; but there were several members either in the Capitol or within call of the Capitol at the time. We have a few times during this session been compelled to adjourn for want of a quorum, and but a very few times only—fewer either this session or the last for that reason than any previous session since I have been a member of the Senate. Since our members have been diminished we have had what I deem a constitutional quorum present during a longer period of each day than at any

period prior to our diminution of numbers by the failure of States to elect Senators.

If we make the change asked for by the Senator from Ohio, what will be the consequence? A smaller number will make a quorum; what then? Every member will then feel, what he does not now feel, that he may be away from his seat in the Senate, not perhaps absolutely with impunity, but still he can go without the risk which attaches to him if he goes now. A heavy responsibility is now felt by every Senator for himself, if he be qualified as our States have said we are qualified for seats in this body, but he will feel that responsibility diminished when this change is made, and he will not be by any means as likely to be in his seat as he now is, and we shall have fewer members present than we have now. In my judgment it will be more difficult to obtain a quorum when the quorum is reduced to the number which the Senator from Ohio says is the proper constitutional quorum than it is now. It will be more troublesome to find that number here on a vote than it is to find the constitutional number under the present rule on a vote now. The more the responsibility is divided the less it is felt. On that ground, therefore, if there were no other, I should insist upon following the rule which I believe has been uniformly adhered to from the foundation of the Government, unless possibly there may be one or two exceptions, fixing the quorum on the principle I contend for, at the number which it is now held to be. I will not, however, as I suggested, occupy the time of the Senate.

Mr. DAVIS. I will respectfully suggest to the honorable Senator from Ohio that he make this subject the special order for some early day, when it can receive more consideration than it can receive this morning.

Mr. SHERMAN. In reply, I will only say that this whole question depends simply upon the construction of two clauses of the Constitution, and it has been now before the Senate for three years. I have not pressed it. It has been discussed and conversed about a great deal, and I believe the Senate are ready to vote upon it. I think the adoption of this resolution will expedite our business, and at the same time we shall come to the correct constitutional rule. It is due to the Senate that we should settle the question one way or the other at once. If the Senate decide against it now I shall never bring the question up again. All I want is to have the vote of the Senate upon it.

Mr. DAVIS. I do not make the suggestion from any desire to protract or put off unnecessarily or wantonly the consideration and decision of this question; but it strikes me that it is one of the most important that has ever come, or can ever come, before Congress. I am aware that it has been discussed heretofore. I listened with great pleasure and instruction to the elaborate and able speeches of the Senator from Vermont [Mr. FOOT] and the Senator from Connecticut [Mr. FOSTER] on this subject during the last Congress. I think it important to every member of the Senate, whether he heard those debates or not, and especially to the new members of the Senate who have taken their seats in the body since those debates took place, that they should be reproduced; that the able and satisfactory reasons against this proposition presented in those debates by the gentlemen whom I have named, as well as others, should be again presented to the Senate. I do not desire to have the discussion protracted. I should be perfectly willing to hear a few gentlemen who have investigated and who understand the subject present their views, and then, so far as I am concerned, that the Senate shall take a vote upon it. But to press to a vote this morning, on a few minutes' consideration, so important a question as this, involving the number of Senators that under the present condition of circumstances may constitute a quorum to do business, it seems to me would be precipitating one of the most important inquiries in which this body can be engaged. I suppose no gentleman expected this subject to come up for debate this morning, unless it was the gentleman from Ohio.

Mr. SHERMAN. I gave notice of it yesterday.

Mr. DAVIS. I am aware that the gentleman called it up yesterday; but I had not myself thought that it would be brought up for debate this morning. If the gentleman will consent to

let it go over until to-morrow morning, I shall have no objection to its consideration then and to a prompt decision of the question by the Senate. My object is not delay; but I merely want the arguments for and against this important proposition again reproduced and presented in a concise form to the Senate and the country. I suggest that it be postponed to and made the special order for to-morrow at a quarter after twelve o'clock.

The *PRESIDENT pro tempore*. Does the Senator from Kentucky submit that motion?

Mr. DAVIS. Yes, sir; I move that the further consideration of the resolution be postponed to and made the special order for to-morrow at a quarter after twelve o'clock.

Mr. SHERMAN. I am never disposed to press any gentleman to a vote on a question when he is not prepared for it; and at the suggestion of some Senators around me, with the understanding that the resolution be made the special order for to-morrow at half past twelve o'clock, I will consent to a postponement.

Mr. HOWE. The motion of the Senator from Kentucky is to postpone it until a quarter after twelve o'clock to-morrow.

Mr. SHERMAN. I am perfectly willing to agree to that; but I hope we shall then dispose of the subject.

The motion was agreed to.

#### CLAIMS OF WISCONSIN.

Mr. HOWE. I now move that the Senate proceed to the consideration of the unfinished business of the morning hour of yesterday.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to the consideration of the joint resolution (S. No. 8) for the relief of the State of Wisconsin, the pending question being on the adoption of the amendment reported from the Committee on Public Lands.

Mr. FESSENDEN. Mr. President, I do not suppose it is possible to call the attention of Senators to this question, although it involves a great deal of money. I noticed yesterday when the honorable Senator from Indiana [Mr. HENDRICKS] was speaking, that, with the exception of the Senators from Wisconsin, I believe I was the only Senator who attended to what he said, so that the argument on that side of the question was not heard, and I presume this will fare no better. Still, I feel inclined to do what I can to call the attention of the Senate to it a little further.

It is true that the Territory of Wisconsin organized a company to open a canal to connect the waters of Lake Michigan with those of Rock river; and that company was authorized to apply to Congress to get a grant of land for the purpose of aiding in opening that canal. The Congress of the United States, it seems from the act granting this land, were of opinion that it was advisable to do it for the benefit of the United States, as well as for the benefit of the canal company itself. They expected to derive a benefit from it in two ways: first, in having the canal for use; and in the next place, probably, in increasing the value of their land. They granted, therefore, the alternate sections of land, and made these provisions:

"Provided, That the said canal, when completed, and the branches thereof, shall be and forever remain a public highway, for the use of the Government of the United States, free from any toll or other charge whatever for any property of the United States, or persons in their service, passing through the same: *Provided*, That said main canal shall be commenced within three years, and completed in ten years, or the United States shall be entitled to receive the amount for which any of said land may have been previously sold, and that the title to purchasers under the Territory shall be valid."

Thus the United States parted with the land and made a provision to secure to themselves the results of the sale of the land if the canal was not completed within ten years. It seems from these two provisos that the United States were induced to grant these lands for the benefit that they expected to derive in using the canal free for their own purposes, and made it a condition that they should receive back the money for which the lands might be sold if the canal was not commenced within three years and finished within ten. Then, in the sixth section, they further provide:

"That the said State of Wisconsin"—

Not yet a State at that time—

"shall be held responsible to the United States, and for the payment into the Treasury thereof, of the amount of all moneys received upon the sale of the whole or any part of

said lands, at the price at which the same shall be sold, not less than \$2.50 per acre, if the said main canal shall not be commenced within three years and completed within ten years, pursuant to the provisions of the act creating said canal corporation."

And then came the seventh section:

"That, in order to render efficient the provisions of this act, the Legislature of the State to be erected or admitted out of the territory now comprised in Wisconsin Territory, east of the Mississippi, shall give their assent to the same by act to be duly passed."

It is contended here that as the State of Wisconsin never did give its "assent to the same by act" of the Legislature, it is therefore not at all responsible, and the report is predicated upon that idea. The simple facts as I understand them were these: the Territory of Wisconsin became under that act substantially the trustee of these lands; it went on and made sales; individuals connected with the corporation put into the work a certain amount of their own funds; they were to receive the benefit. It seems, however, from the statements made, about which there is no dispute, that after a while the Territory became rather tired of the business and was disposed to appropriate these lands to its own use to stop the operation, and a petition was sent to Congress substantially to that effect, but Congress under a report—a very able one, as has been properly said—made by the present Senator from Michigan, [Mr. HOWARD,] then a member of the House of Representatives, which demonstrated the injustice of that proceeding so far as the canal was concerned and those who were interested in its construction, decided against that application, and the project fell through. The territorial authorities, however, according to the statement, about which I suppose there is no dispute, went on and sequestered the proceeds of these lands, so far as the sales were concerned, to the use of the Territory, but they did it under certain resolutions passed by them which are stated at length in the report. I will read them:

"Resolved by the Council and House of Representatives of the Territory of Wisconsin, That the receiver of the canal lands shall pay over to the treasurer of the Territory all moneys which may arise from any sale of the canal lands, except the sum which shall be required to defray the expenses of the sale, and the said treasurer is hereby authorized to receive the same; and the said treasurer of the Territory of Wisconsin is hereby required to execute to the Governor of the Territory and his successors in office, for the use of the Territory or future State of Wisconsin, a bond in the penal sum of \$50,000, to be approved by the Governor, conditioned for the faithful discharge of his duties as treasurer.

"Resolved, That the money thus received into the treasury of the Territory shall be liable for all debts due from said Territory, and the said treasurer is hereby authorized to pay and discharge the same in the same manner and for the same purposes as any other money in said treasury.

"Resolved, That the money so received shall be liable to be, and so much thereof as shall be necessary is hereby, appropriated to the payment of the expenses of holding the convention to form a constitution for the State of Wisconsin the current year, and may be paid out in such manner as the convention shall provide.

"Resolved, That the faith of the Territory and future State of Wisconsin is hereby pledged to repay to the said canal fund the sum which shall be diverted in pursuance of the above resolutions to the purposes aforesaid, whenever the same shall be required to be repaid, for the purpose of executing the trust created by Congress in making the 'canal grant,' and all laws contravening these are hereby repealed."

The report and the remarks made by the honorable Senator from Indiana draw a distinction between the Territory and the State of Wisconsin. They assume that the State is not liable under the act of 1838, because it never passed the act assuming this obligation on which alone it was to be liable. That may dispose of the obligation technically under the sixth section of that act; but then the question arises what the equitable claim is first between the State which has received these funds and the Congress of the United States; and then, what the obligation is between the corporation and Congress, representing the Government, which has parted with its party for a specific purpose. I am unable, so far as this equitable obligation is concerned, to see the distinction that is attempted to be drawn in the argument of the honorable Senator from Indiana, between the Territory and the State. With a change of name, it is the same person. The money was received by the Territory and went to the benefit of the Territory; consequently it went to the benefit of the State when the State became such, and the distinction that is attempted to be drawn, although it may apply to the technical law, is very misplaced, so far as it applies to the equity of the case, I think.

I cannot on any principle understand how the State which was made out of the Territory, and which has through the Territory received all the benefits of the fund, is to be distinguished from the Territory itself. It is introducing what to me would seem to be a new principle. It may be illustrated in this way: if I incur a pecuniary obligation by the receipt of money belonging to another person, and go to the Legislature and get my name changed, the equitable obligation remains on me no longer to pay the money, according to the argument! I cannot understand the force of it. But here in these resolutions under which this fund was appropriated and perverted to other purposes, taken out and used, is a specific obligation to pay back to the canal fund the money that they thus perverted—for what purpose? because that is left out of the argument of the honorable Senator from Indiana—for the purpose of executing the trust; that is, completing the canal, and not to appropriate it for any other purpose, or to repay it for any other purpose.

I am merely stating the facts, and all the arguments, in my judgment, arise on the facts stated. Then the question arises: this money having been thus appropriated, Wisconsin applied to be admitted as a State, and in her application to be admitted as a State she asked permission to sell the portion of these lands which were unsold, and to use the proceeds for certain specific purposes, and to have them counted as a part of her five hundred thousand acres of land granted by the act of 1841, and to appropriate the five per cent. fund for the use of schools. Congress was asked to assent to that arrangement and Congress gave its assent. It was a petition of the State itself that it might be so, as one of the articles of admission. What did Congress say? They say they do assent to it, but they say in assenting:

"Provided, That the liabilities incurred by the territorial government of Wisconsin under the act entitled 'An act to grant a quantity of land to the Territory of Wisconsin for the purpose of aiding in opening a canal to connect the waters of Lake Michigan with those of Rock river,' hereinbefore referred to, shall be paid and discharged by the State of Wisconsin."

Now, the argument is that when we passed that, all the obligation that was upon the Territory was simply to repay the amount of money that might be due to the canal company, to repay what they had advanced; that whatever the individual stockholders had put in should be repaid to them, and that they should be freed entirely from the obligation to complete the canal; that no one was to account to the Government for the money received from the sale of the lands, when the express language of the resolution of the Territory was that the fund diverted should be repaid for the purpose of completing the contract that was entered into; and now the State of Wisconsin having received the money, having sold the land, having put the money into her treasury, comes forward here and says substantially: "The obligation of the Territory was just to make good to these stockholders what they may have expended, and to make nothing good to the Government of the United States, arising from the fact that the canal has never been completed."

The *PRESIDENT pro tempore*. The Chair must interrupt the Senator to call up the unfinished business of yesterday, which is now before the Senate.

Mr. HOWE. What is the unfinished business?

The *PRESIDENT pro tempore*. The unfinished business is the joint resolution appropriating \$25,000,000 to pay for one hundred days' volunteers.

Mr. FESSENDEN. I think it is hardly worth while to defer that; I suppose we can take a vote on it at once.

Mr. HOWE. Let this be settled. I move to postpone the unfinished business.

Mr. FESSENDEN. I have not the slightest objection to going on, and so far as I am personally concerned I should prefer to finish what I have to say now; but in regard to the question which was up yesterday on which we were taking the yeas and nays and the Senate were dividing on the main question, I think it is best to settle that.

Mr. HARLAN. I would prefer that the Senator from Maine be permitted to make his argument, but I do not wish the vote to be taken on the main question to-day. I desire to examine



the joint resolution as I have not yet had an opportunity to do, and I therefore move that the previous order be passed over informally until the Senator from Maine concludes his remarks.

The PRESIDENT *pro tempore*. That order will be made, if there be no objection. The Chair hears none. The Senator from Maine will proceed.

Mr. FESSENDEN. I desire to add nothing in reference to this matter, but to state the facts as I understand them, because I think they present a case that it is really impossible to have any misunderstanding about. Bear in mind the argument of the Senator from Indiana is founded upon the idea that the faith of the Territory and the future State of Wisconsin, when they took this money, was only pledged to make good what might be lost by the stockholders of the company, but the pledge is that it shall be repaid "for the purpose of executing the trust created by Congress." What other interest had Congress in making this large grant of land than to have the trust executed, than to have the canal made for the general benefit? That is all the interest Congress had in it. It gave this land under specific conditions, and for that single and sole purpose, so far as Congress was concerned, that the United States might have the benefit of the canal; and when the Territory, which was the trustee, appropriated the money it was under that specific pledge to repay it all, (because it could give a good title to the lands,) for the purpose of executing the trust; and when the State of Wisconsin came in the provision was that "the liabilities incurred by the territorial government of Wisconsin, under the act entitled 'An act to grant a quantity of land to the Territory,' &c., shall be paid and discharged by the State of Wisconsin." Although the State of Wisconsin never passed an act to accept the liability imposed by the sixth section of the act of 1838, she took the money and put it into her treasury; and I contend that under any state of circumstances that is an equitable waiver, and when she comes to us, the party that granted the money, and asks us to give it to her simply because she did not accept that act, I think we may first say to her, "If you ask us to refund, we insist that you perform the obligation which you ought to have assumed by the act of your Legislature before we do it."

That, then, is the simple state of the case as it stands on the action of the several bodies in relation to the matter as I understand it. When the State of Wisconsin was admitted, the usual grants were made of five hundred thousand acres of land for general purposes, and also five per cent. of the proceeds of the sales of public lands. The canal never was completed; the State of Wisconsin appropriated the money; the affair broke down; the ten years expired. It is nearly twenty years since the State was admitted, and more than twenty years since the grant was made. Nothing has been done; the canal has been abandoned; the Government has derived no benefit from it. May not the Government well assume, when acting with the Territory of Wisconsin, which sold this land, and with the State of Wisconsin which has received the benefit of it, and which has assumed the obligations of the Territory, that they would see that the trust was executed? I apprehend that was the natural conclusion to which the Government of the United States must come. But the argument is, that inasmuch as the United States allowed the State of Wisconsin to put itself in the place of the Territory without passing an act of the Legislature on the subject, therefore, notwithstanding the Government have derived no benefit, they are substantially to lose the benefit of the lands which they had thus given. It is said, and a large portion of the argument of the honorable Senator from Indiana has been predicated upon this idea, that it would be very unfair, and he has argued it at length, to take this money away from those individuals who are entitled to receive a certain portion for what they had expended, as it has been misappropriated. There is no dispute about that. The only question is, who shall pay them? We say that the State of Wisconsin having misappropriated the money, having taken it to herself, put it into her treasury, stopped the work, not completed it, shall do what was said to be her bounden duty, make good the loss to the stockholders, and pay the price of the lands which she

has received to the United States. But the State of Wisconsin says, "No, they shall be paid out of the proceeds of the lands estimated at one half the value fixed in the original act," which is \$1 25 instead of \$2 50 an acre.

The Milwaukee and Rock River Canal Company put in a certain amount of their own funds unquestionably into this work. The Territory of Wisconsin misappropriated this money and prevented their going on with the work and deriving a benefit from it; but when they did so they said, by the very resolution which they passed in order to accomplish it, that it was their duty to pay these men back this money for the purpose of completing the work, certainly within the time limited—ten years—and hand it over to them, so that it might be done and they might get the benefit of the grant. Then they came to Congress, as I said before, and petitioned Congress to allow them to appropriate it to other purposes. Congress said, "You may appropriate it to other purposes provided you assume all the obligations of the Territory;" that is to say, to hand over this money so as to have the canal completed within the ten years. And now, because Congress agreed to that proposition of the State of Wisconsin the State of Wisconsin comes forward and says, "You waived all your rights against us, and are no longer entitled to call upon us to do anything, but we will appropriate this money to a certain extent." This resolution is very curiously drawn. It is not drawn upon the principles of the report at all; because, if the State of Wisconsin is correct in the position that we waived our rights the whole of this fund should be given up. Of that I do not propose to speak.

But the main question is here: the Territory of Wisconsin took this money and agreed when they took it to pay it over for the purpose of completing the canal; the State of Wisconsin agreed by a proviso to the bill admitting the State into the Union to assume all these obligations; they did not perform the obligation; the canal was not built; and now the State comes forward and says, "It is your duty to pay all these advances and losses of this company out of this very fund which, by our obligation, we ought to pay back to you, never having completed the canal at all." That is the simple proposition, as I understand it; and if anything more or less can be made out of it, I should like to hear it done.

Let us look a little at the logic of this report:

"The next question that arises is, what are the obligations in equity on the part of the United States and of the State of Wisconsin toward the canal company growing out of the grant of lands for the benefit of that company? The company was organized under the hope of obtaining the land grant. That hope was excited by the provisions of the act of incorporation, and was realized in the grant. The grant was unimpaired, and, in connection with the stock subscriptions, was at the time believed to be sufficient to secure the completion of the canal. In the event of the construction of the work, the stock of individual subscribers would have been of value. Induced, no doubt, by the expectation of receiving dividends, or that the State, pursuant to the provisions of the charter and of the act of Congress making the grant, would purchase the stock, paying its par value with interest, individuals subscribed stock and paid their money, which was used in a partial construction of the work. Then the territorial government disregarded the trust and diverted the fund, and subsequently the United States and the State of Wisconsin acquiesced therein, and by their action the State received and enjoyed, for another purpose, the granted lands, so far as they remained unsold. Thus, by the action of the territorial government, in diverting the canal fund, and by the action of Congress and the State of Wisconsin in diverting the unsold canal lands, the means were withdrawn whereby the canal might have been built and the stock rendered of value, or the stock with interest have been paid for, and thus the company and the stockholders were prevented the enjoyment of a benefit which they had a right to expect under the acts of the Territorial Legislature and of Congress. The corporation did not assent to this, but, on the contrary, earnestly protested against it."

I agree to all that; but who shall pay it? The United States agreed, at the request of Wisconsin, to let Wisconsin take the money, but said to the State, "You shall perform these obligations." It is not the Milwaukee and Rock River Canal Company that comes forward and asks relief of us, but the State of Wisconsin, that refuses to pay over this money and relieve these men from any obligation she had assumed, is the applicant. This argument would be a very good one, as addressed to our equitable considerations, if it was an argument in favor of the Milwaukee and Rock River Canal Company; but it happens to be that it is in favor of the State of Wisconsin, which was bound to pay this money, and now comes

forward and asks us to pay it out of the money which should properly come back to us. The argument, therefore, is addressed to us in favor of a trustee that has not performed its duty, or rather a promisor who has not performed its promise, but calls on the Government to perform it. That is the simple statement of the matter.

It is very singular, that this claim should have rested for such a long series of years with no application made in relation to it, and should come upon us just at this time when we want all the money we have got.

How does this matter come up in this way? It seems that Wisconsin, like all the other new States, was allowed the five per cent. on the sales of the public lands; but the Land Office has a rule that it pursues in all these cases. If a State has received more than it is entitled to receive, as the Government has no remedy against a State and cannot sue a State, if the Land Office has funds in its hands belonging to that State, it makes a practice of holding on to those funds in order to secure the liquidation of the obligation due to the Government; that is, to make itself good. Now, here is an obligation on the part of the State of Wisconsin, an equitable obligation, to say the least of it, to pay over all these proceeds within a reasonable time for the purpose of having this canal completed. The State of Wisconsin declines or neglects to do so, and the canal is not completed. All the benefit which the United States was to receive from it is lost. Then the State of Wisconsin comes forward and claims to receive this money without performing its obligations. The Government of the United States says, "No, we will hold on to this five per cent. until you have paid us what, under the equity of the act, to say nothing of the technical legal ground, you were to pay us in case the canal was not completed." That is the difficulty which this joint resolution seeks to avoid.

With reference to the perfect legality of that proceeding of the Land Office, I have here, but I will not trouble the Senate by reading it, an opinion given by Attorney General Cushing. An opinion had previously been given by Mr. Crittenden, I think, to the same effect; that it was perfectly legal and right on the part of the Government to take that money.

Mr. HOWE. Mr. Crittenden's opinion was the other way.

Mr. FESSENDEN. I thought it was the same way. It is so stated in the letter I have here. I have not read the opinion.

Why, sir, if we yield here to Wisconsin we shall be obliged to yield in other cases. The State of Iowa I understand has received more lands than she was entitled to receive, and her fund, or a portion of it, is held on to in precisely the same way. I believe there are some other States that are in the same condition. Now, if the Government is to be unpaid, if States that receive by accident more than they are entitled to are not to account for it because they cannot be sued and we cannot hold on to any funds we may happen to have arising out of land sales belonging to them, that is one thing; but it strikes me it is perfectly legal and proper that this course should be pursued. Certainly it is the only one that will secure the interest of the United States under circumstances of this description.

With regard to the particular provisions of this resolution, it provides substantially—and, as I said before, I cannot see upon what ground it should provide anything on the principles of the report that has been made to the Senate—that these lands are to be accounted for to the United States at the rate of \$1 25 per acre, and so much more as they were actually sold for. The original provision was that if the canal was not built they should be accounted for at the rate of \$2 50 an acre; and that is the way, as I understand it, that the account is actually made up as against the State of Wisconsin. If there is any equity or any reason arising out of the circumstances of the case from the sales, &c., why the amount should be diminished for which they are to account, that is another question which I do not feel disposed to interfere with. Other gentlemen can judge much better than I can in regard to that. I think the Commissioner of Public Lands, in a communication which I have before me in relation to this subject, states the whole case very fairly. He gives the proceedings of the Govern-

ment and the principle on which the matter is settled, and he says it might be just not to charge them so much as \$2 50 an acre under the circumstances. That may be so. However, I do not feel disposed to argue that.

What I contend against is, that the State of Wisconsin should on the principles of this report, which seem to be most singular to me, undertake to say that it is under no obligations whatever to the Government of the United States, and that the Government of the United States are under obligation, out of this money which the State of Wisconsin has received and appropriated to other purposes, to pay these stockholders of the canal company the amount they had invested in it, when the Government of the United States has utterly failed by the action of the Territory and the State to get one dollar of value for all this "munificent donation," as it is called in the report, that was made to the Territory of Wisconsin.

I intended, as I said before, to merely state the case as I understood it, without consuming time by arguing it.

The *PRESIDENT pro tempore*. The Chair will now call up the order of the day.

Mr. HOWE. Will the Chair indulge me in making this simple remark? This resolution will go over now, I understand, at the request of the Senator from Iowa, [Mr. HARLAN.] I wish to say to him and to all other Senators who have taken any interest in this matter, that I wish they would examine the resolution by to-morrow, so that there need be no occasion for a further postponement. I want the Senate to understand the subject thoroughly, and I want them to be prepared to act upon it the next time we get it up.

#### ONE HUNDRED DAYS' WESTERN VOLUNTEERS.

The *PRESIDENT pro tempore*. The Senate will resume the consideration of the order of the day, which is the joint resolution (H. R. No. 69) for the payment of volunteers called out for not less than one hundred days. The question is on the passage of the joint resolution, and upon that question the yeas and nays have been ordered.

Mr. HALE. I wish to say a single word on this subject, as I stand somewhat peculiarly related to it, having spoken against it and shall now probably vote for it. My opinions are strong and decided as to the impolicy of this measure. In my judgment it is an unwise one. But I find that very many gentlemen with whom I ordinarily act, and whose judgment I generally regard with great deference, to wit, my two friends from Massachusetts, the chairman of the Committee on Finance, and others, entertaining substantially, as some of them have expressed, the same views on the subject that I do, notwithstanding that is their private opinion, think that the emergencies of the country are such and the situation of this matter is such that they will vote for this resolution, and I shall probably take that course myself. It is of very little consequence to the country, I suppose, how any individual Senator votes, but it may be of some importance to himself; and I wish, therefore, to state that while my judgment condemns the proposition as unwise and inexpedient I am unwilling to put myself in a position that might by any possibility be construed as opposing any measure which the Administration think necessary and wise to put down this rebellion. I do not believe this will do it, but it seems they think it will. The President of the United States, acting on his responsibility, has seen fit to accept these men and call them out. I should have been glad if the majority of the Senate had thought proper to arrest the measure where it is, and pay exactly and liberally and honorably every dollar that has been expended—not to repudiate, but to preserve the public faith in full. But as such does not seem to be the course that is indicated by those with whom I ordinarily act, rather than separate from friends with whom I have usually and ordinarily voted, I shall on this occasion yield my judgment to the better judgment of wiser men and vote for the measure, constrained by the very peculiar circumstances in which this resolution is placed, and in which the country now finds itself.

The question being taken by yeas and nays, resulted—yeas 23, nays 14; as follows:

YEAS—Messrs. Anthony, Clark, Collamer, Conness, Doollittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan,

Howard, Howe, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Ramsey, Sherman, Sumner, Van Winkle, Wiley, and Wilson—23.

NAYS—Messrs. Buckalew, Carlile, Chandler, Davis, Harding, Henderson, Johnson, Nesmith, Pomeroy, Powell, Riddle, Sprague, Wade, and Wilkinson—14.

So the joint resolution was passed.

Mr. CONNESS. I voted "yea" on the passage of the resolution for the purpose of giving notice of a motion to reconsider. I now give that notice.

Mr. FESSENDEN. Then the question will be on the reconsideration. Let us take it up now.

The *PRESIDENT pro tempore*. Does the Senator from California make a motion to reconsider?

Mr. CONNESS. No, sir; not now; but I give notice that I shall make that motion.

Mr. WILSON. Is that matter disposed of?

The *PRESIDENT pro tempore*. It is in the power of the Senate.

Mr. DOOLITTLE. I understand the motion to reconsider is entered.

The *PRESIDENT pro tempore*. It is.

Mr. CONNESS. The notice, not the motion.

The *PRESIDENT pro tempore*. The notice of a motion.

Mr. JOHNSON. Does it not go over, as a matter of course?

The *PRESIDENT pro tempore*. The practice is to retain the bill until the motion is made.

Mr. JOHNSON. But does not this motion lie over until the next day at the instance of any Senator?

Mr. FESSENDEN. I take it the joint resolution has passed, and must go to the House of Representatives.

The *PRESIDENT pro tempore*. The resolution is passed, but the usual practice of the Senate has been to detain a bill or resolution for a time under a notice of a motion to reconsider. The Chair will suggest that it is competent for any Senator to move to reconsider, and the Senate can decide the question now.

Mr. FOOT. Has that motion been made?

The *PRESIDENT pro tempore*. It has not been made; there has only been a notice of such a motion.

Mr. FOOT. I take it, the resolution is not to be detained with a view to wait somebody's pleasure to move a reconsideration.

The *PRESIDENT pro tempore*. It has usually been done.

Mr. LANE, of Kansas. I will make the motion to reconsider.

Mr. HALE. I hope that that course will not be taken. I have never known it done, within my recollection, in the Senate where any gentleman—under the practice we have two or three days in which a reconsideration can be moved—has given notice of that reconsideration, that some other member introduced the motion and pressed the consideration of it immediately for the purpose of depriving the Senator giving the notice of the constitutional right which he had and has of moving a reconsideration. It is competent for the Senate to do it no doubt, but it is a course that I have never known pursued in the Senate since I have been a member of it.

Mr. FOOT. The motion is now made for reconsideration.

Mr. HALE. I know it is; but that is a thing I have never known done.

Mr. CONNESS. If this course had been taken just prior to an adjournment there would have been an evident propriety then in forcing a vote at this time; but under the circumstances I did not expect that the motion would now be made. However, if Senators desire to proceed in that course they are welcome to it so far as I am concerned. Sir, I feel—I will not continue my remarks more than a moment—that before this resolution shall pass, if it passes at all, there should be some limit imposed upon it other than is now imposed. I feel it very seriously and solemnly. It is not an act of contumacy on my part, but an act that I believe comprehends the highest degree of public good. Facts have come to my knowledge, even this morning, which I could not intrude upon the Senate, as the Senate adjourned yesterday pending a call upon this question, that convinced me that this measure should not pass, at least in its present condition. I intended to present them when the time should come for the motion to reconsider. I cannot see that the public interest will so suffer from the delay as to need

a reconsideration now; but if the Senate see fit to vary their own rule for the purpose of bringing on a vote, of course I have nothing to say.

Mr. LANE, of Kansas. Mr. President, the people of five States are now engaged in raising troops that are to be paid by this joint resolution. I believe that the best interests of the country are involved in the immediate raising of these one hundred thousand troops, and that a few hours' delay is prejudicial to my country. I was not aware of the rule or the custom suggested by the Senator from New Hampshire—

Mr. HALE. The Senator misunderstood me. I did not say it was a rule. I said it was the invariable practice so far as I knew.

Mr. LANE, of Kansas. Well, in this body that is a rule. I do not want to do anything to violate the courtesies of the Senate. Before I withdraw my motion, however, I appeal to the Senator from California in behalf of the country that while I withdraw my motion he will withdraw his motion. There is but one feeling so far as the executive branch of this Government is concerned. They are earnest in their desire to have this resolution passed without a moment's delay.

Mr. CONNESS. Mr. President, I have no bargains to make here. When, only a few days ago, the honorable Senator from Maine [Mr. FESSENDEN] gave such a notice of recommendation as this, I did not feel as though it was my right to object. If the Senate shall see fit to depart from its usage in this case at the instance of the Senator from Kansas, if he shall press his motion, I shall at least stand justified in the premises.

Mr. LANE, of Kansas. I have too much respect for myself, and too much respect for the Senator from California, to suggest a bargain. It is a strange enunciation, when I appeal to him on behalf of his country to withdraw his motion that he should call that a proposition for a bargain! I have too much respect for him, too much respect for this body, to propose a bargain. But as it seems to be a violation of the courtesies of the Senate I will withdraw my motion.

The *PRESIDENT pro tempore*. The motion to reconsider is withdrawn.

Mr. DOOLITTLE. I am not satisfied that this matter shall go over by default, as if it were any violation of any courtesy or any practice or any usage of this body for a Senator who votes with the majority on any proposition to move to reconsider, whether another Senator has given notice that he shall move to reconsider or not. There never has been any such practice or any such usage, to my knowledge, in the Senate. The rule fixes the time within which any person voting with the majority can move a reconsideration. If this question is suffered to pass off in this way it may be considered hereafter as if there was some violation of the courtesy due to one Senator giving notice of such a motion for another to move a reconsideration. I appeal to the older members on this floor if there has been any such practice or any such usage.

Mr. COLLAMER. I wish to inquire whether, on the final passage of a bill or resolution, a notice that a motion will be made within two days to reconsider would keep the bill or resolution from being sent to the Executive?

Mr. JOHNSON. Always.

Mr. GRIMES. Never.

Mr. COLLAMER. I wish to be understood. I do not mean a motion to reconsider, but the notice that such a motion would be made, which may or may not be made.

The *PRESIDENT pro tempore*. The Chair is informed that it has been the custom of the Senate, in such a case, to withhold the bill for a time from the House of Representatives. The Chair is not aware that it has ever occurred, on the final passage of a bill, to withhold it from the Executive.

Mr. COLLAMER. I wish the matter understood. Has that been the custom when a notice has been given of a motion to reconsider?

The *PRESIDENT pro tempore*. It has been the custom, when a request has been made or a notice has been given that the motion would be made, for the bill to be retained in the custody of the Senate.

Mr. JOHNSON. I was about to say that I think the usage has been uniform. I am not in favor of reconsidering the passage of this resolution, because the majority of the Senate have de-

cided to pass it. But the rule of the Senate gives two days in which to enter the motion to reconsider, and if a Senator gives notice of the proposition to reconsider the bill is always retained. The Senate of course have a right to say that it shall not be retained; but I only speak of what has been the usage.

Mr. DOOLITTLE. This resolution as I understand has passed by a vote of 23 in the affirmative to 14 in the negative. I understand it to be clearly the purpose of the majority of the Senate to pass it. It is of that class of measures that is necessary to be passed at once if passed at all, and that ought to take effect at once. I therefore renew the motion to reconsider, and will ask a vote of the Senate upon it at once.

The motion to reconsider was not agreed to.

#### BUREAU OF MILITARY JUSTICE.

Mr. WILSON. I desire to call up the report of the committee of conference on the bill to establish a Bureau of Military Justice.

Mr. SHERMAN. I hope the special order will be taken up, and then I shall have no objection. Will that report take any time?

Mr. WILSON. I hope not.

The PRESIDENT *pro tempore*. The Chair will call up the bill which is the order of the day, the bill (H. R. No. 395) to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof, and that bill is now before the Senate.

Mr. WILSON. Now, with the consent of the Senator from Ohio, I make the motion that I have indicated.

The motion was agreed to; and the Senate proceeded to consider the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 208) to establish a Bureau of Military Justice.

The Secretary read the report, as follows:

The committee of conference appointed to take into consideration the disagreeing votes of the two Houses on the bill of the House No. 308, to establish a Bureau of Military Justice, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses to agree as follows:

That the Senate recede from their several amendments to the bill of the House of Representatives, and agree to the same without amendment.

Mr. HALE. I wish to know of the chairman of the committee if that report leaves the officers of this bureau to be paid as the officers of the Army are to be paid?

Mr. WILSON. Yes, sir.

Mr. HALE. Then I hope the Senate will not agree to it.

Mr. FESSENDEN. I should like to know what were the points of dispute.

Mr. WILSON. I will state the whole matter in a very few words. The House of Representatives passed a bill establishing a Bureau of Military Justice, making the head of that bureau a brigadier general, and giving him two assistants with the rank of colonel. The Committee on Military Affairs of the Senate had the impression that the rank of major would be sufficient for those assistants, and they so reported. When the bill was before the Senate that amendment of the Committee was lost and an amendment was adopted that the two assistants should have a salary of \$3,000 a year, and the Judge Advocate General should have a salary of \$4,000 a year, with the rank of a brigadier general. The House of Representatives did not concur in those amendments, and a committee of conference was appointed. The question came up in that conference whether the committee would agree to the amendments of the Senate. The facts were presented, the statistics and points argued in the committee; and the committee on the part of the Senate receded from the amendments of the Senate. In the first place, they considered that it was making an invidious distinction against those officers and against General Holt. The Adjutant General, General Taylor, General Meigs, and all the other heads of these other bureaus, have the pay and emoluments of a brigadier general. The head of this Military Bureau has as much work to do as any officer in the Government. During the first three months of this year over eight thousand and sixty cases came before it. They have only been able to dispose of nineteen hundred with all the force they had there, much less than one third of the cases. The country is suffering at a rate, per-

haps, of millions of dollars a year because this business is not kept up as it ought to be. It was stated that we ought to have these two additional officers with the rank of colonel at any rate; that we wanted two able and strong men in these positions who would have the proper inferior officers under them detailed, so that the immense business which comes from the armies of the country could be promptly disposed of. The pecuniary interests of the country and the administration of justice and the government of the Army require this business to be kept up promptly. We are to-day some eight or nine thousand cases behindhand.

Mr. GRIMES. How many officers have you got in that bureau?

Mr. WILSON. There are a few detailed officers. I do not know the number.

Mr. GRIMES. This bill diminishes them.

Mr. WILSON. I think not. At any rate, the committee of conference thought on the presentation of the facts of the case that the Senate ought to recede from these amendments, and they have so reported.

Mr. COLLAMER. I wish to ask the Senator one question. What will be the difference between passing the House bill and passing our amendments?

Mr. WILSON. I think the difference in the aggregate will be from two to three thousand dollars a year. It will be the difference between the pay and emoluments of a brigadier general and \$4,000 and the pay and emoluments of two colonels and a compensation of \$3,000. That is the difference.

Mr. HALE. I wish the Senator from Massachusetts would inform the Senate how much quicker the same men will get through with the business, which he says clogs up this office, by giving them the rank of colonel?

Mr. WILSON. The Senate by its vote determined to give these assistants that rank. That was not the question in the committee of conference. The only question there was the question of compensation. The Senate gave these assistants the rank of colonel.

Mr. HALE. How much quicker would they get through the business by having the rank, pay, and emoluments of colonels than if they had a fixed salary? How much does he think the business would suffer by giving them a fixed salary? The argument for agreeing to this report he tells us is the great amount of cases that are now on hand, and the great necessity of their being disposed of at once. I wish to know how much more quickly they will be disposed of by paying these men the uncertain sum, the amount of which nobody knows, of the pay and emoluments of colonels, than if they had a simple salary of three or four thousand dollars a year. Sir, it is a vicious way of paying salaries. It is a way that I have fought ever since I have had the honor of a seat on the floor of the Senate. I have labored again and again to have this system abandoned in the Army. It is now abandoned in the Navy. We pay there a fixed salary, and there is no difficulty about it. We ought to pay a fixed salary in the Army. But here it is proposed to extend this uncertain payment to the civil service; for this is nothing but a part of the civil service. It is a court, a judicial tribunal that you are establishing to try military offenses; and, in my humble judgment, it is not only not necessary but absurd to give it any such rule as this. I think the thing is so vicious that the Senate ought not to recede from its amendments. This is a very simple thing. The House insist upon paying judicial officers by a standard, graduating their pay according to the rank and emoluments of certain officers of the Army, and I venture to say that there is not a man in this Senate who can tell what they are. Besides, in some years it will be more than in others, and under some circumstances it will be more than others. I think they ought to be paid a fixed salary. If \$3,000 is not enough, I would give them \$4,000; I would give them anything; but I would know what I gave them. I hope the Senate will not concur in this report.

Mr. WILSON. I will say to the Senator from New Hampshire that if his views prevail we shall be departing from what has always been the policy of the Government. His objection applies to our Adjutant General, to our Quarter-

master General, to our Commissary General, and to General Ramsey of the ordnance department. They all receive the pay and emoluments of a brigadier general, whatever they may be, and this is to be a military bureau. Colonel Holt is now filling the place. By this bill we make him a brigadier general. I venture to say there are very few men in the Government or the country who labor more hours or render greater service to the country than Colonel Holt is doing in that place. I think he would feel, his friends would feel, and we should all feel that it would be a degradation to him to make a general of him and at the same time not give him what we give other brigadier generals. We have made the Provost Marshal General a brigadier general. I do not wish to underrate the importance of that office, but we have made him a brigadier general with all the rights, privileges, and pay of a brigadier general, and now it is proposed to select General Holt out and degrade him, and degrade the officers under him, in a department of this Government overwhelmed with business, and in which they have got to bring great legal learning and great industry.

Mr. HALE. I do not wish to occupy time, but if this thing is to go on, why not make the Solicitor of the War Department a brigadier general?

Mr. WILSON. That is a different thing.

Mr. HALE. It is a different thing, because one is a judge and the other a solicitor. They are both civil officers. These are civil officers to all intents and purposes. I hope the Senate will adhere to the position they have taken. I ask for the yeas and nays on the question of concurring in this report.

The yeas and nays were ordered; and being taken, resulted—yeas 18, nays 16; as follows:

YEAS—Messrs. Anthony, Clark, Collamer, Conness, Doolittle, Foot, Foster, Howard, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Powell, Ramsey, Sumner, Van Winkle, Willey, and Wilson—18.

NAYS—Messrs. Buckalew, Carlile, Chandler, Cowan, Davis, Fessenden, Grimes, Hale, Harlan, Henderson, Johnson, Pomeroy, Sherman, Sprague, Wade, and Wilkinson—16.

The PRESIDENT *pro tempore*. There is no quorum voting.

Mr. LANE, of Kansas. Two Senators have left the Chamber who will be back in a few moments. I was told to inform the Senate that the Senator from Oregon [Mr. HARDING] would be absent but for a little while. I therefore move that the absentees be called again.

The PRESIDENT *pro tempore*. The vote has been announced.

Mr. GRIMES. I move that the Senate do now adjourn. I do not see any use in sitting here when there is no quorum present.

Mr. FOSTER and Mr. POMEROY called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 10, nays 23; as follows:

YEAS—Messrs. Buckalew, Carlile, Collamer, Conness, Cowan, Davis, Grimes, Hale, Riddle, and Sumner—10.

NAYS—Messrs. Anthony, Clark, Doolittle, Fessenden, Foot, Foster, Harlan, Henderson, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Pomeroy, Powell, Ramsey, Sherman, Sprague, Van Winkle, Wilkinson, Willey, and Wilson—23.

The PRESIDENT *pro tempore*. The Senate refuses to adjourn, but the vote shows that the Senate is without a quorum.

Mr. DOOLITTLE. I move that the Sergeant-at-Arms be directed to request the attendance of absent members.

Mr. COLLAMER. I have an objection to that. I have heretofore objected to it, and I object to it now. Unless you direct the Sergeant-at-Arms to keep those who are now here present it will do no good to send the Sergeant-at-Arms after those who are not here to get them in.

Mr. WILSON. Lock the doors.

Mr. COLLAMER. No such arrangement has ever been made in this Senate. There is no rule for it, and we cannot do any such thing.

Mr. SHERMAN. I believe some business has interposed since the last motion to adjourn was made. I will therefore renew the motion to adjourn. I do not think there is any use in us sitting here without a quorum. I ask for the yeas and nays upon the motion.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. FOOT (when his name was called) said:



I shall vote in the affirmative, assuming that there is no probability of getting a quorum to-day.

Mr. RIDDLE (when Mr. SAULSBURY's name was called) said: I wish to state that my colleague [Mr. SAULSBURY] is detained at home by sickness in his family.

The result was then announced—yeas 17, nays 15; as follows:

YEAS—Messrs. Buckalew, Carlile, Collamer, Conness, Cowan, Davis, Foot, Grimes, Henderson, Pomeroy, Ramsey, Riddle, Sherman, Sumner, Van Winkle, Wade, and Willey—17.

NAYS—Messrs. Clark, Doolittle, Fessenden, Foster, Hale, Harlan, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Powell, Wilkinson, and Wilson—15.

So the motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, May 3, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

Mr. SCHENCK obtained the floor.

### JUDICIAL DISTRICTS IN VIRGINIA.

Mr. WILSON. I ask leave, with the permission of the gentleman from Ohio, to take from the Speaker's table bill of the Senate No. 256, to change and define the boundaries of the eastern and western judicial districts of Virginia, and to alter the names of said districts, and for other purposes, for the purpose of having it referred.

No objection was made; and the bill was taken from the Speaker's table, read a first and second time by its title, and referred to the Committee on the Judiciary.

### TREATY WITH GREAT BRITAIN.

Mr. McBRIDE. I ask the unanimous consent of the House to have Senate bill No. 187, to carry into effect the treaty between the United States and her Britannic Majesty for the final settlement of the claims of the Hudson's Bay and Puget Sound Agricultural Companies, for the purpose of reference.

No objection being made, the bill was taken from the Speaker's table, read a first and second time by its title, and referred to the Committee on Foreign Affairs.

### LAND GRANT TO KANSAS.

On motion of Mr. WILDER, by unanimous consent, bill of the Senate No. 233, making an additional grant of lands to the State of Kansas to aid in the construction of railroad and telegraph lines, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Public Lands.

### LAND GRANT TO IOWA.

Mr. ALLISON. I ask the unanimous consent of the House that a message be sent to the Senate asking the return of House bill No. 159, for a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of a railroad in said State, and for other purposes, in order to correct an error in the engrossment.

There being no objection, it was so ordered.

### INCREASE OF SOLDIERS' PAY.

Mr. JULIAN. I would ask what is the regular order of business?

The SPEAKER. The Chair is not yet aware for what purpose the gentleman from Ohio [Mr. SCHENCK] obtained the floor.

Mr. SCHENCK. I have authority from the House to report back from the Committee on Military Affairs the bill of the Senate (No. 145) to equalize the pay of soldiers in the United States Army.

The SPEAKER. If that bill is not reported now, the bill reported from the Committee on Public Lands last Tuesday evening will be the first business in order.

Mr. SCHENCK. I propose to report it back now. I am instructed by the Committee on Military Affairs to report the bill back with an amendment in the nature of a substitute. I move to strike out all after the enacting clause, and to insert in lieu thereof the following:

That on and after the 1st day of May, A. D. 1864, the pay of all soldiers in the military service of the United States shall be sixteen dollars per month. And from that date, also, the pay of non-commissioned officers shall be

increased as follows: corporals shall receive eighteen dollars per month; sergeants, including commissaries' and quartermasters' sergeants, twenty dollars per month; orderly sergeants, twenty-four dollars per month; and sergeant majors, twenty-six dollars per month.

Sec. 2. *And be it further enacted*, That the Army ration shall hereafter be the same as provided by law and regulations on the 1st day of July, 1861: *Provided*, That the ration of pepper prescribed in the eighth section of the act to promote the efficiency of the corps of engineers and of the ordnance department, and for other purposes, approved March 3, 1863, shall continue to be furnished as heretofore. But nothing contained in this act shall be construed to alter the commutation value of rations as regulated by existing laws.

Sec. 3. *And be it further enacted*, That so much of the fifth section of the act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting the public property," approved July 22, 1861, as provides that each company officer, non-commissioned officer, private, musician, and artificer of cavalry shall furnish his own horse and horse equipments, and shall receive forty cents per day for their use and risk, is hereby repealed, except only so far as the same may hereafter be made to apply and relate to mounted troops called into the service of the United States for a term not exceeding six months.

Sec. 4. *And be it further enacted*, That from and after the passage of this act the pay of clerks of paymasters in the Army of the United States shall be \$1,200 per annum.

Sec. 5. *And be it further enacted*, That the thirty-first section of an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, be, and the same is hereby, so amended as that an officer may have, when allowed by order of his proper commander, leave of absence for other cause than sickness or wounds, without deduction from his pay or allowances: *Provided*, That the aggregate of such absence shall not exceed thirty days in any one year.

Sec. 6. *And be it further enacted*, That the provisions of the first section of this act shall terminate and expire at the end of the present rebellion.

Sec. 7. *And be it further enacted*, That all laws and parts of laws inconsistent with the provisions of this bill are hereby repealed.

Mr. COX. I ask the gentleman to yield to me a moment, not for the purpose of making a speech, but for the purpose of offering in good faith and in all sincerity an amendment from this side of the House to increase the pay of the private soldier two dollars a month and the pay of the non-commissioned officers two dollars a month.

The SPEAKER. Does the gentleman from Ohio yield for that purpose?

Mr. SCHENCK. I cannot. I propose to call the previous question on the bill after a brief statement in relation to its contents.

Mr. COX. The other day the gentleman made a speech upon this subject, and this side of the House had no opportunity of saying a word in reply. Now, sir, we upon this side of the House desire to propose to the other side, and allow a test vote to be taken upon it, to raise the pay of the private soldier to a point that will enable him to purchase the necessities of life for his family at the present price of living.

Mr. HOLMAN. I ask the gentleman from Ohio whether he will not at least allow us to submit a proposition to make a discrimination between white and colored soldiers. I wish to propose eighteen and twenty dollars a month respectively for the colored and white soldiers.

Mr. SCHENCK. I cannot yield.

Mr. DAWSON. I want to know of the gentleman from Ohio if he will not give me an opportunity, as chairman of the caucus of the Democratic party of this House, to propose what they have instructed me to propose for raising the pay of the soldiers before he demands the previous question? I hope the pay of the private soldier will be increased to not less than twenty dollars a month in the present depreciated currency.

Mr. SCHENCK. No, sir. I shall demand the previous question, and if the Democratic caucus are more numerous than the Union caucus they can vote down the demand.

Mr. DAWSON. Very well, let that go as the gentleman's answer.

Mr. KERNAN. I want to ask the gentleman from Ohio in his statement of the provisions of this bill to explain wherein they differ from the features of the present bill.

Mr. SCHENCK. I will do so. I had supposed that every gentleman would understand it. House bill No. 145 equalizes the pay of soldiers, raising the pay of the colored troops to the standard of pay fixed for white troops. That provision having been substantially incorporated by the Senate into an appropriation bill, the Committee on Military Affairs did not deem it necessary to report back that provision. They have, therefore, reported back only so much of that bill in

relation to the pay of colored troops as relates to the raising of the pay of all the private soldiers.

The first section, therefore, which was the fifth in the bill as recommended, simply contains, as we have reported it, a general provision increasing the pay of private soldiers from thirteen dollars a month to sixteen dollars a month, with an additional provision for increased pay to non-commissioned officers, who gentlemen will understand are an exceedingly valuable class of officers, standing between the commissioned officers and the privates, if made as efficient as they ought to be. We propose to give to corporals two dollars a month more than to privates; they now receive no additional pay. We propose to give to sergeants two dollars a month more than corporals; we propose to give orderlies or first sergeants four dollars more, and sergeant majors two dollars a month more than that.

Now, Mr. Speaker, supposing that every gentleman here has made up his mind whether he will vote for an increase of pay to the soldiers or not, I do not propose to enter into any discussion upon that subject. There may be a difference of opinion between members as to what amount of increase ought to be granted. Some are in favor of raising their pay to fourteen dollars, some to fifteen dollars, some to sixteen dollars, the rate we have agreed upon, and some at a higher rate.

The Committee on Military Affairs have determined, considering all the circumstances, considering the necessities of the service, justice to the soldiers, what has been done in regard to bounty, what has taken place upon the subject of the currency, and the ability of the Treasury to meet the demands upon it, to leave it to the House to adopt or reject our proposition.

The next section provides for the reestablishment of the Army ration at what it was in 1861, at the commencement of this war. We ascertained from the Commissary General—in the report that I have upon my table—that that ration is ample. Every one who has been in the service knows it to be so. The ration was increased from eighteen to twenty-two ounces of bread, eighteen being more than is allowed to any other soldiers in the world, and twice as much as Jeff. Davis's soldiers get. What was added to the ration only increased the waste and difficulty of transportation without the soldier getting actually anything more than he did before. There has been a provision by which the surplus of rations might go to a post or regimental fund, but in no case has it gone to the individual soldier. Without taking anything away from the soldier—I speak of the practical effect—we add three dollars in cash to his pay. Going back to the ration of 1861 and what it was in January, 1864—I have no later estimate—it makes a difference in the entire ration of one cent and ninety-nine one hundredths. As I have said, the entire ration in the field is scarcely possible to be used. It makes then in one month a difference of fifty cents if the soldier realizes it, which he does not. So really, taking nothing from him, and making a saving to the Government, we give him in lieu of it what he would prefer, some five or six times that sum in cash to be added to his pay. There is a part of the ration increased since 1861, which the Senate and House Military Committee on consultation with the War Department thought it proper to retain. I refer to the allowance of pepper.

Section three refers to the provision allowing forty cents a day to a man who furnishes his own horse, and limits that to the cases where the men are called out for a short time, not exceeding three months. That is proposed to the law, on the application of the cavalry bureau, communicated to us by the Secretary of War, who approves it, and because it is found in practice a great deal of abuse and little or no advantage has arisen from that provision of law.

There is a section providing that the pay of paymasters' clerks shall be \$1,200 a year. The committee have in this departed from the general rule which they have adopted for themselves, not to recommend an increase of the pay of any officers or clerks. They have made this exception for this reason: a paymaster's clerk is required not only to be a man of strictest integrity, as every clerk ought to be, but must have a peculiar knowledge of accounts. Immense responsibilities are necessarily intrusted to him. We propose to raise his pay up to that of the lowest

grade of clerks in the Department, and no higher. It is the only increase that the committee have recommended in case of officers or clerks.

In another section we provide for repealing the provision of law as it now stands in reference to leaves of absence. Officers, as it were, have been fined by a deduction from their pay and allowances even when absent by leave. That has been found in practice to operate harshly on some of the best of our officers. Men who have been absent two or three years could not visit their families even with a leave of absence except with a deduction from their pay which they could ill afford. It is provided that officers may have leave of absence without deduction of pay provided that the leaves of absence shall not exceed thirty days in any one year. It is proposed in the bill from the Senate that the officers should have leave of absence ten days at a time. The Committee on Military Affairs of the House have thought that that was not a fair provision, for the reason that while it would be a benefit to soldiers serving in armies near home, as in the army of the Potomac, it would be of little benefit to the soldiers in Tennessee and Georgia, who would require more than ten days to get home and back again. We agree that the officer may take it in parcel or in the aggregate, as his commander may allow him, but it is not to exceed thirty days in any one year. Thirty days would allow an officer at a distant point to visit his family and return.

The next section provides that the increase of pay provided in the first section shall expire with the termination of the present rebellion. Congress will be left to take care of the Army in the future as to the amount of pay.

The next is but a repealing clause; and this is therefore an exposition of all the contents of the bill. I hope my friend from New York is satisfied with the explanation I have given. Without entering into any discussion, supposing that every gentleman has made up his mind, and is able to vote upon the bill now, either to reject it or to pass it, I move the previous question.

Mr. ROSS. I ask permission of the gentleman from Ohio to offer an amendment to strike out sixteen dollars a month for soldiers, and insert twenty dollars a month. I appeal to the honorable chairman of the Military Committee to take the sense of the House on that point.

Mr. SCHENCK. I am acting under the instructions of my committee, which directed me to make this report. If voted down, of course gentlemen can offer any other proposition which they may consider better.

Mr. FARNSWORTH. Will my colleague on the committee allow me to make a suggestion in regard to the pay of quartermasters' clerks, which is reduced by this bill?

Mr. SCHENCK declined to withdraw the previous question.

Mr. HOLMAN called for tellers.

Tellers were ordered; and Messrs. Dawson and Schenck were appointed.

The House divided; and the tellers reported—ayes 71, noes 40.

So the previous question was seconded, and the main question ordered, which was on agreeing to the substitute reported by the Committee on Military Affairs.

Mr. KING. I desire to ask a question of the chairman of the Military Committee for information. The seventh section is one which presents some difficulty to my mind. It repeals the fifth section of the act of 1861, which allows a mounted volunteer forty cents a day for his horse. I wish to know from the chairman of the Committee on Military Affairs whether it is intended thereby to make no allowance to a mounted man in the service for his horse. I know of no law except the act of 1861 which allows pay for the soldier's horse. If that is repealed, does the soldier who owns his own horse get nothing for him?

Mr. SCHENCK. The idea which the committee has is this: that it is better to go back and adhere to the principle of the Government furnishing its own horses, unless where cavalry is called out for a very short time. It of course does not interfere with the past in any way; but it may make it necessary for the Government to become the owner of horses in the service not now owned by it, or to dismount the men who own their own horses and change the character of the force. It

simply falls back upon the principle of the Government furnishing its own horses.

Mr. KING. And it will not interfere with men already in the service with their own horses?

Mr. SCHENCK. Not with the past. Not with any pay for the past time.

The question was taken, and the substitute was agreed to.

The bill, as amended, was ordered to be read a third time; and was accordingly read the third time.

Mr. SCHENCK moved the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. SCHENCK called for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 135, nays 0; as follows:

YEAS—Messrs. Alley, Allison, Ames, Ancona, Anderson, Arnold, Ashley, Baily, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blow, Boutwell, Boyd, Brantledge, Brooks, Broomall, William G. Brown, Chapler, Cobb, Cole, Cox, Creswell, Henry Winter Davis, Dawes, Dawson, Denison, Dixon, Donnelly, Driggs, Eckley, Eden, Eldridge, Eliot, Farnsworth, Fenton, Finck, Garfield, Grider, Grinnell, Hale, Hall, Harding, Charles M. Harris, Herrick, Higby, Holman, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulbard, Hutchins, Philip Johnson, William Johnson, Julian, Kasson, Kelley, Francis W. Kellogg, Kernan, King, Knapp, Law, Lazear, Le Blond, Lonn, Long, Longyear, Marcy, Marvin, McBride, McClurg, McDowell, McIndoe, McKinney, Middleton, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, James R. Morris, Morrison, Amos Myers, Leonard Myers, Noble, Norton, Odell, Charles O'Neill, John O'Neill, Orth, Patterson, Perham, Perry, Pike, Pomeroy, Price, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Robinson, Edward H. Rollins, James S. Rollins, Ross, Schenck, Seofield, Scott, Shannon, Sloan, Smith, Spalding, John B. Steele, William G. Steele, Stevens, Stiles, Strouse, Stuart, Thayer, Thomas, Upson, Voorhees, Eltho B. Washburne, William B. Washburn, Wheeler, Chilton A. White, Joseph W. White, Williams, Wilder, Wilson, Windom, Fernando Wood, and Yeaman—135.

NAYS—0.

So the bill was passed.

During the call of the roll,

Mr. GOOCH stated that he was paired off with Mr. SWEAT, but that being informed that Mr. SWEAT would have voted in the affirmative on this bill, he would vote "ay."

Mr. HOLMAN stated that his colleagues, Messrs. EDGERTON and HARRINGTON, were necessarily absent from the House. Both of them would have voted "ay" on this bill.

Mr. STILES stated that his colleague, Mr. MILLER, was paired off with Mr. TRACY.

Mr. COX stated that his colleague, Mr. PENDLETON, was paired off with Mr. KASSON. He presumed that both would have voted "ay" on this bill.

Mr. RICE, of Maine, stated that his colleague, Mr. BLAINE, was detained from the House by sickness.

The vote was announced as above recorded.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. SCHENCK. I move to amend the title by striking out the words "equalize and."

The amendment was agreed to.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act for the prevention and punishment of frauds in relation to the names of vessels; and

An act to vacate and sell the present Indian reservations in Utah Territory, and to settle the Indians of said Territory in the Uinta valley.

#### NAVAL APPROPRIATION BILL.

Mr. STEVENS. I now report from the Committee of Ways and Means the Senate amendments to the naval appropriation bill.

The SPEAKER. Do the amendments involve appropriations?

Mr. STEVENS. They do.

The SPEAKER. They can then be considered in the House only by unanimous consent.

Mr. HOLMAN. I have no objection to considering them in the House under the rules that prevail in Committee of the Whole.

The SPEAKER. The amendments will be considered in the House with that understanding, if there is no objection. The Chair hears no objection.

#### First amendment of the Senate:

Page 1, strike out "For the construction and repair of vessels of the Navy, \$36,300,000," and insert:

For repair and maintenance of vessels of the Navy, labor, materials, and stores, \$11,500,000.

For the completion of sixteen fast steam screw sloops-of-war, \$7,300,000.

For the purchase, construction, and repair of vessels, materials, and labor for the western waters, \$4,000,000.

For the purchase and charter of vessels for naval and blockading purposes, \$3,000,000.

For extra labor, expenses of repairs, &c., on foreign stations, \$600,000.

The SPEAKER. The Committee of Ways and Means recommend a concurrence in the amendment, with an amendment, as follows:

Add to the end of the Senate amendment the following: For the payment of the three months' bounty to seamen and ordinary seamen, under the joint resolution of February 24, 1864, \$500,000.

Mr. STEVENS. This Senate amendment is only itemising the same amount which we had in the bill in gross. We think it is an improvement. The amendment recommended by the committee is to provide for what we have already by law agreed to—a bounty to the sailors. We have a communication from the Department requesting that an appropriation be made, as none was made at the time the law was passed.

Mr. BROOKS. I would inquire of the chairman of the Committee of Ways and Means if that appropriation for sixteen fast screw steamers is likely to be enough?

Mr. STEVENS. All those steamers are under way under former contracts, and this appropriation is expected to complete them.

Mr. BROOKS. Does this appropriation apply to no new ones?

Mr. STEVENS. To none except those already provided for.

The amendment to the Senate amendment was agreed to.

The Senate amendment as amended was agreed to.

Second amendment:

Page 1, line thirteen, after the word "for" insert "the completion of;" so that the clause will read, "for the completion of armor-plated vessels," &c.

The SPEAKER. The Committee of Ways and Means recommend a concurrence.

The amendment was agreed to.

Third amendment:

Page 3, line twenty-seven, after the word "houses" insert "in the navy-yard."

The amendment was agreed to.

Fourth amendment:

Page 4, lines twenty-one and twenty-two, strike out "five hundred" and insert "two hundred and fifty;" so that the clause will read, "of vessels in the Navy, \$1,250,000."

The SPEAKER. The Committee of Ways and Means recommend a concurrence.

The amendment was agreed to.

Fifth amendment:

Page 7, line eighteen, after the word "quarters" insert "in the barracks."

The amendment was agreed to.

Sixth amendment:

Page 9, line four, strike out "mooring" and insert "mooring."

The amendment was agreed to.

Seventh amendment:

Page 9, line six, after "warehouses," insert "or."

The amendment was agreed to.

Eighth amendment:

Page 9, line thirteen, after the word "kinds" strike out "and for the extension of the water-front by purchase of two lots adjoining the navy-yard at a price not exceeding \$135,000, three hundred and nineteen," and insert in lieu thereof the words "one hundred and eighty-four."

The SPEAKER. The Committee of Ways and Means recommend a non-concurrence.

Mr. HOLMAN. I move to amend the Senate amendment by striking out "one hundred and eighty-four" and inserting "sixty." I ask that certain information I have in my hands may be submitted to the House.

Mr. STEVENS. The Committee of Ways and Means recommend non-concurrence in the amendment of the Senate.

The SPEAKER. The amendment of the Senate is to strike out the appropriation.

Mr. STEVENS. The Senate struck out the appropriation for the purchase of land for the Charlestown navy-yard and the Committee of

Ways and Means recommend a non-concurrence in striking it out.

Mr. HOLMAN. I misapprehended the Senate amendment. I understand now that the effect will be this: if the Senate amendment be rejected the appropriation will stand at \$135,000. I now move that the House concur in the Senate amendment, and I ask that an affidavit which I send up may be read.

The Clerk read, as follows:

I, Gustavus V. Hall, of Charlestown, in the county of Middlesex, and Commonwealth of Massachusetts, on my oath say, that late in February, A. D. 1864, I was present at an interview between Mr. Oakman, of Charlestown, and Mr. Hittinger, who sold him a wharf in said Charlestown, called Brinall's wharf, wherein said Oakman told Mr. Hittinger that he paid a large price for the wharf, and that he would sell it back at any time within a year, if the Government did not take it, as he expected, for \$10,000 less than he gave for it.

GUSTAVUS V. HALL.

Boston, April 27, 1864.

Commonwealth of Massachusetts, Suffolk, ss:

Personally appeared Gustavus V. Hall, above named, and made oath that the foregoing affidavit, by him signed, is true. Before me, JOHN Q. A. GRIFFIN, Justice of the Peace for all counties.

Mr. HOLMAN. I now ask that an affidavit from the party making the sale of this property to the present owners may be read.

The Clerk read, as follows:

I, Jacob Hittinger, of Belmont, in the county of Middlesex, and Commonwealth of Massachusetts, on my oath, say: that I sold the wharf known as Brinall's wharf, at said Charlestown, the third wharf situated westerly of the original line of the navy-yard; that I sold said wharf in the month of December, A. D. 1863, to Oakman & Eldredge; that I executed the deed thereof to them in the month of February, A. D. 1864; that I received therefor the sum of \$55,000. Oakman & Eldredge had been lessees of said wharf under a lease which had expired about six months before said sale in December, and perhaps earlier; and they were occupying at the time of the sale in December under an agreement for an occupancy of one year after the expiration of said first lease. Their occupancy, I think, was to terminate, by the terms of our agreement, about May 1, A. D. 1864. Oakman & Eldredge offered to sell me all the improvements they had put upon the premises and deliver them to me, including scales and railroad and all else, for \$6,000; but I did not buy them for the reason that I thought the property not worth so much. On the day the deeds were passed, Mr. Oakman told me he would give me \$10,000 to take the property back if his proposed sale to the United States failed, or was not consummated for any reason. Before this sale, I had owned this wharf twelve or fifteen years; had done business upon it; and for some eighteen years had done business on wharf property in that immediate neighborhood. I sold this because I thought I got a good price for it, and I had no other reason for selling it. Before the sale I had frequent conversations with Oakman & Eldredge about selling it to them, and their objection to buying it was that the price asked and finally paid was too great, and that the wharf was not worth it. They also said it was of less value than Caswell's wharf adjoining, which they had bought of Messrs. Lawrence & Sawyer.

JACOB HITTINGER.

Boston, April 27, 1864.

Commonwealth of Massachusetts, Suffolk, ss:

Personally appeared, Jacob Hittinger, above named, and made oath that the foregoing affidavit by him signed is true. Before me, JOHN Q. A. GRIFFIN, Justice of the Peace for all counties.

Mr. HOLMAN. I now ask the Clerk to read an article from the Charlestown Advertiser, of April 30, 1864, a leading Republican paper in that city, presenting all the facts as to the value of this property.

The Clerk read, as follows:

"The affidavits of a large number of the most experienced and competent men were furnished that the portion of the wharves proposed to be sold for \$135,000 would be dear at \$60,000; that the portion retained from the two wharves by Oakman & Eldredge was worth as much or more than that they proposed to sell; so that they would keep at least one half of the value they bought for \$104,000, and sell the other half for \$125,000! This evidence came from owners of wharf property in the same neighborhood, from merchants, from wharfingers, from wharfbuilders, from gentlemen who own and sell real estate, in fact from the best citizens of the town, having knowledge of practical affairs. But this was not all. The proofs summoned by the mayor established that many thousand feet of unsurpassed wharf property could be constructed on the premises already owned and inclosed by the Government, as cheaply at least, if not more cheaply, than that involved in the proposed sale could be repaired for and made fit for Government use and occupancy. This testimony came from many sources, and among other deponents concerning it were certain officers in the navy-yard, of high character for integrity and good judgment and skill in their departments of the public service. The affidavits embracing these facts, and also setting forth the manner in which the sale to the United States of wharf property would affect the city of Charlestown, in withdrawing from commerce and from taxation property so greatly needed for both purposes, were by the mayor laid before the Senate, that had yet to pass upon the appropriation of \$135,000, which had gone through the House, wherein it had been advocated by Massachusetts members, and opposed only by Mr. WASHBURN, of Illinois."

Mr. HOLMAN. The House appropriated

\$135,000 for the purchase of this property. The Senate struck out the appropriation. My motion is to concur in the Senate amendment. Now, it appears from the affidavits I have read, and from the editorial of a leading paper in Charlestown, Massachusetts, that this property, last December, was sold by the then owner, to Oakman & Eldredge for \$55,000, there being improvements on it worth \$6,000, making the value of the property \$61,000; and that Oakman & Eldredge, to whom the property was sold, proposed to sell it back to the same party at a loss of \$10,000, provided they failed to sell this property to the Government. And yet, for this property, it is now proposed by the House to pay \$135,000. I think there can be no two opinions about this matter. I thought the gentleman from Illinois [Mr. WASHBURN] was right when he assailed this measure in the beginning. These affidavits, and this editorial article, from the very locality where this property exists, establish the fact beyond controversy that here is an attempt to purchase for the United States property which was bought last fall for \$55,000 at the price of \$135,000. I trust that there will not be one moment's hesitation on the part of the House in concurring in the Senate amendment, and defeat a scheme of speculation gotten up by ingenious gentlemen somewhat skilled in selling real estate to the Government.

Mr. STEVENS. This is a matter which is very fiercely contested between the officers of the Government of the United States and the citizens of Charlestown, the mayor and others, who think themselves affected by this purchase. All I shall do will be to state briefly the facts as they have come before the Committee of Ways and Means. Before the original appropriation of \$135,000 for the purchase of this property was reported, the Committee of Ways and Means had the naval authority before them, Admiral Smith and some others, and they came to the conclusion that the property is very necessary to the Government, and that upon the best evidence they could get, although the seller will make something from the sale, the property is now fairly worth \$135,000.

Mr. HOLMAN. The gentleman will allow me to make a statement here. I have not seen these amendments, for they have not been printed, and I have only heard them read, and I at first supposed that the Senate had increased the appropriation from \$135,000 to \$184,000, but I find that there were two items embraced in this section with an appropriation of \$319,000, and that the Senate struck out this appropriation of \$135,000, leaving the appropriation of \$184,000. My motion, therefore, is that the House concur in the amendment of the Senate, which strikes out this appropriation entirely.

Mr. STEVENS. I was going to state that the gentleman misunderstood the matter. The Senate have rejected the appropriation for the purchase of this property, and have sent it back to us for concurrence. The Committee of Ways and Means recommend non-concurrence.

As I said before, we had investigated this matter very thoroughly before; and although there is a great contest between the property holders of Charlestown and the various naval officers who have had charge of the navy-yard there, we came to the conclusion that the property is absolutely necessary for Government purposes, and that the price is not high at the present rates of property there. It is said that the owners of this property will make a large speculation. They purchased the property in two parcels; and for one they paid \$55,000 and for the other \$49,000, making \$104,000 for the two. It appears from the evidence that they have improved the property to the amount of about twenty-five thousand dollars. That would bring up the actual cost to the owners to nearly one hundred and thirty thousand dollars. The Government now asks them to sell the whole of the water-front, with the improvements upon it, together with as far back as is necessary to square the navy-yard, and offers them \$135,000.

Mr. HOLMAN. The gentleman who sold the property to the present owners who now propose to sell it to the Government says that the improvements put on the property do not exceed in value \$6,000. He himself was not willing to pay \$6,000 for the improvements. He sold the property for \$55,000, and \$6,000 spent on improvements would make \$61,000.

Mr. STEVENS. It is only a part of the property that the gentleman refers to. The evidence is that the whole improvements have cost \$25,000. But the Government does not want the whole property. It needs only the water-front of two hundred and eighty feet of the best water in Boston harbor, as is agreed by all parties, and which is absolutely necessary, and they offer for it \$135,000, which will leave a profit of about twenty or twenty-five thousand dollars to those who purchased this property on speculation. They offer the whole property for \$160,000, and this part of it for \$135,000. That may be, perhaps, too large a profit for men who bought this property some years ago; but it is not larger than other gentlemen in the same neighborhood make in the rise of property. The evidence is very conflicting on the part of those interested in Charlestown. They all concur in saying that it is too much for the property. Officers of the Government, Admiral Stringham, Admiral Gregory, Rear Admiral Smith, and all others who have examined it, think that the price is but a fair one, and that the Government should not lose the opportunity to purchase. Other evidence has been sent in by disinterested gentlemen which convinces the Committee of Ways and Means that the price is not exorbitant. It may be a fair, full price, but no more than can be got from others, and no more than the Government ought to pay. At this point I ask to have a communication read.

The Clerk read a letter from the Secretary of the Navy to the chairman of the Committee of Ways and Means, stating that he deemed it of the utmost importance to the Government to possess the water-front proposed to be purchased of Oakman & Eldredge, adjacent to the Boston navy-yard, and recommending that the committee non-concur with the Senate amendment striking that item out of the Navy appropriation bill. The Department considers the price not unreasonable, and the present necessities of the service require the purchase to be made.

Mr. STEVENS. Under these circumstances, the Committee of Ways and Means thought it best to recommend non-concurrence, and to let the matter go to a committee of conference, as the property seems indispensable to the naval service. I may add that all the officers who have been superintendents of the yard for years past have concurred in urging upon us the purchase of this property as being absolutely necessary for the Government, and not at an unfair price. The chairman of the Committee on Naval Affairs and other gentlemen have evidence on this subject which, if there be time to lay it before the House, will, I hope, at least induce us to send back the proposition to a committee of conference.

Mr. RICE, of Massachusetts. I move to amend by reducing the appropriation one dollar. I will not detain the House longer than is necessary to make a plain and simple statement of the facts involved in this case, so far as I understand them. I believe that a great deal of unnecessary discussion has arisen on this subject, and that this discussion has been of a nature to lead the House to suppose that this is some scheme, or that there is something wrong attaching in some form or other to this purchase. For my own part, I have no idea that there is anything wrong in it. It will be recollected that this proposition came before the House from the Committee of Ways and Means in the ordinary manner in which other appropriations in the bill were reported. It came on a recommendation from the Navy Department, by which the wants and necessities of that Department are communicated to Congress. It has, therefore, the same authority and the same origin as all other appropriations embodied in this bill.

While this subject was before the House on a former occasion I stated that the necessities for this purchase arose out of the vast increase of the Navy since the breaking out of the rebellion. We have not now as much navy-yard accommodation as we had before the rebellion commenced, while we have lost the naval stations at Norfolk and Pensacola. On the other hand, the number of naval vessels in the service has increased from seventy-six to near six hundred. A large portion of these additional vessels have been such as were built not for naval purposes but for the mercantile marine; consequently they are less able to bear the wear and tear of naval service. They decay



more rapidly. They come sooner for repair, and their places are required to be filled sooner than if they had been built for the legitimate naval service. The recommendation, therefore, was based on the necessity for increased accommodation at these yards, in order to enable the Department to discharge the duty incumbent on it in consequence of the rebellion. The necessity is certified to not only by the Secretary of the Navy and the chief of the Bureau of Yards and Docks, but also by the civil engineer of the Charlestown navy-yard; by the commandant of that yard, Admiral Stringham; by Admiral Gregory, who was formerly commandant of that yard; and by Commodore Montgomery, who was recently in command of it and who is now in command of the navy-yard in this city. All these gentlemen unite in testimony of the fact that the enlargement of this navy-yard at Charlestown is a matter of absolute necessity, and that the Department will be crippled in carrying on the work there unless the enlargement be made.

Now, sir, I understand that the objection is not to the extension of the limits of this yard, so much as that the price at which it is proposed to purchase this property is exorbitantly large. I am well aware that affidavits in large numbers have been sent here to be presented in this discussion, for the purpose of showing that the price at which it is proposed to purchase this property is too large. On the other hand, I present the opinions of officers of the Navy, whose duty it was to investigate this subject, upon whose shoulders the responsibility rests of complicity in a scheme for swindling the Government, as this purchase has been designated in this House. And, sir, the officers of the Navy, and the officers of the Navy Department, so far as I know or have heard, are satisfied that the price which it is proposed to pay for this property is not an unreasonable or an unfair one. I will not detain the House by any further remarks in this connection, for I propose, in answer to the affidavits that have been submitted to show that the property is not worth what it is proposed to pay for it, to ask the attention of the House to a few opposing affidavits upon that subject.

[Here the hammer fell.]

Mr. RICE, of Massachusetts. I do not often trouble this House, and I hope I shall be permitted to have two or three affidavits read.

Mr. HOLMAN. Upon a matter of so much importance I hope there will be no objection to our having a full debate upon it.

There being no objection, Mr. RICE was permitted to proceed.

Mr. RICE, of Massachusetts. I only desire to speak upon this subject so far as to put the House in possession of the facts of the case. I have no interest in the matter any further than every other gentleman has who desires that the interest of the Government shall be subserved and that simple justice shall be done to the parties. I hold in my hand a letter from Commodore Montgomery, the commandant of the Washington navy-yard, lately the commandant of the Charlestown navy-yard, which I send to the Clerk's desk and ask to have read.

The Clerk read the letter, as follows:

NAVY-YARD, WASHINGTON, April 20, 1864.

SIR: Perceiving that estimates for the purchase of a wharf embracing two hundred and eighty feet of water-front adjoining the navy-yard at Boston have been stricken from the naval appropriation bill in the Senate of the United States, I trust you will not consider me intrusive in presenting to you the expression of my views of the importance of the proposed acquisition to the navy-yard so recently under my command.

The want of additional water-front, with depth of water sufficient to accommodate and float vessels of the largest class, has ever been a source of great inconvenience, and, since the commencement of the present war, of serious disadvantage to the public interests.

During my late service at the Boston yard, vessels arriving there for repairs were not infrequently retained at their mooring in the stream during the progress of repairing, causing considerable delay, and additional expense in preparing them for service.

I verily believe, sir, that the proposed purchase, if effected, will prove highly advantageous to the public interests, and, in view of this desirable object, sincerely hope the requisite appropriation may yet be passed by both Houses of Congress.

I am, sir, your obedient servant,

J. B. MONTGOMERY,

Commodore.

Rear Admiral JOSEPH SMITH, Chief of Bureau of Yards and Docks, Navy Department, Washington.

Mr. RICE, of Massachusetts. I have here

the letter also of Commodore Stringham, the commandant of the yard there, to the same purpose, and I will state in the same connection that in a conversation with him, on meeting him casually on the street, he told me that he was authorized to use the name of Commodore Gregory to the same purpose. Now, sir, not to detain the House too long with this matter, I will simply ask to have read one other affidavit, that of Mr. Addison Gage, a large ice dealer in the immediate vicinity, who is widely known as a man of the strictest integrity and honor. I ask the attention of the House to it.

The Clerk read the affidavit, as follows:

Commonwealth of Massachusetts, Suffolk, ss:

In the matter of the sale of Caswell and Brintnall's wharf to the United States:

I, Addison Gage, on oath depose and say that I am now, and for more than thirty years have been, in the ice business; my office is at 70 State street, Boston; my chief place of business in shipping ice is at Swett's wharf, Charlestown, the next wharf, westerly, adjoining Brintnall's. I am familiar with the two wharves first above mentioned, having occupied the wharf between them and the navy-yard some years before that was sold to the United States, or owned by Oakman & Eldredge, and since then the one I now occupy—in the whole, on both wharves, above thirty years—and I know well what advantages they possess over wharves anywhere else in this harbor. I have not now, nor ever had, any interest in these wharves, or either of them, nor any interest or concern, direct or indirect, in the proposed sale. The late firm of which I was a member owned the wharf I now occupy. When that firm was dissolved I conveyed my interest in this wharf to my late partners. Since then I have leased it at a rent of \$6,000 per year. The chief and altogether the most considerable value of these wharves consists in the water-front. It is by that their value in the market is determined. My wharf has a front of only about one hundred and sixty feet, and its value is \$100,000. Considering the water-front of these two wharves, Caswell's and Brintnall's, that part of them which Mr. Oakman proposes to sell to the United States is worth at least \$135,000. I am certain that at that price the United States do not pay one dollar above the fair market price. There are, besides these, but five wharves between the Charles river bridge and the navy-yard. Every one familiar with the business knows that the respective values of each of these depends on the water-front; and \$135,000 for that part of these two wharves Mr. Oakman proposes to sell to the Government is certainly not above the fair value of this property as compared with the other property on the same line of water-front. I will add I have had considerable experience in dredging. It is very expensive, and wherever there is an eddy in the tide the berth dredged will soon fill again. The tide, on the contrary, sweeps by these wharves and keeps the berths open. My opinion is, it would be cheaper and far better for the Government to buy the parts of these wharves above mentioned at the price mentioned than to undertake to dredge berths in front of the navy-yard wall, as I am told has been talked of. So far as I am personally concerned, the selling of the property to the Government would be to my disadvantage, as my business must be carried on between the navy-yard and Charlestown bridge. And as I do not own any wharf, at the end of my present lease there would be less number of wharves that I could rent; but I think it is for the interest of the Government to purchase it.

ADDISON GAGE.

April 15, 1864.

Suffolk, ss:

Subscribed and sworn to before me.

J. P. HEALY,  
Justice of the Peace.

Mr. RICE, of Massachusetts. I now submit other affidavits, and without detaining the House with their reading, I will ask that they may be published with these proceedings.

The affidavits are as follows:

Commonwealth of Massachusetts, Suffolk, ss:

I, Erastus E. Cole, on oath, depose and say that I am a wharf and bridge builder. I know quite well all the wharves at Charlestown, and have known about the two wharves which the Government talk of buying of Oakman & Eldredge, for the last twenty-five years. What gives these wharves value is the deep water-front; and for that they are very valuable; and the value of all those wharves is determined by the water-front they have. A wharf with a narrow water-front is worth very little compared with one having a broad water-front though both have the same quantity of land—I should think not a quarter as much. I think the actual cost of building a pier wharf on deep water like these wharves will be at least two dollars per square foot at the present time. I have no interest in the sale of these wharves, or in the wharves themselves, in any way, shape, or manner, but I think they would be of great value to the Government.

ERASTUS E. COLE.

April 16, 1864.

Suffolk, ss:

Subscribed and sworn to before me.

J. P. HEALY,  
Justice of the Peace.

I, Benjamin F. Field, of Boston, on oath depose and say: I am a merchant; was for many years associated with the late Mr. Frederic Tudor, and had the chief management of his ice business and the wharf owned and used by him at Charlestown, and which is situated between the Charles

river bridge and the navy-yard, and on the same general line with the wharves owned by Oakman & Eldredge. These wharves I deem to be among the best and most valuable in that side of the harbor. They are on the deepest water, with a natural flow; will accommodate vessels of the largest class at low tide; they are below all bridges, and they have railroad facilities such as no other wharves have; yet their chief value is their water-front. I should say the value of these wharves would be measured chiefly by the water-front they have.

BENJAMIN F. FIELD.

April 21, 1864.

Commonwealth of Massachusetts, Suffolk, ss:

Subscribed and sworn to before me.

JAMES B. F. THOMAS,  
Justice of the Peace.

Commonwealth of Massachusetts, Suffolk, ss:

I, James Lee, Jr., on oath declare and say: I reside in Charlestown; am a merchant; my office is in Boston; I have built and owned vessels, and am well acquainted with wharf property in Boston and Charlestown; know Oakman & Eldredge wharves near the navy-yard; the value of such depends on the water-front and the depth of water at low tide; and as there is little water-front at Charlestown and but little in Boston as well situated as these wharves are, I cannot estimate the value of them at less than four times the value per foot of street or upland property.

As I understand the Government have been in treaty for this property as an addition to the yard, I suppose they must appreciate it as thus situated on deep water; and although the purchase of it by the Government would be in some small degree adverse to my interest as a tax-payer in Charlestown, yet, if the Government need it, as in my judgment they do, as essential to the operations of the yard, I should be ashamed to urge that as a reason why they should not have it. So believing, I hope the Government will conclude the purchase, and not be deterred from it by persons styling themselves land speculators. I know that Messrs. Oakman & Eldredge have built up a large and I should think a profitable business on these wharves. My wish is that Government may have all the land it needs for its business.

JAMES LEE, JR.

April 18, 1864.

Suffolk, ss:

Subscribed and sworn to before me.

CALVIN P. HINDS,  
Justice of the Peace.

Commonwealth of Massachusetts, Suffolk, ss:

I, Benoni Bixby, of Boston, on oath depose and say: I am and have for more than twenty years been a wharf and bridge builder. I know both the Brintnall and Caswell wharves in Charlestown, and have worked on both of them. Their great value is in the water-front. We consider these wharves on as good front as any we have in Boston harbor. In my judgment that part of them which Oakman & Eldredge propose to sell to the United States is worth \$135,000. To build a pile wharf like those, where they are built on piles, now would cost \$1 75 per square foot. I put some piles under these wharves last autumn, each one of which is worth now from twenty-three to twenty-four dollars. I should think the buildings on the part proposed to be sold were worth about nine thousand dollars at present. I have no interest in these wharves or either, nor in the sale of them in any way.

BENONI BIXBY.

April 15, 1864.

Suffolk, ss:

Subscribed and sworn to before me.

GEORGE S. DERBY,  
Justice of the Peace.

NAVY-YARD, BOSTON, April 18, 1864.

SIR: In compliance with your request to furnish you with an estimate of the cost of building a pile wharf at this yard, I have to say that one hundred superficial feet will require—

Three oak piles, 50 feet long, at thirty-five dollars, (two vertical and one shore).....	\$105 00
Fifteen lineal feet white pine stringers, sixteen inches square, (three hundred and twenty feet, board measure), at thirty dollars per thousand.....	9 60
One hundred superficial feet white pine covering, ten inches thick, one thousand feet, at thirty dollars per thousand.....	30 00
Three hundred cubic feet flats mud, (eleven yards), at \$1 50 per cubic yard.....	16 50
Labor driving piles, cutting tenons, mortising and scarfing stringers, laying stringers and planking, fitting shoring and fenders.....	5 50
Iron work.....	1 75
Steam engineer, coal, and incidental expenses.....	5 00
Fifteen treenails, (making, boring, and driving,) at ten cents.....	1 50
Total.....	\$174 85

This estimate is at the present prices of materials and labor, and, as you will see by the items, rather within, and there are many contingencies and incidental expenses which are not noticed.

Nothing is included for paving or planking the wharf. I am satisfied that \$1 80 per one hundred superficial feet is as low as a job of this kind could be contracted for with any responsible builder.

Yours, respectfully, JOS. E. BILLINGS,

Civil Engineer Boston Navy Yard.

SAMUEL OAKMAN, Esq., Present.

No estimate for dredging in above figures.

CLERK'S OFFICE, NAVY-YARD,  
BOSTON, April 18, 1864.

MY DEAR SIR: My attention being called to the debate, as published in the Globe, in relation to the sale of the wharf for the use of the navy-yard, I must say I was struck with astonishment at the range the debate took in the Senate, for I do think there was a misunderstanding on the part of the Senators, or they could not have said the purchase was unreasonable. In my opinion the Navy Department do need, and I, as I said in debate in the city council, of which board I am a member, and have been for four years, when the question was under consideration for the appointment of a lobby to fight against the Department's buying the wharf, I now repeat, that as to the matter of taking away taxable property from the city, that unless there was a proposition to remove the yard from the city, I should vote against sending any one to Washington to fight against the bill, but would vote to give to the Department the whole line of wharf property from the yard to the Charles river bridge, and as we had the yard in our city it would make one of the greatest naval depots in the country. Hoping the Senate will reconsider the matter, and give to the yard this wharf, which I think they very much need for the sake of its water-front.

I am, respectfully, your obedient servant,

CHARLES FIELD.

TO SAMUEL OAKMAN.

I, Lowell W. Chamberlin, treasurer and collector of taxes for the city of Charlestown, in the Commonwealth of Massachusetts, hereby certify that I am such treasurer and collector; that as such I have the care of the records of valuation, &c., and that it appears from the books of valuation of the assessors of said Charlestown, that the stores and wharf on Water street and Charles river, in said Charlestown, owned by Oakman & Eldredge, in the year 1862 were, by the assessors of said city, for that year, valued at the sum of \$120,000, and that said Oakman & Eldredge were assessed therefor, by said assessor, a tax of \$1,152. Witness my hand, March 11, 1864.

L. W. CHAMBERLIN.

March 11, 1864.

Middlesex, ss:

Then, the above named Chamberlin made oath that the above certificate is correct and true.

Before me,

CHARLES ROBINSON, Jr.,  
Justice of the Peace.

Commonwealth of Massachusetts, Suffolk, ss:

I, David N. Skillings, of Boston, on oath depose and say: I am a wholesale lumber dealer; my firm is David N. Skillings & Co.; office in Kilby street. I was formerly a wharfinger in Boston, and am well acquainted with the value of wharf property. I know very well the Brintnall and Caswell wharves; they are accessible to vessels drawing a great depth of water, and in other respects convenient. I consider them among the few most valuable wharves in the harbor. For the part which Messrs. Oakman & Eldredge propose to sell to the United States \$135,000 is not above the fair market price. Indeed, if I owned them, as they do, I should prefer to keep them for business than to sell them at that price. Their great value is in their situation on the deepest water in the harbor, and their breadth of water-front. I have never known a time when it cost as much to build a wharf as now. I will add, that all dredging is but a temporary improvement at best, at all times, but particularly at this time very expensive.

D. N. SKILLINGS.

Suffolk, ss:

April 15, 1864.

Subscribed and sworn to before me.

GEORGE S. DERRY,  
Justice of the Peace.

NAVY DEPARTMENT,  
BUREAU OF YARDS AND DOCKS, April 18, 1864.

SIR: Having been called upon for an opinion as to the necessity for the purchase of additional water-front at the Boston navy-yard, I have no hesitation in saying that I consider the proposed purchase of the utmost importance to the Government.

The very limited amount of deep-water-front at this yard has long been a cause of much complaint and serious inconvenience, and is particularly so at this time, owing to the large number of vessels visiting the yard.

The proposed purchase would add about eighty thousand feet to the area of the yard and about two hundred and eighty feet to its water-front. The water in front of this property is very deep and does not require dredging, and the addition will much improve the shape of the yard by giving a better boundary line, the proposed line being at right angles with Water street.

It has been said that a pile wharf could be built to answer the purposes of the Government and at much less cost than is proposed to pay for the property in question.

I have had no opportunity for collecting the necessary information to enter into a detailed estimate of the cost of such a wharf, but am of the opinion that the cost of a pile wharf of eighty thousand feet area, built in the substantial manner in which it would be constructed if done by the Government, together with the necessary dredging, flooring, and graveling, would far exceed the sum proposed to be paid for this purchase, \$135,000.

The wharf room is much needed, and if this property is purchased the water-front becomes available at once, and the pressing wants of the Government in this respect will be supplied; whereas if a wharf of the extent named is to be constructed, probably more than a year will expire before it can be so far advanced as to render it available for Government use.

I have the honor to be, with great respect, your obedient servant,

W. P. S. SANGER,

Engineer Bureau of Yards and Docks.

Hon. ALEXANDER H. RICE, Chairman of Committee on Naval Affairs, House of Representatives.

Commonwealth of Massachusetts, Suffolk, ss:

In the matter of the sale of Caswell and Brintnall's wharf. to the United States:

I, Obadiah D. Witherell, on oath, depose and say: I am a wholesale dealer in coals; my office is at 95 State street, Boston; I receive and land in the course of a year large quantities of coal. I am well acquainted with Caswell's and Brintnall's wharves at Charlestown; I deem them among the very best wharves here; the great value of them is in the water-front. I don't know the precise difference in the value per foot of land fronting Water street, in Charlestown, and that fronting the harbor, as these wharves do, where the water is deep and below bridges; but the value of the latter must be many times greater. I should say the fair market value of that part of these wharves which Oakman & Eldredge propose to sell was one hundred and thirty-five or one hundred and forty thousand dollars.

I have no interest whatever in these wharves, or either, or in the proposed sale; but if I owned the wharves, as Oakman & Eldredge do, I would not sell what they propose to sell for less than \$135,000.

O. D. WITHERELL.

April 15, 1864.

Suffolk, ss:

Subscribed and sworn to before me.

JAS. B. F. THOMAS,  
Justice of the Peace.

I, the undersigned, Charles P. Chamberlin, of Boston, being duly sworn, depose: I have been in the coal business these twenty years; have long kept a wharf, and know about the value of wharves. I know the value of wharves owned by Oakman & Eldredge; they are, all things considered, perhaps the most accessible and convenient wharves anywhere in this harbor. Their value is well understood by all coal dealers and coal shippers in Boston, New York, and Philadelphia. Freighters are always taken to them at the lowest rates. Oakman & Eldredge had established themselves in a large and lucrative business on the wharf they sold to the United States in 1862, and when they left that wharf they transferred their business to these. They bought them cheap, and have expended considerable on them in repairs and buildings. The price they propose to sell for is, in my opinion, nothing more than a fair one.

I consider not merely the water-front of these the best in the city, but also the facilities afforded by the railroad running from the head of them, to be very great. I know, too, about the cost of building pier wharves, and should say, to build on deep water, as good as these, would cost now two dollars per square foot; and as for dredging out berths in front of the navy-yard wall, as I hear has been spoken of, I think it would be money thrown away. It would need dredging as often as once a year.

CHARLES P. CHAMBERLIN.

April 19, 1864.

Commonwealth of Massachusetts, Suffolk, ss:

Subscribed and sworn to before me.

WM. C. WILLIAMSON,  
Justice of the Peace.

I, Artemus Hammond, of Boston, on oath depose and say: I am a coal shipper and wholesale coal dealer in Boston, and have been in that business for fourteen years, during which period I have carried on from one to three wharves at the same time. I am well acquainted with the value of wharf property generally, and of those occupied by Oakman & Eldredge at Charlestown, as well as others. They are among the most eligible wharves in the harbor; on deep water at all times of tide; where there is no eddy; below all bridges, and with good broad water front. I consider the price of \$135,000 for the water line, or \$160,000 for the whole of these wharves, to be no more than a fair price as between merchant and merchant or any real estate holders. To the Government I think them invaluable. I know also that Oakman & Eldredge have expended a good deal of money upon these wharves, and have a large business; and I doubt very much whether it is for their interest to sell at the price above named. But believing the Government needs it, I hope they will take it. I may add I have no faith in the opposition to it at Charlestown. I don't believe it is patriotism.

ARTEMUS HAMMOND.

Boston, April 19, 1864.

Commonwealth of Massachusetts, Suffolk, ss:

Sworn to before me.

HARVEY JEWELL,  
Justice of the Peace.

Mr. RICE, of Massachusetts. Mr. Spenser, there is another point in connection with this amendment, which has been made by those who oppose this appropriation; it is, that wharves may be constructed within the limits of the navy-yard as it now exists. Now, I desire to say that I have in my possession affidavits clearly demonstrating that it will cost to make that improvement, without any addition to the premises whatever, more than it will to purchase this property, and besides it would require from six to twelve months to make these improvements, while the Government needs these wharves for immediate use.

I will only say in addition, that this appropriation has met the approval of the Committee of Ways and Means, as well as of the Committee on Naval Affairs, the head of the Navy Department, and of every naval officer who has given an opinion upon the subject, all concurring in the

opinion that the Government needs the property, and that the price is not too large. I hope the House will non-concur in the amendment of the Senate.

Mr. KING. I understand this to be a proposition upon the part of the Senate to strike out an appropriation of \$135,000, which was placed in this appropriation bill by the House; and the question upon which I feel disposed to submit a remark or two is whether, under the circumstances surrounding this proposed purchase which have been developed in the course of this discussion, we are justified in voting \$135,000 for this purpose. The Senate must have had some motive for striking out this matter. They seem to have done it, at all events. After that naval officers and other parties interested in this matter seem to be aroused on the subject, and we have affidavits presented here as to the great importance to the Government of this position, and as to the supposed value of this property. I can say here that the statements made as to the importance of it by these officers have little weight with me. I know nothing of the influences which operate on them. Their motives may be patriotic and proper. Here is a man who sold this property last December for \$55,000, and thought he had a good bargain.

Mr. STEVENS. That was only one purchase. There was another for \$49,000.

Mr. KING. I understand that the property for which \$135,000 is proposed to be appropriated is the property sold by this man for \$55,000.

Mr. STEVENS. No, sir; but both the properties, which cost \$104,000.

Mr. KING. Then, sir, I have been mistaken.

Mr. RICE, of Massachusetts. The gentleman from Missouri is mistaken in his facts, as was the gentleman from Indiana, [Mr. HOLMAN.]

Mr. HOLMAN. My statement of facts was made on the authority of the affidavits of citizens and the editor of a Republican paper of Charlestown.

Mr. RICE, of Massachusetts. I do not care about the politics of the paper. The lands proposed to be sold to the Government cost these proprietors \$104,000.

A MEMBER. Before the improvements?

Mr. RICE, of Massachusetts. And there have been twenty-five to thirty thousand dollars of improvements put upon them since the purchase was made. These are the facts.

Mr. KING. There were two parcels.

Mr. RICE, of Massachusetts. Yes, sir; there were two parcels, and the gentleman mistook one parcel for the whole.

Mr. KING. Where are the facts to show that the two parcels of land both together came to \$104,000?

Mr. RICE, of Massachusetts. They were submitted by the proper authorities to the Committee of Ways and Means. I think that the chairman of the committee has stated them to the House.

Mr. KING. I ask to have the affidavits read.

The affidavits presented by Mr. HOLMAN were again read.

Mr. RICE, of Massachusetts. Now, hear me a moment. I wish to call the gentleman's attention to the fact that that refers to what is known as Brintnall's wharf, for which they paid \$55,000. It makes no reference to Caswell's wharf, a part of the purchase, for which they paid \$49,000, making for all \$104,000. They have expended on this property since that purchase somewhere between twenty-five and thirty thousand dollars. They have offered to sell the portion for which the Government has use for \$135,000, and the whole of the property, including what the Department does and what the Department does not need, for \$160,000. These are the facts of the case as I understand them; and I have nothing in the way of evidence which controverts them.

Mr. HOLMAN. I desire to call the attention of the gentleman from Massachusetts to another fact. It was said to the House when the bill was first before it, I do not know whether by the gentleman from Massachusetts as the representative of the Naval Committee, that the Government must at once secure this property if they wanted to get it, because it would be in the market but a short time. I call the attention of the gentleman to the fact that these men who are selling this property to the Government, Oakman & Eldredge,

redge, are not new acquaintances here. These same gentlemen received the appropriation made two years ago of \$123,000. I read from the Republican paper I have before referred to:

"In 1861 Messrs. White & Darrow were owners of the wharf next adjoining the navy-yard wall. They, or one of them at least, had done business thereon for many years. But they finally wanted to sell, and sought a purchaser in the United States. But though application was made to the proper officers, and though the property was offered for \$75,000 or less, the owners were unable to sell it. They were made to understand the United States did not want it. They thereupon sold it to Messrs. Oakman & Eldredge in 1861 for \$65,135. These gentlemen added certain improvements, and shortly after sold the whole to the United States for \$123,000. The sale was consummated by a cession of jurisdiction on the part of the Commonwealth by an act passed on April 30, 1862."

That was the item to which I called the attention of the House when this item was under consideration before. More than two years ago you appropriated for the enlargement of this very wharf \$123,000. It now turns out that these same stock-jobbers purchased it at \$65,000, made some improvements, and immediately afterwards transferred it to the Government for \$123,000, when the men who sold it to them had offered it to the Government for \$75,000.

Another fact: it was said that the Government ought to secure this land at once, because the owners were not anxious to sell and would only extend the offer of the land to the Government for a short time; we should be prompt, therefore, in securing it upon such favorable terms. Such was the argument. This paper referring to the apparent absence of anxiety to sell says:

"It was confidently stated in the debate in the Senate, and by individual Senators who favored the measure in conversation, that Oakman & Eldredge were not at all desirous of carrying through the trade, and had quite as lief retain the property as sell it at the proposed price. This seemed, even then, strange, in view of the fact that the cession of jurisdiction had been asked for by them, and not by any officers of the Government; that their private counsel appeared before the committee to urge it; that Mr. Oakman was present at Washington then urging it, and it was apparent a lobby member or more was engaged upon the House. The Senate, upon consideration of the proofs, however, by the very decisive vote of 25 to 11, rejected the appropriation. Immediately upon the receipt of this intelligence in Massachusetts, Mr. Oakman again left for Washington. We think he yet remains there. And the telegraph reports that the measure is revived, with fresh proofs, before the Committee of Ways and Means. This again seems strange, if, as has been so often and so earnestly represented, the owners do not desire to sell at the proposed price. Accordingly, the mayor, in pursuance of the duty cast upon him by the city council, has forwarded to Washington some fresh affidavits, and among the facts related therein is one to this effect: that when Messrs. Oakman & Eldredge bought Brinall's wharf, Mr. Oakman said he was paying too great a price for it, that it was not worth so much, and that if he did not succeed in selling it to the United States at any time within one year he would give Mr. Hittiger \$10,000 to take it back!"

So that Oakman & Eldredge pocketed from the Government for the sale of this very ground the difference between \$65,000 and \$123,000 less than three years ago, buying the property for that very purpose. And now they propose the same game, and the Senate, indignantly frowning upon corruption and fraud, reject the amendment; and now gentlemen are urging, with all these proofs before them and the country, that this fraud shall be consummated by the pertinacious obstinacy of this House.

Mr. KING. I certainly will not gainsay the declarations of the honorable chairman of the Committee of Ways and Means or of the gentleman from Massachusetts as to the different versions which have been given of this matter. Doubtless they have given their versions upon what they consider to be good grounds, but every step taken in the progress of this matter confirms me in the opinion that this House would be doing a very great wrong in making this appropriation under the circumstances.

Now, there is a difference of opinion in reference to this thing, right upon the ground there at Charlestown. We are not able to determine whether those who made the affidavits introduced by the gentleman from Indiana, [Mr. HOLMAN,] or those who made the affidavits introduced by the gentleman from Massachusetts, [Mr. RICE,] are correct; but that difference certainly makes an issue, and leaves the matter so doubtful that I am unwilling to vote \$135,000 out of the public Treasury until that doubt is removed. I will not undertake to say which of them are right; but my opinion is that there is some scheme on foot by which these parties, who are seeking to sell this property to the Government, are to make

a very large speculation. It seems that they doubled their money upon a sale connected with this property only two years ago; and now it seems they will make no trade unless they can about double their money again, according to the version of those parties whose testimony has been read here. The editor of that newspaper published at the place where the property is situated says they are trying now to have an act passed by which they are to double their money. I do not object to that if the property is worth it; but right upon the top of that it appears that these parties proposed to sell back the property to the party from whom they purchased it for \$10,000 less than they paid, provided they did not sell it to the Government.

Mr. WILSON. I desire to call the attention of the gentleman from Massachusetts to a statement made in one of these articles. It is stated that the affidavits of a large number of the most experienced and competent men were furnished that the portion of the wharves proposed to be sold for \$135,000 would be dear at \$60,000, and that the portion retained from the two wharves by Oakman & Eldredge was worth as much or more than that they propose to sell; so that they would retain one half of the value of that for which they paid \$104,000, and sell the other half for \$135,000. This evidence came from the owners of wharf property in the neighborhood, from merchants, from wharf builders, and from gentlemen who sell real estate, and who have the best knowledge of these affairs.

It seems from that statement that they propose to retain more than one half of this property in value, and to receive for the remaining one half \$135,000, being \$31,000 more than they paid for the whole property. I would like to have the gentleman from Massachusetts explain that.

Mr. RICE, of Massachusetts. I thank the gentleman from Iowa for the opportunity of replying to that statement. I stated when I was on the floor before that the whole cost of this property to Oakman & Eldredge, according to the evidence submitted to the House, was \$104,000. Upon it they have made improvements costing from twenty-five to thirty thousand dollars. That makes the net cost of the property something more than one hundred and thirty thousand dollars as it stands to-day. A certain portion of this property is of no practical use whatever to the Navy Department, and therefore Oakman & Eldredge propose to sell to the Navy Department all that is of value of that which cost \$130,000 for \$135,000.

In reply to the suggestion of the gentleman from Iowa, that the part which the owners reserve is worth as much or more than that which they propose to sell to the Government, I will say to him distinctly that Oakman & Eldredge offer to sell the entire property to the Government for \$160,000, which only amounts to \$25,000 for the part that they retain. Then, sir, how preposterous it is to come in here and say that the portion which they propose to retain for themselves is worth as much or more than what they propose to sell to the Government, when they ask \$135,000 for the part which they will sell to the Government, but will sell the whole for \$160,000! The simple truth is that there is confusion in respect to this subject, as I apprehend, growing out of the fact that two purchases were made, and gentlemen have got into their minds the sum paid for one wharf and the sum paid for another without combining the two together.

In reply to the gentleman from Missouri, [Mr. KING,] who raises a doubt in regard to the value of this land upon the suggestion that we have affidavits upon the one side that the land is worth sixty or seventy thousand dollars, and on the other side that it is worth all that the Government proposes to pay for it, I desire to ask him how he will decide a question of this kind? Will he set aside the opinion of Admiral Gregory, and of Admiral Stringham, and Commodore Montgomery, and of the Secretary of the Navy, and the chief of the Bureau of Yards and Docks, and the civil engineer of the yard, and, I believe, of every officer of the Navy who has given any opinion upon this subject? Will he set the opinions of all these officers aside, and consider them of only equal value to the article in a newspaper, which was submitted here by the gentleman from Indiana? I do not know who wrote that article in the newspaper. I have seen it only since I came

into the House. But I simply say, without impugning the motives of the writer of that article, and without impugning the motives of any man who opposes this purchase, that all the evidence we have on the subject, which we are bound to receive, is in favor of these two things: in the first place, that this purchase is absolutely necessary for the use of the Government; and in the second place, that the price is a fair one.

Mr. HOLMAN. Will the gentleman yield to me for a moment?

Mr. RICE, of Massachusetts. I will, with great pleasure.

Mr. HOLMAN. Let me say to the gentleman that if it is true that there is some conflict as to the value of this property, if the citizens of Charlestown, being on the spot, have misconceived its value, and these naval officers living abroad can understand the matter no better than the citizens there do, is it not a much safer policy if the Government really needs this land to let it be regularly condemned under the law which we are to pass for the condemnation of property required by the Government?

Mr. WILSON. I suggest to the gentleman that that bill has already passed.

Mr. HOLMAN. So much the better. Then there is a law upon the statute-book to avoid these chances of fraud and speculation upon the Government, a law for the proper and legitimate condemnation of property if it is needed for the public use, just such a law as we should have had in force from the beginning of the Government, and which would not only have saved millions of money, but would have prevented an ocean of frauds committed on the Government.

Now, sir, here is the judgment of the city of Charlestown in relation to the value of this property. I read from the Republican paper to which I before referred:

"It was and is no part of the purpose of the city of Charlestown to check the growth or expansion or prosperity of this naval station. If all its territory were really needed by the Government it would be cheerfully surrendered, and so of any portion. But it opposes what it deems an improvident purchase, for the reason that, if consummated, it will be a loss to the United States not less than to the city, and, indeed, the public at large. Besides, at a time when the public Treasury is attacked by a vigor greater than that which is exerted against the enemy in arms, it was thought to be a plain duty to furnish the facts important to be known by those who are its custodians, in order to an intelligent discharge of their duties."

And now, if the gentleman will permit me, I will say that if, with this light before us, without a clear knowledge that this land is necessary, without a clear knowledge of its value, and with a law on the statute book authorizing the condemnation of this property—if under these circumstances we permit this fraud to be consummated, it will reflect severely on the integrity of the Government.

Mr. RICE, of Massachusetts. With all due respect to the gentleman from Indiana, I submit that it is hardly fair for him to characterize this enterprise as a fraud. I do not believe there is any evidence before him or before the House to justify him in characterizing it as a fraud. In doing so he charges fraud on one of the highest Departments of the Government; and on a large number of gentlemen whose integrity, so far as I know, stands unimpeached here and elsewhere.

I want to say a single word more in reply to the gentleman from Indiana. I understood him to advocate the forcible seizure of this property, that it might be converted to Government purposes.

Mr. HOLMAN. If required for Government use.

Mr. RICE, of Massachusetts. I am quite surprised to hear from the honorable gentleman an advocacy of a measure of so harsh a character. I thought he was one of those who did not believe in the assumption of arbitrary powers on the part of the Government. I believe there is not an instance on record where the Government has ever from its foundation to this day seized a piece of property for the establishment of a navy-yard or for any similar purpose whatever. And I am greatly surprised that in this time, here, when there is an opportunity to make a fair purchase and for a use declared to be necessary by all the officers of the Government who have any knowledge of it—a purchase which two committees of this House have sanctioned, which this House itself has sanctioned—the gentleman from



Indiana should come here and declare that the Government is incompetent either to ascertain the value of this property or to conduct a negotiation for it on ordinary business principles, and should recommend that the Government should with an iron hand seize the property of these private citizens and convert it to public use, paying for it whatever the Government might see fit. For my own part, I protest against such a proceeding under such circumstances, or until it shall become a matter of necessity.

Mr. HOLMAN. Will the gentleman from Massachusetts allow me to say a word?

Mr. RICE, of Massachusetts. Yes, sir.

Mr. GRINNELL. I rise to a point of order. My friend from Indiana has already spoken three times on this subject, and I want to limit him to half an hour. I desire to speak myself.

Mr. HOLMAN. The gentleman from Massachusetts, in assailing the provision for condemnation of lands for the use of the Government, assails the policy of probably every State in the Union. He comes in at a very late moment to assail that policy; after him, and myself, and all others, permitting that bill to pass through without one dissenting voice. But now, when the principle touches the State of Massachusetts, the gentleman is very indignant.

Mr. STEVENS. Mr. Speaker, how can I limit this debate? There must certainly be some way to limit it.

Mr. HOLMAN. We gave the gentleman from Pennsylvania all the time he wanted.

Mr. STEVENS. Not one twentieth part of the time the gentleman has occupied.

The SPEAKER *pro tempore*. (Mr. ROLLINS, of New Hampshire, in the chair.) The Chair is informed that debate is going on by unanimous consent.

Mr. GRINNELL. I deny that as a matter of fact.

Mr. KING. I will resume the floor. I have yielded first to one gentleman and then to another, with a desire to elicit the true facts of the case. I do not know enough about the case to undertake to form an opinion or to pronounce that a fraud is manifestly intended to be perpetrated on the Government. But there is just such a case presented here as to justify me in asking the House whether it is prepared to vote \$135,000 for the purchase of this property. If the Government absolutely needs it, and if the owners will not accept a fair value for it, it can be seized and a fair value paid for it. The Government would not pretend to take it upon their own valuation. If they do seize private property for public purposes they will have to adopt some rule by which a fair valuation of that property can be arrived at.

For one, I am not content to vote for this appropriation with all the facts that have been developed in the course of this discussion. I do not desire to detain the House; I simply rose to call the attention of the House to these facts; and I will add that after the testimony which has been presented to-day in support of the propriety of this appropriation I confess that I do not feel enlightened by it; but on the contrary it has only served to confirm me in the opinion that the appropriation ought not to be made.

Mr. STEVENS. I demand the previous question upon this amendment of the Senate.

The previous question was seconded, and the main question ordered to be put.

The amendment of the Senate was concurred in—ayes 56, noes 38.

Mr. HOLMAN moved to reconsider the vote by which the amendment of the Senate was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Ninth amendment:

Page 10, lines one, two, and three, strike out "and for commencing wet basin at cob-dock seven hundred and nineteen," and insert in lieu thereof "six hundred and sixty-nine;" so as to make the appropriations for the New York navy-yard \$669,315.

The Committee of Ways and Means recommended concurrence in this amendment.

The amendment was concurred in.

Tenth amendment:

Page 10, lines fifteen and sixteen, strike out "marine railway in west ship-house" in the following clause of the bill:

Washington, District of Columbia:

For extension of copper rolling mill, marine railway in

west ship-house, machinery and tools, storehouse for provisions and clothing, dredging channels, repairs of all kinds, and rail tracks in yards, \$220,365.

The Committee of Ways and Means recommended concurrence in this amendment.

The amendment was concurred in.

Eleventh amendment:

Page 10, lines eighteen and nineteen, strike out "two hundred and twenty," and insert in lieu thereof "one hundred and forty;" so as to make the appropriation in the above paragraph of the bill \$149,000.

The Committee of Ways and Means recommended concurrence in this amendment.

The amendment was non-concurred in.

Twelfth amendment:

Page 11, after line three, insert:  
For machinery and materials for the repair of vessels at Pensacola, Ship Island, and New Orleans, \$100,000.

The Committee of Ways and Means recommended concurrence in this amendment.

The amendment was concurred in.

Thirteenth amendment:

Page 12, after line nine, insert:  
Mare Island, California:  
For completion of hospital, \$75,000.

The Committee of Ways and Means recommended non-concurrence in this amendment.

The amendment was non-concurred in.

Fourteenth amendment:

Page 13, in the paragraph "for pay of superintendents, naval constructors, and all the civil establishments of the several navy-yards and stations, \$125,688; this appropriation is made upon the basis of no increase of salary," strike out the words, "this appropriation is made upon the basis of no increase of salary," and insert in lieu thereof, "and the annual salary of the constructing engineer at Mare Island, California, shall be \$3,200 after the close of the present fiscal year."

The Committee of Ways and Means recommended non-concurrence in this amendment.

The amendment was non-concurred in.

Fifteenth amendment:

Page 14, strike out lines seven and eight, as follows:  
For pay of clerks in the ordnance department at the several navy-yards, in lieu of the present per diem pay, viz:

The Committee of Ways and Means recommended concurrence in this amendment.

The amendment was concurred in.

Sixteenth amendment:

Page 14, strike out the following:  
For salary of one clerk at Portsmouth, New Hampshire, navy-yard, \$1,000.  
For salary of one clerk at \$1,200, and one at \$1,000 per annum, at Boston navy-yard, \$2,200.  
For salary of one clerk at the Philadelphia navy-yard, \$1,000.  
For salary of chief clerk at \$1,800, one clerk at \$1,000, and one draughtsman at \$1,800 per annum, at Washington navy-yard, \$1,600.

The Committee of Ways and Means recommended concurrence in this amendment.

The amendment was concurred in.

Seventeenth amendment:

After line seventeen insert:  
Provided, That no money appropriated for the support of the Naval Academy shall be applied to the support of any midshipmen heretofore appointed not in strict conformance with the provisions of the law for appointing midshipmen to the Naval Academy.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Eighteenth amendment:

Insert:  
For constructing a coal wharf at Key West, Florida, \$32,000.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Nineteenth amendment:

Insert:  
For altering coal depot to storehouse at Key West, Florida, \$15,000.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Twentieth amendment:

Insert:  
For constructing a railroad from naval wharf to the coal yards at Key West, Florida, \$10,000.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Twenty-first amendment:

Insert:  
For pay and mileage of officers to the Naval Academy, \$2,000.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Twenty-second amendment:

Strike out "three" and insert "four," so that it will read: "For the pay of assistant astronomer, four aids and clerk, \$8,500."

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Twenty-third amendment:

Strike out the following words:  
And \$4,000 thereof shall be divided among three aids as their salary.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Twenty-fourth amendment:

Insert:  
For the purchase and preparation of a site for a cemetery for the Navy and marine corps near Philadelphia, \$15,000.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Twenty-fifth amendment:

Insert after the word "photographer" the words "for the ordnance department."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Twenty-sixth amendment:

Insert:  
For the compensation of petty officers, seamen, and others of the crew of the United States steamer Monitor, lost at sea December 30, 1862, \$3,000.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Twenty-seventh amendment:

Insert:  
For compensation of petty officers, seamen, and others of the crew of the United States steamer Cairo, lost in the Yazoo river, December 12, 1862, \$8,250.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Twenty-eighth amendment:

Strike out the following:  
Sec. 2. And be it further enacted, That for the purpose of building a floating dry-dock for monitors at the New York navy-yard, and also at the navy-yard at Philadelphia, at a price not exceeding \$260,000 each, the sum of \$520,000 be, and the same is hereby appropriated, to be paid out of the appropriation of \$750,000 for a floating dry-dock at navy-yard New York, provided for by the act making appropriations for the naval service of the United States, approved March 3, 1863; and the balance of said appropriation be, and the same is hereby, repealed.

The Committee of Ways and Means recommended a non-concurrence in the amendment.

The amendment was non-concurred in.

Twenty-ninth amendment:

Add:  
And be it further enacted, That there shall be added three professors to the number of professors of mathematics now authorized by law, who shall be appointed and commissioned as now provided by law, who shall be a professor of ethics and English studies, a professor of Spanish, and a professor of drawing at the Naval Academy.

The Committee of Ways and Means recommended a concurrence.

The amendment was concurred in.

Thirtieth amendment:

Add:  
And be it further enacted, That the United States Naval Academy shall return to and shall use the Naval Academy grounds in Annapolis, in the State of Maryland, before the commencement of the academic year, 1865.

The Committee of Ways and Means recommended a concurrence.

Mr. DIXON. The Naval Academy has actually been at Annapolis until the breaking out of this rebellion. It was then thought necessary by the Secretary of the Navy that it should be removed. When it is deemed proper, the same authority can return it to Annapolis. I understand that the Secretary of War declines to surrender the buildings, which are now used as a military station. It may be as important in 1865 as it is to-day, and however important it may be to the War Department, if we pass this law and do not repeal it the next session, the Naval Academy must occupy the property which is there. It seems to me that if it is necessary or proper at any time that this act should pass, its passage should be postponed until a future time, and until

the necessity and propriety is apparent that this property can be used by the Naval Academy to the advantage of the Academy and of the country.

As I said before, there is no necessity of passing this law, for the reason that the power and authority already exist in the Department to remove the Academy if they see fit.

Mr. STEVENS. This Academy was removed to Newport from necessity, and that necessity has ceased to exist. There is no reason, therefore, that we know of, why the Academy should not be returned to Annapolis. A year is given before it is to be done, and if before that time circumstances should be altered, this law can be repealed.

But there are various reasons connected with the discipline of the School why it should not be at Newport. Newport is a large and fashionable place, subject, of course, to all the vices which always attend upon large cities. It is no place to send young men for education of any kind. I do not speak this of Newport more than of any other large place. I believe it is always better to have seminaries of learning in small villages, where there are but few temptations to vice. At Annapolis there are but very few people. It is a small village, and just about the right size for any institution. It is in a healthy climate, it is always open to the sea, and the frosts never interfere with the navigation. Last year I voted against this same proposition because I thought Maryland was not yet redeemed, and I was unwilling to vote to return the Academy there until she was redeemed. But I am glad to believe that that time has now arrived, and I am ready now to vote for the removal.

I learn that the expenses to be saved will be between seventy-five and one hundred thousand dollars; and I also learn that it is the desire of the faculty and professors of that institution that it should be returned to Annapolis.

Mr. DIXON. In what way is that money to be saved?

Mr. STEVENS. It is so stated by those who have examined the matter; but I have not inquired into it.

Mr. DIXON. The Naval Academy has been very largely increased in numbers since its removal to Newport. The accommodations at Newport were supposed to be temporary, and the accommodations at Annapolis were not entirely equal to the numbers there previous to its removal.

Mr. CRESWELL. I will say to the gentleman that the accommodations there were ample.

Mr. STEVENS. I desire to know how much rent the Government is now paying at Newport?

Mr. DIXON. I do not know.

Mr. STEVENS. There is a large item of saving in that.

The amendment of the Senate was concurred in.

Last amendment:

Amend the title by adding thereto the words "and for other purposes."

The amendment was agreed to.

Mr. STEVENS moved to reconsider the several votes by which the Senate amendments were concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PACIFIC RAILROAD.

Mr. COLE, of California, by unanimous consent, reported back from the select committee on the Pacific railroad a bill (H. R. No. 191) to authorize and aid in the construction of a railroad connecting the Pacific railroad in California with the Columbia river in Oregon; which was recommended, and ordered to be printed.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, informed the House that the Senate had agreed to the amendments proposed by the House to the original text of the bill (H. R. No. 198) making appropriations for the Army for the year ending June 30, 1865; that the Senate insist upon its ninth amendment, disagreed to by the House; and that the Senate disagree to the amendments of the House to the seventh and eighth amendments of the Senate to said bill; and ask a conference on the disagreeing votes of the two Houses on said bill; and have appointed Messrs. FESSENDEN, WILSON, and HENDERSON such committee upon the part of the Senate.

Also, that the Senate agree to the amendments of the House to the bill (S. No. 160) granting lands to aid in the construction of certain railroads in the State of Wisconsin.

Also, that the Senate have passed a joint resolution (H. R. No. 69) for the payment of volunteers called out for not less than one hundred days.

#### THE REBELLIOUS STATES.

The SPEAKER. The next business is the consideration of the bill in relation to the rebellious States, upon which the gentleman from Maine [Mr. PERHAM] is entitled to the floor.

Mr. PERHAM. Mr. Speaker, when I took my seat as a member of this Congress I was impressed with a sense of the responsibilities which attach to the position, and the magnitude of the questions which were to claim our attention. We are in the midst of a gigantic war, such as the world has never before seen. Our democratic form of Government has suddenly and violently been put to the severest test. The opponents of our system of Government have been compelled, in view of our unparalleled prosperity, to admit its superiority in time of peace; but they have told us, tauntingly, that whenever internal commotion should arise we should find our form of government inadequate to withstand the shock, and should go down beneath the bloody surges of battle, as other republics have gone before. The time foretold is now upon us. The shock has come with terrible force. The world holds its breath and awaits the issue. Crowned heads and the devotees of despotism are exulting in the hope of our downfall; while the down-trodden, the oppressed, and the liberty-loving masses of all lands are continually offering prayers for our success. It is a struggle between freedom and despotism, not only for us, but for the world. Never, perhaps, were such weighty issues committed to the arbitrament of the sword. In this view of the struggle in which we are engaged our action becomes important. All our efforts should be directed to the success of our mutual cause—the suppression of the rebellion and the salvation of our common country. With these views, and in this spirit, I have thus far contented myself in being a quiet worker with my associates. And now, did I not feel that the course pursued by the members on the other side of this Hall is calculated to undermine the people's confidence in the Government, create discord among those who should be agreed, dishearten our friends, encourage our enemies, and prolong the war, my voice would not be heard to-day.

Gentlemen on the other side have indulged in the most extravagant declarations as to what they would do if the people could be induced to give back to them the administration of the Government. In the face of the fact that they continued in power till seven States had defied the authority of the Government and the war fully inaugurated, they have the hardihood to tell us if their counsels had prevailed the rebellion would not have occurred. They persist in characterizing this as "Lincoln's war," "Black Republican war," "abolition war," "war for the niggers," a "hellish crusade," carried on in "violation of the Constitution," &c., &c. They evidently hope by continually ringing the changes on these terms into the ears of the people to conceal the real facts in the case and divert the attention of the country from the record which the history of the last four years has made for them.

I have been compelled to listen to these charges for five months on this floor, and from other Democratic sources ever since the commencement of the war. I therefore deem it my duty to deny the allegations and repel the slander, and, so far as I may be able in the time allotted me, appeal to the facts in the case to sustain my position and place the responsibility of the war and its continuation where it belongs.

To show the success which attended the last effort of the Democratic party to conciliate their southern brethren and their adaptation to that kind of work, I propose to refer to a piece of history that is familiar to all, especially to gentlemen over the way. On the 3d day of May, 1860, the party known as the National Democratic party met at Charleston, South Carolina, for the purpose of adopting a platform of principles and nominating candidates for President and Vice President to be supported by the party in the

election then approaching. To this convention no "northern fanatic" was invited. There was no Wendell Phillips, no Cheever, no Beecher, no Garrison, no Greeley, and not a single black Republican to interrupt the free flow of brotherly love and the exercise of "concession," "compromise," and "peace." In short, there were no abolitionists to "molest or make them afraid." Being free from all these fanatical elements, which they say have produced the war, it would be reasonable to suppose that the men who are now such devoted disciples of peace might have kept peace in their own brotherhood. But not so. The southern members determined to obtain more explicit acknowledgment as to the rights of their peculiar institution in the Territories. The northern delegates objected. They had made a good run with Buchanan on the Cincinnati platform four years before, by giving it one construction in the South and another in the North; and they were assured that with the same platform the same thing could be successfully played again. They (the northern delegates) proposed to leave the whole question of slavery in the Territories to the decision of the Supreme Court. By this they hoped to keep that exciting question out of the canvass and prolong Democratic rule another four years. To this proposition the southern members objected. Mr. Glenn, a member of the convention from Mississippi, said:

"Sir, at Cincinnati we adopted a platform on which we all agreed. Now, answer, ye men of the North, of the East, of the South, and of the West, what was the construction placed upon that platform in the different sections of the Union? You at the West said it meant one thing, we at the South said it meant another. Either we were right or you were right; we were wrong or you were wrong. We come here to ask you which was right and which was wrong."

Mr. Milton, of Florida, accused the northern Democrats of having "hardened their hearts and stiffened their necks against the South." Mr. Yancey, of Alabama, made a very sensible remark, when he said in the convention, "You gave up the real ground of battle, the key-note to success, when you acknowledged that slavery was wrong." "You are now," he says, "in no condition to defend it." After quarreling in the convention for ten long days, with no result but the secession of a large portion of the southern members, they adjourned. And after six weeks spent in consultation and in earnest effort to restore harmony, they came together at Baltimore agreeably to adjournment, only to renew the old family quarrel. And at the end of six days, spent in alternately "compromising," "conceding," and quarreling, they divided, and two Democratic presidential tickets were put in nomination. If the northern delegates had been willing to yield a tithe of what they have since demanded of Congress and the Administration the southern delegates would have been satisfied. But they would not. It is said the South has been driven out of the Union by the friends of the Administration. By the same process of reasoning I might say to the opponents of the Administration, You drove them out of your convention. They seceded from the convention because you would not yield to their demands. They seceded from the Union because a majority of the people had voted against their demands. You drove them, nearly all, out of the Charleston convention, and when new delegates were elected, and every southern State except South Carolina knocked at the doors of the Baltimore convention for admission, and assured you that if you refused them they would dissolve the Union, you drove them away also. It is not for me to say that your action was wrong. I am only applying to you the same rule you apply to us. This was before the manhood of your party was entirely ground out, as evinced in a brief speech made in the Baltimore convention by Mr. Church, of New York. Mr. Church said:

"One question after another has been presented to us, and we have been asked to yield this point and that point, and we have never failed to respond whenever we have been asked, until we are required to yield up everything which distinguishes our manhood—nay, more, everything which distinguishes the manhood of two hundred thousand Democrats behind us."

These words were well spoken, and contained what you all know to be truth, but they were the last expiring sounds of Democratic "manhood." I recognize on the rolls of the convention the names of some of the members of this House.

They could not save their own party from disintegration; they proved themselves entirely incompetent to save the country from the same fate when they had the power, and now they come here and ask the American people to trust them to restore the Government they have so sadly mutilated! But the people are not again to be cheated. From the granite hills of New Hampshire, the valleys of Connecticut, the fertile fields of Maryland, from almost every ballot-box in the land, there goes up one rebel-extinguishing, copperhead-crushing, Union-inspiring, No!

Gentlemen on the other side persist in applying to us such terms as "negro-worshippers," friends of the "everlasting negro," &c. Now, I have never met a class of men from the ends of whose tongues and pens the expression of thoughts pertaining to the negro run off so easily, so rapidly, and so naturally, and whose resolutions and speeches are so burdened with such thoughts, as these Democratic gentlemen. Take the convention to which I have referred as an example. None but Democrats were allowed to take part; and yet, as usual, the first question introduced was the negro question. The negro was in every speech, every resolution, every vote, and, apparently, in every thought of the convention. And, after sixteen long days spent in this way, the negro was the rock on which they split. And when that party has become so obnoxious as to be a stench in the nostrils of all good men, as it is fast becoming, an indignant people will bury it out of sight, and, borrowing an expression as familiar in every well-regulated Democratic family as "household words," they will write upon its tombstone "Died of nigger on the brain."

All the South demanded in the convention that was not willingly granted by the northern delegates was a recognition of their right to take their slave property into the Territories and have it protected there. This proposition was rejected by the very men who, a few months later, became enamored with the Crittenden proposition, so called, and who have not ceased from that time to the present to point to that as the "golden opportunity" when the rebels might have been made our friends. This measure would have had, if passed, no other effect than to demonstrate anew the capability of the northern people for self-abasement, as subsequent events have fully shown. By this proposition, the Constitution "as it is," about which our Democratic friends are now so very tenacious, was to be so amended that slavery would be fastened more strongly on the people. The right of Congress to abolish slavery in territory under its immediate jurisdiction was forbidden. The right to transport slaves from one State to another was to be guaranteed; thus practically making every State in the Union a slave State, by allowing the master to carry the slave code of his own State into any other State, with power to enforce it there. The Government was to pay to the owner of fugitive slaves, in case he should be prevented from capturing them by force, the full value of the slaves. All the territory of the United States south of 36° 30'—nearly as large as the thirteen original States—was to be dedicated to slavery during its territorial condition; thus making it morally certain that these Territories would eventually become slave States. All these guarantees were to be secured to slavery by constitutional amendment; with the further provision that no future amendment of the Constitution should affect these or the existing provisions pertaining to that subject, or "which shall authorize or give to Congress any power to abolish or interfere with slavery in any of the States by whose laws it is or may be allowed or permitted." As a consideration for all these new constitutional protections for slavery, and as an equivalent for them, it was magnanimously conceded that the provision in the fugitive slave law, which gave a bribe, in the shape of a double fee, to the commissioner for remanding the accused to slavery, should be so amended that the fee should be the same whether the decision should be in favor or against the claimant. This is what is called "compromising" with slavery!

The American people had just declared in the election of Mr. Lincoln, on the Chicago platform, that slavery should not be carried into territory then free. The President and the members of Congress elected by the people on that issue were required to repudiate every obligation that rests

on public officers to respect and maintain inviolate the principles on which they were elected. The Administration was requested to do just what the American people had instructed it not to do, and what both the old parties had repeatedly refused to do. Strange as it may appear to the world, we were required by men professing to act from democratic principles to surrender the right of a constitutional majority to rule, and transfer it to a defeated minority. All these demands were made upon the loyal people of the country to win back to their allegiance a few thousand rebels who wickedly wrested the Government of a portion of the States from the loyal people, whose right it was to rule; threatened and bullied them into submission; stole the property of the Government; murdered its citizens; incited the merciless savage to the most terrible deeds of outrage and murder known in modern history; laughed at the efforts of the Government to strike down their rebellious hands, and declared they would not come back into the hated Union even if they were given a sheet of white paper on which to dictate their own terms.

To the declaration so often made on this floor that the Administration and its friends are responsible for the war I answer:

1. If the South had any cause for complaint, the Democratic party, and not the Union or Republican party, is responsible for it. They had controlled the Government, with but brief interruptions, for sixty years; and when the rebel States seceded, though a Republican President had been elected, the Democrats had a majority both in the Senate and House of Representatives, and would have been able to hold an effectual check upon the executive branch of the Government. If they had not given the southern people their rights it was their own fault.

2. There was no ground for complaint. The southern States had continued in the enjoyment of all their constitutional rights, and, so far as the election of Mr. Lincoln was concerned, they never stood on a firmer basis than at the time of secession. This declaration is corroborated by the testimony of leading Democrats, both North and South. Mr. Douglas, in his speech delivered in Chicago, May 1, 1861, said:

"They [the rebels] assume, on the election of a particular candidate, that their rights are not safe in the Union. What evidence do they present of this? I defy any man to show any act on which it is based. What act has been omitted to be done? I appeal to these assembled thousands, that so far as the constitutional rights of slaveholders are concerned, nothing has been done and nothing omitted of which they can complain."

"There has never been a time from the day Washington was inaugurated first President of these United States when the rights of the southern States stood firmer under the laws of the land than they do now; there never was a time when they had not as good cause for disunion as they have to-day. What good cause have they now that has not existed under every Administration?"

"If they say the territorial question: now, for the first time, there is no act of Congress prohibiting slavery anywhere. If it be the non-enforcement of the laws, the only complaints that I have heard have been of the too rigorous and faithful fulfillment of the fugitive slave law. Then, what reason have they?"

"The slavery question is a mere excuse. The election of Lincoln is a mere pretext."

"The present secession movement is the result of an enormous conspiracy formed more than a year since, formed by leaders in the southern confederacy more than twelve months ago."

I desire to call the special attention of those men who persist in attributing all our difficulties to "northern aggression" to the following extracts from a speech of the present vice president of the southern confederacy, Hon. Alexander H. Stephens, delivered in the secession convention of Georgia, in January, 1861:

"What right has the North assailed? What interest of the South has been invaded? What justice has been denied, and what claim founded in justice and right has been withheld? Can either of you to day name one governmental act of wrong deliberately and purposely done by the Government at Washington of which the South has a right to complain? I challenge the answer."

"We have always had the control of the General Government, and can yet if we remain in it, and are as united as we have been. We have had a majority of the Presidents chosen from the South, as well as the control and management of most of those chosen from the North. We have had sixty years of southern Presidents to their twenty-four, thus controlling the executive department. So of the judges of the Supreme Court, we have had eighteen from the South, and but eleven from the North; although nearly four fifths of the judicial business has arisen in the free States, yet a majority of the court has always been from the South. This we have required, so as to guard against any interpretation of the Constitution unfavorable to us. In like manner we have been equally watchful to guard our

interests in the legislative branch of Government. In choosing the presiding presidents (*pro tempore*) of the Senate, we have had twenty-four to their eleven. Speakers of the House we have had twenty-three and they twelve. While the majority of the Representatives, from their greater population, have always been from the North, yet we have so generally secured the Speaker, because he, to a greater extent, shapes and controls the legislation of the country."

"Attorney Generals we have had fourteen, while the North have had but five. Foreign ministers we have had eighty-six, and they but fifty-four."

"We have had the principal embassies, so as to secure the world's markets for our cotton, tobacco, and sugar, on the best possible terms. We have had a vast majority of the higher offices of both Army and Navy, while a large proportion of the soldiers and sailors were drawn from the North. Equally so of clerks, auditors, and comptrollers, filling the Executive Departments. The records show for the last fifty years that of three thousand thus employed, we have had more than two thirds of the same, while we have but one third of the white population of the Republic."

"A fraction over three fourths of the revenue collected for the support of the Government has uniformly been raised from the North. Pause now while you can, gentlemen, and contemplate carefully and candidly these important items."

I might continue these quotations to any length, but those I have given are sufficient for my present purpose.

3. The rebel government had been organized, and through the aid and coöperation of the traitors in Mr. Buchanan's Government they had thoroughly prepared for war, and the issue—abject subjection to the malcontents, and the dismemberment of our once glorious Union, or war for the maintenance of the national unity—was fully made up, and transmitted from Mr. Buchanan's to Mr. Lincoln's Administration. In December, 1860, three months before Mr. Lincoln's term commenced, seventy thousand stand of arms in Charleston, which Mr. Floyd had placed in the care of the South Carolina rebels, were taken possession of for the rebel government. On the 25th of the same month, Major Anderson was obliged to abandon Fort Moultrie and seek refuge in Fort Sumter. On the 7th day of January, 1861, about two months before Mr. Lincoln's inauguration, the Richmond Dispatch announced that Virginia was prepared efficiently to arm twenty-five thousand troops. On the 14th day of February, 1861, forty-two self-constituted Democratic representatives of seven rebellious States met at Montgomery for the purpose of organizing a rebel government within the old Union. And on the 18th of February, fifteen days before the expiration of Mr. Buchanan's term of office, Jefferson Davis, having abandoned his seat in the United States Senate, was inaugurated the head of this self-constituted government. Immediately after Mr. Davis's inauguration, a member of their military committee said:

"We have arms in abundance. Every State has amply prepared itself to meet any emergency that may arise, and is daily purchasing and receiving cannon, mortars, shells, and other engines of destruction, with which to overwhelm the dastard adversary. Organized armies now exist in all the States, commanded by officers brave, accomplished, and experienced; and even should war occur in twenty days I feel confident that they have both the valor and the arms successfully to resist any force whatever. Let the issue come, I fear not the result."

On the 19th of December, 1860, Mr. Miles, a former member of Congress, in a speech made in the South Carolina convention, stated that the following, among other things, was said to Mr. Buchanan:

"It is our solemn conviction that if you attempt to send a solitary soldier to these forts, [in Charleston harbor,] that the instant the intelligence reaches our people, and we shall take care that it does reach them, for we have sources of information in Washington so that no orders for troops can be issued without our getting information, these forts will be forcibly and immediately stormed."

About the middle of November, 1860, Hon. L. M. Keitt, in a public speech, declared that "Mr. Buchanan was pledged to secession, and he intended to hold him to it."

The following from Mr. Buchanan's message to Congress, December 3, 1860, while it attests the truth of Keitt's statement, stamps Mr. Buchanan and the entire Democratic party that adhered to him with everlasting infamy. He says:

"After much serious reflection I have come to the conclusion that no such power [the power to coerce a State into submission] has been delegated to Congress or to any other department of the Federal Government."

The Constitution, Buchanan's organ, published in this city, in its issue of December 21, 1860, condemned all attempts to arrest the disunion movement at the South, and argued that it was the duty of Congress to "waste no further time in ineffectual scheming, but address itself promptly to the various considerations involved in the ac-



# THE CONGRESSIONAL GLOBE.

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tion of the seceding States. Congress should so employ its opportunities that the act of secession may be consummated with the least possible amount of ill feeling and inconvenience on either side." January 31, 1861, this Democratic organ suspended its publication, announcing that its issue would be resumed in about one month at the capital of the southern confederacy. Comment is unnecessary. A more disgraceful record has not been made by any party on the face of the earth than that made by the leaders of the Democratic party during the last four years.

4. I answer, this is emphatically a Democratic rebellion, inaugurated by Democrats, under a Democratic Administration, by its knowledge and consent; stimulated and encouraged by the promise of powerful aid from the Democrats of the North, and now kept alive by the hope that the "peace Democracy" of the North will come to their aid and allow them to "go in peace." In proof of this declaration, I propose to notice the part which leading Democratic officials took in the inauguration of the rebellion. On the 9th of January, 1861, nearly two months before the close of Mr. Buchanan's Administration, the *Star of the West*, sailing under the American flag, with supplies for our famishing soldiers in Fort Sumter, was fired into by rebel batteries commanded by Democratic officers and manned by Democratic gunners, thus commencing the war.

Jacob Thompson, Mr. Buchanan's Secretary of the Interior, revealed his treason to the country in a speech which he subsequently made in Mississippi, as follows:

"I sent a dispatch to Judge Longstreet that the *Star of the West* was coming with reinforcements. The troops were then put on their guard, and when the *Star of the West* arrived, she received a warm welcome from booming cannon, and soon beat a hasty retreat."

John B. Floyd, then Secretary of War, took good care to so scatter the United States forces to remote parts of the country that they were, as he intended, entirely unavailable. He had also taken care to deplete all the northern forts and arsenals of the most approved arms and munitions of war, and to transfer them to the depositories in the South, taking care that men were placed in command who would surrender their commands with all the Government property whenever the new government, which was to be, should make the demand. Seven hundred and seven thousand stand of arms and two hundred thousand revolvers were thus transferred from the North and taken possession of by the rebel government. Having betrayed his country and polluted her sanctuaries, this Democratic official was, like Mr. Buchanan's organ, very properly transferred to the southern confederacy.

Our Navy, then under the direction of Isaac Toucey, a New England Democrat, consisting of ninety vessels, carrying some twenty-five hundred guns, had, during the time the rebellion was being planned, been so distributed in the different waters of the world that a select committee, appointed by the House of Representatives February 21, 1861, reported that at the time of their appointment the entire naval force available for the defense of the whole Atlantic coast consisted of the steamer *Brooklyn*, twenty-five guns, and the storeship *Relief*, two guns; while the former was of too great draught to permit her to enter Charleston harbor with safety except at spring-tide, and the latter was under orders to the coast of Africa with stores for the African squadron. Though a large number of ships were lying in our ports awaiting repairs, and though \$646,639 79 of the appropriation for naval repairs for that year remained unexpended, no effort was made to put them in repair.

The Treasury, under the direction of Howell Cobb, of Georgia, was managed no better than the other Departments of the Government, and was brought to the very verge of bankruptcy.

The perfidy of these Democratic officials is only equaled by the effort to reinstate the same party in power that the same acts of treason to the Government may be repeated.

The scenes of violence and murder committed on those suspected of loyalty to the old flag beggars description. One of their vigilance committees in Texas boasted that they had in three months whipped and banished or hung over two hundred abolitionists, including three Methodist ministers. Other similar associations, made up in most cases of leaders of the Democratic party and their adherents in their several localities, were at the same time pursuing the same bloody business. This was the state of the country under Buchanan's Administration. Could we have had at that time an Administration of the Jacksonian stamp long enough to *speak and execute* just one "BY THE ETERNAL," the rebellion, like that of thirty years before, would have been nipped in the bud, and these millions of treasure and rivers of blood and tears saved.

But, considering the weakness of human nature, and the fact that the South had for many years held the President subservient to their will, it is perhaps no wonder that the old man, then in his dotage, who was acting as an apology for President of the United States, surrounded by advisers such as I have referred to, acting under a promise and solemn pledge, as the rebels claimed, that he would not attempt to "coerce" them, and considering the other fact that his party friends North were committed to the anti-coercion doctrine, and that a large majority of them at that time were in full sympathy with the rebels, declared that the rebellion had attained such "vast and alarming proportions as to place it entirely above and beyond Executive control."

5. All the facts that have come to light during the progress of the war show that the South commenced the rebellion with the expectation based on the assurance of northern Democrats, that a civil strife was to be created in the northern States which would neutralize the power of the Government there, while they would make an easy conquest of this capital, take possession of the public archives, and establish the confederate government as the Government of the United States. Many of their declarations show this expectation.

In a speech made by Mr. Walker, Jeff. Davis's secretary of war, on receiving the news of the fall of Sumter, he gave utterance to this idea in the following language:

"No man can tell where the war commenced this day will end. But I will prophesy that the flag which now flutters the breeze here will float over the dome of the old Capitol at Washington before the 1st of May. Let them try southern chivalry and test the extent of southern resources, and it may float eventually over Faneuil Hall itself."

Mr. Douglas, who had the best of opportunities for judging of the motives and expectations which gave life to the rebellion, in his Chicago speech already referred to used the following language:

"I know they expected to present a united South against a divided North. They hoped in the northern States party questions would bring civil war between Democrats and Republicans, when the South would step in with her cohorts, aid one party to conquer the other, and then make easy prey of the victors. Their scheme was carnage and civil war in the North."

I now proceed to show that this expectation of aid from the northern Democracy was not unfounded. Ex-President Pierce, in a letter to his friend Jeff. Davis, says:

"Without discussing the question of right, of abstract power to secede, I have never believed that absolute disruption of the Union can occur without blood; and if, through the madness of northern abolitionism, that dire calamity must come, the fighting will not be along Mason and Dixon's line merely. It will be within our own border, within our own streets, between the two classes to whom I have referred. Those who defy the law and scout constitutional obligations will, if we ever reach the arbitrament of arms, find occupation enough at home."

During Mr. Buchanan's administration Jeff. Davis made a visit to the North, stopping some weeks in the State of Maine, ostensibly to recruit his health, but, as subsequent events prove, to consult with his political friends there in regard to the course to be pursued by them in the event of the defeat of the Democratic party in the next presidential election.

On his return to Mississippi he made a speech

at the capital of the State, in which occurs the following language:

"I am happy to state that during the past summer I heard in many places, what previously I had only heard from the late President Pierce, the declaration that whenever a northern army should be assembled to march for the subjugation of the South they would have a battle to fight at home before leaving the limits of their own State, and one in which our friends claim that the victory will be at least doubtful!"

Why should "the late President Pierce" make this declaration unless he and Mr. Davis had been in consultation about just such a rebellion as was afterwards inaugurated? And why did Mr. Davis so unfold his plans to Mr. Pierce as to call out this declaration unless he understood Pierce to be in sympathy with the movement? How did it happen that Mr. Davis heard "in many places" the same declaration unless he was there for the purpose of sounding the Democratic sentiment on his prospective rebellion, and unless he found willing ears to listen to his propositions?

Jefferson Davis, in one of his speeches in the United States Senate, attributes to Caleb Cushing the declaration that whenever a state of things should occur like that described by Mr. Pierce we of the North should be throttled where we stand.

C. L. Vallandigham, the pet of the Democracy, that "pure patriot," according to the gentlemen on the other side—the man for whom they have shed so many tears—said in the city of New York, November 2, 1860, and repeated in the Cincinnati Enquirer eight days later:

"If any one or more of the States of this Union should at any time secede, for reasons of the sufficiency and justice of which before God and the great tribunal of history they alone may judge, much as I should deplore it, I never would as a Representative in the Congress of the United States vote one dollar of money whereby one drop of American blood should be shed in civil war."

What could be better calculated to encourage the rebellion which was then being organized? What could be the purpose of such declaration in advance unless it was intended to encourage the conspirators? Here was the acknowledged leader of the Democratic party in the popular branch of Congress, just reelected to another term, pledging himself and the power of his great influence with his party to oppose all appropriations necessary to maintain the Union of the States. This man subsequently boasted that he had kept his pledge. No soldier, battling for his country's cause, has ever been clothed or fed by any vote of his. As might be expected, he became endeared to the Democratic party. He was, with great unanimity, made their candidate for Governor of the great State of Ohio, and I have yet to learn of a single Democratic stump orator who was not loud in his praise, or a Democratic paper in the whole country that did not advocate his election.

To go further, and show the sympathy which these men felt for the rebels and the rebellion at the commencement of Mr. Lincoln's term of office, I quote from a speech made in the Senate of the United States by Mr. Lane, of Oregon, the candidate of a portion of his party for Vice President, March 2, 1861, two weeks after Jeff. Davis was inaugurated president of the confederacy. Mr. Lane said:

"Mr. President, I have not words to express my contempt for any man that can apply such terms to such a man as Jefferson Davis. Jefferson Davis a traitor! Treason applied to him! He, the purest and bravest of patriots! He fought for his flag and country when the cowards and poltroons that now dare vilify him were supine at home. He will live glorious in history when they are earth and forgotten."

What could be more encouraging to the rebels than to tell them their chief is to "live glorious in history?" In the same speech he says of the confederate government:

"I look upon that Government as one of the finest experiments on the face of the earth or in the history of mankind; embodying the purest patriotism, the highest order of statesmanship, and the greatest amount of talent and administrative capacity that can be found among the same number of people in any Government on the face of the globe."

The sympathy that existed between the rebels South and their abettors North is most strikingly illustrated in the similarity of their arguments. "Let us alone," said the usurpers who were stealing our property, insulting our flag, murdering our citizens, and plotting, while still in official positions, the overthrow of the Government which had fostered and protected them. "No coercion," responded their northern allies, on the penalty of "blood flowing in our own streets," being "throttled where you stand," marching over "dead bodies of Democrats," &c. If they desired to "adhere to the enemies of the country, giving them aid and comfort," could they have done it more effectually?

This state of things continued till the attack upon Fort Sumter, when the indignation of the people became so aroused that these men found it impossible to breast the irresistible tide. Such was the uprising of the patriotic citizens of the whole country that a large portion of the Democratic leaders were forcibly borne along by the overwhelming force of the loyal masses, and for a while either fell back into studied silence or became loud in their professions of sympathy with the Government. But this silence and these professions of friendship were only for a time. Their true sentiments were held in abeyance, waiting for an opportunity to raise an issue with the Government, upon which they might regain their lost influence before the people. True to this they have pursued a policy which will place their names by the side of the worst enemies of the country, and call down upon their heads the execration of coming generations.

When it was proposed to allow the contrabands to come within our lines and work on our fortifications and be protected from the claims of their rebel masters, they opposed it. When it was proposed to arm the negroes, and thus save a portion of our own sons and brothers for the workshops and the farms, they opposed it. When it was proposed to strike the shackles from the limbs of the black man, who had been the truest friend to our suffering soldiers, braving death itself to impart valuable information to our officers, they opposed it. When we were raising volunteers, they opposed it and said the Army should be filled, if at all, by drafting. When it was proposed to draft, they opposed it and said if we must have troops we should rely on volunteers and not drag unwilling men from their homes. And when the President told them they might take their choice and get the men either by draft or by volunteering, they discovered that it was not best to do either. When it was proposed to confiscate the property of rebels in arms and thus obtain a slight compensation for the mischief they have done us, they opposed it. Indeed, aside from a few of those propositions, where they knew opposition would be the grave of the party while it could not change the result, I am not aware that there has been a single important measure for the suppression of the rebellion which they have not opposed. And when a member of this House, while our brave Army is standing face to face with the rebel army, expresses the hope that we "will never subjugate the South," accompanied by a prayer to Almighty God "that it may never be," eighteen Democratic members vote that he is not even deserving of censure, the larger part of the others declining to vote.

The sympathy and encouragement to the rebels expressed by the Democratic press and Democratic speeches and votes on the floor of Congress have done more to prolong the war than our defeats on the battle-field. The rebels watch our political movements with as much interest as they do our armies, and hail with joy every Democratic triumph.

The Raleigh (N. C.) Progress says:

"We remember to have heard an eminent divine remark, a few months ago, that his only hope of salvation for the South was through the Democratic or peace party of the North."

General Johnston of the rebel army has said they did not expect to conquer by the force of arms, "but through dissensions in the North." The Jackson Mississippian, now published at Atlanta, referring to the subject, says:

"Have our neighbors read the Chicago Times, New York Express, Metropolitan Record, Cincinnati Enquirer, and various other papers of the North which are exponents of the opposition to Lincoln? Have they read the speeches

of Bright, Voorhees, Merrick, and various others? Have they ever found in any of these papers or speeches a syllable that did not breathe the most orthodox States rights doctrine and uncompromising opposition to coercion? These are the men we wish to encourage, and these are the men whose success will bring peace."

To show what they mean by "peace," I quote from the Richmond Whig of a recent date:

"For ourselves we are free to say that we are for peace. We want peace. We will have it. We must have it. On any terms? Yes, on any terms which General Lee, standing in Faneuil Hall, may choose to dictate to the base-born wretches who have sought to enslave us."

The Richmond (Virginia) Enquirer, the immediate organ of the rebel government, about the middle of July, 1863, said:

"Let not the people be downcast by the result at Gettysburg, nor by the loss of Vicksburg and Port Hudson. Those losses will be more than made good to us by the disorganization of northern society by the expected triumph of the peace Democracy in the free States."

The Mobile Tribune, speaking of the New York riots, says:

"Those riots are the result of the doctrine taught by the Democratic party, which in New York city has strength enough to defy the Government."

A correspondent of the Chattanooga Daily Gazette says:

"A few days ago I fell in company with a prominent rebel citizen of Chattooga county, Georgia.

"The conversation turned upon the probabilities of Lincoln's reelection to the Presidency of the United States, whereupon he remarked with considerable warmth:

"If Lincoln is reelected we may just as well give up the game, for we can in that case have no hope of gaining our independence. We have been trying to keep up appearances with the hope that the peace men of the United States would be able to carry the election. Our all is staked upon the issue, for it is an absolute impossibility for us to hold out another four years."

I commend these extracts, which might be extended indefinitely, to the careful attention of honest Democrats throughout the country.

Mr. Speaker, much has been said on the other side of this Hall about a "violated Constitution." But it is a fact worthy of notice that while they hold Mr. Lincoln to the most limited construction of that instrument that can possibly be given, especially in regard to his measures to crush the rebellion, but few, if any, words of complaint are uttered against the rebels who are setting at defiance every constitutional obligation. The whole purpose appears to be to limit the war powers of the President, so as to render him entirely powerless to grapple effectually with the rebellion.

Not being a lawyer, it would not become me to attempt an exposition of the Constitution from a legal standpoint; but I have certain common-sense views about the powers of the Government and the rights of the citizen under the Constitution which I desire to present. I cannot conceive that this Government is under very strong constitutional obligations to Jeff. Davis and his rebel government. Indeed, I am unable to discover what rights he and his rebel crew have under the Constitution they are trampling under their feet which the Government is "bound to respect." When I read what George Washington said in his letter, transmitting the doings of the Constitutional Convention to Congress, that "individuals entering into society must give up a share of liberty to preserve the rest," I recognize in it a wise and necessary limitation to individual rights, and the duty of the citizen to submit, in times of great emergency like the present, to some personal inconvenience for the general good. When I read, in the judicial construction of the Constitution, "that the Government of the United States can claim no powers which are not granted to it by the Constitution, either expressly or by necessary implication," I conclude there are some powers which, though not "expressly" stated, are given by "necessary implication," and that among these latter powers may be enumerated the right to arrest and confine disloyal citizens when their liberty endangers the public good; the overthrow of the whole system of southern slavery when that system stands before the Government as a protecting wall to its enemies; the right, though not expressly given, to capture New Orleans, Vicksburg, Port Hudson, and, when we can do it, Richmond, Charleston, and Mobile; in short, to do anything not inconsistent with the rules of civilized warfare that may be necessary to crush the rebellion and effectually remove every element that threatens to bring a similar war upon our children.

When I read in the Constitution that "treason

against the United States shall consist only in levying war against them or in adhering to their enemies, giving them aid and comfort," I conclude that those who do "adhere to our enemies" and "give them aid and comfort," are, by the common-sense construction, traitors. And when I hear, on this floor or anywhere else, the leaders of a great party declare—as did Vallandigham—they never would "vote one dollar of money" to feed or clothe our soldiers in the field; when they declare, as did the gentleman from Louisiana, [Mr. VOORHEES,] that "this Government is dying; dying, sir, dying;" when they characterize the war for the supremacy of the Constitution and the laws, as did the gentleman from New York, [Mr. FERNANDO WOOD,] as "a hellish crusade;" when they pray Almighty God, as did the gentleman from Maryland, [Mr. HARRIS,] that we may never subjugate our enemies; when they declare that Jeff. Davis is the "purest and bravest of patriots;" that he will "live glorious in history," and that his government is "one of the finest experiments on the face of the earth or in the history of mankind;" when they aver that nothing has been gained by our armies; when they magnify our defeats and belittle our victories, I confess my inability to see why they are not "adhering to the enemy" and "giving them aid and comfort" in the most effectual manner possible, unless they should adopt the more manly course and join the enemy in the field. Even then it is doubtful whether they could be of as much service to the rebel cause as they are here. I submit, therefore, to the members of this House and the country, whether the acts of these men are not clearly within the constitutional definition of treason.

I will not attempt to judge of the heart of this class of men, but my convictions are strengthened in view of the fact that many of these men, all over the country, have from the beginning appeared to be delighted with every rebel victory and depressed by every Union success. Is there a town or village in the loyal States where many Democrats are not found who, with joyous countenances, nimble feet, and willing tongues, spread the news of rebel successes in the field, but who, when the telegraph announces the success of our arms, retire in sullen silence to their own homes or place of business, with nothing to say, except it be to detract from the importance of the victory or declare the report an "Administration lie?" Who has not noticed when important events have been transpiring in the Army that the news could be as plainly read in the countenances of these men as in the telegraphic columns of the newspapers? Has there ever been a time when this class of men wore such forlorn countenances, when they appeared to be so thoroughly filled with hate and malice, as when the news of the Union victories at Vicksburg, Port Hudson, and Gettysburg followed each other in rapid succession? These remarks are intended especially for those to whom they justly apply, to whose backs the garment I have cut is a fit. They will know how and when to make the application.

In one of the speeches made during the last war with Great Britain by Felix Grundy, of Tennessee, occurs the following description of a thorough-going copperhead which seems to have been spoken for the present day:

"An individual goes over, joins the ranks of the enemy, and raises his arms against the country; he is clearly guilty of treason under the Constitution, the overt act being consummated. Suppose the same individual not to go over to the enemy, but to remain in his own neighborhood, and by means of his influence to dissuade ten men from enlisting; I ask in which case has he benefited the enemy and injured the country most?"

"Whom, then, do I accuse? I accuse him, sir, who professes himself to be the friend of his country and enjoys its protection, yet proves himself by his actions to be the friend of its enemy. I accuse him who sets himself at work systematically to weaken the arm of this Government by destroying its credit and dampening the ardor of its citizens; I accuse him who has used his exertions to defeat the loan and prevent the young men of the country from going forth to fight their country's battles; I accuse him who announces with joy the disasters of our arms, and sinks into melancholy when he hears of our success. Such men I cannot consider friends of this nation."

But there is another class of men calling themselves Democrats to whom the country gives its highest meed of praise, and whose names are embalmed in the affections of the American people. I refer to those men in the Army, in civil life, and in this and the other branch of Congress, who

have for the time being forgotten all party prejudices in their devotion to our common country; who, scorning the scoffs and anathemas of their old party associates, have known nothing but duty. All honor to these noble men! They will be gratefully remembered when those who now malign them will wish to blot their present record from the book of remembrance.

Mr. Speaker, the times in which we live are full of interest and big with mighty issues. No man alive to what is transpiring around us can fail to perceive that what these wicked traitors meant for evil God is overruling for ultimate good. The principles enunciated by Jefferson in the Declaration of Independence have slowly permeated the public mind, till now they are pulsating in every nerve and fiber of the body-politic, and demanding in the halls of legislation complete recognition.

The institution of human bondage is a foul blot upon our otherwise glorious system of government. It is subversive of the plainest principles of national economy as well as opposed to the moral sense and great Christian heart of the civilized world. The decree has gone forth from the throne of the Almighty, as evinced in the providences of this war, that *slavery must cease with the last struggle of the rebellion*. We may shut our eyes to the logic of events, and fight against the teachings of the last three years, but all to no purpose. The very measures resorted to by its friends to prolong its life hasten its dissolution. We may try to crush the rising spirit of freedom, but it is a rock against which men and parties may dash themselves to pieces in the future as they have done in the past.

"Light is flashing through the darkness,  
Day is pouring on the nations,  
Bondsmen break their heavy burdens,  
And the hopeful cry of FREEDOM—  
Freedom for the sad and lowly,  
Freedom for the pure and holy,  
Freedom for the sighing bondman,  
Freedom for the serf and subject,  
Freedom from the bonds of error,  
Freedom from the night of terror—  
Hopeful songs of coming Freedom,  
Rise from million tongues around us."

Mr. KERNAN. Mr. Speaker, my remarks will be confined to the bill under consideration, which, in my judgment, involves questions of great importance, and therefore I ask the attention of the House to its provisions. It is entitled "A bill to guaranty to certain States whose governments have been usurped or overthrown a republican form of government." The first section declares that the President with the consent of the Senate shall appoint for each of these States a provisional Governor, "who shall be charged with the civil administration of such State until a State government therein shall be recognized as hereinafter provided."

The second section provides "that so soon as the military resistance to the United States shall have been suppressed in any State, and the people thereof shall have sufficiently returned to their obedience to the Constitution and laws of the United States," the provisional Governor shall cause the marshal of the United States to enroll all white male citizens of the United States resident in the State, and to request each to take the oath to support the Constitution of the United States, and in the enrollment to designate those who take and those who refuse to take that oath. This enrollment is to be returned to the provisional Governor; and if the persons taking the oath shall amount to one tenth of those enrolled, he shall by proclamation invite the loyal people of the State to elect delegates to "a convention charged to declare the will of the people of the State relative to the establishment of a State government, subject to and in conformity with the Constitution of the United States."

By the third section the convention is to consist of the number of members which constituted the last constitutional State Legislature, who are to be apportioned by the provisional Governor among the counties of the State. The provisional Governor is to designate the time and the places for holding the election, to appoint commissioners to hold it at each place for voting, and to provide an adequate force to keep the peace.

The fourth section declares that the delegates shall be elected by the loyal white male citizens of the United States, of the age of twenty-one years, resident at the time in the district in which

they shall offer to vote, and enrolled as aforesaid, or absent in the military service of the United States, and who shall take the oath prescribed by the act of Congress of July 2, 1862. Those in the military service are to vote at the headquarters of their respective commands, under such regulations as may be prescribed by the provisional Governor. This section further provides that no person who has held any office, civil or military, State or confederate, under the rebel usurpation, or who has borne arms against the United States, shall vote or be elected as a delegate.

Section five provides that persons known by or proved to the commissioners holding the election to have held any office, civil or military, State or confederate, under the rebel usurpation, or to have borne arms against the United States, shall be excluded by the commissioners from voting, although they offer to take the oath prescribed.

The sixth section directs the provisional Governor to convene the delegates elected, to administer to each of them the oath above mentioned, and he is to preside over the deliberations of the convention.

The seventh section is as follows:

And be it further enacted, That the convention shall declare, on behalf of the people of the State, their submission to the Constitution and laws of the United States, and shall adopt the following provisions, hereby prescribed by the United States in the execution of the constitutional duty to guaranty a republican form of government to every State in this Union, and incorporate them in the constitution of the State, that is to say: 1. No person who has held or exercised any office, civil or military, State or confederate, under the usurping power, shall vote for or be a member of the Legislature, or Governor. 2. Involuntary servitude is forever prohibited, and the freedom of all persons is guaranteed in said State. 3. No debt, State or confederate, created by or under the sanction of the usurping power, shall be recognized or paid by the State.

The eighth declares that when the convention shall have adopted the above provisions "it shall proceed to reestablish a republican form of government and ordain a constitution containing those provisions," which shall be submitted to the people of the State, entitled to vote under this act, at an election to be held in the manner prescribed for the election of delegates. The provisional Governor is to canvass the votes, and if a majority thereof shall be in favor of the new constitution he shall certify that fact to the President of the United States, who, after obtaining the assent of Congress, shall by proclamation recognize the government so established, and none other, as the constitutional government of the State; "and from the time of such recognition, and not before," the State may be represented in the Congress of the United States.

By the ninth section it is provided "that if the convention shall refuse to reestablish the State government on the conditions aforesaid the provisional Governor shall declare it dissolved." But the President, "whenever he shall have reason to believe that a sufficient number of the people of the State entitled to vote under this act, in number not less than one tenth of those who voted at the presidential election of 1860, are willing to reestablish a State government on the conditions aforesaid," shall direct the provisional Governor to order another election for delegates and hold another convention to proceed in the same manner as the first and upon the same conditions.

The tenth section declares that until a State government shall be formed as above prescribed and recognized by the United States, the provisional Governor in each of these States shall "see that this act and the laws of the United States and the laws of the State in force when the State government was overthrown by the rebellion are faithfully executed;" but no law or usage whereby any person was held to involuntary service shall be recognized or enforced by any court or officer in such State; and it directs the President of the United States to "appoint such officers provided for by the laws of the State when its government was overthrown as he may find necessary to the civil administration of the State, all which officers shall be entitled to receive the fees and emoluments provided by the State laws for such officers."

The eleventh section provides that until the recognition of the State government as aforesaid "the provisional Governor shall, under such regulations as he may prescribe, cause to be assessed, levied, and collected for the year 1864 and every year thereafter, the taxes provided by the laws of such State to be levied during the fiscal year preceding the overthrow of the State government, in

the manner prescribed by the laws of the States as nearly as may be; and the officers appointed as aforesaid are vested with all the powers of levying and collecting such taxes by distress or sale as were vested in any officers or tribunals of the State governments as aforesaid for those purposes." These taxes are to be applied by the provisional Governor, under the direction of the President, to paying the expenses of administering the laws of the State; and the surplus to be paid into the Treasury of the United States, to be paid to the State when it shall establish a State government on the conditions prescribed by the act.

The twelfth and thirteenth sections emancipate all persons held to involuntary service in these States; declare them and their posterity forever free; provide that the writ of *habeas corpus* shall be issued to liberate them if restrained of their liberty, and subjects persons restraining them of their liberty to punishment by fine and imprisonment.

The fourteenth section is that every person who shall hereafter hold or exercise any office civil or military in the rebel service, State or confederate, is hereby declared not to be a citizen of the United States.

It will be observed, Mr. Speaker, that this is not a bill which is to be applicable to these States only while rebellion and military resistance against the authority of the United States exists within them, nor is it applicable only to the people in those States who are disloyal to the Federal Government. On the contrary, its leading provisions are to become applicable to these States, in the language of its second section, "when military resistance to the United States shall have been suppressed in any State, and the people thereof shall have sufficiently returned to their obedience to the Constitution and laws of the United States." According to the bill, when that time, so much to be desired by every lover of his country, shall arrive, the loyal people in these States, those who are recognized by this bill as loyal citizens of the United States, qualified to vote and administer their State governments, are not to be permitted to resume and exercise the right of local State government in accordance with the State constitution and laws existing when the rebellion broke out, they are not to be allowed to make a new State constitution subject only to the Constitution of the United States; but, on the contrary, they are to be ruled over and their local State government administered by a provisional Governor and officers appointed by the President, until they consent to and do make a new constitution for their State in accordance with the dictation of the President and Congress as to certain matters.

Although the rebellious power is overthrown—as it must be in the State before the bill can go into operation; although all resistance to the Federal Government is suppressed; although the people have returned to their obedience to the Constitution and laws of the United States; nevertheless, unless they make a constitution containing the three provisions prescribed in this bill, they are to be governed by officers appointed by the President, who is to fill all the civil offices provided for by the State laws which were in force when the rebellion began. These officers are to execute the State laws; and there is to be no power within the State to change or alter these laws.

I call attention to this because, as was said last evening by the gentleman from Pennsylvania, [Mr. STEVENS,] this bill recognizes that these States are in existence, and that their respective State constitutions and laws are in force the moment the usurped power of those in rebellion is overthrown, and the offices created by the constitution and laws of the State are to be filled by the President, the fees authorized by the State laws are to be paid to these appointees, taxes are to be levied and collected by virtue of State laws, the State laws are to be enforced, but the loyal citizens of the State, those who by the bill are recognized as loyal, can take no part in their State government unless they will make a new State constitution such as we choose to prescribe.

Mr. BOUTWELL. Mr. Speaker, I believe the gentleman from New York will agree with me that there is a provision in this bill by which a number less than a majority can take the government of the State into their own hands.

Mr. KERNAN. Certainly.



Mr. BOUTWELL. What I desire to ask the gentleman is whether, in his judgment, if that number cannot be found, Congress should yield up the government of these rebellious districts to the people who refuse to acknowledge the Constitution and laws of the United States?

Mr. KERNAN. No, sir. This bill provides that one tenth of the male citizens of each of these States shall take the oath to support the Constitution of the United States before there shall be an election and convention. I am not contending that there should, not be at least this proportion of the people loyal to the Union and Constitution before they can properly resume the administration of their State governments. The point I was suggesting is that by the provisions of the bill under consideration, although the one tenth or one half or all the citizens of one of these States shall cease all resistance, submit to the authority of the Constitution and laws of the United States, and take the oath of allegiance required, they are not permitted to resume the administration of their State government under its old constitution, or to be represented in the Federal Government, or to frame a new constitution for their State, in accordance with that of the United States, unless they incorporate in that new constitution certain provisions which by this bill we dictate to them, and which relate to matters within the exclusive authority of the people of the State.

Mr. ASHLEY. I desire to say to the gentleman from New York that so far as the House committee are concerned they have determined to make the same requirements apply to all States alike hereafter to be admitted. Colorado, Nebraska, and Nevada are all required to comply with these same conditions.

Mr. KERNAN. The admission of a State formed out of territory belonging to the United States is not a parallel case. The States to which the bill under consideration is to apply are existing States; the bill recognizes them as such. They are not to be readmitted to the Union; they are now in law a part of the Union. We are carrying on this war to enforce the authority of the Constitution and laws over them. When resistance ceases, when the usurped authority of those in rebellion in these States is overthrown, the constitution and laws of the State which existed when the rebellion arose will be again in force and vigor, and should be administered by those citizens of the State who never joined in the rebellion, and those who by amnesty are relieved from the penalties of treason.

Mr. Speaker, in my judgment this bill is in violation and subversive of the fundamental principles upon which both our national and State governments are founded. The Government of the United States is partly national and partly federal in its characteristics. In the sources from which it derives its powers it is partly federal and partly national; in the extent of these powers it is not national; it has not all the powers of government, only those granted to it by the Constitution. In the exercise and operation of its powers it is national. Its authority is operative upon the individual citizen, not upon the States composing the Union. The General Government does not enforce the Constitution and laws of the United States against the States, but upon the individual citizens. The importance of this was fully understood by the framers of the Constitution. In recommending its adoption in the Federalist, they point out the inherent weakness and evil consequences of the want of power in the General Government of prior confederacies to enforce their legitimate authority without coming in direct conflict with the States composing them. This was the great defect in the Grecian confederacy and the Germanic league. The confederate government legislated for States. It could not enforce its commands upon individuals, but was compelled to require States to obey, and when they failed or refused to comply with the laws and decrees of the Federal Government, and the latter attempted to enforce obedience, civil war was the consequence.

The same difficulty existed in the Union formed under the Articles of Confederation, and the evil consequences were already felt when the Constitution was proposed. The framers of the Constitution, therefore, intended to and did avoid this source of weakness and cause of collision between the Federal Government and the States by giving to the former full power to enforce the authority

granted to it upon individuals, making it in this respect national and not federal in its character. The powers granted to the Government of the United States by the Constitution were confined to national purposes and objects. As to these powers it is sovereign and supreme, and rightfully commands and can compel the obedience of every citizen of every State. But it has no right to interfere with the people of any State in the formation or administration of their State government. Congress has no right to dictate to a State what shall be the provisions of its State constitution. When Congress does so, and the Federal Government attempts to compel the people of the States to submit to its decrees in this respect, a revolution is attempted in the Government as it was established under the Constitution. The sole power granted to the national reference to State governments is contained in the clause by which each State is to be guaranteed a republican form of government. Subject to this provision or condition, the right of the people of each State to retain the old or form a new State constitution and government is absolute. They do not derive it from the Federal Government. It is inherent in them; they never parted with it. Congress has no more right to dictate to the people of an existing State the provisions which their State constitution shall contain than it has to interfere in regulating the tenure by which property shall be held or transmitted in the State, or in declaring what shall be the relations of husband and wife, or parent and child. Under our system, power is derived by the national Government from the States and the people. It does not confer power upon the people of the States to make, alter, or administer their State governments, nor can it impose conditions upon them in reference to these matters, except that they shall be in accordance with and subject to the Constitution of the United States. The people of the States have never surrendered their right to regulate all local State matters as they please.

Where, then, is our authority to say to the people of a State that they may make a new constitution if they will make it with provisions like those prescribed in the bill under consideration, or that they shall not change their constitution or exercise the rights of local self-government unless they do so as we dictate?

In the grant of power to the Federal Government it is expressly provided that the powers not delegated by the Constitution to the United States nor prohibited by it to the States are reserved to the States respectively or the people. The intention was by this to make it clear that the people in the respective States possessed and retained the right of self-government, except so far as they had delegated or limited this right. Certain powers necessary for national purposes were granted to the Federal Government. All others were retained by the people of each State, and they may exercise them in reference to State matters without interference or control. This reservation of power was intended to be and is the safeguard of the liberty of the people. While the people of each State retain and exercise this power, there can be no consolidation of authority in the Federal Government which could be made dangerous to the liberty of the people or the rights of the States, and any attempt by the majority of the people of the United States to wrong or oppress the people of a particular State through the action of the Federal Government will fail. But if Congress, the representative of the people of all the States, may interfere in reference to State governments, then the people of each State will not govern themselves as to their local matters as they please, but may be required to do so according to the dictation of the people of the other States.

I submit, therefore, that this bill is at war with the principles upon which the Federal Government rests, and is subversive of the State governments and the reserved rights of the people of each State to change and administer them. If Congress may impose upon the people of a State the conditions prescribed by this bill as conditions precedent to the exercise of their right to maintain, form, or administer a State government, we may require them to ordain as a part of a State constitution almost any other provision. Congress has no such power. As to States, and the local governments established by the people in them, the Federal Government has no power ex-

cept to protect the people in the peaceable enjoyment of the republican government which they have established there for themselves. The Constitution of the United States is based upon preëxisting State governments which the people of the respective States may maintain or change at pleasure, being only bound to have them republican in character, subject to the Constitution and within the Union. This bill is in direct conflict with and subversive of all these principles and rights. It prohibits the loyal citizens of a State in which the rebellion has existed from administering their State government under and in subordination to the United States Constitution and laws after the rebellion has been suppressed and all disloyal men expelled from the exercise of their usurped power. It prohibits the loyal citizens of the State from reorganizing their State government by the adoption of a new State constitution and electing their State officers, except and unless they will incorporate in such constitution provisions not required by the Federal Constitution, and which are prescribed by a majority of the people of other States acting through their Representatives in Congress. (See the seventh and eighth sections of the bill.) Until they will do this, no matter how loyal to the Union the majority or all of them may have become, they are to be governed and controlled as to all their State affairs by arbitrary military power responsible only to the President of the United States. (See sections nine, ten, and eleven of the bill.) Nay, until they will comply with the conditions we prescribe they are not to be allowed Representatives in the Congress of the United States. They are as absolutely the subjects of despotic power as were the inhabitants of the Roman provinces who were plundered and tyrannized over by military governors like Verres. And yet this bill is called one "to guaranty to the people of these States a republican form of government!"

I have supposed we were striving to maintain our old governments, national and State, in all their beautiful harmony, and with all their nicely balanced powers and wisely constructed checks; that this war was prosecuted to preserve these, and secure the blessings they have in the past and will in the future confer upon us as a people. But if this bill passes and is put in force, we will have destroyed the system of government transmitted to us, and commenced the construction of a consolidated national Government which will soon extinguish the States and, I fear, the essential liberties of their people. How long, think you, will the people of the northern States bear patiently the burdens and sacrifices of this destructive war for the accomplishment of such a purpose?

Mr. Speaker, the bill not only violates these principles, but it is without warrant in the Constitution of the United States and in violation of its provisions. The gentleman from Maryland, [Mr. Davis,] who reported the bill to the House and sustained it on the floor, stated that the authority for it in the Constitution is to be found in the clause which declares that "the United States shall guaranty to every State in this Union a republican form of government."

For all the purposes of this argument I will concede a broader construction to this provision than has been claimed for it by the advocates of this measure. It is a guarantee for the benefit of the minority of the people of each State, and the majority cannot disavow it or release the United States Government from its fulfillment; each State in the Union has an interest that every other of the States shall maintain a republican government, and therefore all the people of a State cannot discharge the Federal Government from this guarantee and establish for their State a monarchy, but for the benefit of the other States the United States Government is bound to require each State to maintain a republican government; and the State shall be compelled to maintain this republican State government "in this Union," formed by the Constitution. It must be subject to and in accordance with the Constitution and laws of the United States; and is to be formed and administered by citizens loyal to them.

What, then, is the duty and authority of the Federal Government under this provision as to the States in rebellion? Before the rebellion commenced each of these States had "in this Union a republican form of government." A portion of

their people, if you please a very large majority of them, rebelled against the authority of the United States Government, repudiated the Constitution and Union, usurped the powers of the State government, and endeavored to set up and maintain a government without the Union and independent of the United States. The United States under this state of facts is obligated, both to the loyal minority in the State who have been overborne by the rebellious usurpers and to the people of the other States, to suppress the rebellion, restore to the loyal citizens of the State the State government which existed at the time it was usurped by the rebels, and protect them in the administration and enjoyment of it. In this mode alone will the United States fulfill its guarantee. When rebellious citizens have usurped the administration of the State Government, turned its powers against the Federal government and compelled the minority of the people to submit to their usurpation, the duty and the sole authority of the United States is to overthrow the power of the usurpers and restore the loyal people, or the people who under promise of amnesty, submit, to the identical State government the protection and administration of which they were deprived for a time by the insurrection or rebellion. But the United States has no authority or right, when the rebellion is suppressed and all illegal resistance overcome, to say, as we do by this bill, to the loyal people of the State, We will not restore or guaranty to you the republican State government which you had established rightfully, and which existed when the usurpers deprived you of its administration, but we will compel you to form another according to our dictation; and if as freemen, knowing your rights, you refuse to comply, we will deprive you of all political rights and privileges in national or State affairs, and govern you by military power until you submit.

It seems to me that in pursuing this course, so far from guarantying to them the republican government which they had rightfully formed for their State, we aid the usurpers and rebels in overturning the legitimate preëxisting State governments, by effectually completing what they began. This is not our duty or our right under this clause of the Constitution. The United States is to protect the people of the several States against changes in or destruction of their State constitutions and governments by violence. The people of the State have the right, and it is in them only, to peaceably make, reform, or alter their State constitutions. This is the doctrine laid down in the twenty-first number of the *Federalist*, and this is the principle contended for by Mr. Webster, and established in the Rhode Island case.

We are bound to secure to the people of each State under such State government as they shall see fit to establish, subject to the Constitution of the United States, the right to administer their own affairs, the right to enact and change their own laws as to all local matters. We have guarantied that to them, and we must keep our guarantee, at least to the loyal men. For my part I say that we are bound to do it if there are but a hundred men in the State who have stood by the Union. Never let us say to them, "We fulfill our guarantee to you of a republican form of government in this Union, by the President's mode of allowing a minority of one tenth to govern the rest, or, as this bill requires, by compelling you to adopt a new constitution such as we dictate." We have no right to compel them to adopt any particular provision as to State matters. The gentleman from Maryland [Mr. DAVIS] says that this is a political question, and that our judgment is final. Very likely that is so; but that is no reason why we should not act according to the plain meaning of the Constitution.

Mr. ASHLEY. The gentleman from New York will bear me witness that I stated in my speech I gave my support to this bill on no other hypothesis than that the constitutions of these States were destroyed or abolished.

Mr. KERNAN. It is due to say that I have so understood the gentleman from Ohio. This bill, the House will observe, does not so assume. This bill assumes that the States are in existence, and that the State constitutions and laws are in force there. It provides that the President of the United States shall enforce the State constitutions and laws (except as to slavery) which existed at the time the rebellion commenced.

It is said that these State governments have been overthrown, and therefore the General Government has a right to assume this power. It seems to me that all that can be justly claimed is that rebellious men, disloyal men, revolutionary men, have seized upon the machinery of the State government. Would our Government then, if the people of any State in the Union had by sudden violence lost the control of their State government, have the right, when the usurpation is overthrown, to deprive the people of the State who are loyal of the administration of their own affairs? Would it be right for us to say that because we had been unable to protect the people in their rights, and allowed them to be deprived of them temporarily by a usurper, that when we do subdue the usurper we will deny to the loyal people of the State the management of their State affairs?

Mr. LOAN. I desire to ask the gentleman this question. I wish to know how the gentleman proposes to ascertain who are loyal in a given State. As I understand the matter, the bill proposes a method of ascertaining who are loyal.

Mr. KERNAN. I will answer my friend. By this bill, when you have exercised your test, when you have administered your oaths to the requisite number, you then will not allow them to administer their own State government. What I insist is that after you have ascertained that the people, to a requisite number, are loyal, you shall allow them to retain their present constitutions, and not compel them to submit to the conditions on that subject which this bill imposes. I am not now discussing the question as to what shall be the mode of ascertaining who are loyal, or what number there should be in the State to authorize them to resume the administration of the State government.

I wish to see our armies conquer the rebel armies, and drive out the usurpers who have been carrying on this rebellion. The people of these States must be required to submit to all the United States laws. We must insist that they submit to all the laws in relation to the revenue, in relation to the currency, the post office, and all other subjects within the jurisdiction of the Federal Government. When they do this there is no necessity that we should, nor in my judgment have we any right to, interfere as to their State governments. They have a right to maintain them as they were when the rebellion commenced, or they may change them. Mr. Speaker, I am aware that it is sometimes said here that the institution of slavery as it exists in these States is inconsistent with "republican government," and that therefore under the clause of the Constitution above quoted Congress has a right to compel the people of the States to abolish it.

Sir, I am no admirer or advocate of slavery. I object to it, believing it to be a great moral and political evil—a wrong to the slave, and, in the long run, a curse to the master. I shall rejoice to see it abolished, if it is done without violating the Constitution of the United States or interfering with the reserved rights of the people of the States to regulate their local institutions. We should not violate the Constitution of the United States or imperil the perpetuity of the Union under it to interfere with it where it exists in the States. We of the non-holding States are not responsible for it, nor are we likely to deal with it wisely for the benefit of the slave or for the peace of the country.

But it is too plain for argument that the institution of slavery as it has existed in the States of the Union is compatible with a republican government within the meaning of the United States Constitution. The States which adopted it were slave States mainly, and the continuance or abolition of the institution was carefully reserved to the people of each State. But the Government which is prescribed to the people of the States by this bill is, in its origin, in violation of the spirit of republicanism. What is a "republican form of government?" One author says:

"Republic: a form of government in which the supreme power belongs to the people, or to a portion of them, and not to a single person or family, as in a monarchy."

Another says it is "a nation or State where the body or only a portion of the people have the government in their own hands; where the people is possessed of the supreme power."

Madison, in the thirty-ninth number of the *Federalist*, asks and answers the question as to

what is a republican form of government. He there says:

"What, then, are the distinctive characters of the republican form?" "If we resort for a criterion to the different principles on which different forms of government are established, we may define a republic to be, or at least may bestow that name on, a government which derives all its powers, directly or indirectly, from the great body of the people." "It is essential to such a government that it be derived from the great body of the society." "It is sufficient for such a government that the persons administering it be appointed either directly or indirectly by the people."

Can there be any doubt, therefore, that the governments in existence in these States at the time the rebellion was inaugurated were republican within the meaning of the Constitution? To make them such it is essential that they be derived from the people governed, not imposed upon them by other Governments, States or people. Nevertheless, we propose by this bill, under the pretense of fulfilling our guarantee to them of a republican form of government, to compel them to adopt a constitution and government as to their local State matters, not originating from themselves, or in accordance with their wishes, but dictated to them by us; and we will trample upon all their rights, and rule over them by our appointees, levying upon and collecting taxes from them for our Treasury without their having any representation until they do our bidding in reference to the details of their State constitution. This is indeed guarantying to them a new kind of republican government! Are we willing to occupy the position before the world, or the American people, in which the passage of this bill will place us? I hope not. Let us suppress the rebellion in these States; drive out those who have usurped the State government, and restore it and the administration of it to those who have been loyal always in their hearts, I trust and believe many such will be found, and to those whom we think it wise and proper to recognize as citizens in each of those States under an amnesty.

Madison says in the forty-third number of the *Federalist*, commenting upon the clause of the Constitution under consideration:

"But the authority [of the Federal Government] extends no further than to a guarantee of a republican form of government, which supposes a preëxisting government of the form which is to be guaranteed. As long, therefore, as the existing republican forms are continued by the States they are guaranteed by the Federal Constitution."

And yet we who have taken an oath to support this Constitution, and have no powers except those derived from it, are asked to annul and destroy the then "existing" State governments spoken of by him, instead of guarantying them to the loyal people of the States.

One other suggestion and I will close. I submit that the policy of this bill is unwise. It is not the policy to preserve our matchless Constitution and restore the States and their people to Union under it. Will we relight the fires of patriotism and Union among the southern people by a measure like this? The embers I trust and believe are still there. If not, we may bid adieu to any happy or desirable union of the people of the United States under one Government in our day. They cannot be permanently held together by mere military power. The northern people would not be willing to bear the burdens necessary to perpetually maintain and keep up such a Union. It would curse and desolate the South and be fruitless of good to the North. In holding them as subjects merely to us, if we can do so, in the end we will lose our own liberties. A military despotism would arise out of such a state of things; and our own liberties would be lost as well as the liberties of the people of the South. This is the experience of the world; this the teaching of history.

Mr. GOOCH obtained the floor.

The hour of half past four o'clock, p. m., having arrived, the House took a recess until seven o'clock, p. m.

#### EVENING SESSION.

The House reassembled at seven o'clock, p. m., and resumed the consideration of the bill in reference to the

#### REBELLIOUS STATES.

Mr. GOOCH. Mr. Speaker, it is a grave mistake for us to suppose that the contest in which we are now engaged has been going on only since the

rebels took up arms against the Federal Government. It is almost as old as the Government itself. More than thirty years ago it assumed a form which but for the patriotism, ability, and firm resolution of the man then in the presidential chair to preserve, protect, and defend the Constitution of the United States, and faithfully to discharge the duties of the high trust which millions of freemen had committed to his charge, would have devolved upon the generation which has preceded us the duties and responsibilities which we are now called upon to meet. It is equally a mistake to suppose that the agitation of the question of slavery has produced this contest. The contest is older than the agitation. It has been going on ever since two antagonistic states of society commenced existence under our republican form of government, each striving for development and the mastery. I do not believe that any intelligent and reflecting man has ever believed that these two antagonistic states of society would or could continue to exist permanently under the same Government. In the early days of the Republic the leading men of both sections of the country looked forward to the time when it should be peacefully, and with the consent of all parties, abolished. When the leading men of the South came to look upon the institution as essential to their prosperity, and to desire its permanence, they at the same time began to look forward to a dissolution of the Union. The remark of Mr. Calhoun to Commodore Stuart, made more than fifty years ago, is precisely to this point. He said:

"That we are essentially aristocratic I cannot deny, but we can and do yield much to democracy. This is our sectional policy; we are from necessity thrown upon and solemnly wedded to that party, however it may occasionally clash with our feelings, for the conservation of our interests. It is through our affiliations with that party in the middle and western States that we hold power; but when we cease thus to control this nation, through a disjointed democracy, or any material obstacle in that party should tend to throw us out of that rule and control, we shall then resort to the dissolution of the Union."

Mr. Calhoun went on to say that:

"The compromises in the Constitution, under the circumstances, were sufficient for our fathers, but under the altered condition of our country from that period leave to the South no resource but dissolution, for no amendment to the Constitution can be reached under the three-fourths rule."

Mr. Calhoun believed the compromises of the Constitution to be sufficient to secure what its authors, the fathers of the Republic, desired and intended—the temporary existence of the institution of slavery—but not suited to the altered condition of the country when the permanent existence of slavery was deemed essential to the prosperity of his section, and, seeing that no amendment could be made to that instrument which would afford that security, he and his disciples wedded themselves to the Democratic party, and determined to stake the existence of their country on the success of that party and their ability to control it. When a tariff was passed, and the law enforced which in his opinion favored the development and growth of the free institutions of the North—beneficial to free society, and therefore prejudicial to slave society—he and his associates threatened nullification, and when, in 1860, his followers saw a "disjointed democracy," and their "power to control the nation" pass away, they attempted dissolution or destruction of the Government.

When nullification had been crushed, General Jackson, seeing that the cause of the conflict between the two sections of the country had not been removed, said:

"The tariff was only the pretext, and disunion and a southern confederacy the real object. The next pretext will be the negro or slavery question."

He felt that he had but prevented for the time being a contest which would be sure to break out again. Nullification did not go far enough to afford an opportunity to destroy its cause. Secession has not only afforded the opportunity, but made it both a duty and a necessity, if we desire to uphold and maintain the Government. Probably the time has been when every member of this House who desired to see his country rid of the institution of slavery has believed that its abolition could and would be peacefully accomplished; that by placing the Federal Government firmly on the side of freedom and preventing the extension of slavery into new territory it could

be left to each of the States to determine the time and the mode of emancipation; knowing that although the time might be distant, still the day would come when the moral and material forces of every State would array themselves against it and secure its destruction. I believe now that such would have been the result had not slavery itself willed it otherwise. When it proved itself to be so antagonistic to the great fundamental principles of the Government which must and would be carried out in its administration; when it found free society, which it regarded as its enemy, making a far more rapid growth and development than slave society could possibly attain; when it found itself far outstripped in everything which can contribute to the happiness, wealth, and power of a people by its rival; when it found that five million people in the South could no longer rule and dictate law to twenty million people in the North, instead of being willing to assume that position in the Government which belonged to it, it determined upon the immediate destruction of the Government which it had so long controlled. The day and the hour which Mr. Calhoun had so long ago foretold had come. Slavery in making war upon the Government has staked its existence on the issue, and if the Government wins slavery must die. It has said that it could not and would not live under such a Government, and it must be taken at its word; and while our jurisdiction over every inch of our territory must be made good, that institution which has made itself so hostile to all the great principles of our Government that it has attempted its overthrow and sought its destruction must not find a place in it.

I have said that the contest in which we are now engaged has been going on ever since the beginning of the Government. But its character has been changed from a contest of ideas, of moral and political forces, to a contest of arms. That which would have been accomplished slowly, gradually, and peacefully by the working of moral and material forces, is now being done suddenly and violently by contending armies. The whirlwind and the tornado are the instrumentalities of an all-wise God not less than the gentle breeze and the summer shower, and perhaps it is little less presumptuous for us to question the instrumentality in the one case than in the other. Still, when the agency of man is so directly involved as it is in the scenes which are now going on about us, we cannot help feeling and asking how far is he responsible for that which is.

The contest between slavery and freedom; between slave institutions and free institutions under the same Government, was inevitable, and no man or organization of men now living are responsible for it; it is like the conflict between truth and falsehood, between right and wrong; a conflict which must and will go on until truth and right shall conquer. The men who have supposed that they could stop men's thinking and talking about slavery and freedom, or that by stopping them the conflict would end, are as wise as those men who stop their ears in a thunder storm that they may not be struck by lightning. The only question which we have ever had any power over is, what shall be the form of that conflict? Shall it be peace or war, logic or arms? The slaveholders, knowing that they would meet with no resistance from the Administration of James Buchanan, decided in favor of arms, and hence the bloody contest in which we are now engaged. Had that Administration the power to have prevented the change of the contest? I believe it had. I believe that there was power enough in the Government, properly administered, to have crushed this rebellion in the very bud. Had Andrew Jackson and James Buchanan but changed places and James Buchanan been in the presidential chair when General Jackson was there, John C. Calhoun, instead of being an extinguished nullifier, would have been President for a time of a so-called southern confederacy; and had General Jackson been in the presidential chair when James Buchanan was there, Jefferson Davis would today be an extinguished secessionist instead of president of the so-called southern confederacy, carrying on war against his Government, and shedding the blood of hundreds of thousands of loyal men. That thing happened which no one of the framers of the Constitution, or any other loyal man, ever supposed could happen. The

man who had been chosen by millions of freemen to preside over the destinies of the nation, who had sworn to preserve, protect, and defend the Constitution of his country, basely betrayed his trust, consorted with traitors, consented to and connived at the destruction and overthrow of the Government; and during the long months that treason openly made its hostile preparation and avowed its purposes, not only took no step for its suppression, but kept in his Cabinet a Secretary of War who remained until he had stolen everything worth stealing, and then transferred it and himself to his fellow-conspirators; and a Secretary of the Navy who sent every vessel of war to the most distant ports of the world that they might be beyond the reach of the incoming Administration, and where they could render no service to the Government, who remained to the close and retired with his master amidst the contempt of all loyal men.

Slavery having found itself unable to contend with the moral and material forces opposed to it has appealed to arms. Now let arms decide the contest. Heretofore it has been freedom or slavery, the moral and material forces of the world contending. Now it is freedom or slavery, the armies of the loyal people of the country on one side, and the armies of the traitors on the other, contending. By no men is this truth so fully realized as by the men in the field, those actively engaged in the contest. I care not what their opinion may have been before the war, you can hardly find an officer or a soldier who has rendered service on the battle-field who does not most heartily agree to this.

The people of the North have not made this issue. We have not had the power to make it. It was made by the rebels, and we have been obliged to accept it. We have foolishly tried on more than one occasion to change it, but have found it impossible to do so. They hold us to the issue they have made. The Government and slavery cannot permanently exist together. Slavery demands the destruction of the Government to secure its own permanent existence, and the Government, to save its life, must destroy slavery. It would be simply an act of folly for us to recognize any government established in any of the seceded States as loyal, and entitled to a status in the Union, which did not provide in the terms of this bill that "involuntary servitude is forever prohibited, and the freedom of all persons is guaranteed in said State." I know that there have been many and are still some men who are exceedingly desirous that we should fight a shadow instead of the real enemy of the Government, and they can look on with the utmost composure and satisfaction at any blow aimed at the shadow; nay, more, they will even assist in the stroke, but when you strike at the real enemy they will howl as though they themselves were hit. We hear from these men when we propose to adopt vigorous measures for replenishing our armies and giving to our noble volunteers who have so long borne the dangers and hardships of the field replenished ranks that they may march forth to meet the enemy with hope of success; we hear from them when the President proposes to exercise the rightful belligerent power of declaring the slaves of the enemy free; we hear from them when it is proposed that colored men shall be admitted into the service of their country and afforded an opportunity to fight for a Government which they are willing to shed their blood to defend; we hear from them when the President proposes to aid and assist in the reconstruction of a truly loyal State government in a rebel State, one that can be trusted; we hear from them when the Congress of the United States proposes to lend its power to aid in the construction of loyal governments in rebel States; we hear from them when our armies meet with defeat in the field, but they are dumb when loyal men rejoice in victory. Their watchword is "unconstitutionality," and their great fear is that the rebellion will meet with some unconstitutional injury or detriment, whereby its power to prolong its existence may be diminished. They wish no act done until the Supreme Court, after due deliberation, has decided that the act to be done is constitutional. They seem to think that the great object and purpose of our fathers in framing the Constitution was to see to it that nothing of harm should come to the human chattels and real estate of those



who should rebel against the Government and seek its overthrow; and that every possible barrier should be placed in the way of the Government and the nation when attempting to maintain existence; and they seem to regard it as their special mission to see to it that these supposed provisions of the Constitution are rigorously enforced at this time.

Mr. Speaker, I do not believe that these rebels have ceased to be subjects of this Government, or that they are out of the Union. I do not believe that their attempted secession and rebellion have deprived this Government of its right of sovereignty and jurisdiction over them, or released them from the relations and duties of subjects, bound to render obedience to the Constitution and laws. While they, by treason, rebellion, and levying war against the Government, have forfeited all right to the protection of the Constitution and laws; while they have made themselves public enemies, and come to be recognized as belligerents, not only by other Powers but by the Federal Government, still they owe obedience to this Government not less than they did before secession was attempted. This Government holds to them the twofold relation of sovereign and belligerent—a sovereign carrying on a just and necessary war to maintain a rightful sovereignty; and they hold to this Government the twofold relation of subjects and belligerents—rebellious subjects carrying on an unnecessary and unjust war to overthrow a Government which they themselves assert has never purposely done them a wrong or withheld from them a right.

This being the relative position of the two contending parties, the question arises, what are the rights and powers of the Government in the prosecution of a war for the maintenance of its rightful sovereignty and the reduction to obedience of its rebellious subjects? I answer that it has all the rights and powers which any Government on earth has in carrying on war against its enemy. It can exercise any power, do any act it may deem proper and necessary to do, not prohibited by the law of nations to all Governments alike. There is not a principle or provision, line or word, in the Constitution of the United States which prohibits or prevents the doing of every act or thing Congress may deem necessary or proper to be done to crush rebellion and maintain the sovereignty of the Government. Since the time when the rebels claimed for themselves, and we accorded to them, the character of belligerents, the Constitution of the United States has imposed no more restraint upon Congress and the Commander-in-Chief of our armies, and of course no more protection to the enemy, than it would have done had we been engaged in war with the most distant people on earth. I am wholly at a loss to know what men mean when they talk about straining the provisions or leaping the barriers of the Constitution in the prosecution of the war we are now carrying on against the enemy, and in our efforts to uphold and maintain the Government and save the life of the nation. I know of no provisions or barriers in that instrument that it would be necessary to strain or leap over in order for us to wield against them all the power human ingenuity can devise or human agency can execute.

When these rebels assumed the character and position of belligerents they said to us and the world, "We no longer claim the protection of the Constitution and laws of the United States, but we stand or fall by the sword;" and the Government said to the rebels, "As you have so willed it, let the sword decide the question." From that moment it ceased to be a question of constitutional and legal right, and became a question of military power and force. I do not wonder that in the very outset of the rebellion we did not fully comprehend the changed relations we bore to these belligerent rebels. We had ever been accustomed to appeal to the Constitution as the great arbiter of disputed questions during our whole national existence, and for a time, at least, many seemed to think that by its provisions we could settle questions between belligerents not less than questions between peaceful and law-abiding citizens. They seemed to think that while the rebels could conduct against us a war, unrestrained and untrammelled by law or Constitution, we could do to them only those things which we were expressly authorized by statutes and the Constitution to do; and some, even now, seem to fail to

understand that the war powers of this Government are undefined. The war powers of any Government are from their very nature undefinable, and the men who should undertake to prescribe, limit, and define them would demonstrate in the very outset that they did not understand the first principles of government, and were wholly unfit to prescribe the fundamental law for any people. The men who framed our Constitution made no such mistake. They had had the experience of both war and peace, and knew full well the powers a Government must possess in order to maintain its existence and an independent position among the nations of the earth. They were too wise to restrict the powers and tie the hands of the Government they were establishing in the prosecution of a war against an enemy seeking its destruction and overthrow, be that enemy foreign or domestic. From the moment the rebels levied war against the Government, and we recognized their acts as war in fact, and prepared to meet military force with military force, our right and power to prosecute war against them were in all respects the same as they are to prosecute war against any foreign enemy who may commence against us an unprovoked and unjust war for the dismemberment of our territory. This is and must be the position of this Government until the military power of the rebels is entirely overthrown, the last vestige of rebellion wiped out, and a true and legal government established in every rebel State.

Still, the right of jurisdiction of this Government over all territory and people within the rebel lines is not destroyed or impaired, but remains as perfect as it would have been had it not been interrupted by rebellion; and when we shall have crushed the rebellion and restored peace to all parts of the country we shall hold this territory, not by a new title, but by the old, not as territory acquired by conquest, but territory defended and maintained against revolt; and the jurisdiction of this Government over the people within the now revolted territory will not be a newly acquired right, but the assertion and maintenance of a right which has always existed. Any act of the so-called confederate government, and any act of the State governments, since secession, will be regarded by this Government as nullities. The rebellion, while it has not destroyed the right of jurisdiction of this Government over any part of our territory, has interrupted its jurisdiction for the time being over so much of our territory as is within the rebel lines, and the seceded States have themselves overturned and destroyed their State governments, so that one of those governments can now claim no more rights, protection, or recognition from the Federal Government than can the rebel himself.

I know that some say that if this is the fact the overthrow of the rebellion will immediately reestablish the old order of things in the revolted States, and that they will be, at the end of the rebellion, exactly where they were at its beginning. This by no means follows. They themselves have destroyed the old order of things; they have overturned their State governments; they have brought about an entirely different state of things from that which existed before the rebellion; they have created a new state of society demanding a government and institutions different from those which before existed, and could not continue in harmony with the General Government. The Federal Government cannot recognize, other than as an enemy, any State government which has given in its adhesion to the rebel confederacy. However liberal the President may be in his amnesty proclamations, or the Congress of the United States in its legislation, for the pardon of traitors, I apprehend that rebel State governments will hardly find themselves in the catalogue of the forgiven. Those States must first come under the military rule and control of the United States, and how long they shall continue in that condition is a question which the United States alone has the power to determine. The Federal Government having found itself unable to enforce its lawful authority by civil process has been obliged to invoke the military power, and that power must be continued until a loyal government, truly republican in form, has been organized in every seceded State, and until the people of that State have given satisfactory evidence that they have both the will and the power to keep and maintain

such State within the Union against all traitors within its limits. When this time shall come, then such State can with propriety ask that the military power shall be removed, and that her Senators and Representatives shall be admitted into the councils of the nation.

I can see no reason why the President, as Commander-in-Chief, should not, in the mean time, so use the military power as to aid and assist the loyal people of any one of these States in the organization of a loyal State government. As the government which has given its adhesion to the rebel confederacy can never be recognized by the United States, a new government must be organized during the military occupation, which can, at the proper time, be recognized by Congress. All these acts by the President, or the military power under him, in thus aiding and assisting the loyal people in these States, impose no obligation upon Congress to recognize them until such time as it shall deem proper to do so, and any recognition of the military power may see fit to give to these governments can never fix their status in the Union. Congress alone has the power to determine what government is the legitimate one in a State, and its decision is binding on the other departments of the government. The opinion of the Supreme Court of the United States in *Luther vs. Borden et al.* is precisely to this point:

"Under this article of the Constitution [article four, section four] it rests with Congress to decide what government is the established one in a State. For as the United States guaranty to each State a republican form of government, Congress must necessarily decide what government is established in the State before it can be determined whether it is republican or not. And when the Senators and Representatives of a State are admitted into the councils of the Union, the authority of the government under which they are appointed, as well as its republican character, is recognized by the proper constitutional authority. And its decision is binding on every other department of the government and could not be questioned in a judicial tribunal."

The question of the recognition of a government in one of the revolted States does not differ at all from the question of recognition of the government in any State in which the legitimate government has been interrupted, overthrown, or destroyed, and the Federal power invoked to determine which the established and legitimate government is. The question is a political one, and is to be decided by Congress, not by the Executive or the judiciary, and the most authoritative decision which Congress can give to the question is the admission of Senators and Representatives to seats in the councils of the nation; and as each House is the judge of the elections, returns, and qualifications of its members, each must determine for itself what government it will recognize as the established one in any State, and when the Senate and the House have by the admission of members to seats decided in favor of the same government in any State the question is settled, and the decision binding on the other departments of this Government.

The conclusion to which I come is this: no matter what laws may be passed by Congress, no matter what acts may be done by the Executives, as the governments in the revolted States have by treason, rebellion, and adhesion to the southern confederacy been overthrown and destroyed, no such State can have any status in the Union for any purpose until a loyal State government shall have been established therein, and recognized by the Congress of the United States. And when that shall have been done it will become the duty of the other departments of the Government to immediately recognize the act and accord to such State all the rights and privileges of a State in the Union.

Mr. PERRY. Mr. Speaker, we are about entering, nay, we have already entered, upon the fourth year of the war. And this simple statement should invite reflection. It should induce every man to pause, to take a careful scrutiny of the past, and to look forward with profound anxiety into the opening future. If we are wise we will condescend to learn from the teachings of the past; from its defeats as well as its successes, from the destruction of our most cherished plans as well as from the consummation of our most brilliant hopes and efforts; from the dangers we have passed and the evils we have suffered; in fine, from our experience in every form, whether for good or ill.

We should look back upon the past, Mr. Speaker, not with any frivolous idea of vain curiosity

or amusement, but to draw from it lessons, so that we may guide the fortunes of the Republic aright in the future. If we have been betrayed by treacherous rocks or sands, beguiled by false landmarks or fatal currents, or misled by ignorant or wicked pilots, it is the part of wisdom to profit by our experience and not suffer ourselves to be again betrayed or misled. We should scan with solicitude the chart of the great and bloody ocean upon which the bark of the Republic has been launched, and upon whose surging billows it is now madly tossed. What a period of vicissitude these years have been! What gigantic events have been piled in upon them in terrible confusion! What herculean efforts, what prodigious exertions of force, what enormous strifes, what vast expenditures of sorrow and agony and death, have they witnessed! From our most glorious battle-fields come wafted on every breeze the groans and shrieks of the wounded and dying, telling with fearful eloquence not only of suffering there, but of many a wound that no medicine can cure in some far-off and once happy home.

Sir, in these terrible years vicissitude has trod rapidly upon vicissitude, change upon change. Disaster and success, defeat and victory have chased each other in quick succession. We have vibrated between hope and fear, and have experienced quick transitions from mourning to rejoicing. Now we have fallen prostrate in fasting and humiliation at the feet of Him who had chastened us by reverses, and now we have thronged ten thousand temples to pay Him the homage of thanksgiving for victory. We have sunk in shame and trembled with alarm over the disgrace of the first and second Bull Run. We have waited in breathless suspense upon the progress of the vital campaigns in Virginia, with their magnificent episodes of Yorktown, Williamsburg, Hanover Court-House, Seven Oaks, and Malvern. We have been plunged into an agony of grief and disappointment by the tragedies of Fredericksburg and Chancellorsville. We have breathed bated breaths over the invasion of Maryland, the battles of Murfreesboro' and Chickamauga, and the siege of Knoxville. And we have rejoiced with full hearts over the victories of Antietam, New Orleans, Vicksburg, Gettysburg, and Chattanooga.

Nor is this all. With this procession of grand military events and their alternations of emotion there have been equally great vicissitudes of civil events. Sir, we have witnessed the stealthy strides of unlawful power; we have seen the theory of the abolition of slavery in the Territories transformed into its abolition everywhere; we have noted the transition from emancipation with compensation to emancipation without compensation, from bills striking down the rights and properties of individuals to acts crushing out the rights, the institutions, and the very existence of States, as the bill we now have under consideration proposes to do; we have seen the negro made first a soldier, then a citizen, then a member of conventions, and we behold him now stretching out his hand to grasp the exercise of the franchise and the enjoyment of political distinction. We have seen a reign of terror, when every man became the spy and accuser of his neighbor; when men were hauled to prison without knowing their accuser or their crime; when the *habeas corpus* was struck down by proclamation, and the cowardly act was applauded by a pliant Congress; when the will of one man was converted into law, and the law changed with his capricious and fluctuating notions and ambitions; when established constitutions were brushed aside like cobwebs, and free speech and a free ballot were crushed by the mailed hand of power. We have seen "military necessity" hurl men into prison, invade the sanctity of the hearthstone, drive citizens into banishment, block up the avenues to the ballot-box, and intimidate the free expression of political opinion. We have seen proclamation culminated after proclamation with indecent haste, all threatening to reduce the nation to political chaos. All this we have seen, and the end is not yet. New changes and still more violent vicissitudes are brewing, and more intolerable dislocations are being conceived, as this bill proposes. Where and when it shall end it is for Divine Providence and the American people to determine.

In reviewing the vicissitudes which I have described, the unavoidable questions that present

themselves are, "What has been gained in all this time?" and "To what agency may we attribute that which has been gained?" He will be a bold man who will deny that whatsoever practical results have been attained have been secured solely by our armies in the field and by our Navy—by the indomitable resolution, the unshaken constancy, the unparalleled endurance and heroism of our brave soldiers and sailors, and not by our civil policy or the wisdom and ability of the Administration. What has our military policy done for us, and what has our civil policy accomplished? Let us see.

Our Army and Navy have given us New Orleans and Vicksburg and opened the Mississippi river, cutting the confederacy in twain. Our armies have rescued Kentucky and Tennessee. They have saved to us our Federal capital; they have arrested and punished the invasions of Maryland and Pennsylvania, Ohio and Indiana. They gave us glorious victory at Antietam, at Gettysburg, and at Chattanooga; and they now stand at the great natural gateway to the heart of Georgia and the southern confederacy. This is what our soldiers and sailors have done.

But what have our rulers accomplished by their civil policy? They have not won a single stronghold. They have not detached a single State nor wrested a single acre of ground from the public enemy. They have not overcome a single army nor struck the sword from the hand of a single rebel. On the contrary, they have again and again paralyzed our heroic armies when they have been on the very verge of victory. They have destroyed the best-laid plans and brought to naught the labors and costly sacrifices of many a long campaign. What man is to be found so bold as to assert or so infatuated as to believe that a single victory less would have been won if the President had never issued a proclamation or if Congress had never passed an act except those needed to form and maintain our armies in the field? Had the President and Congress been dumb on all beside, our armies would have still won every victory that has been gained. Nay, our victories would have been far greater and far more decisive; for every proclamation and every act has been firing the spirits of the confederates and welding them so firmly together as almost to defy the frown of Deity.

But who will have the supreme folly to say that if our armies had stood still, if our soldiers had not shown valor, fortitude, and skill, the whole brood of presidential fulminations and congressional enactments would have won us a single battle? They would have been mere waste paper, a useless "war of words." And such, indeed, they have been for any good results, although they have been a prolific cause of doubts and dissensions among ourselves while they have silenced them among our enemies. In sober truth they have been a clog and hinderance to our armies, and every victory that has been won has been gained in spite of them.

I am conscious, Mr. Speaker, that it were a bootless task for me to undertake to convince the present Administration of the folly of their past policy, and there is nothing to justify the hope that, even if I might succeed in convicting their minds, any change would be wrought upon their future course.

That task has already been attempted by one who has a hold upon the confidence and affection of the people scarcely second to what was entertained for Washington and Jackson; and it was undertaken with a breadth of mind and a comprehensiveness of judgment, a power of thought and language equal to anything exhibited by the greatest statesmen in the best days of the Republic. But it was received with indifference and contempt, and I do not flatter myself that anything I might say will meet with a different fate. If the Administration rejected the comprehensive and wise plan of military operations submitted by General McClellan to the President at his request—a plan which every subsequent event has proved to be remarkable for its forecast and prescience, and which if it had been adhered to would have placed us a year ago as far in the advance as we are to-day; which would have averted innumerable reverses, saved countless lives, and prevented an incalculable outlay of treasure and blood—if the Administration rejected such a plan, proceeding from such a man,

I have no right to expect that any counsels of mine will arrest their attention or influence their action.

And as with the military plans of this general so also with the civil policy which he advised should go hand in hand with it. His advice to the Administration that they should consider the rebellion as having assumed the character of war, and that it ought to be conducted upon the highest principles known to Christian civilization, was rejected. His warnings not to convert the war into one looking to the subjugation of the people of a State, and not to make it a war against populations, but only against armed forces and political organizations, were unheeded. His adjurations that we should not contemplate the cruel confiscations of property, or the political executions of persons, or the forcible abolition of slavery, were not listened to. His noble counsel that in prosecuting the war all private property and unarmed persons should be protected, subject only to the necessity of military operations; that property taken for military uses should be paid for, pillage and waste to be treated as high crimes, all unnecessary trespass be sternly prohibited, and outrages of the soldiers upon the citizens be sternly rebuked, was contemptuously spurned. His caution that military arrests should not be tolerated, save where actual hostilities existed; that military government should be confined to the preservation of public order and the protection of political rights, and the military power should be obedient to law and not suffered to interfere with social relations, was treated with contempt. His urgent appeal to concentrate the military power against the vital parts of the confederacy, so as to destroy their political structure, and not to disperse it on distant and unimportant points, was disregarded. His calm and respectful admonition to the Administration not to declare radical views on the subject of slavery, but to follow a constitutional and conservative system of policy, was derided, and made the occasion of his disgrace and disfavor.

If no sense of obligation has saved from treatment such as this the man who twice saved the capital and gave the trembling occupants of its palaces a respite from their unmanly fears; if a man of such a mold was scorned and derided for the expression of his sincere convictions and his efforts for the public good, what ground is there for me to hope that I can make an impression upon the impenetrable self-conceit and stubborn willfulness of this Administration? I have no such hope. They are, like Ephraim, joined to their idols. Let them alone! But thank Heaven they are not yet supreme! There is a higher authority, and to it I make my appeal. If the Administration are deaf, or blind, or fanatical, or weak, or wilful, the people, their masters, are neither. They will listen to counsel. They are quick to detect error, or imposture, or imbecility, or corruption, and although they may be misled or deceived for a time it cannot be for long. In the end they will follow the right, and render justice to all. They will give honor, high reward, and love to the men whose counsels have been rejected, and whose splendid services have been treated with base ingratitude, and ignominy and disgrace to those who have trampled on public and private rights, and sought to prostitute a holy war waged for the nation's life to the purposes of a political faction. The American citizen is long-suffering, and his indignation slow to move, and it were well if those who are now trying his forbearance to the utmost, and who are sheltering themselves in fancied security from his slumbering indignation, would bear in mind these apt lines:

"Patient of constitutional control,  
He bears it with meek manliness of soul;  
But if authority grow wanton, woe  
To him that treads upon his freeborn toe:  
One step beyond the boundary of the laws  
Fires him, at once, in freedom's glorious cause."

Mr. Speaker, I have no disposition to indulge in a merely factious opposition. And if I criticize severely the acts of the Administration, and reprobate, with all the earnestness I can command, the policy it has adopted in conducting this war, it is because I am urged on by convictions of duty that I cannot suppress. And it has been my constant endeavor to effect a change in the management of affairs and to institute a different and more beneficent national policy. And

though my opposition to the civil power of the Government has been so strong, still I have not allowed myself to forget that there is also a military power upon the efficiency and force of which our nation's safety greatly depends. Acting upon this conviction, I have ever felt it to be my duty to stand by the citizens whom the people have invested for a season with the administration of affairs in all the lawful and necessary measures proposed by them for the increase of the numbers and efficiency of our military forces, for their payment and support, and for the suppression of this rebellion against the Union and the Constitution. I have never withheld my voice or my vote for men, or money, or means to this end. And although the Administration has been guilty of many acts which I believed to be wrong in principle and almost fatally so in practice, although much of its policy has appeared to be madly suicidal, neither have I felt it to be in a line with my duty to cripple them in the conduct of the war, even though their errors were certain to be repeated. On the contrary, I have never deviated from the course I marked out for myself in the beginning; and have supported every measure intended to make our military and naval strength adequate to the necessities of our great emergency, and have placed in the hand of the authorities whatsoever was necessary to the prosecution of the war with vigor and success. At the same time, in common with the great and patriotic party with which I have the honor to act, I have reserved the right to hold the Administration responsible for the right and lawful use of the means thus intrusted to them, and accountable for the perversion of the war from its legitimate objects. And I shall, therefore, not hesitate to exercise my duty as a free citizen to criticize with frankness and even severity, but still with candor, such of their acts as I believe to be pregnant with injurious consequences to the country, and to denounce with all the energy at my command what I conceive to be their dangerous and unwarrantable intrusions and usurpations upon our free institutions. In this spirit I am obliged, Mr. Speaker, to raise my voice in earnest remonstrance against the policy marked out by the party in power in relation to confiscation, to an amnesty, and to the destruction or suspension of the existence of States.

On the subject of confiscation I have already on this floor expressed myself fully on a former occasion, and further reflection has confirmed me in the convictions to which I then gave utterance. I remain opposed, more earnestly and inflexibly than ever, to any sweeping act of confiscation which seizes on the property of men, unaccused, unheard, without trial, and by whole descriptions and populations. I am opposed to it because I believe it to be contrary to our organic law, and because, being so, it is intrinsically tyrannical and oppressive, for "where law ends tyranny begins."

I am opposed because it is an incitement to and a premium upon rapacity at the expense of misery and distress beyond our ability to imagine. But if my opposition is so strong against a confiscation of life estates, infinitely greater is my detestation and contempt for the man who would introduce the barbarous and inhuman proposition to entail the penalty of a parent's transgressions upon his innocent offspring, upon helpless woman, upon budding childhood, upon guileless infancy, upon the child unborn! It is a horrible proposition! It is more rigorous than the punishment of murder, for the family of the most brutal murderer when he is convicted and executed are not despoiled of his property and effects. In this case the whole family is punished for the crime of the individual; and when the father is condemned his wife and children are reduced to beg their bread. It makes political death a greater punishment than natural death, since in the latter the property of the criminal passes to his children, while by the former his innocent family are robbed of their lawful inheritance.

This bill, Mr. Speaker, is full of evil, oppression, and inhumanity, and sweeps like a hurricane over a whole population. Against this inhuman atrocity, then, which is now proposed I lift my voice in indignant protest. It has in it no touch of human sympathy or pity. It is malignant, spiteful, diabolical. It has "a devil's purpose" without being redeemed by anything of an "angel's face." And if we are guilty of

it I cannot believe that it will propitiate the Almighty to smile upon our cause, but rather fear that it will lead Him to pronounce upon us the dread sentence, "With what measure ye mete it shall be measured to you again." I wash my hands of the enormity—the crime against God and against human nature.

My opinions with reference to the mockery of an amnesty which the President has promulgated in the proclamation annexed to his last message are equally decided. I characterize it as a "mockery," and so the President seems to have regarded it, for he defended it in advance by the remark, "True, the form of an oath is given, but no man is forced to take it." Can it be possible that the President did not perceive that the oath which he prescribed as the condition precedent to his amnesty was of a nature to defeat the very object of the amnesty? that the terms of the oath were such as struck down all motive to a return to loyalty, by making such return involve the destruction of their property and thus made it their interest to remain in rebellion?

But, sir, my objection to the President's proclamation of amnesty proceeds from something higher than the fact that it is an unsubstantial mockery and defeats its own ends. I object to it because the President has no right to declare a general amnesty; or, if he had, the terms in which it is conceived are without any strain of mercy or generosity, and without any inducement to those to whom it is addressed.

I am aware that the President declares in the portion of his message which is excusatory of his proclamation that "the Constitution authorizes the Executive to grant or withhold the pardon at his own absolute discretion." But precisely upon this point I respectfully take issue with him. The language of the Constitution (article two, section one) is: "He [the President] shall have power to grant reprieves and pardons for offenses against the United States." That is to say, when a man has been tried for an offense against the United States, found guilty, and condemned by regular established process of law, the President shall have power to reprieve or pardon him. But he has no right to declare a man free from the consequences of his acts before he shall have been tried, convicted, and condemned. And if he exercises such alleged right he exceeds his power; he causes the executive to usurp upon the province of the legislative, while at the same time the reprieve or pardon thus granted would be utterly void and of no effect. It is a usurpation upon the legislative power, because all the provisions entering into a general bill of amnesty are necessarily and solely legislative in their nature. And such was the opinion of the men who formed our Government. In the preliminary stipulations to the treaty of peace with Great Britain in 1783 Congress enacted and agreed

"That there shall be no future confiscations made nor any prosecutions commenced against any person or persons for or by reason of the part which he or they may have taken in the present war; and that no person shall on that account suffer any future loss or damage, either in his person, liberty, or property, and that those who may be in confinement on such charges at the time of the ratification of the treaty in America shall be immediately set at liberty, and the prosecutions so commenced shall be discontinued."

This, Mr. Speaker, was both a legitimate and a real amnesty. But the President's amnesty lacks all the full and free generosity and magnanimity which characterized the amnesty offered to the malignant Tories of the Revolution by our forefathers. The one is full of life and human sympathy; the other is cold, emotionless, without any trace of pity or compassion. The one was the product of the Republic in its best and purest days; the other comes from the present Administration.

But, Mr. Speaker, the President, as if conscious of the weakness of his case in this particular, cites the confiscation acts as giving him authority to extend pardon and amnesty to persons who have participated in this rebellion. But, sir, he couples with his amnesty conditions that are violative of the law he cites as his authority, and destructive of the rights of persons and of States—conditions which neither the President had a right to impose nor Congress to give him the power of requiring.

A few words, Mr. Speaker, upon the President's plan, and the bill under consideration to

"reestablish" State governments in the insurrectionary portions of the Union. It does not command my approbation, either by what I conceive to be its real design or by its avowed objects. It is not a statesmanlike plan, but a crude and visionary experiment, not calculated to lessen our embarrassments, but certain to add to them. It is not a statesmanlike measure having for its object the composition and settlement of our national difficulties, but it is a political artifice, intended to have a bearing upon the coming presidential election. It is a plan which can only result in a nominal resumption of the relations between these States and the Union. The operation of this scheme would be, by a political fiction, to bring back the whole State into apparent but unreal relation with the Union, enable it, or the fragment acting in its name, to elect United States Senators, and by pretended elections to send its full complement of Representatives to the House of Representatives. And here the President's design is perfectly evident, to secure a majority of the delegates to the nominating convention of his party, and to provide for his own election by the House of Representatives in the event of there not being an election by the people. By this plan the narrow foothold maintained by our armies in North Carolina, Louisiana, Texas, Alabama, Florida, Arkansas, and elsewhere may send the pretended full delegations of those States to this House. Mr. Speaker, I denominate the whole plan a political trick worthy of the most adroit and unscrupulous wire-puller of our ward primary meetings.

But, Mr. Speaker, this plan to "reestablish" State governments is based on the assumption that they have been destroyed. This, sir, I deny; nor can they be destroyed unless the rebels are finally victorious, and establish their independence. If a foreign enemy should invade us, drive out our forces, seize and occupy New Jersey or Massachusetts, governing them in the mean while by their authorities and laws, those States would still exist, and our laws and constitutions, though temporarily obstructed, would yet be held to have a theoretical course in them. And the instant the invaders were driven off the States would resume their old relations, our laws would flow into their old channels, and all would go on as before, without a single act of legislation on the part of the General Government. And precisely similar is the case with those States now held by a domestic enemy; the States still exist; our laws and constitutions still have theoretical sway there; our authority has been merely suspended and our mutual relations interrupted by a public enemy in armed insurrection against the Union. The moment this enemy is overcome, and where ever he is overcome and driven out, our old relations will be instantaneously resumed, and the laws of the Federal Union will again operate as if there had been no interruption. Yes, Mr. Speaker, all the States, the rebellious as well as the loyal, are all within the unbroken pale of the Union. Sir, that is the very question at issue between us and the rebels; they declare that the Union is finally and irretrievably dissolved, and we declare that it is not, and, so help us Heaven, shall not be so broken and disrupted. For this we are fighting. For this we are encountering unheard-of expense, making the most wonderful preparations, and marshaling our heroic soldiers under their gallant leaders. And if God blesses us with wise rulers and decisive victories, this is what will be at length established. No, there is no authority given the President to declare any State out of the Union that was ever in it. So long as the Constitution lasts the union of the several States lasts; and although the power of an enemy may lop off one or more States, and forcibly sever the Constitution, we have no authority to do what only the overpowering act of an enemy can do, or to admit that it is done until we have been finally beaten in the field, and retire from the contest ingloriously beaten. We may be utterly destroyed by a superior power, State after State might be overrun, our capital might be captured and destroyed, but in such a case only can our Constitution be torn in fragments or our Union destroyed. When we have absolutely succumbed to the power of an enemy, all our institutions will crumble into one fatal ruin, and our glorious democratic Republic be consolidated into the kingdom of a tyrant. But till this happens our Union and



Constitution possess a principle of perpetual vitality, no death of a State and no severance of it from the Union. The life-blood may cease to flow for a time between the center and the extremities, but immediately on the removal of those hinderances and obstructions the life-bearing current will again leap through vein and artery, and the whole frame will once more rejoice in renewed health and vigor.

But, Mr. Speaker, we again recur to the fact that the war has already consumed three entire years, and is eating into a fourth. When we ask what has been accomplished to bring it to a close, although we can point to many glorious victories and to something gained, in the face of what yet remains to be done the further inquiry is forced upon us, "How much longer will it last?" Judging by what has been accomplished and by what remains to be done, may it not last years and years, unless it is ended by the sheer exhaustion of one of the parties? How long can it last? The total assessed value of all the real and personal property in the United States in 1860, according to the last census, was \$12,084,660,005. If from this we deduct the value of the property of the States in rebellion and of the portions of States held by the rebel armies, the amount will be materially reduced. The grand total of real and personal property in the rebellious States is \$3,972,101,522; this is exclusive of Tennessee, Kentucky, and Missouri. But as portions of the rebellious States are held by our armies, I make a deduction of ten per cent. from the above estimate, which I believe to be a liberal estimate. This leaves a balance of \$3,574,891,400, as representing the value of property in the rebellious States. Deducting this from the total amount leaves a balance of \$8,509,768,605, representing the value of the property of the loyal States.

The question now arises, How long will it take to sweep away the whole property of the country by our expenditures, if they continue at the rate of the past three years? A few more statistics will illustrate the matter. Our present expenditures—including the sums expended by the General Government, by States, counties, towns, townships, and individuals—have been at least \$3,000,000,000. Assuming that our expenditures will increase in the same proportion, there will be an augmentation of our expenditures at the rate of thirty-three and one third per cent. per annum upon the present amount. According to the last census, the rate of increase in the value of real and personal property in the States and Territories has been a little over twelve and a half per cent. per annum. Now the problem which these figures suggest may be stated as follows: if the whole property of the loyal States continues to increase at the rate of twelve and a half per cent. per annum, how long will it take our expenditures, increasing at the rate of thirty-three and a third per cent. per annum, to equal our assets or resources, and thus reduce us to bankruptcy? A very simple arithmetical process supplies the answer to this problem, and shows that if our expenditures and the increased value of our property each continue in the same ratio as in the past, at the end of eleven years our expenditures will have been nearly equal to the total value of all the real and personal property in the loyal States. Our \$3,000,000,000 of expenditures, increased by an expenditure of thirty-three and one third per cent. per annum and five per cent. interest, will have reached at the end of eleven years the gigantic sum of \$20,044,000,000, while our real and personal property, increased at the rate of one hundred and twenty-six per cent. in each decade, will amount to about the same sum, or \$20,253,249,279.

Here are stubborn facts pointing at national bankruptcy. We have a terrible war upon us, which if not speedily settled will lead us to certain ruin. It is time to pause. We are only to choose between two roads. The one leads to sure destruction; the other may lead to life and to prosperity. We have been going down the one, and the prospect is gloomy and foreboding. The mutterings of the storm are already audible, and salvation is yet within our reach. We yet have time to choose "the good part which can never be taken away." Let me appeal to the "power behind the throne" to cast aside the idols that have promised them and us so much but have given us so little. We have begged of our radical deities

to give us bread, and notwithstanding their promises we have only received a stone. Throw down the idols and abolish the worship! Thus, and thus only, may we see the day when all the States are again knit together in fraternal bonds and revolve in the old harmony around our beloved Union. God grant that we may live to see that day. Then we may look back upon this terrible war as upon a frightful dream; and when the scars it has made are healed and the whole land is once more smiling in prosperity we will gaze with amazement at the folly and madness which precipitated the fury of a war which might have been averted upon our beloved land, and which, to give a doubtful boon to the negro, endangered the life of a nation.

Mr. FERNANDO WOOD. Mr. Speaker, I had not designed to trouble the House with any remarks upon the bill, but, being compelled to leave Washington in the morning, and understanding that the question is to be taken to-morrow, as I shall not be here when the vote is taken, lest my views upon the bill may be misunderstood I have determined to submit to-night some few remarks upon it. I will say, sir, before proceeding to those remarks, that it is my design also, by the permission of the House, to refer to some other subjects somewhat personal to myself, and not entirely germane to the subject immediately under consideration. In deviating from a confinement to the discussion of the bill itself, I think I shall but follow the example of many very able gentlemen who have preceded me in the debate upon the measure.

Mr. Speaker, this bill, taking its title as a true indication of its character, is to guaranty to certain States whose governments have been usurped or overthrown a republican form of government. The chairman [Mr. DAVIS, of Maryland] of the committee which reported it describes it to be a "bill for the restoration of civil government" in those States. I have carefully examined both the bill and the speech of the honorable gentleman to ascertain upon what facts the assertion is made that the State governments of the southern States have been overthrown. In the latter I find an argument which aims to sustain the assumption. It is as follows:

"Those that are here represented are the only governments existing within the limits of the United States. Those that are not here represented are not governments of the States, republican under the Constitution. And if they be not, then they are military usurpations, inaugurated as the permanent governments of the States, contrary to the supreme law of the land, arrayed in arms against the Government of the United States; and it is the duty, the first and highest duty of the Government, to suppress and expel them. Congress must either expel or recognize and support them. If it do not guaranty them it is bound to expel them; and they who are not ready to suppress them are bound to recognize them."

Now, it will be seen that here again is little but assumption. It is taken for granted, and asserted with positiveness, that there can be no republican government that does not recognize the President and the Congress of the United States. "Those States that are here represented are the *only* governments existing within the limits of the United States." This is singular doctrine. What constitutes republicanism? It is not adhesion to any particular political community or organization. It does not consist in allegiance to any central constituted authority; if it did, it would not be republicanism at all, but a dependent condition without the power of self-control.

The gentleman assumes too much. If the authority or political rights of the States are dependent on their representations here, then if Congress refuses to receive the representatives of a State on any pretext, it ceases to exist, and loses the power of self-government. Suppose that a majority of both Houses of Congress and the Executive were to entertain the idea that the institution of slavery was inconsistent with a republican form of government, and acted upon the theory to the extent of the refusal to accept the Representatives of those States which held slaves, though they were not in rebellion, those States would not then "be here represented," and, under this doctrine, would not have republican forms of government, and it would become the duty of Congress to provide a form of government for them.

If Congress can do what this bill proposes on the ground alleged, so can it disfranchise any State in the Union at pleasure on any pretext what-

ever. The creature would thus become greater than the creator. It would be the arrogance of concentrated centralism in its worst features, because it would attempt to deprive a people of the inalienable right to form their own organic laws and to determine the nature of the Government under which they live. It seeks to establish a supervisory power, which, under the principle asserted, could at pleasure alter, modify, amend, annul, create, or destroy the constitution of every State in the Union, North or South, in times of war or peace.

There are some States in this Union, now represented here, whose constitutions have provisions utterly repugnant to republicanism, and yet no one proposes here to interfere with them. Even Utah has its Delegate. No one questions now the power of Congress over the Territories, and yet the gentleman does not propose to interfere with the notorious anti-republican government in that Territory.

But if refusing to recognize the Federal authority the States in rebellion cease to be republican, how is it that Mexico is a republic? When Texas seceded from the republic of Mexico, we accepted her without asking any questions; she came into the Union without any alteration in the character of her government. She substituted a Governor for President, and changed the titles of other officials. She maintains them now. Every one of the southern States possesses the same form of government now that they did before secession. If they were republican then they are so now. The people elect their own representatives, and govern themselves in all the essentials of republican government, and it is the extreme of folly for any man to assert otherwise. Indeed the confederate constitution has all the elements of republicanism. There is not a provision of it which, to the least extent, infringes upon the rights of the people. In many respects it is an improvement upon our own, because it defines the powers of the States with more clearness, leaving less to doubt and dispute. Indeed I assert that the people of the southern States enjoy a higher degree of liberty than we have been allowed the last three years.

Look at North Carolina! Her Governor, in behalf of her people, openly opposed the action of the confederate president and congress for the attempted exercise of authority much less repugnant to free institutions than has been repeatedly exercised unopposed here of late. What State Executives at the North would have dared to take similar action under far more aggravating circumstances? Doubtless despotism exists at the South. Military authority is antagonistic to liberty. War, and especially civil war, suspends more or less the free exercise of personal rights. The civil power cannot be maintained amid the clash of arms. It is and must be suspended in those States where any military conflict exists. But when the necessity for military authority ceases, when the cause which produces the contest shall be removed, civil government returns and again has the entire control; and so must it be in the southern States when this war ceases, as cease it must, sooner or later; the armies will be withdrawn, and the people of those States must be permitted to the full enjoyment of self-government. Otherwise it will not be republican. No people live under a free government if they are deprived of the right of self-government. To impose upon them a form of government of your own making, under the pretext of this bill, would be the worst kind of tyranny, whatever the provisions of your Constitution might be.

But this bill itself contains an inhibition which gives the lie to its title. It provides that none of the States in rebellion shall hereafter hold slaves. It does not leave to the people, therefore, the right to dispose of this question as the North have done. Is it republicanism to take away from a people the privilege of regulating their own domestic affairs, and to deny to others the privileges we have exercised ourselves?

But it is contended that by the rebellion these States have lost their right to form their own local governments, and even some go further and contend that by the rebellion all their rights as States have ceased; that they have placed themselves in the position of Territories, and that it has become the duty of Congress to provide governments for them as such. The advocates of these doctrines

do not favor us with their authority for these extreme positions. They do not point to that provision of the Constitution or to the construction of any commentator which gives the least countenance to the existence of such a power in Congress, much less the duty of Congress. In every part of the Constitution, in the spirit that created it, and in the term "Union" itself, is one pervading idea, namely, that the Government of the United States is of limited authority, and that it is secondary to the States in all matters relating to the States; and, while no provision is made for a contingency like this, nowhere is it by the most distant implications hinted that Congress can in any possible event, either in times of peace or war, foreign or domestic, or any possible conditions of the country, interfere with, much less subvert, modify, alter, or amend the local institutions or constitution of a State.

I have before said that I do not justify or defend secession, but I do not fear to discuss the question on its merits. I contend that whatever may become of the Federal Union, the States themselves have a positive existence. The Federal Union is the creation of the States, and hence cannot become more powerful than the creator. The Union, when formed, was said to be, by one of its framers, "a bridge resting upon thirteen pillars; take away the pillars and the bridge falls." The States which claim the right to withdraw from the Union do not alter their positions as States; they retain the same attitude toward each other that they held anterior to the American Revolution and to the adoption of the Constitution. In seceding from the Union they did not attempt to alter their relations to each other. They are, therefore, still distinct political communities with their own State constitutions and forms of government deriving authority from the people. Whatever doubt as to their relation to the Federal Government, there can be none as to their relation to each other and as to their individual local domestic independence.

I assume, therefore, that the rebellion cannot alter this. The Constitution cannot be expanded to meet contingencies. Under our theory the people themselves of the States regulate their own domestic affairs. Each State is sovereign and independent so far as this regulation of its municipal concerns extends. The Federal Government can have no control over any subject of State concern any further than was delegated to it, and no one denies that this is restricted to certain defined and enumerated objects. Even Hamilton, the advocate of this strongest kind of government over the States, and the concentration of the largest powers in the Federal Government, did not in his wildest theories and most despotic ideas of Federal power assume as much as this bill. In his defense of the Constitution and explanations of its powers he quoted in application Montesquieu, who in discussing the subject of republican government said that "the Confederacy may be dissolved, and the Confederates preserve their sovereignty;" and again, "and as this Government is composed of small republics, it enjoys the internal happiness of each; and, with respect to its internal situation, it is possessed by means of the association of all the advantages of large monarchies." (The Federalist, paper nine, by Hamilton.) And Hamilton, in the same paper, which, as he says, was written "to illustrate the tendency of the Union to repress domestic faction and insurrection," fully declares that the American Union was simply "an assemblage of societies," or "an association of two or more States," &c.

Without referring to the well-known opinions of Jefferson, Madison, and the great founders of the Republic on this point, I have here taken the views of the head and front of the opposition to them—the ablest and most ultra man of those who advocated a concentration of unlimited power in the Federal Government. In a word, our Government is federal, not national. The former means a league, from *fædus*, according to Noah Webster, "derived from an agreement between parties, particularly between nations; consisting in a compact between parties, particularly and chiefly between States or nations; founded on alliance by contract or mutual agreement, as a Federal Government, such as that of the United States." National government is of the consolidated close character, which recognizes no au-

thority except that which rests in the one head. The creators of this Government designed it to be Federal, to be a compact of States. It has been so regarded ever since by the best commentators. Neither in the debates of the Convention nor in the Constitution itself is any other designation given to its character. In nearly all of the States which subsequently ratified it, and in the very able debates that took place in them, as well as in the Federalist, a collection of papers written by Madison, Hamilton, and Jay, to remove the then prejudices and apprehensions existing in the popular mind that some portion of the rights of States would be parted with, it is treated as such. Massachusetts and New Hampshire in their ratification of the Constitution declared that the Union was a "compact." Webster, in his celebrated reply to Hayne, said in speaking of certain advantages he alleged the South had obtained in the construction of the Government, that "nevertheless I do not complain nor would I countenance any movement to alter this arrangement of representation. It is the original bargain—the compact—let it stand; let the advantages of it be fully enjoyed. The Union itself is too full of benefits to be hazarded in propositions for changing its original basis. I go for the Constitution as it is and for the Union as it is." This, then, is the peculiar nature of our form of government.

But, Mr. Speaker, this is the pet measure of the gentleman from the third district of Maryland. It is his peculiar specific for all those ills that man is heir to in this unfortunate country. He has often told us that the President's scheme was folly, that it would not accomplish the purpose, but that he [Mr. Davis] had discovered the philosopher's stone, and that in this bill would be found the "magic wand" that would at once remove the cause of the evil which afflicts us and secure a permanent peace hereafter. The cause of the rebellion he says is slavery; and this is repugnant to republicanism. He portrayed in his speech, delivered to this House March 22, all those horrors with his usual skill, and, I may add, without intending offense, his usual sophistry. His speech, like this bill, was founded on the one idea that slavery is the cause of the rebellion, and that where slavery exists republicanism cannot exist. He assumes that republicanism and slavery are inconsistent with each other. This is the motive for providing State governments for those which he says have been "usurped." He takes care, both in his speech and his bill, to declare that in the governments which shall hereafter be provided no slavery shall exist. Now this is assuming that heretofore those States which have held slavery were not republican. It casts a reflection on the slave States. Indeed it is a hard accusation.

But, Mr. Speaker, the gentleman from Maryland has not always held these opinions. I think it quite susceptible of demonstration that he believed, as I do now, that many of his present opinions were fanatical, and that the southern people could never be subjugated. He is an author, sir, and he is withal a traveled gentleman. His opinions are upon record. In 1852 he wrote a book upon national and American politics, which I will do him the credit to say contains many very fine passages. I hold it now in my hand, sir. Its title is *Ormuzd and Ahriman*. The object of this work was to plunge this country into a war with Russia, and to make a coalition with Great Britain in the accomplishment of that herculean undertaking. He was then, as he is now, opposed to the establishment of monarchical governments on this continent. But in the course of the work he very fully discusses the nature of his own Government, and the dangers that threaten it by the abolition fanatics of the North and the Quixotic secessionists of the South. On page 345 he says:

"The name of the American Republic is potent among the nations. It is the watchword around the camp-fire, it is the model in the senate, it is the hope of struggling humanity. Its proud elevation, its peaceful splendor, its military prowess, hitherto signified only in defense, the plenty that rewards its industry, its wide asylum for the exile and the wanderer, the simple majesty of its Government, that, like the power divine, 'spreads undivided and operates unspent,' mighty at the extremity as at the center, swaying with a silent omnipotence, powerful to punish, yet powerless to oppress, unshaken in seventy years alone of all the nations by civil discord, unstained by fraternal blood, so mild in its rule that no treason has ever lifted its hand against its authority—these, its glories, covered with shame, and cast into the shade the gaudy and blood stained idols

that elsewhere, crush humanity in their course, and boast themselves the sole possessors on earth of the right divine to rule."

Again, on page 348, he says:

"This people has swollen within the limits of the life of man from three to more than twenty-three millions, a population such as France could not boast when she prostrated Europe before her march. More than two million armed men, soldiers by birth, by nature, by early education, by manliness of spirit, by habit of self-reliance and self-defense, who are fitted to obey, because accustomed to the obedience of liberty and the laws, whom a campaign of a month converts into the regular soldier, and the word of command in his country's cause elevates to a hero; these men, the cheap, yet priceless defense of the nation, stand ever ready to guard their hearths and their altars from hostile feet, whether near or remote. They laugh to scorn the thought of subjugation!"

In 1852, then, the gentleman from Maryland thought that the people South as well as North "laughed to scorn the thought of subjugation!"

Again, on page 353, he says:

"The North is filled with the fanatics of liberty as the South is with the Quixotes of slavery."

And again, on page 354, he says:

"Fanaticism is not less dangerous because it is honest. There are fanatics at both ends of the nation."

I will quote but one more extract to show what the gentleman then proposed to do: On page 426, he says:

"This policy which I propose is no wild crusade to force freedom on reluctant nations. It is no propagandist policy made available for self-defense. It does not propose to enforce liberty by the bayonet, or to preach it from the camp. It is no proclamation of the rights of man to people in contented or in discontented slavery. No institutions accepted, or acquiesced in are proposed to be overthrown; still less is any hostility felt or avowed or recommended against kings and monarchical government."

Mr. Speaker, it will be remembered that in the debate upon the expulsion of Mr. LONG, of Ohio, his colleague, [Mr. SCHENCK], representing the third district of Ohio, had consumed the time of the House by reviewing my official and political character. Instead of discussing the great questions involved in the subject then under consideration, and giving to this House and the country the benefit of his large experience in public affairs, aiding Congress to extricate the country from its present unfortunate and lamentable condition, he turned upon the humble individual now addressing you, deeming his past public career of more importance than a consideration of the subjects to which I have referred. I hold in my hand, sir, the speech which he made upon that occasion. He preferred four charges against me. These are, that when mayor of the city of New York I recommended the secession of that city from the General Government; that I had facilitated the passage of arms to the Governor of Georgia after that State had seceded from the Union; that I had once been a war Democrat, and made a war speech at the Union square meeting in April, 1861; and that I was responsible for the dreadful riots that occurred in New York in July last. At the time of this assault upon me, it will be remembered I made an effort to get the floor in reply, but with the usual delicacy, refinement, and courtesy which distinguish that member, with a waive of his military arm, he told me to "subside." This was his language, sir; and as was my duty under the rules of the House, which I never will knowingly violate, I did "subside" into my seat, and have had no opportunity until now to offer my denial to each and every one of the accusations in the sense with which they were preferred. He was personal, sir, in his assault, abusing the courtesy of the House and violating the decorum of debate. He took advantage of the silence which he imposed upon me at the moment to make personal intimations beneath the dignity of the House, and far beneath the conduct of a gentleman. In his accusation that I had once been a war Democrat, he said he could prove it because he was present when I addressed the Union square meeting in 1861. He said he spoke from the same stand with me, and that he stood near me; and, addressing himself to the House, he said, "You may call this an honor or a dishonor."

Sir, if he spoke from the stand with me, and, as he says, stood near me, he stood near a man who never ingloriously fled from the battle-field, or turned his back to an enemy; who never traduced the memory of Andrew Jackson, and became the eulogist and defender of that Jeffreys of a judge who had interfered his traitorous proclivities between Jackson and his military authority prop-

erly exercised; who never aided, abetted, and encouraged the Mexicans in their war with the United States, at a time when our noble soldiery were on Mexican soil; who never, as the bearer of a little brief authority over the noble and patriotic population of Maryland and Delaware, assumed the air and practiced the vile precepts of the tyrant and the despot, and in defiance of the Constitution of the United States, and of the constitutions and laws of two sovereign States of the Union, suppressed the freedom of the ballot, denying to men more loyal than himself the exercise of the sacred right of franchise, and who, notwithstanding all these dark surroundings and inodorous antecedents, has had the temerity to rise in his place in this House, and measure his personal veracity with the President of the United States, the head of his own political party, who has been his friend and benefactor. And in this connection, Mr. Speaker, permit me to say that if means are furnished me by this House, I pledge myself to resign my seat if I do not prove that the member had a verbal understanding with the head of the War Department that he could withdraw or resume his commission as a major general in the Army whenever he desired to do so.

But, sir, I propose to reply briefly to these accusations. First, that I recommended the secession of the city of New York from the Federal Government. The Legislature of our State had for several years encroached upon the municipal rights of the city, in contravention of the constitution of the State, which guaranteed to every county, city, town, and village of the State the right to elect their own local officers, or to have only such as were appointed by the elective officers. The Legislature had appointed our prominent officials. It had appointed commissioners to improve our Central Park, to build a courthouse, to appoint, remove, and control our local police and other officers possessed with the exclusive control of managing more than one half of the public duty of our city. These encroachments upon our rights had become so frequent and so alarming that it had aroused the popular indignation. I had repeatedly remonstrated against the exercise of this oppressive power, and in my annual message delivered to the common council on the 1st of January, 1861, I did say, after referring to these wrongs, that if they continued it would become the duty of the city of New York to declare her independence of the State, to become free from the State to which she paid liberal taxes without receiving anything in return but oppression and unjust discrimination. I said this much then; I say so still. I did not recommend the withdrawal of the city from the Federal Government, as alleged by the gentleman from Ohio. We had no quarrel with the Federal Government. We attempted no resistance or nullification of Federal laws. Our differences were with the State, and those differences still exist.

The second charge, with reference to the arms of the State of Georgia, has been before denied by me in this House. The member now making it is but playing second fiddle to the Delegate from Utah, who represents here Brigham Young's dominions. He made the charge early in the session, and, with far more courtesy than now is manifested, gave me the opportunity to reply to it, which I did upon the moment, and satisfied, I am confident, this House and the country that it was an unjust accusation. I say again, as I did then, that before the commencement of any hostilities between the North and the South, while the mail and telegraphic communication were entirely open between New York and Savannah, before there was any interruption to commerce, or any proclamation of hostilities by the President, that the municipal local police of the city of New York, which, by the Legislature, had been placed beyond the control of the mayor, assumed the right to stop merchandise, passengers, baggage, and everything on the wharf *in transitu* to Savannah, which created at the time great excitement among the merchants and traders, who were following legitimate commerce, and who appealed to me as mayor to interfere for the protection of a legitimate trade. I had no power to prevent it, and so telegraphed the Governor of Georgia in reply to a communication from him; and, if there be wrong in that, my enemies are welcome to make the most of it. I did what I conceived to be my official duty, and,

under like circumstances, I would do the same again.

As to the riots in the city of New York, they have been before referred to by Mr. DAVIS, representing the city of Baltimore—the author of this bill now under discussion. He has scarcely made a speech in this House that he has not referred to the riots of last summer in New York. Neither he nor the member from Ohio [Mr. SCHENCK] should reflect upon New York on this ground. The city of Baltimore, and the immediate constituency of the gentleman from Maryland, has long been distinguished for its riots, and for the honor of having some of the most cruel and bloodthirsty rioters which have ever disgraced any American community. As to Dayton, the residence of Mr. SCHENCK, there have been serious riots in that little town within three years; and but the other day a mob of drunken soldiers broke into the office of the Empire, a Democratic newspaper, and attempted to assassinate its editors and proprietors because they differed with them in political sentiment. Was that the result of the teachings of the gentleman from Ohio? The city of New York, with an average population of nearly a million, has had but two riots in twenty years. I was not in the city of New York at the time the riots occurred there. I had left the city some time previous, but I am well informed as to what occurred, and consider myself capable of speaking intelligently upon that subject. The causes of that outbreak can be placed at the door of this Administration or its agents. The quota demanded from the State of New York of the number of men to be drafted in July last was greater than it should have been. This has been well determined and admitted by the Administration since, and the quota demanded from the city was especially unjust. This, with a pervading belief that the conscription law was not only unconstitutional but unnecessary and oppressive, was the original cause of hostility to the execution of the law among the poorer classes of people.

Again, sir, the enrollment itself was unfairly made. There was a very significant omission on the enrolling lists of the sons of rich men who had political influences to exempt them, while the poor man's sons, who voted the Democratic ticket, found their names faithfully recorded. This increased the excitement. Instances are within my own knowledge where young, healthy men were exempted for alleged physical inability because they had the influence to which I have referred. Other young men, feeble in body, were held because they had not the political influence necessary to shield them. And when the drawing itself commenced the apparent unfairness with which that was begun in some districts of the city added injury to injury, and the people could not be restrained, and a disturbance occurred of an ordinary character which could have been easily suppressed by the exercise of the ordinary means. But this was not what the Republican managers wanted; they wanted the riot and a pretext for the declaration of martial law; and then it was that the military were ordered out—Federal soldiery, not the local militia, under the direction of Federal officers, secretly prompted by radical Republican politicians—and they let fly their murderous fire into a crowd of men, women, and children, without discrimination or hesitation. I need not say that this produced a riot. In less time than I have been rehearsing these facts thousands and thousands of poor honest men were found in the streets ready to offer up their lives a sacrifice upon the spot rather than be torn from their families by enemies more inimical to their rights and liberties than those against whom they were to be forced to take up arms. I have authority, sir, for what I say, and ask the Clerk to read some extracts from war papers in the city of New York, and also an extract from a letter from Thurlow Weed, whom none here will charge with sympathy with the rebels.

The Clerk read, as follows:

"We copy copiously from the Herald as follows: "THE REAL CONSPIRACY IN THE LATE RIOT.—The mystery that enveloped the events of the week of terror in this city is fast being cleared away. The nest of the conspirators has been probed, and they now stand before the public in their hideous forms. When we saw the Tribune, Times, and Post, day after day, amid the tumults and trying scenes in this city, filled with bitter, acrimonious, and bloodthirsty articles, we concluded that there was some secret under and behind all the disturbances, which was

purposely hidden from the general public. Time has verified our suspicions. Facts that have come to light within the last few days conclusively prove that the incendiary course of the radical journals was prompted solely by a fixed determination to increase the extent of the riot and to force a collision between the State and national authorities.

"The latter point accomplished, it was to be followed with the declaration of martial law, a military governor, and all the appliances that this satanic radical committee, with Greeley, Raymond, Godwin & Co. at its head, with its dozen or fifteen tails, could bring to bear to control future elections in this city. They were foiled in their evil and bloody work by the tact and skill of Generals Wool and Sandford, with the cooperation of Governor Seymour. The riot and suffering and the reign of terror were, however, extended by them at least three days by their nefarious work.

"How these radical conspirators tampered with the military is shown by the reports of Generals Wool and Sandford. The letter of the former states that on Monday afternoon, 13th, General Harvey Brown tendered his services. His offer was accepted, and he was directed to report to Major General Sandford. It was soon found that General Brown did not act in harmony with General Sandford. General Wool thereupon issued an order; but this Brown did not obey, but presented himself in the evening, asking to be excused from the operations of the order. This General Wool refused to grant him, declaring—

"That for efficient operations a hearty cooperation of the State and United States troops with the police was necessary to put down the mob.

"General Brown persisting, he was excused from further service. Mark the sequel. The next morning the radical papers denounced the military authorities in unmeasured terms, and howled for martial law. General Brown also appeared about eight o'clock in the morning at General Wool's headquarters and asked to be reinstated, saying, in substance, 'that he was in the wrong.' He was reinstated. What then? The same authority states that he acted without any reference to General Sandford.

"Right here comes in the important testimony of General Sandford. The latter, in his official report, asserts—

"That the rioters were dispersed on Monday night and Tuesday morning, and the peace of the city would have been restored in a few hours but for the interference of Brevet Brigadier General Brown, who, in disobedience of the orders of General Wool, withdrew the detachments belonging to the General Government."

"This act so weakened the small military force in the city that it was again placed at the mercy of the rioters, and the bloody scenes were continued two or three days longer. The Tribune clamored the next morning for the removal of General Wool.

"Thus we have the official testimony that General Brown was used by the radicals. It is a well-known fact that Generals Wool and Sandford were in frequent consultation with Governor Seymour, and that these three officials worked together in harmony. Brown, on the other hand, was no doubt urged to ask to be reinstated by the little satanic committee composed of Greeley, Raymond, and Godwin, they fearing that unless he was there to interfere with the plans of Seymour, Wool, and Sandford, the riots would be put down, and their plans of martial law and conflict between the State and national authorities defeated.

"Brown's reinstatement was essentially necessary for the success of their schemes. Hence the pretended confession that he was wrong. General Brown is no doubt a member of a church in good standing, and a good military officer. He has done good service for his country at Fort Pickens and other points, and, like Phelps and Hunter, is a good fighter, when the negro is not about. But hold up the negro to such men and they forget all their military knowledge. The radicals held up the nigger and nigger party to Brown, and all military ability departed except for mischief.

"If the above facts, which are corroborated in every particular by the official reports of Generals Wool and Sandford, do not show that the New York riot was fanned and fed by the abolitionists, if not by the Administration itself, for the purpose of aiding the Republican party, then the sun does not shine."

"Weed on the Mob Inciters.

"Mr. Thurlow Weed wrote a letter expressing his indignation at the cowardly treatment of the unoffending negroes by the New York mob. He inclosed a check of \$500 for their relief, and said:

"For the persecution of the negro there is a divided responsibility. The hostility of Irishmen to Africans is unworthy of men who themselves seek and find in America an asylum from oppression. Yet this hostility would not culminate in murder and arson but for the stimulants supplied by fanatics. Journalists who persistently inflame and exasperate the ignorant and lawless against the negro are morally responsible for these outrages. But what can Wendell Phillips how many negroes are murdered, if their blood furnished material for agitation? There is abundant occasion for the public abhorrence of mob violence. But when all the circumstances have been reviewed the popular condemnation of those who, while the nation is struggling for existence, thrust the unoffending negro forward as a target for infuriated mobs, will become general and emphatic. Ultra abolitionists were hailed in South Carolina, as the 'best friends' of secession. Practically, they are the worst enemies of the colored man. But for the 'malign influence' of these howling abolitionists, in Congress and with the President, rebellion would not, in the beginning, have assumed such formidable proportions; nor, in its progress, would the North have been divided, or the Government crippled."

Mr. WOOD. Governor Seymour has been assailed in this connection. Much has been said by the Administration press and politicians against his course during those three days. In my judgment, whoever else may take exception to the policy which he adopted upon that occasion, the Republicans should not. It was by his presence and the exercise of a kind and beneficent spirit



that he did very much to allay the excitement which existed. Had I been Governor of the State, no Federal soldiery should have been allowed within the streets of the city of New York. The Governor of our State is commander-in-chief of the militia of the State. He has an army at his command subjected to his orders; he has all the physical and legal power to preserve public property and to protect the peace of the State, and it was an insult to the State of New York for Federal troops to have been interfering in what was exclusively a local matter, over which the local authorities had the exclusive jurisdiction. And I repeat that if any just charge can be made to the door of Governor Seymour against his course upon that occasion, it was that he did not demand of the Government the withdrawal of the Federal troops, and if that demand had been refused, would have compelled them to have retired at the point of the bayonet. He should have said that this was our fight; these were our citizens, the preservation of peace and of order we were responsible for, and until the city and the State authorities had failed to perform their duty, the General Government had no right or power under the Constitution to interfere. When the State calls upon the Federal Government for aid, it is the duty of the Federal Government to give it, but until the State does, it is a usurpation for her to attempt interference. These are my views of the relative powers and duties of the two Governments on this subject—views I have always held and shall always maintain.

And as to my address at the Union square meeting, I did make an address there. I did urge the raising of soldiers to protect the Federal capital. I did more than that. Out of my own purse I raised a regiment, the Mozart regiment, for the purpose of protecting the capital and preserving the integrity of the Union; and if that be guilt, thus far am I guilty. But my presence at the Union square meeting, and the men that I raised and placed under arms, were not designed to aid in the prosecution of an abolition crusade against the domestic rights and interests of a sovereign people. I have never, knowingly, from the commencement of this war, contributed by word, deed, or act, anything to facilitate the continuance of the policy which has been pursued for three years back; which, in my judgment, is utterly destructive and ruinous, not only to the Union but to numbers of people both North and South.

So far as I am personally concerned I am neither wedded to nor shall I become the victim of party. I do not believe that either party, if pledged to a continued prosecution of the war, and keeping that pledge, will remove the evils which surround us. These evils are the results of and incident to the war. The war is the cause, and that must be removed before the evils can cease. Therefore I am free to say that I see no immediate relief. I complain of no man for not thinking as I do. There is an unnatural condition of public sentiment. "The times are out of joint" indeed. But they must continue out of joint for a while longer. Guizot said that "it is by exhaustion and necessity that God imposes justice and good sense upon nations." As yet our "exhaustion and necessity" have not reached that degree of intensity which teaches "good sense or justice." How long it may be delayed I know not; but, be it shorter or longer, we must wait. The like spirit of fanaticism now pervading this country had a duration of over a half century in England during its period of revolution. Ours is not the first instance in history in which the established order of things has had to yield to the destructive spirit of fanaticism and misrule.

Different periods present their own peculiarities of the popular mind. Sometimes for a longer or shorter period human thought and action are progressive and conservative, while at others it is retrograde and fanatical. In all countries during modern ages these periodical conditions of men's minds have developed themselves, and it is singular that in the most enlightened and powerful nations of Europe these changes have been the most frequent and violent. In France and England examples of the most striking as well as of the most destructive character have occurred within the last two centuries, and it is remarkable that in both countries these excitements have succeeded periods of large intellectual or philosophical developments. The revolution in Eng-

land which produced the death of Charles I, and the revolution of France, which produced the death of Louis XVI, are examples. In each of those countries an enlightened and elevated condition of the higher classes existed immediately preceding these occurrences, and in each country the excitements culminated in the same results, though flowing from widely different causes.

That of England, which covered a period of over sixty years, commencing in the latter part of the sixteenth century, had its rise in the spirit of hostility to what had been considered the established church. Men broke violently loose from the forms of religious ceremony, rushing with blind zeal to the opposite extreme; surging from a narrow bigotry to an ultraism far more dangerous to their salvation and involving certain destruction to their temporal welfare. The largest liberty of religious belief and form of worship were demanded as natural rights. Those who clung to the ancient creed and ceremonies were deemed to be the enemies of mankind and to be put to the sword as such. Thus a fanaticism equally bigoted and more intolerant than that which it sought to abolish ran rampant through the popular heart, subverting all laws human and divine. The established Government was assailed, not so much because it was monarchial but that it was suspected of Papist inclinations. Personal ambition was not slow to discover in this condition of the popular mind the material for self-aggrandizement, and hence hostility to the Crown was encouraged as part of the duty of those who sought liberty.

This rebellious spirit added materially to the rising tempest, and it created a power which swept before it the feeble effort made to resist it. It soon became irresistible. Constitutions, organic laws, and fundamental principles of law alike fell prostrate before its dreadful march. Charles I had neither the moral nor the physical power to maintain himself against it. He struggled, parleyed, threatened, but at last yielded, falling upon the scaffold unhonored and unpitied, without having earned a martyrdom in behalf of either Church or State. It was now that fanaticism had control—Puritanism and Oliver Cromwell assumed the reins of government. The former was evidently, if not altogether, composed of many sects. It comprised a variety of religious beliefs, all agreeing, however, in a common hostility to the monarchy and the church of Rome. Cromwell was their patron and representative; he became the embodiment of this hostility, and with masterly genius of discrimination, strongly backed by military power and renown, he held the angry conflicting zealots of fanaticism within his grasp, controlling, as no ordinary man would have done, the fierce element of popular commotions which the bloody spirit of the people had evoked. This excitement occupied the English mind for sixty years. During this period it assumed various phases. That internal struggle for political mastery was continued and acrimonious; it was consistent only in its unreasonableness, its ultraism, its pretensions to divine sanctity, its political and religious hypocrisy, and its opposition to all rule except its own.

The Revolution of France was later. It occurred long after England had passed through her religious period to which I have referred. And as if to illustrate the fact that fanaticism is of the same character and produces the same results in all countries and at all periods of the world, its justification was found in an anti-religious excitement opposed to divine revelation and to the existence of a God. It had its origin in the very opposite principle to that which created the English Revolution. And yet it was exactly parallel to it in all essential features and in the dreadful fruits it produced. The social fabric was overturned, the established Government was demolished, the ancient forms of jurisprudence and the fundamental systems were alike subverted. As to religion, not only was the Romish church ignored, but all forms of religion and all creeds of faith were swept away. Atheism was the worship.

Now, sir, what is the nature of this war? From whence has it risen? It what phase of man's peculiar nature can be found the idea—the moving impulse, the wish, the thought, the passion—which first prompted resort to arms, and is now prosecuting with such hellish fury on both sides

the dreadful work of blood and carnage? We do not find in territorial dispute the cause; nor in misunderstandings growing out of diplomatic correspondence; nor in military conflicts; nor in any of the causes which have heretofore induced quiet and free communities to resort to the arbitrament of the sword. There must be some other cause, and, to warrant the nature of the conflict, it must lie in the deepest recesses of our nature, and to be found in our worst passions.

It is not a political war. Our political elements may have afforded a field for the development of the causes which engendered it, but those causes do not belong to the legitimate sphere of municipal government nor to the maxims which regulate the policy of a party and shape the conduct of an administration. They belong to the fundamental ideas which make a people and impress a distinctive character on the framework and organization of society. This is a war of ideas, a thoroughly revolutionary war, an unholy breaking of the seals of the Constitution in order to accomplish the reorganization of southern society, in conformity to the plans of the socialist reformers of the school of pseudo-philanthropists. This is neither a slaveholders' rebellion or an office-holders' revolt, but an aggressive movement on the part of those who proclaimed that this Union could not consist of States some free and others slave. The origin of the war is that firebrand theory which sometimes phrased itself in an irrepressible conflict between "free labor" and "capital labor." When anti-slavery fanaticism entered the field of politics and tainted the deliberations of party, then commenced the growth of sectionalism, a sectionalism doubly formidable, as it not only alienated State from State, dividing the Union by geographical lines, but assailed the vital interests of the citizens of those States, threatened the existence of their most important institutions, and demanded the unconditional surrender of the whole system of social order, to be reformed to suit itself. To abolish slavery by the sword is violently, unconstitutionally, to wipe out of existence what counted as property three years ago to the amount of \$4,000,000,000. To abolish slavery thus is to destroy the settled order of society in sixteen States with whom the States where this idea prevails had entered into a solemn league and plighted faith that they and their citizens would not interfere nor touch. To abolish slavery by this mode is to pave the way for universal degradation, poverty, and social chaos, in the States where it is to operate.

I say that the principle of negro emancipation, recognized by the bill under consideration, and on which this war is now avowedly conducted, and which assuredly was the moving and effective cause of the same, involves the total disruption of society in the South and disorganization of the Government of the North. All races, ages, and conditions of mankind in both sections are interested in opposing the accomplishment of this most disastrous experiment. Negro and Caucasian, bond and free, slaveholder and non-slaveholder, are alike exposed to the evils that this monstrous social error will engender. We of this generation may not be able to estimate the full measure of the misery that will follow the realization of the fantastic theory which, promising to remove the yoke from every shoulder, will curse the earth with sterility and man with vice and poverty.

Apart from considerations based on a common origin, language, religion, ties of blood and affiliation, long years of amity and friendly and intimate association, and, above all, the obligations of a solemn compact, which made us as substantially one as are the parties to the matrimonial bond, we should look to the probable consequences of a war like this—a conflict nursed by discordant ideas and stimulated by the exaggeration of a social reformation, so deemed in the fanatical brains where it has been hatched. Do we comprehend the character of these wars of ideas—their long continuance, their remorseless cruelty, and the exterminating desolation they have uniformly left behind them? Amid the awful record of bloodshed and national crimes, the most horrible have been those of a social and religious character. Rome, the conqueror and mistress of the world, through the convulsions consequent on the distinctions in her social constitution into patrician and plebeian, was for centuries dis-

tracted by faction, revolution, and final civil war. There was no union between "the iron and the clay," to adopt the imagery of the dream of the monarch of Babylon. The civil wars of Marius and Sylla, of Cæsar and Pompey, of Brutus and Antony, of Antony and Augustus, if they did not destroy the great fabric of Roman conquest, did certainly consume the lives of millions of men, and were accompanied by cruelties of the deepest dye.

The wars which followed the establishment in Arabia of the Mohammedan faith extend, we may say, from the era of the Hægira to the time when John Sobieski, the heroic King of Poland, defeated the Turks under the walls of Vienna, extending over a thousand years, and embracing within its limits south western Asia, southeastern Europe, Spain, and northern Africa.

The French Revolution, to which I have referred, with its dark and lurid picture of massacres, anarchy, the guillotine in the background, concluded with a general European conflagration and the wars of the first French emperor. The emphatic and broken sentences of Carlyle fitly describe the scenes of the reign of terror, while the establishment of a new dynasty as the result of that stupendous social earthquake is now going forward before our eyes. We think, perhaps, more of Valmy, Lodi, Marengo, Austerlitz, Waterloo, Magenta, and Solferino in this drama of desolation, and less of the ingulfment of the abuses of feudalism which led to the breaking out of the Revolution. This is the usual error of mankind, to think more of the visible and material than the social and moral causes which have produced the merely physical outbreaks. Experience, however, continually calls on us to see how it is that ideas control the current of history, and that on them the fate of nations and the happiness or misery of the great masses of mankind depend.

A parallel but somewhat earlier struggle, based rather on religious than social ideas, took place in Europe. I speak of it because the English Revolution which brought Charles I to the scaffold and established Cromwell as Protector was to a certain extent an outshoot of the general movement. The German mind had divided itself on the subject of religion. It was a sectional as well as religious division—North against South—Protestant against Catholic. One of the great masters of modern war, Gustavus Adolphus of Sweden, played his part in this, the Thirty Years' War. It drew in, from political considerations, France and her great minister Richelieu; it devastated Prussia, Saxony, Bavaria, Denmark, Bohemia, and Hungary—all the central portions of Germany; it consumed a generation of Swedes, and it left traces of its horrors on the towns and cities of Germany for more than a century and a half. I doubt not but that there may be Germans now among us who have looked upon the monuments of that mighty and stubborn civil war and could tell us of the extent of the wreck and the ruin it caused by the relics of the catastrophe. So the geologist reading the course of creation in the rocks can describe the deluge and the earthquake of early epochs from the history left behind them on the stony tablets of the history of the earth.

Mr. Speaker, I have already transcended the time allotted to me in this discussion far beyond the hour. I am indebted to the courtesy of the House for the permission. There is much more I intended to say. The member from Ohio had arraigned me, to which I have fully replied. It was my intention at this time to have put him on trial; but he is not in his seat. I have additional facts which, I am confident, would satisfy the House that he, of all others, should not assail the public conduct of any man on this floor; but I will not use them now. I have no stomach for this kind of debate. The personal references made by me to him and others have been forced from me in self-vindication; and when assailed I hope always to be able and willing to break a lance with my antagonist, and to carry the war back again, "even into Africa."

Mr. KELLEY. Mr. Speaker, it is not my purpose to follow the gentleman who has just closed, [Mr. FERNANDO WOOD,] or specially to reply to him; but I cannot help, before proceeding to the general subject, making a remark or two. I have seen a witness in the trial of a cause

contradict one after another of the witnesses who had sworn before him, until, when counsel came to sum up, they reckoned the number of witnesses who contradicted him, and justly argued that his testimony, so contradicted, was unworthy of belief. Robert Toombs's telegram to the mayor of New York spoke of arms, and not of merchandise, and so did the mayor's reply to it. They are of record, and stand against the gentleman's assertion. He tells us he fitted out, from his private purse, a regiment; but the men of the Mozart regiment deny the fact, and publish the denial over their signatures. He says the city of New York would not have given the country one hundred men for the Army could its citizens have foreseen the policy that has been adopted by the Administration; but the thousands of men who have just filled the ranks of her decimated veteran regiments, and are hastening to the field to sustain that policy, give indignant denial to the slander, and protest that New York city is not wanting in patriotism, though some of its people do confide in him.

I will not, however, follow the gentleman's challenges on the question of veracity. I will not comment upon his apology for the "disturbance," as he called the mob violence which led to the use of musketry in the streets of New York. Nor will I even press the question as to what his answer was to his friends, when they gathered about him and said to him, "There are rich men whose stout, able-bodied sons are walking free, but my poor boys are subject to the draft; what shall we do?" No; I will not press the question as to what his answer was before he left the city, that his friends, boiling and bubbling with sedition and murder, might do their work without involving him in responsibility. But I will proceed at once to the subject before the House.

The questions involved in the bill are of the first importance. It is not just such a bill as I should have proposed, nor does it meet my unqualified approval. Among other objections to it, in my judgment, is the want of some of the provisions contained in the amendment submitted by my distinguished colleague, [Mr. STEVENS.] I should like to see his distinct declaration that "the confederate States are a public enemy, waging an unjust war, whose injustice is so glaring that they have no right to claim the mitigation of the extreme rights of war which are accorded by modern usage to an enemy who has the right to consider the war a just one."

I would like to see it provide further, as his proposed amendment does, "that none of the States which, by a regularly recorded majority of its citizens, has seceded and joined the southern confederacy, can be considered and treated as within the Union, so as to allow them, or any part or portion of them, to be represented in Congress, or to take any part in the political government of the Union."

And, as more immediately important, I would like to have the bill declare in his language that "in all proceedings to amend the Constitution of the United States none of the States embraced in the southern confederacy can be permitted to participate, nor can they be counted as among the States necessary to form a constitutional majority to adopt said amendments; and that whenever any amendments shall be ratified by three fourths of the non-seceding States, they shall be taken and adjudged to be a part of the Constitution."

I will briefly and rapidly as I can proceed to give the reasons upon which my views are founded.

Sir, the flag of our country symbolizes the sovereignty of our whole country, which extends from the Bay of Fundy to San Diego, from Cape Sable to Mount Olympus, from Brownsville to Pembina, from ocean to ocean, and from the Gulf to the lakes. The question is, how shall the sovereignty the flag symbolizes be exercised over portions of that broad region? How is certain territory to be governed? The Constitution declares the method. Our country in part is governed as States, not confederated, but united by the Constitution of the United States, not united link by link, but so fused as to make a sovereign nation, in the Constitution of which is found ample provision for the government of every foot of the national domain, vast as it is. The third section of the fourth article of the Constitution contains the following provision:

"The Congress shall have power to dispose of and make

all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State."

There can be no sovereignty over any portion of this domain while it is a territory save that of the Government of the United States. But two forms of government are provided for, namely, State and territorial government. But gentlemen say, here are States that were in the Union, but whose people have withdrawn their allegiance and rebelled: how would you govern them? Sir, a State is not immortal; it has a mortal existence; it has its beginning, its transitions, and may have its end. A State may be killed, a State may commit suicide. The act of God may carry through the portals of death the entire people of a State, and extinguish it by reason of the want of citizenship. A foreign Power may subdue the people of a State, hold and exercise dominion over them and their territory, overthrowing their institutions, and establishing others in accordance with the views of the conqueror, thus destroying the State and reducing the people to the condition of colonists, from which they could only escape by successful revolution, or by the assistance of a people from beyond the limits of their State.

Sir, I have said a State may commit suicide. A sovereign convention of the people called to consider the propriety of amending, revising, or abolishing the constitution may abolish that constitution, and having proposed no new one adjourn *sine die*, submitting their work to the people, and, if approved by them, the State would cease to exist. It might be succeeded by a monarchy, a despotism, or any other form of government; or its territory might be occupied by a foreign Power, or both people and territory be absorbed by a continuous foreign nation. This the people of the revolted States have done. They have destroyed the institutions which bound them politically to this Government. They have organized a foreign government, and seek to transfer to it part of our domain. How is sovereignty manifested? Is it not by the peaceful administration of the laws ordained by the sovereign Government? We have our system of customs, and our postal system; we construe our laws by a judiciary, who derive their appointment from the President, and are confirmed by the Senate. Our judges interpret and apply our laws. The marshals execute their process; but in the event of armed insurrection they appeal to the executive branch of the Government for power to enforce their judgments and decrees. But so long as it is mere insurrection, mob, riot, or local resistance, the fact of such resistance does not overthrow our Government or create war. The States of the Union maintain their connection with our Government by electing through their Legislatures Senators to represent them and express their voice in the Congress of the nation. At the beginning of each decade the Legislature divides the State into districts, each district of which is entitled to send a member of this House to participate in the making of laws. Thus the State and the people thereof, through its organization, make part and parcel of the Government, and while participating in the Government are governed under and by the Constitution.

Is there a State of South Carolina? Pray who represents it on this floor? Who in the other end of the Capitol? Will you name her Senators, or tell me what judge comes from a circuit whereof that State is a part to sit in the councils of our Supreme Court, or what judge holding authority from the President and Senate of the United States administers the laws in its district court? Who or where are the marshals, collectors of its ports, or postmasters, who hold power from our Government and act in its name and behalf? So, too, of the other confederated States. Where or how do you feel the influence of any of them in this Government? How do you enforce the Constitution and laws within the territory once governed by the constitutions of those States? Ah, sir, the sovereign people, or, to speak more precisely, the political people of each of those States, have overthrown the State. Through its corporate power each State destroyed its corporate life, and no one of them exists.

Sir, the destruction of a State by the severance of the constitutional ligaments that bind it to this Government is one thing; but the government of

the people upon the territory, the ultimate right to govern, is quite another. The sovereign right of eminent domain is not with the State. Do not, therefore, let me be misunderstood as arguing that the people of a State may oust the jurisdiction and right of the nation, or transfer any territory within the limits or jurisdiction of the United States to a foreign Power. They cannot. Nor can they take themselves out of the jurisdiction of the country unless they leave the limits of its territory. To permit this would be to dissolve our Government; and whoever attempts it must be punished as a traitor. The President and Congress of the United States are bound to resist such an attempt, though it require the expenditure of every able-bodied man and the last dollar of treasure. Their oath to support and defend the Constitution binds them to reconquer possession of territory which is attempted to be thus taken from the people and the Government, as it does to defend the country against any other foe who strikes at the nation's life or attempts to divide its territory.

But the people of our once sister States have not merely destroyed their State governments; they have established others, unrecognized by our Constitution, and have confederated in a foreign and hostile government. The seat of that government is at Richmond, and they send senators and members of congress there to participate in its doings. They have a judicial system, administered by judges appointed by the chief of that confederacy. They have their custom and postal systems, and we know, how terribly have we been taught, that they have an army and navy, the army and navy of a foreign Power, engaged in a struggle with our own. Thus they are alien enemies, though they occupy territory within the limits of the Union. That territory belongs to the people of the Union and their posterity through all time, and none but a traitor or coward would surrender it.

I know that gentlemen on the Democratic side of the House think that we could get along if our country were reduced to its original dimensions. I know that there are among them those who favor the acceptance of peace on any terms, and that there are those who, to judge by their every word and act, would rather see the country divided than that the present Administration should maintain the integrity of our country and reestablish its institutions. Posterity will find it difficult to believe that such men acted in the name of Democracy. Sir, I chanced to find among my papers to-day a speech delivered by General Cass in the Senate on May 10, 1848, and as I read it I could but think of the degeneracy of the men who now claim to speak for the Democratic party to which it was once my pride to belong. The speech was in advocacy of a bill which proposed to enable the President to take temporary military possession of Yucatan. Let me read you a brief extract:

"Mr. President, many of the great principles of national action depend on existing circumstances. There are few mere questions of abstract right in the intercourse of nations. Peaceable acquisitions of territory, or acquisitions in a just war, can give no offense unless to nations whose safety they endanger. Where this is the case, they may be protested against, or resisted, if necessary. It is a question which each nation must judge for itself, and upon its own responsibility, but one which it ought to judge fairly. Much of the public law of the world is founded upon this principle of safety, and the elementary works abound with its illustrations. Traces of it are to be found in all the questions about the balance of power in Europe; in the disputes concerning Malta and Algiers and Belgium, and many other subjects which have engaged the attention of Governments and formed the labors of diplomatists. Its perversion has, no doubt, led to abuses, as has the perversion of many other principles; but its foundation rests in the nature of things. Self-defense is as incident to communities as to individuals, and a provident foresight requires us to watch any dangerous projects of domination and to provide for them as we can. I repeat, that a nation under these circumstances must judge for itself. Proximity of situation, the nature of the intercourse resulting from it, commanding positions to do injury, and other considerations, are all elements to be taken into view. In my opinion, we owe it to ourselves to avow distinctly to the world that we attempt to procure the transfer of Cuba from Spain to any other nation, whether peaceably or forcibly, would be resisted by the whole power of this country. To others it may be a question of territorial aggrandizement or of mercantile cupidity; but to us it is a question of necessity, I had almost said of political life or death. It would become the gate to close the great river of our country. The waters of that river, thereafter as heretofore, would reach the Gulf, but its commerce would never reach the ocean."

I will not detain the House by reading the entire extract I had marked, but will call the attention of gentlemen to another brief passage. Speak-

ing of the Gulf of Mexico and its relation to the development, prosperity, and peace of our country, General Cass said:

"I now come, Mr. President, to other and perhaps graver considerations, directly or indirectly involved in this question. The Gulf of Mexico is the reservoir of the great river of the North American continent, whose importance it is as difficult to realize as it is the value of the country which must seek an outlet to the ocean through its waters. That country is nearly equal to all Europe in extent, embracing twenty-five degrees of latitude and thirty-five of longitude upon the great circles of the globe. This vast basin extends from the summit of the Alleghany to the summit of the Rocky mountains, and its population now equals eight millions. The man yet lives who was living when almost the first tree fell before the woodman's stroke in this great domain, and the man is now living who will live to see it contain one hundred million people. Already the hardy western pioneer has crossed the barrier of the Rocky mountains, and the forest is giving way before human industry upon the very shores that look out upon China and Japan. The Mississippi is the great artery of this region, which, drawing its supplies from the fountains of the North, pours them into the ocean under a tropical sun, and drains in its own course and in the course of its mighty tributaries—tributaries in name, but equals and rivals in fact—the most magnificent empire which God in His providence has ever given to man to reclaim and enjoy. I have myself descended that great stream two thousand miles in a birch canoe, admiring the country through which it passes in a state of nature, and lost in the contemplation of what that country is to be when subdued by human industry. The statistics of such a region in years to come is a subject too vast for calculation. Its extent, fertility, salubrity, means of internal navigation, and the character of the people who will inhabit it, baffle all efforts to estimate its productiveness, the tribute which its industry will pay to the wants of the world, and the supplies which the comforts and habits of its people may require.

"During the palmy days of Napoleon, it is said that one of his projects was to convert the Mediterranean into a French lake. England has nearly done what defied the power and ambition of the great conqueror. She has almost converted it into an English lake in time of war. Gibraltar commands its entrance, Malta the channel between Sicily and Africa, and the Ionian islands the waters of the Levant. There were good reasons for believing a short time since that England was seeking to obtain a cession of the island of Crete, the ancient kingdom of Minos, which would give her the port of Canea, that I found one of the most magnificent harbors in the world, equally capacious and secure. If England, in the pursuit of the same system, should acquire similar commanding positions on the Gulf of Mexico, that great reservoir would become a *mare clausum*, and no keel would plow it nor canvas whiten it in time of war but by her permission. Now, sir, looking to the extent of our coast in that direction, to the productions which must pass there to seek a market, to the nature of our population, and to the effect upon all these which a permanent naval superiority would produce, where is the American who is not prepared to adopt any measures to avert such a calamitous state of things? Who can fail to see the nature of the predatory warfare which England would carry on in all times of hostilities from her various positions which would encircle the Gulf from the Bahamas to Cuba and to Yucatan? And who also can fail to see that even in time of peace her many harbors would become places of refuge for a certain class of our population, and that perpetual collisions would occur, involving the peace of the two countries?

"The Gulf of Mexico, sir, must be practically an American lake for the great purpose of security—not to exclude other nations from its enjoyment, but to prevent any dominant Power, with foreign or remote interests, from controlling its navigation. It becomes us to look our difficulties in the face. Nothing is gained by blinking a great question. Prudent statesmen should survey it; and, as far as may be, provide for it. We have, indeed, no Mount Carmel, like that of Judea, nor prophet to ascend it and to warn us against a coming storm. But the home of every citizen is a Mount Carmel for us, whence he can survey the approaching cloud, even when no bigger than a man's hand, which threatens to overspread the political atmosphere, and to burst in danger upon his country. It should be a cardinal principle in our policy, never to be lost sight of, that the command of the Gulf of Mexico must never pass into foreign hands. Its great geographical features indicate at once our safety and our danger."

What impudent effrontery it is for men who plead for peace and recognition and are ready to consent to the reduction of our country to its original limits to claim to speak the voice of the party to which Lewis Cass belonged, and whose principles and purposes he so admirably expressed. What claim have they to the name of Democrat? Why do they not raise a white banner and inscribe upon it "Peace, peace at any price," and proclaim boldly their willingness to barter hope, honor, and country, for ignoble peace. They cannot by flaunting the banner of a murdered party conceal the treason that would sell half the country to a semi-barbarous neighbor and so involve the remainder in perpetual war.

I will not pause to examine the extent of the domain they would surrender. Sixteen years ago that proud party would have involved the country in war with any European Power that had remotely menaced the trade of the Mississippi by the occupation of Yucatan. Then the leaders of that party gave "notice to the world," by their speeches in the two Houses of Congress, "that

the attempt to procure the transfer of Cuba from Spain to any other nation would be resisted by the whole power of this country," because such transfer might embarrass or cripple the trade of that river; but the leaders of the peace Democracy propose to surrender not only all interest in the keys to the Gulf but the Gulf States and fifteen hundred miles of the Mississippi itself, from Keokuk, Iowa, to its mouth. Only men who perpetrate and would perpetuate the crimes of slavery in the name of Christianity would, while proposing so infamous a wrong to democratic republican institutions as this, claim to be governed by the principles or traditions of the party of Jefferson, Jackson, and Cass.

But it is argued that the old States exist and are in the Union, and that it is therefore not only not necessary but unconstitutional to provide for reconstruction. This is no longer an abstract question. The Supreme Court has settled it by repeated decisions. There was a time when gentlemen on the other side of the House accepted the decisions of that court as binding on their judgment and conscience. Yes, when it was disgracing the age and country by proclaiming that there were four millions of our people who possessed no rights, not even that of chastity, that a white man was bound to respect, these gentlemen accepted its decisions, and I hope they will not reject them now. In a decision made more than a year ago, (Claimants of the schooner *Brilliant* vs. United States, March term, 1863,) that high judicial authority declared that "the people of the seceded States, without distinction, as to loyalty or disloyalty, have the same rights, and the same rights only, as alien enemies invading the land." So also in all the prize cases reported in 2 Black's Reports they decide that they are traitors, and not only traitors but public enemies; and in the administration of law and conduct of the war we may not distinguish between them on questions of personal loyalty or disloyalty, because the war is a public territorial war, and must be conducted as between belligerents alien to each other.

The States are out of the Union but the territory belongs to the United States, and the people, if they remain upon it, must be governed by the Constitution and laws of the United States. The State constitutions having been overthrown, it belongs to Congress to provide for the reconquest of the territory and its government; and it is the duty of the Executive to effect that conquest by any and all means known to modern warfare and within the law of nations. These are the only limitations, not only upon the power but upon the duty of the Government.

Ah, but says the gentleman from Missouri, [Mr. BLAIR], the President does not agree with you in these views, and in insisting upon such legislation as this you are waging war upon the President and trying to break him down. It was well said last evening by my colleague [Mr. STEVENS] that if the assumption of the gentleman from Missouri that he speaks as the special and confidential friend of the President does not break him down we need not fear that anything else will. But let us see whether we agree with him or are trying to break him down.

Sir, our good President—and I mean what I say when I call him our good President; may God bless and keep him—has a habit of speaking for himself and at his own time. If his friends see fit to quarrel about what he thinks, it is their quarrel and not his; but whenever a public exigency may require him to act on the question that divides them, he will probably settle it, for he is a frank and truthful man. His friends need have no controversy on this question, as he has no concealments. He has not only spoken on this subject to the people of the North, but to those of the South. I have his amnesty proclamation which was read to us on the 9th of December, and has been scattered far and wide in the rebel States as the agencies at his command could carry it. What does he say there? The object of that proclamation is the restoration of the Union by the organization of loyal States on confederate territory. Among other things the preamble says:

"Whereas it is now desired by some persons heretofore engaged in said rebellion to resume their allegiance to the United States and to reinaugurate loyal State governments within and for their respective States."

"To inaugurate," says Webster, "is to insti-



tute; to invest with a new office by solemn rites." The very object the President desires, as expressed so clearly in this admirable paper, is the reinstitution of State governments over the territory over which they once prevailed.

I care not whether the States to be instituted be as large as Texas or as small as Delaware. When any given portion of the country shall be peopled by loyal men, who shall meet in convention and adopt a constitution and present it to Congress asking admission into the Union, it will be our duty to consider the constitution and to determine on the question of admission. Here, again, my views appear to be in perfect consonance with those of the President; for on this subject the proclamation says:

"And it is suggested as not improper that in constructing a loyal State government in any State, the name of the State, the boundary, the subdivisions, the constitution, and the general code of laws as before the rebellion be maintained, subject only to the modifications made necessary by the conditions heretofore stated, and such others, if any, not contravening the said conditions, and which may be deemed expedient by those framing the new State government."

Does the President insist upon the revival of the names, boundaries, or subdivisions of former States? No. But as it might in some instances be proposed to maintain all or any of them he suggests that it would not be deemed improper to do so. Why may not the two Carolinas be combined and called the State of Carolina, if so the people occupying that portion of territory determine, and, having held a proper convention representing all the territory within the two old States, come and ask us to accept the constitution and admit the State into the Union. Or suppose they come with two constitutions springing from two conventions, one representing the people who occupy the old State of North Carolina, the other the people who dwell within the limits of the old State of South Carolina; would it not be proper to admit the one or both as the case might be? Neither the Constitution nor the President's amnesty proclamation make it necessary that the limits or name of a future State shall be determined by what existed prior to the overthrow of the now rebellious States.

Sir, the question whether those States are in or out of the Union is said by some gentlemen to be an unimportant one. I think it is a very important one, and may, before a great while, be of great practical importance. We have before us a bill from the Senate providing for the amendment of the Constitution of the United States. How many and what States are to pass upon that question? Under article five of the Constitution, should it receive a two-thirds vote in this House, it will be submitted to the Legislatures of the States, and if ratified by three fourths thereof it will be valid to all intents and purposes as part of the Constitution. Are the rebel States in or out of the Union for the purpose of passing on this proposed amendment? If the amendment fails in this House the Legislatures of two thirds of the States may require us to call a convention for proposing amendments. The Legislatures of two thirds of how many States must unite in such a request? In either of these cases we must know whether the confederate States are in or out of the Union before we can determine this vital question. Certainly these are practical questions—questions which must be settled. I have no fear as to what the decision of the Supreme Court will be if we act upon the theory that the old States have been utterly abolished. The three fourths of the remaining States will unquestionably be held to be adequate to act, because the theory that the rebellious States no longer exist as States of the Union is true and in harmony with many decisions already pronounced by the Supreme Court.

It is in another point of view a question of great practical importance. We have a presidential election pending in which it may become important; and there should be some clear, well-defined expression of the opinion of Congress on the subject before the possible contingency arises. It is not frank, it certainly is not courageous, in a time like this to shirk a great question because it is possible that it may have no practical importance; while it may on the other hand be used as a means of extreme embarrassment to if not for the absolute overthrow of the Government. The President regards it as the duty of Congress to act on this ques-

tion. He prepared the people of the South by his proclamation to expect Congress to act on the subject by saying in his offer of amnesty:

"It may be proper to further say that whether members sent to Congress from any State shall be admitted to seats constitutionally rests exclusively with the respective Houses, and not to any extent with the Executive."

I apprehend that nobody can deny that we have properly passed on questions of the admission of gentlemen coming here claiming to represent the loyal people of rebellious States. Congress alone can determine who shall be a member thereof.

But the President, as if to remove all possible doubt as to his clear recognition of the power and duty of Congress in the premises, says:

"And still further, that this proclamation is intended to present the people of the States wherein the national authority has been suspended and the loyal State governments have been subverted a mode in and by which the national authority and loyal State governments may be re-established within said States or in any of them, and while the mode presented is the best the Executive can suggest with his present impressions, it must not be understood that no other possible mode would be acceptable."

It was certainly a mischievous spirit that prompted the gentleman from Missouri [Mr. BLAIR] to claim that the opinions he expressed were those of the author of the amnesty proclamation.

I object in part to the bill before us, because it is drawn rather too largely from the President's plan. It leaves to a military man, a brigadier general, the organization of the new governments. Mr. Speaker, we have a simple and a better mode of governing Territories. We give them a territorial government, a Governor, secretary, judges, and the right to elect a Territorial Legislature; and provide for their forming a constitution whenever they have sufficient population to constitute a State and to apply for admission into the Union. This method operated admirably during the long period in which we grew from thirteen to thirty-three States. The fact that most distinctly presaged this war, was an attempt to depart from it and establish a new one based on one of two novel theories, that of popular sovereignty, or that of the recognition of slavery as a national and not a local institution. We have already seen the evil effects of a departure from our territorial system and of a military governor attempting to organize a State. The experiment has been made in Louisiana, where a general announced that martial law was the fundamental law of the State in the proclamation in which he ordered the first election and fixed the day on which it should be held. Indeed, he undertook by proclamation to make a constitution for the State. Accepting the constitution of the old State as a basis, he set aside two distinct clauses of it, one which prohibited soldiers in the service of the United States Government from voting, and another which related to and regulated slavery; and the question is already powerfully made by loyal citizens of New Orleans, why did he not strike out the clauses highly prejudicial to them? No man will deny that the election was shaped by the military power, wielded by that general. He struck out or permitted to remain so much of what he was pleased to recognize as a constitution as was agreeable to him, and there is no reason why he should not have stricken out more, or, if he had the power to strike out, why he should not have added clauses. In fact, his military regulations were equivalent to new clauses in the pretended constitution. The election was a ridiculous farce, because General Banks assumed to be governed by what did not exist—the constitution of Louisiana, which had been overthrown when she withdrew her Senators from this Capitol and her members from this House. That he knew it had no force as a binding law is patent from the fact that he excised vital provisions by his mere edict. So will it be everywhere if Congress do not provide the means of reconstruction. Therefore it is that I would prefer to apply our old territorial system to the reorganization of the entire territory of the confederacy, but will, rather than omit all legislation on the subject, vote for the bill as reported, even though the amendment proposed by my colleague be rejected by the committee or the House.

But the gentleman from New York [Mr. FERNANDO WOOD] and others tell us that before we can establish any governments in the revolted States we must exterminate or annihilate the people of the whole wide field of the confederacy; that

we cannot have peace between a conquered and a conquering people or their descendants.

Sir, the President, in the proclamation I have referred to, offers, with few exceptions, general pardon to the people of the rebel country. But his right to offer pardon is denied. His right to grant conditional pardon is denied. His right to pardon the people *en masse* is denied. These denials may be made in ignorance, but I fear they are prompted by a mischievous spirit. Certain it is they who make them shut their eyes against what they know to be the law of the land or speak in utter ignorance of that law. Such pardons have constitutional, congressional, and judicial sanction. The pardoning power is vested in the President by section two of article two of the Constitution. And Congress, foreseeing the necessity for the exercise of that power in behalf of the rebels against the Government, by an act approved July 17, 1862, provided as follows:

"That the President is hereby authorized, at any time hereafter, by proclamation, to extend to persons who may have participated in the rebellion, in any State or part thereof, pardon and amnesty, with such exceptions and at such times and on such conditions as he may deem expedient for the public welfare."

This is in accordance with settled law. The Supreme Court decided that the President may grant conditional pardons. (7 Peters's Rep., p. 161.) It has decided that a pardon does not take effect until it is accepted; that a man denying his guilt may reject the proposed pardon which proceeds upon the basis of his guilt. (7 Peters, p. 161.) The President also follows English precedents, as did Washington, the first President of the United States, who granted amnesty and pardon to the people of western Pennsylvania who had engaged in the whisky insurrection. Charles II, before returning to England, April 16, 1660, issued a general amnesty, proclaiming conditional pardon with exceptions, such as our good President has made; and he followed the course of George II in what was termed the Jacobite revolution in 1745. You will find in chapter fifty-two, 23 George II, 1747, that that king issued a proclamation granting conditional pardon to the Scottish insurgents who had fought for the Pretender. Ah! but, say the champions of the rebels on this floor, the pardon will not be accepted, and you cannot conquer them, and if you could you would breed only perpetual civil war. Then, Mr. Speaker, this broad, fertile, beautiful, heaven-enriched country of ours, this land upon which imagination paints three hundred million people dwelling in peace, with a measure and general diffusion of intelligence that the world has never seen, with a measure of comfort unequalled by that known to any people on the earth, is doomed to perpetual war. For, sir, if we recognize the confederacy, and create two continuous martial republics, with thousands of miles of frontier and conflicting systems of labor, we will make war inevitably perpetual.

But let us see whether those gentlemen speak from the teachings of history or with fair judgment of the facts that surround us, or take counsel of their sympathy with our foes. Let me remark, sir, that the progenitors of the hundreds of millions who are to people the South are not dwelling on that soil now. The confederate States claim to hold nearly one half of our territory lying east of the Rocky mountains, a territory on which may dwell one hundred and fifty million people, but on which there are now less than eight million white and four million black people. Throw your eyes across the Atlantic and behold Europe swarming with oppressed but restless and aspiring people. You see there the people and ancestors of the people who are to occupy the South as well as the broad prairies of the Northwest and the golden fields of the Pacific slope. We must go beyond our country to find those who will populate it in the long hereafter through which it is to live. Yet the Pilgrim Fathers will ever be hailed as the fathers of the country, for the civilization they instituted, resting as it does on intelligence, morals, and religion, will prevail over the whole country. Year after year from the crowded Old World the tide of emigration will swell and flow. The future owners of thousands of southern plantations are now upon the green hills of Vermont, or laboring in the industrious villages of Massachusetts or other northern States. They are strolling over the verdant hills and through the beautiful valleys of

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Ireland. They are singing the *Ranz des Vaches* among the free hills of Switzerland, or wandering along the historic and beautiful shores of the Rhine. The omniscient Eye sees them among the people of every nation in the world. A single generation hence the American people will read the story of this war as we read that of the Scottish border wars or of the conflicts of the Anglo-Saxons with their Norman conquerors.

In pursuance of our act of July 17, 1862, pardon is offered to all with few exceptions who will accept it. Hundreds of thousands have already signified their acceptance. In the northern States to-day you find thousands of men who deplore the wickedness of having bared their breasts to the storm of battle against their country's flag. You find under the flag of the Union whole regiments of men who have been taken prisoners, and who, while so held, have discovered the temper of our people, and the infinite and blessed contrast between northern and southern life and habits, and have rallied to the support of the old Government. On a recent visit to the New York navy-yard we found a body of young men training to the use of artillery. We were shown by the gentlemanly commandant their proficiency in working the guns. To our surprise we learned that there was not one of them who had not been in the rebel service, and who was not now glad to fight for the Union.

Look at Arkansas and Louisiana. Look at so much of South Carolina as we have occupied. Do the people require the strong hand of power to be held over them? Do they escape from our lines, or is their number daily increased by families who risk their lives in making their way to the old flag? At the inauguration of the bastard government of Louisiana, over eight thousand children raised their young voices in joyful chorus and were applauded by their rejoicing parents. The people attended *en masse* and expressed by every species of rejoicing their gratification at their supposed restoration to the Union. We carry with us to the South not alone the bayonet and cannon; we approach the people with other sounds than those of the booming mortar and whizzing rifle. The teacher follows closely the northern Army. The Christian church, gladly accepting the aid of its long offcast child, philanthropy, goes with him. Ours is not a slow age; we move with electric speed. The press is free and ever in motion. The landless and ignorant whites hail the social equality we offer them, and bless us for the schools in which we gather their children. Already they catch our meaning of the words "home," and "family," and hail us not as conquerors but as benefactors. Among the four million colored people there is not one who is not loyal and anxious to serve us despite the neglect and contumely we have heaped upon them. Let us, then, go on conquering. In complete conquest alone can peace be found, and as a means of organizing conquest and peace let us pass this bill.

Mr. COX obtained the floor, but yielded to Mr. THAYER, who moved that the House adjourn.

The motion was agreed to.

And thereupon the House (at twenty-eight minutes to eleven o'clock p. m.) adjourned.

## IN SENATE.

WEDNESDAY, May 4, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of yesterday was read and approved.

## PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of commanders and lieutenant commanders of the United States Navy, praying for an increase of the grades of captain and commander; which was referred to the Committee on Naval Affairs.

Mr. MORGAN presented a memorial of real estate and stock auctioneers in the city of New York, remonstrating against the proposed tax of one quarter of one per cent. on sales at auction

of real estate and stocks; which was referred to the Committee on Finance.

## TAXATION IN WASHINGTON.

Mr. GRIMES: Some two weeks ago the House of Representatives passed the bill (S. No. 126) to amend "An act to incorporate the inhabitants of the city of Washington," with amendments, and the Senate concurred in the amendments. A motion was afterwards made by the Senator from New Hampshire [Mr. HALE] to reconsider the vote concurring in the amendments, and the bill has been suspended for two weeks. I have been solicited on the part of the city authorities to call the matter to the attention of the Senate again, in order to have it determined one way or the other.

Mr. LANE, of Kansas. I hope we shall go through with the morning business.

Mr. GRIMES. I believe this is in order.

Mr. SHERMAN. There is a special order coming up in a few moments.

Mr. LANE, of Kansas. I wish to offer a resolution.

Mr. GRIMES. I ask that the vote be taken on the question of reconsideration.

The PRESIDENT *pro tempore*. The Chair must announce that the time has arrived which was fixed for the consideration of the special order of the morning. That special order, being the resolution of the Senator from Ohio [Mr. SHERMAN] relative to the number constituting a quorum of the Senate, is before the body.

Mr. GRIMES. I do not know whether the Senator from New Hampshire designs to contest the bill to which I have called attention, or whether he intends to withdraw his motion to reconsider.

Mr. SHERMAN. Is that the bill regulating the grades here?

Mr. GRIMES. Yes.

Mr. HALE. With the leave of the Senate, I will state that I have no interest in that bill and care nothing about it, but some citizens of the District called upon me and stated that its provisions did not answer what was desired, and therefore I moved the reconsideration, and I subsequently introduced a bill, which was referred to the Committee on the District of Columbia, which was intended as a substitute for it, so that I do not care what becomes of the bill, whether it is passed or not; I have no feeling about it.

Mr. SHERMAN. I trust the Senator will withdraw the motion to reconsider, because I know there are universal complaints here in regard to sewerage, and the health of the people is endangered, and it is necessary that something should be done.

Mr. HALE. The Senator from Ohio perhaps did not hear me. I said that since I moved the reconsideration I had introduced a bill which was prepared in the city, and so far as the city press have spoken upon it it seems to be a bill which meets the public wants and expectations. That bill has been referred to the Committee on the District of Columbia.

The subject is before the committee, and I do not propose to interfere with a matter which legitimately belongs to that committee. They can do what they think proper without any interference of mine.

The PRESIDENT *pro tempore*. Does the Senator from New Hampshire desire to withdraw the motion to reconsider?

Mr. HALE. No, sir.

Mr. GRIMES. I move, then—

The PRESIDENT *pro tempore*. The special order is before the Senate.

Mr. GRIMES. I move that it be suspended for a few minutes, until we take a vote on this subject, which can probably be done in five minutes.

Mr. SHERMAN. I have no objection to that, if there is to be no debate, and the vote can be taken at once.

The PRESIDENT *pro tempore*. The special order will be laid aside informally if there be no objection. The Chair hears none.

Mr. GRIMES. I desire to say that the bill which is now before the Senate is not, of course, before the Committee on the District of Columbia.

The PRESIDENT *pro tempore*. The bill is not before the Senate; it must come up by a motion.

Mr. GRIMES. I move that it be taken up.

The motion was agreed to.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from New Hampshire to reconsider the vote by which the Senate agreed to the amendments of the House of Representatives to the bill (S. No. 126) to amend an act to incorporate the inhabitants of the city of Washington, passed May 15, 1820.

Mr. GRIMES. This bill has passed both Houses of Congress without any opposition on the part of anybody so far as I know, and passed at the instance of the city authorities, to enable them to accomplish the purposes which have been stated by the Senator from Ohio, to perfect the draining and paving of this city. It is not as complete a bill as some of the private citizens of the District desire to have passed; but the passage of this bill does not preclude Congress from passing another bill; and another bill covering the same subject, but which is not at all in antagonism with this bill, is now under consideration before the Committee on the District of Columbia. I am not prepared to say what may be the action of that committee upon that bill; but if they shall report in favor of its provisions, and the Senate shall pass it, it will not antagonize with any of the provisions of this bill.

Mr. HALE. The reason that induced me to make the motion to reconsider—and I will say frankly it is a matter that I have not considered, and I am not competent to give any advice to the Senate upon it—was this: there is a provision in this bill which says that it shall not be in contravention to that section of the charter which authorizes these repairs to be made upon the application of the property-holder, and it was supposed by the gentlemen who were opposed to the bill that that would nullify all that was beneficial in it. That was the reason that induced me to interfere. I have not examined the question; and have no disposition to interfere with the findings of the Committee on the District of Columbia, to whom the subject appropriately belongs. The Senate can adopt just what they recommend. I do not care. I have done my duty in regard to it.

The PRESIDENT *pro tempore*. The question is, will the Senate reconsider its vote on concurring in the amendments of the House of Representatives?

The motion was not agreed to.

## REPORTS FROM COMMITTEES.

Mr. HALE, from the Committee on Naval Affairs, to whom was referred the petition of contractors for the machinery of the side-wheel steamers known as "double-enders," praying for additional allowance on their contracts, submitted a report accompanied by a joint resolution (S. No. 50) for the relief of the contractors for the machinery of the side-wheel gunboats known as "double-enders." The bill was read and passed to a second reading, and the report was ordered to be printed.

## BILL INTRODUCED.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 266) to prevent smuggling, and for other purposes; which was read twice by its title, and referred to the Committee on Commerce.

## WAR CLAIMS.

Mr. LANE, of Kansas. I submit the following resolution, and ask for its present consideration:

*Resolved*, That the Committee on Military Affairs and the Militia be instructed to report a bill providing for auditing the claims of loyal citizens for property destroyed or taken by the rebels or by our own troops during the present rebellion, excluding slave property.

Mr. WILSON. I must object to it. I hope no vote of instruction of that kind will be made to the committee.

The *PRESIDENT pro tempore*. Objection being made to its present consideration, it lies over under the rule.

#### CLAIMS OF WISCONSIN.

Mr. HARLAN. I offer the following resolution of inquiry:

*Resolved*, That the Secretary of the Interior be directed to inform the Senate what disposition has been made of the lands granted by an act entitled, "An act to grant a quantity of land to the Territory of Wisconsin for the purpose of aiding in opening a canal to connect the waters of Lake Michigan with those of Rock river," approved June 18, 1838. Also, that he be directed to inform the Senate whether the State of Wisconsin has received the five hundred thousand acres of public lands to which she became entitled on entering the Union, under an act entitled "An act to appropriate the proceeds of the sales of the public lands, and to grant preemption rights," approved September 4, 1841; and whether any part of the grant to aid in the construction of the canal above named, or any part thereof, was included in the said five hundred thousand acres, and, if so, how much. Also, that he be directed to inform the Senate what part of the five per cent. of the net proceeds of the sales of the public lands within the State of Wisconsin, to which she became entitled under the act for the admission of said State into the Union, has been adjusted and paid; and if in the adjustment of the account between the United States and said State the said State has been charged with the value of any lands or the proceeds of the sales thereof, granted under any other law, and if so, to state the amount.

As I suppose there will be no objection to it I ask for the present consideration of the resolution.

Mr. HOWE. My impression is that all the information called for in the resolution is here, communicated by the Secretary of the Interior to the Senator from Indiana [Mr. HENDRICKS] who made the report on this subject.

Mr. HARLAN. I have read the report carefully, and it is not embodied in the report.

Mr. HOWE. It is here. It was sent to the Senator from Indiana.

Mr. HARLAN. Has it been sent officially?

Mr. HOWE. Yes, sir.

Mr. HARLAN. Let the resolution go over, and I will look into the matter.

The *PRESIDENT pro tempore*. The resolution will lie over.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the bill of the Senate (No. 145) to equalize the pay of soldiers in the United States Army, with amendments; in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had agreed to some and disagreed to other amendments of the Senate to the bill of the House (No. 151) making appropriations for the naval service for the year ending the 30th June, 1865, and it had agreed to the first amendment of the Senate to the said bill, with an amendment; in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had insisted upon its disagreement to the ninth amendment of the Senate to the bill of the House (No. 198) making appropriations for the support of the Army for the year ending the 30th of June, 1865, and for other purposes, insisted on by the Senate, insisted upon its amendments to the seventh and eighth amendments of the Senate, disagreed to by the Senate, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. THADDEUS STEVENS of Pennsylvania, Mr. ROBERT C. SCHENCK of Ohio, and Mr. WILLIAM R. MORRISON of Illinois, managers at the same on its part.

The message further announced that the House of Representatives had passed a bill (No. 207) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending the 30th of June, 1865, in which it requested the concurrence of the Senate.

The message also returned to the Senate the bill of the House (No. 159) for a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of a railroad in said State, the error in the engrossment of the bill having been corrected.

#### BILLS BECOME LAWS.

The message further announced that the Pres-

ident of the United States had approved and signed on the 3d instant the following acts:

An act (H. R. No. 47) for the relief of William C. Walker and others; and

An act (H. R. No. 388) for the relief of Jesse Williams.

#### HOUSE BILL REFERRED.

The bill from the House of Representatives (No. 207) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending the 30th of June, 1865, was read twice by its title, and referred to the Committee on Finance.

#### NAVAL APPROPRIATION BILL.

The Senate proceeded to consider its amendments to the bill of the House (No. 151) making appropriations for the naval service for the year ending the 30th of June, 1865, disagreed to by the House of Representatives, and the amendment of the House to the first amendment of the Senate to the said bill; and

On motion of Mr. FESSENDEN, it was

*Resolved*, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, disagree to the first amendment of the House to the first amendment of the Senate thereto, and ask a conference on the disagreeing votes of the two Houses thereon.

*Ordered*, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The *PRESIDENT pro tempore* appointed Mr. HALE, Mr. VAN WINKLE, and Mr. POWELL.

#### CONSTITUTIONAL QUORUM.

Mr. SHERMAN. I must insist now on the special order being taken up.

The *PRESIDENT pro tempore*. The Senate will resume the consideration of the special order of the day, the resolution submitted by the Senator from Ohio in relation to the quorum of the Senate, the question being on the adoption of the resolution.

Mr. DAVIS. I desired yesterday that the consideration of this subject should be postponed until this morning, and the Senator from Ohio with his usual urbanity and courtesy assented to that proposition, for which I return him my thanks. I think the proposition a very important one. I will ask the Secretary to read the resolution.

The Secretary read it, as follows:

*Resolved*, That a quorum of the Senate consists of a majority of the Senators duly chosen or qualified.

Mr. DAVIS. Mr. President, according to the estimate in which I hold that proposition it is not often that one of more importance is presented to the consideration of the Senate. It involves an inquiry as to what number of Senators constitute a quorum, and in addition to that the adjunct question whether legislative measures that may be passed are void and inoperative, they not having received the votes of a constitutional quorum of the Senate. I hold this proposition to be not only true but clear: that less than a constitutional quorum of either House of Congress is not competent to pass any measure of legislation. The principle involved in the resolution is therefore one of the highest interest and importance.

The resolution now under consideration reads thus:

*Resolved*, That a quorum of the Senate consists of a majority of the Senators duly chosen or qualified.

The same subject in a resolution of nearly the same words was considered, debated, and incidentally passed upon by the last Senate, about two years ago. That was in these words:

"That a majority of the Senators duly elected and entitled to seats in this body is a constitutional quorum."

It will be observed that there is a difference, and a substantial difference, between the resolution that was then presented and considered and the one now under debate. The pending resolution is—

That a quorum of the Senate consists of a majority of the Senators duly chosen or qualified.

There is this difference between the two propositions: according to the former one, a Senator, to be a part of the quorum, must have been duly elected and must be entitled to a seat in the Senate; and unless that was the relation in which he stood to the body, he was not to be estimated in making up the quorum of the Senate. It might be and often is the fact that a man may in truth be admitted as a Senator; he may be allowed to

take the oath of a Senator and his seat in the body and to act with it for the time, when he may not have been duly elected; and it was with a view to that state of case, I suppose, that the honorable mover of the present resolution has varied its language and made it read in the terms—

That a quorum of the Senate consists of a majority of the Senators duly chosen or qualified.

There is another material difference between the verbiage of the two resolutions. In the first one it was proposed to ascertain what the constitutional quorum was: "that a majority of the Senators duly elected and entitled to seats in this body is a constitutional quorum." The present resolution is, "that a quorum of the Senate consists of a majority of the Senators duly chosen or qualified." It is not absolutely certain that it was the purpose and office of the pending resolution to ascertain what the constitutional majority in truth is, or whether it was not the purpose of the mover to give a different principle of the quorum of the Senate than that which is prescribed by the Constitution.

I do not know with absolute certainty whether it is the intention of this resolution to declare what the Constitution is, or to modify the Constitution upon the point of a senatorial quorum, but I presume that the first is its true object, and I shall so treat it, for the obvious reason that a provision of the Constitution, in that or any other respect, as everybody knows, cannot be changed or modified by this mode of proceeding.

There were offered at the same time with the resolution now under debate, and in the same series, two other resolutions, which I will read:

*Resolved*, That if a majority of the presidential electors, duly appointed and qualified, vote for one person, he is the President.

*Resolved*, That if the election of President devolves upon the House of Representatives, and the votes of a majority of the States represented in the House be cast for one person, he is the President.

These propositions contemplate a most important and novel construction of the Constitution on three of its great and most essential powers. According to my poor opinion they are each in conflict with the provisions of the Constitution, and if they are adopted and go into practical operation they will materially alter the Constitution in all the important points to which they severally refer. I will devote my remarks, though, exclusively to the resolution declaring a quorum of the Senate. The third section of the first article, paragraph one, of the Constitution, says:

"The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote."

Section five of the same article reads, in the first paragraph:

"Each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each House shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each House may provide."

The question is, what the Constitution and those who framed it meant by the "majority of each House" which they constituted a quorum to do business. I hold that they referred to the Senate and House as they had *ordained* them, to persons answering to the description and having the qualifications which they had made requisite for membership of them, to be chosen in the mode, by the constituent bodies, for the terms, and of the number which it in previous provisions had established for the two Houses respectively. Neither House was then in fact in existence, so that it was to the two potential bodies, to their abstract organization, from which it eliminated "a quorum to do business." The *quorum* and the *two Houses* were then equally abstract ideas. The Constitution had ordained in a previous clause:

"The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof for six years."

And then in section five, same article, that—

"A majority of each [House] shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each House may provide."

There were then thirteen States, and each State being entitled to two Senators, the then potential Senate was as absolutely and certainly fixed at the aggregate number of twenty-six, and its quo-



rum to do business at least fourteen members, as though the two matters had been provided for in one clause in these words:

The Senate, until there is a new State or States admitted into the Union, shall be composed of twenty-six members, of which the Legislature of each State shall choose two; and a majority of the Senate shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members in such manner and under such penalties as each House may prescribe.

If this had been the language of the Constitution a reasonable doubt could not have been raised that a quorum of the Senate to do business must be composed of a majority of its members, as the Constitution had ordained it and established its number. The language which it has employed is plainly of the same import and meaning: "The Senate of the United States shall be composed of two members from each State, chosen by the Legislature thereof," the States being thirteen; "and a majority of each [House] shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each House may provide," as definitely and certainly fixes the quorum of the Senate to do business to be a majority of the number of which the Senate should be composed. It could not be the majority of the Senate of, *any less number*; if so, what less number? Where is it defined? How is it to be ascertained?

If the framers of the Constitution had intended that less than a majority of the whole number which they had provided to compose it should form a quorum to do business, they would have given some expression to that purpose, and probably in one of these forms: "The Senate of the United States shall be composed of two Senators from each State chosen by the Legislature thereof for six years; but a majority of the Senators qualified and duly elected," or "a majority of the Senators duly elected, shall constitute a quorum to do business."

The reasonable presumption is that the Convention did not intend that a *cabal* of both or either House of Congress should ever exercise so much of the legislative powers of the Government; and therefore required the quorum of both to do business to be a majority of the *whole number* of its members. It intended further that it should be certainly known at all times and beyond doubt or contingency what the quorum of each successive Senate and House was; so that less than that quorum might not from inadvertence or ignorance upon any question of the number of the members of either House undertake at any time to transact business. Both these ends would be certainly secured by the law of quorum for which I contend; and both of them would be often defeated by the rule of construction set up in the pending resolution or any other that could be devised.

Though the whole number of the House varies according to each successive census with the ratio of representation fixed at each decennial period, and the number of the Senate is enlarged two whenever a new State is admitted, still the *whole number* of both Houses never otherwise fluctuates, and is always definitely and certainly known. One more than half of that whole number being the quorum, a simple count of those present will demonstrate whether or not they form a quorum. But the majority of the members duly elected and qualified, or duly elected or having the proper returns of election, would be an uncertain basis upon which to determine the fact of the presence of a quorum, because all or either of those rules would require in addition that the Senators and Representatives computed should be living. There may occur vacancies, or may have been recent vacancies, in distant States, that may or may not have been filled, and concerning the true state of fact the House to which it may relate shall have no information, and its quorum upon this principle being fluctuating it might proceed to do business without having a quorum according to its own rule, and its action would be null and void. No such dilemma could arise under the other rule.

But the danger of the power of the two Houses being absorbed by a cabal or a minority and faction in them would be frequent and probable. Within the last twenty-five years three special sessions of a new Congress have been called by the

President. The members of the House from more than half the States were elected before the President issued his proclamation to convene the two Houses; but in the other States, approximating half, no Representatives to the new Congress had been elected. According to this new principle of quorums the members then elected who might have been convened by the President would have formed a constitutional quorum; and being less than two thirds, and only about three fifths of the whole number of Representatives, and a majority of that number being a quorum, the whole power of the House of Representatives would devolve upon less than a third or even a fourth of the whole number of Representatives, against the distinct expression that it should not be exercised by less than a *majority of the whole*.

But the unsoundness of the principle of the proposed resolution is more strikingly illustrated by the present condition and number of members-elect to the Senate. The whole number of States, including those in rebellion and Virginia and West Virginia, is thirty-five. There are two gentlemen present admitted as Senators from West Virginia, and one from Virginia, the other, Mr. Bowden, having died since the commencement of this session. My opinion is that West Virginia was organized and admitted as a State into the Union contrary to the Constitution, and that the gentlemen who are here as Senators are legitimately no part of the Senate; and that the gentleman who is in this body as the surviving member from Virginia, consisting of the ten or twelve counties that claim to be the Ancient Dominion, and to have their seat of government at Alexandria, has no better warrant for his seat. But for the argument, conceding that Virginia and West Virginia are two of the United States, the whole number of the States being thirty-five, the aggregate number of the Senate is seventy members. The States that have not elected Senators to the present Senate are, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, and Tennessee, being ten; the remaining twenty-four are represented in this body, except Virginia, which has but one Senator, she not having filled the vacancy occasioned by the death of Mr. Bowden.

There are, then, forty-nine members elected to the present Senate, twenty-five of whom, by the resolution under consideration, constitute a quorum to do business. The legislative power of the Senate being vested in twenty-five Senators, would be wielded by a majority of that number, thirteen. But the principle of the resolution goes to this extent, that if only New England, or any less number of States, were to elect members of the Senate and the House, a majority of these Senators and Representatives respectively would constitute a quorum to do business, and a majority of those quorums could put in operation the whole legislative power of the Government. The New England States have twelve Senators and twenty-seven Representatives; and by this new constitutional law, if those States only were to elect members of Congress, seven of their Senators and fourteen of their Representatives would constitute quorums of the two Houses, and four of their Senators and seven of their Representatives would be authorized by the Constitution to assume the legislative power of the Government, and if their authority and acts were opposed, it would be treason and rebellion against the United States. The Constitution does not allow, and it was not the intention of the Convention that it should, any such absurd consequences.

According to the position to which I give in my adhesion and to which the practice of the Senate has conformed since the beginning of the Government, the Constitution fixed the quorum of the two Houses in harmony with the great fundamental principle of popular government, the right of not less than a majority of the people to govern, by requiring a majority of the component members of each to do business. Besides, that quorum is certain, fixed, and may be learned and known by all persons in the shortest time and simplest mode. The only fact to be ascertained is the whole number of the members of the Houses, respectively, and we are then informed precisely and infallibly what the quorum of each House is. This resolution proposes to substitute an unknown, variable, and accidental quorum that may be represented not only by less than a

majority, but by a small and contemptible faction of the Houses respectively. And when this work of innovation and reduction of the quorum shall have commenced, what limits can be prescribed to its further extension? When factions, and Presidents, and ambitious men at the head of armies have strong motives to control and direct the action of Congress, this innovation and others to mold and fashion quorums, that may be devised, will bring the legislative department in the effigy of a constitutional form to their feet.

This construction is fully sustained by the debates in Convention on the point, which show plainly how that body understood this provision.

The report of its debates by Mr. Madison shows:

"Article six, section three, was then taken up. "Mr. GORHAM contended that less than a majority in each House should be made a quorum; otherwise great delay might happen in business, and great inconvenience from the future increase of numbers.

"Mr. MERCER was also for less than a majority. So great a number will put it in the power of a few, by seceding at a critical moment, to introduce convulsions and endanger the Government. Examples of secession have already happened in some of the States. He was for leaving it to the Legislature to fix the quorum, as in Great Britain, where the requisite number is small, and no inconvenience has been experienced.

"Colonel MASON. This is a valuable and necessary part of the plan. In this extended country, embracing so great a diversity of interests, it would be dangerous to the distant parts to allow a small number of members of the two Houses to make laws. The central States could always take care to be on the spot; and by meeting earlier than the distant ones, or wearying their patience and out-staying them, could carry such measures as they pleased. He admitted that inconveniences might spring from the secession of a small number; but he had also known good produced by an apprehension of it.

"He had known a paper emission prevented by that cause in Virginia. He thought the Constitution, as now molded, was founded on sound principles, and was disposed to put into it extensive powers. At the same time he wished to guard against abuses as much as possible. If the Legislature should be able to reduce the number at all, it might reduce it as low as it pleased, and the United States might be governed by a junta. A majority of the number which had been agreed on was so few that he feared it would be made an objection against the plan.

"Mr. KING admitted there might be some danger of giving an advantage to the central States, but was of opinion that the public inconvenience on the other side was more to be dreaded.

"Mr. GOVERNOUR MORRIS moved to fix the quorum at thirty-three members in the House of Representatives and fourteen in the Senate.

"This is a majority of the present number, and will be a bar to the Legislature. Fix the number low, and they will generally attend, knowing that advantage may be taken of their absence. The secession of a small number ought not to be suffered to break a quorum. Such events in the States may have been of little consequence. In the national councils they may be fatal. Besides other mischiefs, if a few can break up a quorum they may seize a moment when a particular part of the continent may be in need of immediate aid to extort, by threatening a secession, some unjust and selfish measure.

"Mr. MERCER seconded the motion.

"Mr. KING said he had just prepared a motion which, instead of fixing the numbers proposed by Mr. Gouverneur Morris as quorums, made those the lowest numbers, leaving the Legislature at liberty to increase them or not. He thought the future increase of members would render a majority of the whole extremely cumbersome.

"Mr. MERCER agreed to substitute Mr. King's motion in place of Mr. Morris's."

"Mr. ELLSWORTH was opposed to it. It would be a pleasing ground of confidence to the people that no law or burden could be imposed on them by a few men. He reminded the movers that the Constitution proposed to give such a discretion, with regard to the number of Representatives, that a very inconvenient number was not to be apprehended. The inconvenience of secessions may be guarded against by giving to each House an authority to require the attendance of absent members.

"Mr. WILSON concurred in the sentiments of Mr. Ellsworth."

"Mr. GERRY seemed to think that some further precautions than merely fixing the quorum might be necessary. He observed that as seventeen would be a majority of a quorum of thirty-three, and eight of fourteen, questions might by possibility be decided in the House of Representatives by two large States, and in the Senate by the same States with the aid of two small ones.

"He proposed that the number for a quorum in the House of Representatives should not exceed fifty nor be less than thirty-three; leaving the intermediate discretion to the Legislature.

"Mr. KING. As the quorum could not be altered, without the concurrence of the President, by less than two thirds of each House, he thought there could be no danger in trusting the Legislature.

"Mr. CARROLL. This would be no security against the continuance of the quorums at thirty-three and fourteen, when they ought to be increased.

"On the question of Mr. King's motion, that not less than thirty-three in the House of Representatives, nor less than fourteen in the Senate, should constitute a quorum, which may be increased by a law, on additions to the numbers in either House—Massachusetts, Delaware, N. Y., N. H., Hampshire, Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, no—9.

"Mr. RANDOLPH and Mr. MADISON moved to add to the end of article six, section three, 'and may be authorized to compel the attendance of absent members in such manner and under such penalties as each House may provide.' Agreed to by all except Pennsylvania, which was divided."—*Madison Papers*, vol. 3, pp. 1287-1290.

Mr. President, this debate shows this state of fact in the Convention: that the identical question now under consideration was before that body for its deliberation and decision, and every member of that Convention, so far as he expressed himself, explicitly, or so far as his understanding of the point can be inferred from the language I have read, regarded the effect and the plain language of the Constitution as it had been reported, to establish conclusively and without any doubt the principle that a majority of the whole number of the Senate, as the Senate had been organized by the Constitution itself, was required to constitute a quorum to transact business. It was the inconvenience and difficulty that might often arise to obtain a quorum, consisting of the whole number of the two Houses, that operated upon many members of that Convention so as to induce them to attempt to make a less number a quorum. Various propositions to that effect were offered, but all of them were voted down, and the Convention steadily adhered to the principle that a majority of the whole number of the two Houses should be required to do business. After having persistently refused to reduce the number which should form the quorum of each House, it added to the clause words giving to a less number than a majority of the whole a power to compel the attendance of absent members, which is further and strong evidence that it intended the quorum should be a majority of the whole number of both Houses as organized.

This question has arisen several times in the Senate. It first came up at the beginning of its first session in 1789, and how was it decided? The former President *pro tempore* of the Senate [Mr. Foor] presented a most lucid and able paper on this subject when it was up before in July, 1862. I will take the liberty of reading from the authorities which he gathered and collated, or a portion of them, in the address that he caused to be read to the Senate on that occasion, and which had the effect of settling the question and inducing the Senate to lay the resolution to establish its quorum at a less number than the majority of the whole number which the Constitution had ordained for it, on the table. There were but eleven States that had then ratified the Constitution, and consequently there were but eleven States that were authorized to send Senators to the Senate.

"There being eleven States in the Union entitled to send twenty-two members to the Senate, of whom only twenty members had been elected by the States—New York not having elected them until the 15th of July, 1789—the Senate not having formed a quorum at the time appointed, continued to meet and adjourn from day to day until the 28th of March, 1789, when eleven members appeared, and although but twenty had been elected as above stated, they were still considered as less than a quorum. On the 6th of April, 1789, twelve members attended and were considered a quorum."

This construction of the Constitution was adopted immediately after its formation, and some of the men who gave it had been members of the Convention. There does not appear to have been any difference of opinion on the position that notwithstanding but twelve States had elected Senators, and consequently there were only twenty-four members in office, yet fourteen, a majority of the whole number of the Senate as ordained by the Constitution, were required by it to constitute a quorum to do business.

"January 4, 1790.—There being twelve States entitled to twenty-four members, of whom twelve appeared on the 6th of January, and were considered a quorum. In this case all the members had been elected by the States. But it is supposed that the seat of one of the Senators of Virginia (Mr. Grayson) had been vacated by his death, the date of which is not stated, but his successor was appointed 31st March, 1790."

As to this case of Mr. Grayson's vacancy there is some uncertainty about the facts. I concede that it seems to favor the position that one half of the whole number of the Senate formed a quorum; it does not tend to show that a less number would.

"November 3, 1794.—There being fourteen States entitled to twenty-eight members, of whom fourteen attended on the 17th November, the Vice President also being present—still not considered a quorum—but on the 18th November another member appeared and made a quorum."

This is another precedent which squarely and

fully sustains the construction for which I contend.

The next precedent, occurring in 1797, is precisely to the same effect with the last one, and shows that the Senate refused to recognize one half of its whole number as a quorum. The two which follow, one in 1798 and the other in 1800, though not passing upon the question directly, conduce to sustain my position. The next precedent, in 1802, is in point, and shows that a majority of a full Senate was necessary to form a quorum:

"November 13, 1797.—There being sixteen States entitled to thirty-two members, of whom sixteen attended on the 21st November, but were not considered a quorum."

"December 3, 1798.—There being sixteen States entitled to thirty-two members, of whom fifteen attended on the 5th December, but were not considered a quorum. On the 6th December seventeen attended, and were considered a quorum."

"November 17, 1800.—There being sixteen States entitled to thirty-two members, of whom fifteen attended on 20th November; no quorum."

"November 21.—Nineteen attended, and the business proceeded."

"December 6, 1802.—There being sixteen States entitled to thirty-two members, and no quorum found until seventeen attended."

"November 5, 1804.—There being seventeen States entitled to thirty-four members; on that day the Vice President and thirteen Senators appeared; no quorum."

"On the 6th November seventeen members attended, and although one of the members had just resigned, and his successor was not elected until the 13th November, this number (seventeen) was not considered a quorum; but on the 7th November eighteen members attended, and were considered a quorum."

The preceding precedent of 1804 meets fully, and refutes absolutely, the principle of the pending proposition. So does the following one, presenting a parallel case, in 1812:

"November 2, 1812.—There being eighteen States, entitled to thirty-six members, of whom eighteen attended on that day, but were not considered a quorum. In this case one of the Senators of Louisiana had resigned some time previous to the session, and his place was not supplied until 15th December, 1812. On the 3d November twenty members appeared and the business proceeded."

This question has been decided diversely in the House of Representatives, and the argument of the late President *pro tempore* of the Senate, from which I have read the senatorial precedents, gives a good many from the Journals of the House; but their preponderance is decidedly in support of the position that a majority of the whole House also is necessary to constitute a quorum to do business. While I hold this principle to be certainly true of the House, I concede it is not so clearly so as it is of the Senate. The Constitution establishes the same rule for both Houses, and being so plainly the law, the law of the Senate is a weighty argument, and, in connection with so many others, conclusive that it is also the law of the House.

Mr. President, it seems clear to my mind that Congress cannot enact a valid law unless by a constitutional quorum of each House; and that all acts passed when there was not present such a quorum in both Houses would be void and of no effect. Any serious doubt on this point ought and should restrain the Senate from passing this resolution, at any rate until it has exhausted all means to procure the presence of a majority of its whole number to transact its business. This question may arise judicially in a great variety and number of cases; and if the courts should decide that legislative measures passed by both or either House when there were present less than a majority of its whole number, were void, it might produce great confusion, wrong, and mischief.

When the quorum of the two Houses was established by the Constitution, there were no Senators or Representatives in office or in being; but a Senate and House then existed potentially by the Constitution and as a legal entity. It was then, and in that state of fact, that the Convention declared what should be a quorum, not of the Senators but of each House, Senate and the House. It then provided, not that a majority of the Senators and a majority of the Representatives, but that a majority of each House, as they had already been ordained by previous sections of the Constitution then agreed upon, according to the numbers that had been declared and established as the membership and strength of each House, should constitute its quorum to do business. It seems to me that such is the plain import, meaning, and principle of the Constitution; that it was so molded, understood, and agreed upon by the wise and great men who framed it; received contemporaneously, and

ever since, and uniformly by the Senate, that construction, and most generally by the House; and that the proposed resolution is another bold and reckless assault upon the Constitution, and if adopted will produce a vast amount of evil.

Mr. JOHNSON. It would be idle, Mr. President, to assert that the opinion which I am about to express is free from doubt, because the opposite opinion is entertained by many Senators, perhaps has been entertained by Senators who have heretofore been in this body. But at the last extra session of the Senate, without being aware that the Senate had come to the conclusion that a majority of the whole number of Senators who could be elected by all the States if all the States were in was necessary to form a quorum, I stated that my impression had always been that the true meaning of the Constitution in the clause which prescribes the quorum is that it had reference only to the Senators who are such, in other words to Senators elected, and I propose very briefly to try to make good that opinion, and to do so I shall address myself mainly to a reply to the honorable member from Kentucky, [Mr. DAVIS.]

In the first place, I ask the Senate's attention to the Constitution itself without reference to any decisions which have heretofore been pronounced. There are four clauses as I think in that instrument which bear upon the particular question under debate. The clause which gives rise to the discussion is that which is found in the fifth section of the first article. The other three clauses to which I propose to advert as bearing on the meaning of that clause will be found in the second section of the same article, and in the third section, and in the fifth article of the Constitution. The language of the clause prescribing the quorum is:

"Each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business."

Now, I suppose it would be perfectly clear, that with reference to the House which is to pass upon the elections, returns, and qualifications of its own members, all that is meant is those who are members by election or by appointment, not those who have not been elected to the House of Representatives or who have not been appointed as Senators by the respective Legislatures. It assumes, consequently, that there is an existing body actually in office by virtue of an election which has already taken place, and that that existing body is the one which is to pass upon the elections, returns, and qualifications of the members. It evidently therefore, to repeat, assumes that members have been elected or profess to have been elected, that returns have been made of such election, and that there may arise in relation to such elections a question of the right of the member to take his seat on the ground that he does not possess the qualification which the Constitution or the laws of the United States prescribe. If those who are in the House elected, and no others, or to take the case of the Senate, if those who are in the Senate, Senators chosen by the respective Legislatures, and no others, are to pass upon the elections, returns, and qualifications of their own members, it would follow that the latter part of the clause, which provides for the number which is to constitute a quorum, is to be construed with regard to that House, for the language is "a majority of each shall constitute a quorum to do business." "A majority of each" of what? A majority of each of the Houses who have a right to judge of the elections, returns, and qualifications of the respective members. Then, if it be true that only those are authorized to judge of the elections, qualifications, and returns, who have been elected to the House or chosen to the Senate by the respective Legislatures, it would seem to follow logically that a quorum of that House is to be a majority of the same number and no other. If it had been the purpose of the Convention to prescribe that the House should only be considered as organized for the purpose of passing judgment upon the elections, returns, and qualifications of the members, when all should have been elected by the States, or when all should have been chosen by the respective Legislatures, then they would have so provided; but on the contrary, as seems to me to be manifest, all that they meant was that whenever there were persons elected in the one or

chosen in the other, a majority of the persons elected or chosen was to constitute the quorum of each House.

But if that clause was doubtful, considered by itself, I submit that the second and the third sections of the first article remove that doubt. The second section tells us who are the House of Representatives, and in these words: "The House of Representatives shall be composed of members chosen every second year;" not of members which the States have a right to choose, but of members actually chosen; and in relation to the Senate the language is that "the Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof."

It seems to me to be clear that by the true meaning of the Constitution the House of Representatives in the one case, and the Senate in the other, are to consist of those who have been chosen to the House or to the Senate, and nobody else. It would be an absurdity to say that the House of Representatives consists of members not chosen or that the Senate consists of Senators not chosen. The thing to be done under the Constitution was to bring into existence representatives of the States or of the people; representatives of the States in the vocation of Senators, representatives immediately of the people of the States in the person of the Representatives; but until Senators are chosen or Representatives are chosen, there is no House of Representatives and no Senate; that would seem to be clear.

The honorable member from Kentucky has referred us to the debates in the Convention. I have had occasion to consider those frequently and to refresh my recollection this morning. My friend from Kentucky, as I think, misapprehends the meaning of those debates. The question, what was to constitute a quorum, was before the Convention; how many, was the point to be decided. Having decided that the States should be represented in the Senate by two Senators from each State, and should be represented in the House of Representatives by members elected by the people in the way pointed out by the Constitution, and having ascertained, therefore, what would be the entire number which, if elected, would constitute the House, and if appointed by the Legislatures would constitute the Senate, it was suggested that to require a majority of the whole number might be very inconvenient. Then it was proposed to fix some number less than a majority of the whole; but in the debate upon the proposition to fix a number less than the whole, as well as upon the propriety of requiring a majority of the whole, the several speakers, to whose speeches my friend has referred, assumed that all would be elected to the House of Representatives and all would be appointed to the Senate by the respective Legislatures. That is evident from what the Senator, I believe, read; if he did not read it, it is here in the debate. It was said, in answer to the proposition to require less than a majority of the whole number, that no inconvenience could result from it, because they could give to the House the authority to send for the absent members and enforce their attendance. Mr. Mercer, for example, said that he was for a less number than a majority:

"So great a number will put it in the power of a few by seceding?"—

A few what? A few members. Nobody else. They can break up the Senate or the House; there may be a factious minority; and such things have happened. It has been proposed here in the Senate of the United States to leave the Senate without a quorum for the very purpose of defeating a particular measure; and Mr. Mercer therefore insisted that it was all-important that a quorum should be made to consist of a number less than a majority of the whole in order to guard against the inconvenience or the mischief which would result from some of those who were members of the House by virtue of election and qualification, or members of the Senate, from seceding and breaking up the deliberations of either body and arresting the action of either body. How was that met? In the first place, as I have said, the objection assumes that there are members to leave the Senate—not members not chosen, for they cannot leave it, they have never been in it.

"Mr. RANDOLPH and Mr. MADISON moved to add to the end of article six, section three, and that may be authorized to compel the attendance of absent members in such

manner and under such penalties as each House may provide." Agreed to by all except Pennsylvania, which was divided."

How was that to be done? South Carolina has no Senators elected or chosen, and there is no power in the Constitution to force South Carolina to choose Senators.

Mr. DAVIS. Will the honorable Senator allow me to make a remark?

Mr. JOHNSON. Certainly.

Mr. DAVIS. The members of the Convention were then debating an inconvenience and a difficulty in doing business that was not certainly identical with the question now under discussion; but in debating that difficulty, in their argument they referred to the principle and to the fact of the provision of the Constitution, of what was and what would be a quorum to do business.

Mr. JOHNSON. I understand it. That amendment proposed by Mr. Madison and Mr. Randolph was offered after a speech had been made by Mr. Ellsworth, in answer to the objection of the inconvenience, the mischief, that might be the consequence of requiring a majority of the whole to constitute a quorum.

"Mr. ELLSWORTH reminded the movers that the Constitution proposed to give such a discretion with regard to the number of Representatives, that a very inconvenient number was not to be apprehended. The inconvenience of secessions may be guarded against by giving to each House an authority to require the attendance of absent members."

The whole debate then, I think I am justified in saying, assumes that they are dealing with those who have been chosen members of the one House or chosen Senators of the other. It was to meet that very apprehended mischief, that members chosen to each branch might break up the deliberations of each branch by—to use the language of the debaters—seceding, that Mr. Madison proposed the amendment to which I have just adverted, to give to each House the authority to compel the attendance of those who were bound to attend.

Mr. CARLILE. If the Senator will allow me to interrupt him just at this point, I desire to call his attention to the first decision that was made by the Senate as given in the memorandum presented at the last Congress by the then Presiding Officer, [Mr. Foor.] That first decision is directly opposite to the argument that the Senator from Maryland is now making. There were then eleven States in the Union. Ten of them had chosen Senators, and one, the State of New York, had not chosen; and although eleven members were present, the Senate adjourned from day to day for the want of a quorum in consequence of that fact.

Mr. JOHNSON. The next succeeding precedent is directly the other way, so that there is a precedent each way; that is all; but I am speaking of it now independent of precedent. I shall speak of the precedents presently.

Mr. CARLILE. The precedents are all against the Senator.

Mr. JOHNSON. They are not, begging the member's pardon; and he is the only member that has said so.

Mr. CARLILE. The only precedent to which the Senator has referred as at all sanctioning the view which he is now attempting to enforce on the Senate is that which occurred in January, 1790.

Mr. JOHNSON. That is a very good one. Has there been none since?

Mr. CARLILE. None in the Senate since.

Mr. JOHNSON. I think there are, but I shall come to that presently. I have said, Mr. President, all that I proposed to say on the weight to be given to the debates in the Convention at the time the Constitution was adopted. I have said that there was a precedent in the Senate other than that to which the honorable member from Virginia had adverted which decides the very question as I have suggested it should be decided. The fifth article of the Constitution provides that "the Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution." It does not say how many are to constitute each House in passing upon constitutional amendments. The argument in relation to the quorum clause is that "the House" means the entire House that might be chosen, the entire Senate that might be selected, not that which has been chosen or selected. It will be seen that the language of the amendatory clause in relation to the manner in which amendments to the Constitution are to be proposed is identical, as far as

the particular question is concerned, with the language of the clause which prescribes the number to constitute a quorum. The one says "a majority of each House," the other says "two thirds of both Houses." There can therefore evidently be no difference between the meaning of the term "House" as used in the amendatory clause and the meaning of the term "House" as used in what I call the quorum clause. Then what is the view of the Senate is "the House," two thirds of which are to act upon constitutional amendments? Upon that fruitful topic and melancholy fruitful topic which has brought us into the condition in which we are, the institution of slavery, an amendment to the Constitution was proposed in 1861. I read from the Journal of the Senate of the 2d of March of that year:

"The Senate resumed, as in Committee of the Whole, the consideration of the joint resolution (H. R. No. 80) to amend the Constitution of the United States; and

The following amendment proposed by Mr. Pugh being under consideration"—

It is not necessary to read the amendment; various other amendments were proposed. Finally, on the 2d of March, 1861, the question was taken on the passage of the joint resolution:

"On the question, Shall the resolution pass?"

"It was determined in the affirmative—yeas 24, nays 12."

Then the yeas and nays are given.

"The PRESIDENT (Mr. Polk in the chair) announced that the joint resolution was passed."

"Mr. TRUMBULL raised a question of order: whether the joint resolution, being a proposition to amend the Constitution of the United States, it did not require the affirmative vote of two thirds of the members composing the Senate to pass the same."

"The PRESIDENT decided that it required an affirmative vote of two thirds of the Senators present, only."

"From this decision Mr. TRUMBULL appealed; and

"On the question, Shall the decision of the Chair stand as the judgment of the Senate?"

"It was determined in the affirmative—yeas 33, nays 1."

That could not have been done if the meaning of the word "House," as used in the quorum clause, is that it embraces all who could be elected to the one House or appointed to the other. If it meant that, then there must have been an affirmative vote of two thirds of the entire number; and yet with the single exception of the Senator from Ohio, [Mr. WADE,] who afterward said that he voted under a misapprehension, every member of the Senate voted to sustain that decision of the Chair; and the Senator from Illinois, [Mr. TRUMBULL,] although he called for the yeas and nays, voted in the affirmative.

Then, if it be true that the Constitution can be amended by a vote of less than two thirds of the entire number that the Constitution contemplates as composing the House or the Senate, it must be equally true that the quorum may consist of a less number than the majority of that whole number; and what is that? If two thirds of those present are all that are necessary in the one case, a majority of those who have been chosen in the other case is all that is required.

The great inconveniences of the decision under which we have been acting all along are manifest. My friend from Kentucky sees or thinks he sees great danger to States and to people by changing the rule. Is there no danger on the other side? Is not the Government to go on?

Mr. DAVIS. It has gone on.

Mr. JOHNSON. It is going on, I know, but going on how? Let yesterday answer, and let the day before yesterday answer.

Mr. DAVIS. And many days before the rebellion too.

Mr. JOHNSON. Then they were all here. But what is the hardship? Let me ask the honorable member what harm is South Carolina to receive and the people of South Carolina? What injustice is to be done them? Who keeps South Carolina from electing her Senators?

Mr. DAVIS. I do not expostulate here for South Carolina; I do for my own State, and I maintain that the business and proceedings of this Government so far as the interests of my State and of every loyal State in the Union are concerned, are deeply involved in the proper settlement of this question.

Mr. JOHNSON. Put it in another way, that would lead to this conclusion, which I am sure the honorable member does not mean: that the interest of the people of Kentucky will not be taken sufficient care of unless these seceded States are represented.



Mr. DAVIS. With the Senator's permission I will say that he draws his conclusion, not mine.

Mr. JOHNSON. I know it is mine.

Mr. DAVIS. My conclusion is that if a quorum, consisting of a less majority than a majority of all the members of both Houses, is allowed to do business, that state of legislation and that modification of the power of legislation will essentially add to the danger of the interests of my constituency.

Mr. JOHNSON. How? In what way? Suppose the independence of the confederate States was recognized to-day—

Mr. DAVIS. If it was, there would be an end to this Confederation, to this Union; it would stand dissolved, and every State would be thrown back upon its original sovereignty.

Mr. JOHNSON. That I deny.

Mr. DAVIS. That I maintain.

Mr. JOHNSON. That I deny, because if the honorable member is correct in that, if any one State could succeed, with the assent or against the opposition of the rest of the States, in getting out of the Union, the Union would be dissolved. Now, supposing the Union to be in existence—and I suppose I may assume that the Union now stands—how does it stand and why does it stand? It stands upon its own strength as represented by the loyal States. It stands maintained by the power of the loyal States. It stands in spite of South Carolina and those whom she has seduced to their ruin; and if those States were by some natural convulsion blotted out of material existence to-morrow, the Union would stand represented in her remaining States. There is nothing in the Constitution of the United States which requires for the existence of the Union that each State that comes in is to remain in forever; and yet the position of my honorable friend from Kentucky is that the moment any one State succeeds in getting out of, or is permitted to go out of, the Union, the Union is dissolved, and each State stands where it was before the Constitution was adopted by which the Union was formed. I protest, with all the respect I feel for the judgment and patriotism of the honorable member from Kentucky, that his proposition is wholly unfounded. I was about to say, Mr. President, if I am right, and I assume now that I am right, what has Kentucky to apprehend? What has Maryland to apprehend? Are not both States represented in this Chamber and in the other House? From whom is danger to be apprehended to either State? From the other States that are equally loyal with ourselves and united with us as a band of brothers to maintain the Government?

Mr. DAVIS. I will ask the honorable Senator, with his permission, this question: does he maintain that the government of Maryland as it is about to be organized by the presidential proclamation and military interference will be legitimately organized?

Mr. JOHNSON. I do not see that that is the question before us in this debate. It has not been so organized that I am aware of. I rather think that Maryland is in the Union yet, and I am very much inclined to think that if she is enabled to maintain herself she means to remain in.

Mr. DAVIS. That does not answer my question.

Mr. JOHNSON. I cannot answer the question, because the occurrence has not happened.

Mr. DAVIS. I put it hypothetically.

Mr. JOHNSON. Is not Kentucky in the Union?

Mr. DAVIS. Yes, sir.

Mr. JOHNSON. I have heard a great deal about military interference in the State of Kentucky, and Kentucky ought to be out—

Mr. DAVIS. Her constitution has not been pulled down by an illegitimate power and another one erected for her by military interference—not yet awhile.

Mr. JOHNSON. It is pulled down and disregarded by military interference. "If my honorable friend was elected by the use of military interference he ought not to be here."

Mr. DAVIS. I was not.

Mr. JOHNSON. I know you were not, but I was assuming it for the sake of the argument. I know it could not well happen.

Mr. DAVIS. I agree to your proposition.

Mr. JOHNSON. Mr. President, I have departed somewhat, being very anxious to answer

any suggestion that falls from the Senator from Kentucky, from the argument with which I proposed to conclude.

My friend said in his speech that every law that shall be passed in virtue of such a construction as we put upon the Constitution by a vote in a body composed of less than a majority of the whole, will be a nullity, and every court will so hold.

Mr. DAVIS. I did not say that the courts would so hold. I gave it as my opinion that that was the true principle, and I said that if the courts so held, they would vacate the legislation as a matter of course.

Mr. JOHNSON. That amounts to the same thing. He says the courts ought so to hold, because that is the correct principle. If it be the correct principle, then the courts would so hold, because the courts are honest and intelligent.

Mr. DAVIS. In my judgment, that is the correct principle; but the courts might hold a very different opinion.

Mr. JOHNSON. I should think that would be very likely on this particular question.

Mr. DAVIS. And I suppose it might be very different from yours.

Mr. JOHNSON. That may be; they have often done so, very much to the disappointment of my clients.

If my honorable friend from Kentucky is right in his legal proposition, we are in a very bad way. The House of Representatives during the whole of last session and during the whole of this have been acting upon the view of the Constitution which I am maintaining, and most of the laws that have been passed have been constitutionally passed—

Mr. DAVIS. Will the honorable Senator permit me respectfully to propound to him another question? Does he maintain that a less number of either House of Congress than a constitutional majority may pass a law?

Mr. JOHNSON. No; but I say that there is a constitutional majority.

Mr. DAVIS. He agrees to the principle; he only differs as to the fact.

Mr. JOHNSON. What difference does it make, looking to the result which the Senator apprehends, whether we adhere to the past course of the Senate, or whether we adopt the present rule of the House of Representatives? Looking to that result, if the rule of the House is to require less than a constitutional majority, then so far as the validity of our legislation is concerned it is perfectly immaterial whether our view which requires that constitutional majority is sound or not: the laws are equally invalid. And yet I have not heard from anybody except from my honorable friend a suggestion that the legislation for the last two years, when the House of Representatives have been acting upon the rule that a quorum consists of a majority of the members elected, is invalid.

Suppose it be doubtful. It cannot be, I submit to my friend from Kentucky, so very clear. Then if it be doubtful, what should we do in the present condition of the country? Adopt that rule which the convenience of legislation requires, which the business of the country demands at our hands; and we are not without precedents. In the absence of any express constitutional provision in relation to a quorum, what would be a quorum? In the House of Lords three of the lords constitute a quorum; in the House of Commons at one time forty members out of a House of over six hundred members. Lately, I believe, they have increased the number to sixty, which constitutes a quorum.

Mr. DAVIS. That is no authority for the Congress of the United States.

Mr. JOHNSON. I know it is no authority; but I mention it for the purpose of showing that there is no great inconvenience, and that in the absence of any express and positive provision requiring a specific number to constitute a quorum we must be thrown upon what may be considered as the law of Parliament, and make that a quorum which we ourselves think should constitute a quorum.

Mr. DAVIS. I make my apology to the honorable Senator for having interrupted him, and with one more question shall not interrupt him further. Does the honorable Senator contend that if thirteen members of the Senate were to get to-

gether and were to assume to pass laws, those thirteen members could legitimately pass laws for the Senate of the United States, and that when they were so passed by thirteen members with all the other forms of legislation, they would have the validity of laws?

Mr. JOHNSON. No; I have not said any such thing. I have said that the Constitution required to constitute a quorum a majority of those who were elected to the House of Representatives or elected to the Senate; and that is the reading which I give to the only clause which prescribes the quorum.

Mr. DAVIS. I attempted to show that the principle might lead to that state of case, and that it was not an improbable state of case, when thirteen members would be authorized to assume the legislative powers of the Senate. The question that I propounded to the honorable Senator was this: if the Senate was placed in circumstances where thirteen members of the body would be assuming to act and acting for the body in passing its laws, would that action be legitimate according to the Constitution?

Mr. JOHNSON. It is very easy to put extreme cases about anything. The Senator might as well ask if one member was elected to the Senate he could constitute the Senate, and if one member was elected to the House he could constitute the House of Representatives. That is not the question which I was trying to discuss. What I mean to say is this: that according to my interpretation of the clause in question it requires only a majority of members; and until my friend can satisfy me that there are Senators entitled to seats on this floor who have not been chosen as Senators, or that there are members entitled to seats in the House of Representatives who have not been elected, whose names nobody has ever heard of or can hear of, because they are not in existence, I think I shall remain of the opinion which I stated when I rose to address the Senate.

Mr. DAVIS. I rise to make a remark. The clause of the Constitution which determines what proportion of the two Houses severally as it had ordained them should be necessary to constitute a quorum to do business did not then apply to a Senate or House of Representatives in the concrete, to a body of men composing a Senate and another body a House; no such bodies of men were then in existence. It applied to the Senate and the House which it had organized by previous provisions, and also to the quorum of each which it was then about to organize, as abstractions, merely constitutional and legal entities. The matter to be determined was what part of the numerical strength of each House should be required by the Constitution to form a quorum to do business. The plan of the Constitution reported to the Convention by its committee proposed it in these words:

"Each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business."

A majority of what? Of each House? What was each House? Not the Senators and Representatives elected and chosen, but of the abstract Senate and House as they had been organized by principles that would give to each body a certain number of members; and the majority of the number of which each House was to be composed, it declared, should be a quorum to do business. When the question was under consideration in the Convention, there was no proposition to enlarge the quorum of the Houses beyond the majority of them respectively, but the inconveniences and obstructions to business resulting from such a large quorum were pointed out and enforced by several members, and sundry and different propositions were made to reduce the quorum below the majority, and they were all inflexibly voted down, and the objections against that large quorum were attempted to be obviated by giving to a less number than a majority the power to compel the attendance of absent members. If a less number had constituted a quorum, there would have been no reason for giving to them that power. The rule, the principle of the quorum of the two Houses is established by the Constitution; and that is, the majority of the Senate and not of the Senators chosen, and of the House of Representatives and not of the Representatives elected, constitutes the quorums to do business of the Senate and House respectively.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The question is on the adoption of the resolution.

Mr. CARLILE and Mr. DAVIS called for the yeas and nays, and they were ordered.

Mr. SHERMAN. At the suggestion of some Senators I will modify my resolution by striking out the words "or qualified;" so that it will read:

*Resolved*, That a quorum of the Senate consists of a majority of the Senators duly chosen.

The PRESIDING OFFICER. That modification can only be made by unanimous consent, the yeas and nays having been ordered.

Mr. SUMNER. I hope it will be made.

The PRESIDING OFFICER. The Chair hears no objection; and the question now is on the adoption of the resolution as modified.

The question being taken by yeas and nays, resulted—yeas 26, nays 11; as follows:

YEAS—Messrs. Chandler, Clark, Conness, Cowan, Dixon, Fessenden, Hale, Harding, Harlan, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Trumbull, Van Winkle, Wade, Willey, and Wilson—26.

NAYS—Messrs. Anthony, Buckalew, Carlile, Davis, Doolittle, Foot, Foster, Grimes, Henderson, Powell, and Riddle—11.

So the resolution was adopted.

#### BUREAU OF MILITARY JUSTICE.

The PRESIDENT *pro tempore*. The Senate will resume the consideration of the special order of the day, which is the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 308) to establish a Bureau of Military Justice. The question is on concurring in the report of the committee, and upon that question the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 20, nays 20; as follows:

YEAS—Messrs. Anthony, Chandler, Collamer, Conness, Cowan, Dixon, Foot, Foster, Howe, Lane of Indiana, Lane of Kansas, Morgan, Powell, Ramsey, Sumner, Trumbull, and Wilson—17.

NAYS—Messrs. Buckalew, Carlile, Clark, Davis, Fessenden, Grimes, Hale, Harding, Harlan, Henderson, Johnson, Morrill, Nesmith, Pomeroy, Riddle, Sherman, Sprague, Van Winkle, Wade, and Willey—20.

So the report was non-concurred in.

Mr. WILSON. I now move that the whole subject lie on the table.

Mr. SHERMAN. Oh, no; move another conference.

Mr. WILSON. I move that it be laid upon the table, and I ask for the yeas and nays upon that motion. I hope that we shall lay it on the table, and then we can get up a new bill on some sound principle.

Mr. COLLAMER. The Senate has no right to get up a bill.

Mr. WILSON. I think it is in the power of the Senate to get up a bill in regard to that bureau.

The PRESIDENT *pro tempore*. The Chair will suggest to the Senator that the motion is not debatable.

Mr. SHERMAN. I think we had better have another conference.

Mr. CONNESS, (to Mr. WILSON.) Withdraw your motion.

Mr. WILSON. I cannot do it.

Mr. HALE. Order! I object to debate.

Mr. WILSON. I do not wish to violate the rule of the Senate, and I am much obliged to the Senator from New Hampshire for calling me to order.

Mr. HALE. If the Senator desires to debate it, let him withdraw his motion.

The PRESIDENT *pro tempore*. The Chair will inquire of the Senator from Massachusetts whether he desires the yeas and nays upon his motion?

Mr. WILSON. I withdraw the motion.

Mr. SHERMAN. What is the question now?

Mr. WILSON. Now, I believe, the subject is open for debate.

Mr. CONNESS. There is no question before the Senate.

Mr. FOOT. I move that the Senate insist on its amendments to the bill of the House, and ask for another committee of conference.

Mr. WILSON. It is now debatable, and I desire to present this question precisely and exactly as it is.

The House of Representatives passed this bill on the recommendation of the Secretary of War.

It made Colonel Holt a brigadier general and gave him two assistants with the rank of colonel. It passed the House of Representatives with that recommendation without opposition. It was referred to the Committee on Military Affairs of the Senate. The committee, on investigation, desiring to save every dollar we could to the country, were led to believe that the assistants should be reduced to the rank of majors instead of colonels. When the bill came up for consideration a new theory must be sprung upon it. We could not give the general and the majors we proposed, or the colonels as the House bill had it, the pay and emoluments as we did everybody else; but we must single out Colonel Holt for degradation. We must fix a sum of money against these officers, though we never did anything of the kind before. We could not accept the committee's amendment. We must give these officers the rank of colonels.

But rank was not the question at issue between the two Houses. The simple question then was whether the general should have the pay and emoluments of a general, and whether the colonels we had made in preference to making them majors should have the pay of colonels or whether they should have a fixed sum. The Senate inserted a fixed sum for these officers. The House disagreed to our amendments, and committees of conference were appointed. You, sir, appointed the committee on the part of the Senate. I suppose it was appointed without any reference to or any thought of the opinions of the members of the Senate. I have no idea that the President of the Senate intended to make a committee that should do anything that was not just and fair. The Senator from Indiana, [Mr. HENDRICKS,] the Senator from Michigan, [Mr. HOWARD,] and myself were appointed on the committee. We met the committee of the House of Representatives in conference. Perhaps it is not for me to say what took place in that conference. The matter was fully discussed. The question was whether the committee would agree to those amendments or recede from them, and the committee finally agreed to recede from these two amendments of the Senate, which had never been placed before on any military bill.

The Senate has just decided by its vote that the policy of its amendments is to be adopted. If these officers are to be generals and colonels—and that we have settled; both Houses have agreed to that—then I say they ought to have the pay and emoluments of generals and colonels. If not, I think we had better drop the subject. If it is believed that these officers ought not to be military men—and how they can be anything else I do not know—we might make them judges, or give them some other title, and give them a fixed sum; or we can adopt a rule that shall take from all these other officers we have made the pay and emoluments that belong to their rank. I think, therefore, sir, we had better drop this bill and bring in a new bill. I cannot vote at any time to give officers the rank of generals and then vote away from them the pay we give others of the same rank.

Mr. HALE. I do not know and cannot conceive how the Senator from Massachusetts construes this matter into an attack upon Mr. Holt. I protest against any such personal motive being assigned to me, and I protest against the right of any man to say that. How does the Senator know who is to be appointed? The bill reads:

And the President shall appoint, by and with the advice and consent of the Senate, as the head of said bureau a Judge Advocate General.

Has the President told the Senator from Massachusetts that he is going to appoint a given man, and have the Senate told the Senator that they mean to confirm him? What right has he to assume that Judge Holt is to be the man? He may suppose so; but certainly, for legislative action neither he nor anybody else has the right to assume that it is to be Judge Holt.

Mr. WILSON. He is there now.

Mr. HALE. He cannot be there now, because there is no such office. The bill says he shall be appointed.

Mr. WILSON. He is there with the rank of colonel.

Mr. HALE. Mr. President, this bill is prospective entirely. Let me ask the Senator what are the pay and emoluments of a brigadier general? Where is the propriety of selecting a man

for a civil office, a judicial office, the discharge of the duties of which requires him to sit in his office and do business, and putting him on the same footing as to pay and emoluments with a general who has to go into the field? Why should we allow him horses, and forage for horses and quarters and servants, and all these innumerable allowances which may or may not be proper for a general in the field? By what analogy, by what course of reasoning is it proper to make the same allowances to a man who performs judicial duties sitting in his office devoting himself to those duties?

Sir, as this matter has been put in this ungacious way, I do not choose to submit to it. I yield to no man in the high regard that I have for Judge Holt, for his spotless integrity, his untiring industry, his faithfulness, his fidelity, and his unsurpassed loyalty; but I do not choose to be led into a vicious course of legislation by my regard for any individual. I think that even for officers in the Army this is a vicious mode of compensating them. It ought to be carried no further than the absolute necessities of the service require it to be carried. Certainly, when you undertake to pay judicial officers who sit in their offices and perform judicial duties by the same rule that you pay officers in the field who are compelled to do their duties there, it seems to me you undertake to apply an analogy where there is no analogy from the nature of the case.

Sir, the officer that you propose to create here is a judicial officer entirely. He wants no arms, he wants no forage, he wants no horses, to enable him to discharge the high functions with which you charge him as a judicial officer.

The bill also provides that he shall appoint "such clerical force as in his judgment the interests of the service shall require." The next thing will be that those assistants must have the rank, pay, and emoluments of captains; the messengers the rank, pay, and emoluments of sergeants; and possibly those who sweep the office the rank, pay, and emoluments of corporals. It is trying to assimilate things where there is no similarity and no analogy to justify it. If you are creating a judicial officer, giving him judicial duties to perform, pay him as you do other judicial officers.

It is said that this is to degrade Judge Holt. If I knew that it was Judge Holt who was to be appointed I should consider it a degradation to vote that when he was to perform his judicial duties he must put on a chapeau and wear epaulettes, and his compensation must be according to that of a brigadier general. I think the system is wrong, and here is a good place to commence to alter it. The other officers that the Senator from Massachusetts has named, the Quartermaster General, the Adjutant General, and Provost Marshal General, are all military officers, and by the very circumstances of the case are connected with the Army and have military duties to perform. I would not say a word or give a vote that should detract a feather's weight from the just reputation that is due to Judge Holt or any other man; but, sir, I think here is a good place to begin to set a precedent. When you make a judicial officer, pay him a salary. Does any man here know what the pay and emoluments of a brigadier general are? Take your Army Register, and you will find that they vary widely, sometimes more and sometimes less. Where is the propriety in giving this uncertain, irregular compensation to a judicial officer?

It is for these reasons that I opposed the report of the conference committee. I hope the motion of the Senator from Vermont will prevail; but I should not be very sorry if that should be voted down, and the vote should be taken on the motion of the Senator from Massachusetts and that should prevail. I am far from being certain that it would not be better to create a judicial tribunal and not undertake to make it ridiculous by tricking it out with the gewgaws and the rank, pay, and emoluments of a military officer.

Mr. WILSON. The Senator from New Hampshire, like all the rest of us, is likely to be mistaken sometimes in his facts and in his law. This bill says:

That the office of Judge Advocate General, created by the fifth section of an act entitled "An act to amend the act calling forth the militia to execute the laws of the United States, suppress insurrection, and repel invasion, approved February 28, 1795, and the acts amendatory thereof, and for other purposes," approved July 17, 1862,

be, and is hereby, constituted a bureau, which shall be attached to the War Department and shall be styled and known as the Bureau of Military Justice.

This office has ever been filled by a military man. The last man who filled it was Colonel Lee. This office it is now proposed to make a bureau, and to make the officer at the head of it a general instead of a colonel. It is now a military office, and it ought to be a military office. Colonel Holt was appointed to this office. He is performing its duties, and doing now precisely what he will do if the bureau is created. The bill, if the Senate amendments should prevail, cuts him down \$200.

It was intended to make this office, filled always by military men, and under military rules and regulations, a bureau, and the head of it a brigadier general. Nobody supposes that the officer who now fills it with so much ability is to be removed. Everybody is satisfied with Colonel Holt's management. The intention of the bill was to increase his rank and to increase his compensation, and give him some reward for the vast labors imposed upon him. Since he went into that office he has had more than ten thousand cases before him. During the first three months of this year he has had over eight thousand cases, and decided nineteen hundred of them. The good of the Army demands that these cases should be acted upon promptly. It is proposed, therefore, to give him two assistants with the same rank that he now holds. The good of the country, economy, the order of the Army, everything connected with the military service, demands that this bureau should be created, and enough officers put in it of talent and high character to discharge promptly the duties that are imposed upon them.

Mr. FESSENDEN. Will the Senator allow me to ask him one question?

Mr. WILSON. Yes, sir.

Mr. FESSENDEN. What is the salary fixed in this bill by the Senate amendment for the Judge Advocate General?

Mr. WILSON. Four thousand dollars.

Mr. FESSENDEN. You say he now receives \$4,200?

Mr. WILSON. Yes, sir.

Mr. FESSENDEN. As a colonel?

Mr. WILSON. Yes, sir, as a colonel, including forage for his horses, fuel, and quarters, at present allowances.

Mr. FESSENDEN. If he as a colonel gets \$4,200, I suppose the two assistants put in by the House bill will get \$4,200.

Mr. WILSON. Yes, sir.

Mr. SHERMAN. I should like to have the Senator inform us how much a brigadier general receives?

Mr. WILSON. Four thousand nine hundred or five thousand dollars.

Mr. SHERMAN. I suggest to the Senator to allow this matter to go over. I wish to look into it. I hope action will not be had upon it now.

Mr. WILSON. I say to the Senator from Ohio that we had a letter the other day from his brother, General Sherman, in regard to these very cases sent up from the Army, in which he recommended a change in our laws so as to deal with guerrillas without sending their cases to Washington; that it took several months to send those cases here and have them examined or acted upon. These cases come before us, they are of great importance, and they ought to be settled promptly. No matter what may be the number of men we put upon them, it will be a saving of money, and will add to the efficiency of the Army to have those cases acted upon as soon as they possibly can be. It is proposed to appoint two officers as the assistants of the Judge Advocate General, who are to be good lawyers, men of capacity and character, who can take these cases up under his direction and determine and settle them. We have several thousand back cases now to be brought up and to be determined upon; and while we are failing to do it the military service of the country is suffering.

Mr. GRIMES. I am inclined to agree with the Senator from Massachusetts that this bill had better lie on the table or be indefinitely postponed. If the Committee on Military Affairs or anybody else can draw a bill that will be more acceptable, it should be drawn and presented to us; for I am satisfied that this bill ought not to pass in any shape.

Mr. President, let me say in the outset that I repel entirely the idea which the Senator from Massachusetts seems to entertain, that those of us who voted against concurring in the report of the committee of conference entertain any hostility to Colonel Holt. I recognize Colonel Holt as one of the purest and ablest men in the country, and if I was going to vote upon personal grounds I know of no man in whose behalf I would sooner vote than I would for Colonel Holt.

But, sir, I think there is not the slightest necessity for the creation of this Bureau of Military Justice; but on the other hand it will be to the detriment of the public service to create it. The Senator from Massachusetts, the chairman of the Committee on Military Affairs, is mistaken in supposing, as it seems to me, he might properly infer from the reading of the bill under consideration that the act of February 28, 1795, entitled "An act to provide for calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasion, and to repeal the acts now in force for that purpose," referred to a judge advocate in any particular. I have the act before me, and the only section in which the words "court-martial" even are mentioned is in the sixth section, where it declares "that courts-martial for the trial of militia shall be composed of militia officers only."

So far from it, if I remember the military history of this country correctly, we never had any judge advocate until within the last few years. Some eight or ten years ago Major Lee, when he was a captain in an ordnance regiment, was detailed to the War Department and stationed here in this place. His name, however, was all the time borne on the roll as a captain in the line of the regiment of ordnance, but he was detailed for the purpose of performing the duties of judge advocate in this city in the War Department; and he was holding that office at the time, and he held it for some considerable time after the breaking out of this rebellion. Perhaps two years ago a bill was introduced creating the office of judge advocate, raising him up two grades above that which was held by Major Lee at the time, and to that place Colonel Holt was appointed. Major Lee thereupon resigned his commission, and went to his plantation, I believe, in Virginia.

It is said that there is a vast accumulation of business in the office of the Judge Advocate General. I do not doubt it. I know that that is so. I know that there are probably as many, and perhaps more, cases than the Senator from Massachusetts has mentioned, in the hands of General Canby, who is also engaged in this same work with several officers detailed to his bureau, and in the office of Colonel Holt, which have been brought up from the various armies that we have in the field. But I should like to know how it is possible for Colonel Holt to perform these duties any more satisfactorily to the country, with the commission of a brigadier general in his pocket, than he now performs them with the commission of a colonel in his pocket? How is it going to advance the public interests by creating his two assistants colonels in the regular Army? for these gentlemen are not to hold merely during the war, as I understand it, but are to remain in the regular service of the United States and their successors after them. How is the public service to be promoted by creating these two officers colonels? Will the business of the office of the Judge Advocate General be any more advanced than it is now when these same duties are performed by volunteer lieutenants who have been detailed from the field to perform those duties? I presume there are fifteen or twenty—I do not know how many, but a large number of officers, some of whom have been invalided, who have been two or three years in the field and have distinguished themselves in the public service and have been wounded and are incapable of longer performing service in the field, who have been detailed to these bureaus, and they are performing or assisting to perform the duties in the office of the Adjutant General. Is it pretended that they are not performing them as well as they would perform them if they held the commission of colonels in their pockets? Is it worth while for us to burden the Government for all time to come by the creation of this new bureau with a brigadier general and two colonels in the regular Army? I think not. I have not heard any reason assigned for it.

The letter to which the Senator from Massachusetts referred as having been received from General Sherman is not to the effect, as I apprehend, that he is desirous that there should be any enlargement of the jurisdiction or any increase of the title or pay of any officer here; but he desires to have permission to establish summary courts-martial and have their judgments executed in the field instead of having them sent up here to be reviewed and rereviewed in the bureaus of the War Department.

Mr. President, I voted against this proposition on principle. I voted against the creation of all these brigadier generals at the head of these bureaus. I attempted before this rebellion to repeal the law which created the only brigadier general we then had at the head of a bureau—General Jesup—but that was a time when it was impossible to carry it through the Senate. We have now gone on, contrary to my judgment, and created a brigadier general at the head of each one of these bureaus, whose pay amounts, I think, to something in the neighborhood of six thousand dollars, stationed in this city and under the new regulations that have been established by the War Department in relation to the commutation of quarters and fuel. Here is a proposition to create another. I cannot for the life of me see what more reason there is for putting a brigadier general at the head of this Bureau of Military Justice than there is of creating the Solicitor of the War Department a solicitor general and making him a brigadier general with a salary of five or six thousand dollars a year. Where is the distinction? Where is the difference? Is it not as necessary that Mr. Whiting should have military rank, pay, and emoluments as that Colonel Holt should have them?

Mr. WILSON. He does not have any pay at all.

Mr. GRIMES. Still he is entitled to it, and if he should die or resign he is probably to have a successor, and that successor may not be as able to perform the duties for the public that Mr. Whiting now performs as Mr. Whiting is. The pecuniary responsibility may not be as great.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Vermont that the Senate further insist upon its amendments to the bill of the House, and ask for another committee of conference.

Mr. WILSON. I move that the whole subject lie on the table for the purpose I have suggested, to see if we cannot do something better.

The motion was agreed to.

#### LIST OF ABSENTEES.

Mr. FESSENDEN. I move now, and I believe the Senator from Ohio does not object to it, to take up the resolution which I laid on the table the other day with reference to making a list of absentees on the call of the yeas and nays.

The PRESIDENT *pro tempore*. The Chair will call up as the business properly before the Senate, the bill establishing a national currency, &c.

Mr. FESSENDEN. I move that it be laid aside informally for the purpose of taking up the resolution I have indicated.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

*Resolved*, That the reporter be directed, in making up the proceedings of the Senate, to report in a separate list the names of absentees on the call of the yeas and nays.

Mr. HALE. My attention has been called to this subject, as we have been left without a quorum several times, and the question has been started in regard to the power of the Senate to send the Sergeant-at-Arms after absent members. The proposition is generally put in an exceedingly cautious, guarded, and modest shape: "that the Sergeant-at-Arms be directed to request the attendance of absent members." There is a provision of the Constitution that the Senate shall have power to send for absent members. I do not find that there is any provision, though it may be included under that one, that the Senate have power to invite absent members in. Perhaps that would exist in all bodies without any constitutional provision. I will read the words of the Constitution:

"But a smaller number [than a majority] may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each House may provide."



Mr. FESSENDEN. But there has never been any provision made for carrying out that clause. Mr. HALE. I know there has never been any law about it.

The PRESIDENT *pro tempore*. The Chair will cause the rule on that subject to be read.

The Secretary read it, as follows:

"8. No member shall absent himself from the service of the Senate, without leave of the Senate first obtained. And in case a less number than a quorum of the Senate shall convene, they are hereby authorized to send the Sergeant-at-Arms, or any other person or persons by them authorized, for any or all absent members, as the majority of such members present shall agree, at the expense of such absent members respectively, unless such excuse for non-attendance shall be made as the Senate when a quorum is convened shall judge sufficient, and in that case the expense shall be paid out of the contingent fund. And this rule shall apply as well to the first convention of the Senate, at the legal time of meeting, as to each day of the session, after the hour has arrived to which the Senate stood adjourned."

Mr. HALE. I was about to say that I remember once hearing this rule discussed in the Senate. Possibly the Senator from Vermont may remember it. I remember that there was some very curious special pleading upon it. I do not remember what it was now.

Mr. FESSENDEN. If the Senator will allow me, while Mr. Breckinridge was Vice President we had a contest here one night, which went far into the night and even into the morning, upon some question on which parties were divided and we found ourselves without a quorum. The majority made a motion that the Sergeant-at-Arms be directed to bring in absent members. The then Vice President examined the subject very carefully and I examined it with him. I contended that there was no power to compel the attendance of members except at the first meeting of the Senate. He examined the question very carefully and so ruled, that there was no such power; that all the power there was was to send the Sergeant-at-Arms and ask them to come in; and whether they came or not was a matter to be decided by them in their own pleasure. He decided that there was no power in the Senate to bring them in after the opening of the session; that then if there was not a quorum they could be sent for and brought in; but after that there was no power to do it; and that decision was acquiesced in by the Senate.

Mr. HALE. There was an earlier discussion than that upon this rule, if my memory does not fail me, in which the late Judge Berrien, of Georgia, and some others took part, and I remember that there was something—I do not recollect distinctly what—suggested out of this clause: "That this rule shall apply as well to the first convention of the Senate at the legal time of meeting as to each day of the session after the hour has arrived to which the Senate stand adjourned." I do not remember what it was; but there was some special consideration suggested growing out of that clause. My own opinion is, with great deference to the gentlemen who surround me, that the better way would be to frame a rule somewhat analogous to that of the House of Representatives by which, if the Senate choose, they may compel the attendance of absent members. It is clearly given under the Constitution. I think it is time that the Senate should have the means to enforce the power which is clearly conferred upon them. I think it would tend to keep a quorum here, and possibly we should never have occasion to execute it.

Mr. CONNESS. With the Senator's permission, I should like to know where we could find the Senator from New Hampshire on such occasions. He is absent very much.

Mr. HALE. As I did not get up to discuss any personalities, I will not answer. I think the better way would be to have this matter arranged so that, whenever the necessity occurs, we might exercise the power; and, as I was saying when I was interrupted, I think it would be more likely to prevent the evil than anything else, even the resolution suggested by the Senator from Maine, though I have no objection to that; but I think it is a little too inefficient for the remedy that should be sought.

Mr. CONNESS. I think all these rules will prove ineffective unless the minds of Senators and the feeling of duty that they owe to the country keep them in their seats. Some Senators sit here from day to day, sometimes when they would

like to be absent either on pleasure or other business, but they are nearly always in their seats; and cast their votes on every question. It appears to me that it should only be necessary on this subject to direct the attention of Senators to the degree to which the public business is retarded by their absence in order to have their presence in the Senate hereafter.

The honorable Senator from New Hampshire regarded the question that I asked him as personal. I do not know how the Senator could so regard it. It may have been felt by the Senator to apply to him somewhat. I have often had the pleasure of listening to the Senator's speeches, always eloquently given, yet I have not heard his votes succeeding them when the question was taken. I did not intend, however, to present his case specially, but to intimate by that question that the way to have service in the Senate was to be always present. I do not think that the enforcement of any rule of this kind or any mode which you can devise will serve the purpose. It is the duty of every Senator to be in his place. He is elected to be here, and he is paid to be here. If the sense of duty which a Senator should feel will not compel his attendance, I think all other efforts will prove abortive and futile.

Mr. FESSENDEN. I have no sort of objection to the proposition of the Senator from New Hampshire if he will frame a rule, but I submit to him and to the Senate that it will be inefficient, especially at this period of the session. We should spend half our time, if things go on as they have heretofore, in sending for men, bringing them in here, and hearing excuses if they can be found. Although it brings the names of absentees in the Globe, it is found to be a farce in the House, and amounts to nothing. To be sure they go on until they get enough to make a quorum, and then they stop. The few that are brought in in the first place help to constitute a quorum; they are there, and the rest entirely escape.

My belief is that this rule can do no harm and may do some good. I think Senators will hardly be willing on trifling grounds, business at the Departments or something of that sort, during the session of the Senate, to have their names published in the list of absentees when important votes are taken. And if gentlemen are necessarily absent on account of sickness in their families or their own sickness or for such other reason as they must be absent for, it will be very easy for a colleague or some one else to state the fact, and the excuse is sufficient in such a case. I feel that the resolution I have offered may be productive of good, and I think it will come in aid of the resolution we passed this morning. The honorable Senator from Connecticut [Mr. FOSTER] thinks we shall be certain now not to have a quorum; and lest he should be a true prophet in that particular, I wish to have this provision made in addition, and I think it will produce a good effect.

Mr. ANTHONY. I have no objection to this resolution, but I cannot see the practical way in which it is to accomplish the object desired. This list will be published in the Globe, and nowhere else, I suppose. The Globe is always at this period of the session three or four days behind, and does not reach the people in any distant part of the country until a week after the votes have been taken. If this list is to be published at all, to attract any attention it should be published the day after the votes are given, and to do that it should be transmitted by telegraph, and that is entirely unnecessary, because when the newspapers publish the yeas and nays, they can make out the absentees without the expense of sending such a list over the wires. I think the papers do it now very frequently. The New York Tribune, I think, generally publishes the yeas, the nays, and the absentees.

Mr. FESSENDEN. I can state to the Senator what effect I think this measure will have. The fact of the frequent want of a quorum in this body has become notorious, and I may be permitted to say, as I really think so, that it is shameful and discreditable to the body. Whatever may be the excuse given, the fact that it occurs so frequently, day after day, especially at this period of the session when we have so much important work to do, is discreditable. This list may not appear the next day, but when it does appear in the Globe the fact of the absence appears. The

Globe goes to all the important newspapers of the country, and when the newspapers, instead of having the trouble to pick out the absentees and make a list for themselves, see them printed there, they will take notice of them, and I think gentlemen will feel a responsibility to their constituents, who now know nothing about it, that they do not seem to feel at present.

Mr. CONNESS. I will add to what the Senator from Maine has said that the effect of the other rule compelling attendance will be about this always, that the absent members will come in and immediately aid in adjourning the body. That is generally the result of compelling attendance. I am decidedly in favor of the mode proposed by the resolution of the Senator from Maine.

Mr. TRUMBULL. I cannot say that I have any special objection to the adoption of this resolution, but it really looks to me very much like child's play. It is very much like the calling of the yeas and nays sometimes when it is supposed that persons will vote differently when the yeas and nays are called from what they would if they were not called. I do not suppose that any member of the Senate ever changed his vote under such a consideration, and I should be sorry to think that any member of the Senate would be controlled in the least in his vote by the fact that it was or was not to go upon the record. I should think more meanly than I am willing to think of any member of this body if I supposed that because the yeas and nays were called on a question he would vote differently from what he would if they were not called, or that his presence or absence here would be affected by the fact that a list was to be published of those absent on a call of the yeas and nays. The fact appears sufficiently when a record is made of those voting. As has been remarked by the Senator from California, if a sense of public duty will not impel men to be present to discharge their duties in a time like this, I am quite sure that the publication of their names in a list by themselves will not have that effect, for when the yeas and nays are called now it is always apparent who is absent. I look upon the adoption of such a rule as trivial, if I can say so without being at all disrespectful to my friend from Maine. I think nothing will be accomplished by it, and its adoption is rather a reflection upon ourselves.

Mr. HOWE. It seems to me that the remedy suggested by the Senator from New Hampshire is decidedly the better one for us to adopt for the correction of this evil. The remedy suggested by the resolution before the Senate, it seems to me, will as often do injustice to individual Senators as it will do justice to the public service. The fact is that Senators occasionally are obliged to absent themselves from the sittings of the Senate on business. I myself occasionally happen to be sent to the other end of the avenue with enrolled bills; other Senators feel compelled to absent themselves from the sittings of the Senate, and their reasons for doing so cannot be put upon the Journal at the time their names are put upon it. The fact that they were absent would go out to the country without any explanation of the reason which compelled their absence. In those cases injustice would be done to individuals, and no justice would be done to the public service, as I conceive, in any case.

It is, I believe, the practice in some very well regulated schools, when boys do not come in exactly on time, to put down a black mark against them, and I believe that discipline is now enforced in the government of boys, but I do not believe it will have very much effect in regulating the conduct of Senators. What we want is Senators here to act, Senators here to vote, so that the public business can go on. The Senator from New Hampshire has pointed you to an authority, a power vested in you by which, if you please to exert it, you may compel their attendance. Do that, and then the public business will go on, and you will not content yourself by merely putting down a black mark against the name of a Senator who is not here. It seems to me that inasmuch as we are clothed with that power, we had better exert it. Then we secure these advantages to the public service, and we do not do injustice to anybody.

Several Senators. Question! Question!

Mr. COLLAMER. I do not wish to detain the Senate, but I am not sure now that we have

got a quorum here even under our new rule. I rather think we have not; and for fear that our weakness will be exposed on this vote, I will say a few words before the vote is taken.

We are told that our remedy is the exercise of the power of sending the Sergeant-at-Arms after absentees. Really and candidly, will gentlemen appeal to that? What is that authority? Instead of insisting upon having our members here, or if they are not here, having their names reported, gentlemen say we should send the Sergeant-at-Arms for them. When we are taking a question and find ourselves without a quorum, we are to sit quietly in our seats with our doors locked, while we send out our Sergeant-at-Arms, by day or by night, to hunt up members who are in the city attending to other business, and then they are to come in if they choose, and when they get in help to adjourn us. That will probably be the effect of it, and the proceeding ends and always has ended in the other House in a broad farce, a general horse-laugh. The only result is, a great loss of time. How much the Sergeant-at-Arms is paid for it I do not know; he may get something out of it, but nobody else does.

Mr. President, I desire that there shall be no such course resorted to, nor any such expedient attempted in this body. It is altogether, as I think, beneath the dignity of the body itself. It is enough to publish the names. If gentlemen do not wish to do that, let us endeavor to be here; but I do not agree with the Senator from Wisconsin that it is our duty to be at another part of the city, at the Departments, during the sessions of the Senate. I disagree entirely in that. If that business can be done for our constituents when we are not employed in our duties and in our seats here, very well. If not, let the constituents be informed that it cannot be done. Say to them, "My other duties are paramount, so that I cannot attend to this matter, and you must dispense with requiring me to do it."

It seems to me that to be here is our paramount duty, and that this duty ought to be performed. Look at all we have said and done about it, and the time we have lost this session for want of a quorum. I hope this resolution may be adopted; it hurts nobody. I believe the tendency of it will be to help us at least to keep a quorum here.

Mr. SUMNER. It seems to me that the resolution would be made more complete if it required also that the names of the absentees should be entered on the Journal. That would be more of a record.

Mr. COLLAMER. The Journal is too old ever to have any effect.

Mr. FESSENDEN. It is published the next year. It is of no consequence.

Mr. SUMNER. But it makes a permanent record.

Mr. FESSENDEN. With the leave of the Senate I will amend the resolution by adding after the word "reporter" the words "for the Congressional Globe."

The PRESIDENT *pro tempore*. It can be so modified. The resolution as modified will be read.

The Secretary read it, as follows:

*Resolved*, That the reporter be directed, in making up the proceedings of the Senate for the Congressional Globe, to report in a separate list the names of absentees on each call of the yeas and nays.

Mr. HALE. Would it not be well to have some resolution that those reporting the proceedings of the secret sessions for the New York papers should publish a list of absentees there? [Laughter.]

Mr. FESSENDEN called for the yeas and nays on the adoption of the resolution, and they were ordered; and being taken, resulted—yeas 20, nays 13; as follows:

YEAS—Messrs. Clark, Collamer, Conness, Dixon, Doobittle, Fessenden, Foot, Foster, Grimes, Hale, Harding, Henderson, Lane of Indiana, Morgan, Ramsey, Sherman, Sumner, Van Winkle, Wiley, and Wilson—20.

NAYS—Messrs. Anthony, Catlie, Chandler, Davis, Harlan, Howe, Johnson, Pomeroy, Powell, Middle, Sprague, Trumbull, and Wade—13.

ABSENT—Messrs. Brown, Buckalew, Cowan, Harris, Hendricks, Hicks, Howard, Lane of Kansas, McDougall, Morrill, Nesmith, Richardson, Saulsbury, Ten Eyck, Wilkinson, and Wright—16.

So the resolution was agreed to.

#### EXECUTIVE SESSION.

The PRESIDENT *pro tempore*. The Senate will resume the consideration of the order of the

day, being the bill to establish a national currency, &c.

Mr. DOOLITTLE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, May 4, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

#### PREEMPTION RIGHTS IN CALIFORNIA.

On motion of Mr. HIGBY, by unanimous consent, bill of the Senate No. 216, to grant the right of preemption to certain settlers on the Rancho Bolsa de Tomales, was taken from the Speaker's table, read a first and second time by its title, and referred to the Committee on Public Lands.

#### CHANGE OF STEAMBOAT'S NAME.

Mr. BLAIR, of West Virginia, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Commerce inquire into the expediency of changing the name of the steamboat Gem to Emma Boyd No. 2; and that they have leave to report by bill or otherwise.

Mr. STEVENS. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union on the fortification bill.

Mr. JULIAN. I demand the regular order of business.

The SPEAKER. The regular order of business is the consideration of the bill in regard to homesteads in the rebel States, which was left unfinished on Tuesday of last week.

#### DISLOYAL APPOINTEE IN THE TREASURY.

Mr. FARNSWORTH. I ask leave to offer the following resolution:

*Resolved*, That the Secretary of the Treasury be directed to inform this House whether there is employed in the Treasury Department as a clerk or assistant register a person named Garnett, and whether said Garnett formerly held a commission in the rebel army, and was for a time prisoner in the Old Capitol prison, and who recommended the employment of said Garnett in the Treasury Department.

Mr. FENTON. I ask my friend from Illinois to refer that resolution to the committee recently appointed to investigate the affairs of the Treasury Department.

Mr. FARNSWORTH. I have no particular objection to that. I understand that a man formerly a captain in the rebel army, a nephew of Mason of Virginia, is now holding a position in the Treasury Department. He was arrested and put in the Old Capitol prison for a time, and then it is supposed that he was released on taking the oath of allegiance, and now he is found in the Treasury Department. I think my resolution ought to pass. I bring no charge against the Secretary of the Treasury.

There was no objection to the introduction of the resolution.

Mr. FENTON. I move that the resolution be referred to the select committee on the Treasury Department. I will withdraw the motion, however, if the mover insists on the passage of the resolution now. I only desire to remark that this whole matter and something respecting the individual mentioned in the resolution is now under investigation by the committee to which I refer, and I thought it would be proper that the subject should be referred to that committee, so that they might report upon it.

Mr. FARNSWORTH. I do not offer the resolution with any feeling at all, but I am well informed of the facts.

The SPEAKER. Is there objection to the consideration of the resolution to-day?

Mr. STEVENS. I think the resolution had better go over till to-morrow.

The SPEAKER. If it goes over until to-morrow it will not be reached until about two weeks.

Mr. FARNSWORTH. I am willing that the resolution shall go to the select committee.

Mr. SPALDING. I object to that.

#### LAND GRANT TO MISSOURI.

Mr. BLOW, by unanimous consent, introduced a bill to amend the act granting the right of way to the State of Missouri and a portion of

the public lands to aid in the construction of certain railroads in said State; which was read a first and second time by its title, and referred to the select committee on the Pacific railroad.

#### FORTIFICATION BILL.

Mr. STEVENS. I move to postpone all the preceding special orders in the Committee of the Whole on the state of the Union, so that the fortification bill may come up.

The motion was agreed to.

Mr. STEVENS. I now move that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. STEELE, of New York, in the chair,) and proceeded to the consideration of bill of the House No. 207, making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending 30th June, 1865.

The bill was read a first time for information; and it was then read for amendment.

Mr. RICE, of Massachusetts, submitted the following amendment:

The Clerk read, as follows:

Insert after line twenty-seven:  
For repairs to Great Brewster island, \$40,000.  
For Lovell's island and Deer island, \$10,000.

Mr. RICE, of Massachusetts. I send up to the Clerk's desk to be read a letter from the War Department, which I think will satisfy the House of the justice of these appropriations.

The Clerk read, as follows:

ENGINEERS' DEPARTMENT,  
WASHINGTON, March 16, 1864.

SIR: I have the honor to return herewith the letter of Hon. A. H. RICE, of the 23d February, received here on the 8th instant, and to state, in reply to his inquiries, that the Great Brewster island, Boston harbor, has long been undergoing abrasion by the sea to such a degree as to make remedial measures a matter of prompt importance.

Long Island Head, Boston harbor, is undergoing similar injuries, but the necessity for protection in that case is not so urgent as in the other. The detritus which is washed out by the lashing of storms from the hilly shores of these islands is carried by the current into the channels of the bay, and deposited in them to their serious injury.

Deer island and Lovell's island have also been subject to wearing by the sea; but it has been averted in these cases by protective sea walls. In the case of Great Brewster, like protection has been afforded, but only to a part of the extent necessary. At the Great Brewster, the unfinished work should be recommenced and completed as soon as practicable.

At Deer island and Lovell's island the existing structures are sufficient, but now need repairs. At Long Island Head the work may be deferred till the more urgent positions are secured.

For expenditure during the next fiscal year there should be appropriated:

For sea-wall of Great Brewster..... \$40,000  
For repair of sea-wall of Deer and Lovell's islands 10,000

Very respectfully, your obedient servant,

JOSEPH G. TOTTEN,

Brigadier General and Chief Engineer.

Hon. E. M. STANTON, Secretary of War.

Official copy:

C. T. CHRISTENSEN,

Major, Assistant Adjutant General.

WAR DEPARTMENT, March 18, 1864.

Approved, and appropriation recommended.

EDWIN M. STANTON,

Secretary of War.

The amendment was agreed to.

Mr. GANSON. I move the following amendment:

For repairs of the sea-wall at Buffalo, \$37,500.

Mr. Chairman, a breach was made in that sea-wall in January last, and unless repaired it may be destroyed altogether. A report was made to the House from the Secretary of War that this appropriation is necessary for the protection of the harbor of Buffalo.

Mr. STEVENS. Do I understand the gentleman from New York to say that the Secretary of War has recommended this appropriation in a report to this House?

Mr. GANSON. Yes, sir.

Mr. STEVENS. Then I have no objection to the amendment.

Mr. BROWN, of Wisconsin. I submit the following amendment to the amendment:

For the harbor of Chicago, \$50,000.  
For the harbor of Milwaukee, \$50,000.  
For the harbor of Racine, \$20,000.  
For the harbor of Kenosha, \$20,000.

I have inserted Chicago, because I do not see the gentleman from Illinois [Mr. ARNOLD] with whom I have had some consultation on this subject.

Mr. STEVENS. I hope that the gentleman from Wisconsin will withdraw his amendment until the amendment of the gentleman from New York is disposed of.

Mr. BROWN, of Wisconsin. I will withdraw my amendment for the present.

Mr. MORRILL. I do not see the application to the present bill of the present amendment. The amendment is for the improvement of a harbor, and this is a fortification bill.

Mr. STEVENS. I understood the gentleman from New York to say that it was recommended by the Secretary of War.

Mr. MORRILL. I think that the subject ought to be referred to the Committee on Commerce.

Mr. GANSON. I went to the Secretary of the Treasury, and he said that it did not come within his province. I then referred to the Secretary of War, who sent to the House a report recommending this appropriation.

The amendment was adopted.

Mr. BROWN, of Wisconsin. I now renew my amendment. It is for continuing appropriations for preserving the harbors in these respective places.

Mr. STEVENS. There is no law for these appropriations.

Mr. BROWN, of Wisconsin. They are to continue previous appropriations. There is a law for the North Cut at Milwaukee.

Mr. STEVENS. I make the point of order that the amendment is not germane, and that there is no law for it.

Mr. BROWN, of Wisconsin. It is in the same condition with the amendments for other harbors. It is the same as the amendment in reference to Buffalo harbor.

The CHAIRMAN. The Chair sustains the point of order.

Mr. PIKE submitted the following amendment:

For the purpose of building a road to connect the military road leading from Bangor to Houlton with the east line of the State along the route of the Milford turnpike, and to be expended under the direction of the Secretary of War, \$30,000.

Mr. STEVENS raised the point of order that the amendment was not germane.

The CHAIRMAN ruled the amendment out of order.

Mr. STEVENS moved that the committee rise and report the bill.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. STEELE, of New York, reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill No. 207, making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending the 30th of June, 1865, and had directed him to report the same to the House with sundry amendments.

Mr. STEVENS demanded the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the amendments of the Committee of the Whole on the state of the Union were concurred in.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed it was accordingly read the third time, and passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, informed the House that the Senate had agreed to the amendment of the House of Representatives to the bill (S. No. 126) to amend an act to incorporate the inhabitants of the city of Washington, passed May 15, 1820.

#### COMMITTEE OF CONFERENCE.

Mr. STEVENS. I move that a committee of conference be appointed upon the Army appro-

priation bill, in conformity to the request of the Senate.

The motion was agreed to.

The SPEAKER subsequently appointed Mr. STEVENS, Mr. SCHENCK, and Mr. MORRISON as such committee on the part of the House.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, informed the House that the Senate disagree to the amendment of the House of Representatives to the first amendment of the Senate to the bill (H. R. No. 151) making appropriations for the support of the naval service for the year ending 30th June, 1865, insist upon its amendments to the said bill disagreed to by the House, and ask a conference on the disagreeing votes of the two Houses thereon, and have appointed Mr. HALE, Mr. VAN WINKLE, and Mr. POWELL as such committee upon their part.

#### HOMESTEADS IN REBEL STATES.

The SPEAKER announced that the next business in order during the remainder of the morning hour was the bill reported from the Committee on Public Lands in regard to homesteads in the rebel States, upon which the gentleman from Indiana [Mr. JULIAN] was entitled to the floor.

#### ALLEGED CORRESPONDENCE WITH REBELS.

Mr. VOORHEES. I hope I may be allowed by unanimous consent to make a statement affecting the character of gentlemen who have been assailed upon this floor. I see the gentleman from Ohio [Mr. GARFIELD] has just come in. I would have risen to this matter immediately after the reading of the Journal had he been in his seat. It will occupy but a short time.

Mr. JULIAN. In justice to others, I do not feel that I can yield at the present time.

Mr. VOORHEES. I do not ask that it be taken out of the gentleman's time, as a matter of course.

Mr. JULIAN. If it does not come out of my time, I will not object.

The SPEAKER. It will not come out of the gentleman's hour, but it will come out of the morning hour.

Mr. JULIAN. I yield to a short explanation, if there is no other objection.

No objection was made.

Mr. VOORHEES. Mr. Speaker, I arise at this time to perform a duty which I owe to two of the most distinguished and worthy gentlemen in the State of Indiana, who are my immediate constituents, my neighbors, and my friends, and who have been most cruelly wronged and outraged on the floor of this House. In discharging this duty, I trust I may be able also to impress upon the public mind a wholesome lesson in behalf of truth, decency, and justice.

On the 8th of last month the gentleman from Ohio [Mr. GARFIELD] made a startling and important announcement in his place as a member of Congress, in which he used the following language:

"I am reminded here of a fact which I had well-nigh forgotten. Last summer I remember a Union spy came to our camp bringing two letters addressed to 'Major General John C. Breckinridge, C. S. A.' They were letters of introduction, stating that the bearer desired to obtain a commission in the rebel army, and commending him as a gallant and reliable man whom Breckinridge could trust. One of these letters was signed by a man who lately held a seat in this House! [Cries of 'Name him!'] from the Democratic side of the House.] I will produce the letter in due time. It is not here with me. The other letter was from an associate of his, prominent in the local Democratic politics of the State of Indiana. I am responsible for producing those letters. [Cries of 'Name!']"

"Mr. HOLMAN. I hope the gentleman will give the names now."

"Mr. GARFIELD. When I produce the letters any further testimony that may be called for can be had at his hands."

It will be seen by this statement that the gentleman pledged himself to the House and the country to produce the letters referred to, and any further testimony which might be required at his hands. The charge was boldly and explicitly made, and the responsibility distinctly assumed. I was not present when this announcement was made, and I heard of it with profound amazement. I did not deem it possible that a gentleman occupying a seat on this floor would thus make an unqualified statement of a fact which implied crime of the highest character, unless he had, as he asserted, the fullest and most satisfactory

evidence to sustain him. I therefore awaited the production of these letters with a very natural anxiety. Public expectation, too, was stimulated and aroused by this positive proclamation of treason on the part of two prominent members and leaders of the Democratic party of Indiana. It was supposed by all those who hunger and thirst for the destruction of that grand old party that its day of doom was near at hand.

Sir, the promised blow after a tantalizing delay fell. The gentleman from Ohio arose on the 19th of April to redeem the pledge which he had so solemnly made. In order to show that he himself appreciated the gravity and serious nature of the charge which he had made, and which he now proposed to prove, and in order to call attention to the facts as detailed by him, I quote his language in full on that occasion:

"Mr. GARFIELD. Mr. Speaker, I desire the attention of the House for five minutes. When submitting some remarks in the House a few days ago in reply to the speech of my colleague, [Mr. LOUG], I made a very grave charge against some of the leaders of the Democratic party, alleging that they were in correspondence with rebels, and was called upon to produce the documents to which I referred. I take this occasion to do so. Before producing them, I wish to say a word in regard to them. It is a very grave matter for a member to rise in his place here and say that leading men of any party in the North are actually in correspondence with leaders in the rebel army. I made that statement, but not without a full knowledge of what I said. I have had opportunities for knowing of the existence of such correspondence—more, perhaps, than most other gentlemen here.

"These letters came into my possession in the following manner: we had learned in the army of the Cumberland that some of our regiments were being corrupted, that attempts were being made by parties at home to induce them to desert. This had become so great an evil with some regiments from southern Indiana and southern Illinois that we sent several of our secret service men into those States to find out, if possible, who were engaged in this business. Among others was a young man who had resigned a commission, nearly a year before, in consequence of ill-health. He consented to go to southern Indiana, believing he could not only find out these men but could get recommendations from prominent rebel sympathizers that would enable him to get through the lines into the rebel army. The result of this mission into Indiana was that he obtained two letters, the copies of which I now hold in my hand.

"When the letters were brought to me, I immediately called some Indiana officers who knew the authors and were acquainted with their handwriting. It was necessary that the scout should take with him into the enemy's lines the original letters, which, being recognized by Breckinridge, would serve as passes. I therefore took exact copies of them, placing them under tissue paper and tracing them as accurately as possible, so as to preserve the characteristics of the handwriting. Out of regard to the young man himself, I have omitted his name, as its publication might bring him into trouble. He went through the lines, and immediately afterwards the campaign began, ending with the battle of Chickamauga, and I have never heard of him since. I will now ask that the letters be read at the Clerk's desk.

"Mr. ELDRIDGE. I should like to ask the gentleman a question first.

"Mr. GARFIELD. Let the letters be read first.

"The letters were read, as follows:

GREENCASTLE, INDIANA, July 1, 1863.

DEAR SIR: I take this method of introducing to your favorable consideration Mr. ———, a resident of this place. Mr. ——— wishes to enter the service of the South in some capacity, so that he can be of some assistance to your cause. I can safely recommend him to you as an energetic and faithful man in any capacity you may place him, and I know that he can be of valuable assistance to you. Mr. ——— was for some time connected with the Union Army, but became disgusted with the party in power and resigned in consequence thereof. Any favor that may be shown him will, I am satisfied, never be betrayed.

I am, General, very respectfully, your obedient servant,  
D. R. ECKELS.

General JOHN C. BRECKINRIDGE, C. S. A.

ROCKVILLE, INDIANA, July 14, 1863.

DEAR SIR: I take great pleasure in recommending to your favorable acquaintance the bearer, Mr. ———, of Greencastle, this State. He wishes to visit the South, and not be subjected to any danger from such a visit.

Mr. ——— was connected with the Army for some months as a quartermaster of the —th Indiana volunteers, but resigned immediately after the evacuation of Corinth, Mississippi, by your forces, and has had no sympathy or connection with the Army since. Any duty he may agree to perform, you may rely upon it that it will be faithfully done. Any favor shown him will be reciprocated by me whenever any opportunity offers.

I am, General, yours, with much respect,

JOHN G. DAVIS.

Major General JOHN C. BRECKINRIDGE.

"Mr. GARFIELD. The last letter bears the signature of a man who was a member of the Thirty-Second, Thirty-Third, Thirty-Fourth, and Thirty-Sixth Congresses, and the predecessor of the gentleman from the Terre Haute district, [Mr. VOORHEES.] The other was a judge in Utah under Buchanan, and is also a prominent Democratic politician in the same district. Both are the gentleman's [Mr. VOORHEES's] constituents."

Mr. Speaker, I was present when the gentleman from Ohio made the above remarks and pro-



duced the foregoing letters. I saw at once that the district which I have the honor to represent had been chosen for this assault, and that two of my personal and political friends had been selected as the victims of party malice. I perceived, also, that the gentlemen aimed at were among those most dreaded in political warfare by their political adversaries. I could at that moment, with a clear conscience, have announced my perfect confidence in their innocence and denounced these letters as forgeries. I preferred, however, as I then stated, to pursue a different course. I knew that my knowledge of these gentlemen was not fully shared by the members of this House, and that my word, unaided by evidence, would weigh but little under the circumstances with those who have made up their minds to believe any calumny, however great, if it attaches to a member of the Democratic party. I therefore took my time, as the gentleman from Ohio did his, to produce testimony, but with a far different result, as I shall speedily demonstrate.

But let us pause at this point a moment and see how this case stands and what are the issues made and tendered by the gentleman himself. He said that he would produce these letters. He has not done so, and I call upon him to do so now. Copies even if correctly made do not comply with this bold and defiant promise unless they are proven by competent evidence. The copies here produced are attended by no proof at all that they are copies of letters written by Mr. Davis and Judge Eckels. The gentleman said that he "immediately called some Indiana officers who knew the authors and were acquainted with their handwriting." He leaves us plainly to infer that he was assured by them that the letters were genuine. Who are these officers? Where are their statements? The gentleman will remember that he stands pledged to produce any further testimony which may be required at his hands in connection with this case. I demand this and have a right to it if it is in existence. If it is not the gentleman will doubtless have the candor to say so. He alludes to his first statement on this subject, and says that he did not make it "without a full knowledge of what he said." The time has now arrived for him to make that avowal good or unqualifiedly retract the charge which he has made against two unoffending private citizens. He says that he took exact copies of these letters "placing them under tissue paper and tracing them as accurately as possible so as to preserve the characteristics of the handwriting." Where are these accurate copies? I demand their production. They were not the ones read at the desk on the 19th. Those were simply copies of copies. The gentleman states that the spy took the originals with him into the rebel lines. This accounts for their absence, but where are these tissue paper copies which show the handwriting of the parties charged? The telegraph and newspaper correspondents all in the employ and under the control of the gentleman and his party friends have flooded the country with the positive assurance that the gentleman from Ohio was abounding with overwhelming proof of the authenticity of these letters, and that I would not dare to call them in question. Sir, let the gentleman now make good the vaunting boast of his friends.

I do not thus call upon the gentleman from Ohio in any spirit of recrimination for the assault, the cruel assault which he has made on Mr. Davis and Judge Eckels, and through them on the Democratic party, nor on account of his particular allusion to the fact that these gentlemen are my constituents. Their characters will not suffer at his hands; the Democratic party will survive his blows; and I esteem it the highest honor to be reminded even by way of taunt that John G. Davis and Delana R. Eckels are my constituents. But it is my right and my duty to demand the proof by which this atrocious charge is sustained. The rules of evidence imperatively require that the author of a charge shall support it with his evidence before the party charged is called upon to defend. In the absence of such evidence, I might content myself with simply denouncing these letters as forgeries upon the denials of the two gentlemen charged with writing them.

But it happens fortunately for the cause of innocence, justice, and truth, that I am under no necessity of thus standing in an attitude of de-

fense. The gentleman from Ohio having failed to produce evidence to sustain his deliberate and solemn statement, I will assume the affirmative and prove by clear, conclusive, and unimpeachable testimony that these letters are base, impudent, deliberate forgeries; acknowledged to be such by the spy who forged them, and from whom the gentleman from Ohio obtained his copies. I will prove by Republican testimony that the spy wrote them himself at a distant part of the State from where these gentlemen reside, and that he made no disguise with his friends of the purposes for which they were forged. I will first, however, submit the denials of the gentlemen themselves who are arraigned upon these forgeries. You have already heard read the telegram from Mr. Davis to me on this subject. I now produce the following letter:

TERRE HAUTE, April 21, 1864.

SIR: Inclosed find a publication made in the Terre Haute Express this morning.

This assault was first made upon me on the floor of Congress, where I have no voice. The whole thing is a wicked, malicious, and despicable forgery. General GARFIELD has evidently carelessly suffered himself to be imposed upon. He certainly cannot wish to do me a willful injury.

With Rankin I have no personal acquaintance. I only know of him through the channels of public reputation; and I may add that his character is universally condemned. I have not only written no such letter in his behalf, but I never wrote to John C. Breckinridge on any subject in my life.

Yours, respectfully,  
HON. DANIEL W. VOORHEES

JOHN G. DAVIS.

I take the liberty also of reading a portion of a private letter from Mr. Davis to me on this subject. I do it to show, among other things, the keen inflection which has so wantonly and ruthlessly been brought upon an innocent, proud-spirited man:

TERRE HAUTE, April 23, 1864.

MY DEAR FRIEND: To-day I feel able to write you this line, though so badly I fear you will not be able to read it. I have just received your dispatch. All right so far. You will have received the Sentinel before this reaches you, containing a well-written article and a satisfactory statement of the forgery and origin of these letters. It is conclusive. This statement, with my letter and such other evidence as may come to hand before you address the House on this stupendous villainy, you will of course use.

Was there ever before in the history of crime such a bold and devilish attempt to malign and destroy the character of man? Has hellish malevolence ever before been so apparent?

Demand of GARFIELD the original letters. Make him disclose who has them and who furnished the copies. Let him show "his additional documentary evidence of the authenticity of these letters," which he has had vauntingly telegraphed over the country that he had in his possession.

Oh, my friend, how sadly have I felt the want of my former good health within the last four days! But I must bear patiently the will of him who does all things for the best. Language would utterly fail to describe my feelings. I must leave you to judge.

I leave my case and my character, which is much dearer than life, in your hands. I know you will not let it suffer. Sincerely your friend,  
JOHN G. DAVIS.

HON. D. W. VOORHEES.

I will further state that Mr. Davis has pronounced the letter attributed to him to be a forgery in various newspapers in Indiana.

I will now submit the denial of Judge Eckels, which is contained in the following telegram:

GREENCASTLE, April 30, 1864.

HON. D. W. VOORHEES:

The letter read in the House by General GARFIELD, purporting to have been written by me to John C. Breckinridge, is a base forgery. I have no personal acquaintance with Mr. Breckinridge, and have never written him on any subject.

D. R. ECKELS.

I read also the following letter, just received:

EEL RIVER, April 28, 1864.

SIR: I have this evening seen for the first time a letter purporting to have been written by me to John C. Breckinridge, recommending Oliver Rankin, and read by General GARFIELD in Congress, and I avail myself of the earliest opportunity to declare it a base forgery. I have no personal acquaintance with Mr. Breckinridge, and have never written to him upon that or any other subject.

I am living on my farm fourteen miles from my post office, and have not received my mail for two weeks; but for this you would have heard from me sooner.

Your obedient servant,

D. R. ECKELS.

HON. D. W. VOORHEES.

The House is now in possession of the replies which these injured and outraged gentlemen have seen fit to make on the subject of these letters. I will next call a witness who proves this forgery affirmatively and explicitly. I read now a statement voluntarily made by Mr. Hays, of Indianapolis, a Republican in politics and greatly to his honor, capable of doing an opponent an act of justice when wrongfully assaulted:

INDIANAPOLIS, April 21, 1864.

The undersigned was well acquainted with Oliver S.

Rankin. The last time I saw him was at the Little's hotel in this city, in July, 1863. I have read the letters read by General GARFIELD in the United States House of Representatives, dated July, 1863, purporting to have been written by Hon. John G. Davis and Hon. D. R. Eckels, (or Eckels,) introducing said Rankin to John C. Breckinridge, a general in the rebel army. To my knowledge those letters were written at the desk in the office of Little's hotel. I saw them written and I read them after they were so written. Neither John G. Davis nor D. R. Eckels had any participation in or knowledge of the matter whatever. The said Rankin was acting in the capacity of a spy. He had as such crossed the rebel lines three times. The last time his friends heard from Rankin was three days before the battle of Chickamauga, and then he was at Bragg's headquarters, and they now suppose him to be dead. The object the said Rankin had in view in writing the letters referred to was to aid him in case he should be arrested by the rebels, as he thought such letters would recommend him to the rebel authorities in such an event, and help conceal his true character.

I make this statement as a matter of justice to Messrs. Davis and Eckels, whom I know, and with whom I have no political sympathy. It was the purpose of Rankin to have destroyed the letters named above if he had returned from his mission in safety.

Mr. Rankin was a staunch Union man, and an excellent officer. His daring and bravery had received many commendations from his superior officers. General Manson complimented him very highly in his official report for his services at the battle of Mill Springs.

J. McD. HAYS.

But, Mr. Speaker, I will be asked who Mr. Hays is, and whether his character may be relied on for integrity and veracity. I am ready to answer on that point. I submit in corroboration of his evidence the statement of Mr. Hyde, which is as follows:

INDIANAPOLIS, April 27, 1864.

This is to certify that Mr. J. McD. Hays has been in my employ, as clerk of Little's hotel, for the past two years, and that I have all confidence in his integrity and veracity. It is also within my personal knowledge that the letters of introduction purporting to have been written by John G. Davis and D. R. Eckels, in July, 1863, to John C. Breckinridge, recommending one Rankin to his confidence, are forgeries, and that they were written as stated in the published statement of Mr. Hays in the Indianapolis Daily Sentinel.

A. R. HYDE,  
Proprietor of Little's Hotel,  
Indianapolis, Indiana.

I also submit to the House the following statement of ten worthy and respectable citizens of Indianapolis:

INDIANAPOLIS, April 27, 1864.

The undersigned are well acquainted with Mr. J. McD. Hays, clerk in Little's hotel, of this city, and they take pleasure in stating that he is a young gentleman of strict integrity and veracity.

A. GALVIN,  
CHARLES SAUER,  
W. J. HAWKART,  
J. J. SWIGGERT,

MILTON A. OSBORN,  
Captain Twentieth Indiana Battery.

WILLIAM H. SALTER,  
Deputy Secretary-Mississippi Insurance Company.

D. C. MINICK,  
D. H. CHASE,  
A. C. BRYANT,  
R. S. CUNNINGHAM.

In addition to the foregoing I will read a letter which my colleague [Mr. HOLMAN] has handed me for that purpose:

LAWRENCEBURGH, INDIANA, April 25, 1864.

DEAR SIR: I notice in the newspapers a statement to the effect that General GARFIELD, of Ohio, had made an exposé of what purported to be two letters from Hon. John G. Davis and Judge D. R. Eckels introducing a certain individual by the name of Rankin to the rebel General John C. Breckinridge, who was desirous of obtaining a position in the confederate army. Since this exposition was made I have seen a statement made under oath by J. M. Hays, principal clerk in Little's hotel, Indianapolis, in which he says that from actual observation he knows those letters are forgeries, because he not only saw them written, but read them after they were written. From a personal knowledge which I have of the character of Mr. Hays for truth and veracity I do not hesitate to give his statement full faith and credit. I know him, and have known him for more than three years intimately, and I am fully persuaded he would scorn the idea of giving such a statement to the public to screen any man unless truth justified him in doing so. You know very well I do not indorse the position which Messrs. Eckels and Davis occupy in regard to the war; but I think I am doing nothing but justice in making this statement. There is too strong a tendency on the part of such parties as General GARFIELD to keep the public mind in a constant state of fermentation by starting upon the winds such humbug charges as the one in question, and hence where their slanderous declarations can be refuted it ought to be done.

Very truly yours,

HON. WILLIAM S. HOLMAN.

P. S. You are at liberty to show this letter to Mr. Voorhees if you are so disposed.

Yours, &c.,

O. F. R.

Mr. Roberts, the writer of the above, was four years a representative in the Indiana Legislature from the county of Dearborn, and was one of the ablest and most prominent members of that body. There is not a more highly reputable gentleman

in the State, nor one whose word would weigh more in determining a controversy. My friend and colleague [Mr. HOLMAN] will bear cheerful testimony to this fact.

Mr. HOLMAN. I have known Mr. Roberts intimately a great many years—from his boyhood. He resides in my county; and I can fully indorse all that my colleague has said in reference to his reputation and character. He is a man of undoubted integrity.

Mr. VOORHEES. But as if a special providence was assisting in the explosion of this wicked calumny, I am enabled to produce the following statement which appears in the Indianapolis Journal, the State organ of the Republican party in Indiana. I know Captain Osborn well, and he is worthy of all confidence:

"He (Captain Osborn) is a resident of Greencastle, and well acquainted with both Eckels and Davis. He says while General Rosecrans was lying at Tullahoma last summer he (Captain Osborn) was at Nashville, and was there visited by one Oliver Rankin, of Greencastle, with whom he had had some previous acquaintance. In the course of a conversation during his visit, Rankin said to Captain Osborn that he intended to try to get through the lines into the rebel army as a sort of 'outside' spy. Being asked how he intended to do it, he said General Rosecrans would pass him through, and once in the rebel lines he had letters that would secure him good treatment. And he exhibited letters purporting to be introductions from John G. Davis and Judge D. R. Eckels to General John C. Breckinridge. 'If you depend on those letters,' said the captain, 'you may find yourself in a difficulty. They are forgeries. I know the handwriting of both Davis and Eckels well, and they never wrote them.' Rankin then admitted that they had not, but that they were imitations got up in this city. He nevertheless declared his intention to go on through the lines. He went down soon after to Tullahoma to headquarters, and made his application to General Rosecrans for a pass. It was peremptorily refused, the general saying with some warmth, 'I will not have your blood on my skirts.' Rankin then professed to have some knowledge of the movements of the rebel sympathizers in this State, and to have been in their confidence, and he proposed to come back here and obtain evidence upon which proceedings might be based against them. At the same time he exhibited the letters to Breckinridge as corroborating evidence of his statement. The matter was, as it might well be, deemed of importance enough to merit consideration, and General GARFIELD took copies of the letters, as he stated in the House when they were read. Rankin started back to Nashville ostensibly for Indiana, on his new mission, and there again called upon Captain Osborn and gave him the account which we have reported of the interview with General Rosecrans. The next day, or soon after, he went South instead of North, and probably passed the rebel lines, but nothing has been certainly learned of him since. He left the originals of the letters with some woman in Nashville, but Captain Osborn did not know her name or residence.

"This statement, which cannot be questioned so far as it rests upon Captain Osborn's own knowledge, and the material portion of it does, confirms the statement of Mr. Hays, and completely exonerates Davis and Eckels, and also it exonerates General GARFIELD from any imputations of using forged documents knowingly or carelessly."

Here, sir, I may well pause and ask whether a refutation was ever so complete as this? Did a conspiracy to ruin the characters and perhaps take the lives of private citizens ever come to so shameful and ignoble an end? Well may the Cincinnati Commercial, a leading Republican paper of the gentleman's own State, make the following admission:

"John G. Davis, of Indiana, ex member of Congress from the Terre Haute district, has telegraphed Mr. D. W. VOORHEES that the letter of introduction purporting to have been written by him to John C. Breckinridge for one Rankin, a copy of which was produced upon the floor of Congress by Mr. GARFIELD, is a forgery. This statement is confirmed by Mr. J. McD. Hays, a clerk in Little's hotel, Indianapolis, who states that the letters in question were 'to his knowledge' written at the desk in the office of Little's hotel. He says, 'I saw them written and read them after they were written. Neither John G. Davis nor D. R. Eckels had any participation in or knowledge of the matter whatever.' Mr. J. McD. Hays, we understand, is a respectable young man, and his positive testimony may be accepted as conclusive."

But, Mr. Speaker, in addition to all this evidence so conclusive in its character, there is still one further fact more overwhelming, if possible, to the minds of those who are acquainted with these parties, than all others. It will be remembered that the gentleman from Ohio withheld the name of this spy upon the introduction of these letters here. I consequently had no means of knowing who he was till I saw his name in the public prints. It is a very familiar name to me. I know Orville S. Rankin, knew his father and his grandfather before him, and when I saw it gravely stated that he had procured confidential letters of introduction from John G. Davis and Delana R. Eckels to John C. Breckinridge, of a character which placed their lives and fortunes in his hands, it became a question in my mind whether the infamy

or the absurdity of the statement preponderated. He is a young man who was raised from his infancy in Greencastle, a close neighbor to Judge Eckels. He is violently opposed, politically, to both these gentlemen, and they as well know it as I do. He could no more deceive either one of them in regard to his views than I could deceive this House in regard to mine; nor would it be any more reasonable or less ridiculous for him to approach one of them for such a letter as is here produced than it would be for me to approach the gentleman from Ohio for a letter of introduction to Edwin M. Stanton recommending that I should obtain a contract by which to plunder the Government. He would have been spurned from their presence, and most likely with blows. And, sir, these important facts could all have been as well known by the gentleman from Ohio as they are by me if he had simply written to any intelligent member of his own party residing in Greencastle before he made himself responsible for this charge on the floor of this House. There is not an honest man in all the county of Putnam, of which Greencastle is the county seat, but what would have assured him that he would become the subject of mockery and ridicule in taking the course he has. Orville S. Rankin obtaining letters from Delana R. Eckels and John G. Davis to enable him to enter the service of the rebels! If it were not for the grave consequences of such a charge it might well be regarded as the most stupendous jest of this joking and jesting Administration.

A word or two now in regard to this young man Rankin. He is said to have been a good officer, and as such I commend him. But there is deep and damning villainy somewhere in this infamous transaction. I have proved beyond the possibility of a doubt that Rankin forged these letters and made no disguise of that fact. On the contrary, he left living witnesses to the forgery at Indianapolis when he started South. He knew their fraudulent character could be proved by Hays and Hyde, whose statements I have produced. He also knew that Captain Osborn was in evidence against him. Yet, knowing all this, he returns to the army of the Cumberland, according to the statement of the gentleman from Ohio, and there in the confidential character of a spy submits to him these acknowledged forgeries, assures him that they are genuine, and leaves copies in his hands to be used for the ruin of Mr. Davis and Judge Eckels. He does this, too, after assuring Mr. Hays that he intended to destroy these forged documents after they had served his purpose in saving his life, perhaps, if arrested as a spy in the rebel lines. Such an act of baseness and perfidy, sir, is without a parallel for atrocity in design or cool and hardened rascality in the execution. From my knowledge of young Rankin and his family it would be wholly incredible if I had not the word of a member of this House to its truth. The publication of these letters has most likely cost Rankin his life. If he is in the rebel lines, as stated by the gentleman from Ohio, they will lead to his execution as a spy. While this is a poor return for a general to make to his spy, sent by him on this perilous duty, yet there will be less sympathy felt by all honest men for his fate than if he had not thus attempted to ruin two honorable men who had never wronged him by word, thought, or deed.

And now, Mr. Speaker, it will be remembered that I fully indorsed Mr. Davis and Judge Eckels as men of character, honor, and patriotism when they were first assailed in this House. I stated that they were incapable of this treachery to the Government under which they lived. For this I have been bitterly denounced by a servile and mendacious press. I now, however, repeat what I then said. I know these gentlemen well and have known them long. Judge Eckels has been a leading lawyer in Indiana for thirty years. He was on the bench when I came to the bar, and I made one of my first appearances when a mere boy in his court. From that hour to this I have admired his keen and powerful intellect, and the fidelity of his nature. He served with distinction on the bench of the Federal judiciary for some years, and in every position in life has proved himself an able friend of the Constitution and laws. He does not believe that the best way of preserving the Constitution is to destroy it.

He abhors the destructive policy by which the party now in power brought on the war of sections in which we are engaged, and he has no hope of union, liberty, or peace while that party retains its seat of power. In these views, sir, I am his faithful Representative.

Mr. Davis, sir, is no stranger in this House. He was my immediate predecessor, and served here with honor to himself and usefulness to the country for eight years. Who has left behind him here upon retiring to private life a more unblemished reputation than John G. Davis? Who ever breathed upon his integrity as a legislator? Whose word was more binding upon all who knew him? Who displayed a sounder or more practical talent for business, or abler or more patriotic views of the duties of statesmanship? There are many gentlemen here now on this floor who will bear testimony to the estimate which I place upon his character. And it will be a deep gratification for him to know that of all those who once served with him not one have I heard of, without regard to politics, but what has expressed his disbelief of this charge. His great common sense, for which he is proverbial, as well as his attachment to the laws of his country, alike forbid such conduct on his part. Mr. Davis is an excellent judge of men, and has been honored by the people with official station almost continuously for thirty years, from very early youth to the full meridian of life. In every station to which he has been called he has displayed striking ability, unsullied honor, unquestioned courage, and a will and energy that have seemed at times to court obstacles for the pleasure of overcoming them. His political views, however, are not those of the majority of this House. But they are mine, and I will defend them on all proper occasions.

Sir, these are the men whose destruction is sought by the felon's art and the forger's talent. It is no common game against which the gentleman from Ohio has flown his unhooded falcon of detraction and slaughter. He has used his high eminence from which to hurl his poisoned javelin at the breasts of private citizens of approved worth and tried reputations. It has, however, fallen harmless to the ground. I pick it up and send it back, and if it fails to transfix the gentleman from Ohio in public odium it will be because of his prompt retraction and reparation—all the justice which he now has in his power to make.

Sir, I will dwell but little longer on this matter. The injury was inflicted on Mr. Davis and Judge Eckels here, and here it must be corrected. They have both been arraigned before the country, throughout all its length and breadth, as criminals of the darkest hue. Whether even this ample vindication will overtake and correct a falsehood so delicious to the Republican party, is a matter of doubt. Every paper, great and small, in the interest of that proscriptive party has published and emblazoned this charge for party purposes. How few will ever notice the fact that their capital was obtained by forgery!

We have all experienced this evil. A calumny once started has the wings of the wind, and its dark pinions never tire. One moment you think you have struck it down forever, but in an instant after, like the bat in the room at night, it starts up and flutters with its clammy and disgusting features in your very face. This has been my fate ever since I entered public life. This may be the fate of the gentlemen who have been the victims of this forgery. I see it stated in the papers that there is no doubt but that I have written similar letters. I am prepared to hear them read any day. The only wonder is that it has not been done before. It has been persistently asserted by the abolition press that the Democratic party is treasonable and its members are traitors. This is a monstrous lie, of course, but it is necessary to prove it; and whatever of forgery, perjury, and subornation of perjury is found necessary for that purpose will be forthcoming. Doubtless many good people will always believe that McClellan had a secret interview with Lee after the battle of Antietam. It was published from ocean to ocean, but with what a snail's pace does the truth follow the falsehood! In view of such instances I am sometimes discouraged as I look on the conflict which is perpetually waging between truth and error. A few days since in glancing at an article in one of our monthlies I found a description of

this evil so graphic and so perfectly expressive of my sentiments, that I adopt it as my own on this occasion:

"The man who turns to combat error needs the assurance of the true instincts of his race, for he enters on a task that must seem hopeless often.

"Truth crushed to earth will rise again;"

so Mr. Bryant tells him, and he is much obliged to Mr. Bryant. But will not error do just the same? He killed a lie yesterday and buried it decently. He finds it alive again and prosperous to-day. Cut a man's head off and he dies. There is no help for it unless he is a St. Denis, and then he can only take a walk with his head in his hand. But, if he is not a St. Denis, he dies. That is the law. Cut the head off a lie it does not die at all. It rather seems to enjoy the operation. You will meet it like fifty St. Denises, on every morning during your lifetime. They have a marvelous vitality. I meet lies every day that, to my certain knowledge, were put to death a hundred years ago, by master hands at the business, too. They ought, in decency at least, to look like pale ghosts revisiting the glimpses of the moon, but they don't. They are snug, comfortable, and somewhat portly, as from good solid living.

"Now, this is discouraging, somewhat. But there is no good in shutting one's eyes to the fact. That is what I am going against. It is best to know that lies die hard. They will bear at least as many killings as a cat, and that is nine! Still, much depends on the manner of the operation. How is it best performed? Knowledge is needed in all pursuits. There is a science undoubtedly in killing lies. If you wish to go into the business, and I trust most honest men do, you need to study it somewhat. Otherwise you will waste much effort and get few results. It is not easy to kill one wolf with a stick, but call science to your aid, and an ounce of strychnine well administered will do the business for a pack. Instead of going into a rough-and-tumble fight with some coarse, rude, vile lie, and mauling it to death by sheer force of muscle, it is better to use science, and put it to death neatly, cleanly, and delicately, with unsoiled hands. Let us see if we can find the science of killing lies."

Now, Mr. Speaker, I do not know whether I have succeeded in killing this lie to-day or not. I have, however, brought all the science of which I am master—the science of truth—to bear upon it. If it lives after this it will at least be hooted as a guilty, felonious thing by all honest men. It may travel hereafter, but it will be with a crippled gait and wearing the brand of a condemned thief. It can no longer harm John G. Davis and Delana R. Eckels. It may sully and stain those who hereafter attempt to introduce it into respectable company.

Inasmuch, sir, as I understand that it is the purpose of the gentleman from Ohio to retract the charge he has made if the evidence should appear sufficient to his mind, I have endeavored to refrain from all remarks of a character personally offensive, and have only indulged in such reflections as necessarily and inevitably arise out of the nature of this transaction and his peculiar and prominent connection with it.

I will now yield the floor to him that he may take such a course as justice and right may seem to demand at his hands, reserving the privilege of resuming the floor upon his conclusion if I desire to do so.

Mr. GARFIELD. A few days since, in conversation with the gentleman who has just taken his seat, on its being intimated to me by him, and also having seen it alleged in the public prints, that the letters in question were forged, made in the city of Indianapolis, I told him then and I still say that I should prefer, if it be proved that those letters were forged, to make a statement myself in vindication of the parties against whom the charges were made. I regret that the gentleman did not sallow me his evidence before he made his remarks.

Nevertheless, I ask the attention of the House for a few moments to some points which have been made in the remarks just submitted. I had not up to the moment of the gentleman's speaking heard that Judge Eckels had made any denial whatever. The only denial which had come to my ear was that of Davis, which was read to the House nearly a week ago.

According to the rules of evidence, the gentleman says, I should have proved the substance of what I have produced here as if before a court of justice. I wish to remind the gentleman that this is not a court of justice, and that we are not, in the conclusions to which as members of this Congress we are expected to come, required to proceed in the manner of deliberations customary in courts of justice. Nor do the evidences submitted to our minds need to be of that character before we form an opinion and act upon them. I did not pretend then, I do not pretend now, nor have I ever pretended that I had evidence in my

possession on which before a court of justice I could have established the truth and genuineness of those letters, and I am willing to bear any evidence in proof that they are forgeries.

Allow me to say a word more in reference to the letters themselves. Before placed in my hands they were delivered at Nashville to the chief of Army police of the army of the Cumberland, and examined by him. The person named in the letters, and who delivered them to the chief of police of the Army, was placed under his oath, and certified copies of the letters were made on the books of the police department, and he testified that they were genuine letters. He then came forward to the front nearly a hundred miles, where we were, and submitted the letters to the general commanding the army and to myself. After deliberation, after calling upon a number of individual officers who were familiar with the writing of the gentlemen from whom the letters purported to come, the unanimous conclusion of the officers at headquarters was that the evidence of the genuineness of the letters was satisfactory. I made the tracing as I stated when this matter was last before the House, and I have here my private letter book in which I made these tracings. The gentleman is at liberty to examine it at any time he chooses. It may be that it may furnish a clue to the original handwriting. If it does I shall be glad.

Mr. VORHEES. Will the gentleman allow me to look at it now?

Mr. GARFIELD. Certainly. I have before me a letter from the chief of police of the army of the Cumberland, in which he also states that these letters were thus copied on his official records in his books, and certified to by the person bringing them as genuine.

Gentlemen will see at a glance the propriety of sending the originals through the lines, and not copies; for any copies we might make, if these letters were really genuine, would of course be of no avail to the party carrying them, but would subject him to extreme personal danger. It does not amount to anything, therefore, that the supposed writers of these letters say in such a defiant tone, "Demand of General GARFIELD to produce the originals." It is a very modest demand, indeed, after I have stated publicly that the originals were not in my possession, and had given the best possible reason why they were not. No one could expect me to produce the originals, unless, perchance, the party himself had returned through the lines and retained them, which is very improbable, as he would doubtless deliver them to the officer to whom they were addressed.

Such were the evidences which I deemed entirely sufficient for my action in this House; but I never at any time deemed it sufficient evidence to establish the fact before a court of justice.

Now, sir, what answer has been made by the gentleman from Indiana? He answers, in the first place, by reading a printed letter in a journal published in Indiana, which journal I have in my hand, and that is called evidence on which we are to believe that these letters were forged in the city of Indianapolis. I ask the gentleman why he did not produce the original letter of Mr. Hays? Perhaps he has it.

Mr. VORHEES. The paper containing the letter of Mr. Hays was forwarded to me with a letter from the editor stating that it had been obtained and published. I have not the manuscript; it was put in the printers' hands. But the gentleman from Ohio will allow me to settle that question. I have here the statement of Mr. Hyde, who says:

It is also within my personal knowledge that the letters of introduction purporting to have been written by John G. Davis and D. R. Eckels, in July, 1863, to John C. Breckinridge, recommending one Rankin to his confidence, are forgeries, and that they were written as stated in the published statement of Mr. Hays in the Indianapolis Daily Sentinel.

A. R. HYDE,  
Proprietor of Little's Hotel,  
Indianapolis, Indiana.

Mr. GARFIELD. It struck me as a little remarkable that the affidavit of the gentleman who saw these letters forged should not have itself been sent here; but that in place of it a printed statement in a political journal should be read as evidence, together with a letter, purporting to be an original letter of another party, vouching for the general and special truthfulness of this gentleman whose printed letter appears before us. It must

of course go to the House for what it is worth. I shall be very glad, on seeing the original affidavit made by this party thus vouched for, to believe that the statements thus made are correct, and that I myself, together with all the officers at the headquarters of the army of the Cumberland, were deceived. But I must have more than newspaper evidence.

The gentleman has said it is morally impossible that Mr. John G. Davis and Judge Eckels could have written such letters to such a man for such a purpose. If there is any one evidence which has been to my mind stronger than all others from the beginning of this matter and now, it is the moral evidence that the letters were not forgeries, in this: here was a young man who knew very well from his acquaintance with the parties that they were personally known to General Breckinridge, and yet he proposed to stake his life on these papers as a pass for him through the rebel lines and inside the rebel camps. I ask if it is reasonable that this young man, intelligent as he evidently was, would dare to risk his life in presenting a forged paper to a man who very well knew the signatures of the gentlemen whose names were subscribed? A man might attempt something of that kind for a temporary gain in which life was not involved, but it seemed to me the fact that that young man was entirely willing to risk his life in that manner was the best proof of his sincerity. It seemed to me the very strongest moral evidence possible that he had faith in the genuineness of these documents. And in addition to that, what need was there that he should have certified on the official books of the police of the department that they were genuine letters? What need was there that he should have concealed from his associates the character of these letters if they were really forgeries? With all the terrible consequences to himself before him he went into the enemy's country with those letters as his passports. He could have gone through the lines without them; and they could only have been valuable to him by being genuine. On any other basis his act is not easily explained, for it would lack the usual motives that govern men.

Mr. Speaker, there is another fact. He would not have dared to go with those letters, even if they had been genuine, had he not known the character of the men who were the alleged authors. He would not have taken a letter from you, Mr. Speaker, and gone through the lines to present it as a passport to high favor in the southern army. He would not have taken a letter from the distinguished Governor of your State for any such purpose. He would not have taken it from any man whom he did not know to be in full fellowship and sympathy with the people of the South and with their army. He was, to say the least, wise in his selection of parties, if he designed to commit a forgery. Even one of the affidavits that has been here read by the gentleman [Mr. VORHEES] certifies that these two gentlemen have no sympathy whatever with the Administration in its conduct of the war, or with the war itself. That much, at least, has been developed, that these highly distinguished and worthy gentlemen, constituents of the gentleman from Indiana, are totally averse to the war and its objects. These facts, in themselves, are very strong ones.

These letters were not produced by me from any deliberate purpose of accusation against any party or set of men. In the midst of a debate which it seemed to me was a crisis of our condition as a nation; in the midst of a debate when it seemed to me that all along the lines of the Union Army and among the people there were traitors arising, it seemed to me at that moment that these letters formed only one link in the great chain of evidence, and I threw them in for the purpose of apprising the country of what was going forward, not from any personal attack on any man or set of men. I never heard of the two gentlemen in question until the letters were brought to me; and I only knew of them then through the letters and through Indiana officers in the Army.

Throughout the army of the Cumberland these two gentlemen are believed to have been in sympathy and correspondence with the rebels. I am told that the same belief has long been shared by their fellow-citizens at home. If the gentleman [Mr. VORHEES] proves to the country that they



were not, he will not merely disabuse the public mind of what I have here said, but will do a far greater service to his two friends by disabusing the army of the West of the opinion which it has entertained from many mouths. I yesterday received a letter from General Rosecrans in which he expressed his full belief in the genuineness of these letters. I say this to show that I was not alone in my belief in this matter, and that I did not act without strong corroborating evidence. In conclusion, I will say that the exculpating evidence just presented by the gentleman, [Mr. VOORHEES,] coming, as it does, through the newspaper press and not by the original written affidavits of the parties, the letters have not been; to my mind, proved forgeries. If they were I have no pride of opinion that would keep me for one moment from retracting what I had uttered in the House. But I desire first to see the original affidavits.

I take no pleasure in personal or party accusations; and it will not be a matter of regret to me, but rather of pleasure, if these men be proved free of the charges. But I am unwilling, except on the fullest evidence, to believe that a generous and patriotic young man, engaged in a most perilous and difficult enterprise in the service of his country, has done that which would greatly increase his peril and tarnish an otherwise spotless name. It is a matter of painful regret to me that his name has been made public in this connection. It was done without my knowledge, and by some unfortunate mistake. I have, however, taken means which I hope will be effectual to shield him from personal harm if he is still alive. He has not been heard from since the battle of Chickamauga, and his friends suppose him to be dead. There may yet be further developments in this matter. No one can be more willing than myself to know and declare the whole truth in the case.

The SPEAKER. The hour of the gentleman from Indiana has expired.

Mr. VOORHEES. I ask the consent of the House for a few moments—not over five or ten minutes.

Unanimous consent was given.

Mr. VOORHEES. Mr. Speaker, I had supposed that when the gentleman from Ohio [Mr. GARFIELD] was put in possession of the information which I have laid before the House he would have gracefully and ingenuously retracted the statement which he made against these men. I had no doubt of it at all, especially from a conversation which he sought and had with me on this subject; and I do candidly think that if he is not convinced in his mind that the letters are forgeries he is the only man in the House who is not so convinced.

He speaks of articles published in the newspapers. I have produced but one such, the statement of Mr. Hays, and I have accompanied it with a manuscript statement of the proprietor of the hotel in which he is clerk certifying to the character of Mr. Hays, and further certifying that every fact contained in his statement as published in the Sentinel is true to his own personal knowledge.

Now, upon the subject of handwriting. The gentleman has submitted his book containing the copy of this forged letter, and I now ask the gentleman from Illinois, [Mr. ROBINSON,] who is intimately acquainted with John G. Davis and with his handwriting, to state whether he has examined that letter, and whether it bears any similarity to the handwriting of Mr. Davis.

Mr. ROBINSON. I have seen Mr. Davis write a great number of times, have received a great many letters from him, and there is no similarity in the handwriting of the letter in this book to the handwriting of Mr. Davis—none whatever, that I can discover. There may be a very slight similarity in the signature, but upon looking over the body of the letter, it is as unlike the writing of John G. Davis as one man can write unlike another. Mr. Davis writes a round, bold hand, utterly dissimilar to that of this letter in every respect.

Mr. VOORHEES. I will now ask Judge HOLMAN, if he is in the House, whether he has examined that letter, and whether it bears any resemblance to the handwriting of Mr. Davis. I am told that my colleague is not in the Hall.

Now, Mr. Speaker, I have submitted my proofs on this question of forgery. I shall bid it fare-

well, perhaps forever, leaving the House and the public to form their own judgment of the sufficiency of the evidence which I have presented.

I confess to a feeling of disappointment with the course pursued by the gentleman from Ohio. He says he is not yet convinced that these letters are forgeries. I apprehend the House as well as the country are convinced of that fact, as even the entire newspaper press of his own party in the western country, so far as I have seen, admit that they are palpable forgeries.

And now, sir, in view of the course of the gentleman from Ohio, I am constrained to say what I regret, for I did not wish to utter anything personally offensive, that hereafter whoever undertakes to hold up this exploded calumny, this detestable forgery as genuine, whether the gentleman from Ohio, or any one else, he will wear the brand of a forger and calumniator himself. That is all I have to say.

#### REBELLIOUS STATES.

The House then resumed, as a special order, the consideration of the bill (H. R. No. 244) to guaranty to certain States whose governments have been usurped or overthrown a republican form of government, on which Mr. Cox was entitled to the floor.

Mr. COX. Mr. Speaker, my heart's desire and prayer to God is for peace and union to this distracted land. While urging undiminished and increased exertions by our Army and Navy to secure union, I have been ever ready to heal the wounds and check the ravages of war by all rational methods used among civilized nations. To those who can entertain but one idea at a time this position has seemed inconsistent; but to those who have read history it will appear that war is made for peace, and that to consummate peace in the midst of war, and to restore harmony in civil or international conflict, negotiation and friendliness are indispensable.

During the long and anxious years I have served here—from almost a youth to almost middle age—I have never failed to warn against the great crisis of force which came in 1861. These auguries have been unhappily too fully fulfilled. What could be done by an humble Representative to avert this strife, that I did. My constituents know this; and I might be content to leave this arena, conscious of their approbation for duty done. Since this war began I have sought but found no place for compromise in the dominant party. Hence I have mournfully though constantly, by vote and voice, upheld the sword, lest even a worse alternative—eternal separation and prolonged strife—should be our fate. The miseries which this war has entailed have not been the work of the northern Democracy; and if disunion comes through the open doors of Janus, if recognition of southern independence comes through war or its disasters, the Democracy are not responsible for the odium, and with my word and aid shall never be held responsible. Those who are swift to recognize southern independence may do so; but by all the memories of our conflicts with secession and abolition, I will never, never be counted among those who have aided in the dismemberment of the Republic.

Would that I could see in our present policy a gleam of hope for our future. How gladly would I hail it! But until that policy is reversed all our future is shrouded. Like my distinguished friend from Indiana, [Mr. VOORHEES,] whose dirge-like speech still haunts my memory, I see in the continuance of the present misrule only the throes of this giant nation, writhing in the despair of dissolution. The bloody sweat, the feverish pulse, the delirious raving, and the muscular agony go before that prostration which "Death, the skeleton, and Time, the shadow," have consummated for all republics which have, in evil hours, yielded the scepter of the people to the grasp of passion and the greed of power. The eloquent requiem which my friend pronounced, sounding like the wail of the bereaved among the tombs of the dead, should, if heeded, teach us, before too late, how beyond all price is the boon which is passing from us forever. He finds hope in autumn, for the spring will bring its bloom; hope in the storm, for the cloud will pass and the sun shine again; but no hope in the grave of our Republic—none, none for our dying Republic. Mr. Speaker, sadly as his thoughts have impressed me, I can yet see some

hope for our nation; for I believe in the success of Democracy, the immortality of civilization, and the grace of the Christian religion. While to him the future is black with a pall, I look beyond his prospect of the hearse and the tomb, the mourners and the darkened window, to the resurrection! The grave shall lose its sting and death its victory. The mourner shall be comforted. The light of a better dawn shall enter into the darkened chamber. I, too, go to holy writ as he did, but I go for the purpose of cheer and not of despondency, for I read there that "good tidings shall bind up the broken-hearted, and to them that mourn in Zion, give unto them beauty for ashes, and the oil of joy for mourning, and the garment of praise for heaviness." "And they shall build the old wastes, they shall raise up the former desolations, as the earth bringeth forth her bud, and the garden causeth things that are sown in it to spring forth." "Go through, go through the gates, prepare ye the way of the people; cast up, cast up the highway; lift up a standard for the PEOPLE."

Sir, that standard for the people shall be high advanced! My friend himself will bear it to the West. In the honest yeomanry of the Mississippi valley, and in the eternal principles of constitutional Democracy and regulated freedom, do I read a more cheering horoscope! I will not, do not, and cannot despair. I would rather die in my simple faith in popular intelligence and republican institutions than yield my heart to the sadness which freights each passing hour with its gloom. There is one hope left. If the bayonet shall be unfixed at our polls, if no persuasive appliances of money shall attain an honest election, I do not despair of a verdict in favor of that party whose principles I have loved for their national history and unsectional spirit.

Fond as I am of historic research, I cannot follow my friend in mourning over the dust of departed empire. I read in the decline and fall of republican governments lessons of wisdom and hope for our own guidance. In the remarks which I shall submit I propose to show from history how statesmanship has saved the falling columns of constitutional liberty, how the victories of war have been crowned by the more renowned, important, and difficult victories of peace, and how allegiance has been rekindled by the sweet breath of kindness fanning the almost dying embers of patriotism.

This may seem like a thankless and useless task, in view of the convulsions and prejudices of the hour, but the issue to be presented next November demands such an exposition. That issue is, shall freedom, peace, and Union be restored by a change of rulers and policy, or shall we set aside the teachings of the past, and permit the work of disintegration and ruin to go on?

The Executive has proposed an amnesty. I would not turn away from its contemplation. As each day may offer the chance of conciliation, I welcome any sign of peace, though the bow of promise be dim and unsubstantial, and though it be wreathed over the very cataract of our national doom!

The message of the President should be welcomed, not so much for what it is as for what it pretends to be. It is his first adventure beyond the line of force into the field of conciliation. As his former policy showed a will to change and crush civil relations by the iron hand, so the present policy is but its continuance; for he only draws over the mailed hand a silken though transparent glove. His plan is the will of the commander, while pretending to be the wisdom of the civilian. The war power, as illustrated by the Administration, has no more foundation in our Government than this peace power, assuming to pardon crime without conviction, and revivify dead States which are indestructible. But duty demands a thorough sifting of this pretentious amnesty. The Democratic party have worn the stigma, as it has been deemed, of leaning too much toward conciliation. Our gravest fault has been that we are suspected somewhat of having read the Sermon on the Mount, and that we have believed in the gentleness and effectiveness of our religion. Even such Democrats as have favored the superaddition of clemency to the enginery of war as a means of reunion have been ostracized, while those who have found no elements of union save in affection without coercion have been imprisoned and exiled. It would be ungracious in

us, therefore, to dismiss even this semblance of pacification without examination. Let us examine it in the light of history. If it be right it shall not be rejected because it comes from a President not in our favor. If it sound hollow, if it be the Trojan horse, full of armed men, ready to surprise the citadel of our Constitution, let us drag its insidious features to the light for condemnation.

To test the genuineness of this amnesty: five months have gone, but we see no signs of thousands of southern citizens rushing to embrace this amnesty. Indeed, it is conceded that the rebellion is now more formidable than ever. Unlike the acts of grace granted by kings to their recalcitrant subjects, of which history is full, there is no general taking of the oath, no genuine movement toward the restoration of the seceded States, but a fiercer spirit of resistance, produced by the unwise and exasperating policy of the Executive. The President's plan has been widely published in the papers South, as the Richmond Sentinel says, to "animate their popular patriotism." The forgiveness offered by the President is deemed a mockery and its terms an insult. What a delusion to hold out such a Dead sea apple—ashes to the lip, and hardly fruit to the eye. How many people in the North would take an oath to support those negro policies of the past two years? I never, never would. I would as soon think of swearing allegiance to secession. I would as soon tie my soul to the body of death. And can you expect the southern people in their present temper, saddened by loss and irate with revenge, to do what our *constituents*—one million and a half of northern voters—would scorn us for doing? There could have been no hope of a returning South by such a plan. It is an amnesty which is a juggle, for it pleases no one who is to be reached. It is based on a proclamation which is a delusion, for no one was freed by it whom our armies had not enfranchised. It is the old unsoundness, newly daubed with untempered mortar.

There is one chief defect in the President's plan. It is the structure built upon his proclamation of emancipation. The same defect is observable in the bill of the gentleman from Maryland, [Mr. Davis.] That, too, is based upon the one-tenth system and the policy of forced emancipation. He proposes to "guaranty to certain States, whose governments have been usurped or overthrown, a republican form of government." This is the title of his bill. I deny, first, that these State governments are overthrown; and second, that his plan substitutes a republican form. His plan is to appoint provisional brigadier governors who are to be charged with the civil administration until a State government shall be recognized as his bill provides. He requires an oath to the Constitution to be taken, which is very well; but by whom? By one tenth of the people. They shall be sufficient to construct a new State, whose republican form of government is already dictated to them by the bill of the gentleman from Maryland. They "shall" abolish slavery. Then the other steps are to be taken, and the new republican State is to be recognized.

In some of its features this bill is an improvement upon the rickety establishment proposed by the President; but it is obnoxious to the same objection. It is a usurpation of the sovereignty of the people by the Federal functionaries, and it regards the old States as forever destroyed.

The plans proposed are objectionable, because of the mode of construction and the kind of fabric to be rebuilt. As the emancipation proclamation, or the emancipation act of the gentleman, can never be reconciled with the normal control of the States over their domestic institutions, so all oaths to sustain the same are oaths to subvert the old governments, Federal and State. The oath required, both of loyal and disloyal men in the South, is an oath of infidelity to the very genius of our federative system, for it is an oath to aid anarchy, and out of anarchy create a "new nation!" It receives no countenance from those who are wedded to the Constitution as it is and the States as they were; but it lifts the hand to God in attestation of a design to subvert both! The President's plan, therefore, whether intended or not, is an oath to encourage treason, and the plan of the gentleman from Maryland is a plan to consummate revolution.

By no state of war, by no act of secession, by

no military power, by no possible or actual condition, can this change in our policy be allowed without a total subversion of our Government, and without breaking down the principle of permanence and reinstating a new and worse revolution. Who is there to deny the "normal supremacy of the States over their domestic affairs?" Is it the jurist? I refer him to repeated decisions of the Supreme Court, and of every other respectable authority in the jurisprudence of America. Is it the historian? I refer him to the debates of the Constitutional Convention and the history of our States, both the original thirteen and those afterwards admitted. Is it the diplomatist? I refer him to Mr. Seward's dispatch, wherein he says:

"The rights of the States and the condition of every human being in them will remain precisely the same, whether the revolution shall succeed or whether it shall fail. In one case the States would be federally connected with the new confederacy; in the other they would, as now, be members of the United States; but their constitutions and laws, customs, habits, and institutions, in either case, will remain the same."

Is it an old line Whig? I refer him to Henry Clay, who held that to break down the incontestable power of the State over its own institutions was to break down both Federal and State constitutions, and, beneath their ruin, to bury forever the liberty of both white and black races. Is it a Democrat? Read your platforms for thirty years and learn again the language of Jefferson and Madison and the practical teachings of Douglas in his great contest for extending popular sovereignty over domestic matters from the States to the Territories. Is it a Republican? I refer him to the Chicago platform, which resolves that "the maintenance, inviolate, of the rights of the States, and especially the rights of each State to order and control its own domestic institutions according to its own judgment exclusively, is essential to that balance of power on which the perfection and endurance of our political fabric depends." Is it the members of the last Congress? I refer them to the Crittenden resolution, as to the rights, dignity, and equality of the States. Is it you, Mr. Speaker, the exponent of the will of this body? I refer you to the resolution you voted: "That neither the Federal Government nor the people, nor the governments of non-slaveholding States, have a purpose or a constitutional right to legislate upon or interfere with slavery in any of the States of the Union." Is it the President himself? Oh! shameful treachery. Shame to himself and treachery to the trusting! Shall I recall his repeated sayings by proclamation, calling on soldiers to peril their lives, or by message, giving us his solemn convictions of duty? Shall I refer to his message wherein he repudiated the idea of disturbing the system of slavery, as foreign to his inclination and his duty, or to his direction to Mr. Seward to inform foreign Powers that any effort to disturb that system "on his part would be unconstitutional?" Is it the philosophic thinker? I refer him to the exposition of M. De Tocqueville, (vol. I, page 69,) who, better than any one abroad, has examined the complex nature of our Government, beginning with the township and rising through many grades to the Federal authority, and who found here, "two governments, completely separate and almost independent—the one fulfilling the ordinary duties and responding to the daily and indefinite calls of a community, the other circumscribed within certain limits, and only exercising an exceptional authority over the general interests of the country."

These expressions were irrespective of peace or war. The independent spheres of national and State governments were ever regarded in words, if not in acts, by the very party in power; and now their test of loyalty is an oath to forswear their own oaths! Now their touchstone of patriotism is an oath to commit political turpitude! And this is called an amnesty! This oath which is to be taken at once by loyal and disloyal men is to be the sweet oblivious balm over past crime by a clement Executive! This battering down of the Constitution is to be the Aladdin witchery which in a night is to reconstruct a "perpetual cosmos of beauty and power out of the chaos of civil conflict." Because we do not shout hosannas to this new cosmos Democrats are reproached as favoring slavery. No, sir. We do not like slavery. For one, I say again as I have said before, let it die, if die it must, not by the rough usages of war, not by the starvation, miscegenation, or

extirpation of the black race, not by the strangulation of State and popular sovereignty, but by the voluntary and legal action of the States when they are in a condition freely to express their choice. Why use the sentiment against slavery to crush out the fundamental principles of our Government? Why, in striving to destroy slavery, drag down the pillars of the Constitution? When to kill slavery you destroy the "balance of powers on which the perfection and endurance of our political fabric depends," I must and will denounce you. How many expressions from the other side of the Chamber have I been called upon to denounce because they urge the abandonment of our old and rare political fabric. These expressions are all impeared by an exquisite thinker of the radical school, Senator GRATZ BROWN, when he says:

"Who cares for the Union of the past—a Union fraught with seeds of destruction—bitter with humiliations and disappointments? Who believes in the grief of these hired mourners, so lachrymose before the world? They are not even self-deceived. It is likewise with reconstructions—a free masonry that imagines it has only blocks and stones to deal with, or a child's play, that would build up as they have tumbled down its card-castles, putting affably the court cards on top again. Foolish craftsmen, seeing not that it is the life arteries and the veins and the sinews of a nation's being that are dealt with, and that it must be regeneration or death."

The Union thus dismissed with so much scorn is the same Union which Lord Brougham called (Political Philosophy, part 3, page 336) "the very greatest refinement in social policy to which any state of circumstances had ever given rise or to which any age has ever given birth;" which deserved his eulogy, because, as he held, there was in it "the means for keeping its integrity as a Federacy, by the maintenance of the rights and powers of the individual States."

The Union as it should be—the Union of the wise craftsmen of to-day, and not of the foolish fathers who made it—is not the Union I have learned to admire and loved to cherish; not the Union which, for the past seven years, I have pleaded here to maintain without blood and perpetuate without peril.

These plans of regeneration involve a change in the structure of the Government. They break down the spirit of municipal independence, in destroying which, as De Tocqueville has shown, you destroy the spirit of liberty. No matter what form is left, the despotic tendency will inevitably appear when the local authority is usurped. If you leave any form of government, it is the will of the Executive, it is a despotic centralization: Russian, Asiatic, the rule of military bashaws or provincial kinglets. Whether appointed by Congress or the President they hold their power from Washington, and they must remain at the head of their troops, and at the call of their chief. Our Republic, then, deserves not its name. It is no longer the "United States." It is a united State, a geographical unit, holding together subject provinces by the brute force of petty tyrants.

Believing that the scope and aim of the proclamation will not restore the Union nor propitiate any portion of the South, except demagogues and hirelings, who sell their birthright for the price of power, let us inquire what motive could have induced the President to proclaim it, in a moment of success to our arms and depression to the South. One suggestion will satisfy as to the motive. I am sorry to believe it; but the President desires renomination. He is a man whose mind has every angle but the right angle. In his nature cunning contends with fanaticism. From the time he developed his irrepressible conflict doctrine, so much praised by the gentleman from Illinois, [Mr. ARNOLD,] until its latest expression in his last message, his course has been equivocal. But meanwhile how shrewdly he has balanced between the factions of his party. His inaugural recognized his obligations to the Constitution. He would not interfere with slavery. How prodigal were his promises to the border. How quick to plant his foot on Phelps, Hunter, and Frémont, for playing Augustulus. He desired some day to play Augustus. Abolitionism should be hatched under no influences but his own. How he lectured one of his editors for impatience. Conservatives held up his hands while he prevailed against these radicals. He toyed with emigration, colonization, and compensation schemes. He made a gradual emancipation theory with a

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short fuse which soon exploded. It hurt no one. But the time came for him to play revolutionist; and with seeming reluctance he issued the proclamation of emancipation. He desired the people to pass on it. They did. They condemned it in 1862. He adhered to it. In his Springfield letter and in his late message he dedicates all power to its execution. Meanwhile, a contest springs up as to the State suicide doctrine. It divides his party, and even the Cabinet. He has Missouri on his hands. Radicals are rampant. He acts conservative awhile until the days of November, 1864, begin to approach, then lo! this message as the climax of his long series of ambiguities. That I may do the President no injustice, I quote from his own partisan, Senator POMEROY, in his circular, who says:

"The people have lost all confidence in Mr. Lincoln's ability to suppress the rebellion and restore the Union. He has been weak and vacillating, wasteful of national blood and treasure, profligate and corrupt."

There is only one solution for these inconsistencies. He is trying to please both wings of his party to secure his nomination. With dexterous chicanery he has phrased and framed his late plan so that it may admit of two voices. He will not give up his emancipation proclamation or the confiscation and penal laws. "To abandon them now," he says, "would be not only to relinquish a lever of power, but would also be a cruel and an astounding breach of faith." This should suit the radicals. For a lighter shade of his party he promises what is a mere delusion—an adjudication of the questions of their legality by the Supreme Court. True, he has declared all means like these which he now promulgates unconstitutional; yet he would submit them to the court! When, and how? Why, after he has made the slave a freedman by the sword! What a mockery is such a submission. But it will do to make him a candidate, and, more than that, it might elect him President. If his plan of making one tenth rule in the States should succeed, then he will have ready at hand the electoral votes of Florida, Arkansas, Louisiana, Tennessee, North Carolina, and other States. He began this business in Florida the other day, and the blood which flowed at Olustee is the result of this scheme of personal ambition!

Nine States, without South Carolina, representing 679,310 voters in 1860, will now, by this peculiar republican form of reconstruction, cast electoral votes for the 67,931, who, as one tenth, are to be registered. How many of these will be stipendiaries, or how many *bona fide* citizens of the States? But, surely a candidate with so fair a chance for a gigantic, almost a continental fraud as this, must commend himself to a party whose use of power has made a debt of \$2,000,000,000 and an expenditure equal to the expenditure of all former Administrations. Hence, when this amnesty to rebels was announced, it was regarded as a political movement only, and the excitement did not equal that of a prize fight. No one was affected by it. No opponent was changed to, and no friend alienated from, the Administration, either North or South. If it had been an act of good faith and not a partisan maneuver, it ought to have bound closer to the Administration every friend, and challenged the admiration of every opponent. The bells should have been rung, the bonfires blazed, and huzzas have rent the air, as the throb of hope pulsed through the fevered veins of our nation. No such thing. It was nothing but a bold attempt to perpetuate power, at the hazard of revolutionary war in the North and protracted war in the South. For as surely as the great States of New York, New Jersey, Pennsylvania, and the Northwest are overborne by the coalition of these bastard States and rotten boroughs South, with New England abolition, so surely will the tocsin of inevitable necessity sound the alarm of resistance throughout the land. The people may sleep now, drugged by the opiate of temporary prosperity, but the excitement of the presidential election will stir to its very depth the popular disaffection, and in wild

saturnalia the vessel of our hopes may founder forever in a sea of blood.

The pretense of the President is to reconstruct the Union. Where did he get his authority to build anew what we can never agree has been destroyed? Is it a part of the war power or the pardoning power? It is the "best mode the Executive can suggest, with his present impressions." Will any one point out the clause of the Constitution which would even create an "impression" that the Executive has the function either of lawgiver, State constructor, or supreme dictator? His meekness in referring to Congress and the judiciary the legality of his acts after they are accomplished is a piece of effrontery to which Louis Napoleon has not yet arrived. Where did this unfledged Cæsar get his warrant to create sovereignty?

In discussing this plan it would be sufficient, without questioning the right of the President to construct States on condition or pardon on terms, simply to discuss whether the conditions and terms are wise, practical, and likely to do good. But I propose somewhat in detail to discuss the President's plan, in the following order:

1st, the oath; 2d, the republican form of the government to be reconstructed; 3d, the question whether the State governments in the rebel States are vital; 4th, some wise and practical plan such as will aid in restoring the Union under the Constitution.

1. *The oath.*—There is a sort of *odium historicum* attached to all political test oaths. They are not original with the President. They have been the bane and foil of good government ever since bigotry began and revenge ruled. You cannot make eight million people, nearly all in revolt at what they regard as the detestable usurpations of abolition, forswear their hatred to abolition. You force by this oath the freed negro into the very nostrils of the southern man, whose submission to law you seek.

The conditions of the pardon only inflame and do not quench rebellion. The rebellion was in such a state when the amnesty was offered that it was a golden opportunity for magnanimous statesmanship to proffer generous terms. An amnesty based on another kind of oath (if oaths you would have that Heaven would not record as perjury) might avail. I mean an oath to support the Constitution of the United States, and all laws made in pursuance thereof! But what does this amnesty in fact say? To all citizens South, whether loyal or disloyal, it proclaims that one tenth of the voters of 1861, and "*excluding all others*," shall reestablish a State government, which shall be republican and in nowise contravening said oath; that such establishment "*shall be recognized as the true government of the State*," which is to be considered republican in form under the Constitution.

The abolition oath is the basis of the new republican form of government. All who do not agree to that are excluded. All who do not agree to the pestilent theory of State death are also excluded. Hence this plan would allow any recent rebel who takes the oath to make a unit in the one tenth, and excludes the Union man, who has not forsworn his faith in the vitality of the States, and who will not swear to support policies and laws to which he can never adhere. What becomes of the many thousand loyal men of Tennessee, of Texas, of North Carolina, of Arkansas, of Louisiana? They are set aside for those whose oaths will bind them long enough to vote, and who, to save their lives and property, will swear with facility. The oath is tendered to men of patriotic probity, who will and ought to spurn the test oath of the traitor. Going upon the doctrine that all the rebellious districts are unsound, assuming the ground that the territory South, being belligerent, outlaws all, whether loyal or not, the President applies this bitter cup to the Union men who have never flinched in their love for the flag. The men who have stood the brunt of this red tempest, whose homes have been blackened by fire, and whose families have been destroyed

by sword, whose ties of natural affection toward brothers and sons in the rebel army never made them swerve in their patriotic devotion; who have even withstood the fear of death and destruction, and in spite of the treachery and unkindness of this Administration have kept the standard of stars high advanced amid swamps and caves and mountains, these men must quaff the cup of bitter waters before they can stand before the world as the builders of the new temple proposed by the President! If they were worthy of association in this great cohort of States they would scorn reëfranchisement by such a plan. If there were no other reason to reject this juggling scheme, justice to "the faithful found among the faithless" South would demand its rejection.

II. As to the republican form of government to be made by this plan. Republicanism is founded on the will of the people. How does the plan work out this will? Suppose Tennessee to-morrow should register one tenth of her 145,348 voters in 1860, namely, 14,534. They make an anti-slavery constitution; a majority of the 14,534 adopt, to wit, 7,268 citizens. They may have all been rebels; no matter. They may the day after the constitution is adopted change its free clause into a slavery clause, or the State into rebellion again; no matter. There may remain 130,804 voters who do not agree to the constitution, who took no part in its manufacture. They may be mixed of Union and rebel proclivities. They, however, seek to return to their old allegiance. The spirit of Jackson and the fire of patriotism illumine their wasted hearthstones, and they—the nine tenths—agree to restore the old constitution of Tennessee under the Federal Constitution as it is; or they may even abolish, as they have the right, slavery in their midst; yet the President binds himself to hold them in forced submission to the 14,534, or its majority!

The truth is, a test oath to require citizens to support his policy as to slaves is not an oath of allegiance to republican government, but to the Republican party. It is an oath of fealty to Abraham Lincoln. He sends out heralds to proclaim: "Ho! ye; all who will prepare to forswear your sentiments and enter into an arrangement to make new States with one tenth over nine tenths, and thus form electoral colleges to vote for me, I swear by my Army and Navy, that you, though you are pardoned criminals, shall be the corner-stones in the new State, and shall have the shield of the Executive and the protection of this flag!" In vain we search Spanish American annals for so shameless a pronouncement for revolution and anarchy. It is thus, Mr. Speaker, that your party seeks to unhinge the massive portals which lead within the chambers of reserved popular power, those doors which for so many years, on golden hinges turning, opened so readily to the States as they entered within the sacred adytum of our political faith.

There is one answer to these propositions always on the lip of the anti-slavery devotee. He holds that no slave State can be accounted republican. This would be news, indeed, to the Jeffersons, Washingtons, Madisons, and Adamses, who established these States as republican, twelve out of thirteen being slave at the outset. This would be news, indeed, to the pioneers of the Northwest, to the early settlers of Ohio, who remember the deed of cession of Virginia, whereby our sovereignty was forever declared to be equal to and inviolate as that of the slave State of Virginia!

But what sort of republicanism is that which builds a State from a small minority of its people? The majority of a people, expressing its own will, forms a republic. A minority, or even a majority, following the will of a despot, forms a monarchy. One tenth of the legal voters ruling nine tenths is an oligarchy. Reconstruction of republican governments on such a basis is as absurd as the structures built by the architects in Gulliver, who began their houses at the roof in the air! The President quotes the guaranty of the Constitution as to republican State govern-



ments, and promises under its sanction protection to these pseudo-republics! But he forgets that if the southern States are deceased, or out of the Union, there is the third section of article fourth of the Constitution, which provides for the admission of States. Does the President in his theory propose to disregard this clause? Unless Congress consent, all these scaffoldings, erected by his own will, will tumble to naught. If States can be declared dead, or burned out by the fires of war, perhaps New England may some day find her theory come home, in a reconstruction of her six States into one, and the reduction of her twelve Senators into two! Lines of longitude, as well as of latitude, may sometimes reconstruct States.

The basis of our Federal Government is States, having constitutions and laws—the emanation of the popular will. This will is expressed through suffrage. This suffrage in States is regulated by their own constitution and laws. State voters thus qualified, and they only, can vote for members of Congress. When, therefore, the President undertakes to breathe into a State the breath of life by a new code of suffrage, even if the State were defunct, he usurps a power never granted, and a sovereignty belonging solely to the people. If these States in rebellion are destroyed—if the *tubula rasa* remains, upon which the President can write new constitutions, with new qualifications for voters—then secession and revolution have done legally what no one but a rebel or traitor ever believed could be done.

III. This brings me to the radical question of the day. The message of the President and the bill of the gentleman from Maryland assume that the State governments in the rebel States are out of existence or usurped, and that the territory should be governed as such by the United States until new State governments shall be formed. The President does not commit himself to this plan as the only one. "Saying one thing, he does not mean to say that he would not say another." Very well. But one thing he has assumed—that the old States are gone. But let us do him justice. He suggests that on "reconstructing a loyal State government in any State, the name of the State, the boundary, the subdivisions, &c., may be maintained," provided always the abolition policy prevail. This is like the prescript of the old Sultan, who in commanding an obnoxious vizier to be ensnaked and thrown into the Bosphorus, generously hoped his turban and clothes might remain unmoistened.

I know it is said that he repudiates the policy of reducing the States to Territories. His plan is to select, as nearly as may be, the old building spot; perhaps use some of the old foundations, say one tenth; but he changes radically the plan and structure of the building, and takes away from its lord the sovereign control of the establishment. He insists that there shall be homogeneity of arrangement in the structure; that for different conditions, classes, systems, climate, and position, the same relations shall be instituted. This plan is not only absurd in philosophy, unsound in economy, but revolutionary in practice. He in fact says, "I shall fight on to keep the southern States out until they conform to my views as to negroes. My abolition condition to Union is inexorable! The proclamation shall be on a par with the Constitution. Let no one bleed for one without dying for the other!" God help the nation, plunged in an abyss of blood, for such crudities!

Surely if the State suicide doctrine be sound this plan of rebuilding is not. Let me consider that State suicide doctrine. It professes to be based on the decision of the Supreme Court in the *Hiwatha* case. That decision is perverted to sustain this theory. The court condemned certain property captured, because the property was within the lines of the enemy actually holding those lines by force, though without right, and not because of the moral or political relation of the owner. The court decided nothing as to the legal and political status of the owner, but because the property would help the enemy it was to be taken as prize of war. There is in that decision no recognition of the right of secession, much less of the monstrous and cruel doctrine that rebels in arms can abolish the legal rights of loyal men or the institutions of States.

If war blots out the States insurgent by virtue

of its territorial and belligerent character, then war does by its violence what secession would do by its ordinances. The right to expunge a State is coordinate with the right to secede. If a State can be forced out by the vote of its own sovereignty or by combinations of men without a constitutional amendment, then any State can be expelled by Federal action. If the Union becomes disagreeable to a State then the State may become disagreeable to the Union; and if a State may retire at pleasure why cannot a State be repudiated at will? These rights, if they exist, which I deny, correlate. They are inseparable. Suppose it had been proposed to expel South Carolina from the Union for her contumacy, or Massachusetts for her intermeddling, what a burst of indignation we should have had from each! They would have exclaimed, "Show us the power to throttle our State sovereignty by denying us participation in this blessed Union. What! strip us of our American citizenship, place us outside of your navigation and commercial laws and treaties; leave us at the mercy of foreign Powers; belittle us to nothing; rob us of our common interests in a common treasure, territory, government, history, and glory. Never!" Yet wherein does this claim of holding these States South as conquered provinces by military force, degrading the equal dignity of the States by the creation of a new sovereign power, differ in principle from secession?

If secession be a nullity, and if the Constitution is not impaired nor the rights of the States destroyed, then I can see how arms, inspired by wise and persuasive measures, may in time redeem the States; but on the other theory, all the tears, miseries, confiscations, and blood are in vain, in vain, in vain. Can we be surprised, therefore, that an analytic mind like that of the Postmaster General should have at once descried in these fallacies of abolition a conspiracy in aid of the rebellion?

IV. I now propose to apply the lessons of history, by inquiring whether, even admitting all these plans to be legal, and even if decided to be so, some wiser, better, and more practicable plan may not be adopted. Is there no amnesty, no accommodation possible? There is. I believe that the restoration of the Union is possible if we pursue a proper policy. The restoration of the Union as it was is only impossible to those who, for other objects, do not desire it. The reconciliation of all the States is possible, nay, probable, with the restoration of the doctrine of local self-government and State sovereignty on matters not delegated to the Federal Government. I know no other hope. If this fail, all is dark and chaotic. Diversity of interests and systems find their unity alone in this system of *laissez faire* to the States.

How, then, is it possible to restore local and State sovereignty and thus unite our hapless and lacerated country? History never presented so grand a problem for statesmanship. I approach it with something of that awe which solemnizes the soul when we enter within some vast and consecrated fabric—vistas and aisles of thought opening on every side, pillars and niches and cells within cells, mixing in seeming confusion, but all really in harmony, and rich with a light streaming through the dim forms of the past, and blessed with an effluence from God, though dimmed and half lost in the contaminated reason and passion of man.

Conscious of the magnitude of this rebellion, and oppressed with the feebleness of the policy directed against it, I still believe in the restoration of the old Union. Hence, whatever method I should advocate for the conduct of the war, or the celebration of peace, I am forever concluded against one conclusion, the independence of the South. I believe the principle of unity to be absolutely superior to the right of sectional nationality. The destiny of these United States is to continue united, and, perhaps, to add other States, until the whole continent is in alliance. Our fate is to expand and not to contract our influence or our limits. All other notions are but transitory and evanescent.

I am happy to be in accord with the President, if indeed he holds yet to the doctrine announced in his inaugural: "Physically speaking, we cannot separate." I had adopted the same sentiment, that there were Union foundations, by the very political geology of God, upon which the old

Union could and would be rebuilt. In his first message the President held:

"The two sections could not remove from each other, nor build an impassable wall between them; that intercourse, amicable or hostile, must continue. Is it possible, then, to make that intercourse more advantageous, or more satisfactory, after separation than before? Can aliens make treaties easier than friends can make laws? Can treaties be more faithfully enforced between aliens than laws can among friends? Suppose you go to war, you cannot fight always; and when, after much loss on both sides and no gain on either, you cease fighting, the identical old questions as to terms of intercourse are again upon you."

These sentiments are founded in principle, and drawn by correct deductions from history. They are the germ of all true politics. Sorry am I that in a moment of pressure and temptation he should have been drawn from them by the weird whisperings of ambition under the baleful eclipse of fanaticism.

The argument from physical, and therefore from economic reasons, for the perpetuity of the Union, is powerful. But history and the experience of other nations show that the dissolution of the old Union might consist with a different kind of unity. Any Union which would leave trade free and locomotion unrestricted between the States, North and South, interior and exterior, would answer the mere physical and economic objects of union. It is well known that Judge Douglas contemplated as among the possibilities an American Zollverein, which would have secured unity of territory for commercial purposes. In an essay, which he said had cost him more labor than any work of his life, and which death prevented him from giving to his countrymen, he ascribed our situation to the aggressive spirit of abolitionism, and held that for the present nothing but a commercial union, founded upon the plan of the States of Germany, would be practicable to sustain those influences which made the United States the happiest and most prosperous of nations. But he only contemplated it as an initial point from which he would, through common interests and kindness, move on to a more intimate Union until in time the Union as it was might again be restored in its primitive fullness and glory. (Speech of Hon. Henry May, February 2, 1863—Globe, third session Thirty-Seventh Congress, p. 687.)

Something more than physical boundaries and commercial reasons must exist to make that old Union possible. The President understands it, without giving it full emphasis, when he says, "Friends make laws," and the "identical old questions as to terms of intercourse" remain after fighting. Fighting may do much, it may be admitted; exhaustion, calamities, and bloodshed may make it the interest of men to coalesce to avoid such horrors; but what can produce in a people the *idem sententiam de republica*? Can that be forced? If not, what will you add, to and after force, to inspire the common sentiment which we call patriotism?

Many sad and harsh experiences may be ours before that event. Military rule, anarchy, destruction of individual opinion, speech, and liberty; all these may be in the path of the old or of another polity. These will be our experiences, unless we take the straight, short, and right line of the Constitution. We may wander forty years in a political wilderness before we attain the promise of our youthful and exultant nationality.

Before attempting to show how this nationality may be restored, it would be best to define it. What then is nationality? Let the definition of the English logician, John Stuart Mill, answer: "We mean a principle of sympathy, not of hostility; of union, not of separation. We mean a feeling of common interest among those who live under the same Government, and are contained within the same natural or historical boundaries. We mean that one part of the community shall not consider themselves as foreigners with regard to another part; that they shall cherish the tie which holds them together; shall feel that they are one people; that their lot is cast together; that evil to any of their fellow-countrymen is evil to themselves; and that they cannot selfishly free themselves from their share of any common inconvenience by severing the connection."

Is it not strange to a dispassionate thinker that those who are not hostile in the sense of hate to the South, those who would woo them to the ancient order and Union by reason, old associations, the allurements of peace and patriotism, to make again of the circle of equal States the old Federal

sovereignty, should be held to be the least national; while those who have so far forgotten the common interest of all under the same Government, who regard themselves as alien to the South, even as the South regard themselves as alien to us, should be held as the most national? I do proclaim it, on the basis of a logic incontestable, that he among us who wishes most evil to any part of the country is **THE MORAL TRAITOR AND SOCIAL ANARCH**. They, too, who would selfishly free themselves from their share of any common inconvenience by severing the connection, like those of the South, are also enemies to the whole country. What can we think of his national feeling who would so disregard the interest of one half of his own country as to wish to see it utterly erased by war, a *tabula rasa*; its cotton crop and other exports, worth \$200,000,000 annually, which is required as the basis of our commerce and for the payment of our debts, and which gave the nation the advantage of the world, entirely ruined or transferred to other and alien hands; its laborers colonized in tropical lands to benefit foreigners or suddenly freed without benefit to themselves or to the superior race, and its very statehood blotted out, because of the sedition of its people!

We are powerful in proportion as we are national. If we should follow the advice of passion and treat the southern States now in civil war as England treated Ireland, we become weak and denationalized. If we pursue the South with a licentious uncivil soldiery, gloating with anticipations of the plunder of private effects, or with the promises already held out of parceling out the lands of the South as the bounty which revenge pays for pillage, thus whetting a tigerish appetite for a great festival of blood and rapine, we may be sure that the special Nemesis which Herodotus traced through the early eras of history will haunt the men who instigate and the men who execute such a fell and imbecile policy. If, as in Rome once and in Spanish America now, we bribe one part of the nation by the robbery of another portion, then we may be sure that conflicts will be renewed when exhaustion is overcome, and our flag, like that of old Spain, will typify a river of blood between margins of gold. If we would avoid the constant aggregation and disintegration of feeble masses in different provinces, such as the history of South America demonstrates, we must learn to carry out, better than the President has done, his own principle of friendly legislation, instead of repellant alienation. Powerful as are our armies—gradually encroaching amidst many mistakes and vicissitudes upon the territory which is insurgent—great as are our Parrott guns, and invulnerable as are our iron-clads, one thing we have to learn yet from history, that our best soldiers are not like Charlemagne's paladins, possessed of enchanted weapons. The weapon which wounds the cause of rebellion, and yet which can transmute the rebel into the patriot, is the enchantment of friendship. He who would destroy a part of his own country, as if it were alien, has no more love for it than Saturn had for the children of his own loins whom he destroyed. Such a creature is not a patriot, even if he wore a man. Patriotism never desires to weaken or disgrace, but always to strengthen and glorify the country.

From these suggestions it will be apparent that something besides force is needed to reconcile States which are insurgent. What that something is, which I may call the philosophy of Union, can be ascertained by understanding what that element is which is the philosophy of dissolution. All disturbances of property, person, liberty, home—whether by emancipation, confiscation, extermination, or other repellant policies—can never beget confidence. No plan that debars nine tenths of a people from political privileges, and outlaws them from their own homes and rights, can renew allegiance. But such confidence and allegiance have been begotten and renewed in other lands rent with civil feuds; why not in this? To answer this, I shall consider, first, the mode by which such results can be attained, and secondly, the illustrations from history showing such results.

1. States or societies are made up of individuals. To reform society or control masses, individuals must be reached. M. Guizot, in his *History of Civilization*, (page 25), has demonstrated that two elements are comprised in the great fact

we call civilization—the progress of society and the progress of individuals. The one is but the external phenomena of which the other is the cause. Society is merely the theater for the immortal man. Society is made for man, not man for society. Society dies, changes, rots, regrows, and decays again; man blooms in immortal youth beyond this limited destiny. When, therefore, you adopt a policy to restore States or rebuild the dismantled social order, you must begin by reaching the character of men, influencing their literature, their tastes, their maxims, their laws and institutions, their industries, their wealth and its distribution and means of attainment, their occupations, their divisions into classes, and all their relations to each other. Whenever you have harmonized these so as to give *contentment*, you may be assured that no military compression or civil oppression can long keep the individuals interested from a common consent to the common government.

Hence, when the philosophic statesman perceives such a civil convulsion as this which arrays the sections of America in deadly conflict, he must accompany his historic researches with the *a priori* reasons grounded in human nature. Thus he may construct his science of social statics and ascertain the requisites of stable political union.

One of these requisites is the habitual discipline and regard for government on the part of rulers and ruled. Let all personal impulses and conscientious convictions be subordinated to the supreme control of the proper government; resist all temptation to break through such control; and you have a tremendous element of patriotic union. Mankind naturally do not like government. Brave men are loth to submit to control. Discipline, aided by religion and a common interest, is the power which keeps men from becoming anarchical.

Combined with this civil discipline is the feeling of allegiance. Without this feeling no State can be permanent. When the rulers fail to give that protection which is the consideration and correlative of allegiance, then allegiance fails, and society declines, despotism supervenes, or foreign conquest is imposed. Let statesmen remember that this is the capital defect of our rulers, and the proximate cause of our troubles. Thus remembering, let them study history with a view to the reinstatement of that protection to labor, liberty, property, and life, which assures to the State the allegiance of the people. This feeling is sometimes called "loyalty." The French philosopher, M. Comte, has thus described it:

"This feeling may vary in its objects, and is not confined to any particular form of government; but whether in a democracy or a monarchy, its essence is always the same, viz: that there be in the constitution of the State something which is settled, something permanent, and not to be called in question; something which, by general agreement, has a right to be where it is, and to be secure against disturbance, whatever else may change."

The SACRED SOMETHING in our political system is the written Federal Constitution and the system of State governments, both having their basis on the sovereign will of the people of the States. Not less sacred, because not less above discussion, are the reserved rights of the States, and the still more important reservation of sovereignty in the people. This is the essential permanency of society in the United States. This was the relation which all parties, whether at Charleston or Chicago, agreed should not be disturbed, which the President declared should not be disturbed by him, and the fear of whose disturbance has convulsed a nation of thirty millions. This mystic union of the Federal and State systems was the sacramental essence, the divine appointment, above the storms and eddies of discussion. In this was comprehended our ancient liberties and ordinances. Even the domestic institutions of the State were imbound with it. Indeed, it was the only fundamental law, pervading our society as gravitation pervades the stellar spaces.

Those, whether North or South, who failed to keep this essence sacred and sealed, are responsible for the consequences. Abolitionism, which lived by the disturbance of this system, was like secession, for both sprang from the same direful agitation and the same disturbance of the Constitution.

But is there no light through the clouds of war? Have we no *solatium* for past wrongs, no immunity for future griefs? Is anger, hatred, scorn,

revenge—the brood of wicked passions ranking in the heart—are these to remain? And shall there be no interregnum for the serene dynasty of peace and love, to walk together white-handed through this bleeding and bloody land? Shall no one pour the lethean wave over the scenes of death and the sorrows of mourning? Shall there be no recantation of the oaths of fierceness, vowing revenge for homes wasted, property confiscated, brethren destroyed, and cities ruined? O God! Is there no hope that even time may not be allowed to assuage the hates and griefs of this bloody era? Shall the young men of to-day wear the rancor in their hearts till their hairs are whitened for the tomb and teach their children and children's children to perpetuate the hate of the fathers? If this is to be the fate of our Union, then God has mocked His creatures by fixing them in habitations bound together by the same skies, rivers, mountains, and lakes; mocked them by fixing in their hearts the principle of love, and cruelly mocked them by sending to this star a Prince of Peace as an Exemplar and Saviour!

Who are the men, or the fiends, who talk of utter extermination? If it were possible it were execrable! To exterminate the southern people rather than reach them, as Mr. Lincoln himself proposed, by friendly laws, is a crime more heinous than rebellion. Let the pitiless destruction of the Moors of Andalusia by Philip II, the merciless slaughter of the French in La Vendée, Claverhouse's bloody hunts after the Scottish Covenanters, the stained and cadaverous cheek of Ireland, the bloodshot eye of maddened Poland, the grim submission of revengeful Venetia, teach us by their history that powder cannot cement nor bombs bear messages of love. Superadd to your force conciliation, and then your force may not be mere brute violence. Force has welded by its blows, but they were tempered in the fire of old and loving associations. "I do not fight the South because I hate her," said Mr. Crittenden; "I love her still." Conquest by force is only physical; subjugation implies mental acquiescence on the part of the vanquished in the ideas of the victor. Such a war, therefore, will produce only the *status quo ante bellum*, leaving an absolute-reciprocal negation; each party denying the claims of the other, and leaving no common ground for a truce to intellectual conflict.

How can we reconcile the hostilities of the people thus physically bound to live in peace and union? It is clear that if the arms of both belligerents should in a moment fall from nerveless hands there would remain to-day the same antagonism of ideas. This antagonism was reconciled on the principles of State sovereignty and local self-government as to all domestic questions, including slavery. Webster, Clay, and even Calhoun, in 1850, saw Union only in this way. Mr. Douglas, Mr. Crittenden, and even Mr. Davis and Mr. Toombs would have preserved it by the same principle in 1861. The compromises of 1861 were drawn from this source—a final adjustment of the character of all the Territory, and a complete non-intervention by Congress with the domestic relations of the Territories and of the States. This principle would have settled the difficulties. It was defeated by the action of intemperate and blood-desiring men. But the rule of right is eternal, for it is born of God. What was kind and just before the South resorted to arms is right to-day.

The fact that war has come and that separation is impossible, makes more urgent the ascendency of a party whose first and only preference is for the Union through compromise, and who shall at least be allowed to try the experiment of reconciling the States by guarantees similar to those proposed in 1861. If it be found impossible to restore the old association of States by such negotiation, then, and not till then, can statesmen begin properly to ponder the other problems connected with subjugation and recognition. I regret that anyone, especially my colleague, [Mr. LOX], should have anticipated these questions, and in his patriotic despair should have expressed his preference between the alternative of a war of subjugation and a recognition of southern independence. I regard each alternative as premature. We may yet change the war from the diabolical purposes of those in power, by changing that power to other hands, and we are not ready to sever our Union while that hope remains. Of the two evils of sub-

jugation or recognition, I make my choice of—neither.

2d. That such restorations have been made in other lands rent by civil conflict, I proceed in the last place to show. But such restorations have never taken place in the case of an empire of independent provinces, governed by local laws, all at once absorbed or compounded into a central despotism. War cannot work such restoration; or if war, under some mighty hand, ever does it, the States disintegrate, and fall an easy prey to military will or foreign subjugation. Violence may preside at the birth of dynasties, but violence is at the death-bed. Cæsar may defy the Senate and cross the Rubicon; but Cæsar had his Brutus. The works of violence are soon changed. No juggling plan can help them to success. Order, intelligence, justice, and Providence do not consist with violence or fraud, or the results of violence and fraud.

Charlemagne with all his conquests, accomplished nothing; all his works perished with him. He was the meteor athwart the gloom of barbarism and feudality. M. Guizot has displayed his glories and triumphs, his laws and reforms. It has been said that he founded nothing. He founded all the States which sprung from the dismemberment of his empire. His empire had great temporary unity; his power and design were grand; but the disorder which sprung from his centralization of power was invincible; and all the unity of force died out with him. Where ever his terrible will did not reach in person, the local authorities ruled; and when he died, his dukes, vassals, counts, vicars, centeniers, and scabina became independent, and resolved themselves into local legislatures. His vast means of government did not give liberty nor permanency. In the letters of the intellectual "giant of those days"—Alcuin—to Charlemagne, we find the secret of Charlemagne's success. That scholar congratulates the emperor on his victories over the Huns, and gives this advice for their reconciliation: 1. "Sending among them gentle-mannered men. 2. Do not require the title of them. It is better to lose the title than to prejudice the people."

Another writer gave to Charlemagne this advice: "Mortal, always be prepared to treat mortals with mildness; the law of nature is the same for them as for thee. One sacred stream flows for them as for thee." This is the philosophy and religion of amnesty. Thus tutored, power reached the individual by its mildness, like the sun which melted the avalanche. Yet this grand empire—bathed in by a whole zone, under a prince with a diadem more brilliant than that of Alexander or Napoleon; where love on the one hand and fear on the other kept obedience; an empire which had Rome for a citadel and the door-keeper of heaven as a founder—on the death of its benignant ruler, was cleft into dismembered and bleeding fragments. What was a kingdom became a Babel of jarring feudalties. The genius of its cohesion died and the cohesion crumbled. When our Constitution—the sacred greatness of which is beyond human name—shall die, then another Guizot may record of our discordant and divergent States, what he recorded of the great empire of Charlemagne: "Power and the nation were dismembered because unity of power and the nation was impossible."

Truly there are fixed laws for the events of history. Society revolves in an orbit. The tenth century is reproduced in another era and on another hemisphere. If the principle of cohesion in our country, the Constitution, expires and the sundered States are attempted to be blotted out—lo! a central despotism for a few jarring months or years, to be followed by thirty-four or less crashing organisms! This is the perpetual cosmos of beauty and power to which America is invited by the destructives in power.

The history of man for six thousand years teaches that it is impossible to control immense regions and large masses of men under the exclusive arbitrium of one man or one central government, however wise.

The Emperor of Russia understood this in granting to Finland a free constitution and a local representative assembly; and although he fails to treat Poland with the same enlightened justice, yet in the end he will be compelled to grant her a local constitution, or bid her depart in peace. Let

us con the lesson. What is the relation of Russia to Poland now, after nearly fifty years of "settlement" by the treaty of 1815? A secret government sit viewless at Warsaw. Without a cannon or a soldier visible, its power is terrible. Russian spies in vain seek for the implacable foe. Executions and confiscations are revenged by assassination and fire. Extermination is the only remedy which Russia has contemplated in her dilemma. What advantage has Russia from such a rule? Has it added to her strength, her stability, or her grandeur? The throne before which three hundred languages are spoken is powerless over a desperate people. Brute force only destroys. What revenue does she derive which is not absorbed? What can repay her for the odium of her conduct amidst civilized nations? Wherein does the new gospel of extermination in this country differ from that of the Russian policy toward Poland? At the end of thirty years we may have in the South what Russia has in Poland, only an army which the population of the South will despise and defy. We may gain the Mississippi; but where is its golden commerce? Where is its golden prosperity? Our difficulties have been great thus far in struggling to hold the military occupation and power we have attained; but our difficulties will have but begun when we begin this executive system of amnesty as an instrument to subjugate and exterminate.

The most absolute empires which the world has witnessed have been but an aggregation of provinces with the power intensely centralized. In proportion to the centralization of their power was their career brief and calamitous. Sometimes the success and ability of the ruler has given permanency and strength to the State; but, as in the case of Charlemagne, so in the case of the ancient eastern empires, the death of the ruler dismembers the realm.

The great Mesopotamian monarchy (Rawlinson's Herodotus, vol. 1, page 393, *et seq.*) was an empire which was made up of a congeries of kingdoms. In proportion as these retained their distinct individuality, remaining as they were before their conquest—except the obligations toward the paramount authority—the empire subsisted longest. When the local governments kept their old laws, religion, line of kings, law of succession, their internal organization and machinery, only acknowledging an external suzerainty, they preserved longest their heterogeneous materials in one empire. But even in such an empire there were elements of dissolution.

These elements bear such a similarity to our own history that I shall examine them for our profit. "No sooner," says Rawlinson, "does any untoward event occur, as a disastrous expedition, a foreign attack, a domestic conspiracy, or even an untimely or unexpected death of the reigning prince, than the inherent weakness of this sort of government displays itself. The whole fabric of empire falls asunder; each kingdom reasserts its independence, tribute ceases to be paid, and the mistress of a hundred States finds herself suddenly thrust back into the primitive condition, stripped of the dominion which has been her strength, and thrown entirely on her own resources. Then the whole task of reconstruction has to be commenced anew; one by one the rebel countries are overrun, tribute is reimposed, submission reinforced. Progress is, of course, slow and uncertain where the empire has to be built up again from its foundations, and where at any time a day may undo the work it has taken centuries to accomplish."

Shall this chapter be the record of our history? Already we approach its fulfillment. I will not go to Virginia or Tennessee or Arkansas. Let me take Louisiana, and from one State learn the fate of others. Go to-day into the rich heart of that tropical State, where the orange blooms in the air of winter, or visit it in the summer when the woods and fields are luxuriant with their leafy life. You will find the fields no longer opulent with corn, cane, or the cotton. There is the luxuriance of weeds and decay. The undrained plantation is becoming the swampy pleasure ground of the alligator and moccasin. A few acres of corn, a few bursting pods of cotton mark the spot where Government farms, with disinterested benevolence, by means of freed labor! The sparse crops are choked by the growth of weeds. The speculator, with his haste for "one crop any-

how," is despoiling all. The infusion of new life, the restoration of the past prosperity which we were promised, is sadly evidenced by the ruin of houses and estates and the appearance of a speckled hybrid population, the half breed bastards born of barbarism, whose mothers have ceased to be slaves with the largest liberty to be—worse! The imperial city of New Orleans, which was the fitting entrepot for the resources of the great valley of the Mississippi, still remains, but alas, how changed! The scream of the steam pipe, the song of the boatman, the bustle of the levees, and the busy throng of the marts of commerce are all gone, for order has been established where Butler has revealed!

Military power is the same to-day which it was under the satrapies of the Orient. There is in it no element of allegiance and no resuscitation of nationality, for it is a system of constraint and does not reach the individual except to exasperate and oppress. Our radical reasoners have talked glibly of their military governors for rebellious provinces when subjugated. But Mr. SUMNER has become frightened at the apparition of Cromwell's Irish bashaws, and favors instead the congressional rule of the conquered provinces. The gentleman from Maryland would send a provisional brigadier to the States. Mr. Lincoln sets up one tenth over the nine tenths, and his own will over all. They forget the principle involved. They ignore the history I have given. It is not who shall thus govern, but shall this sort of government be allowed to any one? "Shall Congress assume jurisdiction of the rebel States?" is the question of Mr. SUMNER. He holds that the States are blasted as senseless communities, who have sacrificed their corporate existence which made them living, component members of our Union of States; that the States having abdicated, the right to rule them is transferred to Congress. Mr. Lincoln holds that himself and an oligarchy of one tenth shall perform the same function. Suppose, then, Congress governs them; by what agents will it govern? Men selected by the people of the States? Not at all. That is what is sought to be avoided. Wherein, then, will such congressional government differ from the military satraps or bashaws selected by the President, or even by the tenth of the people selected for their anti-slavery oaths?

If the States are obliterated and the source of power is centralized at the Federal capital, wherein does such a Government differ from the rankiest oriental despotism? What will be our fate with such despotism? History is like Merlin's magic mirror, in which we may read our own future. The seeming strength of such a system as conquered provinces, or oligarchical States, to take the place of the Constitution and local State governments, is its weakness. Such a system is not to be commended for the imitation of Anglo-Saxon people. Be assured, Representatives, that the people of America will never accept such a system in lieu of their old any more than they will accept presidential edicts for legislation, State suicide for State resuscitation, or an abolition tithe suffrage for the sovereignty of the people!

With such a programme of tyranny against the States South, how is it possible to preserve the liberties of the people North? Can such an image, part brass and part clay, stand? Will not a Government, despotic as an oriental empire toward one half of the nation, become intolerable and oppressive to the other half? Let the experience of the people under the war power answer. Let the stifling of free speech and free thought, the censorship of the telegraph and surveillance of the mails, the arbitrary seizure and imprisonment of opposing partisans, and the military control over ballot-boxes, courts, and people answer! Shall the attempt to restore the States, therefore, be given up? Shall our armies be disbanded in the presence of rebellious armies? Not at all.

To restore allegiance and inspire nationality let the individual rebel in arms against us be reached by the arm of our soldier, and when a non-combatant by the moderation and paternal care of the Government. Let the military power of the confederates be broken. Use those and only those severities of war which civilization warrants and which will make the military power of the South feel the power of the nation; but do not place any longer in their hands the armament of despair. They have had that weapon for over two years.



Let our rulers forego their ostracism of the misguided citizen. Let an amnesty be tendered which has hope in its voice. Give forgiveness to the erring, hope to the desponding, protection to the halting, and allay even fancied apprehensions of evil by the measures of moderation. Thus, by confiscating confiscation, abolishing abolition, and canceling proclamations, by respecting private property and State rights, prepare that friendliness which will beget confidence in the individual citizen. Thus will minorities be transferred into majorities South, and the States discarding the rebel authorities betake themselves to their normal and proper sphere under the old order. If this cannot be done by the present rulers, let other rulers be selected. History teaches in vain if it does not contain lessons of moderation in civil wars. How were the feuds of the Grecian federation accommodated? How were the civil wars of Rome ended? How were the intestine troubles of England assuaged? How was La Vendée pacified by the generous Hoche? How is it ever that unity of empire and consentaneity of thought are induced? How, except by the practice of that mildness which cares for and does not curse the people? When Athens undertook to succor Mitylene from the Persian grasp, a confederacy was formed between them. Athens used her power despotically. Mitylene revolted. Athens grasped her. Perfidy began. Destructive malignants—the Jacobins of that day, led by Cleon—instigated Athens to doom the citizens of Mitylene to death, their women to servitude, and their lands to desolation. But another and a better party arose, who strove to assuage grievances, prevent rebellion, and save the honor and unity of the republic. "When all hopes of success have vanished," said one of the wiser orators, "your rebellious subjects will never be persuaded to return to their duty; they will seek death in the field rather than await it from the hand of the executioner. Gathering courage from despair, they will either repel your assaults or fall a useless prey." Wisdom prevailed, and the glory of the Grecian States remained untarnished.

But a more conspicuous analogy to our own Revolution is to be found in the Marsian war of Rome. The Marsians claimed the privileges of Rome, whose empire they had enlarged and supported by their arms. They were the bravest soldiers of the empire, but they were denied equal rights in the State, which had been raised to eminence by their prowess. This war consumed above three hundred thousand of the youth of Italy. Finally, Rome conquered by recruiting her strength from the "border States," to whom she communicated her privileges. The only thing, says the historian, which saved Rome, was the fact that the Latin colonies remained faithful; for immediately after the commencement of the war the Romans made up their minds to reward them with all the rights of Roman citizens. This decree is called the *lex Julia*. These allies were won by something more than an amnesty of hate. The grandest empire of the past was rescued from internal feuds by the wise moderation of its statesmen.

When again Rome was racked by civil war, the wisest statesman of that turbulent and ambitious era, Cicero, summed up the duty of the patriot in this sentiment, which we might ponder with profit:

"I shall willingly adopt your advice and show every lenity, and use my endeavors to conciliate Pompey. Let us try if, by these means, we can regain the affections of all people, and render our victory lasting. Let this be a new method of conquering, to fortify ourselves with kindness and liberality."

The closest analogy to our condition is to be found in the English civil war beginning in 1640. The English people are our ancestors. They had what we have—a similar code of personal freedom, great municipal independence and a popular Parliament. The causes of the war were complicated by religious controversy; but the questions involved concerning the royal prerogative and the popular privilege are closely allied to our struggle. We know how the first Charles lost his head; how Cromwell's iron hand rescued, for a time, England from anarchy. At his death, eleven military governments, under major generals like Monk, held almost absolute sway. The three nations were represented in one Parliament, which, on Cromwell's death, had been dissolved for indocility. Conspirators had been punished

with death. Confiscations were common. Yet a counter revolution began. Terror began it. Cromwell's grasp was relaxed on his death. His son, wiser than most men in power, convoked a Parliament. The army still reigned. It had been corrupted by power. The result of intrigues for the general safety was a union of the royalist and Presbyterian. But before the old authority of the Stuarts could be restored one element was wanting. It was supplied. Party vengeance was rampant then as now, but the people's representatives considered that they had to decide between a new civil war and a restoration. The latter was represented as clement, unexacting, prudent, and determined to adapt itself to the manners and wants of the time. Then came the famous declaration of Charles II from Breda. It removed all hesitation, and the restoration began. The king in that paper declared that he desired to compose the distraction and confusion of his kingdom, to assume his ancient rights, and accord to them their ancient liberties, without further "blood-letting." He therefore granted an amnesty to all who would return to their obedience. He gave his kingly word that "no crime whatsoever committed against us or our royal father shall ever rise in judgment to the least enmity of them, either in their lives, liberties, or estates; we desiring and ordaining that henceforward all notes of discord, separation, and difference of parties be abolished. He conjured them to a perfect union for the resettlement of all rights, under a free Parliament."

When this declaration was read in Parliament—though it was the false word of a designing tyrant—yet the restoration of the second Charles was voted by acclamation! It was alleged that the declaration not only comprehended the motives but the conditions of the recall. Perhaps the people's representatives were precipitate in not first settling conditions by a "free Parliament." But the amnesty and declaration were none the less powerful. Nor would the same sort of declaration from Abraham Lincoln be less powerful to restore the sovereign States to their old allegiance, especially if followed by a national convention and the restoration of a party not unfriendly to the entire union of all the States, with their "just rights." No distrust followed this declaration of the English king. He came to England. His journey to London was one perpetual fête—one continued shout of rejoicing! Faction ceased. History records that Cavaliers were reconciled with Roundheads. Exiles showed no resentment in the joy of their return. A violent reaction against revolution began; war ceased; and the foundation was then laid for the permanent stability which 1688 gave to England.

On the contrary, what a lesson may we learn from the connection of Ireland with England, and the policy of the latter in striving to subjugate the former? From the time of the first and second Charles—under all rules—discontent and warfare have prevailed. The union purchased through perfidy and fraud, by appeals to the mercenary motives of men, has been a mockery. When Strafford ruled Ireland he placed his captains and officers as burgesses in Parliament, who "swayed between the two parties," and thus began the corruption which ended in Irish subjugation. In spite of the eloquence of Grattan and Plunkett, Ireland at length became a dependency of the British Crown. True, she had been despoiled before the union. From the time when the Puritans overran Ireland to exterminate and destroy, sending thousands into tropical slavery and many thousands into that other country where crime breeds no more of its offspring, down to the 1st of January, sixty-two years ago, when the imperial standard floating from Dublin Castle announced to Ireland the depth of her degradation, and from that period to the present, there has been no union, no peace, no justice, no content for Ireland. That union, thus misbegotten of force and fraud, was weakness to England and ruin to Ireland. In one rebellion alone, that of 1798, there were twenty thousand loyal lives lost, and fifty thousand insurgents, and property worth \$15,000,000. A conspiracy here, a plot there, a rebellion at the capital, a rising at the extremities, public waste, private impoverishment, general corruption, periodical starvation, political turpitude and national bankruptcy, these are the features of national thralldom which Ireland presents

for our warning when we talk of subjugation and confiscation. How much better would it have been for both countries had the sagacious advice of Sydney Smith been followed when he said:

"How easy it is to shed human blood; how easy it is to persuade ourselves that it is our duty to do so, and that the decision has cost us a severe struggle; how much, in all ages, have wounds and shrieks and tears been the cheap and vulgar resources of the rulers of mankind! The vigor I have consists in finding out wherein subjects are aggrieved, in relieving them, in studying the temper and genius of a people, in consulting their prejudices, in selecting proper persons to lead and manage them in the laborious, watchful, and difficult task of increasing public happiness by allaying each particular discontent."

The wiser statesmen of England once learned this lesson. They strove to apply it to America in the Revolution of 1776. Every argument in favor of an unrelenting and exterminating policy by the British ministry was used and acted upon. In vain Chatham, Barré, and Burke appealed. Chatham, though provoked at our contumacy, as we are provoked at the conduct of the South, still felt that provocation could no longer be treated as such when it came from one united province, and when it was supported by eleven provinces more. Accordingly in February, 1775, he introduced a bill whose conclusion was, "So shall true reconciliation avert impending calamity." We know the sequel, but do we heed the teaching? When in 1860 our wiser men strove to avert calamities by true reconciliation, who prevented? Who yet stand in the path of reconciliation, with flaming two-edged sword, barring all ingress to the blessings of peace? Who clamor yet for a dictatorial regime? Who shout for death penalties, outlawries, forfeitures, and all the barbarous schemes of vulgar despotism? Or who, on the other hand, still hope for victory without reprisals; success without the tarnish or breach of the Constitution; equality of rights without irresponsible tyranny; free opinions freely expressed—the only reward which a Union restored can grant, worthy of the great sacrifice which the noble soldiers of the Republic have made?

Let us have done with juggling amnesties and ambitious schemes, with philanthropic ferocity and enforced elections. Under no such policy, pitched in the key-note of the President's proclamation, or chanted in the mellifluous tones of the gentleman from Maryland, [Mr. Davis,] can the South ever be held in honorable alliance and harmony. A government inspired thus would be out of all relations to the States of this Union. It would have neither "the nerves of sensation which convey intelligence to the intellect of the body-politic, nor the ligaments and muscle which hold its parts together and move them in harmony." It would be as Russia is to Poland, as England to Ireland, the government of one people by another. It would never succeed with our race. It would never succeed with a territory whose configurations are so peculiar and whose interests are so varied as ours.

No citizenship is worth granting to those who dishonor themselves to receive it. No common bond of allegiance or nationality is possible on such terms. Mean and degrading conditions which unfit the citizen for manly equality are more despicable than rebellion. You cannot expel the poison of sedition by adding to its virulence. You cannot draw men from crime by stimulating the motive which led to it. Not thus, not thus were the early insurrections in our country assuaged. True, these rebellions were pignies to this gigantic outbreak, but the principle of their settlement is eternal. It is the very gospel of God; the very love which saves mankind. Inspired thus, what might be done if a wise and sagacious Executive should extend the same beneficent policy to the factions which are bleeding our beloved land!

Will our rulers heed these lessons in time? While they return to the purpose of the war as declared by General McClellan, for the sole great object of the restoration of the unity of the nation, the preservation of the Constitution, and the supremacy of the laws; and while they conduct it as he declared it should be carried on, in consonance with the principles of humanity and civilization, abjuring all desire of conquest, all projects of revenge, and all schemes of mock philanthropy, let them remember, also, that all our labors to rebuild the old fabric will fail unless out of the "brotherly dissimilitudes" of section and interest we recur to the historic and cardinal

principles of State rights and local sovereignty, and evoke the spirit of fraternity, which has its true similitude in the perfect spirit of Christian fellowship!

Pursuing such a course, we may, like the fugitive prophet upon Mount Horeb, approach and interrogate Deity itself in our despondency and for our deliverance. And though, like him, we may hear the roar of the wave and the whirlwind of war, though we may tremble amidst the earthquake of its wrath, and though God may not be in the storm, the wind, or the earthquake, yet we may find Him in the still, small voice, sweet, clear, electric,

"Speaking of peace, speaking of love,  
Speaking as angels speak above,"

whose depth and sweetness are not those of tempestuous force or elemental strife, but soft as an angel's lute or a seraph's song, promising redress for wrong and deliverance from calamity. Horeb stands as a monumental lesson to our rulers forever, for it stands amid the shadows of Sinai, speaking the still, small voice of divine conciliation amid the thunders of the law and the forces of physical nature! I wait for that voice to be spoken. My soul waiteth for it "more than they that watch for the morning; I say, more than they that watch for the morning!"

Mr. BOUTWELL. Mr. Speaker, before any steps can be safely taken for the organization of local governments either by or for the people inhabiting the territory included within the eleven once existing States, but now rebellious districts of the Union, it is necessary for Congress and the country to come to an understanding of the legal and constitutional relations subsisting between those people and the Government of the United States.

It is my chief purpose, indeed I may say that it is my only purpose, to contribute something, if happily I may, to the attainment of that common understanding. But before I proceed to a discussion of the questions involved in the bill now under consideration, I beg the indulgence of the House while I allude briefly to the remarks made by the gentleman from Ohio, my colleague upon the committee that reported this bill, [Mr. ASHLEY,] in reference to the policy of the President in Louisiana and Arkansas, and to the conduct of General Banks in his administration of the Department of the Gulf.

It ought to attract observation that since this rebellion opened the Thirty-Seventh Congress commenced its existence and ceased to exist; that this Congress is now closing the fifth month of its First Session, and that up to this time no efficient, indeed no legislative steps whatever have been taken by which the Executive is to be guided in the affairs of the people occupying the territory that has been reclaimed from rebel domination. Under these circumstances I think it due to the country that this House, at least, should do nothing which conveys any reflection upon his policy unless that policy be clearly and manifestly in contravention of the Constitution or of the well-ascertained and admitted principles of the Government.

When the Mississippi river was opened to navigation, when the subordinates of the rebel government at Richmond were separated from the capital of the so-called confederacy, and the populous parts of Louisiana were torn from rebel domination, and the State of Arkansas, in various ways, indicated that there was an existing opinion among the people in favor of a return to the allegiance which was due from them to this Government, the Executive had but one of three courses before him: either to be silent, to be inactive, to govern by military authority alone, or else to establish a civil government, or at least to take initiatory steps for the establishment of such a Government. It was unquestionably his right and duty, in the absence of all legislative action, to govern these Territories as fast and as far as they were reclaimed by military power.

I agree with what has been so often uttered upon this floor, that, as far as practicable, we should avoid the exercise of military authority in the civil affairs of the people. I do not know that anything has been done in Arkansas and Louisiana in the reestablishment of civil authority that is in contravention of the known principles of our Government. The President has initiated steps for the organization of civil authority, and in the

absence of legislative action here I hold it to have been his duty to take steps in that direction. Whatever may be our opinion of the President on certain points, and I do not stand here or anywhere as his defender, but knowing that he has marked peculiarities, I think I am justified in saying that they are manifest only in the lack of executive control over those intrusted with the performance of administrative duties. I think we ought to have confidence in an Executive who from the year 1858, when he carried on the memorable contest in Illinois with Douglas, until now, has been true to the principles of human liberty and true to the application of those principles under the Constitution to the people of the country, both white and black.

A life of devotion to principle, a life of service—and I make this remark not only with reference to the President but to his subordinate who is charged with the administration of affairs in Louisiana—a life of service and a life indicating capacity should not be set aside even in the presence of errors or of temporary disasters. Therefore, though the President may have made mistakes in reference to affairs in Louisiana and Arkansas it ill becomes any man who believes in the principles of human liberty, and that they are destined to control this continent, to arraign him. He should stand justified when he has acted in good faith, with loyalty to the Constitution and with just regard to the rights and liberties of this great people. These remarks are applicable to my friend who is charged with the conduct of affairs in Louisiana. For twenty years and more I have known General Banks. I have known him to be a man of capacity, struggling against adverse influences and adverse fortune almost from the moment he crossed the threshold of manhood to the present time. He has been often frowned on by fortune; but he has, in all the emergencies of his life, risen superior to the attacks of enemies and even sustained himself against the assaults of fortune. Whatever other men may think, it is my firm belief, even in the presence of what seems to be a temporary disaster in military operations in Louisiana, that General Banks will do his duty to the country and redeem the territory west of the Mississippi river from the thralldom of the rebellion.

Still further, without entering into an examination of particular things done in Louisiana, I assert that from the moment New Orleans was wrested from the grasp of the rebels until now there has been no part of our territory reclaimed from that control in which the rights of the citizens have been as well protected as in Louisiana, or where there has been so little of personal trouble and suffering, especially among the black race. To be sure wages have been fixed for them, but they have been saved from the lash of the taskmaster; they have been free; they have been at liberty to choose their own places of labor; and Louisiana is to-day free from the institution of slavery. And I say more, upon information received from many sources, that Louisiana is not only free from the existence of the institution of slavery through the President's proclamation, but she is becoming free through the fact that her people are being identified day by day and week by week with the institutions and principles of freedom. On many of the plantations schools have been opened under the direction of General Banks for the education of children. Thus freedom is becoming the public policy in Louisiana, not through proclamations, not through legislation, not through the Constitution alone, but through the settled conviction of the people that slavery is wrong and that freedom is right.

And now I come to what I purpose to present in the way of argument in favor of the passage of this bill. It is necessary in the beginning that we understand the legal and constitutional relations subsisting between the people of the rebel districts of the country and the national Government. Nobody denies that we are in the presence of a great war, which taxes our capacity and resources. The question is asked, and it has been often discussed, who is responsible for this war? The time will come when it will be of no consequence who is responsible for this war. I am not sure that the time has not come already. I think the responsibility of the war is in the institution of slavery, in its intrinsic incompatibil-

ity with freedom everywhere and always; that it was incompatible in the beginning, that it was accepted as an existing fact in the States of the country merely because our fathers saw no way of escaping from its malign influence, and also because they labored under the hope, which has proved thus far a delusion, that slavery was temporary and would gradually disappear; that freedom was permanent, and would become universal.

Slavery has increased and strengthened in this country under the influence of two considerations, chiefly: first, the apparent pecuniary advantages to be derived from it. Those advantages were not real. The slaveholder and the slaveholding communities were deceived. The result is seen in the great fact that the slave States, with a more inviting climate, with a more fertile soil, have less accumulated wealth than is possessed by the free States as the products of the labor of one or two hundred years. There are no two slave States in this Union that Massachusetts could not have purchased in the open market when this rebellion commenced. In this remark I exclude the idea of property in human beings. That fact is due to the circumstance that slavery, instead of being a profitable, was an impoverishing institution. But men rested in the belief that it was profitable, and therefore they sought to maintain and extend it.

The other reason for fostering and extending slavery in this country is found in the circumstance that the politicians South and North gained power by it. Chiefly, indeed exclusively as far as the North is concerned, are they who sit on the other side of the House, and their political predecessors, responsible for this unholy alliance.

The spur of this revolution was in the census of 1860. It is a memorable fact, which has been noted often, that in 1820, when the census disclosed the truth as to the relative growing power of the North as compared with the South, and again in 1830, and again in 1850, we were on the brink of a revolution. At these several epochs this great fact appeared with full force, and southern leaders were aroused for the moment in the hope that they could strike down in some way or other the power of freedom upon this continent. In 1860 they saw it was impossible for them to continue in the ascendant, and therefore they sought a separation.

But, Mr. Speaker, the South has been guided by men of sense and capacity. They did not enter upon this revolution without counting its cost. They estimated the cost upon the basis of facts which were in their possession, and the evidence which was in their possession tended to this result: that there would be no war; that separation could be effected without a contest of blood on their soil. In the peace congress it was the constant cry of the secessionists, "Give us the assurance, radical men of the North, that there shall be no war." And it was there and at that moment that northern men failed to assert the great truth which was in the hearts of the people, that if these men persisted in the attempt to secure secession there would be war. I believe if northern men and men from the border States had been faithful to truth and duty the calamity of secession would have been averted. Mr. Seddons, the present secretary of war for the rebellious States, occupied fifteen minutes of the time of the convention, after a motion was made to adjourn *sine die*, in imploring the members of that Congress to give them the assurance that there would be no war. They believed that there would be no war. How came they to entertain that belief? They knew that we had two and a half men for every one at the South. They knew that we were vastly their superiors in all the material resources of war. How came they to believe that we would not exercise the powers which we had? I can explain it only upon one ground, the ground disclosed in the letter of Franklin Pierce, the ground disclosed in the message of James Buchanan in December, 1860, that if there was war it would be in the North.

I will take the responsibility of reading an extract from a speech made by a northern man, Mr. Stockton, of New Jersey, in the peace congress. I have copied it from the notes prepared by Mr. Chittenden, and they correspond with my own minutes made at the time and with my recollection of the remarks made by Mr. Stockton. He said:

"I know that this Union cannot be dissolved without a

struggle. Will you hasten the time when we shall begin to shed each other's blood? Force fifteen States! Why, you cannot force New Jersey alone. Force the South! Why, they won't stop to count forces. Neither side can be frightened. Don't think of it. You cannot frighten the North any more than you can a Roman soldier. You cannot frighten the South. You cannot frighten either any easier than the chieftain which the Roman poet has immortalized.

"When men meet to save their country they must be prepared to offer up everything, to sacrifice their lives, if necessary. How can men stop for platforms which will destroy their country?"

"I appeal to the brotherhood, the fraternity of the North. My friends, peace or war is in your hands. You hold the keys of peace or ruin. You tell us not to hasten this matter. Well, you don't realize the facts, the consequences. No one does. Do you talk here about regiments for invasion, for coercion? You, gentlemen of the North, you know better. I know better. For every regiment raised there for coercion there will be another regiment raised for resistance to coercion. If no other State will raise them, remember New Jersey."

"Pause, gentlemen. Stop where you are. You will bring strife to your own doors, to your very hearthstones, bloody, desperate strife. The war will be in your own homes, among your own families. Under ordinary circumstances you would hesitate. If the question was about the tariff you would hesitate and look at the awful consequences."

It was, as I verily believe, such declarations as this which led the South to engage in this mad crusade for the destruction of the Government. They naturally supposed that after a very short period of commotion the North would accept what they demanded, a separation of the Union. They failed. The North could not afford to see this Union dissolved. It had not the power to submit to its dissolution. Gentlemen upon this floor and elsewhere, I apprehend, make a great mistake when they suppose that the Union depends on the Constitution. The Constitution in its preamble declares that the object for which it was framed was "to form a more perfect Union," implying a previous existence as a Union; and we know that the Articles of Confederation implied also the existence of a Union. The Declaration of Independence, in its first sentence, puts forth the doctrine of the unity of the colonies: "When in the course of human events it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth the separate and equal station, to which by the laws of nature and of nature's God entitle them," &c., thus assuming in 1776 the doctrine of the unity of the colonies, of the unity of the continent. That unity cannot be broken. It is now interrupted; it cannot be broken.

The only question, then, which we have any voice in settling is whether we shall pursue a policy by which the Union may be restored on the basis of freedom, or whether like cowards we are to lie down and suffer the ruthless hand of despotism to triumph over us. Either a republican Government under the Constitution of the United States, or a despotism guided by Jeff. Davis and his successors, is to be the rule of public life on this continent. Sir, whatever differences of opinion we may have as to the policy which has governed the Administration in the conduct of the war, it cannot be doubted that, as in the beginning of this controversy, the chief hope of the rebels is drawn from the assurances given by men belonging to the Democratic party. The confidence of the South to-day is not so much in the armies which they control as in the ascendancy of a party in the North by whose success agreements, conditions, and arrangements may be made and their independence recognized.

Gentlemen upon the other side of the House indicate that they do not accept this as true. I make here a qualification. The gentleman from New York, from the fifth district, [Mr. FERNANDO WOOD,] whom I do not now see in his seat, says that there can be no such thing as a war Democrat. I do not agree with him. There are war Democrats in this House, and thousands of them in the country. What I do say is, that there can be no such party as a Democratic party in favor of the prosecution of the war. It is illogical that there should be a Democratic party in favor of the war. The Administration, the Union party, is in favor of its prosecution. Whenever a logical issue is made against that party it must be made upon the ground that the war is not to be prosecuted. How can a man, in this crisis of the country's life, who regards the salvation of the Union as of more consequence than anything else, differ with those who support the Administration

in the prosecution of the war? They only have a logical ground of difference who believe that the war is wrong and that it ought at once to cease. Therefore it follows that gentlemen on the other side of the House who believe that the war ought to be prosecuted, can, in the nature of things, find no efficient means for carrying out their views except in allying themselves with those who also believe that the war should be prosecuted. The men in any party who have logic can control that party; and therefore, without going into any inquiry whether the gentlemen who are for peace upon that side of the House have more capacity than the gentlemen who are for war, I still predict that the gentlemen who are for peace will control. They have a logical foundation on which to stand, and they will guide the Democratic party. There may be war Democrats; but a Democratic party in favor of the prosecution of the war cannot be maintained permanently.

It is necessary, as it seems to me, that we should understand the relations subsisting between the States and the national Government. But I cannot discuss this subject at length. It is apparent from an examination of the Constitution that the States are supreme in certain things, the General Government supreme in certain other things, and finally that there are two tests in the Constitution which establish the supremacy and sovereignty of the nation over the States. One of these tests is in that provision of the Constitution by which the General Government guarantees to every State a republican form of government. There is no corresponding guaranty by the States to the Union. The States have not undertaken to guaranty to the General Government a republican form of government, showing that the national Government is supreme, and assumed to be able to maintain its own institutions and authority. There is also another provision in the Constitution requiring every officer of each State to take an oath to support the Constitution of the United States; and the Constitution of the United States is made the supreme law of the land, anything in any State constitution or any law to the contrary notwithstanding. In these two particulars, as in many others, the Constitution of the United States is supreme. The States are sovereign in their spheres, but they are not supreme; and the power which the General Government has is defined in the Constitution itself.

I could not but be amused at the gentleman from New York, [Mr. FERNANDO WOOD,] who examined the meaning of the words "compact" and "federal" for the purpose of giving the House information as to what the Constitution of the United States means. It so happens that neither of these words is used in the Constitution of the United States, and therefore, whatever may be their meaning; they throw no light on the Constitution itself. But in order to ascertain what the powers conferred on this Government are, we must go to the Constitution. Calling it a compact does not make it any more or less strong than if you call it a constitution, or a league, or an agreement. Thomas Hobbes has said, "Words are wise men's counters, they do but reckon with them; but they are the money of fools."

Now, what is the condition of the rebellious States with reference to the General Government? Gentlemen on the other side of the House assert that the States still exist; that all that is necessary is that officers shall be elected to fill the offices, and then these States are at once in the Union.

The gentleman from Pennsylvania [Mr. STREVELS] maintains, as I understand, that these States are out of the Union; that their territory is alien territory, and that we are making war against alien enemies. I do not admit either of these positions to be true. I feel quite sure that these eleven once-existing States are no longer States of the Union. The evidence on which I rely in support of this position is found first in the declaration made by the authorities of those States that they no longer exist as States of the American Union. Next, we find that for three years and more they have been resisting the authority of the Government and have been carrying on a war against it. It is absurd to say that States or people are a part of the Government under the Constitution, and entitled to constitutional rights and privileges, when they have been carrying on war against the Government.

Next apply the tests of the Constitution. The Constitution provides that no State shall raise

armies. These eleven States—if they are States in the American Union—have been for three years engaged in raising armies. The Constitution declares that the States shall not enter into any treaty, alliance, or confederation with each other. These eleven States are, as is notorious, in alliance and confederation with each other against this Government, and have been so confederated together for three years. The Constitution requires that in every State in the Union officers shall take an oath to support the Constitution of the United States, while it is notorious that every officer exercising authority or jurisdiction there has taken an oath absolving himself, as far as he can do so by an oath, from all allegiance to this Government. Therefore, applying these constitutional tests to the eleven once-existing States, we find that there is no response tending to show that they are States in the American Union.

Nor do I admit that the people in the rebellious States are aliens. They are not of any other country, they are not of any other legal jurisdiction, they are within the jurisdiction of the Union. Three years ago they were a portion of this Union, and although they have been carrying on a war, that war has not thus far been successful, their independence has not been acknowledged by us, nor has it been recognized by any other nation. They, therefore, are not aliens. They are, to be sure, public enemies, but they are not alien enemies.

Then what is the condition of the people occupying the territory once included in these eleven States? As I believe, and as I attempted to set forth in certain resolutions which I submitted to the House a few weeks ago, these States as political organizations have by their own will ceased to exist. I then submitted the views which I entertain upon that point, to the effect that the existence of a State is a fact within the control of the people themselves, and cannot be influenced by any extraneous power whatever, and that therefore these States have by the will of the people thereof as political organizations ceased to exist.

What, then, remains? That the Government of the United States has legal jurisdiction over this territory and over the people who occupy it; but admitting that fact, it is an absurdity to say that these States still exist and that the people there may, without our consent, elect officers and send Representatives to this body and Senators to the other branch of Congress. I desire to call the attention of the House in this connection to a remark quoted in the *Federalist* from Montesquieu:

"Greece was undone as soon as the King of Macedon obtained a seat among the Amphictyons."

Gentlemen upon the other side of the House propose that our enemies may come into this Hall and into that of the other branch of Congress and take their seats. What happened to Greece when the King of Macedon obtained a seat in the Amphictyonic council will surely happen to us as a nation when we concede any portion of this Government to our enemies. Yet that is the proposition of gentlemen on the other side of the House, if their position has any force whatever.

I suppose it will not be denied that we have the right to fix rules and regulations for the admission of new States. It certainly cannot be denied on this side of the House. It would be a monstrous proposition that the people of a Territory—I speak now of Territories acknowledging their allegiance to this Government, as Nevada or Nebraska—can frame a constitution such as pleases them and secure as an absolute right their admission into the Union as a State without any judgment being passed upon that question by Congress. The fact that no State was ever admitted into the Union except by a vote of Congress, implies that for any reason that may be satisfactory to Congress such admission could be refused.

If, then, the application of a Territory to be admitted into the Union as a State may be refused, it may be refused for any reason which, in the judgment of Congress, may be deemed sufficient. The reason rests in the mind of Congress. Congress will properly consider the constitution, the institutions of the proposed State, its extent of territory, and any other circumstances which may properly come within their view, and then decide whether the Territory shall be received as a State into the Union.



If this be true in reference to a Territory, and if it be also true, as I believe it is, that these States as States have ceased to exist, they can only be restored to this Union as States upon the happening of two events: first, that the people of the State, a majority of them, as the chairman of the committee proposes to amend this bill, shall apply for admission into the Union as a State, having declared their loyalty to the Union and to the Constitution of the United States. When a State shall so apply for admission, with a proposed constitution for a State government that shall conform to the Constitution of the United States, it will then be competent for Congress to say whether it shall be admitted or not. Congress exercises this discretion according to its best judgment, and from its decision there can be no appeal.

This bill fixes three unalterable conditions precedent to such application, without a compliance with which no one of these once-existing States can reappear in the Union. \*

It is asserted on the other side of the House that we have no right to make conditions precedent to the organization of a State government, there being a provision in the Constitution that the national Government shall guaranty to each State a republican form of government; and State governments having existed and been recognized as republican in form by Congress, in which the institution of slavery existed, we have no right to change our opinion as to what a republican form of government is. It is at that point exactly where we differ. I say that the question as to what constitutes a republican form of government is under the Constitution always open to the judgment of Congress. I do not mean to say that Congress can appoint a committee of inspection or scrutiny in reference to the constitution of Kentucky, for example. Kentucky having been admitted to the Union, the question for the time being was decided and her constitution and form of government is recognized as republican. But suppose a controversy should arise in Kentucky, as in Rhode Island two and twenty years ago, and a party by a majority should establish another government, frame another constitution, and exercise authority under that constitution, and there should be a conflict, then the question would be brought before Congress to investigate the matter whether either or both were republican in form. Certainly not whether the old constitution or new is republican in form according to the judgment of our ancestors, nor whether it is republican according to the opinion of any commentator; but if in the opinion of Congress it should appear that one of these is republican and the other is not, then Congress would set up the republican government, even though the old government should be destroyed thereby.

While I do not claim for Congress the right of scrutiny of the governments of existing States, yet if the question is forced upon Congress in such a manner that it cannot be avoided, then Congress is to decide. From that decision there is no appeal. The Supreme Court in the Rhode Island case held that when Congress decided the question of the character of the government, whether it was republican in form or not, that decision could not be investigated, could not be examined, could not be controlled by any other department or tribunal.

We mean by this bill to give notice to the people occupying the territory in the eleven once-existing States that if they shall frame new constitutions they must come here with governments republican in form according to our ideas.

Gentlemen on the other side have taunted us with the charge that we have changed our policy in reference to the object of this war; that it is no longer for the preservation of the Union, but for the emancipation of the slave. I deny that; but if the policy of the war has been changed it is not the first time in the history of human affairs that similar changes have taken place. I remember that it is the undeviating testimony of history that from the opening of the colonial controversy in 1764 to the month of September, 1774, less than eight months prior to the massacre of Lexington, there was not a paper, there was not a public man, there was not a representative assembly that did not declare that it was the settled purpose of the people of these colonies to maintain the union with Great Britain. Our ancestors denied again and again the charge made that they contemplated

independence. But on the 4th of July, 1776, they declared their independence of the mother country. Events had changed opinions, and opinions had changed the public policy. While we have not changed our policy in regard to prosecuting the war for the purpose of restoring the Union, we do mean that when it is restored it shall be restored on republican principles, and that there shall be no new State admitted into the Union from the unoccupied territory west, from Mexico, or from the reestablishment of regular governments in the eleven rebellious States that are not republican in form according to our ideas. The Federalist says:

"There are two methods of curing the mischief of faction: the one by removing its causes; the other by controlling its effects.

"There are, again, two methods of removing the causes of faction: the one by destroying the liberty which is essential to its existence; the other by giving to every citizen the same opinions, the same passions, and the same interests."

We purpose to cure the evil of this faction by removing its cause, slavery, and to give to every citizen of the Republic "the same opinions, the same passions, and the same interests," in reference to human freedom.

And we are to maintain the doctrine on this continent, I trust, that wherever slavery exists there republicanism is not; that wherever slavery exists there a republican form of government, under the Constitution, cannot be. Hence we give notice in this bill to all the inhabitants of those revolted districts that they may form State governments and be admitted into this Union upon certain conditions, the chief of which is that involuntary servitude shall cease to exist.

The argument upon this bill, as far as it depends upon me, is now concluded, and we approach the moment when the judgment of this House is to be expressed. The discussion in which we have been engaged has not elicited marked attention in this Hall, nor has it attracted in an unusual degree the interest of the country. Yet in this measure lie the germs of a new civilization for one half of a continent. The area of the eleven rebellious States, for whose guidance we now establish a fundamental law, is twice as great as the area of the thirteen colonies, and it is nearly equal to that of England, France, Spain, and the Empire of Austria combined.

If our arms shall be successful—and of this I cannot doubt, unless Divine Providence should reverse the order of things for purposes inscrutable to mortal eyes—this vast territory is by this great act dedicated to freedom forever. With freedom there will come a new civilization. This new civilization will be marked by an interpretation and preaching of the Holy Scriptures uninfluenced by the lusts and ambitions and designs of a slaveholding aristocracy; and it will be illustrated by a system of free schools for the education of the children of all the people, whether black or white. Under the new civilization labor will be honored and rewarded; the immense landed estates will be broken up, and the children of poverty hitherto, whether white or black, will be endowed by the law and by the fruits of their own industry with a portion of the soil, and thus they will become the supporters and defenders of the country, contributing to its enrichment and power.

There is one feature of the bill which does not receive my approval, and to which I assent only in deference to what I suppose is the present judgment of this House and of the country. I speak of the limitation of the elective franchise to white male citizens. The right of suffrage is not a natural right, but it is the highest among political rights. No community which denies the right of suffrage to any considerable number of its adult male inhabitants can ever be safe from intestine commotion, for wherever this right is so denied the people cannot be safe or even free from oppression. And even if a community in which the right of suffrage is thus limited should be free from actual oppression, still the Government could not escape the suspicions and charges which result from an unjust distribution of political power. In free countries the rights of the people are frequently acquired and they are generally preserved by the ballot. When the ballot fails the resort is to the sword. When you deny the ballot to one third or one half of the people of the vast territory covered by the provisions of this bill what do you leave for them or offer to

them but a resort to the sword as the means of removing or redressing the grievances of which they are already the foredoomed victims?

I had indulged the hope until recently that this House would recognize the political rights of the colored race by securing the elective franchise to certain classes, or at least to a single class of those who hereafter should enjoy the protection of the Constitution. The vote upon the amendment of the Senate to the bill establishing the Territory of Montana dissipated at once and for the present this hope. The country will speedily revise our proceedings in this particular. Mark the progress of events! It is not yet two years since you were willing to contribute to the cause of the Union by the emancipation of the negro. I do not now speak of gentlemen on the other side of the House. I address myself to the friends of the Administration.

But now the President's proclamation of emancipation is accepted with signal unanimity by the people of the country. It has already received the considerate judgment of mankind; and may we not also reverently believe that it receives the constant favor of Almighty God? I am aware that gentlemen on the other side of the House still utter their accustomed denunciations of the measure; but their words are like the wonderful missile of the South Sea Islander, which cuts the air fiercely and then falls harmlessly at the feet of him from whose hand the weapon sped.

The people accept the freedom of the negro; having recognized his right to freedom, they bid him do service for the country. When he has served the country in the field the justice of the nation will guaranty to him the power to maintain his rights in civil life. At first you remanded the fugitive negro back to his rebel master. Then, and reluctantly, you accepted the services of the negro upon the condition that he should dig in the trenches and thus relieve the white soldier of the most arduous portion of his labors. Then, if he could still be classed as a laborer, you would allow him to perform the duty of a soldier in garrison and in pestilential regions; but at last you have recognized his manhood and given expression to a public sense of justice by allowing him the position, pay, and emoluments of a soldier of the Republic.

Thus are events our masters; and thus does the country hesitate even in the presence of these events to do those acts of justice which are due to one race and necessary for the salvation of the other. When, and by what means, and for what period of time do you expect to set up and maintain loyal governments in the rebellious districts of the Union unless you confer the elective franchise upon the negro? The military power must at some moment not remote be withdrawn. The remnant of the dominant class will be powerful for a generation. There is a large number of poor whites, unaccustomed to independent thought or to independent action. The colored people are loyal, and in many States they are almost the only people who are trustworthy supporters of the Union. Will you reject them? I ask whether you will reject the civil and political power of the colored people in the State of South Carolina, for example? If I could direct the force of public sentiment and the policy of this Government, South Carolina, as a State and with a name, should never reappear in this Union. Georgia deserves a like fate. When the Constitution was formed she united herself with South Carolina and forced the recognition of the institution of slavery in our Constitution. They are the two States that are responsible for the continuance of this institution. I appeal to gentlemen who have examined our colonial record for the proof of the assertion I make, that in North Carolina, in Virginia, Maryland, and in every one of the now free States, then existing, declaration after declaration was made against the institution of slavery. It was condemned in Maryland, in Virginia, and in North Carolina. South Carolina and Georgia breathed into it the breath of life, and if I had the power neither of those States should reappear in the Union. Florida does not deserve a name in this Union. What then? Let these three States be set apart as the home of the negro. Invite him there by giving to him local political power. Give him the right of suffrage in those States, and the colored population, as rapidly as it can be spared from the industrial pur-

suits of the North, will aggregate upon the shores of the Atlantic and the Gulf of Mexico. Give them local self-government and let them defend themselves as a portion of this Republic.

[Here the hammer fell.]

Mr. ASHLEY. I ask that by unanimous consent the gentleman's time shall be extended for ten minutes.

No objection was made.

Mr. BOUTWELL. I do not in my place here ask that in Kentucky or Maryland, or in any one of the northern loyal States where a negro population exists, the right of suffrage shall be given to them, but in these three districts, South Carolina, Georgia, and Florida, I would provide for the right of suffrage to colored persons. They have earned it by their services in the field, and there is a degree of injustice in asking a man to peril his life in the cause of the country and in defense of institutions in the creation and conduct of which he has no voice whatever. There is an injustice in this. It cannot stand the test of time nor the scrutiny of civilization.

Sir, great misrepresentations have been made, not only with reference to the negroes in this country but with reference to the experiment of emancipation in the British West Indies. I will read a few statistics which, in their results, show what has been accomplished by the black population of the West Indies emancipated by the British Government less than thirty years ago. I venture to anticipate what I have to say by expressing my belief that, with the exception of Greece, there are no people on the face of the earth who have made more progress than the emancipated slaves in some of the British West Indies. What have they done? Take, for example, Barbadoes. They have opened schools, and with a population of 140,000 have some 7,000 children in the schools, and they have over 3,000 landholders. In Antigua, with a population of 35,000, they have more than 10,000 children in the day and Sunday schools, and 5,000 landholders among those who were formerly slaves. In Tobago there are 2,500 landholders, with a population of 15,000. In St. Lucia, with 25,000 inhabitants, there are more than 2,000 landowners. And even in Jamaica, which is an exception to the West India islands in the matter of prosperity since emancipation, in a population of 400,000 they have 50,000 freeholders. These returns are for 1860.

So, then, if you test that people who came from slavery and barbarism in 1834 by the two tests of primary civilization, cultivation of the soil, and education of the children, they have made great progress. But it is worth while to remember that Barbadoes is one of the most populous portions of the globe. Of the one hundred and six thousand acres of land, one hundred thousand are under cultivation, and the price of the cultivated land is from four to five hundred dollars an acre.

If it is shown in a single instance that emancipated slaves have been able to take care of themselves and make progress, though there may be twenty instances of failure, still the one instance of success demonstrates their capacity, and their failures are to be attributed to misfortune and the influence of circumstances.

The dependencies of Guiana, Trinidad, Barbadoes, and Antigua, previous to emancipation produced 187,000,000 pounds of sugar, and in 1856-57 they produced annually 265,000,000, showing a gain of nearly 78,000,000 pounds a year; and their imports went up from \$8,840,000 to \$14,600,000 a year.

Mr. Hincks, the late Governor General of the Windward islands, states from his own knowledge and observation, that on an estate in Barbadoes, ninety blacks perform the work formerly done by two hundred and thirty slaves; and that the produce of each laborer during slavery was 1,043 pounds of sugar, and the produce of each laborer since emancipation is 3,660 pounds. He also states that the cost per hoghead under slavery was £10 sterling, while in 1858 it was produced at a cost of £4 sterling. In Antigua, with a population of 35,000, they contribute equal to £1 sterling each by taxation, for the support of religious, charitable, and educational institutions. I say, then, that the experience of the British West Indies has demonstrated the capacity of this race.

I ask for this people justice, in the presence of

these great events, in this exigency when the life of the nation is in peril and when every reflecting person must see that the cause of that peril is in the injustice we have done to the negro race. I ask that we shall now do justice to that race. They are four millions. They will remain on this continent. They cannot be expatriated. They await the order of Providence. Their home is here. It is our duty to elevate them, to provide for their civilization, for their enlightenment, that they may enjoy the fruits of their labor and their capacity. The nation which is not just shall finally

"Stand  
Childless and crownless in her voiceless woe,  
An empty urn within her withered hand."

Mr. PENDLETON. Mr. Speaker, I avail myself of the indulgence granted me by the House to enforce quite at length the views which I deem pertinent to this debate. The details of this bill require examination as well as its general policy. It provides that in all the States whose governments are usurped or overthrown by persons in rebellion the President shall appoint a military governor, whose pay and emoluments shall be those of a brigadier general; that so soon as this governor is satisfied that the people of the State shall have "sufficiently returned to their obedience to the Constitution and laws of the United States," he shall cause an enrollment to be made of all the white male citizens resident in their respective counties by the marshal and his deputies, who shall tender to each one the oath to support the Constitution. If one tenth part of the persons enrolled in each county shall take this oath, he shall by proclamation "invite the loyal people of the State to elect delegates to a convention." He shall then divide the State into election districts, assign to each its number of delegates, designate the day and the place for holding the election, appoint commissioners to superintend the voting, and provide an adequate force to keep the peace. The bill prescribes the qualifications of electors. They must be loyal white male citizens of the United States resident in the county, enrolled as aforesaid, and must have taken the oath prescribed by the act of 1862; and no person who has held any office, civil or military, State or confederate, under the rebel usurpation, or who has voluntarily borne arms against the United States, shall be entitled to vote for or to be elected as delegate. The oath shall be taken by every person before he shall be allowed to vote, and his vote shall be excluded if the commissioners, notwithstanding his oath, shall believe that he has held any such office or voluntarily borne arms. The returns of election shall be made to the governor, who shall canvass them, declare the result, convene the delegates, administer to each of them the said oath, and preside over their deliberations. The bill then provides that the convention shall declare:

First. That no person who has held or exercised any office, civil or military, State or confederate, under the usurping power shall vote for or be a member of the Legislature or Governor.

Second. That involuntary servitude is forever prohibited, and the freedom of all parties is guaranteed in said State.

Third. No debt, State or confederate, created by or under the sanction of the usurping power shall be recognized or paid by the State.

And having done so it shall proceed to establish a State constitution which shall embody these provisions, and which shall be submitted for ratification to the electors who chose the delegates. If the constitution shall be ratified by them it shall be certified to the President, who shall, with the assent of Congress, by proclamation recognize the State government and constitution as the constitutional government of such State, and from and after such recognition Representatives, Senators, and electors for President and Vice President may be elected in such State according to the laws of the State and of the United States.

If the convention refuse to make the required declaration the governor shall dissolve it, but a new convention may at any time afterwards be ordered by him under the advice of the President.

The governor shall see that the laws of the United States, and the laws of the State in force when the State government was overthrown, shall be faithfully executed; he shall assess and collect the same amount of taxes as was provided for by the State in the year preceding its secession; and shall apply the money so collected to the ex-

penses of his administration, and shall pay over the balance to the Treasury of the United States. The President shall appoint such officers as were provided for in the State constitution, but neither they nor the governor shall recognize or regard any law or custom whereby any person was held to involuntary servitude in the State.

The bill then provides that involuntary servitude is forever abolished in all the States in rebellion, that persons held in bondage are set free, that they shall be discharged by *habeas corpus*, and that to restrain them of their liberty shall be punishable by fine and imprisonment; and by the last section it is enacted that any person who, after its passage, shall hold any office, civil or military, State or confederate, in the rebel service shall not be a citizen of the United States.

These are the provisions of this bill. The gentleman from Maryland [Mr. Davis] facetiously entitles it "a bill to guaranty to certain States whose governments have been usurped or overthrown a republican form of government."

At last the mask has been thrown off. At last the pretenses have all been laid aside. Three years of war have done their work, and the purposes and objects of the Republican party have been at last acknowledged. This bill is the consummation of its statesmanship; the fruit of its experience, the demonstration of its purposes. The gentleman from Maryland introduced it; it is understood to be distasteful to some of his party friends; but it is a party measure; it will be voted for by every member of the Republican organization; it marks their policy of restoration; it defines their ideas of Union; it interprets their construction of the Constitution. As such I accept it. We have had double-dealing, hypocrisy, and fraud for the last three years. We have had false professions, false names, and double-faced measures. We have had armies raised, taxes collected, battles fought, under the pretense that the war was for the Union, the old Union, the Union of the Constitution. These were the catch-words for the patriotic people. In the secret council-chambers of the party they were sneered at as devices with which to ensnare the innocent, to deceive the ignorant, to coax the obstinate. They were to be discarded as soon as, in the heat of war, in the exasperation of passion, in the exultation of victory, or in the bitterness of defeat and disaster and oppression, it would be safe to divulge the great conspiracy against the Union, the constitutional confederation, the principles of free government.

That time has come. The veil is drawn aside. We see clearly. The party in possession of the powers of the Government is revolutionary. It seeks to use those powers to destroy the Government, to change its form, to change its spirit. It seeks under the forms of law to make a new Government, a new Union, to ingraft upon it new principles, new theories, and to use the powers of the law against all who will not be persuaded. It is in rebellion against the Constitution; it is in treasonable conspiracy against the Government. It differs in nothing from the armed enemies except in the weapons of its warfare. They fight to overthrow its authority over them, while it seeks to overthrow that authority at home. They would curtail the limits of the jurisdiction of the Federal Government; it would extend those limits, but change the basis and principles upon which it rests. If revolt against constituted authority be a crime, if patriotism consist in upholding in form and spirit the Government our fathers made, those in power here to-day are as guilty as those who in the seceded States marshal armed men for the contest.

"Revolutions move onward." That is true. But call things by their true names. Admit you are in revolution; admit you are revolutionists; admit that you do not desire to restore the old order; admit that you do not fight to restore the Union. Take the responsibility of that position. Avow that you exercise the powers of the Government because you control them; that you are not bound by the Constitution, but by your own sense of right. Avow that resistance to your schemes is not treason, but war. Dissolve the spell which you have woven around the hearts of our people by the cunning use of the words conservatism, patriotism, Union. And we will cease all criminations, we will hush all reproaches for oaths violated, pledges falsified, faith betrayed.

We will meet you on your own ground, we will fight you with your weapons; and by the issue of that contest, whether of argument or of arms, we will abide.

Am I to be told that I misrepresent the Republican party? The gentleman who has just taken his seat, [Mr. BOUTWELL,] an able and honored member of that party, has said in your hearing, "If I could direct the force of public sentiment and the policy of this Government, South Carolina as a State and with a name should never reappear in this Union. Georgia deserves a like fate. Florida does not deserve a name in this Union."

The gentleman from Maryland felt that this charge could be truthfully made. He sought to answer it in advance. He denied that the provisions of the bill contravened any clause of the Constitution. Where is the authority for it? Where is the authority to declare State governments overthrown? Where is the authority to reconstruct them? Where the authority to appoint a governor; to call a convention to remodel their constitutions; to fix the qualifications of its members; to prescribe the conditions of their organic law; and until a new constitution shall be made, to administer by Federal officers such parts of the old constitution and laws as the governor, or the President, or the Congress may select? Where is the authority to prescribe the qualification of electors or State officers; to dictate what debts the State shall or shall not pay; or whether there shall or shall not be slavery or involuntary servitude within its limits?

The gentleman from Maryland quotes the language of the Constitution, "The United States shall guaranty to every State in this Union a republican form of government." The language is *shall*, not *may*; it is mandatory, not permissive; it enjoins a duty; it does not grant a privilege merely. And the duty is clearly defined. Mr. Madison, in discussing this clause, said:

"In a confederacy founded on republican principles and composed of republican members, the superintending Government ought clearly to possess authority to defend the system against aristocratic or monarchical innovations. The more intimate the nature of such a union may be the greater interest have the members in the political institutions of each other, and the greater right to insist that the forms of government under which the compact was entered into should be substantially maintained."

This power was given to prevent changes toward monarchy or aristocracy in the members of the Union. It assumed that the governments then existing were republican in form, that changes in them were proper, might become necessary, were certainly within the reserved rights of the States, and entirely consistent with the maintenance of republican forms of government. This power was not given to prevent such changes, nor to maintain the relation of the States to the Federal Government, nor to protect the State from invasion, nor yet from domestic violence. It was given for the sole purpose of preventing changes in the forms of State government which would make it anti-republican. Our fathers dealt not in subtle devices nor used equivocal language. They knew the then existing governments were republican in form; they intended to give to the Federal Government no power to change them; they intended to impose no limit on the right of the States to change them, except that none of the changes should be anti-republican, and this intention they carried out in the language of the Constitution. The States may have any form of government so long as it remains republican, and the Federal Government shall not intervene.

It is true that the question whether a form of government is republican is to be decided by the political power, and the judicial department cannot revise its decision; but the discretion of the political power is not unlimited, supreme, subject to no control. It is subject to rule; and the first rule is that so long as the old State constitutions and forms of government are maintained they must be held to be republican; and the second rule is that all other constitutions similar in spirit and provisions are also republican, and that so long as the States preserve such form of government the condition on which Federal interference is provided for does not exist. Slavery existed in each of the States, except perhaps one, at the time of the formation of this Constitution. Its existence, therefore, was clearly not inconsistent with a republican government at that time, and if not inconsistent then it cannot be inconsistent now. The

States at that time had their State debts; they had entire control of them; they paid what they pleased; they repudiated or scaled what they pleased; they have done so ever since. This power therefore was clearly not inconsistent with a republican form of government at that time, and certainly, therefore, cannot be so now. The right to declare who shall be electors for State offices, and who shall be eligible thereto, was committed entirely to the State; by the terms of the Constitution the electors for Representatives should "have the qualifications requisite for electors of the most numerous branch of the State Legislature, and those who vote for presidential electors should have such qualifications as the Legislatures might prescribe." This power was then and is now not only consistent with but is indispensable to a republican form of government.

And yet the advocates of this bill propose to deprive the States of power over the question of slavery, power over their own indebtedness, power to regulate the elective franchise and the right to hold office, under the pretense that they thereby execute the provision that the United States must guaranty a republican form of government to the States.

The gentleman from Massachusetts [Mr. BOUTWELL] has shown how he would execute it. South Carolina, Georgia, and Florida should never again appear as a State or in name in this Confederation. Is their exclusion a guarantee to them of a republican government?

Has any gentleman asserted in this debate that these powers are incompatible with republican government? Not one. Not one would venture so far. Then I submit that the condition in which Congress may act has not arisen. If Congress may insist upon the three fundamental conditions prescribed in this bill, in the case of the States resuming their relations to the Union, then I submit that, by a parity of reasoning, it ought to insist upon their incorporation into the constitution of the States remaining steadfast by the Union. If they are essential to republicanism in the one class of States they are equally so in all.

Gentlemen do not assert, but they do assume, and this is the basis of their whole argument, that because the Federal Government must guaranty a republican form of government, it may therefore prescribe what particular form of republican government a State must adopt. This is obviously wrong. Mr. Madison in the *Federalist* refutes it:

"As long, therefore, as the existing republican forms are continued by the States, they are guarantied by the Federal Constitution. Whenever the States may choose to substitute other republican forms, they have a right to do so, and to claim the Federal guarantee for the latter. The only restriction imposed on them is that they shall not exchange republican for anti-republican constitutions; a restriction which it is presumed will hardly be considered as a grievance."

The conclusion, then, to which I am forced is that under the language of this clause of the Constitution Congress has no authority to prescribe the conditions asserted in this bill, whatever may be the relation of the seceded States to the Federal Government, and whatever may be the effect of their secession upon the constitution and State government then existing. I have chosen thus far to argue this question on the lower grade of the mere construction of the letter and the obvious spirit of the Constitution. I have done so because the gentleman from Maryland asserted over and over again that he found his authority to pass the bill in the clause of the Constitution which I have cited; and he deduced from that source all the powers which are claimed to belong to the Federal Government for the purposes of this war. The question rises, however, far higher; and I propose to follow the gentleman in his discussion of it into other regions.

The gentleman maintains two propositions, which lie at the very basis of his views on this subject. He has explained them to the House, and enforced them on other occasions. He maintains that, by reason of their secession, the seceded States and their citizens "have not ceased to be citizens and States of the United States, though incapable of exercising political privileges under the Constitution, but that Congress is charged with a high political power by the Constitution to guaranty republican government in the States, and that this is the proper time and the proper mode of exercising it." This act of rev-

olution on the part of the States has evoked the most extraordinary theories upon the relation of the States to the Federal Government. This theory of the gentleman is one of them. The ratification of the Constitution by Virginia established the relation between herself and the Federal Government; it created the link between her and all the States; it announced her assumption of the duties, her title to the rights of the confederating States; it proclaimed her interest in, her power over, her obedience to the common agent of all the States. If Virginia had never ordained that ratification she would have been an independent State; the Constitution would have been as perfect and the union between the ratifying States would have been as complete as they now are. Virginia repeals that ordinance of ratification, annuls that bond of union, breaks that link of confederation. She repeals but a single law, repeals it by the action of a sovereign convention; leaves her constitution, her laws, her political and social polity untouched. And the gentleman from Maryland tells us that the effect of this repeal is not to destroy the vigor of that law, but is to subvert the State government, and to render the citizens "incapable of exercising political privileges;" that the Union remains, but that one party to it has thereby lost its corporate existence, and the other has advanced to the control and government of it.

Sir, this cannot be. Gentlemen must not palter in a double sense. These acts of secession are either valid or they are invalid. If they are valid, they separated the State from the Union. If they are invalid they are void; they have no effect; the State officers who act upon them are rebels to the Federal Government; the States are not destroyed; their constitutions are not abrogated; their officers are committing illegal acts, for which they are liable to punishment; the States have never left the Union, but so soon as their officers shall perform their duties or other officers shall assume their places, will again perform the duties imposed and enjoy the privileges conferred by the Federal compact, and this not by virtue of a new ratification of the Constitution, nor a new admission by the Federal Government, but by virtue of the original ratification, and the constant, uninterrupted maintenance of position in the Federal Union since that date.

Acts of secession are not invalid to destroy the Union, and valid to destroy the State governments and the political privileges of their citizens. We have heard much of the two-fold relation which citizens of the seceded States may hold to the Federal Government—that they may be at once belligerents and rebellious citizens. I believe there are some judicial decisions to that effect. Sir, it is impossible. The Federal Government may possibly have the right to elect in which relation it will deal with them; it cannot deal with them at one and the same time in inconsistent relations. Belligerents being captured are entitled to be treated as prisoners of war; rebellious citizens are liable to be hanged. The private property of belligerents, according to the rules of modern war, shall not be taken without compensation; the property of rebellious citizens is liable to confiscation. Belligerents are not amenable to the local criminal law, nor to the jurisdiction of courts which administer it; rebellious citizens are, and the officers are bound to enforce the law, and to exact the penalty of its infraction. The seceded States are either in the Union or out of it. If in the Union, their constitutions are untouched, their State governments are maintained; their citizens are entitled to all political rights, except so far as they may be deprived of them by the criminal law which they have infringed. This seems incomprehensible to the gentleman from Maryland. In his view the whole State government centers in the men who administer it; so that when they administer it unwisely, or put it in antagonism to the Federal Government, the State government is dissolved, the State constitution is abrogated, and the State is left, in fact and in form, *de jure* and *de facto*, in anarchy, except so far as the Federal Government may rightfully intervene. This seems to be substantially the view of the gentleman from Massachusetts, [Mr. BOUTWELL.] He enforces the same position, but he does not use the same language.

I submit that these gentlemen do not see with their usual clearness of vision. If by a plague



or other visitation of God every officer of a State government should at the same moment die, so that not a single person clothed with official power should remain, would the State government be destroyed? Not at all. For the moment it would not be administered, but as soon as officers were elected, and assumed their respective duties it would be instantly in full force and vigor.

If these States are out of the Union their State governments are still in force unless otherwise changed. And their citizens are to the Federal Government as foreigners, and it has in relation to them the same rights, and none other, as it had in relation to British subjects in the war of 1812, or to the Mexicans in 1846. Whatever may be the true relation of the seceded States, the Federal Government derives no power in relation to them or their citizens from the provision of the Constitution now under consideration, but in the one case derives all its power from the duty of enforcing the "supreme law of the land," and in the other from the power "to declare war."

The second proposition of the gentleman from Maryland is this. I use his language:

"That clause vests in the Congress of the United States a plenary, supreme, unlimited political jurisdiction, paramount over courts, subject only to the judgment of the people of the United States, embracing within its scope every legislative measure necessary and proper to make it effectual; and what is necessary and proper the Constitution refers in the first place to our judgment, subject to no revision but that of the people."

The gentleman states his case too strongly. The duty imposed on Congress is doubtless important, but Congress has no right to use a means of performing it forbidden by the Constitution, no matter how necessary or proper it might be thought to be. But, sir, this doctrine is monstrous. It has no foundation in the Constitution. It subjects all the States to the will of Congress; it places their institutions at the feet of Congress. It creates in Congress an absolute unqualified despotism. It asserts the power of Congress in changing the State governments to be "plenary, supreme, unlimited"—"subject only to revision by the people of the whole United States." The rights of the people of the State are nothing, their will is nothing. Congress first decides, the people of the whole Union revise. My own State of Ohio is liable at any moment to be called in question for her constitution. She does not permit negroes to vote. If this doctrine be true Congress may decide this exclusion is anti-republican, and by force of arms abrogate that constitution and set up another permitting negroes to vote. From that decision of the Congress there is no appeal to the people of Ohio, but only to the people of Massachusetts, and New York, and Wisconsin, at the election of Representatives; and if a majority cannot be elected to reverse the decision the people of Ohio must submit. Woe be to the day when that doctrine shall be established, for from its centralized despotism we will appeal to the sword!

Sir, the rights of the States were the foundation corner of the Confederation. The Constitution recognized them, maintained them, provided for their perpetuation. Our fathers thought them the safeguard of our liberties. They have proved so. They have reconciled liberty with empire; they have reconciled the freedom of the individual with the increase of our magnificent domain. They are the test, the touchstone, the security of our liberties. This bill, the avowed doctrine of its supporters, sweeps them all instantly away. It substitutes despotism for self-government; despotism the more severe because vested in a numerous Congress elected by a people who may not feel the exercise of its power. It subverts the Government, destroys the Confederation, and erects a tyranny on the ruins of republican governments. It creates unity—it destroys liberty—it maintains integrity of territory, but destroys the rights of the citizen.

Sir, if this be the alternative of secession, I should prefer that secession should succeed. I should prefer to have the Union dissolved, the confederate States recognized; nay, more, I should prefer that secession should go on, if need be, until each State resumes its complete independence. I should prefer thirty-four republics to one despotism. From such republics, while I might fear discord and wars, I would enjoy individual liberty, and hope for reunion on the true principles of confederation. From one strong centralized despotism, overriding the rights of the people, overriding the rights of the States, I can see no

escape except in apathetic contentment with slavery, or the oft-repeated, often-failing, always bloody struggles of despairing hope. I would rather live a free citizen of a republic no larger than my native county of Hamilton, than be the subject of a more splendid empire than a Caesar in his proudest triumphs ever ruled, or a Napoleon in his loftiest flights ever conceived.

Sir, I cling to the hope that these evils may yet be averted. While I would prefer separation to the unity which this bill would create, I would fain hope that we may not be compelled to accept either alternative. If before it is too late the people will see the designs of those now in power, and will replace them with men who do not wish revolution, but do heartily wish a restoration of the Union, men—who will seek by peace the results which war has rendered well-nigh impossible—who will try to attain by conciliation the ends which never can be reached by subjugation—who will seek in consent the foundation of the right of the Government, in States rights the guarantees of the liberty of the citizen—in the Constitution the measure of the power of the Government and the extent of the surrender of perfect freedom imposed by the citizen upon himself—we may hope that we may again have union and liberty; that interest, which alone binds together nations occupying a territory like our own, will assert its power and heal the wounds of war, and bring us again into the bonds of fraternal peace.

But if they will not now see these designs and avert them, however long and bloody and desolating this war, it will end—I predict it now while the thunders of battle ring in our ears and the exultant shouts of victory rise upon the air—in recognition of the confederacy, in final separation, and in a longer, bloodier, and more desolating war on the part of our people—of your constituents, sir, and mine—to throw off the despotism which will ere then have been firmly established over them.

Mr. ASHLEY withdrew the motion to recommend the bill.

Mr. DAVIS, of Maryland. I rise for the purpose of moving to perfect the bill by moving as a substitute for it the bill which I hold in my hand. It is substantially the bill under discussion in the House, with two exceptions. First, it excludes what my friend from Ohio [Mr. Cox] objects to—the rule of one tenth, and requires a majority to concur in forming a government. The other softens the operations of the clause excluding officers of the State and confederate rebel governments, by saving merely ministerial officers and the inferior military officers; so that the exclusion merely operates on persons of dangerous political influence. Then, by arrangement with the gentleman from Pennsylvania, [Mr. Stevens,] instead of having a direct vote on his substitute, a portion of it is proposed as a preamble to this bill, which, of course, will be voted on separately, and will take whatever fate the House may assign to it. With these observations I offer this as a substitute, and move the previous question upon it.

The substitute was read.

Mr. RICE, of Maine. I wish to appeal to the gentleman from Maryland to withdraw the previous question, that I may offer an amendment.

Mr. DAVIS, of Maryland. I cannot yield.

Mr. RICE, of Maine. I wish to offer an amendment to strike out the word "white" wherever it occurs in describing the qualifications of voters.

Mr. DAVIS, of Maryland. I cannot yield for that or for any other purpose.

The previous question was seconded.

Mr. ANCONA. I move that the bill and substitute be laid on the table.

The motion was not agreed to.

The main question was then ordered, which was on agreeing to the substitute.

The question was taken, and the substitute was adopted.

Mr. DAVIS, of Maryland, called for the yeas and nays on the third reading of the bill.

The yeas and nays were not ordered.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question recurred on the preamble, as follows:

Whereas the confederate States are a public enemy, waging an unjust war, whose injustice is so glaring that they have no right to claim the mitigation of the extreme rights of war which are accorded by modern usage to an enemy who has a right to consider the war a just one; and whereas none of the States which, by a regularly re-

corded majority of its citizens, have joined the southern confederacy can be considered and treated as entitled to be represented in Congress, or to take any part in the political government of the Union: Therefore.

Mr. DAVIS, of Maryland. I move the previous question on the preamble.

The previous question was seconded, and the main question ordered.

Mr. DAVIS, of Maryland. The word "so-called" is omitted by mistake in the preamble. I desire to have it inserted.

Mr. ANCONA. I object.

Mr. FARNSWORTH called for the yeas and nays on the preamble.

The yeas and nays were ordered.

Mr. STEVENS. I rise to a privileged question. I move to reconsider the vote by which the main question was ordered. I do it for the purpose of moving to insert in the amendment the words "so-called."

Mr. COX. I move to lay the motion to reconsider on the table.

The motion was not agreed to.

The motion to reconsider was agreed to; and the question recurred on ordering the main question.

The main question was not ordered.

Mr. STEVENS. I move to amend the preamble by inserting the words "so-called" before the words "confederate States," and to insert the same words before the words "southern confederacy" where they occur; and I now demand the previous question.

The previous question was seconded, and the main question ordered to be put.

The amendment to the preamble was agreed to.

Upon ordering the preamble to be engrossed and read a third time with the bill, on a division there were—yeas 56, noes 39.

Mr. STEVENS demanded the yeas and nays. The yeas and nays were ordered.

It being now within five minutes of the time fixed by the House for taking a recess,

The SPEAKER stated that unless otherwise ordered in advance the House would take a recess immediately on the vote being announced.

Mr. COX. I move to rescind the order for a recess.

The SPEAKER. That motion would not be in order at this time, while the House is acting under the previous question. Under the practice of the House it would be in order to extend the time for the session of to-day; but a general resolution on this subject, or a general rescinding of the existing resolution, would not be in order while the previous question is operating.

Mr. MORRILL. I move that the present session be continued until this bill shall have been disposed of.

Mr. FARNSWORTH. I make the question of order that no business can intervene while the House is acting under the previous question.

The SPEAKER. The Chair overrules the question of order. It has always been considered a privileged question to extend the time for taking a recess, so as to continue the consideration of any business then pending.

The question being upon the motion of Mr. MORRILL,

Mr. STEVENS demanded the yeas and nays. The yeas and nays were not ordered.

The motion was agreed to.

The question then recurred on ordering the preamble to be engrossed and read a third time with the bill, on which the yeas and nays had been ordered.

The question was taken; and it was decided in the negative—yeas 57, nays 76; as follows:

YEAS—Messrs. Atley, Allison, Ames, Anderson, Ashley, John D. Baldwin, Baxter, Bennett, Boutwell, Boyd, Broomall, Cole, Henry Winter Davis, Donnelly, Driggs, Eckley, Eliot, Frank, Garfield, Grinnell, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Julian, Kasson, Kelley, Francis W. Kellogg, Littlejohn, Loan, Longyear, McBride, McClurg, Moorhead, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Price, John H. Rice, Edward H. Rollins, Scheuch, Shannon, Sloan, Spalding, Stevens, Upson, William B. Washburn, Williams, Wilder, and Woodbridge—57.

NAYS—Messrs. William J. Allen, Ancona, Arnold, Augustus C. Baldwin, Jacob B. Blair, Blow, Brooks, James S. Brown, William G. Brown, Chandler, Clay, Cox, Creswell, Dawson, Denison, Eden, Eldridge, Farnsworth, Fenton, Fiske, Ganson, Grider, Hale, Hall, Harding, Benjamin G. Harris, Charles M. Harris, Hendrick, Holman, Hubbard, Philip Johnson, Orlando Kellogg, Keman, Knapp, Law, Lazarus, Le Blond, Long, Marcy, Marvin, McAlister, McIndoe, Middleton, Morrill, Morrison, Noble, Odell, John

O'Neill, Pendleton, Perry, Pomeroy, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, James S. Rollins, Ross, Scofield, Scott, Smith, Smithers, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Thayer, Ward, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Wilson, Windom, and Yeaman—76.

So the preamble was rejected.

During the call of the roll,

Mr. GOOCH stated that he had paired with Mr. SWEAT.

Mr. ELDRIDGE stated that Mr. FERNANDO Wood had paired with Mr. COBB.

Mr. McINDOE stated that Mr. COBB had been called home in consequence of sickness in his family.

Mr. ODELL stated that his colleague, Mr. KALBFLEISCH, had been called home on account of a death in his family.

Mr. STEELE, of New York, stated that his colleague, Mr. STEBBINS, was still detained from the House in consequence of sickness.

The vote was announced as above recorded.

The bill was then read a third time.

Mr. FARNSWORTH moved to reconsider the vote by which the preamble was rejected; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. DAVIS, of Maryland, demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered to be put.

Mr. COX demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 73, nays 59; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Benman, Blow, Boutwell, Broomall, Cole, Creswell, Henry Winter Davis, Dawes, Denning, Dixon, Donnelly, Driggs, Elliot, Farnsworth, Fenton, Frank, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubbard, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Loomis, Longyear, Marvin, McIlrider, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smithers, Spalding, Thayer, Upton, William B. Washburn, Williams, Wilder, Wilson, Windom, and Woodbridge—73.

NAYS—Messrs. William J. Allen, Ancona, Augustus C. Baldwin, Blair, Brooks, James S. Brown, William G. Brown, Chandler, Clay, Cox, Dawson, Denison, Eden, Eldridge, Eluck, Ganson, Gridler, Hale, Hall, Harding, Benjamin G. Harris, Charles M. Harris, Herrick, Holman, Philip Johnson, William Johnson, Kernan, Knapp, Law, Lazaar, Le Blond, Long, Marey, McAllister, Middleton, Morrison, Noble, Odell, John O'Neill, Pendleton, Perry, Radford, Samuel J. Randall, William H. Randall, James S. Rollins, Ross, Scott, Smith, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Ward, Webster, Whaley, Wheeler, Chilton A. White, and Yeaman—59.

So the bill was passed.

During the call of the roll Mr. STEELE, of New Jersey, stated that his colleague, Mr. ROGERS, was detained from the House by sickness.

Mr. HOLMAN stated that his colleague, Mr. HARRINGTON, was absent from the House with leave.

Also, that his colleague, Mr. EDCERTON, was detained from the House by sickness.

Mr. STILES stated that his colleague, Mr. MILLER, was paired with Mr. TRACY.

Mr. GRINNELL desired to explain his vote.

Mr. PIKE objected.

Mr. GRINNELL. Then I vote "ay" under protest.

Mr. HUBBARD, of Iowa. And I vote "ay" under a very strong protest.

Mr. STEVENS. I suppose I ought to say that I refuse to vote under protest. [Laughter.]

Mr. PIKE stated that Mr. BLAINE was detained from the House by sickness.

The vote was announced as above recorded.

Mr. DAVIS, of Maryland, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The House then took a recess until seven o'clock, p. m.

#### EVENING SESSION.

The House, at seven o'clock, p. m., resumed its session.

On motion of Mr. JULIAN the House took a further recess for fifteen minutes.

On reassembling,

The SPEAKER stated the question to be the

consideration of House bill No. 276, to secure to persons in the military or naval service of the United States homesteads on confiscated or forfeited estates in insurrectionary districts.

Mr. STEVENS. I ask leave of absence for my colleague, Mr. THAYER, for one week from to-day.

The SPEAKER. Business is not in order.

Mr. JULIAN. Mr. Speaker, on the 18th of last March I addressed the House at considerable length on the principles and policy of this bill, and I shall not, therefore, occupy the hour to which I am entitled either in repeating what I then said or in presenting any new facts or arguments. What I wish is that the argument may be taken up by other gentlemen, and carried on to such reasonable length as may enable the House to understand the merits of the bill, and to reach a just conclusion.

I only wish to say now that the bill is unquestionably an important one. The fortunes of this war must inevitably sweep away the title to the great body of the land in the insurrectionary districts. Every day and every hour this rebellion is becoming more and more "a remorseless revolutionary conflict." There is not the slightest probability that either party to this contest will voluntarily take a single step backward, under any conceivable state of facts. The recent massacre at Fort Pillow clearly foreshadows the policy the rebels are to pursue in future, and thus necessitates a policy on our part which shall no longer deal with the rebels as brethren, but as devils. Not only their personal goods and their lives, but the fee simple of their lands must be taken from them. Under existing laws of Congress on the subject of taxation and revenue, millions of acres are passing from the rebels and falling under our control. The question presented by this bill is whether these lands shall be sold to speculators and become the foundation of a stupendous system of serfdom over the poor, white and black, or be parceled out in small homesteads as the reward of the valor of our soldiers and the guarantee of new and regenerated Commonwealths resting upon the basis of free labor and the equal rights of the people. That is the question, and I regard it as a grand one. I hope it will not be overlooked in the din and confusion of the interests and strifes on this floor. I bespeak for it the earnest and early consideration of members of this House, because I fear its magnitude is seen but dimly, or not perceived at all, by many who should give it their zealous support. But I yield the floor to my friend from New York.

Mr. MILLER, of New York. Mr. Speaker, I ask the attention of the House to a few remarks on the bill just reported by the Committee on Public Lands. In my opinion there has been no more important measure offered for our consideration and none better calculated to secure an early, satisfactory, and permanent peace.

For three years we have been engaged in a life and death struggle for the national existence with the slaveholding aristocracy of the South. Any measure that presents any claims that it can shorten that struggle or even lessen its fearful cost without sacrificing the national integrity or honor, and without compromising the loyal friends of the Government in the rebellious States, must command attention.

I concede at once that the military power of the confederates must first of all be broken by our heroic armies under the direction of the Executive of the nation. But does the defeat or even the annihilation of the military forces of the rebels settle the whole question and secure peace? Who will say that if every rebel army should be broken and scattered within a month that the Government could allow its brave defenders to return home to the joys and honors that await them? If Davis and Lee, Johnson and Beauregard, and the other rebel commanders were driven to Mexico or into the Gulf could we straightway disband our Army? Would our heroic friends in Tennessee be secure in their mountain homes? In the States further South, where our friends are much fewer, could they confidently look to their rebel neighbors for security to life and property? And how with the two hundred thousand black men who are laboring and fighting in our armies and whose wives and children we have declared free by law? Can we trust their freedom to the justice and tender mercy of the slaveholders who have robbed their

race for generations, and that, too, on principle, impiously proclaiming that God had created them for such base uses?

These interrogatories indicate some of the difficulties that surround this question of pacification; and, sir, I submit that they demand statesmanship as well as generalship. We cannot afford to delay legislative action and trust to military occupation. Military occupation has all the expense of actual war without its glory. We will have no subjugated Poland or Venice as our opponents have predicted, but to avoid this condition, and in order to avoid it, we must make the institutions of the reorganized States homogeneous with those of the free North and break the political and social power of the slaveholding leaders, so that they can no longer endanger the peace of the nation or the lives of the nation's true friends in their midst. If we cannot have indemnity for the past—and, alas! we cannot have—we should at least demand security for the future. And I believe, sir, that there can be no security for a speedy termination of this war and for a lasting and honorable peace other than in these two measures: first, the entire abolishment of chattel slavery by an amendment of the Constitution as provided in that instrument, and second, the division and distribution of the gigantic estates of the rebel leaders among the brave defenders of the Republic.

But it is objected that these measures are radical. I reply the disease is radical, and the cure must go as deep. Mr. Stephens, the vice president of the southern confederacy, in his speech to the people of Georgia in support of the confederate constitution, declared that—

"The new constitution has put at rest forever all the agitating questions relating to our peculiar institution—African slavery as it exists among us—the proper status of the negro in our civilization. This was the immediate cause of the late rupture and present revolution."

If slavery, then, was the cause of the rebellion, what remedy more rational than to remove the cause? What would there be left to fight about when the cause of the quarrel was gone? If you mean by radical that these measures are extreme and beyond what public opinion will sustain, I answer that public opinion has kept step to the march of events. Those who felt no sympathy with the popular uprising, those who stood still and aside and let the tide of enthusiastic patriotism sweep by them, know little of the popular heart. The youth who fell asleep leaning against a sapling and on awaking found it grown to a mighty tree was not more surprised than must be the sleepy politician who turns from the small despised anti-slavery party of three years ago to that party to-day gigantic in numbers and determined in purpose.

I grant you that the thousands and hundreds of thousands of Democrats, Whigs, and Republicans who but lately united in the demand for the overthrow of slavery, have no claim with the early advocates to unselfish philanthropy. Anti-slavery with these men is no sentiment, but a stern, practical, selfish fact. They have seen the slave power which they have defended as having rights under the Constitution, which they have yielded to and obeyed in conventions and Congresses, raise the foul standard of rebellion and seek to overthrow the freest Government on earth, in order to build on its ruins an empire of oppression and blood. They have seen this monster slavery grown strong by devouring the children of the black race, now dragging down thousands of their white sons to untimely graves. Seeing and feeling this, they have sworn in their hearts that slavery shall die. I admit it is not sentiment. It is not philanthropy. It is a stern, practical, logical resolve. Slavery shall die that the nation may live. Slavery must die that this carnival of blood may cease.

This wonderful change of opinion is seen where ever we turn our eyes. Three years ago the President elect slipped through Baltimore in the night in disguise to avoid the assassins who were lying in wait for his life. One month ago in the same city of Baltimore the same President was nominated by acclamation for reelection. Less than a year ago a mad and reckless mob, cheered on by Democratic leaders, were hunting down women and children in the city of New York because they were black; only a few weeks since the streets of the same city were filled with an enthusiastic populace cheering a regiment of black men

wearing the uniform of the United States and bearing aloft the flag of the country, and at the same time Democratic leaders were announcing in this Hall that slavery was dead. Only a few days since the great doctrine of popular sovereignty was put to a vote on motion of the gentlemen from Kentucky, [Mr. MALLORY,] and received but eighteen votes from the eighty Democrats on this floor. Surely the world moves. The country's progress cannot be measured by weeks and months, but by events. Nations, as individuals, live in deeds, not in years.

New occasions teach new duties. You can no more meet the needs and requirements of the present by the theories and statesmanship of the last Administration than you can thrust the full-grown man back into the garments of the boy. I repeat that public opinion is fully up to the requirements of the hour. It will not allow old prejudices and old theories and old party ties to excuse the neglect of present duty. The charge of radicalism can no longer damn a measure meritorious in itself. And such I believe the one embodied in the bill now before us.

The bill directs that all the lands not included in any city or village that may be forfeited to the United States under the confiscation act or under the act for the collection of taxes in insurrectionary districts or under the act to raise internal revenue shall become and be hereafter treated as a part of the public domain, and that these lands shall be divided into lots of forty and eighty acres and subject to entry by actual settlers under the homestead system, preference being given to the soldiers and sailors who have served their country during the present war.

It will be observed that this is no penal statute. It proposes to take no new or no more lands from these great criminals. Its only purpose is to direct what disposition shall be made of what may be forfeited under acts of Congress already existing, which are the supreme law of the land and which the President is bound by his oath to execute. The constitutionality and propriety of these laws is not now before us. They were thoroughly discussed when before Congress on their passage, and that discussion commended them to the judgment of the law-makers and to the approbation of the people.

The confiscation act, so much denounced and so misrepresented, has but those three provisions, only the last two having any important bearing upon the question before us:

1. It liberates the slaves of masters actually engaged in rebellion against the Government. I name this provision of that act, although it has but little relation to the bill before us, in order that the country may see all the features of what has been represented as such a horrid monster. The country called upon these slaves to cease laboring for their masters and to come into our lines and fight for our cause. Did gentlemen wish, could they ask men to fight our battles with shackles about their limbs?

2. It seizes the property of the absconding rebel on the same principle that our Army takes his horses or his negroes, because they give aid and comfort and support to the enemy. Taking these transfers just so much strength from their side to ours; it weakens them and strengthens us, and this is a right conceded to belligerents by all the writers on the laws of war.

3. It takes the lands of the tried and convicted traitor in payment of the fine which the law imposes where the personal property will not satisfy it. And here let me say that I have heard none of the attorneys for the defendants question the constitutionality or legality of a fine reaching the real estate of the criminal.

In these three provisions lies the whole force of the much-abused and misunderstood confiscation act.

I have heard no question raised as to the constitutionality of the tax and revenue laws that lie back of the bill before us. I believe it is conceded even by gentlemen on the other side of the House that the lands of rebels may be sold for the non-payment of taxes as well as those of loyal men. Large quantities of land are now being sold under the tax and revenue laws, and still larger quantities will soon be sold under the confiscation act; for the amnesty proclamation, while it extends full pardon to the misled, deluded masses, wisely leaves the responsible plotters and leaders of the

rebellion to the just penalty of their crimes. These lands are being sold and will continue to be sold, unless this bill is passed, in large tracts, for an insignificant price, to speculators foreign to the State, who will hold them, not for improvement, but for a rise in the market. Thus will spring up a system of non-resident absentee ownership—the worst form of land monopoly that ever cursed and blighted a State. Instead of this, and to avoid it, this bill makes these lands a part of the public domain and offers them to actual settlers under the homestead system, giving preference to the defenders of the country.

All the arguments that have commended the homestead policy to the judgment of statesmen gather around and support this measure. Do you desire in our great trial to widen and strengthen the basis of national credit? Be assured it does not consist in a large expanse of unproductive, unemployed territory held in price above the reach of the honest, industrious poor, but rather in that territory cultivated by happy free labor, teeming with its annual golden harvests, all its resources developed by the enterprise that ownership gives, pouring the united stream of its wealth from its mines and its fields into all the channels of trade. Inert, unproductive landed capital, however large, must soon be exhausted by great expenditures, but if yielding an annual and ever-increasing income growing like charity the more it gives, it becomes an inexhaustible fountain of wealth that can supply all the wants of your Treasury and all the needs of commerce.

It must be remembered that all the property of every citizen is pledged to the payment of the debts of the Government. Every property-holder in the country is an indorser of the national notes. The additional value that labor gives to land by improving and developing its resources forms a part of the national wealth and is just as available for the payment of the nation's debts as was ever any part of the public domain. The Government is the people's agent for high purposes and the people are responsible for its debts. The right of the Government to tax its citizens for its support is unquestioned and is only limited by its necessities. Can any one then believe that an uninhabited wilderness territory is better security for public credit than a State filled with thousands of busy laborers gathering up millions of annual products and pouring them into the lap of the nation? No, sir; the policy of hoarding our public lands or of allowing citizens to monopolize them seems to my judgment shortsighted and vicious. I would rather give them freely to actual settlers who will improve them, believing that while they work for themselves they also work for and enrich the country.

The present situation of the rebellious States presents considerations and arguments that urge the immediate passage of this bill. It could not fail to be a strong weapon in the hands of the Government in this contest. It would strengthen its real friends and weaken its determined, implacable enemies. The enemies of the nation possess wealth, education, gigantic estates, and the prestige of long years of domination. Our friends even among the whites are for the most part poor, landless, and unaccustomed to independent political action; while the negroes, poor and ignorant, are still mentally weak and paralyzed by the effects of servitude. Does any man propose to leave our friends in this condition to the protection of their and our enemies? It would be a breach of plighted faith too horrible and too mean to be thought of—I trust too base to be feared. Certainly neither the President nor his party will ever allow any friends of the Government, however humble, to be placed again under the heel of the oppressor. The President has nobly said that "the promise once made must be kept," and the country has indorsed the pledge. Nor will the manhood of the nation ever tolerate a leader or a party that shall propose to violate it. It would be a disgrace that would crimson the face of every American—"a damned spot" on our national escutcheon that all ocean's waters could never wash out.

I am aware, Mr. Speaker, that in the central mountain region of the South the situation of our friends does not fall under the general description that I have given. In that section there are fewer of these great landed estates. There, too, the small farmers, the yeomanry of the country, were

true to the national cause. They were non-slaveholders, therefore they were loyal. They were small landholders, therefore they were independent of the rebel leaders. This bill will extend the same system to other parts of the South, and with like effects. We have no right to expect that the poor Union men can make a successful struggle with their former masters and leaders for their safety and ours unless we give them a homestead to stand upon. What the loyal men of the South need is self-reliance, education, and a reinforcement of their numbers. This bill will aid them in all these respects.

In the North, where capital is dependent upon labor and labor is honored and respected, the laborer is master of the situation, and is the peer and equal of the employer. In the organization of southern society there was no place for the poor white man. The slaveholder monopolized the soil and the slaves performed the labor. The poor white was a mere hanger-on—a miserable, despised tool of the slave-master. Now, sir, we cannot make these men self-reliant and independent of their former leaders, until we give them a spot of land on which they can plant their feet and call their own.

Again, there can be no such thing as a general education of the people as long as these great estates exist. Any common school system under these circumstances is an impossibility. This fact alone shows the incompatibility of this system of land monopoly with the well-being and safety of republican institutions, and should doom it to immediate annihilation. But the case is still stronger when we reflect that the poor whites and the liberated blacks who are the friends of the Government must, without education, be forever at the mercy of the rebel slaveholding land monopolists, who are its deadly enemies. Pass this bill, and the roadside school-house and the church will spring up in the midst of a population nevermore to be dependent upon the plantation mansion for knowledge and opinions.

But, perhaps more important than all, this bill will reinforce the loyal men of the South, and strengthen them for the present and future contests. Who can doubt if the two or three hundred thousand honorably discharged soldiers now in the North were settled on the forfeited estates in Tennessee, Arkansas, Virginia, and wherever our armies occupy rebellious territory, that they would be a most powerful aid to our cause? They would at once suppress all guerrilla operations, relieve the large force now guarding the long lines of communication, become a militia organization with the discipline of veterans, and in effect form a reserve corps to our Army. Such a population, brave, disciplined, and loyal, would stand as a breakwater, against which any returning tide of rebellion might dash itself in vain. Establish this system, and you make each advance a permanent conquest, and thus fix the inconstancy of fortune. This bill cannot be passed too soon. Delay will only enhance its importance.

After the last rebel army shall have been scattered the provisions of this bill will still be a necessity. In fact, until it is passed I doubt if we can for a long time have any peace that is not maintained by the sword, civil institutions supported by a standing army, a state of affairs always dangerous and not long to be tolerated. But at once reward our returning heroes with generous farms from the forfeited estates of rebels, and the way is clear. We can then reduce our Army without weakening our power. The soldiers, become citizens, will unite with the loyal men of the South whom they have rescued from traitors and tyrants, in building up free and prosperous States not supported by bayonets, but upheld by a loyal population willing and able to defend them. Thus will be laid the foundation of a healthy political Union, exempt from the seeds of disease and dissolution.

The madness of the rebels has given us the opportunity to secure these great results without violating a single letter of our Constitution or a single principle of law or justice. To now neglect the necessary legislation would be one of those political blunders that are said to be worse than crimes. Let us not throw away the golden moment to save our country by planting it on the eternal principles of freedom, and thus link our names to the grandest event of the century.

Mr. Speaker, I trust no one will object to this



bill on account of the class of persons to be benefited by it, but rejoice rather at an opportunity to pay in part the great debt which can never be paid in full, the debt that we owe to the soldiers of the Republic. At the call of the country they dropped every implement of labor, abandoned their business, tore themselves from the endearments of home, and rushed to the defense of the nation. Notwithstanding the independent habits of their lives, they patiently submitted to discipline, cheerfully bore all the fatigues of the camp, the field, and the march; and, fired by love of country and devotion to a great principle, they hastened to "the feast of death" as to a banquet. They have steadily driven the enemy back, and now hold two thirds of his territory, and will surely destroy the last vestige of the rebellion and bring the great criminals to the feet of the Government. What reward do they deserve, or rather what do they not deserve? Can we do less than give them the richest portion of the lands which they have conquered from our traitorous enemies, and which have been forfeited to the Government?

Mr. Speaker, I trust we may expect support from some, at least, of the gentlemen on the other side of the House. Those who have professed a willingness and even an anxiety to increase the monthly wages of the soldier, will also, I hope, be ready to give him this handsome reward at the close of his term of service. Those who have more sympathy for rebels and the children of rebels than they have for our brave soldiers and their families, will, I expect, oppose this bill. But there are gentlemen on that side of the House who claim to be the friends of the soldier. I will not doubt their sincerity, and I therefore count and I have a right to count upon their support.

The bill itself is right. The safety and peace of the future require it. Justice to our living heroes demands it. The memory of the gallant dead pleads for it. Do not leave the battle-fields of the war to the mercy and in the possession of the insolent foe, but give them to the surviving heroes, who will cherish and defend the graves of their fallen comrades, and rear to their memory and to their patriotism the noblest of all monuments, free and prosperous States.

Mr. Speaker, I have supported this measure because I believe it calculated to secure an early and permanent peace. No man is more anxious than myself to see the time when our gallant soldiers can lay down their arms with honor and safety to the Republic. I desire a peace that shall not leave the Union torn into hostile, discordant, insignificant fragments, powerless for good, the mere puppets and playthings of European diplomats and tyrants, but a peace that shall see my country a united, free, and mighty nation; its integrity restored, its authority, everywhere within its limits, acknowledged, its flag unsullied, honored, and respected throughout the world, a protection to our friends and a terror to our foes.

"God give us peace; not such as lulls to sleep,  
But sword on thigh and brow with purpose knit,  
And may our ship of State to harbor sweep,  
Her ports all up, her battle lanterns lit,  
And her leashed thunders gathering for their leap."

Mr. JOHNSON, of Ohio. Mr. Speaker, a few years ago the eloquent Rufus Choate, standing in Faneuil Hall in the city of Boston, thrilled the ear of this nation with the startling and ominous declaration, "We are in the midst of a revolution, bloodless as yet." With the eye of a calm, dispassionate thinker, tracing effect to cause, he saw the coming storm; he heard the distant roar of the dashing waves of revolution in the wild, rhapsodic declamation of Wendell Phillips and Fred Douglass; in the bold, polished eloquence of Senator Sumner and Secretary Chase. To-day, standing in my place in this Hall, surrounded by the Representatives of the people, I declare we are now in the midst of a revolution bloody and terrible.

For three years the horrors of civil war have overshadowed our land like a dark pall. Under the various calls and conscriptions of the President from April 16, 1861, to February 1, 1864, two million and forty thousand men have been demanded to fill our armies. The angel of death sits in horrid triumph upon battle-fields, and new-made graves, and deserted hearth-stones, and empty chairs, and sorrowing, weeping hearts. Our beautiful heritage presents one vast Golgotha. A national debt beyond human computation has arisen, to pay which the sinews of labor, for

long generations to come, must be strung to their highest tension.

Mr. Speaker, by all the solemnities of this hour, I demand to know why are these things so? Every effect has its producing cause; and these terrible calamities that have overtaken us as a nation must be the result of some terrible wrong done or derangement existing in the workings of our social and political systems. As wise men, does it not behoove us to stop, examine, and inquire?

History tells us, Mr. Speaker, it likewise told the fathers who framed our admirable Constitution, that the "supreme power" in a Government, under all forms, in all countries, and in all ages, had never failed to overleap all barriers and restraints of human contrivance, and to become oppressive. Hence the many revolutions, the many bloody battle-fields, that mark the line of this world's history. Many of those men who framed our Constitution, including the noble Washington, were themselves just from the gory battle-fields of our revolutionary struggle, where for seven years they had fought, not to wrest new privileges from the British Crown, but, in the language of their own immortal Declaration, because "the history of the King of Great Britain is a history of repeated injuries and usurpations." Hence, to meet that very difficulty, to restrain that "supreme power" of a Government, to compel it to move within its appropriate sphere, and to secure to them the rights for which "Governments are instituted among men," our fathers formed two equal and coordinate governments, to wit, our State and Federal, each equally supreme in its authority and jurisdiction within its appropriate sphere of action, and each a complete check upon the other. And over all they ordained a Constitution, not speculative or rhetorical, but moral and practical; a thing for use and the regulation of affairs. They proclaimed it the "supreme law of the land," the criterion of all subordinate legislation, of all official conduct, and of the civil obligations and morality of every citizen of every State.

Each of these two governments is operative in the several States; but each government has its distinct, well-defined sphere of action. The powers appertaining to these two several governments are delegated powers. But while one of these governments is invested with certain specified powers, the other is just as completely and certainly divested of those same powers. Each of these governments is supreme and paramount within the sphere of its defined powers, and within its appointed sphere neither can be subordinate to the other. This doctrine of the sovereignty and independence of the several States within their appropriate sphere as coordinate powers in the General Government is in perfect harmony with the philosophy and principles upon which our system of Government was constituted, to wit, a division of political power, with a view to checks and safeguards against abuse, by the mutual action and reaction of the various departments upon each other.

And how beautifully and harmoniously our system of government has worked, without a jar or a discordant note, under its different political administrations, until the sectional movement of 1856 was consummated in 1860 by the election of a sectional President for a sectional end, and in obedience to fanatical ideas! From that hour peace has forsaken our heritage and sorrow crowds our borders.

President Lincoln, as he journeyed to this capital in the spring of 1861, declared, in one of those remarkable speeches by the way, that "the States occupy the same relation to the General Government that the counties do to a State." Scarcely had the inauguration oath dried upon his lips until he announced to a stricken and terrified people that "the States of this Union are but the creatures of the General Government." State rights, under the Constitution, for the first time in our national history, were then denied. The distinguished gentleman from Maryland, [Mr. DAVIS,] a leading light and teacher of this new doctrine of "reconstruction," like a bold innovator, declares in a speech delivered in New York that "State sovereignty is national wrong." The President's proconsul in the State of Louisiana, General Banks, as the representative of the Federal Government, in a proclamation

addressed to the loyal people of that State, at once gives form and fact to the theory of the President, by announcing that "the fundamental law of the State is martial law; that so much of the constitution and laws of Louisiana as recognize, regulate, and relate to slavery, being inconsistent with the present condition of public affairs, are inoperative and void." The President, under date of January 20, 1864, in his order to General Steele proconsul in the State of Arkansas, declares certain portions of the constitution of that State null and void, and directs the Legislature, when assembled, what laws they shall pass. And the proconsul of Tennessee, Andrew Johnson, announces to the people of that province that "the people of the United States made the Constitution;" and from that premise argues that whatever the people of the United States, in their collective capacity, want at any time must be accorded, no matter what reserved rights or institutions of a State or States might thereby be affected. And a leading Senator in Congress, [Mr. SUMNER,] who deserves the name and position of Sir Oracle to this Administration, not to be outdone in innovation, declares that "whatsoever powers are not prohibited in the Constitution, the Federal Government has the right to exercise." And in his celebrated Atlantic Monthly magazine article he relieves his pent-up indignation by referring to "the miserable pretension of State sovereignty," and the "pestilent pretension of State rights." And the gentleman from Massachusetts [Mr. BALDWIN] entitled the speech which he delivered in this Hall, some weeks ago, "State sovereignty and treason," as if they were convertible terms. And now we have a proclamation of amnesty from the President, in which he sets forth the doctrine of reconstruction of States: that those States hereafter reconstructed may or may not hold the boundaries or the name of the States destroyed; that, by command of the President, the whole population of certain States are stripped of all political rights until they are purged and restored to their political status by the President.

By this new doctrine of our national construction the beautiful system of governmental checks is destroyed, and the reserved "independence and sovereignty of the States" is broken down, and that beautiful constellation of sovereignties, each in its orbit, that for eighty years have kept the centripetal and centrifugal path around the Constitution are thrown into anarchy and confusion, and State now clashes against State in wild confusion, and tending to utter ruin. And the President, by virtue of this usurped power, from the first day he came into office, clothed himself with all the powers of a Roman dictator, calling around him an army of a million men, surrounding his royal person and his mansion with a military guard, conscripted the unwilling citizen into his armies, suspended the writ of right, crowded the dungeons of prisons and the casemates of forts with unoffending citizens, banished shrieking women from their families and homes, issued rescripts to his proconsuls, scattered throughout the thirty-four provinces, or "creatures" of his empire. The constitutions of States are but baubles with which this master plays; the lives and liberties and rights and happiness and hopes of the people are subjects of his jest, with which he whiles away the tedium of the hours; the groans and cries and plaintive wails of a sorrowing, seathed, and peeled people, the clash and shock of battle, the roar of thundering armaments upon sea and land, are but music to his ear, for they tell the extent of his dominions and are the evidence of the measure of his power.

Against such a doctrine, so pregnant of mischief, before this august assembly of the Representatives of States, in my place, I enter my most solemn protest. True, sir, amid the throes and convulsions, the lashings and surges of this terrible revolution, my voice may not be heard; or, if heard, may not be heeded by those who riot in this carnival of blood and sorrow. Nevertheless, true to the promptings of duty, I will throw my voice of condemnation and rebuke into this great whispering gallery of the nation, that, perchance, as its echoes are borne away amid the hamlets of a sorrowing people, it may fall upon the ear of some listening Hampden, some waiting Sidney, some suffering Tell, some panting Curran, some hopeful Washington.

This new doctrine of our national construction is a fearful assumption of unwarranted power—an awful stride toward a centralized Government. It forces at once upon us, as well as upon the country, the momentous question, is our Government a national Government, and the States but mere provinces thereof, or is it a Federal Government, a Government of a community of independent and sovereign States, united by a compact or agreement?

The inquiry demands the calm and earnest investigation of every man in the nation. If this claim of national power made by the President and his party is true, then the sovereignty and reserved rights of my noble State of Ohio are stricken down, and your State as well, Mr. Speaker, and the State of every Representative upon this floor. Then these mighty States, instead of being, in the language of Jefferson, co-ordinate branches of the Government, of equal order, of the same rank or degree, become dependencies, mere corporations for purposes of taxation and conscription.

Let us descend to first principles, and like earnest inquirers ask what is a national Government? I answer, it is a Government of the people of a single nation, exercising complete and perfect supremacy over all persons and things within its boundaries that can be made the lawful objects of government. What is a Federal Government? It is a Government of a community of independent and sovereign States, united by a compact or agreement. Is ours a national or a Federal Government?

At the time of the formation of this Government there were men who feared that the Federal Government might, by usurpation, destroy the independent sovereignty of the several States; a fear which has culminated in our day to a sad reality. To dispel such fears and remove such opposition to the ratification of the new Constitution, just submitted to the people of the States, Mr. Madison, one of the fathers not only of the Constitution but of the Federal Government, published the following article, explanatory of the rights of the States under the new Federal Government. I quote from the thirty-ninth number of the *Federalist*:

"The idea of a national Government involves in it not only an authority over the individual citizen, but an indefinite supremacy over all persons and things, so far as they are objects of lawful government. Among a people consolidated into one nation this supremacy is completely vested in the national Legislature. Among communities united for particular purposes it is vested partly in the general and partly in the municipal Legislatures. In the former case all local authorities are subordinate to the supreme, and may be controlled, directed, or abolished by it at pleasure. In the latter, the local or municipal authorities form distinct and independent portions of the supremacy, no more subject within their respective spheres to the general authority than the general authority is subject to them within its own sphere.

"In this relation, then, the proposed Government cannot be deemed a national one, since its jurisdiction extends to certain enumerated objects only, and leaves to the several States a residuary and inviolable sovereignty over all other objects."

This clear, distinct, and emphatic announcement of the construction, powers, and jurisdiction of our Federal Government, should be to every candid and honest mind conclusive, unless the question is raised as to whether Mr. Madison understood the operations of the Government he so earnestly labored to create.

The thirteen original colonies, or States, that formed our present Union were at the time of the formation of that Union; and for a time whereof the memory of man runneth not to the contrary, sovereign and independent States, save the allegiance they severally owed to the British Crown. In the year 1778, when oppressed by British tyranny, the thirteen colonies, or States, entered into a compact, known and designated as a Confederation, and adopted "Articles of Confederation," explanatory of the objects and purposes, and limiting the powers of the Confederation.

The first and second sections of those "Articles of Confederation" read thus:

"ART. 1. The style of this Confederacy shall be, The United States of America.

"ART. 2. Each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right which is not by this Confederation expressly delegated to the United States in Congress assembled."

Now, Mr. Speaker, have we not all been taught by men in every school of politics that the Confederacy was not a national Government, but a

simple compact or league between sovereign and independent States for the purposes as expressed in the third article, in these words:

"The said States hereby severally enter into a firm league of friendship with each other, for their common defense, the security of their liberties, and their mutual and general welfare."

But that long admitted and unquestioned fact is now distorted into an argument by the friends of this Administration by which to justify the shameful usurpations of power, and the iron reign of despotism over sovereign States and citizens now exercised by the General Government. These apologists for despotism and national wrong tell us, true, the Articles of Confederation tied the hands of the General Government and exalted the sovereignty and independence of the States, and thereby proved a failure; and to remedy this defect the present Constitution was formed, whereby the powers of the Federal Government were expanded and increased, and the sovereignty and powers of the States diminished, and rendered subservient to that of the national Government; that in the adoption of the Constitution of the United States the people of each State surrendered and transferred their local sovereignty and rights to the people of all the States in the aggregate; and that then and thereby the people of all the States of the Union became consolidated into one single community or national Government.

Such is the argument of these apologists of lawless, shameful tyranny.

But, Mr. Speaker, the history of our present Federal Constitution tells us a different story. It tells us that the Convention which framed that Constitution was convoked, not by any act or authority of the people of the several States in mass, but by a resolution of the Confederate Congress. And it was called, not for the purpose of establishing a national Government, and the surrendering of the sovereignty of the people of each State to that national Government, as is now claimed, but, in the very language of the resolution itself of the Congress of the Confederation calling that Convention, it was—

"For the sole and express purpose of revising the Articles of Confederation, and reporting to Congress and the several State Legislatures such alterations and provisions therein as shall render the Federal Constitution adequate to the exigencies of the Government and the preservation of the Union."

Thus the objects and purposes of the Convention thus called were clearly defined; and with those distinct objects in view, delegates to that Convention were appointed, not by the people of the States in the aggregate, but by the Legislatures of the several States. In the Convention which framed the Constitution of the United States the delegates voted by States, each State casting one vote, and after its formation was submitted for ratification to the several States, and was approved, not by the vote of the mass of the people of the United States, but by each State acting separately thereon for itself, as an independent sovereignty. In all this there was no dwarfing of the rights of the citizen and the sovereignty of the States into a great national Government.

Am I correct? Let us appeal to Mr. Madison again, in the same number of the *Federalist* from which I have already quoted, in which he appeals to the people to ratify the Constitution submitted to the States:

"This assent and ratification is to be given by the people, not as individuals composing one entire nation, but as composing the distinct and independent States to which they respectively belong. It is to be the assent and ratification of the several States. The act, therefore, establishing the Constitution will not be a national but a Federal act."

And further on he says:

"Each State, in ratifying the Constitution, is considered as a sovereign body, independent of all others, and only to be bound by its own voluntary act. In this relation, then, the new Constitution will, if established, be a Federal and not a national Constitution."

The present Federal Constitution, therefore, was ordained and established not by the whole people of the United States, collectively or in mass, as a distinct community, but by the several States, the people of each acting in the name and by the authority of their State, as a distinct, sovereign, independent people, and that the Constitution thus formed was a mere continuation of the same Union, and a mere revision or remodeling of the Articles of Confederation, wherein the several States had expressly stipulated that the condition of their union was, that "each State retain its sovereignty, freedom, and independence."

The preamble to the Constitution declares that it was ordained and established "for the United States of America." What, then, are "the United States of America" but the several States united by a compact or agreement of limited and expressly defined powers? And what was the object for which these States were thus united? To destroy and abolish the States, as independent and sovereign communities, and establish a great national Government for the American people collectively? If so, would not so great a change in the political status of a people ever jealous of their rights and watchful of every encroachment of governmental power have been made clearly manifest by provisions leaving no grounds for doubt? Think you that a stern and stalwart people, who could fight and battle for seven long years rather than pay a tax without representation, which was the evidence of their nationality and sovereignty as a people, would merge their identity in the new Government under the Constitution if the same was not to be a continuation of "the United States of America," under the Articles of Confederation, which provided that "each State retain its sovereignty, freedom, and independence?"

But that object is announced in the Constitution itself in the words "to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity." "To form a more perfect Union," thus recognizing the existing Union under the Articles of Confederation, and simply proposing to render it "more perfect." What Union is here referred to? Surely nothing more nor nothing else than the Union between the independent and sovereign States already existing. Then the object sought to be accomplished by a substitution of the Constitution of the United States for that of the Articles of Confederation was to perfect their union as distinct and sovereign communities, to establish justice among the States, to insure their domestic tranquillity, to provide for the common defense and general welfare of the States, and to secure the blessings of liberty to them and their posterity as the people of several distinct communities.

In all this the Federal character of this Government is explicitly declared as distinguished from a consolidated national Government of people; and there is nothing which amounts to anything like a surrender of State sovereignty by the people of the States, and a transfer of it to the whole people of the States collectively as a distinct community or consolidated nation of people.

If then I am correct—and as to that I submit to the judgment of candid men—it must be apparent that the Government of the United States was ordained and established by sovereign and independent States, with powers limited and well defined, derived from the States, and is therefore, *mutatis mutandis*, the "creature" of the several States, and not the States "the creature of the General Government," as announced by the President.

A State government is a government of a community of people. The Federal Government of the United States is a Government of a community of States. Such was the beautiful system of government formed by our revolutionary fathers, and now so ruthlessly attempted to be destroyed by furious Jacobins. Thomas Jefferson, in writing to his friend Destutt De Tracy, said:

"The true barriers of our liberties in this country are STATE GOVERNMENTS; and the wisest conservative power ever devised by man is that of which our Revolution and present Government found us possessed."

"The republican Government of France was lost without a struggle, because the party of 'one and indivisible' prevailed."

If one of our States can, upon its whim, nullify a law or set aside the Constitution of the United States, that would destroy the independence of the Federal Government as an equal and co-ordinate power with that of the States. So, if the Federal Government can abrogate in whole or in part the constitution of a State, or disregard the "reserved rights" of a State, as is now done by the President and his proconsuls, that would destroy the independence of the States as a co-ordinate power of the Government, and would inaugurate the party of "one and indivisible," which Mr. Jefferson said destroyed the republican Government of France. It would, in a word, be

the consummation of the worst fears entertained by the fathers in the formation of our Government and Constitution.

It may not, Mr. Speaker, be wholly unprofitable for us all to go back to the earlier days of the Republic, and talk with those sincere and noble men who walked with Washington and Jefferson and Franklin and Hamilton and Madison and Lee and Henry; to examine the history of the formation of this very Government; the fears, the doubts, the wishes and hopes of those "holy men of old," as they laid the foundations, and reared the structure of this great governmental fabric of ours. And as we wander among their early works, and listen to their instructive teachings, I pray you mark well how sedulously they labored to guard the rights of the States, how they feared that in time that simple Federal Government, with a few, very few, limited and well defined powers, might become an immense, colossal, consolidated Government, absorbing and swallowing up the "sovereignty, freedom, and independence" of the several States. How careful they were to stipulate, "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

When the Convention, over which General Washington himself presided, had agreed upon a Constitution, it was sent to the different States to be considered by them, and, if approved, to be ratified.

New Hampshire ratified the Constitution by a majority of eleven votes in a convention of one hundred and three, and even this meager majority was not obtained until amendments were proposed calculated to quiet the fears of the people against an undue administration of the Federal Government.

Massachusetts called a convention of her people "to ratify an explicit and solemn compact." The contest in that convention was long and animated upon the probable consolidation of the Federal Government and the eventual swallowing up of the local governments. In a convention, composed of three hundred and fifty-five members, the new Constitution received a majority of but nineteen votes.

Rhode Island refused to participate in the Convention that framed the Constitution, and did not join the new Federal Government until after the other States had ratified the Constitution, and Congress had assembled under it.

Connecticut, being a small State, was exceedingly jealous for her State sovereignty; and that the smaller States should not be swallowed up in the new Government she insisted that each State, without regard to size, should have an equal representation in the United States Senate. Said Mr. Ellsworth, "These small States must possess the power of self-defense." Said Roger Sherman, "The Government of the United States is Federal, and instituted by a number of sovereign States." Said another member of her convention, while insisting upon the sovereignty of the States, "The structure of the Federal Government rests like a most magnificent bridge built on strong and stately pillars, and these pillars could not be destroyed without the consequent destruction of the superstructure."

New York. If you will examine the draft of the Constitution you will find that the same is signed by but one delegate from the State of New York, to wit, Alexander Hamilton. New York was represented in the Convention by two other delegates, to wit, Robert Yates and John Lansing. But these two colleagues of Alexander Hamilton retired from the Convention long before the conclusion of its labors, under the solemn apprehension that the proposed plan of Government would end in consolidation. Alexander Hamilton, as we all know, was a friend of a strong Government, and in the Convention proposed a plan of Government; yet in the Convention, and before the people of New York, he persistently denied that he ever intended the abolition of the State governments. So severe was the contest in New York, that in a convention of fifty-five members the Constitution was ratified only by a majority of five.

New Jersey ratified the Constitution by a unanimous vote, assured that State equality and State sovereignty were fully recognized by the equal representation of the States in the United States Senate.

Pennsylvania ratified the Constitution after a warm and severe contest. Her jealous statesmen could see nothing but consolidation in the new Government. The very preamble to the Constitution was cited in evidence of an intended consolidation of the States, in the expression, "We, the people of the United States." But this doubt was dispelled by an appeal to the people by a member of the Convention in which he said:

"Though the Federal Convention proposed that it should be the act of the people, yet it is to be done in their capacities as citizens of the several States of our Confederacy, who are declared to be the people of the United States."

It was further insisted, by way of allaying the fears of the people, that the new Government would end in a consolidation, that the Constitution reserved to the States the appointment of all officers of the militia and the training of the same, by means of which the States would have a powerful military support, wherein no citizen of another State could hold any position. Notwithstanding all this, one third of their convention voted against the ratification of the Constitution, and even issued an address to the people setting forth their apprehensions that the Federal Government would assume colossal strength, and eventually destroy the rights and liberties of the people of the States.

Delaware ratified the Constitution with unanimity, being pleased that she was put on an equality, as a State, with the great States of New York and Virginia.

Maryland ratified the Constitution, but with the understanding that amendments would be made thereto. Resolutions were introduced into the State convention expressive of the sentiments of the convention against a consolidated Government, against the abrogation of State constitutions and bills of right.

Virginia, within whose borders lived the very fathers of the Constitution—Washington and Madison—ratified the Constitution by a mere majority of five. They earnestly desired a Federal Government; but they trembled lest they might thereby put in jeopardy the rights of her people as citizens of a sovereign State. She dreaded a consolidated Government. Patrick Henry exclaimed, "The Constitution has an awful squinting toward monarchy." It required the wisdom and argument of her best men to persuade her people that under the Federal Government the reserved rights of the States were fully guaranteed in the new Constitution.

North Carolina, in a convention of two hundred and sixty-eight members, refused to ratify the Constitution by a majority of one hundred until amendments were actually made securing to the State all the sovereign rights she had, except such as were expressly delegated.

South Carolina ratified the Constitution by a vote of one hundred and forty-nine to seventy-three. But to that ratification she appended this solemn proviso:

"That no section or paragraph of the said Constitution warrants a construction that the States do not retain every power not expressly relinquished by them and vested in the General Government of the Union."

Georgia ratified the Constitution with unanimity.

And thus, Mr. Speaker, our beautiful Constitution and inimitable form of Government were launched in the full assurance and well-grounded hope that the sovereignty of the States and the liberties of the people were preserved for all coming time.

For eighty years, under this idea of the construction and working of our Government, we have lived and prospered; for eighty years the Puritans of New England, the Hollanders of New York, the Quakers of Pennsylvania, the Swedes of New Jersey, the Cavaliers of Virginia, the Huguenots of South Carolina, have lived together as one people; for eighty years men of all nations, languages, and climes have enjoyed here a freedom of thought, of speech, of worship, of action, that have carried us to the very acme of civilization, territorial expansion, and national happiness; for eighty years these States, leaving to each one unrestrained liberty to grow and develop itself after its own plan, to follow such track of progress and civilization as its climate, soil, productions, character of its race and people might render expedient, have kept the march of empire; for eighty years, as a nation, we have happily developed the great governmental idea of "diversity

in unity," in religiously reserving to each State, as provided by the Constitution, perfect freedom for all domestic institutions and purposes, and relieving the central Government of all control or responsibility over their internal progress or affairs.

But a change came over the spirit of the people. On the 4th day of March, 1861, for the first time since the organization of our Government, a new party, the Republican party, a party pregnant of mischief, crept into power, howling as they came that our well-developed idea of "diversity in unity" was a mistake; that States constituted as ours were, part slave and part free, could not so exist; that instead of being a "diversity in unity" they were antagonisms, and one must destroy the other. That party came into power mad with hopes long deferred. Its President was elected upon a platform annulling the decision of the Supreme Court of the United States, and setting at defiance the highest judicial arbitrament of the land; and the first official announcement made by the President to the people was, that he would make the platform of his party the rule of his action. Thus was announced to the people of the country that not the Constitution, but the will of the Republican party, as inscribed upon their platform, should be the law of all the States. They came into power determined to crush out and trample down all personal and State rights, no matter how sacred or time-honored, that should stand in the way of their desires. Reckless, lawless, anarchical, revolutionary, fanatical, filled with the mania of one idea, and blind to all else, they have driven the Government crashing through all the checks which were intended to regulate and guide it, until already we are cowering upon the abyss of a common ruin. A party that entertains no reverence for Constitution, heedless whether the Republic stand or fall, welcoming dissolution of the Union, welcoming war, havoc, and desolation, if only slavery is put down and their unholy ambition gratified.

When that miserable old wretch, John Brown, inaugurated an invasion of the State of Virginia, seized the United States Government armory at Harper's Ferry, put pikes into the hands of ignorant and inflamed negroes, and commenced the indiscriminate murder of helpless women and children and unarmed men, and while the whole land rang with one bitter curse against the inhuman fiend as he expiated his nameless enormities upon the gallows, you might have heard the voice of my colleague from the Cleveland district, [Mr. SPALDING,] on that day in Melodeon Hall, in the city of Cleveland, exclaiming:

"I claim John Brown as a hero, true to his conscience and true to his God. We have met to honor him for his faithfulness to his convictions of duty and his principles. We have met to honor those principles and the cause in which he died."

Senator WILSON, of Massachusetts, in a speech at Syracuse, New York, in 1859, said:

"I tell you, fellow-citizens, the Harper's Ferry outbreak was the legitimate consequence of the teachings of the Republican party."

John Brough, the present Republican Governor of Ohio, in a speech during the political canvass last summer, said:

"Slavery must be put down, rooted out, if every wife has to be made a widow and every child to be made fatherless."

Said I not truly, that this Republican party entertains no reverence for the Constitution, welcoming war, havoc, and desolation, if only slavery is put down, and their unholy ambition gratified?

In further confirmation of this, let me call the attention of this House and of the country to a pronunciamento of the Republican party, published some time ago in the New York Times, the leading organ of this Administration; and I desire you to observe with what strict, unflinching minutia its reckless, lawless, revolutionary behests have been executed over the entire loyal States of the Union:

"The Government at Washington will need all the unity and efficiency contemplated in recent proclamations. It will require a million men and proportional supplies. Martial law over the entire North is a national necessity. If the Governors of the northern States manifest a factious spirit the provost marshals will have the power to keep them in order. If State Legislatures should undertake to interfere with the action of the General Government necessary to the prosecution of the war they will come under the action of martial law. And if the action of any political party shall threaten to change or paralyze the movements of the Government it will doubtless be competent for the provost marshal in any State to suspend political meetings and



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postpone elections. If the Constitution of the United States is to be construed according to the necessities of a civil war of vast proportions the constitutions of individual States cannot be allowed to stand in the way of its vigorous prosecution."

"They tell us that the President cannot do this or that; that his proclamations are only waste paper. They appear to have very little idea what the Commander-in-Chief of the Army and Navy of the United States can do. A man of firm and resolute will, with a million men in arms to support him, can do pretty much what he pleases. They have to learn that paper constitutions, however convenient they may be, can be amended when necessary, suspended, or laid aside altogether; and that it is no longer a question what this or that Constitution authorizes, but what is necessary to be done to make thirty-four States and a vast territory one Nation."

Mr. Speaker, did I not truly say that this party in power is determined to make its will the law of all the States, despite our constitutions? The President has long since assumed the memorable declaration of Louis XIV of France: "The State—I am the State!" And when the Democracy demands by what clause of the Constitution, the answer is that of the Roman slave mistress, *Stet pro ratione voluntas*. The President, in effect, has told the people of the country, "The thing which I will is absolutely the best thing for the Republic; and all those who dare to place obstacles in the way of my will are evidently and unquestionably the enemies of the Government." And this new doctrine of power is thundered in the Senate; is repeated in this Hall; is made the test of "loyalty" in those miserable dens of Jacobins that now spot our land, called "Loyal Leagues;" and the special organ of the President in this capital, whose editor holds high position to-day in the American Senate, not to be outdone in "loyal" subservience to him who wears the purple, exclaims, "The President is the instrument of God!"

And now, in presence of this "instrument of God," laws must be silent, constitutions must place no check upon executive authority. Stand still, you Representatives of the people! Stand still, my countrymen, and see "a man of firm and resolute will, with a million men in arms to support him, do pretty much what he pleases." See him violate our ancient right of freedom of speech by arresting and imprisoning citizens for utterances of sentiments which he deemed distasteful. See him violate the freedom of the press by suppression of newspapers all over the country. See him violate those great immunities of freemen, security from arrest when no crime is charged, and from unlawful search and seizure. See him violate the great constitutional right of the citizen to a trial by jury. See him suspend the writ of *habeas corpus*. See him abrogate the rights of property of the citizen, loyal and rebel alike, by mere proclamations. See him violate the freedom of religious worship by dispersing congregations with files of armed soldiers and sending ministers into exile. See him violate our old prerogative, to worship God according to the dictates of our own conscience, by establishing a system of adoration, by placing churches under the care of military commanders with authority to depose ministers whose theological tenets do not meet the approbation of the War Department. See him, by means of his infamous conscription laws, break down the last muniment of State protection in the constitutional right of the State authorities to call out and drill the militia, and, when called into the service of the United States, to appoint the officers who shall command them. See how completely he has destroyed the hitherto unquestioned right of the people to elect their representatives, both State and Federal, by interposing military orders, test oaths, and military guards around election precincts, and thus coercing the election of Governors and Representatives in Congress friendly to the President and his policy, as was done in Kentucky, Delaware, and Maryland.

And while every honest head should be bowed in shame and sorrow that these things are so, a leading organ of the Administration, in justification, exclaims:

"We do not find fault with the machinery used to carry

Maryland and Delaware. Having nearly lost the control of the House by its blunders in the conduct of the war from March, 1861, to the fall of 1862, the Administration owed it to the country to recover that control somehow. To recover it regularly was impossible; so irregularity had to be resorted to. Popular institutions will not suffer, for the copperhead element will have a much larger number of members in both branches than it is entitled to by its popular vote. Ohio, with its ninety thousand Republican majority, will be represented by five Republicans and a dozen or more copperheads. It is fitting that this misrepresentation of popular sentiment in the great State of the West should be offset, if necessary, by a loyal delegation from Maryland and Delaware, won even at the expense of military interference. If laws are silent amid the clang of arms, we must take care that the aggregate public opinion of the country obtains recognition somehow or other."

Where are we tending? Where now is the old regime of the fathers? If the "control of the House" must be "somehow" secured, and if President Lincoln, as announced in the court journal, is the "instrument of God," how long may it not be, Mr. Speaker, before some Cromwell, with military cohort, may stand in that door and ring in your astounded ears, as once it did in that of a British Parliament, "Avaunt! the Lord hath no further need of your services?" Yonder in the vista, upon the historic page, stands the angry Cromwell, who claimed to be the "instrument of God," with flashing sword in hand, exclaiming, "Sir Harry Vane! Sir Harry Vane! the Lord deliver me from Sir Harry Vane!" And here is its counterpart. Before our eyes, on yesterday in time, we saw our angry President stand, "with a million men in arms to support him," exclaiming, "Vallandigham! Vallandigham! the Lord deliver me from Vallandigham!"

I declare, advisedly, that if this system of usurpation of the rights of the States, and this rule of despotism over the people is to be continued, then the object for which the Federal Government was constituted, "to promote the general welfare, and secure the blessings of liberty to ourselves and our posterity," fails, and the General Government becomes a curse, and not a blessing. Holy God, grant a speedy return of the day when the Constitution shall again "be the supreme law of the land;" when our noble Army of veteran soldiers shall again return from battle-fields to peaceful, happy homes; when the brazen gates of Janus shall be closed; when these chairs around me, that for three long, sad years have been empty, shall again be occupied by intelligent and patriotic Representatives; when these beautiful escutcheons of thirty-four States, that now look down so sadly from these vaulted ceilings, shall once again behold assembled here the representatives of a reunited confederation of free, happy, and independent States.

Mr. ALLISON. Mr. Speaker, we are still in the midst of war. More than three years ago the people of eleven States of this Union, in their organized capacity as States, by their representatives selected for that purpose, confederated together, adopted a form of government independent of the Government to which they owed allegiance, and levied war upon the Union which had so long protected them in the full enjoyment of every right under the Constitution. This war, begun confessedly without cause, has been prosecuted on their part with a despotic cruelty and implacable vindictiveness without precedent in the annals of civilized warfare.

The despotic chieftain who rules at Richmond shrinks from no act that in his judgment tends to perpetuate his power, either in the treatment of his subjects or in his conduct toward the Government against which the war is prosecuted.

Although the conflict has waged with varied fortune from the beginning, yet a survey of the situation to-day clearly indicates that we have made substantial progress toward the reestablishment of the power of the Government over the revolted States. We all indulge the hope that the invincible hero with his brave men now about to move on the enemy's works will achieve success. We must not deceive ourselves, however, by resting in the belief that the enemy is substantially overthrown; his armed legions will still confront us; many battles are yet to be lost and

won before his military power is destroyed. That power destroyed, the enemy is not conquered.

"Who overcomes"

By force hath overcome but half his foe."

"Our better part remains to win in close Design what force effected not."

"The unconquerable will and study of revenge, immortal hate, and courage never to submit or yield," must be subdued by wise legislative action, by firm administration, and by unwavering fidelity to the great principles of republican liberty. The cause of all our woe must be eradicated. We must not be led astray by the siren song recently echoed on this floor, that abolition is "a thing accomplished," that slavery is dead. But we must annihilate it forever, and see that it has no resurrection. This duty primarily belongs to the Congress of the United States. We fail in the discharge of our whole duty if we do not adopt every measure that will bring about this consummation. Every measure of Congress, and every act of the Executive looking to the suppression of the rebellion and the destruction of this diabolism that produced it, although vehemently assailed on the stump, through the press, and in these Halls, has been triumphantly sustained after full and free discussion by the people of this country. The loyal people who have sacrificed so much, and who are ready for still greater sacrifices, demand of us and of the Executive that these necessary measures shall be carried to their legitimate and proper result. They demand that we shall so triumph over the rebellion that the cause which led to it and which has been its chief support shall with it be destroyed forever. They demand that free republican institutions, with all their attendant blessings, shall be established in all the territory reclaimed by our armies from the usurpation that now holds it.

I have listened with interest to the discussion in this House as to the relations of the so-called "confederate States" to the Government of the United States. It seems to me, however, that this question is to us *res adjudicata*. It has been settled by executive proclamation, by congressional action, and by judicial determination. Our authority over the revolted States, and the rights to which they are entitled, have been clearly defined and fixed by the Supreme Court of the United States, in the prize cases reported in 2 Black, page 635, *et seq.* The court, in stating the nature of the revolt, says:

"That in organizing this rebellion they have acted as States, claiming to be sovereign over all persons and property within their respective limits, and asserting a right to absolve their citizens from their allegiance to the Federal Government. Several of these States have combined to form a new confederacy claiming to be acknowledged by the world as a sovereign State. Their right to do so is now being decided by wager of battle. The ports and territory of each of these States are held in hostility to the General Government. It is no loose, unorganized insurrection, having no defined boundary or possession. It has a boundary marked by lines of bayonets, and which can be crossed only by force. South of this line is enemy's territory, because it is claimed and held in possession by an organized, hostile, and belligerent Power."—2 Black, pages 673, 674.

Judge Nelson, page 693, says:

"The laws of war, whether the war be civil or international, as we have seen, convert every citizen of the hostile State into a public enemy and treat him accordingly, whatever may have been his previous conduct."

Again, page 695, he says:

"The act of Congress of July 13, 1861, sections five and six, recognized a state of civil war between the Government and the confederate States, and made it territorial."

Congress has passed its deliberative judgment upon this question in the form of legislative enactment.

By section five, of act of July 13, 1861, to collect duties on imports and for other purposes, the President was authorized to declare certain States in insurrection, whereupon all commercial intercourse with said States should cease, and all goods or merchandise coming from said States or going thereto should be forfeited to the United States.

Again, by sections seven, eight, nine, of act of July 17, 1862, to suppress insurrection and for other purposes, proceedings *in rem* are authorized to be instituted against the property without pro-

cess against the owner, and the property condemned and sold when it shall be established that it belongs to a person engaged in rebellion or who has given aid or comfort thereto:

"Such property shall be condemned as *enemy's* property, and become the property of the United States. All slaves of such persons found or being within any place occupied by rebel forces, and afterwards occupied by the forces of the United States, shall be deemed *captives of war*, and shall be forever free of their servitude and not again held as slaves."

How enemy's property, if this is not a civil, territorial war? How enemy's property if subject only to the municipal laws of the United States? How shall slaves be deemed captives of war except by the laws of war? Such property is enemy's property; and slaves are captives of war by virtue of the laws of war applied to a hostile belligerent Power.

The President of the United States by numerous acts has treated the States in revolt as public enemies. By proclamation of August 16, 1861, he declared the rebel States in a state of insurrection, proclaimed non-intercourse, and directed the seizure of vessels belonging to citizens of said States, together with their cargoes; and that such property when seized should become forfeited to the United States. In this proclamation the loyal and disloyal in those States are treated alike.

Again, by proclamation, in pursuance of law, on the 1st day of July, 1862, the President declared certain States in insurrection and rebellion whereby the civil authority of the United States is obstructed, &c.; not individuals in rebellion, but States in their organized capacity as States.

Again, the President, by proclamation on the 22d of September, 1862, declared:

"That on the 1st day of January, 1863, all persons held as slaves within any State, or designated part of a State, the people whereof shall then be in rebellion against the United States shall be thenceforward and forever free."

And again, by proclamation on the 1st of January, 1863, these slaves were declared absolutely free. This great act of justice to an oppressed people is sustained upon the basis that the people in their organized corporate capacity as States are in rebellion; that they are to be treated and held as public enemies. Whatever the effect of this proclamation it operates alike upon those sustaining the rebellion and those still adhering to the Union. It takes effect upon the principle that this is a territorial war; that its "boundary is marked by lines of bayonets; that these designated States and parts of States" are held in possession by an organized, hostile, and belligerent Power; and that all the people within this hostile boundary are by the laws of war enemies.

The amnesty proclamation proceeds upon the same principle. It assumes the right of the Government to impose such conditions upon this conquered people as Congress and the Executive may determine. The President has proposed such conditions as to him seem just and liberal toward those who are willing to come back into the Union. One of these conditions requires a modification of the State constitutions so as to prohibit slavery.

If our right is conceded to impose these conditions, the same grant of power would authorize the Government to impose any further conditions that may be necessary to secure the permanent peace and prosperity of the whole country, and that may be necessary to "guaranty to every State in this Union a republican form of government." This power is further recognized and enforced by the President in his letter of instructions to General Steele, in Arkansas. He says:

"That it be assumed at the election and thenceforward that the constitution and laws of the State as before the rebellion, are in full force, except that the constitution is so modified as to declare that there shall be neither slavery nor involuntary servitude except in punishment for crimes whereof the party shall have been duly convicted."

Substantially the same instructions were issued to General Banks. This suggested modification implies that the complete control of the reorganization of a State in rebellion rests in the General Government. If this condition can be imposed, other conditions may be, or new constitutions, republican in form, may be required before any State in revolt shall be permitted to reënter the Union upon an equality with other States.

The law defines what acts are necessary to convert a domestic insurrection into a civil or public war. When the courts are obstructed, when the civil law cannot be administered, when hostile forces confront each other on the battlefield, a state of public war exists, the parties are

belligerent, and the laws of war control them. When we blockaded southern ports, when we passed the non-intercourse act, when we sent out carrels of exchange of prisoners, when we treated captured piratical cruisers preying upon our commerce as prisoners of war, when we authorized the seizure, condemnation, and forfeiture of property *in rem*, when we declared all the slaves in revolted States as free, we treated our foe as a hostile belligerent Power. But let it not be said that we have thus acknowledged the right of these States to revolt; we have only recognized the fact of revolution, and the great question we are now settling by wayer of battle is whether or not this shall be successful revolution.

Neither let it be said that because we have treated them as public enemies we cannot punish the individuals as traitors. Judge Grier, in his able opinion in the prize cases, says:

"The law of nations contains no such anomalous doctrine as that insurgents who have risen in rebellion against their sovereign, expelled her courts, established a revolutionary government, organized armies, and commenced hostilities are not *enemies* because they are *traitors*, and a war levied on the Government by traitors in order to dismember and destroy it is not a war because it is an *insurrection*."

It follows that they can be punished as traitors though public enemies.

But it is claimed by the Opposition that if we treat them as revolutionists, as public enemies, we cannot complain if other nations recognize them as an independent Power. This does not follow. For while they are to us public enemies, organized and confederated as States, yet they are upon our territory; they are within our jurisdiction. They are seeking to establish an independent government out of a part of our territory, and until we acknowledge them it is the established rule of international law that the recognition of them by a foreign Power would be an act of war. By act of Parliament of Great Britain of 16 George III, 1776, all trade and commerce with the thirteen colonies was interdicted, and all ships and cargoes belonging to the inhabitants subjected to forfeiture as if the same were the ships and effects of open enemies. From this time the war became a territorial civil war between the contending parties, with all the rights of war known to the law of nations. Yet years after she held the recognition by France of our independence to be an act of war, and declared war accordingly. Therefore, in the light of congressional legislation, executive proclamation, and judicial interpretation, we have properly regarded those in arms against us as public enemies, liable to all the penalties imposed by the laws of war, having no rights under the Constitution, and at the mercy of our Government. I know we have at times by our legislation been in conflict with this view, but Congress, the courts, and the people are rapidly correcting the errors of the past. The laws of war are well defined and clearly understood.

Money and wealth, the products of agriculture and commerce, are said to be the sinews of war, and as necessary to conduct it as numbers and physical force. Hence it is that the laws of war recognize the right of a belligerent to cut these sinews of the power of the enemy by capturing his property, not only on the high seas, but on land in the hostile territory. The property thus taken is not confiscated under the Constitution after conviction for treason, but by virtue of the laws of war. Vattel, page 125, says:

"Everything, therefore, which belongs to the nation, to the State, to the sovereign, to the subjects of whatever age or sex—everything of that kind, I say, falls under the description of things belonging to the enemy. As to landed estate, property of this kind does not cease to be enemy's property, though possessed by a neutral foreigner, since the owner is resident in the hostile country."

"We have a right to deprive our enemy of his possession of everything which may augment his strength and enable him to make war." (Page 349.) \* \* \* "In fine, we seize on the enemy's towns, his provinces," &c.

But it is claimed that under the humane policy of modern times, and by the later decisions of our courts, the rigid rules of confiscation of enemy's property have been relaxed. This I grant is true to a certain extent; but the law remains, and when the sovereign power of a nation demands the execution of the law in its rigor the courts will execute that law. Chief Justice Marshall, in the case of *Brown vs. The United States*, 8 Cranch, 110, says:

"Respecting the power of the Government, no doubt is entertained. That war gives to the sovereign full right to

take the persons and confiscate the property of the enemy wherever found is conceded. The mitigations of this rigid rule, which the humane and wise policy of modern times has introduced into practice, will more or less affect the exercise of this right, but cannot impair the right itself. That remains undiminished; and when the sovereign authority shall choose to bring it into operation the judicial department must give effect to its will."

This power is exercised under the war power granted in the Constitution, and which is without limitation.

Under this view, it follows that we may seize the real estate in fee; we may seize all the slaves within the hostile territory, emancipate them, arm them, and use them in any way to weaken the enemy and strengthen the Government.

The framers of our Constitution wisely placed no restriction upon the war powers of the Government. When a state of war exists the Constitution authorizes every act that the law of nations justifies toward our enemy, even though that enemy consists in communities who once owed and still owe a paramount allegiance to the Constitution of the United States.

With what show of reason or of justice can it be claimed that while this enemy is confronting us, defying our authority and our laws, while it is necessary for us to sacrifice billions of money and hundreds of thousands of the best men in the land, we shall at the same time exert the power of Congress to preserve and protect the property of this enemy to be turned over to them unharmed at the end of the war? Is there anything in the character of this revolt that requires us to exercise clemency toward the slaveholding, landholding class who were its instigators, and who now control and direct it?

No act of the Government could be pointed out treating this people with injustice. So far from it they ruled and controlled it for a long series of years to uphold and maintain slavery. Fearing that the General Government could no longer be used for the exclusive benefit of the slaveholders, they instigated this revolt, to establish out of the territory of the United States a slave empire, to make perpetual an aristocracy founded upon the idea that capital should own labor. Since Satan with his infernal peers revolved against Deity, history or poetry furnishes no example of a revolt so causeless, and having for its object so diabolical a purpose.

The dictates of justice and humanity alike require that the fomenters of this rebellion, those who infused into it organization and life-blood, shall be punished to the extent permissible by the laws of war. The great body of the people of the South are entitled to be treated with leniency, and should be so treated. Those who, from ignorance, were induced to enlist, those who by force were conscripted, should in the end receive the clemency of the Government; but for the leaders expatriation, annihilation, or death is the only remedy. It has been truly said that this is a landholder's as well as a slaveholder's rebellion. It is estimated, by careful computations from the census tables of 1860, that four fifths of all the lands in the rebellious States are owned by slaveholders, and that one third of the slaveholders own two thirds of these lands. About one in fifty of the whole population of the South holds slaves. So that if the lands of the leading conspirators were seized by the Government and wrested from them, not more than one out of every hundred in the South would be affected by it. I ask Representatives, shall everything else be destroyed that these few thousand slaveholders with their immense plantations shall live? Justice demands that the diabolical spirit which fanned into flame this revolution and now keeps it burning shall expiate its crime by a forfeiture of all it has to the Government it seeks to overthrow. These estates of malignant and unrepenting rebels, confiscated to the Government under the laws of war, or seized under the revenue laws because abandoned by their owners, becoming the property of the United States, what shall be done with them? We are entitled to use them so as to best promote the interests of the whole country. We should not sell them, because they would be purchased in large tracts by speculators who have grown rich by the war, and who would use them as did the masters who have abandoned them. They are the rightful inheritance of those who have fought our battles and reclaimed them from the control of the usurpation that now makes war

upon us. They have the first right, and this bill secures that right to them. But the opponents of this bill say we propose to divide that which we have not, and which we cannot acquire. They forget that large tracts are already within the jurisdiction of the Government under the direct tax, which will go into the hands of speculators unless bid in by the Government and awarded to our soldiers under this bill, or some one with similar provisions.

Mr. Speaker, I do not believe this nation will be so unjust to itself as not to seize absolutely the property, including the lands, of malignant rebels. Therefore I assume that confiscation in fee will be our policy with reference to these lands. We progress slowly, I admit; but to this we must come at last.

I will not take the time of the House to explain in detail the provisions of the bill under consideration. My colleague on the committee has done so, and the bill is printed and on the files of members. It extends our general land system, and virtually extends the homestead policy to this class of lands, confining its provisions, however, for the first five years after its passage to the soldiers and sailors who have borne arms in defense of the nation.

I will not stop here to vindicate the homestead law. Although long delayed, it may now be considered as a part of the settled policy of the Government in its disposition of the public domain. Experience has fully demonstrated that the Government realizes more revenue from its public lands by offering liberal inducements for their settlement than it does by offering them for sale. The demand for public lands is limited to the demands of actual settlers except during times of great land speculation, as in 1837 and 1856. Although Government realized millions of dollars from sales in 1856, yet those sales were a positive evil. Whole townships, and in some instances counties, in my State, Iowa, were taken up by speculators, and have been held by them at such prices as to preclude their settlement. If there had been no sales except to actual settlers, or if the beneficent principles of the homestead law had then prevailed, these localities would doubtless now be occupied by prosperous and extensive communities, who would annually contribute in taxes far more to the support of the Government than was realized from those sales. Our public lands are valueless to the Government without cultivation. Any other policy is unjust toward the hardy pioneer of civilization, injurious to the public interests, and would present a serious obstacle to the growth, development, prosperity, and greatness of our common country.

By this policy the oppressed poor of the Old World are invited to happy and independent homes in the New. They in turn contribute to the growth, wealth, and greatness of the nation. In the midst of this desolating civil war more than two hundred thousand of the poor of other lands within the last year have sought an asylum among us, invited by our free institutions and liberal policy, and it is estimated that during the coming year nearly double that number will seek our hospitable shores. Hon. Robert J. Walker, in a recent article, has shown that if we compute the annual immigration for the next ten years as during the decade from 1850 to 1860, and estimate the value of the labor of each immigrant at thirty-three cents per day, it would give us a grand total in 1870 of \$1,430,000,000, or enough in twenty years to pay our entire national war debt. We need their labor to till our fields, to replenish our Treasury, and enrich our commerce, and therefore should, by our laws and our policy, give them encouragement.

Land monopoly, with its attendant evils, has ever been the bane of empire. The republic of Rome furnishes us a familiar example. In the early days of the republic labor was esteemed honorable. The cultivators of the soil were esteemed worthy of the highest places in the republic. Afterwards the reins of power passed from the hands of the middle classes; the proprietorship of the soil passed from the many into the hands of the privileged few. The people having thus alienated the true inheritance of power, their own homesteads, soon became a prey to the contending factions, who controlled the wealth of the State, and the greatness and glory of the imperial republic passed away forever.

The successive revolutions in Mexico have been but a struggle of the people against the lordings of the soil; a struggle of the Liberal party who sought to foster and cherish republican institutions against the Church party who owned the greater portion of the soil and wealth of the country, and who used their wealth and power to oppress the people. The Liberals finally wrested this wealth from the Church party, and used it for the benefit of the State, and the Power now ruling that country has not yet deemed it prudent to restore it. The fate of Mexico shows how impossible it is to maintain a permanent republican Government over the few selfish, proud aristocrats who own the soil and wealth of the country, even without the demoralizing and aggravating evils of slavery.

Who does not believe that if the landed proprietors who own the great body of the English soil could upon some principle of justice be induced to share it with the homeless and landless class there, much of the misery, want, and degradation that now afflict a great portion of that people would be averted, and the greatness and glory of the kingdom thereby advanced?

In a prosperous State labor must not only be free, but the cultivator of the soil must have a proprietary right in the soil itself. In the rebellious States the slaveholders not only owned the soil but the labor that tilled it. Labor thus degraded became dishonorable. Here the poverty of the many, with its evils of want, of ignorance, and dependence, was to be found side by side with the excessive wealth and opulence of the few. The poor whites, ignorant of the blessings of free Government, yielded their assent the first moment the slaveholders, their masters, sought to overthrow it. The words of General Marion, himself a southerner, written to Baron De Kalb, present a true picture of the lower class of the whites in all the southern States. Speaking of Carolina, he says:

"The people form two classes: the rich and the poor. The poor are very poor; the rich, who have slaves to do all their work, give them no employment; the little they get is laid out in brandy, not in books and newspapers; hence they know nothing of the blessings of our country or of the dangers which threaten it; therefore they care nothing about it; enjoying none of the benefits of a free Government they cannot appreciate its blessings, and feel no interest in fighting for its preservation."

This is a truthful picture of the South to-day. The wealthy and intelligent few have controlled and directed the poor and ignorant many, and have thus led them into the vortex of a revolution causeless as it is wicked. We must conquer the oppressors of this people. Their oppressors conquered, the Government should extend to them its fostering care and protection; should encourage labor and protect all in the enjoyment of its fruits. We must restore the great body of that people by the establishment in those States of free schools and free churches. This can only be done successfully by a division of the large estates, now abandoned, into small farms, which shall be tilled by their owners. This division is also necessary to eradicate slavery. The nature of that institution is to absorb all within its reach. Experience has demonstrated that the small farmer, and in turn the small planter, was compelled to give way to his more powerful and more aristocratic neighbor, who prospered upon the labor of his slaves, until all the valuable lands of the South were owned by comparatively a few persons. If these estates are not divided in the renovation of that region, they will soon be taken up under our tax and confiscation laws by a class of cormorants who will swarm thither, hoping to amass fortunes by a system of wages-slavery as much to be deplored as chattel-slavery. This class will seek to take advantage of the ignorant slave suddenly made free, and will require of him excessive labor, with inadequate compensation.

Experience has already shown that negroes suffer as much under avaricious lessees who are determined to suddenly amass wealth by raising cotton as they did under their former masters.

This evil of land monopoly and speculation has become so great in Louisiana that General Banks was compelled recently to issue an order suspending all sales of real estate in the Gulf department belonging to rebels. In that department reliable authority states that the system of leasing lands adopted is but a feeble substitute for the barbarism of slavery; temporary, I hope, but if

persisted in, and continued for any great length of time, the dominion of the northern speculator over the freedmen will be as complete and more cruel than slavery itself, which in some degree ameliorates the condition of its victims through the interest of the tyrant, who wishes to preserve the health of the slave that he may continue to exact from him unrequited labor. All efforts to destroy the institution of slavery will be futile if General Order No. 23, of February 3 last, relating to the treatment of freedmen in the Gulf department, is to become the permanent policy of the Government.

Shall we establish in this Republic a system of serfdom at the very time when the Czar of Russia is emancipating the serfs in all his dominions from the power of their feudal lords, and granting them absolute possession and ownership of the soil they have cultivated and continue to cultivate? We hail with joy this act of a monarch which raises millions to the condition of freedom, and empowers a populous people to enter upon the road of progress. Let us at least keep pace with Russia in our treatment of those who labor. I hope that the Bureau of Emancipation will soon be organized, and that it may remedy these evils. But no permanent cure can be effected except by the adoption of some permanent system looking to the division of these immense estates among those who till them, and who by every rule of justice are entitled to the fruits of their labor.

This bill provides that these lands for a period of five years shall be set aside for the soldiers of the Republic, those serving two years being entitled to eighty acres, and those serving for a less period of time forty acres.

Every good Government is just and generous to its soldiers; none more than ours. We have paid and are paying most liberal bounties to those who volunteer in defense of the Union. We have granted lands to all those who have heretofore fought our battles. We are now paying larger pensions to those disabled and to the survivors of those who have died in the service than any Government on earth. Shall we continue this liberal policy toward those who fight in defense of the country and its flag? The brave men who have left their firesides and their families, and have dared all, endured all, and sacrificed all that their country might live, deserve from that country all of reward that it is possible to give. What greater boon have we for our soldiers than a homestead in a genial climate and upon a luxuriant soil, in the very neighborhood of their sacrifices and their triumphs?

This division should be made not only as an act of justice to the soldier, but as a matter of policy. After we have subdued by force of arms the people of the rebellious States, there will be still lurking a strong opposition to the Government. Guerrilla bands will be organized to destroy property and harass loyal men. Who can so well organize for defense as the veterans trained by long service in the field?

Again, these missionaries of liberty will carry with them that spirit of freedom early taught them, and intensified by the sacrifices they have made in its maintenance. Northern thrift and independence will thus be substituted for ignorance and indolence. Free schools and churches will take the place of slave-pens and whipping-posts. Labor will be dignified, being no longer servile. The great body of the people will become producers as well as consumers; manufactures will be encouraged, the arts will flourish; villages, towns, and cities will spring up in the now obscure localities. The people will become homogeneous, our internal and external commerce will be increased, and with it enhanced the wealth and glory of the nation.

This bill makes no distinction on account of color or race; it recognizes the equal right of all who have faithfully served in our armies to avail themselves of its benefits. We give all the same privilege to procure a homestead, acquire property, and enjoy the fruits of industry that we have hitherto claimed for ourselves.

Free negroes in many of the southern States have always enjoyed this right. We cannot expect that emancipation will in a moment destroy the vices engendered by long years of humiliation and oppression. Because they have been degraded for centuries shall we continue to oppress them in the name of liberty? Our Government



was formed and our Constitution framed to secure the blessing of liberty, not to promote and perpetuate inequality. Thomas Jefferson said:

"The opinion that they [the colored race] are inferior in the faculties of reason and imagination must be hazarded with great diffidence."—*Jefferson's Works*, volume 8, page 386.

He said afterwards:

"I expressed these views, therefore, with great hesitation, but whatever be their degree of talent it is no measure of their right. Because Sir Isaac Newton was superior to others in understanding he was not therefore lord of the person and property of others."

It is the duty of the Government to give the colored man at least an equal chance with our own race in the settlement and cultivation of the soil in his native land. To this he is entitled upon every principle of equity and justice. These slaves have purchased these lands over and over again, many times, by their sweat and toil through many long years of oppression, and have been compelled to support unrequited the aristocracy which is now seeking to destroy the Government. Let us deal justly with them in order that we may claim justice for ourselves. Degraded as they have been by long years of oppression, the white race need not fear them in the race for power. Having vouchsafed to them the boon of freedom, let us by our policy seek to elevate them to the condition of freemen. Do they not deserve from us some consideration? Their blood mingled with that of our fathers in achieving the rich inheritance of freedom purchased by the sacrifices of the Revolution. They acted well their part in our last struggle with Great Britain; and in the war now being waged against us, the first moment opportunity was given they rushed eagerly to the field of contest, where the black flag and no quarter awaited them, knowing that to them the field of battle was victory or death, and that, too, in defense of a Government that has long withheld from them the pay due to those who wear the soldier's uniform and defend the emblem of our nationality.

I envy not the man who will in the light of the heroic achievements at Fort Wagner, Fort Hudson, and Milliken's Bend, and in the face of the barbarous and bloody massacres at Fort Pillow and Plymouth, stand up in the American Congress and advocate the withdrawal from our armies of the sable sons who exhibit such heroism and make such sacrifices. Nor do I envy the political party that will record its united vote against paying to these men the just reward of a soldier of the United States. Mr. Speaker, they have not only evinced a willingness to enlist in our armies, but in the States in rebellion they have been our only reliable friends. Everywhere our generals receive their most useful and reliable information from this oppressed race, who hail the approach of our armies as the harbinger of freedom to them. They have at every sacrifice administered to the wants of our soldiers, whenever and wherever opportunity presented. A single incident attending the escape of our prisoners from Richmond attests their devotion to our cause and the brave men fighting its battles. A prisoner says:

"Some of Captain Phelps's party and others were pursued and fired upon. All of them kept out of the sight of whites, but trusted implicitly the blacks, and never had their trust betrayed. After the first officers had discovered themselves to the negroes and asked for food, on the Chickahominy, the negroes organized into relief squads and searched the woods for the fugitives, carrying them food from their scanty rations, and helping them in every way in their power."

Is it not the duty of the Government to justly recognize the generous devotion thus exhibited? Will the advocates of "the Union as it was" still say that this sublime heroism, these great sacrifices, only deserve chains and slavery, and that the one hundred and thirty thousand colored men now serving in our armies shall be withdrawn from confronting the enemy, and be remanded to perpetual bondage, and subjected to the vengeance of rebel masters? Let them make up their record. But let it not be said of us on this side of the House that we failed to recognize these heroic qualities; but rather that we had the justice and magnanimity to extend to them the fostering care and protection of the Government that they in common with us are seeking to maintain and perpetuate.

But, say the Opposition, why give them lands when they will not till? They say the negroes

free are idle and will not work for themselves. There never was an argument or statement so utterly fallacious. Will not work! The statistics of industry and population show that they are industrious when opportunity is given. Look at Maryland; an example almost within sight of this Capitol. Free negroes comprise one-eighth of the population. The people of that State have always relied upon the labor of these negroes; and recently, by a majority of more than fifteen thousand, have decided in favor of immediate and unconditional emancipation as the true policy of the State.

New Orleans, as appears by the census of 1860, contained in that year a population of one hundred and seventy-five thousand; of these fifteen thousand were free colored, ten thousand were slaves, and the remainder whites. The free colored men were taxed for an average of \$1,000 to each person, while the whites were taxed for only \$732 to each person. How have they acquired this wealth if not by their own industry? Some of the wealthiest inhabitants of the city of Charleston, South Carolina, are the free colored population. Experience demonstrates at Port Royal and elsewhere, where the freedmen have been permitted to occupy abandoned lands and cultivate them, that they are industrious and prosperous, accumulating property and improving the lands allotted to them.

The results of emancipation in the English and French colonies prove that the freedmen as a class are industrious.

Lord Stanley, in 1842, characterized the transition from slavery to liberty in the following terms:

"The negroes are happy and satisfied; they give themselves to labor; they have ameliorated their manner of living, and increased their comfort; while crimes have diminished, their moral habits have become better."

He further says:

"The number of negroes who became freeholders through their industry and economy amounted in the whole island of Jamaica to two thousand one hundred and fourteen in 1838, under the apprentice system, which was abolished in that year, and the number increased to seven thousand three hundred and forty two years afterwards."

In Jamaica, the most important of the slave colonies, the freedmen, in four years, expended for the purchase of lands and the erection of houses more than four million francs. Of the eighty-two thousand slaves emancipated in Guiana fifteen thousand nine hundred and six had become freeholders in 1843.

A colonist of Jamaica in 1851 says:

"It may be supposed that the whites have the pre-eminence there." \* \* \* "But apart from that pre-eminence which results from wealth and intelligence in every community, the whites have no privilege over their fellow-citizens. We have proved by experience that the colored man can raise himself to the first rank of civil society and hold his place there as well as any European by origin."

On all these points the French testimony accords completely with the English reports.

After emancipation the aggregate commerce of the French colonies increased. The value of productions increased, notwithstanding the unfavorable legislation of the French Assembly. It is true, for three years after emancipation exports largely fell off, but recovered again in five years; and in ten years, in some of the islands, doubled.

Both before and after emancipation in the English and French colonies the home Governments sought to increase colonial production by encouraging the immigration of hired laborers.

This experiment did not prove successful, from a variety of causes. But it did prove that the hired laborers from Africa were the most industrious and least vicious. In other words, it is from the African race that laborers are borrowed destined to replace other Africans who are accused of idleness and vice.

Is it likely that this great work of emancipation could have progressed until the stain of slavery now rests upon but one nation of Europe had its results shown the black race unfit for freedom? In some instances disturbances and insurrections followed emancipation; but in no instance were they the result of it. The transition has generally been peaceful. The emancipation of eight hundred thousand slaves, on the same day and at the same hour, in the English colonies, did not cause as much disturbance as an election in some of the Democratic wards in New York city. Emancipation was no more responsible for revolution and outbreak in the colonies than was our Gov-

ernment responsible for the riot of Mr. Seymour's friends last summer, or for the recent rebellion in Illinois. Political demagogues in the colonies, in some instances, took advantage of the ignorance of the freedmen, the fruit of which was revolution, as these riots were the legitimate fruit of the teaching of men in this Hall and out of it who are now the allies, and who formerly were the partisans, of those directing the rebellion.

The colored man with proper encouragement is industrious, does acquire property, and appreciates with us the blessings of liberty, is ready with us to die in its defense, and should receive the generous encouragement of a magnanimous people and the protectingegis of a just Government.

Mr. Speaker, no man believes that the institution of slavery can survive this rebellion; when destroyed it is our duty to protect the freedmen in the conquered territory as well as the white race. They live within our territory and will continue so to live. I look upon any scheme of colonization as impracticable, and if practicable pernicious in its results to the industry of the nation. We need these freedmen to till our fields and increase our production; there is now and always will be in this country great demand for free labor. We find ourselves compelled to devise schemes to encourage immigration, therefore sound policy prohibits the deportation of the four million black laborers within our territory, and duty requires of us to provide for them here by such legislation as will encourage them to labor for their support.

And let me here call the attention of gentlemen on the other side of the House to the fact that Congress has twice affirmed this policy of confiscation, that the courts have sustained it, that the people appealed to have also sustained it, and placed nearly every gentleman on that side of the House in a minority at home, because they opposed this and other necessary measures for the suppression of the rebellion. The people believe, whether true or not, that the leaders of the Opposition love their old allies and friends, the slaveholders, more than they love the Government that protects them. They suspect the loyalty of those who, professing sympathy with our cause, by their words and actions give aid and comfort to our enemies. They cannot understand the logic that would teach them that, under the laws of war, we can take the life of a rebel, but cannot touch his property. They cannot believe that justice requires that the burdens of taxation shall fall upon the loyal men of the North, who have lost sons and brothers in this war, while those in arms against us shall be protected in the full and complete enjoyment of their property.

We must wrest the power of the southern States from the hands of a land-owning, slaveholding aristocracy, and restore it to the rightful possession of a whole people. We must labor for the elevation of that people. To do this we must destroy the present land system, first by confiscation in fee, then by placing them within the reach of every man who has a hand to labor or a family to support. We must make the masses land-owners if we would perpetuate the Republic. Those who till the soil are and ever have been the hope of the Republic. They fill our armies to-day. Look at the quotas of troops furnished in the loyal States, and you find nearly always that the rural districts are in advance of requisitions. The very nature of their pursuits inspires a love of country, and a patriotism to rally at its call.

The establishment of this system will be the forerunner of the establishment of the free institutions of the North among that people. With small farms and productive labor come free schools, a pure religion, free churches, thriving villages, manufacturing towns, colleges of learning, the growth of commerce, and all the blessings of republican government. These established, we shall realize as the result of our policy the enthronement of a republicanism which has lived in theory but not in fact except in the free States of this Union.

Mr. Speaker, our legislation should be for the whole people and not for a class, thus dealing justly toward those who have experienced long years of oppression under the banner of the Republic. If we hope to attain success in this contest we must guaranty to all the privileges of religion, of family, of property, and of liberty. Then our final

triumph over the rebellion which seeks to deprive the poor and oppressed of all these is certain under the guidance of Him who rules all and governs all.

"Though dark the ways of Justice seem,  
Impartially she holds the beam;  
Though oft her sword be wielded slow,  
Unfailing falls the doomning blow  
Right to exalt and wrong to overthrow."

That justice requires that we shall extend the protection of the Government to all those whom we have called to battle in its defense by giving to them the right to acquire and hold as their own the fruits of their labor.

But we must not permit the discussion of this or kindred measures to divert us or the country from the paramount duty before us, that of prosecuting the war vigorously and earnestly until the military power of the rebellion is destroyed, until all the men now in arms against us shall either voluntarily or by compulsion lay down their arms. In this consists our only hope and safety; and to this primarily all our labors and efforts must be directed. There is no road to peace except through bloody war. Men may talk of peace by compromise and concession, but the day of compromise is past. Concession is impossible. Radical principles cannot be compromised. War and restoration by conquest on the basis of liberty, or peace and disunion on the basis of slavery, are the only alternatives presented to the American nation to-day. Can we doubt which it will choose?

Mr. SLOAN obtained the floor, but yielded to Mr. JULIAN, who moved that the House adjourn.

The motion was agreed to.

And then (at forty minutes past nine o'clock, p. m.) the House adjourned.

#### IN SENATE.

THURSDAY, May 5, 1864.

Prayer by the Right Rev. THOMAS M. CLARK, Bishop of Rhode Island.

The Journal of yesterday was read and approved.

#### PETITIONS AND MEMORIALS.

Mr. WILSON presented a memorial of S. C. Bixby and others engaged in the express business in Massachusetts, remonstrating against any change of section ten of the act of March 3, 1863, regulating the manner of taxing such express companies; which was referred to the Committee on Finance.

He also presented a memorial of citizens of Indian Orchard, Massachusetts, remonstrating against the extension of the patent of Charles Goodyear for the manufacture of vulcanized India rubber; which was referred to the Committee on Patents and the Patent Office.

#### REPORTS FROM COMMITTEES.

Mr. COLLAMER, from the Committee on Post Offices and Post Roads, to whom was referred a bill (H. R. No. 320) supplementary to an act approved July 14, 1862, entitled "An act to establish certain post roads, and for other purposes," reported it without amendment.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred a bill (S. No. 260) to change the name of the steamboat Gem, of Wheeling, to Emma Boyd, reported adversely thereon.

He also, from the same committee, to whom was referred a bill (S. No. 266) to prevent smuggling, and for other purposes, reported it without amendment.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred a message of the President of the United States, referring to Congress the consideration of the expediency of authorizing Surgeon Solomon Sharp to accept a piece of plate offered to him by the British Government as an acknowledgment of his services in the medical treatment of certain British naval officers at the naval hospital at Norfolk, reported a joint resolution (S. No. 51) authorizing the acceptance of a certain testimonial from the Government of Great Britain; which was read and passed to a second reading.

Mr. WILKINSON, from the Committee on Indian Affairs, to whom was referred the petition of Mary Wacontah and others, praying Congress to authorize the Commissioner of Indian Affairs to issue Sioux half-breed certificates, accompa-

nied by a bill (S. No. 47) to authorize the Commissioner of Indian Affairs to issue Sioux half-breed certificates or scrip to certain persons therein named, submitted an adverse report; which was ordered to be printed.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom was referred a bill (H. R. No. 193) for the benefit and better management of the Indians, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a bill (S. No. 251) for the relief of John T. Jones, an Ottawa Indian, for depredations committed by white persons upon his property in Kansas Territory, reported it without amendment.

He also, from the same committee, to whom was referred a bill (H. R. No. 222) to extinguish the Indian title to lands in the Territory of Utah suitable for agricultural and mineral purposes, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a bill (H. R. No. 261) for the benefit and better management of the Indians, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a bill (H. R. No. 414) for the relief of the estate of B. F. Kendall, reported it without amendment.

He also, from the same committee, to whom the subject was referred, reported a joint resolution (S. No. 52) to appoint commissioners to the hostile tribes of Indians on the upper Missouri; which was read and passed to a second reading.

Mr. WADE, from the joint committee on the conduct of the war, who were directed by a joint resolution of the two Houses of Congress to inquire into and report the facts of the rumored slaughter of the Union troops after their surrender at the recent attack of the rebel forces upon Fort Pillow, Tennessee; also, whether Fort Pillow could have been sufficiently reinforced or evacuated, and if so, why the same was not done, submitted a report; which was ordered to be printed.

On motion of Mr. WADE, it was

Ordered, That twenty thousand additional copies of the report, with the accompanying evidence, be printed for the use of the Senate.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a bill (No. 244) to guaranty to certain States whose governments have been usurped or overthrown a republican form of government; in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had insisted upon its disagreement to the amendments of the Senate to the bill of the House (No. 151) making appropriations for the naval service for the year ending 30th June, 1865, insisted on by the Senate, insisted upon its amendment to the first amendment of the Senate to the said bill, disagreed to by the Senate, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. HENRY T. BLOW of Missouri, Mr. JAMES E. ENGLISH of Connecticut, and Mr. ALEXANDER H. RICE of Massachusetts, managers at the same on its part.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolution; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 31) making a grant of lands to the State of Minnesota, to aid in the construction of the railroad from St. Paul to Lake Superior;

A bill (S. No. 160) granting lands to aid in the construction of certain railroads in the State of Wisconsin;

A bill (S. No. 126) to amend "An act to incorporate the inhabitants of the city of Washington," passed May 15, 1820;

A bill (H. R. No. 119) to regulate the admeasurement of tonnage of ships and vessels of the United States; and

A joint resolution (H. R. No. 69) for the payment of volunteers called out for not less than one hundred days.

#### PAY OF COLORED TROOPS.

The Senate proceeded to consider the amendment of the House of Representatives to the bill of the Senate (No. 145) to equalize the pay of soldiers in the United States Army; and

On motion of Mr. WILSON, it was

Ordered, That it be referred to the Committee on Military Affairs and the Militia.

#### BILL BECOME A LAW.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that the President had approved and signed on the 3d instant an act (S. No. 198) to aid the Indian refugees to return to their homes in the Indian territory.

#### HOUSE BILL REFERRED.

The bill from the House of Representatives (No. 244) to guaranty to certain States whose governments have been usurped or overthrown a republican form of government was read twice by its title.

Mr. WILKINSON. I move that that bill be referred to the Committee on Territories.

Mr. DOOLITTLE. I suppose it is a question that should properly go to the Committee on the Judiciary.

Mr. SUMNER. The bill originally came from the Committee on Territories in the House of Representatives.

The motion of Mr. WILKINSON was agreed to.

#### MAIL STEAMSHIP SERVICE TO BRAZIL.

Mr. COLLAMER. The Committee on Post Offices and Post Roads, to whom was referred a bill (H. R. No. 407) to authorize the establishment of ocean mail steamship service between the United States and Brazil, have instructed me to report it with an amendment. I desire that it be put on its passage now.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

It authorizes the Postmaster General to unite with the general post office department of the empire of Brazil, or such officer of the Government of Brazil as shall be authorized, to act for that Government, in establishing direct mail communication between the two countries by means of a monthly line of first-class American sea-going steamships, to be of not less than two thousand tons burden each, and of sufficient number to perform twelve round trips or voyages per annum between a port of the United States north of the Potomac river and Rio de Janeiro, in Brazil, touching at St. Thomas, in the West Indies, at Bahia, Pernambuco, and such other Brazilian and intermediate port or ports as shall be considered necessary and expedient; but the expense of the service is to be divided between the two Governments, and the United States portion thereof is not to exceed the sum of \$150,000 for the performance of twelve round trips per annum.

The Postmaster General is authorized to invite proposals for such mail steamship service by public advertisement for the period of sixty days in one or more newspapers published in the cities of Washington, Baltimore, Philadelphia, New York, and Boston, respectively, and to contract for the same for the term of ten years, to commence from the day the first steamship of the proposed line shall depart from the United States with the mails for Brazil; but proposals for monthly trips—that is to say, for twelve round voyages per annum, out and back—are to be received and accepted by him within the limit as aforesaid, from a party or parties of undoubted responsibility, possessing ample ability to furnish the steamships required for the service, and offering good and sufficient sureties for the faithful performance of such contract; and such proposals are to be accepted by the Government of Brazil, and distinct and separate contracts with each Government, containing similar provisions, are to be executed by such accepted bidder or bidders; each Government to be responsible only for its proportion of the subsidy to be paid for the service.

Any contract which the Postmaster General may execute under the authority of this act is to go into effect on or before the 1st of September, 1865, and shall, in addition to the usual stipulations of ocean mail steamship contracts, provide

that the steamships offered for the service shall be constructed of the best materials and after the most approved model, with all the modern improvements adapted for sea-going steamships of the first class; and shall, before their approval and acceptance by the Postmaster General, be subject to inspection and survey by an experienced naval constructor, to be detailed for that purpose by the Secretary of the Navy, whose report shall be made to the Postmaster General. The two Governments are to be entitled to have transported, free of expense, on each and every steamer, a mail agent to take charge of and arrange the mail matter, to whom suitable accommodations for that purpose are to be assigned. In case of failure from any cause to perform any of the regular monthly voyages stipulated for in the contract, a *pro rata* deduction is to be made from the compensation on account of such omitted voyage or voyages; and suitable fines and penalties may be imposed for delays and irregularities in the regular performance of the service according to contract; and the Postmaster General is to have the power to determine the contract at any time, in case of its being underlet or assigned to any other party.

The mail steamships employed in the service authorized by this act are to be exempt from all port charges and custom-house dues at the port of departure and arrival in the United States; but a similar immunity from port charges and custom-house dues is to be granted by the Government of Brazil.

The amendment of the committee was in section two, line six, after the word "contract," to insert "with the lowest responsible bidder;" so that the clause will read:

That the Postmaster General be, and he is hereby, authorized to invite proposals for said mail steamship service by public advertisement, for the period of sixty days, in one or more newspapers published in the cities of Washington, Baltimore, Philadelphia, New York, and Boston, respectively, and to contract with the lowest responsible bidder.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. TRUMBULL. I really know so little about the necessity for this bill that I do not feel justified in undertaking to oppose it from any particular objection that I have to it; but it does seem to me that this is a wrong time to be initiating an enterprise of this character—to undertake to establish a line of ocean steamers, to the support of which the Government is to contribute in this time of war, when we need all the funds we can raise to support our armies and maintain the Government. I repeat, this seems to me to be an inopportune time to embark in an enterprise of this character. I remember very well that the Government of the United States undertook to support, or to aid in the support, of a line of steamers across the ocean for a time. I did not know that this bill was coming up this morning, and I have not looked to see what amount of money the Government of the United States expended in undertaking to maintain a line of ocean steamers to cross the Atlantic, but it would amount to quite a large sum I am sure, probably to several millions, and I should like to ask, for what good? I hope the honorable Senator from Vermont, who has charge of this bill, and has brought it in here to be passed at this time, will tell us what benefit the Government of the United States ever derived from the hundreds of thousands and millions of dollars that it paid to the Collins line, and other steamship lines, to cross the ocean. If it was a good enterprise, a proper expenditure of money even in a time of peace, why have we abandoned it? Why did we not continue to pay these subsidies for the purpose of keeping that line of steamers, and keep up the communication to Liverpool, where our intercourse is far greater than it is with the South American States, or with Rio de Janeiro, to which point I believe the steamers are to run?

I should like to know some better reason than I do know for supporting this bill. It is a matter of some importance. It is initiating a policy which will be likely to call for further appropriations. We all know if we begin with an appropriation of \$150,000 to support this line of steamships, and it is found after a year or two that they are unable to get along with the \$150,000 appropriated by Congress, they will come here

and ask Congress for another \$150,000, or for such a sum as will enable them to continue this line.

Mr. GRIMES. This is only one of several.

Mr. TRUMBULL. I was not aware of that. The Senator from Iowa tells me this is but the beginning of a system; it is but one branch of what is proposed to be inaugurated at the present session. It seems to me this is not the proper time for the inauguration of this policy. I hope the Senator from Vermont who has charge of this bill will explain it to the Senate, that we may know what the necessity for this measure is, and the propriety of its adoption at this time.

Mr. COLLAMER. If any gentleman desires to know the full extent of this subject in all its bearings, and is willing to take the time that is necessary to the understanding of it, he will hardly be willing to listen to me long enough to tell that story. If the gentleman has not already received, I am prepared to put into his hands, if he pleases, the materials by which he will be enabled to inform himself fully on this subject. I would particularly commend to his reading the report of the Chamber of Commerce of the city of New York. I do not know that the gentleman has received it. If he has, I presume he has not had time to examine it. It is full and exhaustive of this subject.

I did not intend nor expect to enter upon the discussion of this subject at large. I did not suppose the Senate would desire to take the time which would be necessary to the understanding of this subject to enter upon it at large, but if they are I will endeavor to state as briefly as I can what is the condition of it.

In the first place, gentlemen must understand that the commerce of the world has received in a great measure new channels of intercourse by the invention of steamships, and further, that those lines of steamships have been established by subsidies from the British Government, the French Government, and the Spanish Government. There is a large number of these steam lines. It is not necessary that I should go into the history of the whole of them. The first of them came to the United States, of which the Cunard line remains. There is a line running from Southampton to St. Thomas in the West Indies, from which point—St. Thomas—there are ten lines to the United States and different points on the coast of America; one of them to the very point mentioned in this bill, Rio de Janeiro. The English have also a line running up the Mediterranean, one up the Baltic, one down to the Cape of Good Hope, and then through to the East Indies, and one line upon the west coast of South America, all subsidized by their Government. By means of these steamship lines they have grasped into their hands, commanded, and monopolized almost the whole valuable trade of the world.

With these lines sailing ships cannot compete; and no private company can set up any line to compete with those which are subsidized by the British Government. Therefore, one of two things is true: we must enter in some degree upon this policy, as we can best bear it, or our commerce with the world ceases; our commerce upon which we have prided ourselves as the child of American enterprise, which has extended to every country and whitened every ocean with our sails, after all turns out to be a failure; British policy has undermined it. Time will not permit me to enter into the particulars of this. Such are my general views.

When we entered some years ago upon the policy of subsidizing a line of steamers to Southampton, and from there to Havre, and then to Bremen, and the Collins line, although they were paid extravagant prices, they were successful efforts. The gentleman asked me why we abandoned the payment of those subsidies. I can tell him plainly. It was abandoned by the votes of the representatives of the southern part of the United States, who thought it was helping the commerce of the North. The commerce of the country being mostly in the North, and this being essentially necessary to the prosperity of our commerce, at the earliest opportunity they could obtain, when these contracts expired, by their power and influence in this body and in the other House, they broke it down, meaning thereby to cripple the commerce of the North, and effected their object.

Such being the state of things, the question is whether we ought not to begin somewhere to try to do a little something to benefit our commerce; and one of the most promising and at the same time one of the simplest enterprises we could enter upon is this proposed line to the empire of Brazil. In the first place, we are assured that the Government of Brazil would join us in it. We cannot secure that assistance with nations generally. This bill is drawn on the condition that the Brazilian Government join with us in this enterprise. The British line of steamers from Southampton to Pernambuco, and from there to Rio de Janeiro, was established, I think, in 1851. At that time we were in possession of our fair part of the commerce of Brazil; but within this period of thirteen years, without having my materials exactly before me, I can say that our exports to Brazil amount to almost nothing, whereas the exports of Great Britain have more than doubled; and yet we take more than half the whole products of Brazil and pay them the money for them. We take almost the whole of their coffee, which is the main article of export, and the balance of trade is entirely against us. We have to pay for it. The gentleman's own constituents, who use, I believe, the Rio coffee—it is used almost entirely through our western country, a large part of it going to New Orleans—are compelled to pay the balance of trade against us there. I have no hesitation in saying that we are the natural suppliers of the empire of Brazil, and would be with their help. They are willing to assist, provided we initiate this species of commerce, which is now entirely supplied by the British steamers. Although we have a minister and consuls in Brazil, we can only send a letter there by sending it in a British steamer to England, and then by a British steamer from England to Brazil and back again. All our business is done by that circuitous route. We are entirely overshadowed by these British lines, and this commerce is monopolized entirely by these British vessels.

I can produce to the gentleman if he desires it the exact statistics showing these facts. This being a comparatively small enterprise, one in which we can now secure the aid and assistance of the Government of Brazil, the bill having been passed by the House of Representatives by a very great majority on the statement there presented by the chairman of the Committee on the Post Office and Post Roads, and which I can present to the Senate whenever they choose to give time to it, I had hoped that upon the whole objection would not be made to at least beginning and initiating this small commencement of something or other to redeem our commerce from the thralldom in which it is placed.

Mr. WILKINSON. I wish to offer an amendment to this bill. I have just come in, and did not know that the bill was before the Senate for consideration. I have not the amendment prepared, and I therefore move that the bill be postponed until to-morrow.

The motion was agreed to.

#### ADMISSION OF NEVADA.

Mr. WADE. The Committee on Territories, to whom was referred a memorial of the Governor and other territorial officers of the Territory of Nevada, praying for an amendment of the act for the admission of that Territory into the Union, have directed me to report a bill, and I will ask for its present consideration. It is a very short matter.

There being no objection, the bill (S. No. 267) to amend an act entitled "An act to enable the people of Nevada to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," was read twice by its title, and considered as in Committee of the Whole.

Mr. WADE. The only effect of this bill is to enable the people of Nevada to act on the ratification or rejection of their constitution on the first Wednesday of September instead of the second Tuesday of October, making the election a month earlier. Their Governor and the principal officers have requested that it be done. That is all there is of the bill. I hope it will be passed at once.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.



## CLAIMS OF WISCONSIN.

Mr. HOWE. I move that the Senate postpone all prior orders, and proceed to the consideration of the joint resolution No. 8.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. No. 8) for the relief of the State of Wisconsin; the pending question being on the amendment reported from the Committee on Claims.

Mr. HOWE. Mr. President, this resolution has already been partially considered upon two other occasions, and I desire now to occupy the attention of the Senate for a short time in stating my view of it.

The resolution comes before the Senate to provide for settling with the State of Wisconsin its claim against the General Government for what is known as the five per cent. fund. I wish the Senate would take notice of the contract between the United States and the State of Wisconsin upon which that claim is based. When on the 6th of August, 1846, you passed an act authorizing the people of the Territory of Wisconsin to form a State government and to be admitted into the Union, you submitted the following propositions to the convention which was convened for the purpose of forming its constitution:

"First. That section numbered sixteen, in every township of the public lands in said State, and where such section has been sold or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to said State for the use of schools.

"Second. That the seventy-two sections or two entire townships of land set apart and reserved for the use and support of a university by an act of Congress, approved on the 12th day of June, 1838, entitled 'An act concerning a seminary of learning in the Territory of Wisconsin,' are hereby granted and conveyed to the State, to be appropriated solely to the use and support of such university, in such manner as the Legislature may prescribe.

"Third. That ten entire sections of land, to be selected and located under the direction of the Legislature, in legal divisions of not less than one quarter section, from any of the unappropriated lands belonging to the United States within the said State, are hereby granted to the said State, for the purpose of completing the public buildings of the said State, or for the erection of others at the seat of government, under the direction of the Legislature thereof.

"Fourth. That all salt springs within said State, not exceeding twelve in number, with six sections of land adjoining, or as contiguous as may be to each, shall be granted to the State for its use; the same to be selected by the Legislature thereof within one year after the admission of said State; and when so selected to be used or disposed of on such terms, conditions, and regulations as the Legislature shall direct: *Provided*, That no salt spring or land the right whereof is now vested in any individual or individuals, or which may hereafter be confirmed or adjudged to any individual or individuals; shall, by this section, be granted to said State.

"Fifth. That five per cent. of the net proceeds of sales of all public lands lying within the said State, which have been or shall be sold by Congress, from and after the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to the said State for the purpose of making public roads and canals in the same, as the Legislature shall direct: *Provided*—

And here are the conditions upon which these offers are made—

"*Provided*, That the foregoing propositions herein offered are on the condition that the said convention which shall form the constitution of said State shall provide, by a clause in said constitution, or an ordinance, irrevocable without the consent of the United States, that said State shall never interfere with the primary disposal of the soil within the same by the United States, nor with any regulations Congress may find necessary for securing the title in such soil to bona fide purchasers thereof; and that no tax shall be imposed on lands the property of the United States; and that in no case shall non-resident proprietors be taxed higher than residents."

That is the proposition which Congress submitted to that convention. The convention accepted it, and incorporated these very clauses into the body of the constitution. I think that makes the contract complete. The Government of the United States has thought the same, and has complied with each one of these propositions except the last. It has given us the sixteenth section for school purposes; it has given us the seventy-two sections for the support of a university; it has given us the ten sections of land for public buildings; it has given us the salt springs and the adjoining land; but it has not given us the five per cent. fund. We have been endeavoring to ascertain why the United States would not comply with the whole contract as well as a part of it. That is the question the Senate is called upon to consider, why the Government shall not comply with the last of these propositions and execute it. When we appeal to the Secretary of the Interior to know why this five per cent. fund shall

not be paid over to the State we receive one reason in reply. The Committee on Claims, which has reported this resolution, assigned another reason. I listened as carefully as I could to the remarks of the Senator from Maine [Mr. Fessenden] the other day to ascertain what his reason was; but I really was unable to comprehend what his objection is to the payment of this fund to the State of Wisconsin.

The resolution, as originally introduced, directed the Secretary of the Interior to pay over to the State of Wisconsin the amount of this fund, deducting from it a fund admitted to be in the hands of the State, arising from a source that I shall presently explain. As reported back to the Senate by the Committee on Claims it is amended so as to require the Secretary instead of deducting this set-off from the five per cent. fund, and retaining it in the Treasury of the United States, to settle another account preferred by a corporation in the State of Wisconsin known as the Rock River Canal Company, and to discharge a claim of that company out of this fund. That is the difference between the resolution as it was originally presented to the Senate, and the amendment agreed to by the Committee on Claims.

When I presented this resolution to the Senate I acknowledged the existence of this fund in our hands arising from that canal grant, and, assuming that it ought not remain in our hands, I was willing it should be deducted from this sum and be retained in the Treasury of the United States, to be disposed of as they thought just. The Rock River Canal Company intervened and presented their claims to the committee. The committee thought that this fund, or part of it at all events, belonged to the company, and they directed the Secretary of the Interior to adjust that claim, ascertain how much of it is just, and pay the company out of this fund.

Mr. JOHNSON. How do the company claim a portion of the fund?

Mr. HOWE. I will presently show how the company claims it. You see, so far as the State of Wisconsin is concerned, it is entirely indifferent to us what you do with this fund. We concede that it does not belong to us. If it is the judgment of Congress, as it was the judgment of the committee, that a part or the whole of it belongs to that company, we are entirely willing that it shall be paid to the company, and certainly shall be very glad to have it paid to the company. But this claim of the company and this controversy with the Government grew out of an act of the Congress of the United States passed in 1838, which made a grant of lands to the Territory of Wisconsin for the purpose of aiding in opening a canal to connect the waters of Lake Michigan with those of Rock river. I really wish Senators would pay a little attention to the terms of that grant.

Mr. JOHNSON. What is the date of the act?

Mr. HOWE. The 18th of June, 1838. It provides:

"That there be, and hereby is, granted to the Territory of Wisconsin, for the purpose of aiding in opening a canal to unite the waters of Lake Michigan, at Milwaukee, with those of Rock river, between the point of intersection with said river, of the line dividing townships seven and eight and the Lake Koshkonong, all the land heretofore not otherwise appropriated or disposed of in those sections and fractional sections which are numbered with odd numbers on the plats of the public surveys, with the breadth of five full sections, taken in north and south or east and west tiers, on each side of the main route of said canal, from one end thereof to the other, and reserving the even numbered sections and fractional sections, taken as above, to the United States; and the said land so granted to aid in the construction of said canal shall be subject to the disposal of the Legislature of the said Territory, for the purpose aforesaid, and no other: *Provided*, That the said canal, when completed, and the branches thereof, shall be, and forever remain, a public highway, for the use of the Government of the United States, free from any toll or other charge whatever for any property of the United States or persons in their service passing through the same: *Provided*, That said main canal shall be commenced within three years and completed in ten years, or the United States shall be entitled to receive the amount for which any of said land may have been previously sold, and that the title to purchasers under the Territory shall be valid."

From which I conclude that the Territory held that money in trust, not for its own use, but for the use of somebody else. That you will see by and by.

The PRESIDING OFFICER. (Mr. Foot in the chair.) The Senator from Wisconsin will suspend his remarks. The morning hour having expired, it becomes the duty of the Chair, under the express rule of the Senate, to call up for con-

sideration the special order of the day, the unfinished business of the last sitting, which is the bill (H. R. No. 395) to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof, which is now before the Senate.

Mr. HOWE. (to Mr. SHERMAN.) Do you want to go on with that bill?

Mr. SHERMAN. Oh, yes; it has been laid aside now for three days, and if the Senate lay it aside again I do not know when we can get it up. This joint resolution for the relief of the State of Wisconsin, if it goes over, will be the unfinished business of the morning, and will come up regularly in the order of business to-morrow. I hope, therefore, the Senator will let it go over.

Mr. HARLAN. I suggest to the Senator from Ohio that it would be better, perhaps, for the Senator from Wisconsin to conclude his argument now; and it will then appear connectedly in the Globe.

Mr. SHERMAN. That may take some time, and I do think that we ought now to go on with this public business which has been delayed for the last three days.

The PRESIDING OFFICER. The special order can be set aside for the time by common consent; otherwise it can be done only by a formal vote of the Senate.

Mr. SHERMAN. I will ask the Senator, probably what time he would desire in which to present his views.

Mr. HOWE. I should think three quarters of an hour or an hour.

Mr. SHERMAN. I trust the Senator will allow this bill to be got out of the way. I do not wish to be discourteous; but I cannot consent to have this public bill laid aside for what I regard as a private claim.

The PRESIDING OFFICER. The bank bill is now before the Senate under the express rule of the Senate, and can be postponed only upon motion and by order of the Senate, on a motion and vote.

Mr. HOWE. I shall not submit a motion.

Mr. HARLAN. It has been usual in the Senate to permit a Senator on the floor in the midst of an argument to conclude his remarks, and I therefore submit a motion that the regular order be passed over informally until the Senator from Wisconsin concludes his speech.

Mr. SHERMAN. I am simply representing here the public interests, and I must call for the yeas and nays upon that motion.

Mr. GRIMES, (to Mr. Howe.) Which do you prefer?

Mr. HOWE. I should prefer to go on now, of course.

The yeas and nays were ordered.

Mr. TRUMBULL. I am sorry to see this struggle about the precedence of business; for my experience is that we lose more time in the struggle than we gain to either measure.

Mr. SHERMAN. I have made no struggle.

Mr. TRUMBULL. I agree with the Senator from Ohio that his is a public measure, and that this joint resolution is in one sense a private measure, though it affects a State; but I suggest to him, although it will be very unpleasant to set aside a measure of public importance like that of which he has charge, still, as the Senator from Wisconsin is in the midst of his remarks and prefers to go on now, I think we shall gain time by letting him go through with his remarks.

Mr. SHERMAN. It will take but a few moments to call the roll. I have no objection to other Senators voting to do that. I am simply considering myself in the discharge of a duty which is very unpleasant to me.

The question being taken by yeas and nays, resulted—yeas 29, nays 5; as follows:

YEAS—Messrs. Cardie, Collamer, Conness, Cowan, Davis, Dixon, Doolittle, Foot, Grimes, Hale, Harlan, Harris, Henderson, Howe, Johnson, Lane of Kansas, Morgan, Nesmith, Powell, Ramsey, Riddle, Sprague, Sumner, Trumbull, Van Winkle, Wade, Wilkinson, Wiley, and Wilson—29.

NAYS—Messrs. Anthony, Fessenden, Harding, Sherman, and Ten Eyck—5.

ABSENT—Messrs. Brown, Buckalew, Chandler, Clark, Foster, Hendricks, Hicks, Howard, Lane of Indiana, McDougall, Morrill, Pomeroy, Richardson, Sausbury, and Wright—15.

So the motion was agreed to.

The PRESIDING OFFICER. The further consideration of the currency bill is postponed,

and the joint resolution (S. No. 8) for the relief of the State of Wisconsin is before the Senate, on which the Senator from Wisconsin is entitled to the floor.

Mr. HOWE. I am really obliged to the Senate for this kindness, and I will endeavor not to abuse it.

I was remarking that this first section which I had read made this grant to the Territory not for its own use or benefit, but for some other use, and what it was I shall state presently. According to my understanding of the act, it imposed no obligation, no responsibility, no liability upon that Territory whatever except to administer the trust, and pay over the money to whoever was entitled to it. The money arising from this grant was dedicated to the specific purpose of building this canal. There is this proviso, to wit:

"Provided, That said main canal shall be commenced within three years and completed in ten years, or the United States shall be entitled to receive the amount for which any of said land may have been previously sold, and that the title to purchasers under the Territory shall be valid."

This proviso has been argued by various persons as if it gave of itself the Government of the United States the right to demand of the Territory, or of the State which has succeeded the Territory, this fund in case the canal was not completed; that it imposed upon that Territory and to-day imposes upon the State the obligation to repay to the United States the proceeds of this grant if the canal was not completed. I dissent from that view of it altogether. It imposes no such obligation upon the Territory, and no obligation at all is imposed upon the Territory except to administer the trust according to the terms of this act. I deny altogether that the Territory was made to guaranty the completion of this work. The duty was not charged upon the Territory; the duty was charged upon the company. The company had been chartered by the Legislature of that Territory, but at that time the Territorial Legislature could not pass an act of any validity if the Congress of the United States dissented to it, and in this very act Congress gives its assent to that act of incorporation.

The act then goes on to fix the price of the land. It then provides in the fifth section that when the State of Wisconsin shall be created it shall be entitled to an amount of stock in this company equal to the whole amount of the proceeds of this grant which had been invested in the construction of the canal. But that stock was to be held by the State not for its own use. It could derive no benefit, no profit, no advantage from the stock. It was to be entitled to the earned dividends upon that stock; but those dividends were to be applied under the express terms of this act, first, to the extinguishment of the stock in the hands of individuals. When the stock of individuals was all extinguished, then the whole stock of the canal would be in the State; but to what end, or for what purpose? Not that the State might enjoy the toll or any profits from the operation of the canal; but to the end to make it a free water channel expressly restricted, in levying tolls, to levying so much only as should keep the canal in repair. Under the very terms of this act, therefore, neither the Territory of Wisconsin nor the State of Wisconsin could derive any benefit from this grant.

Now, I insist that it is not a fair, but a very unfair interpretation of this statute to say that it was a grant of this land to the Territory, which was a ward of the General Government, which, according to the theory of your own laws, could make no contract whatever and assume no liability whatever under her own contract; that it made this grant to a ward of the Government out of which that ward could get no benefit whatever under any circumstances, and yet imposed upon that ward the obligation of completing this canal.

This idea is enforced still further when you look at the tenth section, which provides

"That Congress"—

Not the Legislature of the Territory nor the Legislature of the State—

"That Congress may at any time until said Territory shall be admitted as a State, prescribe and regulate the tolls to be received by said company; and after said Territory shall be admitted as a State the Legislature thereof shall possess the like power; and said act of incorporation is hereby approved, subject to the modification and conditions aforesaid."

So that by this act you made this grant to the

Territory; you enabled the Territory to sell the land; you instructed the Territory to pay over the money to this very company. You created in this act the very agency which should expend the money; you declared the very purpose for which it should be expended; and you provided that you yourselves would regulate the tolls to be imposed on this canal if it should be completed. There was no power in the world given to the Territory but to sell the land and pay over the money.

Now, from what clause of this act, or from what consideration, equitable or otherwise, arising on it, can any one assert that the Territory was made to guaranty the construction of this canal within ten years or within any time? If to-day Congress should undertake to make a grant of lands, or a grant of money, to any one of your Territories, and direct them to invest that fund in the stock of a particular company, specifying the company, and yet should instruct that Territory that they must see that a certain railroad to the Pacific, if you please, or anywhere else, should be completed within a given number of years, or that the Territory, having paid out this money, should pay it back again to the Government, would it not be thought a very onerous and very unjust imposition upon the Territory?

But the sixth section of this act makes the point that I am urging still clearer. No previous clause intimates that the Territory shall pay back this money under any circumstances whatever; but the sixth section of the act does say that the State of Wisconsin shall be held responsible to the United States for the payment into the Treasury thereof of the proceeds of these lands, unless the canal is completed; and if the seventh section had not followed it, it would have raised a strong argument in favor of the proposition that the State ought to refund the whole proceeds of this grant; but the seventh section declares:

"That in order to render effectual the provisions of this act, the Legislature of the State to be erected or admitted out of the territory now comprised in Wisconsin Territory, east of the Mississippi, shall give their assent to the same by act to be duly passed."

Thus the first political body which is made to assume any obligation under this act is not the Territory of Wisconsin, but the State of Wisconsin, and the State of Wisconsin is not made to assume any obligation under it until its Legislature shall have assented to it. The State of Wisconsin was not created until ten years after this grant had passed Congress. The time for completing the canal had then expired, or did expire that very season. The canal had not been completed. The State of course never did by its Legislature give its assent to this grant, and did not assume this obligation. It had got no value out of the grant. It had nothing in the world with which to respond for the proceeds of the grant. Of course it did not assent and never was asked to assent to the grant, and therefore this sixth section never became operative, never imposed any obligation upon the State.

But, sir, we nevertheless have an obligation. It is not the obligation, as I have said before, to refund to the United States the proceeds of this grant, but it is an obligation to refund to somebody, whoever is entitled to it, the company or the United States, that portion of the proceeds of the grant which we have not paid over at all. The simple fact is that after this enterprise of constructing the canal had been prosecuted for a series of years, the Legislature of the Territory of Wisconsin came to the conclusion that the canal was not likely to be completed; that it was likely to prove a failure. If then they went on paying over this money to the company, they came to the conclusion the canal never would be completed but the whole fund would be absorbed in it, and there would be nothing to repay to the Government or to repay to the company. Upon that idea the Legislature acted. It stopped paying over money to the company. It continued to sell the lands and it appropriated the proceeds to its own use.

The Senator from Maine the other day read some resolutions adopted by that Legislature which he construed into a covenant on the part of the Legislature, a pledge of its faith and of the State which was to succeed it, that it would refund these proceeds to the canal company. The Senator was mistaken about that. The Legislature did not undertake to repay these moneys to the

canal company, but to restore them to the canal fund. They assumed the obligation of keeping the fund intact, ready to be paid over to whoever was entitled to it; and the question still is, whether the Government of the United States is entitled to it or the canal company. We have the fund; we are willing, as I said before, to pay it over to the Government or the company, and let it be taken out of the money which you owe us.

Thus, Mr. President, when the State of Wisconsin was admitted into the Union about one hundred and twenty-five thousand acres of these lands had been sold by the Territory; the canal had not been completed; there were about thirteen thousand acres of the grant unsold. At that time you agreed that we might take that thirteen thousand acres as a part of the five hundred thousand acres which you had promised to the State, and which you give to all States when they are admitted into the Union. That was a new contract between the State and the United States. We took that thirteen thousand acres, a part of the grant dedicated to this work, and we paid you for it by indorsing it on the five hundred thousand acres to which we were entitled.

Out of the proceeds derived from the one hundred and twenty-five thousand acres that we had sold—I speak in round numbers; that is not the exact number of acres—we had paid a certain portion to the canal company; the balance is in our hands. We are willing to dispose of it as you say is right. As I have already remarked, the resolution as it was introduced proposed to leave it in the Treasury. The resolution as it now stands amended by the committee proposes that at the same time you settle with us you shall settle with the canal company and ascertain how much of this fund is due to them, and it shall be paid to them. With that we are entirely content, of course. It ought to go to those to whom it is due, and you ought to settle with the canal company and ascertain how much of it is due to them. Whatever is due to them you ought to pay them.

In the Department of the Interior there is an account stated with the State of Wisconsin. We are credited on your books kept in that Department with this whole five per cent. fund. That is a clear recognition of an obligation to account to us for that fund under the act which I first read, the act of 1846. How have you discharged that obligation? In those same books it is discharged by charging the State of Wisconsin with these one hundred and twenty-five thousand acres of land at \$2 50 an acre. Upon what principle is that charge made? First, they assume that the State was made liable under the terms of this grant to repay the United States for this grant in case the canal was not completed. I have already shown that no such obligation was imposed upon the Territory or the State by that act. They charge the lands to us at \$2 50 an acre, because the sixth section of the act of 1838 said that that should be the price at which we should pay for them. I have already shown that we were not to pay for them at all until we agreed to do so by an act of the Legislature. Congress, you see, reasoned that the canal would be built; that the building of the canal would make the lands worth \$2 50 an acre, and that they would sell for \$2 50 an acre; but the canal never was built, the lands never were sold for \$2 50 an acre, and the alternate sections which were reserved to the Government of the United States were reduced to \$1 25 an acre; and yet we are charged with the granted sections at \$2 50 an acre.

Now, what sort of dealing or transaction does that exhibit between the Government of the United States and the State of Wisconsin? First, you make a grant of one half of a given body of lands to the Territory. You instruct the Territory to sell those lands and pay the money over to an agent that you name. That agent has the unrestricted disposition of the money. We must pay it to the agent. It does what it pleases with it. It is directed, to be sure, to use it in the construction of this canal, but if it buys other lands, or sheep, or ships, or anything else, the Territory has no right and no power to control it, and is utterly helpless except it does what the Territory did do, stop paying over the money. We cannot control the expenditure of a dollar. It goes into the hands of the very agent you appoint. You tell us to do that; and yet you say, according to the theory on which this account is made up

in the Interior Department, that if the canal is not built, if the work is not done which you designed to have done when you made the grant, if the agent which you appoint, and not which the Territory appoints, does not do its duty, then the Territory or the State shall pay you back twice what the lands are worth. The lands were then in market at \$1 25 an acre. One half the lands were granted to us. You get \$1 25 for one half, and, although the work is not done, you make us pay \$2 50 for the other half. Is not that twice what the lands are worth? Do you not make ten shillings an acre on one half of that body of land by that mode of accounting? Because your agent does not do its duty, you get ten shillings for half the land and twenty shillings for the other half; whereas, before you made the grant, you offered the whole of them to anybody at ten shillings an acre. By this mode of accounting under your act and not under ours, you make \$1 25 an acre out of the State of Wisconsin on one hundred and thirty-eight thousand acres of land. It is as clear as anything can be. The State gets no advantage whatever. The canal company does not build the canal.

The present Commissioner of the Land Office has reconsidered this subject, and is now very clearly of the opinion that the Government, if they had the right to charge the State of Wisconsin with anything, had no right to charge it for those lands at more than \$1 25 an acre. In that view I believe he was sustained by the late Secretary of the Interior. We propose, therefore, in the resolution as it was introduced into the Senate, to account for those lands at \$1 25 an acre, but we say that you should deduct from that as much money as we paid over to the company. I put it to the Senate if that is not just, if that ought not to be deducted. We paid it over to the company because you directed us to pay it over, and having paid it to the company in accordance with your direction to this agent appointed by yourselves, is there any honesty or any fairness or any justice in requiring us to pay it back again into the Treasury of the United States; to pay it twice? That is the question. All the money we have out of this grant we offer here to account for. That which we have paid over in accordance with your express instructions we do not want to account for, we cannot afford to account for, we ought not to account for.

Mr. President, I cannot conceive how I can make this claim any clearer than the preceding statement has made it, so far as it depends upon the terms of these two acts. I do not think there is a Senator on this floor who will stand up and say that, as a matter of law, the act of 1838, making this grant to the Territory of Wisconsin, imposed any obligation upon the Territory whatever, except to pay that money over to the company, or to the United States if it did not pay it over to the company. That we are willing to do.

But it is said by some that this liability of the State grows out of a subsequent act. When the people of Wisconsin formed their State constitution they assented, as I have said, to each one of these propositions upon which you promised us this five per cent. fund; but they passed some other resolutions asking Congress to do certain other things. They were not part of the constitution; they were not embodied in the constitution; but they were resolutions submitted to Congress and submitted to the people with the constitution. And among other things they ask you to permit them to apply this five per cent. fund to the support of common schools instead of applying it to the building of roads and canals. You assented to that, but you assented to it with this proviso:

"Provided, That the liabilities incurred by the territorial government of Wisconsin under the act entitled 'An act to grant a quantity of land to the Territory of Wisconsin for the purpose of aiding in opening a canal to connect the waters of Lake Michigan with those of Rock river,' shall be paid and discharged by said State."

Upon that proviso you were willing that we should apply this five per cent. fund to the support of schools instead of the making of roads and canals; and now upon that proviso there are those who argue that the State really agreed to pay back this whole fund as charged by the Secretary of the Interior. Would not that be a very extravagant interpretation to put upon that proviso? You had formerly proposed to us to pay us this fund, which now amounts to about two hun-

dred and fifty thousand dollars, for a consideration. We paid you that consideration. You proposed to give it to us to be applied to roads and canals, and we paid you the consideration. Then we asked you to let us apply it to the support of schools instead of roads and canals; and according to this interpretation of the proviso you are made to say, "Yes, you may apply this \$250,000 to the support of schools and not to the support of roads, provided you will pay us \$313,000," which I believe is about the amount which you have charged against us now. You will let us apply \$250,000 to schools instead of roads, provided we will not take the \$250,000 at all, but will pay you about sixty-three thousand dollars in addition. That is the real English of that proviso, according to this interpretation. It is most extravagant, most unjust.

But, sir, I ask Senators to look at the terms of the proviso. We are called upon to assume nothing but the liabilities already incurred by the Territory of Wisconsin. What were those liabilities? I have already argued that there was no liability existing against the Territory of Wisconsin except to pay out the money which she derived from this grant. Part of it she had paid out, part she had not paid out, but has got it now and is willing to account for it. That is the only liability she had, and that is the only liability that is imposed upon the State by the terms of this proviso. If anybody can show me any other existing liability against the Territory of Wisconsin, I am at a loss to know where they will find it.

The Senator from Maine made some remarks the other day which I regretted extremely. I thought they were calculated if not intended to prejudice the Senate against this application of the State.

Mr. DAVIS. With the permission of the Senator I will ask him a question, and that is as to the present condition of the canal and the prospects of its completion.

Mr. HOWE. There is no prospect of the canal ever being completed. How much work was ever done on it I do not know precisely; but nothing in the likeness of a canal has ever been constructed. There was a race constructed along for a short distance by the Milwaukee river as it passed through the city of Milwaukee, and there are some dams there and some water-power created and used. There may be some locks. I do not know how that is. I never examined the work; but it does not extend probably more than two or three miles out of the city of Milwaukee and right along the bank of the river. There probably was work done outside of those limits; how far I do not know. It has probably been twenty years since there has been any work done on the canal.

The Senator from Maine commented upon the delay, the negligence, exhibited by the State of Wisconsin in prosecuting this claim. He spoke of it as if it was a claim sprung upon Congress at this time after we had slept upon it a great many years. Allow me to say, sir, we have not slept upon it at all, so far as I know. The Secretary of the Interior has recognized your liability all along from year to year; he has given the State of Wisconsin credit for the five per cent. of the proceeds of the public lands sold in that State. So we found upon your books our claim recognized just as we present it here. The difficulty in the way was that you charged us with funds which we denied our obligation to pay. We have constantly and uninterruptedly been endeavoring to persuade the Secretary of the Interior that that charge was unjust, to get him to correct it, and then our claim was recognized just as we insisted that it should be. The Secretary has disclaimed the authority to adjust this matter with us, and we are finally driven, after this long struggle with the Executive Departments of the Government, to come to Congress; and we are here. It is late, to be sure; but that is our misfortune and not our fault, and it is your great advantage; for you have had this money lying in your Treasury, and we have lost the interest of it all these years. You ought not to fine us, or punish us, or confiscate the claim because of that. We are here now, and we propose to stay here. I hope the Senate will at this time recognize the justice of this claim, which I believe is as palpable as if it rested upon one of your bonds, and that this will be the end of the controversy.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment reported from the Committee on Public Lands.

Mr. SHERMAN. I suppose the resolution goes over, as a matter of course now, and the special order comes up. The motion was simply to postpone the special order until the Senator from Wisconsin concluded his remarks.

Mr. HOWE. If any one else wishes to discuss it, I am willing it should go over; but if we are prepared to take the vote now, I presume the Senator will not object.

Mr. SHERMAN. No, sir.

The PRESIDENT *pro tempore*. The present incumbent was not in the chair when the special order was laid aside, and was not aware of the nature of the motion.

Mr. HARLAN. I made the motion in this way, I believe—that was my intention—that the Senator from Wisconsin be permitted to conclude his argument. I will say to him that I desire to submit a very few remarks on the question before the final vote is taken.

Mr. SHERMAN. I hope then it will go over. I move, if it is necessary to submit a motion, that this resolution be postponed and the special order of the day taken up.

The motion was agreed to.

#### NATIONAL CURRENCY.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 395) to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof.

Mr. CHANDLER. I have an amendment that I desire to propose; but it is suggested to me that I had better offer it in the Senate, and therefore I will not offer it at present.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The question will be on concurring in the Senate with the amendments made as in Committee of the Whole. How shall the question be taken on the amendments, together or separately?

Mr. GRIMES. Separately.

The PRESIDENT *pro tempore*. That course will be taken.

Mr. DOOLITTLE. I desired to offer an amendment in committee. I do not know that it is very material whether I offer it in committee or in the Senate. I understood the honorable Senator from Vermont had an amendment to submit, and I supposed that he would submit his amendment before I submitted mine.

Mr. COLLAMER. I desired to submit an amendment to an amendment of the committee, and I thought if we went into the Senate and passed on the amendments of the committee I should not have the liberty to offer my amendment before they were passed upon.

The PRESIDENT *pro tempore*. They will be taken up *seriatim*, and the Senator will have an opportunity to move an amendment to the amendments of the committee as they come along.

Mr. COLLAMER. If I can have it acted upon in the Senate, it is all very well.

The PRESIDENT *pro tempore*. There is no doubt on that point. The question will be on concurring in the first amendment made as in Committee of the Whole, which will be read.

The first amendment was in section one, line fourteen, after the word "President" to strike out the words "by and with the advice and consent of the Senate;" so that the clause will read:

The chief officer of the said bureau shall be denominated the Comptroller of the Currency, and shall be under the general direction of the Secretary of the Treasury. He shall be appointed by the President, on the recommendation of the Secretary of the Treasury, by and with the advice and consent of the Senate, and shall hold his office for the term of five years, unless sooner removed by the President.

Mr. BUCKALEW. I desire to renew the amendment that I offered when the bill was in committee to that amendment, which was, to insert in lieu of the words proposed to be stricken out the following words: "upon reasons to be communicated by him to the Senate." That amendment will accomplish the object had in view by the House of Representatives, and at the same time it will not invade the prerogatives of the President in making the removal.

The amendment to the amendment was agreed to.



The PRESIDENT *pro tempore* put the question on concurring in the amendment as amended, and declared that it was concurred in.

Mr. FESSENDEN. I addressed the Chair before that vote was declared. I should like to have the clause read as it will stand if that amendment is made.

The Secretary read, as follows:

He shall be appointed by the President, on the recommendation of the Secretary of the Treasury, by and with the advice and consent of the Senate, and shall hold his office for the term of five years unless sooner removed by the President, upon reasons to be communicated by him to the Senate.

Mr. FESSENDEN. I suggest that nothing will be accomplished by that amendment.

Mr. SHERMAN. It might be some restraint.

Mr. FESSENDEN. The man, when removed, is out of office, and whether the reasons are good, bad, or indifferent, does not change the fact. The object of the clause as it stood originally in the bill as it came from the House was that the officer should not be removable by the President at all of his own motion, but only upon the agreement of the Senate thereto. The Committee on Finance thought that that would be changing the rule that exists with reference to all other officers, and, although it is very desirable to have this officer as permanent as possible, yet in the recess of the Senate the President should have the power of removal, because the officer might be a bad one, and when the Senate was not in session it might be necessary to remove him immediately; and therefore they proposed to strike out the words "by and with the advice and consent of the Senate." If the words suggested by the Senator from Pennsylvania are added, the addition forms no sort of restraint on the President. He may remove him just as he could before, and give his reasons to the Senate when it meets. Those reasons may be entirely inconclusive, of no sort of consequence, but the removal will stand and the matter will remain just as it was before. I do not see the propriety of requiring him to give reasons in a particular case when we effect nothing by it, and we impose no restraint whatever upon the President by doing it. I should be opposed therefore to adding those words.

Mr. BUCKALEW. By this amendment we do not check the power of the President, but we limit his discretion, and he will not exercise this power unless he has good reasons for it. I think it is a very prudent and proper check, especially as this officer is to control these large moneyed interests. It is the policy of the Government that the President shall not have combined in him all power over the purse of the country and the money affairs of the country further than it is absolutely necessary.

The PRESIDENT *pro tempore*. In order that there may be no mistake in regard to the question, the Chair will state that the amendment or the Senator from Pennsylvania to the amendment made as in Committee of the Whole was carried, and the Chair was putting the question on concurring in the amendment made as in Committee of the Whole as amended when the Senator from Maine rose.

Mr. FESSENDEN. I shall not object to the amendment to the amendment if gentlemen wish it inserted; but it strikes me it is mere form, and amounts to nothing.

Mr. JOHNSON. I think it is some restraint upon the President.

The PRESIDENT *pro tempore*. The Chair will again put the question on concurring in the amendment as amended.

The amendment as amended was concurred in.

The next amendment was in section one, line twenty-nine, in the clause relating to the duties of the Comptroller of the Currency, after the word "responsible" to strike out the words "freeholders as," so that it will read "two responsible sureties."

The amendment was concurred in.

The next amendment was in section three, line seven, after the word "plates" to insert "not necessarily in the possession of engravers or printers," so that it will read:

That there shall be assigned to the Comptroller of the Currency by the Secretary of the Treasury suitable rooms in the Treasury building for conducting the business of the Currency Bureau, in which shall be safe and secure fire-proof vaults, in which it shall be the duty of the Comptrol-

ler to deposit and safely keep all the plates not necessarily in the possession of engravers or printers.

The amendment was concurred in.

The next amendment was in section six, line eight, after the word "particular" to insert "county and;" so that the clause will read:

Second. The place where its operations of discount and deposit are to be carried on, designating the State, Territory, or district, and also the particular county and city, town, or village.

The amendment was concurred in.

The next amendment was in section six, line nineteen, after the word "and" to insert the words "such certificate with;" and in line twenty-one after the word "notary" to strike out the word "and;" so that the clause will read:

The said certificate shall be acknowledged before a judge of some court of record or a notary public, and such certificate, with the acknowledgment thereof authenticated by the seal of such court or notary, shall be transmitted to the Comptroller of the Currency, who shall record and carefully preserve the same in his office.

The amendment was concurred in.

The next amendment was in section nine, line six, after the word "State," to insert "Territory or district;" and in line nine to strike out the words "said State" and insert "the same;" so that the clause will read:

That the affairs of every association shall be managed by not less than five directors, one of whom shall be the president. Every director shall, during his whole term of service, be a citizen of the United States; and at least three fourths of the directors shall have resided in the State, Territory, or district in which such association is located one year next preceding their election as directors, and be residents of the same during their continuance in office.

The amendment was concurred in.

The next amendment was in section twelve, line nineteen, after the word "shares" to strike out the following words:

Except that the shareholders of any banking association having not less than \$5,000,000 actually paid in as its capital stock shall be liable as aforesaid only to the amount invested in their shares.

And to insert in lieu thereof:

Except that the shareholders of any banking association now existing under State law, and having a capital stock not less than \$5,000,000 actually paid in, and a surplus fund of twenty per cent. of its capital stock actually on hand, shall be liable only to the loss of the amount invested in their shares so long as said surplus fund shall remain undiminished.

Mr. SHERMAN. I am instructed by the Committee on Finance to offer an amendment in lieu of the amendment adopted in Committee of the Whole. It is to strike out all of the clause, as it now stands, after the word "except," and in lieu thereof to insert the following:

That shareholders of any banking association now existing under State laws, having not less than \$5,000,000 of capital actually paid in, and a surplus of twenty per cent. on hand, both to be determined by the Comptroller of the Currency, shall be liable only to the amount invested in their shares; and such surplus of twenty per cent. shall be kept undiminished, and be in addition to the surplus provided for in this bill. And if at any time there shall be any deficiency in said surplus of twenty per cent., the said banking association shall not pay any dividends to its shareholders until such deficiency shall be made good; and in case of such deficiency the Comptroller of the Currency may compel said banking association to close its business and wind up its affairs under the provisions of this act.

This amendment has been framed to meet the criticism that was made upon the amendment of the committee. It was objected that the surplus provided for as to the Bank of Commerce was not in addition to the surplus provided for all banks. This proposition makes that clear and distinct. It was also objected that there was no way of compelling the surplus to be kept undiminished. By the amendment I now offer, the Comptroller of the Currency is required in such a case to wind up the bank, so that it makes it clear and obvious. The surplus of twenty per cent. to be kept undiminished is in lieu of and in place of the individual liability of the stockholders.

Mr. GRIMES. Mr. President, this idea of making a distinction in behalf of one great moneyed corporation of the country when we are establishing what its friends call a "uniform system of banking," is so exceedingly abhorrent to my sense of fair play, of justice, and equity among the different corporations and citizens of the country, that I think it incumbent upon me to ask for the yeas and nays on the adoption of this amendment and all others that are calculated to confer this exclusive privilege upon anybody or any institution.

The PRESIDENT *pro tempore*. Does the Senator desire the yeas and nays upon the amendment to the amendment?

Mr. GRIMES. Yes, sir, and all other amendments that will authorize one bank in this country to become a bank of issue without any personal liability, when we require the stockholders of every other bank in the country to be thus responsible.

Mr. JOHNSON. I am not sure that I understand the amendment of the committee, or the proposed substitute offered by the member from Ohio. Does the amendment of the committee make the shareholders of the bank personally responsible?

Mr. SHERMAN. I thought I had explained this before sufficiently, but I will now make the explanation over again. The only bank that would be described by these words is the Bank of Commerce, of the city of New York; a bank with a capital of \$9,000,000.

Mr. MORGAN. Ten millions.

Mr. SHERMAN. Ten millions, the Senator informs me. I supposed it was nine. It has a surplus of twenty per cent. on its capital stock actually paid in. It is a bank organized under articles of association, not under the laws of the State. It was originally organized as a partnership, all the stockholders signing the articles of partnership or articles of association. By those articles, the directors were empowered to accept any charter either from the General Government or from the State government, without any qualification as to the conditions or terms, except that they were to accept no charter which would make the stockholders individually liable. The articles of association were drawn by Chancellor Kent, and it was supposed that the bank would supersede or take the place of the Bank of the United States. The only restriction upon the powers of the directors in accepting a charter was that they could not accept one which would make the stockholders individually liable. This was a restraint upon them.

The Bank of Commerce is very desirous to come in under this general banking law in order to make a uniform banking system. The Government, the Secretary of the Treasury especially, thinks it very important to get this large bank to take the lead in changing these institutions from State banks into national banks. It is deemed of vital importance. We do not wish to give this Bank of Commerce any privilege whatever that we do not give to any other banks, but the trouble is that they cannot, under their articles of association, come in and become a bank under this law without the assent of every stockholder, and that is a condition impossible to be performed. It is represented to us that the stockholders are scattered all over the world, and many of them are minors; some in Cuba, some in France, some in England. There are twenty-five hundred of them; and it is a well-settled principle of the law of partnership that a change of this kind cannot be effected without the assent of every person interested, and every stockholder would have to signify his assent.

Under these circumstances, we deemed the importance of getting this bank into this system sufficient to waive the rule as to the general liability of stockholders; but as a substitute for the individual liability of the stockholders we require this bank to keep \$2,000,000 of surplus banking capital paid up in full; we require them to keep it undiminished, and if they ever allow that surplus to fall below the minimum, then the Comptroller of the Currency is required to wind them up under the general provisions of the act, which are very severe.

I will agree with the Senator from Iowa that there ought to be no exception made in favor of the Bank of Commerce or any other bank, if the reasons were not sufficient to induce the exception. I would not grant it simply to do a favor to the Bank of Commerce, or any other bank; but the circumstances of the case are such that the Committee on Finance, after a patient and careful examination of the whole matter, with some reluctance agreed to make an exception for this bank. They believed that good might result from it, and that we had so far restrained and limited them that the privilege was not for their benefit, but for the benefit of the Government. As for the

surplus, I have not a doubt, and I think the Senator from Iowa must himself see that a surplus of twenty per cent., amounting to \$2,000,000, constantly kept on hand is more than equivalent to any personal individual liability of stockholders for the amount of their shares. It so seemed to us, and therefore we reported the amendments.

Mr. JOHNSON. The amendment is not confined to the Bank of Commerce.

Mr. SHERMAN. The descriptive words are such as to describe no other bank in the United States. If I were legislating solely on my own view, I would rather say the Bank of Commerce may do so and so; but it was deemed better to use descriptive words. In speaking of this matter, I speak of the Bank of Commerce because I do not wish to mislead or deceive any one. It is the only bank with a capital exceeding \$5,000,000 organized under State law. That is a fact of public notoriety, and the descriptive words can reach no other and would apply to no other bank. The bill as it came to us from the House of Representatives described all banks with a capital of \$5,000,000, but the amendment of the Committee on Finance expressly describes only banks organized under State laws with a capital exceeding \$5,000,000 and with a surplus of twenty per cent. I can state with perfect confidence that there is no such bank in the United States except the Bank of Commerce, and that is the only bank that can avail itself of the privileges of this amendment.

Mr. JOHNSON. But there is nothing to prevent the States from chartering banks with a capital exceeding \$5,000,000.

Mr. SHERMAN. It only applies to those now existing.

Mr. JOHNSON. I am not speaking of existing banks.

Mr. SHERMAN. The descriptive words of the amendment are "banking association now existing under State law."

Mr. HENDERSON. I will suggest to the Senator from Ohio that I think this amendment will include the American State Bank of New York, which has a capital of \$5,000,000. The Bank of Commerce has \$10,000,000.

Mr. SHERMAN. I have conversed with a great many bankers and gentlemen opposed to this proposition, and they say expressly that there is no other bank that comes within these descriptive words.

Mr. HENDERSON. It is stated in a work that I have here, which has been recently published, and I have no doubt of its correctness.

Mr. SHERMAN. The cashier of this bank, George S. Cole, was here personally, and bore testimony that no other bank was included. They may not have the surplus on hand.

Mr. HENDERSON. That may be.

Mr. SHERMAN. If Senators desire to do so they may increase the amount from five to six or seven millions; but I am sure that the descriptive words of the amendment do not include that bank, or any other bank, except the Bank of Commerce.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Ohio to the amendment adopted in committee, on which the yeas and nays have been ordered.

Mr. FESSENDEN. I desire to state that my colleague, Mr. MORRILL, is absent on account of sickness.

The question being taken by yeas and nays, resulted—yeas 20, nays 12; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Conness, Dixon, Fessenden, Foot, Foster, Hale, Harris, Johnson, Morgan, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Van Winkle, and Wiley—20.

NAYS—Messrs. Buckalew, Collamer, Davis, Doolittle, Grimes, Harding, Henderson, Nemith, Powell, Riddle, Trumbull, and Wilson—12.

ABSENT—Messrs. Brown, Carlile, Cowan, Harlan, Hendricks, Hicks, Howard, Howe, Lane of Indiana, Lane of Kansas, McDougall, Morrill, Richardson, Saulsbury, Wade, Wilkinson, and Wright—17.

So the amendment to the amendment was agreed to.

The amendment as amended was concurred in.

The next amendment was in section sixteen, line twenty-two, after the word "desire" to insert the words "to reduce its capital or," and after the word "act" at the end of the section to add "nor from taking up the bonds upon which no circulating notes have been delivered;" so that the proviso will read:

Provided, That nothing in this section shall prevent an association that may desire to reduce its capital or to close

up its business and dissolve its organization from taking up its bonds upon returning to the Comptroller its circulating notes in the proportion hereinafter named in this act, nor for taking up the bonds upon which no circulating notes have been delivered.

The amendment was concurred in.

The next amendment was in section nineteen, line four, after the word "States" to insert "in trust for the association;" so that it will read:

That all transfers of United States bonds which shall be made by any association under the provisions of this act shall be made to the Treasurer of the United States, in trust for the association; &c.

The amendment was concurred in.

The next amendment was in section nineteen, line twenty-four, after the word "kind" to insert the words "and numerical designation," and in line twenty-five, after the word "of" to insert the word "the;" so that the clause will read:

And it shall be the duty of the Comptroller, immediately upon countersigning and entering the same, to advise by mail the association from whose account such transfer was made of the kind and numerical designation of the bonds and the amount thereof so transferred.

The amendment was concurred in.

The next amendment was in section twenty-two, line twenty, after the word "same" to insert the word "to."

The amendment was concurred in.

The next amendment was in section twenty-four, line four, before the word "destruction" to strike out the words "loss or."

The amendment was concurred in.

The next amendment was in section twenty-five, line two, to strike out the words "either the president or cashier of;" so that it will read:

That it shall be the duty of every banking association; &c.

The amendment was concurred in.

The next amendment was in section twenty-five, line twelve, before the word "agent" to insert the words "officer or."

The amendment was concurred in.

The next amendment was in section twenty-six, line twenty, after the word "Comptroller" to insert the following words:

Upon the terms prescribed by the Secretary of the Treasury, may permit an exchange to be made of any of the bonds deposited with the Treasurer by an association for other bonds of the United States authorized by this act to be received as security for circulating notes, if he shall be of opinion that such an exchange can be made without prejudice to the United States; and he.

The amendment was concurred in.

The next amendment was in section twenty-six, lines twenty-nine and thirty, to strike out the words "shall not diminish" and insert the word "that;" and in line thirty-one, after the word "Treasurer" to insert the words "shall not be diminished;" so that the proviso will read:

Provided, That the remaining bonds which shall have been transferred by the banking association offering to surrender circulating notes shall be equal to the amount required for the circulating notes not surrendered by such banking association, and that the amount of bonds in the hands of the Treasurer shall not be diminished below the amount required to be kept on deposit with him by this act.

The amendment was concurred in.

The next amendment was in section twenty-seven, line eleven, to strike out the word "or" and insert "and."

The amendment was concurred in.

The next amendment was in section twenty-eight, line seven, after the word "security" to strike out the words "for loans made by such association in the usual course of its banking business, or for money due thereto," and to insert "for debts previously contracted;" so that it will read:

That it shall be lawful for any such association to purchase, hold, and convey real estate, as follows:

First. Such as shall be necessary for its immediate accommodation in the transaction of its business.

Second. Such as shall be mortgaged to it in good faith by way of security for debts previously contracted.

The amendment was concurred in.

The next amendment was to add at the end of section twenty-eight the following words:

Nor shall it hold the possession of any real estate under mortgage, or hold the title and possession of any real estate purchased to secure any debt due to it, for a longer period than five years.

The amendment was concurred in.

The next amendment was in section twenty-

nine, line four, to strike out the words "a rate not exceeding seven per cent. per annum" and to insert in lieu thereof:

The rate allowed by the laws of the State or Territory where the bank is located, and no more. And when no rate is fixed by the laws of the State or Territory, the bank may take, receive, reserve, or charge a rate not exceeding seven per cent.

Mr. GRIMES. I hope the Senate will not concur in that amendment, and that, after having done that, they will strike out the word "seven" in the fourth line, and insert the word "six," so as to make the uniform rate of interest six per cent. instead of seven.

This bill purports to be a bill to provide a national currency, and its friends claim that it is to have a uniform operation all through the country. Let me tell the Senate how it will operate in the State of which I happen to be a citizen and a representative, in part, in this body. In the State of Iowa the legal rate of interest is six per cent., but where special contracts are entered into the parties can receive ten per cent. Under this bill as it stands each one of these national banks can receive ten per cent. on all its discounts and all its monetary transactions, while in the adjacent States the rate will be only six per cent. In the State of Illinois, just across the river from where I live, the rate of interest will be only six per cent.

Mr. TRUMBULL. The law of Illinois is precisely like that of Iowa. Six per cent. is the legal rate of interest, but they may charge ten by special contract.

Mr. GRIMES. I thought they changed the law a few years ago in Illinois. Then in the States of Illinois and Iowa the banks may take ten per cent. under this law on all money transactions, while in the States adjacent they can only take six per cent. A few years ago when we established a banking system in our State—one that is entirely satisfactory to the people, and which they are not so extremely anxious to have overthrown as the people of some of the States seem to be desirous that theirs should be overthrown by this system—it was provided that banks under that system should be entitled to receive ten per cent. until a certain time, and then after the lapse of a certain number of years, which have already elapsed, they were authorized to take eight per cent.; and that is the rate of interest they are now authorized to receive. After the lapse of a certain other number of years, I believe, the interest is to be reduced to six per cent.; that will be in a couple of years more. Then we shall have in the State of Iowa banks under this charter receiving ten per cent., and the banks under the State authorities receiving only six per cent.; and it will produce a condition of things which will not be desirable.

This is no time to be increasing the rate of interest. We should not raise the rate of interest in those States where six per cent. is now the legal rate of interest to seven per cent. We should certainly not interfere with those States to increase the rate of interest one seventh; but it would be infinitely better to bring it down in the two States only (I think Michigan and New York) where seven per cent. is the legal rate, from seven to six per cent.

Mr. POMEROY. I only desire to say that I think a uniform rate of interest is desirable and ought to be fixed in this bill, if it is a bill to establish a national currency, because if we leave the rate of interest to be established by the States and Territories (and the bill allows banks to be organized in Territories) what will be the result? In some States they make that legal which the parties agree to. In my State, for instance, that rate is legal which parties to the instrument agree to at the time they execute it, not exceeding twenty per cent.; and it will be so in the Territories where there may be a bank and where there is no rate of interest established by law. I think we should have a uniform rate of interest. I do not agree entirely with the Senator from Iowa that it should be six per cent., but I think seven per cent. should be the uniform rate. I insist on that.

Mr. TRUMBULL. I cannot agree with the Senator from Iowa or the Senator from Kansas as to the propriety of striking this out; nor do I appreciate their reasoning that because this bill provides for a national currency the rate of interest everywhere must be uniform. Money is worth more in some portions of the country than in others. Money commands a higher rate of in-

terest in new sections of the country than it does in the old. There is less capital there and more demand for money. This provision of the bill is not an interference with the States, but on the other hand an agreement with the States. It allows the same rate of interest in a State which is allowed by the laws of the State.

Mr. GRIMES. But the law of my State, if the Senator will permit me, declares that a bank in that State shall only receive eight per cent., and that after a certain number of years longer a bank shall only receive six per cent. But your banks under this law can receive ten per cent.

Mr. TRUMBULL. Your Legislature in Iowa may regulate that if they think proper; but how is a bank to succeed in the State of Iowa, or in the State of Illinois, or any of the western States under this bill if you limit the rate of interest to six or seven per cent.? The banks we have established in the West receive a higher rate of interest than that; individuals receive a higher rate of interest. The Senator from Iowa tells us that the banks in Iowa are limited at this time to a certain amount. It will be competent for the Legislature of Iowa, if it thinks proper, and this bill passes—

Mr. GRIMES. The banks in your State are limited to six per cent.

Mr. TRUMBULL. That may be so. It will be competent for the Legislatures of the several States to control this matter; but I do not think any banks will be established under this bill in the West; if any benefit is to be derived from these banking institutions, I do not think we shall have it in the West at all, if you fix the rate of interest at six per cent. That is the very reason national banks have not been established in the State of Illinois. I was told by leading bankers of Chicago that they would not undertake to enter upon a system of banking under this provision. The law of last year provided that no higher rate of interest should be allowed than the legal rate established in the State. In the State of New York seven per cent. was allowed; in the State of Illinois six per cent. is the rate of interest; but the law allows parties to contract to pay a higher rate of interest, not exceeding ten per cent. Under the law as it originally stood a bank established in Illinois could only charge six per cent., while a bank in the State of New York, where money was less valuable than in Illinois, could charge seven per cent. I think, if any good is to arise from these banking institutions, the law should be so framed that they may be established in all parts of the country; and it is no interference with State authorities, or with the authority of the different States, to control this rate of interest. The State of Kansas may do it, or the State of Iowa, or the State of Illinois, or any State, and there can be no complaint by the people of these States if it is left to the control of their Legislatures; but the bill will be worthless in a large portion of the country if a uniform low rate of interest is fixed, and no banks will be established under it.

Mr. SUMNER. It seems to me very clear that in establishing this system we ought to follow the idea of uniformity as much as possible. I therefore go with the Senator from Kansas in suggesting that we certainly should not refer this matter to the States; we ought to determine it here in the bill one way or the other. I do not mean now to say whether it should be six per cent. or seven per cent., nor do I mean to say whether there should be any limitation. That is a question which Senators do not seem to have approached. I understand that in England—

Mr. CONNESS. Will the Senator permit me before he proceeds?

Mr. SUMNER. I have only a word to say.

Mr. CONNESS. I was only going to make a suggestion.

Mr. SUMNER. I understand that in England all usury laws have been repealed and there is now no limitation on the rate of interest which the Bank of England may demand. That is a great question on which a great deal may be said on both sides. I know something of the argument as it has been presented on each side. The framers of this bill, however, seem to have settled that question in advance, and to have determined that we should fix a certain rate of interest. I am not disposed to raise that question, but I am clear that if we undertake to fix the rate of in-

terest we should do so positively, definitively, and not leave it hereafter to be determined by the different States.

Mr. CONNESS. I should like to ask the Senator from Massachusetts how much chance there would be or what prospect there would be to induce the investment of capital in this mode of banking in the State which I in part represent here, if we fix the rate of interest arbitrarily at either six or seven per cent., which seems to be the average rates allowed by the States of the East? Our legal rate of interest is ten per cent. in the absence of a contract, while a special contract may be made fixing the rate of interest at any rate the parties may agree to. It may be that we shall never have a bank established in that State under this law, but there are a great many good people in that State, and a great many clear thinkers, who believe that if this system of banking was extended to the State, capital would find its way there for both public and private improvements when it could be obtained at ten per cent. per annum, very much more rapidly than the use of capital can be obtained there now while the really current rates may be stated to be perhaps two or two and a half per cent. a month, or the equivalent of twenty-four or twenty-five per cent. per annum.

I know that the Senator from Massachusetts wishes to arrive at right conclusions; and I ask him to take this matter into consideration. As has been suggested, if this provision be objectionable to any State, let the State fix the rate of interest that shall be charged within its borders, or let the State adapt itself to the seven per cent. fixed here in the absence of a State regulation. It occurs to me that it would certainly be fatal to the application of this system to a very large, important, and growing portion of the country where capital at a cheap rate is more necessary than in any other part of the country, to arbitrarily fix a rate of interest so low that money cannot be obtained for it. You might as well add to this act a proviso: "Provided, That nothing contained herein shall ever be held to apply to the State of California or to the Pacific coast." A provision to fix arbitrarily the rate of interest at six or seven per cent. would be just as effectual as the proviso that I suggest. I hope Senators will adopt no such provision. Some measures may have been taken prior to this period of time for the establishment in my State of the banking system contemplated in this act; and I should certainly very much dislike to see such a provision introduced into this act as would inhibit and make it impossible to establish a circulation in that country.

Mr. GRIMES. I move to insert after the word "the," in the fifth line, the word "legal," and to strike out the word "allowed" and to insert "established;" so as to read, "interest at the legal rate established by the laws of the State or Territory where the bank is located." As I understand it, the case is this: the legal rate established by law in my State, for instance, is six per cent., but by special contract parties are authorized to receive ten per cent. I want these banks to stand exactly on the same footing with everybody else where there is not a special contract. I do not want every contract made between a bank and private individuals to be regarded as a special contract, and excepted from the general rule that prevails in the State, and then allow these banks to take a greater percentage than is allowed to the local banks.

It is said that the State of Illinois and the State of Iowa may change their interest laws if they are dissatisfied with this. They have already established their interest laws. They say that they do not want a bank to receive more than six per cent. in the State of Illinois; and they say in the State of Iowa that a bank after two years from this time shall receive only six per cent., and now you propose by your legislation to change that. The Senator from Illinois says that because the legal rate of interest of the State was established in the national bank law of last year, to which this is an amendment or supplement, and that is only six per cent., they have not established any national banks in the State of Illinois.

Mr. TRUMBULL. I did not say that none had been established. Some have been established, but they are small banks. The system has not been generally gone into.

Mr. GRIMES. It has not been gone into because the bankers in Chicago can make more money by keeping out of it than they can by going in at present, for they are mere dealers in the shipplasters of eastern banks, and so long as they continue to be dealers in the issues of those banks they will not go into banking operations under this bill. But if the Senator will go over to the State of Iowa he will find that under the law of last year, under which the rate of interest is only six per cent., a national bank has been established in almost every county town in the State, and there has not been the slightest idea on the part of the bankers who have thus invested their money that they were going to have the rate of interest increased. This will be a perfect windfall, a godsend to them if it passes, and allows them to take four per cent. more than they supposed they were to obtain under the act by which they were incorporated.

Mr. BUCKALEW. I suggest to the Senator from Iowa that better words would be "general" and "fixed;" so as to read, "the general rate of interest fixed." Of course these special rates are as much legal as the general rate.

Mr. GRIMES. I so modify my amendment.

The PRESIDENT *pro tempore*. The amendment of the Senator from Iowa as modified is to insert the word "general" before "rate," and after the word "rate" to insert "fixed," striking out the word "allowed;" so as to make the clause read, "the general rate fixed by the laws of the State or Territory;" &c.

Mr. SHERMAN. I should be very glad to assent to any reasonable amendment; but it seems to me that this would be making a discrimination in favor of the State banks and against the banks organized under this law; and this proposition, so far as I know, will not affect the banks in any State but Iowa, and perhaps Illinois. Why should we discriminate against these banks in favor of the State banks? If by the policy of the laws of Iowa it is deemed necessary to allow the banks of Iowa to charge eight per cent. interest up to a certain time, why not extend that same privilege to the banks organized under this act?

Mr. GRIMES. I think that between twenty and thirty banks have been established in the State of Iowa under the law to which this bill is an amendment, with the perfect understanding that they were to receive six per cent. interest on their loans, and no more. I ask the Senator from Ohio who has charge of this bill if he has received any intimation, any petition, any request, from any of the representatives of those banks, asking that the rate of interest should be raised from six per cent., which they are drawing now, to ten per cent., which would be authorized by this bill as it stands.

Mr. SHERMAN. No, sir, not at all; and in the State of Ohio, where this system has been more generally adopted than in any other State of the Union, our laws allow but six per cent., and their forfeitures are severe. That, however, is not the point I wish to make. The State of Iowa has it in her power at any time to repeal this exemption in favor of the State banks; but while those banks are organized and exist there, and have the privilege of receiving eight per cent. interest, I do not see any reason why the same privilege should not be extended to the national banks. The reason why I am opposed to the amendment of the Senator from Iowa is that if adopted it will continue in existence the State banks that are entitled to the special privilege of taking a greater rate of interest than will be conferred by the general law on the national banks. I hope to see all these State banks induced to come into the national system, and thus have uniformity. I should prefer a general uniform rate of interest, six or seven per cent.; but that has been found to be impracticable. The States vary on that question. New York, Michigan, Wisconsin, and one or two other States fix the rate of interest at seven per cent., while in New England and Pennsylvania and Ohio it is six per cent. We found that the attempt to fix a uniform rate of interest would create so many disputes and rivalries and troubles that we finally had to yield that point, though I believe the fixed rate of seven per cent. ought to be established for all these banks. I say seven per cent. because that is the law of the State of New York, where most of the heavy commercial transactions of this country are carried on, and to fix



a lower rate than seven per cent. by the general banking law would be to exclude the national banks in the State of New York. But I have yielded my opinion on that subject, and I hope the amendment of the committee, which was very carefully considered, will be allowed to stand.

Mr. GRIMES. The Senator makes an appeal to the Senate in behalf of the national banks in my State; and he says there will be great injustice done to them because the State banks are permitted under the present law of my State to draw eight per cent. interest. There has been no clamor from the twenty or more national banks in my State on this subject. They have not been dissatisfied with the rate of interest they are now authorized to receive, which is only six per cent. They have not been importuning Congress, in this branch or the other, to be permitted to nearly double the rate of interest they expected to receive when their banks were organized, and they made a contract with the Government and with the people of that State that they would transact their money business at the rate of six per cent. interest. Why does the Senator constitute himself a special defender and protector of these national banks in my State? They are not injured. They do not claim that they have been injured. They have sent no petition or request to the Committee on Finance, as the Senator himself has told us. But it is said we may go to the next Legislature and ask them to change our interest laws. The Legislature of our State has just adjourned and will not meet again for nearly two years. In the mean time divers banks will be established under this law, and they will be authorized by this law if the bill stands as it is to receive ten per cent. interest, and then they will come here and make a pitiful mouth and say they had a special or implied contract with the Government that they should be permitted to receive ten per cent. interest; and in the mean time, during the two years that will elapse before the meeting of our General Assembly, these banks will be shaving the people at the rate of ten per cent. interest, getting nearly double the amount of money into their treasury from the people that they expected to receive when they entered into the corporation and made the contract with us to carry on banking at the rate of six per cent. interest.

Mr. JOHNSON. Will the Senator permit me to ask him if by the laws of Iowa the banks cannot by special agreement receive more than six per cent.?

Mr. GRIMES. They can receive eight per cent. at this time, but the banks are excluded from the general law which authorizes private individuals to take ten per cent.

Mr. JOHNSON. But they can now take eight per cent. by agreement.

Mr. GRIMES. Yes.

Mr. JOHNSON. And in the absence of agreement they only get six per cent.

Mr. POMEROY. What do the national banks get?

Mr. GRIMES. Six per cent. A large number of them have been established all over Iowa, charging six per cent.

Mr. JOHNSON. The Senator says that by the amendment which he proposes the banks to be constituted under this act are only to receive the general rate of interest fixed by the laws of the State. Is it meant by that to say that these banks are not to receive eight per cent.?

Mr. GRIMES. Yes, sir; and that is the case with the national banks that are now there; having been established under the law as it now stands, they can charge but six per cent.

Mr. SHERMAN. The Senator says that I wish to change the law in favor of the national banks in Iowa. The act of last year under which they are organized is the same as the amendment now proposed by the Committee on Finance, so that their rights and privileges will be precisely the same under the new act as under the old. The words are almost identical and have the same legal effect.

Mr. POMEROY. I did not understand the Senator from Iowa before. I understand him now that he is willing the State banks shall receive eight per cent. and the national banks six per cent. Is that it?

Mr. GRIMES. I have not anything to do with being willing or unwilling to say what the State banks shall receive. I take the laws as they

stand. Iowa allowed her banks to take ten per cent. for a time, and then to come down to eight per cent. for a series of years, but at a certain time to come down to six per cent. In the mean time Congress comes in and creates new banks under the law to which this is a supplement, and banks have been created under that law. I do not want these new banks to be drawing ten per cent. interest while the citizens take but six per cent., and that rate is the uniform law of the State except for special contracts, and when under the act incorporating the State banks they can only receive eight per cent.

Mr. POMEROY. May I inquire of the Senator, then, what is actually the rate of interest which the national banks now established in his State receive?

Mr. GRIMES. I understand that it is six per cent.

Mr. POMEROY. It cannot be so if that is not the rate established by the law of the State.

Mr. GRIMES. Why not?

Mr. POMEROY. I understand the law we passed last year fixed the rate of interest for the national banks precisely at the rate fixed by the law of the State, and this amendment of the committee is the same thing.

Mr. GRIMES. No, sir.

Mr. SHERMAN. The same thing precisely.

Mr. GRIMES. I beg the Senator's pardon. Here is the law of last winter:

"Every association may take, reserve, receive, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, such rate of interest or discount as is for the time the established rate of interest for delay in the payment of money."

Mr. SHERMAN. If the Senator wishes the word "established" before "rate," I am perfectly willing to put it in here.

Mr. GRIMES. I was going to show the Senator that the law of last winter is not the law he proposes to enact now. That was "the established rate of interest" by the law of the State. What was the rate established? Six per cent. was the rate established by the laws of the State, but there was an exception which declared that when private individuals chose to make a special contract as between themselves the rate of interest might be as high as ten per cent. Now let me read to the honorable Senator what he proposes: "Interest at the rate allowed," not "established"—"at the rate allowed by the laws of the State." Ten per cent. was allowed by the laws of the State, but ten per cent. was not the "established" law of the State. I apprehend that there is not a Senator who does not see that there is a very wide difference between the law of last winter, which authorized them to take the rate of interest "established" by the laws of the State, and this act which it is proposed to pass into a law, allowing them to take the rate which may be "allowed" by the laws of the State, which runs up as high as ten per cent.

Mr. SHERMAN. I will agree at once to substitute the word "established" for "allowed." There is no difference between the legal meaning of the word "allowed" and the word "established." The legal effect is the same.

Mr. GRIMES. I am content with that; I will compromise with the Senator and take the word "established."

Mr. SHERMAN. I will move to insert the word "established" instead of "allowed."

Mr. GRIMES. I will withdraw my amendment to get that.

The PRESIDENT *pro tempore*. The Senator from Iowa withdraws his amendment, and the Senator from Ohio moves to amend the amendment by striking out "allowed" and inserting "established."

The amendment to the amendment was agreed to.

Mr. HENDERSON. I desire to make a suggestion in reference to this matter to the Senator from Ohio who has charge of the bill. I see a difficulty that will come up in my State under the laws in regard to interest. The clause now reads: "The rate established by the laws of the State or Territory where the bank is located," &c. Money due (without a contract as to the rate of interest) in the State of Missouri draws six per cent.; by special contract between individuals it may draw an interest of ten per cent.; but under the banking laws of the State of Missouri, where circulation is loaned, a bank of issue is permitted

only to deduct eight per cent. where the interest is deducted before the maturity of the note, at the time of the loan. Eight per cent. is the extent of what we call bank interest.

There are several banks of issue in my State; and I should like to be informed in that state of the law what will be the rate of interest charged in the State of Missouri by the national banks. If there is no rate agreed upon when money is due, the rate is six per cent., but parties may agree to ten per cent., though a bank of issue can only charge eight per cent. Now what is the rate "established" under the amendment as it now stands? I desire to put in some amendment of this sort, and I think it would cure the difficulty suggested by the Senator from Iowa: let the word "allowed" remain, and say "the rate allowed to be charged by banks of issue under the laws of the State or Territory where the bank is located, and no more."

Mr. CONNESS. I suggest to the Senator that that would not answer for States and Territories where no banks of issue are established.

Mr. HENDERSON. I was aware of that difficulty, and I was going to suggest that that difficulty could be remedied by an amendment providing that if banks should be established under this act in States where no banks of issue now exist, the Legislature may fix the rate of interest. In that way I think all difficulty will be provided against, and I hope the Senator from Iowa will permit the bill to be amended in that way.

Mr. GRIMES. I have no objection to it.

Mr. DOOLITTLE. The word "established," which has been substituted for the word "allowed," is the same word which is in the act of 1863, but there are in that act additional words which are necessary in this act to render it free from ambiguity. Section forty-six of the act of 1863 reads in this way:

"Such rate of interest or discount as is for the time the established rate of interest for delay in the payment of money, in the absence of contract between the parties, by the laws of the several States."

These words "in the absence of contract between the parties," which are in the act of 1863, I think ought to be inserted in this act.

Mr. SHERMAN. That would change the meaning undoubtedly.

Mr. JOHNSON. Then they could charge more.

Mr. COLLAMER. No; these words were only descriptive of the law.

Mr. DOOLITTLE. By inserting these words after the word "located" the clause will read:

"That every association may take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidences of debt, interest at the rate established by the laws of the State or Territory where the bank is located, in the absence of contract between the parties, and no more."

That will make it definite, I think.

Mr. JOHNSON. I know; but that is not what the Senator from Iowa wants.

Mr. DOOLITTLE. The Senator from Iowa, as I understand, desires to have the rate of interest which these associations are allowed to receive the rate which is established in the various States and Territories by law in the absence of special contract to the contrary.

Mr. SHERMAN. The question that is now made by the Senator from Wisconsin is very different—

The PRESIDENT *pro tempore*. Senators will allow the Chair to understand what the question is. Did the Chair understand the Senator from Missouri as proposing an amendment?

Mr. HENDERSON. Yes, sir.

The PRESIDENT *pro tempore*. Then that will be first in order.

Mr. HENDERSON. I desire to offer an amendment because the clause as it now stands, if I understand it, will seriously affect loaning in my State; and the effect will be that any banks established there under this law may charge ten per cent. under special contract when no other bank of issue in the State can charge more than eight per cent.

Mr. DOOLITTLE. Allow me to inquire whether in the State of Missouri the law of that State does not fix a given rate of interest to be paid for the loan of money, in the absence of a special contract between the parties.

Mr. HENDERSON. Certainly.

Mr. DOOLITTLE. What is the rate?

Mr. HENDERSON. Six per cent.

Mr. DOOLITTLE. Then the effect of the amendment of the Senator from Iowa with the additional words which I propose to insert would fix the rate of interest at six per cent. in Missouri under these associations.

Mr. HENDERSON. I desire to allow these banks to charge just exactly what other banks of issue in the State charge. I do not want to make any difference between them.

The PRESIDENT *pro tempore*. The Chair desires to know whether the Senator from Missouri proposes his amendment to the Senate.

Mr. HENDERSON. I do.

The PRESIDENT *pro tempore*. It will be reported.

The Secretary read the amendment to the amendment, as follows:

After the word "established" strike out "by" and insert "to be charged by banks of issue under;" so as to read:

The rate established to be charged by banks of issue under the laws of the State; &c.

Mr. SHERMAN. Suppose there are no banks of issue in the State; in some States the constitution prohibits the establishment of banks of issue, and there are no State laws regulating that; what then?

Mr. HENDERSON. Perhaps these words should be added:

And when no such rate of interest is fixed by the laws of the State or Territory, the bank may take, receive, reserve, or charge a rate not exceeding the rate allowed upon special contract between individuals.

That will cover the whole case.

Mr. TRUMBULL. I regret that the word "allowed" has been changed to the word "established." It was done under the impression on the part of some Senators that it does not alter the meaning of the law, and others think it would give a very different meaning to the law. My impression is that it would change the character of the law entirely to alter the word "allowed" to "established."

The rate established by the laws of the State of Illinois is six per cent. That is the established rate of interest in my State, but the law provides that parties may by special contract agree to pay a higher rate of interest; but that is not the "established" rate of interest; that is "allowed;" and if you leave the word "allowed" here, it is just right. The committee had the amendment in a perfect shape, as I think, as they reported it to the Senate, and I regret very much that the word "allowed" has been changed to the word "established."

While I am up I wish to reply to the Senator from Iowa in regard to the banks of my State. He assumes that the banks in Illinois can charge but six per cent. I thought he was mistaken at the time. I have since inquired of gentlemen conversant with the banking institutions of our State, and they tell me that it is so, that the law in the absence of a contract fixes the rate of interest of the banks at six per cent., but the banks of Illinois may by special contract take ten per cent., and are doing it every day.

Mr. GRIMES. Banks of issue?

Mr. TRUMBULL. Yes, sir; we have no other banks in Illinois but banks of issue.

Mr. GRIMES. You have bankers.

Mr. TRUMBULL. We have private bankers, but I am speaking of associations under our general banking law, who are allowed to form a bank and deposit State stocks as a security for their circulation, and are authorized to charge ten per cent. interest by special contract. If there is no contract the law is the same with a bank as with individuals. Money which is due draws interest after it becomes due, when no specific rate of interest is specified, at six per cent. both in favor of banks and other corporations and individuals; but there may, as I understand, and as I am informed by gentlemen familiar with the banking institutions of our State, be a higher rate by special contract. I admit that I am not familiar with those institutions; I know very little about banking; I have never had much money, and perhaps know as little about banking operations as any one; but I have been informed by gentlemen who are engaged in banking in the State of Illinois that the reason why they did not organize under the national banking system as it was adopted a year ago, is that they were prohibited by the bill from charging a higher rate of interest than six or seven

per cent. Seven per cent., I believe, was the amount limited in the old law, and it was better for them to bank under the State institutions than under the national banking system at that rate. As has been well said by the Senator from Ohio, if we are to have this system adopted do not discriminate; do not pass such a law as will hold out an inducement for individuals to organize under the State banking system rather than under the national system. I hope that the amendment will stand precisely as the committee agreed upon it.

Mr. DOOLITTLE. I think the amendment proposed by the Senator from Missouri on the whole will cover the case exactly and put the national banks and State banks precisely on the same footing, because the next clause of the committee's amendment itself provides that where there are no laws fixing the rate of interest the national banks may charge seven per cent. I desire to treat all those associations alike and put them on precisely the same footing with the State banks so far as this matter of taking interest is concerned. I do not want to give to one an advantage over the other. If you say that the national associations are to take whatever they are allowed by the laws of the State, in some of the States they can take ten per cent. when by the laws of those very States the other banks are not allowed to take more than seven per cent. For instance, in the State of Iowa I understand banks of issue are allowed to take eight per cent. interest, while a contract may be made specially for ten per cent. interest, so that a bank under this act, under this language, could take ten per cent. while a State bank in Iowa could take only eight per cent. That certainly is not right. I do not propose to give the national associations this advantage over the State banks in this particular of receiving interest; nor do I wish to give the State banks an advantage over the national associations. I think, therefore, that the provision of the amendment of the Senator from Missouri, that these associations shall be allowed to charge the same rate of interest which the banks of issue in the respective States and Territories are allowed to charge, will put them precisely on a footing of equality, and then as to those States and Territories where there are no banks of issue, the committee's amendment provides that the rate shall be seven per cent.

Mr. LANE, of Kansas. I should like to ask the Senator from Wisconsin a question. In our State private bankers are allowed to receive ten per cent. interest. Do you think those private bankers will give up ten per cent. to take seven or eight per cent. interest under this bill?

Mr. GRIMES. Certainly. They do not issue paper now.

Mr. LANE, of Kansas. Yes, a sort of paper.

Mr. GRIMES. That circulates as currency?

Mr. LANE, of Kansas. Yes. They issue notes, and they circulate. If you limit your national banks to seven or eight per cent., or anything below ten per cent., we shall not have any national banks in Kansas.

Mr. DOOLITTLE. I can only say, for one, that I will never vote for a bill allowing national banks to go into the States and Territories and charge a rate of interest equal to ten per cent., unless the State or Territory where they are located allows its banking associations to do the same. It is too exorbitant to allow any corporation to have such power in the loaning of money anywhere in the country, to allow it to go to such a rate as that.

Mr. LANE, of Kansas. Our law does allow private bankers to receive ten per cent. on special contract.

Mr. DOOLITTLE. I do not know precisely what the state of the banking system in Kansas is or what its private bankers are. Are those private bankers who issue by the laws of the State of Kansas a paper circulation to circulate as money? Is there such a system as that, or are those private bankers men who are mere brokers that get the bills of other banks and discount notes with those bills of other banks or associations?

Mr. LANE, of Kansas. They loan their money under the law allowing the ten per cent. to be taken on special contract, and yet they issue their notes that are circulated as currency.

Mr. JOHNSON. They do not circulate them under the law.

Mr. LANE, of Kansas. No.

Mr. DOOLITTLE. Those notes are not issued under any law, and are not legal; they are merely shimplasters, as they are called, and I do not propose in any national bank bill that we pass to recognize such a system of banking as that.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Missouri to the amendment.

Mr. GRIMES. I wish to know of the Senator who has charge of the bill if he is satisfied with the amendment of the Senator from Missouri as it now stands.

Mr. SHERMAN. I was satisfied with it until I found that gentlemen who are acting in concert with the Senator from Iowa are not satisfied with it, but are tinkering it and fixing it up. I know that the amendment as agreed upon in the Committee on Finance was well and carefully considered, and was intended to confer on these national banks the same privileges that are conferred by the laws of the States on other associations and individuals, and therefore, to avoid the controversy, I will move to reconsider the vote on the amendment proposed by the Senator from Iowa which was adopted, and let us have the original amendment stand just as it was reported from the committee, which I know was considered carefully, and which will allow those national banks the same rate of interest as is provided for by the local law for the people within their own States. If the States choose to change their law, they can change it at any time. My own preference, however, as I have already stated, is to establish a uniform rate of interest by our law; but having been overruled on that point, I prefer now to place the national banks in each State on precisely the same footing with individuals and persons doing business in the State by its laws.

Mr. GRIMES. That is a very pleasant alternative that the Senator proposes to my State, for instance, that if they are not satisfied with the rate of interest this Congress establishes for them, the Legislature can be convened by the Governor two years in anticipation of the time fixed by law at an expense of one or two hundred thousand dollars to establish a different rate of interest from that which has been established by Congress at the instance of the Senator from Ohio.

Mr. SHERMAN. Allow me to suggest to the Senator that Congress does not say a word as to what shall be the rate of interest in Iowa, but takes the laws of Iowa, and presumes that the people of Iowa had sense enough to pass laws to fix the rate of interest for their own State.

Mr. GRIMES. We had sense enough, we supposed, to provide for what cases might arise, and fixed the rate which should be charged by the banks of the State; but now Congress, at the instance of the Senator from Ohio, creates a batch of banks and authorizes them to take what it is considered usurious interest for a bank to take in that State. No bank is authorized in that State to take ten per cent. a year; but under the law, as the Senator proposes to pass it, these banks will be authorized to take ten per cent., which, if taken by a State bank, would cause an entire vitiation of the contract between the bank and the individual of whom it received it. Now, when the people of the State of Iowa are satisfied that that is against the public policy of the State which has been settled by them for years, the alternative is presented to them that they can convene the Legislature, at an expense of \$200,000, two years in anticipation of the time fixed by their constitution.

I understood the Senator from Ohio to be perfectly satisfied with the amendment substituting the word "established" for the word "allowed."

Mr. SHERMAN. I am yet.

Mr. GRIMES. Then the Senator must not lay on my back any of the sins of those gentlemen who he says are in collusion with me tinkering this bill. I have had nothing to do with it; I am willing to stand by the amendment to which the Senator agreed, and to vote against all these other propositions if the Senator will himself agree to stand by that amendment, and I will not accept anything more. If the Senator will withdraw his motion to reconsider the vote by which the word "established" was inserted in place of "allowed" I will vote with him on this amendment.

Mr. SHERMAN. I will take the Senator at his word and withdraw my motion.

Mr. FESSENDEN. I hope the Senator from

Ohio will not do that. I think the clause does not stand right now.

Mr. SHERMAN. I look upon it that the word "established" and the word "allowed" have substantially the same legal signification. Senators may do as they please upon it, but I look on the two words as precisely the same.

Mr. FESSENDEN. I do not consider them the same, so far as Iowa is concerned, at any rate. I think as a general rule "established" and "allowed" are the same thing, but it seems that in the State of Iowa "established" and "allowed" do not mean the same thing.

Mr. TRUMBULL. Nor do they in my State.

Mr. FESSENDEN. Nor do they in the State of Illinois. That I did not understand when the words were put in. I do not know, however, that I object to it if other States are let alone.

Mr. GRIMES. We propose to let you alone.

Mr. FESSENDEN. But it strikes me that it operates very curiously. We must alter our bill, why? For the reason that they have in the State of Iowa three rates of interest: one for private persons at the present time; one for bankers at the present time; and a third for other private persons who do not make a special contract. If we just provide a general rule that the same rate of interest shall be allowed to be taken by these banks that is allowed in the State where the bank happens to be located, I do not see that it is unreasonable to say that the States may conform their legislation to it, and allow just what they please. I do not think we should legislate with regard to such a peculiar state of things existing in one or two States, and change our legislation to conform to it. I do not want any rule made such as is proposed by the Senator from Wisconsin, [Mr. DOOLITTLE,] by which these banks, under special contract, may take a rate of interest greater than is allowed by the laws of the State in the general course of proceeding.

Mr. CONNESS. Did I understand the Senator from Maine as moving to reconsider the vote on the amendment of the Senator from Iowa inserting "established" in place of "allowed?"

Mr. FESSENDEN. I did not move it.

Mr. CONNESS. I make that motion.

The PRESIDENT *pro tempore*. It is not now in order. The pending question is on the amendment of the Senator from Missouri.

Mr. DOOLITTLE. There is in my judgment a very great difference between the word "allowed" and the word "established," and I will illustrate the case by what I believe to be the present law of the State of Wisconsin; at all events such was the law not long since, and I am not aware that a change has been made in the rate of interest. The rate of interest as allowed by law, certainly until quite recently, between individuals, on the loan of money in my State has been ten per cent. By the constitution of the State of Wisconsin, no banking system could be abolished but by submitting the banking system directly to a vote of the people. The banking system under this vote and under this constitution has been so arranged that the banks of issue should have this peculiar privilege over all other people, the blessed privilege of getting interest on what they owe instead of paying interest as other men do on what they owe; and the State has determined that they shall not be permitted to take more than seven per cent. interest on what they owe the community, for the whole secret of this paper money banking is nothing but a contrivance to get interest on what men owe instead of interest on what they lend; it is to exchange their notes without interest, to get other men's notes with interest. It is the highest privilege that ever can be given to a monopoly in the world, and a privilege which ought to be looked upon with considerable jealousy when we are thus parceling it out among certain favored individuals to exercise this right among the people. Now shall we by law establish here the right of these corporations that are to be framed under this act to go into the State of Wisconsin and go to banking at ten per cent. interest, when by the laws of Wisconsin the banks there can take but seven?

Mr. FESSENDEN. They cannot do it under the law.

Mr. DOOLITTLE. Why cannot they do it under this law? "Allowed" is the word. "The rate allowed by the laws of the State or Terri-

tory." I say that if I am not mistaken the law has been until quite recently that the rate of interest on special contract between individuals on a loan of money might be ten per cent. in the State of Wisconsin. I am not quite certain whether that law was not amended at the last session of the Legislature. I have not had occasion to borrow or lend money, so that I am not prepared to state from present recollection. I will take the law of Iowa as it is stated to me by the Senator from Iowa. The Bank of Iowa in that State—and it is regarded as a good institution throughout the country as far as I know its character and standing—is allowed to take eight per cent.; but if a private individual loans his money in Iowa he can take ten per cent., and you propose by this bill to allow these associations to take ten per cent. in Iowa in banking and give them this advantage over the banks of the State of Iowa. That is the effect of retaining the word "allowed" instead of the word "established;" and therefore I hope the Senate will not reconsider. It is making an invidious distinction against the banking systems of these States which will bring on a conflict which I think it is no time now in the condition of the financial world for us to engage in.

Mr. FESSENDEN. You make an invidious distinction against your banks now.

Mr. DOOLITTLE. The distinction is made against the banks because the banks are endowed with special privileges; and when you give them special privileges that private individuals do not have you have the right to put limitations upon them which you do not put upon individuals.

The PRESIDENT *pro tempore*. Will the Senate agree to the amendment proposed by the Senator from Missouri to the amendment?

Mr. HENDERSON. I hope the amendment will be adopted, and then I suppose it will be in order to move a reconsideration of the vote by which "established" was substituted for "allowed," so that we can put in the word "allowed" again. I will state that, so far as my information extends, generally in the West banks of issue are not allowed to receive as high a rate of interest on their loans as private individuals are.

I believe that the rate of interest generally established in the West is about ten per cent. on contracts between individuals, perhaps in almost every State; but I do not suppose that any bank of issue in the West is allowed to charge ten per cent. on its loans. I am unwilling to enable these banks to charge a greater rate of interest than the banks already established. If gentlemen are determined to destroy the State banks, of course it would be perhaps well enough to pass the amendment as it came from the Finance Committee, because unquestionably if it be retained as it now is, the banks under this law may charge ten per cent., whereas all other banks of issue can charge only eight per cent. Therefore it is a bonus of two per cent. given in order to induce capital to enter into this system. It is a loan of their credit, and they ought not to be permitted to take as high a rate of interest as may be taken for the loan of gold as between individuals. It will be recollected that they receive five or six per cent. interest upon the bonds which they have deposited; and this proposition will allow them to receive in addition ten per cent. upon the loan of their credit in all the States of the West. The States generally do not permit banks of issue to charge as great a rate of interest as individuals. I hope that the amendment I have offered will be adopted.

Mr. POWELL called for the yeas and nays; and they were ordered.

The Secretary called the roll.

Before the result was announced—

Mr. FESSENDEN. I ask permission to make a suggestion. I wish to suggest that if this amendment could be made a little more definite there might perhaps be no objection to it. There may be and there are States where no particular rate of interest is fixed for banks, and this provision ought to provide for that case.

Mr. HENDERSON. The Senator certainly did not understand what I said a few moments ago. I propose if this amendment be adopted to follow it by inserting the word "such" after "no," in the seventh line, so as to read, "when no such rate is fixed by the laws of the State or Territory the bank may take, receive, reserve, or charge a rate not exceeding seven per cent.,"

and instead of "a rate not exceeding seven per cent." I would say "a rate not exceeding that allowed to be charged on special contract to individuals."

Mr. FESSENDEN. That might carry it up to ten per cent.

Mr. HENDERSON. I do not care.

Mr. FESSENDEN. I think by general consent we had better suspend the call of the yeas and nays and let the whole question be passed over for the present and let us try to adjust it. In the present shape of the proposition I do not think the Senator will reach his object.

Mr. SHERMAN. Let the Senator from Missouri withdraw his amendment.

Mr. FESSENDEN. And then let the question be passed over for the present.

Mr. HENDERSON. I did not offer the amendment with any intention to cripple the bill, and I hope Senators do not ascribe that purpose to me.

Mr. FESSENDEN, Mr. SHERMAN, and others. Withdraw your amendment.

Mr. HENDERSON. I am willing to withdraw it if Senators desire that it shall be withdrawn.

Mr. FESSENDEN. If the Senator withdraws it we can try and arrange the matter.

Mr. HENDERSON. I withdraw my amendment.

The PRESIDENT *pro tempore*. The amendment can be withdrawn only by unanimous consent. The Chair hears no objection; the amendment of the Senator from Missouri is withdrawn. The question now is on concurring in the amendment made as in Committee of the Whole.

Mr. FESSENDEN. I suggest that we pass over this amendment for the present, and go on with the others; and in the mean time this can be so worded as perhaps to meet all the difficulties of the case.

The PRESIDENT *pro tempore*. That course will be taken, if there be no objection.

Mr. CONNESS. Do I understand the Senator as wishing to pass over the question of reconsideration?

Mr. FESSENDEN. I propose to let the amendment stand as it is for the present, pass it over, and come back to it; and then that question of reconsidering will be open.

Mr. CONNESS. I prefer to have the vote by which "established" was inserted in place of "allowed" reconsidered now. Then the amendment will stand as it came from the committee.

Mr. FESSENDEN. I think that would be as well.

Mr. CONNESS. I make the motion.

The PRESIDENT *pro tempore*. The Senator from California moves to reconsider the vote on the amendment striking out "allowed" and inserting "established."

Mr. GRIMES. Do I understand that the Senator merely wishes to make the motion, and then let it stand over?

Mr. TRUMBULL and Mr. SUMNER. No; let us finish it.

Mr. GRIMES. Is it the understanding that then this section is to be passed by and we are to go on with the rest of the bill, and arrange this matter afterwards? ["Yes."]

Mr. FESSENDEN. That is the understanding; and it may be as well, therefore, to let this vote be reconsidered.

Mr. CONNESS. I did not enter into that understanding; but if there is a general understanding on the part of the Senate, I do not wish to violate it. I do not see why we cannot bring the bill back now to where it was as it came from the committee, and then any arrangement that Senators see fit to enter into about it will be satisfactory to me.

Mr. FESSENDEN. That is precisely the understanding. It may be reconsidered, and then let the amendment be passed over for us to come back to it again.

Mr. CONNESS. Very well, then, I ask for the question.

The PRESIDENT *pro tempore*. The question is on the motion to reconsider the vote agreeing to the amendment of the Senator from Iowa to the amendment.

The motion to reconsider was agreed to.

Mr. FESSENDEN. Now let the amendment be passed over for the present.



The PRESIDENT *pro tempore*. It will be passed over, if there be no objection. The Chair hears none. The next amendment made as in Committee of the Whole will be read.

The Secretary read the next amendment, which was in line nineteen of section thirty-one, to strike out the word "its" before "deposits."

The amendment was concurred in.

The next amendment was in line twenty-seven of section thirty-one, after the word "Boston" to insert "Portland, Maine;" before "San Francisco" to insert "and," and after "San Francisco" to strike out "and Portland."

Mr. HENDERSON. Is it in order now to move an amendment to that section, striking out all those places except the city of New York?

The PRESIDENT *pro tempore*. Such a motion is not now in order. It will be in order after the amendments made as in Committee of the Whole shall have been disposed of.

The amendment was concurred in.

The next amendment was in section forty, after the word "association," in line seven, to insert "and the officers authorized to assess taxes under State authority."

The amendment was concurred in.

The next amendment was to strike out the following clause in the forty-first section of the bill:

And nothing in this act shall be construed to prevent the taxation by States of the capital stock of banks organized under this act, the same as the property of other moneyed corporations, for State or municipal purposes; but no State shall impose any tax upon such associations, or their capital, circulation, dividends, or business, at a higher rate of taxation than shall be imposed by such State upon the same amount of moneyed capital in the hands of individual citizens of such State: *Provided*, That no State tax shall be imposed on any part of the capital stock of such association invested in the bonds of the United States deposited as security for its circulation.

And in lieu thereof to insert:

And in lieu of all other taxes, every association shall pay to the Treasurer of the United States, in the months of January and July, a duty of one half of one per cent. each half year from and after the 1st day of January, 1864, upon the average amount of its notes in circulation, and a duty of one quarter of one per cent. each half year upon the average amount of its deposits, and a duty of one quarter of one per cent. each half year, as aforesaid, on the average amount of its capital stock beyond the amount invested in United States bonds; and in case of default in the payment thereof by any association, the duties aforesaid may be collected in the manner provided for the collection of United States duties of other corporations, or the Treasurer may reserve the amount of said duties out of the interest as it may become due on the bonds deposited with him by such defaulting association. And it shall be the duty of each association within ten days from the 1st days of January and July of each year, to make a return under the oath of its president or cashier to the Treasurer of the United States, in such form as he may prescribe, of the average amount of its notes in circulation, and of the average amount of its deposits, and of the average amount of its capital stock beyond the amount invested in United States bonds for the six months next preceding said 1st days of January and July as aforesaid; and in default of such return, and for each default thereof, each defaulting association shall forfeit and pay to the United States the sum of \$200, to be collected either out of the interest as it may become due such association on the bonds deposited with the Treasurer, or, at his option, in the manner in which penalties are to be collected of other corporations under the laws of the United States; and in case of such default the amount of the duties to be paid by such association shall be assessed upon the amount of notes delivered to such association by the Comptroller of the Currency, and upon the highest amount of its deposits and capital stock, to be ascertained in such other manner as the Treasurer may deem best: *Provided*, That nothing in this act shall be construed to prevent the market value of the shares in any of the said associations, held by any person or body corporate, from being included in the valuation of the personal property of such person or corporation in the assessment of all taxes imposed by or under State authority for State, county, or municipal purposes, but not at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of such State. And all the remedies provided by State laws for the collection of such taxes shall be applicable thereto: *Provided, also*, That nothing in this act shall exempt the real estate of associations from either State, county, or municipal taxes to the same extent, according to its value, as other real estate is taxed.

Mr. CHANDLER. I move to amend the amendment by inserting after the word "thereto" and before the last proviso:

And provided further, That no tax shall be imposed under the laws of any State upon the shares in any of the associations authorized by this act at a rate exceeding that imposed on the shares in banks organized under the authority of the State where such association is located.

The amendment to the amendment was agreed to.

Mr. SUMNER. I now move this as a substitute for the amendment of the committee:

In lieu of all other taxes on the capital, circulation, deposits, shares, and other property, every association shall pay

to the Treasurer of the United States, in the months of January and July, a duty of one per cent. each half year from and after the 1st day of January, 1864, upon the average amount of its notes in circulation, and a duty of one half of one per cent. each half year upon the average amount of its deposits, and a duty of one half of one per cent. each half year as aforesaid, on the average amount of its capital stock beyond the amount invested in United States bonds; and in case of default in the payment thereof by any association, the duties aforesaid may be collected in the manner provided for the collection of United States duties of other corporations, or the Treasurer may reserve the amount of such duties out of the interest as it may become due on the bonds deposited with him by such defaulting association. And each association shall, within ten days from the 1st days of January and July of each year, make a return, under the oath of its president or cashier, to the Treasurer of the United States, in such form as he may prescribe, of the average amount of its notes in circulation, and of the average amount of its deposits, and of the average amount of its capital stock beyond the amount invested in United States bonds, for the six months next preceding the 1st days of January and July, as aforesaid, and in default of such return, and for each default thereof, each defaulting association shall forfeit and pay to the United States the sum of \$200, to be collected either out of the interest as it may become due to such association on the bonds deposited with the Treasurer, or, at his option, in the manner in which penalties are to be collected of other corporations under the laws of the United States; and in case of such default the amount of the duties to be paid by such association shall be assessed upon the amount of notes delivered to such association by the Comptroller of the Currency, and upon the highest amount of its deposits and capital stock, to be ascertained in such other manner as the Treasurer may deem best: *Provided*, That nothing in this act shall exempt the real estate of associations from either State, county, or municipal taxes to the same extent, according to its value, as other real estate is taxed: *Provided, also*, That all taxes imposed by this or any future act on banking associations organized under national legislation shall be applied exclusively to the payment of the interest and principal of the national debt of the United States.

Mr. WILSON. I move that the Senate proceed to the consideration of executive business.

Mr. SHERMAN. This bill has been dragging its weary way along till everybody is tired of it. I feel obliged, in the position which I occupy, to insist upon going on with it. There is no business in executive session that is pressing to-day.

Several SENATORS. It is near four o'clock.

Mr. SHERMAN. We cannot adjourn every day at four o'clock.

Mr. WILSON. If the Senator from Ohio desires to go on with the bill, I withdraw my motion.

Mr. SUMNER. Mr. President, at last in this discussion it is clear that we have come to the place where the road branches in two opposite directions—one way toward the support of the whole country, and of that improved currency which is essential not only to the general welfare but also to the common defense, and the other toward State rights, State taxation, and State banks. Which road will you take, sir?

Or, stating the case in a different way, it is a question between the national credit, involving the interests of all, on the one side, and certain local pretensions on the other side. It is a question between the whole and a part; between the life of the Republic and a small percentage of taxation which Senators claim for their States. The enemy is at our gates and gold is at 130, and yet Senators hesitate.

All are watching, at this moment, the movement of our forces under General Grant, and are longing for victory. Nothing that the country can do to make him strong has been left undone. Men, money, supplies—everything has been lavished; and only yesterday the Senate voted another \$25,000,000.

But there is another field, where the battle is bloodless, but scarcely less important. I mean the field of finance. If our pecuniary resources fail, it is doubtful if the Army and Navy must not fail also. But victory on this field would give triumphant strength and vigor to all the operations of Government. There is no argument for the support of Army and Navy—ay, sir, for the actual support of the Lieutenant General of the United States, now in the field at the head of our military forces—which at this moment is not equally applicable for the support of the Secretary of the Treasury at the head of our financial forces.

How different the treatment of these two officers. Everything is given to the one, almost without discussion. But little is given to the other without higgling at every stage of the question.

There are movements now pending in the field of national finance hardly less important than

those in the field of war. A defeat in finance would be hardly less disastrous than a defeat in war.

Under these circumstances, and at this critical moment, a measure is brought forward whose real character is to be discerned in its title, as follows: "To provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof." The primary object of this bill is not, therefore, to establish national banks, but to secure the national currency. For the sake of the currency a system of national banks is to be established; they are the means to the end. But the end sought is an improved currency. Sir, this must not be forgotten. If it were a mere question of a national bank, if it were a question between two rival systems, Senators might take sides. But who will hesitate to give now all that is needed, even all that is asked by the proper authorities, for an improved currency? You may seem to give much when you abandon sources of State taxation; but you can give nothing that will not be returned to you ten-fold, a hundred-fold, when the currency at last becomes fixed and uniform.

Glance only for a moment at the incalculable advantages of a sound currency. Gold will assume its normal place; business will be sure; values will be fixed; fluctuations will cease; inflated prices will pass away. There is not a mart of commerce, there is not a village in the whole country, which will not feel the change. But this great boon cannot be secured without corresponding effort. Like victory in the field of battle, it must be fought for and paid for.

And now, when victory seems to be within reach, when an improved currency has been already begun, Senators hesitate in conceding to it those facilities without which victory is doubtful. They set up claims for their States and insist upon certain rights of taxation. If this were a moment of peace I could appreciate this pretension; but when I consider the peril of the country, filling us all with such anxiety, when I consider that its very life is assailed, and that it is to be defended on the field of finance just as much as on the field of battle, I feel that every endeavor to hamper the pending measure differs little in character from an effort to hamper our soldiers in the field. We spare nothing essential to the strength of our armies in the field: we should spare nothing essential to the strength of our currency. Armies and finances both are necessary; both must be cherished and protected with equal patriotic care.

As I listen to the local pretensions put forward at this moment, when the national life is staked upon the issue, I am irresistibly reminded of a kindred case which, at the very crisis of our Revolution, was chastised by the humor and eloquence of Patrick Henry. You remember the story. The army of Washington was reduced to the extremity of distress, exposed, almost naked, to the rigors of a winter sky, and marking the frozen ground with the blood of shoeless feet. "Where is the man," said Patrick Henry, "who would not have thrown open his fields, his barns, his cellars, the doors of his house, the portals of his breast, to receive the meanest soldier in that little famished band? Where is the man? There he stands; but whether the heart of an American beats in his bosom, you are to judge!" It was to John Hook that he pointed, who was then pressing a vexatious claim for supplies taken for use of these starving troops. "What notes of discord do I hear?" exclaimed the orator. "They are the notes of John Hook, hoarsely bawling through the patriot camp, *Beef! beef! beef!*" And now, among us, in our patriot camp, we are doomed to listen to a similar cry. Senators do not say *Beef, beef, beef*; but they say what means the same thing. They cry, State taxation! State taxation! State taxation! And they hold up State banks for us to fall down and worship.

Sir, I am unwilling to be misunderstood. I have no feeling except of kindness for the State banks, especially when they keep within the proper sphere of banks and do not undertake to supply a currency to the country. But at this moment, when we are seeking to create a new currency which shall be the foundation of national credit, and of national character too, I confess that I have very little sympathy with anything which puts itself in the way. The State banks have

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performed their task as agents of currency, and the time has come for them to abdicate; or, if they do not abdicate, at least to conform to the new system.

I do not stop to consider if any paper issued by State banks as currency can be constitutional; to consider if the States which cannot "coin money" can yet put paper in circulation as money. I content myself with insisting that, whatever may be the constitutional merits of this question, it is no longer expedient that States should be invested with this power. We must have another system. The best interests of the whole country require it, especially at a time of national peril.

It is clear that the State banks are not competent to meet the present crisis. They cannot do the business that is required. Besides, they are in the way. Putting their notes in circulation, almost at will, the currency is inflated beyond control. Depreciation naturally ensues. Bankruptcy may follow.

When I say that the State banks are in the way, I do not use too strong language. Authentic tables show the extent to which during the last year the currency has been affected by their interference. I hold in my hand a statement taken from the Bank Reports for 1862, page 208, and for 1863, page 210. At the risk of wearying the Senate I will read it:

*Statement of the Circulation of the Banks in certain States on or about 1st January, 1862 and 1863.*

	1862.	1863.
Maine.....	\$4,047,780	\$6,488,478
New Hampshire.....	2,994,408	4,192,034
Vermont.....	2,592,687	5,621,851
Massachusetts.....	19,517,306	28,957,630
Rhode Island.....	3,306,530	6,413,404
Connecticut.....	6,918,018	13,842,758
	\$39,306,729	65,516,155
		39,306,729

Total increase of New England States..... \$26,209,426  
Being over sixty-six and two thirds per cent.

Similarly in New York, Pennsylvania, and New Jersey we find the circulation on or about 1st January:

	1862.	1863.
New York.....	\$30,553,020	\$39,182,819
Pennsylvania.....	16,384,043	27,689,504
New Jersey.....	3,927,535	8,172,398
	\$50,865,198	75,044,721
		50,865,198

Total increase for New York, Pennsylvania, and New Jersey..... \$24,179,523  
Being over forty-seven per cent.

*Aggregate Increase for the Principal Eastern States.*

	1862.	1863.
New England.....	\$39,306,729	\$65,516,155
New York, Pennsylvania, and New Jersey.....	50,865,198	75,044,721
	\$90,171,927	140,560,876
		90,171,927

Aggregate increase of eastern States..... \$50,388,940  
Being over fifty-five and three fourths per cent.

These tables speak for themselves. They show the range within which the State banks undertake to operate, and their consequent interference with the national system. If it be said that in certain parts of the country, as in New England and New York, the State banks have performed good service, I reply that, even admitting all that is claimed, this service is local and incomplete. It does not embrace the West.

The present endeavor is to provide a remedy for this trouble by a comprehensive national system, which shall discharge the function that has been performed by the State banks, and shall embrace the whole country. It is called national because it belongs to the nation, and not to any particular State, and because its origin, aim, and inspiration are all national. It is conceived in no hostility or unkindness to the State banks, but in a patriotic purpose to do what can be done to secure what all desire—a national currency. The State banks will be welcome to a place in the system, like State troops coming forward for the defense of the Republic. But they cannot be toler-

ated, if they stand aloof or refuse to take the post which is assigned to them. At a moment of peril like the present, when the Government is bending all its energies to save the national currency, a mutiny among State banks will be hardly less disastrous than a mutiny among State troops. Every murmur or mutter of such mutiny ought to be repressed at once. All should be summoned to a perfect and harmonious cooperation in that cause which embraces the whole country, in every walk of life, whether of peace or war.

I know not how others may be impressed, but to my mind it is difficult to imagine anything short of those everlasting principles of human freedom involved in this war, which should at this moment be more carefully watched than the currency of the country. Let this be safe and everything will be safe—Army, Navy, and the whole national cause. Such a currency will constitute an epoch in the history of the country—ay, sir, in the history of the world. There have been ministers in other countries and other times whose names are immortal from association with commercial reforms. Colbert was the founder of the commercial system of France, Peel was the founder of free trade in England. But the present Secretary of the Treasury, when the new system shall be at last triumphant over all obstacles, including the mutiny of State banks and the lukewarmness of Senators, may boast that he has given a currency to his country. Next after the great gift of human freedom there is nothing greater that he could give—nothing which comes home so completely to the business and bosoms of the people, rich and poor, wherever they may be throughout our wide-spread empire. An improved currency will be like universal sunshine, penetrating every corner of the land, under which commerce, business, comfort, civilization, life itself, will put forth blossom and fruit. Nobody in the community will be too high, nobody too low, not to feel the new-found blessing, which will fill every household and will travel on every highway. But at this moment it may be seen in another aspect. An improved currency will be like a new levy of national troops—a new navy afloat—a new contribution of supplies. It is not too much to say that it will be the herald and assurance of untold success. In itself it will be a constant daily victory—fruitful parent of victory everywhere.

Such is the object proposed—important at any time—inconceivably important at this moment. And the question recurs, are you for a national life-giving currency, or are you for the State banks? You cannot be for both; one must yield to the other. If you are for a national life-giving currency, you must abandon the State banks or compel them to enlist in the national cause.

Massachusetts, which has a larger bank capital in proportion to her population than any other State, and which, moreover, has been accustomed to look to taxation of this capital as a chief source of income, has already, by her patriotic Governor, volunteered her support to the national banks; and now, in thus vindicating the new system, I simply follow the teachings of my State. It was as long ago as January, 1863, that Governor Andrew, in his message to the Legislature, thus expressed himself.

"The Secretary of the Treasury in his recent able report on the financial affairs of the nation, recommends to Congress the creation of a national system of banking which, if carried out, may interfere with our own, and may deprive the Commonwealth of a large income now derived from the tax on banking capital. The Secretary's plan is to authorize free banking, to be based on a deposit of national bonds. This course, he suggests, will create a demand for Government securities; will furnish a perfectly safe, convenient, and uniform currency; will check the circulation of bills of unsafe banks; and greatly tend to strengthen the union of the States."

"Moneyed corporations are naturally cautious in their movements, and are inclined to hesitate and deliberate before adopting new methods. But whatever may be the operation of the Secretary's system on the New England banks, there can be no doubt of its great usefulness to the West, where an abundant and safe currency has never existed, and thus indirectly the whole country will derive a benefit proportional to the advantages of a national currency, simple, uniform, and of unquestionable value. Should Congress adopt the system proposed, securing to the United

States some part of the profit derivable from the issue of paper money, while it would probably compel Massachusetts to abandon the revenue received from its tax on the banking capital of the Commonwealth, it would at the same time relieve the people from their liability to other taxation for the support of the national Government and the payment of its debts, to an extent equivalent to the revenue realized to the Treasury of the United States from that source."

"Nor can it be doubtful that the substantial pecuniary advantage of New England business interests demands the nationalization of the currency, so that the paper representative of a dollar shall be alike valuable in Boston and in Chicago, and the indebtedness of the West to the East find at all times a medium of adjustment, and the trade between the two sections of the northern States flow unimpeded by oppressive and ruinous rates of exchange."

Such is the testimony of Massachusetts, by the lips of her brave and true Governor. Seeing the object proposed, he raises no question of State rights, presents no claim of State taxation, makes no plea for State banks.

Sir, it is vain to think that you can keep both systems at the same time. One must yield to the other. But if you sincerely desire that the national system should prevail, then you must so endow and protect it that it will be commended to the public, and that investments will naturally seek it. Therefore every privilege which you confer upon it, every immunity which you give to it, every exemption which you establish in its favor, must naturally contribute to its strength and make it more effective for its transcendent purposes.

This is the day of sacrifices. Families are giving sons and brothers. States are giving their citizens, and every citizen is contributing according to his means to the safety of the Republic. But there is one other sacrifice which is now required; it is the sacrifice of the State banks as agents of currency; and this sacrifice requires that the local taxation should be suspended with regard to the national currency, and that all the proceeds of such local taxation should be passed to the credit of the whole country. You must do for the national currency precisely what you do for the national securities. Here are the words of the statute:

"And all stock, bonds, and other securities of the United States held by individuals, corporations, or associations, within the United States, shall be exempt from taxation by or under State authority."—*Statutes at Large*, vol. 12, p. 346.

The reason which sustains the exemption in this case is equally applicable in the other case.

But there are other exemptions from local taxation.

There are the imports of the country, which no State or municipality undertakes to tax.

There are the Army and Navy and all the material of war, ships, arms, munitions, commissariat supplies—all exempt from local taxation.

There are the public lands of the United States, which no local authority can touch.

There is the Mint, which is untaxed.

There are the public buildings in Washington, the national Capitol, the Executive Mansion, the offices of the heads of Departments, covering large spaces of ground, all secured from local taxation.

But there is no reason for exemption in these cases, which does not prevail with regard to the currency. Nay, at this moment, when our object is, above all things, to secure a national currency, the reason for exemption is of special and unanswerable force.

We have more than once been warned not to slay the goose that lays the golden egg, meaning by this goose the State banks. But all who use this illustration forget that there is another bird, which lays such eggs as no State banks can hatch—eggs not merely of gold but of victory. It is the national credit, which Senators seem willing to abandon, if not to slay; and it is the national credit which I now insist shall be preserved at all hazards.

Mr. President, I was not a sharer in the counsels which originated this measure. Had I been consulted, I know not that I should have originally advised the experiment in its actual form. Clearly, something was necessary for the sake of the currency and for the sake of the country;

and after proper consideration the present system was adopted. Operations under it have already commenced; \$60,000,000 of capital have been organized according to its requirements. It is too late to retreat. It only remains that you should go forward—not sluggishly, heavily, reluctantly; but bravely, confidently. The financial enterprise that has been begun must be finished and protected. Here I cannot hesitate. If the system is to be maintained, if it is not to be utterly abandoned, it must be placed under the most favorable auspices, so at least that it may not fail from any want of care on our part. It should be made strong in itself, and then it should be surrounded with an atmosphere congenial and friendly. For this reason I shall vote to keep it free from all State hostility or even State rivalry, that it may become in reality as in name, national in all respects. Nor do I see how any real friends of the system can do otherwise.

Sir, I am told that it will be unpopular to make this sacrifice, and ancient ghosts are paraded through this Chamber to frighten us from duty. Naturally all who are against the proposed system will be against the seeming sacrifice. But the people are too intelligent not to see what is demanded by the best interests of the national currency; and, unless I greatly err, they will insist that what we do shall be so done as to make our work most effective and most triumphant, to the end that victory may be certain. It is on no narrow ground that I make my appeal. I speak for a national currency, which shall be to the whole country like the horn of abundance, and I plead for it now as essential not only to the general welfare but also to the common defense.

Mr. CHANDLER. Mr. President, the country owes the Senator from Massachusetts a debt of gratitude for his patriotism and statesmanship. He has risen above small matters; above local, petty interests; and has come up to the standard of the broadest statesmanship in the argument he has just delivered, which is one of the ablest financial arguments ever delivered on this floor. Sir, for what are we legislating? We profess to be legislating for a national banking system, a system which shall furnish a currency that will be as good in one part of the land as in another; equally good in Minnesota, in California, in Louisiana, and in New York. And yet, sir, what is the proposition of the Committee on Finance? It is to place this great national system, which, if it is anything, as the Senator from Massachusetts says, must be universal, at the disposal of every State, town, county, and municipality throughout the land; for, sir, if a city or municipality can tax at all, it can tax *ad libitum*; it is placing one tax in Massachusetts, another in New Hampshire, another in Minnesota, another in California. But, sir, if the Senator's proposition be adopted—and I shall certainly support it with all my heart—the taxation will be not only uniform, but national. It is, however, very heavy, and I confess that had I been consulted by the Senator I should not have recommended so heavy a tax as he proposes to place on these banks; but during the continuance of this war let banks be taxed, let individuals be taxed, and let them be taxed to their utmost capacity to pay; and although the tax proposed is very heavy, I shall support even that because it is a national tax. Massachusetts, as the Senator has remarked, has a larger local banking capital than any other State in the Union compared with its population, and yet you have seen the Senators from Massachusetts and the Governor of Massachusetts coming up like men and statesmen and saying, "We will surrender this local tax for the benefit of the national Treasury." What difference does it make whether you collect \$50,000,000 from the banking capital of a State and put it directly in your Treasury, or whether you call upon that State to pay an equal amount in some other way? It makes no difference; therefore let it rest upon the banking capital of the nation.

Mr. President, the West has suffered always for want of a banking system. The State of Michigan, I think, had less than five hundred thousand dollars of banking capital within its limits when the national banking law of last year was enacted; it has now several millions. The State of Michigan, and it is so throughout all the western States, has relied almost entirely upon eastern circulation in the transaction of its business; and it seemed to

me—it does not appear so to me now, for I believe the Senate will adopt the proposition of the Senator from Massachusetts—but it did seem to me three or four days ago that the eastern banks and their representatives were going to succeed in defeating this great banking scheme. I think now they will not. I think although they hold on with a death-grasp to this eastern circulation they will finally decide that it is best to yield gracefully rather than hold out hopelessly, and therefore I expect this measure to be carried.

Sir, the proposed system is perhaps the best, in my judgment, that ever was inaugurated on this continent or elsewhere. Every dollar's worth of this circulation is based upon a bond of the Government of the United States; not only based upon a bond of the Government of the United States, but a bond deposited at twenty per cent. less than its market value. Every dollar of this circulation is absolutely guaranteed by the Government and the bond deposited for it. It is absolutely under the control of the Government. How is it with the State banks? How is it with this eastern circulation which we have been accustomed to use for the last twenty years? There is not the least security except in the honor of the directors of the bank: they deposit no security; and in the West we have suffered terribly from depreciation and inflation of the State currency. But under this national system we may confine our circulation to \$300,000,000, or we may reduce it to \$200,000,000, or we may carry it up to the wants and requirements of the business of the country.

The Senator from Massachusetts read you some figures showing the enormous increase of banking circulation since the breaking out of this war. As he showed you, in the New England States the increase has been more than sixty-six per cent. Every dollar's worth of greenbacks that you issue goes into some paper-making machine in the eastern States, and upon that dollar are based two, three, four, or five of their worthless paper. You have seen that throughout the country, in every State, this circulation has gone on rapidly increasing ever since the suspension of specie payments. In the city of Pittsburg alone, at the breaking out of the war, the circulation of the local banks was \$3,041,000; on the 1st of January last it was \$7,382,000, or an increase of \$4,341,000, more than double. Go where you will you find that the same state of things exists. Should there not be some control over this matter? What is to prevent gold from going up even higher than it is at the present day, unless the Government takes possession of the circulation and limits it to some particular point? It is not the issue of greenbacks which has inflated prices to any considerable extent as they are now inflated. The greenbacks are not very abundant in your moneyed centers, and why? Because every man throughout the length and breadth of this land, if he has any money to retain, retains it in greenbacks. You find that every farmer who sells a horse or a yoke of oxen, or his clip of wool, or his crop of wheat, puts his money into the paper of the Government of the United States, deposits it in some place, not in a bank, but in these bills, and hoards it as he would coin. Every man throughout the country knows that a dollar of these Government securities is a good dollar; he does not know that the bank bill without security is. You find the same thing in regard to the issues of these national banks. Their money is hoarded. It is very difficult for them to get back their notes when they have once gone out.

Let us banish from circulation, not suddenly, the State bank notes, or control them to such an extent that it will not be for the interest of those banks to go on increasing their circulation as they have done. I believe that we not only have the power to do that, but I believe it to be our duty to exercise the power. I will not make a constitutional argument, because I am no lawyer; but you will find in the Constitution these provisions: "Congress shall have power" "to coin money and regulate the value thereof;" and "no State" "shall coin money" or "emit bills of credit." It is not necessary to comment on these two clauses. Can a State delegate a power which it does not possess? If no State can coin money or emit bills of credit, can a State delegate to a corporation what it has not the power itself

to do? It seems to me a perfectly self-evident proposition, requiring no explanation whatever. I hold in my hand a letter from a very distinguished bank president, the president of one of our national banks, relative to the amendment of the Committee on Finance. "If the inclosed report is correct," that is, of the amendment of the Committee on Finance, "the clause allowing States, counties, and towns to tax the banks as proposed by the Finance Committee, if it becomes a law, will ruin us; we must certainly stop or give up our national organization and organize under State laws." That is the opinion of one of the ablest financiers in the Northwest, the president of one of the largest banks. His opinion agrees with my own precisely. I believe that will be the result of the amendment proposed by the Finance Committee. I am glad, however, to find that the Finance Committee is not a unit on this point. I am glad to find that there is some practical business knowledge even in that Finance Committee. I have the most profound respect for the members of that committee as lawyers and as statesmen, but for their practical business knowledge I have about the same respect that they have for my legal attainments, and if they have the slightest for those they have more than I have. [Laughter.] I hope that the Senate will disregard the recommendation of that committee. I hope the Senate will adopt the broad view of the Senator from Massachusetts. I hope they will look above these little local interests, and adopt a national system of banking which will do credit to the country, save the Treasury, and fill your coffers.

Mr. FESSENDEN. Mr. President, I do not feel disposed to attempt to answer the speeches that have been made by the two Senators who have addressed the Senate on this question; but I feel a little disinclined, either for myself or for the Senators and Representatives who voted with me in this House and in the other and who entertain the same views, to rest quietly under what I conceive to be the imputations of the honorable Senator from Massachusetts and the honorable Senator from Michigan.

The Senator from Massachusetts likened all who have supported the views of the majority of the Senate, and consequently all who voted with the committee as well as the committee themselves who originally framed the amendment, to those enemies of their country or those indifferent citizens who in the midst of war, while the nation is struggling for existence, are looking out for their own private interests, promoting their own personal advantage, and he illustrated it by reference to the very notorious case of John Hook, which, to be sure, is not an exceedingly original illustration, as I suppose it has been quoted some hundreds of thousands of times.

Mr. SUMNER. Millions.

Mr. FESSENDEN. I should think millions, since it occurred. It is hardly just to the members of the Senate for the Senator to assume that all those twenty-eight—I think there were twenty-eight who voted for the amendment of the committee—were influenced by any such consideration. It is hardly just on the part of the Senator from Michigan to speak of the same class of Senators (because he could allude to no other) as those who were merely in the interest of local banks and advocating petty interests.

I disclaim for myself that I belong to either one class or the other; but while I am willing to allow to the honorable Senators and to the gentlemen who voted with them all the patriotism and all the wisdom that they would claim for themselves, I think it is hardly just to the rest of us to suppose that we are entirely destitute of both; and yet such is the condition in which the honorable Senator from Massachusetts in his written speech which he has read to the Senate, which he has carefully elaborated in his closet, chooses to put the members of the Senate who are acting with him here every day; for no other possible inference that I can conceive of can be drawn from the language he has used and the illustration he has made as applicable to the majority who have thus voted.

And, sir, it is not confined to members of this body. Let us see what was reported by the Committee of Ways and Means in the House of Representatives; certainly something as broad as the Committee on Finance have reported. Here it is: And nothing in this act shall be construed to prevent the



taxation by States of the capital stock of banks organized under this act the same as the property of other moneyed corporations for State or municipal purposes; but no State shall impose any tax upon such associations, or their capital, circulation, dividends, or business, at a higher rate of taxation than shall be imposed by such State upon the same amount of moneyed capital in the hands of individual citizens of such State.

That was the original proposition as reported in the House of Representatives; and the House put in this proviso:

*Provided*, That no State tax shall be imposed on any part of the capital stock of such association invested in the bonds of the United States deposited as security for its circulation.

Leaving out what might be a very small part of it; and that, as I have been told since, was put in under a misapprehension and not with any idea that it had the effect it has been found to have, or it would not have passed that House. It is well known that a very large majority of the House of Representatives have been from the beginning in favor of the proposition which was adopted by the Committee of Ways and Means and reported by the Representative of the honorable Senator from Massachusetts, who supported it in a speech and has been from the beginning its friend, and who is known to be eminent in matters of currency. He is the gentleman who reported this bill and sustained it and carried it through and urged it from the beginning with untiring zeal; and is he therefore to be likened to John Hook? He reported the provision which I have read and supported it in a speech which has been printed and given to the public.

We are, then, in a very tolerable company. We are in company with the Committee of Ways and Means of the House of Representatives and with a very large majority of the House of Representatives, who from the beginning have sustained this principle. I may say, moreover, that I have in my committee-room a letter that was addressed to me as chairman of the Committee on Finance recently, since this discussion commenced, by the honorable Secretary of the Treasury, in which he does not pretend to put this question on the ground of currency, as argued by the honorable Senator, in any shape, but simply puts it on the mere question that is involved in the last provision of the Senator's amendment; and that is that the money being appropriated to national uses, and appropriated by law, and pledged to the public creditors, would have an effect to raise and strengthen the public credit. That is the argument, and the only argument, I may be permitted to say, which I have heard from the honorable Secretary of the Treasury on the subject from the beginning. He has presented it merely as a question of money, what should be the amount of the tax, which is not very large at the best.

Mr. SUMNER. Is there any objection to having that letter read?

Mr. FESSENDEN. Certainly not, if I can find it.

Mr. SUMNER. I think it an excellent letter, and I should like to have the Senator read it.

Mr. FESSENDEN. Has the Senator seen it?

Mr. SUMNER. I have.

Mr. FESSENDEN. The Senator can have it read if he desires. That is the only ground on which it is placed in the letter. I have no time now to look it up. If the Senator has it he can have it read.

With reference to the particular provision here which the Committee on Finance have recommended and to which the Senator has objected, all of it down as far as the proviso, and in fact including the proviso, was drawn by the Comptroller of the Currency himself, and handed to the committee as what he preferred; and the only difference between the two is that the Comptroller of the Currency made the stock of these institutions liable to State taxation and not to county and municipal taxation. He recognized and adopted the principle which is now denounced as "beef," with all the "State rights" in it, drew it with his own hands, gave it to the committee, and that provision thus given recognized the right of the States to tax for State purposes; and the alteration that the committee made in it was to add county and municipal taxation, just increasing the taxation. Now it seems to me that there is "beef" in the Treasury. It seems to me that when we, the twenty-eight, are denounced for our want of patriotism, for our want of sense, we have

very excellent company in the Committee of Ways and Means of the other House, and a very large number of that body, as I have said, and also a recognition of the same thing in the Department itself.

I have said all I proposed to say in reference to that particular point. The Committee on Finance was of opinion that the good of the bill itself, the good of these institutions, their establishment and strength in the country, would be advanced by not undertaking to say that the property of private citizens of the States invested in them should be free from State taxation; that such an exemption would create a feeling of dissatisfaction and anger with regard to it that might in the end be fatal to the institutions themselves. I can say to the honorable Senator from Massachusetts that a letter from a gentleman, whom, if I should name to him, he would say was beyond all question to be relied upon, was written to me three or four days ago, opposing the amendment of the Committee on Finance; but I received a letter from him yesterday morning, in which he said that he had been about, and the opinion was so universal among business men and bankers that without the provision these banks would be utterly odious, and could not be sustained, that he was willing to acknowledge his mistake; that the opinion was universal among bankers and business men in Boston that the whole thing would be odious, and he felt bound to write me that he had changed his opinion. He said, moreover, that it was the belief of many of the best men that our stock which we put into market free from State taxes was of less value and would be in a very short time, on account of that very exemption, for the reason that it created such prejudice against it in the minds of the people that it would be better without that exemption, and that some men were selling out and investing in other stocks for that very reason.

And yet in the face of that, those of us, friends of the measure, who propose to vote for the measure, who doubt the expediency of affixing so odious a feature to these banks, are taunted with the cry of "beef," and likened to men who have neither patriotism nor conscience. Sir, I think we are hardly dealt with by the honorable Senator from Massachusetts in the attempt to place us in such a predicament before the country. There is no personality in it, because it comprehends the body; that is to say, a large majority of the body, more than two to one of those who voted.

Before sitting down I wish to allude to another thing. The honorable Senator from Michigan has complimented the Committee on Finance by saying that he had a very considerable respect for them in some particulars, but none at all for their practical sense. Sir, I am not here to sustain it.

Mr. CHANDLER. I beg the Senator's pardon. Not practical sense, but practical business knowledge.

Mr. FESSENDEN. Practical business knowledge. I think there is not very great difference in the two cases between the suppositions. Practical business knowledge and practical sense are almost convertible terms. The compliment is a sort of left-handed one, and was intended to be so. I would refer him to the practical gentlemen in the other House. He would hardly set himself up for practical business knowledge above the author of this bill, as a banker or anything else; and yet he is complimented in the same way. He would hardly put himself above the Committee of Ways and Means who reported it with the same provision. While I admit with all humility the great inferiority of all the members of the Committee on Finance in "practical business knowledge" to the honorable Senator from Michigan, and also to the honorable Senator from Massachusetts whom he has complimented so highly, I must claim that we are in excellent company. We have the support of a great many practical business men in the other House of Congress who seem to think as we do on the subject and who act upon their opinion; and I must say that I hope we are doing the best we can and endeavoring to approach the high standard of the honorable Senator from Michigan and the honorable Senator from Massachusetts in practical business knowledge, and they should at least give us credit for good intentions, and not afflict us with the cry of "beef," but while we are denied on the one hand any practical sense by the one Senator, we are denied on the

other any decent intentions. It is a hard place to put men in.

One thing more, sir, and I have done. The larger part of the remarks addressed by the honorable Senator from Massachusetts to the Senate has been on the subject of the currency; that it is necessary to have good currency. Sir, the friends of this bill are trying to bring that about; but I may ask him what the question of State taxation or of United States taxation, or the difference between the two, has to do with the question of currency. The bills when out will circulate. The tax proposed by the amendment which the Senator presents to place upon these institutions is much larger probably in the whole than would be placed by the amendment proposed by the Committee on Finance and which has been acted on. One would think that it was the amount of the taxation which would affect the institution and not the point from which it comes. One would think it is the burden they have to bear, and not who lays the burden, that affects the question. The bills of the institutions, if well founded, will circulate. If the system is a good one, the object of having a good currency will be advanced. That question is not at all affected by the question of who shall lay the burden, from what quarter it shall come, upon the institutions themselves, provided, as I said before, they are not attempted to be taxed out of existence, and that is provided against.

As for the suggestion that this proposition comes from the advocates of State institutions, I need only say that the same burden is provided by this bill upon both, and that upon these national institutions cannot be made greater by any State legislation than that on the State banks themselves, and it is so specially provided. There is no connection between the two questions. All that the honorable Senator has said about the question of currency and the necessity of having a sound currency, I might agree with; but I deny that it has the slightest connection in the world with the question now before the Senate on this amendment; and that is whether or not the Government shall allow the States to tax the private property of their own citizens when invested in these institutions in the ordinary form.

One other thing I had almost forgotten. The honorable Senator from Massachusetts has said that while we were doing everything to sustain General Grant in the field we were carping and quibbling at the demands made upon us to sustain the Secretary of the Treasury. Sir, that is rather an unkind remark, allow me to say, with regard to myself especially, for I have been in a position where I have sustained the Secretary of the Treasury from the beginning, and where in many cases I am perfectly willing to admit that owing to his position as the head of the finances I have sacrificed my own judgment to his, because I believed it was important to sustain his policy and his views. I do not say I have made these sacrifices in anything very material, but in matters of detail. But, sir, if the day has come, if the time has arrived when a member of the Senate must be called upon to surrender his views of right and his judgment of high expediency to an officer of the Government who fills an office in the Cabinet, and to say that he has no mind, no thought, no views except such as are dictated to him from the head of a Department, it is time this form of Government should be broken up. No man has more respect or more personal regard for the Secretary of the Treasury than I have, and the Senator from Massachusetts knows that full well. I do not know that there is any man who sustains better and kinder personal relations with him; but, sir, I should lose his respect and his regard—such is my opinion of his manliness and character—whenever he believed that I was ready to sacrifice my judgment in a matter of high import, and my sense of duty as a public man, to his wishes; and I should lose mine for him, and consider him my enemy, when he dared to demand such a thing of me; the idea is that of a slave and not of a free man and a Senator of the United States, who must stand here on his own responsibility on these high questions and act as he believes to be right, without reference to the wishes of those in power, especially in matters of legislation which are to affect the country perhaps for all future time. Sir, I do not belong to that class of men. If any Senator does, let him hug himself upon his proud position.

**MR. CHANDLER.** Mr. President, I certainly meant no disrespect to the honorable Senator from Maine, or to any member of the Committee on Finance. I simply stated that I had the same respect for their practical business knowledge that they had for my legal attainments; that was all. Men are not born financiers any more than they are born lawyers; men are not born educated business men; and it is no disrespect to a man who has never been engaged in the practical business operations of the day to say that he does not as thoroughly understand them as though he had been educated to them. A banker learns his vocation by years of practical application, a lawyer by hard study.

With regard to the Committee of Ways and Means of the House of Representatives, I have the most profound respect, not only for the members of that committee personally, but for their practical business knowledge. The Senator from Maine did not read the last clause, which, as I said the other day, was the saving clause in the bill as it came from the House of Representatives. The proviso which saved the bill, and which the Finance Committee of the Senate proposed to strike out, was this:

*Provided, That no State tax shall be imposed on any part of the capital stock of such association invested in the bonds of the United States deposited as security for its circulation.*

That proviso saved the bill and made it practical. The gentlemen of the Committee of Ways and Means in the other House knew very well what they were preparing. They were preparing a national banking law. Who constitutes the committee in the other House? **JUSTIN S. MORRILL**, a merchant of large and long experience; **REUBEN E. FENTON**, of whom I may say the same; **SAMUEL HOOPER**, one of the most extensive and wealthy business men in the United States; **HENRY T. BLOW**, the same; **H. G. STEBBINS**, of whom the same remark may be made.

**MR. FESSENDEN.** The proviso was not put on by the Committee of Ways and Means. They reported it without the proviso.

**MR. CHANDLER.** It is in the original bill.

**MR. FESSENDEN.** It is in the bill as it comes here from the House of Representatives.

**MR. CHANDLER.** Then there is at the head of that committee **THADDEUS STEVENS**, who, although a very able lawyer, is one of the heaviest business men in the State of Pennsylvania, as I am informed. There are six out of the nine practical business men and merchants of large experience. They were preparing a national banking system, and they meant that it should be a practical one, one that could be adopted in all the States of the Union. We are to-day in the very crisis of our fate. If we fail at all, we fail financially. We have men enough, material enough, enough of everything except finances. We are in the very straining point. If we pass this point, we go through. If we fail financially now, we fail altogether. Now, sir, I believe that the Senate of the United States, the Congress of the United States, and the nation are prepared to make any sacrifice that may be requisite to keep our finances in a sound condition at this hour of our peril. I believe that they would consent to the sequestration, as the Senator from Maine called it the other day, of all the bonds issued by the Government; that is, sequestration for the benefit of the Treasury of the United States. The tax proposed by the Senator from Massachusetts, as I said before, is a very heavy tax, it is enormous, but during the continuance of this rebellion I believe there will be no objection on the part of bankers or citizens anywhere and every where to taking that capital out from local taxation and making it subject to national taxation only.

The Senators from New Hampshire, Maine, Vermont, Pennsylvania, and Maryland, the other day, each and all argued that it was just as important, in this hour of our country's peril, to sustain the State credit as it was to sustain national credit. Why, sir, did it ever occur to those gentlemen what would be the effect of a financial failure with \$2,000,000,000 of our Government paper afloat, which is made a legal tender? Have they ever thought what would be the result of financial ruin to us at this time as a nation? Why, sir, your banks would not be worth the paper on which their bills are written. They would all be compelled to receive their dues in this Government paper, which would be worthless. It would lead

to universal ruin. Banks, individuals, cities, towns, States, would go into one mass of ruin if the nation failed.

Sir, I believe there is but one State in the Union that owes as much as \$40,000,000. Most of the States owe very little. Will you say that the States cannot stand this? Will you say that they will not permit it? Sir, you little know the temper of the people of this nation if you do not know that they will stand anything and everything to sustain their Government at this hour. They do not come in conflict. All the real estate of the States is subject to local taxation; all other property is subject to local taxation; and now you simply come in and say, what you have the power to do, as I believe, under the Constitution, that the financial issues of this Government shall be simply subject to national taxation. I believe you have a right to say it. I believe you have a right to insist upon it. I believe it to be the duty of the Senate to insist upon it in this hour of peril.

**MR. JOHNSON.** I move that the Senate adjourn.

**MR. SUMNER.** Before that motion is put I ask to have the proposition which I have moved printed for the use of the Senate.

The **PRESIDENT pro tempore.** That order will be made.

**MR. JOHNSON.** I renew my motion.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, May 5, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, **REV. W. H. CHANNING.**

The Journal of yesterday was read and approved.

**A. BUSH.**

**MR. McBRIDE.** I ask the unanimous consent of the House to take from the Speaker's table Senate bill No. 38, to authorize the settlement of the accounts of A. Bush, late public printer for the Territory of Oregon.

There was no objection; and the bill was taken up, read a first and second time, and referred to the Committee on Printing.

**OREGON BRANCH MINT.**

**MR. McBRIDE.** I also ask unanimous consent to take from the Speaker's table Senate bill No. 185, to establish a branch of the Mint of the United States at Dalles City, in the State of Oregon.

There was no objection; and the bill was taken up, read a first and second time, and referred to the Committee of the Whole on the state of the Union.

**DANIEL H. BINGHAM.**

**MR. LONG,** by unanimous consent, moved that the papers in the case of Daniel H. Bingham be taken from the Speaker's table and recommitted to the Committee of Claims for further examination.

The motion was agreed to.

**FOREIGN AND COASTING TRADE.**

**MR. ELIOT,** by unanimous consent, moved to take from the Speaker's table Senate bill No. 223, to regulate the foreign and coasting trade of the northern, northeastern, and northwestern frontiers of the United States, and for other purposes.

There was no objection; and the bill was taken up, read a first and second time, and referred to the Committee on Commerce.

**REBELLIOUS STATES BILL.**

**MR. BRANDEGEE,** by unanimous consent, recorded his vote in the affirmative on the rebellious States bill; and Messrs. **McKINNEY**, **MORRIS** of Ohio, **KING**, **ROBINSON**, **McDOWELL**, and **ENGLISH** recorded their votes in the negative.

**EMPLOYÉS IN GOVERNMENT PRINTING OFFICE.**

On motion of **MR. FENTON**, the Committee of Ways and Means were discharged from the further consideration of the memorial of three hundred employés in the Government printing office for such modification of the law as will place them on an equality with other Government employés in regard to the hours required for labor, and the same was referred to the Committee on Printing.

**MR. STEVENS.** I move that the rules be sus-

pended, and that the House resolve itself into the Committee of the Whole on the special order.

**MR. GANSON.** I desire to call up at this time the contested-election case of Bruce vs. Loan, of Missouri. The case has been deferred already to accommodate other business.

The **SPEAKER.** The motion to suspend the rules takes precedence; because that motion suspends the rule under which election cases can be taken up as a matter of privilege.

**LEAVE OF ABSENCE.**

**MR. STEVENS.** I ask leave of absence for **MR. THAYER** for one week.

No objection being made, leave was granted accordingly.

**CLAIMS OF PENNSYLVANIA.**

**MR. STEVENS.** I want the Pennsylvania claim disposed of, and I must insist upon my motion.

**MR. KING.** I ask the gentleman from Pennsylvania to allow me to make a report from the Committee on the Judiciary, with a view to have it referred to the Committee of the Whole.

**MR. STEVENS.** A number of gentlemen around me also desire to make reports, and those things can be done after this matter is disposed of.

The motion was agreed to.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (**MR. PIKE** in the chair,) and proceeded to the consideration of the special order, being a bill (H. R. No. 117) to reimburse the State of Pennsylvania for expenses in calling out the militia of said State during the recent invasion.

**MR. STEVENS.** There was a substitute offered for this bill. Before the question is taken on that substitute, I ask to amend the original bill by striking out all after the word "reimburse," and inserting what I send to the Clerk's desk.

The **CHAIRMAN.** There are two amendments pending to the original bill; one proposed by the gentleman from New York, [**MR. GANSON**], and an amendment to that amendment offered by the gentleman from Illinois, [**MR. FARNSWORTH**].

**MR. STEVENS.** I supposed those were amendments to the substitute.

The **CHAIRMAN.** They were offered to the bill.

**MR. STEVENS.** The substitute which I offer is merely changing the wording of the original bill, and I hope there will be no objection to my offering it.

The substitute was read, as follows:

Strike out all after the word "reimburse," and insert the following:

The institutions and individuals who advanced money to pay the Pennsylvania soldiers who were called out by the proclamation of the President of the United States and the Governor of Pennsylvania to repel the invasion in Maryland and Pennsylvania by the rebel forces under General Lee in the summer of 1863, and who were in the actual service of the United States, the sum of \$700,000; and any money in the Treasury of the United States not otherwise appropriated is hereby appropriated to pay to the Governor of Pennsylvania in trust for the above-mentioned purposes.

No objection being made, the substitute was adopted.

**MR. STEVENS.** I suppose the vote will first be taken upon the amendments to the original bill as it now stands. I hope they will all be voted down.

The amendment offered by **MR. FARNSWORTH** to the amendment was read, as follows:

*Provided, That only so much shall be paid out of the Treasury in pursuance of the provisions of this act as shall appear from the muster-in and muster-out rolls to be necessary to pay those troops only who were mustered into the service of the United States, and were regularly mustered out.*

**MR. FARNSWORTH.** I call for tellers upon the amendment.

Tellers were ordered; and **MR. KELLOGG**, of Michigan, and **MR. NOBLE**, were appointed.

The committee divided; and the tellers reported—ayes 45, noes 60.

So the amendment to the amendment was not agreed to.

The amendment offered by **MR. GANSON** was then read, and is as follows:

*Provided, That the expenses of none of the militia of any State shall be paid under this act who refused to be mustered into the service of the United States.*

Mr. STEVENS. I have no objection to that amendment.

The amendment was agreed to.

The substitute offered by Mr. Cox was next read, and is as follows:

*Be it resolved, &c.,* That to defray the expenses incurred in the raising, equipping, transportation, and subsistence of minute men, militia, and volunteers in Pennsylvania, New York, New Jersey, Michigan, Ohio, Indiana, Kentucky, Missouri, Iowa, Illinois, West Virginia, and Kansas to repel rebel raids, the sum of \$15,000,000 be and the same is hereby appropriated out of any money in the Treasury not otherwise appropriated; said expense to be settled upon proper vouchers, to be filed and passed upon by the proper accounting officers of the Treasury: *Provided,* That in determining the claims to be allowed under this act the same principles, rules, and regulations shall be observed by the accounting officers in auditing said expenses as have been applied to the claims allowed to States under the act approved July 27, 1861, entitled "An act to indemnify the States for expenses incurred by them in defense of the United States."

The CHAIRMAN. The gentleman from Maine [Mr. BLAINE] moved to amend the amendment of the gentleman from Ohio by substituting therefor the following:

Sec. 1. That a board of three commissioners, to be appointed by the President, is hereby established to ascertain the total amount of indebtedness that has been incurred by the loyal States, and by the towns, cities, and counties within those States, in their efforts to raise, organize, and equip troops for the present war; and said commissioners shall hold their sessions in the city of Washington from and after the 1st day of October next, and shall have power to employ such number of clerks as they may find necessary, not exceeding four, one of each class.

Sec. 2. Said commissioners shall give notice, by advertisement in at least one paper in each loyal State, of the time and place of their sessions; that all duly authorized agents may attend and present their claims for debts incurred for the general or particular defense during the war, and on the evidence thereof according to the principles of general equity, (although such claims may not have been sanctioned by the laws of Congress,) to allow the same as a charge against the United States, subject to the approval of Congress, to be liquidated and paid by the issuance to said claimants of bonds of the United States, payable in — years, with interest at the rate of — per cent. per annum, or in lawful money of the United States to be hereafter appropriated as may hereafter be elected by Congress: *Provided always,* That the rule for apportioning to States the amounts to be refunded under this act shall be the same that is prescribed by the Constitution of the United States for the apportionment of Representatives and direct taxes.

Sec. 3. Said commissioners shall respectively take an oath before a judge of the United States court that they will faithfully discharge their duties; they shall each be paid at the rate of eight dollars per day, and shall make final report of their doings to Congress on or before the first Monday of December, A. D. 1865.

Mr. PEREA. I hope the gentleman from Ohio [Mr. Cox] will include New Mexico in his amendment.

The CHAIRMAN. The question now is on the motion of the gentleman from Maine.

The question was taken; and Mr. BLAINE's amendment was rejected.

Mr. COX. I modify my amendment so as to read as follows:

That to defray the expenses incurred in raising, equipping, transporting, and paying the minute men, militia, and volunteers called out and in the actual service of the United States in repelling rebel raids and invasions of the State of Pennsylvania, Maryland, and the other loyal States, the sum of \$15,000,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated; the said expenses to be settled upon proper vouchers, to be filed in the proper offices in the Treasury and passed upon by the Second Auditor.

The question was put on the amendment; and there were—ayes 42, noes 60.

Mr. GANSON demanded tellers.

Tellers were ordered; and Messrs. KING and ARNOLD were appointed.

Mr. STEVENS. I would ask the gentleman from Ohio whether this amendment is offered as a substitute for the bill of the Committee of Ways and Means, or as an addition to it.

Mr. COX. As a substitute.

Mr. STEVENS. I hope he will move it as an addition to the bill.

Mr. COX. I moved it first as a substitute, but I will withdraw that motion and move it now as an additional section to the bill.

Mr. SPALDING. I move to insert after the word "States" the words "and Territories."

Mr. COX. I accept that as a modification of my amendment.

Mr. GARFIELD. Is this question open for remarks?

The CHAIRMAN. It is.

Mr. GARFIELD. I wish to say, before the vote is taken on the amendment of my colleague, that the subject contained in that amendment is before the Committee on Military Affairs; and a

request has been made to the War Department to forward to that committee all the facts that relate to such claims as are referred to in this amendment. We are daily expecting a full report from the War Department. These claims are of various classes—some strong and some, perhaps, weak claims; and it is exceedingly important that we have the whole subject before us officially before we take action. I hope that the committee will not appropriate any money out of the Treasury in this general way until we know the scope and character of these claims. I hope that this amendment will not prevail.

Mr. FARNSWORTH. I hope it will.

Mr. SMITH. I wish to ask the gentleman from Ohio how the Committee on Military Affairs can arrive at any estimate as to the amount of money that will be required to pay these men that have been actually called out in the loyal States for temporary exigencies. I would also inquire why an appropriation cannot be as well made now as it can afterwards? There is not before the War Department nor is there in the city of Washington any evidence—or scarcely any—of the claims of these men who have been called out. Men have gone into the service for twenty, thirty, forty, and fifty days whose claims are not here, and who have never presented them, for the simple reason that Congress has made no appropriation, and there has been no legislation on the subject, and consequently they believe that there is no chance for them to be paid. The War Department, therefore, knows nothing about those claims; and the Committee on Military Affairs can never hear anything about them. I believe that the claim is a just one, and that these men who have gone out temporarily and served are as much entitled to be paid, and the widows and children of those who fell as much entitled to compensation, as if they had been regularly mustered into the service. I therefore hope that the amendment will be adopted.

Mr. GARFIELD. In answer to the gentleman from Kentucky I will say that the Secretary of War states there is a large amount of papers in his Department—claims filed for all these States referred to by the gentleman—which papers he is now collecting and preparing to send to the Committee on Military Affairs. These claims embrace parties who have served eight or ten or fifteen days; some of them for a much shorter period. Others, as those in Missouri, have served for one hundred days; and still others for six months. They embrace all grades, some where the men were not mustered into the service at all, some who have gone off in organizations, and others who have gone off without organization, as the squirrel-hunters of Ohio. Some of them went half way to the place of rendezvous when they were met and ordered to return. There is a large class of claims, and it seems to me that it is impossible for Congress to appropriate money in any degree of justice or equity in the present state of information on that subject. It is the intention of the Committee on Military Affairs to introduce a bill for the appointment of a commission to hear all these claims that may be presented by any of the States, to sit during the recess of Congress, to be made up of civilians and military men as may be determined, and to report at next session the result of their investigations. It appears to me that to appropriate money, before we know anything as to the extent of the claims—which I believe will go far up among the millions—would be, in the highest degree, impolitic. I hope, therefore, the amendment will not be adopted.

Mr. SMITH. I ask the gentleman from Ohio whether other parts of this bill do not provide that none of this money shall be paid except on good vouchers. As a matter of course these claims have to be determined by a commission. How can the Committee on Military Affairs get any idea as to whether the claims are good or not? The matter might be discussed before the committee for a month without any determination being reached.

Mr. GARFIELD. I do not say that the Committee on Military Affairs is to adjudicate these claims. It is only a proposition that the Committee on Military Affairs may learn enough of the character and extent and scope of these claims as to be able to frame a law and such rules as will guide the commission to be appointed for

the purpose of investigating fully and reporting to Congress at its next session.

Mr. ODELL. The gentleman from Kentucky [Mr. SMITH] asks, how can these claims be adjusted? They can be adjusted according to the precedent established by Congress in relation to the claims of Missouri. We have twice made an appropriation of money to pay these claims, and they have been paid by a commission appointed to investigate the claims of the State of Missouri.

Mr. SMITH. I understand that; but the gentleman will allow me to say just here that the commission appointed to investigate these Missouri claims was appointed under a preceding act of Congress. This bill provides that a similar commission shall be appointed to investigate all these claims.

Mr. KING. The gentleman from New York [Mr. ODELL] misapprehends the facts, as to the manner in which the claims of Missouri have been provided for. These claims were of the character attempted to be provided against by an amendment of the gentleman from Illinois, [Mr. FARNSWORTH]. The troops had never been regularly mustered into the service. They had been called into service, had done a good deal of service, and had been engaged in several battles where many were killed. When compensation was sought it was ascertained that they never had been mustered into the service of the United States. The whole question was how they should be paid. A commission was appointed to take testimony, and the report showed that there was some eight hundred thousand dollars due. They recommended that to Congress and we appropriated that amount. It is to go through the hands of the War Department. I am sorry that it is the last we of Missouri have heard of that appropriation since the day that we passed it here. There has been no order to pay it. There is no money I suppose to pay it. It says that the amount is to be paid out of any money in the Treasury not otherwise appropriated, and I expect that all that has been in the Treasury up to this time has been otherwise appropriated. How long these Missourians will have to wait I do not know. But I am not complaining about that. I want the House to understand that.

This is a different kind of case. And I am glad that the gentleman from Ohio, [Mr. GARFIELD], of the Committee on Military Affairs, has disclosed what he intends to do in reference to these claims. Although we have come here and obtained an appropriation of \$700,000 for men in the first emergency of the war called irregularly into the service by General Fremont when he was in command there, since then we have had the militia organized and mustered into the service, and it has been recognized by the Federal Government. Missouri has been compelled to raise \$3,000,000 and pay it out to these men in what are called State defense warrants. We have made these warrants receivable for taxes in our State. In that way it deprives us of the means to carry on our ordinary State affairs. We are in the position that we ought to have this money back. I do not know what other States will do, but Missouri will not ask a cent except what will pass the ordeal of the War and Treasury Departments.

I have been of the opinion that the act of July, 1862, was sufficient to cover our case; but the Secretary of the Treasury takes a different view of the matter, as was said by the gentleman from Pennsylvania, [Mr. STEVENS], when asked why the Secretary of the Treasury did not pay these claims under that act. The Treasury Department has decided that a special appropriation is necessary. I make no issue with the Treasury Department; yet its understanding of the law is not my understanding. We of Missouri and Pennsylvania are driven here under that construction of the act of 1862.

Now, if the States interested are to wait until a commission is appointed, the testimony may not be taken before next winter, and then it may be put off to another Congress. In the mean time, what are we to do? We have already paid out \$3,000,000, and the State of Missouri has incurred great expense in doing it. We did it because we wanted to sustain the honor and the integrity and the good faith of the Government. We wanted to show our people when they volunteered their services for the country that they should be paid. Now we are to be kept out of that money for an



indefinite length of time. We have our pay rolls, our muster-in rolls, and all of the papers required under the military organization of the Government. They have been brought here, and I think are now before the Committee on Military Affairs. We want no commissioners. We are willing to pass the ordeal of the War and Treasury Departments.

Mr. GARFIELD. Mr. Chairman, we have already provided, so far as we can in this House, for the payment of the claims of Missouri, unless they have others outside of what we have acted on.

Mr. KING. Have you provided for Missouri?

Mr. GARFIELD. We passed an appropriation in a former Congress for the payment of such troops from the State of Missouri as have been in the United States service.

Mr. KING. Does the gentleman refer to the law passed at the early part of the session to pay what are called home guards?

Mr. GARFIELD. Yes, sir; and \$800,000 have already gone to the proper disbursing officers to be paid out in the gentleman's State.

Mr. KING. I understand that.

Mr. ODELL. My friend, the gentleman from Missouri, [Mr. KING.] says that I am mistaken in the statement I made in reference to the provisions of the act passed for the payment of the Missouri militia which were not mustered into the regular service of the United States. I have no better evidence than the act itself which I hold in my hand, and which I will read:

"Sec. 2. And be it further enacted, That for the purpose of ascertaining the amount due said State for money so expended, the Secretary of War shall, immediately after the passage of this act, by a commission or otherwise, cause the accounts to be examined and a report made to him of the amount due, which being approved by the Secretary of War and by him certified to the Secretary of the Treasury, the amount thereof shall be allowed to said State, and deducted from the amount apportioned thereto by the aforesaid act, and the remainder only, if any, shall be collected as therein prescribed."

One word more. The gentleman from Missouri not only claims that I am in error in reference to the law, but in reference to the appointment of the commissioners upon whose report this money is to be paid. Now, I hold in my hand a speech, a remarkable speech, made by my friend from the St. Louis district, [Mr. Blow,] in which he makes the statement to his constituents that on or before the 15th of this present month that money, \$800,000, will be paid; that he has the assurance of the Secretary of the Treasury to that effect. Now, all I ask in this matter is that the same course shall be pursued in reference to the balance of the indebtedness to the State of Missouri and every other State; that the claims shall go before a commission, be examined, and come before the House where alone we can take that action which will secure a faithful distribution of this money. It must be paid through the War Department, or not at all, in harmony with what we have already done in this case, but once before in the case of Missouri.

Mr. BLOW. I desire to say to the gentleman from New York that he has correctly stated the proposition in regard to the bill passed last December for paying the home guard of Missouri. Those claims are at this very moment in process of being paid.

And I desire to correct what I think is a wrong impression in this House in regard to the difference between the position of Pennsylvania and that of any other State making a claim before this body. In our committee we examined the claim of Pennsylvania and reported to this House. For myself I see no difference between the position of Pennsylvania and the position that the State of Missouri occupied before this body in the month of December last. I consider the claims of Pennsylvania presented to the Treasury Department and audited under the law of 1861, and presented to this body, as just as the claims which Congress has allowed to the home guards of Missouri; and, sir, I think it almost unfair to make a distinction and to place Pennsylvania in a situation in which her just claims will be deferred.

Mr. KING. I desire to make myself understood by the gentleman from New York. He certainly misunderstood me. I say that the claims of Missouri provided for last December were irregular claims—claims for the services of soldiers whom we could not show had been regularly mustered into the service of the United States. Con-

sequently the Secretary of War could not recognize them, nor could the Secretary of the Treasury.

But the difference between the claims of Missouri now and the claims then is, that our claims now are regular, and we can show that our men were regularly mustered into the service of the United States, so that we want no commissioners to ascertain anything. There is a marked difference between the two cases.

Mr. GARFIELD. I wish to say only a word upon this whole subject. This House has already determined, in a measure before it some weeks ago, that it will not at the present time take up all that class of claims known as incidental damages and pay them. If a man's farm has been utterly broken up by our armies, or by the rebel armies, we do not now pay nor have we at all up to this time paid such a claim. We have confined ourselves entirely to paying for supplies taken for commissary and quartermaster stores.

It is now proposed by the amendment of my colleague, notwithstanding this wise and conservative legislation, to appropriate beforehand \$150,000,000 to be paid in a variety of ways, for which at present there is no law. It is referred to the Second Auditor of the Treasury to see that the vouchers are proper in their form. Now, by the rules of the Department, the Second Auditor of the Treasury can pay no claims of soldiers for services unless they have been mustered into the United States service. That is the law of the country and the law of his Department. But here is a proposition that he shall pay these claims, no matter whether the men were mustered in or not.

Well, now, what are these claims? They are of every description, from four hours' service to four months' service.

Mr. SPALDING. I desire to ask my colleague if his opposition is to the whole bill or only to the amendment.

Mr. GARFIELD. My opposition is not to the bill of the gentleman from Pennsylvania, [Mr. STEVENS.] The merits of that bill may be perfectly good, for aught I know. I presume it stands upon a different basis.

Mr. SPALDING. I would like to have my colleague state the difference between the claims.

Mr. GARFIELD. That is not my purpose. I have seen only this amendment, and I have seen that it is a sweeping measure to cover all the States and Territories, and to appropriate money beforehand for the payment of claims not yet made up. If Pennsylvania has a claim that has been made up, that has been adjudicated, audited, and passed upon as a just claim, then it has a basis to go upon and we are ready to appropriate the money. If the other States and Territories referred to come here with claims made up, adjudicated, audited, and vouched for, let them be presented and let us see what they are and then appropriate money for the payment of them; but let us not beforehand advance money to pay claims of which we know nothing. Let us do as we have done in the case of Missouri, have a commission appointed to investigate the nature and scope of these claims. It will be the special work of that commission to examine the whole subject, and they can do it better and more thoroughly than we can possibly do it here. We can then pay on a uniform system of equity all such claims of all the States and Territories. I do not believe in our paying a little here in a special way and a little yonder in another special way, or in paying the whole in a general, loose, and irregular way. I hope this amendment will be voted down.

Mr. SCHENCK. I would inquire of my colleague if he knows any reason why the claims of Pennsylvania should not be disposed of in the same way as the claims of other States, and go to commissioners to be investigated and reported on hereafter?

Mr. GARFIELD. I do not say that there is any reason. I am not informed on that subject. I only say that I am clearly and decidedly opposed to this amendment. I do not know that the claim of Pennsylvania is different from others, but I think it ought to be acted on on its own merits.

Mr. SMITH. The gentleman does not seem to take into consideration the reasons why these claims of other States have not been presented, although the service has been rendered. One great reason why they have not been made out is that the men have had no hope of their payment until

Congress should take some action in the matter. These men whose names do not appear and have never appeared on the muster-roll have no reason to hope for anything hereafter.

It is proposed that a commission shall be appointed to inquire into the justice of all these claims. Hundreds and thousands of men have been called out in all the border States temporarily, many of them without the hope or expectation of compensation. Many of them have been killed; many of them have been wounded; many of them have lost various kinds of property; and they stand to-day unpaid and unrecognized by any legislation upon the part of Congress. I commend in the highest degree the energy of gentlemen from Missouri and Pennsylvania in urging their claims upon the consideration of Congress.

But while we of other States look upon and admire that energy on their part, we feel that we too have equally strong claims to be satisfied. While in other States men have been called out once or twice, in Kentucky they have been called out thirty or forty times. While other States have lost comparatively few of their citizens in this way, Kentucky has lost a very great many in defense of the country, without any consideration whatever on the part of the Government.

Now, here is a plain proposition on the part of Congress to pay these men for the time absolutely given to the country. Most of the men who have thus gone out are men who have been dependent on their daily labor for their bread and raiment. I know the fact, in my own community, in my district, in my own State, because I have been all over it. I have seen it in all of its phases and conditions since the rebellion began. And I know that ninety-nine out of every one hundred of those who have taken up arms temporarily for the defense of the State and country, and to repel invasion, were men taken from the plow, from the anvil, from the shop, from the machinery, and who gave labor and time, for days and weeks and months, to the country. These are the men who are to be indemnified under this bill, and under the amendment of the gentleman from Ohio. Why should we hesitate? Why should we hold back? Why should we have all these claims referred to the War Department? The War Department is to-day so full of papers that you can scarcely turn round in it; and there are not enough of clerks there at this time to look over and adjust these papers in twelve months. The gentleman from Ohio [Mr. GARFIELD] asks that the Committee on Military Affairs shall be allowed to consider this matter that they may approximate the amount necessary to be appropriated; and that then Congress at its next session can make the appropriation. But in the mean time the just claims of these people are to be ignored. Now is the appropriate time when these claims should be satisfied.

Mr. HARDING. Mr. Chairman, the principle has been long since adopted and recognized of paying men who did actual military service, whether they were regularly mustered in or not. Some considerable time ago, before any claim had been audited, before any commission had been issued, the first step on the part of Missouri was to have an act passed providing for the payment of men who had been actually in military service in the department of Missouri, whether regularly mustered in or not. That gave notice to Missouri. There was some chance for them then to get their vouchers ready. After that preliminary act was passed, recognizing the validity of these claims, a movement was made for the appointment of a commission to ascertain their amount, and then the report of that commission was followed by an appropriation of \$800,000.

All this was done, Mr. Chairman, passing by and ignoring the claims of other States quite as meritorious as those. I do not complain that justice was thus done to Missouri; but it surely was unjust to pass by and ignore the claims of other States equally meritorious. The principle has been recognized long since, and the amendment of the gentleman from Ohio [Mr. Cox] merely goes on that principle. If this bill be passed a commission will issue, and the claims of citizens of Kentucky and other States will be ascertained under it; but until some such commission is authorized the claimants will not move in the matter. I give notice that before the vote is taken, I shall move to amend the amendment

of the gentleman from Ohio by inserting after the words "actual service" the words "whether regularly mustered into the service of the United States or not." That will embrace all men who did actual military service, and put them on the same footing with the soldiers of Missouri.

Mr. HALL. Mr. Chairman, I wish to explain the reasons why the claims of Missouri were submitted to a commission. They were submitted to a commission because they were neither mustered into the service of the State of Missouri nor of the United States. They went into the service in defiance of the laws of Missouri and in defiance of the laws of the United States. The President of the United States called on the Governor of Missouri for troops. The Governor of Missouri at that time was Claiborne F. Jackson, who was a traitor, and at that time engaged in negotiating with the southern confederacy and acting in concert with it. He refused to answer the call of the President of the United States. These men—these home guards, as they were then called—went into the service under General Lyon, without a call from Missouri, and in defiance of the laws of Missouri, for the secession Legislature of that State had passed a law prohibiting the enrollment of any troops in Missouri under the Federal Government. These troops were mustered in as home guards. There were no means, either through the State of Missouri or the Federal Government, of ascertaining that they had rendered service. But in regard to the militia called into the service of the United States since that time there have been such means, because they were mustered into the service of the State and called out in conformity to the laws of the State. The reason why the commission was necessary in the former case was that the service could not be ascertained either through the Governor of the State or through the officers of the United States. It could not be ascertained that these men had rendered service. They were in fact an illegal organization, admitted to be so, but necessarily raised under the emergency of the occasion. The militia that the resolution proposes to pay are regular State militia, and the State has vouchers that the service was rendered. The money has been paid, or the State has pledged its faith for its payment. That is the reason why in this particular case, and in this class of cases, there is no occasion for a commission.

Mr. HARDING. I make no issue with the gentleman from Missouri in regard to these matters, but I want him to say whether I am not right that the act was passed long before any commission was established, and before any claim was ascertained of this general character for men who performed service but who were not regularly mustered in? Am I not right that it was provided they should receive pay, bounty, and pension as if they had been mustered in?

Mr. HALL. Most unquestionably the gentleman is right.

Mr. HARDING. That is the whole matter in regard to Missouri. I am not making any objection in regard to it.

Mr. HALL. I do not understand that the gentleman made objection.

Mr. HARDING. What I want to be understood in regard to is this: that when that act was passed, notwithstanding these Missouri men were not mustered in, it was provided that they should receive pay, bounty, and pension the same as if they had been mustered in. I say that that principle embraced a numerous class of soldiers in other States whose claims for the time being were ignored, and those of Missouri were put upon a high and advanced ground.

There are a number of men in my own State who rendered the same character of service that these men in Missouri have. Yet the latter have been paid \$800,000 by the Federal Government, and the same men in my State have not been paid. There were organizations not completed called suddenly into service—the country being in a state of excitement, terror, and alarm—and but a few organizations were mustered into the service. We have been as patient in regard to the claims of our soldiers as any other State. Every man familiar with Kentucky knows this to be true, that the State was thrown into a terrible alarm. All troops, whether the organizations were complete or not, were hurried into the service by order of the commander there, and to my knowledge a

great many of those soldiers have never been paid. Many were killed who were never paid. They were not mustered in because of the exigencies of the time. They were gallant, brave, and loyal men, and many of them fell in various skirmishes before they had been mustered regularly into the service of the United States. They were raised and regularly mustered into the State service, but they had to be passed over and mustered into the service of the United States. During the intervening period important services were rendered, for which no provision has been made. All I insist upon, however, is that the benefits of the provision for Missouri shall be extended to the other States, including my own.

Mr. STEVENS. I desire to say but a few words, and then I will move that the committee rise. I regret that the gentleman from Ohio [Mr. Cox] should have found it necessary to offer his amendment, not because I have much objection to the provision itself, but because it seems likely to embarrass the bill. I should greatly prefer that the question be taken upon the naked merits of the claims of Pennsylvania. The amendment is evidently offered for the purpose of killing the bill. I again say, that to the general provisions of the amendment I should have no objection were it in the proper bill.

It appears by a communication from the Secretary of War, indorsed by the President of the United States, that the troops which were called out from Pennsylvania, New Jersey, and New York, to meet Lee, went into the actual service. I do not know that there was time to go through the process of what is called mustering in.

Mr. HARDING. I understood the gentleman to intimate that he intends to move that the committee rise. Will he allow me, before he does that, to offer an amendment?

Mr. STEVENS. I only desire to rise in order to close debate. The gentleman can offer his amendment after that just as well as now.

Mr. RANDALL, of Pennsylvania. I hope my colleague will give me a few minutes before he moves that the committee rise.

Mr. STEVENS. The gentleman may proceed now.

Mr. RANDALL, of Pennsylvania. Mr. Chairman, before entering at all upon the discussion of the bill immediately under consideration, I desire to say a word or two upon a subject of more immediate concern. I find in to-day's paper an order issued by General Meade reflecting upon certain troops of the army of the Potomac. I have more than once to-day heard that that order related to the Pennsylvania reserves. I desire to say here—and I say it upon the best authority, which I am ready to give to the House if it be disputed—that it in no manner relates to the Pennsylvania reserves, and that two or three days before this order which appears this morning was promulgated, the difference which existed between the United States Government and the Pennsylvania reserves as to the date of mustering was settled satisfactorily by the appeal which General Meade indicated in a former order as the proper source of relief, to wit, the War Department. The War Department acceded to the justice of the demand in reference to the mustering, so far as these troops were concerned. I make this statement in order that the rumors and the common talk about the Pennsylvania reserves may at once be stopped.

Now, sir, when the claim under consideration was before this House upon a former occasion an attempt was made to mystify it between two existing laws. It is sufficient for me to know that those whose duty it was to execute the laws which Congress passed had decided that under no law existing could the War Department or the Treasury Department assent to the payment of these claims; therefore additional legislation is necessary. The matter of the mustering of these troops has been referred to. These troops were called out by the Governor of Pennsylvania after the proclamation of the President. They did not inquire, but they believed that they were mustered into the service of their country in good faith, and they acted accordingly in good faith. They marched side by side with the best soldiers of the United States; and, to their honor be it said, they acquitted themselves well and nobly, and at the end of their service received the thanks of the officers of the United States who commanded them.

Now, as to the immediate occasion for this duty,

let me say to the House that Pennsylvania, when her borders were being invaded, found herself in exactly the condition the United States was in when she found herself without money wherewith to pay these troops. An appeal was made to the United States Government upon this subject, and the officers of the Government reported that they possessed neither the law nor the money to pay the expenses. Then, sir, was it that the patriotic citizens of Philadelphia, who upon a former occasion had in part advanced \$150,000,000 in the true spirit of nationality and patriotism, came forward and advanced this money. This money is not to be paid to Pennsylvania. She stands, as it were, simply as an indorser. And, sir, I ask is there any equity, is there any justice in this House in refusing to pay these individual citizens, who, in violation perhaps of their strict duty to the stockholders of these banking institutions, came forward and advanced the money? I mistake the disposition of this House if they will do it.

Mr. Chairman, I voted on a former occasion with the greatest possible pleasure for the claim of the State of Missouri for the payment of their citizens, who had not been mustered into the service it is true, but who, having performed the duty of soldiers, were entitled to payment for such service. The House, I think, unanimously voted in favor of the payment of that claim. Can they now refuse to pay this to Pennsylvania? Can they make a distinction among the States in this respect?

Sir, I need not go so far back as that. Only within a few days past the two Houses of Congress have passed a bill, and perhaps it is now by reason of the President's signature a law, appropriating \$25,000,000 to pay the troops called out from Illinois, Indiana, Ohio, and other western States, who will occupy precisely the same position that these Pennsylvania soldiers occupied upon the occasion to which we allude.

Now, sir, the Legislature of Pennsylvania is about to adjourn. It will adjourn to-day. I trust, therefore, that the House will at once pass this bill. I do not object to the amendment of the gentleman from Ohio [Mr. Cox] *per se*, which proposes to pay all the States which have likewise contracted debts of this description, but I say, to use a homely phrase, "Let every tub stand upon its own bottom." We have placed in the appropriate Department proper vouchers as to all these claims. They have been audited and approved, and they have been said to be correct by the President and Secretary of War.

A word more, sir, and I will close. On more than one occasion a personal allusion has been made here to myself in reference to some service that I rendered in having the privilege to command a company on this occasion, (the first city troop Philadelphia city cavalry.) I wish to say to this House and to my constituents and to the people of my State that not one cent of the money now asked for will ever directly or indirectly reach me or any member of my company. They went there at a moment's notice, and they have not to this day asked a cent of the Government nor do they intend to. I say it to their honor. I should not have thrust this before the House but for the fact that one or two gentlemen here have said that I am a willing witness in this matter. I was a willing actor then. I hope the gentlemen who have called me a willing witness will do as some of my men have done, be willing actors hereafter should the necessity occur. Sir, these men performed—no man will gainsay it—important services. They scouted the country and enabled General Meade to have a knowledge of the movements of the enemy. They did all they could. They acted in good faith. All we ask is that they shall be paid for their services.

Mr. STEVENS. As I said before, I have but a few words to say, for I think the House understands this matter.

Mr. SCHENCK. Understanding that the gentleman from Pennsylvania designs to move that the committee rise for the purpose of closing debate, I ask him to yield to me for four or five minutes.

Mr. STEVENS. I yield to the gentleman. Mr. SCHENCK. It strikes me that the House manifests a disposition this morning to dispose of, or in some way act upon, a question of very grave importance as it regards the means of the country and its Treasury, and what is due to the citizens

of the different States, without a very great deal of consideration of the effect of its legislation.

This bill, introduced in behalf of the State of Pennsylvania, has called out, as might naturally be expected, comments from gentlemen upon it, and allusions to like claims from the people of other States, and reference has been made to the history of legislation at this session upon the subject. I understand what we have done heretofore, at the present session of Congress, to be about this: the last Congress having entertained an application for payments to be made for the services of the home guards of Missouri, authorized the appointment of commissioners to investigate thoroughly and carefully the claims of Missouri for such services of her citizens, and provided that the amount awarded to that State should be paid to them when ascertained. This Congress was called upon to pay that award. I voted for the bill to pay \$800,000 to Missouri upon the distinct ground and understanding that it was not an original claim brought here for payment, to be here established, by proofs submitted, to the satisfaction of Congress, but that it was a mere call upon the part of the State of Missouri for an appropriation to meet and satisfy a verdict rendered in her favor under previous legislation. That makes the case of the State of Missouri entirely different from the case which is now presented, either in behalf of other States, or in behalf of Pennsylvania according to this original bill.

Now we are called upon, first, by the bill introduced by the Committee of Ways and Means, to vote several hundred thousand dollars to satisfy the claims of Pennsylvania for the service of soldiers who turned out for the defense of the State and country on account of the rebel invasion. It was not to be expected that this would be permitted to pass without remark from other States, because there are like claims existing in behalf of citizens of other States, and presented by Representatives of those States. If we open the door for one we must open it for all. I claim, therefore, that the principle, at least of the amendment offered by my colleague on the other side of the House, is correct; that whatever legislation there should be on this subject ought to be an all-embracing legislation, providing for the citizens of all States who have been thus called upon to render service to the common country, unless it can be shown that the claim of Pennsylvania stands on a different footing from the claims of other States.

To show, Mr. Chairman, what a door will be opened if we take up any one of these claims and act upon it, without reference to other claims, let me again refer to the history of the claims of the State of Missouri. We have paid to Missouri some eight hundred thousand dollars for the service of her home guards. But the appropriation of this money which is now ready to be paid over to her seems to be but the opening wedge for a greater claim which she has since preferred. I do not say this, meaning to infer that the second claim is not as just as the first, or not entirely just; but to show that Missouri is by no means satisfied with what Congress has done for her, in appropriating the amount of the awards, \$800,000. A bill has been reported by the gentleman from Missouri, [Mr. BLAIR,] who has left this Hall—whether to resume his seat or not I do not know, [laughter,]—from the Committee on Military Affairs, with the distinct understanding on the part of the committee that it was not to be considered as binding the committee, but that it was to be recommitted immediately on being reported, to be considered in connection with other claims of like character. That bill provides that the Secretary of the Treasury shall pay to the Governor of the State of Missouri or to his duly authorized agent, the costs, charges, and expenses properly incurred by that State for enrolling, subsisting, clothing, supplying, arming, equipping, and transporting its troops, employed in aiding to suppress insurrection against the United States, such troops being commonly known as the six months' men and the enrolled militia of the State of Missouri; such payment to be made on the filing of the proper vouchers.

It is not worth while, Mr. Chairman, to remark on the crudeness of that bill, its looseness, its provision that the payment shall be made in gross to the Governor of the State, and its failure

to provide to whom the vouchers shall be exhibited, and who shall determine the accuracy of the claims. I refer to it now for the purpose of saying that while, on its face, that bill does not intimate the amount of this additional demand of Missouri, yet, on being interrogated by the Committee on Military Affairs, it was ascertained that it would amount to \$3,000,000, or over. Three millions, in addition to the \$800,000 already paid to Missouri! Now, for the purpose of this argument, I do not say whether or not this is a just demand against the United States, but the claim is that having already received, under the award made by the commission, \$800,000, Missouri still claims that for her six months' men and her enrolled militia there is \$3,000,000 yet due.

And Missouri does not stand alone in this. Kentucky also has similar claims. No one who has not been within the borders of those States knows how much they have suffered. Kentucky must be expected to have a very large claim of like character. She has not sent forward, as Missouri has, the evidences of her claims, because the gentleman from Kentucky [Mr. HARDING] says she did not expect payment. But the claims are known to exist there probably quite equal to the claims of Missouri. Ohio has presented her claims, amounting to between three and four hundred thousand dollars, in connection with repelling a raid within her borders, and other services of a like character rendered under State authority, for which we have received no compensation. Maryland has a claim; Indiana, Illinois, and New Mexico have claims. Half of the loyal States have claims of this kind. And under these circumstances, I put it to the House whether it is right and proper to take up the subject by piecemeal unless there is a special case with peculiar reasons for our doing so. I ask whether we shall only legislate for Pennsylvania and one or two other States. I ask whether it will not be better to adopt some general policy to be initiated by the Committee on Military Affairs? Having ascertained what these claims are, and what States present them, will it not be better to provide by law for the appointment of commissioners who shall sit to take testimony and to sift these claims. Having ascertained the amount, and reported it, it would then be right and proper for us to pay it, as we did in the case of Missouri. That was done under a law passed during the last Congress, with the understanding that the award was to be received by Missouri in full payment, and that no additional claim should be made against the General Government.

Now, unless we adopt some policy providing for opening the door and paying what is due and closing the door against claims ascertained by commissioners to be unjust, no man can tell to what extent Congress may go in this loose way in reference to the claims of the several States.

I repeat that it is not necessary that I should be interested in opposing the claims of Missouri or Kentucky, or any other State; and I am willing to postpone the claim of my own State until some general policy has been adopted. I think that these claims ought to be postponed on several accounts. Even if the Treasury were full to overflowing I should still insist that we should first prescribe the mode by which the exact amount should be ascertained. Let the commissioners make their awards, and then let payments be made on those awards. Do not let us open the Treasury, as is here proposed, like a crevasse in the Mississippi river, to have it flooded with these claims. Do not let us act in reference to particular cases, but let us establish some general rule covering all these claims.

Mr. Chairman, it will not do to quote the case of Missouri as a precedent for what it is proposed to do for Pennsylvania. On the contrary I quote the action in the case of Missouri under the legislation of the last Congress as a precedent in favor of adopting the policy I contend for, with this difference, that that policy was applied to a single State which I would have applied to all. We have merely paid the award found in favor of the State of Missouri under the law of a former Congress. I propose a like award in all cases from all of the States shall be made under some general legislation. As I have already said, we are now preparing in the Committee on Military Affairs general legislation, so that Pennsylvania and all the States shall come in upon a like footing. In view

of these considerations I intend to propose when the bill is brought into the House that it shall be referred to the Committee on Military Affairs, to be reported back whenever the committee pleases.

Mr. STEVENS. Mr. Chairman, as I have already stated, I believe that the House is pretty well satisfied with the discussion on this bill. I only wish to restate the case for Pennsylvania. As to the other States, I will not follow the debate. I am sorry that this question has been embarrassed by any proposition affecting any other State, although I have no objection to them individually.

When Lee invaded Pennsylvania the President called for sixty thousand troops. These troops came from New York, New Jersey, and Pennsylvania; the larger portion from Pennsylvania, which was nearer. They went into the service of the United States, were put under the command of General Meade and General Smith; they were clothed by the United States; their arms were furnished by the United States, and they marched down to the front and joined General Meade. Some of them were in battle, and one of them, within sight of my place in another county, was killed. They were all in the service. I do not know whether there was time for what is called mustering in, technically speaking, but they all received their rations, their clothing, and their arms from the United States. They were all under the command of United States officers, and they fought in the United States cause. All those troops from New York and New Jersey were regularly paid by the Government, but the appropriation ran out before Pennsylvania was reached, and I believe one or two thousand dollars are yet due to New Jersey. When that was done the President of the United States called upon the Governor of Pennsylvania, and the Secretary of War, in a communication which I have read before and which I hold in my hand, asked the Governor of Pennsylvania to negotiate a loan and pay the Pennsylvania troops before they were mustered out. The Governor immediately employed agents in Philadelphia, and those agents borrowed the money from the banks and from rich individuals there upon a promise of the President and of the Secretary of War that when Congress met an appropriation should be recommended to pay them again. And I ask now that the recommendation of the Secretary of War, indorsed by the President, which possibly some gentlemen may not have heard or may have forgotten, may be read.

The CHAIRMAN. The communication is not in the Clerk's hand, but will be sent for.

Mr. STEVENS. The Secretary of War, in compliance with the promise of the faith of the Government, sent a communication through this House to the Committee of Ways and Means asking an appropriation for the liquidated amount settled by the Second Auditor of the Treasury upon vouchers which were satisfactory to him—vouchers of the companies and of the regiments. He asked this Congress to make an appropriation of \$700,000 to pay the claims. The President of the United States, upon the back of that recommendation, indorsed his sanction of all the facts stated, and requested Congress to make the payment.

Here, then, was a case wholly different from any case of militia called out by a Governor and not paid. Here was money borrowed upon the faith of this Government, upon the promise of the Executive, upon the promise of the Secretary of War, that as soon as this Congress met it should be repaid. The Governor of Pennsylvania pledged his faith to those individuals that it should be paid. They have advanced the money, and have not received it yet. Now, I ask this House whether they are prepared to violate the faith of the Government, and to refuse to pay the troops of Pennsylvania, when the troops of New York and New Jersey, who were out in the same campaign, were paid? I trust the House is not prepared for anything of this kind.

I know that Pennsylvania has other claims. She has her claim for the three months' militia who were called out to defend the country, and who served for the three months. They were State troops, were militia, and although they served, Pennsylvania has not asked to be paid. Those claims are to lay back with those referred to by the gentleman from Ohio, [Mr. SCHENCK.]



I say that after paying \$800,000 to a portion of the troops engaged in that service, after appropriating \$25,000,000 to pay troops about to be called out to lay upon the border, after paying without objection \$1,200,000 the other day to Minnesota for the damages which she has sustained from Indian depredations, it does seem hard to refuse to pay this, and it seems as if there were some settled design to make a victim of Pennsylvania, for some reason to me unknown.

As I said before, I do not desire to consume the time of the House. I now ask to have that communication from the Secretary of War read.

The Clerk read, as follows:

WAR DEPARTMENT,  
WASHINGTON CITY, January 4, 1864.

STR: The Department has this day received returns of the amounts required for the payment of the militia called out for the defense of the State of Pennsylvania on the 26th of June, 1863, against the invasion by the rebel forces under command of General Lee. There being no appropriation out of which these payments could be made at the time they were required, patriotic citizens of Philadelphia advanced the money, and it is proper that they should be reimbursed without delay. I would respectfully recommend, therefore, that an immediate appropriation for that purpose be made. A copy of a letter of the Second Auditor of the Treasury is herewith communicated, showing the amount of claims audited by him to be \$671,476 43 up to date. It is supposed that \$700,000 will cover the whole amount of these claims.

I have the honor to be, very respectfully, yours,

EDWIN M. STANTON,  
Secretary of War.

HON. THADDEUS STEVENS, Chairman Committee Ways and Means.

Mr. STEVENS. It is enough for me to say that upon that the President indorsed his request that Congress should make the appropriation. I will read a word from our Governor, and then I will be done:

"The troops were called at the request of the President, and the money was advanced in Philadelphia to pay them, on the assurance then and to me that Congress would be asked for an appropriation when you met. The assurance was made by the President and Secretary of War."

I now move that the committee rise, with a view to close debate.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. PIKE reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly a bill to reimburse the State of Pennsylvania for expenses incurred in repelling rebel invasion, and had come to no conclusion thereon.

Mr. STEVENS. I move that all debate upon this bill terminate in five minutes after the Committee of the Whole shall again resume its consideration.

The motion was agreed to.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled joint resolution (H. R. No. 69) for the payment of volunteers called out for not less than one hundred days; and an act (H. R. No. 119) to regulate the admeasurement of tonnage of ships and vessels of the United States; when the Speaker signed the same.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. PIKE in the chair,) and resumed the consideration of the bill to reimburse the State of Pennsylvania for expenses in calling out the militia of said State during the recent invasion.

Mr. HARDING. I move to amend the amendment of the gentleman from Ohio [Mr. Cox] by inserting after the words "actual service" the words, "whether regularly mustered into the United States service or not."

Mr. WHALEY. Mr. Chairman, I wish to occupy the attention of the committee for a few moments only. I understood the gentleman from Pennsylvania on my left [Mr. RANDALL] to say that in this matter every State would have to stand upon its own bottom. I think there is evidence enough to convince the House that there have been many men in West Virginia and eastern Kentucky who have reported to at least three different generals and have been under military re-

straint for twelve months without receiving a dollar of pay. There is at least \$150,000 due to the militia of eastern Kentucky and West Virginia. The gentleman from Ohio, [General GARFIELD,] who was in command in that section of country, knows very well that the militia of West Virginia rendered him valuable service as scouts. I have certificates from General Julius White, showing that some of our companies rendered him valuable services; and also evidence from General Crook, who was in command in the Kanawha valley. If every State is to stand upon its own bottom I wish the House to understand these facts. We do not ask or expect that every person shall be paid who shouldered a gun for three or four hours, nor do we expect that persons shall be paid for two or three weeks' service.

Mr. RANDALL, of Pennsylvania. I did not say that every State must stand on its own bottom, but every tub. [Laughter.]

Mr. WHALEY. I am aware the gentleman said every tub, but I did not know whether he referred to States or to individuals. [Laughter.] I repeat that there is at least one hundred and fifty thousand dollars due to the militia of West Virginia.

Mr. COX. I rise to a point of order. The gentleman is addressing the Republican side of the House exclusively. [Laughter.]

Mr. WHALEY. I turn to that side of the House for the reason that there are some generals there who are witnesses to the valuable services performed by the militia of my State, and if the gentleman from Ohio will only be patient I will address the other side of the House, as I am anxious that justice be done to every State. These men have never received one dollar for their services, and I hope their claims will not be ignored in this bill. I know that the militia of eastern Kentucky, along the border between the two States, have also performed important services.

Many of these men and their families are now reduced to indigent circumstances, and many have, from necessity, in order to support their families, since volunteered in our Army, and are now gallantly fighting the battles of our country.

While Missouri has received \$850,000, and while the present bill would pay the militia of Pennsylvania for their services, it would leave every other border State unprovided for, and I hope that gentlemen on this floor will consider the justice of the claims of other States as well as Missouri and Pennsylvania, and if that cannot be done, then let us all be equal.

I regret exceedingly that by a rule of the House this debate is limited to five minutes, as I desired to give a history of the valuable services rendered by the brave militia of my State; and I appeal to the justice of this House not to leave our brave militia and their families unprovided for, as many of them have been driven from their homes, and are now in a suffering condition, and I hope you will not abandon or forsake them.

[Here the hammer fell.]

Mr. HARDING's amendment to Mr. Cox's amendment was agreed to.

Mr. ODELL. I offer the following amendment, to come in as a proviso at the end of the amendment of the gentleman from Ohio, [Mr. Cox]:

\* Provided, All claims of loyal States and Territories shall be ascertained by three commissioners appointed by the President, by and with the advice and consent of the Senate, who shall examine and ascertain the amounts due. Said commissioners shall report the claims with the facts to the Secretary of War, and by him shall be certified to the Secretary of the Treasury. The amounts thus ascertained shall be paid by the proper accounting officers to the claimants or their heirs: Provided further, That in the adjustment of all accounts under this act no greater rate of compensation shall be allowed than by laws existing at time of service of said claimants.

The question was taken on the amendment to the amendment; and it was disagreed to—ayes twenty-six, noes not counted.

The question recurred on Mr. Cox's amendment.

Mr. CRAVENS demanded tellers.

Tellers were ordered; and Messrs. A. MYERS and Cox were appointed.

The committee divided; and the tellers reported—ayes 43, noes 54.

So the amendment was disagreed to.

Mr. STEVENS moved that the committee rise and report the bill to the House.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. PIKE reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly bill of the House No. 117, to reimburse the State of Pennsylvania for expenses in calling out the militia of said State during the recent invasion, and had directed him to report the same to the House with amendments, and with the recommendation that it do pass.

Mr. STEVENS moved the previous question on the third reading of the bill.

The previous question was seconded, and the main question ordered.

Mr. SPALDING. I move that the bill be laid on the table; and on that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 66, nays 60; as follows:

YEAS—Messrs. Alley, Ames, Arnold, Augustus C. Baldwin, John D. Baldwin, Boutwell, Brandegee, James S. Brown, Chandler, Clay, Cole, Cox, Henry Winter Davis, Thomas T. Davis, Dawes, Denning, Dixon, Eden, Eliot, English, Farnsworth, Finck, Ganson, Garfield, Grider, Hall, Harding, Benjamin G. Harris, Charles M. Harris, Herrick, Higby, John H. Hubbard, Hutchins, William Johnson, Kalbfleisch, Kernan, Knapp, Le Blond, Littlejohn, Long, McDowell, Melndoe, McKimney, Samuel F. Miller, James R. Morris, Noble, Norton, Odell, John O'Neill, Perham, Perry, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, Robinson, James S. Rollins, Ross, Schenck, Scott, Sloan, Spaulding, William B. Washburn, Whaley, Wheeler, Joseph W. White, and Yeaman—66.

NAYS—Messrs. Allison, Ancona, Anderson, Ashley, Bailly, Baxter, Beaman, Blow, Boyd, Broomall, William G. Brown, Dawson, Denison, Denton, Frank, Grinnell, Hale, Hooper, Hotchkiss, Asahel W. Hubbard, Philip Johnson, Kelley, King, Lazear, Longyear, Marcy, Marvin, McAllister, McBride, McClurg, Middleton, Moorhead, Morrill, Daniel Morris, Morrison, Amos Myers, Leonard Myers, Charles O'Neill, Orth, Patterson, Pendleton, Price, Samuel J. Randall, Edward H. Rollins, Scofield, Shannon, Smithers, William G. Steele, Stevens, Siles, Strouse, Stuart, Sweat, Upson, Webster, Williams, Wilder, Wilson, Windom, and Woodbridge—60.

So the bill was laid on the table.

During the call of the roll,

Mr. STEELE, of New Jersey, stated that he was paired on this question with the gentleman from Michigan, [Mr. KELLOGG,] who was in favor of the bill, he [Mr. STEELE] being opposed to it.

Mr. O'NEILL, of Pennsylvania, stated that his colleague, Mr. THAYER, was paired off with Mr. PIKE.

The vote was announced as above recorded.

Mr. SPALDING moved to reconsider the vote by which the bill was laid on the table; and also moved to lay the motion to reconsider on the table.

Mr. L. MYERS called for the yeas and nays on the latter motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 60, nays 62; as follows:

YEAS—Messrs. Alley, Ames, Arnold, Augustus C. Baldwin, John D. Baldwin, Boutwell, Brandegee, James S. Brown, Chandler, Clay, Cox, Henry Winter Davis, Thomas T. Davis, Dawes, Denning, Dixon, Eliot, English, Farnsworth, Finck, Ganson, Garfield, Grider, Hall, Harding, Benjamin G. Harris, Charles M. Harris, Herrick, Higby, Hutchins, William Johnson, Kalbfleisch, Kernan, Long, McDowell, Melndoe, McKimney, Samuel F. Miller, James R. Morris, Noble, Norton, Odell, John O'Neill, Perham, Perry, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, Rogers, James S. Rollins, Ross, Schenck, Scott, Sloan, Spaulding, William B. Washburn, Whaley, Wheeler, and Joseph W. White—60.

NAYS—Messrs. Allison, Ancona, Anderson, Bailly, Baxter, Beaman, Blow, Boyd, Broomall, William G. Brown, Cole, Cravens, Dawson, Denison, Eldridge, Fenton, Frank, Grinnell, Hale, Hooper, Hotchkiss, Asahel W. Hubbard, Philip Johnson, Kelley, Orlando Kellogg, King, Lazear, Loan, Longyear, Marcy, Marvin, McAllister, McBride, McClurg, Middleton, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Charles O'Neill, Orth, Patterson, Pendleton, Price, Samuel J. Randall, Edward H. Rollins, Scofield, Smith, Smithers, William G. Steele, Stevens, Siles, Strouse, Sweat, Upson, Webster, Williams, Wilder, Wilson, Windom, and Woodbridge—62.

So the House refused to lay the motion to reconsider on the table.

Mr. SPALDING. I withdraw the motion to reconsider.

Mr. STEVENS. I make the point of order that the motion cannot be withdrawn after the House has voted on it.

The SPEAKER. The Chair overrules the point of order. There has been no vote on the question of reconsideration; and it is within the power of the mover to withdraw it before voted on. That is the usage of the House.

Mr. KNAPP. I move to reconsider the vote by which the bill was laid on the table.

Mr. FARNSWORTH. I move to lay the motion to reconsider on the table.

Mr. ANCONA. I raise the point of order that that question has been already decided in the negative.

The SPEAKER. This same motion to reconsider has not been decided.

Mr. ANCONA. It refers to the same subject.

The SPEAKER. The Chair overrules the point of order.

Mr. SPALDING called for the yeas and nays on the motion to lay the motion to reconsider on the table.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 57, nays 62; as follows:

YEAS—Messrs. Alley, Ames, Arnold, Augustus C. Baldwin, John D. Baldwin, Boutwell, Brandegee, James S. Brown, Chandler, Clay, Cole, Cox, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Eliot, English, Farnsworth, Finck, Ganson, Garfield, Grider, Hall, Harding, Charles M. Harris, Herrick, Higby, John H. Hubbard, Hulburd, Hutchins, William Johnson, Kalbfleisch, Kernan, Le Blond, Littlejohn, McDowell, McIndoe, McKinney, Samuel F. Miller, Noble, Norton, Odell, John O'Neill, Perham, Pomeroy, William H. Randall, Alexander H. Rice, James S. Rollins, Ross, Schenck, Sloan, Spaulding, John B. Steele, William B. Washburn, Whaley, Wheeler, and Joseph W. White—57.

NAYS—Messrs. Allison, Ancona, Ashley, Baily, Baxter, Beaman, Blow, Boyd, Broomall, William G. Brown, Dawson, Denison, Eldridge, Fenton, Frank, Grinnell, Hale, Hooper, Hotchkiss, Asahel W. Hubbard, Philip Johnson, Kelley, Francis W. Kellogg, Orlando Kellogg, King, Lazear, Loan, Long, Longyear, Marcy, McAllister, McBride, McClurg, Middleton, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Charles O'Neill, Orin, Patterson, Pendleton, Price, Samuel J. Randall, Edward H. Rollins, Ross, Scofield, Shannon, Smith, Smithers, William G. Steele, Stevens, Stiles, Strouse, Stuart, Upson, Webster, Williams, Wilder, Wilson, Windom, and Woodbridge—62.

So the motion to reconsider was not laid on the table.

The question recurred on the motion to reconsider, on which the yeas and nays had been ordered.

Mr. SPALDING. I move that there be a call of the House.

The SPEAKER. That motion is not in order while the House is acting under the operation of the previous question, unless upon an actual count the House is found without a quorum.

The question was taken on the motion to reconsider; and it was decided in the affirmative—yeas 67, nays 57; as follows:

YEAS—Messrs. Alley, Allison, Ames, Ancona, Anderson, Ashley, Baily, Baxter, Beaman, Blow, Boyd, Broomall, William G. Brown, Dawson, Denison, Eldridge, Fenton, Frank, Garfield, Grinnell, Hale, Hooper, Hotchkiss, Asahel W. Hubbard, Philip Johnson, Kelley, Francis W. Kellogg, Orlando Kellogg, King, Lazear, Loan, Long, Longyear, Marcy, Marvin, McAllister, McBride, McClurg, Middleton, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Charles O'Neill, John O'Neill, Orin, Patterson, Pendleton, Price, Samuel J. Randall, Edward H. Rollins, Ross, Scofield, Shannon, Smith, Smithers, William G. Steele, Stevens, Stiles, Strouse, Stuart, Upson, Webster, Williams, Wilder, Windom, and Woodbridge—67.

NAYS—Messrs. Arnold, John D. Baldwin, Boutwell, Brandegee, James S. Brown, Chandler, Clay, Cole, Cox, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Eliot, English, Farnsworth, Finck, Ganson, Gooch, Grider, Hall, Harding, Higby, John H. Hubbard, Hulburd, Hutchins, William Johnson, Kalbfleisch, Kernan, Le Blond, McDowell, McIndoe, McKinney, Samuel F. Miller, Noble, Norton, Odell, Perham, Perry, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, James S. Rollins, Ross, Schenck, Scott, Sloan, Spaulding, John B. Steele, William B. Washburn, Whaley, Wheeler, Joseph W. White, and Wilson—57.

Mr. LE BLOND. I now move to reconsider the vote by which the main question was ordered, for the purpose of submitting the amendment submitted by my colleague [Mr. Cox] in committee.

The SPEAKER. The motion of the gentleman will be in order if the motion to lay the bill on the table shall be determined in the negative.

Mr. SPALDING. I will withdraw the motion to lay the bill on the table, if there be no objection.

There being no objection, the motion to lay on the table was withdrawn.

Mr. LE BLOND. I now move to reconsider the vote by which the main question was ordered.

Mr. ANCONA demanded tellers on the motion.

Tellers were not ordered.

The motion to reconsider was agreed to—yeas 62, nays 53; and the question recurred on ordering the main question.

The main question was not ordered.

Mr. LE BLOND. I now move to amend by submitting the following as an additional section:

That to defray the expenses incurred in raising, equipping, transporting, and paying minute men, militia, and volunteers called out and in the actual service of the United States, whether regularly mustered into the service of the United States or not, in repelling rebel raids and invasions of the States of Pennsylvania, Maryland, and the other loyal States and Territories, the sum of \$15,000,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated, such expenses to be settled upon vouchers to be filed with the proper officers of the Treasury and passed upon by the Second Auditor.

Mr. SCHENCK. I move to commit the bill to the Committee on Military Affairs.

Mr. STEVENS. It has never been before that committee.

Mr. SCHENCK. These claims of all the other States were referred to that committee except Pennsylvania, which by some means got before the Committee of Ways and Means. I now demand the previous question.

The previous question was seconded, and the main question ordered to be put.

Mr. SPALDING demanded the yeas and nays on the motion to commit.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 54, nays 80; as follows:

YEAS—Messrs. William J. Allen, Alley, Ames, Arnold, Ashley, Augustus C. Baldwin, John D. Baldwin, Boutwell, Brandegee, James S. Brown, Cole, Henry Winter Davis, Dawes, Thomas T. Davis, Deming, Dixon, Eldridge, Eliot, English, Farnsworth, Ganson, Garfield, Gooch, Charles M. Harris, Herrick, Higby, John H. Hubbard, Hulburd, Hutchins, William Johnson, Julian, Kalbfleisch, Kasson, Orlando Kellogg, Kernan, Littlejohn, McIndoe, Samuel F. Miller, Daniel Morris, Noble, Norton, Odell, Perham, Pomeroy, Radford, Alexander H. Rice, John H. Rice, Schenck, Sloan, Spaulding, John B. Steele, Ward, William B. Washburn, and Wheeler—54.

NAYS—Messrs. Allison, Ancona, Anderson, Baily, Baxter, Beaman, Blow, Boyd, Broomall, William G. Brown, Chandler, Clay, Cox, Cravens, Dawson, Denison, Eden, Fenton, Finck, Frank, Grider, Hale, Hall, Harding, Hooper, Hotchkiss, Asahel W. Hubbard, Philip Johnson, Kelley, Francis W. Kellogg, King, Lazear, Loan, Long, Longyear, Marcy, Marvin, McAllister, McBride, McClurg, McDowell, McKinney, Middleton, Moorhead, Morrill, Charles R. Morris, Morrison, Amos Myers, Leonard Myers, James O'Neill, John O'Neill, Orin, Patterson, Pendleton, Price, Samuel J. Randall, Robinson, Edward H. Rollins, James S. Rollins, Ross, Scofield, Scott, Shannon, Smith, Smithers, William G. Steele, Stevens, Stiles, Strouse, Stuart, Upson, Webster, Whaley, Joseph W. White, Williams, Wilder, Wilson, Windom, and Yeaman—80.

So the bill was not referred to the Committee on Military Affairs.

The question then recurred on the amendments of the Committee of the Whole on the state of the Union, and they were concurred in.

The question recurring on Mr. LE BLOND's amendment, the House divided, and there were—yeas seventy-six, nays not counted.

So the amendment was agreed to.

Mr. COX moved to reconsider the vote by which the amendment was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

The question then recurred on ordering the bill to be engrossed and read a third time.

Mr. MORRILL. Does this bill appropriate \$15,000,000? And is it in order for me, Mr. Speaker, to move that its further consideration shall be postponed until the first Monday of December next?

The SPEAKER. That motion is not now in order.

Mr. DAVIS, of Maryland. Is it in order to move that the bill be laid upon the table?

The SPEAKER. It is.

Mr. MORRILL. Then I make that motion.

The House divided; and there were—yeas 52, nays 76.

Mr. MORRILL demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 59, nays 78; as follows:

YEAS—Messrs. Alley, Allison, Ames, Arnold, Ashley, Augustus C. Baldwin, John D. Baldwin, Beaman, Boutwell, Brandegee, James S. Brown, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Eliot, Farnsworth, Fenton, Ganson, Garfield, Gooch, Grinnell, Herrick, Higby, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, William Johnson, Julian, Kalbfleisch, Kasson, Orlando Kellogg, Kernan, Littlejohn, Marvin, McIndoe, Samuel F. Miller, Morrill, Daniel Morris, Norton, Odell, Orin, Patterson, Perham, Pomeroy, Radford, Alexander H. Rice, John H. Rice, Schenck, Shannon, Sloan, Smithers, Spaulding, John B. Steele, William B. Washburn, and Wilson—59.

NAYS—Messrs. William J. Allen, Ancona, Anderson,

Baily, Baxter, Jacob B. Blair, Blow, Boyd, Broomall, William G. Brown, Chandler, Clay, Cox, Cravens, Dawson, Denison, Eldridge, English, Finck, Frank, Grider, Hale, Hall, Harding, Benjamin G. Harris, Charles M. Harris, Hooper, Hutchins, Philip Johnson, Kelley, Francis W. Kellogg, King, Knapp, Lazear, Le Blond, Loan, Long, Longyear, Marcy, McAllister, McBride, McClurg, McDowell, McKinney, Middleton, Moorhead, James R. Morris, Morrison, Amos Myers, Leonard Myers, Noble, Charles O'Neill, John O'Neill, Pendleton, Perry, Price, Samuel J. Randall, William H. Randall, Robinson, James S. Rollins, Ross, Scofield, Scott, Smith, William G. Steele, Stevens, Stiles, Strouse, Stuart, Upson, Webster, Whaley, Joseph W. White, Williams, Wilder, Windom, Woodbridge, and Yeaman—78.

So the House refused to lay the bill upon the table.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. STEVENS demanded the previous question on the passage of the bill.

Mr. MORRILL. If the previous question be not seconded, will it not be in order to move that the further consideration of the bill be postponed until the next session of Congress?

The SPEAKER. It will.

Mr. MORRILL. Then I hope that it will not be seconded.

The House divided; and there were—yeas 67, nays 50.

So the previous question was seconded.

The main question was then ordered.

Mr. MORRILL demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 71, nays 63; as follows:

YEAS—Messrs. William J. Allen, Ancona, Anderson, Baily, Baxter, Jacob B. Blair, Blow, Boyd, Broomall, William G. Brown, Chandler, Clay, Cox, Dawson, Denison, Eden, Eldridge, Finck, Grider, Hale, Hall, Harding, Charles M. Harris, Hooper, Hutchins, Philip Johnson, Kelley, Francis W. Kellogg, King, Knapp, Lazear, Le Blond, Loan, Long, Marcy, McAllister, McClurg, McDowell, McKinney, Middleton, Moorhead, James R. Morris, Morrison, Amos Myers, Leonard Myers, Noble, Charles O'Neill, John O'Neill, Pendleton, Perry, Price, Samuel J. Randall, William H. Randall, Robinson, James S. Rollins, Ross, Scofield, Scott, Smith, William G. Steele, Stevens, Stiles, Strouse, Stuart, Webster, Whaley, Joseph W. White, Williams, Wilder, Windom, and Yeaman—71.

NAYS—Messrs. Alley, Allison, Ames, Arnold, Ashley, Augustus C. Baldwin, John D. Baldwin, Beaman, Boutwell, Brandegee, James S. Brown, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Eliot, Fenton, Frank, Ganson, Garfield, Gooch, Grinnell, Herrick, Higby, Hotchkiss, John H. Hubbard, Hulburd, William Johnson, Julian, Kalbfleisch, Kasson, Orlando Kellogg, Kernan, Littlejohn, Longyear, Marvin, McBride, McIndoe, Samuel F. Miller, Morrill, Daniel Morris, Norton, Odell, Orin, Perham, Pomeroy, Radford, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Shannon, Sloan, Smithers, Spaulding, John B. Steele, Upson, Ward, William B. Washburn, Wilson, and Woodbridge—63.

So the bill was passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### EVENING SESSIONS.

Mr. MORRILL. I move that evening sessions of the House be dispensed with until otherwise ordered, and that the House adjourn at such hour as it shall see fit.

Mr. COX. I hope that will be done.

Mr. WILSON. I hope that the evening sessions will be continued for business until the committees have been gone through with.

Mr. MORRILL. We will find it impossible to get a quorum to do business, and I understand no one desires to speak.

Mr. WILSON. Many of the committees have not been called for a long time, and they have business prepared which they desire to report to the House.

The SPEAKER. The Chair would state that the only way in which that object can be attained is to have evening sessions for business, as there are now several reports pending in the morning hour which must be disposed of before other committees can be called.

Mr. WILSON. Then I hope we shall have evening sessions for business.

Mr. COX. I hope the House will dispense with the evening sessions unless there is some long debate on hand. We are laboring much harder than any preceding Congress has done, and I see no necessity for taxing the members of the House to the extent we are doing now. Not only are our labors here severe, but we have much

to attend to at the Departments and all around the city, and we ought at least to have some of the evenings of the week, if not all of them, to ourselves.

Mr. STEVENS. If the motion of my colleague should prevail, could a majority afterwards resume evening sessions?

The SPEAKER. A majority of the House would have power to do so.

Mr. WILSON. My motion to amend is that we shall have evening sessions for business.

Mr. PRICE. I hope the amendment will prevail. I hope the House will remain in session until their business is done, and then adjourn. I call for the yeas and nays upon the amendment.

Mr. WILSON demanded tellers on the yeas and nays.

Tellers were ordered; and Mr. W. J. ALLEN and Mr. PRICE were appointed.

The House divided; and the tellers reported—yeas twenty-nine, noes not counted.

So the yeas and nays were ordered.

The question was put; and it was decided in the negative—yeas 55, nays 69; as follows:

YEAS—Messrs. Alley, Allison, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Blow, Boutwell, Boyd, Branderage, Broomall, William G. Brown, Cole, Dawson, Eliot, Finck, Garfield, Gooch, Grinnell, Hale, Charles M. Harris, Higby, Asahel W. Hubbard, Hulburd, Julian, Kasson, Kernan, King, Lazear, Littlejohn, Marvin, McAllister, McBride, McClurg, McDowell, Samuel F. Miller, Daniel Morris, Amos Myers, Ponderston, Perham, Pomeroy, Price, Scofield, Sloan, John B. Steele, William G. Steele, Stuart, William B. Washburn, Whaley, Wilder, Wilson, Windom, Woodbridge, and Yeaman—55.

NAYS—Messrs. William J. Allen, Ancona, Anderson, Baily, Beaman, Jacob B. Blair, Clay, Cox, Creswell, Dawes, Deming, Denison, Eden, Eldridge, Feunton, Frank, Gauson, Grider, Harding, Benjamin G. Harris, Herriek, Hooper, Hotchkiss, John H. Hubbard, Hutchins, Philip Johnson, William Johnson, Francis W. Kellogg, Orlando Kellogg, Knapp, Le Blond, Loan, Long, Longyear, McKinney, Moorhead, Morrill, James R. Morris, Morrison, Leonard Myers, Noble, Norton, Charles O'Neill, John O'Neill, Patterson, Perry, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Robinson, Edward H. Rollins, Ross, Schenck, Scott, Shannon, Smith, Smithers, Spalding, Stevens, Stiles, Strouse, Upson, Ward, Webster, Wheeler, Joseph W. White, and Williams—69.

So the amendment was not agreed to.

Mr. WILSON. I now move to amend the motion so that the evening sessions shall be dispensed with until Tuesday of next week, and that after that time the evening sessions shall be for the transaction of business.

The amendment was not agreed to.

The motion of Mr. MORRILL was agreed to.

So the evening sessions were dispensed with until otherwise ordered.

#### MASSACRE AT FORT PILLOW.

Mr. GOOCH, from the joint committee on the conduct of the war, made a report concerning the late massacre at Fort Pillow; which was laid on the table, and, with the accompanying testimony, ordered to be printed.

Mr. GOOCH introduced the following resolution; which, under the rules, was referred to the Committee on Printing:

*Resolved*, That forty thousand copies of the report of the joint committee on the conduct of the war, with the accompanying testimony in relation to the late massacre at Fort Pillow, be printed for the use of the members of this House.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, informed the House that the Senate had passed a bill (S. No. 267) entitled "An act to amend an act entitled 'An act to enable the people of Nevada to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States;'" in which the concurrence of the House was requested.

#### EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting, in compliance with a resolution of the House of March 14, 1864, the proceedings of the court-martial in the case of Captain Hunt, assistant quartermaster, in relation to the chartering of vessels, &c.; which was laid on the table, and ordered to be printed.

#### MISSOURI CONTESTED-ELECTION CASE.

Mr. GANSON. I desire to give notice to the House that I shall call up the contested-election

case of Bruce vs. Loan to-morrow morning immediately after the reading of the Journal.

Mr. KING. I ask leave to make a report from the Judiciary Committee.

Mr. BEAMAN objected.

#### CAPTAIN HUNT.

Mr. MORRILL. I rise to a question of privilege. I do not understand that any regular vote of the House was taken upon printing the document laid before the House by the Speaker in reference to Captain Hunt. I would like to know whether there is any necessity for printing so large a document of that kind?

Mr. MORRIS, of Ohio. I should like to see it in print.

Mr. MORRILL. Do you think anybody else does?

Mr. MORRIS, of Ohio. I do.

Mr. MORRILL. I move to reconsider the vote by which the papers were ordered to be printed, with a view of having the matter referred to the Committee on Printing.

The motion was agreed to.

The question recurring on the motion to print, it was put, and decided in the negative.

Mr. MORRILL. I move that the matter be referred to the Committee on Printing.

The motion was agreed to.

And then, on motion of Mr. SCHENCK, (at half past four o'clock, p. m.,) the House adjourned.

#### IN SENATE.

FRIDAY, May 6, 1864.

Prayer by Rev. E. H. GRAY.

The Journal of yesterday was read and approved.

#### ORDER OF BUSINESS.

Mr. COWAN. I move to postpone all prior orders and proceed to the consideration of Senate bill No. 162.

The PRESIDENT *pro tempore*. The Chair will suggest that the rule had better be followed in receiving petitions and reports. The rule requires them first to be received.

Mr. COWAN. Very well.

#### PETITIONS AND MEMORIALS.

\* Mr. FOSTER presented a memorial of J. S. and C. Adams, and other citizens of Amherst, Massachusetts, remonstrating against the extension of the Goodyear patent for the manufacture of vulcanized India rubber; which was referred to the Committee on Patents and the Patent Office.

He also presented a memorial of D. W. Huntington and others, citizens of Coventry, Connecticut, remonstrating against the extension of the Goodyear patent for the manufacture of vulcanized India rubber; which was referred to the Committee on Patents and the Patent Office.

Mr. POMEROY presented the petition of John Beeson, praying for the appointment of a special committee to examine into the treatment of the Indians generally, and of the Sioux Indians in particular; which was referred to the Committee on Indian Affairs.

Mr. HOWE presented a petition of citizens of Illinois, praying for the establishment of a Bureau of Freedmen; which was referred to the select committee on slavery and freedmen.

#### REPORTS FROM COMMITTEES.

Mr. FOOT, from the Committee on Pensions, to whom was referred the bill (S. No. 199) relating to the compensation of pension agents, reported it with an amendment.

Mr. BUCKALEW, from the Committee on Pensions, to whom were referred the following bills, reported them severally adversely:

A bill (S. No. 2) granting a pension to Ellen M. Whipple, widow of the late Major General Amiel W. Whipple, of the United States Army;

A bill (S. No. 44) granting a pension to the widow of the late Major General Hiram G. Berry; and

A bill (S. No. 122) for the relief of Mary A. Baker, widow of Brigadier General Edward D. Baker.

#### BILL INTRODUCED.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 268) for increased facilities of telegraphic communication between the Atlantic and Pacific States and the Territory of Idaho; which was

read twice by its title; referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a bill (No. 117) to reimburse the State of Pennsylvania for expenses in calling out the militia of said State during the recent invasion; in which it requested the concurrence of the Senate.

#### BILLS BECOME LAWS.

The message further announced that the President of the United States had yesterday approved and signed the following acts:

An act (H. R. No. 220) to vacate and sell the present Indian reservations in Utah Territory, and to settle the Indians of said Territory in the Uinta valley;

An act (H. R. No. 360) for the prevention and punishment of frauds in relation to the names of vessels; and

An act (H. R. No. 371) for the relief of the settlers upon certain lands in California.

#### FINAL PATENT FEE.

Mr. DIXON. I move that all prior orders be postponed for the purpose of taking up Senate bill No. 114.

Mr. COWAN. I hope the gentleman will allow me to take up two or three little bills from the Committee on Patents and the Patent Office. I have been endeavoring to obtain the floor for some time in order to call them up. They are of some importance, but will only require a few minutes to pass them.

Mr. DIXON. I yield.

Mr. COWAN. I now move to postpone all prior orders, and take up Senate bill No. 162.

The motion was agreed to; and the bill (S. No. 162) amendatory of an act to amend an act entitled "An act to promote the progress of the useful arts," approved March 3, 1863, was read the second time, and considered as in Committee of the Whole. It provides that any person having an interest in an invention, whether as the inventor or assignee, for which a patent was ordered to issue upon the payment of the final fee, as provided in section three of an act approved March 3, 1863, but who has failed to make payment of the final fee as provided by that act, shall have the right to make the payment of such fee, and receive the patent withheld on account of the non-payment of the fee, provided such payment be made within six months from the date of the passage of this act; but nothing herein contained is to be so construed as to hold responsible in damages any persons who have manufactured or used any article or thing for which a patent was ordered to be issued.

The bill was reported to the Senate without amendment.

Mr. TRUMBULL. This is a species of partial legislation which, unless there be some reason given for it, I am opposed to. The law now provides the mode of obtaining a patent, and requires the fee to be paid within a certain time. If the time limited by the law is not the right one, extend it, and let it be done by a general law; but here is a special provision to allow somebody to obtain a patent who has not complied with the law. It is of a temporary character. It simply proposes to allow a person to come in within six months after the passage of this act. It only applies to persons who have not paid this fee heretofore. If there is a necessity for such a law as this, make it general, and provide that in all cases everybody shall have sixty days after the time now limited by law within which to pay his fee. It is based upon some case, manifestly, as will be seen by an inspection of the bill. Somebody has not complied with the requirements of the law and wants to obtain a patent, and provision is made here that he may within sixty days after the passage of this act comply with the law and get his patent. If one person is to obtain an extension of sixty days after the passage of this act, why should not everybody else have sixty days beyond the time to which the law is limited within which to pay the fees requisite to obtain a patent? This is a species of legislation which, unless there are some peculiar circumstances to justify it, ought not to be indulged in.



Mr. COWAN. I think the honorable Senator is utterly and entirely mistaken as to the character of this legislation. This is not special legislation but general legislation in every sense of the term; it is applicable to everybody. In the first place, on the 3d of March, 1863, an act was passed which required persons to whom patents had been ordered or decreed upon the payment of a final balance fee, to pay it within six months or the order would not be executed. When that became a law, of course a great many of these fees were in arrear and a great many people say they knew nothing about it, or had overlooked the passage of the law, and they let the six months go by. There are a great many of them. The Commissioner now desires, in order to secure the payment of that balance fee, and allow everybody, all on the same terms, to come in and pay it, that we extend the time six months longer. What objection can there be to that? None in the world that I have ever heard suggested. It is not made for the benefit of one man or for any particular number of men, but for all persons who overlooked the passage of the act of March 3, 1863, and did not pay the final balance fee. They are allowed six months longer to come in and pay it, and by that means a very considerable amount of revenue will be procured for the Patent Office. That is all there is of the bill.

Mr. TRUMBULL. I should like to inquire of the Senator from Pennsylvania who has the matter in charge what the law was before the passage of this act of March, 1863; whether they had more than six months before that time.

Mr. COWAN. There was no limit. They would very frequently have an order issued allowing them a patent and then let it lie for years. In that way a large number of them had accumulated. Then the Commissioner suggested the passage of the act of March 3, 1863, in order to compel them to come up and take out patents and pay the final balance fee. Large numbers of them did so, but there are still a very considerable number, perhaps a hundred or more, who neglected to do so. This bill is to provide a remedy for their cases. The patents have been decreed and ordered, but have not been taken up on account of this failure to pay the final balance fee.

Mr. TRUMBULL. I have no objection to the bill if that is the object of it.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

#### BILLS BECOME LAWS.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that the President had yesterday approved and signed the following acts:

An act (S. No. 31) making a grant of lands to the State of Minnesota to aid in the construction of the railroad from St. Paul to Lake Superior;

An act (S. No. 126) to amend "An act to incorporate the inhabitants of the city of Washington," passed May 15, 1820; and

An act (S. No. 160) granting lands to aid in the construction of certain railroads in the State of Wisconsin.

#### REGISTRATION OF VOTERS.

Mr. DIXON. I now move to take up Senate bill No. 114.

Mr. COWAN. There are one or two other little bills in my charge that will not take a moment, and I should like to dispose of them.

Mr. DIXON. I trust the Senator will not insist upon it. The bill I propose to take up is of very great importance, and if passed at all it should be passed immediately, because it is proposed to affect the election in this city, which takes place on the first Monday of June.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 114) to amend section five of an act entitled "An act to continue, alter, and amend the charter of the city of Washington," approved May 17, 1848, and further to preserve the purity of elections and guard against the abuse of the elective franchise, by a registration of electors for the city of Washington, in the District of Columbia.

Mr. DIXON. I propose an amendment to come in as a new section after section twenty-one of the bill:

And be it further enacted, That if the board of registration, or any one or more of them, shall refuse or neglect

from any cause to perform the duties herein required of them, or be incapable of performing the same at the time herein specified, the supreme court of the District of Columbia, or either of the judges thereof, upon being informed of the fact by any citizen of the said city of Washington, and satisfactory proof thereof being made, shall forthwith appoint proper persons to supply the places of those so refusing to act, or incapable of acting, on said board, and the persons so appointed shall immediately thereafter proceed to do all the acts and things required of said board, and the acts and things so done by them, completed at any period prior to the day of election, shall be in all respects valid and operative as if done and performed by said board of registration.

The amendment was agreed to.

Mr. COWAN. I move to amend the bill in the third line of the first section by inserting the word "white" before the word "male," so as to confine the right of voting in Washington to white male citizens.

Mr. SUMNER. I hope not.

Mr. COWAN. Mr. President, the bill as it now stands would confer upon male citizens, whether white or black, the right to vote in this District. It is proposed in the amendment I have just offered to limit the suffrage to the whites, as it has been heretofore, and I will state very briefly my reasons for opposing the change contemplated.

In the first place, I think this a most inopportune time to make any change, especially as it seems to be opposed by the people of the District almost universally. But apart from their wishes, I think the innovation will be found of no benefit to any and may be disastrous to the whole. Our form of government, extending the right of suffrage to all free white males above the age of twenty-one years, has always been considered but an experiment with the danger of failure supposed to lie in that provision. If we could continue to sustain ourselves with political power equally distributed among the people upon so wide a basis as that, the wisest men everywhere would be satisfied; but they have feared for it a long while. Still no positive trouble happened until the present rebellion, which presents the ordeal we have to pass in order to test our ability to make good our present position.

If we can succeed in restoring the Union and the supremacy of the Federal Government, the elective franchise will most likely remain as it is; if we fail, no one can doubt but that in the anarchy and confusion sure to follow, the power in the State will come to be lodged in fewer hands, and our boasted universal suffrage will be lost.

I know it is not generally thought that this question is involved in the struggle now going on between the North and the South, and yet such is the fact, because it is well known the leaders of the confederacy wished for a separation, knowing as they did that the popular institutions of the North would soon be too strong to brook any resistance, and that all must be subject to the overwhelming power of the people. It is also now pretty clearly shown that they further intended, in case they secured their independence, to restrain the right of suffrage enough to stifle the voice of the masses of their own people. Now, to put them down is to prove the principle now prevailing is sound and effectual to save the nation; to fail, however, is equally to prove it unsound, and in the latter case it most likely would be abandoned to a great extent. This is the problem now in process of solution.

The great battle now perhaps at this moment taking place on the banks of the Rapidan, may settle this question either for or against us. Is it then, in an hour fraught with such momentous results that we ought to engage ourselves in making a fundamental alteration like this in the structure of any part of our social fabric? Would it not be wiser to await the issue of the conflict which now reaches a crisis, in order that we may see whether or not we can sustain the present frame of things, rather than adventure ourselves upon an uncalled-for innovation, and one which even its advocates cannot argue would be more than tolerable?

It may be said that at present large numbers of white men vote who are no better qualified than negroes. I admit it is so, but if the surplus intelligence and virtue of the whole has been sufficient to neutralize the effect of the vicious element heretofore, are we sure that it will suffice if we impose upon it the burden of a new element equally dangerous? If we can indulge thousands of white

men for the sake of a uniform rule in a privilege which they abuse, surely that is no argument why we should indulge a like number of negroes in the same.

Sir, I know there are persons who think that all people have an inherent, natural, and indefeasible right to the elective franchise, but no greater mistake ever was committed. The proposition is not true in theory, and not possible in practice. The right to choose a ruler is precisely like the right to rule. Nobody has a right to do either the one or the other unless the community, State, or nation to be ruled chooses to confer it upon him. But no people ever conferred this power to choose upon everybody. On the other hand it has always been given to certain individuals exactly designated and chosen, to the exclusion of all others. In the United States all the females and all the males under twenty-one years of age are denied the right. Next, all aliens not naturalized, all Indians, and nearly all the negroes, leaving the males over twenty-one not more than one in five to exercise it. So that it is seen even here, where the right of suffrage is more nearly universal than anywhere else, it is confined to a comparatively small class of the citizens, and it turns out to be a delegated instead of a natural right, and is purely conventional.

It is proposed in this bill to alter this convention by a new one which would confer this upon male negroes over the age of twenty-one years. Now, it must be evident that this is a mere freak of habit, and that it has no support in reason, because if the franchise was not wide enough already why not open it to white women? Nobody can pretend but they would be safer than semi-barbarous and uneducated negroes, many of whom have just emerged from slavery. And yet no reformer here has ventured to propose anything of the kind, nor has anybody proposed to make minors, between the ages of eighteen and twenty-one, the repositories of this power; and yet who would not rather trust them than negroes in the use of it?

It may be said, however, that the negro performs military service, and that because he fights the battles of the country he ought to share in the choice of its rulers; but this is utterly fallacious, and it might as well be said that every voter was qualified to be a soldier, as that every soldier would make a good voter, when everybody knows that there are very many respectable voters who would not do credit to the country on the field of battle, and that there are many good soldiers who would be worse than useless at elections. The truth is there is no necessary connection between the two kinds of qualifications necessary to the elector and soldier. They may exist together in the same person, but it happens in too many cases that they do not to make it worth anything as a rule. Hence, our young men are required to be soldiers long before they are allowed to be electors, and I think no State in the Union has ever proposed or enacted that all her soldiers in camp should vote, but only those who would have been so entitled had they remained at home, showing clearly thereby that it was not done on the ground that they were soldiers, but that they were already electors.

One word more. I think the soldier on the battle-field is of all others the person most interested that this privilege should remain just as it was when he went forth with his life in his hand to defend it. It will be remembered that it is a fundamental institution of his country—the one upon which its whole governmental structure is based, and the one which it is incumbent upon us to protect most sacredly. To enlarge it is not only to confer rights but also to give away privileges; and he might well complain if in his absence on his perilous mission we introduced such an organic change as this bill contemplates, and bestowed his darling prerogative on negroes. How would we answer his inquiry as to what special quality we found in the African race that would warrant us in making such a gift? Could we satisfy him of their intelligence, of their independence, of their virtue? Could we convince him that these negroes were competent judges of the "truest and capable" men in the community who were proper to be its rulers, when he himself had been so often at fault in trying it?

I think, sir, the true friend of the soldier, white or black, is he who watches over and preserves

the institutions of his country while he is gone, and that it will be time enough when he comes back victorious to make such alterations as may be thought safe in a matter so vital as this one is.

I think, too, that no friend of the negro ought to desire for him the right of suffrage in this country. Of what advantage will it be to him to be thrown into the arena of politics? How will he acquit himself in the strife, in competition with his powerful, cunning, and unscrupulous neighbors? Will he achieve anything for himself, or will he be the dupe of the demagogue and the tool of a faction?

These, sir, are questions which experience will conclusively answer. The gift, if effectual at all, will be found fatal to him who receives it, as well as to the giver. This brings me to another and final objection, which is, that political power ought never to be conferred upon any class of a community when that class was separated from the great bulk of the people by marked difference of race, color, capacity, and condition; because if this class be superior in all these respects, it will constantly usurp and finally become tyrannical and despotic. If on the other hand it is inferior, its privilege provokes antagonism which it is powerless to resist, obliging it in self-defense to manifest itself in a way fatal to its own constitution. It must vote as a class, sell itself out to one or the other of the parties of the dominant race, and purchase favor at the expense of its independence. The strife engendered between parties on account of class voting has been always considered dangerous; and we all remember that but a few years ago a powerful party was formed in this country which charged this offense upon foreigners, and especially those of them who belonged to a particular religious faith, so it was well-nigh adding to the every-day political dissensions the bitterness of religious animosity. I think, therefore, that no man can doubt that if negroes were allowed to vote at all that they would all vote together on the same side.

Mr. SUMNER. I would remind the Senator that in Boston, where we have a practical experience on this subject, the colored voters have divided at the polls.

Mr. COWAN. Mr. President, I think the remark made by the Senator from Massachusetts furnishes the key to all the errors which he and those who think with him fall into on this subject. It is supposed that because in a community like that of Boston, where there are very few negroes, and where it is strong enough and healthy enough not to feel any mischief to result from their voting, that therefore the experiment is conclusive, and that it would be safe to allow them the same privileges in other places where they form a considerable part of the population, and where they would be felt.

Mr. SUMNER. The Senator misunderstood me. The point I made was that the colored people in Boston actually divided at the polls. I understood the Senator to assert that colored people, wherever they were, would act together as a unit.

Mr. COWAN. I understood the Senator. Why is it that they divide in Boston? It is because, as I said before, their weight is not appreciable; they could not achieve anything there by any combination they could make; and I suppose, besides, there is no antagonism between them and the people of Boston on account of the paucity of their numbers.

But if their number had been considerable enough to hold the balance of power between two angry factions of white voters, I think they would not have been allowed to enjoy the privilege long. In Pennsylvania, when there was hardly more than one or two in each election district they were suffered to vote even illegally for a long time, but when their numbers began to swell with the accession of fugitives from the border States and with those whom their masters had emancipated to come there, their right was challenged and cut off immediately. A State convention to amend the constitution afterwards expressly confined the franchise to the whites, and public sentiment has been unanimous enough to withdraw the subject from any agitation ever since.

There is a further reason why I suppose there is no difficulty experienced in Massachusetts in regard to negro voting; that is that there all electors must be able to read, which would still fur-

ther limit the mischief. In this bill, however, there is no such limitation, and it would allow a numerous class here to vote which even the few in Massachusetts would not be allowed to do if in their condition.

Mr. President, I hope the amendment will prevail, and that whatever we may do at another time we will not now introduce an untried and doubtful alteration in the laws of this District. Let us bide our time, and if the foremost races can succeed with a general distribution of political power among these masses, we will then be able, perhaps, more judiciously to admit the inferior to a participation of that privilege which, if bestowed now, would benefit no one and might injure us all.

Mr. DOOLITTLE. I move to postpone all prior orders for the purpose of taking up one or two Indian bills which must be called up for action. The bill now before the Senate is likely to lead to interminable debate; and with the consent of the chairman of the Committee on Finance I propose to take up some Indian bills this morning. He has no objection to disposing of them this morning. It is very necessary to take them up. I move first to take up bill No. 226.

Mr. DIXON. I hope that will not be done. I have already stated that it is important that this bill should be acted upon now, if at all, as it is expected to go into operation before the coming election. If the Senator insists on his motion, I must ask for the yeas and nays.

Mr. DOOLITTLE. There is no such necessity for acting on this bill now as there is for acting on the Indian bills to which I have referred.

The PRESIDENT *pro tempore*. The question is on the motion to postpone.

Mr. DIXON. I ask for the yeas and nays. The yeas and nays were ordered.

Mr. WILLEY. I trust that this measure will be postponed. This amendment will evidently lead to considerable debate. If no other Senator shall do so, I propose to submit some remarks on it myself. I did not understand that the bill was coming up this morning, and I hope it will be postponed.

The yeas and nays being taken on Mr. DOOLITTLE's motion, resulted—yeas 14, nays 21; as follows:

YEAS—Messrs. Carlile, Davis, Doolittle, Foot, Harris, Henderson, Howe, Johnson, Lane of Kansas, Riddle, Sherman, Trumbull, Van Winkle, and Willey—14.

NAYS—Messrs. Anthony, Chandler, Clark, Collamer, Conness, Cowan, Dixon, Foster, Grimes, Howard, Lane of Indiana, Morgan, Pomeroy, Powell, Ramsey, Richardson, Sprague, Sumner, Ten Eyck, Wilkinson, and Wilson—21.

ABSENT—Messrs. Brown, Buckalew, Fessenden, Hale, Harding, Harlan, Hendricks, Hicks, McDougall, Morrill, Nesmith, Saulsbury, Wade, and Wright.

So the motion to postpone was not agreed to.

The PRESIDENT *pro tempore*. The question is on the amendment submitted by the Senator from Pennsylvania.

Mr. SUMNER. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. LANE, of Kansas. I should like to have the amendment reported.

The PRESIDENT *pro tempore*. It will be again read.

The amendment was again read; in section one, line three, before the word "male" to insert the word "white," so as to read, "that every white male citizen of the United States," &c.

Mr. WILLEY. Mr. President, if Senators will take the trouble to examine this bill and compare it with the law as it already exists, they will find that the principal effect and the evident intent of this bill is simply to extend the right of suffrage to persons of color. That is evidently the intent and the design of the bill. Apart from that effect, it will have very little effect and will confer very few privileges, and make very few revelations which are not already incorporated in the law of this District. At first, it may seem that this is a matter of very little importance; but in the moral influence of the principle which will be established if this bill passes with this amendment, I fear that the country will realize not only disastrous results in the District of Columbia, but that its influence will be felt throughout the length and breadth of this land. And, sir, while it seems to me it ought to be and I trust is the desire of every true friend of his country to allay excitement, I regret to say it, and I say it with all possible respect to Senators, that it appears

to be our policy day after day to invoke the very storm-king to let loose upon us the tempest of disaffection and of disaster to this land.

Mr. President, what is to be accomplished by the introduction of this new policy into the history and into the legislation of this country? What is there that demands it at this particular crisis; and why should an effort of this kind be made at this hour, when the destinies not only of the negro race, but of the entire white race of this country are hanging in almost equal balances; and why should we introduce into the Senate a matter of legislation calculated to produce additional excitement in this tremendous hour of our country's fate, unless there be some essential principle involved of human rights or of fundamental policy in the Government?

Now, sir, let us look at this matter a moment in the light of sound, practical common sense. I imagine it will not be argued by any Senator here that we have not the political right to exclude persons of color from exercising the right of suffrage in this District or anywhere else where Congress has the authority to legislate on the subject. The right of suffrage, as I understand it, is not a natural right, or, to speak more correctly, it is not an original right. It does not necessarily belong to every member of the community alike. Every political community properly organized has the right to say who shall be or compose a portion of the political power or authority of the State. This right is not universal anywhere upon the face of the earth; it is not universal anywhere in the United States. However far it may have been extended in some of the States, there is no State in the Union which has not imposed limitations on this power and upon the exercise of this right of suffrage. Women have not the right of suffrage in any State. Minors have not the right of suffrage. Paupers are excluded from the exercise of the right of suffrage; and there are limitations more or less imposed upon the exercise of it everywhere and under all circumstances. I deem it unnecessary to detain the Senate by attempting to argue the question that it is not a natural and original right to which every person is alike entitled. There must be a rule, then, by which this matter is to be regulated, by which the exercise of it is to be governed; and in fixing this rule there are two fundamental considerations to be observed. One of them is, has the party that applies for this right, or to whom it is proposed to extend this right, an identity of interest with the political community into which he seeks to be introduced? Identification in interest and in feelings and in destiny is one of the fundamental rules that should be observed in regulating this great principle of republican institutions.

Another rule, and it is the most important rule, and one which ought never to be neglected, but always to be observed, and which in every well-regulated community is more or less observed, is this: intelligence, capacity to understand how to exercise this great duty; and inasmuch as this is one of the fundamental principles of republican government, inasmuch as there can be no secure republican institutions unless this foundation of free institutions is securely laid, it is by no means a matter of trivial importance, and it ought to be well considered before we vote upon a question of this character.

I believe it is a constitutional provision in the fundamental law of the State which the Senator from Connecticut represents that no person, either white or black, (he will correct me if I am wrong,) is entitled to exercise the right of suffrage unless he can read and write. Political communities in fixing the standard of suffrage, the rules which shall regulate the right of suffrage, have generally settled down on twenty-one years of age as the proper standard and the proper principle by which it is to be regulated. All history shows that that has carried this rule full far enough. Upon the whole, I suppose it is about the best rule which can be adopted. We must have some general rule on the subject that will operate against the interest and against the rights, perhaps, of some individuals in the community; but being under the necessity of fixing some general law and regulation in regard to the subject, twenty-one years of age for a man born in the community is perhaps the wisest rule that could be fixed, and all our experience and all history show that this rule

everywhere has been extended as far as expediency, to say nothing of right, would justify its being extended.

Now, sir, to show that we have a right to limit the exercise of this privilege, I may refer to the Constitution of the United States, which made it the duty of Congress to pass uniform naturalization laws.

The *PRESIDENT pro tempore*. The Chair must interrupt the Senator: the time has arrived for the consideration of the special order, and the Chair brings to the notice of the Senate the bill to establish a national currency.

Mr. DIXON. I move to postpone all prior orders for the purpose of going on with the consideration of this bill.

Mr. SHERMAN. On that question I shall have to call for the yeas and nays if the motion is pressed. We must proceed with some regularity with business, and I trust we shall go on with the special order.

The *PRESIDENT pro tempore*. It is moved by the Senator from Connecticut to postpone the consideration of the special order that the bill now before the Senate may be proceeded with.

The motion to postpone was not agreed to.

#### ADJOURNMENT TO MONDAY.

Mr. JOHNSON. I move that when the Senate adjourns to-day it be to meet on Monday next.

Mr. SHERMAN called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 15, nays 20; as follows:

YEAS—Messrs. Buckalew, Cowan, Davis, Doolittle, Hale, Harris, Henderson, Johnson, Pomeroy, Powell, Ramsey, Riddle, Sumner, Van Winkle, and Wilkinson—15.

NAYS—Messrs. Anthony, Chandler, Clark, Collamer, Conness, Dixon, Fessenden, Foot, Foster, Grimes, Howe, Lane of Indiana, Lane of Kansas, Morgan, Sherman, Sprague, Ten Eyck, Trumbull, Willey, and Wilson—20.

ABSENT—Messrs. Brown, Carlile, Harding, Harlan, Hendricks, Hicks, Howard, McDougall, Morrill, Nesmith, Richardson, Saulsbury, Wade, and Wright.

So the motion was not agreed to.

#### NATIONAL CURRENCY.

The Senate resumed the consideration of the bill (H. R. No. 395) to provide a national currency, secured by the pledge of United States bonds, and to provide for the circulation and redemption thereof, the pending question being on the following amendment submitted by the Senator from Massachusetts [Mr. SUMNER] as a substitute for the amendment made as in Committee of the Whole to the forty-first section of the bill:

And in lieu of all other taxes on the capital, circulation, deposits, shares, and other property, every association shall pay to the Treasurer of the United States, in the months of January and July, a duty of one per cent. each half year from and after the 1st day of January, 1864, upon the average amount of its notes in circulation, and a duty of one half of one per cent. each half year upon the average amount of its deposits, and a duty of one half of one per cent. each half year, as aforesaid, on the average amount of its capital stock beyond the amount invested in United States bonds; and in case of default in the payment thereof by any association, the duties aforesaid may be collected in the manner provided for the collection of United States duties of other corporations, or the Treasurer may reserve the amount of such duties out of the interest as it may become due on the bonds deposited with him by such defaulting association. And each association shall, within ten days from the 1st days of January and July of each year, make a return, under the oath of its president or cashier, to the Treasurer of the United States, in such form as he may prescribe, of the average amount of its notes in circulation, and of the average amount of its deposits, and of the average amount of its capital stock beyond the amount invested in United States bonds, for the six months next preceding the 1st days of January and July, as aforesaid; and in default of such return, and for each default thereof, each defaulting association shall forfeit and pay to the United States the sum of \$200, to be collected either out of the interest as it may become due to such association on the bonds deposited with the Treasurer, or, at his option, in the manner in which penalties are to be collected of other corporations under the laws of the United States; and in case of such default the amount of the duties to be paid by such association shall be assessed upon the amount of notes delivered to such association by the Comptroller of the Currency, and upon the highest amount of its deposits and capital stock, to be ascertained in such other manner as the Treasurer may deem best: *Provided*, That nothing in this act shall exempt the real estate of associations from either State, county, or municipal taxes to the same extent, according to its value, as other real estate is taxed: *Provided also*, That all taxes imposed by this or any future act on banking associations organized under national legislation shall be applied exclusively to the payment of the interest and principal of the national debt of the United States.

Mr. SHERMAN. I do not wish to continue the debate; but a letter was referred to yesterday by the Senator from Massachusetts and the Senator from Maine, and I request that the letter be read, and I ask the attention of the Senate to it.

It is from the Secretary of the Treasury on the point now before us. I send it to the Chair.

The Secretary read the letter, as follows:

TREASURY DEPARTMENT, May 2, 1864.

SIR: Nothing but my deep sense of the importance of sustaining by every possible means the public credit, upon which the sole dependence of the Government for means to suppress the insurrection must rest, would induce me to address you this letter upon a subject which has already received so much consideration.

The bill in relation to the national banking system now under debate is in the nature of an amendment to the act of last session. Though a complete bill in itself, it contains few provisions not substantially embraced in that act, among which that in relation to the measure and distribution of taxation may be regarded as perhaps the most important.

Under ordinary circumstances there might be no insuperable objection to leaving the property organized under the national banking law subject, as are almost all descriptions of property, to general taxation, State, national, and municipal. But in the present condition of the country, I respectfully submit that this particular description of property should be placed in the same category with imported goods before entry into general consumption, and be subjected to exclusive national taxation.

At the present moment, the duties on imports form the sole reliance of the Government for means to pay the interest on the public debt. If to these means the taxes to be paid by the national banks shall be added, a most important addition will be made to those resources. The mere fact that these taxes are made payable to the national Government, and so available for the payment of interest on the public debt and for the reduction of its principal, will greatly strengthen the public credit and facilitate the negotiations of the necessary loans at moderate rates of interest. I have no doubt that such a disposition of these taxes would be worth more to the Government during the present struggle in practical results than three times the actual value of the taxes themselves.

I do not at all suggest that this description of property should not be taxed as heavily as any other description. On the contrary, I think it only just that it should bear its full proportion of the public burdens. I am only anxious that the taxation upon it shall be made to contribute as largely as possible to the general welfare; and it is the conviction, deeply impressed on my mind, that it will contribute more when aggregated in one mass and made to tell upon the general public credit than when distributed between the nation and the States and numerous municipal corporations, that prompts me to address these views to you.

Under any plan of partition that may be adopted, the amounts of taxation distributable to the several States and municipalities will be comparatively small and unimportant, and it is quite possible that the total taxation of banking property for all purposes will be less than it will be if taxed exclusively for national purposes. The advantages of partition to States and municipalities will therefore be small, and the banks may not lose by it. The nation alone will be injured.

It will not be understood of course that the foregoing suggestions are intended to apply to real estate held by any banking association. That description of property must necessarily be held by titles under State laws, and should properly be subjected exclusively to State taxation, except in the event of a direct tax by Congress. The case is otherwise with the personal property and credits of the banking associations. These receive their organization from national law and for great national purposes, and may therefore with great propriety, and as I have endeavored to show, at the present time with great public advantage, be subjected to exclusive national taxation.

Very respectfully, yours, S. P. CHASE,  
Secretary of the Treasury.

HON. WILLIAM PITT FESSENDEN, Chairman of Committee on Finance, Senate Chamber.

Mr. SHERMAN. I do not wish to continue the discussion on this question, because I am very desirous to press a vote on the bill at as early a day as possible; I will merely make this remark, that the proposition of the Senator from Massachusetts shows that the friends of exclusive national taxation do not wish to relieve these banks from their fair share of taxes. The tax imposed by the amendment of the Senator from Massachusetts is greater in amount than the amount proposed by the Committee on Finance. The tax that will be yielded under this pending proposition is considerably larger than the entire tax that will be yielded under the amendment of the Committee on Finance, including all State, municipal, and corporation taxes. The rate proposed by the Senator from Massachusetts is two per cent. on circulation, one per cent. on deposits, two per cent. on capital in excess of circulation, which is equivalent to not less than three per cent. on circulation. This is a very large tax—greater, far greater, in my judgment, than the tax imposed by the Committee on Finance. The tax proposed by the Committee on Finance is one per cent. on circulation and one half of one per cent. on deposits, and then it reserves the stock of the shareholders for State and municipal purposes. My statement is correct that the amount proposed by the Senator from Massachusetts is greater in the aggregate than that proposed by the Committee on Finance. The only question

in my mind is whether it is not better to levy all the taxation that may be imposed on these banks by the national Government exclusively; and therefore I come back to the argument I submitted before, that to secure uniformity of taxation, uniformity of burdens, and certainty, so as to secure the amount of the tax beyond a doubt, I think it better to leave all the taxation to national authority. For this reason I shall vote for the amendment of the Senator from Massachusetts; but if that shall fail, I trust that the friends of the bill may take the amendment of the Committee on Finance and let us proceed to close the consideration of the bill at as early an hour as possible, and I hope it will be during the day. If the Senate will bear with me and adhere to the subject, I shall press a vote, hoping to close the matter to-day.

Mr. SUMNER. I call for the yeas and nays on the amendment offered by me.

The yeas and nays were ordered.

Mr. POWELL. Is it in order now to amend the amendment of the Senator from Massachusetts?

The *PRESIDENT pro tempore*. That is an amendment to an amendment, and a further amendment is not in order.

Mr. POWELL. If it shall be adopted, can it then be amended?

The *PRESIDENT pro tempore*. Certain amendments will be in order, but not any changing the character of the amendment that has been agreed to.

Mr. SUMNER. I presume that an amendment by way of addition would be in order after this has been adopted? ["Certainly."]

Mr. POWELL. I desired to move an amendment to the amendment before the vote was taken, but as it is not in order, of course I cannot do so.

The question being taken by yeas and nays, resulted—yeas 11, nays 24; as follows:

YEAS—Messrs. Chandler, Conness, Howard, Lane of Indiana, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Wilkinson, and Wilson—11.

NAYS—Messrs. Anthony, Buckalew, Carlile, Clark, Collamer, Cowan, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Henderson, Howe, Johnson, Morgan, Powell, Richardson, Riddle, Ten Eyck, Trumbull, and Van Winkle—24.

ABSENT—Messrs. Brown, Harding, Harlan, Harris, Hendricks, Hicks, Lane of Kansas, McDougall, Morrill, Nesmith, Saulsbury, Wade, Willey, and Wright.

So the amendment to the amendment was rejected.

The *PRESIDENT pro tempore*. The question now is on agreeing to the amendment made as in Committee of the Whole, as it was amended yesterday on the motion of the Senator from Michigan, [Mr. CHANDLER.]

Mr. COLLAMER. I wish now to amend the amendment of the committee in one small particular. I wish in the beginning of the amendment to strike out the words "in lieu of all other taxes."

Mr. SUMNER. If I understand the operation of that amendment, it is to save to the States the right of taxation. I hope the words will not be struck out.

Mr. COLLAMER. It is only to save our own taxes.

Mr. SHERMAN. Then say "in lieu of all existing taxes." In the act to provide ways and means for the support of the Government, approved March 3, 1863, not the currency act but an act subsequently passed, there is a tax on national banks, and this is to supersede that. The Senate will remember that in the bank bill of last session there was a tax of two per cent. on circulation, but that was modified by a subsequent act at the same session, and therefore the tax here proposed ought to be "in lieu of the existing taxes" provided in those acts.

Mr. COLLAMER. I have no objection to that change of the phraseology. What I want is that we shall not tie up our hands. I modify my amendment so as to propose simply to strike out the word "other" and insert "existing;" so as to make the clause read "in lieu of all existing taxes."

The *PRESIDENT pro tempore*. The amendment will be so modified.

The amendment to the amendment was agreed to.

The *PRESIDENT pro tempore*. The question now is on concurring in the amendment made as in Committee of the Whole as amended.



Mr. HOWARD called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 29, nays 8; as follows:

YEAS—Messrs. Anthony, Buckalew, Carlile, Clark, Collamer, Conness, Cowan, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harris, Henderson, Howe, Johnson, Lane of Kansas, Morgan, Powell, Richardson, Riddle, Ten Eyck, Trumbull, Van Winkle, Willey, and Wilson—29.

NAYS—Messrs. Chandler, Howard, Lane of Indiana, Pomeroy, Ramsey, Sherman, Sprague, and Sumner—8.  
ABSENT—Messrs. Brown, Harding, Harlan, Hendricks, Hicks, McDougall, Morrill, Nesmith, Saulsbury, Wade, Wilkinson, and Wright.

So the amendment as amended was concurred in.

The next amendment made as in Committee of the Whole was in section forty-four, after the word "than," in line thirty-four, to strike out "\$100,000, nor less than \$200,000 if in a city of more than fifty thousand inhabitants," and to insert "the amount prescribed for banking associations under this act."

The amendment was concurred in.

The next amendment was in section forty-six, to insert after the word "currency," in line eighteen, the words "retaining a copy thereof;" in line nineteen to strike out "and" after the word "default;" and in line twenty before the word "notice" to strike out "his," and after "notice" to insert "by him."

The amendment was concurred in.

The next amendment was in section forty-seven, line twenty-four, to strike out the word "equal" before "amount."

The amendment was concurred in.

The next amendment was in section fifty-three, line eight, after "United States" to insert "in a suit brought for that purpose by the Comptroller of the Currency in his own name."

The amendment was concurred in.

The next amendment was in section fifty-nine, line twenty-two, to strike out the words "to be" before the word "fined."

The amendment was concurred in.

The next amendment was in section sixty-one, to strike out the words "to suggest" in line seventeen, and the words "to report" in line twenty-one.

The amendment was concurred in.

The next amendment was in section sixty-four, after the word "Congress," in line two, to strike out the words "reserves the right" and to insert "may," and after the word "time" to strike out "to."

The amendment was concurred in.

The PRESIDENT *pro tempore*. The bill has been gone through with; but one amendment made by the Senate as in Committee of the Whole remains to be acted upon. It is the amendment in relation to the rate of interest in the thirtieth section.

Mr. HALE. As that will perhaps take some time, and as I desire to propose a short amendment that I think will consume no time, I should like to have consent to offer it now.

The PRESIDENT *pro tempore*. The Chair will receive it.

Mr. HALE. In the ninth section, after the word "loan," in line twenty, I move to strike out the words "obtained from," and after the word "debt," in the next line, to strike out the words "owing to the association of which he is a director." The section now reads that a man shall not be a director who does not own certain shares as required, standing in his own name on the books of the association, "and that the same is not hypothecated or in any way pledged as security for any loan obtained from or debt owing to the association of which he is a director." There is nothing in the bill as it stands to prevent a director from hypothecating and pledging all the stock that he owns to any other association except the one of which he is a director. By striking out the words which I have moved to strike out it will read in this way: "and that the same is not hypothecated or in any way pledged as security for any loan or debt," it makes no odds to whom.

The amendment was agreed to.

Mr. CHANDLER. I move in section thirty-one, after "San Francisco," in line twenty-eight, to insert this clause:

And one half of said twenty-five per cent. in banks organized under this act in the cities of St. Louis, Louis-

ville, Chicago, Detroit, Milwaukee, Cincinnati, Cleveland, Pittsburg, and Portland may consist of balances due to the association available for the redemption of its circulating notes, from an association in the cities of New York, Boston, or Philadelphia.

I will state that the whole business of the Northwest is done in exchange, and balances are required in these cities to draw on. The amendment which I propose is very important to the western banks.

Mr. SHERMAN. I think western banks ought to keep themselves strong.

Mr. CHANDLER. But their strength lies in their exchange. I do not know that one dollar is redeemed at their counters in anything else than exchange on the eastern cities. This is a very important measure for the Northwest, and I have consulted the bankers in regard to it.

Mr. SHERMAN. It is a great privilege to the banks in these cities, and I will state why. If they are allowed to keep their balances in New York instead of at home, they will always have large balances in New York in order to get interest on their deposits in New York, while if they are required to keep their funds at home they will keep them at home in their vaults or loan them out to people there. The cities named in this section are centers of redemption. The law expects the banks there to be very strong, and requires them to keep one fourth of their deposits and one fourth of their circulation on hand. Under these circumstances it seems to me they ought to be required to keep the money at home; otherwise they will send it to New York where they will receive interest on it, and I do not think they will strengthen themselves by keeping their money in New York. They ought to be required to keep this one fourth on hand. It is no hardship to a bank in a large city to keep that amount on hand. They get interest on three fourths at home by loaning out money to the people or sending it to New York if they choose. A bank at a center of redemption, where they are liable to be called upon to redeem not only their own issues but the issues of all these local banks, it seems to me ought to be required to keep one fourth of the whole amount of their indebtedness on hand.

Mr. CHANDLER. The argument would be very good if all their redemptions were not in exchange. All the brokers, all the merchants, all that do business with them, require exchange on these eastern cities instead of any other redemption. Suppose a bank in Detroit has half a million of capital and a million of deposits; it must keep in coin after the resumption of specie payments, and now in greenbacks, \$375,000 on hand all the time, that it does not want and cannot use. It has to be just as strong in Boston, New York, or Philadelphia as though it has not this fund on hand. It is the usual way to make redemptions in exchange. Every broker, every merchant, every man throughout the Northwest takes his redemption in exchange on the East. Every Senator from the Northwest understands that perfectly.

Mr. POMEROY. The objection in my mind is that if we allow these various places of redemption, we make this nothing but a local currency; it destroys its nationality. If the redemption of these bills is required to be in New York, then they will have a uniform value everywhere, and we shall not have to pay the heavy discount which we are now obliged to pay on exchange. I want all these cities, every one of them, except the city of New York, erased from the bill.

Mr. CHANDLER. My amendment is not compulsory; it simply permits the banks to keep this money where all the banks of Chicago and Detroit want to keep it. The bankers there have urged very strongly that such a provision as this should be made. One half was first proposed, but on consultation with Mr. HOOPER, of the House of Representatives, it was finally made one fourth. All other banks are allowed to keep three fifths of the fifteen per cent. on deposits in any of the depositories, and we propose now to say that these redemption banks may keep one half of the twenty-five per cent. on deposit in these three eastern cities if they choose. I think it very important indeed to the Northwest.

Mr. COLLAMER. I had supposed from misapprehension that this was to substitute these three places of redemption for those mentioned in the bill.

Mr. CHANDLER. No, sir. It permits those mentioned to keep one half of their twenty-five per cent. reserve there.

Mr. COLLAMER. I think it would be a very great improvement of this bill, if the claims and pretensions on which it goes are well founded, that it is to secure a uniform currency, if they would make the bills not only redeemable in these three cities, but strike out all these other places, for the effect of it as it now stands is nothing but to make the places named the centers of a little larger circle of local circulation; and I move to amend the gentleman's amendment by striking out all of the cities mentioned in the section except New York, Philadelphia, and Boston.

Mr. CHANDLER. I hope that will not be adopted.

The PRESIDENT *pro tempore*. The Chair will suggest to the Senator from Vermont that his amendment is rather an amendment to the bill than to the amendment of the Senator from Michigan, proposing as it does to strike words out of the bill, and not out of the amendment.

Mr. COLLAMER. I am not tenacious of the form of it. I shall vote against the gentleman's amendment, with a view to making the one which I suggest; and I do not know but that I can move that after I voted for his just as well.

Mr. CHANDLER. Certainly.

The PRESIDENT *pro tempore*. The question now is on the amendment submitted by the Senator from Michigan.

Mr. HENDERSON. I do not know that I understand the proposition of the Senator from Michigan. I should like to inquire whether his object is to allow all of the banks except the banks located in the three cities named to keep one half of the twenty-five per cent. in those three cities, to wit, Philadelphia, New York, and Boston; whether he intends to leave to them the privilege of keeping that one half as a reserve there, instead of keeping it at the point of redemption. He will remember that at St. Louis, Louisville, Chicago, Detroit, and the other points named in the bill, the banks there located will have to redeem at home. Then do I understand him that they can keep half of the reserve required, at either of the three cities of New York, Philadelphia, or Boston, as a substitute for the amount to be kept at home?

Mr. CHANDLER. Precisely. Nine cities are named which are to come within the provision.

Mr. HENDERSON. Then New Orleans is left out.

Mr. CHANDLER. I am perfectly willing to put that in; but New Orleans is a great center of her own.

Mr. HENDERSON. I shall vote against this proposition because I am in favor of the proposition of having a clearing-house for all these banks somewhere; I want it at some point. I will vote to put it first at New York. I want but one clearing-house. If I cannot get it at New York, I will vote to put it at Philadelphia or Boston. I want but the one, and the idea of our getting anything like a uniform currency out of this bill in any other way is perfectly absurd to my mind, and therefore I shall vote against this amendment, hoping that when it does come in order a proposition may be made striking out all of these points except the city of New York. I believe that exchange in all western cities is always in favor of the city of New York; it rarely ever occurs that it is otherwise; and a currency redeemable in the city of New York would be good almost anywhere; it certainly would be at any point east of the Rocky mountains. I do not know how it would be upon the Pacific coast. Certainly we shall approach nearer to uniformity by having one point of redemption, and therefore I am not in favor of any proposition whatever that will tend to make the system worse even than it is in the bill; I will not vote to establish a system which looks to having different points of redemption. The Senator's amendment is proper perhaps in its place, based on the idea of a multiplicity of points of redemption; and I would not object to it if I could go upon that idea, but desiring to have another motion made, and desiring that there shall be one point, of course I wish that all amendments of this character looking to a continuance of this system shall be voted down.

Mr. CHANDLER. The Senator, I suppose,

is aware that all the banking business of the Northwest is done upon bills of exchange. The wool clip of Michigan, the wheat crop of Michigan, the hog crop of Iowa, are all purchased with drafts drawn chiefly upon these three cities. The wool clip is chiefly bought by drafts upon Boston. I put in the three cities because it is convenient to the customer, to the broker, to the merchant, to be enabled to purchase a draft upon either one of these three places.

Mr. HENDERSON. The Senator means thereby that the funds of the banks in these several cities, and deposited in the city of New York, will be just as good as in their own vaults?

Mr. CHANDLER. Better.

Mr. HENDERSON. That is just my idea, and therefore I want to make a clearing-house in New York for all of them, and thereby we shall have an infinitely better currency than otherwise.

Mr. CHANDLER. I am not tenacious about retaining the three names, but I should prefer the three, and it will certainly be a very great convenience to the northwestern States.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Michigan.

Mr. SHERMAN. On that amendment I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SHERMAN. I wish to say a word before the question is put. The only object in making these various centers of redemption is to approximate, as near as we can now, to a uniform redemption in one place in the United States of all bank bills. Under the present law a national bank is only bound to redeem at its counter. Under this law you require of these banks to redeem at certain centers of redemption. That is a great step forward. Finally, perhaps within a very short time, I would require them to redeem all their notes somewhere; whether in the city of New York or not is another question; but in some one place. I will tell the Senator from Michigan, however, that I would not confer upon the banks in these cities, the centers of redemption, the right to draw interest on the money which they are bound at any time to pay out to redeem the notes of the country banks. If this privilege is granted to the banks of these various cities to deposit their money in the city of New York we had better at once abandon this part of the bill and go in for universal redemption at one place, and that I think will be so burdensome to the national banks that they cannot carry on their business now when there are sixteen hundred local banks scattered throughout the United States that only redeem at their counters. If you require these national banks to redeem at par in the city of New York, when there are sixteen hundred State banks that are not bound to redeem anywhere except at their own counters, you make a discrimination against the national banks that in my judgment will put an end to the system. The very moment, however, that the State banks go out of existence or are absorbed into the national system, as I verily believe they will be in a year or so if we do not injure this bill by amendments, I shall then be in favor of a uniform place of redemption. But at present we can only approach it gradually, and I trust the Senator from Michigan, who is really a friend of this bill, will not now cumber it with a provision that will embarrass it and embarrass the friends of the bill. We had better adhere to these places of redemption as they are fixed in the bill. We have selected only several large cities. Let us commence and make a step forward by requiring all the local banks to redeem at these centers of redemption. Then next year, when we shall have dispensed with the State bank currency, let us go a step forward and require all these national banks to redeem in the city of New York or wherever else may be designated.

But why are certain particular points always put forward? Why is Boston selected in this amendment? There is more business done in Cincinnati than in Boston; Cincinnati has a larger population, I think, than Boston; an immense aggregate of business is collected there. Why subordinate the large cities of the West, Cincinnati, Chicago, and St. Louis, to the cities of the eastern States? It may be necessary after a while to have one place of redemption, but in my judgment that place eventually will be the capital of

the country, Washington, or wherever the political capital of the country is. The accumulation of large capitals and all the deposits of this country in the city of New York would be dangerous. During the riots only last July the whole banks of the city of New York were at the mercy of a mob. I would not combine in any large city, at present at least, all the circulation of the country. It would be dangerous to do so in the present condition of the country; and it would be very harsh on these national banks to require them to redeem at par in New York at this time when there are sixteen hundred rival banks running the tilt with them which shall live and which shall die. You have got to approach this question of a general point of redemption gradually, and you cannot do it more rapidly than we propose.

A year ago we passed a banking bill which required these banks to redeem at their counters. All the banks were rested upon the same basis, rested on the same security—the bonds of the United States. Now we make a step forward and require them to redeem at six or eight large cities of the Union. That is enough for the present until they are freed from the competition of the local banks. Then it will be soon enough to require them to redeem in one place—in the city of New York, if that be the proper place. I trust, therefore, the Senator will not press this amendment.

Mr. CHANDLER. All the northwestern banks practically redeem to-day in these three large eastern cities.

Mr. SHERMAN. At one per cent. discount.

Mr. CHANDLER. No, sir; at from one eighth to one fourth of one per cent. I should be perfectly willing to adopt the Senator's idea of letting them all redeem at one fourth of one per cent. in the city of New York or any one of these eastern cities. I should be perfectly willing to accept that to-day, and strike the others out. But this seems to have been adopted as the best system for the present, and if it is to stand as it now is, I have no doubt that a year hence, or two years hence perhaps, we shall be ready to permit all these banks to redeem in New York at one fourth or one eighth of one per cent. or whatever the cost of sending their bills there may be; but at present all the banks of the country redeem in these great cities. Why compel a bank in Detroit or in Chicago, which perhaps is not called upon, I was going to say, ten times a year for redemption in anything else except exchange on the East, to keep on hand this large amount of notes which is not wanted and cannot be used there? It looks to me like a hardship. I hope the Senate will adopt my amendment. I know all the bankers of the West have united in this request, and I trust it will be granted.

Mr. GRIMES. I have not had as much experience of banking as the Senator from Ohio or the Senator from Michigan; but what little experience I have had has taught me to believe that this would be a boon to the national banks that may be established in my State and in all that region of country. What they would desire over and above everything else is, to be permitted to redeem their bills in one of these eastern cities, because exchange always flows in their favor upon these eastern cities, against which they want to draw. If they can be permitted to redeem there, you will strengthen the banks and strengthen the system that you propose to establish. Besides, it will make the system popular with the people if you allow them to redeem in the eastern cities, say at one fifth of one per cent.; and that would be a bonus to the banks, because there never has been a time, in the history of my State at any rate, when any bank there could not more easily have redeemed its bills in the city of New York or the city of Boston than it could over its own counter; and for the sake of having the thing uniform and satisfactory to all parties, I should be willing to vote for allowing all these banks to charge one fifth of one per cent. and compel them to redeem in the cities of Boston, New York, and Philadelphia. The reason why I would insert Philadelphia and Boston in addition to New York is because there is not any very great material difference between the rates of exchange on those different points, and because then you give all these banks an opportunity to select in which of these particular localities they will keep their deposits.

What the Senator from Michigan has just said, that all the banks in the West now and for a number of years have practically made all their redemptions in these eastern cities, is I think true according to my own observation. They do not pay out gold and silver when their bills are presented to them, but they pay out bills on New York, or Boston, or Philadelphia. That is the way our business is transacted. If we can reduce the number of points of redemption to three, and allow the banks that have been or will be established under this act to charge one fifth of one per cent. for redeeming their bills in either of these eastern cities, I think we shall remove a great many obstacles in the way of the strength and popularity and efficiency of this act and of this banking system.

Mr. SHERMAN. There is another objection to this proposition besides that which I stated before, which I will mention now. The matter has been thoroughly considered. The express charge from the State of the Senator from Iowa, from the town of Des Moines, for instance, to New York, is very different from the express charge from Buffalo or New England. What equality or justice is there in establishing the same rate of exchange? You cannot do it. The rate of exchange from Cincinnati on New York is very different from the rate from Chicago on New York, and so of St. Louis and other points. You cannot make a fixed standard of exchange. You may destroy this system and prevent banks being organized west of the city of Buffalo, by putting it at one fifth of one per cent., because at that rate they cannot pay the express charge. It seems to me that now we ought to establish this system of several centers of redemption which will finally assimilate itself and lead to having one common center of redemption, after a while, at regulated rates of exchange, that will be varied according to the geographical position of the banks. From Iowa it will be a little more, and from Ohio a little less. One fourth of one per cent. may be sufficient in Ohio, while it might require one half of one per cent. in Iowa. We have not now the means of ascertaining the precise value and rate of exchange. It varies from year to year, and time to time, and place to place. You cannot by arbitrary legislation fix any specific rate of exchange.

Mr. GRIMES. I will not say that the argument of the Senator from Ohio would justify me in the conclusion that he was looking after the interests of the banks rather than the interests of the bill-holders, but some might draw that conclusion from what he has said. I said that the western banks can redeem more easily in the East than they can anywhere else; and why? Not because it would be easy for them to send their bank bills to New York to be converted, but because exchange is constantly making in their favor against New York, and all the expense of transporting that exchange will be the three cent postage stamps upon the letter that sends it. How is it with the men who hold the bills? There is a bank in my town, and its place of redemption is in Louisville, a place with which we have no intercourse whatever. Does the Senator expect of a private individual who holds \$500 of the bills of that bank redeemable in Louisville that he will be at the expense of traveling all the way down there? If he does not he is to be at the expense of forwarding his notes by express. Who is injured by that? Is it the bank? Surely not. The bank would not be injured in either case, but the individual who holds the bills is injured to the extent that he has to pay the express charges.

Now, sir, we relieve all these people from any expense, relieve both the bank and private individuals from the expense of express charges, whenever we pass the proposition to make these banks redeem in either one of these three eastern cities. Just take the case that I have already partially put. A bank in my town, instead of redeeming over its own counter, redeems in Louisville. I have \$1,000 of its bills and I want to get eastern exchange. I have got to go to a broker and get my notes changed in order to get a check on Louisville; and I have to pay the difference of exchange between the place where I live and Louisville; and there being no intercourse between the two places, I am charged a pretty round figure. Then when my exchange goes to Louisville I am there compelled to buy a bill on New York,

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and pay whatever the broker chooses to charge me between New York and Louisville. What kind of a roundabout system is that by which the business of the country is to be conducted?

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Michigan.

The question being taken by yeas and nays, resulted—yeas 14, nays 21; as follows:

YEAS—Messrs. Anthony, Chandler, Collamer, Davis, Foot, Foster, Grimes, Harris, Howard, Pomeroy, Ramsey, Sumner, Trumbull, and Wilkinson—14.

NAYS—Messrs. Buckalew, Carlile, Clark, Conness, Dixon, Doollittle, Fessenden, Hale, Henderson, Howe, Johnson, Lane of Kansas, Morgan, Powell, Riddle, Sherman, Sprague, Ten Eyck, Van Winkle, Willey, and Wilson—21.

ABSENT—Messrs. Brown, Cowan, Harding, Harlan, Hendricks, Hicks, Lane of Indiana, McDougall, Morrill, Nesmith, Richardson, Saulsbury, Wade, and Wright.

So the amendment was rejected.

The PRESIDENT *pro tempore*. The amendment made as in Committee of the Whole which was passed over will now be taken up. The amendment is to strike out in section thirty, lines four and five, the words "a rate not exceeding seven per cent. per annum," and in lieu of them to insert:

The rate established by the laws of the State or Territory where the bank is located, and no more. And when no rate is fixed by the laws of the State or Territory, the bank may take, receive, reserve, or charge a rate not exceeding seven per cent.

Mr. SHERMAN. I move to amend the amendment by inserting after "no more" the words "except that where by the laws of any State a different rate is limited for banks of issue organized under State law, the rate so limited shall be allowed for associations organized in any such State under this act."

The amendment to the amendment was agreed to, and the amendment as amended was concurred in.

Mr. CHANDLER. I now move to strike out the names of all the cities except New York, Philadelphia, and Boston, and to permit all the banks to redeem in those cities at not exceeding one per cent.

The Secretary read the amendment, as follows:

In lines twenty-five, twenty-six, twenty-seven, and twenty-eight of section thirty-one, strike out "St. Louis, Louisville, Chicago, Detroit, Milwaukee, New Orleans, Cincinnati, Pittsburg, Baltimore, Portland (Maine), Albany, and San Francisco."

Mr. HENDERSON. I move to amend the amendment by striking out "Philadelphia and Boston" wherever they occur.

Mr. CHANDLER. I hope not. I think we had better have the three cities named.

The amendment to the amendment was rejected.

Mr. SHERMAN. I do not want the Senate to fall under a misapprehension. If the Senator's amendment were to prevail it would not carry out his purpose; he would have to offer about forty other amendments to the bill. This section does not provide for the redemption in these cities. It simply provides that the local national banks may keep their deposits there. He will have to change the phraseology of the entire bill. The bill is framed on the idea of centers of redemption, several sections of it. I trust the bill may be allowed to stand and that we may allow these banks to redeem first at their counters, and also in addition to that at the centers of redemption provided. If the number of cities is too large strike them down, but I would leave certainly all cities of the first class. Then hereafter when the State banks shall have been absorbed into this system, as I trust they will be, it will be time enough to make one common center of redemption; but now, in establishing and organizing these national banks, if this amendment prevails we require them all to redeem in the city of New York, putting all the deposits of this country in that city, now the most dangerous and uncertain place in the United States, I think. It is asking too much to ask us to put the whole currency and wealth of this country in a single city where a mob might destroy it—the most uncertain—

A SENATOR. Disloyal.

Mr. SHERMAN. I will not say disloyal, but the most uncertain place in this country. To put all the wealth of the country there at this time and require these banks to redeem there, when there are sixteen hundred banks of issue throughout the United States who redeem only at their own counters, it seems to me would destroy the system. It can only be done after we have substantially absorbed the State banks, and then it will be soon enough to require one universal center of redemption.

Mr. CHANDLER. What I propose has been done for half a century; it is done now, and will continue to be done. All the banks all over the country keep their balances and redeem in these three cities to-day, and they will do it in any event. They cannot do their business in any other way. As I said before, the great lack in the Northwest is circulation. If the eastern banks send out \$100,000 they do not see it perhaps for months; it is used by our western banks. Bills are offered every day, short sight bills on these cities, for the purchase of produce, for the purchase of wool, for a thousand things. The balances naturally are in these cities; and exchange being the only kind of redemption that is desired, the eastern notes that reach the West are left there until they are wanted for return. It must continue to be so. No matter what laws you make you cannot prevent it. Why compel these banks to keep a large amount of funds that they do not want and that you know they do not want in their vaults? A bank in Chicago with a couple of millions of deposits and a couple of millions of stock is compelled not only to keep one third of its stock but one fourth of the whole of its deposits on hand; and consequently a bank in Chicago with \$2,000,000 of circulation and \$1,000,000 of stock would be compelled to keep \$750,000 in its vaults all the time where it requires scarcely a single shilling. There is no redemption wanted except exchange on the eastern cities. I desire to perfect the bill by permitting all these banks to redeem where their redemption is required and where their business carries it, which is in these eastern cities. I hope the amendment will prevail. If it does not, I shall in another form offer the same proposition I did before, hoping the Senate will review its previous decision.

Mr. GRIMES. Doubtless it is very true, as the Senator from Ohio says, that this is a very important proposition, and it may necessitate a recommitment of the bill to the Committee on Finance in order to adjust it to the sentiment of the Senate on this subject; but we may as well decide the question now and in this way as at any time. I think the sentiment of the country, and I trust and hope the sentiment of the Senate, is in favor of compelling these banks to redeem at the points indicated by the Senator from Michigan; and if that be the sense of the Senate it will cost the Committee on Finance very little trouble to put the bill in such a shape as to correspond with the wish of the Senate.

Let me say, furthermore, that I know from my own personal knowledge, from my personal intercourse with the Comptroller of the Currency—I apprehend that may be the sense of the Secretary of the Treasury also, though I do not know that fact, but I know it is the sentiment of Mr. McCullough—that the amendment proposed by the Senator from Michigan fully carries out his views. Why are we to accept the views of the Comptroller of the Currency on one subject, and utterly reject and ignore them on another, can perhaps be explained; but I do not know why it is. I think that the officer in charge of that bureau is one of the most intelligent and capable men that I know in charge of any bureau of the Government; and I am prepared on this subject, as I am on a great many others, to accept his opinion as strengthening my own convictions and my own experience for the last twenty years in the western country in regard to banks.

Mr. POMEROY. I think it would be better

not to have any places named in the law than to have all these cities, and let the law be as it was last year, obliging them to redeem at their counters. There is nothing on the face of these bills that tells any bill-holder where the place of redemption is except at the counter of the bank. Take the case of a bank located in Iowa; the Comptroller may know where its notes are redeemed, and once a year the people may find out by its being published in his report that that Iowa bank redeems its bills at Chicago, but the bill-holder would not know it, the community would not know it during the year. There is no practical importance in having a bank in Iowa or Kansas redeem its bills in Chicago, because the bill on its face does not show, the community does not know it. The only practical, real importance is to have it redeemed somewhere on the Atlantic coast, because our trade and balances are there, and then it becomes a kind of national currency that will circulate everywhere. Otherwise than that there is no need of having it redeemed anywhere except at the counter, and if an amendment of that character cannot prevail, we had better take out all the names, and let the law remain as it was last year.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Michigan.

Mr. CHANDLER and Mr. GRIMES called for the yeas and nays; and they were ordered.

The Secretary called the roll, but before the result was announced—

Mr. DOOLITTLE. I do not know but that I voted under a misapprehension. I understand that the amendment is to require the banks to redeem at par in the city of New York.

Mr. CHANDLER. No. I have another amendment to follow this, allowing them to charge one fourth of one per cent.

The result was announced—yeas 15, nays 14; as follows:

YEAS—Messrs. Chandler, Collamer, Doollittle, Fessenden, Foot, Foster, Grimes, Harris, Henderson, Howard, Johnson, Morgan, Pomeroy, Sumner, and Ten Eyck—15.

NAYS—Messrs. Anthony, Clark, Conness, Davis, Dixon, Hale, Lane of Kansas, Powell, Ramsey, Sherman, Sprague, Van Winkle, Willey, and Wilson—14.

ABSENT—Messrs. Brown, Buckalew, Carlile, Cowan, Harding, Harlan, Hendricks, Hicks, Howe, Lane of Indiana, McDougall, Morrill, Nesmith, Richardson, Riddle, Saulsbury, Trumbull, Wade, Wilkinson, and Wright.

So the amendment was agreed to.

Mr. CHANDLER. Now, I move to amend section thirty-two by inserting after the word "par," in line five, the words "or an association in the city of New York, Philadelphia, or Boston, at which it will redeem its circulating notes at a discount of not exceeding one quarter of one per cent;" so as to make the section read:

That each association shall select, subject to the approval of the Comptroller of the Currency, an association in either of the cities named in the preceding section at which it will redeem its circulating notes at par, or an association in the city of New York, Philadelphia, or Boston, at which it will redeem its circulating notes at a discount of not exceeding one quarter of one per cent.

Mr. JOHNSON. All the cities are stricken out, I think, except the three named in the amendment.

Mr. CHANDLER. They are.

Mr. JOHNSON. Then there is no necessity of repeating "an association in either of the cities named."

Mr. CHANDLER. The language can be altered, and I modify it in that way.

The PRESIDENT *pro tempore*. The language will be modified as proposed by the Senator from Michigan.

Mr. DOOLITTLE. I wish to inquire, for information, whether the effect of this will be to compel all those associations to redeem in the city of New York, Boston, or Philadelphia at one fourth of one per cent.

Mr. CHANDLER. They may do it.

Mr. DOOLITTLE. But there is nothing compulsory to make them redeem there.

Mr. SHERMAN. I think it is perfectly manifest—Senators must see it—that this bill must be



recommitted; and I move that it be recommitted to the Committee on Commerce. It is now incongruous, and it is not possible to pass it in this shape. Some twenty or thirty amendments will have to be made in consequence of the change last made, and I think it ought to be recommitted at once; but I shall not press the motion unless Senators think it necessary.

Mr. CHANDLER. I ask for the vote on this amendment, and then I shall consent to the recommitment.

Mr. SHERMAN. The basis of the bill is changed, and, as a matter of course, it ought to be recommitted. I do not wish to have anything to do with it in its present incongruous shape. I will not make the motion to recommit at present, however.

Mr. FESSENDEN. I voted for the amendment of the Senator from Michigan, supposing that it compelled them to redeem in one of the three cities named.

Mr. CHANDLER. I will put in "shall" instead of "may."

Mr. FESSENDEN. Otherwise I would vote against it. The mere giving them the privilege to do it amounts to nothing. The object is to compel them to redeem.

Mr. CHANDLER. That would suit me better. Put in "shall" instead of "may."

Mr. POMEROY. "Each association shall select," is the language of the bill now.

Mr. FESSENDEN. Is that compulsory? It must be so arranged or I will not vote for it.

Mr. JOHNSON. I ask for the reading of the bill as it will stand if amended as it is proposed to be amended.

Mr. CHANDLER. I will modify it by striking out "will" and inserting "shall."

The PRESIDING OFFICER, (Mr. FOSTER.) The amendment as modified will be read.

The Secretary read the amendment as modified, which was in section thirty-two, line five, after the word "par," to insert:

Or an association in either of the cities named in the preceding section at which it shall redeem its circulating notes at a discount not exceeding one quarter of one per cent.

The amendment was agreed to.

Mr. HENDERSON. I desire to offer an amendment in section twenty-two, line three, after the word "exceed" to strike out "\$300,000,000," and in lieu thereof insert "the amount authorized to be issued by the Comptroller to banks already created."

Mr. JOHNSON. I ask the mover of the amendment what is the amount of circulation already issued?

Mr. HENDERSON. The amount, as I understand, issued to banks already organized is about thirty-two million dollars. I do not recollect the amount of bonds positively; I cannot tell that.

Mr. DOOLITTLE. If the Senator from Maryland will allow me, I believe I can answer his question precisely, for I have the evidence in my hand on that subject.

Mr. HENDERSON. What is the number of bonds filed?

Mr. DOOLITTLE. I have a letter from the Comptroller of the Currency stating that the amount of bonds actually deposited to secure circulation up to this date—that is, May 4, 1864—is \$32,555,100; circulation to be issued therefor, \$29,299,590; circulation actually issued to-day, \$19,046,950; circulation yet to be issued, \$10,252,640.

Mr. JOHNSON. I understand it. The effect of the amendment if adopted is to stop the system where it is; that we can only have \$32,000,000 of circulation under this bill.

Mr. HENDERSON. Yes, sir; that is what I mean by it.

Mr. JOHNSON. The effect of that will be to arrest this whole measure practically, provided it be true, as I suppose it is admitted, that if this national circulation is to exist it should be coextensive with the wants of the community.

Mr. DOOLITTLE. Mr. President, I offered or rather gave notice that I should offer an amendment bearing on the same point involved in this amendment, with certain provisions which would allow the amount of national currency to be increased almost to \$300,000,000, the limit fixed in this bill. This amendment of the Senator from

Missouri, raising the issue, is good so far as it goes; but as it seems to me does not cover the whole issue. As this question is now up, and the principles involved in my proposed amendment are directly brought in issue, I will briefly call the attention of the Senate to its provisions. I regard it of the greatest importance. In my opinion it reaches and resolves the greatest financial issue of the hour—the currency question.

The first purpose of it is to stop the swelling of the volume of paper money by any means whatever, whether by means of State banks or by means of national banks or by the Government of the United States itself. The foundation of all of our financial difficulties, so far as currency and the price of gold are concerned, is the fact that we have already too much paper money.

When we issued Treasury notes and made them legal tender, as a matter of course they went into circulation as money. We did not restrain the State banks already in existence from going on and issuing, reissuing, and increasing their circulation as they pleased. The bill before the Senate, as it stands, authorizes the creation of banks with power to issue \$300,000,000 more. What is the true state of the currency? When we issued our Treasury notes there were in circulation already about one hundred and sixty or one hundred and seventy million dollars of paper money issued by State banks, and about one hundred or one hundred and twenty-five million dollars in gold, making as the actual currency of the country circulating as money about \$275,000,000; in round numbers say \$300,000,000 of currency. In this condition of things the Government of the United States began to issue Treasury notes. They at once entered into circulation as money. They became the most favored and popular of all the paper money of the country. This added nearly if not quite \$500,000,000 more; I believe a little over that sum, including the interest-bearing notes, which also circulate as money. Thus we have raised up the paper and gold circulation from \$300,000,000 to about \$800,000,000, which is now in round numbers the actual amount of the circulation of the country; and now, by this bill as it stands, it is proposed to authorize the creation of banking associations, based upon the bonds of the Government, with power to issue \$300,000,000 more, as much more as constituted our whole circulation at the beginning of this war, which will swell the volume of our circulating medium to the enormous figure of \$1,100,000,000. With such a volume of paper money gold will go above two hundred per cent., or rather a paper money dollar will sink below fifty cents of constitutional currency, of the money of the world.

Giving to this subject the best thought of which I am capable, I have come to certain conclusions in my own mind which I do not propose to argue at length, but to state briefly to the Senate for the consideration of men much abler than myself.

The first question, the one before all others, the one to which every mind should be directed first and constantly in resolving this currency question is, to stop the making of another paper dollar in any form or by anybody unless it is made to take the place of some other paper money now actually in circulation. I am not unfriendly to the system so much desired by the Secretary of the Treasury with this limitation. I therefore have no objection to allow the State banks to draw in and cancel their present circulation and to enter into associations under this banking law and issue this national currency to take the place of their own circulation now existing; but to authorize the creation of this amount of new national currency in addition to the State bank currency, and in addition to the Treasury notes—the greenbacks—which we have put in circulation, would be, in my judgment, little short of madness. We must grasp the whole question at the same time. I have not a doubt that unless we put some restraint upon the amount of circulation to be issued by State banks and by these national associations we shall carry up the price of gold to 200, and when we do that we may expect such a financial revulsion as we have never seen in this country.

Mr. POMEROY. I should like to inquire of the Senator if he means to say that he would never make another paper dollar in all time to come? Suppose our population increases to one hundred million, would he never issue any more paper money?

Mr. DOOLITTLE. I am speaking of the state of things now, with gold at 180, and with a circulating medium, as I have already shown, of about \$800,000,000. I say it would be financial madness to make more paper money and put it in circulation and not expect to increase the price of gold. We can no more do it than we can reverse the laws of nature. The laws of trade, the laws of supply and demand, the laws of currency will control, and legislation cannot prevent it.

Mr. POMEROY. I simply asked if the Senator would never make another paper dollar?

Mr. DOOLITTLE. Well, sir, if I am here a hundred years hence, or when our population is one hundred million, and I should then be called upon to legislate on that subject, I will answer my honorable friend's question. But now I am legislating for this day and this hour. I do not say what we should do when we have a population of one hundred million. If I live at that day and have an opportunity to say anything on the subject, I will try and meet the crisis then. What I want to meet now is the crisis of the present hour.

For the purpose of giving expression to my ideas on this subject, I propose, first, that there shall be no more paper money made which can swell the volume now actually existing—

Mr. POWELL. Will the Senator allow me to ask him a question?

Mr. DOOLITTLE. I have no objection.

Mr. POWELL. I merely wish to know if I understood the Senator to state we had \$800,000,000 of paper money in circulation. I did not think it was so great.

Mr. DOOLITTLE. I did not say \$800,000,000 of paper money. My computation was this: There was from \$175,000,000 to \$200,000,000 of paper money in circulation when these difficulties began; then there has been, as I understand, about \$500,000,000 of paper circulation which the Government itself has issued; and that, in addition to the gold which was in circulation, made the amount of money in circulation in the country about \$800,000,000.

Mr. POWELL. I think the Senator is very nearly accurate. I have a tabular statement here which shows that, including the certificates of indebtedness, it is \$779,000,682 22.

Mr. DOOLITTLE. I am not undertaking to state the precise figures. I am stating in round numbers, and, as I understand the real state of the currency of the country, I am stating it very nearly when I say that, including what gold there is in circulation in the country and what paper there is in circulation, there is about \$800,000,000. That constitutes the volume of the circulation of the country at the present time.

Mr. POWELL. Do you include in that the circulation of the local banks?

Mr. DOOLITTLE. Yes, sir.

Mr. POWELL. Then it will amount to \$1,000,000,000.

Mr. DOOLITTLE. I think the Senator is mistaken in that, because the circulation of the local banks has never exceeded about \$200,000,000.

Mr. WILSON. I understand it is about \$233,000,000.

Mr. DOOLITTLE. Perhaps the Senator from Massachusetts may be correct when he says the amount of paper circulation of the State banks has gone up to \$233,000,000. But at the time our difficulties commenced, on the 1st of January, 1861, the circulation of the State banks was \$202,000,000, and on the 1st of January, 1862, \$183,000,000. In consequence of the troubled state of the times, there was a contraction of the circulating medium of the banks, reducing the amount of banking circulation to \$183,000,000 on the 1st of January, 1862, as I see by reference to the National Almanac, which has a tabular statement on that subject.

Mr. POMEROY. The statement of 1861 included the southern banks.

Mr. DOOLITTLE. That might have made a difference.

Now, Mr. President, when gentlemen say that it is owing to the expansion of the currency by the State banks that gold has gone up to 180, it is, as it seems to me, the greatest mistake in the world. The whole amount of the expansion by the State banks has been at the outside but about thirty or thirty-five millions, while the Government has expanded the currency by \$500,000,000.

What is the \$35,000,000 of inflation by the State banks compared with the \$500,000,000 we have poured into the volume of circulation in the shape of greenbacks? Men are utterly mistaken when they attribute the rise of prices and the rise of gold to an increase of the paper currency by the State banks. It is true, as was stated by the Senator from Massachusetts [Mr. SUMNER] yesterday, that in New England, New York, Pennsylvania, and New Jersey they have swelled the paper circulation. His statement showed that there was an increase in the circulation of the banks of New York, Pennsylvania, and New Jersey from 1862 to 1863 of from \$50,000,000 to \$75,000,000, and in the New England States from \$39,000,000 to \$65,000,000. But it will be remembered that in 1862 there had been a very material contraction of the currency in those States, and the amount of paper in circulation in 1862 was not near as much as it was in 1861, while at the West the State bank circulation has been largely decreased. Upon the whole, therefore, the swelling of the volume of the paper currency has been but slightly affected by what the State banks have added to that circulation.

But, sir, I agree that the State banks ought not to have swelled the volume of circulation at all. I for one believed at the time we passed the law to issue Treasury notes that we ought then to have exercised the power of restraining the State banks from increasing their circulation. I advocated such a proposition then in the Senate, but it did not prevail, and the State banks have to some extent increased their circulation and some have done so enormously. I desire to provide not only against any further increase, but to compel the State banks to reduce the amount of their circulation within some reasonable limits as near as may be to the amount of their actual cash capital paid in. The precise figure I will not state, for I do not undertake from any practical knowledge of banking to state the precise sum to which it should be brought down. The opinion of my friend from Michigan [Mr. CHANDLER] would be worth much more than mine upon that.

Mr. WILSON. Why should they not be put on the same footing as those national banks, and confined to a circulation of ninety per cent. of their capital stock?

Mr. DOOLITTLE. Perhaps that would be the true limit, as suggested by the Senator from Massachusetts.

There are three systems of paper banking. There is the system of New England, Pennsylvania, and New Jersey, where the State Legislature authorizes them to organize banking institutions and to pay in their capital and then commence doing business with permission to issue notes. In some of the States they are allowed to issue twice the amount of their capital; in some two and a half times the amount of their capital; and in some States I believe even three times the amount of the capital actually paid in. Then there is the free banking system of New York, which prevails to a considerable extent in the western States; and that is, that upon the stocks of the United States or the stocks of the State where the banks are located, associations may be formed, and by depositing those stocks with the comptrollers of the several States they are permitted to issue circulation to the amount of ninety per cent. of the stock thus deposited. The banks of these States have been unable to swell the volume of their circulation because the laws of the States would not allow them to do it; their own laws requiring them to secure their circulation by the deposit of stocks of the United States or of the States where the banks are located. Then there is this third system of national banking, a system not of monopoly, but of free banking under the laws of the United States, based upon Government securities. These three systems are in operation, and we must see them all and have reference to them all in our legislation upon this subject. The amendment which I desire to have adopted, and which bears on the same point to which the amendment of the Senator from Missouri is directed, and which at the same time recognizes these three systems, and without aiming to destroy either would master and regulate them all in this crisis, is in these words:

SEC. — And be it further enacted, That from and after the passage of this act no person, banker, banking association, or banking or other corporation shall make, issue,

or reissue any bills, notes, or certificates of any kind or denomination whatever designed to circulate as money; which at the passage of this act shall not be actually issued and in circulation as money under the laws of the United States or of the several States, unless the said person, banker, banking association, or corporation shall redeem the same at its place of business in gold and silver coin on demand.

Before reading the provisos which qualify this general provision, I will remark that this would stop the swelling of the paper volume, and any further expansion of circulation by any bank or banker in the existing state of things, by new issues or by reissues.

It applies to all new banks which may be organized under the laws of the States. If any associations not already in existence form themselves into banking companies to issue notes to circulate as money they are to redeem those notes in gold and silver coin. Then I would have no objection to such companies being formed; and the more the better perhaps for the country. I now read the provisos:

Provided, That nothing herein contained shall be construed to prohibit those associations which have become duly organized under the provisions of an act to provide for a national currency secured by a pledge of United States stocks, and to provide for the circulation and redemption thereof, approved February 25, 1863, and shall have transferred and delivered to the Treasurer of the United States the bonds of the United States, under the provisions of the fifteenth and sixteenth sections of said act, from receiving the currency to which they have become entitled, and from putting the same into circulation as money under the provisions of said act.

The purpose of this is to keep faith with these associations; to allow those persons who, on the faith of the legislation of the last Congress, have organized themselves into associations, and deposited their securities and become entitled to this national currency, to receive it at the hands of the Government and put it in circulation. The whole amount to be put in circulation under that provision as it stands would be the sum of \$29,229,590, as appears by a letter I have received from the Comptroller. But, sir, the second proviso of that amendment, and that perhaps is the most important, is in these words:

And provided further, That nothing herein contained shall be construed to prohibit any existing banker, bank, banking association, or corporation existing under the laws of any State, and having notes, bills, or certificates in circulation as money, from organizing themselves into banking associations under the said act of Congress and acts amendatory thereto; and in case of such organization, and upon complying with the provisions of said act, they shall be entitled to receive and put into circulation, of the national currency provided for in said act, an amount equal to the amount of the notes, bills, or certificates of said bank in circulation, which shall be from time to time withdrawn from circulation, redeemed, and canceled, not exceeding the amount of its capital stock.

The effect would be this: by allowing the State banks as they now exist to withdraw their circulation and to come in under the provisions of this national banking law, it would authorize the amount of currency to be issued under this act to reach probably \$250,000,000. The Senator from Massachusetts states that the amount in circulation by the State banks is \$238,000,000.

Mr. HARRIS. One hundred and sixty million dollars.

Mr. DOOLITTLE. I understood the Senator from Massachusetts to state that the amount of paper circulation of the State banks is about \$238,000,000.

Mr. WILSON. Yes, sir.

Mr. DOOLITTLE. The Senator from New York says it is only \$160,000,000. I will not decide between these different statements, because I have not the documents before me to show the exact amount.

Mr. HENDERSON. The bank circulation in the loyal States now does not exceed \$163,000,000.

Mr. FESSENDEN. It is about \$170,000,000.

Mr. DOOLITTLE. The honorable Senator from Maine, the chairman of the Committee on Finance, whose attention has been particularly called to this question, states that the amount is about \$170,000,000.

Mr. FESSENDEN. In that neighborhood.

Mr. HENDERSON. It has been much reduced within the last few months.

Mr. DOOLITTLE. The effect of this proviso, and herein it differs from the amendment of the Senator from Missouri, [Mr. HENDERSON,] would be that national currency might reach the sum of about \$200,000,000, the \$170,000,000 to take the place of so much State bank currency now in circulation and the \$29,229,590 which the

Comptroller informs me by his letter of the 4th of May the associations under this law already made are entitled to receive. The good faith of the Government has been given to the men who have organized these associations and deposited their securities. We cannot now refuse to carry out on our part that good faith and allow them to go on.

The whole effect of the adoption of this first section of the amendment that I propose would be to prevent an increase of circulation; to stop where we are. In the first place, it proposes to allow the associations which have been organized upon the faith of the Government to take the circulation to which they are entitled; and in the second place, it authorizes any of the State banks now existing to withdraw their present circulation and organize under this system, and substitute the national currency for their circulation thus withdrawn.

Mr. JOHNSON. What do you do with the State banks that do not come in?

Mr. DOOLITTLE. I have a section expressly intended to reach that, bearing upon them; which contains a full answer to that question, and is in these words:

SEC. — And be it further enacted, That, from and after the passage of this act, every person, banker, banking association, or banking corporation, shall reduce the amount of its notes, bills, or certificates in circulation as money, to the amount of its cash capital actually paid in and — per cent. added thereto, or to the amount actually secured by the pledge of the stocks of the United States, or of the State where the bank or banking office is situated, pursuant to the laws of the United States or of the State where the bank is situated; said reduction to be made in the following manner: one fourth of said excess of circulation beyond what is above provided shall be redeemed and canceled on or before the 1st day of — next; one half on or before the 1st day of — next; three fourths on or before the 1st day of — next; and the remainder on or before the 1st day of — next; and upon all bills, notes, and certificates issued or reissued, or remaining in circulation as money, over and above the amount as provided in this and the preceding section, the said several bankers, banks, or banking corporations shall pay to the United States a tax of one per cent. per month.

That will reach the point, and compel the reduction. I have not assumed in this second section to state (for that is a matter which ought to be discussed, and upon which gentlemen of experience ought to give their views) the exact amount to which the circulation of these banks should be reduced. It is said by some that if you reduce every bank in its circulation to its actual cash capital paid in, while it will not affect the banks in the great cities like New York, Philadelphia, or Boston, which have large deposits, it will affect the country State banks which issue circulation not only to the amount of their capital but sometimes twice that amount, making their profits on loaning this excess over and above their real capital.

Mr. JOHNSON. As I do not desire to reply to the honorable member, with his permission I should like him to answer now the suggestion I wish to make to him. It seems to me—I was about to say doubtful, but I do not think that is a strong enough word—it seems to me very clear that we have no authority to interfere with the powers conferred upon the State banks. The State banks are acting under State charters, and the only mode in which the United States can interfere with associations of that description is under the power to pass banking laws. If the banks do not redeem their notes in coin, that of itself would be an act of bankruptcy, and they might be brought under the influence of a bankrupt system; but I do not see what authority the United States, or any branch of the Government, have to interfere with the powers conferred by the States upon their own State banks, if it be true, as I assume to be true, that the States have the authority to constitute banking corporations. It is, of course, clear that the United States have authority to tax State issues, State banks; but the tax proposed by the honorable member from Wisconsin is in the nature of a penalty. It says to these banks, "If you issue more than we say you shall issue, then we will tax you one per cent. a month." It is not a tax in the ordinary acceptance of the term; it is virtually a penalty. I submit that question to the honorable member. He can answer it or not as consists with the purpose of his speech.

Mr. DOOLITTLE. The question is a pertinent one, worthy of your consideration. I have given to it some consideration, and I see no valid

objection to it. Another honorable friend has suggested a difficulty precisely opposite to the one which the honorable Senator has raised. He suggests that it is doubtful whether we have power to say that a State bank shall redeem in gold and silver. My friend from Maryland does not doubt that.

Mr. JOHNSON. By a bankrupt law.

Mr. COLLAMER. The Senator from Wisconsin will permit me to remark that I do not see how his proposition could be carried into effect except by a bankrupt law.

Mr. DOOLITTLE. If it is necessary to do so we could exercise that power. We could declare that any bank which does not redeem in gold and silver, or which shall put or keep bills in circulation above a certain amount which it does not redeem in gold and silver on demand, has committed an act of bankruptcy. It is not material to me under which clause of the Constitution we proceed, if we only have the power and will exercise it.

But to return to the subject before us, the question is whether we have a right to tax a certain species of paper circulation. Why not? Where a power exists to tax a given thing there is no limitation upon the power except in the discretion of Congress that it shall be just, equitable, for the public good, and to carry into effect some power expressly or impliedly given by the Constitution. I do not understand that there is any other limitation in the Constitution of the United States except that. It cannot be said that this taxation is not uniform. It does not tax the property of particular individuals; it shows no favoritism; it assumes generally to tax a whole class of persons, bankers or corporations in this country who are exercising the privilege of loaning their credit without interest for the well-secured notes of other people with interest; the extraordinary privilege of getting interest, not on what they lend, but on what they owe to other people. We assume to tax this most profitable of all manufactures, the manufacture of paper money, when we say that we tax them one per cent. per month for issuing and putting in circulation a certain species of paper money beyond a certain amount over and above their capital. I do not see that there is any limitation upon our power to tax. The Senator says it is prohibitory. It might be that some banks would venture to pay this tax of one per cent. a month, twelve per cent. a year. There are banks in some sections of the country which have made more than twelve per cent. annually in their banking operations in buying and selling exchange and in loaning their notes. It would not perhaps be absolutely prohibitory, although I say frankly it tends in that direction. But what if it does? Under the power of taxation and levying duties, excise, and imposts, when the power exists may it not be exercised even to the point of prohibition?

This is the old question of a prohibitory tariff and home protection.

But, Mr. President, beyond all that, I assume that to the Federal Government was given the power not only of coining money but of regulating the value thereof; whatever may be necessary and proper to be done by this Government to regulate the value of money, to regulate the value of what circulates as money, to regulate, if you please, the price of gold, is implied of necessity in that power. If it were an original proposition, if there had been no action of the Government for sixty or seventy years to the contrary, no decisions of the courts and no action of the State Legislatures, acquiesced in during all that time by the people of the United States, with the Constitution in my hands, and the history of the times when it was made, and with the debates of the men who made it before me, I would say that the men who made the Constitution of the United States intended to prohibit and employed the strongest words to prohibit any State from making any kind of paper money in any manner or form, direct or indirect. But, sir, I must acquiesce in the fact that the decisions of all the courts, State and Federal, the action of State Legislatures, Congress, and the long acquiescence of the people of this country have been all the other way, and it is too late for me to undertake to stand upon that position; to assume what otherwise I would confidently assume, that all these State banks are unconstitutional, void, and illegal from the beginning. I

am compelled to accept these institutions as existing facts. They are powerful facts—facts which cannot be ignored or disregarded. But, sir, I believe that we have notwithstanding a controlling power over the question of money, the whole question of currency, for by that the value of money is affected and regulated throughout the whole country. I do not see anything in the decisions of the courts which would say that we have not that controlling power; at all events that we may not by the power of taxation limit and restrain the volume of paper money, the greater part of which is of our own creation. My honorable friend from Maryland concedes that we have the power under the bankrupt laws to put banks that do not pay their debts in gold and silver into bankruptcy. If necessary we can resort to that which he concedes is within our reach. I agree to that while I maintain the other. We can make it an act of bankruptcy if they do not redeem in gold and silver at their counters. The form in which we arrive at it is not so material to me; whether it is by declaring certain acts of these banks, for instance the issue of more than their capital in currency, not redeemed in gold and silver, acts of bankruptcy, appoint receivers for them, and wind them up under that power in the Constitution, or whether we restrain them by any other legitimate power. The purpose I have is to put down the brakes, to stop the train on this down grade of depreciation which we are traveling with a velocity and momentum that make every reflecting man tremble for the results to come in the financial world. I assume that we can only do that by exercising the power of putting a stop to the making of any more paper to be put in circulation as money. In spite of all theories and all delusive hopes gold and silver are the only real money of the Constitution, the money of the commercial world.

Mr. President, there are three conflicting opinions on this subject of currency: one desires the entire destruction of all State banks, the withdrawal of greenbacks, and the substitution of this national currency; another is opposed to the national currency altogether; a third is opposed to all banks of issue, and would compel all to bank upon greenbacks alone. These opinions are in conflict here; in conflict throughout the country. These extremes of opinion must meet and discuss this question, and agree upon some common ground upon which all can stand, upon which the financial men of the country can stand, and upon which the country can stand. As I have already said, it is my deliberate conviction that our first duty is to stop increasing the volume of paper money; the second is to allow the State banks now existing to come in under this national system; the third is to compel the State banks that have expanded their circulation beyond their capital, and do not redeem in gold and silver, to reduce their circulation down to or near their actual cash capital, or to the amount of their circulation already issued and which is fully secured by the stocks of the United States or of the States where they are located.

I desire to say a single word in relation to the State of Wisconsin. Our State banking system is this: the constitution of that State allows banking corporations to be formed which, by depositing with the comptroller stocks of the United States, or of the State of Wisconsin, are authorized to issue circulating notes to the amount of ninety per cent. of the par value of the stocks thus deposited. The circulation must all be secured in that way. It cannot be increased and expanded beyond that amount. It is regarded by our people as a perfectly well secured circulation. The people of our State have full confidence in it. Let me say to my honorable friend from Massachusetts, [Mr. SUMNER,] it is in one sense a national circulation. The debt which was created by the State of Wisconsin, upon which its banking system is now secured, is for the money which Wisconsin has borrowed for the purpose of putting her soldiers into the field to aid the General Government in putting down this rebellion. What is not secured by Wisconsin State stocks issued for that purpose, is secured by the stocks of the United States. By her constitution she was not permitted to have any State debt beyond \$100,000 unless that debt was created to repel invasion, to suppress insurrection, or to sustain the State in time of war. Wisconsin, when this war came

upon us, was without any debt beyond \$100,000. When this war commenced, it was her bankers that stepped forward and enabled her to raise the money to place her soldiers in the field. It was for that purpose that she created the stock which to-day stands, together with the United States stocks, pledged as the security of her whole bank circulation. It was, if I may so express it, born of the Union, for it was to preserve the Union that Wisconsin put up her credit upon which her banking institutions are now based; and in this sense I insist her currency is national, and not local or sectional.

Our true course and our true duty is to manage this currency question without making war upon State banks or upon the national currency system, but by restricting and regulating, so far at least as to restrain all from greater expansion. Let all the banks, State and national, have precisely the same privileges and stand upon the same footing so far as taxation is concerned. By allowing to the national banks the additional advantages which are contained in this bill, we shall induce a majority of the State banks gradually to change their system and come in under the national system. Gentlemen seem to say these are no sufficient inducements unless we make open, relentless war upon them. This is a great mistake. There are very great privileges given by this bill to these national associations. I understand that their bills are to be received in payment of dues to the Government. All our taxes can be collected in the issues of these banks. All debts and dues to the Government, with the single exception of duties on imports, are to be paid in this national currency. These national bank associations may be the depositories, as I understand it, of the Government of the United States. The Government of the United States, now the greatest of all financial operators, will necessarily favor these institutions to a very great extent. All these inducements will lead the men engaged in the business of banking under State institutions to change their system without making direct and open war upon them. If we undertake to make open and direct war upon them, if we undertake to crush them, we shall bring on a financial crisis at once in which we have as much interest—ay, sir, far more than they; the value of our bonds in the market will be affected; and if a panic and crash should come, who can predict the result?

Sir, I would avoid the financial controversy which would grow out of what would be regarded as a declaration of open hostility against the State banks. They are too old, too strong, too much interwoven everywhere with the business and habits and customs of all communities, cities, towns, and States, of the business men and leading men of the whole country, for us to make open and direct war upon them intending to destroy them. I understand there is not a better managed institution in the country than the State Bank of Indiana or the State Bank of Iowa. Is it desirable for this Government to declare open war against these banks, against all their friends, and all interested in them? I say to gentlemen it seems very unwise to me. I greatly fear that of itself it would tend to bring on a financial crisis, to bring down the bonds of the Government of the United States in the market instead of carrying them up; to carry up the price of gold instead of bringing it down. We should at this time, in my opinion, combine all our strength, without destroying either one class of the community or the other. We want the support of all. State banks and national associations all put together are not too strong for the great work in which we are engaged. I would gather all their strength, I would bring all their power to work in support of the Government.

In my judgment, in dealing with the financial questions of this hour—and I agree with the Senator from Massachusetts that the currency question stands next to the great military question which General Grant, I trust in God, with the brave armies under him is now about to resolve—it is unwise to declare war upon the State banks with the determination to abolish and destroy all the State institutions of the country: I am willing to favor the building up of the national institutions, but at the same time I believe it is wisest and best for us to acknowledge the existence of these State institutions and to deal fairly



by them. If I am correctly informed, this Government owes something of a debt of gratitude to the State banks of this country for their course toward the Government in the beginning of this struggle. Did not these banks loan to the Government of the United States all their gold and silver? Have not these banks actually taken of the bonds of the United States more than the whole of their capital, and do they not hold those bonds now? I ask, gentlemen, if you undertake to force them suddenly to wind up by open hostility to them, will you not force all the securities which they hold upon the market; and if the Secretary of the Treasury must go into the market to sell our bonds, and there meets either our own bonds or other good securities in competition with him, will it not of necessity reduce the price of our securities? And we seem to be in this strange state of things, that the holders of our bonds are interested in their depreciation, because the more they are depreciated the more they can buy with the interest they receive upon them in gold.

Let us look at this question as it is. I agree with the Senator from Massachusetts that a good national currency is the most of all to be desired. We have in theory such a national currency—gold and silver. That is the money of the Constitution; but practically, in the existing state of things, the currency which we use is paper; the paper of State banks, the paper of these national banks, and the paper of the General Government. If the policy to be adopted by Congress is immediately to destroy or drive out of existence all State banks and all State bank circulation, I have a much better plan than the one contained in this national bank bill; and that is to substitute in its place directly the notes or greenbacks of the Government. They cost us nothing. We pay no interest upon them. If you desire to destroy the State bank circulation, to allow another class of men to occupy its place, what do we gain? If we were to drive out of circulation the notes of the State banks, amounting to \$170,000,000, we could issue \$170,000,000 of greenbacks in their place that would not cost us anything. It would be a loan to the Government of the United States of \$170,000,000 without interest, and the people would prefer that altogether. But I assume that no such destructive policy is to be attempted, or if attempted that it cannot succeed without most tremendous financial convulsions.

There are so many men engaged in the business of banking, so many who have interests involved in or connected with it, that some system of paper money banking is regarded essential to the business of the country. While I would not destroy the State banks, and I am willing to give to these national associations many advantages, making them our depositories, receiving their bills in the payment of demands due to the Government, which will encourage State banks to change their system and withdraw their circulation in order to organize under this bill; while I agree perfectly in that, and sustain this bill with all my heart so far as that goes, I will not sustain it to the point of making open war upon the State banks as such, with the declared purpose to destroy them and all the State institutions of the country founded upon State rights.

There is one other point upon which I will say a word, and that is the amendment of the Senator from Michigan, [Mr. CHANDLER,] compelling these banks to redeem their paper in the cities of New York, Boston, and Philadelphia, at one fourth of one per cent. discount. My opinion is that that will very much strengthen and nationalize these institutions. It will make their notes desirable to the people; as circulation they will be sought for. It will give a very great advantage, in my opinion, to these institutions. It will encourage the people to take their notes and circulate them, and to prefer doing business with them rather than with the State institutions, because they redeem at so small a discount in the city of New York, that substantially their notes will be at par all over the country and constitute a national currency. Being receivable in taxes of any kind, they will be sought as the greenbacks now are. I think that amendment a wise one.

But, sir, I understand the Senator from Ohio has suggested a motion that this whole subject-matter be referred back to the Committee on Finance.

Mr. SHERMAN. I did not submit any motion to refer it to the Committee on Finance. I said it should go to the Committee on Commerce.

Mr. COLLAMER. Why should it be referred to the Committee on Commerce?

Mr. SHERMAN. I will give my reasons presently.

Mr. DOOLITTLE. It is not in order for me now to move the amendment on which I have addressed the Senate. It bears on the point involved in the amendment of the Senator from Missouri, and therefore it was in order for me to speak upon it now. But his amendment does not cover the whole ground. His amendment would have the effect of limiting all the national currency to be issued under this bill to \$29,000,000. I would not do that. I would allow the State banks in existence to withdraw their circulation and take the national currency, and substitute it for that.

Mr. HENDERSON. I understand the Senator to argue that the United States notes are good enough currency if we want a national currency. He has also argued that we have enough greenbacks out to make a circulating medium in this country. Then of course, according to his own argument, we ought to stop this circulation. When the tax bill comes up, if we desire to tax the State banks out of existence we can do it very easily; but we have nothing to do with the State banks in this bill. This is a bill to organize a system of national banks. I do not desire to interfere with State banks in this bill at all.

Mr. DOOLITTLE. Mr. President, this subject of currency cannot be considered independent of the currency issued by State banks. It seems to me gentlemen are mistaken if they suppose they can consider the question of currency in this country and in this crisis without taking into consideration the existing state of things and survey the whole field. That necessarily embraces the whole circulation. We must act upon and in reference to the \$170,000,000 of State bank currency as well as upon the national currency, greenbacks, gold, and all. We must consider the two together. We cannot consider them separately. They are part and parcel of the same mixed currency, the same volume, constituting together an essential part of the existing state of things. I think, of necessity, when we act on this question as to the amount of national currency which we are to permit to go into circulation under this bill, we must have reference to the State banks and their circulation.

I cannot sustain the amendment of the Senator from Missouri without some such provisos as I have proposed, because it makes no provision for the existing State banks to change their circulation and organize under this bill. They would not be allowed to do so under his amendment. The whole effect would be to limit this national currency to the amount of \$29,000,000.

Mr. HENDERSON. If my amendment be adopted it will not interfere with the organization of all the capital of this country under this bill. The Senator is sadly mistaken in that.

Mr. DOOLITTLE. It would interfere with their organizing and receiving the currency provided for by this act.

Mr. HENDERSON. Certainly; but I understand the Senator to argue that we have already too much circulation. How much better will this circulation be than United States Treasury notes? By issuing them we save the interest. The Senator himself has argued that by putting out United States notes in preference to adopting this system we save the interest.

Mr. DOOLITTLE. I agree with the Senator that if Congress was to adopt now a measure to destroy the State banks and wipe out all their circulation it would be better to substitute for that circulation the greenbacks of the Government on which we pay no interest than it would be to substitute for it this national bank circulation, and the State banks themselves would be better satisfied with that than the building up of associations on the ruins of the State banks, resulting from open and declared hostility against them. They can understand the logic and consistency of having their circulation destroyed to give place to the notes of the Government itself. But, Mr. President, I do not understand that such is the determination of Congress at this time. I do not understand it to be the judgment of either House that the State banks are to be taxed out of existence.

They are still to be permitted to exist; and if so we must deal with them as existing institutions, as they are. We should induce them to organize under this law. But you could get no one to do business under this law if they have not the privilege of issuing circulation. They could not compete with State banks at all if they have no such privilege, and the State banks would not change their system to organize under this act without the privilege of issuing circulation.

Mr. HENDERSON. Mr. President, if the amendment that I have offered be adopted it will stop this system where it now is, and I offer it with that view. I offer it to prevent the further inflation of the currency. In presenting a proposition of this sort I do not desire to be understood as placing myself in opposition to the best interests of the country, as was argued by the Senator from Massachusetts [Mr. SUMNER] yesterday. I believe he said in his speech that everything that was done in this Senate calculated to hamper the bill under consideration is as bad as an attempt to hamper our soldiers in the field. I believe he also said that a defeat of the Treasury is a defeat of our arms.

Mr. SUMNER. I said no such thing.

Mr. HENDERSON. I am repeating the language as I understood it, in order—

Mr. SUMNER. I said every attempt to hamper the national finances.

Mr. HENDERSON. I do not see any cause for the Senator's excitement. I certainly am not in the habit of misrepresenting any gentleman on the floor, and there is no use of any excitement about it. I repeated the language as I understood it, and as he is present, it is easy to correct it. I would not intentionally misrepresent him or anybody else; but I certainly understood the whole drift of the argument he made yesterday in his very able elucidation of this subject to be that any person who interfered with the great system as indicated in this bill was putting himself in the way of the success of the country. In other words, the clear inference was that unless this bill were passed the Secretary of the Treasury could not get along with the finances; that a defeat of the Treasury (and if this bill were not passed it would be a defeat of the Treasury) was just as bad as a defeat of our arms.

Although the Senator may not have used those precise words, yet he will find, when his speech appears in the public prints, I have not improperly stated what was the clear implication of his remarks. But, sir, I do not wish him or any other gentleman to understand that in opposing a system of banking such as is about to be organized under this bill I am putting myself against the success of the country. If I do so, it is an error of the head and not of the heart. I do not desire to interfere with the success of our arms. If there is anything on earth that I do cordially desire it is the early suppression of this rebellion. Like the Senator from Massachusetts, I am perfectly willing, if the sacrifice of all the State banks would accomplish that end, to sacrifice them now. I am willing to do more than that: I am willing to sacrifice other and greater interests to accomplish that object.

But, sir, how will the sacrifice of the State banks accomplish anything? I appealed to the Senator from Maine [Mr. FESSENDEN] a few days since, when the proposition in regard to the Bank of Commerce was under consideration, to tell me if he could how this bill was to benefit the Secretary of the Treasury. The Senator from Maine turned me over for explanation to the Senator from Ohio, [Mr. SHERMAN,] and I must say that since that time I have not heard a reason assigned by the Senator from Ohio; [Mr. SHERMAN,] or anybody else, for the passage of this bill. I know that the Secretary of the Treasury last fall in his report to Congress gave what he regards as reasons for it. But I am perhaps too dull to appreciate those reasons. I am perfectly willing to do everything that a man can do within the narrow limits of my own judgment to sustain the finances of the Government and to aid and assist its military operations to a successful conclusion. This statement for me is unnecessary, however, for I have never failed to vote men and money to carry on the war, and I expect to continue to do it, unless I find its further prosecution is hopeless. As I have said, I cannot understand the reasons—and I have examined them carefully—that are in-

timated in this report for the passage of the measure under consideration. The Secretary says:

"Impelled, therefore, by a profound sense of the present necessity of a national currency to the successful prosecution of the war against rebellion, and of its utility at all times in protecting labor, cheapening exchanges, facilitating travel, and increasing the safety of all business transactions; and at the same time unwilling to urge even salutary and necessary reforms in such a way as needlessly to disturb existing investments of capital, the Secretary recommended, in two successive reports, the authorization of national banking associations, to which the capital of the corporations now issuing notes for circulation might be transferred with advantage to the parties interested as well as to the general public."

Again he says:

"If the policy thus indicated shall be fairly and judiciously pursued, and proper measures adopted to induce the conversion, at the earliest practicable period, of the bank corporations of the States into national banking associations, and of the corporate circulation into national currency, the Secretary believes, and, as he thinks, not without good grounds, that all the money needed for prompt payment of troops, and for the most vigorous prosecution of the war, can be obtained by loans on reasonable terms; while all interest on debt, and all ordinary expenditures, and a considerable part, also, of the extraordinary expenditures caused by this war, will be met by the ordinary resources."

It would gratify me very much to have these sentences explained. In financial questions the mind wants something more than a rounded period. It demands cold logic. It should not be satisfied with anything less. I am willing to take back all of my preconceived opinions against this system of banking if some member of the Finance Committee will tell me how this measure will enable the Government to make loans on better terms than it can now make them. Why will capital organized under this law be more prompt to aid the Government than as organized at present? Capital generally looks to its own interests. It seeks the safety of the Republic, because it is in danger when the Government is lost. Capital wants a stable Government, under whatever law it may be incorporated. But conceding this amount of patriotism to it, we all know that capital is constantly seeking to accumulate. If the Secretary can satisfy the local banks of the security of his loans he can negotiate loans with them at any moment. After they have surrendered State charters and accepted this law will they demand less security? If they do, it will simply be because their issues are less valuable than their present issues. To inflate the currency would bring about that result, but the Secretary seeks to avoid inflation as a great evil. But is it intended to procure the favor of these institutions by granting them Government favors? If so they will soon have entire control of the Government. Does the mere organization of capital under a loosely drawn bill enable the Secretary of the Treasury to lay his hand on the surplus capital of the country? I do not say "loosely drawn bill" to reflect on the Finance Committee, for the very necessity of having any such measure as this makes it necessary to have what I call a loosely prepared system of banking. The work of the committee is perhaps well enough so far as concerns mere execution. The defect is in the system. The system is false in its very inception. Falsehood and blunders will follow it all the days of its life. Its history will be one of corruption. Its death will come when the country has been ruined by it. How does it enable the Secretary of the Treasury to lay his hands upon surplus capital which would not otherwise be obtained? How does it enable him to get it, merely by having it incorporated under this bill? To me the idea is preposterous.

It cannot and will not be argued now that it will enable the Secretary of the Treasury to sell bonds, as an inducement to individuals to commence banking by depositing them with the Treasurer. No such argument as that can well be urged, because the banks of this country already hold bonds enough to procure all the circulation authorized by the bill. They need to purchase no more. They have enough to deposit the \$300,000,000. If they purchase any more it will be because they think the purchase profitable. But the other reason is that it will give a sound currency. Mr. President, I do not pretend to understand the subject of banking. I am no financier, but when I examine a bill of this character and look at the condition of the country I think I know that no circulating medium issued in the manner provided in it can ever be of any service to the people. That is my candid impression. I cannot see

wherein it will aid the Secretary of the Treasury either in making loans or improving the currency. Why, sir, as I have said, the banks have enough bonds now to commence banking under this system. Without purchasing any more bonds they can draw all the currency they may desire. How in the world does it enable him to borrow money that he could not otherwise borrow? Until reasons, substantial reasons, founded upon something like common sense, be given, I will not believe that this measure gives any facilities for making loans. It would be strange indeed if a mere act of incorporation would change the nature of capital. If legislative favors are designed to be given to induce the loan of their worthless trash to the Government, I for one will set my face against granting those favors. Such conduct will ultimately subject the Government to the most heartless power on earth. It will first enslave and then bankrupt the Government, while it destroys the independence of the people. Three hundred millions of paper issue controlled by selfish capitalists, and combining from political or avaricious motives, would be dangerous to the liberties and property of the people.

But the Secretary of the Treasury gives another reason to which I must allude. He complains of the State banks that they inflate the currency and prevent his properly carrying on the finances of the Government. He says he cannot properly get along under the load of difficulties thrown upon him by State bank expansion. If that be true, of course it is a serious objection to local bank circulation. But I cannot see that it constitutes any reason at all for the establishment of this system, for the real evil is inflation. The Secretary says:

"Much the greater part of the rise of prices not accounted for by the causes just stated, as well as much the greater part of the difference between notes and gold, is attributable to the large amount of bank notes yet in circulation."

Now, Mr. President, let us examine this for a moment. When the Secretary of the Treasury sent this report to Congress on the 7th of last December, what was the price of gold in New York? One hundred and fifty-one. What is the price of gold to-day? I have not seen the quotations this morning, but it is not less anyhow than 180. Will the Secretary of the Treasury or any gentleman on this floor tell me how it is that gold has risen in value between the 7th of December and this time? If this statement of the Secretary of the Treasury be correct, that it is in consequence of the inflation of the currency by the State banks, how is it that gold has risen since that time? Every gentleman here knows that the banks throughout the country have been reducing their circulation since the 7th of December last, with the exception, I believe, of the State of Pennsylvania. The only State I now remember that has inflated its currency in the least is the State of Pennsylvania. It is a little singular, therefore, that gentlemen will urge the adoption of this measure upon any such ground. I tell Senators my honest impression is, if this bill passes and the circulation contemplated by it is thrown upon the country, that gold will continue to go up in the market, and will go up very largely. This measure will not check the rise in the price of gold. It must increase the price.

Mr. President, I do not desire to detain the Senate, and I have not taken its time upon this measure, nor generally upon other measures; but I do desire while upon this subject of the State banks to go back and look at a little statistical information on the subject to ascertain whether the charges made against them and the reasons assigned for the organization of a system of banking of this character be true or not. If the desire be to establish a system of banking for this country, and ultimately to get rid of the circulation of the State banks, then I make this pertinent inquiry: does this system of banking give the country a circulation more secure than the State bank system?

If banks of issue be in themselves wrong it will be enough to destroy those now in existence without establishing others. If constant evil attends bank circulation let us cut up the whole thing and commence aright. But this is not proposed. It would indeed be ludicrously inconsistent for an advocate of this measure to express any doubts about the general utility of bank circulation, for if that proposed now to be issued be

serviceable it would be difficult to conceive of any that would be injurious.

Let us look for a moment at the State bank system of this country as it has existed for the last several years. I do not desire to be understood as advocating or upholding in any measure whatever the State or local banks. If I had my way I would abolish every bank of issue in this country. They are a convenience when established upon specie and have no power to expand their issues beyond actual capital. I do not say that as a Senator I would vote for any proposition to destroy State banks, because I do not believe I have constitutional power to do any such thing. This war, that the Senator from Massachusetts speaks of as necessary to be organized against the State banks, is a war, in my humble judgment, against the Constitution of the country, and therefore I cannot make any such war. I cannot make this war with the mere purpose of destroying those institutions. I can subject the capital of those banks to the same taxation that I subject other property to, but I will not go beyond that. If capital is invested in State banks, I am willing to tax it just as I do capital in the national banks; and gentlemen will find that however far they may stray from that doctrine they will have to come back to it in the end. No injustice of the character indicated here during the discussion of this bill in regard to taxation will be tolerated by the people. If equal taxation upon the State banks shall destroy them let them go. In that case revenue is the object, and the overthrow of the banks the incident. I will do nothing that looks to their destruction as the object of legislation. We have no power to do so, and if we had, it is against all propriety and expediency to exercise it.

In 1850, by an examination of the statistics, I find that there were in the United States 872 banks with an aggregate capital of \$227,469,077, with a circulation of \$155,012,881. Their deposit account amounted to \$127,567,655. To meet these liabilities they had of specie in their vaults \$48,671,138, nearly thirty-three per cent. of their circulation. In addition to this they had a local and exchange line of \$412,607,653. Besides, they had perhaps the larger part of their whole deposit account on hand in the paper of good solvent banks in different parts of the country.

In 1860 the banks had increased in number to 1,642, with a capital of \$421,890,095. The circulation at that period was \$207,102,477. Their deposit account was \$253,802,129. Their coin on hand amounted to \$83,564,528, nearly one half of their entire circulation; while their loans amounted to \$691,495,580.

The Senator from Ohio, a year ago, on the introduction of the bill of which this is an amendment, urged its adoption upon the ground of the multiplicity of banks organized under State laws. That I admit was an objection to the State banks. Now, how many banks are we getting under this law? I believe that from three hundred and fifty to three hundred and ninety national banks have already been organized under the law of last year, and they have now issued \$29,000,000 of paper. If we go on at that rate, the Senator from Ohio will find that we shall have many more banks established in this country under this system, furnishing the same amount of circulation, than under the State bank system.

The fact is, if a circulation of \$29,000,000 requires even three hundred and fifty banks, the proposed circulation of \$300,000,000 will require about thirty-six hundred banks. The old law required that they should all be known as national banks and their currency should all be alike. This bill permits them to assume any name they choose. Hence that beauty of similarity, that preventive of counterfeiting, that virtue of uniformity, is all to be sacrificed to a very natural desire on the part of the banks to retain the old names under which they have acquired a deserved reputation for solvency and correct dealing. The Bank of Commerce would not be the ninety-eighth national bank of New York, but it wishes no doubt to continue as the Bank of Commerce. It would require many years to give that bank the character it now enjoys under the old name. Banks to be beneficial need age. The community wants solidity, capital, good management, punctuality, honest directors, and legitimate banking in all institutions of this character. I do not blame the old, long-

established banks, possessing a character for solvency and fair dealing, that they should be unwilling to give up their names. In this case there is something in a name. The only thing that astonishes me is that they should be willing to surrender charters which gave them renown for vigor, health, and security, and accept a rotten charter that throws suspicion upon them in the infancy of life under it. I am more astonished that they should be willing to enter upon a reckless and unworthy system of banking, which will sooner or later tarnish their good names, ruin themselves, and bring distress upon all within their influence.

But, Mr. President, what was the fact in regard to the State banks? I undertake to say that in a large majority of cases those banks are subjected to a most rigid examination under State laws. The registers, commissioners, or bank superintendents of some sort were required to go perhaps twice a year and examine them personally. Their circulation was furnished generally by bank commissioners or registers, whose business it was to confine them to the limits fixed by the State law. In nearly all cases they are required to keep on hand a large reserve of coin. In the large cities they are required to make daily reports of their condition, and the most obscure country bank is compelled to make quarterly exhibits. What is the case under this bill? What sort of reports do you have under the bank system now presented to us as a national system of banking, which is to furnish a uniform currency throughout the United States? The only uniformity there can be in it, in my honest judgment, is that it will be uniformly bad. Will the mercantile community of New York, Boston, Philadelphia, Cincinnati, and St. Louis be satisfied with a quarterly report from the institutions having their fortunes perhaps in their vaults? Such a thing cannot be. Will the bank commissioner be able ever to go and examine these three or four thousand shipplaster shops? I say not, and we all know it cannot be done.

But to proceed with the State banks. Usury generally subjected them to the forfeiture of charter; at the least to heavy penalties. The refusal to pay in coin was followed by large interest on the paper protested, in the shape of penalty; and continued suspension for a certain period, generally short, forfeited the charter and forced the institution into liquidation. Contracts made in violation of their charters are declared void, and any person in interest can avoid them.

I am now speaking of the provisions generally found in State bank charters, in order presently to draw a comparison between them and the provisions of the bill under consideration, which it is said is to furnish to us this greatly needed currency that is to be uniform in value throughout the country. I am aware that the State banks have heretofore very ingeniously managed to avoid many, if not all, of these wise and wholesome restraints imposed by the States. As capital has done in the past it will do in the future, and you will not get rid of these difficulties under the proposed banking system; indeed they will be much greater than under any State bank law of which I have any knowledge. As I said before, I do not desire to be understood as defending the State banks or as attempting to urge upon the Senate any right upon their part to issue currency; I am aware of their shortcomings; but it seems to me illogical to complain of evils existing under a good system, even if it be a State system—evils, indeed, inseparable from all bank issues—and then to urge the adoption of a measure, wholly without safeguards, without a dollar of coin, propped up on public credit, issuing unlimited quantities of irredeemable paper, convulsing the country with its contractions and expansions, producing at one time the corruptions of extravagance, at another the distress that follows money panics, corrupting the rich and degrading the poor.

Mr. President, John Law's system of banking in Paris when first organized was infinitely a better system than this. If I recollect aright, he required in his banking system that twenty-five per cent. of the capital subscribed should be paid in coin. It is true that coin had been debased and depreciated to the extent of one fifth in value by the action of Louis XIV a short time previous; but the twenty-five per cent. at least would have been worth twenty per cent. in coin, even after

its depreciation. He required then that at least twenty per cent. of the capital stock subscribed should be paid in in coin, and he required that the balance of stock should be paid in in French securities—the bonds of the French Government—which at that time were no further depreciated below gold than the bonds and greenbacks of the United States to-day. What was his system organized for? It was under the pretense on the part of the Duke of Orleans that he could pay the public debt; that he could get rid in this way entirely of the public debt, fund it, merge it into the bank, make it a part of the capital stock of the institution, and thus relieve the Government of it. It was to get the people to sustain the bank with all their wealth, and then the bank could carry the Government through its embarrassments. Why are we organizing this system now? It is to facilitate loans, to enable us to contract additional debt, and, just as John Law proposed, to make this public debt a basis for a circulating medium. If we make these banks carry the public debt all will be ruined. Such was the case then. Such will it be now. I undertake to say that this experiment of banking on nothing has been tried often enough to show its fallacy. You can no more establish a bank upon public credit and make that bank live than you can do any other impossible thing—no more than you can make money out of paper and lampblack. Whenever we arrive at that degree of proficiency in money-making that we can take a piece of paper, stamp upon it the amount that it shall be worth, and make it worth that amount, we shall have arrived at the point of making this a good banking system.

Mr. President, unless we are to-day prepared to say in our judgment that paper with pictures on it, the landing of Columbus and other designs connected with the history of America, is money, then ought we to know that this thing will fail. It was tried in England and failed; it was tried in France and failed; we tried it during the revolutionary war, and called every man a Tory who would not declare it was money, even while he was paying \$1,000 for a breakfast; we tried it in 1836, and a most inglorious failure followed. The confederate States have tried it and failed. We laugh at their failure day after day, and follow them as though we admired Mr. Memminger's financial sagacity.

What was the cause of the failure of the free banking system of the western States a few years ago? We of the West have had sufficient experience on that subject. The free banking system of the western States which brought ruin and distress upon that section in 1857 and 1858 was far superior to the proposed system. That system required redemption in coin, and compelled a reserve fund to meet immediate liabilities far greater than this system does.

Now, permit me to look for a moment—and I call the attention of the Senator from Ohio to it—at the security presented in the measure now before us for the redemption of the notes. What does it propose? I believe the word "coin" is not used in the bill, any more than the word "slavery" is used in the Constitution of the United States. No circulating medium ever was good, or ever will be made good, that is not convertible into coin. It may be tried a thousand times, and it will fail every time. Each attempt will but further attest the truth that it is beyond the power of man to make something out of nothing.

In specified cities, the redemption points under the proposed measure, (and those redemption points are now reduced to only three by an amendment which has been adopted,) the banks must keep on hand twenty-five per cent. in lawful money of their circulation and deposits. What does that twenty-five per cent. now amount to? It is equal to thirteen and eighty-eight hundredths per cent. in coin, paper being worth but fifty-five cents and a half on the dollar. At all other points—and you will find that the banks of circulation will be generally at these other points—they are required to keep but fifteen per cent. in lawful money, and that is equal to eight and one third per cent. in coin.

Now suppose a country bank is established under this bill with a capital of \$500,000, what will be its issues? Four hundred and fifty thousand dollars. It will purchase \$500,000 of United States bonds as its capital, and issue \$450,000 of

notes. I have shown that the average amount of the deposit account in the banks of this country is over half the capital stock. Then suppose the bank receives deposits to the amount of \$250,000, the immediate demands against the institution will be \$700,000. These are demands that may come against the bank any day, and any good system of banking must look to the funds on hand for the redemption of the immediate liabilities. Now what is required to be kept on hand for the redemption of this \$700,000 of immediate liabilities in the bank? It loans its money, I mean the currency it draws on deposit of bonds. I cannot of course tell what will be the amount or the value of its loans, but I will suppose that it uses the whole amount which it can loan. In prosperous times it will loan all. Then it will have loans on hand amounting to \$450,000. If this system of inflation continues much longer, gentlemen will find that the liabilities due to banking associations under this law in the course of a few years will be worth very little, for the whole country will be in a state of bankruptcy and insolvency, and it cannot be expected that in such a condition of things the liabilities due to the banks will be of much value. Banks, of course, in order to make double interest—interest on the bonds of the United States deposited here and interest on the currency drawn—will attempt to put into circulation all of their notes. It will be their interest to do so, and they will endeavor to force their notes upon the community. This is but natural; all banks without the fear of specie redemption before their eyes do it; and there is no reason why these banks should not do so, and especially under a law which puts no curb whatever upon them.

I know that to say anything against a measure which the general feeling of a body of which a man is a member insists is right only renders him who says anything against it ridiculous at the time; but I am satisfied, in the course of the next five or six years what I am now saying will be sufficiently vindicated by the history of the country. The history that has been will be again. The South Sea bubble will explode again, and the results of John Law's banking system will inevitably follow this. It cannot be otherwise. The experience of the western banking system based upon public stocks will be repeated again, because of the simple fact that you do not make money out of public credit; it is debt; it is not capital. It is a false idea that anything of that character is money; and whenever we build upon it we build upon a sandy foundation, and the house that is built thereon will fall.

It will not do to tell me that the wants of the Treasury demand that we shall adopt this scheme. I say that anything which destroys the credit of the country destroys the credit of the Treasury, and anything that destroys the credit of the Treasury will, as the Senator from Massachusetts says, hamper our soldiers in the field.

But suppose the bank which I am creating has an amount of loans equal to the circulation, \$450,000. When a run, in the usual language, is made upon the bank, how much of that can be reasonably expected to be realized? I undertake to say that under this system, if ten per cent. can be realized in order to meet immediate demands, it will be doing very well. Then it will get \$45,000 out of its loan account. A country bank will not be expected to have a very large exchange account. Its loans will be on its local line, loans for three, six, and nine months, and if it can get ten per cent. on those loans it will be as much as it can do. In the western States in 1857, after the insurance company at Cincinnati failed, it is notorious that many of the banks could not realize five per cent. at any given date upon the amount of their loans. But gentlemen say this banking system is founded upon United States stocks, and therefore it is infinitely better than that western system which was founded on State stocks. Let me say that the very State bonds that were filed with the register in Wisconsin and Illinois and other States in the West, to furnish a basis of circulation in those States in 1857 and 1858, never sunk so low below gold as United States sixes to-day, although the people suffered so much by the depreciation of those bonds.

It will not do to say that it is disloyal to make this assertion. We might as well come up and meet this question as men. We know very well



that the bonds of the United States are below par. We know very well that they will not sell for coin at par. Why do we not attempt to do that which is necessary in order to appreciate the credit of the Government? Why do we go on building upon credit? Is that going to save the credit of this Government? It destroyed the credit of the English Government; it destroyed the credit of the French Government; it brought universal misery on the people of both those nations; and yet we are repeating it. The old Continental money system is upon a par with what we are now establishing. Look at the bloated system of affairs they now have in the southern States. Where is the credit of the confederate government? How have they destroyed that credit? They destroyed it by building upon credit, the very thing we are doing now. We abandon gold and build one credit upon another. We issue a Treasury note and call it money. We know that gold is worth almost double as much. Why? Because the one is credit, the other is capital, money. But we do not stop here. We issue another security debt in another shape, a Government bond, and in order to induce the sale of it we agree to take for it the previously issued debt, and agree to pay gold at some future day. We go further; we say to the purchaser, purchase the bond and you may commence banking on it. You may issue notes equal to ninety per cent. of its par value, those notes redeemable in legal tenders worth to-day fifty-five and a half cents on the dollar. As a further inducement you may become a splendid banker without a dollar of coin in your vaults, and you shall only be required to keep fifteen per cent. of circulation and deposits to redeem the one and pay the other. If you fail, as you will, we will redeem your circulation.

Gentlemen talk about reducing the circulation, and yet what is now proposed? The State banks have a circulation of about \$168,000,000. The chairman of the Committee on Finance says \$170,000,000. I think it is about \$168,000,000. It is proposed to retire that circulation and to substitute instead of it \$300,000,000 of what? Anything better than the issues of the State banks? If to-day you repeal your legal-tender law there will stand the State laws compelling the banks to redeem in coin, and they have got the coin on hand to do it. What right have we to stand here and complain of the State banks because they do not redeem in coin? Do we not compel them to take United States legal-tender notes in payment of all debts due to them, and shall we not say that they may pay them out? In fact we have so said. Capital acts just as we would act. If any gentleman on this floor to-day had gold in his pocket and United States Treasury notes, what would he use in payment of a debt? He would use the greenbacks. So with the banks; and the reason that State bank paper to-day is below par is simply in consequence of your bill making United States Treasury notes a legal tender.

But, Mr. President, I digressed. What sort of a banking system is this? I return to my illustration of a country bank with \$500,000 capital, having immediate liabilities to the amount of \$700,000, and you can make them no less; figures will not lie. How much is required to be kept by that country bank as a fund for the immediate redemption of its liabilities? Fifteen per cent. of its circulation and deposits. How much is that? Its circulation and deposits, according to my estimate, are \$700,000. What is fifteen per cent. on that? \$105,000; which, being added to the \$45,000 it may realize from its loans at any period, it has then \$150,000 in greenbacks to redeem \$700,000 of immediate liabilities. I am gravely told that this is a banking system which will make the paper secure and uniform in value throughout the country. It may be uniform; I do not object to it on account of its want of uniformity; but I say if it has any uniformity its uniformity is bad. It will be uniformly worthless.

But that is not all, Mr. President. This bill allows three fifths of that whole fund to be kept three thousand miles away from the bank of issue. Do we not know very well how the banks will act in regard to this matter? Do we not know that a bank in St. Louis will merely exchange its credit with a bank in New York? They will find out how much three fifths of the amount required to be kept on hand is, and the cashier of the bank in St. Louis will write to the cashier of the Bank

of Commerce in New York, saying, "Please place this amount to our credit, subject to our draft at any moment, and in return for your kindness we will place a similar amount to your credit;" and in that way no money will pass, nothing will be used but credit. We are going on credit without a dollar of money anywhere, and the banks will take you at your word. This is all credit; a banking bill established by a law of Congress in which the word "gold" or "specie" does not appear! The St. Louis bank will pass to the credit of the Bank of Commerce the amount of three fifths required to be kept on hand, and then what does the bill mean? It requires two fifths of the fifteen per cent., equal to only six per cent., to be kept by the country bank for the redemption of the \$700,000, and what does that amount to? Two fifths of \$105,000 would be \$42,000 in paper, which is demanded by this law to be kept for the redemption of \$700,000 of immediate liabilities; and that at the present depreciation of paper, which is worth to-day but fifty-five and a half cents on the dollar, is \$23,300 in coin, which I am told is a sufficient fund for the redemption of \$700,000 of liabilities that may be brought against that bank any day. This, added to the \$45,000 immediately available from loans, would make the entire fund \$68,300 in paper, or \$43,275 in coin.

It is astounding to me that this is called a safe, sound banking system. Gentlemen may consider it so; but I tell them that the John Law scheme in Paris, after it had exploded in 1720, was more tolerable in the eyes of the French than this will be in the eyes of Americans in ten years from to-day, if it be adopted.

But lest objection be made to my illustration of a country bank, let me take the Bank of Commerce in New York, that huge concern which has been urged to come in and embrace this bill. I find by looking at the report of that bank made on the 23d of April that it had a loan account of \$18,807,089, and it had of specie on hand \$1,763,449. Its deposits were \$9,120,000, and its circulation \$1,705. You have amended this bill so as to enable that bank to come into this system without individual liability. What sort of a bank will you have? It has now a circulation of \$1,705, and you want to get rid of that, to destroy it; and why? Because it is the circulation of a State bank, and the Senator from Massachusetts says it stands in the way of the prosperity of this country and must be abolished, must be destroyed; it should not be permitted longer to interfere with the affairs of the Treasury. Remember the proposition is to contract the inflation of the currency, to reduce the quantity of the circulating medium. The Secretary of the Treasury says he is injured in all his financial operations because he cannot stop the banks from inflating the currency, when the fact is that the banks are contracting their currency every day, and we know it; and yet gold goes up as the State banks contract their currency. Then somebody else is expanding the currency, and not the State banks. That is evidently the truth of the matter. You tell me in one breath that you want to contract the currency. Here is the Bank of Commerce, which has now but \$1,705 of circulation out, with nearly two million dollars of coin in its vaults. The city banks of the city of New York have to-day \$25,000,000 of coin in their vaults with a circulation of \$5,500,000, and you propose to enable them to issue within ten per cent. of the amount of their whole capital, amounting now to \$70,000,000, thereby increasing their circulation \$58,000,000, to let them get rid of their coin, to sell it for greenbacks, that it may be shipped abroad for goods, and to suffer them to go to banking on credit, inflating the volume of currency, and disturbing all laws of value and all honesty and fidelity in business. You want to reduce the volume of currency. The city banks have a little more than five millions of circulation out; they cannot generally keep out more. When peace comes or the legal-tender law is repealed, they must redeem in coin under the State law. Hence, being at the center of trade, they cannot keep afloat a large circulation; but when they accept this new system they can issue the whole amount of their capital, less ten per cent.—\$63,000,000—and become the depositaries of the Government to the amount of many millions, without any coin or other adequate fund to secure the note-holder or the Government.

You propose now to issue to the Bank of Commerce \$9,000,000 of circulation, its capital being say \$10,000,000. You propose to compel it to withdraw its present circulation of \$1,705, and in lieu thereof to let it issue \$9,000,000. Adding to this circulation its deposit account, \$9,120,000, and what are the immediate demands upon the institution? Eighteen million one hundred and twenty thousand dollars. What security would the note-holders and the depositors in this bank have for immediate payment? Of course, under your system the bank will continue to issue circulation as long as it can, for it has only to redeem in greenbacks, and it is to the interest of this whole system that you are establishing to reduce the value of the greenbacks so that the banks can redeem with that which is of less value than it was at the time of the issue of their paper. Let gentlemen consider that it is to the interest of all these banks, the very moment they have issued this "national currency," to depreciate the value of greenbacks. Why? They have simply to pay a debt; and it is to the interest of the debtor to inflate the currency, while it is to the interest of the creditor to contract it. Is not that true? A debt is contracted at par for gold to-day, for example. Is it not the interest of the debtor to make more paper to be put into circulation, and, if you please, to have it declared a legal tender, in order that to-morrow he may buy the paper for fifty-five cents and pay his debt at that rate? We close our eyes to this important fact, and we go blundering on, and declaring that no man except a traitor will refuse to acknowledge the credit of the Government. I have as high an opinion of the credit of the Government and the resources of the people as any gentleman; I do not want to depreciate the one nor underrate the other; but he who gets up and says that that credit is depreciated is the patriot, not he who declares that every man who says aught to the contrary is after "beef" or some other personal interest. Government bonds are now below par, and they may be much lower. English consols, under the influence of a bread panic in 1857, fell from 98 to 78½.

Sir, when suddenly we find ourselves in the condition of the southern confederacy, those men will not be regarded as the true friends of the Government who stood up against light and suffered this state of affairs to come upon us. The true friend of the Government is he who watches its interests and speaks of its faults with a view to correct them.

I have asked what security the note-holder and the depositor of the Bank of Commerce will have under this system. Recollect that any day the Bank of Commerce may be called upon for over \$18,000,000 of immediate liabilities; not contingent or future liabilities, but liabilities that rest on the bank from day to day; and I take its present report because I understand it will be organized under this system with all its capital just as it stands. It is required that it shall keep on hand twenty-five per cent., because it is in one of the cities named in the thirty-first section. Twenty-five per cent. of its deposits and circulation will be \$4,530,000 in greenbacks, which to-day at the present depreciation would be equal to \$2,506,600 in gold. Here is a bank with immediate liabilities upon it amounting to nearly eight times the amount of assets immediately available for payment, and I am told that this is a safe, sound, solid institution. It may be tried; but the future will demonstrate that the whole thing will explode and bring ruin and misery on this country.

Since this debate commenced, I have heard it given as one reason why this bill should be passed that the State banks have suspended specie payments, and that we need to have a currency which is better than the currency of the State banks—currency that need not be in a state of suspension. I suppose indeed that this is one of the chief reasons why this bill is urged upon us. The next movement will be to destroy the State banks. If the State banks had suspended specie payments without any action on our part making it necessary for them to do so, would that be any reason why we should pass here a system of banking which is already suspended in its inception? If bank suspension be a bad thing it is bad only because the notes of the banks are not convertible into coin. What other objection can Senators urge against bank paper that is sus-

pendent? That bank paper, although suspended, is certainly more solvent than that to be issued under this system, because, as I have just shown, there are many millions of dollars now in coin held by the local banks against \$168,000,000 of circulation. I call attention to the important fact that there is but a circulation of \$168,000,000 of State bank paper in this country now, and the banks having that paper in circulation to-day have nearly \$100,000,000 of coin with which to redeem it. They have coin enough in their vaults to buy greenbacks in sufficient quantity to redeem every dollar of it to-day, and have all their loans, all their exchange, all their other assets on hand besides. Yet we are told that because the State banks have suspended specie payments therefore they must be destroyed and this system must be substituted in its stead!

As I have said, if bank suspension is a bad thing, it is only because the notes of the banks are not convertible into coin. I have already suggested that the banks would now be able to resume specie payments but for the legal-tender law. That law has had the effect to force on the public an amount of circulation not needed, and the result, of course, has been depreciation, a result superinduced by our own legislation. We now charge the local banks with muddying the waters about us. What have they done? They are certainly decreasing their circulation all over the country, except, perhaps, in the one State of Pennsylvania. It is said they have inflated the currency. In the first place, I say that is not true; but the charge implies that inflation is an evil, and to remedy this evil you propose to double the amount of the circulation! In the second place, it is said the banks are not able to redeem their circulation. If that is true, it is made so by your legislation; but I have shown that in addition to their other vast resources, they now have on hand gold enough to purchase sufficient United States notes with which to redeem in greenbacks. They have on hand already Federal securities enough to commence banking under the new system. They have a large local and exchange line, and in a majority of the States we have a double liability of the stockholders. But because the banks cannot at this moment redeem in coin, we propose to destroy them, and establish a system of twenty years' duration without any redemption at all. We say that because the State banks have suspended specie payments, they ought to be driven from existence, and immediately we turn round and establish a system for twenty years without any redemption at all. This may be all right; but I cannot so see it.

If we want specie resumption, we can get it immediately. How? By repealing the legal-tender law. This is the short way to arrive at the end assumed to be desirable. The plan now proposed will, unless strangled by the future legislation of Congress, postpone for twenty years at least all hopes of a convertible currency. We are here insisting that the safeguards around State banking are insufficient, and for remedy we propose a system possessing fewer safeguards for note-holders and depositors than is possessed by the most loose and rickety system of stock banking ever adopted in any State of the Union. No stock banking system ever was adopted by a State government which did not require the redemption of the notes in specie, and yet they fail.

We insist that the local circulation is not uniform, that some of it is good and some of it is bad; and to remedy this evil we propose to issue a circulation all of which is bad. That is the sort of legislation we are now called upon to adopt. We find a circulation in the States based upon surplus capital, upon wealth, upon gold and silver in a majority of cases. We desire to monopolize the currency business. We must therefore destroy this. We propose to issue paper based not upon coin but upon public debt, which never yet in the history of banking failed to ruin the community in which it circulated, and I defy any gentleman to point me to a single exception. I undertake to say that no banking system ever yet was established upon public stocks, upon debt, that did not end in failure. There may be some that have not yet had a sufficient trial, but the trial will bring them to bankruptcy. It is so in the very nature of things. But we are bound to contract debt during this war, and we think this false scheme necessary to sell our bonds. If we regarded a Government bond as debt, the only injury would

be the existence of the debt. We insist, however, that the debt is money, that it is the same as gold; that instead of its being a curse it is a blessing. To prove it the same as gold we let the purchaser use it as gold—to use it as a basis for bank issues, where nothing else than gold should ever be used.

What is the use of a paper circulation at all? I thought it was for convenience. I did not suppose that anybody dreamed that a paper circulation was money, unless instantaneously convertible into coin. I did not suppose that anybody, not infatuated, ever seriously argued that it was worth one cent of itself, that it had any intrinsic value in it. But we seem to argue here as if paper itself would give to the country wealth, power, greatness, ability to negotiate loans, and supply all the business of the country with that which is so much needed. The circulating medium of this country now is far too great, and that is the difficulty with us.

As I stated, we want the business of circulation reorganized, vainly supposing that the scheme will float a large public debt. To succeed in this work the thumb-screw of power is to be applied to the State banks, and a dangerous system of favoritism extended to the new corporations. I do not object to your depriving the State banks of the power of issuing paper if thought desirable. It might, perhaps, be a good thing to do so if it can be legally done. But when you have done that, does it necessarily follow that the Government should provide for issuing \$300,000,000 more by these new banks? That is the meaning of this bill, and a meaning to which I object most strenuously.

I desire now to call attention to another question. If the \$300,000,000 of notes to be issued by the new banks be intended as the permanent currency of the country for the next twenty years, displacing all other paper, (a thing neither practicable nor desirable,) I still think the amount should be limited to a smaller sum. The year 1860 in this country was exceedingly prosperous. Recovery from the prostration of 1857 was almost complete in that year. Business was healthy, both North and South. The currency was not so abundant as to excite speculative operations of a dangerous character. The money in circulation, however, was amply sufficient to answer the requirements of an active and prosperous trade. Healthy commerce demands a convertible currency, and such a currency never fails to give prosperity and security in business, with a reasonable amount of labor on the part of the people. The business of that period was becoming prosperous and secure; specie payments were being resumed throughout the country. But for the war, the last three years would have canceled the debt of the former Administration, and given us a degree of public prosperity unparalleled even in the history of the United States.

Now, what was the amount of paper circulation in the United States in 1860? I have already shown that it was \$207,102,477. Did anybody complain that there was not sufficient circulating paper in 1860? Business was as active as it ever was, and we had a population of thirty-one million of industrious and enterprising people. Nobody complained of the lack of circulation. Remember, too, that this amount of \$207,000,000 was the entire circulation of all the States, both North and South. The seceded States had about \$45,000,000, and the loyal States about \$162,000,000 of this circulation. The circulation issued by local corporations and now outstanding in the loyal States is about what it was in 1860, not varying more than five or six million dollars. It is now perhaps \$168,000,000; it was then say \$162,000,000. This circulation, I have shown, has the best possible guarantee for its conversion. It has loans three times as great as the amount of the circulation, and coin on hand equal to nearly one half of it, and fully sufficient to purchase greenbacks to redeem it all to-day. Yet grave Senators tell us that this circulation is worthless, and must be displaced by that which is uniform and convertible. To make it uniform, they will allow a New England bank to redeem in Louisville, Kentucky, or in San Francisco. That was the bill as it was reported, and as it will be again, perhaps, before we get through with it. To make that currency convertible they ignore specie as the standard of value, and require redemption only in that which is as worthless as the authorized circulation. If

greenbacks are convertible so is this circulation. If this circulation is convertible so are greenbacks. But the whole ruinous system of credit is established without one dollar of coin. It is to be national currency or greenbacks, or greenbacks or national currency. You can take which you please, provided you call at the right place. If greenbacks by any misfortune should not be paid, you can protest and sell United States bonds. Large quantities of these bonds being forced on the market to meet that general insolvency which never yet failed to follow banking on a public debt, the depreciation of the stock is inevitable. We went through that history in the western States a few years ago, and we know all about it. What are these stocks now worth? Some gentlemen say it will not do for us to intimate that the bonds of the United States are depreciated; that it is not patriotic. I disregard this folly. Let us look at the facts. The sooner we look at the facts, and understand them and appreciate them and act upon them, the sooner we shall get out of all our financial troubles. What are the bonds of the United States worth now in coin? If a gold dollar is worth \$1.80 of greenbacks, then greenbacks are worth fifty-five and a half cents to the dollar. Five-twenties with May coupons off are worth say \$1.06 in greenbacks. Then a dollar of five-twenties is worth fifty-eight and eighty-eight hundredths cents in coin. This is to be the basis of the circulating medium in this country; and worse than all, this circulation, not based on real wealth, but on credit, is to be the exclusive system. There is to be no other paper circulation, indeed no other currency. Gold is nowhere mentioned in the bill; and gold never appears in business when a depreciated currency is recognized as a medium of exchange. Gold keeps no such company. No gold has been seen in circulation since the day when greenbacks, being a legal tender, fell below par. The people will never again see any gold until they force redemption, or reduce by taxation or otherwise the amount of outstanding United States notes, checks, and certificates, to that reasonable limit demanded by the legitimate business of the country.

It is useless to drive out a certain class of circulation and fill its place with that which is no better. Is it not criminal to fill its place with that which is infinitely worse? It is criminal when the public interests demand a reduction of the circulation, that we should remove \$168,000,000 with one hand while with the other we scatter \$300,000,000 among the people. That amount of depreciated currency will prove to be an unmeasured curse to this country in times of peace. In 1860 we needed but \$207,000,000 for the whole Union, and now it seems, with the southern States away from us, we need \$300,000,000. I say that this paper, if inconvertible, is a curse to the country. If convertible, what will be the result? It will loose from its hiding place at least \$100,000,000 of gold, and that would swell the currency in peace times to \$400,000,000. This was the case in 1860. The \$207,000,000 of bank paper was not the only currency or medium of exchange. A large amount of gold was in circulation, because the banks having resumed specie payments gold and paper were indifferently used. A man who owed a debt would as lief pay it in gold as in paper, and thus perhaps from fifty to eighty millions of gold went into actual circulation. There is now no gold in circulation at all. If resumption should ever come under this bill, it would loose say \$100,000,000 of gold, and this would give us a circulating medium of \$400,000,000. Suppose that the Treasury notes, postal currency, certificates of deposit, and other devices now in circulation as money, amounting to perhaps \$650,000,000, were out of the way, I yet believe that \$400,000,000 of circulation would be too much for a period of peace. Great Britain with all her wealth and power does not issue over \$200,000,000 of bank paper. I append a table showing the bank circulation of Great Britain for each year from 1854 to 1860.

I give the aggregate figures without giving the different banks. The circulation of the Bank of England, the country banks of England, the banks of Scotland, the Bank of Ireland, and the private and joint stock banks of Ireland, all added together amounted in 1854—the largest amount for the year being taken—to £41,028,283, or a little more than \$200,000,000. In 1855 the circulation was £37,896,956; in 1856, £39,894,516; in 1857,

£39,183,640; in 1858, £39,107,632; in 1859, £39,870,958.

The paper circulation of the United Kingdom is \$100,000,000 less than we propose by this bill, while we already have out six or eight hundred millions.

The total circulation of the Bank of France from 1850 to 1856 averaged about 612,000,000 francs, or \$122,000,000.

Let us see what was the bank circulation of the United States at different periods. In 1830 it was in round numbers \$60,000,000; in 1836 it was \$151,000,000; and what followed 1836? We all know the ruin that followed; and why? Because the system of banking upon credit was adopted all over the country, and especially in the south-western States. The banks had issued twelve and fifteen and sometimes twenty dollars in paper for one dollar in coin, and many banks issued paper without one dollar of coin to begin with. Every one of the stock banks of that period failed, and brought distress on the country. In 1838 the bank circulation had fallen to \$115,000,000, a contraction of \$36,000,000 in two years. Why was this? It was an effort of the country to save itself, an effort to drive off a superabundance of the circulating medium, and to correct the evils of the day. It was like the effort of nature to shake off disease. In 1840, the bank circulation fell to \$112,000,000, and in 1843 it had decreased to \$57,000,000. The delirium of eight years was over, and common sense had returned. In 1845 it ran up to \$88,000,000. Increasing population and business demanded additional facilities. In 1850 it was \$139,000,000; in 1855, \$186,000,000; in 1857, \$218,000,000; and in 1860 it was \$207,000,000.

But, Mr. President, I wish to examine this question in one other aspect. I am not a sectional man, and I do not want to make a sectional argument; but the bill suggests a thought that cannot be well disregarded by western men. Because I undertake to protect the best interests of the people whom I represent on this floor, I am not therefore a sectional man. I now wish to present a reason, an all-sufficient reason to my mind, why no western man should vote for this bill. Some western Senators seem to be very much in favor of the measure, because they say we suffered a few years ago from the individual stock bank system, and they want a currency that is national and uniform; and without stopping to inquire into the other questions connected with the measure, they rush at once to the consummation, as they suppose, of getting such a currency. I ask the question, how can a western man vote for this proposition? And when I ask it I say nothing against the eastern and the northern States. I believe I think as kindly of Massachusetts, of Rhode Island, of New Hampshire, New York, Pennsylvania, or any of the eastern States as I do of my own State. I desire to legislate in my place here for the good of all; and while I am legislating for the West I think I am legislating for the good of all, because, although this measure may be attended with temporary benefits to the northern people, it will redound to their injury in the end. What is to be its result?

It will inflate the currency; and what is the result of an inflated currency? It stimulates speculation. Having intercourse with foreign nations, money necessarily seeks its level. The tendency of money is to an equilibrium. For instance, if we have more gold in this country than is demanded by our business, more than is needed for the exchange of property, it necessarily goes to other countries with which we have commercial intercourse, until an equilibrium is produced. If we use paper instead of gold in such abundance as to fill the requirements of business here, forcing the paper on the community or the community using it voluntarily, without requiring gold to remain in this country as a basis of circulation, the gold goes abroad, for foreign merchants will not take this paper. The greater the inflation the more rapid the exportation of gold. As the volume of currency increases so do speculation, reckless dealing, and extravagance increase. There is fancied wealth, and while the delusion lasts our conduct is as reckless as if real wealth existed.

In such times importations always exceed exportations, and the balance has to be adjusted with gold. This continues, as it did in 1835, 1836,

and 1837, until the country is drained of its precious metals. When this occurs the bloated system falls and the reality of bankruptcy is upon us. Whether in process of time the entire coin of the country will be exported depends entirely upon the amount of paper circulation that the country has. If it be greatly in excess of the demands of business, producing extravagant speculation, the coin will ultimately go. It matters not what the amount of import duties at a given time, if we continue to increase the paper circulation the prices of goods and wares will continue to go up and importations will continue.

Since I came here to the Senate we have raised the tariff, I believe, three times. Does anybody suppose that is going to check importations into this country? I say no, it will never do it, as long as you continue to inflate the currency. It is idle to talk about tariffs stopping importations as long as you inflate the currency and make it to the profit or fancied profit of an individual to import goods. The result is to increase the price of coin and also of goods, and the holders sell their goods on a rising market, and they will continue to export coin and import luxuries. The result will be that before we cease importations we ruin the country by shipping all the substratum of credit out of it. I was looking the other day at the importations into the port of New York, and I noticed that for the quarter ending the last of March, including the months of January, February, and March, we imported into this country some thirteen or fourteen million dollars' worth more than we exported; and notwithstanding the increase of the tariff a few days ago, we shall find that those importations will continue to increase if we pass the bill now under consideration.

Gentlemen will remember what I say, if they think it of any importance. I now predict that the importations will not decrease in amount until we stop this inflated system of banking. We have to come back to the reality of wealth; we have to come back to that which is money; and the sooner we do it the better it will be for the credit of the country and the success of the Treasury. We shall then understand our own condition. Everything now is seen in a false light. Common sense teaches that war impoverishes a country, and yet we fancy that we are growing rich. It is a delirium—the influence of a stimulant preceding dangerous prostration.

How will we undertake to prevent future importations? Just as heretofore, by continuing to raise the tariff from year to year. This I have shown is vain unless we cease to inflate the currency. Now, what is the effect of this continual increase of the tariff upon western interests? I refer to this not to get up any local or sectional feeling. I would scorn to do any such thing. The interests of one section of the country are as dear to me as the interests of another; but I see the inevitable effect of this system on that section of the country which I in part represent, and it is my duty to call attention to it. I am astonished at some western Senators taking the position they do. They seem to be influenced by the one single object of securing what they term a national currency. They will not reason with you if you tell them the circulation of small stock banks, although organized under a law of Congress, will be no better than the currency they now have. Carried away by this one idea, they are willing to act wholly without examination of other questions connected with it. They say the road they are traveling leads to a point which they desire to reach. It may be so; but I doubt the policy of rushing along heedlessly over swollen streams and bogs and precipices without any effort to avoid them. Suppose we get a national currency, uniformly worthless, and it penetrates all the avenues of business, driving out our real wealth, and itself ultimately "turning to bitter ashes upon our lips," what shall we have gained? Suppose it has the effect to impoverish us of the West and give our riches to others, then we do not want it, however good it may be.

The manufacturers of those articles which are not produced in sufficient quantity to supply the whole demand in the United States are enabled to add the entire duty to the price of their manufactured articles. They can add that duty in coin or its equivalent, because the duty is paid in coin. If fifty-five cents duty be added on such an article, the duty being paid in coin, the addi-

tional price to the consumer is one dollar in currency; or else our whole taxing system is a humbug, a delusion, and a cheat. If this be not so, it is folly to be increasing the tariff. It is idle to tell me that you put a tariff on foreign articles imported into this country to protect the manufacturer of those articles at home, upon which you have imposed an internal revenue duty, unless it has that effect. The Senator from Vermont, [Mr. COLLAMER,] in his able argument the other day, made this perfectly clear. Hence the enormous prices of cottons, flannels, iron manufactures, and other articles made in the northern and eastern States. But how is it with pork, wheat, corn, rye, and other articles of the western States? Flour is scarcely higher now in the West than it was in 1860, when our circulating medium was \$207,000,000, although we now have eight or nine hundred millions in circulation. It was then worth perhaps \$6 50 a barrel, and now it is worth only \$8. Pork, bacon, lard, barley, &c., are scarcely twenty-five per cent. higher now than they were before the inflation. It is plain to see that this is a constant drain on the West. These articles are produced in excess of the demand, and tariff laws will not affect their value. You cannot impose a tariff on these articles of western growth which will add seriously to their value; and why? Because we grow them in excess of the demands of this country, and we want a market for them abroad.

If this inflation goes on, provoking speculation and immorality and reckless trading, increasing the prices of manufactured goods to the extent not only of the inflation but also to the amount of the tariff, while we of the West receive for our productions only the increased price produced by the inflation itself, our wealth will be gradually transferred to the East; we shall become poor, and utterly unable to meet the reality of specie resumption in the future. It is the duty of the West to demand a return at once to a more healthy condition of things.

Give us a sound currency and we must prosper. Our productions command coin abroad. They constitute real wealth. Upon these productions in the future we must build our foreign exchanges. An exorbitant tariff is ruinous to our interests. It forces us to pay more for what we buy and receive less in specie for what we sell. If we expand the currency it constitutes another excuse for raising the tariff. Importations will come, and to check them we add to the impost duties. To check the expansion we increase the internal duties, so as to absorb the currency; one wrong making another necessary. So the West pays its taxes, while it receives no benefit from tariff duties or paper inflations. If this system goes into operation all these evils follow. An inflated currency is the result of the system; an inflated currency makes it necessary to impose internal duties; internal duties render it necessary to increase the duties on importations. The increase of the tariff from year to year will finally transfer all the real substantial wealth of the West and leave us where we were in 1838—our substance gone, and we holding millions of rags, calling them money.

Now, Mr. President, what will the Government itself gain by this measure? What will be the benefit to the Government of the United States arising from the adoption of this banking law? The result of it will be inflation, of course; it cannot be otherwise. What are the consequences of that inflation on the public debt? Our annual expenditures will now reach say \$1,000,000,000 in currency. What is that currency worth in gold? Gold is now worth \$1 80 to the dollar; therefore a dollar of paper is worth fifty-five and a half cents in coin, as I have already said. Hence, when we have borrowed \$1,000,000,000 in paper to carry on a year's war we know its intrinsic value is only \$555,000,000. But for the inflation of the prices produced by an over-issue of paper the Government could buy nearly as much with the \$555,000,000 as with the \$1,000,000,000.

Would it not then be better for the Government in the end to borrow and disburse the \$555,000,000 in coin, or in paper that is its equivalent, than to borrow the \$1,000,000,000 in depreciated paper? I waive the risk and additional expense of handling the larger amount, and it is very great in these times of immorality.

It will be remembered that when we give our



notes, I mean the bonds of the Government, we promise to pay them in coin. If we only agreed to pay the equivalent of what is received the case would be different, but we take a depreciated currency worth fifty-five cents to the dollar and agree to pay coin for it at a hundred cents to the dollar. We use this money for the purchase of Army supplies, paying for them the inflated prices. We could pay for the most of these articles at fifty-five cents to the dollar in gold, or its equivalent. As gold goes up so do many of the articles needed by the Army and Navy, and labor follows. The Government is paying two prices for almost everything, just as individuals are doing. The misfortune of this thing is that the Government is contracting a debt in a period of inflation to be paid hereafter in coin; contracted in rags, lamp-black, and paper, to be paid in metal.

The Government, then, will execute its notes for \$445,000,000 in one year more than it receives; in other words, it submits to a discount, a shave of \$445,000,000 in negotiating a loan of \$1,000,000,000. Suppose this to be a twenty-year loan at six per cent.; the annual interest would be \$60,000,000, payable in coin, making, in the twenty years, \$1,200,000,000 paid in the shape of interest alone. The whole amount, therefore, required to liquidate the debt would be \$2,200,000,000. If the loan were negotiated in coin, or its equivalent, which would be equally beneficial to the Government, even if the exorbitant rate of ten per cent. per annum were paid for the money, the annual interest would be \$55,000,000, amounting in the twenty years to \$1,100,000,000 in interest. The interest and principal to be paid by the Government in that case would be \$1,655,000,000, saving to the Government in the twenty years \$545,000,000 in coin, an amount almost equal to the sum now borrowed.

The interest on our public debt as now contracted, if it must be paid in coin, is beyond what any nation or individual can pay and prosper. If we pay six cents per annum on the loan of fifty-five cents, the rate of course is near eleven per cent.; and if we could borrow coin at eleven per cent. for twenty years we should still save the present discount of \$445,000,000. If we could negotiate our loans at eleven per cent. in coin we should save in the twenty years \$445,000,000 upon one year's expenditure. I take it that he who wishes to pay a debt should desire inflation. He who contracts large debt in times of inflation must keep up the unnatural state of things to the day of payment or fail in the end. That, at present, is the condition of the Government.

There are other facts to which I might allude; but the Senate is no doubt wearied, and I myself am tired. I apologize to Senators for having consumed so much time in an extemporaneous and therefore disjointed speech on so important a measure. I am arguing against an infatuation, and therefore rendering myself ridiculous. I do not suppose that what I have said will have any effect upon gentlemen in this body. I have looked somewhat into this measure, and it is my candid impression that if we undertake to bank under it the whole system will be a failure; that the currency which will be put in circulation under the provisions of the law will ultimately prove to be a worthless currency. It is almost worthless at the date of its issue. It is idle to talk about the Government itself being responsible for it in the end; and yet that is the only thing that will make it worth a cent.

If the Government is to be responsible let the Government continue to issue the greenbacks. We can control the greenbacks and save interest. Let us escape the evils that will come upon us for the next twenty years under a system of this character. If I could wipe out the whole system I would do so. I have not examined the subject to see whether we can get rid of the banks already established under the law of last year; I hardly think we can; but the amendment I have offered I think ought to be adopted. If we cannot get rid of the evils we have already inflicted under the system, for God's sake let us stop at the point where we are, let us quit it, let us get out of it. It will neither enable the Secretary of the Treasury to negotiate a loan nor will it make a uniform currency in this country unless it be a currency uniform in its worthlessness and corrupting influences.

Mr. JOLINSON. I voted in the affirmative on

the motion of the Senator from Michigan to strike out all the names of the places at which the notes are to be redeemable, except Philadelphia, Boston, and New York. I move to reconsider that vote, and let it lie over.

Mr. DOOLITTLE. I now move that the Senate proceed to the consideration of executive business.

Several SENATORS. Oh no; it is too late.

Mr. COLLAMER. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

FRIDAY, May 6, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

### MISSOURI CONTESTED ELECTION.

Mr. DAWES. I rise to a question of privilege. The Committee of Elections, to whom was referred the memorial and accompanying documents of Samuel Knox, contesting the right of Hon. F. P. Blair, jr., to a seat in this House, have instructed me to make a report, accompanied by two resolutions.

I am requested to state that the committee are not entirely unanimous in this report; but that the gentleman from Indiana, [Mr. VOORHEES,] and the gentleman from New York, [Mr. GANSON,] and the gentleman from Kentucky, [Mr. SMITH,] and the gentleman from Wisconsin, [Mr. BROWN,] do not concur in the report. I desire that the resolutions may be read; and that the report be laid upon the table, and printed.

The resolutions reported by the committee were read, as follows:

*Resolved*, That F. P. Blair, jr., is not entitled to a seat in this House as a Representative in the Thirty-Eighth Congress from the first congressional district of Missouri.

*Resolved*, That Samuel Knox is entitled to a seat in this House as a Representative in this Congress from the first congressional district of Missouri.

The report was laid upon the table, and ordered to be printed.

### ADJOURNMENT OVER.

Mr. FARNSWORTH. I move that when the House adjourns to-day it adjourn to meet on Monday next.

Mr. PRICE. I raise the point of order that while the country is in its present condition it is not in order to adjourn over.

The SPEAKER. The Chair overrules the point of order.

Mr. FARNSWORTH. I desire only to say that I have a large accumulation of business on my hands, as I doubt not other members have, which I have been prevented from attending to at the Departments by the continuous sessions of the House.

The SPEAKER. The Chair will state that the House by unanimous consent has set apart Saturdays for public business. The Chair has doubted whether, under that order, the House could adjourn over Saturdays, but the Chair will entertain the motion.

Mr. PIKE. I move that there be a call of the House.

The motion was not agreed to.

Mr. WILSON demanded the yeas and nays on Mr. FARNSWORTH's motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 64, nays 58; as follows:

YEAS—Messrs. Ancona, Bailey, Augustus C. Baldwin, Blow, Chandler, Cole, Cox, Cravens, Creswell, Henry Winter Davis, Dawson, Deming, Denison, Dixon, Eden, Eldridge, Farnsworth, Fenton, Ganson, Garfield, Griswold, Hall, Harding, Harrington, Herrick, Hooper, William Johnson, Kalbdeisch, Kasson, Kernan, Lazear, Le Blond, Long, Marcy, McAllister, McDowell, McKinney, William H. Miller, James R. Morris, Morrison, Noble, Norton, Charles O'Neill, John O'Neill, Pendleton, Perry, William H. Randall, Alexander H. Rice, Robinson, James S. Rollins, Schenck, Shannon, Smith, John B. Steele, Stevens, Siles, Stuart, Sweet, Voorhees, Wadsworth, Webster, Whaley, and Wheeler—64.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Ashley, Baxter, Beaman, Boutwell, Boyd, Broomall, William G. Brown, Clay, Dawes, Eliot, Finck, Frank, Grinnell, Hale, Higby, Hotchkiss, Asahel W. Hubbard, Hullbard, Philip Johnson, Kelley, Francis W. Kellogg, King, Littlejohn, Loan, Longyear, Marvin, McBride, McClurg, Melndoe, Middleton, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Orth, Perham, Pike, Pomeroy,

Price, John H. Rice, Edward H. Rollins, Seofield, Sloan, Smithers, Spalding, Upson, William B. Washburn, Joseph W. White, Wilder, Wilson, Windom, Woodbridge, and Yeaman—58.

So the motion was agreed to.

Mr. FARNSWORTH. I move to reconsider the vote by which the motion was agreed to, and to lay the motion to reconsider upon the table.

Mr. RICE, of Maine. I demand the yeas and nays upon that motion.

Mr. FARNSWORTH. I withdraw the motion.

### VOTE RECORDED.

Mr. MILLER, of Pennsylvania. I ask the unanimous consent of the House to record my vote on all the various questions on the bill which was disposed of yesterday in relation to the claims of the State of Pennsylvania.

No objection was made.

Mr. MILLER, of Pennsylvania. I vote in the affirmative on the passage of the bill, and in favor of all motions made by the friends of the bill.

### MISSOURI CONTESTED ELECTION.

Mr. GANSON. I now call up the contested-election case of Bruce vs. Loan, from the seventh congressional district of Missouri, and I call for the reading of the first resolution reported by the committee.

The Clerk read, as follows:

*Resolved*, That Benjamin F. Loan is not entitled to a seat in this House as a Representative from the seventh congressional district of Missouri.

Mr. GANSON. Mr. Speaker, the majority of the Committee of Elections have joined in this report, that the sitting member from the seventh congressional district of Missouri is not entitled to his seat. The election took place on the 4th day of November, 1862. There were three candidates—Mr. Bruce, Mr. Branch, and Mr. Loan. Mr. Bruce contests the right of Mr. Loan to the seat, the latter having received the certificate of election, nominally having a majority over Mr. Bruce of 2,028 votes. The seventh congressional district is composed of fifteen counties. It is conceded by the contestant, and also by the respondent, that in eight of the counties of that district the election was fairly conducted; but the contestant claims that there was neither a free, full, nor fair vote given in the other seven counties; that many persons were prevented from attending the polls by threats of intimidation; and that many who did attend were prevented from voting through violence, and in some cases that the polls were closed and the ballots destroyed by a portion of the enrolled militia of the State of Missouri. He claims that this intimidation, interference, and violence were sufficient, being entirely directed against him by the friends and supporters of the respondent, to change the result in his district; and a majority of the committee came to that conclusion, and have so reported.

It was anticipated by the authorities in that State—this being the first election attempted to be held since the commencement of the rebellion—that there would be some interference with those who desired to attend it; and consequently two orders were issued by the authorities of the State to the military stating what its duty was on the occasion. As appears from these orders and from subsequent events it was anticipated that the trouble would come from the enrolled militia; and whatever interference there was at the polls did come chiefly from the enrolled militia. I will ask the Clerk to read General Order No. 33.

The Clerk read, as follows:

[General Order No. 33.]

HEADQUARTERS SEVENTH MILITARY DISTRICT, ST. JOSEPH, MISSOURI, November 1, 1862.

The attention of all officers and soldiers of the militia of this district is called to General Order No. 45, dated Headquarters State of Missouri, Adjutant General's Office, St. Louis, October 23, 1862, with reference to the election on Tuesday next. The military should bear in mind that they are not the judges of the qualifications of voters. That duty is devolved by law on the judge of the election. If these officers either admit improper persons to vote, or exclude proper persons from voting, the statutes of this State provide an ample remedy. The militia will carefully abstain from all acts calculated to interfere with the freedom of election. All officers who interfere with the rights of voters will be reported to the Commander-in-Chief, to be dealt with as he may decide. All soldiers guilty of the same offense will be punished as a court-martial shall determine.

By order of Brigadier General Willard P. Hall:  
ELWOOD KIRBY,  
Assistant Adjutant General.

Mr. GANSON. Mr. Speaker, General Order No. 45, issued prior to that on the 23d of October, 1862, directed by the fifth clause that in case of disturbances arising at the election which could not be arrested by the civil authorities, any commissioned officer present should, at the request of any judge, sheriff, or justice of the peace, use the necessary military force to suppress it. It is due to the superior officers of the State and of the Federal Government to declare that no other intention, so far as the evidence in this case discloses, was manifested on their part than that the election held there should be free from any interference on the part of the military authorities.

But it was anticipated that such an interference would come from a portion of the enrolled militia of the State; and it was by reason of that apprehension that these orders were so explicitly made in this case, directed to the officers and soldiers of the militia, informing them as to what their rights and duties were in the matter; that they were not to interfere in any instance unless called upon by the civil authorities, and that if they did interfere they would be held amenable to martial law.

Notwithstanding these precautions on the part of the authorities, there was interference in some parts of that district from a portion of the armed militia of the State; and as that interference was, in the opinion of the majority of the committee, being all directed against the contestant, they held that the election was a nullity, and came to the conclusion to refer both candidates back to the people, that a fair and full expression of opinion might be given at the polls.

I now propose, in the first place, to have a portion of the evidence taken in this case read by the Clerk to this House, that the members may see from the evidence itself what the character and extent of this interference was. I will first have read, in reference to the interference in Buchanan county, the evidence of Samuel Ensworth, who was the sheriff of the county, who swore that he was a supporter of the sitting member, General Loan, that he attended the polls with the intention of voting for him, but that from the interference on the part of the militia, although he was invested with authority by law to keep the peace, he became entirely disgusted and came to the conclusion that the election in that locality at least was a mockery, and left the place without voting. I mention these facts particularly, because I see in the minority report that the evidence is said to be by the partisans of the contestant. The first evidence that I will ask the Clerk to read is that of a supporter of the respondent himself, the sheriff of the county, whose duty it was to keep the peace at the polls.

The Clerk read, as follows:

"Samuel Ensworth, the sheriff of Buchanan county, who swore that he was a friend of the contestant, and had intended to vote for him, testified as follows:

"I was sheriff of the county of Buchanan, Missouri, and was at three different precincts of voting. I was two or three times at the Allen hotel. The votes were taken in a room with two doors, and the members of the militia guarded each door with bayonets crossed; and to get the privilege to go to the polls I had to ask the permission of the judges, although it was my duty to attend at the election and superintend the same. I did not then see any other interference. I was at the polls at the market-house, which was after the disturbance commenced. I started up the stairs. At the head of the stairs was a person in the uniform of the militia. The old man Langston came up the opposite stairs. Langston had a ticket in his hand, and the person in uniform asked him to see his ticket. Langston handed him his ticket; he took the ticket and tore it up, and drove Langston down. There was considerable commotion about the market house. I went into the room where votes were taken, and the place of voting was surrounded by a crowd of excited persons, and some seemed afraid to present their votes, and so stated to me; but persons who favored the election of the nominees had no fears, nor seemed to dread any danger from offering to vote. In the excited crowd, and those that intimidated the persons from voting, were Union clothed soldiers. I was not at the court house until after the voting there was discontinued. But when I was at the court-house the place seemed to be under the control of a set of persons who belonged to the militia, with their arms.

"About nine or ten o'clock in the morning I saw one of these militia have a young man who was reading in my office in custody, marching him off to the guard-house. I wanted to know the reason of his arrest. He said he was ordered to arrest all persons who voted, if they had been enrolled under Order 24. I went to the place where he was put under guard; there I saw the officer of the day. He said he was ordered by Colonel Severance to have all such persons arrested."

Mr. GANSON. This Colonel Severance was a candidate for State Senator in the State, and was associated on the same ticket with the sitting member.

The Clerk resumed the reading of the evidence of Samuel Ensworth, as follows:

"While I was there the orders came and ordered the release of the prisoners, which was done. After dinner, and visiting the precincts at the court-house and market-house, I came to the conclusion that there could not be any full, fair, or free expression of opinion at the polls, and did not look after the election, and did not vote, and advised others that it was useless to vote."

"I think there were at least one thousand votes that were not taken on account of improper influences brought to bear against the voters."

"In the morning, or soon after the polls were opened at the market-house, when but few votes were taken, Hugh Louthen and several others applied there to have their votes enrolled, and offered to take the conventional oath. One of the judges objected, and said Louthen insisted upon his right to vote; and one of the judges told him that if he voted he would be arrested. He still said he would vote, and did vote, and I think he was arrested. I cannot say that I saw any one turned off, nor any other intimidation there."

Question. How did you intend to vote between Bruce and Loan?

Answer. I should have voted for Mr. Loan." (Pages 1, 12, and 13.)

Mr. GANSON. I desire the Clerk to read the affidavit of Cyrus E. Kemp, clerk of election at St. Joseph, Buchanan county.

The Clerk read, as follows:

"Cyrus E. Kemp, clerk of election at St. Joseph, in Buchanan county, testifies as follows:

"I was clerk at the election at the court-house precinct on the 4th of November, 1862, at which Benjamin F. Loan and John P. Bruce were candidates for Congress. The election proceeded pretty quietly until about one o'clock. At that time a band of enrolled militiamen entered the court-house, at which time the voters then present dispersed. The judges left the table. I handed my book to Mr. George Merlatt, one of the judges of the election. I saw nothing more of the book until it was returned by Captain Hax, officer of the day, and General Willard P. Hall. The poll-book was returned in about one half hour after it was taken. The polls were then again opened, and new judges appointed by the bystanders, under the direction of the sheriff. The election then proceeded quietly for about one half hour. There was a great crowd around the table at that time of persons who had been sworn before voting. Just at this time another company of the enrolled militia, armed, about twenty in number, came into the room and closed around the table, and forced the voters back and scattered them in all directions. Some of them jumped out of the windows. The judges also immediately left the table, and I could not conceal the poll-book in time to prevent the militiamen from destroying it by tearing it to pieces. The militiamen seized my poll-book while I was yet sitting at the table, and tore it into strips and threw it on the floor. They had muskets in their hands. The election was then broken up for the second time, and the polls were not any more reopened at the court-house."

Question. State if you know about how many votes had been taken at that precinct prior to the destruction of the poll-books.

Answer. I cannot tell exactly, but think there had been about one hundred votes polled.

Question. If you have any knowledge, state how those votes were cast as between John P. Bruce and Benjamin F. Loan, candidates for Congress.

Answer. I think about nine tenths of those votes were cast for John P. Bruce."

On his cross-examination this witness testified:

"There were about twenty who had been sworn and ready to vote. I do not know for certain who they were going to vote for, but my impression was that they were going to vote for John P. Bruce. Just at this time the company of enrolled militia entered the room, and the voters all left the table, being crowded away by the militia, and thus prevented from voting. This was at the time the poll-books were torn up."

Question. Did any of these twenty men say to you or the judges of election who they were going to vote for for Congress.

Answer. They did not.

Question. Then why do you state that it was your impression that these twenty men were going to vote for said John P. Bruce?

Answer. Simply because the votes were all being cast for John P. Bruce at that time, and that is what I based my impression upon; and I think it was a very correct impression.

Question. How do you know that these twenty men you speak of were legally qualified voters?

Answer. I do not know anything about that; but the judges were willing for them to vote, and that they had taken the conventional oath."

Mr. GANSON. I ask the Clerk now to read the affidavit of James A. Matney, one of the judges of election, upon the same point.

The Clerk read, as follows:

"James A. Matney, one of the judges of the election at the court house in St. Joseph, Buchanan county, testified as follows:

"About one o'clock on the day of the election I came up to the court-house precinct for the purpose of voting. When I came there I found no judges of the election. The clerks were present with their poll-books, also quite a number of persons who seemed to be anxious to vote. After some time spent the crowd of voters proceeded to elect judges from the bystanders, selecting James B. O'Toole, Robert Clark, and myself as said judges, and were duly qualified by the clerk of the county court to proceed with the election. After five or six votes were taken and entered on the poll books by the clerks, from fifteen to twenty-five armed men entered, in the dress of the enrolled militia

of the State of Missouri, armed with muskets, or such other weapons as the State of Missouri furnished her soldiers, with fixed bayonets. When they entered the room the first word I heard was, 'Get away from here; get out from here.' I took it that language was addressed to the crowd of voters around the polls, and they so understood it by their actions, as they left as quick as they could get away. As soon as the voters left, and as soon as these armed men could reach the table where the poll-books were lying, they seized the poll-books and tore them to pieces. The crowd of voters being dispersed, there was no further effort made to vote at the court-house precinct that evening."

"Without any intimidation or threats prior to or on the day of the election, there would have been between eight hundred and one thousand more votes polled at the November election, 1862, in Buchanan county, in my judgment."

Mr. GANSON. I ask the Clerk next to read the deposition of John Scott:

"John Scott testifies as to interference at the market-house precinct, in St. Joseph, as follows:

"I attended the election aforesaid at St. Joseph, in Buchanan county. I voted at the market-house precinct early after the polls were opened. Some hours afterwards I was told that the military were interfering at that precinct. I immediately went there to see for myself. The soldiers, without arms, except side-arms, were there in considerable numbers, and they were preventing any one from approaching the polls except such as they were satisfied would vote the ticket called the unconditional Union ticket, on which was the name of Benjamin F. Loan, for Congress. If men insisted on voting the ticket called the Union ticket, on which the name of John P. Bruce appeared for Congress, he was forcibly ejected from the room by the soldiers, and in some instances I saw them kicked down the stairs, and otherwise abused. In the afternoon I was at the court-house precinct, and while there I saw some fifteen or twenty armed soldiers approach with bayonets fixed. They cleared the ante-room, and marched into the room where the polls were opened, and drove the voters out, and, as I was informed, tore up the poll-books." (Page 39.)

Mr. GANSON. I next desire the deposition of Benjamin Cunningham.

The Clerk read, as follows:

"Benjamin C. Cunningham testifies as to arrests, &c., at the market-house precinct, as follows:

"I went down to the market-house with the intention of voting for John P. Bruce for Congress, but was prevented by persons dressed in the garb of soldiers. I was standing at the market-house precinct, and I think about three men, dressed in the garb of soldiers, said that the election should stop, and put all the voters and everybody out of the house. I went back the second time to vote, and was arrested and taken to the guard-house; after a few moments I was released, and I did not attempt to vote any more.

Question. What party seemed to be making this disturbance, the friends of B. F. Loan or John P. Bruce?

Answer. I think they were the friends of Mr. Loan.

Question. What do you think would have been the difference in the election if it had been conducted fairly?

Answer. I think that John P. Bruce would have gotten eight hundred or one thousand more votes if the election had been conducted fairly." (Page 43.)

Mr. GANSON. I desire the Clerk next to read the testimony of John J. Abell, for the purpose, among other things, of showing to the House that persons were furnished with a list of names containing eight hundred or one thousand persons who were to be deprived of the right of voting if possible; that many persons went there, read their names on that list and were deterred from voting by the threat of being disturbed at the polls.

The Clerk read, as follows:

"John J. Abell testified as to disturbances at the market-house as follows:

"I am a resident of St. Joseph, Missouri, and have been for nine years, and am engaged in selling drugs in this city. I attended the election in November, 1862, for Congressmen and other officers. Soon after the polls were opened I started to the market-house to vote. I then heard that persons were being arrested for voting. I went to General Hall, who was in command, and told him that they were arresting persons, which he expressed great surprise. I told him that I wanted to vote, but I did not want to be kept in the guard-house or jail. I then went and offered to vote, and there was considerable hesitation with the judges whether they would receive my vote or not; but they did receive my vote, and as soon as I voted the guard arrested me. I asked him why he arrested me. He then showed me a printed list of between eight and nine hundred names. My name was on that list, and he was ordered to arrest all whose names were on that list. I asked him who gave him such authority. He said by order of Captain Hax, who was officer of the day. I was then taken to the guard-house, where I found eight others; and myself and the others received a great deal of abuse from a parcel of Germans who were on guard there. When I went to General Hall he told me that if I was arrested to let him know. When I was taken by the guard I wrote to General Hall that myself and eight others were confined in the guard house for voting. He sent down and had us released. On leaving the guard-house I picked up one of the lists of those who were to be arrested if they attempted to vote, and have got it yet. It was soon rumored around that I had the list of those who were to be arrested for voting, and persons were calling nearly all day to see if their names were on the list, and if they were they did not attempt to vote, saying that they did not wish to be interrupted. I have no doubt that all those who were on that list were the friends of John P. Bruce, and I think that the most of them would have voted for John P. Bruce if there had been a fair, peace-

able election. After I went to General Hall I went and voted. He told me that he wanted to know if they were arresting men for voting, and I wrote to him as I have already stated. I think that those who created the disturbance were the friends of B. F. Loan."

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, their Secretary, notifying the House that the Senate had passed a bill (No. 162) amending an act to amend an act entitled "An act to promote the progress of the useful arts," approved March 3, 1863; in which he was directed to ask the concurrence of the House.

#### MISSOURI CONTESTED ELECTION—AGAIN.

Mr. GANSON. I ask the Clerk next to read the testimony of Thomas Culligan.

The Clerk read, as follows:

"Thomas Culligan testifies as to the extent of the interference at St. Joseph, as follows:  
"I am a citizen of St. Joseph, Missouri, and have been for thirteen years, and am forty-one years old, and am a clerk in a banking house; have been a member of the enrolled militia, and served four months. I was present at the election held in November, 1863, for Congressman and other officers in Buchanan county, Missouri; and as I was going to the court-house to vote I met the judges of the election coming from the court-house, and understood from them that the election at that precinct was broken up by the soldiers. I was in the enrolled militia at that time. I had my ticket filled, and intended to vote for John P. Bruce for Congress, and did not attempt to vote at any other precinct on account of the interference of the militia and others. Those who were the friends of B. F. Loan created the disturbance, and prevented myself and others from voting by intimidation. The intimidation kept a great many from voting, who, I believe, would have voted for John P. Bruce. In the opinion of many persons, John P. Bruce's election would have been effected by eight hundred or a thousand voters who did not come to the polls on account of the intimidation. I saw a good many persons arrested, and understood that they were arrested for attempting to vote."

Mr. GANSON. I will next ask the Clerk to read the testimony of Edward J. Knapp.

The Clerk read, as follows:

"Edward J. Knapp testifies as follows:

"At the Allen House, in the first ward, I saw an old man, John Cowie, seventy-five years of age, a lawful voter for forty years, and a peaceable, quiet man, went up to the polls, presented his vote to the judges; the judges commenced calling off his vote, and a member of the enrolled militia, a German, with his uniform on, stepped up and took Mr. Cowie by the back of the neck or coat and jerked him over on to the floor, and the first place struck was his head and shoulders, and the blood gushed from his nose from the fall. Mr. Cowie was then voting what was then called here the Democratic ticket."

Mr. GANSON. It is impossible, of course, for the committee to determine accurately the precise number of persons who were prevented from voting at St. Joseph by reason of these disturbances. The House will bear in mind that there had been a high state of excitement in Missouri, and certainly in that portion of the State, in consequence of which no election had been held since the rebellion commenced until then. During the intervening time they had been living under a provisional government, and the condition of the public mind was such that whenever any threats of violence were used it would be communicated from one person to another more rapidly than in ordinary times of peace and tranquillity; and the effect would be greater. Persons there during these disturbances had been subjected improperly to arrests; property had been improperly destroyed, and the people were in a condition of being easily and readily intimidated. And we can all see that transactions of this character would have a greater effect in the way of intimidating the people than they would have done in ordinary times.

The committee, however, for the purpose of throwing some light on this subject, have appended a statement showing what the comparative vote was in 1860, which was the last election prior to this election in 1862, in order to show that there was a great falling off in St. Joseph where these disturbances took place in comparison with the falling off in the other portions of the county where disturbances did not occur. The vote for President in this county in 1860 was 3,979. The vote for Congressman in 1862 was 2,268. The falling off of vote in 1862 was 1,711. That was in the entire county. Now, I propose next to show what portion of that falling off was in St. Joseph. The vote at St. Joseph for President in 1860 was 2,420. The vote at St. Joseph for Congressman in 1862 was 910. The falling off of the vote in the township in 1862 was 1,510. Now, the vote outside of Washington township, embracing the remainder of Buchanan county, where there was compara-

tively slight interference, was, for President in 1860, outside of Washington township, 1,559; for Congressman in 1862 in the same territory, 1,366; falling off in that place only, in 1862, 193.

Now, then, I will next make a comparison between the vote in 1860, when the contestant ran for the Legislature, and his vote in 1862, when he ran for Congress. John P. Bruce received in 1860, 1,585. John P. Bruce, for Congress in 1862, received 635. The falling off in his vote in 1862 was 950. Gentlemen will see that this tends to show where the decrease in the vote as against the contestant was, and that it was produced by this improper interference. Washington township, which embraces all the precincts in the city of St. Joseph, gave Bruce in 1860 1,074 votes; and the vote for him in 1862 for Congress was 158, showing a falling off in that township alone of 916 votes. By these figures, with slight variation, the committee were compelled to come to the conclusion it has. By these opinions expressed by the sheriff, by the extent of these interferences, and by these comparisons, the committee has been compelled to come to the conclusion that by this intimidation and interference a decrease as against the contestant in that township alone was created to the extent of over 900 votes. I have no doubt that that conclusion is less than the fact was; but we desired to be careful in making our estimate. We predicated it upon these facts in connection with the opinion of persons holding official positions, of judges and the sheriff, which all tend to the same point.

The falling off in the balance of the county outside of Washington township was only 34, between the vote for Mr. Bruce in 1860 when he ran for the Legislature and in 1862 when he ran for Congress. There was no interference against him in 1862 in the balance of the county. The falling off in the balance of the county was only 34, whereas the falling off elsewhere was 916 votes. Mr. Speaker, the committee were of the opinion that the conclusion at which we have arrived in this respect is reliable, and if erroneous in any respect it is in putting the number too low rather than too high.

I will next take up the interference in Andrew county. I ask the Clerk to read the testimony of Hamilton Smith, who voted for the sitting member. And I call the attention of the House to the insinuation that the contestant's case here was supported by partisan witnesses.

The Clerk read, as follows:

"Hamilton Smith, who voted for the contestee, testifies in regard to the election at Savannah, as follows: I was at Savannah, the county seat of Andrew county, Missouri, on the day of the election referred to. I was frequently at the voting place during the time that it was there; there was a crowd around the window, keeping up a continual noise and confusion, and saying that they would not allow secessionists to vote. I saw a Mr. Hosford, a qualified voter, go to the window, and while being sworn an individual of said crowd was stamping on his pocket he was crowded back from the window and was not allowed to vote. I saw his ticket; he was going to vote for John P. Bruce for Congress. I saw another individual pushed away from said polls by the crowd aforesaid; this last named individual was by the name of McCrury. I applied to the judges of said election to maintain order, and I also applied to Lieutenant Colonel Commanding Nash, of the enrolled militia, to maintain order; said Nash stated that if called upon by the civil authorities he would do so, if he could, but doubted whether he would be able to maintain law and order on that day.

"Question 2. To whose election to Congress was the crowd who were thus interfering with voters favorable, from what you heard them say?

"Answer 3. So far as I could learn, they were for General Loan.

"Question 4. How often were you at the polls at Savannah, on the day of the election?

"Answer 4. Six or eight times.

"Question 5. Did or did not the crowd alluded to above continue the aforesaid interference with voters at the several times you were at the polls?

"Answer 5. They did.

"Question 6. Did you see any friend of John P. Bruce interfere with any one desiring to vote for B. F. Loan?

"Answer 6. I did not.

"Question 7. Do you know the character of the crowd that was interfering with voters on said day at the polls?

"Answer 7. They were mostly enrolled militia.

"Question 8. Do you know that there were many voters who came to Savannah on that day to vote who did not vote on account of the interference of said crowds?

"Answer 8. I do.

"Question 9. State, from what you know and saw at the polls, whether or not it was not difficult for a man who wanted to vote for John P. Bruce to do so.

"Answer 9. So far as I know, it was.

"Question 10. State, from what you know and saw, whether the enrolled militia around the polls offered any objections to voters voting for Benjamin F. Loan.

"Answer 10. They did not.

"Question 11. Was it not your understanding that the intimidating language, and the remarks by the crowd that they should not vote, applied to persons who would have voted for John P. Bruce if they had not been thus deterred from voting?

"Answer 11. As far as I know, it was.

"Question 12. Do you know of any person who had returned from Price's army, or any other rebel officer's command, offering to vote on the day of said election?

"Answer 12. I do not.

"Question 13. Are not many persons of your acquaintance, of the class alluded to by you as reputed rebel sympathizers, loyal citizens, for the Constitution as it is and the Union as it was?

"Answer 13. My opinion is, that a large mass of those who are reputed as rebel sympathizers are loyal, and for the Constitution as it is and the Union as it was.

"Question 14. Are not Democrats and conservative men in this section very often denominated as rebel sympathizers?

"Answer 14. They are.

"Question 15. Are you personally acquainted with John P. Bruce, the contestant, and have you had an opportunity of learning his politics; and if so, do you regard him as having been, during these troubles, and being now, a loyal Union man?

"Answer 15. I am acquainted with him, and have always considered him loyal."

Mr. GANSON. Mr. Speaker, I do not propose to have any more of the testimony read on this county. What has been read from Mr. Smith, it will be seen comes from one of the supporters of the sitting member. He gives his opinion of the loyal character of the men who supported the contestant; and when the Clerk read that part where he states that they are reputed to be rebel sympathizers, when they are really for the Union, I noticed it provoked a smile in a portion of the House. It is not the first time, sir, that I have seen that smile whenever any reference was made to the Constitution, and therefore I am not surprised at it. It is true that many of the sons of Missouri may still adhere to "the Constitution as it is and the Union as it was," and they are regarded for so doing as rebel sympathizers. But that is no reason why the armed militia should deprive them of the elective franchise. If it is a good reason why they should not vote, it ought to be embodied in the law and made the duty of the judges of the election to test the standing of the voter by putting to him the oath. It ought to be done in a legal way and not by force and by violence.

Now, the only testimony taken in Andrew county in reference to interference was that which took place in Savannah precinct. There was a slight allusion to Fillmore precinct. The vote for President in 1860 in Savannah precinct, Andrew county, was 866, and the vote for Congressman in 1862 at the same place was 330, making the falling off at this precinct alone in 1862, 536. In Fillmore precinct the vote for President in 1860 was 306, and the vote for Congressman at the same place in 1862 was 142, making a falling off at this precinct in 1862, 164 votes. The entire vote of Andrew county for President in 1860 was 1,912, and the vote for Congressman in 1862 was 1,112, showing that the falling off in the entire county was 800. I call the attention of the House particularly to the fact that while the falling off in the entire county was 800, it was in the precinct of Savannah alone 536 votes. Upon that, together with other testimony in the case, the opinion is predicated that the falling off was occasioned by this violence, which is proved to have taken place in that precinct. I have had only a portion of the testimony read on that point.

I next come to Livingston county, and I ask the Clerk to read the testimony of Jacob L. Myers, to be found on page 19 of the report.

The Clerk read, as follows:

"Jacob L. Myers, who was the clerk of the election at the Chillicothe precinct, testifies as follows:

"I was chosen by the county judges as clerk of that election at Chillicothe precinct, and acted as such on the morning of the election; early in the day I saw Doctor Hughes putting up posters, on which was, 'That no disloyal person should vote.' Fearing that a difficulty would likely originate from this thing, I did not want to act as clerk; the judges insisted I should, and I did; we opened the polls, and some votes were taken, when Dr. Hughes interfered, challenging votes; the judges got into a controversy with said Hughes, and wanted to know on what grounds he objected; they told him they had the ordinance of the convention to go by, and the oath therein prescribed to administer to voters, and they had no right to reject any man that would take this oath; Hughes then gave the judges to understand that there would be a squad of men here to see that none but loyal men, such as he claimed to be, should vote; in a few minutes the squad of men were right in our midst; Lieutenant Colonel Jacobson, of the twenty-seventh Missouri regiment, at the head of some twelve or fourteen men, armed and equipped with United States muskets, gave the judges to understand that no man, or no set of men,



should vote that was disloyal to their Government; at that time we were recording James Hutchinson's vote; said Hughes challenged his vote, and Lieutenant Colonel Jacobson ordered Hutchinson to get out of the house, that he should not vote; said Hutchinson called on said Hughes to bring up any charge where he was disloyal; Hughes replied that he (Hutchinson) sympathized with or aided bushwhackers, or was aiding the party opposed to the Government; Lieutenant Colonel Jacobson then ordered his squad to put Hutchinson out of the house, which they did; that being the case, the judges notified Lieutenant Colonel Jacobson that they were the judges, and acting under oath, and protested against his actions, and demanded of him and his squad to retire, or they would adjourn the election; he would not do it, and the judges postponed the election for the time being; Colonel Shanklin, of the enrolled militia, requested the judges to hold on, that he would telegraph to the Governor; we waited a space of time; the squad of soldiers remained in the house in a threatening attitude toward the judges and clerks, and talking of making them take votes; after a while I folded up my poll-book and put it in my pocket; a dispatch came from the Governor, after a while, requesting Lieutenant Colonel Jacobson and his squad to withdraw; after the said Lieutenant Colonel read it they retired; Doctor Hughes became insulted and left with them, at least I thought he was insulted. After that we opened the polls, and voting commenced.

"Question. What effect had the aforesaid interference on the voters, from what you saw and knew?"

"Answer. It created a great excitement, and prevented a great many from voting, through fear."

Mr. LOAN. I desire to ask the gentleman from New York what part of the testimony of Samuel sets forth the facts he has read here? As I have no recollection of having seen it, I would be glad to have him point it out.

Mr. GANSON. The contestant will hunt it up, and point it out to the gentleman.

There is other testimony of the judges here, to the same point as that just read, but it will consume too much time to have it all read. But the House will see that this Dr. Hughes, who I believe was an editor there, the publisher of a newspaper, had posted up there a notice that no disloyal person should vote or appear at the polls; and he gave the judges to understand that there would be a squad of men there to see that none but loyal men, such as he claimed to be, should vote. He was having the law administered according to his own notions.

Now, the interference there was of such a character that the judges for a time discontinued the voting, and closed the polls until they could telegraph the Governor of the State to get an order from him that the military under the superintendence of this editor, Dr. Hughes, should be taken away from the polls. Now, any one can see what the effect of this state of things would be. It would disgust all sensible and patriotic men, and they would not attend any polls conducted in that manner. We consequently see that at this precinct alone, in 1860, the vote for President was 619, while the vote for Congressman in 1862 was 265; showing a falling off in 1862 of 354 votes. In the next year, 1863, an election was held there for supreme court judges. We all know that a judicial election is not as fully attended as a political one. At that election there were cast at that precinct 512 votes, while the vote for Congressman the year before was 265; showing an increase in the year 1863 of 247 votes. Now, the vote of the whole county, in 1863, for supreme court judges, was only 963, while the vote of the whole county for Congressman, in 1862, was 683; the difference in favor of 1863 being 280 votes. Of that increased vote of 280 for the entire county, 247 came from this precinct where this interference is proven to have taken place. It shows, as a majority of the committee thought, that the interference at this precinct was of a serious character, and they would regret exceedingly to see the conduct which there took place approved by the Thirty-Eighth Congress.

I take up Atchison county next, and ask the Clerk to read a portion of the testimony of Silas Puryear, to be found on page 21 of the report.

The Clerk read, as follows:

"Question. State the reasons why you did not take the depositions."

"Answer. The reasons are partially given in the letters above referred to. I heard, on several occasions, that said Bruce would not be allowed to take depositions in said case; that if he came for that purpose he would be mobbed. These threats, I understood, were by A. B. Durfee, Esq. I also heard threats of mobbing any one who would act as his counsel. Notwithstanding, I spoke to Jacob Hughes and William Sparks, the two justices of the peace, who promised to attend and take the depositions, but the day before the day for taking said depositions Sparks informed me he would not act; that the militia would not permit the taking; that when witnesses came they would be spattered with rotten eggs. I then went to see Judge Needles, who promised to attend if well enough. On my return to Rock-

port I was informed there was a notice posted up requiring me to leave the county on pain of being hung if found in the county next day. After reflecting on all the circumstances and threats, I was convinced that the depositions could not be taken, and that to attempt to do so would result in the witnesses being abused, and perhaps endanger their lives. The witnesses were mostly old men and the best men in the county, and I thought it was best not to endanger nor expose them to insult when nothing could be accomplished by so doing.

"Question. Did you, at any time on the day of said November election in 1862, or after the same, converse with the witnesses whose depositions John P. Bruce desired you to take in regard to the election aforesaid?"

"Answer. I conversed with some of said witnesses on the day of election, and with some of them afterwards."

"Question. State, from what they told you, what you would have been able to prove by those you conversed with."

"Answer. I expected to prove, by several of them, that they were rudely thrust away from the polls, both at Rockport and at other voting places in the county; that they saw the polls guarded by bands of military, both at Rockport and at other voting places in said county; and that a great many legal voters were prevented and deterred from voting by the improper conduct of said militia; and that, in their opinion, John P. Bruce lost, by such interference, about three hundred votes in said county. This is what I expected to prove from the conversation I had with the witnesses."

"Question. State, from conversing with the witness and others, if the interference of the militia was not carried on at all the voting places in the county pretty much in the same way it was at Rockport."

"Answer. I understood that the same kind of interference was carried on at all of the voting places in said Atchison county, except at Irish Grove precinct and at Linden. At Linden I understood the attempt was made, but prevented by Thomas Shrack."

"ROCKPORT, March 5, 1863."

"DEAR SIR: I have just returned from Judge Needles'. I found him not well, but he promised to come up to-morrow if well enough. I am more than ever convinced that we cannot take the testimony. On returning this evening, I was informed that a notice was posted up requiring me to leave the county before to-morrow, threatening me with death if found in the county after that time. Under all the circumstances I shall not attempt to take depositions, as to do so would only result in having myself and the witnesses abused."

"Yours truly,

S. PURYEAR.

"JOHN P. BRUCE, Esq."

Mr. GANSON. This portion of the testimony is not regarded as evidence to bear upon the direct issue, but it is simply put in for the purpose of showing that the contestant could not, from certain portions of his district, get testimony to establish his case without danger to himself or his agents.

In Atchison county the vote in Clay township, which is in Rockport precinct, for President in 1860 was 366, and for Congressman in 1862, when the interference took place, 134, showing a falling off in this precinct of 232. Now, the vote in Clark township, which adjoins, for President in 1860 was 59, and the vote in the same township for Congressman in 1862, there being no interference there, was 59. This shows that the falling off of 232 votes in the Clay township at the Rockport precinct was attributed and could be ascribed to nothing else than the military and improper interference at the polls.

Take another precinct: the vote in Benton township for President in 1860 was 40, and for Congressman in 1862 was 36, showing a falling off of only four.

I would call the attention of the gentleman from Missouri, [Mr. Loan,] in answer to the interrogatory he put to me a few moments ago, to page 82 of the published papers in the case, where he will find the answer to his question in the seventh reply of Mr. Samuel.

Mr. LOAN. Will the gentleman read answer four of that same witness?

Mr. GANSON. I will when it comes in the order of my remarks.

I next take up the vote of De Kalb county, and ask the Clerk to read the evidence of John C. Brooks, to be found on page 23 of the report.

The Clerk read, as follows:

"John C. Brooks, who was constable of Washington township, and superintended the election, testifies as follows:

"I attended at Stewartsville, the voting place for Washington township, in De Kalb county, Missouri, at the said election, and was constable, as the law made it my duty to superintend the same. During the time of the election I saw two men driven from the polls by the enrolled militia, to wit, Harrison Boaz and George W. Rose. The soldiers told Harrison Boaz and Rose that they could not vote, and had to get away from the polls. It being my duty as a civil officer to keep the peace, I made efforts throughout the day to see that every qualified voter had access to the polls. During the whole time I met with opposition from the captain of the company of the enrolled militia, whose efforts were all made in favor of Loan, and to prevent all persons from voting the Bruce ticket. I am satisfied that the captain ordered his men to take one vote from

me while William Moore was writing his ticket, and afterwards they brought up the same man with a Loan ticket and coerced him to vote different. The man told me to make out his ticket for Bruce, as he wanted to vote for him. This statement was made to me before the soldiers took him away."

"Question. State your opinion from all the facts that came to your knowledge, how many voters were prevented from voting by intimidation or interference by the enrolled militia or others with the polls, and with voters from voting on the 4th day of November, 1862, at the election in De Kalb county, Missouri."

"Answer. I cannot say exactly how many voters were thus prevented, but I am satisfied that if there had been no interference with the election in 1862, John P. Bruce would have carried De Kalb county by a majority of over one hundred votes for Congress."

Mr. GANSON. I desire to say a few more words in this case. I want to dispose of it to-day, as I have to leave to-morrow morning. I ask unanimous consent to have my time extended for ten minutes.

No objection was made.

Mr. GANSON. I now ask the Clerk to read from page 24 the testimony of Harrison Boaz.

The Clerk read, as follows:

"M. Harrison Boaz testifies as follows:

"I did attend the election at Stewartsville on said day, and had been engaged all day in bedding the cars for cattle to be shipped off on the Hannibal and St. Joseph railroad, and in the evening came in to vote with a ticket with the name of John P. Bruce for Congress on it; and when I presented myself at the polls John Crowley, a member of Captain McDonald's enrolled militia, said to me, 'What are you coming here for?' I replied, 'To vote.' He said, 'God damn you, leave, or I will knock you out,' and he drew his fist back to hit me. There were by at the time about ten or twelve men of the enrolled militia; some of them with side arms. I got away from them as quick as I could, and did not come down into town that evening any more. This was the first time I was ever prevented from voting before, and I said I believed that I never would try to vote any more. I should have voted for John P. Bruce for Congress if the enrolled militia had not thus interfered."

"Question. Did you know or hear of any interference on the part of the friends of John P. Bruce to prevent persons from voting for Loan or Branch for Congress?"

"Answer. I did not."

"Question. Do you know of any particular reason why you were prevented from voting?"

"Answer. None, unless that I was going to vote for John P. Bruce. I had always been as loyal to the Union as any man in the State."

Mr. GANSON. I now ask the Clerk to read from page 25 the testimony of George W. Rose, in answer to the third question put to him.

The Clerk read, as follows:

"Answer. I was at Stewartsville at the said election, and in the evening went toward the voting place with the intention, and a ticket, to vote for John P. Bruce; before the door of the house where the election was held two members of the enrolled militia were posted, with sabers and pistols, apparently guarding the door; they were acquaintances of mine, to wit, Samuel Chenoweth and Robert Ellis. So soon as they saw me coming to the door they remarked, there comes one of the 'Bruce men,' and said to me that I could not vote there at these polls for John P. Bruce for Congress. I commenced reasoning with them; and insisting upon my right to vote, I told them they were acting out of their sphere of duty; they replied that it was no use to talk about it—I could not vote; not that they had any objection to me; that they knew how I was going to vote, and that was enough. I found it was useless to persist, as I was unwilling to force a passage through a guard who had sabers and pistols. I should have voted for John P. Bruce for Congress if I had been allowed to get to the polls."

Mr. GANSON. I will not take up the time of the House by having any more of the testimony read.

As has been stated to the House, this is the first election that occurred in Missouri since the commencement of the rebellion. The State affairs had been administered by a provisional governor since the fore part of August, 1861. In the spring or summer of 1862 a State convention was in session, which, among other things, prescribed an additional qualification for office-holders and voters in that State by requiring them to take an oath that they had not been engaged in the rebellion since December, 1861, or had given aid and comfort to the enemy. Provision was also made for electing judges of election. The ordinance of the convention, the constitution of the State, and the laws of the State prescribe what the duty of these judges was. They were a legally constituted body to preside at the election, to determine who were qualified voters and who were not. They were officers of the law. They were amenable to the law for a proper discharge of their duty, and a violation of it would entail upon them heavy penalties and severe punishment. It was their duty under the ordinance of the convention to administer to any person who came to the polls this new oath prescribed as a condition precedent to the right of any person to

exercise the elective franchise, and if any person took that oath the law did not vest in any individual the right to deprive him of his privilege as a citizen to cast his ballot. The law did not vest that power in any "enrolled militia" of the State, or in any Dr. Hughes, or any other individual in Missouri. The law had provided a proper legal tribunal, amenable to the law for the proper discharge of their duty. If that duty was not properly discharged, if people who ought not to have voted were permitted by them to vote, or if persons entitled to vote were deprived of that right, they violated the law, and could be punished.

Now I desire to say to the House that these scandalous interferences with elections, in these times, ought not to be countenanced, but ought to be discountenanced. If the action of the enrolled militia of Missouri upon this occasion is countenanced by this House, blood will be shed at every poll in that State at the next election, because the House will thus declare to that people that an election carried by force and intimidation is legal and will meet with the approval of Congress. If this House is to commit any error upon this subject, that error should be in nullifying rather than sustaining an election which comes here covered, as this does, with evidence of improper interference and of direct violence and force.

Mr. UPSON. Mr. Speaker, in the present situation of our country the principles involved in this contested election assume an interest and importance far exceeding that of ordinary election contests. It is of the highest concern to loyal citizens in the border States to know whether in these times of civil commotion and rebellion, while civil war is raging in our country and treason is lurking in their midst, they can be allowed to provide for the safe and secure exercise of the elective franchise; whether they can be permitted under the authority of either the national or State government to protect themselves at the polls from rebel attack, intrusion, interference, or miscegenation, or whether they are to be compelled to place themselves wholly at the mercy or forbearance of disloyal men, and to allow rebels and rebel sympathizers who have hitherto failed to overcome them by a resort to the cartridge-box to take possession and control of the ballot-box, and either by violence prevent the holding of an election or by an unlawful and arbitrary or fraudulent exercise of the elective franchise make the elections subservient to the purposes of the rebellion.

A further interest attaches to this case from the fact that similar principles are more or less involved in the decision of several other contested-election cases, not only in Missouri, but in other of the border States, modified in each instance by the peculiar facts in evidence, and hence the decision arrived at in the case under consideration becomes as a precedent a matter of still greater practical importance.

A rebel or a rebel sympathizer at the polls may be more dangerous than in the ranks of the enemy, and the existence of the Government should not be permitted to be imperiled by allowing him either by violence or by fraud to defeat an election or to participate during the continuance of this rebellion in the exercise of the elective franchise, nor should his vehement outcries against the presence of a loyal military guard at the polls entitle him to be considered either as a suffering martyr or as a sincere advocate for the freedom and purity of the ballot-box.

In this contested case of Bruce vs. Loan, from the seventh district of Missouri, five members of the Committee of Elections, being a majority thereof, have in their report come to the conclusion that neither the contestant nor the sitting member is entitled to a seat in this House, and consequently that it must be referred back again to the people to hold a new election. The minority of the committee, however, consisting of four members, insist that a valid choice has been made, and that the sitting member is entitled to retain his seat. In this connection it may be proper to refer to the rule heretofore laid down in 1826 by the Committee of Elections in the case of Biddle and Richard vs. Wing, (Cl. and Hall, 506,) which report was subsequently acquiesced in by the House. It is as follows:

"In all cases of contested elections where the question

depends upon matters of fact which are controverted by the parties much difficulty is to be expected in coming to a decision; and, where there is room for doubts, a disposition is often felt to return it to the people.

"This, however, ought not to be done when it is possible to ascertain what the true result has been. The elective privilege is a very important one, and ought to be held in the highest estimation.

"When a people, in the exercise of their constitutional rights, have gone through with the process of an election according to the prescribed rules, they ought not to be deprived of the advantages accruing therefrom but for the most substantial reasons. No doubts which are capable of being solved ought to be permitted to operate against them. Indeed, nothing short of the impossibility of ascertaining for whom the majority of votes has been given ought to vacate an election; more especially if, by such decision, the people must on account of their distant and dispersed situation necessarily be unrepresented for a long period of time."

This reasoning is as cogent and forcible now as it was then, and I have found in investigating the evidence in this case no good or sufficient reason for vacating the election, and am satisfied that a valid choice has been made.

The condition of Missouri and the events transpiring there since the breaking out of the rebellion form a part of the history of the country and of the war, and this House will take notice thereof without further reference to the particulars. We merely mention in passing that the Missouri State convention in providing for the holding of the election in question, conscious of the presence of disloyal men in the State, prescribed by ordinance, June 10, 1862, an oath to be taken by all voters before they should be allowed to vote, and among other things required the voter to swear therein that since the 17th day of December, 1861, he had not willfully taken up arms or levied war against the United States or against the provisional government of the State of Missouri. By General Order No. 24, issued by General Schofield August 4, 1862, which the report of the majority of the committee fails to notice, all the loyal men of Missouri subject to military duty were required to be organized into companies, regiments, and brigades, and all disloyal men and those who had at any time been rebel sympathizers were ordered to report themselves and be enrolled as such and to surrender their arms, and were to be permitted to remain at home so long as they should quietly attend to their ordinary and legitimate business and not in any way give aid or comfort to the enemy, and were not to be organized into companies nor required or permitted to do duty in the Missouri militia.

This Order No. 24 should be carefully borne in mind, as it is frequently alluded to in the testimony. The burden of the allegation in contestant's notice in this case is the alleged violent interference with and intimidation of voters at the polls by the Missouri State militia, preventing voters, as contestant claims, from voting for him who would have voted for him but for such interference or intimidation, and some eight counties are specified in which such interference and intimidation are charged to have taken place, but no names are given of persons so interfering or interfering with or intimidated, and no election precincts are named where such interference is claimed to have taken place.

It is not claimed by the contestant that he received a majority or a plurality of the votes actually cast at said election, but he avers or insists that he would have received a majority or plurality of the said votes had not his friends been thus interfered with, intimidated, and prevented from voting.

A like allegation or claim was set up in the case of Biddle and Richard vs. Wing, heretofore referred to, and it was met and answered by the committee in their report, as follows:

"The committee are of opinion that the duty assigned to them does not impose on them an examination of the causes which may have prevented any candidate from getting a sufficient number of votes to entitle him to the seat. They consider that it is only required of them to ascertain who had the greatest number of legal votes actually given at the election. An election is the act of selecting, on the part of the electors, a person for an office of trust. The inspectors of election are constituted judges of the qualifications of the electors, and exercise from necessity a discretionary power. If they err and reject a legal vote, or an elector from any cause should fail in presenting his vote for their reception, the nature of the case precludes it from entering into the consideration of the general result of the election, unless indeed corruption should appear sufficient to destroy all confidence in the purity and fairness of the whole proceeding. It is properly a question between these officers and the injured party; and the laws of the Territory in this case make ample provision for

guarding the purity of the election, and for the punishment of offenses against the rights of the citizen in that respect. In case of the application of the contrary doctrine the greatest uncertainty must necessarily prevail; and should it be established, it would be placing in the hands of a few riotous individuals the power of defeating any election whatever.

"The law appoints a particular time and place for the expression of the public voice; when that time is past it is too late to inquire who did not vote, or the reason why.

"The only question now to be determined is for whom the greatest number of the legal votes have been given."

In the investigation of contested-election cases in England, before a parliamentary committee, when riotous interference or violence is alleged as a ground for setting aside or invalidating the election, the practice requires rigorous proof that the result of the election has been affected by riotous interruption or obstruction; and also when restraint or intimidation is set up, proof is required that an organized system of unlawful restraint or intimidation existed or was acted upon at the polls to prevent the freedom of election and to secure the defeat of the contestant.

Such a state of facts will hardly be claimed to be shown by the testimony taken in this case, nor is there any such rigorous proof of riotous or violent interference affecting the result of the election.

It has also been determined in the following contested-election cases, namely, *Van Rensselaer vs. Van Allen, Lyman vs. Smith, Randolph vs. Jennings, and Bassett vs. Bayley*, (Cl. and Hall, 73, 101, 240, and 254,) that where irregularities or illegalities were shown in the election in parts of a district affecting the votes cast, if it did not appear that a sufficient number were affected so as to change the result, the election would not be set aside, but the candidate who was shown to have received the majority or the greatest number of the legal votes would be held to have been elected.

Keeping in view these principles as applied to the investigation of contested elections, and also bearing in mind the allegations in contestant's notice in this case, let us proceed to the consideration of the facts which appear therein.

It is shown by the official returns that at the election in this seventh congressional district of Missouri, held on the 4th day of November, 1862, the whole number of votes cast was 13,803, of which Benjamin F. Loan, the sitting member, received 6,582; John P. Bruce, the contestant, received 4,554; and H. B. Branch received 2,665; one vote being given for S. A. Richardson, and one for R. M. Stewart. It thus appears that the majority or plurality of Loan the sitting member over Bruce the contestant is 2,028.

The seventh congressional district of Missouri is composed of the counties of Buchanan, Andrew, Holt, Atchison, Nodaway, Worth, Gentry, Harrison, Mercer, Grundy, Putnam, Sullivan, Livingston, Daviess, and De Kalb, being in all fifteen counties, and the contestant while alleging in his notice interference and intimidation in only eight of these fifteen counties does not claim to have offered any evidence as to the election in but five of them, namely, Atchison, Livingston, Andrew, De Kalb, and Buchanan, and in most of these counties evidence only as to one election precinct.

As to ten of the counties in the district, therefore, no attempt is made to impeach the election, while as to the other five counties, with one slight exception, only one township in each is in reality referred to or in the least affected by the so-called testimony offered by the contestant.

This fact of itself is sufficient to show the weakness and insufficiency of contestant's testimony, and to authorize us at the outset to insist that the evidence is too restricted in its scope, in the ground it professes or attempts to cover, to enable the contestant to support his allegations, and that, even if he should succeed in showing interference or intimidation in all of those townships, it could not by possibility have changed the result. But it remains to be seen whether he has sustained his allegations in any one or more of these townships.

But one witness testifies as to the election in Atchison county, and this one only as to the Rockport precinct. He saw a guard of militia at the court-house, but did not go in or attempt to go in and vote, and consequently knew nothing of the manner in which the election was actually conducted; yet he goes on to relate what various individuals with whom he conversed said to him,

and what remarks he heard persons make, and from what he heard said he ventures an opinion as to the number of voters he thinks were prevented in that entire county from voting for contestant. And this is claimed as evidence for the contestant! There are eight election precincts in this county, and this veracious witness is the attorney or counsel employed by the contestant to procure evidence for him in this county, but failing to get any swears himself. Can such evidence be entitled to any serious consideration?

The aggregate vote for Congress in this county at this election was 675. The vote for judges in 1863 was only 633, being 42 less than in 1862, as is shown by the exhibits, while the aggregate vote of the county for President in 1860 was but 940, giving comparatively a very small margin of votes for the secession element which then existed there. It certainly cannot be insisted that there is any evidence to impeach the election in the county of Atchison.

As to the election in Livingston county, four witnesses testify in regard to one precinct in Chillicothe, and one as to Utica precinct, in Green township. From their testimony it would seem that a squad of Missouri soldiers commanded by a Lieutenant Colonel Jacobson, at Chillicothe, had some little difficulty on the morning of the election with a man named Hutchinson, at the polls, as to his voting, and also with the judges of election as to whether disloyal men should be allowed to vote, it being claimed that Hutchinson was disloyal; and the judges for a time, in consequence of Jacobson's conduct in this matter, refused to proceed with the election; and Jacobson caused Hutchinson to be taken out of the house. It further appears, however, that on telegraphing to Governor Gamble on the subject, he at once sent an order to Jacobson, and thereupon Jacobson and his men left; and the voting was resumed and went on without any other interruption, Hutchinson himself voting with the rest; and the whole delay did not exceed one hour. No person is shown to have been prevented from voting at this precinct.

As to the Utica precinct, it may be inferred from the testimony of the only witness produced that some soldiers from the twenty-seventh Missouri regiment, from Chillicothe, under Major Howe, came there in the morning as he said to guard the polls and see that no disloyal persons voted, and that the judges of election, on his so notifying them, consulted together and determined not to open the polls until they heard from Chillicothe. A reply was soon received from Chillicothe, and an order for Howe and his men to return, which they did, and the voting went on without interruption, the polls having been opened before the soldiers left. This was about noon.

But the witnesses called to show these facts are several of them far from being above suspicion. One of them, named John W. Garr, thus illustrates on cross-examination the nature of his loyalty:

"Question. Have you ever been a member of the militia of this county, and if not, for what reason?"

"Answer. I have not. I got a certificate of exemption as a sympathizer with the rebellion."

The contestant still insisting on the soundness of the loyalty of his witness, thereupon re-examines him as follows:

"Question. Have you not always been for the Constitution as it is and the Union as it was, and a friend of the Government?"

"Answer. I have always been a constitutional Union man, in favor of the old Constitution."

A sympathizer with the rebellion in Missouri is a "constitutional Union man!" I congratulate the honorable gentleman from New York, [Mr. Brooks,] who prides himself on this floor as being a "constitutional Union man," that we have here in Missouri found a member of his party, and a local exposition of its principles and its loyalty.

The most that can be claimed, from the testimony as to Utica and one precinct in Chillicothe, in Livingston county, is that at each poll for an hour or so the judges of election, on account of some disagreement with the military officer temporarily there, refused or declined to go on with the election. Nothing of interference with or intimidation of voters is shown; but it is fairly to be inferred that the judges were unwilling that there should be any military guard at the polls, and therefore waited to telegraph to the Governor

and have the soldiers ordered away before they would proceed with the election; and the Governor seems to have humored these punctilious gentlemen in this respect, and the soldiers, as good and loyal citizens, promptly obeyed.

But it is the height of absurdity to claim or insist that there was military interference with or intimidation of voters in this county at this election to the prejudice of contestant. The testimony shows that there were seven election precincts in this county, and the witnesses only testify as to what occurred at two of these precincts, and at one of these—the Chillicothe precinct—the contestant received over three times as many votes as the sitting member, and in Greene, called also Utica, the other precinct, he received over six times as many votes as the sitting member did, and the official canvass shows that in this county of Livingston the contestant received more than twice the number of votes that were cast for General Loan, his opponent.

That this was originally a strong secession county, or has been much affected by the rebellion, is apparent from a comparison of the aggregate vote of different years. For President in 1860 it was 1,469; for Congress in 1862 it was 683; and for judges in 1863, 963. Of this vote for President in 1860 20 votes were cast for Lincoln, 401 for Douglas, 578 for Bell, and 470 for Breckinridge. Is it strange, then, that since the war this secession element in this county has withdrawn some voters from the polls? Is the contestant anxious for their votes? If not, why this parade in the evidence and in the report of the majority of the committee of the vote of 1860 as a basis of comparison? In Andrew county all of contestant's testimony is taken before the clerk of the circuit court, without notice and without authority, and the written objection of the sitting member to the taking of the testimony before such person precedes the depositions. The said clerk also styles himself recorder of the county, but he is only recorder of deeds, and not a judicial officer, and is not authorized to take depositions in such cases, and the whole testimony is objected to by the sitting member, and is manifestly illegal and cannot be received in the case. There is therefore no testimony before this House as to this county, the act of 1861 being clear and explicit as to the persons who are authorized to take depositions in such cases, and on this ground alone we might rest the case, so far as the consideration of the election here is concerned.

But while insisting upon this fatal objection to the testimony, we will look at it for a moment to see what it discloses. We notice that it is wholly confined to one precinct, the Savannah precinct, notwithstanding that there are eight election precincts in the county. From the whole depositions it may be inferred that there was quite a crowd of citizens at and around the polls at Savannah and some noise and confusion; that a portion of the crowd was composed of men wearing the militia uniform, but that they were not soldiers on duty, and that there was no military guard at the polls. That a few persons found it difficult to vote by reason of the crowd, or were hindered in attempting to vote, some of them claiming that they were pushed back from the polls, and that, as they think, it was because they were opposed to the unconditional Union ticket. That numbers in the crowd expressed themselves as opposed to secessionists and to allowing them to vote, but that the judges of election allowed every man to vote who offered to who was otherwise qualified and who would take the oath prescribed by the convention ordinance. It also appears that usually at almost every general election there is quite a crowd at and around the polls at Savannah, rendering it somewhat difficult to get up to the polls to vote. It further appears that at this time all the loyal men in Andrew county between the proper military ages were enrolled as militiamen and that numbers of them were in the habit of wearing every day and when not on duty clothing that had been furnished them as militiamen, and that no military guard was stationed at the polls. It is also stated in the testimony that some persons in the county staid away and would not come to the polls to vote, alleging as a reason that they would not take an oath unknown to the Constitution and laws of the country, or, in other words, that they were disloyal and would not take the oath prescribed by

the convention ordinance. Will contestant charge the loyal militia with depriving him of these votes?

The presumption is strong that no serious interruption of voters took place here, as Lieutenant Colonel Nash, the officer in command of the local militia here, does not appear to have been applied to by the judges of election to protect the polls, although he had previously notified them that he would do so if necessary, should they call upon him and desire it. The entire vote of this county in 1862 was 1,112. The aggregate vote for judges in 1863 was only 1,218, a difference of only 106 votes. The vote for President in 1860 was 1,912, of which Mr. Lincoln received 97, Breckinridge 319, Douglas 819, and Bell 677.

These facts and comparisons show the strength of the secession element here at the breaking out of the rebellion, together with the deaths, removals, and other changes in the voting population wrought in such a community by the war. This is strikingly illustrated in the deposition of Joseph B. Nickel, in his answers to questions twenty-one and twenty-two on his cross-examination, found on page 91 of the printed evidence:

"Question 21. Has there not, since the November election, in 1860, been a great many persons left the county of Andrew, who are supposed to have joined the rebel army; and has there not been a large number of men from Andrew county who joined the Federal army; and have not many persons moved away from Andrew county since November, 1860; and were not the men, generally speaking, who went to the said armies absent from Andrew county on the 4th day of November last?"

"Answer 21. Since the November election in 1860, I think perhaps some four or five hundred men have left the county of Andrew, a part of whom are reported to have joined the rebel army, and a part of whom have joined the Federal army, and a part of whom have joined the State forces, and still another part of whom have removed from the county with their families. Of those who are reported to have joined the rebel army, I think a large majority of them have returned to the county; of those who joined the Federal army, I think perhaps half have returned; and of those who joined the State forces, comparatively few have returned. Of those who left the county with their families, their places mostly have been filled by others moving into this county from other counties and States. The most of those who moved into this county, referred to above, came here in the fall of 1861.

"Question 22. Does not the class of men who you think did not vote at said election, and who you think would, on a fair election, have voted for John P. Bruce, consist mainly of men who had returned from the rebel army, or had been arrested by military authority and imprisoned or put under bonds, or enrolled under Order No. 24, or were reputed to be secessionists or secession sympathizers?"

"Answer 22. The men above referred to consist partly of men who uniformly call themselves Democrats, and many of whom have been arrested and imprisoned by the military authorities at some time since 1860; partly of men who had at one time been in the State or Confederate army, and some of whom are now under military bonds; and partly of those who are said to be enrolled under Order No. 24. Of the last, there were but few at Savannah, comparatively. All three of the above classes are, by the Republican party, called rebels and rebel sympathizers."

And is this by the contestant's own testimony the class of guerrilla politicians whom he claims were hindered in the exercise of the elective franchise, or who would not come to the election to vote? I am glad that out in Missouri, where treason has culminated in open rebellion, the Union men have not hesitated to call things by their right names, and that they consider treason as something more of a crime than petit larceny. A man who has been a rebel, participating in this rebellion, or a rebel sympathizer giving it aid and comfort, has great reason to be thankful that his life is spared, and should properly be content, at least pending this war, to take a retired seat and allow his loyal fellow-citizens to do the voting. The treason of this class of men is not immediately effaced by their coming within loyal jurisdiction, and they have not any special claim to our sympathy in the matter of the exercise of the elective franchise, and it is the right and duty of the loyal men of Missouri to see to it that traitors during this war do not pollute the ballot-box with their votes, even if the State authorities, in order to accomplish this, have to place a militia guard around the polls.

I know that certain political gentlemen are anxious to have this class of men voting once more on their side, and are denouncing as Jacobins and radicals those earnest patriots in the border States who question the propriety or wisdom of such a course and who insist that the national safety requires that such men should remain on probation while the war continues.

Until this war is ended these returned rebels, while enjoying the protection of the Government, will do their country the most essential service



# THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

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by quietly remaining at home on the day of election, and even postponing on that day all predatory excursions and guerrilla raids. Clemency and liberality may safely be extended to them when hostilities are over and the rebellion is crushed, but until then let confidence and trust be reposed in the patriot in preference to the traitor, and let a marked distinction be drawn between a state of civil war and a state of peace in regard to the rights and privileges of disloyal citizens.

The contestant has produced no legal testimony as to the election in De Kalb county. The depositions he claims to have taken purport to have been taken before two justices of the peace, but without any notice or legal authority, and they are taken *ex parte*, no one appearing for the respondent or cross-examining any of the witnesses, and the respondent before the committee objected to the reception of the depositions as evidence in the case for the reasons already stated. The depositions are clearly illegal and inadmissible, being taken contrary to the act of Congress of February 19, 1851. There are eight election precincts in this county. The depositions only relate to one of these, namely, the Stewartsville precinct. The contestant, in asking his questions, and the witnesses, in giving their statements, wholly disregard the rules of evidence. Hearsay testimony is freely given and opinions or guesses of the witnesses are paraded as evidence; but if we were compelled to receive these depositions as in the case for the purposes of this investigation, we should find on examination that they could not be of any essential benefit to the contestant. Eight witnesses are sworn, of whom five did not go to the polls till in the evening, and could not have known how the election was conducted during the day. Only two men claim that they were actually prevented from voting by violence or intimidation, and that was in the evening. Three others of the witnesses claim that they were afraid to vote on this account, and on account of what they heard others say, and of these three, two of them did not go to the election till evening.

The general statements of witnesses that some of the soldiers were preventing men from voting if they wished to vote for contestant, without naming any persons so prevented, or specifying what the soldiers did to prevent them from voting, are of very little weight, especially where the deposition is *ex parte* and there is no benefit of a cross-examination and the witness is also a partisan. Statements of what third persons or strangers said during the day, either to the witnesses or in their hearing, are of very little consequence, and certainly are not evidence, and the same may be said of the opinions and surmises of witnesses so freely expressed in these depositions. There is no charge, however false and unfounded, but might be supported by such testimony in regard to an election.

The vote at Stewartsville is not given in the depositions, and the testimony which is offered does not show whether, in fact, the contestant or the respondent received a majority of the votes cast at this precinct. With what show of reason, then, can the contestant claim from his evidence that the result of the election was in the least affected to his injury by anything that transpired here?

The entire vote of the county of De Kalb for President in 1860 was only 702, of which Breckinridge received 213. The aggregate vote of the county for Congress in 1862 was 506, which, taking into account the secession vote before the rebellion, is certainly a pretty full vote for an ordinary election since the rebellion. The full vote in this county for judges in 1863, one year later, was only 601, being an increase of only 95 votes, notwithstanding it was an exciting election and a year of comparative peace had intervened.

It is worthy of remark also that by the deposition of Coy, one of the witnesses here produced by contestant, it is made to appear expressly that in 1863 there was no difficulty in voting at this precinct, and that those whom he claims were refused in 1862 voted in 1863 without objection.

We have seen how slight was the difference in the aggregate vote of these two years in this county, less than we should expect would have been the ordinary increase of votes in the county; and it is a fact conclusive that there was not any serious interference with voters here in 1862.

The testimony produced by the contestant in regard to the election in Buchanan county is all confined to Washington township. This township includes the city of St. Joseph, and had in it six voting precincts, known as Allen House, Nunning's brewery, market-house, court-house, Potter House, and Harness House. No evidence is given as to the election at the Harness House or the Potter House precinct, and only one witness testifies about the election at Nunning's brewery. No one is shown to have been prevented there from voting for contestant. Only two witnesses testify concerning the election at the Allen House precinct; and they do not show that any voters there were prevented from voting for contestant by either violence, threats, or intimidation; but one of these witnesses expressly negatives any violence, threats, or intimidation that day at that precinct. One man named Cowie appears to have been assailed after he had voted in the latter part of the day; but it was by an unarmed man, and no reason is given for the affray; and another man named McKesson, alleged to have been interfered with, had not offered to vote, nor does it appear what kind of tickets he had, nor that the interference had any reference to the contestant. This leaves but two precincts to be noticed, namely, the court-house and the market-house.

At the court-house there is no question but that some of the citizens and soldiers, not on guard that day, but wearing the uniform of the militia, interfered and stopped the voting, and tore up the poll-books after about one hundred votes had been polled, a large portion of which, the witnesses think, were for contestant. This is the only instance in the district in which poll-books were destroyed and the election stopped for the day, and we are not disposed in the least to countenance or justify such proceedings. But it is proper to notice, when we consider the legal effect of this conduct as affecting the merits of this contest, that it appears by the testimony that the second board of judges of election acting at that precinct at that time, had been chosen and were acting without authority of law, and that neither the first nor the second board of judges of the election at that precinct, nor the clerks, had taken the oath prescribed or required by the convention ordinance, and therefore they were not legally authorized to preside at the election or to receive or count the votes, and no voting could legally have taken place there up to the time when this interference closed the polls.

It also appears by the evidence and the laws of Missouri that voters in this township of Washington could and did vote for Representative in Congress at any of the election precincts they saw fit, so that if the polls at the court-house had been or were unlawfully closed, the voters were not thereby prevented from casting their votes for contestant at any of the other five election precincts in the township, which, so far as appears, all remained open during the day. Neglect of voters to vote after the closing of the polls at the court-house would be a voluntary act, as it appears by the evidence that the polls of the different precincts were so near together in the city that a number of the witnesses frequently visited them during the day.

At the market-house the evidence tends to show that about eleven o'clock in the morning there was some disturbance and the judges stopped the voting about half an hour and then resumed. Some five persons are named who it is claimed were prevented from voting, and some of the witnesses say in general terms that soldiers were in the crowd preventing voters who wished to vote for contestant from approaching the polls, and a few of the witnesses speak of seeing some persons arrested, but it appears that they were all shortly after

and on the same day discharged from custody by order of General Hall. The military guards at the polls in this city were placed there at the request of the contestant made to General Hall, as his own witness testifies, and the same witness says he did not hear contestant's name mentioned in the crowd at the market-house. Loomis, one witness, who claims that violence was here offered him, voted afterwards at Nunning's brewery; but he admits that he got into an altercation with a man at the market-house and called him a liar before he was put out of the room; and Abell, another witness, states that he had been enrolled as disloyal under Order No. 24; and Dr. Lamme, another witness, admits that he in the fall of 1861 proposed and gave three groins for the man who put up the national flag over the post office in the city of St. Joseph. That this class of men to a considerable extent sympathized with and supported the contestant and of course were anxious for his success is also pointedly illustrated by the testimony of Mr. Manney, one of contestant's witnesses at this place, who on his cross-examination was questioned, and answered as follows:

"Question. As between Benjamin F. Loan, returned member, and John P. Bruce, contestant, who did that class of men, so far as you know or heard, who are generally denominated returned rebels, and men who have been arrested, taken the oath, and given bond, and those returned from Price's army, and voluntarily surrendered themselves, and those enrolled under Order No. 24, as rebel sympathizers, vote for?"

"Answer. I heard of a few men about the time of the election, who voted for Loan, of that class, but they were few and far between. My impression is that a majority of that class of men that did vote voted for John P. Bruce."

"Question. Where was General Loan, according to your best understanding, at the time the congressional canvass was going on in this district, and at the time the election was held?"

"Answer. I understand him to be south of the Missouri river, with his headquarters at Jefferson City."

"Question. Do you know how the voters that were dispersed, as you say, would have voted at the court-house precinct, as between John P. Bruce and B. F. Loan? State your own knowledge in this respect."

"Answer. I do not know."

"Question. For whom did you vote at this election for Congress?"

"Answer. I was under the necessity of voting for John P. Bruce, having no Democratic candidate to vote for."

In this connection we notice the fact that the contestant was not the Democratic candidate, and his claim that he had a right to expect the vote of the Democratic party is purely gratuitous on his part. The three individuals running for Congress in this district at this time were all of them independent candidates, old party organizations having been broken up by the rebellion. Mr. Branch claimed to be the ultra radical candidate, while General Loan ran as an independent candidate of the Union men on a war platform. Being at that time actively engaged in the military service the people of his district knew that his advocacy of the Government, his support of the war, and his adherence to the Union was no sham profession, but an earnest, living reality; and as he was not then in the district, and could not well come into it during the canvass, he issued the following card to his constituents, being all the address he made to them while the election was pending, and which was so issued just one month prior to the day of election:

JEFFERSON CITY, October 4, 1862.

EDITOR HERALD: I have received many communications, public and private, from friends in the seventh district, asking permission to use my name as a candidate for Congress in that district. Official duties have deprived me of the pleasure of answering those requests as received, directly to the authors, and as it is not probable now that I shall have the time to do so hereafter, I will, with your permission, send, through the medium of your paper, a brief answer of all of them. I have devoted my life to aid in suppressing this unholy rebellion, and from this work I do not propose, for any cause or consideration, to turn aside or to look back, until the last armed traitor is subjugated. I shall never consent to make any terms of peace or compromise with them, and the war must be continued until the traitors are coerced into making an unconditional submission to the Constitution and the laws. As a consequence of this determination, it will be utterly impossible for me to make a canvass before the people of the district, and I have heretofore been disposed to refuse the requests of my friends to allow my name to be used in the race. But, upon reflection, if it is thought best to use my name as a means of uniting the whole strength of the unconditional

Union party in the district, I do not feel at liberty to refuse it. I trust it in their hands.  
Respectfully,

BENJAMIN LOAN.

Nothing which he did was calculated in the least to hinder a fair and free election, nor did he have anything to do with any effort or attempt to prevent a free expression or choice of the legal voters at the polls. The contestant received at this market-house precinct some 87 votes, or about one third of the vote cast for respondent, and it is apparent from the testimony that there was no organized or systematic attempt to prevent voters from voting for contestant.

But even admitting for the purposes of this investigation that there was some disturbance and interruption of voters at the polls, caused by persons in the crowd, and that some persons were roughly used, how much was the result of the election affected by it? Several of the witnesses give opinions from hearsay and from what they saw at the election in St. Joseph as to the number of persons they believed were kept from voting in the entire county, in which there are eighteen election precincts, but this is a mere wholesale guess, and is wholly inadmissible. Only two give estimates or guesses for this township. Knapp, on pages 7 and 9, puts the whole number kept from voting at about three hundred, and Matney, on page 24, estimates the whole number at from one hundred and fifty to two hundred voters, but the witnesses would not swear that these would have voted for contestant. Yet the report of the majority of the committee claims a loss for contestant in this township alone of 900 votes by violence and intimidation, although contestant, in his notice, only claimed a loss of 800 in the whole county. The vote returned from this township for 1862 was 910. Add to this the 100 votes polled illegally at the court-house and destroyed, and it makes the entire vote cast 1,010. The whole vote of the township in 1863, one year later, and in an exciting party election, was only 1,156, being an increase of but 546 votes, of which increase the radical candidates for supreme court judges in 1863 gained 186 votes over the vote for the respondent in 1862, his vote in 1862 being but 744, while that of the radical candidates for judges in 1863 was 930; which conclusively shows that the increased vote in 1863 did not come but in part from the conservative side.

The county of Buchanan in 1860 gave 614 votes for Breckinridge for President, of which 226 votes were cast in this same township of Washington. Did contestant expect to find the votes of these men deposited in the ballot-box at the election in 1862? Would he not be more likely to find these voters, and many others who voted there in 1860, in the rebel army?

But there is another fact which shows that no disturbance of a serious character or of long continuance occurred at the polls in this city of St. Joseph. General W. P. Hall, then Lieutenant Governor and also military commander of this district, resided here and attended the election on said day. He is now Governor of the State and a prominent Democrat, and has never been accused or suspected of radicalism. He had control of all the militia there, and discharged forthwith from custody all persons who were arrested that day, so that the voters could have no fears on that account, and could know that he was respected as in supreme command. Had there been any serious violence or disturbance he could have suppressed it at any moment. Will the Democracy endeavor now to impeach their own Governor in this matter, and claim that he connived at or even tolerated or permitted violent interference with voters at the polls either by the military or citizens under his own eyes?

That there was an interruption at the court-house is admitted, but that was sudden and closed the polls where the election had been conducted in open violation of law, and there being five other polls open in the city, it was, it seems, not considered necessary to commence and open the polls there again; but it does not appear that contestant ever insisted before the canvassers or claimed that the vote cast at the court-house was legal and should be counted in his favor.

No doubt at this market-house precinct there were instances of high words, miscellaneous individual quarrels, and those scenes of noise and confusion which frequently attend upon elections where a crowd is in attendance and political feel-

ing is excited; and in the recent experience of this country it would be strange if such manifestations did not appear; but that is far different from organized, systematic violence, and intimidation or interference.

The contestant and the report of the majority of the committee, as well as that of the minority in this case, wholly exonerate the superior officers of both the State and Federal Government throughout the district from any action in the matter prejudicial to the contestant, and also admit that the judges of election conducted the election with fairness; and under such circumstances it is impossible for the contestant to make void the election, and to say that no choice has been made.

We have seen that the contestant's own witnesses only claim a loss of from 150 to 300 votes in Washington township. Suppose, for the sake of the illustration, we call it at the highest number, 300, and even add to this the entire 100 votes destroyed at the court-house, but which were illegally cast, making 400 in all in this county, how is it to avail the contestant, and how is it possible for him with this aid to overcome the remaining surplus vote of the respondent in the district, amounting to over 1,628 majority or plurality? The gentleman who drew the report of the majority of the committee in this case seemed almost instinctively conscious of this insuperable difficulty, as he, while giving tabular statements in almost endless variety of repetition, wholly omits to give a statement drawn from the evidence of contestant's losses in the several counties, with the aggregate footing. In four of the counties where the number of precincts is shown by the testimony, there are forty-one election precincts, and outside of Buchanan county contestant does not claim to have offered any evidence as to the election only as to five precincts. It would, therefore, require proof that the contestant lost by violence or intimidation over 325 votes on an average at each of those five precincts to overcome and do away with the remaining majority of the sitting member. Such a state of things the evidence wholly fails to show, and no political ciphering can enable the contestant to overcome the respondent's vote in the district.

Call the average of election precincts ten to a county, which is less than is shown by the evidence so far as given, and it makes one hundred and fifty precincts in the district, and the contestant having offered some evidence as to the election in only eight of these precincts, desires, on that alone, to set aside and declare the election void in the remaining one hundred and forty-two precincts in the district, concerning which he has offered no evidence, and in which the election is not in the least attacked or impeached. Neither law nor precedent will justify such a course.

As the contestant has sought to base an argument upon a comparison of votes in the district in different years we will notice that aspect of this case. The aggregate vote in this district in 1863 for judges of the supreme court was 16,229, and the majority for the radical candidates was 4,551, a majority lacking only 3 votes of being equal to contestant's entire vote in 1862, and the entire vote for the conservative candidates in 1863 in the district was only 5,839, being an increase in the entire district of only 1,288 votes over the vote for contestant in 1862, while the aggregate radical vote in the district in 1863 was 10,390, being an increase of 1,143 over the entire aggregate vote of Loan and Branch the two unconditional Union candidates in the district in 1862, thus showing that the gain in the radical vote in 1863 was nearly as great in the district as the gain in the conservative vote.

In the five counties of Andrew, Atchison, Buchanan, De Kalb and Livingston, concerning the election in which contestant claims to have offered some evidence, showing interference with and intimidation of voters at the polls in 1862, the majority for the radical candidates in 1863 was 795. Include with these the counties of Holt and Nodaway, in which contestant also insists there was interference (though he has offered no evidence to show any) in 1862, and the radical majority in 1863 was 1,742, showing a vote there about as healthy for radicalism in 1863 as there in 1862, without allowing the contestant the poor excuse of attributing it in 1863 to military interference.

The contestant cannot explain what he calls the

falling off in the aggregate vote in 1862, from the vote for President in 1860, by any alleged military or other interference with or against his supporters at the polls, but he will find himself compelled to devise some other and more rational explanation, if any is called for, as both parties are represented in such alleged decrease in 1862 as well as in the increased vote in 1863. But it is absurd to attempt to determine that there was any such actual falling off in the aggregate vote in 1862 by comparing it with the vote of 1860 before the rebellion, as that would be assuming that all the rebels in this district who voted in 1860 were to be reckoned as still voters here in 1862, and besides, the vote at an exciting presidential election is usually larger than at any ordinary State or congressional election. The secession element existing in this district at the breaking out of the rebellion, and the disturbances caused and changes wrought by the civil war, readily furnish the explanation without any necessity for taking the contestant or the military into serious consideration.

From certain portions of the testimony and also from the admissions and statements of the parties on the argument of this case before the committee, it appeared that at this election in 1862, being the first general election since the breaking out of the civil war in the State, owing to the strength of the disloyal element in the State and to the oath prescribed for voters by the convention ordinance, many persons refused or declined to vote, some because they considered it would be acknowledging or recognizing their allegiance to the General Government, others because they were opposed to taking the convention oath; some because they were timid about taking sides with either party, and some because, since the issuing of Order No. 24, August 4, 1862, they had enrolled themselves as disloyal under said order. And during the continuance of the canvass such was the indifference of many citizens to the Federal and State government that candidates in conducting the canvass frequently urged their fellow-citizens to come out and vote and thus manifest their loyalty and take part in choosing county officers and members of the Legislature as well as members of Congress and aid in restoring order and civil government. Some of the disloyal class as we have seen, more crafty, designing, and unscrupulous, boldly presented themselves at the polls, and their notorious disloyalty no doubt excited in the breasts of loyal men some righteous indignation and elicited expressions of disapprobation and epithets which would naturally disturb a guilty conscience, and might cause it to raise the howl of military interference at the polls.

These facts and circumstances, if any explanation were needed, would sufficiently account for any supposed falling off in the vote of this district in 1862 without attributing it to violence or intimidation on the part of the militia. But the vote was a large if not in fact a full vote. The aggregate vote for Congress in this district in 1862 was larger than that of any other congressional district in the State of Missouri at that election, larger than the average aggregate vote for members of the present Congress in all the border States, and larger even than the average vote for Congress in the several districts of the State of Massachusetts at the last congressional election. The point has been made on behalf of contestant that in some of the counties many of the candidates for State offices were militia officers and were running on the same ticket with the respondent.

In reply to this, and also as to the frequent mention in the evidence of the presence of the militia at the polls, we say, in the language of the order of the adjutant general of the State, No. 45, "that the enrolled militia, being citizens of the State and nearly all entitled to vote, will doubtless be generally at places of voting;" and we are not aware that a loyal citizen is disqualified to hold a civil office by reason of being enrolled and serving in the State militia.

But the contestant cannot avail himself of anything to his advantage in this regard, for while making a profert in the committee-room of what he claimed to be the fragments of the poll-books and tickets destroyed at the court-house in St. Joseph he exhibited a specimen of the tickets used at that election, on which his own name appeared for Congress, regularly printed on the same ticket with the same Colonel John Severance and the

other military officers who were candidates for civil offices, and were voted for there at that election, showing that he ran on the same ticket with said military candidates in perfect harmony, and he cannot now deny his own acts, nor come before the House and claim that he was running in illegitimate company. In fact the congressional candidates ran on the different county tickets just as suited their pleasure and the locality, and it is but attempting to mislead when it is asserted or intimated that the contestant or respondent uniformly ran on opposing tickets with local candidates in each county.

It was also asserted on the argument and tacitly admitted before the committee, that although at this same election county officers and members of the Legislature were chosen, and had since entered upon and discharged the duties of their respective offices, yet in no instance had their seats been contested or the validity of the election been called in question. The people of Missouri have considered and treated this election as fair and legal. Returned rebels and men disloyal since December 17, 1861, were by the convention ordinance not entitled to vote, as they could not truthfully take the oath; and no man who had voluntarily enrolled himself as disloyal under Order No. 24, which was made August 2, 1862, could be considered a loyal man and entitled to vote at this election. Were it in evidence here that the election had been carried by the votes of such rebels and disloyal men, would not this House indignantly repudiate such votes and set aside such an election? And even were it shown that such returned rebels and disloyal men had been in some instances prevented by the militia from voting at this election, will not this House still hold that the result of the election has not been changed or affected thereby, as such men were neither loyal nor legal voters? Nor indeed should the act of a few riotous or quarrelsome individuals, not officers of election or in charge of the polls, be made effectual to vitiate an election, as it would be most unjust to the electors and a great encouragement to the enemies of law and order, and would be placing in the hands of a few lawless persons the power of defeating at pleasure any election. But in this case neither the quality or quantity of the interference could legally have changed the result; and the officers of the election having, as contestant admits, conducted the election fairly and impartially, and no act of the superior State or military officers being complained of by him, we see nothing to defeat the choice made by the people.

In report No. 37 of the present session of Congress in regard to the Missouri militia, the Committee on Military Affairs, on the 29th day of March, 1864, in recounting the condition of things in that State in the summer of 1862, made the following statement to this House; namely:

"That in the summer of 1862 the rebel General Price threatened an invasion of Missouri from Arkansas with a formidable army; that to cooperate with this, the rebel officers Coffee, Shelby, and Hughes had, with a large force, penetrated to the interior of the State, had defeated our forces at Lone Jack, captured Independence, and threatened Lexington; that the rebel officer Porter, in northeast Missouri, had collected over three thousand men in arms, and Polkexter, near the center of the State, on the north side of the Missouri river, had over fifteen hundred rebels in arms, while a considerable force threatened the southeast; that to meet these bodies of the enemy there was no adequate Federal force in the State.

"Under these circumstances the commanding general in that department, with the consent of the Governor, organized and called into active service a large part of the militia of the State, and placed them under the command of the Federal officers. By their aid this outbreak was suppressed and the rebels driven from the State or captured.

"The militia in different sections of the State took prisoners and turned over to the Federal officers several thousand rebels, who were most of them sent South and exchanged. They were in many of the engagements that occurred in different parts of the State, and are mentioned favorably by the officers in command.

"After the pressing emergency under which they were called into service had passed, the commander of the department would not consent to their being disbanded. He asked of the Governor that a part of them should be retained in service, assuring him that the State should be reimbursed for her expenses in paying them, and the Secretary of War in the mean time ordered that they should be subsisted and clothed by the Federal Government. By thus retaining the militia in service, the commander of the department was enabled to send ten thousand of the Federal troops in Missouri to Vicksburg, and subsequently a considerable force to General Steele, to cooperate in the taking of Little Rock and holding possession of Arkansas."

Such is the class of militia men in Missouri who

are attempted to be assailed by the contestant. These loyal citizen soldiers, even after having succeeded in driving out the rebel forces, found themselves still exposed, by the treachery and feigned loyalty of many of their neighbors and returned fellow-citizens, to fresh outbreaks, surprises, and raids, and were compelled to seek means of self-protection and defense. They also found similar precautions necessary in regard to the holding of elections. Men fresh from or ripe for rebellion or guerrilla raids would, if permitted, have little scruple in taking an oath to enable them to deposit a vote in the ballot-box if thereby they could defeat some loyal supporter of the Government and elevate a rebel sympathizer to office in his stead, and if not permitted to do this would not hesitate to make an attack on the polls, and by violence wholly prevent or break up and defeat the election; and a wise and prudent precaution on the part of the loyal authorities would anticipate and provide for such emergencies. Hence the necessity and propriety, in those States thus affected by the rebellion, of the presence in many places of a loyal military guard at the polls, acting either under the authority of the State or of the General Government.

The outcry about military interference at the elections which has of late been raised by political partisans, both in public harangues and through the public press, proclaiming the violation of the elective franchise and the subversion of our liberties, indicates a distrust of our citizen soldiery on the part of the opponents of the Administration which is unwarranted by the facts, which is unworthy an intelligent and patriotic people, and which is cruelly unjust to the great body of our loyal soldiers who are a part of ourselves, and who are not surpassed in intelligence, virtue, patriotism, and love of liberty and free institutions by any portion of our people, or by any class of citizens on the face of the earth. No one prizes higher the freedom of elections or the purity of the ballot-box than they do, and it would be well if these croakers and complainers, these libelers of our soldiers, would manifest as strikingly as these veterans in the field have done their loyalty to their country and their desire to preserve and perpetuate her integrity and her free institutions.

English precedents and laws have frequently been referred to, and statutes of some of the States quoted, in regard to the presence of the military at elections, to show the jealous care with which our English ancestors and the people of the several States in this country have watched over the freedom of the ballot-box, and all this has been done with an evident desire to increase our alarm and to create a prejudice against our own citizens who are battling alike for their own and our protection, for the preservation of their own as well as our country and her institutions. Let these politicians but create in the minds of our citizens who remain at home a distrust of their fellow-citizens who go forth from their midst to fight the battles of their country, let them but make these soldiers the objects of suspicion as a class separate and distinct from the people, as a class ready to become the instruments of tyranny in trampling upon the rights of their fellow-men, instead of being looked upon as a part and parcel of our people, loyal and patriotic, and devoted to the public welfare, and they will then have succeeded to a great degree in accomplishing the ruin of the country. Do gentlemen reflect upon the present state of things in our country? Do they realize who compose our volunteer armies? Do they remember at what class of men British legislation or the legislation of our own States in regard to protecting the ballot-box, so far as the soldiers were concerned, was originally aimed?

We have no standing army of mercenaries against whose presence it is necessary for us to guard at the polls. It was this class of men, a class not strictly citizens, but a class separate and distinct from the great mass of the citizens and not in sympathy with them, of which our ancestors were jealous; a class whose characteristics one of the patriot orators of the Revolution, in an oration on the anniversary of the Boston massacre, has thus graphically described in speaking of standing armies and the presence of the British soldiery then quartered in Boston:

"Standing armies are sometimes (I would by no means say generally, much less universally) composed of persons who have rendered themselves unfit to live in civil society;

who have no other motives of conduct than those which a desire of the present gratification of their passions suggests; who have no property in any country; who have lost or given up their own liberties and envy those who enjoy liberty; who are equally indifferent to the glory of a George or a Louis; who for the addition of one penny a day to their wages would desert from the Christian cross and fight under the crescent of the Turkish sultan. From such men as these what has not a State to fear?"

Will gentlemen who are so loud in their complaints about military interference at the polls dare to insinuate any such charge against the brave and patriotic volunteers who now compose our armies? Will they dare to charge that these volunteers are in the least wanting in intelligence, in love of country, in respect for her institutions and laws, in regard for the purity and freedom of elections, and, above all, in an earnest desire to preserve, uphold, maintain, and perpetuate the Union? For my part I can conceive of no man who has demonstrated so unequivocally his patriotism and loyalty, who has shown so conclusively his appreciation of and love for his country and her institutions and his desire to uphold and maintain them, and who has become entitled to so much confidence and trust in the present emergency as the citizen soldier; and I would sooner intrust him with the entire charge of the polls, and with the control of the liberties of my country, than any of his traducers and slanderers who have remained at home, or any class of grumbling politicians who being of the military age and able-bodied have shrunk from their country's service in this her hour of peril.

Of our citizen soldiers we may say, in the words of the patriot just quoted:

"From a well-regulated militia we have nothing to fear; their interest is the same with that of the State. When our country is invaded, the militia are ready to appear in its defense; they march into the field with that fortitude which a consciousness of the justice of their cause inspires; they do not jeopard their lives for a master who considers them only as instruments of his ambition and whom they regard only as the daily dispenser of the scanty pittance of bread and water. No, they fight for their houses, their lands, for their wives, their children, for all who claim the tenderest names and are held dearest in their hearts; they fight *pro aris et focis*, for their liberty, and for themselves, and for their God."

MR. SMITHERS. Mr. Speaker, the exhaustive argument of the gentleman from Michigan [Mr. Upson] has rendered it almost unnecessary that I should address the House upon this subject; and were I not a member of the Committee of Elections, concurring wholly in the views which have been presented by the minority, I would not have ventured to trespass upon the time of the House. But a sincere conviction upon my part of the truth of the conclusion at which the minority has arrived, and my desire, if consistent with the evidence which is presented in this case, to secure to the country and to the Government the services of a faithful and loyal legislator, and to the people of the seventh congressional district of Missouri a Representative whom I believe to have been fairly and legitimately chosen, induce me for a few brief moments to examine the testimony in the cause, and in doing so I shall confine myself wholly to the record.

The majority of the committee, in the report submitted to the House, and near the conclusion of that report, uses this language:

"It affords the committee pleasure to be able to say that the evidence in this case nowhere discloses anything tending to show that any superior officer of either the State or Federal Government manifested any other than an earnest desire to secure a full expression of the popular will at this election, and that such expression should be freely given without intimidation or molestation. The judges, so far as appears, with one or two exceptions, conducted the elections with entire fairness, and there was nothing on the part of civilians to warrant or justify the interference of the militia. But the evidence does disclose ample proof that a portion of the militia in certain localities disregarded entirely the injunctions given them in the orders before mentioned, and in many instances, in violation of their duty as good citizens, and of the commands promulgated prior to the election by those orders to them as soldiers, assumed to determine who should and who should not vote, and for whom votes should be cast, and by threats, violence, and by various modes of intimidation, so far interfered with the election as, in the opinion of the committee, to render the election a nullity."

This, then, is the issue made up between the majority and the minority. The majority of the committee admit that so far as the conduct of the Federal Government or of the State government or of any of the officers of election is concerned, there had been entire fairness throughout the whole proceedings. They then place the issue on the ground that in certain localities the militia disre-



garded the orders given to them, and that the election was, on account of that disregard of orders, the result of force, fraud, and violence, and was, therefore, a nullity.

The true question, therefore, before the House is not whether the contestant on the one part or the sitting member on the other is entitled to the seat—it is not a question to determine whether the seat belongs to General Loan or to Mr. Bruce; because the committee is unanimous in the declaration that Mr. Bruce is not entitled to the seat. The question before the House is whether the people of the seventh congressional district of Missouri are to be represented on this floor—whether there is such evidence of fraud, force, and violence in the district as absolutely nullifies the election in the whole district. That, and that alone, is the question for the House to determine.

In view of that question I propose now to consider very briefly, and, as I hope, very frankly, the evidence submitted to the committee and presented by the committee to this House.

The seventh congressional district of the State of Missouri, as has been already stated to the House, is composed of fifteen counties. These counties are Buchanan, Andrew, Holt, Atchison, Nodaway, Worth, Gentry, Harrison, Mercer, Grundy, Putnam, Sullivan, Livingston, Daviess, and De Kalb. The whole vote cast in those counties at this congressional election was 13,803. The vote cast in the ten counties that are really not contested was 8,760 votes, if my computation be correct; and the vote cast in the five counties in which there is a contest was 5,043, making together 13,803 votes cast in the district, a larger vote than was cast in any other congressional district of the State of Missouri; and, as my friend from Michigan [Mr. Urson] informs me, larger relatively than that cast in the various congressional districts in the Commonwealth of Massachusetts.

Having thus reduced the question to a simple issue, I propose to confine myself almost wholly to a consideration of the report of the majority of the committee, to test its accuracy, and to correct the tables that have been submitted to the House, and to show that by no possible political arithmetic can General Loan be deprived of his seat, or his majority reduced to less than a thousand.

However, before proceeding to that, the House will pardon me for referring to certain testimony which has been alluded to by the gentleman from New York, [Mr. GANSON,] who opened the case on the part of the majority of the committee. He referred to the testimony, in reference to Buchanan county, of Samuel Ensworth, who was sheriff of the county, and he relied upon it, to some extent, to prove the facts in reference to the Allen House polls. In relation to the polls at the court-house, about which so many of the witnesses have testified, they are not in these returns. They have been entirely thrown out, and form no part of the aggregate vote by virtue of which General Loan now holds his seat. I shall therefore dismiss the court-house precinct entirely from the consideration of the case.

Now, in relation to the Allen House precinct, and to the interference of soldiers, it becomes a very pertinent question to know how came these soldiers at the polls. It is said they were placed there by general orders from the commanding officer, issued by the adjutant general of the State of Missouri. At whose instigation? By whose instrumentality? Who placed these soldiers at the polls? Let the witness, Samuel Ensworth, a witness for the contestant, answer the question. On his cross-examination this question is asked him:

"Have you ever heard said John P. Bruce say that he requested guards of the militia to be placed at the different voting precincts on said election day?"

"Answer. I heard Mr. Bruce say that he went to General Hall and told the general that he understood that there was to be an interference with voters at the polls; that persons that were enrolled under Order No. 24 were to be excluded from voting, and requested of General Hall to have a guard put at the different precincts to prevent any interference with the voters, and to leave the qualification of the voters with the judges."

It therefore appears by the answer of the witness of the contestant that the contestant himself desired an array of military at the polls; and if there be any complaint as to the military being placed there the contestant himself is the author of the trouble.

Now, then, let us see what Ensworth says in relation to the interference that occurred at this precinct. Just above he testifies as follows:

"Question. Did you hear any of those excited persons in that crowd complain of being prevented from voting for John P. Bruce?"

"Answer. I cannot say that I heard his name mentioned in that crowd."

"Question. Did you see any one prevented from voting for John P. Bruce at the Allen House precinct on that day?"

"Answer. I did not."

"Question. Did you hear any threats used against any person attempting to vote for John P. Bruce at the Allen House precinct on that day?"

"Answer. I did not."

This witness, who is so paraded by the majority of the committee, and relied on by the contestant to prove his case, when asked if he saw any one prevented from voting on that day, replied that he did not, but he had to pass to the polls through files of bayonets. But when the inquiry is made who brought those bayonets there, it appears that they were brought on the request of the contestant himself.

I proceed now, as I desire to be brief, to a comparison of the vote as presented by the majority of the committee in page 27 of their report. The aggregate vote given by the committee of the counties of Daviess, Gentry, Grundy, Harrison, Mercer, Putnam, Sullivan, and Worth is given by their computation as—for Bruce, 2,763; for Loan, 1,913; making a plurality for Bruce of 850. It will be observed that it was not a majority, for in these counties a third party received 2,412 votes.

Now, the House will observe that from that computation seven counties are excluded, five counties in which there is a contest, and also the two counties of Nodaway and Holt, about which from one end of this report to the other there is not a single scintilla of evidence of any irregularity whatever. I state in regard to these counties, so far as I have been able to examine the testimony—and if I am wrong I ask any member of the majority of the committee to correct me, for I do not desire to make any misstatement in regard to the matter—that there is no iota or scintilla of evidence in regard to these counties of Holt and Nodaway. I ask, then, upon what rule, what decent pretext were these counties excluded on the ground that no fair election was held in them? Yet it is a singular fact that such has been the action of the majority of the committee. They seem to have indulged in mere surmises in relation to these two counties and to have acted very much upon the principle of the school-boy in arithmetic, who had some difficulty in working out the answer, and so found the proper answer, put it down and then made the preceding figures correspond to it. I can conceive of no reason by which the committee could have excluded these two counties unless upon some such mode of computation. Then, if we include the vote of the counties of Holt and Nodaway, as in all reasonableness and fairness we must include their vote, it adds to the vote of General Loan 695 votes, leaving, according to the computation of the committee, the plurality for Mr. Bruce 155 votes instead of 850, which by some means they have arrived at and embodied in their report.

The majority of votes actually received and counted for General Loan in the district was 2,028; and in order to oust him from his seat, you must destroy that majority, and to do that they have undertaken to reject the vote of whole counties in consequence of irregularities in a single precinct. If gentlemen will examine the evidence which is reported in this case, they will find in reference to whole counties which the committee have thrown out, no particle of evidence of any irregularity whatever, except in a single precinct; and yet the committee have adopted the rule of disfranchising whole counties in the seventh district of Missouri. It becomes a question whether, if we allow the testimony taken the full force and entire bearing which it can, as legitimate testimony, be entitled to, then upon what principle of justice can you exclude the whole county because a given precinct does not exactly hold its election according to the rules of law? Why should we throw out the balance of the county on that account? They exclude the whole five counties; yet there is not one of those five counties in which there is more than one or two precincts in reference to which any testimony has been taken. My colleagues on the committee and other gentlemen will correct me if I am wrong.

In Buchanan county there are twenty-eight precincts, and there is testimony in regard to only two of them. Now, on what principle of justice can you exclude the remaining twenty-six precincts concerning which there is no testimony?

Now, having reduced the apparent majority of Mr. Bruce to 155 votes, let me examine why Atchison was rejected. I said that the counties of Holt and Nodaway were rejected without any testimony whatever. Atchison county is also ruled out. Now Atchison county gave General Loan 496 votes and Mr. Bruce 102 votes, making General Loan's majority 394, and deducting from that the majority of Mr. Bruce of 155, it leaves General Loan a clear majority of 139.

Now, I ask the House to listen to the testimony on which the county of Atchison was rejected. I refer to the testimony of Silas Puryear. I beg members to remember as they run along that the vast body of this testimony is *ex parte* in its character, much of it being taken without notice.

Mr. GANSON. I ask the gentleman to yield to me.

Mr. SMITHERS. Certainly.

Mr. GANSON. I call the attention of the gentleman to the fact that he took the ground that these tables were appended here to show that these counties ought to be excluded.

Mr. SMITHERS. Certainly, sir.

Mr. GANSON. If the gentleman from Delaware had read the report of the Committee of Elections he would have found that there was no such thing. It is there stated that the tables are appended to illustrate the relative vote these gentlemen received in the counties where there is alleged not to have been any interference, as compared with those where interference is proved to have occurred. They were simply for the purpose of showing the character and the extent of the interference. They are not tables to exclude these counties, as the gentleman from Delaware has stated.

Mr. SMITHERS. What was the effect of putting them there?

Mr. GANSON. I desire to say that they were not put there by the Committee of Elections for the purpose of claiming that those counties should be stricken out.

Mr. SMITHERS. But they are stricken out.

Mr. GANSON. I have not stricken them out; I only put them in to show the relative comparison between the counties where there was an interference and where there was not interference. If the gentleman desires to state the case truly he can read the report of the Committee of Elections; if he does not, of course I have nothing to say.

Mr. SMITHERS. I wish to say here, in answer, that these counties were thrown out. I know no other reason why they should be excluded at all except that it was considered there was proof of interference with the elections sufficient to exclude them. Having failed in making that proof there is no reason why they should be excluded.

Proceeding, in relation to that I desire to show, according to the idea of the gentleman from New York, my own position. I say, then, upon no other proofs can those counties be excluded.

If you do not exclude Atchison county you put General Loan in. On what ground can Atchison county be excluded except that of interference with the election in that county? But they have counted out Atchison, because if they did not count out Atchison they could not count out General Loan, and in counting it out they counted it out upon the ground of military interference. I want to show now the whole testimony in relation to interference in that county, and show whether there is any ground for counting it out. The sole testimony in relation to that is the testimony of Silas Puryear to be found on page 115 of the report. Mr. Puryear was the attorney of the contestant, and it is not often that a case is to be decided upon the testimony of a counsel in the case, though it is attempted to be done in this case.

Mr. DAWES. Allow me to remind my friend that the report made this morning in General Blair's case, in which the gentleman concurred, depended entirely upon the deposition of one of the counsel for the contestant in reference to the validity of every one of the muster rolls.

Mr. SMITHERS. My reply to my colleague is brief and simple. I examined the testimony in the Blair case sufficiently to satisfy myself that the vote in the Abbey precinct was illegal which unseated Mr. Blair. Whether Knox should be admitted depended upon the number of legal votes cast by the Osterhaus brigade, which was to be determined by a mere inspection of the muster rolls. In this I trusted to the examination and computation of my colleague, [Mr. DAWES,] who reported to me the result which I accepted and acted on as true.

Mr. DAWES. I presume my friend was just as well aware when he gave his vote in the Blair case, as when he gave his vote here, that the counsel in both cases had been witnesses, and the only difference between the two is this: the Blair case could not be decided without the testimony of the counsel of the contestant, while in this case the counsel of the contestant put in his affidavit to show that he had been in certain counties after testimony and had been driven out, and my friend here undertakes to get off of his vote in the Blair case by charging it upon me. I tell my friend that I do not take his vote in the Blair case any more than I do this, and he is to stand upon his own judgment in that case as much as this.

Mr. SMITHERS. I do not desire to get off of anything that I get on, generally, [laughter,] but I am perfectly willing my friend should get off of me, for his persistence will only lead to recrimination.

Mr. DAWES. I did not intend to mingle in this debate.

The SPEAKER. The Chair doubts whether this debate upon the Blair case is in order.

Mr. SMITHERS. That was the point I was about to make. I do not desire any controversy with my colleague; and I infinitely prefer, if agreeable to him, that he shall submit his remarks after I close.

Mr. DAWES. I will say if the gentleman finds it unpleasant to be reminded of an inconsistency, I will not insist on interrupting him.

Mr. SMITHERS. In reply to that I have to say that I am at all times willing to be reminded of an inconsistency; but I am also at all times willing to place the burden of that inconsistency upon the shoulders of the gentleman who charged me with it. If therefore inconsistent at all, it is because I am misled by the false light the gentleman held out in the Blair case. I am not misled here.

I will now proceed with the deposition of Silas Puryear, to show that under no circumstances or contingency does it contain anything whatsoever which could justify this House in rejecting the vote of the county of Atchison. What does he say?

"Question. State whether there was any interference by any one with said election; and if so, please state what was the character of said interference, and who, if you know, interfered with the same. Please state all the facts that came to your knowledge at said election at Rockport, Atchison county, Missouri, in reference to the election held for Congressman and other officers at that place on the 4th day of November, 1862.

"Answer. I had heard previous to the day of election that there would be interference, and on the morning of election was fully satisfied such would be the case from seeing a number of enrolled militia in town with arms. Soon after the time for opening the polls I heard on the street that William Hunter, who was a justice of the county court, John Smelser, William King, and others had been prevented from voting. I did not myself go to the courthouse, but was near enough to see that the door was guarded by militia with guns, bayonets, &c."

Now, there is the testimony of a witness who says he was not at the polls, that he did not know anything which took place there, that he heard on the streets that A, B, and C had been prevented from voting, and that he knew it to be so because he saw soldiers at the door of the courthouse. Now, I submit to the House that this is the sole and entire testimony, the whole evidence upon which this entire county of Atchison has been disfranchised. It is testimony in regard to a single precinct, a precinct at which the party himself was not personally present, but draws his inferences only from statements of other men who said they had heard that A, B, and C were kept away from the polls.

I submit to the House if that is testimony upon which you will exclude these votes, and upon which you will disfranchise a brave and loyal people; upon which you will prevent the Government, in this trying hour of her exigency, from being supported upon this floor by a gen-

tleman who is in favor of suppressing the rebellion? I say to the House if the evidence rules out General Loan, rule him out, but do not rule him out upon testimony upon which you would not hang a dog.

I assume, therefore, that the county of Atchison is wrongfully ruled out; that it shall be included in the aggregate of votes which General Loan has received. Assuming that, then Atchison county puts him ahead and gives him 139 majority.

But I do not wholly rely upon the failure of proof by Mr. Puryear. I prefer for myself now to institute an investigation, following the order of my friend, and making an analysis of the votes which were cast in Atchison at the gubernatorial election in 1860, and at the election for judges in 1863, and the congressional election in 1862. At the gubernatorial election in 1860 there were cast in the county of Atchison 813 votes; at the congressional election in 1862, 675 votes, but 138 votes less than a full poll of the county anterior to the rebellion.

In 1863, at the judicial election, which took place subsequently to the congressional election of 1862, and which is admitted to have been a fair election, there were in the county of Atchison 633 votes cast, making 42 less than were polled in the congressional election. Is there no inference to be drawn from this fact of comparative analysis? At the election of 1862 the Legislature and in 1863 judges of the supreme court were elected, who are now administering the laws of the State, and the evidence relied on by the majority of the committee in this contest would sweep from the board the whole State organization of Missouri. Is it wonderful that, with rebellion rampant, with men in the Union Army and men in the rebel army, the vote of Atchison county should have been diminished 138 votes since 1860 without fraud?

Why, sir, consider the condition of Missouri at that time. The diminution of 138 votes in Atchison county is nothing more than ought to have been looked for. Do you expect full polls in the border States, where one part have gone into rebellion, and the other part into the Union Army fighting for the preservation of the Union? The county of Atchison polled within 138 votes of its full vote at the congressional election, and 42 votes more than were polled at the judicial election of 1863.

Mr. BRUCE, (contestant.) The difference between the poll in Atchison county, that is, taking the votes of 1860 and 1862, is 266. In the presidential election of 1860 the vote of Atchison was 941. In 1862 it was 675, a difference of 266.

Mr. SMITHERS. If the contestant had paid attention to my remarks he would have observed that I compared the vote of 1862 with the vote at the gubernatorial election of 1860, when Claiborne Jackson was running for Governor, and the vote then was 813. I assume, then, that so far as the county of Atchison is concerned—one of the counties upon alleged irregularities in which the majority of the committee propose to void the whole election—there was almost a full vote, and that there is no evidence whatever that there were irregularities, even in the precinct of Rockport, which should even make void the vote of Rockport, much less the vote of the whole county of Atchison.

I ask the House to decide this question upon the evidence presented, and not upon the vague speculations of gentlemen as to what might or might not have been the poll if rebellion had not been rampant in the land, and thence concluding that an election could not be held. My answer to that is that in this very county the vote cast was 675, showing that there was a full and free election.

Now, I beg the House to remember that the ground which is assumed in this report is that the State government did no wrong, that the Federal Government did no wrong, that the judges conducted the election rightfully, but that the people were prevented and intimidated from voting. Is that true as regards the county of Atchison, when the poll-books shown to the House demonstrate that there was no intimidation in the county of Atchison, but that a full and even a heavy vote under the circumstances was cast, when men had gone to defend their country, and others were in arms against it?

I come now to the vote of the county of An-

drew; and I would not detain the House by arguing this question if it were not in the performance of an imperative duty. The vote of the county of Andrew in 1862 was 1,112. In the gubernatorial election of 1860 the vote was 1,659. There was a difference of 547 votes. The vote for General Loan in Andrew county in 1862 was 984. The radical ticket, at the election in 1863, received 992 votes, making a difference in the whole year of 8 in favor of the radical ticket. In 1862, Bruce and Branch together received 128 votes in that county; and in 1863 the vote for what was called the conservative ticket, which means, I suppose, the Constitution as it is and the Union as it was, was 244, making a difference of 116 votes.

Now, let us see how this difference came. I beg to call the attention of the committee to a little piece of evidence on page 91, which will illustrate the fact, and show the reason of the difference between the vote of 1860 and the vote of 1862; and also show how it was that in 1863 the radical vote gained only 8 while the conservative vote gained 116. Here is the testimony of Mr. Joseph B. Nickel, where he is cross-examined in reference to the condition of affairs in Andrew county, which we are now discussing. He has this very pertinent question put to him:

"Question 21. Has there not, since the November election in 1860, been a great many persons left the county of Andrew, who are supposed to have joined the rebel army; and has there not been a large number of men from Andrew county who joined the Federal Army; and have not many persons moved away from Andrew county since November, 1860; and were not the men, generally speaking, who went to the said armies, absent from Andrew county on the 4th day of November last?"

"Answer 21. Since the November election in 1860, I think perhaps some four or five hundred men have left the county of Andrew, a part of whom are reported to have joined the rebel army, and a part of whom have joined the Federal Army, and a part of whom have joined the State forces, and still another part of whom have removed from the county with their families. Of those who are reported to have joined the rebel army, I think a large majority of them have returned to the county; of those who joined the Federal Army, I think perhaps half have returned; and of those who joined the State forces, comparatively few have returned. Of those who left the county with their families, their places mostly have been filled by others moving into this county from other counties and States. The most of those who moved into this county, referred to above, came here in the fall of 1861."

Now, let us take that computation, that there were four or five hundred men away from the county of Andrew. Add 500 to the actual vote cast in that county in 1862, 1,112, and you have 1,612, the whole number of voters there in 1860. The solution of where these men were is that some were in the rebel army, some in the Federal Army, and some in the State militia. But there was in 1863 a gain of 8 for the radical ticket and of 116 for the conservative ticket. How was that? Why, Mr. Nickel says that comparatively few of the State troops came back; that only half of the Federal troops came back; and that a majority of the rebel troops came back. The latter would, of course, throw their votes for the "Constitution as it is" men, as they now call themselves, although when the Clark resolution was submitted, declaring that the Constitution was sufficient for the preservation of the Union, the same party was rampant for its alteration.

Now, by way of testing this question absolutely, I lay down this position: General Loan's majority in 1862 was over 2,000. It is admitted that, in the main at least, the judicial election of 1863 was a fair one. Now the difference of votes in the five contested counties of the seventh congressional district of Missouri, if I am right in my computation, is 1,332. These, if any, must be the men who were kept away from the polls. There was only a difference of 1,332 votes between the congressional vote of 1862 and the judicial vote of 1863. If, therefore, you should give to Mr. Bruce all of these 1,332 votes that were not polled in the election of 1862 and were polled in the election of 1863, General Loan would still be left with a majority of about 700.

Mr. BRUCE, (contestant.) The difference between the vote of 1862 and the vote of 1863 is 3,437, not 1,332.

Mr. SMITHERS. I speak only of the difference in the counties about which there is any dispute here. The difference in the counties where there is no dispute can have nothing to do with this case. There is no testimony in relation to them, and the inference is that the vote there was a fair one. The difference in the contested coun-

ties between the vote of 1862 and the vote of 1863 was 1,332. Admitting that every one of these votes would have been cast for Mr. Bruce, still the majority of General Loan would have been from seven to eight hundred.

Mr. Speaker, I must ask pardon of the House for thus trespassing on its indulgence. As I said before, nothing but a sincere desire to secure to a loyal man the seat to which I believe he is rightfully entitled, and to the loyal people of Missouri a true Representative on this floor, has induced me to submit any observations whatever to the House.

Mr. BRUCE, (contestant.) I claim the indulgence of the House for a moment upon a single point. I find that four years ago in the contest between Blair and Barrett the honorable gentleman who is now at the head of the Committee of Elections submitted a resolution, which was adopted by the House, that the contestant had leave to speak for an hour, that the sitting member have two hours in which to reply, and that the contestant be then permitted to close the debate. It has been my rule in regard to quoting precedents to adduce such as may present themselves in my favor, and then to act upon them as may seem best; and I have endeavored with the sitting member in this case to arrange the order of debate between us without troubling the House with it, but he was unwilling to enter into any arrangement, preferring that the House should settle the matter.

What I now desire to ask the House is, that the privilege which has been extended to others situated like myself may be extended to me, and I trust the House will not require me to submit to anything less. I will ask the House, therefore, under the circumstances, without desiring to interfere with the public business—for the transaction of which I have as much solicitude as any member—that the sitting member go on and make his speech, giving to me the right of reply, and of only making one speech, although under the rule usually in force, having the affirmative, I should be entitled to two. I think that is as much as any one will ask of me. I do not desire to proceed, therefore, at this time until the sitting member shall have submitted his remarks.

Mr. LOAN. Under the usual practice of the House, I believe I am entitled to have the close of the debate. I do not know anything about the case he presents to the House, but I speak of the general practice. It is of course impossible to anticipate what the contestant will urge in support of his claim, or of the resolution reported by a majority of the committee. He holds the affirmative of this case, and I desire to hear what he has to allege in regard to the matter. It will then be my province to reply to that allegation, and I am not willing, unless by order of the House, to waive that privilege.

Mr. BRUCE. The gentleman can have that opportunity if he is willing to conform to the precedents in the Blair and Barrett case, and in the Vallandigham and Campbell case, in which the contestant first presented his case, which was replied to by the sitting member, and the debate then closed by the contestant.

The SPEAKER. The Chair will state that as the two gentlemen interested in this case have not been able to settle the order of debate between themselves, the Chair has been requested to suggest an arrangement of the matter. The Chair is anxious that they should agree between themselves, but he will state in reference to the precedents referred to by the contestant that one of them was not quite correctly stated. As the Chair recollects in the Vallandigham case, the sitting member did not speak at all.

Mr. BRUCE. Will the Chair allow me to say that in that case Mr. Campbell waived the right of reply, and the contestant continued his speech.

The SPEAKER. The Chair would suggest that the proper way would be for the contestant to open, the sitting member to follow, and the gentleman from New York, [Mr. GANSON,] representing the majority of the committee, to close the debate. The Chair finds in the case of Barrett against Blair, Mr. Phelps, of Missouri, at that time the father of the House, made this remark:

"During my service in this body in the various cases of contested elections that have arisen, whenever the contestant has been permitted to address the House he has

presented his argument and the sitting member has replied; and so far as those two persons were concerned there was an end of that argument."

Mr. COX. Whose remark was that?

The SPEAKER. Mr. Phelps, of Missouri.

Mr. COX. Upon what case?

The SPEAKER. Upon the Blair and Barrett case. Mr. Phelps, then the oldest member of the House, proposed that the contestant should open with a speech of one hour, that the sitting member should then follow with a speech of two hours, and that the contestant should then have one hour for reply, which was adopted by unanimous consent, changing the practice as it had before existed. The Chair has merely stated these facts hoping that the sitting member and the contestant will agree as to the order of debate.

Mr. ROLLINS, of Missouri. I will make this motion: that the contestant have the privilege of addressing the House for an hour, that the sitting member have an hour and a half in which to respond, and that the contestant then have half an hour in which to close the debate.

The SPEAKER. The Chair will state that in the case referred to in 1860 the then Speaker decided that such a resolution would require unanimous consent, it being a change of the rules of the House.

Mr. COX. Is there any rule on this subject?

The SPEAKER. The hour rule.

Mr. COX. Let the gentleman modify his motion as to time and bring it properly before the House.

The SPEAKER. The gentleman asks that the contestant shall speak an hour, the sitting member an hour, and then the contestant half an hour. Is there objection to it?

Mr. SPALDING and Mr. SLOAN objected.

Mr. DAWES. The Chair has read correctly the remarks of Mr. Phelps in that case. I recollect that this side of the House took the opposite side of that view and insisted on it that the man who had the affirmative of the case, as every other plaintiff in court, had the right to close. They insisted upon it and enforced that ruling upon the sitting member in that case. Mr. Blair, the contestant in that case, was permitted to close on the sitting member, and the right was then given to the committee which it was entitled to under the rule to close the whole debate. It was a matter of considerable discussion in the House, this whole side of the House taking the position, and I think correctly—I certainly urged it myself, and all of this side stood by me in it—that when a man has the affirmative of the proposition in the report he has the right to close the argument. It was then stated that the committee had the right to close, and that in that way there would be two closings, but it was still insisted upon as the right of the contestant, he having the affirmative, as stated by the gentleman from Missouri, that he should have the right of closing. I did object then and I do object now to dividing up speeches.

But I do not care myself, and I never could understand what advantage there could be before an assemblage like this of speaking first or afterwards. It is entirely immaterial to me, and I only rise now to state what was the position of this side of the House in the Blair case. It is a matter of record, and does not rest upon the statement of any gentleman.

The SPEAKER. The paragraph which was read was one which fell from Mr. Phelps, who had served longer than any other member, and he stated what was the usage of the House. Whether it was or not the Chair is not advised, as he has not been able to trace the precedents. The gentleman is correct that he insisted then as he insists now.

Mr. DAWES. I am aware that Mr. Phelps urged the case of Mr. Barrett, but the Globe will bear me out in saying that at that time he was corrected by previous precedents. I do not rise for the purpose of asking that the contestant shall have the right to close. But I desire to call the attention of the House to the merits of this case some time to-day. I shall not be able to be here on Monday. After the contestant and sitting member have presented their views it may be the wish of the gentleman from Vermont or myself or some other member of the committee to present our view of the case.

The SPEAKER. As no gentleman is now claiming the floor the Chair will put the resolution to the House.

Mr. STEVENS. Mr. Speaker, I desire to state my view in a word. It seems to me that it does not make any difference who has the closing speech, whether the contestant or the majority of the committee, but it would be unjust that there should be two closing speeches on one side. Arrange it in any other way and I am satisfied. I cannot think myself that it would be right to allow two speeches on one side to close.

Mr. COX. I understand that the gentleman from New York [Mr. GANSON] proposes to yield his place to the contestant to close the debate. If so, then the matter may be amicably arranged. There will then be only one speech for the contestant in closing.

Mr. GANSON. I do not want any arrangement made which will cut off the gentleman from Massachusetts [Mr. DAWES] from making the remarks which I understand he desires to make.

The SPEAKER. It will not cut off the gentleman from Massachusetts. The Chair hears no objection to the proposition that the contestant shall take the place of the gentleman from New York [Mr. GANSON] to close the debate.

Mr. ASHLEY made a remark inaudible to the reporter.

Mr. BRUCE. I suggest to the gentleman from Ohio, in order to remove all difficulty, that the gentleman from Massachusetts [Mr. DAWES] will go on with his speech.

Mr. HIGBY. I object to any arrangement which does not provide that the contestant shall open the case. It is just and fair that he should. It is according to the course of all judicial proceedings.

The SPEAKER. The previous proposition of the gentleman from Ohio has been adopted by unanimous consent. It was agreed that the contestant should have the closing speech, which belongs to the gentleman from New York, [Mr. GANSON.]

Mr. ASHLEY. Gentlemen upon this side of the House did not understand the matter.

The SPEAKER. The Chair stated it distinctly to the House, and asked whether there was any objection. The Chair heard none.

Mr. SMITHERS. I appealed to the Chair at the time to know what the proposition was.

The SPEAKER. If the gentleman states that he objected, the Chair will put the question again.

Mr. BRUCE. I want to know what the understanding is.

The SPEAKER. The gentleman from Ohio made a suggestion, and the Chair put it to the House and asked if there was unanimous consent that the sitting member should speak first and the contestant occupy the time assigned by the rules to the gentleman from New York, and the Chair heard no objection. Gentlemen upon the left of the Chair now state that they did not understand the matter.

Mr. BRUCE. I ask to have the question put over again.

The SPEAKER. The Chair asks again, is there objection to the proposition of the gentleman from Ohio?

Mr. GRINNELL. I object.

Mr. ROLLINS, of Missouri. I now renew my proposition, and hope that there will be no objection, that the contestant may speak one hour, the sitting member an hour and a half, and the contestant to close with half an hour, that is the closing arrangement of the debate. In the mean time the gentleman from Massachusetts and others may occupy the floor.

The SPEAKER. Is there objection? The Chair hears none, and the proposition is agreed to.

Mr. DAWES. I did not intend to participate in the debate upon the pending proposition. But this is not a common case, and is not to be governed by the precedents of any cases which have gone before it. It has its origin in circumstances that have no parallel in history. This rebellion, under which the nation now staggers, as it progresses, every day develops new difficulties, which are to be overcome by the patriotic heart of the nation, and are not to be governed by any of the precedents of the past. They are to be met and to be overcome by the best judgment and conclusion we can arrive at under the new system in which we live, under a Government which took for itself no pattern when it sprang into existence, and which is to be preserved, if it be preserved, by following none of the rules that have governed



others in suppressing rebellion or in defeating conspiracies to overthrow the Government.

It is under circumstances like these that I find in this examination that this enemy has discovered a new avenue by which he hopes to approach to the very citadel of the Government, and aim a blow at the vital part of it. In the beginning it commenced by convincing the then Chief Magistrate of the Government that there was no power existing to coerce a State into obedience to law. Further on, as this rebellion progressed, he discovered, or thought he discovered, other methods by which to overcome the power of the nation in putting it down. He resorted to the writ of *habeas corpus*, and attacked the constitutionality of the law which exacted of the citizens, who owed fealty to the Government, their services in sustaining it. He has approached it in every way; but the most subtle and the most dangerous of all his approaches, and that which in my judgment requires the watchful and constant care and eagle eye of those who have the administration of the laws, and are bound in conformity to their oaths to preserve the Government, is his attempt to overthrow it at the ballot-box. The dangerous and insidious character of this arises from the peculiarity of our Constitution.

In this way treason itself can reach the vitals of this Government, while it could not in any other Government, because this is the only Government founded upon the ballot-box for its support. This is the only Government whose vitality is fed from the ballot-box, and if he who hates and attempts to destroy it can reach the ballot-box, he strikes it where no other Government can be struck, and he strikes it a blow which is more fatal because more insidious, because, in the name of the very law he seeks to destroy through the instrumentality of the machinery of the very Government he is plotting to overthrow, does he seek to accomplish his purposes.

Therefore, sir, it is, in my belief, incumbent upon him whose duty it is to maintain the Government and the laws to guard that most faithfully, more faithfully here than at any other point. If it is his duty to set a picket to guard the Army, if it is his duty to set a sentry to guard any post, it is his duty to set a double sentry here whenever he has occasion to believe that the enemy of the Government is about to take possession of the polls, and through the polls to reach the Government. It is his duty to be there with just so much force, with just such energy, with just such solicitude as is sufficient to accomplish that great end which should govern him in the administration of the Government at this time, to wit, to sustain the Republic. And therefore, sir, it is that I have no word of complaint or censure upon the Administration for its action in placing soldiers at the ballot-box on election day. I do not complain that it has occupied election districts or whole States if the result is the introduction upon this floor of such distinguished Representatives as my friend from Delaware, [Mr. SMITHERS,] or my friend who now represents in this House the seventh congressional district of Missouri, [Mr. LOAN.] I do not complain that such men are here.

I am unfortunate in having forgotten, in the view I have been compelled to take in this case, what a distinguished member of this House declared to me in chiding me for my conclusion this morning, that possibly I might deprive a gentleman of his seat in this House who would vote with me. Sir, I forgot all this or I might possibly have been led to a different conclusion. Permit me to say to my friend from Delaware [Mr. SMITHERS] that I can easily see how he may take the view of this case that he does. He looks upon it from a different stand-point. He has unfortunately lived in a different atmosphere from what I have; and he has felt the necessity of the presence, to some extent, of United States troops in his district, and if he has profited by it, of course we must make allowance for the frailty of human nature. I doubt not that under similar circumstances I should have given a different coloring to the evidence in this case.

I uphold the Government in what it has done. I hold it to be its bounden duty to keep every traitor from the ballot-box. Such is the framework and system and theory of our Government that in this crisis, without that care of the ballot-box, the Government cannot be sustained.

This, sir, is the duty of the Executive, who is furnished with means by both Houses of Congress. Clothed with power to call upon the Army and Navy of the nation, he was bound to take care that it received no detriment. But there is a duty incumbent upon this House, imposed upon it by the Constitution, and without which this House can no more stand as the representative of the free people of this nation than republican government can stand without an Executive who will defend it from treason in whatever approach it may make to it.

What is that duty of this House? It is its duty to see to it that the election of its members is free. Unless the men who hold their seats in this House hold them by the choice of a free people, I care not how they come here, whence they come, or who they be, it is fatal to the existence of this House as the Representatives of a free people.

It is no justification that the men who are put into seats here without the free choice of those they assume to represent are with us and concur with us in the measures we hold most dear, and in the efforts we are making on this floor to protect and to save the nation. It makes no difference, if the nation can be saved without it.

Sir, there is no sacrifice that I am not willing to make to uphold this Government. But the question for the House to determine is whether it is possible for the Executive to see to it by the presence of armed men in every election district where rebellion and treason have existed that no traitor approaches the polls, and at the same time for this House to assert the freedom of elections. It seems, at first sight, to be an impossibility. There seems to be an unfortunate incongruity and conflict of duties in this Government, growing out of the anomalous condition of things in this rebellion.

I think, Mr. Speaker, speaking only for myself and not for other members of the committee, that I can see clearly the path of duty here in this House, whereby this result will be obtained; that the President in the discharge of his duty shall take care that treason keeps away from the ballot-box, and that we in the discharge of our duty shall take care that the election of our members shall be free, as the Constitution enjoins that it shall be. And how, sir? Send your troops into these districts. It is a most delicate trust and duty to be discharged by the Executive. He alone is to judge of the necessity of it in these times. I will not hold him to a rigid rule, or pass an unkind or uncandid judgment on his acts or on the acts of those who act under him in the administering of the law. I know it is a duty which is more than all others liable to abuse. It so connects itself with the passions of men, it so joins itself with the conflicting interests of partisans, that he would be a wonderful man in the execution of those orders who could walk perfectly upright and on a straight line, leaning neither to the one side nor to the other. So I am prepared to find abuses. I am prepared to look upon them as necessities, almost, growing out of the delicate nature of the trust imposed upon the President.

But, sir, when the presence of the military in a district, made necessary by the strength of the rebellion and the purpose of the rebellion to approach the polls and through them reach the life of the Government itself, has gone to the extent not only of keeping treason away from the polls, but also of giving direction to the election, of dictating, of directing, of controlling, more or less, the results of an election; where anybody has been so indiscreet as to permit the very men, with straps on their shoulders, charged with the commission of regulating the polls, to be themselves the candidates for the offices, I submit that the House owes it to itself to accept that condition of things and to say that under such circumstances there can be no election. That is the ground I occupy here to-day in relation to this case. Upholding the Government in all that it did, upholding the officials in all their intention at the outset as to the presence of the rebels in that district, it is perfectly clear to my mind that there came on the loyal men of that district, and on men in it who were authorized by the very laws of Missouri to vote, whether sympathizing with this rebellion or not; there came upon them such a terror, that to call this and baptize it an election is blasphemy in the presence of the Republic.

Sir, if this testimony left my mind in doubt I should have felt it incumbent upon me to take precisely the same position that I have taken; for I should have leaned toward the freedom of election. If I had any doubt upon the testimony as to whether or not there was freedom in this election I should certainly have taken the same position. And, sir, I would have been quite as willing to do it, lest it might appear to the world that I undertook to secure strength to myself by putting in a seat here a man who would vote for me; rather than follow the injunction of the gentleman who undertook to school me in this House to vote for retaining certain men here because we want their votes, that argument was quite a reason for me why I would not do so. For, sir, I would count it a good time, I would embrace it as an opportunity afforded us to testify to the world and to the enemies of this Administration—I would bear a testimony which would be unequivocal and have no uncertain sound—that the purpose of the Administration in all this interference with elections was, not to secure men upon this floor to vote as we wanted them, but that it was solely and simply to keep treason from reaching the Government through the ballot-box. I wanted to show that whenever the Administration was obliged to do that to such an extent as that the men entitled to vote could not go up freely and undisturbedly and exercise the elective franchise, it was not to carry an election, but to secure freedom of election. I would testify to the gentlemen on the other side that the Administration does not care to carry an election by any such means as those. I would bear testimony here and make it a precedent for all time, so that the gentlemen on the other side could not charge that the purpose of the Government in interfering with elections through the military was to secure power, while it only was to put down treason. That is my position.

I have only to say that I submit to my friends upon this side of the House that they throw away, by the determination which I see they have entered into, an opportunity they will never have again for spiking that gun aimed at them during the last year and a half, by bearing testimony in acts incontrovertible that the sole purpose of this Administration in putting a military power into Delaware, into the seventh congressional district of Missouri, into Maryland, and wherever else they have felt it their duty to put a military power at the ballot-box, was not to secure the election of particular men, but that it was for the purpose of keeping treason away from the life and vitals of the Republic.

And, sir, whenever that occasion shall come, as it has come in the district now under consideration, I hold it to be our bounden duty to bear testimony to the purity of purpose on the part of the Administration by saying to these gentlemen that neither of them have come into this House clothed with the free voice of the people of that district.

Mr. VOORHEES. I ask the gentleman from Massachusetts to permit me to say that it seems to me a false issue has been tendered to the House in regard to the political standing of the sitting member and contestant, but inasmuch as it has been brought into this discussion, and not by me, I desire to ask the gentleman from Massachusetts whether the evidence before the committee does not disclose the fact that Major Bruce, the contestant, has on every occasion manifested very great zeal and earnestness in every effort to put down this rebellion, and in supporting the war policy in Missouri; as much active zeal for that purpose as he was capable of doing?

Mr. DAWES. To those who have waged this war of political opinions I leave to answer the question of the gentleman from Indiana.

Mr. VOORHEES. I would certainly not have introduced this question into the House but for the fact that I understood the gentleman from Massachusetts to allude to the issue having been made by another colleague on the Committee of Elections.

Mr. SMITHERS. I desire to ask the gentleman from Indiana to which of his colleagues on the committee he refers in that connection?

Mr. VOORHEES. I refer to that colleague of whom the gentleman from Massachusetts spoke when he alluded to the argument that a vote was desired upon the other side of the House, and that

the matter was to be determined upon that ground rather than the merits of the case.

Mr. SMITHERS. I did not understand the gentleman from Massachusetts as attributing that position to any member of the committee.

Mr. VOORHEES. I did.

Mr. DAWES. I acquit any member of the committee of expressing that opinion.

Mr. VOORHEES. I may have misunderstood the gentleman. I certainly should not have introduced this issue into the consideration of the question before the House.

Mr. DAWES. I take great pleasure in saying that the members of the committee have read the evidence, and, so far as I am aware, arrived at their conclusions without knowing whether the sitting member or the contestant had any politics or not.

Mr. VOORHEES. The gentleman will then allow me to say that I was led into an error by inferring from a remark of the gentleman from Massachusetts that this position was assumed by a member of the committee. Nevertheless, the fact has been brought before the committee, and I desire therefore to ask the gentleman the question whether the evidence does not disclose the fact that the contestant did support the war policy in Missouri.

Mr. DAWES. I know of no testimony before the committee that would lead me to make any distinction between these gentlemen in their efforts to suppress the rebellion, nor do I know of any testimony showing that any man offered to vote and was driven away from the polls because he was not, under the laws of Missouri, entitled to vote. It was not claimed before the committee that any man who desired to deposit his vote and failed to do so, failed because he was not entitled by law to vote.

But that is not what I am discussing. Mr. Speaker, the case, to my mind, was decided upon these considerations which I have attempted to submit to the House. It was decided, sir, upon considerations growing out of the nature of the provision here, and of the conflict which appeared to the minds of some members of the committee as to the duty of the Executive relative to the election and our own duty. It seemed to be assumed that the people were to yield here the right of freedom of election touching this House when the necessities of the Government require the presence of military to keep the rebels away.

But, sir, the minority of this committee have made up figures and cast up majorities to show that the contestant could not under any circumstances have received a majority of these votes, as if they could apply the rules of arithmetic to measure the extent of the conflict between duty and safety in the minds of the voters! Can arithmetic apply to the rumors that were set afloat by which the minds of the electors in the different counties were filled with a vague and undefined apprehension in reference to the presence of the military there? It was given out by men who had charge of the polls and who were at the same time running for office that a certain course would be pursued in reference to a certain class of men. Just as if the gentlemen of the minority of the committee could tell, when it was known to a whole city that the entrance to the polls was guarded by crossed bayonets, and that no man could approach them unless the ballot he carried bore the right name! As if you could measure such a state of things by the rules of addition and subtraction and tell how many men were kept away from the polls by that knowledge! And then to apply to it the rules of hearsay testimony; to apply to it the rule which would govern the trial of a twenty shilling case in a justice's court at cross-roads!

Sir, it is to be governed by no such narrow and belittling rules as that. The presence of this terror created by glittering bayonets and official orders and arrests cannot be denied any more than our presence here can be denied. It existed in the atmosphere. It pervaded every branch of business. Men in their houses and when they were out of their houses knew and talked about it. And yet it cannot be proved as a fact here, because in a justice's court it would be called hearsay evidence. It is asked after we have done these things that we shall sit here and take the benefit of them ourselves. That is the point of it—taking the benefit of what you yourselves

have done, and giving the enemies of the Administration the assurance that you did it not for the purpose of keeping treason from the ballot-box but for the purpose of securing power. As I have said, I can understand why my distinguished friend from Delaware [Mr. SMITHERS] can look on this thing differently from what I do, or from what my friend from Vermont does. But I cannot understand how a Massachusetts man can take up this book and read it and go home to Massachusetts and say by his vote here or by his action he omitted to condemn these proceedings.

Mr. ELIOT. As a Massachusetts man I have been guided by one rule in determining upon evidence that has been submitted, and that was to take the testimony as applicable to the facts. I have read this testimony with great care, and I undertake to say it would be an utter impossibility to demonstrate before any tribunal that the result of the election in the seventh district of Missouri was affected in anywise whatever by anything that took place in that district which is there proved. I find seventeen witnesses were examined—

Mr. DAWES. That will do.

Mr. ELIOT. No, it will not do.

Mr. DAWES. I did not yield the floor that the gentleman might argue the case in my time.

Mr. ELIOT. Why was I called on?

The SPEAKER. The gentleman declines to yield further.

Mr. ELIOT. Then I beg the gentleman will not call on me if he will not give me leave to say why I am prepared to go home to Massachusetts and sustain the vote I intend to give in this case.

Mr. DAWES. Mr. Speaker, the gentleman need not have taken that entirely to himself. I know my colleague has studied this case thoroughly and weighed it carefully; because I know my colleague would not undertake to express a judgment upon it until he had. And that led me, most respectfully I trust—and I shall venture, perhaps, to repeat it—to express my surprise that my colleague could come to the conclusion which I knew he had come to, and which he has expressed here, that there was nothing in this case which called for his censure. I have looked with some anxiety through all these pages of views submitted by the minority to find some word of condemnation, some expression of disapprobation, of the conduct which took place at these elections, that would lead me to the comforting conclusion that they had reluctantly made up their minds to sustain this gentleman in his seat upon the proof of the result of this election.

While I admit that my colleague from Massachusetts, as well as my colleagues upon the committee, are as honest, as sincere, and as candid as I am, and their judgment entitled to just as much weight, I have this to say, that there is matter in this testimony that I would rather have my right hand cut off than by any vote of mine here to sanction and approve of either as to the form or substance of the election. Others may think differently, and they of course will discharge their duty with the same sincerity I claim for myself. When I go home to Massachusetts I shall have the satisfaction of saying that I presented to my friends in this House a path of duty which seemed to me so plain that I could not see why all would not walk in it—a course whereby the Administration would be vindicated in all it has done in reference to all the elections in the rebellious States, and at the same time the House of Representatives have asserted the highest prerogative guaranteed to it by the Constitution, the freedom of the election of its members. I do not doubt the result. I see very plainly from suggestions thrown out here this morning that our friends do not care to vindicate the Administration in this regard.

I have done my duty and have endeavored to arrive at my conclusions without considering whether the result would be to fix or unfix any man in his seat here, and I have tried to reconcile the testimony here with my convictions of duty to the Administration. And, sir, this talk about hearsay testimony as a means of escaping from testimony that stands out as clear as the noonday sun, proven as it must be proved, and as it is only in the power of man to prove it, this means of frittering away all its force pains me because I think it reaches beyond the value of any member's right to a seat here. It reaches beyond and casts a stain upon the escutcheon of

this Administration, and it proclaims to the world what there is no necessity of proclaiming, and it puts a volunteer load upon our shoulders. And all this when there seems to me another path which will secure glorious ends, a path in which I have found myself treading more firmly every day since the report was made, and more so than ever since I have heard the discussion of gentlemen on the other side.

Mr. DAVIS, of Maryland. I desire to ask the gentleman whether he considers it a proper consideration in an election case, what effect the judgment of the House will have upon the prospects of the Administration before the people? And then I want him to answer me what it has to do with an election case here what the people of Massachusetts may think of our action?

Mr. DAWES. If the gentleman will put his questions separately I will endeavor to answer him.

Mr. DAVIS, of Maryland. The first question is, whether it is a proper consideration in concluding an election case, the effect our votes may have upon the prospects of the Administration before the country?

Mr. DAWES. I did not think it was until I was told so this morning by one who said he must therefore vote the minority report for the purpose of the strength it will give us. [Laughter.] I have tried in my whole speech to enter my protest against it.

Mr. DAVIS. The other question is what the opinion of Massachusetts upon an election case has to do with the judgment of this House?

Mr. DAWES. I will tell the gentleman that a Massachusetts man and a Delaware man, weighing the testimony here, came to different conclusions about it, and it occurred to my mind that they might both be honest, and that the reason they came to different conclusions was that one or the other of them might have had some of the bacon.

Mr. DAVIS, of Maryland. The gentleman has not answered the question I put to him. Now let him answer it. What has it to do with the judgment this House shall render upon this case, what the people of Massachusetts may think about it, or what gentlemen may have to answer when they go home to their constituents? Are we to render a certain judgment here for fear that Massachusetts may not approve of what we do?

Mr. DAWES. No man has uttered any such sentiment here since I have commenced the discussion of this subject.

Mr. DAVIS, of Maryland. I heard the gentleman from Massachusetts himself say, "How will gentlemen from Massachusetts answer when they get home?"

Mr. DAWES. I said, Mr. Speaker, that I could not understand how any Massachusetts man, educated as a Massachusetts man, where they open the town meetings with prayer and go up to the ballot-box as they go up to discharge their duties in conference meetings, could come to the conclusion that, in a case where a ballot was put in only at the point of the bayonet, it can be denominated an election. I could not understand that, but I could understand why gentlemen who occupy another stand-point, gentlemen who come from regions where the rebellion has been rampant, and where the Government of the United States has had to declare whole States under martial law, where they have had to people the country with soldiers with bristling bayonets; when men have come out of an election held under such circumstances into seats here, I can understand how they can honestly think that such a proceeding is an election. That is what I said.

Mr. DAVIS, of Maryland. Where was there such an election? I have not heard of one. [Laughter from the Democratic side of the House.]

Mr. SMITHERS. The gentleman from Massachusetts, with whom I have served on the Committee of Elections, and for whom I have the highest regard, has allowed himself from some cause this afternoon to become unwontedly excited, and just now he dropped a remark which I am sure in his calmer moments he will feel sorry for, and which I cannot believe that he means. If I understood his expression correctly, it was an allusion to "the gentleman from Delaware," to whom he has seen fit to allude, and he said

that the judgment of the gentleman from Delaware was affected because—and here he used a slang phrase—he had a party to beat. Am I right in saying that the gentleman from Massachusetts used that expression?

Mr. DAWES. I used the expression generally. The gentleman from Delaware was in haste to take it to himself.

Mr. SMITHERS. Do I understand the gentleman from Massachusetts to imply by that remark that in his judgment I have come to the conclusion I have in this case because my seat or any interest of mine might by possibility have been affected by a contrary decision?

Mr. DAWES. The gentleman seems to think that I have got greatly excited. I can only say that he has got greatly cooled off since he was on the floor, and probably the excitement he let off has got into me.

As to the other matter I will say that it is pretty difficult for me to say how he understands my remarks. He asks me if he understands me so and so. How can I answer such a question? [Laughter.]

Mr. SMITHERS. I ask the gentleman did he mean that?

Mr. DAWES. The relations between the gentleman from Delaware and myself have always been, and, so far as I am concerned, will continue to be such that the gentleman from Delaware has no right to take any remarks I have made in any offensive sense.

Mr. SMITHERS. Very well; with that understanding I am perfectly satisfied.

Mr. DAWES. I said of myself, however, conscious of my own infirmities, that the testimony would be colored in my judgment if I occupied the stand-point of the gentleman from Delaware. I only said it of myself, and I said it with a feeling that I am infirm and a consciousness that I am not always able to weigh testimony without some sort of influence from my feelings, locality, and education. I illustrated my idea by comparing the mode of voting in Massachusetts with that in this case, which started up my amiable colleague from Massachusetts, [Mr. ELIOT,] and my pleasant friend from Delaware. I did it without meaning any offense. And then came my friend from Maryland, [Mr. DAVIS,] whose elections for the last three or four years have been conducted with such peace and quiet as to set an example to the whole country, and where order has always reigned supreme. [Laughter.] My friend from Maryland, educated in such a school and defending such elections, cannot be expected to look upon this case in the same way that a Massachusetts man does who goes to the election under such troublesome and turbid circumstances. Certainly not. [Laughter.] How could the gentleman from Maryland and the gentleman from the seventh congressional district of Missouri do it? I tell you, Mr. Speaker, that we take our lives in our hands in Massachusetts when we go to the polls. [Laughter.] We are obliged to defend ourselves. If there are no midnight cabals in the gentleman's district in Baltimore, if there are no dens where they coop up voters, and from which the Plug Uglies and others go forth, he must not assume that there are none in Massachusetts and Vermont. He must certainly not assume that we of Vermont and Massachusetts have not been schooled by necessity into defending ourselves at the ballot-box against such men. He must be charitable, I submit, and my friend from Delaware must, I submit, be charitable to us, if we cannot come to the same conclusion upon the testimony as they do.

Mr. SMITHERS. I submit, Mr. Speaker, that I have not in any degree impeached the motives of the gentleman from Massachusetts, and that the first stone was thrown by him; and he has persistently kept throwing them until now. [Laughter.]

Mr. DAWES. I take them all back. [Laughter.]

Mr. SMITHERS. That is perfectly satisfactory. I know that the feelings and relations which exist between the gentleman and myself are of the kindest and pleasantest character.

Mr. WHALEY. I desire to ask the chairman of the Committee of Elections one question. It appears that the sitting member [Mr. LOAN] received 2,028 majority; the question I desire to ask is, whether the gentleman from Massachusetts

thinks that the evidence before his committee is sufficient to show that the military interference in this election changed the result to the extent of 2,028 votes?

Mr. DAWES. There was no doubt left upon my mind that there might have been counted for the sitting member just as many votes as he might desire. That it was a little over 2,000 did not astonish me half as much as that it was not over 4,000. [Laughter.]

Mr. WHALEY. It appears to me, Mr. Speaker, that there has not been a single instance where a man presented himself for a seat on this floor from south of Mason and Dixon's line that the gentleman from Massachusetts did not report against him. The gentleman pursues the same policy as that advocated by the gentleman from Ohio, [Mr. LONG.] If the gentleman from Massachusetts does not desire to admit any man south of Mason and Dixon's line as a member of this House, he should unite his destinies with those of the gentleman from Ohio, [Mr. LONG,] and those of the gentlemen from Maryland, [Mr. HARRIS,] [Laughter.] I would tell the gentleman that I do not design to become his competitor on the McClellan ticket for Vice President. [Laughter.]

Mr. DAWES. Mr. Speaker, if the gentleman from West Virginia should not succeed in getting more votes than those which he represented here in the last Congress he is the last man I should want to have on any ticket with me. [Laughter.] I also desire to say that the gentleman from West Virginia, when he says that I have gone against every man from south of Mason and Dixon's line, is entirely mistaken.

Mr. WHALEY. I should like the gentleman to show us the instance.

Mr. DAWES. I voted here against my party friends in this House for Representatives from south of Mason and Dixon's line until my friends were compelled, all of them but some twenty-eight, to come up and put in two men from Louisiana. I contended here until two members from Tennessee were installed in their places. Why? Not because they came without votes and slid in, but because they were the free choice of the voters of the district. Not exactly according to law, but because, which is worth more than all the forms of law, they had the voice of the voters in their favor, in one instance 8,000 strong, and in the other instance all of the voters who desired to go to the polls. That is my position. But as to others, who came here claiming seats as Representatives from south of Mason and Dixon's line, they could show no such title to a seat.

Mr. WHALEY. I wish to say, Mr. Speaker, that in the nineteen counties which I have the honor to represent, we had several thousand men in the Army—brave mountaineers, fighting the battles of the country—and notwithstanding that, I received a large vote.

Mr. DAWES. How many votes did you get for last Congress?

Mr. WHALEY. I acknowledge it was small, but according to the constitution of Virginia and of the United States. The gentleman will consider that the Richmond convention passed an ordinance prohibiting the election of members to the United States Congress, and almost the entire district was overrun by armed rebels, and not a single Federal soldier at that time had set foot on Virginia soil. The loyal people did the best they could under the circumstances.

Mr. DAWES. The gentleman from West Virginia never brought the figures before the Committee of Elections.

Mr. WHALEY. My seat was not contested, but Mr. Burnett, of Kentucky, offered a resolution declaring that WILLIAM G. BROWN, JOHN S. CARLILE, and myself were not entitled to seats, and it received three votes. All three of them, at the expiration of the July session, went to the support of Jeff. Davis. If the gentleman will allow the brave troops whom I have helped to organize to come back and take part in the elections, we will use no muskets and no bayonets, and I believe that in proportion to the population I will get as many votes as the gentleman from Massachusetts.

Mr. WILSON. Will the gentleman from West Virginia yield to me for a moment?

Mr. WHALEY. Yes, sir.

Mr. WILSON. I simply wish to remind the

gentleman from Massachusetts who has mentioned the Louisiana case, that at the time that election was held and those two gentlemen were sent here as Representatives from that State, there were no military forces in Louisiana, no bayonets at the elections, and no Massachusetts generals to control the elections.

Mr. WHALEY. I cannot yield. I want to say to the gentleman from Massachusetts that I carried my gun and knapsack after I had served one term in Congress. I have organized as many regiments probably as any member of this House, and I should like to know where the gentleman from Massachusetts can show that record. [Laughter.]

Mr. DAWES. Let me say to the gentleman that—

Mr. WHALEY. No; wait until I get through. You have a reputation for talent, but none for gunpowder. [Laughter.]

Mr. DAWES. I will say—

Mr. WHALEY. No, sir, not till I get through. [Laughter.] The gentleman from Massachusetts has had, I believe, the attention of the House more than any other man in this body, except the chairman of the Committee of Ways and Means. He can attract as much attention in the House as any other man. He has only to ask for the attention of the House, and attention is always given him. And now I hope he will give me his attention. I am only a backwoodsman, [laughter,] only an ordinary man, with no pretension to talents, nor anything of the kind, only a soldier; but I say to the gentleman from Massachusetts that his speech will fall upon the Union men of every border State like a shower-bath; and I hope it will fall upon his constituents in the same way. [Laughter.]

Gentlemen upon the other side of the House have said to us in private circles, "You do not vote with us." Well, sir, we came here in good faith, and have done what we could to restore the Government. But, on the other hand, gentlemen on this side of the House say to us, "You vote with the abolitionists." Let me tell them that we are honest, that we are trying to restore this Government. But when you undertake to carry out the policy of ignoring the southern States altogether, I say to you that such a policy will not be sustained by the loyal people of any State. Why, sir, in my district there were, as I understand, two or three small precincts where the people did not dare vote for me because they were afraid I was a copperhead. [Laughter.]

Now, sir, in reference to the people of Massachusetts I have nothing to say, but when they send a Representative here and he becomes the chairman of an important committee in this House and as such proposes to ignore and disfranchise the loyal people of the border States of the South as well as the two hundred thousand of their brave heroes now fighting in the field, I think it is time for them to take the matter into serious consideration.

#### PORT PILLOW MASSACRE REPORT.

Mr. BALDWIN, of Massachusetts, from the Committee on Printing, reported the following resolution, on which he demanded the previous question:

*Resolved*, That forty thousand extra copies of the report of the joint committee on the conduct of the war, &c., with the accompanying testimony in relation to the late massacre at Fort Pillow, be printed for the use of the members of the House.

The previous question was seconded, and the main question ordered to be put.

The resolution was adopted.

Mr. BALDWIN, of Massachusetts, moved to reconsider the vote by which the resolution was adopted, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ADJOURNMENT OVER.

Mr. VOORHEES. I move to reconsider the vote by which the House decided that when it adjourns to-day it be to meet on Monday next. The motion was agreed to; and the question recurred on the motion to adjourn over.

Mr. VOORHEES. I made the motion because I understand there is a desire to discuss this contested-election case to-morrow, and I hope that there will be a general understanding that no vote shall be taken on the report to-morrow.

The proposition was assented to.



Mr. SCOFIELD. I hope not. There will be nobody here to hear the debate if it is understood that there is to be no vote taken.

Mr. DAVIS, of Maryland. I was originally in favor of the motion to reconsider the vote by which the House agreed to adjourn over, but upon reflection I think it would not be proper to take to-morrow simply for discussion. I do not know what the earlier part of this discussion may have turned on, but since I have been in the Hall the question has been mooted whether there are any Representatives from the slave States in this House. I want to settle that question, and I hope it will be done upon discussion when the House is full.

Mr. KELLEY. I ask leave to make a brief statement. A large number of gentlemen have left; the question is a very important one, and, as has been suggested, they ought to have a chance to vote, having left on the faith of the order of the House for adjournment over. They ought to have an opportunity to hear this discussion. I voted against the adjournment over.

Mr. GRINNELL. I understand it is the practice of gentlemen who live near the capital to go home and leave the rest here until August.

Mr. KELLEY. It is not my custom, and I voted against the adjournment this morning.

Mr. VOORHEES. I understand that it is the wish of both the sitting member and the contestant that the House should adjourn over.

The SPEAKER. If the House adjourns over this case will come up the first thing after the reading of the Journal.

Mr. ELIOT. I understand that debate has not been closed in the case.

The SPEAKER. It has not.

Mr. ALLEY demanded the yeas and nays.

The yeas and nays were not ordered.

The House divided; and there were—yeas 59, noes 27.

So the motion to adjourn over was agreed to.

And then, on motion of Mr. SHANNON, (at half past five o'clock, p. m.,) the House adjourned till Monday next.

## IN SENATE.

SATURDAY, May 7, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND:

Almighty and Everlasting God! We beseech Thee be favorable unto the prayer of Thy servants which we make this day in Thy sight; for we would evermore in this high place of the nation acknowledge Thee. We believe with all believers throughout all ages on earth and in heaven in God the Father Almighty, the Creator of the world, and in Jesus Christ, His only Son, our Saviour, and in His Advent and Mission; in His Passion and Resurrection and Ascension into Heaven. We believe in the Holy Ghost, in the Holy Catholic Church, in the Communion of Saints, in the forgiveness of sins, in the resurrection of the body, and in the life everlasting. We believe in Thy righteous providence over men and nations, and especially do we believe in Thy care of our own nation from the beginning, even until now, albeit we are lying under the hand of Thy chastisement and are sorely afflicted. Wherefore we entreat Thee, O Lord our God, to hear us in this day of trouble. Spare Thy people, and give not Thy heritage to reproach; for to whom shall we look but unto Thee, O Lord, who hast set so great a mystery in the earth, even that mystery of suffering which, nevertheless, bears in it a beauty more divine than all the rapt visions of nature or of art. Wherefore our young nation, becoming voluptuous and verging upon those fearful perils of pride and luxury and fullness of bread which have swallowed up and destroyed so many States and cities, has been thrown into the burning furnace of her affliction that she may come forth again, not in the harlot's meretricious gauds and ornaments, but in the saintly purity and white-robed innocence of a noble matron fit to be the mother of children from whom shall spring the future heroes, martyrs, and chieftains of the world.

O Lord, our God, we beseech Thee, therefore, in this hour of our greatest anxiety and suspense, to give us patience and fortitude against all our fears. Hold in Thy hand the President, the Cabinet, the Congress, the State and municipal authorities, the Army, the Navy, and the

whole people, not to destroy, but to deliver and to save. Lay upon all minds an inspiration from above. Walk with this people as Thou didst aforetime with Thy servants in the seven-fold heated furnace, for in Thy presence and favor the very fears of our nation shall be holier than the dews of heaven, and radiant, far more radiant, to reveal our great and coming destiny than all the pearls that have ever glittered upon the necks of queens.

And now, O Lord our God, if the prayers of Thy servant in this high place shall be ended, and with many affecting memories and standing visions of these great times he shall pass away, nevertheless, henceforth as heretofore, may the blessing of Thine eternal covenant abide upon the Senate of our country. Into Thy keeping do we most earnestly commit all these Thy servants. May they stand before Thee as the just lawgivers and the wise counselors of a mighty people in this greatest and most fearful passage of their history, honored while they live with the gratitude of their fellow-countrymen, and when they die, accepted with abundant joy into the presence of Thy glorious Throne. And unto the name of God the Father, and God the Son, and God the Holy Ghost, will we ascribe all the praise, now and forever. Amen.

The Journal of yesterday was read and approved.

## RESIGNATION OF CHAPLAIN.

The PRESIDENT *pro tempore*. The Chair has received the following communication, which he will lay before the Senate:

WASHINGTON, May, 1864.

SIR: In anticipation of an absence from the country, bearing grateful recollections of my intercourse with the gentlemen of your honorable body, and fervently praying to Almighty God for their present and future welfare, through our Lord Jesus Christ, I beg leave hereby respectfully to tender my resignation of the office of Chaplain to the United States Senate for the Thirty-Eighth Congress, to take immediate effect.

With sincere regard, BYRON SUNDERLAND.

Hon. DANIEL CLARK, President United States Senate *pro tempore*.

## EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, in compliance with a resolution of the Senate of April 30, 1864, transmitting a copy of the opinion of the Attorney General on the rights of colored persons in the Army or volunteer service of the United States, together with the accompanying papers; which was ordered to lie on the table, and be printed.

The PRESIDENT *pro tempore* also laid before the Senate a letter from the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs submitting an estimate of appropriations required to fulfill treaty stipulations with the Chippewas of Red lake, and Pembina band of Chippewas, under treaty of 1st October, 1863, as amended March 1, 1864, and the supplementary treaty of April 12, 1864, and recommending that the estimated appropriations be made; which was referred to the Committee on Indian Affairs.

## PETITIONS AND MEMORIALS.

Mr. TRUMBULL presented the petition of J. B. Corrinton and one hundred and fifty-nine others, men and women, citizens of Shipman, Macoupin county, Illinois, praying for the abolition of slavery, and for such an amendment of the Constitution as will forever prohibit its existence in any portion of the Union; which was referred to the select committee on slavery and freedmen.

Mr. LANE, of Indiana, presented the petition of Ida Hoffman, widow of Solomon Hoffman, late deputy provost marshal in Indiana, alleged to have been killed while in the discharge of his duties, praying for a pension; which was referred to the Committee on Pensions.

## REPORTS FROM COMMITTEES.

Mr. FOSTER, from the Committee on Pensions, to whom was referred a bill (H. R. No. 290) for the relief of Rhoda Wolcott, widow of Henry Wolcott, reported it with an amendment.

He also, from the same committee, to whom was referred a memorial of the Legislature of Minnesota in favor of granting pensions to the widows of volunteers who were killed in the late Sioux Indian raid, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Catherine Jacobs, praying for a pension, submitted an adverse report; which was ordered to be printed.

## BILL INTRODUCED.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 269) making additional grant of lands to the State of Minnesota to aid in the construction of railroads from Stillwater, by way of St. Paul and St. Anthony, to a point between Big Stone lake and the mouth of Sioux Wood river, with a branch to St. Cloud and to the navigable waters of the Red river of the North, as the Legislature may determine; which was read twice by its title, and referred to the Committee on Public Lands.

## COMMODORE WILKES.

Mr. HALE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy be instructed to lay before the Senate a copy of the record in the case of Commodore Wilkes's recent trial before a naval general court-martial.

## HOUSE BILL REFERRED.

The bill from the House of Representatives (No. 117) to reimburse the State of Pennsylvania for expenses in calling out the militia of said State during the recent invasion, was read twice by its title, and referred to the Committee on Finance.

## EXECUTIVE SESSION.

Mr. DOOLITTLE. I gave notice to the Senate some days since that it was very important to act on two or three Indian bills as soon as possible, and I now desire to have those bills taken up.

The PRESIDENT *pro tempore*. The Senator will pause until the Chair ascertains whether there are any more reports from committees, which are first in order.

Mr. WILSON. It is necessary that we should have an executive session for a few moments, and it is of great importance that it should be at the earliest possible moment. I therefore move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in the consideration of executive business, the doors were reopened, and

The Senate adjourned.

## IN SENATE.

MONDAY, May 9, 1864.

Prayer by Rev. E. H. GRAY.

The Journal of Saturday was read and approved.

## PETITIONS AND MEMORIALS.

Mr. SUMNER presented a petition of citizens of Sturbridge, Massachusetts, praying for the enactment of suitable laws for the encouragement of the immigration of foreigners into the United States; which was referred to the Committee on Agriculture.

He also presented seven petitions of men and women of the United States, praying for the abolition of slavery, and for such an amendment of the Constitution as will forever prohibit its existence in any portion of the Union; which were referred to the select committee on slavery and freedmen.

He also presented a memorial of the Cape Cod Railroad Company, remonstrating against the extension of the Goodyear patent for the manufacture of vulcanized India rubber; which was referred to the Committee on Patents and the Patent Office.

Mr. WILSON presented a petition of citizens of Massachusetts, praying for the enactment of suitable laws for the encouragement of immigration into the United States; which was referred to the Committee on Agriculture.

He also presented a memorial of citizens of Massachusetts remonstrating against the extension of Goodyear's patent for the manufacture of vulcanized India rubber; which was referred to the Committee on Patents and the Patent Office.

He also presented the petition of J. N. Carpenter, a paymaster in the United States Navy, praying for compensation for losses alleged to have been sustained by him in consequence of his absence from home on duty on board the United States ship Saratoga; which was referred to the Committee on Claims.

Mr. HOWARD presented a petition of citizens of Jackson county, Michigan, praying that a duty of not less than twenty cents per pound may be imposed on all wool imported into the United States; which was referred to the Committee on Finance.

Mr. COWAN presented a petition of persons engaged in the express business in Pennsylvania, remonstrating against any change in the act of March 3, 1863, regulating the manner of taxing express companies; which was referred to the Committee on Finance.

Mr. HOWE presented a petition of citizens of Stiles, Oconto county, Wisconsin, praying for the establishment of a mail route from the northern terminus of the Northwestern railroad at Fort Howard to Stiles, in Oconto county, in that State; which was referred to the Committee on Post Offices and Post Roads.

Mr. BUCKALEW presented a petition of merchants of Philadelphia, praying for the passage of an act taxing the circulation of State banks; which was referred to the Committee on Finance.

#### PAPERS WITHDRAWN.

On motion of Mr. LANE, of Kansas, it was *Ordered*, That the official members of the Episcopal church, Wyandott and Quindaro mission, Kansas conference, have leave to withdraw their petition and other papers from the files of the Senate.

#### REPORTS FROM COMMITTEES.

Mr. FOOT. The Committee on Public Buildings and Grounds, to whom was referred the report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate of the 16th of April, information in relation to the proposed change of the south front of the Treasury building, have had the same under consideration, and directed me to report the following resolution as the judgment of the committee. I ask for the present consideration of this resolution:

*Resolved*, That it is inexpedient to make the proposed change.

The resolution was considered by unanimous consent, and agreed to.

Mr. SUMNER. The select committee on slavery and freedmen, to whom was referred a petition of natives of Louisiana and citizens of the United States of African descent, praying that all the citizens of Louisiana of African descent born free before the rebellion may be admitted to the rights and privileges of electors; also sundry other petitions of colored citizens of the United States, praying that the elective franchise may be granted to the colored people of the United States, have had the same under consideration, and have directed me to report them back with a recommendation that they be referred to the Committee on Territories, which, by vote of the Senate, has that whole subject under consideration.

The report was agreed to.

Mr. HARLAN, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 159) for a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of a railroad in said State, reported it without amendment.

Mr. CARLILE, from the Committee on Public Lands, to whom was referred a bill (S. No. 238) to ascertain and settle certain private land claims in the State of California, reported it with an amendment, and submitted a report; which was ordered to be printed.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom was referred a letter of the Secretary of the Interior, communicating a report of the Commissioner of Indian Affairs, recommending an appropriation to pay the interest due the Orchard Party and First Christian Party of New York Indians, submitted an adverse report; which was ordered to be printed.

Mr. HOWARD, from the Committee on the Pacific Railroad, reported an amendment to the bill (S. No. 132) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, which, by direction of the committee, he intended to propose when the bill should be taken up for consideration; which was ordered to be printed.

Mr. WADE. The committee on the conduct of the war, at the request of the Secretary of War, have visited our released prisoners at Annapolis and Baltimore, and have directed me to make a report accompanied by the evidence taken by the committee. I move that twenty thousand copies of the report and evidence be printed for the use of the Senate, and be printed with the report relative to the capture of Fort Pillow, as a part of the same document.

The motion was agreed to.

#### ORDER OF BUSINESS.

Mr. CHANDLER. I move to postpone all prior orders for the purpose of taking up Senate bill No. 266. It is a bill to prevent smuggling, and for other purposes.

Mr. HALE. I hope not until the morning business is gone through with.

Mr. CHANDLER. I will give way for morning business after I get the bill up.

Mr. HALE. I hope the Senate will go on with the morning business. Resolutions have not yet been called for. I do not think it is exactly fair—I do not mean to intimate anything unfair to the Senator from Michigan—it is not exactly a fair way to take up a bill during the morning hour and then for a Senator to say after it is taken up I will give way and let in other business. It gives an undue advantage. I hope the ordinary course of business will be adhered to, and that the Senate will not sanction that mode of doing business. I have a resolution that I desire to introduce.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Michigan to take up the bill indicated by him.

The motion was not agreed to.

#### ELECTION OF CHAPLAIN.

Mr. HALE submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Senate will on Wednesday next, at fifteen minutes after twelve o'clock, proceed to the choice of a Chaplain of the Senate.

#### TROUBLES BETWEEN CHILI AND BOLIVIA.

Mr. LANE, of Indiana, submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the President of the United States be requested, if not inconsistent with the public interests, to furnish to the Senate copies of any recent correspondence of the minister of the United States at Chili relating to the existing troubles between Chili and Bolivia.

#### CONDITION OF CONGRESSIONAL CHAMBERS.

Mr. BUCKALEW. I submit the following concurrent resolution:

*Resolved by the Senate*, (the House of Representatives concurring), That a joint select committee, to consist of three members on the part of each House, be appointed by the respective Presiding Officers to examine into the present condition of the Senate Chamber and Hall of the House of Representatives, as regards the lighting, heating, ventilation, and hearing; and the defects and disadvantages existing in the same; and that the said committee obtain from Charles F. Anderson, architect, a statement of the principles upon which he proposes to regulate these particulars, with a view to their improvement, so as to secure the better adaptation of these Halls to the purposes of legislation and the preservation of the health of those occupying them; and that the committee also obtain a statement or estimate of the expense that will attend the necessary alterations, and the probable time that will be required for making them; and the said committee shall be authorized to make report by bill or otherwise at the present or next regular session of Congress.

If there is no objection, I should like to have the resolution considered at the present time.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SUMNER. I will inquire of the Senator whether it would not be better for the Senate to confine its inquiry to its own Hall, without undertaking to institute an inquiry with regard to the Hall of the House of Representatives.

Mr. BUCKALEW. This subject is being acted upon by the House of Representatives, and it is the desire of the chairman of the Committee on Public Buildings in that branch that the subject shall assume this form. I think there will be great convenience in having the joint action of both Houses on the subject. I have consulted with the chairman of the Committee on Public Buildings of the Senate and also of the House of Representatives, and they agree in this proposed direction of the subject.

Mr. SUMNER. I am clearly of opinion that

something ought to be done. My only question was how we should approach the business, and on that I have no opinion which is so positive as to induce me even to make a suggestion counter to the proposition before the Senate.

The resolution was adopted.

#### MINT AT SAN FRANCISCO.

Mr. CONNESS. I move now to postpone all prior orders and take up Senate bill No. 176. It is a bill that was reported from the Committee on Finance a long time since, and will excite no particular debate, I think. I ask the Senate to take it up. The Senator from Michigan, [Mr. CHANDLER,] who is so anxious to get up another bill, can have the floor next.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 176) authorizing the erection of buildings for the branch mint at San Francisco. It appropriates the sum of \$300,000 to be expended, under the direction of the Secretary of the Treasury, in the erection of a suitable building or buildings for the use of the branch mint at San Francisco, in the State of California.

Mr. CONNESS. In the sixth line of the bill after the word "in" I move to insert the words "the purchase of a site, if necessary, and;" so that it will read:

To be expended, under the direction of the Secretary of the Treasury, in the purchase of a site, if necessary, and the erection of a suitable building; &c.

The amendment was agreed to.

Mr. COLLAMER. What is the amount of the appropriation contained in the bill?

The PRESIDENT *pro tempore*. Three hundred thousand dollars.

Mr. COLLAMER. I will inquire of the gentleman from California whether such an amount as that is needed now when a mint has been established in Oregon?

Mr. CONNESS. I will state for the information of the Senator from Vermont and the Senate that the establishment of a mint in Oregon can only relieve the mint of San Francisco from a portion of the increase that is naturally going on from year to year in the production and coinage of the precious metals on the Pacific coast. The present mint at San Francisco is entirely unfitted and unsuited for further operations, and the question as to whether new buildings should be erected is one that scarcely admits of any difference of opinion. Many reports have been made to the Secretary of the Treasury on the subject, and he has recommended that this course be taken, and recommended the appropriation of this amount. It is true that since that time the Senate has determined that \$100,000 shall be appropriated for the creation of a mint in Oregon, in place of \$75,000, which was also recommended, for the establishment of an assay office there, there being a difference only of \$25,000 between the amount appropriated for a mint there and the amount that was formally recommended for the establishment of an assay office at that place. That cannot at all affect the amount that may be necessary for the erection of suitable buildings for a mint at San Francisco, because the production of the precious metals there is going on in a great ratio of increase.

It will be remembered also by the Senator from Vermont that—perhaps it is our misfortune; I will not speak in reference to that—the amount of money proposed to be appropriated by this bill is diminished by forty per cent. when it is reduced to coin, which is the only money used in California. I will say in addition that no matter what amount may be appropriated, it is to be expended under the direction of the Secretary of the Treasury, and no larger portion of the appropriation will be used than is found to be necessary. I hope, therefore, that the amount will be allowed to remain as it is.

Mr. HOWARD. I wish to inquire of the Senator from California whether the Government does not at present own a sufficient quantity of real estate in San Francisco to accommodate the mint buildings, and what amount it does own.

Mr. CONNESS. I am very glad the Senator has made that inquiry, because it enables me to state an interesting fact, perhaps, to the Senate in that connection. The Government now owns in the city of San Francisco one half of an entire block, on which the custom-house, the post office,

and other buildings of the United States are built. It is a very large piece of ground. I cannot give its exact dimensions. It is far more than enough for the erection of a mint; and yet it is a question of economy alone as to whether the Government should use it for that purpose; and I will explain that in one moment. It is located in the lower part of the city, upon what is known as made land, and if the mint building should be erected there the foundation will have to be piled, which will be a very expensive job. The probability is that the piling of the foundation would consume one half or more of the entire appropriation. It may, therefore, be found necessary and economical for the Secretary to authorize the purchase of ground elsewhere, reserving that ground, which is of great value to the Government. That is the reason why I offered the amendment which the Senate has just adopted inserting the words "for the purchase of a site, if necessary." It will be a question to be determined by the architect of the Government whether this ground shall be used or other ground purchased. My own opinion is that the most economical course for the Government to pursue will be to select other ground on account of the great expense for piling for a foundation on the ground we now own. I suppose the half block of ground to which I refer is worth at the present time at least \$300,000.

I will state in addition, while I am up, that the ground on which the present mint is erected is of considerable value. I suppose it is worth at least from fifty to seventy-five thousand dollars. The Secretary of the Treasury has authority under the law at present to sell that ground and pay the amount into the national Treasury, which will undoubtedly be done, so that the total amount appropriated here will not be expended for the erection of the mint.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading; was read the third time, and passed.

#### PREVENTION OF SMUGGLING.

Mr. DOOLITTLE. I desire to take up Senate bill No. 226.

Mr. CHANDLER. Before that is done, I desire to make a statement. I have a bill here—

Mr. DOOLITTLE. Allow me to say that if the bill which the Senator from Michigan desires to bring up is a bill that will not lead to any debate I will give way; but I do so with the understanding that I shall have an opportunity to ask the Senate to take up two or three Indian bills that will occupy perhaps half an hour, which it is very important should be acted on.

Mr. CHANDLER. This is the most important bill before the Senate; it is to prevent smuggling.

Mr. DOOLITTLE. I yield to the Senator from Michigan.

Mr. CHANDLER. I move to take up Senate bill No. 266.

The motion was agreed to; and the bill (S. No. 266) to prevent smuggling, and for other purposes, was considered as in Committee of the Whole.

By its provisions, from and after the 1st of August, 1864, all goods, wares, and merchandise, and all baggage and effects of passengers, and all other articles, imported into the United States from any contiguous foreign country, or countries, (except as otherwise specially provided,) as well as the vessels, cars, and other vehicles, and envelopes in which the same shall be imported, shall be unladen in the presence of, and be inspected by, an inspector or other officer of the customs, at the first port of entry or customhouse in the United States where the same shall arrive; and to enable the proper officer thoroughly to discharge this duty, he may require the owner or owners, or his, her, or their agent, or other person having charge or possession of any trunk, traveling bag or sack, valise, or other envelope, or of any closed vessel, car, or other vehicle, to open the same, or to deliver to him the proper key; and if such owner, agent, or other person, shall refuse or neglect to comply with his demand, the officer shall retain the trunk, traveling bag or sack, valise, or whatsoever it may be, and open the same, and as soon thereafter as may be practicable examine the contents, and if any dutiable article or articles shall be found therein, the whole

contents, together with the envelope, shall be forfeited to the United States and disposed of as the law provides in other similar cases. If any dutiable goods, article, or articles, be found in such vessel, car, or other vehicle, the owner, agent, or other person in charge of which shall have refused to open it or deliver the key, the same, together with the vessel, car, or other vehicle, shall be forfeited to the United States, and shall be held by such officer, to be disposed of as the law provides in other similar cases of forfeiture. But the Secretary of the Treasury may release such goods or other articles on such terms, and such vessel, car, or other vehicle, on payment of such fine, not less than fifty dollars, as to him shall seem just and proper.

The Secretary of the Treasury is to appoint, whenever he shall think it necessary, additional inspectors of the revenue for the following districts, to wit: Passamaquoddy, Maine, four; Portland and Falmouth, Maine, eight; Eastport, Maine, four; Boston and Charlestown, Massachusetts, fourteen; Pembina, Minnesota, two; Chicago, Illinois, eight; Michilimackinac, Michigan, two; Sandusky, Ohio, one; Cuyahoga, Ohio, three; Erie, Pennsylvania, one; Dunkirk, New York, one; Buffalo Creek, New York, six; Niagara, two; Genesee, two; Oswego, five; Champlain, four; Vermont, two.

To avoid the inspection at the first port of arrival, required by the first section of the act, the owner, agent, master, or conductor of any such vessel, car, or other vehicle, or owner, agent, or other person having charge of any such goods, wares, merchandise, baggage, effects, or other articles, may apply to any officer of the United States, duly authorized to act in the premises, to seal or close the same, previous to, or immediately upon, their importation into the United States; which officer shall seal or close the same accordingly; whereupon they may proceed to their port of destination and be there inspected. Provisions are made for the mode of sealing the packages, &c., and penalties provided for those who may break the seals.

Mr. CHANDLER. I move to amend the bill in the first section, third line, by striking out the word "August" and inserting "July."

The amendment was agreed to.

Mr. MORRILL. I desire to call the attention of the chairman of the Committee on Commerce, who reports this bill, to what it occurs to me must be an error in the bill. On page 3, section two, additional inspectors of the revenue are proposed, as follows: "Passamaquoddy, Maine, four; Eastport, Maine, four." I should like to inquire of the chairman whether there are two such districts?

Mr. CHANDLER. I cannot answer that question.

Mr. MORRILL. My impression is that there is but one district, and that that is Passamaquoddy; but yet I am not quite confident it is so.

Mr. CHANDLER. The Senator can move to strike it out.

Mr. MORRILL. I should not like to do that without ascertaining more definitely about it.

Mr. FESSENDEN. The district of Passamaquoddy covers a very large extent of country, and it is very possible that the Department desires that there should be as many as eight inspectors, but has made some error in regard to the division. I think there had better be inquiries made in regard to that point before the bill is finally acted upon. If it is a question of number, I think they will need a considerable number to accomplish the objects of the bill. I think there is an error in the description there, but they may want the officers. I hope the Senator from Michigan will let it go over until to-morrow morning, and have it made the special order at half past twelve o'clock. The bill ought to be passed early, but it ought to be looked into.

Mr. TEN EYCK. I have no doubt it is right. I know this was furnished by the Commissioner of Customs himself, who ought to know all about it, and doubtless does. The bill generally was framed by the Commissioner of Customs with the view of preventing the enormous frauds on the revenue, and I cannot for one moment suppose that Mr. Sargent, the Commissioner of Customs, should have made a mistake of this kind. He was present, acting with the committee, and furnishing the facts.

Mr. FESSENDEN. I am aware of the im-

portance of the bill and the propriety of passing it as soon as possible, but I am inclined to think there has been a mistake as to the districts in Maine. My impression is that Eastport and Passamaquoddy are in one district. We can ascertain by to-morrow how the fact is.

Mr. CHANDLER. I submit a motion that the bill be postponed until to-morrow at half past twelve o'clock, and made the special order for that hour.

The motion was agreed to.

#### NAVAJO INDIAN CAPTIVES.

Mr. DOOLITTLE. I now move to take up Senate bill No. 226.

The motion was agreed to; and the bill (S. No. 226) to aid in the settlement, subsistence, and support of the Navajo Indian captives upon a reservation in the Territory of New Mexico, was read the second time, and considered as in Committee of the Whole. It proposes to appropriate \$100,000, to be expended under the direction of the Secretary of the Interior, for the purpose of settling the Navajo Indians, now captives in New Mexico, upon a reservation upon the Pecos river, in New Mexico, for the purchase of agricultural implements, seeds, and other articles necessary for such purpose, for breaking the ground, and for subsistence of the Indians to the end of the next fiscal year.

Mr. DOOLITTLE. I am instructed by the Committee on Indian Affairs to offer the following amendment as an additional section:

*And be it further enacted*, That the said reservation may, under the direction of the Secretary of the Interior, be so extended and enlarged on the south as to include the entire valley of the Pecos river, known as the Bosque Redondo, and that the whole of said reservation so enlarged shall be designated and known as the Navajo and Apache reservation; and as such shall, until otherwise ordered by law, be exempt from sale and free from all occupancy except by the said Indians for the purposes herein mentioned, excepting such portion of the said land as is now occupied by Fort Sumner, and as may be needed for the use of said fort.

The amendment was agreed to.

Mr. DOOLITTLE. I have another amendment from the committee, the purpose of which is to abolish one Indian agency and establish another:

*And be it further enacted*, That the southern agency of New Mexico is hereby abolished, and that an agent for the Kiowa, Apache, and Comanche Indians be appointed, at a salary of \$1,500 per annum.

The amendment was agreed to.

Mr. FESSENDEN. I should like to have an explanation of the bill.

Mr. DOOLITTLE. The Secretary of the Interior sent the following letter to the Senate:

DEPARTMENT OF THE INTERIOR,  
WASHINGTON, D. C., April 5, 1864.

SIR: I have the honor to transmit herewith a copy of a communication from the Secretary of War, dated the 31st instant, and a copy of a report of the Commissioner of Indian Affairs, of the 4th instant, upon the subject of providing means of subsistence for the Navajo Indians of New Mexico upon a reservation at the "Bosque Redondo," on the Pecos river.

Concurring with the Commissioner in the views he expresses on the subject, and also with the War Department in relation to it, I have the honor to recommend that Congress appropriate \$100,000 to effect the objects contemplated.

Very respectfully, your obedient servant,  
J. P. USHER, Secretary.  
Hon. HANNIBAL HAMLIN, President of the Senate.

The following is the letter of the Secretary of War which accompanies it:

WAR DEPARTMENT,  
WASHINGTON CITY, March 31, 1864.

SIR: The commander of the department of New Mexico reports that there are now at the Bosque Redondo four thousand one hundred and six Navajo Indians, with strong probabilities that the remainder of the tribe will soon be collected at that place. General Carleton estimates the entire number of these Indians at five thousand, but it is believed that this is an underestimate, and that the tribe, when collected, will number at least seven thousand souls.

These Indians have been at war with the people of New Mexico (with short intervals of peace) for nearly two centuries, and if the plan of colonization now commenced can be successfully carried out, it will relieve the Treasury from the large expenditures that have been necessary in carrying on military operations against them, and will do much for the settlement and prosperity of New Mexico. It is important for the success of this plan that measures should be taken at once to establish them fully in their new homes; to provide for their wants in their changed condition, and to establish them fully in their determination to abandon their old homes and manner of living.

They are now dependent upon the War Department, but there is no appropriation under the control of the Department from which their wants can be supplied, except that



the issue of subsistence is justified by necessity, and must be continued until the Interior Department is prepared to assume their control and relieve this Department from the burden of maintaining them.

It is important that this should be done as speedily as possible, and in this, and in whatever else that may be necessary to insure the success of this plan, the War Department will give its hearty coöperation.

Very respectfully, your obedient servant,

EDWIN M. STANTON,  
Secretary of War.

Hon. J. P. Usher, Secretary of the Interior.

The Committee on Indian Affairs, not being quite satisfied with the general terms in which these letters expressed this recommendation, appointed a meeting for the purpose of considering this question by itself, and requested General Canby, who had for several years been commander of the military department of New Mexico, to appear before the committee in person, and explain to the committee the necessity and the propriety of this recommendation. General Canby stated to the committee that since we acquired the Territory of New Mexico we have been compelled to keep within that Territory, mainly to preserve peace among the Indians, nearly three regiments of troops all the time. He stated and gave as his opinion that if these Navajo Indians who now have surrendered were to be kept on this reservation on the Pecos river it would reduce the necessary military force to be kept in that country to eight companies; that eight companies of troops could serve the purpose of keeping these Indians, and keeping the peace with them; so that the military expenses of the Government in New Mexico would be very largely reduced. He stated the fact that both under the present Administration and under the last Administration, indeed for several years, I think as many as seven or eight years, the settled policy of the administration of the military department of that Territory has been to get possession of these Navajos and get them out of the mountain-fastnesses where they were, and to colonize them and put them on some reservation within the Territory of New Mexico. The military department has in fact, under the lead of General Carleton and Kit Carson, succeeded in getting these Navajos into their possession, and placed them at the Bosque Redondo, which is in the neighborhood of Fort Sumner; in fact, Fort Sumner is in the very center of the reservation proposed. The Secretary of the Interior requests the appropriation of \$100,000 for the purpose of putting this reservation in proper condition, and to purchase seeds, implements, &c., to enable these people to go on and to a great extent become self-sustaining, and relieve the Government of expense.

These Navajos are a peculiar people. They have raised large flocks and herds; they have some manufactures of their own. The Navajo women make the most celebrated blankets in the world; and they have been accustomed to the cultivation of the soil by means of irrigation, which seems to be a necessity in all that New Mexican country, so that it is not taking men who have had no experience in irrigation to settle upon the soil where it is necessary for them to irrigate in order to support themselves.

Mr. President, I have thus briefly stated the facts as presented to the committee; and while the committee, perhaps, had the question been originally left to them as a military matter whether they would take the Navajos from one section of New Mexico and place them in another, might have arrived at a different result, we did not go into the consideration of that; but taking the facts as we find them, with these Navajos upon our hands and at this point, with the recommendation of the Military Department and the recommendation of the Interior Department, we felt that there was no other course under the circumstances to pursue but to favor this appropriation, and we have reported accordingly.

Of the other sections of the bill, one is to extend it so that what are called the Southern Apaches can also be put on a portion of the reservation; and the third section is simply to abolish the Southern Apache Indian agency, and allow another Indian agency to be established in its stead, which is recommended by the Secretary of the Interior.

Mr. CONNESS. If the appropriation of \$100,000 would give us the results that we are promised in this case, I should think that the appropriation was well made and that it was the

most economical disposition of the question that could be made; but I have grave doubts about that; and as to the benefit of this appropriation, indeed the whole scheme comes here surrounded by more than an ordinary degree of doubt and suspicion. It will be remembered, Mr. President, that about the first information we had concerning the capture or so-called capture of the Navajo Indians came very suddenly upon us. All at once we were informed that four thousand Indians had surrendered to the Government. To one unacquainted with the Navajo Indians and with their history, or with the history of operations connected with them, that would seem like a great accomplishment; but when it is known as it is that just such surrenders as this have been made over and over again by the Navajo Indians, and that they have remained at peace with us just as long as we fed beef to them and paid them out of the national Treasury, and when we ceased we had to fight them again, I do not think there is anything particularly new or attractive in it, nor anything particularly profitable to the nation in it.

I had considerable doubt about the reality of this surrender; and as I was informed and believed that General Canby was the best-informed man in or near this city upon Indian affairs in New Mexico, I called upon him in regard to the matter. I had no considerable conversation with him; he was in a great hurry at the time, and so was I, but I consulted him in regard to the matter, and I asked him, "General, how is it about this so-called surrender or capture of the Navajo Indians, and about their desire to reside on a reservation at peace with the United States?" Well, his response to me was a pushing up of his shoulders, with an expression of great doubt as to the whole matter. It was evident to me, both from what he said and what he did, that he had no faith in the whole arrangement.

I accuse no one in this connection. The honorable Secretary of the Interior in making this recommendation has undoubtedly been guided by all the information placed before him; but it does appear to me that the appropriation of \$100,000 under the direction of an agent who is to be paid \$1,500 per annum is simply throwing away that amount of money. The whole question of the surrender or so-called capture by Kit Carson, or Colonel Carson, of these Indians, is in my mind surrounded with great doubt. I think it is a question that should be thoroughly investigated and understood before this appropriation shall be made.

I may be replied to by asking what shall these Indians do in the mean time? Well, if it were a fact that they had surrendered, if it were a fact that they were determined to remain thereafter at peace with the United States, I have no doubt but that the very best thing the Government could do would be to feed them and continue to feed them. As to their civilization and the extent to which the arts are practiced and known among them, there is a good deal of poetry about that. They are, by those who know them, represented to be one of the most rascally bands of Indians in the country. They have no morals at all. They keep no bargains or understandings or treaties. They have violated their bargains, understandings, and treaties with the Government over and over, and they will do it again in my opinion. After they eat up this \$100,000 you will still have to keep three regiments in New Mexico. In fact, in that connection, let me say that there is no probability, nay, no possibility, within any reasonable time of our being able by reason of this measure, or any measure of the kind, to reduce our military force in New Mexico. We want to increase it in fact, rather than reduce it; and why? Because it is one of our southwestern positions where, at the end of this rebellion, if the time shall ever come, (and we all expect it to be hastening on,) bands of rebels will retreat to, and it will be necessary for us not to reduce our force there, but to increase it and aggregate it. If this proposition were left to me, from what knowledge I have picked up, and I have tried to obtain all that I could upon the subject, I would deal with it thus: at the present time, whatever appropriation I authorized to be made, I would authorize to be expended by the War Department, taking care that a proper officer was placed in command there, and not establish a reservation at this time.

My opinion is that the measure as proposed now will prove entirely abortive, entirely wasteful, and without any results. I regret, sir, to be placed in the position of being compelled to cast these doubts upon it and upon its wisdom; but I cannot avoid it, as I believe it will be a wasteful, unnecessary, and unprofitable expenditure.

Mr. HOWARD. I rise to make an inquiry, sir. I was not attending with much care to the remarks of the Senator from Wisconsin. I wish to know in what way and by what authority these Navajo Indians are held in captivity; who captured them; why was it?

Mr. DOOLITTLE. I stated, before the honorable Senator came into his seat, upon the information of the Secretary of War received through General Carleton, who is in command of that department, that the Navajos are captured and upon our hands as captives to the amount of five thousand five hundred, and they would probably come in to the amount of seven thousand. They have them in fact around Fort Sumner, down on the Pecos river; and the Secretary of War recommends, and the Secretary of the Interior recommends, that a reservation there be established for them.

Mr. HOWARD. But I wish to know who captured these Indians? Why was it done? Were they making war upon the United States? Was there an Indian war?

Mr. DOOLITTLE. I will state to the honorable Senator from Michigan that there has been a warfare going on between the Navajo Indians and the New Mexicans of that Territory for nearly two hundred years. When we acquired the Territory of New Mexico, we took it with this war on our hands, and we have been compelled to keep, as General Canby stated to our committee the other day—we requested him to appear before the committee to give us the facts in relation to it—a large military force there constantly, making war on these Navajos, capturing them, and, as my friend from California says, letting them go, and then they break the treaty, and we have to capture them over again, again and again, which I dare say is true as he has stated. We have kept that military force there for years and years, and it has been the settled policy of the administration of the military department of New Mexico to get these Indians and colonize them at some place out of the mountains where they were, upon some spot in New Mexico where a force could be stationed in their neighborhood to watch them and to prevent this war and depredation; and the place which is selected, by looking on the map it will be seen, is selected in the neighborhood of the Staked Plain, as it is called, on the east of them, and about sixty or seventy miles from the mountains upon the west, in the valley of the Pecos.

Mr. COLLAMER. Mr. President, the subject of our Indian affairs in New Mexico is not a topic with which I profess any great familiarity, but after all I have some thoughts upon that subject which I wish to suggest for the consideration of the Committee on Indian Affairs, and I hope I may have their attention.

I understand that in the Territory of New Mexico we have a condition of Indians entirely different from that which we had to meet east of the Mississippi or in the northern and northwestern part of our country. The Indians there are not a people who have any local habitation. They are not as our tribes were, who had a particular spot of hunting ground and some little cultivation, but they live dispersedly all over the Territory, especially among the hills, while our white inhabitants settle along in the valleys. These people thus having no particular locality are not conditioned as our Indians were with whom we could make treaties, and as to whom we could make laws to prevent the white people from going into the Indian country. They wander dispersedly all over the Territory of New Mexico, and every now and then they make a foray down into the valleys where the white people live and rob them, take their cattle and sheep, for they are a pastoral people pretty much; and then the Indians retreat and fly back to the mountains. Finally forces are sent out against them and make war upon them, and then they submit and make peace and receive certain presents which are always expected to attend the making of peace. The next day, or whenever another opportunity presents itself, they

make another foray. Then you have another attack upon them, followed by another treaty and another set of presents.

This I believe to be the true condition of that country; and so believing, I believe further that the only mode of dealing with this people is just to subject them to the laws of the Territory. Now they are not subject to the laws of the Territory. It is considered that the local laws of the country never apply to Indians. If these Indians be at any time arrested in their forays and stealings, and taken and made an example of, and punished, imprisoned—for nothing has greater terror for an Indian than to be imprisoned; he can hardly endure it—I say a few examples of that kind, nay, a distinct knowledge that they were subject to the laws of the Territory, would be the best mode of dealing with them. They now say "Law for white man; no law for Indian;" and the white people are not permitted unless led by our forces to avenge themselves or to reclaim their property by force. We have laws against that. But if we would make a law subjecting these Indians to the operation of the laws of the Territory in which they live, not making them citizens, but subjecting them to the law and those punishments, the very terror of that law would, in my opinion, be far greater security than any amount of force you can send there. I trust this subject will receive the attention of the committee.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. HOWARD. I call for the yeas and nays on the passage of this bill.

The yeas and nays were ordered.

Mr. HOWARD. Mr. President, I think this is not a bill that ought to pass. I do not see any propriety in making charitable provisions for a race of Indians who are not disposed to keep any treaties with us, and who are continually practicing these barbarities upon our settlers out there. It seems to me it is nothing more nor less than undertaking to reward a set of roving nomadic thieves and plunderers who will not even thank us for the gratuity which we are now offering them. It seems to me, so far as I can understand the subject, to be a downright waste and squandering of the public moneys upon objects who are utterly unworthy of it. I shall therefore vote against it.

Mr. DOOLITTLE. My honorable friend from Michigan certainly cannot understand the facts of this case, it seems to me, if he opposes this proposition. The War Department tell us that we have them on our hands now as captives of war, and they are being fed out of the subsistence department by General Carleton this day. Six thousand mouths are being fed all the while. What are you going to do with them?

Mr. HOWARD. I can answer that question very easily; parole them and let them go. They can certainly do no more mischief hereafter than they have been inclined to do heretofore. But the object of the bill is not such as it appears to be stated by the Senator from Wisconsin. The object is to provide these thieves and plunderers with "agricultural implements, seeds, and other articles necessary for such purpose, for breaking the ground, and for subsistence of said Indians to the end of the next fiscal year." I am not inclined to pay even Indians who commit robbery and murder upon me and my countrymen. I do not think it is a very dignified proceeding myself.

The question being taken by yeas and nays, resulted—yeas 24, nays 11; as follows:

YEAS—Messrs. Buckalew, Carlile, Davis, Dixon, Doolittle, Foot, Hale, Harlan, Henderson, Howe, Johnson, Lane of Kansas, Morgan, Powell, Ramsey, Riddle, Saulsbury, Sherman, Sumner, Ten Eyck, Trumbull, Van Winkle, Wilkinson, and Wiley—24.

NAYS—Messrs. Anthony, Clark, Conness, Cowan, Fessenden, Foster, Grimes, Howard, Richardson, Sprague, and Wilson—11.

ABSENT—Messrs. Brown, Chandler, Collamer, Harding, Harris, Hendricks, Hicks, Lane of Indiana, McDougall, Morrill, Nesmith, Pomeroy, Wade, and Wright—14.

So the bill was passed.

#### NATIONAL CURRENCY.

Mr. SHERMAN. I move that the Senate resume the consideration of the unfinished business.

Mr. DOOLITTLE. I appeal to my honorable friend to allow me to pass one or two other bills, on which I presume there will be no discussion.

Mr. SHERMAN. The bill just passed took half an hour.

Mr. DOOLITTLE. I supposed that would excite some discussion, but I do not think these others will.

Mr. SHERMAN. The Senator can take up the bills that will excite no discussion in the morning hour. I think we had better go on now and dispose of the bank bill.

The motion of Mr. SHERMAN was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 395) to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof, the pending question being on the amendment of Mr. HENDERSON, in section twenty-two, line three, after the word "exceed" to strike out "\$300,000,000" and insert the words "the amount now authorized to be issued by the Comptroller of the Currency to banks already created;" so that it will read:

That the entire amount of notes for circulation to be issued under this act shall not exceed the amount now authorized to be issued by the Comptroller of the Currency to banks already created.

Mr. DOOLITTLE. I should like to have the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. DOOLITTLE. I have determined to vote for this amendment of the Senator from Missouri, but I do so with the expectation on my part, if it shall be adopted, to modify it by some provision to allow all the State banks that choose to organize under the national system to come in and organize under it. The amendment as it stands naked by itself would go to the length of excluding them altogether.

Mr. SHERMAN. It would be a repeal of the law as it stands.

Mr. TRUMBULL. I do not design taking up time on this amendment. I only wish to say that I concur in most that was said by the Senator from Missouri in the speech he made some days ago in support of this amendment. I believe it would be wise to stop this issue of currency by these national banks, and therefore I shall vote in favor of limiting the issue to the banks already created. That is not a repeal of the law, as the Senator from Ohio suggests. I understand that banks have already been established which will authorize the issue of \$50,000,000 of currency, or more; and I think we had better stop where we are and see how that operates before we go any further. It is not a proposition to repeal the law, but to stop issuing any more of this national bank currency. I am in favor of that and shall vote for the amendment.

Mr. POWELL. I was requested by the Senator from Oregon [Mr. NESMITH] to state that he is absent from the Senate on account of indisposition.

The question being taken by yeas and nays, resulted—yeas 12, nays 23; as follows:

YEAS—Messrs. Buckalew, Carlile, Cowan, Davis, Doolittle, Grimes, Henderson, Howard, Powell, Richardson, Saulsbury, and Trumbull—12.

NAYS—Messrs. Anthony, Chandler, Clark, Conness, Dixon, Fessenden, Foot, Foster, Hale, Howe, Johnson, Lane of Kansas, Morgan, Morrill, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Van Winkle, Wade, Wiley, and Wilson—23.

ABSENT—Messrs. Brown, Collamer, Harding, Harlan, Harris, Hendricks, Hicks, Lane of Indiana, McDougall, Nesmith, Pomeroy, Riddle, Wilkinson, and Wright—14.

So the amendment was rejected.

Mr. DOOLITTLE. I will now submit the amendment of which I gave notice the other day.

The Secretary read the amendment, which was to insert at the end of the bill, as additional sections, the following:

SEC. —. *And be it further enacted*, That from and after the passage of this act no person, banker, banking association, or banking or other corporation shall make, issue, or reissue any bills, notes, or certificates of any kind or denomination whatever designed to circulate as money, which at the passage of this act shall not be actually issued and in circulation as money under the laws of the United States or of the several States, unless the said person, banker, banking association, or corporation shall redeem the same at its place of business in gold and silver coin on demand: *Provided*, That nothing herein contained shall be construed to prohibit those associations which have become duly organized under the provisions of "An act to provide for a national currency secured by a pledge of United States stocks, and to provide for the circulation and redemption thereof," approved February 25, 1863, and shall have transferred and delivered to the Treasurer of the United States the bonds of the United States, under the provisions of the fifteenth and sixteenth sections of said act, from receiving the currency to which they have be-

come entitled, and from putting the same into circulation as money under the provisions of said act: *And provided further*, That nothing herein contained shall be construed to prohibit any existing banker, bank, banking association, or corporation existing under the laws of any State, and having notes, bills, or certificates in circulation as money, from organizing themselves into banking associations under the said act of Congress and acts amendatory thereto; and in case of such organization, and upon complying with the provisions of said act, they shall be entitled to receive and put into circulation, of the national currency provided for in said act, an amount equal to the amount of the notes, bills, or certificates of said bank in circulation, which shall be from time to time withdrawn from circulation, redeemed, and canceled, not exceeding the amount of its capital stock.

SEC. —. *And be it further enacted*, That from and after the passage of this act every person, banker, banking association, or banking corporation shall reduce the amount of its notes, bills, or certificates, in circulation as money, to the amount of its cash capital actually paid in and ——— per cent. added thereto, or to the amount actually secured by the pledge of the stocks of the United States, or of the State where the bank or banking office is situated, pursuant to the laws of the United States or of the State where the bank is situated; said reduction to be made in the following manner: one fourth of said excess of circulation beyond what is above provided shall be redeemed and canceled on or before the 1st day of ——— next; one half on or before the 1st day of ——— next; three fourths on or before the 1st day of ——— next; and the remainder on or before the 1st day of ——— next; and upon all bills, notes, and certificates issued or reissued, or remaining in circulation as money, over and above the amount as provided in this and the preceding section, the said several bankers, banks, or banking corporations shall pay to the United States a tax of one per cent. per month.

Mr. DOOLITTLE. As those are two distinct sections, of course the amendment is capable of division, and the vote should be taken on each separately.

The PRESIDING OFFICER. (Mr. FOOT in the chair.) The question will be taken on both sections together unless a division be asked for by a member.

Mr. JOHNSON. I ask for a division of the question.

The PRESIDENT *pro tempore*. Then the question will be on the adoption of the first section of the amendment.

Mr. DOOLITTLE. The effect of the first section is substantially this: to prevent any new organization under the existing national banking law, except such organizations as shall be made by State banks now existing which may surrender their organization, withdraw their circulation, and come into operation under the provisions of this act. The first part of the section, without either of the provisos, would have precisely the same effect as the proposed amendment of the Senator from Missouri; but the first proviso to the section allows the national currency which has already been secured and applied for at the office of the Comptroller of the Treasury to be issued and go into circulation as money; and the second proviso authorizes State banks who have now an outstanding circulation to withdraw that State circulation, organize under the provisions of this section, and receive an amount of circulation of the national currency equal to their present outstanding circulation, not exceeding the amount of their capital stock.

Mr. President, I am not a practical banker. I have never owned any stock in any bank, State or national. I may never be fortunate enough to own any such stock; I therefore do not claim any weight for my opinion upon the ground of practical experience. I distrust my opinion so far as that is concerned. To fortify myself on that subject I had occasion to write to some gentlemen of great practical experience, and among them to one gentleman in the State of New York. Instead of answering the communication directly himself, he referred it to one of the most experienced business men in the Empire State, a man of as large experience practically in the business of banking as any gentleman in the State of New York, as I am informed and believe. He is the gentleman who was selected by the Secretary of the Treasury, as I understand, as his first choice to be Comptroller of the Currency; but from his business relations and position he was compelled to decline the appointment. I inclosed the amendment to a gentleman and indorsed upon it the inquiry, "What is your opinion of this?" and he referred it to that gentleman, and that gentleman writes a letter to me on the subject, in which he says, "I fully concur in your amendment."

He goes on to give his reasons at considerable length. That gentleman is Thomas W. Olcott, of the city of Albany. He certainly has had

practical experience in the business of banking. He knows it in all its operations as well as any man among the great financial men of this country, and his opinion is worth consulting. I do not claim for my opinion from practical experience that it is entitled to weight.

When this amendment was under discussion the other day in the Senate, and I was stating to the Senate the effect of the amendment that I intended to propose, the president of one of the largest banks of the city of New York was present. I did not know it at the time. I received from the city of New York on his return a letter, in which he fully indorses substantially the amendment that I have offered. He says:

"You have struck the key-note—limitation of paper money to amount outstanding in any form."

That is the key-note; that is the solution, and the only saving solution, to our financial difficulties in the currency.

"With gold at 175 or 180 it is evident to all who understand the subject that the point of danger is near, and will certainly be reached by any addition whatever to the existing volume. Your plan proposes:

"1. To limit all bank circulation to amount now outstanding, under penalty of paying new issues in gold and silver.

"2. To limit national bank act to amount now authorized—say twenty-nine millions.

"3. To revoke national bank act excepting so far as to allow State banks to transfer themselves into it under the limitation as in No. 1.

"4. To require all banks having notes in circulation beyond the amount of capital or notes not secured by Government or State stocks to reduce them to that standard, under penalty of paying one per cent. per month upon the excess.

"This is both wise and fully secures the object.

"1. It gives State banks time to consider the best method and moment for making so important a transition.

"2. It prevents the banking system of the country from being taken in possession by unskilled and adventurous men, and so far removes an important objection to being affiliated with them.

"3. It permits existing institutions to carry into the new system more upon terms of equity, their coin and surplus, and thus transfers real capital.

"4. It insures to the new system more of the character, experience, and traditional advantages of existing organizations than can possibly be secured under a rival system having a basis so broad as will inevitably lead to ruin, both to the banks and the public.

"5. Finally it saves the country from financial prostration.

"Much more I would be glad to say at leisure. Your views are so much in harmony with the able remarks of Senator HENDERSON who followed you, that they are entirely reconcilable."

And in a postscript, he says:

"Your plan is the only one that the old State banks as a body would for a moment consider, and to it I believe they would give most favorable regard."

Mr. SHERMAN. That is written by a bank officer, I suppose.

Mr. DOOLITTLE. It was written by Mr. George S. Coe, president of the American Exchange Bank of New York.

Mr. President, I do not propose to stand here to discuss this question. I leave it to other gentlemen of more practical business experience and of more enlarged views of finance and of currency than I can lay any claim to. But I believe, as the Senator from Massachusetts [Mr. SUMNER] said the other day, that next to the military question which is to determine whether we are to have victory or defeat in the field, the question for the American statesman this day to consider is the question of our currency. I distinguish it from the question of finance, because we can easily raise taxes. The other day in half an hour we passed through the House of Representatives and almost through the Senate a bill to add fifty per cent. to the taxation proposed upon foreign importations. We can levy taxes in every form. We can put a tax upon sales of one half of one per cent. or one per cent., which would raise \$100,000,000 of itself.

There is no difficulty in reaching money enough by way of taxation; but the difficulty and the threatening danger is, that the very standard of value, by which all values are measured and all contracts are discharged, is this moment afloat. It is like an India rubber yard-stick, two feet long to-day and four feet long to-morrow, and all caused by this redundant, illimitable, and limitless system of making paper money. I think this Government has the power to put on the restraints, to put down the brakes, to stop it both by the national Government and by the State banks. By the power of taxation, by the power of declaring these banks that will issue paper not redeemable

in gold and silver not solvent institutions and put them into bankruptcy, and various other ways, we can reach and master and control the circulation of the country. It is the bounden duty of this Senate to rise to the crisis of the hour, to meet the responsibility, and to take hold of this matter with a strong hand and control it. What is this bill unlimited by any provisos but a bill to provide for issuing this day \$300,000,000 of new circulation in paper money to be added to the \$800,000,000 already afloat?

It seems to me just as certain as that effect follows its cause, that if you do it or if you pass a law that shall authorize it to be done, gold will of necessity go up in price; and when it reaches two hundred per cent. what consequences may we expect to follow? Mr. President, although I have had no practical knowledge in financial matters of this description, I have for twenty-five years of my life given some attention to the study of the great laws of political economy, the laws of supply and demand, the laws of trade, the laws of currency. I have studied them and reflected upon them, and have some most settled and determined convictions in relation to them. I believe those laws are as certain, as clearly to be ascertained, as the great laws of nature, and they are irrepealable too by act of Congress or of any State Legislature. They are the laws of God stamped upon the nature of things. You may vary them for a moment in their natural operations by the obstacles that laws may interpose, but they assert their supremacy in the end, and they will control you and you cannot resist the power of those laws in their operation. The day of compensation is certain and sure, and the history of the whole world demonstrates it to be so. Mr. President, in my opinion, what we want now is to meet this thing as it is, stop the swelling of this paper volume, decrease it gradually, allow the national bank system to go into operation, favor it by making these national banks your depositories, favor it by allowing the notes of these national banks to be received in payment of Government dues, encourage the State banks to organize your system and surrender the old system, to come in and take the national currency, and put your limitation upon this bill and let it be fixed so that the financial world shall know that there shall be no further increase of paper money. Let them know there is a limit fixed beyond which it cannot and it shall not go, and by fixing the limit you will restore confidence in the financial world.

Mr. President, I will not be betrayed into making a long speech upon this subject, though my heart is full. I feel earnest, and perhaps I express myself strongly. I express my own opinion with the utmost respect to the opinions of those gentlemen who differ with me, to the Secretary of the Treasury, who I believe is struggling with this question to do the very best he can, and yet he must allow me, with other gentlemen around me, the right and the privilege to think for myself on this question, and to bring to its consideration all the light and all the experience and all the study which I have had during that portion of my life since I first commenced the study of political economy.

I hope the Committee on Finance will consider this proposition, and consider it fully. I want to act with them, and I wish to act upon the principle neither of destroying the State banks nor making war on the State banks, nor of destroying the national banks nor making war on them; for, as I said the other day, I desire to bind together the interests of these men in the support of the system and in the support of the Government, and I believe that if while you encourage the national system you allow only the State banks to come in and take the advantages under it, you will substantially bind all these interests together.

Mr. SHERMAN. Mr. President, when I first read the amendment proposed by the honorable Senator from Wisconsin I supposed it was one of the numerous amendments intended to indirectly defeat this bill; but when I come to read it now, and when I see from the manner of the Senator that he is really sincere in offering it, I am profoundly surprised. Let us analyze this amendment for a moment; and I shall not go off into a discussion of the general merits of the bill, because after the various propositions of amendment are made I may then have some general

observations to make in regard to the bill; but now let us look at the amendment of the Senator from Wisconsin.

The first proposition is that no banker or bank organized in the United States shall, after the passage of this law, issue any bank bill—

Mr. DOOLITTLE. Not already in circulation.

Mr. SHERMAN. Not already in circulation. Every bank charter now in existence in the United States is therefore substantially repealed or modified by our act; that is, we declare that no bank organized by any State law shall, after this day, issue any bank note.

Mr. DOOLITTLE. Unless they redeem in gold or silver.

Mr. SHERMAN. In other words, we change the law of every State in this Union by one single proposition. Now, where is the constitutional power to do it? Who has ever claimed such power? We have the power to tax these banks, and indirectly through the power of taxation we may affect their circulation; but here at one broad sweep the Senator would substantially repeal all the State laws, forbid them to issue or reissue a single note under any circumstances, whatever may be the facts. Where is the power to pass such a law? What Senator here claims such a power?

Now let us look at the next proposition in the Senator's amendment. In that he reserves to the banks already organized under this law the right to receive their bills under the provisions of the law; in other words, he retains in existence the law so far as the existing banks are organized; he allows them to receive their notes, so that he does not affect the system as far as they are concerned. He gives to the banks already organized the monopoly of the banking under this system, and prevents new banks from being organized under it. But that is not the worst of it. No wonder that the president of one of the leading banks of the United States cordially approved this amendment of the Senator.

What is the third proposition? It is that any bankers or banks organized under the laws of any State now in existence may avail themselves of the privileges of this banking bill, and nobody else shall. That is, the banks now in existence would have the complete monopoly of an organization under this act. I ask the Senator from Wisconsin if he is willing to vote for such a monopoly? It would be the most odious, the most offensive that could be proposed by any man. It is to confine the benefits of this bill solely to the banks now organized. There is a bank in Pittsburgh, or western Pennsylvania, that I believe has issued ten times the amount of its capital stock. The Senator from Pennsylvania probably knows that. And yet that bank that is thus inflated, that has thus issued ten times its capital stock as circulation, might, under this proposition, for twenty years have the right to bank under this banking bill, and would only reduce its circulation by installments from time to time, when no other citizen, no other individual in the United States could avail himself of the privileges of this act. In other words, it confers on the State banks the monopoly of organizing under the national law, and they alone would have the right to form a bank association. No individual, however wealthy, no citizen, however rich, no man, however patriotic, could avail himself of the privileges of this banking system, except those banks now organized under State laws, and they could do it without restriction.

Why, sir, the propositions contained in this amendment certainly cannot receive the sanction of the Senate. The first provision is to repeal all the banking laws of the States by forbidding them to issue or reissue any note. The attempt to enforce this provision would not only create lawsuits, but would create troubles without number. You cannot force the banks into this system. The purpose of the bill is to induce them to come into it. This proposition would prevent them from issuing or reissuing a single note. The next proposition is to give them a monopoly of the banking business under this law. Taking those three propositions together, it seems to me they make the amendment monstrous.

Then the second section of the amendment provides that from and after the passage of this act every person, banker, banking association, or



banking corporation shall reduce the amount of its notes, bills, or certificates in circulation as money to the amount of its cash capital actually paid in, and ——— percent added thereto. Therefore a bank in the State of New York whose circulation is secured by the deposit of State or United States securities must reduce its circulation to its cash capital, while another bank that has no security whatever, that deposits no stock as the basis of its issues, may go on and issue notes to the full amount of its capital stock, without regard to the question of security. There is nothing in this second section that requires these bankers to secure their outstanding circulation with United States stocks. Not only that, but they can issue or keep out under the provisions of the section notes to the amount of their capital stock paid in, whether their notes are secured or not, and they can issue more, provided only they will secure the excessive issue by a deposit of United States stocks.

Such a provision as this would be simply absurd. Its adoption would not only be a violation of the Constitution, the exercise of a power that no gentleman it seems to me can claim as delegated to Congress, but it would be an absolute defeat of this bill. Sir, if Senators are not satisfied with the bill or with the general system, let them defeat it directly. If they desire to propose amendments to perfect it, I shall not complain. After those amendments are all considered and acted upon, and the bill is made as perfect as we can make it, it will be time for us to discuss the merits of the bill, and I may then have occasion to make some reply to the observations submitted by the Senator from Missouri [Mr. HENDERSON] on Friday, but not till then.

Mr. DOOLITTLE. Mr. President, the Senator from Ohio objects to the amendment, first, that it contains in its first section a provision to repeal all the bank charters granted under the laws of the several States. As I understand it, it contains no such provision whatever. By every bank charter in every State the banks are required to redeem in gold or silver on demand. It is of the very essence of their charter, the granting of the franchise, that they shall redeem their currency in gold and silver, though now perhaps some of the States may have passed special laws authorizing the suspension of specie payments. We have the constitutional power to declare what no State certainly has the power to declare; at all events in the minds of many persons we have the constitutional power to declare that something but gold and silver shall be a tender in the payment of debts. No State Legislature has any such power. We exercised that power when we declared that our legal-tender notes should be received in the discharge of private as well as public obligations. Is it not within our power to repeal the benefit of that law in relation to any class of banks in this country that are swelling the currency, that are raising the price of gold, threatening us with financial embarrassment and ruin by an over issue, a redundant issue of their paper circulation beyond the amount of their capital stock? What is the effect of my proposition in that respect but to declare that as to them, those banks which will go on issuing a currency not redeemable in gold and silver, they shall not use our Treasury notes in payment of the debts which are due from them? That is all; it repeals no bank charter; and I undertake to say that it is beyond all question that we have the power to declare that every bank in this country and every banker who does not pay his debts in gold and silver on demand is a bankrupt, and we could put him into bankruptcy and appoint a receiver by the judge of one of our courts, and wind up his affairs. Is there anybody who doubts it? Does the Senator from Ohio doubt it? That is all that is contained in that provision, and in my judgment it is clearly within the powers expressly delegated by the Constitution of the United States to Congress.

But again, the Senator says that because by the provisions of that section I would limit the organizations to be formed under this act to those that have already been organized and have put up their securities and have become entitled to their circulation, I am for creating monopolies under this act. Not at all. Ever since the law of last year was passed it has been an open field and fair play; every man who had his securities who desired to

organize an association could organize, deposit his securities with the Comptroller, and take his currency.

But again, the Senator contends that the other provision of the section secures to the State banks already existing the monopoly of the banking system of the country under this act, and therefore it would be unjust. Is there a man occupying a seat in this Senate Chamber who would not from the bottom of his heart rejoice if all the State banks now existing should withdraw their circulation at the earliest practicable moment, and should see fit to reorganize under the provisions of this act? We should then have a system of banking by no means a monopoly, for it would be a free system of banking, embracing all the banks and bankers of the United States, and all the men who have been engaged in the business for years.

The Senator refers to the case of a bank at Pittsburgh, and he says we should be giving a most unjust advantage to that bank under the operations of this section, because he says that bank has extended its circulation to ten times the amount of its capital. That may be so; but the provisions of this section declare that if such a bank is organized under this act and applies for circulation, it shall not have circulation to exceed the amount of its capital. As I put my pen upon paper to draw the words of this section, I thought of those banks that have over issued their paper beyond their capital stock; and the idea which presided when I drew it was to seize upon this occasion to control them and compel them to reduce their circulation. I hold it to be the duty of this Government, and to be clearly within its constitutional power, to seize and control and master the currency of this country, for if there is one thing in my opinion which was intended by the Constitution, it was that this Federal Government and not the States should be the master of the circulating medium of the Union.

The Senator says that there is nothing in that provision of the section which requires those banks that bank upon the system of New England, that is, of paying in all their capital stock without putting up bonds as security, to put up security. I would be very glad to incorporate into an amendment the suggestion of the Senator from Ohio if it could be acceptable to the members of the Senate, and provide that such securities might be put up, either in the stocks of the States where they are or in the stocks of the Federal Government, or both together. I say to the Senator from Ohio that I care nothing about the form in which the amendment may be made. What I want is to limit the volume of paper money. I wish to reduce gradually the volume of that circulation. I wish not to make war on the State banks and bring on a financial crash, disaster, and ruin, involving it may be the credit of the Government as well as the credit of individuals.

Mr. President, we have been placed in this most anomalous position—and it is one of the dangers of our situation—that it is for the interest of the men who hold the stocks of the Government of the United States to depreciate them; and why? Because they get the interest in gold, and the more they depreciate the stocks the more stocks they can buy with the gold they receive. It is a strange, anomalous state of things, and still it is a fact, and a fact worth considering.

I do not see, I confess, the objections which the Senator from Ohio raises to this amendment. I do not desire to take up the time of the Senate. I would be glad to hear gentlemen abler than myself by far, consider this question in all its bearings—the necessity of limiting the amount of paper money, of putting a limit beyond which it cannot go, and of reducing the paper volume. I care not in what form it is issued, whether in greenbacks by the Government, or in this national currency by the national associations, or by the State banks; I say it is our duty to stop swelling the volume and to reduce that volume. If the Senator from Ohio can contrive the manner in which to accomplish it, that is all I ask. Forms I care not for. My amendment may not be in the right form. Let some other gentleman bring forward an amendment that will accomplish the work; stop swelling the volume, and reduce the amount of the existing volume.

Mr. HALE. I do not know, Mr. President, that I ought to address the Senate at this moment

under the invocation that has been made by the Senator from Wisconsin who wished that some abler man than he was would do it.

Mr. DOOLITTLE. I concede it to the Senator.

Mr. HALE. I confess that I sympathize entirely with the object which the Senator says he has in view, a reduction of the volume of the currency. I recollect some years ago hearing a man in one of the country towns who had just been elected to the Legislature of one of the New England States give his idea of what genuine Democracy was, and he said it consisted in going just as hard against banks as was possible. [Laughter.] I hardly believe that proposition. But, sir, what I rose to say principally at this time was that the proposition of the Senator from Wisconsin strikes me as extravagant; he will excuse me for saying so. I think that by a very brief amendment, not near as voluminous as the one which he has presented, he may reach his object directly, and it would be more explicit and more easily understood if it were put in this form:

And be it further enacted, That all those instruments heretofore known as State constitutions be, and they are hereby, abolished. [Laughter.]

That would reach it directly, and then there would be no doubt that this could be done; but as long as they stand in the way, it seems to me that there is a little difficulty. The Senator from Wisconsin put the query whether there was anybody in the Senate who doubts that Congress have a right to enact that if banks neglect or refuse to pay their obligations in gold and silver, they should all be put into bankruptcy. I confess that I am that unfortunate individual who doubts exceedingly the power of Congress to do any such thing, for the grant of power to Congress on that subject is in the eighth section of the first article of the Constitution, and the power there given is:

“To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies.”

I take it a uniform law cannot be said to be one that singles out a particular class of individuals or a particular class of corporations, and imposes upon them a duty in default of which they shall go into bankruptcy, while it leaves to other individuals and other corporations the power to go on without any such restriction. I apprehend that if Congress should undertake to say that all banks that do not redeem in gold and silver should go into bankruptcy, and leave insurance companies or any other companies the privilege of paying their debts in a depreciated paper currency, it would not be such a uniform law on the subject of bankruptcy as was intended by the Constitution. The Constitution intended by “a uniform law on the subject of bankruptcies” one that would operate upon all individuals, upon all classes, and upon all corporations; and it did not mean when it gave Congress the power to enact uniform laws on the subject of bankruptcy that they may pick out here and there a class of corporations or a class of individuals, and say that if they did not redeem in gold and silver they should go into bankruptcy while other classes should be under no such obligation.

Suppose you apply it to individuals; suppose Congress should undertake to say that all wholesale importers of dry goods should pay their obligations in gold and silver, and if they did not should go into bankruptcy, while all wholesale importers of other classes of merchandise might go on paying in depreciated currency. To my humble apprehension it seems that there is no such power; and if Congress were to undertake it they would vastly exceed their authority. They have no such right.

I confess to as much ignorance on the general subject of finance as the Senator from Wisconsin, and a good deal more, for I cannot pretend to have made so much effort to enlighten myself upon it as he has; but there are a great many notions that pass current in communities, and that are received with all the reverence of divine revelation, and there are a good many propositions in regard to this subject of political economy which, when tried by the test of practice, are absurd and false. Let me illustrate. The doctrine of the balance of trade is continually talked about, and we have got an idea that if the imports exceed the exports by the custom-house books we are doing a ruinous business. That is pretty

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much conceded to be the truth, that if the custom-house shows an amount of importations exceeding our exports, we are doing a ruinous business. Let me take a case. Here is a vessel that starts from Portsmouth, New Hampshire, or Boston, Massachusetts, with a cargo of ice, worth nothing at the custom-house; she takes that for ballast, and goes to New Orleans and sells the ice. She there takes a freight of cotton to Liverpool, and possibly when she goes to Liverpool she may dispose of that, and take another freight for the Baltic, and with the result of the ice and the freight that she has earned by carrying cotton from New Orleans to Liverpool, and by carrying something else from Liverpool to the Baltic, she buys a cargo of hemp and iron worth it may be \$100,000, and imports into the country \$100,000 worth of hemp and iron; the custom-house shows that she has not carried out anything; there has been no export. She took ice which was worth nothing on the custom-house books, and with the earnings of her freight from New Orleans to Liverpool, and the earnings of her freight from Liverpool to the Baltic, she secures \$100,000 which she invests in a cargo of hemp and of iron, and brings that home to this country. Then the custom-house shows \$100,000 worth of goods imported into the country, and nothing carried out; and the theory of a good many of these political economists that learn what little they know out of books is that that is a ruinous business, and must destroy any country under heaven. A little practice explodes that theory.

I do not know of any single theory in regard to banks that will stand the test of philosophy, except the very one that we are now illustrating, and that is that an immense inflation of bank paper tends to a ruinous state of things, to wit, the increase of prices. That I believe everybody agrees to; but when you come to the question of what has produced it, and what is the remedy for it, wise men diverge and differ. Now, as to the remedy, I think that if the telegraphic news we have got from Grant's army is true, it will have more effect in lowering the price of gold and producing what we desire than all the acts we have passed and all we could pass, and all the speeches that have been or will be made.

For myself I confess that I have very little confidence in this bank bill; but as I do not profess to know so much as a good many men, I am content to do on this as I have done on a number of other occasions. When the Administration, the Secretary of the Treasury, and those associated with him, who are intrusted by the Constitution and by the people with the business of managing their Departments, have devoted as much attention to the matter as they have, and come forward and propose this measure, and tell us that in their judgment it is one essential to the salvation of the country and to enable them to discharge the duties which the Constitution and the people have devolved on them, I am willing to yield to their sagacity, to their patriotism, and to their judgment, even though they come to conclusions different from what my own poor judgment would have indicated. My judgment on this matter would have been that this bank bill will be of very little effect either for good or for evil; but as the Secretary of the Treasury thinks it will have a beneficial effect and enable him better to discharge his duties as the head of the Treasury Department, I am willing to go for it.

But much as I am willing to give up to the Secretary of the Treasury or to the Administration on this subject, let me tell you, sir, that if you pass this bill and undertake to exempt these national banks from the power of taxation by the States, or if you undertake by any indirect means to do the same thing, you will create a storm in this country that you cannot withstand. It is utterly useless to decry State rights and State sovereignty. I know that the doctrine of State sovereignty has wrought infinite mischief in the country. It is the parent of this rebellion; and the Virginia doctrines of State rights promulgated in the last century are deluging that land with

blood to-day and converting its once fertile fields into a desolation and a waste. But while I loathe and detest and abhor the doctrine of State rights carried to that extent, we must remember that there are States, that they have powers; that it is just as essential to the perpetuity and the salvation of this country that the States should be preserved in their just and legitimate power as that the Union should exist. What is the Union? It is a union of States; and when you destroy the States really or substantially, you will have nothing to make a Union of. The States must be sustained in the first place as the pillars of the temple of the Federal Union. I apprehend that if you will look at the history of taxation you will find that in many if not most of the States of this Union the tax on banks is the one tax that yields the States the most income and which bears the most lightly on the people. The State governments derive no inconsiderable portion of their revenue from the tax on banks; and this amendment which undertakes in substance, for that is the substance of it, to strike them all out of existence would be the most fatal blow that could be made at the legitimate sovereignty of the States.

Mr. President, the States, as I have said, derive no inconsiderable portion of their revenue from this source, and the proposition of the Senator from Wisconsin is substantially to repeal the charters of all the State banks. The Senator shakes his head, I have no doubt sincerely. I will not tell him that when he shakes it there is nothing in it; I know there is a good deal in it. But let me ask the Senator, does he suppose there is a bank in any State that can to-day redeem in gold or silver? Not one. Besides, what would you think of a Government which does not pay its own debts in gold and silver, which issues a currency depreciated as our currency is now depreciated, and then turns round and says to the banks, "Although we do not pay gold and silver, although we use a depreciated currency and are compelled to do so in order to maintain the national life, yet you shall do what we cannot do?" Why not let the United States go into bankruptcy if they have to use depreciated paper, instead of saying to the banks in the States that they must pay gold and silver or go into bankruptcy?

However speciously this amendment may be presented—and I know the Senator from Wisconsin can present his views as forcibly and as speciously as anybody—the real substance of it is a blow, a death-blow at all the banks in the United States; and when you have enacted it you have stricken a more fatal blow at the Union of these States than this rebellion did. We can get over that; we are getting over it; but when you strike such a blow as this and prostrate all the banks at the footstool of the General Government, submitting them to a rule which you cannot live by yourselves, you will have struck a fatal blow at the very existence of the States. It is for these reasons that I am opposed to this amendment.

Mr. DOOLITTLE. Mr. President, I desire very briefly to reply to two or three of the positions taken by my honorable friend from New Hampshire. He says, in the first place, that my amendment would be in better form, in fewer words, and much more effective if I would simply say, "Be it enacted, That all the constitutions of the several States are hereby abolished." I do not yield to my honorable friend from New Hampshire in my sincere respect as well as my deep and settled conviction in the necessity of this Government, as well as the State governments themselves, maintaining, preserving, and defending all the rights of the States under the Constitution of the United States. I believe in State rights, sir; that they are expressly mentioned, reserved, protected, and defended in the Constitution itself, and as they are reserved by our Constitution, protected, and defended; I believe in those rights, and as a citizen of the United States, and as a citizen of a State, I feel bound to respect and to defend them. While I say this, I go as far as that honorable Senator goes or can go in the denunciation of that specious doctrine

put forth and maintained by Calhoun and those who have followed him in relation to the rights of the several States, which, as he maintained, would enable them to abolish the Union and overthrow the Constitution and destroy the Government. Sir, our system is complex: the States have rights and the Union has rights, and the Constitution of the United States is the bond of that Union, and the guarantee of them all. The Constitution of the United States gives to this Government its rights; the Constitution of the United States defends the rights of the several States, and by one of the express provisions of the Constitution this Government is bound to protect, defend, and preserve the republican form of government in every State under the Constitution, which secures to the people the right to govern themselves, and secures the rights of the States themselves.

But, sir, this proposition of mine in no respect whatever trenches upon the constitutional rights of the States; and if the honorable Senator from New Hampshire desires to meet me on that ground, I am prepared to do so, and I believe I can demonstrate that, by the men who made the Constitution of the United States, by the history of the times when it was made, by the debates in the Convention where it was made, it was the express understanding and determination of the men who made our Constitution to give to this Government the absolute, the unlimited, the unquestioned control over the currency of the United States or over that which was to circulate as the money of the people of the United States. Among the express powers given to this Government was one to establish a uniform system of weights and measures, to coin money, and to regulate the value thereof. It forbid the States to issue bills of credit, and bills of credit at the day when those words were used meant paper money and nothing else, as decided by our courts and so understood.

I know that by the action of the Government for sixty or seventy years it has been held and maintained that the States have the power to incorporate institutions to issue paper money. The people have acquiesced in it; the courts have decided in favor of it; Legislatures have admitted that right; and so long has that right been exercised and acquiesced in that I, in the present state of things, am obliged to recognize these institutions as existing institutions, defended by long usage, by law, and by the decisions of the courts. That is the true state of the case. But when I assert the power of this Government to coin money and regulate the value thereof, when I assert that this Government has just as much control over the standard of value as it has over weights and measures, I do not trench upon the constitutional rights of the States nor upon any of those rights.

Mr. President, in my opinion, the men who made the Constitution intended to have no money but gold and silver. They intended that no paper money should be issued under the authority of the States or under the authority of the Federal Government either. Vexed and goaded as they had been by paper money, having drank of its bitterness to the very dregs, they met, in the Convention which formed the Constitution, hard money men. They had learned from experience what all philosophy teaches, that a thing to be done is not yet done, that the future is not the present, that a mere promise to pay money is not money itself. Gouverneur Morris in that Convention declared "the moneyed interest will oppose the plan of Government if paper emissions be not prohibited."

Gouverneur Morris, the leading financial man, I may say, of the Convention which formed the Constitution, declared that the Union itself could not be formed unless paper emissions by the States should be prohibited. Mr. Mason, in that Convention, also declared that "he had a mortal hatred to paper money." Ellsworth declared "that it was a favorable moment to shut and bar the door against paper money." "Paper money," said another, "can in no case be necessary." Wilson said in this Convention that "he would

remove the possibility of paper money." Randolph expressed his antipathy to paper money. Langdon said that "he would rather reject the whole plan"—that was the plan of the Constitution—"than retain these three words: 'and emit bills;'" which meant bills of credit or paper money.

I maintain, Mr. President, that the intention was to give to this Federal Government complete control not only of weights and measures, of the pound, the bushel, the yard-stick, but the power to fix the standard of value, the medium of exchange for products and services as well as for the payment of debts, and that that standard should be fixed in gold and silver coin only; and it is equally certain, in my opinion, that they intended to provide, and they believed they had provided, against the possibility of paper money being issued under either State or Federal authority. I believe that such was the real intent of the men who made the Constitution, and what they really said in the words they put into the Constitution. They intended that this Government should have no money but gold and silver. They struck out "bills of credit" when they made the Constitution, on the very ground, as one member said, that he would brand paper money as the Beast of Revelation. The idea of putting into the Constitution the power to emit bills of credit was expressly negated, and bills of credit meant paper money and nothing else. Still I agree, as I stated a little while ago, that the long acquiescence of the people, the action of the State governments, the decisions of the courts, and the action of this Government, have recognized the fact that these banking institutions of the States are established institutions, and I am bound to recognize that fact; but I will not go so far as to say that this Government has not the power to control them, at least to the extent of compelling them to redeem their notes in gold and silver on demand.

Now, Mr. President, I come to another point raised by the Senator from New Hampshire. He says that we are authorized to establish a uniform system of bankruptcy. That is very true; but what does uniformity mean except that it shall be uniform throughout the whole country and in every State? I undertake to say that bankrupt laws have always been applied to classes, and only to particular classes. I know that the bankrupt law of 1841 of the United States was made more general and was intended to embrace more classes of men than were ever brought under the operation of a bankrupt law before; but bankrupt laws have generally been confined simply to merchants, to particular classes of individuals, traders, and bankers. The uniformity which is required of us is that the law shall be the same in one State as another; that it shall apply to the class of individuals to whom we apply it with justice, equality, uniformity; and this amendment does apply it, not merely to the State banks, but to every banker and every banking corporation which shall fail to redeem its future issues in gold and silver. Here is a point that the Senator from New Hampshire overlooked altogether.

The Senator from New Hampshire complained that in this provision I was seeking to compel the State banks to do what we do not do ourselves. No, sir. What I say in the amendment is that new issues hereafter to be made, which are not already made, shall be redeemed in gold and silver, for my purpose is to stop the swelling of the volume. If they will put in circulation bank paper which is redeemable at any moment on demand at their counter, I do not object to such banks being formed and putting their notes in circulation as money, nor does this amendment prevent it.

The Senator from New Hampshire cannot doubt, I think, that it is the law of Congress alone which authorizes banks now at their counter to redeem in anything else but gold and silver. It is our own act which allows them to redeem with our legal-tender notes. No State under the Constitution has the power to authorize a bank to pay in anything else but gold or silver, and in the courts of every State in the Union if a bank was prosecuted for not redeeming its bills it would be compelled to pay in gold and silver but for the law of the United States authorizing redemption in legal-tender notes. Can we not take back the privilege which we have granted, this privilege of redeeming debts in something besides gold and silver?

Can we not say to a certain set of banking corporations that are expanding the volume of our currency, endangering our credit, threatening the country with financial ruin, that if they will persist in this course, if they will put in circulation irredeemable bank paper beyond their capital, beyond the limit that we fix, not that their charter shall be repealed, not that the State laws shall be invalid, but that our own law, which authorizes them now to redeem in something besides gold and silver, shall be repealed so far as it gives them that advantage? That is all there is of it. We take back the privileges we have given to men to pay debts in something besides money, in our legal-tender notes, and we take it back from those corporations that are swelling the circulation and doing those things which of necessity swell the volume of paper and endanger the credit and carry up the price of gold.

The honorable Senator says, referring to a telegram which it is said has been received from the field of operations, that if the telegram be true that Grant has succeeded in driving Lee from the field of battle it will do more than any speech or any act of Congress to reduce the price of gold. I believe it. I believe that if General Grant wins a decided victory now it will be the final crushing and decisive blow upon this rebellion. I believe that if he has succeeded, or is succeeding now, this Government will be established in the minds of our own people and in the minds of the whole civilized world upon a foundation which can never be shaken, and when it is once so established its credit will command the whole money of the world. Let the fact go out to Europe that we have won the decided victory, that we have established this Government beyond peradventure, that there can be no doubt and no failure in the maintenance of this Union, and our bonds will be sought for by all the money kings of the world as the most precious of all the investments that can be made, and gold will flow across the ocean to this country to purchase those bonds, and of necessity the price of gold will come down and the price of our securities will go up. I can believe all that.

At the same time, next, as I stated sometime ago, to the great military question in the hands of General Grant, is this question in our own hands in relation to the volume of paper money which we put in circulation, or which we allow to remain in circulation among the people of the country. It is for us, I think, the responsibility is on us, the Congress of the United States, to seize this business of money in this country, the business of circulation, to regulate it, to restrain it by proper enactments; and while we make war neither on the State banks nor on the national banks, neither upon the ideas of the Secretary of the Treasury nor upon the ideas of the great financiers of New York and New England and the country throughout, we can by proper legislation reconcile them all on a safe, solid, moderate basis which we ourselves can enact and dictate, and which it is our duty here to do.

The Senator from New Hampshire says that if we by our enactment here shall impose a different system of taxation upon the State banks from what is imposed on the national associations, we shall raise a financial storm that we cannot resist. Sir, it may be so. I agree with the Senator from New Hampshire that we ought to tax these banking institutions precisely upon the same basis. The advantages which we give to these national associations are of another kind. We make them our depositaries; we receive their money in payment of debts due to this Government; and this is an immense advantage, let me say to the Senator from Ohio. It gives them credit; they are backed up by the whole credit of the Government and its immense operations, amounting to \$1,000,000,000 per annum.

The very fact that the currency of these banks can be received in all these transactions, when the State bank paper money cannot be received at all, is of itself benefit enough to confer on these institutions to induce the State banks to organize under the system. But when you come to the question of taxation, it is not necessary that we should discriminate and tax the State banks more severely than we tax these national associations. We should, as the Senator from New Hampshire says, I doubt not, produce a storm in the country that we could not resist; and let

me ask him as bearing on that same question, if by carrying out the policy of this bill and what is alleged to be the policy of the Secretary of the Treasury and the advocates of his policy on this floor, you declare open war against the State banks, what kind of a storm will you raise then? Gentlemen may smile at it now; but if, as the Senator from New Hampshire says, the simple proposition to tax the State banks more than you tax the national banks, will raise a storm which you cannot resist, what kind of a storm must you meet when you undertake to carry provisions, the avowed purpose of which is to absolutely destroy the State banks altogether? Are we prepared for that?

Mr. JOHNSON. Since this amendment was offered by the honorable member from Wisconsin, on Friday last, I have considered it with a very earnest wish to arrive at a conclusion such as would bring about the object he has in view, the reduction of the circulation of the country to some fixed sum which would be sufficient and only sufficient for the business of the community; but I have been unable to see either that Congress has the power which my friend's amendment assumes to exercise, or that if it had the power, the object he has in view would be accomplished by it.

I do not propose to argue now the right of the States to charter banks. The debates to which my friend has referred in the Convention, as we have all seen, are equally applicable to paper money issued by the Government of the United States as to paper money issued by the States. There is not a single reason suggested by either of the gentlemen who participated in that debate which is not as applicable to the first as to the last. They were against all paper money; but it was uniformly held afterwards—and perhaps the gentlemen who participated in that debate did not mean to go further—that paper money redeemable in gold and silver would be legitimate money; and from that time until this the States have been chartering banks; the United States upon two occasions have chartered a bank; and the State banks and the Bank of the United States have been authorized to issue paper money.

But the most striking instance—I am not here to say whether it is constitutional or not—is in the legislation which Congress during these troubles have thought proper to adopt. We have not only issued paper money, but we have gone perhaps further than ever was gone before, and gone perhaps further than the framers of the Constitution ever contemplated: we have made that paper money a legal tender.

Mr. COLLAMER. Even for past debts.

Mr. JOHNSON. Yes, sir; even in the discharge of debts already contracted. As I have just stated, it is not my purpose to contest the validity of that legislation, except so far as to say that if I had had a seat on the floor of the Senate at that time, with the opinions I then entertained and now entertain, I should have voted against that measure. But it is now the law of the land, as far as Congress can make it the law of the land, and it has received more or less the sanction of the judiciary of the States, and, as I believe, a portion of the judiciary of the United States; and even if there was a reasonable doubt as to the constitutionality of such legislation, in the present condition of the country I would rather think it the duty of the judiciary to yield their particular doubt rather than decide against the measure when that decision would be fruitful of almost ruin to the country.

But, Mr. President, if there is an authority in the States to authorize associations to issue paper to be used as currency in the transactions between man and man, then it is certainly not in the power of the United States, except under the clause to which I shall advert in a moment, to interfere by legislation with that power. It is a matter exclusively as between the State and the corporation. It is a matter in regard to which the citizens of each State alone are to be consulted and over which they alone have control. Assuming, therefore, that the power exists in the States, I am unable to see upon what ground the first or the second section of the amendment proposed by my friend from Wisconsin can be maintained. It tells us that the first section is not obnoxious to the objection that it interferes with any existing State right or the right of any existing bank under State



law to issue currency, because it professes only to deal with such issues as may hereafter be sent forth by these banks and not with any notes which are already outstanding. If that be so, the result would be that these banks would have two kinds of issues. The circulation which they have now outstanding they will have a right to keep outstanding, and they will not only have a right to keep it outstanding where it is not brought in for redemption, but as often as it may be brought in for redemption they will have a right to reissue it, and the obligation which this proposition imposes upon the banks of redeeming their circulation in gold and silver will not apply to that circulation, but will apply to such as they may issue after the passage of this act, the result of which would be that the banks might have \$100,000 of paper that they would be obliged to redeem in gold and silver, and one, two, three, or four hundred thousand dollars, as might be the extent of the present issue, which they would not be obliged to redeem in gold and silver.

But there is another difficulty, which, perhaps, is one more of expediency than of power. By your tender law you have made it the duty of these banks to receive in payment of debts due them your notes; they have no choice. Every debt that is due to the banks already by contracts now made, and every debt which the banks may hereafter have by contracts hereafter to be made, may all be discharged as against the banks by the debtors of the banks in this paper money. If you compel them to take paper money in discharge of their debts, how are they to redeem in gold and silver? If I am answered by saying they must keep in bank the exact amount of the circulation which you compel them to pay in specie, how long will it stay there? A bank has \$200,000 to-day in coin, and it has \$200,000 in circulation which it is obliged to redeem in coin. How is it to redeem that circulation if they are permitted to keep it out afterwards, after the coin which they are to use in meeting the \$200,000 is exhausted? Then they have no coin with which to meet the circulation. Therefore the whole effect of the amendment, if I understand it, is that after the first issue to which this provision will apply has been made, if the amount of coin in the bank is not more than sufficient to meet that first issue, they will not thereafter be able to make any second issue.

But there is another thing which I submit to my friend from Wisconsin. Admitting that you have a right to exact of them a redemption in gold and silver coin on demand of issues which they may make under the authority of this amendment; suppose they do not do it; what is to be done?

Mr. DOOLITTLE. In answer to both this and the other question I will say, that provision only applies to new issues hereafter to be made, and in the existing state of the country I do not expect under this provision any such issues would be made at all.

Mr. JOHNSON. Then there is no necessity for the provision.

Mr. DOOLITTLE. There is a necessity for this provision or some provision to prevent the State banks now existing from issuing beyond what they have already issued.

Mr. JOHNSON. That I understand, but that does not get rid of the difficulty.

Mr. DOOLITTLE. If they are compelled to redeem what they hereafter issue in gold and silver?

Mr. JOHNSON. But suppose they do not, what are you to do with them? What I mean to say is this: there must be some mark by which you can identify the new issue from the old issue. Otherwise how can a man who holds the note of a bank tell whether he is entitled to receive payment of it in gold and silver or not? By the date?

Mr. DOOLITTLE. I do not like to interrupt the Senator; but he is putting questions to me as if he was asking a reply at the moment.

Mr. JOHNSON. I do not object to it at all. But I was about to ask, supposing now the power exists—I do not propose to say anything more on that subject—and supposing one of these banks to issue more than the amount of its present circulation, or if the bank draws in a portion of its present circulation it thinks proper to issue another circulation, and that other circulation you require to be redeemed in gold and silver coin on demand,

and the banks refuse so to redeem it, what are you to do?

Mr. DOOLITTLE. I suppose the only difficulty would be in the evidence of the holder in proving what notes had been issued after the passage of this act calling upon them to redeem on demand in gold and silver. If they did not so redeem, he could sue them and recover a judgment and compel them to pay it. If there is any difficulty about the identification of the particular bills that are issued after this act takes effect, provisions could easily be made that would cover that so as to secure to the party the proper evidence.

Mr. JOHNSON. I think it would be attended with very great perplexity in every way.

So much for the first section of the amendment. The second section provides:

That from and after the passage of this act every person, banker, banking association, or banking corporation shall reduce the amount of its notes, bills, or certificates in circulation as money to the amount of its cash capital actually paid in and — per cent. added thereto.

Then the amendment specifies the installments by which that reduction is to be brought about. It seems to me, and I suggest it to the consideration of my friend from Wisconsin, that that is a clear violation of the rights of the States, which I assume to exist, to have banking corporations and to say how much a bank shall issue upon its capital. In the first place, how much capital a bank shall have and how much it shall be permitted to issue upon that capital must be a State regulation, providing it has jurisdiction over the subject at all. If that be so, the right is clearly interfered with if you say by congressional legislation that they shall not issue more than a certain amount, or that if they have already issued under the laws which authorized them to issue more than the amount you think proper or expedient, they shall reduce the excess to what you suppose to be the legitimate amount. I suppose it to be very plain that whether a bank violates its charter or not is a matter as between the State granting the charter and the corporation itself, and therefore, assuming, I repeat again, that there is authority in the States to grant the charter, that must be a question over which the United States have no control.

My friend from Wisconsin said the other day that he thought it was very clear under the Constitution of the United States that over the subject of currency the Government of the United States has exclusive jurisdiction, although he admitted then and admits now that the right of the States to establish banking corporations was too long settled to be successfully contested. But assuming, as he says he did, that Congress has power over the subject of money, likening the currency to money, because Congress has the authority to coin money and to regulate the value thereof, he says it must have the authority to interfere by regulation with State issues of money or quasi money, but yet he seems to admit that that of itself would not give to Congress authority to terminate any of the banking charters of the States; but he maintains that it might be done under what has been termed the bankrupt law. My honorable friend is not to be told, nor is the Senate to be told, that in relation to the authority of the Government to interfere under that clause with State corporations very serious doubts have been entertained. It was proposed at one time in Congress, and whether a doubt as to the authority of Congress over the subject led to the defeat of the contemplated legislation or not I am not sure, but it was defeated. I confess that for one I have always supposed that under the authority to establish a uniform system of bankruptcy corporations might be included. The doubt originally entertained when the first bankrupt act was passed and entertained when the second bankrupt act was passed, was whether the clause was applicable to any other class of traders, so to speak, than those who were merchants, whether it could be extended at all for the benefit of those who might desire to become bankrupt. It was supposed to be an involuntary right as far as the bankrupt was concerned; but that doubt, I think, has been long since set at rest.

But one thing is certain, that whether Congress under the authority to establish a uniform rule on the subject of bankruptcy may include corpora-

tions and declare them to be bankrupt, it must do so by passing such a bankrupt act. You cannot make these corporations and nobody else bankrupt. Over the subject itself of a failure to meet engagements, Congress must legislate by some uniform rule. It would be unjust legislation, and therefore, as I think, not within the meaning of the clause, that Congress should interfere with these corporations and have them brought into bankruptcy if they fail to pay their obligations in gold and silver, and leave everybody else at liberty to discharge his obligations in paper money. But it would be especially hard to apply that clause of bankruptcy to these institutions when you have yourselves made it their duty to receive in payment of debts due to them this paper currency.

I admit, with the honorable mover of this amendment, and on that subject there is no difference of opinion I suppose among the members of the Senate, that it is very desirable that the currency if it be inflated should be reduced. We all concur in that. The only question is, how is it to be reduced? My friend from Wisconsin, if I understood him this morning, assumed as true that these \$300,000,000 were to be added to the amount which he supposes now to be outstanding as currency, which I think he said was \$700,000,000 or \$800,000,000 more, making \$1,000,000,000. I do not understand that to be the object or the effect of the bill. The \$300,000,000 which may be issued under this bill if it becomes a law is sooner or later, or as soon as possible, to take the place of \$300,000,000 now outstanding. The Secretary of the Treasury cannot contemplate keeping out all his issues, and having sent forth in addition to that amount \$300,000,000 more.

Mr. DOOLITTLE. I will ask my honorable friend, is there any such provision in the bill requiring him only to issue this national currency as the present paper circulation shall be withdrawn?

Mr. JOHNSON. No; I do not know that there is.

Mr. DOOLITTLE. Then my argument is correct.

Mr. JOHNSON. The Secretary's letter assumes an opinion, which we hold in common with him, that the currency is to be reduced. He proposes to accomplish it in part by means of these banks.

Mr. COLLAMER. He proposes to reduce it by curtailing the State banks, not these at all.

Mr. JOHNSON. He does not propose to curtail these banks. He proposes to let them issue \$300,000,000. What I meant to say was that the Secretary of the Treasury, when he is complaining of the surplus of issue, and is attributing the financial difficulties of the country to that surplus, certainly cannot mean that he will have anything to do in keeping the surplus out.

Mr. COLLAMER. He put it out.

Mr. JOHNSON. But he must mean to take it in. If he does not succeed in limiting the amount of the State issues I do not see how he is to do it. If he does not succeed in limiting the amount of the State issues then there is only one other way in which he can succeed in limiting the circulation, and that will be by withdrawing from circulation a portion of that which he has himself issued. I am reminded by the honorable member from Ohio [Mr. SHERMAN] that he has not issued by two or three hundred million dollars what he was authorized to issue. He has not issued it because he is unwilling to inflate the currency. I do not know—I speak in comparative ignorance; the members of the Finance Committee, and especially my friend from Ohio, who is perhaps more particularly informed on this subject, can tell me—what the amount of outstanding circulation was when our troubles began. There were some two hundred and twenty million dollars, I believe, of bank circulation, and there was supposed to be about two hundred and fifty million dollars of coin circulation, making four or five hundred million dollars. The latter was more or less a matter of conjecture. You can never tell the amount of gold and silver actually in a community.

Mr. COLLAMER. Your statement of the circulation includes all the southern States.

Mr. JOHNSON. It includes all the southern States, as a matter of course. We have lost that; and I dare say they have lost it too. It has gone from us.

Now, how much circulation do we need? If the United States needed before these troubles commenced \$500,000,000 of circulation consisting of paper and of coin, I suppose it is not too much to say that the wants of the loyal States, looking to the necessities of the Government and the large transactions in which they are engaged from time to time, will need some five or six hundred million dollars; that is to say, they will need more than the whole country required before the war commenced.

But, Mr. President, I rose principally for the purpose of saying that I cannot vote for the amendment proposed by the honorable member from Wisconsin, because I do not see that we have the power to do—

Mr. HENDERSON. I desire to ask the Senator, with his permission, if I understood him correctly when I understood him to say there were \$250,000,000 of gold in circulation in this country in 1860.

Mr. JOHNSON. That is supposed to be the amount of gold in circulation in the whole country at that time.

Mr. HENDERSON. There never was anything like that amount in circulation in this country.

Mr. JOHNSON. I do not know what you call "circulation." It was in the banks and in private hands. As I said, it is impossible to ascertain the exact amount of gold and silver in any country. I mean coin: I do not mean gold or silver that is in family use as plate or ornament. I meant to say this: that the amount of gold and silver coin in the country at the commencement of the war was supposed to be \$250,000,000.

Mr. HENDERSON. In circulation?

Mr. JOHNSON. In circulation, in the banks, and in private hands, as I have always understood. I may be in error about it.

Mr. HENDERSON. There may possibly have been \$200,000,000 of coin in this country in 1860; but I apprehend that under their charters the banks were required to keep a large amount of that coin on hand, and I believe they did have over \$80,000,000 in coin in their vaults at that period. I have no idea, however, that there was exceeding from eighty to one hundred million dollars in coin in circulation in this country in 1860 or at any other time.

Mr. JOHNSON. It is impossible to tell the amount of circulation; nor can any one tell with accuracy the amount in the country ready to be circulated. All that can be done is to approximate to that amount, and if my memory does not serve me faithfully it was supposed to be about \$250,000,000 in the banks and in private hands.

Mr. HENDERSON. It may possibly be.

Mr. JOHNSON. Mr. President, I see, or at least I think I see, that there are mischiefs connected with this system; but I can also see that there are benefits which may be the result of it. The mischiefs resulting from the system, as I think, are that it brings the Government more closely in connection with the moneyed interest of the country. Another mischief is one which I suppose the Senate will protect the States against—they have done it already and I suppose they will adhere to that amendment—by leaving these banks subject to State taxation.

But the benefit to the country is that it proposes and promises to give a uniform currency. The want of that currency from the beginning of the Government at all periods, except when the Bank of the United States was in existence, everybody has felt. It was a crying evil. The Bank of the United States, as long as it was in existence, in a great measure remedied that mischief; but the Bank of the United States is now extinct. We have no currency except the currency which exists under State authority and the currency which the United States have authorized by their legislation. We know that there is no uniformity existing now; and just in proportion as the want of uniformity is great is the loss which the community suffer.

There is another benefit which I think I can see in the system. It will enable the Government in the future to raise money with more facility than they are able to raise it now. They are raising money now ostensibly at par; that is, \$100 of stock brings to them \$100 in what they call money; but that money consists in Treasury notes, and

in the market it is at some forty or fifty per cent. discount; so that they are really getting only some sixty dollars for \$100. If this banking system places it or promises to place it, in the power of the Government to carry on the war in which we are now engaged, and hereafter to carry on the country after the war shall have terminated, with more facility than it is able to do now or has been able to do in the past, let us give it a fair trial. If it turns out in the future that it will be productive of the mischiefs referred to by my friend from Missouri, the correction is in the hands of Congress. The last section of the charter gives to Congress the authority to repeal or modify it. It is unlike the charter of the Bank of the United States. That was granted for a specific period. This exists only so long as Congress thinks proper to let it exist. Individually, therefore, as a reason for my vote, I shall vote for the bill provided the amendment as to taxing by the States is preserved and one or two other amendments not so important as that are adopted, and against the amendments suggested by the member from Wisconsin.

Mr. DOOLITTLE. I suppose it is not likely that we shall dispose of this bill to-day. I have just received a communication from the honorable Senator from New York, [Mr. HARRIS,] who is detained at his hotel to-day by indisposition, that he expects to be in his seat to-morrow, and desires to vote upon some of these questions before they are decided. I will therefore move that the Senate proceed to the consideration of executive business. We have business to attend to in executive session.

Mr. SHERMAN. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. SHERMAN. I trust that we shall go on and finish this matter some time. There must be an end of all things, as Sancho Panza says, and there must be an end to this bank bill.

Mr. DOOLITTLE. I do not object to its being continued. I only state that I have received a note from the Hon. Mr. HARRIS, who desires to be present when the vote is taken on this important question. He expects to be in his seat to-morrow. I have no objection to continuing the consideration of the bill, if the Senator thinks it desirable; but we have business in executive session that should be attended to.

The PRESIDENT *pro tempore*. The question is on the motion to proceed to the consideration of executive business.

Mr. DOOLITTLE. I will withdraw that motion.

The PRESIDENT *pro tempore*. It can only be done by unanimous consent, the yeas and nays having been ordered. The Chair hears no objection, and the motion is withdrawn. The question recurs on the adoption of the first branch of the amendment offered by the Senator from Wisconsin. The Chair understood the Senator from Maryland to call for a division of the amendment.

Mr. JOHNSON. Yes, sir.

Mr. HOWE. Let it be reported.

The Secretary read the amendment, to insert at the end of the bill, as an additional section, the following:

SEC. —. *And be it further enacted*, That from and after the passage of this act no person, banker, banking association, or banking or other corporation shall make, issue, or reissue any bills, notes, or certificates of any kind or denomination whatever, designed to circulate as money, which at the passage of this act shall not be actually issued and in circulation as money under the laws of the United States or of the several States, unless the said person, banker, banking association, or corporation shall redeem the same at its place of business in gold and silver coin on demand: *Provided*, That nothing herein contained shall be construed to prohibit those associations which have become duly organized under the provisions of "An act to provide for a national currency, secured by a pledge of United States stocks, and to provide for the circulation and redemption thereof," approved February 25, 1863, and shall have transferred and delivered to the Treasurer of the United States the bonds of the United States, under the provisions of the fifteenth and sixteenth sections of said act, from receiving the currency to which they have become entitled, and from putting the same into circulation as money under the provisions of said act: *And provided further*, That nothing herein contained shall be construed to prohibit any existing banker, bank, banking association, or corporation existing under the laws of any State, and having notes, bills, or certificates in circulation as money, from organizing themselves into banking associations under the said act of Congress and acts amendatory thereto; and in case of such organization, and upon complying with the provisions of said act, they shall be entitled to receive and put into cir-

ulation, of the national currency provided for in said act, an amount equal to the amount of the notes, bills, or certificates of said bank in circulation, which shall be from time to time withdrawn from circulation, redeemed, and canceled, not exceeding the amount of its capital stock.

Mr. DOOLITTLE. I should like to have the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. MORGAN. I desire to state that my colleague [Mr. HARRIS] is confined to his room by sickness.

Mr. POWELL. I desire to state that the Senator from Oregon [Mr. NESMITH] is detained at his lodgings by indisposition.

The question being taken by yeas and nays, resulted—yeas 3, nays 32; as follows:

YEAS—Messrs. Cowan, Doolittle, and Harlan—3.

NAYS—Messrs. Anthony, Buckalew, Chandler, Clark, Conness, Davis, Dixon, Fessenden, Foster, Grimes, Hale, Henderson, Howard, Howe, Johnson, Joice, Kansas, Lane of Kansas, Morgan, Morrill, Powell, Ramsey, Riddle, Salisbury, Sherman, Sprague, Sumner, Ten Eyck, Van Winkle, Wade, Wilkinson, Wiley, and Wilson—32.

ABSENT—Messrs. Brown, Carlile, Collamer, Foot, Harding, Harris, Hendricks, Hicks, McDougall, Nesmith, Pomerooy, Richardson, Trumbull, and Wright—14.

So the amendment was rejected.

The PRESIDENT *pro tempore*. The question now will be on the second branch of the amendment offered by the Senator from Wisconsin, to add at the end of the bill, as a new section, the following:

SEC. —. *And be it further enacted*, That from and after the passage of this act, every person, banker, banking association, or banking corporation shall reduce the amount of its notes, bills, or certificates in circulation as money to the amount of its cash capital actually paid in and — per cent. added thereto, or to the amount actually secured by the pledge of the stocks of the United States, or of the State where the bank or banking office is situated, pursuant to the laws of the United States or of the State where the bank is situated; said reduction to be made in the following manner: one fourth of said excess of circulation beyond what is above provided shall be redeemed and canceled on or before the 1st day of — next; one half on or before the 1st day of — next; three fourths on or before the 1st day of — next; and the remainder on or before the 1st day of — next; and upon all bills, notes, and certificates issued or reissued, or remaining in circulation as money, over and above the amount as provided in this and the preceding section, the said several bankers, banks, or banking corporations shall pay to the United States a tax of one per cent. per month.

Mr. WILSON. I move to amend that amendment—

Mr. CHANDLER. Vote it down and let it go.

Mr. WILSON. No; I am for it. Senators will find that they have been engaged in a very poor business in passing this bill unless some such provision as this is inserted in it. I move to insert in the fifth line of the amendment after the word "of" the words "ninety per cent. of," and in the fifth and sixth lines to strike out the words "and — per cent. added thereto;" so that it will read:

That from and after the passage of this act, every person, banker, banking association, or banking corporation shall reduce the amount of its notes, bills, or certificates in circulation as money to the amount of ninety per cent. of its cash capital actually paid in.

If this amendment prevails, we shall put the State banks on the same footing that we put these national banks, and allow them to circulate ninety per cent. of their capital stock actually paid in. I certainly see no reason why we should allow this discrimination in favor of the State bank circulation against the banks that we are establishing by this bill. Some of these State banks with a capital of \$100,000 have \$200,000, \$300,000, and \$400,000 of paper circulation. I think we should tax it out of existence at once, and put the State banks on the same footing that we put our own national banks. As it now stands, we discriminate against ourselves. Therefore, sir, I am for this amendment.

Mr. LANE, of Kansas. This amendment if adopted will be very unjust toward the State that I represent. We have no State banks. Five or six of our cities are getting ready to organize under the national banking system; but if this amendment should be adopted Kansas will be left out. I suppose the Senator does not want to rule Kansas out.

Mr. SHERMAN. I think, if the Senator from Massachusetts will look at the effect of the adoption of this amendment, he will abandon his attempt to amend it, and will vote against it. It directs that one fourth of the "excess of circulation beyond what is above provided shall be redeemed and canceled on or before the 1st day of

— next." I will ask any Senator what power we have to say to a bank organized under a State law, the mere creature of State law, that it shall cancel so much of its circulation by such a time? We may, and intend to do so in the tax bill, levy a severe tax upon the excess of circulation above ninety per cent. of its capital stock; but it must only be in the form of a tax. I assure the Senator from Massachusetts that his object will be accomplished if he will keep out of this bill everything that relates to the State banks. The House of Representatives, in the revenue bill, have already put a very heavy tax on the State banks; and it will be within our power to amend it so as to make a very large tax upon the excess of circulation above ninety per cent., and a more moderate tax on that below ninety per cent. That course will probably be adopted by the Committee on Finance; but whether it is or not, we will then have it in our power to levy on the State banks an equitable tax. This amendment of the Senator from Wisconsin, it seems to me, is clearly unconstitutional and ineffective, because the courts would say at once, the moment the question was raised, "The United States have no power to say that the State banks shall, within a limited time, cancel so much of their obligation." I trust, therefore, it will not be adopted.

Mr. WILSON. I understand the tax bill before us taxes the national banks and the State banks alike.

Mr. SHERMAN. They are taxed alike so far as the ninety per cent. of circulation is concerned; but all in excess of that is taxed very heavily. It will accomplish the Senator's object.

Mr. WILSON. Mr. President, if this object is to be accomplished, I care not whether it is accomplished in this bill or in the internal tax bill. It seems to me, however, that when we are passing an act the object of which is to take care of the currency of the country, we ought in this very act in some form to provide for the reduction of the excessive circulation of these State banks. It seems to me that we have all power over this subject of currency. I know that in the debates of many years ago, when the question of currency was the great question before Congress for years, that the statesmen who engaged in these debates maintained the power of this Government over the question of the currency as absolute and complete. But, sir, if there is a doubt about that, I suppose the Senator from Ohio does not doubt the power to tax this existing banking issue out of existence. I think this is the place to do it and make a certainty of it, for if I knew that we did not intend to adopt this policy I would not vote for this bill. I therefore move to strike out all of the amendment of the Senator from Wisconsin after the word "that," and to insert what I send to the Chair.

The PRESIDENT *pro tempore*. The Senator from Massachusetts cannot offer another amendment, which would be an amendment in the third degree, without withdrawing his first amendment.

Mr. WILSON. I withdraw that amendment.

The PRESIDENT *pro tempore*. The Senator from Massachusetts withdraws his first amendment, and offers another to strike out all after the word "that" in the pending amendment and insert in lieu thereof:

All notes in circulation in money by any persons, bankers, banking associations, or banking corporations, exceeding ninety per cent. of their capital actually paid in shall pay a tax of one per cent. per month.

Mr. SHERMAN. I trust that the Senator from Massachusetts, who is undoubtedly a friend of this bill, will not clog it with this amendment. I assure him that this subject of the mode of taxing banks and banking circulation is under consideration now. In addition to the tax there must be a mode provided of assessing and defining it, requiring certain returns to be made, and some machinery to be provided. I trust he will allow that subject to stand where all other taxes stand. I myself desired the tax on the national banks to be stricken out of this bill, but I was overruled in that particular. It was deemed important to reserve the right by the States to tax these national banks; but the committee agreed unanimously, in regard to the general plan of taxing State banks, that it was better to leave it where all other taxes are left and where the necessary machinery may be provided, assessors' returns, collectors, &c., in the internal revenue bill. I

trust, therefore, that the Senator will not incur the bill with his amendment.

Mr. WILSON. With these assurances I will withdraw the amendment; but if I believed that it would not be adopted by the Senate I certainly would not consent to support this system. It seems to me to be increasing the circulation of paper money instead of diminishing it.

The PRESIDENT *pro tempore*. The Senator from Massachusetts withdraws his amendment to the amendment, and the question returns to the last branch of the amendment offered by the Senator from Wisconsin.

Mr. DOOLITTLE. In that amendment as it stands, there are several blanks which have not been filled. I do not propose to take up the time of the Senate by now offering to fill those blanks, and for the present I will withdraw the amendment. I may offer it at some subsequent time.

Mr. SHERMAN. The Senator from Maryland [Mr. JOHNSON] moved to reconsider the vote of the Senate the other day on the amendment offered by the Senator from Michigan, [Mr. CHANDLER,] and I should like to have that motion to reconsider disposed of now. I will state that after a conference with some Senators who favored that amendment, I have drawn an amendment that will probably be satisfactory and carry out the object of the Senator from Michigan. I trust that the motion to reconsider will be disposed of now.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Maryland to reconsider the vote of the Senate on the amendment proposed by the Senator from Michigan.

Mr. GRIMES. Let that amendment be read. The Secretary read the amendment, in section thirty-one, lines twenty-five, twenty-six, twenty-seven, and twenty-eight, to strike out the following words:

St. Louis, Louisville, Chicago, Detroit, Milwaukee, New Orleans, Cincinnati, Cleveland, Pittsburg, Baltimore, Portland, (Maine,) Albany, and San Francisco.

Mr. GRIMES. I ask for the reading of the substitute that the Senator from Ohio proposes.

Mr. SHERMAN. The substitute that I now offer goes upon the supposition that these cities will be restored to the places in which they stood in the bill, and with that explanation Senators will understand the amendment. The amendment that I send to the Chair is an amendment to the thirty-second section of the bill, another section.

The PRESIDENT *pro tempore*. Then the question will first be put on the motion to reconsider. The motion was agreed to.

The PRESIDENT *pro tempore*. The question now returns on the adoption of the amendment proposed by the Senator from Michigan.

Mr. CHANDLER. I withdraw the amendment.

The PRESIDENT *pro tempore*. It requires the unanimous consent of the Senate. The Chair hears no objection, and the amendment is withdrawn.

Mr. MORGAN. I move to insert in the twenty-eighth line of the thirty-first section, after the word "and," the word "Buffalo." I believe there is no objection to it, if the system is to prevail.

The amendment was agreed to.

Mr. SHERMAN. I now offer an amendment to strike out all of section thirty-two after the enacting clause down to and including the word "par," in line five, in the following words:

That each association shall select, subject to the approval of the Comptroller of the Currency, an association in either of the cities named in the preceding section, at which it will redeem its circulating notes at par.

And to insert in lieu thereof:

That each association organized in any of the cities named in the foregoing section shall select, subject to the approval of the Comptroller of the Currency, an association in the city of New York, at which it will redeem its circulating notes at a rate of exchange for all cities west of the Alleghany mountains not exceeding one fifth of one per cent., and for all cities east of the Alleghany mountains at par; and each of such associations may keep three fifths of its lawful money reserved in cash deposited in the city of New York. And each association not organized within the cities named in the preceding section shall select, subject to the approval of the Comptroller of the Currency, an association in either of the cities named in the preceding section, at which it will redeem its notes at par.

Mr. JOHNSON. I ask the honorable member from Ohio to explain exactly what the purport of that amendment is. I am not sure that I understand it.

Mr. SHERMAN. Perhaps I had better ex-

plain it, as Senators will then understand it better than by the reading of the formal amendment.

It was manifest from the vote of the Senate the other day that it was their desire to have a uniform redemption, so that this will be a uniform national currency. The banks everywhere being directly or indirectly compelled to redeem in New York, their notes will be at par, or nearly par, everywhere, with only the difference of the expense of transporting the notes from one region of country to the other. If my amendment prevail, all the country banks, as they are called, may redeem at either of the cities named in the thirty-first section; that is, the cities of St. Louis, Louisville, Chicago, Detroit, Milwaukee, New Orleans, Cincinnati, Cleveland, Pittsburg, Baltimore, Philadelphia, Boston, Portland, (Maine,) New York, Buffalo, Albany, and San Francisco. The place of redemption is to be first selected by themselves, with the approval of the Comptroller of the Currency. But each association in these centers of redemption must redeem its notes in New York. For the cities lying west of the Alleghany mountains they can be allowed not to exceed the rate of one fifth of one per cent., but for all east of the Alleghany mountains they must be redeemed in New York at par. The effect would be that a bank, say in Maine, might redeem at Boston or Portland, whichever it selects; but Portland and Boston, Philadelphia and Baltimore, Cincinnati and St. Louis, and all the cities named here, must redeem in the city of New York. This is a very severe operation upon the banks; but as Senators expressed by their votes the other day their desire to have this uniform redemption, after consulting with the Comptroller of the Currency and the Secretary of the Treasury, I have prepared this amendment, carrying out that general desire.

Mr. DOOLITTLE. I will inquire whether the country banks themselves are required to redeem at par in any one of these places.

Mr. SHERMAN. They are compelled by this amendment to redeem at one of the centers named in the thirty-first section.

Mr. DOOLITTLE. At par?

Mr. SHERMAN. Yes, sir, at par. In addition to the clause I have drawn there is the following language in the same section:

And the Comptroller shall give public notice of the names of the associations so selected at which redemptions are to be made by the respective associations, and of any change that may be made of the association at which the notes of any association are redeemed. If any association shall fail either to make the selection or to redeem its notes as aforesaid, the Comptroller of the Currency may, upon receiving satisfactory evidence thereof, appoint a receiver, in the manner provided for in this act, to wind up its affairs: *Provided*, That nothing in this section shall relieve any association from its liability to redeem its circulating notes at its own counter, at par, in lawful money on demand.

Mr. FESSENDEN. I will ask the Senator why he cannot change his amendment so as to make it meet substantially the vote of the Senate before, and provide that these banks in these several centers of redemption shall redeem either at New York, Philadelphia, or Boston. It would accommodate more, and I think would be very much more satisfactory to the different regions of country, and answer the purpose as well. Take, for instance, the New England banks. It would be very much better for them if they could redeem in Boston.

Mr. SHERMAN. Under the operation of this amendment, all the banks in New England could redeem in Boston at par, or in Portland. Those places are so near together, and Boston is so convenient of access, that probably it would be better that Portland should be stricken out, and then they would be compelled to redeem in Boston at par. But if these places are made centers of redemption, if they are claimed to be so important in their communities as to be centers of redemption where the local banks must redeem their notes, they ought certainly to redeem somewhere else.

Mr. FESSENDEN. I have no objection to redeeming in Boston.

Mr. SHERMAN. Then Portland should be stricken out as one of the centers of redemption.

Mr. FESSENDEN. It is not necessary to do that.

Mr. SHERMAN. If Portland is kept in as a center of redemption for the banks of Maine, then certainly Portland ought to redeem in New York.



Mr. COWAN. Is there anything in the bill to prevent a bank in Maine from redeeming in San Francisco?

Mr. SHERMAN. Oh, yes.

Mr. FESSENDEN. Unless the Senator will agree to establish the centers of redemption according to the vote of the Senate the other day I am not prepared to say that I would agree to it; but this proposition to make them all redeem in New York has taken me by surprise. I think perhaps the Senator had better let this particular amendment lie over until to-morrow so that I can look into the matter.

Mr. SHERMAN. I have no objection. I simply desire to carry out the wish of the Senate.

Mr. JOHNSON. The effect of this amendment is to make Philadelphia, Boston, and all these other places subsidiary to New York.

Mr. FESSENDEN. I do not know but that would be the best way; but, as there is no probability of finishing the bill to-night, I should like this amendment to lie over that I may look into it a little.

Mr. JOHNSON. The western trade is now carried on considerably with Baltimore and Philadelphia, and their balances are there, and they would prefer to have their money there.

Mr. GRIMES. That is but a small portion of the western trade.

Mr. JOHNSON. Certainly most of the business of New England is done in Boston, and not in New York.

Mr. SHERMAN. Any bank in New England can redeem at Boston, except only the banks of Portland. If Portland is stricken out of the centers of redemption, they may redeem also at Boston.

Mr. FESSENDEN. It involves a little more responsibility just at this moment in reference to my own city than I am willing to take without further consideration. I hope, therefore, the amendment will go over until to-morrow.

Mr. SHERMAN. I have no objection. I withdraw it for the present. I will ask that it be printed.

The PRESIDENT *pro tempore*. That order will be made, unless there be objection.

Mr. COLLAMER. I have two or three amendments that I wish to present that will not occupy much time. It will be observed, in the first place, that this measure provides that the bills issued by these banks shall be received by the Government upon all debts due to Government except duties on imports. In the next place, it provides that these notes shall be payable on all claims on the Government except for interest on the public debt. If I to-day present a bill for one thousand or ten thousand dollars to the bank and demand payment, and they do not pay me in currency, and I go to the Secretary of the Treasury and deposit it there, it becomes a debt upon the Government, and the Government are bound to pay it. It will be observed that when this becomes a debt upon the Government it is to be paid in these same currency notes; so that if I present my money at one bank and they will not pay me, I go to the Treasury and they pay me in another bank's paper, and I go and present that, and they do the same all the way around. In order to correct that, in section twenty-three, line thirteen, after the words "except interest on the public debt," I move to add the words "and in redemption of the national currency;" so that it will read:

And also for the salaries and other debts and demands owing by the United States to individuals, corporations, and associations within the United States, except interest on the public debt and in redemption of the national currency.

Mr. JOHNSON. I ask the member from Vermont to say in what manner the national currency is to be redeemed under that exception? In gold and silver?

Mr. COLLAMER. I will endeavor to explain. I fancy it has in some measure escaped the notice even of Senators themselves that we have two sorts of currency now provided for, to say nothing about coin. In the first place, we have a national currency. That consists of the notes that these banks issue. Then we have another currency which is called in our law lawful currency. Lawful currency consists in Treasury notes; national currency consists in these bank notes. Now, as it stands, our national currency is not lawful currency. Our national currency is these bank notes.

Our national currency consists of these bank notes; our lawful currency consists of the Treasury notes. The Treasury notes which the nation issues are not the national currency, they are the lawful currency. The result of the jumble is, that the national currency of this country is not the lawful currency, and the lawful currency of this country is not the national currency; the currency issued by the nation is not the national currency. If this is borne in mind—for this is the way it stands in our law—the amendment which I propose will be readily understood by the Senator from Maryland. The paper of these banks we here engage to receive for all debts due to the Government, and we say it shall be payable out on everything due by the Government. As the clause now stands, without my amendment, if these bank notes are not paid by the bank issuing them, and therefore become a claim on the Government, they would be liable, like all other claims on the Government, to be paid in these bank notes. Then the effect would be what I before stated: I go to the bank and they refuse to pay me, and I come to the Treasury for my pay, and I am there paid in the notes of some other bank of the same kind. I then go to that bank and they will not pay, and I come back to the Treasury and they pay me again in the paper of some other national bank. We never can get a redemption in this way, even in lawful currency; and hence it is that I propose to insert here that this bank paper, which is called national currency, when we want to redeem it, and the claim comes upon the Government to redeem it, shall be redeemed in lawful currency.

Mr. SHERMAN. Lawful money.

Mr. COLLAMER. Lawful money. The gentleman has got another refinement and another additional distinction. This just compounds the proportion and makes it a little more algebraic than it was before. Simply by inserting words providing that all these notes shall be paid out on all claims by the Government, except in the redemption of the national currency my object will be attained. That will prevent redeeming this national currency with national currency, and will require the Government when it has occasion to pay the national currency that the bank issuing it does not pay, to pay it in lawful currency or lawful money. That is the only effect of my amendment; and unless gentlemen really wish to keep up a sort of double dealing, a sort of thimble-rigging all the while, they will adopt my amendment. If they desire to keep an everlasting thimble-rigging on the nation, they will reject it.

Mr. JOHNSON. The doubt I had was whether it would compel the United States to pay in coin.

Mr. COLLAMER. No; that is not the effect. It is only to prevent their redeeming it with this same kind of paper.

Mr. JOHNSON. Then it is to allow them to redeem it with Treasury notes.

Mr. COLLAMER. Yes, sir.

Mr. SHERMAN. It seems to me that the criticism of the honorable Senator from Vermont is hypercritical. The distinction between the different kinds of money is drawn by the law. Greenbacks are called "lawful money of the United States." That is the name given to them by the law of 1862, and that lawful money is made a legal tender. The notes issued under this act are called national currency. It is necessary always to have descriptive words to describe the different kinds of currency, and therefore all our bonds are by law or by popular designation given a particular name. If anything, a child or a dog or a currency, goes out, it has a name given to it either by its parents or by the people generally. The people have designated the various forms of bonds by the name of five-twenties, ten-forties, and so on. The law of 1862 called the paper issued by the United States "lawful money." That designation is given to it, and we now speak of it every day in common parlance as "lawful money." The Senator did not think it was lawful money, because he thought Congress could not make it a legal tender, and could not therefore invest it with the capacity of lawful money; but still it is lawful money, used and taken and called and named everywhere as lawful money. The bills issued by the banks under this act are called "national currency" in contradistinction from "lawful money," and the act provides that this national currency may at any moment be converted into lawful money.

But the Senator has found a possibility, a remote contingency so far off that I should think it required a great amount of acumen to discover it. He first assumes that a bank has failed and refuses to pay its bills, and the United States assumes payment, and a bill is finally presented to the United States for payment, and then he says that the United States may use the bank bill of some solvent bank under this system to pay this broken bank bill. Suppose it does. The very moment that national currency is not redeemed in lawful money, according to the terms of this act, the bank is closed, wound up, and the currency thus dishonored cannot be used for any purpose. The provisions of the law provide for its cancellation, for its redemption within thirty days. It cannot be used. The very moment the bank breaks and fails to redeem its paper, that moment, or as soon as it is legally ascertained, the Comptroller must appoint a receiver. The receiver seizes upon the assets and converts the assets into lawful money of the United States, lifts and takes up all this national currency, and in the mean time the law provides that the United States itself will redeem it. For the redemption of this paper money the United States has a lien, first upon the bonds of the United States in the vaults of the United States Treasury, next upon all the property of the bank, next it has the individual liability clause, so that it seems to me this remote contingency is scarcely worth guarding against, and it might only embarrass the Government by preventing the Government from paying out the notes of a solvent bank, a money-paying bank, in redemption of the notes of a bank that is broken.

If this bill is a success I have no doubt that within a very few years after the war is over there will be no currency but national currency and gold and silver coin. That is the idea of the Secretary of the Treasury, who, you may say, is the father of this system. For reasons that I will not now discuss, he believes that money issued directly by the Government as a circulating medium cannot be always kept at par, but that a currency resting for its basis upon the stocks of the United States, which the banks are bound to redeem in lawful money of the United States, will more speedily enable him to resume specie payments, and he hopes by the aid of these organizations, after peace shall have come—because we cannot expect to resume specie payments during a time of war—that lawful money, as it is called, of the United States, the notes of the United States, will be funded and retired, and nothing will be left except this national currency and gold and silver coin. The contingency which is sought to be provided for by the honorable Senator is too remote, it seems to me, to give any cause for alarm.

Mr. COLLAMER. It was not necessary for the purpose of answering my argument fairly to try to prejudice it because I made it. The Senator could have answered it on its merits. He has, however, undertaken to inform the Senate that I did not believe in the tender clause. What for? Is that pertinent to the question? Not at all. It is done to prejudice me. It is saying, "You were against the tender clause, and what you say on these questions ought not to be regarded." The allusion could have been made legitimately for no other purpose. I take it, however, that my proposition of amendment is not to be prejudiced much in that way before the Senate. Here I would observe to the Senator from Ohio, that it would be very well if he had in supporting this bill understood the various parts of it and their relation to each other, so as to preserve its consistency in some way. If gentlemen will turn to page 41 they will perceive that the men who carefully considered and drew this bill did not think this such an impossible contingency that it might not be guarded against, for it is there provided that if a man has presented to the Treasury a note of one of these banks which is not paid by the bank, "thereupon the Comptroller shall immediately give notice, in such manner as the Secretary of the Treasury shall by general rules or otherwise direct, to the holders of the circulating notes of such association to present them for payment at the Treasury of the United States, and the same shall be paid as presented in lawful money of the United States."

The Senator says my amendment might embarrass the Government and prevent its paying out the bills of good banks, when in this very act

it is provided that the payment shall be made in "lawful money," and it is merely to conform the different parts of the bill to each other that I have proposed the amendment. I simply propose to say, in the forefront of the bill, on the 20th page, that this paper which is called national currency shall not be used in redeeming national currency, that it shall not be used to redeem itself, that it shall not be redeemed except in lawful money, as the bill provides in the latter part of it. My proposition is simply to conform the different parts of the bill to each other, to make it consistent with itself. I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 23, nays 12; as follows:

**YEAS**—Messrs. Buckalew, Carlile, Clark, Collamer, Cowan, Dixon, Doolittle, Foot, Foster, Grimes, Henderson, Johnson, Lane of Indiana, Lane of Kansas, Morrill, Powell, Richardson, Riddle, Saulsbury, Trumbull, Wade, Wiley, and Wilson—23.

**NAYS**—Messrs. Anthony, Chandler, Conness, Fessenden, Hale, Howe, Ramsey, Sherman, Sprague, Sumner, Van Winkle, and Wilkinson—12.

**ABSENT**—Messrs. Brown, Davis, Harding, Harlan, Harris, Hendricks, Hicks, Howard, McDougall, Morgan, Nesmith, Pomeroy, Ten Eyck, and Wright.

So the amendment was agreed to.

**Mr. COLLAMER.** I now propose this amendment, to come in at the end of section twenty-three:

Every association formed or existing under the provisions of this act shall take and receive at par for any debt or liability to said association any and all notes or bills issued by any association existing under and by virtue of this act.

This is simply to provide that all the associations formed under this act shall receive each other's bills in payment of any debts or claims due them. It does not require them to take on deposit or redeem each other's bills, but simply that they shall receive them in payment of debts.

**Mr. SHERMAN.** I have not the slightest objection to the amendment, but I desire to know where it is to be inserted.

**Mr. COLLAMER.** I propose to put it at the end of the twenty-third section, but I have no choice as to the place where it shall come in.

**Mr. SHERMAN.** I prefer that it should come in at the end of section thirty-two, which provides for redemption.

**Mr. COLLAMER.** Very well, I will propose to put it there.

**Mr. SHERMAN.** It should be preceded by the words "and provided further, that."

**Mr. COLLAMER.** I so modify it.

The amendment was agreed to.

**Mr. COLLAMER.** I offer this amendment to follow the one just adopted:

*And provided further,* That every association which shall be selected and designated as receiver or depository of the public money, shall take and receive at par all of the national currency bills, by whatever association issued, which have been paid to the Government for internal revenue, or for loans or stocks.

The Secretary of the Treasury is authorized by the act to designate such of these banks as he shall select as depositories of the public moneys received for taxes, &c. I want to provide that these depository banks shall take all such money as the Government takes, and therefore I have offered this amendment to effect that purpose.

**Mr. SHERMAN.** That is undoubtedly correct, and I think it is already substantially in the bill; but I prefer that it should be attached to the section authorizing deposits.

**Mr. COLLAMER.** I have no choice about the place. The Senator can select his own place.

**Mr. SHERMAN.** Let it be inserted at the end of section forty-five.

**Mr. COLLAMER.** Very well.

The amendment was agreed to.

**Mr. COLLAMER.** I have another amendment, to come in after the word "deposits" in the ninth line of the thirty-first section:

And one half of the coin received by each association from the Treasury for interest on its bonds shall by such association be kept, held, and sequestered as a part of the amount of money required so to be kept on hand, until the full amount is composed of coin, which shall so remain until specie payments shall be resumed.

All gentlemen speak of the institution of these banks and the redemption of their notes in what is called lawful money as a temporary matter, all looking to a condition of things in which there shall be a specie redemption; that is, when these bank notes shall be convertible into specie. I look to that, and hope that will some time or other happen. I speak of the banks because

they are already established by law. But it seems to me it would be well to make some little preparation for such an event, to prepare the way to commence again the convertibility of our currency into specie. It is with a view to that that I have offered this amendment.

These banks receive from us six per cent. interest in gold annually on their bonds, the payments being made semi-annually. My proposition is not to require these banks to buy any gold in order to prepare themselves for an ultimate specie redemption; but the bill provides that each bank in the small country towns shall keep a capital of fifteen per cent. on hand and the city banks twenty per cent. over and above and beyond their bonds which make the body of their capital; and inasmuch as that percentage is to be kept, and of course to be kept useless, for the bill says they are to have that much on hand all the time, and of course it is to remain on hand as an ultimate responsibility and not for present use, I desire that they shall keep some of the gold which they receive from the United States on their bonds in aid of that fifteen or twenty per cent. fund until they make up that whole amount in gold, and that then they shall retain it in gold as a reserved fund to meet an ultimate prospect of coin redemption. I propose that they shall keep one half of the gold that they receive from the Government toward this reserved capital until they make up the whole of that capital, and that then they shall continue to reserve it until specie redemptions are resumed.

I am not very tenacious about providing for keeping one half. If gentlemen think it any better or kinder to them to say that they shall keep one fourth of that money until they make up their reserved fund, I have no particular objection. I think they might keep one half. It costs them nothing. True, they cannot make so much by dealing in that gold, selling it out and buying it in over and over; but as they receive it from us for interest on their bonds, and inasmuch as they have got to keep a reserved fund on hand, I desire, and I believe it would be a sound policy, and would help the currency of these banks themselves, to require them to keep a portion of the gold they receive from the Government to make up that fund.

**Mr. SHERMAN.** I am really desirous to accept every proposition submitted by the honorable Senator that I think will not defeat the object of the bill; but I think this would be a provision so onerous as to defeat the system. Suppose the Senator had in his possession \$100,000 of bonds, on which by law he was to receive \$6,000 in gold every year, exempt from State taxation, free from all liability to State governments, liable only to the tax imposed by this Government on its own securities, I ask him whether he would care to invest that money in a banking system when he would be compelled, in the first place, to pay all the local taxes that he might be assessed on almost an equal amount of currency issued on the bonds; whether he would be willing to pledge those bonds as security for circulating notes; whether he would be willing to run the risk of the assessment of taxes, the risk of banking, and yet be compelled to lay aside one half of the gold received as interest to lie idle in the vaults of the bank? It seems to me it would defeat the system. It can hardly be expected that this national currency should be made better than our lawful money issued by the United States. It cannot be required to have any more safeguards or sanctions than we impose ourselves on our lawful currency. To require one half the interest to be set aside to lie idle as a fund, it seems to me would be very harsh, and would prevent men from embarking in this business.

When specie payments are resumed in this country it will be by the gradual approach of our lawful paper money to the standard of gold and silver. For instance, if General Grant, and the other generals who are acting under him, should have gained this week a great and glorious victory, and our armies should everywhere be victorious along the whole line, that fact alone would make our lawful money approach the value of gold and silver. Suppose that to-morrow in consequence of such a series of victories peace should be proclaimed in this country, and a united and happy country should again commence its history with even a large debt of \$2,000,000,000,

who does not know that our lawful money would at once come up very nearly to the standard of gold and silver? But when that lawful currency is reduced and funded, as it would be gradually by the operation of self-interest, by being converted into interest-bearing bonds instead of being simply used as a currency from hand to hand, who does not know that that would bring us back to specie payments? It cannot be done suddenly, nor can we fix a day on which it shall be done, nor will it be done by laying aside little three per cents of gold. It will only be done when the march of victory, when success shall have given us a country able to bear the necessary taxation and able to bring our paper money up to the standard of gold and silver. It seems to me that the immediate effect of the amendment proposed by the Senator from Vermont would be directly contrary to what he desires. He wishes to promote the speedy resumption of specie payments. So do we all. But I ask him whether the accumulation of this gold in the banks of the United States at the rate of \$9,000,000 a year, laid aside, accumulated, and withdrawn from circulation, reserved beyond the power of use, will not be likely to make gold scarce? We all suppose that the natural tendency of the hoarding of gold is to raise its value. Is not that the Senator's idea? It seems to me that I have heard something like that from him. We know that the natural tendency of the day, hoarding gold in the vaults of banks and the pockets of individuals, tends to raise the price of gold. Why? Because a certain amount of gold is absolutely necessary to pay the interest on the public debt and for other purposes, and the very moment you diminish the stock of gold that can be used for these purposes you raise its value and consequently put off the time of resuming specie payments. If your law provided for an accumulation of gold at the rate of \$9,000,000 a year, because three per cent. on \$300,000,000 would be \$9,000,000 a year, you would withdraw that gold from the ordinary currency of the country toward the payment of the interest on the public debt; you would hoard it up, and at the same time you require those persons who have to pay your duties on imported goods to pay in gold; and if you add to the accumulations already held by the banks the accumulations recently held by the United States Treasury, it seems to me you defeat the very purpose of the amendment.

The better way is not to depend upon these little reserves, this hoarding of gold in the banks, for the purpose of securing specie payments, but rather to depend on the victory of our arms, the success of our cause, the restoration of the Union, those great public facts which will unlock the bags of the miser and will pour out from the vaults of your banks the accumulated gold that is hoarded by cowardice and fear; and certainly in organizing a system which I hope will lead to the resumption of specie payments sooner than the present system, I would not provide for the accumulation of gold in the vaults of the banks; I would make gold free as air, circulate it as broadly and as readily as possible, in order to expedite that time when gold and paper may stand on a footing of perfect equality, when the debt of the United States may be funded, I trust, at a low rate of interest, and when the national currency which is provided for by this bill may fill that vacuum in our country which has not been filled for many years; when we may have a national currency convertible everywhere, in one part of the United States as in another, redeemable everywhere, based upon public securities, the faith of the nation, redeemable in gold and silver wherever presented. Certainly, in order to lay the foundation for that "good time coming," I would not require these banks to hoard in their vaults beyond the power of use the specie of the country, thus making a demand for that which is absolutely necessary for the legitimate wants of commerce.

**Mr. CHANDLER.** I move to amend the amendment of the Senator from Vermont by adding to it the following:

*Provided further,* That every State bank and individual banker shall be compelled to hold and retain one half of the specie received for interest on Government bonds, until the resumption of specie payments.

I want to perfect the Senator's proposition.

**Mr. COLLAMER.** If the Senator can contrive any way to execute his, I shall not object to it.

Mr. CHANDLER. It is as practicable as the Senator's.

Mr. COLLAMER. There is no way of executing that; the other we have power over.

Mr. CHANDLER. It will be equally unjust to both; but if it is to be applied to the national banks, I want it applied to all banking institutions, so that there shall be equality.

Mr. COLLAMER. In the one case we have control over the institutions; in the other we have not. In relation to my amendment, I do not want to occupy much time; I do not suppose there is any possibility of its being adopted when the committee are opposed to it, but I will say a single word for it.

The Senator from Ohio says it is requiring the banks to keep money without any use for it. We require them already to keep fifteen per cent. or twenty per cent. on hand, and not use it. That is the provision of the bill. This amendment therefore does not require them to keep any greater amount on hand than the bill now compels them to keep. The result will be that instead of the whole fifteen or twenty per cent. being in greenbacks, the gold they put into that fund will relieve just so many of their greenbacks for use. It is therefore no burden to them. As to its lying idle, I require nothing more than the bill does, so that that argument has no application. Is it supposed that the small amount of gold set apart in this way will affect the currency of the country? Is it desirable that it should be understood by the country that these banks are to have nothing else but their greenbacks and national bonds, that they are not to have any gold, that they are to make no preparation for ultimate redemption in gold, and that we will do nothing calculated to make them do so? Do we want to keep them irresponsible except in a paper currency which we think so valuable? I do not see the wisdom or propriety of it, and I persist in my amendment.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Michigan to the amendment of the Senator from Vermont.

The amendment to the amendment was rejected.

Mr. JOHNSON. I move to amend the amendment of the Senator from Vermont by reducing the proportion from one half to one fourth.

Mr. COLLAMER. I suppose I am at liberty to accept that amendment?

The PRESIDENT *pro tempore*. The Chair thinks not, the Senator's amendment having already been partly acted on; but it can be modified by unanimous consent.

Mr. COLLAMER. I wish to accept the modification.

The PRESIDENT *pro tempore*. The Chair hears no objection, and the amendment is so modified.

Mr. CHANDLER. I object to all discriminations between the national banks and other banking associations or private bankers. Take the First National Bank of the city of New York, with a capital of \$5,000,000, and the proposition as first offered, reserving one half, at the price of gold to-day would deprive that bank of \$105,000 premium on the gold which it might sell, and throwing such an amount of coin upon the market would depress its price. It is perfectly understood that after the close of this rebellion, or as soon as the world shall have become satisfied that the Government is to stand, capital from abroad will rush in here for the purchase of our securities, because we pay a higher rate of interest than any other nation on the face of the earth. Satisfy the world to-day that Grant has won a substantial, decided victory, and it will not be ninety days, it will not be thirty days before money will be coming over in millions to be invested in securities that will pay five or six per cent., when they can only get two or three per cent. on the other side of the ocean. Why compel these banks to hold gold to the detriment of the Treasury, to the detriment of the nation, when they can sell it at seventy per cent. premium and buy it back at five within six months? Why compel them to submit to that loss? It is essentially wrong. You do not compel individuals, you do not compel the State banks to do this. Why compel the national banks to do it?

Mr. HENDERSON. I hope that this amendment of the Senator from Vermont will be adopted if it be only for the purpose of getting the word

"coin" into this bill. I sincerely desire that it shall appear somewhere in the measure. And now, as an answer to the argument made by the Senator from Ohio to the proposition moved by the Senator from Vermont, that if General Grant gains a victory the greenbacks will be worth equally as much as coin, I oppose this proposition, that if the greenbacks shall rise to be worth as much as coin it will be just as easy for these national banks to keep the whole reserve in coin as to keep it in greenbacks. Why not keep then the whole fifteen or twenty-five per cent. required in the bill in coin, because there is no difference between coin and greenbacks; and if we desire that there shall be "coin" in this bill if it passes, why not require the banks to keep it? If the two are not equal in value, it is one good reason why they should keep a part in coin, so that the object intended ultimately, I presume—specie payments—shall be brought about in the country as speedily as possible; and as I have just said, if they are equal in value it is as cheap to the banks to keep the coin needed, every cent of it, as it is to keep the greenbacks. I think I demonstrated the other day that this reserve is totally inadequate to the redemption of the paper anyhow. The idea of fifteen per cent. of immediate liabilities, circulation and deposits, being a sufficient reserve fund to meet the payments of a bank, I say is a thing really out of the question.

Now, the idea of having no coin on hand, and making no arrangements for the future acquisition of coin, is perfectly outrageous. The idea of specie resumption, the idea that a day will come when specie resumption can be had under a bill of this kind is certainly foreign to the mind of any man who will look at it for a moment. I shall vote for the amendment in order to get the word "coin" into this bill in some way. I really think we ought to use it so as to signify to the world that the people of the United States have not forgotten that a paper circulation is worthless unless it is redeemable in coin.

Mr. SHERMAN. I did not wish to reply to what the honorable Senator said on Friday until I saw it in print. It pained me excessively. He was not attacking simply the currency of the country, the national currency of these banks, but he attacked the public securities in a way that, whatever he might think of it, was exceedingly harsh and offensive to me. I do not intend to reply to what he said until I see it in print. I know that was the effect on all of us. We are endeavoring to make this national currency as good as lawful money of the United States. He may be able to show that our lawful money is now depreciated; he may be able to show that our bonds are worth only fifty-seven or fifty-eight cents in gold; he may repeat all these facts about our national credit, in defense of his own State institutions, the notes of which are certainly not as good as either greenbacks or national bonds. He may talk about "coin" not being in this bill, and about our purpose to exclude coin from the bill. He is entirely mistaken. I do not wish to reply to his speech until I see it in print, because I prefer to have precisely his words before me.

I have replied to the Senator from Vermont upon the merits of this proposition, not wishing to go into collateral matters. I again repeat, why require these banks to lay aside a portion of the interest which the Government pays to them? That interest is not paid to them for the benefit of these circulating notes; that interest is their interest, which they are entitled to under the law, which you have pledged to them, which you have secured to them as against the States and against State taxation. Why should they not have this interest? Why should not the banks who own these bonds have the full interest of the bonds? There is no reason why they should not. The amendment will tend to cripple the operations of the system, but the Senator from Vermont says that this gold can be used as part of the reserve fund, but under the language of his amendment it cannot be used for any purpose.

Mr. COLLAMER. Neither can any of the reserve fund.

Mr. SHERMAN. The reserve fund may be paid in and out; it is a floating reserve fund. A large portion of it may be in New York. All that the bill requires is that the fund on hand shall be so much. It is not always required to be the same identical money. Sometimes it may be in the form of a draft on the city of New

York; sometimes it may be in the form of bills on a bank in Boston; sometimes in one form and sometimes in another. This reserve fund is kept there on hand, but it assumes various forms, it changes and modifies; but here you take the gold, the identical pieces, you put them in a vault, you exclude them from the national currency, you exclude them from the volume of gold and silver coin, you hoard them precisely as a miser does. It seems to me the thing is very different. This gold coin, under the amendment of the Senator from Vermont, cannot be used for any purpose, even to pay their own bills, under the language of his amendment. I think, therefore, it tends to cripple these banking associations without doing any good.

Mr. HENDERSON. I desire to say one word simply in answer to what has been said by the Senator from Ohio in reference to my depreciating the credit of the United States in the remarks I made last week. I am not disposed to rest under a charge of that sort. The Senator makes the charge and then says he will wait until he sees my printed remarks in order to ascertain whether the charge is true or not. I made no attack upon the credit of the United States. If anything which I said can be tortured in that way, I simply say that I did not intend any such thing, and I hope this statement will be perfectly satisfactory to the Senator from Ohio and to others. I am aware that I spoke hurriedly, rapidly, and without time to select the language that I used; but I did not intend to make any attack upon the credit of the United States, nor to depreciate their bonds. I am aware that when any Senator makes an objection to a measure in this body it is very easy to say that he is against the best interests of the country. We are required to swallow down everything without making a grimace, we are required to take for granted everything that is presented to us here, or else the accusation is made that we are trying to decry the credit of the United States, that we are attempting to do something that is prejudicial to the best interests of the country. I apprehend that I am just as anxious to maintain the credit of the country as is the Senator from Ohio. I am just as anxious to see this rebellion put down as the Senator from Ohio. I am just as anxious to see General Grant march into Richmond and over every inch of territory of the soil of the seceded States as the Senator from Ohio. I think the Senator has done me a very great injustice in the remarks he has seen fit to make.

As to his remark in reference to the credit of the institutions in my State, I care nothing. I can tell him that the banks of my State to-day are ready to redeem in coin every dollar of their circulation; they could do it to-day with a repeal of the legal-tender law of Congress. I do not ask that it be done; I have not made such a proposition; I voted for the legal-tender law. There is a very large amount of coin on hand in the banks of the State of Missouri; but I am not here to vindicate them. I wish the Senator would permit us to require a reserve fund in these national banks equal to one tenth part of the coin in the banks of the State of Missouri according to their circulation. The proposition of the Senator from Vermont, as modified by the Senator from Maryland, does not now give that one tenth part; and yet the Senator from Ohio objects to it. I care nothing about his slur on those institutions; I am not defending them; this is not the appropriate time to do it; and therefore I let that pass. But, sir, I do not intend, without saying aught against the insinuation, to permit the Senator to insinuate that I am attempting to depreciate the bonds of the United States. Does not the Senator know that the bonds of the United States are not worth dollar for dollar in gold? And is it disloyal to say so? We had better comprehend the fact and go to work to elevate the bonds of the United States, to appreciate them in the market, and adopt a system of financing that will do so. I am not prepared to do it; I am aware that my abilities are not sufficient to enable me to do it; but when a measure is presented here which is calculated to flood the country with an irredeemable circulation, and I propose some amendments to it which I think will benefit the country, will improve the bill, I do not think it is altogether charitable in the Senator to insinuate improper motives on my part.

Sir, I am willing to let the bill go; let it be



passed, and its miseries will demonstrate the truth of what I said the other day. You will never make a circulation that is worth a cent under this law. It will never benefit Mr. Chase, the Secretary of the Treasury; it will never enable him to make a loan. It will never enable the people of this country to enjoy a sound circulating medium; but it will bring the same distress that the banking systems of days gone by did which were based entirely on public credit. I am not *per se* a bank man. I know no reason for the issue of a circulating medium in the shape of paper except for its convenience. The paper dollar ought to be the representative of a gold dollar, and the country that under the plea of necessity violates that rule, in the end suffers; and the Senator from Ohio is young enough yet to live to see that day. He will find that his own pet measure will bring upon the country the distress that has always been brought upon every civilized nation that adopted a system of this character.

Mr. SHERMAN. Mr. President, I certainly do not desire to do the Senator from Missouri injustice, but he has now repeated substantially the remark which I said gave me great pain. I do not desire to wound the feelings of the honorable Senator, and therefore I would have made no allusion to it but for his remark. He substantially said on Friday that this paper system would not be good, that the bills would not be good, that the people would lose by them, that they were not upon a sure foundation; and he has repeated the remark now that whenever a nation resorted to paper money they would always regret it. He tells us, however, that he voted for the legal tender, he voted for issuing greenbacks, &c. If these bills are not good, it is because the United States is not good. The Senator could not have read this bill without knowing it. Every dollar by this bill is based upon \$1 10 of the securities and promises to pay of the United States; therefore these notes never can fail until the United States fail. Not only that, if these banking associations fail to pay these notes, there is in this bill a guarantee that the United States will pay them. If these bills fail it is because the United States fail to make good that promise. I say, therefore, it is painful for me to hear any one say that a note based upon the public credit, secured more than dollar for dollar by public securities, six per cent. bonds of the United States, and that, too, when that note is indorsed and guaranteed by the United States, is not good.

Mr. HENDERSON. Will the Senator permit me to ask him what the United States agrees to pay in, provided these notes are protested?

Mr. SHERMAN. In the lawful money of the United States.

Mr. HENDERSON. What is the lawful money of the United States? Is it gold and silver?

Mr. SHERMAN. There is the offensive nature of the remark; the gentleman seems to impute that the lawful money of the United States is not the good basis of a promise.

Mr. HENDERSON. Now, permit me to ask the Senator one other question. If the United States should see fit to issue \$600,000,000 more of greenbacks, would greenbacks in the market be worth as much as they are to-day?

Mr. SHERMAN. No, sir; and I say it is the purpose of this system to substitute for greenbacks a paper money which is guaranteed by other guarantees, to have even a better currency than the greenbacks. The purpose of this national currency is to supersede the lawful currency; and why? Because, as the Senator has well said, the history of nations shows that a paper money issued solely upon the faith of a Government, however strong, or however able to pay, will fall below the standard of gold and silver; that no paper money ever will exist equal to the par of gold and silver, unless it is a paper money issued by banks organized under the law of the country, based upon the credit of the country, like the notes of the Bank of England or the Bank of France. But, sir, the remarks of the Senator did seem to imply a want of security in the credit of the United States, and that was what I said gave me pain.

I do not wish to continue this discussion. I desire to confine the debate on these amendments simply to the amendments. I do not look on this as a new scheme; it is a law now, and we simply want to perfect it, and I have therefore declined

to engage in any general discussion of the merits of this bill, but have sought to confine the discussions, as far as I am concerned, simply to the proposed changes in the law, because the law itself has not yet been fairly tried.

Mr. COLLAMER. With the indulgence of the Senate I propose to read a short dispatch from Secretary Stanton:

"Dispatches from Meade and Grant just received. Our army is 'on to Richmond.' Lee in full retreat; and Warren, Hancock, and Sedgwick on his heels."

[Sensation.]

Mr. FESSENDEN. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

MONDAY, May 9, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING. The Journal of Friday was read and approved.

### DIPLOMATIC CORRESPONDENCE.

Mr. FERNANDO WOOD. I ask the unanimous consent to present the following resolution:

*Resolved*, That the President be requested to furnish this House, if not incompatible with the public interests, copies of all correspondence between the Secretary of State since the 1st December, 1863, and Mr. Adams, or Lord Lyons, on the subject of a simulated report and document of the navy department of the so-called Confederate States.

Mr. STEVENS. I suppose that all of this has been contained in the diplomatic correspondence.

Mr. FERNANDO WOOD. This is correspondence which has taken place since the annual report of the Secretary of State. I presume there will be no objection.

The SPEAKER. Does the gentleman from Pennsylvania object?

Mr. STEVENS. I do.

### TREATY-STIPULATION WITH CHIPPEWA INDIANS.

The SPEAKER laid before the House a letter from the Secretary of the Interior, recommending an appropriation to fulfill treaty stipulations with the Chippewas of Red lake and the Pembina Chippewas; which was referred to the Committee of Ways and Means, and ordered to be printed.

### PROCEEDS OF PUBLIC LANDS IN ILLINOIS.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, in answer to a resolution of the House concerning the two per cent. fund arising from the sale of the public lands in Illinois; which was referred to the Committee on Public Lands, and ordered to be printed.

### CAPTAIN REYNOLDS'S REPORT.

Mr. WALLACE, of Idaho, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be directed to communicate to this House a copy of the report of Captain Reynolds's exploration of the Yellow Stone river in 1860, together with the maps and drawings.

### NAVY-YARD OPPOSITE YONKERS.

Mr. PERRY, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Naval Affairs be instructed to examine into the feasibility of the site for a proposed navy-yard on the west side of the Hudson river nearly opposite Yonkers, and to report by bill or otherwise.

### COMMERCE.

Mr. NORTON, by unanimous consent, introduced a bill to protect and promote commerce; which was read a first and second time, and referred to the Committee on Commerce.

### REV. JOHN R. WARNER.

Mr. MOORHEAD, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the use of the Hall of the House of Representatives is hereby granted for Wednesday evening, the 18th instant, to Rev. John R. Warner, of Gettysburg, Pennsylvania, for the delivery of his oration on the battle of Gettysburg, the proceeds of which lecture shall be applied to religious charities.

Mr. MOORHEAD moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

### PRIZE PROCEEDINGS.

Mr. RICE, of Massachusetts, by unanimous consent, introduced a bill to regulate prize proceedings and the distribution of prize money, and for other purposes; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

### DISPOSAL OF COAL LANDS.

Mr. RICE, of Maine, by unanimous consent, introduced a bill for the disposal of coal lands and town property on the public domain; which was read a first and second time by its title, and referred to the Committee on Public Lands.

### MISSOURI CONTESTED-ELECTION CASE.

The House then resumed the consideration of the report of the Committee of Elections in the case of Bruce's Loan from the seventh congressional district of Missouri.

Mr. ELIOT. I have been constrained, Mr. Speaker, to take part in this discussion. Since I have occupied a seat upon this floor I have generally found it safe to yield to the judgment of the Committee of Elections upon questions which they have examined, and I have done so the more willingly because that committee has been constituted ably, and has been presided over by one of my own colleagues in whose judgment I have always been desirous to place great confidence. But I cannot follow that committee here, nor can I consent to be guided now by him. Probably I should have felt disposed to record my vote silently upon the questions involved in the report from this committee; nay, certainly I should have done so if the discussion had closed on Friday before the argument that was presented to the House by my friend and colleague, the chairman of that committee. But, sir, in the course of his argument, under some excitement, and with an emphasis not probably appreciated by himself, he turned toward me and holding this volume of testimony in his hands, felt it his duty to say that he was surprised that any gentleman from Massachusetts could be found willing upon this proof to record his vote in favor of the sitting member from the seventh district of Missouri, and could not understand how, to a Massachusetts constituency, such a vote could be defended.

Sir, since I have been here, my action in Congress has been regarded with more than friendliness by the constituents whom I have endeavored to represent. No gentleman has felt, I am quite sure, more untrammelled in his actions upon all questions than I have been. Indeed, I do not remember that it has occurred to me at any time to put to myself the question, before my name was called from the Clerk's desk, how any vote that I might feel prepared to give would be regarded by those for whom I spoke, because I have felt assured that whether it would commend itself to their judgment or not it would be accorded to me at home that it had been rendered upon deliberate examination and in accordance with my best convictions. If I should find myself voting to make vacant this seat from the seventh district of Missouri upon this evidence, unsatisfactory as it seems to me, inconclusive, partisan-like, resting not upon facts but opinions, upon guess-work, however much my friends at home might be disposed to regret my action, they would, I am quite sure, hold me justified, because they would believe that upon the evidence, studied, examined, deliberated upon by me, I had honestly come to that conclusion. The difficulty, sir, in this case would be that I should feel ashamed of myself.

I listened with as much care as I could to the argument which came from my colleague [Mr. Dawes] on Friday last, and I propose as well as I may in a few sentences to state the argument before I reply to it. I regret that he is not here, for I should be pleased to have any error into which I have fallen corrected on the spot. But yet I believe that I understand distinctly the ground which he assumed. He did not discuss the evidence in the case, but he made an argument which I am free to say, in my judgment, is not justified by the case itself, but which suggests a question that it may be thought best for some gentlemen from some central State to discuss.

It is the duty of the Government to protect the people, to control the rebel in the field, and to control rebels at home. If it be necessary, to protect the ballot-box from attacks by rebel

voters, that the ballot-box, consecrated as it has been said by prayer in the more quiet regions where my colleague and myself reside, should be defended by armed soldiery, it is right, and what the Government has done has been properly done. It is the bounden duty of the Government, where it is needful, to see that the ballot-box is thus defended, as it may have been done in Maryland and in Kentucky and elsewhere perhaps. My colleague found it in his heart to commend fully the action of the Government in that behalf. But in defending the ballot-box against the votes of rebels, who would use bullets and steel instead of ballots if they dared to do so, it shall so turn out that a terror was caused in the community by reason of which masses of men were intimidated or deterred or kept from the polls, then although the Government is to be protected and defended in the discharge of its duty, yet Congress also has its duty, and that is to hold that such an election should be declared void, because it is the object of the Government not to strengthen itself by voters here, but to protect the ballot-box in its purity and to prevent the rebels from assaulting it through the polls. That I understand to be the argument of the chairman of the Committee of Elections.

Now, Mr. Speaker, I have to say that that argument is not justified by the case which we are to pass upon. It suggests a question which I will state but will not discuss, for the case does not call for it, and that question is this: if it be true that it is the duty of the Government to protect the ballot-box against the votes of rebel traitors at home, as it is conceded, as it is claimed, as it is avowed to be, and if all loyal men without regard to their political opinions are free to vote, then whether because rebel sympathizers are deterred from voting by reason of oaths of allegiance which have been required and which their sensitive consciences will not permit them to take, or have been kept from the polls because they have been registered or enrolled as disloyal, or have remained from the polls because of a wholesome fear of anything that might befall them at the hands of loyal men indignant that recorded and registered disloyalists should thrust their traitorous heads into the company of honest men—whether then it be the duty of Congress to declare that such an election shall be vacated is a grave question, not arising in this case, but which, if it shall arise, may probably concern gentlemen upon this floor from the border States.

I do not propose now to debate that question; this is not the case when it needs to be done. But I may say, for it is in my heart to say it, that when that case does present itself, and when, on the facts I have stated, I am called upon on this floor to take part, by vote or voice, as a Massachusetts man, no act or vote or voice of mine shall be withheld that can uphold the arm or strengthen the heart of a loyal Representative.

But the chairman of the Committee of Elections speaks of a great terror which existed in this community! Where does he find the proof of it? It is in the imagination of my friend and not in the case before the House. Why, sir, there was a convention in Missouri in the early part of 1862, and an ordinance was passed, a portion of which I shall refer to. I do not understand that the contestant questions at all the validity of the action of that convention. In the ordinance defining the qualifications of a voter of Missouri there is an oath prescribed which is a pretty strong oath, an oath which loyal men would love to take and rebel sympathizers would not care to expose themselves to:

"I, ———, do solemnly swear (or affirm, as the case may be) that I will support, protect, and defend the Constitution of the United States and the constitution of the State of Missouri against all enemies and opposers, whether domestic or foreign; that I will bear true faith, loyalty, and allegiance to the United States, and will not, directly or indirectly, give aid and comfort or countenance to the enemies or opposers thereof, or of the provisional government of the State of Missouri, any ordinance, law, or resolution of any State convention or Legislature, or any order or organization, secret or otherwise, to the contrary notwithstanding; and that I do this with a full and honest determination, pledge, and purpose, faithfully to keep and perform the same, without any mental reservation or evasion whatever. And I do further solemnly swear (or affirm) that I have not, since the 17th day of December, A. D. 1861, willfully taken up arms or levied war against the United States, or against the provisional government of the State of Missouri. So help me God."

Now, sir, that oath was taken by all men in

Missouri who assumed to vote at the election. That was one trouble in the way of disloyal men.

Then General Schofield, on the 4th of August, 1862, issued an order, which is known as Order No. 24, and which I do not find referred to in the majority report of the Committee of Elections. I shall call the attention of the House to it. The order is to be found in Miscellaneous Document of this session, No. 13, page 62. It first provides that all loyal men of Missouri subject to military duty will be organized into companies, regiments, and brigades, as ordered in "General Orders No. 10, from these headquarters, dated July 22, 1862;" and in the second place, that all disloyal men, and those who have at any time sympathized with the rebellion, are required to report at the nearest military post, or other enrolling station, be enrolled, surrender their arms, and return to their homes or ordinary places of business, where they will be permitted to remain so long as they shall continue quietly attending to their ordinary and legitimate business, and in no way give aid or comfort to the enemy.

Now, Mr. Speaker, if there were any such cause of terror as has been suggested, upon whom would it fall? Certainly not upon the loyal men of Missouri. By organizing the loyal men into militia and the enrollment of the disloyal men, by their own reports, it would be ascertained who in that State at that time were loyal to the Government or sympathized with the rebellion, and had been aiding or abetting Price, the rebel general. During that year, from these counties which are the subject of controversy here, from Buchanan, Holt, Andrew, Atchison, Nodaway, De Kalb, and Livingston, men had gone into the rebel army of Price which was battling against the Government. Some of these men had returned, and they aided the rebels as much at home as they did when they were away from home. And it was for the purpose of ascertaining who in the State of Missouri could be relied on as true to the Government that this order of General Schofield was issued. If anybody was deterred, if there was any terror in the community within the bounds of that congressional district, which is not proved, on whom did it fall? Not on the loyal men of the country. If it be true that there were bodies of men who refused to take the ordinance oath because they could not honestly take it, or who remained away, being enrolled under the order of General Schofield, not caring to expose themselves as rebel sympathizers, as they were, then all I can say is that it seems to me that it was a wholesome fear which ought not to be cast out except by that perfect love for the Union which returning loyalty will inspire.

But, sir, I want to come to an examination of this case, and to see upon what ground it is that a majority of the committee ask this House to say that the seat occupied by Mr. Loan ought to be vacated by him. One fact meets us on the threshold. Here are two reports made by a committee that is as equally divided as possible: five upon one side, represented by the honorable gentleman from New York, [Mr. GANSON,] and four upon the other, whose report is signed by themselves in person. Now, Mr. Loan has his seat just as I have mine, and just as you, Mr. Speaker, have yours. He holds, sir, his seat among us; his credentials have been found to be sufficient; the case before us is not an outside one, but one within ourselves, and the question is as to the right of his remaining here. I say that a divided report upon a case like this presents one argument, and not a weak one either, in favor of the sitting member; for if, as I think is not the case, the question were involved in fair doubt, if it were a matter of uncertainty whether in fact the sitting member should hold his seat or not, inasmuch as it is in his possession, all reasonable doubt should operate in his behalf, and he should retain his seat.

Again, I understand that this election in the seventh congressional district of Missouri was an election not only for members of Congress but for State officers, and that many persons were voted for and have since held office in the State of Missouri under the same circumstances which attended the election of Mr. Loan. I do not understand that the question has been raised in the State of Missouri as to the existence of such a terror as my friend and colleague referred to, or that objection has been ever made within that State to the parties there elected to State offices holding their trust.

Mr. BRUCE, (contestant.) The gentleman's remark is to this extent, that while these races for Congress have been contested, there have been no contests in reference to State offices. I will set the gentleman right in that respect by stating—and the sitting member will bear me witness to the truth—that a man who ran for the State Senate took more than one hundred pages of testimony, which is printed in the appendix to the journal of the State Senate, for the purpose of contesting the seat of the sitting member. The testimony of over three hundred witnesses was that they were driven from the polls. The question came before the Senate of Missouri, but the case was thrown out upon the ground of the want of proper notice of contest.

In the county of Buchanan there was a contest over the office of sheriff, which is worth \$5,000 a year.

Mr. ELIOT. I am not quite sure that I understood entirely what was said by the contestant. If I did, it amounts to this, that there was one contested case which for some informality was unsuccessful, and that there has been a contest for one other office, that of sheriff. Well, sir, those exceptions, after all, go to prove the truth of what I said. This election extended to all portions of the State of Missouri now represented upon this floor. At that election many State officers were chosen. Now, if contests were made in only two cases, one of which was examined, and thrown out for informality, how can it be said fairly that any such terror was acting upon the minds of the people as to occasion any feeling of discontent and dissatisfaction with the proceedings of that election?

But this is not a question between Mr. Loan and Mr. Bruce. Mr. Bruce cannot have his seat, because no member of the committee has found reason to report in his favor. It is a question whether there shall be any representation from that district. The question is not one of expulsion, although Mr. Loan may be ejected from his seat. If it were, a two thirds vote would be required. But as the effect will be the same, the reasons constraining us to act in accordance with the report of the majority of the committee should be clear and conclusive.

Now, sir, what rule ought to govern us? My friend, the chairman of the committee, intimates that the rule applicable ordinarily does not apply in this case. Is that so? There are fifteen counties in this district. The question raised by the contestant is only in regard to eight. The evidence which has been taken confines itself to five of those fifteen counties. There are many voting precincts in those counties. How many there are does not appear in the case, but it is said in the course of the report made by the committee that there are not less than ten voting precincts in each county; then there would be within the district one hundred and fifty voting precincts. The whole difficulty which is complained of here is said to have been occasioned in eight of those precincts. The evidence applies to five counties, and is confined to eight precincts out of the one hundred and fifty. Now, suppose the irregularity had been confined to one precinct, and that by wrong proceedings, punishable in the courts, by violence or fraud, or otherwise, one hundred men were prevented from voting who tried to vote, it will hardly be contended that with a majority of 2,028 that should set the election aside. No matter what the force, no matter what the fraud, no matter what the violence, I suppose it will not be contended that if it shall appear that, with a majority of 2,000, but one hundred or one hundred and fifty were operated upon thus wrongfully, that election should therefore be held void. I do not understand that that will be contended for by those who act here with the majority of the Committee of Elections, because they claim that there were men enough in this district who were deterred from voting, and who were qualified to vote, to change the majority. That is a question of fact. There is no question of principle involved in it. We all admit that there should be purity and freedom and fairness of election. We all admit that without a free election there was no member chosen. The question is, how is the fact here? I understand that the sitting member presents himself here with a majority of the largest vote given in any congressional district in Missouri during that year. In no congressional district,

with perhaps one exception, was there a larger vote thrown.

Mr. LOAN. It was the largest vote in the State. Mr. ELIOT. I am told that it was the largest in the State. I find by the report that the whole number of votes was 13,803. Of these Mr. Loan received 6,582, Mr. Bruce received 4,554, and Mr. Branch received 2,665. We find that the voters throughout the district exercised their rights to that extent. Where was the terror that acted upon the men who would have voted for Mr. Bruce? Where was the terror that paralyzed the men who gave their votes for Mr. Branch? No, sir; we have to settle this matter upon the proof; and with the proof before us, we have to ascertain whether it be true that the majority upon which Mr. Loan stands, and has a right to stand, can be overcome.

That brings us to the evidence. If the evidence overcomes that majority, Mr. Loan has no right to his seat, and we are bound to say so. I am not here not to say so; but I am not here to aid in turning out a loyal man because it is charged that one or two thousand men, or any number of men, were kept from the polls without proof of the fact.

There are thirty-four witnesses who have been examined, and upon the evidence I cannot find that thirty-four voters were intimidated and driven from the polls. There was a poll-book torn up in one precinct upon which it is said there were about one hundred names, and that of those hundred names nine tenths voted for the contestant. That might give to him 130 additional votes. And I find no proof in this document that more than that number of men qualified to vote were kept from the polls in that district upon that day.

Now, sir, how is it that of the intelligent gentlemen, conversant with work of this kind, who compose the Committee of Elections, five of them should be found to say that the sitting member ought not to have his seat because the election was not a fair and free one?

I will not go over the whole testimony, but I will refer to enough of it to show the character of the whole, and to show upon what the majority of the committee base their report.

The first witness is a man who was a candidate for the office of justice of the peace, a Mr. Edward J. Knapp. He lives in St. Joseph, in Buchanan county, a county from which, perhaps, more rebels had gone into the southern army than from any other one in this district. He testifies of what occurred in two voting places. In fact he says he attended four. He says he was at the Allen House, the market-house, the court-house, and a precinct near the Harness House. But he gives evidence concerning only two, and therefore it would appear from his testimony, at least negatively, that he saw no trouble in either of the precincts in reference to which he gave no evidence. He testifies in relation to the market-house and Allen House precincts. Well, sir, this general question was asked him:

"State, from what you saw and heard on that day, how many persons were prevented from voting by intimidation or interference by the militia at the several precincts in St. Joseph on that day."

To that general question he gave this general answer:

"A great many; in my opinion one fourth of the votes."

Now, he was at two places, and he tells us what he saw at those two places. And that is the proof upon which we must rest. We have no right to be guided by his guess.

The next witness but one, Samuel Ensworth, in answer to the same general question, says:

"I think there were at least one thousand votes that were not taken on account of improper influences brought to bear against the voters."

He attended two voting precincts, and only two. He swears to the whole county, as Mr. Knapp swears to the city of St. Joseph.

"One fourth the vote." What is that evidence worth? Are we prepared to say upon this proof that one fourth the votes in St. Joseph were affected? What does Mr. Knapp state as coming within his own knowledge? He says he saw John Cowie somewhat hardly handled; but further on it appeared that John Cowie voted. He did not lose his vote. Mr. Bruce received his vote. He says:

"I have no recollection of hearing anything said calculated to intimidate voters prior to the day of election."

That is an important fact: a man living in that community, who mingled with the people there, and yet heard nothing said about any intended violence prior to the election. If that fact be true, it goes far to give the negative to the state of facts which is represented to have existed by the chairman of the Committee of Elections. This witness, Knapp, states, however, that on the day of the election he saw Cooper B. Colman, James B. Pendleton, and several others, legal voters, leave the polls without voting, on account of interference with Mr. Cowie. Well, what of that? It does not appear that Cooper B. Colman had not voted earlier in the day. The witness does not negative that supposition at all. On the cross-examination the question is asked:

"Did you hear any threats or see any violence used against Cooper B. Colman to prevent him from voting?"

Well, sir, I wanted to know that fact; but the record says in reference to the question, "Ruled out by court on account of irrelevancy." Why was it not relevant? If the answer was not a proper one, this House could rule it out. If it was relevant, the House has the right to judge of it. But the question was not permitted to be put, and the fact that it was ruled out by Judge Tutt goes far to establish what were the feelings of the magistrate. The facts as they appear in this case show that this magistrate, Tutt, was himself a partisan of the contestant.

Now, Mr. Speaker, the testimony coming from this man shows that three persons may have been intimidated. They are all that he knows of. He could not have known anything beyond the precincts that he attended. He does not give facts. He gives no circumstances. He heard nothing until the day of election. And I put it to the House that there would be no propriety, there would in fact be indecency, in giving to this testimony any more weight than that he saw three persons who he believes were qualified voters who were not permitted to vote.

Then comes the testimony of Samuel Ensworth. I want to call the attention of the House to it, because I suppose that he is one of the strong witnesses upon which the majority of the Committee of Elections would rely. But before I do that, I want to call the attention of the House to another fact, showing the mind of this magistrate. Mr. Orton M. Loomis was called as a witness. In the course of his examination two questions were put to him. They are to be found on page 64.

"1. Did you, before said election and during the present rebellion, ever raise what is known as a secession flag on your premises? If so, was it raised in public view, and how long was it kept up on your premises?"

"2. Were you ever arrested and placed in jail by Federal troops? If so, when and for what were you arrested?"

Those questions did not appear in the depositions. They were put by the counsel who represented Mr. Loan. I should like to know the character of that witness. Mr. Loomis states some matters of opinion. I should like to know whether his opinion is one in which I should have confidence. The magistrate certifies that during the examination of that witness the aforesaid questions were asked, and that he refused to suffer them to appear upon the record. He says that he considers them impertinent, and unworthy of the case to record these questions as to the loyalty or disloyalty of the witness who is giving opinions which are supposed will influence the judgment of this House. He objected to these questions. Mr. Bruce, or the counsel representing him, did object to them. The judge did what I have rarely known done anywhere. He not only refused to record the questions which were put in the depositions and to take answers subject to the objection, but to have them recorded at all. He ruled them out as irrelevant and impertinent to the case.

Mr. BRUCE, (contestant.) The gentleman from Massachusetts states that "Mr. Bruce or his counsel objected to those questions." If the gentleman will look through the record he will find that neither on my part nor on the part of my counsel was there one objection to the gentleman asking any questions whatever. He will, on the contrary, find more than fifty objections on the part of the sitting member.

Mr. ELIOT. I find that these two questions were objected to. I do not know that it is stated anywhere by whom they were objected to. I do not mean to say that Mr. Bruce objected. I said

that Mr. Bruce or his counsel objected. If it be true that neither Mr. Bruce nor his counsel objected, then I withdraw the remark. This magistrate not only objected to the evidence being taken, but to the questions being put upon the record. If this be so, it shows that this magistrate was not in a condition to take testimony involving the loyalty or disloyalty of any man. He was not in a condition to give an opinion which should have any weight in this House.

I come now to the testimony of Samuel Ensworth. He undertakes to give an opinion as to the whole county of Buchanan.

"Question. State if you heard of any threats of interference by the enrolled militia or others previous to the election on the 4th of November, 1862, with the voters at said election, or at any time."

"Answer. I do not recollect that I heard of threats made before the election, but heard often that threats were made prior to the election that persons enrolled under Order No. 24, and secessionists, would not be permitted to vote on the day of the election; I heard oftentimes threats that such persons would not be permitted to vote."

"Question. State your opinion, from all the facts that came to your knowledge, how many voters were prevented from voting by intimidation or interference by the enrolled militia and others with the polls and with voters from voting on the 4th day of November, 1862, at the election in Buchanan county, Missouri."

"[The opinion of the witness objected to, under the above question, by B. F. Loan, as being illegal.]"

"Answer. I think there were at least 1,000 votes that were not taken on account of improper influences brought to bear against the voters."

"Question. The class of voters alluded to above: please state what ticket was deprived of their votes by this interference, in your opinion."

"[The above question objected to, because it calls for the opinion of the witness upon an imaginary state of facts that witness don't pretend to have any knowledge of. The above question objected to by B. F. Loan.]"

"Answer. I can't say what particular ticket they would have voted; but do not think that the nominees of the unconditional Union ticket were deprived of many votes."

"Question. How did you intend to vote between Bruce and Loan?"

"Answer. I should have voted for Mr. Loan."

"Question. How many men did you see vote on that day, to the best of your knowledge?"

"Answer. I cannot tell how many I saw vote. I was in the market-house several times in the morning and saw several persons vote, and also two or three times at the Allen House in the morning, and saw several persons vote there; after dinner I was at the market-house again, and the table where they were voting was surrounded by an excited crowd, among which were many of the enrolled militia, and it was difficult to get up to the voting place, and I did not consider it safe for a person that was odious to the crowd to go there to vote, and I left disgusted."

But this witness intended to vote for Mr. Loan. How was he "odious to the crowd?" If his testimony can be relied on the "crowd" must have been his friends.

Now, what is that evidence worth? I do not care what Ensworth thinks. We do not any of us care what he thinks. We want to know what he knows; and we will do the thinking for ourselves. He thinks thousands of votes were kept from the polls. What facts does he know? He was himself at only two precincts in the county of Buchanan. He was at the Allen House, and tells us what he saw there. He was at the market-house, and tells us what he saw there. He was there but a little while, and he has narrated all the facts within his reach, but there is not a fact he gives us as a foundation upon which to rest these sweeping opinions.

Mr. UPSON. I desire to remind the gentleman that there are eighteen precincts in Buchanan county.

Mr. ELIOT. I will say that I have not been able to find any evidence as to the precise number of precincts in Buchanan county; but the general estimate is that there are about ten precincts in each county. But it seems there are eighteen in Buchanan; and this Mr. Ensworth attended at two of them; and he tells us everything he saw there. Now, what is his opinion covering the whole county worth?

He was asked how he intended to vote, and he says to us that he intended to vote for Mr. Loan. That fact is made a point. It has been urged in the argument, and is used in the report, that here is a witness who intended to vote for Mr. Loan, and who comes before the judge and gives the opinions as I have stated. He says, in answer to the question whether he heard any person in the crowd he says were at the doors speak against Mr. Bruce, that he does not recollect hearing Mr. Bruce's name mentioned. Again, when asked whether he saw any person in that crowd intimidated from voting for Bruce, he replied:

"I cannot say that I heard John P. Bruce's name men-



tioned in the crowd, but the feelings of the crowd were in favor of those that were to vote for the ticket called the unconditional Union ticket, and violent against those opposed to that ticket."

He says he was at the market-house twice in the forenoon and twice in the afternoon, and he says that in the morning but few votes were taken, and that Louthen and several others applied to have their names enrolled and offered to take the conventional oath; that one of the judges objected, and said that if Louthen insisted upon his right to vote he would be arrested; that he still said he would vote, and did vote, and was arrested. He further said he saw no one turned off, nor any other intimidation there.

"That was the fact in one case, and that was all he saw. He saw no intimidation there at all. Then he was asked what the loud talk was which he said resembled the action of a mob. He replied that it was the talk of a number of people who were excited, and were talking about a Mr. Cunningham having been struck by a soldier with a gun, about some one who was hit by it, and of some persons who were kicked and driven down stairs, as it was said. He knows nothing about it, and it is manifest that he is telling us of a little riot which occurred in the street, such as occurs in too many of our election districts all the country over during the excitement of an election.

Now that is what this man testifies to; that is the evidence he brings to us. The fact is that this guard which is complained of by the contestant and by the committee in their report was a guard which to a certain extent had been put there at his own request. Mr. Ensworth is asked:

"Have you ever heard said John P. Bruce say that he requested guards of the militia to be placed at the different voting precincts on said election day?"

"Answer. I heard Mr. Bruce say that he went to General Hall and told the general that he understood that there was to be an interference with voters at the polls; that persons that were enrolled under Order No. 24 were to be excluded from voting, and requested of General Hall to have a guard put at the different precincts to prevent any interference with the voters, and to leave the qualification of the voters with the judges.

"Question. Was Brigadier General Hall acting as commander of the enrolled militia here at that time?"

"Answer. I think Brigadier General Hall acted as commander of the enrolled militia of this district at that time."

Mr. Cyrus E. Kemp is the next witness, and he gives an account of the circumstances which transpired at that same election precinct. He says the election proceeded quietly until after one o'clock, at which time a band of enrolled militia entered the court-house, at which time the voters then present dispersed. He says he handed his book to one of the judges of the election and saw nothing more of it until it was returned by Captain Hax, the officer of the day, and General Hall, about half an hour after it was taken.

This is the strongest evidence we have in this case of that kind of interference which has been referred to by the chairman. More than one of the witnesses gives an account of this same matter. One of the judges of the election states that the polls were interfered with, and it may be claimed that the votes which were on the lists were lost to the contestant so far as they were for him. If the whole number were for him it would add but one hundred to his votes; and it is wholly impossible to weigh down the majority of 2,028 by any evidence in the case.

Now look at the testimony of John Fox. I will read it. He has given apparently a fair statement.

[Here the hammer fell.]

Mr. UPSON. Gentlemen have called my attention to the fact that the minority report waives any claim to a seat in this House by the contestant. I have to say that the minority of the committee understood the gentleman, in his argument before the committee, to claim that the election should be set aside, and referred back to the people, and we so stated in our report. We now understand that the contestant did not so mean to be understood, but that he claimed he was entitled to the seat. I make this statement now in order not to do him any injustice. Yet the minority of the committee do not propose any amendment to the resolution now before the House, but prefer to take the vote directly upon the resolution.

#### COMMITTEE ON ENROLLED BILLS.

The SPEAKER. The Chair feels it his duty to announce to the House that neither of the

members of the Committee on Enrolled Bills is in the city, and therefore no enrolled bills can be examined. The Chair therefore asks the House to enlarge the committee to three members. It has happened once or twice before that both of the members of the committee have been absent. Mr. COBB, and Mr. STEELE of New Jersey, who compose the committee, are both absent now.

Mr. McINDOE. I will state that Mr. COBB is absent on account of sickness in his family.

The SPEAKER. Is there objection to the Chair increasing the number of the committee to three?

Mr. PRUYN. I suggest that two additional members be added to the committee.

The SPEAKER. Is there objection to that proposition? The Chair hears no objection. The Chair appoints Messrs. POMEROY and McKINNEY as the additional members of the committee.

#### MISSOURI CONTESTED-ELECTION CASE—AGAIN.

Mr. BAXTER. Do I understand that the present debate is to be confined to the contestant and the contestee?

The SPEAKER. It is the unanimous order of the House that when the contestant (Mr. Bruce) rises to make his speech the debate shall be confined to him and to the sitting member.

Mr. BRUCE, (contestant.) I understand that the gentleman from Maryland [Mr. DAVIS] desires to speak, and I yield to him with great pleasure.

The SPEAKER. No gentleman rose, and the Chair was about putting the question on the resolution. If the gentleman from Maryland desires to speak he must speak before the contestant.

Mr. DAVIS, of Maryland. Mr. Speaker, it is with some reluctance that I make any observations on the case before the House at all. I do so merely because of observations that fell from the gentleman from Massachusetts [Mr. DAWES] on Friday last, who is not now in his seat; and my reluctance to address the House arises, in great measure, from the fact that he is not in his seat. But for those remarks, it would have been wholly unnecessary, indeed presumptuous, for me to undertake to discuss this case after the elaborate argument of my friend from Delaware, [Mr. SMITHERS.] The principles assumed by the gentleman from Massachusetts virtually touch all the States which have either themselves had civil war within their borders or have been near enough to the war to be affected by it; and bearing in mind the sneering and slurring tone in which the gentleman saw fit to refer to the States of Maryland and Delaware, it would, perhaps, not be altogether excusable if I allowed his speech to pass without some observations directed to those subjects.

An election case is not a personal contest between the sitting member and the claimant. It is a question relating exclusively to the rights of the people represented. The interests of the sitting member and the interests of the contestant are subordinate considerations, scarcely worthy of a moment's thought. The question is, whether either of the parties claiming the seat is entitled to speak here for the people of the district, and that is the only question.

That question, sir, can only be presented in two aspects: first, was there a valid election at all and anywhere in the district; and secondly, if there was a valid election, which of the two parties had a majority? If there was no valid election, then it is wholly immaterial whether one man was excluded from the polls or ten thousand men, whether one or the other had a majority of votes, none of which were cast legally. There being no election, no count is necessary, no count is relevant. No count can bear upon the issue to be decided here.

The question raised by the Committee of Elections is not whether the sitting member had a majority of the votes actually cast, nor whether he had a majority of the votes actually cast or actually tendered and illegally excluded. Those are questions which can only be considered after determining the previous question, whether there was an election at all. The question, and the only question, which the committee raises is whether there was a valid election in the seventh congressional district of Missouri at the period at which the sitting member claims to have been elected.

What is necessary to a valid election? Is it

that everybody who is a voter in the whole district shall have had an absolutely free access to the polls? If that be so, then an assault and battery which prostrates a man near the polls in a private quarrel and prevents him from voting, or in a quarrel created for the purpose of preventing him from voting, will avoid the election. Is it that wherever an election poll is opened the voting shall be absolutely free and legal? If so, then all the hostile party have to do is to pick a quarrel with some one at some one place of voting and break up the election by violence at that one precinct, and the whole election is gone, although the sitting member may have had a majority of ten or twelve thousand out of an actual vote of thirteen thousand in the whole district. This is a *reductio ad absurdum*. To void an election at one poll in a district is not therefore an avoidance of the election everywhere.

What is the rule of law?

Where a whole election is centered at one poll, and the facts show that an overbearing force was present at that poll on the day of the election, with menace and violence such as would deter a man of ordinary firmness from approaching the polls and tendering his vote, that election is void.

Where, however, as in this contest, election polls are open at more than one place, a very different question is raised. There it has never been held by any parliamentary body in the United States that violence at one of several voting places operates to strike out more than the vote of that single election precinct from the count. If the violence extends over the whole district, or perhaps if it extended to the voting places in that district at which the great mass or a clear majority of the voters in the whole district must cast their votes, it may be reasonably adjudged to justify the avoidance of the whole election. I do not know that it has yet ever been so held. But it is the decided and adjudged election law of the American legislative assemblies that where, at an election, there are several precincts or places of voting, and violence invades the freedom of the election, the question is at what precincts did the violence prevail, and when you have ascertained its extent you have ascertained the extent of its operation upon the election. The question is not how many voters were deterred from voting, nor whether such voters so intimidated were the friends of the contestant or of the sitting member; but was there such violence used as to overturn and destroy the validity of an election itself—to show that no votes are entitled to be counted though cast; and when that fact is ascertained in respect to any precinct the vote of that precinct is to be stricken out, so far as that election is concerned, in making up the returns.

That, sir, is the parliamentary law of elections as known to the parliamentary bodies of this country. If there be any exception to it, I am not aware of it.

The prevalence of rumors or threats or intimidations before the day of election, or elsewhere than at the polls or in gaining access to them, is no consideration at all relevant to the validity of the election.

Now apply that rule to the case before the House. There are fifteen counties, I think, in that district. There is no pretense in the evidence—if I may be allowed to adopt the report of the majority of the committee—there is no pretense of any question as to the vote in any of these counties except as to five. That disposes of the whole case, then, except as to those five counties. In respect to them there is no pretense that there was violence except in eight precincts out of over a hundred.

Then, sir, the operation of this violence on the election ought to be confined to the precincts where it existed and not, as the majority of the Committee of Elections would have it, to operate to annul the election at all the precincts of those counties. Apply that rule, strike out the precincts where the violence is proved to have existed, and the pretense on which it is proposed to void the whole election is seen to be frivolous. Ten out of fifteen whole counties unquestioned, and no violence that could intimidate the people in one tenth of the precincts of those counties wherein the violence existed, relying on the report as submitted by the majority of the committee, and I have confined myself to the examination of the majority report.

What, I ask, is the law in reference to each of these precincts? There must be some overbearing violence which would prevent a man of ordinary firmness, for fear of personal violence, from approaching the polls; not fear of the use of force by legal means, whether civil or military, not fear of the sworn officers of the law, whether in uniform or not, executing the law at the polls, no sanctuary for offenders, whether traitors or thieves. A civil or military arrest may take place at the polls as legally as it may at any other place or at any other time. I say, therefore, that when the guns of the militia of Missouri were there at the polls in the hands of men in uniform with their glittering bayonets—as somebody in the testimony states—it is no evidence of violence. They are there for the purposes of protection, they are there as the officers of the law, and it is no violence that any man can complain of. If arrests were made they were made by the ministers of the law, and if any person arrested complained that his arrest was illegal, he had but to bring his complaint to the proper authorities, and if decided to be so illegal, and if he was thereby prevented from voting, still, in accordance with the decisions of the courts in election cases, the contestant would have the right to have his vote counted and allowed. If his arrest was illegal the law would remedy the injury inflicted by its officer by allowing the vote to be counted, not aggravate the injury by disfranchising a whole district. I think wherever there was an armed, uniformed, officered, mustered militia, it was not an illegal force overbearing the freedom of election, but the law present with force to protect the people from illegal violence.

When they come to apply that to the precincts in question here it does not appear that there were more than three precincts or voting places in reference to which a decent question could be raised as to the absolute freedom of the election.

There was one of the precincts in which it is said that the uniformed militia did a violent act. I think it was in St. Joseph, at the court-house precinct. It is said that they came in, tore up the ballot-box, and ended the election. That, according to the election law, would strike out that precinct. But it also appears in reference to that precinct that the judges of the election had not taken the oath that the constitutional law of Missouri prescribes in these rebellious times to test their loyalty.

Mr. BRUCE, (contestant.) With the permission of the gentleman from Maryland I will say that I do not think he has read the testimony. If he had he would have found the following on the cross-examination by the sitting member:

"Question. Before proceeding and entering upon your duty as judge of said election, did you and your associate judges take an oath prescribed by the Missouri State convention, entitled 'An ordinance defining the qualifications of voters and civil officers in this State,' said ordinance being adopted June 10, 1862, and which oath is now shown to you in section two of said ordinance?"

"Answer. My recollection is that that oath was administered to the judges by the county clerk."

"Question. Before entering upon the duties of your office as judge of said election precincts did you and your associates take another oath, as now shown to you in section five of said ordinance?"

"Answer. My impression is that the convention ordinance was complied with."

Mr. DAVIS, of Maryland. They say that they were qualified by the clerk. That was the phrase quoted in the report of the majority of the committee. The statement in the minority report evidently is that they had not been sworn according to the convention oath. I think that the admission of the gentleman is equivalent to the same thing, for the gentleman said that a dispute having arisen on the question whether the judges had been sworn or not, when he thought they had been, he admitted for the purposes of the case that they had not been.

But that is a matter of detail, and I do not contemplate going into the details of the election. I merely mention that in passing. I do not propose to go into the details of the testimony. I merely state what I understand to be the election law, and in general terms that I think the evidence shows that the contestant wholly fails to make a question about the election. I have carefully examined the majority report of the Committee of Elections since the last session of the House, and I think since the case of Vallandigham and Campbell there has been no such frivolous case brought

before this House; no such groundless attempt to eject a gentleman from a seat which he holds by as good a title as any man upon this floor. That is my judgment.

But the honorable gentleman from Massachusetts [Mr. Dawes] thinks that, having had the misfortune to have been educated in one of the slave States on the borders of the rebellion, and having secret conclaves in my district in Maryland, brought up under the tuition of American clubs, and without the sanctification of Massachusetts prayer-meetings, it is not surprising that I and my friend from Delaware come to that conclusion; but he is at a loss to understand how his colleagues can face a Massachusetts constituency with those facts. I rather think the honorable chairman of the Election Committee will soon find an explanation more simple than satisfactory of the conduct of his colleagues. He may find it more difficult than they will to meet a Massachusetts constituency with this evidence, accompanied by his argument and vote to crush their friends, discredit their cause, and weaken the hands of loyal men on the burning borders of the rebellion. I am content to leave him to the people of Massachusetts.

But am I to be told that the law of elections is one thing in Massachusetts and another thing in Maryland and Missouri; and that men's judgments on election law must vary with their residence? If so, by what right is a Massachusetts rule to be applied to a Missouri election? If not, why is Massachusetts opinion invoked? If every Massachusetts Representative is to judge a Missouri election justly, he will not apply his Massachusetts ideas to the Missouri election. The Massachusetts mind must be educated to deal with every category of facts relative to elections under the conditions existing in Missouri; and if that gentleman means to draw disparaging contrasts between Maryland and Massachusetts, and would insinuate that the great prevalence of law and order in Massachusetts unfits him to deal with the more disturbed condition of Maryland or Delaware or Missouri I respectfully remind him that Massachusetts history is not one of unbroken quiet; and that he will not have to turn back many pages to find violent resistance to laws of the United States—unpopular, but still laws; and they may aid him to a more elevated view of his duty, or at least to understand how his colleagues can form unprejudiced judgments on the laws of Maryland and Missouri, and adjudge equal justice according to the evidence. But according to the gentleman from Massachusetts our education has been so bad, the violence around us has so deadened our sensibilities, that we, the members from Maryland, are not fit to judge of elections. Because, forsooth, our people, when they go to an election, do not open it with prayer their judgment is not to be taken! Why, sir, if the election that sent the gentleman here was opened with prayer, I cannot say much for the answer to it. I fear it will not commend that form of electioneering to the people of Maryland. I entertain serious apprehensions lest it injure the cause of true spiritual piety in matters of election. I rather incline to think that our Maryland people, uncivilized, Border Ruffians, and Plug Uglies, will think the light of the human reason, and a manly resolution to save the Republic—a resolution not to be frightened by any force, but to make the Republic supreme against any opposing violence—better guides than a prayer-meeting. I have no objection to those solemn forms. I regret that they have not been more effectual in the particular case. It is fortunate that that form of initiating elections seems to have been better responded to in other districts of Massachusetts than that which the honorable chairman of the Committee of Elections represents; and their conduct may vindicate and save the system which his so seriously impeaches.

But, sir, in our uncivilized and rough way, we are resolved to maintain the majesty of republican government in Missouri as well as in Maryland; and we think that in trying times we have done it. We take it as the most unkind and unexpected occurrence that a gentleman from Massachusetts should rise, after the great struggle for freedom in the loyal slave States of the Union, when triumph has perched upon their banners, and reproach them with the dust and sweat of the conflict, rather than swell the chorus of exulta-

tion by the voice of Massachusetts. They did not expect that a man of Massachusetts would walk over the battle-field of freedom and give them occasion to recall the words of Harry Percy:

"I remember, when the fight was done,  
When I was dry with rage, and extreme toil,  
Breathless and faint, leaning upon my sword,  
Came there a certain lord, neat, trimly dress'd,  
Fresh as a bridegroom."

"And still he smil'd, and talk'd;  
And, as the soldiers bore dead bodies by,  
He call'd them—untaught knaves, unmannerly,  
To bring a slovenly unhandsome corpse  
Betwixt the wind and his nobility."

Nor will it be surprising if

"He made them mad  
To see him shine so brisk, and smell so sweet,  
And talk so like a waiting-gentlewoman,  
And telling them the sovereign'st thing on earth  
Was parmaceti, for an inward bruise."

Though the gentleman would substitute a prayer-meeting for "parmaceti."

But the gentleman from Massachusetts is anxious to protect the reputation of the Administration. From what? From the common scolds of the Democratic party! From the general impeachment of wrong! They the guardians of the purity of elections! The honorable gentleman from New York, [Mr. Ganston,] to aggravate the iniquity of the violence he imputes, and paint the innocence of the victims he defends, quoting from the sworn testimony which echoed his own party language touchingly and simply, said that there were still persons in Missouri who were in favor of "the Constitution as it is and the Union as it was," and that they there are designated as disloyal; and against them military violence was directed for that criminal faithfulness to the Constitution. It was their wrongs he would redress! This new-born zeal on the part of that Democratic gentleman and others for the purity of election may perhaps captivate inexperienced gentlemen like the one who heads the Election Committee, absorbed in thinking how his Massachusetts constituents will look at evidence, and forgetful or ignorant of events not yet remote. But my memory goes back to the time when, with economical and judicious fraud and violence, they grasped empire. They would have forgotten now the eternal infamy of Plaquemines, where Slidell plundered the State of Louisiana from the side of Henry Clay. They would have Rynders forgotten, who boasted openly that he voted some hundreds of men twenty times at every precinct in New York and determined that election against Mr. Clay. They forget that that was the starting point of all the disasters which have overcome the Republic, and which those frauds made effective. They have forgotten that James Buchanan was elected by the moral force of the October election in Pennsylvania, and that it has been proved in a court of justice that more fraudulent votes were polled in that city at that election than the majority by which they carried the State; so that the foundation of his disgraceful Administration worthily rested on a fraud.

Mr. RANDALL, of Pennsylvania. I want to know who committed these frauds; whether or not it was John W. Forney.

Mr. DAVIS, of Maryland. I thought that perhaps the gentleman wished to make a suggestion of that kind. The mutations in public life show many such instances; but I think that Rynders has remained faithful. But I am not alluding to persons. The fact that I assert was established by an elaborate judicial investigation.

The honorable gentleman from Massachusetts tells us he wants to protect the Government against the imputation of using military at elections. In the name of history and of the memory of man, where did the violence of military at elections begin? Have gentlemen forgotten Kansas? Have they forgotten Lecompton? Have they forgotten New Orleans in 1857, where the sect of Know Nothings—that sect everywhere spoken against—were so powerful that nothing but violence could beat them down, and where the Democratic Legislature organized a special and exceptional military force for the purpose of suppressing them, which the Americans, true to their blood, defied, and after a war waged for three days compelled to submit to a free election at which the Americans asserted their usual and lawful superiority?

Military at elections! There are gray-headed gentlemen on the other side of the House. Have they forgotten the Washington massacre of 1857? Republican gentlemen at the North were then very silent. They did not care—like the gentleman from Massachusetts—to soil themselves by defending the every where downtrodden and reviled sect of Know Nothings, though the principles of free government were at issue in their oppression. To that class the gentleman from Massachusetts belongs, who wishes to keep his skirts so clean in the eyes of his enemies that he prefers to deliver over to their wrath his friends rather than encounter the risk of seeing justice done them.

The honorable chairman of the committee and his colleague to-day are the only men who have learned no lesson of manly wisdom from events. Bitter experience has taught everybody else that the rights of every one are the interest of all; that if there is to be power there must be unity and mutual support, and that all who are against the common enemy are for the Republic. When those sentiments cease to prevail, the Administration will cease to have a majority in this House.

But, sir, the Washington massacre, who has forgotten it? Who has forgotten that upon a day of a peaceful election, within the hearing of the President of the United States, and that President James Buchanan, under the pretext that violent men had come from Baltimore to overbear a municipal election here, on occasion of an accidental and transitory fight at the polls, over in a few minutes, and after everything had been quiet for nearly an hour, the President and Toucey ordered the marines to suppress the riot; some boys, like our pages, marched up with them dragging an old swivel, spiked, and wanting one wheel; and these soldiers in uniform, and with glittering muskets loaded by order with a ball and two buckshot, came to the polls, and were ordered to charge bayonets and fire, and did fire upon those boys and drove them away and captured their harmless gun, and then they wheeled in the other direction and fired point blank into a peaceful crowd of spectators, and thirty-six men fell, ten of them dead, in the streets of Washington, and all upon the false pretense that Baltimoreans had meddled with elections in Washington, but really to secure a Democratic mayor! Who has forgotten that? All done when there was no riot, when there was no fighting, when everything was quiet, and electors were voting at those polls at the rate of two votes and a half a minute! And when the dead came to be counted, there were no Baltimoreans among them; and when the wounded came to be counted, there was only one Baltimorean, and he a poor brakesman, who had come over in the cars that morning in the discharge of his duty, and he had cast his vote for James Buchanan; and when they came to count the dead and wounded, only two were of the American party at all, the rest being friends of the President who shot them down.

And when the Government tried fourteen men for this riot before a court of justice, with a Democratic marshal, a packed jury, and a court under the power of the Government, they could not convict one man of the riot for which they had shot thirty-six men in cold blood. And when the coroner's jury, after inquest upon two of the dead men, found that they met their death by the firing of the marines, causelessly and unjustifiably, there were no more inquests before the coroner, and the victims went to their graves with no more inquiry than if they were dogs shot by the police! Military at elections! If I were a Democrat, it is the last topic I would refer to. Prudence would counsel silence. It might be worth while even for the honorable gentleman from Massachusetts, in defending his friends, to take some pains to look into the history of the country, if he has forgotten it, and see where the responsibility rests for military violence at elections. Sir, that one year was fruitful in examples, full of instruction.

Maryland elections have been referred to, and as usual misrepresented and misunderstood. With them my name has been continually connected by my enemies and the enemies of our cause. I have sat with contemptuous silence in this House for six years, scorning to notice railing accusations elsewhere. No man ever dared in my presence to impeach my conduct; nor did my competitors venture until my third election to

transfer the contest from the papers and private slander to a tribunal competent to decide it under other responsibilities than those which restrain lying newspapers, the whispers of private malice, and audacious assertions upon the hustings. And as the honorable gentleman from Massachusetts [Mr. Dawes] has done me the kind favor on my own side of the House, in the midst of my political friends, to sneer at the conduct of my constituents in those elections in his effort to save the reputation of the Administration at their expense, I mean to take up the gauntlet, and to say that no elections have anywhere occurred of more national importance, or which reflected more honor upon the indomitable spirit and determination of the people to vindicate their rights at every hazard, than the elections in which I was a candidate, for which I have been falsified, and respecting which I have scorned to defend myself. My reputation was before the people where the events took place, and where the results sufficiently manifest their judgment of my conduct, which I am now here to defend before the people of the United States.

These are the elections that the honorable gentleman from Massachusetts scorns because they were prepared in secret conclaves of Maryland and Delaware, not opened with prayer. But, however decried, they were the work of that American party which organized to rescue the public school system from a Democratic and sectarian conspiracy, and first met and broke the power of the Democratic domination. Yes, gentlemen of the Republican party, none other ever broke its power. You encountered its fragments when its scepter was already wrested from its hand. Other circumstances arose to change the course of events. You achieved its destruction and drove its southern leaders to the alternative of submission or rebellion, but that decisive battle was fought by the Know-Nothing party, which the gentleman from Massachusetts now speaks so contemptuously about, and which many libel, now that it is dead, who feared it when alive. After years of contemptuous silence, I rise to vindicate its memory, and claim its true place in history, now that events are illustrating the fruits of its struggles.

Its memory is outraged by those who occupy the ground it won; and the language of the gentleman from Massachusetts requires me to break the silence I have so long observed.

I am here to-day to speak a chapter of history. In the fall of 1854, when I was absent from the country in Europe, the American party organized in Baltimore city, and by the secrecy of its organization it threw an unprecedented vote and swept the Democrats from power in that city. They had been in the habit of maintaining their authority there in their usual manner. That election took them by surprise. It was as peaceful and quiet as one of the honorable gentleman's prayer-meetings before elections in Massachusetts. In 1855 there were elections, municipal and congressional. At the latter I was for the first time a candidate; and it was the first open struggle for power by the Americans. The Democrats organized banded bodies of armed ruffians and bullies, who at nearly every poll in the city of Baltimore at the municipal election made deliberate assaults on the people there assembled, and numbers of persons were wounded. They carried by a small vote the municipal election, which took place two weeks before the congressional election, by this violence. Between the municipal and the congressional election the young men of Baltimore, the young mechanics of Baltimore, the heart and strength of the Republic and without which the nation would be nothing, organized themselves with arms and said, "We will vote if it is to be a vote, and fight if it is to be a fight." Again the Irish and Democrats, armed with United States weapons, took the offensive but failed at the polls, and the result was that we carried the day by a small majority on a very full vote, and nobody was fool enough to come here, after having appealed to arms as well as votes and been defeated, and attempt to impeach that election.

Furious at defeat, the Democrats organized their forces for the elections, municipal and presidential, of 1856. The great Irish ward was a vast arsenal, and men marched forth in battle array and fired deliberate volleys into peaceful crowds at a neighboring precinct. Instantly it

was replied to. But the Irishman could not meet the American mechanic, and again the Democrats mourned defeat, while we grieved over our friends treacherously slain. We had either to be driven from the polls or to fight, and our young men preferred the latter alternative. Whether that would pass in an electioneering prayer-meeting in the honorable chairman's district now I know not, but it would have the approval of the Boston men of 1775, whose prayers were not inconsistent with fighting!

Then came the great contest for Governor in 1857. But in the mean time the Americans, having got possession of power, had done what the Democrats always refused to do—organized a police and armed it; for we did not choose that while we were in power ruffians should make an election a question not merely of numbers but of power. Representatives of the majesty of the law, we meant to enforce submission to it, and we organized and armed a strong police force; and it accomplished its purpose and kept the peace. At the municipal election in 1857 there was peace and quiet throughout the city of Baltimore, from one end to the other, excepting in the eighth ward, which is under Irish domination. There the Irish took possession of houses and armed themselves and shot at the police as they passed, and thrice they marched in a body with United States weapons to attack Americans at the polls; and as often they were dispersed and disarmed by the police. They were met everywhere by the organized and armed police, and, without hurting one of the villains who were thus aiming at their lives, they suppressed every attempt at disturbance throughout the city on the part of the Irish; and when the day closed there were only nine men dead or wounded to count, and they were policemen!

Two weeks afterwards the gubernatorial election came off. Governor Ligon, now a traitor, was then the Democratic Governor of Maryland. He thought that nothing could defeat the Americans of Baltimore city but the employment of the organized militia of the State, and therefore he repaired to Baltimore and issued a proclamation, calling out six thousand militiamen, borrowed muskets from Governor Wise of Virginia to arm them, to keep the peace in Baltimore, because, two weeks before, nine policemen had been shot in keeping the peace against the Democrats, his friends. Negotiations passed. I was a party to them. Mr. Swann was then mayor of the city. I am not entitled to take any share of the credit for the indomitable firmness he exhibited at that time. All I can say is that what he did I approved and was ready to stand by. I advised him to yield nothing to the Governor, but let him call his military into the streets of Baltimore if he dared; and that was Mr. Swann's own judgment. He had ample preparations for any emergency, and the Governor knew it; but that did not answer his purpose, which was to overawe the Americans by military force. He therefore sent his enrolling officers through the streets to find men to hold Wise's muskets, prepared for a bloody day, or to frighten the American party for the first time in history.

Those officers for two days endeavored to muster a force in Baltimore, but in vain. One store they were laughed at and they were kicked out of the next. The light division threw down their arms and refused to obey. And when two days had elapsed, and the Governor found that though he had plenty of muskets sent him by Governor Wise he had no men in whose hands to put them, another spirit came over his dream. He began to find that Mayor Swann had a sufficient force under him to keep the peace. He was satisfied with two hundred special police to do the work he called out six thousand soldiers to do. He was content to submit to two hundred muskets in the hands of the regular police what he intended to do with six thousand in the hands of the militia; and, disgusted at his own abortive attempt at military dictation, he issued a final order announcing that having secured the object of his official intervention he did not contemplate the use of his military force—which he had wholly failed to organize!—and slunk from the city which had tolerated his presence.

I recollect very well, after the negotiations had gone on all night, and men had become doubtful as to what was to be the result, an assembly



that occurred in the broad place before the Holliday street theater, near the mayor's office. Quietly and calmly, well dressed, not a word above ordinary conversation, packed as closely as men can stand, they waited to know the order that was to be given; and when Mayor Swann bade them go home, await quietly the result of the negotiations, and bide their time, they greeted him with three cheers, and dispersed. Not far off the Irish, with clenched fists and yells, menaced them without being able to provoke a word, a groan, or a blow.

One of Governor Ligon's advisers saw that assembly over Mr. Swann's shoulder, and found his way through a back gate, and carried to the Governor what he had seen; and it was that sight which satisfied him probably that the arrangements of Mayor Swann were adequate to the emergency.

It was only three or four months after James Buchanan had shot down American citizens in the city of Washington, by the military of the United States, that his Democratic friends thus attempted to imitate his military method of making a minority equal to a majority in Maryland, but miserably failed. The day of election came and passed quietly as a Sabbath day; and the people recorded their reprobation of this illegal attempt at military usurpation by an overwhelming majority; and Holliday Hicks was by their voice Governor of Maryland! Even the violence of Governor Ligon could not provoke the people of Baltimore to insult or outrage him; and the people he came to subjugate double their police force round his headquarters to insure him against the violence he provoked.

John C. Groome, the opponent of Governor Hicks, is now disloyal to the United States and a friend of the southern rebels!

Now let us pause and contemplate the historic significance of this election. Where would you have been had Groome and not Hicks been Governor of Maryland prior to the inauguration of President Lincoln? Where would you have been had Groome instead of Governor Hicks held the military power of that State in his hands on the 19th of April, 1861?

It is strange enough to see a Massachusetts Republican in this House overlook the connection of this election with that period, and speak lightly of the men who then saved the Republic.

Well, sir, an election was held in 1858 with like results, and Democrats submitted to the invincible. Finding they could not crush us by organized military force, which now was out of their power, they organized a most infamous association, called the Reform party, whose duty it was to lie down, in the public prints and in public speeches and by secret associations, what they could not fight down in open daylight. A few respectable people were deluded into covering its infamy by their names. The leaders were not of a material that could meet American mechanics on the broad ground of republican equality at the polls; they shrank from contact with the rough crowd at the polls; they wanted an election managed like a ball-room; they would have a police to play gentlemen ushers in removing all unclean contact with their vulgar competitors at the place of voting, and they tried their hands at party organization. They went to the polls and stayed until about ten o'clock, getting all the votes they had, and when they had run dry, by a preconcerted arrangement they withdrew from the polls, and said they were not allowed to vote, and whined about freedom of elections, and vented their puny spite on their powerful and successful antagonists; who exposed their tricks, defied their power, and laughed at their discomfiture. But fortune had reserved them for her mockery. They were destined to an unexpected triumph, due to other causes, and followed by an unexpected residence of their chiefs in Fort Warren. They failed to defeat me in the city of Baltimore, but an event which was the precursor of the rebellion gave the Democrats of the counties the Legislature. Both results demand our consideration here.

It was John Brown who gave the Democrats and Reformers the Maryland Legislature of 1860—that infamous Assembly which created and named the commissioners of police, who organized the mob of April 19 into a rebellion against the United States. It was that Legislature which prepared in 1860 arms and troops for 1861; it was

that Legislature which found its fitting end in Fort Warren, but with John C. Groome in the gubernatorial chair would have wielded all the military power of Maryland against the United States in 1861; and no reflecting man can doubt that had Maryland done as Virginia did the capital must have been abandoned.

My competitor—who has since been honored by a residence in Forts La Fayette and Warren—was simple and honest enough to believe the howl of his reform friends over his defeat by violence and fraud, and in an evil hour, at their instigation, rashly contested my election on much the same sort of evidence now produced against the honorable gentleman from Missouri. Now, for the first time, my enemies left the arena of newspaper slanders, where I would not condescend to battle with them, and met me upon the fair field of a legal contest, with sworn testimony, although they contrived to cheat me out of an opportunity to take my evidence, and the reform association undertook the prosecution for Mr. Harrison. And when the evidence came to be summed up and analyzed only twenty-six illegal votes were proved in all my district, and forty or fifty cases of assault and battery in all of the city of Baltimore! On that election committee the honorable gentleman from Massachusetts [Mr. Dawes] voted with Hon. John A. Gilmer, of North Carolina, that the election was not void, and that I was entitled to my seat! He did not then think secret conclaves, the prevalence of club violence in Maryland, fit topics in an election contest, and his vote on that case leaves him without excuse in his unworthy and groundless slur on elections which he himself had investigated, and on sworn evidence pronounced valid. He cannot plead even ignorance in extenuation of his libel on the character of Maryland elections.

He insinuated that my views and those of the gentleman from Delaware were influenced by our contact with violence at elections, or, as he elegantly expressed it, that we had part of the fitch of bacon. Massachusetts thought she had part of the fitch when Banks was elected Speaker. All of the free States thought they had a part of the fitch of bacon when some decisive votes were given from Maryland in the Lecompton contest. The Republican party thought they had a part of the fitch of bacon when William Pennington ascended the Speaker's chair. Gentlemen of short memories cannot be allowed to forget these things when Maryland is taunted with her elections.

It is rather late to attempt to cast reflections on the elections in the city of Baltimore, now that their historic significance is written in the great events of the times, especially when I can point to the standing dome of this Capitol as a perpetual monument to attest the value of the triumph then achieved. It ill becomes any man of the Republican party to cast in my teeth, of all the men in the world, that I have a part of the "fitch of bacon."

The honorable gentleman from Massachusetts is equally unfortunate in his sneer at the loyal mechanics of Baltimore, whom he styles "Plug Uglies." It is a sad proof of how much his association with our political enemies has corrupted his English. He borrows their slang to describe their enemies, whom they blacken because they failed to defeat them. The persons whom he sneers at as Plug Uglies are as respectable as the most respectable of his constituents, as firm in their patriotism, as consistent and fearless in their political convictions, as rich in services to their common country. It is the heart of the American mechanics that he thus slights. Plug Uglies! Why sir, many hundreds of them now sleep in soldiers' graves in the cause of the Republic. They constituted in great part that famous first Maryland regiment, which, under the heroic Kenly, arrested with their bayonets for hours ten times their number of rebel cavalry at Front Royal, and never yielded till they were literally ridden down and destroyed, that they might give the Massachusetts Banks time to save his army; and with their blood they bought his safety, which he, more grateful than the gentleman from Massachusetts, was prompt and eloquent in acknowledging!

The Plug Uglies of Maryland! One of them—Captain Gregory Barrett—has just been promoted by the conservative Governor of Maryland to be lieutenant colonel of his regiment. No man has shown more valor, none has been more

heroic in his resolution, than this man now standing before the enemies of his country, while the gentleman from Massachusetts revives and spreads the Democratic epithets by which his enemies sought to injure him.

It was these men, whom our enemies designate by the name the gentleman from Massachusetts quotes from them, that formed the great, silent, irresistible power which palsied the traitors who on and after the 19th of April vainly strove to tear Maryland from the Union; and their associates and friends who fell victims to the weapons of their Irish enemies at the elections whose history I have briefly narrated, died on the same streets, by the same hands, for the same cause, with men of Massachusetts who fell on the 19th of April, and are entitled to be enrolled in history among the nameless dead who gave their lives for the Republic.

Now, sir, my mode of vindicating the Administration is this: I meet the charges when they are brought and as they are brought. I cannot accept maudlin lectures from the Democratic party, nor Puritan lectures from the gentleman from Massachusetts, which the people of Massachusetts would be the first to disavow. I do not deny the existence of the things which they denounce as a crime. When they impute to the Administration and the friends of the Administration revolutionary purposes to break down the Constitution and to prostrate republican institutions, I simply say that while we have the power we will enforce the Constitution as we think right; and when we will meet them before the people they must not expect that they will state their half of the case and that ours will not be stated or will be stated as the gentleman from Massachusetts states it. It will be stated by the men who have borne the heat and burden of the day, who have taken the responsibility and are willing to abide it, but will yield to no judgment but that of the American people.

Mr. BROWN, of Wisconsin. When I came here this morning, Mr. Speaker, nothing was further from my intention than to make an argument upon this case. In fact I was hardly prepared to present properly the proofs which are already before the House. I have a general recollection of the points upon which the committee decided and of the force and effect of the testimony, yet the proofs are not fresh enough in my memory to enable me to present them in detail. But the most remarkable speech which has just fallen from the lips of the gentleman from Maryland has changed my resolution on this subject, and almost forced me, as a member of the committee, to some reply.

The gentleman from Maryland seems to have gone over the history of the cases in which frauds have been committed upon the elective franchise, and has referred to Rynders and various other parties who have succeeded in such frauds; and yet, Mr. Speaker, instead of making use of those cases for the purpose of impressing upon this House the necessity of preventing, by strong example, the repetition of those frauds, he has the merit of being the first person who has ever cited such cases to this House as an excuse or encouragement for the repetition of like transactions.

Ay, Mr. Speaker, we know that through all times crimes have been committed. We know there has been a struggle through all time between those in favor of upholding the law and those who are in favor of violating it. Legislatures and judicial tribunals, and the whole machinery of Government have been constituted for the purpose of meeting and repressing all crimes, and especially that very class which that gentleman cites here to sustain the side he has espoused.

Still, in despite of all the efforts of the true and good, assassins lurk on your highways, robbers follow the steps of the unwary, and thieves take from industry its reward, the strong man succumbs to combined force and craft, and beautiful woman falls a prey to the lust of the seducer.

But what should you think of a judge or the advocate who would cite in justification of such outrages the fact that somewhere they occur every day? Is an outrage against the elective franchise, the pure exercise of which is necessary to the vitality of a democratic Government, to be an exception?

The gentleman undertakes to defend the interference of the military with the freedom of elec-

tions. He charges the chairman of the Committee of Elections almost with dishonesty because he deemed it his duty, as head of the Election Committee, to report against such system. Now, all this may be very pleasant for the gentleman just at this time; it may be well enough for him to find the protection and terror of bayonets thrown around him when he is a candidate for election; he may be pleased because through the interference of the military he wins a triumph over the defenseless citizens of his district. But let me remind him there is an even-handed justice which in history commends the contents of our poisoned chalice to our own lips.

The gentleman has spoken of Plug Uglies and Native Americans, and of the riots and bloodshed which have so often determined elections in Baltimore, and he has defended them; but shall I remind him, if rumor is to be depended on, that from the very same violence which he then evoked he afterwards became a fugitive, and was forced secretly to escape; that delightful as native Americanism appeared to him when attacking the persecuted Catholic, it bore a different aspect when threatening himself. It seems that Massachusetts, in electing Banks and other Native Americans years ago, struck out the hands of the people of that State to the Plug Uglies, and gave the sanction of law-abiding Massachusetts to those scenes of violence which then were a burning disgrace upon the American name; and need I remind the gentleman from Massachusetts [Mr. Eliot] who has this morning, as the apologist for violence, stood side by side with the gentleman from Maryland, that in the even course of justice to the State, though not to the soldiers, their sixth Massachusetts regiment in the streets of Baltimore were inhumanly struck down by the same class of outlaws whose violence Massachusetts men had done so much to excuse? It is a most singular state of things, when we consider the history of these bloody days and the fate of those poor soldiers who fell in the streets of Baltimore, to find that Representatives from Massachusetts are ready to come forward in this House to apologize for a repetition upon others of that spirit of violence from which they and we all have suffered.

Now, sir, the same military which gives you to-day your election, the same military which to-day, incited by officers who are politicians and not soldiers, overawes the free expression of the people, that same military force may not to-morrow be on your side. And it is well for gentlemen who now apologize for these acts of violence, who now appeal to passion, who look up to the galleries to see if there is a soldier there whom they may excite to violence; I say it is well for those gentlemen to remember that even they may have cause hereafter to tremble before this very spirit which they are inciting. The bad passions which we summon to our assistance are fiends which will not down at our bidding. It is not forever that you can stop the access of truth and fact to the ear of the soldier. It is not forever that those who refuse to pay him fair wages, those who leave his family at home to beg, those who, when a proposition comes up from this side of the House to render him justice, reject it; it is not forever to be the fact that they can persuade the soldier that they are his friends. Yes, they are his friends, as the wolf is the friend of the lamb, as the vampire is the friend of the victim out of whose veins it intended to suck the blood! But remember that while now you can stop these truths from coming to the mind of the soldier, while now you can appeal to him to commit acts of violence against his true friends, the truth some time will reach him, and then I promise you that we Democrats, instead of inciting him to similar acts against you, will say the laws must be obeyed.

Even now we can almost hear the cannon of Grant as he thunders against the enemy; floating rumors, the advance couriers of victory, have already reached us. When Richmond is won, when the rebellion is crushed, and the Union restored, in spite of Jeff. Davis in the South and his radical allies in the North, is it not possible that Grant may be selected as the standard-bearer of the true friends as well of the soldier as of the Union and Constitution in the next presidential campaign? Is it not possible that the soldiers may then remember those cabals of the radicals which two years ago withheld McDowell and rescued Rich-

mond from the hands of Union soldiers? Grant is a war Democrat, and his energy and will, his entire devotion to the country, and his sound judgment, illustrate Democratic patriotism. The only successful wars ever conducted by the Government have been under Democratic auspices. And when the gentleman denies the right of Democrats to challenge or discuss his conduct, as unworthy of his notice or annoying to his dignity, he not only throws down the glove as against Grant and nearly every successful general of the present war, but as against the mighty generals and exalted statesmen who in past days have imparted glory to the pages of American history. But Jackson and Jefferson and Madison, and the rest of these mighty dead, will hardly be disturbed in their graves by the contempt of the gentleman.

Mr. Speaker, at the commencement of this session I illustrated my own devotion to the principle of free representation of the people in this House by voting to admit the gentleman from Maryland, although many on this side of the House thought I strained a nice point of law in order to be impartial. But impartiality in matters of this kind is necessary for national safety.

Congress may be corrupt to-day, and to-morrow the people will sweep it out of existence. It does but little harm, because the rodness is in the people's hands. But when you find the party in power endeavoring to repress the free choice of the people in sending their Representatives here, when you find them destroying the freedom of the ballot-box, when you find them making decisions in Congress by which men fairly elected are excluded and those not properly elected are received, then there is but one means of getting rid of a bad Administration, and that is by revolution; and if there is not virtue enough in the people, under these circumstances, to revolutionize, then there is not virtue enough among them to sustain free government. It is our duty here to see to it that this principle upon which Congress in all times past has acted, this principle of protecting to the last the right of the people to select their rulers by means of the ballot-box, is jealously guarded and maintained.

I propose now to point out very briefly the issue involved in this case for the purpose of showing that gentlemen have wandered away from anything that ought to come before the House in regard to it. In the first place, the act of Congress by which the right of contesting seats here is regulated, declares the principle that the two parties must make up their issue, and that the testimony taken must be for the purpose of sustaining that issue. They are excluded by the act of Congress from taking testimony which does not relate to the very issue which the parties have made.

Now, what issue has been made here? The contestant has set up, first, the exclusion of legal voters from the right of voting; second, unlawful interference by the military; and thirdly, violence actually practiced at the polls. I do not enumerate the details, but that is the general outline of the case which the contestant makes out.

The sitting member merely denies these facts. He sets up no new case against the contestant, except one upon which I believe he does not now rely at all. Then it is to that issue and that issue alone that the House should direct its attention.

First, then, who were entitled to vote? Because, for the purpose of ascertaining whether persons who were entitled to vote have been excluded from the polls, we must ascertain that fact. The Constitution of the United States declares that "the House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors to the most numerous branch of the State Legislature." Thus the Constitution of the United States provides that the qualification of the electors is to be determined by the State constitution, and we must look to that for the purpose of ascertaining who are qualified to vote. We come, then, not to the original State constitution of Missouri, but to the proceedings of the convention which met and framed a new constitution with a view to the present state of the times, and to meet the very exigency in which Missouri was then placed. That convention passed the following ordinance:

"Sec. 1. No person shall vote at any election to be here-

after held in this State under or in pursuance of the constitution and laws thereof, whether State, county, township, or municipal, who shall not, in addition to possessing the qualifications already prescribed for electors, previously take an oath in form as follows, namely:

"I, \_\_\_\_\_, do solemnly swear (or affirm, as the case may be) that I will support, protect, and defend the Constitution of the United States and the constitution of the State of Missouri against all enemies and opposers, whether domestic or foreign; that I will bear true faith, loyalty, and allegiance to the United States, and will not, directly or indirectly, give aid and comfort or countenance to the enemies or opposers thereof, or of the provisional government of the State of Missouri, any ordinance, law, or resolution of any State convention or Legislature, or any order or organization, secret or otherwise, to the contrary notwithstanding; and that I do this with a full and honest determination, pledge, and purpose, faithfully to keep and perform the same, without any mental reservation or evasion whatever. And I do further solemnly swear (or affirm) that I have not, since the 17th day of December, A. D. 1861, willfully taken up arms or levied war against the United States, or against the provisional government of the State of Missouri. So help me God."

It appears from the ordinance that the qualification of voters consisted, not in never having sympathized with the rebellion, but in the fact of not having since a certain time had any connection with the rebel operations, and in their pledging themselves hereafter to stand true to the Constitution of the United States and of the State of Missouri. That is the sole test, and when we hear this talk upon the other side about "rebel sympathizers," we hear talk about that which is outside of the case and which is not even presented by the parties in the issue they have made up for the purpose of determining their rights.

Then I come to Order No. 24. It seems that the military authorities, instead of yielding to that declaration by the convention of Missouri, undertook to prescribe that a certain class of persons should not vote. That whole class, amounting in one county to nearly eight hundred, was excluded from the polls. That some of them could not and would not have taken this oath prescribed by the convention I have no doubt, but that they were absolutely excluded from the chance of doing so is equally true.

I pass, then, to the next point. It is this: the effect of destroying certain poll lists, and interfering with the election at certain polls. There the gentleman from Maryland seems to have adopted a principle extremely convenient where it is convenient to have a row, but extremely dangerous to the liberties of the people. Suppose, for instance, that there was a precinct in Baltimore with a Democratic majority of two or three thousand, and suppose that the other precincts were the other way, and that riotous persons should break up the election and destroy the ballot-boxes at that particular precinct, leaving those in which the majority was the other way, and thereby give an apparent majority to a candidate who would otherwise be in the minority; in that case, according to the gentleman from Maryland, there should be no inquiry as to the general effect of breaking up of the ballot-boxes at the one precinct, or as to its effect in changing the result of the election, but that the one precinct alone would be rejected, leaving the majorities in the others undisturbed. This is to place it in the power of any one to interfere with election polls where his opponent is largely in the majority, and to carry the election with a minority of votes.

I insist that the question is this: whether, when you look at the entire election, when you look to all the votes thrown, you can say that this election in the seventh congressional district of Missouri represents the will of the majority of those who were entitled to vote and had an opportunity to vote within the district. If, from any circumstance, the free expression of choice on the part of the voters is interfered with; if, from any cause not under the control of the electors themselves, you cannot say that a majority of the people of the district have spoken in favor of the party claiming his seat, then I say there has been no election entitling such party to hold his seat. That proposition was advanced in the Louisiana cases, and supported by this House. It was stated likewise in the Virginia cases, and supported by this House. And what I say in relation to this particular election is that, taking into consideration all the facts proved in the case, the House cannot say that the sitting member had the expression of a majority of those entitled to vote at that election.

I will next refer to the nature and extent of test-

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imony in such cases. I understand it is not necessary, as the gentleman from Maryland asserts, that you produce the very name of every person who by violence is excluded from the polls, where the charge is that there was general violence and a general terror. I understand that the proof of individual instances would not be proof of general violence and general terror. The proof must meet the charge. If the charge were that certain individuals were excluded from the polls, the proof should show that; but if the charge were that the whole body of the people were affected, any proof that looks to individual and not to general acts extending over the district would be improper. Here the proof sustains the allegation that there was this general feeling of terror, which in fact did prevent from voting a larger body of voters than were sufficient to have turned the scale. You have presented to you by the report the material parts of this proof, and it is not my intention to repeat it.

I have already, Mr. Speaker, taken up more time than I intended in this matter; but I wish to make one further remark on the general question. I say for myself that in passing on this testimony, so far as I was able by the strictest effort of will to divest myself of any partisan feeling, I have done so. I think the gentleman from Maryland himself, [Mr. DAVIS,] who recollects that he had my vote for his seat when it was proposed to reject him at the commencement of this session, will say that I have at least shown by my acts an intention to act impartially. And I appeal to gentlemen upon the other side of the House to preserve at least the right of the people to change the policy of the Government by here asserting the freedom of elections. I appeal to them to prevent the consequences which must follow from making a decision in a disputed election case turn upon a mere question of party politics. I know that in times past it has been a question of justice and not of party. Even conceding to the gentleman from Maryland that he has defended himself from the charge of coming in times past through acts of violence to this House, he will recollect that on at least one occasion he came with a majority of the House against him, when if they had seen fit to insist upon the rule which he desires to apply in this case he would not have been retained in his seat, even had he disproved those charges so frequently made against him and so universally believed.

But, as I said before, see in the triumphant man of to-day the defeated man of to-morrow. He who to-day tramples upon his prostrate enemy or grasps him by the throat, may to-morrow himself be prostrate and beg for that justice which to-day he refuses. Sir, let us have at least a single class of cases in this House which partisan politics shall not control. Let us see to it that if the people another year wish to change the character of this House, by making it more radical or the reverse, their right so to change it shall be respected. Again, I say that in encouraging violence we but give

"Bloody instructions, which, being taught, return  
To plague the inventor."

Mr. HARRIS, of Maryland. Mr. Speaker, I should not have considered it my duty to have interposed any remarks upon the question before the House, especially after the able argument of the chairman of the Committee of Elections, [Mr. DAVES,] followed by the clear exposition of the gentleman from Wisconsin, [Mr. BROWN,] if it were not for the allusion which has been made by the member from Baltimore city [Mr. DAVIS] to the past elections in Maryland, and especially for the allusion made by him to one of my constituents, ex-Governor Thomas Watkins Ligon.

I cannot avoid saying, however, just here, that Massachusetts, whom the chairman of the Committee of Elections [Mr. DAVES] in part represents, has but little right to cast a slur upon Baltimore city for her Plug Ugly enormities—as long as the charge remains of Mount Benedict, look on Bunker Hill—so long as the memory of that crime

shall remain, so long as the memory of her "Hiss" committee entitles her to the scorn and contempt of the world. While these exist, Massachusetts should be quiet; she should take care never to throw the first stone. In carrying out these outrages, however, she was but acting upon principles which the member from Baltimore city [Mr. DAVIS] was prominent in inaugurating in Maryland, and of which he reaped the personal benefit which it was calculated through force and violence to confer. But, sir, before I proceed further, allow me to ask the attention of the member from Baltimore city, if he will yield me his ear, upon what evidence he charges Thomas Watkins Ligon with being a traitor. You heard me, sir, well enough.

Mr. DAVIS, of Maryland. I did not hear the remark of the gentleman.

Mr. HARRIS, of Maryland. You did not want to hear.

Mr. DAVIS, of Maryland. That is false.

Mr. HARRIS, of Maryland. Very well. I want to know if the member from Baltimore city will produce the evidence on which he has undertaken to pronounce Governor Ligon a traitor publicly upon this floor. Mr. Ligon is a resident of Maryland, is now in Howard county at large, and if the member from Baltimore city has any evidence to sustain the charge he has made against this constituent of mine, I would like to hear it. I wait for a reply.

Mr. DAVIS, of Maryland. I respectfully decline to make any reply to the "unworthy member" from Maryland.

Mr. HARRIS, of Maryland. That is very convenient. I do not want the member's reply because of any opinion he may entertain of my worthiness or unworthiness; that should have nothing to do with it; but I want his reply as relating to justice or injustice to a citizen who is not here to defend himself. The member thus sees fit to avail himself of the impunity he enjoys here to charge against a constituent of mine the highest crime known to the law, but will not condescend to produce a particle of proof to sustain it. Now, sir, when a man makes such a charge and will not give any proof to sustain it when called on, when he avoids an answer to the demand for proof by equivocating upon another issue, I cannot and will not say that he is anything but a slanderer. I am ready to withdraw that charge whenever the member shall think proper to prove that Thomas Watkins Ligon is guilty of the charge he has made against him.

The SPEAKER. If the gentleman makes that charge against his colleague he is out of order.

Mr. HARRIS, of Maryland. What charge?

The SPEAKER. That he is a slanderer; it is contrary to the rules of the House.

Mr. HARRIS, of Maryland. I think he was allowed to say that I was an "unworthy member." But I should like to know how to characterize the conduct of the member from Baltimore city. If it is not slander, what is it? I do not want to offend against the rules of order; but I have a right to infer, and do infer, from the course of that member that the charge is utterly false, and that the member has no proof whatever to sustain it.

Mr. L. MYERS rose.

Mr. HARRIS, of Maryland. I do not give way.

Mr. Speaker, the member from Baltimore city seems to enjoy a great opinion of himself. His whole hour was nearly consumed in giving the history—if statements so false can properly be called history—of the great and glorious achievements of himself and his Plug Uglies who enlisted under his banner. He would make us believe that the pillars of the Constitution rested upon his and their shoulders. He was the great defender of the rights of the people of his city, and worthy of, as he had received, their unbounded confidence. Sir, I assert it here that he never enjoyed any public trust or honor except by violence and fraud combined. Three times has he come to

this House by the aid of the bludgeon and dagger of the Plug Uglies; and he now occupies his place here by favor of the bayonets of brutal tyrants. These are the honorable instances which he can point to as displaying the confidence of a free and untimid constituency.

But, Mr. Speaker, I commenced with saying that it was ungracious in Massachusetts to cast a slur at Maryland for practicing a crime of which she was herself part and parcel. True, Maryland should suffer a greater shame, for she had before her the example and guidance of the noble pilgrims who landed on the shores of St. Mary's, while degraded Massachusetts sucked in fanaticism and intolerance from the rock of Plymouth. Sir, the man who will be guilty of the blasphemy of persecuting and proscribing his fellow-men for his religious opinions, especially in this country where the Constitution guarantees their free exercise, is unworthy of a place on this footstool of God. It leads, necessarily, to resistance and bloodshed, and he who inaugurates such a system knows it, and is wickedly and basely willing to enjoy the emoluments and honors of this world, if honors they can be called, though stained by the blood of his fellow-man. Ah, sir, the very first blood that was shed upon earth flowed from this cause; and, sir, a brand as indelible as that imprinted by God upon the brow of Cain should be placed upon the brow of him who proscribes a brother because he worships the living God with a sacrifice which he thinks acceptable.

Now, Mr. Speaker, let us animadvert a little further upon the elections in Maryland and the violence which has attended them. I have myself been a sufferer in that respect. In 1861 I was a candidate for Congress in my district, but I was then defeated by the calm, genteel, but effective tyranny of General John A. Dix, a renegade Democrat and a tyrant, [A voice, "Hit him again;"] a tyrant with a smooth exterior, a little worse, if possible, than those who look the bulldog and the cur. The same general with the bloodless sword effectually brought Maryland to the footstool of tyrannical power by insolent violence, arresting candidates for the Senate and driving the people from the polls, because he knew that an unmolested free election would have given the opponents of the Administration a majority in that body, and would thus have preserved the dignity, the rights, and interests of Maryland from the complete overthrow which they are now suffering. The subjugation of Maryland may be traced to the conduct of this infamous tyrant, for the inevitable majority in her Senate would have saved her the agony she is now enduring.

At the last election in which I was a candidate there was another attempt to thwart my success, but the people were too wise this time. They had become acquainted with the operations and movements of the tyrants, and determined to flank them. The Order No. 53 was issued by the commander of the middle department for the express purpose of affecting the result of the last fall's election in Maryland; and, sir, not only did I contend with the military tyrants, but even a Cabinet minister so far descended from the dignity of his position as to go into Montgomery county—a county in my district—with the pledge that there should be no military interference in their election if the people would only agree not to have my name printed on the ticket. Everything else should be free provided they were willing to make this sacrifice of one who undoubtedly had their confidence. What was the motive of this interference I cannot imagine, except that he hoped thereby to get an additional vote to aid Frank, as the President so affectionately calls him, in stepping into the chair you so effectively and impartially fill. Sufficient it is for me to say that I am here to-day somewhat proud that I have by the aid of my glorious constituents been able to overcome all those enemies of my rights and their rights. I beat the great commander of the middle department with his Order No. 53 and all his military



aids, [laughter,] and I have the satisfaction of being his equal on this floor. I beat the Cabinet minister in Montgomery county triumphantly, [laughter,] and I am here to aid in sending orders to him; and I beat my two opponents with all their ingenious management; and I am in the enjoyment of health and spirits notwithstanding your censure. [Renewed laughter.]

Now, sir, I come more particularly to the election under consideration. What I have said has some bearing upon it because of late there seems to be a great sameness in all elections. I have not read the report of the committee, nor have I looked over the evidence accompanying it. My remarks will be based upon what has been asserted and conceded here. It is not denied that there was military interference to a great extent in this election. Not only was it actual, but threatened and dreaded to so great a degree as to keep a great number, an indefinite number, of the voters from the polls. I contend, under such circumstances, that unless the claimant of the seat can show by proof that he has a clear majority of all the voting population of the district he claims to represent, it is the duty of this House to decide against his claim and to send back both him and his contestant, and to continue to do so until the free and unfettered action of the people of the district had unequivocally declared who should be their servant and Representative. The principle I have announced shall regulate my vote, and if the claimant shall be able to make his facts conform to that principle, then I will support his right to his seat upon this floor. There can be no other intelligible mode of coming to a just and honorable conclusion. I shall presume, sir, that the claimant will thus undertake to establish his claim, because I will not presume that he would accept a seat procured by violence and not as a free gift of his people. The honor would be plucked from the place, and self-respect would cease to be his possession. Distant I hope is the day when many of our prominent and leading men shall be so selfish, so unpatriotic, so destitute of honorable sentiment, as to seek posts of trust and honor by the aid of the bludgeon and the club, or by an appeal from the "ballot to the bullet."

But, sir, notwithstanding his eloquent exhortation here in favor of free ballot, I was surprised to find the chairman of the Committee of Elections [Mr. Dawes] claim for the Executive of this country the tremendous power and right of interfering by military force or other contrivances with the elections in the States. I know there are some prominent gentlemen who will concede or contend for any power for the Executive, no matter how dangerous to the liberties and rights of the people, provided it will aid in advancing their ambitious prospects or in gratifying their mercenary hearts. I feel confident that the gentleman from Massachusetts [Mr. Dawes] takes counsel from no such motives, but I must meet his assertion of such a power as I have mentioned for the Executive with a most emphatic denial. He considers it the duty and right of the President to enter the States on election days with military power exhibited at the polls to see that a pure, fair, and honest result is obtained, and also to keep traitors from the ballot-box. Now, sir, though both of these things are extremely desirable in war and peace, yet, in my opinion, the Executive of the United States is the last agency that should be adopted to accomplish them. The remedy is worse than the disease, or rather would generate a new disease more dangerous than the one which it is attempted to cure. Sir, I deny his right to enter the States for any such purpose of interference, and whenever he does he is not only a traitor to the constitution of the State but a violator of the great principle which lays at the foundation of our common Government. Can any one suppose that our forefathers, as jealous as they were of executive power, would ever think of conferring upon the President a power so easily abused, and when abused so difficult of amendment and control? Never, sir, never! They designed to leave the entire management of elections with the State authorities; and with them, if the people of this country are wise, they will insist upon its being left.

But, sir, the President must see that traitors do not contaminate the polls with their presence.

Why is it that traitors are allowed to go at large until the day of election? This is an astonishing fact, or the "Order No. 53" from the headquarters of the Middle department, dated October 27, 1863, contains a falsehood. I read it:

"It is known that there are many evil-disposed persons now at large in the State of Maryland who have been engaged in rebellion against the lawful Government, or have given aid and comfort or encouragement to others so engaged, or who do not recognize their allegiance to the United States, and who may avail themselves of the indulgence of the authority which tolerates their presence, to embarrass the approaching election, or through it to foist enemies of the United States into power. It is therefore ordered:

"1. That all provost marshals and other military officers do arrest all such persons found at or hanging about or approaching any poll or place of election on the 4th of November, 1863, and report such arrest to these headquarters."

Why is it, I ask again, that known traitors are at large, and that, too, by the indulgence of the authority which tolerates their presence, and that all that indulgence is to be suddenly withdrawn on election day? Can traitors do no mischief to the country except in the matter of elections, and on that particular day? And why is it there are so many "traitors" arrested on the morning of election, before the polls are opened, and most unaccountably released after the election is over? This looks a little mysterious. Sir, it is all a false pretense; it is the trick of the tyrant, adopted in order to involve those who honestly differ with them in political opinions in the pretended net of suspicion, so that by arrests, by various annoyances which a tyrant knows so well how to manufacture, he may keep the honest voters from the polls, and thus secure the election of a brother conspirator. Thus it is that this great right of free ballot, which is the protector of all other rights, and that, too, when all other rights are nearly crushed to the earth, has been brutally assailed by brutal military tyranny.

The SPEAKER. The Chair would remind the gentleman from Maryland that he must address the Chair. He has not been doing so for some time past. [Mr. HARRIS stood immediately in front of the Chair, and had been speaking for several minutes with his back to the Speaker.]

Mr. HARRIS, of Maryland. I am addressing the Chair, and hope the Chair has heard me.

The SPEAKER. The Chair has not.

Mr. JOHNSON, of Pennsylvania. He is addressing the Chair. He is not required to look at the Speaker all the time.

The SPEAKER. Does the gentleman from Pennsylvania raise that point of order?

Mr. JOHNSON, of Pennsylvania. It is the Chair that makes the point of order.

The SPEAKER. The Chair states that it is the usage for the person occupying the chair to remind gentlemen when they are addressing members of the House that it is their duty to address the Chair.

Mr. RANDALL, of Pennsylvania. I hope the Chair will not come down again. It is a long lane that has no turning.

The SPEAKER. The Chair does not understand the gentleman from Pennsylvania.

Mr. HARRIS, of Maryland. I do not yield to my friend from Pennsylvania; I can take care of myself. This is my business, and I object to any interruption. I did not intend offense to the Chair in turning my back, but it is very important, as I have a weak voice, that those whom I intend to have the benefit of my counsel shall hear me. [Laughter.] I do not intend any disrespect to the Chair; as I said before, I have never seen a more impartial presiding officer than the one who presides over this House. I should not have known to which side of the House he belonged politically from his action in the Chair. I say this in all sincerity and truth.

I was saying, sir, that the great privilege of freedom of elections and of the ballot is one which the people will not yield, and with which all executive interference must be withheld. The people have been suffering in every other respect, and much in this. Right after right has been taken from us; the temple of liberty has, as it were, been stripped. The shingles have been taken off at one time, the weatherboarding at another, and you have brought out your battering-rams to crush out the great foundation-stone in order to bring rafter, joist, and all the timbers of the noble edifice in irreparable ruin to the earth. I tell you,

sir, we will not stand it much longer. The men who, by the exercise of assumed tyrannical power, shall further assail that great right, will see ere long the ballot-boxes baptized in blood—a baptism that may be necessary to wash away the foul stains of tyranny and oppression.

Mr. Speaker, the President himself, in his letter addressed to citizens of Springfield, Illinois, declared that "he who appeals from the ballot to the bullet shall lose his case and pay the costs;" and, sir, he is the first man who has a judgment for costs against him. He himself, by the instrumentality of his vicious tools, has violated the solemn pledge which he indicated in that letter, and this, too, upon the ridiculous and frivolous ground that treason may possibly contaminate the ballot-box. If a man is known to be a traitor, the place of election would, I think, be the last place at which he would make his personal appearance. He would know well that the risk he runs would not be compensated for by the privilege he sought. It is futile to talk to intelligent people about traitors being at large in justification of the President or any of his subordinates parading around the polls for purposes of intimidation with military array. It is done because they wish to thwart the free and honest expression of the people's will, when they have reason to apprehend that the result would be against their selfish and tyrannical schemes. Grant this power to the Executive, and he would be able to select your candidates and to secure their elections, and thus to pack this House with his tools. Grant him that power, and the gentleman from Massachusetts [Mr. Dawes] would not be here to talk so eloquently about the freedom of the ballot, and to rebuke the tyranny by which it was struck down. His occupation and that of the committee of which he is the able chairman would be gone. Nothing more would be necessary than for the President to issue a proclamation (which of course could be obtained at any time by a squad of fanatical preachers) announcing who he considers entitled to the places on this floor. He could, too, and would secure, by effectual interference with elections of the members of the Legislatures of the different States, a full supply of cringing tools in the other branch of Congress. The process would produce the very definition of despotism.

The SPEAKER. The hour of the gentleman from Wisconsin [Mr. Brown] has expired.

Mr. HARRIS, of Maryland. I had nothing to do with the time to which the gentleman from Wisconsin was entitled.

The SPEAKER. Then the Chair is mistaken. The present occupant of the chair was not in the Hall at the time.

Mr. SLOAN. I rise to a point of order. I am informed that the gentleman from Wisconsin did yield a portion of his time to the gentleman from Maryland. I call upon my colleague to say whether it was not so.

Mr. HARRIS, of Maryland. I can only say that I did not accept of any concession, if he made any, from my friend from Wisconsin. He had finished what he had to say, and I took the floor by my own independent right.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, one of its clerks, announced that the Senate had passed an act for the settlement, subsistence, and support of the Navajo Indian captives on a reservation in the Territory of New Mexico.

#### MISSOURI TESTED ELECTION—AGAIN.

The SPEAKER. The gentleman from Wisconsin [Mr. Sloan] raised the question of order that the time of the gentleman from Maryland had expired. The Chair is informed that although the gentleman from Wisconsin expressed his willingness to yield the remainder of his hour, the gentleman from Maryland took the floor without any concession and is now entitled to his full hour.

Mr. HARRIS, of Maryland. I do not intend to tax the patience of the House by consuming the entire time to which I am entitled. When interrupted (as I have so frequently been) I was carrying out my line of argument to show what the Executive of this country could do by the exercise of such a power as was claimed for him by

the gentleman from Massachusetts, [Mr. DAVIS,] and conceded by the member from Baltimore city, [Mr. DAVIS.] With this tremendous lever he might easily overturn the liberties of this country. As I said before, he could fill all the places of trust and honor with the willing tools of his power; men who, being willing slaves themselves, are fit instruments to make slaves of others. Even any "ism" might be voted up or voted down if advised by the preachers, through the operation of the power now claimed for him. Anti-slaveryism can be elected at any time, as by this process is now in reality being done in the States in which that institution exists. The forms of law may be preserved, while the fraudulent and oppressive realities of tyranny can be enforced. Sir, this pretended design of keeping treason from the polls is too transparent. Why is it that this crime, punishable at all times, is punished only on election day? It is that patriotic men, who differ with the Administration in its ruinous course, who have the highest regard for their constitutional and legal obligations, may be involved in the loss of their greatest privilege under the infamous pretense of preserving it. It is an easy thing, as we see, for a heated and selfish partisan to proclaim the charge of treason against a fellow-citizen; but when the charge is made, and is unsustained by proof, there can be no other name for the unjust accuser except the name of slanderer.

Mr. GARFIELD. I rise to a question of order. The member from Maryland is contumaciously disobeying the Chair. He is not addressing the Chair; he is addressing the other part of the House. I call him to order.

Mr. HARRIS, of Maryland. I hope I will not be interrupted. I will look at the Chair. The Chair will excuse me if in the warmth of debate I have transgressed the rule of order which the Chair has laid down.

Mr. NOBLE. I have listened with great care to the gentleman from Maryland, and since admonished by the Chair he has made no address to anybody else but the Chair. I do not think he is liable to the point of order made against him by the member from Ohio.

Mr. HARRIS, of Maryland. I think my honorable friend from Ohio [Mr. GARFIELD] should not be so sensitive on this subject. I will not, however, call him my friend, for I do not know him, and am not sure that he would recognize the appellation. But, sir, I know I have seen him in the ecstasies and contortions of debate so far forget himself on this point as to bring him within the category of those who are not privileged to cast the first stone.

This charge of treason is a wide-spread net. It has entered the Halls of Congress and been used for the purpose of arresting free debate and stifling the warning voices which will reach the ears and warm the hearts of the American people. For the bold utterances of my political sentiments, this charge of treason has been called from the "vast deep" in order to proscribe me. I dare to avow them in this or any other presence, and the defiance refutes the charge. For the avowal of my approbation of the sentiment contained in the celebrated Crittenden resolution, (though in a somewhat different form,) which the gentleman [Mr. WASHBURN] who drew the resolution of expulsion approved of and voted for, it was declared here in his resolution that I had used "treasonable language and had been guilty of a gross contempt of this House," and should be expelled. As to the charge of gross contempt of the House, the recollection and reflection of the members who voted it must declare it false. Not a single rule of order or parliamentary decorum did I violate on that occasion, and the House will be ashamed when they review their own ruling on that point. But my language was "treasonable." This word is used in common parlance, free from the rigid rules of law. But I defy any man to find in American criminal law such a word as "treasonable." Treason needs no adjectives to define or construe its meaning. It has its definition written by the hands of our glorious fathers in the Constitution itself. It is an unqualified substantive, standing forth from the Constitution like a mountain, that all may view its dark outlines. This word, then, used with such hot haste and indorsed by a majority of this House with so little reflection, shows that they would construct a treason to suit what they might consider

the demand of the times, without regard to the demands of the Constitution which they are sworn to support, and without regard to the just privilege of defense which they in my case ignored. It is pitiable when such acts are done that they should be hastily done, and inaugurated by that kind of ignorance which knows not the force of language. The rule which our fathers wrote in the Constitution saved me from your expulsion, and saved you from the stern and indignant rebuke which I would have brought back with me from my patriotic and whole-souled constituents.

But you did not stop here; your vengeance was not thus to be thwarted. Another resolution introduced by the member from Ohio, [Mr. SCHENCK,] and upon which he cut off all debate by the previous question, declared that I had used language "manifestly tending and intended to give aid and comfort to the enemies of this country, and that I was therefore an unworthy member and should receive its censure." The tendency which he considers so manifest is an absurdity. What a tendency it would have to give the aid and comfort which he speaks of, for one solitary member in this Hall with all others against him to show himself the friend of the enemy! It must cheer the heart of Jefferson Davis to the core to receive such great and efficient aid.

Mr. UPSON. I call the gentleman to order. He is not discussing the question before the House. The resolution of censure passed by the House on the gentleman has nothing to do with the pending question.

The SPEAKER. The Chair has not been able to hear what the gentleman from Maryland has been saying for the last fifteen minutes. If he has been referring to the censure passed on him by the House he is out of order.

Mr. SMITH. I hope that the gentleman will be allowed to take his own course and not be confined to the pending question.

Mr. HARRIS, of Maryland. The member from Maryland was accorded the privilege of referring to other subjects than the one under debate.

Mr. FENTON. I call for a decision on that motion.

Mr. SMITH. The gentleman from Maryland [Mr. DAVIS] and others have alluded to matters not directly or strictly under consideration. I listened to their remarks with pleasure. I desire that the member from Maryland [Mr. HARRIS] shall be allowed to proceed in the same direction. If he gets so far out of order that it is necessary to call him to order, no one will be quicker to do it than myself; I do not mean in violation of the rules of the House, but without relevancy to the question under consideration.

Mr. UPSON. I object.

The House divided; and there were—ayes 57, noes 37.

So the motion was agreed to.

Mr. HARRIS, of Maryland. It is not very agreeable to address those who are unwilling to hear me, although I have nothing to complain of as to the great attention they give me. I have said nothing that should offend them. I alluded to the fact that they had not been willing to give me the privilege of defense on the occasion referred to, and it seems they are not very willing to give me an opportunity of defense now. To show how insidious the charge of treason can be made and how willingly sustained is not in my estimation so irrelevant to the issue before the House as gentlemen might suppose. The charge is made in election cases to destroy the freedom of the ballot, and may be used here to abolish the freedom of debate. But, sir, to the other branch of the charge in the resolution of censure of the gentleman from Ohio, [Mr. SCHENCK,] It declares that my language was manifestly designed to give the aid and comfort spoken of to the enemies of the country. The member when he wrote that could not know it to be true, but I know it to be utterly false. But it would have been as absurd to utter language here under the circumstances, with such a design, as it would be to suppose the language uttered would have the tendency which the resolution charged. Designed! Such a thing never entered my mind. On that day I came into this House unexpectedly and found that the gentleman from Ohio [Mr. LONG] had been assailed by a resolution of expulsion for the expression of his sentiments on this floor. The only feeling

I had and the only thought I had was that of indignation at the unwarranted attempt to arrest the freedom of discussion here. The language I used rushed from the indignant heart of a freeman when Freedom was assailed in its very temple. I not only intended to show that he had the full right he claimed, but I determined by going a bar's length ahead of him to test before the country the full strength of the great privilege you have assailed. I am thus far satisfied with the result. Still, talking of treason, sir, the only language that indicated a desire to perpetrate treason fell from the member from Ohio [Mr. SCHENCK] himself, when he declared that if he had the power he would send his colleague [Mr. LONG] across the lines; and what would he expect of him in the lines of the enemy except to give them aid and comfort? Ah, sir, perhaps by shouldering a musket and meeting the chivalrous gentleman from Ohio [Mr. SCHENCK] in battle, and by one disastrous shot possibly depriving the country of his valuable services. I say such acts are treason, whether done by the President of the United States or any of his subordinates. Instead of putting a traitor in jail to suffer the consequences of his act, you send him where his sympathies are, and voluntarily give the enemies of your country additional force for destroying your soldiers in the field. If you or I had done such acts and they were known to the late commander of the Middle department, we should have had the benefit of a room in Fort McHenry and a sentence of a drum-head court-martial. And are not these men to be held responsible for this crime, for which they would so readily punish their equals?

Sir, I wish to sift this thing called treason, these slang phrases, *loyalty* and *disloyalty*. The latter word, if it means anything, can only embrace the crime of treason, and the former can only mean conformity to legal and constitutional obligations, unless, indeed, may be added, as some construe it, the obligation to steal a negro. Sir, I contend all are loyal who are not traitors, according to the definition of that crime contained in the Constitution. The lines and boundaries of treason are and were intended to be well marked. He that steps within them is a criminal, but outside of those lines and on their very verge the American citizen looking over the vast field of his rights can defiantly exclaim:

"I am monarch of all I survey."

Mr. Speaker, the great event of a presidential election is advancing upon us. The designs and schemes which I have endeavored to expose may be again resorted to in order to defeat the choice of the people and force upon them a reign of terror for four years longer. I tell you, sir, it is the right of the people to carry arms, and it may be their duty to use them in order to preserve their liberties. If they could hear and heed my voice everywhere, from the snow-clad mountains of New Hampshire to the waters of the Potomac, from the Atlantic to the Pacific coasts, they will "arise, awake, before they are forever fallen." Let those heed my voice, too, who as in the past shall dare by threatened violence to interfere with that great fundamental right of the people, the very basis and foundation of all other rights which they hold as treasures. Mark me when I say that the people will arise and defend their rights although blood may flow in streams from their veins, but they will find that blood flows in other veins besides theirs, that their tyrants have some of that precious fluid. If interference shall be persisted in with the free expression of the people's choice at the ballot-box, that priceless right guaranteed to us by our beloved ancestors, I hope that blood will flow, and that traitors and tyrants will be trampled in the dust.

Mr. SCHENCK. Mr. Speaker, the member from Maryland, who has just taken his seat, made some reference to me. I desire to have read what I send to the Clerk's desk.

The Clerk read, as follows:

"Resolved, That BENJAMIN G. HARRIS, a Representative from the fifth district of the State of Maryland, having spoken words this day in debate manifestly tending and designed to encourage the existing rebellion and the enemies of this Union, is declared to be an unworthy member of this House, and is hereby severely censured."

\* \* \* \* \*  
"The question was taken; and it was decided in the affirmative—yeas 93, nays 18; as follows:  
Yt 48 Messrs. Alley, Allison, Ames, Anderson, Ar-

nold, Ashley, Bailly, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Francis P. Blair, Boutwell, Boyd, Broomall, James S. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Cox, Henry Winter Davis, Thomas T. Davis, Dixon, Donnelly, Driggs, Dumont, Eckley, Elhor, English, Frank, Ganson, Garfield, Gooch, Grinnell, Hale, Harrington, Higby, Holman, Hofekiss, Asahel W. Hubbard, John H. Hubbard, Jenckes, Julian, Kason, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, Loan, Marvin, McAlister, McBride, McClurg, McIndoe, Middleton, Samuel F. Miller, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Nelson, Odell, Orth, Patterson, Pike, Pomeroy, Price, William H. Randall, Edward H. Rollins, Schenck, Seofield, Shannon, Smithers, Spalding, Starr, John B. Steele, William C. Steele, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Ellihu B. Washburne, William B. Washburn, Webster, Whaley, Williams, Wilder, Wilson, Windom, and Winfield—93.

"NAYS—Messrs. James C. Allen, Ancona, Bliss, Chanler, Denison, Eden, Eldridge, Law, Le Blond, William H. Miller, Morrison, Pendleton, Pruyn, Samuel J. Randall, Ross, Strouse, Chilton A. White, and Fernando Wood—18.

"So the resolution was agreed to."

Mr. SCHENCK. That is all I desire. I wish that to follow the speech of the gentleman from Maryland in the official report.

Mr. L. MYERS obtained the floor.

#### TREATMENT OF UNION PRISONERS.

Mr. GOOCH. With the permission of my friend from Pennsylvania, I desire to submit a report from the joint committee on the conduct of the war relative to the cruelties inflicted upon our soldiers while in the hands of the enemy as prisoners of war. I move that the report be laid on the table and printed.

The motion was agreed to.

Mr. GOOCH. I move now that forty thousand extra copies of the report be printed, and in submitting that motion I wish to say to the Committee on Printing that this report will make but some twenty or thirty pages of printed matter, and we are desirous that it shall be included in the same volume with the report in relation to the massacre at Fort Pillow.

The motion to print extra copies was referred, under the law, to the Joint Committee on Printing.

#### LEAVE OF ABSENCE.

Mr. SMITH. I desire to ask indefinite leave of absence for my colleague, Mr. CLAY, whose family is exceedingly unwell.

Leave was granted.

Mr. MILLER, of Pennsylvania. I desire to ask leave of absence for one week from to-morrow for my colleague, Mr. DENISON, and leave of absence for three days for my colleague, Mr. STROUSE, who is called home by sickness in his family.

Leave was granted.

Mr. FENTON. My colleague, Mr. MARVIN, has been called away from the city by important business, and before leaving he requested me to ask leave of absence for him for ten days. I ask that he have that leave.

Leave was granted.

#### MISSOURI CONTESTED ELECTION—AGAIN.

Mr. L. MYERS. Mr. Speaker, I have but a word or two to say on the question before the House. At this very moment we are rendering thanks to Almighty God for a great victory vouchsafed to our arms. The national heart is glad, but the individual hearts of the people are throbbing with anxiety to hear from the battle-field. Thousands of our wounded are on their way to this capital; thousands more—mangled as they are with traitors—lie dead upon the field, and yet with the memory of Fort Pillow and Plymouth fresh within us, while our returned prisoners, emaciated and faint, and dying from starvation at the hands of southern demons, piteously appeal to us against them; while the blood of that brave young colonel—Dahlgren—who gave first limb and then life to the cause of his country is scarcely dry upon southern sod; while by every hearthstone in the land there is a chair made vacant by this foul rebellion of slaveholders, here, in the American Congress, it is gravely proposed to eject from his seat one of its loyal members, not even to put in his place the contestant—who has not the shadow of a case—but to refer the election back to the people in order to see whether by taking away the military authorities from the polls sufficient rebel voters remain in this district, despite our victories, to send a member in his stead who shall side with rebellion and against the country. That is the question before us. Hereafter

let no man complain that freedom of speech and latitude of debate are not allowed in these Halls. Fittingly, indeed, did the gentleman from Maryland, [Mr. HARRIS,] the apologist here of rebels and traitors, who has been declared an unworthy member of this House, rise to favor the resolution, and most unfitly does he, of all others, charge the sitting member [General Loan] with a want of self-respect in retaining his seat, when, contrary to usage and in violation of the wish of his more than peers, he himself remains where his presence is unbearable.

Now, Mr. Speaker, to the case. I listened attentively to the remarks of the gentleman from Wisconsin, [Mr. BROWN,] anxious to learn what he had found in the testimony to justify the course he has taken, but I listened in vain for any such allusion. I heard his denunciations of the Administration. I heard his threats that the people would rise in revolution if this state of things continued, or they were not fit for freedom. I heard him misquote history in stating that Massachusetts troops were struck down in the streets of Baltimore by the same violence, as he terms it, that was used at the polls in Missouri to keep voters away, and I take leave to differ from him on all points. Especially do I say that the violence which struck down those noble Massachusetts and Pennsylvania men was secession violence, and that the men who were kept away from the polls in Missouri were secessionists. I heard the gentleman from Wisconsin assert that we were not the friends of the soldier. Let the soldiers, whose good sense he seems to doubt—to whose ears there have not yet come the good tidings that the Democratic party is their especial friend—let the soldiers, by the record of their votes in favor of General Loan, and in favor of Union candidates on all occasions, answer the slander.

Mr. Speaker, I gave close attention the other day to the talented member from Massachusetts, the chairman of the Committee of Elections, [Mr. DAWES.] I heard his sophistry and philosophy, but no facts to warrant, in my judgment, the conclusions to which he came. He made, however, one assertion in which I agree with him. He said he believed *there was power in the Government to keep rebels away from the polls*. Loyally as he always votes, loyal as he is, I should not have thought he so believed in this case from anything but that assertion. I, too, think the Government has such power, and so thinking I intend to vote that the member from the seventh congressional district of Missouri shall retain the seat to which the evidence shows him entitled.

The gentleman from Massachusetts, [Mr. DAWES,] who seems to have an intuition on this point, said he was sorry to see in the countenances of gentlemen on this side of the House a determination to vote for the sitting member, and that he was afraid they had not opened the books of the case which lay upon their desks. To have judged, sir, by his lack of reference to the testimony, I should have supposed the omission his own instead of theirs, and when his colleague, [Mr. ELIOT,] called up by his appeal to the good sense of their native State, was proceeding to demolish his argument from the evidence, he was very careful to stop the interruption.

I have looked through the testimony, and from it find that the only intimidation made use of in the seventh district of Missouri was to keep rebels and branded secession sympathizers away from the polls. I am in favor of intimidation of that kind. If it had not been practiced in districts like this, bordering upon rebellion, the Government of the United States would not have used its self-sustaining power.

Mr. BROWN, of Wisconsin. If the gentleman will allow me I will ask him whether there is any allegation in the defense set up by Mr. Loan to the effect that these men who were excluded from the polls were rebels and secession sympathizers.

Mr. L. MYERS. I answer the gentleman from Wisconsin that I care not whether it is so alleged or not. I look to the *proof* and mean to be guided by that, as I think the minority of the committee has been, and as I know this House will be. General Loan in his answer denies that *qualified voters* were kept from the polls. Such men were not qualified voters; but the evidence is the contestant's. General Loan offered none. Mr. Bruce must prove his case. All these facts

came out on cross-examination of his own witnesses and he is bound by them. Let me take a specimen of the evidence upon this point. I will read a single question and answer from the testimony of Joseph B. Nickel, on page 91:

"Question 22. Does not the class of men who you think did not vote at said election, and who you think would, on a fair election, have voted for John P. Bruce, consist mainly of men who had returned from the rebel army, or had been arrested by military authority and imprisoned or put under bonds, or enrolled under Order No. 24, or were reputed to be secessionists or secession sympathizers?"

Answer 22. The men above referred to consist partly of men who uniformly call themselves Democrats, and many of whom have been arrested and imprisoned by the military authorities at some time since 1859; partly of men who had at one time been in the State or Confederate army, and some of whom are now under military bonds; and partly of those who are said to be enrolled under Order No. 24. Of the last, there were but few at Savannah, comparatively. All three of the above classes are, by the Republican party, called rebels and rebel sympathizers."

Now, sir, this is one of the witnesses for the contestant. A number of them testify to the same effect. I judge him by his own evidence; and I find by glancing over it that wherever General Loan attended himself or by counsel to cross-examine the witnesses, it was found that they came under one of the classes alluded to.

I will refer to several of them in support of the assertion. In the testimony of Benjamin C. Cunningham, page 43, I find the following:

"Question. You will please state whether or not you applauded the capture of Fort Sumter in the spring of 1861."

Answer. I don't think I did, sir.

"Question. You will please state whether or not you did not condemn the tearing down of the Confederate flag hoisted in the city of St. Joseph, Missouri, in the summer of 1861."

Answer. I did not either approve or disapprove of it."

Dr. A. Lamme, in his cross-examination (page 47) admits that he gave three groans on the occasion of raising a United States flag over the post-office at St. Joseph.

John W. Garr testifies (page 110) as follows:

"Question. Have you ever been a member of the militia of this county, and if not, for what reason?"

Answer. I have not. I got a certificate of exemption as a sympathizer with the rebellion."

I refer also to the testimony of a number of other witnesses to the same effect. Two of them, a clerk and judge of election, failed to take the loyal oath prescribed by the convention of Missouri. One of them falsified in his evidence, stating that he had been so sworn, but the contestant afterwards admitted what sort of an oath he did take, and it was not the oath prescribed by the convention. The evidence also shows that the contestant, Mr. Bruce, received a large number of rebel votes. James A. Matney admits that of the returned rebels, and those regularly enrolled under Order No. 24 as disloyal, a majority voted for Bruce; such votes for Loan, he says, "were few and far between." Thomas R. Bryan and others will be found conclusive upon the same point; so that if all such votes had been excluded, as I think they ought to have been, Mr. Loan's majority would have been larger than is returned. No doubt many were received, for we find Mr. Bruce (page 15) calling on General Hall, and protesting against the exclusion of those enrolled under Order No. 24.

Again, in the notice given by the contestant, in order to overcome the large majority of 2,000 votes given to General Loan, he states at random that he lost 800 votes in this county, 1,000 votes in that, and so on, by the course pursued against him. Now, let me give a single example of the way he proves his allegations. The witness, Matney, being referred to this allegation, swears up to the figure of 500, said to have been lost to Bruce in Buchanan county, but the test of a cross-examination dwindles the loss to nothing, as it does in every instance where this precaution was taken. He says he arrives at this difference of 800 votes and more by a comparison between the vote for President in 1860 and for Congress in 1862, and yet is forced to confess that before December, 1861, between three hundred and five hundred men had left Buchanan county to join Price's rebel army, and after that time and before the congressional election in 1862 several rebel regiments were recruited in that county. Their loss, to be sure, somewhat replaced (see page 29) by "a large number of persons who had been run out of Kansas into Buchanan county and came from other States to avoid the draft," but were not legal voters. A specimen, sir, for the whole.

This is the class of testimony, if any, which



gentlemen on the other side, as well as the gentleman from Massachusetts, [Mr. DAWES,] who I regret has fallen into such an error, must refer to as their guide. It is the only kind that could be obtained to bolster up the contestant, or rather to show that the election shall be sent back to the people.

The gentleman from Wisconsin [Mr. BROWN] declares that the sitting member has not proved his case. He was followed in this by the member from Maryland, [Mr. HARRIS,] on the same side. I will not refer to the latter again, further than to remark that the kindness of this House has permitted him to indulge in a course of conduct in this case which a sense of justice to the American people will not again tolerate. Not proved his case indeed! I learn for the first time that the burden of proof is upon an incumbent. He has his certificate of election, a *prima facie* case, which, until disproved in due form of law, gives him as strong a title to his seat as that of any member upon this floor. The contestant must overcome General Loan's majority of 2,000 votes, and show conclusively that thus many legal and qualified voters, who would have voted for himself, were excluded from their suffrages. Until that is done there is no case; and as it has not been done, I shall vote not only against the man who fails to prove his allegations, but against sending the sitting member back to the people to go through another election.

Mr. Speaker, this is one of the boldest attempts to oust a member from his seat that I ever heard of. Suppose we pass the majority resolution reported by the committee and send this election back, what shall we see? In the counties of the seventh Missouri district many remain who are still rebels and their abettors. Some authority must be invoked, civil or military, to keep these traitors from exercising the right of suffrage accorded to loyal citizens only. The scenes that have been described will be reenacted. If, however, rebels find Congress, with full knowledge of the facts, giving to them such privileges they will take care to nominate a candidate more objectionable to us than the contestant, who, I take pleasure in saying, has borne himself with great decorum throughout this debate, and may succeed in sending here a helpmate to the member from Maryland, [Mr. HARRIS,] who will sympathize with treason and give his voice and votes to embarrass our armies and the cause of the country.

To conclude, sir, it is clearly shown that General Loan is entitled to his seat. He has a certified majority of over 2,000. No one pretends that this majority has been overcome by the proof. The matter has been discussed very thoroughly, and I trust, after hearing the parties to this contest, we shall come to a vote, declare the incumbent to be rightfully the sitting member, and proceed to the more important business of the nation.

Mr. SMITH. I desire to ask at this stage of the discussion what effect the previous question would have?

The SPEAKER. It would cut off all debate except the debate agreed upon in reference to the contestant and the sitting member.

Mr. SMITH. Then I demand the previous question.

The previous question was seconded, and the main question was ordered to be put.

The SPEAKER. The contestant is entitled to the floor.

Mr. BRUCE (contestant) took the floor.

Mr. MORRILL. I desire to make a suggestion to the House in reference to an evening session. I believe it was agreed to discontinue them until to-morrow evening. I am informed it is the pleasure of the House to have a session this evening to close the debate on this question, so that a vote can be taken in the morning. I therefore move that there be an evening session for the discussion of this question, with the understanding that no business is to be done.

Mr. LOAN. I desire to ask the House to allow this debate to go over until to-morrow, so far as I am concerned. I have been so unwell that I have been unable to remain in my seat and listen to what has been said. I do not think it will be possible for me to stand by my desk and say what I desire to say this evening. I ask the House to give me until to-morrow, instead of requiring me to go on to-night.

Mr. PENDLETON. In order to accommodate both the gentlemen, I move that the House adjourn.

Mr. MORRILL. I withdraw my motion.

#### INHUMANITY TO FEDERAL PRISONERS.

Mr. BALDWIN, of Massachusetts, by unanimous consent, from the Committee on Printing, reported the following resolution, and upon it demanded the previous question:

*Resolved*, That forty thousand extra copies of the report of the joint select committee on the conduct of the war, on the subject of the condition of returned prisoners of war, and their treatment while in the hands of the rebel authorities, be printed for the use of this House; and that the same be bound with the report of the same committee relative to the massacre at Fort Pillow.

Mr. PENDLETON. Will the gentleman withdraw the previous question to allow me to move to reduce the number to ten thousand?

Mr. BALDWIN, of Massachusetts. I cannot.

Mr. PENDLETON. As I yielded the floor to the gentleman to introduce the resolution, I do not think this is a very fair return.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the resolution was agreed to.

Mr. BALDWIN, of Massachusetts, moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

And then, on motion of Mr. PENDLETON, (at four o'clock and fifteen minutes,) the House adjourned.

#### IN SENATE.

TUESDAY, May 10, 1864.

The Journal of yesterday was read and approved.

#### PETITIONS AND MEMORIALS.

Mr. COWAN presented a petition of agriculturists, miners, and manufacturers of Philadelphia, praying for the enactment of suitable laws for the encouragement of foreign immigration; which was referred to the Committee on Agriculture.

He also presented three memorials of citizens of the boroughs of Glen Rock, Wrightsville, and Sunbury, Pennsylvania, remonstrating against the extension of the Goodyear patent for the manufacture of vulcanized India rubber; which were referred to the Committee on Patents and the Patent Office.

Mr. MORGAN presented a memorial of persons engaged in the express business in the State of New York, remonstrating against any change of section ten of the act of March 3, 1863, regulating the manner of taxing express companies; which was referred to the Committee on Finance.

Mr. FOSTER presented two memorials of citizens of Connecticut, and three memorials of citizens of Massachusetts, remonstrating against the extension of the Goodyear patent for the manufacture of vulcanized India rubber; which were referred to the Committee on Patents and the Patent Office.

Mr. SUMNER presented a memorial of persons engaged in the express business in the State of Massachusetts, remonstrating against the proposed tax to which their business is to be exposed under the tax bill as passed by the House of Representatives; which was referred to the Committee on Finance.

He also presented a petition of citizens of Waterville, Maine, praying for the abolition of slavery throughout the United States; which was referred to the select committee on slavery and freedmen.

Mr. SHERMAN presented a petition of citizens of Cincinnati, Ohio, praying for the construction of a ship canal around the falls of Niagara; which was referred to the Committee on Commerce.

He also presented a memorial of citizens of Ohio, remonstrating against the extension of the patent of Charles Goodyear for the manufacture of vulcanized India rubber; which was referred to the Committee on Patents and the Patent Office.

Mr. HOWE presented the petition of U. H. Peak and others, citizens of Fort Howard, Brown county, Wisconsin, praying for the establishment of a tri-weekly mail route from Fort Howard, at the northern terminus of the Northwestern railroad, to Siles, Wisconsin; which was

referred to the Committee on Post Offices and Post Roads.

Mr. WILLEY presented a petition of ministers of the gospel in the District of Columbia, praying for legislation in reference to their liabilities for celebrating the rites of matrimony; which was referred to the Committee on the District of Columbia.

Mr. VAN WINKLE presented a petition of steamboat men and citizens of Wheeling, West Virginia, praying that the board of inspectors of steamboats at that port may be continued; which was referred to the Committee on Commerce.

Mr. HARLAN presented the petition of H. O. Read, sister and executrix of the late Colonel Fanning, United States Army, praying for a pension; which was referred to the Committee on Pensions.

#### REPORTS FROM COMMITTEES.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred a bill (S. No. 252) to provide for the adjustment of claims of aliens against the United States since the commencement of the present rebellion, reported it with amendments.

Mr. CHANDLER, from the Committee on Commerce, to whom the subject was referred, reported a bill (S. No. 279) to facilitate trade on the Red river of the North; which was read, and passed to a second reading.

#### BILLS INTRODUCED.

Mr. HALE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 270) to amend an act entitled "An act to establish and equalize the grade of line officers of the United States Navy," approved July 16, 1862; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. FOSTER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 271) relating to civil actions in the District of Columbia; which was read twice by its title, and referred to the Committee on the Judiciary.

#### VETERAN ENGINEERS.

Mr. WILSON. I move to take up House bill No. 251, which I think will not occupy much time.

The motion was agreed to; and the bill (H. R. No. 251) to organize a regiment of veteran volunteer engineers, was considered as in Committee of the Whole.

The first section of the bill proposes to authorize the Secretary of War to enlist, out of any volunteer forces in the army of the Cumberland that have served, or are now serving, as pioneers, pontoniers, or engineers, a regiment to serve wherever required for three years, or during the war, to consist of ten companies, and to have the same organization, pay, and emoluments as are allowed to engineer soldiers under the provisions of the fourth section of the act providing for the better organization of the military establishment, approved August 3, 1861.

By the second section, the officers of the engineers thus authorized to be raised are to be appointed and commissioned by the President of the United States, on the recommendation of the commander of the army of the Cumberland, and to receive the same pay and allowances as engineer officers of similar grade in the regular Army.

The third section provides that all persons enlisting under the provisions of the act shall receive the bounties now paid to veteran volunteers, if they enlist within one month after its passage, and they shall be accredited to the subdivision of States in which they originally enlisted.

Mr. WILSON. As the time for paying the bounties mentioned in the third section has expired, I move to amend the bill by striking out that section.

The amendment was agreed to.

The bill was reported to the Senate, and the amendment was concurred in. It was ordered that the amendment be engrossed and the bill be read a third time; and the bill was read the third time, and passed.

#### PENSION TO WIDOW OF GENERAL WHIPPLE.

Mr. HALE. I move that the Senate postpone all prior orders for the purpose of proceeding to the consideration of Senate bill No. 2.

The motion was agreed to; and the Senate, at

in Committee of the Whole, proceeded to consider the bill (S. No. 2) granting a pension to Ellen M. Whipple, widow of the late Major General Amiel W. Whipple, of the United States Army, which had been reported adversely from the Committee on Pensions. It proposes to direct the Secretary of the Interior to place the name of Ellen M. Whipple, widow of the late Major General Amiel W. Whipple, of the United States Army, on the pension roll, at the rate of fifty dollars a month, from the 7th of June, 1862, for and during her widowhood.

Mr. HALE. I will make a statement of the bill, but I do not mean to urge its consideration at this time if it is objected to. This is a bill granting a pension of fifty dollars a month to the widow of the late Major General Amiel W. Whipple, who was killed in the battle of Chancellorsville last year. There is a like bill granting a like pension to the widow of the late Major General Hiram G. Berry, and a like bill granting a like pension to the widow of the late Brigadier General Edward D. Baker, who were killed during this war. With a simple statement in regard to them, I shall move that at an early day the Senate consider the question which these cases present.

Of six general officers killed, three were General Smith, General Stevens, and I think General Kearney, for the benefit of whose widows bills were introduced precisely of this character, granting pensions of fifty dollars per month, and they were passed and became laws. The other three generals killed were General Whipple, General Berry, and General Baker, and a like pension is proposed for the relief of their widows. The Committee on Pensions that reported the bills last year which passed to the statute-book, have reported adversely upon the three bills which I have now mentioned. I do not wish to urge the consideration of the subject now; but as it is an important one, and as I confess it looks to my mind as if the public faith was involved, I will move, if there be no objection, that this bill and the two succeeding bills on the Calendar be made the special order for Monday next at one o'clock.

Mr. BUCKALEW. I made the reports from the committee in these several cases. I shall not oppose the motion of the Senator from New Hampshire to have the subject considered; but I think when the Senate comes to look over this subject they will conclude that the question of pensions is so extensive that the Senate will be obliged to proceed on general rules, and to exclude altogether special bills.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from New Hampshire to postpone the further consideration of the bill to, and make it the special order of the day for, Monday next at one o'clock.

The motion was agreed to.

#### PREVENTION OF SMUGGLING.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of Senate bill No. 88.

Mr. MORRILL. Allow me to call attention to the fact that Senate bill No. 266 was made the special order for half past twelve o'clock to-day; and it is so near that time that I think it had better come up now. It wants but a single moment or two.

Mr. TRUMBULL. If it is a special order, I give way to it.

The PRESIDENT *pro tempore*. The Chair will call up at this time by unanimous consent the special order for half past twelve o'clock, the time having nearly arrived. The bill (S. No. 266) to prevent smuggling, and for other purposes, is before the Senate as in Committee of the Whole.

Mr. MORRILL. I move to amend the bill by striking out in line six of section two the words "Eastport, Maine, four."

The amendment was agreed to.

Mr. MORRILL. In section one, lines three and four, I move to strike out the words "the 1st day of August, A. D. 1864," and insert the words "passage of this act."

The amendment was agreed to.

Mr. MORRILL. In section six, line seven-teen, I move to strike out "five hundred" and insert "one thousand," so as to read, "and shall also pay a fine of not less than \$100 and not more than \$1,000."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time, and passed.

#### PROCEEDINGS IN CRIMINAL CASES.

On motion of Mr. TRUMBULL, the bill (S. No. 88) regulating proceedings in criminal cases and for other purposes was considered as in Committee of the Whole.

The PRESIDENT *pro tempore*. The bill will be read.

Mr. TRUMBULL. I suggest that the Clerk read only the amendment reported by the Committee on the Judiciary, which is a substitute for the original bill. The Senator from Maryland [Mr. JOHNSON] has particular charge of the bill.

The PRESIDENT *pro tempore*. That course will be pursued if there be no objection. The amendment is to strike out all after the enacting clause of the bill and insert what will be read.

The Secretary read the words to be inserted, as follows:

That from the persons summoned and accepted as grand jurors in any district or circuit court of the United States, the court shall appoint the foreman, who shall have power to administer oaths and affirmations to witnesses appearing before the grand jury.

SEC. 2. *And be it further enacted*, That when the offense charged be treason, or a capital offense, the defendant shall be entitled to twenty and the United States to five peremptory challenges. On a trial for any other offense the defendant shall be entitled to ten and the United States to two peremptory challenges. All challenges, whether to the array or panel, or to individual jurors for cause or favor, shall be tried by the court without the aid of triers.

SEC. 3. *And be it further enacted*, That in every case where any person convicted of any offense against the United States shall be sentenced to imprisonment for a period longer than one year, it shall be lawful for the court by which the sentence is passed to order the same to be executed in any State prison or penitentiary within the district or State where such court is held, the use of which prison or penitentiary is allowed by the Legislature of such State for such purposes; and the expenses attendant upon the execution of such sentence shall be paid by the United States.

SEC. 4. *And be it further enacted*, That issues of fact in civil cases in any circuit court of the United States may be tried and determined by the court without the intervention of a jury, whenever the parties, or their attorneys of record, file a stipulation in writing with the clerk of the court waiving a jury. The finding of the court upon the facts, which finding may be either general or special, shall have the same effect as the verdict of a jury. The rulings of the court in the progress of the trial, when excepted to at the time, may be reviewed by the Supreme Court of the United States upon a writ of error, or upon appeal, provided the rulings be duly presented by a bill of exceptions. When the finding is special, the review may also extend to the determination of the sufficiency of the facts found to support the judgment.

SEC. 5. *And be it further enacted*, That all acts and parts of acts in conflict with this act be, and the same are hereby, repealed.

SEC. 6. *And be it further enacted*, That this act shall take effect on the 1st day of June, 1864.

Mr. TEN EYCK. Is it in order now to move an amendment?

The PRESIDENT *pro tempore*. It is in order either to amend the amendment or the original bill to which it is an amendment.

Mr. TEN EYCK. I wish to propose an amendment in relation to the challenges. In section two of the substitute, line five, I propose to strike out the word "ten" and insert "five." I will read a portion of the second section:

*And be it further enacted*, That when the offense charged be treason, or a capital offense, the defendant shall be entitled to twenty and the United States to five peremptory challenges.

That applies to treason.

On a trial for any other offense the defendant shall be entitled to ten and the United States to two peremptory challenges.

That is the way it is reported by the committee. It proposes to give a defendant indicted for any of the minor inferior offenses a peremptory challenge of ten jurors, and the United States are limited to two. I think the number allowed to the defendant is entirely too great. Take the case of a man indicted for passing counterfeit money, or anything of that kind, it is entirely too great an advantage to give him ten peremptory challenges. Indeed, I do not know why he should have as many as five.

There is another reason, and that is this: in districts that are agricultural, or where the courts are not located in large cities, it will increase the expense of these district courts, and it is very desirable to limit them, and the Department of the Interior has for years past been endeavoring to limit the expenses of these courts. By giving this

peremptory right of challenge to every defendant who is charged with an inferior offense, it will be necessary to keep a much larger number of jurors in attendance, and to be brought from a considerable distance too in agricultural districts.

These are the reasons why I propose to make the change by striking out the word "ten" and inserting the word "five," so that the number of peremptory challenges shall be limited to "five," and even that number I believe to be unnecessary, but I make the proposition as an improvement on that reported by the committee.

Mr. HALE. I think the bill is wrong in this respect. It is a new principle in jury trials to allow arbitrary challenges in minor offenses; at least, so far as my knowledge or practice goes it is entirely new and novel. I think if you give a prisoner an arbitrary challenge of two, the same as the Government has, it would be an abundance; all that justice requires, and more too. I hope the Senator from New Jersey will alter his amendment to "two" instead of "five."

Mr. TEN EYCK. I agree with the Senator from New Hampshire; but inasmuch as I thought several gentlemen on the committee preferred a larger number, and that if I were to adopt the number of five perhaps we should in a measure remove what I suppose to be an evil, and that would be more acceptable to the Senate, I proposed that number. I prefer that it should be limited to two; and would therefore make the motion in that shape.

The PRESIDENT *pro tempore*. The Senator from New Jersey modifies his amendment so as to propose to strike out "ten" and insert "two."

Mr. JOHNSON. I think the honorable member from New Jersey misapprehends the effect of the amendment proposed by the committee. The law, as it stands now, gives in cases of treason a right to challenge peremptorily thirty-five. The first part of this amendment of the committee reduces that number to twenty, and it goes further and introduces a right which is not given by any existing law: it gives to the United States a right to challenge in the same way ten. As the law now stands, the United States have no right to challenge peremptorily at all. That part of the committee's amendment which the honorable member from New Jersey proposes to modify, I understand to apply only to cases in which there exists already a right on the part of the accused to a peremptory challenge of twenty, and the object of the committee was to reduce the number from twenty to ten, and to give in that case to the United States a right to challenge two. The two provisions which secure to the United States the right to challenge are altogether new, and it is for the Senate to say whether, as far as those two amendments are concerned, they will sanction them.

I speak from some experience, Mr. President, having acted both as prosecutor and more frequently as counsel for the accused, that frequently gross injustice has been done to the Government by the want of a right of peremptory challenge. The right to challenge for cause it is very often very difficult to make effective. Whether the cause assigned be or be not true in point of fact, in the first place is a matter not easy to ascertain, and whether it be sufficient in point of law is a matter about which differences of opinion have existed.

I agree with the honorable member from New Jersey that if the meaning of that part of the amendment to which his amendment is intended to apply covers cases of misdemeanor or any other cases than those in which a right to challenge exists under the existing law, it would be going too far. But that is not my understanding of the amendment. I suppose it to deal exclusively with cases in which there exists a right to challenge now twenty peremptorily, and that the whole effect of the amendment, therefore, is to reduce the number to ten.

Although it is not in order strictly, with the indulgence of the Chair and the Senate I will very briefly state—not meaning to address the Senate on the subject hereafter—how, in addition to the particulars to which I have just adverted, the bill as reported by the committee changes the existing law.

The want of uniformity which exists in the several courts of the United States in relation to the manner in which witnesses before a grand jury

are to be sworn gave rise to the first amendment. There is no statute on the subject. In some circuits and in some districts in cases in which there is a grand jury the witnesses can only be sworn in open court by the judge; in others (existing altogether in practice) they may be sworn by the grand jury. But there being no statute which gives to the foreman of a grand jury expressly the right to swear a witness, it has been doubted whether an oath of that description, if violated, could be punished, because of the want, or the supposed or supposable want, of authority on the part of the foreman to administer the oath. The object of the first amendment, therefore, is to give that right to the foreman, and, of course, to furnish all the security that an oath properly administered can give that the truth will be told by the witness.

The second section is the one of which I have already spoken in part, except in this particular: challenges now for cause, with which the latter part of the amendment deals, are tried by what are called triers. Those triers, if the challenge is to the first of the jury called, are selected from other persons, from members of the bar, or anybody else. If there are a sufficient number of jurors sworn without objection, and a challenge is made to any of the rest of the jurors in succession, the validity of that challenge, both in fact and in law, is to be passed upon by three jurors already sworn. The committee thought—and I know such is the opinion of a good many of the judges of the present day, and was the opinion of many of those who have passed from us—that in all such cases it is much better to leave that question to be passed upon by the court. The committee, therefore, provide that challenges of that description shall be tried by the court without the aid of triers, making the court the judge both of the fact alleged as cause of exception to the juror and of the sufficiency of the cause, if true in point of fact.

The third section corrects a mischief which is found to be rather a mischief in expense than anything else. It provides:

That in every case where any person convicted of any offense against the United States shall be sentenced to imprisonment for a period longer than one year, it shall be lawful for the court by which the sentence is passed to order the same to be executed in any State prison or penitentiary within the district or State where such court is held, the use of which prison or penitentiary is allowed by the Legislature of such State for such purposes; and the expenses attendant upon the execution of such sentence shall be paid by the United States.

To that I suppose there can be no objection.

The fourth section is intended, and I think calculated, while securing justice to the party, to save a good deal of expense in the administration of criminal jurisprudence. The Constitution of the United States secures to a party accused trial by jury. It has always been held that that was a privilege given to the accused, but that he might waive it if he thought proper. The object of the fourth section is to give him the privilege of waiving it. It provides:

That issues of fact in civil cases in any circuit court of the United States may be tried and determined by the court without the intervention of a jury, whenever the parties or their attorneys of record file a stipulation in writing with the clerk of the court waiving a jury.

That is, both parties. We have that provision in Maryland with reference to our State court, and it has been found to act very beneficially. Juries are expensive, and the mode of trial in most cases is very dilatory. In all cases under \$100, the cases are tried before our court, unless either party insists upon a jury; and in all other cases, if the parties think proper to waive a trial by jury, the court try them. We apply it to criminal cases, not capital. In all criminal cases, if the party accused thinks proper to waive his right to a trial by jury, he does so and the court try the case. We could not well get along in Maryland with the court system we have there—for we have only one court particularly in the city of Baltimore to administer the whole criminal justice in that city—without a provision of that description; and the committee thought that while it could do no possible harm to anybody, it might expedite the administration of criminal justice on the part of the United States.

Mr. TEN EYCK. I will add but a word to what I have said already. I approve of the general character of the bill; the Senator has explained it very fully and undoubtedly shown the

importance of the Senate enacting it; but the amendment which I propose is solely confined to the second section; and if I understand that section aright it includes within its scope the allowance of challenges in all criminal cases triable in the United States courts. The section, in the first part of it, proposes to change the law relating to peremptory challenges in the case of treason and other capital offenses, and to restrict the number; and in the second branch of the section the right to peremptory challenges in all other cases without exception is clearly given as I think. It is very short, and it will be better understood by reading it than in any other way:

*And be it further enacted.* That when the offense charged be treason or a capital offense, the defendant shall be entitled to twenty and the United States to five peremptory challenges.

That is in the case of a trial for treason or any other capital offense.

On a trial for any other offense, the defendant shall be entitled to ten and the United States to two peremptory challenges.

That includes all other cases. The Senator from Maryland says that he does not propose that the section shall apply to all other cases so as to include all minor offenses, but that it was meant to apply to such other cases than cases of treason and capital offenses, in which there is now existing by law a peremptory right of challenge, and he understands that the second branch of this section is to restrict the number of challenges in those cases. In that view of the case such would be the effect; but I do not understand that to be the effect and scope and meaning of the section. If the object is to limit and restrict the number of peremptory challenges in cases other than capital offenses and felonies, and there are peremptory challenges in such cases to a larger number than is thought proper, we can by an additional amendment correct that and lessen the number of challenges in those cases, as well as in all other cases, and I suggest that the amendment would have that effect if it read in this way:

On a trial for any other offense, where by existing laws peremptory challenges are now allowed, and in all other cases—

Mr. JOHNSON. Strike out "in all other cases." If the honorable member will permit me a moment, I will state that the statute of 1790 gives in cases of treason a right to challenge peremptorily thirty-five, and it goes on: "And if any person or persons be indicted for any other of the offenses hereinbefore set forth," which does not include misdemeanors, he has the right to challenge peremptorily twenty, and I am sure the meaning of the committee was merely to reduce the number which, under the law as it now stands, a party would have a right to challenge both with reference to offenses other than treason as well as in cases of treason. I would propose, therefore, to amend it, with the permission of the Senator, by inserting after the words "other offense," in the fourth line of the second section, the words "in which a right of peremptory challenge now exists," and then we can settle the number afterwards. I move this before the amendment of the Senator from New Jersey is acted upon.

The PRESIDENT *pro tempore*. The Senator from New Jersey may modify his amendment.

Mr. TEN EYCK. I will agree to that.

Mr. JOHNSON. With the permission of the Senator and the consent of the Chair, I move to amend by inserting after the word "offense," in the fourth line of the second section, these words: "in which a right of peremptory challenge now exists." As far as I am concerned, I am perfectly willing to accept the amendment proposed by the Senator from New Jersey, to insert "five" instead of "ten."

The PRESIDENT *pro tempore*. Does the Senator from New Jersey so modify his amendment?

Mr. TEN EYCK. Yes, sir. I believe there is no objection now to fixing the number at five.

The PRESIDENT *pro tempore*. The amendment, as modified, will be read.

The Secretary read, as follows:

On a trial for any other offense, in which the right of peremptory challenge now exists, the defendant shall be entitled to five and the United States to two peremptory challenges.

Mr. TRUMBULL. I do not think there is very much importance in it. I think it is just as

well to leave it at ten; and I see no reason for limiting it to cases where challenges are now allowed. The practice in my State is, in all criminal cases where a defendant is upon trial, to allow him a certain number of peremptory challenges. Whether it should be ten or two is a matter of some importance perhaps to the defendant. If he has ten, there is no difficulty in getting a jury. I feel disposed to be liberal myself in that respect.

Mr. TEN EYCK. It increases the expense.

Mr. TRUMBULL. It does not increase the expense a dollar in my State according to our practice, for we have two panels of jurors present, and a challenge of ten leaves enough for a jury, and they are the same expense whether they are sitting in the jury-box or waiting to be impaneled. It makes no difference to us, and I cannot see how it could increase the expense anywhere. I do not think there is importance in it, but I do not see why you should deny a peremptory challenge in any case. Why deny it in one criminal case, although the punishment may be simply imprisonment in the penitentiary, and it is not a capital offense? Why not allow it? I think there is a propriety in allowing a man a peremptory challenge. There may be prejudice in the mind of a person summoned as a juror that would not disqualify him from sitting, so that he could not be challenged for cause; and yet the party on trial may know that there is existing a feeling that would not permit the juror to give him a fair trial. I would be liberal in the matter, and I should prefer that it stood as the committee reported it.

Mr. DAVIS. I will say a few words on this bill—

The PRESIDENT *pro tempore*. The Chair must interrupt the Senator and call up the special order.

Mr. DAVIS. I have no objection to that.

#### NATIONAL CURRENCY.

The Senate resumed the consideration of the bill (H. R. No. 395) to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof, the pending question being on the amendment of Mr. COLLAMER, to insert after the word "deposits," in the ninth line of the thirty-first section, the following words:

And one fourth of the coin received by each association from the Treasury for interest on its bonds, shall by such association be kept, held, and sequestered as a part of the amount of money required so to be kept on hand, until the full amount is composed of coin, which shall so remain until specie payments shall be resumed.

Mr. COLLAMER. I desire to say a very few words in closing the debate on this amendment. If I understand aright the argument of the Senator from Ohio, [Mr. SHERMAN], it is that inasmuch as the individuals who now hold these bonds are entitled to have the interest upon them and use it as they please, therefore the same right ought to exist in relation to the banks when they own the bonds. It is true that a man owning United States bonds is entitled to receive his six per cent. on his bonds, and it is his property. It is also true, as I before remarked, that the bonds themselves are property for many purposes. They are *choses in action* against the Government, and they are the means by which a man may borrow money. He can borrow money pledging the bonds, they being security for the loan. But when we undertake to make them into bank capital, and authorize the associations to issue currency upon the strength of them, and bank upon them, that is entirely a new privilege. That is the privilege of loaning money on them, not borrowing money on them; and for that new privilege of using these bonds as a banking capital, the Government has a right of course to annex to the grant of that new privilege such conditions as it may think proper, and it has annexed a great many conditions in this bill. The idea that the banks have a right to this money received as interest, and to keep it as their own peculiar property, because they own the bonds, when if they did nothing else but own the bonds they could have the money and keep it, is certainly inapplicable to this case, and it is no answer to my proposition.

But, Mr. President, I observe that in the speech of Mr. HOOPER, of the other House, who has been, I believe, the principal engineer of this bill, the



main friend and advocate and supporter of it, he says that these banks are an instrumentality, and perhaps an absolutely necessary instrumentality, to enable the Government to return to specie payments. He hardly can perceive how without some such agency the Government itself could ever return to a specie currency. He attempts to answer the question which he says is frequently put to him, why it is that you should have these banks made to issue paper instead of having the Treasury issue its own notes. The case is put thus: "You merely hire the banks, by paying interest on your bonds, to issue a paper currency;" and the question is put, "Why do that when you can issue your own currency and pay no interest for it?" Among the various answers which he makes or attempts to make to that natural inquiry, is this one:

"The restoration of the currency and the resumption of specie payments does not seem to me so far off as others appear to think it; and believing that the resumption of specie payments is desirable and not impossible within no very distant period, it seems to me it may be necessary, when that time comes, to withdraw the Government notes from circulation, so that specie may again be the only 'lawful money' of the country.

"I see no way in which Government notes could be redeemed in specie; and I fear that any other legal tender than coin could not well exist with specie payments. Therefore, to confine the right of issuing paper for currency to the Treasury Department would seem to be a permanent arrangement for an irredeemable currency. When the act was passed authorizing the issue of the legal-tender notes, no one advocated it as a permanent measure, but only as a temporary expedient to meet the emergency that existed after the banks had suspended specie payments at the close of the year 1861."

You will observe, Mr. President, the theory is that these agencies are necessary to be put in operation as a means of ultimately enabling the Government to return to specie payments. If that be true, if these very banks are to be the essential instruments in the hands of the Government, the machinery for enabling it to return to specie payments, does it not at once occur to the mind that they cannot do it unless they have some specie to do it with, unless they have something to begin with? I fancy that it will be found exceedingly difficult for any man to imagine how that instrumentality can be used unless by enabling them to have some specie to begin it with. My proposition, as now amended, is nothing more than that of the gold which they receive from the Government they shall be required to keep one fourth of it, as they receive it from time to time, toward their surplus fund, which they are required by the bill to keep always on hand. In that way, in the course of some sixteen years, they would get in coin the whole of their reserve fund.

I do not know but that the anticipations of men of an immediate return to specie payments may be true; but I do know that the Bank of England did not return to specie payments till nine or ten years after the close of the war because of which specie payments were suspended.

Mr. SHERMAN. Specie payments were resumed on the 1st of January, 1823.

Mr. COLLAMER. And the war closed in 1815, so that it was eight years before they returned to specie payments with all their ability and strength. It seems to me a plain matter of common prudence to have these banks make their reserve fund gradually out of this coin, a fund which they must keep and keep without using. The Senator from Ohio says they may use this reserve fund. How? Can they redeem their currency that they put out, with it? No, not according to the provisions of the bill, for the bill says that they shall at all times have the reserve fund on hand. Of course if they must keep it on hand at all times they cannot use it for their redemptions. If the reserve fund consists of Treasury notes, greenbacks, the effect of my proposition will be that just as much gold as they put into the reserve fund will relieve a similar amount of greenbacks, and enable them to redeem their currency with them. I think it is doing them no hurt, and is a preparation for doing a little good. I ask for the yeas and nays on the proposition.

The yeas and nays were ordered; and being taken, resulted—yeas 15, nays 20; as follows:

YEAS—Messrs. Cardile, Collamer, Davis, Dixon, Doolittle, Foot, Foster, Grimes, Henderson, Johnson, Nesmith, Powell, Saulsbury, Trumbull, and Wiley—15.

NAYS—Messrs. Chandler, Clark, Conness, Hale, Harlan, Howard, Howe, Lane of Indiana, Lane of Kansas, Morgan, Pomerooy, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Van Winkle, Wade, Wilkinson, and Wilson—20.

ABSENT—Messrs. Anthony, Brown, Buckalew, Cowan,

Fessenden, Harding, Harris, Hendricks, Hicks, McDougall, Morrill, Richardson, Riddle, and Wright—14.

So the amendment was rejected.

Mr. COLLAMER. I have another amendment which I wish to propose as an additional section:

And he *it further enacted*, That the amount of Treasury notes in any form now authorized to be issued shall not be increased, and that such amount shall be diminished to the same amount that bills of national currency are issued to associations.

The Secretary of the Treasury in his last report gave us pretty distinctly to understand that he thought the full amount of Treasury notes had then been issued that should be issued. I repeat that as I understand the report made to us last December by the Secretary, in his opinion the amount of Treasury notes or currency which had been issued was all that ought to be issued. It would naturally occur to the mind, how came there any more to be issued? I am sensible that in many parts of the country, and especially in New York, the papers constantly represent that the Secretary of the Treasury has put a large amount of greenbacks into circulation this winter and has also issued and put into circulation a large amount of the five per cent. legal-tender notes with a view and intent to so reduce the price of the currency that people would be willing to fund it in his ten-forty five per cent. bonds, and much complaint has been made about it. I think it no more than justice when a question of this kind comes up that the truth should be told about it. The fact is, as I understand, that the Secretary of the Treasury from last December forward had no desire to issue any more Treasury notes, nor has he of his own accord done it for any amount; but Congress voted, for instance, to pay bounties to a very large amount—I merely mention that as sufficient to cover it—which constrained and compelled him to issue them, not of his own accord, not of his fault, and for no such purpose and with no such motive as I see frequently charged upon him in the papers.

Sir, necessity has compelled the issue; and it is not to be disguised that that issue has inflated the currency, and thus caused depreciation. There is no doubt about it. Every man knows it. The difficulty is a great deal aggravated by the impression upon the community that we know not where this is to stop; we know not whether there is ever to be any end to it. That is the condition in which we are, and it is desired, if it be possible, to reduce that circulation, not to increase it. There are but two ways in which currency of this kind when enlarged and too much inflated can be taken up: one way is by taxes; the other way is by funding, loaning it to the people, saying to them, if you will take up some of these notes, say \$100 or \$1,000, and return them to the Treasury, we will give you a Government note running for twenty years or forty years on interest, and pay the interest in gold. There are but these two ways of getting up your paper.

I do not propose to enter into a large discussion of the manner in which these two modes should be exercised. In taking them up by taxes there is one of those applications of the doctrine of compensation that comes in question; and that is, the more you issue and the more they depreciate the easier it is to pay taxes with them. I do not know of any other blessing or good that can come out of that to anybody. The tax-payer will pay his taxes easier when they are made very plenty and are much depreciated. As to funding, we had a pretty good experience about that. So long as we gave out bonds at six per cent. they were funded fast enough. They are funding very considerably now at five per cent.; but that is because of the increased issue and the increased depreciation. The fact is, the Government gain very little or nothing in that one per cent. If you depreciate your currency so that, if you please, you can fund it at four per cent., you will have to give a great deal more for your supplies for the Government and for the Army, and for everything else, and what we shall gain in the per cent. of the funding we lose ten times over in the price.

I desire in some way, if we can, to do a little to relieve the public mind and public apprehension on the subject of the amount of these issues. If the issues are to go on as large from the Government and continue to increase, and these banks put theirs out too, certain it is that will not allay

the public apprehensions in the least. If I had my own way about it to do what I believed would be best, I would this day pass a distinct resolution, or incorporate it in this bill, that there should be no more issued beyond what is now out. That would settle the difficulty in the public mind in a great degree. But, sir, I despair of being enabled to do that, and therefore I wish now to do another thing, which, I believe, would be exceedingly acceptable to the Treasury and be of some relief to the people. I wish to say to the community there shall not be any more issued than is now authorized by law to be issued. I cannot tell exactly what the limit of that authority is; perhaps the Senator from Ohio can tell.

Mr. SHERMAN. Nine hundred million dollars. In a certain contingency he was authorized to issue \$400,000,000 of that amount in five per cent. legal-tender notes. The Senator will admit with me it is but just to say that the Secretary of the Treasury has always opposed and resisted the issuing of any of these notes until he was compelled to do so by the legislation of Congress.

Mr. COLLAMER. I have said that as strongly as I could.

Mr. SHERMAN. But power was given him by Congress to issue a very large sum; I think about nine hundred million dollars.

Mr. COLLAMER. I have said as plainly as I could say, if gentlemen think that coming from me it is of any sort of use, that this great issue of Treasury notes is not agreeable to the Secretary's views, but entirely otherwise. We have forced him to issue them. We said, for instance, that those bounties to volunteers should be paid, and he had to pay them. The Secretary told us last December pretty plainly that in his opinion all were out that ought to be, the limit had been reached, and depreciation would follow any further increase. I wish it to be distinctly understood that since that time we have passed laws requiring those bounties to be paid to the amount of I do not know how many millions.

Mr. SHERMAN. One hundred and ten million dollars.

Mr. COLLAMER. More than one hundred million dollars, and he had no mode of paying it but to issue Treasury notes. We compelled him to issue them.

Mr. GRIMES. With his assent.

Mr. COLLAMER. I do not know how much assent he gave to it; but certain it is, it was not his voluntary act. Therefore, it is not true, as I have before said, that he issued that currency in order to enable him to float five per cent. bonds. It is due to him to say that this very imperative course of ours compelled him to make this large issue; but I believe he has not issued a dollar but what he was obliged to issue in payment of debts. He has issued these notes; but what is the effect? Precisely what he told us it would be last December. I blame nobody about it. The necessities of the case occasioned it. We could not help it.

The issuing of these notes has increased the currency so that there has been depreciation, as I before remarked. If we could take it upon us to say that there should be no greater amount issued than is now issued, that the Secretary might re-issue it as it comes in, but should not increase the volume beyond what it now is, I should be very glad of it, and I believe it would be of great public good; but despairing of being able to do that, I have presented my amendment simply to provide that the amount now authorized by law to be issued shall not be increased. I do not say "the amount which has been issued;" I suppose I could not get that; but I say that the amount now authorized to be issued shall not be increased.

There is one other thing contained in my amendment which I think will be worth something to the community if they pay attention to it, as moneyed men always will, and it is this: suppose, for instance, the present amount authorized to be issued consists of several million more than has now been issued; I say that that shall not be increased. Then I propose further to add that as much of this national bank paper, which is to be issued from the Treasury to the associations for them to circulate, as is delivered out from the Treasury to these associations, by that amount the gross amount of Treasury notes authorized to be issued shall be diminished. For instance, suppose that \$12,000,000 are authorized

to be issued in all, and \$6,000,000 have already been issued. Then my amendment would provide that there shall not be issued any more than the \$12,000,000, and that that \$12,000,000 shall be reduced by the amount of paper which is delivered out by the Treasury to these banks for them to issue; that it shall not be duplicated and be in both forms at the same time. That is the substance of my amendment. I think its adoption will be worth something. I think it will tend, in some degree, to give the public to understand that there is some limit to this thing beyond which it will not go.

Mr. SHERMAN. As the proposition of the Senator from Vermont is a very important one, I think I can state very briefly some reasons why it ought not to be adopted. I will ask the Secretary to read the first clause of the amendment.

The Secretary read it, as follows:

*And be it further enacted, That the amount of Treasury notes in any form now authorized to be issued shall not be increased.*

Mr. SHERMAN. That is sufficient. It provides that the amount of Treasury notes now authorized shall not be increased. The first reply is, that the amount cannot be increased without an act of Congress. It is proposed now to say that the amount now authorized by law shall not be increased. What is the use of passing this negative proposition when no increase can be made except by an act of Congress? It amounts simply to this: that we will now say that we will not in any future time pass an act of Congress increasing the amount of the Treasury notes. That is the position we are asked to assume. I am opposed to an increase of any more Treasury notes, and I have always resisted the large amount already granted; but I ask if the proposition of the Senator is anything more than a simple promise by Congress that they will not authorize the increase of any more Treasury notes? How can we tell? It is a simple declaration. It has not the force of law. It does not bind us at the next session, and it does not bind the next Congress. It is a simple declaration of opinion; and that is proposed to be put on the bank bill. It seems to me that is a sufficient objection to the amendment.

But that is not all. By the present law, and the Senator is probably aware of that, the Secretary of the Treasury is authorized to issue \$400,000,000 of five per cent. legal-tender Treasury notes, of which he has issued only \$200,000,000. He may go on and issue \$200,000,000 more, and this amendment would not restrain him from issuing them; it would not limit the operation of the existing law. It is only a kind of indirect promise that Congress will not pass any more such acts. In the first place, it is idle to make such a promise, because at the next session we may change our minds.

But, sir, in addition to that, we know that the Secretary of the Treasury has resisted the issuing of these Treasury notes. He stated in his report in December last that he thought the maximum of legal tenders had been reached, and he said he would not, unless compelled to do so by the necessities of the country, issue any more, although he was authorized by law to issue them. But when the bounty system was established he was compelled to do it. He resisted in the first instance. He wrote a letter here and resisted it; but it was finally adjudged by Congress that the public faith was pledged to the payment of those bounties; that we could not avoid making provision for their payment. The Secretary of War, it is true, estimated the amount only at \$20,000,000; but we all knew that that was an erroneous estimate, and Congress, yielding to the pressure of popular opinion in all the States and among the people to pay to the soldiers large bounties, finally authorized by law the payment of those large bounties. What could the Secretary do? He had resisted it. He had said that more Treasury notes ought not to be issued. He said, in fact, that he would not be compelled to issue any more Treasury notes, but Congress did compel him to do it. Congress adopted and sanctioned the position taken by the Secretary of War, and passed a law authorizing the continuance of those bounties, and required the Secretary of the Treasury to pay them.

Mr. COWAN. He indorsed it.

Mr. SHERMAN. I know he indorsed it finally on compulsion, just as we did. He finally yielded

an assent to it; and he did wrong, in my judgment, and I think we all did wrong, in finally yielding to it. I believe that at the very time this Senate agreed to that enactment not one third of the Senators approved it; and yet we yielded to it because by the act of the Administration pledges had been made, men had been induced to enlist, the money had been promised, and there was no way to pay that money except by issuing Treasury notes. At that time the Secretary was borrowing money at the rate of about two million dollars a day, which was absorbed in the current expenses of the country, and there was no way to meet this additional payment except by issuing these notes.

Mr. JOHNSON. Those bounties ought to have been paid.

Mr. SHERMAN. I think they ought not to have been paid. The act of the Administration in October last in promising these bounties was not sanctioned by law, and we, at the beginning of the session, ought to have put a stop to it; but it was deemed hard upon the soldiers who had enlisted, hard upon the Governors who had issued proclamations, and hard upon the people who had been promised large bounties, and we were compelled by a sort of duress to yield, and the Secretary of the Treasury was compelled to issue this additional amount of Treasury notes.

But he has resisted (and the Senator from Vermont properly gives him credit for it) every issue of these Treasury notes, and he will not now issue one dollar more if he can help it. As he has recently told us in a letter to the chairman of the Committee on Finance, he is now reducing these Treasury notes. When the interest-bearing legal tenders are paid into the Treasury in the ordinary course of the collection of taxes, they are not reissued, but are canceled; and his desire is to keep down the issue. Everybody knows that the large amount of Treasury notes now in the market inflating the currency of the country tends to derange prices; the inevitable effect is to tend to derange prices. He, having the charge of the Treasury Department, naturally desires to retire this money, and the purpose of passing this bill is to furnish a kind of money which somebody will be compelled to redeem. The peculiarity of our Treasury notes is that those that are on time nobody is bound to redeem until they are due. There is no way to redeem the greenbacks except by funding. But by the issue of national currency you provide somebody, private individuals and private banks, whose duty it is to redeem these bills at various places. I say, therefore, in regard to the first portion of the amendment, that it is simply an idle promise which it is scarcely worth while for us to make. I will ask the Secretary to read the second clause of the amendment:

The Secretary read it, as follows:

*And that such amount shall be diminished to the same amount that bills of national currency are issued to associations.*

Mr. SHERMAN. I have no doubt that the amount of outstanding currency will be reduced even more rapidly—and that is the desire of the Secretary—than the channels of circulation are filled by these new bank bills. But I ask whether it is reasonable or proper to make a requirement of this kind, which may create embarrassment. How can they tell? To-day, under the law, they may issue to a banking association \$100,000 of this new paper money. Would you require on that same day the same amount of greenbacks to be retired?

Mr. COLLAMER. The Senator misunderstands the amendment. It is not that there shall be the same amount of circulation taken out. It is that that shall be deducted from the amount which they are authorized by law to issue, and not from that which they have issued. Suppose, for instance, that the Secretary is authorized to issue \$12,000,000 of Treasury notes, and he has issued half of it. Now, under my proposition, the paper given to these banks for circulation is to be taken out of the \$12,000,000 which is authorized to be issued, but which has not been issued.

Mr. SHERMAN. That is even more ineffective than the other proposition, for the Secretary is authorized to issue \$200,000,000 now by law, which he has not issued, and which he will not issue unless he is compelled to issue it. Now

you require him to open a book in which he is to put down that \$200,000,000, and whenever any notes are issued to a national bank you require him to offset that amount.

Mr. COLLAMER. How much is he authorized to issue beyond the amount already issued?

Mr. SHERMAN. Two hundred million dollars, in round numbers. The law which I have before me, the loan act of 1863, authorized him to issue \$400,000,000 of legal-tender interest-bearing Treasury notes. He has issued about two hundred millions—not quite that amount. He has the power to issue \$200,000,000 more.

Mr. COLLAMER. He is authorized to issue Treasury notes.

Mr. SHERMAN. These are the only Treasury notes he is authorized by law to issue which have not been issued. All the reserves, I believe, have been reached, except these \$200,000,000. When we know that these Treasury notes will not be issued, unless there is some great public exigency to require it, or Congress by some new legislation should require it, what is the use of requiring him to keep this account between the amount he is now authorized to issue and what he has issued under this act? It seems to me the amendment is totally ineffective, and will only create embarrassment without doing any good whatever.

I desire to accomplish the object of the Senator from Vermont; and that is, to reduce our inflated paper money. From the beginning of the war I have done all I could to restrain the issue of this paper money as much as any one, and have opposed it so far as I could. I know very well, however, that the exigencies of the war compelled us to issue it; but every time we have been compelled to increase the amount I have resisted it as much as any Senator on this floor. I desire yet to resist it; but we are compelled by the pressure of the war from time to time to issue paper money when we have not got anything else to pay with. If, therefore, the Senator really desires to make the point before the Senate that no more Treasury notes shall be issued, why not introduce a bill to repeal the act I have now before me, which would take away from the Secretary of the Treasury the power to issue any more paper money? If such a proposition were made in the proper place and in proper form we might discuss it, although I think it would be wiser to leave the power discretionary with the Secretary of the Treasury, especially when we know that he will never exercise that power unless compelled to do so by the force of circumstances. This amendment is not appropriate to a bank bill. One half of it, perhaps, might be appropriate to a bank bill, but on the whole it amounts to nothing. I think, however, if adopted at all, it would come in much better in another place; but, in my opinion, it would be totally ineffective; it would be idle, and give trouble and embarrassment without doing any good. That is the impression it has made on my mind.

Mr. COLLAMER. The gentleman, in speaking of the first clause of my amendment, does not put the estimate that I do upon it. He agrees with me that prices are much disturbed, and that the amount of circulation is too large, if we could have our way about it. Certainly, it has been enlarged by all that has been issued since last December. I am perfectly sensible that the first clause of the amendment, providing that the amount now authorized to be issued shall not be increased, can be repealed. I presume the gentleman did not suppose I thought otherwise. I am sensible that it is within the power of Congress to repeal the laws that we pass. But, sir, I said before, and now say again, that if we will say to the community in a law passed by the two Houses of Congress that there shall not be any greater issue of paper money, I believe it will quiet the public mind. If we say to them that the amount now authorized to be issued, which is \$200,000,000 more than there is out now, shall not be exceeded, I think that would in itself have an excellent healing effect. Even though they knew as well as we do that Congress might repeal it, yet they would believe that there must be some imperative necessity existing which would cause its repeal. I am therefore desirous that that should be inserted in the bill. The answer which the gentleman makes, that it could be repealed, to me is no answer at all. It was not a

matter out of my mind that it could be repealed; nor did I suppose it would be out of any Senator's mind.

In the next place, as to the second clause of the amendment, how much paper money the Secretary will have occasion to issue to these banks for circulation, and how soon, I do not know; but this I know: the limitation inserted in the bill is that it shall not exceed \$300,000,000, and I know there are not \$100,000,000 yet called for; and I believe not more than half of it. Therefore there will be no occasion for him to be distressed about keeping his accounts. The whole account to be kept under this amendment would be the simplest thing in the world. He is authorized to issue such an amount clearly and plainly by the law. He has already issued such an amount, which is all kept an account of. What is sent out to these associations is recorded in the Treasury. He knows exactly what is sent out. Therefore he says, "If I have issued to them \$1,000,000 of circulation the amount I am authorized to issue in greenbacks is \$1,000,000 less." That is all there is of it. There is no embarrassment about it. It is perfectly simple and perfectly easy.

Mr. President, I do not like to have the conclusion drawn which will probably be drawn from the record we have made by the vote on the last amendment. It will be understood that we do not want any gold in these banks at all. We voted against their keeping any. In the next place, if this amendment is rejected, it will be understood that we do not want to have the people understand that there is not to be a bottomless pit of this issue. We do not want to give any intimation to the community that there is to be some limit somewhere to the amount of paper issues. I think we had better not do that. I think we had better adopt this amendment. I think it will have some healing effect. I ask for the yeas and nays upon it.

The yeas and nays were ordered; and being taken, resulted—yeas 14, nays 17; as follows:

YEAS—Messrs. Buckalew, Collamer, Cowan, Davis, Doolittle, Foot, Foster, Hale, Henderson, Johnson, Powell, Richardson, Trumbull, and Willey—14.

NAYS—Messrs. Chandler, Clark, Conness, Dixon, Fessenden, Howard, Lane of Kansas, Morgan, Pomroy, Ramsey, Sherman, Sumner, Ten Eyck, Van Winkle, Wade, Wilkinson, and Wilson—17.

ABSENT—Messrs. Anthony, Brown, Carlile, Grimes, Harding, Harlan, Harris, Hendricks, Hicks, Howe, Lane of Indiana, McDougall, Morrill, Nesmith, Riddle, Saulsbury, Sprague, and Wright.

So the amendment was rejected.

Mr. COLLAMER. I have one more amendment to offer. I believe it to be the general impression that the amount of the capital of these banks is not to exceed \$300,000,000; but there is no such limitation as that contained in the bill. Indeed, there is not any limitation in it, unless it may be found in this: the bill contains a provision that one third of the capital of all the banks organized under it shall be United States stocks, and it provides that the amount of money, that is, bills, which may be delivered to them for issue shall not exceed \$300,000,000. But that is no limitation upon the amount for which banks may be organized. Banks may be organized under this bill at any rate to three times the amount of money that is issued. One third of their capital is required to be in the bonds of the United States on which they procure these notes. Then with \$300,000,000 which they can receive in paper they could make on that limitation \$2,100,000,000 of bank capital under this bill as it stands now. Even if they take their bonds to the Treasury and take up the currency for their bonds to the amount that is authorized to be given them, \$300,000,000, they still could have a banking capital three times that amount, at least, because they are not required to take a third of their capital in bonds at all. Therefore you may say in effect there is no limitation to it. I desire to limit the amount of capital in the banks that may be organized under this bill, and for that purpose I move to amend the bill in section twenty-two, line two, after the word "issued," by inserting the words "or the amount of capital stock of the associations organized;" so that it will read:

That the entire amount of notes for circulation to be issued or the amount of capital stock of the associations organized under this act shall not exceed \$300,000,000.

Mr. CHANDLER. I should like to know what difference it makes whether the banks have \$300,

000,000 or \$3,000,000,000. They cannot issue any bills on them. It is the circulating medium that we wish to limit. If they had \$3,000,000,000 in our bonds and used them for banking capital, I should think we should be the gainers by it.

Mr. COLLAMER. I think otherwise.

Mr. CHANDLER. I can see no occasion for that limitation, and I hope the amendment will not be agreed to.

Mr. COLLAMER, (to Mr. SHERMAN.) Have you any objection to it?

Mr. SHERMAN. I will state to the Senator from Michigan that I have not the slightest objection to this amendment, for this reason: the only object of organizing a corporation under this law except in the large cities would be to obtain the circulation, and therefore the limitation on the circulation is substantially a limitation on the capital. I look upon them as equivalent. But to meet the point made by the Senator, I have no objection to limiting it to \$300,000,000. I do not think that sum will be exceeded.

Mr. CHANDLER. Neither do I; but it looks to me like a useless and needless limitation.

The amendment was agreed to—yeas nineteen, noes not counted.

Mr. LANE, of Kansas. I move to insert in the twenty-seventh line of the thirty-first section, after the word "Albany" the word "Leavenworth." There is no point west of the Missouri river and east of the Rocky mountains named, and I am very desirous to have such a point named in the bill.

Mr. SHERMAN. I do not intend to resist this amendment except to give fair notice to the Senator from Kansas that in my opinion he is mistaken if he thinks it will be a privilege prized by the banks in Leavenworth to redeem in the city of New York at one fifth of one per cent. premium. That will be the effect of his amendment, while if Leavenworth is left out of this section they will be required to redeem at St. Louis at par. I wish him to understand simply the fact. If he is willing to take it, very well.

Mr. LANE, of Kansas. We want some point where we can get drafts on New York. Our business is with New York. Leavenworth is a center of trade as much as New York is. The business of New Mexico, the business of Colorado is done there, and I want our people to have the power of getting eastern exchange. I hope the Senate will grant it.

The amendment was agreed to.

Mr. SHERMAN. I wish now to call up the amendment I offered yesterday, in order to have it disposed of. The amendment lies on our table and is printed. I wish to modify it by striking out "one fifth" and inserting "one quarter."

The PRESIDENT *pro tempore*. The amendment will be read as modified.

The Secretary read it, as follows:

Strike out from lines one, two, three, four, and five, of section thirty-two, the following words: "That each association shall select, subject to the approval of the Comptroller of the Currency, an association in either of the cities named in the preceding section at which it will redeem its circulating notes at par," and insert in lieu thereof:

That each association organized in any of the cities named in the foregoing section shall select, subject to the approval of the Comptroller of the Currency, an association in the city of New York at which it will redeem its circulating notes, at a rate of exchange for all cities west of the Alleghany mountains not exceeding one quarter of one per cent, and for all cities east of the Alleghany mountains at par. And each of such associations may keep three fifths of its lawful money reserve in cash deposits in the city of New York. And each association not organized within the cities named in the preceding section shall select, subject to the approval of the Comptroller of the Currency, an association in either of the cities named in the preceding section at which it will redeem its circulating notes at par.

The amendment was agreed to.

Mr. FESSENDEN. If that amendment is to be considered as adhered to, I shall wish to strike out the city of Portland, which is named as one of the points of redemption in the preceding section. I move, therefore, to strike out "Portland, Maine," from the list of places of redemption in the thirty-first section. It cannot be very advantageous to them to redeem in New York.

The PRESIDENT *pro tempore*. The Senator from Maine moves to amend the bill in section thirty-one, line twenty-seven, after the word "Boston," by striking out "Portland, Maine."

The amendment was agreed to.

Mr. SPRAGUE. I desire to move an amend-

ment, that "Providence, Rhode Island," may be inserted in the twenty-eighth line of the thirty-first section.

The amendment was agreed to.

Mr. SPRAGUE. In section ten of this bill I notice provisions for the election of directors, but I find no provision in it which is in almost all bills regulating banks in the States, that in case the directors fail to fix a meeting for that purpose the stockholders may. There are cases that the committee can imagine certainly where the directors may be obnoxious to the stockholders, and yet by obtaining possession of the original organization of these banks they may, under this provision, continue. I would therefore submit to the consideration of the committee the propriety of inserting this proviso at the end of section ten:

*Provided, That if the directors fail to fix the day as aforesaid, the shareholders representing two thirds of the shares may.*

Mr. SHERMAN. I submit to the Senator that that is already provided for. In lines thirteen, fourteen, fifteen, sixteen, and seventeen, are these words: "If from any cause an election of directors shall not be made at the time appointed," in the law, which is the first Monday of January, in case no other time is specified, "the association shall not for that cause be dissolved, but an election may be held on any subsequent day, thirty days' notice thereof in all cases having been given in a newspaper published in the city, town, or county in which the association is located." I think that covers the case.

Mr. SPRAGUE. But the directors are to appoint the meeting; suppose they fail to do so.

Mr. SHERMAN. If the case is not provided for, I have no objection to the amendment.

Mr. SPRAGUE. It is not provided for as I understand.

The amendment was agreed to.

Mr. SPRAGUE. In section nineteen of this bill, which provides for the transfer of bonds by the banking associations to the Treasurer, there is no provision made that the associations are to receive anything for the bonds they transfer. In our economical, frugal business transactions, securities are very seldom transferred to any party, the Treasurer of the United States or any other party, unless the bank or its officers have something to show on paper for the transaction. I submit an amendment in section nineteen after the word "association" in line twelve, to insert "a receipt therefor to be given to said association."

The amendment was agreed to.

Mr. POWELL. I move to amend the twenty-first section by inserting after the word "value" in the seventh line the words "in gold or silver coin." And also in the tenth line after the word "thereof" "in gold or silver coin;" so as to make the section read:

That upon the transfer and delivery of bonds to the Treasurer, as provided in the foregoing section, the association making the same shall be entitled to receive from the Comptroller of the Currency circulating notes of different denominations, in blank, registered and countersigned as hereinafter provided, equal in amount to ninety per cent. of the current market value in gold or silver coin of the United States bonds so transferred and delivered, but not exceeding ninety per cent. of the amount of said bonds at the par value thereof, in gold or silver coin, if bearing interest at a rate not less than five per cent. per annum.

The object of the amendment that I propose is to lessen the issues of these banks and to secure the bill-holders. Under this section of the bill if any association deposit bonds of the United States required by the act with the Comptroller of the Currency, he is required to issue to them bank bills of various denominations to the amount of ninety per cent. of the par value of those bonds. The par value of the bonds, according to the meaning of the section as it now stands, is their value in greenbacks, "lawful money of the United States," as it is called. I desire that they shall not issue more than ninety per cent. of the value of the bonds in gold and silver coin; that is, that the value of the bonds shall be measured by gold and silver coin instead of by the greenbacks.

There is another section of this bill that requires each one of these banking associations to keep twenty-five per cent. of their issues on hand in "lawful money of the United States," that is, greenback money. When they retain that amount of money, there is no sufficient security for the bill-



holder for this reason: the bond is now at about forty-five per cent. discount. Take, then, the twenty-five per cent. of greenbacks required to be kept on hand, and the ten per cent. value of the bond in excess of the issues of the bank, and it would make thirty-five per cent. You will observe at once that the bill-holder is not sufficiently protected or secured. The whole value of the bond and the value of the per cent. in greenbacks required to be kept on hand would not redeem the notes issued in coin or in its equivalent. It is certainly manifestly unjust to the bill-holder to allow any system of banking that would not require the bank to keep values for the purpose of redemption at least equal to the issues. That this bill does not do. But if you require them to issue within ninety per cent. of the value of the bond, when measured by the gold standard, the bond will always be sufficient to meet the bills that are issued. It is not my purpose to make any long speech on the subject, but if you desire the bill-holders to be protected by this banking law, you must adopt such an amendment. The object is to restrict the issues to a point that will protect the bill-holders. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 11, nays 17; as follows:

YEAS—Messrs. Buckle, Carle, Cowan, Davis, Henderson, Lane of Kansas, Powell, Richardson, Riddle, Saulsbury, and Trumbull—11.

NAYS—Messrs. Anthony, Clark, Collamer, Dixon, Doolittle, Fessenden, Foot, Grimes, Hale, Howe, Morgan, Sherman, Sprague, Sumner, Wade, Wilkinson, and Wilson—17.

ABSENT—Messrs. Brown, Chandler, Comess, Foster, Harding, Harlan, Harris, Hendricks, Hicks, Howard, Johnson, Lane of Indiana, McDougall, Morrill, Nesmith, Pomeroy, Ramsey, Ten Eyck, Van Winkle, Willey, and Wright.

So the amendment was rejected.

Mr. POWELL. In the thirty-first section, third line, I move to strike out the words "lawful money of the United States" and insert "gold or silver coin;" so that the clause will read:

That every association in the cities hereafter named shall, at all times, have on hand, in gold or silver coin, an amount equal to at least twenty-five per cent. of the aggregate amount of its notes in circulation and its deposits, &c.

The amendment was rejected.

Mr. POWELL. I move, in the sixth and seventh lines of the same section, to strike out the words "lawful money of the United States" and insert "gold or silver coin."

The amendment was rejected.

Mr. POWELL. In the forty-first section, line twenty-one, I move to strike out the words "in lieu of all other taxes."

Mr. SHERMAN. I submit that is not in order. This is an amendment to an amendment already amended and adopted; it is an amendment of the committee already adopted, and it is not now amendable.

The PRESIDENT *pro tempore*. The Senator from Ohio is right. The amendment is not in order, that amendment having been adopted in those words. The proper time would have been to move to amend it before the amendment was concurred in.

Mr. COWAN. I move to amend the bill in the fiftieth section in the eighth line after the word "collect," by inserting:

An amount from each shareholder equal to the amount of stock held by such stockholder in such association, and.

So that the clause will read:

That on becoming satisfied, as specified in this act, that any association has refused to pay its circulating notes as therein mentioned, and is in default, the Comptroller of the Currency may forthwith appoint a receiver, and require of him such bond and security as he shall deem proper, who, under the direction of the Comptroller, shall take possession of the books, records, and assets of every description of such association, collect an amount from each shareholder equal to the amount of stock held by such stockholder in such association, and all debts, dues, and claims belonging to such association, &c.

I will merely remark that this is to add a still further security to the remedial provisions of the bill. It is provided in the twelfth section that

The shareholders of each association formed under the provisions of this act, and of each existing bank or banking association that may accept the provisions of this act, shall be held individually responsible, equally and ratably, and not one for another, for all contracts, debts, and engagements of such association to the extent of the amount of their stock therein at the par value thereof, in addition to the amount invested in such shares.

From that it will appear that each shareholder

is liable not only for the amount of stock which he has invested in the association, but in case of its failure or insolvency he is liable for an amount equal to that stock, over and above the original investment; but there is no adequate provision in my opinion by which that liability could be available as assets in case the association became insolvent; and in order to remedy that, I propose to insert that the receiver who shall be appointed by the Comptroller when the bank fails, among other things shall be authorized to collect from each shareholder an amount equal to the stock held by him in the association, and that that amount when so collected shall go into and become part of the assets of the association for the payment of its creditors. I think there can be no objection to that. It furnishes a remedy which perhaps the creditor would not otherwise have.

Mr. SHERMAN. The language of the amendment of the Senator from Pennsylvania does not conform to the exceptions made in the bill as to individual liability; but I submit to him an amendment which I think will accomplish his object, and I desire to see it accomplished. If what I have drawn up is satisfactory to him, I hope he will accept it as a substitute for his amendment. There are exceptions and qualifications of the individual liability in section twelve, which would not be covered by his amendment. I move this amendment to come in at line thirteen, section fifty, after the word "direct:"

And may, if necessary to pay the debts of such association, enforce the individual liability of the stockholder provided for by the twelfth section of this act.

Mr. COWAN. I am fearful that will not accomplish what I design, because it leaves the difficulty precisely where we find it, and that is as to how shall this individual liability be enforced.

Mr. SHERMAN. By suit.

Mr. COWAN. If by suit, what shall be recovered? It will be observed that the shareholder is bound to pay to the amount of the stock he has subscribed, in addition to that stock, but equally and ratably, and not one for another. He is not surety for his fellows; he is only to pay his share of the loss. Unless the receiver shall have authority to collect this, it will be almost utterly impossible for the creditors of the association to achieve anything out of that remedy, and I desire by my amendment to give the receiver authority to collect upon the individual responsibility obligation of the shareholder at the same time that he commences to collect the other part of the assets of the bank, and in that way he will have them all together. If the institution turns out to be solvent, of course the shareholder will get his money back. If it turns out that only a portion of the money will be required to meet the liability, he will get the residue back. But if there is anybody to have the advantage of it, the creditor will have the advantage, and the creditor ought to have the advantage, because the default is on the part of the stockholder and the institution of which he is a shareholder. But to say that the receiver shall go on and collect all other debts and dues belonging to the association, and then distribute them, and afterwards proceed against the stockholders upon the individual liability clause, is, to my mind, to fritter away the remedy so as to make it worthless.

I hope the Senate will adopt the amendment I have proposed, which is fair, and which is but just to the creditor. These creditors should have a remedy, and they should have it directly and without any delay whatever. This debt which is due from the stockholder on his individual responsibility obligation is just as much a part of the assets of the association as that stock which is paid in, and it ought to be as promptly forthcoming to meet claims against the association as that which is paid in, and I therefore hope that the receiver will have authority, the moment he is appointed, to go on and collect it. If it is needed, it will be there ready for the creditor; if it is not needed, the shareholder will get it back again when the association is wound up.

Mr. SHERMAN. The statement of the Senator from Pennsylvania shows that he either misconceives the provision of the bill or wishes to make this proceeding unreasonably harsh. This individual liability is a contingent liability to make good all deficiencies, if any occur, in the payment of the debts of the association. Under his amend-

ment it will be the duty of the receiver first of all to collect from the stockholders an amount equivalent to their stock, instead of proceeding to collect the assets of the association and the debts due to it. It may happen that when those debts and assets are collected there will be ample to pay all demands. That may be apparent on the face of the statement of the bank at the time of its failure. There would then be no necessity for making a collection from the stockholders. But the Senator says that if the money is collected it can be refunded to the stockholders when it is found not to be needed. That is a roundabout and unreasonable way of enforcing an individual liability.

The amendment I offer will give the receiver, whenever he ascertains that it is necessary to enforce this individual liability, the right to enforce it by suit. It seems to me, therefore, that the amendment I propose will carry out the purpose of the bill, to enable the receiver at any time, whenever it becomes necessary, to enforce the individual liability; and in case it is not necessary, if the other assets are sufficient, he will not enforce this contingent liability, which is intended as an ultimate security of the creditors of the bank.

Mr. JOHNSON. The provision in question is to be found in a great many charters; but never heretofore, in any instance that I am aware of, has it been held that the personal liability of the stockholder is to be enforced until it is ascertained that the assets of the bank or association are not sufficient to meet the demands upon it. In other words, the responsibility of the stockholder for the amount of his stock, or, as is sometimes the case, the absolute responsibility of the stockholder for the amount of the debt, is a responsibility contingent upon the failure of the assets of the bank or the association to meet the demands upon it, and is never enforced until that fact is ascertained, and it is done by a bill in chancery. The proposition of the honorable Senator from Pennsylvania would subject these stockholders to a suit at once, and each man may be compelled and will be compelled to pay, according to his amendment, an amount equal to the amount of the par value of his stock, and that will be enforced by suit, and it may turn out in the end that there was no necessity to bring suit. The only security to the bill-holder or the creditors of the bank that the amendment offered by the member from Pennsylvania will give is the chance that the stockholders are more able to pay at once than they will be able to pay after the actual sufficiency or insufficiency of the assets of the bank shall have been ascertained. It appears to me, however, rather an unnecessary hardship on the stockholders, and without really giving any additional substantial security to the creditors.

Mr. COWAN. With all deference I differ as to the character of the liability. It is said to be a contingent liability, and only to be resorted to in the event that the other assets of the bank are not sufficient to meet the claims upon it. I think on the other hand that it is a direct liability, and that the amount involved in it is as much liable to the payment of the claims of the just creditors of the bank as any other portion of the assets of that bank. But if we suppose for one moment that all other debts and dues and assets of the bank are collected and distributed to and among the creditors, then I should like to know what this individual liability clause is worth in the shape in which it stands here? The stockholder is not a surety for his costockholder; he is only bound equally and ratably for his proportion. How could it be enforced by even a bill in chancery? How many judgments would there be against him? What would be the amount of these several judgments? Here are ten thousand note-holders, if you please. He is equally and ratably bound to pay to each one of them his share of the indebtedness of the association to them. If there are a thousand stockholders, and the holder of a five dollar note is a claimant, he would only be bound, supposing each stockholder to have one share, to pay that fellow half a cent. Then that one is to have judgment for half a cent against him, and another one for another half cent, and so on.

Mr. President, I do not know what the experience of the honorable Senator from Maryland may be in enforcing an individual liability clause of this kind; but if he has ever known any one

of them enforced, and if he has ever known any fruit to be derived from a remedy of this kind, he has known more than I have. Put in here, they are a snare and a delusion; but with such an amendment as I offer they will become valid and binding on the shareholders, and the moment the bank fails every shareholder knows that in addition to the stock he has already paid in he is bound to pay up a similar amount. It is not necessary that he shall be sued. He need not sustain an action if he chooses. All he has to do is to continue his position as shareholder or stakeholder, if you please, because the money he puts in is merely in pledge that the assets shall redeem the liabilities of the bank. If the money is not wanted he will get it back again. If a portion of it is wanted he will get the residue back; and there is nothing unjust in it.

But if there is to be no individual liability, no responsibility on the part of the shareholder, or if that responsibility is not to be enforced by the proper remedy, let the bill remain as it is, or leave it to the remedy proposed by the Senator from Ohio, which, in my opinion, is no remedy at all, just leaving it where it was. Require the shareholder honestly and fairly, for the benefit of those who have trusted this association, who have dealt with it upon the faith of this clause, to put up his money, and after the debts are paid, if there is any over he will get it back, and if the debts are not paid he will not get it back. That is the fair meaning of it. I hope the amendment may be agreed to.

**THE PRESIDENT pro tempore.** The question is on the amendment submitted by the Senator from Ohio to the amendment of the Senator from Pennsylvania.

**MR. COWAN** called for the yeas and nays; and they were ordered.

**MR. ANTHONY.** Let the amendment to the amendment be reported.

The Secretary read the amendment of **MR. COWAN** and the amendment of **MR. SHERMAN**.

**MR. COWAN.** I submit that the proposition of the Senator from Ohio is not an amendment to my amendment.

**MR. SHERMAN.** If my amendment be adopted, of course it will dispense with the amendment of the Senator from Pennsylvania, and therefore it is a substitute for it.

**THE PRESIDENT pro tempore.** The Chair understands that the amendments are to different parts of the section; each would, therefore, more properly be a separate amendment of itself, but one can be treated as a substitute for the other by general understanding.

**MR. COWAN.** Then I ask that the vote may be taken on my amendment first, if that be in order.

**MR. SHERMAN.** I have no objection to that course. I will only repeat that the amendment of the Senator from Pennsylvania would substantially require this contingent liability to be enforced first; that is, before the debts due to the bank were collected the receiver must collect the amount from the stockholders for which they might be liable in a contingency, leaving the debts to be collected afterwards.

**MR. COWAN.** That is a *non sequitur*; it does not necessarily follow. The receiver is to have authority to collect not only all the debts due to the bank but also to collect that which would be due from the stockholders on their individual liability clause. He may do it first if he chooses, or he may do it last. Something must be left to his discretion and that of the Comptroller in endeavoring to enforce the remedy. He will not be likely to do it if it is unnecessary.

**MR. ANTHONY.** Do I understand that the whole contingent liability of the stockholders is to be collected in the first instance, whether it be found necessary to resort to that or not, and then if it shall not be found necessary to resort to that, or it shall only be found necessary to resort to part of that, to return the balance? Are we to go through the expense of collecting and returning it without ascertaining whether it is necessary?

**MR. SHERMAN.** That is the precise difference between the two. My amendment provides for enforcing the contingent liability as soon as it is ascertained that it is necessary.

**MR. COWAN.** It is not exactly as stated by the honorable Senator from Rhode Island. The receiver will have the authority to do what he alleges is contemplated in the amendment, but it will

not be obligatory on him to do it. He may resort to the collection of this fund immediately on accepting the appointment of receiver, or he may wait and bide his time until he ascertains whether it will be necessary to resort to that or not. He is to have the authority by the amendment that I offer.

**THE PRESIDENT pro tempore.** The question will be on substituting the amendment of the Senator from Ohio for that proposed by the Senator from Pennsylvania. That will be the question before the Senate.

The question being taken by yeas and nays, resulted—yeas 26, nays 10; as follows:

**YEAS—Messrs. Anthony, Clark, Collamer, Connors, Dixon, Fessenden, Foster, Grimes, Hale, Harlan, Henderson, Howard, Johnson, Lane of Kansas, Morgan, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Wilkinson, Wiley, and Wilson—26.**

**NAYS—Messrs. Buckalew, Carlile, Cowan, Davis, Doolittle, Foot, Powell, Richardson, Riddle, and Salisbury—10.**

**ABSENT—Messrs. Brown, Chandler, Harding, Harris, Hendricks, Hlicks, Howe, Lane of Indiana, McDougall, Morrill, Nesmith, Pomeroy, and Wright.**

So the amendment to the amendment was adopted.

The amendment, as amended, was agreed to.

**MR. COWAN.** I have another amendment to submit. I propose to strike out all of the thirteenth section after the word "that," in the first line, down to the word "association," in the fifteenth line.

The Secretary read the words proposed to be stricken out, as follows:

It shall be lawful for any association formed under this act, by its articles of association, to provide for an increase of its capital from time to time as may be deemed expedient, subject to the limitations of this act: *Provided*, That the maximum of such increase in the articles of association shall be determined by the Comptroller of the Currency, and no increase of the capital beyond the maximum so determined shall thereafter be made without the consent of the Comptroller; and no increase of capital shall be valid until the whole amount of such increase shall be paid in, and notice thereof shall have been transmitted to the Comptroller of the Currency, and his certificate obtained specifying the amount of such increase of capital stock, with his approval thereof, and that it has been duly paid in as part of the capital of such association.

**MR. COWAN.** I will merely remark, in support of this amendment, that by allowing the capital of these banks to be increased at the pleasure of the Comptroller, some very curious results might be brought about in a very short time. If we suppose a bank established, with a capital of \$300,000 originally, and the capital stock all paid in, and bonds of the United States deposited—and I may remark that the whole capital stock of a bank may be in the bonds of the United States and deposited with the Treasurer—the bank would be entitled to receive \$270,000 of notes for circulation. With these notes it might immediately purchase ten-forty bonds, now in the market, and which are to be purchased for these notes. By the provisions of this bill these ten-forty bonds might be raised to five-twenties, or, in other words, they might be made equivalent to six per cent. bonds; and immediately upon doing so application might be made to the Comptroller to increase the capital stock of the bank to the amount of those bonds. That would be \$225,000; and upon that being done the bank would then receive \$202,500 of currency for circulation in return. With that currency it might turn round immediately and buy other ten-forty bonds; and this, I may remark, may be done in a day, may all be done in an hour; it may be done instantaneously for that matter, by an understanding with the Comptroller on the part of the bank. There need no money pass, or bonds either. This can all be done without any manual delivery of the one or the other back or forth. But after having received this second batch of circulation, it may be invested in ten-forty bonds. Application may be made to the Comptroller to increase the capital of the bank again, and it may be allowed, and the same process go on over and over again, until I have made a calculation here which results in this: after involving the original sum of \$300,000 nine times in this way, the bank, upon an actual capital of \$300,000, would have loaned to the Government \$1,267,231, would be receiving from the Government an annual interest in gold of \$66,363, or in our currency, considering the dollar at sixty cents, \$110,671. It is true that fifteen per cent. of the amount in circulation would always have to be kept on hand as a reserve fund in the vaults of the bank to meet its liabilities. It is also true

that one per cent. annually would be paid on this circulation to the Government. The interest on the reserve fund kept on hand would be \$8,996 76.

The tax which the Government would realize in consideration of these privileges would amount to \$9,830. Deduct these drawbacks from the amount of interest, and it would leave the bank receiving from the Government in its own currency which it is bound to redeem dollar for dollar in gold eventually sometime or other, if it keeps its faith, \$91,875.

Certainly no friend of this measure would desire that this result should be brought about; and it is not likely it would be ever brought about to such an extent as I have carried it in this calculation if the Comptroller were an honest man; but we are not secure from the contingency of having at some future time a Comptroller who may have his friends engaged in this business of banking, and to whom he could extend these facilities without any possible check on the part of any of his superior officers, because the mischief might result naturally under the fair operation of the law.

I propose by striking out a portion of the thirteenth section to prevent any of these banks from increasing their capital at the will of the Comptroller. I would have these banks, so far as that is concerned, put on a footing with other banks all over the Union when they desire an increase of their capital. It is for the sovereign power, or in other words Congress in this instance, to determine whether a further franchise shall be extended to them, because this is one of the gifts of high prerogative; this is a franchise which belongs to no banker naturally, and which ought only to be at the disposal of the sovereign power of the nation. I therefore desire that it may be limited, and that after a bank determines, on making its application, what the amount of its capital shall be, there shall be no increase of that capital, of that franchise, other than by an act of Congress, just as everybody all over the States to-day when they desire an extension of these special corporate privileges go to the Legislature in order to have them granted.

**MR. SHERMAN.** The right of the banks to increase their capital stock is so much restrained and limited by the bill that I think it would be very unwise to adopt the amendment of the Senator from Pennsylvania. By the terms of the bill the bank must express its desire to increase its capital at the time of making the original application. That desire and that limitation must be approved by the Comptroller. For instance, a bank is started to-day with a capital of \$100,000. It is required by this law to be paid in very promptly, one half cash in hand and ten per cent. every thirty days, I think—very rapidly at any rate; within six months, at least, all must be paid up. But at the time of making its application it may give notice that it will desire an increase of capital stock. That increase must be approved by the Comptroller, and the Comptroller may limit it.

**MR. COWAN.** The Senator will allow me to correct him. I think he has misread a portion of the bill which I desire to strike out. It is true that on the original application the Comptroller determines the maximum of the capital stock of a bank; but there is a clause which follows subsequently, which by fair implication will allow him to increase it beyond that maximum. I will read it:

That the maximum of such increase in the articles of association shall be determined by the Comptroller of the Currency, and no increase of the capital beyond the maximum so determined—

Not up to the maximum but beyond the maximum—shall thereafter be made without the consent of the Comptroller.

Now, I say that a fair construction of that clause allows the maximum to be exceeded afterwards by the consent of the Comptroller.

**MR. SHERMAN.** In that section that the Senator proposes to strike out there is this clause:

That it shall be lawful for any association formed under this act, by its articles of association—

That is, the original first paper provided for—to provide for an increase of its capital from time to time as may be deemed expedient, subject to the limitations of this act.

It is not only subject to the general limitations, of its articles of association, but subject to all the limitations of the act. One of the limitations of

the act is to limit the aggregate capital stock of all these banks to \$300,000,000.

Mr. COWAN. That is the limit on the circulation.

Mr. SHERMAN. We have amended the bill so as to apply that limitation to the capital stock.

Mr. COWAN. Suppose that is done, it does not meet the objection here.

Mr. SHERMAN. The Senator from Vermont moved to apply the limitation to the capital stock, and that amendment was adopted; so that the capital stock of these banks cannot exceed \$300,000,000; and not only that, but the limit to some extent is fixed by the articles of association, and it must be approved by the Comptroller, and beyond that they cannot go without the consent of the Comptroller. It may be that those organizing a bank in a town or city may look to the necessity of a future increase of banking capital, and rather than organize a new bank when that increase becomes necessary, they may prefer to increase the capital stock of the old bank. If you strike out this provision, there will be no way by which an existing bank can increase its capital stock; but if additional banking stock is required in any place there must be a new institution. It seems to me that it is right to allow these banks to increase their capital stock, subject to the supervisory power of the Comptroller of the Currency, and all the restraints and limitations of this act.

Mr. COWAN. I, of course, admit the general limitation of the act—that is \$300,000,000. For all the time that the law has been in operation heretofore but about fifty millions have been taken. What I complain of, however, is that within the limit of \$200,000,000 this mischief may take place. Two hundred and fifty millions of bank capital yet left forms a very large margin, within which the consent of the Comptroller would have great room to play in adjusting his favors among his friends, and that is the mischief. The honorable Senator says a bank may want to increase its capital. Suppose it does; how have banks heretofore increased their capital? By the will of a single man, sitting here at the center, the seat of Government, holding the reins over the capital of the whole country, moving at his will the finances of the nation in any direction which he chooses to give them? No, sir. In order to increase the capital stock of a corporation, in order to enlarge its franchise, in order to give it privileges which it would not have had otherwise by the law, it is necessary and proper that it should appeal to the sovereign, to Congress, in order that it may be determined whether it is fit and proper that it should be intrusted any further with these prerogatives. Then, I say, there is no hardship here. Let the bank at its outstart declare in its articles of association, if you please, the maximum of its capital, and afterwards let that be a fixed fact, unless Congress should declare otherwise.

Mr. SHERMAN. Perhaps I can suggest an amendment which will satisfy the Senator, as I desire to meet every practical objection. The Senator objects to the power of the Comptroller to authorize an increase beyond the amount applied for by the original articles of association, and thinks that power may be abused in the hands of the Comptroller of the Currency.

Mr. COWAN. Yes.

Mr. SHERMAN. It is possible that may be abused. A corrupt Comptroller might possibly allow a bank which had not indicated its purpose or desire to increase its capital stock to increase it unreasonably. I have no objection, therefore, personally, although I am not authorized to accept this amendment by the action of the committee, to strike out, in lines eight and nine, the words "without consent of the Comptroller;" so that the bank can only increase its capital stock to the extent and amount of its original notice, with the assent of the Comptroller. That will meet all the objection of the Senator.

Mr. COWAN. I would agree to this modification: strike out, after the word "currency" in the seventh line, the words "and no increase of the capital beyond the maximum so determined shall thereafter be made without the consent of the Comptroller."

Mr. SHERMAN. That is the same thing. I have no objection to striking out that clause.

Mr. COWAN. Then I will so modify the

amendment as to strike out from line seven, after the word "currency," down to line nine, ending with the word "Comptroller."

The PRESIDENT *pro tempore*. The words now proposed to be stricken out will be read.

The Secretary read them, as follows:

And no increase of the capital beyond the maximum so determined shall thereafter be made without the consent of the Comptroller.

The amendment was agreed to.

Mr. HENDERSON. I move to amend the bill by striking out in lines fourteen and fifteen of the twenty-sixth section the words "amount of the circulation issued for the same," and inserting in lieu of these words "value they bore at the time of said deposits;" so as to make the clause read:

Whenever the market or cash value of any bonds deposited with the Treasurer of the United States as aforesaid shall be reduced below the value they bore at the time of said deposit, the Comptroller of the Currency is hereby authorized to demand and receive the amount of said depreciation in other United States bonds, &c.

The twenty-first section of the bill provides that upon the transfer and delivery of bonds to the Treasurer, the association making the transfer shall be entitled to receive from the Comptroller circulating notes equal in amount to ninety per cent. of the current market value of the bonds so transferred and delivered. The section that I now propose to amend provides for keeping the relative value of the bonds and the circulating notes the same; and it provides that whenever the market or cash value of the bonds shall be reduced below the amount of the circulation issued for the same, the Comptroller shall require the depreciation to be made up in other bonds. It will be observed, however, that the bonds may depreciate ten per cent. in value, and yet the bank not be required to deposit any additional bonds. It is only when the bonds fall more than ten per cent. that any further deposit is required.

I have many amendments that I desire to offer, but I think this amendment should be adopted by the friends of the bill. I believe it has been usual in all banking systems of this kind to keep up the relative value of the bonds compared with the circulation, the same as was originally required upon the drawing of the circulation from the Comptroller. That has been the case, I believe, in all stock systems of banking. It was the case in the western system, and it ought certainly to be the case here. I see no reason why there should be a difference of ten per cent. made unless we intend to maintain that difference of ten per cent. If the Government in the end is to be responsible for these circulating notes, it is surely to the benefit of the Government that the banks issuing the notes shall be required to keep an ample fund on hand to protect the Government against any loss, because the notes that they may take from individuals in different sections of the country will be entirely under their control and the Government cannot realize anything from them.

For the protection of the Government I think this amendment ought to be made. I offer it in good faith, and not with a view to cripple the bill, as some gentlemen may suppose in regard to my amendments. I am opposed to the bill, as the Senate knows, and I am honest enough to say that I would cripple it in any way; but I think this amendment ought to be adopted. It is one that protects the Government and protects the note-holder, because the expenses of the sale of the bonds would be a considerable item, and we ought not to leave the bill in such a shape that the amount of the bonds shall be the same at any time as the amount of the circulating notes. Whenever the bonds fall below the standard value required at the time of their deposit, we ought to compel the banks to increase the deposit.

Mr. SHERMAN. The Senator's amendment would operate very unjustly. This bill requires a greater security from stock banks than any bank charter I have ever seen. The usual way is to limit the amount of circulation to the amount of the bonds and their par value; but this bill only allows them to issue within ten per cent. of the market or par value of the bonds. It requires this margin of ten per cent. at the beginning; but the Senator would require this margin of ten per cent. always to be kept on hand without regard to the slight fluctuations that will always occur in the value of bonds. The Government of the

United States never can be insecure as long as the market value in the city of New York of the bonds deposited with it as security is equal to the amount of outstanding notes in circulation. If it falls below that the bill provides that a call shall be made at once on the bank to make it good. Therefore, the provision is wholly unnecessary. It would only be burdensome, and require these calls to be made when the fluctuation amounts to one or two per cent.

Mr. HENDERSON. I ask for the yeas and nays on my amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 12, nays 24; as follows:

YEAS.—Messrs. Bucklew, Canlie, Cowan, Davis, Doolittle, Grimes, Henderson, Powell, Richardson, Riddle, Salisbury, and Wilson—12.

NAYS.—Messrs. Anthony, Chandler, Clark, Conness, Dixon, Fessenden, Foster, Hale, Harlan, Howard, Howe, Lane of Kansas, Morgan, Morrill, Pomeroy, Ranney, Sherman, Sprague, Sumner, Ten Eyck, Van Winkle, Wade, Wilkinson, and Wiley—24.

ABSENT.—Messrs. Brown, Collamer, Foot, Harding, Harris, Hendricks, Hicks, Johnson, Lane of Indiana, McDougall, Nesmith, Trumbull, and Wright.

So the amendment was rejected.

Mr. HENDERSON. I move to amend the bill further by striking out the word "thirty," in line seven, section sixteen, and inserting "fifty;" so that it will read:

That every association, after having complied with the provisions of this act, preliminary to the commencement of banking business under its provisions, and before it shall be authorized to commence business, shall transfer and deliver to the Treasurer of the United States any United States registered bonds bearing interest to an amount not less than \$50,000, &c.

It will be observed that this amendment is only to require the deposit of these banks to be a little larger, to require a deposit of \$50,000 instead of \$30,000 before commencing business.

Mr. SHERMAN. I think the Senator is mistaken. This bill expressly provides that no bank with a capital of less than \$50,000 shall be organized under the act; but the provision to which he now refers is that they shall not proceed to do any business until they invest \$30,000 of the capital in United States bonds, while a larger bank need only invest one third of its capital stock. This section does not relate to the amount of capital stock.

Mr. HENDERSON. I was not speaking of that. Let me ask the Senator if this does not provide that the bank may commence with \$30,000 of bonds? A bank of \$50,000 capital may be established under this law. Can it not then commence with one half of its capital stock paid in, \$25,000?

Mr. SHERMAN. Thirty thousand dollars must be invested in United States bonds, and the whole of it must be paid in.

Mr. HENDERSON. Then by depositing \$25,000 here with the Treasurer I apprehend that the bank can get the amount of notes to which it would be entitled and commence banking under it.

Mr. SHERMAN. No; this limitation expressly says that no bank shall commence business under the act unless it buys United States stocks to the amount of \$30,000.

Mr. HENDERSON. That is just what I want to prevent. I do not want it to commence banking with so small an amount. Section seven of the bill provides:

That no association shall be organized under this act with a less capital than \$100,000, nor, in a city whose population exceeds fifty thousand persons, with a less capital than \$200,000: *Provided*, That banks with a capital of not less than \$50,000 may, with the approval of the Secretary of the Treasury, be organized in any place the population of which does not exceed six thousand inhabitants.

Then a bank with \$50,000 of capital may commence business by paying in one half of its capital stock, and, as I understand it, can obtain notes. Then it will receive \$25,000 of circulating notes, less ten per cent., which would be \$22,500, and go to work as a banking institution, under this law, issuing paper.

Mr. SHERMAN. With the leave of the Senator I will try again to explain it to him. Section sixteen has nothing whatever to do with the capital stock. The capital stock of the bank must be not less than \$50,000, and that is only in small towns; and it must all be paid in in lawful money of the United States. Section sixteen has nothing to do with the amount of capital stock or the amount that must be paid in to commence business. It relates to a distinct subject-matter; it fixes the amount that each bank shall invest in the bonds of the United States. A small bank



must invest not less than \$30,000. A large bank need not buy bonds to the extent of more than one third of its capital stock. The law in this respect makes a discrimination against the small banks. The Senate will perceive that there is no kind of connection between the amount of the capital stock and the amount of bonds owned. A large bank need invest only one third of its capital stock in bonds, and can only draw circulation to the amount of ninety per cent. of the bonds so deposited, but a small bank must invest \$30,000 of its capital in bonds of the United States; and all the capital stock in any event must be paid in.

Mr. HENDERSON. I disagree with the Senator's construction; but with his explanation, taking the law altogether to be what he says, I withdraw the amendment, and move to strike out the proviso in section seven, which will accomplish my purpose if he be correct.

The PRESIDENT *pro tempore*. The Senator from Missouri now proposes to strike out the words which will be read.

The Secretary read, as follows:

*Provided*, That banks with a capital of not less than \$50,000 may, with the approval of the Secretary of the Treasury, be organized in any place the population of which does not exceed six thousand inhabitants.

Mr. SHERMAN. Individually I would much prefer that the amount of capital stock should never be less than \$100,000; but this proviso was put in after a good deal of discussion in the House of Representatives by a very decided vote of the House. Unless Senators really desire to make a point on this matter, as the members of the House of Representatives represent the local districts who will be more benefited by these local banks, I trust they will not adopt the amendment. If I had my own way and had the drafting of the bill, I would have left out the small banks; but that was the action of the House of Representatives. This proviso was inserted there after debate by a very decided vote, with a view to help remote and thinly populated sections of the country and smaller towns.

Mr. LANE, of Kansas. I hope the Senate will not strike out this proviso. So far as my State is concerned, we expect to organize banks with not larger capital than that; but if the proviso be stricken out, our people will not be able to do it. In the town where I live it is contemplated to establish a bank, but they cannot do it if the capital is put at over \$50,000.

Mr. BUCKALEW. I call for the yeas and nays on this amendment.

The yeas and nays were ordered.

Mr. BUCKALEW. Mr. President, I desire to say that I vote for this amendment principally to remove from the Secretary of the Treasury this discretionary power, in order to establish if possible in this bill the principle that banks shall be established under uniform rules, and that there shall be no discretion left to him to favor one locality over another.

Mr. GRIMES. I should like to know how it will stand if the amendment be adopted. What will be the limit?

Mr. SHERMAN. One hundred thousand dollars.

Mr. GRIMES. That is satisfactory to me.

The question being taken by yeas and nays, resulted—yeas 19, nays 22; as follows:

YEAS—Messrs. Anthony, Buckalew, Carlile, Collamer, Cowan, Davis, Doolittle, Foot, Grimes, Henderson, Morgan, Powell, Richardson, Riddle, Saulsbury, Sprague, Sumner, Trumbull, and Wilson—19.

NAYS—Messrs. Chandler, Clark, Conness, Dixon, Fessenden, Foster, Hale, Harlan, Howard, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Ramsey, Sherman, Ten Eyck, Van Winkle, Wade, Wilkinson, and Willey—22.

ABSENT—Messrs. Brown, Harding, Harris, Hendricks, McDougall, Nesmith, and Wright.

So the amendment was agreed to.

Mr. HENDERSON. I have one other amendment to offer, and then I will quit. I move to strike out section forty-five of the bill, with a view of disconnecting the Government as far as we possibly can from all banking institutions. I think the independent Treasury system which we adopted many years ago has proved to be, perhaps, the best institution ever adopted by the Government of the United States. It was adopted after we had been connected for a long series of years with banking institutions by which the Government lost immense sums of money, and I now desire to offer

this amendment with a view of disconnecting the Federal Government from these institutions. I believe the connection will be found to work badly. In fact if this section be retained, we do not want any longer the independent Treasury system except at some of the larger ports of entry in the United States. We shall have to keep the independent Treasury system there in order to keep the gold received for duties separate from this paper. But it really seems to me that for all purposes in connection with the public money, the independent Treasury system is infinitely better than this. The Secretary of the Treasury may use the Assistant Treasurers in the various parts of the United States as financial agents of the Government just as well as he can use these banks. He can require of them to do anything and everything that may be advantageous for the interest of the Government as well as these banks can do it. I do not wish to do away with the independent Treasury system. I believe it is a good one, and this is tantamount to destroying it.

The PRESIDENT *pro tempore*. The words proposed to be stricken out will be read.

The Secretary read section forty-five as follows:

SEC. 45. *And be it further enacted*, That all associations under this act, when designated for that purpose by the Secretary of the Treasury, shall be depositories of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary; and they may also be employed as financial agents of the Government; and they shall perform all such reasonable duties, as depositories of public moneys and financial agents of the Government, as may be required of them. And the Secretary of the Treasury shall require of the associations thus designated satisfactory security, by the deposit of United States bonds and otherwise, for the safe-keeping and prompt payment of the public money deposited with them, and for the faithful performance of their duties as financial agents of the Government: *Provided*, That every association which shall be selected and designated as receiver or depository of the public money shall take and receive at par all of the national currency bills which have been paid in to the Government for internal revenue or for loans or stocks.

Mr. SHERMAN. As long as our entire revenues consisted in customs duties collected at the ports of entry there was no occasion for public deposits; but now we are collecting money in every district of the United States, these banks are very useful and convenient for exchange agencies, the only purpose for which they are used and will be used.

Mr. SAULSBURY. I ask for the yeas and nays on this amendment.

The yeas and nays were ordered.

Mr. POWELL. I desire to state that the Senator from Oregon [Mr. NESMITH] is absent from the Senate in consequence of sickness.

The question being taken by yeas and nays, resulted—yeas 11, nays 28; as follows:

YEAS—Messrs. Buckalew, Cowan, Davis, Grimes, Harlan, Henderson, Powell, Richardson, Riddle, Saulsbury, and Trumbull—11.

NAYS—Messrs. Anthony, Brown, Clark, Collamer, Conness, Dixon, Doolittle, Fessenden, Foot, Foster, Hale, Howard, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Van Winkle, Wade, Willey, and Wilson—28.

ABSENT—Messrs. Brown, Carlile, Chandler, Harding, Harris, Hendricks, Hicks, McDougall, Nesmith, Wilkinson, and Wright.

So the amendment was rejected.

Mr. SPRAGUE. I move to amend section twenty-four, by inserting after "United States," in line fourteen, the words "one by the association." This section provides for destroying the mutilated and worn-out bills, and it provides that three persons shall oversee the burning of the bills, one appointed by the Comptroller of the Currency, one appointed by the Treasurer of the United States, and one by the Secretary of the Treasury. I propose that there shall be one appointed by the association itself.

The amendment was agreed to.

Mr. SHERMAN. Now the words "three persons," in that section, should be changed to "four persons."

The PRESIDENT *pro tempore*. That amendment will be made if there be no objection.

Mr. SPRAGUE. I move to insert at the end of section twenty-five the words "and a duplicate signed by the Treasurer shall be retained by the association." This section provides for an examination of the bonds placed on deposit, and I wish to have a duplicate of the certificate of the amount retained by the association.

The amendment was agreed to.

Mr. SPRAGUE. I move the following amendment to come in at the end of section sixty-three:

*Provided*, That savings banks regularly chartered by State authority, owning stock in any of the aforesaid associations, shall not be liable over and above the value of the stock owned by them.

The amendment was rejected.

Mr. BUCKALEW. I move to amend the bill by striking out in lines ten and eleven of the twenty-second section the words, "one dollar, two dollars, three dollars;" so as to read:

Circulating notes in blank of the denomination of five dollars, ten dollars, twenty dollars, fifty dollars, &c.

This amendment will make the provisions of this section conform to what was the law of my own State, which did not permit banks to issue notes of a denomination less than five dollars. I ask for the yeas and nays upon this amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 8, nays 27; as follows:

YEAS—Messrs. Buckalew, Cowan, Doolittle, Henderson, Powell, Richardson, Riddle, and Saulsbury—8.

NAYS—Messrs. Anthony, Clark, Collamer, Conness, Dixon, Foot, Foster, Grimes, Hale, Harlan, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Wilkinson, Willey, and Wilson—27.

ABSENT—Messrs. Brown, Carlile, Chandler, Davis, Fessenden, Harding, Harris, Hendricks, Hicks, Howard, McDougall, Nesmith, Pomeroy, and Wright.

So the amendment was rejected.

Mr. DOOLITTLE. I offer the following amendment as a new section:

*And be it further enacted*, That any person, banker, or banking association, or banking corporation, which shall not within one year from and after the passage of this act reduce and thereafter retain the amount of its notes, bills, or certificates in circulation as money below the amount of its cash capital actually paid in according to law and fifty per cent. added thereto, or to the amount of its circulation actually secured by pledge of the stocks of the United States, or of the State where the bank or banking office is situated, pursuant to the laws of the United States or of the said State, shall not be entitled to make the Treasury notes of the United States a legal tender in payment of any demand against the same, and shall pay to the United States upon any excess over and above what is herein provided a tax of one half per cent. per month.

I shall not discuss the amendment. The whole effect is to operate upon the banks where their circulation is not secured by stocks of the United States or of the States where they are located, and the effect is to compel them to reduce that circulation within one year from this time down to their cash capital actually paid in, and not to exceed fifty per cent. added thereto.

Mr. JOHNSON. How is it to be enforced?

Mr. DOOLITTLE. It is to be enforced by declaring that those banks which do not do so shall not be entitled to the privilege of making the Treasury notes of the United States a legal tender in payment of demands against them, and further that upon the excess over and above what is there mentioned, that is, the capital actually paid in, and fifty per cent. in addition thereto, they shall pay a tax of one half per cent. a month.

The amendment was rejected.

Mr. POWELL. I move to strike out all of the bill after the enacting clause, and insert the following as a substitute for it:

That the act entitled "An act to provide a national currency secured by a pledge of United States stocks," approved February 25, 1863, is hereby repealed.

It is not my purpose to make a speech on this question. I will simply say that I think this whole system of banking is wrong, and it cannot and will not result in anything but great injury to the country. I am aware that if this amendment be adopted a supplemental bill will be required for winding up these banks. I offer the amendment to show my views of propriety, and I ask for the yeas and nays upon it.

The yeas and nays were ordered; and being taken, resulted—yeas 6, nays 31; as follows:

YEAS—Messrs. Buckalew, Henderson, Powell, Richardson, Riddle, and Saulsbury—6.

NAYS—Messrs. Anthony, Chandler, Clark, Collamer, Conness, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Howard, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Van Winkle, Wilkinson, Willey, and Wilson—31.

ABSENT—Messrs. Brown, Carlile, Cowan, Davis, Harding, Harris, Hendricks, Hicks, McDougall, Nesmith, Wade, and Wright.

So the amendment was rejected.

The amendments were ordered to be engrossed, and the bill to be read a third time. It was read

the third time; and on the question, "Shall the bill pass?"

Mr. WILSON and Mr. POWELL called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 30, nays 9; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Collamer, Conness, Dixon, Doolittle, Fessenden, Foot, Foster, Hale, Harlan, Howard, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Van Winkle, Wilkinson, Wiley, and Wilson—30.

NAYS—Messrs. Buckalew, Cowan, Davis, Grimes, Henderson, Powell, Richardson, Riddle, and Sausbury—9.

ABSENT—Messrs. Brown, Carlile, Harding, Harris, Hendricks, Hicks, McDougall, Nesmith, Wade, and Wright.

So the bill was passed.

#### OPERATIONS OF GENERAL BUTLER.

Mr. WILSON (during the day) sent the following dispatch to the desk, which was read:

HEADQUARTERS IN THE FIELD,  
NEAR BERNUDA LANDING, May 9, 1864.

Hon. EDWIN M. STANTON, Secretary of War:

Our operations may be summed up in a few words. With seventeen hundred cavalry we have advanced up the Peninsula, forced the Chickahominy, and have safely brought them to our present position. These were colored cavalry, and are now holding our advanced pickets toward Richmond. General Kautz, with three thousand cavalry from Suffolk, on the same day with our movement up James river, forced the Blackwater, burned the railroad bridge at Stony creek below Petersburg, cutting in two Beauregard's forces at that point, and is now operating against Hicksford and Weldon. We have landed here, intrenched ourselves, destroyed many miles of railroad, and got a position which with proper supplies we can hold out against the whole of Lee's army. I have ordered up the supplies. Beauregard with a large portion of his command was left South by the cutting of the railroad by Kautz. That portion which reached Petersburg under Hill I have whipped to-day, killing and wounding many, and taking many prisoners, after a severe and well-contested fight. General Grant will not be troubled with any further reinforcements to Lee from Beauregard's forces.

BENJAMIN F. BUTLER,  
Major General.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the bill of the Senate (No. 172) concerning the disposition of convicts in the courts of the United States, for the subsisting of persons confined in jails charged with violating the laws of the United States, and for diminishing the expenses in relation thereto.

The message further announced that the House of Representatives had agreed to the resolution of the Senate for the appointment of a select joint committee to examine into the present mode of lighting, heating, and ventilating the Senate Chamber and the Hall of the House of Representatives, and had appointed Mr. JUSTIN S. MORRILL of Vermont, Mr. N. B. SMITHERS of Delaware, and Mr. JAMES E. ENGLISH of Connecticut, the committee on its part.

The PRESIDENT *pro tempore* appointed Mr. BUCKALEW, Mr. HOWARD, and Mr. HENDERSON to constitute the committee on the part of the Senate.

#### BILLS BECOME LAWS.

The message further announced that the President of the United States had approved and signed on the 6th instant the following act and joint resolution:

An act (H. R. No. 119) to regulate the admeasurement of tonnage of ships and vessels of the United States; and

A joint resolution (H. R. No. 69) for the payment of volunteers called out for not less than one hundred days.

#### EXECUTIVE SESSION.

On motion of Mr. WILSON, the Senate proceeded to the consideration of executive business; and after some time spent therein the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, May 10, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

#### EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Navy, in answer to a resolution of the House of the 2d of May, in regard to the rebel ram

which recently participated in the rebel attack on Plymouth; which was referred to the Committee on Naval Affairs, and ordered to be printed.

#### VENTILATION OF THE HALL, ETC.

The SPEAKER, by unanimous consent, laid before the House a concurrent resolution of the Senate for the appointment of a joint select committee in relation to the heating, ventilation, &c., of the Senate Chamber and the Hall of the House of Representatives.

Mr. MORRILL. I move that the House concur, and that the Speaker be authorized to appoint a committee of three upon the part of the House.

The motion was agreed to.

The SPEAKER subsequently appointed Mr. MORRILL, Mr. SMITHERS, and Mr. ENGLISH as such committee on the part of the House.

#### DISPOSITION OF CONVICTS, ETC.

Mr. WILSON, by unanimous consent, reported back from the Committee on the Judiciary a bill (S. No. 172) concerning the disposition of convicts in the courts of the United States, for subsisting of persons confined in jails charged with violating the laws of the United States, and for diminishing the expenses in relation thereto; which was ordered to be read a third time, was read the third time, and passed.

Mr. WILSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### TOWNS IN NEW MEXICO, ETC.

Mr. PEREA, by unanimous consent, introduced a bill for the relief of the towns and villages in the Territories of New Mexico and Arizona; which was read a first and second time, and referred to the Committee on Public Lands.

#### A. RUSSELL.

On motion of Mr. WHALEY, the Committee on Invalid Pensions was discharged from the further consideration of the petition of A. Russell, and the same was referred to the Committee on Revolutionary Claims.

#### LOGAN THURSTON.

Mr. KING, from the Committee on the Judiciary, reported a bill for the relief of Logan Thurston; which was read a first and second time, referred to a Committee of the Whole, and ordered to be printed.

#### PAY OF DISTRICT POLICE.

Mr. MORRIS, of Ohio, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee for the District of Columbia be instructed to inquire into the expediency of reporting a bill requiring the city authorities of the cities of Washington and Georgetown to levy a tax sufficient to increase the pay of the metropolitan police of said cities to eighty dollars per month.

#### BRANCH MINT AT SAN FRANCISCO.

On motion of Mr. SHANNON, by unanimous consent, bill of the Senate No. 176, authorizing the erection of buildings for the branch mint at San Francisco, was taken from the Speaker's table, read a first and second time by its title, and referred to the Committee of Ways and Means.

#### MISSOURI CONTESTED ELECTION.

Mr. BROWN, of Wisconsin. I now demand the regular order of business.

The House resumed, as the regular order of business, the consideration of the contested-election case from the seventh congressional district of Missouri of Bruce vs. Loan.

Mr. BRUCE, (contestant.) Having been in the House from the commencement of the session, I am fully aware of the great amount of public business yet to be transacted; and I am also well aware of the great anxiety of members to complete it, and their desire to get home. For my part, I proposed to the sitting member that we should submit the case on the report of the committee. He did not see fit to do that, and declined the offer. I do not cast any censure upon him, because he thought it his duty in view of the report of the majority of the committee that he should be heard. I am as anxious as any gentleman on this floor that but little time shall be taken up in the consideration of this case, and I

do not feel that I am at all responsible for the consumption of time; and I hope the House will not have any feeling of prejudice against this contested-election case, either against myself or the sitting member, on account of the time that has been consumed in the discussion.

Mr. Speaker, I am not here with any idle claim. I am not here—in the language of the gentleman from Pennsylvania [Mr. L. MYERS]—"with the baldest claim that ever came before this House." I have seen a similar statement published almost *verbatim* made by a newspaper correspondent from this city. I am satisfied that there is an incorrect impression upon the part of the House in reference to this case. I am satisfied that when gentlemen here come to hear me, and when they examine all the facts in connection with the case, they will be far from coming to the conclusion the gentleman from Pennsylvania did, that this is an effort to dislodge a loyal man from his seat and put in his place by another election a disloyal man. When they shall have heard of the relative positions of the gentleman and myself during all these troubles, they will arrive at a far different conclusion.

Mr. Speaker, I am here to assert a right and to ask the American Congress to redress a great wrong. According to the forms of our Government other wrongs can be redressed in the courts of the country, but the only redress that I have in this case is in the Congress of the United States, and I trust that the House will bring to the consideration of the case that degree of candor, fairness, and impartiality that their high position demands of them. I say to you that the arguments that have been used here, the *ad captandum vulgum* that has been employed on the part of members of this House, would not do before a justice's court in my section of the country. Gentlemen have endeavored to evade the real issue and to determine the whole case upon a point which was at the very start a pretext that these military gentlemen availed themselves of in order to place themselves in power. This House owes it not only to my district but to the loyal State of Missouri that whatever wrong is shown to have been done shall be redressed. You are the sole tribunal that can do it. The Committee of Elections was the first committee ever organized under this Government. It stands at the head of the committees of this House. I have no other place in which to seek redress. If I shall come before an American Congress composed of loyal men and fail to obtain that redress it will weaken the confidence of my State in your fairness and justice. I tell you that the election, conducted as it was, was a great outrage on the elective franchise. I never doubted that an impartial Congress, as I believed this body would be, would furnish me redress. You owe it to Missouri, a loyal State which has proved her loyalty, to redress this wrong.

At the outbreak of this rebellion Missouri had a traitorous Governor and a traitorous Legislature. The Legislature called a convention, which convention met, and it was the only convention convened during all these troubles that kept a State in the Union; and to-day Missouri can well be proud of the services she has rendered to the Union; divided as her community was and distracted by different interests, she stood firmly by the Union; she has furnished sixty thousand soldiers to the volunteer army of the United States, besides eighty regiments of militia. I tell you, gentlemen, that your decision in this case will have great influence in the State of Missouri.

There is a remarkable fact connected with this case. While the minority of the Committee of Elections have been remarkably particular in all they have said in reference to my non-conformity with the strict rules as laid down in the act of 1851, while they hold me to the strict rules of evidence, yet, sir, the very gentlemen who made that report have themselves gone off on an issue based upon testimony taken outside of the act of 1851, and in violation of the rules of evidence and of law. The act of Congress of 1851 in reference to taking testimony in a contested-election case, states "that the testimony shall be confined to the proof and disproof of the allegations in the notice of the contestant and in the answer of the sitting member." I gave the sitting member notice, and stated the grounds of my complaint, and in his answer he denied all of my allegations, and pro-

posed no new ground except in regard to the oath. I have shown that I took the oath according to law, and yet the sitting member has never proved that he took the oath prescribed by the ordinance of the convention. I know that several gentlemen who have spoken on this matter have stated that the officers at the court-house election precinct did not comply with the ordinance by taking the oath prescribed by the convention. The testimony shows that I took the oath, yet the sitting member has not yet shown that he took the oath. The Secretary of State and Attorney General have stated that it is not necessary for members of Congress to take the oath. Whether the sitting member has taken it or not, it is in the testimony that I took the oath prescribed by the convention.

The sitting member in his answer did not state that rebel sympathizers voted for me, but it is alleged that all those who were driven from the polls were rebel sympathizers. Yet the whole case is made to turn on the testimony taken outside of the rules of law and of evidence; and I am satisfied that it will have more influence on the whole case than anything else. It is alleged that those who were excluded were rebel sympathizers who were not entitled to vote.

In the State of Missouri the convention which assembled in 1862 fixed additional qualifications for voters, and I will beglad if the Clerk will read the oath.

The Clerk read, as follows:

"I, \_\_\_\_\_, do solemnly swear (or affirm, as the case may be) that I will support, protect, and defend the Constitution of the United States and the constitution of the State of Missouri against all enemies and opposers, whether domestic or foreign; that I will bear true faith, loyalty, and allegiance to the United States, and will not, directly or indirectly, give aid and comfort or countenance to the enemies or opposers thereof, or of the provisional government of the State of Missouri, any ordinance, law, or resolution of any State convention or Legislature, or any order or organization, secret or otherwise, to the contrary notwithstanding; and that I do this with a full and honest determination, pledge, and purpose, faithfully to keep and perform the same, without any mental reservation or evasion whatever. And I do further solemnly swear (or affirm) that I have not, since the 17th day of December, A. D. 1861, willfully taken up arms or levied war against the United States or against the provisional government of the State of Missouri. So help me God."

Mr. BRUCE. Mr. Speaker, I am not here to argue anything to this House in reference to the fact of disloyal votes. During the canvass I addressed myself to the loyal men of the district. I stated distinctly, in all my speeches, that the rebellion was causeless and unprovoked by any oppression on the part of the General Government, and denounced secession. I know that the impression is sought to be produced here that I was supported by the votes of disloyal men, but I will show that the contrary is the case.

Let us look at what has been the practice in the other States. We know very well that it was deemed necessary, or at least it was done, that the general in command issued orders in reference to the elections in several States last year, in addition to the rules prescribed by law. In Kentucky General Burnside issued an order that disloyal persons should not vote, and nobody questions the right of the members from that State sitting here under that election. The chairman of the Committee on Military Affairs, [Mr. SCHRECK], then in command of the department of which Maryland is a part, issued an order in reference to the election in that State. I am not here to inquire into the propriety or impropriety of these orders. A like order was issued by General Schofield in Missouri.

The following were orders issued previous to the congressional election in 1862 in Missouri:

[General Orders, No. 15.]

HEADQUARTERS STATE OF MISSOURI,  
ADJUTANT GENERAL'S OFFICE,  
ST. LOUIS, October 23, 1862.

1. A general election is to take place throughout the State the first Tuesday in November next.

This is the first attempt of the people to choose their officers since the war of the rebellion commenced. It will be an occasion when angry passions, excited by the war, might produce strife, and prevent the full expression of the popular will in the selection of officers.

The convention has provided by ordinance that every voter shall, before voting, take a prescribed oath, and that no vote shall be counted in favor of any candidate for a State or county office, unless he shall have taken an oath prescribed for candidates. The ordinance of the convention fixes heavy penalties upon those who take the oath falsely. These are the safeguards which the convention has judged necessary to keep faithful and disloyal persons from exercising power in the State. They are suffi-

cient. No person must be allowed to interfere with the freedom of those qualified to vote under this ordinance.

The enrolled militia being citizens of the State, and very nearly all entitled by age to vote, will doubtless be generally at places of voting. They are a body organized for the purpose of preventing violations of the law of the State, and they all know that it is essential to the maintenance of our Government that all qualified voters shall be allowed, without molestation of any kind, to cast their votes as they please.

II. It is required of all officers and men of the enrolled militia that they keep perfect order at the polls on the day of election, and that they see that no person is either kept from the polls by intimidation, or in any way interfered with in voting at the polls for whatever candidate he may choose.

III. If any officer or private shall either interfere with the rights of voters, or countenance such interference by others, it will be treated as a high military offense, and punished with the utmost rigor.

IV. Whenever there is any reason to apprehend any interference with the election on the part of bands of guerrillas, the commanding officer of the nearest regiment will detail a sufficient force to prevent any such interference, and station it where there is apprehended danger.

V. In case of disturbance arising which cannot be arrested by the civil authorities, any commissioned officer present is hereby ordered, at the request of any judge, sheriff, or justice of the peace, to use the necessary military force to suppress it.

VI. Commanding officers of the enrolled Missouri militia are hereby directed to see that the foregoing orders are strictly obeyed.

By order of the commander-in-chief:

WILLIAM D. WOOD,  
Acting Adjutant General Missouri.

[General Orders, No. 33.]

HEADQUARTERS SEVENTH MILITARY DISTRICT,  
ST. JOSEPH, MISSOURI, November 1, 1862.

The attention of all officers and soldiers of the militia of this district is called to General Order No. 45, dated "Headquarters State of Missouri, Adjutant General's office, St. Louis, October 23, 1862," with reference to the election on Tuesday next. The military should bear in mind that they are not the judges of the qualifications of voters. That duty is devolved by law on the judge of the election. If these officers either admit improper persons to vote, or exclude proper persons from voting, the statutes of this State provide an ample remedy. The militia will carefully abstain from all acts calculated to interfere with the freedom of election. All officers who interfere with the rights of voters will be reported to the commander-in-chief, to be dealt with as he may decide. All soldiers guilty of the same offense will be punished as a court-martial shall determine.

By order of Brigadier General Willard P. Hall:

ELWOOD KIRBY,  
Assistant Adjutant General.

The commanders issued these orders, and in my case the soldiers did, in violation of these orders, undertake to decide who should vote and who should not.

There was an attempt to carry this case by storm, by making a false issue, and by using the military force. The military officers, who were candidates themselves, in all the counties used their power to defeat me. These military men, who had been in the service but three months and had never seen an enemy, were anxious to get a reward for their prowess, though they had never fleshed their swords or seen the enemy, and from my knowledge of these candidates they never will be in a fight. The whole election was carried by military control, and in violation of the orders of the department commander. I ask the distinguished gentleman from Ohio [Mr. SCHRECK] if he would have allowed his military orders to be disobeyed as General Schofield's were in my district? I am satisfied he would not have permitted it, and I know the sense of justice of this House will allow to Missouri and to her department commander the same right to determine who was and who was not a voter. I tell you, gentlemen, you who are in a majority here, that you are committed to a principle which you have voted this session; to let men vote who repent and take the oath. I will have the Clerk read what you have committed yourselves to. I refer to the bill introduced by the gentleman from Maryland, [Mr. DAVIS], and which you voted for the other day.

The Clerk read, as follows:

"Sec. 2. And be it further enacted, That so soon as the military resistance to the United States shall have been suppressed in any such State, and the people thereof shall have sufficiently returned to their obedience to the Constitution and the laws of the United States, the provisional governor shall direct the marshal of the United States, as speedily as may be, to name a sufficient number of deputies, and to enroll all white male citizens of the United States resident in the State in their respective counties, and to request each one to take the oath to support the Constitution of the United States, and in his enrollment to designate those who take and those who refuse to take that oath, which rolls shall be forthwith returned to the provisional governor; and if the persons taking that oath shall amount to a majority of the persons enrolled in the State he shall, by proclamation, invite the loyal people of the

State to elect delegates to a convention charged to declare the will of the people of the State relative to the reestablishment of a State government, subject to and in conformity with the Constitution of the United States."

Mr. BRUCE. I confess that I have failed to address the Speaker, as I should have done. I have been addressing gentlemen upon this side of the House; for gentlemen upon the other side, belonging to the old historical party which I have fought for thirty long years, are all right upon this question. The Saviour said He "came not to call the righteous, but sinners to repentance;" hence I am addressing the Republican side of the House, who have the power.

Mr. GRINNELL. Does the gentleman say all the sinners are upon this side?

Mr. BRUCE. Well, I think they need some preaching to. I want to carry enough of you gentlemen on this side to join the gentlemen on the other side to put the sitting member out of this House.

Mr. GRINNELL. Are they all right over on that side?

Mr. BRUCE. From manifestations I have seen they are all right. But I appeal to no party here, and the chairman of the Committee of Ways and Means knows that I am smart enough to know just how this matter stands. [Laughter.] Tooust the sitting member I must get some Republican votes. I have read to you the bill by which you have committed yourselves to allow men to vote who repent and take the oath of allegiance. The oath of the convention is that they have neither given aid nor comfort to the enemy.

There have been a great many prominent men in my State who have, during the troubles, expressed sentiments of disloyalty, and for the edification of the House I desire to say that some of those gentlemen now say they are as radical as any in the country. One of the most distinguished men of that class is ex-Governor Stewart, of Missouri, and I desire to read his sentiments here, because during the canvass I wronged him. No man now stands higher as a radical than Governor Stewart. I ask the Clerk to read what I send to the desk.

The Clerk read, as follows:

"It is meet, too, that these northern fanatics, who have no sympathies for anything but African slaves, and who have substituted for morals and religion a vile system of negrophilia, which culminates in all the crimes and horrors of amalgamation, should remember 'the pit from which they have been dug,' and the sins that still cling to their skirts. The sale of their slaves originally furnished capital to start manufactories, and the labor of these slaves or their descendants still keeps their spindles turning. While they shed tears of hypocritical sorrow over the fancied sufferings of the slaves on the cotton and sugar plantations, they seize with a miser's greed upon the products of their labor, and 'roll the sweet morsel under their tongues.' They move heaven and earth to rescue a fugitive from the hands of his rightful owner, and fit out and man three-fourths of all the slave-ships that prowl about the African coast."

Mr. BRUCE. These are the sentiments of Governor Stewart, as set forth in his farewell message to the Legislature of Missouri. Now, during all these troubles I have never known North or South, East or West, but have gone for my whole country.

I also give an extract from the speech of Hon. JOHN B. HENDERSON, now a Senator of the United States, and the mover of the constitutional amendment abolishing slavery in the United States. It was made in the Missouri State convention on the 12th of March, 1861:

"But we are told that property is insecure in this country. Just one word in regard to that, if you please. I am willing to admit, and I do admit, and not only do I admit but I now take occasion to say, that for many years in the northern States a dangerous feeling has been growing up antagonistic to the institutions of the South. The Republican party has been supported by men who have enunciated heresies dangerous to the rights of the South, and the Republican party must get rid of that class of men. They must divest themselves of them forever and ever, or else, in my honest judgment, if their views are carried out, we may not be asked to resort to secession as a constitutional remedy, but may be compelled to resort to the more dangerous doctrine of revolution.

"I am not afraid, sir, to announce the proposition that, if the doctrines of Wendell Phillips and Lloyd Garrison are to be the doctrines of this country, and the slave population of the southern States should be turned loose by Federal enactments, I do not hesitate to say, nor do I suppose the people of the State of Missouri would hesitate a moment to say, that in that case it would be better to resort to the revolutionary right—the last resort of injured man—and fight themselves at the point of the bayonet."

By such sentiments as these have the people been mistaught and led astray.

I will now read the language of the sitting



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member, used in a speech in August last, near St. Joseph, Missouri:

"But what is the excuse for calling out these enrolled militia?" \* \* \* "You are no doubt surprised to see that these militia are kept standing guard over negro property."

"But, fellow-citizens, let me speak further on this subject. Why does the Governor demand the removal of all Federal soldiers out of his borders? Why does he say, 'Remove them and I will call out loyal men of the State, if you will allow me to do as I wish?' Now what was his object? He desired to see the property of his dear friends taken care of, and he knew if the Federal soldiers were here he could not do it. But he has taxed you \$3,000,000 for the privilege of removing them, supplying their place with the militia, and putting you under martial law. The Federal soldiers would not be negro-catchers."

In that very speech the sitting member declared that there was no necessity for calling out the militia of Missouri, and that the only purpose for which that militia was called out was to stand guard over the negroes of rebels and rebel sympathizers.

And now I wish to show the inconsistency of the gentleman. As a brigadier general in the State, he used all his efforts to prevent the removal of two negroes from the State by an Illinois regiment, who had come there to aid in our defense. He was at that time a brigadier general in our State without a command—"a brigadier without a brigade"—and he attempted to take the negroes of rebels from a loyal regiment. He went to the commander of the post at St. Joseph and told him that the negroes were not to be taken away, and that if he would not give them up, he would call out all the force under his command, give them battle, and seize the negroes. And yet he complains of Governor Gamble for calling out troops to stand guard over the negroes of rebels. True, he says that he was acting under the orders of General Halleck. I doubt whether General Halleck ever issued any order that authorized such a construction. But the gentleman was not in command there, and it was not his duty to do it. He must have felt a good deal that way, or he would not have gone into the business so ardently.

I know that the gentleman has objected to the presence of Federal troops in our State. I know that the gentleman did not like that they should come there. The gentleman and myself occupied different attitudes in 1861. When the rebellion commenced in 1860, shortly after it was ascertained that Mr. Lincoln was elected President of the United States, I was the editor of a leading Bell-*Everett* paper in that State, that was regarded as the organ of that party in the State, and as soon as it was ascertained that Mr. Lincoln was elected I sought to place myself on the record for the Union, and during that week I, with others, got up a call for a public meeting in favor of the Union, to be held at the court-house on the 23d of November, 1860. That call was signed by almost every prominent man in that section, but the name of the sitting member does not appear upon that call; he did not sign it. We held that meeting, and passed resolutions that would go through this House now. I was chairman of the committee that reported those resolutions, and although the speeches made might have been heard both at the office and at the house of the sitting member, he was not there participating in the proceedings at all.

I, as the conductor of a newspaper, looked round in those perilous times to see who would stand by me, and I looked for that gentleman and other distinguished gentlemen who had been associated with me in the old Whig party, but he and other old friends avoided me as if I had been a viper. I can appeal, not only to the people of Missouri who know me, but to distinguished gentlemen from that State who are now in this city who will bear testimony to the fact that while others may have been faithless I have always been faithful and true. There is not a blot upon my patriotism or upon my escutcheon. I made various Union speeches, and was the editor of a daily paper at the time, and had to speak out six days in the week, and if I had faltered in any one

respect the gentleman would have hunted up my record. He did hunt up my record, and he found that I had attended a meeting for general deliberation at which several gentlemen made secession speeches, and all he could find was that I said there that Union men should not be ignored. I had the boldness and temerity to get up at that meeting, and when I did so hisses sounded all over the hall, and it was only at the intercession of gentlemen that I was allowed to speak at all, and the first words I used were: "Gentlemen, as long as I have a voice Union men shall not be ignored." A secessionist, at another time, informed me one Sunday morning that they were going to raise a secession flag over my office, and advised me to submit to it quietly. I told him if it was put up it would have to be over my dead body. The rebel rag did not wave over the Journal office, and did not go up.

I tell you, gentlemen, that when you want to test the loyalty of men in our State you must try the men who stood from November, 1860, to November, 1861, struggling for the Union in those perilous times. There are many in our State who can be loyal now, like the sitting member, who never exhibited his loyalty until after the arrival of Federal troops, and when it was clear to all men of common sense that the rebels would never have control of the State again. The first time I saw any manifestation of loyalty from him was after the arrival of the sixteenth Illinois and second Kansas regiments in St. Joseph.

At a Union meeting that was called the evening these troops arrived in St. Joseph, where I was chairman, he was called out, and came forward and made a speech. I was glad to welcome him. True, he was an eleventh-hour man, but, unlike the eleventh-hour man mentioned in the parable, who got the same wages as those who came in the first hour, he got more than those who had been always true and loyal. Before a month passed he asked and received the commission of brigadier general, and in that position he was soon at work endeavoring to catch secession niggers and take them away from Federal soldiers. I stood true to the flag in times that tried men's souls in my State. When I came here to the extra session in 1861 every loyal member gave me his hand and recognized my loyalty and services; and now I come here again, after a great wrong committed against me, and find members of this House willing to reject my just claim to a seat here and to give it to a man who did not exhibit any loyalty when there was a necessity for its avowal. I never doubted that at heart the sitting member was a good, loyal, Union man, because his father-in-law was a good Union man.

I find in a correspondence from this city, published in a St. Joseph paper that has the gentleman's name at its head as candidate for Governor, the following reference is made to this case:

"General Loan has four out of the six Union members of the Committee of Elections in his favor, and if the Union side of the House are not swayed by executive influence he will retain his seat."

It is true, Mr. Speaker, that the President of the United States is a personal friend of mine, although I am not his political friend. I enjoyed his acquaintance and friendship before he was a candidate for the Presidency. I am prepared to say to this House that if he has endeavored to influence any gentleman on this floor in my favor it has been without asking on my part. I am sure that he would not do it. The writer had no other reason for this suspicion of Mr. Lincoln but the hostility of the sitting member to the President. And I can say to the Republican side of the House that no man in Missouri more persistently opposed the Administration than the sitting member; nor is there any member on the Democratic side of this House more bitter in his feelings to Mr. Lincoln now than General Loan is. He was a candidate for a seat in the Senate of the United States and canvassed the congressional district throughout; but when his claim came before the Legislature of Missouri he got but 7 votes, and every one of these supporters of his voted against

a resolution indorsing the Administration. Out of the 19 members from that congressional district, 16 of them anti-slavery men and but 3 regarded as conservative, he was only able to get one vote. And to-day, among the original Republicans in the district, the men who sowed the seed and built up the party there, I could beat him ten to one. I could get the votes of the Administration men and of all the Republicans who voted for Mr. Lincoln except the Germans. I doubt whether the sitting member could even get the German vote now, for he has deserted Frémont since he came here, and has gone over to Mr. Chase, [laughter,] through the seductive influence of the gentleman from Maryland, [Mr. Davis.]

Much objection here is urged against rebel sympathizers voting. With the radicals it is all right when this class vote their ticket, but they drive them from the polls and all others who oppose them when they attempt to vote against them. The St. Joseph Tribune, the organ of General Loan, just the other day used the following language in an invitation to all to vote the radical ticket:

"But if success attends any of these men hereafter, they must come now and be immersed in the pure waters of radicalism. It has virtue to wash away the sins of a rebel, and if it is possible for an honest man to become crimsoned with treason his sins can be made white as snow."

[Laughter.]

He tells the rebel sympathizers to come in with them and that radicalism would wash them from their sins as white as snow. [Laughter.] When they vote for Bruce it is all wrong, but it is all right when they vote for the sitting member, [General Loan.] Is not this a bid for rebel voters? The sitting member's name is at the head of that paper for Governor, and this is an invitation to rebel sympathizers to vote for him. [Laughter.]

I am under obligation to the two gentlemen who spoke yesterday [Messrs. Eliot and Davis] for their uniform courtesy toward me. But the gentleman from Massachusetts [Mr. Eliot] says he has always been in the habit of voting for the report of the committee, taking it for granted it is all right. It appears, however, since that gentleman has been in Congress, most of the decisions of Congress have been in favor of his political friends, and in such cases he votes for the report of the committee without examination. The report in this case, however, is against a political friend, and he then for the first time looks into the case. Is not the gentleman from Massachusetts a little apprehensive that critical people may indulge the suspicion that he might be actuated by a principle of devotion to party, rather than justice and fairness in his action on contested-election cases, by his course in this case?

Four years ago there was a contested-election case in which the grounds set forth are identical with those set out here. That was the case of Blair vs. Barrett, and the House voted Barrett out and Blair in. The identical principle of that case is involved in this, and when I came here I made out a list of gentlemen upon this floor, some fifteen of them, who voted for Blair, and at the head of it I put the Speaker of this House. I expected I would find all those gentlemen my friends—if they regarded consistency—and I went first to the chairman of the Committee of Ways and Means, [Mr. Stevens,] he being a bright and shining light in his party—and very deservedly so—but I did not meet with much success in that quarter, and therefore I did not call upon the lesser stars among the remaining fifteen. [Laughter.]

It has been said here that this side of the House cannot spare the vote of the sitting member, and that gentlemen might be excused for straining a point. I do not say that gentlemen did wrong four years ago, but if they did wrong then there was some excuse for it, because the vote was very close, 92 to 91, and the party wanted to retain the power. But here you have a large majority and you can afford to be liberal. [Laughter.] We in Missouri have to vote again in November, and we shall be back again on the first Monday in December, and you will only lose a Representative

for about one month, as this session is near its close. You can afford to be fair now without any loss.

The gentleman from Maryland [Mr. Davis] took the right view of this matter. It was that interference in an election vitiates it. I had the same idea myself, and I made out my tables upon that principle, excluding the counties where there was interference and counting only the counties where there was a fair election, and I beat the sitting member over 1,000 votes. The principle is a correct one, and I am surprised that a gentleman who has as high a reputation as the gentleman from Maryland, who voted for putting out Barrett and putting in Blair, should yet vote to retain the sitting member in his seat.

Look at the testimony. Colonel Branch was the Republican candidate, and was recognized as the emancipation candidate. Neither the sitting member nor myself avowed ourselves as in favor of it. In the counties where there was no interference Branch's majority over the sitting member was 477. Branch received over 2,600 votes in the race, 2,500 of them in the undisturbed counties, and only about 100 in the counties where the military interfered. Allusion has been made to Governor Hall as having voted for the sitting member. He was a leading and a shining light of the Democratic party. The gentleman [Mr. Loan] knew his power and influence; and two weeks before the election he wrote to Governor Hall, saying to him that the abolitionists were troubling him more than the secessionists. The contents of that letter was doubtless circulated throughout the whole district, and it had the effect, as the sitting member intended, to cause General Hall and others to vote for him, when I thought previously that he would vote for me. This letter had an influence on him, as he was opposed both to secessionists and abolitionists.

[Here the hammer fell.]

Mr. LOAN. Mr. Speaker, to-day I speak for and on behalf of the loyal men of northwest Missouri and not for myself. It is their cause and not mine that I plead. It is their conduct that is impeached, and it is my duty to defend them against the wrongs alleged against them. The propriety of my conduct has not been questioned; malice itself has not even dared to breathe a suspicion against it; and in this I deem myself most fortunate, as it the better enables me to vindicate my friends from the gross outrages which have been so wantonly inflicted upon them. The very able, eloquent, and exhaustive arguments that have been made in this case have rendered unnecessary much that I otherwise would have said. But for the purpose of effecting the objects I have in view I deem it necessary that a brief reference should be made to the merits of this case; and I respectfully ask the attention of the House while I allude to them. Properly speaking this is not a contested-election case. But it is a public prosecution instituted by a self-appointed agent for purposes of his own. He has no authority from the public to prosecute on their behalf, and he has no rights of his own to vindicate. And while the precedents authorize such a prosecution, yet the House has never disfranchised a district, as is sought to be done in this case, except where it was necessary to be done to preserve the freedom and purity of the ballot-box, and then only upon evidence the most definite, clear, and conclusive.

The rule of action in such cases has become fixed and is well defined. It is necessary in a case like the present for the prosecutor to show such a disturbance at the polls as to prevent the majority from voting on the day of the election. Anything short of this is insufficient; otherwise the majority would ever be at the mercy of the minority. And such disturbance must actually exist at the polls on the day of the election; the anticipation of trouble, disturbance, or difficulty is insufficient. It is the duty of voters to attend there on the day of the election, and if they fail to discharge this duty it is no cause of complaint that their votes are not recorded. No one can say that they would not have been permitted to vote had they offered to do so; should a different rule prevail the minority at any time could prevent an election by inducing a few fist-fights at some of the precincts, or by putting in circulation a few days in advance of the time fixed for an election a rumor that there would be a disturbance at the polls.

I have said that the contestant appears before this House in the character of a volunteer prosecutor for the public good. There is no pretense that he is entitled to a seat on this floor. He comes to vindicate the rights, as he says, of a majority of the loyal people of the seventh congressional district in Missouri. *Prima facie* the case is against him. The officers whose duty it was to conduct the election and ascertain the result were satisfied with the fairness of the election, and have, under the broad seal of the State, sent a member here to represent that district in this Congress; and unless the contestant by his allegations and proofs can overturn this case, he must fail in his prosecution. By the law he was required in his notice of contest to state specifically the matters of which he complained. This he failed to do, and could not have done because no facts existed which vitiated the election, and hence it was impossible to specify them. An attempt to have done so would have only exposed the weakness of his case, and it was supposed that his entire disregard of the provisions of the statute would have been considered by the committee as equally fatal. Hence, to the general averments of unfairness in the election contained in the notice of contest is objected only the like general denials in the answer. Without any definite issues being made in the notice of contest and the answer, there is no limit to the range of evidence, and as the contestant continued taking his depositions until last November, it was utterly impossible to anticipate or rebut his testimony. No specific issues have been made, and the only case that is now before the House for consideration is the one supposed to be founded on the evidence. The committee being unable to find any case stated in the notice, have considered it proper for them to look into the testimony as printed to see if they could find one there, and after looking through that heterogeneous mass of incongruities, the majority of the committee cannot say that by the evidence it is affirmatively made manifest to their minds that the election was a fair one, therefore they report against it. In their report they say:

"It is impossible to determine either the precise extent of the interference complained of or to ascertain definitely the number of legal voters who were prevented from voting by the violence and threats of the armed militia and others."

The burden of proof is on the contestant to show these facts, and his failure to do so destroys his case; but the majority of the committee presume, in the absence of evidence showing the contrary, that the interference was such as to invalidate the election. The conclusion does not seem to be a very logical one. But it is denied that this statement of the majority of the committee is true in fact. It was not only possible but very easy to have ascertained every voter in the county, and learned from him whether he had been prevented from voting. The contestant had the whole year in which to procure this evidence. His depositions taken last November are on file without exception. He had ample time and opportunity to ascertain the names of all the voters in Buchanan county, and no one can doubt his industry. The truth is he has them all in the record, and they are less than twenty in number.

Before pursuing further the course of the majority of the committee in their search for facts which might invalidate the election in the seventh congressional district in Missouri, it is proper, for the purpose of ascertaining the relative value of the facts, to consider them in relation to the condition of the country. For more than eighteen months prior to the election civil war had raged among the people there with unusual violence. At the beginning the people were nearly equally divided; communities and even families were separated by the most relentless hatred. Prior thereto and up to the time of the election large numbers of the citizens had joined the rebel armies and were beyond the limits of the State, and other large numbers had entered the volunteer service of the Federal Government. In the summer of 1862 the disloyal citizens remaining within the State organized in guerrilla bands in such force as to threaten the destruction of the provisional government, in consequence of which all the loyal militia of the State were organized for the defense of the State. Some seventy-five or eighty regiments were organized, clothed, and equipped.

As the guerrillas were suppressed these men were relieved from active service, until at the time of the election, in November, 1862, some entire regiments were relieved, as in St. Louis and elsewhere. In other localities a battalion was retained in service, and in others only a company. Those who were not retained in active service were permitted to return to their usual avocations; and as all business in the country had been broken up and destroyed by the war, and in consequence material for clothing and means with which to purchase it were difficult to be obtained, the militiamen found themselves under the necessity of wearing their military clothing when attending to their ordinary labor and business. Hence the witnesses speak of the militia being seen around the polls, when it was only the voters who were there as citizens, but who wore as usual their military clothing, because they had no other. They were not there in the character of soldiers, but as citizens. They were not in the military service, nor were they under the control of any officers.

By Order No. 24 the disloyal portion of the population were prohibited from entering the military service of the State. All citizens were allowed to declare their own status; those who declared themselves loyal were organized as the militia of the State, and those who declared their sympathies to be with the rebellion were enrolled under Order No. 24 as disloyal, and on condition that they surrendered their arms they were permitted to remain quietly at home, so long as they behaved themselves, as will appear by the following extracts from said order:

"General Order No. 23, from these headquarters, dated July 28, 1862, is hereby revoked.

"All the loyal men of Missouri subject to military duty will be organized into companies, regiments, and brigades, as ordered in General Orders No. 10, from these headquarters, dated July 23, 1862.

"All disloyal men, and those who have at any time sympathized with the rebellion, are required to report at the nearest military post, or other enrolling station, be enrolled, surrender their arms, and return to their homes or ordinary places of business, where they will be permitted to remain so long as they shall continue quietly attending to their ordinary and legitimate business, and in no way give aid or comfort to the enemy. Disloyal persons or sympathizers with the rebellion will not be organized into companies, nor required nor permitted to do duty in the Missouri militia."

The evidence shows (see Abell's evidence, Miscellaneous Document, page 44) that this list in St. Joseph contained some nine hundred names. Gentlemen who voluntarily enrolled themselves as being disloyal in their sentiments, to escape entering the military service for the defense of the State, are certainly not the proper persons to ask this House to disfranchise the district in which they reside, because it does not appear that they were counted on the poll-books. To their credit be it said that much the largest, and certainly the most respectable, part of them never offered to vote, not being willing perhaps to take the oath prescribed in the convention ordinance, and no doubt deeming its terms inconsistent with their then recent declarations of sympathy with the rebellion. But a few of the more abandoned ones, men who are sunk so low in treason and infamy that all sense of common decency and propriety is lost, attempted to vote, and to share in directing the policy of a State, that they were unwilling to defend. Such men as Abell, the brother-in-law of the notorious guerrilla, bandit, and thief, Jeff. Thompson; Dr. Lamme, who called for and gave three groans for the United States soldiers who raised the flag over the post office in St. Joseph in 1861; and Orton Loomis, who raised and flew a rebel flag on his premises during the summer of 1861, and who was arrested and confined by military authority for his treason, were of the number; and two of these three voted at the election in 1862. That loyal men should feel outraged at such a desecration of the elective franchise is but natural, and some disturbance at the polls was the consequence of such outrages; but that it was of such a character as to invalidate the election I deny.

The disturbance at the polls of which the most serious complaint is made was in the city of St. Joseph. A reference to the facts, as shown by the evidence, will show that nothing was done there which prevented a full vote. There were six precincts in the town, at which any voter could have polled his vote. At three of them the election proceeded quietly during the day without any disturbance whatever. At another one,

the Allen House, no one was prevented from voting who offered to vote. It is true that the evidence shows there was a personal difficulty between old man Cowie and another man, but it was after Mr. Cowie had voted.

There was some difficulty at the market-house precinct, and I think it probable some two or three persons may have been prevented from voting, but it is not certain that all of these voters would have voted for the contestant. Mr. Ensworth, one of them, swears that he intended to have voted for the contestee.

At the precinct at the court-house I think the evidence shows that the poll-books were torn up, and it also shows that no legal election was held there; in this, that the judges and clerks failed and neglected to take the oath prescribed by the convention ordinance, which required them to swear "that they would not record, nor permit to be recorded, the name of any voter who had not first taken the oath required to be taken by the first section of this ordinance."

Two sets of judges and clerks were appointed to hold the election at this precinct, yet not one of them could be prevailed on to qualify according to law, and this omission may account for the number of the contestant's friends who voted at that precinct. The only wonder is that the people who were so outraged remained so quiet as did the loyal people on that day.

But it is a sufficient and to my mind a conclusive answer to all that is alleged to have occurred in St. Joseph on that day to refer to the military orders issued by the Governor of the State and by General Hall, who was then in command of the district. These orders read as follows:

[General Orders, No. 45.]

HEADQUARTERS STATE OF MISSOURI,  
ADJUTANT GENERAL'S OFFICE,  
ST. LOUIS, October 23, 1862.

I. A general election is to take place throughout the State the first Tuesday in November next.

This is the first attempt of the people to choose their officers since the war of the rebellion commenced. It will be an occasion when *angry passion*, excited by the war, might produce strife, and prevent the full expression of the popular will in the selection of officers.

The convention has provided, by ordinance, that every voter shall, before voting, take a prescribed oath, and that no vote shall be counted in favor of any candidate for a State or county office unless he shall have taken an oath prescribed for candidates. The ordinance of the convention fixes heavy penalties upon those who take the oath falsely.

These are the safeguards which the convention judged necessary to keep unfaithful and disloyal persons from exercising power in the State. They are sufficient. No person must be allowed to interfere with the freedom of those qualified to vote under this ordinance.

The enrolled militia, being citizens of the State, and very nearly all entitled by age to vote, will doubtless be generally at places of voting.

They are a body organized for the purpose of preventing violations of the law of the State, and they all know that it is essential to the maintenance of our Government that all qualified voters should be allowed, without molestation of any kind, to cast their votes as they please.

It is required of all officers and men of the enrolled militia that they keep perfect order at the polls on the day of election, and that they see that no person is either kept from the polls by intimidation, or in any way interfered with in voting at the polls for whatever candidate he may choose.

If, if any officer or private shall either interfere with the rights of voters, or countenance such interference by others, it will be treated as a high military offense, and punished with the utmost rigor.

IV. Whenever there is any reason to apprehend any interference with the election on the part of bands of guerrillas, the commanding officer of the nearest regiment will detail a sufficient force to prevent any such interference, and station it where there is any apprehended danger.

V. In case of disturbance arising which cannot be arrested by the civil authorities, any commissioned officer present is hereby ordered, at the request of any judge, sheriff, or justice of the peace, to use the necessary military force to suppress it.

VI. Commanding officers of the enrolled Missouri militia are hereby directed to see that the foregoing orders are strictly obeyed.

By order of the commander-in-chief:

WILLIAM D. WOOD,  
Acting Adjutant General, Missouri.

[General Orders, No. 33.]

HEADQUARTERS SEVENTH MILITARY DISTRICT,  
ST. JOSEPH, MISSOURI, November 1, 1862.

The attention of all officers and soldiers of the militia of this district is called to General Order No. 45, dated "Headquarters State of Missouri, Adjutant General's Office, St. Louis, October 23, 1862," with reference to the election on Tuesday next. The military should bear in mind that they are not the judges of the qualifications of voters. That duty is devolved by law on the judge of the election. If these officers either admit improper persons to vote, or exclude proper persons from voting, the statutes of this State pro-

vide an ample remedy. The militia will carefully abstain from all acts calculated to interfere with the freedom of election. All officers who interfere with the rights of voters will be reported to the commander-in-chief, to be dealt with as he may decide. All soldiers guilty of the same offense will be punished as a court-martial shall determine.

By order of Brigadier General Willard P. Hall:

ELWOOD KIRBY,  
Assistant Adjutant General.

By these orders the military force of the State was placed at the disposal of the civil authorities to keep the peace and to preserve order at the polls, and to see that all legal voters who desired to do so were permitted to vote, and penalties were denounced against any officer or soldier who should in any way interfere with the freedom of the election. And when the further facts are considered, that General Hall, now acting Governor of the State, was in St. Joseph on the day of the election with an ample force at his command to enforce his orders and protect the polls; that he was on duty that day and gave his personal attention to the election; that all guards stationed at the polls in the city on that day were placed at the request of contestant and were selected from the contestant's political friends, who voted for him; that General Hall was satisfied with the fairness of the election; that no officer or soldier, as such, did anything to disturb the quiet of the election; that the contestant did not nor did any other person make any demand that any officer or soldier be punished under the provisions of Order No. 33 for disturbing the election, they ought to be conclusive that there had been no violation of the order and that the election was a fair one. In addition, every State officer elected on that day was allowed to hold his office without any contest, with but a single exception. Colonel Severance's election as State senator was contested, but the contestant abandoned the case without pressing it to a decision.

Again, all the controversy that arose in that election grew out of the contest between the candidates for State and county officers. Two weeks previous to the election a county convention was called to nominate an unconditional Union ticket for county officers, and on this ticket was placed the name of Colonel Severance for State senator, Major Bittenger and Captain Brierly for the State Legislature, Enos Craig for sheriff, &c. The meeting that made these nominations did not nominate nor in anywise indorse me as their candidate, so far as I am advised. I had been an independent candidate for some two weeks when this meeting was held. I had left the district about the 1st of August, 1862, and did not return to it until about the 1st of March, 1863. I never wrote or published any circular or address to the voters of the district, nor was there any concert of action between me and any of the candidates. And while the county officers were elected by small majorities, perhaps not exceeding 100, my majority in the county was nearly 1,000. All the excitement on that day related to the local election; there was no controversy about the congressional race; in the excitement the contestant's name was not even mentioned; and while the voters were excited and divided on the candidates for the local offices, a large majority of them were for me, and voted accordingly.

At Chillicothe Lieutenant Colonel Jacobson interfered with the election for a short time. He was there in the interest of Colonel Branch, who was also a candidate for Congress. Within the hour a telegram from Governor Gamble removed Jacobson, and the voting proceeded quietly during the remainder of the day. The contestant received at that precinct 173 votes, to 55 for me. This, I aver, was the only place within the district where there was any interference to prevent voters from voting by military authority; and I now challenge the gentleman who will conclude this debate to refer to the evidence that will show any interference by military authority at any other place, and the evidence fails to show that any one was prevented from voting at this precinct.

In Andrew county there was no disturbance at the polls other than the usual jam when an exciting election was going on. Lieutenant Colonel Nash, in command of the militia there, said that he was ready to furnish a guard for the protection of the polls when one was properly demanded by the civil officers, but the judges and clerks of the election did not deem a guard necessary. There is no evidence whatever tending to show that there was any disturbance at the polls in Holt or Atchi-

son county; the statement of Mr. Puryear of what was told him is no evidence. In point of fact there was no disturbance there, and Mr. Puryear knew it.

In De Kalb county, not more than four men were from any cause prevented from voting, admitting the strongest case that can be claimed under the evidence.

Before concluding it is perhaps necessary to reply to some things that have been said on the side of the majority report. As the statements made by the contestant have no connection with the record, and are wholly unwarranted by the truth, I know the House will excuse me if I omit to take any further notice of them.

The majority report in this case, instead of being a comprehensive, intelligent statement of the case, as a report of this kind should be, is like the ingenious argument of a pettifogging attorney who seeks to gain a cause that he knows to be unjust; specious sophistries are advanced and are attempted to be supported by partial extracts from the evidence that only serve to pervert the truth.

The report is worthy of its author, and the author is worthily reflected in the report, and the opening speech in this case is worthy of both. When speaking of guards being placed at the polls, and that the only avenue to the ballot-box was over crossed bayonets, the gentleman had not the fairness to say that the guards were placed there at the request of the contestant, and that they were, so far as the evidence shows, his political friends, and that they voted for him. When he spoke of Mr. Ensworth, the sheriff, and a candidate for reelection, as a friend of mine, he did not find it necessary to say that he was the candidate on the Union or Bruce ticket—if there was any such in the race—and was running in opposition to the candidate on the unconditional Union ticket which was nominated by a county convention, and on which Colonel Severance, Major Bittenger, and Captain Brierly were candidates, but he was careful to tell you that they were on the ticket with the sitting member, and insinuated that he and they were acting in concert. The gentleman did not state it directly because he knew it was not true. He had the testimony of the witness Abell read to show that there was a list of nine hundred names of persons who were prohibited from voting as he stated. Such was not the case; there was no prohibition against any one voting whom the judges of the election declared entitled to vote, and the gentleman knew such to be the case. The same witness swears that General Hall, who was in command, promised and gave protection to the voters. The gentleman further stated that many of the citizens had been subject to arrest improperly and had had their property improperly seized, and that in consequence there was great fear and terror among the citizens. There is no evidence that will authorize such a statement, nor is it true in fact. The statement in the report in relation to the evidence of Mr. Samuel is a perversion of his testimony, and when I asked the gentleman to read from the record what Mr. Samuel did say, he had not the candor to do it, but declined this act of justice with a sneer.

But I have wasted sufficient time on a subject of such little merit or importance, and must proceed to other matters. A few words in relation to the honorable chairman of the Committee of Elections is next in order; and I regret to see that his seat is vacant at this time.

Mr. ELIOT. The gentleman from Missouri will permit me to say that I have no doubt my colleague [Mr. Dawes] would have been in his seat to-day if he had not been called home on business, business assigned for attention before this case came on.

Mr. LOAN. Without questioning or inquiring into the cause, I nevertheless cannot but regret that his seat is vacant.

The chairman of the Committee of Elections was unequal to the task of making a report in this case. His fine legal acquirements and clear, logical mind satisfied him that any adverse report must disregard all pretense to honesty or fairness, and consequently he transferred the task to other hands. It is unfortunate for him that his prudence did not prevent him from participating in this debate. I make no doubt it would have done so had he not become alarmed for the result. He has said that he did not intend to participate in



the debate on the merits of the case, and he only changed his mind when it became necessary to use his character and influence to sustain the majority report. Becoming satisfied, as the debate progressed, that the majority in the House was against the report, he entered the contest and determined to win at any cost. In his zeal and recklessness he made statements unwarranted by the facts and entirely at variance with the evidence. He dealt in general assertions, and entirely ignored the record in the case, repudiated the evidence and all rules by which evidence is established, and triumphantly asked if this House would restrict itself to the rules of evidence which limit a justice of the peace at a cross-roads in the trial of a twenty-shilling case. How much worse than idle is it for Congress to pass laws prescribing the manner in which evidence shall be taken in such cases if such laws are not binding; and if the members of this House can innocently disregard the obligations of such laws, they become a positive fraud on the people.

If there is no evidence here to show that any disturbance occurred at the polls at the election in 1862 in the seventh district of Missouri, I ask the gentleman how he knows anything about it. I am sure he was not there in person, and I ask him by what authority, in the absence of all evidence, he can as an honest man cast his vote to disfranchise the district, notwithstanding it is represented here by a member whose right to his seat is evidenced and confirmed by the broad seal of the State. It is true that the gentleman, who is possessed of a lively and brilliant imagination, drew on it for a statement of facts that would have excused him to some extent if the statement had been true, but, like all imaginary sketches, it had no foundation in fact. He made the statement knowing it was false so far as it related to the matter under consideration, and trusted to his hitherto good character to give it currency and weight in the consideration of the case; and I challenge the gentleman or any friend of his to show any evidence or facts that will authorize or justify the statements he has made. He conceded there was none such when he declared that this was a new case and must be disposed of under new rules; when he declared his independence of all rules of evidence, and when he invoked the House to avail themselves of the opportunity which this case offered of spiking the enemy's guns on the charges they were making against the Administration that it was using the military power of the country to carry the elections and secure its party in power; when he declared that this House might be losing the opportunity of removing from the shoulders of the Administration a load that was bearing it down, &c., &c.

Here the motive for the course the gentleman has seen fit to take appears. The enemies of the Administration are making charges against it, that it has been using the military power of the country to carry the elections, and thereby secure its party in power; and these charges are a load on the shoulders of the Administration that is weighing it down, and the members of this House are called to the relief of the Administration, and are urged by the chairman of the Committee of Elections to disregard all law, all the rules of evidence, all the facts in the case, all the obligation resting on the consciences of the members as honest men, to avail themselves of this opportunity to spike the guns of the enemies of the Administration and to remove from its shoulders the load that is weighing it down. If the Administration can be saved, in his opinion it matters little at what sacrifice of honor, truth, or justice its salvation is purchased. I can tell the gentleman that no usurpations at the ballot-boxes in half the congressional districts in the Republic could inflict so great an injury on the freedom of elections as would the disfranchisement, by the action of this House, of a single district where a valid election had been held, that thereby the Administration might spike its enemies' guns or relieve its shoulders of a load that was weighing it down. No, sir; let the validity of the election in this case be tested by the law as applicable to the facts, and let it be honestly decided without considering the effect it will have on the prospects of the Administration. The gentleman said he had forgotten how the sitting member would vote in his consideration of the case; it is to be regretted that he did not forget the interests of the Administration

at the same time and also as well the charges its enemies were making against it.

To divert attention from the facts in this case, and as a pretense for the course of action the gentleman has seen proper to take in it, he indulged in a fancy sketch, which he drew in vivid colors, of the disturbed condition of a rebellious district, of the terror that enveloped the awe-stricken inhabitants, of the troops of armed soldiery and of the bristling bayonets, and then, in a rage of righteous indignation assumed for the occasion, he declared that to dignify with the name of an election proceedings had under such surroundings was to blaspheme before the Republic. His whole statement was gratuitous; nothing of the kind stated by him characterized the election in the seventh district in Missouri in 1862.

But I have no time to follow the gentleman further in his speech. It must suffice for me to say that I do not now remember that any statement made by the gentleman, that has an important bearing on the case in hearing, was true in fact. The Administration had no soldiers stationed in the seventh district in Missouri at the time of the election in 1862, and the gentleman knew it. There was no military authority, State or Federal, which authorized any one to exercise a censorship over the polls or over the action of the voters. The only military force that was in the district was under State authority, and was by an order (No. 45) of the Governor, issued two weeks prior to the election, subordinated to the civil officers, and it was prohibited from any interference in any way with the election, unless called on by the civil officers to aid them in enforcing the laws.

State senators, members of the Legislature, sheriffs, and other officers under the laws of the State were elected at the same election which was held for the election of members to Congress. No one has ever doubted the fairness of the election of these officers or questioned their right to discharge the duties of their office.

The chairman of the Committee of Elections made a reply to a question asked him by the gentleman from West Virginia, which demands especial attention from me. When asked by the gentleman from West Virginia if the sitting member did not receive a majority of more than 2,000 votes, the chairman of the Committee of Elections replied in substance that the sitting member might have counted up just as many votes as he pleased, and instead of having only a majority of 2,000 votes he wondered it was not 4,000.

It will be remembered that I had left the district in August, did not become a candidate for Congress until October, and did not return to the district until long after the election in November; that I made the race as an independent candidate; that I did not act in concert with any other candidate; and when it is further understood that it is not even pretended that any one vote of that majority had not been properly cast by a qualified voter, one can begin to comprehend what a stupendous calumny and foul slander the gentleman has recklessly, wantonly, and wickedly inflicted upon one whose moral character has ever been preserved as pure and unsullied as has that of any gentleman on this floor or elsewhere. The only deserving or proper reply that could be made to the statement of the gentleman is the epithet that Colonel Benton once applied to Pettit of Indiana;\* but as I am inclined to think the language would not, as a general rule, be parliamentary, I will not use it; but if any gentleman will furnish me with a parliamentary phrase that will express the same idea I will thank him for the suggestion. A political guerrilla who flies a friendly flag that thereby he may the more safely and surely strike a fatal blow. The gentleman has fairly earned and no doubt will receive the scorn and contempt of every honest man; and here I leave this unpleasant subject.

Now, in conclusion, the contestant has been allowed a year to collect and take his evidence. No obstructions have been interposed. It is in vain for him to say that it was unsafe for him to visit certain localities in the district to take testimony. It only shows the detestation in which he is conscious the loyal people hold him and his disloyal sentiments, but it is no evidence that they would interfere with him. He could have taken evidence

in any part of the district, at any time, in perfect safety, but there being no evidence to take, it suited his purpose to pretend that it could not have been taken. The statements by the witnesses that they believed the evidence could not have been taken, only show their credulity and cowardice, if nothing worse. In point of fact, at the judicial election last November, the time referred to by some of the witnesses, the military force on duty in the seventh congressional district was composed of disloyal men and officers, with rare exceptions, many of whom had served in the rebel armies, or as guerrillas and bushwhackers.

With the most untiring energy and industry the contestant has been unable to show by anything approaching legitimate evidence that fifty legal voters of the district who offered to vote for a Representative in Congress were from any cause prevented from doing so, and I challenge the gentleman who will close this argument to show the names of any voters beyond that number who offered to vote and were refused permission to do so, and it is evident that the gentleman who drew the majority report was painfully conscious of the fact and felt the necessity of avoiding its force, therefore he attempted it by a series of comparisons of the numbers of the votes polled in 1860 with those polled in 1862, and thereby has endeavored inferentially to show that a considerable number of voters were prevented by force from voting. The discrepancy is admitted; it amounted to more than seventy thousand in the State; but the inference that the discrepancy was occasioned by reason of any disturbance at the polls is denied.

I would ask the gentleman why he left out of the account any estimate of those who had entered the rebel army and of those who had entered the Federal service but did not vote, of those who had been killed, and of those who had removed from the State on account of the disturbed condition of the country, or of those who within the previous three months had enrolled themselves as sympathizers with the rebellion, and who were not willing so soon to commit perjury, as they would have done if they had taken the convention oath so as to qualify themselves for voting. These causes will account for any discrepancies in the votes of the two years as readily and as plausibly as the supposition that the voters were prevented from voting by force; but they would not answer the purposes of the gentleman quite so well, hence they were not considered or estimated in the comparison. I would further ask my mathematical friend, who has the skill of combining figures so ingeniously as to make them show any result he may desire, to account for the deficiency in the State of 70,000 votes at the election of 1862 out of 155,000 polled in 1860. There is no pretense that there was any disturbance at the polls in six of the nine districts in the State at the election of 1862, yet the vote is less in every other district in the State than it was in the seventh district, and in this district the relative deficiency was less by fifty per cent. than it was in any other district excepting that of Mr. Blow's, and after the cause of this deficiency in these districts has been ascertained I would respectfully ask him to put the proper credit to the seventh district to which it is entitled from the same cause, and I make no doubt but the balance then shown by the figures to be the number who were prevented from voting by violence will precisely coincide with the number as shown by the evidence, and in the aggregate will be less than fifty votes in either case.

Mr. ASHLEY. Mr. Speaker, I had some thought of addressing the House on this subject, but the previous question having been sustained I cannot do so now. I desire to send to the Clerk's desk and have read an abstract of the vote in my own city at three different elections, for President in 1860, for Governor in 1861, and again for Governor in 1863, when there was no pretext of military invasion or interference with elections.

Mr. ELDRIDGE. I rise to a question of order.

Mr. BRUCE, (contestant.) I trust my friend from Wisconsin will not object.

Mr. ELDRIDGE. I will take the responsibility. I raise the question of order that there is no connection between the subject before the House and the vote given in a city in Ohio. The gentleman from Ohio [Mr. ASHLEY] sends to the Clerk's desk to be read a statement of the vote in his district, which has nothing to do with the

\* "He is a great liar and a dirty dog."

subject before the House. I object to it as out of order.

Mr. LOAN. I ask that it be read as part of my speech.

The SPEAKER. The Chair is of opinion that the report of the majority of the Committee of Elections opens a wide range of discussion. The gentleman from Wisconsin is correct in saying that the gentleman from Ohio [Mr. ASHLEY] would not have a right to have the paper read. But the Chair thinks that the gentleman himself [Mr. Loan] would have a right to read almost anything bearing on elections. While the Chair sustains the point of order as against the gentleman from Ohio, he thinks the sitting member would have a right to read anything relating to elections bearing on the case.

Mr. ASHLEY. Does the Chair decide that I have not a right to read that paper myself?

The SPEAKER. The Chair decides that the gentleman from Ohio is not entitled to the floor. The sitting member cannot yield, because, by order of the House, the sitting member is to have the floor, and nobody else.

The paper was then read, as follows:

Aggregate vote in the city of Toledo for President in 1860, for Governor in 1861, and for Governor in 1863. In 1860 there were but four wards in the city. They have since been divided, and there are now six wards.

	1860.	1861.	1863.
First Ward.....	459	154	528
Second Ward.....	581	230	707
Third Ward.....	643	192	630
Fourth Ward.....	676	140	621
Fifth Ward.....	—	122	471
Sixth Ward.....	—	43	160
Entire vote.....	2,559	881	3,117

Mr. LOAN. Mr. Speaker, this is a fair illustration of the reliability to be placed on the comparison of votes at different times. It shows that against 2,559 votes cast in Toledo in 1860 there were but 881 votes cast in 1861, and that again in 1863 the vote was 3,117, all the elections being important ones. And yet that comparison is sought to be made the basis for determining the force used to prevent men from voting in the seventh congressional district of Missouri.

The whole argument based upon the comparison of votes is hardly worthy of its author. It is false without being even ingenious, and is a mere subterfuge, resorted to to supply an obvious gap in the evidence; a weak and puerile attempt to show that voters were kept from the polls by strained inferences which are not warranted by any facts proven in the case. The legal and competent evidence which has been taken, so far from showing any interference with the fairness and freedom of the election, shows clearly that the most wise and prudent measures were carefully and properly taken to secure a free and full expression of the popular will at the polls, and that these measures were enforced with unusual skill and success by General Hall is manifest by the very large vote polled in the district—it being the largest vote polled in any congressional district in the State, not excepting the St. Louis districts; and the percentage of loss is less by nearly one half than it is in any other district except Mr. Blow's. The vote in the several counties composing the congressional districts in Missouri in 1860 compares with the vote of 1862 as follows:

District.	1860.	1862.	Loss.
1.....	21,715	10,869	10,846
2.....	11,160	9,468	1,692
3.....	12,713	5,522	7,191
4.....	15,754	4,478	11,276
5.....	18,370	9,263	9,107
6.....	18,755	9,370	9,385
7.....	18,235	13,701	4,534
8.....	19,410	11,778	7,632
9.....	19,035	10,498	8,537
Loss in the State.....			70,201

From the foregoing it will be seen that the vote in the seventh district was in 1862 13,701 votes, which I believe is a greater number of votes than the average number of votes polled in the several congressional districts at the corresponding election in the populous and quiet State of Massachusetts. If it were possible for a doubt yet to linger in the mind of any that the election of 1862 was not a fair one, or that the loyal people of the seventh district in Missouri are not truly represented in this House, I would further say that at an election for judges of the supreme court, held in Missouri last November, I for the first

time canvassed the district on behalf of the radical candidates; and notwithstanding the combined power and influence of the Federal Government as represented by General Schofield, and of the State government aided by the pawpaw militia, organized from the disloyal element of the State, including returned soldiers from the rebel army, bushwhackers, and guerrillas, who were armed by Federal authority, five companies of which were organized in my own county within the eight weeks preceding the election, in which companies I do not believe there were five loyal men, and when guards were required at the polls they were detailed for that service from these disloyal troops, yet the district cast 4,500 majority for the radical candidates for supreme judges; but the frauds were too overpowering in other parts of the State, and, by disfranchising a majority of the soldiers who voted, the certificates of election were issued to the conservative candidates.

In view of this radical majority of 4,500 votes cast by the seventh district under such circumstances, I ask the gentlemen who make the majority report in this case what they expect to accomplish by sustaining that report except to have this House stultify itself by disfranchising a loyal district that the Administration may thereby spike the guns of its enemies. I would prefer that it should not be done on the terms proposed.

Mr. BRUCE took the floor.

Mr. KERNAN. Mr. Speaker, I desire to say in behalf of my colleague [Mr. GANSON] that he was called home, not by private business but by public business, and he could not remain here any longer.

Mr. BRUCE, (contestant.) The gentleman read from one vote and I read from another. In the official evidence which has been referred to this House the vote in the seventh congressional district of Missouri in 1860 is stated at 21,938, instead of 18,000, as he read from his statement of the vote. He is accurate from his table and I am accurate from my table. He takes the congressional vote and I take presidential vote. He says that the falling off of the vote in our district was less than the falling off in other districts in the State. I want the House to understand the position of the seventh congressional district of Missouri. It borders upon Kansas and Iowa, and I boldly assert that it is the most loyal district in the State of Missouri and that fewer men went into the rebel army from that district than from any other. We had a population in that district composed almost entirely of men who are not slaveholders, and the counties in which the sitting member received the largest number of his votes were the most disloyal counties in the district. The circumstances in our district were different from those in the district of the gentleman [Mr. BOYD] who succeeds Hon. John S. Phelps, who was so long a valuable Representative in this House. There war and devastation had existed, armies had passed through it and devastated the country, but in our district no such thing existed. Since September, 1861, we have been entirely free from invasion by any rebel force, except upon one occasion when Poindexter passed through our district in the rear of the brigade commanded by the sitting member, and eluded him.

I regret, sir, that the sitting member has seen fit to denounce the chairman of the Committee of Elections, [Mr. DAWES], a gentleman who stands deservedly high, not only in Massachusetts, but throughout the United States, for his integrity and fairness. He has shown upon this occasion that he thought more of principle and the rightful discharge of his duties than of his obligations to his party or of saving a vote here. I honor him, and I tell you the names of Dawes and Baxter will be heralded through the State of Missouri and remembered long as men who have risen above all such considerations and stood by principle. I tell you, gentlemen, that if you retain this gentleman in his seat you will incur the denunciations of those who have nurtured him into existence and have felt his poisoned sting. I have felt it, for at the hour of midnight, when I was toiling in my newspaper office, he came to me and asked me to sustain him for the office of brigadier general, as my paper was regarded as the organ of the Union sentiment. I did so. I wrote an article which met his approval, and he went to St. Louis and received the appointment from Governor Gamble. When he returned home

I got up an ovation to him and made the welcoming speech. In less than three months he turned upon me and united with my enemies to sting the bosom of the man who had warmed him into life. It was an illustration of the fable of the frozen snake. Again, Governor Gamble appointed him to the office of brigadier general and tendered him that of supreme judge. After holding the office of brigadier general for eighteen months he so deported himself that he had to be removed from the position to which he had been appointed, and then after having enjoyed the position to which Governor Gamble had appointed him and received the pay, he went through our congressional district and through a large part of the State denouncing that old man who went down to his grave with honor from the most loyal men of the country.

There is another exemplification of his turning upon his benefactor. The paper that supported him for Congress, and to the efforts of which he was more indebted for his election than to anything else, the St. Joseph's Herald, when he commenced his canvass for the Senate of the United States was not willing to desert Mr. HENDERSON and go for him, and thereupon he impugned the loyalty of the editor of that paper, and turned upon him, and with his own money and that of his friends set up another paper to crush the Herald, in which he has so signally failed.

Sir, I tell you that the chairman of the Committee of Elections is as pure and honest a man as God ever made, and his record here shows it; and yet the sitting member has seen proper to make a most bitter and unparliamentary assault denouncing that gentleman; a man who when put into the scale with him is as high as Olympus as compared with the position he occupies here by fraud and violence, and by driving the people from the polls. Sir, I have aspired from my youth up to a seat in this Hall. It is an honorable ambition; but I have never expected to get here except by honorable means. I never expected to get here by driving the qualified voters from the polls. I expected to reach a seat here by the performance of such services as I have been able to render to my country during this rebellion, and probably I have been incited to additional exertions in order to recommend myself to my constituents. The position of Congressman is an honorable and elevated one, and I have an ambition to fill that position, but I tell you that I will never sacrifice principle and self-respect to obtain a seat upon this floor, or resort to violence and fraud for the attainment of the end.

The sitting member seeks to escape from the responsibility for the force and fraud proven in this case by saying that he was not present when these occurrences took place; but in his anxious desire to hold on to his seat, in his persistent retention of it, he indorses the whole proceedings, and is welcome to all the honor he can gain by it if you choose to retain him in his seat here; but I would scorn to obtain the position on such terms. Why is the sitting member unwilling to go back to his constituency for another election? It will be but a little loss to this House or the Republican party. This affects not only this but several other districts in Missouri. Not only did his terrorism override the laws in this district, but in several other districts.

I have never been a pro-slavery propagandist, and I have been opposed to the agitation of the subject in or out of Congress. I have never made a speech for or against slavery; but I have defended northern men when they have been assailed for their opinions.

The gentleman says that I was allowed to take testimony. Let me read something in reference to that:

SAVANNAH, February 20, 1863.

Editors Morning Herald:

Granny Bruce was in Savannah taking rebel testimony all day to-day, in E. A. Carson's office. Bruce having got wind that the celebrated egg brigade was drilling for his benefit, he concluded not to leave the office until late in the night, when he sneaked off to find lodgings with some one of his kink, and thence made a hasty exit back to St. Joseph on the cars in the morning. Come again, Granny, the brigade is now perfected. Three times three for General Loan, our next Congressman!

A GENERAL LOAN MAN.

"The farce of taking evidence in the contested-election case of Bruce vs. Loan commenced in this city yesterday."

"Is the authority of the Government here powerless, or are its delegated agents recreant to all sense of decency,

that such foul proceedings are suffered to continue? We are law-abiding citizens and would not counsel violence; but we are of the opinion that the E. M. M. should not suffer their gallant champion to be so dishonored."—*Chillicothe (Missouri) Chronicle, February 28, 1863.*

The report of the minority states that there are one hundred and fifty precincts, and that I took testimony in only eight of them. I have shown that I took testimony in twelve precincts, as follows:

*Falling off in Precincts.*

St. Joseph.....	1,510
Savannah.....	536
Fillmore.....	164
Chillicothe.....	354
Atchison.....	232
De Kalb, (Stewartville).....	184
Greene township.....	119
Jackson.....	217
Grand River.....	118
Oregon.....	321
Forest City.....	177
Mound City.....	135
Falling off.....	4,067

There was more loss in those twelve precincts than in all the remaining one hundred and thirty-eight precincts. The total loss in the twelve precincts, as compared with the vote in 1860 and 1862, is 4,067.

The gentleman says I could have taken testimony. Witnesses swear positively that I could not have taken evidence in the then existing state of things.

It is stated in the reports that there is no proof of what the vote was in Stewartville. I made an effort to get the testimony as to what the vote was there, but the clerk of the election was in the Army, and his deputy could not find the returns. But since the report of the committee was made I have obtained that evidence, and I served a copy of it upon the sitting member that he might not allege that he was taken by surprise. The entire loss in the vote of De Kalb county from 1860 to 1862 was 196 votes, and the loss at Stewartville, where interference is proved to have occurred, was 184 votes of that 196. I give the following official certificate of the clerk:

*State of Missouri, County of De Kalb:*

I, Ira Brown, clerk of the county court of De Kalb county, Missouri, do hereby certify that the number of votes polled in Washington township of said county at the November election, A. D. 1860, according to the returns now in this office, was 285; and further that the number of votes polled for Benjamin F. Loan and John P. Bruce for Congress at the election in November, 1862, in said township of Washington, was as follows: Benjamin F. Loan received 80 votes and John P. Bruce received 21 votes, and that the total amount of votes polled at said time and place was 101; and further that the precinct at Stewartville was the only voting precinct during the above-named elections in said township.

In witness whereof I have hereunto set my hand and affixed the seal of said court in the office at Maysville this 28th day of March, A. D. 1864.

IRA BROWN, Clerk.

I have here the tables which appear in the report of the committee, and they show that where there was no disturbance I had a majority over the sitting member of 1,047 votes, and Colonel Branch 447.

I tell you this election has been carried by violence and fraud. I assert, and I have furnished the proof, that the sitting member holds his seat by fraud. You may sanction it, and I shall acquiesce; but if there had been a fair election I should have been the Representative in this Congress. I ask you to deal justly. I think the services I have rendered to the Union cause since the beginning of this rebellion entitle me to a fair trial by both sides. I love my country, and have no higher duty than to stand by its flag upon all and every occasion; and I hope when I go home I shall be able to carry such a report as will accord with their sense of propriety and justice.

Now, gentlemen, all I ask at your hands is that you shall deal with me as I have dealt with your people when I have been placed in a position that I could be of service to them. I have always believed in the justice of the northern people. I have always believed that it was my duty to stand by the Government. I have never arrayed one section against the other, and I can say from my heart that while I may have fallen short in the performance of other Christian duties, I never oppressed a human being in my life, and none ever received injustice at my hands.

Sir, I owe to all gentlemen on both sides of the House my cordial thanks for the kindness and

consideration with which I have been treated. I shall remember it long. I am deeply indebted to you for it. Whatever may be the result of this case I shall carry with me from this Hall a lively recollection of the kindness of gentlemen of both political parties. My purpose is to go home and do my duty to that flag which waves over the Speaker's chair. I mean to stand by that flag wherever it waves, for good or for evil. I have stood by it in times past in my own country when it has been reared by the side of the rebel flag.

Gentlemen here have never experienced and hence cannot appreciate the perils which we of the border States have encountered in standing up for the Constitution of the country, the union of the States, and the enforcement of the laws. We have gone for our country "one and indivisible." This is my platform.

The SPEAKER stated the question to be upon agreeing to the first resolution reported by the Committee of Elections, and which is as follows: Resolved, That Benjamin F. Loan is not entitled to a seat in this House as Representative from the seventh congressional district of Missouri.

Mr. UPSON. If that resolution is voted down, will that confirm the sitting member in his seat?

The SPEAKER. It requires a majority vote of the House to oust the sitting member from his seat. If the resolution is voted down the sitting member will continue in his seat.

Mr. W. J. ALLEN. I demand the yeas and nays on agreeing to the resolution.

The yeas and nays were ordered.

Mr. ANCONA. I move that there be a call of the House.

The SPEAKER. The Clerk will read from the 132d rule.

The Clerk read, as follows:

"A call of the House shall not be in order after the previous question is seconded, unless it shall appear, upon an actual count by the Speaker, that no quorum is present."

The SPEAKER. The previous question having been seconded, the motion of the gentleman from Pennsylvania is not in order unless by unanimous consent.

Mr. ANCONA. I ask unanimous consent.

Mr. FENTON. I object.

Mr. COFFROTH. I move that the House do now adjourn.

Mr. ANCONA. I demand the yeas and nays upon that motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 3, nays 128; as follows:

YEAS—Messrs. Benjamin G. Harris, Robinson, and Stiles—3.

NAYS—Messrs. William J. Allen, Allison, Ames, Ancona, Anderson, Arnold, Ashley, Baily, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Jacob B. Blair, Bliss, Boutwell, Boyd, Brooks, Broomall, James S. Brown, William G. Brown, Chandler, Ambrose W. Clark, Freeman Clarke, Coffroth, Cole, Cravens, Creswell, Henry Winter Davis, Dawson, Deming, Driggs, Eden, Eldridge, Eliot, English, Farnsworth, Fenton, Finck, Garfield, Gooch, Grider, Grinnell, Griswold, Hale, Hall, Harrington, Charles M. Harris, Herrick, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, Hulburt, Huchins, Jenecke, Kelley, Philip Johnson, William Johnson, Julian, Kalbfleisch, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, King, Law, Lazar, Le Blond, Littlejohn, Long, Longyear, Marcy, McAllister, McBride, McClurg, McDowell, McIndoe, Middleton, Samuel F. Miller, William H. Miller, Moorhead, Morrill, Daniel Morris, James R. Morris, Morrison, Leonard Myers, Noble, Charles O'Neill, John O'Neill, Orth, Patterson, Pendleton, Perham, Perry, Pike, Pomeroy, Price, William H. Rice, Alexander H. Rice, John H. Rice, Edward H. Rollins, Ross, Schenck, Scofield, Scott, Shannon, Sloan, Smith, Smithers, Spalding, John B. Steele, Stevens, Sweet, Thomas, Tracy, Upson, Voorhees, Wadsworth, William B. Washburne, Whaley, Wheeler, Joseph W. White, Wilder, Wilson, Windom, Fernando Wood, and Woodbridge—128.

So the House refused to adjourn.

During the roll-call,

Mr. MOORHEAD stated that his colleague, Mr. WILLIAMS, was paired with his other colleague, Mr. SROUSE.

Mr. POMEROY stated that his colleague, Mr. VAN VALKENBURGH, was paired with Mr. MALORY.

The vote was announced as above recorded.

The question recurred on the first resolution reported by the Committee of Elections, on which the yeas and nays had been ordered.

The question was taken; and it was decided in the negative—yeas 59, nays 71; as follows:

YEAS—Messrs. William J. Allen, Ancona, Augustus C. Baldwin, Baxter, Jacob B. Blair, Bliss, Brooks, James S. Brown, Chandler, Clay, Coffroth, Cravens, Dawson, Eden, Edgerton, Eldridge, English, Finck, Grider, Griswold, Hall,

Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Hutchins, Philip Johnson, William Johnson, Kalbfleisch, Kernan, Law, Le Blond, Long, Marcy, McAllister, McDowell, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Noble, John O'Neill, Pendleton, Pruy, William H. Randall, Robinson, Ross, Scott, John B. Steele, Stiles, Stuart, Thomas, Voorhees, Wadsworth, Webster, Wheeler, and Fernando Wood—59.

NAYS—Messrs. Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Beaman, Boutwell, Boyd, Broomall, Ambrose W. Clark, Cole, Creswell, Henry Winter Davis, Deming, Driggs, Eliot, Farnsworth, Fenton, Garfield, Gooch, Grinnell, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, Hulburt, Jenecke, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Longyear, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spalding, Stevens, Tracy, Upson, William B. Washburne, Whaley, Wilder, Wilson, Windom, and Woodbridge—71.

So the resolution was not agreed to.

During the roll-call,

Mr. WASHBURN, of Massachusetts, stated that his colleague, Mr. DAWES, had been called home by unavoidable business, and had informed him that he was paired off with Mr. JULIAN.

Mr. JULIAN. Mr. Speaker, I ought to have said when my name was called that I was paired with Mr. DAWES on last Friday and Saturday during my absence at Annapolis. The pair was limited by me to these two days, but Mr. DAWES, it seems, understands me to be paired on this question generally. He is mistaken in this, as I expressly confined the arrangement to the two days named. I therefore vote on the question pending.

Mr. L. MYERS stated that his colleague, Mr. THAYER, was paired off with Mr. ROGERS.

Mr. STEELE, of New York, stated that Mr. STEELE, of New Jersey, was paired off with Mr. BLOW.

Mr. PERRY stated that he was paired off with Mr. FRANK.

Mr. SWEAT stated that he was paired off with Mr. BLAINE.

Mr. ASHLEY stated that his colleague, Mr. ECKLEY, was paired off with his other colleague, Mr. J. W. WHITE; that Mr. DONNELLY was paired off with Mr. CHILTON A. WHITE; and that Mr. HOLMAN was paired off with Mr. DUMONT.

Mr. FARNSWORTH stated that his colleague, Mr. WASHBURN, was paired off with his other colleague, Mr. KNAPP.

Mr. ASHLEY stated that he had been asked by Mr. GANSON to get him a pair, and he had paired him off with Mr. MARVIN, who had gone home.

The vote was then announced as above recorded.

Mr. UPSON moved to reconsider the vote by which the resolution had been rejected; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The question then recurred on the following resolution; which was read, considered, and agreed to:

Resolved, That John P. Bruce is not entitled to a seat in this House as a Representative from the seventh congressional district of Missouri.

Mr. UPSON moved to reconsider the vote by which the last resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

DISPATCH FROM GENERAL BUTLER.

The SPEAKER laid before the House the following dispatch, which he had received from the Secretary of War:

HEADQUARTERS IN THE FIELD,  
NEAR BERMUDA LANDING, May 9, 1864.

Hon. EDWIN M. STANTON, Secretary of War:

Our operations may be summed up in a few words.

With seventeen hundred cavalry we have advanced up the Peninsula, forced the Chickahominy, and have safely brought them to our present position. These were colored cavalry, and are now holding our advanced pickets toward Richmond.

General Kautz, with three thousand cavalry from Suffolk, on the same day with our movement up James river, forced the Blackwater, burned the railroad bridge at Stony creek, below Petersburg, cutting in two Beauregard's force at that point.

We have landed here, intrenched ourselves, destroyed many miles of railroad, and got a position which, with proper supplies, we can hold out against the whole of Lee's army. I have ordered up the supplies.



Beauregard, with a large portion of his command, was left south by the cutting of the railroads by Kautz. That portion which reached Petersburg under Hill, I have whipped to-day, killing and wounding many and taking many prisoners, after a severe and well-contested fight.

General Grant will not be troubled with any further reinforcements to Lee from Beauregard's forces.

BENJ. F. BUTLER, Major General.

[The news was greeted with great applause upon the floor and in the galleries.]

The SPEAKER stated that applause was not in order, and that he felt it to be his duty to enforce the rules on all occasions.

#### UNEMPLOYED GENERALS.

The next business in order was the consideration of the bill reported from the Committee on Military Affairs in regard to unemployed generals.

Mr. KASSON. I ask unanimous consent to take up the amendments of the Senate to the consular and diplomatic appropriation bill.

Mr. SCHENCK. I ask whether those amendments will take up more than the remaining portion of to-day's session?

Mr. KASSON. I do not think that they will occupy more than the balance of this evening.

#### BUSINESS OF THE JUDICIARY COMMITTEE.

Mr. WILSON. I ask unanimous consent of the House that Wednesday of next week, after the morning hour, be set apart for the reception of reports from the Committee on the Judiciary. We have not been able to report for two or three months.

Mr. PENDLETON. I object.

A. GUTHRIE.

Mr. SMITH, by unanimous consent, moved that the Committee of Elections be discharged from the further consideration of the memorial of A. Guthrie, praying to be allowed mileage and per diem as a Delegate from Nebraska, and that it be referred to the Committee of Claims.

The motion was agreed to.

#### CONSULAR, ETC., APPROPRIATION BILL.

Mr. KASSON. I move that by unanimous consent the House take up the amendments of the Senate to House bill No. 40, making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1865, and consider them in the House as in Committee of the Whole on the state of the Union.

There was no objection, and the motion was agreed to.

#### First amendment:

For the contribution of the United States to the completion of a new cemetery at Constantinople, to receive the remains of American citizens transferred from an old burial-place, and also as a place for future interments, \$1,800.

The SPEAKER stated that the Committee of Ways and Means recommend a concurrence.

The amendment was concurred in.

#### Second amendment:

Strike out the word in [brackets] and insert the words in *italics* in the following:

For salaries of consuls general, consuls, [and] commercial agents, and twenty-five consular pupils, namely.

The SPEAKER stated that the Committee of Ways and Means recommend a non-concurrence.

The amendment was non-concurred in.

#### Third amendment:

And the consul general at Alexandria shall have the name and title of agent and consul general.

The Committee of Ways and Means recommended a concurrence.

The amendment was concurred in.

The amendments of the Senate from the fourth to the twenty-seventh, both inclusive, were as follows, in which the Committee of Ways and Means recommended a concurrence:

Strike out the parts within [brackets] and insert the parts in *italics*.

#### III. CONSULATES.

##### Schedule B.

Acapulco, Aix-la-Chapelle, Algiers, Amoy, Amsterdam, [Ancona,] Antwerp, Aspinwall, Aux Cayes, Bahia, Barcelona, Bangkok, Basle, Belfast, Beirut, Bergen, Bermuda, Bilbao, Buenos Ayres, Bordeaux, Bremen, Bristol, Brindisi, Brougney, Cadiz, Callao, Candia, Canton, Cardiff, Chin Kiang, Cork, Curacao, Demerara, Dundee, Elnoroc, Erie, Foo-Choo, Funchai, Galatz, Gaspe Basin, Geneva, Genoa, Gibraltar, Glasgow, Goderich, Gottenburg, Guaymas, Halifax, Hamburg, Havre, Honolulu, Hong Kong, Jerusalem, Kanagawa, Kingston, Kingston in Canada, La Rochelle, La Guayra, Lahaina, La Paz, La Union, Leeds, Leghorn, Leip-

sic, Lisbon, Liverpool, London, Lyons, Macao, Malaga, Malta, Manchester, Manzanillo, Maracaibo, Matanzas, Marseilles, [Matamoros,] Mauritius, Melbourne, Messina, Moscow, Munich, Nagasaki, Nantes, Naples, [Napoleon Vendee,] Nassau, [West Indies,] Palermo, Panama, Paramaribo, Paris, Pernambuco, Pictou, [Port au Prince,] Ponce, Port Mahon, Prescott, Prince Edward's Island, Quebec, Revel, Rio de Janeiro, Rotterdam, San Juan del Sur, San Juan, [Porto Rico,] Santander, Santiago de Cuba, Santos, Port Sania, Seio, Singapore, Smyrna, Southampton, Stockholm, Saint John's, [Newfoundland,] Saint John, [New Brunswick,] Saint Lawrence and Longueuil, Saint Petersburg, Saint Pierre, [Martinique,] Saint Thomas, Stuttgart, Swatow, Saint Helena, Tabasco, Tampico, Tangier, [Taranto,] Teluantepec, Toronto, Trieste, Trinidad de Cuba, Trinidad, Tripoli, Tunis, Turk's Island, Valparaiso, Valencia, Venice, Vera Cruz, Vienna, Windsor, Zurich.

#### IV. COMMERCIAL AGENCIES.

##### Schedule B.

Amoor River, Antigua, Balize, [Honduras,] Gaboon, Madagascar, San Juan del Norte, Saint Domingo, Saint Marc.

#### V. CONSULATES.

##### Schedule C.

[Athens,] Barbadoes, Batavia, Bay of Islands, Cape Haytien, Cape Town, Carthage, Ceylon, Cobia, Cyprus, Falkland Islands, Fayal, Guayaquil, Lanthala, Maranhao, Matamoros, Mexico, Montevideo, Onoa, Payta, Para, Paso del Norte, Piræus, Rio Grande, Sabaniila, Saint Catherine, Santa Cruz, [West Indies,] Santiago, [Cape Verde,] Spezzia, Stettin, Tahiti, Talcahuano, Tumbes, Zanzibar.

#### VI. COMMERCIAL AGENCIES.

##### Schedule C.

Apia, [Monrovia,] Saint Paul de Loando, including loss by exchange thereon, four hundred and [fifty thousand] seventy-seven thousand five hundred dollars.

Mr. BROOKS. The sixth amendment is to insert Brindisi. I do not see the necessity for that. When I was there a few years ago there was hardly enough to hold the consulate.

Mr. KASSON. Brindisi has increased in magnitude and commercial importance by the extension of the system of Italian railroads to that city; a line of mail steamers has been established connecting Brindisi with Alexandria and the overland route to the East Indies.

The amendments were severally concurred in.

#### Twenty-eighth amendment:

##### Insert:

And the salaries of the consuls at Brindisi, Gibraltar, St. Helena, Boulogne, Zurich, Clifton, Conticook, Erie, Goderich, Kingston in Canada, Port Sania, Prescott, Saint Lambert and Longueuil, Toronto, and Windsor, shall be \$1,500 each; and the salaries of the consuls at Ceylon and Piræus shall be \$1,000 each; and the salary of the consul at Chin Kiang shall be \$3,000; and the salary of the consul at Bangkok shall be \$2,000; and the salary of the commercial agent at Madagascar shall be \$2,000; and the salary of the consul at Nassau shall be \$3,000, to commence after the close of the present fiscal year, and to continue during the present rebellion; and the salary of the consul at Lyons shall be \$2,000, to commence after the close of the present fiscal year; and the salary of the consul at Manchester shall be \$3,000, to commence after the close of the present fiscal year.

The Committee of Ways and Means recommended a non-concurrence.

The amendment was non-concurred in.

#### Twenty-ninth amendment:

##### Add as a new section:

SEC. 2. And be it further enacted, That the second section of an act entitled "An act making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1853," approved February 7, 1857, be, and the same is hereby, repealed.

Mr. KASSON. I ask that by general consent this amendment, which is the only one which is likely to give rise to debate, be passed over informally in order that we may dispose of the remainder of the amendments. Then the gentleman from New Hampshire, [Mr. PATTERSON,] who it seems has risen to speak to this amendment, can take the floor upon it.

No objection being made, the amendment was passed over informally.

#### Thirtieth amendment:

##### Add the following as a new section:

SEC. 3. And be it further enacted, That the President may, in his discretion, by and with the advice and consent of the Senate, appoint an envoy extraordinary and minister plenipotentiary to the kingdom of Belgium, who shall receive no higher compensation than is now allowed to a minister resident.

The SPEAKER. The committee recommend a concurrence.

Mr. PRUYN. I wish to inquire of this committee in reference to this matter of salary as connected with the new mission to Belgium. If it be proper to create it, I hope the proper salary will be attached to it. If we intend to compliment the King of Belgium, as it is claimed, by

the appointment of a minister of higher rank, we ought to pay him a proper salary, because if we pay this small amount this year, certainly before long the Government will ask an appropriation of that kind to be made. It ought to be made at once, in my judgment, and I am ready to vote in favor of a full salary.

Mr. STEVENS. For my own part, I would rather leave the matter as it is. Belgium is not of so very great importance. We have now a minister resident there, and why we should make him a minister plenipotentiary, I cannot understand.

Mr. MORRILL. I trust the House will not agree to the proposition of the Senate. It is very clear that if we do agree and raise the grade of the officer, ere long we will be compelled to raise the salary. I do not understand that the kingdom of Belgium is of sufficient importance to have a minister there of equal grade with those we send to England and France. If we are to raise the grade we ought manifestly to raise the salary. If a year or two hence we should send a man to represent the United States at that place, we shall be compelled either to lower the grade or to raise the salary. Now I am opposed to giving a grade to a man simply because he, out of his own private fortune, can maintain the dignity of the office, when the United States itself is unwilling to support the office by a salary equal to the grade we designated. We might thus save the dignity of the officer but we should lose our own. I trust the House will not agree to any such amendment.

Mr. KASSON. I desire that the House may fully understand the question before they take a vote upon it. The committee, as will be seen, at first recommended the adoption of the amendment of the Senate with an amendment giving the minister the same salary that belongs to the same grade at Berlin and Vienna. We have now different salaries for that same grade at the different courts of Europe, ranging from \$17,500 down to \$12,000, and in South America ranging down to \$10,000. The amendment proposes to authorize the establishment of this grade in Belgium with a salary not exceeding \$7,500. This is recommended by the Secretary of State, it is recommended by the Senate; and the Committee of Ways and Means, on a reconsideration, recommend the action without the increase of salary.

Mr. MORRILL. I desire to ask my colleague whether the Committee of Ways and Means as a committee have acted upon the matter at all?

Mr. KASSON. I understand that the committee, in the presence of my friend, the other morning discussed and acted upon the subject, and I understood myself instructed by the committee to agree to the amendment without an increase of salary.

Mr. MORRILL. I do not understand that the committee had any consultation upon the subject.

Mr. KASSON. It was done in open committee in the presence of the chairman, and was participated in by all, as I understood the matter. But I leave that matter, as there seems to be a difference of opinion between us.

When this subject was up in the Senate a similar debate was raised in the Senate, and objection was taken to the fact that the Committee on Foreign Affairs recommended it, but that the Executive Department of the Government did not recommend it, and the Finance Committee, or at least a part of them, had the same kind of a contest with the Committee on Foreign Affairs upon that subject.

Mr. PRUYN. I wish to ask the honorable gentleman from Iowa what is the object of this provision when the President now has the power to make such a nomination?

Mr. KASSON. I will answer the gentleman in a moment. As I said just now, that difficulty was presented in the Senate at the time this question was discussed there. The Committee on Foreign Affairs of this House, however, in their communication with the State Department, called for a statement of the views of that Department upon the subject, and I have here the answer of the Secretary of State, by the courtesy of the chairman of the Committee on Foreign Affairs, which I will submit to be read to the House, first, however, answering the gentleman from New York. The President has power to raise the grade of the minister, under the existing law, but he has not the power to raise it except upon the con-

dition of raising the salary to that which is paid to diplomatic officers of the same grade under the old law.

Mr. PRUYN. I referred to the constitutional right of the President to nominate such a person.

Mr. KASSON. I think the gentleman overlooks the point of this provision, which is not to allow him to send a minister there of that grade, but to give him the right to do it without an increase of salary. The gentleman has, perhaps, overlooked the law, which was passed some years ago, (1856,) which authorized the appointment of diplomatic officers of a certain grade and fixed their salaries in all other countries than those specified in that law at \$10,000 per annum. Hence the President cannot establish this grade at the court of Belgium without, at the same time, establishing the pay at \$10,000.

Now, the Secretary of State has, I think with very commendable prudence and economy, endeavored to check any increased expenditure in his Department that is not absolutely necessary.

Mr. PRUYN. I wish to call the attention of the gentleman to the fact that this clause does not provide that if the President shall nominate and the Senate confirm the appointment of a minister to Belgium of this grade the salary shall be so much.

Mr. KASSON. The end of the section does provide that very thing. It gives the President power to appoint a minister there of this grade without any increase of pay.

Mr. PRUYN. The gentleman does not seem to see my point. It is that the President has the power now, by and with the advice and consent of the Senate, to appoint a minister to Belgium of this grade, and it will then be for Congress to say that his salary shall be so and so.

Mr. KASSON. I think I answered the point of the gentleman from New York before. The President has power to appoint this officer now, but he cannot do it without at the same time increasing the expenditure and giving him a salary beyond what is provided for by this bill. This provision is only intended to enable him to raise the grade without increasing the expenditure.

I now send to the Clerk's desk to be read a communication from the Secretary of State relating to this subject.

The Clerk read, as follows:

DEPARTMENT OF STATE.  
WASHINGTON, March 23, 1864.

SIR: I have the honor to acknowledge the receipt of your note of this date, representing that you had been directed by the Committee on Foreign Affairs to request me to inform them if the existing circumstances of the country require that the grade or pay of any of our ministers and consuls should be raised; and if so, to specify the changes which in my opinion are advisable.

In reply, I have the honor to state that it is deemed advisable, on grounds of high public expediency, to authorize the grade of minister resident at Brussels to be raised to that of envoy-extraordinary and minister plenipotentiary. This has been repeatedly requested by the Belgian Government, which has for several years past been represented here by a minister of the highest grade. The reciprocity may, therefore, be considered due on grounds of international comity and courtesy. It would also be a well-merited compliment to the present sovereign of that country, who has shown himself to be a true friend of ours, and from whom we have asked and received favors as an arbiter between us and other Powers, which have imposed great labor and responsibilities upon him which he has faithfully discharged. The Department would have heretofore more strenuously recommended the change referred to, but for an impression that it would involve an increase of the expense of the mission. This, however, is not necessarily the case, as the grade of the mission may be authorized to be raised upon condition that the compensation of the minister shall not be increased.

Hon. HENRY WINTER DAVIS, Chairman of the Committee on Foreign Affairs, House of Representatives.

Mr. KASSON. That explains the reasons why the Executive Department desire this change. Gentlemen will observe that it has been expected by the Government of Belgium for some years that this would be done. It was asked for near the close of the last Administration. They then sent a full minister to this Government, and have expected it in return.

Mr. MORRILL. I desire to ask my colleague on the Committee of Ways and Means a question. I desire to know whether this mission to Belgium is not of so little importance that the minister can come away and be absent from his post and travel through this country and remain away for a long time and leave all the business to his secretary? I would inquire further if the present minister is not now absent from his post?

Mr. KASSON. Mr. Speaker, I have desired, if possible, to keep this debate free from any personal allusion to the minister now occupying that post. The Secretary of State in his communications rests upon no such ground. That minister is now in this country, as I understand, on important private business. He is in Michigan, where he has important landed interests that require his attention. I do not know that for that he deserves reproach. He being so fortunately situated as to have large property to attend to is at home attending to that business. I do not know that he ought to be blamed for it.

Touching one other subject, the importance of the mission, I think that gentlemen cannot fail to perceive that at the court of Belgium there is more diplomatic information of importance to be obtained than at almost any other court in Europe. The present King of Belgium is generally conceded to be the wisest monarch in Europe. He is consulted directly and indirectly by nearly every Government in Europe. Every respectable Power of Europe is represented at that court by full ministers and some of them by ambassadors, in consequence of the importance attached to it. Some republics, too, are represented there by a full minister for reasons which they think satisfactory. The people of Belgium are an active, industrious people; and the commerce between that country and this is increasing to a great extent. An effort is now being made to establish a line of steamers between Antwerp and New York, in order to develop our commercial relations still further.

We ourselves have been committed for years to the character and importance of that court and country by the action of this Government. We have repeatedly referred the matters in arbitration between our country and other Powers to the monarch of Belgium; and in the last case between this country and Chili that monarch was occupied for two years in the examination of it, and his action upon it was so fair and just that the President of this country felt it his duty to address to him an autograph letter of thanks, signifying the high appreciation the Government had of his laborious service. I now ask whether, when that Government has asked this action from us, when it has sent to us a minister of the same grade, when every other respectable Government in Europe is represented there by a minister of that grade, it is the time for us to refuse power to the President to send a minister of that grade? That is the whole point. If a majority of the House thinks that the salary should be increased with the increase of grade, that is another question. But I think when the executive branch of the Government recommends it to be done without increase of pay, when the Senate has resolved that it shall be done without increase of pay, when we all think we ought to economize, I do think that under these circumstances we should give that discretion to the President to increase the grade without at the same time raising the pay of this minister. I beg pardon of the House for detaining it so long, but I believe I have explained the leading facts and points involved in the question.

Mr. STEVENS. Mr. Speaker, I have one word to say on this subject. Either give the full pay or do not give the rank. The idea of bedecking the minister with feathers and ribbons for the purpose of making a show and nothing else is not according to my taste. If we ought to have a minister with \$17,000 a year, give him that salary, let the President come at once and say that he appoints such an officer. Belgium is a very snug little kingdom. I believe it is nearly if not quite as populous as the State of New York—nearly three millions of people.

Mr. KASSON. Over five millions.

Mr. STEVENS. Well, it has grown lately very fast. I admit that the King of Belgium is an excellent man; but, sir, I do not know that we are to make any difference between a good man or a bad man on the throne there or anywhere else. We are to appoint our ministers by some rule. We have thought heretofore that a minister resident with \$7,500 a year had a sufficient salary. The gentleman who is there now is an excellent man I have not a particle of doubt. The \$7,500 which he gets in gold does not amount to anything in his pocket. He is rich enough to do without it. But suppose he were to die and it

should be my misfortune to be appointed there, I would have to live upon the \$7,500, and there are a good many men in my position.

Now, we are not legislating for a wealthy individual. We must legislate according to some general rule. If the gentleman from Iowa will raise the salary according to the rank I will consider it. I will not promise to vote for it, but I can vote for that when I cannot vote for this.

I believe at that place a minister resident, such as we have at two thirds of the courts of Europe, is sufficient, and that there are no circumstances to justify a higher grade of rank unless the President, exercising the power he now has, will make the appointment on his own responsibility, with the salary attached to it. I do not think it is good and wholesome legislation to provide merely for decking a man off in gold lace, feathers, and furbelows; at least it is not such as I mean to vote for.

Mr. KASSON. I hope the amendment will be adopted.

Mr. PRUYN. I move to strike out the words "who shall receive no higher compensation than is now allowed to a minister resident."

Mr. KASSON. I wish to say that that leaves it exactly according to the existing law.

Mr. PRUYN. That is just where I want to place it.

Mr. KASSON. Then the gentleman should move to strike out the whole section.

Mr. PRUYN. My own impression is that we would do well to appoint a minister of full rank to the court of Belgium. The President has the power at any moment to make that appointment. He has that power under the Constitution if he pleases to exercise it.

The gentleman from Iowa, [Mr. KASSON,] the member of the Committee of Ways and Means who has charge of this bill, did not seem to appreciate the point I made when this section was first read. He proposes here to give authority to the President which he has now under the Constitution. He does not ask it and it is not with us to give. Under the Constitution the President has the power to make such nominations of foreign ministers as he may deem fit. All Congress has to do is to fix the compensation. There is a statute providing that in all cases where the compensation of a minister of full rank is not fixed it shall be \$10,000, and the effect of the amendment I propose would be, if the President should make such a nomination, to make that salary \$10,000 a year, the same as that of other ministers in Europe, and I believe in South America. The President has the right to make the nomination. I have not the Constitution or I would quote its language, but I believe I am quite right. If we are to have a minister of full rank, and I think on the whole we ought to have, he should have a proper salary. I think it would be a poor compliment to send the King of Belgium a full minister at a reduced salary.

The amendment to the amendment was agreed to.

Mr. KASSON. By this action we not only leave the bill inconsistent with itself, but if we disagree to the Senate amendment it will leave the old law still in force. I trust that the House will have confidence in the action of the Executive, the Senate, and the Committee on Foreign Affairs, and that it will at least signify to the President its disposition to have this thing done without increase of pay. I do not know that the Committee on Foreign Affairs has decided, but I know that several members are in favor of this proposition. And the only desire that I have is to save the Government \$2,500 or \$5,000, as the case may be. It stands just in this way: the increase of salary is not asked for by the Executive Department, nor by the Senate, nor by the minister, and now, by this action, we save \$5,000 or \$2,500, as the case may be.

Mr. WILSON. I will ask my colleague if we reject the Senate amendment will not the President appoint a minister plenipotentiary to Belgium?

Mr. KASSON. Yes, sir.

Mr. WILSON. Then I would like to know why it is necessary for Congress to act in this matter if the President has already the power to appoint a minister plenipotentiary? To my mind it is conclusive evidence that the President, who now holds the power to make the appointment, believes it is not necessary to have a minister of that rank at that court.

Mr. KASSON. The necessity for this law is that if he does make a minister of that grade he does it at the cost of an increased expenditure to the Treasury, when the dignity of the country does not require an increased appropriation. The law authorizes him to establish the grade now.

Mr. WILSON. The argument which the gentleman now makes is in favor of the appointment of such men, and only such, as have abundant means aside from the salary to maintain a proper position at the court, and therefore it is an argument really against the appointment of men who have not abundant means, and it makes a distinction between citizens of the country. Hence I am opposed to it upon that ground.

Mr. KASSON. It is hardly necessary to meet that argument, which is evidently applicable to another purpose than that to which it is applied. All I have to say is that we have already established different grades, with pay varying from \$17,500, as at London and Paris, to \$12,000, as at St. Petersburg and Berlin. In South America we pay \$10,000. The gentleman's argument applies to the whole system if it applies at all. The court of Belgium is not as expensive a court as some others. For reasons satisfactory to Congress they have established this grade of pay and made it depend upon two things: the importance of the mission and the expense of living at the capital to which the minister is accredited. Under these circumstances, it is no violation at all of the practice of Congress and of the Government in that respect to make this discrimination here. If it becomes necessary hereafter to increase the pay we can increase it as we increased the pay generally a few years ago. It is no departure, therefore, from the uniform practice of the Government to adapt the pay to the circumstances of the court and the importance of it.

Mr. MORRILL. I desire to ask the gentleman a question.

Mr. KASSON. I have no objection, if the gentleman will ask me a sincere one.

Mr. MORRILL. I do not desire to ask any but a sincere question. The gentleman says he admits that the Government is not in a situation now to raise the pay equal to the grade of the minister. Then does it not follow that we are proposing here to put upon an officer whom we send abroad an expense which we confess we are not able to afford?

Mr. KASSON. I do not see it. On the contrary, there is no additional expense imposed upon him, that I am aware of, by this change of grade. But it does facilitate greatly the transaction of business at foreign courts to have a minister of a high grade. I have seen our minister at one court detained for hours in an ante-room waiting for ministers of a higher grade who came after him to get through their business with the foreign minister before he could attend to that of our minister. I submit, therefore, that when there is a practical advantage in the discharge of business, when this matter of etiquette is a stubborn fact which we cannot get over, when it is part of the law of the administration of foreign courts, whether we should not yield to it, as we may do without cost to our Government, and at the same time increase the dignity of this Republic at a foreign court. I speak of what I have seen and what I know when I say that hours upon hours have been lost—because of this law of etiquette, which is as unchangeable as the law of the Medes and Persians—by our ministers, who wait while the higher grades take precedence.

Mr. STEVENS. May I inquire of my colleague on the Committee of Ways and Means whether at these courts our ministers are so much engaged every hour of the day that they cannot afford to wait?

Mr. KASSON. I think the gentleman knows well enough that abroad, even as here at our own plain, republican court, at the foreign offices they have one day in the week to receive foreign ministers and transact their business. If the business is not transacted on the Thursday or Saturday on which the minister calls it lies over for another week, unless indeed he goes through the form of a special request, supplicating an appointment for another intermediate day, and receiving an answer fixing the time, which involves a good deal of labor and etiquette.

Mr. WILSON. Would not that argument re-

quire an increase in the rank of all our ministers abroad?

Mr. KASSON. No, because some of our ministers are of the highest rank, and some of less rank have no trouble at inferior courts.

Mr. WILSON. All those of subordinate rank must meet with similar difficulties.

Mr. KASSON. No; some are at courts of by no means the same importance. Take Switzerland, for example; there is less court etiquette there and we have much less business there than we have at the court of Belgium. Brussels is one of the great diplomatic centers of Europe.

Mr. WILSON. Does my colleague think that the business interests of this country will suffer unless we increase the grade of this mission?

Mr. KASSON. I think that the business will be delayed, and that the good opinion in regard to our country of the King of the Belgians will be affected by a refusal of this courtesy. If my colleague listened to the reading of the letter of the Secretary of State he will have noticed what is there stated, that near the close of the last Administration the Belgian Government asked that we should accredit a full minister to that court. We all know that we are not only under obligations of courtesy to the King of the Belgians but that we are under higher obligations to him, especially since the war broke out.

Mr. PRUYN. I wish to call the attention of the House, in the first place, to a preliminary point, and then I will make a proposition which I think will meet the views of the member of the Committee of Ways and Means who has this bill in charge.

By the Constitution of the United States the President is vested with full power in regard to this matter and we have none. I will read that clause of the Constitution:

"He [the President] shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers, consuls, judges of the Supreme Court, and other officers."

It has always been claimed that, under that clause of the Constitution, this Congress had no power to pass upon questions of the rank of foreign ministers. The President nominates to a foreign court either a chargé d'affaires, or a minister resident, or a minister plenipotentiary. He does what he pleases in that regard. It then remains with Congress to say what salary they will pay.

Now, I think, with regard to this particular case, that if we make any change, and I think a change might well be made, we ought to give a proper salary, or it is no compliment to the King of the Belgians to make the change; at any rate the value of the compliment is much diminished. What I think we ought to do, and what I am prepared to vote for if the gentleman who represents the Committee of Ways and Means will make the proposition, is to appropriate \$12,000 for the purpose of paying the salary of a minister of full rank to the court of Belgium, provided the President and Senate shall make the appointment.

Now, sir, a word with regard to the expense of a residence at the court of Belgium. Formerly the cost of a residence at Brussels was very much less than at Paris or at any of the great courts of Europe; and that city, even within a very few years past, became the residence of a large number of English persons who went there for the purpose of living at less expense than they could do at home. But things have very much changed, and now the cost of living at Brussels is substantially the same as at Paris or London. I may be permitted to say, and I do not think it a violation of private confidence to say, with reference to the present minister to Belgium, that during the last year he has spent three or four times the amount of his salary.

Mr. KASSON. The gentleman from New York will allow me to say that a portion of that sum has been expended in the purchase of some very fine guns that were furnished to our soldiers in the Northwest and are now in the service.

Mr. PRUYN. I did not take this into account. There is a large expenditure behind which I did not say anything about. It strikes me, Mr. Speaker, that we should make a liberal arrangement with all our ministers to Europe, especially

in the present condition of our country. My reasoning is exactly the reverse of that of other gentlemen in this House. I think it is one of the greatest mistakes this country has made that two years ago when the Secretary of State recommended a large appropriation for the purpose of sending commissioners to the international exhibition at London this House refused to make it. I think we should have then given the world to understand that, notwithstanding the great struggle in which we are engaged, all our vitality still exists. We should have sent out a commission to that exhibition that would have maintained the high standing and influence of this country.

And so, Mr. Speaker, with reference to our ministers to Europe, I am in favor of maintaining them in their full efficiency and character, and of giving them everything necessary to influence public opinion in Europe in regard to this country, its present condition and future prospects. I trust if we make any change at all we will make a change that will be a thorough one, and give our ministers not only the proper rank but the proper salary. If it is not done this year it will be done the next. My amendment is as follows:

Strike out section three and insert in lieu thereof the following:

The sum of \$12,000 be and the same is hereby appropriated to pay the salary of an envoy extraordinary and minister plenipotentiary to the kingdom of Belgium, if the President in the exercise of his constitutional power shall see fit to appoint such officer.

Mr. DAVIS, of Maryland. I move that the House do now adjourn.

#### RECEIPTS, ETC., OF TREASURY DEPARTMENT.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting a statement showing the receipts and expenditures for the fiscal year ending 30th June, 1863; which was laid on the table, and ordered to be printed.

Mr. HOOPER offered a resolution that one hundred and fifty copies of the statement of receipts and expenditures prepared by the Register of the Treasury for the fiscal year ending 30th June, 1863, be printed for the use of the Secretary of the Treasury; which was referred under the rule to the Committee on Printing.

The question was put on Mr. Davis's motion; and it was agreed to.

The House thereupon (at half past four o'clock, p. m.) adjourned.

#### IN SENATE.

WEDNESDAY, May 11, 1864.

The Journal of yesterday was read and approved.

#### ELECTION OF CHAPLAIN.

In pursuance of the order made on Monday last the Senate proceeded to the election of a Chaplain, with the following result:

Rev. Thos. Bowman, D. D., received 24 votes.

Rev. E. H. Gray received 15 votes.

Rev. Dr. BOWMAN, having received a majority of the votes cast, was declared to be duly chosen Chaplain for the Senate.

#### REPORTS FROM COMMITTEES.

Mr. HALE, from the Committee on Naval Affairs, to whom was referred a petition of Commodore W. D. Porter, United States Navy, on the subject, reported a bill (S. No. 273) to compensate the officers and crew of the iron-clad gunboat Essex for the destruction of the rebel ram Arkansas, accompanied by a letter of the Secretary of the Navy on the subject. The bill was read and passed to a second reading, and the communication was ordered to be printed.

He also, from the same committee, to whom were referred the following petitions and memorial, asked to be discharged from their further consideration; which was agreed to:

A petition of citizens of Missouri, praying that the officers and crew of the gunboat Essex may be suitably rewarded for the destruction of the rebel ram Arkansas;

A petition of citizens of Cairo, Illinois, praying for the permanent location of a navy and dockyard and naval depot at that place; and

A memorial of the mayor and common council of the city of Jeffersonville, Indiana, praying for the location of an armory and navy-yard at that place.



He also, from the same committee, to whom were referred the following bills, reported them with amendments:

A bill (S. No. 190) to establish a navy-yard at Cairo, in the State of Illinois; and

A bill (S. No. 246) for the relief of officers, seamen, and others borne on the books of vessels wrecked or lost in the naval service.

Mr. JOHNSON, from the Committee on the Judiciary, to whom was referred a resolution instructing the committee to inquire into the expediency of amending the existing laws regulating the jurisdiction of the Supreme Court of the United States so as to confine it to questions of law, asked to be discharged from its further consideration; which was agreed to.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred a joint resolution (S. No. 25) repealing a joint resolution to amend the Constitution of the United States, asked to be discharged from its further consideration; which was agreed to.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom were referred the amendments of the House of Representatives to the bill of the Senate (No. 145) to equalize the pay of soldiers in the United States Army, reported them with amendments; which were ordered to be printed.

Mr. HOWARD. I present to the Senate a paper in the nature of a report from the select committee on the Pacific railroad, containing sundry tables and other matters tending to illustrate the operation of the Pacific railroad act of 1862, and the operation of the amendment to that act which has already been presented to the Senate by the committee, and I move that it be printed for the use of the Senate.

The motion was agreed to.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print three thousand copies of the report of the Secretary of the Navy on iron-clad vessels, have instructed me to report it adversely. The document was ordered to be printed by the House of Representatives, and it would be very proper to print it for the Senate but for the fact that the type has been distributed, and it would cost some three thousand dollars.

Mr. ANTHONY also, from the same committee, to whom was referred a bill (S. No. 265) to expedite and regulate the printing of public documents, and for other purposes, reported it with an amendment.

#### COLONIZATION OF COLORED PERSONS.

Mr. WILKINSON. The Committee on Territories, to whom was referred the bill (S. No. 169) to repeal all acts making appropriation for the colonization of free persons of African descent, have instructed me to report it back with a recommendation that it pass, and I also ask for its present consideration.

No objection being made, the bill was considered as in Committee of the Whole.

Mr. WILKINSON. I wish simply to state that two years ago Congress passed two acts which evinced, in my judgment, the extreme folly, appropriating \$600,000, and placing it at the disposal of the President, for the purpose of sending out of this country free colored persons. An attempt has been made to carry out the provisions of the laws, and one or two cargoes have been sent to an island in the West Indies, and the results have been most hazardous and disgraceful. I ask that those laws may be repealed; that no further expenditure be made in that direction.

Mr. LANE, of Kansas. I hope the Senator from Minnesota will not press the passage of this bill to-day. I shall offer no objection to its passage at the proper time, but the Senate has passed a resolution asking for a report from the commissioner of emigration of the doings under those laws. I am very anxious that that report shall come in before this question is pressed on the attention of the Senate. I make the suggestion to the Senator from Minnesota. That report is now being made out, and I understand will be tendered to the Senate in a few days.

Mr. WILKINSON. I have no objection to the postponement if the Senator insists upon it, though I think that report will make no difference.

Mr. HALE. The bill had better lie over.

Mr. WILKINSON. I am willing that it shall

go over, but I give notice that I shall call it up at the earliest possible moment.

The further consideration of the bill was postponed until to-morrow.

#### COMMANDERS IN THE NAVY.

Mr. HALE. The Committee on Naval Affairs, to whom was referred a bill (S. No. 270) to amend an act entitled "An act to establish and equalize the grade of line officers of the United States Navy," approved July 16, 1862, have instructed me to report the same back with an amendment. As this bill is one to remedy a defect in the existing law in regard to naval appointments, I ask the Senate to consider it now.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that the corps of commanders in the Navy of the United States on the active list shall be temporarily increased so as to embrace all who had been appointed as such prior to the commencement of the present session of Congress, under that construction of the law which then prevailed in the Navy Department; but the number thus allowed is not to exceed ninety; and no further appointments of commanders are to be made on the active list till the number by deaths, dismissals, resignations, or otherwise, shall be reduced to seventy-two.

The second section provides that all payments heretofore made to any officers in the Navy as commanders, under the construction of the law heretofore prevailing in the Navy Department, shall be ratified and allowed, and the proper accounting officers of the Treasury are instructed to allow them in the same way and manner as if there were no question as to the legality of the appointments.

The amendment of the Committee on Naval Affairs was in section one, line nine, to strike out the word "ninety" and insert "ninety-one."

The amendment was agreed to.

Mr. GRIMES. My impression is that in the second line of the second section the words "captains or" should be inserted before the word "commanders." I believe the captains have been promoted now, but it has only been done very recently, and so far as relates to pay there should be some retrospective provision for them.

The PRESIDENT *pro tempore*. Does the Senator move that amendment?

Mr. GRIMES. Yes, sir.

The PRESIDENT *pro tempore*. The Senator from Iowa moves to amend the bill in section two, line two, by inserting before the word "commanders" the words "captains or;" so that it will read:

That all payments heretofore made to any officers in the Navy as captains or commanders under the construction of the law heretofore prevailing, &c.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### GENERALS SCHENCK AND BLAIR.

Mr. DAVIS submitted the following resolution; which was ordered to be printed:

Whereas the President of the United States, in a communication to the House of Representatives of date 28th of April ultimo, represents, "that prior to and at the meeting of the present Congress, Robert C. Schenck, of Ohio, and Francis P. Blair, Jr., of Missouri, members-elect thereof, by and with the consent of the Senate held commissions from the Executive as major generals in the volunteer army;" and that "General Schenck tendered the resignation of his said commission and took his seat in the House of Representatives at the assembling thereof, upon the distinct verbal understanding with the Secretary of War and the Executive that he might at any time during the session, at his own pleasure, withdraw said resignation and return to the field;" and whereas the President in said communication states further that "General Blair was, by temporary agreement with General Sherman, in command of a corps through the battles in front of Chattanooga, and in the march to the relief of Knoxville, which occurred in the latter days of December last, and of course was not present at the assembling of Congress;" and "that when he subsequently arrived here he sought and was allowed by the Secretary of War and the Executive the same conditions and promises as allowed and made to General Schenck;" and further, that "General Blair holds no military commission or appointment other than herein stated:" Therefore,

Be it resolved, That the arrangement aforesaid, made by the President and the Secretary of War with Generals Schenck and Blair, to receive from them temporarily their commissions of major general, with discretion, on their part, at any time during this session of Congress to resume them, was in derogation of the Constitution of the United States, and not within the power of the President and the Secretary of War, or either of them, to make.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to some and disagreed to other amendments of the Senate to the bill of the House (No. 40) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1865, had agreed to the thirty-first amendment of the Senate to the said bill with an amendment, in which it requested the concurrence of the Senate, had insisted upon its disagreement and amendment as aforesaid, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. JOHN A. KASSON of Iowa, Mr. JAMES W. PATTERSON of New Hampshire, and Mr. JAMES BROOKS of New York, managers at the same on its part.

#### DISASTERS ON RED RIVER.

Mr. LANE, of Kansas. I offer the following resolution, and ask for its present consideration:

Resolved, That the joint committee on the conduct of the war be instructed to investigate the causes of the recent disasters on Red river, with power to send for persons and papers.

By unanimous consent, the Senate proceeded to consider the resolution.

Mr. TRUMBULL. I suggest to the Senator from Kansas that the committee has all the power necessary. It is only necessary to instruct them to inquire into it, I apprehend. So far as sending for persons and papers is concerned, that power is expressly conferred on them already.

Mr. LANE, of Kansas. I will change the word "instructed" to "requested." I desire to state to the Senate and to the country that the command of that advance was under General Lee, of Kansas, as gallant an officer as ever drew sword for his country. Since the disaster he has been ordered to New Orleans in disgrace. It is a fact that the artillery of the army was intrusted to a wagon train for protection; that there was in the advance a body of cavalry under General Lee; then came the artillery, and next to the artillery came a wagon train, upon a narrow road cut through the timber. I understand it to be an axiom in military affairs that artillery is to be protected by infantry close at hand, not to be intrusted to cavalry even. I am informed—and I want the ear of the chairman of the committee—that General Lee called frequently, demanded repeatedly, that the wagon train be sent back and that infantry be forwarded to him in support of that artillery, and that his calls and demands were disregarded. When the assault was made, the narrow road was filled up by this wagon train, there was no protection for the artillery, and he was overcome by superior numbers.

Mr. RICHARDSON. Mr. President, since I have been in Congress I have uniformly opposed interference by either branch or both branches of Congress with the affairs of the armies in the field. I do not think any good has been accomplished by such interference. I think armies are best managed by the officers in command and by those who have control over them. I have no doubt, sir, that if the statements in reference to General Lee are as the Senator from Kansas represents them—and I do not question them—the Army itself will take care of his reputation.

I think we have had too much for the public good of the dismissals of officers from the Army without trial by court-martial. Great mischief has been done to the service by this mode of proceeding; great mischief will be done again. I hold that no officer in the Army for any conduct should be censured or disgraced without the finding of a court-martial, and an opportunity for him to be heard and make his defense before that court-martial. I make no assault upon the committee charged with these investigations. They have other duties to perform and to attend to. They hear that portion of the testimony only which is submitted to them, and which they call before them. Great injustice, unintentionally upon their part, often, I have no doubt, is done by the fact that officers have no opportunity to explain their conduct during an action or upon the field, which are reported upon here, and they show a different state of facts when they are brought before a military court for trial.

Sir, I do not think that this mode of investigation is fair, just, or useful. I opposed it when I

was a member of the other House; I am opposed to it now.

Mr. LANE, of Kansas. I think the Senator from Illinois did not hear my statement. I said that the relief given to General Lee by the Army was ordering him to New Orleans in disgrace—

Mr. RICHARDSON. The Senator will pardon me. I suppose he was ordered to New Orleans by the commanding officer. That commanding officer is responsible. Whatever disaster has fallen on that army is attributable to the commander that was there. I have no doubt about that. When others come to assume command there, they will afford General Lee an opportunity to vindicate himself against whatever charges may be made against him. An officer under arrest is entitled to a court-martial, as the Senator knows perfectly well from his experience in military affairs. It is an offense to detain him in arrest longer I believe than eight days without preferring charges and bringing him before a court-martial. The Senator will pardon me when I add that I have no doubt the military men will set this whole matter right if you give them a little time.

Mr. LANE, of Kansas. The present condition of our armies precludes the probability even of relief in the way of a court-martial. This relief should come immediately. Here is an officer who, leading his column at Vicksburg, received a ball through his head in his mouth, and joined the Army again when he was feeding himself with a spoon, unable to open his mouth. He is as gallant a soldier and as able as we have in the service. One hour of disgrace to him is a thousand deaths. I want to reach his vindication at the earliest possible moment. He avers that he demanded again and again and again that the wagon train should be separated from his column, and that the artillery should be furnished with infantry to protect and defend it. Kansas and General Lee ask an immediate vindication. He is a favorite son of that gallant State.

Mr. GRIMES. Mr. President, it is too late in the day to raise objections to congressional investigations in regard to military affairs. It was done by the Continental Congress during the time of the Revolution. It was done in the war of 1812-14, as I once had occasion to show to the Senate by reading from the Journals and Debates of that time. It was done from 1848 up to 1852, and if the Senator from Illinois will refresh himself by reference to the Senate documents during that period he will find that the chairman of the Committee on Military Affairs of this body, Mr. Weller, employed himself I should think most of the time in investigations of this description.

Mr. RICHARDSON. During the progress of the war?

Mr. GRIMES. During the latter part of the progress of the Mexican war, and for the two or three following years—investigations growing out of the controversies between General Pillow and General Scott and all the subordinate officers under them, and in regard to other officers who were not immediately under General Pillow.

But I rise to suggest to the Senator from Kansas the propriety of modifying or changing his resolution so as to inquire into the general administration of that department. I should like to know all about it. I should like to have the committee on the conduct of the war instructed not only to examine as to the particular details of the disaster that happened to us at Pleasant Hill, but I should like to know how the affairs of the department have been administered prior to that time and since that time.

Mr. LANE, of Kansas. I have not the least objection to that. All I desire is to reach the object I have stated.

Mr. GRIMES. That will reach the object the Senator from Kansas has in view, and may reach something more, and it will relate not alone to military transactions but to civil transactions in that department, and therefore will be relieved from the objection which the Senator from Illinois seems to raise to the military investigation.

Mr. DOOLITTLE. The jurisdiction of the committee on the conduct of the war is quite extensive enough if they are confined to war matters. If they are to take the general superintendence of the civil as well as the military administration of this department, it will add very much to their labor, and, it seems to me, would so much absorb the time and attention of the com-

mittee that it would be impossible for them to give their attention particularly to the subject of this disaster, which is what we want to get at.

Mr. LANE, of Kansas. Will the Senator from Wisconsin permit me to make a suggestion to him?

Mr. DOOLITTLE. I have no objection.

Mr. LANE, of Kansas. I do not know that it is true—I do not pretend to state it as true—but I very much fear this committee will be able to ascertain that the disaster at Pleasant Hill grew out of a sort of furore to gather up cotton; that instead of whipping the enemy, they were trying to hook up cotton; and that led to this disgraceful surprise. It is believed that General Banks had on the Red river a large superiority of numbers; and yet the whole country west of the Mississippi is now endangered, if not altogether lost, for the present, by this furore to get hold of cotton. I have no objection, therefore, to having the resolution cover the whole thing.

Mr. WILSON. I should like to ask the Senator from Kansas if he can give us the evidence on which he founds the declaration that General Banks had superior numbers on the Red river expedition.

Mr. LANE, of Kansas. I do not propose to give names. My understanding is, from the authorities here upon inquiry, that General Banks has to-day superiority of numbers on the Red river. I was told so yesterday by one who should know. The State that I have the honor to represent is now exposed from south to north by this mistake—a mistake that, in my opinion, should damn any man professing to have a knowledge of military tactics. The idea of attempting to move artillery without being protected and closely protected by infantry is ridiculous, and should cover every man who submitted to such a movement with everlasting disgrace. We watch our artillery as a mother watches her child. We do not permit that infantry to leave it for a moment. Here in this expedition there were miles between the artillery and the infantry and a wagon train between them, which precluded the possibility of the infantry passing to the support of the artillery. All the West is exposed to-day by this most terrific mistake.

Mr. WADE. I will inquire whether this is a joint resolution or merely a resolution of the Senate.

Mr. GRIMES. It is a Senate resolution.

Mr. LANE, of Kansas. I will say to the chairman of the committee that all I ask is that the facts connected with the loss of that army may be before his committee.

Mr. WADE. Mr. President, I hope it will be made a joint resolution if it is to pass. It will devolve upon that committee a very considerable labor and considerable expense. Of course we shall be as economical as we can be, but this investigation will cost something if it is ordered. The appropriation for that committee which was passed by the Senate a long time ago has never passed the House of Representatives, and I do not know that they intend that it shall pass. It is evident, however, that the committee on the conduct of the war are compelled under the instructions of this body to incur considerable expense in the investigations which they have to make.

Mr. FOSTER. This resolution should be a joint resolution, as it proposes to instruct a joint committee.

Mr. WADE. It is suggested to me that this subject cannot be sent to a joint committee except by a joint resolution. Perhaps that may be so; but it has not been so understood. Each branch of Congress has instructed the committee on the conduct of the war to make the investigations that we have made; but I think it would be better for both bodies to join in giving instructions upon a matter so important and so extensive as the inquiry now proposed.

As to what the Senator from Illinois has said about our making investigations that impinge upon the character of individuals without giving them notice, I will say to that Senator that we are not obnoxious to any such charge. We have never made any report or presented any evidence against any man unless he has been apprised of it, with one exception, where we took a little evidence for the purpose of enlightening the Senate in execu-

tive session on certain occasions, and of course that was secret. In every other case, if the testimony seemed to involve the character of any man or to impute anything wrong to him, we have always apprised him of it, and asked him to give every explanation he could give. Further than that, we have not made any of these military examinations that I know of without the concurrence of the Secretary of War, who has cooperated with us all along, and been exceedingly anxious that we should make them. Of course, we are not anxious to make this investigation, and shall only do it if it is the law of Congress that we should do it. I assure gentlemen it is not a thing to be sought after.

Mr. WILSON. Mr. President, I have no desire, after what has been said by the Senator from Kansas, to arrest the passage of his resolution to inquire into the condition of affairs on the Red river. A great misfortune has fallen upon our army west of the Mississippi, and the public press teems with comments upon the origin and management of that ill-starred expedition. To-day the Senator from Kansas introduces this resolution of inquiry, and before the facts are ascertained he indulges in declarations, assertions, and comments derogatory to the management of the Red river campaign. He makes an arraignment before the Senate and the country of Major General Banks, the commander of the forces there. He desires to vindicate General Lee, the commander of the cavalry in advance, and to do so he casts blame upon the commander of the expedition. Will it not be time enough to praise or blame when the proposed investigation shall disclose the facts?

Mr. LANE, of Kansas. I think the Senator from Massachusetts misunderstood me. I will state to him that I heard, I think on Monday, that the order for this expedition emanated from a western general; that it was sent on here and endorsed, reluctantly perhaps, by the authorities at Washington city; and the expedition was undertaken against the better judgment of General Banks, as I was informed. I do not arraign General Banks, for I do not know who prevented General Lee from having the infantry to support him.

Mr. WILSON. In victory we overpraise men; in defeat we undervalue them. There is a disposition everywhere now to censure the commander of the Red river expedition, to undervalue his merits and his past services. General Banks is a gentleman of capacity and character, and has possessed, in his own State and in the country, a large share of the public confidence. This misfortune has shaken somewhat that public confidence. I trust the facts which the proposed investigation will disclose will vindicate the management of General Banks. If he has erred in the management of the campaign in western Louisiana, he must share the common lot of public men in civil life and in military life who commit mistakes in the direction of important affairs. I trust the investigation will be conducted with impartiality and fairness, that General Banks will have the opportunity his public services entitle him to receive at the hands of his countrymen to explain his action and vindicate his conduct. When the record is made up it will be time enough to cast censure upon his action. I demand of Senators who propose this investigation that they shall not, in advance, put upon the records of the country declarations tending to condemn the management of General Banks in this Red river movement.

The PRESIDENT *pro tempore*. The question is on the passage of the resolution.

Mr. GRIMES. I proposed to amend the resolution.

Mr. LANE, of Kansas. I am willing to accept the amendment.

Mr. GRIMES. Whatever may be the remarks of the Senator from Kansas to which the Senator from Massachusetts objects, there is nothing in the resolution itself that casts reproach upon General Banks or anybody else. The administration of his department is a legitimate subject of inquiry by Congress. I do not desire an investigation as to the simple fact whether he directed his artillery or his cavalry or his baggage train in a proper manner, but into everything connected with the administration of the department. That is what the people of this country desire at this time. If General Banks has behaved well, and as his

friends claim that he has, a proper report on the subject will greatly quiet the public anxiety in connection with his name and with the administration of that department. If he has not, here is a committee of his own political friends and adherents, and if they decide against him let him take the same fate that other men take under similar circumstances who have behaved badly.

Mr. RICHARDSON. I desire to say, sir, after the statement of the chairman of the committee on the conduct of the war, the Senator from Ohio, [Mr. WADE,] that they have furnished every officer who seemed to be implicated with the charges implicating him, that it is a species of information I had not before; and I do not desire when the information is given me to let even that misapprehension from my mind to go to the country.

Mr. LANE, of Kansas. I have not felt disposed to criticise this expedition and fight, but I do propose now to say a word about it. The idea of permitting a fight to come off at all until Steele and Thayer had formed a junction with the commander of that expedition was, in my opinion, the act of a man who had not prudence at least as a characteristic of a commander. The expedition itself, in my opinion, was ill-timed. Kirby Smith was at Shreveport. He could be found at any time if we wanted to whip him; and if to-day a disaster is happening to General Sherman, it is owing to the fact that that army was not threatening Mobile. I do not know who is responsible for the expedition; but that the expedition itself was a mistake I have no doubt.

Mr. WILSON. It is said that General Sherman ordered this expedition. I do not know how it is; but that is the report.

Mr. LANE, of Kansas. I do not wish to say how that is. An officer who would send those gunboats up Red river at this season of the year, knowing the uncertainty of its navigation, in my opinion is not entitled to the reputation of prudence, at least. We of the West know that the navigation of the Arkansas and of the Red rivers is too uncertain to trust a large fleet of our most valuable vessels upon their bosom; and yet here are millions of dollars' worth of vessels that it will take time to replace, endangered, for an expedition fruitless if successful, because I hear that it was understood by the general who ordered that expedition that it was to take Shreveport, and return to threaten Mobile, so as to keep the force there at that point; that that was the reason upon which the order for the expedition was predicated. But the idea of permitting any portion of that force to engage Kirby Smith when Thayer and Steele, with twenty or thirty thousand men, were moving to form a junction with him was an imprudent step, to say the least of it.

Mr. DOOLITTLE. I am not quite satisfied to have this debate close and go to the country when the Senator says that the whole project of the expedition to Shreveport was unwise, and that if successful it would have been an unwise expedition. I do not profess to understand military matters very well; I claim no knowledge on that subject; but I understand, and I believe the country has understood, that if the expedition had been properly managed and had been successful in the capture of Shreveport it would have been a most successful expedition and in its results most important to the country. I do not desire to say anything further than simply to say that I do not acquiesce in the statement of the Senator from Kansas that if we had been successful in the capture of Shreveport, on the Red river, it would have been a thing of no account.

Mr. LANE, of Kansas. The whole power of this Government was being put forth to crush the armies of the rebellion east of the Mississippi river; and I ask the Senator from Wisconsin how the rebel armies west of the Mississippi could aid rebellion east of the Mississippi? Here we are, at a time when we are making a combined effort to crush the rebel armies east of the Mississippi river, sending a force that was within a few days' march of Mobile, west of the Mississippi river to engage troops that could not participate with and aid the rebels east of the Mississippi. I repeat that it was a childish thing dividing our forces when we were endeavoring to concentrate everything upon rebellion east of the Mississippi river. I understand that it was the intent and purpose of him who first ordered the expedition that it should return in time to par-

ticipate in this campaign, forgetting the uncertainties of the navigation of Red river, forgetting that we might be defeated. If we had reached Shreveport, what would have been the result? The rebel army would have retreated further south into Texas. It would have resulted in nothing but to get a few bales of cotton. That is the reason it was undertaken—for gain. I do not say for gain for the officers or men, but the expedition itself was ill-timed, and stands forth before the world as the most mismanaged and most disastrous expedition of the war.

Mr. DOOLITTLE. One word by way of reply. This expedition upon the Red river, as I am informed, received the sanction of General Curtis, General Steele, General Banks, General Sherman, and the War Department, including the sanction of Lieutenant General Grant, and I undertake to say that if it had been managed in such a way that we had captured Shreveport we should have accomplished in that operation one of the grandest successes that we have accomplished at all. We should have secured Arkansas; we should have relieved the Indian country and Kansas from all danger; we should have threatened the enemy in Texas by the advance of a column in overwhelming force in Texas, where we could have met our friends who still exist in large numbers in western Texas, and it would have given us the whole of the country west of the Mississippi river. I regret as much as the Senator from Kansas, or any other man can, the fact that we have met with a reverse in this expedition. The mismanagement rests somewhere. I do not object to an inquiry into that mismanagement, or that the committee on the conduct of the war should inquire into it. I desire that the real truth should be known, to cover up nothing; but I am not satisfied to have the Senator from Kansas in such strong language denounce the whole project of the expedition upon Shreveport, and turn it off by saying it was a mere speculation in cotton. Mr. President, I have no idea that General Curtis, or General Steele, or General Banks, or General Grant, or the War Department, had any idea they were making an expedition for the capture of cotton. No, sir. It was to take possession of the country beyond the Mississippi, and to settle it for the Union and the Union cause.

Mr. GRIMES. I have no knowledge as to who originated the campaign, and I have no criticism to make as to its conduct; but the remarks which have been made by gentlemen here certainly ought to convince us that there should be a general investigation into the subject. It is of no use to conceal the fact that in portions of the country, and especially in those States from which the army was raised that fought under General Banks, there is an intense indignation against him, and I think there ought to be an opportunity for the public mind to be quieted on this subject.

The Senator from Kansas speaks about the lowness of water in the Red river, and he says it ought to have been known that there would not be water enough there to navigate the gunboats. I think it will turn out upon investigation—I am so informed at any rate—that that was something which could not have been guarded against, for the reason that at this season of the year there is generally water enough in the Red river, but the rebels very adroitly changed the current of the river into one of those bayous which so much abound in Louisiana and carried off a large portion of the volume of water that ordinarily flows through that stream in another direction into the Gulf of Mexico, and thus reduced the water in the river, so that vessels were immediately put aground. If this be so, it is due to General Banks and the men who cooperated with him, and to the other officers of the Army who were said to have given their approval of this expedition, that this fact should be developed in some authentic way before some organ of this body. It is due to them that that fact should be made public if it be a fact, and I was informed on Sunday by an officer who left the fleet nine days before that it was a fact. It is due, I think, to all parties, to the public sentiment of the country, to the Government, to the officers of the Army and Navy who had charge of the expedition, that there should be a fair inquiry into the facts connected with it. I have submitted an amendment changing the resolution into a concurrent resolution, and chang-

ing the character of the inquiry so as to make it a general inquiry into the administration of the department.

The PRESIDING OFFICER, (Mr. ANTHONY.) The amendment of the Senator from Iowa is to make the resolution read as follows:

*Resolved by the Senate,* (the House of Representatives concurring,) That the joint committee on the conduct of the war be requested to investigate the causes of the recent disasters on Red river, and inquire into the general administration of that department, with power to send for persons and papers.

Mr. LANE, of Kansas. I desire to make one remark in answer to the Senator from Wisconsin. With Steele's troops at Little Rock, and Thayer's troops at Fort Smith, Kansas and the Indian country were secure against even guerrillas; we were keeping guerrillas out of the country. I say that the movement of Thayer's troops and Steele's troops on Shreveport, even if there had been a success, endangered the Indian country, and endangered the State I have the honor in part to represent. The only way to defend the Indian territory is by troops in its immediate vicinity. You withdrew them to Shreveport, and opened up the Indian territory and Kansas and Missouri to the incursions of guerrillas. So far as the protection of Arkansas, so far as the protection of the Indian territory, so far as the protection of Kansas was concerned, it was much better that Steele had remained at Little Rock and Thayer at Fort Smith. The Senator from Wisconsin is mistaken. Here is Kansas, which has furnished sixteen thousand troops, and to-day her citizens are exposed from south to north; the families of those gallant soldiers exposed to the murderous Quantrell by this mistake. It is charity to denominate the movement a mistake.

I have avoided criticising our authorities as carefully as the Senator from Wisconsin; I am as desirous to sustain them as the Senator from Wisconsin; but here is my own State calling now for assistance, with only something like fifteen hundred troops within her borders out of the sixteen thousand she has furnished, with her whole southern and eastern border exposed to the incursions of guerrillas, and her brave soldiers hundreds, and some of them thousands of miles from her border, while their families are being exposed to Quantrell's murderous bands, owing, as I believe, to a mistake from some source. I do not know from what authority the Senator from Wisconsin speaks when he says that General Curtis sanctioned this expedition. I would like him to give me that authority. I do know that for months, ever since that gallant general assumed command of the department of Kansas, he has been demanding troops for the protection of his department; and I cannot believe that General Curtis sanctioned an expedition that took from Kansas almost all the protection she had. I would like also to know the authority that authorized the Senator from Wisconsin to state that General Banks sanctioned this expedition. I stated here a few moments since that I had understood that this expedition originated from a western general, that it came here and was reluctantly indorsed, and that it was in direct violation of the wishes of General Banks and contrary to his judgment. Now, I ask the Senator from Wisconsin, when he states that General Curtis sanctioned this expedition, to give his authority. If the statement I have made that General Banks was opposed to this expedition be true, I ask him, in justice to me as well as in justice to General Banks, to state his authority that authorized him before the nation to state that that officer sanctioned this expedition.

Mr. DOOLITTLE. I do not feel at liberty to refer to those letters and papers which I have seen, which purport to be copies of letters of General Banks and other gentlemen in relation to these matters, and state the contents of them. I will state to my friend from Kansas that I believe such to be the fact.

Mr. LANE, of Kansas. I am especially anxious to know. The statement that the Senator from Wisconsin has made will be extremely damaging to General Curtis, and unless he can state with a knowledge of what he says that General Curtis sanctioned this expedition, I should like to have him withdraw the allegation altogether.

Mr. DOOLITTLE. I do not state that I have any means of knowledge within my power that General Curtis sanctioned this precise expedition;



but I think I have knowledge, and I think the Senator from Kansas must have knowledge, that General Curtis desired to lead just such an expedition into this portion of Texas from the Indian country himself.

Mr. LANE, of Kansas. I cannot permit that remark to be made, certainly. I have no knowledge that General Curtis at this time, in the present unprotected situation of Kansas, desired such an expedition as this. I state, and I desire that to go to the country, that General Curtis, backed by the congressional delegation, has been, to my knowledge, for the last four months urging the Government to send him troops to protect his department.

Mr. DOOLITTLE. And was it not to make an expedition into western Texas, too?

Mr. LANE, of Kansas. I did not so understand it.

Mr. DOOLITTLE. I did.

Mr. LANE, of Kansas. He may have wanted troops for an expedition into the Indian country, not for any expedition away from the Indian country.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Iowa, [Mr. GRIMES.]

The amendment was agreed to; and the resolution, as amended, was adopted.

#### CONTRACTORS FOR DOUBLE-ENDERS.

Mr. HALE. I move to postpone prior orders, and take up Senate joint resolution (S. No. 50) for the relief of the contractors for the machinery of the side-wheel gunboats known as double-enders.

The motion was agreed to; and the joint resolution was read a second time, and considered as in Committee of the Whole. It proposes to authorize the Secretary of the Navy to appoint a board of competent persons to examine the claim of the contractors with the United States Government for the machinery of the side-wheel gunboats commonly known as "double-enders," for additional compensation for constructing the same, and to report to the Department what losses have been suffered by the contractors upon their contracts, how far they are justly entitled to relief, and what, if any, additional allowances ought in equity to be made to them by the Government; and upon the report of the board receiving the approval of the Secretary of the Navy, the Secretary of the Treasury is to pay to the contractors, severally, the sums adjudged to be due them in equity by the board, but such additional compensation is in no case to exceed an amount which, compared with the price stipulated in the contract, shall be in due proportion to the excess in weight of the engines built over such as were contracted for, except for alterations in form or material made by express order of the Government.

Mr. HALE. The facts are all stated in the report, and I wish that the report may be read.

The Secretary read the report made by Mr. HALE on the 4th instant, from which it appears that at different dates, from March 20, 1862, to October 29, 1862, the Navy Department entered into contracts with various iron-works and firms of New York, Philadelphia, Boston, Baltimore, Providence, Portland, Newburg, Wilmington, and Chester, for the machinery of the gunboats known as "double-enders," stipulating for twenty-eight engines in all, at prices varying from \$73,000 to \$85,000, nearly all of them, however, at the uniform rate of \$82,000 each. The engines have all been completed after considerable delays, which the contractors claim to be justified by an understanding with the Department that the time named in the contracts for their fulfillment was not to be insisted upon with exactness nor the forfeiture of part of the price therein named in case of delay. The petitioners, alleging that they suffered great losses on these contracts, now come to Congress and ask relief upon the ground that the prices were fixed by the Navy Department in offering these contracts to them, and accepted by them under an entire misapprehension and mistake as to the cost of the work because,

1. The drawings were not made until after the time allowed for the acceptance of the contracts, and the specifications alone could not afford sufficient data for estimating the expense.

2. The work has been done under the direction of inspectors who have given to every part of the

contract such a construction as to require the best and most costly work.

3. The expenditure has been greatly enhanced by the action of the Government in various matters not anticipated, and which could not be foreseen when the contracts were made, causing difficulties in obtaining the necessary materials, and increasing the cost of all materials and labor, while the currency in which payment is made has been constantly diminishing in value.

The petitioners further allege that they have used all diligence in fulfilling their contracts with all the means at their command, and that they have completed the work in the most thorough manner, after it was rendered certain that they were doing so at a pecuniary sacrifice, and in the hope and expectation that the Government would finally reimburse them by additional compensation for their inevitable losses. A considerable number of the petitioners have appeared before the committee, and to some extent have been heard, verbally and by papers submitted to the committee, since the subject was referred to them by the Senate. These contractors further represent that they expected to furnish engines similar to those of the Paul Jones, a vessel with which they were familiar, and photographic general plans of whose engines were furnished by the Department at the time these contracts were made, as a guide for making, with slight modifications therein specified, the detailed drawings for the engines they were to build; that at that time the detailed specifications were not printed, or, if printed, had not been furnished them, and they relied upon the estimate of the chief engineer, and his assurance that the weight of the required engines would be about the same as that of the Paul Jones, and would not, in any event, exceed that weight more than fifteen per cent.; but that, in fact, the engines, when completed, exceeded in weight very largely both the estimate and their expectations. The contractors also submit that they undertook the work at the urgent request of the Department, at a price fixed by them, and were influenced to do so by a desire to serve the Government under circumstances then existing which required the vessels to be afloat as soon as possible. These are substantially the allegations upon which the contractors base their claim upon the Government for additional remuneration.

The committee have examined the case presented far enough to satisfy themselves that there is probable ground for some relief to be afforded the petitioners by Congress. But the proper measure of relief to be granted them would depend upon a variety of considerations—such as the truth of the representations of the petitioners; the actual cost of the work to the contractors, exclusive of time and profits, over and above the contract price in each case; how far the weight and amount of materials in the engines actually exceed the estimates and expectations of the contracting parties; to what extent the Government is justly responsible for this error, and how far it is due to improvidence and lack of business sagacity on the part of the contractors; how far the unexpected cost of the engines is simply owing to unnecessary delays or to changes in the market prices of materials and labor, which the Government could not provide against and should not be held responsible for; and whether any deduction should be made for the delay in failing to complete the machinery at the time stipulated in the contracts. It should be remembered also that while the Government must now, as at all times, be just, it can scarcely afford to be liberal at a period, like the present, of extraordinary demand upon all the resources of the country; and also that obvious danger would lurk in a precedent affording relief to parties for losses accruing merely from the recklessness or imprudence of Government contractors.

Two questions in this connection, therefore, are suggested for consideration, namely: first, whether relief should be granted at all; and second, if any be granted, whether it should be simply an amount sufficient to make good the losses, or whether an allowance should also be made for time and legitimate business profits.

Moreover, there being eighteen different parties interested in these contracts with the Government, each case should be examined by itself and upon its own merits, because the committee conceive that while there may be good cause for re-

lief in some cases, an application for it in others may have no equitable foundation whatever. A just determination of all these questions of fact and of principle would involve a protracted examination, the taking of a great amount of testimony, and the collection of other evidence touching these claims. For want of the technical knowledge requisite to an intelligent understanding of the details of the case, the committee do not deem themselves specially competent to this task, even if the business of the Senate would afford them time for the investigation. They have not, therefore, sought to institute any inquiry into the subject further than to justify the conclusion which they announce, that, in view of the eminent character of these memorialists, the importance to the country and the purposes of the Government of the industry which they represent, and the credit due to their statements, the claim which they prefer is one which deserves the attention of the Government. The committee, after due deliberation, are of the opinion that a board of skilled and disinterested persons would be, in a higher degree than themselves, competent to ascertain the facts and determine upon the merits of this claim in a manner just and equitable to both Government and contractors, and therefore recommend the adoption of the pending joint resolution.

Mr. GRIMES. I should like to know whether the Navy Department has been made acquainted with the facts connected with this resolution and report, and whether there has been any correspondence between the Naval Committee and the Navy Department on this subject, and what the views of the Department are as to the propriety of passing this resolution.

Mr. HALE. I will state the grounds upon which the committee based the resolution and all the facts in their possession. These firms—I think there are eighteen of them—constitute the great mass of gentlemen who are engaged in this sort of work in the United States. The contractors have been before the committee a number of times and we have heard them with a good deal of patience; but we came to the conclusion that it would be utterly impracticable and impossible for the committee to undertake to settle these questions. We submitted the memorials to the Secretary of the Navy, and the Secretary of the Navy gave us a written answer which I have sent for; it is in the committee-room. If the Senate have heard the report as it has been read, it will be seen that these contractors entered upon these contracts relying very much upon the representations made to them, and in fact commenced the work some time before the contracts were actually executed. Indeed, the contracts never were executed, and in the mode of conducting the business of the Department it may be said these contracts are never executed except in one particular. The contracts are sent out; there are various stipulations in them; the contractor signs them, and they are returned and are placed on file in the Navy Department. That is understood to be the way in which they are generally done.

These gentlemen contended that there had been various alterations made, not only from the contracts, but from the proposals which were published in the advertisement inviting bids; and that after they had made their agreement and contract there were various alterations made in weight and in the mode of construction. The committee thought they were such a good ground for equitable relief, but it would be impossible for them to come to anything like an estimate of what it should be, and they thought the most safe and prudent way would be to refer it to the Navy Department with authority to appoint a board of their own selection to make the examination and report what allowance should be made.

These contractors represent that they were told at the time, although the terms were strict and rigid, that they would not be held to a strict compliance with them. The Secretary of the Navy in his answer does not admit the accuracy of that statement. But there was submitted to the committee, by a Mr. Boardman, the agent for one of these firms who had built these engines, a distinct statement that such was the fact; that although the time was specified, the Government would not hold them to a strict performance within that time.

As I said before, these gentlemen are engaged

in this work, and they represent themselves to have suffered very largely from various considerations that have been suggested. The committee thought it would not be wise in the Government to exact to the letter the performance of the contracts when various alterations and additions had been made, but thought it best to refer it back to the Secretary of the Navy, giving him power to ascertain by a board how the matter stood. That is the whole of it. I have not the letters here, but they are in the committee room.

Mr. GRIMES. I think it may be necessary, in order to have a proper understanding of this case, that those letters should be here, and I therefore move that this resolution be postponed until to-morrow. I will state to the Senate that it is a matter of a great deal more magnitude than they might at the first blush suppose. Upwards of six hundred thousand dollars are involved in it, and I have reason to believe that the public service would not be promoted by the passage of the bill. Whenever this bill passes, there is to be another one following it immediately for every class of vessels that have been built for the Navy. These contractors enter into contracts agreeing to furnish a vessel by a certain time. None of them do it. I know that we have not yet got some vessels that were due to the Government last September. These contractors can get more profitable work from individuals, and they proceed to execute that, thinking they can come to Congress and get an act for their relief, to extend the time or to pay them for any extra services they profess to have rendered. In that way the Department is able to hold no control whatever over the contractors. In order to enable the chairman of the Committee on Naval Affairs to procure that correspondence between the Navy Department and the Committee on Naval Affairs, I move that the further consideration of the resolution be postponed until to-morrow.

Mr. HALE. I have no objection, if it be made the special order. This matter is of some importance, and if there is to be any relief to these contractors they ought to know it, and if there is to be no relief to them they ought to know it also. I have no objection to the motion, if the resolution be made the special order for one o'clock to-morrow.

The PRESIDING OFFICER, (Mr. ANTHONY.) Does the Senator from Iowa accept that amendment of his motion?

Mr. GRIMES. I have nothing to do with making a special order. I only want to give the Senator an opportunity to procure that correspondence.

Mr. SHERMAN. I object to making this resolution a special order. If it passes, it will only be the beginning of five hundred similar bills. We shall have similar appeals from contractors who agreed to furnish flour or supplies to the Government, and they will have precisely the same claim. Every person who by the rise of prices has lost money by his contract will have the same claim. The principle would apply to all the various departments of the Government, and I think would produce disorder and confusion. I certainly would not agree to have a resolution of this sort involving private interests made a special order, and in that way postpone the consideration of general business.

Mr. HALE. It is a great mistake to suppose that there is any such analogy as that suggested by the Senator from Ohio. It is a principle recognized in society by every man in the case of a contract, whether it be for the building of a ship or a house, or anything else, that if the builder, relying upon the honor of the person by whom he is employed, is directed by him to make alterations different from those specified in the contract, there is an implied obligation that the man who orders those alterations shall pay the man who makes them. It is upon this ground that this resolution is based; that the vessels were different from those contracted for.

There is another consideration very different from that; and that is, these gentlemen began to build these vessels, and got them in such a state of forwardness before the contracts and specifications were furnished, that they were at the mercy of the Department, and they would have been obliged to lose a great amount, all the money that had been invested in them, if they had not submitted to the requirements of the Department.

Mr. GRIMES. I should like to inquire if these facts appear in evidence, and if they are admitted in the correspondence between the Naval Committee and the Secretary of the Navy?

Mr. HALE. They do not appear in the correspondence.

Mr. GRIMES. Are they not denied?

Mr. HALE. I do not understand it so. However, I can have the correspondence here to-morrow.

The PRESIDING OFFICER. The question is on the motion of the Senator from Iowa to postpone the further consideration of the joint resolution now before the Senate until to-morrow.

Mr. HALE. Before that is done, there is a verbal amendment that I desire to make in the twenty-first line of the resolution. I move to strike out the word "contracted" and to insert the word "bargained," because the contract was not actually executed.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the motion to postpone the resolution until to-morrow.

The motion was agreed to.

#### ENLISTMENTS IN THE SECEDED STATES.

Mr. WILSON. I move to take up the bill (H. R. No. 261) to provide for the voluntary enlistment of any persons resident in certain States in the regiments of other States. ["Oh, no."] I want to settle it one way or the other.

The motion was not agreed to.

#### FRIENDLY SIOUX INDIANS.

Mr. DOOLITTLE. I ask the Senate to take up the bill for the relief of the friendly Sioux Indians which is now lying on the table.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 225) for the relief of certain friendly Indians of the Sioux nation in Minnesota.

Certain Indians of the Sioux nation, during the outbreak in Minnesota in 1862, at the risk of their lives aided in saving many white men, women, and children from being massacred, and, in consequence of such action, were compelled to abandon their homes and property, and are now entirely destitute of the means of support. The bill therefore authorizes and requests the President of the United States to cause an examination to be made in relation to all the facts pertaining to the action of those Indians, and to make such provision for their welfare as their necessities and future protection may require. For the purpose of carrying out the provisions of this act the sum of \$10,000 is appropriated.

The Committee on Indian Affairs reported the bill with two amendments. The first amendment was in section two, line three, to strike out "\$10,000" and insert "\$7,500."

Mr. DOOLITTLE. I will ask the attention of the Senate for a moment, as they may not understand this case. The honorable Senator from Iowa [Mr. HARLAN] introduced this bill, which was referred to the Committee on Indian Affairs. It was based upon the representations of gentlemen from the State of Minnesota cognizant of the facts—Bishop Whipple, of Minnesota, and the Representatives and Senators from Minnesota who personally knew something of the facts—and also from the statement of one Mr. Galbraith, who was the agent of the Indians in Minnesota, a letter from whom I have since received and hold in my hand, and as it is very short I will read it to the Senate:

WASHINGTON, April 23, 1864.

Sir: Permit me through you to say a word to your committee upon a little matter, which lies closer to my heart than most things. A Sioux Indian chief, named Am-pe-tu-to-ke-cha, Christian name John Otherday, saved my wife and children and fifty-eight whites besides, at the time of the Sioux Indian massacre in August and September, A. D. 1862. How he saved I shall not now stop to say—I know he saved them.

I want the Government by some substantial aid to recognize this act of Christian heroism. I pray for it; I beg for it. Hon. WILLIAM WINDOM, of the House of Representatives, will furnish you the facts in this matter.

I am, sir, in haste, very respectfully, your obedient servant,  
THOMAS J. GALBRAITH,  
Indian Agent.

Hon. JAMES R. DOOLITTLE, United States Senate, Chairman Committee on Indian Affairs, &c.

The facts show that this Otherday, who is one of the chiefs, with certain other Indians there, performed acts of Christian heroism in saving our

white people from massacre that demand recognition at the hands of the Government. I fully concurred in the purpose of the Senator from Iowa in the bill which he introduced, but when we came to examine it and discuss it in detail we thought the sum of \$7,500 would be sufficient, \$2,500 of which by another amendment is to be used for the purpose of securing probably a farm in the State of Minnesota for this chief Otherday, and the remaining \$5,000 is to be paid to the other Indians who were engaged in this glorious work of saving our people from massacre.

Mr. SUMNER. How much did the bill originally appropriate?

Mr. DOOLITTLE. Ten thousand dollars; but we thought the sum of \$2,500 for the chief, and the other sum of \$5,000, to be distributed among the other Indians according to the terms of the bill, would be about right.

The PRESIDING OFFICER. The question is on the amendment of the committee.

The amendment was agreed to.

The next amendment of the committee was to add at the end of section two the following:

One third of said sum to be paid and expended for the benefit of Am-pe-tu-to-ke-cha, or John Otherday, and the remainder for the benefit of such other Indians as shall appear specially entitled thereto, for their friendly, extraordinary, and gallant services in rescuing white settlers from massacre in Minnesota: *Provided*, That not more than the sum of \$500 shall be expended for the benefit of any one Indian, except the chief above mentioned; and that the Secretary of the Interior shall report to the next Congress the names of the Indians for whose benefit the same shall be expended, and the amount expended for each.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### INDIAN AGENT NEAR GREEN BAY.

Mr. DOOLITTLE. I desire now to call up Senate bill No. 247, in relation to the salary of the United States agent for Indians near Green Bay. He is the only Indian agent, I believe, that we have in the United States whose salary is less than \$1,500. He has three small tribes of Indians upon his hands. I desire his salary to be like that of all other agents. That will end my list of bills for this morning.

The motion was agreed to; and the bill was read a second time, and considered as in Committee of the Whole. It directs that the salary of the agent of the United States for the Indians in the vicinity of Green Bay shall hereafter be fixed at the sum of \$1,500, to commence with the next fiscal year.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### ACCEPTANCE OF BRITISH PRESENT.

Mr. SUMNER. I ask the Senate to proceed to the consideration of Senate resolution No. 51. It will take no time. It merely proposes to allow one of our surgeons to receive a testimonial from the British Government.

The motion was agreed to; and the joint resolution (S. No. 51) authorizing the acceptance of a certain testimonial from the Government of Great Britain was read the second time, and considered as in Committee of the Whole. It authorizes Surgeon Solomon Sharp, of the Navy of the United States, to accept the piece of plate recently presented to him by the Government of Great Britain as a mark of high appreciation of the unremitting attention and kindness shown by him to certain officers of the British ship Greyhound while in the naval hospital under his charge at Norfolk, Virginia.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### MILITARY INTERFERENCE WITH ELECTIONS.

Mr. POWELL. I move that the bill (S. No. 37) to prevent officers of the Army and Navy, and other persons engaged in the military and naval service of the United States, from interfering in elections in the States be taken up, not for the purpose of considering it to-day, but with a view to make it the special order for Friday next; so that on Friday the Senator from Maryland, [Mr. JOHNSON,] who desires to address the

Senate upon it, may have an opportunity to be heard.

The motion to take up the bill was agreed to. Mr. POWELL. I now move that it be made the special order for Friday next at one o'clock.

Mr. CLARK. I object.  
The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) It requires a vote of two thirds to make the bill a special order.

Mr. POWELL. I hope the Senate will allow it to be made a special order. The bill has been very elaborately discussed, and I think it will take but very little more time in discussion. The Senator from Maryland desires to make an argument upon it. I wish to fix a day for its consideration, and then dispose of it. I move that it be made the special order for Friday next at one o'clock.

Mr. CLARK. I hope that will not be done. I do not think we ought to make any bill of that kind a special order at this stage of the session. There may be on Friday some very important business, very much more important than that, that should be considered, and I hope the time will not be preoccupied by making this a special order. I do not think it should be done.

Mr. POWELL. If there are any revenue bills to be considered on Friday, I will not press it against them; but this is a very important bill, and I think we ought to consider it.

Mr. CLARK. I will suggest to the Senator that at any time when the Senate may not be preoccupied, he can move to take up the bill, and a majority of the Senate can take it up and consider it; but now it requires a vote of two thirds to make it a special order; so that if he lets his bill lie along, if he really wants to take it up, he can make the motion at a convenient time, and a majority vote will be sufficient; but now it requires two thirds.

Mr. POWELL. I certainly do really desire to take it up, and I now notify the Senate that I shall move to take it up on Friday. Perhaps, however, I can get a vote of two thirds for this motion; and so I insist on the motion.

Mr. JOHNSON. When the bill is taken up I desire to address the Senate, and it makes no difference to me whether I speak on Friday or at any other time. I have no desire to have it made the order of the day for any particular day. An opportunity will occur, when the Senate is not engaged in business which it may think more important, when it will permit me to address it on the subject.

Mr. CLARK. I dare say that if the Senator desires to address the Senate, the Senate at a convenient time will be glad to hear him, and will take up the bill at any convenient time when he desires to be heard.

Mr. JOHNSON. That will satisfy me.  
Mr. FOOT. To that end, I move that the bill lie on the table, and then it will be subject to the motion of any Senator who may desire to be heard upon it at any time, and it will be within the control of a majority of the Senate, and I presume the Senator from Maryland can rely upon a hearing whenever he shall desire to address the Senate on the subject. I move that the bill lie on the table.

Mr. POWELL. Mr. President—  
The PRESIDING OFFICER. The motion of the Senator from Vermont is not debatable.

Mr. POWELL. I do not mean to debate it. I only wish to withdraw my motion, and to give notice that on Friday at one o'clock I shall move to take up the bill.

The PRESIDING OFFICER. The Senator from Kentucky withdraws his motion.

Mr. FOOT. The question is on my motion that the bill lie on the table.

The motion was agreed to.

#### VOLUNTEER NAVAL APPOINTMENTS.

Mr. HALE submitted the following report:  
The committee of conference appointed to take into consideration the disagreeing votes of the two Houses on the bill (H. R. No. 370) to appoint certain officers of the Navy, having met, after full and free conference have agreed and do recommend to their respective Houses as follows:

That the House of Representatives concur in the first amendment of the Senate, and that the Senate recede from the other amendments made by it to the bill.

JOHN P. HALE,  
W. T. WILLEY,  
ALEXANDER RAMSEY,  
Managers on the part of the Senate.  
F. A. PIKE,  
WILLIAM D. KELLEY,  
Managers on the part of the House.

Mr. HALE also submitted the following report:

The committee of conference appointed to take into consideration the disagreeing votes of the two Houses on the bill (S. No. 76) entitled "An act relating to appointments in the naval service and courts-martial," having met, after full and free conference have agreed and do recommend to their respective Houses to agree as follows:

That the House of Representatives recede from its vote striking out the first section of the bill, which shall be amended so as to read as follows:

Hereafter all appointments in the volunteer naval service of the United States above the rank of acting master shall be submitted to the Senate for confirmation in the same way and manner as appointments in the regular Navy are required to be submitted.

JOHN P. HALE,  
W. T. WILLEY,  
ALEXANDER RAMSEY,  
Managers on the part of the Senate.  
F. A. PIKE,  
WILLIAM D. KELLEY,  
Managers on the part of the House.

#### QUARTERMASTER'S DEPARTMENT.

On motion of Mr. WILSON, the bill (S. No. 154) to provide for the better organization of the quartermaster's department, was considered as in Committee of the Whole. It provides that there shall be established in the office of the Quartermaster General of the Army the following divisions, each of which shall be placed in the charge of a competent officer of the quartermaster's department, to be assigned to such duty by the Secretary of War, who shall, under such rules as may be prescribed by the Quartermaster General, with the approval of the Secretary of War, transact the business of such division.

The first division is to have charge of the purchase, procurement, and disposition of horses for cavalry, artillery, wagon, and ambulance trains, and all other purposes for which horses may be procured for the armies of the United States. The second division is to have charge of the purchase, procurement, issue, and disposition of cloth and clothing, knapsacks, camp and garrison equipage, and all accoutrements of the soldier which are provided by the quartermaster's department. The third division is to have charge of the purchase, charter, hire, and maintenance of all vessels to be used in the transportation of the Army, and of prisoners of war, and of their supplies, on the ocean, and the bays and sounds connected therewith, and upon the northern and northwestern lakes, including all vessels propelled by steam or otherwise, owned or employed by the War Department, excepting river steam vessels upon the western rivers. The fourth division is to have charge of the purchase, charter, hire, maintenance, and procurement of all transportation for the Army, and its supplies by land and upon western rivers, (other than transportation by animal power in the field, and at camps, garrisons, posts, depots, and stations,) including all railroad and telegraph lines operated by the United States for military purposes, and of all steam rams and gunboats owned or employed by the War Department upon the western rivers, until other disposition shall be made of them by competent authority. The fifth division is to have charge of the purchase, procurement, issue, and disposition of forage and straw for the Army. The sixth division is to have charge of the erection, procurement, maintenance, disposition, &c., of all barracks, hospital buildings, storehouses, stables, bridges, (other than railroad bridges,) wharves, and other structures composed in whole or in part of lumber, and of all lumber, nails, and hardware for building purposes, and of the hire and commutation of quarters for officers, the hire of quarters for troops, the hire of grounds for cantonments or other military purposes, and the repair and care of all buildings and other structures in this act mentioned, and of all grounds owned, hired, or occupied for military purposes, except such as are lawfully under the charge of other bureaus of the War Department; and of extra pay to soldiers employed in erecting barracks or other fatigue duty, under the acts of March 2, 1819, and August 4, 1854. The seventh division is to have charge of the purchase, procurement, issue, and disposition of all wagons, ambulances, traveling forges, and harness, (except such as are furnished by the ordnance department,) and of all hardware except as hereinbefore provided; and of all fuel for officers and enlisted men, camps, garrisons, hospitals, posts, storehouses, offices, public transports, steam rams, and Army gunboats, and of all

transportation by animal power in the field, at camps, garrisons, posts, depots, and stations; and of the construction and repair of roads other than railroads; and of the compensation of wagon and forage masters, and of clerks to officers of the quartermaster's department; and of the purchase of heating and cooking stoves; and of the expenses of courts-martial, military commissions, and courts of inquiry; and of mileage and allowances to officers for the transportation of themselves and their baggage when traveling upon duty without troops, escorts, or supplies; and of supplies for prisoners of war and such refugees as the Secretary of War may direct to be temporarily provided for; and of the purchase of stationery, blanks, and blank-books for the quartermaster's department; and of the printing of the division and department orders and reports; and of the proper and authorized expenses for the movements and operations of an army not expressly assigned to any other division or department. The eighth division is to have charge of all inspections of the quartermaster's department and of all reports made by officers assigned to inspection duty, analyzing and preserving the reports as received, and communicating, through the Quartermaster General, to the chiefs of the proper divisions such portions of these reports as may be necessary for their information and use. The officers assigned to inspection duty are to have power not only to report and to point out any errors or abuses which they may discover in the practical operations of the quartermaster's department, but to give, by order of the Quartermaster General, the orders which may be immediately necessary to correct and to prevent a continuance of such abuses or errors. All such orders are to be immediately reported to the chief of the inspection division for the approval or otherwise of the Quartermaster General. The ninth division is to have charge of all the correspondence, returns, reports, and records received, filed, and preserved in the office of the Quartermaster General, and of the transmission thereof to the several other divisions of that office and Departments of the Government.

The supplies and material for the principal depots of the quartermaster's department are to be purchased after due public notice by the heads of the several divisions, except in cases of supplies procured within the field of active military operations, which are purchased or taken from the inhabitants of the seat of war or its immediate vicinity, and except in case of emergency not admitting of delay. In military departments west of the Missouri river, or so remote from the seat of Government as to make this mode of supply inexpedient, the Secretary of War may, in his discretion, assign to officers of the quartermaster's department the duty of making purchases and contracts for such military departments, in whole or in part, and of making payments therefor. Such officers of the quartermaster's department so authorized to make purchases are not to inspect, measure, weigh, or receive the articles purchased or contracted for by them, but such inspecting, measuring, weighing, and receiving is to be performed by the quartermasters attached to the commands or depots for whose use the articles are purchased or contracted for.

The heads of the several divisions under the direction of the Quartermaster General are from time to time to advertise for proposals for the supplies necessary for the movements and operations of the several armies, posts, detachments, garrisons, hospitals, and for other military purposes, in newspapers having general circulation in those parts of the country where such supplies can be most advantageously furnished, having regard also to the places where such supplies are to be delivered and used; and all such supplies so purchased or contracted for are to be subject to careful inspection, and all clothing and camp and garrison equipage is to be subject to a double inspection, first, as to the quality of the material, and second, as to the kind and character of the workmanship, which inspection in all cases is to be performed by or under the direction of the officers in charge of the depots where such supplies may be ordered to be delivered, or by or under the direction of the quartermasters of the commands for whose use they may be purchased or contracted for; and all payments for supplies so purchased are to be made by the officers in charge



of the several divisions above mentioned, upon receipts or certificates from the officers inspecting and receiving such supplies, prepared in such form and attested in such manner as may be prescribed by the Quartermaster General. But purchases made in the field may be paid for by the officers authorized to make such purchases, and payments for hire of persons employed at the several depots, or in the operations of the quartermaster's department in the field; payments for mileage to officers, commutation of their fuel and quarters, allowances to officers attending courts-martial and military commissions, the expenses of such courts and commissions, occasional freights earned by vessels and steamboats, and by transportation, stage, and railroad, or other transportation companies, when not exceeding the sum of \$5,000, may be made by officers of the quartermaster's department who may be charged with such duty.

It is to be the duty of the Quartermaster General to establish depots, from time to time, at places convenient to the principal armies in the field, for receiving and distributing the supplies necessary for such armies, and for the detachments, posts, and hospitals most accessible to such depots; and the business of inspecting, weighing, measuring, and receiving supplies for such armies, detachments, posts, and hospitals, and of giving receipts or certificates therefor to the persons furnishing such supplies, is to be carried on as far as practicable at such depots; but the Quartermaster General, or the heads of the several divisions above mentioned, may cause such supplies to be sent from the place of purchase directly to the quartermasters of the commands for whose use they are procured, in any cases where it may be more economical or advantageous so to do; and in cases where horses, clothing, or camp and garrison equipage may be so sent, suitable and competent inspectors are to be sent to examine the same before they are issued and receipted for.

When an emergency shall exist requiring the immediate procurement of supplies for the necessary movements and operations of an army or detachment, and when such supplies cannot be procured from any established depot of the quartermaster's department, or from the head of the division charged with the duty of furnishing such supplies, within the required time, then it is to be lawful for the commanding officer of such army or detachment to order the chief quartermaster of such army or detachment to procure such supplies during the continuance of such emergency, but no longer, in the most expeditious manner; and it is to be the duty of such quartermaster to obey such order; and his accounts of the disbursement of moneys for such supplies are to be accompanied by the order of the commanding officer, or a certified copy of the same, and also by a statement of the particular facts and circumstances, with their dates, constituting such emergency.

All quartermaster's supplies for the use of the armies of the United States, except as provided in the preceding sections, are to be obtained from the established depots of the quartermaster's department, or from the heads of the several divisions in such manner, not inconsistent with the provisions of this act, as the Quartermaster General may prescribe.

It is to be the duty of the Quartermaster General, immediately after the passage of this act, and at least once in every three months thereafter, to require from the principal quartermasters of the several military departments and depots approximate statements of the aggregate amounts of supplies on hand and estimates of the additional amounts required for the service for the ensuing three months, stating at what places such supplies will be required and what amounts are legally contracted for but not yet delivered. And it is to be the duty of the heads of the several divisions to purchase or contract for the supplies which the Quartermaster General may estimate to be necessary in accordance with law, and all quartermasters are forthwith to turn over to the Quartermaster General, to be assigned to the heads of the several divisions; all contracts not yet fulfilled which they may have executed on behalf of the United States, and all proposals which they may have received in answer to advertisements for future supplies; and if any quar-

termaster shall neglect or refuse, for the space of one month, to turn over to the Quartermaster General any such contract, such neglect or refusal is to be deemed *prima facie* evidence of fraud, and it will be the duty of the Quartermaster General to notify the Treasurer of the United States of such neglect or refusal, and the Treasurer of the United States is thereupon to suspend payment of all checks or drafts of such quartermaster, and the pay of such quartermaster is to be stopped until he shall have made a satisfactory explanation to the Secretary of War of such neglect or refusal. If an emergency shall exist, as provided in the fifth section of this act, and the Quartermaster General shall believe that the public interests will be promoted by allowing any such contract to remain in the hands of the quartermaster who executed the same, then such contract may remain in the hands of such quartermaster for the space of two months, and no longer.

All inspectors of horses, clothing, fuel, forage, lumber, and other supplies of the quartermaster's department are to be sworn (or affirmed) to perform their duties in a faithful and impartial manner, and for any corruption, willful neglect, or fraud in the performance of their duties they are to be liable to punishment by fine and imprisonment, by sentence of court-martial or military commission; and if any contractor or person furnishing such supplies shall give, or offer to give, to any inspector of such supplies, or to any other person for his use, directly or indirectly, any money, or other valuable consideration, such person giving, or offering to give such money, or other valuable consideration, is to forfeit to the United States the full amount of his contract or contracts with the United States, and the name and offense of such person is to be published in general orders, and also in one newspaper of general circulation at his place of residence, and it will be unlawful thereafter for any officer of the United States to make any contract with such person.

If any contractor or person furnishing supplies or transportation shall give, or offer to give, or cause to be given, to any officer or employee of the quartermaster's department having charge of the receipt or disposition of the supplies or transportation furnished by him, or in any way connected therewith, any money or other valuable consideration, directly or indirectly, all contracts and charters with such person are, at the option of the Secretary of War, to be null and void; and if any officer or employee of the quartermaster's department shall knowingly accept any such money or other valuable consideration from such person, he is to be deemed guilty of malfeasance and be punished by fine or imprisonment, or both, as a court-martial or military commission may direct.

The heads of the several Executive Departments of the Government may designate the newspapers which shall be entitled to publish the advertisements required by law to be published by such Departments. The rates of publication of such advertisements are not to be higher than those paid by private individuals advertising as largely in the same newspapers. And the twelfth section of the "Act making appropriations for the naval service for the year ending the 30th June, 1846," approved March 3, 1845, is to be repealed.

Whenever it shall become necessary to purchase any steam or sailing vessel for the use of the quartermaster's department, the same shall be first inspected by one or more competent naval officers detailed in accordance with the provisions of the act authorizing the detail of naval officers for the service of the War Department, approved February 12, 1862, and all steam vessels are to be inspected by an officer skilled in the construction and operation of steam machinery, in addition to the other usual inspection of such vessels. And it is to be unlawful for any officer of the quartermaster's department to purchase any vessel for the United States until such inspection shall have been fully made, and until the inspecting officers shall have reported favorably upon the condition of such vessel.

The officers placed in charge of the several divisions thus to be created are, during the time that they remain in such charge, each to have the rank, pay, and emoluments of a colonel in the quartermaster's department. The Quartermaster General may, with the approval of the Secretary of War, from time to time, and according to the necessities of the public service, change the distri-

bution of duties among them; and all such changes are to be forthwith published in general orders of the War Department.

During the continuance of the present rebellion the Secretary of War may assign to duty, as inspectors of the quartermaster's department, six officers, to be selected from the regular and volunteer officers who have served for not less than one year in that department, who shall have, while so assigned and acting, the temporary rank, pay, and emoluments of lieutenant colonels of the quartermaster's department. When any one of those officers is relieved from such duty, his temporary rank, pay, and emoluments will cease, and he will return to his lineal rank in the department.

The bill had been reported from the Committee on Military Affairs and the Militia with amendments. The first amendment was in line twelve of the first section, after the word "horses" to insert "and mules;" and in line fourteen to insert "or mules" after "horses;" so as to make the clause read:

The first division shall have charge of the purchase, procurement, and disposition of horses and mules for cavalry, artillery, wagon, and ambulance trains, and all other purposes for which horses or mules may be procured for the armies of the United States.

The amendment was agreed to.

The next amendment was to insert the words "and barges" after "vessels," in line twenty-eight of section one.

The amendment was agreed to.

The next amendment was to strike out the words "principal depots of the" before "quartermaster's," in line two of section two; so as to make the section read:

That the supplies and material for the quartermaster's department shall be purchased after due public notice by the heads of the several divisions, &c.

The amendment was agreed to.

The next amendment was to strike out the word "transportation" before "stage," in line thirty-three of section three.

The amendment was agreed to.

The next amendment was to insert the word "mules" after "horses," in line sixteen of section four.

The amendment was agreed to.

The next amendment was in line two of section eight, after the word "horses" to insert "mules;" and after "lumber" to insert "hired transports;" so as to make the section read:

That all inspectors of horses, mules, clothing, fuel, forage, lumber, hired transports, and other supplies of the quartermaster's department shall be sworn, &c.

The next amendment was to insert the words "or transportation" after "supplies," in lines nine and ten of section eight.

The amendment was agreed to.

The next amendment was to strike out the tenth section of the bill, which was as follows:

SEC. 10. *And be it further enacted*, That the heads of the several Executive Departments of the Government may designate the newspaper which shall be entitled to publish the advertisements required by law to be published by such Departments: *Provided*, That the rates of publication of such advertisements shall not be higher than those paid by private individuals advertising as largely in the same newspapers. And the twelfth section of the "Act making appropriations for the naval service for the year ending the 30th June, 1846," approved March 3, 1845, shall be, and the same is hereby, repealed.

Mr. GRIMES. I hope that section will not be stricken out.

Mr. WILSON. I think it is unnecessary to have that section in the bill; it will do no good; and I hope, therefore, it will be stricken out; and if Senators want to legislate on matters connected with advertising let it be somewhere else.

Mr. GRIMES. As the section is here I hope the Senate will consent to let it remain here. The first portion of the section only declares what the law ought to be, and perhaps already is:

That the heads of the several Executive Departments of the Government may designate the newspaper which shall be entitled to publish the advertisements required by law to be published by such Departments: *Provided*, That the rates of publication of such advertisements shall not be higher than those paid by private individuals advertising as largely in the same newspapers.

That is the valuable part of the section. The quartermaster's department, as the Senate very well know, furnishes an immense amount of advertising; and under a provision which in some mysterious way got incorporated into an appro-

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priation bill in 1845, the newspapers published in the city of Washington are authorized to receive the same rate of compensation from the Government for this advertising that is paid by private individuals for a small amount of advertising. The result is that immense sums are paid out by the Government in this city, and especially by the quartermaster's department, under that provision of the act of 1845, for the benefit of the newspapers in this city. I am perfectly content, however, to accept the first seven lines of this section, and let the law of 1845 stand if the Senator chooses. Then this section will only relate to the quartermaster's department; and it is proper that we should regulate in this bill the advertising of the quartermaster's department. If the Senator thinks there would be something incongruous in having the repeal of the act of 1845 in this bill, let us disagree to the amendment of the committee and adopt the first seven lines of this section, and then it will be perfectly congruous and will relate to nothing but the advertising of the quartermaster's department. I understand that the Senator from Massachusetts agrees to this suggestion. I move, then, to strike out all of the section after the end of the seventh line.

**THE PRESIDENT pro tempore.** The Senator from Iowa moves to amend the amendment of the committee by striking out the following words in the section:

And the twelfth section of the act making appropriations for the naval service for the year ending the 30th June, 1846, approved March 3, 1845, shall be, and the same is hereby, repealed.

The amendment to the amendment was agreed to.

**MR. GRIMES.** I now move to amend the section by striking out the words "the heads of the several Executive Departments of the Government," and inserting "the Secretary of War," and then by striking out the word "departments" in the fifth line and inserting "quartermaster's department;" so as to make it read:

That the Secretary of War may designate the newspaper which shall be entitled to publish the advertisements required by law to be published by the quartermaster's department.

**THE PRESIDENT pro tempore.** The Chair will suggest to the Senator from Iowa this difficulty: he proposes to amend the amendment of the committee, and then, if that amendment be agreed to, the whole section will go out; if it be not agreed to, the whole section will be in. If the Senator will move to strike out the section and to insert precisely what he wants in it, he will meet the case.

**MR. GRIMES.** I move, then, to strike out all of the tenth section of the bill after the enacting clause, and to insert in lieu of it the following:

That the Secretary of War may designate the newspaper which shall be entitled to publish the advertisements required by law to be published by the quartermaster's department: *Provided*, That the rates of publication of such advertisements shall not be higher than those paid by private individuals advertising in the same newspaper.

The amendment was agreed to.

The next amendment of the committee was to insert after the word "department" in the eighth line of the thirteenth section the following:

And he may also assign to each division of more than one brigade a quartermaster as division quartermaster, to be selected in like manner, who, while so assigned, shall have the rank, pay, and emoluments of a major of the quartermaster's department.

The amendment was agreed to.

**MR. RAMSEY.** I propose to amend the bill by striking out in the third section the following words:

By or under the direction of the officers in charge of the depots where such supplies may be ordered to be delivered, or by or under the direction of the quartermasters of the commands for whose use they may be purchased or contracted for.

And in lieu of them to insert:

By a competent inspector appointed by and under the direction of the chief of the clothing division, and who shall have had ample experience in the inspection of clothing, knapsacks, camp and garrison equipage, and who shall employ such suitable assistants as the exigencies of the service may require.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

**MR. SHERMAN.** Before the bill is passed, I should like to have the Senator from Massachusetts tell us what additional officers are provided, and what additional rank is granted by the bill. Let us have a general statement of the results of the bill. I have not yet had time to examine it.

**MR. WILSON.** The quartermaster's department under this bill is divided into nine divisions, each of which is to have a proper officer at the head of it. There is some promotion of course in that.

**MR. SHERMAN.** What rank will they have?

**MR. GRIMES.** It is provided that the officers placed in charge of the several divisions are to have the rank, pay, and emoluments of a colonel of the quartermaster's department, or in other words a colonel of cavalry.

**MR. LANE, of Kansas.** Does it promote the head of the quartermaster's department?

**MR. GRIMES.** No.

**MR. WILSON.** There is very little promotion in the bill. The Quartermaster General was very anxious to have promotion in the quartermaster's department to a considerable extent, and several of the military officers in the field have recommended such promotions, among others General Grant, but the committee did not believe that in the present condition of the country it would be proper to gratify the desires and wishes of these officers. Many of them ought to be promoted as a matter of justice; but we can do very little in that way now I think, without adding largely to the expense of the country, and the committee did not feel that they ought to recommend it at this time. This bill divides the department into nine divisions, and my own judgment is that if some plan of this kind had been adopted at the opening of the war we should have saved many millions of dollars to the country.

**MR. GRIMES.** I am very favorably impressed with the provisions of this bill; but I do not want the officers who are to be appointed or promoted under it to gather from the passage of the bill any understanding that they are to remain permanently in a service that is to be established upon so stupendous a scale as this. I therefore propose to amend the bill by inserting after the word "Army," in the fourth line of the first section, the words "to exist during the present rebellion and one year thereafter;" so that it shall read:

There shall be established in the quartermaster's department of the Army, to exist during the present rebellion and one year thereafter, the following divisions, &c.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, and was read the third time, and passed.

**D. FITZGERALD AND J. BALL.**

On motion of **MR. TEN EYCK**, the bill (S. No. 244) for the relief of Daniel Fitzgerald and Jonathan Ball was read the second time, and considered as in Committee of the Whole. Its purpose is to empower the Commissioner of Patents to proceed upon, determine, and decide the application of Daniel Fitzgerald for an extension of his patent for an improvement in fire-proof chests and safes, and the application of Jonathan Ball for an extension of his patent for an improved mode of coating the interior side of metallic water-pipes with hydraulic cement, the same as though those patents had not been extended once already; and the Commissioner is to examine and decide upon the applications on the same evidence and in the same manner as in other cases where extensions of patents are applied for under existing laws.

**MR. TEN EYCK.** There is a printed report accompanying this bill, but I do not know that it is necessary to read it; at all events Senators will determine that for themselves after I make a brief statement. There were a very large number of applications made to the Committee on Patents and the Patent Office for the extension of patents which had been granted and which had been once extended by the office; and the committee saw occasion to select two of the whole

number as suitable for some relief, or at least for investigation. These were two separate applications, but they were grouped together by the committee in one bill. One is for the extension of a patent for certain iron safes, and the other for an extension of a patent for the making of a hydraulic cement for coating water-pipes. It appeared by the evidence before the committee, particularly with respect to the coating for water-pipes—and I had more knowledge of that than of the other case—that from the very nature of the invention, it took a long while to induce the public to go to the expense of even introducing pipes so coated beneath the ground for the purpose for which they were designed, and many years were required to test their durability and sufficiency. In relation to that patent it appeared by the statement of the officers of the company now organized to introduce the improvement into use, and of Jonathan Ball himself, under oath, that it had been entirely unremunerative until within the last two or three years. We had a statement under oath showing what the expenses had been and what the receipts had been, and the receipts amounted to some eight or nine per cent. on the capital stock. Now, within two or three years past, the public have taken hold of this improvement, and it is being generally introduced, having been found to be valuable. The continuation of the patent is desirable on the part of these persons, as there has been no sufficient remuneration for the securing of a valuable improvement, and that would bring it within the principle which has always governed in such cases.

The committee, however, did not see fit to report a bill providing for the extension of the patent for several years longer; but the facts in the case of Daniel Fitzgerald being very similar to the facts in the case of Ball, they preferred to report a bill authorizing the Commissioner of Patents to investigate the matter in detail, to have a full examination, and to see whether the statements thus made by the parties were correct, and if he were satisfied that the improvements were of advantage, and that the parties making the improvements had not been remunerated, and they were in other respects suitable improvements for the extension of the patents, he might have the power of extending them. That is all that is contained in the bill.

**MR. TRUMBULL.** I should like to hear the report read.

The Secretary read the report made by **MR. COWAN** on the 20th of April, from which it appears that the memorialist, Daniel Fitzgerald, obtained a patent on the 1st day of June, 1843, for an "improvement in fire-proof chests and safes," and upon the expiration of the same in 1857 he obtained an extension thereof for a further period of seven years.

Jonathan Ball obtained a patent on the 15th day of December, 1843, for an improved mode of coating the interior side of metallic water-pipes with hydraulic cement, and afterwards, on the 15th day of September, 1857, he obtained an extension for a further period of seven years.

The memorialists aver further that from the nature of the subject-matter of the improvements, the amount of capital required to introduce them generally to the notice of the public, and the great length of time required to verify their usefulness, they have neither of them as yet been remunerated for the benefits they have conferred upon the community, and they therefore desire and pray that a further extension may be granted to them for their several patents.

The committee are of opinion that the proper relief to which petitioners are entitled is to allow them to apply to the Commissioner of Patents for a second extension of the patents, to be decided by that officer according to all the provisions of the law now existing as to first extensions, and they report a bill for that purpose, the passage of which they recommend.

**MR. TRUMBULL.** I have no objection to this bill, except a general one which I have to all bills of this character. I served upon the Com-

mittee on Patents one or two Congresses since I have been a member of the Senate, and we had before us a good many applications for the extension of patents by acts of Congress. During the period that I was a member of that committee we revised the law on the subject, and extended the period of time for which parties could take out patents, so that I think it is now seventeen years.

Mr. COWAN. Twenty-one.

Mr. TRUMBULL. I had forgotten the exact time. It used to be fourteen years. Congress was troubled with these applications for the extensions of patents. Almost every party who had a patent would come with an application, and introduce testimony to show that his improvement was a valuable one, and that he had been subjected to litigation or to some extraordinary expense that had prevented his realizing from it the profits which he thought the discovery had entitled him to, and therefore he would want his patent extended. As the law formerly stood authority was given to the Commissioner of Patents in cases of that character to extend the patent for seven years, when the patent originally was taken out for fourteen years. On making a proper showing that he had used due diligence in order to introduce his invention to the public, that notwithstanding this due diligence he had, from some unforeseen obstacle or other, been unable to realize a fair remuneration for his discovery, the Commissioner of Patents was authorized to extend the patent for seven years further, making the whole term twenty-one years. There it was supposed the thing would end.

But now what is this case? These parties obtained their patents in 1843, almost a generation ago. They had them originally for fourteen years, which, in the judgment of Congress, was a sufficient period of time for a party, by the use of ordinary diligence, to receive a fair reward for the discovery which he had made, if it was of any value to the country. Congress supposed that in a period of fourteen years, if a discovery was a valuable one, a patentee could introduce it to the public so as to receive a fair compensation for the improvement. These parties had fourteen years. They then applied to the Commissioner, in 1857, and obtained, each of them, seven years more. They have had twenty-one years, and now they come again and say that from the peculiarity of these patents they have not yet been able to make money enough out of them. Whether these are valuable discoveries or not I do not know. I suppose the Committee on Patents have satisfied themselves on that subject, that they are valuable discoveries, and I suppose the committee have satisfied themselves that these men have exercised, not only during the fourteen years but the seven years additional, due diligence, and have not been able yet to receive a fair remuneration for the labor they were at in perfecting these discoveries. But it does seem to me that it is setting a wretched precedent for Congress, by special legislation, to extend patents beyond twenty-one years.

But gentlemen will say, "We do not propose to do that, we propose to let the Commissioner of Patents do it, just the same as if it had not been extended once." That amounts to the same thing. Whenever you pass an act of Congress of this character, the Commissioner of Patents takes it as a sort of license to extend the patent, and not only a license to extend it, but as an expression of the opinion of Congress that it ought to be extended. These parties are now to go before him just the same as if they had had but one term, without having had an extension already.

If we adopt this proposition we shall have applications for extensions in almost every case. It must be a very peculiar case that will ever justify me in voting to extend a patent by act of Congress, or to authorize a party to apply a second time to the Commissioner for this extension. I did vote for one case. I think there were two cases while I served upon the Committee on Patents where authority was given to extend the patents, but they were very peculiar. One was where a party had made his application for extension in due time; he had not had the seven years' extension, but he made his application in due time, sent on his papers regularly, but from some failure of the mails they were not received in time. Another was a case where the patentee, where

the improvement was valuable, went crazy, became insane, and in consequence of his condition the application was not made at the proper time, and it was shown that his family were poor, and that he had never received a fair compensation for his invention. I think in those two cases bills were passed; but there is no such peculiarity shown about this case, and, for one, I hope Congress will not adopt the system of allowing patents to be extended beyond the period of twenty-one years. I think it is long enough.

Mr. TEN EYCK. Mr. President, in the present condition of the Senate I know it is hazardous to add any further expressions on the subject, because I think the Senate are disposed toward an adjournment, or, perhaps, have grown weary of this business, but I may, perhaps, be excused for making a short reply to some of the objections urged by the Senator from Illinois in relation to this bill.

I think the general scope of his remarks would go as well against the granting of any patent originally as against the proposed extension of these patents. The theory upon which we have granted patents is encouragement in the useful arts and manufactures, an inducement held out to men of genius and ingenuity to set their wits to work in order to benefit mankind by inventions and improvements, and that they should have some remuneration or return for the exertions they make in that direction. In this case two patents are proposed to be extended. In regard to one of them I have more knowledge than of the other, because the place of business is located within the borders of my own State, although the invention was originally in the State of New York. My knowledge in regard to it enables me to say that there is a necessity for the extension of that patent at the present time, if we recognize the principle upon which we grant patents at all. It is an improvement in the pipe as a conduit for water; it is claimed to be an improved mode of coating the interior side of metal water-pipes with hydraulic water-cement; and from its very nature and character it requires the lapse of time to prove its usefulness and its durability. The public have been cautious and wary in expending large sums of money in the use and employment of this kind of pipe, because in the first instance the purchase of the pipes and fitting them up and laying them beneath the surface of the ground is attended with great expense; and it was hazardous to employ this improvement and embark in a very great expense lest it might all turn out to be insufficient. It was not known till the lapse of many years whether this cement would stand the corroding influences of the water, mixed with various substances that are to be found in water, and would prove to be valuable; and it is proved by the affidavit of the parties interested in the patent that for a period up to within three or four years past this patent was altogether unremunerative; but within the last three or four years a company has been established and located, and by the experience which has been afforded from the lapse of time, a few pipes having been laid down many years ago, the public have gained confidence in it, and they are being generally introduced.

It appears that the whole amount of receipts for this patent have been nine per cent. upon the money expended, and that is all. The statement made by the applicant was in round numbers, in general terms, of the expenditures attendant upon the introduction of the business and the receipts derived from the introduction of the pipe in public use. We thought as a committee that we were not able to take up this balance sheet and critically examine it; that it would be better for us to pass a bill, which is a sort of enabling bill, authorizing the parties to go before the Commissioner of Patents, who is a kind of watch dog, and who will not allow these patents to pass through unless they stand on the principle which authorizes the extension of a patent after it has been granted for fourteen years in the first instance; and that is all this bill proposes to do, to refer these parties to the Commissioner, to require them to lay before him a statement of their business to show whether it has been remunerative; and if the Commissioner of Patents should be of the opinion that it has not been, he is authorized to extend the patent for seven years longer. If he should be of a contrary opinion, the matter

falls to the ground. We thought the Commissioner was better able to judge of the merits of this application than either the Committee on Patents or the Senate itself acting hastily on a measure of this kind.

Mr. WILSON. I move that the Senate proceed to the consideration of executive business.

Mr. TEN EYCK. I hope the Senator will allow this matter to be settled. There is certainly a quorum here or about the Chamber. There have been but three bills reported from the Committee on Patents during the session, and this is the second one that has been acted on.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Massachusetts. The motion was not agreed to.

The PRESIDENT *pro tempore*. The question is on ordering the bill to be engrossed for a third reading.

Mr. COWAN. I have a single word to say in regard to this bill. The question raised by the honorable Senator from Illinois is whether a patent, after it has once been extended according to the laws in force, shall ever thereafter be extended or not. If the Senate will determine that question definitely and precisely as it arises on these bills, I am very free to say it will save the labor of the Committee on Patents perhaps more than one half the work it has to do. But if we are to be guided by the principle that he who invents a valuable improvement or makes a valuable discovery shall be entitled to the exclusive use of that improvement or discovery until he is remunerated, then I think we shall be going in accordance with the past conduct of the Senate in that respect, and that these cases will then furnish examples which are within the rule.

Here is Fitzgerald, who invented, as he alleges, a valuable improvement in fire-proof safes; but how was the public to know whether it was a valuable improvement or not? A man may keep a safe for twenty years before a fire occurs by which to test it, and a great many accidents may occur in the mean time to prevent this invention from being remunerative to him. It was not remunerative after he had it fourteen years. He alleges that it is not remunerative after he has had it twenty-one years, and that he can show that to the Commissioner of Patents if he has an opportunity to go before him. All that we enact in this bill, if it becomes a law, is that he shall have that opportunity. Ball's case is very similar. He invents a hydraulic cement for the purpose of coating the interior of metal water-pipes. How long is that to be tested before the community will have confidence in it, such confidence in it as to make it profitable for his remuneration? He says that the twenty years he has already had have not sufficed for that purpose, and that he desires an extension of seven years. The bill says to him, "If you can satisfy the Commissioner of Patents that it has not been remunerative, then it may be extended for another period of seven years."

I should be glad to have a determination of the Senate on the first question, shall patents be extended at all after they have been once regularly extended? If non-extension in such cases is to be the rule, it ought to be known, because then it will be useless to consider such cases any further. If they are to be extended after having been once extended, I have no hesitation in saying that these are fit cases for the operation of that enabling power in Congress, and the applications ought to be granted.

Mr. HALE. How long is it since the patents expired?

Mr. TEN EYCK. Neither has yet expired.

Mr. SUMNER. It seem to me—I may be pardoned for saying a word—that it is very difficult to answer the suggestion of the Senator from Pennsylvania. In short, the argument of the Senator from Illinois is against any extension of a patent.

Mr. TRUMBULL. Unless there is some casualty without the fault of the patentee which prevents the full enjoyment of his rights.

Mr. SUMNER. Unless there has been some casualty without his fault which prevents the enjoyment of his rights. The Senator alluded to his experience on the Patent Committee. It so happened that the Senate placed me in years past on that committee for some time, and while there the rule that I followed was to go against an exten-



sion unless there seemed to be strong evidence in its favor, unless the case was exceptional. I did not go as far as the Senator from Illinois, to require that the exceptional circumstances should be in the nature of a casualty, for it does seem to me, and I submit to the Senator, that that is asking too much. It seems to me that the exceptional circumstances have been more properly presented by the Senator from Pennsylvania. If it appears satisfactorily that owing to the peculiar nature of the invention or some particular circumstance in connection with its operation, its advantages could not become known during the fourteen years, or, if you please, during the twenty-one years which it is said this invention has had to run, those considerations are of such a character as to make a just ground for exception; otherwise why are we called upon to consider the case of the extension of this patent? We had better adopt a rule, as suggested by the Senator from Pennsylvania, not to entertain any such cases, or not entertain any such cases unless the parties in their petition positively set forth what the Senator from Illinois calls casualties. I do not think the Senate are disposed to adopt any rule so rigid and exclusive as that.

Mr. TRUMBULL. I should like to inquire of the Senator from Massachusetts, who is a member of the Committee on Patents—

Mr. SUMNER. No; not now. I was last year, but not now.

Mr. TRUMBULL. Perhaps the Senator may be informed, or some other member of the committee, whether Congress has in the last ten years in any instance authorized the extension of a patent a second time, unless it has been for some casualty, as the Senator from Massachusetts remarks.

Mr. COWAN. I can answer the honorable Senator from Illinois that there are, I think, three or four cases at least within three or four years, perhaps longer, where Congress has interfered and authorized an extension; and I think in one or two cases they extended the patents by law themselves. There is a case—I do not remember the name of the inventor—of a patent for a metallic coffin which was extended perhaps at this session, or authority to the inventor to go before the Commissioner of Patents and ask for an extension, the same as in this bill.

I will further remark that in both these cases the patents have not yet expired. One of the rules which has governed the committee in its action upon these cases is that the applicants shall endeavor before their patent expires to have the renewal made, so that the right would not lapse to the community, or allow third persons to be involved in trouble by supposing that it had lapsed.

Mr. GRIMES. I should like to know if I understand correctly the case before us. If I understand it, as the Senator from Pennsylvania puts it, one of these patentees has discovered, as he imagines, some sort of an indestructible composition to be used in the making of fire-proof safes. He wants his patent extended, because there have not been a sufficient number of fires yet occurred where these safes have been exposed to test the question as to whether they are really fire-proof or not; and, as I understand it, he desires us to extend it until these fires shall have been of frequent occurrence enough to settle the question as to the value of this particular species of non-combustible material. I think that is the whole case. This man twenty-one years ago discovered what he believed was an indestructible material. He has been using it; but up to this time he has not had an opportunity to determine satisfactorily to the public whether it is indestructible or not; he has not had sufficient opportunity to submit it to tests to which he might himself subject it at every cross-road.

Mr. COLLAMER. He says it will last forever, but he has not had time to try it.

Mr. GRIMES. In the language of my friend from Vermont, he says it will last forever, but has not yet had time to try it; and the Committee on Patents seriously come in here and ask us to extend this patent more than twenty-one years in order to give this man an opportunity to submit his safes to more trials to settle the question whether this material is indestructible or not. That is the way I understand the case. If the Senator from Pennsylvania can explain it in any other way I wish he would do it.

Mr. COWAN. The Committee on Patents have seriously asked no such thing. The honorable Senator from Iowa has very humorously treated what they ask the Senate to do. Nobody has said, that I know of, that the patentee required twenty-one years to be convinced of the qualities of his safes; but it was asserted that the public might require that and even a longer period before they would be so well satisfied of the value of the improvement, and by adopting it would remunerate the person who discovered it for the time and labor and money which he had expended in procuring for them this benefit and advantage. It is perfectly obvious that there are many improvements which might be of that nature. Although he who invented them and discovered them, or he who had actually tested them, might learn in a very short time whether they were valuable or not, yet it requires a long time to convince the public of it so well that they will make it remunerative to the inventor.

Mr. COLLAMER. As I understand the argument of the Senator, he goes upon the ground that we have recognized in our law the principle that if a man, in the time granted to him by his patent, has not had an opportunity to obtain remuneration pecuniarily, it should be extended, and that on that principle it is proposed to extend these patents. The inquiry I wish to make is this: if we recognize the principle that where a man has not had opportunity to get remuneration, his patent should be extended a second or third time, why should we not have a general law to do it? We have a general law now providing that any patentee by going before the Commissioner previous to the expiration of the patent and showing him that he has not received sufficient remuneration, may receive an extension from him for seven years. If we are to apply that principle still further, why not apply it in the same way, and say that at the end of that seven years he may again show to the Commissioner that he has not received sufficient remuneration and the Commissioner may again extend it. It seems to me, instead of passing bills granting permission to a patentee in a particular case to go before the Commissioner, we should have a general law allowing all men to go before the Commissioner and show the facts in any case again and again, if it is proper to do it at all.

The PRESIDENT *pro tempore*. The question is on ordering the bill to be engrossed for a third reading.

Mr. TEN EYCK called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 19, nays 14; as follows:

YEAS—Messrs. Anthony, Carlile, Chandler, Clark, Cowan, Davis, Foot, Foster, Hale, Harlan, Lane of Indiana, Morgan, Pomeroy, Rainey, Richardson, Sherman, Sprague, Sumner, and Ten Eyck—19.

NAYS—Messrs. Buckalew, Collamer, Conness, Doolittle, Fessenden, Grimes, Howard, Johnson, Lane of Kansas, Trumbull, Van Winkle, Wade, Wilkinson, and Wiley—14.

ABSENT—Messrs. Brown, Dixon, Harding, Harris, Henderson, Hendricks, Hicks, Howe, McDougall, Morrill, Nesmith, Powell, Riddle, Saulsbury, Wilson, and Wright.

So the bill was ordered to be engrossed and read a third time. It was read the third time, and passed.

#### LAND GRANT TO AN IOWA RAILROAD.

On motion of Mr. HARLAN, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 159) for a grant of lands in the State of Iowa in alternate sections, to aid in the construction of a railroad in said State. It proposes to grant to the State of Iowa, for the purpose of aiding in the construction of a railroad from Sioux City, in that State, to the South line of the State of Minnesota, at such point as the State of Iowa may select between the Big Sioux and the west fork of the Des Moines river; also to that State for the use and benefit of the McGregor Western Railroad Company, for the purpose of aiding in the construction of a railroad from a point at or near the foot of Main street, South McGregor, in that State, in a westerly direction, by the most practicable route, on or near the forty-third parallel of north latitude, until it shall intersect the road running from Sioux City to the Minnesota State line, in the county of O'Brien, in that State, every alternate section of land designated by odd numbers for ten sections in width on each side of the roads; but, in case it shall appear that the United States have, when the lines or routes of the roads are definitely located, sold

any section or any part thereof, or that the right of preemption or homestead settlement has attached to the same, or that the same has been reserved by the United States for any purpose whatever, then it is to be the duty of the Secretary of the Interior to cause to be selected, from the public lands of the United States nearest to the specified tiers of sections, so much land in alternate sections, or parts of sections, designated by odd numbers, as shall be equal to such lands as the United States have sold, reserved, or otherwise appropriated, or to which the rights of homestead settlement or preemption have attached, which lands thus indicated by odd numbers and sections, by the direction of the Secretary of the Interior, are to be held by the State of Iowa for the uses and purposes of these railroads. The land so selected is in no case to be located more than twenty miles from the lines of the roads, and all lands heretofore reserved to the United States by any act of Congress, or in any other manner by competent authority, for the purpose of aiding in any object of internal improvement or other purpose whatever, are reserved and excepted from the operations of this act, except so far as it may be found necessary to locate the routes of the roads through such reserved lands, in which case the right of way is to be granted subject to the approval of the President of the United States.

There is also a section which grants to the State of Minnesota, for the purpose of aiding in the construction of a railroad from St. Paul and St. Anthony, via Minneapolis, to a convenient point of junction west of the Mississippi, to the southern boundary of the State, in the direction of the mouth of the Big Sioux river, four additional alternate sections of land per mile, to be selected upon the same conditions, restrictions, and limitations as are contained in the act making a grant of land to the Territory of Minnesota, in alternate sections, to aid in the construction of certain railroads in that Territory, and granting public lands in alternate sections to the State of Alabama, to aid in the construction of a certain railroad in that State, approved March 3, 1857. The land to be so located by virtue of this section may be selected within twenty miles of the line of the road; but in no case at a greater distance therefrom.

The bill contains other sections which are common to such bills.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. GRIMES. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, May 11, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

#### CONSULAR AND DIPLOMATIC APPROPRIATIONS.

The SPEAKER stated the first question in order to be the consideration of the unfinished business of yesterday, being the amendments of the Senate to House bill No. 40, making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1865, the pending question being on the following amendment:

Strike out the following amendment of the Senate: SEC. 3. And he it further enacted, That the President may, in his discretion, by and with the advice and consent of the Senate, appoint an envoy extraordinary and minister plenipotentiary to the kingdom of Belgium, who shall receive no higher compensation than is now allowed to a minister resident.

And in lieu thereof insert the following: That the sum of \$12,000 be, and the same is hereby, appropriated to pay the salary of an envoy extraordinary and minister plenipotentiary to the kingdom of Belgium, if the President, in the exercise of his constitutional power, shall see fit to appoint such officer.

Mr. KASSON. I have prepared a substitute for that amendment which I intend to submit; but I do not see the gentleman from New York [Mr. PRYOR] in his seat.

The Clerk read the substitute, as follows:

That if the President, in his discretion, shall nominate an envoy extraordinary and minister plenipotentiary to the kingdom of Belgium, the sum appropriated to the minister resident is hereby transferred to such envoy, and the additional sum of \$2,500 is hereby appropriated in conformity

with the first section of the consular and diplomatic act, approved August 18, 1856.

Mr. KASSON. Mr. Speaker, I know that the gentleman from New York [Mr. FAYEN] wants to say something on this subject; and as he is not present, I move that this section be passed over for the present.

There was no objection, and it was agreed to accordingly.

#### Thirty-first amendment:

Add the following as a new section:

SEC. 4. *And be it further enacted, That the third section of an act entitled "An act making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1860," approved March 3, 1859, is hereby repealed. And the fee for certifying invoices to be charged by the consuls general for the British North American provinces, and his subordinate consular officers and agents, for goods not exceeding \$100 in value, shall be one dollar, and the same fee shall be charged for certifying the growth or production of goods made duty free by the reciprocity treaty: Provided, however, That no such certificate of growth or production shall be required for goods not exceeding in value the sum of \$300.*

The Committee of Ways and Means recommended a concurrence in the amendment.

Mr. MORRILL. I move to add the following proviso:

*Provided further, That the salaries for consuls in the British provinces of North America shall be paid in the lawful currency of the United States.*

Mr. KASSON. While this is not from the Committee of Ways and Means I have personally no objection to it, and do not know that there is any objection to it. It is intended merely to provide that the consuls along our northern frontier, across the water from the United States, shall be paid in the legal tender of the United States.

Mr. BROOKS. Will the fees pay the salaries of these consuls?

Mr. KASSON. The communications from the Executive Departments show that they will more than pay the salaries of these consuls.

Mr. BROOKS. How much more?

Mr. KASSON. They cannot do more than approximate to it.

Mr. BROOKS. These consuls will have to be paid better than they have been paid; for under the new tax law we will have to adopt some regulations like these in operation upon the borders of Belgium and other countries. The labor of these consuls will, of course, be great. And under our present rate of duty smuggling will be immense unless the frontier is guarded carefully.

Mr. KASSON. The gentleman will see by looking to a previous part of the bill that these consuls are paid a salary of \$1,500 a year. This proviso merely provides that payment shall be made in the legal tender of the United States.

Mr. BROOKS. What about the fees?

Mr. KASSON. They go into the Treasury. The amendment to the amendment was agreed to; and the Senate amendment, as amended, was concurred in.

#### Thirty-second amendment:

Add as a new section:

SEC. 5. *And be it further enacted, That the office of commercial agent at Hakodadi, Japan, may, at the discretion of the Secretary of State, be changed to that of consul, to be classed with consuls other than those named in schedules B and C in the act approved August 18, 1856.*

The Committee of Ways and Means recommended a concurrence.

The amendment was concurred in.

#### Thirty-third amendment:

Amend the title of the bill by adding thereto the words, "and for other purposes."

The amendment was agreed to.

The House then proceeded to the consideration of the twenty-ninth amendment of the Senate, heretofore passed over, and which is as follows:

SEC. 2. *And be it further enacted, That the second section of an act entitled "An act making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1858," approved February 7, 1857, be, and the same is hereby, repealed.*

The Committee of Ways and Means recommended a non-concurrence in this amendment.

Mr. PATTERSON. Mr. Speaker, having given some consideration to this bill from a desire for personal information, I am constrained, reluctantly, to withhold my assent to the recommendation of the committee that the House do not concur in the amendment of the Senate, restoring that section of an act of 1856 authorizing the appointment of twenty-five consular pupils.

The functions of our consuls are of the highest importance to our commercial prosperity, and often involve the peace of the country and the honor of the Government. The field of their duties lies beyond the limits of the nation they represent, and is far removed from the ordinary sources of information. Their operations are not confined to commercial affairs, but extend by treaty stipulations with several of the Barbary States and European Governments to the exercise of judicial powers. In Turkey, Siam, Japan, and China, they are called upon to determine the destination of immense treasures, and have the entire criminal jurisdiction of citizens of the United States. These, sir, are extensive powers, and in fold the permanent welfare of the country. The proper discharge of such functions in a foreign land, and sometimes in collision with the able and wary officials of States jealous of republican institutions and of our growing power, demands the exercise of special gifts and peculiar accomplishments.

But, sir, I apprehend we do not ordinarily find these rare qualifications brought to the administration of our consular system as at present organized. Nor can we with reason require this until it is brought into accordance with the European systems which educate men for these special duties.

Our consular system is embodied in the act of 1856, in which the scattered legislation upon the subject was gathered up, revised, supplemented, and framed into a single statute.

The origin of the system was a bill, generally believed to have been drawn by Chief Justice Ellsworth, at the time chairman of the Senate committee to whom the recommendation of President Washington upon the subject had been referred. The names of that committee have since become familiar and revered through all the land, and could they but speak to us of the early history of the Republic they might without arrogance or presumption adopt the language of the Latin poet,

*"Quorum pars magna fui."*

The bill, with some amendments, passed both Houses unanimously, and became a law in 1792. More than seventy years have since elapsed, and the act, in substance, is still in force. In 1854 a distinguished member of this House pronounced the original system "cumbersome in its details and unsuited to the nature of American institutions."

I will not give judgment upon the justice or injustice of this criticism, but will presume to suggest that the fact that the original act still survives in its main features, though somewhat modified and supplemented to adapt it to the changed conditions and enlarged demands of our expanding commerce, testifies unmistakably to the profound sagacity if not to the comprehensive wisdom of its framers.

In 1803 an act was passed providing in various ways for the protection of American seamen, for the payment of fees, for the authentication of the transfer of United States stocks, and for penalties for the issue of false certificates and passports. The provisions of this act, in part at least, were made upon the recommendation of the elder Adams in his second annual address to Congress.

This, sir, was the sum total of our legislation for more than sixty years upon an interest involving more than any other not only the security of our citizens and the respectability of the Republic among foreign nations, but also the protection and enlargement of our commerce, the exhaustless source of national wealth, from which the Government draws its revenues in time of peace, and by which, once at least in our brief history, it has liquidated a debt whose ratio to the whole wealth of the country was nearly as large as that of the present debt to the present wealth of the country, and after that filled the Treasury with a surplus of \$40,000,000.

A report commending itself by its wisdom and ability to all well-informed men had been made upon this subject by Mr. Livingston, the Secretary of State, during the administration and under the sanction of President Jackson. But, with the exception of the ill-judged act of 1840, regulating the shipment and discharge of seamen, and the duties of consuls, no essential changes were made in the system by our legislation till 1855.

In 1844, a bill to remodel the system was in-

troduced into the Senate by Mr. Semple, of Illinois, and indefinitely postponed.

In 1845 a similar bill was referred to Mr. Buchanan, at the time Secretary of State, with a request for a report upon the same to the House. The Secretary's report, made at the commencement of the following session, was one of marked ability, and gave evidence of careful research and extended observation. It reviewed the whole subject, and recommended such improvements as would adapt the system to the then present amplitude of our commerce, and to the policy practiced by other nations in their commercial and diplomatic intercourse. No immediate action resulted from this report, but it furnished valuable materials for future legislation.

Mr. Perkins, of Louisiana, after a thorough investigation of the subject, prepared and presented to the House in 1854 a bill to remodel the entire diplomatic and consular system of the United States. The bill was a great improvement upon the existing laws. Among other things it provided that consuls and commercial agents should not be absent from their districts more than ten days without leave from the President, and that their salaries should cease if they were absent a longer time either with or without leave; that none but citizens of the United States could receive such appointments, be employed as clerks, or have access to the archives of the foreign offices of the Government; that consuls in none of the principal ports should transact business in person or by an agent; and that they should receive their pay by salary and not by fees; that commissions and fees should be in part abolished and in part reduced, and the funds thus received returned to the Treasury and used to pay the consular salaries. The bill passed the House by a very large majority, and the Senate unanimously. It was approved March 1, 1855. Immediately on its passage Mr. Marcy set about the preparation of a volume of instructions, which was completed and transmitted to our consuls.

The examination thus given to the subject by the Secretary and by the Attorney General in the preparation of this volume, led to the discovery of many defects in the law, and to an earnest recommendation of an early revision. The result was the act of 1856.

In this bill first appeared a provision for the appointment of consular pupils, though it had been anticipated in a treaty negotiated with France by Mr. Everett. The act was passed and approved near the close of the session. At the opening of the next session an appropriation was asked to pay the salaries of the twenty-five pupils whom the law authorized the President to appoint. After a spirited and somewhat protracted debate, in which there was a great deal of talk and a little sound reasoning, the appropriation was refused by the House. When the subject came before the Senate, the members of that body not only refused the appropriation, but voted to rescind the section authorizing the appointment of such pupils. Then, as now, the principal argument used by the opponents of the measure was the very obvious and unanswerable asseveration that the innate sagacity of an American citizen was an over-match for the learning, skill, and aptitude of any foreign merchant or official acquired through years of tedious training.

Now, sir, I am not so foolhardy as to attempt the refutation of a self-evident truth, for "thank God I, too, am an American citizen," and will therefore devote myself to some objections in which we are not so well-agreed.

It is urged in opposition that the law provides no guarantee that these young men will not be removed with every change of Administration; none that the Government will advance them to higher consular duties when educated, or that they will consent to serve in that capacity if desired so to do. The greater inducements held out by mercantile pursuits, it is affirmed, will inevitably draw them away from the service of the Government. All these anticipated evils may be provided against, if it is thought wise, by specific provisions of law.

But, sir, the objections lose their force when it is remembered that these young men, unlike the students in our naval and military schools, would render a full equivalent, in service, for all they receive from Government during the process of their consular education; for they are to be as-

signed by the President "to such consulates and with such duties as he may think proper." It should be kept in mind, too, that the salaries of our consuls were graded by the law of 1856 upon the assumption that these pupil-clerks would be appointed and paid by Government. If, then, the House do not concur with the Senate in the restoration of this section, and do not make the requisite appropriations therefor, the salaries of our consuls, diminished by the compensation of indispensable clerks, will, as we are assured by the Secretary of State, be altogether inadequate for an economical support of themselves and their families in expensive foreign capitals.

It was while Mr. Hawthorne was serving at Liverpool that the act went into operation requiring all consular fees to be paid into the Treasury, and the consuls to be remunerated by a fixed salary. That eminent and gifted American was compelled to remove his family at once from the social and literary intercourse of the city back amid the more simple enjoyments of the country, by a laudable desire, if not an inexorable necessity, to bring his expenses within his income.

The salary fixed at that time for both Liverpool and London was \$7,500. It has not since been advanced, though the unavoidable expenses of those consulates have greatly increased, as there is manifold and most mournful evidence in the correspondence of Messrs. Dudley and Mann at the State Department.

The consul at Glasgow reports that his present salary will not enable him to eke out an economical support for himself and family. The consul at Marseilles writes to the same effect, as follows:

"The consuls at Marseilles of all the principal Powers are paid some *double* and some *more than double* the salary of your consul; yet all complain of the inadequacy of their pay, asserting that five francs five years ago had a value there that eight have not at the present time. Mr. Mack, the English consul, with a salary of \$5,000, informs me that his expenses for living during the last three years have outrun his income for that period to the amount of \$3,500, yet he lives in a plain style, and assures me that the only luxury he allows himself is a daily morning walk. I had intended to board myself and family, but with only my wife and two little children, I found that my plan, if carried out at a respectable house, would cost me much more than my entire salary, leaving less than nothing to pay for clothing, clerk-hire, &c. I remember that when I was to Iowa, an old gray-headed lawyer asked me if I was or had been a tailor. 'Ah, you have not,' he exclaimed; 'can't succeed here then; nobody but tailors make acceptable lawyers for Iowa people.' In another sense it is true here: to make his means fit the end, it requires a tailor for a United States consul at Marseilles."

Our consul at Paris, at the close of an exceedingly interesting and instructive communication, sums up the whole matter in the following statistics:

"The annual and indispensable expenses of the consulate, then, for the work I am now doing, may be briefly recapitulated as follows:

	Per annum.	Per annum.
Clerical expenses per month		
1,144f.	13,728f.	\$2,755 60
Fuel and lights for the year	250	50 00
Cleaning office, concierge fees, &c.	150	30 00
Use of furniture, say	150	30 00
Relief of Americans, other charities, newspapers, carriage hire, religious services, hospitality, &c.	-	-
	14,278f.	\$2,865 60

My income from the office may be more briefly stated: Salary, less three per cent. \$4,850 00  
Receipts for unofficial services, such as writing legal opinions, drawing an occasional will, taking testimony under commissions, attending invalids at their residence for the execution of papers, &c., all earned by extra professional labor, and amounting last year to the sum of..... 823 37  
My share in revenues of three consular agencies for the year 1863..... 683 87

Total.....	\$6,357 14
Rating household expenses, as previously estimated, at.....	\$7,422 00
Office expenses.....	2,865 60
Total expenses.....	\$10,287 60
Deducting receipts.....	6,357 14
Leaves the sum of.....	\$3,930 38

"An office has need to be one of great dignity which can command such a premium for the privilege of holding it; and then he ought to be very ambitious or very rich who would care to hold it long."

It should be borne in mind, sir, that this is from the pen of an able and accomplished gentleman, who has rendered valuable service to the Govern-

ment during the pending struggle in other than official ways, especially in the publication of a work in French, setting forth the resources of our country and the character of our people in a way to secure for us the favorable judgment and good opinions of the European mind.

But, sir, I apprehend that these matters may all be left without solicitude to the operations of the laws of mind, which are more irresistible than the enactments of States. Men are insensibly drawn into those pursuits which harmonize with the habits and tastes which, if not created, have at least been matured and made permanent by education and association. These pupils, having become familiar with the languages of the respective countries to which they would be assigned, and affiliated thereto, in a measure, by ties of taste and friendship, and seeking to complete intellectual pursuits upon which they had entered, would be held to the consulates without law by a natural gravitation.

If, at length, drawn away by the tempting prizes held out to commercial enterprise, in the majority of cases their business operations would be confined to those countries with which both study and experience had rendered them familiar, for these would be to them the path of success. What then?

Knowledge would widen with the circles of trade and the intercourse of business, until these men, comprehending the higher relations and abstruse economy of commerce, and familiar with the institutions and habits of foreign society, would be fitted as no other American citizens could be to fulfill the responsible and often delicate duties devolved upon the consuls of this great commercial people. Nor would this be the entire outgrowth and fruitage of the system which the Government through three Administrations has attempted to establish. Many of the appointees passing to their professional training from our higher institutions of learning would not rest with the acquisition of foreign languages and a knowledge of what pertains immediately to official duties, but would pass on to a study of the literature, the history, the laws, and the genius of foreign Governments, and thus we should have in time what we never have had, a body of public men fitted, eminently fitted, by their comprehensive and varied attainments, to sustain the national reputation and welfare at foreign courts in the higher ministerial relations.

It will be perceived that I do not rest this argument upon any statute, nor even upon the regulations laid down by the State Department in respect to the duties and advancement of consular pupils. I base it upon an inevitable sequence of events that are in their nature related to each other. The advancement of these consular pupils to higher and more responsible duties and their continuance in office will be a necessity growing out of their superior qualifications and the demands of both commerce and diplomacy for the very best ability which the genius of our institutions can produce. Thus it seems clear to my apprehension that the scheme, in accordance with its design and contrary to the fears of some gentlemen, will tend to obviate the instability which hitherto has been the great evil of our diplomatic and consular policy.

A still stronger argument for the restoration of the rescinded section of the law of 1856, if possible, is to be found in the increased and urgent demand for clerical service growing out of an act of the last Congress requiring triplicate invoices of all imports of foreign goods, certified to by the consul, vice consul, or commercial agent of the United States nearest to the place of shipment.

This act is precautionary against fraud, and specifies that one of the triplicate invoices shall be given to the shipmaster for the entry of his goods, wares, or merchandise, one forwarded to the collector of the port of entry, and the other carefully preserved among the archives of the consulate. This act has added \$100,000 to the receipts of the Treasury in consular fees, and, by a rough estimate made by those whose judgment upon this matter is entitled to great respect and confidence, has increased the annual revenues to the extent of \$10,000,000. But at the same time it has increased the business of the consulates sixty or a hundred-fold, and thereby made a necessity for an increase of the clerical force. As a consequence of this our consuls very generally, and, as it would seem, not unreasonably, have

applied for an advance of salaries. These applications, with but three exceptions, have been held in abeyance in anticipation of the relief to be given to the principal stations by the clerical pupils provided for in this bill.

If now we reject this measure, we ought in simple justice to increase the salaries of our commercial agents of various grades to meet this unprecedented and unavoidable outlay, and that, sir, would be a burden heavier than it is proposed to lay upon the Treasury by this bill. Perhaps state-craft will justify such economy, but my limited observation has left me simple enough to suppose that a true statesmanship would scorn

"With one hand to put  
A penny in the urn of poverty,  
And with the other take a shilling out."

It is easy for this House to perceive that a single fraud, such as the operation of this law discovers to us to have been practiced upon our revenue officers heretofore, to the extent of millions of dollars annually, might deprive us of a sum sufficient and more than sufficient to cover the entire expense of this system of consular pupils. And in view of the unfortunate prejudices of the European mind against us, is it unreasonable to suppose that our commercial and governmental interests would suffer far less from frauds perpetrated through collusion with consular clerks if they were intelligent Americans than if they were of foreign birth, intimate with foreign merchants, and educated into all the antipathies and antagonisms of European society?

The appointment of American clerks would seem to be dictated by common prudence, and from the consideration also that it would secure freedom and efficiency within the sphere of their activities. Vattel says:

"The functions of a consul require that he be not a subject of the State where he resides, as in this case he would be obliged in all things to conform to its orders, and not be at liberty to acquit himself of the duties of his office."

This would apply in its full force to the chief clerk in the absence or sickness of the consul, and measurably to all the clerks in the discharge of their proper functions. We cannot afford to forego the advantages proffered to us in this bill.

But, sir, it is objected that the appointment of these twenty-five pupils will increase the patronage of the President, already fearfully large. There is an old proverb that it is the last straw which breaks the camel's back. Now, sir, all I have to say is, if this straw will break down the Government, or even demoralize an honest Chief Magistrate, neither the one nor the other will be worth saving. There are weighty reasons why these clerks should be appointed by and responsible to the Government and not to the consuls. Let me bring to the notice of the House the words of one of our ablest writers, at the time a consul at one of the principal marts of Europe. He says:

"In my opinion the whole staff of clerks should be appointed, not by the consul, but by the State Department, of which they should be the servants, and not removable by the consul except on grounds approved by the Secretary of State. With clerks of my own selection I would engage to commit defalcations to the extent of at least one half of the receipts of the office without the possibility of proof against me. No man ought to be exposed to so great a temptation as this. Many men will certainly yield to it."

It will be remembered by members familiar with our consular history that the successor of this distinguished gentleman, unfortunately for himself and the Government, proved the feasibility of the plan so ably foreshadowed.

But it is still further urged, in language which has conveyed to my mind certainly something of bitterness and contempt, that the effect of this measure would be to establish schools in which the sons of political favorites would be educated abroad at public expense for the discharge of duties which they would never perform. One might suppose from the tone of this groundless charge that it contained "a charm of powerful trouble" that must inevitably drag the bill into the limbo of perished legislation.

But I affirm that no candid mind can apprehend danger from this source when it is considered that the administration of Government frequently passes from one party to another, and that parties themselves are constantly changing. If it were true, it would be the most innocent of all political patronage, and an evil likely soon to cure itself; for these young men, having never entered deeply into the struggles of politics, would, after a brief absence, cease to be partisans and become, what



every commercial agent of the Government abroad should be, but what they are not very likely to be under the present system, candid and unbiased friends of the Republic.

I must confess, however, that what is here urged as the main reason to dissuade from this measure persuades me most to its support. Even if no immediate equivalent in service was to be returned, it would not, I apprehend, be a breach of any axiom of political economy or do violence to the teachings of a sound political philosophy, for this Congress to devote the small sum solicited by the Government through three Administrations, and by such statesmen as Everett, Marcy, Cass, and Seward, to an effort to improve the business capacity and professional intelligence of the commercial agents of this great people in foreign capitals. It might at least add to the stock of national intelligence, if it did nothing more, and thus feed the hidden sources of our prosperity, stability, and glory as a people. We do well always to bear in mind that ignorance is the mother of discord and sedition in free States, and makes popular suffrage a snare and a weakness. It has been our misfortune, and a main reason that we are now repeating the bloody experience of the early republics, that our population in a large section of the Union has increased more rapidly than the power to educate, enlighten, and assimilate the teeming millions. Had we to-day, sir, a bureau of national instruction under the guidance of an enlightened and judicious secretary it would be well for our permanent peace and prosperity, and would allay the anxious fears of many of the wisest and best friends of civil liberty both in Europe and America. It is a narrow and suicidal philosophy that would withhold or divert the bounty which the Government would devote to the education of its people. The measure before us is a part of that enlightened policy which appoints to special training chosen youth for special duties of preëminent and paramount importance to the Republic.

Permanent foreign clerks, familiar with the duties of the office, are frequently the leading personages, and have the paramount control of the large financial and commercial interests of our consulates. This is true not only in the temporary absence and disability of the consuls and in the transitions of Administrations, but too often during the entire period of an Administration. This is both disreputable and unsafe. Let us fill these clerkships with intelligent Americans, upon whose sympathies we can rely, who will labor for the welfare of our commerce and Government, and who, in time, will commend themselves to the appointing power, by their special acquisitions and qualifications, for interpreters, vice consuls, and consuls, and not unfrequently for still higher duties in the foreign missions.

Again, it is urged, and it is the only argument against this measure which has weight upon my mind, that it is not prudent to add \$25,000 to the burdens of the Government in these perilous times. But, sir, I call to mind that the genius of trade, in periods of great financial embarrassment, often fills the lap of poverty with plenty by judiciously investing capital in ways that will enlarge the profits of productive industry. So I can but believe this application of the public funds will increase the business and multiply the profits of commerce till the income it brings to the Treasury will far outrun the yearly draft. A Government, paralyzed through fear of evils to come, will inevitably be drawn into the vortex from which it shrinks. Let it be borne in mind that our State Department is nearly self-supporting; that our consular system, sustained at an annual expense of \$300,000, returns more than two hundred and fifty thousand dollars into the Treasury in consular fees, and that the incomes from this source are increasing year by year.

Give us back the Union reconstructed upon the basis of free labor and untrammelled enterprise, and our commerce will rise from the struggle like Anteus from his contact with the earth. With such an issue, though our commercial marine should be swept from the ocean, it would spring like a Phoenix from the ashes of war and renew its flight. Let us, then, conduct our legislation in the full assurance of final victory and prolonged prosperity. Sir, we will let

"No pent-up Utica contracts our powers;  
The whole boundless continent is ours."

The classic gentleman who represents the commercial metropolis of the Republic upon this floor with such distinguished ability, a little time since quoted in eloquent phrase, but, as I must think, unfortunate connection, the proverbial *Delenda est Carthago* of the old Roman patriot. Sir, I commend to the gentleman to recall and ponder over the life and death of that great exemplar of civil liberty. Could we but unsphere the spirit of Cato and bid it speak through his lips, it would inspire them with no miserable word of discouragement or taunt or bitterness against his Government in this hour of the nation's prolonged struggle for life and liberty, but adapting itself to the changed condition of the times, would close all his speeches with the heroic cry, *Delenda est rebellio et confederatio*.

Cato was more than willing that Africa should perish that liberty and the republic might survive.

In the law of 1856, the President is authorized to require of the consuls:

"The communication of information and the procurement and transmission of the products of the arts, sciences, manufactures, agriculture, and commerce from time to time, as he may think conducive to the public interests."

They are liable also, in the absence of the proper officers, to be called upon to fulfill diplomatic functions. We see, therefore, that the discharge of very responsible duties, and those requiring extended information and a high order of intelligence, may be laid upon these officers. These duties are represented by the Secretary of State as having been very onerous and valuable during the progress of the present war. He says:

"Since the commencement of this war the Department has had much confidential correspondence with our consuls abroad in relation to the rebel privateers, the fitting out of blockade runners, and equipping of vessels of war in foreign countries by individuals in the interest of the rebels, and the shipment of arms and other munitions for their use. Upon all these matters the Department has been kept fully informed by our consuls, and the information thus communicated, which has been promptly made known to the Navy Department, and thus to the commanders of the blockading squadrons, has led to the capture and condemnation of many blockade runners with valuable cargoes."

"It is important, therefore, that the chief clerk in each of the principal consulates should be a thoroughly loyal American citizen, fitted at any moment, in case of the sickness, absence, death, or temporary disability of the consul, to take his place and discharge faithfully his duties."

The object, sir, of our consular system is to protect the commercial rights and privileges of the nation, and to advance its prosperity and power. No agents of the Government stand nearer the sources of national greatness, none are intrusted with higher interests. The peace of the country and the honor of its flag over every sea and in every clime are in their keeping. They stand in eminent social relations in all the great mercantile marts of the world, and by their attainments, manners, and business capacity, determine largely the opinions of mankind in respect to our national character. In view of these grave responsibilities, I submit, sir, that it is the part of a prudent policy and an enlightened statesmanship for this assembly to forego no opportunity to enlarge the influence of its representatives abroad, and to secure the respect of foreign nations.

Mr. BROOKS. What is the precise question before the House?

The SPEAKER. The question is on agreeing to the twenty-ninth amendment of the Senate, in which the Committee of Ways and Means recommend a non-concurrence.

Mr. BROOKS. That is to strike out the provision for the twenty-five consular pupils.

The SPEAKER. The amendment is to add section two.

Mr. BROOKS. That leaves out the twelve consular pupils?

The SPEAKER. That is the effect of it, although the twenty-five consular pupils are not named in the section.

Mr. BROOKS. Mr. Speaker, after the action of the Committee of Ways and Means recommending a non-concurrence in this amendment of the Senate, I should not have risen to address the House but for the highly instructive and elaborate speech of the honorable gentleman from New Hampshire, [Mr. PATTERSON.] As such a speech may have an undue effect upon the House and change the action recommended by the Committee of Ways and Means, I feel it my duty briefly to address the House in reply to the honorable gentleman.

I thank the honorable gentleman for the compliments he has paid me and which I so illy deserve; and though such compliments quite disarm me in any reply I may have to make, yet I must say something of his reference to the fulmination in the Roman senate of Cato the Censor, *Delenda est Carthago*, and his application of that fulmination as words now fit for us in the Congress of the United States.

The honorable gentleman, scholar as he is, will remember that it was in the free, popular, and classic days of Rome, when a Roman citizen enjoyed Roman liberty, that this fulmination went forth from Rome, *Delenda est Carthago*. "I am a Roman citizen," was then the proudest boast of man, and the joy and glory of a Roman. Rome then began the process of confiscation and extermination for all the nations of the earth; not only for Hispania and Britannia, but thence on to the Euphrates and the Tigris. Arms then governed Rome, no longer the toga. But in this conquering and exterminating process the Roman republic became the consolidated Roman empire. Roman liberty was lost; the rights of Romans ceased to exist; the Roman citizen was no longer a citizen, but the mere subject of a Roman emperor. I fear that if this process of consolidation and extermination is carried on, though the American empire may be spread from Washington far beyond the Rio Grande to Central America, and perhaps to the Amazon or to the arctic regions, yet in that process the fate which was the fate of the Roman citizen may be ours, and we shall no longer be free and independent American citizens, but the subjects of some wretched, miserable, praetorian-elected emperor.

These remarks, sir, I know are not kindred to the subject before the House, but the topic was introduced by the gentleman from New Hampshire. I therefore pass from them with this other remark, that the whole scope and tendency of his argument, if not of his course, is too like consolidation in everything. The gentleman is quite sure that if a bureau of instruction were instituted by this Government for the education of the people, our institutions would be better secured than if it were left to the people to educate themselves. Here the honorable gentleman and myself differ altogether. He believes that all good is to come from the Government; I believe that all good is to come from man. I believe that the precepts of Christianity are first to reform the man, the individual, and not the action of the Government. But the action of the Government in general is likely to do more harm to mankind than it is to do good, and whatever reforms mankind must come from Christianity, from family and home training, and not from the fostering care of the Federal Government, or of any consolidated Government. It is but natural, therefore, in this process of reasoning, that the gentleman should be advocating that this system of international institutions should be established by the people of the United States at the expense of the people of the United States.

True there are but twenty-five consular pupils named in this bill, but these twenty-five are but a nest-egg of a vast system which in the end will be imposed upon the whole diplomatic system of the country. Our system beautifully differs from all European systems in all its diplomatic regulations; and I declare with all the confidence of truth that nowhere on earth, under no form of Government service since the foundation of our Republic, has the diplomacy of a Government ever been better carried on or so well carried on as in this under our system peculiar to the United States. The whole history of our country shows that we abound with educated, intelligent, and literary men qualified to represent our country abroad in any court of Europe without foreign training therefor.

Who are the men, educated in our schools, trained in no diplomatic circle anywhere, who have illustrated the honor of the American name abroad? The illustrious Jefferson, of Virginia, as minister to France; the elder Adams at the court of St. James, and his son, the younger Adams, one of the best educated men in the country. Then there was the illustrious Pinckney, and the not less illustrious Jay; and in our own day a not less renowned and distinguished man, who has shed light upon international law, and given renown to our nation the world over, Mr. Wheaton,

the product of New England schools, and trained in no foreign courts. And our diplomacy has been illustrated too by Irving as minister to Spain, by Van Buren, minister to England, and by Motley, another offspring of New England schools, and New England schools alone; and by Hawthorne, also trained in no school of diplomacy. Everett I had almost forgotten to name among the brilliant list; but if the last named, he is among the foremost of the scholars, not only of our country, but of the world.

In the whole diplomatic history of Europe, when we come to compare name with name, historian with historian, scholar with scholar, neither France nor England nor Russia, nor all combined, can present so beautiful a galaxy of literary men as the American diplomacy has afforded, from Franklin, the printer, down to our day, although they have been men trained in our own schools. What need, then, for consular schools in Europe or anywhere to educate our young men? Our system differs entirely from foreign systems. I had almost forgotten the name of Lewis Cass among the list of those who have so illustrated our country abroad—Cass, a man born of New England, but educated on the frontier among the savages of the Northwest. It has been our policy to take that class of men from among the great body of the people and send them to Europe to meet counts and lords and dukes, and we have lost nothing in the result, but gained much.

Their system is an hereditary one; their diplomacy passes from family to family; they are educated and trained only for diplomatic purposes; while our representatives, the offspring of our free institutions, have presented the class of men I have described here. The gentleman from New Hampshire [Mr. PATTERSON] well says that in courts like those of Japan, Siam, and China, highly educated consuls are necessary. I know they are. Judicial processes are intrusted to them, but qualified men are abundant if the Executive will but select them to fill those places. And I hesitate not to say, from a personal knowledge and experience, that the consulate at Constantinople has been filled for years by one of the best educated men that could have been selected in any country of Europe for that purpose. The consulate in Japan, filled by Mr. Harris, and the consulate in China, filled at one time by Dr. Parker, afterwards made Commissioner, were provided with men most admirably fitted for their places. And if good men are not always selected for such places it is the fault of the Executive, because such men are abundant in the country, and the Executive can always have them if he wills.

And now our whole system of education and training is educating our young men far more than they used to be for filling these consular offices when the honorable gentleman from New Hampshire and myself were young men. Even the Arabic is taught in some of our schools to fit men for consulships in the East. Our late consul at Beyrout was one of the best educated Arabic scholars in the East, a native-born American citizen. Indeed, the important consulships have been in the main adequately well filled; and where there are wrong men, I repeat, the fault is in the Executive, whom no consular schools can correct.

Sir, I should look upon it as a great calamity, a great misfortune, to this country if we should be represented abroad in high places by consular pupils, by men who have been twenty or thirty years from their country. It is necessary for every young man to come home within five or ten years and free himself of the courtly associations and despotic modes of European thinking, to breathe once more the spirit of our own free institutions; then, after thus mingling with the great body of the community, to go abroad once more if necessary to represent that free spirit abroad. The law, therefore, here proposed is not necessary, and I trust and hope that it will not be accepted by the House. I trust that the action of the Committee of Ways and Means—a committee with which I do not always agree—will be supported by all sides of the House, and that we will not now, in the midst of war, not now in the midst of a bleeding Treasury, as well as of a bleeding people, not now, when economy is more than ever necessary, begin to educate young men abroad for any diplomatic purpose whatever.

Mr. PATTERSON. I wish to occupy the attention of the House for a few moments only. I do not desire to reply to the gentleman's illogical and irrelevant inferences in respect to my advocacy of consolidation. I wish simply to say that his remarks, so far as they have any force, would stand against an act authorizing the appointment of diplomatic pupils, not against the Senate amendment to the bill now before the House, which would restore the rescinded section of the law of 1856, providing for the appointment of consular pupils.

Does not the gentleman know that several of the distinguished men whose names he has paraded with such triumph were trained diplomats, that they enjoyed as a prerequisite of their great success the professional discipline which I advocate for our consuls? This is true of Jefferson, Adams, Everett, Wheaton, Motley, and others whom I might mention.

I am not unmindful of the great services and splendid abilities of Franklin, Jay, Wheaton, and other honored names never to be forgotten in our diplomatic history. Those venerated names but illustrate the rule and shadow forth the possibilities of a better system.

Of such, and of such only, could Horace say,

"Nil mortalibus arduum est,"

but the verse which succeeds in the splendid lyric,

"Cælum Ipsi petimus stultitia,"

though but a poet's myth drawn from the fables of the giants, is but simple verity if applied to our present American consular system.

Why, sir, Mr. Everett, to whom the gentleman refers, was the first to introduce this policy by embodying it in the treaty which he negotiated with the French minister in 1853. The Secretaries Marcy and Cass, whom he has summoned before us, urged it earnestly and persistently. They who have had the best means of knowing the defects and necessities of our consular system, are the men who press this measure. The names to which the gentleman has referred are exceptions. That our commercial and revenue interests and the reputation of the nation have suffered sadly from the utter ignorance of our consuls of the languages, laws, history, and policy of the Governments to which they have been sent and of their own proper duties, is notorious. I do not say this to their disparagement. They may be intelligent in all other matters but not in this. It is their misfortune that they have been thrown from their proper sphere by the blind policy of parties. I call attention to the following communication from a very intelligent gentleman, formerly a member of this House, who has lately returned from his consulate at Matanzas.

WASHINGTON, April 18, 1864.

Sir: While my connection with a consulate has not been long enough to lend much value to my suggestions it was so recent that the recollections of my experience are vivid, and may help to a correct appreciation of the difficulties surrounding that branch of executive service; and I beg to offer my observation to the Department.

I have recently read the debates in the Senate on the pending bill, a provision of which authorizes the appointment of consular pupils; and if anything can demonstrate the necessity of the measure it is the seeming failure of some of the ablest of that body to appreciate the subject.

To say that there are incurable evils inevitable to our system of government, and to accept the defects in our foreign service as one of them, is a weak escape from responsibility. Our commercial representation may be below that of any other respectable Government. Its defects are so obvious and the remedies so apparently possible that to say the service cannot be vastly improved is an assertion not to be accepted without persistent effort and experiment.

The consul is appointed with little reference to his actual fitness. He is the American average of ability and intelligence; has had no commercial or legal education; without any examination as to qualifications, he often goes out without the advantage of personal instructions under the Consular Bureau, and does not readily master the valuable Consular Manual furnished him. As but one other nation speaks his language, he doubtless goes among a people with whom he can hold no possible communication. He knows nothing of their customs, mode of thought, or channels of information; knows nothing of their commercial ordinances and policy, or of the treaties of his own or their Government; cannot communicate with their authorities so as to procure a local recognition, pending the arrival of his exequatur. An instance occurred in Cuba where an American consul remained four months before he established relations with the Government.

The newly arrived American consul stands in the presence of a foreign people deaf and dumb, and is obliged to acquire many of the rudiments of human intercourse anew. With no familiarity with the common routine of his office or of commercial affairs, he receives his post from a predecessor who is in too much of a hurry or too churlish to instruct him, and many men in middle life are incapable

of ever being instructed. His compensation usually precludes the possibility of employing a clerk. He is for the first time to see a ship's register, and the shipping articles are a new and occult revelation. At first the difference between an invoice and a ship's manifest is not apparent, and an extended protest is an extensive arrangement. He does not know the use of the numerous blanks with which his office is filled, and never finds them all out. The mode of keeping the consular accounts he does not apprehend, and not one in fifty of the newly appointed consuls can by possibility make up the necessary quarterly reports or furnish the commercial statistics that swell the annual volume of our Commercial Relations; and whoever examines those will be astonished at the many blanks which the incompetency of American consuls at important ports makes in those fragmentary and imperfect works. The captain of the port sends him a clearance for his vessel, yet what it is, or from whence, or for what purpose, he has no conception; and when in his pursuit of knowledge under difficulties he finds one who can make its contents known he then has to be informed what he is to do to it, to the utter astonishment of the foreign officers who wonder most at his being sent among them at all.

Perplexing controversies constantly arise between seamen and their captains. The new consul knows nothing of either class, or in what way the disputes are or should be dealt with, and yet he must decide promptly. He does not know in what cases he may ask the aid of the local police, nor to whom or how he may apply.

Grave questions of commercial law are often met, arising from loss of cargo, wrecks, general average, &c., the authentication of records, taking proofs, &c., with a constant demand for drafting papers, for which he has no forms. So of the disposition of the remains and property of deceased Americans. So, too, he is ignorant of the delicate texture of our relations with the country where he resides, of subsisting treaties, of their construction, and whether questions arising under them were ever before settled, and how. Often the official correspondence of the State Department with his predecessor on questions that perplex him remain a sealed book to him; and he is ignorant of the ordinary precedents of the office he holds and the cases and traditions of his own consulate. A consular pupil of two years would be equal to most of these questions, or would have access to means of information which he would understand. An American consul was once imprisoned for one hundred days in Matanzas for attempting to exercise a consular right under a treaty with Spain. Though honest he was mistaken, and was left without redress.

If the new consul succeeds to one of the most important posts which employs subordinates, he necessarily and inevitably falls into their hands and under their control. He takes their impressions, adopts their views, sees what they desire him to see, and hears only their rendering of the things he would hear. A man thus commencing forever remains the ward of his subordinates; and these may have been the employees of a predecessor removed for cause, and who sustain no relation of responsibility to the Government, as a consular pupil would.

In my own experience I received the constant and gratuitous assistance of one of the most accomplished of our consular officers in the Spanish dominions, and thus, I trust, the public service was not compromised in my person; and I was saved from the inevitable mistresses and personal mortifications that would otherwise have attended me, and received thanks for services that were really due to another.

The constant education of twenty-five competent and emulous young Americans as consular pupils, not removable except for cause, and who should not succeed to consulates till after two years' tuition, and who should be required to master commercial law, modern languages, or some of them, become familiar with our commercial treaties, &c., would soon supply a corps of competent consuls, and no Administration could leave them unemployed.

Many would doubtless resign to seek places in foreign commercial houses. Their return to other pursuits would be avenues through which a rare fund of knowledge would find its way into public service in Congress and foreign missions.

I trust the motives with which this is offered to the head of the State Department may excuse its intrusion upon him.

I am, sir, your obedient servant,

A. G. RIDDLE, late Consul.

Hon. Wm. H. SEWARD, Secretary of State.

It may be said that these places of higher trusts and emoluments will continue to be bestowed as rewards for political services. But give us a body of men eminently fitted for the work, and it will be found that there are interests of trade and of State stronger than the claims of party which will wrest these appointments from the category of party spoils.

The seventh section of the act of 1856, repealed in 1857, which it is now proposed to repeal, is a first movement in the proper direction. The importance of having well-informed Americans in the inferior grades of the consular service may well be illustrated by a reference to the illicit trade between Canada and the United States. That smuggling, to the extent of millions of dollars annually, is being carried on in silks and velvets and other goods from France and Switzerland, and teas from China, under the protection if not under the direction of our alien commercial agents in the British provinces is well understood by high officials who have the best means of information; and this is but an illustration, on a small scale, of the frauds practiced upon our

revenues through the dishonesty of foreign clerks and the professional incompetency of consuls in other parts of the world. How long are we to endure such things for the mere gratification of what, by an expressive vulgarity, has been styled buncombe?

Mr. KASSON. Mr. Speaker, it will be seen that by the provisions of that general act it was intended to devise, improve, and permanently establish a diplomatic and consular system for the United States. It was proposed as a part of that system that the President should be authorized to employ these persons who are there called consular pupils. They are in fact consular clerks, and the term "pupil" may perhaps mislead some gentlemen as to the purport of the law. It is simply designed to establish a class of men not liable to constant removal, but who should be allowed to become acquainted with the language, the laws, and manners and customs of the country to which they may be sent.

Now, what is the mischief in the existing law which it is here proposed to remedy, and which it is desired to remedy by the gentleman from New Hampshire, [Mr. PATTERSON?]. No sooner does a consul become familiar with the duties of his office and the mode and manner of transacting business with which he is charged than, by a change of Administration, he is liable to removal and a new man sent out, while in the mean time our commercial affairs require an efficient man.

There is not an American ship going into a foreign port that the captain or seamen do not demand the services of our consul to present their case to the foreign authorities and have justice done to them. By the present system we cannot secure the services of competent and efficient officers as consuls, and this is the evil that we seek to remedy. Will this proposition as it comes from the Senate do it? It simply authorizes the President to appoint these consular pupils.

But when will they be removed? Will they not be removed just as consuls are removed? When they get to be efficient will they not be taken away under a change of Administration, and leave the same embarrassment to exist under which we are now laboring? In the opinion of the committee there is no guard thrown around this section to prevent the recurrence of the same mischief which we all desire to remedy. Under these circumstances the committee cannot consent to the establishment of this corps of consular clerks, thereby adding this burden to the Treasury, though it is not very large, unless the section be accompanied by a proviso which should make the system one which would secure a permanent benefit to the commercial and other interests of the country. Now, if we had a security that we could secure the right kind of men for this purpose, and could secure them as clerks to consuls abroad when they reach their destination, I should feel strongly inclined to support the gentleman from New Hampshire.

With this statement of the question, if there is no other gentleman who desires to speak, I propose to take the action of the House upon it.

Mr. MORRILL. After the very attractive speech of the gentleman from New Hampshire, [Mr. PATTERSON,] I am not disposed to have the question taken until the House can look at the matter in its practical operation. Now, if these pupils shall be appointed, there is no guarantee whatever upon their part that they are to serve the country, nor is there any obligation upon the country that they shall be continued in the service. The evil sought to be remedied cannot be reached in that way. The real evil is in the appointing power. There are a plenty of young men in the country who are well qualified for these positions; young men, sons of merchants, who are not only educated with some reference to the duties they are to perform in future life, but are educated in the languages of those countries with which their fathers are engaged in commerce. Among our citizens you will find a sufficient supply of these men to fill all these appointments if the Executive would but do his duty. I hope that we will hold the Executive responsible for these appointments, and not create by law a class of popinjays who will receive the contempt of the country when they return home.

The SPEAKER. The Committee of Ways and Means recommend a non-concurrence. The amendment was non-concurred in.

The SPEAKER. The next amendment reserved for consideration will be read.

The Clerk read, as follows:

SEC. 3. *And be it further enacted*, That the President may, in his discretion, by and with the advice and consent of the Senate, appoint an envoy extraordinary and minister plenipotentiary to the kingdom of Belgium, who shall receive no higher compensation than is now allowed to a minister resident.

The SPEAKER. To that amendment the gentleman from New York offered an amendment.

Mr. PRUYN. I did not offer the amendment, as the Speaker supposes. It was offered by the gentleman from Pennsylvania, [Mr. BROOMALL.]

Mr. BROOMALL. I will father the amendment, and withdraw it.

Mr. KASSON. I move to amend by inserting after the word "that" the following:

If the President, in his discretion, shall nominate an envoy extraordinary and minister plenipotentiary to the kingdom of Belgium, the sum appropriated to the minister resident is hereby transferred to such envoy, and the additional sum of \$2,500 is hereby appropriated in conformity to the first section of the diplomatic and consular act, approved August 18, 1856.

I will explain the effect of the amendment. The first section of the diplomatic and consular act to which I made reference a little while ago provides the rate of compensation for ministers, envoys, &c., abroad. In schedule A, after naming certain countries in which the salary shall be \$17,500, and others in which the salary shall be \$12,000, it is provided that in all other cases the salary shall be \$10,000. The President has the right to designate the grade, and the object is that if he makes an appointment there shall be the money appropriated to meet it. If he does not make the appointment nobody will draw the money.

Mr. STEVENS. I do not understand that any vote of yesterday sanctioned the idea of raising this grade, or of appropriating anything beyond the \$7,500. I stated that if a minister of that grade was to be appointed he ought to have a full salary, but I am not going to invite the President to raise the grade of a minister and make an appointment unless he chooses to do so himself. And this is nothing more nor less than an invitation to the Executive to do what he ought to do without any prompting from us. If it is necessary let him make the appointment and ask for an appropriation to pay the salary, and we will vote it. But for us, for reasons which I cannot understand, to come here and ask the President to do a thing which he has shown no inclination to do, and then say that if he will do it we will pay the man he appoints, is not according to my taste. I hope the whole thing will be voted down.

Mr. KASSON. We have a communication from the President, through the Secretary of State, stating that it is the wish of that Department to raise the grade of this mission, and it cannot be done, of course, unless there is an appropriation made.

Mr. STEVENS. The gentleman is mistaken. The Secretary says that he does not want an appropriation.

Mr. KASSON. The House voted down that yesterday. The law of 1856 expressly fixes the salary at \$10,000 when the appointment is made. We have here a communication from the Secretary of State saying that he desires the appointment to be made. Now, all it remains for Congress to do, if it does not see proper to contravene the action of the Executive Department, is to appropriate the additional \$2,500 called for by the law of 1856. If the appointment is not made, of course the appropriation will not be drawn.

Mr. STEVENS. May I ask the gentleman if I have misunderstood the communication of the Secretary of State? I understand him to say expressly that he asks no appropriation.

Mr. KASSON. The gentleman stated yesterday that he did not wish the grade of this mission to be raised without an appropriation equal to the requirements of the increased grade. Other gentlemen took the same ground, and accordingly the House cast the vote yesterday which we all remember.

All I ask, therefore, is that we conform our action to the existing law. Inasmuch as the Executive Department proposes to raise the grade of this mission, it becomes necessary for us to make an appropriation in accordance with the request made of \$2,500 as proposed.

Mr. SPALDING. I think it sufficient for us to vote appropriations for these foreign ministers whenever the President himself shall designate the grade. I object, as does the gentleman from Pennsylvania, to traveling in advance of the movements of the President upon these subjects.

I do not understand that the Secretary of State asks for an advance of grade in this case with an increase of salary, but simply that the present incumbent shall be advanced, to retain the same salary which he now enjoys. Now, to this many members object; for they say that the present incumbent may not be very long in that office, and then a man may be placed there who will require this increase. I say, in view of this reasoning, that it is better for us, in my apprehension, to vote down this provision and wait until the President shall advance the grade of this mission and ask us to make the appropriation.

Mr. KASSON. I have only to say that that request has been already made in the usual manner through the Secretary of State in an official communication coming here through the Committee on Foreign Affairs, and the House decided yesterday that the grade should be raised with an increase of pay. I do not think that in a matter of this kind we ought to contravene the action of the Executive Department. I hope we shall not do it in this case without better reasons than have been stated. I now demand the previous question.

The previous question was seconded, and the main question ordered; the question being first upon Mr. KASSON's amendment.

Mr. KASSON demanded tellers.

Tellers were ordered; and Messrs. KASSON and THOMAS were appointed.

The House divided, and the tellers reported—ayes 40, nays 53.

So the amendment was disagreed to.

The question recurred on agreeing to the amendment of the Senate.

Mr. STEVENS. I move to strike out what remains of the amendment of the Senate.

The SPEAKER. The House is now acting under the previous question, but that would be the effect of non-concurring in the amendment of the Senate.

Mr. STEVENS. Then I hope we shall vote down the amendment of the Senate.

The question was taken, and the amendment of the Senate, as amended, was disagreed to.

Mr. KASSON. I now move that a committee of conference be asked on the part of the House on the disagreeing votes of the two Houses on the amendments of the Senate to this bill.

#### ORDER OF BUSINESS.

The SPEAKER. The next business in order is the consideration, during the morning hour, of House bill No. 276, to secure to persons in the military or naval service of the United States homesteads upon confiscated or forfeited estates in insurrectionary districts.

#### PREVENTION OF SMUGGLING.

Mr. ELIOT asked and obtained unanimous consent to have taken from the Speaker's table an act (S. No. 266) to prevent smuggling; which was read a first and second time, and referred to the Committee on Commerce.

Mr. BROOKS. I wish the gentleman from Massachusetts would ask to have the bill printed.

Mr. ELIOT. I have no objection. The bill was ordered to be printed.

#### NAVAJO INDIAN CAPTIVES.

Mr. WINDOM asked and obtained unanimous consent to have taken from the Speaker's table an act (S. No. 226) to aid in the settlement, subsistence, and support of the Navajo Indian captives upon a reservation in the Territory of New Mexico; which was read a first and second time, and referred to the Committee on Indian Affairs.

#### COMMISSIONER OF PUBLIC BUILDINGS.

Mr. YEAMAN, by unanimous consent, introduced an act relating to the office of Commissioner of Public Buildings; which was read a first and second time, and referred to the Committee for the District of Columbia.

#### CONFISCATED ESTATES.

The House then proceeded, as the business next in order, to the consideration of House bill



No. 276, to secure to persons in the military or naval service of the United States homesteads upon confiscated or forfeited estates in insurrectionary districts, the question being on engrossment and third reading.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. JULIAN. I am about to move the previous question on the passage of the bill. I am willing, however, to yield the floor to any gentleman who may desire to debate it. I understood there were several gentlemen who did intend to speak upon it.

Mr. MALLORY. I desire to inquire of the gentleman from Indiana whether the operation of this bill is intended to apply to estates that may be confiscated in any of the States of the Union?

Mr. JULIAN. It only relates to confiscated lands in the insurrectionary districts.

Mr. FERNANDO WOOD. Mr. Speaker, I had desired to say something upon this question, but I did not anticipate that the question would come before the House this morning. If the gentleman from Indiana desires to have the question taken to-day, I shall be compelled to enter my objections against the passage of the bill.

The SPEAKER. The Chair will state to the gentleman from New York that he has already spoken one hour upon this bill in one of the evening sessions.

Mr. FERNANDO WOOD. I have not, sir.

The SPEAKER. The remarks were upon other subjects, but they were delivered during the debate on this bill. That is the recollection of the Chair.

Mr. FERNANDO WOOD. I have spoken but once during an evening session, and that was on the bill reported by the gentleman from Maryland [Mr. DAVIS] to secure a republican form of government to the rebellious States. I think the chairman of the Committee on Public Lands [Mr. JULIAN] will recollect that I have had nothing to say whatever on this subject.

The SPEAKER. The Chair may be in error. Mr. JULIAN. That is true. The gentleman from New York [Mr. FERNANDO WOOD] has not spoken on this bill.

The SPEAKER. The gentleman from New York is correct.

Mr. FERNANDO WOOD. I will say to the gentleman from Indiana that if he desires to take the question to-day I will submit what few remarks I have to make in opposition to the bill.

Mr. KING. Mr. Speaker, since the reading of the bill it has struck me that it contains some extraordinary provisions.

The SPEAKER. The gentleman from New York is correct in his statement; he has not addressed the House on the pending proposition.

Mr. FERNANDO WOOD. If the gentleman from Indiana desires to go on with the bill now I presume that I must make my remarks at this time.

Mr. KING. I should like to have time to look into the provisions of this bill before the House is called upon to act on it. It affects my State. There are a number of cases pending in the district court of the United States in Missouri in which the confiscation act is enforced. It will have a direct effect on real estate there, so far as it is embraced by the proceedings under that act.

Mr. JULIAN. I yield the floor to the gentleman from New York. I understand the gentleman desires to debate the question to-day.

Mr. FERNANDO WOOD. Does the gentleman desire to take the question to-day?

Mr. JULIAN. I do.

Mr. FERNANDO WOOD. Then I will be compelled to go on with what I have to say in reference to this question now.

Mr. PENDLETON. Does the gentleman from Indiana yield unconditionally to the gentleman from New York?

The SPEAKER. The Chair is compelled to recognize the gentleman from Indiana as chairman of the Committee on Public Lands.

Mr. PENDLETON. Is it an unconditional surrender of the floor?

The SPEAKER. The gentleman can make it so by objecting.

Mr. PENDLETON. Then I insist that the gentleman from Indiana shall yield the floor unconditionally.

Mr. JULIAN. I do not object, as I have the right to close the debate under the rule.

Mr. FERNANDO WOOD. Mr. Speaker, I think that this bill has not attracted that attention of the House which its importance demands. I think that members are not aware of the gravity and importance of the principles involved in this measure. By its title it is "A bill to secure to persons in the military or naval service of the United States homesteads on confiscated or forfeited estates in insurrectionary districts." It is reported from the Committee on Public Lands, and every gentleman who has spoken on the subject at all has spoken in favor of it. I believe, sir, I am the first member who has expressed an opinion against it.

Mr. Speaker, I differ entirely with my colleagues on the Committee on Public Lands in reference to the propriety of its passage. It purports to be a bill for a patriotic and humane purpose. In my judgment it is neither patriotic nor humane. I am as desirous of going as far as any member upon this floor in giving full and ample compensation to all persons in the military and naval service of the United States. I believe if there be any class of people entitled to the liberality of the Government, it is that class who are now in good faith, and from honest, patriotic motives, defending, as they honestly think, the flag, the glory, and the integrity of the country. Gentlemen on the other side of the House will do us the justice to say that we have on every occasion during this Congress manifested our desire to give to those persons increased compensation and to afford their interests every care and protection. Sir, we voted here early in the session to pay them in gold or its equivalent. I am of the opinion that, including the gentleman from Indiana, [Mr. JULIAN,] who reported this bill, every man on that side of the House voted against that proposition. We have frequently proposed to increase their pay, and until within a few days, every man on that side of the House has voted against it. Since the commencement of this session, and indeed of the war, we have manifested a liberal disposition toward the persons in the military and naval service of the United States.

Now comes a proposition from the Committee on Public Lands to give them homesteads, not upon the public domain—no, that is reserved for railroad purposes and to facilitate speculations—but upon lands to be acquired by confiscation. While we have thousands of millions of public lands, the title of which is indisputably in possession of the Government, and which we are parting with by the hundreds of thousands at a sitting, we refuse to give to the sailors and soldiers of those lands, but turn them over to the tender mercies of the rebels, and tell them they shall have those lands after they have conquered them, provided they remain there and hold them at the point of the bayonet afterwards.

I say this is a most extraordinary exhibition of benevolence and patriotism. You give away to speculators what you own, but to those who fight the battles of the country you give what you do not own and to which you never can acquire, under the Constitution of the United States, a title beyond the lifetime of the present holder. You give them homesteads from the confiscated estates. I think it is quite well settled by the non-action of the Senate upon our resolution passed here after a struggle in the early part of the session, that we cannot, as the President told you last July, acquire a title to these confiscated estates except after due process of law and after a compliance with all the measures required by the Constitution, and then only during the lifetime of the owner of the estate.

At best, therefore, you propose to give to the soldiers and sailors a life estate under pretense that you are giving them homesteads. You announce to the world and to these poor men that you are about to do them justice, that the Congress of the United States is about to confer upon them a great boon and benefit when you know it is a deception and a falsehood. You are doing no such thing. Another objection is that by the bill you hold out inducements to the soldier which invites the worst passions of his nature. You urge him by this species of bribery to the physical occupancy and ownership of lands, and thus induce him to perpetrate acts outside of the rules of war and regardless of the Constitution, upon

the principle of Palenham at New Orleans when he gave the watchword of "booty and beauty," following that example, you are arousing the darkest passions in order to accomplish a personal, a selfish, an avaricious, and a partisan object.

But, sir, as I have suspected from the origin of this bill, there is a hidden motive in it, not expressed by its title, beyond what would appear from the ordinary and cursory reading of it. I have had but little time to examine it. Although a member of the committee who reported it, I was not present at its passage nor at the time of its introduction by the committee. And, indeed, I take this occasion to say, if there is any subject of a public character I am ignorant upon, it is everything pertaining to our public lands; and I suppose it was because I was thus ignorant that I had the honor to be placed on that committee. Now, sir, I suspected—and I say it with all due respect, for I certainly have a respect for the chairman of our committee—I suspected, from the extraordinary zeal and interest which the gentleman from Indiana [Mr. JULIAN] manifested in this bill, that there was something which did not appear upon the surface. I suspected there was an African somewhere, and after some search I have found him. Benton said of Douglas's Kansas and Nebraska bill, that "it carried a stump speech in its belly;" so this carries a little nigger in its belly. It is there, and I think I can make it apparent to this House.

In section four the bill provides that "all persons who are laborers"—not soldiers, not sailors, not the men who are bravely hazarding life and liberty with muskets in their hands in defense of their country—but laborers are to enjoy these homes. That fixes a class not designated in the title. It includes laborers, who we all know are persons employed in the remotest degree by the military, and allows them to derive the same benefits and the same advantages from the enjoyment of these homesteads or confiscated estates that the soldier and the sailor are to have.

Then, again, in the eighth section it is provided that "no distinction shall be made on account of color or race." There is the nigger, sir. The laborer is to have these lands, and of course it is the freedmen, for there are no other laborers but black men. The gentleman from Indiana intends to provide for his black friends under the pretext of doing a patriotic and humane act in behalf of our soldiers and sailors, who are risking everything in defense of their country.

Now, Mr. Speaker, I will go as far as any man in works of humanity, benevolence, and kindness, and that is why I should like to rescue this poor, unfortunate race from the mistaken philanthropy and benevolence of those who are using its misfortunes for partisan objects and purposes. I do believe—and in saying this I wish it to be understood that I speak for no one but myself—that the direst curse and misfortune that has fallen upon that race has been the incorporation of their interests into the politics of the country, whereby they have been made a football for the ambition of white men to the destruction of their moral and physical well-being.

Sir, had I the power I would rescue this unfortunate race, not from their masters at the South, but from the partisan designs and mistaken philanthropy of the North. They were taken from a state of barbarism, and I might almost say of cannibalism, and by slavery so much derided have been made in the main an honest, happy, intelligent, producing class, whose wants, from the interests and the necessities of the case, have been well supplied.

This bill in effect provides that after white men with arms in their hands have possessed themselves of these lands, they are to be given to the slaves, who are to till them, not for their own benefit, but, according to the example of the last two years, during which freedmen have been worked as slaves never were, for the benefit of northern speculators and philanthropists. The fat lands of the South are to be worked by the black man, not for his own advantage, but for the advantage of those who have "official privilege" to enjoy the fruits of his labor. This is the kindness, the humanity, the benevolence that is to be exhibited toward this poor, unfortunate race!

But, Mr. Speaker, I have an objection yet more grave to this bill, and that is that it is based upon

the assumption that the Union shall never be restored. Like nearly every proposition of a political character which has been submitted by the majority to Congress at this session, it is based upon an assumption that the Union ought not to be, will not be, and shall not be, restored; that the southern people shall never again live under a Government with us centered in Washington city. This is palpable. If this Union is to be restored under the Constitution of the United States, every one of the States in which these confiscated lands lie will come back into that Union with all its territorial integrity and with all the rights it has heretofore maintained. If we are to have an American Union again, we must have a Union in which each State stands in the same position, no one State possessing any more right and interest in the administration of the Government than the other, each reserving to itself the full exercise of all rights where not originally delegated to the Federal Government. That reservation implies exclusive control and jurisdiction over all domestic questions, and that of course includes not only slavery, but it includes the rights of property in lands held by private owners. And yet, by the passage of this act, and by your confiscation measure, you forcibly and violently seize those lands and part with them to individuals. Of course, you will have to give them up again or pay for them, or else you cannot restore the Union. You have got to do one of two things: either you must restore private property or, under the Constitution, give "just compensation for it." If not, you disregard the Constitution and the existence of the Federal Union. That is the alternative. You do not propose to give the property of the States, but the property of the people in rebellion, as a punishment for treason. Some of the southern people are as good and true Union men as any who live at the North. You propose indiscriminately and irrespectively, whether there be treason or attainer of treason, or not, to lay your hands violently upon this private property and to give it away. When you assume that you have the right to give it away, you assume that the Union is forever gone and that you hold these lands by conquest.

Mr. Speaker, I would take no step tending to the creation of one obstacle, however slight, in the way of a restoration of the Union. I have never done so—I never shall do so. I have never uttered one word, nor will I, so help me God, tending to prevent reunion if it is possible. I am willing to make any sacrifice to aid in bringing back the American people, North and South, to a full realization of the terrible destruction which they are bringing on their own unfortunate heads. I am one of those who yet hope almost in fear against hope for restoration; and by no vote of mine in this House shall I, in any way, directly or indirectly, give countenance to the assumption conveyed in this bill. In no way can I give countenance to this disunion heresy by, in advance of the settlement of the question, disposing of the lands and of the rights and interests of independent communities who, in my judgment, have a right to return to the Union, and whom, under our Constitution, we have no right to exclude. On the very slight examination which I have made of the bill, these defects appeared so palpable that I have, in this manner, endeavored to state them to the House. I repeat in conclusion that in my judgment the bill is objectionable, because it proposes to give what we have not got to give, and to which we can have no valid title in fee under the Constitution; that under the pretext of benefiting the soldiers we are really doing by this bill nothing of the kind.

Again, it says in substance that "we will kill or seize the masters, and give their estates to their slaves." That, in my opinion, is a very grave objection. Another objection is that if it be right to give homesteads to soldiers and sailors they should be given from the public domain.

Again, it is the black laborer and not the white soldier that excites the philanthropic concern of its framers.

Finally, my objection to it is that it is based upon the assumption that the Union cannot and shall not be restored; that that is a thing of the past; that the privileges and the obligations of the Constitution have been withdrawn from those States. Whether we design it or not we are mak-

ing a decision to the effect that the penalty of rebellion is the subversion of all their rights and liberties as States; the right of governing themselves; the right of ownership to their lands, and their reduction to a condition below that of a dependent people in an ordinary Territory. We are deciding by this bill that the people of the South have committed a crime which entitles us, not only to take away any government they may now have, but to substitute in lieu of it just such a government as we may in our judgment think proper to establish. For these and other reasons stated, Mr. Speaker, thus briefly and imperfectly expressed, I shall vote against the bill under consideration.

Mr. SLOAN. Mr. Speaker, I think it is true, as stated by the gentleman from New York, [Mr. FERNANDO WOOD,] that this bill has not received as much attention as its importance deserves. But I think it is not true, as the gentleman further stated, that the principles involved in it have not been considered as fully and deliberately as they ought to be considered before action is taken. In my view, the only principles involved in the bill now before the House have been definitely settled by the action of this body after the fullest consideration, and after the most mature deliberation.

This bill, Mr. Speaker, is the legitimate result, the natural consequence of two measures of very great importance which have passed into laws by the action of Congress, after an extended discussion of each. I mean the act confiscating the property of rebels and the act granting free homesteads on the public domain to all who will settle upon and cultivate them.

This bill is the legitimate consequence of the principles embodied in those measures. The gentleman from New York [Mr. FERNANDO WOOD] assumed in the remarks he has made that the only way in which we are to acquire the lands on which this bill operates is under the confiscation act. But if he had read the bill carefully he would have seen that these lands are to be acquired, and are constantly being acquired, under the act for the collection of direct taxes in insurrectionary districts, and under the act to provide internal revenue to support the Government, as well as under the confiscation act.

If these acts are enforced, as we are already enforcing them, we shall acquire a large amount of landed property, the title to which will be in this Government; and this bill simply proposes that the lands thus acquired shall be treated as a part of the public domain to be disposed of in accordance with the wise policy which Congress has already determined to apply to the disposition of our public lands by allotting them as homesteads to those who are willing to cultivate them, with the exception that in the disposition of the lands acquired under the acts which I have named preference is to be given to those patriotic men who have performed military and naval service for the country in this terrible struggle for national existence.

The first objection which the gentleman from New York makes to the bill is that it gives our soldiers and sailors the right to occupy the land thus acquired as homesteads. He is not willing to extend to them this privilege. Yet he claims, as all the members on that side of the House claim, to be the especial friend of our soldiers in the field. He says that the members on that side have been willing and anxious to pay the soldiers in gold, and that they have also been desirous of increasing their pay.

Am I right in supposing that the motive which prompted the attempt on that side of the House to have our soldiers paid in gold was, that such a measure might be the means of embarrassing the Government in carrying on the war? They understand that another currency and another standard of value have been established and are now in use in this country. If it would not be impossible to carry out the measure of paying our armies in gold, it would certainly entail great financial embarrassment, and perhaps financial ruin upon the Government to compel it to pay in gold the vast sums of money which we appropriate for the payment of our officers and soldiers. Is that the motive which animates the gentleman from New York? Is that the motive which animates the members on the other side of the House? Are these the objects which they seek to accom-

plish in pressing the proposition as they have done, that our armies shall be paid in gold? What other motive, what other object, can they possibly have? But, sir, they are not only willing to pay the soldiers in gold, but they are willing to very largely increase their pay. The proposition which comes from that side is to increase it far more than was provided for in the bill which was reported on this side of the House and has become a law.

The sincerity of the gentleman from New York and his political associates is shown in the fact that while they have been proposing to pay the soldiers in gold and to increase their pay so largely, they have voted against the taxation necessary to put the Government in possession of the money to pay them at all. If the gentleman was in his seat and voted on the tax bill his vote will, undoubtedly, be found recorded in the negative. By what process of reasoning can such inconsistencies be reconciled? Gentlemen on the other side rise in their places and with many professions of friendship for and support of our soldiers strenuously advocate an increase of their wages, but when it is proposed to lay the taxation necessary to pay even the wages they are now receiving, and which is absolutely necessary to the continued existence of the Government and sustain it in its efforts to crush this rebellion, many of these same gentlemen are found voting against it. And now when we come in with a measure of simple justice to our soldiers fully within the power of the Government to grant, when they know that large amounts of lands in the States in rebellion are being acquired under the confiscation act, the act for the collection of taxes in insurrectionary districts and under the internal revenue law, and it is proposed on this side of the House as an act of justice to give homesteads upon them to the soldiers who have periled their lives in defending the country, who have saved the Government, and by whose valor these lands have been acquired, and will be held and occupied, we find the gentleman from New York and his associates upon that side of the House opposing it. There is no doubt that they will vote against this bill, notwithstanding all their professions of regard and friendship for our soldiers. And yet, sir, it is a practical measure of the highest justice, which may be extended to them without in any degree weakening or impairing the resources of the country.

But the gentleman states that it is impossible for us to acquire title to lands under the operation of the confiscation act, because that act is unconstitutional, and cannot be enforced. It is too late to discuss that question. Congress has settled, so far as its deliberations are concerned, the right to confiscate the lands of rebels. Under the amnesty proclamation this confiscation operates only upon the property of those who persist in their treason, and refuse to lay down their arms. Does the gentleman from New York feel any tenderness for that class of rebels? Does he desire to preserve and restore the property of those who refuse to desist from imbruing their hands in the blood of our people? All who are engaged in war against the Government can avert the confiscation of their lands, under the amnesty proclamation of the President, by laying down their arms and availing themselves of its provisions. It is only those who persist in treason that this act will injure and punish. This House has settled the principle of confiscation, and it is too late for the gentleman from New York, or any other gentleman, to urge its unconstitutionality, or that it should not be enforced. The loyal people of this country are satisfied of its constitutionality, and demand that it shall be fully enforced.

But the gentleman sees another objection, and it seems to be the paramount objection in his mind to this bill, and that is that it allows the blacks, or, as he denominates them, "the niggers," to participate in its benefits. To those blacks who have been enrolled in our armies, to those who have stood with the soldiers of our own color in the deadly storm of battle, to those who have periled their lives for the salvation of the country, the gentleman insists upon denying those rights which we grant to the other soldiers of the Union armies.

What is the motive for this continued and bitter hostility toward the blacks? Is the fear which animates the gentleman from New York,

and prompts him to oppose this bill the same as that which we have heard so often expressed upon that side of the House, that this is a step toward negro equality, toward raising the negroes up to a level with, or making them superior to, the white race in this country?

Prompted by the worst and meanest passions that corrode the human heart, avarice and the desire to domineer and tyrannize over fellow-men, the negro was brought by fraud and force and planted in this country. We have oppressed them here for upwards of two hundred years; they have been ground down under the heel of oppression; they have been held in bondage, in abject slavery; have been treated as brutes, bought and sold and worked like cattle in our markets and fields; all means of instruction and mental culture have been denied them; they have had absolutely none of the means of advancement and elevation extended to them which have been found necessary to civilize and elevate the white races. And yet gentlemen rise in their places here pretending to speak for the white race which has had all the means of progress and advancement which have been denied to the black, and insist that no measure of justice, that no act whatever which shows any favor to that downtrodden race shall be extended to them, because there is danger that they may become equal or superior to the white race. It is an argument which no white man who possesses any sense of self-respect should or could use.

But, sir, I do not desire to detain the House long, and I hurry rapidly over these points. The gentleman from New York further said that the strongest objection in his mind to the passage of this law was that it would prevent forever the restoration of the Union. I deny it. I say it is but a step in a series of measures adopted by Congress calculated to restore the Union in its highest and best sense, by eliminating from it all that is evil and preserving all that is good; by destroying what is in antagonism to the principles upon which our institutions and upon which the Government and the Union are founded; by making the whole country free; by setting at liberty the oppressed and despised black race, and giving them some sort of a chance in this country.

The delusive scheme of attempting to export and colonize four million people has proved, as was to be expected, an ignominious failure. The blacks are here, and must remain here. The great majority of the loyal people of the country are already convinced, and the minority are fast adopting the same conclusion, that the only means by which we can restore the Union upon a foundation of lasting peace is to destroy slavery, and the only way to destroy it beyond the chance of resurrection is to recognize at least the simple natural right of the blacks to own property, and to enjoy the product of their own labor. If they have been endowed by their Creator with qualities of mind equal to those of the white race, if they were designed by the Almighty, who created the black as well as the white race, to occupy a position equal with the white race, why should we deny it to them; why should we not give them some right, some justice, some chance for improvement and elevation? The blacks came to us naked and ignorant; long years of oppression and slavery have stripped them of every natural and political right. Yet they come with loyal hearts and strong arms, and stand by the side of our own soldiers in bearing up our national flag in the deadly shock of battle. For this we give them freedom, for aiding us in preserving our institutions and preserving our Government. This, with other measures which we have adopted, proposes to give to those who survive the dreadful conflict of battle, and escape after the battle is over massacre at the hands of brutal fiends who are making war on the Government, the means to live by their own industry; and if they have any capacity for improvement it will also give them the opportunity for advancement. To this gentlemen on the other side of the House are opposed. I do not envy them the position which they occupy.

This bill in my judgment is an important one in its provisions and in its effects. As the distinguished and able chairman of the Committee on Public Lands who drew and reported it has shown, we shall acquire large amounts of lands throughout the seceded States, and they will be

the lands of those who have gone the furthest in upholding this rebellion. By dividing these lands up and allowing the soldiers who have served in the Union armies to occupy them, we shall introduce into the rebel slave States what we who live in free States believe to be a higher and better civilization. Our own population will be commingled with such of the people of the southern States as renew their allegiance to the national Government. They will carry there our school-houses, our churches, our agricultural, mechanical, and manufacturing enterprise, and harmony of feeling and community of thought and sentiment and interest will be the result of it. Those men who persist in their treason to the end will justly have forfeited the right to their property as they have justly forfeited their lives. They have set the example of a more groundless, red-handed, accursed rebellion than history records. I trust that we shall set the example of so punishing it that history will never record that it has been repeated.

I believe there is a settled determination on the part of this House as there is a settled determination in the country, that some punishment shall overtake those traitors who persist in their crime and in their attempt to overthrow this Government. Such punishment is necessary for the establishment of a permanent peace; lenity toward them is cruelty to our own loyal and patriotic people. The argument of the gentleman from New York, [Mr. FERNANDO WOOD,] is founded upon the idea that treason is no crime; that whatever is taken from the rebels is to be restored to them. Sir, any man who believes this does not understand the character or temper of the American people. While they have been patient, self-sacrificing, and enduring in their efforts to put down this rebellion they will be equally steadfast and determined in their demand that all these measures which Congress and the Government have adopted for the punishment of treason and the establishment of peace upon a firm and lasting basis shall be executed with a stern and unfaltering purpose.

Mr. JULIAN obtained the floor.

#### DISCHARGE OF UNEMPLOYED GENERALS.

The morning hour having expired, the House resumed, as a special order, the consideration of joint resolution of the House No. 49, to drop from the rolls of the Army unemployed general officers.

Mr. SCHENCK. I do not propose to speak at any length in closing the debate upon this resolution. When it was last before the House my colleague [Mr. ASHLEY] had the floor. He is not now present, and unless some other gentleman desires to be heard I propose to move the previous question.

The SPEAKER. There are several amendments pending.

Mr. SCHENCK. I was not aware of that, but I am reminded by that statement to ask leave to modify the resolution before any vote is taken upon it by striking out "April" and inserting "July" in the fifth line.

The SPEAKER. The gentleman must do that before he moves the previous question.

Mr. KERNAN. Was there not a substitute offered for the joint resolution and also an amendment?

The SPEAKER. Yes. The gentleman from New York himself offered a substitute for the entire resolution, and the gentleman from Ohio [Mr. COX] moved to add a proviso at the end of the original resolution. The vote will first be taken on the motion of the gentleman from Ohio which was designed to perfect the original resolution, and then upon the substitute.

Mr. SCHENCK. Before demanding the previous question I desire, on behalf of the Committee on Military Affairs, to modify the joint resolution by substituting July for April. The time is already past when it was proposed that this resolution should take effect.

The joint resolution was modified accordingly.

Mr. SCHENCK. I now demand the previous question.

Mr. KERNAN. I would ask the gentleman if it is true, as I have been informed, that some of these officers have been dismissed since this measure has been reported.

Mr. SCHENCK. I think that one or two have

been mustered out of the service, and that a number of others have been employed.

Mr. KERNAN. Does not the gentleman think that we had better postpone this matter and let the President take the proper action?

Mr. SCHENCK. No, sir. I prefer that we should pass this resolution, in order that we may insure proper action.

Mr. KERNAN. You do not think the other would answer?

Mr. SCHENCK. I think this would be the better course.

Mr. KERNAN. The gentleman is aware that this measure has become old.

Mr. SCHENCK. I think the mere pendency of this joint resolution has done good, and that its passage will do more.

Mr. KERNAN. My substitute merely proposes—and that is the only difference between it and the original measure—that instead of the officers mentioned being dropped they shall appear before a board of officers to be appointed by the President, and that, if found incompetent, they shall be dropped; and if found competent they shall not be dropped. That is the only difference. I believe I copied the original resolution in all respects but that.

Mr. SCHENCK. The gentleman will have a vote upon his substitute.

Mr. KERNAN. Before the vote is taken I will modify the substitute as the gentleman has modified the original resolution, by substituting July for April.

Mr. SCHENCK. I now demand the previous question.

The previous question was seconded, and the main question ordered.

Mr. SCHENCK. Mr. Speaker, as chairman of the committee which reported this joint resolution, I propose to make a few remarks, and to call the attention of the House to the circumstances under which the subject of it came up for consideration. At the time this Congress assembled it was generally understood throughout the country that a large number of officers of high grade in the Army to whom, on that account, perhaps, attention was more particularly directed, had, either on their own request or without application, been relieved from duty, and were then altogether unemployed or only employed in duties of minor character, more appropriate to officers of inferior rank. It was a subject of comment in the newspapers; it was the occasion of remark everywhere; and members of Congress, in speaking here, very naturally shared in that common disposition to comment on such a condition of things.

As a consequence, very soon after the session began a gentleman from Illinois [Mr. FARNSWORTH] called the attention of the House to this particular subject by the introduction of a resolution, which I shall send to the Clerk's desk to be read. The resolution was introduced on the 14th of December, 1863.

The Clerk read, as follows:

IN THE HOUSE OF REPRESENTATIVES,  
UNITED STATES, December 13, 1864.

On motion of Mr. FARNSWORTH,  
Resolved, That the Secretary of War be directed to inform this House of the names, number, pay, and emoluments of major generals and brigadier generals of volunteers, and of the regular Army, and their staffs respectively, not on duty, and the length of time which has elapsed since each of them has been relieved from duty, and which of them, and how many, are not now on duty in consequence of wounds or disability incurred in the service.

Mr. SCHENCK. In answer to the call made by that resolution, which was passed without a dissenting voice, the Secretary of War sent to the House a letter which I hold in my hand. In this letter he embodies the facts in accordance with what had been the general understanding, namely: that twenty-five general officers—fourteen major generals, and eleven brigadier generals—were entirely unemployed, and that certain officers of their personal staffs were also unemployed with them—numbering twenty-five. At the same time another list was furnished of general officers on duty who were not actually commanding or serving with troops, amounting in number to thirty-nine, making an aggregate of eighty-nine officers reported as being either unemployed altogether or not employed in the command of troops. I must remark, however, that in looking over the list of general officers on duty,



but not actually commanding troops, it must have been seen then, as it is yet, that a number of those were in the discharge of duties important enough not to be considered inappropriate to their respective grades. On the coming in of this reply from the Secretary of War, and immediately on its being laid on our tables in a printed form so as to convey the information which it contained to this House, a member from Indiana [Mr. HOLMAN] introduced another resolution, which I shall also send to the Clerk's desk to be read as part of the legislative history of this proceeding.

The Clerk read, as follows:

IN THE HOUSE OF REPRESENTATIVES,  
UNITED STATES, January 18, 1864.

Mr. HOLMAN submitted the following, which was adopted: Whereas this House has been officially informed that a large number of officers of the Army, including a number of major and brigadier generals, have been for a long period of time relieved from active service, while still receiving the full pay pertaining to their rank; and whereas such policy, while embarrassing to the officers so relieved, is manifestly unjust to the country, and interferes with just and proper promotions in the Army: Therefore

Resolved, That in the judgment of this House the policy of retaining in the pay of the Government officers who have been indefinitely relieved from active service, not physically disabled by wounds, and who have not been placed on the retired list, ought to be discontinued, and that the Committee on Military Affairs be instructed to inquire what legislation, if any, is necessary to effect a remedy in the premises, and reduce the number of general officers not employed in active service, and report by bill or otherwise.

Mr. KERNAN. Will the gentleman from Ohio be kind enough to permit the list of unemployed general officers to be read, so that it may be apparent to the House who are to be affected by this law?

Mr. SCHENCK. Certainly. Does the gentleman wish this list to be read now?

Mr. KERNAN. I do not desire to have it read now particularly.

Mr. SCHENCK. It will be seen, Mr. Speaker, as gentlemen have been so exceedingly anxious to find some personal aim or object influencing the Committee on Military Affairs in reporting this joint resolution—that the duty was imposed upon the committee to report on the subject; and it will be seen under what circumstances they did report.

It can hardly be supposed that when the gentleman from Illinois, [Mr. PARSONS], on this side of the House, called attention to what was occupying the minds of the people of the country, and when an answer to a resolution of inquiry was returned by the Secretary of War, and when a reference of the whole subject was made on motion by a gentleman on the other side, with instructions to the Committee on Military Affairs to report by bill or otherwise as to what should be done in regard to discontinuing officers unemployed, it can hardly be supposed, with any sort of fairness, that this can be considered as partaking of the character of a conspiracy. I say, therefore, that gentlemen are very hard-run indeed, and are drawing inferences very ungenerous, either as against the gentleman from Illinois, the gentleman from Indiana, or any one of the committee who have undertaken to perform the business committed to them, when it is pretended that there must be something personal in the matter. So far from this being the case, I stand here to-day for and in behalf of the Committee on Military Affairs, and aver that I do not believe a single member of that committee made it a question to be considered how this joint resolution might or might not affect any particular general officer.

The committee finding that the evil existed, and being called on to report some resolution by which a remedy might be applied to that evil, after fully considering the whole matter reported the joint resolution now before the House. That joint resolution proposes nothing illiberal, nothing strange. It simply provides that, as these facts exist, if there be found, as the resolution is now modified, on the 1st of July next general officers unemployed, or not employed in some way suitable to their rank, and have been continuously unemployed or not fully employed during three months, one quarter of a year, preceding that day, then they shall be dropped from the rolls of the Army and not be any longer an expense to the Government. It saves those who may be unemployed by reason of sickness or wounds; such officers are properly exempted from the effects of this joint resolution. There is a saving also to the

officers of the regular Army of the right to fall back to their position in the regular Army when their appointments as general officers in the volunteers are taken away from them.

There is nothing, I say, illiberal in this. It will only have the effect to induce the President to come to some determination in reference to unemployed or not fully employed general officers. He has once appointed them, thinking they were qualified to discharge the duties to which they were assigned, and he will be constrained to determine whether, under all the circumstances, he will continue them in office or not. It is rather addressed to the President than to any one else. We, in effect, propose to make this declaration to the Executive: "Here are these gentlemen; you have already thought proper to appoint them; you have left them for reasons which seemed good to you or to the War Department unemployed, or unfitly employed. In the present condition of the Treasury of the country, and in this time of war, we cannot agree that officers shall draw pay without rendering equivalent service, and therefore unless they are on due notice fitly employed we will not pay them. Either you must have these general officers go to their proper duty, or they will be dropped from the rolls."

The gentleman from New York [Mr. KERNAN] inquired in regard to the present occupation of the officers on the list sent to me. As to their present status I cannot answer as to all. But in looking over the list now I see that there are several on it as to whom changes have been made. Influenced possibly in some cases by the fact that such a joint resolution was pending, or by other considerations, it has been thought proper by the President, or those who manage our military affairs, to order some of them to duty; and there are two or three who, I understand, have been mustered out of the service. The list has been considerably reduced. Still we ask the joint resolution to be passed to provide a remedy for an evil to some extent yet continuing, and justly complained of.

I desire further to say, that so far were the committee, and so far was I, from looking on this in any low or personal view, that until the principle and policy of the proposition we make to the House had been settled, I hardly believe it had been considered or anticipated who would be affected by the measure, and when my attention is directed to the list, I find that it ill becomes gentlemen on the other side of the Chamber to suppose that there is some party feeling in this matter. Three fourths of these officers, if not almost every one, whose names are here given by the Secretary of War, are known as staunch supporters of the Government, and among them I discover four or five of my own particular personal and esteemed friends. Among them, also, I find those who, in my judgment, should long since have been employed. I mention these things merely for the purpose of divesting this matter of that character which has been very unjustly sought to be given to it, and for the purpose of vindicating the committee as having simply obeyed the instruction of the House, to report some remedy for that which was admitted to be an existing evil, and clearly proved such by the very answer made by the Executive Department to our call for information.

It is true there are two officers who may in certain contingencies be affected by this proceeding who are of the regular Army, and I apprehend that had it not been that those two names happened to be upon the Secretary's list—however improper it may be to draw distinctions ordinarily between men and officers in this country—we should never have heard of any opposition to this most wholesome proposed enactment.

Mr. KERNAN. The gentleman will do me the justice to say that I made no allusion of that kind. I based my substitute and my reasons upon the distinct ground that I was opposed to legislating officers out of the Army by act of Congress. I was in favor nevertheless of having a proper tribunal before whom they should appear in order that those who proved unworthy should be put out.

Mr. SCHENCK. I am aware of the position of the gentleman, and I did not refer to him, but referred to some gentlemen upon this and that side of the House, who, because General McClellan and General Frémont might chance to fall

within the operation of this rule, have intimated that it was aimed at them. In the debate which took place on this report when it was up for consideration before, my colleague [Mr. Cox] especially made that charge.

Now, sir, I will not stop to talk about either McClellan or Frémont. I have but to repeat that this joint resolution is for the purpose of general legislation, to cure a great evil by a general provision which shall apply to all cases which it may justly and equitably reach, according to the action of Congress and the subsequent action of the Executive, without reference to any particular persons.

But I must be permitted to say that there is no peculiar hardship in the case of either of the gentlemen referred to. It has been said that they belong to the regular Army, and therefore that they would be struck off from a profession which they had adopted for life, and be thrown out at what some may consider an advanced age, when it would be difficult for them to turn their attention and energies to new pursuits. Gentlemen must have forgotten that at the commencement of this war Generals Frémont and McClellan were both civilians, and had long before given up the profession of arms and were engaged in other vocations.

Then the fact of their happening to be in the regular Army instead of being in the volunteer corps amounts to no more than this: they were selected like others because of the emergencies of this war and the necessity of increasing the number of our officers. Being placed in that position they have no more right than others to expect that when the emergency ceases their services would be retained any longer than in the opinion of the Government they were needed, nor that they would not be dropped like any other officers. But for the supposed necessities of the war they, like so many others, would have been neither in the regular Army nor in the volunteers, but still in civil life.

I intend by these remarks no sort of disrespect to those officers. I have no disposition, nor, if I were competent, am I called on to criticise their claims or merits. But I do want to divest the minds of all here of an impression which seems to be made that they stand somehow upon a different footing from others. They have been employed in a military capacity because the emergency required an increased number of officers; and when the public occasion arises for dispensing with their further services, whatever there may be in the capacity or achievements of either of them, so far as their personal rights are concerned, there is no reason why they should not stand equal with others under the law and the action of the Executive thereon. Were I the President I would long ago have settled the cases of these two officers. He holds the cards in his own hands. Let him order them to report to Lieutenant General Grant or elsewhere for duty; let them be assigned to corps, divisions, or other commands as other officers have been, and then if they, or either of them, be unwilling to serve unless given the places which they might themselves select, it is they that make the issue. But this is for the Commander-in-Chief to consider, and is no part of the duty of Congress.

Congress says to the Executive, "Here are these numerous officers unemployed, or not altogether employed as they should be, on duty fitting to their respective grades and positions; and we desire that you put them to their work, or else we cannot afford longer and through months and years of idleness to pay them for services not rendered." That is one of the simplest economical propositions in the world.

Mr. MALLORY. I wish to ask the gentleman from Ohio a question. He speaks of officers unemployed, and of those not employed properly in the grades to which they belong. I wish to understand what the gentleman means. Is there anything in the resolution that determines what employment shall be given to an officer of the Army corresponding with the grade he holds, or is that matter left with the discretion of the Executive?

Mr. SCHENCK. It must necessarily be left to the discretion of the Executive in accordance with military usage. Take, for instance, the case of General McDowell, who has been for some time at Wilmington, in Delaware, presiding over the deliberations and labors of an important board

convened for the purpose of retiring officers of all grades in the regular Army. The chief of such a retiring board is very properly a major general. Then, too, there are generals at the heads of bureaus, as in the quartermaster's and other important departments. Others are selected very necessarily in the time of such great military operations as are now going on as chiefs of staffs or of staff corps. These matters must be left to the discretion of the President or War Department or General-in-Chief; we can have no control over them.

Mr. MALLORY. I intended when I asked the question of the gentleman from Ohio to call his attention, and that of the House, to the case of the gentleman who now acts as quartermaster of the whole southern district, and who holds the rank of brigadier general.

Mr. SCHENCK. I suppose there is not a doubt that the War Department would think a general officer was properly employed in so high a position as that. But there have been, and are yet, perhaps, some general officers who are in command of posts, or assigned to places, where they have not so much as a regiment, and where there is no call for services of the highest military grade, where, indeed, a colonel, a major, or even a captain, might as well perform all the duty. I suppose there can be little doubt that such officers should be put on different and more important duty, or else be dropped from the service. But all that will address itself to the good sense and judgment of the Commander-in-Chief if this resolution should pass.

I was about to say, sir, when interrupted, that on looking over this list it will be found that the cost to the Government of these unemployed Generals, as they were at the time the report was made, is stated to be at the rate of \$264,378 a year, and that the cost of those officers of their personal staffs, necessarily unemployed with them, being added, would swell the whole amount to \$326,316 a year. The Government has been paying that, and paying it without equivalent services rendered.

I have not a doubt but that that amount is now considerably reduced by the fact that a number of the officers here named have been dismissed, or put upon duty properly, and fully. Still, there must be some two hundred thousand dollars, more or less, which we are paying without any thing in return to the Government. This presents the subject simply in its economical point of view.

Now, sir, as I have said, there is nothing illiberal, so also I aver there is nothing unusual in this proposition of the committee; and here I come to the argument of the gentleman from New York, (Mr. KERNAN.) He offers a substitute based upon the proposition, as he says, that he will never be willing to drop from, or muster out of, the service of the Government an officer without giving him a chance to be heard.

Mr. KERNAN. By act of Congress.

Mr. SCHENCK. I accept that modification of the gentleman's proposition.

All I have to say, then, is that the gentleman is not going to act consistently with the former legislation of Congress upon this subject; for the statute-book is full of cases where we have done precisely the same thing. For instance, as long ago as 1795, at the very beginning of legislation in regard to military matters, it was provided in the fourth section of "An act for continuing and regulating the military establishment of the United States" that cavalry should serve as mounted dragoons when ordered so to do, and that in all cases of the enlistment of troops there be expressly reserved to the Government the right to discharge all or any part thereof at such times or in such proportion as might be deemed expedient. Thus, Congress was never willing, from the beginning, to have a military establishment, except upon the distinct understanding that they might reduce it at any time they pleased, that the Government might muster out as many men or drop as many officers as the changed condition of affairs might seem to require for the public interests.

In 1847 it was provided by the twenty-first section of an act approved March 3, of that year, that for the purpose of avoiding unnecessary expenses in the military establishment, including volunteers, the President of the United States was authorized, in case of failure in filling the rank

and file of any regiment or regiments, to consolidate such deficient regiment or regiments, and to discharge all supernumerary officers. What does that mean? You find the same idea scattered through a great many acts of legislation. It is one of the features of the military establishment of the country that no officer or man employed is to be regarded as having a right or claim to be continued in that service if the condition of the country, its necessities, and the emergencies of the times shall, in the opinion of the law-making power, require that his services shall be dispensed with. But these, and such as these, it may be claimed, were cases where the liability to be mustered out was made a condition precedent to the enlistment or appointment. I come, however, to a modern case, the exact application of which cannot be questioned. The very last Congress passed an act commonly known as the enrollment act; and in the nineteenth and twentieth sections of that act it is provided that if a regiment shall fall below a certain number the companies of that regiment shall be consolidated, and the supernumerary officers be mustered out. That is, if it be found that the condition of the regiment and the condition of the public service, as connected with that regiment, no longer require the services of certain colonels, lieutenant colonels, majors, or company officers, they must be, and are by law required to be, dropped from the service; and this was where no such contingency or condition was foreseen or provided for in advance.

Mr. KERNAN. These cases are where the Army is to be reduced; but is it claimed that we are not now needing both major and brigadier generals in the service?

Mr. SCHENCK. I will come to that presently.

Mr. KERNAN. If I understand right, a major general was commissioned during the last week.

Mr. SCHENCK. Yes, and if we got this law passed it will make room for a good many men who are now acting in that capacity while they are holding the rank of colonel.

Mr. KERNAN. My suggestion is, that if any of them are not fully qualified they shall be sent before an examining board and turned out. The point I make is, that we should not legislate both good and bad out of service and appoint others whom we do not know to be any better.

Mr. SCHENCK. I do not see that the gentleman meets my argument. Colonels, lieutenant colonels, majors, captains, and lieutenants, if the necessities of the service do not require them to be retained, are by law required to be dropped. It is not done with any reference to their qualifications or their services, but it is required absolutely to be done whenever the law-executing power sees that the contingency has occurred. They shall go out of the service because their services can no longer be an equivalent for the salaries paid to them.

But I am not yet done with the gentleman from New York. A member of this House when the enrollment act of the present session was under consideration—a gentleman representing a district in Maryland, [Mr. WEBSTER]—rose in his place and proposed, as an amendment to that act, the repeal of those two sections of the old enrollment act, on the ground that it operated sometimes as an unnecessary hardship, and that it would be better to fill up the regiment than turn its officers out of the service. That amendment prevailed in this House. The Senate disagreed to it. A conference committee was appointed. The gentleman from New York knows, and I know, who were on that conference committee. He knows, and I know, which of us agreed to yield to the Senate on that point as the best thing we could do, and let the law stand as it is. It will not do for any of us to say now that we take the position that no man shall be dropped from the service by provision of law, no matter what may be the emergency or the economical view of the subject; for we have agreed to do what the Senate has done—to consent to that principle of legislation being recognized and retained.

The gentleman's proposition will not hold; it does not hold consistently with what Congress has been doing ever since the organization of the Government; it does not hold with what the last Congress did; it does not hold with what you and I and all of us did at this session of Congress, when we agreed to let the law stand

upon the statute-book providing that officers might be dropped if the Government pleases, and finds it necessary to the public good; without any of the formal proceedings which the gentleman from New York now thinks always indispensable. I will tell you where the difference is. A colonel, lieutenant colonel, or major may be dropped, and there is no great outrage perpetrated. They are not likely to be candidates for the presidency. They are not generals, and have not hosts of friends to sympathize with them and to exclaim against a course which the Government finds to be necessary. Yet, sir, these subordinate positions are as important to them, the emoluments, may be as necessary to their subsistence and the subsistence of their families, and they may be as deserving by past services as others of higher grade; but they are merely line or company officers, and it is all right to drop them. But how different is the case when you touch a general, and especially if it can be suggested that some political design is mixed up with the act!

Now I hold that the principle involved is the same, and if we are not willing to apply such a rule of legislation to general officers then we should not let the law stand in reference to officers lower upon the roster. The principle is not only the same, but I have shown that this very Congress has affirmed that principle. It has been in its application to regimental officers a subject of legislation and discussion here, and we have permitted a law to stand upon the statute-book that whenever the Government has no need for the further services of a man it had the right to dispense with those services. Mr. Speaker, it has not been the Committee on Military Affairs, but others, who have brought into view outside considerations and sought to make this a personal matter when it is but a case of open, fair, and not unusual legislation.

The gentleman from New York [Mr. KERNAN] has said that we have no more general officers than we need; that we have employment enough for all we now have in the service, and that however necessary we may find it to drop other officers as supernumerary, we ought not to pass this joint resolution, therefore, to apply to them. I thank the gentleman for the word. Suppose we do need, and I do not deny that we do, as many major generals and brigadier generals as are now allowed by law, to command the several corps, divisions, and brigades of the Army and to fill other equivalent positions, then this joint resolution ought certainly to be passed. It ought to be passed in order that those of these officers, so limited in number, who are not discharging their appropriate duties may be set aside to make room for those to enjoy the emoluments and rank who are in fact now performing those duties. Gentlemen here who are so much concerned for their friends among the generals seem to have no thought for the large number of officers of inferior grade, colonels and lieutenant colonels, who have been commanding brigades and even divisions. But is it not just that those who bear the responsibilities and do the work should be promoted to have also the rank and pay?

I want it understood that while gentlemen are speaking in behalf of general officers as if they alone were to be affected, the committee present something which appeals also for justice to that meritorious class of officers who are to be advanced if you will make room for them. Then the proposition announced by gentlemen that we have no more major generals than allowed by the law comes with renewed and double force in support of my argument. If it were in the power of the President to promote all these colonels without reference to the fact whether all the present commissioned generals remain in the service or not, perhaps it would be more entirely and solely a question of expense. But in this connection it becomes far more than a question of economy merely. We are not only proposing to save to the Government the cost of those who are unemployed, but we are providing the only way by which we can reward and do justice to those who have been doing and doing well their work. Think, gentlemen, when you vote for this measure that you may be assisting to promote according to their rich deserving some of the scarred and war-worn heroes who have helped to illustrate the battle-fields of liberty.

The SPEAKER. The first question is upon

the amendment offered by the gentleman from Ohio, [Mr. Cox.]

The amendment was read, as follows:

*Provided*, That whenever any officer comprehended in this act shall demand a board of inquiry according to the rules and regulations in such cases, and who shall be willing to serve, that such board shall be forthwith convened; and if said board shall find him competent to command in the rank to which he is entitled, he shall be at once restored to active service with full pay: *And provided further*, That all officers who have received the thanks of Congress during the present war shall be exempted from the provisions of this act.

Mr. PENDLETON demanded the yeas and nays upon the amendment.

The yeas and nays were ordered.

The question was put; and it was decided in the negative—yeas 46, nays 69; as follows:

YEAS—Messrs. Ancona, Baily, Augustus C. Baldwin, James S. Brown, William G. Brown, Chandler, Cravens, Eden, Edgerton, Eldridge, English, Finck, Grider, Griswold, Hall, Harrington, Herriek, Hutchins, Philip Johnson, Kalbfleisch, Kernan, King, Long, Mallory, Marcy, McKinney, Middleton, James R. Morris, Morrison, Noble, Odell, John O'Neill, Pendleton, Pruyn, Robinson, James S. Rollins, Ross, Scott, John B. Steele, Stiles, Stuart, Thomas, Wadsworth, Wheeler, Fernando Wood, and Yeaman—46.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Beaman, Boutwell, Boyd, Broomall, Henry Winter Davis, Briggs, Eliot, Farnsworth, Fenton, Garfield, Gooch, Grinnell, Higby, Hotchkiss, Asahel W. Hubbard, Hulburd, Jencks, Julian, Kasson, Kelley, Francis W. Kellogg, Littlejohn, Loan, Longyear, McBride, McClurg, McIndoe, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smithers, Spalding, Tracy, Upson, William B. Washburn, Webster, Wilder, Wilson, Windom, and Woodbridge—69.

So the amendment was not agreed to.

During the call of the roll,

Mr. J. W. WHITE stated that he had paired off with Mr. ECKLEY.

Mr. ASHLEY stated that Mr. C. A. WHITE was paired off with Mr. DONNELLY, and that Mr. HOLMAN was paired off with Mr. DUMONT.

The question next recurred upon the substitute heretofore offered by Mr. KERNAN, as follows:

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That, as soon as possible after the passage hereof, the President of the United States shall designate and cause to convene a board of competent military officers from those in active service, to consist of three major generals, three brigadier generals, and three colonels, which board shall, under regulations to be prescribed by the Secretary of War, make a careful examination into the competency, fitness, and efficiency for command of such major generals and brigadier generals in the service of the United States who, on the 1st day of July, 1864, shall not be in the performance of duty or service corresponding with his rank and grade, and who shall not have been engaged in such duty or service for three months continuously next prior to that date, and report to the Secretary of War the names and rank of each of such generals who in the opinion of said board shall be incapable of efficiently and properly performing the duties of his rank in the service. And each officer who by the report of said board is found incapable of properly and efficiently performing the duties of his rank shall, if such opinion and report be approved by the President of the United States, be then dropped from the rolls of the Army of the United States, and all the pay, allowances, and emoluments of such general officers so dropped shall cease from that date, and the vacancy so occasioned may be filled by new promotions and appointments as in other cases. But no officer is to be considered as included in the foregoing provision whose absence from duty shall have been occasioned by wounds received or disease contracted in the line of his duty while in the military service of the United States, or by his being a prisoner of war in the hands of the enemy or under parole; and any major general of volunteers or brigadier general of volunteers who may have been appointed from the regular Army under the authority given in section four of the act approved July 22, 1861, to authorize the employment of volunteers to aid in enforcing the laws and protecting public property, and the acts amendatory thereof, who shall be so dropped from the rolls shall not thereby be discharged from the service of the United States, but shall be reinitiated to his position and duty as an officer of the regular Army.

Mr. KERNAN called for the yeas and nays on the adoption of the substitute.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 50, nays 69; as follows:

YEAS—Messrs. Ancona, Baily, Augustus C. Baldwin, Jacob B. Blair, Brooks, James S. Brown, William G. Brown, Chandler, Cravens, Eden, Edgerton, Eldridge, English, Finck, Grider, Griswold, Hale, Hall, Harrington, Herriek, Hutchins, Philip Johnson, Kalbfleisch, Kernan, King, Long, Mallory, Marcy, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Noble, Odell, John O'Neill, Pendleton, Pruyn, Robinson, Ross, Scott, John B. Steele, Stiles, Stuart, Thomas, Wadsworth, Whaley, Wheeler, Fernando Wood, and Yeaman—50.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Boutwell, Boyd,

Boyd, Broomall, Ambrose W. Clark, Freeman Clarke, Cole, Creswell, Henry Winter Davis, Deming, Driggs, Eliot, Farnsworth, Fenton, Garfield, Grinnell, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, Jencks, Julian, Kasson, Francis W. Kellogg, Littlejohn, Loan, Longyear, McBride, McClurg, McIndoe, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smithers, Spalding, Stevens, Tracy, Upson, Van Valkenburgh, William B. Washburn, Webster, Wilder, Wilson, Windom, and Woodbridge—69.

So the substitute was rejected.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. SCHENCK moved the previous question on the passage of the joint resolution.

The previous question was seconded, and the main question ordered.

Mr. BROWN, of Wisconsin, called for the yeas and nays on the passage of the joint resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 72, nays 45; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Jacob B. Blair, Boutwell, Boyd, Ambrose W. Clark, Freeman Clarke, Cole, Creswell, Henry Winter Davis, Deming, Driggs, Eliot, Farnsworth, Garfield, Gooch, Grinnell, Higby, Hotchkiss, Jencks, Julian, Kasson, Kelley, Francis W. Kellogg, Littlejohn, Loan, Longyear, McBride, McClurg, McIndoe, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smithers, Spalding, Thomas, Tracy, Upson, Van Valkenburgh, William B. Washburn, Webster, Whaley, Wilder, Wilson, Windom, Woodbridge, and Yeaman—72.

NAYS—Messrs. Ancona, Baily, Augustus C. Baldwin, Brooks, James S. Brown, William G. Brown, Chandler, Cravens, Eden, Edgerton, Eldridge, English, Finck, Grider, Hall, Harrington, Herriek, Hutchins, Philip Johnson, Kalbfleisch, Kernan, King, Long, Mallory, Marcy, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Noble, Odell, John O'Neill, Pendleton, Pruyn, Robinson, Ross, Scott, John B. Steele, Stiles, Stuart, Wadsworth, Wheeler, and Fernando Wood—45.

So the joint resolution was passed.

During the call of the roll,

Mr. MOORHEAD stated that his colleague, Mr. WILLIAMS, was paired with his other colleague, Mr. STROUSE.

Mr. SLOAN stated that his colleague, Mr. CONN, was absent on account of sickness in his family, and was paired with Mr. LE BLOND.

The vote was announced as above recorded.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### POSTAL MONEY-ORDER SYSTEM.

Mr. ALLEY. I ask the unanimous consent of the House to go to the Speaker's table for the purpose of taking up the amendments of the Senate to House bill No. 185, establishing a postal money-order system.

There was no objection; and the House proceeded to the consideration of the amendments of the Senate.

Mr. ALLEY stated that the Committee on the Post Office and Post Roads recommended a concurrence.

The amendments were read and severally concurred in.

Mr. ALLEY moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### REPAIR OF PUBLIC WORKS.

Mr. LITTLEJOHN, by unanimous consent, introduced a bill for the repair and preservation of certain public works of the United States; which was read a first and second time, and referred to the Committee on Commerce.

#### JOHN P. BRUCE.

Mr. BAXTER. I ask the unanimous consent of the House to submit the usual resolution to pay John P. Bruce per diem and mileage for attendance during the contested-election case from the seventh congressional district of Missouri.

There was no objection; and the resolution was introduced and referred to the Committee of Elections, with leave to report at any time.

#### CHARLES M. STOUT.

Mr. JOHNSON, of Pennsylvania, by unanimous consent, introduced a bill for the relief of Charles M. Stout, late lieutenant and acting adjutant of the seventh regiment Pennsylvania reserves; which was read a first and second time, and referred to the Committee on Military Affairs.

#### CAPTAIN HUNT.

Mr. A. W. CLARK, from the Committee on Printing, reported adversely to the printing of the papers in the case of Captain Hunt; which was laid upon the table.

And then, on motion of Mr. STILES, (at fifteen minutes to four o'clock, p. m.) the House adjourned.

#### IN SENATE.

THURSDAY, May 12, 1864.

The Journal of yesterday was read and approved.

#### ADJOURNMENT TO MONDAY.

Mr. LANE, of Kansas. I move that when the Senate adjourn to-day it adjourn to meet on Monday next.

Mr. WILSON. I think that motion had better lie over until the Senate is fuller than it is now, and then we can determine it.

Mr. CARLILE. We cannot do anything.

Mr. LANE, of Kansas. If any Senator objects to it I will not press the motion now. I made the motion because it is my own feeling that we cannot do anything under present circumstances.

The PRESIDENT *pro tempore*. The motion is objected to, and it will lie over.

Mr. LANE, of Kansas, subsequently (in executive session) renewed the motion.

Mr. TEN EYCK and Mr. DIXON called for the yeas and nays, and they were ordered, and being taken resulted—yeas 19, nays 16; as follows:

YEAS—Messrs. Buckalew, Carlile, Chandler, Conness, Davis, Grimes, Henderson, Howard, Johnson, Lane of Indiana, Lane of Kansas, Nesmith, Powell, Ramsey, Richardson, Saulsbury, Sprague, Wade, and Wilkinson—19.

NAYS—Messrs. Anthony, Clark, Cowan, Dixon, Doolittle, Foot, Foster, Harlan, Harris, Morgan, Morrill, Sumner, Ten Eyck, Trumbull, Willey, and Wilson—16.

ABSENT—Messrs. Brown, Collamer, Fessenden, Hale, Harding, Hendricks, Hicks, Howe, McDougall, Pomeroy, Riddle, Sherman, Van Winkle, and Wright.

So the motion was agreed to.

#### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of citizens of Manchester, New Hampshire, remonstrating against the extension of the Goodyear patent for the manufacture of vulcanized India rubber; which was referred to the Committee on Patents and the Patent Office.

Mr. DIXON presented a memorial of publishers of books sold by subscription or traveling, remonstrating against any license on agents traveling through the country for the purpose of selling books, maps, or prints; which was referred to the Committee on Finance.

Mr. COWAN presented a petition of citizens of western Pennsylvania, praying for the enactment of suitable law for the encouragement of foreign immigration, and for an appropriation of funds to be employed for that purpose; which was referred to the Committee on Agriculture.

Mr. HARRIS presented a memorial of citizens of New York remonstrating against the extension of the Goodyear patent for the manufacture of vulcanized India rubber; which was referred to the Committee on Patents and the Patent Office.

Mr. MORRILL presented a memorial of the directors of the Washington City Savings Bank, praying for an amendment of the charter of that institution, to correct certain clerical errors in the names of its incorporators, and providing that the limitation of the amount which may be held by any one depositor at any one time shall not be held to apply to deposits payable on demand without interest; which was referred to the Committee on the District of Columbia.

Mr. DOOLITTLE presented eight petitions of men and women of Racine county, Wisconsin, praying for the adoption of measures for abolishing slavery in the United States, and an amendment of the Constitution forever prohibiting its existence; which were referred to the select committee on slavery and freedmen.



## REPORTS FROM COMMITTEES.

Mr. SPRAGUE, from the Committee on Commerce, to whom was referred the bill (S. No. 210) establishing a port of entry at Washington, District of Columbia, reported it with an amendment.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred a bill (S. No. 102) to establish certain post roads, to regulate commerce among the States, and for other purposes, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a joint resolution (S. No. 46) to facilitate commercial, postal, and military communication among the several States, reported it without amendment.

Mr. MORRILL, from the Committee on Claims, to whom was referred the petition of John Hastings, praying for relief, submitted a report accompanied by a bill (S. No. 274) for the relief of John Hastings. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. HARLAN, from the Committee on Public Lands, to whom was referred a bill (H. R. No. 227) granting lands to the State of Michigan for the construction of certain wagon roads for military and postal purposes, reported it with amendments.

Mr. DOOLITTLE. The Committee on Indian Affairs, to whom was referred a memorial of the Legislature of the State of Wisconsin, in favor of the passage of an act requiring the issue of patents for lands purchased from the Stockbridge Indians in conformity with an act approved March 3, 1843, and recommending the sale of all unsold lands of the Stockbridge reservations, and that the price be fixed at \$1 25 per acre, have directed me to report that, in their opinion, there is no necessity for any further legislation on the subject, that opinion being based upon the letter of the Secretary of the Interior and the Commissioner of Indian Affairs, which are annexed, which I ask to be printed as part of the report, and the committee ask to be discharged from the further consideration of the subject.

The report was agreed to; and the papers were ordered to be printed.

## BILL RECOMMENDED.

Mr. GRIMES. A few days ago a bill (H. R. No. 383) to incorporate the Home for Friendless Women and Children was referred to the Committee on the District of Columbia. The committee reported against the propriety of passing the bill. I believe that report has not been acted upon, and I wish now to move to take up the bill for the purpose of recommitting it to the Committee on the District of Columbia.

The motion to take up the bill was agreed to. Mr. GRIMES. I now move that the bill be recommitted to the Committee on the District of Columbia.

The motion was agreed to.

## NAVAL HOSPITAL AT KITTERY.

Mr. GRIMES submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Navy be directed to inform the Senate whether any steps have been taken to erect a naval hospital at Kittery, Maine, or to extend the one already there, and if not, to state to the Senate the reason for the delay and all of the facts and correspondence of the Department in relation thereto.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the bill of the Senate (No. 38) to authorize the settlement of the accounts of A. Bush, late public printer for the Territory of Oregon, and had also passed the joint resolution of the Senate (No. 21) to provide for the printing of official reports of the operations of the armies of the United States, with an amendment; in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had passed the following bill and joint resolution; in which it requested the concurrence of the Senate:

A joint resolution (No. 49) to drop from the rolls of the Army unemployed generals; and

A bill (No. 276) to secure to persons in the military or naval service of the United States homesteads on confiscated or forfeited estates in insurrectionary districts.

The message further announced that the House of Representatives had agreed to the amendments of the Senate to the bill (H. R. No. 185) to establish a postal money order system.

The message further announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 370) to appoint certain officers of the Navy; and also that it had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 76) relating to appointments in the naval service and courts-martial.

## ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 172) concerning the disposition of convicts in the courts of the United States, for the subsisting of persons confined in jails charged with violating the laws of the United States, and for diminishing the expenses in relation thereto; and

A bill (H. R. No. 159) for a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of a railroad in said State.

## LIST OF GENERAL OFFICERS.

Mr. WILSON. I submit the following resolution, and ask for its present consideration:

*Resolved*, That the Secretary of War be directed to furnish the Senate a list of all general officers of the regular and volunteer forces appointed since the beginning of the present war, with the States in which they were born and from which they were appointed, designating also those whose nominations have been withdrawn from the Senate; those negatived by the Senate; those which have expired by constitutional limitation, not having been confirmed by the Senate; and those resigned, declined, dropped, discharged, dismissed, or mustered out of the service, and those who have died in the service.

Mr. COWAN. I suggest to the Senator whether it would not be better to insert in place of the words "appointed since the beginning of the present war" the words "now in commission or those who have been in commission since the commencement of the war," so that we shall have a complete list.

Mr. WILSON. The word "appointed" was used for the purpose of having it complete, to include all those who have been appointed. Some have been appointed and had commissions sent them, which were afterwards withdrawn and their names not sent to the Senate. I want to get an entire list to know exactly how it stands. It can be made up without any trouble; the records are all in the office. It will give us that kind of information which will enable us to know the facts when we are called on here.

Mr. COWAN. The resolution only takes in those appointed since the beginning of the war, but there were some in commission before.

Mr. COLLAMER. It evidently does not apply to those who were in commission before the war and have remained in since. We want them, too.

Mr. WILSON. I have no objection to putting them in, and I will modify the resolution to read in this way:

*Resolved*, That the Secretary of War be directed to furnish the Senate a list of all general officers of the regular and volunteer forces in commission at the beginning of the present war or appointed since, with the States in which they were born, &c.

The resolution, as modified, was agreed to.

## HOUSE BILL REFERRED.

The joint resolution (No. 49) to drop from the rolls of the Army unemployed generals was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

## REGISTRATION OF VOTERS.

On motion of Mr. HARLAN, the consideration of the bill (S. No. 114) to amend section five of an act entitled "An act to continue, alter, and amend the charter of the city of Washington," approved May 17, 1848, and further to preserve the purity of elections and guard against the abuse of the elective franchise by a registration of electors for the city of Washington, in the District of Columbia, was resumed as in Com-

mittee of the Whole, the pending question being on the amendment of Mr. COWAN to insert the word "white" before "male," in the third line of the first section.

Mr. MORRILL. Is that open to further amendment?

The PRESIDENT *pro tempore*. It is open to amendment.

Mr. MORRILL. I move to amend the section by striking out from line nine to line fifteen the following words:

And shall have paid all school taxes and all taxes on personal property properly assessed against him, shall be entitled to vote for mayor, collector, register, members of the board of aldermen and board of common council, and assessor, and for every officer authorized to be elected at any election under any act or acts to which this is amendatory or supplementary.

And in lieu thereof to insert:

And shall within the year next preceding the election have paid a tax, or been assessed with a part of the revenue of the District, county, or cities therein, or been exempt from taxation having taxable estate, and who can read and write with facility, shall enjoy the privileges of an elector.

The PRESIDENT *pro tempore*. The Chair will inquire of the Senator from Maine if he proposes to strike out the words mentioned by him in addition to the word "white" or to retain the word "white"?

Mr. MORRILL. To strike out the word "white."

The PRESIDENT *pro tempore*. With this in addition?

Mr. MORRILL. Yes, sir.

The PRESIDENT *pro tempore*. Then it is an amendment to the amendment, in the opinion of the Chair, and the question is on the amendment moved by the Senator from Maine to the amendment of the Senator from Pennsylvania.

Mr. POWELL. I will ask the Senator from Maine to explain the effect of the amendment to the amendment. I do not understand it.

Mr. MORRILL. If the bill should be amended as proposed it will present this case: all citizens of the United States who have been inhabitants of this District for one year, and resident in the particular locality where they propose to vote for three months next preceding the election, and who have been assessed or who are liable to be assessed, having taxable estate, and who can read and write with facility, shall have the right of an elector. Those are the qualifications.

The PRESIDENT *pro tempore*. The Chair was mistaken in regard to the amendment of the Senator from Pennsylvania. The Senator from Pennsylvania proposes to insert the word "white" instead of striking it out; so that the amendment of the Senator from Maine would not be an amendment to the amendment, and it will be necessary first to dispose of the amendment of the Senator from Pennsylvania.

Mr. COWAN. I hope that will be disposed of, and that the amendment will be adopted. I may state in connection with it that I should regret such a modification of it as is suggested by the Senator from Maine; because, although the standard which he sets up as a qualification to vote is much less objectionable to my mind than the one contemplated by the bill, it is still obnoxious to this objection: it would have the effect in some cases of admitting negroes to the right of suffrage, which I may say is obnoxious to the vast bulk of the people of the border States, whatever it may be to those States lying upon the extreme frontier, and would also prevent white men who are unable to read and write from enjoying that suffrage.

My principal objection to the introduction of any innovation at this time on this subject is the state of the country. I think it is a wrong time to introduce reforms, and particularly is it a wrong time to introduce any reform which goes to the basis of our institutions, which would strike at the fundamental principles on which they rest.

I hope, therefore, that now this matter will be left as we found it; and hereafter, if fortune should favor us, we shall be better qualified and more at liberty to make such reforms as in our judgment we shall think best for the purpose of securing to all men that measure of liberty which it will be found they are entitled to enjoy, not only with benefit to themselves but with benefit to their fellow-men. I am willing to go as far in this direction, I think, as anybody else; but I am unwilling to depart in any instance from a nu-

tional basis. I think this is a high privilege which is intrusted to any portion of the community, and that it ought to be intrusted only to those who have given assurance to the country that it will not be abused in their hands. I know there is very great doubt now pervading the minds of many wise men whether we have not already too many people in the enjoyment of the franchise who are unfit for its proper exercise.

Mr. HARLAN. Mr. President, I shall vote for the amendment submitted by the Senator from Pennsylvania, first, because it is manifest to the Senate that the bill without that provision in it cannot now become a law. The same question has been submitted to the House of Representatives in the bill passed by the Senate for the organization of a Territory, and it was defeated in the House, and after several meetings of committees of conference it has become perfectly manifest that a bill containing that clause cannot become a law. I have been informed by citizens of the District that it is highly important that the organic law of the District should be amended preceding the coming election, in order to preserve the purity of the ballot-box. I therefore would waive any desire that I may have had to modify or change the character of the class of persons who may be permitted to vote, for the purpose of securing the good that can be effected now.

It is highly important, as I have just remarked, that some bill should be passed on this subject modifying the laws regulating the elective franchise in the District. I have been told, and I believe it to be true, that it is next to impossible to secure a fair expression of the will of the people at the ballot-box under the laws as they now exist. I do not think this evil should be perpetuated out of a desire on the part of any Senator to secure the adoption of a new theory.

I do not think that the enjoyment of the right to vote is a natural right. It is a right conferred on individuals by the community on the ground, as I suppose, of a belief in their capacity to hold the reins of government safely. Those that vote, in deciding who shall hold office, decide primarily the character of the laws of the community in which they live; and under the election laws of all the States very large numbers of the white people are excluded from the enjoyment of the right to vote. All females are excluded, thus excepting one half of the entire community of every State. Then all minors, all persons under the age of twenty-one years, are excluded; and all persons born abroad, and who have not resided in this country for a period of five years, are excluded from the enjoyment of this privilege; all going to show that the Legislatures of the various States hold this right not to be a natural right incident to freedom and the enjoyment of citizenship, but is supposed to be conferred on those who are found to be competent to exercise this privilege wisely and consistently with the safety of civil society.

No one can deny, I think, that a very large proportion of the people in some of the States who have been held as slaves for a century and more could not be safely trusted with the enjoyment of this right. I think that this cannot be doubted; and if not, we ought not to insist on the incorporation of such a provision in an amendment to the election laws for this District, where there are strong prejudices against the modification of the election laws in this respect, especially in face of the fact which I stated at the outset, that it has become perfectly manifest to the Senate that, whatever might be the wish of the Senate in this respect, a majority of the House of Representatives will stand firmly in opposition to its incorporation into any law.

Mr. FOSTER. I agree with the honorable Senator from Iowa that the right of suffrage is not a natural right. It should be bestowed upon those, and those only, who are qualified to exercise it; and that is by no means in my opinion upon every man or every woman in the community. I do not think, however, that color is a sensible or reasonable test of that or of any political right whatever. I think the proper test is intelligence and moral character. A person who has sufficient intelligence and sufficient moral character, I think should be allowed to take part in electing those who are to make the laws, and, in effect, govern the community.

I agree with him also that the great mass of the

blacks who are in this District, certainly those who have recently come into it, are by no means qualified to exercise this right. If we insist either upon intelligence or upon moral character, they would probably be wanting in both; and that without charging the absence of those qualifications upon them as their fault. They, in my opinion, are not responsible for it. The responsibility rests elsewhere. Still, though they have been abused and shut out from the light of knowledge, they should not be allowed to exercise a right that they are not qualified to exercise, by way of compensation. That would be punishing those who are not to blame for the faults and crimes of others.

I should therefore be inclined to vote for the amendment of the honorable Senator from Pennsylvania but for the amendment proposed by the honorable Senator from Maine. With the test which the honorable Senator from Maine proposes to apply to this bill, I am perfectly willing that there shall be nothing said in the bill about color; for the qualifications which he proposes go perhaps as far as we can safely go. It is difficult to determine the precise amount of intelligence that a man should possess in order to be qualified as a voter. I think, however, all must agree that if he cannot read he is not qualified; he has not sufficient intelligence to be a voter. He must, of course, if he exercised the right, exercise it almost as the tool of somebody else; for if he cannot read how is he to know that the ballot he puts in the box has on it the names of the individuals for whom he would vote? He must take the statement of another. He himself really cannot know whether he is voting for the persons that he supposes he is voting for or not. I would therefore make the ability to read a test for every man, and I would add to it the ability to write, but not a property qualification. As the honorable Senator from Maine proposes, as I understand, to move that amendment, in the anticipation and belief that it will be adopted, I shall now vote against the amendment of the Senator from Pennsylvania. If the amendment of the Senator from Maine shall finally fail, there may be after-considerations which will affect my vote on the bill, but at present I shall vote against the amendment of the Senator from Pennsylvania for the reasons which I have given.

Mr. MORRILL. I was disposed to place this qualification so high that if by any possibility the case should turn upon the question of qualification the judgment of the Senate should be that a man to be entitled to vote should be of full age, a citizen of the United States, a man of probity and of intelligence. These, I think, should be considered qualifications which should entitle a man to the privilege of the elective franchise; and I hoped that by presenting such a proposition we should not be disagreed on this question; and I desired distinctly to place that, as I call, high qualification against the question of color; and that is precisely the question presented by the bill and the amendment of the honorable Senator from Pennsylvania and my amendment.

Now, I agree with the honorable Senator from Pennsylvania that upon this question of suffrage there is no uniformity whatever in this country. By the Constitution of the United States there is no formula, there is no qualification whatever stated; it is left entirely to the States. The States may by their constitutions allow such persons to vote as in their judgment they think best. It is no further a concern of the Government of the United States than it applies to this District or to their Territories over which they have exclusive jurisdiction. When you come to this District or to the Territories, of course the Government of the United States has the right, and in a case like this it becomes its imperative duty, to say specifically what shall be the formula or what shall be the qualifications upon which a man shall be entitled to the right of suffrage. I agree with the honorable Senator from Pennsylvania that it is not a natural right; it is a relative right; or in other words it is a privilege, a privilege which the political society in which the man resides has a right to confer or withhold just as it pleases; and so has been the practice of this country; and at best, as the honorable Senator from Iowa has stated, it is but a partial privilege in any of the States of the Union. But we are called upon here under these circumstances to state a principle that

shall apply to this District, which is exclusively within the control and jurisdiction of the Government of the United States.

The honorable Senator from Pennsylvania makes color the test; the complexion of a man; every "white citizen" of the United States may do so and so, but by no possibility shall men of African descent exercise this privilege. Is that rational? No man will undertake to defend that on the ground of rationality; no man will undertake to defend such a proposition as that on the ground of right. It cannot be defended. What is the defense? The Senator from Pennsylvania says he does not want any new issue in these troublesome times. He objects to this upon the ground of an innovation; and I have no doubt that when he proposes to put the word "white" into this bill he sincerely does not suppose that he himself is innovating; that he is laying himself obnoxious to precisely the charge he makes upon the bill.

Mr. President, I have said that there is no uniformity on this question of the exercise of the elective franchise in this country. The States are not uniform; no two States are alike in the qualifications prescribed to the citizens for the exercise of this privilege; and, as I have already stated, the Constitution of the United States is entirely silent upon the question. But there is a history on this question. The right of suffrage in this country is historical to some extent, at least to a general intent. How is that? Look to your constitutions; but first go back to your Declaration of Independence. Is there any color in that as against anybody for any political right whatever? Not a bit of it. There is no color in the instrument from beginning to end, either in regard to the elective franchise or in regard to any political right, either absolute or relative; so that the great American declaration of right leaves everybody free in the exercise of all their political rights. When you come to the Constitution of the United States there is no color in that; none whatever as to the exercise of a man's political rights, be they either absolute or relative.

Now, sir, looking at the constitutions of the several States, who had this matter particularly in charge, what is the history on that subject? Take the thirteen original States who adopted their constitutions or frames of government contemporaneous with the Revolution and anterior to the Constitution of the United States; how did they stand on this question? Any color? Look at Virginia, whose constitution was, I think, the first. Was there any color in it? Not a bit of it. There was not the word "negro" from beginning to end. Read that constitution, including the declaration of rights, and you would never dream that the question of right depending on color had entered the head of any mortal man. In eleven of the original States there is no question of color in any one of their constitutions from beginning to end. Following the great formula laid down in the American declaration of rights, they left this question of suffrage as they left every other political right, either absolute or relative, entirely open to the communities and open to everybody without regard to color. There were only two of the original States that put the slightest limitation upon this question, or upon any other question, on account of color, and those were, as you would expect, South Carolina and Georgia. All the rest were free, and so was their law, and under those constitutions, I suppose I need not say to Senators here, freemen, whether colored or not, did vote.

Mr. COWAN. Will the Senator from Maine allow me to correct him in regard to Pennsylvania? And I suspect the correction will involve perhaps the construction of most of the constitutions of the eleven States to which he refers. The earlier constitutions conferred the right of suffrage on the "freemen" of the community; and when a legal construction came to be put upon that word "freemen" it was decided, at least in Pennsylvania, before the amendment which constitutes the present constitution, that that word excluded the negroes.

Mr. MORRILL. My honorable friend will find, if he has paid as much attention to this particular subject as I have, that he is historically inaccurate in regard to the fact. It is not so; it will not be found in a majority even of the constitutions that the word "freemen" is used. I

# THE CONGRESSIONAL GLOBE.

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undertake to say, after a most careful examination of the subject, that it will be found that there is no term of exclusion employed in any of the thirteen original States, save only the two I have named, on this particular political right, the right of suffrage, or upon any other either absolute or relative political right of the citizen.

Sir, this is the precedent with which our forefathers started. These are the American principles which were inaugurated during the revolutionary era in this country, and which extended to the organic era and were communicated to it, and they were embodied into the forms of government when your State governments were instituted, and they were adopted again at the organization of the Government under the Constitution of the United States; and what then? How did our fathers set off on this subject, this precise question which my friend thinks is innovating now? The Government of the United States, under the Constitution, has jurisdiction over the Territories. The Northwest Territory was supposed to be the only Territory over which she had jurisdiction and could exercise this right. How was this right exercised there? Look into the organic act organizing the Northwest Territory, and you will find that there is no exclusion on account of color. "All inhabitants" is the phrase, "resident" so and so, shall be entitled to participate in the elections. Further, when that Territory came to be divided, and the Territory of Indiana was organized out of it, the same principle obtained again, no limitation as to color, and that was as late as 1799. At a later period, when Illinois came to be organized into a Territory out of this same Northwest Territory, the same principle prevailed; there was no exclusion whatever on account of color.

I have passed the period when Vermont came into the Union, which was in 1793, I think—

Mr. COLLAMER. In 1791.

Mr. MORRILL. In 1793, my recollection is, Vermont was admitted into the Union, and what was the principle in her constitution? Not the slightest limitation. She followed the formula of the Declaration of Independence, and there was no limitation whatever. How was it in regard to Tennessee, the second State born under the Constitution? No limitation in her constitution as to color. When you come to Kentucky, which was admitted I think in 1799, you there find this idea of color first introduced into the constitution in the new States, and from that period down to the present, I agree with my honorable friend from Pennsylvania, the practice has been quite uniform in all the constitutions of the modern States, the States recently admitted into the Union, to introduce the word "white;" but that was an innovation, and the innovation was against the revolutionary era, the innovation was against the principles of the founders of the Government, the innovation was wholly against the organization of the States anterior to the Federal Constitution. And when I propose an amendment of this sort, and resist the proposition of the honorable Senator from Pennsylvania, I put myself in harmony with the principles of the American Revolution, I put myself in harmony with the practice of the thirteen original States with the exceptions I have mentioned, and in harmony with the action of the Government down to a period as late as—

Mr. WILLEY. Will the honorable Senator allow me to interrupt him?

Mr. MORRILL. Certainly.

Mr. WILLEY. I understand the honorable Senator to say that he puts himself in harmony with the practice of the thirteen original States, with the exceptions he names. I should be glad to know what one of those thirteen original States ever allowed the right of suffrage to colored persons?

Mr. SUMNER. North Carolina.

Mr. WILSON. And Maryland.

Mr. SUMNER. And Tennessee.

Mr. MORRILL. If I had had the honor to receive the attention of the honorable Senator from West Virginia, the explanation which he now re-

quires of me I think would not be necessary. I was not speaking of what might have been permitted at the ballot-box, though I think it is historically true that in regard to some of the slave States which had then the character of slave States and have continued slave States, colored men were allowed to vote, and never excluded until a recent date; but my proposition was that in the constitutions of eleven of the thirteen original States there was no exclusion on account of color. The fundamental law in all these States ran in harmony with the Declaration of Independence.

Mr. SUMNER. I would remind my friend that it was so also in Virginia in the beginning.

Mr. CARLILE. The suffrage in Virginia, from the beginning up to 1829, was limited to freeholders; none but freeholders could exercise the right, and slaves of course were not freeholders.

Mr. COLLAMER. But there was no exclusion on account of color.

Mr. MORRILL. All the statements which are made here as historical facts do not run against my principle. I repeat there was no exclusion on account of color. That there were other qualifications in all these State laws I do not doubt. I know that. I know, as the Senator from Virginia has said, that in that State for many years none but a freeholder could be a voter; but that freeholder might be a colored man, and that very qualification would allow him to vote. It was so in some other of the States. I believe there was a moral qualification attached to some of them; I think Vermont, certainly South Carolina, required a belief in the Supreme Being.

Mr. COLLAMER. In Vermont the law requires a man to be of good moral character in order to be a voter, and he may be of good character whether colored or white.

Mr. MORRILL. My proposition was that this idea of using the term "white" in such a bill is an innovation; and the history of the country from the earliest moment, from the day of the date of the Declaration of Independence down through the whole period of the Government until after the organization of the Federal Government under the Constitution and the organization of all the Territories over which it had control, verifies the truth of this proposition.

Now, Mr. President, I do not care to continue the discussion, but will simply repeat my proposition and take my seat. Upon an analysis of the bill with my amendment, it will be found that the first requirement is that a man shall be twenty-one years of age and a citizen of the United States. Then he is required to have been an inhabitant of the District at least twelve months before the election, and a resident of the ward in which he proposes to offer his vote at least three months next preceding the election. He shall either have been assessed in the revenues of the District, or liable to be assessed having taxable property, and in addition thereto he shall have a degree of intelligence, and that degree of intelligence is that he shall be able to read and write with facility.

Mr. COLLAMER. I ask the Senator from Maine whether he offers that as a substitute for the amendment of the Senator from Pennsylvania.

Mr. MORRILL. I did offer it as a substitute for the proposition of the Senator from Pennsylvania; but as I am now informed by the Chair that that is not in order, I propose, if the amendment of the Senator from Pennsylvania be voted down, then to renew my proposition as a distinct amendment.

Mr. COLLAMER. I desire to know why it is not in order to do so now.

The PRESIDENT *pro tempore*. The Senator from Maine first offered his amendment as an amendment to the amendment of the Senator from Pennsylvania. On examination, however, it does not bear on that amendment, it being an amendment to another portion of the bill and of a different character from this.

Mr. COWAN. Mine is a proposition to insert, not to strike out.

Mr. WILKINSON. Mr. President, I hope that the Senate will adhere to the position it assumed upon the question of suffrage when the bill for the organization of the Territory of Montana was before it, and this question was directly presented for its decision. I do not know but that there may be instances in which I may be willing to yield my opinion upon this question of allowing negroes to vote. I might do so perhaps in a case where my action would have no practical effect, as perhaps in the case of a Territory where there are none of that class; but I never will, under the present condition of things, yield this right where it is of any practical importance whatever.

I am informed, sir, that upon this very ground where the capital of our country is located, by the laws which governed the people residing upon this territory before the District of Columbia was organized, in certain cases negroes could vote. There are to-day in this city a large number of intelligent, thrifty free colored people who have contributed for a long series of years to the support of the city government, who have regularly paid their taxes, and who have contributed their money liberally to raise and to equip and put into the field three regiments of colored troops. Those troops have been sent into the field, and are to-day battling for our common country; and in any law regulating the right of suffrage in this District I never will vote to exclude the patriotic colored people of the District who have contributed their influence, their money, and their exertion to raise and to equip and put those soldiers into the field; nor will I vote to exclude the scarred veteran who may return home from the war from participating in regulating the Government which he has made such great sacrifices to defend, merely because his skin happens to be a little darker than my own.

The honorable Senator from Iowa, for whom I have great respect, has stated that he will support this amendment because a reform in the laws of this city is necessary, and unless the amendment of the Senator from Pennsylvania be adopted the House of Representatives will disagree to our proposition and reject the bill. I submit whether this is a good reason for the Senate, whether it is a proper and sufficient justification for the Senate to adopt a wrong principle for fear the other House will reject the right one if we adopt it. It will be time enough for us to adopt this amendment when the disagreement of the House of Representatives shall have been made known to us in an official and formal way.

I may consent to support, when it is offered, the proposition of the Senator from Maine, not because I would vote for so stringent a law if it was to be applied in my State, for I think it goes further than I should be willing to go in the State of Minnesota; but I am willing to go for it here in the new condition of things which is existing here and everywhere in the border States, when as we hope the institution of slavery is to be overthrown, and when a vast number of those who have been heretofore held in bondage shall become free men. I am well aware that many of them will be incompetent to vote on account of the wicked and pernicious influences which slavery has had upon them. In view of this fact, I regard the proposition of the Senator from Maine as a wise and proper one to be adopted here. Fix that limitation to the law, require of them intelligence and the other qualifications which he proposes in his amendment, and there is no human reason, there is no moral principle, there is no justice or right in saying that a man who is a patriot, who is an intelligent citizen, shall, because of the color of his skin, be excluded from the rights which are extended to other men no more intelligent and no more worthy than he.

The Senator from Pennsylvania says it is not time for us to do these things. Why, sir, that honorable Senator a year or two ago thought that it was not time to employ negroes in the service of the Government, and it was not time to do a great many other things—



Mr. COWAN. Will the Senator allow me to correct him by saying that I never expressed any such opinion? I have uniformly from the first, at all times, expressed the opinion that that was a question for the President, and not for Congress. The Senator is utterly mistaken.

Mr. WILKINSON. I do not remember the particular phase which the honorable Senator's objection then assumed—I mean his objection to passing any law for the organization of colored troops.

Mr. COWAN. The honorable Senator, I think, understands the ground that I have always taken, and that is that the negro is a citizen of the United States in that sense which makes him owe allegiance to the United States; that having been afforded protection he owes military service; but being in the opinion of some barbarous, in the opinion of others semi-barbarous, and in the opinion of others civilized, it was a question for the Executive to know whether he could be employed in our armies as a civilized soldier. That has been the ground which I have taken from the outset.

Mr. WILKINSON. I know that during this present session the honorable Senator has taken that view, and very justly, as I conceive. He assumed in a discussion here some few weeks ago that even the slave was a citizen and owed allegiance to the Government, and that that allegiance was a primary allegiance greater than that which he owed to his master or anybody else. In that I fully concur with the honorable Senator. But, sir, I cannot assent to the idea that it is not time to do right, that it is not time to extend to these men who are now giving their support to this Government their rights; or rather that it is not time to cease insulting and abusing and degrading them; that it is not time to cease and withdraw our opposition to this class of persons. After we have got those hands upon thousands of them fighting for their country, we in our legislation are discriminating directly against them, and aiding to keep them as far as we can in a degraded and servile condition.

I look upon it as the highest duty of this nation, as long as this Government will accept the services of these men in the field, to strike out all language in every law which tends to discriminate against and to degrade them and the class to which they belong. By inserting this word "white" into the law as now proposed, we are yielding to a wicked prejudice that slavery has inaugurated on this continent and among our people; we are yielding to a wicked prejudice which has grown up within the last thirty years, grown up under the influence of the arch-traitor, John C. Calhoun, and perpetuated by his adherents all over this country; and it is time that that influence should be crushed under our feet, particularly since we have accepted the military service of this class of people, and accepted it at a time when we cannot very well afford to let that service go.

Mr. President, it was a short time ago, and even since this session commenced, that it was difficult to get a bill through Congress giving these men any reasonable pay for their services in the Army. It was within a very short time that we could pass a bill through the Senate paying them thirteen dollars a month for the services which they were rendering to the country. Senators, patriotic, honorable Senators, wanted some discrimination; they wanted to degrade these men; they wanted them to fight for the country, but they must fight for ten dollars a month while white soldiers fight for thirteen dollars a month. Now I think it is time that the American people should rise above such prejudices and be willing for once to do justice. There are a great many people in this country who think—and I admit that I share somewhat in that belief—that we shall never get out of this war until we are converted, until we can afford to be just, until we can see the right, and seeing it pursue it without any variability or shadow of turning. We are not entitled to success unless we are just ourselves.

In this District I think that the proposition of the honorable Senator from Maine, although it is not directly before the Senate now, is eminently practical. It can be carried into effect. It will not create any disturbance in the municipal government of this District. It will not derange the city government. There will be no great incon-

venience in carrying out this measure, nor will the ordinary affairs of the District be disturbed.

Why, Mr. President, this population have been from the very commencement of this war the most quiet, law-obeying, orderly people we have among us. It was conjectured all over the country, it was predicted that if we freed the negroes, if we abolished slavery in this District, they would become insolent and turbulent, and the peace of the city would be disturbed. It was predicted by people North and by people South that when the war commenced there would be an insurrection, and we have been enlightened on this floor by the hour as to the horrors of a negro insurrection. I defy any man to show me a single case, to point me to a single instance where the colored people of this country since this war broke out, or since we have commenced to treat them as men and as human beings, have violated the law, where they have sought in any wise to pursue any course that was inconsistent with the most exalted humanity and reverence for the institutions of their country. There is not a single instance of it from the southern boundary of Pennsylvania to New Orleans. Where in whole districts of country the women and children have been left in the hands of negro slaves, all of them Union men, ignorant as they are, uneducated, without any of the advantages which free people of color possess, they have never shown any disposition to violate the law or commit any act of cruelty or impropriety whatever. There is no single instance of it. There is a sublimity in the conduct of these people in this present emergency such as history furnishes no parallel to; all of them for the Union, all of them waiting to receive the Union armies, all of them taking care of the people who are unprotected when they are left in their hands, all of them showing that they have a faith in the triumph of the cause of their country, and all of them looking by the triumph of our arms to their own emancipation. And, sir, whenever the Government calls upon them, they are ready to respond, and they do it with a confidence and with a spirit of obedience such as you will find in no other class of people in this country. With these great facts before us, is it not strange that we as a people should refuse to observe them, but continue on in our blind prejudice to persecute and degrade this people?

In this condition of things, whenever a law comes up here it is supposed to be necessary, in order to prevent some disturbance, in order to conciliate somebody, that you must put in an offensive clause against colored people; you must insert some word in the bill that will show that they are not human beings as we are, that they are not entitled to the rights and to the privileges and to the immunities of other men who fight for and maintain the interests of their country. So far as I am concerned I will never do it wherever any practical result is to be attained by either inserting or striking out any such proposition. I hope that the amendment of the Senator from Pennsylvania will not be adopted. Let us at least strike out from the national statute-book everything which is inconsistent with the great truth of the equality of all men. Let us not while we are struggling to protect and perpetuate our own liberties be guilty of the giant wrong of attempting to deprive black men of theirs; nor should we be guilty of perpetuating a wicked prejudice against this people, which had its origin in slavery, and is one of the vilest features of that accursed institution.

Mr. TEN EYCK. Mr. President, perhaps it will not be amiss, at least it does not appear to me to be so, to make a few remarks on this matter after the general declaration of the Senator from Minnesota that Senators here who do not sustain or act with him in relation to measures of this description intend and design to degrade this class of colored persons.

Mr. WILKINSON. I will state to the honorable Senator from New Jersey that I meant to say that it is perpetuating a wicked prejudice that was inaugurated by slavery, and which ought, in my judgment, to be abandoned. I did not mean to assail any particular Senators.

Mr. TEN EYCK. I do not know what the Senator meant; I understood distinctly what he said.

Perhaps the amendment of the Senator from Maine theoretically is right; because, as I under-

stand it, the right of suffrage in a republic like ours should be based upon intelligence and citizenship; and, everything else being equal, with no opposing element to control the mind in coming to a different conclusion, that should be the rule of action; but it never has been so, and I suppose it never can be so. If the question is to be determined by this rule, then some of the ablest, purest, and most patriotic citizens of the country who are now deprived of it—I mean the "better portion of creation"—will be entitled to the right of suffrage; and some of our noble youths who with hearts and hands are joining in the noble fight for freedom, whose minds are beaming with intelligence, should be entitled to the exercise of the elective franchise although the mystic period of twenty-one years of age may not have yet arrived.

But, sir, at this time it seems to me that the proposition of the Senator from Maine is not only inexpedient but full of mischief, and would be most disastrous. I often think that from our want of active recollection and unconsciousness of things about us that we hardly realize the state in which we are. Why, sir, let us remember that we are in the midst of a war the most terrible and dreadful that has ever shaken the surface of the earth, the issues of which are this day trembling in the balance. The evidence of it is in the death of thousands of our noblest and our best, who fall like leaves before the winter's blast, and whose mangled forms now bleeding lie within the "Wilderness."

Sir, we must have unity. "Unity is strength." If we divide upon unnecessary questions, questions not of vital import to the country, I fear the banner of the country will be trampled beneath the armed heel of traitors. I fear the effect of this measure will be like that of many other measures now agitated; such a measure as was discussed in the House of Representatives yesterday—I speak with great respect—to parcel out the lands of rebels, which very lands are drinking at this hour the best blood of our bravest men in a death-struggle to maintain their hold upon that very soil.

Sir, all questions of this kind serve only but to hurt and injure us. We had better wait until we have secured the conquest before we undertake to parcel out these lands. It will be time enough to do it then. All these things tend to drive far from our standard many men who were at first inclined to rally round it. Everything of this description just at this time, in this fierce struggle, goes to weaken, not to strengthen, us.

Our troops are patriotic; they need not such incentives to urge them forward to the field. Let rebel owners first be overcome before you undertake to share their lands among our worthy soldiers; this is more judicious.

But, sir, if I understand the proposition of the Senator from Maine, it is not simply to extend the right of suffrage to colored persons, but to restrict it in the case of whites. The rule proposed by him is that no citizen shall be entitled to the exercise of the elective franchise unless he can read and write with facility. That has not been the requirement heretofore. That has not been the law since the establishment of the government of Maryland, which has been succeeded for the last fifty or sixty years by the General Government in this locality. Is this a time to strip a white man, although he may not read and write with facility, of this great right—the right of voting—and thus excite him and his friends to hate and violence against the Government? The Government should foster and protect his rights while he is struggling to maintain it. Sir, this is not the time to do this thing. We cannot afford to do it now.

The Senator from Minnesota says it only applies to this District. Sir, it is the principle that is objectionable. This is the center; strike this chord here and it will vibrate to the utmost limits of the Republic and agitate the country almost as deeply and profoundly as the rebellion has itself. Sir, it is madness now to do this thing.

Then, sir, conceding it to be theoretically right, is this a proper time to press upon the country such a measure? There are many things in ethics and in morals which, although abstractly right, cannot practically be used under all and every circumstance. What will be its effect upon our

soldiers? The sympathies of my friend from Minnesota embrace these colored troops. He cannot see why men rushing to the ranks to preserve the blessings of this Government whose skins are black shall not have the right to exercise this franchise. Sir, why should men whose skins are white, residents of this District, unable to read and write, who have listened to their country's call, gone forth to battle, and bathed the land with their best blood, be forgotten by the Senator from Minnesota?

Mr. WILKINSON. Will the Senator allow me to ask him a question?

Mr. TEN EYCK. I have observed this rule for my own conduct: I never interrupt a Senator. When I shall have concluded the few remarks I desire to make, it will give me the greatest pleasure to answer any question the Senator may see fit to ask; that is, if I can.

Mr. WILKINSON. I simply desired to ask the Senator how many white soldiers have gone from this District and how many black ones.

Mr. TEN EYCK. I have not consulted the statistics. I know that a considerable number of both white and black have gone into the ranks, according to the newspapers and to the current information of the day. The exact number I am unable to state.

Mr. President, Senators may say this measure is to be confined to this District; but, sir, the principle will strike the mind of every man throughout the limits of the land. Every father, every brother, every relative of every pure and noble-hearted soldier who has not learned to read and write with facility, who has gone into the Army and offered freely his life, need be, for the safety of the country, will hear of this amendment with a scowl of indignation. I speak it respectfully; I do not wish to characterize the proposition of my friend from Maine, for whom I entertain a very great regard, with terms of harshness; but, judging from my knowledge of mankind and the way in which the human heart is constituted, that is the way in which this thing will be received by that large class of men who go to form our legions, beneath whose banners they now, I trust, are marching on to final victory. Sir, it will freeze the blood within their veins, and, like the touch of the magician's wand, will turn them into stone; it will arrest their movements, and in the future nothing but the inexorable power of a draft will force this class of men into the ranks. Sir, how is this? A soldier comes from battle wounded, torn, and mangled; he hobbles on his crutches up to vote; he cannot read and write; he is driven from the polls! While absent in the war he has been disfranchised. He took the field a freeman; he returns a slave. He went to save the nation; the nation has destroyed him. Sir, Senators may vote for such a measure if they choose, but while I live I never, never will.

Mr. President, the same reason does not apply to the class of persons alluded to by the Senator from Minnesota; for colored men within this District and in several of the States never have enjoyed this privilege; you do not rob them of it, as you propose to do white men who have enjoyed it, and who it is proposed by this amendment to disfranchise, although fighting in the ranks at this very hour. Sir, it is a very different thing to refuse a colored man a novel grant like this, a grant which he never has enjoyed, or strip a white man of a right which was his birthright, and at the very time when he is rendering the most energetic and patriotic service that a man can render to his country. I see a vast difference and distinction between the two cases now before us.

Sir, I regard this measure at this time as most dangerous and disastrous. It is not necessary for me to refer to any former action of mine to prove my indisposition to degrade the colored man or disregard his situation. I have done perhaps as much as any other man, at least on this side of the Chamber, and at as great a sacrifice—I will not say a sacrifice, because I do not so regard it—but I know I might have had some benefit under acts of Congress connected with this class of persons; but, sir, I would make up my mind to as soon touch the price of blood as touch the price of human bondage; I so have always felt, and acted on it. I oppose this proposition. Our armies must be full, and so be kept. I believe that if

you pass the amendment I have spoken of, that in addition to the whizzing bullets of the foe which sweep our soldiers down in horrid winnows, you will keep regiments of men out of the ranks which they have filled so well in former times, and that our troops will waste away like snow before the breath of spring.

Sir, these are my reasons for opposing the amendment of the Senator from Maine.

Mr. CARLILE. I do not rise to take part in this discussion, but merely to correct a statement which has been made as to a historical fact said to have existed in my own State. It is due, I think, when a statement is made in this body which is accepted in the country as true, coming from the source it does, that we should be careful to ascertain that we are correct. The facts show that the right of suffrage in a negro never existed in the State of Virginia. They were expressly excluded by law. The constitution adopted in 1776 by the government of Virginia as a State, limits the exercise of the right of suffrage to such persons as at that time had the right under the law to exercise it. The act of November, 1762, 3 George III, defines the qualifications of voters. After requiring a life estate in at least fifty acres of land, the seventh section of that act provides as follows:

"That no female, sole or covert, infant under the age of twenty-one, recusant, convict, or any person convicted in Great Britain or Ireland, during the time for which he is transported, nor any free negro, mulatto, or Indian, although such persons be freeholders, shall have a vote, or be permitted to poll, at any election of burgesses, or capable of being elected; and if any person, not being a freeholder, qualified as by this act is directed and required, shall presume to vote," &c.

This act was reenacted in 1818. The constitution of 1829 followed, which defined the qualification of voters; so that it will be seen that never in that State has the right of suffrage been conferred upon a negro.

Mr. HOWE. I would have contented myself with a silent vote against the amendment of the Senator from Pennsylvania now pending, but for the position taken by the Senator from Iowa, [Mr. HARLAN.] I feel a little embarrassed at that. Every one knows that in the recent classification of parties the Senator from Iowa is ranked as a radical. Everybody knows that in that same classification I am ranked as a conservative. I had the pleasure the other day of seeing my name in a list with other Senators in one of the newspapers of the country surrounded with very heavy black marks. I regard that as conclusive evidence that I am conservative; and when I find myself on a question of human equality standing in advance of the Senator from Iowa, I feel bound either to step back or to apologize. It happens that upon this precise question now pending before the Senate I have been so long committed to a position antagonistic to that occupied by the Senator from Iowa that I cannot step back; and so I feel called upon to apologize. [Laughter.] I am really afraid I shall lose caste. I shall be taken out of the black list and get in among the radicals.

My apology is this: I differ from the position assumed here by the Senator from Pennsylvania, and assented to by the Senator from Iowa and the Senator from Connecticut. I believe this right of suffrage to be a natural right, as much so as the right to practice law, as much so as the right to eat or the right to breathe. I agree that, notwithstanding it is a natural right, it is a right which the governing power may deprive any one of for special reasons, just as they can deprive any one of the right to practice law, or the right to practice medicine, or the right to eat, or the right to breathe; but there ought to be a sufficient reason for depriving any human being of any of these rights.

The only reason which the Senator from Pennsylvania suggests for depriving any one of the right of suffrage in the District of Columbia is that he is black. I do not and I never did consider that an adequate reason. Twice in the State of Wisconsin I have been called upon to vote on this very question, and both times I voted to extend the right of suffrage to people of this color, and both times I did it before the negro was much in fashion. I did it when black was not the popular style, [laughter,] and having done it then, I beg leave to have the advantage of the fashion, now that it has come in vogue. That is another reason why I do not wish to vote for the amend-

ment proposed by the Senator from Pennsylvania.

I am willing to deprive those who are not males of the right of suffrage, because they exercise it by proxy, as we all know. Females send their votes to the ballot-box by their husbands or other male friends. We may affect to deny it, but in legislating upon grave matters like this it is better to tell the truth about it. We go there to carry votes. We are instructed to carry them before we leave home. [Laughter.] Therefore I am willing to exclude females from this privilege of going to the polls themselves. I think they ought not to vote double; and inasmuch as their husbands vote once for them they ought not to vote at all.

I am willing to exclude those who are not twenty-one years of age, because they have not a mind of their own; they are not emancipated by law anywhere. They cannot contract. They are supposed to act under the guidance of others. They are not emancipated in any sense under any law; and if they had the right to vote they would be, as they are in everything else, in all their daily avocations, executing the will of others, not their own.

Therefore I like the proposition submitted by the Senator from Maine much better than that submitted by the Senator from Pennsylvania. I am willing to exclude those here in this District who cannot read and write from the right of suffrage, because really, if I am compelled to tell the truth, I do not think a man can be qualified to exercise this very delicate power or prerogative or privilege—whichever you call it—of supervising the whole action of the Government who cannot read the first syllable as to what the Government does. I think he is as incompetent to exercise the right of suffrage as the man who has never read Blackstone or any other work on jurisprudence is to practice law.

But the proposition submitted, of which we are told will be submitted in due time by the Senator from Maine, proposes to exclude all those living within the District who have not a taxable estate from the exercise of this right. I dissent from that idea. Persons are as much to be protected by Government as property, and there are thousands and millions in our land—I am afraid millions; thousands we know—whose personal rights they feel as precious to them as any rights of property can be; and since these rights of persons are as necessary to be protected as the rights of property, I am for giving to all those who are competent in other respects to exercise this privilege or this right, the right, notwithstanding they have not any taxable estate. With that modification, I should be glad to vote for the proposition of the Senator from Maine.

The Senator from Pennsylvania the other day spoke with considerable force and earnestness upon the necessity of our guarding the elective franchise and the dangers to which we were exposed from not guarding it. I listened to all that with a great deal of interest and with a great deal of appreciation; but I put it to him to-day whether the limitations proposed by his amendment are better, wiser, juster, or safer than those proposed by the Senator from Maine. If he says they are, I must be allowed to differ from him. I think the limitations and restrictions proposed by the Senator from Maine are much the safest, much the wisest, and the justest.

Mr. WILSON. Mr. President, I cannot vote for the amendment proposed by the Senator from Pennsylvania, nor can I ever vote for the amendment suggested by the Senator from Maine. While I am anxious to extend to colored citizens in this District, and especially to those who are bravely fighting the battles of the country, the right of suffrage, I am not willing to take that right from those who now possess it. I never have voted, I never can vote to take from any man the right, the inestimable privilege of the suffrage. Whenever I have been called upon to vote upon questions pertaining to the right of suffrage, I have ever voted against all restrictions upon that right. Sir, I see nothing in the events now passing before us, nothing in the bloody drama upon which we are now gazing with intense interest, to shake my faith in the toiling men of my country. This work of death, this appalling civil war is not the work of the poor, the ignorant sons of toil, black or white. It is the work rather of men who scorn

and despise the toiling masses and the republican institutions that guard the rights and foster the interests of the poor and dependent many. These bloody scenes through which we are passing shake not my faith in the poor, the toiling masses of my countrymen, but they do increase my distrust of classes who are ever controlled by their own personal interests. The lesson taught by this rebellion of the slaveholding aristocracy is not distrust of the unprivileged many, but the privileged few.

I cannot therefore say to the white men of the District of Columbia, who are now in full possession of the achieved right of suffrage, "You can no longer vote unless you can read and write, or unless you possess estates upon which taxes may be levied." I would elevate the black man, but I can never, no, never, vote to degrade the white man. I shall vote against the amendment of the Senator from Pennsylvania to insert the word "white" into the pending bill, and against the amendment proposed by the Senator from Maine to restrict the right of suffrage for white men. Let the white men of the District, who now possess the right of the ballot, retain that great privilege unrestricted, though they may not be able to read and write, and do not possess property upon which taxes may be levied. Let us, if we can, extend this invaluable privilege of the ballot to colored men; if not to all, to a few, to men who are fighting the battles of our periled country, to men who possess property upon which taxes are levied and collected. Confident that we cannot extend the right of suffrage to the masses of colored men in the District upon the conditions upon which white men exercise the right, anxious to begin the work of elevation which the extension of the ballot to colored men would give to that long-oppressed race, I have prepared an amendment based mainly upon the constitution of the great State of New York, which I propose to add to the bill if the amendment of the Senator from Pennsylvania shall prevail, as I fear it will. I intend to propose this amendment:

But any man of color who shall have been for three years a citizen of the District, and shall have borne arms in the military or naval service of the United States, or shall have been seized and possessed of a freehold estate of the value of \$250 over and above all debts and encumbrances charged thereon, and shall have been actually rated and paid a tax thereon, shall be entitled to vote at such election.

Sir, this amendment if incorporated into the bill will give the right of the ballot-box to the men who are using the cartridge-box; it will give this exalted privilege to men who possess real estate valued at \$250, and there are many such. The adoption of this policy will tend to the elevation of the colored man, recognize his valor in the field, and it may incite him to secure the possession of a home, humble though it may be. At any rate the adoption of this amendment will begin the work in this District of clothing the colored citizen with the most exalted of all the rights and privileges of citizenship in America.

Mr. COWAN. I have a single word to say in reply to the argument of the honorable Senator from Maine, [Mr. Morrill,] in which he criticized at some length the assertion made by me that the present bill without amendment would be an innovation in this District; and, in support of that proposition, he argued, or attempted to argue, that originally in the thirteen States constituting the United States at the time of the adoption of the Constitution, there was no limitation upon the right of suffrage in regard to color. It is true there was no such limitation at that time, and there was no such limitation perhaps for a very obvious reason. A question is never decided until it is raised; and it is more than probable that at that time no such question had ever been raised, and was not raised for some time after. I have taken the pains to examine the original constitutions of some of the States, and it will be found that this right of suffrage in all of them, except, perhaps, in the State which I have the honor to represent in part, Pennsylvania, was restricted by a property qualification. In that State it was only limited by the payment of taxes previous to the time the voter asserted his right. The first State to which I shall refer is Massachusetts. In her constitution—I do not know the date of it; it is not given in the book before me—

Mr. SUMNER. 1780, during the revolution-ary war.

Mr. COWAN. That constitution provided:

"That every male person being twenty-one years of age and resident in any particular town in this Commonwealth for the space of one year next preceeding, having a freehold estate within the same town, of the annual income of £3 or any estate of the value of £60, shall have a right to vote in the choice of a representative or representatives for the said town."

This bill you will observe allows all male citizens to vote without any qualification whatever, and it is therefore an innovation even upon the principle established in the times of the Revolution by Massachusetts herself.

The next State to which I refer is Rhode Island. That was governed by the charter of King Charles II, which provided that certain persons by name, "and the rest of the purchasers and free inhabitants of our island called Rhode Island," should have the right of suffrage; and I suppose that negroes were always excluded under that language.

Mr. ANTHONY. The Senator will allow me to interrupt him. He is mistaken. They were not excluded under charter, but were excluded for a period by a law of the General Assembly, the General Assembly having authority over the right of suffrage as all other rights under the charter. Under the present constitution they vote precisely the same as white people.

Mr. COWAN. I am glad to be corrected. I supposed they had always been excluded under that phrase, because by the uniform construction given to it in our courts of common law it would have excluded them.

The constitution of New York originally provided that:

"Every male inhabitant of full age who shall personally have resided within one of the counties of this State for six months immediately preceeding the day of election shall at such election be entitled to vote for representatives of the said county in the Assembly if, during the time aforesaid, he shall have been a freeholder possessing a freehold of the value of £20 within the said county, or have rented a tenement therein of the yearly value of forty shillings, and been rated and actually paid taxes to this State."

Mr. SUMNER. The Senator will observe there is no discrimination of color there.

Mr. COWAN. There is no discrimination of color any where in these ancient constitutions; and I suppose that that discrimination is not here for the reason I have stated: the question could not be decided until it was raised. It very often happens that the halls of Westminster are silent upon a particular point of law simply because nobody ever raised the point.

The constitution of New Jersey of 1776 provided that:

"That all inhabitants of this colony of full age, who are worth £50 proclamation money, clear estate in the same, and have resided in the county within which they claim to vote for twelve months immediately preceeding the election, shall be entitled to vote for representatives in Council and Assembly."

Mr. SUMNER. "All inhabitants."

Mr. COWAN. Yes, sir. All inhabitants who are worth £50. Pennsylvania provided that:

"Every freeman of the full age of twenty-one years, having resided in this State for the space of one whole year next before the day of election for representatives, and paid public taxes during that time, shall enjoy the right of an elector: *Provided always*, That sons of freeholders of the age of twenty-one years shall be entitled to vote although they have not paid taxes."

Which latter provision is still retained in our State. Between the ages of twenty-one and twenty-two an elector is not required to show that he has paid taxes.

I might go on and refer to the constitutions of all the remaining States, and in all it will be found that they have qualifications of various kinds, and in no one of them is the proposition stated so broadly as it is in this bill; and therefore I was warranted in saying that it was an innovation, an innovation generally; but what I mean to say now is that I think it cannot be denied that it is an innovation in this District, and one not at all palatable to the vast majority of its people; and, treating it as a distinct and separate community, with the same rights that are possessed by any other separate community, their wishes ought to be attended to in this behalf as we here profess to represent them. We are *quasi* their representatives and not their masters, as I understand the position we occupy. Therefore I think that this would be an innovation in every sense of the term, and as such I would deprecate it.

I have stated my objection to the amendment of the honorable Senator from Maine which he

proposes to insert in the bill, because I think it would be mischievous in setting up at this time a new standard which would have the effect of excluding and taking away rights from people which they have heretofore enjoyed without question.

Mr. LANE, of Kansas. I propose to vote against the amendment of the Senator from Pennsylvania. I am unwilling to say by any vote of mine that a man defending his country and this city shall be excluded from the ballot-box of the city, while copperheads, traitors, who were yesterday rejoicing over the bad news that we received from the army of the Potomac, have the right of suffrage. I am unwilling to make a distinction for the one and against the other. I will vote for the proposition of the Senator from Massachusetts [Mr. Wilson] with an amendment, and when it comes up I will propose an amendment to strike out the property qualification. I think it is proper that we should give the men who have been freed from slavery time for preparation to exercise this great right of suffrage. A property qualification is to me ridiculous. I remember reading somewhere an anecdote said to have emanated from Benjamin Franklin on this subject. In addressing an audience he said, "This property qualification is £10; a man to-day owns a jackass worth £10, and he is entitled to vote; the jackass dies to-morrow, and he is not entitled to vote; who enjoys the right of suffrage, the jackass or the man?" [Laughter.] I repeat, that to my mind a property qualification for the right of suffrage is ridiculous; it is giving the right of suffrage to the property and not to the man. So regarding it, when the proposition of the Senator from Massachusetts comes up I shall move to amend it by striking out the property qualification, leaving the freedman the right to vote after he has had three years to study our institutions.

So far as I am concerned, I hope the time may come, and soon come, when we can safely extend to the colored men of our country all the political rights that we enjoy ourselves. It is known to the members of the Senate that I have believed, and have so expressed myself, that they cannot obtain real liberty with us where we are in the majority. I have therefore introduced before the Senate a proposition to separate them from us, to give them the opportunity of occupying a country where they can be the majority race and enjoy all the liberties both social and political that we enjoy. The people I represent are opposed to granting to freedmen the right of suffrage at once. It was tested before our last Legislature. We are unwilling to extend to them the right of suffrage at once, but I believe they will sustain me in voting for a proposition to give to all men over twenty-one years of age the right of suffrage after sufficient time has been allowed them to qualify themselves to exercise that right.

Mr. WILLEY. Mr. President, when this proposition to amend this bill was under discussion the other day, I was stopped in the course of my remarks by the arrival of the hour for the order of the day, and I supposed that I was therefore entitled to the floor when the matter came up again for discussion; but I had in the mean time had assurances from sundry Senators that the amendment of the Senator from Pennsylvania would no doubt prevail; and that being the only object which I had in view, I did not feel myself authorized, when it was not awarded to me, to claim the floor to discuss a proposition which I had been given to understand and led to suppose would meet the general approbation of the Senate. But, sir, the indications now are that in this information I am about to be mistaken, and that in all probability this amendment will be voted down. There are various other propositions suggested here, which Senators say if this amendment should be rejected they will introduce. But, sir, the only proposition before the Senate now, as I understand it, is the amendment of the Senator from Pennsylvania. How these contingencies may turn out I do not know; and therefore, without proposing to detain the Senate for any considerable length of time, I propose to submit a few reflections in regard to the naked amendment of the Senator from Pennsylvania.

Shall persons of color in the District of Columbia be entitled to the right of suffrage under existing circumstances and at this time? When I was addressing the Senate the other day I had arrived at



the conclusion which has been adverted to by Senators here on all sides to-day, and which seems to be agreed to on all hands, that the right of suffrage is a conventional right; that the political community where it is to be exercised have the right of fixing the rule that shall regulate it; that it is not a natural, or, more properly speaking, not an original right, and that every community, in the exercise of its own discretion, has the authority to say who shall vote and who shall not. The proposition, then, if this be correct, is whether the community of Washington city shall, in the exercise of the authority which they possess, as is admitted on all hands, extend this right of suffrage to persons of color.

Now, sir, what is the rule by which this discretion is universally regulated? What is the only wise rule by which it should be regulated? As I said the other day, there are two principal elements entering into this consideration: one is identification of interest with the political community into which a class of persons is proposed to be introduced by extending to them the right of suffrage. Let us apply that rule. It is a good one, because certainly every individual who proposes to exercise the right of suffrage in the selection of officers who shall make or execute the laws of any political community should have some interest in the welfare of that community. There should be some evidence by which his interest in the community could be recognized and demonstrated. What is the character then, I ask, of the colored population of the District of Columbia? Is it not transient? Have not many of them but recently come here, many of them to remain but a few years at furthest; perhaps here to-day and gone to-morrow; here long enough under the rule as now prescribed to acquire the right of casting a vote, but who so soon as it is cast will go away; no permanent interest in the welfare of the city; nothing to identify them with it, neither property nor kindred nor the ties and associations of friendship and society generally?

Another rule, and the fundamental rule, is, in my opinion, intelligence to understand and appreciate this great duty and fundamental right. The voter elsewhere selects the man who makes the laws. In that respect this remark has no application to this District, for it is in the anomalous condition that it has no voice in enacting the laws which govern it. Not even has it the advantage of a Territory with a Delegate upon the floor of Congress to represent its interests without any vote; but then the voter here does select the officers who are to execute the laws which Congress imposes upon the District, and the voters select the local authorities who make the ordinances that come home to the firesides and the more intimate and every-day interests of the community; and in that respect it is very material to the interests of the city that those who make the selection of the officers should have intelligence enough to do it discreetly and with propriety.

I have no doubt that if this amendment be adopted it will exclude from the polls a number of persons of color just as well qualified to exercise the right of suffrage as many white men in the District. Nay, sir, I will go further, and say that I have no doubt, if this amendment be adopted, it will exclude from the exercise of the right of suffrage many persons of color who are better qualified to exercise that right than many white men in the District who now have a right to vote. But, sir, in the regulations of Government in every department there must be general rules, and therefore individual instances of inequality and hardship must necessarily occur. The fact is that there are many white persons excluded under the age of twenty-one years who are much better qualified to exercise the right of suffrage discreetly and judiciously than many who are over the age of twenty-one years who do now exercise that right. But there must necessarily be some general rule by which this matter is regulated, for it is impossible to graduate the qualification of the voter to meet every contingency.

This amendment, if it be adopted, will exclude all persons of color from exercising the right of suffrage at this time in the city of Washington. Upon the whole, however, would not that be an advantage to the city? What is the general character of that class of population in the District of Columbia? Who are they? Whence came they? It was well remarked a while ago by the Senator

from New Jersey, [Mr. TEN Eyck], that their abject condition was not their own fault, and that reproach for it did not attach to them, but more properly belonged to the institutions that have kept them in a state of degradation; but that does not alter the fact that they are ignorant, that they are servile, and in a majority of cases disqualified for the intelligent and judicious discharge of the great offices of freemen. They never read our Constitution. They cannot read our Constitution. They have not the first elementary idea of constitutional law or constitutional obligation. That such is the fact no Senator on this floor, I undertake to say, will candidly deny. And yet, sir, it is proposed to extend the right of suffrage to a class in this community of that character, of that character by no fault of their own, but the fact is they are nevertheless of that character.

It is gravely proposed to extend the right of suffrage in this city to a large number of persons in that condition of ignorance and disqualification. Now, sir, what is the number of the colored population in the District of Columbia? How many were lately emancipated resident there, lifted up out of the degradation of their bondage and placed on the platform of freedom, but nevertheless as ignorant to-day as they were when the manacles first fell from their limbs, as incompetent to exercise judiciously and discreetly the right of suffrage, as incapable of saying who is and who is not a proper man to execute the laws of this city as they were when they were slaves? I ask again, what is the number of that class of population in this District? It is now large, and it is growing larger every day. Refugees from Virginia, refugees from Maryland, from all the slaveholding counties around us, are congregating here in the District of Columbia, and if the proportionate increase of colored population be as great during the ensuing five or six years as it has been for the last two years, one half of the population of this District at the end of that term will be colored population, and one half of the voters of this District will be colored voters if the proposed amendment fail; men who never read your Constitution, men who have not the first idea of law or liberty regulated by law. Is it to this class of population that you propose to extend the right of suffrage? Are the destinies and welfare of this great seat of the national Government to be committed to such custody?

Sir, as I have said already, suffrage is not a natural right. The persons of color here have no natural claim to it. They have no original right to it. The right exists, properly speaking, in the people of the District; but by the law as it actually exists Congress has the power to say who shall and who shall not exercise the right of suffrage. Then let us be governed by the principles of a sound discretion, and only extend this great fundamental privilege of republican liberty to those who are by habit and education capable of exercising it judiciously. That is the ground on which I place my vote. It is not because I am not friendly to the negro race. I take it upon me to repel any such insinuation. It may do for Senators to talk of liberty; they may impugn the motives of those who favor this amendment. Sir, against this talk about liberty I can (since I am in a manner compelled to do so) point to more substantial evidences of my regard for the principles of freedom. I can point to men and women whose shackles have been broken from their limbs by the means earned by my own labor, and who are walking God's earth under the sunlight of heaven, freemen to-day, that never else had been freemen. I say, sir, it is easy for Senators thus to talk about liberty; but until Senators who cast their insinuations can meet me and say that they too have given liberty to slaves by their own means and instrumentality to the same extent, I shall disregard their reproaches and their rebukes.

I am opposed to this measure on another ground, and that is, upon the ground of the welfare of the emancipated slave himself. The time may come, and I hope it will come, when it may be prudent to extend the right of suffrage to him; but is there no danger to the emancipated freeman himself by too much haste in this measure? Will there not be a liability of injuring his interests in the ultimate result? It will not do to ignore the fact that there is a prejudice against him; and that when he shall be elevated to the condition of equality at the polls with the white man, in whose bosom

this prejudice, whether justly or unjustly, exists, it will bring down on him the hostility of those who entertain such prejudices. Will he be as likely to be received as cheerfully into the community as if he were to come simply as a freedman, and abide his time until he is qualified to exercise the right of suffrage? What will probably be the result of extending this great right to him too early? He will be marked at every step he takes. Those in whose bosoms this prejudice exists—and it is almost universal, let me assure you—will mark and magnify every failure and fault he commits in the exercise of this right, every impropriety in the conduct of the colored voter; and if at last the evils of extending the right of suffrage to this ignorant population become apparent and intolerable, as I think they will, then these enemies of the African and the enemies of his freedom will point the finger of scorn, and say, "See there, we admonished you that such would be the result; it is a failure, as we predicted"—a failure, however, because the enterprise was commenced too soon, because the privilege was conferred upon him before he was prepared to appreciate it and to discharge the duties it involved faithfully and judiciously. The failure will demand a remedy, and the result will be, perhaps, under the operation of public opinion, that the precocious voter will be remitted again to the disfranchisement from which he was inopportunistly elevated; the failure, in short, will be regarded as attestation and demonstration of the fact that the negro is incurably incompetent to be a trustworthy voter.

But, sir, I am extending my remarks further than I intended. I merely rose for the purpose of suggesting to Senators the propriety, in the exercise of the right which we all acknowledge belongs to us, of extending or withholding this privilege from this new class of persons whom it is proposed to introduce into the body-politic, of bestowing this franchise only upon those who are qualified to exercise it. That is the true rule. As a general rule the colored race in the District of Columbia are grossly ignorant, and therefore incompetent to discharge the true functions of a voter; and therefore it would be unwise to confer on him the privilege.

My friend from Minnesota has mentioned a case of hardship. There are soldiers, he says, in the Army to-day from this District, pouring out their blood in defense of liberty. I understood that they were held in reserve down on the Rapidan the other day. It may be, however, that they will yet pour out their blood; and if they are capable men, intelligent men, competent to understand how to exercise the right of suffrage, it would be, I admit, a little hard to withhold it from them; but, sir, let me tell you that to-day, as the Senator from New Jersey has intimated, there are more white persons in the Army of the United States deprived of the right of suffrage than there are negroes there. This day, sir, there are, I suppose, one hundred thousand of our brave soldiers under twenty-one years of age dying and ready to die, who have not the authority or the right to exercise this great privilege. Why? Because it became necessary to fix some rule which should limit the exercise of the right, and the age of twenty-one years has been prescribed. It is supposed that when white males arrive at the age of twenty-one years they will have attained discretion and education and understanding sufficient to exercise the right judiciously. All I wish is to postpone the time when the right of suffrage shall be given to the colored race until they arrive, as it were, at twenty-one years of age—I mean to say at a period of mental and moral improvement and discretion when they shall be able to vote understandingly and judiciously.

Sir, we have been told of the danger of reaction, and it has been said that unless we elevate the negro at once up to the true dignity and stature of a freeman there will probably be a reaction against his elevation. Sir, I have not so read human history; I do not so understand human nature; I have not so observed the operation of public sentiment. The danger of reaction, in my judgment, lies in another quarter. It lies in pushing even a good principle too fast. It lies in thrusting it upon public sentiment when the public sentiment is not willing to receive it; and all history and all philosophy show that the danger of reaction is not in not going fast enough, but in

going too fast and too far. This fact has often been verified in politics and in morals, as well as in the physical world. History is full of the tendency of "extremes beget extremes." It would be well, I think, to observe this old but valuable maxim; and statesmen and Senators here would do well in this revolutionary hour of our experience to pay some heed to its lessons written upon every page of human history. In the religious world, in the political world, in the physical world, in every department of society, and in every interest of humanity we have received greater detriment from the reaction of extreme hurried and radical policies and action than from any and all the supposed evil tendencies of a conservative progress and prudent and carefully considered advancement. Rashness has ruined many a good cause, and many a good man. It is never wise to disregard the lessons of experience.

Take the case of France for illustration, which just now occurs to me. Prior to the Revolution her people through the length and breadth of the kingdom were crushed into the dust under the tyranny that rested upon her bosom; but human nature could not endure it, and revolted at last. She aroused herself from her lethargy; she threw off the shackles that bound her; but she did not stop at the proper point. Released from the despotism that had crushed her to earth, and intoxicated with the spirit of her new-born liberty, she swung over to the other extreme of revolutionary license and revolutionary licentiousness; and the ignorant mob, suddenly endowed with the privileges of freemen, suddenly clothed with the very franchise which it is now proposed to confer on the still more ignorant negro, instead of establishing liberty upon a rational and permanent basis, plunged the country into the wildest and bloodiest disorders that ever afflicted a nation. What then? This was the first reaction, the extreme result of a revolt against extreme tyranny. But what then? The people sought for a refuge from the ever-smoking guillotine reeking with blood, from the ever-groaning dungeons filled with the victims of mobocratic violence, from the licentiousness of infidelity, from all the intolerable disorders of the State. The reaction began. The pendulum swung back toward the old dynasty. First they made a consul, then an emperor, and finally came back the old Bourbon, with all the ingrained, hereditary despotism of a thousand years, and sat down again on the throne of his ancestors reestablished on the crushed liberties of the people.

That was one instance of reaction, and of the result of reaction from extreme measures. It is only one illustration out of a thousand; and God knows that wise and thoughtful men must see in our own times most portentous tendencies toward these extremes in our own country; and now, surely, is not the time when we should throw into the political caldron a mass of ignorant, servile population even in this District, that will become the tool and toy of demagogues and time-servers.

Sir, it will not do to tell me that the exercise of this right of suffrage in some of the free States where colored persons have the privilege of voting works no evil. The free negroes there are men of education to some extent; they have grown up in the midst of free institutions and subject to their influence, and they are in number but as an atom in the great mass. But when you come to a community full of contrabands, utterly ignorant, utterly incapable of understanding the nature and duty of suffrage, and who compose a fourth, or it may be ere long a half, of the entire community, it is a very different matter. Sir, you cannot wipe out the servile instincts of the emancipated slave by a dash of the pen. He is as ignorant to-day as he was yesterday before he was emancipated; as incapable to-day as he was yesterday of exercising this great franchise of a freeman. You cannot elevate this mass of ignorant persons in our community to the true platform of republican equality and liberty by a simple statute of Congress. It will take time; it will take education; it will take the influences of religion and of science and of habits of social equality, before they will be competent guardians of this great principle of free institutions.

Mr. President, I ought, perhaps, to ask pardon of the Senate for detaining them so long on a matter which it was not my intention to discuss at such length; but I must nevertheless respond to the suggestion of the honorable Senator from New

Jersey. Coming from a border State, from the border State that has the proud right to claim to be the first portion of the States in rebellion to rescue herself from its power, whose soil drank the first blood shed in defense of our old flag, which was the first State to emancipate her slaves; coming from that State, and having myself, I say it with all humility, taken an earnest part in accomplishing that result, I warn Senators, I beseech them, not to urge this measure upon us. If they do they will create a public sentiment and a public excitement along the border States, the effects of which they can little anticipate to-day; and as the honorable Senator from New Jersey said, you cannot afford, in this hour of our country's peril, to endanger the full united force and influence of the Union sentiment everywhere. I beseech you, therefore, not to press this matter, not to defeat the amendment proposed.

Sir, when our white men are dying by thousands in defense of their country, and when the fate of the nation is trembling in the balance, why should we disturb the equanimity of the whole nation, as this question will through its moral influences, by discussing whether or not a few contrabands, a few emancipated slaves, shall now have the right of suffrage in the District of Columbia? Let us postpone it till the proper time, until they are qualified to exercise it, and then I shall have no objection. But, sir, as I reflect on this subject many considerations crowd upon my mind. This is a fundamental right; it lies at the foundation of republican institutions; and let me ask you where was there a community or a State in this Union where the people did not regulate the right for themselves? Shall we, therefore, coming from the various quarters of this country, with no interest in common with the people of the District of Columbia, we who are not to be affected for weal or for woe by this legislation, undertake, without knowing that the will of the people of this District is in favor of it, to fix the right of suffrage for them by admitting negroes to its enjoyment? Sir, this right belongs naturally and fundamentally to the people where the franchise is to be exercised. Shall we, therefore, assume to say who shall be endowed with it here? Shall we, without any petitions from the people of this District, without anything before the Senate to indicate that this bill, in any of its parts, is required by the people of this District, undertake to say of our own volition that we will impose upon them a provision which is odious to them and will, in my estimation, be disastrous in its results not only here but in its influence on popular opinion everywhere in this nation?

Mr. SUMNER. Mr. President, slavery dies hard. It now stands front to front with our embattled armies, still holding them in check. It dies hard on the battle-field. It dies hard in the Senate Chamber. Sir, we have been compelled during this session to listen to various defenses of slavery, sometimes in its most offensive forms. Slave-hunting has been openly vindicated on this floor. And now, to-day the exclusion of colored persons from the electoral franchise, simply on account of color, has been openly vindicated, and the Senator from West Virginia, newly introduced into this Chamber from a State born of freedom, rises here to uphold slavery in one of its meanest products.

Mr. WILLEY. Mr. President, I cannot pass that assertion without giving it an unequivocal, categorical denial. I have not vindicated slavery in any of its aspects. I said to the Senator, what perhaps he did not hear before, that when he has liberated by the sweat of his brow as many slaves as I have, he can get up and make such a remark in regard to me.

Mr. SUMNER. I said, sir, that the Senator vindicated slavery in one of its meanest products. I repeat what I said. The Senator has spoken, I do not know how long by the clock, to vindicate an odious prejudice bequeathed by slavery, having its origin in slavery, and in nothing else. Had slavery never existed in this country there would have been no such prejudice as that of which the Senator now makes himself the representative. Far better would it have been for that Senator, who comes into this Chamber as a representative of a newly made free State, had he surrendered himself generously to the sentiment in which his new State had its birth. But instead of that he comes forward and labors with un-

wonted earnestness to fasten upon the national capital something of that odious character which is derived from slavery. The Senator says he has not vindicated slavery. He has not used the word; but he has vindicated the thing in one of its most odious features. He seeks to blast a whole race; and why? Merely on account of a distinction of color! Would he have ever thought of proposing such an injustice but for the prejudices nursed by slavery? Had not slavery existed would any such idea ever have found place in a Senator naturally so generous and humane? No, Sir, he spoke with the voice of slavery, which he cannot yet forget. He spoke under the unhappy and disturbing influences which slavery has left in his mind.

Now, sir, I am against slavery wherever it shows itself, whatever form it may take. I am against slavery when I am compelled to meet it directly, and I am against slavery in its products and in its offspring. I am against slavery when I am compelled to meet the beast outright, or when I am compelled to meet only its tail. The prejudices of which the Senator from West Virginia has made himself the representative to-day, permit me to say, are nothing but the tail of slavery. Unhappily, while we have succeeded in abolishing slavery in this District, we have not yet abolished the tail; and the tail has representatives in the Senate Chamber as the beast once had representatives in the Senate Chamber.

We have been reminded more than once that we are engaged in a fearful conflict. The Senator over the way [Mr. WILLEY] has reminded us of it. Senators nearer to me have reminded us of it. This is too true; and now, as that conflict lowers upon us, I invoke the spirit of our fathers. They went forth to battle with the Declaration of Independence on their lips. They solemnly declared that all men were born equal, entitled to life, liberty, and the pursuit of happiness. They did not introduce any discrimination of color into that sacred text; nor did they introduce any discrimination of color into the contemporary Articles of Confederation; nor again did they introduce any discrimination of color into the Constitution of the United States, which was the work of their hands. I am content now to be guided by their great example. As they went forth to meet the enemy they placed themselves under the protection of the God of justice. Let us imitate their example.

I had not intended to say a word on this occasion, but I could not listen to the remarks of the Senator from West Virginia, so harsh and unfeeling toward a whole race, belonging to the human family, like himself, without interposing a solemn protest.

Since this debate began I have sent to the Law Library for a volume which contains the authoritative words of a very eminent southern magistrate, a slaveholder, with regard to the electoral franchise. It has been a question in what States at the time of the adoption of the Constitution colored persons enjoyed this franchise. I say nothing now about the more northern States; but there is a State which has been referred to, with regard to which there is peculiar evidence, I mean North Carolina. The enjoyment of the electoral franchise by colored persons in that State for a long time after the Constitution was not a matter of doubt. Her most eminent magistrate, the late Chief Justice Gaston, accomplished as a jurist and as a man, has laid down the law of his State on that subject in most emphatic words. Giving the opinion of the supreme court of North Carolina in the case of *The State vs. Manuel* (4 Devaux's and Battle's Reports, page 20) he said:

"Slaves manumitted here became freemen, and therefore, if born within North Carolina, are citizens of North Carolina, and all free persons born within the State are born citizens of the State. The Constitution extended the elective franchise to every freeman who had arrived at the age of twenty-one and paid a public tax; and it is a matter of universal notoriety that, under it, free persons, without regard to color, claimed and exercised the franchise, until it was taken from free men of color a few years since by our amended Constitution."

There is still another case, that of *The State vs. Newcomb*, (5 Iredell's Reports, page 253,) which was decided in 1844, where the supreme court of North Carolina, after referring to the opinion of Chief Justice Gaston from which I have just read, said:

"That case underwent a very laborious investigation, both by the bar and the bench. The case was brought here

by appeal, and was felt to be one of great importance in principle. It was considered with an anxiety and care worthy of the principle involved, and which give it a controlling influence and authority on all questions of a similar character."

Therefore not hastily or carelessly did the supreme court of North Carolina declare colored persons to be electors under the State constitution.

That was the constitutional law of the State of North Carolina fashioned by our fathers under the influence of the Declaration of Independence. Sir, I am content with that law. I do not think that the Senator from Pennsylvania, though he represents a northern State, can mend that law from a slave State. Nor do I think that any of us on this floor can feel humbled if our judgment is postponed to that of Chief Justice Gaston of North Carolina, who did not hesitate to declare positively that constitutional law of human rights, by virtue of which colored persons are citizens. But if they are citizens how can you deny to them the electoral franchise?

I am content to leave the question here. I will add that, as I understand the subject now, I shall deem it my duty to vote against all propositions creating any discrimination of color. At this moment of revolution, when our country needs the blessings of Almighty God and the strong arms of all her children, this is not the time for us solemnly to enact an injustice. In duty to our country and in duty to God, I plead now against any such thing. We must be against slavery in its original shape, and in all its brood of prejudice and error.

Mr. WILLEY. Mr. President, I must beg the indulgence of the Senate for a few moments, while I give a more explicit contradiction to the allegation of the Senator from Massachusetts, when he said that I was the advocate of slavery in any form, whether body, soul, or "tail," to use the classical and senatorial language of the distinguished Senator. My whole life is a standing contradiction of that allegation. Before I was out of my teens, in my humble, puerile efforts to put myself in print, I stood upon the record as an essayist arrayed against the institution of slavery. From that day to this I have been opposed to it not only in principle but, as I have already stated—perhaps I had better not have adverted to it—in fact. While the honorable Senator, with his great abilities, and learning, and eloquence, has been talking about the freedom of slaves, I have been actually setting slaves free. How many has he set free? And yet, sir, that honorable Senator tells me that I am the advocate of slavery! When he gets his other law in force, making persons of color witnesses in the Federal courts, I can bring half a dozen negroes, liberated by my own personal means, to testify that I am a better emancipationist than he is.

But, sir, I wish in addition to show the inconsistency of the Senator's own argument for a moment. Our fathers, he says, went to battle with the Declaration of Independence upon their lips; and he calls upon us to-day to carry the principles of that instrument into effect. But yet, sir, the author of that Declaration of Independence and the leading lights whose luster that Declaration of Independence reflects, were also the authors of the Virginia constitution, which prohibited every white man in that Commonwealth from voting who did not own fifty acres of land or a lot in some city, thereby disfranchising in the old Commonwealth of Virginia at one time more than half the white persons over twenty-one years of age. Why did they do it? Because in the exercise of the very right which I claim we ought to exercise here, to fix the rule judiciously, they thought the right should be restricted in that way. And yet the Senator has no word of reproach for them!

Why did he pass over the honorable and distinguished Senator from Maine [Mr. MORRILL] to rebuke me, when the very amendment of the Senator from Maine which he proposes as a substitute for that under consideration will disfranchise more white men in the city to-day than there are negroes to whom it will give the right of suffrage? Why, sir, it just comes back to this, that every community has the authority to fix the time when and the terms upon which persons shall be allowed to be introduced into the body-politic and to exercise this great privilege. I did not say the time would never come when this right should be exercised by colored persons.

I intimated that the time probably would come; and whenever the community, which alone has the authority to say who shall compose a portion of that community, sees proper to allow persons of color to vote, I shall have no objection. All I undertake to say now here is, that without any knowledge of what the wishes of the people in the city of Washington are, we should be governed by the principles of discretion which should actuate every man, it seems to me, in the ordinary transactions of life, and not intrust to the agency of persons incompetent to execute it judiciously the great interests which would be involved in the extension of the right of suffrage to persons of color in this District. If the time shall come when they will be educated, and when they will understand and appreciate the privilege, and exercise it judiciously, I shall have no objection, most assuredly, to its being conferred on them.

Mr. WILSON. It is very important to have an executive session to-day.

Several SENATORS. Let us vote on this bill.

Mr. WILSON. If the Senate is ready to vote, I shall not interpose; but we have some very important business to do in executive session, which should be attended to.

Mr. CONNESS. I merely rise to suggest that I think there will be no more discussion, and I hope we shall get done with this subject; otherwise we shall consume day after day with it to the exclusion of other business.

Mr. COWAN. I have a very few words to say, Mr. President, and I am free to declare that those which I shall say will be said "more in sorrow than in anger." I have waited patiently for a long time, but have felt offended and hurt at the tone which is continually assumed in debate here on the part of certain gentlemen who profess to be orthodox *par excellence* on this subject of human freedom. I should like to know by what warrant the Senator from Massachusetts [Mr. SUMNER] or any other Senator declares upon this floor that when I and the Senator from West Virginia and other Senators oppose the extension of the electoral franchise to negroes we are advocating slavery. Is that the language to be used in the Senate of the United States, where it is supposed that of all other places in the country there is to be least of buncombe, least of claptrap, least of that which is calculated to deceive the idle and the gaping crowd? Does the Senator from Massachusetts or any other Senator on this floor however long he may have labored in this cause and however many and violent speeches he may have made on the subject of slavery, profess to be more opposed to human slavery than we are? Sir, the assumption is idle and ridiculous, and it only betokens weakness when it is asserted.

"Slavery dies hard." Then "slave-hunting dies hard," and "West Virginia, the offspring of the sentiment of freedom," is to put herself under the guidance of the Senator from Massachusetts, subjugate her will to his, say what he desires her to say, vote as he desires her to vote, and then she will be in the safe line of precedent!

Mr. SUMNER. Vote for freedom: that is all.

Mr. COWAN. Vote for freedom, Mr. President! What is freedom? I have no objection on this floor that any Senator may take my arguments and combat them. He may make them absurd if he pleases. I have no objection to the *reductio ad absurdum*. He may make them ridiculous. He may make them fallacious. But, sir, when any man rises here and assails the motive, the intention, the secret purpose which moves a Senator in this body to take his position and assume the ground that he does assume, then I say that if that Senator is not out of order under the rules of the Senate, he is out of order as among gentlemen.

Mr. SUMNER. I did not assail the Senator's motives at all: I made no allusion to the Senator except generally.

Mr. COWAN. I hope that hereafter the Senator from Massachusetts and all other Senators will allow that when we do not happen to believe in all the articles of the creed of that school which calls itself radical on this floor, we are not to be set down as rogues and knaves and villains advocating and desiring to advocate the cause of the enemies of the country. Can we not be treated at least with that common decency that is due from one gentleman to another in the ordinary intercourse of society?

And, sir, I have another word to say in that respect. That may be done here; but it is never done upon the avenue, it is never done out of doors in our outside walks.

Now, sir, one word further. Mr. President, I am as much in favor of human freedom and the universality of human freedom everywhere as the Senator from Massachusetts dare be; but does he suppose that when I advocate that sentiment I ignore all history, all science, all fact? Does he mean to assert upon this floor that there is no distinction between the Indo-European and the Mongolian races of men? Does he suppose there is no distinction between the Caucasian race and the Malay and the African? Would he admit to the enjoyment of the electoral franchise the inhabitants of New Zealand or of Australia, were they to come here? Has he ever advocated the admission of our North American Indians to the right of suffrage? He says that the objection that we have to negroes voting is an "odious prejudice." Has the gentleman a wife, has he a daughter? If he have, would he not recognize this thing which he calls an "odious prejudice," and would he suppose that he was to be arraigned for his taste in that respect? We cannot ignore the facts of tribal antipathy; we must recognize them; and, Mr. President, we must legislate too with an eye to them. I would be willing, and have been willing—and I feel perhaps as little of them as any other man—to override these prejudices, but they are there, they exist as a fact, and they will exist as a fact despite all our legislation and all our efforts to smelt down in one great whole the mass of the human family. Is a man to be denounced, is a man to be said to be against his country and in favor of an obnoxious institution of his country, because he suggests these difficulties in a question of this kind?

Now, Mr. President, I have another word here to say to gentlemen who advocate the introduction of these new things, who are sighing for these reforms. They are in favor of the perpetuation of the power of the present Administration or of the party which wields that power. I suppose nobody will deny that. By what tenure do you hold that power? From the people. The honorable Senator represents Massachusetts; and when I desire to know the will of Massachusetts, I will listen with the greatest deference to the utterances of the Senator from Massachusetts. He is one of her accredited organs upon this floor; and I have never, and I trust that I never shall rise here and contradict or deny what he may choose to assert about the sentiments of her people; and I trust, Mr. President, that so long as he and I act together in the same political organization I will never be unkind enough, unjust enough, selfish enough to attempt to thrust in his way in his State that which would be calculated to destroy the political power which his party now enjoys. Will he not yield that to me? Will he not yield it to the honorable Senator from West Virginia? Is this Government a Government of the people or not? Are we the representatives here of the sentiment of the people, or not? Are we here to reflect their opinions, or are we not? Are we to go out into the wide realms of speculation and think and do for ourselves as we deem fit? If that is to be the rule, then I can understand and appreciate the motives which move the Senator from Massachusetts.

But, sir, what I was going to say was this: if he and those of his friends who insist on this innovation in this District, who insist upon extending the mantle of the elective franchise until it is broad enough to cover the negro, expect this fall to perpetuate the power of this Administration and of the party which supports it, they will be very much mistaken if they resort to measures of this kind, whatever Massachusetts may think, whatever Minnesota may think, whatever those people may think who have not more than one or two negroes at most in an election district, whatever those people may think who know nothing about a community surcharged with an idle, dissolute, vicious, ignorant negro population just emerged from slavery, to enjoy the high prerogatives of freedom, and the broad political rights which we enjoy alongside of us.

I beg Senators to think of this. If you love your country, if you believe that in our hands and the hands of our party alone the power of the country can be wielded to save it, to restore the



Union and to put down the rebellion, I beg of you do not throw firebrands of this kind among us, do not send these foxes into our standing corn, because if you do you will reap the rewards, and they will be reaped in sorrow.

How does this question stand? Take the State of New York. A few days ago she voted broadly on this question, and what was the consequence? Out of six hundred thousand votes but about seven or eight thousand were for admitting negroes to the right of free suffrage. If I am mistaken as to facts, I stand ready to be corrected. Take the State of Illinois, which it is quite as necessary that you should carry as that you should carry New York, and what was the consequence there? The honorable Senator ignores the fact of tribal antipathy. What was the result of the vote in Illinois two years ago, where that "odious prejudice" of race prevailed to such an extent that about ninety thousand of a majority of the citizens of Illinois voted, not that the negro should not vote, but that the negro should not set his foot upon her soil. Whether this is right or wrong is not the question; but representing the people, as wise and prudent men desiring to do the best we can here for the people, are we not to take this into the account? Are we to ignore this "odious prejudice" that brought about that state of things in Illinois? Put the vote in my State to-day, and I would not be answerable for the result in Pennsylvania. I may safely say that there would be over one hundred thousand of a majority against this proposition; and my people are as liberal, as beneficent, as humane, and, as is evidenced by their earliest charter, their earliest constitution, and the constitutions from that day to this, as much in favor of the broadest exercise of human liberty as any other State in the Union. And yet, sir, would she agree to give away this inestimable privilege to negroes, who, in the language of the honorable Senator from Iowa, [Mr. HARKLAY,] who, I am free to say, although I have often differed from him, always speaks sense, always speaks moderation, always speaks reason, and reason is triumphant to-day in what he says, who, in his language, have just emerged from slavery; and I am told his State has refused the same boon.

Mr. President, can we not meet on this floor upon terms of equality? Are our motives to be assailed and impugned here? Is it the fact that because we cannot agree upon details we are to be assailed as slave-hunters, and as the last relics of slavery which refuse under the trampling of this modern march of revolution to give up the last breath? Is that to be the case? I trust not. I trust honorable Senators will see this in another light. Why should not I and why should not my friend from West Virginia and my friend from New Jersey be quite as much interested in the safety, in the liberty, and in the happiness of the American people as my friend from Massachusetts or my friend from Minnesota? Can any man give a reason? I put it to my friend from Minnesota, who bases himself upon reason, can he give any reason for it? We have wives, children, kindred, and ties, property, hopes, and aspirations. Are we to give up all these, trample them under foot, and, blindly and without any cause whatever, jump into the jaws of Tophet? To me the assertion is absurd, the assumption is wrong; I had almost characterized it by a harsher term, but I am very well aware that from the license of debate, and from the habit men get into, it too frequently happens that the argument is forgotten and the speaker is assailed. What matter is it to me if the Senator from Massachusetts in past times had covered himself with sins and enormities, if peccadilloes thick clustered about his head, out of which I could split the groundlings, if you please, what has that to do with his argument? Has the argument been met in this case? Has it been attempted to be shown by anybody that these negroes just emerged from slavery are the fit recipients of the political power of the community? Is there a Senator present here who does not know that the surplus virtue of this community is now burdened with just about as much as it can carry, by having to overcome the vicious influences of the bad white men who are among us? Is that surplus virtue which has so far carried along the vicious element, and neutralized it, to be burdened again with the negro element? If the honorable Senator had sat-

isied me that these were wise men, that they were prudent men—and, above all, that they were independent men—which, perhaps, is the scarcest kind of man upon the earth at this present speaking—then I would agree to extend to them the franchise with all my heart, and hope that it would be a healthy infusion into the mass of our electors. That, however, is not the question.

But it is said that these men are black, and therefore they are excluded. Mr. President, I would exclude no man simply for the reason that he is black. I exclude a black man because black is the evidence that he is an inferior man, of inferior education, of inferior means of knowledge, and perhaps he has been a slave. It is not because he happens to be black; that is not the reason of it; but it is because there is evidence in that color of his condition.

I have further, too, admitted on this floor over and over again that I have no doubt in the world there are many black men who are quite as well and much better qualified to exercise this right of the electoral franchise than many of our white men; but how are you to select them? How are you to pick them out? The honorable Senator from Maine, feeling the importance of this peculiar difficulty in the way of the operation of the bill, has invented a mode by which he proposes to separate the wheat from the tares, to winnow the grain from the chaff; and he says, "Admit all those who can read and write." I am not so certain that I would not close in with that proposition at some future day. At this day, however, I am decidedly of opinion with the honorable Senator from New Jersey who said that that involves the proposition not of conferring privileges but of taking them away; and when you go out to canvass among the people you meet this phrase constantly in your teeth, "You gave the right to negroes to vote, and you took it away from white men." Suppose it is an "odious prejudice." If it be an "odious prejudice" I would ask the honorable Senator from Massachusetts how he, with all his power and all his learning and all his eloquence, would answer that upon the stump? How would he go into a neighborhood and argue down a prejudice? Everybody knows that the peculiar characteristic of a prejudice is that it will not down at the bidding of either eloquence or argument. And yet we of the border States, we of those States which will have to bear, if the struggle comes, the brunt of it, are to be loaded with all these issues; we are to be driven into the canvass under all these disadvantages; and we are expected to carry out the flag of the present Administration or of its party triumphant from the contest. Mr. President, I beg gentlemen to reflect for one moment upon the difficulties and the danger of putting us into that category. Look at my own State. What is the difference between the two great parties there? What was the difference last fall? Fifteen thousand. Divide that fifteen thousand by two, and then you can ascertain how many men we must lose, or how many men the other side must gain, in order to throw victory into the other scale.

Mr. President, I have from the beginning protested against new issues. When this rebellion broke out, it was our business to make war, and put it down by war. It was our business to present to the loyal people of the North that single issue, war or separation, war or a dissolution of the Union; and I say that in my judgment, if we had stood upon that single idea, if we had presented that single issue and let all other things abide, we should be to-day in a hundred times better position than we are now, and I might say, too, that to-day we should have been in a hundred times better position in regard to that peculiar institution, which some of our friends are so anxious to have destroyed, than we are to-day.

What has been the consequence? From what shrub, from what source, from what flower does the copperhead distill his venom? Where does he get the poison with which he infects the community? I was going to say, ask the honorable Senator from Illinois, [Mr. TRUMBULL.] He derives his capital, he extracts his noxious juices from these side issues which we get up here without any cause or any hope of reward whatever, and which never have done us any good and never will do so. This is one of them. Of what great benefit would it be to this nation that a few ignorant negroes in the District of Columbia should

exercise, or, I beg pardon, should abuse the elective franchise, if the country is to be lost and the Union is to be dissolved, and all the elements of this empire let loose to take such direction as their weight may incline them to take? Of what avail, I say, would that be? And yet this great result is put in peril by introducing constantly this and cognate schemes which are of the most minute importance when thrown into the great scale.

Mr. President, I speak warmly upon this subject. I have a right to speak warmly upon it. I have sat here day after day, week after week, and month after month, in the hope that at last this nation would turn itself wholly, mentally, physically, and morally upon the great issue which is to be fought to-day, to-morrow, and next day, down, if you please, on the banks of the Rapidan. Is there a man upon the earth so insensate and so foolish as not to know that if we fail in that great battle, if we fail in putting down this rebellion, all this that we are doing is the merest idle nonsense which the world has ever seen, and nonsense, too, which will come back to haunt us and disgrace us to the last day of our lives?

Mr. HOWARD. Will the Senator allow me to ask him one question here?

Mr. COWAN. Certainly.

Mr. HOWARD. I ask him whether it is nonsense for the Government of the United States to defend its honor, at any expense, against a wicked and causeless rebellion? Is that nonsense?

Mr. COWAN. I answer emphatically, it is not. It is the thing I desire to have done, and I want neither the honorable Senator from Michigan nor any other Senator to attempt to turn the Government aside from the defense of its honor and its territory and its authority and its jurisdiction by attempting to settle whether a few ragged, idle, dissolute, ignorant negroes, incompetent, unqualified, shall vote in the District of Columbia.

The honorable Senator from Massachusetts the other day alluded to a most extraordinary scene at the close of our revolutionary struggle, when the whole country was jubilant, when all hearts were swelling, when every soul was exultant over the success of our Revolution, and John Hook came in and put in a claim for beef, beef, beef. I hope that the Senator will not charge me with stealing his thunder, but that he will excuse me for imitating his example. All that I desire here is that the intent of the nation, the will of the nation, the soul of it, its force shall not be diverted away from the great end and object of putting down this rebellion by war, by any such cry as that which is raised by this bill, Suffrage for negroes, suffrage for negroes, suffrage for negroes—quite as ridiculous to me as that "beef, beef, beef," of John Hook.

I would have the whole energy of the nation bend to it. I would not allow a single stray thought to diverge from the main line which leads directly to the "Wilderness" to-day. I would not sit here and manufacture capital for ignorant, sore-headed, disaffected politicians to worry us at the next fall elections. I would as carefully eschew that as I would eschew the putting of imperfect ammunition into the cartridge-box of the soldier. Everything that we have, everything that we hope for, everything that we expect to be, all the glorious memories of the past, all the bright anticipations of the future, lie in that one word war, successful war. I would not divert away a single brain from that issue; I would not waste a single ounce of strength; I would not take away a single dollar, or a single musket, or a single cartridge; but devote them all to war, war, war, until victory crowns the war, and our eagles come back triumphant. Then if there are rewards to make, if there are meritorious soldiers to be rewarded, if there are troops in the field which have sustained our great and glorious old flag and who deserve to have broad privileges granted to them, mark me, sir, no man shall be before me in the performance of that pleasing task. But now, when as has been said here the very fate of the contest is trembling in the balance, when no man knows, when no man dares predict the final result, to throw in an element of discord, to throw in the face of a patriot something which in his own State will cause him to despair even of a single vote, looks to me very foolish. For my part, though I have all deference and respect for

other men's opinions, I cannot conceive of anything which to me looks so foolish and so fatal.

Mr. President, I have reflected upon no one, I have rebuked no one except in so far as I think certain Senators on this floor sometimes in the strength of their convictions, in the force of their opinions, use what seem to me unjustifiable modes of putting down their adversaries. I think my venerable friend from Vermont [Mr. COLLAMER] at one time called it "the crack of the whip" of the majority over him. I hope there will be an end of that. Why should there not be? Is there a man on this floor that desires for a moment an empty triumph over an adversary? Is there a man upon this floor who desires for a moment that it should go forth in the newspapers that he had said a smart thing of his antagonist, that he had said a cutting thing, that he had said that thing which would wound, or hurt, or silence, or if you please paralyze the free brain of an antagonist? Surely not, Mr. President. Then I suggest what I have meant to suggest from the beginning, and what I rose simply to suggest, that our opinions may be free, that our arguments, if they be arguments, may be met, that our past lives, our persons, whatever relates to the person, may be kept out from the discussions in this Chamber; and then if we confine ourselves to what I think is the legitimate duty of the hour, war, and war only, the North will be a unit, or so nearly a unit that its differences will sink into nothing and will be inappreciable, and then and then only we may hope for victory—victory I mean not only on the field of battle but victory at the council table, victory which will save the Union, and victory which will inaugurate reforms, victory which will punish past offenses, and victory which will secure us against future aggressions.

Mr. WILSON. It is very important to have an executive session, and as it is evident that this bill cannot be disposed of to-day, I move that the Senate now proceed to the consideration of executive business.

Mr. HARLAN. Before that motion is put, I desire to submit an amendment to this bill, which I shall offer when it shall be in order to do so, and I move that it be printed.

The amendment was received informally, and ordered to be printed.

Mr. MORRILL submitted an amendment intended to be proposed by him; which was received informally, and ordered to be printed.

The motion of Mr. WILSON was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, May 12, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

### RED RIVER DISASTERS.

The SPEAKER laid before the House a concurrent resolution from the Senate directing an investigation into the causes of the recent disasters on the Red river, &c.

The resolution was concurred in.

Mr. JULIAN moved to reconsider the vote by which the resolution was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### OFFICIAL ARMY REPORTS.

Mr. A. W. CLARK. I ask the unanimous consent of the House to take from the Speaker's table Senate joint resolution No. 21, providing for the printing of the official reports of the operations of the armies of the United States.

There was no objection; and the joint resolution was taken up, and read a first and second time.

Mr. A. W. CLARK. I move to substitute for the Senate resolution that the Secretary of War be directed to furnish the Superintendent of Public Printing with copies of all such correspondence, by telegraph or otherwise, reports of commanding officers, and documents of every description, in relation to the existing rebellion, to be found in the archives of his Department since the 1st day of December, 1860, to the present

time and during the continuance of the rebellion, which may be, in his opinion, proper to be published, which said correspondence, reports, and documents shall be arranged in their proper chronological order; that the Superintendent of Public Printing shall cause to be printed and bound, in addition to the usual number, ten thousand copies of such correspondence, reports, and documents in volumes of not exceeding, as near as may be, eight hundred octavo pages each, which shall be distributed by the Secretary of the Senate as follows: five hundred copies to the War Department, one complete copy to each State library of every State in the Union, and five complete copies to public libraries in each congressional district of the United States, to be designated by the Representatives of the present Congress from such districts; and of the remaining copies three thousand shall be for the use of members of the present Senate and six thousand for the use of the present members of the House of Representatives; that it shall be the duty of the Secretary of War to cause a complete index to the matter contained in such volume to be prepared and inserted therein; and that all resolutions adopted by either House of Congress at its present session directing the printing of any of the correspondence, reports, or documents, as above contemplated, be rescinded.

The substitute was adopted.

The joint resolution, as amended, was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. A. W. CLARK moved to reconsider the vote by which the joint resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

### A. BUSH.

Mr. A. W. CLARK, by unanimous consent, from the Committee on Printing, reported back, with a recommendation that it do pass, an act (S. No. 38) to authorize the settlement of the accounts of A. Bush, late public printer for the Territory of Oregon.

The bill, which was read, authorizes the proper accounting officer to audit the accounts of A. Bush, late public printer for the Territory of Oregon, for printing, binding, &c., in 1855, five hundred copies of the statutes enacted by the Legislative Assembly at its session of 1853-54 and 1854-55, and allow for the same such prices as were by law allowable for such services at that time, and that the amount so found due shall be paid out of any money in the Treasury not otherwise appropriated.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. A. W. CLARK moved to reconsider the vote just taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

### APPOINTMENTS IN THE NAVAL SERVICE.

Mr. PIKE, from a committee of conference, made the following report:

The committee of conference appointed to take into consideration the disagreeing votes of the two Houses on the bill S. No. 76, "An act relating to appointments in the naval service and courts-martial," having met, after full and free conference have agreed, and do recommend to their respective Houses to agree, as follows:

That the House recede from its vote striking out the first section of the bill, which shall be amended so as to read as follows:

Hereafter all appointments in the volunteer naval service of the United States, above the rank of acting master, shall be submitted to the Senate for confirmation in the same way and manner as appointments in the regular Navy are required to be submitted.

JOHN P. HALE,  
W. T. WILLEY,  
ALEXANDER RAMSEY,  
Managers on the part of the Senate.  
F. A. PIKE,  
IGNATIUS DONNELLY,  
Managers on the part of the House.

The report was agreed to.

Mr. PIKE moved to reconsider the vote by which the report was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. PIKE also, from a committee of conference, made the following report:

The committee of conference appointed to take into consideration the disagreeing votes of the two Houses

on the bill (H. R. No. 370) to appoint certain officers of the Navy, having met, after full and free conference have and do recommend to their respective Houses as follows:

That the House concur with the first amendment of the Senate, and that the Senate recede from the other amendments made by it to the bill.

JOHN P. HALE,  
W. T. WILLEY,  
ALEXANDER RAMSEY,  
Managers on the part of the Senate.  
F. A. PIKE,  
IGNATIUS DONNELLY,  
Managers on the part of the House.

The report was agreed to.

Mr. PIKE moved to reconsider the vote by which the report was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

### SEAMEN IN UNITED STATES SERVICE.

Mr. ELIOT. I ask the unanimous consent of the House to report from the Committee on Commerce a bill to repeal certain acts in relation to the employment of seamen in the service of the United States.

Mr. COX. I object to it now.

### HOMESTEADS IN REBELLIOUS STATES.

The House proceeded, as the regular order of business, to the consideration of the bill reported from the Committee on Public Lands in reference to homesteads in the rebellious States, on which the gentleman from Indiana [Mr. JULIAN] was entitled to the floor.

Mr. JULIAN. Mr. Speaker, I propose this morning, after briefly referring to some of the objections which have been urged against this bill, to call for a final vote upon it. I discussed its principles and policy several weeks ago in a somewhat carefully prepared speech. Other gentlemen have since resumed the argument; and believing the House now prepared to vote upon the proposition, I do not wish to hinder other important legislation by needlessly prolonging the debate. If there is any besetting sin which can fairly be charged to this Congress it is a redundancy of talk.

The gentleman from New York [Mr. FERNANDO WOOD] objects to this measure because, as he asserts, it assumes that the Union is never by any possibility to be restored. He thinks it recognizes and aims at the destruction of the Union, and says he never will do anything to hinder its restoration.

Sir, I do not understand the force of the gentleman's objection. I do not see how the confiscation of the lands of rebels in arms against the Government, or the sale of abandoned estates for the non-payment of taxes by the villains who have forced the Government to levy them, can in any degree harm the integrity of this Union. On the contrary, if the Union is to be saved at all, the best practicable mode of doing it is to lay hold of these confiscated lands and these abandoned estates and make such disposition of them as is proposed by this bill.

Mr. FERNANDO WOOD. I am very sure the gentleman from Indiana would not intentionally represent me as saying what I did not say. I said the bill was an obstruction to the restoration of the Union. That was one of the objections I made to it.

Mr. JULIAN. I accept the gentleman's qualification, but I do not see how it relieves him. I wish he had explained in his speech on yesterday how the passage of this bill could in any way obstruct the restoration of the Union. On the contrary, I think it would do more to cement and perpetuate the Union than any legislative measure that could possibly be devised. Here, for instance, are lands belonging to Toombs, of Georgia, a conspicuous rebel. He owns, as I understand, some forty thousand acres of rich land in the State of Texas; enough to furnish an independent homestead of one hundred acres each to four hundred soldiers of this war. How will it militate against the restoration of the Union to parcel out these lands in free homesteads to the soldiers and sailors now fighting for the life of the Republic? Can the gentleman tell?

Let me state another fact. Mr. Thompson, one of the Cabinet ministers of Jimmy Buchanan, owns lands which are said to be worth \$1,000,000, bought by him at from ten to eighty cents an acre. I do not comprehend how the confiscation of these estates and their distribution among our soldiers can endanger the Union; how it can do otherwise than subserve the ends of justice, or

der, liberty, and peace in the revolted States. These are the pledges, not the perils, of a real Union.

Here is another conspicuous rebel, Robert W. Johnson, of the State of Arkansas, holding an estate perhaps equally large; and I believe Davis, Floyd, Wigfall, Slidell, Cobb, and in fact all the rebel chiefs have largely monopolized the lands of the South, while owning and directing the labor of the people, black and white.

This bill proposes to parcel out all these estates among the soldiers and seamen of this war, and the gentleman from New York says it will obstruct the restoration of the Union! Mr. Speaker, let me submit to the gentleman from New York a few other facts. Under the legislation of Congress in the old days of slave-breeding Democracy, when old Jimmy Buchanan was its king and such men as the gentleman from New York were its anointed high priests, grants were made to the States of Alabama, Florida, Louisiana, Mississippi, and Arkansas, under the name of "swamp lands," amounting to more than thirty million acres, and which are to-day the very richest lands in America. These lands were chiefly bought up afterwards by the men who are now conspicuous rebels, and many of them traitors in arms against us.

The gentleman from New York argues that if we seize these lands and parcel them out among our soldiers it will hinder the restoration of the Union. Sir, I am utterly at a loss to know how this can be true. I apprehend, however, that when he talks about restoring the Union he means one thing, and I mean exactly the opposite. He means the Union as it was when the slave power ruled the country like a throned monarch, and when Davis, Floyd, Thompson, and their confederate cut-throats and pirates were in the Cabinet, in Congress, representing us at the courts of the Old World, and ruling the Government according to their own free will.

Mr. KALBFLEISCH. I would ask the gentleman whether he means James Buchanan when he talks of "old Jimmy Buchanan?"

Mr. JULIAN. I think the gentleman can guess my meaning pretty shrewdly if he will remember that I grouped him with Floyd and Thompson, his distinguished Cabinet ministers, and brothers beloved in the work of undermining the Union. I called him "old Jimmy Buchanan" familiarly, not dreaming that it would offend any loyal man on this floor.

I was about to say, Mr. Speaker, when interrupted, that if the gentleman from New York demands the restoration of the Union as it was when the Democratic party, in the evil days of the past, ruled the Government absolutely in the interest of slavery, and when the nation was steadily gravitating under the accumulating weight of its guilt toward the bottomless pit of national ruin, then I am not for the Union as it was, but as it will be when this rebellion shall have wrought out its providential lesson in these States, and scourged the slave-breeding Democracy forever from our land. I am for a Union of regenerated States, resting upon the basis of free labor and the rights of man, and disowning, as an atrocious libel upon humanity and republicanism, the dogma which demands that slavery shall be the corner-stone of the Government, as these rebels and their sympathizers have labored so long to make it.

Mr. Speaker, the gentleman from New York says that it would be "unconstitutional" to pass this bill. I am again at a loss to know what the gentleman means by his argument. If it be unconstitutional to pass this bill, then all the legislation of Congress since this rebellion begun is unconstitutional and void. Our tax laws and revenue laws enacted during the past three years are all unconstitutional, including the tax bill which recently passed this House. If this bill is unconstitutional, then our grand armies that have from time to time been raised by authority of the Government were unconstitutionally raised, equipped, and employed. Every gun and every cannon fired in the national defense has been unconstitutionally leveled at the rebels. The war itself is an unconstitutional war, the President and Congress are guilty of usurpation and treason, and the most loyal men in the country are such as the convicted felon who once held a seat on this floor from the State of Ohio, and is now in exile, and

the still more "unworthy" gentleman from Maryland, [Mr. HARRIS,] who prays God to-day that the armies of the Union may never prevail over the organized thugs and assassins whose daggers are aimed at the nation's heart. According to this philosophy the Constitution itself is clearly unconstitutional, and there is no sure guide left us save the new gospel of peace as expounded by the distinguished gentleman from New York.

Sir, I do not exactly accept these Democratic revelations, and I say again that if this bill, which we propose to vote upon to-day, is unconstitutional, then all the endeavors of this Government to put down the rebellion are unconstitutional, the gentlemen on the other side of the House are on the loyal side, we who support the Government are the enemies of the country, and as the remedy for all our troubles, the Administration should be utterly overthrown, and George B. McClellan chosen President. Our heaven should be slavery, and the devil should be our God. Mr. Speaker, I respectfully decline the espousal of this unsavory Democratic faith.

But the gentleman from New York says he suspected, when this bill was introduced, that there was a "nigger" in it, and that upon investigation he has found him. He refers to the Nebraska bill, of which Colonel Benton said it had a stump speech in its belly, and says that this bill has a "little nigger" in its belly. The contemptuous spirit and characteristic language of the gentleman from New York would commend him to the kindly consideration of the hero of the Fort Pillow butcheries, or the ringleaders of the late proslavery mob in New York. General Forrest, in his recent exploits, only displayed a larger measure of the same unchristian and unmanly hatred of "the nigger," which the gentleman from New York exhibits on this floor as a leader of the "peace Democracy!" Is it strange that the rebels of the South should defy humanity in their treatment of the negroes? But, Mr. Speaker, why is the gentleman unwilling that negro soldiers shall have a homestead on their native soil? They have enlisted in the service of their country; they are sharing all the perils and hardships of war; they are helping by their valor to achieve our victories and save the nation from impending destruction; they are to-day covering themselves with glory under General Grant, in driving back General Lee and his legions. The country now pays them the same wages as our white soldiers. Why would the gentleman from New York refuse to grant them, at the end of the war, a home on the land of their oppressors, who have enslaved their race for more than two hundred years, and at last sought both their lives and the life of the Republic?

Mr. MALLORY. I wish, with the permission of the gentleman from Indiana, in connection with the remark he has just made, to inquire of him, if he will be kind enough to answer, whether it is not one of the provisions of this bill that the negro soldier may go and settle alongside of the white soldier upon these confiscated lands in the rebel States, and other lands which may come into the possession of the General Government? If that be so, then I wish to ask the gentleman whether he does not intend this as one of a series of acts by which he desires to work out the entire equality, social and political, of the negro with the white man in this country?

I desire also, in addition, before the gentleman replies to that question, to ask him whether he does not himself believe that if the negro is employed as a soldier in the Army under the policy inaugurated by this Government to maintain its liberties, as he says—I say whether he does not himself believe it to be wrong and unjust for the black soldier who served his country on the battlefield to be denied social and political equality with the white soldier? I desire to know the opinion of the gentleman particularly as representing the peculiar portion of the party on that side of the House with which he acts.

Mr. JULIAN. I take pleasure in answering the gentleman, but when he speaks of the "peculiar portion" of the party with which I act I do not know what he means.

Mr. MALLORY. I suppose the gentleman will allow us to be as familiar with his party as he assumes to be with the Democratic party when he speaks of "Jimmy Buchanan." The gentleman of course understands his position on that side of the House.

Mr. JULIAN. I trust the gentleman will find when the vote comes to be taken on this bill that I am identified with no "peculiar party" on this side of the House which separates me from the great body of the unconditional Union men in this Hall or throughout the country. I rather think the gentleman is right in his remark that I understand my political position.

In answer to the question of the gentleman from Kentucky I have to say that I mean by this bill precisely what the bill says in its plain English words. I mean that when this war is over the black soldier as well as the white soldier shall have a homestead of forty or eighty acres, as the bill provides, upon the lands of these rebels which shall be confiscated or otherwise come into the possession of the Government. I mean, in other words, that they shall have equality of rights as to the ownership of the soil in these insurrectionary States.

As to the question of social equality, I believe the negro will work out that problem for himself under the new dispensation which the military and legislative power of the Government are now inaugurating. I do not propose to enter into any nice speculations upon this subject, but I have no opinions to conceal. I believe in doing justice to the negro, in guarding his rights, and in giving him fair play in fighting his own battle, leaving his social position to be determined by his own conduct, and the conditions of life in which he may be placed. For one, I have no fear whatever of African domination. I trust the gentleman from Kentucky is not seriously alarmed. I must say, however, that I hope no rebels or rebel sympathizers will ever have any superiority of rights over the negro soldiers who have aided in crushing the rebellion. Should African domination take its turn, I trust it will find its true subjects.

Mr. MALLORY. As the gentleman from Indiana is very candid and distinct in his utterances and the expression of his opinions I do not think he will object if I endeavor to understand exactly where he stands on this question before this colloquy is ended. I distinctly ask the gentleman whether he does not contemplate by the bill before the House, by which he proposes to put negroes alongside of white men upon these confiscated lands, to establish a perfect equality of the negro with the white man; in other words, whether he does not advocate that the negro shall vote and hold office and be fully the white man's equal? I understand the gentleman to acknowledge that to be true. I understand him in his answer to avow that he is willing that politically the negro and white man shall be equal, but that as to social equality that was a matter which the negro would settle for himself as soon as the shackles of bondage were removed. I understand that to be the answer of the gentleman from Indiana. If not, I hope the gentleman will be explicit.

Mr. JULIAN. I think I have answered the gentleman fully. I will say in reference to the right of the negro to vote—

Mr. MALLORY. And hold office.

Mr. JULIAN. I will say that under the Constitution of our Government—which I hope to see preserved, as does the gentleman from Kentucky—the right of suffrage in the States is to be determined by the States themselves. When these revolted regions shall be regenerated and dotted over with free homesteads, tilled by the labor of freemen, and when these negroes have been converted from chattels into men, with a common right to the soil and stake in society, then the legislative bodies of these rebaptized States will probably deal with the question of suffrage on just principles. I think they will not decline the logical consequences of radical democracy. But I shall be for leaving that matter to them, as it is now left to Massachusetts and Kentucky. If they shall see fit to recognize the right of the negro to cast his ballot; if the right of voting is conferred upon all without discrimination as to color or race, I can only say that I would not pronounce it an unwise policy. But I would submit that question to the States themselves. I believe the States of North Carolina and Tennessee once allowed negroes to vote; and the gentleman will remember that not very many years ago two very prominent public men of those States, Hon. George E. Badger and Hon. John Bell, admitted that they had been elected to office over their competitors by the



votes of colored men. The case of Mr. Bell, I think, was his first election to Congress.

The gentleman will also remember that several of the slave States, and nearly all the non-slaveholding States, permitted colored men to vote at the date of the formation of the Government; and they did vote, as he must know, upon the question of adopting the Constitution.

Mr. MALLORY. I think I have obtained an answer from the gentleman from Indiana, and I want to show what I understand that answer to be, so that there may be no mistake in the future. I understand him to say that these States may extend to this black population who settle upon these lands the right of suffrage and the right to hold office. I understand the gentleman to say that while as a citizen of Indiana, or Representative from that State, he has no control over the matter, yet if he had any control over the matter his vote and voice would be in favor of the exercise of the right of suffrage and to hold political office by the black men in the revolted States. I understand the gentleman to say if lands in Indiana be confiscated—and I believe it is alleged there are men there whose property may be confiscated—and these black men are located upon them, he will, as a potential member of the Republican party, advocate the enjoyment of the elective franchise by black men, of the political equality of the negro with the white man. That I understand to be the exact object and aim of this bill. I ask whether it is not the entering wedge for the purposes I have indicated.

Mr. JULIAN. I fear I shall not be able to satisfy the gentleman's remarkable thirst for knowledge, and for exact information as to the ulterior purposes of this bill and my own intentions in urging its passage. If the bill, by a fair interpretation of its language, is a good one and should command the gentleman's support, I hope he will not fight it because he fears it will be "the entering wedge" to revolutionary measures, or that my own intentions reach too far into the distant and uncertain future. I hope he will calm his fears. As to rebel lands in Indiana, the gentleman knows, if he has read the bill, that it applies only to the States' in insurrection. As regards his reiterated questions, let me remind the gentleman that if he will remember the answers I have already given him he will find that they respond fully and fairly to what he asks. As respects the question of "negro equality," let me say to the gentleman that I do not think he ought to press it, considering his relations to his brethren in the South. I think the subject a somewhat delicate one for Democratic gentlemen to deal with.

Mr. MALLORY. I would like to have the gentleman explain that.

Mr. JULIAN. I will do so. We who are known as Republicans and unconditional Union men sometimes associate with negroes. They live among us, and of course we have dealings with them. But no such intimate relations exist between them and us as we find existing between them and the Democrats of the South. Continually, habitually, and as the result of a well-recognized law of social order, the slave mothers and slave masters of the South are brought on to the level of social equality in its most loathsome forms. In some of the rebel States I believe the number of mulattoes is nearly equal to the number of Democratic voters. In the State of Mississippi, if I am not mistaken, wherever you find an orthodox modern Democrat you will find a mulatto not very far off. The gentleman cannot deny this, unless he can show that these mulattoes sprouted up from the soil, or were rained down from the clouds, or reported their presence through some other miracle. This social equality between negro women and Anglo-Saxon Democrats is the natural consequence and necessary fruit of the institution which has proved itself to be the mother of treason, and of all lesser abominations.

Mr. MALLORY. The Census Bureau establishes the fact that thirty-six per cent. of the free colored population of the free States have white blood in their veins, while only one ninth of the slave population shows white blood.

Mr. JULIAN. I have not examined the census tables as to the fact stated by the gentleman. It may be true, for I believe mulattoes more generally come into the northern States than those of a darker color, and of course their increase will

be mulattoes. The gentleman is not at all relieved, however, by the white blood in the veins of these negroes in the North, for they have migrated from the South, bringing with them, perhaps, the blood of the gentleman from Kentucky, and other distinguished leaders of his party. [Laughter.]

Mr. MALLORY. I have to say that the one ninth white blood which exists in the South may be attributed to the fact that we have among us northern teachers, schoolmasters, and peddlers. [Laughter.]

Mr. JULIAN. The gentleman assigns entirely too large a work to these itinerant Yankees. Certainly, my friend from Kentucky does not believe them to be so wonderfully endowed, or so marvellously successful over able and experienced Democratic rivals. Besides, I think it was John Randolph who said that "the best blood of old Virginia courses in the veins of her slaves." It was not the blood of northern schoolmasters and peddlers, but Virginia blood, and what is true of Virginia may fairly be assumed as to other slave States.

Mr. MALLORY. Mr. Speaker—

Mr. JULIAN. I prefer not to be further interrupted in this direction. My time is rapidly expiring.

Mr. MALLORY. I wish the gentleman to answer my serious question, and not act the demagogue upon the subject.

Mr. JULIAN. The gentleman imputes to me that which I think belongs exclusively to himself on this occasion.

Mr. MALLORY. The gentleman is mistaken—

Mr. JULIAN. I decline to yield further. When interrupted by the gentleman from Kentucky, I was replying to some of the objections of the gentleman from New York [Mr. FERNANDO WOOD] to this bill. After urging its unconstitutionality, he said he did not seek to save the negroes from their masters, but from their white northern oppressors.

Mr. FERNANDO WOOD. Before the gentleman from Indiana leaves the point of replying to me, I desire to call his attention to the fact that my objection was to conferring these homesteads upon the black laborers, and not upon the black soldiers. The gentleman has carefully avoided alluding to that provision of the bill which allows laborers to enjoy these homesteads, and not the soldiers.

Mr. JULIAN. I have no disposition whatever to evade the fact that this bill provides homesteads of forty acres for those who have been employed as laborers in the military service. But I wish to ask the gentleman from New York if he is in favor of conferring these lands as homesteads upon the black soldiers.

Mr. FERNANDO WOOD. I am not, [laughter,] because the lands do not belong to the Government, and hence they cannot confer them.

Mr. JULIAN. Then I have not misrepresented the gentleman, and he had no occasion to interrupt me. As respects the inhumanity of our own loyal people toward the freedmen of the South, I agree with him in all he has said; and one of the chief purposes of this measure is to prevent the establishment of a remorseless system of serfdom over the blacks. I know very well what is being done in Louisiana to-day under false ideas of reconstruction. I know that a system of enforced and uncompensated labor is growing up there but one remove from slavery itself. It is to guard against all this legalized vassalage and wrong by the white speculators of the North and the monopolists of the South that I desire to see this bill become a law.

Give away these lands in small homesteads to the men who have earned them by their heroism and their toils; for without a home no man can have, absolutely, any rights. Land monopoly is slavery in disguise. It is a stupendous system of serfdom, as unnatural in a republic as would be the recognition of universal liberty in an absolute despotism.

I have already referred to the vast estates of Floyd, Thompson, and other leading rebels who, with their confederates, own the great body of the lands in the rebel States. If you seize these lands and allot them in small homesteads, you destroy this monopoly and establish independence, liberty, and equality on the ruins of the

system which has ripened into this war. You establish closely associated communities on the basis of free labor. You make it possible to establish free schools and churches, and by taking away the absolute power of capital over labor you secure the right to the ballot, and thus enable the people themselves to guard their political rights. Sir, this question of land monopoly is the grandest question of this tremendous conflict with the rebels. It involves the whole problem of reconstruction. If not decided wisely, what will the President's proclamation be worth? Of what avail would be an act of Congress totally abolishing slavery, or an amendment of the Constitution forever prohibiting it, if the old agricultural basis of aristocratic power shall remain? Real liberty must ever be an outlaw where one man only in three hundred or five hundred is an owner of the soil. Let it be remembered, too, that the work of settlement and reorganization in the revolted States must necessarily be attended by tumult and peril. Guerrillas will infest the country and perhaps carry on their work of rapine and murder for years to come. Order and security can only approach their final empire by gradual steps. Nothing, therefore, can be more entirely natural and just than to send our veteran soldiers into these regions when the war is ended, with their rifles on their shoulders, ready to defend as well as to cultivate their homesteads, and to protect from wrong and outrage those who may not be able to help themselves. This policy would make every settler in these regions, during their transition from barbarism to civilization, a national policeman and avenger, an efficient arm of that military force which for a time will be required by the state of the country. Both a military and an agricultural necessity plead for it, while it is commended by the highest statesmanship, and embodies a beautiful poetic justice to our own soldiers, and to the rebels whose lands shall thus become their righteous heritage.

Mr. Speaker, let me say in conclusion, to the gentlemen on the other side of the House who have seemed so anxious to increase the pay of our soldiers, that this bill gives them a capital opportunity to demonstrate their sincerity. My colleague, [Mr. HOLMAN,] who, I am sorry to say, is not now in his seat, has clamored during the whole of this session for an increased compensation for the brave fellows who are periling their lives for the Republic. The gentleman from New York [Mr. FERNANDO WOOD] has also been very anxious on the subject. It seems to be the earnest desire of our brethren on the other side of the House to have something done, and that speedily, for the common soldier. We have already increased his pay, but our Democratic friends are not yet satisfied. Now, here is a proposition, made by a committee of the House, to give all our sailors and soldiers, black or white, and all who have served the United States as laborers, homesteads of forty and eighty acres of land on the forfeited estates of the rebels. This is proposed as a reward for their valor, and as the surest pledge of the redemption and regeneration of the insurrectionary districts. Sir, I want to know how these gentlemen are going to reconcile their votes against this bill with their declared love for the soldiers of the Union?

It is a simple proposition to parcel out the lands of the rebels by extending the homestead law over them under the regulations of the General Land Office, and in pursuance of existing laws of Congress on the subject of confiscation and revenue. It is a proposition to make effective, for the benefit of the soldier, what Congress has already done, and it will at once test the sincerity of every man who professes to be the soldier's friend. I submit to gentlemen upon the other side of the House that now is the favored opportunity, the accepted time, for them to show their faith by their works. Not to vote for this bill, it seems to me, is to vote to continue the immense monopoly of the soil in the revolted States without which this rebellion would have been impossible. Not to vote for this bill is to vote that northern speculators and monopolists shall continue to buy up the lands every day sold by the Government for the non-payment of taxes, and thus make them the basis of new and frightful monopolies. Not to vote for this bill is to write one's self down the enemy of the common soldier, whose valor has covered him with glory on

so many bloody fields, and earned for him so richly the gratitude of his country. Not to vote for this bill is to balk the righteous purpose of the nation to save its own life, and to visit a fitting retribution upon its assassins.

Mr. Speaker, I shall not detain the House longer, having already occupied more time than I intended. I think the principles of this bill are understood on both sides of the House, and I now demand the previous question on its passage.

Mr. PENDLETON. I desire to ask the gentleman one or two questions in relation to some features of this bill before he moves the previous question.

Mr. JULIAN. I will answer a question or two, and for that purpose I withdraw the demand for the previous question.

Mr. PENDLETON. I would like to ask the gentleman from Indiana if he can tell us how many acres of land now in the possession of the Government will be subject to entry under this bill?

Mr. JULIAN. We are selling thousands and thousands of acres for the non-payment of taxes, independent of the law providing for the seizure and condemnation of property by proceedings *in rem*. An immense amount of land—I cannot state it definitely—has fallen and will fall into the hands of the Government.

Mr. PENDLETON. I say, Mr. Speaker, pursuing this subject, that this bill provides that lands of three classes, lands acquired by the Government under three different laws, shall be appropriated as the bill proposes.

The first is the law for the suppression of insurrection, the punishment of treason and rebellion by the seizure and confiscation of the property of rebels. I understand that by that and the amendment passed to it, there is to be no confiscation of real estate except during the life of the person attainted. There is, therefore, no land that has come or can come into the possession of the Government by that law which can be made available for the purpose of this bill.

Mr. JULIAN. I will say in answer to the gentleman, that supposing the position taken by him to be correct, the passage of this bill is still perfectly warranted by the exigencies of the times, for reasons already stated; but I take it for granted that under existing laws as interpreted by our courts, or by virtue of further legislation, we shall reach the fee simple of the rebels. A joint resolution has already passed this House—I believe it has not yet passed the Senate—which I think provides for confiscating the lands of rebels in fee.

Mr. PENDLETON. I understand perfectly well the position of the gentleman from Indiana upon the propriety of that joint resolution, but, if I am correctly informed, it has not yet passed both Houses of Congress, and from the long time it has slept in the other branch of Congress, it is not probable that it will; but that is merely a matter of conjecture. I understand the Judiciary Committee there have reported against it, and a gentleman near me informs me they so unanimously reported, but that the Senate have taken no action upon the report.

It is apparent, then, that under that law not an acre has come into the possession of the Government that can come under the provisions of this act.

The next class of lands to which the bill is intended to apply is the lands which the Government acquires under sales for the collection of direct taxes. Now, the gentleman from Indiana says that thousands and thousands of acres have been sold under that law. I would like to ask the gentleman if there have been any lands sold under the operation of that law except in the immediate neighborhood of this city in Virginia, and perhaps down at Hilton Head? I ask for information. I was under the impression that no other lands had been sold. I may be mistaken.

Mr. JULIAN. Large quantities have been sold at Port Royal; but I cannot speak definitely. I know that many thousands of acres have been sold there, and I think also in Louisiana and Florida. I will remind the gentleman also that it has been decided repeatedly by Judge Underwood that the Government, under existing laws of Congress, has the right to confiscate the property of rebels in fee simple.

Mr. PENDLETON. I understand the construction under which Judge Underwood has been acting; but I do not understand that his judicial decisions have been under the law to which I have been calling the attention of the gentleman. That law with the amendment says in express language that the confiscation of real estate shall be only for the lifetime of the person attainted.

I am informed by a gentleman who sits behind me that not a single acre has been sold under this law for the collection of taxes except in this immediate neighborhood and at Hilton Head, and the amount sold there is so inconsiderable that for a measure of this magnitude it may be said there is practically no land to which it can apply.

Mr. HIGBY. I understood the chairman of the committee [Mr. JULIAN] to agree to yield the floor to me, and that I yielded to the gentleman from Ohio. I desire to know who is entitled to the floor.

Mr. PENDLETON. I claim the floor. I understood the gentleman from Indiana to yield to me to ask a question. I am simply asking him a series of questions, and I am doing it in good faith, for the purpose of eliciting information.

The SPEAKER. The Chair will say that the floor is in the control of the gentleman from Indiana.

Mr. HIGBY. I ask my colleague whether he yielded the floor to me.

Mr. JULIAN. I did yield the floor to my colleague on the Committee on Public Lands. But I wish to say a word in answer to the question of the gentleman from Ohio. Not being able to answer precisely, I say again that, conceding everything he says to be true, there is still a vast amount of land being sold for taxes to which this bill applies by giving them as homesteads to our soldiers.

Mr. PENDLETON. One more question. Mr. JULIAN. Make it short.

Mr. PENDLETON. If the gentleman does not want to furnish information sought in good faith, of course I will not trouble him.

Mr. JULIAN. Go on.

Mr. PENDLETON. I think he will hardly say that I have abused his courtesy or that of the House.

Mr. JULIAN. My time is short.

Mr. PENDLETON. The other class of lands to which this is intended to apply are lands sold for the non-payment of taxes in the loyal States.

Mr. JULIAN. What is that?

Mr. PENDLETON. Lands are acquired under the internal revenue law, and this bill is intended to apply to them.

Mr. JULIAN. It is intended to apply to lands in the insurrectionary districts. I have not time to answer questions further.

Mr. PENDLETON. One more question. The gentleman is right in his last statement.

Now, I understand the provision of this bill to be that in the insurrectionary districts, under the operation of the internal revenue law and the act for the collection of taxes, lands are put up for sale, no matter for what reason the taxes have not been paid, no matter whose property it is, no matter how anxious the party may have been to relieve himself from the so-called confederate government to pay these taxes, and the lands are to be bid off not at the maximum but the minimum.

Mr. JULIAN. The gentleman is substantially correct, but there is a provision in the bill that any party within two years may redeem his land on his proving his loyalty.

Mr. PENDLETON. That is true, but there is no provision that the entry of the party shall not take place within two years.

Mr. JULIAN. The Government gets no valid title until the time has expired.

Mr. PENDLETON. That is true, but this bill permits the preëemption to take place before that time.

Mr. JULIAN. The man who preëmits preëmits at his own risk. I now yield to the gentleman from California.

#### ENROLLED BILL.

Mr. POMEROY, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 159) for a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of a railroad in said State; when the Speaker signed the same.

#### HOMESTEADS ON CONFISCATED LANDS—AGAIN.

Mr. HIGBY. Mr. Speaker, the attack on this bill from the opposite side of the House has been against the general policy of the confiscation law. That discussion is in reference to a policy already established by law. It is a foregone conclusion and beyond our action, and therefore, to my mind, it is wholly unnecessary to occupy so much time on that point.

This bill is based upon previous laws. It makes no changes whatever in those laws. It simply provides for the disposition of such lands as become the property of the United States under those laws. The policy of the confiscation law has already been discussed. The law which requires lands in the United States to be sold for the non-payment of taxes is in reference to a policy already settled; and this bill, if it becomes a law, will not make a change in that. The only question to be settled by the House is as to the disposition of the lands which become the property of the United States in the insurrectionary districts by virtue of those two laws.

Mr. Speaker, the main feature which seems to create a great deal of disturbance here is that one which gives to a man with a dark skin the same compensation for his services which is given to a man with a white skin. Justice to the one class is injustice to another. That is, if a man does a dollar's worth of work for me, if he is a white man I must give him a dollar, but if he is a black man I must pay him less, or else I am raising him to a level with the white man.

Sir, this bill, if it becomes a law, takes away no rights from the soldier, whether he be black or white. He may take lands under the homestead law in other parts of the Union; but the bill provides that if he wishes to take them in the insurrectionary districts, he must take them in accordance with the provisions of this bill, if it becomes a law. It takes away no rights under existing laws, but simply confines him to the terms contained in this bill, provided they see fit to take lands in the insurrectionary districts.

Sir, some gentlemen are very uneasy. The question of equality arises to disturb them. They say if you give them freedom you give them an equal chance for acquiring property; that you then propose to make them voters, and then, of course, follows amalgamation and all the evils their imaginations can conjure up upon this subject, looking forward into the future beyond the comprehension of finite minds.

Some gentlemen have spoken very learnedly and very exclusively here upon this question, when they represent States in which negroes every year go to the polls and vote. How many black men are there to-day in the State of New York who are entitled to go to the polls and vote? Gentlemen pretend to claim that if you secure to these men the rights conferred in this bill, if you guaranty to them pay for their services, you therefore give them all the privileges which the Constitution and the Government bestow upon white citizens. Does it follow that if a black man is paid justly for his services, that he therefore has all other rights which are extended to white men? For that reason I asked my colleague on the committee, when he was being questioned, how many centuries into the future his intentions extended. "Sufficient unto the day is the evil thereof."

We are trying to remedy in some small degree the terrible evil which we now have on our hands. We can see the consequences of this evil in our streets this very day in the thousands of maimed and mutilated soldiers who are pouring through them, and are thronging our hospitals all around us. They are the fruits of slavery. Now, there are thousands of colored men in the State of New York, my native State, who, if there were an election to-day, would have the right to go to the polls and vote. In my earliest childhood I can remember to have seen black men go to the polls and vote. It is true a qualification was imposed—a property qualification. Now, if the Government will tolerate the black man under any circumstances whatever as citizens or inhabitants only, it must encourage the idea of their acquiring property that they may not become paupers and pensioners upon the Government.

The only question is whether such a bill as this should follow those which have already been passed. And I will answer the gentleman from Ohio [Mr. PENDLETON] who asked my colleague

upon the committee so many questions as to whether there were any lands now in a condition to be disposed of under the bill if it becomes a law. I would have Congress pass this law if there was not an inch of land in possession of Government under previous laws. We have reason to believe there will be thousands and millions of acres, and possibly within the next six months. I do not know how soon or how late we may get possession of these lands, nor is that the business of Congress. But it is wise, it is proper, it is just, that a provision should be made for the disposition of such lands, should any come into the possession of the Government of the United States under either of the two acts named in this bill. These two laws, as I have said, are now in existence, making provision for the forfeiture of these lands, and are wise provisions, too; and this third one, containing provisions for the disposition of these lands, is something which needs and demands the action of Congress. I hope it will become a law. I move the previous question.

Mr. COX called for tellers on seconding the previous question.

Tellers were ordered; and Messrs. Cox and HIGBY were appointed.

The House divided; and the tellers reported—ayes 50, noes 44.

So the previous question was seconded, and the main question ordered, which was on the passage of the bill.

Mr. PENDLETON called for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 75, nays 64; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Ashley, John D. Baldwin, Baxter, Beaman, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Freeman Clarke, Cole, Creswell, Henry Winter Davis, Daves, Deming, Driggs, Farnsworth, Fenton, Garfield, Gooch, Grianell, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Loan, Longyear, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perlman, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Schenck, Seofield, Shannon, Sloan, Smithers, Spaulding, Stevens, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Wilder, William, Windom, and Woodbridge—75.

NAYS—Messrs. William J. Allen, Ancona, Bailly, Augustus C. Baldwin, Jacob B. Blair, Bliss, Brooks, James S. Brown, William G. Brown, Chandler, Coffroth, Cox, Dawson, Eden, Edgerton, Eldridge, English, Finck, Grider, Griswold, Hall, Harding, Harrington, Benjamin G. Harris, Herriek, Hutchins, Philip Johnson, William Johnson, Kalbfleisch, Kernan, King, Law, Luzear, Long, Mallory, Marey, McAllister, McDowell, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Pruyn, Robinson, James S. Rollins, Ross, Scott, John B. Steele, Stiles, Strouse, Stuart, Thomas, Voorhees, Wadsworth, Whaley, Wheeler, Fernando Wood, and Yeaman—64.

So the bill was passed.

During the call of the roll,

Mr. ELIOT stated that on this vote he was paired off with Mr. KNAPP, otherwise he would have voted "ay."

Mr. J. W. WHITE stated that he was paired off with his colleague, Mr. ECKLEY, otherwise he would have voted "no."

Mr. SWEAT stated that he was paired off with his colleague, Mr. BLAINE.

Mr. FRANK stated that he was paired off with his colleague, Mr. GANSON.

Mr. JULIAN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

A REPRESENTATIVE FROM ARKANSAS.

Mr. DAWES. I rise to a question of privilege. I have had handed to me the credentials of T. M. Jacks, purporting to have been elected as a Representative from the State of Arkansas. I desire that they shall be read and referred to the Committee of Elections.

The papers were read, and referred accordingly.

RAILROADS TO NEW YORK.

The SPEAKER announced as the business next in order the consideration of the bill known as the Raritan and Delaware bay railroad bill, the question being on the amendment offered by the gentleman from Iowa, [Mr. WILSON.]

Mr. WILSON. I desire to modify my amendment by substituting for it the following:

Strike out all after the enacting clause and insert as follows:

Every railroad company in the United States whose road is operated by steam, its successors and assigns, he and is

hereby authorized to carry upon and over its road, connections, boats, bridges, and ferries, all freight, property, mails, baggage, troops, and Government supplies, on their way from any State to another State, and to receive compensation therefor.

Mr. DEMING. I wish, on behalf of the Committee on Military Affairs, to accept the substitute offered by the gentleman from Iowa.

The SPEAKER. It is not within the power of the gentleman from Connecticut to accept it. He may signify his desire to do so.

Mr. DEMING. My desire is that it shall be accepted.

Mr. PENDLETON. Mr. Speaker, when I took the floor on this bill several weeks since, it was pressed with a great deal of vigor by the gentleman who reported it from the Committee on Military Affairs. I have not observed, since that time, so much activity in pressing this bill. If it be the intention of gentlemen to abandon the bill, if they are willing that it shall be indefinitely postponed, or to have it laid on the table, I have no desire to trespass on the attention of the House. I do not know whether there is any intention to press this bill to a vote.

Mr. DEMING. It certainly is my intention.

Mr. PENDLETON. Mr. Speaker, when I took the floor before I said that I had no knowledge of the facts connected with this bill, except as they appear upon the papers which have been presented to the House. I take no interest in it except as it is a question of power in the Federal Government, and consequently of the reserved powers of the States. I shall not stop for one moment to inquire into the patriotism of the State of New Jersey, which has been somewhat impeached during this discussion, or the wisdom of her action or legislation in reference to the railroad companies within her borders. It is to me a matter of entire indifference whether private and personal interests will be advanced or not by the passage or rejection of this bill. I have not given to that branch of the subject the least attention. I did not consider it pertinent to the matters that are under discussion. I have never been able to bring myself to the conclusion that this House has the constitutional power to pass this bill, and consequently I have never come to the consideration of the question as to whether it is expedient or whether personal interests or the commercial interests of the State of New Jersey will be affected.

The gentleman from Vermont, [Mr. Woodbridge], who spoke last upon this bill, it seems to me wandered very far from the subject, and in wandering from the subject diminished the force of his very clear and lucid legal argument by the introduction of considerations which I know his candor will lead him to say were not legitimate to the debate. He told us that the management of this New Jersey railroad was very bad; that its prices were high; that its servants were uncivil; that passengers were troubled about their baggage; that they could not get tickets when and where they pleased, and were subject to divers other annoyances. He told us that this road is a monopoly. Well, sir, I do not admit that it is a monopoly. But suppose it is. If the interests of commerce are subserved by it, does the fact that it is a monopoly give to this House the least power over it?

The gentleman told us that one of these railroads, having retained the money received for through fares, was obliged to account to the Camden and Amboy Railroad Company for a portion of its profits. Sir, I deny that that is the fact; but if it were, is not the liability of one corporation in a State to account to another corporation in the same State a fit subject for the judicial investigation and final determination of the tribunals of the State, subject, of course, to the ordinary rules of review in the Federal courts, if a proper case for review shall be made?

The gentleman told us, also, that this corporation is a great instrument of electioneering power in the State of New Jersey, by which Governors of the State are elected and members of Congress are sent here. Well, sir, if by means of this machinery Governors are elected for the State of New Jersey, that is a question for New Jersey and not for us, and if by that means, or by other illegitimate means, the election of members of Congress is influenced, that is a question to be determined by this House on a contest for seats.

The gentleman also told us that the taxes imposed upon this railroad company went into the treasury of the State of New Jersey. Well, sir, suppose they do; is it not competent for New Jersey to tax her own railroads in her own way and to increase her revenue as much as she can by this species of taxation?

The gentleman said that a proposition had been made in the Legislature of New Jersey to repeal the charters of these two roads in case this bill should pass. Well, sir, is not the granting or repeal of a charter within the power of that State? And if this bill shall pass and be held valid a repeal of these charters by the Legislature will not injure either the companies or the State. This bill, if it is good for anything, is effective to extend the powers and maintain the corporate existence of those companies in defiance of a repeal by the State. If I were a member of the Legislature of that State and held the opinion which I do as to the power of this Congress to pass this bill, I would urge the speedy repeal of these charters. I would bring to a final and conclusive test the validity of this law before the proper judicial tribunal.

But, sir, the gentleman had only just gone that far into the discussion of this question of the Camden and Amboy railroad when the amiable gentleman from Illinois, [Mr. Washburne], with a felicity of argumentation and of diction which is all his own, and with a grace of manner only equaled by his fervency of spirit, intervened to say that he had heard of some Legislature in which a proposition had been made to punish by fine and imprisonment any person who should undertake to enlist negro soldiers in the State; and then, with that desire for knowledge which always characterizes that gentleman, turned to the gentleman from Vermont and gravely asked him whether he could inform him in what State it was that such a proposition was made.

Well, sir, the gentleman from Vermont gravely turned round and said he believed it was the Legislature of New Jersey; and thereupon the gentleman from Illinois retired from the discussion, seeming perfectly satisfied that he had made an unanswerable argument in support of the bill. He resumed his seat with a self-satisfied smile, which seemed to say, "If I cannot get satisfaction out of the disloyal Legislature of New Jersey, I can at least kick the Camden and Amboy Railroad Company." I was reminded of a picture which I once saw in Punch, intended to represent England after she had been discomfited in some European arrangement, turning to whip the Chinese because they would not take opium. John Bull is represented as a small boy wiping his eyes on his coat sleeve, shaking his fist at the backs of the Emperors of Russia and Austria and the King of the French, who were giants in size and were coolly pursuing their several ways, and taking great satisfaction in saying, with impotent rage, "If I cannot whip you, I can make faces at your sisters." [Laughter.]

Sir, these considerations are unworthy of this discussion. They are not pertinent to the questions involved. They ought to have no weight. They are an attempt to obtain by an appeal to our passions what could not be extorted from our sound judgment. They do not deserve serious refutation. I pass them without further reference.

I desire to state, as briefly and distinctly as I can, the circumstances under which we are called upon to exercise this power. In 1830 the Legislature of New Jersey incorporated the Camden and Amboy Company. Immediately afterwards, for a valuable consideration paid in hand by this company, the State Legislature entered into a contract that no competing line should be established between New York and Philadelphia across the borders of New Jersey. That contract is a valid one. It has been so decided by the courts of the State of New Jersey in this very case. It has been so decided in Massachusetts in the case of the Boston and Lowell Railroad Company against the Salem and Lowell Railroad Company, reported in 2 Gray. It has been so decided in the Supreme Court of the United States, in 13 Howard, in the case of the Richmond Railroad Company against the Louisa Railroad Company.

As to the validity of that contract made between the Legislature of New Jersey and this corporation, no one can raise a question. The Legislature desired to live up to its obligation. Application after application was made for the grant of a



charter for a competing route. It was refused as often as presented; refused upon the ground that the faith of the State was pledged, and that that faith should not be violated.

In 1852 the State granted a charter of incorporation to the Raritan and Delaware Railroad Company. It defines the line of that road along the eastern boundary of the State. Its nearest point to the Camden and Amboy railroad is at the initial point. Thence it diverges constantly. It was not intended to be a competing route. It was intended to be a non-competing route. In 1854 the State chartered the Camden and Atlantic City Railroad Company, whose line was at right angles to the Camden and Amboy railroad, and crosses the line of the Raritan and Delaware Bay railroad some fifty miles from Philadelphia. When these two roads were nearly completed to the junction, an attempt was made to establish a connection between them which should make a through route from New York to Philadelphia. An application was then made to the courts of New Jersey to prevent the establishment of a connection along these two roads, which run at almost right angles to each other, that would create a through line to New York from Philadelphia. These courts determined that making this connection would be an infraction not only of the charters of the two roads, but of the contract made by the State with the Camden and Amboy Railroad Company, and therefore prohibited it. Thus the judicial power united with the political power to maintain the contract which the State had made and to preserve the faith which the State had pledged.

Mr. GARFIELD. The courts refused to grant an injunction against laying down the rails to connect the two roads, but after they permitted it to be established they did enjoin through business.

Mr. PENDLETON. Certainly they did not enjoin the construction of those two roads, because their construction was legal under their charters. They were following out the line specified in their respective charters, and it was their right to make the roads for the uses and mode mentioned in those charters. It was only the use to which the roads were attempted to be put that was declared to be illegal. The construction of the road from Raritan bay to Delaware bay was in conformity with the charter; and so was the construction of the road from Camden to Atlantic City. The creation of a connection for doing through business on parts of each road was held by the courts of New Jersey to be not only an infraction of the charters of the two roads but of the contract made by the State.

Mr. YEAMAN. As I have not the cases from Massachusetts and Virginia to which the gentleman has referred, I ask whether they relate to the domestic internal commerce of those States, or to commerce between States? In other words, was the point decided that a State may control the movements and commerce of citizens of other States? I apprehend a critical examination will show that the cases do not go that length, whereas the law of this monopoly does, for it refers in terms to commerce between New York and Philadelphia, neither city being in New Jersey.

Mr. PENDLETON. The point was that it was competent for the State, through its Legislature, to enter into a contract that no charter should be given to a railroad, authorizing it to carry on a competing business with the railroad first created. I will take the liberty of handing to the gentleman, in order that he may read them himself, the cases to which I have referred.

Now, after all the power of the State of New Jersey has been exerted in maintaining the contract with the Camden and Amboy Railroad Company, we find these two corporations—not the commercial interests of the State of New Jersey, not the people of New Jersey, not the people of New York, not the people of Philadelphia, but these two corporations themselves—coming to Congress and asking, what? That they should be declared legal structures? No! They are legal structures to-day by the laws of New Jersey. Asking that they may be made a post route? No! They are post routes now by the laws of the United States. Asking that they shall be military roads? No! The President of the United States, under the law, has to-day the power to use them for military purposes, and he has in fact used them in that way.

What do they ask, says a friend near me. They ask that these connections for through business, which the judicial power of New Jersey has declared to be in contravention to existing State laws, shall be legalized by an act of Congress. What they ask is plainly declared in the third section of the bill. It is not that they shall be post routes nor military roads nor legal structures, for they are now, by virtue of the laws of the State of New Jersey and of the United States, post roads, military roads, legal structures.

No, sir; the bill has a further meaning. It goes further, and it is intended to go further, for by its provisions the Camden and Atlantic Railroad Company and the Raritan and Delaware Bay Railroad Company, or either of them, or their assigns, are authorized "to complete, maintain, and operate the said railroads and branches, and to establish, maintain, and run ferries, steamboats, and other vessels as a line of transportation for goods, wares, and merchandise of all descriptions, and passengers between the cities of New York and Philadelphia, and between the intermediate places and said cities respectively, and for commerce between and among the several States of the United States, anything in any law or laws of the above-named States to the contrary notwithstanding."

Now, I wish gentlemen to understand the full meaning of this third section to which I have just referred. These are local companies, created by the State, whose line of works are to be built entirely within the State, having both their termini within the State, intended for the accommodation of the local travel and commerce of the State. That is their object; so it is declared by their charter; so it is defined by the very law of their being. Now, it is intended by this third section to say to each of these railroad companies, "You may deflect from the course prescribed to you by the law of the State and build the road which is authorized to be built by the other company, and pass along the line prescribed for it to its terminus."

The Camden and Atlantic City Railroad Company is authorized, under this bill, to build the road of the Raritan and Delaware Bay Company; and the Raritan and Delaware Bay Company is authorized to build the route of the Camden and Atlantic City Company; and each of them and their assigns are authorized to build all the roads authorized by the State laws to be built by the other company. I venture to say that a power like that has never yet been granted by the Federal Government. It is authority given by the Federal Government to one of these companies to build half the road authorized by its charter, and then deflect from its course and build one half of the road authorized by the charter of the other company.

I beg gentlemen to understand what this proposition involves. In Massachusetts a road is chartered from Boston to Springfield. This proposition involves the power of the Federal Government to authorize that company to leave that course and build its road from the southern to the northern boundary of the State. A company is chartered in Pennsylvania to build a road from Philadelphia to Pittsburg. The proposition involves the power of the Federal Government to authorize the road to be built from Harrisburg to the lakes. It involves the power of the Federal Government to authorize a canal company of the State of Ohio, organized to build a canal from the lakes to the river, to deflect from its course and build a railroad from Wheeling to Cincinnati.

Mr. GARFIELD. I wish to suggest to my colleague that this bill does not contemplate the matter of building at all. It is only a matter of using that which is already built, and which is declared by the courts of New Jersey to be a legal structure. My colleague seems to be discussing the question of the right to build, which is not in the case.

Mr. PENDLETON. I am discussing that very question, and I am doing it because these parties or their assigns are authorized by the provisions of this third section "to complete, maintain, and operate the said roads and their branches, and to establish, maintain, and run the said ferries and steamboats." If they are completed now, why give the authority to complete them?

Mr. GARFIELD. I will state to the gentleman that the substitute on which the Committee

on Military Affairs has agreed has nothing whatever to do with the building, but simply authorizes the using of roads already established.

Mr. PENDLETON. Then the gentleman admits that my criticism on the original bill reported from the Committee on Military Affairs, and pending here for three months, is a just one. I will come directly to the substitute which has been offered this morning. I say that under this bill authority is given to these roads to deflect from the course marked out by their charters, and to build a road on an entirely new line. My colleague [Mr. GARFIELD] made his speech—and a very able argument it was—on the basis that the bill reported was the bill on which the Committee on Military Affairs intended to stand when it came to ask the House for a vote.

Sir, this bill is an attempt—and the substitute accepted by the Committee on Military Affairs is no better—on the part of Congress to invest a State corporation created for local purposes, having no being and no right to be outside of the limits of that State, with powers not only not given to it by its charter, but inconsistent with the objects of the charter—powers that have been expressly denied to it by the Legislature of the State.

Now, I say that that is an enormous power. I say that in no single instance has it been exercised by the Federal Government. I know that the Committee on Military Affairs, in the report submitted to the House, says that it has been exercised, in substance, five times. I take issue with the committee. I say that in no case that has been cited has such power been exercised. The committee says this power has been exercised five times: once in the case of the Wheeling bridge, twice in cases in which laws were passed establishing railroads as post roads, once in the law of the last session authorizing the President to use all railroads as military roads, and once in the case of the Steubenville bridge. Mr. Speaker, the case of the Wheeling bridge is familiar to every lawyer on this floor. That was a case in which an action was commenced to abate this bridge as a nuisance, and it was held by the Supreme Court of the United States to be a nuisance, and was ordered to be abated as such, because it interfered with the rights of commerce on the Ohio river, and contravened a law of Congress. It was ~~not~~ because it contravened a law of the State, but because it contravened a law of Congress, in recognition of the contract made between the State of Virginia and the State of Kentucky, and ratified by the Federal Government at the time of the admission of Kentucky into the Union. And accordingly after it had been declared an illegal structure, as having been made in contravention of the law of Congress, the Congress intervened and declared it should be held to be a legal structure, notwithstanding its contravention of the law of Congress. So far as that bridge is concerned, it suspended the operation of the prior law. The law passed expressly provides that it shall be a legal structure, notwithstanding anything that may be found in the acts of Congress inconsistent with its erection.

The second case to which the committee alludes in this report is the law passed, I think, in 1842, directing that certain turnpike roads should be post routes. That law was reënacted, in substance, as to all railroads, in 1853, providing that all railroads then in existence, or hereafter to be in operation, should be post routes. Now, what is the effect of declaring that a road is a post route?

I find that Judge McLean, in his opinion in this very Wheeling bridge case, has answered the question very satisfactorily; and, instead of enlarging upon the matter, I will read to the House his language:

"The policy of extending the lines of post roads on all railroads and navigable waters was to require, under a penalty, all boats and railroad cars to deposit in post offices all letters which they may carry, so that the postage may be charged. It gives to the Government no rights on these lines of communication, except where the mail may be carried under a contract, which if obstructed subjects the offender to prosecution. It gives to the Government no other interest in or control over the road."

\* "Even an ordinary road may be, though a post road, altered or vacated at the will of the local authority. It is difficult to see what benefit can result to the public from these bridges being declared a post road. It cannot use the bridges without paying toll the same as for the use of a turnpike road or railroad. It does not prevent the company from pulling down the bridge or altering it in any respect."

\* \* \* \* \* "The idea that making the bridge a post road would exempt it from the consequences of being a nuisance is wholly unsustainable."

There, Mr. Speaker, I have given you the opinion of Judge McLean, in a grave judicial decision, on a case pending before the Supreme Court of the United States, that the creation of a road as a post route by act of Congress gives to the Federal Government no power over that road, and gives to the road itself no exemption whatsoever from the local legislation of the State.

I may say further, sir, that Judge Wayne, in his opinion in the same case, approved the doctrine laid down by Judge McLean in reference to this question.

So much, then, for three of the instances cited by the gentleman from Connecticut in behalf of the Military Committee in his report. Another case is the law authorizing the President to use any of these railroads as military routes. That law is still on our statute-book. It has full force. It has not been repealed. It has been applied in this case, and has been successfully applied. The troops of the United States and munitions of war have been carried over these roads from New York to Philadelphia, and, so far as I can learn, no objection has been made to the use of the roads for this purpose, and no account has been made of the profits of the roads accruing by reason of the performance of that service. Surely gentlemen will not hold that that is an authority for the passage of a law such as the one now before us.

The only other case is that of the Steubenville bridge. There I think that Congress has gone to the very extreme limit of its power. I think, and I say it frankly, that that is the only case that can be cited which has even the semblance of a precedent for the authority now sought to be exercised. In that case the Congress of the United States authorized either of two companies, one existing in my own State and the other existing in the State of Virginia, to build a bridge across the Ohio river. The authority given to the corporation of Ohio was not in contravention of any power declared to exist in that corporation by the Legislature of that State.

In the case of the other company I understand there were limitations upon its powers under the charter, but notwithstanding those limitations Congress authorized it to construct the bridge.

But, sir, I call the attention of the gentleman to the fact that this was a bridge to be built over the Ohio river, as to which, under the authority of the Wheeling bridge case, the Congress of the United States has complete and absolute control. I call attention also to the fact that this is a work to be executed outside the jurisdiction or limits of particular States. I call attention also to the fact that in one case there was no prohibition upon the corporation to build the bridge with which the act of Congress interfered, and that in the other the conditions established were frivolous and arbitrary.

But, sir, even if the act of Congress did involve the exercise of extreme power, it will be remembered that at the time the law was passed the State of West Virginia was giving its consent to the passage of the bill, the Baltimore and Ohio railroad was in the hands of the insurgents, and that the only line of communication between the western States and the capital was through Pittsburgh. It was thought at that time that the interests of the Government, as well as of these States, required that there should be speedy legislation in order that there should be another line of communication opened besides the single line of road by Pittsburgh. If there ever was a case in which this Government could be justified in straining its authority, this was a case of that sort. The Baltimore and Ohio railroad was closed, and there was but one bridge across the Ohio from its mouth to its source, furnishing a channel of communication for military or other purposes between the East and the West. So that while I do not find it necessary to impeach the authority of that case as a precedent, yet, if I did, I could find ample ground for it in the circumstances under which it was passed.

Now, sir, so much for precedents, so much for the cases cited by the committee as a justification for this bill. Nor do I think the Committee on Military Affairs has been more felicitous in the citation of its judicial authorities than it has been in the citation of its precedents. The gentleman

has referred to the case of *Gibbons vs. Ogden*, and has paid a very deserved compliment to Chief Justice Marshall in connection with that decision. He said that eminent jurist had raised the term commerce above the signification of mere trade, and had raised to a corresponding extent the power of the Federal Government over the regulations of commerce. It is true that was the beginning of a series of decisions which were carried to their consummation by the decision of his no less eminent successor, when in the case of *Fitzhugh and the Genesee Chief* he declared that the admiralty jurisdiction of the United States extended beyond mere tide-water and embraced all our inland lakes and large navigable rivers. But what did Chief Justice Marshall say in reference to this very power?

"Inspection laws, quarantine laws, health laws of every description, as well as laws for regulating the internal commerce of a State, and those which respect turnpike roads, ferries, &c., are component parts of this mass—that is, that immense mass of legislation which embraces everything within the territory of a State not surrendered to the General Government. No direct general power over these objects is granted to Congress, and consequently they remain subject to State legislation."

And in another part of the same opinion, discussing this question still more at length, he holds:

"Commerce among the States must of necessity be commerce with the States. In the regulation of trade with the Indian tribes the action of the law, especially when the Constitution was made, was chiefly within a State. The power of Congress, then, whatever it may be, must be exercised within the territorial jurisdiction of the several States. The sense of the nation on this subject is unequivocally manifested by the provisions made in the laws for transporting goods by land between Baltimore and Providence, between New York and Philadelphia, and between Philadelphia and Baltimore."

In order to understand what Chief Justice Marshall meant by that allusion I have taken the trouble to hunt up those laws, and I find they simply relate to the transfer of goods from the ports of one State through another State into the ports of a third State. They relate to commerce among the States. They provide that one entry shall be sufficient for that purpose, and there shall be no necessity for a second entry in a port within the limits of the second State through which the voyage is supposed to pass.

Now, sir, in this same connection, I desire to cite gentlemen to this Wheeling bridge case, to which allusion has been made. Judge Nelson, in delivering the opinion of the court, says:

"In respect to these purely internal streams of a State the public right of navigation is exclusively under the control and regulation of the State Legislatures; and in cases where these erections or obstructions to the navigation are constructed under the law of a State or sanctioned by legislative authority, they are neither a public nuisance subject to abatement, nor is the individual who may have sustained special damage from their interference with the public use entitled to any remedy for his loss. So far as the public use of the stream is concerned, the Legislature having the power to control and regulate it, the statute authorizing the structure, though it may be a real impediment to navigation, makes it lawful."

And Judge McLean, in dissenting, says:

"If under the commercial power Congress may make bridges over navigable waters, it would be difficult to find any limitation of such power. Turnpike roads, canals, and railroads might on the same principle be built by Congress; and if this be a constitutional power, it cannot be interfered with by State legislation. So extravagant and absorbing a Federal power as this has rarely if ever been claimed by any one."

Now, if that be the rule as to water-courses, does it not apply to railroad courses? If the jurisdiction of a State is supreme over its internal streams, is it not supreme over the railroads which are created by the authority of the State alone? If riparian owners cannot be interfered with by the action of the Federal Legislature, ask whether the same is not true of railroad companies? It is a question of the jurisdiction of a State, and not the character of the structure over which the jurisdiction is exercised.

In the Convention which formed the Constitution, Mr. Franklin moved to insert after the clause to "establish post roads" the words "to provide for cutting canals where deemed necessary." Mr. Madison suggested an enlargement of the motion into a power "to grant charters of incorporation where the interests of the United States might require and the legislative provisions of individual States may be incompetent." A discussion ensued as to the necessity of this amendment of Mr. Madison, and the question being taken as to the grant of power to the Federal Government to create corporations "to provide for cutting canals where deemed necessary,"

it was lost; Pennsylvania, Virginia, and Georgia voting in favor of the grant, and New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, Maryland, North Carolina, and South Carolina voting against it. This bill proposes to grant to a local corporation the power to build a road and branches not authorized by its charter. Is that in any degree different from conferring new corporate powers, or from granting a charter *entirely de novo*? This bill proposes to confer upon such local corporation power to build a railroad. Is that in any degree different from the power to build a canal? Does not the refusal to grant power to the Federal Government, power to authorize a company to build a canal, carry with it a refusal of the power to build a railroad? The answer is obvious.

My friend who sits to my left [Mr. GARFIELD] drew an argument from the fact that New Jersey stipulated that she would return the consideration paid for this contract if any such competing road should ever be established in the State of New Jersey, and said that New Jersey was thereby estopped to recognize the power of Congress to pass this law. But, sir, that is the universal rule where there is a guarantee of title. Will the gentleman tell me that a covenant of warranty is an admission on the part of the grantor that there is a valid outstanding title? I know on second consideration that he will not.

Now, sir, I come to the substitute which was submitted this morning. I have not had time to examine it carefully. I suppose I caught its meaning when it was read at the Clerk's desk. I have it now before me. I think it applies and was intended to apply the provisions of this bill which I have criticised and which I have shown to be not only manifestly unjust but an infringement of the rights of New Jersey—to apply these provisions to all of the States of the Union, and to all the railroads in those States. If that amendment should pass, as I understand it, not a railroad ten miles long in the center of the most central county of a State is under the jurisdiction and control of State authority. It provides that all railroads operated by steam, no matter on what terms authorized, no matter for what purposes built, shall have power to carry passengers, freight, mails, and Government supplies on their way from one State to another State.

Why, sir, you could not construct a railroad within the limits of a State for the purpose of carrying coal from a mine to its depot without this provision affecting it. You could not give to a man or a company the right to build a road through a given portion of a single farm for a particular purpose but the Federal legislation seizes upon the railroad and authorizes the company to make it part of a line of transit from one State to another. You could not erect a road with a stationary engine to haul marble from the quarry to the depot, nor a track to carry whisky from the distillery to the storehouse, nor a street railroad through a village, unless subject to this power.

Gentlemen may tell me I am interpreting extravagantly the language of this provision. Then let the language itself not be extravagant. Every railroad in the United States whose road is operated by steam is authorized to carry freight, property, mails, passengers, troops, and Government supplies on their way from one State to another State, and to receive compensation therefor. Why, sir, no matter what useful limitations may be imposed on the road, for what purpose created, under what guarantees established, they are all swept away by the provisions of this bill, and a company authorized for one purpose, and one purpose only, and that a merely local purpose, is authorized to connect itself with roads at one end or the other, and to become part of a great thoroughfare from one end of the country to the other.

Now, sir, if all the rights of States are to be swallowed up, if we are to make them of no account in this Government, let us understand it at once, let us give up the notion that this is a Confederation, let us obliterate State lines, and have an end to the pretext that the States have reserved rights.

My friend from Ohio [Mr. GARFIELD] found a great necessity for the passage of this bill in the proclamation issued by the Governor of New Jersey, and he complained bitterly that he called the Constitution a compact, and that he spoke of State rights.

Now, sir, I do not know that there is anything in State rights which ought to excite the ire of the gentleman. If he means to say that the Federal Government within the powers granted to it is supreme, I agree with him. If he means to say that whenever Congress exercises the power which is clearly granted to it its enactments are superior to State constitutions and State laws, I make no quarrel with him. But if he means to tell me that the powers not granted are not reserved, and that within the powers reserved the States are not as sovereign as they ever were before the Union was formed, as England is with reference to its sovereign powers, I disagree with him, and plant myself on the language of the Constitution, that the powers not granted are reserved to the States.

The States shall not trample upon the rights of the Federal Government; the General Government shall not trample upon the rights of the States. As the power to regulate commerce between the States is granted to the Federal Government, and shall not be interfered with by the States, so the right to regulate internal commerce is reserved to the States, and shall not be interfered with by the General Government. That is what we mean by State rights; and that we are prepared to preserve, maintain, and defend, for we believe it essential not only for the preservation of the Constitution, but of liberty itself. State rights! They are the key of the Confederation. They have solved the problem of free government. They have reconciled liberty and power. They have maintained the integrity of territory and the rights of freedom. They are as essential to our Government as a free press or a free ballot. "When the Coliseum falls Rome shall fall." When State rights fall the American Union shall fall, and all its honors, all its glories, all its liberties shall be prostrate in the dust. Sir, I believe the bill has no warrant either in the Constitution as we read it, nor in the precedents as we find them, nor in the judicial determinations as they are handed to us in the books of authority; and so believing, I think it is unwise, unjust, and that it will be utterly void, and that if you pass it New Jersey ought to resist it. I have felt constrained to oppose this bill, and shall vote against it.

Mr. WOODBRIDGE. Mr. Speaker, I admit that there is such a thing as a sovereign right within a State. There is no such thing as State sovereignty. Sovereignty rests in the General Government; but that there are certain sovereign rights reserved to a State over which the General Government has no control, I certainly do not deny. For instance, it is undoubtedly within the power of the State, by its own legislative enactments or compacts, either to encourage or restrain the enterprise of its own citizens in the use of its own soil. Inspection laws, health laws, and those laws which relate to turnpikes and ferries, &c., appertain to the State. No direct general power over these objects is granted to Congress, and consequently they remain subject to State legislation.

Now, sir, the question here is not whether we are impairing a State right of New Jersey. It is simply this: does the right to regulate commerce between States exist within the State or within Congress? If we find that under the existing regulations of the State of New Jersey the means of transit for commerce between New York and Pennsylvania are adequate, if we find that the existing line is capable of performing the service which the wants of commerce demand, then I admit that Congress ought not to interfere.

Congress being the supreme judge, having the power delegated by the Constitution to regulate commerce between the States, must determine whether, under the law and acknowledged policy of New Jersey, whereby the Camden and Amboy railroad is a legalized and protected monopoly, having the exclusive privilege of transporting both freight and passengers between the great cities of New York and Philadelphia, there is that free intercourse between the States of New York and Pennsylvania which the demands of inter-State commerce require. If Congress determines that increased facilities are necessary, then it has the right to declare that the Raritan road is a lawful structure, and a public highway of the United States.

The gentleman from Ohio says that we have

no right to interfere with the internal rivers of a State. I admit that such is the law. But what is the law that was read by the gentleman from Ohio? It was substantially that the riparian owners have a right to the channel of the stream, and that therefore they may build docks and throw up embankments. But if the gentleman had read still further he would have found that that could not be done so far as to impair navigation, the power of regulating which resides in Congress. If an individual imagines himself injured by a railroad, and calls for an abatement of the railroad or a portion of it as a nuisance, it cannot be done. Any why? Because the building and regulation of railroads is within the power of the State—a power that is supreme and cannot be interfered with, so far as individuals are concerned, or at all unless free commerce between the States is impaired.

The gentleman from Ohio has said that we have here no cases analogous to the one under consideration. I do not agree with the honorable gentleman. I cannot see why the same principle is not involved in the Wheeling bridge case. In that case the complaint was made against the Wheeling bridge by the State of Pennsylvania on the ground that by its existence the internal improvements of the State of Pennsylvania were injured, and that it caused a loss to her treasury. The case came to the Supreme Court of the United States, and it was determined that the bridge did affect the navigation of the Ohio river, and therefore did impair the rights of the complainants. But when the company did not comply with the order of the court, and came to Congress asking that the bridge be declared a lawful structure, Congress passed a law declaring it a lawful structure, on the ground that, if removed, it would interfere with the free commercial intercourse of States. Therefore the State of Pennsylvania failed in getting a writ of assistance to carry the decree of the court into effect.

Mr. PENDLETON. I desire to ask the gentleman why it was that the Wheeling bridge was not, as originally made, a legal structure.

Mr. WOODBRIDGE. As originally made it was not a legal structure because it interfered with the navigation of the Ohio river.

Mr. YEAMAN. I yielded to the gentleman from Vermont, as I supposed, for a short explanation; but if there is to be a debate between these gentlemen, I hope it will be understood that it is not to come out of my time.

Mr. PENDLETON. I hope it will not come out of the time of the gentleman from Kentucky.

The SPEAKER. If there is no objection, the gentleman from Vermont will please proceed. The Chair hears no objection.

Mr. WOODBRIDGE. I would ask the gentleman from Ohio why the Supreme Court did not finally abate the Wheeling bridge if it was an interference with the navigation of the Ohio? The answer is obvious, that the right to regulate commerce between the States being vested solely in Congress, and they, in their judgment, deciding that the bridge was necessary for free commercial intercourse between the States, then, whether Congress passed the bill rightfully or improperly, inasmuch as it was in the exercise of a legitimate power, it was not for the court to say whether it was exercised wisely or unwisely. The court was bound to respect the authority of Congress.

Mr. PENDLETON. I desire to ask the gentleman from Vermont whether the Wheeling bridge was not held to be an illegal structure, because it contravened an act of Congress guaranteeing the free navigation of the Ohio river.

Mr. WOODBRIDGE. It was held to be an illegal structure because it interfered with the navigation of the Ohio, and Congress had prior to that time passed an act to protect the navigation of the Ohio river.

Mr. PENDLETON. Then, does not the gentleman see any distinction between that case and this? That was a case in which Congress suspended the operation of one of its own laws, thereby making a structure before illegal a legal structure. But this is an attempt by act of Congress to suspend the operation of a law of the State of New Jersey!

Mr. WOODBRIDGE. I can only say that by the law of New Jersey commercial intercourse between the States is impaired, and that the case before the House is a stronger one than the Wheeling bridge case. In that case Congress said

that although it had by previous act provided that the free navigation of the Ohio should be protected, yet as free commercial intercourse between the States was of so much more importance, the law it had formerly passed should yield to this paramount interest of inter-State commerce.

Sir, if this were a question affecting simply the rights of New Jersey, Congress would have no power to interfere. If this was simply a line commencing and ending within the limits of a State, and capable of doing merely a local business, Congress would have no right to interfere. If it were not necessary, in order to protect commercial intercourse between the States, that Congress should say that this is a lawful structure and a public highway of the United States, then Congress would have no right to interfere.

I am perfectly willing to admit all the gentleman contends for here. I only deny his application of the law to this case. I claim that this is not an interference with any right of the State of New Jersey. It is a simple exercise of the power of Congress in declaring that this line already in existence shall have the power to do the business which it is necessary that they shall do in order to establish free commercial intercourse between the States.

Now, sir, I do not know nor do I very much care what the State of New Jersey may think or what they may do on this question. I do not care what effect it may have on the political condition of New Jersey. I hope when I consider a question in Congress I go above all local prejudices and feelings; I hope I rise above party; I hope I act from principle, in accordance with the convictions of my own reason, and upon the facts for or against any measure which comes before this body.

Without reference to the State most nearly interested in this bill, which State, I am free to say, I do not admire, without reference to her political status, to which I am greatly opposed, without reference to her political action, with which I have no sympathy, without reference to the influence of this Camden and Amboy railroad one way or the other, but strictly upon high legal grounds, assuming that we have a right to declare the Raritan railroad a legal structure and a public highway, and believing, as I do, that it is necessary to make that declaration in order to secure free commercial intercourse between the great States of New York and Pennsylvania, I shall certainly support the original bill.

But, sir, the Committee on Military Affairs have signified their willingness to adopt the amendment of the gentleman from Iowa, [Mr. WILSON.] I confess that it is not in accordance with my judgment or wishes; but as the substitute is not obnoxious to the criticism which has been so freely made upon the original bill, of interfering with the internal business of the State of New Jersey, I am willing to give it my support. It merely provides that railroad lines may, independent of State legislation, do the business passing from one State to another. It recognizes the principle that the business from State to State is a portion of the commerce of the country; the freedom of which States demand for themselves and the country.

Now, sir, the amendment has for its object the giving of these roads the right that would be given them by the passage of the original bill. But for the reason that it is more general in its character than the original bill, that it is not liable to the objection of singling out a particular State, I will give it my support, although I have more doubt as to the power of Congress to pass the substitute than I have of its power to pass the original bill.

Mr. YEAMAN. Mr. Speaker, it would seem as if nothing can be discussed here without attempts being made to give it a political turn. I will aim only to place this question on its merits, and in doing that will not deem it necessary either to magnify or to underrate real State rights. I have ever in my place here defended whatever of State rights is found in the Constitution, and will ever assail all assumption of such rights that would destroy our nationality by means of nullification, secession, exclusive privileges, monopolies, and prohibitions.

What are we asked to do? The charter of the Camden and Amboy road says:

"It shall not be lawful at any time during the said railroad charter to construct any other railroad or railroads in



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this State, without the consent of the said companies, [the monopoly,] which shall be intended or used for the transportation of passengers or merchandise between the cities of New York and Philadelphia, or to compete in business with the railroad authorized by the act to which this supplement is relative."

It seems that New Jersey is deriving large revenues from this monopoly by the stock given her to procure this kind of legislation, which is now claimed to be a contract, and from taxes levied on the citizens and merchandise of other States passing through her borders over the road thus chartered with exclusive privileges. It is no contract between the State and the monopoly, because the thing aimed to be done is incompetent, as will hereafter appear, and because the assumed contract and the consideration are void. No principle is better settled than that no recovery can be had of a sum or thing agreed to be paid in consideration of efforts to influence legislation or of legislation being influenced in a given way. This is a very infelicitous occasion for the defense of State sovereignty by those who defend the monopoly, and might be made a very good occasion by those who go for this bill.

The gentleman from Ohio [Mr. PENDLETON] affirms, as a strong point in opposition to this bill, that the monopoly did pay a money consideration for these exclusive privileges. That was a singular and a melancholy fact to be stated by a friend of the monopoly. What! one Legislature, one generation, bind or trammel the next for a money consideration? May one institution be incorporated to teach a particular creed of religion, and then pay a money consideration for an act prohibiting any other institution to be incorporated teaching any other creed? May a company be incorporated to manufacture agricultural implements of a particular kind, and then pay a money consideration for a prohibition against the manufacture of any other kind of implements for the same purpose? It was an appalling avowal to be made, and that such conduct should be sanctioned and have claimed for it the benefits of a contract is to my mind an ominous fact.

This House has declared by resolution that the means of intercommunication between the two cities are grossly and notoriously inadequate. And we are now asked, not to repeal the charter, not to impair the obligation of contracts, not to interfere with the sovereignty of New Jersey over her own citizens and their own merchandise within her own borders; but only to declare that another system or route of transit by roads and boats is a lawful structure, and a public highway of the United States for postal and military purposes, and for commerce between the several States. If we have not this power, the subject must be dropped; if we have the power, then its exercise is in law no injury to others or impairment of contracts, for all contrary arrangements were made in the face of the power of Congress. To deny that we have this power is to deny that we are a nation. To deny the power is to make worthless the power of Congress to establish post roads, which does not mean merely to select, use, accept, but means to make, to erect. Congress, in the execution of this power, may hew through the wilderness, bridge rivers, and tunnel mountains, and may build a road just alongside the Camden and Amboy route, and ask New Jersey no questions about it. But this bill only proposes to exercise this power in its mildest sense by accepting, legalizing, selecting, using, if we want to, another route.

To deny our power in this case is to give to the laws of New Jersey an extra-territorial operation, for the act incorporating the monopoly does not purport to govern alone the citizens of New Jersey in their movements, but to control the movements of the citizens of other States. To deny our power is to render nugatory and worthless the power of Congress under the Constitution to "regulate commerce among the States." I will not stop to quote decisions. The clause has been given a proper, a practical, a generous meaning. The domestic internal commerce of New Jersey may go where it pleases. New Jer-

sey may direct it as she pleases. But we will say that as between New York and Pennsylvania, as between all States lying to the east and west or to the north and south of New Jersey, commerce may go where it pleases, and we have no real power to regulate it if we cannot say this. It is understood to be the policy of that State, and especially of the monopoly which is advising if not controlling its legislation, to take advantage of her singular geographical position, and levy a tribute upon the persons and property of the balance of the continent. To apply no epithets to such conduct, it is not an enviable attitude for a State to occupy, and if we do our duty it will not be permitted. Jeff. Davis has run State rights to death at the South: I hope it will not be done elsewhere.

Granting that the terms of this monopoly may be binding upon New Jersey, and upon the citizens of New Jersey, how is it possible it shall be binding upon other States, other peoples, and upon the national Government? How can this State regulate the commercial intercourse of the two greatest cities of the continent, neither of which is in her borders? Commerce in all ages has involved personal locomotion, the transportation of commodities, the products of the field, the shop, the mine, and the chase, and involves also the transmission of intelligence, orders, contracts, and the signs or representatives of value, as specie, currency, and bills of exchange. Modern commerce cannot exist without all these. In times past it has gone on the backs of camels and asses, and in slow sailing craft. Now, as between nations, steam outstrips the wind or propels against it. As "among the States" on this continent it is carried on by means of rivers, canals, mail and railroads, and no matter through what channel conducted, whether natural or artificial, Congress may regulate it. And how can Congress regulate it if New Jersey may say it shall only go a particular route, and then on terms prescribed by her or the monopoly of her creation? The two ideas are wholly inconsistent, and if there is any reality in the constitutional declaration that the laws of Congress, in pursuance of the Constitution, are the supreme law of the land, the power of the nation must obtain and the monopoly fail when Congress so wills. There are two questions I want answered. If a State may prescribe the route upon which, and upon which alone, commerce between other States may go over or through her own territory, and may also prescribe the terms upon which it may go, why can it not prohibit altogether such commerce? And if it may either prohibit it, or, granting the transit, may grant on terms and regulations, in what sense, mode, or conception can Congress execute the power to regulate commerce between the same States? Until these questions are answered the opponents of this bill, and the friends of the monopoly, have not done their duty. If they find them hard to answer, the difficulty is in sustaining the false position they have assumed.

The power to regulate commerce is the same whether that commerce be carried on through natural or artificial channels. Can a State control, regulate, or prohibit the use of a river running through its midst, levy a tribute on tonnage, and then direct that commerce shall go no other route? It may be answered that nature made and located the river and conferred natural rights, but capital and skill built and located the road, and the State granting the right of way and conferring corporate powers, did it on conditions. To this I reply that just so far as these conditions are inconsistent with the power of Congress to regulate commerce between the States, they are not binding, and the case is the common one where the grant is valid and the condition void. Look at Kentucky. The Cumberland and Tennessee rivers, draining Tennessee and northern Georgia and Alabama, pass through that State and debouch into the Ohio. Shall Kentucky lay terms on the coal, iron, salt, lumber, and grain that come down the Cumberland, and the sugar, molasses, and imports that go up it; and upon the wheat, corn,

and cotton that come down the Tennessee, because in so doing they cross the State of Kentucky? Can she thus be allowed to take advantage of her geographical position? Or when she granted the charter of the Louisville and Nashville railroad, could she have done so on the condition that all trade between Nashville, Huntsville, Florence, and Knoxville on the one side, and Cincinnati and Pittsburgh on the other, must travel over that road, and should not pass through Kentucky by any other route? As a Kentuckian, should she attempt such a thing, I would ask the General Government to send a fleet of gunboats to the Cumberland and Tennessee rivers to "regulate commerce," by removing any such obstructions placed in the way. I repeat that it can make no possible difference whether commerce is carried on in natural or artificial channels, as regards the power of Congress to regulate it, and the principal regulation that commerce needs is freedom and protection.

In this view and in this day of progress railroads are analogous to rivers. Commerce sustains them and is sustained by them. They become and are intended for great public highways, subject to local laws, but not local prohibitions as against the rest of the nation. We must treat an existing railway as an existing line of commercial intercourse. It is at once the creature, the instrument, and the necessity of commerce, and must not be made its obstruction. If it is, then Congress must remove the obstruction by way of regulating commerce and establishing post roads and providing for the general welfare and securing the equality of rights of the citizens of the several States guaranteed in the Constitution.

If an act of God should divide the State of New Jersey and run an arm of the sea from New York bay to the Delaware river, no one surely would question the right of Congress to regulate commerce between the States of New York and Pennsylvania carried on through that arm. Nor would New Jersey be allowed to interpose custom or transit duties on such commerce. She would have nominal title to the submerged land, and her citizens would own all the riparian rights; still the power of Congress to regulate commerce would authorize them to enact all laws necessary to preserve the rights of other States against the imposts of New Jersey.

We seek to exercise no control over the internal commerce of a State, but only to prevent a State from erecting herself, her geographical position, into a barrier to commerce between other States. We will give to her all the sovereignty possible under our dual system of Government, touching those matters over which she can exercise governmental powers at all; but she must concede that there is another sovereignty in the country, to wit, the people of the United States, and that their Congress can regulate commerce between the States, between New York and Pennsylvania, between New England and the valley of the Potomac. Gentlemen ought to remember that a good doctrine is often destroyed or made odious by running it into the ground, if polite ears will pardon me the expression. States may have sovereignty within their borders over their own internal concerns, but not over the commercial intercourse of the people of other States with each other, and which, perchance, can only be had by using the rivers, roads, or bays of intermediate States. It is just here that Congress has power, and its analogy is found in the jurisdiction of the United States courts over controversies between citizens of different States.

Would it not be competent for Congress in exercising the power to regulate commerce to enact that on all public highways and lines of travel and transportation across the territory of a State from border to border, the citizens of every State shall have equal rights in the transportation of goods and passengers passing from State to State, and no preference or exclusive privileges shall be given to one line, route, or mode over any others in any rules or regulations touching the conveyance of goods and passengers from State to State;

and that every citizen of the United States might elect what route or line he would himself travel or cause his merchandise to be transported on? Would not such a provision be plainly constitutional? I do not ask it is expedient, but is it constitutional? It is a regulation of commerce between the States, and nothing else. Apply the same general rule to a specific case, and you have the case in hand.

A power in Congress to regulate commerce and a power in a State to obstruct it or to drive it into a given channel are wholly incompatible. They cannot possibly both exist; and Congress cannot regulate without the right to remove obstructions or to abolish unwise regulations made by States. A grant by New Jersey of an exclusive right of transportation from New York to Pennsylvania across its territory; with a tax to New Jersey annexed, is an obstruction to commerce between the States, and calls for the interference of Congress by exercising the power to regulate commerce between the States. If Congress has no power to interfere in such a case, then it is palpable that any State may prohibit commerce across her territory between States. And in what a condition that would put this nation! The right to grant an exclusive transportation line implies the right to make a prohibition. If she may tax passengers a few cents she may tax them ten dollars. If she may make a given line exclusive she may grant it power or command it to charge enormous or even prohibitory rates, or she may take and own the railway herself and run it on that idea or refuse to run it at all. The position is full of absurdities. The clause of the Constitution must have been intended to cover just such a case. If it does not it is worthless. The resistance made by the Camden and Amboy monopoly proves that there is an obstruction to commerce, a tax upon it, a discrimination in their favor by which they are benefited. The very resistance they make proves the need of interference. They are entitled to all the money they can make as common carriers in fair competition with others. To the extent the public is injured for their benefit the injury ought to be removed and the benefit denied. Monopolies are odious; they are contrary to the spirit of our Government; they are contrary to the spirit of the age; they are ruinous to commerce, which is the wealth of nations; and they are an offense to that great DEMOCRATIC IDEA which is conquering the world in its ever-aggressive warfare on prerogative and its traditions, "The world is governed too much." Let the bill be passed.

Mr. BROWN, of Wisconsin. At an early period of this session I introduced a bill for the purpose of establishing a through route from New York to Washington. I did so under the belief that the necessities of the public required that such a through route should be established by Congress. In listening to the various arguments that have been made upon the bill now before the House I have not found in any one of them precisely the same view of the whole matter which I myself take.

Before discussing the legal points involved, I will simply premise that as I understand it the passage of the bill now before the House is utterly inconsistent with the idea of having a through route. In other words, that it would be necessary to have all the profit of the road from New York to Philadelphia to complete the road from Philadelphia to Washington; so that the present proposition is therefore in fact an abandonment of the idea of a through route.

That Congress has the power to create new post and military roads between any two points I have no doubt. That it can create a new post route between Washington and New York is in terms covered by the language of the Constitution, section eight. But a proposition like the one now before us, to change the local institutions of a State, is an entirely different matter. Where there is concurrent jurisdiction between the United States and State governments, wherever the United States has power to legislate upon the same subject in reference to which the State Legislature can enact laws, there each acts independently of the other. The Supreme Court of the United States, for the purpose of avoiding any possible conflict in matters of concurrent jurisdiction between the United States and State courts, have gone so far as to hold that when property

claimed by individuals is seized by State officers the United States courts cannot interfere with it; and wherever property is seized by a United States officer, there no State can institute a process interfering with it. This is necessary for the purpose of avoiding collision where there are questions of concurrent jurisdiction. Allow me to illustrate this principle by an example: if the State of New Jersey has passed a law for the purpose of punishing counterfeiting, over which it has concurrent jurisdiction with the United States, Congress cannot amend that law, Congress cannot pass an act changing its character; but Congress can pass an original act prescribing what shall be the penalty under its authority.

Questions of this nature depend upon the same principle. The Legislature of New Jersey had a right to incorporate a railroad company. It had a right to prescribe the terms upon which alone it would grant a charter. Such charter is an exercise of the sovereign power of the State. The railroad company became in part a political agent of the State, possessing and exercising a part of its sovereign power. Such companies have usually authority to seize the property of persons who refuse voluntarily to convey it. They are not political agents of a State to the same extent as a county or a city may be, but they are political agents of the State of the same character and nature. Therefore it follows that unless Congress can change the powers conveyed by the Legislature of the State of New Jersey upon a county or a city, it cannot change the charter of a railroad company. It may create a new company, but it cannot disturb or pervert the relation which a local institution bears to the State which creates it. A railroad company is an artificial being, the law of whose existence is its charter. Its power to contract, to hold or sell property, and for all other purposes, is absolutely dependent upon and measured by its charter. The Legislature of New Jersey create by act the Raritan company, prescribing its sphere of action, its duties and powers, and Congress cannot change that charter by enlarging or restraining the duties and powers of the company, because Congress cannot directly amend or change a State law.

Again, it has been decided by the United States Supreme Court that a charter constitutes a contract between the State and the company. It constitutes an agreement by which the State on the one side confers certain franchises, and the company as a consideration undertakes to perform certain duties which the Legislature imposes on it. Can Congress change that contract? By this contract the State undertook to give to the company the right of carrying passengers for local purposes. It required that the whole capital of the company should be invested in that particular business. That was a question of policy with New Jersey. The company accepted the charter on those terms. They became bound that no portion of the capital should be diverted from the object for which the charter was granted—that none should be diverted to general traffic or carrying through passengers. Has Congress the power to change that contract as between the State and its creature? Has it the power to say that we can release the company from a single condition of that charter or duty assumed toward the State which created it? That is an important question.

It arises not only in the case now before the House, but arises in another bill by which this House undertakes to sweep away State institutions and State rights; in a bill by which we donate \$35,000,000 per annum of the people's money to overgrown capitalists—I mean the bank bill, by which you endeavor to release the State banks from their contracts with the several States. You tell the banks of Wisconsin which have received privileges under the law of the State and contracted to pay a certain stipulated tax, that they may enjoy their privileges and escape the tax. You tell the banks of New York that by bad faith they may escape the liability they have assumed toward the State, and protect themselves against honest responsibilities under an act of Congress. But looking to this broad charter of constitutional law, I insist that this invention is as weak as it is wicked. Neither the Bank of Commerce or any other State bank can cease to be a State institution liable to State authority, except in the manner prescribed by State laws. If you will allow

me so far to pass out of the record, I would suggest that the greed of those banks and moneyed men, who have abused the confidence of the Secretary of the Treasury for the last three years, who have through their influence over him kept the price of greenbacks fluctuating, now sending the gold market up, and now, as their speculations require, forcing it down, is in their banking scheme overreaching themselves. Not content with purchasing bonds with greenbacks, worth about fifty-seven cents on the dollar as compared with gold, and receive what in greenbacks would be equivalent to over ten per cent. as interest, they wish Government to transfer to them the right to issue currency, and pay them by selling bonds to them; ten per cent. for the use of paper whose sole value is founded upon Government credit. They persuade our worthy Secretary of the Treasury, who requires a revenue of \$350,000,000 per annum, that he ought to make war upon the State currency, bankrupt the unfortunate people who hold it, limit the whole circulation of the country to \$350,000,000, give them the sole right of issuing it, and then Government will have all the money it wants without difficulty, and the people be able to pay the increased taxes. I would suggest to these worthy gentlemen who claim to monopolize the whole moneyed power and property of the country that in this war both against the people and common honesty, which they are inaugurating, they may come out the losers, and in the fierce passions engendered by such a struggle to get rid of a foul monopoly, they may endanger the principal as well as the mere winnings of a corrupt legislation. They are not playing a safe game.

But apologizing for this digression on the ground that on the passage of the bank bill all debate was cut off by the previous question, and one can hardly resist the temptation of saying something by the way of warning, when he has the power, I return to the legal proposition before us. That proposition is as to the right of Congress partially to abrogate a contract between a State and a company, leaving the company in possession of all the franchises and rights derived from the State, but relieving it of all its corresponding duties and obligations.

It is a most important principle, striking at the very existence of State constitutions, striking at the very existence of all contracts; ay, striking at the decisions which the courts of the United States have followed from the time of the Dartmouth College case down to the present time. There can be no such thing as a contract without two parties. There is consideration on the one side and an agreement on the other, and any course of legislation or decisions which bind the one side to its contract and deprive the other of the benefits which it was to receive from it, is a violation of one of the plainest principles of justice.

I say then, so far as any institution of New Jersey is concerned, receiving franchises, seizing property, turning citizens out of their homesteads, depriving them of their property by virtue of the right which they receive from State authority, and so far as we seek to enable such parties holding such rights to come in and get rid of the obligations which they assumed we are sanctioning a gross violation not only of contracts in the abstract, but of that common honesty which every man should seek to uphold.

Therefore it is that I insist that although you have not the right to amend a State law, although you have not a right to come in here and change a relation which a mere municipal institution of a State bears to the State that created it, although you have not a right to come in here and release two parties to a contract from the obligations which that contract imposes upon them respectively, Congress has the right as an original proposition to charter a road, to create a new post road from New York to Washington. It will be perceived that the relations between New Jersey and the Camden and Amboy road do not affect the argument which I advance. New Jersey in her legislation is bound by that charter. Congress cannot relieve her from its obligations. But while Congress cannot intervene between the parties to that charter, it can in the exercise of its original power create a new company, leaving New Jersey and her corporations to arrange their own contracts and rights.

The gentleman from Kentucky, who last spoke, sought to illustrate his argument by two instances, which I will here cite. Why, he asked, can Kentucky prescribe a condition upon which parties may use the waters flowing through Kentucky? I answer, yes; if Kentucky created these waters. If they were not created by the Almighty, and were merely by certain acts of Congress prescribed as common highways, I say yes, she would have the right, because they were her own creation. And Congress, when it seeks to deprive Kentucky of that right, must compensate her, because ownership and the right of prescribing terms follow one the other. Let me illustrate my meaning by a supposed case. New Jersey proposes to build a new State House, and makes a contract with mechanics. The plans and specifications are perfect ones for that purpose. But the United States want a powder magazine, and it is absolutely necessary that Government should have it. No one will doubt the power of the United States to build or establish such a magazine. Could Congress direct the contractors who are building the State House to change the plan and construct vaults for powder under the New Jersey halls of legislation? The answer is, that New Jersey may build its own State House and the United States their own magazine; the right of each is separate and distinct; the one cannot interfere with the other. In like manner New Jersey may construct her own roads for her own purposes, and to be employed as she shall prescribe, and Congress cannot change their nature or object. But whenever within the limits of the Constitution a road becomes necessary for the purposes of the General Government, Congress may authorize its construction. The gentleman who last spoke refers to the power of Congress to regulate commerce. Congress has the right to say that upon such and such terms goods may pass from New York to New Jersey, or shall not pass. But Congress has not the right to say that certain individuals shall carry at certain rates; it has not the right to lay its hand upon any man owning a horse and wagon, and say you shall carry goods at such and such a rate. It cannot, without compensation, seize certain wharves in New Jersey and devote them to purposes not sanctioned by the owners. It can prescribe terms of intercourse, but it cannot interfere with individual rights in so doing.

My design in speaking at all was to call the attention of the House to a distinction between the extreme views expressed upon the one side and the other of this proposition, and to insist that the bill which I originally introduced, and which was to provide for a grand highway between New York and Washington as an original act, is the only mode by which Congress can secure both objects.

Mr. JOHNSON, of Pennsylvania. It is known to gentlemen, Mr. Speaker, on this side of the House that I have not had an opportunity of hearing much that has been said either for or against the passage of this bill. If, therefore, I travel out of the usual line of debate, and shall fail to answer the principal arguments heretofore advanced in its favor, I am not without apology.

I take up the subject as I find it upon my file, and proceed to give the reasons which shall govern my vote against the bill.

The bill declares:

That the railroad of the Camden and Atlantic Rail Company, and the branches thereof built and to be built, and the railroad of the Raritan and Delaware Bay Rail Company, and the branches thereof built and to be built, are hereby declared to be lawful structures and public highways of the United States.

That the said railroad and branches, with a ferry or ferries from Camden, in the State of New Jersey, to Philadelphia, in the State of Pennsylvania, and steamboats and other vessels from Port Monmouth, in the State of New Jersey, to the city of New York, running in connection with said roads, are hereby established and recognized as a post route, military road, and public highway of the United States for the purpose of transmission of the mails, troops, and munitions of war of the United States, and for the transportation of goods, wares, and merchandise of foreign growth across the State of New Jersey, under permits granted by the collectors of ports of the United States authorized to grant the same, and for commerce among and between the several States of the United States.

And undertakes to grant:

That the Camden and Atlantic Railroad Company, and the Raritan and Delaware Bay Railroad Company, chartered by the State of New Jersey, or either of them, or their assigns, are hereby authorized and empowered to complete, maintain, and operate the said railroads and branches, and to establish, maintain, and run the said fer-

ries, steamboats, and other vessels as a line of transportation for goods, wares, and merchandise of all descriptions, and passengers between the cities of New York and Philadelphia, and between the intermediate places and said cities, respectively, and for commerce between and among the several States of the United States, anything in any law or laws of the above-named States to the contrary notwithstanding.

The first question that naturally arises is, why this proposed action of the Congress of the United States? Why this interference by the United States Government in a matter so clearly within the exclusive jurisdiction of the State of New Jersey? A State which is still admitted, I believe, to be a sovereign State of this Union, one of the old thirteen that made the Union, and therefore one of the original pillars upon which our fathers erected the grand superstructure of all our national greatness; and I know of no State in the Union that has so outgrown her original proportions as to have either absorbed any of the powers, immunities, or attributes of that State or crushed her in any way into a smaller compass than she is entitled as a sovereign State to occupy. She still has her Senators in the other branch of Congress, and I observe some gentlemen on this floor who are still recognized as coming from the State of New Jersey. In the history of my country I find that my native State still occupies the proud position of having been the battle-field of the Revolution, and during the present war, although she has less of the responsibility of bringing it on than perhaps any other, yet with fewer general officers in proportion to her population and the number of soldiers sent, the footsteps, the graves, and the crimson of her soldiers mark the progress of our armies in victory and in defeat wherever the national banner has been thrown to the breeze. And as a Pennsylvanian I have not forgotten with what alacrity—less than one year ago—her Governor and her sons responded to the call of my State, and sent us regiment after regiment to defend us against the ravages of the invader, and that while our Governor was waiting for permission to call out his own militia. She proved to our satisfaction then that she was not only a sovereign State, but that her Governor and her sons were loyal and patriotic citizens, ready at a moment's warning to discharge their whole duty to the Union and to the citizens of her sister States.

If I go to the office of the Provost Marshal General I find that she has responded to every call that has been made upon her for men and money; and I believe she is the only one of the old thirteen that has not suffered a draft, but has promptly filled every call for men with volunteers. If I recur to the rolls of her enactments, I find that early in the war she provided by law for most ample bounties to her soldiers, and at the same time provided by fixed appropriations for a liberal support of the families of her volunteers. Yet in the face of all these things I find the Congress of the United States gravely considering the propriety, not of seizing or authorizing the seizure of one of her thoroughfares for military and postal purposes, nor complaining that their use for such purposes has been refused, but after having used them from the commencement of the war up to this time, it is now proposed to declare certain detached railroad and steamboat routes public highways, and to grant to them certain powers, franchises, and privileges, to be exercised and enjoyed by them in spite of the constitution and laws of that State, as well as of the States of New York and Pennsylvania, upon which this route terminates. Is there anything in the charters of these companies that makes them private roads? Are they not already public highways? And can there be anything in the track of these steamboats in and under the brine of the Atlantic that requires congressional legislation to make them public highways—tracks and routes threatened by the privateers of the southern confederacy? By what authority does Congress propose to make these seizures and to grant these franchises?

Gentlemen say it is a military necessity; they want this route to transport troops, supplies, and the mails, so as the better to enable the Government to carry on the war. Have we any troops, supplies, or mails that we cannot transport over the Camden and Amboy or the New Jersey Central railroad? Do we expect to have such large quantities of these in the future that other roads will be needed to transport them in addition to those

already built? What war are we about to be engaged in that will require such immense quantities of troops and supplies? I had hoped from the promises of the party in power that the rebellion was about being crushed out and the war soon to close, or at least that the demand for troops and supplies in the future would not be half so great as it has been in the past. If it be so, then I ask why this uneasiness as to our ability to transport all that we shall need? We have already granted, so far as we could grant authority to the military to seize and run any railroads in the Union found necessary for military purposes, an authority which the Executive had as much right to exercise, and more, than we to grant. The executive branch of the Government has as much power growing out of public military necessity as Congress can possibly have, neither being able to go beyond an absolute and immediate necessity. But what troops is it proposed to transport over this route, and to what destination? Is it expected that the battle-fields of the rebellion are to be transferred from the South to the East? Or is Massachusetts about to "swarm" with soldiers marching to the field, according to the ancient promise of her Governor? Are Greeley's "nine hundred thousand strong" about to move? Or are we about to be involved in a war with some foreign Power that may land their forces on the shores of New England? If the latter, I would suggest that some route for the transportation of our troops be selected which is more inland than the one proposed. It seems to me that in such an event no prudent commander would risk the transportation of his armies upon steamboats so liable to be demolished by the iron-clads and gunboats of a maritime foe.

Some two years ago I had the honor to report from the Committee on Roads and Canals a proposition to give to the Reading and Columbia railroad, in Pennsylvania, some governmental aid to enable it to be the more speedily completed so as to form the connecting link of a most direct inland route from Baltimore to New York. Part of the road was then graded, and my plan was for the Government to advance to the company the cash for her first mortgage bonds issued by State authority, so fast as the road should be graded and the track laid.

This route led from Baltimore by the way of York, Columbia, Reading, and Easton in Pennsylvania, over the New Jersey Central railroad to New York. It was not proposed to either add to or take from any of these roads their chartered franchises. This was at a time when the peace of the United States and Great Britain had just been jeopardized by the Trent affair. This proposition was based upon the fact that between Baltimore and Philadelphia, at Bush Creek, Gunpowder, and Havre-de-Grace, a maritime foe might break our communication, and it was abandoned because it was found there was no encouragement unless the friends of the measure would consent to "log-roll" with the Illinois ship canal and several other military necessities of a similar character. That road is now in running order, and will be formally opened in a few days, and then, as the report in that case shows, we will have a perfect and direct inland route from this city to New York, so far removed from the seaboard as to be out of all danger from an invading foe. The military necessity, then, was to avoid the coast and the inlets, bays, and arms along it. Now, however, the military necessity has changed, and these are represented as the safer routes. These conclusions are fairly drawn from the bill and the arguments in favor of its passage.

But, sir, it seems to me that so far from there being any military necessity for the passage of this bill and the establishment of this route, there is not even a military pretext in its favor, and that the route, if established, will be found so inconvenient and dangerous as to prevent its being ever used for such purposes.

I can hardly believe, therefore, that this project has the sanction of any military authority, excepting it to be the camp-followers, contractors, and stock-jobbers, who hang round the capital seeking new sources of plunder and speculation. I regret, sir, to observe the partisan spirit that in some respects has characterized the debate upon this question by the advocates of the bill. If we were permitted to judge by the manner and temper with which the Camden and Amboy railroad



and the State of New Jersey have been assailed, we might infer that the establishing of this route was expected to run the stock of that road out of the market and to knock the bottom out of the State of New Jersey entirely.

The gentleman from Maryland, [Mr. DAVIS,] while speaking against the right of the States the other day to tax the dividend and property of the national banks for State and municipal purposes, took occasion to assail the State of New Jersey by referring to that State as one that would be likely to attempt to tax these favored and privileged institutions out of existence. He spoke in the most contemptuous manner of State sovereignty, and threatened the people of the free North, if they objected to this new congressional currency, with the devastations of Virginia. It was a fit thing, sir, that this tirade against State rights and State sovereignty should come from one who is so largely indebted to the overthrow of State sovereignty for all the public positions he has ever held, whose State has become a mere dependency upon the General Government and whose people have become the subjects of a sort of viceroy.

If I read the history of Baltimore aright, the gentleman did not come to Congress until the laws of his State had been set at defiance by the Plug Uglies, Black Snakes, and Blood Tubs of his district, nor again until the popular will had been overawed by Federal bayonets. Had New Jersey ever allowed to be enacted within her border the scenes that have disgraced the soil of Maryland, she might very properly be held to the opprobrium and contempt of all honorable men. New Jersey is one of the most law-abiding States in the Union to-day, and always has been true to herself, to her people, and to the General Government. She allows no conscript to fight the battle of the General Government for her, nor does she allow one class of her citizens to either sell or steal from another to exempt her from her military obligations. There was a State of Maryland once, and her people were free, and she was represented by statesmen in Congress. Were those statesmen here now she might regain her former proud position. If she had her virtue yet her honor might be restored. Then she made grants and ceded a portion of her territory to the General Government by well-defined limits. Now the General Government overrides her State boundaries, crushes out her State government, and absorbs the whole State under the domination of the District of Columbia. This is the kind of spirit that demands the passage of this bill, and yet the measure finds favor with honorable gentlemen representing sovereign States on this floor.

Some gentlemen exclaim against the payment of the ten cents through passenger tax imposed by the State of New Jersey upon this company, and hurl their anathemas upon the company for paying it. We pay a similar tax on the Philadelphia and Baltimore road, yet the gentlemen propose to connect their new route with this road and make no complaint. If it be answered that the free ticket of the member obviates the difficulty in this case, I reply that the member's constituent is not thus favored. To have to pay ten cents because of this doctrine of State rights, exclaimed the amiable gentleman from Michigan [Mr. KELLOGG] the other day, is an outrage. Ten cents! exclaims another; a gross outrage! Why, Mr. Speaker, I had no idea there were so many ten-cent "Jimmys" on the intensely loyal side of the House. And I would be much gratified if some gentleman would inform me what sort of a military necessity it is that proposes to relieve a member of Congress from the payment of ten cents.

Now, Mr. Speaker, I have hastily reviewed this question in its national bearings, and finding nothing that would warrant me in doing so much violence to my conscience as to vote for this bill, let me for a few moments call attention to it as a practical work of internal improvement. Let us view this question stripped of all the embarrassments we are under because of the want of constitutional authority in the General Government to legislate upon matters so exclusively within the jurisdiction of the States as the granting of charters of incorporation and corporate franchises to railroad companies is.

The trade of the United States, especially since

the breaking out of the rebellion, is between the East and the West and through the middle States in those directions; and if this war is continued much longer under the present plan of prosecuting it and for its present purposes, this generation will never behold any other channels of trade in the United States. There are three great thoroughfares which carry this trade and travel. The one is the northern thoroughfare, and is composed of the New York and Erie canal, the New York and Erie and the New York Central railroads, and their connections east and west. Another of these is the southern thoroughfare, leading over the Baltimore and Ohio railroad, and the Pennsylvania railroad to Philadelphia, and thence by the Camden and Amboy and the New Jersey railroad to New York; while a third is that which is now being rapidly developed and carries part of the trade and travel of the Pennsylvania railroad and the Philadelphia and Erie railroad over the Lebanon Valley, the East Pennsylvania, the Lehigh Valley, and New Jersey Central railroad to New York. The completion of the Morris and Essex railroad from Hackettstown, New Jersey, to Easton, Pennsylvania, now under contract, will relieve the New Jersey Central railroad of some of the burdens imposed upon it, in addition to those of the Delaware, Lackawanna, and Western railroad. These two roads in New Jersey will soon carry the bituminous coal of the West and the anthracite coal of the Schuylkill, the Lehigh, and the Luzerne coal-fields to New York and the East. Add to these the connection now being completed from Baltimore to Reading, and there is made up one of the grandest thoroughfares of trade and travel in the world.

As a Representative of the Lehigh valley I can perceive that it might be the interest of some of my constituents to support this measure, for the reason that while the route it proposes to establish can amount to very little, with its dangers, ferries, and reshipments, yet its establishment will be, as I believe it is intended to be, a blow at the Camden and Amboy railroad, which will result in damaging the southern thoroughfare, and incidentally benefiting the middle or central route, in which some of my people are interested.

Philadelphians will oppose this measure because of its tendency to destroy their most reliable through route. No bridge can ever be erected for railroad cars to cross at that city, without a draw, and no draw could be used for the cars because the vessels would keep it constantly open. The route would then have two ferries between Philadelphia and New York, if that up the New York bay can be called a ferry. By the Camden and Amboy railroad there is a bridge at Trenton, and Philadelphians know that it would be better for them, instead of contributing to the annoyance of this company, to encourage them to lay additional tracks, so that the volume of trade and travel between their city and New York may be swelled to its utmost extent. The interests of Philadelphia in this respect are the interests of Baltimore, and so of all cities and persons interested in the Pennsylvania railroad, which, by the Philadelphia route, carries New York trade and travel one hundred and six miles further than if that trade and travel left that road at Harrisburg and took the direct central route to that city; and the Philadelphia and Erie, being owned in part by the Pennsylvania Central, is identified with the interests of that road.

In this respect I find myself and my colleagues from the Lehigh and Berks districts differently situated from gentlemen representing the East and the West, whose interests lie in keeping all these great thoroughfares open and in competition with each other. If by this measure Philadelphia could secure such an enlargement of their facilities for trade and travel with New York as to draw off the trade and travel from the valleys of the central route, they would then be expected to favor it, and we to oppose. But it promises no such thing; whether so intended or not it will and must result only in embarrassment and annoyance to the only reliable route between those two great cities, and to the extent that the measure succeeds will Philadelphia be the loser in the end; and whatever that city loses the State will also lose. Hence my people are always interested in the success of our large cities, for their growth and wealth and power add to the wealth of the

State, and lighten the burdens upon the rural districts.

I shall therefore vote against this bill, not so much because of any interest that may be involved in it as because of the want of authority in the Constitution to entertain it, and the dangerous precedent its passage will establish.

Mr. PRUYN. The gentleman from Pennsylvania has yielded me the remainder of his hour.

Mr. STILES. If the gentleman from New York will yield, I will move that the House adjourn.

Mr. SCHENCK. I think we might as well finish this bill this evening. We have had an unusually full discussion, and I think it is time it was brought to a close.

Mr. STILES. Does the gentleman desire to take a vote this evening?

Mr. SCHENCK. I do.

Mr. PRUYN. I would suggest to the gentleman from Ohio that several members are anxious to leave the House to look after sick and wounded soldiers, and it is questionable whether we shall have a quorum here much longer. A gentleman upon the other side of the House has just asked me to pair off with him for that purpose. I do not think we shall have a quorum to vote upon this bill to-night.

Mr. SCHENCK. Probably the absentees will be about the same on either side. I do not propose to occupy but about ten minutes' time.

Mr. PRUYN. How much time have I remaining of the gentleman's hour?

The SPEAKER. About thirty-four minutes.

Mr. STILES. I insist upon my motion to adjourn.

#### NEW NAVY-YARD.

Mr. BRANDEGEE. I ask the gentleman from Pennsylvania to withhold his motion for the purpose of enabling me to make a report from the Committee on Naval Affairs, merely for the purpose of having it printed.

Mr. STILES. I yield for that purpose.

Mr. BRANDEGEE. I ask the consent of the House to make a report from the Committee on Naval Affairs, in response to a resolution of the House instructing them to inquire into and report upon the expediency of the establishment of a new navy-yard for the construction, docking, and repair of iron-clad and other vessels, and the proper site for its location. All I ask is that it be printed.

Mr. MOORHEAD. I do not object to the reception of the report, but I do not see my colleague [Mr. KELLEY] in his seat, and I know he is preparing a minority report, and I wish the two reports to go together.

Mr. BRANDEGEE. I include that in my motion to print.

The report of the committee, together with the views of the minority, was then ordered to be printed.

Mr. STILES. I now renew my motion to adjourn, and demand tellers upon it.

Tellers were ordered; and Messrs. STILES and NORTON were appointed.

The House divided; and the tellers reported—ayes 51, noes 63.

So the House refused to adjourn.

#### RAILROADS TO NEW YORK.

Mr. SCHENCK. I suppose that the gentleman from New York [Mr. PRUYN] having yielded for the motion to adjourn has lost his right to the floor, or at least that the time occupied by these proceedings in relation to the adjournment will be deducted from his hour.

The SPEAKER. It will not. The Chair will have a passage from the Manual read.

The Clerk read, as follows:

"A motion for adjournment cannot be made while a member is speaking, but, according to the practice, a member speaking may yield for a motion to adjourn, or that the committee rise, without losing his right to the floor when the subject is resumed."

Mr. PRUYN. Mr. Speaker, this discussion has already covered so much ground and some portions of the subject have been so entirely exhausted that I intend to pass by points upon which I should otherwise have spoken, and to confine myself to some views of the question which I think the House ought to consider.

Mr. MORRIS, of New York. With the permission of my colleague, I desire to make a suggestion. It is apparent, I think, that no vote can

be taken upon this question to-night, and I hope it will be understood that it shall be discussed this afternoon but not voted on, to the end that members who wish to leave and visit the hospitals may do so. I am one of those who desire to leave for that purpose.

Mr. SCHENCK. I think there is an opportunity now of bringing to a close a long-continued debate upon a subject that ought to be got out of the way to make room for other business. I therefore prefer to go on.

Mr. PRUYN. The gentleman from Ohio [Mr. GARFIELD] endeavored this morning to draw a distinction between the use of an existing road and the authority to build a new road. It strikes me that there can be nothing solid in such a distinction. It is intended by the original bill and also by the substitute offered to-day to give this company powers which it does not now possess. They came here for some object or purpose. If we can give them one power we can give them several. If we can give one we can give all which may be necessary for the successful prosecution of their business. If we can authorize an enlargement of their business, we of necessity give them the power to procure the additional facilities and to acquire the property, both real and personal, which they may need for that purpose. If we can do all this, it is quite clear that we could authorize the original construction of the road. The distinction made by the gentleman from Ohio is not therefore, in my judgment, a sound one.

I do not propose to discuss the rights of the Camden and Amboy Railroad Company, except as they come up incidentally. I do not intend to defend or to attack the legislation of New Jersey in reference to that company or in reference to the Raritan road, which is now under consideration. My principal object, within the short time allowed me, is to call the attention of the House to the question whether it is expedient, even if we have the power, to grant what is now asked for. Is it desirable to aid any company in carrying out what I believe to be, from the papers before me, to which I shall presently refer, an act of bad faith on their part in coming to this Congress to ask for these additional privileges? I beg to call the attention of the House to two or three extracts, which bear on this view of the case, from the opinion of the chancellor of New Jersey, whose high character and integrity are conceded on all sides of the House. The Camden and Amboy Railroad Company filed a bill in the court of chancery of New Jersey, the principal object of which was to restrain the Raritan Bay Railroad Company from the use of their road for certain purposes of traffic. The chancellor of New Jersey, in advertising to the position taken by the defendants in that case in their answer, says:

"They deny that any agreement has been made or is intended to be made for the transportation of freight or passengers between the cities of New York and Philadelphia. They admit that they and the Camden and Atlantic Railroad Company have in view the construction and perpetuating, by means of their respective railroads and a convenient connection between them, of a continuous and convenient line of railway communication across New Jersey, from the city of Camden to Port Monmouth, but they deny that they or any of them have in view the continuation of said line, at either end thereof, by steamboat transportation to the cities of New York and Philadelphia, for the purpose of using the same for the transportation of passengers or merchandise in a manner which will violate any contract between the State and the complainants, or any provisions of the acts of the Legislature referred to in the complainants' bill. They also deny that any contract or arrangement made by them is calculated or intended to form a continuous line of railway communication between the said cities, to compete in business with the business of the complainants, contrary to their vested rights. They admit that it is possible, if not prohibited by law, that a line of communication by railroad and steamboat between the cities of New York and Philadelphia might be opened, but they say that their railroad is not a public highway and cannot so be used without their concurrence and consent, and as they have made no arrangement whatsoever so to use the same, and do not intend any unlawful use of their road, such use, if unlawful, cannot be made, and if attempted, can be restrained by the courts. They also deny that they intend in any way to violate the chartered rights of the complainants, or that they intend during their existence to violate any of the alleged exclusive privileges of the complainants. And the defendants, all and each of them, declare that it is not and never has been their intention by the construction of their railroad, or its connections with the Camden and Atlantic railroad, or otherwise, to interfere with the complainants' chartered rights by competing with the railroad of the complainants by the transportation of passengers or merchandise between the cities of New York and Philadelphia or otherwise."

It is thus shown, Mr. Speaker, that the gentlemen representing these two railroad companies,

together forming the Raritan bay line, came into the court of chancery of New Jersey and declared, under oath, that they did not intend, during their existence, to violate any of the alleged exclusive privileges of the Camden and Amboy Railroad Company. Under such circumstances, with such a record, these gentlemen appear here and ask Congress to empower them to do that which they have already solemnly declared they did not intend to do. I claim that it does not become us to aid any corporation which presents itself before us under such circumstances.

It will be borne in mind—as the gentleman from Wisconsin has already stated to the House—that this proposed line is not part of a shorter line between Washington and New York, which it is proposed to construct, and toward which many gentlemen of this House have expressed favorable views. In fact, it is a much longer line of communication between Philadelphia and New York than the existing line. The difference in point of time, I believe, would probably be one to two hours as compared with the line by way of New Brunswick.

This bill is not asked for, therefore, for the purpose of facilitating the passage of the mails, but simply on the ground that it may aid the operations of the Government in the transportation of troops and munitions of war. It is quite enough for us to know that, so far as the present lines of railway are concerned, it is shown by affidavits here—copies of which have been submitted very generally to the members of the House—that those lines of railway, under the most extraordinary emergency that the country has ever known or perhaps ever will know, were amply able and were prepared to do everything that the Government required them to do in transporting troops and munitions of war across New Jersey.

The Postmaster General in answer to a resolution of the Senate of 22d December last, requiring information in regard to the failures of the mail between Washington and New York city, communicated a letter to that body in which he discussed the question whether the transportation of the mails between Washington and New York could be facilitated by a new line of railroad. He came to the conclusion that a new line of road was not needed by the Government. Now, if not needed for facilitating the transportation of the mails, certainly it cannot be alleged that there is anything due on that score to the application now before us. The views presented by the Postmaster General on postal communication by what is called an air line between the two cities bear generally upon the policy of granting the application before us. I will read an extract from the letter referred to. The Postmaster General says:

"It is not considered that any legislation is necessary to secure more satisfactory mail service on this line [between Washington and New York] or that any such action could effect the object, unless it should be such as would give the Department power to control to some extent the action of the railroad companies carrying the mail, in the matter of changes of the time of running the mail trains."

Now, sir, let me ask the House—and I desire to address myself to the candid consideration of gentlemen on both sides of the Chamber who are the Representatives from the different States upon this floor—whether it is desirable, whether it is judicious on the part of the Government, even if we have the power, to trample down the rights of New Jersey by stopping in and interfering with her legislation, granting powers which she has refused to a corporation of her own creation? She chartered the corporation which now comes before you with this application. She gave it certain powers and privileges, and refused to give it that which is now asked for it at your hands. Shall we, in view of the action of that State and the solemn protest against this measure which has been sent to us by her Legislature, force it upon her, even if we have the power to do it? Are we justified in totally disregarding this declaration of New Jersey? Is it wise for us to do that which she believes, and which her citizens almost without exception believe, to be a violation of their constitutional privileges?

The Legislature of New Jersey, acting on the message of the Governor on the 23d of March last, passed certain concurrent resolutions by which, after calling attention to the pendency of this measure, and to the fact that the chancellor of that State had decided that the assumption by the two railroads forming the Raritan bay line

of the powers which this bill proposes to confer upon them would be a direct violation of the laws of that State, protested against the passage of the bill before us. The last resolution is the only one to which I will refer. It is as follows:

"4. Because such special legislation, aimed only at New Jersey, would be a wanton insult to the dignity of the State, in derogation of her reserved rights, and in violation of the contracts she has made, and which have been pronounced by the courts to be constitutional and binding."

I believe these resolutions were passed almost without a dissenting voice, and demand from us that respectful consideration which is due to one of the most gallant and loyal States of the Union. Now, sir, let us see how carefully the Constitution has watched over the rights of the States in respect to the appropriation of any part of their soil for public purposes. In the very section of the Constitution (section eight of the first article) which contains the clause now quoted in favor of the passage of the pending bill—I mean: the commerce clause, as it is usually called—we find the following among the enumerated powers granted to Congress:

"To exercise exclusive legislation in all cases whatsoever over such district—not exceeding ten miles square—as may by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings."

It may be said that this has reference to exclusive legislation, but it nevertheless illustrates the principle. It has, I believe, been the almost uniform course with the States, when granting exclusive jurisdiction to the United States over lands acquired for any of the purposes referred to in the Constitution, to reserve the right to serve process issuing out of the State courts within the bounds of the grant. Now the nature of the use made by railroad companies of real estate is necessarily almost exclusive, very nearly as much so as that of the Government in the cases referred to. While, therefore, in respect to land required for the building of forts, magazines, arsenals, and dockyards, all public and national purposes, it is expressly provided that the Government shall only acquire jurisdiction with the consent of the State in which such real estate is situated, can it be claimed that Congress has the larger power to authorize the appropriation of real estate within a State for the use of a railroad corporation without the consent of the State, and indeed as in this case against its protest? Now, I believe it has never been known in the history of this Government, I think there is no case on record in which Congress has purchased real estate for national purposes unless the State in which the property was situated had first given its assent and ceded the jurisdiction which it possessed.

Now, sir, is the settled policy of the Government in this respect to be overturned? Are we now to abandon the course which has been pursued for seventy-five years and enter upon a new one, not for public purposes, or but remotely so, and that against the unqualified protest of the State interested? When the national road across the Alleghany mountains was authorized by Congress—a work of great public importance at the time—the statute expressly required that no part of the road should be constructed in any State without the consent of such State. Does not every reason which led to that enactment apply with increased force in this case? For the reasons thus briefly stated I claim, Mr. Speaker, that if we have the right to pass a law of the kind now asked for it is inexpedient to do so.

What must be the result if we adopt this measure? The new line requiring more time than the old for the transit of passengers, will probably offer to carry them at a reduced rate. That compels the existing road to do one of two things: either to reduce its through fare, or to purchase the stock of this corporation and thus obtain the control of its affairs. That the last will be the practical result is almost certain. And these gentlemen who come here asking an authority which was refused by the Legislature of New Jersey, will thus, in virtue of our action, be enabled to work out their purposes.

If we are to believe the depositions placed before the House of gentlemen who stand as high for personal veracity as any in the country, we are satisfactorily informed that the existing line can do all the through business. Looking, then,

at the result which I have indicated and which it seems to me is sure to happen, no public benefit can arise from the passage of this bill.

I have now done with the question of expediency. As my time is nearly out I can only say a few words on the constitutional question as to the power of Congress in regard to internal improvements which has so long divided the people of this country. Judge Story, in his treatise on the Constitution, points out the position of both parties in regard to it and gives a summary of their respective views. I will read one extract from section twelve hundred and seventy-two only:

"The resistance to this extended reach of the national powers turns also upon the same general reasoning by which a strict construction of the Constitution has been constantly maintained. It is said that such a power is not among those enumerated in the Constitution, nor is it implied as a means of executing any of them. The power to regulate commerce cannot include a power to construct roads and canals and improve the navigation of water-courses in order to facilitate, promote, and secure such commerce without a latitude of construction, departing from the ordinary import of the terms, and incompatible with the nature of the Constitution."

How careful Congress was in the outset in exercising any power over the subject of internal improvements, I have already stated in referring to the national, or, as it was often called, the Cumberland road. The consent of the States through which the road was to pass was made absolutely requisite before it could be constructed within their respective limits.

President Monroe, in stating his views on this subject in 1822, denies the right of Congress to construct works of internal improvement, but asserts the right to appropriate money in aid of such objects. That is, if a State has determined that a public work is necessary; if it enters upon that work, if Congress think it one of national importance and interest, and for the benefit not only of the State immediately interested but the surrounding States, in that case Congress may appropriate money to aid the work.

President Monroe was, I believe, understood to incline to a broad construction of the commerce clause of the Constitution—and his views on the subject should command high respect from those who hold to that construction—but it will be seen that he insisted that the State should first act, that it should first determine upon the expediency of the proposed improvement, and that Congress might then give its aid, but without giving to it the management of the work.

Let us go no further than this. Permit New Jersey to pass upon this question, and let us abide by her judgment.

I should like to say more on this subject, but as my time is about to expire I yield the floor.

Mr. SCHENCK. It seems to me that this subject has occupied sufficiently the attention of the House. The debate has been protracted, and a full opportunity has been given for hearing the arguments and statements of gentlemen upon both sides of the question. Under other circumstances I might ask to be heard somewhat at length, as a representative of the Committee on Military Affairs, by which the bill was reported; but I shall content myself with a brief statement in their behalf of what I understand to be the points in question; refer to one or two extracts from documentary evidence in order to correct a misapprehension of facts, and then leave the matter without further discussion.

Mr. BROWN, of Wisconsin. Does the gentleman desire to press this matter to a vote to-night?

Mr. SCHENCK. I do.

Gentlemen upon the other side of the House and upon this side who have opposed the passage of this bill have been disposed to look at it entirely from a New Jersey point of view. That was not the light in which the question was regarded by the Military Committee, nor is it the view I shall take in recording the vote I propose to give.

I shall be willing to vote for the amendment of the gentleman from Iowa, [Mr. WILSON,] because that commends itself to many gentlemen here on account of the general character of the legislation it proposes. But if that substitute should fail I will go with equal cheerfulness for the original bill, with a view to the correction of the particular evil at which that is aimed.

I look at this matter as the committee looked

at it, from an outside point of view. I look at it as a citizen of Ohio or of any other State than New Jersey, and for that reason I will be drawn into no argument here in relation to the rights of natural or artificial persons as they exist under and by virtue of the laws of New Jersey. I care nothing about what questions may have been raised in the Legislature of New Jersey. I care not what may have been the different opinions of the courts of New Jersey. It is not for me, if the people of New Jersey are willing to submit to the dictation and rule of a selfish corporation, to interfere for the protection of that people. They must take care of themselves. They must be left to their own Legislature and their own courts.

We come to the consideration of this question simply as it affects the people of the other States, and we object to New Jersey or any other State passing any law or giving rights under the legislation of that State to any individual or corporation which shall interfere with the free and unrestricted exercise of those rights which we claim under the general and common Constitution of the land. And it is because New Jersey has undertaken to say that there shall be no trade across her limits from Philadelphia to New York or from New York to Philadelphia, except upon certain conditions which she prescribes, one of which is to give the monopoly of the trade and travel to a particular company, that we object to all that as an interference with rightful intercommunication between the States.

I do not, therefore, look at this in any degree as a question affecting only a single State. It is in the view of the matter which we have taken as citizens of the United States that we have been induced to think that some corrective legislation is necessary. Anybody who claims the rights of a citizen of the United States, among which is the privilege of going through the country across any particular State, must be deeply interested in the question whether the transit through that State for all purposes shall be free and unrestrained.

That there is a monopoly and obstruction to free trade through New Jersey I suppose is hardly to be disputed. Without arguing that, I will simply call the attention of the House to the formal admission of it made by the Legislature of that State to prove that this must be accepted as a fact. Mark the language of the preamble of the act by which the monopoly was extended in 1854:

"Whereas by reason of existing contracts between the State of New Jersey and the Delaware and Raritan Canal Company and the Camden and Amboy Railroad and Transportation Company, as set forth in their acts of incorporation and the other acts in relation to said companies, they are possessed of certain exclusive privileges which prevent the construction, except by their consent, of any railroad or railroads in this State, which shall be intended or used for the transportation of passengers or merchandise between the cities of New York and Philadelphia, or to compete in business with the railroads of said companies; and whereas the extinguishment of these privileges is a matter of great public importance."

Even by solemn statute, therefore, these charter privileges are declared to be a monopoly, and it is because it is such that we propose to interfere for the benefit of all the States. It is what should have been done long ago.

One of the effects of that monopoly has been to impose burdens, not upon the people of New Jersey, but upon the people of other States, and therefore we want this obstruction out of the way. This has been denied. Gentlemen have contended here that there is no obstruction, that there is no imposition practiced upon the people of other States, or at least that there is no difference made between the rights conceded to them in their transit through New Jersey, or in their transportation of freight through that State, and those conceded to the people of New Jersey. But unfortunately for that statement, here is more documentary evidence. In 1841 John S. Darcy, president of the New Jersey Railroad and Transportation Company, made a statement which accompanied the message of the then Governor, William Pennington, to the Legislature, as a part of the history of the relation of this railroad monopoly to the people and State of New Jersey. In that explanation he says to the Governor, and through him to the Legislature:

"With a view, then, to ascertain the intentions of that body, permit us to state that it seems plain from the acts incorporating these companies, and the testimony of those best conversant with the history of their incorporations, that it was the policy of the State, taking advantage of the

geographical position of New Jersey, between the two largest States and cities of the Union, to create a revenue by imposing tax or transit duty upon every person who should pass on the railroad across the State, between these cities, from the Delaware river to the Raritan bay; but that it was not their design to impose any tax upon citizens of their own State for traveling between intermediate places."

That is to say, "we want New Jersey to understand that although we have a monopoly it is not a monopoly of which New Jersey ought to complain, for our object is to raise revenue for the State by imposing this tax on the citizens and business coming from the other States."

This document, it is true, was not intended to be used in Congress or outside of New Jersey. It was supposed that it would serve its purpose by communicating the views and intentions of these monopolists to the Legislature of their own State in order that they might secure additional privileges and advantages. But it was not supposed that any one outside of the borders of New Jersey would see the document, or seeing it would take exception to it.

I read further from the same communication:

"It should be remembered, too, that it never has been the policy of New Jersey legislation to exact a transit duty from her own citizens, or from persons visiting her towns and villages. Such an imposition would operate not only as a restraint on commerce and social intercourse within our territory, but would expose our own people to greater burdens, by compelling an increase of charge corresponding to the amount paid to the State, and thus unequally tax the traveling portion of our citizens."

"The company believe that a careful consideration of the whole matter, as well from the provisions of the charter as from a recurrence to the period when it was granted, will produce the conviction that the transit duty was intended to be levied only on citizens of other States passing through New Jersey."

That means, "we want money to reimburse ourselves, but not from the citizens of New Jersey. We want you to understand, Mr. Governor and gentlemen of the Legislature, that it is only intended to tax the 'outside barbarians.'"

Well, now, New Jersey must not complain if these "outside barbarians," claiming to have some interest in this common Government of ours, should object, even now, at this late hour, to that monopoly, or any such monopoly in any State, being continued for the purpose of building up interests there, at the expense of everybody else.

Sir, I do not wonder that there should be a howl from New Jersey, or that gentlemen who speak upon this subject from the New Jersey standpoint should say, as the gentleman who has just closed has said, that we are proposing to trample upon the rights of that State. But has it occurred to those gentlemen that while we are not trampling upon the rights of the citizens of that State, if we do not take the ground that they shall not build up these exclusive and privileged monopolies for the benefit of their own State, we shall recognize their right to trample upon the constitutional privileges of all the citizens of all the other States?

My colleague [Mr. PENDLETON] in arguing the question this morning suggested a doubt whether the charter held by the monopoly had ever been construed by the courts of New Jersey as going to the extent of preventing other roads from doing any through business between Philadelphia and New York, or whether the courts of that State had gone so far as to require any other company which did do such through business to pay over the proceeds to the monopolists.

Now, I read from the statement of the case made by Mr. Joseph P. Bradley, the very respectable attorney of the Camden and Amboy Railroad Company, a printed statement and argument in the case which was submitted to the Committee on Military Affairs when the subject was under their consideration. In that paper, purporting to give a history of the whole matter, there occur several passages which I would gladly read if I had time; but I will confine myself to a single extract.

Mr. Bradley says:

"The complainants finding that the defendants or some company with their consent and procurement were carrying freight and passengers over their road, and that such freight and passengers were taken through from New York to Philadelphia, filed a supplemental bill charging these facts and demanding the interposition of the court."

"The defendants filed answers, in which they admit that through freight and passengers were carried across their road, but put themselves on the ground that it was done by others, by the Philadelphia and Eastern Transportation Company, the Union Transportation Company, the Importers and Traders' Dispatch Company, &c., and that said companies made their own arrangements with



the steam and ferry-boats at each end of the line. But it appeared that the defendants knew of the business which these companies expected to do, made arrangements with them in reference to it, and that the directors of the Raritan and Delaware Company owned the steamboats at the New York end, &c. They also admit that they had carried through passengers, including some seventeen or eighteen thousand troops; also that they had carried other Government freight, for which they alleged, but never proved, an order of the Secretary of War. They put themselves on the ground that they only carried freight or passengers part of the way; and it was none of their business where they came from or where going to.

"Proofs were taken and the cause was argued on final hearing in November and December last. The chancellor gave his decision on the 3d of February instant. He sustained the claim of the plaintiffs as to the through business, declared that the defendants were infringing that right, ordered an injunction to prevent their doing it in future, and decreed that they should account to the plaintiffs for the business they had done."

I only quote that in order to show what has been the unrelenting character of this monopoly, and what has been understood by the courts and Legislature as the exclusive privileges granted.

Mr. PENDLETON. I suppose the gentleman referred to the statement which I made this morning.

Mr. SCHENCK. Yes, sir. I understood you to take that ground.

Mr. PENDLETON. I desire to say that I read from the opinion of the chancellor of 3d February, 1864, in which he orders a master to take an account of all the through passengers and freight carried on these roads. The chancellor says:

"It will be referred to a master to take an account of all the through passengers and freight which have been carried over the road since the opening of the route; and also all damages which the complainants have sustained thereby. In taking the account the master will include all the soldiers, horses, baggage, and munitions of war that have been transported, distinguishing this part of the account from ordinary business."

"No proof has been offered in support of the allegation of the answer that they were carried over the roads of the defendants by orders of the Secretary of War, or by orders of the General Government. Should it appear before the master that any such orders were made he will report the evidence thereon, and the disposition of that part of the case will be reserved till the coming in of the report."

I am informed that up to this time that report has not been made, and therefore there has been no adjudication on that part of the case. It was on the authority of that opinion, which I suppose is correctly printed, that I made the statement.

Mr. SCHENCK. I have the statement of the whole case by Joseph P. Bradley, the counsel in the case.

Mr. PENDLETON. I read from what purports to be the opinion of the chancellor.

Mr. SCHENCK. He simply says here that the chancellor sustained the claim of the plaintiffs as to the through business, and ordered an injunction to prevent this being done in future, and decreed that they should account to the plaintiffs for the business they had done. It appears from the report that the chancellor only required an account to be taken; but will my colleague or any one else tell me why an account should be taken? An account of the business of other railroads is not directed to be taken without an object. But on the supposition that another railroad was interfering with the exclusive privileges of the Camden and Amboy Railroad Company, an account is ordered to ascertain how much must be decreed to be paid over.

Mr. WOODBRIDGE. This account was ordered to be taken for the transportation of Government supplies. As to everything else the receipts were ordered to be paid over. That is the difference.

Mr. PENDLETON. Will the gentleman tell me why it was that authority was given to the master to ascertain whether or not these troops and munitions of war were carried by the authority or under the orders of the War Department, if it was the intention to decree a payment absolutely?

Mr. SCHENCK. I suppose, having the explanation furnished by the gentleman from Vermont, that the reason was this: the chancellor said to the Camden and Amboy Railroad Company, "I recognize you as a monopoly; it is held that you have exclusive privileges under the legislation of New Jersey. And so far as other companies have carried freight or transported passengers belonging to the trade or travel of the people of Ohio, Vermont, New York, California, or other parts of the Union passing across New Jersey, I decree that the proceeds shall be paid over to you

absolutely; but so far as those other companies may have carried for the Government under military orders, perhaps they have been compelled in some way to do it, and I reserve that branch of the case for future decision." Leaving out of view, then, entirely what that decision may be in regard to transportation for the Government, the fact still remains that the court in New Jersey has required everything else in the shape of profits to other roads for through business to be paid over. So I am not mistaken in my statement in respect to the exclusive privileges held by the chancellor to belong to the Camden and Amboy road, and the exclusive jurisdiction which the State of New Jersey assumed to exercise for the benefit of the individual interests of its people, and against the interests of all the people of all the other States, through a monopoly of this kind. She will not allow the employment of any other means or mode of transportation by railroad, no matter how much cheaper or better it may be, through her territory. All are required to contribute to this monopoly.

Placing this question, then, precisely on the ground my colleague claims, the injustice still remains to just as great an extent against all the people of all the other States. This monstrous monopoly, as a distinct and substantive fact, remains without a contradiction or difference of opinion on the part of any gentleman who has addressed the House. It is not attempted to be contradicted even by the monopolists themselves.

Mr. PRUYN. There is one fact I should like information upon. The gentleman from Ohio read a short time since from a report made in 1841. That portion of the line which lies between New York and New Brunswick, it is charged, pays a percentage on each passenger carried over the line. If I am correctly informed the facts are these, that the line from Jersey City to New Brunswick pays to the State eight cents upon every dollar of gross receipts, in lieu of all other taxes; and that the other line by Trenton to New Brunswick also pays a percentage; and that it is paid alike for passengers residing in and out of the State.

Mr. SCHENCK. I think I understand the facts, and I do not mean again to be drawn off into a general round of explanation. It is a fact, as every one knows, that you may go through the State of New Jersey and pay from town to town, cheaper than you can go by purchasing a through ticket.

Mr. PRUYN. But you pay the same tax in either case.

Mr. SCHENCK. The president of the road says there is a distinction. He says that the tax is collected from citizens who live outside of the State. Of course, if a New Jerseyman goes over to Philadelphia and buys a ticket through to New York, he pays just as much to this monopoly as if he were not a New Jerseyman. The road does not go into an investigation when a passenger comes to purchase a ticket from New York to Philadelphia as to the particular State of which he is a citizen. There is no distinction made in that respect between a Jerseyman and a man from Ohio, Maine, or any other State. But then a Jerseyman does not ordinarily or often or ever go outside of the State to buy a ticket through the State. Persons from Ohio, Maine, and outsiders, therefore, who choose to go through the State of New Jersey, are the persons practically who pay the taxes. Thus the fact remains, as has already been stated, that in actual practice a tribute is levied by the State of New Jersey from the citizens of all the other States through the agency of this monopoly. And that is the reason why they are able to furnish railroad transportation proportionately cheaper between particular points within the State than for the entire route. The very creation of this corporation by its charter giving existence to these exclusive privileges was an interference with the rights of citizens of other States.

The gentleman from Pennsylvania [Mr. Broomall] has said that the other route in question, the line of the Raritan and Delaware bay road, cannot be a competing route, because of its indirectness. I think it was my friend from Pennsylvania who denominated it "the elbow route." If it be a circuitous route, if it be an "elbow" route, we only propose to make that and other roads lawful lines of transit for the use of the

people of the United States everywhere, leaving them to choose how far they will avail themselves of such convenience. If a road is so circuitous that it cannot be a competing road, then there is an end to any objection to it on the part of the monopoly. They say that it is a roundabout road, and that it can therefore do no harm to their road, and yet they want to put an end to it. We may set one part of this argument against the other, and there will be as little left of it as there was in the fight of the Kilkenny cats. [Laughter.]

But I have some documentary evidence in relation to that point in my hand. In this bill in chancery there were certain facts sworn to as reasons why another road should not be permitted to interfere with these exclusive privileges; and I will refer to some of them. The bill was accompanied by a statement prepared by the counsel, Mr. Bradley, and referred to in his argument. He says:

"I have a statement taken from a measurement of the map itself showing the distances and the speed which can be used. Steamboat distance from the Battery, New York, to South Amboy on Camden and Amboy line, 25 miles, which at 16 miles an hour (the usual rate of steamboats) would be 1 hour 34 minutes. Railroad distance from South Amboy to Camden 62½ miles, at 30 miles an hour, (which is about as much as trains on that route can make going through the villages and over bridges,) would be 2 hours 5 minutes. Ferry at Camden, 1 mile, 15 minutes—making a total of 88½ miles in 3 hours 54 minutes."

"Now take the Raritan and Delaware railroad route: steamboat distance from the Battery, New York, to Port Monmouth is 19 miles, at 16 miles an hour, 1 hour 11 minutes. Railroad distance from Port Monmouth to Camden, 92 miles, at 40 miles an hour, (which they could make on that line of country with a good line as easily as we could 30 miles,) would be 2 hours 18 minutes. Ferry at Camden, 15 minutes—making 3 hours 44 minutes. In other words, ten minutes short of our time."

They swear that the Raritan road is only sixteen miles longer than their road, and that notwithstanding it is sixteen miles longer the actual time of running over it is ten minutes less.

"But putting the speed of the Raritan and Delaware bay railroad and the Camden and Atlantic railroad and the speed of the Camden and Amboy railroad both at forty miles an hour, which would reduce our time thirty-one minutes, the time on the defendants' route would be only twenty-one minutes more than that of the Camden and Amboy. Well, to say that that would not be a competing line is to say nonsense—what we know to be nonsense."

Now mark that! Here for the purposes of argument in Congress it is claimed that the new route which we would declare lawful is a circuitous route; and if that be true then it is not a competing route. But then for the purpose of argument before the court it is alleged that the other route is so short as only to be sixteen miles longer than their own and is run over with such speed, because of the levelness of the country and the fewer stops made, that it takes ten minutes less time; and therefore it is perfect nonsense to say that it is not a competing route!

I have dwelt longer than I intended on these points, not for the purpose of opening the argument anew, but to correct in closing what seem to have been some misapprehensions of fact; and to place the merits of the proposed national legislation on what seems to me to be a true and unsailable ground of expediency and of right.

To put down or prevent all such State monopolies I am willing to go for the general substitute and apply it to the whole country. It was well, perhaps, that the bill as originally introduced looked only to the New Jersey case, because in the argument that furnished a striking illustration of the need for such general legislation, and though we vote now only to vindicate and sustain the rights of our own constituencies in other States, it cannot be long before all New Jerseymen will be grateful to us for helping to check the power of a selfish and grasping corporation which has for long years ruled and controlled their State with an iron hand.

I demand the previous question.

Mr. BROOMALL. I ask the gentleman to yield to me.

Mr. SCHENCK. I must decline to yield. Does the gentleman want to say that he did not call it the "elbow route?"

Mr. BROOMALL. I neither assent nor dissent to what I am not permitted to reply.

Mr. DAWSON moved that the House adjourn.

The House divided; and there were—ayes 46, noes 66.

Mr. MILLER, of Pennsylvania, demanded tellers.

Tellers were not ordered.

So the House refused to adjourn.

The previous question was seconded, and the main question ordered.

Mr. STILES moved that the bill and amendments be laid upon the table.

The House divided; and there were—ayes 52, noes 67.

Mr. STILES demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 54, nays 69; as follows:

YEAS—Messrs. Ancona, Augustus C. Baldwin, Jacob B. Blair, Bliss, Brooks, Broomall, James S. Brown, William G. Brown, Coffroth, Dawson, Eden, Edgerton, Eldridge, English, Finck, Grider, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Hutchins, Philip Johnson, William Johnson, Knibbsch, Kerman, King, Law, Lazear, Long, Mallory, Marcy, McKinney, Middleton, William H. Miller, James R. Morris, Nelson, Noble, John O'Neill, Pendleton, Robinson, Ross, Scott, Stiles, Strouse, Stuart, Voorhees, Wadsworth, Ward, Webster, Whaley, Wheeler, and Fernando Wood—54.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Ashley Bailly, John D. Baldwin, Baxter, Beaman, Boutwell, Ambrose W. Clark, Cole, Henry Winter Davis, Deming, Driggs, Fenton, Garfield, Gooch, Grinnell, Hale, Higby, Hutchins, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jencks, Julian, Kasson, Kelley, Francis W. Kellogg, Littlejohn, Loan, Longyear, McAllister, McBride, McClurg, Melndore, Samuel F. Miller, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Odell, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Seafield, Shannon, Smithers, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Wilder, Wilson, Windom, Woodbridge, and Yeaman—69.

So the motion was disagreed to.

During the call of the roll,

Mr. PRUYN stated that he was paired off with Mr. Kellogg, of New York, who would have voted for the bill, while he would have voted against it.

Mr. SPALDING stated that he was paired off with Mr. Rogers.

Mr. NORTON stated that Mr. FARNSWORTH was paired off with Mr. J. C. ALLEN.

Mr. MIDDLETON stated that Mr. PERRY was paired off with Mr. FENTON, and Mr. STEELE, of New Jersey, with Mr. DAVIS, of New York.

Mr. L. MYERS stated that Mr. THAYER was paired off.

Mr. ELIOT stated that he was paired off with Mr. KNAPP.

Mr. SWEAT stated that he was paired off with Mr. BLAINE.

The result was then announced as above recorded.

The question then recurred upon ordering the main question to be put.

Mr. SWEAT. I wish to make a suggestion to gentlemen upon the other side.

Mr. UPSON. I object.

The main question was ordered to be now put, which was upon agreeing to the amendment offered by Mr. WILSON, as follows:

Strike out all after the enacting clause and insert the following:

That every railroad company in the United States whose road is operated by steam, its successors and assigns, be and is hereby authorized to carry upon and over its road, connections, boats, bridges, and ferries, all freight, property, mails, passengers, troops, and Government supplies on their way from one State to another State, and to receive compensation therefor.

Mr. SWEAT. I hope the gentleman from Michigan will hear my suggestion.

Mr. UPSON. I will hear it.

Mr. BROOMALL. I object unless I also can be heard.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. SCHENCK. I demand the previous question upon the passage of the bill.

The previous question was seconded, and the main question ordered to be put.

Mr. STILES. Upon the passage of the bill I demand the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 63, nays 57; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Ashley Bailly, John D. Baldwin, Baxter, Beaman, Boutwell, Ambrose W. Clark, Cole, Deming, Driggs, Fenton, Garfield, Gooch, Grinnell, Hale, Higby, Hutchins, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jencks, Julian, Kasson, Kelley, Francis W. Kellogg, Littlejohn, Loan, Longyear, McAllister, McBride, McClurg, Samuel F. Miller, Morrill,

Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, John H. Rice, Edward H. Rollins, Schenck, Seafield, Shannon, Smithers, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, Wilder, Wilson, Windom, Woodbridge, and Yeaman—63.

NAYS—Messrs. Alley, Ancona, Augustus C. Baldwin, Bliss, Brooks, Broomall, James S. Brown, Cox, Dawson, Eden, Edgerton, Eldridge, English, Finck, Grider, Griswold, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Hooper, Hutchins, Philip Johnson, William Johnson, Knibbsch, Kerman, Law, Lazear, Long, Mallory, Marcy, McKinney, Middleton, William H. Miller, James R. Morris, Nelson, Noble, Odell, John O'Neill, Pendleton, Alexander H. Rice, Robinson, Ross, Scott, Stiles, Strouse, Stuart, Voorhees, Wadsworth, Ward, William B. Washburn, Webster, Whaley, Wheeler, and Fernando Wood—57.

So the bill was passed.

During the call of the roll,

Mr. SWEAT stated that he should have voted in the negative, but that he was paired off with Mr. BLAINE.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. WILSON moved to amend the title so that it will read, "A bill to regulate commerce among the several States."

The amendment was agreed to.

Mr. SCHENCK. I move that the House adjourn.

Mr. STILES. I move that when the House adjourns it adjourn to meet on Monday next.

The motion was not agreed to.

And then (at five o'clock and forty minutes) the House adjourned.

## HOUSE OF REPRESENTATIVES.

FRIDAY, May 13, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

### ARMY NEWS.

The SPEAKER. The Chair will lay before the House the following information, and he supposes the rule in relation to applause will have to be suspended:

SPOTTSYLVANIA COURT-HOUSE, May 12, 12 m.

We have made a ten-strike to-day. Hancock went in at daylight. He has taken over four thousand prisoners, and over twenty-five guns, and is still fighting. Everybody is fighting, and have been for eight days. We shall have them this pop, though it may take a day or two more. They fight like devils.

Our losses are heavy. Cannot say how many. If Angus's forces were here now we could finish them to-day. Hancock captured General Ned Johnson and two other generals, besides lots of lower grades. The old Republic is firm. Bet your pile on it.

Grant is a giant and hero in war; but all our generals are gallant; and our men—the world never had better.

Yours, in haste,

INGALLS.

[Great applause.]

### EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, stating, in reply to a resolution of the House of Representatives of May 9, calling for a copy of the report of Captain Reynolds's exploration of the Yellow Stone river in 1860, that the chief engineer reports that the document called for is not complete, and that Captain Reynolds has been directed to complete it as soon as the duties with which he is charged will admit.

### COURTS IN NEW YORK.

Mr. KERNAN, by unanimous consent, from the Committee on the Judiciary, reported back, with an amendment, a bill (S. No. 32) to regulate the sessions of the circuit and district courts for the northern district of New York, and for other purposes; and asked that it be put on its passage at this time.

There being no objection, the bill was read *in extenso*. The amendment of the committee was to strike out these words, "and the term of said circuit court, which is hereby appointed to be held at the village of Canandaigua in the month of June next, when it adjourn shall adjourn to meet at the city of Buffalo on the third Tuesday of August."

The amendment was agreed to; and then the bill, as amended, was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. KERNAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

### HOMESTEADS ON CONFISCATED PROPERTY.

Mr. ROLLINS, of New Hampshire, by unanimous consent, recorded his vote in favor of the bill granting homesteads on confiscated estates in insurrectionary districts.

### ADVERSE REPORTS.

Mr. WASHBURN, of Massachusetts, from the Committee on Invalid Pensions, made adverse reports in the following cases; which were laid upon the table:

Petition of Mary K. Smith for special pension; Memorial of Sallie Rodman, widow of General John P. Rodman;

Petition of Sarah Bommington; Petition of Ann Shey, asking for a pension on account of her grandson killed at Gettysburg; Petition of Sarah H. Dee, widow of Patrick Dee, for a pension; Petition of Hannah R. Sumner; and Petition of Sallie Thomas.

### HARRIS WELCH.

Mr. WASHBURN, of Massachusetts, from the same committee, reported a bill granting a pension of eight dollars a month to Harris Welch; which was read a first and second time.

The bill was read *in extenso*.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURN, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

### ISAAC ALLEN.

Mr. PERHAM, from the Committee on Invalid Pensions, reported a bill to increase the pension of Isaac Allen, which was read a first and second time.

The bill was read *in extenso*. It directs the Secretary of the Interior to increase the pension of Isaac Allen from one half to a full pension, such increase to commence on the 26th of April, 1864, and to continue during his natural life.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

### WILLIAM W. PHELPS, ETC.

Mr. PERHAM, from the same committee, reported back the petition of William W. Phelps and James M. Kavanaugh, asking pay as members of the Thirty-Fifth Congress from Minnesota during the period from the commencement of said Congress to the admission of that State, and moved that it be referred to the Committee of Claims.

Mr. WILSON. That has been passed on twice by the Committee on the Judiciary. I do not know how many other committees it has gone to. I move that it be laid upon the table.

The SPEAKER. The Chair does not understand how the claim went to the Committee on Invalid Pensions.

Mr. WILSON. I suppose because it was an *invalid* claim.

The motion to lay upon the table was agreed to.

### THOMAS BOOTH.

Mr. PERHAM, from the Committee on Invalid Pensions, reported a bill granting a pension to Thomas Booth; which was read a first and second time.

The bill was read *in extenso*.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

### JAMES KEENAN, DECEASED.

Mr. DAWSON. I am directed by the Committee on Foreign Affairs to report back House

bill No. 63, to settle the account of James Keenan, late consul at Hong Kong, China, with the recommendation that it do pass.

The bill, which was read, provides that the Secretary of the Treasury is directed to settle the account of James Keenan, late consul at Hong Kong, China, by allowing him \$2,801 84, the amount of judgment in certain cases obtained against him, and paid by him; and also to pay him the amount incurred by him in the exchange between the countries, whatever it may be, and charge him with any balance on the books of the Treasury against him, and to pay him the balance, if any appears in his favor, out of any money not otherwise appropriated.

Mr. DAWSON. This bill has received the unanimous approbation of the Committee on Foreign Affairs. Mr. Keenan, now deceased, was consul at Hong Kong, China. There are three different items or claims, to wit:

1. Relief afforded by him to shipwrecked, destitute American citizens for the quarter ending December 31, 1856.

2. Moneys expended in defending himself in a suit brought against him in the colonial court of Hong Kong, in the case of *Lyne & Tye vs. J. Keenan, Esq.*, United States consul, in which the defendant was sued in his official capacity by two Chinamen claiming certain *salvage goods* in lieu of *salvage* therefor, belonging to the cargo of the American bark *Mermaid*, wrecked on the *Pratas* shoals.

3. For expenses attendant upon the defense of his right as United States consul, and in protecting the rights of American citizens in the case of *Rex vs. Keenan*, for the alleged rescue of Captain E. H. Nichols, of the American bark *Reindeer*, from custody.

In March, 1856, the American bark *Mermaid*, bound from Bombay to Whampoa, was wrecked in China waters, and the captain, crew, and a portion of the cargo were saved by a Chinese lorch. The captain of the *Mermaid* made his protest of the wreck before the United States consul at Hong Kong, and an affidavit that the owners of the lorch were to receive *salvage* on the goods saved, according to the decision of the United States consular court, and desired the consul to take charge of the goods saved. Acting under "instructions to consuls in relation to wrecks" from the Department, Mr. Keenan took charge of the saved cargo, and sold the same by public sale. The captain of the wrecked vessel had in the mean time left Hong Kong, and the owners of the lorch, *Lyne & Tye*, claimed the whole proceeds of the sale, instead of *salvage*, and this being refused by the consul, brought suit against him and obtained judgment for the whole amount, with costs.

There is in reality no claim at all. The Department state that they desire to settle his accounts; that there is no question as to the justice in the case; that they would settle it at once if they had the authority.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DAWSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PUNISHMENT OF COUNTERFEITING, ETC.

Mr. KASSON. I am instructed by the Committee on a Uniform System of Coinage, Weights, and Measures to report a bill to prevent and punish the counterfeiting of the coin of the United States. I am aware that it is not a private bill, but it is considered one important to be passed, and I ask the consent of the House to report it now and put it on its passage.

There being no objection, the bill was reported and read a first and second time.

The bill provides a penalty of a fine not exceeding \$3,000, and imprisonment not exceeding five years, or both, in the discretion of the court, for counterfeiting any of the gold or silver or other coins of the country, or for uttering or passing any token or original device resembling the coins of the United States or of any foreign Government.

#### ARMY NEWS.

The SPEAKER. The Chair understands the gentleman from Illinois [Mr. WASHBURN] has a dispatch from the Army. If there be no objec-

tion, the business before the House will be suspended to enable him to present it to the House.

There was no objection.

Mr. WASHBURN, of Illinois. With the permission of the House, I will state briefly the substance of a dispatch received from Mr. Dana, Assistant Secretary of War, from the battle-field, dated at General Grant's headquarters yesterday morning at eight o'clock. He states that during the night previous Hancock took up a new position between Wright and Burnside; that at daylight he attacked him with his usual impetuosity, forcing the first and second lines of the enemy, taking the whole of Major General Johnson's and a part of Early's divisions prisoners, capturing the rebel Major General Johnson, Brigadier General Johnson and General George Steuart, together with forty guns; that Burnside opened at the same time, and advanced with little opposition, forming a junction with Hancock; that Wright attacked at 7.15 a. m. and was now at work. Warren is demonstrating in front to hold the enemy, who was strong in front; that the precise number of prisoners taken is not known, but that they may be counted by thousands. [Applause.]

#### PUNISHMENT OF COUNTERFEITING—AGAIN.

Mr. KASSON. I ask that the following letter may be read from the Treasury Department.

The Clerk read, as follows:

TREASURY DEPARTMENT, May 2, 1864.

SIR: It has been the practice during the last few years for parties in the gold-producing regions of our country to issue coins of gold largely alloyed with the silver naturally present. The devices on these pieces, in most instances, are in close imitation of those on the legal coin, and they pass current to a considerable extent in the far West, although much below the professed value.

In the Atlantic cities a large amount of cent tokens have been issued by private parties and are now in circulation.

This issue by private parties of coins bearing a close resemblance to the coins of the United States, is a reprehensible practice, and is injurious to the public interests. It therefore seems proper that some provision should be made by law to prohibit it. To this end I submit the accompanying draft of a bill for the consideration of your committee and such action as they may think proper.

I am, very respectfully,  
S. P. CHASE,  
Secretary of the Treasury.

Hon. JOHN A. KASSON, Chairman Committee on Coinage,  
House of Representatives.

Mr. BROOKS. Is this a regular report from a committee?

Mr. KASSON. It is.

Mr. BROOKS. In the first place I desire to call the attention of the members from California and Oregon to this bill, for it concerns them more than it does my section of the country. If it is satisfactory to them I will not object to it; but it strikes me that \$3,000 fine and five years' imprisonment is a pretty severe penalty for the circulation of gold tokens, which at one time, if not now in California and on the Pacific coast, were used for business purposes.

Mr. SHANNON. I say to the gentleman from New York that that time has passed.

Mr. BROOKS. If the bill is satisfactory to the gentleman from the Pacific coast I will not object to it.

Mr. SHANNON. I think this is a very proper bill, and I hope the House will pass it. We have a mint at San Francisco, the capacities of which, it is true, are not sufficient for the wants of our commerce; but with the additional machinery which I have no doubt Congress will give us an appropriation to purchase, it will be quite sufficient, so far as California is concerned. It is also asked that a mint be established in Oregon and another in Nevada. If that be done, the facilities for furnishing all the United States coin required for commercial purposes on the Pacific coast will be ample.

It is true that in the earlier history of that country it became necessary for private parties to engage in stamping coin for circulation; but that day has passed. There may be still some little difficulty in Nevada. I think Congress should establish a mint there; but if not, they will have to supply themselves from California. I think the bill is a proper one.

Mr. ELIOT. I wish to ask whether, if this bill be passed in its present shape, it will not prevent the coinage of money altogether? This provides a punishment for coinage without discriminating by whose authority it is done.

Mr. KASSON. It was not of course the intention of the bill, nor do I think it is its effect. Gov-

ernment does its own coinage still, while this bill prevents fictitious coinage. I have no objection, however, to an amendment which shall make it clearer.

Mr. ELIOT. I am afraid it is just that thing. The SPEAKER. Does the gentleman move an amendment?

Mr. ELIOT. I would rather that the gentleman who reported the bill should suggest an amendment. I will, however, move to insert after the word "persons," in the first line, the words "except as authorized by law."

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. KASSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ADJOURNMENT OVER.

Mr. SCHENCK. I move that when the House adjourns it adjourn to meet on Monday next.

Mr. PRICE. Upon that I call for the yeas and nays.

Mr. WILSON. I ask for tellers upon the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

Mr. WILSON. I ask for tellers on the adoption of the motion.

Tellers were ordered; and Mr. PRICE and Mr. PRYNN were appointed.

The House divided; and the tellers reported—yeas 65, nays 34.

So the motion was agreed to.

Mr. KNAPP moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### CONTESTED-ELECTION CASE—KENTUCKY.

Mr. SMITHERS, from the Committee of Elections, to which was referred the memorial of John H. McHenry, jr., contesting the seat of Hon. George H. Yeaman as Representative from the second congressional district of Kentucky, made a report thereon, accompanied by the following resolution:

Resolved, That George H. Yeaman is entitled to a seat in this House as a Representative from the second congressional district of the State of Kentucky in the Thirty-Eighth Congress.

The report was laid on the table and ordered to be printed, with leave to the minority to make a report and have it printed at the same time.

Mr. DAWES. The gentleman from Delaware has omitted, in making the report, the usual corresponding decision that the contestant is not entitled to a seat. It should be added to the report.

Mr. SMITHERS. We did not report such a resolution, under the decision made a day or two since by the Chair.

The SPEAKER. The opinion of the Chair is that a second resolution is not necessary, although it is usual to have it reported. If the first resolution is carried, the claim of the contestant falls.

#### PERSONAL EXPLANATION.

Mr. GARFIELD. I rise to a personal explanation, which will consume but a moment. I wish to say that the gentleman from New York [Mr. FENTON] has just handed me a dispatch from Mr. STEELE, of New Jersey, saying he understood that he was paired, on the Raritan railroad bill, with myself. Having seen that I voted, he is evidently surprised that I should have voted. The understanding was, when he asked me to pair with him, that Mr. FENTON had arranged a pair, and, if that pair failed, he requested me to pair with him. Mr. FENTON, however, did not inform me that the pair had failed, and therefore I considered myself not paired.

Mr. ASHLEY. The gentleman from Pennsylvania [Mr. L. MYERS] distinctly stated yesterday that one of his colleagues was paired with Mr. STEELE, of New Jersey.

Mr. FENTON. When Mr. STEELE had some conversation with me in reference to his pair, I said I would pair him with Mr. MARVIN, who left for New York for ten days or so. He said that would be very satisfactory, unless Mr. MARVIN would vote on the same side with him on the



Raritan railroad bill. I told him I could not say how that was, but that I would address my colleague, who was in New York. I did so, and last night I received a reply at nine o'clock by mail, saying that Mr. STEELE, if here, could vote as he pleased, that he had no very great interest in regard to the question. Of course it was too late then to seek a pair for Mr. STEELE with any other gentleman.

Mr. ASHLEY. It was distinctly announced in the Hall that Mr. STEELE was paired off with a gentleman from Pennsylvania.

Mr. GARFIELD. If I am considered as paired, I will withdraw my vote.

#### MERCANTILE MUTUAL INSURANCE COMPANY.

Mr. PENDLETON, from the Committee of Ways and Means, reported a bill for the relief of the Mercantile Mutual Insurance Company of New York; which was read a first and second time.

The bill, which was read, authorizes the Secretary of the Treasury to issue and pay to the Mercantile Mutual Insurance Company of New York eight United States notes, not bearing interest, of \$1,000 each, in lieu of eight United States notes issued under the act of Congress of February 25, 1862, which were lost and destroyed by the foundering of the steamer Quincy on the 10th of December, 1863, upon their executing to the United States a proper bond of indemnity.

Mr. PENDLETON. I desire to state to the House that these notes were put into the mail of the United States and delivered on board the steamer Quincy, that that steamer went down off Cape Hatteras, nine persons only saving their lives, and that the ship, mails, cargo, baggage, and everything were lost.

I desire to say further to the House that the proof is ample, beyond all sort of question, from the person who put these notes into the letters and put the letters into the mails, and delivered them on board the steamer. The proof of the shipwreck and loss is from five of the nine persons who were saved from the vessel, the other four not being easily come at.

Mr. THAYER. I would like to ask the gentleman from Ohio whether these notes were the property of the insurance company or whether they merely insured them?

Mr. PENDLETON. The notes were the property of a gentleman named Brower. They were insured, the insurance company paid the loss, and took an assignment from the owner of all his interest in the notes to the insurance company.

Mr. THAYER. If I understand correctly the statement of the gentleman from Ohio, I do not see upon what principle the Government can be asked to make good the loss suffered under these circumstances by this insurance company. It was a peril which they had insured, as I understand, and upon what principle can they insure against a peril and receive a premium for that insurance, and then, when the loss has been suffered, call upon the Government to indemnify them for that loss? I think that if these notes were in private hands, if they had been the private property of the insurance company at the time of the loss, it would, of course, have been perfectly proper that new notes should be issued in place of those which are thus proven to have been lost. But cases of this kind are constantly arising, and it is important now that the House should understand the principle upon which they are to be called upon to act in reference to these insurance companies. It seems to me that where an insurance company has taken a risk of this kind, and received money by way of premium for assuming that risk, they have no right to complain when the loss is suffered and no right to call upon the Government to indemnify them for that loss. I do not understand that the United States Government are to replace these notes whenever an insurance company suffers a loss. It seems to me that in that case the insurance companies would do a very profitable business. They will receive a premium without incurring the slightest degree of risk. They will insure and receive pay for insuring where no risk is assumed. I cannot understand how it is that, having been paid for assuming every risk of a loss, for which they have been made good, they can call upon the United States Government to indemnify them for that loss.

This is not, if I understand the gentleman from Ohio, an ordinary case of the loss of notes, the private property of individuals, but it is, in fact, notwithstanding the assignment of the claim to the insurance company, which was of course a mere formality, the case of an insurance company who have assumed a certain risk and been paid for assuming that risk, calling upon the Government to indemnify them for the loss which they have sustained and for the risk which they have run, and for which they have been paid.

Why, sir, upon what principle can these insurance companies take the money which they receive from persons under these circumstances if it is to be understood that the Government is to make good the losses every time notes insured by the company go to the bottom of the sea, or are destroyed by fire, or lost in any other way?

I cannot understand upon what principle the Government should be asked to reissue these notes to parties who make a business of insuring against that very thing which has happened and of receiving money for assuming that very risk.

Mr. PENDLETON. It seems to me that the right of this company to ask this relief can readily be placed on either of two well-settled principles. The case stands entirely upon principles analogous to the case of an abandonment. It stands also upon another principle, that when a party has a just and valid claim he may assign his claim, and the assignee acquires in equity at least all the assignor's rights. The fact that the insurance company takes the risk of loss, undertakes to indemnify the owner against loss, is no reason why, as against all other persons, it may not be subrogated to whatever rights the owner had. It makes no difference to the Government, if it is obliged to replace these lost notes, whether it replaces them to the party who originally had them, or to the insurance company which has succeeded to the interest of that party. It is a question, it seems to me, so plain that it can scarcely be made plainer by argument. It is a question which I think, under the law organizing the Court of Claims, that court could take cognizance of. Certainly if a private individual would be liable to an assignee for the amount of a destroyed note, the Government ought to be. It seems to me that, on the plainest principles of justice and equity, this company should be indemnified even as the original holder of the note should be indemnified; and that to the Government it makes no difference whether it pay the original owner or whether it pay the insurance company, which, having insured these notes, has already paid the owner. I move the previous question.

Mr. WASHBURN, of Illinois. I ask the gentleman from Ohio to withdraw the demand for the previous question.

Mr. PENDLETON. Certainly.

Mr. WASHBURN, of Illinois. I want to understand something about this matter. Mr. Speaker, it is a most extraordinary proposition to ask, in the present condition of the country, the reimbursement of these insurance companies for greenbacks that they have insured and that may have been lost. The gentleman from Massachusetts here, [Mr. HOOPER,] tells me that he has paid \$20,000 for the insurance of greenbacks sent over the country during the war. Does the gentleman from Ohio propose that these insurance companies shall keep the premium and recover the greenbacks that are destroyed? Is the gentleman from Ohio willing to open that wide door? I hope the House will at once put a stop to any such kind of legislation. We have got enough to do to put down the rebellion. And I tell the gentleman from Ohio that we will put it down. We can already hear the thunder of our cannon from Spotsylvania Court-House, although the gentleman and his friends may not cheer when we have the news. I move to lay the bill upon the table.

Mr. PENDLETON. Does the gentleman persist in that motion?

Mr. WASHBURN, of Illinois. I do.

Mr. PENDLETON. Cutting off debate after a demagogical speech, which was unworthy of this House.

The SPEAKER. The gentleman is not in order.

Mr. WASHBURN, of Illinois. Does the gentleman from Ohio wish to debate it?

The SPEAKER. Debate is not in order.

Mr. COX. The gentleman from Illinois [Mr. WASHBURN] was allowed to speak, and has offered to this House a gross, base insult.

The SPEAKER. The gentleman from Ohio is not in order. The Chair will hear no debate on either side of the House unless the motion to lay on the table be withdrawn.

Mr. COX. Then I appeal to the gentleman from Illinois—

The SPEAKER. Does the gentleman from Ohio rise to a point of order?

Mr. COX. I rise to make an appeal.

The SPEAKER. It is not in order except by unanimous consent; and objection has been made.

Mr. COX. I wish to reply to the insult.

The SPEAKER. The gentleman from Ohio is out of order, and he will take his seat.

The question was taken on the motion to lay on the table, and it was not agreed to; there being, on a division—ayes 46, noes 57.

Mr. PENDLETON. Mr. Speaker, after I had yielded in all courtesy to the gentleman from Illinois in withdrawing the previous question, I did not expect that sort of a speech or this motion from him. If he is content with it, I do not know that I ought to have any reason to be dissatisfied. If he thinks it consistent with his position and ability, I ought not to complain. I am sure he has quite as high an appreciation of himself as I can possibly have of him. What, sir, has a fling of that kind at this side of the House to do with this question? What has the suppression of the rebellion to do with the question whether the Government will do justice to one of its citizens? What have the thunders of battle at Spotsylvania to do with the question whether or not this Government shall replace eight promissory notes which have been proved to have been destroyed when being carried in the mails of the United States? And what has it to do with the question whether, when the gentleman pompously gets up in the House and reads dispatches himself, we cheer or not? Doubtless he would like to be the cynosure of all eyes, to occupy all ears, and when he rises to read his speeches or dispatches, to receive the undivided attention of the House. It would minister to his insatiable egotism. When he deserves that honor perhaps he will have it. Until then he probably will not.

Now, sir, having no disposition here at all events to depart from the custom which I have always pursued, not to enter into a personal controversy with gentlemen on the floor, I leave that and come directly to the question presented by the bill which I have in behalf of the Committee of Ways and Means offered to the House. What is that proposition? It is this: a party holding eight promissory notes issued by the Government of the United States desiring to transmit them from New York to New Orleans goes to an insurance company and has them insured. The testimony is unquestioned and unquestionable that they were put into two letters, delivered by the person who put them in the letters into the post office at New York, and delivered by the postmaster or agent of the postmaster on a United States vessel; that that vessel had the mails on board when she foundered off Cape Hatteras. The vessel was lost, the cargo was lost, the mails were lost, and the lives of everybody on board were lost except nine persons. The insurance company, according to its contract, indemnified the party for the loss he sustained, and took from him an assignment of the notes which were lost. That insurance company now comes to the Government of the United States and asks us that these lost promissory notes shall be replaced. Why should it not be done? If it were a case between the insurance company and an individual who issued the notes originally there is not a court of justice in Christendom that would not give judgment. It is a case on which there would be no hesitation, and no respectable lawyer would give an opinion adverse to the claim.

Mr. SLOAN. Will the gentleman let me ask him a question?

Mr. PENDLETON. Certainly.

Mr. SLOAN. I ask whether the Court of Claims has jurisdiction of such a case as this? I put the question for this reason: it seems to me this House is hardly the proper place to try the question as to the amount of money which has been lost, and to establish a claim against the

Government of the United States. There is no opportunity for cross-examination; no opportunity for the introduction of witnesses on the other side. If the Court of Claims has jurisdiction, on which I am not informed, this is one of those cases which ought to be referred to that tribunal.

Mr. PENDLETON. I am not prepared to say that the Court of Claims has not jurisdiction. If there were the least doubt, if I thought there could be entertained the least doubt on the evidence in the case, I would not ask the House to determine it, for no person has a worse opinion as to the capacity of the House as a tribunal to try disputed facts. They are as clear as clear can be. The testimony admits of no doubt.

Mr. SLOAN. Has that testimony been reported to the House and printed?

Mr. PENDLETON. It has not. The evidence is all here before me, and it is embraced in the affidavits of all the parties. The facts upon which this bill is based met with no question in the Committee of Ways and Means. They were perfectly satisfied of the facts stated.

Mr. SLOAN. Another question. Were the witnesses before the committee?

Mr. PENDLETON. No, sir, they were not. The testimony of the witnesses is contained in their written affidavits, which were furnished to the committee.

Mr. SLOAN. Which are *ex parte* affidavits?

Mr. PENDLETON. Of course they are *ex parte*.

Mr. JENCKES. If I understand the gentleman from Ohio, this bill is in violation of one of the settled principles of commercial insurance law. If I heard correctly the bill read, it proposes that the Government shall replace to the insurance company certain new notes of the United States in the place of some which have been destroyed while on their transit through the mails in a Government vessel. Now, I ask the gentleman if he knows of any precedent in the commercial or insurance law of this country where it has been held that an insurer, who has received a premium for the risk taken, has been subrogated to the right of the insured? The point of all the decisions is this, that the insurer takes his risk absolutely and takes his premium for his risk, without hope of reimbursement from any quarter. When a loss accrues, he is bound to pay it, and he has no right to call upon any party interested in the property, or to use the name of any party interested in it, unless it is stated in the contract of insurance that the insurer shall be subrogated to all the rights of the insured. The risk is separate and independent, and when a loss occurs, the insurer must bear it.

Mr. PENDLETON. It is common in policies of insurance to have a provision that insurance companies shall be subrogated to all the rights of the insured. But I understand that even in the absence of a clause of that kind in a policy, upon an abandonment the insurance company is subrogated to all the rights of the owners of the property.

Mr. GANSON. I understand that there is a doubt upon that point. In Massachusetts the courts held that there is no subrogation whatsoever. In Vermont there was a dictum that the right of subrogation did exist, but I think the courts of that State have not held to that. They now treat the matter upon the ground that the insurance is a separate and distinct bargain, based upon an adequate consideration for the risk assumed, and that therefore the relations which are necessary to subrogate one party in the place of another do not exist in such a case.

Mr. PENDLETON. Even if the insurer is not subrogated to the right of a party insured, there is no principle in the insurance law by which a party who holds a claim may not assign it to the insurance company for its indemnity. And that is the case presented here, in which, after the insurance company has indemnified the party for all the loss by paying up the \$8,000, it took an assignment of all the claim which the party had upon the Government. It is not important in this case to settle the law of subrogation. Questions may arise between the insurers and the insured. They do not arise here. There are no such questions between the insurer and the debtor of the assured.

Now, sir, I want to know upon what principle it is contended that by the loss of these notes the

debt is extinguished. I want to know who is prepared to say that the Government of the United States can honestly refuse to pay these \$8,000 to its citizens because the notes have been destroyed? Somebody has lost them.

Mr. THAYER. \*If the gentleman will allow me a moment, I will answer his question. The question is not whether the Government of the United States shall make good to the *bona fide* holder the lost evidences of its indebtedness. The question is whether the Government of the United States is bound to interfere in behalf of a party situated like this insurance company. The only question, in my judgment, is whether this particular party has a right to come upon the Government for its interference in a matter in which this company has assumed the whole risk, and for assuming which it has been paid.

Mr. PENDLETON. I would like to ask the gentleman from Pennsylvania if he would consider it a good claim if it were prosecuted in the name of the original holders of the notes.

Mr. THAYER. Unquestionably I should; and I will add that I have no doubt whatever that the facts, if they were divested of the feature of insurance, would call upon us immediately to pass this bill in order to have these notes reissued, and I have no doubt that the evidence on file sustains the facts; for I have confidence enough in the gentleman from Ohio to believe, without having read the evidence, that he would not report the bill unless the evidence was entirely satisfactory in that respect. But the point is that the parties who ask for this remedy from the Government are not entitled to the remedy. These parties have insured against a peril, and have received the price of insuring that peril. I believe no one doubts that in all ordinary cases it is the bounden duty of the Government to make good all losses of this kind to the owners and *bona fide* holders of its paper; but when an insurance company, who have made it their duty to insure against the very loss for which they now ask indemnity, come here, and come with an assignment of the claim from the original holders, the position of such persons or company is by no means the same as that of ordinary holders of Government paper. It is, on the contrary, the position of parties who ask the interference of the Government to make good a loss against which they have insured, and for incurring the risk of which they have been paid.

Now, the simple point that I made when I rose was that a party so situated, who made a business of trading in these very perils, had no right to call upon the Government for its interference in its behalf. That is the simple point I make in regard to the case.

Mr. STEVENS. There seems to be a confusion of ideas in regard to this matter. The Government is not called upon to make good this money because it was on a Government vessel, or because the Government was acting as a common carrier. But the Government stood in this condition: here were notes issued by the Government; if those notes had not been held by third parties there would have been no difficulty about the matter. But here were notes issued by the Government. Those notes are proved by unquestioned evidence to be totally destroyed. Now, if that be the fact, and the Government should be sued, would anybody say that the Government could not be recovered against upon the lost obligation, and that persons having interest in it, whether by assignment or otherwise, could not recover? It is not the case of an insurance company asking to be indemnified. It is a claim to be paid for notes which belonged to them. These notes have incontrovertibly been destroyed, and were due by the Government to somebody. Is the Government to get clear of the obligation to pay them simply because of this misfortune? If an individual has given his bond for \$1,000, and the bond be burnt, or be proved to be in some manner destroyed, cannot the holder of that bond, or his assignee, recover upon it as a lost obligation—an obligation which once existed and is now destroyed? What relieves the individual from the obligation? He has never paid or discharged his obligation. What right could he have to interfere and inquire how much money I paid as assignee? It is none of his business. It has long ago been decided that the consideration of the assignment cannot be inquired into in the decision upon an obligation.

Mr. WILSON. I ask the gentleman from Pennsylvania whether this insurance company has not a remedy in the Court of Claims.

Mr. STEVENS. I suppose, sir, that all that is wanted here is that the bonds be replaced. When the money becomes due they can sue in the Court of Claims, but not before. These bonds are not due, for some time. Therefore it is that simply the *fac similes* are asked to be issued by the Government. The Government cannot possibly be ever called upon for the originals, for they are at the bottom of the deep sea, where nearly everybody on board went. If this were a claim against the Government as a common carrier it would be a different thing, but it is not placed on that ground.

Mr. WILSON. I had understood from the gentleman from Ohio that these were notes, not bonds.

Mr. PENDLETON. Legal-tender notes.

Mr. WILSON. Then there can be no such difficulty as the gentleman from Pennsylvania suggests, for these notes were an existing demand against the Government at the time of the loss. If therefore it be a claim against the Government, it can be brought before the Court of Claims.

Mr. STEVENS. I do not know what has become of the gentleman's bill to annihilate that court.

Mr. WILSON. I can tell the gentleman. The gentleman from Pennsylvania insisted that the Court of Claims should stand intact, in order that these claims should not be brought before Congress.

Mr. STEVENS. The gentleman insisted that the Court of Claims should be annihilated, because it was not so good a tribunal as this.

Mr. WILSON. The gentleman was stronger than I. I wish to ask the gentleman whether the Committee of Ways and Means had before it the policy of insurance in this case.

Mr. STEVENS. I am not quite sure that we had.

Mr. PENDLETON. I do not know that I have ever seen the policy.

Mr. WILSON. Can the gentleman inform me whether that policy contained a condition providing that the insurance company should be subrogated to the rights of the insured?

Mr. PENDLETON. I cannot.

Mr. WILSON. Then I can see why this party has not gone to the Court of Claims; for unless there is a condition of that kind in the policy the company could not be subrogated to the rights of the party. It has no legal claim whatever, and for that reason it did not go to the Court of Claims.

Mr. PENDLETON. I would like to ask the gentleman from Iowa whether the company could not use the name of the original owner in bringing suit.

Mr. WILSON. No, sir.

Mr. PENDLETON. Why, undoubtedly it could.

Mr. WILSON. The basis on which the gentleman from Pennsylvania puts his claim is that this is an existing legal demand against the Government for the Government to supply notes in place of those lost. He says that the company has got a legal right against the Government. If that be so, there can be no difficulty in having this case determined by the Court of Claims. If it be not so, then we should not pass this bill.

Let the case go to the Court of Claims, as the gentleman from Pennsylvania insists that that court shall live. I have not yet submitted to this House a bill for the entire abolition of the court, but only to take away its jurisdiction over war claims. If the gentleman thinks he is right on the question of law, let that court determine whether these parties have a legal claim against the Government. Otherwise we will be making the Government an insurer of all the insurance and express companies of the country.

Mr. STEVENS. We did not become insurers. This bill is not based upon the supposition that the claim is against the Government as insurers. You are debtors, you owe money, and if you are honest you will pay it; you will not take advantage of a quibble to prevent the payment of the money you owe to the parties to whom it is due under this legal assignment.

Mr. WILSON. I am sure the gentleman from Pennsylvania has too much respect for the well-settled decisions of the courts of the country, and

too much respect for the profession of the law, to pronounce an objection sustained by the uniform decisions of the courts of the country a mere quibble.

Mr. STEVENS. I do not believe there is any decision which prevents an obligor from being called upon to pay his debts, no matter in whose hands they are. It is a very different thing where a vessel has been sunk and the assignee believes all is lost, when an assignment is made to the insurance company for what may be recovered of the wreck, they paying the entire amount of the insurance. This, sir, is not a question of insurance upon the part of the Government.

Mr. WILSON. I will suggest to the gentleman from Pennsylvania this distinction: in the case that has been mentioned of property abandoned to the insurance company, the company paying the amount of the risk, the property assigned is the specific property insured. Now, in this case, if the notes had been partially destroyed, and the remnant saved had been turned over to the insurance company, that would have been a parallel case, and the notes would have furnished a basis on which the company could have properly come to the Government for relief.

Mr. STEVENS. Suppose all the notes had been destroyed except an inch, could not that have been surrendered to the insurance company, and could they not have required the Government to make good the notes?

Mr. WILSON. I understand the rule of the Treasury Department to be that where a note has been defaced, or a part of it destroyed, they redeem in proportion to the amount of the note remaining; so that in this case these parties could have surrendered to the insurance company as much of the notes as remained, and they would have received in proportion to the amount saved, according to the rule I have stated. But these parties do not profess to surrender the particular property insured; that has been destroyed, and therefore the case is not a parallel one.

Mr. PENDLETON. It seems to me after all which has been said, with due deference to all who think otherwise, that this is a very clear case. The Government of the United States owe the amount of these promissory notes. To whom does it owe them? Either to the original holders of the notes or to the insurance company. The notes are destroyed. Is the Government released from the obligation by the destruction of the notes? It owes the debt to one of two parties. There is no third party claiming it, and these two parties have agreed between themselves to whom the debt is due. It is very clear, therefore, to my mind that the Government under these circumstances owes this debt to the insurance company, and the question is, shall it be paid?

Mr. JENCKES. Will the gentleman allow me to ask him a question? I understood him in his first remarks to say that these notes were insured under an ordinary marine policy, without any contract giving to the insurers the right of subrogation to the rights of the insured. Now, as the gentleman puts the case, I take the distinct issue with him upon his law that there is no case to be found of commercial insurance in this country which authorizes the insurers to have that right unless there be a stipulation in the policy itself, requiring the insured to assign any claims he may have.

The gentleman from Pennsylvania says the Government may be a debtor; a debtor to whom? To the party in whose favor the obligation was given. This Government never had any contract with insurers, and never authorized anybody else to make a contract which would bind them. If they were to go into the Court of Claims for a settlement, their case would be thrown out on the ground that they had no title, on the ground that no contract or assignment has been made which could bind this Government as common carriers to insure this property.

Mr. PENDLETON. The gentleman states his case as if the assured contested here the right of the insurance company. It is not so. The assured agrees that the company is subrogated to his rights. He has perfected the title by an assignment. He has removed all doubt on that point. He has come here with his testimony to assert the rights of the company. And it is these gentlemen who, on behalf of the Government, ob-

ject to an agreement with which both the parties interested are entirely satisfied. Now, will the gentleman be good enough to tell me whether, in case these obligations had been in part lost but also in part saved, the Government would not have been bound to pay under whatever rule had been established for that portion of the notes saved to the insurance company?

Some one has the right to make claim against the Government unless gentlemen want speedily to repudiate. Some one has a claim on the Government to have these notes paid. Who is it? Either the party who originally held them, or the insurance company to which they were assigned. It is not the party who originally held them, because he has transferred his interest for a valuable consideration to the insurance company. If he should endeavor to prosecute his claim in the Court of Claims, I undertake to say that the assignment would be a good defense on the part of the United States.

The gentleman from Pennsylvania, [Mr. THAYER,] frankly said that if the person asking to be indemnified were the original holder, he would have these notes immediately reissued. I am perfectly certain that he would. I do not misunderstand him. I would expect nothing else from the candor and honesty of the gentleman and his disposition that the Government should faithfully perform its highest duty, to be just to all its citizens. If the gentleman admits a fair case is made out on behalf of the assignor and no question is raised as to the legality of the assignment, why should not the Government be held to pay the assignee?

It seems to me that there can be no difference of opinion on the subject. If they were lost notes only, I would not ask payment now. They are destroyed promissory notes.

Mr. JENCKES. I understand the gentleman from Ohio to say that there has been an assignment of this claim by this party to the insurance company?

Mr. PENDLETON. Yes, sir, I understand so.

Mr. JENCKES. What is the evidence?

Mr. PENDLETON. The affidavit of the president of the insurance company and the affidavit of the assignor.

Mr. JENCKES. Was the original assignment before the committee?

Mr. PENDLETON. I have not seen it.

Mr. JENCKES. Will the gentleman answer me when that assignment was dated, whether after the payment of the consideration money or not?

Mr. PENDLETON. Whether dated before or after, if at the time the payment was made there was a contract, that is sufficient.

Mr. JENCKES. That is not proved.

Mr. PENDLETON. The date would not be material at all.

Mr. JENCKES. There is no such condition in the policy, and no assignment.

Mr. PENDLETON. I am wrong. The assignment is here, or rather a copy of it. No; it appears to be the original.

Mr. JENCKES. What is the date?

Mr. PENDLETON. December 8, 1863.

Mr. JENCKES. That was after the loss and the payment by the insurance company.

Mr. PENDLETON. After the loss, as a matter of course.

Mr. JENCKES. Will the gentleman state what is the consideration for the transfer when the risk has become a loss and the insurance company has become charged with the payment of the loss?

Mr. PENDLETON. The assignment is in consideration of \$8,000 paid in hand by this insurance company to this party, and by virtue of that there is an assignment transferring to the insurance company all right, title, and interest to the property.

Mr. WILSON. Is not \$8,000 the amount of the notes lost? Is not that the amount that was insured?

Mr. PENDLETON. It is the amount paid by the insurance company. That is the contract which the insurance company made.

Mr. WILSON. I ask the gentleman from Ohio what consideration the insurance company paid for the assignment? Did they pay anything more than they were required to pay under the original terms of the policy of insurance?

Mr. PENDLETON. What difference does it make?

Mr. WILSON. I ask the gentleman whether that be the case or not.

Mr. PENDLETON. I say that they paid \$8,000, for that was the value of the articles destroyed. And as I read these papers, at the time of paying the amount they took a transfer, assignment, or whatever you choose to call it, of all the right and interest of this party in these destroyed notes.

Mr. WILSON. What was the consideration for that assignment?

Mr. PENDLETON. The payment of \$8,000 according to their original contract of insurance.

Mr. WILSON. Was it a new consideration?

Mr. PENDLETON. It was a consideration, whether it was a new one or an old one. I want to ask the gentleman from Iowa whether upon the point which he is seeking now to make, and which I understand perfectly well is a purely technical one, he is prepared to say that the Government of the United States should refuse to pay an admitted just debt. But, sir, on this point of the consideration, I beg to remind the gentleman from Iowa that this is an executed assignment. It need have no consideration; if it were an absolute gift, without a penny passed between the parties, and between third persons, it would be valid. If it were an executory contract, the case might be different.

Mr. WILSON. Place the Government precisely in the position of an individual.

Mr. PENDLETON. The gentleman cannot have the least doubt but that a recovery might be had of an individual under such circumstances, and that the name of one party could be used by the other.

Mr. WILSON. I have so much doubt about it that I say it cannot be used unless provided for in the policy itself.

Mr. STEVENS. Suppose an individual owed to another a bond of \$1,000, which he was to send to him by mail; that the person to whom it was due got it insured, but on the way it was burned and destroyed. Does the individual who owes that money get rid of the debt, because the money was burned, and because it was insured in addition?

Mr. WILSON. The gentleman knows very well that the two cases stand upon entirely different principles.

Mr. MALLORY. I do not care a cent, so far as this question is concerned, whether the question of subrogation applies or not. It appears that the Government issued these notes, and the Government is bound to make them good in the hands of somebody. If lost, it seems to me they must be made good to the parties who lost them. It is the principle of justice and equity as applied to the matter which shall govern my opinion. If the insurance company insured the notes and they were lost, and the company made good the value to the owners, I see nothing but justice in the fact that the Government should pay the value of those notes to the insurance company. I do not care whether the doctrine of subrogation applies or not.

If we were a court here acting under commercial law, so ably alluded to and expounded by the gentleman from Rhode Island, all these arguments and all this learning might be of some importance. But we are the law-making power, as I understand it. We are to do justice, and if there is a defect in the law whereby injustice would be worked to a party seeking justice at our hands we should make a law which will do justice. The act we pass does not stand upon the Journal as the judgment of a court. It stands as an act of legislation. We are proceeding as the law-making power, and not as a judicial body, and therefore I think that all this technical discussion about this existing doctrine of subrogation, &c., which I do not understand, is entirely out of place. If there be no law for paying these parties I am for making a special law in this case, under which the Government shall pay these notes. That, I think, will subserve the cause of justice, and therefore I shall vote for the bill.

#### MESSAGE FROM THE PRESIDENT.

A message from the President, by Mr. Nicolay, his Private Secretary, informed the House that the President had approved and signed an act



for a grant of lands to the State of Iowa in alternate sections to aid in the construction of a railroad in said State.

#### MERCANTILE INSURANCE COMPANY—AGAIN.

Mr. JENCKES. I ask whether this be a question of right or a question of favor. If it be granted as a matter of favor, as the gentleman from Kentucky seems to consider it, it will be a precedent in favor of other cases, and we must apply it as a precedent in cases which come before the House. But I have to say this, and only this, that if this bill is passed the business of insuring greenbacks will be the most profitable insurance business in the country. All that the insurers will have to do will be, in the first place to pocket the premium, and then, if loss occurs, to come to this Government and be reimbursed.

Mr. MALLORY. The gentleman will allow me to suggest that if his view be correct the premium charged on insurance of greenbacks will be reduced so low as to increase the value of greenbacks in the market, the thing which we all so much desire.

Mr. GARFIELD. If my colleague will allow me, I wish to say that this seems to me to be a perfectly clear case. Our Government does redeem its mutilated notes now; and in cases where the mutilation is so great that only small fragments of the notes remain it redeems the proportional value that the fragments bear to the whole note. I think we ought to pass some law to provide for the redemption of notes which have no fragments left but which are clearly proved to have been utterly destroyed.

A case came into my hands a few weeks since in which a party sent me the fragments of some notes which had been burned. They were sent to the Treasury Department; and, according to the rules of that Department, one half of the amount of the notes was allowed. But I was informed at the same time that they had no rules for paying notes that had been utterly destroyed, even though the proof of their destruction were perfect; and that such cases must be referred to the future legislation of Congress.

Mr. FENTON. I will inquire of the gentleman from Ohio if the fragments thus presented to the Treasury Department must not mark the identity of the notes.

Mr. GARFIELD. Certainly.

Mr. COLE, of California. I would ask the gentleman if under the rule which has been established the party would not be entitled to come to Congress for loss sustained by one half of the notes being gone.

Mr. GARFIELD. I presume he would. But all I mean to say is this, that the Treasury Department in exercising what seems to me to be a very just power does recognize the right of holders to be remunerated for losses of this sort. The only objection I have to the bill now before us is that it is a special bill and in favor of a special party. It seems to me that we ought to have a general law covering all these cases, and if the passage of this bill will not prejudice the passage of such a general law, if I can have any pledge from the Committee of Ways and Means that it will provide a general rule covering all such cases, I shall have no objection whatever to the passage of this bill. I do object, however, to special legislation for corporations, when individuals all over the country are suffering because they have not influence enough to come before Congress and get through measures for their own relief.

Mr. THAYER. With the permission of the gentleman from Ohio, I will say that gentlemen who favor this bill seem to misconceive very much the point involved. This is not the case of notes lost in the hands of an ordinary holder, but it is the case of an application for extraordinary relief on the part of a company that has insured against this very peril, for which it now asks relief from Congress. Now, what I say is that the company has no equity in demanding this extraordinary relief from the Government. The question, therefore, which has been argued, whether the Government does not owe the amount of these notes to somebody, is entirely aside from the question now before us. The Government may or may not owe this to somebody. We all know that thousands and thousands of debts of this kind are extinguished every day by banking institutions in the country by the loss of the notes

which are the evidence of their indebtedness. I suppose that in an ordinary case a man who comes here to ask relief of this kind would be entitled to it immediately, but the point here is that the parties who ask for this extraordinary relief from Congress have no equity entitling them to ask it, because they are asking to be made good for a loss against which they have insured, and for insuring which they have been paid.

Mr. STEVENS. I want to ask my colleague a question. What right has a defendant who owes the money to inquire into the equity of the title of the plaintiff? In the case of Armstrong against Lancaster it was decided that he had no such right.

Mr. ODELL. Mr. Speaker, reference has been made to the character of the gentlemen who make this application. In the first place, the party who owned the notes originally and had them insured would make no claim unless it was a well-grounded one. The statement of the firm is all that a New York merchant would require. The president, secretary, and trustees of this insurance company are among the best men of the city of New York. Their statement of a loss is all that any gentleman who knows them would require. They have made their affidavits. Their affidavits cover the whole ground. I deem it due to them to say that there is no earthly doubt about the justice of this claim.

It is proposed as an additional security that the company shall give a bond of indemnity for twice the amount involved, so that if the notes should turn up the company—one of the most responsible in the country—will be liable to the Government for the amount.

In reference to the merits of the case it seems to me that gentlemen should act upon it as they would do between each other in a matter of business. The Government certainly owes somebody \$8,000. We have abundance of proof that this \$8,000 has been entirely lost. Why, then, should not this insurance company be indemnified by the Government for the loss it has incurred? There are precedents for this course. I find in the statutes of 1846 that agents of the Government who had Treasury notes purloined from their possession which were stolen and passed into circulation have been indemnified to the extent of \$50,000. I see no reason why these notes that are known to have been lost and destroyed should not be reissued to the parties entitled to them. I hope the bill will pass.

Mr. PENDLETON moved the previous question.

The previous question was seconded, and the main question ordered; and under its operation the bill was engrossed and read the third time.

Mr. WASHBURN, of Illinois, called for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 67; nays 65; as follows:

YEAS—Messrs. Ancona, Bailly, Jacob B. Blair, Bliss, Brooks, James S. Brown, Chandler, Ambrose W. Clark, Coffroth, Cox, Cravens, Davison, Eden, Elderton, Eldridge, English, Finck, Frank, Ganson, Garfield, Grider, Griswold, Hale, Hall, Harding, Benjamin G. Harris, Charles M. Harris, Herriek, Asahel W. Hubbard, Hutchins, Philip Johnson, Kalbfleisch, Kernan, King, Law, Lazarus, Long, Malory, Marey, McAllister, McBride, Middleton, William H. Miller, Nelson, Noble, Odell, John O'Neill, Pendleton, Prunty, Robinson, James S. Rollins, Ross, Stevens, Stiles, Strouse, Stuart, Sweet, Thomas, Voorhees, Wadsworth, Whaley, Wheeler, Windom, Winfield, Fernando Wood, Woodbridge, and Yeaman—67.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Ashley, Augustus C. Baldwin, John D. Baldwin, Beaman, Boutwell, Boyd, Broomall, William G. Brown, Freeman Clarke, Cole, Henry Winter Davis, Dawes, Denning, Briggs, Eliot, Fenton, Grinnell, Higby, Hotchkiss, John H. Hubbard, Huggins, Jenckes, William Johnson, Keaton, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Loun, Longyear, McClurg, McDaniel, F. Miller, Moorhead, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Portland, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smithers, Spalding, Thayer, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Wilder, and Wilson—65.

So the bill was passed.

Mr. PENDLETON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. HALE. I ask unanimous consent to make a report from the Committee of Claims.

The SPEAKER. The morning-hour business continues all day, unless interrupted, after the ex-

piration of the hour, by other business, such as a special order, going into Committee of the Whole, or proceeding to business on the Speaker's table. Reports of committees are therefore still in order, and the next committee to be called is the Committee of Claims.

#### EXPENSES OF INVESTIGATING COMMITTEES.

Mr. STEVENS. I ask my colleague to give way to me to report, from the Committee of Ways and Means, a bill to pay the expenses of investigating committees. Members of the committee on the conduct of the war have had to go to Fort Pillow, and are now ordered to go to other places, and have not got a dollar appropriated for their expenses.

Mr. HALE. I yield, if it will take up no time.

Mr. STEVENS, from the Committee of Ways and Means, then reported back Senate joint resolution No. 37, for the payment of the expenses incurred by the joint committee on the conduct of the war.

The joint resolution was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. STEVENS moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PAY OF CONTESTANT.

Mr. UPSON. I am instructed by the Committee of Elections to report back the resolution referred to that committee for the payment of Mr. Bruce, contesting the seat of Mr. Loan, with the following as a substitute for the resolution:

Resolved, That there be paid out of the contingent fund of the House to John P. Bruce for the time spent and expenses incurred while contesting the right of Benjamin F. Loan to a seat in this House as Representative, the usual mileage for one session and the monthly compensation during the session, to and including the month of May.

Mr. STEVENS. If I understand it correctly, the original resolution gave to Mr. Bruce the usual pay and mileage, and that the substitute proposes to give him a specific sum. Now, sir, I am opposed to the substitute. I go upon the principle that where a contestant makes out a *prima facie* case he is entitled to pay and mileage, and that where he makes out no *prima facie* case, whatever is given him is merely a matter of grace upon the part of the House. Now, suppose a member is occupying a seat here and the contestant claims the election and unseats him. It shows that the member never was entitled to the seat, and yet he always receives pay and mileage from the commencement of Congress until the case is decided. You cannot give him only a portion of the amount, you must give him the entire amount; and so I hold that when the contestant comes here with a *prima facie* case he is entitled to the whole amount. In this instance the contestant has made out a *prima facie* case by obtaining the report of the committee in his favor.

Now, it is just like a case before a grand jury. One man prosecutes another. If the bill is found it makes out a *prima facie* case, and the party is not liable to be proceeded against for malicious prosecution; while if the grand jury ignore the case the presumption is the other way. Now, here is a *prima facie* case, and it seems to me that the usual rule should be followed. I hope, therefore, that the substitute will not be adopted, and that the original resolution will be adopted.

Mr. UPSON. The gentleman from Pennsylvania is somewhat mistaken in relation to the substitute reported by the committee. The substitute mentions no specific sum; but the committee thought it would be just and proper to allow the contestant mileage for one session, and also the regular pay of a member from the time the session commenced, which will be some six months, and make the amount somewhere near three thousand dollars in all.

The House will remember that the committee did not report in favor of the contestant, but reported against both the contestant and the sitting member.

In relation to the practice which has heretofore prevailed, the gentleman from Pennsylvania is much more familiar with it than I am; but I am informed that while the rate of compensation for members was eight dollars a day the rule usually adopted in these cases was to allow a per diem

from the commencement of the session, and not to allow it from the commencement of the Congress on the 4th of March. The committee thought the rule adopted prior to the time a salary was paid a very good one to follow, and that under the circumstances the amount which this resolution would involve would perhaps be a sufficient compensation. They do not desire to encourage contests upon frivolous grounds for the purpose of enabling the contestant to make a profitable speculation out of it. The majority of the committee, as I remarked, decided that neither of these parties was entitled to occupy a seat in this House. They declared the election to be void, but under the rule the contestant had sufficiently a *prima facie* case to entitle him to some compensation, and the committee therefore determined to report the substitute.

Mr. GANSON. I will suggest to the gentleman, the reason why the principle was adopted was that if it had been otherwise the contestant would get more than a member of Congress.

Mr. STEVENS. Suppose that Mr. Loan had been unseated, according to the report of the Committee of Elections, would he have been paid or not? Now, would he not have been paid?

Mr. BAXTER. He would, because he held the certificate of election.

Mr. STEVENS. Suppose that the House had decided that he was not elected, would he not have drawn pay from the time of the election?

Mr. WOODBRIDGE. In former times, in a case like the one under consideration, Congress would have voted him eight dollars a day from the commencement of the session until the time he retired from the House. They could do nothing more; because if they did they would vote him more than the sitting member would have.

Under the circumstances of this case, it is clear to me that Mr. Bruce made a *prima facie* case. It is true that the Committee of Elections, on investigation, decided that the election was void, and that neither of the parties from the seventh congressional district of Missouri was entitled to a seat upon this floor. The majority of the House decided that Mr. Loan was entitled to a seat. It reversed the report of the majority of the committee.

Mr. A. MYERS. I understand the gentleman from Vermont to say that Mr. Bruce made out a *prima facie* case. What does he mean?

Mr. WOODBRIDGE. He was here under that apparent right which enabled him to come as a *bona fide* contestant from the district which he claimed to represent.

Mr. A. MYERS. Did the committee decide that he made out a *prima facie* case?

Mr. WOODBRIDGE. The committee decided that neither of the gentlemen made out a case; whether that neither made out a *prima facie* case, I do not know. The report of the committee was that neither was entitled to a seat.

Now, the case comes within the rule when eight dollars per diem was allowed to members of Congress. If eight dollars per diem were now the pay of a member of Congress, he would be entitled to that pay from the commencement of the session to the time that the case was decided. I think that he came here in good faith; coming here with a *prima facie* case, the committee having decided that neither was entitled to a seat, and then the House having decided that one of them, General Loan, was entitled to a seat, I think that Mr. Bruce is entitled to his pay and traveling expenses up to the time that he was retired as much as any member of Congress.

I believe in doing justice. I do not believe in saving a few dollars to the Government at the expense of the principle of justice. If there ever was a contestant entitled to pay, in my judgment, from what I have learned from the report of the committee and the arguments made in this case, it is Mr. Bruce. If he is entitled to anything he is entitled to the amount he would have received if he had been decided to be a member of the House. I would not vote for this if he came without an apparent right. In the case of Mr. Sleeper it was decided that he should receive nothing; and I suppose that decision was made on the ground that there was not sufficient reason for him to present his application. But it is clear to my mind that Mr. Bruce had sufficient ground. It took a long time for the committee to decide the matter. They did not decide that the sitting

member or the contestant was entitled to a seat. The House having revised that decision decided that General Loan was entitled to the seat. I voted with the majority. But while I deemed it proper under all of the circumstances to vote for General Loan, I deem it just and proper that Mr. Bruce should be paid.

Mr. SPALDING. I am entirely in favor of the amendment proposed by the Committee of Elections, if I understand correctly what it is. It proposes to pay to the contestant from the commencement of the session a monthly compensation such as any of us receive by the month, and it proposes further to pay him mileage from his place of residence to this city, the same as members receive. Now, I put it to members to know, and I ask them to answer me and tell me, whether this man now asks compensation as a member of Congress, or compensation as a contestant. If they say as a member of Congress, I reply that he has never been a member of this Congress, and therefore is not entitled to compensation as a member of Congress. If he claims as contestant—and nobody doubts his right to claim in that respect—he receives pay for his time and services in contesting the right to his seat, and that right arises from the first day of the session until the right was determined by the action of this House.

And in addition to that he has a large mileage which must amply pay him for any incidental expenses. I say we have not money enough to allow us to be anything more than just, and if we are just it is all we can be expected to do at this time. I do not think there will be a dissenting voice in this House in regard to paying the monthly compensation and the traveling fees from his place of residence to this city. But I think we have a right to object, and that our constituents would have a right to object, to our paying the contestant at the rate of the salary of a member of Congress—paying it to a man who has not been in the service of the country, and never had the *prima facie* evidence of a member of Congress, for when he came here and submitted his claim the committee reported that neither person was entitled to the seat, though the House determined to give the seat to the sitting member. All, therefore, that the contestant can ask is a monthly compensation and traveling fees.

Mr. GANSON. I would inquire of the gentleman from Ohio if he would not allow pay for sixty days engaged in taking testimony, in addition to the time that Congress has been in session.

Mr. SPALDING. We allow compensation for that in this very ample mileage. The mileage will compensate the gentleman for more than sixty days' labor.

Mr. HALE. I think this question is well understood, and therefore I demand the previous question.

Mr. UPSON. I believe I am entitled to the floor.

THE SPEAKER. The Chair recognized the gentleman from Pennsylvania because he supposed the gentleman from Michigan had yielded the floor; but if the gentleman says he still holds it, the Chair will decide that he is entitled to it.

Mr. HALE. I hope the gentleman will move the previous question.

Mr. UPSON. I intend to do so very soon. I will say in reply to the gentleman from Pennsylvania that the pay of a member is fixed by law as a matter of right, but the pay of a contestant is to be fixed by this House; and therefore they regulate it as they deem just and proper in the case presented. We adapt the pay in each case to the circumstances, doing what we consider substantial justice. In the case of a contested election from Louisiana a nominal sum was fixed for the contestant; and in the case from Massachusetts, this present session, the committee reported a certain amount, but the House refused to vote anything.

In this case the committee have not fixed a specific amount, but have adopted a rule which will determine the amount of mileage and six months' compensation, commencing with the present session, and including the whole of the present month. That we think right and equitable under all the circumstances of the case. We have numerous other cases like this, and the rule determined upon in this will be a precedent for the cases which will follow, and hence the importance of adopting a rule in this case which shall

be just and equitable. The compensation and mileage recommended by the committee will amount to \$2,636, and, under all the circumstances, the committee consider this a fair and just compensation.

Mr. DAWES. As has been stated by my colleague on the committee who reported this resolution, the committee have had no rule until this session with reference to compensation to contestants since the change of the compensation law of members of Congress, and there have been all sorts of rules adopted by the House. The House at one time voted \$3,000 to a contestant when he had been here only a few weeks. Again they voted at another time \$18,000 in one resolution to be divided among a number of contestants who had been here contesting seats different lengths of time.

But it seemed to the committee highly important that a rule should be adopted, and the committee adopted this rule in the Massachusetts case, in establishing a fixed sum, although it reported the resolution in a different form. It was, however, an amount arrived at by the same rule, excepting that there was no mileage included in the resolution in that case, but simply a monthly compensation from the 1st of December.

In that instance the House declined to pay anything, because it thought the contestant had not a *prima facie* case or any reasonable ground of contest.

The committee in this case came to the conclusion that it should adopt the rule which obtained universally here before the compensation act was passed; namely, a monthly compensation to begin when the per diem would have begun under the old system. They know of no better rule than that, leaving the House to judge in each case whether there should be any compensation or not. I believe that in this case everybody admits there should be compensation, and the only question is what shall be the rule. What better rule can there be than the one reported by the committee? I had some doubts whether compensation ought not to be allowed for the sixty days during which the parties had to take depositions; but on the whole I was of opinion, and the committee was of opinion, that this was the best policy to adopt.

Mr. VOORHEES. I would ask the chairman of the Committee of Elections what the rule is which he now announces.

Mr. DAWES. Perhaps I ought not to call it a rule; but the committee was of the opinion that in each case where there was reasonable cause to justify compensation at all, it ought to report in favor of paying mileage and a monthly compensation from the commencement of the session to the conclusion of the case. That is precisely the same rule that was always adopted when the compensation of members of Congress was a per diem one.

Mr. SMITHERS. I will only state that the compensation of this contestant will amount, under this resolution, to something over twenty-six hundred dollars. The House will bear in mind that the committee reported that there was no *prima facie* case on the part of Mr. Bruce. He came here not in the character of a contestant, but as a party who was vindicating a public right, asking that the seat should be vacated. Under no circumstances could he have occupied the seat, and therefore I do not see that we ought to pay him as a member of the House. I think, however, that we should hold him harmless, and give him liberal compensation. I think the sum arrived at by the Committee of Elections is not only sufficient to save him harmless, but to give him something more than his expenses.

Mr. UPSON. I now demand the previous question.

The previous question was seconded, and the main question ordered, being first upon the substitute reported by the Committee of Elections.

Mr. BLAIR, of West Virginia, demanded tellers. Tellers were not ordered.

The substitute was agreed to—ayes 68, noes 44. The resolution, as amended, was then adopted.

Mr. UPSON moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

THE COLUMBIA BANK.

Mr. HALE, from the Committee of Claims, reported a bill for the relief of the Columbia

Bank; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

JAMES E. KILGORE.

Mr. HALE, from the same committee, made an adverse report on the claim of James E. Kilgore, executor of William Kilgore; which was laid on the table, and ordered to be printed.

GEORGE MOWRY.

Mr. HALE also, from the same committee, reported a bill for the relief of George Mowry; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

BENJAMIN ROACH.

Mr. HALE also, from the same committee, reported a joint resolution for the relief of Benjamin Roach; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

O. B. AND O. S. LATHAM.

Mr. HALE also, from the same committee, reported a bill for the relief of O. B. and O. S. Latham; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

CHARLES L. NELSON.

Mr. HALE also, from the same committee, reported back, with a recommendation that it do pass, an act (S. No. 197) for the relief of Charles L. Nelson.

The bill was read. It directs the Secretary of the Treasury to pay to Charles L. Nelson \$308 for his services as agent for the improvement of the harbor of Burlington, Vermont, from 15th January, 1863, to 2d April, 1863, inclusive, at four dollars per day.

There being no objection to considering the bill in the House, the bill was read the third time, and passed.

Mr. HALE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CHARLES B. CURTIS, JR.

Mr. HALE, from the same committee, reported a joint resolution referring back to the Court of Claims a report made to Congress on 20th January, 1863, in the case of Charles B. Curtis, Jr., with the accompanying papers; which received its several readings, and was passed.

G. H. CLARK.

Mr. HALE also, from the same committee, reported back a joint resolution for the relief of G. H. Clark, with a recommendation that it be referred to the Court of Claims.

It was so referred.

SARAH ROBINSON.

Mr. HALE also, from the same committee, reported a bill for the relief of Sarah Robinson, widow of Hon. John L. Robinson, late United States marshal for the district of Indiana; which was read a first and second time.

The bill was read. It authorizes the Secretary of the Treasury to credit to the account of Hon. John L. Robinson, late United States marshal, the sum of \$675, for services rendered by him in making preparations for taking the census of 1860; and directs that in the legal adjudication of such accounts judgment shall be rendered only for the balance found to be due, without any interest or penalties whatever.

Mr. SPALDING. I object to the consideration of the bill in the House. It makes an appropriation.

The SPEAKER. It is not an appropriation bill.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HALE moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

JOHN C. McCONNELL.

Mr. BROWN, of West Virginia, from the same committee, reported a bill for the relief of John C. McConnell; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and ordered to be printed.

HOOPER AND WILLIAMS, AND OTHERS.

Mr. PRUYN, from the same committee, reported a bill for the relief of Hooper & Williams, Livingston, Kincaid & Co., Gilbert & Gerrish, and others; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and ordered to be printed.

GERHARDT AND STEVENS.

Mr. PRUYN. The case of Gerhardt & Stevens was before the committee, but the papers are not here. I ask leave to present them after the reading of the Journal on Tuesday, that they may go to the Committee of the Whole House on the Private Calendar.

It was so ordered.

BURNSIDE AND COMPANY.

Mr. HOTCHKISS, from the Committee of Claims, made an adverse report on the petition of Burnside & Co., praying compensation for the loss of beef cattle taken by the rebels; which was laid on the table, and ordered to be printed.

JOHN J. MICHIE.

Mr. HOTCHKISS also, from the same committee, reported back House bill No. 338, for the relief of John J. Michie, of New Orleans, Louisiana, with an amendment.

The bill and amendment were read.

The bill makes an appropriation for the payment of John J. Michie for cotton belonging to him on the Yazoo river seized by order of General F. J. Herron in 1863, and sold by order of the Treasury Department.

The amendment changes the original bill so as to provide for releasing and remitting to the claimant the net proceeds of the sale after deducting cost of transportation, &c.

The SPEAKER. The Chair will state that the original bill makes an appropriation, and that it will require unanimous consent to consider it in the House.

Mr. WILSON. I think the bill had better go to the Committee of the Whole House on the Private Calendar.

Mr. HOTCHKISS. I hope the bill will be considered in the House and passed. This cotton was seized on the plantation of the claimant and sold by the Treasury Department. The matter has been thoroughly examined by the Committee of Claims. It is fully established that the claimant is a loyal citizen, and has at all times been such; that he has never taken any part in the rebellion or given aid and comfort to the enemy. He took the oath of allegiance as soon as he had the opportunity after New Orleans was taken. His title to the property is fully established, as well as that it was seized, has been sold, and that the money is now held by the Treasury Department. The case is made out by the clearest evidence, and I see no reason why there should be any delay in having this amount refunded to him.

We do not propose to pay any specific sum out of the Treasury; we do not propose to conclude the Treasury Department by this bill; we merely send him to the Secretary of the Treasury and give the accounting officers power to scrutinize the matter and determine. If upon further examination the Department find any objection to paying the claim it will not be paid. All that the committee recommend in his behalf is that the proceeds of the sale of this property shall be paid to him after paying all necessary expenses, if they find the claim established upon principles of right and justice. I think there is no shadow of doubt resting upon his case, and I hope the House will consent that the bill be passed.

Mr. WILSON. I must raise the question of order that the bill makes an appropriation, and must therefore go to the Committee of the Whole.

The SPEAKER. The Chair sustains the point of order, and the bill is therefore in the Committee of the Whole House on the Private Calendar.

Mr. HOTCHKISS. I wish to suggest that this whole claim has been examined by General

Grant, and he has recommended that it be paid. He is satisfied of the loyalty of this man, and made this recommendation in his favor. I believe that whatever has been recommended by General Grant has generally been unanimously adopted in this House.

The SPEAKER. The Chair will say to the gentleman from New York that the bill is in the Committee of the Whole.

Mr. HOTCHKISS. I respectfully suggest to the Chair that the bill is before the House, and I hope it will be passed.

The SPEAKER. The point of order having been raised by the gentleman from Iowa, the Chair decided that the bill must go to the Committee of the Whole House on the Private Calendar.

Mr. FENTON. I understood the gentleman from Iowa to withdraw his point of order.

Mr. WILSON. The gentleman from Iowa did not so understand it.

Mr. HOTCHKISS. As amended by the committee it is not an appropriation bill.

The SPEAKER. The original bill made an appropriation. It is true the committee proposed to so amend it as to bring it outside the rule, but that does not affect the question of order which applies to the original bill.

Mr. HOTCHKISS. I move to go into the Committee of the Whole House on the Private Calendar for the purpose of considering this bill.

The SPEAKER. That motion would not be in order, except by general consent.

Mr. WASHBURN, of Illinois. The motion to go into the Committee of the Whole House on the Private Calendar is in order, is it not?

The SPEAKER. It is, but there are other bills which will take precedence of this.

AMBROSE MORRISON.

Mr. WINDOM, from the Committee on Indian Affairs, reported a bill for the relief of Ambrose Morrison, of Nashville, Tennessee; which was read a first and second time.

Mr. WINDOM asked to put the bill on its passage.

The SPEAKER. The bill making an appropriation, cannot be considered in the House except by unanimous consent.

Mr. WASHBURN, of Illinois. I object.

The bill was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

J. D. TURNER, ETC.

Mr. WINDOM, from the Committee of Claims, reported a bill for the relief of J. D. Turner and W. G. Raymond; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

DEBORAH JONES.

Mr. WHALEY, from the Committee on Invalid Pensions, reported a bill for the relief of Deborah Jones; which was read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WHALEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

C. A. HAUN.

Mr. WHALEY, from the same committee, also reported a bill for the relief of C. A. Haun; which was read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WHALEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

MARY A. HYDE.

Mr. WHALEY, from the same committee, also reported a bill for the relief of Mary A. Hyde, which was read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WHALEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.



## MARGARET M. STAFFORD.

Mr. WHALEY also, from the same committee, reported back Senate bill No. 139, for the relief of Margaret M. Stafford, widow of Reuben Stafford, of Coshocton county, Ohio, with the recommendation that it do pass, which was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. WHALEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table. The latter motion was agreed to.

## ADVERSE REPORTS.

Mr. WHALEY, from the same committee, made sundry adverse reports; which were laid upon the table, and ordered to be printed.

## VALENTINE WEHRHEIM.

Mr. ROSS, from the Committee on Invalid Pensions, reported a bill for the relief of Valentine Wehrheim; which was read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ROSS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table. The latter motion was agreed to.

## S. C. AND E. WROE AND OTHERS.

Mr. HALE, from the Committee of Claims, reported a bill for the relief of S. C. & E. Wroe and others; which was read a first and second time.

The SPEAKER. The bill makes an appropriation, and requires unanimous consent to be considered in the House.

Mr. BOUTWELL. I object.

The bill was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

## PETER NAVARRE, OF OHIO.

Mr. ASHLEY, by unanimous consent, moved that the Committee of the Whole House on the Private Calendar be discharged from the further consideration of House bill No. 393, granting an invalid pension to Peter Navarre, of Ohio.

The motion was agreed to.

The bill directs that Peter Navarre, of the State of Ohio, be placed on the roll of invalid pensioners, at the rate of eight dollars per month, during his natural life, commencing on the 1st day of January, 1864.

It appears from the report that Peter Navarre is a grandson of Robert de Navarre, intendant and sub-delegate of Detroit, in the territory which now constitutes the State of Michigan, during the reign of Louis XV; that said Peter Navarre served under General Hull, as a scout, on the northwestern frontier; that he was among the prisoners at Hull's surrender at Detroit, and was sent home on parole; afterwards broke his parole, served General Winchester at River Raisin, gave him early information of the approach of the British army, took part in both actions of Colonel Lewis on the 18th of January, 1812, and the engagement of the next day, resulting in the defeat of the Americans; that at Major Madison's surrender, finding himself, by the violation of his parole, in a position in which his life was forfeited, he escaped from the British and Indians, incurring great hardships for many days in mid-winter, in traveling through the wilderness, returning to his home; that General Harrison, coming into the Northwest with his army, sent for petitioner and engaged him as a scout, until the close of the war, for the sum of one dollar per day. He was frequently sent by General Harrison, while in this service, with messages from one point to another, on one occasion going on foot to Urbana, in southern Ohio, through the wilderness, with a message to Governor Meigs, and again, on the day preceding the battle of Lake Erie, carrying a message from General Harrison, at Fort Seneca, to Commodore Perry, at Put-in-bay; that he was present and aided in the defense of Fort Stephenson, under Colonel Croghan, and accompanied the army on its march in pursuit of Proctor, and took part in the battle of the Thames. He is now poor and old, (being in his seventyninth year,) and, in consequence of disabilities occasioned by long exposure while engaged in the arduous and exposed service, is, and has been

for a number of years, unable to procure a livelihood for himself and family.

Mr. ASHLEY. I know this old man well, and all that he has ever received has been a land warrant.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ASHLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

## POST ROUTE BILL.

Mr. ALLEY. There are a large number of members who are anxious to have the post route bill reported, and I ask that the House will assign Wednesday next, after the morning hour, for the consideration of post office business.

Mr. FENTON. I must object to the assignment of any day for particular purposes until the general appropriation bills are disposed of.

## ALMON D. FISK.

Mr. NOBLE. I ask unanimous consent to report back from the Committee on Patents, with a recommendation that it do pass, Senate bill No. 112, for the relief of the heirs of Almon D. Fisk.

Mr. WASHBURN, of Illinois. I know what that claim is, and I object.

## PRIVATE CALENDAR.

Mr. HALE. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the Private Calendar.

And pending that motion I ask that, by unanimous consent, this may be considered objection day in committee.

No objection was made, and it was so agreed.

The motion to go into committee was agreed to.

The House accordingly resolved itself into the Committee of the Whole, (Mr. MALLORY in the chair,) and proceeded to the consideration of cases on the Private Calendar; which were disposed of as indicated below.

## SARAH WHITNEY.

A bill (H. R. No. 72) for the relief of Sarah Whitney and Mary Hufferford, children of Huldah Butler. [Objected to by Mr. Cox.]

## H. R. CROSBIE.

A bill (H. R. No. 292) for the relief of H. R. Crosbie. [Objected to by Mr. WASHBURN, of Illinois.]

## THIRD OHIO BRIGADE.

A bill (H. R. No. 293) to provide for the payment of the second regiment, third brigade, Ohio volunteer militia, during the time they were mustered into the service of the United States.

The bill provides that the second regiment, third brigade, Ohio volunteer militia, mustered into the service of the United States at Cincinnati, Ohio, on the 4th of September, 1862, notwithstanding irregularity may have occurred in the manner of their mustering into the service of the United States, shall be paid for the time the officers and men were in the service, respectively, after being so mustered, not, however, to exceed the period of thirty days.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

## JOSEPH C. G. KENNEDY.

A bill (H. R. No. 294) for the relief of Joseph C. G. Kennedy. [Objected to by Mr. WILSON.]

## AARON T. DOLL.

Joint resolution (H. R. No. 48) for the relief of Aaron T. Doll.

The bill authorizes the Quartermaster General to audit and pay to Aaron T. Doll his account of fifty dollars for a horse purchased of him by Lieutenant D. C. Daggett, quartermaster of the eighth regiment of Ohio volunteers, on the 23d of July, 1861, upon being satisfied by evidence that the account is just and ought to be paid.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

## INDIAN TRIBES IN NEW MEXICO.

A bill (H. R. No. 108) authorizing the making of treaties with the Navajo, Apache, and Utah Indian tribes, in New Mexico, defining their lim-

its, and extinguishing their title to lands outside of said limits.

Mr. COX. As that is not a private bill, and ought not to be on the Private Calendar, I move that it be reported to the House, with a recommendation that it be referred to the Committee on Indian Affairs.

The motion was agreed to.

## HARRIET AND EMILY W. MORRIS.

A bill (H. R. No. 314) for the relief of Harriet and Emily W. Morris, unmarried sisters of the late Commodore Henry W. Morris.

The bill provides that Harriet and Emily W. Morris, the unmarried sisters of the late Commodore Henry W. Morris, shall be entitled to the same pension as the brother would have been entitled to had he been totally disabled, to commence from the death of the brother; and the Secretary of the Interior is directed to place the names of Harriet and Emily W. Morris upon the pension roll of Navy pensions; provided, that in case of the death or marriage of either of the said sisters her pension shall cease.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

## FREDERICK A. BEELEN.

A bill (H. R. No. 345) for the relief of Frederick A. Beelen, late secretary of legation to Chili.

The bill authorizes the Secretary of the Treasury to pay to Frederick A. Beelen, late secretary of legation to Chili, the sum of \$166 66, out of any money in the Treasury not otherwise appropriated, in full for difference in salary under the several acts of Congress on that subject, while he acted as such secretary, before he was informed of such reduction, and until he had full time to return to the United States.

No objection being made, the bill was laid aside, to be reported to the House with a recommendation that it do pass.

## CHARLES M. WETHERILL.

A bill (H. R. No. 346) for the relief of Dr. Charles M. Wetherill.

The bill directs the Secretary of the Treasury to pay to Dr. C. M. Wetherill the sum of \$750, in full for his services as chemist of the Agricultural Department, out of any money in the Treasury not otherwise appropriated.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

## MARTHA JANE SKAGGS.

A bill (H. R. No. 347) for the relief of Martha Jane Skaggs. The bill directs the Secretary of the Interior to place the name of Martha Jane Skaggs, widow of Alfred Sykes Skaggs, late a private of company E, of the twenty-seventh regiment of Kentucky, and who died at Elizabethtown, Kentucky, on the 27th of January, 1862, upon the pension roll from the 27th of January, 1862, to continue during her widowhood.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

## O. F. JOHNSON.

A bill (H. R. No. 384) for the relief of C. F. Johnson, of Alabama. [Objected to by Mr. SPALDING.]

## BENJAMIN GRATZ.

A bill (H. R. No. 385) for the relief of Benjamin Gratz. [Objected to by Mr. SPALDING.]

## HUGH LEDDY.

A bill (H. R. No. 386) for the relief of Hugh Leddy. [Objected to by Mr. UPSON.]

## SOLOMON PARSONS.

A bill (H. R. No. 387) for the relief of Solomon Parsons.

The bill directs the Secretary of the Treasury to pay to Solomon Parsons, of West Virginia, the sum of \$125, in full payment for twenty-four hundred pounds of beef furnished United States troops at St. George station, Virginia, by order of Captain Horace Kellogg, commanding post.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

## MARY SHIRCLIFF.

A bill (H. R. No. 389) for the relief of Mary Shircliff.

The bill directs the Secretary of the Interior

# THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

TUESDAY, MAY 17, 1864.

NEW SERIES, No. 143.

to place the name of Mary Shircliff, widow of John Shircliff, on the pension roll, and pay her a pension, at the rate of eight dollars per month, during her widowhood, from the passage of this act.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

EMILY A. LYON.

A bill (H. R. No. 390) for the relief of Emily A. Lyon.

The bill directs the Secretary of the Interior to place the name of Emily A. Lyon, widow of Alfred M. Lyon, late a sutler in the twenty-third Iowa regiment of infantry, and who died in the service of his country the 17th of May, 1863, upon the pension roll, at the rate of eight dollars per month, from the 17th of May, 1863, to continue during her widowhood; provided, that proof satisfactory to the Commissioner of Pensions be made of the material facts of the petition.

Mr. BEAMAN. I object.

Mr. KASSON. I hope the gentleman from Michigan will withdraw the objection. I am personally cognizant of the facts in the case. This man was killed in battle, fighting for his country as a volunteer.

Mr. BEAMAN. If that be the fact, I withdraw the objection.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

WILLIAM BURNS.

A bill (H. R. No. 391) for the relief of William Burns.

The bill directs the name of William Burns, of Richland county, Ohio, first lieutenant in Captain Flannegan's company of Pennsylvania volunteers in the war of 1812, to be placed on the roll of invalid pensioners, at four dollars per month, during his natural life, commencing on the 1st of January, 1860.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

EDWARD WILLIAMS.

A bill (H. R. No. 392) for the relief of Edward Williams.

The bill directs the Secretary of the Interior to place the name of Edward Williams, of —, in the county of —, New Jersey, upon the list of three-fourths-pay pensioners, at the rate of \$11 25 per month, to commence from the 1st of January, 1861, and to continue during his natural life.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

MARY SCALES ACCARDI.

A bill (H. R. No. 394) for the relief of Mary Scales Accardi.

The bill directs the name of Mary Scales Accardi to be placed on the roll of invalid pensioners at the rate of six dollars per month, commencing at the date of her husband's death.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

PETER ANDERSON.

A bill (H. R. No. 419) for the relief of Peter Anderson.

The bill directs the Secretary of the Treasury to pay, out of any money in the Treasury not otherwise appropriated, to Peter Anderson the sum of \$1,125, being in full for back pension, at the rate of six dollars per month, from the day he received his wounds to the day his pension commenced, under award of Commissioner of Pensions, that is to say, from November 7, 1847, to July 13, 1863.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

REBECCA SCOTT.

A bill (H. R. No. 436) granting a pension to Rebecca Scott, widow of Major John B. Scott, late of the United States Army.

The bill authorizes and directs the Secretary of the Interior to place the name of Rebecca Scott,

of Maryland, widow of the late Major John B. Scott, of the United States Army, on the pension roll at the rate of twenty-five dollars per month, and to pay her a pension at that rate from the 22d of November, 1860, during her widowhood.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

JAMES NOKES.

A bill (H. R. No. 439) for the relief of James Nokes.

Mr. ORTH. I object.

Mr. CRAVENS. I hope my colleague will withdraw that objection, at least to allow the report to be read. I am perfectly satisfied it is a very meritorious case.

Mr. ORTH. It may be a meritorious case, but I do not think we should commence in this way to pay these claims. I must insist on my objection.

HEIRS OF JOHN E. BOULIGNY.

An act (H. R. No. 440) for the relief of the heirs of John E. Bouligny. [Objected to by Mr. WASHBURN, of Illinois.]

LOUIS ROBERTS.

An act (S. No. 234) for the relief of Louis Roberts. [Objected to by Mr. SPALDING.]

LOGAN HUNTON.

Joint resolution (H. R. No. 73) for the relief of Logan Hunton of New Jersey. [Objected to by Mr. DEMING.]

JOHN J. MICHIE.

Mr. HOTCHKISS. I ask the committee now to take up House bill No. 338, for the relief of John J. Michie, of New Orleans, Louisiana.

Mr. WILSON. I object.

COLUMBIA BANK.

A bill (H. R. No. 457) for the relief of the Columbia Bank, reported with an amendment to fill the blank with \$80,000, so as to appropriate that amount for the property of the Columbia Bank destroyed by the rebel incursion into Pennsylvania, in 1863.

The amendment was agreed to.

Mr. UPSON. I now object to the bill.

AMBROSE MORRISSEN.

A bill for the relief of Ambrose Morriessen, of Nashville, Tennessee.

Mr. UPSON. I object.

Mr. WINDOM. I appeal to the gentleman to withdraw his objection and allow the report to be read.

Mr. UPSON. I withdraw it for that purpose. The report was read.

Mr. SPALDING. I object to the bill.

JOHN C. MCCONNELL.

A bill for the relief of John C. McConnell. The bill appropriates \$2,000 in full for money advanced by John C. McConnell for raising troops in the State of Maryland.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

HOOPER AND WILLIAMS, AND OTHERS.

A bill for the relief of Hooper & Williams, Livingston, Kincaid & Co., Gilbert & Gerrish, and others. [Objected to by Mr. WADSWORTH.]

TURNER AND RAYMOND.

A bill for the relief of J. D. Turner and W. G. Raymond. [Objected to by Mr. HARDING.]

S. C. AND E. WROE, AND OTHERS.

Joint resolution for the relief of Samuel C. and E. Wroe and others. [Objected to by Mr. ORTH.] Mr. SPALDING. I move that the committee rise.

Mr. NOBLE. I hope the gentleman will not insist on that motion now. I desire that the committee will at least take up House bill No. 203, for the relief of Jacob Webber. It was unanimously reported by the Committee of Claims, and I ask consent to take it up.

Mr. SPALDING. I do not withdraw my motion.

Mr. WASHBURN, of Illinois, called for tellers on the motion.

Tellers were not ordered.

The motion was disagreed to—ayes 17, noes 81.

The CHAIRMAN. The Calendar will now be called the second time, when, under the rules, it will take five members to object to a bill.

MARGARET L. STEVENS.

A bill (H. R. No. 195) for the relief of Margaret L. Stevens, widow of General Isaac I. Stevens.

The bill provides that the proper accounting officers of the Treasury Department be directed to pay, out of any money in the Treasury not otherwise appropriated, to Margaret L. Stevens, widow of Isaac I. Stevens, late Governor and superintendent of Indian affairs for the Territory of Washington, such sum per annum for the time he served as superintendent as was allowed by law to the superintendent of Indian affairs for the Territory of Oregon by the act of Congress approved June 5, 1850; provided the sum shall not exceed the sum of \$4,000.

Only four members objecting, the bill was laid aside to be reported to the House with a recommendation that it do pass.

JACOB S. LOWERY, ETC.

A bill (H. R. No. 171) for the relief of Jacob S. Lowery and George S. Gray.

Objection was made by more than five members.

F. A. HOLDEN, ETC.

A bill (H. R. No. 226) for the relief of F. A. Holden, Eli Thayer, Hannah Bexton, D. W. Frisby, and Iliam Bloss.

Mr. PIKE moved that the committee rise.

The committee were divided; and there were—ayes 26, noes 48.

The CHAIRMAN ordered tellers; and appointed Mr. WASHBURN, of Illinois, and Mr. NOBLE.

The committee was again divided; and the tellers reported—ayes 25, noes 56; no quorum voting.

The Clerk proceeded to call the roll; and the following members failed to answer to their names:

Messrs. James C. Allen, William J. Allen, Anderson, Arnold, Ashley, Baily, Baxter, Blaine, Francis P. Blair, Jacob B. Blair, Bliss, Blow, Boyd, Brandegee, Clay, Cobb, Henry Winter Davis, Thomas T. Davis, Dawson, Deming, Denton, Dixon, Donnelly, Dumont, Eckley, Farnsworth, Fenton, Finck, Frank, Garfield, Grider, Harrington, Charles M. Harris, Herrick, Holman, Hubbard, Hutchins, Philip Johnson, Kelley, Orlando Kellogg, Law, Lazear, Le Blond, Littlejohn, Marvin, McAllister, McDowell, Morrill, Morrison, Amos Myers, Odell, Perry, Pike, Radford, Samuel J. Randall, Alexander H. Rice, Robinson, Rogers, James S. Rollins, Schenck, Smith, Starr, Stebbins, John B. Steele, William G. Steele, Stevens, Stiles, Strouse, Thomas, Van Valkenburgh, Voorhees, Ward, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Williams, Winfield, Benjamin Wood, and Woodbridge.

The committee then rose; and the Speaker having resumed the chair, Mr. MALLORY reported that the Committee of the Whole House had, according to order, had the Private Calendar generally under consideration, and finding itself without a quorum, had caused the roll to be called, and directed him to report the names of the absentees to the House.

A quorum having appeared, the committee resumed its session.

The question recurred on the motion to rise, and it was agreed to; the tellers having reported—ayes 50, noes 45.

So the committee rose; and the Speaker having resumed the chair, Mr. MALLORY reported that the Committee of the Whole House had, according to order, had the Private Calendar generally under consideration, and had directed him to report sundry bills to this House with the recommendation that they do pass.

Mr. HALE. I propose that the previous question shall be called on all the bills.

Mr. SPALDING. I object.

And then, on motion of Mr. WASHBURN, of Illinois, (at half past four o'clock, p. m.) the House adjourned until Monday next.

## IN SENATE.

MONDAY, May 16, 1864.

The Journal of Thursday last was read and approved.

## PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented resolutions of the Chamber of Commerce of New York, commending to the favorable consideration of Congress the application of Perry MacDonough Collins to extend and maintain a line of telegraphic communication through the Territories and public lands of the United States, and thereby connect the telegraph systems of Europe, Asia, and the United States; which were referred to the Committee on Commerce, and ordered to be printed.

Mr. RAMSEY presented the memorial of J. P. Howlett, quartermaster of the third regiment Minnesota infantry volunteers, praying to be relieved from all responsibility on account of money received of the United States for quartermaster's and subsistence departments, in consequence of the books and papers belonging to his office being destroyed by the rebels on the 13th of July, 1862; which was referred to the Committee on Military Affairs and the Militia.

Mr. DIXON presented a memorial of the Mechanics and Traders' Bank of New Orleans, praying that the Secretary of the Treasury may be authorized to return to that bank the amount of money paid on dividends to stockholders in the city of New York, by order of Major General Butler; which was referred to the Committee on Claims.

He also presented a petition of citizens of Norwalk, Connecticut, praying for the abolition of slavery throughout the United States, and for the adoption of measures for so amending the Constitution as forever to prohibit its existence in any portion of our common country; which was referred to the select committee on slavery and freed-men.

Mr. HOWE presented a memorial of the Legislature of Wisconsin in favor of the establishment of a semi-weekly mail route from Green Bay, in Brown county, through the towns of Green Bay, Red River, and Lincoln, to Ahnapee, in Kewaunee county; which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of Malcolm G. Marsilliot and others, who have been transferred from the military to the naval service, praying that the law may be so amended as to give them the aid which, in different States, is given to the families of those in the military service; which was referred to the Committee on Naval Affairs.

Mr. BUCKALEW presented a memorial of the Reading and Columbia Railroad Company; a memorial of the Philadelphia, Germantown, and Norristown Railroad Company; a memorial of the East Pennsylvania Railroad Company, and a memorial of the Huntington and Broad Top Mountain Railroad and Coal Company, remonstrating against the extension of the Goodyear patent for the manufacture of vulcanized India rubber; which were referred to the Committee on Patents and the Patent Office.

## EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting, in answer to a resolution of the Senate of the 9th instant, a report from the Secretary of State relative to a controversy between the republics of Chili and Bolivia; which was referred to the Committee on Foreign Relations, and ordered to be printed.

The PRESIDENT *pro tempore* also laid before the Senate a message from the President of the United States, transmitting, in answer to a resolution of the Senate of the 14th ultimo, a report of the Secretary of the Interior, in relation to the removal of the refugee Indians from Kansas to their homes; which was ordered to be printed.

The PRESIDENT *pro tempore* also laid before the Senate a letter of the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs, representing the necessity that exists for an appropriation for the Indian service in the Territory of Dakota, and recommending an appropriation of \$10,000 for general incidental expenses, presents of goods, &c.; which was referred to the Committee on Indian Affairs.

The PRESIDENT *pro tempore* also laid before the Senate a letter of the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs, submitting estimates for funds required for fulfilling treaty stipulations with various Indian tribes with whom recent treaties have been ratified by the Senate, and recommending that the appropriations be made; which was referred to the Committee on Finance.

## REPORTS FROM COMMITTEES.

Mr. HARLAN, from the Committee on Public Lands, to whom was referred a bill (H. R. No. 381) to amend an act entitled "An act making a grant of land to the State of Iowa, in alternate sections, to aid in the construction of certain railroads in said State," approved May 15, 1856, reported it with amendments.

He also, from the same committee, to whom was referred a bill (H. R. No. 432) for the relief of the citizens of Denver, in the Territory of Colorado, reported it with amendments.

He also, from the same committee, to whom was referred a bill (S. No. 157) for the relief of the citizens of the town of Denver, in the Territory of Colorado, asked to be discharged from its further consideration; which was agreed to.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom was referred a resolution instructing the committee to inquire into the condition of the Choctaw Indians, asked to be discharged from its further consideration; which was agreed to.

## BILLS INTRODUCED.

Mr. WILLEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 275) to prohibit cattle, horses, mules, and other domestic animals from running at large; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 276) concerning the jurisdiction of the Court of Claims, and for other purposes; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 277) making a grant of lands to the Territories of Dakota and Idaho, in alternate sections, to aid in the construction of certain railroads in certain Territories, to connect with the railroad system of Minnesota; which was read twice by its title, and referred to the Committee on Public Lands.

## NEW CENSUS IN 1865.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 53) providing for the taking of a census of the United States; which was read twice by its title.

Mr. WILSON. Mr. President, this joint resolution authorizes the taking of the census in 1865, leaving the officer in charge of the work liberty to avail himself of the labors of such States as shall enumerate their inhabitants in that year. The importance of understanding the numerical and arms-bearing population and the resources of the country is clear to the comprehension of men of intelligence. We cannot, in view of the great questions of legislation that force themselves upon the consideration of the practical minds of the country, over-estimate the value of the information to be derived from the ascertainment of the population and the capacity and resources of the country. A new census will furnish accurate information in regard to the productive and unproductive wealth of the country, the changes which have been wrought in manufactures and the mechanic arts, and the effects of the war upon our population and resources. A census, I am confident, will demonstrate the energetic character of our people, and the facility with which they vary their resources, in adapting themselves readily to circumstances, and give confidence in our ability to pay promptly the interests and principal of our accumulating national debts. If the taking of the census is postponed until 1870 we may be in doubt ourselves touching the reality of our progress, and other nations may consider us as exhausted and enfeebled by this long civil war. By postponing the taking of the census to 1870 we lose the opportunity of ascertaining the real and immediate influence of this state of war on the

progress of our numbers and resources, as the rapid changes incident to the return of peace serve to obscure the real effects of the war. It is especially important not only to know the degree of prosperity or adversity attending the people, but to understand how much of either is due to the state of war and what the result of the condition of peace.

The resources of the nation are better ascertained by a census which is not used directly as a basis of taxation than they are by any system of inquiry adapted directly to the attaining of revenue; so is a census of population more valuable as to the number of men of military ages than is any system of enrollment. The experience of other nations demonstrates the truth of this proposition. Many deeply interesting social questions will be solved by a census taken in 1865, after, as we hope, the close of this gigantic war. The determination to take the census then will show to the world that the American people entertain no fears respecting the developments of a census. I move the reference of this resolution to the Committee on the Judiciary, and commend it to their careful consideration.

The motion was agreed to.

## TREATMENT OF PASSENGERS ON THE ISTHMUS.

Mr. NESMITH submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the President of the United States be requested to communicate to the Senate, if not incompatible with the public interest, any correspondence received from the United States consuls at Panama and Aspinwall, New Grenada, in relation to the abuse and maltreatment of passengers, seamen, firemen, &c., on board steamships plying between New York and Aspinwall.

## PASSENGERS ON OCEAN STEAMERS.

Mr. NESMITH submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Commerce be instructed to inquire if any further legislation is necessary for the protection of passengers and seamen on board ocean steamers.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the House of Representatives had passed the following bills and joint resolutions; in which it requested the concurrence of the Senate:

A bill (No. 32) to regulate the sessions of the circuit and district courts for the northern district of New York, and for other purposes;

A bill (No. 307) to regulate commerce among the several States;

A bill (No. 393) for the relief of Peter Navarre;

A bill (No. 452) to grant a pension of eight dollars per month to Harris Welch;

A bill (No. 453) to increase the pension of Isaac Allen;

A bill (No. 454) granting a pension to Thomas Booth;

A bill (No. 455) to punish and prevent the counterfeiting of coin of the United States;

A bill (No. 456) for the relief of the Mercantile Mutual Insurance Company of New York;

A bill (No. 460) for the relief of Sarah Robinson, widow of Hon. John L. Robinson, late United States marshal for the district of Indiana;

A bill (No. 465) for the relief of Deborah Jones;

A bill (No. 466) for the relief of the widow of C. A. Haun;

A bill (No. 467) for the relief of Mary A. Hyde;

A bill (No. 468) to amend an act for the relief of Valentine Wehrheim, approved June 12, 1860;

A joint resolution (No. 63) to settle the account of James Keenan, late consul at Hong Kong, China; and

A joint resolution (No. 74) referring the claim of J. H. Clark & Co. to the Court of Claims.

The message further announced that the House of Representatives had passed the following bills and joint resolution of the Senate:

A bill (No. 139) for the relief of Margaret M. Stafford, widow of Reuben Stafford, of Coshoc-ton county, Ohio;

A bill (No. 197) for the relief of Charles L. Nelson; and

A joint resolution (No. 37) for the payment of expenses incurred by the joint committee on the conduct of the war.

Also, that the House had passed the resolution of the Senate referring the claim of Charles P. Curtis to the Court of Claims.



## ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 38) to authorize the settlement of the accounts of A. Bush, late public printer for the Territory of Oregon;

A bill (S. No. 76) relating to appointments in the naval service and courts-martial;

A bill (H. R. No. 185) to establish a postal money order system; and

A bill (H. R. No. 370) to appoint certain officers of the Navy.

## BILL BECOME A LAW.

The message further announced that the President of the United States had approved and signed on the 12th instant an act (H. R. No. 159) for a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of a railroad in said State.

## GENERALS SCHENCK AND BLAIR.

Mr. DAVIS. I move to take up the resolution which I offered on Wednesday last.

The PRESIDENT *pro tempore*. The resolution will be read before the question is put on taking it up.

The Secretary read the following resolution, which was submitted by Mr. DAVIS on the 11th instant:

Whereas the President of the United States, in a communication to the House of Representatives of date 28th of April ultimo, represents, "that prior to and at the meeting of the present Congress, Robert C. Schenck, of Ohio, and Frank P. Blair, jr., of Missouri, members-elect thereto, by and with the consent of the Senate held commissions from the Executive as major generals in the volunteer army," and that "General Schenck tendered the resignation of his said commission and took his seat in the House of Representatives at the assembling thereof, upon the distinct verbal understanding with the Secretary of War and the Executive that he might at any time during the session, at his own pleasure, withdraw said resignation and return to the field;" and whereas the President in said communication states further, that "General Blair was, by temporary agreement with General Sherman, in command of a corps through the battles in front of Chattanooga, and in the march to the relief of Knoxville, which occurred in the latter days of December last, and of course was not present at the assembling of Congress;" and "that when he subsequently arrived here he sought and was allowed by the Secretary of War and the Executive the same conditions and promises as allowed and made to General Schenck;" and further, that "General Blair holds no military commission or appointment other than herein stated;" Therefore,

Be it resolved, That the arrangement aforesaid, made by the President and the Secretary of War with Generals Schenck and Blair, to receive from them temporarily their commissions of major general, with discretion on their part, at any time during this session of Congress to resume them, was in derogation of the Constitution of the United States, and not within the power of the President and the Secretary of War, or either of them, to make.

Mr. ANTHONY. I desire the Senate to take up a bill which I am sure will lead to no debate, and which the Senator from Kentucky wants to have passed as much as I do. If he will yield for that purpose, I shall be very much obliged to him.

Mr. DAVIS. I do not propose to debate this resolution; I only ask for action on it; but if the bill of the Senator will not displace the resolution, I have no objection to its being taken up.

Mr. ANTHONY. It will not displace this resolution if the resolution be laid aside informally.

The PRESIDENT *pro tempore*. The resolution is not before the Senate.

Mr. GRIMES. Let us have a vote on taking it up.

Mr. DAVIS. Very well; I ask for the yeas and nays.

The question being taken by yeas and nays, resulted—yeas 22, nays 10; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Conness, Davis, Hailan, Harris, Hendricks, Howard, Howe, Lane of Indiana, Lane of Kansas, Morgan, Pomeroy, Powell, Ramsey, Richardson, Sumner, Ten Eyck, Trumbull, Wilkinson, and Wilson—22.

NAYS—Messrs. Collamer, Dixon, Doolittle, Foot, Foster, Grimes, Henderson, Morrill, Nesmith, and Willey—10. ABSENT—Messrs. Brown, Buckalew, Carlile, Cowan, Fessenden, Hale, Harding, Hicks, Johnson, McDougall, Riddle, Saulsbury, Sherman, Sprague, Van Winkle, Wade, and Wright.

So the motion was agreed to; and the Senate proceeded to consider the resolution.

Mr. DAVIS. I have no disposition to debate the resolution. I have no doubt every gentleman in the Senate has his opinion formed, and I will content myself simply by asking that the vote be taken upon it.

Mr. WILSON. I propose an amendment as a substitute which I think reaches the subject more accurately. It is to strike out all after the word "whereas," in the preamble of the resolution, and insert the following in lieu thereof:

Frank P. Blair, a major general of volunteers, nominated and appointed by the President, by and with the advice and consent of the Senate, did, on the 1st day of January, 1864, tender his resignation of said office of major general, which resignation was by order of the President accepted January 12, 1864, and the said Frank P. Blair informed thereof; and whereas the said Frank P. Blair afterwards, on the 12th day of January, 1864, appeared and qualified as a member of the House of Representatives, and entered upon the duties thereof; and whereas the Constitution expressly declares that "no person holding any office under the United States shall be a member of either House during his continuance in office;" Therefore,

Be it resolved, That the said Frank P. Blair, by the tender and acceptance of his resignation, and by appearing, qualifying, and becoming a member of the House of Representatives, ceased to be a major general of the volunteer service of the United States, and he is not entitled to the rank and emoluments of that office.

Mr. DAVIS. I will say a word on that proposed amendment. The resolution which I have offered in its preamble quotes all the facts in the language in which the President states them. It has application to the cases both of General Schenck and General Blair, and declares that both arrangements, as recited by the President himself in his communication to the House of Representatives, were in derogation of the Constitution, and that it was not competent for the President or the Secretary of War, both or either of them, to make them. I desire that the resolution shall meet both cases as they have been given in their facts by the President to the House of Representatives. The substitute resolution would be covered and comprehended, I think, entirely in its effect by the resolution which I offered. The other case is not referred to or touched in the substitute resolution, and therefore I think it ought not to be adopted.

Mr. TRUMBULL. The Senator from Kentucky will allow me to suggest that he is probably aware that General Schenck has repudiated any such understanding.

Mr. DAVIS. The resolution that I offered does not pretend to assert as a fact that such an arrangement was made between General Schenck and the President and the Secretary of War. It does not pretend to decide the question of fact between the President and General Schenck. It merely assumes that the predicate of the facts set forth by the President himself in his official communication, shows a case of an arrangement between General Schenck and himself, which he had no constitutional power to make.

I have no inimical purpose either to General Schenck or General Blair in this proceeding. Both the gentlemen I have known, and for both of them I have a high personal regard. General Blair is a gentleman of fine military mind and of the greatest gallantry. I have no doubt he is eminently qualified for the place that he is now acting in, but I do not believe that he is legitimately and constitutionally in it. If he was, I should be the last person in the Senate to disturb him in possession of it. I only regret that he is not legitimately and constitutionally in it. A gentleman of more gallantry and of more capacity for the command which he is now exercising I have not the pleasure personally of knowing in the Army of the United States. General Schenck's statement I have no reason to distrust. But this is not a blow offered at either of these gentlemen; it is offered at the precedent set by the Administration. If the matter was to terminate here, I should not have moved in it; but we all know that precedent becomes law; and the fact that a precedent is vicious and unconstitutional does not deteriorate from its force and its effect in assuming the authority of law, especially after it has been followed up in a few instances.

All that I desire to do is to meet the position of constitutional power, which the President himself sets forth as having been assumed by him and the Secretary of War, and I merely want the Senate to enter a negative to the existence of that power invested by the Constitution in the President and Secretary of War.

Mr. MORRILL. Mr. President, this preamble sets out certain independent facts, of the accuracy of which I doubt whether the Senate is in a condition at this moment to judge.

Mr. DAVIS. Will the honorable Senator

permit me to say that if he will look at the communication of the President to the House of Representatives he will find that the facts set forth in the preamble to this resolution are *verbatim et literatim* the language of the President?

Mr. MORRILL. I am aware of that, and still I have always questioned the propriety of the Senate of the United States, acting with anything like a judicial judgment on the record of the other House, or on a record of any facts which were not found by its own committees. It will be seen by the preamble that there are not only a variety of independent facts stated here which are precedent to the resolution and upon which the resolution is founded, but those facts involve a variety of persons, four parties at least, and three of those parties are not made parties to the record and have not been heard and are not parties to that statement to which the honorable Senator from Kentucky refers, and upon which he bases both his preamble and resolution.

I submit whether it is not a little summary, to say the least of it, that we should pass a resolution which is to be in the form of a judgment to affect the rights of at least three parties who have never made any communication upon the subject and who are not included in any record to which this resolution refers. It occurs to me that the proper way if we are to pass upon a matter of so grave import as this is that it should have at least the consideration of a committee of this body; and I move, therefore, if the motion is in order, that the whole subject be referred to the Committee on the Judiciary.

Mr. DAVIS. I have no objection to that motion.

Mr. SUMNER. It seems to me the proper committee for it is the Committee on Military Affairs.

Mr. MORRILL. It involves certainly a constitutional question.

Mr. SUMNER. Not entirely. There is also a question of military usage under the Government. It seems to me that any other proposition relating to the Army of the United States, or legislation in regard to it, might with equal propriety be referred to the Judiciary Committee. I think it logically goes to the Military Committee.

Mr. MORRILL. The Senator will find that in the very phrase of the resolution the Senator from Kentucky invokes the Constitution. The action, he says, was "in derogation of the Constitution of the United States," certainly raising a constitutional issue.

Mr. WILSON. I do not know that I shall object to the reference of the resolution, and of the amendment which I have offered, to the Committee on the Judiciary, or any other committee to which the Senate chooses to send the subject; but the question was referred to the Committee on Military Affairs by a bill introduced by me some days ago. I had prepared this amendment to be reported as a substitute for the original bill, but my committee have not yet acted upon it. As the resolution came up this morning at a time when I did not expect it to come up, I moved the amendment which I had intended to bring before the Committee on Military Affairs to be substituted for the bill that I introduced some days ago.

If it is thought that this subject ought to go to the Committee on the Judiciary or any other committee of the Senate for the purpose of more careful examination, and for the purpose of reporting the facts of the case, I shall not raise any objection. It is a very grave matter. There is no question, I think, that the whole proceeding is unconstitutional, a direct and palpable violation of the Constitution. I do not wish to be hasty in action, and I am for the most careful deliberation.

Mr. TRUMBULL. It seems that the Committee on Military Affairs have already had under consideration this subject, and have had it referred to them directly. I myself do not see the propriety of the motion of the Senator from Maine. I do not know that there is any controversy about the facts. He seems to suppose that we should not act without an examination of the facts. If there is anything we can act upon, I should think an official communication from the Executive of the nation to Congress, stating certain facts, embraced all that we need know in order to predicate action here. Does the Senator from Maine mean to summon the President to ascertain whether what he stated in his official communication to

Congress is true or not? The amendment offered by the Senator from Massachusetts, and which was the pending question before the Senate until the Senator from Maine made his motion to refer, states official facts only. Now, what has the committee got to inquire into, I pray, when it goes to the committee? The fact is to be inquired into. What fact is disputed? Is it expected that the committee is to do anything with it?

Mr. MORRILL. Does the Senator desire an answer?

Mr. TRUMBULL. I should like to know what facts are to be inquired into.

Mr. MORRILL. I will state what occurred to me on the first blush. This preamble makes the Secretary of War and General Schenck parties to a distinct arrangement which is denominated in the resolution "in derogation of the Constitution of the United States." Does the Senator from Illinois understand that there are any facts to authorize such a judgment of the Senate as that? I have not understood that the evidence which the House of Representatives had before them would authorize such a judgment. I do not understand that the House has passed such a judgment. I do understand that the fact is very gravely controverted whether General Schenck had anything to do with the matter at all. So far as he is concerned, he certainly denies it; and yet this resolution involves General Schenck in this difficulty. The President, the Secretary of War, General Schenck and Blair—here are four parties at least equally implicated in what is denominated "in derogation of the Constitution." I ask whether the Senate is in a condition to pass that judgment against these parties unheard? I submit, therefore, to the honorable Senator from Illinois that the fact to be ascertained is, whether any one or all these parties stand in the relation to this transaction in which this resolution seeks to put them.

In regard to the committee to whom it shall go, of course I have no particular preference. I indicated the Committee on the Judiciary because it seemed to me to involve a constitutional question, and I indicated that committee before I knew that the Committee on Military Affairs had had the subject under consideration. I did it for this reason: in passing on so grave a question as this, placing three men, high in position, in the attitude of having made an arrangement which in the judgment of the Senate was a dishonorable arrangement, or an arrangement in contravention of the Constitution, it seemed to me the Senate ought to be cautious of its facts.

Mr. TRUMBULL. I understand, then, that the Senator from Maine denies the truth of the allegations made by the President of the United States, that it involves the Secretary of War. Does he propose that the Senate shall undertake an investigation of a matter of fact between the President and the Secretary of War? Will any committee undertake any such thing? Has it any authority to do it? He says the official statement made to the House of Representatives involves the Secretary of War, and he wants to know the facts as to the persons that are implicated. I wish to know of the Senator from Maine directly if he proposes that a committee of this body shall examine into such a question as that between one of the coördinate branches of the Government and a subordinate officer as to whether the statement he has made is the truth or not? Does the Secretary of War deny it?

Mr. President, I am not to be driven into a defense of the resolution which the Senator from Maine has before him. I do not know that I shall vote for this resolution which has been offered by the Senator from Kentucky. I prefer the amendment which was offered by the Senator from Massachusetts, and am disposed to vote for it; but I do not see why this resolution should be referred to the Committee on the Judiciary to investigate facts or to enter into the investigation of a constitutional question. If there is any constitutional question involved in it upon which the Senator from Maine supposes the Judiciary Committee would throw light, I really do not know what it is.

The amendment offered by the Senator from Massachusetts quotes the very words of the Constitution. The facts stated in the amendment are the official records of the country. I do not really see what is to be investigated by referring the

subject to a committee. It seems to me the speediest way to get rid of it would be to act upon it in the Senate. That would be my view of it. But if it is to be referred to any committee, the Senator ought to make a motion to discharge the Committee on Military Affairs, which has had charge of the subject, if it is to be taken from that committee, from its further consideration. My impression is, it would be better to leave it with the committee that has had charge of it.

Mr. MORRILL. The Senator does not understand that the Military Committee has had charge of this particular subject?

Mr. TRUMBULL. Yes, sir; a resolution or bill on this very subject—I believe a resolution—was referred to the Committee on Military Affairs some days ago, as I understand from the chairman. This resolution comes up now offered by the Senator from Kentucky; but it is of the same character as that which has already been referred to the Committee on Military Affairs.

Mr. HOWE. I desire to inquire simply if the motion of the Senator from Maine, if adopted, will refer to the Judiciary Committee the amendment of the Senator from Massachusetts as well as the resolution of the Senator from Kentucky?

Mr. MORRILL. Yes, sir; it will carry the whole subject there.

Mr. HOWE. I can only say that I hope that reference will be made, and I hope we shall have a very full examination of the subject by the Committee on the Judiciary. It strikes me as being rather a grave matter that it should be asserted publicly and very boldly that a man in military command now of a corps, I believe, is a mere private citizen; and such I understand to be the proposition of the Senator from Massachusetts, who is chairman of the Committee on Military Affairs. It is a very grave assertion; and it is a question upon which I should not desire, as a Senator, to commit myself until I am compelled to meet it in some jurisdictional way, and after a very careful examination. The ulterior consequences resulting from such a fact may be very momentous and very melancholy; and I think we ought to know at the earliest possible day whether there is any foundation whatever for such an assertion. I hope the subject will be referred to that committee.

Mr. POWELL. I concur very fully with the views taken by the Senator from Wisconsin. This is a very grave matter, and, in my judgment, it should receive an investigation at the hands of the Committee on the Judiciary, and they should make a report giving their opinion of the law of the case. As to the facts that present themselves in the communication of the President, it is very clear that the President indicates there were arrangements with those two major generals touching their coming into Congress and afterwards resuming their positions in the Army as major generals in the service of the United States. There are grave constitutional questions that present themselves in the cases of both those generals. If General Blair accepted the office of a Representative in the Congress of the United States, that being an office incompatible with the one of major general, the presumption is pretty clear that he vacated the office of major general.

General Schenck, as I understand, was elected in the autumn of 1862 a member of the present Congress. The term of that office commenced on the 4th day of March, 1863. From the proceedings of the House of Representatives it seems that General Schenck stated, in a speech there, if I understood the speech correctly, that he held on to this office of major general up to one or two days before the meeting of this Congress, and that he received the pay of a major general in the Army of the United States up to that time, his office of a member of Congress having commenced on the 4th of March preceding. If he held on to an incompatible office, and received the pay and emoluments of that office for months after his term as a member of Congress commenced, the question arises whether or not he did not by that waive the acceptance of his office as a Representative in the Congress of the United States. That is a very grave constitutional question, one upon which, I confess, I have not a very distinct opinion. I certainly have an impression upon it. As General Schenck, however, is a member of the House of Representatives, it would be probably more proper that the House

of Representatives should investigate that matter.

But it is set forth in the resolution of my colleague that the President has acted in violation of the Constitution in both these cases. We, as a part of a coördinate branch of this Government, are the guardians of the public liberties, and it is our duty to look into those infractions of the Constitution. I hold that it is only by a faithful observance of the Constitution that the liberties of the people can be sustained or maintained. I do not think there can be much doubt on the subject as to whether the acceptance of an incompatible office vacates the one held. Upon the very branch of the case that I have mentioned as regards General Schenck, there is greater doubt. But I hold that if the Executive, or any power on earth, infracts the Constitution of this country, it is the duty of this Senate to make manly protest against it. I think this whole question should be referred to the Committee on the Judiciary, and they should give it an elaborate investigation, and report to the Senate their opinions, in writing, as to whether the Constitution has been infringed or not. I hope, therefore, that the whole subject will go to the Committee on the Judiciary, and that they will make a report upon the case at as early a day as possible.

Mr. MORRILL. I have examined the amendment proposed by the Senator from Massachusetts since I made my motion. My remarks were applicable to the resolution offered by the Senator from Kentucky. I do not think the amendment offered obnoxious to those remarks; certainly not to the general intent which they applied to the resolution of the Senator from Kentucky. If there is a disposition to vote on the amendment, I am disposed to withdraw my motion of reference to the Committee on the Judiciary for that purpose.

The PRESIDENT *pro tempore*. The motion to refer is withdrawn.

Mr. DAVIS. I renew the motion to refer both the resolution and the amendment to the Committee on the Judiciary; and upon that motion I desire to say a single word. The resolution gives rise to a very important constitutional question. The Senator from Massachusetts suggested that the precedents in relation to the practice of the Government should be examined. I suppose that the conclusion or the thought in his mind was that this act of the President could be sustained, but upon that question, I think, there will be very little contrariety of opinion among Senators.

The question suggested by my colleague, however, is a much more important question than that, for the reason that it is much more difficult to decide, I think, and there will be a much greater variety of opinion and judgment in relation to it. That question is this: whether when a man holds a commission as a major general in the Army of the United States, and while he holds that commission and is in the exercise of the office, he becomes a candidate for Congress and he is elected, and after his election to Congress as a member of the House of Representatives he holds on to his commission and executes the duties of the office of major general for five or six months, whether this conduct does not amount to a waiver and a forfeiture of his position as a member of the House of Representatives to which he is elected. I am not prepared to answer that question distinctly satisfactorily to my own mind. It may be the one way or the other; but it is a question of great gravity which in my judgment ought to be investigated and reported upon by the Committee on the Judiciary after the maturest consideration of the subject.

Mr. CONNESS. I hope this resolution and the substitute offered for it will not be referred as now moved by the Senator from Kentucky. If the question stated by the Senator when just up he involved, the question whether General Schenck, while holding a military commission, could or could not become a member of Congress, it appears clear to my mind that that question belongs to the House of Representatives, of which he is a member, and not to the Senate. That inquiry is not pertinent here; and I am utterly opposed to any inquiry upon this subject relating to General Schenck. We know that General Schenck is a member of the other branch of Congress. We also know that he is not in commission as a military officer. The case of General Blair is a

very different one. We know that General Blair was a member of Congress. We know that General Blair is now holding a military commission. I see no analogy between the cases; and I would not refer this subject as it now stands or is presented to any committee of this body for investigation. I hope it will not be referred, but that the question will be acted upon by the Senate now in the form in which it is presented by the substitute offered by the honorable chairman of the Committee on Military Affairs. I am not anxious to ascertain whether some of the gentlemen, one or more, named in the preamble to the resolution of the honorable Senator from Kentucky, have been or are inconsistent or not. I am willing to leave that where the action of the House of Representatives has placed it, and do not regard such an inquiry as pertinent here. I hope that the Senate will refuse to refer, and will act upon the question as it is presented.

Mr. ANTHONY. I voted to take up this resolution for the very purpose of referring it. I should have made the motion to refer if the Senator from Maine had not done so. I am certainly not prepared to vote for a resolution of censure on the President or either of the generals. I am willing that the matter shall be referred; and then, if the facts and the law are such as have been represented, we can vote accordingly. I am not prepared to vote on it now. I shall vote for the reference.

Mr. FESSENDEN. The President has laid, with great frankness, the whole facts before the country in his communication to the House of Representatives, and the country can judge as well as we can in reference to the facts, and therefore I see no necessity for action on that branch of the question unless gentlemen are disposed to press for the expression of a general opinion upon the subject by Congress, which would be in the nature of a vote of censure or something of that sort. So far as regards General Schenck or any understanding that may have been had with him, we have nothing to do with the question, because General Schenck has not been either again nominated or put in command.

The PRESIDENT *pro tempore*. The Chair must interrupt the Senator to call up the special order, the time for its consideration having arrived.

General SENATORS. Let us go on with this resolution.

Mr. FESSENDEN. If by consent of the Senate this resolution be continued, it will not take me two minutes to say what I desire to say.

Several SENATORS. Go on.

The PRESIDENT *pro tempore*. The special order will be laid aside informally, if there be no objection.

Mr. FESSENDEN. The question stands very differently, in my judgment, in regard to General Blair. It is admitted that he has been put in a high military command, and been put in that command by virtue of the commission which he held previous to a certain period, that is to say, the period when he became a member of this Congress by taking the oath and qualifying himself accordingly; and on the facts it also appears that General Blair had resigned that commission, and that his resignation had been accepted. With that we have something to do, while we have nothing to do with the question so far as General Schenck is concerned, he being a member of the other House; and if any question such as is suggested by the honorable Senator from Kentucky arises in his case, it is to be judged by the other House. General Blair, however, being actually in command as an officer, and in high command, we have something to do with his case, because whether a man is major general or a brigadier general depends upon our confirmation as well as upon the President's nomination; and therefore it is not only our right but it becomes our duty to look into that subject if we know the fact, and we cannot help knowing the fact, because the whole of it is contained in a communication under the signature of the President, admitted and stated by him to Congress. We have a right, and it is our duty to take notice of the fact as it exists, and to inquire whether he is a major general in the service of the United States; and, as I have before remarked, it depends upon us as well as upon the President, in the first instance, whether he is a major general in the service of the United

States. I think it very proper, therefore, that we should investigate that matter, and in view of the simple position which I have stated, of course I shall vote for the amendment proposed by the Senator from Massachusetts to the original resolution, because it is confined to the matter which it is proper that we should inquire into, and is direct upon that subject.

Whether the question is to be referred to the Committee on the Judiciary or not, Senators will decide according to their own wishes and judgment. For myself individually, I should not vote to refer it, because I am perfectly clear in my own mind that, on each of the grounds stated in the amendment proposed by the Senator from Massachusetts, General Blair clearly is not an officer of the United States. When he resigned his commission, and that resignation was accepted without qualification, he ceased to be a major general, and he could not be made a major general again without our permission.

Again, when he qualified himself as a member of the House of Representatives, under the constitutional provision he ceased to be a major general, if he had not ceased before, and, in my judgment, he could not become a major general again without our consent and advice.

Being perfectly clear on both these points, I have no wish for a reference of the subject to any committee whatever, but am prepared to vote for the resolution at any moment.

Mr. NESMITH. Mr. President—

Mr. HALE. I must insist on the special order.

The PRESIDENT *pro tempore*. The special order will be taken up, being Senate bill No. 114.

Mr. TRUMBULL. Can we not vote on this resolution? Does anybody want to speak?

Mr. HALE. I have no objection to a vote being taken.

The PRESIDENT *pro tempore*. The resolution may be continued before the Senate by unanimous consent. The Chair hears no objection. The Senator from Oregon is entitled to the floor on the resolution.

Mr. HALE. I want to ask a question of order. If this consent is given, does it extend all day?

The PRESIDENT *pro tempore*. The Chair thinks not. The Chair will call up the special order at the termination of this debate.

Mr. NESMITH. I only desire to make one or two remarks on this matter. Whatever constitutional question may be involved, a usage has grown up in the Departments of this Government in connection with the subject of action on resignations; and for that reason I should like to have the resolution referred to the Committee on the Judiciary, instead of our proceeding at once to condemn the course that has been pursued by the Secretary of War and the President in this instance. There are ample precedents, I think. I can name one which I have now in my mind's eye. Under the administration of General Jackson, an officer of the artillery resigned. Some five or six months after his resignation was accepted his company was here in Washington. The commanding officer of it was taken sick, and the company being ordered to Florida, General Jackson permitted that officer, who had resigned five or six months before, to withdraw his resignation and take command of the company. He did so, and went into the Florida campaign, and served as an officer of the regular Army of the United States without any resubmission or reconfirmation by the Senate. There are a great many instances of that kind, I think, in the history of the Government. The President and the Secretary of War may have acted with reference to those precedents; and before a condemnation is pronounced on them, I should like to have the subject referred to a committee, in order that an investigation may be had into the precedents.

Mr. JOHNSON. I happened to be at the War Department a few days ago when an application was made by one who had been in the military service of the Government to be reappointed a captain, who had resigned, and whose resignation had been accepted; and after the interview between that officer and the Secretary had terminated I told the Secretary that I did not understand how it could be done, and wanted to know what the law was in his opinion. Without expressing any opinion himself about the law, he told me that the usage had been unbroken; where

a resignation was accepted and the officer was willing afterwards to go into the service, and the President was willing to accept his services again, the President canceled the resignation and the individual was considered as again in office. He mentioned four cases; I cannot recollect the names of all of them. One was the present Brigadier General Meagher, who resigned, and whose resignation was accepted, and he was out of the service nearly a year, I believe, or eight or nine months; and upon the death of General Corcoran, who commanded the division in which Meagher was, he applied to be reinstated, and it was done. Three other cases he mentioned where parties had been out of commission, one of them I think for a year or two years, and, as I understood him, so far as he was advised of what had been the practice of the Government from the beginning up to the present Administration, that had uniformly been done. As we know, every day during the existence of the present war, officers have been dismissed the service by the President under the act which authorized him to dismiss without giving any reason, and they have been dismissed on the decisions of courts-martial, and over and over again—indeed there is hardly a paper that does not tell us the fact—he has reinstated them.

I confess for myself, speaking individually and without regarding at all what has been the usage, I do not exactly see that the usage has the sanction of law. The Secretary seemed to suppose that there might be a difference between the case of Major General Blair, to which I particularly adverted, and the other cases that had arisen. That difference he supposed might be found in the fact of his having qualified as a member of Congress, which of itself, by virtue of the Constitution, would put him out of office, and over that perhaps the President had no control. My answer to him was that that perhaps might make an exception, but I did not exactly see how an officer who was out of the service—

Mr. DAVIS. I would ask the honorable Senator from Maryland if he knows of any precedent where a military officer had accepted an incompatible office.

Mr. JOHNSON. That was the very matter I was speaking of when the Senator interrupted me.

Mr. DAVIS. I could not hear you.

Mr. JOHNSON. That was my fault. What he stated was, that perhaps what occurred in General Blair's case might present the question in a different form. Acceptances of resignations by the President, as I understood him, were always considered as a matter between the officer and the President. He might refuse to accept, or after accepting he might rescind the acceptance with the consent of the officer and place him again in the service. The difficulty in Major General Blair's case was that his acceptance of a seat in the other House under the Constitution of itself might operate to end his commission in the Army; and if so, there might in that fact be found a difference in his case such as would not be covered by what had been the usage. My answer to that was, without contesting the inquiry whether there was or was not to be found in that fact a difference, that I did not see that an officer who was once out of the service could be put into the service again, more than it would be in the power of the President to appoint to office himself, without consulting the Senate, a person who had never been in office. But as the Secretary of War told me, and I have no doubt he spoke accurately, as he spoke after examining the files of the Department, the usage had been uniformly to the contrary. Officers who have been out of service for three or four years have been permitted to withdraw their resignations and have been put in.

The same practice has prevailed in the Navy Department. It was not done in the particular case to which I am about to allude; but after Captain Buchanan, who has behaved so badly in every way, and bad as was his original act when he resigned his commission in the Navy, being then in command of the navy-yard here and expecting an attack, as everybody did who was in the city at the time, that night or the next day, still worse, persuaded all the officers at the navy-yard to resign, every one of them, except the present Admiral Dahlgren, he first got Surgeon Pinckney to write a letter to me. I was here during the whole of those troubles. I had been very intimate with Buchanan and really had a very



high opinion of him, and I did not dream until it was done that he was capable of acting in that way. He got Pinckney to write a long letter to me requesting me to see the Secretary of the Navy and get permission to withdraw his resignation, and in that letter Pinckney said he wrote as he was authorized—and I have no doubt he was, for he was a man of unquestioned veracity and high honor in every way—that under no possible circumstances would he ever raise his arm against the Government under whose flag he had fought so long and which had showered upon him so many honors. Not satisfied with writing the letter, to which I replied by saying that I did not think it could be done, he got Surgeon Pinckney to come over in person to renew the request, and I went to the Department, not, I confess, with a view to urge it, because I would not have done it if I had been the Secretary, and said so to the Secretary; but I did not find that the Secretary thought there was any difficulty in the matter so far as the question of law was concerned. He said what he did say precisely upon the same authority upon which the Secretary of War spoke, that is to say, that the usage of the Department had been to allow resignations to be canceled in that way, and I think several cases have occurred in the Navy in which that usage has been conformed to. For one, I repeat that I confess I do not see how it can be legally done, but I may be mistaken as to that.

Under these circumstances, however, I submit to the Senate whether it is not due to the President and to the War Department that the question itself should be examined by some committee, and that we should come, if we can come, to such an opinion as, while it may perhaps settle the usage in the future, will not cast a slur upon the President or upon the Department. I have no doubt that in acting as they did in this and in the other cases they acted under a full belief that they were authorized so to do.

Mr. TEN EYCK. I wish to state in a word the view I entertain of this question. I do not understand what the Senate have to do, strictly speaking, with this matter. These officers are either legally in commission or they are not. The question is strictly a legal question. These men have an office in their commissions. Their commissions are in their hands, and they can only be taken away from them by the decisions of some legal tribunal upon a proper question being raised. We may differ. Some Senators may suppose these officers are entirely wrong in attempting to exercise the authority conferred upon them by the commissions. Others may think the contrary. If we pass either of these resolutions we only give our opinion, which can have no other effect than to influence the mind of a co-ordinate branch of the Government by what they possibly may consider an improper interference. So it strikes my mind. I am willing at all times to assume the responsibility either by the way of legislation or in any other way upon appointments properly made to the Senate to vote as I think right and proper; but I do not know why I should be called upon merely to express my opinion upon a question which is not to be binding, and ought not to be binding, except so far as the President may consider it as advisory, and he shall be influenced by it.

This is the view I take of the matter; and why should we refer it to a committee to have a report upon it? We are not asked by the President, who confided this commission to General Blair, for our opinion. It is not the case of a new appointment where the Senate have a constitutional right to advise in relation to the propriety or the impropriety of the appointment; but it is the case of an officer in commission at the head of a corps on the field of battle. The Senate here volunteer to pass a resolution or to enact a law legislating a man out of his position, to take away the question from the judicial tribunals of the country and undertake to settle it ourselves. That is the way in which it strikes me. Therefore I am opposed to the proposition, although I may entertain the view, and do, in relation to one of the parties, that a majority of Senators do, that the party is not legally in the service.

Mr. HOWARD. Mr. President, I shall vote first for the substitute offered by the Senator from Massachusetts, because I think it presents the

question more plainly and distinctly than the original resolution of the Senator from Kentucky, and it confines the question exclusively to the case of Major General Blair. I do not think that the Senate have anything to do with the question as it relates to General Schenck. But it is quite apparent from what has been already said on this subject that there are considerations of constitutional law of great weight, not to say perplexity, connected with the issue, and I think that it is due not only to the executive branch of the Government, but to ourselves firstly and principally, that we should not act without full and complete deliberation on a question of so much gravity and importance. I confess, for one, that I have been all along under the same impression with the honorable Senator from Maryland in regard to the effect of a resignation of a commission. I have supposed that the tender of a resignation by an officer, whether civil or military, to the President and its acceptance by the President, terminated the incumbency of that officer completely, and that he was no longer an officer, and could not be restored to his place without a reappointment in due form of law. I may be mistaken as to this. It may be that there has been a usage prevailing with the Executive Government of so long standing, and therefore so important, as to give a practical construction to the Constitution in this regard. If there be such a usage the Senate ought certainly to be willing to take cognizance of it and ascertain what it is, how old it is, and to what cases it applies, and what its effect is. We ought to be fair to all parties concerned in this matter, and I shall therefore vote to refer this question to a committee for the very purpose of having the whole subject fully and carefully investigated; but I must at the same time say that I do not place so much weight on the objection that Major General Blair took his seat in the House of Representatives as some other Senators seem to do. As at present advised, I do not, I must confess, perceive that his taking his seat in the House of Representatives necessarily terminated his commission as a major general *ipso facto*, in and of itself, without any further act. I wish to be enlightened on that particular point. I wish to consider the question deliberately whether the act of the officer, situated as he was, of taking his seat in the House of Representatives did of itself terminate his office. The Constitution declares that "no person holding any office under the United States shall be a member of either House during his continuance in office." One point is taken, if I understand it properly, to this effect: that Major General Blair if he had not previously resigned his office to the President would, on taking his seat in the House of Representatives, by that act have terminated his office of major general. I say that I am anxious to be enlightened on that question of constitutional law. I am not, I must confess, at this time prepared to say that that simple act did terminate his office of major general; and, situated as the whole question is, I think, in fairness to the Executive Government and out of a proper regard to ourselves, we ought to investigate both the usage and the question of law by a committee properly organized.

Mr. MORRILL. Mr. President, lest I should be misunderstood in withdrawing my motion for reference, I desire to say now, if I did not state then, that my object in withdrawing the motion was that we might vote on the amendment with a view of moving a reference of the question upon that subject instead of the subject in its present condition; and I am satisfied from what has been said here this morning that we ought not to consider this question without reference to a committee. It is too grave a matter, in my judgment, after what has been stated as the uniform action of the Government, to pass a resolution of the character even of that presented by the chairman of the Military Committee.

Mr. WILSON. Mr. President, when the war commenced it was the judgment of the Administration that a member of Congress could not be appointed a general in the service without vacating his seat. A general's commission was offered, I think, to Colonel Baker, but he, wishing to retain his seat in the Senate, did not accept it. He acted simply as a colonel under the appointment, I believe, of the Governor of Pennsylvania. I know that there were other cases where the question came up, and it was decided that a member

of Congress could not be appointed a general without losing his seat in Congress. That decision was in harmony with the provisions of the Constitution.

Sir, it appears that General Blair resigned his commission as major general early in January, I think on the 1st day of January. On the 12th day of January his resignation was accepted by the President, and he was notified of that acceptance. On that same day he was sworn in as a member of the House of Representatives. If he had not resigned as major general, the moment he was sworn in as member of the other House his commission would have been vacated. There cannot be any doubt of that. On a call of the Senate for a list of the generals, General Blair's name was returned to the Senate as having resigned, and all the vacancies were reported as filled. We had the whole number of seventy major generals, without including him, and his name was put on the list as having resigned. In fact, the Administration informed the Senate, in answer to the resolution of inquiry, that we had seventy major generals, all that the law allowed, and that General Blair was not counted among the seventy major generals. He occupied a seat in the House of Representatives for several months, and has not yet resigned it. He left his seat in the House of Representatives a few days since, and his commission was handed back to him, and he has gone to Missouri, if not to the field. Now, the question is, had the President the authority to hand him back his commission after he had resigned it and taken an office made incompatible by the Constitution of the United States?

I think the question of resignation and the question raised as to the practice of the Government are matters of trifling moment. I apprehend that on investigation Senators will find that a case like this has never arisen in the history of the country where a military officer has taken an incompatible office and his place has been filled in the service, and then his commission has been handed back to him without submitting his name to the Senate for confirmation. Important principles are involved; and if my amendment be adopted, which really brings before us the only matter we can inquire into, I shall have no objection to its going to the Committee on the Judiciary.

As to the question in regard to General Schenck, whatever conversations may have been had in regard to his resigning his seat and returning to the military service, he does not propose to accept any commission or to go back into the service unless his name goes before the Senate. He does not claim his commission back again. There is no question that has arisen in regard to the case of General Schenck, and there is nothing to inquire into. My amendment, therefore, presents the only question that is at issue. That question before the committee will be, if we refer it, whether a general in the service of the United States can resign his commission, have that commission accepted, be notified of its acceptance, accept a seat in the Senate or House of Representatives, and then, after his place in the service has been filled, resume his commission at the will of the President.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Kentucky [Mr. DAVIS] to refer the resolution and amendment to the Committee on the Judiciary.

Mr. CONNESS called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 24, nays 12; as follows:

YEAS—Messrs. Anthony, Buckalew, Collamer, Davis, Dixon, Doolittle, Foot, Foster, Hale, Harris, Henderson, Hendricks, Howard, Johnson, Lane of Kansas, Morgan, Morrill, Nesmith, Powell, Richardson, Saulsbury, Van Winkle, Wade, and Willey—24.

NAYS—Messrs. Chandler, Clark, Conness, Fessenden, Harlan, Pomeroy, Ramsey, Sumner, Ten Eyck, Trumbull, Wilkinson, and Wilson—12.

ABSENT—Messrs. Brown, Carlile, Cowan, Grimes, Harding, Hicks, Howe, Lane of Indiana, McDougall, Riddle, Sherman, Sprague, and Wright.

So the resolution was referred to the Committee on the Judiciary.

D. FITZGERALD AND J. BALL.

Mr. CHANDLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary be directed to request the House of Representatives to return to the Senate, bill S. No.

244, for the relief of Daniel Fitzgerald and Jonathan Ball, which was passed by the Senate on the 11th instant, and sent to the House for its concurrence.

A message was afterwards received from the House of Representatives returning the bill; and a motion of Mr. CHANDLER to reconsider the vote by which the bill was passed was received and entered.

#### HOUSE BILLS REFERRED.

The following bills and joint resolutions from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 32) to regulate the sessions of the circuit and district courts for the northern district of New York, and for other purposes—to the Committee on the Judiciary.

A bill (No. 276) to secure to persons in the military or naval service of the United States homesteads on confiscated or forfeited estates in insurrectionary districts—to the Committee on Public Lands.

A bill (No. 307) to regulate commerce among the several States—to the Committee on Commerce.

A bill (No. 393) for the relief of Peter Navarre—to the Committee on Pensions.

A bill (No. 452) to grant a pension of eight dollars per month to Harris Welch—to the Committee on Pensions.

A bill (No. 453) to increase the pension of Isaac Allen—to the Committee on Pensions.

A bill (No. 454) granting a pension to Thomas Booth—to the Committee on Pensions.

A bill (No. 455) to punish and prevent the counterfeiting of coin of the United States—to the Committee on Finance.

A bill (No. 456) for the relief of the Mercantile Mutual Insurance Company of New York—to the Committee on Claims.

A bill (No. 460) for the relief of Sarah Robinson, widow of Hon. John L. Robinson, late United States marshal for the district of Indiana—to the Committee on Claims.

A bill (No. 465) for the relief of Deborah Jones—to the Committee on Pensions.

A bill (No. 466) for the relief of the widow of C. A. Haun—to the Committee on Pensions.

A bill (No. 467) for the relief of Mary A. Hyde—to the Committee on Pensions.

A bill (No. 468) to amend an act for the relief of Valentine Wehrheim, approved June 12, 1860—to the Committee on Pensions.

A joint resolution (No. 63) to settle the account of James Keenan, late consul at Hong Kong, China—to the Committee on Commerce.

A joint resolution (No. 74) referring the claim of J. H. Clark & Co. to the Court of Claims—to the Committee on Claims.

#### CONSULAR AND DIPLOMATIC BILL.

The Senate proceeded to consider its amendments to the bill of the House of Representatives (No. 40) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1865, disagreed to by the House of Representatives, and the amendment of the House to the thirty-first amendment of the Senate to the said bill; and

On motion of Mr. MORRILL, it was

*Resolved*, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, disagree to the amendment of the House to the thirty-first amendment of the Senate thereto, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

*Ordered*, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. SHERMAN, Mr. SUMNER, and Mr. COWAN.

#### OFFICIAL ARMY REPORTS.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House of Representatives to the joint resolution (S. No. 21) to provide for the printing of official reports of the operations of the armies of the United States. The amendment was to strike out all after the resolving clause, and in lieu thereof insert the following substitute:

That the Secretary of War be, and he is hereby, directed to furnish the Superintendent of Public Printing with copies of all such correspondence, by telegraph or otherwise, reports of commanding officers, and documents of every description in relation to the existing rebellion, to be found in the archives of his Department, since the 1st day of De-

cember, 1860, to the present time and during the continuance of said rebellion, which may be, in his opinion, proper to be published; which said correspondence, reports, and documents shall be arranged in their proper chronological order.

Sec. 2. *And be it further resolved*, That the Superintendent of Public Printing shall cause to be printed and bound (in addition to the usual number) ten thousand copies of such correspondence, reports, and documents in volumes of not exceeding (as near as may be) eight hundred octavo pages each, which shall be distributed by the Secretary of the Senate as follows, to wit: five hundred copies to the War Department; one complete copy to each State library of every State in the Union, and five complete copies to public libraries in each congressional district of the United States, to be designated by the Representatives of the present Congress from such district; and of the remaining copies, three thousand shall be for the use of members of the present Senate, and six thousand for the use of members of the present House of Representatives.

Sec. 3. *And be it further resolved*, That it shall also be the duty of the Secretary of War to cause a complete index of the matter contained in each volume to be prepared and inserted therein.

Sec. 4. *And be it further resolved*, That all resolutions adopted by either House of Congress at its present session directing the printing of any of the correspondence, reports, or documents as above contemplated, be, and the same are hereby, rescinded.

Mr. WILSON. I hope the Senate will concur in this amendment. I am sure it will save money and will make the publications uniform; it is the best amendment we can possibly adopt. After the Senate passed the original resolution I received a communication from the Superintendent of Public Printing, Mr. Deffrees, suggesting this amendment, with a view to make the publications uniform and to save money, and it will save many thousands of dollars and make all the publications of war reports uniform and keep them all together. I sent his letter with the amendment to a gentleman in the House of Representatives, and this amendment I understand has received the unanimous, or nearly so, sanction of the House of Representatives. I believe it is right, and I hope the Senate will concur in it.

Mr. GRIMES. I wish to inquire of the chairman of the Committee on Military Affairs if there is any provision here for some one to compile these reports. I notice that in the reports that have been published there are a great many errors. They are apparently typographical errors, but they originated in the bad copying of the reports. There are geographical errors; for instance, describing one county by a name that has no existence, and rivers by names that are not known in any geography in the world. There ought to be some provision made by which these reports, when they are printed at such great expense to the public, should be accurately printed. I do not know whose business it is to read them or prepare them. Of course, there is a proof-reader who compares the manuscript with the printed text, but I do not know who revises them, or if there is any one. I want to know if there is any provision of that sort.

Mr. WILSON. I do not think, strictly speaking, there would be a provision of that kind. There is a provision appropriating a certain amount of money to aid the Adjutant General's department in having the work performed and copying done. I think that is all that is necessary in that respect.

The amendment of the House of Representatives was concurred in.

#### PACIFIC RAILROAD.

Mr. HOWARD. If it be in order I will move to take up Senate bill No 132, with a view to make it the special order of the day for Wednesday next at one o'clock. It is the Pacific railroad bill as amended by the Committee on the Pacific Railroad.

Mr. HALE. Will the order of the day lose its place by that motion?

The PRESIDENT *pro tempore*. That will depend on the pleasure of the Senate. It may not, if the Senate agree by unanimous consent to lay it aside with a view to take up the bill indicated by the Senator from Michigan.

Mr. HALE. I hope, then, that the Senate will not consent to it. I gave way an hour ago for the Senate just to take a vote and no debate, and here I am.

Mr. CONNESS. There will be no debate on this.

Mr. HALE. Well, if there will be no debate upon it I will not object.

Mr. HOWARD. I ask the unanimous consent of the Senate to allow me to take up this bill.

Mr. HALE. I will agree to it.

There being no objection, the Senate proceeded to consider the bill (S. No. 132) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same, for postal, military, and other purposes," approved July 1, 1862.

Mr. HOWARD. I now move that it be made the special order for Wednesday next at one o'clock.

The motion was agreed to.

#### PENSION TO WIDOW OF GENERAL WHIPPLE.

The PRESIDENT *pro tempore*. The Senate will now resume the consideration of the special order.

Mr. LANE, of Kansas. I ask the unanimous consent of the Senate to introduce a joint resolution for the purpose of reference.

Mr. HALE. I cannot give way. I have given way all day, and if I continue to yield, I might give way all night.

Mr. LANE, of Kansas. It is merely for reference.

Mr. HALE. The Senator from Kansas will excuse me when I point him to the clock. I wish the Secretary to read the bill that is now under consideration.

The Secretary proceeded to read, as follows:

Senate bill No. 114 to amend section five of an act entitled "An act to continue, alter, and amend the charter of the city of Washington," approved May 17, 1846, and further to preserve the elections and guard against the abuse of the elective franchise by a registration of electors for the city of Washington in the District of Columbia—

Mr. HALE. That is not the bill.

The PRESIDENT *pro tempore*. That is the special order.

Mr. HALE. The special order for to-day was the bill granting a pension to the widow of General Whipple.

The PRESIDENT *pro tempore*. The Chair must beg the Senator's pardon. The unfinished business of the last sitting of the Senate overrides that special order, and Senate bill No. 114 is the business before the Senate.

Mr. HALE. Then I move to postpone that bill in order to proceed to the consideration of the special order assigned for to-day at one o'clock.

Mr. MORRILL. I desire to say to the Senator from New Hampshire that this bill, which is the unfinished business, is of a public character, while the Senator's bill is strictly of a private character. The consideration of this bill has been urged for several weeks; and I am told it is of the utmost consequence that it should be acted upon at once. It relates to the election in this city, which is to take place in the beginning of the next month. I hope, therefore, the Senator will see the propriety of disposing of it at once, and not interposing any motion that would delay action upon it.

Mr. HALE. I know that that is a public bill; but I wish to state to my friend from Maine that the distinguished Senator from Pennsylvania, [Mr. COWAN,] who moved the amendment to it which is now pending, was under the necessity of leaving town on Saturday night, but expects to be back again this evening; and I think it would be uncourteous to him to call up his bill when he is necessarily absent, especially as he is to be absent but a single day. I know—for I board with the Senator—that he expects to be back this evening. I trust that will commend itself to the Senator from Maine as a reason for not urging the bill at this present time.

Mr. MORRILL. The bill is in no peculiar sense the bill of the Senator from Pennsylvania, that I know of. It does not come from his committee. He takes particular interest in it.

Mr. HALE. The Senate were engaged in discussing an amendment submitted by him when the bill was last under consideration.

Mr. MORRILL. It was rather a bad time for him to leave while his amendment was pending.

Mr. HALE. I desire to state what the bill is to which I ask the consideration of the Senate. It is a bill granting a pension to the widow of Major General Whipple, who died in battle on the battle-field of Chancellorsville a little more than a year ago. I believe I have the authority of the chairman of the Committee on Pensions, as reported in the proceedings in the Globe a little more than a year ago, that from the foundation

of the Government it has been the custom for the Congress of the United States to vote pensions similar to this. The Committee on Pensions recommend this year that the action of the Government be reversed. If that policy is to be resorted to, if the pensions that have been granted to the widows and children of generals who have died in a time of peace, and died in bed, are to be denied to the widows and children of those who die in battle, I think it is due to our brave soldiers in the field that the Senate should settle that question.

**The PRESIDENT pro tempore.** The question is on the motion of the Senator from New Hampshire to postpone Senate bill No. 114, and take up the bill indicated by him.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 2) granting a pension to Ellen M. Whipple, widow of the late Major General Amiel W. Whipple, of the United States Army, which had been reported adversely by the Committee on Pensions.

**Mr. HALE.** I desire to state now, so that the Senate may understand it, what has been done lately on this subject. On the 7th of May, 1860, the Congress of the United States granted a pension of fifty dollars a month to Mrs. Anne M. Smith, widow of General Persifer F. Smith, and a like pension of fifty dollars a month to the widow of General Macomb, and a like pension of fifty dollars a month to the widow of General Riley. On the 12th of July, 1862, they granted a pension of fifty dollars a month to the widow of General C. F. Smith, and on the 3d of March, 1863, they granted a like pension to the widow of General Stevens, and on the same day a like pension of fifty dollars a month to the widow of General F. H. Plummer. When the pension (which was the first that came up since the war commenced) to the widow of General Smith was under consideration, I entered my vote against it, as I believe did my friend from Illinois, [Mr. TRUMBULL,] because we thought it was time that a different rule should prevail and a uniform system be adopted; but the Committee on Pensions reported in favor of it, and the chairman of that committee gave these reasons for passing it, which I will read:

"The allowance for widows of officers by law is one half the pay proper, not exceeding half the pay of a lieutenant colonel in any case. One half the pay proper of an officer in the grade in which he was, not exceeding that of a lieutenant colonel, is allowed. The widow of a major general would get thirty dollars a month; and that is the provision made by a bill which has come to us from the House, and is reported back from the committee—a general law which has not been acted on by the Senate. That is in conformity to previous laws, and this action of the committee was taken by them in view of the fact of the general law, and that this was more than the amount granted by the general law, because such appears to have been the action of Congress during the whole existence of the Government."

And that was, as I understood it, to pay this pension to the widows of officers slain in battle. Now, sir, General Smith—and I have not a word to say against the justice of that pension, and had not at the time, except as to the policy of it—did not die in battle, and several of the officers whose names I have read did not die in battle. General Whipple died in battle on the field of Chancellorsville; and I think I hazard nothing in saying that a brave officer never drew his sword on the field of battle. General Whipple was brave, not with the impulsive rashness of some men, but he was brave from Christian principle, believing that upon the field of battle was his place and line of duty, and that it lay with Providence to send him life or death, and he was equally prepared for either. He died, I think, within forty-eight hours after the time he was wounded. He left a widow and three children, all minors. He left them little but an unblemished reputation, an untarnished honor, and the regards of the country that he had served so well. He left his widow and children in the confidence and hope, which I trust is not to be disappointed, that while he laid down his life for his country, all that he left behind him that was most dear in life would be cared for by that country, as the country had been accustomed to take care of widows and orphans similarly constituted.

Sir, it may be said that our expenses are great and it becomes us to be economical. I grant it. I know that our expenses are great and overwhelming; but I tell you, sir, this is the very last place that the hand of economy should touch. It

is the last place where the country can afford to be parsimonious, or even prudent. What will be the effect to-day, while our country is engaged in this struggle for life or death, if we proclaim to the brave men who have gone out with a heroism never surpassed and rarely equaled, taking their lives in their hands and laying them down as freely as occasion presents—what will be the effect of telling them that Congress, amidst the lavish and profuse expenditure of the public Treasury, have seen fit to commence the work of economy, and to commence it in withholding the competence which they have been accustomed to give to the widows and children of the brave officers who have laid down their lives in their behalf? I trust that a statement of this case is enough to secure the passage of the bill.

**Mr. FOSTER.** It is a novel and would be a painful position to me to oppose a bill granting pensions to the widows of officers or soldiers who have fallen in battle in the service of the country. I do not propose doing it. As I cannot vote for this bill, I propose saying a very words in reply to the remarks of the honorable Senator from New Hampshire, lest it should seem that I was abandoning a policy which I had previously advocated.

It is true, sir, that prior to the present war, Congress has been in the habit, on the applications of widows of general officers, to increase the pensions provided for them by law, and in some cases I believe even to grant pensions where the law provided none. There were several cases, I think the honorable Senator referred to three which occurred in the year 1860, where the widows of three major generals were pensioned by act of Congress at the rate of fifty dollars per month, when the pension provided by law was but thirty dollars for widows of officers of the very highest rank, thus adding twenty dollars per month to the amount provided by law. The honorable Senator quotes from remarks made by me at that time or soon after, where I said that such had been the general or uniform policy of the Government. I presume I made some examination at that time, and was probably in my own judgment warranted in making that assertion. I could not from my recollection now state such to have been the fact, although I recollect nothing which would show it to be otherwise.

When the case of Mrs. Smith, the widow of General Charles F. Smith, was brought before Congress, she being the widow of the first general officer, a major general, who fell in the war, I think, in the fall of 1861, the application went to the committee with which I was connected, and the committee reported a bill in her favor, giving her a pension of fifty dollars a month. I was in favor of it. I was in favor of it in committee, and I was in favor of it on the floor of the Senate. It passed the Senate; it passed the House of Representatives; it became and is a law. Under the same circumstances I should take the same course if the question were now before us. There were peculiar circumstances attending that case. It is true, as the Senator from New Hampshire has stated, that General Smith did not die in battle; but he died very soon after a series of battles of which he was the hero, and died in consequence of injuries received either in battle or in service connected with the battles, and I believe in consequence of injuries in battle. He left a widow and family entirely dependent. He had been in the service between thirty and forty years.

**Mr. GRIMES.** Forty-one.

**Mr. FOSTER.** The honorable Senator from Iowa says forty-one years. For forty years certainly he had been in the service of the country, as gallant, as true, and as faithful and able a soldier as we had in our Army. He was brevetted four times for gallantry during the Mexican war. No man stood higher on the roll of the Army: no man was more deserving; and he laid down his life after a series of brilliant victories, of which, I repeat, without disparagement to other brave men, he was the hero. Under these circumstances, his widow, dependent, without means, came before Congress for aid for herself and her fatherless children. I admit I supported her claim for a pension of fifty dollars per month. The honorable Senator from New Hampshire opposed it; he was not in favor of it. We undoubtedly were respectively governed by our views of what was our duty and what was proper under the circum-

stances. At that time I did not foresee how wide would be the ravages of this war; I did not foresee how many brave and gallant men would fall, leaving widows and children to be provided for by the country. Had I done so, I am not prepared to say that I should have been at that time willing to increase the amount provided by law for the widow of General Smith. The amount provided by law was thirty dollars per month, and that continues the law at the present time.

Two years more have passed away; great has been the bloodshed and slaughter in our battlefields; vast is the number of widows and orphans. The expenditure of money which the Government has been called to make during these years is perfectly immense. It becomes, in my judgment, a somewhat different question from what it was two years ago, whether we shall continue the same amount of bounty which we gave at the commencement of the struggle. The widows of these officers may be equally meritorious; the country may owe their deceased husbands as great a debt of gratitude, but the country is in a very different condition. Our means are diminished and the calls upon the Treasury are greatly multiplied, immensely beyond what anybody could have foreseen.

It is true that we followed the precedent set in the case of Mrs. Smith in the case of the widows of two other generals, the widow of General Stevens and the widow of General Plummer. I have, however, to say—not by any means by way of reproaching any Senator or the Senate—that the committee with which I have the honor of being connected reported against them. I opposed both those bills in committee and voted against them here, but they passed. I did not make strenuous opposition to them; I did not feel it my duty to do so; but I voted against them. Those cases were not, as it seemed to me, like the case of Mrs. Smith. They were meritorious. The husbands of those widows were gallant and deserving men, and deserved the bounty and gratitude of the country. I would be the last surely to say they did not; but the war then extending in its ravages and the calls upon our Treasury then being so great, it seemed to me that we should not extend the policy, and that we must exercise a more sparing hand in dispensing the bounties of the Government.

Such, however, has been the course until the present time; and the bill which is now before the Senate, together with two others of similar character, at an early day of the session was referred to the Committee on Pensions. This bill for the relief of Mrs. Whipple came before the committee without any petition, without any papers connected with it. The committee had no evidence in regard to her condition, whether she was dependent or not. We had no doubt, of course, because we would not be so ignorant of the day and the times as not to know that General Whipple was a gallant and deserving man; but there was no evidence furnished us as to the condition in which he left his family. Whether that family were well provided for or not we had no knowledge. This bill and the other two bills under these circumstances were acted upon by the committee, and we came to a conclusion adverse to their passage, thinking that with the present calls upon the Treasury of the United States we could not as a committee justify ourselves in saying that the amount provided by law for those widows was not as great as we could recommend to have paid.

It is true the honorable Senator from New Hampshire says this is not the day and these are not the times to be niggardly in regard to the surviving widows and families of our officers and soldiers who perish in the field. It is not, Mr. President; surely it is not. It is not, he says, the place to begin; we ought not to begin with them in exercising economy. The principle, however, on which I go, and on which, so far as I understood the views of the committee, they go, is this: that it is the duty of every committee of this body to regard the expenditures which we are called upon to make with very close scrutiny, and not to recommend the expenditure of a dollar unless it shall seem to be imperatively demanded. I suppose that applies as well to the Committee on Pensions as to every other committee. It is true that the cases that come before us make an appeal to the heart which it is difficult to resist;



and I trust I have as strong a feeling of sympathy, as strong a desire to relieve the wants of those who have thus been left in sorrow, in loneliness, and perhaps in poverty, as the honorable Senator from New Hampshire or any other Senator; but after all, Mr. President, when these demands are multiplied to such an extent as that it seems impossible our Government can sustain itself, are we not called upon to say so; and, although we may be doing violence to the best feelings of the human heart, must we not say so? I repeat, I suppose the principle on which the Committees of this body and every member of the body should act applies as well to the Committee on Pensions as to every other committee, and if other committees do as I presume they will do—for they surely have as great care of the public interests as the Committee on Pensions—if they act upon the same principle, we shall certainly retrench to some extent our expenditures and relieve our Government somewhat of the overwhelming drafts that are now made upon our resources.

If we adopt and act upon the principles suggested by the Senator from New Hampshire, we must go much further. The amount of fifty dollars per month seems a small sum, it is true, to the widow and family of a major general who has fallen in battle; but, sir, what is the amount provided for the widows and families of other persons who fall in the service? Take the privates—and most of the men who fall in the service fall as privates—they, just as brave, just as gallant, just as devoted as the officer of the highest rank, may fall, and do fall daily, in the service, and leave large families entirely dependent, and what is the amount provided by law for the widows and orphan children of soldiers who thus fall in battle? Why, sir, the whole amount is eight dollars per month. That is all that we pay, and I think, under the circumstances, that is all that we can pay. I do not think, with the burdens upon the people which are now upon them, that we can increase that amount and pay a larger sum. If we cannot do that, shall we increase the amount which is to be paid to the widows of general officers from the sum of thirty dollars per month to the sum of fifty dollars? Can we justify ourselves even to our own hearts in so doing?

I know that, from the social position of officers and the expenses of officers' families, as a general rule, it costs more as a matter of necessity to support the widow and family of a major general than it does to support the widow and family of a private in the ranks, and the necessities of the two, therefore, the numbers being the same, may be said not to be equal; one is greater than the other. But while that has been true, and is to some extent true now of our service, it is not true in this war as compared with any former war; that is, it is not true to the same extent; for we have hundreds and thousands of men, privates in our ranks to-day, whose social position compares with that of major generals in the service, and whose widows and children are accustomed to move and do move in the same circle of society precisely in which the widows and children of general officers move.

Under these circumstances, it is by no means either just or generous that we should widen the difference made in the amount of bounty or pension paid by the Government to the widows of officers over and above the amount paid to the widows of privates. If we increase the amount paid to the widows and families of general officers from thirty to fifty dollars per month, we ought, in my opinion, to double the amount paid to the widows and families of privates. The Treasury of the United States would not be adequate to meet the demands. If such an amount is called for from the public Treasury it can be raised only by a tax on the people, and it must come from people as poor and as dependant as those to whom it is paid. In this matter of charity when we collect the money by taxation we ought to think where the fund is to come from. We gather it not from the coffers of the rich, but from the scant earnings of the poor. Our very charity in this case is wrong from the hand of poverty.

Sir, it is easy to talk about liberality, and at times it may be easy to exercise it; it is always grateful to exercise it; but can we exercise it under these circumstances? I submit that we cannot, and that we are not to be reproached with a want

of generosity if we do not. It is impossible that we should. Why, sir, the number of applications at the Pension Bureau amount now to from four to five thousand per month, and that, too, before the last battles. They will be doubled now for the next year. Four thousand applications per month at an average of at least \$100 for each pensioner makes up an amount which we see is exceedingly heavy. The amount which we shall have to pay in pensions will soon go up to \$10,000,000 per annum. At our present rates, not increasing the amount one penny, the Treasury of the United States will very soon be called upon to pay \$10,000,000 per annum for pensions, almost as great an amount as was sufficient to carry on this Government within my recollection and yours, sir, (Mr. Foor in the chair.) It is within my recollection that the Government of the United States was administered for four years at an average expenditure of less than thirteen million dollars annually. But, sir, before two years are at an end, with no addition to the pension list except what is now made and is making while I am now addressing the Chair, I think the Treasury will be called upon for \$10,000,000 per annum for the payment of pensions alone.

Under these circumstances, Mr. President, with every disposition to go with the Senator from New Hampshire in all that is just and in all that is liberal, it seemed to me we were called to say as to these applications, we could not grant them; but we must let them stand where the law lets them stand, and give to each of these widows her pension of thirty dollars per month, and not increase it to fifty dollars. The fact that we have previously given more, and that this will be a departure from the practice, is answered when we compare our former with our present condition. We cannot, for the sake of being consistent in our precedents, make these additions to the burdens of the country, lest they become too grievous to be borne.

The bill was reported to the Senate without amendment.

Mr. MORRILL. Mr. President, I have no disposition to enter into the discussion of this question; but one single proposition strikes me with some force in this case. This bill is reported adversely by the Committee on Pensions on the ground of economy. I appreciate that proposition and the argument of the honorable Senator from Connecticut, the chairman of that committee; but as a question of economy it is certainly not a large one. It is only a difference between \$600 and \$360 per annum in an individual case, and it is here extended to three cases against which reports have been made. If you are to extend it to all the major generals in the Army on the supposition that they will all be wounded or all be killed and so to be entitled to this pension, and that is the extent to which this precedent could go, it will then be seen that as a question of economy it is a very inconsiderable sum. But upon any probable estimate the sum is quite too diminutive, I think, to be raised as a question of economy, and economy against the Treasury of the United State. Take the three cases which have already been passed and the three cases reported upon and the additional sum would be less than \$1,500 per annum between granting them the thirty dollars and the fifty dollars per month. I submit, therefore, on the question of economy, that, it seems to me, with all due respect, the sum is too inconsiderable.

Let me say a word upon one other point. It is a departure from the action of the Government in similar cases, if I am right in saying that the question of economy is too inconsiderable; and that, of course, does not afford a reason for the departure. I do not mean to say that the departure would be a reflection on these officers; but certainly if I am right in the argument that it is not justified on the score of economy, it is a reflection. However, the committee do not put it on that ground, and I am not disposed to argue it upon that ground. I wish to make this inquiry: taking the statement of the honorable chairman of the committee on a former occasion, that the uniform action of the Government, from the commencement of the Government down, in parallel cases of this kind, had been to grant pensions of this amount, is the question of economy sufficient to justify a departure from it now? I should hope that the Senate would do in this case as the

Government has been accustomed to do heretofore. The argument of the honorable Senator, that if we do it in this case we ought in justice to do it in all the cases of soldiers in the ranks, it seems to me, does not hold, for this reason: we are doing in their cases precisely what we have done from the commencement of the Government. It is no departure from the action of the Government, to give these parties fifty dollars month. It is precisely what we have been doing, and therefore furnishes no argument for the inference that we shall be compelled to raise the pensions in other cases.

Mr. GRIMES. It seems to me that there is a little misapprehension among the members of the Senate as to what has been the practice of the Senate in the granting of pensions to the widows of major generals and brigadier generals. I was here in 1860, when the act was passed for the benefit of Mrs. Persifer F. Smith, Mrs. General Macomb, and Mrs. General Riley; and I remember very well (for I was a member of the Committee on Pensions at that time) the ground on which that bill was passed. It was an omnibus bill, neither one of the pensions having merit and strength enough to carry itself through the Senate and House of Representatives without uniting the friends of the various widows in order to secure its passage. There were some Senators on this side of the Chamber who were favorably impressed with the merits of General Riley. He had been the military Governor in California at the time the constitutional convention was first formed there, and had been instrumental in making it a free State, as they said. General Macomb was the hero of the battle of Plattsburg. General Riley was the general who was said to have won the battle of Chapultepec for us.

Mr. CONNESS. He had command in California.

Mr. GRIMES. He had command in California, and was the military governor there. Those bills were united, and we passed them through here against my vote and against the vote of a majority of the members of the Committee on Pensions.

Then came here next the case of Mrs. Charles F. Smith, the widow of Major General Charles F. Smith. There was this difference between the case now at the bar and the case of Mrs. Charles F. Smith. She was the widow of a major general; Mrs. Whipple is the widow of a brigadier general. Mrs. Smith was the widow of a man who commanded our light artillery during the whole of Scott's campaign in Mexico, and was four times brevetted in the various fights there. He was the hero, as we believe in my State, or at any rate one of the principal heroes, of Fort Donelson. Instead of dying in his bed from disease, he actually died from a wound that he received in the attack upon Fort Donelson, and which he carefully refrained from communicating even to any member of his staff, and it was not known and was not published in the newspapers until about the time of his death.

I have no doubt that General Whipple was an excellent officer; but it seems to me that if we grant this pension now we shall be compelled to do it to the widows of all the other brigadier generals who may be killed in the service. I know nothing to distinguish this case from the two cases to which the Senator from Maine has alluded or to the various cases which have happened in our Army, or the six or eight brigadier generals who have recently been slain in the battle of the Wilderness; and the question recurs, are we prepared to raise the pensions of the widows of brigadier generals at so great a per cent. as from thirty to fifty dollars per month, and if we do raise the pensions of this class of widows, must we not in justice to the widows of other officers, and of the men in the service, raise theirs correspondingly? How can we say to the widows of captains and lieutenants of companies, for whom pensions have been established by the same law that we establish the pension of the widow of a brigadier general, that their pensions are to continue at the pitiful sum of eight dollars a month while you increase the pension of the widow of a brigadier general eighty per cent.? If we are prepared to go where this precedent is going to lead us, I am willing to be as liberal as most men.

The Senator from Maine thought there was not much of a question of economy involved in this

measure. There is not in the immediate bill before us, but we are establishing a rule. The precedent that we establish to-day if we should pass this bill will be quoted upon us before we adjourn next month or the month after next. After we have established it in several cases, as we shall do by the passage of this bill, it will become the settled law, the common understanding of the country, that the widow of a brigadier is to have fifty dollars a month in place of thirty dollars. I ask Senators to put the question to themselves how it is possible for us to resist the claims of subordinate officers and their families if we are going to raise at so great a rate the pensions of general officers.

Mr. HALE. The Senator from Iowa says there is a mistake as to what the practice of the Senate has been. I do not pretend to know. I only read from the remarks made by the chairman of the Committee on Pensions, who, I supposed, understood the matter, and who I suppose still understands the matter, and he says that this has been "the action of Congress during the whole existence of the Government." When that bill was under consideration the Senator from Iowa, who has addressed the Senate in reference to the question of precedent, answered then in anticipation the speech which he makes now. He said:

"It is supposed that each has been accustomed to move in a certain ascending scale socially, and that as their life has increased and their years have increased, their responsibilities to their families and their connections have been increased. I suppose that is the theory on which these grades have been established, and on which we have heretofore raised up the pensions as you proceeded up in rank. As the law now stands, Mrs. Smith would be entitled to only thirty dollars a month, or the pension to which she would be entitled if she was the widow of a lieutenant colonel. Being the widow of a major general, it is proposed to give her a pension of fifty dollars a month, the same pension that has been given by this Senate since I have been a member of it to four different widows of officers, some of them only colonels in lineal rank, no one of whom died in battle, and not one of whom died until some considerable time after he had been engaged in actual service.

"Now, it is said that this will establish a precedent."

I am reading from the speech of the Senator from Iowa, made on June 30, 1862:

"I do not think it will. I am willing, at any rate, to trust myself to decide every individual case that may be presented upon its merits, and not to be led off to grant to every major general's widow or every brigadier general's widow the pension that I would grant to one who is the widow of one of the most meritorious officers in the public service."

Perhaps I shall be accused of moral forgery for not reading the whole of the Senator's speech; but having read all that I think pertinent to the question, I leave it.

Mr. President, I take it for granted that the action of the Government has been uniform in this direction; and that being the case, if it is withdrawn from the widow of General Whipple, it will be taken, and it cannot but be taken, as an invidious distinction against her and against the character of her deceased husband. I have not a word to say against the fame of General Smith, against his merits, against everything that has been said in his behalf. It is said that he served his country some forty years. Mr. President, General Whipple served his country during all the years that he lived, from his boyhood; and if he did not serve it as long as General Smith did, it was because, under the providence of the God of battles, he sacrificed his life for his country before he reached the maturity of years that General Smith attained. That is the only distinction; and if there is any distinction to be raised against General Whipple in that regard, it lies against the providence of God rather than against the character of the man.

Sir, it was my fortune to know General Whipple, to know him somewhat intimately, to know him in his family as well as on the field, and I venture to say, and I will say it in this presence and in the presence of everybody, that a more upright, a more brave, a more conscientious, and a more patriotic soldier never periled his life for his country. He left but very little property. He left a widow and three children, the eldest of whom I think at the time of his death was not more than sixteen years of age. And I ask you, sir, if this is the time and this the case for our nation to enter upon its career of economy and save \$240 a year at this moment, at this critical point of our history. What is the picture that we present? After lying in the valley of humiliation and sending up prayers from every hill-side

and valley all over the land to the God of battles that He would bare His arm in behalf of our national life and our national salvation, now when the heart of the nation is buoyant, and from every temple, from every cottage, and from every heart, shouts of thanksgiving are going up to the God of battles that He has heard our prayers, bared His arm in our behalf, and is about giving us the victory, giving to our nation new life and new hope, and the country is rejoicing as it never rejoiced before, you propose to give a new cause of thanksgiving to the nation and tell them we have not only achieved a great victory, we have not only received this great boon from the God of battles, but we have entered upon a new and a glorious career of victory, and we have smitten the widow and the orphans of a brave general, and taken from them whose husband and father has sacrificed his life on our behalf the pittance of \$240 a year, which we are going to save and put into the national Treasury, and thank God for that also.

Sir, it is said we cannot afford to pay this pension. Let me ask you if we can afford to rob this widow? I do not believe we can. I should be ashamed to meet the widow and orphans of a man who periled and sacrificed his life in our behalf after such an act as this. We are raising the rank and the pay of the officers that are alive. We have done it constantly, and are doing it almost every day; but we forget those that have perished in our behalf. The Senator from Connecticut thinks our pension roll will be \$10,000,000. Let it be \$20,000,000, let it be \$30,000,000 a year, and I tell you the people of this country will pay it gladly, cheerfully, joyfully, rather than have the national character blasted, as it would be blasted by such an act as the refusal to pass this bill would be.

Mr. BUCKALEW. I move to lay the bill on the table; and I desire, not to indulge in debate, but to remark that I make this motion in order to put a test to the Senate. Our committee will understand if this bill passes that they are instructed to take up these special cases and pass upon them as they arise; otherwise we will adhere to general rules and follow the policy indicated by our reports on this subject.

Mr. HALE. I ask for the yeas and nays on the motion to lay on the table.

The yeas and nays were ordered; and being taken, resulted—yeas 11, nays 21; as follows:

YEAS—Messrs. Buckalew, Fessenden, Foot, Foster, Grimes, Harlan, Henderson, Hendricks, Salisbury, Wade, and Wilson—11.

NAYS—Messrs. Anthony, Clark, Conness, Davis, Dixon, Doolittle, Hale, Harris, Howard, Johnson, Morgan, Morrill, Nesmith, Pomeroy, Ramsey, Richardson, Sumner, Ten Eyck, Van Winkle, Wilkinson, and Wiley—21.

ABSENT—Messrs. Brown, Carlile, Chandler, Collamer, Cowan, Harding, Hicks, Howe, Lane of Indiana, Lane of Kansas, McDougall, Powell, Riddle, Sherman, Sprague, Trumbull, and Wright.

So the Senate refused to lay the bill on the table.

The bill was ordered to be engrossed for a third reading, and was read the third time, and passed.

#### WIDOW OF GENERAL BERRY.

Mr. HALE. There are two other bills of exactly a similar character that it was understood were to come up after the one which has just been passed. There will probably be no debate on them, and I now move to take up Senate bill No. 44.

The motion was agreed to; and the bill (S. No. 44) granting a pension to the widow of the late Major General Hiram G. Berry was considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place the name of — Berry, widow of Major General Hiram G. Berry, on the pension roll, at the rate of fifty dollars a month, from the 3d of May, 1863, to continue during her widowhood.

Mr. MORRILL. I move that the blank be filled by inserting the name Eliza.

The PRESIDENT *pro tempore*. That name will be inserted.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### WIDOW OF GENERAL BAKER.

Mr. HALE. I move now to take up the bill for the relief of the widow of General Baker.

The motion was agreed to; and the bill (S. No. 122) for the relief of Mary A. Baker, widow of

Brigadier General Edward D. Baker, was considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place the name of Mary A. Baker, widow of Brigadier General Edward D. Baker, on the pension roll, at the rate of fifty dollars a month, from the 21st of October, 1861, to continue during her widowhood.

Mr. WILSON. I do not understand that Colonel Baker was a general in the service of the United States. I believe he was simply a colonel.

Mr. CONNESS. My impression is that he was acting as a brigadier.

Mr. WILSON. I understand that Colonel Baker, who was a member of the Senate, was commissioned as the head of the California regiment, and he was killed leading that regiment into action at Ball's Bluff. He was offered a brigadiership, or rather, I think, a major generalship in the service of the United States, but he never accepted it. I was told at the time that it was tendered to him; but wishing to retain his seat in the Senate of the United States he did not wish to accept such an appointment, as it would vacate his seat here; and he was in reality never a general, but a colonel. There have been hundreds of colonels who have sacrificed their lives in the service of the country during this war, who have left widows, and left them at the pension of thirty dollars a month. If we are to adopt this system in these cases why not in other cases? Here we are taking up and deciding special cases when it seems to me we ought to decide this question on general principles, and I think we are incurring great risks here to-day in the votes we are giving.

Mr. CONNESS. When the Senator from Pennsylvania made a motion that the bill for the relief of the widow of General Whipple lie on the table, and stated that the committee would regard it as a test question in accordance with which they would hereafter recommend the passage of special bills of this character, were it not for the nature of the motion that the Senator made to lay on the table, I would have suggested that the decision of the Senate against the motion of the Senator would rather indicate that the committee should report a general bill on this subject; but these three bills, I believe, are all that are now presented, and as the other two have passed, I think it would be rather invidious to make this an exceptional case.

I think we are not clear on the subject as to whether Edward D. Baker was a brigadier general or an acting brigadier general or a colonel. We do know that his case was a very peculiar one. We do know that he died without estate. We do know that his widow lives, and as the Senate have acted rather on the impulse of generosity to-day in acting on these other cases, and as the case of Baker is one that certainly is a very remarkable one, one that the mind of the country is directed at, and as he served us well in a civil position and in one of the highest in the country, and gave his life, it appears to me that as the bill is now before the Senate it ought not to be passed by. After its passage let the Committee on Pensions propose some general rule in accordance with the wish of the Senate expressed to-day. I hope no exception will be made in this case, and, although it is a case to some extent an exceptional one, the bill will pass.

The bill was reported to the Senate.

Mr. DOOLITTLE. I understand the chairman of the Committee on Military Affairs to state that at the time of the death of Mr. Baker he was a colonel in the volunteer service of the United States. I do not understand that to the widows of any officers who have died in the service of the United States, except the widows of major generals, has any such pension as this ever been given; and I understand too that in every case that has been presented to the Senate of a major general dying in the service—

Mr. NESMITH. Permit me. I will explain the condition of that. Colonel Baker was in command of a regiment raised in Philadelphia, known as the California regiment. He had some time prior to his death been commissioned a brigadier general; he had that commission on him at the time he fell, but I believe he had never qualified under it. He was colonel in command of his regiment, and he had the commission of a brigadier general in his pocket.

Mr. CONNESS. I will add, with the permission of the Senator from Wisconsin, that this regiment that Colonel Baker conducted to the field was a regiment made up, to a very large extent, of Californians, men who had been in California, and still regarded themselves as Californians; they were organized early here, and did very gallant service. They were not properly a regiment of volunteers in the service of any State, but wished to call themselves Californians, and be known as such. I believe the statement made now by the Senator from Oregon is strictly true. I remember the facts very clearly.

Mr. HALE. I do not know anything about this; but I read from the same speech made by the Senator from Iowa, June 30, 1862: "Since I have been a member of it [the Senate] to four different widows of officers, some of them only colonels in lineal rank," this pension has been accorded.

Mr. GRIMES. Perhaps the Senator from New Hampshire does not know what lineal rank is. One officer to whom I referred, Colonel Riley, was a colonel in lineal rank, but he was a brigadier general by brevet. General Smith was only a colonel in lineal rank, commanding a regiment of dragoons, but he was a major general by brevet.

Mr. RICHARDSON. I desire to call the attention of the Senator from Iowa to the fact that General Smith was a major general, commissioned under a law of Congress passed prior to his death.

The bill was ordered to be engrossed for a third reading, and was read the third time, and passed.

#### NAVAL APPROPRIATION BILL.

Mr. HALE submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 151) making appropriations for the naval service for the year ending June 30, 1865, have met, and after a full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House concur in the amendments of the Senate to said bill numbered thirteen, fourteen, eighteen, nineteen, twenty, and twenty-four.

That the Senate recede from its amendments to said bill numbered twenty-two and twenty-three.

That the Senate concur in the amendment of the House to the amendment of the Senate to said bill numbered one.

That the House concur in the amendment of the Senate to said bill numbered twenty-seven, with the following amendment; and insert in lieu thereof the following:

SEC. 2. *And be it further enacted*, That out of the appropriation of \$750,000 for a floating dry-dock at navy-yard, New York, provided for by the act making appropriations for the naval service of the United States, approved 3d March, 1863, the Secretary of the Navy be, and he is hereby, authorized to construct one or two dry-docks, as he may deem expedient, at New York and Philadelphia, at \$250,000 each, and to expend the balance of said appropriation, if it shall be necessary, to enlarge the sectional docks to a capacity to receive the large vessels now building.

JOHN P. HALE,  
P. G. VAN WINKLE,  
L. W. POWELL,  
*Managers on the part of the Senate.*  
ALEXANDER H. RICE,  
JAMES E. ENGLISH,  
*Managers on the part of the House.*

The report was concurred in.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the following joint resolutions; in which it requested the concurrence of the Senate:

A joint resolution (No. 77) relating to Green Clay Goodloe; and

A joint resolution (No. 78) providing for the election of a member of Congress for the State of Illinois by the State at large.

#### MAIL SERVICE TO BRAZIL.

On motion of Mr. COLLAMER, the Senate resumed the consideration of the bill (H. R. No. 407) to authorize the establishment of ocean mail steamship service between the United States and Brazil, the question being on the amendment made as in Committee of the Whole to insert the words "with the lowest responsible bidder" after the word "contract," in line six, of section two. The amendment was concurred in.

Mr. WILKINSON. I offer the following additional sections as an amendment to the bill:

SEC. 5. *And be it further enacted*, That whereas the Government of Venezuela, by a contract entered into on the 1st day of May, 1863, by Simon Camancho, consul for Venezuela, in the city of New York, in behalf of said Gov-

ernment, of the one part, and certain citizens of the United States, of the other part, for the purpose of establishing a line of steamers to carry the mails and ply between the city of New York and Laguayra, and other Venezuelan ports, the Postmaster General is hereby authorized and empowered to accept the terms thereof, on the part of the United States, so far as the same may be applicable, and to enter into a contract with the parties thereto, upon their furnishing good and sufficient sureties for the faithful performance of such contract, for carrying the mails between the ports of St. Thomas, West Indies, and Laguayra, and such other Venezuelan ports as may be deemed expedient, according to the provisions of said contract: *Provided*, The expense of such service to the United States shall not exceed the sum of \$40,000 per year for the performance of semi-monthly trips between said ports, to be paid out of any moneys appropriated for the service of the Post Office Department: *Provided further*, That the Government of Venezuela will apply and carry out in good faith the terms and conditions of said contract to the route between St. Thomas and the ports aforesaid, according to the conditions therein stipulated.

SEC. 6. *And be it further enacted*, That the two Governments shall be entitled to have transported, free of expense, on each and every steamer, a mail agent to take charge of and arrange the mail matter, to whom suitable accommodations for that purpose shall be assigned.

I have in my possession some statistics in regard to the trade of Venezuela, but I have not got them with me. I have here, however, a contract which has been entered into by the Government of Venezuela with some citizens of the United States in regard to facilities for emigration and mail facilities between the United States and Venezuela. It is proposed by the bill which has been passed by the House of Representatives and is now before the Senate to pay a subsidy of I believe \$150,000 a year for opening a line of communication between the United States and Brazil. This line will run by the island of St. Thomas. The original bill provides that the Postmaster General may enter into this arrangement, provided a similar arrangement be entered into by the Government of Brazil. Now, this amendment proposes to extend the amount \$50,000 to establish a line to Venezuela, connecting at the island of St. Thomas with the line from New York to Brazil. The only difference between the two cases is that the Government of Venezuela has already made the offer and entered into a contract. I have the papers in my hand. If it is wise and proper to grant a subsidy of \$150,000 in order to open a business with Brazil; it is also wise, I apprehend, to vote a smaller sum in order that we may be enabled to control the trade of Venezuela. I have some very interesting statistics on this subject which I did not bring to the Senate with me, not knowing that the bill would come up to-day. If the theory of the bill is correct I do not see why it does not apply to the amendment. I suppose there will be really very little objection to the amendment, and I shall not consume time by speaking upon it.

Mr. COLLAMER. When we have a particular measure in hand and believe it to be well founded and of importance to the country, and when it has been approved and passed by one House of Congress, it is very embarrassing to have another project thrust upon it by way of amendment, no matter what its merit may be. If it has so much merit, it can certainly go in a bill by itself, without being made to ride another bill which has already passed through one House and been there fully considered.

I do not desire to say very much in relation to the proposition to establish a line to Venezuela. I do not say that it has not some merit in it, but it is infinitely less important than a line to Brazil. But that is not the main difficulty. I made some remarks the other day in relation to the true merit of the proposed enterprise. I had but very little attention then; I have still less now; I did not expect much attention to it; but there are one or two features that bear on the amendment now proposed.

In the first place, in initiating anew the giving of subsidies to steam lines, (of the merit of which I have already spoken, and it is probably not very important to repeat what has been said,) two or three features were considered as important to be incorporated into the measure, distinguishing it from the former experiments. One is that when we enter upon the grant of a subsidy for a steam line, it should go to a country which will join us in the experiment, so that we have a greater expectation of success. Again, all the former contracts for mail steamship service with the Collins line, and the Sloo line, and the Harris line, and all the different lines we had, were set up under

acts of Congress which were granted personally to the individuals by name—favours granted, if they were favours, to particular companies or particular men or particular sets of men named in the bill. This constituted a great objection to those enterprises. In order to avoid all this in the setting up of this enterprise to Brazil, the bill particularly contains provision that the Brazilian Government shall contribute its proportion with this Government to the sustaining of the line; and it is also provided that the matter shall be public, and bids shall be invited by advertisements in the various cities, so that opportunity shall be given to full and fair and free competition. These two important features, which are different from those that characterized the lines formerly set up, are regarded as very important in this measure, and without them it is not expected that it will pass. In this shape it has been passed by the House of Representatives.

A word now in relation to the amendment proposed by the Senator from Minnesota. In the first place, it is introducing a third party. The bill as passed by the House of Representatives proposes that two Governments, Brazil and the United States, shall be the parties to sustain this enterprise. It is now proposed to put in a third party, the Venezuelan Government. This is what is commonly called the *tertium quid*, the third quality, the disturbing thing in the measure, defeating the simplicity of the original enterprise, which was thought important to its success.

There is still another objection. The gentleman states, and indeed has it in this amendment, that a contract has been entered into between the Venezuelan Government and certain individuals, I do not know that he named them, in New York. I do not know by what authority a consul can bind his Government by any such treaty as that. Consuls have no power to make treaties and contracts, and I do not understand that this has been done by any authority but the Venezuelan consul.

Mr. WILKINSON. He was authorized directly to do it by his Government.

Mr. COLLAMER. That was not stated before.

Mr. WILKINSON. The Government authorized him to make the contract.

Mr. COLLAMER. Suppose that to be so. You will observe the moment you put this proposition into this bill, the only men who can bid for the proposed service are the men who have got this contract. It does not do any good to have the offer set up for all the world to come in and compete and bid, because these men are the only men who have the contract; they shut out everybody else. Of course that important feature of the bill intended to throw it open entirely to public competition is utterly defeated by this amendment.

I do not wish to say any more about it or take more time on the amendment. I have stated my objections. I will say further that it was before the committee, fully considered by the committee, and not entertained by them.

Mr. WILKINSON. The Senate is very thin, and I should like to have the amendment printed and not have the vote taken on this proposition until there are more members in the Senate, and I ask that the bill may go over and the amendment be printed. I do not want to delay this bill. I am willing to take it up to-morrow morning.

Mr. COLLAMER. I have no sort of objection to that arrangement, provided the gentleman will be in and help me to get it up.

Mr. WILKINSON. I will do so at any time to-morrow.

Mr. COLLAMER. I cannot succeed alone here, and especially when I have to wait for him to come in in the morning to get any chance to get at it. If the gentleman will help me to get it up, I shall have no objection.

Mr. WILKINSON. I will help to have it up to-morrow or at any time.

The amendment was ordered to be printed, and the motion to postpone the bill until to-morrow was agreed to.

#### RETIREMENT OF NAVAL OFFICERS.

Mr. RAMSEY. I move to take up Senate bill No. 253, which has been unanimously reported by the Naval Committee.

The motion was agreed to; and the bill (S. No.



253) to amend the act of the 21st of December, 1861, entitled "An act to further promote the efficiency of the Navy," was read the second time, and considered as in Committee of the Whole. It provides that the first section of the act of December 21, 1861, shall not be so construed as to retire any officer under the age of sixty-two years whose name shall not have been borne on the Navy Register for a period of forty-five years after he had arrived at the age of sixteen years.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### PAY OF COLORED TROOPS.

On motion of Mr. WILSON, the Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 145) to equalize the pay of soldiers in the United States Army. The amendment of the House of Representatives was to strike out all of the bill after the enacting clause, and insert:

That on and after the 1st day of May, A. D. 1864, the pay of all private soldiers in the military service of the United States shall be sixteen dollars per month. And from that date, also, the pay of non-commissioned officers shall be increased as follows: corporals shall receive eighteen dollars per month; sergeants, including commissaries and quartermasters' sergeants, twenty dollars per month; orderly sergeants, twenty-four dollars per month; and sergeant majors, twenty-six dollars per month.

Sec. 2. *And be it further enacted*, That the Army ration shall hereafter be the same as provided by law and regulations on the 1st day of July, 1861: *Provided*, That the ration of pepper prescribed in the eleventh section of the "Act to promote the efficiency of the corps of engineers and of the ordnance department, and for other purposes," approved March 3, 1863, shall continue to be furnished as heretofore. But nothing contained in this act shall be construed to alter the commutation value of rations as regulated by existing laws.

Sec. 3. *And be it further enacted*, That so much of the fifth section of the act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting the public property," approved July 22, 1861, as provides that each company officer, non-commissioned officer, private, musician, and artificer of cavalry, shall furnish his own horse and horse equipments, and shall receive forty cents per day for their use and risk, is hereby repealed, except only so far as the same may hereafter be made to apply and relate to mounted troops called into the service of the United States for a term not exceeding six months.

Sec. 4. *And be it further enacted*, That from and after the passage of this act the pay of clerks of paymasters in the Army of the United States shall be \$1,200 per annum.

Sec. 5. *And be it further enacted*, That the thirty-first section of an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, be, and the same is hereby, so amended as that an officer may have, when allowed by order of his proper commander, leave of absence for other cause than sickness or wounds, without deduction from his pay or allowances: *Provided*, That the aggregate of such absence shall not exceed thirty days in any one year.

Sec. 6. *And be it further enacted*, That the provisions of the first section of this act shall terminate and expire at the end of the present rebellion.

Sec. 7. *And be it further enacted*, That all laws and parts of laws inconsistent with the provisions of this bill are hereby repealed.

The Committee on Military Affairs and the Militia, to whom were referred the amendments of the House of Representatives to the bill S. No. 145, report as follows:

Strike out the first section of the amendment of the House, and insert as follows:

That on and after the 1st day of May, 1864, and during the continuance of the present rebellion, the pay per month of non-commissioned officers and privates in the regular Army and volunteers and drafted forces in the service of the United States shall be as follows, namely: sergeant majors, twenty-six dollars; quartermaster sergeants of cavalry and artillery, twenty-three dollars; of infantry, twenty dollars; first sergeants of cavalry, artillery, and infantry, twenty-four dollars; sergeants of cavalry, artillery, and infantry, twenty dollars; sergeants of ordnance, sappers and miners, and pontoniers, thirty-four dollars; corporals of ordnance, sappers and miners, and pontoniers, twenty dollars; privates, first class of the same corps, eighteen dollars; privates, second class, of the same corps, sixteen dollars; corporals of cavalry, artillery, and infantry, eighteen dollars; chief buglers of cavalry, twenty-three dollars; buglers, sixteen dollars; farriers and blacksmiths of cavalry and artificers of artillery, eighteen dollars; privates of cavalry, artillery, and infantry, sixteen dollars; principal musicians of artillery and infantry, twenty-two dollars; musicians of artillery and infantry, and musicians of sappers and miners, and pontoniers, sixteen dollars; hospital stewards of the first class, thirty-three dollars; hospital stewards of the second class, twenty-five dollars; hospital stewards of the third class, twenty-three dollars.

After the second section of the amendment of the House insert the following:

Sec. 3. *And be it further enacted*, That hereafter rations shall not be issued to soldiers sick in hospital, but commutation of rations shall be allowed and paid into the hospital fund, at the rate now established by law, for each soldier reported by the surgeon in charge as sick in hospital; and the receipt of the surgeon in charge shall be a sufficient voucher for the paymaster, or other disbursing officer, who may be charged with the payment of such commuta-

tion: *Provided*, That the hospital fund shall be devoted solely to the diet and maintenance of the sick and wounded soldiers in such hospital: *And provided further*, That the Surgeon General shall, with the approval of the Secretary of War, establish regulations for the accountability of medical officers having charge of the hospital fund. And any officer who shall appropriate to his own use, or shall misapply, any portion of a hospital fund, or who shall make any false report of the number of soldiers sick in hospital, shall, on conviction, be punished as a court-martial or military commission may direct.

Sec. 4. *And be it further enacted*, That all non-commissioned officers and privates in the regular Army, serving under enlistments made prior to July 22, 1861, shall have the privilege of reënlisting for the term of three years in their respective organizations, until the 1st day of August next; and all such non-commissioned officers and privates so reënlisting shall be entitled to the bounties mentioned in the joint resolution of Congress approved January 13, 1864.

Sec. 5. *And be it further enacted*, That section thirty-five of the "Act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, shall not be construed to apply to enlisted men employed as clerks and messengers in the military offices in Washington, and at the several geographical, division, and department headquarters.

Sec. 6. *And be it further enacted*, That when the rank, pay, and emoluments of any officer are declared by law to be those of a specified military grade, he shall be entitled to the pay and emoluments of that grade, and no more, any previous law or usage to the contrary notwithstanding.

Sec. 7. *And be it further enacted*, That there be added to the battalion of engineers one sergeant major and one quartermaster sergeant, who shall also be commissary sergeant, and each shall have the pay of a sergeant of engineers.

Sec. 8. *And be it further enacted*, That there shall be attached to, and made a part of, the War Department, during the continuance of the present rebellion, a bureau to be known as the Bureau of Military Justice, to which shall be returned for revision the records and proceedings of all the courts-martial, courts of inquiry, and military commissions of the armies of the United States, and in which a record shall be kept of all proceedings had thereupon.

Sec. 9. *And be it further enacted*, That the President shall appoint, by and with the advice and consent of the Senate, as the head of said bureau, a Judge Advocate General, with the rank, pay, and emoluments of a brigadier general, and one Assistant Judge Advocate General, with the rank, pay, and emoluments of a colonel of cavalry. And the said Judge Advocate and his assistant shall receive, revise, and have recorded the proceedings of the courts-martial, courts of inquiry, and military commissions of the armies of the United States, and perform such other duties as have heretofore been performed by the Judge Advocate General of the armies of the United States.

Sec. 10. *And be it further enacted*, That the Secretary of War shall have power to appoint for said bureau one fourth class, one third class, one second class, and two first class clerks.

Sec. 11. *And be it further enacted*, That in all cases where the Government shall furnish transportation and subsistence to discharged officers and soldiers from the place of their discharge to the place of their enrollment, or original muster into the service, they shall not be entitled to travel, pay, or commutation of subsistence.

Amend the fourth section of the amendment of the House by adding the words "without rations."

Strike out the sixth section of the amendment of the House.

Agree to the amendment of the House with the foregoing amendments.

Mr. GRIMES. I move to strike out, in the fifth line of the ninth section, the word "colonel" and substitute the word "major," so as to make the Assistant Judge Advocate General a major in place of a colonel. His pay would be about three thousand six hundred dollars, and I suppose that is all that is important.

The PRESIDING OFFICER. (Mr. Foor in the chair.) If there is no objection, that amendment will be made. The Chair hears no objection. The proposed modification will be made; and the question is on agreeing to the amendment recommended by the Committee on Military Affairs to the House amendment.

Mr. HOWE. Is this vote now upon the amendment?

The PRESIDING OFFICER. Upon the whole amendment.

Mr. COLLAMER. I desire to ask a division of the question. I am not at all satisfied in my mind of the necessity of these eighth and ninth sections. I wish to have a separate vote in relation to that new system of military justice.

The PRESIDING OFFICER. The vote will be taken separately on the various propositions of amendment. The first proposition will be read.

The Secretary read, as follows:  
Strike out the first section of the amendment of the House, and insert as follows:

That on and after the 1st day of May, 1864, and during the continuance of the present rebellion, the pay per month of non-commissioned officers and privates in the regular Army and volunteer and drafted forces in the service of the United States shall be as follows, namely: sergeant majors, twenty-six dollars; quartermaster sergeants of cavalry and artillery, twenty-three dollars; of infantry, twenty dollars; first sergeants of cavalry, artillery, and infantry, twenty-four dollars; sergeants of cavalry, artillery, and infantry, twenty dollars; sergeants of ordnance, sappers and miners, and pontoniers, thirty-four dollars; corporals of ordnance,

sappers and miners, and pontoniers, twenty dollars; privates, first class of the same corps, eighteen dollars; privates, second class of the same corps, sixteen dollars; corporals of cavalry, artillery, and infantry, eighteen dollars; chief buglers of cavalry, twenty-three dollars; buglers, sixteen dollars; farriers and blacksmiths of cavalry and artificers of artillery, eighteen dollars; privates of cavalry, artillery, and infantry, sixteen dollars; principal musicians of artillery and infantry, twenty-two dollars; musicians of artillery and infantry, and musicians of sappers and miners and pontoniers, sixteen dollars; hospital stewards of the first class, thirty-three dollars; hospital stewards of the second class, twenty-five dollars; hospital stewards of the third class, twenty-three dollars.

Mr. POWELL. Is it in order to amend that amendment now?

The PRESIDING OFFICER. This is an amendment to an amendment. An amendment in the third degree is not in order.

Mr. WILSON. I will simply say in regard to this amendment that it preserves the existing ratio between the privates and non-commissioned officers of the several arms of the service. The House amendment does not do so. Besides that this adds three dollars a month to the hospital stewards, which is a very small increase, but a very proper one.

Mr. CONNESS. I desire to inquire of the chairman of the Committee on Military Affairs whether the amendments proposed by the committee do not increase the compensation over and above the rates provided by the amendment of the House of Representatives. I desire also to ascertain from him what is meant by privates of the first class and privates of the second class, and why the distinction of sixteen dollars and eighteen dollars a month.

Mr. WILSON. That is in the engineer corps. The amendment of the House of Representatives proposes to give all privates sixteen dollars a month. We have always paid the sergeants and privates in the engineer corps a larger sum than others. There are two classes of privates in the engineer corps, and this amendment of ours simply adds three dollars a month to each, preserving the same relation between them. The Committee on Military Affairs supposed that these differences between the several arms of service were founded on principle, and that they ought not now to be disturbed. The committee therefore propose simply to add three dollars a month to the pay of all privates. The first sergeant of engineers has thirty-four dollars a month. We have not changed that. We thought that was very good pay.

Mr. CONNESS. Permit me to ask what the increase proposed is; how much does it amount to? I do not mean in the aggregate; but what is the difference in favor of the compensation of the soldiers by this amendment reported from the Committee on Military Affairs over the amendment sent from the other House? If the chairman will state the difference succinctly, I shall be pleased to hear it.

Mr. WILSON. There is no difference between them except as to the engineer corps of the Army. The amendment of the House of Representatives put the engineer corps on the same footing with the infantry, artillery, and cavalry. In that corps we have always paid privates of the first class two dollars a month more than in any other branch of the service, because it is necessary to get men of experience and some peculiar culture adapted to that arm of the service.

Mr. CONNESS. How many of them are there?

Mr. WILSON. I cannot tell certainly how many. In the regular service there are less than seven hundred. In the volunteer service there are a few regiments, I think not more than three or four. I will say that in a bill which we reported here some weeks ago the ration was reduced to the old standard, and two dollars a month added to the pay of the privates and non-commissioned officers. That would carry the pay of privates up to fifteen dollars. This is an addition of one dollar over what was provided in that bill, making it sixteen dollars.

Mr. GRIMES. I should like to know how much the pay of the non-commissioned officers is increased by this proposition of the Military Committee, and what proportion that bears to the increase in the pay of the privates.

Mr. WILSON. About three dollars a month.

Mr. GRIMES. All around?

Mr. WILSON. About the same. All the ser-

geants and corporals are raised three dollars. The corporals now have the same pay as the privates. At the time we increased the pay of the privates from eleven dollars to thirteen dollars a month we did not increase the pay of the corporals; that was then thirteen dollars; so they are now on the same footing, and there has been great complaint of it from that hour to this. We therefore now put corporals at eighteen dollars a month. That is, we add five dollars to them and to privates we add three dollars, they having had two before. That makes five dollars added to the privates' pay from the commencement, so that the ratio between the corporals and the privates will be the same as it was at the commencement of the rebellion.

The amendment of the committee to the House amendment was agreed to.

The PRESIDENT *pro tempore*. The committee further propose to amend the House amendment by inserting several new sections after the second section of the House amendment. The first of these new sections will be read.

The Secretary read, as follows:

Sec. 3. *And be it further enacted*, That hereafter rations shall not be issued to soldiers sick in hospital, but commutation of rations shall be allowed and paid into the hospital fund, at the rate now established by law, for each soldier reported by the surgeon in charge as sick in hospital; and the receipt of the surgeon in charge shall be a sufficient voucher for the paymaster, or other disbursing officer, who may be charged with the payment of such commutation: *Provided*, That the hospital fund shall be devoted solely to the diet and maintenance of the sick and wounded soldiers in such hospital: *And provided further*, That the Surgeon General shall, with the approval of the Secretary of War, establish regulations for the accountability of medical officers having charge of the hospital fund. And any officer who shall appropriate to his own use, or shall misapply, any portion of a hospital fund, or who shall make any false report of the number of soldiers sick in hospital, shall, on conviction, be punished as a court-martial or military commission may direct.

Mr. HOWE. I believe I have never voted against a proposition of the Senator from Massachusetts touching military affairs. I do not remember that ever I did; but I must confess I am very sorry to hear this proposition. Yet I am not prepared to state the objections to it which I really believe exist. I do understand, in a general way, that this hospital fund has been so far in the conduct of the war a mere matter of plunder. Precisely how it is absorbed I am not prepared to state. This proposition, I believe, is to commute it, and to make the receipt of the surgeon in charge of a hospital a sufficient voucher on which the paymaster is to make his disbursements. I should suppose that the effect of the proposition would be to increase the hospital fund and to lessen the security for its proper appropriation. My understanding is that there is an appropriation, the most liberal appropriation ever made by any Government, to the medical department of the Army for the support, and quite equal to the support, of all our soldiers who require medical attention, and that this hospital fund has never furnished them any relief, and, in all human probability, never will. I have an indistinct recollection—some Senators will tell me how far I am right and how far I am wrong—that within a few months past a surgeon connected with the Army of the Potomac was tried before a court-martial for the misappropriation of what has been known as the hospital fund. The fact of the misappropriation was abundantly established, and yet the judgment of the court was a judgment of acquittal, because it was the usage of the Army, and had been so long the usage of the Army that, notwithstanding it was a violation of law, the surgeon ought not to be held guilty. I have read such a story, and I cannot tell now who the officer was or just where the trial took place; but my convictions are so very strong that this hospital fund has been a demoralizing agent, and one of the greatest demoralizing agents, found in the Army, beating whisky all hollow, not saying who did it—my convictions are so very strong on that point that I am unwilling to see any step taken toward nursing a hospital fund. If it were abolished altogether, if these commutations were stopped, and the soldier was turned over to the medical department to be supported while he is sick—and the appropriations for that purpose, as I have already said, I believe to be ample—I think it would be better for the morals of the Army.

Mr. COLLAMER. I presume, though I do not know it, that the Senator from Wisconsin has reference to the case of a surgeon of a New Hamp-

shire regiment, Dr. Thayer. I am acquainted with that case, and I think the Senator from New Hampshire will bear me out as to the facts of it, which I am about to state. His regiment was stationed up the river, no very great distance from here, I believe, a year or more since, and the surgeon had on his hands some very sick men whom he wanted to get off the ground. They had fever, and he desired to get some boards that he might make a board floor to his hospital tent, and also make it secure against the wind blowing in. The quartermaster could not furnish him with the supplies necessary for this purpose. He then went and purchased the boards and made a floor and got his sick men off the ground and saved their lives. When he got through, he consulted with the brigade surgeon how he should manage to get his money for the boards and nails and other things used in doing that work. That officer said he did not know any way of doing it unless by putting them down as diet for the sick, as milk, chickens, &c. The doctor put in the amount as diet for the sick, and rendered his account in that way. A year afterwards his account was looked up, and somebody ascertained that there were boards charged as diet. Complaint was made of the surgeon, and a court-martial tried him. It was shown by the surgeon who directed him to do so, and by the medical inspector, that he had been told so to do, and he called half a dozen old surgeons in the Army, who testified that that was the way they always did it; that when it came to a case of absolute necessity they took the money out of the hospital fund in that manner. The court acquitted the surgeon; but lo and behold! the Secretary of War and those under him read over the record, and they at once disapproved of the finding of the court, and discharged the surgeon from the service. We have succeeded since, through the President, in replacing him. He is an honorable gentleman in every respect, above all possibility of equivocation about anything. The President was satisfied that the men's lives had been saved, and the account was all right and straight, and though it was not actually diet for the sick, it was that treatment of them which saved their lives.

Mr. HALE. I will state, as I have been appealed to in this matter, that after Dr. Thayer was dismissed I went with him to the President and stated the case. The President referred it to Judge Holt, and Judge Holt investigated it; and the evidence was that he was a man of the highest character, both professionally and socially, and Mr. Holt so found and regretted very much the necessity which had led to his dismissal from the service. There was, however, one point in the evidence which was not entirely clear, and that was that which the Senator from Vermont has mentioned, that his superior officer, the brigade surgeon, had recommended what was done or was cognizant of it. Judge Holt suspended his decision until that surgeon could be written to. I believe he was then in Boston harbor. He was written to and confirmed the statement of Dr. Thayer, and thereupon he was restored to the service and restored to his position in his regiment.

Mr. POMEROY. I desire to ask whether this change as to the commutation of rations as proposed applies to all the temporary hospitals, all the new ones we have established, or only to the permanent hospitals? The value of the ration is different in different localities. In some places I can conceive that a commutation of this kind may be valuable and of great service and utility, while there may be other sections of the country, and especially in the temporary hospitals, where the commutation might not be desirable. If a change in this regard is had, I want to know whether it is going to be sweeping throughout the entire country, the value of the ration being different in different places.

Mr. WILSON. On the recommendation of the commissary and quartermaster departments, after a very careful investigation by the Committee on Military Affairs, it was decided that we should change the ration of the soldier from the one established in 1861 to the one existing at the opening of the war, and that it would save to the Government about two dollars a month. We found that the existing ration was too large, that a great deal was wasted, that the company fund came to nothing, and the benefit of it did not go

to the soldier; but by changing the ration and paying to the soldier the two dollars a month he would have twenty-four dollars a year for himself. We thought this would be a benefit to the soldier.

Not wishing to do anything without careful examination of it, we sent this proposition to the Surgeon General. A letter came from him agreeing to the general change, but saying that in regard to the hospitals the present ration hardly furnished enough to get along for the benefit of the sick men; and therefore, in order not to reduce the ration of the soldiers in the hospitals, as it was hardly enough to get along with now, as they had to draw these rations and they were not fit to be used by sick men, but had to be sold back to the Government and the money taken and other articles purchased such as they needed, we have declared that instead of drawing the ration they may commute it at the rates established by law, and I believe it will be just to the country. There will be no more opportunity for a dishonest surgeon to do wrong then than now, because he can draw his rations; he is the judge; he can let them go back again, sell them to the Government and take what money he pleases, and invest that money for such articles as sick men need, and in many of our hospitals we use but very little of the rations. The form of drawing the rations is gone through, and they are sold back to the Government and the money taken at the established rates. This provision does not reduce the rations of the sick men, but commutes them at the existing price, and the money will be invested under the existing guards and restrictions, and we have, too, here a stronger restriction than has ever existed before. I think under this section the surgeons in the hospitals are under greater restrictions than they now are, and I believe it will be for the real benefit of the sick soldier, and we put it in for that purpose.

Mr. POMEROY. I understand it is not left optional with the surgeon in charge to commute these rations; but if this amendment prevails it is obligatory on him; he is obliged to do it.

Mr. WILSON. Yes.

Mr. HOWE. I rise for the purpose of saying two things: first, that I did not introduce the name of Dr. Thayer into this debate. I alluded to a case which I had seen stated in the papers; the name of the surgeon who was said to be court-martialed I did not remember, and do not now. Whether the case I read is the case which has been recited here by the Senator from Vermont, I am sure I have not the slightest idea. So I must not be understood as having made any attack on Dr. Thayer. He may be a very respectable man for aught I know. I know a great many medical gentlemen connected with the Army are respectable men. The facts asserted in the papers were that the medical officer was tried before a court-martial for a misappropriation of the hospital fund, and the fact of misappropriation was established by abundant proof, but the verdict was "not guilty," because such misappropriations were part of the common law, so to speak, of the Army. So much for the newspapers. I do not assert the fact to be so; but it tallied so exactly with information I had received from private sources of the usage in reference to this fund that it made an impression on my mind. Perhaps I have not thought of it in the Senate before today.

The Senator from Massachusetts tells us that they found they could save two dollars per month by changing the ration of the soldier from what it was made by the law of 1861 to what it had been prior to that law; that the officer at the head of the medical department did not agree to it because he had found that the ration awarded by the Government to the support of a well, active, laboring soldier was not equal to the sustenance of a sick man. I think the appropriation made to that department for the support of the sick amounts to about seven dollars per month. The Senator from Indiana [Mr. LANE] shakes his head, and that makes me think I am wrong, but still I think I am right. Including the deficiency, the sum appropriated to that department equals seven dollars per month to every one of the sick. That is my impression about it. That is independent of the ration; and yet the Surgeon General informs the chairman of the Committee on Military Affairs that it is necessary to have for a sick soldier, in

addition to this appropriation, a larger sum than for a well soldier. I put it to the Senator if that is plausible, if that is reasonable, if that is right.

Mr. WILSON. The evidence is overwhelming, both from the quartermaster and commissary departments, that the old ration is abundant for the soldiers, and out of it they can lay up money, and where soldiers understand how to take care of themselves many companies in the regular service under the old ration laid up from \$500 to \$1,200 a year. In the volunteer service we profess to have a company fund too, but the men get very little of the benefit of it, and it is said that there are great abuses in regard to it, that it is often appropriated for presents to officers and other things. Believing that the old ration is amply sufficient for the men in the service in the field, we propose to change the present ration for the old one and pay the addition, which is about one dollar and eighty-seven cents a month, or say two dollars, in round numbers, into the pockets of the men directly; let them have the money as their own. This amendment does that.

We called on the Surgeon General in regard to it, and the Surgeon General stated in a letter to the committee that the ration as drawn and the commutation allowed by the existing law, with the other appropriations made by the Government for the support of men in hospitals, are none too large, and he has therefore suggested that we allow the present ration to stand for hospitals and commute it at present rates; and as that was more convenient to do and was thought to be the best, we decided not to change it.

Now, I will call the Senator's attention for a moment to the provisions of the section, which were intended to be very stringent and to increase the responsibilities of these officers beyond what they now are. There may have been some abuse, but I think generally our hospitals are admirably administered and honestly administered. This section provides:

*Provided*, That the hospital fund shall be devoted solely to the diet and maintenance of the sick and wounded soldiers in such hospital: *And provided further*, That the Surgeon General shall, with the approval of the Secretary of War, establish regulations for the accountability of medical officers having charge of the hospital fund. And any officer who shall appropriate to his own use, or shall misapply, any portion of a hospital fund, or who shall make any false report of the number of soldiers sick in hospital, shall, on conviction, be punished as a court-martial or military commission may direct.

It is intended to be stringent; and I tell the Senator from Wisconsin sincerely that I believe the passage of the bill with this amendment will be for the benefit of the soldier in the hospital as well as in the field, and it will be an additional restriction in the management of our hospitals.

Mr. HOWE. The Senator after all has not answered the question I put to him. My question was whether the assertion of the Surgeon General that, in addition to the appropriation made to the medical department for the support of the sick soldiers, it cost more to maintain them when sick than when well, that they demanded a larger ration or a larger sum of money, is not *prima facie* false. The Surgeon General asserts that a larger ration will be needed to support the soldier when he is sick and upon his back, at the very time when support is provided for out of another appropriation, which as I have already said is very much larger than was ever made by any Government before for medical purposes—at that time the Surgeon General says that he needs more, a larger ration, than when he is well. The question I wanted the chairman of the Military Committee to answer was whether that was not upon its face false, whether we had any right to believe such a statement and to legislate upon it. To me it appears so.

Mr. WILSON. I will say to the Senate that the present ration is drawn, and if a man can use it it is used, but if not it is sold back to the Government, commuted at a certain rate. The bread, and meat, and potatoes that men live on when they are well, will not do to nourish sick men, and the articles that sick men need cost more in proportion than other articles do, and therefore a man who when he is well can live on his rations and not consume them all, cannot do so when he is sick. He cannot then use those rations, and they are commuted at the present legal rates, and the commutation money will not furnish him with all the articles he absolutely wants, and we have made a general appropriation for and some

other articles for all the hospitals in addition to the commutation fund for the rations.

Mr. LANE, of Indiana. There are two purposes attempted to be answered by this section. The first is the diminution of the ration of the soldier, (about two dollars a month was the estimate,) and instead of giving him the increased ration provided for by the act of 1861, we propose to give him that much in money, believing that the former ration was abundantly sufficient for him. The increase in the ration of the Army was made on the motion of Colonel Baker, of Oregon, and it has been found since that the old ration was sufficient and abundant for a well soldier in the Army. Instead of giving him the increased ration at an additional expense to the Government of about two dollars a month, we propose to give him two dollars a month as increased pay. That far there seems to be no possible objection to the section. But when soldiers are ordered into hospital, it is found that the ration of 1861 is not too much to support them, because the surgeon has to buy many articles which are not embraced in the former ration and which cost more; and we propose, instead of reducing the ration when the soldier is ordered into hospital, to give the surgeon the benefit of the increased ration to be used for the relief of the soldier, and to impose the most stringent restrictions as to the application of the funds. I can well imagine that it may cost more to support a sick soldier than a well soldier, for the articles necessary for his food cost often more. It seems to me there can be no possible objection to this. We decrease the ration to the well soldier about two dollars a month, and instead of issuing to him more than he can eat we give him money to that extent. To the sick soldier we allow the present ration and authorize the surgeon to buy for him whatever is necessary in his condition. That is the whole of it. These are the two propositions in this section.

The section was agreed to.

The next branch of the amendment was read, as follows:

*Sec. 4. And be it further enacted*, That all non-commissioned officers and privates in the regular Army, serving under enlistments made prior to July 22, 1861, shall have the privilege of reenlisting for the term of three years in their respective organizations until the 1st day of August next; and all such non-commissioned officers and privates so reenlisting shall be entitled to the bounties mentioned in the joint resolution of Congress approved January 13, 1864.

Mr. GRIMES. I should like to have that explained.

Mr. WILSON. Soldiers enlisted into the regular Army before the 22d day of July, 1861, were enlisted for five years, and had no bounty whatever. They have served nearly three years without any bounty, and they have not the privilege which the soldiers who enlisted afterwards have of reenlisting and receiving the increased bounty we gave to regulars and volunteers who had less than a year to serve. These old soldiers have served the country with great fidelity. The regular regiments have been very severely cut up in the various battles through which our armies have passed, and these men have never received a dollar's bounty, never can receive it, and have to serve out their five years, if they live that time. They see volunteers receiving a bounty on entering the service, and regulars receiving a bounty going in for three years, reenlisting and receiving as veterans \$400. Those men who were enlisted before the 22d of July, 1861, for five years, are serving in the same companies with men who enlisted after the 22d of July, 1861, for three years, and received \$100 bounty, and who on reenlisting receive \$400 bounty. Five hundred dollars bounty is thus put into the pockets of the men with whom they are fighting the battles of the country, and they receive nothing, and no consideration at the hands of their Government, the Government of course holding them to their contract to serve five years. I simply propose that from the passage of this act to the 1st day of August these few old veteran soldiers who enlisted before the 22d of July, 1861, for five years without any bounty, shall have the privilege of reenlisting into the service of the United States for the term of three years, and receiving the bounty we paid by the act of last January, \$400 to veterans; and I think the country owes that to these old soldiers.

The section was agreed to.

The next section of the amendment was read, as follows:

*Sec. 5. And be it further enacted*, That section thirty-five of the "Act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, shall not be construed to apply to enlisted men employed as clerks and messengers in the military offices in Washington, and at the several geographical, division, and department headquarters.

Mr. GRIMES. What does that mean?

Mr. WILSON. By a provision in the enrollment act of last year soldiers could not be detailed for special service to the rear. Some detailed soldiers are employed in the War Department, and some at the department headquarters, and we propose simply that these soldiers may receive the increased pay of forty cents a day. There cannot be many of them, not more than two or three hundred altogether.

The section was agreed to.

The next section of the amendment was read, as follows:

*Sec. 6. And be it further enacted*, That when the rank, pay, and emoluments of any officer are declared by law to be those of a specified military grade, he shall be entitled to the pay and emoluments of that grade, and no more, any previous law or usage to the contrary notwithstanding.

The section was agreed to.

The next section of the amendment was read, as follows:

*Sec. 7. And be it further enacted*, That there be added to the battalion of engineers, one sergeant major and one quartermaster sergeant, who shall also be commissary sergeant, and each shall have the pay of a sergeant of engineers.

The section was agreed to.

Mr. COLLAMER. The next three sections should go together as parts of the same system.

The Secretary read the next three sections of the amendment, as follows:

*Sec. 8. And be it further enacted*, That there shall be attached to, and made a part of, the War Department, during the continuance of the present rebellion, a bureau to be known as the Bureau of Military Justice, to which shall be returned for revision the records and proceedings of all the courts-martial, courts of inquiry, and military commissions of the armies of the United States, and in which a record shall be kept of all proceedings had thereupon.

*Sec. 9. And be it further enacted*, That the President shall appoint, by and with the advice and consent of the Senate, as the head of said bureau, a Judge Advocate General, with the rank, pay, and emoluments of a brigadier general, and one Assistant Judge Advocate General, with the rank, pay, and emoluments of a major of cavalry. And the said judge advocate and his assistant shall receive, revise, and have recorded the proceedings of the courts-martial, courts of inquiry, and military commissions of the armies of the United States, and perform such other duties as have heretofore been performed by the Judge Advocate General of the armies of the United States.

*Sec. 10. And be it further enacted*, That the Secretary of War shall have power to appoint (or said bureau one fourth class, one third class, one second class, and two first class clerks.

Mr. HALE. Of course what I say will have but little effect on the Senate, but I am decidedly opposed to that amendment and I hope it will not be adopted. It seems to me to be incongruous and absurd to appoint a judicial officer, and assign him judicial duties, and then give him the rank, pay, and emoluments of an officer in the field. Where is the propriety, or the expediency, or the wisdom, or the safety of such a rule? There is no analogy between them. The Judge Advocate General sits in his office; the duties he has to perform are judicial in their character. I have not a word to say against paying him everything that the committee think he ought to receive. It is not of that that I complain, but it is of what I think is an improper and vicious way of graduating the pay of civil officers. It is an evil that a good many have been striving to get rid of in the Army for a long series of years. It has been got rid of in the Navy after a long trial; in the naval service the allowances have been struck off and a fixed salary paid to the officers. An attempt has been made since I have been a member of the Senate, frequently to get rid of them in the Army. I remember that when Mr. Davis was chairman of the Military Committee in the Senate, a position which he held for a good many years, this matter was referred to him and he made a report—I do not remember whether it was written or verbal, but it was somewhat elaborate—in which he admitted the impolicy and impropriety of this mode of paying officers, but contended that it was impossible or next to impossible to make a fixed rule, owing to the inequalities of the service, that men in the field had to perform various kinds of service, some were ordered here and some there, and on account of the nature of the services they



were called upon to perform it was necessary that there should be a sliding or graduating scale.

But when you come to appoint an officer who is to stay at home, sit in his room, perform judicial duty, weigh evidence, examine records, where is the propriety of graduating his pay by the pay of a brigadier general in the field? Is there any analogy between the duties that a general in the field is required to perform and a judge in his office? Then, it is proposed to give his assistants the pay of a major of cavalry. Where is the propriety of paying associate justices—for that is what they are—side-justices of this military tribunal, as majors of cavalry? If the Committee on Military Affairs insist on this, I hope they will go further and provide that these officers shall sit in uniform, that they shall have their chapeaus, &c., on, whenever they sit. As the judges of the Supreme Court wear black gowns, let these majors of cavalry, when they come in to sit as judicial officers, come dressed in their regimentals. I ask for the yeas and nays on the adoption of the amendment.

The yeas and nays were ordered.

Mr. LANE, of Indiana. The objection of the honorable Senator from New Hampshire seems to be that we are appointing a civil officer, a judge, and giving him the rank and pay of a military officer, a brigadier general of cavalry. It seems to me that the Senator utterly mistakes the nature of the office which we confer by this bill. The office of judge advocate is as much a military office as a major of any battalion in your Army, and always has been so regarded. In every court-martial that is called in your Army, certain officers of a certain grade are detailed, and a judge advocate is detailed who is also connected with the Army for the purpose of prosecuting the claim in behalf of the Government. He is in effect the prosecuting attorney for the Government; and it is a military office in the organization of our Army from the beginning to the present moment, and in the organization of every army in Europe, and always has been regarded as a military office. The duties to be discharged by this Bureau of Military Justice, in a certain sense, are judicial; and yet what is the investigation, what is the reading, what are the studies necessary to enable him to discharge his duties? Simply the study of military law, the rules and regulations for the Army, the laws of war as applied to military trials. It is essentially a military office; and the moment your Army is dispensed with every single judge advocate, whether of a minor military court or of the Bureau of Military Justice, necessarily falls. It has no connection with the administration of civil justice as applied to your minor courts. It is a military office, and a high office of great importance, and it seems to me it should be invested with rank and pay and emoluments commensurate with the importance of the office.

Here we propose to make your Judge Advocate General a brigadier general, to give him the pay and emoluments of a brigadier general, and it is surely not too much when he has to revise and report to the President and Secretary of War upon every single military trial in all your armies throughout the whole extent of the country, embracing in one year, as the records show, more than fourteen thousand cases. It is not too much rank, it is not too much pay, as it seems to me, to give him; and he is, to all intents and purposes, a military officer, as I believe, as much as any colonel in your Army, or general, or major general, or commander of a corps. It is essentially a military office and nothing else, and requires the revision of military decisions, an investigation and understanding of military laws. Another amendment, proposed by the Senator from Iowa, I believe, is to reduce the rank of the Assistant Judge Advocate General to that of a major, with the pay and emoluments of a major of cavalry instead of a colonel. I see no kind of propriety in that. I think these offices require the very highest talent that we can command, and I think the pay of a major is not commensurate with the importance of the duties intended to be performed. If I am misinformed, and if that amendment has already been passed upon, I have nothing to say in reference to it; but I do think that the report of the Committee on Military Affairs should be adopted, and that your Judge Advocate General should be a brigadier, with all the emoluments

pertaining to that office, and the Assistant Judge Advocate General should be a colonel.

Mr. CONNESS. I agree entirely with the honorable Senator from Indiana. When the amendment now proposed to this bill was before us as an independent and separate bill the Senate will remember the position the honorable Senator from New Hampshire took. I think the honorable Senator is more attached to his idea in the premises than he has need to be. As far as this day is concerned, I will say to the honorable Senator he ought to be satisfied with his triumph. He has succeeded in passing three somewhat unreasonable bills, in which I with others were compelled to unite with him by the force of his eloquence; and now, having ridden roughshod over one standing committee of the Senate, that of Pensions, he proposes to run down the Committee on Military Affairs. I submit that this is too much even for the honorable chairman of the Committee on Naval Affairs.

I agree entirely with the honorable Senator from Indiana that this is essentially a military office; and, if the Senator from New Hampshire will pardon me for the expression, I think it is unworthy of him that he should detain the Senate and expend himself and waste himself upon the mere form of pay and compensation to be given to this officer. I am very free to say that I know there is no Senator more impressive to generous emotions than the honorable Senator himself; certainly there is none more in the habit of endeavoring, and perhaps succeeding, in impressing others than he is; but I am prepared to say that on this subject I look through the proposition to the man. I know that that is not the logic of the case; but I look through this proposition to the man, Jo. Holt. I call him by that name because it is by that appellation that he is popularly and familiarly known and loved through this country. I think that the services of that man at a time antecedent to the beginning of this war never should be forgotten and never will be forgotten. I would not detain a bill before this body that comprehended, not simply compensation to him, but giving him all the dignities that might surround any position to which he is properly nominated and appointed. I hope my honorable friend, guided by his ordinary generosity, will make no further opposition to this proposition. I am very glad indeed that the chairman of the Committee on Military Affairs has proposed to append it to this bill, in order to get rid of the difficulty in which it has been tied up by the differences heretofore between the House of Representatives and the Senate; and I hope we shall pass it here without any further ceremony.

Mr. HALE. Dr. Sangrado, when he was killing all the city he was practicing medicine upon, being advised to abandon his system, said he would do it if he had not written a book upon it; [laughter;] and so on this subject, so far as one humble individual is concerned, I am committed against this mode of compensating officers. I never wrote a book about it, but I have made several silly speeches on the subject. [Laughter.]

Suppose that we wanted to do honor to the Supreme Court. My friend from Iowa [Mr. HANLAX] wants to give them a retiring pension. Suppose he should add to his retiring bill that each of the judges, when he retired, should be entitled to wear a chapeau with a feather in it, or that he should be entitled to the rank of a brigadier or major general. Suppose you put Mr. Holt upon the bench with all the merit that so justly belongs to him, with all the gratitude due to him which the Senator from California so well expresses, and which I certainly share in. Suppose that you give him just as much salary as you think he ought to have. If the pay of a brigadier general is \$5,000, give him \$5,000; set him up on the bench, and when a case is brought before him, and just before he commences, let the crier of the court make proclamation, and the marshal come in and put a chapeau on his head and the plume in his hand. How much would our veneration and regard for him be increased by that system?

I think the honorable Senator from Indiana (and he will pardon me for doubting his accuracy in that respect) is mistaken when he says that a judge advocate has always been an attaché of the Army. I rely upon the testimony of a gentleman who certainly knows as much about this matter as anybody, and who spoke upon it the other day,

the Senator from Iowa, [Mr. GAMES.] When this subject was under discussion a few days since the Senator from Massachusetts, [Mr. WILSON,] in reply to a similar assertion made by me, after a few generous compliments to me which I did not deserve, put in a proviso that I was sometimes liable like the rest of us to be mistaken in point of law and fact, and that I was so in that instance; whereupon the Senator from Iowa rose, and if he did not satisfy the Senator from Massachusetts he did everybody else, that it was the Senator from Massachusetts that was mistaken in the law and fact when he undertook to correct me. In addition to that, I remember a very famous military trial that took place in this country, one that is as notorious as any that ever took place since we had a national existence—I refer to the trial of General Hull for the surrender of Detroit. Do honorable Senators remember who was the judge advocate there? It was Martin Van Buren. What military rank did he hold? None at all. It was a judicial office with judicial duties to perform, and he was a lawyer of eminent standing and he was selected.

But, sir, I do not expect to satisfy the Senate. The Senate have voted this proposition down once by a very decided vote. I remember the Hon. Mr. Benton when he was here argued upon the omnibus bill that he could not see into the philosophy of the Senate, after they had voted down individual bills, putting them all together in an omnibus bill, and then going for the whole of them. If this measure was unwise as an individual measure it is unwise as an amendment to this bill. Let the Senate appoint the judge advocate and pay him, appoint him assistants and pay them, and not have the fuss and feathers of military parade brought into your judicial proceedings.

Mr. LANE, of Indiana. It is very true that civilians have sometimes been detailed or appointed to act as judge advocates of courts-martial, but they have always owed their appointment either to the commanding general or to the Secretary of War, and for the time being they were military officers acting under military authority, and their civil position was entirely sunk in the military appointment.

Mr. WILSON. The difference between this bill and the one we had up the other day, which was voted down as the Senator from New Hampshire says, is in this respect: that bill provided for the establishment of a permanent bureau; this bill provides for its continuance only during the present rebellion. That bill provided for two assistants with the rank of colonels. We provide here for only one, whose rank, on the motion of the Senator from Iowa, has been reduced to that of a major. I can assure the Senator from New Hampshire that the object was to make this bureau as small an expense to the Government as possible in order to get along. I assure him further that the Secretary of War is exceedingly anxious that this should pass. He believes that the public service and the good of the Army really demand it.

Mr. BUCKALEW. I should like to inquire what will be the amount of compensation which will be paid under this bill to the principal officer, the Judge Advocate General.

Mr. WILSON. I have not figured it out. It is very easy for any one to take the book and do so. I suppose the pay of a brigadier general must be about five thousand dollars. The pay of a major, as we have it now, is thirty-five or thirty-six hundred dollars.

Mr. COLLAMER. I will again ask what objection the gentleman has to fixing a direct and certain sum that we all know as the compensation of this officer?

Mr. WILSON. It is desirable to put this department on the same footing as all the others. The heads of the quartermaster's, commissary's, and ordnance departments are all brigadier generals, and receive the pay and emoluments of brigadier generals.

Mr. HALE. Is the question pending an amendment to an amendment?

The PRESIDENT *pro tempore*. It is.

Mr. HALE. Then it is not in order to move to amend it?

The PRESIDENT *pro tempore*. It is not.

Mr. GRIMES and Mr. JOHNSON. What is the question?

The PRESIDENT *pro tempore*. On the amend-

ment reported by the Committee on Military Affairs to the amendment of the House of Representatives, on which the yeas and nays have been ordered.

Mr. COLLAMER. The question is whether we shall adopt the three sections marked eight, nine, and ten in the printed amendments before us, all on the same subject. The tenth section was not read, but relates to the same subject as the others, the establishment of a Bureau of Military Justice.

The question being taken by yeas and nays, resulted—yeas 23, nays 11; as follows:

YEAS—Messrs. Anthony, Chandler, Conness, Dixon, Foot, Foster, Harris, Hendricks, Howard, Howe, Lane of Indiana, Lane of Kansas, Morgan, Pomeroy, Powell, Ramsey, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Wilkinson, and Wilson—23.

NAYS—Messrs. Buckalew, Clark, Collamer, Davis, Doolittle, Grimes, Hale, Harlan, Henderson, Johnson, and Richardson—11.

ABSENT—Messrs. Brown, Carlile, Cowan, Fessenden, Harding, Hicks, McDougall, Morrill, Nesmith, Riddle, Saulsbury, Sherman, Sprague, Willey, and Wright—15.

So the amendment to the amendment was agreed to.

The next amendment of the committee was to insert as section eleven the following:

Sec. 11. *And be it further enacted*, That in all cases where the Government shall furnish transportation and subsistence to discharged officers and soldiers from the place of their discharge to the place of their enrollment or original muster-in to the service, they shall not be entitled to travel pay or commutation of subsistence.

The amendment to the amendment was agreed to.

Mr. LANE, of Indiana. I wish to move to reconsider the vote by which section nine of the committee's amendment authorizing the appointment of an Assistant Judge Advocate General, with the rank and pay of a colonel, was amended by striking out "colonel" and inserting "major." The amendment passed without my observing it, and I should like to have another vote upon it.

The PRESIDENT *pro tempore*. It will be necessary, in the opinion of the Chair, to reconsider the vote adopting that section as an amendment, before it can be reached.

Mr. TRUMBULL. I will state that that alteration was made by unanimous consent when it would not have been in order if any one objected, and it having been made under those circumstances, if the Senator from Indiana desires to have a vote upon it, it seems to me it would be no more than fair that by unanimous consent a vote be taken in the Senate. At the time the motion was made it was out of order, it being an amendment in the third degree. I think the Chair stated—I do not remember whether the present occupant was in the chair at the time—that it would not be in order to move to strike out the word "colonel" and insert "major," but by unanimous consent it might be done; and I think it was done in that way.

Mr. FOOT. It was as stated by the Senator from Illinois. I happened to be temporarily in the chair, and upon a suggestion to make that modification the Chair remarked that if no objection should be made the modification would be made as proposed—I think the proposition was suggested by the Senator from Iowa—and no objection being interposed, the modification was made by unanimous consent. The attention of but a few Senators, I presume, was directed to the matter at the time.

Mr. LANE, of Indiana. I was not present when the vote was taken, or I certainly should have objected to it.

Mr. FOOT. No vote was taken. It was done by unanimous consent.

The PRESIDENT *pro tempore*. If there be no objection, the Chair will put the question again, and let it be tried in the Senate. The Chair hears no objection, and the question now will be on the motion of the Senator from Iowa [Mr. GRIMES] to amend section nine of the amendments reported by the Committee on Military Affairs, by striking out the word "colonel" and inserting "major."

Mr. GRIMES. Upon personal reasons I dislike exceedingly to make this motion or to vote for it, because I suppose I am situated as a great many other gentlemen are. They have friends who are aspirants for this place and who feel quite confident they are going to secure it. That is the case with me. But I am compelled to vote for the proposition to reduce the office of the Assistant Judge Advocate General from the rank of col-

onel to that of major for the reasons that I have stated before. In the first place, as I understand it, and I think I am tolerably accurate in it, the pay of a major doing bureau duty here in Washington is about \$3,600 a year, which is \$600 more than is paid to your Assistant Attorney General, to the Solicitor of your War Department, and to the chiefs of your most important bureaus. I do not know any reason why we should pay this assistant this large sum over and above what we are paying to those other bureau officers and to your Assistant Attorney General, who I understand is a very respectable lawyer and a man of good reputation, and to the Solicitor of your War Department, who I apprehend is quite as able. I mean the salary fixed by law for him. I am told he does not draw any salary, because he is a very rich man and a very patriotic man; but \$3,000 is the salary that has been established by law for his office; and I know of no reason why we should establish a new rule in this case other than that which was established in that case.

I should like to hear some of the Senators who propose that we shall make this assistant a colonel of cavalry in the place of a major, tell me how much that pay is. Nearly five thousand dollars; and the pay of a brigadier general doing duty in Washington to-day is more than six thousand dollars. As Senators will observe, the Army regulations fix the commutation of quarters, firewood, &c., at different points throughout the United States. The regulations authorize the Secretary of War to change those commutations from time to time. Last autumn he saw fit to change the commutation so far as the department of Washington was concerned, and to declare by an order which he sent to the Second Comptroller of the Treasury that all the commutation for quarters of men who were established here in Washington should be doubled. That brought up the mere commutation of a brigadier general's quarters and firewood to \$1,360; the commutation of a lieutenant colonel or a major of quarters and firewood was brought up to \$1,134; and the commutation of quarters and firewood alone of a captain or chaplain in this city under that order amounts to \$868 62.

Mr. DAVIS. Will the Senator permit me to ask him a question?

Mr. GRIMES. Yes, sir.

Mr. DAVIS. By what authority did the Secretary of War increase these commutations?

Mr. GRIMES. He had authority to do it. The law of Congress passed in the latter part of the last century declares that all rules and regulations of war established by the War Department not inconsistent with the laws of the United States shall have the force and effect of law. The law authorizes the Secretary of War to establish these rules and regulations; and these rules and regulations expressly declare that the Secretary of War may change them.

Mr. DAVIS. I will ask the honorable Senator if the commutations to which he has reference have not been fixed by law, and had not been fixed by law before they were increased by the Secretary of War?

Mr. GRIMES. No, sir. They were fixed by the Army rules and regulations, not by law. The commutations of quarters and fuel and lights, &c., were fixed by regulation, and the Secretary of War had the right to change them, and he changed them so far as the department of Washington was concerned. Now, what is the fact? It costs a great deal more for an officer of the Army to live in New Orleans than it does to live in Washington. There is no increase in the commutations of quarters, to the officers who are so unfortunate as to be located in New Orleans. It costs quite as much for an officer to-day in Nashville, Louisville, or St. Louis as it does in Washington to-day. There is no increase there. The result is, all the officers there are clamorous to the members of Congress, with whom they are acquainted, asking for the same advantages to be yielded to them that are granted to the officers who are stationed here in Washington.

This accounts for the way in which Senators will discover that the pay of a major on duty in this city amounts to \$3,600. It is by the increase of the commutation of fuel and room rent over and above the commutation that is allowed by the Articles of War. At present a major is allowed \$1,134. One half of that is an excess over what

he is allowed by the Rules and Articles of War. All over \$3,000 is the increase of pay by that means to the major.

The PRESIDENT *pro tempore*. The question will be on the amendment of the Senator from Iowa to strike out the word "colonel" and insert the word "major."

Mr. GRIMES. I desire to have the yeas and nays upon that amendment.

The yeas and nays were ordered.

Mr. DOOLITTLE. I desire to be distinctly informed what will be the difference in pay whether this assistant is a colonel of cavalry or a major of cavalry. I want to know it in round numbers distinctly, so that I may know the difference.

Mr. COLLAMER. You mean the commutation and pay in Washington?

Mr. DOOLITTLE. Yes, sir.

Mr. JOHNSON. Three thousand seven hundred dollars in the one case and \$5,000 in the other.

Mr. DOOLITTLE. For my part my mind would be better satisfied to say at once we give Mr. Holt \$5,000 a year, and we give his assistant \$3,500. Then we should know just what we give them.

Mr. POMEROY. This amendment only has reference to the assistant.

Mr. DOOLITTLE. I understand this amendment is to reduce the assistant from the rank and pay of a colonel of cavalry to a major of cavalry; but I do not know what effect that has on the salary.

Mr. JOHNSON. The Senator from Iowa told you just now.

Mr. DOOLITTLE. I understood the Senator from Iowa when he was on the floor to state that the pay of a major of cavalry located in Washington is over three thousand six hundred dollars. I will ask the chairman of the Committee on Military Affairs is that a fact?

Mr. WILSON. It is thirty-five or thirty-six hundred dollars, and that of a colonel is from four thousand to four thousand two hundred dollars under the present ruling in regard to fuel and quarters. That will probably be changed this summer.

Mr. DOOLITTLE. I should like to take the sense of the Senate on a proposition to pay the Judge Advocate General \$5,000 a year, and his assistant \$3,500.

Mr. HALE. You cannot know how much this pay is. The most definite answer that could be made to the Senator from Wisconsin is that one of these salaries is a large sum and the other one is a little larger. [Laughter.] That is about the whole of it. You cannot get at it exactly, and nobody here can tell what it is.

Mr. CONNESS. There seems to be much difficulty in the Senate in regard to the difference between the compensation of a brigadier general and a colonel, and that of a colonel and major, as if we were not paying several brigadier generals now, and colonels and majors, as if it were not simply an every-day business, as if it were not the greatest part of our business. These close inquiries in regard to it, which are proper enough in their way, only occur because of the objections to this bill. I do not know why gentlemen should desire to be so accurate in regard to the salary or compensation of one single officer of a certain grade when we are paying so many hundreds of the same grade constantly.

Mr. DAVIS. It seems to me that the Senate ought always to have a distinct comprehension of what they are doing. This thing of creating salaries under phrases the meaning of which is not understood by any Senator at the time they are voting upon them, seems to me to be a very objectionable mode. This Judge Advocate General is an officer located in this city. His duties are simple and uniform. His office is here. His expenditures do not fluctuate in consequence of casualties or differences of condition. I suppose the same is true in relation to his assistant. It seems to me that the plain and simple way to compensate both the Judge Advocate General and his assistant would be to give them a definite sum as an annual salary. This mode of producing a large increase of the salary of either of these officers by saying he shall have the rank, pay, and emoluments of a brigadier general or of a colonel seems to me to be all wrong. If a definite sum could be offered to every officer under the Government as his compensation, be he military or civil, it seems

# THE CONGRESSIONAL GLOBE.

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to me it would be the proper rule. The country then would know what was done; the Senate would know what it had done when it adopted the proposition; and there would not be as many different opinions in relation to the amount of compensation as there were differences of opinion expressed by different Senators. I accord to the suggestion made by the Senator from Wisconsin. I believe both these officers ought to receive a definite precise sum for their pay and salary, and what would be sufficient ought to be voted them, without giving them anything under the phrase, "the rank, pay, and emoluments of major, or colonel, or general," the amount of which was not understood by the Senate at the time they were voting it.

Mr. HENDRICKS. I expect to vote in favor of the amendment proposed by the Committee on Military Affairs; but I am sure no Senator will suspect me of being governed by the motive suggested by the Senator from Iowa. It is not probable that any Democrat will be appointed to fill this place, and therefore I shall not have much to do with the appointment of the man. But the Senate has already decided that the Judge Advocate General shall be a military officer, and that he shall have the grade of a brigadier. Now, according to military usage, what ought to be the grade of his assistant? Ought it not to be in an officer next to him in rank—a colonel? It seems to me that is very plain; and whether we pay him \$500 more or \$500 less is not a matter of much consequence in view of the very great importance of this court.

But, sir, I did not intend to speak about that. I wish to call the attention of the chairman of the Committee on Military Affairs to this question: are the decisions of this court to be final? Is it to be a court, or is it merely to be a set of clerks to make recommendations to the Secretary of War, who is to decide arbitrarily and without much reference to law? If it is to be a court, I am not afraid of its decisions, because public opinion will hold that court to the law and the facts of each case; but if it is merely to make recommendations to the Secretary of War and he is to decide as a mere administrative officer, without regard to that responsibility that a court feels to public opinion and to the law, this court will not be of much importance. I suggest to the chairman whether he cannot, by the use of some proper words, give more force to the decisions of this court as a court.

Mr. WILSON. I think we have gone as far as we can.

Mr. DOOLITTLE. I think I can understand very well why the pay of a general in the field, or a colonel in the field, who is compelled to be mounted, to have at least one and often two horses for his actual service, so far as rations and forage for his horses are concerned, should be an uncertain quantity, because in different sections of the country, at different seasons and different times, there is a different price upon all this forage which may be necessary to sustain and to keep his horse. I can see why you should give a colonel of cavalry, or an officer who is actually mounted, his pay proper, and allow him also so many rations and so much forage for his horses, and allow the Secretary of War, or the regulations, to establish what the value of the ration shall be in different parts of the country. It may be higher in Washington than it is in Wisconsin, where forage is cheap, comparatively.

But, sir, for my life I cannot understand, when your Judge Advocate General is not required to be mounted in the field or to have horses or forage or any rations, and your Assistant Judge Advocate is to be located at Washington like an Assistant Attorney General, without horses, without forage, without rations, and when he travels from here is paid his mileage for traveling, why it is necessary to govern their pay by this unknown quantity, represented by x, y, and z in mathematics. What is the necessity for it? Here is this Judge Advocate General to be established in an office in Washington. Why can we not say

we will pay him say \$5,000 a year? If \$5,000 is not enough say \$6,000. No man has a higher estimate than I have of the person who now exercises that office, Hon. Joseph Holt. No one can have a higher estimate of a man than I have of him, and I am willing to give him a liberal compensation. So too in relation to the Assistant Judge Advocate General. If \$3,000 is not enough say \$3,500; but do not let us be governed by an unknown quantity in fixing salaries where it is not necessary.

Mr. JOHNSON. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

MONDAY, May 16, 1864.

The House met at twelve o'clock, m. Prayer by GEORGE W. HOSMER, D. D., of Buffalo, New York.

The Journal of Friday last was read and approved.

### REPRESENTATIVE FROM ARKANSAS.

Mr. DAWES presented the credentials of A. A. C. Rogers, claiming a seat in the House of Representatives as a Representative from the State of Arkansas; which were read, and referred to the Committee of Elections.

The SPEAKER. The first business in order is the call of States for bills on leave, for reference only, and not to be brought back by motion to reconsider.

### MARQUETTE AND ONTONAGON RAILROAD.

Mr. KERNAN introduced a bill extending the time for the completion of the Marquette and Ontonagon Railroad Company of the State of Michigan; which was read a first and second time, and referred to the Committee on Public Lands.

### WARRANT OFFICERS OF THE NAVY.

Mr. ELIOT introduced a bill to authorize assimilated rank to be given to the warrant officers of the United States Navy; which was read a first and second time, and referred to the Committee on Naval Affairs.

### REGISTERS OF VESSELS.

Mr. RICE, of Massachusetts, introduced a bill in addition to acts in relation to the registers of vessels; which was read a first and second time, and referred to the Committee on Commerce.

### AFRICANS IN THE MILITIA.

Mr. RICE, of Maine, introduced a bill for the enrollment, organization, and service of certain persons of African descent in the militia of the several States.

Mr. HOLMAN. I ask to have the bill read. The bill was read.

Mr. PENDLETON. I object to the second reading of the bill.

The SPEAKER. The gentleman cannot object. The rule requires that bills introduced under this order of business shall be referred without debate to the proper committees.

Mr. PENDLETON. I have moved to reject the bill, and I understand the Chair to decide that such motion is out of order, and that the bill must be referred.

The SPEAKER. The Chair so decides. The bill must be referred.

The bill received its first and second readings, and was referred to the Committee on the Militia.

### PHOEBE WILSON.

Mr. JOHNSON, of Pennsylvania, introduced a bill for the relief of the heirs of Phoebe Wilson; which was read a first and second time, and referred to the Committee on Revolutionary Claims.

The SPEAKER. The call of States having been finished, the morning hour is devoted to the consideration of resolutions from the various States, commencing with the State of Maine.

### PURPOSES OF THE WAR.

Mr. DAWSON introduced the following pre-

amble and resolution, and demanded the previous question:

Whereas, It was solemnly declared by this House, on the 22d day of July, 1861, speaking in the name of the people of the United States and in the face of the world, that the present civil war was waged for no purpose of conquest or oppression, but solely to restore the Union, with all the rights of the people and of the States unimpaired; and whereas a civil war like the present is the most grievous of all national calamities, producing, as it does, bloodshed, spoliation, and anarchy, public debt, official corruption, and general demoralization; and whereas the American Government cannot rightfully wage war upon any portion of its people except for the sole purpose of vindicating the Constitution and laws, and restoring both to their just supremacy; and whereas a restoration of peace is essential to the perpetuation of a system of republican Government, it is now eminently befiting a Christian and homogeneous people in the triumph of our arms and in the exultation of victory, to tender the olive branch as a substitute for the sword: Therefore,

Resolved, That the President be required to make known by public proclamation, or otherwise, to all the country, that whenever any State now in insurrection shall submit herself to the authority of the Federal Government, as defined by the Constitution, all hostilities against her shall cease, and such State shall be protected from all external interference with her local laws and institutions; and her people shall be guaranteed in the full enjoyment of all those rights which the Federal Constitution gave them; and in the exercise of a sound and patriotic discretion, he shall proclaim a general amnesty to all those who, by false counsels, have been induced to engage in the work of rebellion.

Mr. A. MYERS. I move to lay the resolution on the table.

Mr. DAWSON. Upon that I demand the yeas and nays.

Mr. MORRILL. If the previous question is not seconded, will it be in order to move to amend the resolution?

The SPEAKER. If no debate arises it would be; if debate arises, it would go over under the rule.

Mr. A. MYERS. I withdraw my motion.

Mr. ANCONA. I renew it.

Mr. HOLMAN. I demand the yeas and nays upon the motion.

The yeas and nays were ordered.

Mr. WASHBURN, of Illinois. Who made the motion to lay the resolution on the table?

The SPEAKER. The gentleman from Pennsylvania, [Mr. ANCONA.]

Mr. WASHBURN, of Illinois. If that side desire to lay the resolution on the table, of course we have no objection to it.

Mr. COX. No, sir, we do not desire to lay the resolution on the table, but we want a record by yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 76, nays 53; as follows:

YEAS—Messrs. Allison, Ames, Arnold, Ashley, Baily, John D. Baldwin, Beaman, Jacob B. Blair, Boutwell, Boyd, William G. Brown, Ambrose W. Clark, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Donnelly, Eckley, Eliot, Fenton, Frank Garfield, Gooch, Grinnell, Griswold, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubbard, Hutchins, Jencks, Jullian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Longyear, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Norton, Odell, Charles O'Neill, Orth, Patterson, Perham, Pike, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Shannon, Sloan, Smith, Spalding, Stevens, Thayer, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Wilder, Wilson, and Windom—76.

NAYS—Messrs. James C. Allen, William J. Allen, Ancona, Augustus C. Baldwin, Bliss, Brooks, James B. Brown, Chandler, Coffroth, Cox, Cravens, Dawson, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Hale, Harding, Harrington, Herrick, Holman, Philip Johnson, Kernan, Knapp, Lazarus, Long, Mallory, Marcy, McDowell, McKinney, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Pendleton, Pruyn, Robinson, James S. Rollins, Ross, Scott, John B. Steele, Stiles, Strouse, Stuart, Voorhees, Joseph W. White, Winfield, Fernando Wood, and Yeaman—53.

So the resolution was laid on the table.

During the call of the roll, Mr. O'NEILL, of Pennsylvania, stated that his colleague, Mr. L. MYERS, was detained at home by illness in his family.

Mr. MOORHEAD stated that his colleague, Mr. WILLIAMS, was detained at home by the death of his mother.

Mr. SWEAT stated that he was paired off with his colleague, Mr. BLAINE.



## ROBERT B. TAYLOR.

Mr. KELLEY offered a resolution requesting the Secretary of War to transmit to the House a copy of the record, and review thereof, of the trial before a military commission of Robert B. Taylor, a citizen of Tennessee, on a charge of murder.

Mr. COX. Mr. Speaker, I have no objection to the resolution, but I would like to say that resolutions from the House of Representatives are not answered by the War Department. Three months ago I offered a resolution, which passed the House, calling for information from that Department, which has not yet been furnished. I think that until the War Department learns to treat the resolutions of this House with some respect, we ought not to call upon it for information. I do not object to the resolution, but I wish it to go to the country that our calls upon the Department are not attended to.

The resolution was adopted.

Mr. KELLEY moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table. The latter motion was agreed to.

## VETERAN RESERVE CORPS.

Mr. JOHNSON, of Pennsylvania, offered a resolution, which was read, considered, and agreed to, instructing the Secretary of War to inform the House whether any order of the Department had been issued whereby invalids are being recruited into the invalid or veteran reserve corps and carried to the quota of any district, as sound men are recruited, at the discretion of the recruit or otherwise; and if so, by the authority of what law such order has been made.

Mr. JOHNSON, of Pennsylvania, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## COMMODORE WILKES.

Mr. DAVIS, of Maryland, offered a resolution, which was read, considered, and agreed to, directing the Secretary of the Navy to communicate to this House the proceedings of the court-martial that tried Commodore Charles Wilkes, including all the evidence.

Mr. DAVIS, of Maryland, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## CLOCK AND STATUARY OF OLD HALL.

Mr. SPALDING offered a resolution, which was read, considered, and agreed to, directing the Committee on Public Buildings and Grounds to inquire into the propriety of removing from the old Hall of the House of Representatives, and of placing in this Hall, the clock and statuary therewith connected, consisting of the Muse of History and the Car of Time; and to report to the House with all reasonable dispatch.

## GREEN CLAY GOODLOE.

Mr. SMITH introduced a joint resolution, which was read a first and second time, resolving that nothing in an act entitled "An act making appropriations for the support of the Military Academy for the year ending June 30, 1865," shall be so construed as to prevent the reappointment of Green Clay Goodloe by the President of the United States to a cadetship at such Military Academy.

Mr. SMITH. I desire unanimous consent to make a statement.

There was no objection.

Mr. SMITH. The young man to whom this joint resolution refers volunteered, when about fifteen years of age, in the service of the United States. He remained in the service nearly two years. In September last he was appointed by the President a cadet at West Point. Having been so long in the service, he was unfortunate enough not to pass the examinations in January, but the board unanimously recommended him for reappointment. It seems, however, that the Military Academy bill, passed at this session, prevents such reappointment. It is to remedy that that the passage of this joint resolution is asked. The young man is very intelligent, and has made a good soldier; but there is no chance of his reappointment unless this joint resolution be passed.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SMITH moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled bills of the following titles; when the Speaker signed the same; namely:

An act (H. R. No. 185) to establish a postal money order system; and

An act (H. R. No. 370) to appoint certain officers of the Navy.

## IMPRISONMENT OF WILLIAM YOCUM.

Mr. VOORHEES submitted the following preamble and resolution, and on their adoption demanded the previous question:

Whereas it is represented that William Yocum, a loyal citizen of the United States, was charged with having committed some military offense at Cairo, in the State of Illinois, for which he was arrested and sent on to this city for trial, and his case being heard by a military court he was adjudged to be imprisoned for a term of years; after which the facts of the case being presented to Abraham Lincoln, President of the United States, he has addressed to Edwin M. Stanton, Secretary of War, a written recommendation to discharge said Yocum from imprisonment; but the said Stanton disregarded the President's recommendation, and ordered the said Yocum to be taken to the penitentiary of New York at Albany, and to be imprisoned in it; and whereas it is represented that the President of the United States afterwards made and executed a full and unconditional pardon of the said Yocum of and from the judgments and sentence aforesaid, and said pardon was placed in the hands of the said Stanton to obtain his order for the discharge of said Yocum from imprisonment under said judgment and sentence, and that he refused to respect and obey said pardon, and in defiance of it continued said Yocum in imprisonment in the penitentiary aforesaid:

Resolved, That the Committee on the Judiciary do inquire into and report all the facts connected with the alleged trial, imprisonment, and pardon of William Yocum, of Illinois, and his detention in prison after his pardon; and said committee is empowered to send for persons and papers.

The previous question was seconded, and the main question ordered to be put.

The resolution was adopted.

Mr. WASHBURNE, of Illinois. I suggest to the gentleman from Indiana that as the amendment has been adopted the preamble be withdrawn.

Mr. VOORHEES. I have no feeling on the subject except to obtain the facts. The preamble simply recites the facts as they have come to me, and gentlemen will notice that no authority is given to it except that it has been so represented. I will withdraw the preamble, if there be no objection.

There was no objection.

Mr. VOORHEES moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## ELECTION OF ILLINOIS MEMBER.

Mr. WASHBURNE, of Illinois. I desire to introduce a joint resolution, and have it put on its passage. I will state that it meets the approbation of the entire Illinois delegation.

The joint resolution was read, as follows:

Be it resolved, &c., That in the election of Representatives to Congress from the State of Illinois, the additional Representative allowed to said State, by an act entitled "An act fixing the number of the House of Representatives from and after the 3d day of March, 1863," approved March 4, 1862, may be elected by the State at large until the said State shall be redistricted by the Legislature thereof for the election of the fourteen members to which said State is now entitled by law.

The joint resolution was read a first and second time.

Mr. DAWES. I think that should go to the Committee of Elections.

The SPEAKER. That motion is not in order pending the demand for the previous question.

Mr. WASHBURNE, of Illinois. With the consent of the House I will state that the last Congress passed a resolution providing for the election to this Congress of the additional member to which the State of Illinois is entitled in consequence of the fact that the Legislature would not meet until after that election. I will state that the same reason now exists in relation to the next election.

Mr. DAWES. If that be the state of the case

now I will withdraw all opposition to the passage of the joint resolution without reference.

The previous question was seconded, and the main question ordered to be put.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## OBSTRUCTIONS IN WASHINGTON STREETS.

Mr. J. C. ALLEN submitted the following resolution, and on its passage demanded the previous question:

Resolved, That the Committee for the District of Columbia be instructed to inquire into and report what legislation is necessary, and what further public officers are needed to prevent or abate the obstructions of the streets of the city of Washington, as prescribed by the original plan; and particularly by what authority of law Eighth street west is obstructed so as to prevent sight of the Smithsonian grounds and proper ventilation of that street; also, by what authority of law, north B street is used for building purposes; also by what law or regulation the streets leading toward the public Mall are trenchoned upon by any structures whatever, preventing an uninterrupted view of the grounds and that ventilation which is a necessity to the health of the city; and also, whether the rental of the public reservation between Tenth and Twelfth streets west, near north B street, accrues to the Government or the corporation of Washington.

The previous question was seconded, and the main question ordered to be put.

The resolution was adopted.

Mr. J. C. ALLEN moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## NATCHEZ CONTRABANDS.

Mr. GRINNELL submitted the following resolution, and on its adoption called for the previous question:

Resolved, That the committee on the conduct of the war be instructed to inquire as to the occasion of the military order of Brigadier General J. M. Tuttle for the government of the city of Natchez, Mississippi, which forbids any contraband remaining in the city of Natchez who is not employed by some responsible white person; and also forbids any contraband from hiring any house in said city; whereby hundreds of children have been taken from the schools and many of the families of soldiers have been delivered to slavery.

The previous question was seconded, and the main question ordered to be put.

The resolution was adopted.

Mr. GRINNELL moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## ABANDONED PROPERTY.

Mr. ELDRIDGE introduced the following resolution, and demanded the previous question:

Resolved, That the Committee on the Judiciary be instructed to inquire and report to this House by what warrant or authority the act entitled "An act to provide for the collection of abandoned property, and for the prevention of fraud, in insurrectionary districts within the United States," was approved on the 12th of March, 1863, and whether said act is in force.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the resolution was agreed to.

## ELECTORAL VOTES FOR PRESIDENT.

Mr. COX introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Judiciary Committee be directed to take into consideration the propriety of reporting to this House a bill providing for the decision of any question which may arise as to the regularity and authenticity of the returns of the electoral votes for President and Vice President of the United States, or the rights of the persons to give the votes, or the manner in which they ought to be counted; and that such law provide for the jurisdiction, as well as the course of proceedings, in case of real controversy.

Mr. COX moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## HOUR OF DAILY MEETING.

Mr. BROWN, of West Virginia, introduced the following resolution:

Resolved, That from and after Wednesday next the

House will meet at eleven o'clock a. m. until otherwise ordered.

Mr. WASHBURNE, of Illinois. I object to that resolution.

The SPEAKER. The Chair thinks the resolution is in order.

Mr. BROWN, of West Virginia. I desire to say that I would be glad to meet an hour earlier if we had to adjourn an hour earlier.

Mr. ASHLEY. I propose to debate the resolution.

The SPEAKER. The resolution then goes over, under the rule.

#### LAND TITLES IN UTAH.

Mr. KINNEY introduced the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Public Lands be instructed to inquire into the expediency of reporting a bill at the earliest possible day, authorizing the owners and claimants of lots in the cities, towns, and villages of the Territory of Utah to acquire a title to the same, paying at the nearest land office the sum of \$1 25 per acre, and that the bill be so framed as to allow the county judge of such county to enter the land embraced upon the recorded plats of said cities, towns, and villages, as trustee in trust for the respective owners and claimants.

The SPEAKER. The States having been called through for resolutions, the next business in order is to take up resolutions calling upon the Departments for information, and which have been laid over under the rule.

#### DISLOYAL CLERK IN THE TREASURY.

Under the regular order of business, the House took up for consideration a resolution introduced by Mr. FARNSWORTH on the 4th of May, directing the Secretary of the Treasury to inform this House whether there is employed in the Treasury Department, as a clerk or assistant register, a person named Garnett, and whether said Garnett formerly held a commission in the rebel army and was for a time a prisoner in the Old Capitol prison, and who recommended the appointment of said Garnett in the Treasury Department.

Mr. WILSON. The gentleman from Illinois who introduced that resolution is not present, and I suggest that it be passed over.

Mr. THAYER. I object.

The SPEAKER. The question is upon agreeing to the resolution.

Mr. BOUTWELL. Perhaps there is no objection to the passage of the resolution, but its passage is entirely unnecessary. There was such a person in the Department, but upon a proper presentation of the facts he was removed. This man, as I understand, is from Virginia. There has always, since the rebellion opened, been a disposition in the Treasury Department, and probably in the other Departments, to find employment for refugees from the rebellious States who were supposed to be loyal. A great many such persons have been appointed to clerkships. It has been a matter of charity to appoint them; and the men have been recommended, honestly recommended very likely, but they have turned out to be, in some cases, complicated with the rebellion. I believe in every case where that fact has been known such persons have been removed. This happened to be an instance of that kind; but when the facts of the case became known to the Secretary the man was removed.

Mr. THAYER. After the statement of the gentleman from Massachusetts I withdraw my objection to passing over the resolution.

Mr. ASHLEY. I would like to have this resolution pass. I would like to know how these men get into the Treasury Department; and I would like to see the names of the members of this House who recommend them.

I have been satisfied that for the past three years there has been a systematic effort of persons, traitors to this Government, to foist upon the Government some of the worst rebels in the land. I call the previous question.

The previous question was seconded, and the main question ordered.

Mr. BOUTWELL. I move to lay the resolution on the table.

The motion was agreed to.

So the resolution was laid on the table.

Mr. WADSWORTH moved to reconsider the vote by which the resolution was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### BUSINESS OF MILITARY COMMITTEE.

Mr. YEAMAN. I move that next Saturday, after the morning hour, be set apart for the consideration of reports from the Committee on Military Affairs.

Mr. WILSON. I object.

Mr. YEAMAN. I move to suspend the rules for the purpose of assigning Saturday next, after the morning hour, for the business of the Military Committee.

Mr. WASHBURNE, of Illinois. I move to amend the motion by also assigning Friday next for the business of the Committee on Commerce.

The SPEAKER. The Chair is under the impression that that must be an independent motion.

The question was taken on the motion to suspend the rules, and the motion was not agreed to, two thirds not voting in favor thereof.

#### QUARTERMASTER'S DEPARTMENT.

Mr. McINDOE asked and obtained consent to have taken from the Speaker's table Senate bill No. 154, to provide for the better organization of the quartermaster's department; which was read a first and second time, and referred to the Committee on Military Affairs.

#### INDIAN TREATIES.

The SPEAKER laid before the House a letter from the Secretary of the Interior recommending appropriations to fulfill treaty stipulations with various Indian tribes; which was referred to the Committee of Ways and Means, and ordered to be printed.

#### SURVEYS IN DAKOTA.

The SPEAKER also laid before the House a letter from the Secretary of the Interior recommending an appropriation for the Indian surveys in the Territory of Dakota; which was referred to the Committee of Ways and Means, and ordered to be printed.

#### NORTHERN PACIFIC RAILROAD.

Mr. STEVENS asked unanimous consent to go to the Speaker's table for the purpose of taking up House bill No. 5, granting public lands to the People's Pacific Railroad Company to aid in the construction of a railroad and telegraph line to the Pacific coast by the northern route.

There was no objection, and the bill was taken up; the question being on ordering the bill to be engrossed and read a third time.

Mr. WILSON. Does that bill come up in its regular order?

The SPEAKER. The gentleman from Pennsylvania [Mr. STEVENS] moved to go to the Speaker's table and take up the bill, and the Chair heard no objection.

Mr. WILSON. I did not hear the Chair ask for any objection.

The SPEAKER. The Chair did ask whether there was any objection, and the Chair heard none.

Mr. STEVENS. I move to amend the bill by striking out the words "three years" and inserting in lieu thereof the words "one year."

The amendment was agreed to.

The SPEAKER. The Chair will state that there is an amendment pending, offered by the gentleman from Indiana, [Mr. HOLMAN,] to strike out in the eleventh section the words "and also subject to such regulations as Congress may impose," and to insert in lieu thereof the words "and shall transport the troops and property of the United States free of charge."

Mr. STEVENS. In all the bills of this kind lately passed by Congress there is no such provision.

Mr. HOLMAN. I think there are only one or two exceptions to the rule of this provision. The provision is not contained, it is true, in the act for the construction of the Union Pacific Railroad Company. But all of the railroad bills passed for Iowa, Illinois, and the other northwestern States, without a single exception, contain this provision. There seems to be no reason for deviating from that principle in this bill.

Mr. STEVENS. In the bill for the Central Union Pacific Railroad Company, all such services are to be paid for by the Government. I hope this amendment will not be insisted on. No money is asked from the Government, as in the case of the Central road; nothing but lands.

Mr. WASHBURNE, of Illinois, demanded the yeas and nays on the amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 55, and yeas 47; as follows:

YEAS—Messrs. James C. Allen, Alley, Ancona, Anderson, Arnold, Augustus C. Baldwin, Jacob B. Blair, William G. Brown, Chandler, Dawes, Dawson, Eckley, Eden, Edgerton, Elliot, English, Fenton, Finck, Grider, Grinnell, Hale, Harding, Herrick, Higby, Holman, John H. Hubbard, Hulburd, Philip Johnson, Orlando Kellogg, Law, Lazear, Long, Mallory, McIndoe, Morrison, Amos Myers, Norton, Charles O'Neill, John O'Neill, Orth, Alexander H. Rice, Ross, Scofield, Spalding, Strouse, Thayer, Van Valkenburgh, Wadsworth, Elihu B. Washburne, William B. Washburn, Whaley, Wheeler, Joseph W. White, Wilson, and Fernando Wood—55.

NAYS—Messrs. William J. Allen, Allison, Ames, John D. Baldwin, Beaman, Boyd, Brooks, James S. Brown, Freeman Clarke, Cobb, Coffroth, Cole, Cox, Thomas T. Davis, Eldridge, Ganson, Garfield, Griswold, Benjamin G. Harris, Hooper, Asahel W. Hubbard, Francis W. Kellogg, Kernan, Longyear, Marcy, McBride, McClurg, Daniel Morris, James K. Morris, Noble, Patterson, Perham, Pomeroy, Price, Pruyn, Samuel J. Randall, John H. Rice, Shannon, Sloan, Stevens, Stiles, Stuart, Sweat, Upson, Wilder, Windom, and Yeaman—47.

So the amendment was agreed to.

Mr. HOLMAN moved to reconsider the vote by which the amendment was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. STEVENS. I now move, on page 13, line two, to amend the bill by striking out the word "two" and inserting the word "one." This will shorten the time to one year in which to subscribe this preliminary \$2,000,000. I think that time is long enough.

The amendment was adopted.

Mr. SLOAN. In lines nineteen and twenty, on page 2, I move to strike out the words "forty-fourth" and insert in lieu thereof "forty-fifth;" so as to make the clause read:

Thence on a line, north of the forty-fifth degree of latitude, to a point on the western line of the State of Minnesota, by the most eligible route, having reference to a connection with the railroad system of that State.

That I think will give latitude enough.

The amendment was agreed to.

Mr. SLOAN. I move to amend in the eighth section and eighth line by striking out the word "third" and inserting the word "first;" so as to make the clause read:

That each and every grant, right, and privilege herein are so made and given to, and accepted by, said People's Pacific Railroad Company upon and subject to the following conditions, namely: that the said company shall commence the work on said road within one year from the approval of this act by the President, and shall complete not less than fifty miles per year after the first year, and shall construct, furnish, equip, and complete the whole road by the 4th day of July, A. D. 1876.

That will give this company two years in which to construct the first fifty miles of the road, and insures the construction of the road by requiring them to construct at least fifty miles a year until its completion. In my judgment, no better disposition could be made of the lands along the proposed line than this. A northern Pacific railroad will undoubtedly be built, and I hope if the grant proposed in the bill is made it will accomplish that important object.

If this road is not built within our own territory, it will be built within the British possessions. There are already settlements in the lower and western portion of British Columbia, which are rapidly increasing in population and commercial importance, and they are largely interested in opening up a communication with the seaboard. The English never neglect their own interests. If this bill will be the means of constructing a road on our own soil, south of the British possessions, it is certainly a measure which every gentleman in the House ought to vote for. By the amendment which I propose, the company will be compelled to build fifty miles of the road each year after the first year, or their grant will be forfeited.

Mr. BROWN, of Wisconsin. I ask my colleague to modify his amendment so as to make the limit after two years instead of after one. About all a railroad can do the first year is to organize.

Mr. SLOAN. My colleague is aware that this company has been organized for more than a year; and it is said that men who have abundant means are now ready to subscribe the stock and to engage in the work. It will be seen that my amendment gives two years to build the first fifty miles of the road. The language is, each year after the first year.

Mr. STEVENS. If the gentleman will say

after the second year, I will vote for his amendment.

Mr. BROWN, of Wisconsin. I move to amend the amendment of my colleague by striking out "first" and inserting "second."

Mr. SWEAT. I hope that amendment will be adopted.

Mr. SLOAN. That would give the company three years to build the first fifty miles of the road.

Mr. SWEAT. Not at all.

Mr. SLOAN. My amendment is within one year after the first year, which would give two years, and the gentleman's amendment would give three.

Mr. SWEAT. What I wish to provide for is that the company shall commence the work within one year from the passage of this act; and that after that time they shall complete not less than fifty miles of the road each year. My colleague must be aware that it will require some time for books to be opened, the stock subscribed for, and then for the engineers to locate the exact line of the road. I need not inform him or any other gentleman that the preliminary work for carrying such a scheme as this successfully into execution must be immense. I do not think the time suggested by the gentleman from Wisconsin [Mr. BROWN] is too long, and I hope the amendment to the amendment will be adopted.

The question being on the adoption of the amendment to the amendment, 30 voted in the affirmative, 24 in the negative—no quorum.

Mr. WASHBURN, of Illinois, called for tellers.

Tellers were ordered; and Messrs. SWEAT, and WASHBURN, of Illinois, were appointed.

The House divided; and the tellers reported—ayes 59, noes 40.

So the amendment to the amendment was agreed to.

The amendment, as amended, was then adopted.

The SPEAKER. The amendments having been disposed of, the question recurs on ordering the bill to be engrossed and read a third time.

Mr. WILSON. This bill proposes to grant fifty million acres of the public lands to the People's Pacific Railroad Company, a corporation created by the Legislature of the State of Maine. Now, sir, this proposes something which has never been done by Congress, I believe, up to this time. Heretofore the grants of land in aid of the construction of railroads have been either to States or to corporations organized by act of Congress.

Mr. STEVENS. I see the gentleman is not very well versed in these matters. The charter of the Union Pacific railroad involved precisely the same principles as this one.

Mr. WILSON. I think the gentleman is entirely mistaken in that. If he will examine the act in reference to the Union Pacific Railroad Company, he will find that the organization of the company was provided for in the different sections of the act.

Mr. STEVENS. The Union Pacific Railroad Company was organized by the Government to make a road through the Territories. In the States that authority had been given by charters granted under State laws of California and Kansas. The Union Pacific Railroad Company is not authorized to make a foot of road through any State of the Union.

Mr. WILSON. I understand that. The Union Pacific Railroad Company has a corporate existence within the Territories where it is to exercise its powers, and its organization and its powers were provided for in the act. But it is not so in this case, and therefore I desire to know something about the People's Pacific Railroad Company, what its powers are, and what the extent of its existence. We want to know something about the powers conferred by the Legislature of Maine upon a company to which it is now proposed to grant fifty million acres of the public lands. I think we ought to have some information upon these points, and I trust the gentleman from Pennsylvania will afford us that information in that respect. I certainly think we ought not to pass the bill without it, and I doubt whether we should pass it with that information.

Mr. SPALDING. I desire to record my vote against the passage of such a bill. I understand that one railroad to the Pacific is already provided for by the laws of Congress, and it will

probably require all our energies and resources to carry that into effect.

We are attempting now, as I understand it, to invest a private corporation from the State of Maine with fifty million acres of the public lands to carry through another railroad project tending toward the Pacific. For what good end? And at what time is it that we undertake to make this heavy donation? Why, sir, I read in the papers to-day that our national indebtedness is \$1,700,000,000, and that indebtedness is hourly increasing. And in view of this startling fact we are called upon to give away our whole public domain and to rely solely upon taxing the people of the different States for the interest and principal of this enormous debt. You are to throw away all our governmental resources, and then rely upon burdening the people with taxes to pay this great national indebtedness.

I protest against it. I think such legislation as this will not be countenanced by the people, no matter what party they belong to. Sir, I have done.

Mr. SWEAT. I had occasion, Mr. Speaker, to make some remarks upon this subject two or three weeks ago, and I will say in the outset that I will occupy the attention of the House but a few moments now. I wish simply to reply to the remarks of the gentleman from Ohio [Mr. SPALDING] who has just taken his seat. He objects to giving away so much of our public domain. I admit that the amount which is taken under this bill is large—some forty million acres—but let me ask that gentleman and all gentlemen what that land is worth unless it is improved? And how will you improve it unless you open avenues to it? Why, these public lands of ours, let me say to the gentleman from Ohio, he knows very well are now opened to settlement at a mere nominal price, and what are they worth? He asks, who can justify himself in giving a vote in favor of this bill, appropriating so large a number of acres of the public lands looking to a project like this?

I do not like to make any invidious comparisons between this road and the central road, but let me ask these gentlemen how they can justify themselves for giving to the Union Pacific road \$100,000,000 of the bonds of the Government, and also a large land grant? And a proposition is now pending before the House asking for an additional subsidy, and my judgment is that that additional subsidy will be given to the Union Central Pacific railroad, not only in bonds but in additional lands, if they require it.

Mr. Speaker, I do not propose to go at length into a comparison of the value to the country of these two roads. I undertook to prove the other day that this northern route is the great route pointed out by nature, connecting the great water lines of the continent. It is shorter, more easily built, of more importance to the country, and of more international importance, than any other route. The Union Pacific Railroad Company comes here asking Congress to give them additional aid; but this bill simply asks for a grant of land. The bill is so carefully worded that not a single acre of these lands can be appropriated by the company till they shall have completed, and put in running order, this road by sections of twenty-five miles each. If gentlemen have studied this matter, and see the importance of it, and are willing to go for it in any other shape, let them say so. If they object on the ground that this company was chartered originally by the State of Maine let them say so, and we shall know where to find them and how to meet them. This charter was granted in 1860, out of deference to objections made as to the power of Congress by just such gentlemen as the member from Ohio [Mr. SPALDING] and others. The charter granted by the Maine Legislature I hold in my hand. It is drawn with great care and precision, regarding the rights of the States through which this road may pass. Some of the best and most responsible citizens of Maine, Massachusetts, New Hampshire, Vermont, Rhode Island, Connecticut, New York, Michigan, Iowa, Illinois, Minnesota, and other States, are on the list of corporators and of commissioners. And although I do not care about having this grant made upon the charter given by the State of Maine, excepting that it might facilitate operations, still, having that view of the matter, I think it would be for

the interests of the country to have it passed in aid of that charter. And why? Because, under that charter given by the State of Maine, the commissioners have met and organized. They know what is to be done. Their books will be ready for subscription as soon as this bill shall pass Congress; and they will be ready to put their surveyors on the work within sixty days.

I felt bound to reply to the gentleman from Ohio on these two grounds. I hope the time has long since gone by when there is to be any sectional prejudice, any prejudice between one State and another.

Mr. KASSON. Will the gentleman from Maine yield to me for an inquiry?

Mr. SWEAT. Certainly.

Mr. KASSON. I wish to say, first, that I believe thoroughly in the policy of aiding the construction of railroads by grants of public lands; but my observation has taught me the necessity of providing against a great latitude in the acquisition of the privileges proposed by bills like this. The two points to which I call the attention of the gentleman from Maine are these: first, whether this great grant will not practically inure much more to the benefit of the British provinces north of the United States than to the benefit of the United States themselves. The second point is whether there ought not to be a provision which, on my motion, was incorporated into a resolution amendatory of an act granting lands to certain railroads, which operates, without legislation, a return of the lands granted and not earned by construction, at any period when the provision with reference to construction is not complied with.

These are the two points that trouble me with reference to this bill; and I hope the bill will be modified so as to meet these points.

Mr. SWEAT. With reference to the last suggestion made by the gentleman from Iowa, if I understand him, I should have no objection to that being incorporated in the bill. I have simply to say, in response to his first suggestion, that if I believed it would benefit the people of the British colonies as well as the people of the Northwest that would not change my mind in regard to the propriety of the passage of this bill. And I say to the gentleman that when he takes into consideration the territory of British Columbia as well as our own territory, he will find that a road built on the forty-seventh parallel of latitude is in fact a central route, and if we can make the people in British Columbia tributary to our own road I see no objection to it.

But, sir, as I said the other day, this matter has been considered by the British Government and by British capitalists, and they will, it is believed, build a road through the British possessions to Puget sound if this road is abandoned. It is well known that on the northern side of Lake Superior and through the British possessions the grades are heavier and the work more difficult of construction; and for the purpose of having a road opened up which will answer their purposes of communication these British capitalists are willing to invest their money in building a road through our territory as far south as the forty-seventh degree of latitude. Our territory extends to the forty-ninth degree, and if assistance of that description can be obtained from British capitalists, is that an objection to the scheme?

The matter of raising money sufficient to construct a work of such gigantic proportions is one of serious consideration. Where are the means to be raised? Even for the construction of the central road, in order to raise the money required upon United States bonds, you have got to go across the water for it; and why? Because money is cheaper there. Now, then, if upon this northern road money can be procured from English capitalists, as I believe it can be to a very large amount, is not that a very important advantage? Upon the central road two mortgages are already provided for: one to the Government and one to the road; and hence it will be impossible to secure private subscriptions based upon the security of the road itself. Now, the State of Maine has no interest in this matter of any description whatever aside or different from what the State of Ohio ought to have.

Mr. SPALDING. I beg to say that I have no sectional feeling about the matter in connection with the State of Maine. I am troubled, and



very much in doubt, whether we will have land enough left to fill this grant after taking up what was granted a few evenings ago. If the gentleman can tell me how much land we have to spare, I could better ascertain to what extent my objections to this bill would go.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, their Secretary, notifying the House that the Senate have agreed to the amendment of the House to the resolution of the Senate (No. 21) to provide for the printing of official reports of the operations of the armies of the United States.

Also, that the Senate request the return of the bill of the Senate (No. 244) for the relief of Daniel Fitzgerald and Jonathan Ball.

By unanimous consent the Clerk was directed to return the said bill agreeably to the request of the Senate.

#### NORTHERN PACIFIC RAILROAD—AGAIN.

Mr. SWEAT. It is very certain that we can get no more land than there is to spare, and no more than there is in alternate sections within twenty miles back on each side of the road.

Now, sir, I am very glad to hear the gentleman from Ohio state that he has no prejudice against the State of Maine. I repeat that the State of Maine has no peculiar interest in this project. Her Legislature was applied to by the company for an act of incorporation, simply because they happened to be in session in a later month in that year when the charter was granted than the Legislature of any other State. If any section of this country could have an interest in opposition to this road it would be the northern Atlantic States. I well recollect when the admission of Texas was under consideration a very distinguished Senator from New Hampshire raised as an argument in favor of her admission that the equilibrium between the inland States and Territories and the seaboard States of this country should be kept up. And that was the argument in favor of the admission of Texas. But we believe that that antagonism of the sea-coast to the interior is being abandoned in the light of the superior wisdom of the present day. If there was any antagonism Maine would naturally feel it. Maine has sent her sons to Iowa and Wisconsin, and those sons from both of those States are doing good service in the armies of the country to-day. While the population of Maine for the last ten years has increased only seven per cent., that of Iowa has increased two hundred and fifty-one, and that of Minnesota two thousand seven hundred and sixty per cent. In the same time that of Indiana thirty-six, Illinois one hundred, and Wisconsin one hundred and fifty-four per cent. I have no feeling of envy against those States, and as an eastern man coming from a State upon the eastern frontier, I am happy to say I rejoice in the fertility of your soil, in the superabundance of your granaries, and in the increase of your population. "Westward the course of empire takes its way."

I yield to it as a fixed fact, and as an eastern man am not jealous of the West because it is so. I rejoice in the fact that those food-producing States of the great Northwest are represented upon both sides of this House so ably as they are in this Congress. I congratulate them on their success in having such Representatives on this floor, and I only ask that they shall not be prejudiced against the State of Maine upon the frontier which has depopulated her own territory by sending men to the West, and be prejudiced simply by the fact that a bill was passed by her Legislature permitting or authorizing certain men in her own State, in connection with all New England and other States, to be the medium through which the Government might act for the purpose of giving aid to the building of this road. All I ask is that gentlemen upon that side of the House and upon this shall understand the importance of this bill, and then if they see fit to oppose it I have not another word to say. Your interest in it certainly ought to be as great as mine.

Mr. MORRILL. I desire to ask the gentleman a question. I see by the provisions of this bill that the road starts near Lake Superior. In the first place, I would like to know what interest the State of Maine has in a road that starts from the Lake Superior region and crossing to the Pacific more than any other State has.

Mr. SWEAT. It is simply the interest which any people, or any State, or any member of this House who understands the question ought to have. They believe this is the shortest, the cheapest, and the most important road to be built across this continent.

Mr. MORRILL. I confess I am one of those who do not understand this question, and therefore I am seeking information. I do not understand why Congress is to be called upon here to authorize an incorporated company of Maine to build a railroad to the Pacific.

Mr. SWEAT. Was that question raised when New York incorporated a company to build the Panama road? Was it asked when New York incorporated a company to build a road in Texas? The State of Maine simply incorporated a company, consisting of men from your own State, from New Hampshire, from Massachusetts, from the middle and western States, to act as incorporators; it also appoints a board of commissioners embracing all those various States; and now do you pretend to say, as a lawyer, that Congress has not the same power to grant aid to a company incorporated by a State as it has to charter its own immediate Federal agents? This doctrine of chartering your own immediate agents for building railroads and works of internal improvement crossing through States and Territories is a doctrine which was objected to in years gone by, but fortunately in 1862, when the central railroad was chartered, that doctrine was overlooked, and they gave a charter to a company for that purpose. But there is no reason why Congress may not grant aid to a company chartered by a State which would not apply with at least equal force to giving a charter directly to Federal agents.

Mr. MORRILL. I desire to say that, so far as my observation has gone, these corporations which have been chartered by State Legislatures for similar purposes have passed into other hands, and have generally proved to be swindling concerns. I do not mean to say that such is the case with this.

I see that this line of railroad, for the greater part of the distance, is to go north of the forty-fifth degree of latitude; and I observe that by the argument of the gentleman he expects British capitalists to build the road. Now, what I want to know of the gentleman from Maine is whether it will not be a British road whether built by British capital or American?

Mr. SWEAT. I will say to the gentleman from Vermont that it is pretty certain unless we do build a road across our own territory, they will have a road of their own, which will be essentially a British road.

Mr. BROWN, of Wisconsin. I wish to say, as representing a western State that is mentioned in this bill, that we care little by what State the charter was given to this company. One thing is very certain, that either a railroad is to be built to the Pacific by a northern route over American soil or over British soil. If it is built over American soil it is necessarily for all hostile purposes an American road and within our control. If built on British soil then it comes in collision with our interests on the Pacific; and I insist that whenever a practical proposition is submitted to Congress by which it can aid in the construction of a road to the Pacific that is to be over our national territory, within our own power, it ought to do so.

So far as the mere question of donating lands is concerned, I will say that as a general principle I have been entirely opposed to railroad grants. I think that they have rarely been of benefit either to the State that has received the grant or to the company that has constructed the road. But there are exceptions to that general rule. The rule would have applied to various grants made at this session. The exception is applicable to this very road by which a great national object is to be attained.

Mr. MORRILL. I desire to say a few words in regard to the gentleman's position. If this road was built it would be an American road in time of war, provided we have a sufficient force to protect it. If it is built over our soil and the British have sufficient force to seize it, then it will be a British road to all intents and purposes.

Mr. BROWN, of Wisconsin. I will inform the gentleman that the States of Wisconsin and Minnesota, over whose soil this road is to pass,

have furnished very good evidence during this war that they are able to maintain and hold in behalf of the United States any road that may pass through their territory; and I think the fear of the gentleman in that respect is entirely unfounded.

Mr. SWEAT. The gentleman from Vermont says that inasmuch as we expect with some reason aid from British capitalists to build this road it must be considered a British road. I reply to the gentleman that he might as well, with as much propriety, say that the Illinois Central is an English road, because, as I understand, it has been built to a very large extent by the aid of British capital. And if you take all these northwestern States, where there have been eleven thousand miles of railroad built within the last ten years, it will be found that a large amount of capital invested in these roads has come directly or indirectly from English sources.

Mr. MORRILL. The gentleman mistakes my point. I suppose the road will be more for the accommodation of the British provinces than for our accommodation. I do not object to British capital being employed in the Illinois Central road, but I do object to Congress granting aid for the benefit of the British provinces.

Mr. SWEAT. Does the gentleman from Vermont bear in mind the degree of latitude to which our territory extends? We go up to the forty-ninth degree of latitude. Let him look at the statistics, and he is a great statistician, I believe, and he will find that British Columbia is not only an immense territory, but that numerous and populous settlements are growing up in it. One argument about this is that we shall have coming in as tributaries to this road the interests of English colonists. I have no feeling of prejudice against those colonists. If they see fit to give us their trade, so much the better.

What interest, I am asked, has Maine in this road, starting from Lake Superior? That terminus is mentioned simply as connecting the western waters, so as to make the shortest line existing through to Puget sound.

There was one other fact which I alluded to the other day, and which I think is an argument in favor of the practicability of this measure, and that is that we should have the interest of the great North American railway giving us their aid to construct a road through to Puget sound over our territory. But, sir, I do not propose to detain the House at this time by elaborating that argument; for upon this as well as upon the other various points arising in the consideration of this subject I have already spoken at length on another occasion, and I now yield the floor to the chairman of the committee to move the previous question.

Mr. SLOAN. I ask the gentleman to yield to me for a few moments.

Mr. STEVENS. I will yield for this once, but not again.

Mr. SLOAN. I think the grant is not sufficiently guarded in case this company fails to comply with the conditions and provisions of this bill. I desire, therefore, to amend it in one or two particulars for the purpose of providing more thoroughly for such a contingency. I move in section nine, line five, before the word "conditions" to insert the words "provisions or." I move further in the sixth line to strike out "one year" and insert "six months," and to strike out "at any time hereafter, the United States, by its Congress, may do any and all acts and things which may be necessary to insure a speedy completion of said road," and insert in lieu thereof "the lands hereby granted shall revert to the United States and the grant hereby made shall be null and void." The section would then read:

Sec. 9. And be it further enacted, That the United States make the several conditional grants herein, and that the said People's Pacific Railroad Company accept the same, upon the further condition that if the said company make any breach of the provisions or conditions hereof, and allow the same to continue for upward of six months, then in such case the lands hereby granted shall revert to the United States and the grant hereby made shall be null and void.

The amendment was agreed to.

Mr. DONNELLY. I should not encroach upon the time of the House upon this subject did it not seem to me apparent that there is to some extent a lack of information upon some of the principal questions involved in this measure. I shall, therefore, as briefly as possible, set forth a few of the more important facts to which I think

the attention of the House should be called, and strive to answer some of the objections which have been made in the course of this discussion.

It is known to most of the members of this House that it was originally contemplated that there should be constructed from the Mississippi valley to the Pacific ocean three great lines of railroad: one, the northern route, running through the region of country through which it is proposed this road shall pass; another, a central road, to connect with the railroads prolonged from the neighborhood of St. Louis; and still another, a southern route. At length the Government, in its anxiety to bring about the construction of at least one of these roads, determined to concentrate its assistance upon the central route, and for that purpose, in addition to a very large grant of lands, gave to the road a most liberal loan of United States Government bonds.

At that time Congress seems to have entirely forgotten, while it was thus liberal to the central route, that it ought not to completely ignore the claims of the other two roads; and that while it gave both lands and bonds to the first, it should at least have given lands to the others. It seems to me, then, Mr. Speaker, entirely proper, just, and right that some such action as that contemplated by this bill should now be taken. It will at least repair the omissions of the past.

Some question has been raised as to the character of the country traversed by this route.

If this grant is made, a region of country reaching from the Mississippi valley to the Pacific ocean, with an average width of a thousand miles, will be opened up to settlement which otherwise would probably remain an unbroken wilderness for very many years to come.

It is not to be expected that any large agricultural population can ever be brought to settle in a country having no ready outlet to the markets of the world. This railroad is a necessity to that great region of country.

But it may be said that that outlet will be found in the Central Pacific road. I answer that it is impracticable for this important and immense region of country ever to be drained by a series of transverse railroads reaching to a central line nearly a thousand miles distant. In fact this country never can be opened unless Congress, following the course it has always heretofore pursued, shall make a liberal grant of public lands to aid in the construction of a railroad running from the great valley to the sea, through its midst, and which will develop its immense resources. The land itself, which this bill proposes to give away, is worth nothing to the Government in its present condition, and will remain of no value unless communication is opened between the Mississippi valley and the Pacific ocean.

Let it not be said that such a road is an impossibility.

Thirty-five years ago there were but three miles of railroad in the United States; to-day there are thirty-three thousand eight hundred and sixty miles built, and sixteen thousand miles in process of construction, making a total of nearly fifty thousand miles.

The bill under consideration asks for a land grant to assist the building of a road seventeen hundred miles in length, from the western termination of the great lakes to the Pacific ocean.

If thirty-five years of the past have given us fifty thousand miles of railway, is it an extravagant assumption that one half or one third of that period in the future will give us seventeen hundred miles?

The vast extent of the country to be drained by this road will compel its construction.

I say, then, that it is impossible that this great region of country, nearly a thousand miles in width, and reaching from the Mississippi valley to the Pacific ocean, can remain totally dependent upon a railroad line a thousand miles distant from its northernmost boundary. Why, Mr. Speaker, imagine such a state of things. Suppose that from the latitude of Washington to the borders of Maine no system of railroads led from the Atlantic to the Mississippi valley, and that the entire traffic of that great region had to go one thousand miles out of its way to strike a railroad going westward, and rise again a thousand miles after it had reached the longitude of its destination.

You cannot deny to this great region of country an outlet, and it is simply a question whether

you will make it a complete and perfect outlet as you now can, or trust, with the gradual development of the country, to add link after link to a crude, imperfect, and gradually developed system as State after State is built up in that great interior region.

Some allusion has been made to Canada. It has been said that Canada may be benefited by the building of this road. Be it so. It is impossible for Canada to prosper without the territory lying south of it prospering also. It is impossible by a national boundary line to check the growth and advance of commerce; you cannot have upon one side of a national boundary line abundant prosperity and success and upon the other desolation and poverty. If Canada is to grow all that northern Pacific region must grow with it. The development of Canada has, to a certain extent, in the eastern portion of the continent, kept even pace hitherto with the development of our own country. Away, then, with that narrow and illiberal spirit which would deny to our own people the means of advancement and growth, lest the very overflows and drippings of our prosperity should enrich some neighboring population. Let us be content to go forward in our career of unexampled development regardless of the advantages which may be reflected upon other nations. Let us not imitate Diogenes, who drove away the rats from his tub, lest it should seem that even he nourished parasites.

Another question occurs. It may be said—and there is upon the minds of many such an impression—that this whole interior region of country is a vast wilderness, unfitted for settlement and incapable of supporting any considerable body of population. This is very far, indeed, from being the case. I have never been more surprised by the perusal of any work than I was in reading the report of Captain John Mullan in reference to the construction of a wagon road from Fort Benton westward. It appears from that official document that on the line over which this road would pass the road would scarcely ever be beyond the reach of timber, and rarely, if ever, beyond the reach of fertile and cultivable soil.

I state to this House a fact, referred to more than once upon this floor, that there is a wide difference between the country over which the Central Pacific road will pass and the region which this road would develop. It is the popular belief that all that interior region is a sterile, treeless wilderness; and yet there is at one point on the route of this road a solid forest one hundred and twenty miles in width; there are vast ranges of fine agricultural soil; there is room for the development of immense States, and the day will come when those States will be represented upon this floor, and, gazing back to the events of the present hour, men will wonder that the right of this great region to a railroad outlet ever was denied by intelligent members of this House.

I say to you that if a continuous line of fertile, agricultural States ever reaches across this continent it must be through the country over which this road will pass. This region of country, and the British possessions north of it, are the only unsettled regions in the temperate zone of our continent fitted to sustain large agricultural populations. The flood of emigration must move in that direction or be permanently checked.

In confirmation of this view, I would ask the attention of the House to the following summary of the character of that country from the report of Lieutenant Mullan:

"The amount of agricultural land along the general line of the road may be safely estimated at one thousand square miles, or six hundred and forty thousand acres.

"The largest single body is found in the Walla-Walla valley, where its rich soil, freedom from early frosts, and its mild climate, constitute it a great agricultural center. Corn, oats, barley, spring and autumn wheat, tobacco, and every variety of vegetable, are here grown in great abundance; wheat, thirty bushels to the acre; barley and oats, forty bushels; and corn from sixty to eighty bushels; and potatoes from three to six hundred bushels to the acre. The grape and the peach will be found to grow well here, and when the country is settled the oak will take its place among the chief forest growth.

"The mines furnish a ready market for all that is raised, cash payments for which are made in gold.

"Fruit-growing is attracting attention, and thus far promises well. Erection of grist-mills keeps pace with the growing demands of the country.

"Another favorite agricultural tract is the Dry creek; its valley is already studded with beautiful farms; so also the Touchet, where there is still room for the industrious emigrant.

"At the mouth of the Palouse is a small tract of good land, enough for one small farm, and which, as trade and travel increase, must become an important point.

"Several tracts of good land are found along the Palouse, but the absence of timber is an impediment not easily supplied.

"Small tracts are found along the Cow creek and along the road to Aspen grove, and many in the direction of the long line of lagoons found along the road.

"An excellent body of good land is found along Lake William and along several of the smaller lakes and creeks to its mouth.

"Several small bodies are found along both banks of the Spokane; near the Foot Hill several farms are already under cultivation. Along the Upper Spokane are also small bodies. At the Cœur d'Alene mission is a body of five or six square miles of most beautiful land; several hundred acres are here under cultivation by the mission and the Indians. Oats, barley, wheat, peas, and potatoes are raised in rich abundance.

"One of the largest bodies of good land is in the St. Joseph's and Cœur d'Alene valleys; and if these valleys are once drained, a body of forty thousand acres of the finest soil in the world will be reclaimed, soil six and eight feet deep, and as black as a coal.

"On the right bank of the Cœur d'Alene, opposite the mission, is a mile square of beautiful soil. Four-mile prairie has a good body of land; also Ten-mile prairie.

"From this point to the Bitter Root ferry I fear the frosts and other mountain characteristics will preclude any farms from being opened.

"At the mouth of St. Regis Bogria, however, several tracts of land are found, and which, if cultivated, will come into requisition for mail stations and supplying travelers and emigrants. Seven-mile prairie along the Bitter Root river offers a good site for small farms; also Brown's prairie, Nemoté prairie, Skiotay creek, where the wild timothy grows abundantly, and many large and beautiful tracts along the right bank of the main Bitter Root. Frenchtown, in Hell's Gate route, already contains from ten to fifteen small farms, and there is room for many more. The small creeks in Hell's Gate route offer many choice sites for farms; a dozen, at least, are here now under cultivation. Wheat, potatoes, oats, and barley, and all vegetables are raised. Corn is not matured, but it is raised for roasting-ears. The St. Mary's valley to the south, and the Jocko and Flathead valleys to the north, are large and favorite farming sections.

"Among the small creeks, tributaries to the Hell's Gate, four and five miles from Big Blackfoot, at Clark's camp, at Beaver Dam butte, and along some of the smaller water-runs, good soil is found. The upper portion of the valley of Flint creek may be found suited to agriculture.

"From Flint creek to the American fork are many beautiful localities where farms may be opened. A large and beautiful one is already opened by a Mr. Dempsey, where he grows oats and wheat luxuriantly. The American fork has some beautiful bodies of land along it. The Deer Lodge is a large and well-located valley, and contains from fifty to one hundred and fifty square miles, where crops have already been grown. Along the Little Blackfoot and its smaller tributaries are found patches of good soil. From this point to the Big Prickly Pear creek, the altitude and wet condition of the soil may prove impediments to successful or economical culture.

"Crossing the divide we get into a new climate and change of soil; along the Big Prickly Pear will be found several small and choice localities for farms; and if the mines on the eastern slope prove successful I look forward with much hope to see all these creeks settled and fine farms developed under the hand of the Rocky mountain farmer. All the small creeks from the Big Prickly Pear to the Bird-Tail Rock have smaller bodies of good soil, and if the mines prove a ready market will be had for all that they can raise.

"To the south of the Bird-Tail Rock, about three to five miles, in a wild and broken region, through which a wagon road can be laid to shorten our line from Sun river to the Dearborn, is one of the largest and richest bodies of land that I have seen east of the mountains, and where timber from the mountains and rock at hand will supply all the requisites of the first settlers. Situated as it is midway between Fort Benton and the Prickly Pear gold mines, it is worthy an examination by those who propose to settle in the country. It was on my last trip that I was struck with the richness of the soil and the extent of agricultural land here found. It is a favorite resort for game, and, sheltered as it is by high rocky walls, forms a choice site for farms.

"The next good tract is along the Sun river, where a stiff clay soil is already cultivated to advantage. The Blackfoot agency has a farm of from thirty to forty acres under cultivation, and raises wheat and vegetables. Its valley is from fifty to one hundred and fifty feet below the general level of the Missouri plains, and is thus sheltered from the colder winds that sweep across them at spring seasons. Some patches of good soil are found along the Missouri, above Fort Benton, but their culture has never been tested.

"There are enough statistics of growth, from actual cultivation along the line, to show that the many areas herein referred to will grow abundant crops, and all of which will come under tillage as soon as a market presents itself.

"In addition to this, the experience of all persons traveling through this region has been that from the Columbia to the Missouri rivers, finer grasses have never anywhere been seen; the number and condition of the stock that feed upon the wild grasses alone, show both their abundance and nutrition. Wild hay can be and is cut from thousands of acres. Horses and horned stock by thousands, and sheep by hundreds, all bespeak the wealth that is wrapped up in the native grasses of the North Pacific region, and I confidently look forward to seeing the wealth of these beautiful mountain valleys yet consist in the thousands of fleecy flocks to be here sheared; and, if the streams of the Rocky mountains are themselves caught and harnessed to the spindles and looms of wool manufacturing to be there erected, that the annual shipments of wool to a St. Louis market will constitute a trade replete with wealth and magnitude."

How wide the difference between this favored region and the country farther south through which the Central Pacific road must pass! A vast, treeless waste, of sage bushes, alkaline plains, and sand-hills, it will be impossible ever to establish through it any continuous line of settlements. The way-traffic of such a road can be of little or no value; it must create depots of fuel at stated intervals, and must carry forward with it everything it consumes.

Listen to the description which Lieutenant G. K. Warren gives, in his report (page 8) of an exploration of the country between the Missouri and Platte rivers and the Rocky mountains, of the sand-hill country, a description which applies to a very large portion of the route of the Central Pacific railroad:

"The sand hills present their most characteristic appearance just north of Calamus river, spread out in every direction to the extreme verge of the horizon. The sand is nearly white, a lightish yellow, and is about three fourths covered with coarse grass and other plants, their roots penetrating so deep that it is almost impossible to pull them out. The sand is formed into limited basins, over the rims of which you are constantly passing, up one side and down the other, the feet of the animals frequently sinking so as to make the progress excessively laborious.

"The scenery is exceedingly solitary, silent, and desolate, and depressing to one's spirits. Antelope, and at times buffalo, are numerous. The character of the country is well calculated to cover a stealthy march or retreat; and if one keeps as much as possible to the hollows, he may even fire his rifle within a quarter of a mile of an enemy's camp without being aware of each other's presence, and I consider it hopeless to attempt to capture any who had sought refuge in the sand hills. Farther west, I am told, these hills increase in height and are impassable for horses."

And yet, while to a railroad running over such a country as this not only lands but bonds of the United States are given, the country described by Captain Mullan is denied even the poor boon of a land grant, and all manner of captious objections are raised against the one great measure necessary for its development.

But there is still another fact, a very significant fact, connected with this measure.

We have upon our continent a chain of mighty lakes which have been not inaptly termed a great river, because from the point where they arise in the plains of Minnesota to the point where the St. Lawrence falls into the Atlantic they are, as it were, but the expansions of one mighty river. The head of Lake Superior, at its western extremity, is almost half way across this continent. What, then, is more natural than to connect this mighty system of water communication with a railroad system stretching away from its western extremity by the most direct route to the Pacific ocean? You cannot ignore the great fact that at the head of Lake Superior you are several hundred miles further westward, several hundred miles further into the heart of this continent, several hundred miles nearer the Pacific than you are upon the shores of Lake Michigan. Shall we, then, ignore this mighty fact; shall we, in aiming at the Pacific, seek land travel in a parallel line for several hundred miles side by side with Lake Superior? Shall the movement of commerce over this mighty water system be forever checked and arrested at the mouth of Lake Superior, and be forever interdicted from moving over its broad waters? Certainly not; no local jealousy, no temporary superiority in numbers in this House of rival interests, can permanently negative the importance of that great fact. Commerce is not to be tied to the heels of local prejudice; but will seek out its own natural pathways with an instinct that never errs. These lakes, with a railroad prolongation from their western extremity, will yet form the great causeway of commerce across our continent.

Hence, if we have, as I have tried to show, first, a great territory, nearly a thousand miles in width, demanding this outlet; secondly, a territory capable of a very high degree of agricultural development, to which this road is a necessity; and thirdly, a chain of great lakes, running from east to west, reaching half way across the continent and to the very point where this road proposes to commence, and forming a connecting link in this great system of continental communication—if we have all these things, Mr. Speaker, in our favor, can this House deny us what it has given so liberally to all other projects—a grant of the public lands?

But there is still another argument which has

just been brought to bear against this bill. It is said that we should keep the public lands to pay the public debt. Let us consider this.

I had occasion, a few days since, in some remarks I made upon another question, to allude hurriedly to the same objection now raised here; and nothing but the respect which I entertain for the gentleman from Ohio, [Mr. SPALDING,] who has made the objection at this time, would induce me to recur to it. It is this: the great interior of the country, as it now lies, unsettled, uninhabited, incapable of settlement—because without the great outlets of rivers, or rails agriculture cannot prosper, for it depends for its growth not upon itself but upon its markets; this great interior region, I say, so situated, is valueless to the people and to the nation. And so long as that region of country remains in the condition in which it now is, it can be of no value to the Government or the people, and its land cannot be worth any conceivable price. But if, by the granting of these lands, you can build up vast communities; if you can develop a mighty country; if you can create great States that will come on this floor by their Representatives and on the floor of the other House by their Senators; if vast populations can be made to cluster around these fertile regions, then you obtain the means of taxation; you obtain men; you obtain the sinews of strength, of government, of power.

Contrast for an instant the States of Ohio, Indiana, and Illinois, as they now stand—mighty Commonwealths, inhabited by vast and patriotic and intelligent populations; full of wealth, and prosperity, and happiness—with the value that the territory upon which they are planted would now possess to the nation if it had never been settled. Who will dare to draw the comparison?

This, then, seems to me to be not only the policy of the Government, but it has been its settled, uniform, unvarying policy for a quarter of a century; and it is too late now to attempt to displace or alter it.

But gentlemen may fear that this road may prove a rival to the central road and delay its construction. Be it so.

If this road, by the mere force of its natural advantages, by the agricultural character of the country through which it will pass, by the force of its geographical position, can be built with no aid from Congress save a mere land grant, then indeed is it most unfair to deny it that small boon; more particularly when to a road that lies further south, Congress has given not only a grant of land but an immense loan of bonds of the United States, the interest and the principal of which the people of the Northwest will have, in common with the rest of the nation, to pay. If this road, without bonds, can be built before the other road with that great advantage, then it is most evident that to this road should be given the assistance of the Government. The very dread in which it seems to be held by its rival is the strongest argument in its favor.

We who represent the northern tier of States of this Union ask here simply for a land grant. We are told by officers of the corporation into whose hands it is proposed to confide the building of this road—and I have faith in their assertions—that they mean to build this road, and can build it. The very clause they have inserted in the bill, providing that they shall never be permitted to mortgage the road, looks like good faith. There is no fraud here, for they have cut off, by that provision, the very means of fraud. It looks to me as if they were in earnest in their efforts.

I trust that the House will afford them every opportunity to succeed; and that it will not, at this late day, reverse the policy of the Government by denying to this northern Pacific road less than half the advantages which it has given to its southern competitor; but will generously close its ears to the clamors of rival interests, and do an act of justice, by the passage of this bill, to a vast region of country yet in its infancy of development, but which will eventually prove a thousand-fold more advantageous to the nation than the barren tracts through which that Central road must pass.

Mr. STEVENS took the floor.

Mr. MORRILL. I ask the gentleman from Pennsylvania to yield to me for a few moments.

Mr. STEVENS. I will yield for five minutes.

Mr. MORRILL. Mr. Speaker, of course I

despair of retarding the progress of this bill longer than while I am talking, or of ultimately preventing its passage. I know that when a proposition of this kind is introduced here giving away forty or fifty million acres of lands it is certain to pass, especially under the lead of the distinguished gentleman from Pennsylvania, [Mr. STEVENS.] It is at least singular that we should propose to take up and galvanize an obsolete, dead corporation of the State of Maine, a thousand miles away even from its eastern terminus, for a great national work of this kind. If it is a thing proper to be done by Congress, why not create the machinery ourselves and have the credit for it? I do not like the idea of giving away lands to extend the Grand Trunk railroad of Canada. This appears to me to be the object aimed at. I am reminded in this connection that this bill proposing to aid in the building of a railroad over a tract of country in which there are no inhabitants, to reach a State containing only one hundred thousand inhabitants, is like the proposition of a gentleman who formerly represented Oregon here, and who urged upon the Committee of Ways and Means to recommend an appropriation for establishing a fort at Walla-Walla and sending a regiment of soldiers there. It was asked if there were any inhabitants there; he said no, but if we would only build a fort there and place a regiment of men in it there would be. [Laughter.] So it is argued here, that if we build this road we will have inhabitants in the region through which it passes, and that we shall thus develop the resources of the country. It strikes me, Mr. Speaker, that the more prudent course for us at this time is to husband our resources, such as we have left, to sustain the credit of the Government, and let this stupendous project wait until the commerce of the country will do something toward sustaining the road after it shall be built. This is a most munificent grant, involving, I believe, not less than forty million acres of land; at least there is no agreement among the friends of the measure as to how much it will require, whether thirty-six, forty, or fifty million acres. I hope the House will consider long before they pass a bill of this kind. I can see no trade there is now to support a road through this country except the carrying of a few muskrat skins from the Red river of the North. There is no trade whatever, except the fur trade, beyond the limits of our settlements. If I can have the opportunity I shall move that this bill be postponed till December next.

Mr. GRINNELL. I hope the gentleman from Pennsylvania will yield me the floor a very few moments.

Mr. STEVENS. I cannot yield the floor again. I demand the previous question.

The previous question was seconded, and the main question ordered to be put.

The SPEAKER announced that Mr. STEVENS having reported the bill was entitled to the floor to close debate.

Mr. STEVENS. I have been somewhat surprised, Mr. Speaker, to see the hostility manifested to this bill, but I have been more surprised to see the quarter from which it comes. However, in this place, where every man acts according to his own judgment and taste, I have no right to find fault about that.

First, let me reply to an objection made by the gentleman from Ohio [Mr. SPALDING] in reference to the form in which this bill is brought in. It is true this company was chartered by the State of Maine, but it is composed of men who are men of substance, are among the solid men of New England. But the gentleman forgets that precisely such provisions were in the bill for the Central road. When that bill was first reported to the House authorizing a company incorporated by the Government to make it, it evidently broke down. It was found that it could not pass, that it was in fact dead, and suggestions were made to me at that time which induced me to propose a change in the law. I need not tell the House what those reasons were. Objections were made to a company chartered by Congress being permitted to make internal improvements within the limits of States. It is an old objection, as old as the days of Calhoun, or before his time. But there is a large and influential party comprising a large portion of the people of this country who do not concede to Congress the right to charter a company to make internal



improvements within a State, although they all admit the power of Congress to construct roads through the public lands.

I do not myself give in my adherence to that idea; but I know that it was in consequence of that idea that the Union Pacific Railroad Company was required to confine its operations within the limits of the Territories of the United States, and that to enable it to connect with the Missouri river authority was given to the Leavenworth and Pawnee Railroad Company of Kansas to construct a road three hundred and sixty or three hundred and seventy miles to the one hundredth parallel of longitude. The Central Pacific Railroad Company of California was authorized to construct a road from the eastern boundary of that State to the Nevada line, with the further privilege that if the Union Pacific road did not meet them there they might go on and extend the road until it was finished; and provision was made for extending to these companies precisely the same power and precisely the same grants that are made to the Union Pacific railroad itself, giving them land, furnishing the bonds of the Government to the extent of \$16,000 a mile for a part of the road, to \$32,000 a mile for another part, and to \$48,000 a mile over the mountains. And no provision was made in that bill requiring them to carry Government troops, arms, and munitions free of cost as has been done in this bill. No gentleman living near the eastern terminus of that road then raised any voice against this munificent grant. No gentleman from that locality then found any fault or any quibbles that the companies authorized to build it were chartered by States.

Mr. WILSON. I wish to state to the gentleman that he has forgotten that when the Union Pacific railroad bill was pending, I did oppose conferring that power upon the Pawnee and Leavenworth Company, and also upon the California Company.

I wish also to correct the gentleman in another respect. By the act which I have before me, creating the corporation known as the Union Pacific Railroad Company, all the powers of that company were created and presented. It is true that it provided that if the company should not be able to build the road as required, the companies constructing the roads in the States lying west of the Mississippi river should construct the road; but at the same time it conferred upon those companies the powers which are conferred by the act upon the Union Pacific Railroad Company. There is no such provision in the bill now pending before the House. This is a charter granted solely by the Legislature of Maine, in which there is no provision reserving the right to alter, amend, or repeal the charter of the company.

Mr. STEVENS. If the gentleman will look at it he will see that there is not one of the corporate powers of the Leavenworth and Pawnee Railroad Company, nor one of the corporate powers of the California Railroad Company, defined. Reference is simply had to their charters as existing charters. But they have these subsidies granted, and if they accept these conditions, they are bound to live up to them. So this company, if it accepts the grant upon the conditions we propose, is bound to live up to them, or else the grant of the United States fails. The two cases are identical in principle, and it is not fair to treat them differently.

So much for the purpose of defining why this company is authorized to make the road. It is because we could not authorize anybody else to make it; and it is to be made by some such company chartered by a State, or not made at all. Before I undertook to report this bill, I satisfied myself that this was a substantial company, composed of the best men to be found in Boston and New England; and I satisfied myself that they intended to make the road. I did not see how they could make it very well at this time; but they undertook to do it, and they allowed us to put into the charter not only a provision that they should subscribe for the stock in one half of the time which was allowed to the Union Pacific Railroad Company, but they allowed us to reduce the time of the acceptance of the terms to six months. And altogether, the provisions of this are more stringent than were those in reference to that road.

What, then, have we given them which gentlemen seem so sensitive about? We gave them that

which to this nation to-day is not worth a dollar. We gave them land wholly uninhabited, lying in the bleak regions of the North, and which, without some such road as this, never will be inhabited until the great fire shall consume those forests. It is therefore as a means of settling that country, now without one white inhabitant, and it is for the purpose of bringing the alternate sections into value, so that homesteads may be worth something there, that we propose to give this company an opportunity to open up that vast wilderness to civilized man.

And yet gentlemen a little lower down the country, down at this end of the Union Pacific railroad, cannot see it. People even at Chicago cannot see it. Why? Because this road proposes to start from the head of Lake Superior. They know that vessels can start from the head of Lake Superior and go to London by the same length of route, and with just the same caliber and depth of vessel that they could from Chicago.

Now, sir, I have looked a little into this matter, in the fulfillment of my duties as chairman of this committee, and I satisfied myself first, that these men would build the road without a dollar of subsidy from the Government. I do not call the grant of these lands giving away anything. The Government does not sell this land now. The Government at present says that any man who chooses to go and take it may do so by paying simply ten dollars for the surveying expenses. The land is no longer held as part of the national revenue. My eloquent friend from Ohio [Mr. SPALDING] seems not to have remembered at the moment that the land is no longer for sale by the Government of the United States; the whole of it is devoted to the purposes of population; and it is for that same purpose that I urge the building of this great road. What private owner of such land would not say, "Open out a road through it, and you shall have half the land that lies any where within a reasonable distance, to the extent even of a kingdom?" Who would not dispose of it in that way if it were his own, and who would not do it acting disinterestedly in trust for the nation? I think, sir, that this is one of the greatest enterprises of the age, the opening of a railroad from the Pacific ocean to the northern lakes.

I look upon a northwestern railroad from the neighborhood of the great lakes to the Pacific ocean as a great and useful enterprise. It may seem and comparatively is a barren one, as its track lies through a country almost wholly uninhabited. Nor does the settlement and cultivation of the country seem probable, hardly possible, until such a road is built. It can hardly be denied that the settlement of that vast region is among the most desirable objects which an American statesman can contemplate. To those who have but superficially examined the subject, the Northwest, from the forty-sixth degree of north latitude to the Canadian line, seems a bleak, barren waste, scarcely capable of improvement. Yet the facts are very different. The territory north of Nebraska contains a sufficient quantity of arable and grazing land to make eleven or twelve States as large as Virginia or Pennsylvania. A considerable part of it is rocky and mountainous, but not a larger proportion; I think, than of those States. The balance of it, along the river bottoms and vast valleys, is very fertile, producing wheat, rye, corn, barley, and oats of excellent quality, potatoes and grass of a very superior kind and in great abundance. But the mountainous and uncultivable parts will, like the rocky regions of Pennsylvania, be the richest part of the territory. Already gold has been discovered in many parts of it. The richest diggings on the continent are said to be in Idaho. Placers have been found almost or quite to the Canadian line.

On John Day's river have been discovered the richest quartz leads outside of California. Captain Mullan asserts that this region of our unoccupied country is now "sending to our mints as much gold as California in her palmiest days." This seems hardly credible, and yet I know of no higher authority than Captain Mullan. Iron ore and copper are abundant; bituminous coal has been discovered in several places. Petroleum, cinnabar, cannel coal, coal oil springs, and sulphur have been found on the Yellow Stone and other streams. (Mullan's Report, 45.) This is destined, probably, to become one of the richest

mining regions of the world. The valleys along the route of the road will not, I suppose, be capable of producing sufficient food for the numerous miners, but the mountains flatten down so that the country north of a direct line is nearly all of it level, and very rich soil. The only objection to it is the climate. But that does not affect the small grains nor grasses; indeed it is believed to be the best grazing country on the continent. Sheep thrive and multiply amazingly, even on the spurs of the Rocky mountains. In all the valleys corn ripens better than in Minnesota and Vermont. As you descend the water-shed toward the Pacific the valleys widen, and the quantity of cultivable land increases. The country around Walla-Walla and beyond it becomes level and rich. I do not suppose the road would stop at the Columbia river, nor seek the ocean in the neighborhood of its mouth; it would probably run to Puget sound, near Seattle, where is the best harbor on the Pacific. I do not suppose that at once it would attract much trade from the East Indies, from Japan and China, but it will not be long before a very important country will be developed which lately belonged to China but now to Russia, which is drained by the waters of the Amoor river. This road would be the nearest outlet for the trade of that great country.

The value of our northwestern possessions depends upon their being populated, and their population depends wholly on the construction of such a road.

I do not speak of the value of our public lands as a source of revenue. That never was of much importance compared with the value of its products. Now they have ceased to be of any marketable value. How, then, can the road be built?

As I said, the company named in this bill is composed of some of the most substantial and enterprising men in the eastern States, and they pledge themselves to build it if this bill passes. Important as is the enterprise, the committee were unwilling to give any grant of lands by the United States as was done to the Union Pacific road; but they felt willing to give them almost any amount of land along the route. By doing so, we really gave away nothing, as the whole of it may be now taken by settlers without paying anything to the Government. The committee feel sure that this is the quickest way of settling it.

Nor is there any danger that settlement will be retarded by the high price which the company will put on the lands. Their own interest will induce them to invite settlement by the lowest price on agricultural lands, trusting for remuneration to the lots in the towns and cities which they may build up along the route, and to the future products of the road. Nothing could be more suicidal to them than to delay the cultivation of the country. They must expect to receive a large portion of their income from the way travel and the transportation of the products of the soil. True, as the road progresses their lands will increase in value and afford them considerable aid.

The practicability of its construction, and of its working both summer and winter, seem to me beyond any doubt. It is found that everywhere until you reach the base of the Rocky mountains the country is more level than in the middle States, and the average cost per mile for grading is much less. Both on the eastern and western slopes rivulets rise in the mountains and run into the Missouri river on the east and the Columbia river on the west, along the valleys of which, without much deviation from a direct line, the road could be located. I do not intend to compare this with any other route. Between them there should be no rivalry, no jealousy. But as compared with the Middle pass or any southern line, it is found that the mountains could be crossed on this line at an elevation from fifteen hundred to two thousand feet less than on any other. Governor Stevens, on the route surveyed by him, recommends two tunnels of considerable length in order to keep down the grade; but later explorations show a pass further north of equal depression without a tunnel. The obstruction by snow on whatever route you take has always been a grave question; one yet to be solved. Whether the mountain can be crossed between the thirty-fifth and forty-third degrees of latitude by locomotives at all times in the winter is not very clear. If at all, it will probably be by laying the superstructure on trestle-work.

There is a curious phenomenon, well attested, with regard to the temperature of the air between the forty-sixth and forty-eighth parallels of latitude. As you go north, until you reach the forty-eighth degree the air becomes much milder. At Walla-Walla, on the Pacific side, in latitude 46°, the temperature is the same as that at Washington city in 38°. In Bitter Root valley, a little above 48°, it is very similar to that at Philadelphia in 40°; and so all the way from the Pacific to Fort Laramie there is a stream of warm atmosphere ranging from two to one hundred miles wide, with a warmer mean temperature than it is eight or ten degrees further south. The result is that within the limits of that stream the snow seldom lies more than two or two and a half feet deep in the coldest winters. This would never obstruct a locomotive on a well-built road. This warm current of air is a curious contrivance in the economy of nature. Up to near the summit of the mountain the mild climate of the Willamette valley and other parts of Oregon is easily accounted for by the warm air which is constantly blowing inland from the tepid waters of the gentle Pacific. But that would not cross the summit of the mountain without losing its heat. Just at that point, between the headwaters of the Missouri, Columbia, and Yellow Stone rivers, boil up an innumerable number of hot springs, so intensely warm as to heat the air in the coldest weather. This air, carried on by the wind, modifies the climate for hundreds of miles in extent. It is in these high northern regions, warmed and fertilized by these ever-burning internal fires, that millions of buffaloes find food and shelter in the bleakest winters. Thus has nature compensated for the absence of a southern sun. Here, it seems to me, the locomotive is destined to pass unobstructed, both summer and winter. Here, too, is to be found fuel, and the purest water from one end of the route to the other. In this it has a great advantage over an extreme southern line. There are hundreds of miles without a drop of good water, or wood, or air. Each have their advantages and disadvantages. When this country shall be restored to peace all of them will be demanded by the wants of trade and of a rich and teeming population on both sides of these mountains of silver and rivers of gold.

The Territories through which this road would run contain about five hundred and sixteen thousand seven hundred and twenty-six square miles. When settled, at least eleven new States would be added to the Union. From Puget sound to either China, Japan, or Calcutta, is from three to four hundred miles nearer than from San Francisco. This would in some measure compensate for the greater population and better climate of California.

The building of this road and settlement of the country would prevent future Indian wars, and save the repetition of the horrible scenes which were lately enacted in Minnesota.

To aid the company the Government are asked to give twenty sections a mile through the States, being twelve thousand acres, which, if it could be sold at the highest Government prices, would be \$16,000, and double that in the Territories. To the Union Pacific railroad she granted that sum in bonds and ten sections of land; and across the mountain three times that amount. But we in truth give nothing. Government no longer sells her lands, as I before said.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. STEVENS demanded the previous question on the passage of the bill.

Mr. HOLMAN called for tellers.

Tellers were ordered; and Mr. SPALDING and Mr. ROBINSON were appointed.

The House divided; and the tellers reported—ayes 52, noes 49.

So the previous question was seconded, and the main question was ordered to be put.

Mr. HOLMAN called for the yeas and nays upon the passage of the bill.

The yeas and nays were ordered.

The question was put; and it was decided in the negative—yeas 55, nays 66; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Bailey, John D. Baldwin, Jacob B. Blair, Boyd, James B. Brown, Ambrose W. Clark, Cobb, Coffroth, Cole, Creswell, Donnelly, Eden, Eldridge, Frank, Garfield, Grinnell, Griswold, Hale, Charles A. Harris, Higby, Asahel W. Hubbard, John H. Hubbard, K. Hey, Francis W. Kellogg, Loan, Longyear, Mc-

Bride, McClurg, McIndoe, Nelson, Noble, Norton, Charles O'Neill, Perlman, Price, Pruyn, John H. Rice, Robinson, Shannon, Sloan, Smith, John B. Steele, Stevens, Strong, Stuart, Sweet, William B. Washburn, Wiley, Wheeler, Wilder, Windom, and Yeaman—55.

NAYS—Messrs. Alley, Ancona, Ashley, Beaman, Bliss, Boutwell, Brooks, William G. Brown, Chanler, Cox, Davidson, Deming, Eckley, Edgerton, Elliot, English, Fenton, Finck, Ganson, Gooch, Grider, Harding, Harrington, Holman, Hotchkiss, Hubbard, Hutchins, Jencks, Philip Johnson, William Johnson, Julian, Kason, Orlando Kellogg, Kemann, Law, Long, Marcy, McDowell, McKim, William H. Miller, Moorhead, Morrill, Daniel Morris, James H. Morris, Amos Myers, John O'Neill, Orth, Patterson, Pendleton, Pike, Pomeroy, Samuel J. Randall, Edward H. Rollins, Ross, Scofield, Spalding, Stiles, Thayer, Tracy, Van Valkenburgh, Wadsworth, Elinor B. Washburne, Joseph W. White, Wilson, Winfield, and Fernando Wood—66.

So the bill was not passed.

Mr. SPALDING moved to reconsider the vote by which the bill was rejected; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PUBLIC BUILDINGS IN THE TERRITORIES.

The SPEAKER stated that the next business in order was the consideration of the bill (H. R. No. 342) making appropriation for public buildings in the Territories of Colorado, Nevada, Dakota, Idaho, Arizona, and Montana, and for other purposes.

The bill was taken up and read.

Mr. HOLMAN. Has this bill been referred to the Committee of the Whole?

The SPEAKER. It has been, and reported back to the House by the committee.

Mr. RICE, of Maine. I move to postpone the consideration of the bill one week.

Mr. HOLMAN. I move to amend by postponing it until the first Monday of December next.

Mr. RICE, of Maine. I hope that will not be done. The Montana bill has not been disposed of yet, and I wish this bill postponed for a short time because a part of the appropriation in it is for that Territory. I call the previous question upon the motion to postpone.

The previous question was seconded, and the main question was ordered to be put.

The amendment of Mr. HOLMAN was not agreed to.

The motion to postpone one week was agreed to.

#### THE CONGRESSIONAL GLOBE.

The next business taken up in order was the bill (H. R. No. 421) to pay in part for the publication of the debates of Congress, and for other purposes.

The bill was read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Senate and the Clerk of the House of Representatives be, and they are hereby, directed to purchase from the publishers of the Congressional Globe and Appendix, for each Senator, Representative, and Delegate, in the present and each succeeding Congress, who has not heretofore received the same, one complete set of the Congressional Globe and Appendix.

SEC. 2. And be it further enacted, That there shall be paid to the publishers of the Congressional Globe and Appendix by the Secretary of the Senate and the Clerk of the House of Representatives, out of the contingent funds of the two Houses, according to the number of copies of the Congressional Globe and Appendix taken by each, one cent for every five pages exceeding three thousand pages for a long session, or fifteen hundred pages for a short session, including the indexes and the laws of the United States for this and each future Congress.

SEC. 3. And be it further enacted, That the sum of \$98,544 he, and the same is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purposes herein named, for the present Congress; and that \$30,494 of the same be disbursed by the Secretary of the Senate, and the remainder by the Clerk of the House of Representatives.

Mr. A. W. CLARK. I move to amend by adding the following additional section:

SEC. 4. And be it further enacted, That all acts and parts of acts inconsistent herewith be, and the same are hereby, repealed.

The amendment was agreed to.

Mr. WILSON. I move to amend by adding to the first section the following:

To be deposited in some public library to be designated by such Senator, Representative, or Delegate.

Mr. COX. I am opposed to that amendment, and I would like to hear the gentleman's reason for offering it. I am sure that the depositing of these books in the libraries throughout the districts amounts to little or nothing. Members of Congress had better keep the books themselves, for the people come to them sooner than go to these libraries to get information in reference to

congressional proceedings. There are already in many of the libraries copies of this work, distributed by former members of Congress, and I think gentlemen will now serve the interests of their constituents best by allowing members of Congress to keep these books in their own libraries.

Mr. JOHNSON, of Pennsylvania. I am opposed to the amendment offered by the gentleman from Iowa. Half of the libraries of the country are close corporations. They are private property, and they are the only libraries that can be kept up. Go to any of the country libraries, even those of colleges, or to the State libraries, and you will find that they are like our libraries of Congress, except that here we have faithful officers to look after the books that are taken away and gather them up as fast as they are stolen; but in the country public libraries the books are taken away and never collected again.

If these volumes are given to other libraries, they are private corporations and the books are liable at any time to be sold. I think that the distribution of the Congressional Globe by members of Congress is just as good a distribution as we can make of them. I favored this proposition two years ago, because I think that these books should be scattered through the country. It is the best way of preserving them. The stereotype plates are now stored away, corroding with rust and being gradually destroyed. And so with the printed volumes in the hands of the publisher. I think some steps should be taken to preserve to the country its most valuable history.

Mr. A. W. CLARK. I hope the proposition made by the gentleman from Iowa will not be adopted. I think that private distribution by members will be more acceptable to them and to the country generally, as there are a large number of libraries in each district, between which the member would be compelled to select.

The question was taken on Mr. Wilson's amendment, and it was rejected.

Mr. A. W. CLARK. I move to amend by adding the following provision:

Provided, however, That the above provisions be made on the express condition that they may be abrogated by either Congress or the publishers of the Congressional Globe and Appendix at any time after giving two years' notice for that purpose.

This amendment, Mr. Speaker, is offered after consultation with the proprietors of the Globe, and I hope it will be agreed to. It is offered because at this time the expense of printing is very large, and it may be at some future day deemed expedient to fall back upon the old contract. I believe that members generally concede that it is absolutely necessary to do something for the Globe. In the statement which I made to the House some weeks since I put the difference between this proposition and the other at about forty thousand dollars, as found by the books at that time. The intelligent chief clerk of the Globe office has sent me a letter correcting that statement, which I ask to have read.

The Clerk read the letter, as follows:

GEORGE A. BAILEY,  
Chief Clerk Congressional Globe.  
WASHINGTON CITY, April 26, 1864.  
DEAR SIR: On reading your remarks of the 21st inst., printed in the Globe of to-day, I perceive that you have underestimated the amount paid to the Globe during the Thirty-Seventh Congress. The total was \$166,579, instead of \$133,550, the figures given by you; being, in round numbers, \$33,000 short of the full amount. Fifty per cent. additional on this sum, or \$16,500 added to the \$166,775, named by you as the sum required to meet the demands of the second proposition submitted to you on the 18th of March last, makes \$183,275, and reduces, by more than one half, the sum stated as the difference of cost between the two propositions; and shows the first proposition to cost only about fifteen thousand dollars more than the second. I regard this as a very important point, and feel sure that you will be glad to have it in your power to correct the error in advance of any discussion that may arise when the subject shall come up again.

I am, very respectfully,

GEORGE A. BAILEY.

Chief Clerk Congressional Globe.  
Hon. AMBROSE W. CLARK, Chairman Committee on Printing, House of Representatives United States. Present.

Mr. A. W. CLARK. I move the previous question on the bill and amendment.

Mr. DAVIS, of Maryland. Is it in order to move to lay the bill on the table?

The SPEAKER. It is.

Mr. DAVIS, of Maryland. I make that motion, and call for the yeas and nays on it.

The yeas and nays were not ordered.

The motion was not agreed to.

Mr. A. MYERS. I would like to ask the gentleman from New York a question, if he will withdraw the previous question to permit me to do so.

Mr. A. W. CLARK. Certainly.

Mr. A. MYERS. I understood the other proposition, of which the chairman of the Committee on Printing spoke, to be a cheaper one than this. Is it not so?

Mr. A. W. CLARK. Yes, sir.

Mr. A. MYERS. I was in hopes that the gentleman from New York would offer a substitute for this bill containing the other proposition.

Mr. A. W. CLARK. The other proposition is on file and may be read.

Mr. A. MYERS. That is what I want. I hope the House will vote down this bill and pass the other.

Mr. WASHBURN, of Illinois. Will the gentleman from New York permit the other proposition in regard to compensation to be brought up, and let the House choose between the two?

Mr. A. W. CLARK. I have no objection.

Mr. WASHBURN, of Illinois. I understand that one thing is certain in the matter, and that is that the Globe must have further compensation in order that it may be carried on. I am sure there is no member here who does not feel that the publication of that work should be continued. It is the record of our proceedings, through which our constituents know what we have been doing here. It is the official record of Congress. I think it is our duty, even in behalf of our constituents, to keep it up even at a much larger expense than at present. All that I desire to know is which is the best means to accomplish this end. The gentleman from New York [Mr. A. W. CLARK] has examined the question very thoroughly, and if he thinks that the purchase of these volumes of the Congressional Globe is the best means of accomplishing the object, the House must determine. If, on the other hand, he thinks that a direct compensation ought to be made, that would comport more fully with my own sense of what is right and proper to be done in the premises.

Mr. A. W. CLARK. In answer to the gentleman from Illinois I will state that when the memorial in this matter was presented to us at a joint meeting of the committee, I was in favor of accepting the proposition to increase the compensation. The committee, however, was equally divided, and I was instructed to report both propositions to the House, which I did. The House on hearing them instructed the committee to report a bill embodying the proposition for purchasing back volumes of the Congressional Globe, and that bill is now before the House.

Gentlemen ask me which is the more expensive. The one gives to each new member of the House who was not in the Thirty-Fourth Congress a full set of the Globe. It also gives to every Senator and Delegate a perfect set of sixty-two volumes. That carries out the original bargain with Mr. Rives, which bargain was violated by a clause in the compensation act cutting off the distribution of books to members. The amount of matter, too, has been considerably increased since the contract was first made, and it is asked that that increase shall be paid for at the rate of two mills for every additional page. That will amount to about forty-two thousand dollars, which, added to the cost of the books, will make the whole sum necessary to be appropriated \$98,000. The acceptance of the other proposition would require the payment of within \$15,000 of that amount, and no books to be furnished. I think, therefore, that the proposition now before the House is the cheapest, though I have uniformly been an advocate for the advance pay, as I do not favor the plan of voting books to members. I have prepared this bill by the instruction of the House. I now move the previous question.

The previous question was seconded, and the main question ordered; which was first on the amendment proposed by Mr. A. W. CLARK.

The amendment was agreed to.

The bill was then ordered to be engrossed and read a third time, and being engrossed, it was accordingly read the third time.

Mr. A. W. CLARK moved the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. MORRILL demanded the yeas and nays, and tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

Mr. MORRILL. For the information of the House, I desire the Speaker to say—

[Calls of "Question," "Question."]

The SPEAKER. The gentleman cannot put an inquiry that will be in the nature of debate.

Mr. MORRILL. I desire to know whether the price of these books will come out of the pockets of members. [Calls to order.]

The SPEAKER. The Chair cannot answer the question.

Mr. HOLMAN called for tellers on the passage of the bill.

Tellers were not ordered.

The question was taken; and there were, on a division—yeas 76, nays 26.

So the bill was passed.

Mr. A. W. CLARK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

Mr. WASHBURN, of Illinois, called for the yeas and nays on the latter motion, and for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The motion to reconsider was laid upon the table.

#### LEAVE OF ABSENCE.

On motion, by unanimous consent, leave of absence was granted to Mr. Cox for two days to visit wounded soldiers at Fredericksburg.

On motion of Mr. PENDLETON, by unanimous consent, leave of absence was granted indefinitely to Mr. Le BLOND, on account of sickness in his family.

#### PUBLIC PRINTING.

Mr. A. W. CLARK, by unanimous consent, introduced a bill relative to the public printing; which was read a first and second time, and referred to the Committee on Printing.

#### PATTY D. BUFORD.

Mr. SMITH, by unanimous consent, introduced a bill granting a pension to Patty D. Buford, widow of Major General John Buford; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### RECIPROCITY TREATY.

The SPEAKER stated the business in order to be the consideration of the bill in regard to the reciprocity treaty; on which the gentleman from New York [Mr. WARD] was entitled to the floor.

Mr. STILES. Will the gentleman from New York yield to me for a motion to adjourn?

Mr. WARD. I will give way for that motion.

Mr. STILES. I move that the House do now adjourn.

The motion was agreed to.

And thereupon (at four o'clock, p. m.) the House adjourned.

#### IN SENATE.

TUESDAY, May 17, 1864.

The Journal of yesterday was read and approved.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Treasury, transmitting the second annual report of the Central Pacific Railroad Company, showing the condition of its affairs on the 1st day of March, 1864; which was referred to the Committee on the Pacific Railroad.

#### PETITIONS AND MEMORIALS.

Mr. RAMSEY presented the petition of Mrs. Sarah P. Mather, of the city of New York, praying for the extension of a patent for a submarine lamp and telescope; which was referred to the Committee on Patents and the Patent Office.

Mr. LANE, of Kansas, presented a telegraphic communication from the Governor and other officers of the Territory of Colorado, praying that the time for voting on the adoption of the constitution for that Territory on its admission as a State may be changed to the second Tuesday in September; which was referred to the Committee on Territories.

Mr. ANTHONY presented a memorial of W. B. Lawton and others, engaged in the express business in the State of Rhode Island, remonstrating against any change in the manner of taxing express companies; which was referred to the Committee on Finance.

Mr. SUMNER presented a petition of men and women of Cooper, Michigan, praying for the abolition of slavery and for the adoption of measures for so amending the Constitution as forever to prohibit its existence in any portion of our common country; which was referred to the select committee on slavery and freedmen.

Mr. SUMNER. I offer a petition from the National Clubs of the city of New York and vicinity, adopted at a general meeting of the clubs, and signed by their president, Frederick Schütz, and their secretary, Charles F. L. Blankmeister. It appears that these National Clubs, as they are entitled, are composed of naturalized Germans, numbering upwards of sixteen hundred. In this petition, which is very carefully drawn, they represent that the nation has an inalienable right to its whole domain, and therefore all the rebel States have been absorbed in one single Territory of the United States of America, inhabited by persons declared to have no more rights than alien enemies by the decisions of the courts of the United States. They then proceed to declare, first, that they have looked upon the proclamation of the President, dated Washington, December 8, 1863, with the greatest apprehension, as failing to afford any guarantee that the chief element of discord which produced the lamentable civil war will be irrevocably removed, and also as striking at the rights of Congress. In the second place, they say that they have hailed with joy the passing, in the House of Representatives, on the 4th of May, 1864, of the bill prescribing minutely the mode of constructing States out of the territory of the rebel States, and vindicating the privileges of Congress. And thirdly, they say that they have noticed that in this bill the right of suffrage is confined exclusively to white persons, thereby continuing an unjust and dangerous distinction of races politically. And fourthly, they appeal to the Senate of the United States to adhere to the principle adopted in the bill to organize the Territory of Montana, and so amend the bill of the House of Representatives as to strike out the word "white," affirming thereby that the eternal principles of right furnish the justest, as well as the safest, guidance for truly democratic legislation. As this subject is now before the Committee on Territories, I move that the petition be referred to that committee.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Chair has received and presents resolutions of a committee of the Chamber of Commerce of the State of New York, asking relief from the unequal action of the law imposing fifty per cent. additional duty on imports.

Mr. MORGAN. I have been requested to ask that that memorial may be read. It is short.

The PRESIDENT *pro tempore*. It will be read, if there be no objection. The Chair hears none.

The Secretary read the memorial, as follows:

*Memorial of the Chamber of Commerce of the State of New York to the honorable the Senate and House of Representatives of the United States of America in Congress assembled.*

The Chamber of Commerce of the State of New York respectfully represents to the honorable the Senate and House of Representatives of the United States that the decision of the Treasury Department, contained in a circular letter of the 5th instant, bears with great hardship upon the merchants of this city, and doubtless equally so on merchants in other seaports of the country. The following is an exact copy of the circular referred to:

#### TREASURY DEPARTMENT, May 5.

In view of the numerous inquiries as to the time when the recent enactment increasing duties on imports went into operation, the following instruction is published for the government of collecting officers:

"The joint resolution of April 29, enacting the increase, took effect from its passage, and it has been judicially decided by the Supreme Court of the United States that under the acts increasing duties from and after their passage, the increase provided for takes effect on the day of passage. The Secretary is constrained, therefore, to hold that the increase required by the joint resolution took effect on the 29th of April, and that consequently all persons who have paid duties at former rates on that or any following day, are liable to pay the additional fifty per cent.

"All collectors and all surveyors charged with the collection of customs will be governed accordingly."

S. P. CHASE,

Secretary of the Treasury.



Now, the facts upon which your memorialists rely to prove the hardship of this decision are briefly these:

On the 25th day of April, the House of Representatives passed a joint resolution imposing an additional duty of fifty per cent. on all imports into the United States for the term of sixty days, pending a revision of the tariff. On the 28th day of April the same resolution was adopted by the Senate, and it went to the President of the United States for his signature. Nothing more was heard of this resolution till Saturday, the 30th of April, at one and a half o'clock, p. m., when, upon orders from Washington, the collector refused to receive money for duties under the old law. Throughout Friday, and the early part of Saturday, merchants were very active, as they had been from the first passage of the resolution referred to by the House of Representatives, in entering their merchandise as it arrived, and paying duties thereon under the preëxisting law; and for their better security in the premises, most of the goods were entered immediately for consumption, and these lost all the advantages and all the privileges of bonded goods. This was especially the case on Friday and Saturday. The amount of gold paid into the custom-house on those two days was about one and a half million dollars; the great demand for coin keeping the premium at eighty per cent. or thereabouts. In most cases the goods thus entered were not required for immediate consumption, and not being needed to meet any present wants, would naturally have been deposited in bonded warehouses to wait demand, or till the action of Congress in readjusting the tariff should be better understood. These goods are now in the warehouses of the importers, unsold, with the premium on gold rapidly declining.

Your memorialists do not, in the present instance, complain that, with a suddenness almost unexampled, fifty per cent. additional duties are imposed on all foreign goods imported into the country, for they know that steam and telegraphic communication have rendered a departure from the former usage necessary, and they are ready to bow to the necessity. But, for the same reason, they urge upon your honorable bodies that when laws are made they should be promulgated; that if the joint resolution adding fifty per cent. to the duties on imports was a law on Friday, it should have been known on Friday; and that there is no reason why the merchants of this city, or any other city of the Union, should be exposed to the evils of an *ex post facto* law, for such, under the decision of the Treasury Department, would be the operation of the joint resolution if thus enforced. Nor would your memorialists call in question the propriety of a decision that is sustained by the Supreme Court of the United States under circumstances precisely analogous, but they are not aware that in the cases referred to, goods, after having once been permitted to enter under all the forms and sanctions of one law, have been a second time subjected to duty under a new and distinct law, to the forfeiture of all the privileges to which the merchant would have been entitled, had not the forms of law been fully complied with, by the mutual act of the agents of the Government and his own.

Nor can they recognize the justice of being obliged a second time to pay duty on merchandise for which they have received landing permits under the circumstances contemplated, for the following reasons:

First. That the custom duties being paid in coin, the fortunes of war may shortly lead to a very serious decline in the premium on gold, and thus entail upon the importer a loss which will not be felt by the later importations.

Second. Because the sixty days contemplated by the joint resolution may pass without an extension of the provisions of that enactment, or a new adjustment by Congress of the existing tariff.

Third. Because in the readjustment of the tariff, Congress may not deem it wise to impose an additional duty of fifty per cent. on all imports.

Fourth, and finally. Because under the uncertainties connected with the war, the currency, and future legislation of Congress, the merchant is powerless to effect a sale of his merchandise, while he has lost the control over it which he would have enjoyed if it had been entered in bond.

In view of these things, your memorialists feel that it is their right and their duty to protest against the unequal operation of the joint resolution, if enforced alike against goods that once paid duty in the manner described, and id such was not so admitted to entry when the law was perfected by its return to Congress with the signature of the President affixed thereto, and announced to the collector of the port.

Professing their willingness to abide by laws when duly enacted and duly promulgated, they earnestly desire to be saved from the evils of litigation which will inevitably result from the ambiguities involved in the recent enactment, and the decision so adverse to their interests, to which it has given rise.

And in order that such injustice and such litigation may be avoided, your memorialists would earnestly urge the prompt passage of a joint resolution embracing the following points.

*Resolved*, That the joint resolution of Congress, signed by the President on the 29th day of April last, imposing fifty per cent. additional duties on goods imported, does not apply to goods in bond at the time of the passage of the act, and that the additional fifty per cent. shall not be levied upon goods upon which importers had paid the old duty before notice was received at the different custom-houses that no more duties should be received under the old law.

And your memorialists will ever pray.

[*Tr. S.*]

GEORGE WILSON, Assistant Secretary.

NEW YORK, May 14, 1864.

The memorial was referred to the Committee on Finance.

#### REPORTS FROM COMMITTEES.

Mr. HARLAN, from the Committee on Public Lands, to whom was referred a bill (S. No. 250) to amend the act entitled "An act making a

grant of alternate sections of the public lands to the State of Michigan to aid in the construction of certain railroads in said State, and for other purposes," approved June 3, 1856; reported it with an amendment.

He also, from the same committee, to whom the subject was referred, reported a bill (S. No. 278) prescribing the terms on which exemplifications shall be furnished by the General Land Office; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred a memorial of the Legislature of Wisconsin, in favor of causing all the unsurveyed lands in the State to be surveyed and brought into market at the earliest practicable day, asked to be discharged from its further consideration; which was agreed to.

Mr. FOOT, from the Committee on Public Lands, to whom was referred a bill (S. No. 203) authorizing a grant to the State of California of the Yosemite valley and of the land embracing the Mariposa Big Tree Grove, reported it without amendment.

Mr. HARRIS, from the Committee on the Judiciary, to whom was referred a bill (H. R. No. 355) to authorize the Secretary of the Treasury to stipulate for the release from attachment or other process of property claimed by the United States, and for other purposes, reported it with an amendment.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred a bill (H. R. No. 207) making appropriations for the construction, preservation, and repairs of certain fortifications, and other works of defense for the year ending the 30th June, 1865, reported it with amendments.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a motion to print additional copies of the report of the Commissioner of Indian Affairs, reported the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That twenty-five hundred copies of the report of the Commissioner of Indian Affairs, for the year 1863, be printed for the use of the Commissioner.

#### SELECTION OF SWAMP LANDS.

Mr. HENDRICKS. The Committee on Public Lands, to whom was referred the bill (S. No. 164) to revive an act entitled "An act for the relief of purchasers and locators of swamp and overflowed lands," approved March 2, 1855, and for other purposes, have instructed me to report it back with two amendments, and as it is but one section, and of no great consequence, I suggest that it be passed now.

By unanimous consent the bill was considered as in Committee of the Whole. The first section provides that the act for the relief of purchasers and locators of swamp and overflowed lands, approved March 2, 1855, shall be continued in force and extended to all such lands entered, located, reported, or selected since its passage.

The second section proposes to allow the several States two years in addition to the time limited by the act to extend the provisions of an act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits, to Minnesota and Oregon, and for other purposes, approved March 12, 1860, within which to make selections of swamp and overflowed lands within such several States, and to report the same to the surveyor general of the district in which such lands may be situated.

The first amendment of the Committee on Public Lands was to strike out the first section of the bill.

The amendment was agreed to.

The next amendment of the Committee on Public Lands was in the second line of the second section, after the word "years" to insert "after the passage of this act," so as to read, "that the several States shall be allowed two years after the passage of this act, in addition to the time," &c.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time, and passed. On motion of Mr. HENDRICKS its title was amended to read; "A bill to extend the time within which the States may complete their selections of swamp lands."

#### BILL INTRODUCED.

Mr. LANE, of Kansas, asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 54) providing for changing the time of voting upon the constitution of Colorado; which was read twice by its title, and referred to the Committee on Territories.

#### WILKES COURT OF INQUIRY.

Mr. GRIMES submitted the following resolution:

*Resolved*, That the Secretary of the Navy be directed to communicate to the Senate the proceedings and finding of the naval court of inquiry in the case of Commodore Charles Wilkes.

Mr. SUMNER. Has not the Senate acted on that already?

Mr. GRIMES. No, sir.

Mr. ANTHONY. Such a resolution has been passed, I think.

The resolution was considered by unanimous consent, and agreed to.

#### LAND OFFICE REPORT.

Mr. HARLAN, by direction of the Committee on Public Lands, submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That one thousand additional copies of the last annual report of the Commissioner of the General Land Office be printed for the use of that office.

#### BANK REPORTS.

Mr. HENDERSON submitted the following resolution:

*Resolved*, That the Secretary of the Treasury be, and he is hereby, directed to communicate to the Senate copies of the full reports of the banks, associations, corporations, and individuals doing a banking business, which are required to be made to the Commissioner of Internal Revenue under the act entitled "An act to provide ways and means for the support of the Government," approved March 3, 1863; and that in communicating said reports he be requested to cause those required to be made within thirty days after the 1st day of October, 1863, and those required to be made six months thereafter, to be arranged in separate tables.

Mr. CONNESS. I will suggest to the Senator from Missouri that, as the chairman of the Committee on Finance, whose department it affects, is not in his seat, the consideration of that resolution be postponed until he comes in.

Mr. HENDERSON. I have no objection to that.

The PRESIDENT *pro tempore*. The resolution will lie over.

#### PUBLIC DEBT.

Mr. HENDERSON submitted the following resolution:

*Resolved*, That the Secretary of the Treasury be directed to communicate to the Senate a statement showing the full amount of the public debt of the United States at the present date; and that in making said statement he cause to be arranged separately the several items of said indebtedness; under what law each item occurred, whether it bears interest, and if so, whether in coin or lawful money; the amount of Treasury notes, United States notes, fractional currency, certificates of indebtedness, temporary loans, &c., and the rate of interest, if any, paid on each of said items, with the date and title of the act under which each class was issued.

Mr. CONNESS. I prefer that that resolution should lie over until the chairman of the Finance Committee is in his seat. I notice that it calls for a very voluminous report. I ask the assent of the Senator to its lying over.

The PRESIDENT *pro tempore*. It must lie over, if objected to, and the Chair understands the Senator as objecting.

#### BILL BECOME A LAW.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that the President of the United States had approved and signed, on the 12th instant, an act (S. No. 172) concerning the disposition of convicts in the courts of the United States, for subsisting of persons confined in jails charged with violating the laws of the United States, and for diminishing the expenses in relation thereto.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a bill (No. 421) to pay, in part, for publishing the debates of Congress, and for other purposes.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker

of the House of Representatives had signed the following enrolled bills and joint resolutions:

A joint resolution (S. No. 21) to provide for the printing of official reports of the operations of the Army of the United States;

A joint resolution (S. No. 37) for the payment of expenses incurred by the joint committee on the conduct of the war;

A bill (S. No. 139) for the relief of Margaret M. Stafford, widow of Reuben Stafford, of Goshoot county, Ohio; and

A bill (S. No. 197) for the relief of Charles L. Nelson.

#### HOUSE BILL REFERRED.

The bill from the House of Representatives (No. 421) to pay, in part, for publishing the debates of Congress, and for other purposes, was read twice by its title, and referred to the Committee on Printing.

#### ADDITIONAL ILLINOIS CONGRESSMAN.

The joint resolution (H. R. No. 178) providing for the election of a member of Congress for the State of Illinois by the State at large was read twice by its title.

Mr. TRUMBULL. That resolution is very short, and if the Senate will allow it to be read I think there will be no objection to passing it at once.

The PRESIDENT *pro tempore*. The Senator from Illinois asks the unanimous consent of the Senate to consider the joint resolution now.

Mr. HENDRICKS. Before that consent is given I should like to hear the resolution read.

The PRESIDENT *pro tempore*. It will be read at large for information.

The Secretary read the resolution, which provides that in the election of Representatives to Congress from the State of Illinois the additional Representative allowed to that State by an act fixing the number of the House of Representatives from and after the 3d day of March, 1863, approved March 4, 1862, may be elected by the State at large until the State shall be districted by the Legislature thereof for the election of the fourteenth members to which the State is now entitled by law.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

Mr. TRUMBULL. I can explain in a moment, as the Senate does not seem to recollect, the occasion for this resolution. Under the law as it stood, at the time the apportionment was made, the State of Illinois was entitled to thirteen members of Congress. Her Legislature was then in session and districted the State for thirteen members. Subsequently, the Legislature adjourned leaving these districts for thirteen members. Congress, however, afterwards altered the ratio of apportionment so as to apportion to the State of Illinois fourteen members. The Senator from Vermont [Mr. COLLAMER] understands all about it. That gave us another member, but our State had already been districted for thirteen, and the State has not been redistricted since. We passed a law two years ago allowing the fourteenth member to be elected by the State at large. We have one such member in the House of Representatives now, [Mr. J. C. ALLEN;] and this resolution proposes to continue that law until the State redistricts for the fourteenth member.

Mr. HENDRICKS. I will ask the Senator, was that law limited to one election?

Mr. TRUMBULL. It was limited to one election; and that is the reason why this joint resolution is necessary.

Mr. HENDRICKS. I did not so understand. The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### GREEN CLAY GOODLOE.

The joint resolution (H. R. No. 77) relating to Green Clay Goodloe was read twice by its title.

Mr. POWELL. I ask that that resolution be put on its passage now.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It provides that nothing in the act entitled "An act making appropriations for the support of the Military Academy for the year ending June 30, 1865," approved April 1, 1864, shall be so construed as to prevent the reappoint-

ment of Green Clay Goodloe by the President of the United States to a cadetship at the Military Academy.

Mr. POWELL. This young man, I understand, was appointed by the President to the West Point Academy from one of the seceded States. Previous to his appointment he had been in the Army for two years. He went into the Army when he was about sixteen years old. His examination at the Academy after being there six months was not very good, and, under the advice of the professors, he resigned. The board of visitors, I understand, recommended his appointment; but in consequence of a provision in the Military Academy bill passed this year the President cannot reappoint him. The object of this resolution is to enable him to be reappointed to the Academy. He is said to be a very worthy young gentleman, and this is the only case of the kind. All the others in his condition, I understand, were reappointed before the passage of that law. The Senator from Indiana knows the facts more particularly than I do, and he can state them to the Senate. I hope the resolution will be passed.

Mr. LANE, of Indiana. I have no doubt that this resolution ought to pass. Green Clay Goodloe is now in his eighteenth year. He volunteered as a private early in the war, and served two years faithfully and gallantly. In September last he was appointed a cadet to West Point; but having been in the Army so long at his age he could not stand a very good examination the first year in one of his studies. He was behind only in one study. He was allowed to resign, and the board unanimously recommended him for reappointment. If it had been then done there would have been no difficulty; but he supposed that on the recommendation of the board he would be immediately reinstated without any effort on his part. Hence there was a delay of a few weeks, and until after the law passed April 1, 1864, which prohibited the President from making any appointments from the districts in the seceded States, he having been appointed from the second district of Mississippi.

There were two or three other young men at West Point in precisely the same condition with him. They were advised to resign as Goodloe was, and did resign, and were reappointed before the 1st day of April; Goodloe's case is the only exception. The resolution simply allows the President to reappoint him according to the unanimous recommendation of the academic board. He cannot do it under the law now, because we passed a law saying that he shall not appoint for vacancies in these seceded States. Goodloe was appointed from one of those States, and this resolution simply authorizes the President to reappoint him from the district from which he was originally appointed.

Mr. FOOT. In what branch of study did he fail?

Mr. LANE, of Indiana. That is not stated. The excuse given is that he went into the Army at sixteen, and was eighteen years old at the first examination, the six months examination. The board unanimously recommended his reappointment.

The resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### D. FITZGERALD AND J. BALL.

The PRESIDENT *pro tempore*. The House of Representatives have returned the bill (S. No. 244) for the relief of Daniel Fitzgerald and Jonathan Ball, for which a message was sent by the Senate.

Mr. CHANDLER. I moved the reconsideration of that bill. It was requested to be returned for that purpose.

The PRESIDENT *pro tempore*. The Senator from Michigan yesterday moved a reconsideration of the vote by which the bill was passed by the Senate, and the question will be, "Will the Senate reconsider its vote passing the bill?"

Mr. CHANDLER. I will withdraw the request for its present consideration.

The PRESIDENT *pro tempore*. It will lie over for the present.

Mr. COLLAMER. As I understand, the time for reconsideration will run out soon, and that bill, if it is desired to be reconsidered, should be re-

considered now, and then it may lie for action afterwards.

The PRESIDENT *pro tempore*. The motion to reconsider is entered, which retains the bill, in the opinion of the Chair.

Mr. COLLAMER. I understood the Senator to withdraw it.

The PRESIDENT *pro tempore*. The Chair understands that the Senator from Michigan does not desire present action upon his motion, but the motion stands.

#### MARIPOSA BIG TREE GROVE.

Mr. CONNESS. I now move that the Senate proceed to the consideration of Senate bill No. 203, reported by the Senator from Vermont [Mr. FOOT] this morning from the Committee on Public Lands.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 203) authorizing a grant to the State of California of the "Yosemite valley" and of the land embracing the "Mariposa Big Tree Grove."

The first section of the bill provides that there shall be granted to the State of California the "cleft" or "gorge" in the Granite peak of the Sierra Nevada mountains, situated in the county of Mariposa and the headwaters of the Merced river, and known as the Yosemite valley, with its branches or spurs in estimated length fifteen miles, and in average width one mile back from the main edge of the precipice on each side of the valley, with the stipulation, nevertheless, that the State is to accept this grant upon the express conditions that the premises are to be held for public use, resort, and recreation, and are to be inalienable for all time; but leases, not exceeding ten years, may be granted for portions of the premises. All incomes derived from leases of privileges are to be expended in the preservation and improvement of the property, or the roads leading thereto; the boundaries to be established at the cost of the State by the United States surveyor general of California, whose official plat, when affirmed by the Commissioner of the General Land Office, is to constitute the evidence of the *locus*, extent, and limits of the cleft or gorge. The premises are to be managed by the Governor of the State, with eight other commissioners, to be appointed by the Executive of California, and who are to receive no compensation for their services.

The second section provides that there shall likewise be granted to the State of California the tracts embracing what is known as the "Mariposa Big Tree Grove," not to exceed the area of four sections, and to be taken in legal subdivisions of one quarter section each, with the like stipulation as expressed in the first section of this act as to the State's acceptance, with like conditions as to inalienability, yet with the same lease privilege; the income to be expended in the preservation, improvement, and protection of the property; the premises to be managed by commissioners, as stipulated in the first section, and to be taken in legal subdivisions, and the official plat of the United States surveyor general, when affirmed by the Commissioner of the General Land Office, to be the evidence of the *locus* of the "Mariposa Big Tree Grove."

Mr. CONNESS. I will state to the Senate that this bill proposes to make a grant of certain premises located in the Sierra Nevada mountains, in the State of California, that are for all public purposes worthless, but which constitute, perhaps, some of the greatest wonders of the world. The object and purpose is to make a grant to the State, on the stipulations contained in the bill, that the property shall be inalienable forever, and preserved and improved as a place of public resort, to be taken charge of by gentlemen to be appointed by the Governor, who are to receive no compensation for their services, and who are to undertake the management and improvement of the property by making roads leading thereto and adopting such other means as may be necessary for its preservation and improvement. It includes a grant of a few sections of ground upon which one of the celebrated big tree groves of that State is located, of which most Senators doubtless have heard. The trees contained in that grove have no parallel, perhaps, in the world. They are subject now to damage and injury; and this bill, as I have before stated, proposes to commit them to

the care of the authorities of that State for their constant preservation, that they may be exposed to public view, and that they may be used and preserved for the benefit of mankind. It is a matter involving no appropriation whatever. The property is of no value to the Government. I make this explanation that the Senate may understand what the purpose is.

The bill was reported to the Senate without amendment.

Mr. FOSTER. I should like to ask the Senator from California whether the State of California—

The PRESIDENT *pro tempore*. The Chair must interrupt the Senator to call up the special order of the day, the time fixed for its consideration having arrived.

Mr. CONNESS. I hope it will lie over for the present.

Mr. WILSON. Let it go over informally for a few minutes.

The PRESIDENT *pro tempore*. That course will be taken, if there be no objection.

Mr. FOSTER. I should like to ask the Senator from California whether the State of California has intimated any wish that we should thus make this grant to them, and how it comes about that we propose making it.

Mr. CONNESS. I will state to the Senator from Connecticut and to the Senate, that they may understand it, that the application comes to us from various gentlemen in California, gentlemen of fortune, of taste, and of refinement, and the plan proposed in this bill has been suggested by them, that this property be committed to the care of the State. I submitted the plan as presented by these gentlemen to the Land Office, and the bill now before the Senate has been prepared by the Commissioner of the General Land Office, who also takes a great interest in the preservation both of the Yosemite valley and the Big Tree Grove. Such was the origin of the measure, and such are its purposes.

Mr. FOSTER. I did not by any means mean to intimate any opposition to the bill; but it struck me as being rather a singular grant, unprecedented so far as my recollection goes, and unless the State through her appropriate authorities signified some wish in the matter; it might be deemed by the State officious on our part to make a grant of this kind.

Mr. CONNESS. Ordinarily I should hope I spoke for the State of California here. I feel authorized to do so under existing circumstances. There is no parallel, and can be no parallel for this measure, for there is not, as I stated before, on earth just such a condition of things. The Mariposa Big Tree Grove is really the wonder of the world, containing those magnificent monarchs of the forest that are from thirty to forty feet in diameter.

Mr. DAVIS. How old?

Mr. CONNESS. Well, sir, they are estimated to reach an age of three thousand years. There are two such groves in the State. One is known as the Mariposa grove, the one contemplated in this bill; and the other is known as the Calaveras grove. From the Calaveras grove some sections of a fallen tree were cut during and pending the great World's Fair that was held in London some years since. One joint of the tree was sectionized and transported to that country in sections, and then set up there. The English who saw it declared it to be a Yankee invention, made from beginning to end; that it was an utter untruth that such trees grew in the country; that it could not be; and, although the section of the tree was transported there at an expense of several thousand dollars, we were not able to convince them that it was a specimen of American growth. They would not believe us. The purpose of this bill is to preserve one of these groves from devastation and injury. The necessity of taking early possession and care of these great wonders can easily be seen and understood.

Mr. FOSTER. I certainly did not mean to say anything which implied that the honorable Senator from California had not the most perfect and entire right to speak for his State, and I am at a loss to understand what I was so unfortunate as to say which led him to suppose that I doubted it.

The bill was ordered to be engrossed for a third reading, and was read the third time, and passed.

#### PAY OF COLORED TROOPS.

The PRESIDENT *pro tempore*. The Senate will now resume the consideration of the unfinished business of yesterday; being the amendment of the House of Representatives to the bill (S. No. 145) to equalize the pay of soldiers in the United States Army, the pending question being upon the amendment of the Senator from Iowa [Mr. GRIMES] to the ninth section of the amendment of the Committee on Military Affairs to the House amendment. The Senator from Iowa proposed to strike out the word "colonel" and insert "major," so as to give the Assistant Judge Advocate General the rank, pay, and emoluments of a major of cavalry.

The question being taken by yeas and nays, resulted—yeas 24, nays 12; as follows:

YEAS—Messrs. Anthony, Buckalew, Chandler, Clark, Collamer, Davis, Doolittle, Foot, Foster, Grimes, Hale, Harlan, Harris, Henderson, Howe, Johnson, Morrill, Pomeroy, Ramsey, Richardson, Trumbull, Van Winkle, Wade, and Wilkinson—24.

NAYS—Messrs. Conness, Dixon, Hendricks, Lane of Indiana, Lane of Kansas, Morgan, Nesmith, Powell, Saulsbury, Sumner, Ten Eyck, and Wilson—12.

ABSENT—Messrs. Brown, Carlile, Cowan, Fessenden, Harding, Hicks, Howard, McDougall, Riddle, Sherman, Sprague, Willey, and Wright—13.

So the amendment of Mr. GRIMES was agreed to.

Mr. FOOT. The question now recurs on agreeing to the amendment of the committee.

The PRESIDENT *pro tempore*. That ordinarily would be the question; but the yeas and nays were ordered and taken yesterday on that question. Perhaps, however, that vote may have been regarded as reconsidered, and the vote will be again taken.

Mr. FOOT. That is what I supposed. The vote on agreeing to the amendment of the committee was reconsidered with a view to reach this amendment.

Mr. POWELL. I desire to offer an amendment to the first section of the committee's amendment, to strike out and insert, if it be in order.

The PRESIDENT *pro tempore*. That is not in order at the present time.

Mr. POWELL. Will it be in order after this vote is taken?

Mr. WILSON. Let the amendments of the committee be disposed of. There are some other amendments yet.

The PRESIDENT *pro tempore*. The question now is on the amendment of the committee as amended, to insert the eighth, ninth, and tenth sections. On this question the yeas and nays were yesterday ordered and taken, but the Chair will put the vote *viva voce* unless some Senator desires the yeas and nays again.

The proposed sections were read, as follows:

Sec. 8. *And be it further enacted*, That there shall be attached to, and made a part of, the War Department, during the continuance of the present rebellion, a bureau to be known as the Bureau of Military Justice, to which shall be returned for revision the records and proceedings of all the courts-martial, courts of inquiry, and military commissions of the armies of the United States, and in which a record shall be kept of all proceedings had thereupon.

Sec. 9. *And be it further enacted*, That the President shall appoint, by and with the advice and consent of the Senate, as the head of said bureau, a Judge Advocate General, with the rank, pay, and emoluments of a brigadier general, and one Assistant Judge Advocate General, with the rank, pay, and emoluments of a major of cavalry. And the said Judge Advocate and his assistant shall receive, revise, and have recorded the proceedings of the courts-martial, courts of inquiry, and military commissions of the armies of the United States, and perform such other duties as have heretofore been performed by the Judge Advocate General of the armies of the United States.

Sec. 10. *And be it further enacted*, That the Secretary of War shall have power to appoint for said bureau one fourth class, one third class, one second class, and two first class clerks.

Mr. HALE. Is it in order to amend that amendment?

The PRESIDENT *pro tempore*. It is.

Mr. HALE. Then I move to amend it by striking out the words "with the rank, pay, and emoluments of a brigadier general," and inserting "with a salary of \$5,000 per annum," for the Judge Advocate General; and by striking out the words "with the rank, pay, and emoluments of a major of cavalry," and inserting "with an annual salary of \$3,500," for the assistant.

Mr. WILSON. Is that amendment in order?

The PRESIDENT *pro tempore*. As a question of order is raised, the Chair will state that the House of Representatives amended the bill by striking it out and inserting a substitute for it; and

that substitute returning here, is to be considered as an original bill. To that bill, the Committee on Military Affairs propose an amendment, and that amendment is now open to amendment.

Mr. HENDRICKS. I wish to make another point of order. The Senate by a vote has inserted certain words in the section, and now the motion of the Senator from New Hampshire is to strike out those words and to insert others. I know that a few weeks ago, when I proposed just in this stage of a bill so to strike out and insert, the President of the Senate decided that it could not be done, because that would be simply undoing what the Senate had immediately before done.

The PRESIDENT *pro tempore*. That is a new point of order, and the Chair will make inquiry, in regard to it, as he was not occupying the chair at the time the amendment referred to was made.

Mr. HALE. Will the Chair allow me a single moment? I appreciate the point taken by the Senator from Indiana, and if I had moved to strike out only the words which the Senate inserted, the motion would not be in order; but I have moved to strike out other words with them, and to insert a substitute. My amendment, therefore, is in order.

The PRESIDENT *pro tempore*. The Chair is informed that this amendment is not precisely what the Senator from Indiana supposed, but it is to strike out other words also which have been inserted, and further to insert words. That is in order.

Mr. FOOT. The amendment of the Senator from New Hampshire proposes not only to strike out the words which have been inserted on a distinct motion, but other words in connection with them, which makes it a different proposition.

The PRESIDENT *pro tempore*. The Chair has no doubt of it.

Mr. CONNESS. I call for the yeas and nays on the amendment of the Senator from New Hampshire.

The yeas and nays were ordered.

Mr. DAVIS. I am opposed to the amendment. I hold that the officer to whom it is proposed to give a salary of \$5,000 a year, the Judge Advocate General, is nothing but a military justice of the peace; and I am utterly opposed to paying a military justice of the peace \$5,000 and his deputy \$3,500 salary.

Mr. TRUMBULL. But without the amendment he will get more than that. The amendment reduces the salary. If the Senator is opposed to giving him \$5,000 he will not accomplish his object by voting against the amendment, for if the bill stands as it is, without the amendment, he will have \$6,000.

Mr. DAVIS. I did not so understand the facts. I thought he would get about four thousand eight hundred.

Mr. HALE. No; \$6,000.

Mr. DAVIS. Very well. I will vote for the amendment—anything to reduce the salary of a military justice of the peace!

The question being taken by yeas and nays, resulted—yeas 22, nays 12; as follows:

YEAS—Messrs. Anthony, Buckalew, Clark, Collamer, Davis, Doolittle, Foot, Foster, Grimes, Hale, Harlan, Harris, Henderson, Johnson, Lane of Kansas, Morrill, Pomeroy, Saulsbury, Ten Eyck, Trumbull, Van Winkle, and Wilkinson—22.

NAYS—Messrs. Conness, Dixon, Hendricks, Lane of Indiana, Morgan, Nesmith, Powell, Ramsey, Richardson, Sumner, Wade, and Wilson—12.

ABSENT—Messrs. Brown, Carlile, Chandler, Cowan, Fessenden, Harding, Hicks, Howard, Howe, McDougall, Riddle, Sherman, Sprague, Willey, and Wright—15.

So the amendment to the amendment was agreed to.

The amendment as amended was adopted.

The PRESIDENT *pro tempore*. The next amendment reported by the committee will be read.

The Secretary read, as follows:

Sec. 11. *And be it further enacted*, That in all cases where the Government shall furnish transportation and subsistence to discharged officers and soldiers from the place of their discharge to the place of their enrollment, or original muster into the service, they shall not be entitled to travel, pay, or commutation of subsistence.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The next proposition of the committee is to amend the fourth section of the amendment of the House of Representatives by adding the words "without rations."



Mr. TEN EYCK. I wish to have the sense of the Senate on this proposed amendment. I understand that its effect will be to take about three hundred dollars, which is the value of the rations a paymaster's clerk receives, from the emoluments he will receive if the amendment does not prevail. The fourth section of the House amendment which it is proposed to amend reads as follows:

*And be it further enacted, That from and after the passage of this act the pay of clerks of paymasters in the Army of the United States shall be \$1,200 per annum.*

The proposed amendment is to add to that section the words "without rations," so that the effect of the amendment, if it prevails, will be to confine the salary of the paymasters' clerks to \$1,200 per annum, \$100 a month. As salaries are being paid, to efficient officers discharging duties of this responsible character that in my opinion will be too low. Most of the paymasters' clerks are men of efficiency in business; the character of their employment requires that they should be so, and the responsibility is a very great one. They receive, I think, now about one thousand dollars a year.

Mr. RICHARDSON. I think they receive seventy-five dollars a month, and a ration a day.

Mr. TEN EYCK. My impression is from what I have heard on this subject, though I have not been particularly informed, that the receipts of a paymaster's clerk heretofore have been about one thousand dollars per annum. I know that many men who were in quite good business at home sought these positions with the idea that they were to better their condition by them; some of them men of good business qualifications, and married persons; and they have found that they cannot possibly live and maintain themselves here on that salary, and many of them have held on with a hope and expectation that their salaries would be increased. I think we should do more harm and injury to the public service in this branch of it by adopting a measure which will in all probability deprive the public service of the services of men of good character, men of the class that have been employed in these positions, than by suffering the section to stand as the House of Representatives have passed it. With that view, I shall content myself with asking for a vote of the Senate on the amendment proposed by the committee.

Mr. WILSON. The House of Representatives, in the fourth section of their amendments to this bill, provide that hereafter the pay of clerks of paymasters in the Army shall be \$1,200 per annum. I believe now the paymasters' clerks receive \$700 per annum and their traveling expenses, or so much a mile when traveling, and a certain amount for rations, amounting, I think, to about two hundred and seventy dollars a year. Their whole pay is about nine hundred and seventy dollars a year, including the rations. The Senate Committee on Military Affairs thought this a very large increase from \$700 to \$1,200 for these officers. We thought that if we allowed these clerks \$1,200 without rations, when they have heretofore had \$700 with rations and their actual traveling expenses, it would be sufficient. We propose to put them on the same footing with first-class clerks in the various Departments here, \$1,200 a year, without any ration. If they get the ration they will get something like one thousand four hundred and seventy dollars. We thought this a very large increase. We thought \$1,200 a year would be ample, and therefore we offered this amendment to insert the words "without rations," so that they will get the round sum of \$1,200 a year.

Mr. JOHNSON. It is true that the amount which the bill will give, as it is proposed to be amended, is the same as is given to many of the clerks in the civil departments of the Government; but the responsibility of this particular class of clerks is very great.

Mr. WILSON. That is the paymaster's responsibility.

Mr. JOHNSON. I know it is the paymaster's responsibility; but the paymaster, in the nature of things, is obliged to trust to his clerk, and he requires a bond from the clerk, and the Government requires a bond from the paymaster, and that bond is about twenty thousand dollars. I have reason to know that a good many of these paymasters have lost very considerably, either by the want of in-

tegrity on the part of their clerks or by the want of efficiency; and the paymasters with whom I have conversed have become satisfied that such a salary should be offered as would secure first-rate men. It is not only the capacity that we want, but it is the character that we want. There is not one of these paymasters' clerks now who is considered as entirely adequate to the duties of the station, considering all its responsibility and capacity, who cannot get more by going into private employment than he is getting here. The amount now, I believe, is about eight or nine hundred dollars a year. This will raise it to \$1,200 if you take away the ration, and the whole increase will be some two or three hundred dollars. The ration amounts to between two and three hundred dollars, I believe—\$270 I am told. This, then, would give them \$1,470 without the amendment of the committee.

Now, I submit to the Senate, looking to the character of the service that these men are obliged to perform, that that is quite a small sum to give them; and no matter how vigilant the paymaster may be, it is impossible that he shall not be obliged at times to rely on the capacity and integrity of his clerk. I hope, therefore, that the amendment proposed by the committee will not be adopted, but that these clerks will get their \$1,200, as the other House intended, with the ration.

Mr. ANTHONY. There is another reason, I understand, why this amendment should not be adopted. I understand that the paymasters' clerks who are constantly compelled to travel in discharge of their duties have no allowance for that. I understand that out of their salary they have to pay their traveling expenses, and that would probably reduce the net salary proposed to be allowed as low as that of the first-class clerks in the Departments, and they certainly have much higher responsibilities than first-class clerks in the Departments.

Mr. TEN EYCK. Mr. President, there are four classes of clerks in the Departments, first, second, third, and fourth class, with the respective salaries of \$1,200, \$1,400, \$1,600, and \$1,800. I venture to say there is not a clerk in either one of these Departments of any value who has not been advanced one or two grades in his clerkship within the period of time that most of the clerks of paymasters have been in the service; and I myself have no idea from the little knowledge I have of the relative duties performed by these different classes of persons, that the duties and responsibilities of the clerks in the Departments approximate at all to the responsibilities and duties of the paymasters' clerks in the Army. Many of them from the North are in the South, at New Orleans, near Charleston, and at other points, exposed to all kinds of hardships and exposures, want of quarters and everything of that kind, and many of them, scores of them, are first-rate men whom the Government cannot very well have displaced that a new lot may come in untried and inexperienced. It cannot well afford to lose the services of those men who must resign these positions, many of them, unless this increase of salary shall take place. I have never shown a disposition to encroach on the Treasury; and yet I can understand that there is as much reason in this thing as there is in giving \$5,000 to the head of the new bureau which we are about establishing, although the relative service of each class of officers is very different. I do not mean to make any struggle about it or contest it, but it strikes me as being manifestly just and reasonable, and therefore it is that I insist upon a vote on the amendment.

Mr. RICHARDSON. I am in favor of the highest salary proposed by the honorable Senator from New Jersey for the clerks of paymasters, and would vote for even a higher one. The paymaster's clerk discharges a more important and responsible duty than clerks here in your Departments, and you pay some of them \$1,800. A paymaster of necessity is constantly on the move, and he has to take his clerk with him. Every month, or every two months—that is as often, I believe, as they are paying now—they travel from the place where they make their payments to the place where they receive their money, the general headquarters, wherever that may be. You propose to make them discharge the most responsible duty of a paymaster in that department, that they shall do all this traveling and all this ser-

vise for \$1,200 a year. It is entirely too small and ought to be more.

Mr. HENDERSON. Before I vote I desire to ask the chairman of the Committee on Military Affairs if, in addition to this compensation, these clerks will be entitled to traveling expenses under the law if this amendment be adopted.

Mr. WILSON. I am not able to answer that question definitely; but I have always understood that the pay of a paymaster's clerk was \$700 a year, actual traveling expenses, no more, and one ration a day, and that the ration in the aggregate amounted to about two hundred and seventy dollars a year, making about nine hundred and seventy dollars in all. This increase of pay, as I understand it, would be an addition of \$500 a year to each paymaster's clerk. The committee thought it too large an increase. That they had too little, nobody can doubt. The pay is very small, \$700 a year to a competent man. We thought, however, that \$1,200 a year without any rations, putting them on the same footing with first-class clerks, would be about right. If the Senate thinks otherwise, very well.

Mr. HENDERSON. I presume that if these clerks were entitled to traveling expenses before they certainly will be under the law if the amendment be passed as now proposed.

Mr. WILSON. Certainly.

Mr. HENDERSON. In that view of the subject, I shall vote against any increase of payment.

Mr. JOHNSON. I never heard that they get any traveling expenses.

Mr. HENDERSON. We certainly ought to be able to determine about that. That is a very important consideration. If traveling expenses are paid to these clerks it ought to be known.

Mr. JOHNSON. If there are any traveling expenses paid they are actual traveling expenses.

Mr. HENDERSON. It is a very great item.

Mr. JOHNSON. My impression is they are not allowed anything.

Mr. HENDERSON. My impression is that they were always paid their actual traveling expenses and something more, so much a mile for the actual amount of travel. It seems to me highly important that we should know in reference to this matter if traveling expenses are paid. My impression is that this is a sufficient compensation, and I shall vote against the increase. I shall vote against it from a very general principle which actuates me in this matter. I do not know that any very great demand has been made on Congress to increase the compensation of these clerks. We are increasing the compensation of almost every officer connected with the Army, and of privates. Against the latter I make no complaint; but wherever an opportunity is presented of making a new office we make it and give it emolument and compensation that, it seems to me, we ought to avoid with the finances of the Government in their present condition. We are increasing compensations to such an extent that if carried on for another year at the same rate, (and it may be that we shall not get through with this war in another year,) I fear that our finances will break down under the load that we are imposing on them, and in my judgment it is just as important to guard against a failure of finances as to guard against a failure of our troops in the field; and certainly we are legislating somewhat recklessly here day after day in reference to every important point. We cannot expect to carry on this war after our condition is such that we cannot borrow money any longer to conduct it. We must rely upon loans in order to conduct it, because it cannot be expected that the people can bear the taxation from year to year necessary to raise \$1,000,000,000. When once we have broken down the credit of the Government, (and we cannot do it more successfully than by increasing salaries in every shape and form,) we cannot expect then to make loans to carry it on. It really seems to me that we are pursuing rather a reckless course, such a course as an individual would likely pursue if he had made up his mind that he did not intend to pay his debts. We are acting with a degree of extravagance in increasing pay where it has not been asked. I have never been aware that paymasters' clerks have made any representation to Congress on this subject. Have they done so?

Mr. JOHNSON. Certainly.

Mr. HENDERSON. I believe everybody else has done so too; and if we sit here and listen to complaints of this character we shall have nothing else to do but to increase compensation. Everybody desires an increase of his compensation, of course; but there is a point beyond which we ought not to go; and every man who feels any interest in preserving the credit and the character of the Government in times when we need credit, I think should begin to look to upholding and preserving it and to gathering up the ends wherever we can. In that view of the subject I have voted continually against all these measures which, though not so intended, will have the effect of crippling the finances of the Government, and I shall continue to vote against them.

It has been suggested that gentlemen of high integrity ought to be employed in places of this sort. I grant that; but take the young men who have had charge of the finances perhaps of large mercantile firms in this country for the last five or six or ten years, men of undoubted integrity, men of probity, men of character, who have sought places of this sort; and what sort of compensation had they been receiving before the war? Not exceeding \$500 or \$600 a year. Such men could be employed at fifty dollars per month, men of tried honesty, of tried capacity, of integrity, and fidelity. We all know that fact. Since the war commenced, they are getting here \$1,000 a year, and we propose to increase it to \$1,200; and Senators tell us that is not enough. I know that men who could have been employed before the war commenced for \$300 or \$400 or \$500 a year ought to have more now in consequence of the condition of the currency than they had then; but men who were employed at the price that I have stated have sought these places at \$700 a year with a ration a day, making it \$970, as I understand. Men have been found all over the country to seek these places at that salary, and have been able to give the bonds required, men of tried capacity and tried integrity. I do not see any necessity for increasing the pay. I would not throw anything in the way of a fair and just compensation to these young men; they deserve it; but we ought to begin to look at a very early day to the result, the consequences upon our condition of this reckless sort of legislation.

I see no reason for increasing the compensation unless we fail to get the right sort of men. If the compensation heretofore has failed to get men of capacity and integrity, we ought to increase it; but I have heard no complaint of that character. I suppose that there is no difficulty on the part of paymasters in acquiring the right material for clerks. I have not heard so, and until some Senator tells me that there is a difficulty in getting the right material, I shall be unwilling to support such an increase of compensation as is now proposed. Here is a large increase, an increase of \$300 beyond what they have enjoyed heretofore, and yet I do not hear that there is any difficulty in procuring clerks. Then why the necessity of the increase at all? I have heard no want of integrity charged against these clerks. I have not heard that they have injured the Government by purloining the funds belonging to the paymasters. If so, I presume the paymasters' bonds have been sufficiently good. If paymasters have been able to get good men, why increase the compensation? If good men can be obtained at present prices, why increase them? Why increase them unless we want to bring down the credit of the Government? I shall vote against all such propositions.

Mr. TEN EYCK. It is a little singular that we should not be able to ascertain whether these paymasters' clerks have their traveling expenses paid or not. Not having any charge of matters of this kind, I am unable to say how the fact is; but by reference to the official Register I see a statement of what they do receive; and it is as follows:

"Paymasters' clerks, in addition to the \$700 per annum, are entitled, under the fifth section of the act of August 31, 1852, to one ration per day, commuted at seventy-five cents when on duty at their station."

There is nothing said upon the subject of traveling expenses; and I presume the fact is, although I do not know it to be so, that they generally are furnished with transportation by the quartermaster's department, as the paymasters themselves are, as a general rule, when being transferred from one section of the country to

another. I think that is likely to be the state of the case, although I do not know it; and it is not unreasonable that I should be in ignorance of it when the mind of the chairman of the Committee on Military Affairs is uncertain as to the fact. The allowance, as stated in the official Register, amounts to about the sum stated by the Senator from Massachusetts. The proposition of the House of Representatives is to increase the salary to \$1,200, and to leave them the ration commuted at seventy-five cents per day; and that the Senator from Missouri characterizes as reckless legislation, which is to produce ruin and bring us to bankruptcy. If we are near national bankruptcy as that, I apprehend this will not have the effect of making the disease any more fatal, though I know it is the last feather that breaks the camel's back. I consider this an important matter to a certain extent.

The Senator from Missouri says we have had no difficulty in acquiring the services of valuable and efficient persons in this branch of duty. I grant you we have had no difficulty in filling up these appointments, as we have had no difficulty in filling up every civil and military appointment in the public service. There always are scores and hundreds of persons who, by reason of embarrassments at home, failures in business, and more particularly a desire to get into the public service, press forward to fill these places; and after they get in and have experience of the duties they are called upon to perform and the pay and rations received, scores of them are just as anxious to go out as they were to get in originally. I know individuals, competent men, who have resigned their clerkships to paymasters, on the ground that the salary would not maintain them in the service, and I know that there are now numbers of them awaiting the action of the present Congress to determine whether they remain in the service or not. I have no doubt you can fill up all these places; but I fear it will be by an inferior class of men, and that the public will sustain detriment and injury in consequence of this change.

I have no particular feeling about it further than the facts have come to my mind incidentally by the conversation of persons who are interested in these appointments. It will be perfectly satisfactory to me whether the amendment prevails or fails. I know that we have increased salaries, and the salaries of men high in command, and increased them in a very great ratio, to the amount of thousands; and I do not know why the necessary increase of salary should not be extended to the efficient, worthy men who are occupying inferior stations, and yet who are performing most valuable and important services to the Government. This is the way it strikes me, and this is the reason that controls my action in this matter.

Mr. HALE. I remember, sir, about two months ago I guess it was, a bill was reported by the Naval Committee to increase the pay of the clerks of paymasters in the Navy, which is very low indeed, not more than half the pay of the paymasters' clerks in the Army, and the Senate had a fit of economy, and finally voted that they would not raise it, that they must remain as they were. The Navy Department thought it was impossible to get along under the then existing state of things, and for the purpose of having a few competent persons in these places they recommended a bill which was reported to the Senate and finally passed, by which the pay of some few of them was raised, and paymasters of vessels having a complement of less I think than one hundred and seventy-five men were left without any clerks. The Senate actually refused to raise the salaries of paymasters' clerks in the Navy when they were not half what they were in the Army. As Congress was so economical in that respect, I think they had better adhere to it still, and as they would not do anything for paymasters' clerks in the Navy, let the paymasters' clerks in the Army stand as they are.

Mr. WILKINSON. I think the Senator from New Hampshire advocated the proposition which was rejected, to increase the pay of the paymasters' clerks in the Navy.

Mr. HALE. Yes, sir, but, as I advocated it, the highest would not be equal to a paymaster's clerk in the Army.

Mr. WILKINSON. They do not have as much business to do. If the Senate did wrong

the other day, that is no reason why it should not do right now. I believe there is no class of clerks under the grade of fourth-class clerks in the Departments, who draw \$1,800 a year; that have such important duties to perform as these paymasters' clerks in the Army. It is a fact that many honest and capable paymasters at the commencement of this war, when they entered upon their duties, lost more than their entire pay by the mistakes and difficulties they had to encounter in ascertaining their duties. I think everybody who understands this business will agree with me that the duties of a paymaster are the most difficult duties that almost any of our Army officers have to perform, and unless his clerk is a very correct and careful officer the paymaster will be very likely to make such mistakes as to involve his securities. I do not know of any class of persons who should be more careful and more efficient and require more ability than the persons now under consideration. Look at the first-class clerkships in this city. Some of those who do mere clerical duty, nothing but the plainest and simplest copying, receive \$1,200 a year. A paymaster goes out to the Army with eighty or ninety thousand dollars. A perplexing question may arise in regard to almost every man whom he pays, whether he should be paid twenty dollars bounty or fifty dollars bounty, and so on. If the least mistake is made, a mistake of a very trifling sum for each individual would amount to a great deal in the aggregate. I think, myself, that \$1,400 a year is a very reasonable compensation; and considering that these parties are disbursing millions upon millions and hundreds of millions of dollars of Government money, I think we should pay enough to secure the services of the best business men we can get.

Mr. GRIMES. I think I can settle one of the questions that have been raised, and that is as to the payment of the expenses of transportation of these clerks. The act of April 24, 1816, was the first act of Congress that mentioned paymasters' clerks. By that act it was provided

"That regimental and battalion paymasters shall receive the pay and emoluments of major, and shall each be allowed a capable non-commissioned officer as clerk, who, while so employed, shall receive double pay and the actual expense of transportation while traveling under orders in the discharge of his duty."

That was the basis of all the laws adopted by Congress in relation to paymasters' clerks, and that portion of it which says that the clerk shall receive the actual expense of transportation while traveling under orders in the discharge of his duties stands unrepealed.

Then the act of July 5, 1838, declared

"That whenever suitable non-commissioned officers or privates cannot be procured from the line of the Army to serve as paymasters' clerks, paymasters be, and are hereby, authorized and empowered, by and with the approbation of the Secretary of War, to employ citizens to perform that duty, at salaries not to exceed \$500 per annum."

There is a note in Brightly's Digest to this section which says: "This section relates to clerks of paymasters paying the regular Army, and not to the paying of militia and volunteers;" and a reference is made to the fourth volume of Opinions of the Attorneys General, page 94.

It would seem from this that this institution of paymasters' clerks has grown up from a very small beginning; that instead of taking a non-commissioned officer or private as we did a few years ago and doubling his pay as a non-commissioned officer or private, we have now got so as to pay these clerks already \$970 a year, and it is proposed to increase that salary to \$1,470. A comparison has been drawn between the services that they are compelled to render and our clerks here in the Treasury and other Departments. Every man forms his own judgment as to the relative merits of these different aspirants for pecuniary favors at our hands, and as to the kind of responsibility that each of them is compelled to bear, and the duties that he is compelled to perform; but I must confess that if I had my choice to be a paymaster's clerk at \$1,470, or a clerk in one of the Departments in this city at \$1,800 a year, I should infinitely prefer being a paymaster's clerk at \$1,470, having transportation wherever I might be ordered to go, living at the public expense as they do on the transport vessels upon which they are ordered. What are the great responsibilities that they are compelled to undergo? Our rule is that the responsibility rests upon the paymaster,

and originally he was the man who made out all the muster-rolls, paid all the money, and it is only a recent thing that he has been allowed a clerk; and now, forsooth, it is said that this infinite amount of responsibility, which has been supposed to rest upon the paymaster rests upon his clerk. I do not look at it in that light. I look at it a good deal as the Senator from Missouri does. I am willing to pay these clerks a reasonable compensation; I am willing to pay them what I believe their services are fairly worth. I know that just as competent men as are employed by any of these paymasters can be procured at the rate which the chairman of the Committee on Military Affairs has proposed to give them, and are being employed now by paymasters. Why at this particular moment, when our finances are in the condition that they are said to be in, whenever an opportunity is presented to increase the salary of an officer, we should immediately avail ourselves of it and raise his salary, I do not see.

Mr. WILSON. I will simply say that if the amendment of the Committee on Military Affairs be adopted it will make the increase of the compensation of these officers about two hundred and thirty dollars a year. If it is not adopted, the increase will be \$500 a year. I cannot say what the House of Representatives intended in passing the bill, nor what the Committee on Military Affairs in the House of Representatives intended when they reported the bill; but the chairman of the committee in advocating it stated that they proposed to put these clerks on the same footing as first-class clerks, and the inference is that they expected to pay these men \$1,200 a year, and that that should be the whole of it.

Mr. MORRILL. I understand that as the law has stood heretofore the compensation of these clerks was about nine hundred dollars.

Mr. GRIMES. Nine hundred and seventy-five dollars.

Mr. MORRILL. Possibly it was a fraction over. This bill increases it to \$1,200, and that is the pay of a first-class clerk, the lowest class, in one of your Departments; and that is the smallest pay of all your subordinate officers. I believe most of the Capitol police about here get from twelve to fourteen hundred dollars. If you reject this amendment and give them their rations the pay will amount to about fourteen hundred and seventy-five dollars, which is a little more than the pay of a second-class clerk in the Departments. I should say on comparison that that was not unfair or unreasonable. If this thing is to go by comparison, and the duties of these clerks compare with the duties which are devolved on the young gentlemen who are employed in these Departments, certainly the pay contemplated by the amendment is too large. It is that of a second-class clerk. I do not think anybody will doubt that the duties devolved on the young gentlemen in this position are certainly equal to those of a second-class clerk in the Departments.

I think I ought to state this fact communicated to me yesterday by one of these clerks: it has obtained as a general practice by the paymasters heretofore to make the salary of these young gentlemen equal to that of first-class clerks. I am informed that most of the paymasters, in order to retain these clerks in their employment, have been in the habit of paying them the difference between the compensation allowed by law—which is a little over nine hundred dollars: the Senator from Iowa says \$975—and \$1,200, the compensation allowed to first-class clerks in the Departments. If the compensation of a paymaster was only just before, it is not exactly fair for us to impose upon him the burden of paying that additional compensation to his clerk. I do not judge of that. I have no means of judging of it. On the whole, considering the fact that the clerk of the paymaster is taken abroad, is liable to be sent on duty anywhere, and must of course be subjected to extraordinary expenses oftentimes, I do not think it unreasonable that he should have the pay of a second-class clerk; and I shall therefore vote against the amendment.

Mr. COLLAMER. I desire to have the question before the Senate stated.

The PRESIDING OFFICER. (Mr. FOSTER in the chair.) The question is on the amendment of the Committee on Military Affairs to amend the fourth section of the amendment of the House of Representatives by adding the words, "with-

out rations;" so that the section, if amended, will read:

SEC. 4. *And be it further enacted*, That from and after the passage of this act the pay of clerks of paymasters in the Army of the United States shall be \$1,200 per annum without rations.

The amendment to the amendment was agreed to.

The next amendment of the committee was to strike out the sixth section of the House amendment, in the following words:

SEC. 6. *And be it further enacted*, That the provisions of the first section of this act shall terminate and expire at the end of the present rebellion.

The amendment to the amendment was agreed to.

Mr. WILSON. I move to amend the seventh section of the amendment of the House by striking out the word "bill" and inserting "act." It now reads "provisions of this bill;" it should read "provisions of this act."

The amendment to the amendment was agreed to.

Mr. WILSON. I propose to reconsider the amendment of the committee which was adopted as section six. It is as follows:

SEC. 6. *And be it further enacted*, That when the rank, pay, and emoluments of any officer are declared by law to be those of a specified military grade, he shall be entitled to the pay and emoluments of that grade, and no more, any previous law or usage to the contrary notwithstanding.

I wish to say that that amendment was intended to reach a particular case which I think ought to be corrected by legislation. It was framed upon some letters of correspondence between the Second Comptroller of the Treasury and some of the officials of the War Department in which the Treasury construction was overruled. I think we ought to have some legislation to correct such a case; but I am told that by a certain decision in the paymaster's department this amendment will be construed to reach cases that the committee did not intend and which I think ought not to be disturbed; that it will reach the fuel and quarters allowed to officers and will touch the allowances to generals commanding departments or officers commanding particular posts under the act of 1847. If that be the case, I think we had better reconsider it and not press it on this bill. Then we can take the subject up, and before the adjournment of Congress, I think, we can frame a measure that will do precisely what we intend without doing injustice to anybody or disturbing the existing relations. I therefore move to reconsider this amendment, in the hope that if it should be reconsidered we shall then reject it.

Mr. JOHNSON. I was about to call the attention of the chairman of the Committee on Military Affairs to what I understand will be the construction of that section, if it is permitted to remain in the bill, by the pay department. I heard this morning that the Paymaster General is of opinion that if this particular section should become a law it will take from all those officers the allowances for fuel, rations, &c. I do not see exactly how that could be so, but that I am told is the construction put upon it by the Department. I was convinced before I mentioned the subject to the chairman of the committee that that was not his purpose nor the purpose of the committee. I understand the motion of the Senator from Massachusetts is to reconsider with a view to reject this amendment and provide for it afterwards.

Mr. WILSON. Yes, sir.

Mr. HALE. It seems to me that it must be a very strange state of things that requires this section to be reconsidered and rejected, and a very strange state of things that required it to be enacted. It is in these words:

That when the rank, pay, and emoluments of any officer are declared by law to be those of a specified military grade, he shall be entitled to the pay and emoluments of that grade, and no more, any previous law or usage to the contrary notwithstanding.

That is simply saying that when the law says his compensation shall be so much it shall be that and no more.

Mr. COLLAMER. It implies that they get more than they are entitled to.

Mr. HALE. Yes, sir; it implies that they are in the habit of getting more than the law gives them, and that they are desirous of having that license continued. I hope the Senate will not continue it. If there is any such practice as that this provision is wanted, eminently wanted.

Mr. CONNESS. I may as well state that the

object and purpose comprehended here was not that it should reach every officer of certain grades, but that it should reach one or more cases where abuses are supposed to exist. As stated by the honorable Senator from Maryland, if this section should be adopted it will receive a construction that will be unjust to a great many officers who have been receiving more than they were entitled to, and I hope the reconsideration will take place.

Mr. WILSON. I will simply say to the Senator from New Hampshire that the case sought to be corrected grew out of this construction: by the act of 1847 the Adjutant General was allowed double rations; and the act creating the office of Adjutant General provides that he shall have the rank, pay, and emoluments of a brigadier general. The Adjutant General, by the practice of the Department, now draws twenty-seven rations a day, three rations for servants and twenty-four for himself. He would draw twelve rations if the latter construction prevailed. But this same law of 1847 allows double rations to generals commanding in the field, generals commanding departments, and officers commanding separate posts. The committee believe that to be proper. It was made for the purpose of meeting certain expenses, and we thought it had better not be disturbed in the present condition of the war; but we wanted to correct a construction here. It is said, however, by persons in whose judgment I have great confidence, that the construction of this section by the pay department would rule out fuel and quarters. I do not believe it. I do not believe it would be a fair construction of the section if it should be passed; but if there is any possibility of it I do not think we ought to disturb it. I simply propose to reconsider this amendment, as it is possible this construction may be put upon it, and take up the matter anew, and in some other measure report the proposition in such a form as will correct abuses, and at the same time not disturb what is a fair construction of the present law and the settled policy of the Government—settled for good reasons.

Mr. HALE. I shall not insist on this, but I want to call the attention of the Senate to this case as an illustration of this vicious mode of paying salaries. We do not know what we are paying, and we do not know what is to be paid by it, and we do not know what construction is to be put upon it, and some of these allowances are subject to be increased or diminished by a regulation of the Department. I hope the Senate will look into it, and I hope that every officer that can be paid by a fixed salary will be so paid, and that this mode of paying by rank and emoluments, so that we do not know what we give, nor how much we give, nor what it will be to-morrow, nor what it is to-day, will be abandoned in every case where it is possible to abandon it. Let us illustrate the wisdom of the Senate in adopting this new rule to the Judge Advocate General and his assistant, who are to be created by this bill. But still I cannot see any reason for reconsidering this section, and I shall vote against it.

Mr. GRIMES. In the hope that there may be such a construction given to this section as the Senator from Maryland has indicated, I shall vote against striking it out, because I believe there is not an officer of the Army serving in Washington or anywhere else, except it be in the field, who is not receiving by his pay proper, his rations, and his forage as much as he is entitled to receive and a great deal more than is paid in any other branch of the public service for any such corresponding duties. I understand the Senator from Maryland says that the construction placed upon this section at the pay department is that it will strike off the commutation for fuel and quarters. Of course it cannot strike off the pay proper, or the rations, or the allowance for servants or forage. I hold in my hand a report made by the Secretary of War in 1858, (and it is a report which is required to be made by the Secretary of War periodically,) giving the pay of every Army officer for his commutation and emoluments of various descriptions and kinds in the preceding year, 1857. By that report it will be observed that the pay proper, rations, and commutation for servants and forage of a brigadier general stationed here in Washington, without any allowance for quarters or fuel, amounted to \$5,133 60. Add to this the amount which, under a special order of the present Secretary of War, issued last autumn, is



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allowed to a brigadier general in this city for commutation for quarters and fuel, \$1,360, and you have the nice little sum of \$6,493 60 for a brigadier general performing bureau duty here in Washington.

Mr. WILSON. Give us the items.

Mr. GRIMES. I can give the items. The items are all here in this public record, printed by order of the House of Representatives. I am giving the pay of Brigadier General Thomas S. Jesup. He was the chief quartermaster of the Army of the United States, and was stationed here in Washington. His pay proper amounted to \$1,488; his rations, \$2,622; his allowance for servants, \$814 50; and his forage, \$209 10; making a sum total of \$5,133 60. I am not reading the commutation for fuel and quarters, which the Senator from Maryland says, according to the construction which will be given to this section at the pay department, will be stricken off by the adoption of this proposition. If I did include the commutation for fuel and quarters it would be found that General Jesup while doing bureau duty here in Washington that year under the rule that was then established, not the rule that is established to-day in Washington, received \$235 50 for fuel, and \$480 60 for quarters, making the total amount that he received that year \$5,849 70. I only allude to this to show what was the pay of a brigadier general performing duty here in Washington at that time.

If any Senator will take the trouble to send for this document and look through it, and see the average pay that was paid to the colonels and lieutenant colonels and majors, in all the bureaus where they were established here, he will find that the pay was greatly in excess of the pay in any other branch of the public service, leaving off the commutation for fuel and quarters. As an illustration, in 1857 the pay of the Paymaster General was \$3,616, saying nothing about his commutation for fuel and quarters. When that was added, his pay was \$4,230 83. Adding to the \$3,616, his pay without commutation of fuel and quarters, the amount that he is authorized to receive under the recent order of the present Secretary of War, which is \$1,360, and he would receive \$4,976. It will be observed that the average pay of majors, without commutation for fuel and quarters, without transportation of baggage, and without traveling expenses, is \$2,600. How do you pay your officers in the Navy of corresponding grade? Why, sir, you pay them \$2,343, while you pay to a man of corresponding grade in the Army \$3,700. You require an officer of the Navy to come here to do duty in one of the bureaus of the Department, and he is compelled to support his family here and perform precisely the same character of duties that are performed by a military officer over the way, and you give to the military officer, who performs no more arduous or responsible duties, some \$1,400 a year more than you give to the naval officer. Is that just? Is that equitable? Are we doing justice to ourselves in permitting such distinctions as that to exist?

Then look at the civil branch of the public service, and compare the pay you give to these bureau officers in the Army stationed here with the pay given to the chiefs of your different civil bureaus. Is there anybody who pretends to say that the young majors in the War Department perform as arduous duties as are performed by your Second Auditors, or your Third or your Fourth or your Fifth or Sixth Auditors, or as are performed by the chiefs of your bureaus in the Post Office Department, or by your Assistant Attorney General? And yet you pay to those military officers several hundred dollars more than you pay to the chiefs of these respective bureaus. Is that just to ourselves? Is it just to the men who are in the front, the men who have gone down to peril their lives for us, and who are drawing less pay than the men who are performing bureau duty here in Washington by from one thousand to fifteen hundred dollars a year? No wonder, sir, that there should be an immense effort made by Army

officers to be assigned to bureau duty. They are not only free from responsibility, they are not only free from the risk of life and limb, but you pay them from one thousand to fifteen hundred dollars a year more than you pay to the men of the corresponding grade who are risking their lives and their limbs for the defense of the country.

Mr. President, I agree fully with the Senator from New Hampshire that this is a great abuse and ought to be corrected, and I shall stand with him and with any other Senator in trying to strike it down on every opportunity that may occur. Here is one of the opportunities, and I propose to vote for it.

Mr. WILSON. The Senator from Iowa is certainly mistaken in the estimates he has made, and I tell him very plainly how he is mistaken. He has taken the case of General Jesup, who served the country nearly half a century, and whose pay was very large for the reason that he received additional pay for the number of years he had served the country; but that is not a fair estimate by which to measure others. Now I will take the office of a brigadier general. It is very plain what he gets in Washington or out of Washington. A brigadier general receives \$124 a month as pay, whether he is in the front or in Washington. He receives twelve rations per day, whether he is in Washington or at the front.

Mr. JOHNSON. What are they commuted at?

Mr. WILSON. They are commuted at \$108. He has three servants. The commutation price of the servants is \$67 50, making his total pay \$299 50 per month. He is entitled to draw forage for four horses if he keeps them. They are not commuted in the field or in Washington. Up to this point, therefore, the pay of a general in the field, a colonel, a lieutenant colonel, a major, or any other officer, is the same as it is in this city. The Government in this city allows fuel and quarters. The fuel for a colonel, from the 1st of May to the last day of September, five months, is one cord of wood, and from the 1st of October to the 30th of April three and a half cords of wood.

Mr. JOHNSON. For the whole time.

Mr. WILSON. For the whole season, which would be about thirty cords of wood. We will call it \$300. I understand the commutation is nine dollars a cord.

Mr. GRIMES. No; ten dollars.

Mr. WILSON. It is stated here to be ten dollars, but I was told that it was nine dollars. That would be \$270; but we will say they commute it at ten dollars; that is \$300. Then they are entitled to quarters, four rooms at eighteen dollars, seventy-two dollars. A brigadier general is allowed five rooms, making ninety dollars a month. We will say in round numbers that the pay of a general officer is \$300 a month, besides the forage, fuel, and quarters. I will take a general as an illustration. He gets \$299 50 per month. He is entitled to forage for four horses, which he cannot commute; he must draw it in kind. Then he is entitled to ninety dollars a month for rooms, which would be \$1,080, and about two hundred and seventy dollars, we will say \$300, in round numbers, making \$1,400. Then including the cost of the forage for four horses, which he must draw in kind, I make the whole amount received by a brigadier general \$5,352.

Mr. JOHNSON. What does a colonel receive?

Mr. WILSON. A colonel receives \$3,892, say \$3,900, in round numbers. The mistake the Senator from Iowa makes is in taking as an example the case of an officer like General Jesup, who served the country so long, and therefore his pay was much larger than a general officer of but a few years' standing. It is only after officers, whether generals, colonels, or majors, have served a great many years that they are entitled to draw so much in addition in rations. The Senator's basis of calculation is not correct. The pay is about thirty-nine hundred dollars for a colonel and about fifty-three hundred dollars for a brigadier general, if they have no service rations.

Mr. GRIMES. It would be very easy for us all to be relieved from any difficulty in finding out what were the true facts in this case if the Secretary of War would comply with the resolution of the House of Representatives adopted June 14, 1848, which is a permanent resolution, and send to us the Army Register as it was sent in 1858 and 1861, a copy of each of which I have in my hands, and which contain the exact amount of pay that every Army officer has received during the preceding year; but unfortunately we have not got that.

Mr. COLLAMER. Is it not in the Blue Book?

Mr. GRIMES. No, sir. This is the Army Register, containing the pay of every description of officer of the Army.

Mr. JOHNSON. Is it not in the Blue Book just out?

Mr. GRIMES. No, sir. Nothing of the kind was ever published in the Blue Book.

Mr. JOHNSON. I think it is stated to be in this Blue Book.

Mr. GRIMES. This information has never been published in the Blue Book. This is a special report made under a standing resolution of the House of Representatives, and made to that House periodically. I stated that, under the construction of the law as we now have it, the officers who are performing clerical duty, civil duty, at Washington and elsewhere are paid greatly in excess of those in the field. Does the Senator from Massachusetts deny it?

Mr. WILSON. They receive commutation for fuel and quarters.

Mr. GRIMES. Certainly a man performing duties here as a brigadier general or a colonel, incurring no responsibility and no risk, gets \$1,360 more than the officer of the same rank who is fighting down near Spottsylvania Court-House. A major performing duties here gets \$1,134 and a captain \$868 02 more than a major or a captain gets down there. Is that just? That is the point I make.

Mr. CONNESS. I think in his desire to economize, and to state his case strongly, the Senator from Iowa, perhaps unconsciously, does some injustice to what he terms "bureau officers." I do not know any one class of men connected with the Government who are worked so hard as the bureau officers in the War Department. They are at work by day and by night. They are at work, whether it be proper or not, on the Sabbath, as well as on every day of the week. While I am not disposed to enter into this discussion to the extent of making a comparison of figures, it certainly is clear that if there be too much pay to the officers of the Army by the construction of the laws as they now stand, the only proper mode in seeking a remedy is to attempt an entire reorganization. It is very easy to see what injustice may be done by these spasmodic attempts at economy, aiming at particular officers, one now and another again. I hope this course will not be taken. I will vote with the Senator from Iowa, or with the Committee on Military Affairs, whenever they make a showing which shall convince the Senate that the officers of the Army are receiving larger compensation than they reasonably should; but I hope that we shall wait and take the subject up in that manner, and give it the attention that it requires. This seeking to strike down the compensation of a particular officer whenever a bill is before the Senate which admits of it seems to me, certainly, not the legitimate and proper way. I hope that the motion of the Senator from Massachusetts, the chairman of the committee, will be carried, and that we shall go on with this work.

Mr. WILSON. I will simply say that if no fuel and quarters were allowed in this city there is not an officer engaged here who could stay here.

Mr. GRIMES. We have officers in the Navy Department performing precisely the same duty and with just as high a corresponding rank, who have been performing and are to-day performing similar duty, and expect to remain here, and I do not know of any reason why their family and

personal expenses are not as great as those of officers of the Army. The same is true of officers in the civil service in this city.

Mr. WILSON. Take, for instance, Colonel Townsend or Colonel Harding or Major Vincent. If you were to reduce them down in this way it would be almost impossible for them to remain here. I hope, therefore, under the circumstances, we shall reconsider this amendment if the construction is put upon it that fuel and quarters are not to be allowed them, and that we shall hereafter take up the matter and carefully consider it, and classify the whole thing deliberately and carefully; because certainly if this amendment shall be adopted and that construction is put upon it, it is undoubtedly contrary to what the Committee on Military Affairs understood they were doing. I do not believe that would be a fair construction of it; but I do not want to run any risk about it. In addition to that, I think this is no time for us to take from General Meade or General Butler or General Sherman or any of the generals commanding in the field or any of the officers in front of the enemy the additional rations that they were allowed under the law of 1847. If this construction would reach those cases I do not want to reach them. I did want to reach a case where to do so would be wrong. I hope before the close of the session to prepare a measure that will correct what I consider to be wrong; but I certainly do not want to inflict any wrong on our officers in Washington or in the front of the enemy.

Mr. GRIMES. Nobody has said, nobody has intimated that the construction which the Senator from Maryland says is put upon this section at the pay department affected General Meade or General Butler. It only relates to the commutation for fuel and quarters, not to the rations or servants or forage.

The Senator has referred to Colonel Townsend. What is Colonel Townsend's pay? Four years ago, when Colonel Townsend was only a major, his pay, without the commutation for quarters and fuel, was \$2,694. Now he is a colonel. He gets paid according to the ascending scale of his rank, and he gets a corresponding amount of pay, and his salary to-day, with the commutation of quarters and so on, would amount to some thirty-six or thirty-seven hundred dollars. Is not that enough? You do not pay your Comptrollers or your Auditors more than that, do you? Why should you pay the man who performs clerical duty in the War Department more? I want to do them complete justice; but I do not want to pay him who is a colonel here in the War Department more than I pay a colonel down in the front.

Mr. WILSON called for the yeas and nays on the motion to reconsider, and they were ordered; and being taken, resulted—yeas 23, nays 10; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Collamer, Conness, Dixon, Foot, Foster, Harris, Hendricks, Howard, Johnson, Lane of Indiana, Morgan, Nesmith, Pomeroy, Ramsey, Richardson, Sumner, Ten Eyck, Wade, and Wilson—23.

NAYS—Messrs. Buckalew, Davis, Doolittle, Grimes, Hale, Henderson, Howe, Powell, Trumbull, and Van Winkle—10.

ABSENT—Messrs. Brown, Carlile, Cowan, Fessenden, Harding, Harlan, Hicks, Lane of Kansas, McDougall, Morrill, Riddle, Saulsbury, Sherman, Sprague, Wilkinson, Wiley, and Wright—17.

So the motion to reconsider was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the amendment proposed by the committee, to insert as section six the following:

Sec. 6. *And be it further enacted*, That when the rank, pay, and emoluments of any officer are declared by law to be those of a specified military grade, he shall be entitled to the pay and emoluments of that grade, and no more, any previous law or usage to the contrary notwithstanding.

The amendment was rejected.

Mr. POWELL. I have an amendment to offer to the first section of the committee's report. I do not know whether it will be in order now, as we have passed it without reconsidering it.

Mr. FOOT. When the question was first presented to the Senate upon the amendment reported by the Committee on Military Affairs to the amendment of the House of Representatives, the Senator from Kentucky, myself then being in the chair for the time being, offered an amendment to the amendment of the committee. The

Chair not being apprised of the extent and nature of the House amendment, regarded it as an ordinary amendment in part to the Senate bill, and that the amendment of the Committee on Military Affairs was an amendment to the amendment of the House, and was in the second degree, and the amendment offered by the Senator from Kentucky, being in the third degree, was not then in order. He withheld his amendment and the amendment of the committee was concurred in. Upon examination, however, subsequently, my own attention having been called to the question, I find that the amendment of the House is in the nature of an entire substitution for the original Senate bill, and in such cases by the parliamentary law the amendment of the House is treated as a part of the original text, that being the only text of the original bill to which the amending House have agreed; so that when it comes back to the originating House it is to be treated as an original bill, in other words as the text of the bill, and not merely in the nature of an amendment. Therefore, when an amendment is offered either through a committee or by an individual to this amendment or substitution of the amending House, it is treated as an amendment in the first degree, treating the substitution or the amendment in the form of a substitution of the amending House as the original bill, as the text itself. In that view of it, and by the parliamentary law, as the Chair will find by reference to it, the amendment offered by the Senator from Kentucky at the time was in order, being in the second degree, an amendment to the amendment proposed by the Committee on Military Affairs, theirs being an amendment in the first degree in a case of this kind where the amending House offer an entire substitute for the original bill of the originating House. That being the case, and the Senator, by misapprehension of the Chair at the time, withdrawing his proposition as out of order, I move to reconsider the vote by which the Senate concurred in the amendment of the committee to the first section of the House amendment, in order that the Senator from Kentucky may have the opportunity—which is his right, and which was overruled as out of order by the Chair through a misapprehension on my part then occupying the chair—to offer his amendment. I move to reconsider the vote for that purpose.

The motion was agreed to.

Mr. POWELL. I now move to strike out the first amendment reported by the Committee on Military Affairs, and to insert in lieu thereof:

That from and after the 1st day of May, 1864, the officers, non-commissioned officers, musicians, and privates in the regular Army and volunteers and drafted forces in the service of the United States shall be paid in gold: *Provided*, That said officers, non-commissioned officers, musicians, and privates may be paid in Treasury notes or paper money when the Government cannot pay in gold. If not paid in gold, they shall be paid in paper an amount equal to the value of gold at the time of payment.

Mr. President, it is very evident that in consequence of the depreciation of paper money in which we pay the soldiers their pay should be increased. There is a great deal of difficulty in fixing the amount that they should receive, in consequence of not knowing what will be the value of this paper money in which they are to be paid in the future. The pay of the Army as at present regulated by law was fixed before there was any depreciation in the currency. I think the only just mode by which we can remedy the evil is to pay them in gold or its equivalent.

If we pass the amendment proposed by the committee, increasing the pay, which increase is certainly proper, it may be that in four months from this time this paper money may be worth greatly less than it is now. It may be at one hundred or one hundred and fifty or two hundred per cent. discount. If that should unfortunately be the result, the soldiers would not be properly paid; they would not get enough. It may possibly be that at the end of five months this paper money may be something near par compared with gold. If that should be the case, the pay would be too great. The only mode by which we can, with the fluctuations of this paper money, pass a law to pay the soldiers in the field equitably and justly is to measure their pay by the gold standard. The pay of the Army before the fluctuations of the currency, I suppose, was fixed about right. I take that for granted. Then we should continue to pay those men who are periling their

lives in the field either in coin or an amount of paper money that is equivalent to it in value.

Under the amendment proposed by the Committee on Military Affairs you pay some of the soldiers sixteen dollars a month, and others, I believe, eighteen dollars. That is not quite as much pay as they had before the depreciation of the currency. But suppose you pass that, and this paper money should depreciate in a few months fifty per cent., the pay then would be greatly too small. If, on the other hand, the paper money were to improve greatly in value and come up to something like par—a thing that I do not expect unless you decrease the issue of this paper money, indeed I know we shall not witness it unless the paper issues are decreased—then that will be paying them too high. In order to do exact justice to those men, I think we should either pay them in gold or its equivalent. I am fully aware that we are not in a condition to pay gold, and I provide for that. Under this amendment, if the Government cannot pay in gold, they can pay in greenbacks or paper money, but they must pay an amount equivalent to the gold which we covenanted to pay in the beginning. I have given this matter very mature reflection. I am in favor of increasing the pay of the soldiers, and I do not think the increase proposed by the amendment reported by the Committee on Military Affairs is any too great. But, sir, you may pass this bill to-day and perhaps to-morrow their pay may be greatly less than it is to-day in consequence of the depreciation of the currency. I think we should fix some mode of paying these men that would give them certain values on the day of payment. In my judgment there is no other equitable way in which we can pay them than the one I propose. The amendment is clear and distinct and simple, and I hope it will be adopted. I ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. VAN WINKLE. I desire to state that my colleague [Mr. WILEY] is necessarily absent from the city.

The question being taken by yeas and nays, resulted—yeas 6, nays 23; as follows:

YEAS—Messrs. Buckalew, Davis, Hendricks, Lane of Indiana, Powell, and Richardson—6.

NAYS—Messrs. Anthony, Chandler, Clark, Collamer, Conness, Dixon, Doolittle, Foot, Foster, Grimes, Harlan, Harris, Henderson, Howe, Johnson, Lane of Kansas, Morgan, Morrill, Ramsey, Sumner, Ten Eyck, Van Winkle, and Wilson—23.

ABSENT—Messrs. Brown, Carlile, Cowan, Fessenden, Hale, Harding, Hicks, Howard, McDougall, Nesmith, Pomeroy, Riddle, Saulsbury, Sherman, Sprague, Trumbull, Wade, Wilkinson, Wiley, and Wright—20.

So the amendment was rejected.

Mr. POWELL. I move to insert at the end of the first section of the committee's amendments the following proviso:

*Provided*, That the provisions of this act shall not apply to colored soldiers.

It is not my purpose to make a speech on this amendment. I think the whole country ought to be satisfied that those negro soldiers are not equal in value to white men. I know there are some Senators who think that perhaps a white man is nearly as good as a negro if he will behave himself. I am not one of those who think so. I think the Anglo-Saxon blood is better on any field than any negro that ever was born. I do not see that they have done much in this war. I believe those who marched through this city the other day were put in the rear of the Army and have not been sent to the front in the terrible battles we have had, in which the soldiers of our own race have exhibited the greatest valor. No people ever fought better than the armies that have been fighting in the front lately. All the reports I get from the Mississippi valley are that these negroes are exceedingly worthless, that they do but little except at rations. I do not think they ought to be paid as much as white soldiers. I do not think they are worth as much, and consequently I do not wish to have the provisions of this bill increasing the pay of the Army—for I am in favor of increasing the pay of the white soldiers—apply to that worthless class of soldiers. I hope the amendment will be adopted.

Mr. HENDRICKS called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 5, nays 26; as follows:

YEAS—Messrs. Buckalew, Davis, Hendricks, Powell, and Richardson—5.

NAYS—Messrs. Anthony, Chandler, Clark, Collamer, Conness, Dixon, Doolittle, Foot, Foster, Grimes, Harlan,

Harris, Henderson, Howard, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Pomeroy, Ramsey, Sumner, Ten Eyck, Van Winkle, and Wilson—25.

ABSENT—Messrs. Brown, Carlile, Cowan, Fessenden, Hale, Harding, Hicks, McDougall, Nesmith, Riddle, Saulsbury, Sherman, Sprague, Trumbull, Wade, Wilkinson, Willey, and Wright—18.

So the amendment was rejected.

The amendment of the committee was agreed to.

**THE PRESIDING OFFICER, (Mr. FOSTER.)** The question is on the bill as amended.

**Mr. HENDRICKS.** Is the question now on the passage of the bill?

**THE PRESIDING OFFICER.** The question is on the bill as amended. The Senate originated the bill; it came back from the House of Representatives with a substitute; that substitute has been amended, and the question now is on the substitute as thus amended.

**Mr. HENDRICKS.** I desire to say that I shall support the bill, though I do not agree with some of its provisions. In the first place I am not content cheerfully to vote an increase of pay to the negro troops. I believe honestly that every million of dollars that is paid away of the people's money to support negro troops in the field is so much money lost, and that the people to that extent are unnecessarily, wrongfully taxed. I believe that this bill also does not provide that compensation for the soldiers that they ought to receive. While the currency has depreciated in value, the expenses of living to the soldiers have largely increased. I think that their compensation ought to be near twenty dollars per month to make it what in the first place the Government agreed they should have; but on several occasions the question has been fairly tested in the Senate, and it is now found that it is impossible to carry more than sixteen dollars per month. I think this is a very insufficient, inadequate increase of their pay; but as it is all that can be secured to them, as it is the best we can do, I shall vote for the bill.

The substitute, as amended, was agreed to.

#### BRANCH MINT AT SAN FRANCISCO.

**Mr. CONNESS.** I submit a motion that the House of Representatives be requested to return to the Senate the bill (S. No. 176) authorizing the erection of buildings for the branch mint at San Francisco, passed some days since. I find that there was an error in the engrossment. The bill made an appropriation of \$300,000; but it has found its way to the House with an appropriation of \$3,000. The committee of the House suggest that it be withdrawn from there, and the engrossment corrected. I make this motion with that view.

The motion was agreed to.

A message was subsequently received from the House of Representatives returning to the Senate, agreeably to its request, the bill (S. No. 176) authorizing the erection of buildings for the branch mint at San Francisco.

#### PUBLIC PRINTING.

On motion of **Mr. ANTHONY**, the Senate, as in Committee of the Whole, proceeded to the consideration of the bill (S. No. 265) to expedite and regulate the printing of public documents, and for other purposes.

**Mr. ANTHONY.** As the amendment of the Committee on Printing is a substitute for the entire bill, perhaps it will only be necessary to read the substitute.

**THE PRESIDING OFFICER.** The original bill will not be read unless some Senator desires to hear it. The substitute will be read.

The Secretary read it, as follows:

That hereafter, instead of furnishing manuscript copies of the documents usually accompanying their annual reports to each House of Congress, or to the Superintendent of Public Printing, the heads of the several Departments of Government shall transmit them, on or before the 1st day of November in each year, to the Joint Committee of Congress on Public Printing; and that it shall be the duty of that joint committee to appoint some competent person, who shall edit and select such portions of the documents so placed in their hands as shall, in the judgment of the committee, be desirable for popular distribution, and to prepare an index to the same.

**Sec. 2. And be it further enacted,** That it shall be the duty of the heads of the several Departments of Government to furnish the Superintendent of Public Printing with copies of their respective reports on or before the third Monday in November in each year.

**Sec. 3. And be it further enacted,** That it shall be the duty of the Superintendent of Public Printing to print the President's message, the reports of the heads of Departments, and the abridgment of accompanying documents

prepared under the direction of the Joint Committee on Public Printing, suitably bound; and that, in addition to the number now required by law, and unless otherwise ordered by either House of Congress, it shall be his duty to print ten thousand copies of the same for the use of the Senate, and twenty-five thousand copies for the use of the House, and to deliver the same to the proper officer of each House, respectively, on or before the third Wednesday in December following the assembling of Congress, or as soon thereafter as practicable. And further, it shall also be the duty of the said Superintendent to cause to be printed and stitched in paper covers twenty-five hundred copies of the annual reports of the Executive Departments for the use of said Departments, respectively, and also one thousand copies of the reports of the Commissioner of the General Land Office, Commissioner of Pensions, Commissioner of the Internal Revenue, and such number of the report of the Commissioner of Indian Affairs, to be bound, not exceeding three thousand copies, as may be directed by the Secretary of the Interior, for their use, respectively; and also five hundred copies of the reports of the superintendent of the Washington aqueduct, architect of the Capitol extension, Metropolitan Police Board, Third Auditor of the Treasury, and of the Insane Asylum, Columbia Institute, and Commissioner of Public Buildings, respectively, for their use, and one hundred copies of the report of the Bureau of Engineers, for the use of said bureau. And he shall not print any greater number of said reports unless otherwise directed by either House of Congress.

**Sec. 4. And be it further enacted,** That seven thousand copies of the "Commercial Relations," annually prepared under the direction of the Secretary of State, be printed and distributed as follows, namely, the usual number (one thousand five hundred and fifty) for the Houses of Congress; four hundred and fifty for the State Department; two thousand for the use of the members of the Senate; and three thousand for the use of members of the House.

**Sec. 5. And be it further enacted,** That the annual report of the Postmaster General of offers received and contracts for conveying the mails, in compliance with the twenty-fourth and twenty-fifth sections of the act of Congress approved July 2, 1836; also that portion of the annual report of the Secretary of the Navy, giving an abstract of offers (embracing those which are rejected as well as those which are accepted) received for furnishing articles coming under the cognizance of the bureau of the Navy Department, in part compliance with the act of Congress approved March 3, 1843; and also that portion of the annual report of the Secretary of the Interior, giving Indian disbursements, in part compliance with the act of Congress approved July 5, 1862, be no longer printed unless specially ordered by either House of Congress; and that such portions of the above-mentioned acts as authorized the publication of the above-mentioned portions of the annual reports of the Postmaster General, the Secretary of the Navy, and the Secretary of the Interior, be, and the same are hereby, repealed.

**Sec. 6. And be it further enacted,** That from and after the passage of this act it shall be the duty of the Secretary of the Senate to furnish the Superintendent of Public Printing with correct copies of all laws and joint resolutions as soon as possible after their approval by the President of the United States, and that the Superintendent shall immediately have them printed separately, three hundred of each for the use of the Senate and one thousand for the use of the House of Representatives; and in addition thereto he shall cause to be printed and bound, at the close of each session of Congress, three thousand copies thereof for the use of the Senate and ten thousand copies for the use of the House, with a complete index, prepared under the direction of the Joint Committee on Public Printing.

**Sec. 7. And be it further enacted,** That section seven of the joint resolution in relation to the public printing, approved June 23, 1860, be so amended as to require the Superintendent of Public Printing to advertise only in two newspapers published in the cities of New York, Cincinnati, Boston, Philadelphia, and Baltimore, for thirty days prior to the 1st day of November of each year, for proposals for furnishing the paper necessary for the execution of the public printing.

**Sec. 8. And be it further enacted,** That all lithographing and engraving, where the probable total cost of the maps or plates illustrating or accompanying any one work exceeds \$250, shall be awarded to the lowest and best bidder for the interests of the Government, due regard being paid to the execution of the work, after due advertisement by the Superintendent of Public Printing, under direction of the Joint Committee on Printing: *Provided,* That the Joint Committee on Public Printing be authorized to empower the Superintendent of Public Printing to make immediate contracts for engraving whenever in their opinion the exigencies of the public service will not justify waiting for advertisement and award.

**Sec. 9. And be it further enacted,** That whenever any person may desire extra copies of any document printed at the Government printing office, by authority of law, he shall notify the Superintendent of Public Printing of the number of copies desired previous to its being put to press, and shall pay in advance the estimated cost thereof to said Superintendent, who shall be authorized, under the direction of the Joint Committee on Public Printing, to furnish such extra copies; and the money so received, together with moneys received by him from the sales of paper shavings and imperfections, shall be deposited in the Treasury of the United States to the credit of the appropriations for public printing, binding, and paper, respectively, as designated by said Superintendent; and further, the Secretary of the Treasury is hereby directed to cause the moneys heretofore deposited by said Superintendent in the Treasury of the United States, being the proceeds of sales of paper shavings and imperfections, to be placed to the credit of the appropriations aforesaid, which said several sums of money shall be subject to the requisition of said Superintendent in the manner now prescribed by law.

**Sec. 10. And be it further enacted,** That whenever papers relating to foreign affairs shall be communicated to Congress, at the request of either House of Congress, or by direction of the President of the United States, it shall be the duty of the Superintendent of Public Printing to cause to

be printed and bound, in addition to the usual number, four thousand copies for the use of the members of the Senate, seven thousand copies for the use of the members of the House of Representatives, and such number for the Executive Department, as the President shall direct.

**Sec. 11. And be it further enacted,** That the forms and style in which the printing or binding ordered by any of the Departments shall be executed, the materials and size of type to be used shall be determined by the Superintendent of Public Printing, having proper regard to economy, workmanship, and the purposes for which the work is needed.

**Sec. 12. And be it further enacted,** That all laws or parts of laws, joint resolutions or parts of joint resolutions, conflicting with the above provisions, be, and they are hereby, repealed.

**Mr. ANTHONY.** I desire to amend the amendment of the committee. In line fourteen, section five, I move to strike out "July 5, 1862," and insert "June 30, 1834." It is a mistake in the description of a law.

The amendment to the amendment was agreed to.

**Mr. ANTHONY.** In line three, section nine, I move to strike out the word "he" and insert "and;" and in the sixth line of the same section strike out the word "who" and insert "the Superintendent."

The amendment to the amendment was agreed to.

**Mr. ANTHONY.** The object of the bill is to regulate and expedite the printing of the public documents, and also to introduce some economy into that branch of the public business. There are some novel provisions that the committee have considered very maturely, and as I do not wish to take the Senate by surprise, I will explain what they are.

The purpose of the first section is in accordance with an act that was passed at the last session, but has not been fully carried into effect, to require that the documents accompanying the President's message shall be placed in the hands of the Public Printer so early that they may be laid before us in the early part of the session, in January, so that the recommendations contained in them may receive the action of Congress. The first section also provides that the Joint Committee on Printing shall appoint some competent person who shall edit and select such portions of the documents accompanying the President's message so placed in their hands as shall, in the judgment of the committee, be desirable for popular distribution, and to prepare an index to the same. These documents now are without indexes; they are exceedingly voluminous; the publication of the whole of them is useless, and very expensive; the publication of a portion of them is very desirable for the purpose of popular information, and the bill proposes that a competent person shall be selected to abridge, edit, and index them, which will render them far more valuable.

**Mr. SUMNER.** If my friend will allow me I will ask him whether upon the whole it would not be better to insert before the word "index" the word "alphabetical" as a further explanation. I should be afraid that the person to whom he confided this might discharge it in an imperfect way merely by preparing an index not according to the alphabet, but just according to the order of the contents, which I think would not be satisfactory.

**Mr. ANTHONY.** The suggestion is a very proper one, and I should be glad to have it incorporated into the bill.

**Mr. SUMNER.** My amendment is in the thirteenth line of the first section of the amendment of the committee before the word "index" to insert the word "alphabetical." I make that motion.

The amendment to the amendment was agreed to.

**Mr. ANTHONY.** At every session of Congress we are called upon by the heads of Departments to publish additional numbers of the reports of the various bureaus. These requests frequently come after the type has been distributed. We passed such a resolution to-day. Additional numbers are called for by the heads of Departments, and are represented to be necessary for the efficiency of the public service, and we generally print them. The third section provides that a certain number of the reports of the heads of bureaus, such a number as has been found necessary and is thought proper by the heads of Departments, shall be printed when the type is first set, and no greater number is allowed to be printed except by order of either House of Congress.

The fourth section provides for the printing of the Commercial Relations, as that volume has



been printed every year. The fifth section provides that the offers for carrying the mail reported by the Postmaster General, which forms a book of the dimensions I now exhibit, over eight hundred pages, the offers rejected as well as those accepted, shall not hereafter be printed. The Senator from Vermont will probably agree that there is no need of printing that cumbersome document.

Mr. COLLAMER. It is impossible for me to say how much dishonesty the ordering of that publication corrected, or how much will exist if it be not continued; but while it is published I see very little use in it, although it may be perhaps that it prevents a great deal of evil that would happen if it were not published.

Mr. ANTHONY. That is a subject for the Senate to consider. This is a document that is printed every year, giving all the bids for carrying the mail, those accepted and those rejected.

Mr. SUMNER. How long has it been printed?

Mr. ANTHONY. Since 1836. I do not see any reason why these offers of bids should be printed rather than those of the War Department, which must be far more voluminous. They are not printed, nor are any others, except the bids in the Navy Department and some bids of the Indian bureau. The same section also repeals the law providing for printing, in the annual report of the Secretary of the Navy, the offers for bids in the Navy Department. That publication I hold in my hands. Here are all the bids for contracts, and propositions to the Navy Department, those that are accepted and those that are rejected, and they form a volume of about four hundred pages.

Mr. COLLAMER. It is got up for the same reason and on the same principle as the other, to prevent frauds.

Mr. ANTHONY. The bill proposes to repeal the law that requires that to be printed, and also to repeal the law requiring to be printed a portion of the annual report of the Secretary of the Interior giving the Indian disbursements. The Senate refused to print that report this year; but there has been a law, or a practice that has had the force of law, to print it every year with the message and accompanying documents. It came in late this year, and the Senate refused to print it.

The sixth section is in compliance with a resolution passed by the Senate, and requires that every law, when it has passed Congress and been approved by the President, shall be printed, three hundred copies for the use of the Senate and one thousand for the use of the House of Representatives, so that we may have them on our files to refer to.

The seventh section repeals a requirement that the contracts for paper shall be advertised in a large number of newspapers all over the country, which is quite useless. They were required to be advertised in Richmond, Charleston, Mobile, &c. Our southern "brethren" had them put in pretty much every paper South. It provides that the joint resolution of June 23, 1860, in relation to the public printing, "be so amended as to require the Superintendent of Public Printing to advertise only in two newspapers published in the cities of New York, Cincinnati, Boston, Philadelphia, and Baltimore."

The eighth section requires that all lithographing and engraving, where the probable cost will exceed \$250, shall be awarded to the lowest and best bidder for the interests of the Government, but allows this to be modified in cases where, in the opinion of the Joint Committee on Printing, the exigencies of the public service will not justify waiting for advertisement.

Mr. HOWE. Why "lowest and best?"

Mr. ANTHONY. Every bid is accompanied by specimens of the work of the bidder. If a man offers a bid very low and his work is very bad, the committee would not take it. No bids are received by the committee except from those who are actually engaged in the business, and can do the work themselves. No speculative bids are received.

The ninth section provides that the sales of paper shavings and imperfections, &c., the sweepings and wastage of the printing office, shall be deposited in the Treasury to the credit of the printing fund.

The tenth section is intended to meet a case which we had at the present session. It was found necessary, after the message and accompanying documents had been printed and the type distributed, to print ten thousand extra copies of

the foreign correspondence. It was ordered by the House of Representatives, not by the Senate. It was necessary to set up the type anew for two or three volumes. This provision is to print four thousand copies for the use of the Senate, seven thousand for the use of the House of Representatives, and such number for the Executive Department as the President shall direct.

Mr. COLLAMER. This year, or every year?

Mr. ANTHONY. These are papers relating to foreign affairs, communicated to Congress by request of either House or direction of the President, so that what is required by the Department may be printed while the type is standing, and the President is the judge of the number.

Mr. COLLAMER. Does that mean correspondence published by the State Department this year, or every year?

Mr. ANTHONY. In future years. This is to be a permanent law.

Mr. SUMNER. But there is one point to which I wish to call the attention of the chairman of the Committee on Printing. I do not know whether it is in order or whether the Senator desires that we shall make propositions of amendment now.

Mr. ANTHONY. Let me finish what little I have to say, and then amendments can be moved.

The ninth section also provides that the Superintendent of Public Printing, under the direction of the Joint Committee on Printing, may print documents for sale to any persons who will pay the cost of the same, and pay the money to the Superintendent of Public Printing before the document is put to press. This is the only Government, I believe, that prints public documents which does not sell them. You can buy any parliamentary document in England; you can buy any public document in France that is printed, at the book-stores. The documents in England are sold at just above the cost of waste paper, so that people will not buy them for waste paper, and yet bringing it as near to a gratuitous distribution as they can without tempting people to get them to sell for waste paper. There are a great many documents that are wanted for libraries, public and private, by persons that feel a delicacy in asking for them, and perhaps do not get them even if they do ask for them, and who would be very glad to buy them. I can see no possible reason why they should not have that privilege. It would place the public documents where we want them, in the hands of people who would read them. It would relieve the Treasury of the expense of publishing so many for gratuitous distribution, and prevent the sending of a great many numbers of the same document to the same person.

These are the main provisions of the bill, I believe.

Mr. SUMNER. I should like to call the attention of my friend to the operation of section ten, which relates to the publication of papers concerning foreign affairs. I am inclined to think that the language is broader than he intended. It is as follows:

That whenever papers relating to foreign affairs shall be communicated to Congress, at the request of either House of Congress, or by direction of the President of the United States, it shall be the duty of the Superintendent of Public Printing to cause to be printed and bound, in addition to the usual number, four thousand copies for the use of the members of the Senate, seven thousand copies for the use of the members of the House of Representatives, and such number for the Executive Department as the President shall direct.

It will be perceived that that is applicable to all papers relating to foreign affairs which may be communicated to Congress, not only at the beginning of the session, but at any time during the session. The Senator is aware that almost every week, or at least very often, a call is made by the Senate, or by the House of Representatives, on the President for certain publications relating to some foreign question. For instance, it was only yesterday, I think, that the Senate received, in answer to a call, a communication from the President covering certain papers concerning the relations between Chili and Bolivia, and they were ordered at once to be printed for the use of the Senate. Now, the clause as it stands would be applicable to that class of communications. I doubt whether the Senator intends that they should be covered by it. Do we desire to multiply these communications to that extent?

Mr. ANTHONY. This provision was intended to cover the annual report.

Mr. SUMNER. So I supposed, and I was therefore going to suggest whether some word should not be introduced to qualify the general language of the clause. I will suggest the insertion of the words "at the beginning of the session of Congress" after "United States," in the fourth line of the section. That would limit it to the mass of foreign correspondence, covering, in the main, the correspondence for the whole year, which is annually communicated with the President's message.

Mr. COLLAMER. I wish to make a suggestion in regard to this section. According to the very general words in which it is framed, anything relating to foreign affairs communicated by order of the President to either House of Congress is to be published. The President may send confidential messages and treaties to the Senate, which ought not to be published, certainly not extra copies.

Mr. SUMNER. The Senator remembers that those are sent in executive session, and therefore they would not come under the operation of this clause.

Mr. COLLAMER. They would come within the words of it, for the language covers communications sent to either House.

Mr. SUMNER. It seems to me that the object which we should have in view is to provide for the publication of the foreign papers communicated annually with the President's message.

Mr. ANTHONY. That is it.

Mr. SUMNER. And we need not go beyond that.

Mr. ANTHONY. I move after the word "Congress," in the third line of the section, to strike out the words "at the request of either House of Congress or by direction of the President of the United States," and in lieu of those words to insert "accompanying the annual message of the President."

The amendment to the amendment was agreed to.

Mr. COLLAMER. I wish to make a suggestion in relation to the fifth section, which repeals the law requiring the offers for carrying the mail, and also the offers for contracts for supplies for the Navy Department, to be published. I take it that under our present system the cost of the printing of those books would not be much if there were no extra numbers printed.

Mr. ANTHONY. There will be no extra copies under this bill, because they will not be in the abridged and edited documents.

Mr. COLLAMER. The question is whether the publication of them would be very expensive under our present system. The object of the law in relation to the Post Office Department, which was passed nearly thirty years ago, was that these bids should be put into such a form that the community could all see that the law which required the lowest bid to be taken was carried into execution fairly. In order to enable the community to judge of that, it was required that all proposals and acceptances should be published, so that it could always be seen exactly how they stood. I cannot say how far that has checked fraud; but that was the purpose of it. So it was in the Navy Department and in the Indian bureau. It is impossible to say what would be the effect of the repeal, but I very much doubt whether on the whole it is advisable to repeal these laws. The inclination of my opinion is that there were large frauds existing which occasioned their passage, and that the same frauds might recur if we repeal them. I am therefore rather inclined to think that the fifth section had better not be retained in the bill.

Mr. ANTHONY. The committee are not very strenuous in regard to the fifth section. The only object was to save the cost of printing voluminous documents which seemed to us to be of very little use. The Senator from Vermont, who has been at the head of the Post Office Department, is much better able to judge than we as to the value of this publication; but it seems to me that if we publish the Post Office bids and the Navy bids we ought equally to publish the Army bids, which must be more numerous and involve immensely greater cost than both of the others together.

Mr. COLLAMER. I am not at all tenacious of my view on this question. Of course my experience in the Department could furnish no light

whatever on this point, because all the time I was there this law was in operation, and I never had an opportunity to see how we could have got along without it. The law having been in operation for the last twenty-eight years, I can merely say that there have not been charges of fraud in the Department to any great extent in relation to contracts. Whether that has been the influence of this publication is more than I can say. I do not know how that fact is. I do not know what is the expense of the publication, but I take it now, with the present price of paper, it would be more than it has heretofore been.

Mr. ANTHONY. If only a few copies are printed the price of paper does not enter so much into it. Sometimes four or five thousand copies of this document have been printed with the President's message, through inadvertence, I suppose.

Mr. COLLAMER. I am not at all tenacious as to my view on this point. It may be that the expense had better be saved by foregoing the publication, and if we shall find hereafter that it works evil to omit it, we can readopt it. I merely wanted to say that there is no experience under the law which would enable a man in the Department to speak of the effect of its repeal.

Mr. SUMNER. There must be considerable expense in the publication, and also a good deal of work. I doubt whether we ought to continue it in this permanent statute, unless we see a good reason for it; and what the Senator from Rhode Island has remarked is with me almost decisive, when he reminds us that in the War Department, where the contracts are on a much larger scale, there is no such publication. If such a publication is required in the Post Office Department, I should say it must, for a stronger reason, be required in the War Department; but nobody has suggested it in the War Department, and I have never heard any complaint because there was no such publication in the War Department.

Mr. COLLAMER. There is one thing gentlemen must bear in mind about the Post Office Department, which would incline the mind to go in favor of repealing the law requiring the publication; and that is, the fact that the law requires that all the bids shall be not only opened and marked in the presence of the Postmaster General and an assistant, or by two Assistant Postmasters General, but that they shall be recorded in a book. All the bids are recorded, and the one accepted is checked upon the book, and that book stands there for everybody to see. This is a publication of the same thing.

Mr. HALE. I concur in the remarks that have been made by the Senator from Vermont in regard to the publication of the bids for naval supplies, and I should be very loth at the present time to see the law requiring that publication repealed. It is notorious that frauds have been committed there, and I believe that it is a matter of notoriety that several contractors are now in prison for frauds that have been perpetrated on the Navy Department. I think that the publication of this document, so far as the naval bids are concerned, is eminently wise. It is certain that very great frauds have been perpetrated by contractors on this Department, the evidence of which, I trust, before the session is over, will be laid before the Senate, and which have been brought to light mainly by this publication. I think there is a great deal of truth in the remark of the Senator from Vermont, that he does not know that this publication prevents any frauds, but it is impossible to say what it would be without it. The expense of the publication is not very large, and it is of consequence not only that the laws should be executed honestly, but that the people should know that they are executed honestly, and I think that the publication of these bids is a great safeguard to the public, and I think it is wise that they should be published. As the expense is trifling, I hope that, for the present at least, this alteration of the law will not be made. I do not know anything about the Indian department, and am not prepared to say whether those bids should be published; but to bring the matter before the Senate I move to strike out the fifth section.

Mr. SUMNER. I should like to ask the Senator from Rhode Island whether he has any information from the Post Office Department in regard to the operation of this publication. Does that Department find it important?

Mr. ANTHONY. Neither Department thinks it necessary, but the Secretaries are very reluctant to advise the suppression of anything which is at all calculated to expose fraud in their Departments. There having been so much said about frauds in naval contracts, the Navy Department would give us advice on the subject, but the Post Office Department thought the publication was useless.

Mr. SUMNER. I must say that I am content to follow that testimony, for I regard it as in the nature of testimony.

Mr. LANE, of Kansas, called for the yeas and nays; and they were ordered.

Mr. POWELL. The Committee on Printing, when they had this bill under consideration, paid a good deal of attention to the clause which it is now proposed to strike out, and after the best information they could get from the Departments they thought it was unnecessary to continue these publications, and that to stop them would be a great saving of expense. But as there are suggestions that perhaps it would prevent fraud to publish these bids, I, for one of the committee, am rather disposed to vote to strike out the section. Anything that will prevent fraud on the Government at a small expense I think is proper. The committee were of opinion, however, from the information they got, that it would not to any great extent prevent fraud, and to prevent the printing would be a saving of expense to the Government, and they were moved by that consideration.

Mr. HALE. Let me make a statement of facts which will govern me entirely. When this publication of the contracts of the Navy Department came out, there was a house in Boston who had been concerned in naval contracts considerably that assailed certain contractors in a pamphlet. It was not an attack upon the Navy Department, as I understand it, but it was principally an attack upon certain contractors, who, it was alleged, had entered into a combination, and by means of which very large frauds had been perpetrated upon the Navy Department. For instance, it was alleged—and I think the evidence upon the books will show that it is not entirely without foundation—that certain contractors, A, B, C, and D, had entered into a combination to bid at certain prices; and the lowest bid of A would be, we will say, twice or three times the value of the article, and still he would be the lowest bidder, because three other parties would bid and they would go a little higher than the lowest bidder, and the lowest bidder in some instances bid one hundred per cent., and in some two hundred per cent., higher than the market price; and those contracts were executed.

This publication led to the institution of a committee of investigation in the Senate, who have not yet completed their inquiries, and led to various discussions and action upon the part of the Navy Department; and the Navy Department, without any knowledge of mine as to what evidence they proceeded upon, have arrested and now hold in prison several of the individuals that are implicated in this publication. I presume and have not the slightest doubt that the Navy Department proceeded upon what was satisfactory evidence, and in an earnest and honest desire to further and aid the purity of the administration of the law in this respect; but the fact that these charges have been made, and that the evidence of them is found in this publication at this time, suggests to me that it is a very unfortunate and unpropitious time to dispense with it. It would give rise to unjust insinuations, to say the least, because people would be apt to inquire, "If through this publication these frauds have been brought to light, and these contractors are now in prison for them, why do you repeal the law which gives the evidence by which these frauds are brought to light?"

It is for these reasons that I think it would be unwise at the present time to repeal this law, so far as the Navy Department is concerned.

Mr. ANTHONY. I am quite indifferent, and I think I can speak for the committee, whether this section is retained or not. It seemed to us on the whole that the expense was useless, and that there was no particular propriety in selecting these two Departments and one bureau for an exposure that was not required of the others. Either this section should be adopted or else the contracts in the War Department should be ex-

posed and published in the same way. I do not see any reason for selecting these from the others, but still it is a matter that I care little about.

Mr. GRIMES. The reason why there was a distinction made between the War Department and the Navy Department, I suppose, was because the Navy Department purchases were originally quite small and were always made in the vicinity of the navy-yard, and always made in response to an advertisement, and consequently a contract in writing immediately afterwards followed, but the Army was obliged to be supplied at all the posts that we had when we laid out our system all along on our Atlantic coast, on our northern lake coast, on the line of the Indian territory, and on our southern coast, and exigencies arose that required an immediate supply for the Army which could not be anticipated, but which were anticipated in the Navy.

I hope this amendment will be adopted, and that the section will be stricken out, not because I believe the publication of these bids ever has been or ever will be instrumental in developing any frauds. I think it will turn out that the frauds to which the Senator from New Hampshire alluded, which I suppose grew out of fictitious bidding, were not called to light, and the publication that has been referred to was not made by the firm or the member of the firm that did make it, until after he had been rebuked by the chief of the Bureau of Yards and Docks himself for having made fictitious bids and been called upon to respond and to deliver over some of the articles for which those fictitious bids were made. But I agree with the Senator from New Hampshire that if you repeal this law now you will immediately cause men throughout the country to exclaim, "Why do you repeal this law just at this time; why not let these bids be published as they have been published?" Although everything may be as pure as it is possible for any money transaction to be, there are plenty of men in the country who will avail themselves of this opportunity to cry at once that there is blasing evidence against the Navy Department, and that we are attempting to cover it up. I trust we shall let this law stand as it is, at any rate for the present; and if it becomes necessary hereafter to repeal it, we can then do so.

Mr. HOWE. It may or may not be necessary or expedient to publish the bids made in the Navy Department and in the War Department and the disbursements made by the Secretary of the Interior on Indian account, but I do suspect that there is not the slightest necessity for making a publication of the bids made in the Post Office Department for postal service. Those contracts are let almost universally for four years. The great majority of the bidders at each successive letting are about the same class of men, and so far as my knowledge goes each bidder is so well acquainted with the way in which these contracts are let that as soon as the biddings are made public in the Department, or as soon thereafter as letters can inform him, every man who makes a bid becomes informed just how his bid ranges with other bids. I have had occasion to receive letters from bidders for these contracts repeatedly, and I have always found them very well informed as to how the bidding stood. When they lost a contract they seemed to know precisely the difference between their bid and the bid that secured the contract. I do not think there is the slightest necessity for this publication, and as it seems to me to be urged here that there may be some necessity for publishing the other classes of bids, I desire to amend the section so as to accomplish that object. I believe it is in order now to move to amend the section.

The PRESIDENT *pro tempore*. Undoubtedly. Mr. HOWE. I move to amend the fifth section by striking out the following words from line six to line fifteen:

Also that portion of the annual report of the Secretary of the Navy giving an abstract of orders (embracing those which are rejected as well as those which are accepted) received for furnishing articles coming under the cognizance of the bureaus of the Navy Department, in part compliance with the act of Congress approved March 3, 1843; and also that portion of the annual report of the Secretary of the Interior giving Indian disbursements, in part compliance with the act of Congress approved June 30, 1834.

And then in line seventeen, the letter "s" should be stricken out at the end of the words "portions" and "acts;" and in the same line, the

word "said" should be inserted before "publication;" and in lines eighteen, nineteen, and twenty, the words, "of the above-mentioned portions of the annual reports of the Postmaster General, the Secretary of the Navy, and the Secretary of the Interior," should be stricken out. The result of these amendments, if they be adopted, will be that the bids in the Navy Department and in the Interior Department will be published as heretofore, and the publication of bids in the Post Office Department will be dispensed with.

**The PRESIDENT pro tempore.** The Senator from New Hampshire moved to strike out the fifth section of the amendment of the committee. Before that question is taken, the Senator from Wisconsin proposes to amend the section; and the question is on that amendment.

**Several SENATORS.** What is it?

**Mr. HOWE.** Perhaps I had better state once more that the object of the amendment that I move is to leave the law as it now stands in reference to the publication of bids made under orders of the Navy Department and the Interior Department, but to stop the publication of bids made in the Post Office Department; to distinguish between bids in these different Departments. I am told that the expense of publishing the Post Office bids is much heavier than that incurred in the publication of the other classes of bids, and there seems to me to be no sort of necessity for publishing them, for the reason that I stated just now. The same classes of bidders, the same individuals almost as a rule make these bids, from time to time. The contracts are let for four years. The carrying of the mails is a business. It is the business of certain persons, and they know how the contracts are advertised a long time before they are let; many months before. About the same class of persons bid for them, and the moment the bids are published in the Department those who make bids take care to be informed through their correspondents here just how the bids are. Every man whose bid is rejected knows the difference between his bid and the bid of the person who is accepted and who gets the contract.

**The PRESIDENT pro tempore.** The Chair will be pardoned by the Senator from Wisconsin, perhaps, for suggesting that the better way for him would be to move his amendment after the question shall have been taken on the motion to strike out the section, because if the word which he proposes to insert be inserted and the section then be stricken out those words will go with it, and if the Senate should agree to his amendment and then should refuse to strike out the section his amendment would fall.

**Mr. HOWE.** I do not exactly understand the Chair.

**The PRESIDENT pro tempore.** The Senate may agree to strike out of the section the words which the Senator desires to have stricken out, and then may refuse to strike out the rest of the section, and then the result of that would be that the words that he desires to have stricken out would not be stricken out of the section, because the amendment as amended would not be agreed to. If, however, the Senate shall negative the proposition to strike out the whole section, it will then be open for him to move to strike out those words.

**Mr. HOWE.** But if the Senate strike out the whole section, the whole section will have gone. I saw that some Senators here desired to retain a part of this section, the publication of some of these bids, and the main objection seemed to be—it was so urged by the chairman of the committee—against the publication of the Post Office bids.

**The PRESIDENT pro tempore.** If the whole section shall be retained, the Senator can then move to strike out these words; and the effect of that motion, if adopted, would be to retain the part which he desires to retain. The Chair has no choice, but only makes the suggestion.

**Mr. HOWE.** I have but very little choice about it myself. I was trying to accommodate the section so as to meet the views of those who want to publish a part of these bids and to meet my own views, who certainly do not want any publication of the bids of the Post Office Department. As, however, I care but very little about it, I am willing to withdraw my amendment and let the vote be taken on striking out the section.

**The PRESIDENT pro tempore.** The question then is on the amendment of the Senator from New Hampshire, which is to strike out the fifth section of the amendment reported by the Committee on Printing; and upon that question the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 5, nays 23; as follows:

**YEAS**—Messrs. Buckalew, Grimes, Hale, Harlan, and Trumbull—5.

**NAYS**—Messrs. Anthony, Chandler, Clark, Collamer, Conness, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Harris, Henderson, Hendricks, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Pomeroy, Powell, Ramsey, Sumner, Ten Eyck, Van Winkle, Wade, Wilkinson, and Wilson—23.

**ABSENT**—Messrs. Brown, Canfield, Cowan, Harding, Hicks, Howard, McDougall, Morrill, Nesmith, Richardson, Riddle, Saulsbury, Sherman, Sprague, Willey, and Wright—16.

So the motion to strike out did not prevail.

**Mr. HOWE.** I now renew my amendment to strike out of the section the words beginning with the word "also," in line five, to the word "be," in line fifteen; to strike out the letter "s" at the end of the words "portions" and "acts," in line seventeen; to insert "said" before "publication," in line eighteen; and to strike out all after the word "publication" to the word "be," in the twentieth line; so as to make the section read:

**Sec. 5. And be it further enacted,** That the annual report of the Postmaster General of offers received and contracts for conveying the mails, in compliance with the twenty-fourth and twenty-fifth sections of the act of Congress approved July 2, 1836, be no longer printed unless specially ordered by either House of Congress; and that such portion of the above-mentioned act as authorized the said publication be and the same is hereby repealed.

The amendment to the amendment was agreed to.

**Mr. ANTHONY.** In lines seven, eight, and nine of the sixth section of the committee's amendment, I move to strike out the words "have them printed separately, three hundred of each for the use of the Senate, and one thousand for the use of the House of Representatives," and to insert "cause to be printed separately the usual number for the use of the two Houses of Congress."

The amendment to the amendment was agreed to.

**Mr. ANTHONY.** In the thirteenth line of the sixth section I move to insert the word "alphabetical" before "index."

The amendment to the amendment was agreed to.

**Mr. WILSON.** I now move a new section to come in after the first section:

**And be it further enacted,** That the Secretary of War be, and he is hereby, authorized to appoint some competent person to edit the printing of the official reports of the operations of the Army of the United States.

The amendment to the amendment was agreed to.

**Mr. HALE.** I want the attention of the chairman of the Committee on Printing a moment. Does not this bill require a permanent session of the Joint Committee on Printing, or require them to be in session during the month of November, to say the least?

**Mr. ANTHONY.** I do not see how that is. It requires that the Joint Committee on Printing shall appoint some suitable person to edit and index the compilation. That person, of course, will be appointed at the close of the session to continue till the next session.

**Mr. HALE.** Let me state, then, the objection that strikes my mind. The provision is:

That hereafter, instead of furnishing manuscript copies of the documents usually accompanying their annual reports to each House of Congress, or to the Superintendent of Public Printing, the heads of the several Departments of Government shall transmit them, on or before the 1st day of November in each year, to the Joint Committee of Congress on Public Printing; and it shall be the duty of that joint committee—

That is, after they are so transmitted to them—to appoint some competent person, who shall edit and select such portions of the documents so placed in their hands as shall, in the judgment of the committee, be desirable for popular distribution, and to prepare an index to the same.

It seems to me that that section looks to a session of the joint committee from the 1st of November.

**Mr. COLLAMER.** Every other year they cannot exist.

**Mr. HALE.** As the Senator from Vermont well suggests, they cannot be in existence on the 1st day of November every other year, because they would have expired by limitation on the previous 4th of March.

**Several SENATORS.** It is time to adjourn.

**Mr. ANTHONY.** This can be amended in one moment, and I am very anxious to have the bill finished to-night. The objection is well taken, and it is easily corrected by saying "on or before the 1st day of November in each year, to the Superintendent of Public Printing," instead of "Joint Committee of," and "and that it shall be the duty of the Joint Committee on Printing to appoint," &c.

**Mr. HALE.** The difficulty then is as suggested by the Senator from Vermont, that every other year there will be no joint committee.

**Mr. ANTHONY.** The Joint Committee on Printing will appoint some suitable person to edit the documents, and he will remain until some other person is appointed.

**Mr. COLLAMER.** Who is to decide what is to be published?

**Mr. ANTHONY.** That person.

**Mr. HALE.** No. "It shall be the duty of that joint committee to appoint some competent person, who shall edit and select such portions of the documents so placed in their hands as shall, in the judgment of the committee, be desirable for popular distribution."

**Mr. ANTHONY.** Mr. President—

**Mr. GRIMES.** Let us adjourn.

**Mr. ANTHONY.** I have the floor.

**Mr. GRIMES.** When the Senator yields the floor I shall move to adjourn, for the reason that there is a question in this measure: it proposes to go into the book-publishing business, and I want to hear that discussed.

**Mr. ANTHONY.** I do not yield the floor. If the Senator from Iowa desires to discuss the bill, I certainly shall not press it now; but I was not aware of that. I supposed that only this amendment remained, and that it would take but a few minutes to dispose of the bill. The section has been altered since it was revised by me, and I see the force of the objection of the Senator from New Hampshire. I can readily propose an amendment to obviate it, but if the Senator from Iowa wishes to discuss any portion of the bill I shall not press it now.

**Mr. GRIMES.** I did not say and I do not now say that I propose to discuss the bill, but I said that this is a new proposition entirely; it authorizes the Committee on Public Printing, or the agent that they may appoint, to direct the publishing of a certain number of public documents, whichever they may select, not for distribution among the members alone, but for sale in such a manner as may be designated.

**Mr. ANTHONY.** In such a manner as is designated in the bill; that is, the purchaser paying the money before the documents are printed.

**Mr. GRIMES.** That is a new question; it has not been discussed by the Senator from Rhode Island or anybody else; and I think that before we establish a rule of that description the Senate should give more consideration to it than we are prepared to give to it this evening. That is my impression. It is a very important question out of which a great many complications and a very large expense may grow.

**Mr. ANTHONY.** The Senator will allow me to amend this section first, and then I will give way to a motion to adjourn. I move to amend the first section so that it will read—

**Mr. HALE.** I think you had better take time to look at that.

**Mr. ANTHONY.** Very well.

**Mr. HALE.** I move that the Senate adjourn. The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, May 17, 1864.

The House met at twelve o'clock, m. Prayer by Rev. Dr. Hosmer, of Buffalo, New York.

The Journal of yesterday was read and approved.

## NAVY APPROPRIATION BILL.

**Mr. RICE,** of Massachusetts, from the committee of conference on the disagreeing votes between the two Houses on the Navy appropriation bill, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 151) "making appropriations for the naval service for the year ending June 30, 1865," have met, and after a full



and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House concur in the amendments of the Senate to said bill numbered thirteen, fourteen, eighteen, nineteen, twenty, and twenty-four.

That the Senate recede from its amendments to said bill numbered twenty-two and twenty-three.

That the Senate concur in the amendment of the House to the amendment of the Senate to said bill numbered one.

That the House concur in the amendment of the Senate to said bill numbered twenty-seven, with the following amendment:

And insert in lieu thereof the following:

Sec. 2. *And be it further enacted*, That out of the appropriation of \$750,000 for a floating dry-dock at navy-yard, New York, provided for by the act making appropriations for the naval service of the United States, approved 3d of March, 1863, the Secretary of the Navy be, and he is hereby, authorized to construct one or two dry-docks, as he may deem expedient, at New York and Philadelphia, at \$350,000 each, and to expend the balance of said appropriation, if it shall be necessary, to enlarge the sectional docks to a capacity to receive the large vessels now building.

JOHN P. HALL,  
P. G. VAN WINKLE,  
L. W. POWELL,  
*Managers on the part of the Senate.*  
ALEX. H. RICE,  
JAMES E. ENGLISH,  
*Managers on the part of the House.*

Mr. HOLMAN. I ask that the amendments be read, so that the House may understand what has been the action of the committee of conference.

Mr. RICE, of Massachusetts. I can satisfy the gentleman by informing him of what the action of the committee has been from the memoranda I have here, but I have no objection to the amendments being read.

The amendments were read *in extenso*.

Mr. STEVENS. What is the appropriation of \$75,000 for?

Mr. RICE, of Massachusetts. The first amendment in which the House concurred with the Senate was in reference to an appropriation of \$75,000 for building a hospital at Mare island, California. The service in California demands that some further accommodation should be made for the sick and disabled seamen upon that coast. There have been plans and specifications made for a very large and ornamental structure there, the cost of which it is supposed will be about two hundred and fifty thousand dollars. The chief of the Bureau of Medicine and Surgery does not coincide with the view heretofore taken of the expediency of a building at such a cost at that point. He is of the opinion that for the sum of \$75,000 to be now appropriated a plain and substantial and sufficiently commodious building for the purposes of that coast for the present time can be constructed. The committee of conference on the part of the House were unanimous in regard to making this appropriation.

Mr. STEVENS. Is this \$75,000 the whole amount?

Mr. RICE, of Massachusetts. I think it will be. It results from the change of the plan of the building to a more simple structure.

The fourteenth amendment relates to the salary of the constructing engineer, reducing it from \$3,500 to \$3,200, which is the salary of the commandant, the engineer now receiving more than his superior. The others relate to the necessary work at Key West. One amendment relates to the salaries of the assistant astronomers, or aids, to the Observatory at Washington, by which the number is reduced from four to three, and the salaries of the four are divided among the three, as agreed upon. The last amendment authorizes the Navy Department to use at its discretion an appropriation of \$750,000 made during the last Congress.

The report of the committee was adopted.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### COMMODORE CHARLES WILKES.

Mr. RICE, of Massachusetts, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Navy be directed to communicate to this House the proceedings of the court of inquiry in the case of Commodore Charles Wilkes.

#### VIRGINIA ELECTIONS.

Mr. DAWES. I call up the election case of Joseph Segar, in order that it may now be acted on. I ask the Clerk to read the resolution of the Committee of Elections.

The Clerk read, as follows:

*Resolved*, That Joseph Segar is not entitled to a seat as a Representative in the Thirty-Eighth Congress from the first district of Virginia.

Mr. DAWES. I desire also to say that there is another report of the committee, which will be found in House document No. 59, in reference to the claim of Lucius H. Chandler to a seat in this Congress from the second district of Virginia, and as the reports in these two cases are based upon an almost precisely similar state of facts, it would be a great saving of time if the House would consider the two cases together. I ask the unanimous consent of the House to consider both cases as before them.

There was no objection.

Mr. DAWES. I do not desire to detain the House but a few moments. The principles involved in these cases are precisely the same as those which have been presented, argued, and adjudicated by the House over and over again in the last two or three years, and there is therefore no necessity of more than simply stating the facts as they appear.

The district which Mr. Segar claims to represent is the first congressional district of Virginia, composed of the counties of Accomac, Northampton, Elizabeth City, York, Northumberland, Westmoreland, Richmond, Essex, Lancaster, Middlesex, King and Queen, King William, New Kent, Gloucester, Matthews, James City, Warwick, Charles City, King George, and Caroline. The vote on which Mr. Segar claims to have been elected was cast on the last Thursday of May, 1862, the time provided by law for the regular election of the State of Virginia. At that time there were votes cast in Accomac, Northampton, Elizabeth City, and York counties; the precise number not having been ascertained, but as nearly as has been ascertained was 1,667, as follows:

In Accomac.....	1,120
Northampton.....	305
Elizabeth City and York.....	242

Total number of votes..... 1,667

Of these, Mr. Segar received about 1,300 votes. There was no election held in any other part of the district on that day. A comparison of these four counties with the remainder of the district either in respect to territory or population shows that but a very small portion of the district was represented.

In 1860 the aggregate population of the district was 160,834. Of these there were white males, 34,013; total whites, 68,159. Of the counties which voted in this election there were white males, 9,772, out of 34,013 in the whole district; and the entire number of whites in these counties was only 19,181 out of 68,159 in the whole district, and but 37,165 out of 160,834 aggregate population.

The reason why no election was held in any other portion of this district is well known to everybody: because the rest of the district was in the possession of the rebel military authorities, and it was utterly impossible to hold an election there.

So far as this election was held; I believe it was in conformity to law. These gentlemen presented at the commencement of the present session of Congress certificates made out in conformity to the requirements of the law of Virginia.

Mr. Segar claimed that, having the certificate properly made out by the proper authorities, he was entitled to a seat here without contest; but the Committee of Elections supposed these credentials were referred to them for the purpose of examining into this whole election and reporting its character to the House. The committee have made such an examination, and upon the principles which have heretofore been submitted and acted on by the House, that where a large portion of a district was within rebel control, a larger portion than was in our hands, there could be no free election, the committee came to the conclusion that a majority of the electors in this congressional election were not free to vote, and that, therefore, upon this principle heretofore decided, Mr. Segar was not properly elected a member of this House, and is not entitled to a seat.

It gives pleasure to the committee to testify to the loyalty and sacrifices of Mr. Segar in the cause of the Union, and to express regret that, in accordance with the principles which they have adopted, and with the directions which they con-

ceive were given them by the House, they found it impossible to come to the conclusion that would admit him to a seat here.

The other case is that of Mr. Lucius H. Chandler, who claims to represent the second congressional district of Virginia, composed of the counties of Brunswick, Dinwiddie, Greenville, Isle of Wight, Nansemond, Norfolk, Princess Anne, Prince George, Southampton, Surry, and Sussex. The whole population of this district in 1860 was 156,626; total number of whites, 74,230; the total number of white males, 36,879. Of these, 779 voted, and 778 of them voted for Mr. Chandler. Voting places were opened on the day of this election in nine places in the county of Norfolk and cities of Portsmouth and Norfolk. No polls were opened in any other portion of the district; and I may here remark that I believe nearly all the votes cast were from the city of Norfolk.

Comparing, then, these cities and county with the entire district, and it will be seen at once that only a very small portion of the district participated in this election, and for the same reason precisely that caused the paucity of the vote in Mr. Segar's district, namely, that the rebels held all the rest of the district in subjection and prevented the polls from being opened. The committee have, therefore, for precisely the same reason as in the case of Mr. Segar, reported against the admission of Mr. Chandler to a seat as a Representative in this Congress.

These gentlemen are now present in the House and desire to be heard, as they have the right to be under the rule which has been adopted by the House; and I now yield the floor to permit them to address the House in defense of their own claims.

Mr. SEGAR. In the fall of 1861 a small number of the loyal voters of the county of Elizabeth City, the county of my residence, appeared at the polls, in pursuance of a proclamation of Francis H. Pierpont, then the recognized loyal Governor of Virginia, and cast their votes for the humble individual before you, as their Representative in the Thirty-Seventh Congress. At the time I was far away from my home, treading, for the first time in my life, the soil of New England; and not even aware that an election was in contemplation. At first, I am frank to confess, I had no purpose of appropriating to myself the intended honor, having grave doubts of the legitimacy of the Wheeling government, under the auspices of which the election had taken place. But my doubts on that point having been removed by an able argument of the late Benjamin F. Hallet, of Boston, published in the Boston Post, and to which my attention was called by a distinguished member of the Boston bar, I determined finally to make claim to the proffered seat. I accordingly appeared here to do so, but the House thought fit not to admit me.

The chief objections taken to my admission were, first, the one still raised, that all the loyal voters of the district had not had an opportunity of indicating their choice at the polls, and, secondly, that the election having been one to supply a vacancy, it should have been held by writ of election, and not by executive proclamation.

Regarding the former of these objections as not soundly taken, and regardless of the rights of the State of which he was the acknowledged chief magistrate, Governor Pierpont issued a writ for a new election. In this second election, I beg the House specially to note, only three counties voted—Accomac, Northampton, and Elizabeth City—and the vote cast was only 1,018, of which I received 559; and this number being a majority of the votes cast, I received a certificate of election, and a second time appeared in this Hall, seeking admission. You kept me out in the cold, Mr. Speaker, for some seven or eight weeks, but finally, either taking pity on me, or believing me entitled to membership, you kindly rescued me from my shivering position outside, brought me within these doors, and conducted me to a seat in this House of Commons of this great nation. I took the seat; and though it is not mine to boast a brilliant, I think I may not immodestly claim to have made at least an honorable record of my representative action. Elected as an unyielding Union man, I gave outspoken Union votes, having supported every vital measure of the Government for the suppression of the rebellion.

Well, sir, supposing the point then as now

raised against me to have been overruled by the solemn judgment of the House, and that the principle in my case had been definitively settled, I became a candidate for reelection, was elected by a large majority, and appeared here on the first day of the session to take my seat, never dreaming that the Clerk of the last House (Mr. Etheridge) would hesitate to place my name on his list of members elect—for I had presented a clear certificate of election, and had moreover been personally assured by him that my name was actually on his printed lists, my certificate of election being (as he said) all right—and still less conceiving it possible that the House, after the action of the last session, could for a moment hesitate over my admission. And yet how stands the case? The Clerk, at a very late hour, thought fit to erase my name from the list on which he had put it, and this House, instead of standing by the decision of the last Congress, fairly and dispassionately made, has again kept me outside from early December till the summer solstice is almost upon us. In other words, though you admitted me the last session with a vote of only three counties of my district and a vote of 559, now, when I come here with the vote of four counties and a vote of 1,300—more than twice larger now than then—your committee tell me I have no right to a seat; and while you admitted the 559 loyal voters who sent me here the last Congress to representation on this floor, you now deny it to the 1,300 who sent me to the present Congress! And what, sir, is most remarkable and not a little mortifying, many of my old colleagues who voted to let me in in 1862 refuse to admit me in 1864!

Such are, briefly, the facts of the case; and I ask the House to bear them in mind while I proceed to demonstrate, as I am confident I can, my title to the seat I claim. Of my right to it on precedent, on principle, on law, on justice, and on public policy, I have no more doubt than I have of my right to my share of the sunlight of heaven. And if my good friend from Massachusetts, the chairman of the Committee of Elections, will but give me a patient hearing, (as I am sure he will,) I am not without hope of convincing him, not only that the conclusion of his report is erroneous, but that, on the very principles of his own report, I am entitled to a seat in this body.

I rejoice, Mr. Speaker, that this case comes up now disencumbered of all complications. It is admitted in the committee's report that there is such a political organization as the State of Virginia, an admission for which I heartily thank them, for even that has been questioned in some high quarters; that there is such a district as the first congressional district of Virginia, duly laid off under an apportionment by the census of 1860; that the election was regularly held at the times and the places appointed by law; and that I have a proper certificate of election from the officer charged by law to grant it. So that there is but a single point in the case to be considered, so far as the committee's report is concerned, and that point is, that all the loyal voters of the district not having had an opportunity of reaching the polls, I cannot be said to be their choice, and therefore should not be admitted, for it is possible (they say) that some other person *might* have been preferred as Representative. I think I have fairly stated the point in the committee's report, and on that point I take issue with them. I maintain exactly the reverse of the committee's reasoning: that both principle and precedent are against the conclusion of the committee, and in favor of my admission.

I hold, first, that under a precedent long ago set, (as far back as the year 1826,) it is not competent for this House even to inquire whether or why any of the voters of my district, or any other district, were absent from the polls. I refer to the case of Biddle and Richard vs. Wing, (Contested Elections in Congress, p. 504,) in which it was charged by one of the claimants, Richard, that a sufficient number of his friends had been intimidated from voting to defeat his election; in other words, that but for actual intimidation practiced at the polls a sufficient number of his friends would have voted that did not vote to have given him a majority of the votes cast, and thus elected him. It was ruled that this inquiry could not be gone into at all. I quote from the case:

"The committee are of opinion that the duty assigned to them does not impose on them an examination of the

causes which may have prevented any candidate from getting a sufficient number of votes to entitle him to a seat. They consider it is only required of them to ascertain who had the greatest number of votes actually given at the election."

And again:

"The law appoints a particular time and place for the expression of the public voice; and when that time is past it is too late to inquire who did not vote or the reason why. The only question now to be determined is, for whom the greatest number of the legal votes have been given."

And further:

"In all cases of contested elections, where the question depends upon matters of fact, much difficulty is to be expected in coming to a decision; and, where there is reason for doubts, a disposition is often felt to return it to the people. This, however, ought not to be done when it is possible to ascertain what the result has been. When a people, in the exercise of their constitutional rights, have gone through with the process of an election, according to the prescribed rules, they ought not to be deprived of the advantages accruing therefrom but for the most substantial reasons. No doubts which are capable of being solved ought to be permitted to operate against them. Indeed, nothing short of the impossibility of ascertaining for whom the majority of the votes have been given ought to vacate an election; more especially if by such decision the people must, on account of their distant and dispersed situation, necessarily be unrepresented for a long period of time. The committee, being of opinion that in this case an election has been made, have proceeded to ascertain on whom the choice has fallen."

Now, if ever a principle was set out with a pencil of light, here it is; and what is it? It is this: that so important is the elective privilege that an election should never be set aside except when there is an absolute impossibility of ascertaining where the majority of the votes actually given lies; that so vital is the right of representation in popular government, that it shall never be lost where it is possible to maintain it; that those who do go to the polls shall not be deprived of the benefits of the inestimable privilege by those who do not go or could not go; that, no matter how many are absent from the polls, those who are not absent shall come in for freedom's great vital right of representation; and that however great the absence may be it shall not be taken into account, so as to interfere with the rights of non-absentees, unless there has been such general fraud or corruption as would vitiate the whole election. This is the principle laid down by the committee of 1826, and it is a sound one; it is founded preëminently in reason and in wisdom; it institutes no superfluous inquiry; it is plain and incapable of perversion; it raises the simple and disembarassing questions, who did vote, and who received the greatest number of votes given; an inquiry sufficient, where there is no absolute and general fraud, for all the practical and useful ends of the elective franchise; it preserves to us unimpaired that essential principle of all free government, that taxation and representation should be "now and forever one and inseparable;" and it is deep-founded in the certainty and purity of the elective franchise, two qualities without which the privilege were as worthless dross. It discloses a rule which, from its simplicity and consequent incapability of fraudulent perversion, is suited for all times and all circumstances; for times of high party excitement and times of political quiet; for times of degeneracy and times of lustrous virtue; for "piping times of peace" and dark times of "grim-visaged war." And the best evidence of its soundness is that it is recognized in the election laws of every State in the Union, and has been from the very birth-hour of the Union to this bleeding hour of civil strife.

Now, I ask my clear-headed friend from Massachusetts why he should not apply this philosophical reasoning of the Congress of 1826 to my constituents and their humble Representative? Is there not a peculiar and even touching applicability to their case? Sir, it looks to me as if the committee of the Nineteenth Congress had seen far down the vista of time, and, glancing with prophetic ken at the dark scenes of this unhappy rebellion, had fixed up (if I may so speak) a set of maxims for our guidance in the very case before us.

Is not the "elective privilege as important" to my constituents as to any other people? Have they not, like yours, Mr. Speaker, and those of other Delegates here, need for a Representative? Have they no rights to be shielded, no interests to be watched after?

Sir, when the people of my district went to the polls, were they not there "in the exercise of their constitutional rights?" and did they not "go through with the process of the election accord-

ing to the prescribed rules?" The committee admit all this. Why, then, (to apply the just sentiment of the committee of the Nineteenth Congress,) "should they be deprived of the advantages accruing therefrom?"

And then, if you say that the votes of those loyal men who could go and did go to the polls shall go for nothing, do you not disfranchise all the loyal men of the district "of representation for a long period of time"—at least until "this cruel war is over?"

And is there any doubt who received the greatest number of votes, and was, therefore, elected? The committee make no such pretension. I say, therefore, that, an election having been made, and the result having been ascertained beyond cavil, this House, on the principle of *stare decisis*, has no just authority to do anything but ascertain "on whom the choice has fallen," and that, consequently, it has no right to open the question of who was absent from the polls, or of the reasons of the absence.

I might here rest my case, and demand my seat on the precedent set for our imitation by our predecessors of a golden era. But, as a rule is to be set for all time; I cannot forbear to look for a moment, by way of contrast, into the soundness of the one commended to us by the present committee, of inquiring into the number of absentees and the causes of absence, as a means of ascertaining the popular choice. Can any one fail to perceive that this modern rule—one of the offsprings of this hated rebellion—is utterly unreliable? Sir, you must either require the whole vote of a district to be out or within reach of the polls, or you must take the majority of the votes cast as an exponent of choice, or you may not hit the choice. I will illustrate by two of the very cases referred to in the report of the committee as illustrative of the soundness of its position. First, the case of Mr. Clements, of Tennessee: Mr. Clements received in all the counties of his district 2,000 votes out of the usual vote of 6,000, one county, Warren, in rebel occupation, not voting. Now, who knows but that if this county of Warren had voted there would have been a majority against Mr. Clements? And so in the case of Mr. Hahn, of Louisiana: he received in his district 2,799 votes, all others 2,319, a difference of less than five hundred. But the parishes of St. Mary's and St. Martin's, being infested with rebel guerrilla bands, did not vote. Now *non constat* if these two parishes had voted, that Mr. Hahn would have been elected at all. The two parishes might have put the majority against him. And does not this show that the moment you begin to look into the matter of absent voters you may miss the object you aim at, to wit, the ascertainment of the popular choice, and that there is but one safe and certain rule, to wit, that which has been adopted by every State in the Union, of taking a majority or the greatest number of votes actually cast, without regard to absentees at all?

Sir, there is no other sound rule, and the proof of it is, that the moment you departed from the good old practice which has prevailed from the foundation of the Government until this rebellion began, of adopting the majority of the cast vote as the test of election, and relying on the official returns of the proper State officers as conclusive until fraud is alleged and proved, you involved yourselves in confusion, uncertainty, shifting decisions, and endless labor for your Committee of Elections, and the sooner you return to the old system the sooner you will place the elective franchise on the most respectable and the securest basis, and the sooner you will take from the Committee of Elections the stone of Sisyphus, which it has been heaving up the mountain from the first moment that this innovation on the elective principle and the old practice began.

My friend from Massachusetts, I know, will answer this argument and all others militating against his peculiar theory by saying that each House of Congress is the judge of the returns, qualifications, and elections of its members. True; and under that province this House may eject any member of the body, however legally elected, and there would be no redress except by another appeal to the people, and then another ejection might ensue, and so on, until a bare quorum would be left; so that this admitted function of Congress is to be exercised with a sound discretion, intelligently, rationally, honestly, not

arbitrarily. Then, sir, holding this power by the tenure of sound discretion and not arbitrary caprice, ought Congress so to exercise it as to subvert one of the noblest principles of American freedom, and more especially when under our Federal system there can be no extinction of a State except in the mode prescribed by the Constitution, and when, of course, the principle of representation must survive wherever there is a loyal population to vote? And until Congress shall intervene and take charge of this whole subject of elections, as it may rightfully do, ought not the State laws and State usages to prevail and control? Ought not, at least, this small respect to be paid to State rights and State dignity? Ought you, in the absence of United States laws, to go behind the State laws and State returns? Resume, if you please, your rightful control over Federal elections, but so long as you leave this matter of elections to the States, respect them and the regulations which you yourselves invited them to adopt. And does not my friend from Massachusetts perceive that if we establish the modern practice of opening the whole subject of elections in each case without regard to State laws and State returns, there is danger that, in times of high party excitement and of demoralization, a broad margin may be left for political intrigue, and seats in Congress be given out and taken away by arbitrary party requirement? And does he not see the necessity, yea, the high policy, of not departing from the established precedents in this important matter of elections? Sir, in no interest of society is stability more necessary than in that of elections. Stability is indispensable there; and I will add that it is more necessary in reference to the elective franchise than it is to the institution of property itself, because the elective franchise is the source of the rights of property, and of every personal right, and not only the source, but the shield. I am looking ahead to the time when we may not have a Committee of Elections composed of as able and as honorable men as those of the present committee.

Now, I ask my friend from Massachusetts, in all respect, if this precedent of the days of yore—those pure and happy days of the Republic, the days of the second Adams, whose administration was a bright era of our land, and was as faultless and pure as that of Washington himself—is not one that comes to my relief on the present occasion, entitling me to a seat with him in this Hall? In the face of this precedent, can he do anything more than inquire whether I had, or had not, the majority of the legal votes cast?

But, sir, leaving this precedent out of view, are there no other precedents to entitle me to membership in this body? I marvel much, Mr. Speaker, that the Committee of Elections, while they were looking up the precedents and declaring that all precedent was against me, did not think of one of very recent origin, and perfectly in point, the case in the last Congress, of the unlucky individual whom you have so long kept out in the cold, my humble self. I can only account for the omission by the fact that I was so silent and obscure a member that gentlemen have actually forgotten that I was a member at all. And so, sir, I crave leave to refresh the recollection of the House, and to remind it (as the Journal will show) that I was a veritable member of the Thirty-Seventh Congress, and that I obtained my seat in the very teeth and in defiance of the very principle on which the committee now seek to exclude me, and on the very state of facts now existing. My friend from Massachusetts will say, I suppose, that his committee, being unable to agree, did not make report of the specific objection now taken, and so asked to be discharged from the further consideration of the subject, leaving the House to decide the matter for itself. True, sir, but the committee reported the facts of the case, as in the present instance, leaving the House to decide the principle, and to apply it, without regard to any opinion of the committee, and the House did decide and apply it.

After stating that but three out of seventeen counties voted, and but one precinct in one of those three, the committee give the following results:

Total vote cast.....	1,018
For Joseph Segar.....	559
For Arthur Watson.....	438
All others.....	21

Making my majority over Watson 121.

In the present case the committee report twenty counties as composing my district, and a vote in four counties only, as follows:

In Accomac.....	1,120
Northampton.....	305
Elizabeth City and York.....	242

Total number of votes..... 1,667

Of these Mr. Segar received about 1,300 votes.

The only material difference is that in the first election seventeen counties composed the district, and only three voted; while in the late election twenty counties, under the new apportionment, formed the district, and only four voted. So that there is no substantial difference, in principle, in the two cases.

True, the addition of three counties to the district increases its population, but that addition is more than offsetted by the increase in the aggregate vote cast and the increase of my own vote in the last election over the first.

The able chairman of the committee will argue, I can foresee, that this case of mine is not a precedent. He will tell you that when it was up in the last Congress he declared that the House might, without interfering with any position of the committee, either admit or reject me. But I hold it to be indisputable that the House in admitting me did so either as matter of personal compliment or on principle.

But it could not well have been on personal compliment; for I suppose that it is my hard lot to be one of the least popular members that ever sat in this body. That, however, is more my misfortune than my fault; for an excessive infirmity of vision, besides giving me an appearance of almost clownish awkwardness and a seeming stiffness, much disqualifies me for recognizing faces and associating faces and names; and so, sir, I am debarred the pleasure of an extensive acquaintance with the members of the House, which I deeply regret, for I know I am socially and personally much a loser by the exclusion inflicted by this infirmity.

So the House must have voted on principle, and not on mere compliment. Well, sir, all I have to say is, that if you voted on principle, stand by it, for principle is a thing to be stood by; and if you voted for me for compliment's sake, please pay me the compliment once more, for I am as worthy now as then. The objection, then, that is taken to my admission now is the identical one that was in the mind of the House when I was admitted in 1862, and which, by my admission then, was expressly overruled by a conclusive vote. Nay, more. My case is far stronger now than it was then. Then, but 1,018 votes were cast in my district; now, there are near 1,700. Then, I received only 559 votes; at the late election, 1,300. So that while you gave my district a Representative with a vote of just 1,000, you propose to deny it one with a vote of 1,700; and while you awarded me my seat when I had only 559 votes, you talk of rejecting me when I received 1,300!

Now, sir, I do not mean to say whether consistency is a jewel or not, or whether it is a rare jewel, or one worth keeping bright; but this I do aver, that my case was decided, and I think rightly decided, when, on the 6th of May, 1862, I was admitted a member of the Thirty-Seventh Congress, because then there could not have been a single conceivable objection to my admission but the one now urged—that the whole vote of my district was not in reach of the polls. And I maintain, further, that the faith of this House is most solemnly pledged to yield me and my constituents the seat we claim. You cannot reject me without breaking your faith. Declare me elected to one Congress and rule me out of another, when the principle is identical, and the facts even stronger in the last case than in the first! Is that the way you keep sparkling the jewel of your faith? Is that the way this honorable body, the representative of the morals of the nation, cherishes its consistency and its honor? Is this the example the law-makers of a great and proud nation are to set to the citizen masses? Invite me, on the faith of your past action, into a most laborious and expensive canvass, and then turn me adrift, to be the sport of the envious and malicious, and an especial object of confederate taunt! Sir, I trust this House will bring upon itself no such reproach. Let it be just to itself and just

to me, by reinscribing my name on the list from which the late Clerk so improperly struck it off.

But is there no other precedent of the same purport? Why, sir, my friend from Kentucky, Mr. Casey, was allowed to take his seat in the Thirty-Seventh Congress with about seven hundred votes, just about half of my vote; and when, as we are assured by an honorable gentleman now a member from that State, [Mr. SMITH], that a considerable portion of Mr. Casey's district was held by rebels, and could not reach the polls. How is it, Mr. Speaker, that you "make fish of one and flesh of another?"

I could bring up many other instances of gentlemen reaching the honors of this floor who received a very inconsiderable proportion of the votes of their districts, but I have cited examples enough to show that when the committee said that the precedents are all against me they were decidedly wrong. I insist that precedent, both old and new, time-honored and recent, lights my way to a seat in this body, as plain as the road to the parish church. Indeed, after the vote of the last Congress in my favor, the question of my admission is not now an open one. On the principle of *stare decisis* it cannot be reopened. To all intents and purposes it is *res adjudicata*.

But a large portion of my district being in rebel possession, and not voting, the committee argue that I cannot be said to be the choice of the loyal voters of it, for (may be) if the loyal men in the counties in possession of the rebels had voted I might not have had the majority. How did the committee ascertain that there are any loyal men in that portion of the district which is in the rebel lines? How do they know that there is one single loyal man there? The presumption is that there are no loyal men there. When a portion of a State rests under rebel rule, civil and military, the presumption of common reason is that all its people, or certainly most of them, are rebels; for if they prefer the Government of the Union to the rebel government why have they not left the one and sought the other? There is not a county of my district that is not in easy reach of the stars and stripes; and there is not a loyal man in any one of those counties that could not in a few days put himself within the Federal lines and the protection of the United States. Why have they not left rebeldom and sought protection under the old flag? I, for one, fled from the one and sought the other. I had made up my mind, immovably, that I would under no circumstances live under treason's government; and so I fled from the very heart of rebeldom, and fled, and fled on, until I caught sight of that glorious flag which is power and strength and protection wherever its proud folds are flung to the breeze. If there are any loyal men in the rebel-held portion of my district why did they not, as others did, "come out from among the wicked?"

The argument, then, of the Committee of Elections, that I am not entitled to my seat because there was a greater portion of the loyal men in the rebel part of the district than in the loyal part of it, is based altogether on a naked assumption. They do not state an ascertained fact, but put forth only an airy speculation. They assume what they ought to prove. They forget that the *onus probandi* is on them. I come here, sir, with a proper certificate of the proper returning officers of my State, which raises at once the presumption that I had all the votes necessary, both in quantity and quality, to elect me; and I come here also with the presumption in my favor that all those in rebel lands are rebels; and yet these presumptions, these most rational presumptions, to the benefit of which I am entitled as against any contestant, and indeed against all the world, until legitimately repelled, are to be rebutted and set aside, how? By facts and proofs? No, sir, by another and an inferior, less rational presumption—by a naked speculation!

Now, sir, I am not much of a lawyer, but I did learn this principle in the elementary law-books, that where a presumption arises in favor of a party, that party is entitled to the benefit of it until it is rebutted and the contrary made to appear. Now, I ask, in all candor, have the committee fairly and squarely rebutted the presumptions with which I come here in my favor? I am here, as I just said, with the presumption, first, arising from a proper certificate of election,



that I had all the votes necessary to elect me; and I am here with that other most rational presumption, that in a rebel land there are but few loyal men to break the monotony of treason's song; and how, I ask again, do the committee rebut these presumptions and take from me the benefit of them? Why, sir, by the bold and bald assumption that as there were 1,700 loyal votes in the counties that did vote, there must be a proportional number of loyal men in those that did not vote! And having settled the basis of the proportion, they work it out, by the principles of Cocker and Pike, that as there were 1,700 loyal votes in the voting counties, there must be at least 5,100 in the counties in rebel possession and not voting! There are (to put the argument in semi-syllogistic form) 1,700 loyal votes in the four counties within the Federal lines that voted: *ergo*, there are 5,100 in the sixteen counties in the rebel lines that did not vote!

On what principle is it that the committee make the loyalty of the four counties that voted the basis for calculating the loyalty of the sixteen counties that did not vote? The circumstances of the two are totally different. The counties of Accomac, Northampton, Elizabeth City, and York early came back within the blessed scope of the Union. The proud emblem of our national sovereignty and power, as it streams from the liberty-poles at Fortress Monroe, and Fort Wool, and Camp Hamilton, and Yorktown, and Williamsburg, can be seen by the naked eye of the people of the counties of Elizabeth City and York as each fold flutters in the breeze. The two large counties of Accomac and Northampton, in six months from the date of Virginia's secession, came, by the expedition of General Dix, within the protection of the Union, and at once acknowledged its supremacy. Not so with the rest of the district. The Federal arms had made no lodgment there. Practical protection had not been guaranteed or offered. The stars and bars, not the stars and stripes, floated there, and there rebellion and treason still their vigils keep. Now, sir, in such entire dissimilarity of circumstances, how can you reason from the loyalty of the people in the protected, loyal portion of my district, to the loyalty of those in the unprotected, rebellion-bound portion of it?

Five thousand one hundred loyal voters in the portion of my district in occupancy of the rebels! Sir, I wish in all my heart it were so. It would be *imperium in imperio*. It would be a power in that section more potent than the power of rebellion itself—a power that might “beard the lion in his den.” It would put the Union party there a long way ahead of the secession traitors. In the whole of this portion of my district, the entire vote in the presidential election of 1860 was 7,840. The loyal vote in it now, say the committee, is 5,100. So that according to the committee's reasoning it has 2,745 more loyal than disloyal voters—a thing which cannot be predicated of any congressional district in Virginia. The same reasoning, as I have ascertained by actual calculation, would make the number of loyal voters in the whole State 54,400, and of the disloyal 44,019, thus making the loyal vote greater by 10,381 than the disloyal; a result which will, I am sure, expose to the chairman of the Committee of Elections the entire fallacy of the calculations on which he proposes to oust his friend from Virginia from a seat beside him. Five thousand one hundred loyal voters in the most “copperhead” region of the whole State! Sir, I tell you, in all candor, that the counties outside the four that sent me here, are the very last locality in my State to find loyal people in. It was in the soil of those counties that Mr. Calhoun sowed broadcast those seeds of nullification and sectionalism which have ripened into a fruitful harvest of rebellion and treason. I have often heard it remarked, and the remark was but too true, that there were more disciples of the Calhoun faith in the first congressional district of Virginia than in all the State beside. I know it to be so. I was often the Whig elector in that district, was the representative of a portion of it in the State Legislature for more than twenty years, and I speak from personal knowledge when I say that there has been from the time of Mr. Calhoun's celebrated Fort Hill manifesto in 1831, less attachment to the Union of these States in this than in any other portion of the Old Dominion. It has

been a soil more fruitful of a dividing and alienating sectionalism and of disunion-doctrine than any in this whole land, except peculiarly traitorous South Carolina. Look at the antecedents! Sir, when I knew the district, it was represented in Congress by old Burwell Bassett, a politician of the extreme State-rights faith. Soon after came Richard Coke, an ardent nullifier, whose Magnus Apollo was John C. Calhoun. Next came Henry A. Wise, who ran against Mr. Coke on the avowed ground of secession against nullification—the secessionist against the nullifier. True, Mr. Wise redeemed himself not a little in the dark times when executive prerogative in the hands of Andrew Jackson was laying foul hand on the most sacred principles of the Constitution. He gallantly stood up for the “union of the Whigs for the sake of the Union.” He even said that “office could not add a cubit to the stature” of Henry Clay—a tribute as righteous as beautiful, and that will be echoed back by the wise and the good of the world “to the last syllable of recorded time.”

But alas! Mr. Speaker, *quam mutatus ab illo!* Mr. Wise relapsed and beat badly Hill Carter, a gentleman of the olden standard, and an uncompromising old-line Whig of the Henry Clay and Daniel Webster school. I shall be no further his historian, but bring to your notice his successor, Thomas H. Bayly, a man of noble parts of both heart and head, but of extreme State rights and southern proclivities, and one of the most enthusiastic admirers of Mr. Calhoun. He was succeeded by a gentleman well known to many members of this body—Muscoc R. H. Garnett, whose political notions were at war from his boyhood with all national statesmanship, who regarded a labor to subvert our blessed Union a labor of patriotism and of duty, and who, since his pernicious doctrines eventuated in fragmenting that noblest fabric of human workmanship, held a seat in the rebel congress. From such antecedents, Mr. Speaker, you can scarcely expect to find in a certain part of my district the army of Union men which the Committee of Elections have so kindly assigned to its custody. Why, sir, even the old-line Whigs of the western shore portion of my district have forgotten their instincts. The Critchers and the Lewises and the Saunderses and the Smiths and the Roanes and the Lacys and the Carters and the Wilcoxes and the Shields and the Howards and the Greshams and the Claptons and the Fleets, and hundreds of the like quondam politics, who shouted for “Tippecanoe and Tyler too,” who sprung every nerve to make President noble, magnificent, immortal Harry Clay, who admired Daniel Webster as an intellect that any country might be proud of, who looked upon Millard Fillmore as one of the most unselfish, most patriotic, and most sagacious statesmen that the North has ever given to our common country, and who “did yeomen's service” in the cause of Bell and Everett at the last presidential election as being *par excellence* the Union ticket; all these, and thousands of others, the very elite of Whig chivalry in district No. 1, have gone off on “the pride of former days.” They “kept step to the music of the Union,” and sang anthems to the Union while Virginia and the Union were together, but now the harp of Tara sleeps on Tara's walls. Roused by the bugle-blast of their native land, they have thrown away the clarion with which they were wont to ring out joyous notes for the Union of their Washington. Sir, there never was a class possessing in reference to their State—their *natale solum*—more of the Cavalier spirit than do, my old comrades, the old-line Whigs of Northumberland and Lancaster and Richmond and Westmoreland and King George and Essex and King and Queen and Gloucester and Matthews and King William and Middlesex and Caroline and James City and Williamsburg and New Kent and Charles City. They loved the Union while their State and the Union could go on harmoniously together; but when conflict came, they became clannish, and, taking a position for their loved Old Dominion, they soliloquized, each to himself, in the language of Roderick Dhu's resolve:

“This earth shall fly

From its firm base as soon as I.”

And hence it was that, without reference to old party, they united almost to a man in ratifying the secession ordinance of their State.

Why, sir, all the blockade-running and carrying of supplies to the rebels from across the Potomac takes place through the very heart of the non-voting portion of my district. Could this contraband passing and traffic be well carried on if there were scattered over it 5,100 loyal voters? The two recent raids upon that land of submissive loyalty, the eastern shore of Virginia, emanated from the county of Matthews, one of the non-voting counties, and in which I do not believe there is one loyal man or woman. And throughout the western shore portion of the district a merciless conscription has sent nearly the whole of the arms-bearing population to the camp and the battle-field.

Sir, I am not singular in these opinions. In confirmation of them I submit a recent letter from Hon. E. P. Pitts, the able and loyal judge of the eastern shore circuit:

“Yours, asking my opinion of the loyalty of the counties of the first congressional district of Virginia, or that portion of it in rebel possession, has been received. I have resided in that district all my life, and have not been an inattentive observer of public affairs. I do not believe there are one hundred loyal voters in the portion of the district to which you allude, and if there is one he is unknown to me. That district has been under the control of the Calhoun school of politicians, and there are secessionists in it—and that not a few—of thirty years' standing. It would be surprising if there were many loyal votes to be found there, at least till under Federal control.”

Confirmatory of Judge Pitts's opinion is a letter from T. R. Bowden, Esq., a son of the late Senator Bowden, and Attorney General of Virginia, which I beg to read to the House:

NORFOLK, VIRGINIA, April 6, 1864.

MY DEAR SIR: Your letter of the 5th instant, asking my opinion of the strength of the loyal vote of the first congressional district of Virginia, has been received. In reply, I have no hesitation in stating that I believe the county of Accomac comprises nine tenths of the loyal voters of the district, excepting the county of Northampton, in regard to whose loyalty I am not advised.

My reasons for this opinion are based upon the following facts:

1. That in the county of King and Queen every vote cast was given for Dr. Richard Cox, the unconditional secession candidate, who voted for the ordinance of secession in the Richmond convention from “first to last.” In this county I am very well acquainted, my mother being originally from it. It polls 600 votes, and I have not been able to hear of the first loyal man residing there. Essex county, adjoining, is in the same way. Matthews and Middlesex comprise another district, which sent delegates to the Richmond convention. Mr. R. L. Montague (now member of the rebel congress) was almost unanimously elected to represent them. There were but two who voted against him; one of these died in Salisbury prison, and the other is now confined in Richmond.

Gloucester county sent Mr. John T. Seawell to the convention. He was one of the original secessionists. Gloucester has not three Union men in her borders. Save the military, I doubt if there be one. My father was attending court in that county when the news came that “Virginia had seceded,” and, being a notorious Union man, left the county in great haste.

On the Peninsula (with the exception of three who reside near Williamsburg) I do not know a Union man who presses its soil. There may be a few, but it strikes me they would have all left when McClellan evacuated the Peninsula, knowing the imminent danger they were in.

In regard to the counties in the northern neck, I am not personally acquainted, but am satisfied from reports that they are equally as destitute of any Union sentiment as those I have mentioned. They did not poll forty votes against the ordinance of secession.

In conclusion, I would remark that the first congressional district of Virginia is notoriously ahead of all others in devotion to secession. It furnished more original secession delegates to the Richmond convention, voted more unanimously for the ordinance of secession, and has given a more uniform, hearty, and zealous support to the rebellion than any other in the State.

These are my views; I give them frankly and unreservedly. If you deem them of any service, you are at perfect liberty to use them.

Very truly, yours,  
THOMAS R. BOWDEN.

Hon. JOSEPH SEGAR.

And a prominent citizen of Lancaster county, William N. Harris, Esq., who left that county because it was no place for a Union man to live in, assures me that scarcely a Union man is to be found in the whole northern neck of Virginia.

Now, I ask my friend from Massachusetts how he expects to find among such a people, at this hour of peculiar estrangement, 5,100 loyal voters? Sir, “you may call spirits from the vasty deep, but will they come?” The 5,100 loyal men are not there. They exist only in the fabulous comparisons of the committee. Instead of that large number, I am satisfied there are not 250 loyal men in all that portion of my district that failed to vote at the late election. I do not mean to say that there will be no returning loyalty there, for I am persuaded that when our armies shall have possessed this region so that those who shall return to their homes may

have assurance of security, thousands of the small farmers and mechanics and working men will, as it was in the counties of Elizabeth City and York, joyfully wend their way back to the hearth-stones they love. But at the time of the late election, I know I do not err when I say that not 250 loyal men were there to vote. But say there were 500, or 800, and still it will be manifest that I received a majority of the loyal votes of the whole district; and a majority of the loyal vote, as I understand, is all the committee require.

Now, sir, I appeal to my friend from Massachusetts if I have not made good my position, that, on the principles of his own report, I am entitled to a seat in this body. Let it be borne in mind that the Committee of Elections do not require me to have received a majority of the entire vote of the district. They do not estimate for the disloyal voters, for disloyal men are not expected or allowed to vote. The military power has been even used to exclude them from the polls. All that is required of me, I repeat, is to show that I received a majority of the loyal votes of the district; and I submit it to the House if I have not so made it appear.

But, sir, concede that there are the 5,100 loyal votes assumed by the committee, and I contend that on all principle, and in all reason, I am to be credited with that entire vote, just as much as if it had been written down on the poll-books for me.

Mr. Speaker, in many cases in practical life, as in law, finite beings must act upon rational presumptions, because we cannot always have the solutions of fact. Now, sir, I hold that one of the most rational presumptions that the mind of man can conceive, is that those loyal men in my district who could not reach the polls would ratify the choice of their more fortunate brethren in loyalty who did reach them. Is there anything more consonant with reason, or, if you please, the instincts of the human constitution? Why, what do people ordinarily want a Representative for? Is it not to have their rights and interests looked after and protected? Suppose, Mr. Speaker, that in your absence some considerate person undertakes to attend to some important matter of interest for you—saves, for example, the sacrifice of your property—is it not the most rational supposition in the world that you would ratify the action of that considerate person, and give him your thanks besides? And is not this the very case between myself and the loyal voters who could not reach the polls, and more especially when what little capacity I may possess to serve them is as well known to every man in the district as the road to mill? Will not this be their reasoning: "Well, we couldn't get to the polls ourselves, but we are glad our loyal brethren elsewhere did get there to elect a good, loyal man to look out for us and help bring this unhappy war to a close?" If they would not so reason they would falsify all the instincts of our nature.

Sir, this presumption that those loyal voters of my district who could not reach the polls would approve, ratify, and even rejoice at the choice made by their more fortunate brethren who did is so strong, so rational, so instinctive that it ought to prevail, and I ought to have the benefit of it until by some popular loyal demonstration to the contrary the presumption is overturned. I appeal to the House if this is not legitimate logic.

Why call for positive proof that I am the choice of the loyal absentees, when, on every just principle, I cannot but be that choice? Mr. Speaker, I am as well satisfied of it as I am that death awaits all mortal flesh, that, if the truth could be ascertained, there is not one loyal voter in the whole of that portion of my district outside the Federal lines that would not accept me unhesitatingly as his Representative in Congress. And why deal in mere technicalities and non-essentials at this trying hour when the life of the nation is at stake? And why are we not taught by the enemy? They have in their congress senators and representatives from Tennessee, Kentucky, and Missouri, States that are not in the rebellion, willing, I suppose, to have aid from any and every quarter. Why will you deny us loyal men of Virginia the privilege of aiding you as far as we can in bringing this war of ruin and death to a close, and relieving the starlit banner of the Union over an undismembered land? We do not claim, sir, to be master-workmen, but we shall be content to do the best we can in our

humble way. Maybe we can carry to the master-craftsmen the cement to reunite the disjointed fragments of a once magnificent fabric of liberty and Union.

It is not necessary (say the committee) that all the loyal men of a district should be at the polls to constitute an election. If they have an opportunity it suffices, because if, having the opportunity, they stay away, the doctrine of acquiescence holds. On this point I have to say that by an ordinance of the Wheeling convention passed in August, 1861, providing that the voters of any county may vote in any other county and at any precinct, a large number of the voters within the rebel lines in my district might have voted if they had had the will and the nerve.

But they were intimidated, or kept from voting by the fear of consequences, it is intimated. Be it so; but according to the ruling in the case of Biddle and Richard vs. King, if intimidation prevailed, and voters were kept back by intimidation, the votes thus lost are not to be taken into the account, and the result is to stand on the votes actually given in.

But concede that the whole loyal vote of the rebel portion of the district was kept off by intimidation or duress or coercion: does it follow that we of the loyal portion of the district who were not intimidated or coerced are to be disfranchised of our representation in Congress? A portion of the people of my district were intimidated from voting, or were under duress: ergo, those who were not intimidated, or not under duress, are to be stripped of their representative rights! Sir, I confess to no such doctrine, because there is no justice in it; because it is the punishing of one set of loyal men for the helpless misfortunes of another set of loyal men; and because, above all, it is ignored by one of the fundamental and most sacred maxims of Anglo-Saxon liberty, which ought to be dear to every American heart, because at America's Runnymede, Boston harbor, it lit the fires of that Revolution which blazed out into the broad, lustrous radiance of American independence and American freedom; and that precious, liberty-born, liberty-preserving, century-honored principle is, that there should be no taxation without representation.

Do you intend to call up from the grave to scorn you the hardy barons of Runnymede memory? Do you mean to dishonor the memory of John Hampden, and Algernon Sydney, and Russell, and Pym, of liberty-loving England; and of James Otis, and Uxenbridge Thacher, and Hancock, and the Adamses, and Franklin, and the Morris, and Patrick Henry, and Richard Henry Lee, and Laurens, and the great Washington, of our own country? Will you fling a slur upon the good name of those thrice-gallant spirits who took counsel together on Boston Common, and there invoking the God of nations to inspire them with resolution for their great daring, ran down to Boston harbor, and there threw overboard the tea which was the representative of British despotism, and the throwing overboard of which, as I have already said, kindled the fires of that Revolution which burst forth into a bright effulgence of American disenfranchisement and American glory? Are you going to perpetrate all this profanity, as you will be doing, by coercing my people to bear taxation, and a heavy taxation, without that first privilege of freemen of saying whether the tax is right, what should be its amount, and how imposed?

Mr. Speaker, do you suppose that the people of the Old Bay State, and of Virginia—for in that incipient wrestle with arbitrary power Massachusetts and Virginia stood shoulder to shoulder—care a straw about the twopence a pound on tea? Was there any practical oppression in it? Could not every tax-payer in the colonies have paid the tax without feeling it? What was it, then, that waked up Hampdens and Sydneys all over the "Old Thirteen," and brought the pigmy weakness of the colonies face to face with the giant power of the mother country? What was it but elevated devotion to a great and priceless principle? And shall we so shame our glorious origin, have we so soon become so degenerate as to spit upon this most cardinal, this corner-stone principle of freedom's Magna Charta? Sir, a people that gives up such a principle, that does not fondly cling to it, even amid the throes of revolution, cannot long be free. Sooner or later

they will pass under the yoke. Slaves they will be, and slavery they will richly merit!

Mr. Speaker, I can conceive no possible exigency to authorize the subversion of the great principle of representation. While a remnant of loyalty is left, and until our federative system is utterly swept away, it should live as a thing too precious to let die. I acknowledge that in times of war great principles must sometimes yield to the public necessities, (though the necessity must be honest and overwhelming;) but the necessities even of war can never call for the suspension of the right of representation in a popular Government, because it is a right of the vital essence of freedom, and the surrender of it is the virtual dissolution of all Government itself, and a remission, not to tyranny only, but to absolute despotism. There can be no safety for life, liberty, or property.

But let me submit this point in a practical view. I have before me a letter from Mr. Donn, the principal assessor in my district, which furnishes me with the Federal taxation which is imposed upon just three of the voting counties of my district:

In Accomac.....	\$7,691
In Northampton.....	3,282
In Elizabeth City.....	7,923
For incomplete assessment.....	1,000
	<hr/> \$19,876

There, sir, you have it in figures! Near twenty thousand dollars tax per annum under your internal revenue laws, all of which has been actually paid in, and cheerfully paid; and yet I am told that the people who pay this heavy taxation are not to have a Representative on this floor! Sir, I trust the House will not subject my good constituents to so unjust and humiliating a discrimination. I invoke for them the intervention of my friend from Massachusetts—a Representative of that noble State that gave birth to the dauntless patriots who threw the tea overboard in Boston harbor. Why cannot my friend be as generous to the loyal people of my district as he was last year to the loyal people of Louisiana, when they sent Mr. Flanders and Mr. Hahn here, and when the chairman of the Election Committee so zealously pleaded for their admission? I quote from the committee's report on that occasion. After urging, most strenuously, that the military governor had the power to order an election, the report says:

"The constitutionally elected Governor of Louisiana had turned traitor, and refused to discharge his constitutional obligations. What were the loyal voters to do? Were they to turn traitors also, or be disfranchised?"

I ask, in all deference, and in the committee's own language, "what are my poor constituents to do?" Are they to "turn traitors also, or to be disfranchised?"

And the committee say again:

"The Constitution imposes upon the United States this obligation:

"The United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them from invasion; and on the application of the Legislature, or of the Executive, (when the Legislature cannot be convened,) against domestic violence."

"Representation [the committee go on to say] is one of the very essentials of a republican form of government, and no one doubts that the United States cannot fulfill this obligation without guarantying that representation here. It was in fulfillment of this obligation that the army of the Union entered New Orleans, and drove out the rebel usurpation, and restored to the discharge of its appropriate functions the civil authority there. Its work is not ended until there is representation here."

Mark the language, Mr. Speaker!

"Its work is not ended until there is representation here!"

Now, all I ask is that this constitutional and generous logic be applied to the loyal voters of my district as it was to the loyal voters of the first and second districts of Louisiana. The armies of the Union have, in that portion of my district, "driven out the rebel usurpation" and restored the civil authority there. But, sir, let me remind you, in the language of your committee, that your "work is not ended until there is representation here."

The committee further say:

"Are these people [the people of Louisiana] to wait for representation here until their rebel governor returns to his loyalty and appoints a day, or is the Government to guaranty that representation as best it may?"

I beg to submit the same questions about the people of my district. Are we to go without

representation until "Honest John Letcher" or "Extra Billy Smith" returns to his loyalty and helps to rehoist over his State the old flag, or until Jefferson Davis and his wicked accomplices lay down the arms of treason and rebellion? Or, rather, ought not the "Government to guaranty to us representation as best it may?" That is the idea, Mr. Speaker. Representation in some form or other—in the best form you can! Do for us the best you are able—"guaranty it to us as best you may," and we shall be satisfied.

Mr. Speaker, forbear this invidious discrimination against my constituents. Give us representation, or tax us not. And I call upon my friend from Massachusetts, the moment I am ejected from a seat here, to rise in his place and vindicate a great principle, and his own consistency and the consistency of the House, by offering a bill to relieve the people who sent me here of all Federal taxation.

I am now to consider the last, and, I suppose, the most formidable objection to my admission, though, I am happy to say, it has not been raised by the Committee of Elections, and I presume, accordingly, has not its sanction. It is urged in some quarters that we have no State. It was argued in the debate in the Arkansas case that a "State should exist with a government." And I know well that some gentlemen on this floor entertain that most extraordinary idea that there is no such political organization as the State of Virginia. Well, if that is so, most certainly I can have no right to come here as a Representative from Virginia. But is it so? I think not. Sir, there certainly was once a State of Virginia. What has become of her? Has she gone up to the clouds? Has rebellion swallowed her down and abrogated her political existence? I hold, Mr. Speaker, that as a State she is, under our system of government, indestructible; once a State always a State, until let out by the three-fourths vote, or until successful revolution and general international recognition shall have animated into being a new nationality.

But so long as we profess to be governed by the Federal Constitution, we cannot extinguish a State. You may by arms subdue the people of a State to obedience to the Federal laws, and to their primary allegiance to the Federal Union; but you cannot, without violating the Constitution, and giving up the whole theory of our system and the whole theory of the rebellion, extinguish the State organization, because a State, in our system, occupies relation to, and is indeed part and parcel of, the Federal Government, and is subject to and to be governed by the Constitution of the United States as the supreme law. And on this principle Virginia is yet an existing State, and I think I can make it apparent to the House in a very few words.

The Constitution expressly provides, and it is one of the wisest provisions in it, because, without it, the Government of the Union would not last a lustrum, would have been a rope of sand, a helpless organization without the power of self-preservation; I say the Constitution provides that it shall be in no respect changed without the concurrent assent of three fourths of the States that formed it, or subsequently became parties to it. So that Virginia is still a member of the Union, owing primary allegiance to it, until she shall have been let out by the regular action of three fourths of her sister States. Now, sir, would not the making of the number of States one less in number be a change, and a radical change, in the Constitution? Would it not be a destruction, *pro tanto*, of the Constitution, the knocking away of one of its pillars? And if you can, without the joint action of three fourths of the States, knock away one pillar, may you not knock away another and another, until the whole fabric shall have fallen into ruins? I say, therefore, that if you cannot "dot an i or cross a t" in the Constitution without having the consent of the constitutional majority of three fourths of the States, *à fortiori*, you cannot perform the momentous act of ending, at your will, the life of a State.

Virginia, then, is somehow or somewhere a State, and to us, her loyal citizens, whose interest it is to keep posted about her, it is no difficult task to find her whereabouts, and to explain how she came where she is. You will find her sitting in her qualified sovereignty and in her loyalty about eight miles off, down in Alexandria. There she

has a Governor and a Lieutenant Governor residing, and her auditor, treasurer, secretary of State, and attorney general. There she had recently, in actual session, a convention to revise her constitution, and adapt it to the extraordinary posture of affairs induced by the rebellion. Very recently her Legislature was in regular session, and will shortly be again in extraordinary session. The people of the loyal counties that acknowledge this Government pay their taxes with punctuality and alacrity; and I am happy to inform the House and our rebel friends in Dixie that the treasury of this State, much as some people turn up their noses at her, is in a very prosperous condition—plenty of money, and not a very expensive government to maintain. It would be most fortunate for the rebel government if it could exhibit so flattering a balance-sheet, and I rather think that Uncle Sam himself might well be congratulated if his fisc were in so enviable a condition. She had some short time since two Senators in Congress; one, most lamentably, sleeps in a premature grave; the other still sits and votes in the other wing of the Capitol. She has her civil authorities, judges, magistrates, sheriffs, coroners, clerks, constables, and all the officers of a regular government, in full exercise of their respective functions. She has, then, all the external and apparent characteristics of a State; and the only other question that can arise in relation to her is, *is she legitimately a State?* Just as much so, in my judgment, as a man is a human being or a mule a brute.

Let history speak. Shortly after the old State, in evil hour, seceded from the Union, the people of the northwest who desired to live yet under the Union of their fathers, held a convention at Wheeling and put in operation what is usually known as the Wheeling government of Virginia, and more recently as the restored government of Virginia. This government originated in the irresistible necessities of the loyal men, who could not follow their State into the treason and ruin of secession, and it was founded on the idea that the loyal people of the State constitute the State, or the political power of the State. From time to time other counties than those of the northwest attached themselves to this new organization, and among them the four that did me the honor to depute me their representative here. In course of time West Virginia became a separate State, but the counties in eastern and Piedmont Virginia that did not belong, geographically, to that division, and that did not of course desire to become a part of the new State, adhered to the restored government, and such is their present position. If the Wheeling government was a legal one, so is the present government at Alexandria, because the latter is an emanation from and a continuation of the Wheeling government.

Then, was the Wheeling government a legal organization? Undoubtedly it was; and the argument is brief. Its legality rests on the high ground of a decision of the highest judicial tribunal in the land, the Supreme Court of the United States.

In the case of *Luther vs. Borden*, the celebrated Dorr rebellion case, the Supreme Court ruled that where there are within the limits of an already existing State two conflicting political organizations, that is the legal, rightful one, which is recognized by the Federal Executive. And the court decided (Chief Justice Taney delivering the opinion of the court) that when the recognition is officially made by an official act of the Federal Executive, there is no going behind it. President Tyler, by the act of proffering Federal troops to the Governor under the old charter government of Rhode Island, recognized the latter government (the Supreme Court say) as legitimate, and so it was ruled that the Dorr government was a usurpation and a nullity.

Now, sir, after the Wheeling government of Virginia was organized, the President of the United States recognized it in various ways. Through his heads of Departments he held official correspondence and business relations with Francis H. Pierpont, Governor of the State under the Wheeling organization. As Governor, the latter was called on for troops, and furnished the quota of his State.

The recognition by the Federal Executive was all that could be properly required, but both Houses of Congress acknowledged the new gov-

ernment as legitimate. The Senate admitted two Senators for it, though it embraced not more than one fourth the population and territory of the original State; and this House recognized it by admitting to this floor three Representatives, my friends Messrs. BROWN, BLAIR, and WHALEY.

So the Wheeling government, having been acknowledged by the Federal Executive, was a legal, constitutional government, and the present restored government, being a continuation of the Wheeling government, is equally rightful and lawful; and there I might dismiss the question. But I am unwilling to place the restored government on any mere inferential basis. I say that it has been specifically recognized by the President of the United States subsequently to the formation of the new State of West Virginia, and since the present restored government went into operation. To say nothing of other acts of recognition, Mr. Lincoln, in his amnesty proclamation of the 8th of December last, expressly recognizes all "loyal State governments that have all the while been maintained." Such a government is that of the restored government of Virginia. By him it is acknowledged a "loyal State government all the while maintained," and therefore he excepted it from his general plan of reconstruction. Perhaps I had better quote his words, and here they are:

"To avoid misunderstanding, it may be proper to say that this proclamation, so far as it relates to State governments, has no reference to States wherein loyal governments have been all the while maintained."

Most evidently the President had in his mind this very restored government of Virginia.

The case has been supposed in this House of a recognition by the Executive and non-recognition by one or both Houses of Congress, and then it has been asked, where will a State government be found? Sir, the answer is obvious. I hold that no recognition by either House of Congress is necessary. It is the Executive acknowledgment that stamps legality upon a State whose organizations conflict. Congress has no part nor lot in establishing the legitimacy. The Executive, and the Executive alone, can exercise the legalizing function. And when it does exercise that function, Congress itself cannot look behind the act done. It binds not only Congress, but every citizen of the United States.

Mr. Speaker, this restored government of Virginia is as legitimate as the old charter government of Rhode Island as against the Dorr government, and as legitimate as that of Massachusetts or New York. And I put it to my friend from Massachusetts, how is it that a State can have two Senators in Congress and no Representatives? If Virginia is not a State, how can she have Senators in Congress, and if, as a State, she is entitled to Senators in Congress, is she not sufficiently a State to be entitled to Representatives also, and to her electoral vote likewise?

Mr. Speaker, in the name of the Union, do not ignore our young and may be feeble government, by denying us representation in this body. We are not strong, sir, but we are none the less a State. Why, sir, the little State of Delaware, scarcely equal in territorial extent to a single county in Virginia, is, nevertheless, just as much a State as her empire sister, New York; just (to use the language of *Vattel*) as a "dwarf is as much a man as a giant, and the smallest republic as much a State as the greatest empire."

Sir, ought not our weakness to be even our protection? Suppose you see the brawny giant strike down to the earth the helpless dwarf. What emotion rises in your bosom but of execration of the cowardly act? And so, if the strong arm of this mighty Government shall fell to the earth this youthful State in her weakness, sweeping away her whole civil establishment, and substituting for it the chafing harshness of a pure military government, and thus depriving her of what the Constitution guaranties to every State, a republican form of government, what will be thought of us and said of us by the Christian nations of the earth? What will be our portion but an enlightened scorn? How will the thing read in history? Let the historian write it down: "Here was a State (it will be noted) that could not brook rebellion, and that set up for itself, to avoid the crime and penalties of rebellion, a nascent nationality struggling against treason, yet loving the old flag and clinging with fond



devotion to the blessed Government which is the 'bright particular' conception of human statesmanship, and which made us the freest, the happiest, and the greatest people on the globe, promising to be the nucleus for a grand gathering of future loyalty, until the whole length and breadth of the Ancient Dominion shall be brought under the gentle sway of peace, and back to allegiance to the best Government on earth; and yet a State like this, with promises and prospects like these, was, in her helplessness, struck down by the crushing arm of the all-powerful Government of the United States!" Shall we write any such chapter in the history of our country? No, sir; let us, as the President of the United States has done, recognize her as a "loyal organization all the while maintained;" and let us take her in and keep her in, until her weakness becomes strength, and the song of redemption shall ring through all her ancient domain.

And I will venture to say, Mr. Speaker, that if it be really desired to bring back the "mother of States and statesmen," in all her ancient consequence, within the scope of reconstruction, you can in no way so surely accomplish the great desideratum as by preserving unharmed her restored government. It will be a sure nucleus for loyal formations. As the Federal armies advance and rear the standard of the Union, men who were forced into this cruel war against their will, and those that tire of it—having tasted its bitter fruits—and those who at heart sigh for the old flag and for peace, will hasten within the lines where they will find a double protection, the civil protection of their own accustomed municipal authorities, and the military protection of the United States. And I venture to express the opinion—and I do it very confidently—that the best possible system of reconstruction is that of restored State organization and gradual accretion. It will be far more effectual than the territorializing policy or the establishment of military governments. There is not in it the harshness, the alienation, the embitterment, the rending, the crush, the crash that will follow any system that waits for general subjugation before it is applied. Its operation will be gentle and soothing, because gradual and restorative; and under it the people will find themselves almost imperceptibly back at their homes, and almost unconsciously remitted to their local governments and associations, and to the blessings of the Union of their fathers. Just as the amputation of a limb under the sedative influence of chloroform: the surgeon's knife does its gashing work, and his saw its hackling, and the limb is off, and when the patient wakes up he feels no pain, and is unconscious that a limb is gone!

Mr. Speaker, we need no intervention of Congress to provide for us "a republican form of government." Spare us, we beseech you, all such graciousness. *Non tali auxilio, nec defensoribus istis!* Sir, whatever call there may be for the guarantying of republican forms of government in other States, there is no necessity that the United States perform that office for us. We call not on Hercules for help. Our own shoulders are at the wheel. We have already a republican form of government—one far more republican than any that Congress is likely to assign us; for give us one when you will, it will be more or less a military government, and no military government can be republican. Gentlemen of this people's branch of Congress, spare this government to us! It is our own handiwork—the emanation of our own free will and choice—the creation of our own native people and not of strangers—a government grappled to us by the strong hooks of a thousand dear associations of nativity and home, and twice a thousand sweet memories, yet lingering around the broken vase, that will bid us look wishfully back to the stars and stripes, and "bring the light of other days around us." I invoke you again, Mr. Speaker, wrest not this our own cherished government from us! "Woodman! spare that tree."

Let us remember, unceasingly, one thing, that which should be written "in letters of living light" over the lintel of every American door and deep engraven on every American heart, that in this country governments spring from the people, not the people from governments.

And is it clear that Congress has any rightful authority to interfere aught with this government

of ours? Can it interpose by virtue of its obligation to guaranty to each State a republican form of government? Mr. Madison, in the forty-third number of the *Federalist*, expressly declares that this obligation extends only to a guarantee against "aristocratic or monarchical innovations." Is there in our State government any aristocratic or monarchical feature? Have we any privileged classes, any titled nobility, any sceptered king? None. Then Congress cannot intermeddle. There is nothing to guaranty. As to us, it is *functus officio*. In this regard its "occupation is gone;" or, rather, it never had any.

And according to the same illustrious authority, having maintained continuously republican institutions, we have a right even to "claim the Federal guarantee." And this is just what we do. We demand your assurance of this our republican form of government. We claim protection, not extinction, at your hands. If you do not give us the protection you fail of your constitutional duty, and thrust us into revolution.

One more point and I have done. I am not unaware, Mr. Speaker, that whispers have been going around of my disloyalty. I am not unaware that calumny, guided by sordid meanness and black corruption, has essayed to "filch from me my good name" in this regard. I know it well. Villainy, sir, generally aims to cover up its footmarks, but sometimes, as if Providence were looking on to punish it, it does not put soil enough over to disguise them. In this matter I have trailed its tortuous track, and traced out all its dark doings. By letters clandestinely used in 1861 in this Hall—so clandestinely that I never got sight of them, though I did learn casually the base purport of them—it made its stealthy effort to prevent me from taking my seat in this body that it might be filled on a new election by one of the arch-conspirators, who is unworthy to unloose the latchet of any Union man's shoes; and from that hour to this this puppy villainy has been barking at my heels, never once halting at hypocrisy, falsehood, or fraud. But this I will say, no man of honor and truth, and no one himself truly and disinterestedly loyal, ever impeached my loyalty. And I must say, Mr. Speaker, that if I am disloyal I have a very strange way of showing it. I do not deny, sir, that I made an effort to go with my State. Following the instincts that bind us all to the land under whose sod the bones of our ancestors rest, and where loved kindred live, I did endeavor to find arguments to reconcile me to secession. It was the struggle of a not uneventful life. Sir, I saw the bark of my State as she was about to set out on her perilous voyage. There she was, "all in the Downs." I watched her as she left her moorings and neared the pier to take in her freight of human life, and I gazed on the eager throng as it pressed down to the pier.

Among the first to tread her decks was my own and only son—a noble boy, around whom had gathered the honors of the university of his State, but who, alas! yielded to that fatal infatuation that a citizen must go with his State, right or wrong. Another look, and two unbearded youths, fresh from the college hall, my orphaned nephews, loved and cared for as my own children, followed that son. I looked again, and there stepped aboard as magnificent a specimen of mortality as ever eye rested on. And beside him stood one of queenly mien, his beautiful wife, my own dear child. And clinging to the mother was her cherub boy. There they all were. The son and the nephews were there, *Aeneas* was there, and *Creusa*, and the boy *Ascanius*; but old father *Anchises* was not there. He stood upon the shore eyeing the flapping canvas, a struggle going on in his bosom which loosened the very heart-strings—a struggle which I pray God may never wring my soul again—an agonizing struggle between instinct on the one hand and conscience on the other—a struggle whether I should follow the most loved on earth or stand by my country. But, blessed be God! conscience triumphed over instinct. I loved the stars and stripes better than my own flesh and blood!

I disloyal, Mr. Speaker! I who have loved this Union from my boyhood; who have worshiped at its altars with as pure and deep a devotion as ever bowed down votary there; who (as I have said on other occasions) have all my life regarded the Constitution of the United States as "the best

system of civil liberty that ever emanated from human hearts and human heads, and as the accumulated political wisdom of the world from the time of Magna Charta to 1789." Disloyal to that Union which (I have often said) is connected in my mind with a thousand, and twice a thousand, glorious associations; with the wisdom that conceived and the blood that cemented it; with our prosperity and strength at home and our power and glory abroad; with that gallant flag that flings out the stars and stripes of our great country on every ocean, lake, and gulf, and sea; with that renown which exhibits her unconquered on a thousand battle-fields; with all the bright glories of the past and brighter hopes of the future. Disloyal to a Union like this! No, sir, no!

"Tis slander;  
Whose edge is sharper than the sword; whose tongue  
Outvenoms all the worms of Nile; whose breath  
Rides on the posting winds, and doth belie  
All corners of the world: kings, queens, and States,  
Maids, matrons, nays, the secrets of the grave."

Mr. CHANDLER, (claimant.) Mr. Speaker, the last day of the last session of Congress a bill was passed which provided that in making up the roll preparatory to the organization of the next and each ensuing Congress the Clerk of the House should only place thereon the names of such persons as had credentials showing that they had been regularly elected in accordance with the laws of their respective States or the laws of the United States. At the meeting of this House the first day of this session, when the list of names prepared under this law was read, it was found that the Clerk had discharged his duty in a manner which, although doubtless quite satisfactory to himself, was very unsatisfactory to a large majority of the members. Whole States were left unrepresented. Oregon, Kansas, Maryland, West Virginia, and Virginia appeared not upon the roll. It was quite a puzzle then—I am not aware that it is a less one now—to know the rules by which the action of the Clerk was governed. It could not have been a desire to punish States that had confederate legislatures, for Louisiana, Kentucky, and Missouri, all of which were on the roll, had such bodies. As to the last two, they, to be sure, were as peripatetic as a tin-peddler's cart or a Methodist circuit rider; still they claimed to be legislatures. Nor was it because some of them were represented in the confederate congress. Louisiana, Kentucky, and Missouri were fully represented at Richmond. There was no question of State seal, for "my Maryland" had her great State seal affixed to the credentials of her members, while Louisiana, with a naïveté that was quite refreshing, gave as a reason for the absence of hers that it was forcibly kept in the possession of the public enemies of the State. The number of votes received by the respective members of the omitted States could not have been in question. To this day it is not known how many votes the Louisiana members received, but no one pretends that it was so large as the number cast for me, and I was the lowest on the list in this respect. Here, however, in justice to the Clerk, let me say that, surprised as I was and am at the conclusions at which he arrived, I have no doubt he was honest in them, and meant to carry out the law in good faith and with honest purpose.

Well, sir, the roll, such as it was, was read, and after a few questions had been asked and answered, a motion was submitted and carried that the names of the members from Maryland should be placed on it. Like motions, with like results, were submitted as to Oregon, Kansas, and West Virginia.

The following resolution was then offered:

"Resolved, That the names of Lucius H. Chandler, Joseph Segar, and Benjamin M. Kitchen be placed on the roll as Representatives from the State of Virginia."

The mover of that resolution I see not here. On him mortal eye will never look again. He is a shrouded sleeper in the cold and silent chambers of the dead. We had been schoolmates when I was but a small boy, and ere he had reached the first flush of manhood. Our preceptor, to use the New England term, was his brother—that brother whose life-blood was poured out at Alton. Owen Lovejoy was one of the few of my schoolmates of whom I always retained a vivid impression. He was studious, quick in the acquisition of knowledge, as self-willed as a grandam's pet,

and with brains enough to make that will effective. It was no matter of surprise to me when I saw his election to Congress. The man was but the normal growth of the boy—the flower but the expansion of the bud—the autumnal fruit but the full development of the blossom of the springtime. We differed on many political questions. I do not remember to have seen him but twice since we parted at the academy. It is pleasant to me to remember now, knowing as I do how strong were his party ties, how ingrained and buried in bone-deep were his political opinions, and particularly his anti-slavery sentiments—for he ever heard “his brother’s blood crying to him from the ground”—that in submitting that resolution his eye brightened, and he seemed to feel a pleasure in aiding by voice and vote one whom he had known in the olden time, the long, long ago.

The resolution was tabled by 27 majority. Not having been admitted to our seats, we were sent before the Committee of Elections. That committee has made an adverse report as to us all. One of the three, Mr. Kitchen, has already received the consent of this House that he should retire to private life, and the question now submitted to your consideration is as to granting a like permission to the other two.

When I bear in mind that the Clerk decided against us, that this House by a decided majority ignored us, and that we have now to combat the report of a committee which, if for no other reason, by the character and ability of its members is entitled to large consideration, I cannot say “I bate not jot of heart or hope,” but I do say, I do not despair. I believe our claim to be legal and just, and that, if presented in anything like its full strength, it will not only deserve but will command success.

As the report in my case is brief, with the leave of the House I will read it:

The Committee of Elections, to whom were referred the credentials of Lucius H. Chandler, claiming a seat in this House as a Representative in the Thirty-Eighth Congress from the second district of Virginia, submit the following report:

That the second district of Virginia is composed of eleven counties, namely: Brunswick, Dinwiddie, Greenville, Isle of Wight, Nansemond, Norfolk, Princess Anne, Prince George, Southampton, Surry, and Sussex.

Mr. Chandler claims to have been elected on the fourth Thursday in May, 1863, the day fixed by law in the State of Virginia for the election of Representatives to the present Congress. Polls were opened on that day in nine places in Norfolk county, Portsmouth, and Norfolk, and the whole number of votes cast was 779, of which Mr. Chandler received 778. The committee have not been able to ascertain how many of these votes were cast at each of the several voting places, but have been informed that almost the entire vote was cast at the city of Norfolk. The conclusion to which the committee have arrived does not render it necessary to make certain this fact. No votes were cast or polls opened in any other county in the district, for the reason that all the other counties composing this district, except that of Norfolk, were either under the entire control and occupation of the rebels or so nearly so that no man could go to the polls in safety if any had been opened for the reception of votes. The following table, taken from the census of 1860, will show the population of the whole district at that time:

Counties.	Total population.	Whites.	White Males.	Colored population.
Brunswick.....	14,809	4,992	2,459	9,817
Dinwiddie.....	30,198	13,678	6,837	16,520
Greenville.....	6,374	1,974	972	4,400
Isle of Wight.....	9,977	5,037	2,510	4,940
Nansemond.....	13,693	5,732	2,838	17,961
Norfolk*.....	36,227	24,420	12,091	11,807
Princess Anne.....	7,714	4,333	2,226	3,381
Prince George.....	8,411	2,899	1,463	5,512
Southampton.....	12,915	5,713	2,790	7,202
Surry.....	6,133	2,334	1,101	3,799
Sussex.....	10,175	3,118	1,542	7,057
Total.....	156,626	74,230	36,879	82,396

From this table can be seen at a glance the proportion which the population of Norfolk county, when the election was held, bears to that of the whole district. The committee are of opinion that his case is governed by the principles adopted by them in their report in the case of B. M. Kitchen, from the seventh district in this State, No. 14, already sanctioned by a vote of the House, and also in their report No. 9, in the case of Joseph Segar, from the first district in this State, and that in no proper sense can the vote in one county be treated as the choice of the other ten counties prevented by the strong arm of the rebellion from expressing any wish at the ballot-box.

\* In census returns, Norfolk county includes Norfolk city and Portsmouth.

The committee do not deem it necessary to repeat here the reasons there given for a conclusion founded on a state of facts so similar that they could discover no new principle involved. They therefore refer to the above-named reports for a more full exposition of the views of the committee upon claims of this character, and recommend the adoption of the following resolution:

*Resolved*, That Lucius H. Chandler is not entitled to a seat in this House as a Representative in the Thirty-Eighth Congress from the second congressional district of Virginia.

The committee, by the way, are mistaken in supposing that almost the entire vote was cast at the city of Norfolk. A majority of the votes were polled in Portsmouth.

It will be perceived by the report that no question is made as to mode of election, credentials, or any matter of form. But as at the organization of the House some members thought the credentials were not properly authenticated, it may be well to say here that they are in every respect in conformity with the law of Virginia. The Constitution of the United States gives the Legislatures of the respective States full power as to “times, places, and manner of holding elections for Senators and Representatives,” reserving to Congress the right, at any time, by law, to “make or alter such regulations, except as to the places of choosing Senators.” Congress not having exercised its “right,” the full power, in this wise, is with the State.

The only point made by the committee is as to the vote cast, taken in connection with the small portion of the district in which polls were opened. The report says: “the committee are of opinion that his case is governed by the principles adopted by them in their report in the case of B. M. Kitchen, from the seventh district in this State,” &c.

I shall not consume time by reading the report in the case of Kitchen. The principle adopted in that case is this: “that where the vote actually polled in any district is such a minority of the whole vote that it cannot be determined that the person selected by that minority was the choice of the whole district, and the absent majority were not voluntarily staying away from the polls, but were kept away by force, then no such selection, thus made, could be treated as an election.” At the first glance this principle appears sound, without blemish or flaw. It so seemed to me at the earliest reading I gave it. I am free to say I then deemed it conclusive against my claim to a seat. Upon a second reading I changed my opinion, and thought then, as I think now, that the proposition is but plausible and specious. It embraces two assumptions:

1. That the absent majority was kept away by force.

2. That that absent majority was composed altogether of Union men.

In discussing them, I shall reverse their order. As to the assumption that the absent majority was composed altogether of Union men: the numerical strength of that majority is arrived at in this way: the ratio of loyal voters in the counties that did not vote, it is taken for granted, was the same as in those that did. It is a simple question in the “Rule of Three.” If a population of so many thousands gave so many votes, how many would a population of another number of thousands give? With this basis of calculation, the Union vote in that portion of my district in which polls were not opened would have been 1,588, taking the whites only. In most cases the adoption of such a rule would probably be a proper one. Both my colleague and myself admit that with the light the committee had before them it was as to us every way fair. I think my district is an exception to this general rule, and that I can convince the committee that it is. A similar state of things exists as to the district of my colleague.

Three years have rolled round since the ordinance of secession was voted upon in Virginia; but three years as marked by the oscillations of a pendulum, the sands of an hour-glass, or the return of seed-time and harvest; but if measured by events, it has been an eternity, with an Iliad of woes. Since 1836, disunion doctrines, to a greater or less extent, had been promulgated in Virginia by the bar-room and cross-road politicians, and now and then by a member of Congress, but they did not become rampant until the presidential campaign of 1860. In the free States the supporters of Breckinridge were unquestionably as loyal as the members of any other party. It

was not so in the southern States—certainly not so in Virginia. In that ever-memorable campaign the line between loyalty and treason was tolerably well defined. Every secessionist was for Breckinridge; and the converse of the proposition, that every Breckinridge man was a secessionist, was in the main true. There is an old Greek proverb, that “from a crow’s egg you can expect nothing but a crow.” A Union man expected from a Breckinridge man nothing but a disunionist, and in nine cases out of ten was not deceived or disappointed. All Democrats, however, did not support that ticket. A large number refused to be switched off the Union track. In my district these patriotic men were headed by a gentleman well known to many on this floor and to the country at large—one whose private character is as spotless as

“the fanned snow,  
That’s bolted by the northern blasts twice over.”

and whose public acts, as part of the imperishable history of his country, will ever do him honor. I refer to Hon. John S. Millson.

I was on the Bell and Everett electoral ticket, and received in the counties and cities composing my congressional district a plurality of 578 votes. The Union vote, including of course that thrown for Douglas, was 6,712. About 2,900 of that Union vote, or nearly one half, was cast in Norfolk county, Norfolk city, and Portsmouth. At the latter place was one of the largest navy-yards in the country. Before the breaking out of the war it had for years furnished a support to thousands. The most of the counties in the district are inland, and had but a small infusion of population from the free States. Norfolk and Portsmouth, on the other hand, were seaports, with a large number of that class. At the commencement of the war scores and scores of Union men left these cities, but returned after our forces took possession. The congressional election was held the fourth Thursday in May, 1863. These cities and Norfolk county had for a year been held by our troops. The other counties had either never been occupied by us or had been one day in our possession and the next in that of the confederates. Surely the victorious presence of the old banner with its stars and stripes, “symbols of light and law,” for a twelvemonth might be supposed to have had some influence.

In eastern Virginia the vote in favor of secession, in favor of breaking up the foundations of that Government which had been cemented by the toils, the tears, and the blood of our fathers, was very large. It is true that that unanimity did not indicate the real state of public opinion. Thousands of Union men did not vote at all; other thousands of Union men voted for the ordinance. The questions may be asked, “What became of the Union men who did not vote?” “How happened it that Union men could ignore their sentiments and vote for secession?” It is difficult to give to those residing in free States satisfactory answers to these questions. It does, however, seem to me that there is nothing so very strange in the state of things that transpired. Go into any community, north or south, east or west, and what is the proportion of men who have a genuine article of moral or physical backbone? In ordinary times, the “piping times of peace,” when sailing on the smooth surface of a summer sea, with the sweet south making soft dalliance with the sails, we get along well enough. The gutta-serena cartilaginous substance that composes the spinal column of so many of us answers a very good purpose. But when the “rains descend, and the floods come, and the winds blow,” there is a collapse.

One of the great evils of modern civilization is its destruction of individuality of character. Men not only move in masses but they think in masses, and are easily led away by novelty and excitement. In revolutions the leaders are bold and reckless. Many a conservative joins them through fear, and then, to avoid the suspicion of lukewarmness, goes further, and becomes more ardent than the original agitators. All French historians tell us that in the first French Revolution, when the lamp-posts bore such fearful fruit in Paris, and the gutters literally bubbled with blood, the mob was always in the minority could there have been a fair expression of opinion.

New converts make up in zeal what they lack in experience. It is one of the settled principles

of human nature. This may be illustrated in a thousand ways. An Orful Gardner will be more zealous in prayers and exhortations than an old Christian. The members of the peace societies of twenty-five years' service are much fuller of fight than the veterans of a dozen battle-fields. A Whig, whether he rattled from honest convictions or because his nostrils quivered and expanded at the savory fumes from the flesh-pots, as a Democrat generally "out-Heroded Herod." If called upon to select an abolitionist of the first water, you would take neither Garrison nor Phillips, but would hunt up some one who was a proslavery Democrat at the last presidential election.

Add to all this, Mr. Speaker, the long time my district was in the hands of the confederates, the money every wealthy man was compelled to invest in the confederate cause, the fathers, brothers, sons, that were seduced or forced into the confederate army, the sympathies that naturally clustered about them, and the difficulty of discriminating between them and the cause for which they were in arms, and we can understand, I think, why some portion of Unionism was rooted out.

As I have already said, the vote in favor of the ordinance of secession was very large, nearly unanimous. The city of Portsmouth, however—"blessings be on her and eternal praise"—cast more votes against it than the balance of the district.

And now, Mr. Speaker, I ask the members of this House, in view of facts to which I have referred, if they believe loyalty was as generally diffused throughout the district as it was in Norfolk county, Norfolk, and Portsmouth, and if the ratio, as established by the committee, is a fair one in my case? But if the assumption of a "Union vote of 1,588" be correct, does it follow that it would have been unanimous against me? Of the 779 votes actually cast I received 778. Is it unreasonable to suppose that as a Union man, tolerably well known in the district, I should have received some of the 1,588, particularly as I was the only candidate? Is such an inference in my favor a forced one? Would it require Mr. Shandy's coach horses with Obadiah in charge of the reins to draw it? If a "ratio" as to the person for whom the votes would have been thrown were to prevail as well as the ratio of the committee as to the number that would have been thrown, my proportion of the 1,588 would have been 1,586.

In this connection, Mr. Speaker, I wish to submit a proposition to the chairman. He was born in Massachusetts. I am of that ilk. We are "ambo Arcades," and although neither of us after speaking on this floor, for a few minutes even, could be considered as in good condition for singing, we, as Yankees, may be regarded as always ready for a trade. The only vote I did not receive at the congressional election in my district was cast for John Minor Botts. Now, sir, if the chairman will withdraw my case, refer it back to the committee, regard Mr. Botts as a contestant, and upon my withdrawing my claim, declare him entitled to the seat, I will take my hat and withdraw from this Hall quicker than Lot did from Sodom, although angels hastened him. I will do more. Lot's wife looked back. Not wishing to draw any invidious comparison between this House and one of the cities of the plain, I will agree never to look toward it again.

I now pass, Mr. Speaker, to the first assumption of the committee, "that the absent majority was kept away by force." For the purpose of the argument, I am willing to admit that it was thus kept away, and that but for such force it would have been as large as claimed. But I deny the correctness of the proposition, "that if an absent majority was kept away by force, then no such selection thus made could be treated as an election." With all respect for the committee, and for its chairman, who attends principally to the championship of their reports—and right ably does he discharge this duty—I think such a proposition unfounded in law, unsustained by reason, fatally dangerous in practice. Let me be understood. I am not combatting this principle "*toto celo*," but as it applies to the State of Virginia in the congressional election. Under certain circumstances the proposition is undoubtedly sound. If in time of peace the interference of the military, or if in time of war such interference by soldiers not hostile, but of our own troops, kept a majority

from the polls, then I grant you the election would and should be void. What have been the allegations in this wise at this session as to Maryland and Missouri? Why, that Union troops, at the polls, by actual violence or intimidation prevented loyal American citizens from exercising freely, and without dictation, the great privilege of the elective franchise. In the Missouri case of Loan and Bruce, just decided by this House, it was not alleged that the military had endeavored to prevent an election. The charge was that they had endeavored to give a certain direction to the election. All the preliminary formalities of an election had been complied with. The polls were regularly opened, and every person duly qualified would have been permitted to vote, provided he had voted on the same side with the bayonets. It was not a denial of the right to vote, but a denial of any exercise of a preference as to the candidate to be voted for.

Interferences such as I have referred to might happen through the influence of party, or of the Government, but would be much more likely to occur from collusion between the military and one or more of the candidates. In whatever way these interferences took place, whether by the influences of which I have spoken, or by collusion, they should be frowned down, and trampled into the mire after they are down.

I hold the rule to be entirely different, if "the absent majority was kept away" by the presence of a foreign foe, or by domestic traitors banded together, not to prevent or control an election, but to subvert a Government. Am I mistaken as to this? Is the distinction I make a fanciful one? Let us state a case or two by way of illustration. The chairman of the Committee of Elections has no doubt heard and read of a serious outbreak that was known as "Shay's rebellion." It occurred in Massachusetts. The old "Bay State" has known what it was to nourish traitors. I do not know that the infected section embraced any part of the gentleman's district. If it did, it could have exerted but one kind of influence upon him—the strengthening his devotion to his country and her institutions. If, however, upon the day of election, at any time when the chairman was a candidate, three fourths or seven eighths of his district had been overrun, not by a mob merely, but by armed traitors such as were the men headed by Shay, and polls had been opened in only the remaining fourth or one eighth, and at those the gentleman had received a majority or all of the votes actually thrown, save one, would he have claimed his seat?

In 1814, during the war with Great Britain, her troops took possession of Castine and quite a portion of Hancock, and I think of Penobscot counties, in the then "district of Maine." They were in such forcible possession for some time. Did such armed occupancy break up congressional districts, make necessary new apportionments, deprive other portions of the districts, not pressed by the tread of a hostile foreign soldiery, of their rights to representation?

In that fearful fight at Gettysburg, where the trained columns of Lee went down before the brave boys of the army of the Potomac as the bearded grain goes down before the strong arm of the cradler, suppose he had been successful, a considerable portion of the State of Pennsylvania, for a shorter or a longer period, would have been overrun by graybacks. If a county or two in some of the congressional districts had escaped the dire visitation and held elections, would you have refused and rejected those whom they selected? Maryland, at one time, was subjected to the same risk. Kentucky and Missouri, to a greater or less extent, are in such a condition at this very hour. By the adoption of the rule of the committee you might deprive yourselves of a quorum.

Again, sir, it is not common justice to punish those who have not sinned. If a large portion of my constituents in Brunswick, and the other counties, the "Union majority" of the committee, did not and could not vote, it is their misfortune, not the fault of those who did vote. The former are not deprived of their rights because the latter obtain those to which they are entitled.

It will also be observed that there is a broad line of demarkation between the Missouri case, to which I have already referred, and the cases of my colleague and myself. If the report of the com-

mittee had been adopted, and neither Mr. Loan nor Mr. Bruce been admitted, a new election would have been ordered at once. The people of that district in Missouri would have been unrepresented so long only as would have been necessary to give the legal notice of such election.

In the case of Mr. Segar and myself the same state of things exists now in our districts as when we claim to have been elected. Ignore our claims, and our constituents must have no voice in this popular branch of the Government. No valid election can be had in either of our districts until our victorious arms shall have driven the traitors out.

If I have not maintained the position I took against the soundness of the proposition of the committee as to the "majority," and their "being kept away from the polls by armed force," I think it has been owing to no inherent weakness in the position itself, but solely to the lack of ability I have shown in defending or maintaining it. One word more, by the way, before I close this branch of the argument. The views of the committee would make it absolutely necessary to have an actual ascertained majority of the votes not cast as well as of those cast. The lack of one vote would be as fatal as the lack of a thousand.

Mr. DAWES. The gentleman states that a minority of the voters of a district have the authority to elect a Representative. Now, I ask how small a minority may elect?

Mr. CHANDLER. The most forcible question that can be put. The gentleman is too good a logician not to know that the *reductio ad absurdum* is a most potent weapon in argument. I admit my principle would, perhaps, if carried to the extreme, give one person the right to elect. But on the other hand, that principle of construction which I laid down before the gentleman interrupted me—and here I will say the gentleman's interruption does not trouble me at all, because my life has been full of interruptions, not the least of which is the one thrown in my way by the gentleman himself—which was that an actual minority of one would have defeated me, and would, in some degree at least, place the gentleman in something of the same dilemma in which he seeks to fix me. Does the gentleman say that? If he does, then I say I think that one vote can elect. As a mere matter of law one vote can elect as well as a thousand. Electors are under no legal obligation to vote. They may if they see proper permit an election to go by default, and permit one man to return a Representative to Congress.

Let me put the case in another way. Every one who knows anything about West Virginia—and my friend on my right, one of the Representatives of West Virginia, [Mr. BLAIR,] understands a good deal about the by-ways and paths of that country—knows that at least in its earlier history, and the same rule holds good to a very considerable extent now, the roads were very bad. There were but few bridges, the branches were liable to rise, and the bridges to be carried away. The streams were generally crossed by fords, and these streams were so liable to be swollen by rains that a provision was early introduced into the statute-book providing that in case of heavy rains the sheriffs should have the right in the respective counties to adjourn the polls from time to time not exceeding three days. That same rule, I believe, still holds good to this day. Now, suppose that instead of rebels in arms, in the counties of my district that did not vote, the windows of heaven had been opened, and the rain had come down, equaling the first three days of the fearful rain which served the old world so badly, giving us a specimen—as the man said—of the water-cure, but the other way. If the voters had been thus prevented going to the polls, and I had received but the 778 votes which I did receive, would the gentleman from Massachusetts say in that case I was not entitled to my seat? I ask the gentleman that question, and I pause for an answer.

Mr. DAWES. Mr. Speaker, I suppose that when the statutes of Virginia contemplate such an exigency as that and provide for it, we might, governing ourselves by the statute, find an answer; that in the course of the three days it was to be hoped the clouds would expend themselves and the rainbow spread over the heavens.

Mr. CHANDLER. Mr. Speaker, there is more



smartness than fairness about that answer; but let us take the case where there is no such provision of the statute. What would the gentleman say to that?

Mr. DAWES. I should say it was a *casus omissus*.

Mr. CHANDLER. The gentleman knows very well that there is not a member of the Committee of Elections who would have dared to stultify himself in the presence of the House by introducing such a report as the committee has introduced in my case, where voters were kept away by heavy rain. [Mr. Dawes nodded assent.] He admits the proposition. Then, if the fact that voters are kept away from the polls by the act of God does not vitiate the election, let me ask him another question. I do not know what the gentleman's profession is, but I would bet my life he is a lawyer.

Mr. DAWES. Not enough to hurt me. [Laughter.]

Mr. CHANDLER. But enough to hurt me seriously. [Laughter.]

Mr. DAWES. The gentleman does not seem to recognize the difference between the act of God and the act of the devil.

Mr. CHANDLER. The act of the devil is considered in law the act of the king's enemy—is it not? Did the gentleman in all his legal readings, either in a marine insurance policy, or in an elementary text-book, or in the decisions of our different courts, ever see the act of God mentioned that it was not, in ninety-nine times out of one hundred, coupled with the term "the king's enemies?" And it comes to precisely this, that if the voters are prevented by the act of God from being at the polls, then a small minority may elect. You may call heavy rain the act of the devil, and be somewhat sustained by Scripture which speaks of the prince of the power of the air. I assert that if the majority is prevented from coming to the polls by the act of God, or by the act of the enemies of the Government, then the absence of the majority does not destroy and make null and void the rights of the minority. I ask the chairman of the Committee of Elections whether that is not good logic and pretty good law and pretty good common sense; and whether it ought not, to some extent at least, to control the action of this House.

It has been said by the honorable gentleman from Massachusetts that our admission will "establish a precedent to bind you how and by what method a title to representation upon this floor shall be established from all the other districts in the rebellious States." With all deference to the experience and matured wisdom of the gentleman, it will do no such thing. I must crave your indulgence, Mr. Speaker, in devoting some little time to the presentation of the peculiar position of Virginia, and the different ground she occupies from any other of the States which entered into the confederacy.

I approach the subject with feelings such as one might experience who stands looking into a newly dug grave, in which has been placed the loved and the lost, and hears the clouds strike the coffin-lid with their dull, heavy sound. April 17, 1861, the Virginia convention passed an ordinance of secession. That day dawned upon no State with fairer prospects. True, her advancement had not been so rapid as that of some of the manufacturing and commercial States. She was to a great extent agricultural. In the preceding decade her white population had increased one hundred and fifty-three thousand. She had two hundred and ten miles of canals, and in the same period had added thirteen hundred miles to her railroads. Her slaves were bringing higher prices than ever before. The influence she had wielded from the earliest history of the Government had not waned. The prestige she had acquired through a Lee, a Patrick Henry, a Madison, a Jefferson, and a Washington, was still operative. In all the slave and many of the free States she was the "Old Dominion" still. Her agricultural, manufacturing, and mineral capabilities were unsurpassed; and if, in the American sense of the term, they were slowly they were still surely being developed. Modest as is my colleague, I must here say no one had more to do with that development than did he. From her extreme eastern bounds that were lapped by the ocean's waves, to her furthest western peaks that kindled into blushes under the amorous glances of the setting sun, she

was full of material prosperity, full of glorious promise. Moses, when from the Mount of Nebo, the top of Pisgah, the Lord showed him all the land of Judah unto the utmost sea, and the south, and the plain of the valley of Jericho, the city of palm trees unto Zoar, saw no fairer sight. When one contrasts her then condition with what it is now, sadness is succeeded by indignation. Desolation is running riot in her borders. Gaunt famine stares her in the face. Her sons have been more than decimated by hissing shot and bickering steel. Her soil has been wet with tears, drenched with blood, made billowy with graves. A *miserere* in one wide wail of woe has gone up from agonized hearts, such as rarely ever reverberated through the blue empyrean.

Those who have been instrumental in producing this condition of things, in changing the garden of the Lord into an aceldama, a field of blood, will have a fearful account to settle. In this world their names

"Will have a taint of infamy,  
Which, like Iscariot's, through all time shall last,  
Reeking and fresh forever."

In that world which is to come the language of Isaiah may well be applied to each of them: "Hell from beneath is moved for thee, to meet thee at thy coming."

But, as I have said, the ordinance passed by a considerable majority. The minority was in the main composed of the members from that part of the State now known as West Virginia, although I am happy in saying that the member from the stronghold of my colleague, the county of Accomac, that incorruptible man and sterling patriot, William H. B. Custis, and the members from Norfolk county and Portsmouth, (where I received a majority of my votes,) were true to the Union.

What was done in that portion of the State that remained unseduced? Did its citizens blench? Did they quail? Did they "crook the pregnant hinges of the knee that thrift may follow fawning?" No, Mr. Speaker, no. They knew from whence their blessings had flowed. They knew that the Union to them and to the country at large had been, not a Mount Ebal of curses, but a Mount Gerizim of blessings; that it had been as ennobling in its influences as "orient suns, which shine on barren sands till they breed jewels." They remained firm, true to the memories of the mighty dead, true to themselves, true to their posterity, true to their country, true to their God.

Three days after the passage of the ordinance, John Letcher telegraphed the mayor of Wheeling. I read the telegram of Letcher, and the answer:

RICHMOND, April 20, 1861.

To ANDREW SWEENEY, Mayor of Wheeling:

Take possession of the custom-house, post office, all public buildings and public documents in the name of Virginia. Virginia has seceded.

JOHN LETCHER, Governor.

WHEELING, April 21, 1861.

To JOHN LETCHER, Governor of Virginia:

I have taken possession of the custom-house, post office, and all public buildings and public documents in the name of Abraham Lincoln, President of the United States, whose property they are.

ANDREW SWEENEY,

Mayor of Wheeling.

This same spirit pervaded all classes in that northwestern section of the State. Ten days before the question of the acceptance or rejection of the ordinance was to be voted on, the 13th day of May, 1861, a mass convention met at Wheeling. From the irregular manner in which this convention was called, and its unwieldy size, it was not calculated for the dispatch of business. Its action, however, resulted in the call of another convention, which met at Wheeling, June 11, 1861. I ask the Clerk to read the declaration addressed by that body to the people of Virginia.

The Clerk read, as follows:

A Declaration of the people of Virginia represented in convention at Wheeling, Thursday, June 13, 1861.

The true purpose of all government is to promote the welfare and provide for the protection and security of the governed; and when any form of government proves inadequate for or subversive of this purpose it is the right, it is the duty of the latter to alter or abolish it. The Bill of Rights of Virginia, framed in 1776, reaffirmed in 1830, and again in 1851, expressly reserves this right to a majority of her people. The act of the General Assembly calling the convention which assembled in Richmond in February last, without the previously expressed consent of such a majority, was therefore a usurpation; and the convention thus called has not only abused the powers nominally intrusted to it, but with the connivance and active aid of the Exec-

utive has usurped and exercised other powers, to the manifest injury of the people, which, if permitted, will inevitably subject them to a military despotism.

The convention, by its pretended ordinances, has required the people of Virginia to separate from and wage war against the Government of the United States, and against the citizens of neighboring States, with whom they have heretofore maintained friendly, social, and business relations.

It has attempted to subvert the Union founded by Washington and his copatriots, in the purer days of the Republic, which has conferred unexampled prosperity upon every class of citizens and upon every section of the country.

It has attempted to transfer the allegiance of the people to an illegal confederacy of rebellious States, and required their submission to its pretended edicts and decrees.

It has attempted to place the whole military force and military operations of the Commonwealth under the control and direction of such confederacy, for offensive as well as defensive purposes.

It has, in conjunction with the State Executive, instituted, wherever their usurped power extends, a reign of terror intended to suppress the free expression of the will of the people, making elections a mockery and a fraud.

The same combination, even before the passage of the pretended ordinance of secession, instituted war by the seizure and appropriation of the property of the Federal Government, and by organizing and mobilizing armies, with the avowed purpose of capturing or destroying the capital of the Union.

They have attempted to bring the allegiance of the people to the United States into direct conflict with their subordinate allegiance to the State, thereby making obedience to their pretended ordinances treason against the former.

We, therefore, the delegates here assembled in convention to devise such measures and take such action as the safety and welfare of the loyal citizens of Virginia may demand, having maturely considered the premises, and viewing with great concern the deplorable condition to which this once happy Commonwealth must be reduced unless some regular adequate remedy is speedily adopted; and appealing to the Supreme Ruler of the universe for the rectitude of our intentions, do hereby, in the name and on the behalf of the good people of Virginia, solemnly declare that the preservation of their dearest rights and liberties, and their security in person and property, imperatively demand the reorganization of the government of the Commonwealth; and that all acts of said convention and Executive tending to separate this Commonwealth from the United States, or to levy and carry on war against them, are without authority and void; and that the offices of all who adhere to the said convention and Executive, whether legislative, executive, or judicial, are vacated.

Mr. CHANDLER. Thirty-four counties, containing about one fourth of the whole white population of the State, were represented in that convention. It was necessary, in the opinion of the convention, that the State should be reorganized, and the following ordinance was adopted:

An Ordinance for the reorganization of the State government, passed June 19, 1861.

The people of the State of Virginia, by their delegates assembled in convention at Wheeling, do ordain as follows:

1. A Governor, Lieutenant Governor, and attorney general for the State of Virginia, shall be appointed by this convention to discharge the duties and exercise the powers which pertain to their respective offices by the existing laws of the State, and to continue in office for six months, or until their successors be elected and qualified; and the General Assembly is required to provide by law for an election of Governor or Lieutenant Governor by the people as soon as in their judgment such election can be properly held.

2. A council, to consist of five members, shall be appointed by this convention, to consult with and advise the Governor respecting such matters pertaining to his official duties as he shall submit for consideration, and to aid in the execution of his official orders. Their term of office shall expire at the same time as that of the Governor.

3. The delegates elected to the General Assembly on the 23d day of May last, and the Senators entitled under existing laws to seats in the next General Assembly, together with such delegates and Senators as may be duly elected under the ordinances of this convention, or existing laws, to fill vacancies, who shall qualify themselves by taking the oath or affirmation hereinafter set forth, shall constitute the Legislature of the State, to discharge the duties and exercise the powers pertaining to the General Assembly. They shall hold their offices from the passage of this ordinance until the end of the terms for which they were respectively elected. They shall assemble in the city of Wheeling on the 1st day of July next, and proceed to organize themselves as prescribed by existing laws in their respective branches. A majority in each branch of the members qualified as aforesaid shall constitute a quorum to do business. A majority of the members of each branch thus qualified, voting affirmatively, shall be competent to pass any act specified in the twenty-seventh section of the fourth article of the constitution of the State.

4. The Governor, Lieutenant Governor, attorney general, members of the Legislature, and all officers now in the service of the State, or of any county, city, or town thereof, or hereafter to be elected or appointed for such service, including the judges and clerks of the several courts, sheriffs, commissioners of the revenue, justices of the peace, officers of the city and municipal corporations, and officers of militia, and officers and privates of volunteer companies of the State, not mustered into the service of the United States, shall each take the following oath or affirmation before proceeding in the discharge of their several duties: "I solemnly swear (or affirm) that I will support the Constitution of the United States and the laws made in pursuance thereof as the supreme law of the land, anything in the constitution and laws of the State of Virginia or in the ordinances of the convention which assembled at Richmond on the 13th of February, 1861, to the contrary not-

# THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

THURSDAY, MAY 19, 1864.

NEW SERIES.....No. 146.

withstanding; and that I will uphold and defend the government of Virginia as vindicated and restored by the convention which assembled at Wheeling on the 11th day of June, 1861."

5. If any elective officer, who is required by the preceding section to take such oath or affirmation, fail or refuse so to do, it shall be the duty of the Governor, upon satisfactory evidence of the fact, to issue his writ declaring the office to be vacant, and providing for a special election to fill such vacancy, at some convenient and early day to be designated in said writ, of which due publication shall be made for the information of the persons entitled to vote at such election, and such writ may be directed, at the discretion of the Governor, to the sheriff or sheriffs of the proper county or counties, or to a special commissioner or commissioners, to be named by the Governor, for the purpose. If the officer who fails or refuses to take such oath or affirmation be appointed by the Governor, he shall fill the vacancy without writ; but if such officer be appointed otherwise than by the Governor or by election, the writ shall be issued by the Governor, directed to the appointing power, requiring it to fill the vacancy.

ARTHUR I. BOREMAN, *President.*

G. L. CRANMER, *Secretary.*

It will be observed that the convention exercised no power save what was imperiously demanded by the exigencies of the times. They formed no new government, but retained the old. They provided for the assembling of the Legislature at Wheeling on the 1st day of July, 1861. The members of both General Assembly and Senate comprising that Legislature, with the exception of a few vacancies, had been elected duly and regularly before the State seceded.

In the prosecution of their undertaking to wrest the State from conspirators and traitors, the battle-bugle of the convention blew no uncertain sound. They did not ask to have the line between treason and loyalty clearly, distinctly, and definitely laid down in order that they might see how near they could dress up to the former without running the risk of hemp. They were at heart for the Union, and made no nice distinctions against it. "Thorough" was their motto. The following ordinances show this:

*An Ordinance to authorize the apprehending of suspicious persons in time of war, passed June 19, 1861.*

The people of Virginia, by their delegates assembled in convention at Wheeling, do ordain that the sixth and seventh sections of the seventeenth chapter of the Code of Virginia be amended and reenacted to read as follows:

1. The Governor may cause to be apprehended and secured, or may compel to depart from the State, all suspicious subjects or citizens of any foreign State or Power at war with the United States.

2. And whereas the convention of Richmond have declared the union between the State of Virginia and the other States, under the Constitution of the United States, to be dissolved, and have attempted to transfer the allegiance of the people of this State to an illegal confederacy of rebellious States, called the confederate States of America; claiming that the State of Virginia and the said confederate States are rightfully, and in fact, foreign States or Powers in reference to the United States: now, therefore, all persons in this Commonwealth adhering to and supporting the said convention at Richmond, or the said confederate States, or professing to owe allegiance or obedience to the same, shall be deemed (for the purposes of this ordinance only) subjects or citizens of a foreign State or Power at war with the United States.

3. The Governor may send for the person and papers of any such person within this State in order to obtain information to enable him to act in such cases.

4. Any warrant or order of the Governor under this ordinance may be directed to any sheriff or other officer, civil or military, and shall be executed according to the terms thereof by such officer, who shall have all the powers necessary for the purpose, either in or out of his county or corporation.

5. If the Governor shall have just cause to believe that any persons in this State, claiming to be subjects or citizens of the said confederate States, or adhering to and supporting the said convention or the said confederate States, or professing to owe allegiance or obedience to the same, are about to assemble together, or have assembled together, for the purpose of drilling or receiving military instruction, or to organize themselves as a military force, or to attempt any military operation, or do any act which may endanger the safety or welfare of the good people of this Commonwealth, or any portion of the same, he may cause such assembly to be prevented or dispersed, and the persons who may be about to assemble, or have assembled as aforesaid, to be apprehended and secured, or may compel them to depart from this State; and for this purpose he may issue his warrant or order, directed to any sheriff or other officer, civil or military, which warrant or order shall be executed as aforesaid. And any assemblage of two or more persons for any purpose inimical to the Government of the United States, or of this State as reorganized by this convention, shall be deemed an unlawful assembly, and the persons so offending may be proceeded against and punished as provided in chapter one hundred and ninety-five of the Code of Virginia.

6. If any sheriff or other person shall transmit or pay any money, or any check, draft, bill, order, note, or certificate, for the payment of money, to any officer or other person at Richmond or elsewhere, for the use of the said confederate States, or of the illegal State government at Richmond, now waging war against the United States, or shall furnish any money, arms, military equipments, or munitions of war, or aid, or other support to the said confederate States, or State government, or to any military force under the control or direction of the same, or to any person or persons about to join any such military force, the Governor may cause to be apprehended and secured, or may cause to depart from this State, the sheriff or other person guilty of such offense, and for this purpose may issue his warrant or order and cause the same to be executed as hereinbefore provided.

7. The powers vested in the Governor by this ordinance shall be exercised only upon satisfactory evidence and with the concurrence of a majority of his council.

8. This ordinance shall take effect from its passage, and may be altered or repealed by the General Assembly.

ARTHUR I. BOREMAN, *President.*

G. L. CRANMER, *Secretary.*

*An Ordinance declaring null and void the proceedings of the Richmond convention of 1861, passed August, 1861.*

The people of Virginia, by their delegates assembled in convention at Wheeling, do ordain as follows:

1. All ordinances, acts, orders, resolutions, and other proceedings of the convention which assembled at Richmond on the 13th day of February last, being without the authority of the people of Virginia constitutionally given, and in derogation of their rights, are hereby declared illegal, inoperative, null, void, and without force or effect.

A. I. BOREMAN, *President.*

G. L. CRANMER, *Secretary.*

Thus Virginia was kept on the constitutional track. In those mountainous regions, the Thermopylae passes where freedom's most holy altars have ever been raised, and where her fires have burned brightest, treason found no resting-place. The motto on the great seal of West Virginia was as true as to her in those dark days of 1861 as it is true historically—"Montani semper liberi."

What was the theory on which this action of the Wheeling convention of June, 1861, was based? Why, that traitors, even if in a majority, could not take the State out of the Union; that the majority in a State can only make their political action effective under the Constitution, and that such action, if outside of and in derogation of the Constitution, is of no legal or binding effect, but is null and void.

What course was the Union minority to take? They had to submit to the confederacy, remain in a state of confusion and anarchy, with all civil and municipal laws suspended, with martial or military law administered by shoulder-strapped gentlemen—some of whom "magnify their office" in a way that would have put the great apostle to the Gentiles to the blush—or take the course they did. Who can doubt they did right? Who will say their course was abnormal, unconstitutional?

Can territory acquired by purchase from foreign nations, or won from them at the sword's point, be erected into new States, and four hundred thousand of the loyal citizens of one of the "Old Thirteen" be denationalized because six hundred thousand citizens of the same State see fit to make traitors of themselves?

The restored State, as I have said already, at the outset was composed of thirty-four counties and nearly a fourth part of the white population of the State. County after county was added until more than sixty out of the one hundred and forty-eight counties of which the State was composed were rallied under the stars and stripes, and more than a third part of the white population. The loyal counties embraced more than a third part of the area of the whole State.

Mr. Speaker, test it as you may, I believe in the legality of the action of that convention. Instead of their doings being Red Republican and disorganizing, I believe them to have been conservative and reactionary. Instead of shaking the foundations of the temple of civil rights and constitutional law from donjon-keep to turret wall, I believe it was sinking those foundations deeper, making them broader and more massive, adding buttress and coigne of vantage.

If expediency is to be taken into consideration when passing upon a great question like this, all

doubt is removed. If disloyalty had existed in the northwestern as in the other portions of the State, the consequences would have been sad indeed.

My friend from West Virginia [Mr. BLAIR] asks me, "What would have been the effect upon Ohio and Pennsylvania under such a state of things?" In order to understand how disastrous the effect would have been, let us see what hostile force would have been at their doors. How many members on this floor know the number of troops furnished by this State of Virginia, that had been "plucked as a brand from the burning," to the cause of the Union? Why, sir, only twenty-five thousand—only an army twice as large as that with which General Scott marched from Vera Cruz to Mexico! A result of some importance, it strikes me, Mr. Speaker, to have kept that body of men out of the secession ranks! I will refer my friend to the members from the two great States to which he called my attention. They can answer the question much more fully than is in my power.

Mr. BLAIR, of West Virginia. If my friend will allow me just a word I desire to make a statement in connection with the remark he is now making: So far as the new State of West Virginia is concerned, she has not only filled every call made by the President of the United States for troops to put down this rebellion, but she has now a surplus of about sixteen hundred men ready to respond to any future call the President may make.

Mr. CHANDLER. Yes, sir; but lest a wrong impression should obtain, the gentleman will permit me to say that the State of Virginia furnished the twenty-five thousand troops of which I speak before she was divided, not the new State of West Virginia. The Legislature which assembled at Wheeling in 1861-62 was not the Legislature of West Virginia. West Virginia was not a State until near the close of last year, I think in December. I speak of Virginia, of the "Old Dominion."

But suppose there were doubts as to the political status of Virginia. What right has this House to deny that she is one of the States of this Union, in full fellowship and standing? Are you not estopped from any such denial? Both branches of the legislative department have committed themselves on this question. In 1861 the Senate admitted CARLILE and WILLEY as Senators, and the House BLAIR, BROWN, and WHALEY as Representatives, from the State of Virginia. The first few weeks of this session the State was fully represented in the Senate, and would have continued thus represented but for the untimely end of the gallant and lamented Bowden. You also acknowledged the State in 1863 by the admission of my colleague, (Mr. Segar.) The members here this day from West Virginia are only here upon this hypothesis. The Treasury Department has acknowledged it by the payment of \$40,000 surplus revenue which for years had been standing on the books to the credit of Virginia. War, Navy, Interior, and Post Office Departments have over and over made such recognition.

The executive department, the President, has done the same. In the proclamation accompanying his message of December last he does not name Virginia as among the rebellious States which might come back under his ten per cent. rule. Speaking as he does in that proclamation of his desire not to interfere with any government that had already been organized shows conclusively, if other evidence were wanting, his opinion as to this question.

Respect for and obedience to the decisions of the Supreme Court of the United States have undergone many mutations in this good land of ours since my day, to say nothing of its earlier history. Let us see whether the law as laid down by that tribunal, in decisions given by a Marshall and a Taney, fortifies my position. And, Mr. Speaker, I hope, inasmuch as what old Fuller quaintly calls the images of God cut in ebony were not

concerned or interested in the cases to which I shall refer, that the law laid down in them may be considered as entitled to some weight.

The first case to which I will call the attention of the House is that of *United States vs. Palmer, 3 Wheaton, 610*. It came up from the United States circuit court for Massachusetts on a division of opinion between the circuit and district judge.

One of the questions taken up to the Supreme Court was this:

"6. Whether an act which would be deemed a robbery on the high seas, if done without a lawful commission, is protected from being considered as a robbery on the high seas when the same act is done under a commission or the color of a commission from any foreign colony, district, or people, which have revolted from their native allegiance, and have declared themselves independent and sovereign, and have assumed to exercise the powers and authorities of an independent and sovereign government, but have never been acknowledged or recognized as an independent or sovereign government or nation by the United States, or by any other foreign State, prince, or sovereignty?"

Chief Justice Marshall says:

"Those questions which respect the rights of a part of a foreign empire which asserts and is contending for its independence, and the conduct which must be observed by the courts of the Union toward the subjects of such section of an empire who may be brought before the tribunals of this country, are equally delicate and difficult.

"As it is understood that the construction which has been given to the act of Congress will render a particular answer to them unnecessary, the court will only observe that such questions are generally rather political than legal in their character. They belong more properly to those who can declare what the law shall be; who can place the nation in such a position with respect to foreign Powers as to their own judgment shall appear wise; to whom are intrusted all its foreign relations; than to that tribunal whose power as well as duty is confined to the application of the rule which the Legislature may prescribe for it. In such contests a nation may engage itself with the one party or the other; may observe absolute neutrality; may recognize the new State absolutely, or may make a limited recognition of it. The proceedings in courts must depend so entirely on the course of the Government that it is difficult to give a precise answer to questions which do not refer to a particular nation. It may be said generally, that if the Government remains neutral and recognizes the existence of a civil war, its courts cannot consider as criminal those acts of hostility which war authorizes, and which the new government may direct against its enemy. To decide otherwise would be to determine that the war prosecuted by one of the parties was unlawful, and would be to arraign the nation to which the court belongs against that party. This would transcend the limits prescribed to the judicial department."

The second case, or rather cases, to which I wish to call attention are those of *Luther vs. Borden, 7 Howard, 42*.

Chief Justice Taney, in delivering the opinion of the court, lays down in substance the same principle as to intestine difficulties in one of the States of this Union that Chief Justice Marshall had laid down as to like difficulties occurring in a foreign nation in the case of *Palmer*.

If the State represented at Wheeling, in 1861, 1862, and 1863, was Virginia, then the State represented now at Alexandria is the State of Virginia. Last year the State was divided, and West Virginia set off. Legally speaking, if there was enough of the old territory remaining to set a flag-staff on, that part thus remaining would be the State of Virginia. In point of fact, the area thus left is larger than Delaware—twice as large as Rhode Island.

Maine, in 1821, was set off from Massachusetts. Suppose the territory which formed the new State had embraced all of Massachusetts save Boston, does any one deny that Boston would have constituted the State of Massachusetts; would have been entitled to two United States Senators, and just so many Representatives as her population, under the apportionment, would have given her?

What, then, becomes of the proposition of the chairman of the Committee of Elections, that, if we are admitted to our seats, a precedent will be established which will govern every district in every rebellious State? What confederate State presents a case like this of Virginia? Is there one?

I had intended to show that the principle involved in the territorial bill of the gentleman from Maryland, which has lately passed this House, would not be affected in its operation as to other States by our admission, but both my voice and the clock warn me to be brief.

Neither would our admission be inconsistent with the decision of this House in the case of *Kitchen*. He was ruled out on account of the wandering character of the county of Berkeley, in which he received nearly all his votes. It was

not exactly certain whether it was in Virginia or West Virginia.

Whatever may be the result of the voting in our cases, I shall be satisfied it will be arrived at as the dictate of calm deliberation and mature judgment.

As this, Mr. Speaker, is the first time I have ever been before any legislative body, even as a claimant for a seat, it is possible, nay, more than probable, that I may have shown some lack of courtesy, may have violated some parliamentary rule. If I have been so unfortunate, I can only say it has not been intentional, and I have been punished in a most effectual way by the more than kindness with which the members of the House have treated me.

Let me also say that I deem it an honor to have been permitted to stand here this day, to have had the privilege of addressing the Representatives of this mighty nation in the building which has been honored by the eloquent presence and utterances of the great men whose names stand so high on the rolls "in that temple where the dead are honored by the nations."

Here I have had the good fortune to hear him who now sleeps at Marshfield, with the mighty ocean sounding his requiem; the great Commoner, who never veiled his crest to mortal foe, and who now rests well in that State which has again been made a "dark and bloody ground," by those whom as her children she had cherished in her bosom; and that later statesman, who, however men may differ as to his early career, had his life sunlit at its close by the truest patriotism, and who fell like the tree broken by the weight of its own golden fruitage.

In their names, in the name of any and every man who has spoken for our nationality, for the great cause of human progress and the true interests of humanity, I would pray you to rise to the height of this occasion. I do not, I cannot, I will not believe that there is any real difference between parties here as to the consummation desired. "Pulse beats to pulse, and heart to heart responsive."

Sooner or later, this rebellion will be crushed. "The mills of God if they grind slowly grind surely."

Whether the dawn is now ready to sprinkle with rosy light hilltop and valley, or whether the watches of a moonless and a starless night are still to be endured, the dawn will come, ushering in a day glorious in its final consequences as that on which the "morning stars sang together, and the sons of God shouted for joy."

I see it not alone in the thousands whose sounding tread is heard in our streets, and who are pressing to the front. The whole atmosphere is full of encouragement, laden with promise. I see it in the more than Howard efforts of our Sanitary Commission in the dispensation in charities of sums vaster than the dowers of queens. I see it in the sacrifices made at every hearthstone in the land, in the calm agony of the father, the tearful smiles of the mother. It would need no Peter the Hermit to create an enthusiasm in this loyal land to which any that has as yet stirred the popular heart would be but as the ripples of an inland lake to the hissing, seething, broad-backed waves of the Atlantic, lashed into fury by the storm-winds of the equinox.

Yes, sir, the Union will be restored. Like the mangled limbs of Osiris, bone will be knit to bone, joint to joint, sinew to sinew, and rounded and swelling in its fair proportions it will stand forth a glorious embodiment of beauty and strength. It will move with a freer and a firmer tread on the great pathway of nations, and woe to him, be he king or kaiser, who dares impede its course, for

"The Douglas and the Hotspur both together  
Are confident against the world in arms."

MESSAGE FROM THE SENATE.

A message from the Senate was received, by Mr. FORNEY, their Secretary, requesting the return to the Senate of the bill of the Senate (No. 176) authorizing the erection of buildings for a branch mint at San Francisco, for the purpose of correcting an error in the engrossment.

No objection being made, the Clerk was directed to return the said bill.

VIRGINIA ELECTIONS—AGAIN.

Mr. DAWES. I now demand the previous question.

The previous question was seconded, and the main question ordered to be put.

The SPEAKER stated that the gentleman from Massachusetts [Mr. DAWES] was entitled to the floor to close debate.

Mr. DAWES. Recognizing the signal ability and fairness as well as earnestness and eloquence with which gentlemen have presented their claims here to-day to represent the districts from which they come, I nevertheless do not feel that there is any necessity or justification for my occupying any considerable portion of the time of the House upon the subject. Indeed, most of the positions taken by the gentlemen are those which have already, in a much feebler form, been taken by myself in behalf of the committee.

The committee have felt in every step of their investigation of and report upon these cases, that any rule laid down by them would be surrounded by difficulties, and that its application in many cases would seem to be extremely hard, and of such a character as to almost justify its being laid aside. And I feel I but speak the sentiment of the whole House to-day when I say that if we should consult our feelings only, the vote of this House would be thrown for the gentlemen who have pleaded the case of Virginia to-day, and that with open arms they would welcome them as fitting representatives of that Union spirit which has sacrificed so much and endured so much and so long in these troublesome times.

But, sir, it is quite apparent that as a House of Representatives, governed by some rules, we should not take counsel of our feelings and our partialities and our admiration in settling the question as to who shall be the Representative of a particular district upon this floor, but that we should be guided by some rule which shall seem to us as a whole to be fraught with some wisdom and with a better result to the Republic in these anomalous times, than any other. Now, sir, it is not that the rule adopted by the committee is perfect, that there cannot be under it supposable cases in which it will work hardship, that it has been adopted by them, but it is because they have seen no other which would in the long run secure that great end of all representation here, the free voice of the people of each district, that they have sought as well as they may, in the examination of each of these cases and all other cases, to ascertain whether any gentleman may come here representing the Union sentiment of his district.

When the gentleman admits that he cannot claim that a minority, however small, is entitled to a representation upon this floor, because one or ten men may send a man here whose voice and whose influence and whose vote here shall be equal to that of the Representative of the constitutional number of one hundred and twenty thousand, as the ratio under the Constitution for the rest of us, he fritters the whole case away; for unless a minority, however small, can send a man here, then no minority can do it, because between a minority of one comparative size and another minority there is no dividing line; and you could not tell whether it were a minority of one or ten or a hundred or a thousand.

The rule adopted by the committee, the committee themselves say, is not entirely a satisfactory one, but it is the best rule that suggests itself upon the testimony presented by each man claiming to be a Representative. We have sought from him and from the circumstances surrounding the evidence of each case, whether or not the cases are clothed with that authority which we alone can recognize, namely, a majority of the majority of voters.

My friend has argued with great ability here that there is no question of territorial or State suicide involved in this case. He had the candor to do the committee justice by saying that they put his case upon no such ground as that. The committee, without stopping to examine the soundness of any such doctrine, have settled as well as they could these cases clear of all such embarrassing questions. They liken this case unto the case of other Representatives from Virginia, and so far as the Committee of Elections is concerned, and so far as the principles they have found necessary to lay down are concerned, they look to one source, and one only, for the solution of this question, and that is, to the Army. When the Army shall have been to the district which my friend desires to represent, and to the other districts in these re-



bellious States; and shall have driven rebellion and treason and armed occupation by the enemies of the country from their midst, then the doors of this Capitol will open to those two gentlemen and they will come in here, and Virginia will come here clothed and in her right mind. And, sir, with their Representatives, to whom we have listened with so much pleasure, we shall see again the star in its natural orb, making its diurnal and annual revolutions with all its sister stars, and in that eternity of revolution to which we hope this Republic with all its stars is destined. Sir, that time will come, and come only, as it follows the arms of the nation; and while I may agree with my friend in reference to the territorial question, State suicide, &c., or may not agree with him, I think there is no gentleman in the House, whatever may be his opinion, who can with reason look to any deliverance or any other solution of this question. And, sir, wishing that day to come, hoping its dawn is already upon us, we say to these gentlemen, in no unkindness, that while our hearts sympathize with those who have borne the heat and burden of this rebellion, who have borne testimony by their acts and by their sacrifices to their loyalty, when that day comes they shall find a welcome upon this floor.

I say this much that these gentlemen may not go out of this House with a feeling that either the committee or the House desires to close its doors against representation, for I do not believe that to be the feeling or sentiment of any gentleman upon the floor of this House. And if the House shall vote to-day that they are not entitled to their seats, it will be because neither by the rule they have adopted nor by any other rule can they say that these gentlemen have received the votes of a majority of the Union voters in any district in the State of Virginia.

The question being upon the adoption of the following resolution—

*Resolved*, That Joseph Segar is not entitled to a seat in this House as a Representative in the Thirty-Eighth Congress, from the first district in Virginia—

Mr. BLAIR, of West Virginia, called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 94, nays 23; as follows:

YEAS—Messrs. William J. Allen, Alley, Allison, Ames, Ancona, John D. Baldwin, Benman, Bontwell, James S. Brown, Clauser, Ambrose W. Clark, Cobb, Coffroth, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Dawson, Denning, Donnelly, Eckley, Eden, Edgerton, Eliot, English, Fenton, Finck, Frank, Ganson, Gooch, Grinnell, Griswold, Hale, Harrington, Benjamin G. Harris, Higby, Hohman, Hooper, Hotchkiss, John H. Hubbard, Hulbard, Jenekes, William Johnson, Kelley, Francis W. Kellogg, Kernan, Law, Loan, Long, Longyear, McBride, McClurg, McDowell, McDouge, Samuel F. Miller, Morrill, Morrison, Amos Myers, Noble, Norton, Odell, Charles O'Neill, John O'Neill, Orth, Pendleton, Perlman, Pomeroy, Price, Pruyn, Alexander H. Rice, Edward H. Rollins, Schenck, Seofield, Scott, Shannon, Sloan, Smith, Smithers, Spalding, Stevens, Stiles, Strouse, Thayer, Upson, Van Valkenburgh, Wadsworth, Elihu B. Washburne, William B. Washburn, Joseph W. White, Wilder, Wilson, Windom, Winfield, and Fernando Wood—94.

NAYS—Messrs. Anderson, Baily, Augustus C. Baldwin, Jacob B. Blair, Eldridge, Glider, Hall, Harding, Mallory, Marcy, Moorhead, Nelson, Radford, Samuel J. Randall, William H. Randall, James S. Rollins, Ross, Stuart, Tracy, Ward, Webster, Whaley, and Wheeler—23.

So the resolution was adopted.

The question then recurred on the adoption of the following resolution:

*Resolved*, That Lucius H. Chandler is not entitled to a seat in this House as a Representative in the Thirty-Eighth Congress from the second congressional district of Virginia.

The resolution was adopted.

Mr. DAWES moved to reconsider the votes by which the resolutions were adopted; and also moved to lay the motion to reconsider on the table. The latter motion was agreed to.

Mr. DAWES. In this connection I submit the following resolution:

*Resolved*, That there be paid out of the contingent fund of the House to Joseph Segar, Lucius H. Chandler, and B. M. Kitchen, claimants of seats in this House as Representatives from Virginia, each the usual mileage of a member for one session and the monthly pay from the commencement of the session till the passage of the resolution in each case declaring them not entitled to a seat.

Mr. HOLMAN. Is that a privileged question?

The SPEAKER. It is, if it be a report from the Committee of Elections.

Mr. DAWES. I ought not to say that it is the

report of the committee. I simply offered the resolution on my own motion.

The SPEAKER. The resolution having been offered in connection with the report of the committee just disposed of, is, in accordance with the custom of the House, properly before the House.

Mr. HOLMAN. I think it has been decided otherwise.

The SPEAKER. The resolution would certainly not be privileged if delayed until after the subject had passed away from the House, but the Chair thinks that, offered in connection with the subject, it has been usually regarded as privileged.

Mr. DAWES. If the resolution is before the House, I desire to call the previous question on it.

Mr. ALLEY. I rise to a question of order. I make the point that Mr. Chandler is an officer of the Government, and that he cannot receive pay for services rendered to the Government in another capacity.

The SPEAKER. Even if the Chair were in possession of that fact, which he is not, except as just stated by the gentleman, it is not a question of order for him to decide; but for the accounting officer under the law.

Mr. DAWES. If the fact be as my colleague states it, I will modify my resolution. I know that the statute provides that no man can receive two salaries or be paid twice.

Mr. WASHBURN, of Illinois. The accounting officer can settle the question.

Mr. BLAIR, of West Virginia. At the time Mr. Chandler was elected to Congress he did not hold an office under the Government.

Mr. HOLMAN. I understand that this is a report from the Committee on Elections.

The SPEAKER. The Chair stated at the time, from his recollection of precedents, that he ruled it in order, whether it came from the Committee of Elections or from a member, as incident to the cases just decided. The Chair will state further, whether the decision was right or wrong, it is now too late to take an appeal, as the House is acting on it.

Mr. DAWES. I will withdraw my resolution with a view to understanding the fact, and offer it in the morning.

The SPEAKER. The gentleman certainly cannot offer it as a privileged question after the present time; it then becomes merely a claim.

Mr. DAWES. Then I am willing that the resolution shall be postponed until to-morrow.

Mr. NOBLE. I hope that the matter will be referred to the Committee of Elections, so that the House will have a report of the facts.

Mr. WASHBURN, of Illinois. I move that the resolution be postponed until to-morrow morning.

Mr. JOHNSON, of Pennsylvania. We will be in the same condition to-morrow that we are in now in reference to the facts.

Mr. ALLEY. I move that the resolution be referred to the Committee of Elections.

Mr. WASHBURN, of Illinois. I move, as a modification of my motion, that the resolution be referred to the Committee of Elections, with leave to report at any time.

The latter motion was agreed to.

#### AMENDMENT OF THE POSTAL LAWS.

Mr. ALLEY, by unanimous consent, from the Committee on the Post Office and Post Roads, reported a bill to amend the postal laws; which was read a first and second time, ordered to be printed, and recommittees to the same committee.

#### BANK BILL.

Mr. GANSON, by unanimous consent, moved that the Senate amendments to the bank bill be ordered to be printed.

The motion was agreed to.

#### PUBLIC PRINTING.

Mr. A. W. CLARK, from the Committee on Printing, reported back House bill No. 474, relative to the public printing.

The bill provides that that part of the act entitled "An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1864," which provides "that hereafter no printing or binding shall be done or blank-books be procured for any of the Executive Departments of the Government without a requisition on the Superintendent of Public Printing from the head of such Department," be amended

by inserting after the word "Department," where it is last above written, the following words, "or his assistant or assistants;" so that it will read, "the head of such Department or his assistant or assistants."

Mr. A. W. CLARK demanded the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. A. W. CLARK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

And then, on motion of Mr. LAW, (at twenty minutes past four o'clock, p. m.) the House adjourned.

#### IN SENATE.

WEDNESDAY, May 18, 1864.

Prayer by the Chaplain, Rev. THOMAS BOWMAN, D. D.

The Journal of yesterday was read and approved.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Navy, communicating, in compliance with a resolution of the Senate of the 12th instant, information relative to the steps taken toward the erection of a naval hospital at Kittery, Maine; which was ordered to lie on the table, and be printed.

#### PETITIONS AND MEMORIALS.

Mr. MORGAN presented two memorials from citizens of New York, remonstrating against any change of the act regulating the manner of taxing express companies; which were referred to the Committee on Finance.

Mr. DIXON presented a petition of manufacturers of the United States praying for the enactment of suitable laws for the encouragement of foreign immigration; which was referred to the Committee on Agriculture.

Mr. TRUMBULL presented a petition of men and women of the United States, praying for the abolition of slavery, and the adoption of measures for so amending the Constitution as forever to prohibit its existence in any portion of the country; which was referred to the select committee on slavery and freedmen.

Mr. HARRIS presented a memorial of citizens of Chautauqua county, New York, and a memorial of citizens of Erie county, Pennsylvania, remonstrating against the extension of the Goodyear patent for the manufacture of vulcanized India rubber; which were referred to the Committee on Patents and the Patent Office.

#### DUTIES ON IMPORTED GOODS.

Mr. JOHNSON. I desire to present a memorial, one of which I think is already on the files of the Senate, from the Chamber of Commerce of the State of New York, complaining of the construction put upon the joint resolution approved April 29, 1864, increasing the duties fifty per cent. upon the then amount of duties; and I take occasion to say that upon examination of the question, which I did as soon as I received the memorial, I am satisfied that the memorialists are substantially correct. The Secretary of the Treasury has, I think, fallen into an error. The uniform decisions of the courts upon the question have been that importations under our acts of Congress are complete when the vessel arrives at her port of entry intending there to discharge her cargo. The Secretary of the Treasury seems to be of opinion that the importation is not completed until the duties are paid. The Supreme Court have decided in a variety of cases, following in that particular the decisions of the district courts, that the importation is complete upon the arrival of the vessel in the port. As far back as a case reported in 1 Gallison, the United States vs. Lindsey, the court held, (I quote their words:—

"By the arrival of the vessel at the port of Bristol, on the 30th of June, with an intent there to unload her cargo, the importation was complete. The duties accrue on the importation, and not on the entry at the custom-house."

The effect of that decision was that she was not liable to the duties imposed by the act of July 1, 1812. The Senate will recollect that by that act

the duties which were before imposed were doubled, and this vessel having arrived at the port of Bristol on the 30th of June, the act having passed on the 1st of July, and not having paid any duty, if the importation was not considered as completed at the time of her arrival on the 30th of June, the cargo was subject to the double duty, but the court decided without any hesitation that the importation was a complete importation on the day when the vessel arrived at her port of entry intending to discharge. The converse of that proposition has been maintained by two decisions of the Supreme Court of the United States, in the cases of *Sampson vs. Peasey*, and *Irvine vs. Redfield*, reported respectively in 20 and 23 Howard, in which it was ruled that the period of exportation from a foreign country to the United States under the acts of July 30, 1846, and March 3, 1851, was the day of the sailing of the vessel, and not the clearing day at the custom-house. If the period of exportation is the sailing of the vessel, it would seem necessarily to follow that the importation is finished when she arrives at her port of entry.

In the particular mentioned, therefore, I think the Secretary has fallen into a mistake. I am informed that he is exacting the increase of duties from vessels that were in ports of entry intending to discharge cargo there before the joint resolution was passed at all. But he has fallen, I think, into another error in relation to vessels that arrive at their ports of entry before, as I think, the resolution became operative. Under the Constitution of the United States the resolution could have no effect until after it was approved by the President. It seems that a variety of vessels arrived at their ports of entry the evening preceding and the morning of the day when the President approved of the resolution, but before the actual approval. The Secretary's error is in applying the legal doctrine that there is no fraction of a day to a law of this description. The doctrine itself is but a legal fiction, and has never been enforced, if by enforcing it any actual injustice will be the result; and the courts have decided uniformly, both with reference to crimes and torts and duties, that the exact time of the day when the law becomes operative may be ascertained.

Upon both these grounds, therefore, in my opinion—and it is due to the memorialists perhaps that I should say so—I think the Secretary is in error, and that their application ought to be granted.

The memorial was referred to the Committee on Finance.

#### REPORTS FROM COMMITTEES.

Mr. HALE, from the Committee on Naval Affairs, to whom was referred a memorial of S. W. Godon, commodore, United States Navy, praying relief from the alleged injustice done him in consequence of being placed on the retired list under the act of Congress to further promote the efficiency of the Navy, approved December 21, 1861, asked to be discharged from its further consideration; which was agreed to, a general bill having already been reported on the subject.

Mr. HARRIS, from the Committee on the Judiciary, to whom was referred a bill (H. R. No. 32) to regulate the sessions of the circuit and district courts for the northern district of New York, and for other purposes, reported it with an amendment.

Mr. COWAN. The Committee on Finance, to whom was referred a bill (H. R. No. 356) requiring proof of payment of duties on foreign salt before payment of the allowances provided for by the acts of July 29, 1813, and March 3, 1819, have instructed me to ask to be discharged from its further consideration, and that it be referred to the Committee on Commerce, who have under consideration the subject of fishing bounties, which covers the design contemplated by this bill.

The report was agreed to.

Mr. COLLAMER. The Committee on Post Offices and Post Roads, to whom was referred a bill (S. No. 268) for increased facilities of telegraph communication between the Atlantic and Pacific States and the Territory of Idaho, have instructed me to ask that the committee be discharged from its further consideration, and that it be referred to the Committee on Commerce, who have that subject under consideration.

The report was agreed to.

Mr. WADE, from the Committee on Territories, to whom was referred a communication from the Secretary of State, accompanied by a memorial from the Governor of Utah Territory, representing that the fund for the contingent expenses of that Territory is entirely inadequate, asked to be discharged from its further consideration; which was agreed to.

#### STAFF OF LIEUTENANT GENERAL.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 72) relative to pay of staff officers of the Lieutenant General, to report it back without amendment; and if there be no objection I should like to put it on its passage now. It is a very small matter.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It provides that the staff officers on the staff of the Lieutenant General shall be entitled to receive the same pay, emoluments, and allowances as staff officers of the same grade on the staff of corps commanders, to take effect from the day of their appointment on the staff of the Lieutenant General.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### COMMITTEE SERVICE.

Mr. HOWE was, on his motion, excused from further service as a member of the Committee on Finance.

#### BILLS INTRODUCED.

Mr. HARDING asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 279) to amend the act of Congress making donations to settlers on the public lands in Oregon, approved September 27, 1850, and the acts amendatory thereto; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 280) to amend an act entitled "An act to facilitate communication between the Atlantic and Pacific States by electric telegraph," approved June 16, 1860; which was read twice by its title, and referred to the Committee on the Pacific Railroad.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 55) to encourage enlistments and to promote the efficiency of the military forces of the United States; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

#### BRANCH MINT AT SAN FRANCISCO.

On motion of Mr. CONNESS, it was Ordered, That the Secretary cause the error in the engrossment of the bill (S. No. 176) authorizing the erection of buildings for the branch mint at San Francisco to be corrected by inserting in the third line of the engrossed bill, between the words "three" and "thousand," the word "hundred," and that he return the bill so corrected to the House of Representatives.

#### ENROLLED BILLS SIGNED.

The PRESIDENT *pro tempore* signed the following enrolled bills and joint resolutions, which were heretofore signed by the Speaker of the House of Representatives:

A bill (S. No. 139) for the relief of Margaret M. Stafford, widow of Reuben Stafford, of Co-shooton county, Ohio;

A bill (S. No. 197) for the relief of Charles L. Nelson;

A joint resolution (S. No. 21) to provide for the printing of official reports of the operations of the armies of the United States; and

A joint resolution (S. No. 37) for the payment of expenses incurred by the joint committee on the conduct of the war.

#### BILLS BECOME LAWS.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that the President of the United States had approved and signed on the 16th instant the following acts:

An act (S. No. 38) to authorize the settlement of the accounts of A. Bush, late public printer for the Territory of Oregon; and

An act (S. No. 76) relating to appointments in the naval service, and courts-martial.

#### RAILROADS IN MICHIGAN.

Mr. HARLAN. There are two or three bills reported from the Committee on Public Lands of considerable importance, and I desire the Senate to permit them to be taken up and acted on now. I move that the Senate proceed to the consideration of Senate bill No. 250.

The motion was agreed to; and the bill (S. No. 250) to amend the act entitled "An act making a grant of alternate sections of the public lands to the State of Michigan to aid in the construction of certain railroads in said State, and for other purposes," approved June 3, 1856, was considered as in Committee of the Whole.

The Committee on Public Lands had reported the bill with an amendment, which was to strike out all after the enacting clause of the bill and to insert:

That the act entitled "An act making a grant of alternate sections of public lands to the State of Michigan to aid in the construction of certain railroads in said State, and for other purposes," be, and the same is hereby, amended as follows, namely: substitute for the words "and from Grand Rapids to some point on or near Traverse bay," contained in the first section of said act, these words: "and from a point on the southern boundary line of the State of Michigan, in the township of Sturgis, by way of Grand Rapids, to some point on or near Traverse bay." And the said act shall be, and is hereby, so amended as to substitute for the first clause of the first proviso in the first section thereof, so far as the same shall be applicable to the grant of lands made to aid in the construction of the railroad described by the foregoing amendment, these words: "Provided, That the lands to be so selected shall in no case be further than twenty miles from the line of said road."

Sec. 2. And be it further enacted, That the lands granted by the act amended by this act, and also by the provisions of this act, to aid in the construction of the railroad described in the foregoing section, shall be disposed of only in the following manner, that is to say, when the Governor of the State of Michigan shall certify to the Secretary of the Interior that ten consecutive miles of said road has been completed in a good and substantial manner as a first-class railroad, indicating definitely where said completed section commences and where the same terminates, the said Secretary shall cause patents to issue to said State for so much of said lands as are located opposite to and continuous with said completed section of said road, and so from time to time for each completed section of ten miles of said road until the whole shall be completed.

Mr. HENDRICKS. I move to amend the amendment of the committee in section one, line nine, by striking out the words "from a point on the southern boundary line of the State of Michigan," and inserting the words "from the city of Fort Wayne, in the State of Indiana."

Mr. HARLAN. I do not know what the sense of the Senate will be in relation to this amendment, but if it should be approved I think the phraseology might be amended so as to say, "from Fort Wayne, through the township of Sturgis, on the southern boundary of Michigan." That will leave the line in the State of Michigan, as it now stands.

Mr. HENDRICKS. I accept that modification. The purpose is to enable this company to complete its entire work. Its work is intended to run from Fort Wayne up into the State of Michigan. Of course no part of the lands will be used in the construction of that part of the road which is in the State of Indiana unless there be an excess, under the phraseology of this bill; but as it is one entire work, and as this would secure capital from the State of Indiana, I think it would be a benefit to the bill.

Mr. HOWARD. I should like to hear the amendment of the Senator from Indiana again reported. I did not understand it before.

The PRESIDENT *pro tempore*. It will be again reported.

The SECRETARY. The amendment of the Senator from Indiana is in line nine, section one of the amendment of the committee, to strike out the words "from a point on the southern boundary line of the State of Michigan," and insert "from Fort Wayne, through the township of Sturgis."

Mr. HARLAN. I propose to have the bill read in this way, which I think will be acceptable to the Senator from Indiana:

And from Fort Wayne, in the State of Indiana, to a point on the southern boundary line of the State of Michigan in the township of Sturgis, thence by way of Grand Rapids to a point at or near Traverse bay.

Mr. HENDRICKS. That is the amendment I desire to accept.

Mr. HOWARD. I will inquire of the Senator from Indiana whether this appropriation of lands lying in Michigan would not apply to that

portion of the railroad route which lies within Indiana; in other words, whether it is not a transfer of the fund arising from the sale of lands in Michigan to the construction of a railroad or a part of a railroad in Indiana. I understand that it is.

Mr. HENDRICKS. I will answer the Senator with pleasure. The effect of it will be just this: if there should be an excess of the land fund for the construction of a road in Michigan the company may use it to construct that part of the road from Fort Wayne to the Michigan State line; but according to the framework of this bill the funds arising from the sale of the land must be used to construct the line opposite to the land that is thus sold. I believe that is the provision of the bill, and of all the bills that have been reported at this session. The lands cannot be used except in constructing that portion of the road running through the lands unless there be an excess. This is one entire enterprise, and I think the company desires this amendment.

The PRESIDENT *pro tempore*. The amendment, as modified, will be reported.

The Secretary read the amendment as modified, which was, in line nine of the first section of the amendment of the committee, after the word "from" to insert "Fort Wayne, in the State of Indiana," and in line eleven, after the word "Sturgis," to insert "thence;" so as to read:

And from Fort Wayne, in the State of Indiana, to a point on the southern boundary line of the State of Michigan, in the township of Sturgis, thence by way of Grand Rapids to some point on or near Traverse Bay.

The amendment to the amendment was agreed to.

The amendment of the committee, as amended, was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time, and passed. Its title was amended to read: A bill to amend an act entitled "An act making a grant of alternate sections of public lands to the State of Michigan, to aid in the construction of certain railroads in said State, and for other purposes."

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a bill (No. 474) to amend an act relative to the public printing; in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 151) making appropriations for the naval service for the year ending June 30, 1865.

The message further announced that the House of Representatives had agreed to the amendments of the Senate to the bill of the House (No. 251) to organize a regiment of veteran volunteer engineers.

#### RAILROADS IN IOWA.

On motion of Mr. HARLAN, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 381) to amend an act entitled "An act making a grant of land to the State of Iowa, in alternate sections, to aid in the construction of certain railroads in said State," approved May 15, 1856.

The PRESIDENT *pro tempore*. The hour of one o'clock having arrived, the Chair calls up the order of the day, being Senate bill No. 265, the unfinished business of yesterday.

Mr. HARLAN. I hope the Senator in charge of that bill will consent to let it go over informally until this bill is disposed of.

Mr. ANTHONY. I have no objection to its going over informally. I suppose this bill will give rise to no debate, as it only proposes to give away a few million acres of the public lands.

Mr. HARLAN. There will be no debate upon it whatever, I think.

Mr. HENDRICKS. It will take less time to dispose of the bill now than to postpone it and take it up again at some other time.

The PRESIDENT *pro tempore*. The Chair hears no objection, and the special order will be passed over informally. The amendments reported by the Committee on Public Lands to the bill will be read.

The first amendment of the committee was in section one, line nineteen, to strike out the words "may be found practicable by said company," and to insert in lieu thereof:

The line surveyed and located by Mr. Day in the year 1854 or 1856, and not further north of said town than the north line of section twenty-two, township eighty north, of range nineteen, according to the United States surveys.

So that the proviso will read:

Provided, That said line shall pass through the town of Newton, in Jasper county, or as near said town as the line surveyed and located by Mr. Day, &c.

The amendment was agreed to.

The next amendment was in section two, line seven, to insert the word "public" before the word "lands;" and in line eight to strike out the words "and subject to entry," and to insert in lieu thereof:

Not sold, reserved, or otherwise disposed of, or to which a preemption claim or right of homestead settlement has not attached, and on which a bona fide settlement and improvement has not been made under color of title derived from the United States or from the State of Iowa.

The amendment was agreed to.

The next amendment was in section three, line nine, before the word "lands" to insert the word "public;" and in line ten to strike out the words "and subject to entry," and to insert in lieu thereof:

Not sold, reserved, or otherwise disposed of, or to which a preemption claim or right of homestead settlement has not attached, and on which a bona fide settlement and improvement has not been made under color of title derived from the United States or from the State of Iowa.

The amendment was agreed to.

The next amendment was in section four, line twenty-two, to strike out the words "and the land grant act of the Legislature of Iowa, giving said grant to said company."

The amendment was agreed to.

The next amendment was in section four, line thirty-four, before the word "lands," to insert the word "public," and in line thirty-five, after the word "States," to insert:

Not sold, reserved, or otherwise disposed of, or to which a preemption right or right of homestead settlement has not attached, and on which a bona fide settlement and improvement has not been made under color of title derived from the United States or from the State of Iowa.

The amendment was agreed to.

The next amendment was in section four, line forty-eight, to strike out the words "from any land in the United States not otherwise appropriated."

The amendment was agreed to.

The next amendment was in section four, line sixty-three, after the word "lands" to insert "as hereinbefore described."

The amendment was agreed to.

The next amendment of the committee was in section four, line seventy, to strike out the words "when the said company shall complete and furnish the Secretary of the Interior with satisfactory evidence that it," and to insert "when the Governor of the State of Iowa shall certify to the Secretary of the Interior that said company."

So that the clause will read:

When the Governor of the State of Iowa shall certify to the Secretary of the Interior that said company has completed in good running order a section of twenty consecutive miles of the main line of said road west of Nevada, then the Secretary shall convey to said company one third, and no more, of the lands granted for said connecting branch.

The amendment was agreed to.

The next amendment was in section four, line eighty-seven, to insert the following proviso:

Provided, however, That no lands shall be conveyed to said company on account of said connecting branch road until the Governor of the State of Iowa shall certify to the Secretary of the Interior that the same shall have been completed as a first-class railroad. And no land shall be conveyed to said company situate and lying within fifteen miles of the line of the Mississippi and Missouri railroad:

Provided further, That it shall be the duty of the Secretary of the Interior, and he is hereby required, to reserve a quantity of land embraced in the grant described in this section, sufficient, in the opinion of the Governor of Iowa, to secure the construction of a branch railroad from the town of Lyons, in the State of Iowa, so as to connect with the main line in or west of the town of Clinton, in said State, until the Governor of said State shall certify that said branch railroad is completed according to the requirements of the laws of said State.

The amendment was agreed to.

The next amendment was in section four, line

one hundred and thirteen, to strike out the word "as" and insert "rights."

The amendment was agreed to.

The next amendment was to add at the end of section four the following proviso:

Provided, however, That no lands shall be conveyed to any company or party whatsoever, under the provisions of this act and the act amended by this act, which has been settled upon and improved in good faith by a bona fide inhabitant, under color of title derived from the United States or from the State of Iowa adverse to the grant made by this act or the act to which this act is an amendment.

The amendment was agreed to.

The next amendment was in section five, line three, after the word "made" to insert the words "to said company."

The amendment was agreed to.

The next amendment was to insert at the end of section five the following proviso:

Provided, That said transfer and assignment shall first be authorized by the Legislature of the State of Iowa.

The amendment was agreed to.

The next amendment was in section seven, line three, to strike out the word "hereinbefore," and after the word "changed" to insert "by this act," and in line six to insert "and may hereafter be modified;" so that it will read:

That all of the conditions and limitations contained in the act to which this act is an amendment, and not expressly changed by this act, shall attach to and run with the grants made by this act, except as the said conditions and limitations have been modified, and may hereafter be modified, by the General Assembly of the State of Iowa.

The amendment was agreed to.

The next amendment was in section eight, line two, to strike out the words "unless it shall complete" and to insert "until the Governor of the State of Iowa shall certify to the Secretary of the Interior that the said company has completed;" in line seven, after the word "terminus" to insert "of the completed portion of said railroad;" and in line eleven, after the word "proof" to insert "as aforesaid;" so that it will read:

That no lands hereby granted shall be certified to either of said companies until the Governor of the State of Iowa shall certify to the Secretary of the Interior that the said company has completed, ready for the rolling stock, within one year from the 1st day of July next, a section of not less than twenty miles from the present terminus of the completed portion of said railroad, and in each year thereafter an additional section of twenty miles; but the number of sections per mile originally authorized shall be certified to each company upon proof, as aforesaid, of the completion of the additional sections of the road as aforesaid.

The amendment was agreed to.

The bill was reported to the Senate as amended. Mr. MORRILL. I should like to ask the chairman of the committee who reports this bill for some explanation of it. As I followed the reading of it, I am not sure that I understand it exactly. I should like to have the chairman of the committee state the general scope of the bill, if he will.

Mr. HARLAN. If it becomes a law it will enable the companies in Iowa to consolidate their lines, to build one line through instead of various lines to the western portion of the State. It will enable all the roads that have heretofore had land grants in Iowa to change the location of the line of their roads west of the present completed portion of their roads. Under the law as it now stands they can make their locations within fifteen miles. This enlarges the limit so that they can make the locations within twenty miles.

Mr. MORRILL. Does it give an additional quantity of lands? If so, I should like to inquire to what extent.

Mr. HARLAN. It proposes to give an additional quantity of lands, if the lands can be found, to build a branch road from one of these lines to the other, so as to facilitate the consolidation of the work west of the completed portion of the lines, and also for a few miles on the Missouri river, to make a connection with the Pacific railroad at an important point on the Missouri river. The distance is perhaps fifteen or twenty miles.

Mr. MORRILL. What is the estimated grant of lands under this bill?

Mr. HARLAN. We have made no estimate of the amount of lands in addition to those they would receive under the law as it now stands, because the lands have all been culled over and been in market for a long time. It is said that on one of these lines they will receive about sixteen hundred acres more than they would have received



under the law as it stood before. On the other lines I think they will receive more, and I think they will receive more than that on that line; but the lands are all the refuse lands that have been culled over and have been left.

Mr. GRIMES. I will state to the Senator from Maine that there are but six hundred and six thousand acres of public land unsold in the whole State of Iowa—enough for a good-sized farm.

Mr. HARLAN. I ought to observe, I think, that this bill will not increase the number of acres that the roads will receive beyond that granted by the law as it now stands, except on these two short lines of branch roads.

Mr. MORRILL. That was my inquiry. On page 4, section four, of the bill, it reads near the close:

For the purpose of facilitating the more immediate construction of a line of railroads across the State of Iowa, to connect with the Iowa branch of the Union Pacific Railroad Company aforesaid, the said Cedar Rapids and Missouri River Railroad Company is hereby authorized to connect its line by branch with the line of the Mississippi and Missouri Railroad Company.

Mr. HARLAN. I will explain on that point. One of these roads runs through one tier of counties east and west through the State, and the other runs through the adjoining tier of counties. The counties in Iowa are usually about twenty-five miles across, so that that branch road will probably be about twenty-five miles, perhaps slightly less or slightly more.

Mr. MORRILL. The inquiry I wish to make is this, whether the Cedar Rapids and Missouri River Railroad Company is a company located in Iowa entirely.

Mr. HARLAN. Entirely.

Mr. MORRILL. Then as to the Mississippi and Missouri Railroad Company, is that a company in Iowa or Missouri?

Mr. HARLAN. All these companies are in Iowa. The whole grant is made in Iowa; not an acre outside of the State.

Mr. MORRILL. My inquiry is whether the railroad with which you propose to connect the Cedar Rapids and Missouri Railroad Company—for it is "hereby authorized to connect its line with the branch of the line of the Mississippi and Missouri Railroad Company"—is an Iowa road.

Mr. HARLAN. Both are in Iowa.

Mr. MORRILL. My inquiry arose from a supposition that the whole road was in the State of Missouri.

Mr. HARLAN. No; neither of these lines is in the State of Missouri. Neither of the branch roads contemplated is in Missouri.

The amendments made as in Committee of the Whole were concurred in. The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed.

#### HOUSE BILL REFERRED.

The bill from the House of Representatives (No. 474) to amend an act relative to the public printing was read twice by its title, and referred to the Committee on Printing.

#### PUBLIC PRINTING.

The PRESIDENT *pro tempore*. The Senate will resume the order of the day, being Senate bill No. 265, to expedite and regulate the printing of public documents, and for other purposes.

Mr. HENDERSON. I move to pass by the order temporarily in order that a resolution I introduced yesterday morning calling for information may be taken up.

Mr. ANTHONY. I presume this bill will not occupy fifteen minutes. I prefer that we shall go on with it; we have got nearly through with it. What is the pending amendment?

The PRESIDENT *pro tempore*. The question pending is on the amendment of the Committee on Printing as amended, as a substitute for the bill.

Mr. ANTHONY. To meet the objection raised by the Senator from New Hampshire, I will modify the amendment, with the assent of the Senate, so that the first section of the substitute shall read as follows:

"That hereafter, instead of furnishing manuscript copies of the documents usually accompanying their annual reports to each House of Congress, the heads of the several Departments of Government shall transmit them on or before the 1st day of November in each year to the Superintendent of Public Printing, who shall cause to be printed the usual number, and in addition thereto one thousand copies for the use of the Senate and two thousand for the use of the House of Representatives; and that it shall be

the duty of the Joint Committee on Printing to appoint some competent person who shall edit and select such portions of the documents so placed in their hands as shall in the judgment of the committee be desirable for popular distribution, and to prepare an alphabetical index to the same.

Mr. HALE. I want to ask the Senator from Rhode Island if that obviates the difficulty in regard to every other year. There can be no Joint Committee on Printing existing on the 1st day or November in each alternate year. How does he propose to dispose of it, say after the 4th of March next? From the 4th of March next until the 1st of December following, there will be no Joint Committee on Printing, and cannot be.

Mr. ANTHONY. The documents are to be given to the Superintendent of Public Printing, who is to print the usual number of the documents in full. Then the Joint Committee on Printing are to appoint some suitable person to edit an abridgment in a single volume for popular distribution. It is not necessary that that should be done before the 1st of December, when Congress meets, because the type will be standing which has been used to print the documents in full, and the committee can then designate such portion of them as they think ought to be selected for popular distribution.

Mr. HALE. Does not the bill as it now stands require the Joint Committee on Printing to appoint a person to edit this first volume?

Mr. ANTHONY. That person will be appointed permanently. It is not necessary that he shall be appointed every year. That person will be appointed and retain his position until some one else is put in his place, the same as all the officers of the Senate.

Mr. HALE. It seems to me still that there should be some regulation made for his compensation if he is to be a permanent officer. I do not exactly like the idea of putting ourselves in the guardianship of one single individual, and leaving it to his discretion to say what document shall be printed and what shall not.

Mr. ANTHONY. The bill does not do so. The Joint Committee on Printing select the documents that are to be selected, but some person must prepare an alphabetical index. Of course the committee cannot do that.

Mr. HALE. Then it comes back to the same difficulty. The Joint Committee on Printing do not exist every alternate year.

Mr. ANTHONY. It is not necessary to make the selection until the 1st of December. The documents will be given to the Superintendent of Public Printing in November; they will be in the process of printing when we meet; and then the Joint Committee on Printing will select those portions which are to be for popular distribution. The only object is to save the expense of publishing a large amount of useless matter, and to prepare an index. The cost of that will be very small indeed. The committee did not think it proper to fix the compensation, for we hardly know what it will be, but it will be very small, a few hundred dollars perhaps.

The amendment to the amendment was agreed to.

The amendment of the Committee on Printing as amended was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading.

Mr. COLLAMER. I desire to have the bill read on its third reading, that we may see how it now stands. It seems to me the gentleman has hardly got it in a practical shape.

The PRESIDENT *pro tempore*. The third reading of the bill will be at large.

The bill received its third reading at length, as follows:

Be it enacted, &c., That hereafter, instead of furnishing manuscript copies of the documents usually accompanying their annual reports to each House of Congress, the heads of the several Departments of Government shall transmit them, on or before the 1st day of November in each year, to the Superintendent of Public Printing, who shall cause to be printed the usual number, and in addition thereto one thousand copies for the use of the Senate and two thousand copies for the use of the House of Representatives; and that it shall be the duty of the Joint Committee on Printing to appoint some competent person, who shall edit and select such portions of the documents so placed in their hands as shall, in the judgment of the committee, be desirable for popular distribution, and to prepare an alphabetical index to the same.

Sec. 2. And be it further enacted, That the Secretary of War be, and he is hereby, authorized to appoint some competent person to edit the printing of the official reports of the operations of the armies of the United States.

Sec. 3. And be it further enacted, That it shall be the duty of the heads of the several Departments of Government to furnish the Superintendent of Public Printing with copies of their respective reports, on or before the third Monday in November in each year.

Sec. 4. And be it further enacted, That it shall be the duty of the Superintendent of Public Printing to print the President's message, the reports of the heads of Departments, and the abridgment of accompanying documents prepared under the direction of the Joint Committee on Public Printing suitably bound; and that, in addition to the number now required by law, and unless otherwise ordered by either House of Congress, it shall be his duty to print ten thousand copies of the same for the use of the Senate and twenty-five thousand copies for the use of the House, and to deliver the same to the proper officer of each House, respectively, on or before the third Wednesday in December following the assembling of Congress, or as soon thereafter as practicable. And further, it shall also be the duty of the said Superintendent to cause to be printed and stitched in paper covers twenty-five hundred copies of the annual reports of the Executive Departments for the use of said Departments, respectively, and also one thousand copies of the reports of the Commissioner of the General Land Office, Commissioner of Pensions, Commissioner of the Internal Revenue, and such number of the report of the Commissioner of Indian Affairs, to be bound, not exceeding three thousand copies, as may be directed by the Secretary of the Interior, for their use, respectively; and also five hundred copies of the reports of the superintendent of the Washington aqueduct, architect of the Capitol extension, Metropolitan Police Board, Third Auditor of the Treasury, and of the Insane Asylum, Columbia Institute, and Commissioner of Public Buildings, respectively, for their use, and one hundred copies of the report of the Bureau of Engineers, for the use of said bureau. And he shall not print any greater number of said reports unless otherwise directed by either House of Congress.

Sec. 5. And be it further enacted, That seven thousand copies of the Commercial Relations, annually prepared under the direction of the Secretary of State, be printed and distributed as follows, viz: the usual number (one thousand five hundred and fifty) for the Houses of Congress; four hundred and fifty for the State Department; two thousand for the use of the members of the Senate; and three thousand for the use of members of the House.

Sec. 6. And be it further enacted, That the annual report of the Postmaster General of offers received and contracts for conveying the mails, in compliance with the twenty-fourth and twenty-fifth sections of the act of Congress approved July 2, 1836, be no longer printed, unless specially ordered by either House of Congress; and that such portion of the above-mentioned act as authorized the said publication be, and the same is hereby, repealed.

Sec. 7. And be it further enacted, That from and after the passage of this act it shall be the duty of the Secretary of the Senate to furnish the Superintendent of Public Printing with correct copies of all laws and joint resolutions as soon as possible after their approval by the President of the United States, and that the Superintendent shall immediately cause to be printed separately the usual number for the use of the two Houses of Congress; and, in addition thereto, he shall cause to be printed and bound, at the close of each session of Congress, three thousand copies thereof for the use of the Senate and ten thousand copies for the use of the House, with a complete alphabetical index, prepared under the direction of the Joint Committee on Public Printing.

Sec. 8. And be it further enacted, That section seven of the joint resolution in relation to the public printing, approved June 23, 1860, be so amended as to require the Superintendent of Public Printing to advertise only in two newspapers published in the cities of New York, Cincinnati, Boston, Philadelphia, and Baltimore, for thirty days prior to the 1st day of November of each year, for proposals for furnishing the paper necessary for the execution of the public printing.

Sec. 9. And be it further enacted, That all lithographing and engraving, where the probable total cost of the maps or plates illustrating or accompanying any one work exceeds \$250, shall be awarded to the lowest and best bidder for the interests of the Government, due regard being paid to the execution of the work, after due advertisement by the Superintendent of Public Printing, under direction of the Joint Committee on Printing; *Provided*, That the Joint Committee on Public Printing be authorized to empower the Superintendent of Public Printing to make immediate contracts for engraving whenever, in their opinion, the exigencies of the public service will not justify waiting for advertisement and award.

Sec. 10. And be it further enacted, That whenever any person may desire extra copies of any document printed at the Government printing office, by authority of law, and shall notify the Superintendent of Public Printing of the number of copies desired previous to its being put to press, and shall pay, in advance, the estimated cost thereof to said Superintendent, the Superintendent shall be authorized, under the direction of the Joint Committee on Public Printing, to furnish such extra copies; and the money so received, together with moneys received by him from the sales of paper shavings and imperfections, shall be deposited in the Treasury of the United States to the credit of the appropriations for public printing, binding, and paper, respectively, as designated by said Superintendent; and further, the Secretary of the Treasury is hereby directed to cause the moneys heretofore deposited by said Superintendent in the Treasury of the United States, being the proceeds of sales of paper shavings and imperfections, to be placed to the credit of the appropriations aforesaid, which said several sums of money shall be subject to the requisition of said Superintendent in the manner now prescribed by law.

Sec. 11. And be it further enacted, That whenever papers relating to foreign affairs shall be communicated to Congress accompanying the annual message of the President, it shall be the duty of the Superintendent of Public Printing to cause to be printed and bound, in addition to the usual number, four thousand copies for the use of the mem-

bers of the Senate, seven thousand copies for the use of the members of the House of Representatives, and such number for the Executive Department as the President shall direct.

Sec. 12. *And be it further enacted*, That the forms and style in which the printing or binding ordered by any of the Departments shall be executed, the materials and size of type to be used shall be determined by the Superintendent of Public Printing, having proper regard to economy, workmanship, and the purposes for which the work is needed.

Sec. 13. *And be it further enacted*, That all laws or parts of laws, joint resolutions or parts of joint resolutions, conflicting with the above provisions, be, and they are hereby, repealed.

Mr. COLLAMER. I wish to inquire of the chairman of the Committee on Printing why provision is made in the bill for printing two or three thousand copies of the documents that accompany the President's message besides the usual number, when it is provided that the committee shall decide what part of them are worthy of publication and distribution? What is the use of having that number of extra copies of those papers printed?

Mr. ANTHONY. Those papers are very useful in small numbers for public libraries and for preservation for reference. It is necessary to set the type in order to print the usual number, which is fifteen hundred and fifty. Then it costs only the paper and press-work, comparatively a small amount, to print enough extra copies to place them in the chief libraries of the country, where they will remain for reference, and they always have been so printed.

Mr. HALE. I cannot help thinking that this bill has not received that discriminating attention which the chairman of the Committee on Printing usually gives to a bill that he reports. I find in what was the eighth section of the bill as reported a provision that all lithographing and engraving, where the probable total cost of the maps or plates exceeds \$250, shall be awarded to the lowest and best bidder "after due advertisement by the Superintendent of Public Printing, under the direction of the Joint Committee on Printing, provided that the Joint Committee on Public Printing be authorized to empower the Superintendent of Public Printing to make immediate contracts for engraving whenever, in their opinion, the exigencies of the public service will not justify waiting for advertisement and award." That looks to the existence of the Committee on Printing as a permanent body, whereas in every other year, from March to December there is no such committee.

Again, I find in another section that whenever any person may desire extra copies of any document, and shall notify the Superintendent of the number wanted and shall pay in advance the estimated cost, "the Superintendent shall be authorized, under the direction of the Joint Committee on Public Printing, to furnish such extra copies." That looks to the Joint Committee on Public Printing as a permanent body, and I think the same thing occurs in one or two other instances. It seems to me that it would be unsafe to pass a bill as a permanent law regulating the public printing, leaving it open to the control and direction of the Committee on Printing, when that committee are not in existence nearly half the time, or at least a third of the time, during the two years of a Congress.

Mr. ANTHONY. That committee is in existence all the time when there is any printing going on, except during the month of November in every other year, and practically then the supervision of the committee will not be needed until the first Monday in December.

The ninth section of the bill as amended, to which the Senator has referred, provides that all lithographing and engraving, when the probable cost exceeds \$250, shall be advertised and awarded to the lowest and best bidder. That is the present law, but it is found in some cases where a document is ordered to be printed—and such documents are always ordered to be printed in the course of the session, and never when the committee is not in existence—that the amount of lithographing or engraving is very small indeed, and the delay of advertising and examining the bids would be of more consequence than the whole cost of the engraving. It was therefore thought best to give the Superintendent of Public Printing, under the supervision of the joint committee, the power to waive the advertisement in such cases; but if the Senator objects to that, we can empower

the Superintendent of Public Printing to waive the provision of advertising, although if the committee is not in existence the section as it stands certainly can do no harm.

The other section to which the Senator has referred is that whenever any persons desire extra copies of a document, and pay the money in advance to the Superintendent of Public Printing, the copies desired shall be printed. It was thought possible that if it was made obligatory on the Superintendent to print any number of copies that might be required, the orders might sometimes be so numerous as to impede the public service. In that case, of course, it would be desirable to refuse the orders; and it was thought best, with that view, to retain the supervision in the hands of the committee. If, however, Senators think it more desirable that it should be left to the Superintendent alone, that will be quite as satisfactory to us. The Superintendent is certainly a very competent man, and, I will take occasion now to say, one of the most economical men connected with the Government. His continual object is to do the work in the cheapest manner possible, and to cut down the printing as much as he can.

Mr. HALE. I have no particular objection to this bill; but I looked at it and saw the things which I have stated, which occurred to me as exceptional and objectionable.

Mr. ANTHONY. They all occurred to the committee, and were fully considered in consultation with the Superintendent. The joint committee of both Houses have had several meetings over it, and the objections which the Senator raises occurred to us, and were explained by us in the way I have endeavored to explain them to him.

The bill was passed.

#### PACIFIC RAILROAD.

Mr. HOWARD. I believe the next business in order is Senate bill No. 132, which was made the special order for to-day at one o'clock, being the Pacific railroad bill.

The PRESIDENT *pro tempore*. The bill (S. No. 132) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, is the special order of the day, and it is now before the Senate as in Committee of the Whole.

Mr. HOWARD. I will state how the matter stands. Several weeks ago the honorable Senator from Ohio [Mr. SHERMAN] introduced a bill, No. 132, which was referred to the Committee on the Pacific Railroad. That committee took it under consideration, and reported it back to the Senate with various amendments; but since that report was made the committee have had the subject under consideration again, and the result has been the submission to the Senate of an amendment in lieu of the original bill, and as it covers the whole ground covered by the bill as originally introduced, I ask to have the reading of the original bill dispensed with, and to have the amendment only read to the Senate at this time. I will further remark to the Senate that this amendment covers the entire ground embraced by the Pacific railroad charter of 1862, with various other provisions which the committee have thought necessary to be incorporated in order to form one complete and harmonious system. I hope, therefore, that the amendment only will be read, as it is intended as a substitute for the original bill.

The PRESIDENT *pro tempore*. The amendment alone will be read, unless some Senator desires the reading of the original bill.

The Secretary read the amendment, which was to strike out all after the enacting clause of the bill, and to insert the following in lieu thereof:

That the stockholders of the corporation known as the Union Pacific Railroad Company, created by the act approved July 1, 1862, entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," and all persons who may become associated with them as stockholders, pursuant to this act, and their successors and assigns, are hereby confirmed and constituted a body-politic and corporate, in fact and in law, by that name; and by that name shall have perpetual succession, and shall be capable in law of suing and being sued, pleading and being impleaded, defending and being defended in all courts

of law and equity of the United States, and may make and have a common seal. And said company is hereby authorized and empowered to lay out, locate, construct, finish, maintain, and enjoy a continuous railroad and telegraph, with the appurtenances thereto, from a point on the one hundredth meridian of longitude west from Greenwich, between the south margin of the valley of the Smoky Hill Fork of the Republican or Kansas river, in the State of Kansas, and the north margin of the valley of the Platte river, in the Territory of Nebraska, to the western boundary of the Territory of Nevada, upon the route and terms hereinafter mentioned, and is hereby vested with all the powers, privileges, and immunities necessary to carry into effect the purposes of this act as herein set forth. That the capital stock of said company shall consist of one million shares, of \$100 each, instead of \$1,000 each, as provided in said original act, and two thousand shares shall be the greatest amount which any one person may hereafter subscribe for or hold at any time, or for which certificates of shares shall in any case be issued or recognized by said company. That said company shall cause books to be kept open to receive subscriptions to the capital stock of said company until the entire capital of \$100,000,000 shall be subscribed at the general office of said company in the city of New York, and in each of the cities of Boston, Philadelphia, Baltimore, Chicago, Cincinnati, St. Louis, and San Francisco, at such places therein as may be designated by the President of the United States, and in such other cities or towns as may be directed by him; and no subscription for such stock shall hereafter be deemed valid unless the subscriber therefor shall, at the time of subscribing, pay to the treasurer of the company an amount per share subscribed by him equal to the amount per share previously paid by the then existing stockholders. The said company, by its directors or its stockholders, shall, from and after the passage of this act, make assessments upon all the stockholders of not less than five dollars per share, at intervals of not less than six months from and after the passage of this act, until the par value of all shares subscribed for shall be fully paid; and money only shall be received for any such assessment, or for any portion of such capital stock; but bonds of said company, upon which interest is guaranteed by the United States, as hereinafter provided, may, at the option of the holders thereof, be converted at any time by such holders at their par value into full-paid stock of said company; and certificates of shares thereof shall be issued, not, however, to exceed in amount to any one person the above limitation of two thousand shares; and upon every such conversion of bonds into capital stock, all liability of the United States for the payment of interest on the bonds converted shall cease; but the capital stock of said company shall not, by reason of such conversion, be increased so as to exceed the actual cost of the road, its fixtures, appurtenances, and rolling stock. The stock of the said company shall be deemed personal property, and shall be transferable at the general office of the company, in the city of New York, and at such other transfer offices as the directors shall establish, according to such rules and regulations as may be provided in the by-laws. The general office of said company shall be kept in the city of New York, and all meetings of stockholders shall be held at the said office. Annual meetings of the stockholders shall be held at the said general office on the second Wednesday of October in each year, for the election of directors and the transaction of any other business of the corporation; and at every such meeting the directors and officers of the company shall make to the stockholders a full statement of the condition of the affairs of the company. From and after the next annual meeting, to be held on the second Wednesday of October next, as herein provided, there shall be twenty-one directors of said company, one third of which number shall be elected annually, and for the term of three years; and at the next annual meeting of the stockholders there shall be drawn by lot, by the inspectors hereinafter provided for, from the names of the then directors, the names of seven directors, who shall continue directors one year; and the names of seven others, who shall continue directors two years; and seven stockholders shall be elected and shall continue directors three years. And the directors may, at any time, fill any vacancy in their board until the next annual meeting, when such vacancy shall be filled by the stockholders. The election of directors shall be by ballot, and be held under the supervision of three inspectors, to be appointed by the stockholders. The polls for the election shall be opened at eleven o'clock a. m., and continue open until all parties present entitled shall have had an opportunity to vote; but shall be finally closed and ended within five days from the opening thereof; and each share shall be entitled to one vote, to be voted by the owner in person, or by his duly constituted attorney or proxy; but no director, officer, or employee of the company shall act as the attorney or proxy of any shareholder, at any annual or other meeting of the stockholders. At the time of the election of directors by the stockholders, two additional directors shall be appointed by the President of the United States, who shall act with the board of directors, and be denominated Government directors. Any vacancy happening in whose places shall be filled by the President of the United States. The Government directors shall not be shareholders in said company. The directors so chosen shall, as soon as may be after their election, elect from their own number a president and vice president, and shall also elect a treasurer and secretary. No person shall be a director of said company unless he shall be a bona fide owner of at least fifty shares of stock in said company, except the two directors appointed by the President; and every person now a subscriber to said capital stock, for each share of \$1,000 herebefore subscribed, and on which there has been paid not less than ten per cent, shall be entitled to a certificate for ten shares of \$100 each, on the surrender of his original certificate; and all future subscribers shall be entitled to one share for every \$100 of valid subscription they shall severally make, as herein provided; and upon each of such certificates there shall be indorsed and certified the amount paid upon subscription by the holder up to and including the date of such certificate. Said company, at any regular meeting of the stockholders or any called meeting, at which

not less than a majority in interest of the stockholders shall be present in person or by proxy, which majority shall constitute a quorum to do business, shall have power to make such by-laws, rules, and regulations as they shall deem needful and proper touching the disposition of the stock, property, estates, and effects of the company, not inconsistent with this act or any act of Congress, the transfer of shares, the term of office, duties, and conduct of their officers and servants, and all matters whatsoever which may appertain to the concerns of said company; and the said board of directors shall have power to appoint such engineers, agents, and subordinates as may from time to time be necessary to carry into effect the objects of this act, and do all acts and things touching the location and construction of said railroad and telegraph. Said directors may require payment of subscriptions to the capital stock, after due notice, at such more frequent times and in such greater proportions than hereinbefore provided as they shall deem necessary to complete the railroad and telegraph. And a majority of said directors shall constitute a quorum for the transaction of business. The secretary and treasurer shall give bonds, with such security as the said board shall from time to time require, and shall hold their offices at the will and pleasure of the directors; and the directors shall hold their offices until their successors are qualified. The Government directors shall be *ex officio* members of all standing committees, and shall from time to time report to the Secretary of the Interior, in answer to any inquiries he may make of them touching the condition, management, and progress of the work; shall communicate to the Secretary of the Interior at any time such information as should be in possession of the Department; and for this purpose they or either of them shall have free access at all reasonable times to the books, papers, and archives of the company. They shall, while absent from home attending to their duties, be paid their actual traveling expenses and compensation, at the rate of eight dollars a day, for the time thus actually employed.

Sec. 2. *And be it further enacted*, That said company shall cause notice to be published in one or more newspapers of general circulation in each of the cities hereinbefore mentioned, by not less than ten conspicuous insertions thereof in each such newspaper, of all calls or assessments upon the capital stock, and the time when the same shall be payable, and also of all special meetings of the stockholders; and any five directors, or the owners of one tenth in interest of the capital stock paid in, may in like manner call and convene special meetings of the stockholders. In case any stockholder shall fail to pay any assessment which shall be made, and of which due notice shall have been given as aforesaid, at the time when the same shall be payable, or within thirty days next thereafter, with interest thereon at the rate of ten per cent. per annum for any elapsed portion of such thirty days, the shares of such delinquent stockholder, on which such assessment shall not have been paid, and all payments thereon shall be absolutely and *ipso facto* forfeited to the said company; and no stockholder or proxy shall be entitled or allowed to vote at any meeting of stockholders on any share or shares on which any such assessment shall be due and unpaid. All contracts for labor and services, materials of every description, and for transportation, which may be made by or on behalf of said company, shall be terminable at the pleasure of said company, or of the directors thereof, by notice in writing to the other contracting parties, their heirs, executors, administrators, or assigns; and upon and after service of such notice, all liability and obligation on account thereof, on the part of the company, shall cease and determine, except in so far as performance shall be by either party required during the six months next succeeding such service; and all such contracts of said company shall contain or be deemed to contain a clause providing for such termination thereof. And said company shall complete and fully equip its line of road and telegraph as provided in this act on or before the 31st day of December, A. D. 1877, except in so far as such completion may be necessarily delayed by tumors or unavoidable obstacles or impediments which shall render further time indispensable; in which case such further time may be determined and granted by the President of the United States, not, however, to exceed five years.

Sec. 3. *And be it further enacted*, That the right of way through the public lands of the United States be, and the same is hereby, granted to said company for the construction of said railroad and telegraph line; and the right, power, and authority are hereby given to said company to take from the public lands, adjacent to the line of said road, earth, stone, timber, and other materials for the construction thereof; said right of way is granted to the extent of two hundred feet in width on each side of said railroad where it may pass over the public land; and all necessary grounds for stations, buildings, workshops, depots, machine shops, switches, side and second tracks, turn tables, water stations, and other appurtenances or appliances proper for the construction, operating, and maintenance of said railroad and telegraph. The United States shall extinguish as rapidly as may be the Indian titles to all lands falling under the operation of this act and required for said right of way and grants herein made, or made in the act to which this is an amendment. The said company is hereby authorized and empowered to enter upon, purchase, take, and hold any lands and premises, other than such public lands that may be necessary and proper for the construction and working of said road, not exceeding in width two hundred feet on each side of the center line of their railroad, unless a greater width shall be requisite for the purpose of excavation or embankment; and also any lands or premises which may be necessary and proper for stations, buildings, workshops, depots, machine shops, switches, side and second tracks, turn tables, and water stations necessary in the construction, operating, and maintenance of said road; and the said company shall, furthermore, have the right to cut and remove trees or other materials which might, by falling, incumber its road-bed, though standing or being more than two hundred feet from the line of said road. And in case the owner of such lands or premises and the said company cannot agree as to the damages sustained by the owners thereof for the premises so taken, or to be taken,

for the use of said road, the damages thereby sustained shall be determined by the appraisal of three disinterested commissioners, who may be appointed upon application by any party to any judge of a court of record in any of the Territories in which the lands or premises to be taken lie; and said commissioners, in their assessments of damages, shall appraise such premises at what would have been the value thereof if the road had not been built; and shall also deduct from the damages to be awarded to the applicant for the same any increase in the value, due to the construction of the road, of the premises retained by him, provided such premises formed a portion of those taken; and upon return into court of such appraisal, and upon the payment to the clerk thereof, or to the parties entitled, of the amounts so awarded by the commissioners, (such clerk to hold the same in trust for the use and benefit of the owner thereof,) said premises shall be deemed to be taken by said company, which shall thereby acquire full title to the same for the purpose aforesaid. And either party feeling aggrieved at said assessment, may, within thirty days after the same has been filed with the clerk, file an appeal therefrom, and demand a jury of twelve men to estimate the damage sustained; but such appeal shall not interfere with the rights of said company to enter upon the premises taken, or to do any act necessary in the construction of its road. And said party appealing shall give bonds, with sufficient surety or sureties for the payment of any costs that may arise upon such appeal. And in case the party appealing does not obtain a verdict increasing or diminishing, as the case may be, the award of the commissioners, such party shall pay the whole cost incurred by the appellee, as well as its own. And the payment into court, for the use of the owner of said premises taken, of a sum equal to that finally awarded shall be held to vest in said company the title of said land, and the right to use and occupy the same for the construction, maintaining, and operating of said road. And in case any of the lands to be taken as aforesaid shall be held by any infant, female covert, non-compos, insane person, or person residing without the Territory within which the lands to be taken lie, or persons subject to any legal disability, the court may appoint a guardian for any party under any disqualification, to appear in proper person, who shall give bonds, with sufficient surety or sureties for the proper and faithful execution of his trust, and who may represent in court the person disqualified as aforesaid from appearing, when the same proceeding shall be had in reference to the appraisal of the premises to be taken for the use of said company, and with the same effect as have been already described. And the title of the company to the land taken by virtue of this act shall not be affected nor impaired by reason of any failure by any guardian to discharge faithfully his trust. And in case any party shall have a right or claim to any lands for a term of years, or any interest therein, in possession, reversion, or remainder, the value of any such estate less than a fee simple shall be estimated and determined in the manner herein set forth. And in case it shall be necessary for the company to enter upon lands which are unoccupied, and of which there is no apparent owner or claimant, it may proceed to take and use the same for the purpose of said railroad, and may institute proceedings in manner described for the purpose of ascertaining the value of and acquiring a title to the same; but the judge shall determine the kind of notice to be given such owner or owners, and he may in his discretion appoint an agent or guardian to represent such owner or owners in case of his or their incapacity or non-appearance. In case no claimant shall appear within three years from the time of the opening of said road across any land, all claim to damages against said company shall be barred. It shall be competent for the legal guardian of any infant, or any other person under guardianship, to agree with the company as to damages sustained by reason of the taking of any lands of any such person under disability, as aforesaid, for the use as aforesaid, and upon such agreement being made the said guardian shall have full power to make and execute a conveyance thereof to the said company, which shall vest the title thereto in the said company.

Sec. 4. *And be it further enacted*, That in addition to the right and authority granted to said company in said original act to take from the public lands adjoining said road stone, timber, and other materials for the construction of the road, said company is hereby authorized and empowered to take and use any coal or iron ores lying within any of the public lands upon the general route of the proposed road, and within the limits of ten miles on each side of the line thereof, and which may be made available either in the construction of or future use and operation of said road. And in case said company is desirous of becoming purchasers of the fee of such lands containing coal and iron ores, patents therefor shall be issued to said company by the Government of the United States, at the price at which Government lands without minerals are sold at the time such patents issue. *Provided*, That said company shall, within ten years, make its selection of the land it desires to purchase, and that the lands so selected shall not exceed in area one hundred thousand acres.

Sec. 5. *And be it further enacted*, That said company shall locate its said railroad and telegraph line on the most direct and central practicable route, having reference to the construction, operation, and maintenance of said road through the territories of the United States between said initial point on said one hundredth meridian and the western boundary of the Territory of Nevada, to connect with the line of the Central Pacific Railroad Company of California, and that such location shall be made upon and from actual surveys upon such route and with such minutiae as the President of the United States shall approve. That within two years after the passage of this act the said company shall designate such general route of said road, as near as may be, and shall file a map of the same in the Department of the Interior; whereupon the Secretary of the Interior shall cause the lands within fifteen miles of such designated route to be withdrawn from preemption, private entry, or sale; and in case any portion of said line shall be located, and such location be approved by the President of the United States before such designation of the entire route shall be made, the lands within fifteen miles thereof shall in like manner be withdrawn as aforesaid,

and the Secretary of the Interior shall cause the said lands hereinbefore granted to be surveyed and set apart as may be necessary for the purposes herein named whenever a portion of said line of road shall be finally located, and said company are authorized to modify and change the location of any portion or portions of its line, with the approval of the President of the United States, and thereupon the provisions herein mentioned as to withdrawal, survey, and setting apart of said lands shall be deemed to refer and apply to the land within fifteen miles of such changed location of the road: *Provided, however*, That the said initial point on the one hundredth meridian shall be established as hereinbefore provided, so as to make the most practicable connection between the main line of said company and the several lines of road to be built from said one hundredth meridian to the Missouri river, and may be changed by the Congress of the United States only.

Sec. 6. *And be it further enacted*, That there be, and hereby is, granted to said company for the purpose of aiding in the construction of said railroad and telegraph line, and to secure the safe and speedy transportation of the mails, troops, and munitions of war and public stores thereon, every alternate section of the public land designated by odd numbers, to the amount of five alternate sections per mile on each side of said railroad, on the line thereof and within the limits of ten miles on each side of said road, not sold, reserved, or otherwise disposed of by the United States, and to which a preemption or homestead claim may not have been attached at the time the line of road is definitely fixed; but if by reason of sale by the United States or by preemption or homestead right attaching to any such alternate section or part of a section so hereby granted to said company, or if from any other cause the said company shall be unable to locate or receive the whole of five full alternate sections per mile for each mile on each side of said road, it shall in either case be lawful for said company to select, locate, and receive patents for so much of the other lands of the United States lying within twenty miles of each side of said road as will make up the quantity granted to said company to ten sections per mile for each and every mile of said railroad so constructed. But all mineral lands, except those containing mines of iron or coal, shall be excluded from the operation of this section, although where the same shall contain timber the timber thereon is hereby granted to said company. And all such lands so granted by this section, which shall not be sold or disposed of by said company within three years after the entire road shall have been completed, shall be subject to settlement and preemption like other public lands, at a price not exceeding \$1 25 per acre, to be paid to said company. The title of the lands thus granted to said company, upon the construction of said road, shall remain in the United States, subject to the provisions of this act, and the lands shall not be subject to private entry, preemption sale, homestead exemption, or other disposition, until after said company shall have filed the maps of the survey and location of the route of said railroad, and until said lands shall be set apart and confirmed to said company, any act of Congress heretofore passed in reference to the disposition of said lands to the contrary notwithstanding. And the term mineral land, wherever the same occurs in this act and the act to which this is an amendment, shall not be construed to include mines of iron or of coal.

Sec. 7. *And be it further enacted*, That whenever said company shall have completed any one section of forty consecutive miles of any part of said railroad and telegraph line, eastward of the eastern base of the Rocky mountains, ready for the service contemplated by this act, supplied with all necessary drains, culverts, viaducts, crossings, sidings, bridges, turnouts, watering places, depots, equipments, furniture, and all other appurtenances of a first-class railroad, three commissioners, to be appointed by the President of the United States to examine the same and report to him in relation thereto, shall proceed to perform their duty; and if it shall appear to him that forty consecutive miles of said railroad and telegraph line have been completed and equipped in all respects as required by this act, then upon certificates of said commissioners to that effect patents shall issue conveying the right and title of said lands to said company, on each side of the road, so far as the same is completed, to the amount aforesaid; and patents shall in like manner issue as each section of not less than forty consecutive miles of said railroad and telegraph line is completed east of the eastern base of the Rocky mountains; and also as each section of not less than twenty consecutive miles thereof west of said eastern base is completed, upon like certificates of commissioners so to be appointed. Any vacancies occurring in any such board of commissioners by death, resignation, or otherwise, shall be filled by the President of the United States; none of which commissioners shall be stockholders in any railroad company entitled to any of the benefits or privileges granted by this act: *Provided, however*, That no such commissioners shall be appointed by the President of the United States until there shall be presented to him a statement, verified on oath by the president of said company, that the proper number of miles have been so completed, in the manner required by this act, and setting forth with certainty the points where such distance begins and where the same ends; which oath shall be taken before a judge of a court of record; but he may appoint as many such boards of commissioners as the public interest may, in his opinion, require, and as shall be desired by said company; and all such certificates shall, after being presented to the President as aforesaid, be filed and deposited with the Secretary of the Interior. The rails and other iron used in the construction and equipment of the said road shall be of American manufacture, of the best quality, except so much thereof as shall be needed for two years next after the approval of this act.

Sec. 8. *And be it further enacted*, That no United States bonds shall be issued under the act of which this is an amendment; but the said company may make, execute, and issue its own first mortgage bonds, to be signed by its president and secretary, and sealed with the corporate seal of the company, to the following amounts in respect of the following parts of said road, and under the following conditions, to wit: said company may make and execute, as



aforsaid, its first mortgage bonds in sums of \$1,000 each, payable in thirty years after date, bearing six per cent. per annum interest, payable in gold or silver coin semi-annually, in the city of New York, to the amount of twenty-four of such bonds for each mile of its railroad east of the said eastern base of the Rocky mountains. For each mile of its railroad lying between said eastern base of the Rocky mountains and the western boundary line of the present Territory of Nevada, said company may make and execute, as aforsaid, its first mortgage bonds in sums of \$1,000 each, payable in thirty years after date, bearing six per cent. per annum interest, payable as aforsaid, in the following amounts, to wit, ninety-six of such bonds for each mile from said eastern base of the Rocky mountains, for one hundred and fifty miles westwardly on the line of the said railroad; and ninety-six of such bonds for each mile upon that part of the said railroad which shall lie within the Territory of Nevada, and which shall fall within the distance of one hundred and fifty miles eastwardly from the western base of the Sierra Nevada mountains, if any part of said one hundred and fifty miles shall be found to lie within said Territory of Nevada; which western base shall be ascertained and fixed by the President of the United States. And for each mile of railroad lying between the western end of the said mountain district of one hundred and fifty miles from the eastern base of the Rocky mountains and the western boundary line of said Territory of Nevada, or the eastern end of said mountain district of one hundred and fifty miles from the western base of the Sierra Nevada mountains, if any part of said last named district shall be found to lie within the Territory of Nevada, said company may make, execute, and issue as aforsaid its first mortgage bonds, in like sums payable as aforsaid with the like rate of interest payable as aforsaid, forty-eight of said bonds for each mile of railroad. And in case it shall be found that said Nevada mountain district of one hundred and fifty miles shall lie wholly or in part in the State of California, the proper company may, for each mile of railroad on its line lying between said western base of the Sierra Nevada mountains and the eastern boundary line of California, make, execute, and issue in manner aforsaid its corporate mortgage bonds in like sums, payable as aforsaid, with the same rate of interest, payable as aforsaid, to the amount of ninety-six of said bonds. The bonds so to be made and issued by said Union Pacific Railroad Company shall have proper and usual interest coupons attached thereto, payable in said city of New York semi-annually in gold or silver coin.

Sec. 9. *And be it further enacted*, That said Union Pacific Railroad Company, further to secure the payment of all such bonds, shall, at the time of making and executing the first bond or bonds under this act, make and execute a mortgage or deed of trust, in such manner and form as the President of the United States and the Secretary of the Treasury shall approve, embracing all and singular the whole line of said railroad and telegraph, the right of way thereof, the rolling stock, buildings, fixtures, and appurtenances of every kind and description, all franchises, and all railroad property of said company, acquired or to be acquired, except the lands granted by said original act or by this act as alternate sections, which lands, so far as not embraced in the right of way, shall be unaffected by said mortgage. Such mortgage, before it shall become operative, shall be approved by the President of the United States and the Secretary of the Treasury, who shall indorse their approval thereon; and the same shall be and remain a security for the holders of said bonds or of said coupons, so far as they shall be respectively entitled to principal or interest thereon; and a duplicate of said mortgage shall be deposited and filed in the office of the Secretary of the Treasury; and said mortgage shall also be registered and recorded in the proper office of the register or recorder of conveyances of land in every county and city in which any part of the line of said railroad shall lie, so soon as such county or city shall by law be provided with such office, but at the expense of said company; and such registration or recording shall have the effect of notifying all third persons of the fact of the existence of said mortgage. Said company may make and issue other bonds, mortgages, or deeds of trust, in such terms, manner, and form as it shall deem expedient, upon any of its property, and may issue and sell the same at any price or rate that may seem good to the board of directors; but no such bond or bonds shall bear a greater rate of interest than seven per cent. per annum, payable semi-annually, nor shall such bond or bonds, or mortgage, or any other instrument made by said company, in any way affect the priority of the first mortgage and first mortgage bonds, and interest thereon, hereinbefore provided for; and in such other bonds, mortgages, or deeds of trust, the aforsaid first mortgage and bonds shall be expressly referred to, so that the holder thereof may be notified of the existence of said first mortgage and bonds.

Sec. 10. *And be it further enacted*, That for the purpose of aiding said company in the construction, completion, and equipment of said railroad and telegraph line from the initial point on the said one hundredth degree of west longitude to its western point of termination on the western boundary of the Territory of Nevada, such first mortgage bonds of said Union Pacific Railroad Company may be produced to the Secretary of the Treasury of the United States; and upon the presentation to him of the certificates of the said commissioners of the completion of forty miles or twenty miles, as the case may be, or of consecutive portions exceeding those portions in length, the Secretary of the Treasury shall indorse upon each and every of such first mortgage bonds under his hand the guarantee of the United States of the payment of the interest thereon, in the following words, namely: "The United States hereby undertake and agree with the lawful holder of the within bond to pay the first year's interest accruing thereon, as a gratuity to the Union Pacific Railroad Company, the obligor; and to pay the interest accruing thereon after such payment by said obligor." The said certificates of completion shall immediately be deposited and filed in the office of said Secretary of the Treasury, and be there kept and preserved.

The Secretary of the Treasury shall cause all the bonds so guaranteed to be registered in a proper book to be kept in his office for that purpose, in which their respective dates, amounts, numbers, and the names of persons to whom made payable shall be entered; and thereupon such bonds shall be delivered to said company, their authorized agent, or to the lawful holder and owner thereof. And said Secretary shall note upon each of said bonds the certificate under which the same is issued by proper numbers or other distinct mode of identification: *Provided*, That whenever the chief engineer, the president and the secretary of said company shall certify on their oaths, to be administered by any judge of a court of record, that a certain part, to be described with certainty, not less than five consecutive miles, of the work for the superstructure on any section of twenty consecutive miles within either of the said mountain districts, east of the western boundary of the Territory of Nevada, has been fully done and completed, the company shall be entitled to like bonds, of the tenor aforsaid, subject to all the provisions of this act, at the rate per mile fixed for said districts; such certificates to be previously deposited and filed in the office of the Secretary of the Treasury. And thereupon such bonds shall be indorsed, registered, and delivered as aforsaid, and shall be taken and deemed to be of the number of the bonds, but not to exceed that number, hereinbefore stipulated to be guaranteed by the United States for the section of twenty miles within which they may fall, and to be treated in all respects as if they had been granted upon the presentation of the certificates of said commissioners. And any person swearing falsely to any such certificate shall be deemed guilty of perjury, and on conviction thereof shall be punished as herein provided in cases of commissioners making or signing false or fraudulent certificates: *Provided*, nevertheless, That if it is the case that any of the railroad companies entitled to the guarantee of the United States of the interest upon its corporate bonds, herein provided for, has at the time of the approval of this act issued, or shall thereafter issue, any of its own bonds or securities in such form and manner as in law or equity to entitle the same to priority or preference of payment to the said guaranteed bonds, the amount of such corporate bonds outstanding and unsatisfied, or uncancelled, shall be deducted from the amount of such guaranteed bonds to which the company may be entitled; and such an amount only of such guaranteed bonds shall be permitted as, added to such outstanding, unsatisfied, or uncancelled bonds of the company, shall make up the whole amount per mile to which the company would otherwise have been entitled: *Provided*, That on the surrender of any such corporate bonds to the United States in such manner as to leave any section of railroad and telegraph, continuous and completed, and equipped, as required by this act, entirely free and clear of such prior lien or mortgage, the company shall be entitled to receive in their stead the aforsaid guaranteed bonds to the same amount as if such corporate bonds had not been issued; and the bonds or other securities so surrendered shall remain a security to the United States for the reimbursement of the interest they may pay on such guaranteed bonds issued in their stead: *And provided further*, That before any bonds shall be so guaranteed by the United States the company claiming them shall present to the Secretary of the Treasury an affidavit of the president and secretary of the company, to be sworn to before the judge of a court of record, setting forth whether said company has issued any such bonds or securities, and if so, particularly describing the same, so as to enable said Secretary to make the deduction herein required; and such affidavit shall then be filed and deposited in the office of the Secretary of the Interior. And any person swearing falsely to any such affidavit shall be deemed guilty of perjury, and on conviction thereof shall be punished as aforsaid.

Sec. 11. *And be it further enacted*, That in case of the nonpayment of any portion of the interest of said guaranteed bonds by the said Union Pacific Railroad Company, at the time and place the same shall be due and payable for the said nineteen years, the United States shall be deemed to have full notice of such default, and the lawful holder of the bonds or coupons shall not be bound to give them any actual notice of such default or to make any demand. But it shall be the duty of said company, in case of its prospective inability to pay any such interest falling due within that period, to notify the Secretary of the Treasury in writing, at least three months before the interest shall fall due, of such inability and of its intention to omit its payment. On the payment by the United States of any interest on said bonds so guaranteed by them, the proper coupons therefor, or other evidence of such payment, shall be delivered to the Secretary of the Treasury, who shall hold the same for the use and benefit of the United States; and such interest, and the interest thereon at the rate of six per cent. per annum, shall also be and remain a lien on all the property embraced in said first mortgage in favor of the United States, who, as to the interest so paid by them, and such interest thereon, (except the said one year's interest,) shall be held to be subrogated to all the rights and equities of the original bondholder or bondholders.

Sec. 12. *And be it further enacted*, That the grants of land mentioned in said act, the grants made and the guarantee given by the present act, are upon the condition and with the intent that said company shall pay said bonds and the interest thereon as the same shall fall due, (except that the United States are to pay the first year's interest as aforsaid,) and shall keep said railroad and telegraph lines in repair and use, and shall at all times transmit dispatches over their telegraph lines, and transport mails, troops, munitions of war, supplies, and public stores upon their railroads for the Government whenever required so to do by any Department thereof, and that the Government shall at all times have the preference in the use of the same for all the purposes aforsaid, at fair and reasonable rates of compensation, not to exceed the amounts paid by private parties for the same service; and one half of the compensation for the services rendered for the Government shall be applied to the repayment of the interest it may pay upon said guaranteed bonds, the balance of such interest to remain a mortgage or lien as aforsaid; and on the condition and with the intent, further, that said company shall keep

faithful and true accounts of all the receipts upon their lines of road and telegraph, and shall, after deducting all the expenses of running and operating said lines, apply the balance of such receipts toward the payment of the interest on said bonds; and that no dividend exceeding five per cent. on their stock shall be paid until the United States shall have been reimbursed in gold or silver coin, and such services, for all payments of interest under said guarantee and the said interest thereon.

#### LEAVENWORTH, PAWNEE, AND WESTERN RAILROAD COMPANY.

Sec. 13. *And be it further enacted*, That, for the purposes herein mentioned, the corporation created and chartered by the State of Kansas as the Leavenworth, Pawnee, and Western Railroad Company, is hereby authorized to construct a railroad and telegraph line from the Missouri river at the mouth of the Kansas river, on the south side thereof, so as to connect with the Pacific railroad of Missouri to the aforsaid initial point on the one hundredth degree of longitude from Greenwich, as herein provided. And for and in aid of such purpose the said company may do and perform, in reference to its said road, and the construction, equipment, maintenance, and enjoyment thereof all and singular the several acts and things hereinbefore provided, authorized, or granted to be done by the said Union Pacific Railroad Company, and shall be entitled to similar and like grants, benefits, immunities, guarantees, acts, and things to be done and performed by the Government of the United States, by the Secretary of the Treasury and of the Interior, or by commissioners, in reference to it and its line of railroad and telegraph; and subject to the like terms, conditions, restrictions, and regulations hereinbefore contained relating to said Union Pacific Railroad Company, so far as such terms, conditions, restrictions, and regulations are applicable to and consistent with the charter of said Leavenworth, Pawnee, and Western Railroad Company as the said charter now is or may hereafter be, and with the laws of the State of Kansas, and so far as such terms, conditions, restrictions, and regulations relate to that portion of the Union Pacific railroad and telegraph line between said initial point and said eastern base of the Rocky mountains. And in case the general route or line of road from the Missouri river to the Rocky mountains should be so located as to require a departure northwardly from the proposed line of said Kansas railroad before it reaches the meridian of longitude aforsaid, the location of said Kansas road shall be made so as to conform thereto; and said railroad through Kansas shall be so located between the mouth of the Kansas river as aforsaid and the aforsaid point, on the one hundredth meridian of longitude, that the several railroads from Missouri and Iowa, herein authorized to connect with the same, can make connection within the limits prescribed in this act: *Provided*, That the same can be done without deviating from the general direction of the whole line to the Pacific coast. The route in Kansas west of the meridian of Fort Riley to the aforsaid point, on the one hundredth meridian of longitude, to be subject to the approval of the President of the United States, and to be determined by him on actual survey. And said Kansas company may proceed to build said railroad to the aforsaid point, on the one hundredth meridian of longitude west from Greenwich. The said Kansas company shall complete and equip not less than one hundred miles of its said railroad and telegraph within two years from the time of filing their assent to the provisions of the act of which this is an amendment, and one hundred miles thereof each year thereafter until the whole shall be completed, commencing at the mouth of the Kansas river as aforsaid.

#### HANNIBAL AND ST. JOSEPH RAILROAD COMPANY.

Sec. 14. *And be it further enacted*, That, for the purposes herein mentioned, the Hannibal and St. Joseph Railroad Company of Missouri is hereby authorized to extend its road from St. Joseph via Atchison, so as to connect and unite with said railroad through Kansas; and in aid of such purpose said Hannibal and St. Joseph Company may do and perform, in reference to such extension of its said railroad, and the construction, equipment, maintenance, and enjoyment thereof, all and singular the several acts and things hereinbefore provided, authorized, or granted to be done by the said Union Pacific Railroad Company; and shall be entitled to similar and like grants, benefits, immunities, guarantees, acts and things, to be done and performed by the Government of the United States, by the President of the United States, the Secretaries of the Treasury and of the Interior, or by commissioners, in reference to it and its extension of its said line of railroad and telegraph; and be subject to the like terms, conditions, restrictions, and regulations hereinbefore contained, relating to said Union Pacific Railroad Company, so far as such terms, conditions, restrictions, and regulations are applicable to and consistent with the charter of said Hannibal and St. Joseph Railroad Company, as the said charter now is or may hereafter be, and with the laws of the State of Kansas, and so far as such terms, conditions, restrictions, and regulations relate to that portion of the Union Pacific railroad and telegraph line between said initial point and said eastern base of the Rocky mountains. And the said Hannibal and St. Joseph Railroad Company shall complete not less than one hundred miles of its said extension, or such portion thereof as the said company shall determine to build and shall be necessary to effect a junction with said Kansas railroad, within two years after filing its assent to the provisions of this act. The route and location of said extension from Atchison shall be subject to the approval of the President of the United States; and said Hannibal and St. Joseph Railroad Company may unite, upon such terms as may be agreed upon with said Kansas company, in constructing said railroad and telegraph to said meridian of longitude, with the consent of the State of Kansas: *Provided*, That if said Hannibal and St. Joseph Railroad Company shall deem it desirable it may construct said extension, with the consent of the State of Kansas, on the most direct and practicable route west from St. Joseph, Missouri, so as to connect and unite with the railroad hereinafter mentioned, leading from the western boundary of Iowa, or with the

said Union Pacific railroad at the aforesaid initial point on the one hundredth meridian: *Provided*, That said Hannibal and St. Joseph Railroad Company shall not, in any case, be entitled to the benefits, grants, guarantees, or privileges contemplated by this act, for a greater distance than one hundred miles, commencing at the Missouri river.

#### OMAHA AND SIOUX CITY BRANCHES.

**SEC. 15.** *And be it further enacted*, That the said Union Pacific Railroad Company is hereby authorized and required to construct a single line of railroad and telegraph from a point on the western boundary of the State of Iowa, to be fixed by the President of the United States if not already fixed, upon the most direct and practicable route, to be subject to his approval, to said initial point on said one hundredth meridian of longitude; and whenever there shall be a line of railroad fully completed and equipped through Minnesota or Iowa to Sioux City, on the Missouri river, said Union Pacific Railroad Company is hereby authorized and required to construct a railroad and telegraph from said Sioux City, upon the most direct and practicable route, to intersect and unite with the said railroad from said western boundary of Iowa, at such point thereon as the President of the United States shall fix, not further west than the said one hundredth meridian of longitude, and to construct the same at a rate of not less than one hundred miles each year, from and after the time when any such road shall be built through Minnesota or Iowa to said Sioux City, as aforesaid; and for and in aid of such purposes, the said Union Pacific Railroad Company may do and perform in reference to each of said roads provided for in this section, and in reference to the construction, equipment, maintenance, and enjoyment thereof, all and singular the several acts and things hereinbefore provided, authorized, granted, or required to be done by said company; and shall be entitled to similar and like grants, benefits, immunities, guarantees, acts, and things to be done and performed by the Government of the United States, by the President of the United States, the Secretaries of the Treasury and of the Interior, or by commissioners, and be subject to like terms, conditions, restrictions, and regulations hereinbefore contained, relating to that portion of the said Union Pacific railroad and telegraph line between said initial point and said eastern base of the Rocky mountains, so far as such acts and things, grants, benefits, immunities, and guarantees are applicable to said two roads or either of them; the route of each of said roads to be subject to the approval of the President of the United States. And said company shall complete and equip not less than one hundred miles of the railroad and telegraph line first required to be built by this section within two years from and after filing its assent to the provisions of this act, and not less than one hundred miles each year thereafter until the whole of said railroad and telegraph line shall be fully completed and equipped.

#### CENTRAL PACIFIC RAILROAD OF CALIFORNIA.

**SEC. 16.** *And be it further enacted*, That, for the purposes herein mentioned, the Central Pacific Railroad Company of California, a corporation existing under the laws of California, is hereby authorized to build and complete a railroad and telegraph line, on such route or line as the said company shall determine upon, between the city of Sacramento and the eastern boundary of California at the western terminus of the said Union Pacific railroad, connecting with the same; and to aid them in so doing the said company may do and perform, in reference to their said railroad and telegraph and the construction, equipment, and enjoyment thereof, all and singular the several acts and things hereinbefore provided, authorized, or granted to be done and performed by said Union Pacific Railroad Company, and shall be entitled to similar and like grants, benefits, immunities, guarantees, acts, and things to be done by the Government of the United States, by the President of the United States, the Secretaries of the Treasury and of the Interior, or by commissioners, in reference to its line of railroad and telegraph, and subject to the like terms, conditions, restrictions, and regulations; and more particularly, in case it shall be found that any part of said line of railroad and telegraph shall fall within the aforesaid district or section lying between the western base of the Rocky mountains and the eastern base of the Sierra Nevada mountains, all the provisions of this act relating to said intermediate district shall apply to such part of said line; and as to such part of said line as may fall within the said district or section lying between the said eastern and western bases of the Sierra Nevada mountains, all the provisions of this act relating to said last mentioned district or section shall apply to this part of said line; and as to the rest of said line, all the provisions of this act relating to that portion of said Union Pacific railroad lying east of the base of the Rocky mountains shall apply thereto; and said Central Pacific Railroad Company shall, in respect to each of the said parts of its line, be subject to all the terms, conditions, restrictions, requirements, and regulations herein made applicable to said several districts of the said Union Pacific Railroad Company, so far as the same are consistent with the charter of said Central Pacific Railroad Company, as the same now is or shall hereafter be, and with the laws of the State of California: *Provided*, That for the distance of fifteen miles of said railroad and telegraph line lying between Stockton and the Alameda valley, and lying on the Contra Costa mountains, the said company may issue its bonds, to be guaranteed as aforesaid, at the rate of forty-eight per cent. The said company shall complete and equip not less than fifty miles of said road within two years after filing its assent to the provisions of this act, and not less than fifty miles thereof within each term of two years thereafter, until the whole of said road is fully completed and equipped; and shall, within one year from the approval of this act, deposit and file in the office of the Secretary of the Interior a map of its railroad route between the points aforesaid.

#### SACRAMENTO, STOCKTON, AND SAN FRANCISCO RAILROAD COMPANY.

**SEC. 17.** *And be it further enacted*, That Charles McLaughlin, Alexander H. Houston, Henry N. Newhall, Peter Donahue, Benjamin F. Mann, William H. Dillon, J. B. Hinkle, W. Haywood, E. S. Holden, H. B. Underhill,

Austin Sperry, William B. Carr, Josiah Johnson, George McDonald, and their associates, may organize themselves as a corporation, under the laws of the State of California, under the name and by the title of the "Sacramento, Stockton, and San Francisco Railroad Company." The corporation thus to be organized shall have authority to build its railroad and telegraph from Sacramento, via Stockton, the Alameda valley, and Oakland, to the island of Yerba Buena, in the harbor of San Francisco, which shall be the western terminus of the Pacific railroad; and for and in aid of such purpose, when formed, may do and perform in reference to its said road, and the construction and equipment thereof, all and singular the several acts and things hereinbefore provided, authorized, or granted to be done by the aforesaid Union Pacific Railroad Company, and shall be entitled to similar and like grants, benefits, immunities, guarantees, acts, and things to be done and performed by the Government of the United States, by the President of the United States, the Secretaries of the Treasury and of the Interior, or by commissioners, in reference to it and its line of railroad and telegraph, and be subject to the like terms, conditions, restrictions, requirements, and regulations hereinbefore contained, relating to that portion of the said Union Pacific railroad lying east of the said eastern base of the Rocky mountains, consistent with the charter of said Sacramento, Stockton, and San Francisco Railroad Company, as the same shall at any time hereafter be; and the said corporation is hereby granted the said island for depots, machine shops, storehouses, and other appurtenances necessary to facilitate the receipt and discharge of merchandise, freight, and passengers: *Provided*, That such part of said island as may be necessary for the erection of fortifications by the Government may be reserved by the President of the United States within two years after the passage of this act; the said company, when duly organized, to deposit in the office of the Secretary of the Interior a sworn copy of its charter or articles of association or agreement under its corporate seal. None of the rights, benefits, or privileges contemplated by this section of this act shall apply to any railroad or part of railroad situated south of the route mentioned in this section. The said company shall complete and equip not less than fifty miles of its road and telegraph within two years after filing its assent to the conditions of this act, as hereinbefore provided, and not less than fifty miles each year thereafter, until the whole is completed.

**SEC. 18.** *And be it further enacted*, That it shall be the duty of the commissioners to be appointed by the President of the United States under said act of July 1, 1862, or this act, for the purpose of examining the various sections of railroad and telegraph, to repair to the same and make a personal examination thereof, for which service each of said commissioners shall be paid by the company on whose account he shall be appointed, at the rate of eight dollars a day for the time he shall be engaged in such actual examination, and ten cents a mile for traveling from his residence to the section to be examined. And any such commissioner who shall knowingly make or sign a certificate in this behalf containing a false or fraudulent statement of any matter required to be contained therein, shall be deemed guilty of perjury, and shall, on conviction thereof in any court of competent jurisdiction, be punished with the same penalty now indicted by law in cases of perjury committed by a witness in civil suits in the circuit courts of the United States; and such certificate, and any patent which may issue upon it, shall be null and void as between the United States and such company, and any of its grantees, assignees, or mortgagees having notice of such falsity or fraud; and the land affected thereby shall revert absolutely to the United States. And the President of the United States is hereby authorized, in his discretion, to appoint commissioners for the examination of the sections of railroad in California; and such commissioners shall perform the same duties and be subject to the same penalties as other commissioners, and their certificates shall be of the same force and effect in law.

**SEC. 19.** *And be it further enacted*, That to enable said corporations to make convenient connections with other railroads they are hereby authorized to establish and maintain all necessary ferries upon and across the Missouri river, and other rivers which their roads may pass in their course; and authority is hereby given them, respectively, to construct bridges over such rivers for such purpose; and authority is hereby granted to the Pacific Railroad Company of Missouri to construct a bridge over the Mississippi river: *Provided*, however, That any bridge or bridges to be constructed over the Mississippi river or the Missouri river, under the privileges of this act, may, at the option of the company or companies building the same, be built either as a draw-bridge, with a pivot or other form of draw, or with unbroken and continuous spans; and if such bridge shall be made with unbroken and continuous spans, it shall not be of less elevation than ninety feet above low-water mark over the channel of said rivers, nor in any case less than forty feet above extreme high water, as understood at the point of location, measuring for such elevation to the bottom chord of the bridge; nor shall the span of such bridge covering the main channel of the river be less than three hundred feet in length, with, also, one of the next adjoining spans of not less than two hundred and twenty feet in length; and the piers of said bridge shall be parallel with the current of the river as near as practicable. And if any bridge built under this act shall be constructed as a draw-bridge, the same shall be constructed with a span over the main channel of the river, as understood at the time of the erection of the bridge, of not less than three hundred feet in length, and such span shall not be less than seventy feet above low-water mark, measuring to the bottom chord of the bridge, and one of the next adjoining spans shall not be less than two hundred and twenty feet in length. And there shall also be a pivot draw constructed in every such bridge at an accessible and navigable point, with spans of not less than one hundred feet in length on each side of the central or pivot pier of the draw; and such draw shall always be opened promptly upon reasonable signal for the passage of boats whose construction may not at the time

admit of their passage under the permanent spans of said bridge, except that said draw shall not be required to be opened when engines or trains are passing over said bridge, or when passenger trains are due; but in no case shall unnecessary delay occur in the opening of said draw after the passage of such engines or trains: *Provided*, That every railroad car or train of cars about to pass over any bridge constructed under this act shall, before passing upon it and at a reasonable and convenient distance therefrom, stop and remain stationary until duly signaled or notified that the bridge is in readiness to receive it. And any ferry or bridge established or erected under the provisions of this act shall be lawful structures, and for all the purposes of travel, transportation, or other service contemplated by this act, be recognized as parts of the line of railroad of the company establishing or constructing the same; and the officers and crews of all vessels, boats, or rafts navigating any such river are required to regulate the use of said vessels, boats, or rafts, and of any pipes or chimneys belonging thereto, so as not to interfere with the elevation, construction, or use of any of the ferries or bridges so established or erected.

**SEC. 20.** *And be it further enacted*, That, for the purposes herein mentioned, and the more effectually to promote and secure the same, the several companies hereinbefore authorized to construct the aforesaid roads are hereby required to make the tracks of their respective roads of such uniform width as the President of the United States shall prescribe; to establish grades and curves as favorable as the nature of the country traversed will admit of, and not exceeding those of other operative and successful railroads in the United States; to operate and use said roads and telegraph for all purposes of communication, travel, and transportation, so far as the public and the Government are concerned, as one continuous line, and in such operation and use to afford and secure to each other equal advantages and facilities as to rates, time, and transportation, without any discrimination of any kind in favor of the road or business of any or either of said companies, or adverse to the road or business of any or either of the others; to transport all iron and other material required for the construction and equipment of the roads of any other of said companies which cannot be transported over the road of such other company, and for such rates as shall be agreed upon by the companies interested; and in case of disagreement, for such rates as the President of the United States shall deem just and equitable to keep their respective roads and telegraphs in proper repair and condition; to transmit all messages, dispatches, and telegrams over said telegraph line, and transport over their respective roads mails, troops, munitions of war, supplies, and public stores for the Government whenever required so to do by any Department thereof, giving, when required, preference to any and all such business for the Government over all other business, and to perform the same at fair and reasonable rates of compensation, not exceeding the rates paid by private parties for similar business or service. And any two or more of such companies are hereby authorized at any time to unite and consolidate their organizations, as the same may or shall be, upon such terms and conditions, and in such manner as they may agree upon, and as shall not be incompatible with this act or the laws of the State or States in which the roads of such companies may be, and to assume and adopt such corporate name and style as they may agree upon, with a capital stock not to exceed the actual cost of the roads so to be consolidated, and shall file a copy of such consolidation in the Department of the Interior; and thereupon such organization, so formed and consolidated, shall succeed to possess and be entitled to receive from the Government of the United States all and singular the grants, benefits, immunities, guarantees, acts, and things to be done and performed, and be subject to the same terms, conditions, restrictions, and requirements which said companies, respectively, at the time of such consolidation, are or may be entitled or subject to under this act, in place and substitution of said companies so consolidated, respectively. And all other provisions of this act, so far as applicable, relating or in any manner appertaining to the companies so consolidated or either thereof, shall apply and be of force as to such consolidated organization. And in case, upon the completion by such consolidated organization of the roads or either of them, of the companies so consolidated, any other of the road or roads of either of the other companies authorized as aforesaid, (and forming, or intended, or necessary to form a portion of a continuous line from each of the several points on the Missouri river, hereinbefore designated, to the Pacific coast,) being wholly or in part incomplete or unconstructed, such consolidated organization is hereby authorized to continue the construction of its road and telegraph in the general direction and route upon which such incomplete or unconstructed road is hereinbefore authorized to be built, until such continuation of the road of such consolidated organization shall reach the constructed road and telegraph of said other company, and at such point to connect and unite therewith; and for and in aid thereof the said consolidated organization may do and perform, in reference to such portion of road and telegraph as shall so be in continuation of its constructed road and telegraph, and to the construction and equipment thereof, all and singular the several acts and things hereinbefore provided, authorized, or granted to be done by the company hereinbefore authorized to construct and equip the same, and shall be entitled to similar and like grants, benefits, immunities, guarantees, acts, and things to be done and performed by the Government of the United States, by the President of the United States, by the Secretaries of the Treasury and Interior, and by commissioners, in reference to such company and to such portion of the road hereinbefore authorized to be constructed by it, and upon the like and similar terms and conditions, so far as the same are applicable thereto; and all the rights, benefits, and privileges which shall be acquired, possessed, or exercised, pursuant to this section, shall be to that extent an abatement of the rights, benefits and privileges hereinbefore granted to such other company. And in case any company authorized thereto shall not enter into such consolidated organization, such company, upon the completion of its road as hereinbefore provided, shall be entitled to, and is hereby

authorized to continue and extend the same, under the circumstances, and in accordance with the provisions of this section, and to have all the benefits thereof as fully and completely as are herein provided touching such consolidated organization. And in case more than one such consolidated organization shall be made, pursuant to this act, the terms and conditions of this act, hereinafter recited as to one, shall apply in like manner, force, and effect to the other: *Provided, however*, That rights and interests, at any time acquired by one such consolidated organization, shall not be impaired by another thereof.

## TELEGRAPHS.

**Sec. 21. And be it further enacted**, That the several railroad companies named in this act and the act to which it is an amendment are authorized to enter into an arrangement with the original contractor with the Government under the act entitled "An act to facilitate the communication between the Atlantic and Pacific States by electric telegraph," approved June 16, 1860, so that the present line of telegraph between the Missouri river and San Francisco may be moved upon or along the line of said Union Pacific railroad and its said branches in Kansas and California, as fast as said line and its said branches are built; and if said arrangement be entered into and the transfer of said telegraph line be made in accordance therewith to the line of said railroad and branches, such transfer shall, for all the purposes of this act, be held and deemed a fulfillment on the part of said railroad companies of the provisions of this act in regard to the construction of said line of telegraph; and in case of disagreement said telegraph companies are hereby authorized to remove their line of telegraph along and upon the line of railroad herein contemplated, without prejudice to the rights of said railroad companies: *Provided*, That such line of telegraph shall be constructed and maintained as provided by act of Congress authorizing the construction of the said Pacific telegraph, and subject to the restrictions, requirements, and provisions of this act, as to its rates of charges and management, and to such subsequent legislation as Congress shall see fit. And it shall not be lawful for the proprietors of the said line of telegraph to San Francisco to refuse or fail to convey for all persons requiring the transmission of news or messages over said line, to send and forward the same at equal rates charged to any other parties for the transmission of news and messages of like character, on pain of forfeiting to the person injured, for each offense, the sum of \$100 to be sued for and recovered in an action of debt in any court of the United States or of any State or Territory of competent jurisdiction.

**Sec. 22. And be it further enacted**, That the holders of the bonds of any of the companies hereinafter named, upon which the Government shall guarantee the payment of any interest as hereinafter provided, may use such bonds in payment for any lands herein granted to the companies issuing such bonds, respectively, at the par value thereof, paying or allowing to such company such price for any such lands as shall be agreed upon, not exceeding ten dollars per acre; and the guarantee of the Government for the payment of interest on any such bonds, so used, in payment for lands shall thereupon cease and be extinguished: *Provided, however*, That such right of purchase with bonds shall only be exercised as to Government sections, and subdivisions thereof, and to an amount by any one holder not exceeding one such section of six hundred and forty acres in any one township.

**Sec. 23. And be it further enacted**, That any railroad company, not before named in this act, which has been, or may be, incorporated by the United States, or by the States or Territories through which any of the roads named in this act shall be constructed, shall have the right to connect with either of the roads provided for in this act, at such place, and upon such just and equitable terms as may be agreed upon; or, in default of such agreement, the same shall be prescribed by the President of the United States.

**Sec. 24. And be it further enacted**, That any of said companies failing to perform any of the provisions of this act, so far as the same are to be performed by such company, shall be deemed to have forfeited all right or claim to any of the benefits of this act; and the President of the United States shall have authority in any and each of such cases to enter upon, by a receiver to be appointed by him, the road and telegraph and property of any such company so failing as aforesaid, and control and manage the same for the purposes and business set forth in this act, for such time as the President shall deem expedient, not extending beyond the term of office of the then board of directors, and until the election of such a new board of directors as shall be competent to and as will direct the management of the affairs of the company in conformity with the provisions of this act: *Provided, however*, That no such failure shall be deemed to have occurred, nor any forfeiture be enforced, nor receiver be appointed, unless and until such company, after notification by the President of the United States, shall omit, decline, or refuse to remedy such failure within such reasonable time as shall be required in such notice.

**Sec. 25. And be it further enacted**, That each of the companies named in this act shall file its assent to the several provisions contained therein, applicable thereto, under the seal of the said company, in the Department of the Interior, within six months after the approval of this act; and whenever it shall appear that the net earnings of the entire railroad and telegraph, including the amount allowed for services rendered the United States, after deducting all expenditures, including repairs and the furnishing, running, and managing of said road, shall exceed ten per cent. upon its cost, Congress may reduce the rates of fare thereon, if unreasonable in amount, and may fix and establish the same by law; and the better to accomplish the object of this act, namely, to promote the public interest and welfare and the construction of said railroad and telegraph line, and by the Government at all times (but particularly in time of war) the use and benefits of the same for postal, military, and other public purposes, Congress may, at any time, having due regard for the rights of the said companies named herein, add to, alter, amend, or repeal any of the provisions of this act necessary to accomplish the said purposes. Whenever the word company is used in this act, it shall be con-

strued to embrace the words "their associates, successors, and assigns," in the same manner as if the words had been properly added thereto.

**Sec. 26. And be it further enacted**, That the companies herein created, and the roads connected therewith under the provisions of this act, shall each make to the Secretary of the Treasury an annual report, wherein shall be set forth: First. The names of the stockholders and their places of residence, so far as the same can be ascertained. Second. The names and residences of the directors and all other officers of the company. Third. The amount of stock subscribed and the amount thereof actually paid in. Fourth. A description of the lines of road surveyed, of the lines thereof fixed upon for the construction of the road, and the cost of such surveys. Fifth. The amount received from passengers on the road. Sixth. The amount received from freight thereon. Seventh. A statement of the expense of said road and its fixtures. Eighth. A statement of the indebtedness of said companies, setting forth the various kinds thereof. Which report shall be sworn to by the president of the said company, and shall be presented to the Secretary of the Treasury on or before the 1st day of July in each year.

**Sec. 27. And be it further enacted**, That section ten of the act of which this is an amendment, and the proviso of section seventeen of said act, imposing a forfeiture for the non-completion of said railroads by the 1st of July, 1876, section nineteen of said act, and all acts and parts of acts inconsistent with this act, are hereby repealed, except as to any rights or legal remedies already accrued; which rights and remedies are hereby preserved and continued as if this act had not passed.

Mr. HOWARD. Mr. President—

Mr. WILSON. I ask the Senator to give way with this bill to-day and let us have an executive session. We have some very important business to transact.

Mr. HOWARD. I desire first to get through with some formal amendments to this substitute which will take but a very short time.

Mr. WILSON. Very well.

Mr. HOWARD. Mr. President, I will make a very brief statement relating to the contents of this substitute which the committee have presented for the original bill.

By the act of 1862, incorporating the Union Pacific Railroad Company, the United States agreed with the company to issue United States bonds for the purpose of aiding and assisting that company in the construction of its road. By the terms of the act of 1862 these Government bonds, bearing interest at six per cent., payable semi-annually, were to issue for the benefit of the company at the rate of \$16,000 for each mile of road which should be completed eastwardly from the eastern base of the Rocky mountains. That was a direct loan on the part of the Government of the United States to the company to aid it in carrying on this enterprise. For the intermediate places between the mountains, that is between the Rocky mountains and the Sierra Nevada mountains, the Government agreed to loan to the company \$32,000 per mile in Government bonds; and to loan, I think, the same amount for that portion of the road which might lie west of the Sierra Nevada mountains in the State of California. There were, however, two mountain districts which were likely to be very expensive to the company in the construction of the road across them—one hundred and fifty miles on the Rocky mountains and one hundred and fifty miles across the Sierra Nevada mountains—and upon each of these districts the Government agreed to loan to the company its bonds, amounting to \$48,000 for each mile, on the same terms and bearing the same amount of interest.

The substitute now offered by the Committee on the Pacific Railroad prohibits the issuing of any Government bonds either to the Union Pacific Railroad Company, which is the company chartered by the Government of the United States, or to any other company engaged in the construction of this road; but it provides that the companies themselves, for the purpose of raising money to aid in the construction of the road, may be authorized to issue their corporate bonds to the amount of \$24,000 for that portion of the road lying between the one hundredth degree of west longitude and the eastern base of the Rocky mountains. For the mountain districts the company is authorized to issue its bonds amounting to \$96,000 for each mile completed, equipped, and finished, and \$48,000 of its bonds for each mile finished and equipped in the intermediate space between these two mountain districts. The Government agree in the substitute which I have offered to guaranty to the holder of these bonds the interest falling due thereon for the period of twenty years from and after the date of the bond.

The first year's interest is to be paid by the Government of the United States absolutely and

as a gratuity to the company by the very terms of the bill, and after that the United States stipulate to pay the interest annually upon all these bonds that may thus be issued by the company, provided the company itself fails to pay them at the time and place when and where they are to be paid. But the substitute provides that before the company shall issue and put in circulation any of its corporate bonds, it shall make a mortgage, under the direction of the President of the United States and of the Secretary of the Treasury, as a security for the payment of all the corporate bonds which may thus issue, including the interest and including the interest upon the interest that the United States may be obliged to pay.

The substitute provides further that in case the United States shall be obliged to pay and shall pay any portion of the interest upon these bonds falling due during the period of nineteen years, it shall be substituted to all the rights and equities appertaining to the original bondholder or bondholders; that is to say, the company, under its present organization, will be authorized by this substitute to issue its corporate bonds to a certain amount, and, if it pleases, to put them into circulation, to get them discounted in the market. But after it shall have finished, in one case, forty miles of its road, and in another case twenty miles of its road, it, or the holders of its bonds, have a right to bring the bonds to the Secretary of the Treasury of the United States accompanied by a certificate of the completion of a section of forty or twenty miles of the road, as the case may be, and then the Secretary of the Treasury is required to indorse upon each one of those bonds thus produced to him, the guarantee of the Government for the payment of the interest for twenty years. The bonds may thus be produced to the Secretary of the Treasury by a *bona fide* holder or by the agent of the corporation itself at any time. Whenever it shall appear to the Secretary of the Treasury that a certain section of the road has been completed and these bonds shall be produced, it becomes his duty to put upon the back of the bond a guarantee of the Government that the interest shall be paid, as I have previously stated.

Instead, therefore, of the United States becoming the principal debtor in the prosecution of this great enterprise, it becomes merely the guarantor and security for the payment of the interest for twenty years upon the bonds which the company may of itself issue. The Government is not liable for the principal of the bonds, but only for the interest upon the bonds during the period of twenty years. The bond itself is to run thirty years, but the Government makes itself responsible for the payment of the interest upon the bond only for twenty years as a guarantor—not precisely in the technical sense of a guarantor, but in a capacity which very much resembles that of a guarantor.

In the substitute now offered, the Government waives all notice of the non-payment of the interest by the company and waives its claim to a formal demand of payment by the holder of the bond upon the company. It was thought by the company that this ceremony was really of no use either to the bondholder or to the Government of the United States, while at the same time the substitute requires the company to give notice to the Secretary of the Treasury three months beforehand in case the company shall foresee that it will not be able to meet the semi-annual interest upon its bonds as it may fall due. This was a matter of mere convenience, requiring the company in case it shall be prospectively unable to meet this interest to give notice to the Government so that the Government can prepare to meet it beforehand.

I will not further take up the time of the Senate in explaining the provisions of this substitute. The other provisions of the substitute are merely such as are necessary to carry this great and leading provision into full effect.

Mr. MORRILL. What is the amount of our liability?

Mr. HOWARD. The amount of our liability, so far as it can be ascertained, will not, I apprehend, vary essentially from the same liability as would have arisen under the act of 1862. I think it is considerably less.

Mr. MORRILL. I have heard it said that it would be \$50,000,000 more.



Mr. HOWARD. No; it will be less. In the course of the discussion I will lay some tables before the Senate, if they will give them their attention. I think the whole liability of the United States will be considerably less under this measure than under the act of 1862. So far as computation can reach it, it is considerably less.

But, sir, I desire to offer some amendments to this amendment, if it is in order now.

The PRESIDENT *pro tempore*. The Chair understands the committee to have reported in the first place a bill with certain amendments to that bill, and then to have reported a substitute to take the place of the bill and amendments.

Mr. HOWARD. Yes, sir.

The PRESIDENT *pro tempore*. If it is agreeable to the Senate the Chair will proceed to the perfection of the substitute in the first instance.

Mr. HOWARD. I supposed that would be the course. In section one, line forty-three, I move to insert the word "be" after the word "may."

The amendment to the amendment was agreed to.

Mr. HOWARD. In section three, line seventy, after the word "land" I move to insert the words "for the purposes of this act."

The amendment was agreed to.

Mr. HOWARD. In section three, line seventy-five, I move to insert the words "State or" before the word "Territory."

The amendment to the amendment was agreed to.

Mr. HOWARD. In section seven, line four, after the words "Rocky mountains" I move to insert "which eastern base shall be ascertained and fixed by the President of the United States." This is a mere verbal omission. These words ought to have been inserted in the draft of the bill.

The amendment to the amendment was agreed to.

Mr. HOWARD. In section eight, line forty-two, after the word "bonds" I move to strike out the words "for each mile of railroad." They are merely tautological.

The amendment to the amendment was agreed to.

Mr. HOWARD. In section eight, line fifty-two, I move to strike out the words "said Union Pacific Railroad," and to insert the word "such."

The amendment to the amendment was agreed to.

Mr. HOWARD. In section ten, line fifteen, after the word "bonds" I move to insert the words "so produced to him."

The amendment to the amendment was agreed to.

Mr. HOWARD. In section eleven, line twenty-three, I move to strike out the word "subrogated" and to insert "entitled." I do this in order to strike out a useless technical term which tends to embarrass plain men.

The amendment to the amendment was agreed to.

Mr. HOWARD. In section twelve, line two, I move to insert the word "original" before the word "act."

The amendment to the amendment was agreed to.

Mr. HOWARD. In section twelve, line three, I move to strike out the word "condition" and insert the word "consideration."

The amendment to the amendment was agreed to.

Mr. HOWARD. In section twelve, line twenty, I move to strike out the word "condition" and insert "consideration."

The amendment to the amendment was agreed to.

Mr. HOWARD. In section thirteen, line forty-seven, I move to strike out the words "by him," and in line forty-eight, after the word "survey," to insert "thereof."

The amendment to the amendment was agreed to.

Mr. HOWARD. In section sixteen, line forty-three, I move to strike out the following proviso:

*Provided, That for the distance of fifteen miles of said railroad and telegraph line lying between Stockton and the Alameda valley, and lying on the Contra Costa mountains, the said company may issue its bonds, to be guaranteed as aforesaid, at the rate of forty-eight per mile.*

That proviso is in the wrong place, and I move to strike it out here with a view of inserting it in another portion of the substitute.

The amendment to the amendment was agreed to.

Mr. HOWARD. I now move to insert the same proviso in section seventeen, line thirty-one, after the word "be:"

*Provided, That for the distance of fifteen miles of said railroad and telegraph line lying between Stockton and the*

Alameda valley, and lying on the Contra Costa mountains, the said company may issue its bonds, to be guaranteed as aforesaid, at the rate of forty-eight per mile.

The amendment to the amendment was agreed to.

Mr. HOWARD. In section twenty-six, lines one and two, I move to strike out the words "companies herein created" and to insert "said Union Pacific Railroad Company."

The amendment to the amendment was agreed to.

Mr. HOWARD. I move to strike out the following clause at the end of section twelve:

*And that no dividend exceeding five per cent. on their stock shall be paid until the United States shall have been reimbursed in gold or silver coin, and such services, for all payments of interest under said guarantee and the said interest thereon.*

I do not see any use whatever for that clause, but it has found its way in there. I move to strike it out.

Mr. HALE. I should like to make an inquiry of the Senator about that. Does he propose to take away all the lien of the Government, and allow them to divide five per cent. among themselves without making provision for paying the Government anything?

Mr. HOWARD. If the Senator from New Hampshire will cast his eye back to this section he will see that all the net proceeds of the road are appropriated and applied to the payment of the interest until the whole of the interest is paid. It is fully provided for. I do not see why we should undertake to trammel the company as to the disposition of its money after we have provided specifically that it shall all be applied to the payment of this interest. This clause has no effect at all.

Mr. POMEROY. But suppose the dividends more than equal the interest?

Mr. HOWARD. There cannot be any dividend until the interest is all paid.

Mr. POMEROY. Suppose the net earnings more than equal the interest?

Mr. HOWARD. That is not very probable. I do not think we run any great risk in that regard.

The amendment to the amendment was agreed to.

Mr. HOWARD. These are all the amendments that I now desire to make; and I am willing, if the Senate so desire, to let the bill stand over till to-morrow.

Mr. WILSON. I propose to move an executive session.

Mr. TRUMBULL. Before the bill goes over, I desire to move an amendment, that it may be pending. I shall not ask action on it now. I move to strike out, on page 2, the following words, from line thirty-two to line thirty-six of the first section:

*And two thousand shares shall be the greatest amount which any one person may hereafter subscribe for or hold at any time, or for which certificates of shares shall in any case be issued or recognized by said company.*

I see no reason for limiting the amount of shares which a person may take in this company. I think the difficulty will be to get parties to take the shares; and we need not be afraid that they will take too many. I do not press action on it now, but I move the amendment.

Mr. POMEROY. I call the Senator's attention also to the fact that on the 4th page there should be a similar amendment. The Senator from Illinois should also move to strike out, in the sixty-second and sixty-third lines, the words "not however to exceed in amount to any one person the above limitation of two thousand shares."

Mr. TRUMBULL. If the first amendment carries, of course the next will be necessary to make it conform.

Mr. SUMNER. Before my colleague makes the motion which he is about to make, I desire to ask the Senator from Michigan whether he proposes to go on with this bill to-morrow.

Mr. HOWARD. Yes, sir.

Mr. SUMNER. I asked the question because if the Senator did not desire to go on with this bill I wished to ask the Senate to take up another bill to have it in order to be proceeded with to-morrow.

Mr. HOWARD. I feel it my duty to press the consideration of the bill now before the Senate reasonably. I am anxious to have it passed by this body. I know that it will undergo a great deal of discussion in the House of Representa-

tives, and probably meet with a great deal of opposition there; and I think the sooner we pass it here the better it will be for the country.

Mr. SUMNER. The Senator will understand me. I did not intend to interfere with him, but merely wished to know whether he intended to press the bill to-morrow.

Mr. HALE. In the bills incorporating railroad companies in New Hampshire, it has been the general practice to insert a provision that the State at any time may purchase the road by paying the cost and ten per cent. interest on the investment. Would the Senator from Michigan have any objection to a provision of that sort in this bill?

Mr. HOWARD. I do not think the Government would be running any very great hazard, and I should have no objection to it here.

#### EXECUTIVE SESSION.

Mr. WILSON. I move that the Senate now proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, May 18, 1864.

The House met at twelve o'clock, m. Prayer by Rev. Dr. Hosmer, of Buffalo, New York.

The Journal of yesterday was read and approved.

#### DISLOYAL EMPLOYÉ.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, stating, in answer to a resolution of the House of Representatives of the 16th instant, that there was employed in the Treasury Department a person named Garnett, as a clerk in the office of the Register of the Treasury, at a salary of \$1,200 a year; that he was not Assistant Register, and was never even thought of in connection with that office; that the Department has no knowledge that he ever held a commission in the rebel army, or that he was a prisoner in the Old Capitol; that his appointment was recommended by Hon. J. C. Underwood, United States district judge for the eastern district of Virginia, and by Hon. Mr. Chandler, of the Norfolk district, in the same State; that some time since, on receiving charges against him, the Secretary, according to the usual practice, referred them to the Register for examination, and on the report of the Register, made on the 4th instant, he was at once notified that his services were no longer required.

#### POINT OF ORDER.

The SPEAKER. The Chair desires to make a statement in relation to a decision made yesterday upon a point of order raised by the gentleman from Indiana, [Mr. HOLMAN,] and partially to correct the decision. When the chairman of the Committee of Elections, [Mr. DAWES,] immediately after the votes on the contested-election cases yesterday, offered a resolution providing for paying the applicants for seats in this House from the State of Virginia, the Chair, supposing that it was reported from the Committee of Elections, decided that it was in order. The chairman stated, however, in reply, that he offered it himself and upon his own responsibility, and not as a report from his committee; and the Chair then stated, upon a point of order raised by his colleague upon the floor, [Mr. HOLMAN,] that he still held it in order. The Chair then had in his recollection a case which occurred in the Thirty-Fourth Congress, when the present occupant of the chair was a member of the Committee of Elections, when Mr. Stephens, of Georgia, a member of that committee, but not its chairman, immediately after the vote on the Nebraska contested-election case, presented a resolution for paying the contestant. The proceedings which took place upon that occasion, so far as their bearing on the present point is concerned, were as follows, as appearing in the Globe:

"Mr. STEPHENS. I offer the following resolution:

*Resolved, That the Clerk of this House pay out of the contingent fund of this House to Hiram P. Beant, of Nebraska, claiming to have been elected the Delegate from said Territory, his mileage and per diem to this date.*

"Mr. SEWARD. I object to the resolution being introduced. I am opposed to the system of paying all these contestants out of the contingent fund.

"The SPEAKER. It is a question appertaining to the

resolution reported by the Committee of Elections, and the Chair thinks it is in order.

"Mr. SEWARD. Do I understand that the resolution is properly before the House?"

"The SPEAKER. The Chair thinks it is properly before the House."

That proceeding was in the recollection of the Chair yesterday, but upon examining other election cases since the adjournment he found the current of decisions decidedly the other way. This was a decision made by Mr. Banks, then Speaker of the House, but which it appears he afterwards reconsidered himself. The decisions have been that the Committee of Elections have the right to report resolutions paying contestants whenever the committee is properly called. The point of order has been repeatedly made that as the matter of paying contestants has not specially been referred to them by the House they had not the right to report on it, but the Speakers have uniformly held that as such resolutions grew out of the cases referred to them by the House they had the right to report a resolution for paying contestants. But as the Chair made the decision yesterday upon this single precedent and one other of a similar character, while the bulk of the decisions have been different, he is of opinion that to the extent he has now stated he was wrong, and that the gentleman from Indiana was correct in his point of order that it is not a question of privilege. The committee can report it at any time when called upon, but they have not the right to report it as a question of privilege.

The Chair would state, however, that as the resolution was subsequently, by unanimous consent, referred to the committee, with a right to report at any time, the decision has not, in any degree, materially affected the question, as the committee could have reported it irrespective of the decision on any private bill day, or whenever on any other day they were called in their turn for reports.

#### PORTS OF DELIVERY.

On motion of Mr. McBRIDE, an act (S. No. 242) for establishing Portland, in the State of Oregon, and Leavenworth, in the State of Kansas, ports of delivery, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Commerce.

#### MARY A. BAKER.

On motion of Mr. McBRIDE, an act (S. No. 122) for the relief of Mary A. Baker, widow of Brigadier General Edward A. Baker, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Pensions.

#### UNION PACIFIC RAILROAD.

Mr. ASHLEY. I ask unanimous consent to report a bill granting public lands to aid in the construction of a branch of the Union Pacific railroad and telegraph line through the mineral lands of Colorado, New Mexico, and Arizona.

Mr. SPALDING objected.

#### VETERAN VOLUNTEER ENGINEERS.

On motion of Mr. GARFIELD, a bill (H. R. No. 251) to organize a regiment of veteran volunteer engineers, returned from the Senate with an amendment, was taken up for consideration.

#### Senate amendment:

Strike out section three, as follows:

And he it further enacted, That all persons reenlisting under the provisions of this act shall receive the bounties now paid to veteran volunteers, provided they shall enlist within one month after the passage of this act, and they shall be accredited to the subdivisions of States in which they were originally enlisted.

Mr. GARFIELD. This is an amendment of no particular consequence, and the Committee on Military Affairs are willing that it shall be adopted by the House.

The amendment was agreed to.

Mr. GARFIELD moved to reconsider the vote by which the amendment was agreed to; and also moved to lay the motion to reconsider on the table. The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed without amendment joint resolution (H. R. No. 77) relating to Green Clay Goodloe; and joint resolution (H. R. No. 78) providing for the election of a member of Congress for the State of Illinois by the State at large.

Also, that the Senate had agreed to the amendments of the House to the bill (S. No. 145) to equalize the pay of soldiers in the United States Army, with amendments; in which he was directed to ask the concurrence of the House.

Also, that the Senate had appointed Mr. COWAN a member of the committee of conference on the part of the Senate on the bill (H. R. No. 40) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1865, in the place of Mr. MORGAN.

#### PUNISHMENT OF GUERRILLAS.

Mr. GARFIELD. I ask the unanimous consent of the House to report back a bill from the Committee on Military Affairs. It is a measure of very grave importance to the Army at this time, and will not, I think, occasion debate. It is for the punishment of guerrillas in the lines of the Army by a single provision that commanders in the field shall have final jurisdiction of these cases as they now have in courts-martial, and not be compelled to send such cases to Washington, thus causing serious delay. The bill is asked for by the War Department, and is unanimously recommended by the Committee on Military Affairs.

The bill (H. R. No. 429) was read for information. It is to provide for the more speedy punishment of guerrillas, and for other purposes. It enacts that the provisions of the twenty-first section of an act entitled "An act for enrolling and calling out the national forces," approved March 3, 1863, shall apply as well to the sentences of military commissions as to those of courts-martial; and authorizes the commanding general in the field, or the commander of the department, as the case may be, to carry into execution all sentences against guerrillas for robbery, arson, burglary, rape, assault with intent to commit rape, violations of the laws and customs of war, &c.

The second section enacts that every officer authorized to order a general court-martial shall have power to pardon or mitigate any punishment ordered by such court, including that of confinement in the penitentiary, except the sentence of death, or of cashiering or dismissing an officer, which sentences it shall be competent, during the continuance of the present rebellion, for the general commanding the army in the field, or the department commander, as the case may be, to remit or mitigate; and it repeals the fifth section of the act approved July 17, 1862, chapter two hundred and one, so far as it relates to sentences of imprisonment in the penitentiary.

The SPEAKER. Is there any objection to the bill being reported back at this time?

Mr. ELDRIDGE. I object.

Mr. GARFIELD. I desire to say a word. Our soldiers in the front are being daily shot down by guerrillas and our wounded massacred, and I ask that our generals in the field may be clothed with the requisite power to protect them.

The SPEAKER. Is there objection to the gentleman from Ohio submitting some remarks?

Mr. ROSS. I object.

#### PROMOTIONS FROM THE RANKS.

Mr. LAW, by unanimous consent, offered a resolution, which was read, considered, and agreed to, instructing the Committee on Military Affairs to inquire into the expediency and propriety of providing by law for the promotion of such non-commissioned officers and privates as may be distinguished for their good conduct and bravery in the field to appointments as officers in the line; and to report by bill or otherwise.

#### LOCATION OF LANDS BY FLOATS.

Mr. JULIAN, by unanimous consent, reported back from the Committee on Public Lands a bill (H. R. No. 205) authorizing the issue of patents for locations made with certificates granted under authority of the act of Congress approved March 17, 1862, allowing floats in satisfaction of lands sold by the United States within the limits of the Las Ormeas and La Nana grants in Louisiana.

The bill was read.

Mr. JULIAN. I ask to have a letter read from the Commissioner of the General Land Office.

The letter was read, as follows:

GENERAL LAND OFFICE, April 28, 1864.

SIR: I have the honor to return your letter to you of 16th January last, recommending the issue of patents for tracts

selected in satisfaction of La Nana and Las Ormeas claims, pursuant to the act of Congress, approved 17th March, 1862, and in reference to your oral request of this morning respectfully submit that the state of the case is briefly this:

The law of Congress ordered the floats; they have been issued; a number of them have been located on specific tracts, and doubtless the residue will soon be returned likewise located on tracts of public lands. Where the location is found regular and correct, in all particulars, the tracts so located become the private property of the assignee of the float, as if it were so designated as his property in an act of Congress. The only reason for suggesting the issue of patents in such cases is to give the lawful owner, in convenient and condensed form of patent, the usual evidence of his title, otherwise he would have to resort to his certificate of location and other kindred papers, as such evidence of his right. The verified copies of these by the Department cost more than a patent, and is not by any means so satisfactory, the former being the instrument generally ordered by law as the evidence of a party's title from the United States.

These are the considerations which have induced the recommendation of this office that legislation be had to authorize patents, as without express authority of law we have no power to issue them.

With great respect,

J. M. EDMUNDS, Commissioner.

Hon. GEORGE W. JULIAN, Chairman Committee on Public Lands, House of Representatives.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. JULIAN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### VIRGINIA JUDICIAL DISTRICTS.

Mr. WILSON asked unanimous consent to report back from the Committee on the Judiciary an act (S. No. 256) to change and define the boundaries of the eastern and western judicial districts of Virginia, and to alter the names of said districts, and for other purposes.

The bill was read for information. It enacts that the jurisdiction of the western district of Virginia shall be hereafter coextensive with and confined to the limits of the State of West Virginia; and shall be called the district of West Virginia; and that the jurisdiction of the eastern district shall hereafter be coextensive with the limits and include the whole of the State of Virginia, and shall be called the district of Virginia.

Mr. J. C. ALLEN objected.

#### RECIPROCITY TREATY.

Mr. GANSON. I call for the regular order of business.

The SPEAKER. The regular order of business is the consideration of the joint resolution (H. R. No. 56) authorizing the President to give the requisite notice for terminating the treaty made with Great Britain on behalf of the British provinces in North America, and to appoint commissioners to negotiate a new treaty with the British Government, based upon the true principles of reciprocity, on which the gentleman from New York [Mr. WARD] is entitled to the floor.

Mr. WARD. Mr. Speaker, among the many subjects of importance requiring our attention, none except those immediately relating to the deplorable events transpiring in our own country so justly occupy our time as our relations to the young and rising nations inhabiting the territory contiguous to our own on the north. If Mexico, our neighbor on the south, ready, perhaps, to form an alliance with the insurgent States, is to be ruled by a Power hostile to us and our institutions, does it not form a proper portion of our public policy to cultivate the most friendly relations with the British colonies? Mexico has, it is true, been called a republic. She has striven after the realization of popular government, but has been too weak to attain it. The result has been anarchy, followed by her falling an easy prey to European invaders, insignificant in number compared with her own forces. In the British provinces the principle of government by the people through their representatives is more fully acknowledged than in any country of magnitude except our own. Already they contain a population more numerous than all the free inhabitants of the United States in 1790, several years after the revolutionary war had terminated in peace. Their territory is capable of maintaining in affluence a population much larger than ours now is. Our commerce with the single province of Canada alone has, for the last five years, been larger than with any other country excepting England,

France, and Cuba. Can there be any doubt that it is more reasonable to attempt by negotiation the removal of any objectionable features which may have arisen in connection with the existing treaty, than to disturb the industry and investments of the large portion of our citizens now directly or indirectly engaged in this trade?

Besides the limited provisions as to reciprocal trade and navigation, the treaty settled many difficulties which had long occupied the attention of our statesmen. The free use of the St. John river was considered important to the eastern lumber trade. But the most pressing and urgent motive undoubtedly arose from the value of the fisheries near the maritime provinces, and the imminent probability of hostilities with Great Britain unless some method could be devised by which the fishermen of the United States might pursue their calling on those coasts. A large number of our fellow-citizens are engaged in these fisheries. Their lifetime is one of difficulty and peril. From the energy and character formed by a continual struggle with the rough elements in the northern seas springs the multitude of those who, by their unconquerable perseverance and hardihood, enrich us by promoting our foreign commerce, and carry our nation's flag into the ports of every sea. A practical acquiescence had to some extent been given to our limited participation in the fisheries. The provincial coast abounds in deep bays and inlets, very extensive, and forming an important portion of the fishing grounds. It was claimed by Great Britain that as she had jurisdiction within three miles of the coast, the old-time limit of cannon-shot, the distance should be measured, not along the shore, but from certain specified and prominent headlands. This was for a long time an essential point in the controversy.

By the convention of 1818 between Great Britain and the United States in relation to the fisheries, we renounced forever any liberty theretofore enjoyed or claimed by American citizens to take, dry, or cure fish on or within three marine miles from any of the coasts, bays, creeks, or harbors of British North America, but stipulated that they should have forever in common with the subjects of Great Britain the liberty to take fish of every kind on certain parts of the coast of Newfoundland, around the Magdalen islands, and on the coast of Labrador.

Complaints having been made by the several colonies that the British Government did not enforce the provision of the convention, but permitted Americans to encroach upon the fishing grounds thus renounced, a case was prepared in 1841 by the Legislature of Nova Scotia, to be submitted to the imperial Crown officers; and the Advocate General and Attorney General of England gave it as their deliberate opinion that "by the terms of the convention, American citizens are excluded from any right of fishing within three miles from the coast of British America, and that the prescribed distance of three miles is to be measured from the headlands or extreme points of land, next the sea, of the coast, or of the entrance of bays or inlets of the coast, and consequently that no right exists on the part of American citizens to enter the bays of Nova Scotia, there to take fish, although the fishing being within the bay may be at a greater distance than three miles from the shore of the bay; as we are of opinion that the term 'headland' is used in the treaty to express that part of the land we have before mentioned, including the interiors of the bays and the inlets of the coast."

The colonial authorities maintained this view of the case, and it was confirmed by Mr. Webster, then Secretary of State, who, after quoting the first article of the convention, used the following terms:

"It would appear that by a strict and rigid construction of this article fishing vessels of the United States are precluded from entering into the bays or harbors of the British provinces, except for the purposes of shelter, repairing damages, and obtaining wood and water. A bay, as is usually understood, is an arm or recess of the sea, entering from the ocean between capes or headlands; and the term is applied equally to small and large tracts of water thus situated. It is common to speak of Hudson's bay, or the bay of Biscay, although they are very large tracts of water.

"The British authorities insist that England has a right to draw a line from headland to headland, and to capture all American fishermen who may follow their pursuits inside of that line. It was undoubtedly an oversight in the convention of 1818 to make so large a concession to England, since the United States had usually considered that those vast inlets or recesses of the ocean ought to be open

to American fishermen, as freely as the sea itself, to within three marine miles of the shore."

It would be difficult to devise a system more likely to embroil the citizens and subjects of the respective countries. From the nature of the occupation itself, and the natural character of those who are engaged in it, frequent infringements of such rules would arise. The precise distance of three miles can never be readily ascertained. Through the interests of men and the ardor of the chase, very different estimates would be made. A settlement of the question in such a way as to give peace and security to the people on both sides was exceedingly desirable. The British authorities, at the instigation of the colonies, insisted upon the strict construction of the convention, which had long been inoperative or partially enforced. Applications for the navigation of the St. Lawrence, previously granted by courtesy, were withheld. A large number of armed vessels was sent by Great Britain to the colonial stations. An excited state of public feeling prevailed. Mr. Webster gave official information that an American fishing vessel had already been taken by the British naval force on the provincial coast. Its crew were carried as prisoners into a British port. An expedition from other American vessels had hastily been armed and organized, and had forcibly retaken the captured vessel. It was deemed prudent by the statesmen of each nation to arrest the progress of events which might, almost at any time, have precipitated the two countries into war, and, if possible, to prevent their recurrence in the future. There was, as the present Secretary of State then said, "only one way that Congress could act, and that was by reciprocal legislation with the British Parliament or the British colonies of some sort." By the treaty the impending dangers were wisely and honorably averted. The fish cured by the colonists was admitted free of duty into our markets, and we acquired for our fishermen, "in addition to the liberty secured to them by the above-mentioned convention of October 20, 1818, of taking, curing, and drying fish on certain coasts of the British North American colonies therein defined, the liberty in common with the subjects of her Britannic Majesty, to take fish of every kind, except shell-fish, on the sea-coasts and shores, and in the bays, harbors, and creeks of Canada, New Brunswick, Nova Scotia, Prince Edward's Island and of the several islands thereunto adjacent, without being restricted to any distance from the shore, with permission to land upon the coasts and shores of those colonies and the islands thereof, and also upon the Magdalen islands, for the purpose of drying their nets and curing their fish; provided that in so doing they do not interfere with the rights of private property, or with British fishermen, in the peaceable use of any part of the said coast in their occupancy for the same purpose."

Bills of reciprocity had from time to time been previously reported to the House, but none were adopted. After the repeal of preferential duties favoring colonial produce in the home markets of Great Britain, measures for its free admission into the United States were more strenuously urged on behalf of the colonies. The name and intention of reciprocity, and the hope of approach to a system which could not fail to be mutually beneficial, were hailed with delight by many of the best and wisest of the nation. The plan was earnestly advocated on behalf of those great principles which, overlooking sectional boundaries, seek to allow free and practical scope to the natural alliance of material interests with the most noble and benevolent designs of public or international policy.

The British and colonial authorities refused to negotiate on the subject of the fisheries or the navigation of the St. Lawrence apart from the subject of our commercial relations with the colonies, and they were all included in the treaty of 1854.

Our commercial relations with Canada and the other British possessions in North America have been viewed from so many local points; the trade of one city or district has so often been considered as fairly illustrating the character of the whole commerce between us and our neighbors on the north; statistics have frequently been so partially examined with a desire to vindicate some foregoing conclusion rather than to discover and deduce the truth; isolated facts have been reiterated

without due regard to others of no less importance—that few enter upon consideration of this question without having formed unjust or acrimonious opinions in relation to it. I do not believe that calm argument, and candid, patient investigation are inconsistent with those just conclusions on all international subjects which are essential to the greatest prosperity of the public; or that it is more patriotic for us who have been sent here to assist in forming laws for the government of this people, to be rigorous and special advocates of some preconceived opinions or local interest than to be unbiased judges desirous of promoting the interests of the nation at large. I would be influenced by no hasty opinion, still less by any inveterate prejudice; considering details, but only considering them in connection with the broader views relating to the aggregate, by no means singling out especially for attack such a condition of international trade as may be presented at some one minor point of entry, but including as far as practicable the whole commerce of the United States with the countries whose territory extends far beyond our own on the northeast shore, and follows inland the projection of Maine, the great lakes of the interior, the wilds of our extreme northwestern Territories and the Rocky mountains; and is as near to the gold-bearing States on the Pacific as to New England and the Atlantic, presenting a frontier continuous with our own for at least four or five thousand miles, from Maine to Oregon.

A widespread impression as to the operation of the treaty has been created by imperfect or mistaken representations. The injury wrought by them is not limited within these walls. The people look to us, if not for guidance, at least for the results of careful thought and deliberate investigation.

It is essentially the nature of our trade with the provinces that our exports from certain western ports should be very large and their imports comparatively insignificant, while the produce from these regions and Canada is poured into our eastern places of entry, whence scarcely any exportation of the same articles takes place. Hence, on one side, the amounts of our sales, which are supposed to be beneficial, are regarded too exclusively, and on the other our purchases are chiefly considered, and these are supposed to be injurious to our interests, in accordance with a popular but erroneous theory applying to great international questions between ourselves and the foreigner such principles as are evidently false in individual transactions between man and man. We must consider the interests of the whole country, studying the facts presented by the whole case. We shall then, I think, be led to the conclusion expressed by the concurrent resolution of the State of New York, that "free commercial intercourse between the United States and the British North American provinces and possessions, developing the natural, geographical, and other advantages of each for the good of all, is conducive to the present interest of each, and is the only proper basis of our intercourse for all time to come." Let us approach the subject of our relations to the people of these countries with a desire to comprehend it accurately and fully as it is, and a conviction that errors made in the spirit of liberality and friendship are less likely to be injurious than the perverse misunderstandings and recriminations which, with their natural results of hatred, war, devastation, and bloodshed, have hitherto contributed the largest portion to human history.

There is, I think, a general belief that the balance of trade, as it is called, is against us in our intercourse with these colonies, but the statistics recently furnished by the Secretary of the Treasury show that during the period which has elapsed since the treaty went into effect, and computing up to as late a date as our authentic records will permit, our exports to the provinces have been \$171,628,779, while our imports have been only \$144,183,096, showing that we have sold to them more by \$26,445,683 than we have bought from them.

It appears on the same authority that while the amount of our exports to Canada alone, since 1855, has been \$134,614,376, we have imported thence articles to the value of \$133,147,600, leaving a balance in our favor of \$1,466,776. The exports of 1863 include \$3,502,180 of gold coin.



If there were no balance on the other side, this fact would be unimportant. The articles brought to the United States from Canada are never articles of luxury, but of the plainest and most absolute utility, for the most part necessary to the maintenance of human life. Hence they are more valuable than the precious metals, and usually may be readily exchanged in the markets of the world either for specie or any other commodity. The isolated fact of this exportation, due to the peculiar condition of our currency, was eagerly seized and used to make an unfavorable impression upon the public mind. As the statistics of the Canadian government credit us with some such amount as I have named, it was inferred at once that our exports to that province alone are annually \$10,000,000 in gold or its equivalent. It needed only a little breath, a few words, ready self-deception, bold assertion, with sufficient confidence in the credulity of the public, to expand a statement itself imperfect and erroneous into a bubble of these vast proportions. Upon this airy foundation were erected batteries of invective against the treaty, as if by some means we had been robbed of our just rights by the Canadians; and a vivid picture was drawn of the canals which they had widened and the railroads they had constructed through their forests, with the unjust proceeds of the robbery. In view of our temporary need of many articles in the present national crisis—for instance, to supply our cavalry with horses and the grain most suitable for their maintenance—I should not deem it inconsistent with sound political economy to purchase them with the metal so abundantly supplied by our inexhaustible mines. Nearly the whole trade between the two countries is carried on by means of gold and silver or their equivalent in bills of exchange, or paper money redeemable in specie. For these reasons the exportation of \$3,500,000 in specie is not much to be regretted, but the persistent habit of regarding one side only is deeply to be deplored. It led to oversight of the fact that during the year in question we imported through Champlain alone nearly five million dollars in coin of the precious metals.

The balance of trade represents in the main the amount of gold and silver or their equivalents sent from one country to another; and between us and the provinces, since the treaty went into operation, that balance has been more than twenty-six million dollars. Under the influence of an animus unfavorable to fair discussion the error loomed up into gigantic proportions, and it was stated and sent forth to the nation that no other country presents so unfavorable a balance-sheet with us. This method of reasoning is little adapted to promote the interests of our people, or to increase their political intelligence, and more than likely to diminish the respect and good-will entertained toward us by the people of other countries.

I may well be excused from further reference to the errors with which the subject has been invested. It is better to examine the results and character of the trade itself, considering how far reciprocity and mutual benefit do or do not exist in our relations with the provinces, than to follow to their end the delusive arguments of those who are opposed to the principle itself.

I have the satisfaction of knowing that this is no party question, and that many gentlemen on the other side of the House unite with me in efforts to establish or extend such a liberal policy toward the provinces as shall mutually benefit both of us, knitting us together by the bonds which are of all the most powerful, those of mutual interest, well judged, in necessary conformity to higher principles. I am less desirous of a union of the Governments than for a union of the people. I do not wish to admit into our family of States any who are not imbued with the spirit of our institutions and do not appreciate as we do the benefits resulting from them, or the principles on which they are established. Prudent men of business are not accustomed in buying and selling to limit their transactions to those who hold the same political or religious opinions as themselves. There is no need for the *habitant* of Lower Canada to quarrel with the staple article of his food because it is made from wheat grown in Iowa, Wisconsin, or Illinois, or for the workman in the factories of New England to ask for conscience' sake, or for the sake of his country, whether the white loaf or biscuit ornamenting his

table is the product of the golden grain which once waved on the fields of Upper Canada.

The facts carefully collected by the provincial governments fully concur with our own in proving that an immense amount of benefits has accrued to the people of both countries by the increase of their respective freedom through the yet limited removal of artificial obstacles to their intercourse. Upon the plainest principles of commerce, the individual transactions constituting the vast aggregate of this trade since 1855, and amounting to more than fifty million dollars in 1863 alone, must year after year have been sufficiently profitable to remunerate those who produced the substantial materials of the exchanges and those who were engaged in the traffic, who, in their turn, could not have continued their business if they had not found in the people at large customers or consumers who were benefited by the purchases they made.

The treaty was dated June 5, 1854, and its salutary effects were partially experienced during that year. Our exports to the provinces during the seven preceding years have been multiplied nearly three-fold in the seven years which have elapsed since the treaty, having been \$69,686,107 in the former, and \$171,628,779 in the latter period; while our imports from the same regions have increased more than four-fold—having been \$34,815,885 in the former period, against \$145,183,096 in the seven years since the treaty went fully into effect.

Taking a general view of the subject commercially considered, showing the results in the aggregate without entering into special and partial details, it does not appear that the system as a whole is one of mere favor to our northern neighbors or of injury to ourselves.

It is to be expected that of the raw or unmanufactured products of the field, the forest, and the sea, computed altogether, the provinces will sell more to us than we can sell to them. This naturally arises from the maritime position of the eastern provinces, and because the provinces stand in much the same relation to the United States as that occupied by the new western States to the older settlements in the East. We receive from them the products free under the treaty to a greater extent than similar articles are exported to them in return, but may reasonably expect to make up the deficiencies by selling more manufactures and commodities of tropical, Asiatic, or other foreign origin, either the products of our own labor or brought from over the seas, chiefly in American vessels, and purchased to a considerable extent with the manufactures or productions of this country; thus employing and enriching our manufacturers, merchants, and commercial marine. We find, in accordance with this view, that from these sources we have exported to the provinces an amount which added to that of the raw material sold by us to them is sufficient to make up the balance of \$26,445,683, during the period in consideration, more than we have bought from them—a sum which has been paid in specie or its equivalent.

The value of the foreign merchandise (exclusive of articles passed through the United States in bond) exported by us to the provinces during the seven years immediately following the ratification of the treaty, was \$31,366,236—purchased chiefly with productions of the United States, and which yielded employment to the farmer and manufacturer, shipper and sailor, as well as profit to the merchant. The amount of our exports of manufactures and other articles of United States origin, not included in the treaty, is officially stated to have been \$47,269,139 during the first six years after it went into effect. (See Ex. Doc. No. 149, Thirty-Seventh Congress, second session, pages 14 and 20.)

When investigating this question it is necessary to remember the peculiar relations of the provinces to each other and to the mother country. Although owing in common a political allegiance to one sovereign, each of the colonies is in fact an empire within an empire, having a legislature of its own. Each of them has a separate tariff, and charges the same duties upon the products of the others, and of Great Britain, as upon those of foreign countries. Their union is political, but not commercial; and the treaty received the sanction, not only of the British Government, but of the colonial legislatures of Canada, New

Brunswick, Nova Scotia, Prince Edward's Island, and Newfoundland. So far as I have been informed, the results of the treaty with those colonies, which, for the sake of distinction, may be termed the "Maritime Provinces," have been satisfactory, although as to them it should be regarded as neither complete nor final in itself, but as only one link in a chain of events, permitting the people of both countries to perceive more clearly the benefits of mutual intercourse, and to start with increased probabilities of success toward a system of unfettered, absolute, and complete reciprocity, so that each may enjoy fully the natural advantages of friendly neighborhood to the people, territory, and possessions of the other.

Of these provinces Canada is much the most important. In 1860 the inhabitants of them all numbered 3,253,000. Of these, more than 2,500,000 constituted the population of Canada, and less than 700,000 that of the others. This province, projecting from the northern extremity of Maine southerly to Detroit, and thence northerly as far as any considerable settlements are to be found near our frontier, occupies a position whence the best route for passengers and freight to the ocean, by that common highway to other parts of the world, for the whole year is through the territory of the United States. For nearly half the year, when, owing to a rigorous climate, the river St. Lawrence is impassable, the only practicable means of intercourse for Canada with other nations are through this country. Different routes of communication may be opened through the maritime provinces, but none of them can permanently be so beneficial as the lines of travel leading to the great natural centers of the commerce and shipping of this continent, the northern American cities on the Atlantic. Nor are those facilities unimportant to the United States which would create a free right of way, unquestioned and unincumbered by forms, across the large peninsula of Upper Canada, separating several of the northwestern and grain-producing States, together with a vast area of fertile territory yet unoccupied, from the commercial and manufacturing regions in the east. Canada also extends up the St. Lawrence on both sides for several hundred miles from the ocean. Hence mutual rights of transit are exceedingly advantageous to both countries, and our commercial relations with this province are worthy of special consideration.

General dissatisfaction with the treaty exists along the whole of our northern frontier near Canada, and the moral and political effects which it was hoped would result from it have been destroyed, the effect of the Canadian tariffs enacted since 1855 having been to decrease very materially the amount of manufactures and goods of foreign origin sold by the people of this country to those of the provinces. This alone constitutes a sufficient reason for a revision of our mutual commercial relations, so that our manufacturers may not only receive from the regions on the north of us a considerable portion of their necessary supplies of timber, breadstuffs, and animal food, but may also enjoy a less restricted and if practicable an entirely free market for the products of their labor.

During the last five years the manufactures of the United States exported to Canada have in the aggregate decreased from \$4,185,516 in 1858–59 to \$1,510,802 in 1862–63; and although the fluctuations in our own currency and the scarcity of labor arising from the war have tended to produce this result, there can be no doubt that the chief cause of this important change is to be found in the increased tariffs of Canada, by which the duties on many articles such as are manufactured in the United States have been gradually increased since the time when the treaty was made, when those chiefly levied on such imports into Canada were twelve and a half per cent., but have since been changed, and are now at rates varying from ten to twenty, twenty-five, and thirty per cent. In some instances, such as cigars and spirituous liquors, a higher rate is levied.

The effect of these duties is to permit the importation of British and French manufactures of the finer qualities into Canada as heretofore, but to stimulate the home production of goods of the coarser and more substantial qualities, such as those of the United States chiefly are. Canada cannot, even under a high tariff, compete with the nations of the Old World in the most costly and

delicate manufactures, but with the same amount of protection can and does, to a considerable extent, exclude those of the United States—a nation less advanced in this branch of industrial production. There is scarcely any manufacture of this country which has not or will not be transplanted to Canada, and stimulated under the present protective duties of twenty per cent. The only exceptions are those requiring a more extensive market than the comparatively narrow territory and scanty population of the province can afford. Indeed, it has been deliberately calculated by some Canadian statesmen that they will persevere in a protective system against the manufacturers of the United States until the time arrives when they shall be capable, not only of supplying their own market, but will prefer free access to this country for the sale of their goods to a continuation of the protective duty in Canada. The result of a free interchange would no doubt be to encourage in both parts of the continent those manufactures for which each is especially adapted, thus benefiting the people of the two countries by supplying their necessities with less useless expenditure of labor.

It is just to add that the tariff of duties levied by Canada during the period in question has been much lower than the duties charged by us upon her manufactures, and that while our exports of these articles amount to many millions it is very doubtful if the actual manufactures of Canada bought by us reach in the aggregate to more than a few hundred thousand dollars throughout the whole of the last five years, during which the diminution has arisen, although in that time the Canadians alone bought from us manufactures to the value of \$15,343,004. (See page 15 Ex. Doc., No. 32, Thirty-Eighth Congress, first session.)

The whole amount of our exports from Canada, subject to duty, for the eight years which have elapsed since the treaty is only \$3,595,350, including not only Canadian manufactures but also goods from all other parts of the world. Of these, one class alone, iron and its manufactures, amounted in value to about \$1,500,000, not produced in Canada; a fact which, with others of a similar character, gives good ground for believing that if the articles really and exclusively made in the province were selected it would be seen they are no more than those minute matters which are scarcely cognizable in legislation or national statistics.

Adding \$33,071,475, the value of foreign merchandise exported by us to Canada during the same eight years, to the domestic manufactures also thus sold, the aggregate value of these classes of our exports to Canada cannot be less than \$60,514,479—against \$3,595,350, the amount in like manner bought by us from that province.

In addition to the existing and increased impediments to the importation of our manufactures into Canada, one of the obstacles to a fair reciprocity consists in the method enacted by Canadian tariffs, since the treaty, of levying duties on articles according to their value at the place where last purchased, not according to their value in Canada, or by specific duties; thus practically creating a discrimination against the merchants and carriers of the United States. The intention was explicitly avowed, and the results are already known by our experience.

Under the operation of natural laws the trade of Canada in many important articles will flow to and through the Atlantic cities, such as New York and Boston. Under the present system of Canadian legislation our exports of foreign goods to Canada have decreased from \$5,501,125 in 1859 to \$1,500,397 in 1862, and \$1,463,113 in 1863. They attained a yet higher value previous to 1859, when they amounted to \$8,769,580; but for the purposes of fair comparison I avoid the years of great expenditure and undue speculation. In 1863 this portion of our trade was only one half of the average it reached in each of the five years preceding the treaty; was less by twenty-five per cent. than in 1849, and since which time our total exports of all kinds to Canada have increased five-fold, or from \$4,234,724 to \$19,898,718.

That the deficiency in our exports of foreign goods to Canada has not arisen from decreased consumption, but from legislative enactments by duties practically discriminating against the Atlantic cities, is made yet more evident by the official records of the province, whence it appears

that the value of merchandise imported into Canada, and passed through the United States under bond, was, in 1860, \$3,041,877; in 1861, \$5,688,952; and in 1862, \$5,508,427. A circumstance which has justly created much dissatisfaction in the provinces (see Consolidated Statutes of Canada, chapter 17, section 24) is that the Governor of Canada, by a departmental order, might discriminate in favor of particular routes through the United States, a singular violation of the comity or hospitality of the United States in extending unusual facilities not required by any treaty for the transfer of goods on the Grand Trunk railroad, via Portland, into Canada.

The chief articles of commerce between the two countries are grain and flour. Of wheat and flour we have exported to Canada between the years 1856 and 1863, inclusive of both years, a quantity amounting in value to \$30,643,772, and imported to the value of \$49,940,127; the imports exceeding the exports by \$19,296,355. Of wheat alone from this province our imports have been 20,956,322 bushels, and our exports to it 22,993,763 bushels. Of oats and other grain our imports have been \$15,230,364 in value, making an aggregate of \$65,170,491. The value of the same products from the other provinces was \$1,990,787, while our exports were \$29,422,918, so that upon the whole we have sold the people of the provinces more of cereals and their products by \$360,474 than we have bought from them, our exports having been \$67,521,752, and our imports \$67,161,278. Of flour and breadstuffs alone, from 1856 to 1861, our exports to all the provinces exceeded our imports from them by \$6,184,224. From the nature and geographical position of our territory we have been, and under a free system shall continue to be, the forwarders and merchants between the people of the different provinces.

The question on both sides as regards wheat and flour is not one of revenue or consumption, but rather of commerce and transportation. If our whole crop of breadstuffs were sold to Canada, and sent as it would be, unless sold to the United States, to a foreign market via the St. Lawrence, the market value of the Canadian crop would neither be enhanced nor diminished; nor would our farmers be injured if the Canadian surplus is sent through the Erie canal or over our railroads and the Hudson river, except that in both cases the local demands would be increased by the amount required for the use of that part of the population which would be employed in transacting the increased business.

Many beneficial results are produced in the course of these exchanges. A large amount of Canadian wheat is mixed and ground with western wheat by our millers, with results profitable to themselves and their customers. New England consumes much of the best wheat and flour of Canada West; and I am not one of those who are desirous of protecting the manufactures of New England by taxing their bread as well as their fuel. According to the census of 1861 Canada East contains 1,111,566 inhabitants, producing only 2,563,114 and consuming, it is estimated, nearly 3,000,000 bushels of wheat. From habit and other causes these people prefer the spring wheat of Wisconsin and Illinois. The corn produced in great abundance and at small cost in the rich warm valleys of the Wabash and Illinois is consumed to a considerable extent in the provinces, especially in the manufacture of alcohol, and we in our turn import and use a large quantity of barley and oats—grains grown in great perfection by the people of the provinces.

The products of the forest are the next in value among our importations from the provinces, having amounted during the last eight years to \$23,537,203, of which \$19,894,930 were from Canada, and \$3,642,273 from the other provinces—an annual average of \$2,942,150, while our sales of the same class to them have been comparatively small. No inconsiderable share of this timber has replaced old rail fences on our farms, or inclosed new land, or built the house of the pioneer on the prairies. With the progress of our settlements our own supply of this necessary article has been seriously diminished, and its sources have gradually become more remote and inaccessible. Unlike the crops of the farmer, which may be produced year after year, a second crop of pine timber is never expected from the same land. Protection has some force in favor of those manufac-

tures which we are led to believe will ultimately be sold cheaper if we grant a temporary monopoly to their producers, but the more the manufacture of lumber is increased the further we shall have to go for it, and the higher will be the price of an article of which there is necessarily only a limited supply. In the freedom and expansion of this trade the Government relinquished a small amount of revenue, but the traffic of our northern lakes and canals was greatly increased, employing profitably a large number of our citizens. The carrier and consumer, together with the manufacturers of New York and New England, partake of these benefits. Timber, a necessary article of consumption in building, and especially the material used for this purpose by people of moderate means, is also essential in the construction of ships—an important branch of national industry and element of greatness, compelled to face the eager competition of the whole world—and the supply of timber suitable for ship-building has been so much reduced in the United States that memorials have been presented to this House asking that its exportation may be prohibited. We sell timber extensively to the British colonies and other countries, so that the exports the last two years have been nearly seven millions. Our importation from the provinces of the raw materials used to a considerable extent in these manufactures, is annually \$2,942,150, and our exports of the manufactures themselves in the last two years have been more than ten millions.

The class of importations next in value is that of animals and their products. These during the last eight years have amounted to \$11,813,332 from Canada alone. With the other provinces this trade is of nominal value. We export large quantities of pork, beef, lard, butter, &c., to Canada, making in all an aggregate of exports in this class of \$12,057,510—rather more than our imports—the nature of the trade being that we chiefly import animals themselves and sell their products.

The remaining miscellaneous articles are for the most part of no large amount separately, but consist of such materials as should be supplied to our people and manufacturers at as low a price as possible. Among the most important of those not yet named is coal, an essential element of household life and comfort, and the chief producer of the great labor-saving power of steam. The exports from Ohio and Pennsylvania to Upper Canada are nearly of the same value as our importations from the lower provinces. In Canada West the coal of these States has superseded that brought from Liverpool and the lower provinces; and, at Montreal, the anthracite of the easterly portions of Pennsylvania also competes with the coal brought from Liverpool and Nova Scotia. These minerals are not found in the geological formations of Upper Canada, and as the forests disappear, and wood becomes too valuable to be used as fuel, that part of the provinces will ultimately depend exclusively upon the United States for the most economical supply of this necessary article. Anthracite coal, although found abundantly on the eastern slope of the Alleghenies, is found nowhere in the colonies, and will always, in the natural course of events, be imported by them; while as many purposes of fuel in the eastern States, economy dictates the use of the coal of Nova Scotia. Bituminous coal, of the kind most commonly used in the manufacture of gas, is not found in our territory east of the Alleghany mountains, within an available distance of our chief Atlantic cities. It would be needless to say that a trade of this kind is mutually beneficial. Under a system of free trade in coal, the people of each country are supplied more cheaply than they otherwise could be with necessary light and fuel; and both save, throughout large regions, the expense and labor of carrying a heavy and bulky article for several hundred miles.

All the various commodities received free of duty by each country from the other under the provisions of the treaty are the simplest and plainest necessities for the support of human life. I am opposed to any permanent legislation that would prevent the free importation of them; to every system that under any specious name, hiding an error or pretense, signifies dearer food and increased taxation on the raw materials used in the manufactures; to any system, whether called protective or not, which means diminished com-

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merce by expelling colonial produce from our canals and railroads to increase the employment of British shipping through British seaports at the expense of our own.

As regards the objection sometimes urged, that if by reciprocal legislation we admit certain raw materials free of duty from the provinces, it becomes necessary to admit them by similar reciprocal legislation from several other countries, I answer that like enactments would in all such cases prove highly advantageous to the United States, and that the law might safely and beneficially be extended so as to admit also on the same terms of mutually free import and export the same articles from every nation in the world. Our supplies would be little increased by such arrangements, but our markets would be immensely extended.

There is much in British policy which would serve as a warning to us—much to be condemned—much serving to teach us what we should always shun as examples; but we cannot imitate a better or more honorable precedent than the removal of taxes from human food, from the daily bread and nutriment of men, women, and children, whether rich or poor. When the markets of Great Britain were in effect thrown open to the grain and provisions from the United States and the world, the old exclusive policy was reversed and one of the greatest triumphs of popular liberty, of progress toward the well-being of mankind was achieved. It is common to quote with admiration the sentiments of Greek and Roman orators, who, sometimes indeed, conquered the narrow limits of their creed and ceased to treat the masses with contempt; but I hold in higher esteem and deem more consonant with justice, humanity, and the religion by which we profess to regulate our actions, those words of a modern statesman, Sir Robert Peel, who when renouncing the office of Prime Minister of England and severing all his old party ties, said, "I shall leave a name execrated, I know, by every monopolist, who, professing honorable opinions, would maintain protection for his own individual benefit; but it may be I shall leave a name sometimes remembered with expressions of good-will in the abodes of those whose lot it is to earn their daily bread by the sweat of their brow, when they shall recollect their exhausted energies with abundant and untaxed food, the sweeter because no longer leavened by a sense of injustice." These words, it seems to me, contain in substance an essential portion of the principles by which we should be actuated in the imposition of all taxes—leaving free as water, light, and air those articles which are absolutely necessary for the sustenance of human life. Nor can I regard this principle as less applicable to the people of the United States than to those of the British provinces; and it may reasonably be hoped that in a fair conference between parties each of whom has so much to gain by commerce with the other and so much to lose by exclusive legislation, existing difficulties may be removed and the interests of both may be regarded and weighed in a just balance.

As regards the navigation of the St. Lawrence, I am not so much disposed as some others have been to find fault with the treaty because we have made less use of this river than was expected. They would have had an argument more in accordance with their usual method of reasoning, if the Canadian carriers had diverted more and more traffic from our own railroads, canals, and rivers, from our own ports on the lakes or the sea-coast. Looking forward with certainty to the time when the artificial barriers separating mankind on this continent shall be overthrown, and a system of free commercial intercourse exist throughout the whole of it, we should guard against the useless expenditure of human labor in constructing canals and docks or erecting cities in places where it will not be remunerative. As the cheapest and best routes are those which must ultimately prevail, the sooner competition is fairly open the better for the people—the greater will be the benefits received by the greatest number,

without injustice to any. We cannot in the end prevent this consummation if we would, and we ought to have no desire to prevent it if we could. The city of New York, occupying a central position between the Alleghany mountains on the western and the Blue mountains on the eastern side, is preeminently the emporium of commerce on this continent. It is the market or exchange for chartering vessels. So true is this that shipbrokers are engaged there when the St. Lawrence is open in chartering vessels to go thence to Quebec for the purpose of carrying cargoes to European ports, thereby adding the cost of a long and circuitous route to their expenses, instead of making a direct voyage across the Atlantic from New York. Freight is usually cheaper from Canada West via New York than the St. Lawrence, provided there are no governmental restrictions on either route.

The great increase in our trade with Canada, and the diminution of the exports and imports by that river immediately after the treaty, prove this broad fact. It was fully admitted by the Canadian minister in the establishment of discriminating and countervailing duties which, although injurious, were not sufficient to control fully the natural laws by which this commerce is regulated. The river at Quebec and Montreal is open only for about half the year; and yet docks, warehouses, hired attendants, and other necessary appliances of trade must be maintained for the whole year. The navigation, when open, is full of perils. Narrow straits, heavy fogs, strong currents, and dangerous ice, sometimes sunk beneath the water and unseen, beset the adventurous mariner. Eight steamships belonging to the line subsidized by the Canadian Government, with many passengers, have been lost since 1857; while the old Cunard line, established almost with the beginning of steam navigation on the ocean, has lost only one vessel and no passengers in the whole period of its existence. That solitary loss was on the coast of the provinces, and caused by the dense fogs and unexpected currents. The rates of freight on flour from Quebec to Liverpool are usually higher than they are from Buffalo, on Lake Erie, to Liverpool by way of New York. The same laws of trade determine the cheapest route as to more bulky articles. The rate of freight from that city to Europe is usually only one half the rate from Quebec. New York being the great port for the entry or arrival of merchandise or passengers, vessels coming to it receive remunerative rates on inbound cargoes; while going from Europe to Quebec they usually proceed in ballast, and hence are compelled to charge such a price for freight to the eastward alone as will yield them a profit both on the inward and outward passage.

Beyond the merely statistical views presented by the subject the relative position of the two countries forces itself upon our attention. They form together by far the larger portion of the vast North American continent, extending from one great ocean to the other. The neighboring British possessions reach down beyond the center of the region on this side of the Rocky mountains, and separate the wide and rich domain of the Northwest from those of the East, while on the northeast of the provinces our territory projects far between them and the great Atlantic highway of the world, thus pointing out clearly how advantageous, almost how necessary, mutual rights of way and free commercial union are to the people of each country through the territory of the other, unless we mutually condemn ourselves to a perpetual system of useless labor by carrying round the long projections made by the territories of each. We have in common the great lakes. As their country rests upon the Arctic seas, ours is washed by the warm waters of the Gulf of Mexico. Between us we have so great a variety of soil and climate as to be capable of yielding almost every production necessary or conducive to the comfort and happiness of civilized man. There is no reason why the commercial relations of the States and provinces cannot be mutually as beneficial as those of the different States are to

each other. The wages of labor, which, it is held by some, debar us from unrestricted commercial intercourse with other countries, least we reduce the remuneration of our own people to the European or Asiatic standard, are on ordinary occasions nearly equal on both sides of the frontier. The impediments to free communication exist only through laws made by man, and which we and those with whom we have to negotiate can make or unmake as we choose. Why, then, by governmental action seek to force the capital, labor, and traffic of the two countries into barren and wasteful channels, instead of mutually protecting home industry by permitting it to attain its most profitable results? Difficulties which now appear to be insuperable may vanish before united effort and by the conference of intelligent commissioners on both sides.

Revenge and retaliation are sentiments by which the mind and policy of a true statesman can never be governed. It was well said by De Tocqueville, who had not before him the illustration of his subject furnished to us by the condition of our own country at this day:

"The first notion which presents itself to a party, as well as to an individual, when it has acquired a consciousness of its own strength, is that of violence; the notion of persuasion arises at a later period, and is derived from experience."

Let us, at least, try what can be done through reason and negotiation, before we resort to a rupture of the existing ties and undo the work already accomplished in the right direction, after much effort.

I trust there are few who deem it the part of wisdom or sound policy, or consistent with due regard to the character of the nation represented by us here, to attach any weight to whatever ebullitions of temporary ill-will may have arisen from individuals in the provinces or Great Britain. These manifestations, having their sources in ignorance or unworthy motives, may safely be left to the class of minds in which they originated. Instead of degrading this House to that ignoble level, let us in conformity with our own dignity and honor aspire to be the leaders in such a wise and enlightened policy as, instead of irritating the people of the colonies and inducing them to mistake a pitiful hatred to this country for patriotism toward their own, shall aid and assist liberal statesmen on either side of our northern boundary or of the Atlantic ocean in their efforts to develop those mutual interests constituting a great international law, and which are the more clearly seen to be harmonious and identical the more closely they are examined.

By adopting the principle of commercial retaliation or exclusion we can injure the people of the provinces; but in hostilities of this kind, as well as in actual warfare, although one party often suffers more than the other, yet both are injured. It may be that, even although we adopt an isolating policy, the people of the provinces will be too wise to exclude our products from their markets on the present terms of equality and freedom. Canada at least admitted them without duty before the treaty—a liberal policy, dictated on her part by the soundest financial considerations, for while her people were benefited by cheaper prices on some commodities, it drew trade to her canals, seaports, and shipping. Even this has been turned into an argument against our practicing the same system toward her. It was rather an example of a just and comprehensive idea of self-interest for our imitation, by no longer refusing our forwarders permission to carry her products to the ocean on our canals and railroads for remunerative and satisfactory prices. The course pursued by Canada before the treaty is probably a fair indication of the course she would adopt if it were unconditionally annulled and we should show ourselves determined to maintain an exclusive position.

Until 1847 the produce of the colonies was admitted under special privileges into the markets of Great Britain, but when these were removed the authority of that country over the financial



affairs of the colonies was also relaxed. At that time the Canadian duties on American manufactures were seven and a half per cent. more than on similar articles made in Great Britain, but one of the first uses made by the colonies of their increased power was to equalize taxation on the manufactures of both countries by a uniform tariff of seven and a half per cent. on all.

As colonies of Great Britain the provinces may easily return to preferential duties in favor of the nation with which they are politically connected. If they did not establish between themselves and the mother country a system of imports, exports, and transit, entirely free, like that prevailing between the different States of this Union, they might have recourse to direct taxation, and adopt so low a rate of duties on the products of all the nations of the world that it would be almost impossible to enforce the tariff of the United States along the vast frontier of the North. Already the project of unlimited free trade finds its advocates in Canada, and leading organs of public opinion, while admitting the benefits of reciprocity to them, and affirming their readiness to do all that consistently with their own honor can be done by them to maintain the most friendly commercial relations with us, significantly intimate that a different course, perhaps in the end not less beneficial, is open to them.

There is little room for doubt that if we rashly and persistently pursue a hostile and exclusive system, most of this trade now in our possession will be divided between the colonies themselves and Great Britain. The provinces will be compelled to execute their old project of an intercolonial railroad from Halifax and St. John, and perhaps other ports, to the interior of their country, thus completing the only remaining link in their present vast system of internal communication, and giving them uninterrupted access from Lake St. Clair and Lake Huron to the ocean, through their own territory, at all periods of the year. Their people, by commercially uniting the provinces together, may soon accomplish the development of a system of home industry which will make them independent of our manufactures, and competitors with us in every neutral market. They will become their own shippers and traders for all commodities of foreign origin. Although we may banish them and their produce and merchandise from our routes of communication with the Atlantic, it is not likely we shall divert the traffic in American produce via the St. Lawrence by any legislation we can adopt. We cannot legislate for the Canadians. We can cut them off from the use of our railroads and canals, but may fail in persuading them to adopt legislation of the same suicidal character. It is to be expected that they will keep their channels for freight open to our produce. We cannot compel them to grant us a monopoly of this kind; but if we should exclude them from our thoroughfares, their carrying system will reap the benefit of doing business for both countries—we transacting a part of it for one only—and we shall present to the world the instructive but undignified spectacle of men who, instead of cherishing this branch of our industry and directing it to the full fruition of its natural advantages, sever it from the trunk, even while it is supporting us.

Let those whose duty it is to watch over and promote the permanent and substantial interests of the country be led away by no narrow view, no temporary and transient feeling, but consider and reflect upon the calm and sober judgment formed in times of less excitement, by themselves, the statesmen who have gone before them, and the nation at large. "There has not," said Henry Clay, often called the author of the American system, "been a moment since the adoption of the present Constitution when the United States have not been willing to apply to the trade between them and the British colonies principles of fair reciprocity and equal competition." As it was with him so also was it with Adams, Webster, Van Buren, Marcy, Douglas, and all those of every party who have left among us an enduring fame as statesmen.

The appointment of commissioners on both sides to consult carefully as to the course most conducive to our mutual benefit appears to be less liable to objection and to combine more advantages than any other plan. On our side there are varied interests to be consulted—those of the east-

ern, central, and western States, whether they more especially consist in the promotion of manufactures, agriculture, or commerce, or in the united and harmonious progress of all these pursuits. On the side of the colonies, are separate legislatures or governments of several provinces where different views will be taken on many points of detail, perhaps of economical principles. The whole will require so much consideration that I should despair of complete success unless it should receive full and undivided attention. It will be the duty of such commissioners to ascertain how far we may remove the obstacles which since the date of the treaty have, through the legislation of Canada, impeded the trade of our great commercial cities, impaired our manufacturing interests, and tended to diminish the amount of inland navigation and transit trade which would otherwise have accrued to the States bordering on the British provinces.

We are too apt to think the interests of the nation can only be advanced at the expense of injury to another. In reality and under a true system of reciprocity each of us would receive the benefits of natural advantages enjoyed by the other, which in its turn is benefited, not by withholding participation but by inviting it. This principle is as true and should be as universally admitted as those of mechanical improvements or labor-saving machinery. Hence, the words of the resolutions passed by the Legislature of the State of New York express clearly and definitely the principle by which we should be guided, saying: "that free commercial intercourse between the United States and the British North American provinces and possessions, developing the natural, geographical, and other advantages of each, for the good of all, is conducive to the present interest of each, and is the only proper basis of our intercourse for all time to come." It has been well illustrated by a French writer in the fable of the blind man and the lame, who between them possessed all that was necessary for both. One guided the other, who in his turn was carried, and each receiving important benefits disdained too close inquiry as to which of the two rendered the most important service.

We are considering the commercial relations of one eighth of the habitable surface of the world. Of this vast region, the United States and the people of the colonies, subject to a beneficent Providence, control the present condition and shape the future history. It has been given to us, in the maturity of human civilization, as a new parchment on which we may inscribe whatever characters we choose; and the opportunity will never return again in all the plenitude of the present time. With nations, as with individuals, those habits and tendencies are easily formed in youth, which are afterwards developed and control the career through long years or centuries of the future. We may differ from the people of the provinces in opinion as to the best form of government, but other nations can judge better for themselves than we can for them as to their own method of legislation. A prohibitory or exclusive system would be no less unnatural and injurious as to every commercial, political, and moral result than if we separated New York from Massachusetts, and both of these from Ohio, Illinois, or Iowa. Let us then regulate our intercourse, not by mutual fear or destruction, but by creating, or rather by developing, reciprocal benefits in accordance with the manifest designs of Him who made the world, and who should never be mentioned except upon occasions worthy of Him. Such a system is doubly beneficial—

"It droppeth, as the gentle rain from heaven  
Upon the place beneath: it is twice blessed;  
It blesseth him that gives, and him that takes."

Under its influence, assisted by a wise application of the reason with which man is endowed, old animosities will be forgotten, and in days to come the people of both countries, seeing plainly that the social body of mankind, like the material body of the individual, is provided by nature with a healing power, will find additional reasons to reverence Him by whom the universe itself was framed.

Mr. PIKE obtained the floor.

Mr. STEVENS. Has the morning hour expired?

The SPEAKER. It has expired.

Mr. STEVENS. I should like to take up an

appropriation bill, unless there is some special reason why we should go on with the reciprocity treaty matter to-day.

Mr. ARNOLD. I suggest that the gentleman from Maine [Mr. PIKE] be permitted to make his speech, and then let the matter go over until to-morrow.

Mr. STEVENS. If this matter can be finished to-day, I have no objection to allowing the debate to go on; otherwise I will move to go to the business on the Speaker's table.

The SPEAKER. The Chair knows of but two gentlemen who desire to speak, but the gentleman from Pennsylvania must decide for himself.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, their Secretary, notifying the House that the Senate have passed without amendment a joint resolution of this House (No. 72) relative to pay of staff officers of the Lieutenant General.

Also, that the Senate have passed bills of the following titles; in which he was directed to ask the concurrence of the House:

An act (No. 176) authorizing the erection of buildings for the branch mint at San Francisco, having been corrected, in which he was directed to ask the concurrence of the House; and

An act (No. 250) making a grant of alternate sections of public lands to the State of Michigan to aid in the construction of certain railroads in said State, and for other purposes.

#### MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. NICOLAY, his Private Secretary, notifying the House that he had approved and signed bills of the following titles:

An act (H. R. No. 185) to establish a postal money order system; and

An act (H. R. No. 370) to appoint certain officers of the Navy.

#### INDIAN APPROPRIATION BILL.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of taking up the Indian appropriation bill.

The motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. FRANK in the chair,) and proceeded to the consideration of the bill (H. R. No. 240) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1865.

On motion of Mr. STEVENS, by unanimous consent, the first reading was dispensed with, and the bill was read by paragraphs for amendments.

Under the head of "Chippewas of Lake Superior," the following paragraph being under consideration—

For tenths of twenty installments in coin, goods, household furniture, and cooking utensils, agricultural implements, and cattle, carpenters' and other tools, and building materials, and for moral and educational purposes, per fourth article treaty 30th September, 1854, \$19,000—

Mr. BROOKS asked an explanation of the payment "in coin" provided for.

Mr. STEVENS. That is in accordance with treaty stipulation.

Mr. BROOKS. Gold coin?

Mr. STEVENS. I do not know that it says "gold coin;" it says "coin."

Mr. BROOKS. I thought, perhaps, it was a misprint, and meant corn.

Mr. STEVENS. No, sir, coin; these Indians are a hard money people. [Laughter.]

Mr. BROOKS. I wish the whites were, too.

Mr. STEVENS. The whites are more civilized.

Under the heading of "Chippewas of the Mississippi, and the Pillager and Lake Winnebagoish bands of Chippewa Indians in Minnesota," the following paragraph being under consideration—

For the employment of a sawyer, at the discretion of the President, and to remove the saw-mill from Gull Lake reservation to the new reservation set apart, and to extend the road between Gull Lake and Leach Lake to the junction of the Mississippi and Leach Lake rivers, and to remove the agency to said junction, or as near as practicable, \$3,000—

Mr. BROOKS said: I desire an explanation of that item. Is it in accordance with treaty stipulation?

Mr. STEVENS. If the gentleman will turn to page 89 of the estimates he will find it all set forth there.

Mr. BROOKS. I have not the estimates before me. I ask the gentleman to read it.

Mr. STEVENS. The treaties under which these appropriations are made are not set forth in the estimate, but reference is made to the article and treaty. All these appropriations are under the treaty of March, 1863.

Mr. WINDOM. I move to amend the bill in line six hundred and eighteen, by adding the following:

For payment of expenses incident to the removal of the Quapaw Indians from Kansas, and their reestablishment in their own country, \$9,726 33.

I ask the Clerk to read a letter from the Secretary of the Interior upon that subject.

The Clerk read, as follows:

DEPARTMENT OF THE INTERIOR,  
WASHINGTON, D. C., March 15, 1864.

SIR: I have the honor to transmit herewith a copy of a communication from the Commissioner of Indian Affairs, of the 17th ultimo, and accompanying papers, showing that the sum of \$9,726 33 is due to the Quapaw tribe of Indians, under treaty stipulations, as explained by the Commissioner and shown by the papers.

I recommend that an appropriation be made by Congress of the sum thus found to be due the Quapaws, to be applied to the payment of expenses incident to their removal from Kansas, and their reestablishment in their own country, from which they have been refugees in consequence of the rebellion.

Very respectfully, your obedient servant,

J. P. USHER, Secretary.

Hon. SCHUYLER COLFAX,  
Speaker of the House of Representatives.

Mr. WINDOM. I have here the letter from the Commissioner of Indian Affairs, stating this amount to be due under treaty stipulation, and also a statement to the same effect from the Second Comptroller of the Treasury, recommending the appropriation.

The amendment was agreed to.

Mr. FENTON. I move to amend by adding at the end of line seven hundred and twelve as follows:

For payment of interest to Orchard party and First Christian party Oneida Indians, New York, per treaty stipulation of 1838, \$1,642 70.

Mr. STEVENS. I desire to ask the gentleman from New York if they are a part of the New York Indians.

Mr. FENTON. Yes, sir; but they do not include all the New York Indians. This is to pay the interest upon a principal sum of \$6,000 under the stipulations of the treaty of 1838, which was subsequently paid, but the interest has not been paid. The Secretary of the Interior recommends that the appropriation be made.

Mr. BROOKS. Let me ask why this was not included in the original bill.

Mr. STEVENS. It must be some old claim, I imagine. It was not included in the regular estimate.

Mr. FENTON. The principal sum has been paid, but the interest has not been paid. The Secretary of the Interior, for the reasons set forth in this document, recommends the payment of this sum. It has been previously recommended, and the reason of the non-payment is here stated. I ask that the communications from the Secretary of the Interior and the Commissioner of Indian Affairs be read.

The Clerk read, as follows:

DEPARTMENT OF THE INTERIOR,  
WASHINGTON, D. C., April 27, 1864.

SIR: I have the honor to transmit herewith a copy of a communication from the Commissioner of Indian Affairs, dated February 27, 1863, recommending that the sum of \$1,642 70 be appropriated by Congress to pay that amount of interest due the Orchard party and First Christian party of New York Indians, as explained by the Commissioner.

In view of the facts as represented by the Commissioner of Indian Affairs, I concur with that officer in the recommendation he makes, and submit the subject for the favorable consideration of Congress.

A memorial of the Indians, including a power of attorney to J. N. Messenger to act for them, accompanies this communication.

Very respectfully, your obedient servant,

J. P. USHER, Secretary.

Hon. SCHUYLER COLFAX,  
Speaker of the House of Representatives.

DEPARTMENT OF THE INTERIOR,  
OFFICE OF INDIAN AFFAIRS, February 27, 1863.

SIR: I have the honor to state that J. N. Messenger, Esq., has filed in this office a memorial and power of attorney of

the chiefs of the Orchard party and First Christian party of the New York Indians, authorizing him to act in their behalf, and asking for the payment of interest on \$6,000, stipulated to be paid by the treaty of 1838, for certain lands purchased by the United States, lying near Green Bay, Wisconsin, which sum of \$6,000 was appropriated June 27, 1846, and paid in 1851. (See Statutes at Large, volume seven, page 554.)

A similar petition of these Indians was filed in this office in 1851, by G. R. Herrick, their attorney at that time; the office considering the claim just and equitable, thereupon Commissioner Lea recommended the payment of interest on \$6,000, from June 27, 1846, the date of the act making the appropriation of the principal, to January 18, 1851, when it was decided by the Department that the claim should be paid. And in his special estimate of funds required for the service of the Indian department for the fiscal year ending June 30, 1852, he asked for the sum of \$1,642 70 for the adjustment of the claim. (See Senate Documents, first session Thirty-Second Congress, volume 3, pages 561, 564, 569, and 570.)

In view of the action of this office heretofore, I concur in its decision, and would respectfully recommend that you submit this claim to the chairman of the Committee on Indian Affairs of the Senate, with recommendation that this amount (\$1,642 70) be attached to some appropriation bill.

Very respectfully, your obedient servant,

WILLIAM P. DOLE,  
Commissioner.

Hon. J. P. USHER, Secretary of the Interior.

Mr. FENTON. It came too late to make the appropriation in the bill, and hence I have been compelled to bring it before the Committee of the Whole.

Mr. HOLMAN. What is the date of that communication?

Mr. FENTON. April 27, 1864.

Mr. BROOKS. This is a most objectionable way of doing business. I do not know that the appropriation is not all right. It seems to be the insertion of a claim in one of the general appropriation bills, in reference to which I might make a point of order. I do make the point of order that the amendment is not in order.

The CHAIRMAN. The point of order comes too late, debate having taken place on the amendment.

Mr. BROOKS. This matter ought to be sent to the Committee of Claims or to the Committee on Indian Affairs, and the House ought to have a report of the facts. It seems to me to be an old claim. The estimates are not of record except in the Congressional Globe, and we can never trace them unless we follow the debates. It is an objectionable mode of making appropriations. The receiving communications from the Departments, after the bill has been reported and acted upon, as if they were regularly submitted to the Committee of Ways and Means, or any other committee of this House, is a new mode which has sprung up within the last three or four years. To my mind it is an objectionable mode of making appropriations of money.

Mr. FENTON. I know nothing of the claim except what is set forth in the documents which have been read by the Clerk. It reached the Committee of Ways and Means too late to act on it with the other appropriations of the bill.

The committee was divided; and there were—ayes twenty-four, noes not counted.

Mr. FENTON. I withdraw the amendment. The Clerk read, as follows:

For expenses of transportation and delivery of annuity goods to the Blackfeet Indians for the year, \$17,000.

Mr. HUBBARD, of Iowa. I move to strike out "\$17,000," and in lieu thereof to insert "\$10,000."

Mr. Chairman, by turning to page 3 of the bill there is an appropriation for the Blackfeet Indians of \$20,000 for the ninth of ten installments as annuity, to be expended in the purchase of such goods, provisions, and other useful articles as the President at his discretion may from time to time determine, per ninth article of the treaty of October 17, 1855. The provision which I propose to amend appropriates \$17,000 for the transportation of that \$20,000 of goods. It must be recollected that this transportation is by a navigable river, the Missouri river, to the point where the goods are to be delivered. I am satisfied under the circumstances that \$17,000 is too large a sum, and I am satisfied that \$10,000 is an amount amply sufficient for the transportation of these goods. I will say that they were transported last year at six cents per pound, and I understand that the same parties are willing and able to transport them at the same price this year. I hope, therefore, that my amendment will be agreed to.

Mr. WALLACE, of Idaho. I apprehend if the gentleman from Iowa were familiar with the cost of transportation there he would not have moved this amendment. This appropriation is based upon an estimate made by the Indian department, who are aware of the cost of transportation from year to year. They have asked for a sum that will cover the cost of this transportation. If the Missouri river is navigable at the time, the cost of transporting these goods may be less than \$17,000; but if, on the other hand, the river is not navigable, it is questionable whether that sum will cover the transportation. I will say to my friend from Iowa that the Missouri river at that point is navigable in the most favorable seasons only two months out of the twelve, and frequently goods which have been sent up to that point have had to be landed at points three, four, and five hundred miles below, and then transported by land.

Mr. GRINNELL. What is the character of those goods?

Mr. WALLACE, of Idaho. They are of all kinds. There are dry goods, groceries, farming utensils, machinery for a mill, and a great variety of other goods, all covered by this appropriation.

Mr. GRINNELL. Are there any groceries?

Mr. WALLACE, of Idaho. Yes, sir; but there are not any liquors among them.

Mr. HUBBARD, of Iowa. I will ask the gentleman whether goods for this same purpose were not transported last year for six cents per pound, and whether last year was not one of the driest seasons for the last ten years? And was not the Missouri river lower last year than it has been at any period during the last ten years?

Mr. McBRIDE. I will say that I was informed by the agent of the Blackfeet Indians—a gentleman who has been an Indian agent for many years—that last year the cost of transporting goods sent to that country exceeded the actual cost of the goods.

Mr. HUBBARD, of Iowa. I know that the contractor transported those goods up the Missouri river last year, and part of the way by land, and I understand further that he got but six cents per pound for the transportation. I am informed that Mr. Lalarge, who transported those goods last year, offered to transport them this year for six cents per pound, but I believe he did not make a formal bid.

Mr. McBRIDE. To what point?

Mr. HUBBARD, of Iowa. To Fort Benton.

Mr. McBRIDE. They go much further than that.

Mr. HUBBARD, of Iowa. And I am informed further that a contract has been entered into for the transportation of these identical goods at a sum ranging from eight to twelve cents per pound.

Mr. WALLACE, of Idaho. That is a question between the Indian department and my friend from Iowa. If that department has exceeded its authority, if it has made a contract injurious to the Government, it must be responsible for that act. It may be true—and I do not question the fact as stated by the gentleman from Iowa—that a contract may have been entered into last year for the transportation of goods to Fort Benton for six cents a pound, and I presume the department is in possession of information that the parties who entered into that contract lost largely by it, and that the transportation of the goods was delayed for a long time in consequence of that low figure, and that the Indian service in that section suffered in consequence of it, and that the Indian department in their estimates now seek to guard against a contingency of that kind in the future. And I presume that this estimate is made upon information in their possession which is satisfactory to them, and that the sum asked for here is nothing more than what would be right and proper.

I will say to the gentleman from Iowa that these goods have to be transported much further than Fort Benton. They may go that far by steamer, but from that point they have got to go into the interior, where the cost of transportation is heavy indeed. That is a matter, I have no doubt, which the Indian department has taken into consideration in making up the estimate.

Mr. HUBBARD, of Iowa. Are not these goods always delivered at Fort Benton and at points below? I happen to live upon the Missouri river, and to know something about the transportation of these goods. And I happen to know something

about the Missouri river; and I know the fact that these Indian goods, as a general rule, almost without exception, are transported in the spring months when the river is high and when boats can reach Fort Benton without difficulty. Last season was the only season within the last ten years in which there has been any difficulty in reaching Fort Benton.

Mr. WALLACE, of Idaho. What has been may be again, and to guard against that the department has asked for a sum to meet a contingency of that kind. This is no more than will be necessary. If not necessary the money will not be drawn out of the Treasury; if more than necessary, the object of the appropriation is accomplished and the service will be performed to the benefit of the Indians and of the Government.

Mr. GRINNELL. Did the gentleman ever know of any money remaining unexpended out of an appropriation for carrying goods?

Mr. WALLACE, of Idaho. I cannot say to the gentleman whether such a thing has ever occurred or not. I presume—and that is a fair presumption in law—that if there has none remained it was properly and legitimately appropriated.

Mr. GRINNELL. A violent presumption.

Mr. WALLACE, of Idaho. I understand that the appropriation here is no more than will be necessary to meet contingencies which have happened heretofore, and which may happen again. For that reason I hold that this appropriation should be made as asked for. If it is, and the service is not performed, let the contingencies be what they may, then the Interior Department is responsible to the country and to the people for that failure. If we refuse to grant them what they deem necessary for the performance of this service the responsibility of the failure to perform it will be with us, and we shall relieve the Indian department from it. For these reasons I hope that the motion made by the gentleman from Iowa will not prevail.

Mr. STEVENS. What it may cost to transport \$20,000 worth of heavy goods, provisions, implements, and other goods, from where they are purchased to the Blackfeet Indians, I am not a very good judge of; but they live, as the gentleman must know, considerably beyond Fort Benton, and the goods have to be delivered to the tribe. They live both north and west of Fort Benton, and I should judge, from what I have learned, from three to five hundred miles from it.

Mr. HUBBARD, of Iowa. I was well acquainted with the former agent of the Blackfeet Indians, and have conversed with him upon this subject. I learned from him that all the goods for the Blackfeet Indians were delivered last year at Fort Benton or at points below that fort. That has been the case for the last two years.

Mr. STEVENS. The goods may have been delivered at Fort Benton, but they have had to be transported thence some three or five hundred miles to the country of the Blackfeet Indians. At whose expense is that done? The treaty requires that the goods shall be delivered to them. I do not know where the agent receives the goods, but I venture to say that if he receives them at Fort Benton or below that point he charges for their transportation to the Indian country.

Mr. HUBBARD, of Iowa. The agent went to his agency last year upon the boat transporting the goods, and as a general rule the goods are delivered from the boat to the Indians. That has been the practice heretofore.

Mr. STEVENS. These goods are purchased always I believe in New York.

Mr. HUBBARD, of Iowa. The Indians come to the river and receive the goods from the boat. They are not transported back into the interior by the party who undertakes to carry the goods; they are delivered to the Indians in the presence of the agent upon the river at the points where the boats land.

Mr. STEVENS. I do not know how the fact is as to the points where the Indians receive the goods, but they must come four or five hundred miles from their own country to receive them; and I do not believe that they have carried them home themselves without some allowance. I think that for carrying the goods from New York to the Indian country the sum estimated is a small amount.

Now, I know that the Government has been paying for transportation for about the same dis-

tance, from Fort Leavenworth to Salt Lake City, twenty dollars instead of six dollars per hundred pounds. That has been the contract for years. But what is very conclusive, if the Department is honest, is that for three years past we have appropriated precisely the same sum; and in estimating the unexpended balances, it is estimated that there has been none unexpended of these items for the last two years. Unless, therefore, there is some fraud in the Department, the sum of \$17,000 must be appropriated. That was the exact sum which we appropriated last year and the year before, and there was no surplus.

The question was taken on Mr. HUBBARD's amendment, and there were—ayes 48, noes 40; no quorum voting.

Mr. STEVENS demanded tellers.

Tellers were ordered; and Messrs. STEVENS and HOLMAN were appointed.

The committee divided; and the tellers reported—ayes 57, noes 39.

So the amendment was agreed to.

Mr. WINDOM. I move to insert, on page 49, after line eleven hundred and eighty-one, the following:

For general incidental expenses and for transportation of goods for the Indian service in Utah for the year ending 30th June, 1864, \$37,500.

I yield to the gentleman from Utah, who, I understand, has some documents relating to this subject.

Mr. KINNEY. All I desire is to have the Clerk read some communications from the Interior Department, which I will send to the Clerk's desk, showing the necessity for this appropriation. I will say further, that the amendment offered by the chairman of the Committee on Indian Affairs, asking for an additional appropriation, is designed to cover a deficiency in the present fiscal year in the Indian service for the Territory of Utah. The last appropriation by Congress was \$25,000. In consequence of the disturbed condition of the Indians in that Territory, the severity of the winter, and the extremely high price of provisions, that appropriation was exhausted within the first six months of the fiscal year, and therefore the Secretary of the Interior has very properly estimated for the deficiency, and it should be attached either to this or some other bill.

It was the desire of the Department to have the estimate for this deficiency incorporated into the deficiency bill; but when it was sent to the Committee of Ways and Means, the deficiency bill was before a committee of conference, and the committee only having jurisdiction over the subject-matter of the disagreeing votes, of the two Houses, the estimate could not be attached to the deficiency bill where it more properly belonged. It was then referred to the Committee on Indian Affairs; and as it met with the approval of that committee it is offered as an amendment to this bill.

I will now ask the Clerk to read the communications which show the cause of the deficiency, and the necessity for the appropriation.

The Clerk read, as follows:

DEPARTMENT OF THE INTERIOR,  
WASHINGTON, D. C., March 22, 1864.

SIR: Herewith I have the honor to transmit copy of a letter from the Commissioner of Indian Affairs of the 15th instant, with inclosure, relative to an appropriation required for the Indian service in Utah, and to state that the measure recommended by the Commissioner has heretofore received my approval in letters addressed to the proper committees of Congress, of the 1st instant.

Very respectfully, your obedient servant,  
J. P. USHER, Secretary.

Hon. WILLIAM WINDOM, Chairman Committee on Indian Affairs, House of Representatives.

DEPARTMENT OF THE INTERIOR,  
WASHINGTON, D. C., March 1, 1864.

SIR: I have the honor to transmit herewith a copy of a communication of the 26th ultimo from the Commissioner of Indian Affairs, asking an appropriation of \$15,000 to meet a deficiency in the appropriation of 3d March, 1863, for general incidental expenses of the Indian service in Utah Territory for the present fiscal year, and of \$22,500 for expenses of transportation of supplies for the Indians in that Territory.

I concur in the views expressed by the Commissioner as to the necessity and expediency of these appropriations, and respectfully recommend that they be made.

The accompanying letter of the Commissioner and late superintendent of Indian affairs for the Territory of Utah will, it is believed, afford full information on the subject.

I am, sir, with much respect, your obedient servant,  
J. P. USHER, Secretary.

Hon. THADDEUS STEVENS, Chairman of the Committee of Ways and Means, House of Representatives.

DEPARTMENT OF THE INTERIOR,  
OFFICE INDIAN AFFAIRS, February 26, 1864.

SIR: I have the honor to refer herewith the copy of a communication from Governor James Duane Doty, late superintendent of Indian affairs in Utah, dated the 20th instant, from which it will appear that he was forced during the last summer, in order to terminate the hostilities then existing between the Indians and the whites, to use liberally out of the appropriation for the present fiscal year, in presents, &c., to the Indians, and that since then, during the present winter, Amos Reed, Esq., acting Governor, now in charge of Indian affairs in Utah, has been compelled, owing to the unparalleled severity of the weather and the extraordinary sufferings of the Indians caused thereby, to further draw upon the current funds so as to exhaust the appropriation for the present fiscal year (\$25,000) in order to prevent the Indians by their hostilities from obstructing the western road at Deep creek and Shell creek. Hence the Governor recommends that a special appropriation of \$15,000 be asked of Congress to meet the deficiency in the appropriation for the fiscal year ending 30th of June, 1864.

I cannot conclude my notice of the contents of Governor Doty's letter without recording my disapprobation of the responsibility taken both by himself and acting Governor Reed, in making such disbursements as to exhaust the current funds in so short a time, thus seriously embarrassing the department. It is true that the appropriation of \$25,000 was very small, yet it was all that Congress saw proper to give for the Indian service in Utah, and the officials should have governed themselves accordingly.

It is useless, however, to retrospect upon the subject; a great necessity is now upon this office, which I am forced to yield to, by most respectfully suggesting that you will call the attention of the proper committee in Congress to the matter, that the \$15,000 may be placed at the disposal of your Department to carry out the purposes named in the Governor's letter.

In the above connection I would also beg leave to state that a portion of the supplies for the Indians in Utah for the present fiscal year will, from motives of economy, have to be purchased on the Atlantic slope, and it is estimated that in bulk they will amount to seventy-five tons, and the cost of transportation thereof, owing to the great distance, will cost more than the original purchase, approximating to, if not exceeding, \$300 per ton, making an aggregate of \$22,500.

There being no funds now at the disposal of this office to accomplish the foregoing object, it will require an appropriation of \$22,500 in addition to the \$15,000 asked for as a deficiency.

Very respectfully, your obedient servant,  
W. P. DOLE, Commissioner.

Hon. J. P. USHER, Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,  
OFFICE INDIAN AFFAIRS, March 15, 1864.

SIR: Referring to my report of the 26th ultimo, relative to an appropriation required for the Indian service in Utah, I have the honor to refer herewith copies of a letter from Amos Reed, Esq., acting Governor of Utah, of the 24th ultimo, that said copies may be transmitted to the proper committees in Congress, in order that those bodies may be fully advised of the threatening state of Indian affairs in Utah, and the necessity of the immediate appropriation before asked for.

Very respectfully, your obedient servant,  
W. P. DOLE, Commissioner.

Hon. J. P. USHER, Secretary of the Interior.

WASHINGTON CITY, February 20, 1864.

SIR: The acting superintendent of Indian affairs in Utah has requested that a sum of money may be placed to his credit to meet the current and extraordinary expenditures to which the superintendency has been subjected during the past season, and to make up the deficiency for the last and present quarters.

He states that "since about the 1st of December to the present time (February 3) we have had a heavy layer of snow, at least one foot deep, and in some parts more, all over these valleys. It is the most severe winter for several years. Of course it has been very hard on the poor Indians, who have flocked to this superintendency from all quarters much more than any previous winter we have been here. I have been obliged to furnish them with food and clothing, which has been done as economically as possible, but yet to a considerable extent they must have assistance or actual starvation must ensue. The Indians got uneasy and threatening out on the western road, at Deep creek and Shell creek. The stage men and General Connor became quite alarmed, fearing an outbreak. I at once furnished those Indians with clothing and beef, and shall be obliged to furnish them more soon, and this must be continued until spring opens, when they can find roots, &c., to live upon."

In addition to the above, which I beg leave to earnestly commend to your notice, I would state that I was compelled to use the funds of the superintendency very liberally for presents of provisions and clothing during the last summer and autumn to the several tribes of the Utah and Shoshone nations, in order to terminate the hostilities then actually existing between them and the whites, and to stop their depredations upon the overland mail line. Terms of peace were happily effected; but it became necessary on this account to exceed the usual current expenses of the superintendency, for which the funds provided would have been ample; but no provision having been made for the extraordinary state of affairs which occurred, I was compelled to avail myself of the means appropriated for these expenses in the performance of my duties to the Government.

I would therefore respectfully recommend that a special appropriation be asked of Congress to meet the deficiency in the appropriation for 1864, and the extraordinary expenditures required to be made by the acting superintendent for the relief of the destitute Indians, of \$15,000.

I am, very respectfully, your obedient servant,  
JAMES DUANE DOTY,  
Late Superintendent Indian Affairs, Utah Territory.  
Hon. THE COMMISSIONER OF INDIAN AFFAIRS.



Mr. STEVENS. I know nothing about the matter except what is contained in these papers. Probably some gentlemen can inform the committee as to the facts.

Mr. WINDOM. I presume that the Delegate from Utah has all the information on the subject. I have none myself except what I gather from these papers. The Committee on Indian Affairs thought that the appropriation should be made.

Mr. KINNEY. Mr. Chairman, the papers that have been read from the Clerk's desk place the House in possession of all the facts on which the additional appropriation is asked for. The last Congress made an appropriation of \$25,000 for the present fiscal year. The late superintendent, Governor Doty, states that in consequence of the severity of the winter, and the threatening attitude of the Indians, it was necessary to draw largely on the appropriation, and the result is that the appropriation was not only exhausted within the first half of the fiscal year, but the superintendency is actually at this time several thousand dollars in debt.

The object of the amendment then is, Mr. Chairman, to pay off these debts, to purchase the usual supply of provisions, and to pay the transportation on the goods and provisions from the Missouri river to the several tribes of Indians in the Territory of Utah. It has been the custom of the superintendent of Utah to make presents of flour, tobacco, blankets, &c., to the Indians of Utah for a number of years past, upon the very wise policy that it is much cheaper to feed and clothe the Indians than to fight them. These presents they expect and have a right to receive. In no other way can you keep them in subordination. Thousands of dollars are annually expended by the citizens of Utah in donations, as an act of charity to the Indians, to make up for the meager appropriations of Congress to these the wards of the General Government. This has been for years an onerous tax upon the people, which they cannot longer bear.

Refuse to make this appropriation asked for by the Secretary of the Interior and Commissioner of Indian Affairs, and sought to be obtained by the amendment offered, and there is not a dollar for the purchase of flour, or the transportation of goods for this year, those necessary and usual presents which the Indians have been accustomed to receive, or for the payment of existing obligations which have been unavoidably incurred. I speak of flour, Mr. Chairman, as it is now from fifteen to twenty dollars a hundred in Utah, and difficult to obtain in consequence of its scarcity except for the actual necessities of the people. In consequence of the scarcity of water in Utah last season for irrigating purposes, the ordinary crop of wheat was not raised, and the unusual demand for supplying immigration, and the miners of Idaho, and the consumption by your army stationed at Great Salt Lake City, ostensibly to protect immigration and the overland mail from Indian depredations, have well-nigh exhausted the entire crop. The purchase of this article for the Indian service during the past winter, at the high price which it readily commanded in the market, tended greatly to exhaust the appropriation, which, as the Commissioner well says in his communication, was but a small one.

Withhold the appropriation for the destitute and starving Indians of Utah, and murder and plunder are the inevitable consequences; possibly a general uprising among the Indians of Utah, because their "great father" has refused to make provision for their pressing wants. Their game has disappeared, their country reduced to intelligent cultivation, and the Indians of Utah are almost wholly dependent upon the Government for subsistence. If this appropriation is withheld, I fear the war-whoop will again be sounded, and the war-path again resumed. I know something, Mr. Chairman, of Indian character, and am familiar with the atrocities which have been committed by the Indians of Utah upon unsuspecting citizens and unoffending emigrants. Many, very many of both classes have lost their lives, and fallen victims to Indian cupidity and Indian revenge. The Indians of Utah are upon the great highway to the Pacific, upon the line of your overland mail, and upon the emigrant road which leads to the gold-fields of California, Montana, and Idaho. In no Territory are so many vital interests at stake, and in no one is it so important to secure

and maintain peaceful relations with the Indians as in Utah. Experience has proved that those relations are more securely established, more humanely and economically maintained by presents and kind treatment, than by standing armies, bullets and shell. I repeat, withhold the appropriation which has become necessary in consequence of this very humane and prudent policy having been adopted, and you not only expose the citizens of Utah to Indian depredation and hostility, but you also expose the lives of the passengers and drivers upon the overland mail, and also the lives of men, women, and children who are seeking future homes in the new Eldorado of the teeming West. Are gentlemen willing to assume this great responsibility? I ask if they are willing to expose the lives of their own citizens who, stimulated by a spirit of enterprise, are on their way to Montana and Idaho, pioneers in the great march of progress and of empire?

As this appropriation is sanctioned by the Department of the Interior, approved by the Committee on Indian Affairs, necessary, in my judgment, to preserve peace with the Indians, I hope the amendment will prevail.

Mr. McINDOE. Is there any treaty existing between the Government of the United States and these Utah Indians?

Mr. KINNEY. There never has been the usual treaty with these Indians. They are situated differently from most of the other Indians of the country. They have been kept in tolerable subjection and subordination only through the presents made to them through the Indian superintendency.

Mr. McINDOE. What has been the amount heretofore appropriated for this purpose?

Mr. KINNEY. Twenty-five thousand dollars.

Mr. McINDOE. So much as that?

Mr. KINNEY. Yes, sir.

Mr. McINDOE. Always?

Mr. KINNEY. I do not know that Congress has always appropriated that amount. That is the sum appropriated by last Congress.

Mr. STEVENS. These appropriations are mere annuities voted from year to year, which are expended among the Indians for the purpose of keeping them quiet. Twenty-five thousand dollars has been the sum usually appropriated.

Mr. KINNEY. Yes, sir, that has been the sum. There are about twelve thousand Indians in the Territory of Utah. The settlements in that country commenced in 1850. Since that time the settlements have been maintained there and have been rapidly increasing, and I think the Government has been very negligent in not treating with these Indians as they have done with the Indians in the other Territories. They ought long ago to have been under treaty obligations.

I will state further that the entire amount appropriated for these Utah Indians is only \$25,000, and does not near come up to the appropriations for the Indian service in New Mexico by this very bill.

Mr. STEVENS. It has not been submitted to the Committee of Ways and Means.

Mr. KINNEY. It was submitted to the chairman of that committee.

Mr. SHANNON. I hope this amendment will be agreed to. It is little, very little, that is asked for the purpose of treating with these Indians and bringing them as far as possible into the habits of civilized life. A great emigration is going over the plains through that country, and if men, women, and children are to be slaughtered in consequence of the Indians believing they have not been properly treated by the Government in order to avoid an appropriation of a few thousand dollars, it seems to me it is a penny-wise and pound-foolish policy.

The question being on the adoption of the amendment, thirty-eight voted in the affirmative.

Mr. SHANNON called for tellers.

Tellers were ordered; and Messrs. SHANNON and ENGLISH were appointed.

The committee divided; and the tellers reported—ayes 48, noes 50.

So the amendment was disagreed to.

The following paragraph of the bill being under consideration—

For subsistence and clothing, and general incidental expenses of the Sisseton, Walpatoon, Medawakanton, and Wahpakoota bands of Sioux or Dakota Indians, at their new homes, \$150,000—

Mr. WINDOM. I move to amend by striking out "\$150,000" and inserting in lieu thereof "\$75,000." If this amendment shall be adopted I propose to follow it up with another appropriating \$75,000 for the support of the Winnebago Indians. The facts are these: in February, 1863, two bills were passed by Congress, one for the removal of these bands of Sioux Indians, and the other for the removal of the Winnebago Indians. They have been removed to the Upper Missouri river, and are now located at the same place. The Winnebagoes number about twenty-five hundred and the Sioux about thirteen hundred. We have appropriated in another portion of the bill for the support of the Winnebagoes, in pursuance of treaty stipulations, \$54,000. We have no treaty stipulations with the Sioux Indians. All our treaties with them were abrogated by the act of February last, and this \$150,000 is a mere *gratuity* to them. I do not think that as large an amount as that is necessary. I think \$75,000 is quite sufficient for these thirteen hundred Indians, who have been guilty of every enormity men or devils could devise, and that if even \$75,000 is given to them we ought to give the other \$75,000 to these twenty-five hundred Winnebagoes who have always been friendly. I do not propose, therefore, either to increase or decrease this appropriation, but to divide it equally between the Sioux and Winnebagoes. The Sioux have in my State a large body of land, some nine hundred thousand acres, worth not less than \$2,000,000, which is to be sold for their benefit. The Winnebagoes also have a considerable amount of land which has not yet been sold, and which is, therefore, not available for their maintenance. I hope this amendment will be adopted.

Mr. STEVENS. I do not know that I understand the gentleman's amendment. If it is as I suppose, I do not know that I will object to it. The Winnebagoes, to whom the gentleman refers, have an annuity now under treaty stipulation. You have appropriated in this bill \$54,000 for them. The Indians named above, the Indians with the hard names, were by an act of the last Congress ordered to be removed, and they have been removed. They are without treaty stipulations, and to support them at their new homes this appropriation is necessary.

Mr. WINDOM. I have no objection to making this \$100,000, but I want to apply the \$50,000 to the Winnebagoes. They have not acted in bad faith, and they are good Indians if there are any good anywhere. I believe we ought to anticipate the sale of their lands.

Mr. STEVENS. The Department have not asked for anything of that kind; therefore while I go for striking off \$50,000, I cannot go for the other part of the proposition.

Mr. HUBBARD, of Iowa. The Winnebago Indians are in a starving condition. I have letters proving the correctness of this statement. Many of them have actually starved to death. I am satisfied that an appropriation of \$50,000 will not maintain them for the present year, while on the other hand \$50,000 is more than adequate for the support of the Sissetons. The Sissetons are the worst enemies of the whites in the Northwest. They have been engaged in all the bloody massacres that have recently taken place. The Winnebagoes have always been friendly to the whites, while the Sissetons have always been enemies. Yet the committee propose by this bill to give to every man, woman, and child of the Sisseton Indians more than one hundred dollars each for the coming year. I think it is just and proper that a division of the sum should be made, and a portion given to the Sissetons and the remaining portion to the Winnebagoes.

Mr. WINDOM. I will modify my amendment so as to move to strike out the whole paragraph and in lieu thereof to insert the following:

For subsistence and clothing and general incidental expenses of the Sisseton, Walpatoon, Medawakanton, and Wahpakoota bands of Sioux or Dakota Indians, at their new homes, \$100,050; and for subsistence and clothing and general incidental expenses of the Winnebago Indians at their new homes, \$50,000.

Mr. WASHBURN, of Illinois. What is that odd fifty dollars for?

Mr. WINDOM. I will move to strike that out. I will state, Mr. Chairman, that my amendment does not increase the appropriation at all. It leaves it as before. There are, as I am informed, only about thirteen hundred Sioux, while the Winnebagoes number about two thousand five

hundred. They are in a suffering condition; they need this money, and there can be no objection to this division of the appropriation. I believe it was recommended by the Secretary of the Interior, but by some mistake nothing was said about the Winnebagoes. I know something about these Indians. I have read a letter from the Governor of Dakota on the subject, in which he says they are in a very destitute condition. These Indians are friendly and need an additional appropriation. I hope that my amendment will be adopted.

Mr. STEVENS. The gentleman from Minnesota moves to strike out the whole paragraph. I desire to amend the paragraph before the vote is taken on striking out. I move to strike out "and fifty," so as to leave it \$100,000.

Mr. DONNELLY. Mr. Chairman, I desire to say one word in answer to an objection raised by the gentleman from Pennsylvania, [Mr. STEVENS.] He referred to the fact that the Winnebagoes were in the receipt of annuities. I understand that those annuities amount to but \$50,000 per annum.

Mr. STEVENS. Fifty-four thousand dollars.

Mr. DONNELLY. So if the amendment of the gentleman from Minnesota prevails, and an additional \$50,000 is given them, the total amount going to the Winnebagoes will be \$104,000, to be divided among twenty-five hundred persons. It is proposed at the same time to give \$100,000 to thirteen hundred Sioux Indians. In other words, the Sioux are to receive twice as much as the Winnebagoes. What reason is given for this favoritism?

I need not enlarge upon the view presented by my colleague, that these Winnebago Indians have every claim upon our justice and our kindness. At a time when considerable temptation was held forth to them they remained at peace with the whites and faithful to their treaty obligations, while the Sioux Indians, on the other hand, have little or no claim upon our kindness or consideration save that which arises from a common humanity. I think, therefore, it would be unfair to give to those recreant Indians who have waged war upon the whites almost double what is given to those peaceful Indians against whom we have no serious cause of complaint. Hence I hope that the amendment of my colleague may prevail.

Mr. WILSON. I move to amend the amendment of the gentleman from Pennsylvania [Mr. STEVENS] by striking out "one hundred" and inserting "seventy-five," so that the clause will read "seventy-five thousand dollars" instead of "one hundred and fifty thousand dollars."

Mr. McINDOE. If it is in order, I move to amend the substitute by making the sum \$50,000.

Mr. STEVENS. There has already been one amendment offered to my amendment.

The CHAIRMAN. The gentleman from Wisconsin proposes to offer an amendment to the substitute.

Mr. STEVENS. But the question must first be taken upon the motions to amend that which is proposed to be stricken out. I have moved to amend by striking out "\$50,050," leaving the appropriation \$100,000. The gentleman from Iowa moved to reduce the amount to \$75,000.

The CHAIRMAN. The gentleman is correct.

Mr. STEVENS. I accept the amendment offered by the gentleman from Iowa, as a modification of my amendment.

Mr. HOLMAN. Will the Chair now state the proposition before the committee?

The CHAIRMAN. The gentleman from Minnesota [Mr. WINDOM] proposed a substitute for the entire paragraph. The gentleman from Pennsylvania [Mr. STEVENS] then moved to amend the existing paragraph. The gentleman from Iowa [Mr. Wilson] moved to amend that amendment, and the gentleman from Pennsylvania accepted the amendment as a modification of his own. The question is first upon the amendment of the gentleman from Pennsylvania as modified.

Mr. HUBBARD, of Iowa. I move to amend the amendment of the gentleman from Pennsylvania by striking out "seventy-five" and inserting "fifty." I move the amendment for the reason that I am satisfied that \$50,000 is all that these Indians are entitled to. In fact, it is more than they are entitled to. There are no Indians in all the Northwest from whom the whites have suffered as much as from this band of Indians. Their hands are to-day red with the blood of their murdered

victims, and I maintain that under such circumstances it is not the duty of the Government to make them pensioners. The number of these Indians, as I understand from good authority, is about thirteen hundred. Fifty thousand dollars appropriated for the maintenance of these Indians will give to each man, woman, and child, in the neighborhood of forty dollars. Enemies as they are, blood-stained as they are with the blood of their victims, I undertake to say that is enough for the Government to bestow upon them.

Upon the other hand I remark that the Winnebagoes are friendly, and have been so during all their past history, while the Sissetons have been our worst enemies. It is no time to bestow these gifts upon our enemies, for while we are talking about this appropriation we have a war with those Indians. A part of this very tribe is to-day engaged in a war against the whites, and are trying to exterminate them. They are now engaged in committing murders upon our frontiers. Under such circumstances \$50,000 is more than they are entitled to.

Mr. SCHENCK. I would ask the gentleman why we should appropriate anything for savages with whom we are at war?

Mr. HUBBARD, of Iowa. I will give a reason for that. Most of the Indians that have been removed upon this agency are women and children. For that reason I am willing to give them a little something upon which they may be maintained and supported. I would contribute a little toward their maintenance, and I would make them work in order to raise the residue for their support.

Mr. STEVENS. When I practiced law, a few years ago, the court adopted a rule that they would not rely at all upon parole cases cited by a member of the bar. If he had his authority, let him read it. Now, I treat this case much in the same way. Here is an Indian department charged to examine into and report to us upon this case. They do so; and if they do not do it faithfully, they ought to lose their places; but excited gentlemen from the neighborhood, who have heard of certain atrocities perpetrated by the Indians, and who have not perhaps learned the whole facts, come here and attempt to overturn the whole written testimony and the requests of the Department. That, according to my idea, is not temperate legislation. If these Indians are in hostility against us, strike out the appropriation entirely and give them nothing. But the Department removed these Indians and promised to support them until they could support themselves. They are, therefore, entitled to this money. I have consented to vote for cutting it down to one half; but I do not mean by that that I would transfer it to the Winnebagoes, who have all they have asked for and all the Government has asked for. Under treaty stipulations we give them \$54,000. If we take this amount away from "the blood-stained Indians," as they are called, I think we had better keep it ourselves.

Mr. WINDOM. This is a gratuity to the Sioux Indians, and why should we make a gratuity to them and none to the Winnebagoes?

Mr. STEVENS. We instructed the Department to remove them and support them.

Mr. WINDOM. We removed both tribes under the same act.

Mr. STEVENS. We abrogated the treaty of the one and we allowed the other to stand, which is an equivalent for the gratuity.

Mr. HALE. Did not the Interior Department estimate \$150,000 for this purpose?

Mr. STEVENS. Yes, sir.

Mr. HALE. Then why not stand by that?

Mr. STEVENS. They estimated \$150,000 for these "blood-stained Indians."

Mr. HALE. Then why not appropriate that amount?

Mr. STEVENS. Because it looks here as if parole statements are to override everything that the Department recommends. We have tried it once or twice to-day, but the House did not sustain us.

Mr. HALE. These Indians, I understand, have been removed to a far distant region, a barren country, where there is no game and where they can raise nothing. They must inevitably starve unless we appropriate something for their support. I hold it to be our duty as Christian and humane people not to allow Indians from

whom we have taken a large and valuable country to starve to death for the want of the necessities of life. I understand that the Indian bureau have requested this sum for their support in order to carry out in good faith what we promised to do when we removed them. The Department know the wants of the Indians much better than we do, and know what amount is necessary to maintain them; and I think that in reducing the amount asked for, as is proposed here, we should not be doing justice either to ourselves or to the Indians.

I hope, therefore, that the proposition of the gentleman from Minnesota, [Mr. WINDOM,] the chairman of the Committee on Indian Affairs, who knows something about the wants of the Indians and the duty of the Government toward them, will be sustained, and that we shall not leave these Indians to starve.

Mr. HUBBARD, of Iowa. I wish to make but a single remark in reply to the gentleman from Pennsylvania, [Mr. STEVENS.] He has referred to my statement as parole testimony. I have stated the truth here in regard to these Indians; and I know whereof I speak. I know that these Indians have been for years past engaged in depredations upon the white settlements in the Northwest.

Mr. HALE. I would ask the gentleman from Iowa if it is not the fact that a portion of the Indians who have been removed are Christian and civilized Indians, who took no part in the outbreak in Minnesota last year? I so understand.

Mr. HUBBARD, of Iowa. There may be a few of them occupying that position; and the \$50,000 which I propose is amply sufficient for the maintenance and support of all the good Indians of that tribe. As to the bad Indians, the sooner they starve the better. Talk about parole statements! I repeat that I know whereof I speak. I have seen my own citizens weltering in their blood, slain by the hands of these murderous miscreants, and not a few of them, either.

This same tribe of Indians were the ringleaders in that fearful and bloody massacre that took place in Minnesota in the summer and autumn of 1862. They have been engaged in all the massacres that have occurred in the Northwest. It is true, a few of them may be good and friendly; and the \$50,000 will make ample provision for all such. Those who are not friendly do not deserve that we should contribute anything for their maintenance and support.

Mr. STEVENS. Mr. Chairman, if we had an Indian orator here to tell us the story of his tribe, he would be as eloquent in the recital of their wrongs as the gentleman from Iowa is in his recital of the wrongs of the whites. So far as my experience and investigations have gone, they have taught me that, in nine cases out of ten, Indian wars have been produced by the provocations of the whites. The war may afterwards have been carried on barbarously. From the treaty of Colton to the present time, in nine cases out of ten, the breach of faith has come from the white man; and if the Indian had a historian he would put the pale face to the blush.

Mr. WINDOM. Mr. Chairman, there is one thing in this discussion which strikes me as being somewhat peculiar. It is, that gentlemen who are so earnest in pleading the cause of these murderous Indians and are so anxious to make them large gratuities when we owe them nothing, should at the same time resist the other part of the proposition which is to keep innocent and unoffending Indians from starvation. I did not desire to have the appropriation of \$150,000 increased; but I cannot believe that these thirteen hundred Sioux, many of whom are murderers, should get \$150,000 while twenty-five hundred peaceful and friendly Indians get only \$54,000. I thought the money should be divided so as to confer a benefit on those Indians whom we all know to be comparatively good. The Sioux and the Winnebagoes live side by side—not half a mile apart. Are you going to pay a bounty to murder by giving to these blood-stained murderous Sioux five times as much per head as you give to the innocent Winnebagoes? When gentlemen are pleading for Indians I wish they would have some sympathy for the innocent as well as for the assassins of women and children.

The question being on Mr. HUBBARD's amendment to Mr. McINDOE's amendment, Mr. HOLMAN called for tellers.

Tellers were ordered; and Messrs. HOLMAN and WASHBURN, of Illinois, were appointed.

The committee divided; and the tellers reported—ayes 48, noes 45.

So the amendment to the amendment was agreed to.

The question recurred on Mr. McINDOE's amendment as amended; and it was agreed to.

The question recurred on Mr. WINDOM's substitute.

Mr. WINDOM. I desire to modify my substitute, so as to make it conform to the action of the committee, by giving \$50,000 to each.

Mr. HALE. I object to that.

Mr. STEVENS. I think the gentleman can modify it, and the committee can vote it down.

Mr. WADSWORTH. Is it in order to move to strike out the word "new" and insert the word "temporary," so as to make it read "temporary home?"

The CHAIRMAN. It is.

Mr. WADSWORTH. I move that amendment.

The amendment was not agreed to.

Mr. STEVENS. In another section of this bill we have appropriated, under treaty stipulations, to the Winnebago Indians \$54,000. That is all the treaty requires, and all the Department has asked for them. But the Department did ask for the appropriation contained in this section of the bill of \$150,000, which, under the double motion of the gentleman from Iowa, has been stricken down to \$50,000. If we now reject the proposition of the gentleman who offered the substitute it will stand \$54,000 for the Winnebagoes and \$50,000 for these other bands of Indians; but if we adopt the substitute of the gentleman from Iowa we shall strike out what has just been inserted and give \$50,000 to these Sioux Indians and \$50,000 to the Winnebagoes, in addition to the \$54,000 appropriated in another part of the bill under treaty stipulations. I hope, therefore, the substitute will be rejected and that there will be no more effort by my colleague or any other gentleman to offer further amendments, but that we shall in the House vote down the amendment already adopted.

Mr. WINDOM. I desire to state again how this will stand. We owe the Winnebago Indians \$54,000 under treaty stipulations. That sum we propose to give them. We owe the Sioux Indians not one red cent. We propose to give them \$50,000 as a gratuity; and if you give the Winnebagoes \$50,000 in addition, it will about place them on the same footing, in proportion to their numbers, with the Sioux; while if all amendments are voted down, as the gentleman from Pennsylvania recommends, you will give \$54,000 which you owe to twenty-five hundred friendly Winnebagoes, and \$150,000 to these murderous Sioux, whom you owe nothing.

Mr. HALE. I ask the gentleman if they did not take a valuable tract of land amounting to nine hundred thousand acres, which was to have been sold for their benefit, but which was sold for the benefit of the Government.

Mr. WINDOM. I am very glad the gentleman has called my attention to that subject. The Government does hold nine hundred thousand acres, to be sold for the benefit of these Sioux.

Mr. HALE. And which was sold for their benefit at about the rate of one cent an acre, I believe.

Mr. WINDOM. No, sir; the gentleman is entirely mistaken; this Indian reservation has not been sold, not an acre of it. I presume this appropriation is in anticipation of the sale of these lands. I have no objection to giving fifty or seventy-five thousand dollars to the Sioux Indians, but what I claim is that you should give also to the comparatively innocent Winnebago Indians an amount that will be sufficient to keep them from starvation, who have also been removed, and whose lands in Minnesota have not yet been sold for their benefit. I repeat, that \$104,000 in all will not be more for twenty-five hundred Winnebago Indians than \$50,000 for thirteen hundred Sioux. I think the gentleman from Pennsylvania, [Mr. HALE,] whose sympathies are so much excited in behalf of the murderous Sissetons, ought to be willing at least to give the friendly Indians enough to keep them from starvation.

Mr. HALE. My amendment to the amendment is to strike out \$50,000 and insert \$70,000.

The amendment to the amendment was disagreed to.

The substitute offered by Mr. WINDOM was rejected.

The following clause of the bill was read:

For the general incidental expenses of the Indian service in Idaho Territory, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, \$20,000.

Mr. WALLACE, of Idaho. I move to amend by striking out "\$20,000" and inserting "\$25,000." I will state that the appropriation made for similar objects in all the other Territories is \$25,000, while in the Territory of Idaho now there is a larger area of country and more Indians to take care of, and consequently more danger of collision between them and the whites than in any other Territory. I think the appropriation should be at least as large as for the other Territories.

The amendment was disagreed to.

Mr. SCHENCK. I move to add the following as an additional section:

And be it further enacted, That, in the absence of treaty stipulations to the contrary, when a member or members of any Indian tribe have received, or shall hereafter receive, a portion or portions of the tribal domain in severalty and the same is confirmed to them by patents in fee simple, they shall no longer be regarded as members of the tribe, nor can they be parties to treaties, nor be recognized as chiefs or counselors representing the tribe, unless thereafter adopted by it as members.

Mr. STEVENS. I make the point of order that the amendment is not in order to an appropriation bill, as it changes the existing law.

The CHAIRMAN. The Chair sustains the point of order, that the amendment is not germane to the bill.

Mr. STEVENS. I move that the committee rise and report the bill.

Mr. SCHENCK. I doubt whether the Chair understands the amendment, and I know the House does not.

The CHAIRMAN. Does the gentleman take an appeal from the decision of the Chair?

Mr. SCHENCK. I do. The Chair decided that my amendment was not in order, on the ground that it was not germane to the bill.

The CHAIRMAN. This is a bill making appropriations according to law, and the amendment of the gentleman is of an entirely different character.

Mr. SCHENCK. I call attention to the fact that the amendment determines the way in which these appropriations shall be paid. I withdraw my appeal. I think the desire for dinner is above every consideration of public business.

The CHAIRMAN. The Chair has based his decision on the opinions of others better qualified than himself.

Mr. STEVENS moved that the committee rise and report the bill.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. FRANK reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill No. 240, making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1865, which he was directed to report to the House with sundry amendments.

Mr. STEVENS demanded the previous question on the bill and amendments.

The previous question was seconded, and the main question ordered.

Mr. STEVENS moved that the House adjourn.

#### ENROLLED BILLS.

Pending the motion to adjourn, Mr. COBB, by unanimous consent, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill and joint resolutions of the following titles; when the Speaker signed the same:

An act (H. R. No. 251) to organize a regiment of veteran volunteer engineers;

Joint resolution (H. R. No. 72) relative to pay of staff officers of the Lieutenant General;

Joint resolution (H. R. No. 77) relating to Green Clay Goodloe; and

Joint resolution (H. R. No. 78) providing for

the election of a member of Congress for the State of Illinois by the State at large.

#### VETERAN RESERVE CORPS.

The SPEAKER laid before the House a letter from the Secretary of War, in answer to a resolution of the House in regard to invalids being recruited into the veteran reserve corps; which was laid upon the table, and ordered to be printed.

The motion to adjourn was agreed to.

And then (at twenty minutes to five o'clock p. m.) the House adjourned.

#### IN SENATE.

THURSDAY, May 19, 1864.

Prayer by the Chaplain, Rev. Dr. BOWMAN.

The Journal of yesterday was read and approved.

#### PETITIONS AND MEMORIALS.

Mr. DIXON presented two memorials of citizens of Connecticut, and three memorials of citizens of Massachusetts, remonstrating against the extension of the Goodyear patent for the manufacture of vulcanized India rubber; which were referred to the Committee on Patents and the Patent Office.

#### REPORTS FROM COMMITTEES.

Mr. COWAN, from the Committee on Finance, to whom was referred a bill (H. R. No. 377) making appropriations for the payment of the awards made by the commissioners appointed under and by virtue of an act of Congress entitled "An act for the relief of persons for damages sustained by reason of the depredations and injuries by certain bands of Sioux Indians," approved February 16, 1863, reported it without amendment.

He also, from the same committee, to whom was referred a communication by telegraph of merchants of San Francisco, in relation to an extension of the time for payment of duty on goods in bond, reported a bill (S. No. 282) to amend an act entitled "An act to extend the time for the withdrawal of goods from public stores and bonded warehouses, and for other purposes," approved 29th February, 1864; which was read, and passed to a second reading.

Mr. FOSTEL, from the Committee on Foreign Relations, to whom was referred the memorial of Alexander J. Atocha, praying for the payment of his claim against the republic of Mexico under the treaty of Guadalupe Hidalgo, submitted a report, accompanied by a bill (S. No. 281) for the relief of Alexander J. Atocha. The bill was read and passed to a second reading, and the report was ordered to be printed.

#### LAND OFFICE REPORT.

Mr. ANTHONY. I am instructed by the Committee on Printing, to whom was referred a resolution to print one thousand additional copies of the annual report of the Commissioner of the General Land Office for the use of that office, to report it back and recommend its passage. This resolution comes to us from the Committee on Public Lands, who, the Committee on Printing suppose, understand the subject more than they themselves do, and on the faith of that recommendation they propose the publication. It will cost from seventy-five to one hundred dollars. I ask for the present consideration of the resolution.

The resolution was considered and agreed to, as follows:

Resolved, That one thousand additional copies of the last annual report of the Commissioner of the General Land Office be printed for the use of that office.

#### OREGON DONATION CLAIMS.

Mr. HARDING. The Committee on Public Lands, to whom was referred the bill (S. No. 279) to amend the act of Congress making donations to settlers on the public lands in Oregon, approved September 27, 1850, and the acts amendatory thereto, have had it under consideration, and directed me to report it back and recommend its passage. I ask for the immediate consideration of the bill.

By unanimous consent, the bill was considered as in Committee of the Whole. It provides that in all cases under the act of September 27, 1850, in which the actual settlement may be shown to be *bona fide*, and the claim in all respects to be fully within the requirements of existing laws, except as to the failure of the claimant to file notice within the period fixed by statute, such fail-



ure shall not work forfeiture when no adverse rights intervene before the filing of the required notification by the claimant.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### INTERNAL REVENUE.

Mr. FESSENDEN. The Committee on Finance, to whom was referred the bill (H. R. No. 405) to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes, have directed me to report it back to the Senate with several amendments. I desire the Secretary to have the bill and amendments printed as quickly as possible, as I shall call it up at an early day.

Mr. SUMNER. Would it not be well to print some extra copies of the bill?

Mr. FESSENDEN. Oh, no; I do not think it necessary.

Mr. SHERMAN. I think it would be well to print some extra copies of the bill, say one hundred, and I will submit the motion that one hundred extra copies be printed for the use of the Senate.

The PRESIDING OFFICER. (Mr. FOSTER in the chair.) The order to print the usual number will be made, and the motion to print the extra numbers will be referred to the Committee on Printing.

Mr. SHERMAN. It might be done by unanimous consent in order to avoid delay.

The PRESIDING OFFICER. The motion can be entertained by unanimous consent without reference to a committee.

Mr. TRUMBULL. If we are to order the printing of any extra numbers, I suggest that we should order a thousand at least.

Mr. SHERMAN. There will be no time to distribute them among the country, and therefore a large number will not be needed; but we want more than one or two copies in examining a bill of this kind.

Mr. TRUMBULL. The members of the House of Representatives will want them. I think we should print a thousand, if we print any.

Mr. SHERMAN. Well, I will say five hundred.

The PRESIDING OFFICER. It is moved that five hundred copies of the bill just reported with the amendments of the Committee on Finance be printed for the use of the Senate.

The motion was agreed to.

#### PRINTING OF A BILL.

On motion of Mr. CONNESS, it was

Ordered, That the bill (S. No. 289) to amend an act entitled "An act to facilitate communication between the Atlantic and Pacific States by electric telegraph," approved June 16, 1860, be printed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a bill (No. 205) authorizing the issue of patents for locations made with certificates granted under authority of the act of Congress approved March 17, 1862, allowing floats in satisfaction of lands sold by the United States within the limits of the Las Ormigas and La Nana grants in Louisiana, in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had passed the bill of the Senate (No. 267) to amend an act entitled "An act to enable the people of Nevada to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States."

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolutions; which were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 151) making appropriations for the naval service for the year ending June 30, 1865, and for other purposes;

A bill (H. R. No. 251) to organize a regiment of veteran volunteer engineers;

A joint resolution (H. R. No. 72) relative to pay of staff officers of the Lieutenant General;

A joint resolution (H. R. No. 77) relating to Green Clay Goodloe; and

A joint resolution (H. R. No. 78) providing for the election of a member of Congress for the State of Illinois by the State at large.

#### BILLS BECOME LAWS.

The message further announced that the President of the United States had approved and signed on the 17th instant the following acts:

An act (H. R. No. 185) to establish a postal money order system; and

An act (H. R. No. 370) to appoint certain officers of the Navy.

#### HOUSE BILL REFERRED.

The bill from the House of Representatives (No. 205) authorizing the issue of patents for locations made with certificates granted under authority of the act of Congress approved March 17, 1862, allowing floats in satisfaction of lands sold by the United States within the limits of the Las Ormigas and La Nana grants in Louisiana, was read twice by its title, and referred to the Committee on Public Lands.

#### BRIDGE ACROSS THE OHIO RIVER.

Mr. POWELL. I move to suspend all prior orders for the purpose of taking up House bill No. 320. It is a very short bill, that has passed the House of Representatives, and been reported upon favorably by the Committee on Post Offices and Post Roads of this body. The sole object of it is to allow the construction of a bridge connecting the Louisville and Nashville railroad with that of the Jeffersonville and Indianapolis railroad across the Ohio river at the falls of the Ohio.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 320) supplementary to an act approved July 14, 1862, entitled "An act to establish certain post roads, and for other purposes." It proposes to amend the act of Congress approved July 14, 1862, entitled "An act to establish certain post roads," so as to authorize the Louisville and Nashville Railroad Company, and the Jeffersonville and Indianapolis Railroad Company, (stockholders in the Louisville Bridge Company,) to construct a railroad bridge over the Ohio river at the falls of the Ohio, subject to all the provisions of that act. The bridge may be constructed at a height not less than ten feet above high-water mark, and with three draws, sufficient to pass the largest boats navigating the Ohio river, one over the Indiana chute, one over the middle chute, and one over the canal; but the spans of the bridge are not to be less than three hundred feet, and the bridge and draws are to be so constructed as not to interrupt the navigation of the Ohio river.

Mr. WADE. I will inquire whether the bill provides that this bridge in height and span of arches, &c., shall conform to the other bridges that have been provided for over the Ohio river.

Mr. COLLAMER. This is an act to extend the one to which the gentleman alludes, the act passed last year for bridging the Ohio above the Little Sandy river. This bridge is to be built below there, at Louisville. In the first place, this bill adopts that law, but it provides that this particular bridge may be built with three draws. It is not expected to have it by a continuous span, and therefore the height does not become important. It is to be built at least ten feet above high-water mark, and the passage is to be in three draws, one over the main chute on the south side, one over the center chute, and one over the canal, and those are to be three hundred feet in the clear. How they are going to build them I do not know; but they say they can do it, and the bill provides that they shall be three hundred feet in the clear.

Mr. WADE. I believe that was the same in the other bill.

Mr. COLLAMER. No, sir. The other bridge was to be three hundred feet in the clear if they made a continuous arch, and the draw was to be two hundred feet on each side of that; but in this bridge the draw is to be three hundred feet in the clear.

Mr. GRIMES. What is the height?

Mr. WADE. The bill says ten feet above high-water mark.

Mr. COLLAMER. This is to be a drawbridge, and the height is a matter of no consequence if they will only build it high enough so that the water will not carry it off.

Mr. COWAN. I doubt whether the provisions in this bill have been well considered, particularly as to the height above the water. I suppose that under certain circumstances and going in certain directions there would be no difficulty; but under other circumstances there will be great detention, and I should think great danger. My recollection is that in the bill to which this is an amendment or supplement, it was provided that the bridges should be ninety feet above high-water mark.

Mr. WADE. Ninety feet above low water.

Mr. COWAN. It was at least sufficient to enable boats to run under it. This is at the falls, I understand, at a place where the water is exceedingly rapid, and where there will be great danger in the detention of heavy drafts; I do not mean heavy steamboats, but tow-boats with large cargoes in tow. For instance, there may be ten or twelve boats loaded each with fifteen or twenty thousand bushels of coal in tow of one of those boats, and if they are to stop there for the opening of a draw when the steamboat cannot go under the bridge, the navigation is obstructed. In order that this matter may be subjected to a little more examination, there being five or six hundred miles of this river above the place where this bridge is contemplated to be put, and all the people there very much interested in it, I move to postpone the bill until some day to give an opportunity of examining it.

Mr. POWELL. If the Senator from Pennsylvania will allow me, I will say that this bridge is to be constructed with three draws sufficient to pass the largest boats that navigate the Ohio river. The bill provides "that said bridge may be constructed at a height not less than ten feet above high-water mark." That, of course, will allow any tow-boat to pass under at high water. There is another provision in the bill that it shall not be constructed in such manner as to interrupt the navigation of the Ohio river. The bill has been very maturely considered by the committee of the House of Representatives, has passed the House of Representatives, and has received the mature consideration of the Committee on Post Offices and Post Roads of the Senate, and is reported with a recommendation that it pass.

Really I do not see any objection to the bill on the reasons stated by the honorable Senator from Pennsylvania. The three draws are to be such as to permit the largest boats to pass; and then it is to be ten feet above high-water mark, and that will allow every boat to pass except some of the flat-boats. If the Senator will notice that part of the bill he will see that the objections he makes are certainly provided against in the bill. Moreover, I will state that the larger number of boats that pass the falls have to go through the canal, where there are many locks to pass through. I hope the Senator will withdraw his motion. It is late in the session, and the companies are very anxious to construct this bridge and connect their roads.

Mr. COWAN. I am willing to do anything of course to accommodate gentlemen; but it strikes me at the moment, without having had an opportunity to think about the matter much, that this will be an effectual obstruction to the free navigation of the Ohio river. Boats from the upper part of the river are employed in towing, for instance, coals; a single steamboat will take in charge some twelve or fifteen barges loaded with coals, and when the river is high and they can go over the falls without going through the canal, this bridge will become an obstruction, because it will be utterly impossible for boats to pass under it, and this immense load will have to be stopped above the bridge until the draw is opened, and until they can go through; and I think all experience has taught that on rapid rivers these draws are subject to very great accidents, disasters, and dangers, so that in fact it will amount, to a great extent, to a material obstruction in the navigation. I therefore ask that the bill may be held over until I have an opportunity to inquire as to its working. If it is postponed until to-morrow I shall endeavor to ascertain what I can in regard to it.

Mr. COLLAMER. Before this is passed over I would call the attention of the Senator from Pennsylvania, and also of the Senator from Ohio, to the law passed in relation to the other Ohio bridges, prescribing the manner in which they were to be erected.

Mr. JOHNSON. What is the date of the act the Senator is about to read?

Mr. COLLAMER. July 14, 1862. It provides—

"That any bridge erected under the privileges of this act may, at the option of the company or companies building the same, be built either as a drawbridge, with a pivot or other form of draw, or with unbroken and continuous spans: *Provided*, That if the said bridge shall be made with unbroken and continuous spans, it shall not be of less elevation than ninety feet above low-water mark over the channel of the said river; nor in any case less than forty feet above extreme high water, as understood at the point of location, measuring for such elevation to the bottom chord of the bridge; nor shall the span of such bridge, covering the main channel of the river, be less than three hundred feet in length, with also one of the next adjoining spans of not less than two hundred and twenty feet in length, and the piers of said bridge shall be parallel with the current of the river as near as practicable: *And provided also*, That if any bridge built under this act shall be constructed as a drawbridge, the same shall be constructed with a span over the main channel of the river, as understood at the time of the erection of the bridge, of not less than three hundred feet in length, and said span shall not be less than seventy feet above low-water mark, measuring to the bottom chord of the bridge, and one of the next adjoining shall not be less than two hundred and twenty feet in length; and also that there shall be a pivot-draw constructed in every such bridge, at an accessible and navigable point, with spans of not less than one hundred feet in length, on each side of the central or pivot pier of the draw."

This, it will be perceived, prescribed that the draw was not to be less than one hundred feet, whereas in the bill before us it is provided these draws shall not be less than three hundred feet.

Mr. JOHNSON. That was one hundred feet on each side of the pivot. Is this three hundred feet on each side of the pivot?

Mr. COLLAMER. There is no "pivot" mentioned here. It says they shall be three hundred feet clear. How they are going to build them I do not know; but that is the provision.

Mr. JOHNSON. "Not less than three hundred feet," this bill says. I doubt whether they mean that.

Mr. COWAN. The objection which strikes my mind is as to the height. If boats cannot pass under this bridge, of course they will be required to stop, and it is the stopping that is the mischief. The difficulty is to land boats above and detain them there until the draw is ready; and if they do not happen to make the landing, or if they cannot land, then they are driven down against the bridge only ten feet high, and there is a wreck of the whole concern.

As I said before, I have no special objection to making any improvement of this kind, but I desire it to be so made that the rights of the people above the desired location shall be preserved, and therefore I press my motion to postpone the bill until to-morrow.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Pennsylvania to postpone the bill until to-morrow.

Mr. SHERMAN. Before that question is put, I should like, if in order, to amend the eleventh line, and I ask the Senator to withdraw his motion so that I may move an amendment.

Mr. COWAN. Certainly, if the Senator will renew it again.

Mr. SHERMAN. Certainly. I wish to move to amend the eleventh line by striking out the word "may" and inserting "shall." After a careful reading of the bill I am satisfied that the first proviso there, as now drafted, will not be imperative on the company, but will be discretionary. I do not think that was the design of the bill, but that would be the plain meaning of the language, in my judgment.

Mr. POWELL. I trust the Senate will not adopt that amendment. I do not think it will alter the meaning of the bill, but the effect of it will be to send the bill back to the House of Representatives. The language is now:

"*Provided, however*, That said bridge may be constructed at a height not less than ten feet above high-water mark, and with three draws, sufficient to pass the largest boats navigating the Ohio river."

The Senator proposes to strike out "may" and insert "shall." Surely they cannot construct it at a less height than ten feet above high-water mark if the word "may" be retained. It is a limitation.

Mr. SHERMAN. If the Senator from Kentucky will read the bill as carefully as I have done he will find that it changes the meaning. The main part of this bill gives the bridge company the same privileges as are granted by the law

which has been read by the Senator from Vermont; and if it stopped there, it would authorize them to build a bridge not exceeding ninety feet in height above low-water mark, with one span not exceeding three hundred feet. Then this proviso, which is not imperative upon the company but discretionary, says:

*Provided, however*, That said bridge may be constructed at a height not less than ten feet above high-water mark.

The difference between high and low-water mark at the falls near Louisville is very little. The rapidity of the current there, of course, makes the rise and fall of the water very much less than in the river at other places where the current is not so rapid. Consequently the bridge may not be more than forty feet above low-water mark; and this is a privilege given to the company; it is not imperative on them, it is simply discretionary with them; they may make the bridge with three spans instead of one. They are not required to do so, but allowed to do it.

The next proviso is, "*And provided also*, That the spans of said bridge shall not be less than three hundred feet." That is very different. The words have been carefully chosen. The first proviso is that the bridge "may" be constructed so and so, leaving it discretionary with the company. The next proviso is that the spans "shall" be not less than three hundred feet; and there is still another proviso, "that the said bridge and draws shall be so constructed as not to interrupt the navigation of the Ohio river." The framers of this bill have carefully worded it so as to allow the first proviso, which is the main one requiring three draws, to be simply discretionary with the company.

Mr. COLLAMER. The provision for three draws is not discretionary.

Mr. SHERMAN. I think it certainly is. The provision is:

"*Provided, however*, That said bridge may be constructed at a height not less than ten feet above high-water mark, and with three draws, sufficient to pass the largest boats navigating the Ohio river."

The only provision in the bill about the three draws is connected with the word "may," and is entirely discretionary. They may, under the provisions of this bill, construct a bridge with one draw, provided they do it under the terms of the old act.

Mr. COLLAMER. I do not so understand it.

Mr. SHERMAN. I know that is not the meaning of the Senator, but I think it is the construction of the bill.

Mr. POWELL. I will state that it is not proposed to construct this bridge over the falls, but at a point above the falls, where it is rather dead water.

Mr. COWAN. Allow me to ask if the bill does not provide that it shall be directly over the falls; that one draw shall be over the Indiana chute, one over the middle chute, and one over the canal. The chutes are in the falls.

Mr. POWELL. The bridge is to connect the Jeffersonville railroad and the Louisville and Nashville railroad at Louisville and Jeffersonville above the falls; and so far from the river rising very little there, it rises forty feet at least, and it would be only a very extraordinary height of water when this bridge built as proposed would not be twenty or thirty feet above high water.

Mr. SHERMAN. The statement of the Senator from Kentucky must show the Senator from Vermont that it is necessary to look further into this bill. This bridge, according to the statement of the Senator from Kentucky, is not to be constructed over the falls; but who would read the bill without supposing that it was to be directly over the falls? Why talk about these spans being over certain chutes, which can only be in the falls? A chute, as I understand it, is where water is depressed and passes over the falls.

Mr. COWAN. The channel through the fall.

Mr. SHERMAN. If the bridge is to be constructed at Jeffersonville, two or three miles above the falls, there is no reason in the world why they should not construct it of the height described in the old act. The banks are not very high there. At any rate, the main point to be kept in view always is to preserve the navigation of the Ohio river, which is much more important than any mere bridge across the river. The act of last year was carefully guarded so as to preserve the

navigation of the Ohio. But if they are to build this bridge only ten feet above high-water mark, that will only be fifty feet above low-water mark according to the statement of the Senator from Kentucky, because he says the rise above the falls is only forty feet.

Mr. POWELL. I said it was at least that. It may be a great deal over.

Mr. SHERMAN. At the falls of course the rise is much less. Above and below the falls it would be considerably more, but at the falls themselves, where the current is very rapid, the rise is not near so much. Probably fifteen or twenty feet will be the extreme rise of the water at the falls, perhaps not so much.

Mr. POWELL. I will state that these chutes mentioned here do not indicate that they are at the falls. They commence several miles above the falls, and the language of this bill "at the falls" does not mean that the bridge is to be across the falls, because the city of Louisville and the city of Jeffersonville are both above the falls, and this bridge is to connect these railways at that point.

Mr. COWAN. There is nothing in the bill which confines the bridge to Louisville or Jeffersonville either. The bill proposes "to authorize the Louisville and Nashville Railroad Company, and the Jeffersonville and Indianapolis Railroad Company, (stockholders in the Louisville Bridge Company,) to construct a railroad bridge over the Ohio river at the falls of the Ohio," and that bridge is to be over the chutes in the falls. As was well remarked by the Senator from Ohio, the chutes are not above or below the falls. That which is technically denominated the "chute" is the available channel over the falls.

There is another reason why I think this bill should be postponed. It provides—

"That said bridge may be constructed at a height not less than ten feet above high-water mark, and with three draws, sufficient to pass the largest boats navigating the Ohio river."

It is assumed that those draws are to be three hundred feet in width, and the honorable Senator from Vermont has stated that he does not know how the draws are to be made three hundred feet wide; and I will remark nobody else knows. It is an utter impossibility, I should think, to make draws of any width of that kind; but that is not the intention. The distinction is to be taken here between draws and spans. There is a provision afterwards "that the spans of said bridge shall not be less than three hundred feet;" but the draws may be of any width, as I take it, which would allow the largest boats navigating the Ohio river to pass through them. At any rate, I should be exceedingly sorry to leave that point doubtful; because every advantage is usually taken in the framing of these bills in order that the end desired by the parties in interest may be attained. I think that the bill should be carefully examined and so framed that there should be no doubt about its proper construction. If it is meant that spans and draws are identical, then there is no objection as to the width.

Mr. COLLAMER. There cannot be such a thing as a draw that is not as wide as the span.

Mr. POWELL. I used that word inadvertently, and said "span" instead of "draw." I did not intend to convey that idea.

Mr. COLLAMER. I understand that distinctly. There cannot be such a thing as a draw that is not as wide as the span. It cannot be made.

Mr. SHERMAN. It depends entirely upon the character of the draw. If the draw is a circular or "pivot draw," as it is called, which turns on an abutment, then, as a matter of course, the draw and span are the same; but if they build these draws like the draw of the long bridge at Washington city—a familiar case—the span may be wider than the draw.

Mr. COLLAMER. It is the same thing exactly; because the span, if you run it over and do not support it, falls down. The draw constitutes a part of the span itself.

Mr. COWAN. I do not see how it would be possible to construct a draw three hundred feet wide, because if it is a pivot draw, then each arm of the draw would be one hundred and fifty feet in length.

Mr. SHERMAN. I think that could be done.

Mr. COWAN. I do not know how the weight of a heavy railroad train would be supported at

the end of a lever one hundred and fifty feet long without anything to support it except the resistance which it would meet by pressing against the other end of the draw. But, as I understand the honorable Senator from Kentucky, it is not intended that "spans" and "draws" shall mean identically the same thing.

Mr. POWELL. If the Senator will allow me, he is mistaken in that. I did not intend to express any opinion about it, for I do not know how wide these draws can be made. When I spoke of three hundred feet I intended to confine it to the span. I am wholly unacquainted how wide these draws can be made. I intended to apply the expression "three hundred feet" to the spans when I spoke first. I suppose draws can be made as wide as the spans. It is a matter about which I am not conversant and have no opinion.

Mr. COWAN. I hope that the bill will be postponed, so that we may have an opportunity of examining it more particularly.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) The question is on the amendment proposed by the Senator from Ohio to strike out the word "may" and insert the word "shall" in the eleventh line of the bill.

Mr. HENDRICKS. I suggest to the Senator from Ohio that the language of the bill secures what he desires, and I think is stronger than that which he proposes. It is now a proviso, a condition, a limitation; but when you use the word "shall" it will simply be a command. Unless the bridge can be built at that height it cannot be built at all, according to the language of the bill now. It is the same as if it read, "provided, said bridge can be constructed." That is the present meaning of the language, and I think the Senator will so agree when he considers that this language is used in a proviso which is intended to be a limitation upon the former provisions of the bill.

Mr. SHERMAN. If the Senator will allow me, I will say, a proviso may not only restrain the meaning of what precedes it, but it may extend it.

Mr. HENDRICKS. That is true.

Mr. SHERMAN. It may grant a privilege as well as be a restriction. Therefore this proviso simply grants the privilege to make three draws instead of one draw, not given in the original act. That is shown by the fact that in the next proviso, which is intended to be imperative, the word "shall" is carefully used just as I propose to use it in the first proviso.

The amendment was agreed to.

Mr. HENDRICKS. I move to amend the bill by adding the following proviso:

*And provided also, That the bridge shall be so constructed as to accommodate ordinary travel and transportation upon foot, and in carriages and wagons, at reasonable tolls.*

I do not wish to embarrass this measure. It is a very important one to our State, as well as to the State of Kentucky and the commerce of the country generally; but I am aware of the fact that the southern part of Indiana, and I suppose a portion of the State of Kentucky, would desire to have a provision like this in the bill. Very many of these railroad bridges are so constructed as to accommodate the ordinary travel and business of the country; and I presume this amendment would not embarrass this enterprise. I have been addressed in regard to this matter by some of my constituents, and I feel it to be my duty to call the attention of the Senate, by this amendment, to the subject. If it is certainly intended to build a bridge so as to accommodate the ordinary travel and business of the country, I do not care about the amendment; but I think that ought to be secured.

The amendment was agreed to.

Mr. POMEROY. I do not wish to interfere with this bill, but as I have had something to do with building bridges I will merely state that nobody has ever yet built a bridge with a span of three hundred feet in it in the clear. If it is to be a drawbridge, you have got to make it six hundred feet to put it on a pivot in order to get a clear of three hundred feet. The thing never was done and never can be done; and if the bill passes with that provision in it it will not be worth a cent.

Mr. COLLAMER. This bill came over to us from the House of Representatives and was re-

ferred to the Committee on Post Offices and Post Roads. I read the bill and understood it according to its common acceptance, that it required the draws to be three hundred feet long. I sent for the gentleman who had charge of the bill, the Representative from that district, Mr. MALLORY, and pointed it out to him, suggesting that it was inconceivable to me how they could make a draw three hundred feet long; that I thought his bill if passed in that shape would be impracticable. He said that he was unacquainted with engineering and did not know anything about it, but he was going home and he would see Mr. Guthrie, who is the main man in this enterprise, and would telegraph me from Louisville in relation to it. I waited but did not get any telegram. He has since returned and has informed me that Mr. Guthrie said they could do it. "Very well," said I, "then I will report the bill as it is." I supposed the draws were to be three hundred feet clear. If it does not effect that purpose in that way, I did not understand the bill.

Mr. COWAN. I propose an amendment which will settle that point. In the fifteenth line, after the word "spans," I move to insert the words "and draws," so that it will read:

*And provided also, That the spans and draws of said bridge shall not be less than three hundred feet.*

Mr. HENDRICKS. I hope that amendment will not be adopted. I do not want to see this measure destroyed, and I do not suppose the Senate is going to undertake to decide upon the architecture of a bridge. I am not competent to decide anything of that sort; I do not know whether other Senators are or not. A general provision that the navigation of the Ohio river shall not be interfered with is certainly sufficient to accommodate the interests that the Senator from Pennsylvania represents. I think a draw of that length is impossible; but it is a question in architecture that I do not understand. If the Senator from Pennsylvania will say, as an architect, that it is practicable, there will be some force in his proposition; but I believe the Senator himself has said that it is impracticable; so that the adoption of this amendment will be equivalent to a defeat of the measure.

Mr. COLLAMER. Evidently upon the reading of the bill we are to understand that it is to be three hundred feet clear between the abutments; that there is to be a space three hundred feet wide with nothing to impede the passage of a boat. If it does not mean that it was misunderstood.

Mr. JOHNSON. I do not think it means that.

Mr. COLLAMER. I wish to say another thing. I should be unwilling to approve of a bill providing for a bridge across the Ohio river that did not have some clear, definite description of what the draws were to be in width. If this bill does not fix it at three hundred feet, I misunderstood it. I would not support a bill which I supposed left the width of the draws uncertain.

Mr. GRIMES. My excuse for saying anything in regard to this bill is the fact that a large portion of the commerce of the State which I in part represent passes down the Ohio river. We are in the habit in our section of buying iron, nails, and such heavy articles, in the spring, at Pittsburg and Wheeling, and bringing them down the Ohio over these falls when the river is in such a condition that it can be passed without undergoing the necessity of passing through the canal. I desire to know from the chairman of the Committee on Post Offices and Post Roads, who reported this bill, whether that committee have been able to satisfy themselves that by allowing a bridge to be constructed over the falls, even if the span is to be three hundred feet wide, they will not very materially obstruct the navigation of that river at the high stage of water in the Ohio?

I can tell the Senate that we have had on the Mississippi river somewhat of a demonstration as to the effect of a bridge in a stream where the water is the swiftest, and that is at the Rock Island bridge. A bridge has been constructed across the Mississippi river at the bottom of the Rock Island rapids. The draw, I think, is two hundred and seventy feet. Putting in the piers on each side of the draw of course necessarily obstructs the channel of the water, and accelerates the speed with which it passes through the draw. The man, therefore, who stands at the helm of a

steamboat or who has charge of a raft cannot calculate the velocity of the water; he cannot calculate the eddy that is created by these two currents coming together through the draw, and the result is that we have disasters there very frequently. The river men on the Mississippi are in a constant turmoil in relation to that bridge, and complaints come up to us, and suits are instituted in the courts every few weeks for damages that they allege they sustain in consequence of those disasters to their commerce and to their vessels.

I desire to be satisfied, before I vote for this bill, from the investigations the committee have made, that allowing these companies to make these draws at three hundred feet apart will not so accelerate the speed of the water between the piers as to materially affect the commerce of the river. I want to throw no obstruction in the way of railroads passing over. I think they might be constructed so as to facilitate the general commerce of the country; but of all the places in the world where the construction of a bridge would be of the most risk to the commerce of the nation it would be where the water is the swiftest, either above the falls or below the falls; but I understand that this is to be over the chutes through the falls, and according to the construction that the Senator from Pennsylvania puts upon it, he says that the bill provides for it. If that is so, I want to understand it.

Mr. POWELL. Upon the reading of this bill I do not know whether it is the intention to make these draws three hundred feet or not. The spans are to be not less than three hundred feet. The bill is very specific. It provides that the draws shall be sufficient to pass the largest boats navigating the Ohio river. I do not know, I am not bridge-builder enough to know, whether you can make a draw three hundred feet. I do not know how wide they can be made. But this bill seems to me to provide sufficiently against the obstruction of the navigation of the Ohio river. Certainly it is clear that the draws are to be wide enough to pass the largest boats that navigate the river. Then there is another provision in the bill that the bridge shall not obstruct the navigation of the river. I cannot tell which of the Senators is right about the building of a drawbridge. I hope, however, that the amendment of the Senator from Pennsylvania will not prevail; for if it should be impossible to make a draw three hundred feet, that provision will defeat the object of the bill. I really see no necessity for making these draws three hundred feet. The spans have to be three hundred feet. In my judgment, that disposes of the objection about obstructing the water and preventing navigation, as indicated by the Senator from Iowa. If the draws are sufficiently wide to pass the largest vessels navigating the river, that is all that is wanted, in my judgment.

Mr. COWAN. When the question was before the Senate on the passage of the original act allowing bridges across the Ohio river, there was a large amount of testimony taken before the Committee on Post Offices and Post Roads, and it was established there to the satisfaction of that committee that the business of the Ohio river required that the space spanned by the bridge between its piers should be left three hundred feet wide.

Mr. HOWARD. I rise to a question of order. The PRESIDENT *pro tempore*. The hour of one o'clock having arrived, it becomes the duty of the Chair to call up the special order of the day, being the unfinished business of yesterday.

Mr. HOWARD. I was about to make that suggestion.

#### CONSULAR AND DIPLOMATIC BILL.

The PRESIDENT *pro tempore*. Before calling up the unfinished business the Chair desires to state a matter of practice and inadvertence into which the Chair fell, for the purpose of correcting the action of the Chair. The Chair on Monday last appointed a committee of conference on the consular bill, and passed it to the Clerk upon a slip of paper, not having it announced in the Senate. Afterwards the Chair changed one member of the committee; but the committee had been announced to the House of Representatives. The Chair is satisfied that he ought not to have changed that member of the committee after it had been an-



nounced to the House, and desires, if there be no objection on the part of any Senator, to correct the mistake, and restore the committee as it was. If no objection be made, that correction will be made on the Journal, and the committee restored as it stood originally.

Mr. SUMNER. Before that subject is dismissed, I should like to inquire whether the Journal of that day should not in some way be changed so that it will be made to correspond with the Journal of the House of Representatives, though possibly the change the Chair proposes may accomplish that purpose.

The PRESIDENT *pro tempore*. The Journal had not been read to the Senate before the change was made. The Journal was read after the change was made, so that there was no mistake in the Journal.

Mr. SUMNER. So I understand; but the point is this, if the Chair will give me its attention. A message was sent from the Senate to the House of Representatives communicating the fact that the President *pro tempore* had appointed Messrs. SHERMAN, SUMNER, and MORGAN as conferees on the part of the Senate on the consular and diplomatic appropriation bill. I understand that that message was actually received by the House of Representatives. It must, therefore, be on the Journals of the House. Shortly after there came another message from the Senate announcing the substitution of Mr. COWAN for Mr. MORGAN. The point to which I wish to call the attention of the Senate is, whether our Journal, which I have in my hand, for Monday, May 16, 1864, should not contain a precise record of that transaction precisely as it occurred, to wit: the first appointment of Mr. SHERMAN, Mr. SUMNER, and Mr. MORGAN, and the communication of that appointment by message to the other House; and secondly, the substitution by the Chair of Mr. COWAN for Mr. MORGAN, Mr. MORGAN not having resigned, and the communication of that substitution by a special message to the House.

The PRESIDENT *pro tempore*. The Journal will contain what is done to-day undoubtedly, that Mr. MORGAN was restored or substituted, and the House of Representatives will be so informed.

Mr. SUMNER. But still the point remains whether the Journal for that day, May 16, 1864, should not be amended according to the facts. To bring the point—it is an important question of privilege—before the Senate, I will move that the Journal of Monday, May 16, 1864, be amended according to the facts.

The PRESIDENT *pro tempore*. The Chair understands the Senator to move to amend the Journal of Monday last, so as to say that Mr. COWAN was substituted for Mr. MORGAN on that committee of conference.

Mr. SUMNER. So that it shall appear how the committee was first constituted; that that committee was communicated by message to the other House; that then the substitution took place; and that substitution was communicated by message to the other House. Without such an alteration, I submit to the Chair, the Journals of the two bodies will not harmonize.

The PRESIDENT *pro tempore*. The Chair will direct the Journal to be so amended unless there be objection. The Chair hears no objection. The special order is now before the Senate.

#### GOODS IN WAREHOUSE.

Mr. CONNESS. With the consent of the honorable chairman of the Committee on the Pacific Railroad whom I have consulted, and the Senate, I desire to call up a bill reported by the Senator from Pennsylvania [Mr. COWAN] this morning, which is now on the Secretary's desk. It will excite no discussion, and will occupy but a moment of time. It is important to act upon it at once, so that it may go to the other House for action there.

There being no objection, the bill (S. No. 282) to amend an act entitled "An act to extend the time for the withdrawal of goods from public stores and bonded warehouses, and for other purposes," approved February 29, 1864, was read the second time, and considered as in Committee of the Whole. It provides that all goods, wares, and merchandise in public stores or bonded warehouses on the 1st of May, 1864, on which the duties at that time were unpaid and which had then been in bond for more than one year but less

than three years, may be entered for consumption and the bonds canceled at any time before the 1st of September next, on the payment of duties and charges according to law.

Mr. JOHNSON. I do not exactly understand the effect of the bill.

Mr. CONNESS. I will state for the information of the Senator—I expected the Senator from Pennsylvania to do it, as he reported the bill—that it relates to goods that were in bond during an interregnum created by the act that we passed at this session in relation to the release of goods from bond. We passed an act providing that goods might be withdrawn between March and September. This bill is to allow and permit goods to which that act did not apply, which were in bond for two months previous to that time, the year having expired, also to be withdrawn from bond and entered for consumption and sale, and the duties paid. Otherwise, their owners will be forced to export them from the country.

Mr. COWAN. I will say by way of explanation that by the act of the 14th of July, 1862, it was provided that goods in public store or bonded warehouse might be withdrawn for exportation within three years from the date of original importation, and for consumption within one year on payment of duties. On the 29th of February, 1864, an act amendatory of the former law was passed; and that provided that goods which had been in bond more than one year, (and, of course, not allowed to be withdrawn for consumption before that time,) and less than three years, might be withdrawn for consumption on payment of duties at any time before the 1st of September, 1864. It will be observed that the import of that act was to allow all goods then in bond to be withdrawn for consumption. Those that had been less than one year in bond might of course be withdrawn under the old law, and those which by the old law had been forbidden as having been in bond more than one year were released from that prohibition under this act and allowed to be withdrawn. But intelligence of the passage of the act did not reach California until about the middle of April, perhaps nearer the end of April. Owing to that fact there was a class of goods that did not fall within the provisions of the act of the 29th of February last, and those were goods which had been imported between the 1st of March and the last of April, or between the 29th of February, the date of the passage of the act and the time when intelligence of its passage reached California.

Mr. JOHNSON. Will the Senator permit me to ask whether that class of goods could not have been withdrawn under the original act?

Mr. COWAN. No, sir; they could not.

Mr. JOHNSON. They had been bonded less than a year. Did the last act repeal the first?

Mr. COWAN. No, sir, it allowed it to remain, and that was the difficulty. If the last act had expressed specifically that all goods might be withdrawn from bond for consumption, there would have been no difficulty; but it was passed on the supposition that all those which had been in bond for less than a year would, of course, be allowed to be withdrawn, and that all those which had been in bond for less than three years would have to be provided for.

Mr. JOHNSON. I do not think I make myself understood by the Senator. Did the first act, which authorized goods that had not been in bond more than one year to be withdrawn, apply only to goods then in bond at the date of the passage of that act?

Mr. COWAN. The act of the 14th of July, 1862, is a general act, not repealed by the act of February 29, 1864.

Mr. JOHNSON. Does that apply to all goods at all times in bond not exceeding a year?

Mr. COWAN. Prior to the passage of that act.

Mr. JOHNSON. To those in bond prior only?

Mr. COWAN. Prior only; and the object of this bill is to provide for the goods imported for the two months ending the last of April.

Mr. CONNESS. I will state, in addition to what the honorable Senator from Pennsylvania has said, that there are goods also in the same condition at some of our eastern ports, and the Treasury Department have recommended the passage of this bill. They find it necessary.

Mr. SHERMAN. I should like to have the bill read once more.

The Secretary read the bill.

Mr. CONNESS. The 1st of September named in the bill is the period at which the act passed in February fixed the time that the withdrawal shall cease.

Mr. SHERMAN. The point I wish to get at is whether the words "according to law" in the bill mean that the duties shall be paid according to the law at this day or according to the law on the 1st of May last.

Mr. CONNESS. I do not understand the Senator.

Mr. SHERMAN. I wish to know whether, under the operation of the bill as now framed, these persons will have to pay the additional duty of fifty per cent. provided for the other day.

Mr. CONNESS. Certainly.

Mr. SHERMAN. The only doubt grows out of the words at the close of the bill, "according to law." Does that mean according to the law in existence at the time of the passage of the bill, or at the time the goods are withdrawn and entered for consumption?

Mr. COWAN. There is no doubt about that.

Mr. CONNESS. None at all.

Mr. HALE. The difficulty suggested by the Senator from Ohio occurred to me. I think the statute is uncertain in its present phraseology.

Mr. CONNESS. The fifty per cent. additional tax is now the law of the land. This bill will be the law after it has passed both Houses and been signed by the President. Of course goods withdrawn when it shall have passed, according to its provisions, will pay the tax required by law.

Mr. HALE. Please state what is the object of the act, if that is the construction.

Mr. CONNESS. That has been stated three or four times, I will say to the Senator, and I do not desire to consume too much of the time of the Senate. The purpose is to allow persons who have goods in bond to withdraw them for consumption and sale, and to enable them to pay us the increased duty now imposed by law rather than to compel them to export them from the country.

Mr. JOHNSON. I have no doubt that the explanation made by the Senator from California is made according to his view of this bill, and it may be right. I am not sure it is not right; but it strikes me as possible, and indeed probable, that a different construction may be put upon it if it shall be passed in its present form. I rather incline to think that the law to which the bill refers as the law to regulate the payment of duties and charges, will be construed to be the law in force on the 1st of May; and if so, these goods, if they are not subject to the increased duty imposed by the resolution passed some days since, will not have to pay what all other imported goods pay. I propose, therefore, to add after the words "according to law," the words "now in force."

Mr. CONNESS. There is one objection to that. Suppose Congress see fit to increase the duties between now and September, as they may, then the parties withdrawing these goods before September would pay a less duty than others would be compelled to pay according to law. That is the only difficulty.

Mr. JOHNSON. Then I will modify the amendment by saying "according to the laws in force at the time the goods shall be withdrawn."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time, and passed.

#### TERRITORY OF MONTANA.

Mr. MORRILL submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 15) to provide a temporary government for the Territory of Montana, having met, after a full and free conference have agreed to recommend and do recommend to their respective Houses as follows, namely:

That the first amendment of the Senate to the said bill be amended to read as follows, namely:

Amend section five by striking out in lines one, two, three, and four, the following words: "that every free white male inhabitant, above the age of twenty-one years, who shall have been an actual resident of said Territory for thirty days prior to the first election," and inserting the following in lieu thereof:

All citizens of the United States, and those who have declared their intention to become such, and who are otherwise described and qualified under the fifth section of the act of Congress providing for a temporary government for the Territory of Idaho approved March 3, 1863;" and in

line five of said section after the word "said" insert the word "first."

That the Senate recede from its second amendment to the said bill, and that the Senate recede from its third amendment to the said bill.

M. S. WILKINSON,  
LOT M. MORRILL,  
CHAS. R. BUCKALEW,  
*Managers on the part of the Senate.*  
E. H. WEBSTER,  
W. S. HOLMAN,  
*Managers on the part of the House.*

Mr. SUMNER. I should like to know the nature of that substitute for our amendment, if the Senator from Maine will be good enough to state it.

Mr. MORRILL. I will state in a word that the effect of the amendment of the committee of conference is to authorize the temporary organization of the government of Montana by that class of persons that were authorized to organize the Territory of Idaho.

Mr. SUMNER. What class of persons was that?

Mr. MORRILL. They were, as I recollect the qualification, white citizens of the United States, and such others as had declared their intention to become citizens. As it now stands, the qualification in Montana will be that the voters at the first election will be citizens of the United States, and such as have declared their intention to be citizens of the United States, and such as are qualified by the fifth section of the act organizing the Territory of Idaho.

Mr. SUMNER. That is, free white persons, I understand.

Mr. MORRILL. That is what it comes to. I will read the section of the act in relation to Idaho, and then the Senator will judge for himself:

"Every free white male inhabitant above the age of twenty-one years, who shall be an actual resident of said Territory at the time of the passage of this act, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualifications of voters and of holding office, at all subsequent elections, shall be such as shall be prescribed by the Legislative Assembly."

The Senator will remember, perhaps, that the difference between the two Houses was this: the House of Representatives allowed all free white male inhabitants, who had been resident in the Territory perhaps ninety days, to vote in the organization of the Territory; by the Senate amendment it was restricted to citizens of the United States—a restriction in that sense, but an enlargement on the question of color, allowing any citizens, whether colored or not. That was the disagreement; and upon that question both parties receded and agreed upon a new proposition, as I have stated.

Mr. SUMNER. Is not the new proposition almost identical with the original House proposition on the question of color?

Mr. MORRILL. On the question of the exclusion of colored men it is identical. It does exclude colored men.

Mr. SUMNER. I understand that the point of difference between the two Houses was simply as to the word "white" or "black."

Mr. MORRILL. That was the principal question, and on that point I desire to say precisely how the committee found the question. It will be seen that the whole provision for the qualification relates to the temporary organization of the Territory. When it is temporarily organized, which is to be at once, in the contemplation of the bill, as the necessities of the times demand it, the whole question of suffrage is left to the Territory; so that the question of suffrage as presented to us applies entirely to the temporary organization of the Territory; and the committee became satisfied that the question presented was this practical question, whether it was advisable to organize the Territory at the present time. If it were necessary to organize it, we became satisfied that this difference between the two Houses must be overcome in some such way as this; and the committee, believing there was no practical importance in the Senate amendment, as there was believed to be no colored person in the Territory, and probably would not be any colored persons actually resident in the Territory who, by any possibility, could vote on this occasion, did not see that it was worth while to make a question on what the honorable Senator from Massachusetts perhaps might regard as a principle, when, by no possibility, could it affect the ques-

tion practically. For these reasons the committee agreed substantially on the bill as it passed the House of Representatives. One other amendment was as to the time of holding the first session of the Legislature, that it should not exceed ninety days; and the remaining one was immaterial.

Mr. SUMNER. Then the proposition, as I understand it, is that the Senate shall abandon its position. Why so? Because the House of Representatives will not abandon its position.

Mr. MORRILL. No, sir, the Senator will allow me; because there did not seem to be any practical sense in adhering to it; because to adhere to it defeated the bill; because to adhere to it accomplished no earthly purpose; gave nobody any right.

Mr. SUMNER. For the other House to adhere on the other side defeated the bill also.

Mr. MORRILL. Yes.

Mr. SUMNER. And the question is which shall adhere, the side that is right or the side that is wrong?

Mr. MORRILL. And that is the question the committee submit to the Senate.

Mr. SUMNER. I hope the Senate will adhere to its original position, and I believe that the statement of that principle at this moment is more important than the bill.

Mr. MORRILL. I will ask the Senator whether there is not such a principle as this in legislation and parliamentary law: where two branches equally desiring to accomplish an object, and the object is considered to be a good one, find themselves at loggerheads, and one branch is the innovating party, as the Senate was in this case, making the amendment, and one party or the other must recede, as a matter of parliamentary law or comity is it not the duty of the party proposing the amendment to recede rather than have the bill fail? The Senate committee found itself in that attitude. The House of Representatives had proposed in this case precisely what the Congress of the United States sanctioned last year in the organization of the very Territory a portion of which we now propose to call Montana. The House and Senate met in conference, the House said, "We have done precisely in this bill what you gave your assent to last year; the bill fails unless you consent to do now what you conceded by your action last year to be proper then, and there is no change of circumstances which authorizes the Senate to change its ground." In that view of the case, and the Senator will allow me to say, believing that it affected no man's rights whatever, that if we agreed to this it would not affect the right of any colored man in that Territory, it ceased, in the judgment of the committee, to be a practical question; and therefore, in view of the principle I have already stated, that the party proposing what was impracticable was in duty bound to show it to be practicable or to back down, it seemed to the committee, on the whole, better to advise the Senate that it is no longer practicable; so, sacrificing no principle, we advise the Senate to recede and agree with the House of Representatives.

Mr. HARLAN. I shall vote against the report of the committee, chiefly, however, because I do not think there is a pressing necessity for the organization of another Territory in that part of our domain. The population is not large, embracing the whole Territory of Idaho as now organized. I do not, therefore, think there is a sufficient necessity for the passage of the bill to justify Senators in departing from what they may regard as a principle. For myself I take this view of that subject; if the bill should become a law as it left the Senate, it could not be consistently construed into a vote in favor of negro suffrage. The bill as it left the Senate declares that all male citizens of the United States over the age of twenty-one years shall be entitled to the right to vote. The Supreme Court has declared that persons of African descent, the descendants of slaves, are not citizens of the United States in such a sense as to be able to bring a suit in a court of the United States. I admit very frankly that I do not think the decision of the Supreme Court in that case was right; but it nevertheless was a decision of the Supreme Court of the United States; hence, if the bill should become a law with the phraseology that it contained when it left the Senate, those who voted for it could not be considered to

have voted in favor of negro suffrage. I do not then think that voting for or against the report of this committee can be considered as a vote that would affect that principle one way or the other; and as I do not think there is a pressing necessity for the organization of a new Territory to be called Montana, I shall vote against the report of the committee, with the expectation that if a majority of the Senate shall so vote the bill will fail, and the whole subject go over until the next session of Congress.

Mr. CONNESS and Mr. SUMNER called for the yeas and nays, and they were ordered.

Mr. WADE. I was on the committee that reported this bill for the erection of two Territories out of that portion of the country now called Idaho, and I thought of course that it was somewhat important that it should be done at this session. There is great inconvenience in the Territory, as it now stands, in transacting business throughout the whole of it. I suppose it is known to the Senate that that Territory is divided by an almost impassable mountain. It does not divide it exactly in the middle, but sufficiently so to show that a very large Territory can be erected on each side; and the population is divided into nearly equal parts by that natural barrier, there being about as many on one side as on the other. The bill was presented here with the old form that had grown into a custom in the days of negrophobia, when it prevailed to the highest extent here, and the word "white" was inserted everywhere wherever there was any chance to insert it, in order to discriminate between white and black. I was always opposed in principle to that, and I do not propose now to depart from my principle. I have no concealments to make on this subject or upon any other. I am opposed to this discrimination between white and black in voting. I do not think it forms an intelligible line of demarcation. Some black men are infinitely more capable of voting intelligently than a great many whites, and *vice versa*. The color of a man, whether black or white, is no criterion, and I will never consent to make it a criterion of voting. I think that in a republican form of government like ours a man has a right to vote, an inalienable right to vote; although I know that that principle is combated here by some. I believe that the right to participate in the Government under which we live is as sacred and as much a natural right as any other; and I believe that no other rights that belong to man can long be maintained when he is deprived of this; and therefore, sir, I go right straight to the work when there is any occasion for it, and I should have said nothing now on this subject only that the vote I intend to give here might be construed to be a vote by me against the principle that I have now avowed.

I never legislate or act in reference to mere shadows. Gentlemen may call them principle or not principle. I look to the effect of a measure when my vote is required. I cannot be bluffed off by the mere form or shadow of a thing. What is this? When I agreed to the original bill it had the word "white" in it, and I so reported it. I did not like it; but when I came to consider that it was the mere shadow of a shade, that it would not affect the rights of anybody, I did not care to make a controversy over it. I did not care to compel gentlemen to vote upon that question when I saw difficulties in the way. I had much rather it had passed there, and I did not care which, because the effect of it would be just nothing at all. There are no negroes in the Territory. It is not pretended that there is a black man in this whole Territory. Why then should we detain the Senate here in fixing a principle that can have no application whatever? It is a bare abstraction as it stands, I do not care in what form of words it is; but I give gentlemen notice whenever this question shall be raised in such sort as to affect the rights of any men, I shall take the broad principle of right and stand by it as firmly as anybody else. But when the principle is invoked in a case where it can have no effect, I am not going to be biased by it; nor am I going to be prevented from effecting a good purpose because I am told that I violate the ghost of some principle.

I think it is right that the Territory should be organized. I believe it will be for the welfare of the people there to organize it now. If I did not think so I should not have agreed to the report of the original bill. That being fixed in my mind,

I am not to be deterred from accomplishing that purpose because gentlemen tell me that they have a principle here that will affect nobody's rights. I am for the right; I will get it at every time I can; but I am not very tender-footed about what is called a principle unless it affects somebody. That is no principle that affects the rights of nobody. That is an abstraction, and I do not legislate on abstractions.

Now, what is this? It is admitted that there is no negro in the Territory. No black man has any right to vote there now. This right of voting once exercised, without a black man being present, is to be gone forever, and then this principle is to be transferred to other hands and put out of your reach entirely. Those into whose hands it then goes will do just as they please about it. Then why should we stand here contending about that which, as I said before, is a mere abstraction? I think the rights of the people require that this Territory should be organized. As to do so in the mode proposed will trench on the rights of no individual, I shall vote for this report, giving notice, as I said before, that when the question which is supposed to be here involved comes up properly, you will find me as straight upon it perhaps as any other man.

Mr. HALE. If there is anything in this principle, I differ entirely with my honorable friend from Ohio in this particular: if you want to assert a principle that you believe in, it is vastly more easy practically to assert it in reference to a wilderness where there is not a man, than in reference to a mixed people consisting of the various classes that would be affected by your legislation. The wisdom and the foresight of the men of 1787 that affixed the great anti-slavery ordinance to the Northwestern Territory was practically manifested, because they took a virgin soil that was free from the contentions that would be introduced by various races, and said that the coming generations as they came to people it should people it under certain restrictions and regulations.

Mr. HOWARD. The Senator from New Hampshire will allow me to correct him. The whole of the Northwestern Territory at that time was a slaveholding country. There were hundreds and hundreds of negroes, slaves, held by French settlers wherever there were settlements in that Territory; at Vincennes, and various other places on the Ohio and Illinois, and on the lakes. It was a slaveholding country.

Mr. HALE. Practically it was a wilderness. I know that there were here and there remnants of a French population that held slaves, but practically it was a wilderness. It was only dotted here and there with a few settlements. Although what the Senator says may be literally true, and unquestionably is, yet so far as regards the great mass, the great extent of the Territory, it was a wilderness, and the ordinance was a rule applied to fix its condition for coming generations. So it was in Oregon when we organized a territorial government there. I presume that there were no negroes there at that time. That was in 1848. I remember well the contest we had over that bill organizing the Territory of Oregon. Did we not stay here week after week and month after month from sunset to sunrise upon this question. The South agreed that slavery might be prohibited in that Territory; the Senate and the House of Representatives were both agreed to that extent; but for a saving clause they wanted to put in this proviso "it being north of 36° 30'." That was a mere abstraction; everybody knew that it was north of 36° 30'; but the southern statesmen contended that that should be put in as a reason for the legislation. We refused to do it, and we sat here until one Sunday morning late in August, and finally we passed the bill after one of the most severe contests that ever took place in this country. And here let me say that if the United States had stood right where they placed themselves on that morning of August, 1848, prohibiting slavery in that Territory and refusing to say that the prohibition was because it was north of 36° 30', we should have had no compromise in 1850, no rebellion in 1861, but everybody would have been satisfied.

Now, sir, here is a Territory which is practically a wilderness. There may be some settlements there, but very few. The policy that we incorporate by this bill will be the policy that will probably govern them for ages. If we give them a

clean charter to begin with they will live under it. If we give them a different one, they will live under that. I am not pledging myself, nor do I mean to pledge myself, as to how I shall vote on any other bill. I am not certain; I am not entirely clear in my own mind—

Mr. MORRILL. If the Senator will allow me, I should like to put a practical question to him on this point.

Mr. HALE. Very well.

Mr. MORRILL. The Senator is aware, I presume, that this Territory has a government now, the government of Idaho, and that no colored man is allowed to vote there under the charter of that Territory; so that it changes nothing.

Mr. HALE. I do not exactly see that there is force enough in that objection to require me to occupy the time of the Senate in answering it. The facts, undoubtedly, are as stated. I will let that go. But I was going to say that I would not pledge myself as to how I should vote on all the bills that may come up. I think that in this District it presents a very different question from that presented in the present case; and as I am not very anxious to have this Territory organized, I think I shall vote against the report of the committee; and if it should result in the disaster of defeating the bill, I think there is only one class of men who will suffer by it, and I admit that they will suffer, and they are the disappointed candidates for offices under the organization of Idaho. They did not all get offices when that Territory was organized; there were not offices enough to give them all; and after the thing was over, and the successful men had got their ends answered by being appointed Governor, judges, marshal, &c., another lot remained to be disposed of. What was to be done with them? They were here; they came on to be Governor and judges and marshal, &c., and it suggested itself to them that the best thing on earth would be to divide and make another Territory. Now, suppose you do divide and make this new Territory of Montana, can you satisfy them? No, sir, there will be another lot, and then, as the Senator from California suggests, you will have to divide again. That class can be provided for by a private bill. If the public good does not absolutely require that this Territory shall be organized, any equitable claim that they may have for the patriotic services they have already rendered and are ready to render, can be disposed of in a private bill; and I shall vote against concurring in the report of the committee of conference.

Let me say another thing. I almost always listen to my honorable friend from Maine with profound pleasure and admiration. When he is really in earnest, when his heart and his voice and his judgment and his impulses are all in unison, all sympathetic on the same chord, he thunders his convictions out so that I have sometimes been afraid of the windows over our heads being broken by the concussion. [Laughter.] But, sir, it was not so to-day. The Senator spoke well, but not loud enough to disturb the atmosphere, hardly loud enough to be heard on this side of the House; from which I gather that he may be moved by tender consideration for those unfortunate gentlemen who are waiting for these offices rather than by any firm conviction of the principle that is involved. I think that no great public calamity will result if this bill goes over, and so thinking, I shall vote against concurring in the report of the committee of conference.

Mr. MORRILL. Exactly on that point I want to appeal to the Senator to know precisely where he stands. If he intends to vote against this report of the committee on the ground that there is no public necessity for the organization of the proposed Territory, I submit that that is not an open question. That was not the question of disagreement between the two Houses. The committee did not understand that there was any such question. The two Houses, by the passage of this bill by an overwhelming majority, have foreclosed that question; Congress has adjudged that the public necessities require the organization of this Territory. The committees of both branches so reported, and both Houses have foreclosed the question by deciding that it is in harmony with the public interests that this Territory be organized. The only question presented by the report of the committee of conference is, is it proper to organize it in this way? That is all that is open by the report of the committee. If I had

entertained any scruples upon the question presented by the honorable Senator, upon which I think he intends to cast his vote, and if I understand his intimation he intends to dodge the other question—

Mr. WILKINSON. Where there are any practical results to follow.

Mr. MORRILL. He does not intend from the intimation he has given us to be committed on the other question. I want to know whether he means to "face the music" like a brave Senator, and whether he means to vote against this bill because the report of the committee of conference is improper. The Congress of the United States having adjudged that it is a political necessity of the times to organize this Territory, that there is a community of men out there engaged in mining, and that they demand a government and ought to have it, I want to put it to the honorable Senator whether he is willing in a playful way to put this whole question aside and say, "I vote against it on the ground that there is no public necessity for it, but I am not quite willing to say whether I would so vote on account of the negro being in or out." That is the question before the Senate, and on that my honorable friend, who is usually so frank and always so outspoken, seems inclined to reserve himself for a spirited play upon me.

I have said, and I think I need not repeat, that in regard to this question of negro suffrage I never voted to disfranchise a man on account of his color. Do I propose it here? Does this committee of conference propose to disfranchise any man on account of his color? By no possibility whatever, for the reason that there is no colored man in this Territory, not one, and we had no ground to believe that up to the time when the community there would be called upon to act on this question there would be such a man there. I do not propose, therefore, to disfranchise anybody, and upon that question of color I repeat now that I never did and I never expect to disfranchise a man on account of his color; and I am ready to say what the Senator from New Hampshire I understand has not quite made up his mind to say, has not, it seems, quite summoned up his judgment, got up his courage to say, that I will meet that question which is practical here in the District of Columbia. He intimates very distinctly that on that question he is a little weak, he is a little doubtful, he is a little uncertain whether it will not do to disfranchise a man here even on account of his color, and he proposes to dodge the question where it is impracticable by resorting to a point that is foreclosed against him by the judgment of both Houses of Congress.

If this bill is to be voted down, I insist upon it that it shall be voted down on the report of the committee, and on the points involved in the report, and not on others; and on the question in the District of Columbia, about which the Senator has so many forebodings, "I will meet him at Philippi," and I will see if he will dodge that when it comes up. I am in favor of putting the elective franchise on some general principle upon which we can stand, and ought to stand, other than that of color, and I notify him that I am prepared to meet that question when it comes in a practical form, as it will come when it arises in regard to the District of Columbia, and I shall then invoke him and appeal to him to act in accordance with the convictions of his whole life, and not to give us to understand in advance of that great question that he intends to dodge it or to get around it.

Mr. HALE. The honorable Senator is mistaken in one respect in saying that I should vote on any different ground from that which is presented in the report. I said that I should vote against the report, and if the result should be so and so I should not mourn over it. Now, Mr. President, I confess that the honorable Senator from Maine—and he knows as well as anybody can that there is no one who has a more profound respect for his talents and for his character than I have, and what I am going to say now of course will not offend him, because if it reproves him I say it "more in sorrow than in anger"—but I confess that the Senator from Maine was the last man on this floor from whom I expected to hear the old Whig doctrine that was thundered out here on the Wilmot proviso and repeated again: "What was it? When it was proposed during the Mexican war to affix an



eternal anti-slavery ordinance upon all the territory that we should acquire, what was the answer of Mr. Webster, what was the answer of the politicians of that school, what was the answer of the trading politicians of both parties? It was that it was unnecessary, that there were no slaves there, that they could not go there. Nay, sir, Mr. Webster, in his great zeal, said that it was written by the law of God on the face of the country that no slaves could go there, and he did not want to reenact the law of God, and would not insult the understanding by proposing it, because there was not a colored man there. That was the very reason that made the measure practical and wise. It was the reason that demanded it. It was a virgin territory, uncontaminated by the foot of a slave, just as it came from the hand of the Almighty, the home where the children of His love were to find rest and peace, and where by culture they were to earn their daily bread; and it was the part of wisdom, of piety, and of patriotism to consecrate it to the great purposes of free government and of freedom, so that the coming generations as they came successively upon the stage of being might find their residence there uncontaminated and unhindered by the introduction of slavery upon that soil. Just exactly what the country presented at that time that called for the Wilnot proviso does this Territory of Montana present now. It is uncontaminated by the foot of a slave; and we ask that when this General Government first propose to give it a local government, it shall not by this edict educate the people who are to go there to an inhuman and unchristian prejudice.

Gentlemen say it is not practical. Why, sir, it is the most practical measure before the country. It is eminently practical, and it can be carried out without injuring the property of anybody. Upon this subject I stand committed; but I said, and I say again, that I am not going to commit myself to the future. I do not know but that coming events may throw new lights on these questions. It is sufficient for me that I meet each question as it comes, with the light which God gives me. Years ago, when a seat in Congress looked to me infinitely more valuable than it does now, I sacrificed my place in Congress and my connection with my political party to follow out a conviction which I entertained on this subject. I may do the same thing again.

But, Mr. President, I stand now where I stood then. I saw the slave power ruling this country, and ruling it with a rod of iron. They ruled New Hampshire no less than South Carolina, through the organism of the Democratic party. The first time I ever had a seat on the floor of Congress in the other House some twenty years ago, I was told as a flattering compliment from some of "our southern brethren" that they looked upon New Hampshire as the South Carolina of the North. That was the way the country was ruled; but when they proposed to devote all the energies of this nation not only to the fostering and the sustentation and the perpetuity and the eternity of human bondage, but when they sought to violate treaties, to make unjust war, to reach robber hands to steal other territory solely for the purpose of extending and perpetuating slavery, I then broke with the party that I had belonged to, and they broke with me, and it is an unsettled question whether they turned me out or I turned them out, [laughter,] but we got apart, anyhow. Whenever my convictions or my fancies, or whatever they may be, shall call me to take a course different from that of the party with which I am associated—though I am an old man now and I was a young man then—it will not cost me half the effort to sacrifice myself now that it did then.

But, sir, I am wandering from the subject. I do not wish to pledge myself to the future; but on this subject I am perfectly clear. I am clear on principle; I am clear on expediency; I am clear on every consideration that can address itself to me except a sort of kind consideration that I should have for the disappointment of those who are waiting to fill these offices. Let not the Senator reproach me that the main question in regard to this bill is settled. Mr. President, it sometimes happens that when it is supposed an issue is closed by the craft of man, it is opened again by the providence of God. Those who think they have closed this matter up and have got the judgment of both Houses of Congress

that this new government shall be established, by a disagreement between themselves cannot settle it, and thus Providence presents the question anew to us; and does the Senator mean to say that we shall not meet it? As well might the Senator tell me that if I had been robbed on the highway by parties who had got my property and were quarreling about how they should dispose of it, I could not retake it; that if owing to a difficulty between the captors they did not know exactly how to dispose of it, the rightful owner had no power over the question again; it was settled. It may be settled in form. In spirit, in fact, in truth it is open, because, as the Senator from Maine himself at first well said, if the Senate did not recede, the bill was gone. Then I propose to let the bill go, by not receding; and that is a legitimate way, a fair way; but I will not occupy the time of the Senate.

Mr. NESMITH. I trust the Senate will not concur with the Senator from New Hampshire, and allow the bill to be lost on a mere abstraction. It is very well understood that there are no negroes in the Territory of Montana, and even if there were there is no parallel between the amendment proposed to the present bill and the great principle involved in the ordinance of 1787, which we have heard from the Senator from New Hampshire was made perpetual. The bill itself permits the first Legislature to fix the terms of suffrage of inhabitants there, and the probability is that they will determine the question as it has been determined by the committee of conference. At most, even if the amendment proposed by the Senator from Minnesota [Mr. WILKINSON] should be insisted on and concurred in by the House of Representatives, the system provided for by it probably would not last more than six months in the Territory.

I have no particular sentimentality on this subject so far as the negro is concerned; but I do take some interest in the white men who are there. There are probably to-day in the Territory of Idaho (of which Montana is a part, and which is proposed to be divided by this bill) about sixty thousand white persons, most of them adults. The census taken by the marshal last October showed that there were then thirty-four thousand people there; and, judging from the emigration which has since gone there from both sides of the continent, I am of opinion that there are sixty or seventy thousand people there to-day. The object to be accomplished by the division is not, as suggested by the Senator from New Hampshire, to procure offices for certain individuals who are there or who are here, though that will probably be one result; but the object is to give good government to sixty or seventy thousand of our people who are now in the Rocky mountains, and who are entirely destitute and deprived of government by reason of the present condition and organization of the Territory. The Territory of Idaho is peculiarly situated. The western portion of it is susceptible of settlement; and there are rich mines there, there are heavy settlements there now. The seat of government is on the immediate western border of the Territory, which is more than a thousand miles in extent from east to west. The Rocky mountains range near the center and so divide the Territory as to leave an intervening space of three or four hundred miles without any settlement. Then there are large settlements in the eastern portions. The consequence is that the western settlements and the eastern settlements are divided by an intervening district of mountainous country of nearly four hundred miles, which for at least one half of the year is practically impassable. I say, then, that on whichever side of the mountain you place the seat of government you divide the people almost equally by this almost impassable barrier; and I think it is to the interest of the white men there, of the men who are citizens there and who are miners there, that this division should be made.

I believe, furthermore, that the division will be for the interest of the Government. You propose to levy a tax on the mining business of that country. It will be difficult, with the seat of government in one end of the Territory a thousand miles from the other extreme, to enforce your law, to have your courts organized, and to take the proper steps which will be essential for the securing and collection of the Government revenue in that vast district. The Territory to-day is about five or

six times as large as the State of New York, to say nothing about the natural obstacles which prevent communication between the eastern and western portions of it; and as I stated before, for the interest of the white men who are there now, and are without government, I am in favor of the passage of the bill. I should have cared but little whether the amendment proposed by the Senator from Minnesota prevailed or not, as I knew it could possibly have no practical effect there. Before a negro would ever be there to vote, the Legislature would have met and would have changed the qualification of voters as fixed by this bill, and have probably confined the exercise of the elective franchise to white men. These are the reasons which induce me to vote for the report of the committee of conference.

Mr. HOWARD. I do not rise to occupy the Senate on the subject of this bill further than to say that I shall vote for the report of the committee with a great deal of pleasure. I think we are merely spending time uselessly in protracting a discussion on a subject of that kind, and I give notice that at the earliest possible moment I shall again call up my Pacific railroad bill for the purpose of passing that. It is now the special order of the day, and all of this discussion has been really a consumption of time which belonged to that far more important bill.

Mr. MORRILL. I hope the Senator will allow us to take the vote on this report.

Mr. HOWARD. Certainly. I merely made the suggestion for the information of the Senate.

Mr. SUMNER. The Senator from Oregon seems to have misunderstood the ordinance for the organization of the Northwest Territory. If he looks to that, he will find that that contained no discrimination of color. I have it before me.

Mr. NESMITH. Will the Senator excuse me? I did not speak of it in reference to that. I spoke of the ordinance of 1787 as a perpetual ordinance and beyond the power of any territorial Legislature to repeal, change, or modify. I spoke of the pending bill, which defines the qualifications of voters in the proposed Territory, as one which was within the control of the Legislature of the Territory, and therefore I said there was no analogy. I said nothing about the ordinance having any reference to color.

Mr. SUMNER. Then I misunderstood the Senator entirely; but as I have the ordinance in my hand, I will call the attention of the Senate to the clause applicable to this subject:

"So soon as there shall be five thousand free male inhabitants of full age in the district, upon giving proof thereof to the Governor they shall receive authority, with time and place, to elect representatives from their counties or townships to represent them in the General Assembly, &c."

It will be observed, therefore, that in this ordinance to which we so often refer as a commanding authority there is no discrimination of color. Now I ask if this is not a good precedent? It was applicable to a vast unsettled Territory, precisely like the present bill. Senators may say that our fathers in the ordinance were not practical. I am not of that number. Senators may say that our fathers in the Declaration of Independence were not practical. I am not of that number. Senators may say that our fathers in the Constitution of the United States, which contains no discrimination of color, were not practical. I am not of that number. Sir, I believe that the authors of this ordinance and also the authors of the Declaration of Independence, and of the Constitution of the United States, were eminently practical when they excluded from all of those instruments any discrimination of color. But it is said that there are no persons in the new Territory to whom this principle is now applicable. This can make no difference. It is something to declare a principle, and I have no hesitation in saying that at this moment the principle is much more important than the bill. The bill may be postponed; but the principle must not be postponed.

Mr. MORRILL. I will suggest to the Senator if he will permit me—[Mr. SUMNER. Certainly.]—that the statement I made about its applicability was this: it is not by possibility applicable to any man of African descent. There are some five or six thousand Indians to whom a bill in general phrase without limitation of "white" might possibly apply; I do not say that it would apply to them in this case.

Mr. SUMNER. Still the whole subject-matter of this clause is not Indians, but it is the well-known African race of this continent; and it is proposed by special words, wrapped up in a clause borrowed from another bill, to exclude them from the right of suffrage in this Territory; and the whole argument for this injustice, as my friend from New Hampshire has so ably stated, is only a reproduction of that well-known ancient argument for slavery in the Territories. How often were we in those days compelled to encounter the charge that we were not practical, that we were urging a prohibition when there was no occasion for it. For myself, I believe you cannot too often assert a prohibition of slavery, nor too often assert human rights wherever they may be called in question; and especially do I believe in the importance of such assertion when you are laying the foundations of a new community. "Just as the twig is bent the tree's inclined." Those are familiar words of our childhood. Does my friend from Maine wish that the tree that he plants shall grow up with a generous and protecting shelter for all mankind, or that it shall be the bent and crabbed product of unhappy prejudices generated by slavery? I know my friend means no such thing; but I do insist that the policy that he now recommends tends to this fatal end. For myself, sir, I am satisfied with the Declaration of Independence. I am satisfied with the Constitution of the United States on this important subject; and on this question and on all kindred questions I adopt the language of our lieutenant general in the field, "I will fight on this line to the end, even if it takes all summer." There is no line which is better than that of human rights. While fighting on that line I cannot err. There is no pertinacity which can be too great. There is no ardor which is not respectable. I thank General Grant for these words. They express his own steadfast purpose; and we all thank him. But each in his sphere may make them his own. I make them mine wherever human rights are in question.

Mr. SAULSBURY. It is very seldom, as the Senate and the country know, that I speak on a subject of this character, and therefore I apologize for saying a word on the present occasion. I think we have had enough of the negro to-day for all the members of the Senate who wish to transact the legitimate business of the public. I therefore move that the Senate do now adjourn.

The motion to adjourn was not agreed to. The question being taken by yeas and nays upon concurring in the report of the committee of conference, resulted—yeas 26, nays 13; as follows:

YEAS—Messrs. Buckalew, Carlile, Collamer, Cowan, Davis, Doolittle, Foot, Foster, Harding, Harris, Henderson, Hendricks, Howard, Johnson, Lane of Indiana, Morrill, Nesmith, Powell, Ramsey, Saulsbury, Ten Eyck, Trumbull, Van Winkle, Wade, Wilkinson, and Wiley—26.

NAYS—Messrs. Anthony, Chandler, Clark, Dixon, Grimes, Hale, Harlan, Lane of Kansas, Morgan, Pomeroy, Sprague, Sumner, and Wilson—13.

ABSENT—Messrs. Brown, Conness, Fessenden, Hicks, Howe, McDougall, Richardson, Riddle, Sherman, and Wright—10.

So the report was concurred in.

#### ARMY APPROPRIATION BILL.

Mr. FESSENDEN, from the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 195) making appropriations for the support of the Army for the year ending the 30th June, 1865, reported that the committee of conference, having met, after full and free conference had been unable to agree.

On motion of Mr. FESSENDEN, it was

Resolved, That the Senate further insist upon its amendment to the bill (H. R. No. 195) disagreed to by the House of Representatives, insist upon its disagreement to the amendments of the House to the seventh and eighth amendments of the Senate to the said bill, and ask a further conference on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. COLLAMER, Mr. GRIMES, and Mr. NESMITH.

#### COMMITTEE SERVICE.

Mr. SHERMAN. I move to reconsider the vote by which the Senator from Wisconsin [Mr. HOWE] was excused by the Senate from service upon the Committee on Finance, and if it is the pleasure of the Senate I should like to have the vote reconsidered and then let it lie over, and I will explain my reasons at another time.

Mr. HOWE. If the Senator's motion is entered I hope it will not be acted on now.

Mr. SHERMAN. Very well; I will enter the motion and let it pass over, and I will explain to the Senate hereafter my reasons for moving the reconsideration.

The PRESIDENT *pro tempore*. The motion to reconsider will be entered.

#### PACIFIC RAILROAD.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 132) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862; the pending question being on the motion of Mr. TRUMBULL to amend the amendment of the committee by striking out in the first section, lines thirty-two to thirty-six, the following words:

And two thousand shares shall be the greatest amount which any one person may hereafter subscribe for or hold at any time, or for which certificates of shares shall in any case be issued or recognized by said company.

Mr. HOWARD. I wish to make a formal amendment.

Mr. TRUMBULL. I have no objection to the chairman getting through with his formal amendments before mine is acted on.

The PRESIDENT *pro tempore*. The Senator from Illinois withdraws his amendment.

Mr. HOWARD. On page thirty-two, line fifty-four, of section thirteen, I move to strike out the words "of which this is an amendment," and change the word "the" into "this" before "act," so that it will read:

The said Kansas company shall complete and equip not less than one hundred miles of its said railroad and telegraph within two years from the time of filing their assent to the provisions of this act, &c.

The amendment to the amendment was agreed to.

Mr. TRUMBULL. I now renew my amendment to strike out in the first section, line thirty-two, after the word "act" the words, "and two thousand shares shall be the greatest amount which any one person may hereafter subscribe for or hold at any time, or for which certificates of shares shall in any case be issued or recognized by said company." The object of the amendment is to get rid of the limitation. The bill limits the amount of stock to be held by any one person to \$200,000. I suppose it will be difficult to get the capital stock of this road taken at any rate; and if it is taken at all, as I hope and trust it will be, the railroads of the country already organized will probably be the principal stockholders; but if you limit them to subscribing only \$200,000 I apprehend it will be an obstacle in the way of getting the stock taken, and I have made the motion, therefore, to strike out that limitation. I have no special objection if the Senator from Michigan, the chairman of the committee, is desirous of having some limitation, to put in a higher limitation, though I think it will be quite as well to strike it out entirely, for I do not think there is any danger of any one person monopolizing the whole stock of this company. Still, if a limitation is necessary, I think the amount should be extended.

Mr. HOWARD. The theory upon which the limitation rests is that there is a danger of the accumulation of too large an amount of the stock of this company in the hands of one man or in the hands of a few men, and that it may thus become an immense corporation governed entirely by private interest and become obnoxious of very serious and weighty popular objections. I understand from the conversations which I have had with very intelligent men connected with this enterprise and who are as anxious to prosecute it as any of us are, that this restriction embodied in the present bill is in their judgment a sound and salutary one. The object of it is to prevent too large an accumulation of this stock in the hands of one person or a few persons. I do not know but that \$200,000 is too small a sum, and I should be quite willing to have the amount enlarged to \$1,000,000, so as to restrict the quantity which any one individual can hold to \$1,000,000, not allowing him to hold more; and I shall offer that as an amendment in case this amendment be rejected.

Mr. JOHNSON. I am in favor of the amendment offered by the Senator from Illinois; but if

that amendment should not succeed, I should of course prefer that the limitation should be increased as suggested by the chairman of the committee; but I think it is better to strike out the limitation altogether. This is a very herculean enterprise, and it will require capitalists known to be capitalists to carry it out successfully. Personally, looking to the interests of the country, I would not care if the road was made by one individual or half a dozen individuals, for just in proportion as may be the ability of a few stockholders will be the security which the United States will have that they will not lose by what they propose to do in favor of the enterprise themselves.

Mr. POMEROY. I want to call the attention of the chairman of the committee to another clause in this bill. If the motion of the Senator from Illinois prevails it will affect the residue of the section, particularly this clause, beginning in line fifty:

The said company, by its directors or its stockholders, shall, from and after the passage of this act, make assessment upon all the stockholders of not less than five dollars per share, at intervals of not less than six months, &c.

The bill obliges the company to assess once in six months five dollars on every share. Now, if the amendment of the Senator from Illinois prevails, and it is left open for one company or one individual to take the whole stock, they will have entire control of that question whether they will assess themselves every six months or not, and the Senator must see that this amendment affects that portion of the section.

Mr. HOWARD. The effect will be to throw the control of the company entirely into the hands of a few heavy stockholders. I hope that this amendment will not be adopted. I think we had better try it for at least one year under this limitation; and if we find that it does not work properly, it can be easily amended at the next session of Congress. I hope the amendment will not be adopted.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Illinois.

Mr. HOWARD. If it be in order, I move to amend the amendment. I suppose that can be done by the consent of the mover.

The PRESIDENT *pro tempore*. The Chair will remind the Senator that this is an amendment to an amendment.

Mr. HOWARD. I was going to suggest that it might be so amended as to allow any person to hold ten thousand shares; to make the limitation \$1,000,000 instead of \$200,000.

Mr. TRUMBULL. If this motion should not carry, that can still be done. My impression is that it is better to strike the limitation out altogether. I think there can be no danger of any one person monopolizing the capital stock of this great enterprise. But if there be I would enlarge the limitation. We can take the vote first on striking it out altogether, and if that fails we can insert some other sum. I am not particular about striking it entirely out; I am willing to fix some sum; I think it should be a larger sum than \$200,000 where there is so large a capital stock as this. I do not think there is the least danger in the world in allowing the thing to be open, and letting any one take as much stock as he pleases.

Mr. HOWARD. I do not concur with the Senator from Illinois in this respect. I think there is danger of this stock passing into the hands of a very few persons who will abuse their powers and privileges very much to the public prejudice and to the prejudice of individuals. For instance, if this amendment prevails, what will the consequence be? It will be in the power of the stockholders, and of the directors elected by them, either to impose or to withhold assessments as they may see fit. It will be in the power of one man who holds a controlling interest in the stock to embarrass the company and prevent the imposition of assessments.

Mr. TRUMBULL. If that were desired, and any one person had money enough to control such an enterprise as this, it would be very easy to do it through third parties: his clerks and his friends would take the stock. It is true the limitation would furnish an obstacle in the way of doing it, but it would be so easily avoided that it seems hardly worth while to impose such a limitation.

The question being put on the adoption of the

amendment to the amendment, there were, on a division—ayes 6, noes 10; no quorum voting.

Mr. CONNESS. Let us have the vote again. I think there is a quorum present.

The PRESIDENT *pro tempore*. The Chair will put the question again.

The question being again put, there were, on a division—ayes 10, noes 14; no quorum voting.

Mr. TRUMBULL. If it is not too late, as the vote seems to be an index of the feeling of the Senate, I will withdraw my amendment and move to insert a different limitation.

The PRESIDENT *pro tempore*. It may be withdrawn by unanimous consent; but still the vote shows no quorum voting, and no business can be done.

Mr. TRUMBULL. My object was to avoid the difficulty. Having withdrawn the motion, I supposed no record would be made of it.

Mr. JOHNSON. I ask for the yeas and nays on the amendment. That will show whether we have a quorum.

The yeas and nays were ordered; and being taken, resulted—yeas 17, nays 15; as follows:

YEAS—Messrs. Anthony, Buckalew, Dixon, Foster, Hale, Harlan, Harris, Johnson, Morrill, Nesmith, Powell, Richardson, Sherman, Sprague, Ten Eyck, Trumbull, and Wade—17.

NAYS—Messrs. Clark, Collamer, Conness, Cowan, Grimes, Henderson, Hendricks, Howard, Howe, Morgan, Pomeroy, Ramsey, Saulsbury, Sumner, and Wilkinson—15.

ABSENT—Messrs. Brown, Carlile, Chandler, Davis, Doolittle, Fessenden, Foot, Harding, Hicks, Lane of Indiana, Lane of Kansas, McDougall, Riddle, Van Winkle, Wiley, Wilson, and Wright—17.

So the amendment to the amendment was agreed to.

Mr. TRUMBULL. It will be necessary to strike out the words in the sixty-second line on the 4th page, and down to the close of the sixty-third line, to conform to the amendment just made. The words proposed to be stricken out are, "not however to exceed in amount to any one person the above limitation of two thousand shares."

The amendment to the amendment was agreed to.

Mr. SUMNER. Will it be in order now to move another sum, for instance ten thousand shares? It seems to me advisable that there should be some limitation. My reason for it is precisely this: we are all familiar with the way in which railroads are taken by banking-houses even in our own country, but constantly for many years in Europe. If a Government wishes to raise, say \$20,000,000, or twice that sum, it does it through a single banker. The great house of Rothschild, which has representatives in every capital of Europe, at any day could take this whole road. Then we need not go to a house like Rothschild, the enormous wealth of which is perfectly well known, but take a great many other large banking-houses of Europe; take the banking-house which does the largest amount of American business, the house of Barings & Co. It was only yesterday I was reading a sketch of the life of the recent head of that house, who died, and it was stated that the first great operation which brought him as a banker before the public was his supplying very promptly twenty-eight million francs to the French Government after the battle of Waterloo. In the year 1818, at a sudden contingency, he very promptly supplied that large sum, twenty-eight million francs, which would be between five and six million dollars. I refer to that as an illustration of the capacity of these large houses to deal with large sums, and I submit it as a practical question whether we shall leave our bill in such a condition that one or more of them may take up the whole stock. I do not know that it is advisable to put any restriction upon them, but the committee that reported the bill started with the idea that there should be a restriction, and I understood that the Senator from Illinois even thought that a restriction to the amount of \$1,000,000 would not be out of the way.

Mr. TRUMBULL. I think there will be no practical difficulty about that. I have no particular objection to having it fixed at \$1,000,000; but I thought it as well to leave out the limitation. I do not think there is any sort of danger of anybody monopolizing this road. I suppose the difficulty will be to get the stock taken.

Mr. SUMNER. I have not considered the question of danger. I rather assumed that the committee had looked into that matter, that they thought it was important that there should be a

restriction of some kind or other, and the question was as to the extent of that restriction. The extent of that restriction is to be determined by the experience of history in such cases of business; and we know that the large banking-houses of the world almost at a moment's warning may bring together large sums so as to take up the debt for a corporation or stock to almost any amount. I would propose the amount of ten thousand shares or \$1,000,000 as a limitation.

Mr. HOWARD. The Senator's amendment would be a restoration of the clause stricken out with this simple alteration, that the words "two thousand shares" should be changed to "ten thousand shares."

Mr. CONNESS. The Senate has just by a vote stricken out the language that is proposed to be reinserted; and I therefore suggest that the preferable course would be to reconsider the last vote, and then substitute the amount now proposed.

Mr. TRUMBULL. There is no trouble about that. This is a different proposition. We have struck out certain words, and now the Senator from Massachusetts proposes to insert not the identical words stricken out—that would not be in order—but the words stricken out with a material alteration, changing "two thousand" to "ten thousand," which is entirely a different proposition.

Mr. GRIMES. I think the great mistake the Senate has committed was in adopting the amendment of the Senator from Illinois; but it may be remedied perhaps in some degree by now adopting the amendment proposed by the Senator from Massachusetts. Nobody pretends that any one man is going to invest \$100,000,000 in the capital of this company; nobody has got that money to invest; but we have created a perfect monopoly by the bill as it stands now, and allowed anybody to subscribe \$100,000,000. The directors who are named in this company, I do not know who they are, and those who may get control of it may subscribe in the name of five or six men, enough to constitute the board of directors, the whole amount of capital, say \$100,000,000. They may not propose to invest a dollar in it themselves, but to employ themselves during the next few months, or the length of time that may be allowed by the law, in making negotiations, sub-selling the stock to Tom, Dick, and Harry in this country and in Europe, and whatever they may be able to sell they will of course make a large profit upon. Thus you may put into the hands of men who may not pay in one dollar the entire control of your Pacific Railroad Company.

The argument which the Senator from Illinois urged in favor of the adoption of his amendment was that various railroad companies would want to invest in the stock of this company. The answer to that is that none of those railroad companies can invest in it unless they have a special act of the Legislature authorizing them to do so, and if they do invest they can invest in the name of the directors of the company, in trust for the benefit of the company of which they are directors. That is done every day now by railroad companies. There are railroads built in the Senator's own State and in mine in which railroad companies in New York and Michigan and the East are very heavily interested, not ostensibly in the name of the companies, but through the directors and agents of the companies who hold stock in trust for the benefit of the companies of which they are directors or agents. Why not let that be done in this case? I think—I am not authorized to move it because I voted against the proposition—that the proposition of the Senator from Illinois ought to be reconsidered, and we ought to limit this amount so that it shall not exceed \$200,000 in any one person.

The PRESIDENT *pro tempore*. The Senator from Massachusetts proposes to amend the amendment in section one, line thirty-two, by inserting after the word "act" the following words:

And ten thousand shares shall be the greatest amount which any one person may hereafter subscribe for or hold at any time, or for which certificates of shares shall in any case be issued or recognized by said company.

Mr. SUMNER. I am inclined to think that the Senator from Iowa proposes too great a restriction when he proposes \$200,000.

Mr. GRIMES. I do not propose anything. I am going to vote for your amendment if I cannot get anything better.

Mr. SUMNER. But the Senator argues in favor of a restriction of \$200,000. It seems to me that that is too great a restriction.

Mr. GRIMES. Suppose that under the Senator's amendment one hundred persons should subscribe a million each: there is the whole of the stock taken. I do not know how many directors you have got; but it would be very easy for the directors and their immediate friends to obtain the entire control of the road if they are allowed to subscribe a million each.

Mr. SUMNER. At the suggestion of friends, the motion being entirely within my own power, I will change "ten" to "five," so that it will read:

And five thousand shares shall be the greatest amount which any one person may hereafter subscribe for or hold at any time.

The PRESIDENT *pro tempore*. The amendment to the amendment will be so modified.

Mr. POMEROY. I desire to call the attention of Senators to one provision in this same section. In order to prevent any person subscribing for a very large amount, it provides that he shall pay when he subscribes ten per cent. of his subscription, and in the second place it provides that he shall be assessed five per cent. every six months until the whole of the capital stock is paid in. This is a new provision, one that I never saw before in any charter for any incorporation. The subject of assessing the stock is always left in the hands of the board of directors, and they assess it at their pleasure. They assess more, or they assess less, or they do not assess at all and build the road on the bonds; but this amendment obliges the board to assess five per cent. every six months until the whole par value of the stock is paid in. If that proviso is allowed to remain, I desire to have the word "shall" changed to "may," so that the board of directors may do it, not that they shall do it; because if you say they shall do it they have got no discretion about it, and they must assess this amount, whether they want the money or not.

Mr. CONNESS. I suggest to the Senator that it would be useless to insert the word "may," because they may do it without putting that in.

Mr. POMEROY. Then strike out the whole clause; but to oblige the board to assess five per cent. every six months until the whole par value of the stock is paid in is a provision unheard of before this.

Mr. CONNESS. That is not the question now.

Mr. POMEROY. I know that is not the question now before the Senate; but that is a reason why, as the bill now stands, nobody will subscribe for any large amount of this stock.

Mr. COLLAMER. The objection that I understand to arise to this measure without this limitation is that a few men may subscribe the whole amount of stock, if we fix no limitation, and obtain control of this road. It is said there is no danger of their having control, because ten per cent. on the capital stock is to be paid in when they subscribe; but if they obtain possession of the road, it is a matter entirely within their control as to what they will pay that ten per cent. in. They may give their notes in their own way, as they will have control of it, or take their money back again after they have paid it in. Whenever you allow a few men to obtain control in that way, the provision requiring the payment of ten per cent. of the subscription is no check upon them, because that is as much in their control as the rest of it. It seems to me, therefore, there should be some limitation as to the amount allowed to be subscribed by any one person.

Mr. TRUMBULL. I think the Senator from Vermont is mistaken in regard to that. The bill provides that a certain amount must be paid in, and we have Government directors, according to the terms of the bill, to see that the provisions of the law are executed.

Mr. COLLAMER. We do not have a majority of the directors.

Mr. TRUMBULL. We do not have a majority, but we have directors whose duty it is to report to the Government. I am not for legislating upon the principle that everybody is dishonest and corrupt. I suppose we want to pass a bill that the capitalists of the country will be willing to take hold of and invest their capital in the construction of this road. What we desire is the construction of the Pacific railroad. The Sen-



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ator from Iowa says that the railroad companies already organized and in existence, through whose influence this great work is to be constructed, as I think, in a great measure may evade this provision of the law; that even if you allow \$200,000 worth of stock to be taken by one person, they may get different directors or trustees to take it in their name, and in that way subscribe for as much as they please. I am never for passing a law that shall hold out an inducement to anybody to evade it in that way. This is an unusual provision to put in a charter of this kind, so far as I am advised; a very unusual provision. It is enough to cry out "monopoly," but where is the danger of a monopoly here?

I am opposed to granting, by Congress, any privileges to this company that will extend further than is necessary to secure the completion of this work. All that Congress proposes to do is to do enough, and only enough, to induce capitalists to build this Pacific railway. We shall be indebted to them when they do that. We want to hold out an inducement to them to take hold of this work, and not throw obstacles in the way of men who have means to build the work. We do not want to treat the men whom we are asking to invest their money in this enterprise as if they were dishonest men, as if they desired to get control of the road and not comply with the law, but to treat everybody fairly. I see no occasion for the limitation; I do not think there is the least necessity for it; but if there is this danger of dishonest men getting hold of the stock of the company and controlling it, if they are dishonest enough to do that, do not the Senator from Vermont and the Senator from Iowa know that it will be the easiest thing in the world for the same person who is disposed to do this, if it can be done without a limitation, to do it with a limitation by acting through other parties in the very way suggested by the Senator from Iowa, that the railroad companies are to take stock in this road, not in their own names, but through directors and trustees? They would have to multiply and make the directors and trustees a little more numerous if you limit it to \$200,000 than if you limit it to \$1,000,000. I think there would be no great difficulty with this limitation of \$1,000,000. If the Senator from Massachusetts is disposed to leave it at \$1,000,000 I shall be satisfied with it and willing to agree to his amendment, but I hope the Senate will not reduce the limitation to \$500,000.

Mr. GRIMES. The Senator from Illinois misapprehends what I said in regard to the subscription to the stock of this company by railroad companies other than the company that is to be incorporated here. His argument was, as I understood him when he first addressed the Senate, that this road was to be measurably, if not to a very great extent, built by other railroad corporations. All I have to say in answer to that, and all I intended to say before, was that his proposition does not change that. The law that creates those other corporations in the other States controls those corporations. As a general thing they have no authority to invest their money outside of the State the jurisdiction of which contains their franchise. If they do, they must do it in the name of trustees or in the name of directors who hold the trust for the benefit of their corporation. Then all the difference it would make between the Senator's proposition allowing an unlimited sway to these other companies to come in and hold this stock and the proposition of the Senator from Massachusetts would be that they would be compelled to hold in the name of two or three different trustees, instead of holding in the name of only one trustee. If that is all the convenience that is going to result to these outside corporations and to the country by permitting them to build this road, had we not better avoid even the appearance of creating a monopoly? I confess that in the way it stands now with the amendment of the Senator from Illinois as the action of the Senate, it has the appearance—I do not say that that was the intention of the Senator or the intention of the Senate; I know it was not

—of being the most stupendous monopoly that was ever devised on this continent.

Mr. TRUMBULL. Let me ask the Senator from Illinois if he ever knew a railroad to be incorporated in any State in the Union that had this limitation.

Mr. COLLAMER. This very provision was in the old law for the incorporation of the Pacific Railroad Company that we passed two years ago.

Mr. HOWARD. This clause is copied from the law of 1862.

Mr. TRUMBULL. My question was whether there had ever been any incorporation in any State with this limitation.

Mr. GRIMES. The Senator from Michigan and the Senator from Vermont have answered that question sufficiently; but as the Senator and I are both Yankees by birth, allow me to ask him if he ever knew of a corporation that was created that was to have such beneficent advantages and prerogatives and privileges conferred upon it as this Pacific Railroad Company? Why, sir, you are putting your hands into the Treasury of the United States and bestowing upon this corporation most lavishly. There is no analogy, therefore, between this case and the case of railroad corporations created within the States. The idea of giving to one man or any ten men this great boon—I do not know how many millions; \$90,000,000, I believe, under the provisions of the bill as it now stands—does, I confess, strike me as most monstrous.

Mr. TRUMBULL. Mr. President, I do not wish such a misapprehension to go out as that Congress is proposing to give \$90,000,000 to anybody. Here is a great enterprise of national importance. The country has been demanding for years the construction of a railroad across the continent. It is a great desideratum to obtain it. All parties have been for a Pacific railroad. This bill does not propose to give \$90,000,000 to anybody. It holds out inducements to capitalists to build this road. I will go with the Senator from Iowa in favor of giving a less inducement, if that will accomplish the object. All we want is to obtain the construction of this road. That is what is of national importance. That is the view we should take of it. We wish to enrich nobody.

Sir, this is not an ordinary enterprise. The Senator says large inducements are held out. Why, sir, it is a great undertaking. It is for the building of a railroad for thousands of miles through a wilderness country and over mountains, where, unless there is some inducement held out, capitalists will not be likely to construct the road. All that we propose to do is to hold out such an inducement as will lead to the construction of the road; and this is not proposed to be a gift. There is a large donation of lands connected with the road; but the propositions of this bill are to guaranty the payment of the interest upon the bonds of the company.

Mr. GRIMES. What difference is that?

Mr. TRUMBULL. The company is bound to refund it, is it not?

Mr. GRIMES. The interest?

Mr. TRUMBULL. The interest we pay and interest upon that interest. That is the provision of this bill, except as to the first year's interest. It is not proposed to give \$90,000,000 to anybody. The proposition is simply that when the men who shall undertake to construct this work issue their bonds, if they do not meet the interest upon those bonds the Government of the United States will pay the interest upon them for twenty years, holding a lien upon the road and everything connected with it for reimbursement of the interest which we pay, and interest upon the interest from the time that we pay it. I should be sorry to have it understood by the country, in the language of the Senator from Iowa, that we are proposing to create a monopoly and giving \$90,000,000 to anybody.

Mr. JOHNSON. The Senator from Iowa perhaps is not aware that we reserve by this bill the authority to repeal or modify this charter at any time; and if the work is not done according to

the views of the Government of the United States, if it turns out to be a bad enterprise, if it proves to be defective in its machinery, if any of its provisions is found to be mischievous in any way, it can be altered by Congress, the general right being reserved not only to modify but to repeal.

When the honorable member from Iowa speaks of this being a monopoly which may redound with great wealth to those who may embark in this business, he ventures an opinion that perhaps the result may not realize. It is a great enterprise. It is great certainly in one particular: it is great in the hazards which are run by those who may embark in it. It has always seemed to me that the United States would be much more secure against losing anything by what they propose to do in having this company in the hands of admitted capitalists. The richer the stockholder is the greater the security of the United States. If the stock is divided into small sums, and five hundred, or one thousand, or two thousand people are interested in it, the security of the Government will be comparatively little. In point of fact, if the road is to be made and it shall result in what its friends suppose it will, advantageously, no loss to the Government can possibly accrue. All that they propose to do by this bill is to guaranty the interest on these bonds a certain length of time, and if they should be compelled under that guarantee to pay the amount of the interest, they have a right to be refunded not only the amount of the interest which they may pay, but interest upon that interest from the time they make the payment.

Mr. GRIMES. The Senator from Maryland has told us that there is a provision in this bill which allows Congress to alter, amend, or repeal it. I suppose that that may be a valuable provision in some incorporating act; but I apprehend it will not be a very material one here, so far as the consideration of this question is concerned.

Let it not be understood that I am opposed to the Pacific railroad. I am in favor of it, and represent a constituency that is probably more interested in it than the constituency of any man here. But what I fear is, that if we do not have a limitation as to the amount of stock that shall be taken by individuals, it will all fall into the hands of a few men who will hold on to it until the time limited for the prosecution of the work, with a view of selling it at a profit to themselves. If they do not succeed in selling it they will abandon the charter to the United States; if they can succeed in selling it, then whatever they sell for is a profit to them. That is what I want to guard against; and I am satisfied that more money can be secured under the proposition of the committee than under any other that can be offered; but as the proposition of the committee has been voted down, I am ready to accept that of the Senator from Massachusetts.

The idea seems to be entertained by the Senator from Maryland, and by some other gentlemen, that it will be with great difficulty that men can be induced to take stock in this company, that a company can be organized. I think the chairman of the Committee on the Pacific Railroad will bear testimony to the truth of what I say when I say that there are three organizations, each of them embracing men of prominence and of commercial and financial standing in the country, seeking to get the control of this grant, each of whom is determined, or professes to be determined, to push it forward with the same amount of zeal and energy. There is no trouble on that score. The question now is, as I apprehend, whether we will put the whole thing into the hands of a few men at the risk of losing it, or whether we will place a limit upon the stock and not trust to the power of Congress hereafter to amend the charter or repeal it entirely.

The PRESIDING OFFICER, (Mr. FOSTER.) The question is on the amendment of the Senator from Massachusetts to the amendment of the committee.

Mr. HOWARD. Let the amendment to the amendment be reported.

The Secretary read it; in section one, line thirty-two, after the word "act" to insert:

And five thousand shares shall be the greatest amount which any one person may hereafter subscribe for or hold at any time, or for which certificates of shares shall in any case be issued or recognized by said company.

Mr. HOWARD. I think the bill as originally drawn was proper, and the more I think of it the better I am satisfied that the limitation of \$200,000 was a proper and necessary limitation; but I will not now protract the discussion on that subject. I shall vote for the amendment of the Senator from Massachusetts limiting the amount which any one person may hold to \$500,000. I believe we ought to have some limit. I believe it is necessary in order to protect the property and the utility of the company itself. I do not believe in placing in the hands of any man, or enabling any man to accumulate in his own hands, such a vast amount of stock as he would be enabled to do under the amendment of the Senator from Illinois. In short, I do not believe in making this an immense moneyed corporation and giving it practically the influence, the odious influence, of a moneyed monopoly, which would be the ultimate result of the doctrine insisted upon here by the Senator from Illinois, of allowing any man to subscribe to any amount he may see fit in the capital stock.

I do not wish to consume the time of the Senate longer. I hope the amendment will be adopted. If it shall be, then it will be necessary to restore the amendment which was made by the Senator from Illinois in a subsequent portion of the section.

The amendment to the amendment was agreed to.

Mr. HOWARD. It will now be necessary to make another amendment in the same section, in line sixty-two, after the word "issued" to insert, "not, however, to exceed in amount to any one person the above limitation of five thousand shares."

The PRESIDING OFFICER. The amendment will be altered so as to be made consistent with itself, and the change suggested by the Senator from Michigan will be made.

Mr. POMEROY. I should like to call the attention of the chairman of the committee to another provision in this same section providing that books shall be opened in various cities, eight or nine in number, and that they shall remain open until all the stock is subscribed for. I will suggest whether there should not be some limit as to the time. Suppose they are open for six months, and the stock is not taken?

Mr. HOWARD. I suppose that that is a matter which may be very safely intrusted to the care and management of the board of directors. It is merely administrative business.

Mr. TRUMBULL. The bill does not leave it to them.

Mr. HOWARD. Yes, sir; it does.

Mr. CONNESS. I do not see any provision there compelling them to keep them open.

Mr. POMEROY. I will not offer an amendment to it; but I think we ought to make an amendment in the fiftieth line of the substitute. That clause now reads:

The said company, by its directors or its stockholders, shall, from and after the passage of this act, make assessments upon all the stockholders of not less than five dollars per share, at intervals of not less than six months from and after the passage of this act, until the par value of all shares subscribed for shall be fully paid up.

It occurs to me that that is an unusual provision, and I think it ought to be stricken out.

Mr. HOWARD. In regard to that, as has been very properly remarked by Senators, the object of this bill is to insure the construction of the Pacific railroad, and if the railroad is to be built some reliance at least must be placed upon those persons who become stockholders in the company; they must necessarily contribute their fair share toward paying the expenses of the work. The United States is doing a great deal to aid and assist the company by way of issuing its credit in the form of a guarantee; but it does not follow by any means that the stockholders are to be released from their duty of contributing in the form of assessments as assessments may be necessary. There has thus far been not one dollar expended on the part of this company in the actual construction of the work. I believe that not a spade has been struck into the ground anywhere

Mr. CONNESS. Yes, sir, in California.

Mr. HOWARD. I mean on the main line.

Mr. CONNESS. California is on the main line.

Mr. HOWARD. No, sir; California is not on the main line. Not a pick has been struck in the earth between the initial point in the East and the termination of the main line at the West. It all remains to be done. I do not know how much money has been contributed by the present stockholders, but sure it is that they have done nothing thus far in the form of constructing the road; I mean the Union Pacific railroad.

Mr. TRUMBULL. They have commenced at Omaha.

Mr. HOWARD. That is not on the main line. The main line commences at the one hundredth degree of west longitude, and terminates at the western boundary of Nevada. The others are called branches.

Mr. POMEROY. I will remind the Senator that the Union Pacific railroad are to construct the road from Omaha. It is their work and nobody else's.

Mr. HOWARD. Mr. President, the Senator dislikes this provision which compels the board of directors or the stockholders of the company to make assessments at the rate of ten dollars a year upon the stock. That would require a person who should hold one share of the stock to pay it up in full in the course of ten years, paying at the rate of ten dollars a year, five dollars every six months. It seems to me that that is not an unreasonable requisition to be made upon the stockholders. It is inserted here to bring home to their consciences and their consciousness that there is a duty due from them to the company and to the Government, that they are to contribute of their own money, that this work is to be carried on by them earnestly, devotedly, at their own expense, and that "Uncle Sam" is not the ultimate party to foot all the bills. It seems to me that if you strike out this clause thus requiring assessments to be made, you in fact destroy the utility of this bill. You release them from an obligation which under this bill they would at all times feel in the form of paying their money. I do not wish to see more moonshine stock in circulation. I wish to see something substantial and satisfactory.

Mr. POMEROY. I wish to remind the Senator that this company has been organized, and organized in good faith, and money paid in and the work commenced. I know myself that \$2,000,000 were subscribed and ten per cent. paid in. A large amount of iron has been purchased and the work is under way. I never knew of any way of subscribing for stock such as some Senators have represented—of paying in your money and then taking it back again. I do not think that a board of directors, organized as it is to be organized under this bill, and with Government directors who have no interest in it, could stand up in daylight and allow any such transaction as that.

Mr. HOWARD. If the Senator will allow me one word; in order to guard against that he will see that the bill provides in the same clause that "money only shall be received for any such assessment, or for any portion of such capital stock." There can be no legendism of converting bills of exchange and promissory notes into payment for stock; it must be money.

Mr. POMEROY. The practical way of building railroads in this country has always been to pay assessments on the stock to a certain amount to begin with; but there never has been a company organized yet that I ever knew of, especially in building our roads in the West, where they have been obliged to pay in the full amount of the par value of their stock. It is arranged in this way: the company assess, for instance, forty per cent. After that has been assessed and paid they issue bonds, and the bonds are taken by the stockholders in proportion to the amount of stock they own and paid for, and the stock and the bonds go together. The stock of this railroad company and its bonds belong together; they will go together, excepting the bonds the interest of which has been guaranteed by the Government. Those are separate and distinct bonds that will go into the market and be sold everywhere. But in the prosecution of such a work as this, the company will be obliged to issue bonds the interest of

which will not be guaranteed by the Government. Those bonds will be valuable to the stockholder in proportion to the amount of stock he may own; but if the stock is fully paid in, there is no inducement for the stockholder to take the bonds—I mean the bonds the interest of which is not guaranteed by the Government.

That is not all. I will not discuss the point, but it is precisely here; it is a right belonging to the company itself to make assessments or not, and to make them when they want them; and that right should not be enforced in the act of incorporation. Every corporation assesses its stockholders according to the exigencies of the work, and according to the necessities they have of making purchases of iron, and of paying for everything. If we insert in this bill a provision obliging them to assess five dollars a share every six months until the whole par value of every share is paid in, it will prevent men from taking the stock in the first place, and in the next place it is not according to the genius of the bill itself. The bill was not constructed with that view, that the stockholders should pay the par value of their stock to begin with, or as fast as the work progresses.

Mr. CONNESS. I disagree entirely with the objections made by the Senator from Kansas to the provisions that he has discussed. I do not agree with the Senator when he says it is not in accordance with the scheme of this bill and with the scheme for the construction of the Pacific railroad. It will be remembered that the scheme upon which this bill at least is predicated is, that the Government of the United States guaranty the payment of the interest upon the bonds to be issued by the various companies in case the companies fail to pay the interest themselves. I ask the Senator from Kansas, how can the companies but fail to pay the interest if they do not subscribe and pay in their money for their subscriptions of stock?

Mr. POMEROY. The point I was making was, not that they should not be assessed, but that it should not be made obligatory on them in the bill.

Mr. CONNESS. I understand that.

Mr. POMEROY. There are one hundred millions of stock to be assessed here, which will be sufficient to pay the interest on ninety millions that you guaranty.

Mr. CONNESS. I understand that. The objection of the Senator is that the bill requires *bona fide* subscriptions and *bona fide* payments, and he says that requiring that kind of subscription and payment will prevent investment in it and the taking of the stock. Well, sir, if we can pass any law here or if we can insert any provision in this bill that will prevent men that have no money and cannot raise it from becoming subscribers, and burdening the books of the company with their names, I think we cannot do better than insert it, and if such a provision is now found in the bill, we cannot do better than preserve it there.

The Senator says there will be needed doubtless in addition to the bonds provided to be issued by this bill upon which the Government guaranty the payment of the interest, other bonds of the company the interest of which will not be guaranteed. There is the rub. That is where the shoe pinches—right there. If we do not require them to be *bona fide* subscribers, if we simply guaranty the payment of the interest upon ninety millions of their bonds, they failing to pay the interest, and not require them to pay in honest subscriptions to the capital stock of the corporation, of course the result will be that they will have to issue their bonds, they will have to become borrowers abroad. How? In their corporate capacity, of course.

But this scheme, I undertake to say, is not predicated upon any such system or want of system. In good faith we present and offer to the moneyed men of the country the credit of the Government of the United States and the guarantee that the United States will pay if necessary to the extent of \$90,000,000 in gold in the shape of interest to accrue upon the bonds of those companies. For the purpose of securing good faith to us and to the Government we intend just this provision, that they shall pay and invest their money, and that those who have not the money to invest shall keep out and go upon the stock exchange or somewhere else and carry on their

operations. There is no better provision than this contained in the bill. It is a liberal provision, too, sir. It gives them ten years in which to pay up their subscriptions of stock, requiring the directors to assess not less than five per cent. within every six months. I humbly submit that a stockholder who is not prepared to pay five dollars on the hundred within six months had better keep out and go into some other business that he is capacitated for and that his fortune is adapted to.

Before I close, Mr. President, I desire to correct one mistake into which my honorable friend from Michigan has fallen by calling what is properly to be denominated the middle section of this great work, that between the one hundredth degree and the western boundary of the Territory of Nevada, the main line. There are branches on the eastern end of this road; but it is the main line beyond that, and there are to be no branches there.

I desire to state also in this connection that the Central Pacific Railroad Company of California, organized in accordance with the provisions of the act to which this is an amendment or supplement, have entered upon the building of the main Pacific railroad. They have already constructed and finished and are running cars upon some thirty-two miles of the road to-day. They have subscribed largely to the stock, and have paid in more than a million and a quarter of dollars. They have paid in, not ten per cent. on \$2,000,000, which would be \$200,000, but about \$1,250,000 of their own money, and no bonds of the Government have yet been issued to them. This bill provides for the issuing of bonds to them in the proper way.

I desired in passing to make this statement to show that we on the Pacific slope, so deeply interested in this great work, have engaged honestly and earnestly in its construction, that we are in favor of just such a provision as this to make every subscriber pay in money for the construction of the work, so that it shall not always be when the day comes that the interest falls due upon the bonds provided to be issued that the Government must in every case pay, and it thus be a gratuity on the part of the Government of the entire \$90,000,000, but so that the subscribers being *bona fide* subscribers, having as required to do paid their subscription on their stock, shall be able to pay their interest like men, we agreeing on the part of the Government to pay the interest when they fail. I am glad that discussion has arisen here upon this proposition, because the country should understand that while we are engaged in offering the most munificent provision to the moneyed men of the country for engaging in this work we intend at the same time that it shall be entered upon and carried out in good faith, not by speculators, but by men of substance who are interested in the public welfare and who desire to seek an increase of their fortune in the most legitimate manner.

Mr. POMEROY. The Senator from California does not understand, or does not seem to understand, the motive I had in calling the attention (I did not move an amendment) of the chairman of the committee to this clause. It was simply to say that it was an unusual provision, that I had never seen it in any corporation before.

The Senator has alluded to some men that may propose to subscribe and do not intend to pay their subscriptions. I do not know any one that has subscribed, or who would be likely to subscribe, that is not able to pay his ten per cent. and finally his hundred per cent. It is an intimation that I have never heard of before.

Mr. CONNESS. If the Senator will permit me, I have made no intimation at all. I have not dealt with the Senator's motives. I concede them to be as fair as mine. I have made no intimation regarding any subscriber. I have discussed the proposition fairly as the Senator presented it.

Mr. POMEROY. I understood the Senator to say that parties who did not intend to pay their subscriptions had better spend their time speculating in Wall street.

Mr. CONNESS. I did say so.

Mr. POMEROY. I do not design to move any amendment to this clause. I called the attention of the Senate to it simply as an unusual provision, and one that I thought would prevent the taking of the stock. I still think so; but if the chairman

of the committee thinks it is a provision that ought to be in the bill I certainly shall not undertake to strike it out.

Mr. HOWARD. I do most sincerely confess that I regard this provision of the bill as very essential. Indeed, with me it would be a condition precedent to voting for the rest of the bill. If this clause was stricken out I certainly could not, according to my present convictions, vote for the remainder of the bill. The Government, certainly, is entitled to some little security that this corporation shall make an endeavor to pay the interest which it will owe from year to year, and this is really the only security which we have in the bill that they will make that attempt. Is it unreasonable? It seems to me it is not unreasonable. We have abandoned all the forfeitures in the old bill. We have no right to put our hand on this property and call it forfeited for the breach of condition. We have dispensed with that and released all forfeitures. I ask my friend from Kansas whether it is unreasonable to ask of a *bona fide* stockholder and subscriber, an honest man, who wants to see this road built and who wants to assist in building it, to contribute upon his certificate of \$100 ten dollars a year to carry on this project and to aid the company in performing its obligation of repaying to the United States the interest which the United States may have to pay? Is it unreasonable? It seems to me not.

Mr. POMEROY. It was not the hardship that I was talking about. I did not say I did not want him to pay it. I do. It is only because I thought it belonged to the corporation to make the assessments, and that it should not be declared by act of Congress.

Mr. CONNESS. I so understood the Senator. The PRESIDING OFFICER. The question is on the amendment as amended.

Mr. HOWARD. What is the motion? The PRESIDING OFFICER. There is no motion before the Senate. The question now is on the amendment of the committee as amended by the Senate.

Mr. POMEROY. I desire to call the Senator's attention to one more provision in this same section. It is this clause in line one hundred and five:

But no director, officer, or employee of the company shall act as the attorney or proxy of any shareholder at any annual or other meeting of the stockholders.

That is a provision that I have never before seen in any corporation, forbidding any person employed by the company to take the proxy of a stockholder and vote at the annual meeting.

Mr. HOWARD. The language is, "no director, officer, or employee of the company shall act as the attorney or proxy of any shareholder at any annual or other meeting of the stockholders." That is not an unusual provision in charters. The object is to make the proxy or attorney as free as possible from all extraneous influences, to make him impartial in the administration and discharge of his duty. I certainly regard that as a very essential clause in the bill.

Mr. POMEROY. The business of the man who votes as proxy for another is to vote according to his instructions, and the attorney may as well be a director or a stockholder or an employee of the company as anybody else. It is only for him to vote the proxy under the instructions of the shareholder who gives it to him. It occurred to me that it might be an inconvenience to forbid persons connected with this road to vote as the proxy of others when they attend the annual meeting.

Mr. HOWARD. I believe there is no motion made to strike out.

Mr. POMEROY. No; I will not make that motion. I thought the Senator would make it.

Mr. HOWARD. No, sir; I think not. I regard that as a very essential clause. It is certainly very conservative in its influence.

The PRESIDING OFFICER. Is the Senate ready for the question on the amendment of the committee as amended?

Mr. HARLAN. I desire to submit several amendments to that amendment which I have not had time to prepare, and I therefore move that the further consideration of the subject be postponed until to-morrow.

Mr. TRUMBULL. If the Senator from Iowa will allow me, there are one or two amendments that I should like to suggest.

Mr. HARLAN. I have no objection to that, and I will withdraw my motion.

Mr. TRUMBULL. I call the attention of the chairman of the committee to this clause in the one hundred and fifty-seventh line of the first section:

The Government directors shall be *ex officio* members of all standing committees.

I suggest to the chairman of the committee and to the Senate that that provision may be very inconvenient. Companies often appoint committees, say of three; there are two Government directors; and if you put both the Government directors upon every committee you will always have a committee as large as five. These Government directors are to look after the interests of the Government; and it occurs to me that it would be better to say, "at least one of the Government directors shall be a member of each standing committee."

Mr. HOWARD. When we have a corporation of such magnitude as this, it seems to me we may assume that the standing committees will consist of more than three persons. The board of directors will consist of twenty-one, and it is not very likely that any of their standing committees will consist of less than five. The clause was framed on that idea, and it was framed at the suggestion of one of the present Government directors. Under the old law the Government directors had no power or authority whatever.

Mr. POMEROY. I suggest to the Senator that as there will be not only an executive committee and a committee on finance, but various other committees, and as these two Government directors are to be on all the committees, they cannot act on these various committees meeting in different parts of the country at the same time.

Mr. HOWARD. My reply to that is, I am a member of three standing committees of this body, which committees very frequently are all in session on the same day and at the same hour.

Mr. POMEROY. Not all over the United States.

Mr. HOWARD. It is about as difficult for me to distribute myself on these three committees as it would be for these two Government directors to attend all the committees that may be raised. I believe, in short, in giving to the Government directors full power and authority to inspect, and, so far as possible for them to do, to control the proceedings of this corporation. The Government is vastly interested in it. The bill gives them the right not only of constituting a part of every one of the standing committees, but gives to them the further right of visitation, substantially, of all the affairs of the company, and requires them to report from time to time to the Secretary of the Interior any information which they may have in their possession fit for him to know, and whenever he shall call upon them for information. I look upon it as very important that these gentlemen thus representing the Government and the interests of the Government in this corporation should have very large powers; for it will be impossible, or next to impossible, at least, for them to abuse their powers, and I foresee that some advantage will result from giving them most ample authority.

Mr. TRUMBULL. I concur entirely in the propriety of these Government directors having the power of visitation and ample authority to look into the affairs of this company and protect the interests of the Government; and it was not with a view of taking from them any of these powers that I made the suggestion. It occurred to me that there might be an inconvenience in having both of the Government directors upon all of these committees. I am not very familiar with the internal arrangements of railroad corporations, but I was under the impression that they often had committees of three persons, and in a board of twenty-one directors I thought it might subject the company to inconvenience if we required them to have the two Government directors upon every committee. I am for the railroad bill, I wish it to be understood; I am earnestly in favor of it; and I want the bill in such a way as that it will work, that there will be no unnecessary jarring of the machinery; and I thought if we said that at least one of them should be upon each standing committee, it would perhaps avoid some difficulty and some inconvenience. That is the only object I have in it.



Mr. GRIMES. The best way would be to increase the number of Government directors from three to five.

Mr. TRUMBULL. That would make it more unwieldy.

Mr. GRIMES. That would only be a fair proportion. There are now twenty-one directors and only two Government directors.

Mr. TRUMBULL. It is not my proposition, and I have no intention to make a proposition, to take away from the Government directors any of their authority of visitation or power to look into the affairs of this company at any time. I entirely concur in what the Senator from Michigan, the chairman of the committee, has said on that subject; but it does strike me, and I confess I am not quite satisfied about it now, that it would be better to say "at least one of these directors shall be upon each of the standing committees;" and both might be put on still, notwithstanding such a provision.

Mr. CONNESS. I desire simply to suggest to the honorable Senator from Illinois that whatever condition you make upon this particular point will be a condition precedent; the company will be aware of it; and they will adapt their committees to it, whatever it is.

Mr. TRUMBULL. I think it will produce an inconvenience to leave it as it is. It seems to me we do not want all the Government directors on every one of these committees, and, as has been well said by the Senator from Kansas, acting at the same time. They must be upon every committee, to carry on this great undertaking, if they discharge their duty. The Senator from Michigan says he is on several committees. I know it, and he discharges his duty very faithfully on all of them. With the view of testing the question, I will move to insert the words "at least one of" before the word "the," in the one hundred and fifty-seventh line of the first section, so that it will read:

At least one of the Government directors shall be an *ex officio* member of all standing committees.

Then I will move the other amendment below, to make the phraseology complete, if this amendment is adopted.

Mr. HOWARD. Let us see how this will work. At least one of these two Government directors shall be a member of each standing committee. Suppose the company to have become organized, its board of directors regularly formed, and its standing committees regularly appointed. Then the provision of the Senator from Illinois is looked at, and it declares that at least one of these two persons shall be a member of each of these standing committees. Which one, sir? Who is to determine? Which of these two Government directors is to take his seat in the committee-room of a given one of these standing committees? John Doe says he will not, and Richard Roe, the other director, says he will not do so, and I suppose they would have to appeal to reconcile their differences perhaps to the honorable Senator from Illinois who has offered this amendment. How is he going to make the selection of the one Government director who is going to occupy a seat upon this committee or that committee? He does not explain that. I see no inconvenience whatever in saying to both these Government directors, "You shall be under an obligation to act as members of each one of these standing committees;" for we do not say in so many words that each one shall sit and act at the same time with each one of these committees, but each one can have an opportunity of visiting each one of the standing committees. The proposition of the Senator from Illinois, who has had this clause under his consideration ever since it has been proposed to the committee, renders it utterly impracticable. It destroys entirely the object aimed at by this provision. I had hoped to have the support of the honorable Senator from Illinois in the passage of the bill.

Mr. TRUMBULL. I am sorry that my friend from Michigan looks upon this proposition in the light he does. Suppose this road to be in operation; you want a finance committee in the city of New York, where the principal office is to be, and where you want one of your Government directors to see how the finances of the company are carried on, and its general business; you want another committee on the line of the road, probably a construction committee; how are you going

to have the two directors you have got members of both committees? There is no difficulty as to which of the directors shall be upon a committee if it is said one shall be. Cannot the president of the board of directors appoint the committee and designate one of them? One of them is made by your law a member of the committee, so that he is compelled to put one on. Can he not make the selection? We have fifty Senators, and we have got a rule that there shall be a Committee on Finance composed of seven Senators. Who is to determine what members shall be on that committee? The Presiding Officer.

Mr. HOWARD. The Senator assumes that the appointment of the standing committees is to be by the president of the board of directors. It so happens that the bill does not contain any such clause.

Mr. TRUMBULL. The bill authorizes the directors to make by-laws and regulations not inconsistent with the Constitution and laws of the country; and does not the Senator from Michigan know that every board adopts its by-laws and provides for the appointment of its committees, and either vests the power in the president or somebody else? I am astonished at such sort of objections as these, and I am astonished at any feeling on this question on the part of the Senator from Michigan. It is to facilitate the operations of this company that I have made the suggestion. You have got but two Government directors, and you propose to have them on every committee. It seems to me that will work inconvenience. If the Senate does not think so, keep them both on all the committees. It is not a matter that I care to discuss; but I cannot assent to the idea which is suggested here that there is a difficulty in determining which of the two shall be on a committee because the law does not provide that the president shall appoint the committees, when you have given authority to the directors to make their by-laws, and one of the provisions of the by-laws in all corporations of this kind is a provision determining how its committees shall be appointed. The law merely determines that one of these persons must go upon a committee. It does not say which. That may be settled by the by-laws of the company, under the appointment of the presiding officer of the directors, or by election of the board of directors.

Mr. HOWARD. We are now acting on the bill which we propose to convert into a law. We are not passing by-laws for this company, nor making provisions for the passage of by-laws, nor saying what by-laws may be passed or may not be passed. We are passing a law regulating the organization of the company. What the board of directors might do or might not do in the way of the passing of by-laws, neither the Senator from Illinois nor myself, however confident he may be, can predict. We do not know whether any provision will be made in the by-laws authorizing the president of the company to appoint the standing committees, or whether that right would be retained in the board itself, to be executed upon a regular balloting of the members of the board. I say that the amendment offered by the Senator from Illinois leaves the matter so uncertain as to which of these two directors shall be employed upon this, that, or the other committee, that it defeats the very object of the clause. There is no feeling on the subject, sir.

Mr. CONNESS. The view that I take of this provision is that the law simply provides that these two Government directors have the privilege and right and shall be counted as members of the committees. I do not think that provision is obnoxious to the statement made by the Senator from Kansas, requiring them to divide themselves, and requiring their presence at two different points at once. Not at all. As I suggested briefly before, this being a condition precedent and a condition of the law, the directors will immediately adapt themselves to it; the Government directors will have the right to a seat upon every committee; the committee may do its business if the Government directors be not present, or if they cannot be present; but the Government has a right to representation there. That is the way I understand the provision. I think that is right and useful.

Mr. MORGAN. The objection that has been raised by the Senator from Illinois is on account of the inconvenience that would arise from a large

number. I think the matter will be simplified if he will look at it as it will exist. There will practically be but two committees, one the finance committee and the other the executive committee; and it is very proper that the Government directors should be at least upon both those committees. They substantially have the management and whole control of the company. The power of the board is vested in those two committees. I think the bill as reported by the Railroad Committee is not objectionable; on the contrary, I think it is eminently proper.

Mr. POMEROY. I want the chairman of the committee to understand that I like the bill and am supporting it, and I would make no amendment to it unless I thought it would improve it, and I would only make that by way of suggestion. These two Government directors are not obliged to be present, as the Senator from California very well says; one of them may be present; but they have a right to be there. I think, however, there is another very important committee besides those named by the Senator from New York, which is the committee on construction, to oversee the construction of the road.

Mr. MORGAN. That is the duty of the executive committee.

Mr. POMEROY. The executive committee have a right to appoint that committee, but the executive committee in New York cannot be on the line to supervise the construction of the road. As there are two Government directors, one can be in the East and one in the West. I think there will be no inconvenience.

Mr. TRUMBULL. I have no desire to have the amendment adopted if the provision as it stands will not subject the company to inconvenience. If gentlemen who are more familiar with such things than I am think it will not I will withdraw the amendment and not insist upon it.

The PRESIDENT *pro tempore*. The amendment is withdrawn.

Mr. TRUMBULL. There is another portion of the bill that strikes me as very objectionable, and which it seems will operate very much against the construction of the road and will tend to increase the expense of constructing it very much. I allude to what is embraced on the 9th page, between line twenty-two and line thirty-four of the second section. I move to strike out all after the word "unpaid" in line twenty-two on page 9 down to the word "and" in the thirty-third line of the same page. The words which I move to strike out are these:

All contracts for labor and services, materials of every description, and for transportation, which may be made by or on behalf of said company, shall be terminable at the pleasure of said company, or of the directors thereof, by notice in writing to the other contracting parties, their heirs, executors, administrators or assigns; and upon and after service of such notice, all liability and obligation on account thereof, on the part of the company, shall cease and determine, except in so far as performance shall be by either party required during the six months next succeeding such service; and all such contracts of said company shall contain or be deemed to contain a clause providing for such termination thereof.

It does seem to me that contractors and other persons will be very slow to enter into obligations with this Pacific Railroad Company when there is no mutuality about the obligation. The man who makes a contract with this railroad company for transportation is to be at the mercy of the company. They may avoid the contract at any time they please. If the parties who engage on the line of this road in the working of iron mines and the manufacture of iron should enter into a contract with this railroad company for the transportation of their iron, to last two or three years, it will be in the power of the company at any time, notwithstanding the contract, to declare the contract at an end, without any damages, of course, "except in so far as performance shall be by either party required during the six months next succeeding such service." The party would have a right to insist on carrying out the contract for six months. So in regard to persons who may take contracts for the construction of the road.

The very idea of a contract is that it shall be binding upon both parties. There must be mutuality about it. The option is not given to the party who contracts with the company, but it is entirely with the company to avoid contracts or not. It seems to me that responsible parties will be very slow to enter into obligations with a company at whose mercy they are to be. I think the

provision ought to be stricken out, and that any contract which this railroad company makes should be as binding upon it as an individual's contract is upon him. The Senator from Iowa has been talking about monopolies, and he objects to this bill as a great monopoly. Why, let me ask, is this railroad corporation to be taken out of the general rule in regard to individuals and other parties in reference to the contracts they shall make?

Mr. GRIMES. The Senator, I hope, does not intend to convey the impression that I am in favor of that provision.

Mr. TRUMBULL. Not at all; but I was merely making use of the Senator's argument in favor of my proposition to strike out these words.

Mr. HOWARD. The Senator from Illinois certainly cannot be ignorant of the fact that many contracts are so drawn between the parties as to be made determinable at the option of the one or the other as they shall agree. Almost all public contracts are made in that form. Post office contracts, contracts for public supplies, and a great variety of contracts contain such a provision enabling one of the contracting parties to determine it at his option. The object of the clause which the Senator from Illinois moves to strike out is to guard against the danger of an outgoing board of directors making fraudulent contracts, or contracts which may be disadvantageous to the company and very much to the advantage of favorites, and to enable an incoming board, upon giving due notice, say of six months, to determine and put an end to any such objectionable contract. It is made strictly in the interest of the company, and for the purpose of guarding and protecting its rights against improvident contracts, or contracts that may be given out to favorites of A, B, C, or D belonging to the company; and I submit that it is an important clause to be contained in this charter. It reserves to the board of directors the power of putting an end, after a notice of six months, to any contract for supplies or for transportation. Certainly no injury is likely to arise from it. Such a contract cannot be determined except upon due notice of six months. Due notice is to be served upon the contractor, and the contract cannot be put an end to until the lapse of six months from the time of the service of that notice.

These were the reasons why the committee inserted this clause in the bill. I think that it is a most salutary and necessary clause, and that it ought to be retained. It is not very likely that in the case of an honest contractor his rights or contract would be interfered with by the board of directors; certainly not for any trivial or inconsiderable reason. But, as I said before, the object is in the case of a fraudulent, unfair, or disadvantageous contract entered into from sinister purposes, to enable the board to put an end to it on giving reasonable notice.

Mr. TRUMBULL. I should like to inquire of the Senator from Michigan if it is certain that the succeeding board of directors will be any more honest than their predecessors; and if not, why the succeeding board under his bill as he has it, will not be just as likely through favoritism and fraud to set aside the contracts made by their predecessors and give the same work to a set of favorites of their own? If we are to regard each board of directors as, the one as likely as the other, to be an honest board, then the presumption that the old board will have entered into contracts which will bind their successors of an extravagant or a fraudulent character is no greater than the presumption that the succeeding board will set aside the contracts of their predecessors for the purpose of giving fraudulent and extravagant contracts to their friends. It is as broad as it is long.

Mr. COLLAMER. This does not confine the vacating of contracts to a succeeding board.

Mr. HOWARD. No, sir. I will answer the Senator from Illinois by asking another question. I ask the Senator, if he were a member of this company, whether he would not as such think it a privilege not entirely to be disregarded to be enabled to put his hand upon an unjust or disadvantageous contract, and put an end to it; or whether he would, having discovered the character of such a contract, be proud to carry it out, and to allow the contracting party to carry off his ill-gotten gains; in short, whether he would not

like to have the remedy in his own hands perpetually, so far as he could conveniently and lawfully. It seems to me there can be but one answer to such a question as that. The sole object of this provision, as I said before, is to keep this remedy in the hands of the corporation.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Illinois to the amendment.

Mr. CONNESS. Before the vote is taken on this subject, allow me to say a word. It appears to me that there are especial reasons for retaining such a provision as this in this bill. Let me give a single illustration, and invite the attention of Senators to it. It is not necessary for me to state that there is no purpose on the part of the producers of this act, those who have prepared it, to incur it with any restriction that shall militate against its being carried out and the great road being built. Let me give you an illustration now of what might be the operation of a board of directors under this act without a provision like this, and how it would work to the company and to the enterprise itself. Let us take the article of railroad iron, which to-day is worth one hundred and ten or one hundred and twenty dollars a ton. Suppose a board of directors contracts for the entire amount that may be needed for the Union Pacific railroad, extending from the one hundredth meridian to the western boundary of the State of Nevada: the rebellion is over; gold finds its level; the business of the country finds its level; iron is worth forty dollars a ton again. Now, what a nice operation that is, singly and alone for the contractors whom those directors have enabled to make such an immense amount of money out of this company. I hope that before a vote is taken gentlemen will consider that this is an unusual scheme, that it is not a road composed of one, or two, or three sections, comprehended by forty, sixty, or one hundred miles in length, but that it proposes to build a road two thousand and odd miles in length.

Are we afraid that under a restriction of this kind contractors will not be found who will take the contracts and engage to perform the work? If contractors are scarce for once, I do not know but that I was going to say a great blessing; it would be an unusual fact, to say the least. If this restriction can be changed for the better, I have no objection for one that that shall be done; but let not this restriction be stricken out. There is a necessity for power to be lodged with the directors, to prevent the consummation of what may be fraud, that would be utterly ruinous to the company. I hope it will not now be stricken out.

Mr. RICHARDSON. The arguments used for keeping this clause in the bill are most extraordinary. The Government itself has no right to repudiate a contract. Gentlemen argue here in favor of conferring upon this company the right to repudiate a contract that has been fairly made by its agent, a power that does not belong to any corporation, to the Government, nor to any individual in this country. The argument used by the Senator from California is most extraordinary. He says that if this company should make a contract for the iron to build their entire road, and then the iron should decline in price, the company ought to have the right to repudiate that contract: why?

Because the iron has fallen. In other words, the man who has made the contract with them in good faith to furnish iron, and employed his money and his means to get it, ought to be entirely ruined because this company ought to have power! That is the argument; it is nothing more. It would be a great outrage and a great wrong to confer this extraordinary power on any company, or upon Government, or upon individuals anywhere. I undertake to say that this company, like individuals and all other companies and Governments, ought to be bound by the contracts made by their agents. If they employ agents who act fraudulently toward them, I see no good reason in the world why they should not turn out those agents and employ honest ones. If a contract is made fraudulently, I do not understand that the company is bound by it anyhow; and the Senator from California wishes to avoid the effect upon the company of fraudulent contracts.

There is another view of this question. Large moneyed companies like this have great advan-

ages over individuals in all business transactions that they have with them. When you confer an act of incorporation upon a company, you confer extraordinary powers that do not belong to individuals. The act of incorporation itself is an extraordinary power; but when you undertake to confer upon a company the power that is granted by the provision now under consideration, in my judgment it would be a great outrage and a great wrong; it would be conferring on them the right to repudiate their contracts whenever they see proper.

Mr. HOWARD. The question before the Senate is not whether any natural person or corporation already in existence has the right to repudiate his or its contracts. That is by no means the question. We are now engaged in constructing an artificial being known as a corporation, and imparting to it such faculties as we may see fit to impart. The question before the Senate is whether we shall impart to this artificial being, the corporation, a power under certain circumstances to terminate a certain description of its contracts at its will, by giving due notice to the contracting parties. It cannot be alleged against such a proposition that it is unjust, because it is not unjust to a man to enter into a contract with him when he knows that you will in a contingency have the power to put an end to the contract. He enters into the contract with a full knowledge and notice that you may do so if you see fit, and he therefore has nothing to complain of. The simple question here is whether in the creation of this railroad corporation it is expedient for us to give it the faculty of determining a certain description of its contracts at its own will by giving a certain amount of notice to the opposite contracting party. I see no injustice in it; on the other hand, I see in it a very salutary and protective influence to the real interests of the corporation, because we all know very well that however honest, however circumspect, however vigilant may be a board of directors in a bank or in a corporation of any kind, it is very possible for them to be occasionally imposed upon by shrewd and cunning contractors who are anxious to obtain jobs at their hands.

Mr. LANE, of Kansas. I desire to put a question to the Senator. This road will be sublet in sections of twenty or forty miles to contractors. Is he of opinion that he can get sub-contractors to convey their hands, tools, and machinery eight hundred or a thousand miles on a contract that the company can abrogate by giving six months' notice? I am very clear that you cannot with that provision sub-contract your road.

Mr. HOWARD. I have no doubt on that point. I have no question about the readiness of persons who want employment to enter into the employment of this road. There will be no dearth of hands to labor upon it, no want of employes the moment the ground is broken. I think this is a very essential provision to be retained in the bill, because the effect of it is to enable the company from time to time, as it shall see fit, with the knowledge of the contracting party that it has that power, to terminate any contract. I look upon it as a great advantage to the company, and no injustice to the contracting party.

Mr. TRUMBULL. Allow me to inquire of the Senator before he sits down whether, if these words are stricken out, there is anything to prevent the company from making a contract that shall be determinable at their pleasure in case they can find parties willing to enter into such contracts? I wish to ask if they will not have the power anyhow without putting it in here to make such contracts if they can find parties willing to enter into them?

Mr. HOWARD. I certainly had always entertained that opinion; but judging from the speech which the honorable Senator from Illinois made a few minutes since, one would be led to suppose that such a thing was impossible, that it was wrong and entirely irregular to make a one-sided contract. I never had any doubt about the right of a man or a woman to make such a one-sided contract, nor have I now. Nor have I any doubt as to the power of this company, in case this clause be stricken out, to make such a contract if it sees fit to do so; but my purpose is to make it obligatory on the company to insert this clause in every contract into which it enters for supplies, for services, or for transportation, so that

all contracting parties shall be kept on their guard in respect to it.

Mr. TRUMBULL. I suppose the difficulty would be to find persons to enter into such a contract. I am aware that parties may make any contracts they please, and they will bind them unless they are so unconscionable and unjust that a court of equity will set them aside on the ground of fraud or some undue advantage having been taken by one party of the other. But I do not see any necessity for putting this provision in the law, if the company has power to make such a contract at any rate in case it can find parties willing to contract on such terms.

Mr. RICHARDSON. I am certainly under very great obligations to the Senator from Michigan for the great trouble he has taken to inform me exactly what is the question that is before the Senate. He is entitled to my thanks, and I return them to him for it; but while he is giving information to others, I suggest to the Senator that he had better enlighten himself exactly as to the effect that his bill will have. I undertake to say that if the proposed clause be inserted in each contract that is made, the road will cost more than it would otherwise, because no man will enter into a contract with the company that may be abrogated in six months at the pleasure of the company, unless he can make a much larger profit than he would otherwise demand.

Mr. CONNESS. The Senator from Illinois, [Mr. RICHARDSON,] when he was up before, called attention to my position as being in advocacy of a violation of contracts. The Senator certainly misunderstood me.

Mr. RICHARDSON. That is an implication. I did not mean to charge the Senator with that. I meant only to say that the Senator favored the granting of power to abrogate the contracts; I used the term "repudiate."

Mr. CONNESS. I hold in my hand the report of the organization and proceedings of the Union Pacific Railroad Company, which company we are now legislating for as nearly as we can be said to be legislating for any company. They have organized for the purpose of the construction of the center of this great road, General John A. Dix, president. I find that their perspicuity and their experience have developed just such a provision in their by-laws, and it is already included in them. The experience of railroad men has suggested the necessity of a provision very nearly like this. I will read it from page 37 of their proceedings: it occurs in the form of a resolution, thus:

"Resolved, That in all contracts for materials and construction that may be made prior to the obtaining the desired legislation of Congress amending the company's charter, a clause shall invariably be inserted reserving the power in this board, its executive committee, or any officer of the company duly authorized, to terminate such contract at any time when they shall think proper, without claims for damage on the part of the contractors for any material not delivered or work not actually done."

The only difference between this provision adopted voluntarily by the constructors of this road and the provision proposed to be stricken out of the bill which was introduced into it by the committee, is found in this: the provision of the bill is that "all contracts for labor and services, materials of every description, and for transportation," shall be subject to this condition, while the rule adopted by the Union Pacific Railroad Company is that this restriction shall be applied to all contracts for materials and construction. The bill applies the restriction also to contracts for labor, and services, and transportation. Whether the provision now proposed to be stricken out should be made to conform to the provision adopted voluntarily by the Union Pacific Railroad Company is a question, I suppose, of not much importance. That may be done, if the Senate prefer; but to strike out of the law providing for the construction of the great Pacific railroad, which is applicable to six companies, the equivalent of a provision adopted by this great company, seems to me to be an unwarranted proceeding on our part.

I certainly never meant that an honest contract should be broken; but I meant in advocating the retention of this clause and this power in the board of directors, that it should be a restriction upon the directors, and make it unprofitable to them to make such contracts, and unprofitable to contractors to enter into contracts that would be

palpably in violation of the interests of the company and the country. I hope this clause will not be stricken out. If the Senate refuse to strike it out, they can, if they please, make the provision conform to the provision in the organization of the Union Pacific Railroad Company, which will make it apply to contracts for materials and construction only, and I rather think that would be a good change.

Mr. RICHARDSON. A single word in reply to the Senator from California, and I will not trouble the Senate again. If this provision is in the by-laws of the company, and enters into the contracts, and persons see proper to make contracts with such provision in them, I see no objection to that. The company have the power ample and sufficient to do that with the consent of the contractors.

Mr. CONNESS. The Senator will permit me right here to say that one company has adopted this. We are making a law to govern six companies. The law should be uniform. We have no guarantee that each of those six companies will adopt such a provision. I suggest to the Senator in all reason that if the company who have organized and agreed to build this road from the one hundredth meridian to the eastern boundary of the State of California have voluntarily subjected themselves to a provision of this kind, it is certainly no hardship to them nor to the other companies to insert such a provision in the law, so that it shall be more than a by-law to each of the companies.

Mr. RICHARDSON. There is no trouble about it. If the Senator from California and I enter into a contract, and I agree in that contract that he shall terminate it in six months, that is a part of my contract. If the men with whom you contract agree that you shall have the power to terminate it, that is all right and proper. What I object to is the conferring the power on the company without such contract to terminate it at their will by giving six months' notice. I say the power is extraordinary, it ought not to be granted; it enables the company to commit frauds on everybody everywhere, except with those that they make a written contract with. Where you put it into the contract, there is no trouble, as I have shown; but your law does not require you to put it into the contract. You go on and contract as the Senator from California says, for the iron to construct the road; the iron falls in price; the person with whom you have contracted has obtained it at a high price in order that he may comply with his contract; if it is worth forty dollars a ton now, he gets the iron at that price; if it falls off to twenty dollars, you can give six months' notice under the bill if it be passed as it is now, and take no bar of his iron, and buy other iron at the price at which you can then buy it, under the provisions of the bill as presented to the Senate to-day.

Mr. CONNESS. I reply to the Senator from Illinois that I have no objection, and I think his suggestion is a good one, to require the company in each case to insert this as a condition in each contract they make.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Illinois [Mr. TRUMBULL] to the amendment of the committee.

The amendment to the amendment was agreed to.

Mr. SHERMAN. I desire to offer an amendment to this same section. By section two there is no provision for collecting the unpaid stock, and the only provision for enforcing the remedy is to forfeit the stock. The company is required absolutely to forfeit the stock in case a stockholder fails to pay. There ought to be a provision authorizing the company to sell the stock or to collect the unpaid balance. Both powers ought to be given to the company; otherwise a stockholder might, after paying the first installment, finding it was a losing operation, refuse to go further; he might have exercised great power over the organization of the company, and yet simply by failing to pay under the provisions of the bill as it now stands, his stock would be forfeited and he be under no further liability. The amendment that I propose authorizes the company to sell the stock, in which case he will get the benefit of any surplus over the unpaid assessments, and authorizing the company also to sue at their discretion

for the amount due on stock. I send the amendment to the Chair.

The PRESIDENT *pro tempore*. The amendment will be reported.

The Secretary read the amendment, which was in line eighteen of section two of the committee's amendment to strike out the word "shall" and insert "may at the discretion of said company;" and after the word "company," in line nineteen, to insert "or at the discretion of said company the said stock may be sold at public auction subject to future assessments, at the exchange in the city of New York after ten days' notice published in a daily newspaper in said city, or, at the discretion of said company, the amount due on said stock may be recovered in any court of competent jurisdiction."

Mr. HOWARD. I have not the slightest objection to that.

The amendment to the amendment was agreed to.

Mr. POMEROY. It occurs to me that in the beginning of the second section the company is subjected to a very great expense which may be unnecessary. I will call the attention of the chairman of the committee to the fact that he has provided in the fourth line of the second section that notices of every assessment shall have ten insertions in newspapers in eight of the cities of the United States, in all the cities of the United States where books have been opened. It is required that the notice shall be published for ten successive days. It occurs to me that it will be a great expense with very little to accrue from it.

Mr. HOWARD. The great object was to give ample notice of the calling in of assessments.

Mr. POMEROY. The law obliges assessments to be made once in six months now. Then to provide that in eight cities of the United States they shall insert a notice of them ten times will be a great expense to the company.

Mr. HOWARD. That provision is on the idea that the stockholders will be pretty well distributed about the United States, that there will be stockholders in at least eight of the principal cities where the notice is to be published. I do not see how we can very well avoid giving notice in each of those cities. It is not likely that it will be a source of much expense to the company, though the expense will be something, but it will be a great convenience to the stockholders to have notice brought home to their own doors.

Mr. HARLAN. If the chairman of the committee has proposed all the amendments he desires to propose and no other Senator wishes to propose an amendment to-night, I move that the further consideration of the bill be postponed until to-morrow.

Mr. GRIMES. I move that the Senate adjourn.

Mr. SUMNER. Before that motion is put, allow me to ask the Senate to take up a bill so as to have it in order to-morrow.

Mr. GRIMES. This bill comes up to-morrow.

Mr. SUMNER. I understand not. Does the Senator from Michigan propose to proceed with this bill to-morrow?

Mr. HOWARD. Yes, sir.

Mr. SUMNER. Then I shall not interpose.

Mr. GRIMES. I renew my motion.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

Thursday, May 19, 1864.

The House met at twelve o'clock, m. Prayer by Rev. Dr. Hosmer, of Buffalo, New York.

The Journal of yesterday was read and approved.

## STATE GOVERNMENT FOR NEVADA.

Mr. McBRIDE. I ask the unanimous consent of the House to take from the Speaker's table Senate bill No. 267, to amend an act entitled "An act to enable the people of Nevada to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States." It simply changes the time for the ratification of the State constitution from October to September.

There was no objection; and the bill was taken up, read a first and second time, ordered to be read a third time, and it was accordingly read the third time, and passed.

Mr. McBRIDE moved to reconsider the vote



by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, informed the House that the Senate had passed an act (No. 265) to expedite and regulate the printing of public documents, and for other purposes; in which the concurrence of the House was requested.

#### INDIAN APPROPRIATION BILL.

The House proceeded, as the regular order of business, to the consideration of the amendments reported yesterday from the Committee of the Whole on the state of the Union to the bill (H. R. No. 240) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1865, and upon which the main question had been ordered.

##### First amendment:

Page 36, after line six hundred and eighteen, insert: For payment of the expenses incident to the removal of the Pawnee Indians from Kansas, and their reestablishment in their own country, \$9,726 33.

The amendment was agreed to.

##### Second amendment:

Strike out "seventeen" and insert "ten" in the following clause:

For expenses of transportation and delivery of annuity goods to the Blackfoot Indians for the year, \$17,000.

Mr. WALLACE, of Idaho, (by unanimous consent.) A statement was made yesterday that a proposition had been made to transport the goods sought to be covered by this appropriation for six cents per pound, that the department refused it, and let it at six cents a pound. This matter being personal to the department, I felt it my duty to call upon that officer in relation to that statement. He has authorized me to state to the House, in this connection, that the bids are there to speak for themselves; that the party who was named in the statement yesterday, Mr. Labarge, was the contractor last year at six cents a pound, and that a large portion of the goods contracted to be transported are not delivered to this day; that he was in town when this contract was let, and declined to put in a bid; and there was no alternative for the department, under the law, to let the contract to the lowest bidder. I deem it a matter of justice to the department that this statement should be made. It shows the necessity of making liberal appropriations for the transportation of these goods. The Indian department is suffering now in consideration of the low figure at which that transportation was taken last year. The goods are not delivered yet; and I presume if the contract was let at the same price this year they never would be delivered. I make this statement in justice to the head of the Indian bureau.

Mr. HUBBARD, of Iowa. My information upon that subject was obtained from a letter I have now in my hands from Captain Labarge, who was the contractor last year at six cents a pound. He states that under that contract he had a right to take the contract this year at the same price; that he was at the department and had an interview with Dole and informed him that he was willing to take the contract this year at the same price as last year; that Dole refused and said he would receive new bids for the transportation of these goods. I understand the contract has been let at prices ranging from nine to twelve cents a pound.

The gentleman is mistaken in another matter. Captain Labarge was not in the city at the time of the letting of this contract, to my personal knowledge. This letter was dated at St. Louis a few days prior to the letting of this contract, and I know he was not here at the time. I understand Mr. Labarge is a respectable man, but I have no acquaintance with him myself, and am willing that the committee should have the benefit of the explanation here made.

The amendment was not agreed to.

##### Third amendment:

Strike out of the following clause "\$150,050" and insert "\$50,000."

For subsistence and clothing, and general incidental expenses of the Sisseton, Wahpaton, Medawakanton, and

Wahpakoota bands of Sioux or Dakota Indians, at their new homes, \$150,050.

Mr. STEVENS. With the permission of the House I desire to say that since last evening the Indian department has been consulted, and they say that \$150,050 is the exact amount which, under the treaty we have abrogated, we owe to these Indians; and that that amount is necessary to keep them from starving.

Mr. WINDOM. I do not know what the intentions of the Indian department may be upon this subject, but I do know that by an act passed last February we abrogated all treaties with those Indians, and whatever you give to those Indians now is a gratuity. But my object is not so much to strike down that amount as to get something for those who need it.

Mr. UPSON. Have not the Winnebagoes the means of subsistence?

Mr. WINDOM. I cannot understand how it is that thirteen hundred Indians need \$150,000, while twenty-eight hundred need only \$54,000, while they are living upon precisely the same reservation and under the same circumstances.

Mr. STEVENS. I demand the yeas and nays. The yeas and nays were ordered.

The question was put; and it was decided in the negative—yeas 50, nays 59; as follows:

YEAS—Messrs. James C. Allen, Allison, Anderson, Jacob B. Blair, Boyd, James S. Brown, William G. Brown, Cobb, Dawes, Briggs, Eckley, Edgerston, Finck, Garfield, Grinnell, Harrington, Charles M. Harris, Herrick, Holman, Hotchkiss, Asahel W. Hubbard, Philip Johnson, William Johnson, Kalbfleisch, Orlando Kellogg, Lazear, Long, McIndoe, James R. Morris, Anos Myers, Orth, Perham, Price, Radford, William B. Randall, John B. Rice, Schenck, Scofield, Sloan, Smithers, Spaulding, William G. Steele, Thayer, Tracy, Van Valkenburgh, Wheeler, Joseph W. White, Wilson, Windom, and Fernando Wood—50.

NAYS—Messrs. Arnold, Baily, Augustus C. Baldwin, Beaman, Blaine, Bliss, Brewster, Chandler, Coffroth, Cole, Cox, Creswell, Henry Winter Davis, Thomas T. Davis, Dawson, Deming, Eden, Elliot, English, Gooch, Griswold, Hale, Hooper, John H. Hubbard, Jencks, Kasson, Kelley, Francis W. Kellogg, Kernan, Loan, Longyear, Mallory, Marey, McAllister, McBride, McClure, Morrison, Leonard Myers, Nelson, Noble, Charles O'Neill, Pendleton, Perry, Pike, Pomeroy, Samuel J. Randall, Robinson, Ross, Scott, Shannon, Smith, Stevens, Stiles, Stuart, Sweet, Thomas, Upson, William B. Washburn, and Wilder—59.

So the amendment was not agreed to.

During the call of the roll,

Mr. LAZEAR stated that his colleague, Mr. ARONA, had been called home on account of sickness in his family.

Mr. ELIOT stated that Mr. WASHBURN, of Illinois, was absent from his place on account of sickness.

The result of the vote was announced as above recorded.

Mr. STEVENS moved to reconsider the vote by which the amendments reported by the Committee of the Whole on the state of the Union were disposed of; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PERSONAL EXPLANATIONS.

Mr. DAWES. I ask the indulgence of the House for a few moments to a personal explanation.

There was no objection.

Mr. DAWES. Mr. Speaker, the Globe discloses that during my absence, and while the discussion in the contested-election case of Bruce and Loan was going on, matters transpired here of a character so peculiarly personal to myself that, for the first time in my life, I ask to be indulged for a few moments of explanation.

While I have held a seat here, Mr. Speaker, I have never at any time for a single moment entertained a particle of malice toward any individual member. In the many heated discussions in which I have participated, differing sometimes with friends as well as with opponents, while painfully conscious of an infirmity of speech in this respect which cannot be more mortifying to the best friend I have than to myself, nevertheless no shaft has been ever hurled by me that was dipped in gall. I have never thought it proper to attempt to make up for the feebleness of the missile in the

virulence of the poison in which it was dipped; and whenever I have unintentionally drawn blood no man more willingly than myself has made reparation the first moment it was known that the slightest wound had been inflicted.

On the first day of the discussion of the contested election of Bruce and Loan it was my intention, as I then stated, to take no part in the debate; but when it appeared that the discussion was not to close that day, and as, according to a previous engagement that could not be dispensed with, I was obliged to leave the city that night, I rose, not more on my own motion than at the request of a colleague on the committee, to state in as few words as possible and without premeditation the views which my colleague and myself entertained on that question. But, sir, circumstances occurring at the moment which it would be difficult to make the House understand changed the current of my remarks to some extent. In the course of those remarks, when my attention was called to matters that were thought by others to need explanation, I made with great cheerfulness what seemed to me to be full reparation. If I had had the slightest thought that I came short of full reparation for any unkind remark that I may have then made I should have censured myself if I had not made the amende to the satisfaction of every person.

But, sir, whatever occasion others may have had to complain of any remarks which fell from me in that day's discussion, the Representative from the seventh district of Missouri had no occasion so to complain. Whatever allusion I made to him was in the kindest of terms and was honestly expressed. I had neither any occasion nor desire to say aught that could be construed by him or by any fair-minded man into a reflection on his personal character, or on his participation in any of the matters then under discussion. And, sir, in the remarks that I did make, I submit to the candid consideration of the House, there cannot be found a single word which would justify him in calling on me either for explanation or apology; and no single syllable has ever been pointed out requiring either.

And yet, sir, after I had announced before I had made these unpremeditated remarks, and as some reason why I sought the opportunity of making them, that I was obliged to leave the city that night and had paired off and could not be here at the final vote, the Representative from the seventh district of Missouri deliberately, at his room, with—as I understand—a copy of the reporter's notes of my remarks before him, and therefore reassured that I had not uttered a syllable unkind or disrespectful to him, with two days to revise it, prepared and wrote what he knew when he was putting it on paper he could safely deliver in my absence, a speech, sir, charged with the grossest and foulest accusations against my own personal integrity; and came here on Monday, as I am informed, and read from his manuscript that speech which in its language, in the bitterness and in the malignity with which its every sentence is surcharged, finds no parallel certainly in the records of this House since I have been a member of it. I shall ask the Clerk to read a single paragraph of it as a summing up of what he chose to say of me under these circumstances, knowing as well when he came here to deliver it as when he had prepared its malignity that I was not to be here to defend myself. I ask the Clerk to read from the Globe what I have marked.

The Clerk read, as follows:

"The only deserving or proper reply that could be made to the statement of the gentleman is the epithet that Colonel Bouton once applied to Pettit of Indiana; but as I am inclined to think the language would not, as a general rule, be parliamentary, I will not use it; but if any gentleman will furnish me with a parliamentary phrase that will express the same idea I will thank him for the suggestion. A political guerrilla who flies a friendly flag that thereby he may the more safely and surely strike a fatal blow. The gentleman has fairly earned and no doubt will receive the scorn and contempt of every honest man; and here I leave this unpleasant subject."

Mr. DAWES. Now, Mr. Speaker, the remarks that I made were printed in the Globe upon Friday. I have never seen the reporter's notes. The Representative from the seventh district of Missouri has had an opportunity to read them; the House, if it has cared to, has read them also. And now, sir, without hesitation and most cheer-

"He is a great liar and a dirty dog."

fully, I submit these remarks as they were delivered and as they appear in the Globe, a demonstration of what I have said that not a syllable in that speech was or was intended or could by any ingenuity be tortured into anything offensive to the Representative of the seventh district of Missouri. They remained there in print until the Monday following as a commentary upon the speech an extract of which has been read at the Clerk's desk; and yet the Representative from the seventh congressional district of Missouri, not content with having prepared and written out a speech of the character there read, when he knew that if he delivered it at all it must be in the absence of him whom he was attacking, read it here in the House in cold blood behind my back; but further, not sure that he had done his work, four days afterwards, when it was published in the Globe, he crept to the printing office and caused to be printed with it, in the shape of a foot-note, what he himself in the body of his speech confessed was so coarse and vile an epithet that it would be a violation of the rules to utter it in the House.

Now, sir, I have not asked the attention of the House in order that I might show how able I am to compete with him or any one else in the use of vile epithets or viler billingsgate; or to hurl back upon the heads of those who uttered it the vituperation they have wasted at my feet.

For this reason I do not propose at this time to enter into any reply to attacks upon me in my absence, come they from what quarter they may.

It is not for me to apply a test of true courage to other men. The world will take for each of us the full measure of whatever of that quality we may possess. To its arbitrament I am willing to submit the decision of the question, whether there is more of courage or cowardice in making an unprovoked attack upon any man behind his back. All laurels, by whomsoever won on such an ignoble contest without an opponent, I shall leave undisturbed to grace the brows of those who think it an honor to wear them.

I have waited until this time in order that it might be demonstrated to others, what I knew myself, that this attack upon me did not depend for its existence upon anything which I had said or done. It has gone into the stereotyped pages of the Globe; whatever of injury it is capable of doing to me it has accomplished.

And now, sir, I have made up, to go along with it into the same pages, the record between myself and the Representative from the seventh congressional district of Missouri, before the tribunal of my constituents, this House and the country. And the judgment each shall render I shall cheerfully abide.

Mr. LOAN. I ask the unanimous consent of the House to say a word or two in reply to the member from Massachusetts.

There was no objection.

Mr. LOAN. I desire to state to the House that if in the discourse I delivered to which reference has been made there was anything said that was not justified by the speech to which I replied, it was unintentional on my part, and I regret it. It is true that I had the notes of the gentleman's speech before me. It is true that after careful deliberation I believed the reply I had prepared was nothing but a just and legitimate defense to the assault that had been made upon me in the most unprovoked manner, not on my case, but on my personal integrity. There was no ground for that. It was with the understanding that a deliberate, premeditated assault had been made upon me personally in this House in the reply the gentleman from Massachusetts made to a question of the gentleman from West Virginia [Mr. WHALEY] that I made the personal remark to which exception has been taken. If, in the opinion of the House, that is not a justifiable reply, I ask the pardon of the House for having made it. After the remarks of the gentleman from Massachusetts [Mr. DAWES] this morning, I have no pardon to ask at his hands.

My invariable rule through life has been never to offer any insult to any one; and I inform him and this House that I have never allowed a sentiment of malice to reign in my heart toward any one. Whenever I have felt that I have been unjustifiably and unwarrantably attacked in my personal honor, I have always considered it to be my duty, and one which I have never shrunk from,

and I never expect to shrink from, to defend myself to the best of my ability.

The gentleman from Massachusetts stated that my answer to his speech was made when his back was turned. I had no alternative. It is not my fault. He saw proper to vacate his seat. Nor is it my fault that he failed to correct any improper expression which reflected on me. He shot a Partisan arrow and then left. There was no alternative; no other course left to me. My defense to his assault was to be made in my speech, and I had no option as to the time at which the speech should be made.

I think proper to say that a friend of mine, of whom I think highly, said to me, that the foot note, of which complaint is made, was improper. Relying on his judgment, I promptly repaired to the Globe office and ordered that foot note to be stricken out so that it will not appear in the Congressional Globe. When I did that I had no idea that the gentleman [Mr. DAWES] cared what I did. A friend had said that I had done wrong, in his opinion, and that was sufficient reason for me to correct it.

I entertained no unkind opinion toward the gentleman from Massachusetts; up to the time of that speech I had no cause. But I believed honestly and sincerely that his speech was an unprovoked assault on me and my personal honor and integrity, and I replied to it as I thought it deserved. If I have misconstrued the speech and answered in an unjustifiable manner, I have already stated that I beg the pardon of the House, for it was not my intention to be guilty of any impropriety here.

That is all the explanation, Mr. Speaker, I have to make in regard to the matter. I have done simply what I believed to be right. It is possible that the minds of members may be so constituted as to differ in regard to the merits of the case, but according to the best judgment that it has pleased Providence to endow me with, I believe the construction that I put on it, that it was an unprovoked and unwarrantable assault on me, was a fair and just one. As such I resented it. If I could have put any other construction on it I would have done so. I had no desire for controversy—no desire for any unkind feeling, and no cause of complaint toward others. But if any one shall make any assault on me I expect to defend myself. I do not seek the reputation of a man of courage. I do not expect to get any popularity from it. It is not my style. I expect to act on the defensive, and in my intercourse with others I desire to receive and expect to extend to all the courtesy due from one friend to another.

Mr. MALLORY. I ask to make a personal explanation.

There was no objection.

Mr. MALLORY. In order that I may do it, I ask the Clerk to read from the Globe of yesterday an extract from a speech made some days since by the member from Indiana, [Mr. JULIAN,] and a colloquy in the course of that speech between him and myself.

The Clerk read, as follows:

"As respects the question of 'negro equality,' let me say to the gentleman that I do not think he ought to press it, considering his relations to his brethren in the South. I think the subject a somewhat delicate one for Democratic gentlemen to deal with."

Mr. MALLORY. I would like to have the gentleman explain that.

Mr. JULIAN. I will do so. We who are known as Republicans and unconditional Union men sometimes associate with negroes. They live among us, and of course we have dealings with them. But no such intimate relations exist between them and us as we find existing between them and the Democrats of the South. Continually, habitually, and as the result of a well-recognized law of social order, the slave mothers and slave masters of the South are brought on to the level of social equality in its most loathsome forms. In some of the rebel States I believe the number of mulattoes is nearly equal to the number of Democratic voters. In the State of Mississippi, if I am not mistaken, whenever you find an orthodox modern Democrat you will find a mulatto not very far off. The gentleman cannot deny this, unless he can show that these mulattoes sprouted up from the soil, or were rained down from the clouds, or reported their presence through some other miracle. This social equality between negro women and Anglo-Saxon Democrats is the natural consequence and necessary fruit of the institution which has proved itself to be the mother of treason and of all lesser abominations.

Mr. MALLORY. The Census Bureau establishes the fact that one sixth of the colored population of the North have white blood in their veins, while only one ninth of the slave population have white blood in them.

Mr. JULIAN. I have not examined the census tables as to the fact stated by the gentleman. It may be true, for I believe mulattoes more generally come into the north-

ern States than those of a darker color, and of course their increase will be mulattoes. The gentleman is not at all relieved, however, by the white blood in the veins of these negroes in the North, for they have migrated from the South, bringing with them, perhaps, the blood of the gentleman from Kentucky, and other distinguished leaders of his party."

Mr. MALLORY. My reason, Mr. Speaker, for rising to trouble the House about this matter is to correct a habit which has grown, in my estimation, into a nuisance, and against which I propose to enter my solemn protest.

It is this: that members of this House permit others, as an act of courtesy, apparently, to interrupt them in the course of their speeches by questions to which they make, what appear to be at the time candid replies, and then, going to the office of the Globe, get from the reporter the notes of such colloquy and destroy those notes entirely, and substitute other and different answers from those uttered upon this floor.

The personal matter of that colloquy is nothing; the point is that the gentleman never uttered the reply which the Globe represents him as uttering to me upon this floor, and I state that the reply which now appears in the Globe as the reply to me by the member from Indiana is a forgery. It is not the reply which was made to me in that debate by the member from Indiana.

Mr. JULIAN. Will the gentleman allow me?  
Mr. MALLORY. The member will excuse me.

Mr. JULIAN. I made those very remarks.  
Mr. MALLORY. I have known in the course of my experience as a member of Congress gentlemen to let drop in the course of debate expressions which violate the parliamentary rules of this House, and in some instances, but rarely, has it occurred among gentlemen that expressions have been dropped which to some extent violated the rules of good breeding. But never before in my life have I known a member deliberately to write with his own hand an expression indecent, vulgar, unbecoming a member of this House, unbecoming a gentleman of course, and deliberately, without ever having uttered it, insert it in the Globe as a record of our proceeding when it never had an existence. That course has been left for the member from Indiana to take, I think for the first time in the history of this deliberative body. I am satisfied to leave the member in the possession of all the laurels which he can gather by such an act. If another kind of a man had uttered upon this floor what the gentleman, by this forgery interpolated in the Globe, has now asserted and held that he did use, I should have taken another and a different notice of it. I should not have noticed it in this Hall. The reason is apparent to gentlemen here why I have pursued this course toward the member from Indiana.

I think this custom has grown to be a nuisance; it ought to stop, an end ought to be put to it. When a member upon this floor, in reply to gentlemen here, utters deliberately what he then supposes to be his opinions, he should be held to that record, and not be allowed to enter the office of the Globe and destroy the notes of the reporter as to what he did say, and in his own handwriting substitute another reply than the one which he made upon the floor of this House.

What I say is proved by the notes which I hold in my hand. The gentleman, the member from Indiana, after leaving my remarks as the reporter of the Globe took them down, not only wrote his out in his own handwriting and sent them to the Globe office, but at the end of his own document, at the end of what he added, he inserted in brackets, "laughter," in his own handwriting. He has not only gone so far as to forge a reply to me, but he has insulted this House by deliberately perpetrating another forgery and making a record which the House laughed at. I have to say that if the member is satisfied with this matter, if he thinks he has added to his reputation, if he thinks he has gained anything which is desirable, and of which he, as a member of this House, ought to be proud, by this course, I leave him to the full enjoyment of it.

Mr. JULIAN. The practice is a very common one in this body for members in the haste of debate to make remarks which they afterwards correct in matters of verbiage, and frequently, where personal matters are not involved, as to matters of additional fact, by way of supplementary argument or illustration. I certainly did not

in the case referred to go beyond the license which is well understood and universally recognized in this body. And I appeal now to the recollection of members of the House if the report of my remarks in the dialogue between the gentleman from Kentucky and myself is not, as contained in the Globe, the same substantially as the words spoken by me in the House. I did make, not only in substance but almost in the very words of the report in the Globe, the remarks that have been read by the Clerk. The variation is simply in some matters of formal expression, and not at all in the idea or in the fact, as I recollect what I said on that occasion. In the following extract, which the gentleman has read from the Globe, there is no ground whatever for his charge of forgery and interpolation. [Here Mr. JULIAN read the extract before read at the instance of Mr. MALLORY.]

I repeat that I did state, in substance and almost literally, the same matter which the gentleman seems to take as personal on this occasion, and I am sorry he does so. I have not availed myself of the usual license in this body in the statement of what I said.

I have seen, in the reports of proceedings of the House during this session, that sometimes where a gentleman has spoken five minutes he has appeared in the Globe as the author of a half hour's speech. Such cases are common here. I know that in the case of one of my colleagues, on the other side of the Hall, (and I do not mention it in the way of reproach to him,) in a debate between him and myself some time ago, remarks which occupied but a brief period were very considerably extended when reported for the Globe. Several pages were written out by himself in his own handwriting. I did not complain of it. He had a right to extend his remarks in the Globe as he thought fit.

Mr. VOORHEES. What gentleman from Indiana does the member allude to?

Mr. JULIAN. To the member from the fourth district of Indiana, [Mr. HOLMAN.] Gentlemen know this to be the ordinary practice of the House. And the gentleman from Kentucky, in assailing me as he has done this morning, and in charging me with forgery, simply shows that the remarks which I made in regard to amalgamation were offensive to him, and had an offensive application. At least I can see no other explanation of the feeling he exhibits.

As to my interpolating the word "laughter" in the report, I certainly did no such thing. I have no recollection of doing otherwise than following literally the manuscript of the reporter, and I am sure I did so. If such a thing was done by me, it certainly was not done intentionally. It would be morally impossible for me to forge the word "laughter," and put it in parenthesis for the purpose of securing an advantage in debate. I do not believe even the gentleman from Kentucky would do that, and I know that I am not mean enough to have done it. All I desired was simply to give the substance of my remarks, wishing to stand by that without any clap-trap in the matter.

Having answered the member from Kentucky I do not know that I have anything further to say, except that I am responsible for what was contained in the Globe report, and I have not been at all frightened by anything the gentleman has said in relation to the matter.

Mr. MALLORY. I ask unanimous consent to make a statement in reply.

There was no objection.

Mr. MALLORY. Mr. Speaker, I understand, I suppose, what the member means by his personal responsibility. I suppose every gentleman here understands the member's personal responsibility. I made a charge this morning which the member has undertaken to meet by claiming as a right that a member of this House can take the notes of his remarks from the reporters of the Globe and change and modify them as he chooses. I understand that in some order or rule adopted by this House, or perhaps in some law referring to the publication of our debates in the Globe, the privilege is directly conceded to every member of the House to change the phraseology of his speech so that he does not change the substance of it.

I have to some slight extent exercised it myself, but very rarely; but never have I, and I will

say that never has any gentleman who has a proper sense of the responsibility under which he rests here, undertaken to change a colloquy which occurred between himself and another gentleman upon the floor of this House without the consent and concurrence of that gentleman. I make that statement without fear of contradiction. No gentleman would undertake to do it. No gentleman would think of doing it. And I now make the assertion, and if any gentleman in the House doubts its truth, I call on those gentlemen around me who heard me to corroborate my statement that that portion of the extract which makes a personal allusion to "the gentleman from Kentucky" was never uttered on this floor. It was never uttered on this floor, and its insertion in the Globe by that member is a forgery.

My complaint is that the Globe states what he did not say, but what he wrote out afterwards. When he read from the Globe to show what he said, he read from a forged document. And he read from that to show the House what he said. Where is the original? Where are the notes of the reporter? They went, the reporter says, into the hands of the member from Indiana. They cannot be found. There was replaced in their hands, instead of their notes as taken down, the manuscript of the member from Indiana, and the manuscript report of the reporter, the only documentary evidence there is in the case, cannot be found anywhere. It was delivered to him, but it was not delivered up by him. Where is it? It will show what you did say, as well as what you did not say. Where, I repeat, are the reporter's notes? They have not got them; they are not on file in the Globe office. There are sheets here in your handwriting, paged and numbered and marked, one after another, substituted for the reporter's notes, and there is no possible way of proving what the member says by referring to that record, which, in the law or resolution establishing the Globe as the report of the debates, were intended as the proof for all time of what transpired in this House. I cannot appeal to that proof; I cannot produce it; but I can appeal to the memory of gentlemen around me who heard the member to corroborate my statement that this remark which is published in the Globe from the manuscript of the member from Indiana, put in by himself, "perhaps the blood of the gentleman from Kentucky" and what follows, is a forgery.

Mr. JULIAN. I uttered that language substantially, if not literally.

Mr. MALLORY. You never uttered any such language.

Mr. JULIAN. It is false. [Cries of "Order!"] Mr. WADSWORTH, (as understood by the reporter,) It is a lie, and the member knows it to be a lie. [Cries of "Order!" and confusion.]

Mr. MALLORY. It was false then and is false now. [Shouts of "Order!"]

The SPEAKER. Both the gentlemen from Kentucky and the gentleman from Indiana are out of order.

Mr. COX. I call the member from Indiana to order, and ask that his words may be taken down.

The SPEAKER. The words will be taken down.

The Clerk read the words "It is false."

Mr. GARFIELD. I rise to a question of order. Both gentlemen from Kentucky as well as the gentleman from Indiana are out of order, and I ask that their words may also be taken down.

Mr. MILLER, of Pennsylvania. That point of order comes too late.

Mr. NORTON. Not at all. I called the gentlemen from Kentucky to order at the time, and said that their language was not proper to be used.

The SPEAKER. The language of both gentlemen from Kentucky will be taken down.

The Clerk read, as follows:

"Mr. WADSWORTH. It is a lie, and the member knows it to be a lie."

"Mr. MALLORY. It was false then and is false now."

Mr. MALLORY. The Speaker stated that the gentleman from Kentucky had the floor, and I had commenced my remarks before the gentleman from Illinois [Mr. NORTON] made his point of order.

The SPEAKER. The gentleman from Illinois states that he called the gentleman from Kentucky to order in time. The confusion does not prevent the gentleman from the exercise of his right to have the rules of the House enforced. He states

on his veracity that he called the gentleman to order in time.

Mr. NOBLE. I submit that in order to be recognized the gentleman from Illinois should have persevered so as to have obtained the ear of the Chair, and that not having done so until the gentleman from Kentucky had again by leave of the Chair commenced his remarks, it is entirely too late.

The SPEAKER. The Chair overrules the point of order. The Chair finds nothing in the rules which compels a member to persist in repeated calls to order. The language of the rule is that when the Speaker or a member calls a member to order he must take his seat. The gentleman from Illinois states that he called the gentleman from Kentucky to order while he was still speaking. The Chair has always ruled that when a member stated on his veracity that he made the point of order in time he would receive it.

Mr. NOBLE. Let me inquire whether the Chair decides that the gentleman from Illinois is properly recognized in his seat as calling the gentleman from Kentucky to order?

The SPEAKER. The Chair will have the rule read, which will answer the question.

Mr. PRUYN. I have a point to suggest that will make all further proceedings in the matter unnecessary.

Mr. NORTON. I want first to make a statement in regard to the fact involved. While the gentleman from Kentucky was speaking, and as soon as I heard him say that the gentleman from Indiana had lied, I called him to order. I regarded those words as improper to be used by any gentleman upon this floor. I myself immediately called the gentleman from Kentucky to order. I asked that the words be taken down. I do not see why I should have repeatedly called the gentleman from Kentucky to order as suggested by the gentleman from Ohio.

The SPEAKER. The Chair has settled that point. The gentleman from Illinois has complied with the rules. The Chair will now hear the point of the gentleman from New York.

Mr. PRUYN. I wish to state in regard to this matter that I heard the call to order. The gentleman from Ohio [Mr. COX] and the gentleman from Illinois [Mr. NORTON] both called. I think that the call of the gentleman from Illinois was subsequent to that of the gentleman from Ohio. I suppose, after the Chair had the point of the gentleman from Ohio under consideration, that the gentleman from Illinois had no right to make his point.

The SPEAKER. The Clerk will read the language as taken down by the reporter. If the point of order made by the gentleman from Illinois was made after the one of the gentleman from Ohio, it would have to be reserved for action on it by the House till the prior one was decided.

The Clerk read, as follows:

"Mr. WADSWORTH. The member states what is a lie, and he knows it to be a lie."

"Mr. MALLORY. It was false then and it is false now."

The SPEAKER. The Clerk will now read the rule.

The Clerk read, as follows:

"61. If any member, in speaking or otherwise, transgress the rules of the House, the Speaker shall, or any member may, call to order; in which case the member so called to order shall immediately sit down, unless permitted to explain; and the House shall, if appealed to, decide on the case, but without debate; if there be no appeal, the decision of the Chair shall be submitted to. If the decision be in favor of the member called to order, he shall be at liberty to proceed; if otherwise, he shall not be permitted to proceed, in case any member object, without leave of the House; and if the case require it, he shall be liable to the censure of the House."

Mr. COX. What was the language of the gentleman from Indiana?

The CLERK. "It is false."

The SPEAKER. The Chair decides that the remarks of the three gentlemen are out of order.

Mr. COX. I move that the gentleman from Kentucky be permitted to proceed in order.

The House was divided; and there were—ayes 71, noes 31.

So the motion was agreed to.

Mr. MALLORY. Mr. Speaker, I only want my right to speak vindicated. I do not know that I have anything more to say. It is a great thing to know that one has rights here which he can exercise if he chooses. In order to show the



House that I am not only anxious to proceed in order, but to give evidence of my anxiety at all times to do so, I state that I regret violating the rules of the House, and I apologize to the House for any language which I may have uttered to-day which violates its rules. I rose to protest against a practice which I remarked had grown into a nuisance, and which I considered had been exhibited in its most offensive form by the member from Indiana, [Mr. JULIAN.]

An exhibition has taken place which I had no desire to provoke, but which I could not help provoking, I suppose, considering the character of the material I had to deal with. I am at all times ready to extend to any gentleman courtesy, and to observe the rules of the House whenever I address it; but, sir, I have never yet inflicted upon the House or the country a forged speech. That may be in order; that may be right; but I never intend to do it, and I cannot do it. It would be impossible for me to do it.

Not only is it true that the member from Indiana, in the remarks to which I have alluded and to which I have called the attention of the House, has been guilty of forgery in palming upon this House and the country remarks which he never uttered upon this floor, but he has gone further, and has taken the pains, we are to infer from all the circumstances of the case, to destroy all the legal evidence by which he could be convicted of that forgery, thereby piling up crime on crime, adding larceny to forgery, making an offensive list of crimes as he heaps up his pile. This charge may be out of order, but it is true.

The SPEAKER. The remarks are certainly out of order.

Mr. MALLORY. Then I beg pardon of the Chair and of the House. I had doubts myself whether it was in order, and as the Chair decides that it is not, if there is any other reparation which I can make to the House, I am ready to make it—for telling the truth.

But this forgery of the member from Indiana is not confined to the clause to which I have called the attention of the House. It runs through the whole colloquy between the member from Indiana and myself. What he should have regarded and what I regarded as the comparatively decent part of that colloquy so far as the member from Indiana is concerned, has been altered by him as distinctly as that part of it to which I have called the attention of the House. Three or four or five full sheets, in the member's own handwriting, have been substituted for the sheets of reports which the reporters of the Globe took down, and in which were contained what did transpire in this House; and those sheets of the reporters are gone, have vanished, disappeared. Where they are I cannot tell. When last heard from they were in the hands of the member from Indiana, and I suppose if they were considered in law as valuable matter, and a recovery of them sought, that an astute lawyer might force him to produce the sheets or account for their absence or disappearance. I do not think we have that power in this House. If we had, I should move that it be exercised in the case of the member from Indiana. I would like to see the screws applied to him, and I would like to have him forced to tell the House what he has done with the report of the reporters of the Globe, for which he has substituted his own manuscript sheets.

I wanted to know what he did say, and I anxiously sought to find out what he did say by consulting the veritable record made by the reporters. I called at the office and made diligent search with the reporters, and the report which they made was not there. They stated that they had given it up to the gentleman from Indiana, and that he had returned in its place these sheets in his own handwriting which I now show to the House.

I said I had but few remarks to make, and I do not know that it is necessary that I should say anything more. I am satisfied with the matter so far as I am concerned in it. I believe the members of the House are tired of it, and I leave the matter with them.

Mr. JULIAN. One single remark more. The particular complaint which the gentleman makes is founded on this statement as reported by the Globe:

"The gentleman is not at all relieved, however, by the white blood in the veins of these negroes in the North, for

they have migrated from the South, bringing with them, perhaps, the blood of the gentleman from Kentucky, and other distinguished leaders of his party. [Laughter.]"

The gentleman from Kentucky deliberately denies that I made that statement, and brands it as a forgery in this House. Now, sir, I recollect distinctly that I used those identical words which have so offended the gentleman, and which he says I never uttered; and I appeal to the gentleman from Massachusetts, the gentleman from Michigan, and other members of this House near me to sustain my assertion and brand as false the charges of the gentleman from Kentucky.

Mr. MALLORY. Is that remark of the gentleman from Indiana in order?

The SPEAKER. What remark?

Mr. MALLORY. That what I have said is false. That is a cheap way he has of insulting me.

Mr. JULIAN. I said I would appeal to members to show that it was false.

Mr. MALLORY. To "brand it as false," was the expression.

The SPEAKER. The Chair regards the remark as out of order; and also part of the remarks of the gentleman from Kentucky were out of order. But when the House gives unanimous consent to a gentleman to make a personal explanation the House must expect, as a matter of course, that some remarks of a personal character will be made. The Chair therefore does not generally interrupt a gentleman on such occasions, but prefers to wait for a member of the House to call him to order. It was for that reason that the Chair has not, therefore, thus far called either gentleman to order. The gentleman from Indiana now yields to the gentleman from Michigan, [Mr. LONGYEAR.]

Mr. ROBINSON. I object to any more witnesses being produced.

The SPEAKER. The gentleman from Indiana has a right to yield for explanation.

Mr. COX. This is not a personal explanation.

The SPEAKER. The Chair thinks it is in that nature.

Mr. COX. On the part of the gentleman from Michigan?

The SPEAKER. The Chair thinks so.

Mr. COX. I do not wish to appeal from the Chair; but I hope the Chair will reconsider its decision.

The SPEAKER. The Chair cannot reconsider it, as he is clear that the gentleman from Indiana has the right to yield.

Mr. LONGYEAR. I do not wish to enter into this controversy, but as the gentleman from Indiana has called on me I will state what my distinct recollection is. I was paying particular attention to the colloquy between the gentleman from Indiana and the gentleman from Kentucky; and I do recollect distinctly the gentleman from Indiana using the identical language, or at least substantially the language, made use of in the reference to the gentleman from Kentucky. In corroboration of my memory in this respect, I also recollect distinctly conversing with my colleague, who sits beside me, [Mr. DRIGGS,] on the occasion, and also after the adjournment of the House that day in regard to that particular statement of the gentleman from Indiana. I cannot be mistaken in the fact.

Mr. JULIAN. Mr. Speaker, perhaps the gentleman from Pennsylvania [Mr. STEVENS] will do me the favor to say what he recollects of the matter.

Mr. STEVENS. I have no objection to respond, although I do not desire to do so. I remember the remarks which have been read as having been made at the time; for I thought at the time, and think I remarked, that they were quite rude. [Laughter.]

Mr. JULIAN. I call on the gentleman from Michigan [Mr. DRIGGS] to state his recollection of the matter.

Mr. DRIGGS. As the gentleman has called upon me I will say that I can indorse what my colleague [Mr. LONGYEAR] has stated. I remember it distinctly.

Mr. MALLORY. I make the point of order that the proof in this case is the reporter's manuscript, which is in the hands of the gentleman from Indiana. Let him produce it. It went into his hands. It is out of order to be proving in this way what was said by members.

The SPEAKER. That is a matter for the House to determine, not for the Chair.

Mr. DRIGGS. I was going to say that I remember distinctly the fact that my colleague [Mr. LONGYEAR] remarked to me that he thought that rather sharp, when Mr. JULIAN spoke of mulattoes bringing to the North the blood of southern men. We conversed about it at the time, and on our way home after the adjournment.

Mr. JULIAN. Mr. Speaker, there are half a dozen other gentlemen around me who tell me that their recollection is the same as that of those who have spoken. But I will not consume the time of the House in calling other witnesses. I simply want to say that I have branded as a slander the statement of the gentleman from Kentucky that I have been guilty of forgery. I arraign him and convict him on the evidence of men who heard me use the identical words attributed to me by the Globe reporters, and throw back into the teeth of the member—

The SPEAKER. The gentleman from Indiana is out of order. The Chair feels that he cannot allow these personalities. If gentlemen do not rise to questions of order it is the duty of the Chair to arrest personalities.

Mr. JULIAN. I will proceed then.

Mr. COX. I ask the Chair to have the rule read prescribing the course of proceeding when a member is called to order.

The SPEAKER. It is the duty when a member is called to order to take his seat.

Mr. ORTH. I move that my colleague be allowed to proceed in order.

The motion was agreed to.

Mr. JULIAN. The House I think will understand what I meant to say, and what I did say. I desire to make one further remark. The gentleman from Kentucky refers to these pages of the reporter's manuscript. Now, the gentleman, who is an old and experienced member of this House, knows that nothing is more common than for a member to take the pages of his reported speech and substitute other pages in his own handwriting, withholding the manuscript of the reporter. When I took this manuscript of the reporter for the Globe, which I found reported me imperfectly and needed much interlineation, I asked him if I was at liberty on looking it over to substitute my own report for some of the pages; in other words, whether I would be allowed to retain those pages and write out others in my own hand in their place. He said I could do so if I would make the same paging at the top. I did so in accordance with what I understand to be a well-recognized custom in this body.

I do not know where those pages are. It is sufficient now to assert and prove as I have done by the testimony of several gentlemen about me that what is reported in the Globe is substantially what I did say. The gentleman cannot dodge the point by saying that the Globe report is different from my spoken words when gentlemen about me say it was substantially if not literally the same. If I saw fit as a favor to the printer to write out one or two pages in my own hand to make it more legible as well as accurate neither the gentleman nor anybody else has any right to complain. I assure him again that the identical words I used which allude to him personally are reported in the Globe, and that all of my remarks, both as to fact and argument, are reported with substantial if not literal accuracy. If the gentleman does not believe me let him consult the Globe reporters. I know they will not contradict me. If I can find the fragments of sheets which I threw aside I will show from the handwriting of the reporters themselves that I used the identical language which the gentleman says I forged. I will make search for those pages among some rubbish in my committee-room if any more certainty in this matter is demanded.

As to any further remarks of the gentleman I have only to say that it is not complained of by him that I interfered in any way with the report of his own remarks as published in the Globe. No such allegation as that is made. Under such circumstances the gentleman charges me with forging, with adding larceny to forgery, with piling crime upon crime. Well, sir, if after what has been said he still persists in these charges, and sees fit to write himself down a black and ruffian, I hand him over—

The SPEAKER. The gentleman from Indiana is out of order.

Mr. JULIAN. I had but little more to add on that point, and I will desist.

The SPEAKER. The Chair desires to have read a sentence from page 72 of the Manual in relation to the point of order raised a few moments since, and on which his decision was doubted by gentlemen on the right of the Chair.

The Clerk read, as follows:

"While a member is occupying the floor he may yield it to another for explanation of the pending measure as well as for personal explanation."

The SPEAKER. Gentlemen will see, therefore, that in yielding for explanations in regard to the controversy now before the House the gentleman from Indiana was strictly in order.

Mr. MALLORY. I desire to say a word or two further, with the consent of the House.

Mr. MORRILL. I call for the regular order of business.

Mr. MALLORY. I hope the gentleman from Vermont will not insist on that at this moment.

Mr. MORRILL. Very well, I will not object.

Mr. MALLORY. My recollection is clear and distinct, and I was listening very closely at the time, that the member from Indiana used no such language as is reported in the Globe. He has attempted to prove that he did by calling on gentlemen around him to state their recollection of the language he used on that occasion. None of those gentlemen but one say that he uttered the words that are reported in the Globe to have been used by him. Their recollection is that he either uttered these words, or substantially what is reported in the Globe. None of them, except the gentleman from Pennsylvania, [Mr. STEVENS,] and I was a little astonished at the accuracy of his hearing and the accuracy of his memory—none of them except that gentleman say that the member from Indiana used the precise language reported in the Globe.

A construction will be put on what a member says by one gentleman in one way, and by another gentleman in another way. Constructions may differ and do differ. You may remember substantially what he did say, and you may differ as to the language. The language is the matter in point here. They say that the tenor of what the member said is reported in the Globe. There are gentlemen around me who listened attentively and closely to what the member from Indiana uttered. I appealed to them before I undertook what I have done, and there is not one to whom I put the question whose recollection is not clear that no such language was used.

I call on the gentleman from New York, [Mr. KERNAN,] who listened to every word that was uttered, to say whether the member from Indiana used the words reported in the Globe.

Mr. KERNAN. Mr. Speaker, I was sitting in my seat and listened to the colloquy that passed, and which is now alluded to, and I have no recollection that there was uttered the language indicated. I do not think that any such language was used applying the charge to any one, or that any language was used charging, or stating in any way, that the blood of the gentleman from Kentucky, or any member, was as was charged. Now, I can only say that I listened to it at the time, and my attention is called to it now by this discussion, and I have no such recollection of any such remark, and I think I would have noticed it if made, as I sat near the gentleman from Kentucky, and between him and the gentleman from Indiana.

Mr. MALLORY. I call on the gentleman from Michigan, whom I did not consult, for his recollection.

Mr. BALDWIN, of Michigan. I listened attentively to what was said, and, sitting between them, I had a fair opportunity for hearing. I must say, sir, that I heard no personal allusion by the gentleman from Indiana as to the blood of the gentleman from Kentucky. I think I can say positively there was no such language used.

Mr. MALLORY. I now call on the gentleman from New York [Mr. GRISWOLD] who was sitting by my side and listened to every word of the colloquy.

Mr. GRISWOLD. My remembrance of the remark of the gentleman from Indiana on the occasion referred to is that some general expression of the kind attributed to him was made. Cer-

tainly no direct application was made to the gentleman from Kentucky. I feel quite certain I should have regarded that as a personal matter, and expected the gentleman from Kentucky to have so regarded it and resented it at once. I certainly did not understand the language to be directed to the gentleman from Kentucky at all, but some general remark of the gentleman from Indiana:

Mr. MALLORY. I now call on the gentleman from New York [Mr. PRUYN] who also heard every word of that colloquy.

Mr. A. MYERS. Will the gentleman from Indiana be allowed to call in rebutting testimony?

The SPEAKER. That will depend on whether the House will give him the opportunity to reply.

Mr. SCHENCK rose.

Mr. MALLORY. If the gentleman has any testimony to give I will hear him.

Mr. SCHENCK. I did not hear the remarks; I was in the cloak-room at the time.

Mr. MALLORY. I would be glad to have the gentleman's testimony.

Mr. SCHENCK. I ask the gentleman from Kentucky to give way that I may send to the Clerk's desk to be read a portion of the record of the proceedings of the Pickwick Club. It is but a page or two, and from the "Posthumous Papers" of that distinguished society. It furnishes a good precedent for the present proceedings, and may help to compose the disagreements of the House.

Mr. MALLORY. I cannot yield for that purpose.

Mr. PRUYN. I happened, at the time referred to, to occupy a seat in this part of the House near to the Speaker. I turned my chair in such a way that I might hear all that was said by the gentleman from Indiana. I heard very distinctly what was said by the gentleman from Kentucky. No such language as that contained in the paragraph about the blood of the gentleman from Kentucky was made use of by the gentleman from Indiana within my hearing, and I think I heard every word he said. I listened attentively, and was sitting in front of him, and if any such expression had been made use of by him I could not have failed to hear it.

Mr. MALLORY. I now call upon the gentleman from Pennsylvania, [Mr. MILLER,] who listened to that debate.

Mr. MILLER, of Pennsylvania. I can only say that at the time this debate occurred, I left my own seat and took a position where I might be able to hear what transpired between the parties. My recollection squares precisely with that of the gentleman from New York, [Mr. PRUYN,] and the gentleman from Indiana did not, according to my recollection, utter the language which is found in the published proceedings in the Globe; nor was the sentiment itself reduced to any such shape as to make it a personal insult to the gentleman from Kentucky, as is the case with the remark as published in the Globe, and presented here to-day. I cannot believe, I do not believe the gentleman from Indiana would ever have uttered that sentiment anywhere else in the world except under lock and key or under a safeguard.

Mr. A. MYERS. I object to witnesses giving their opinions. [Laughter.]

Mr. MALLORY. I call upon one gentleman more, the gentleman from Ohio, [Mr. BLISS,] who heard that debate.

Mr. BLISS. The testimony I have to give bearing upon the issue before the House is this: during the colloquy between those two gentlemen, for the purpose of more surely hearing the interesting remarks which were passing I took a seat near the Speaker. I listened to that part of the remarks of the gentleman from Indiana in which he spoke of the amalgamation of the Anglo-Saxon and the African blood at the South. I heard what he said with reference to the conduct of the people of the region of the gentleman from Kentucky. I had a suspicion that in the warmth of the speaker's passion he would apply the subject personally to the gentleman from Kentucky, and I was waiting to hear it. I listened to all the remarks made upon that subject, and discovered that the gentleman from Indiana had the prudence to avoid a personal imputation. I left the subject with that impression, I have it now, and I have no doubt my impression is absolutely correct.

Mr. MALLORY. Now, sir, I end this mat-

ter, so far as I am concerned, with the single declaration that the member from Indiana has in his own possession the only absolute and conclusive proof about the matter in contest between him and myself. He can produce it, and show that he is guiltless of the charge I make against him. He has the notes in his possession. By producing the reporter's notes he can show whether the expression was uttered or not. If it was, I retract my charge; if not, I insist upon it.

Mr. JULIAN. I desire to say one word further.

Mr. COFFROTH. I object.

Mr. JULIAN. The reporter concurs with me.

Mr. COFFROTH. If the gentleman has the notes in his possession, I withdraw my objection.

Mr. JULIAN. Before I proceed to say what I desire to add to my remarks, I call upon my colleague from the Tippecanoe district to state his recollection of this discussion.

Mr. ORTH. I was in the neighborhood of these gentlemen during the colloquy.

Mr. HARRINGTON. I object to any further statements in reference to what transpired on that occasion.

The SPEAKER. The Chair overrules the point of order. The gentleman having just obtained unanimous consent to speak has the right to occupy one hour, and he can yield to any gentleman for a personal explanation relating to the matter under discussion. The gentleman from the eighth district of Indiana will proceed.

Mr. ORTH. I was in the immediate vicinity of my colleague, [Mr. JULIAN,] but I would not pretend to-day, nor would I have pretended an hour after that colloquy had occurred, to attempt to relate the exact words which either of those gentlemen used. I have a little too much experience as a lawyer to attempt to repeat the language used, especially after several days have transpired. So all the information that I can give is the impression I received at the time. That impression is still on my mind, and I will give it to the House for what it is worth. The impression made on my mind at the time was that my colleague [Mr. JULIAN] did use language referring directly and personally to the gentleman from Kentucky, and I felt, as the gentleman from Pennsylvania has stated, that it was rather rude. As to stating his precise words, I am unable to do so.

Mr. JULIAN. I will call only one other witness, the gentleman from Connecticut, [Mr. DEMING.]

Mr. DEMING. Mr. Speaker, my attention was particularly called to the discussion between the gentleman from Kentucky and the gentleman from Indiana from the fact that I regarded it as unsuitable to a miscellaneous audience, and therefore I cast up my eye to the gallery for the purpose of seeing whether there were any ladies present during the discussion. I paid particular attention to the part of the colloquy which is now in dispute. But I labor under the same disadvantage as the gentleman from Indiana, [Mr. ORTH.] The question before the House seems to be whether the language as published in the Globe was the identical language used by the gentleman from Indiana. I have a distinct recollection of his ideas, and could narrate them. I could detail them. But it is totally impossible for me to say what the precise terms were which the gentleman from Indiana used. My own recollection is that there was not so much of a personal character in the argument as appears in the columns of the Globe. But in that I may possibly be mistaken.

Mr. JULIAN. Mr. Speaker, the member from Kentucky has succeeded, it will be conceded on all sides of the House, in proving that several members on that side did not hear me use the language in question. Now, I am willing to agree to that, and I am willing to leave the case in that attitude. It having been proved that I did use it, by gentlemen whose attention was called to it, and who say that they heard me, and it having been proved by gentlemen on the other side that they did not hear me, I submit that the case on my side is fully made out.

I will say further that if the gentleman from Kentucky desires any further proof, and pretends still that I am guilty of a forgery, I will commend him to the Globe reporters who took down the identical words used. Let him ask them whether I used those words or not. I will state further

that since this discussion commenced I have succeeded in finding a portion of the report of my remarks on that occasion which was thrown aside and substituted by my own manuscript; but I have not succeeded in finding the whole of the scraps thus laid aside. When I find them I will use them; and they will show, written by the reporter himself in his blue ink, that I did speak of the gentleman from Kentucky in the connection which is shown in the Globe report; that I did say the negroes referred to came from the South bringing with them in their veins the blood perhaps of the gentleman from Kentucky and other leaders of his party. When I produce that report it will show what the reporter would now testify, if he had the right to testify, and which is confirmed by numbers of gentlemen on this side of the House who heard me use this language. To all that I add my own positive and distinct recollection of the language, for I was there, and I spoke it. I know I cannot possibly be deceived, and I place my word against that of the member from Kentucky and his witnesses in this matter. As to the gentleman from Pennsylvania, [Mr. MILLER,] who stated a little while ago that I did not use the expression, because I would not have dared to do it on this floor, I have only to say in reply to that taunt that I suppose he speaks from his own feelings, and imputes to me that cowardice which belongs to himself. I leave the question where it lies.

Mr. PIKE proceeded to address the House on the reciprocity treaty, but yielded to

Mr. JULIAN, who said: I ask the member from Kentucky if he will allow the reporter's manuscript showing the words I did use to be read now?

Mr. MALLORY. If the member from Indiana alludes to me, of course I am anxious to have it read.

Mr. JULIAN. I have found this portion of the report in the handwriting of the reporter, and I send it up to be read.

The Clerk read, as follows:

"Come from the South, and have brought with them the blood of the gentleman from Kentucky in their veins. [Laughter.]"

Mr. PRUYN. Gentlemen.

Mr. JULIAN. The language is, "the gentleman from Kentucky." It is here in the very words which the gentleman charges as being a forgery, and the word "laughter" is there, too, in parentheses as I have it. I ask the gentleman, therefore, to take back what he has stated.

Mr. MALLORY. Mr. Speaker, this is in the handwriting of the reporter, who says it is his report of what was said. I certainly have no recollection of hearing any such language uttered by the member from Indiana, and my response as published in the Globe to what the gentleman did say on that occasion, as I understood him, shows that I could have heard no such language uttered as that published in the Globe, and which is here in the reporter's manuscript. I understood the member from Indiana as speaking of persons in the South, and not of "the gentleman from Kentucky." That was my understanding, but I see the reporter for the Globe took down his remarks differently, and as his manuscript has been produced here, and as that manuscript contains the language referred to, I of course retract the charge I made of forgery. I should never have made the charge if I had not been supported in my recollection by the recollection of other gentlemen, who were sitting not very far from the member from Indiana and listening to his remarks. I understood him to make his charge against southerners as a class, and that is the reason of my reply to him in the language which I used. If I had understood him to use the language which it seems he did use, if I had understood him to apply it to me personally, as it seems he did apply it, my reply would have been very different. That is as far as I shall allude to the matter for the present. The member has relieved himself from the charge of forgery, and I retract the charge.

Mr. JULIAN. I hope the gentlemen on the other side are now satisfied that their recollection of my remarks was not precisely accurate. I hope they are satisfied.

Mr. MALLORY. I merely wish to ask the member from Indiana whether he has the part of the reporter's manuscript which precedes this,

and which may make this remark apply to a class. I will ask him whether the manuscript of the reporter is distinctly "the gentleman from Kentucky," or "the gentlemen from Kentucky."

Mr. JULIAN. The gentleman from Kentucky has retracted his charge; but I will answer him that it is the gentleman from Kentucky. The report of the reporter shows that I alluded to him.

Mr. MALLORY. I should like to see the portion which precedes this. I am exceedingly anxious to know whether my memory should have deceived me so much as it seems to have done.

Mr. JULIAN. If I can find it—as I have tried to—I will exhibit it to the gentleman from Kentucky. If he has any doubt on the subject, I hope he will consult the Globe reporter.

Mr. MALLORY. I have consulted the Globe reporter, who I have every reason to believe is an honorable gentleman, and he says the language reported is the language used by the member. I give the member from Indiana the benefit of that.

#### ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled an act (H. R. No. 151) making appropriations for the naval service for the year ending June 30, 1865, and for other purposes; when the Speaker signed the same.

#### RECIPROCITY TREATY.

The House next proceeded, as the business in order, to the consideration of the joint resolution (H. R. No. 2) authorizing the President of the United States to give to the Government of Great Britain the notice required for the termination of the reciprocity treaty of the 5th of June, 1854, on which the gentleman from Maine [Mr. PIKE] was entitled to the floor.

Mr. MORRILL. I move to amend the resolution by substituting for it the following:

Whereas by the reciprocity treaty, concluded the 5th day of June, and ratified on the 11th day of September, 1854, between the United States of America and the Queen of Great Britain, for the period of ten years from the date at which it should come into operation, and further, until the expiration of twelve months after either of the high contracting parties should give notice to the other of its wish to terminate the same, each of the high contracting parties, according to the provisions of article fifth of said treaty, being at liberty to give such notice to the other at the end of said term of ten years, or at any time afterwards, and thereby annul and abrogate said treaty; and whereas it has become desirable to terminate said treaty in the manner therein provided for, as its terms no longer appear reciprocally beneficial or satisfactory: With a view, therefore, that steps be taken for the termination of the said treaty of the 5th of June, 1854, in the mode prescribed in its fifth article, at the earliest practicable period therein provided for, and that the attention of the Governments of both countries may be directed to the adoption of all proper measures for an amicable adjustment of any matters of difference or dispute which may remain or arise in consequence of the termination of said treaty,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized and requested to give to the Government of the United Kingdom of Great Britain and Ireland the notice required by the fifth article of the said reciprocity treaty of the 5th of June, A. D. 1854, for the termination of the same.

Mr. PIKE. Mr. Speaker, the proposition now before the House is to clothe the Executive with authority to give to Great Britain a notice of our desire to terminate the reciprocity treaty. The section requiring this notice stipulates that the treaty "shall remain in force ten years from the date at which it may come into operation," and that "at the end of said term of ten years, or any time thereafter," either party is at liberty to give notice to the other of its desire to terminate it, and the treaty shall terminate in one year thereafter.

Some question has been made about the propriety of passing this resolution now because it is said to be premature. But I think the objection not well taken. The treaty was ratified September 11, 1854, and the President's proclamation was made March 16, 1855. But the legislation called for by the treaty was all retroactive on the part of Congress and of the provinces, so that when the 11th of September next shall arrive, this treaty will have been in force the full term of ten years.

The other view of the matter would protract the workings of this treaty six months, and make the ten years of the treaty expire March 16, 1865. In either event this Congress would be called upon to give the notice, and the only question would be whether it should be done at this session or the next.

I confess I am impatient of delay. I desire this treaty to draw its last breath as soon as possible. Had it much longer to live in order to die a natural death, if that be not paradoxical, I should be disposed to use violence and destroy a life which, in my judgment, has been productive of so much injury. It was a creature of mistaken views and of expectations which had no basis in fact. Its workings have been a continuous and protracted disappointment. It has achieved no considerable result which was predicted for it, and I ask the attention of the House for a short time while I exhibit its utter failure in all particulars which should render a commercial arrangement with a foreign country desirable to us.

If I could believe that the treaty would not be continued when it is demonstrated that as a bargain between commercial communities it is utterly unprofitable to us I should be quite content. But I fear that when this has been done the more formidable question will have to be met as to the expediency of the thing, even if commercially desirable. It will be asked whether the condition of the country does not demand the sacrifice a continuance of the treaty would enforce. It is this question lying behind the other that I consider much the more important to be determined in order to insure action. One can deal readily with facts and figures. They are susceptible of working out conclusions that cannot be gained. But other considerations that depend, it may be, on apprehensions only half confessed, elude the grasp like a hidden disease, and cannot be measured and controlled. They vary in importance according to the mood of the person indulging them, and arguments that are convincing at one time are of no account at another.

I propose to address myself to both views of this important matter, as I am firmly convinced that just and proper political considerations demand of us the abrogation of this treaty far more imperatively than even the cries of oppressed trade.

The first question for the House to consider is whether the business interests of the country would be promoted by the abrogation of the treaty.

If the treaty be abrogated the provinces will regulate their trade with us according to the general laws governing trade with other countries. I know this would not have been the case formerly. There was a long series of years when the policy of Great Britain was to keep the provinces for her own use. She chose to manufacture for them, and she wished to convey their products in her own ships. She planted them and protected them, and as an equivalent for the expenses incurred, determined to have whatever profit might arise from their trade. The statute of 1660 provided that "no merchandise whatever shall be imported into or exported from any colonies of Great Britain in Asia, Africa, or America, except in British vessels with British masters, and manned by at least three quarters British sailors." This law remained in force for more than a hundred and fifty years, and whoever will examine our earlier treaties with them, beginning with Jay's treaty in 1794, and running through subsequent treaties and conventions, will see with what jealousy the Government guarded this colonial trade.

But the home pressure on the British Government changed its policy. The manufacturing interest, which demanded laws for its protection when it was feeble, had outgrown the necessity for such legislative aid, and sought free and unrestricted trade with the world. By one step after another the colonies were relieved of the restrictions placed upon them, until now their connection with the mother country is little more than nominal. We should bear this fact in mind when we are discussing the propriety of the proposed measures. It is not whether by abrogating this treaty we shall throw obstacles in the way of commercial intercourse, as would have been the case formerly upon the abrogation of a special commercial arrangement with them, but whether by abrogating this treaty we shall place our trade and commerce with the provinces upon the same footing as that with Great Britain.

And I desire the House to consider this question as one of very considerable importance. The figures of this trade are large even in comparison with the enormous sums to which we are becoming



ing accustomed. It cannot be otherwise hereafter. These provinces, if combined, would in population, extent of territory, abundance of resources, intelligence of inhabitants, and general thrift, be an empire of no inconsiderable importance. Their contiguity to our own markets will bring them here to sell their productions, and we shall exchange commodities with them to a much greater extent than with any equal population elsewhere. For some years our trade with them has been considerably more than our whole foreign trade at the time of the formation of our Constitution.

Sir, those who effected this treaty had been at work upon it for a number of years. A similar proposition had been made by Canada alone and rejected. Like terms had been offered as to the fisheries and refused. But this scheme, by being more comprehensive, brought in a larger number of supporters, and thus obtained sufficient strength to force itself upon the country. I have familiarized myself with the history of the negotiations that led to the treaty, and as a mode of testing the value of the plan thus persistently urged upon us, I propose to examine the expectations of those who advocated its adoption. Let us see what they attempted to do, and then we may judge better whether they have succeeded.

Among the first of these purposes was an intention to benefit the fisheries. The gentleman from New York, [Mr. WARD,] yesterday, in his elaborate and able speech, presented that subject as one of first importance. The treaty itself recapitulates the difficulties and misunderstandings in relation to the fisheries, and gives that as one reason for its formation. At the time of the making of this treaty we were acting under the convention of 1818. You will recollect that the treaty of 1783 provided the proper basis upon which this matter should stand. The language of that treaty is very forcible. It says:

"The people of the United States shall continue to enjoy unmolested the right to take fish of every kind on the Grand Bank and all other banks of Newfoundland; also in the Gulf of St. Lawrence and at all other places in the sea where the inhabitants of both countries used at any time heretofore to fish."

Thus the inhabitants of both countries were to have the same rights in these fisheries. But the commissioners who executed the convention of 1818, for some reason, and for what I never could understand, yielded those valuable rights without any consideration whatever, and that convention stipulated that we on our side renounced forever—for that is the language of the convention—"all right to take and cure fish within three marine miles of the coast, bays, creeks, and harbors of the provinces," except in certain specified localities, in Newfoundland, Labrador, and the Magdalen Islands.

It was a very hard bargain for us to make, and the construction put upon it by the British authorities subsequently made it still harder, for they contended that these three marine miles should be measured, not from the indent of the coast, but from imaginary lines stretching from headland to headland along the coast.

Much difficulty occurred, many vessels were seized, and this treaty attempted to obviate these difficulties for our benefit. The reciprocity treaty opened our home market to foreign fish on the same terms as our own. For this grant to foreign fishermen we gained certain privileges in the Gulf of St. Lawrence and along the shores of the provinces. The odious three-mile restriction imposed by the convention of 1818 was removed. Our fishermen could go anywhere except up the rivers, and were allowed to cure fish upon the shores. Large benefits were expected. It was supposed that our fishermen having maintained a long contest against what seemed bad odds would now, upon equal terms, compete with great profit to themselves with the provincials engaged in this trade. How is it? We have now nearly ten years' experience of this new order of things. Has it benefited those engaged in the trade? This is a practical question to be decided by the merchants themselves. They are intelligent and know their own interests. I hold in my hand several letters from gentlemen largely interested in the fishing business. They were written to me since this proposition to repeal the treaty was introduced, and are conclusive to my mind upon this branch of the subject.

One of these correspondents is among the largest fishermen in New England. He is a highly in-

telligent gentleman and "knows whereof he affirms." He says:

"The reciprocity treaty operates against the fishing interest. It would be an advantage to the fishing interest to have it abolished, with an understanding that a tariff should be put on foreign fish. The privilege of fishing in-shore in common with the English is duly appreciated by us who are in the business, as the annoyance and loss of vessels under the three-mile restriction was troublesome and hard to bear. But things have entirely changed since the treaty was made. In 1854 the duties were only nominal, and they were so small that it did not make much difference whether they were continued or not; and for the purpose of getting clear of the three-mile restriction we thought we had better let foreign fish come in. But although just now the importation is checked on account of the high price of exchange, as soon as that resumes its usual course free foreign fish will drive us entirely out of the market. Salt is now worth with them \$1 50 per hoghead; with us, \$4 50. Cod-lines, leads, duck, nets, everything that we use on board of our vessels, and the materials of which our vessels are built, cost about in the same proportion, or nearly so. All of us thought, in 1854, that fighting had ceased, and tariffs were among the things that had gone by. This rebellion brings about a new order of things. With us it is taxes, taxes. While we are taxed on everything that we see, smell, or taste, and very properly, too, should the provincials have our markets open to them and invited to come in without taxation? It is most certainly for the interest of the fisheries that the treaty should be repealed."

Another gentleman engaged in the same business writes:

"Our vessels fish mostly on the Banks, which is outside the three-mile limits. About all the benefit we derive from the present arrangement is to get bait in-shore and mackereling near the land in the bay of Chaleurs. But the advantage is trifling compared with the injuries received from foreign competition. In this town the business has greatly declined in consequence of the treaty. From 1840 to 1850 we had seventy sail of fishermen, but now we have not half that number. About three quarters of the fish caught by the provincials are suited to our market, and none other, and of course must come here for sale."

I have other letters upon the subject from equally intelligent sources, all coming to the same conclusion, but expressing it in a more general way. The sentiment expressed in these letters is, so far as I know, universal among those engaged in this business.

Now, Mr. Speaker, I call the attention of the House particularly to this testimony, because the Committee on Commerce seem to have fallen into the error that the benefits to the fisheries make up somewhat for the loss occasioned by the treaty to other branches of trade. Two years since Mr. Galt, then minister of finance of Canada, made a similar statement. A few days since Mr. Cartier, who seems to be a leading member of the Canadian Parliament, and a gentleman of decided force, as I find the statement in the body of a twelve hours' speech, said of this treaty:

"The codfish, in fact, has procured us the treaty. And this important and valuable fish would bear considerably upon the question as to whether the Americans would renew the treaty, and probably procure its continuance."

Mr. Cartier does well to avoid a discussion of the general results of the treaty, and he might well call the codfish valuable should it effect so important a result. Canada should follow the example of Massachusetts, and give the codfish a prominent place in her legislative halls should it insure the continuance of this treaty.

And I find an outside influence at work for this treaty in the name of the fisheries. But no man on the floor has a better right to speak in relation to the fisheries than I have, for I represent a district with a very long range of sea-coast and having a large capital engaged in the business. And I say to the House do not delay the repeal of the treaty on account of the fishermen. They have had many favors of the General Government for which they are duly thankful, and if it be true that this treaty is injurious to other sections of the Union and is to be continued solely for their benefit, they say with great magnanimity that they are willing to give up their individual good for the benefit of the whole. And it is one of those sacrifices they would make quickly.

The truth is, the fishing interest exercised no influence in bringing about this treaty, although very much was done in its name. Mr. Cartier slanders the "codfish" when he says it effected so poor a bargain. I can tell him who did make the treaty. It was the Canadian government, and Canadian money circulating freely here in Washington, lubricating the official channels through which the treaty and accompanying laws had to pass. It may be that the eastern manufacturers assisted them. If so they got badly cheated, as the diminished exports of manufactures plainly prove.

2. I know the manufacturers had large expectations from the treaty. They reckoned upon getting raw material cheaper from the provinces. They thought they could support their operatives at less expense with the potatoes, wood, and lumber of the provinces than if they were obliged to obtain those articles from Maine; and while doing this they reckoned upon adding largely to their sales. But in this they were mistaken. They lost more in the falling off of customers than they gained by cheapening what they bought. The fact that after the treaty went into operation our exports to the provinces fell off, settled this conclusively. Instead of an increase of export of manufactures which should correspond with the increase of imports and the large increase of population on both sides of the line, the export of manufactures fell off largely. I do not propose to go into detail of this. Two years since I had the honor to present to the House resolutions adopted by the Legislature of my State condemnatory of this treaty, and I took occasion at that time to give the statistics connected with the whole trade with the provinces, and particularly the export of manufactures since the date of the treaty.

Mr. WARD. With the permission of the gentleman from Maine, I desire simply to ask whether, in the resolutions of the Legislature of that State to which he refers, the second one did not contemplate a new treaty.

Mr. PIKE. No; the resolutions to which I referred asked the abrogation of the treaty.

Mr. WARD. The second resolution contemplated a new treaty. I can produce the resolution itself.

Mr. PIKE. The resolutions of which I speak did not. I presume the gentleman refers to another set of resolutions. I was going on to say that steadily from that time to this our exports of manufactures have declined. Some weeks ago the House called on the Secretary of the Treasury for some statistics upon the subject of this treaty.

In his letter sent in here a few days since I find a table giving the values of certain manufactures exported to Canada for five years, from 1858-59 to 1862-63. The results as given are instructive. The years end July 1 in each year:

For 1859 the exports were.....	\$4,185,516
1860 " " .....	3,548,114
1861 " " .....	3,501,642
1862 " " .....	2,596,930
1863 " " .....	1,510,802

I commend the table to manufacturers.

Another table given in the same letter is equally important as giving the general results of the treaty:

*Exports to Canada and the other Provinces, with the total of imports from both.*

	Exports.	Imports.
Fiscal year ending Sept. 30, 1851....	\$2,009,791	\$490,704
" " " 1852....	2,539,364	610,788
" " " 1853....	3,786,373	650,363
" " " 1854....	4,047,888	1,435,188
" " " 1855....	6,100,001	2,007,167
" " " June 30, 1856....	6,054,326	2,030,085
" " " 1857....	9,549,035	5,044,462
" " " 1858....	24,556,860	8,927,560
" " " 1859....	27,806,020	15,136,721
" " " 1860....	29,029,349	21,310,421
" " " 1861....	24,362,482	25,134,296
" " " 1862....	23,651,727	25,606,519
" " " 1863....	28,154,174	19,727,551
" " " 1864....	22,706,328	23,651,381
" " " 1865....	23,745,613	23,062,933
" " " 1866....	21,073,115	19,299,995

The year ending June 30, 1854, was the last complete year prior to the treaty. And the year ending June 30, 1861, should stop the comparison, as the trade has been greatly deranged since then by the war. It is well known that the provincial markets have been flooded by our goods sent there to obtain gold in exchange, and it is also well known that all along the provincial line goods have been exported for the purpose of obtaining the drawback and then smuggled back into this country. This evil has become so great that regular traders complain of it, and at their request I introduced a resolution some days since asking the Committee on Commerce to consider the propriety of renewing the old law which provided that drawbacks should not be paid when articles were shipped to the provinces. In this way since the war our nominal exports to the provinces have been swollen beyond the reality.

But what can be said in favor of a treaty which has the effect upon our exports which this seems

to have had? The trade with the provinces had always been in our favor. It increased rapidly with the increasing population on either side of the line, bearing about the same relative proportion from year to year. But the treaty went into operation. Population and business continued to increase as rapidly as ever, but all at once the whole trade changed, and instead of exporting three dollars and importing one we were importing for the first time more than we exported!

The gentleman from New York [Mr. WARD] gravely said yesterday that this was not a criterion by which to determine the value of trade; that whether the balance was against us or not still we derived a benefit from it. He has forgotten the exhibition which took place in this House two or three weeks ago, when for the purpose of checking this balance of trade against us with European nations we added fifty per cent. to our tariff. He has forgotten the attempt made all over the country by patriotic women to restrict themselves in what is perhaps one of their strongest desires, that of dress, for the purpose of diminishing this foreign trade. The desire of statesmen has been that we should not import so much, but that, as in 1861, our relations in trade with foreign countries should be put upon a satisfactory basis, so that the price of exchange should be knocked down and with it the price of gold.

The gentleman from New York, [Mr. STEBBINS,] in his able speech upon the resources of the country the other day, said that if it was in his power he would draw a Chinese wall around our trade, and have no intercourse with foreign countries, rather than have this balance against us. And when the gentleman from New York who spoke yesterday [Mr. WARD] can demonstrate that the farmer had better buy of the trader, year after year, a great deal more than he sells, and, for the balance, mortgage the old farm, then he can demonstrate that a treaty which takes away a balance of \$16,000,000 in our favor, and converts it into a balance of two or three million dollars against us, is profitable to us. Until he accomplishes that he must conclude with me that that treaty is nothing but an injury, and that constantly.

3. It was supposed that as this looked toward free trade commerce would be largely benefited. Ship-builders and ship-owners were, for that reason, in favor of the treaty. But it was of no manner of benefit to the ship-owners. The whole increase of provincial trade comes to us in provincial bottoms. I know that in my own State, in a profitable little eddy of provincial trade, there are those willing to foster the treaty at the expense of the whole country, and they talk of this treaty as benefiting commerce.

But this treaty, as the Committee on Commerce proposes to extend it, will throw open our coasting trade to these provinces. There is no logical reason, if the treaty be continued and extended, why our coasting trade should not be made free. The coasting trade now embraces two thirds of our whole tonnage. Our registered tonnage has been under the ban of the Alabama and other British pirates. It has greatly diminished, till now it is hard to find the American flag anywhere upon the ocean. It is now proposed to let this coasting trade open to the provincials, and thus subject the hardy men scattered along our coast, who pay our taxes and upon whom in peace and war the Government must lean for support, to a competition with people who have cheaper wood, cheaper iron, and cheaper labor. The provinces could always build vessels and sail them as cheap as we could, and now that they go untaxed, how could our coasters maintain a competition with them if placed on the same footing? Would not the coasting trade follow the foreign, and our "enrolled and licensed" tonnage diminish as rapidly as the "registered" has done within the past three years?

In these particulars the treaty has failed to meet the expectations of those who so diligently got it up. The report of the Committee on Commerce speaks of the free navigation of the St. Lawrence, which is secured by the treaty; and how valuable this grant has been to us is shown by the letter of the Secretary to which I have already referred. It appears by that, up to the latest dates, forty vessels had availed themselves of it, making an average of five vessels a year. In the last four years there have been but eleven of our

vessels that have gone to sea through this river. Should the effect of repealing the treaty be to withhold this boon of the "free navigation of the St. Lawrence," about which so much was said prior to 1854, it is to be hoped the lake commerce will be able to survive the loss!

I now call the attention of the House to a serious loss of revenue which the Government sustains every day during the continuance of the treaty. It cannot be estimated at less than \$10,000,000 per annum.

When the treaty went into operation we were collecting about one million three hundred thousand dollars of duties on imports from the provinces. Since then we have not received enough to pay the salaries of officials along the lines. We should restore these duties, and, following the Canadian example, add to them largely.

The import from the provinces is over twenty millions annually, and could well bear a taxation of \$3,000,000, by means of a tariff, which would have the effect to throw a portion of its own burdens upon the foreign producer.

This is a direct loss to the Government. But there is another, equally large, which results from the admission of provincial products. While the treaty lasts we are unable to tax our own manufactures. Take, for instance, the lumber trade. It is very large, ranking in the census list as third among our manufactures. It is ordinarily a close business, requiring large outlays and producing small compensation by way of percentage on the capital employed. The uncertainties attending it are nearly as great as those of the fisheries.

But it is carried on by a vigorous class of men. The war has shown them to be among the toughest and hardest men in the country. Amid many discouragements they produce annually nearly a hundred million dollars' worth of various kinds of lumber. The census gives the product of 1860 at \$96,000,000. This goes into the hands of parties who can well afford to pay the enhanced price caused by the manufacturing tax. But suppose the tax is laid upon it now, what would be the result? In all cases where the provincial lumber merchant could reach the market at the same price of transportation, he would take the supply and drive off the American manufacturer. The difference of one or two dollars per thousand would be fatal to our people engaged in that trade. The provinces are celebrated for their valuable forests. It forms their distinguishing characteristic, and up to this time it has been their policy to encourage lumbermen by permitting them to operate on Government lands at small rates of compensation. On this account our people engaged in the same trade find these provincial operators sharp competitors, and no interest has been so badly damaged by the operation of the reciprocity treaty as that of lumber. Abrogate the treaty and you may tax the lumber imported from the provinces a handsome sum. It amounts ordinarily to between three and four million dollars annually. The producer will pay his share of that tax. Further than this you can tax our own lumbermen the same as other manufacturers, and they can do as other manufacturers do—get as much as they can out of their customers and pay the balance themselves. In this way a considerable sum can be obtained for our depleted Treasury.

The same thing may be said of flour. The original internal revenue bill, in 1862, assessed a tax of ten cents a barrel upon flour. This would have given a revenue of nearly two million dollars. But it was stricken out because of Canadian competition under the reciprocity treaty.

These articles, lumber, fish, and the cereals—termed, in the elaborate language of the negotiations that led to the treaty, the products of the sea, the forest, and the farm—are the chief articles we receive from the provinces. On an average of years, they are about two thirds the whole import. One year since the treaty they were valued at \$15,469,976, and the whole import from the provinces was but \$19,333,455.

Reckoning the loss by the admission of articles duty free and by the forced omission to tax our own production, and the loss to the revenue cannot be less than \$10,000,000 annually so long as the treaty shall continue in force.

Of course, if the treaty has failed in the respects I have mentioned, it must be regarded as a business failure. If our total exports have lessened since it went into operation, and particularly if

our export of manufactured articles has diminished, and if in the mean time our commerce has not been benefited by additional employment, if the large fishing interest is anxious to put an end to this arrangement because of the detriment it receives from it, and if the revenue suffers greatly by its continuance, then I say, as a commercial arrangement it has not answered the expectations which gave it existence, and it should be abrogated.

On the other hand, the provinces have very largely increased their export to us. They have run it up until the balance of trade has been in their favor, and we were obliged to send them gold for the surplus. They have increased their tariff, and thus added to the revenue derived from their connection with us. Their fishermen have been benefited by free access to our market, and their ship-yards have been busy supplying new vessels for the American trade. In all respects they have been the happy recipients of the benefits of this treaty and we the unfortunate losers.

And still, notwithstanding this sorry exhibit of the results of the workings of this treaty, I find there is some hesitancy about acting. Some doubt the expediency of giving the notice required by the treaty for fear of the effect of such action on our foreign political relations.

Let us see how that is. No doubt that political considerations had great weight in getting up the treaty. The free-trade idea had impressed itself upon Congress. Members somehow had become penetrated with the notion that custom-houses were to be abolished. A small revenue was to be got, they did not know how, and then we were to leave all traders to enjoy unlimited liberty of action. It was universally thought the "world was governed too much."

Our immense domestic trade between the different States was frequently cited as a result following the removal of all restrictions. The celebrated report of Mr. Walker, when Secretary of the Treasury in 1846, goes into these calculations largely, and exhibits the enormous volume of trade that could be carried on with the world if intercourse was as free with foreign States as between our own States. And many relied upon the mollifying influences of increased trade to bring about annexation of the provinces to this Government. It was a time of "manifest destiny." We had obtained new Territories on the south and west by purchase and by war, and now we were to win still more valuable acquisitions on the north and east by the gentler modes of trade. We were granting large favors, and we expected a kind of provincial gratitude in return which would yield substantial results.

The calculation was somewhat simple, but it had its influence. It ignored the fact that the provincial gets his political opinions from the mother Government. He is but an adjunct. He may be a Liberal, but he runs mad over the idea of royalty. The sentiment of devotion to the British Crown is much more intense in Cape Town or Halifax than in Pall-Mall or Charing-Cross, and the idea of separation from the British Government would shock the nerves of every provincial legislator this side the Atlantic, while it would be received with the utmost complacency in the imperial Parliament.

When I say that there is hesitancy in some quarters about acting in this matter for fear of the effect, I do not mean because of any doubt about the sufficiency of the experiment in the particulars I have mentioned. This free-trade and annexation nonsense has been knocked out of our people long ago. Nobody tolerates such an idea now. The truth is, we have received a rude shock in the last three years in our intercourse with foreign nations. We begin to be impressed with the wisdom of Washington's Farewell Address when he said we "should constantly keep in view that it is folly in one nation to look for disinterested favors from another," and I do not know that we should be blamed if we went further and agreed with Napoleon that "nations hate each other." We discover at last that amid all the professions of friendship which diplomats make along with that "distinguished consideration" which always marks their intercourse, the London Times hits it more nearly when it says:

"But while the Republic was overtopping and overshadowing us, while it stretched its limbs and raised its tones to the scale of a giant, it was impossible but that our sym-

pathy should be weakened. We feel for men, not for giants, for monsters, for madmen, for those altogether out of our rank and species."

"Mr. M. Gibson cannot surely demand from us that we should absolutely give the United States to retain their 'integrity,' or now recover it, so as to make a vast political unity of the kind Mr. Bright describes. That would be to wish our own abasement and our own destruction."

I have no bitterness of feeling toward these provinces. Many of their leading men I know as gentlemen of great intelligence and worth. But I cannot help adverting to the miserable failure of the treaty in this respect as well as the other. These provinces, while catching their tone from the home Government, have far outrun it in hostile feeling toward us in this struggle. That Government has behaved badly enough. We have scored up against it a long catalogue of offenses. By and by, when we are in condition to enforce our demands, we shall take out our budget and direct the minister at the court of St. James to present them. I see by the recent debates in Parliament that some uneasiness is felt about the claims we have against them, and when Mr. Adams on several occasions brought to Earl Russell's notice the damages done by the British pirate Alabama, he was answered very curtly and with considerable show of impatience. It will be different one of these days.

But the English Government is exceedingly sensible; it does not attack another Power unless quite sure it is considerably weaker. In 1861 the English opinion was very decided that this southern rebellion must end in separation. It then hastened to recognize the Montgomery government as a belligerent. Mr. Adams was on his way with communications from the Administration just installed in power, but so impressed were they of the weakness of this Government that they treated it with contempt, and made public this recognition on the very day of his arrival in London. From this acknowledgment sprang their power on the sea and the destruction of the immense amount of property catalogued and presented to the House the other day by the gentleman from New York. As this Government has shown its strength, the British ministry has behaved better. The Alabama escaped while they were higgling and quibbling over the evidences offered of her character. The Government at last concluded she ought to be stopped, but did not act upon their conclusions until it was too late. Had they exercised half the promptness about this that they did about acknowledging the rebels as belligerents the pirate would not now be at large, and our shipping would have been uninjured.

The Alabama's cruise created a sensation on this side the Atlantic, and the indignation expressed made the Government move faster the next time. The Alexandra was seized before she got to sea, but she was prosecuted so indifferently that an eye-witness writes me that the verdict was rendered amid a popular hurrah—nobody supposing the Government was in earnest in the prosecution. And now, after the case has gone through the forms of law and been decided by the highest law court, it is said that the "law officers of the Crown" give the opinion that the "foreign enlistment act" needs no amendment, because the strength of the Government's case was not presented at the trial!

The position of the Government as to the iron-clads last September shows the advance made by it in consequence of movements on this side the Atlantic. I have a high respect for the statesmanship exhibited in the management of our foreign relations. I do not wish to detract a particle from the credit due to it. But the British Government watches much more carefully the movements of our generals in the field than of our Secretary of State, whose most important dispatches are those wherein he describes the military situation. The iron-clads were under full progress in the Mersey. Mr. Laird was very bold in Parliament. But the Atlanta was disabled by three blows from the Weehawken. Vicksburg fell. Lee was driven back from Pennsylvania. The rebels lost a hundred thousand men in a month. Mr. Adams discussed the movements of the iron-clads boldly, and said to Earl Russell, "My lord, this is war!" and the iron-clads were stopped. The British Government has a high respect for the upper dog in the fight. They will not help the rebels a moment longer than they get along well. They realize Dr. Johnson's descrip-

tion of a patron: "For what is a patron, my lord, but one who sees with unconcern a man struggling in the water, but when he reaches shore incumbers him with help?"

I give full credit to the British Government for not continuing the war under the circumstances. But I cannot forget that the immense blockade we have been obliged to maintain for more than thirty-six hundred miles of coast line has been run by vessels of no other nationality than British, and the destruction of the eighty or ninety thousand tons of our shipping nominally by rebels has been mainly by vessels "sent forth and maintained upon the high seas by British subjects." These are serious facts which we should be unwise to overlook when we consider the terms upon which the two countries really stand with each other, although we might good-naturedly wish to forget them.

It is quite true that we have friends in Great Britain. Earl Russell said at Blairgowrie that a majority of the people were on our side. We gained these friends in a fair, manly way; and I thank them for the expressions of sympathy with which they have frequently encouraged us. They did not at first see the wit of a war occasioned by slavery which was to leave the status of every man on this continent the same as it found it. They were puzzled by Mr. Seward's instructions to our foreign ministers, and well they might be. But when the proclamation of the President put the whole thing upon a common-sense footing they appreciated our position. There is among the middling classes of the English people an innate love of fair play which came to our aid, and all the real friends we have in England we owe to the disposition manifested by our Government to deal justly with all men of whatever class. Let us retain these friends by equal manliness. Cringing is always poor policy; it is as bad as blustering. The British Government has improved in her treatment of us as we have manifested increasing strength and with it increasing boldness of speech and demand. There need be no fear now that proper action on our part in regard to this matter of the treaty will be followed by bad results.

I say this of the British Government because it is with them we have to deal. I say their conduct to us in this war does not entitle them to any peculiar consideration at our hands, and further, that the course of events to which I have alluded shows plainly that any forbearance to enforce our rights would be thrown away and entirely unappreciated.

As to the provinces, they are as nearly incorrigible as people can be. Bishop Berkeley said of the Canadians forty years ago:

"They appear, indeed, to come short of no British subjects throughout the world in devoted attachment to our Government, and [what to them is a necessary part of that attachment] in a rooted aversion to that of the United States."

The SPEAKER. The gentleman's hour has expired.

Mr. KELLEY. I move that the gentleman from Maine have leave to finish his speech.

The motion was unanimously agreed to.

Mr. PIKE. I do not know that there is much difference between Canada and the other provinces in this respect. Nassau has been as active an ally of the rebels as Charleston or Wilmington. They have rendered them valuable assistance by every safe means in their power, and a few days since I saw that three of their pilots had been punished for piloting our men-of-war! Semmes lighted his way through the sinuous passages of the British West India islands by the fires of our burning merchantmen, and whenever hard pressed by our cruisers dropped into one of these friendly "neutral" ports for an ovation and a new outfit. In August last, at the small British settlement on the southern extremity of Africa, the people clambered to the highest points of lookout in full numbers and watched the pursuit of a small American merchantman chased by one of these pirates. The merchant vessel was seeking shelter in this "neutral" port. She was a small bark engaged in the peaceful errands of commerce; her pursuer a powerful steamer fully armed. One would have thought the sympathies of that distant people would have been with the weak and flying. But no. When the Alabama struck the Sea Bride and devoted her to destruction all Cape Colony

shouted for joy! Whether distant or remote the colonies all show the same feeling. Nova Scotia is no better than Nassau or Cape Town. In July last the United States steamer Howqua visited Halifax for the purpose of coaling, and this is the official account of Lieutenant Devens, her commanding officer:

CHARLESTOWN, July 3, 1863.

Sir: During the recent cruise of the steamer Howqua under my command, it became necessary for me to put into the port of Halifax for coal, and I would most respectfully call your attention to the many insults offered to and the outrageous manner in which my officers and self were treated by the citizens of the place. A portion of the facts are as follows:

As the Howqua was dropping away from the coal wharf one of the crew attempted to desert, when three of my officers went on the wharf for the purpose of arresting said deserter; they were mobbed by the citizens of the place, knocked down, badly bruised, and otherwise treated in a most shameful manner, and the deserter rescued from them. In passing through the streets I was subjected to the most trying insults.

As the vessel proceeded down the harbor, crowds collected on the ends of the wharves cheering for the rebels and Jeff. Davis. Men came down and tried to induce my men to desert, while others came around the ship with secession flags and singing secession songs.

As not the slightest cause for insult was offered by my officers, I attribute the treatment we received to the fact of our being northern officers and to the sympathy of the citizens of Halifax with the rebels.

Your most obedient servant,

EDWARD F. DEVENS,  
Acting Volunteer Lieutenant Commanding.

HON. GIDEON WELLES, Secretary of the Navy.

The affair of the Chesapeake is too recent an occurrence to be forgotten. The men who seized her and murdered her engineer escaped into Nova Scotia and New Brunswick, and by means of lagging officials and a willing judiciary got rid of punishment.

Sir, I take no pleasure in reproducing here these well-authenticated instances of the ill-will of the British provinces. I would not have this House act in temper or from any motives of revenge. But I wish to show the utter failure of this treaty to produce active and substantial friendliness. And I wish further that the House should act free from any threat, express or implied. We legislate on the supposition that the Union is to be restored sooner or later, and all the States continue under one Government. On any other supposition than that, the immense mass of Government bonds we are putting upon the market would be nothing short of a swindle, for no one supposes that any fragment of a broken-down Government, however large, would ever pay these vast debts. And if we are to continue one Government, surely we can make such trade regulations as we please.

It was objected in the other branch of Congress to the tariff of 1861 that foreign nations would take offense. But luckily the objection, made, if I remember rightly, by the distinguished chairman of the Committee on Foreign Affairs, did not prevail. We made such tariff as our own interests dictated, and have since reaped the benefits of it. Should we become dismembered and our Government broken down, I care nothing what this Congress or any future Congress may say or do. The fragments must get on as well as other Governments will let them. They must defer to the opinions of any first-class Power that chooses to interest itself in their affairs. They must do as they shall be bid to do. But until then—and that time will never come—I beg that we shall, in legislating here, consult our own interests rather than the good will or ill will of any foreign Power.

As to war on account of the fisheries, should we go back to the convention of 1818—it is idle to talk about it. We lived under that arrangement for thirty-six years without war. Some of our vessels were seized for violating the stipulations of the treaty, and a few were condemned. But of our whole fleets only twenty-five were finally condemned; and it is computed that during that time our vessels made at least eighteen thousand voyages there. It is probable that in the future the same results will follow, and there is no reason to suppose anything more serious unless we choose for our own purposes to commence hostilities.

Why, then, should we go about begging for a new treaty? Why send commissioners, as is provided by the resolution reported from the committee, whose duty it shall be to beseech the provinces to enter into a new arrangement? They cannot accept entire free trade. They need rev-



enue and cannot forego tariffs. They have already said that the Zollverein proposed two years ago was separation from Great Britain, and of course such a proposition cannot be entertained. What, then, can commissioners propose? Nothing. It is the idlest ceremony in the world to send respectable gentlemen on an errand to offer what the provinces cannot accept, and what, if they could accept, we could not give. I hope the amendment of the gentleman from Vermont [Mr. MORRILL] will be adopted, and the House content itself with simply giving the notice required by the treaty. If other and more satisfactory propositions are to be made hereafter we can consider them. Meantime let us place the trade under the guardianship of general laws, and get rid of this special arrangement which has brought us nothing but pecuniary loss and political obloquy.

Mr. ARNOLD. The House of Representatives of the United States is to-day considering whether it is for the interest of the people to continue a treaty with Great Britain, and I have been somewhat surprised at the tone of the remarks of the gentleman from Maine [Mr. PIKE] in the discussion of that question. It is a question of national interest, and not a question of sentiment or of national hostility. If the decision of the question is to be placed upon the ground that Great Britain, by her outrages upon our country, has placed herself in the condition of an outlaw, with whom it is humiliating to the United States to trade, and if it is upon that ground that the gentleman asks for an abrogation of the treaty, be it so. But, sir, it seems to me that in the discussion of a question like this, which addresses itself to the interests of the American people, those considerations can only be introduced for the purpose of exciting prejudice and of preventing a full and fair discussion of the merits of the question.

Sir, there is not a member of this House, I apprehend, who is willing that our country for any purpose should do anything which would be humiliating, or that it should do anything unbecoming the dignity of a great people. The report of the Committee on Commerce upon this subject, as I understand it, providing for commissioners to consider and discuss this treaty, does not propose that the United States shall do anything unbecoming the dignity of the people. Some ten years ago the United States and Great Britain entered into a treaty which was designed to be, and to some extent unquestionably is, a reciprocity treaty, and for the interests of both nations.

Sir, a people of great commercial importance lies to the north of us. The territory on our northern frontier from ocean to ocean is under the control of Great Britain. We have great and diversified interests in connection with that territory. It was thought by the statesmen by whom the reciprocity treaty was negotiated, and by the Congress by which it was ratified and confirmed, that rather than have a war of conflicting tariffs and restrictions on trade, it was better for the important interests of both Great Britain and the United States that in respect to some subjects there should be an attempt at freedom of trade and reciprocity; and to secure this they entered into this treaty. Now, experience has demonstrated that the treaty, in many particulars, needs modification. This is not strange. Taking into consideration the growth of those provinces and the growth of our own country, and the changes which the last ten years have produced in both countries, it is natural that this treaty should require modification and readjustment. That which was well ten years ago may need modification now, and the question which we have to determine to-day is, whether any treaty can be so formed that it shall be for the mutual advantage of both countries. If it can be, let us seek at least to attain it. If it cannot be, then let us dissolve the connections growing out of the treaty, and let each country depend upon its own legislation for the protection of its own trade.

The gentleman from Maine [Mr. PIKE] has dwelt to-day very elaborately on the question of the fisheries, and he has stated that he represents that interest to a greater extent than any member on this floor. I have no doubt that he speaks correctly in that. He has presented the subject as to the effect of this treaty on the manufactures of New England, and, to some extent, upon its commerce.

I shall not follow the gentleman from Maine on those topics, but I desire the attention of the House for a few minutes, and especially that portion of the Representatives in Congress from the great grain-producing sections of the Northwest, while I attempt to give some reasons why, in my judgment, that portion of the Union would be injuriously affected by the abrogation of this treaty.

Mr. Speaker, the great need of the Northwest, the necessity of those great grain-growing, food-producing States, is additional means and facilities for carrying their products to market. The great evil experienced by farmers in the valley of the Mississippi, and in the lake region, is the cost of the transportation of their agricultural products to the markets of the world. That is the grievance they most severely feel, and which weighs more heavily upon their prosperity than any other.

Now, Mr. Speaker, the effect of the abrogation of this treaty will be to shut up one of the great channels by which the agricultural products of the Northwest find their way to the Atlantic markets and to Europe. The great territory of the valley of the Mississippi and of the lakes has naturally two great outlets and avenues to market. One is the great Father of Waters, the Mississippi, and the other through the lakes and the St. Lawrence, extending from the very center of the continent to the Atlantic. These are the grand provisions which nature has made to furnish an outlet for that grain-growing, food-producing portion of the Union.

I represent a district where a portion of the rain which falls from heaven flows into the valley of the Mississippi, and through the Mississippi river into the Gulf of Mexico; and the other portion into the lakes, and by the lakes to the ocean, through the St. Lawrence. These great outlets are a necessity to that portion of the Union. You cannot close them to our commerce without the most serious injury to this great granary of the Union. I know that the great State of New York, by means of her canals, by means of the expenditure which she has made with great sagacity, has opened to her own lordly river, the Hudson, access to the lakes, and that through her canals and through the Hudson much the largest portion of our products find their way to the seaboard. Yet I ask the Representatives from Minnesota, and Iowa, and Wisconsin, and Missouri, and Michigan, and Ohio, and Indiana, and Illinois, whether the various means of taking our products to the ocean have not been for years past taxed to their utmost capacity. I ask you whether the New York canals have not been loaded even beyond their great capacity by the productiveness of the West. I ask you whether not only the New York canals but every railroad connecting the West with the seaboard have not been taxed to carry off the surplus productions of the Northwest, while your warehouses have been kept overflowing, nay, have been crushed by the quantity of grain waiting the means of transportation.

The great commercial fact of to-day, felt and realized, is that we have outgrown our canals. The country is too big for them. The problem is, shall production stop its increase, or shall our canals be enlarged? The necessity of this enlargement is manifest by the enormous profits of the great railways, and the extravagant rates of transportation, showing that the quantity to be carried forward is so vast that carriers command their own terms. The warehouses and mammoth elevators of the lake towns for the last two years have been crushed with freight; everything which could be made to float on the lakes and canals has been taxed to the utmost, and proved insufficient to carry to market the products of the West. This necessity for greater facilities, and the failure in Congress of the bills for enlarging the New York and Illinois canals, have led to a zealous effort on the part of the West to obtain, by Canadian canals, that relief which is (we trust only temporarily) denied through our own country and by our own Government. Illinois and Wisconsin, through their State authorities, and the boards of trade of several lake cities, appointed delegates to Canada to obtain, if possible, avenues to market for the vast accumulation of western produce.

Necessity will force the West into new avenues to the Atlantic unless the present are enlarged. That both Canada and Great Britain appreciate the value of this western trade is shown by their

construction, for the purpose of securing it, of the Victoria bridge at Montreal, at a cost of \$7,000,000, and the Grand Trunk railway at a cost of more than sixty million dollars, in addition to the canals before referred to.

It is obvious, from these and other facts, that we have reached that point when, with our present means of transportation, the production of corn and other cereals cannot to any great extent be profitably increased. This condition should not surprise us. The canals were constructed while the West was in embryo. In 1837 the number of tons transported from west of Buffalo, on the Erie canal, was 56,255. In 1861 the number reached 2,156,426.

The product of wheat and corn carried on the New York canal from the lake States of Ohio, Michigan, Illinois, Indiana, and Wisconsin, in 1850, was 252,000,000 bushels; in 1860, 354,000,000 bushels.

The population of these States, and Iowa, Kansas, Minnesota, Missouri, and Nebraska, in 1850, was 5,403,595; in 1860 it was 9,092,009.

The value of western products has increased more than one hundred per cent. in the last four years. In 1859 it was, in round numbers, \$53,000,000, and in 1862, \$111,000,000. Our foreign exports are made up largely of breadstuffs and provisions. In four years they increased from \$38,305,991 in 1859, to \$122,650,043 '72 in 1862, increasing in two years one hundred and eighty per cent., and in three years two hundred and twenty per cent. The amount of \$122,650,043 for 1862 is exclusive of \$11,100,043 which went out through Canada, making the aggregate over \$133,750,000.

The following table, compiled from the preliminary reports of the census for 1860, will show the progress of the West, and will furnish data by which its present and future necessities may be more fully realized.

Population of the Northwestern States in 1850 and 1860.				
States.	1850.	1860.	Increase.	
Illinois.....	851,470	1,711,951	101.05	
Indiana.....	988,416	1,350,428	36.63	
Iowa.....	192,214	674,913	251.12	
Kansas.....	—	107,906	—	
Minnesota.....	397,654	749,113	88.38	
Missouri.....	6,077	172,123	2,732.36	
Nebraska.....	689,044	1,182,012	73.30	
Ohio.....	1,888,329	2,339,511	18.13	
Wisconsin.....	305,391	775,881	154.06	
Total.....	5,403,595	9,063,138	—	
Nebraska.....	—	28,841	—	
Grand total.....	5,403,595	9,091,979	68.25	

For years past the West has been struggling to increase the facilities for transporting her produce to market. In face of these efforts, in face of the peculiar reasons existing at the present time for increasing such efforts, it is proposed to shut up one great avenue the West has to the ocean by the abrogation of this treaty! As a reason for doing this injury to the West we are told to-day that the Alabama has preyed upon our commerce; and articles are read from the London Times to excite national animosity against Great Britain for the purpose of inducing the American Congress to close up one of the great avenues to the ocean because we dislike the people of the country through which we must pass on the way to the seaboard. I ask gentlemen whether this is wise statesmanship? I ask whether it is wise because England has not acted in good faith toward this country during this war, because she has treated our country in such a way as we shall not soon forget, is it wise for that reason, when \$18,000,000 of our agricultural products found their way through Canadian channels to a market year before last, and \$15,000,000 last year, to close up that avenue? And are the sneers of the London Times a good reason for doing this?

I ask gentlemen representing the agricultural districts of the West, what will be the consequence of such a step upon the agricultural prospects of the West? We who live at the West have felt—especially during the last three years, since the Mississippi river has been substantially blocked up and closed—the inadequacy of the means furnished for the transportation of our products. We have been powerless under our grievances; we have been compelled to submit to an enormous increase in the cost of transporting our produce to market.

Now, the treaty which it is proposed to abrogate provides that the river St. Lawrence and the

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canals in Canada shall be open to our commerce upon the same terms as to the subjects of Great Britain residing in the Canadian provinces. In consideration of that we gave them the right to navigate Lake Michigan. We have not only the right of navigation of the St. Lawrence river, but all these Canadian canals costing millions of dollars are open to our traffic in consideration of our opening Lake Michigan to Canadian commerce.

The following is the fourth article of the treaty:

"It is agreed that the citizens and inhabitants of the United States shall have the right to navigate the river St. Lawrence and the canals in Canada, used as the means of communicating between the great lakes and the Atlantic ocean, with their vessels, boats, and crafts, as fully and freely as the subjects of her Britannic Majesty, subject only to the same tolls and other assessments as now are or may hereafter be exacted of her Majesty's said subjects; it being understood, however, that the British Government retains the right of suspending this privilege on giving due notice thereof to the Government of the United States.

"It is further agreed that if at any time the British Government should exercise the said reserved right, the Government of the United States shall have the right of suspending, if it think fit, the operation of article three of the present treaty in so far as the province of Canada is affected thereby, for so long as the suspension of the free navigation of the river St. Lawrence or the canals may continue.

"It is further agreed that British subjects shall have the right freely to navigate Lake Michigan with their vessels, boats, and crafts, so long as the privilege of navigating the river St. Lawrence secured to American citizens by the above clause of the present article shall continue, and the Government of the United States further engages to urge upon the State governments to secure to the subjects of her Britannic Majesty the use of the several State canals on terms of equality with the inhabitants of the United States.

"And it is further agreed that no export duty or other duty shall be levied on lumber or timber of any kind cut on that portion of the American territory in the State of Maine watered by the river St. John and its tributaries and floated down that river to the sea, when the same is shipped to the United States from the province of New Brunswick."

Under the provision of this treaty twelve and a half per cent. of all the food that finds its way to the Atlantic has passed through these Canadian canals. Now, when it is apparent that the great necessity of the West for additional means of transportation calls for additional facilities to enable them to carry their products to the Atlantic, when the channels open to us are not half adequate to our wants, it is gravely proposed to close up one of the great avenues of trade and thus force everything over the New York railroads and the New York canals.

Mr. THAYER. I would like to ask the gentleman from Illinois whether I understand him as saying that our own system of canals and railroads is insufficient to bring to market the products of the Northwest.

Mr. ARNOLD. Yes, sir; I answer the gentleman they are entirely insufficient. The capacity of these railroads and canals has been taxed to the utmost extent during these last three years. Those controlling your New York canals, finding that there was more business than could be done on the canals and on all the railroads, have raised their tolls as high as the rate of charges on the railroads; so that often during the last two years you could transport a barrel of flour or a barrel of pork from the city of Chicago to the city of New York on the same terms on the railroad as by canal, because there is more to be carried than both railroads and canals had the ability to transport.

A year ago last fall there were twenty-five thousand hogs kept in the city of Pittsburg for weeks because there were no means of transporting them to the eastern market; and in the city of Chicago millions and millions of grain have been kept in its vast warehouses, because there has been no means of transporting it to market by railroad, canal, or any other way.

And in the face of these facts we are asked to close up one great avenue, an avenue through which one twelfth part of our grain and goods finds its way to the seaboard!

But, sir, the West is still in its infancy and will need far greater means of transportation than all—including Canadian canals—we now possess. I have the official reports of the State of New York showing that the existing canal and railroad

facilities are inadequate to carry to market the products of the West. The gentleman from New York will corroborate that statement. Yet in the face of that fact you ask us to give notice for the termination of this treaty. What will be the consequence? The means of transportation being limited and inadequate, the transporters of freight will be enabled to fix their own price. We shall have no competition and be entirely in the hands of the New York canals and the New York and Pennsylvania railroads. We pay now on the grain and pork and beef of the West as high a tax as they will possibly bear. The farmers in Illinois have been compelled to burn their corn as fuel because they could not get it to market. Yet you ask us, because you hate Great Britain, to terminate this treaty which furnishes one great outlet to the West.

Mr. MORRILL. I dislike to interfere with the course of the gentleman's argument, but I desire to ask him if he does not think that the means of transportation by railroads and canals that lead from the West to the Atlantic coast would not be somewhat relieved if they were permitted to carry our agricultural products alone and were not burdened with those which come from Canada.

Mr. ARNOLD. Mr. Speaker, I regret that I have not time to quote from the official reports of the State of New York, verifying the statements I have made in regard to the capacity of their railroads and canals. I will state to the gentlemen who are disposed to investigate this subject further that much more of our produce goes over the Canadian canals than Canadian produce passes over the New York canals, and that when New York passed resolutions by her Legislature asking Congress to enlarge the Erie canal, the official report shows that such has been the growth of the Northwest and her productive capacity that they have taxed the existing canals to the utmost capacity and that they are incapable of carrying off our surplus products.

Now, New York reaps a rich harvest from our trade. We pay into the treasury of the State of New York and into the treasuries of the railroad companies of that State millions and millions of dollars annually, which comes part out of the pockets of the producing classes of the West and part out of the pockets of the consuming class in New England. Cheapen the cost of transportation, and while you raise the price of every bushel of wheat and corn in the West, you cheapen every loaf of bread consumed in New England. I submit to the Representatives from New England whether, by closing every other outlet and making everything go through the canals and railroads of New York and Pennsylvania, we do not put it in the power of those controlling these railroads and canals to tax still higher every loaf of bread for New England. True, we have one check on them now in the Welland and other Canadian canals. Abrogate the treaty and we are divested of that exit to the Atlantic. Then the entire volume of the trade of the lakes will be forced to find its way through the States of New York and Pennsylvania.

I ask the Clerk to read an extract from the Northwestern Christian Advocate, published in the city of Chicago, which is edited with great ability, and the article presents the subject in a way entitling it to the consideration of members of the House.

The Clerk read, as follows:

"THE RECIPROCITY TREATY IN CONGRESS.—Our readers have not forgotten that at the last session of Congress a selfish effort was made to have the necessary steps taken for the abrogation of the reciprocity treaty between Great Britain and the United States. It was whiningly asserted that the farmers of New York were being ruined by the competition of their Canadian neighbors, in the face of the indisputable fact that those farmers are now receiving vastly increased prices for all their products over what was paid them but a few years ago. The real cause of this effort, however, can probably be found in the competition in transportation between the New York canals and railroads and the Canadian route. How injuriously this affects New York may be judged from the official statement of one of her ablest public men, Hon. S. B. Ruggles, (N. Y. Assembly Doc. No. 174, 1863, p. 49,) who gives the following

table, showing the routes by which the flour and grain passing down the lakes was carried eastward:

	Per cent.
From Buffalo.....	514
" Oswego.....	151
" Dunkirk and Suspension Bridge.....	9
" Minor points in New York.....	114
Descending the St. Lawrence to Montreal.....	124
Total.....	100

"In order to understand how vast is the carrying trade which the West furnishes to New York, we need only copy the following statistics from the same report, (page 48,) showing the amount of wheat and wheat flour in barrels transported over the New York canals, the first column being the amount furnished by New York herself, the second that furnished by the States west of her—seventy per cent. of the 'national' commerce, as Mr. Ruggles says, coming from Lake Michigan:

	Local.	National.
In 1837.....	747,678	284,302
In 1842.....	543,064	1,146,232
In 1847.....	791,106	3,989,233
In 1856.....	276,034	3,209,741
In 1861.....	745,622	6,712,233

"To this should be added the very important element of Indian corn, 'the transportation and consumption of which have reached only their infant stages:'

The 'national' wheat and flour carried on the New York canals in 1861 was..... 6,712,233 bbls.  
The 'national' corn was..... 6,796,380 bbls.

Total..... 13,498,523 bbls.  
The 'local' wheat and flour was..... 745,622  
The 'local' corn was..... 210,510

955,532 bbls.

showing a 'national' proportion in these two cereals exceeding thirteen to one.

"In the 'products of the forest' a similar disparity exists, being in tons:

	Local.	National.
In 1837.....	174,733	7,637
In 1842.....	125,623	31,069
In 1847.....	328,552	117,923
In 1856.....	173,608	335,797
In 1860.....	166,687	647,705

"Thus is the West building up and enriching the city and State of New York; for which they may thank the far-sighted De Witt Clinton. But the grasping politicians and financiers of that State are not yet satisfied. They would gladly increase the tolls on their canals—and thereby secure greater traffic and consequent profit to their railroads—but dare not do it until they have placed the rival route via Montreal and the St. Lawrence out of our reach. The abrogation of the reciprocity treaty would close this competing route to us, and we should then be entirely at the mercy of the New York Canal Board and the New York railroads. Small as is the proportion of our products carried by the St. Lawrence route, it is sufficient to form an efficient check upon the rapacity of the New Yorkers, and in that respect alone is worth millions of dollars annually to the West.

"It may be urged that the New York canals have proved of great benefit to the West, and that that State should be reimbursed for her expenditures upon them. This we readily concede, and in reply point to the fact that by the building of these canals every acre of land in the State of New York has been doubled or quadrupled in value; the farmers in the western portion of the State, who were formerly compelled to give a bushel of wheat for a yard of calico, now obtain (or did obtain until the breaking out of the rebellion) from eight to twelve yards of calico for a bushel of wheat; and nearly all their material interests have been affected in a precisely similar manner. To this let us add the following statement, from official sources:

The gross tolls received from the New York canals, from July 4, 1817, to Sept. 30, 1861, amounted to \$76,288,440  
Deduct cost of repairs, superintendence and collection..... 21,915,961

Net amount..... \$54,381,469  
or more than one half the entire amount (\$89,952,091) expended in constructing and enlarging the canals, and interest on the moneys borrowed by the State for that purpose, up to September 30, 1861. And the tolls are constantly increasing, as the business of the canals increases."

Mr. THAYER. I desire to direct the gentleman's attention to this precise point, whether it is not a question of rivalry under which, by the present arrangement, the gentleman's constituents get an advantage, rather than a question of the absolute incapacity of the system of railroads and canals which we have.

Mr. ARNOLD. I wish it was simply a question of rivalry, and I trust it will be by and by. When the Ottawa canal shall have been constructed, when the Welland canal shall be so enlarged as to receive propellers of seven hundred and fifty tons burden, when New York shall have enlarged her canals, and shall have constructed a canal

around the falls of Niagara, and another from Lake Champlain to the St. Lawrence and to the Hudson—when by these means you may have made some provision for the products of the West, there may be possibly a question of competition and rivalry. But go on with these improvements as rapidly as you will, there will never come the day for the next century in which the products of the West will not increase with more rapidity than you can enlarge your canals. You may go on as rapidly as possible, but western products, with the tide of immigration there setting in, will increase still more rapidly than you can enlarge communication to accommodate that produce, so that the happy day of competition and rivalry is far off to which the gentleman alludes, when New York can say to the West, "Come here with your beef and pork and corn and wheat; we will underbid our Canadian neighbors;" and when gentlemen over the line can say, "Come this way, and we will take all you can bring us at a lower rate and quicker than New York." That is what the West wants, but what you New Yorkers do not want us to have, I fear; and hence you wish this treaty abrogated.

God made the St. Lawrence river. For what purpose? Was it for the use of the small Canadian provinces, or did he make it for floating upon its waters the products of our great western empire? We mean to have the St. Lawrence and we shall have it ultimately, and as a means of obtaining it we wish to continue this reciprocity treaty; and I trust the time will come, notwithstanding the denunciations of the gentleman from Maine, [Mr. Fiske,] when the Canadian provinces will see that under a system of government like ours they will be far more prosperous. They will look across the borders and see these great empire States, New York, Ohio, Michigan, Illinois, and the great cities of Oswego, Buffalo, Detroit, Chicago, and Milwaukee, and contrast the rapid development on this side the line with the slow coach of Canadian progress during the last century, and then come to the conclusion that under a Government like ours, under institutions like ours, they would share our prosperity, and thus ultimately and peacefully will seek a union with us. That is what we look for in the end; but in the mean time you must not shut up the St. Lawrence and the Canadian canals to our products. We must have their rivalry and competition with New York.

Mr. GRINNELL. I desire to ask my friend if he is not aware of the fact that a large number of grain-growers of the West have already gone to Canada, and if he has not seen a proclamation in the Canada papers that grain could be raised in Canada much cheaper than in the States, taking taxes and distance from the market into consideration. Has he not seen the statement that it would be better for grain-growers to go to Canada than to remain in the West? I will say to the gentleman that if I were going to raise grain I would, in preference to remaining in the West, go to Canada, where I should be nearer the market, and escape the taxes imposed upon us by this war.

Mr. PRUYN. I would ask the gentleman whether he intends that as an argument in favor of a discontinuance of the war. [Laughter.]

Mr. GRINNELL. If it has any application at all, it would be in favor of putting down this rebellion.

Mr. ARNOLD. That is not the question before us now. Grant is carrying out that part of the business very well.

I desire, Mr. Speaker, to call the attention of the House to a very important fact in connection with the ability of our country to supply Europe with food. Every intelligent gentleman will remember that when the rebellion broke out, and when the export of cotton was stopped, many supposed that our foreign exports would be entirely, or to a great extent, destroyed. The men who were wont to rule this country in these halls then, and who are now fighting us on the other side of the Potomac, supposed and boasted that *cotton was king*; and that by means of it they could control not only our own country but the world. Our experience has since developed the fact that cotton is not king, but that if there is any product of our country entitled to that dignity, it is corn. The exports of grain since the war began have to a very considerable extent made good the deficiency in the exportation of cotton.

I hold in my hand a statement showing from what portions of the world the food of Europe is supplied. I find from the statistics of 1861 that from the Baltic there were received 15,000,000 bushels of grain; from Russia, 12,000,000 bushels; from British America—mostly from the United States—12,000,000 bushels, and from the United States 54,000,000 bushels. Fifty-four million bushels of corn sent abroad from the United States in 1861 to feed Europe, and about 12,000,000 bushels, mostly the product of the United States, sent through Canada for the same purpose! It is a great object to be accomplished by the American statesman if we can send our agricultural products to Europe and compete successfully in the Old World against the products of Russia and the Baltic. We never can do that unless we have cheap transportation. With cheap transportation the capacity of the western soil is such that we can compete successfully against all the world in supplying Europe with food.

There is another fact to which I will advert for a moment in this connection. It is known to the country that no section of the Union has sent in proportion to its population so many soldiers to the war as the Northwest. I do not state this in any spirit of boasting. I merely state the fact that Illinois has given in proportion to its population a greater number of her laborers to the war than any other State; and yet there has been no considerable diminution of the products of that State. It is because of the peculiar formation of the country and of the facilities for introducing labor-saving machinery. Labor-saving machines can be used there to an extent that is known nowhere else, so that the amount of productions has not been to any considerable extent diminished. While the Northwest is sending 65,000,000 bushels of cereals to Europe annually, we have done that with but one twelfth our land under cultivation. Statistics show that in 1861, in that portion of the Union organized into States in the valley of the Mississippi, only one twelfth of the land was under cultivation. Who, then, can tell the extent to which this productiveness will reach? If to-day, with one twelfth of our soil only under cultivation, we produce an amount which is totally beyond the capacity of the New York canals and all the railways to take to market, I ask my friends from the Northwest whether it is wise to close up this avenue by the St. Lawrence and compel everything to find its way through the New York canals or over the great railroads of Pennsylvania and New York?

Sir, there is a great, active, and powerful pecuniary interest in this country which supposes it would be benefited by the abrogation of this treaty. By its abrogation you place the great grain-producing portion of the country in the power of railroad corporations and canal boards, who can fix their own price for transporting our products to market.

Hence, Mr. Speaker, I am against the abrogation of this treaty. And in regard to the objections made to it as to its inequality, to its injustice, to the advantages which it is supposed to confer upon Canada, I have only to say, remedy those evils, but do not destroy the treaty altogether. If we cannot remedy them, if after a fair trial we find that we cannot correct the treaty, if we cannot make a treaty which will be really and truly reciprocal in its character, if we find that on the whole it does us more harm than good, then let us give the notice to abrogate it. But why do it to-day? The conduct of Great Britain during this war is no reason that a statesman would give for abrogating this treaty. I do not propose, nor does any gentleman propose, to do anything in this connection unworthy the dignity of a great nation, but I can see nothing derogatory to national honor in sending commissioners to treat with Great Britain, to talk over this matter, and to see whether the evils complained of cannot be remedied.

Mr. MOORHEAD. The gentleman from Illinois proposes to meet commissioners from England, but I would like to know whether England has proposed to send commissioners. I do not pretend to treat this question as a statesman, but as a business man. The treaty has worked badly for us. We are satisfied of that. Now, I say abrogate it; and if Great Britain has any terms to offer, let us hear what they are.

Mr. ARNOLD. That objection, Mr. Speaker,

is a mere question of etiquette. I am aware that in some particulars the treaty has operated unfavorably for us. I have no doubt that in some particulars it has operated in our favor; and I have no doubt that it could be modified to the mutual advantage of both parties. On the whole, I think we have gained as much as they have. I am not addressing myself to particular objections to the treaty, objectionable as it may be, and objectionable as it undoubtedly is in many particulars. I say let us see whether we cannot remedy these objections and retain the advantages we have reaped from it. Gentlemen say, abrogate it in the beginning and then try and make a new one. That is the argument, Mr. Speaker, of gentlemen who desire to have no treaty at all; it is the argument of those who seek to obtain great advantages to the railroad interests of the country by shutting up the St. Lawrence river and forcing all our products to go over these railroads running to the Atlantic cities. I do not refer to the gentleman from Pennsylvania [Mr. MOORHEAD] especially, but to the gentlemen who seem to be most anxious that we should give notice of the abrogation of this treaty without making any attempt to amend or modify it. I apprehend that these gentlemen do not want any treaty at all. I do not refer to the gentleman from Maine or the gentleman from Vermont only; I refer to all gentlemen who have expressed themselves so distinctly in opposition to the treaty as it exists, and who I have heard express no desire that we should have any treaty at all.

Mr. MOORHEAD. I do not wish to interrupt the gentleman at all, but if he alludes to me I have only to say that I have not considered the railroad interest nor any other individual interest, but the interest and honor of the country. In fact, this treaty does not suit us. Under the terms of the treaty, whenever it does not suit either party it is the duty of that party to give notice of its abrogation. Now, we are exactly in that condition. I do not want to go to them with commissioners appointed in advance and ask them to negotiate about this treaty. I want to say to them that the treaty does not suit us, and we therefore, in conformity with its conditions, give notice of its abrogation. It will then be left open for either party to make propositions for a new treaty. I do not think it is our place to get down on our knees and say to Great Britain that we have appointed commissioners and that we ask them to appoint commissioners to modify this old treaty so as to give us a little more advantage.

Mr. ARNOLD. I cannot yield my time to the gentleman to make a speech. I will yield if not taken from my time.

Mr. MOORHEAD. I beg the gentleman's pardon for taking his time, but he yielded to me.

Mr. ARNOLD. The gentleman suggests what I might perhaps have overlooked. The treaty does not suit the gentleman from Pennsylvania as the representative of a great railroad interest. Of course I do not speak of him in that connection in any offensive sense. He represents his constituents as every gentleman is supposed to represent the interests of his particular section of country. There are sections of the country, however, where it is believed that great advantages are derived from the treaty. We believe in the Northwest that we have derived great advantages from the opening of the St. Lawrence river and the canals of the Canadian provinces to our commerce, through which, as I have said, \$18,000,000 of our products have found market. We believe, therefore, that the Northwest derives great advantage from the treaty, and I desire to call the attention of the House to the consideration of that point.

Ours, Mr. Speaker, is a country of vast extent and diversified interests, extending from Maine to the far West. Here are the fisheries to be consulted, here are manufacturers to be consulted, there are railroad and transportation interests to be consulted, here is a great grain-producing country to be consulted, here are all these various diversified interests of the country to be consulted. I ask gentlemen before they destroy this treaty to consider whether they are likely to get a new one that will suit all these various interests. When you have once destroyed this treaty, the difficulty of getting a new one will be increased a hundred-fold. You will have to encounter not only the clashing interests of our



own country, but the diversified interests of the Canadian provinces and of Great Britain. There are such diverse interests to be consulted that the negotiation of a new treaty that will accommodate them all can only be accomplished with the greatest difficulty.

Now, we have a treaty in existence, a treaty which has its merits and defects. The course of conduct I recommend is not to destroy that treaty, but to remedy its evils, correct its defects. Let us endeavor to make a fair and just treaty. If we can accomplish it, well and good; if not, then will be the time to give notice. That is the view I take of the question. That is the way to secure the advantages without the evils.

But there are gentlemen upon the floor who think that we ought not to have any treaty at all.

Mr. PIKE. I ask the gentleman from Illinois why this should be taken out of the general law which governs our trade. Why not subject it to the general law? What are the disadvantages?

Mr. ARNOLD. We cannot regulate trade with a foreign nation by a general law; but that would lead me into a general discussion of our commercial relations. The feature to which I address myself and regard as particularly important is that which secures the free navigation of the St. Lawrence and Canadian canals to western products. I do not go into any discussion of the fisheries. I confess myself unable to throw any light on that subject. I will say in reply to the gentleman from Maine that, in my judgment, it is possible to extend the terms of the treaty so as to include a larger number of articles than are now embraced.

Now, we are asked to give this notice mainly on the ground that Great Britain has behaved badly, and that it would be humiliating for us to treat with her. I confess, sir, that is carrying it very far. As I said in the beginning, if the conduct of Great Britain is such as to make her in the opinion of gentlemen an outlaw among the nations of the earth, then, to be consistent, they should not treat with her at all. They should cut off all diplomatic connection with her. I can see no reason, if we can treat with her on one subject without humiliation, why we cannot treat on the subject of the reciprocity treaty without humiliation. It is a keen discrimination which can see any difference, and this denunciation of England is introduced here by the gentlemen who wish to destroy the treaty. It is introduced here as a lawyer sometimes in pleading a bad case appeals to prejudice to prevent a jury coming to a fair and just conclusion. It is an attempt to create prejudice against the treaty on the part of the American people by recapitulating the outrages our country has suffered from Great Britain. Having done this, and aroused the national pride of our people, the gentleman turns round and says that it is humiliating to treat with Great Britain.

I shall detain the House but for a moment longer. I have not gone into the details of the working of the treaty. I have presented a general view of the subject, as it affects the Northwest, and I ask the Representatives of Ohio, Michigan, Indiana, Illinois, Missouri, Wisconsin, Minnesota, and the other States to look to the subject and see whether that section of the Union would not materially suffer by the abrogation of the treaty.

I propose at the proper time to move that so much of the report of the committee as provides for the giving of notice of the termination of the treaty be stricken out, so that the resolution shall simply provide for the appointment of commissioners to meet such commissioners as Great Britain may appoint, for the purpose of considering this treaty and making such modifications as time and experience shall have shown to be necessary. No time need be lost in making this attempt. We can make the attempt and see whether the evils in the treaty may not be remedied, and if we fail in that there will be time to give the notice terminating the treaty according to the provisions of the treaty itself.

So nothing will be lost if this Congress at this session passes a resolution providing for the appointment of commissioners. If those commissioners should fail to agree upon something satisfactory, then we can give the notice to terminate the treaty. But I am unwilling to see the advantages which I regard as coming from the treaty destroyed without an attempt being made to preserve them.

Sir, some of the gentlemen opposed to this treaty think it wise to inflame as far as possible the public mind against Great Britain. There has been much to provoke this in the conduct of the ruling classes of that country. And yet, in spite of all provocations, I believe the masses of the English people sympathize with us in our great contest against slavery; and I submit to gentlemen, in view of the horrors of war before our eyes, whether it is not the duty of all to refrain from exciting those national antipathies and prejudices that so often precipitate war.

I cannot forbear expressing the hope, in view of recent events, that the sober second thought of Great Britain will correct, to some extent, the wrongs of the last three years, and that the statesmen of both nations will remember that the true glory of a people is in the triumphs of civilization, intelligence, industry, and art.

[Here the hammer fell.]

#### MESSAGE FROM THE SENATE.

A message from the Senate, here received, by Mr. FORNEY, their Secretary, informed the House that the Senate had appointed Mr. MORGAN a member of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 40) making appropriations for the consular and other diplomatic expenses of the Government for the year ending 30th June, 1865, in the place of Mr. COWAN.

Also, that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 15) to provide a temporary government for the Territory of Montana.

Mr. DAVIS, of New York, obtained the floor, but yielded to

Mr. MORRILL, who moved that the House adjourn.

The motion was agreed to.

The House accordingly (at four o'clock and fifty-five minutes) adjourned.

#### IN SENATE.

FRIDAY, May 20, 1864.

Prayer by the Chaplain, Rev. Dr. BOWMAN.

The Journal of yesterday was read and approved.

#### PETITIONS AND MEMORIALS.

Mr. HALE presented the petition of John Ericsson, praying for such additional allowance on his contract to construct the two iron-clad ocean ships of war, the Dictator and Puritan, as will enable him to complete them; which was referred to the Committee on Naval Affairs.

Mr. MORGAN presented the petition of George F. Nesbitt, of New York city, praying reimbursement for losses sustained by him under his contract to furnish the Post Office Department with stamped envelopes and newspaper wrappers; which was referred to the Committee on Post Offices and Post Roads.

Mr. SHERMAN presented a memorial of the Board of Trade of Philadelphia, praying for a modification of the joint resolution of the 29th of February last, imposing an additional duty of fifty per cent. on imported goods, so that goods which already paid duty on April 29 and 30, and those which remained in bond at the time of the approval of the law, may be exempted from its application; which was referred to the Committee on Finance.

Mr. LANE, of Kansas, presented a petition of citizens of Lawrence, Kansas, praying for the abolition of slavery throughout the United States, and for the adoption of measures for so amending the Constitution as forever to prohibit its existence in any portion of our common country; which was referred to the select committee on slavery and freedmen.

Mr. HALE presented a memorial of Israel Deming, praying to be relieved from the fulfillment of his contract to furnish rations for the marines at Washington, Philadelphia, and New York for the year 1864; which was referred to the Committee on Naval Affairs.

The PRESIDENT *pro tempore*. If there be no further petitions and memorials, reports of committees are in order.

#### NAVAL SUPPLIES.

Mr. GRIMES. On the 14th of March last I introduced a bill in relation to naval supplies,

which was printed and referred to the Committee on Naval Affairs, and in the month of April reported against. I have never had an opportunity to explain the provisions of the bill to the Senate, and I therefore move that the bill be taken up with the report, in order that it may be made the special order for Monday at one o'clock; when I propose to address the Senate upon the subject.

The PRESIDENT *pro tempore*. The Chair will receive reports of committees according to the rule.

Mr. GRIMES. I believe I am entitled to make the motion.

The PRESIDENT *pro tempore*. The rule requires reports to be called for, and the Chair will put the question on the Senator's motion as soon as the reports are through with.

#### REPORTS FROM COMMITTEES.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred a bill (H. R. No. 356) requiring proof of payment of duties on foreign salt before payment of the allowances provided for by the acts of July 29, 1813, and March 3, 1819, reported it without amendment.

He also, from the same committee, to whom was referred a joint resolution (H. R. No. 63) to settle the account of James Keenan, late consul at Hong Kong, China, reported it without amendment.

He also, from the same committee, to whom the subject was referred, reported a bill (S. No. 283) to abolish the collection districts of Port Orford and Cape Perpetua, in the State of Oregon; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill (H. R. No. 426) to create an additional supervising inspector of steamboats and two local inspectors of steamboats for the collection district of Memphis, Tennessee, and two local inspectors for the collection district of Oregon, and for other purposes, reported it with an amendment.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom the subject was referred, reported a bill (S. No. 284) to increase the efficiency of the staff of the Army; which was read and passed to a second reading.

Mr. LANE, of Indiana, from the Committee on Pensions, to whom was referred the bill (H. R. No. 291) granting a pension to Esther F. Fox, widow of Augustus C. Fox, reported adversely thereon.

#### J. H. CLARK AND COMPANY.

Mr. POMEROY. The Committee on Claims, to whom was referred the joint resolution (H. R. No. 74) referring the claim of J. H. Clark & Co. to the Court of Claims, have instructed me to report back the resolution and recommend its passage. I ask that it may be put on its passage now.

Mr. TRUMBULL. I should like to inquire the character of the claim. Is it proposed to give the Court of Claims a new jurisdiction?

Mr. POMEROY. The committee did not investigate the character of the claim. The papers were presented to the House of Representatives, and they passed this joint resolution referring the case to the Court of Claims. We merely propose to unite in passing the resolution of the House of Representatives so that it may take that direction.

Mr. TRUMBULL. I do not know that I have any objection to it, but I think we ought to know whether it is a claim for damages on account of the war, or to pay for slaves, or what it is.

Mr. POMEROY. The committee did not go into an investigation of the claim.

Mr. TRUMBULL. I do not suppose that I have any objection to the reference to the court; but I think we ought to know before referring the case what it is about. I do not ask for any investigation of it, but simply to know what the claim is for.

Mr. POMEROY. I have no objection to the joint resolution lying over until to-morrow that gentlemen may look into it.

The PRESIDENT *pro tempore*. The joint resolution will be postponed until to-morrow.

#### JULIA A. AMES.

Mr. FOSTER. The Committee on Pensions, to whom was referred the bill (H. R. No. 272) for the relief of Julia A. Ames, have instructed

me to report it back and recommend its passage. This is a very meritorious case, and I think the bill will be assented to by every member of the Senate without hesitation. Mrs. Ames is the widow of a sergeant in the sixth regiment Massachusetts volunteers, who, on the 19th of April, 1861, lost his life in Baltimore. The regiment had not been mustered into service. Those of the regiment who were not killed or wounded in Baltimore came to Washington and were here mustered into service; but this man, being wounded, remained back and died; and he not having been mustered into service, his widow under the law was not entitled to a pension. That is the reason of her petition. The bill gives her the pension of a private—eight dollars a month from the 19th of April, 1861. I ask that it be acted on now.

By unanimous consent the bill was considered as in Committee of the Whole.

The PRESIDENT *pro tempore*. An amendment is proposed by the Committee on Pensions.

Mr. FOSTER. The amendment is merely to correct a clerical mistake made by the engrossing clerk in the House of Representatives. The original bill as introduced into that House and as there passed described the individual as a sergeant, but the engrossing clerk wrote "surgeon." The amendment is to strike out the word "surgeon" and insert "sergeant."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. It was ordered that the amendment be engrossed and the bill be read a third time; and the bill was read the third time, and passed.

#### BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 56) to authorize the President to call out men by draft for one year; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. WADE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 285) to regulate the veto power in the several Territories in the United States; which was read twice by its title, and referred to the Committee on Territories.

#### RECOMMITTAL OF A BILL.

On motion of Mr. HOWE, it was

Ordered, That the bill (H. R. No. 43) for the relief of Milo Sutliff and Levi H. Case, with the accompanying papers, be recommitted to the Committee on Claims.

#### SEIZURE OF A MINE IN ARIZONA.

Mr. CONNESS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to inform the Senate by what authority the silver mine of Sylvester Mowry, in Arizona Territory, has been seized by order of General Carlton, the commander of the military department of New Mexico, and by what authority the said mine is now being worked, and what disposition is being made of the proceeds of said mine.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a bill (No. 477) to abolish the collection districts of Cape Perpetua and Port Orford; in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had agreed to the report of the committee of conference on the bill (H. R. No. 15) to provide a temporary government for the Territory of Montana.

The message also announced that the House of Representatives had further insisted upon its disagreement to the ninth amendment of the Senate to the bill of the House (No. 198) making appropriations for the support of the Army for the year ending the 30th June, 1865, and for other purposes, insisted on by the Senate, and upon its amendments to the seventh and eighth amendments of the Senate to the said bill, disagreed to by the Senate; and agreed to the further conference asked by the Senate upon the disagreeing votes of the two Houses thereon, and had appointed Mr. JUSTIN S. MORRILL of Vermont, Mr. JOHN F. FARNSWORTH of Illinois, and Mr. JOHN A. GRISWOLD of New York, managers at the same on its part.

#### ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House of Representatives had signed an enrolled bill (S. No. 267) to amend an act entitled "An act to enable the people of Nevada to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States;" and it thereupon received the signature of the President *pro tempore*.

#### BILLS BECOME LAWS.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that the President had yesterday approved and signed the following acts and joint resolutions:

An act (S. No. 139) for the relief of Margaret M. Stafford, widow of Reuben Stafford, of Coshocton county, Ohio;

An act (S. No. 197) for the relief of Charles L. Nelson;

A joint resolution (S. No. 21) to provide for the printing of official reports of the operations of the armies of the United States; and

A joint resolution (S. No. 37) for the payment of expenses incurred by the joint committee on the conduct of the war.

#### NAVAL SUPPLIES.

Mr. COLLAMER. I move that all prior orders be dispensed with and that we proceed to consider House bill No. 407. I perceive that although during the call of reports we are not allowed to make such a motion as this, gentlemen making reports from committees and asking for their immediate consideration overslaugh any chance of getting up any other bill.

The PRESIDENT *pro tempore*. The Chair will remark to the Senator that that is entirely within the control of the Senate. One objection carries over any report. If the Senator will pardon the Chair, the Chair will first put the question on the motion made by the Senator from Iowa [Mr. GRIMES] to take up the bill referred to by him for the purpose of postponing it, as the Chair ruled that his motion was not in order at the time he made it.

Mr. COLLAMER. I yield to that as a matter of courtesy.

Mr. GRIMES. My motion was to take up the bill (S. No. 165) in relation to naval supplies. The motion was agreed to.

Mr. GRIMES. I now move that the bill be made the special order for Monday next at one o'clock.

The motion was agreed to.

#### MAIL SERVICE TO BRAZIL.

On motion of Mr. COLLAMER, the Senate resumed the consideration of the bill (H. R. No. 407) to authorize the establishment of ocean mail steamship service between the United States and Brazil, the pending question being on the amendment of Mr. WILKINSON to add the following additional sections:

Sec. 5. *And be it further enacted*, That whereas the Government of Venezuela, by a contract entered into on the 1st day of May, 1863, by Simon Camacho, consul for Venezuela, in the city of New York, in behalf of said Government, of the one part, and certain citizens of the United States of the other part, for the purpose of establishing a line of steamers to carry the mails and ply between the city of New York and La Guayra, and other Venezuelan ports, the Postmaster General is hereby authorized and empowered to accept the terms thereof on the part of the United States, so far as the same may be applicable, and to enter into a contract with the parties thereto, upon their furnishing good and sufficient sureties for the faithful performance of such contract, for carrying the mails between the ports of St. Thomas, West Indies, and La Guayra, and such other Venezuelan ports as may be deemed expedient, according to the provisions of said contract: *Provided*, The expense of such service to the United States shall not exceed the sum of \$40,000 per year, for the performance of semi-monthly trips between said ports, to be paid out of any moneys appropriated for the service of the Post Office Department: *Provided further*, That the Government of Venezuela will apply and carry out in good faith the terms and conditions of said contract to the route between St. Thomas and the ports aforesaid, according to the conditions therein stipulated.

Sec. 6. *And be it further enacted*, That the two Governments shall be entitled to have transported, free of expense, on each and every steamer, a mail agent to take charge of and arrange the mail matter, to whom suitable accommodations for that purpose shall be assigned.

Mr. WILKINSON. Mr. President, the bill now before the Senate provides for the establishment of a mail line between the ports of the United States and the empire of Brazil. It provides

for letting the contract for carrying the mail in a line of steamers that are described in the bill upon the condition that the Government of Brazil will join with this Government in raising an equal subsidy for this purpose. It limits the amount to be paid by the United States toward supporting or subsidizing this line between the two countries to \$150,000. It requires the steamers to touch at the island of St. Thomas.

The amendment which I offer proposes to authorize the Postmaster General to enter into a contract with certain parties who have heretofore made a contract with the Government of Venezuela for the purpose of running a line of mail steamers connecting with this one to Brazil at the island of St. Thomas, and running to La Guayra in Venezuela, and certain other ports that may be afterwards designated.

The object, I suppose, of subsidizing these lines is to open and encourage a trade between the United States and these South American Governments. I do not know any other argument that can be offered in support of this proposition of the Committee on Post Offices and Post Roads. I am inclined to think that the policy is a good one. That is the policy which the English Government has pursued, and pursued successfully, and in my opinion the United States would have been better off and more prosperous to-day in her commercial relations if she had adopted this policy more liberally some time ago.

But, Mr. President, if the argument is good in favor of the original proposition, it is equally sound as applicable to the amendment which I have offered. If it is wise for us to open commercial relations or to encourage them with the slaveholding empire of Brazil, it is more proper that we should encourage trade with the free republic of Venezuela. This amendment calls for but \$40,000, and I hope it will be adopted. I do not assail the principle of the original bill; I encourage and support it; and it is upon that principle that I press this amendment.

Mr. COLLAMER. I have made some remarks in relation to this amendment heretofore, and I wish to make them again or something like them in order to recall the subject to the minds of gentlemen.

I do not wish to be considered as expressing any opinion whether in due time and on proper occasion we ought not to establish a line to Venezuela; but this bill for the establishment of a line to Brazil has passed the House of Representatives by a very strong vote; it was before the Committee on Post Offices and Post Roads of this body; and this project was then presented, and the committee considered it, and thought it was improper by way of amendment to this bill. An amendment, legitimately considered, is something that shall be done to a bill to effect the purpose of the bill, to make it perfect to its end. This suggestion now of making a line to Venezuela has no connection with, and is an entirely independent matter, from this bill. It is not perfecting the bill or the enterprise, but it is for a different and independent enterprise, one perhaps of some importance, but of infinitely less importance than the other.

But, sir, I have other objections to this amendment. In undertaking the initiation anew of this policy, beginning on the small scale of this Brazilian enterprise, which is only \$150,000 a year, there were two features in it which the friends of this measure have been desirous to preserve. One was that we would enter into this system only with countries willing to join us in it, so as to secure the success of the enterprise. The gentleman from Minnesota insists that Venezuela is willing to do that. I will come to that directly. This project of a steam line to Brazil is put upon that condition, which is made part of the bill. The next feature was that this subsidy should not be granted as were those to the Collins line, the Sloo line, and all those, which were laws passed for particular persons, granting a subsidy to particular persons or companies, against which very much of public exception was always taken—a very vicious species of legislation always. This bill requires the Postmaster General to put out proposals and receive bids, thus opening it to the enterprise of all.

These important features of the bill are inconsistent with the amendment now offered. In the first place the amendment, if it were adopted, is

impracticable; it will not effect the purposes the gentleman has in view; it cannot consistently. It alludes to a certain contract which it is said was made by Venezuela with certain individuals in this country offering to pay them so and so if they would set up a line to run between the two countries. It proposes that this line from St. Thomas to Venezuela shall be carried on under that contract. Any attempt of that kind is legislation for particular persons; nobody else can get it; it is to be done by the men who made this contract. That is utterly inconsistent with the principle of the bill.

In the next place, the contract alluded to in the amendment was a contract made with Venezuela, to run a line from Venezuela to New York direct. It is not to go to St. Thomas. By that contract they contemplated having a steam line running direct from Venezuela to New York. The whole contract was drawn upon that ground. This amendment proposes to set up a steamboat line, as under that contract, from Venezuela to St. Thomas, which is not the contract at all. The people of Venezuela might be entirely unwilling to make any arrangement by which they should have a steam line to run from St. Thomas, which is some six or seven hundred miles from the foot of the Caribbean sea, and is nearly in a right line from our eastern coast here, to the point of South America, Pernambuco, thus going out of its way. It would be seven hundred miles from there into Venezuela, from the west coast of the Caribbean sea. They might be entirely unwilling to have a steamship line set up to run out to St. Thomas, and make its connection there for New York, and make the transshipment of all the goods, wares, passengers, and everything else, and depend upon its connection with that line. That is something entirely different from what that contract with Venezuela proposes. It is not carrying out that contract at all. If anything was to be done to set up such a line to Venezuela when we get this in operation from St. Thomas, it would require, to carry out the principle adopted by the committee, that the matter should be left open to public bids, and that Venezuela should join us in it, if they have a mind to make a contract and enter into an arrangement to go to St. Thomas, about which there has been no arrangement, and is no contract whatever.

I therefore say that the amendment as drawn by the gentleman is impracticable; that even if it is practicable, it is a grant to particular individual persons, and it is an attempt to pursue a contract that does not relate to that route. Under all these circumstances I think the attempt to put it on this bill is not really a very great friendship to the bill; but at any rate, it is not germane to it, in no way amending it, and is entirely an independent and substantive matter.

Mr. WILKINSON. In case this amendment should be adopted, suppose these parties should come in and underbid to the extent of \$50,000—

Mr. COLLAMER. There is to be no bidding on your proposition.

Mr. WILKINSON. I understand that; but suppose they should under the original bill, underbid any other parties who should seek to obtain the contract to transfer the mail from New York to Brazil, and should connect their line, branching off at the island of St. Thomas, and run not only with profit, so far as the carrying of the mails was concerned, but should succeed in opening trade with two countries instead of one. I suppose that these parties who have entered into this contract with Venezuela, if this amendment should be adopted, will enter into competition with the other parties who have been instrumental in urging this bill upon Congress. I suppose the real truth is, that those parties fear that these others may come in and underbid them on that contract if they are backed up by this proposition to open a trade with Venezuela, connecting at the island of St. Thomas. But if the Senate should overrule this amendment, I have another proposition to offer which will, perhaps, meet all the objections of the chairman of the Committee on Post Offices and Post Roads.

The honorable Senator says that we want to open this matter to competition. We all know very well that it will not be open to competition very much; that the parties under his bill will enter into an arrangement, and I doubt very much whether it has not been done already; whether

negotiations have not already been entered into between certain men who wish to put on a line of steamers there with the agents of the Brazilian Government for the very purpose of getting hold of the contract with that Government so that no other parties unless they can get a contract or enter into some stipulations can come in and bid in competition with these men. If my amendment is not right, if it does not meet the case exactly, the honorable Senator may propose an amendment to it. If it is right to open a trade with the empire of Brazil is it not equally right to open a trade with Venezuela from which we are importing coffee and many other of the necessities of life and for which we have to pay them in gold? I hope the amendment will be adopted. I ask for the yeas and nays upon it.

The yeas and nays were ordered; and being taken, resulted—yeas 12, nays 29; as follows:

YEAS—Messrs. Chandler, Conness, Davis, Harding, Howard, Howe, Lane of Indiana, Nesmith, Powell, Ramsey, Richardson, and Wilkinson—12.

NAYS—Messrs. Anthony, Buckalew, Carlile, Clark, Collamer, Cowan, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Harlan, Harris, Henderson, Hendricks, Johnson, Morgan, Morrill, Pomeroy, Salsbury, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Van Winkle, Willey, and Wilson—29.

ABSENT—Messrs. Brown, Hale, Hicks, Lane of Kansas, McDougall, Riddle, Wade, and Wright—8.

So the amendment was rejected.

Mr. WILKINSON. I have here an amendment that obviates all the objections which the Senator from Vermont raised to my previous proposition. It is to add as a new section to the bill:

*And be it further enacted, That the Postmaster General be, and he is hereby, authorized and empowered to unite with the General Government of Venezuela, or such officer of that Government as has been or may be duly authorized to act for that Government, in establishing direct communication between the two countries by means of a semi-monthly line of first-class steamships, of not less than six hundred tons burden, to run and carry the mails between La Guayra and such other Venezuelan port or ports as may be deemed expedient, and the port of St. Thomas, connecting with the steamers of the main line herein established; and he is hereby authorized and empowered to divert from the amount herein appropriated a sum sufficient to defray the expense thereof: Provided, The same does not exceed the sum of \$40,000 per annum; and he is further empowered to enter into a contract for that purpose, to submit to or accept from the Government of Venezuela proposals for the same, in the same manner and under the same restrictions as are herein contained, so far as the same may be applicable, in relation to the main line to Brazil: Provided further, That the period for advertising for proposals for the service created by this section shall terminate on or before the 25th day of June next.*

This amendment does not increase the appropriation; it merely proposes to divert a portion of it to the line to Venezuela. I do not see any objection to this unless perhaps it may be to the taking of \$40,000 out of the pockets of those who expect to get and who will receive the contract for the line to Brazil. That is all the effect it can have. It certainly takes not one dollar from the Treasury of the United States. It also obviates the other objection which the honorable Senator from Vermont raised to my other amendment, that it was granting a subsidy to a particular party. I hope this amendment will be adopted, because if we enter upon the policy of encouraging trade with the South American Governments, let us be equally liberal with a free Government and a free republic as with a slave empire. For my part, Mr. President, I am not over-anxious to encourage the Government of Brazil; but if this policy is to be adopted, let us encourage a republic, and a free republic, instead of encouraging a slaveholding empire in South America.

Mr. COLLAMER. I did not come here today prepared on a subject of this kind to enter into a discussion of the question of slavery. It is new to me to have that question brought in on all occasions, and into matters of commerce and trade. It has no connection whatever with the bill, and can only be brought in for effect.

I again call attention to the fact that this bill was very fully considered in the House of Representatives before it was passed by that body. It is a bill to set up steam communication with Brazil. The Senator from Minnesota agrees to the propriety of it. It is so good that he wishes to put upon it a project of his own or of some of his friends, so as to make that project go through by the force of this to which he professes to be friendly. The subsidy fixed in the bill for a steam line between this country and Brazil, the distance being over five thousand miles, is exceedingly

low; only \$150,000 for a year. We have limited it to that, though we allow bidders to come in and make proposals within that limitation. The Senator's proposition now is to take off \$40,000 of that money and use it for setting up a line to Venezuela. The exact form in which his amendment has been drawn I have not had time to consider, having heard it read but once, and not having seen it. I believe that the Senator says the line is to be put up to competition, but I did not hear any provision of that kind in the amendment.

Mr. WILKINSON. It provides that the line is to be let under the same restrictions and limitations as the main line in the original bill.

Mr. COLLAMER. But without talking about that, what is it that the gentleman proposes? It is this substantially: "The bill is good; the policy ought to be sustained; the connection with Brazil ought to be set up, and the bill is rightly drawn for that purpose; but now I want to set up another separate enterprise; and I desire, in order to recommend it to the Senate on the ground that it will not cost the Government anything, to take \$40,000 out of the amount provided by the bill for that purpose." That is it. It is that the low amount fixed in the bill shall be reduced \$40,000, in order to set up some other enterprise, and thus defeat the whole. I do not wish to say anything more about it.

The amendment was rejected.

The amendment agreed to was ordered to be engrossed, and the bill to be read a third time. The bill was read the third time.

Mr. GRIMES. On the passage of the bill I desire to have the yeas and nays. I am not satisfied that at this time the country is prepared to embark in an enterprise of this sort, and pay out \$150,000 a year for the establishment of a steam line between this country and Brazil. I desire, therefore, to record my name against it.

The yeas and nays were ordered.

Mr. TRUMBULL. I stated the other day why I thought this bill ought not to pass. I have no disposition now to repeat what I then said, further than to call the attention of Senators to what the bill is—I hope sufficient attention has been paid to it—to see that we are about embarking in an enterprise which may involve the country in many millions of dollars. I submit whether, if it be proper at any time for the Government of the United States to undertake to maintain steam communication by appropriations from the Treasury between this country and foreign nations, this is the proper time. I doubt the policy of it at any time. We once undertook it in a time of peace and failed and gave it up; and now it is proposed in the midst of a war requiring all the energies of this people and Government to raise the necessary means to carry it on, to embark in a scheme of ocean steamships to South America, and to appropriate money to initiate the enterprise at this time. I hope the Senate will not pass this bill.

Mr. CONNESS. I shall occupy the time of the Senate but for a moment. I am a little surprised at the remarks of the honorable Senator from Illinois. We did once enter upon this policy, and we entered upon it in a very different manner from that in which we propose to enter upon it now. We gave a subsidy to a particular line, to a particular man, and for a particular service. The difference between that policy and this is, that here we propose exposing this service to the competition of our people by giving the subsidy to be granted to the lowest responsible bidder. I follow the remark of the Senator from Illinois, that we once established this policy and we abandoned it, by saying that we did abandon it, and when we abandoned it we abandoned the commerce of the world to the English and French. The commerce of our time is carried by steam, and the oceans and seas of the world are occupied by the steamships of other nations and not ours. We complain because there is to be a grant made of \$150,000 annually. Why, sir, your quartermaster's department in any section of the country, I venture to say, consumes ten times the amount without any account being made of it. If we are to be restricted in our national policy, in a policy comprehending the trade and commerce of the country, by considerations of this kind, I submit that this is not the time, though we be engaged in a war, to impose that restriction. I hope that this bill will pass.



Mr. COLLAMER. I made some remarks the other day in relation to the nature and character of this enterprise, and I do not expect to command attention to any long remarks about it now. I do not believe in the idea that we are to abandon all possibility of doing any good by any sort of legislation except as connected with this war. We may still be of some use to the country. The enterprise which is now proposed is the most favorable one, and is recommended by men who best understand the commerce of the country as being the one which we can initiate with the least expense and which promises the greatest advantage to the country. On that point I will present a comparative statement from the statistics in relation to Brazil.

In 1851, at the time when the British set up their steam line to Brazil, their exports to Brazil amounted to \$17,593,420; in 1860, after their steam line had been in operation eight years, their exports to Brazil were \$22,233,880. The exports into Great Britain from Brazil were in 1851 \$14,463,755; and in 1860, when they were carrying to Brazil about \$5,000,000 more than in 1851, their imports from Brazil were \$11,345,900, being a decrease of \$3,122,855 since 1851, making the difference in favor of Great Britain in that trade for that period of eight years \$7,763,315.

Now compare our trade with Brazil with that of England and see how it stands. In 1851 we imported from Brazil \$11,525,304 and in 1860 \$21,214,803, making an increase of \$9,689,499, or over \$1,000,000 per year. In 1860 we imported from Brazil \$21,214,803 when the English imported but \$11,000,000. In 1851, when the British carried to Brazil \$17,000,000 of their manufactures and supplies, we carried \$3,000,000. The comparative difference against us in that period of time on our trade with Brazil was \$6,873,220, whereas the gain to England in the same time on her trade with Brazil was \$7,763,315. When the English line to Brazil commenced we stood very near on an equal footing with them in the trade with Brazil, and now we see the result. We take coffee from Brazil and pay for it by drafts on London, and we have to send the gold there to meet them. The British pay for their goods from us in that manner, so that the amount of it is that we pay for their manufactured goods instead of their taking them from us, in consequence of there being free, constant, and reliable intercourse between England and Brazil. That is all there is to it. Now, the question is, must we endure this throughout the world and forever to the destruction of our commerce?

Mr. HOWARD. I call for the order of the day.

The PRESIDENT *pro tempore*. The Chair must call up the order of the day at this hour.

Mr. COLLAMER. Cannot a vote be taken on this bill?

Mr. CONNESS. I hope we shall come to a vote.

Mr. COLLAMER. I do not wish to take up more time. Let us vote.

Mr. HOWARD. I am willing to yield for the purpose of allowing a vote to be taken.

The PRESIDENT *pro tempore*. This bill may be proceeded with by unanimous consent. The Chair hears no objection.

Mr. TRUMBULL. I should like to inquire of the Senator from Vermont when he reads these tables and tells us how much our commerce with Brazil has fallen off—

Mr. COLLAMER. No; how much the balance is against us.

Mr. TRUMBULL. I desire to inquire if he is quite certain that it is all owing to the fact that we have got no line of steamers to Brazil.

Mr. COLLAMER. I verily believe so.

Mr. TRUMBULL. The Senator believes that, and he supposes that other circumstances regulating the commerce of the world may not have entered into this, but that it is all owing to the fact that we have not had a line of steamers. I am not disposed to take up time by going into a discussion of such a question, but I suppose there may be a thousand causes which increase or diminish the intercourse between different nations, other than simply the convenience or advantage which one nation may have over another by having a line of steamers.

I am not disposed to protract this matter. My only object was to call the attention of the Senate to the bill, that every Senator may decide for himself whether he believes that this is the time

to embark in a scheme like this, which is the intention, we are told, of a larger scheme.

Mr. COLLAMER. The gentleman puts his question to me as if he desired an answer. Now, I can inform him that I have before me a letter from our former consul at Rio Janeiro, stating that the reason is what I have assigned; and I believe, on that point, I may appeal to the personal knowledge of the honorable Senator from Pennsylvania, [Mr. BUCKALEW,] who has been there, and who has been familiar personally with the condition of affairs in Brazil and of our trade with that country. If the Senator from Illinois would look over the book to which I have referred him before and which I have before me, the memorial of the Chamber of Commerce of New York on this subject, it must present the question to him or any man who will condescend to examine it in such a manner as to show that this very thing is essentially and mainly the occasion of the balance of trade being so greatly against us.

Mr. SUMNER. The Senator from Illinois asked the question why we should embark in this policy at this moment. There is one reply which I choose to give now. We are about to impose additional taxation upon the country. We need all the resources we can command in our Treasury; and in order to enlarge those resources we must in every practicable way enlarge our commerce. The Senator from Vermont has, by his statistics, very happily explained to us that at this moment we send to Brazil some six million dollars a year and receive over twenty million. Is not the Senator from Illinois desirous of filling up that difference between six and twenty million by exports from our country, thus saving our gold at home, as the Senator from Vermont suggests, and to that extent quickening our commerce and enlarging the field of its operations, and by quickening our commerce and enlarging the field of its operations also enlarging the field of taxation? I allude to that now because the Senate will in a few days enter upon the consideration of the subject of taxation. We shall be looking around to find new sources of income, and now I suggest one very considerable source of income which we can open by a very slight advance of our commerce.

The Senator from Illinois, however, inquires whether we are sure that by establishing a line of steamers we shall enlarge our commerce. I do not know that anybody can reply positively to that question, but the reasonable inference is, if we follow at all what has occurred in England, we shall in that way enlarge our commerce. I believe we shall enlarge it very considerably. In point of fact, Brazil and the United States, owing to the absence of any steam line of communication, are now very far apart. The ordinary way of reaching Brazil at this moment from New York is by way of Europe. Only last week, the Brazilian minister, leaving Washington on his return to his own country, was obliged to go via Europe; and our own minister there, when he left here some three years ago, went in the same way, via Europe.

It seems that the considerations in favor of this comparatively small outlay, when I consider the great good that may be secured, are unanswerable.

Mr. GRIMES. The book to which the Senator from Vermont referred the Senator from Illinois, namely, the memorial of the Chamber of Commerce of New York, not only proposes to establish this line, as I understand, but proposes also to establish one to Australia, and a direct line to China and Japan. If it be a substantial reason in favor of the establishment of this line of steamers that our minister to Brazil is compelled to find his port of destination at present through England, is it not as substantial a reason in favor of establishing a line to Japan, because Mr. Pruyn is now obliged to go to Japan via Suez or Egypt, or some other foreign country? It seems to me that the same argument that the Senator from Massachusetts applies to the case of Brazil would apply with equal force to the cases of China and Japan, for neither Mr. Burlingame nor Mr. Pruyn can go to Canton or Jeddo by an American line of steamers.

But, sir, what I rose for was to inquire of the chairman of the Committee on Post Offices and Post Roads whether if this bill passes, as doubt-

less it will, it is to be followed by another bill, in pursuance of the recommendation of the New York Chamber of Commerce, in favor of those two other lines of steamers. I should like to know before we vote upon this bill, and I think it would be desirable for the Senate and the country to know, how far we are likely to carry it, and what is likely to be the annual expenditure of the Government in this direction for the purpose of promoting commerce, and, as he says, keeping gold at home.

Mr. COLLAMER. I will say that if the gentleman will read the memorial through I fancy he will hardly think that it will furnish objection for what seems to be rather a captious objection to this bill. He looked to one page and found one or two projects that he lays hold of. It is not true that the Chamber of Commerce recommend establishing all those lines at the present time. They do recommend this one as being one which can be done now, opening our commerce with a very important country, and where we may have a fair chance of getting in a great measure the control of the trade. They think this is one that ought to be begun now; and whenever we have tried the experiment and can show by our own experience from this little experiment we make here that there is a reasonable probability in a similar condition of things to encourage us to begin other enterprises, probably we shall begin them, but not until we have tried this.

Mr. JOHNSON. Mr. President, I am in favor of this bill, and I am somewhat at a loss to see upon what ground the honorable members on the other side can consistently be opposed to it. They are apprehensive, I am told, that the appropriation may lead to still larger and more important appropriations in the end, and they are particularly opposed to it because of the time when this measure comes before us. Why, sir, we have passed bills at this session for the benefit of the West, giving millions and millions of acres of land away, which might be made a fruitful source of revenue, which it has been proposed even now should be used exclusively for the purpose of revenue. We have now before us a bill to make a railroad from here to the other ocean, and I think they are almost all in favor of it, and that gives millions and millions of acres more; and it not only does that, but it pledges the credit of the Government for millions and millions of dollars. That benefits the West, the whole country between the two oceans. Why should not the Atlantic be entitled to some favor?

I feel, nationally, Mr. President, that our country is somewhat in dishonor from the fact that it has no ocean line of steamers. The experiment that we made for a time injured very extensively to the credit of the Government. It was perhaps badly managed; but the effect of its abandonment has been that the whole steam navigation upon the ocean is in the hands of other Governments; even the trade which we have between our own country and England and France and Germany is carried on exclusively by foreign steamers, not only inuring greatly to the benefit of the proprietors of those steamers, but inuring still more to the benefit of the countries themselves whose patriotism and whose enlightened enterprise have led them to foster those lines; and at this time it would seem to me to be particularly appropriate that we should make some effort to do something for the commerce of the country. There is hardly now upon the ocean an American vessel carried by wind and tide because of this war, and the only chance we have is to encourage lines of steamers beginning with the project recommended by the Committee on Post Offices and Post Roads, who will be enabled to escape from the corsairs of the sea that are depredating on our marine.

I do not know how other Senators feel, but I repeat, Mr. President, that I feel somewhat degraded in a national sense when I remember that the whole trade of the world, as far as it is carried on by means of steam navigation, is in the hands of other Governments. Here is an appropriation of \$150,000 a year. What is that? We are spending every day, for projects not calculated even to do as much good as this is sure to effect, twice that sum. I think it is no answer to say that we have the war upon us. We are in a very bad condition if we are not able to carry on this war and protect our own commerce. We are unable to protect it upon the sea because of the mag-

nitude of the oceans, in a great measure, against rebel privateering; but we are able to foster it, if we think proper to foster it, by means of a commercial steam marine which can escape these depredators upon our commerce.

I was at one time familiar with the statistics of the trade between South America and the United States, and particularly between Brazil and the United States. I have them not now fresh in my recollection, but the trade was enormous; and the wealth which it now pours into the lap of England and of France can hardly be counted. Let us make an effort to get a part of it at least.

Mr. GRIMES. I am not responsible, Mr. President, for any allusions to localities in connection with this subject in this debate. It is the Senator from Maryland who has introduced that topic, and he seems to speak of those who are opposed to the passage of this bill as being from the West. Now, sir, for one, being a representative of one western State, I am willing to compare records with the Senator from Maryland on that subject, so far as my record extends back, though it does not go so far as his. I think I have done as much and voted as often in favor of increasing and extending the commerce of the country as any man here, and I am willing to continue to do so. I am one of those who believe that this nation cannot be a nation that is worthy of the name, and an independent and free nation, without having a large commerce, and having it thoroughly and completely protected at home and abroad, and I have always so voted here in the Senate.

So far as my State is concerned, and so far as the grants of land that have been made to it are concerned, let me tell the Senator that we have paid from that State many millions of dollars into the national Treasury more than the soil ever cost the nation—many millions of dollars more than the original purchase and all the cost of survey and supporting the public offices upon it, taking no account of the amount of public land that has been used up in land scrip or land warrants furnished to the soldiers from the East and from the West who were engaged in the Mexican war.

My objection to this bill is that I cannot see what practical good is going to result to the country from its passage at this time. I do not see where the commerce is to-day with Brazil that you are going to encourage. I think it is hardly fair—I do not say so in any improper sense—I do not think it is proper for us to take the tables of trade between this country and Brazil for 1860 and 1861, before the war existed, and to ask us to pass a bill in 1864 on the basis of that trade. Is not our trade with Brazil modified by the passage of our tariff laws, by the passage of our tax laws, and by the existence of war here? Can any member of this body, or anybody else, intelligently decide how the passage of this bill is going to affect that trade hereafter, by reference to what the trade was in 1859 or 1860 or 1861? If he can, he has a good deal more penetration than I have. I have been told by those who I supposed had looked into it that in consequence of the war, in consequence of the high tariff upon coffee, our trade with Brazil had fallen off almost entirely. Perhaps the Senator from Vermont can tell me what was the amount of coffee we imported in 1863?

Mr. COLLAMER. We have not got the returns for that year.

Mr. GRIMES. In 1862?

Mr. COLLAMER. I cannot give the figures now.

Mr. SHERMAN. I can say that the importations of coffee are not more than half what they were at the commencement of the war.

Mr. GRIMES. I understand the Senator from Ohio to say that the imports of coffee have fallen off one half. Almost all the coffee of this country is imported from Rio. We are the people who use the coffee.

Mr. SHERMAN. The Senator must not understand me as saying that the exportation from Brazil has fallen off. I mean that our imports have fallen off.

Mr. GRIMES. Exactly; I understand the Senator; in other words, the commerce between us and Brazil has fallen off, for coffee is almost the only article that we import from Brazil.

The Senator from Maryland says that he feels humiliated at the fact that the commerce of the

country has passed out of American hands and gone into those of foreigners; and he tells us, what is the fact, that to-day almost all if not all the steamships that ply between American ports and the ports of Europe are owned by foreigners. I think he would also bear testimony to the fact that nearly all of them are in some way or other subsidized—I understand him to assent to that proposition—and that it is necessary they should be subsidized in order to carry on that trade. Does the Senator from Maryland take the ground; and is that the theory upon which we are to vote hereafter—I want to understand what is desired of us; does he recommend, and is that principle embodied in this bill?—that we, in order to compete for the commerce of the world, shall subsidize steamships?

Mr. JOHNSON. Does the Senator want an answer now?

Mr. GRIMES. I should like to know what are the Senator's views on the subject.

Mr. JOHNSON. I believe most of those steamers receive compensation in some form or other from their respective Governments.

Mr. COLLAMER and Mr. FESSENDEN. All of them.

Mr. JOHNSON. All, I believe; and that is one of the reasons why individual enterprise cannot compete with them. If they were not subsidized, American individual enterprise would be sufficient.

Mr. GRIMES. What I want to know of the Senator is whether he desires and proposes that this Government shall subsidize vessels to compete with those?

Mr. JOHNSON. To a reasonable extent I certainly would agree to that policy.

Mr. GRIMES. Then the Senate can understand exactly to what we are drifting. If in order to compete with the commerce of other countries we are to subsidize all the vessels that persons may desire to run as steam packets between New York or any eastern port and foreign ports, I think it will be necessary for the Committee on Finance to increase the rate of taxation proposed by the tax bill that has come to us from the House of Representatives.

Mr. CONNESS. Mr. President, I think it is quite impossible to defend this bill against the arguments of the Senator from Iowa. He opposes it first because he is opposed to giving a subsidy at this time to any line. He next turns to the honorable chairman of the Committee on Post Offices and Post Roads, and asks him if he does not intend in future to subsidize and establish some other line. He is then opposed to this bill because it subsidizes a line now; and he is opposed to it again because it will lead to the subsidizing of another line; and finally, he is opposed to the subsidizing of any line. Now, I submit that the Senator's arguments cover the whole subject so completely that the bill is entirely indefensible against them.

Sir, I beg to call the attention of the Senator to the fact that to-day we have but one line of American ocean steamers that is respectable in character, and that is the ocean line to California. I say respectable; I mean in the amount of capital invested, and in the regularity with which the business is carried on. How came that line? Was it not a subsidized line? Would it ever have had existence had it not been a subsidized line? When the Government of the United States wisely provided for the establishment of the line to Aspinwall, or to Chagres, as it was then, and then from Panama to San Francisco and Astoria, there was not an ounce of gold exported from the Pacific coast, and the discovery of gold on that coast was not thought of. The object of establishing the line was to grasp and seize the commerce of the new region and take it at its beginning, control it, own it. Has a line of British steamers ever successfully competed with that line up to this time? When gold was discovered on the Pacific slope that line of steamers was in existence. How would the people of this country have reached that favored land but for the act of the Government in establishing that line? The Government not only subsidized the line when it was established, but has continued to subsidize it to this very hour. The Government has continually paid it large sums of money for carrying its mails and transporting its munitions and its men. It is the only respectable line in point of

extent and the amount of capital invested that belongs to the American nation to-day.

And yet gentlemen combat this as a national policy. The Senator from Iowa does not like it because the Senator from Maryland runs a parallel between the policy inaugurated by this bill and the establishment of the Pacific railroad across the continent. It is singular at least that the opposition to this policy should come mainly from gentlemen representing constituencies in the center of the continent, or lying near it; and I confess that it is particularly surprising to me that any part of that opposition should come from the honorable and enlightened Senator from Illinois, [Mr. TRUMBULL.] Why, sir, what do the people of Illinois demand to-day more than anything else? They demand the construction of a national ship canal, a connection between the Atlantic ocean and the great rivers and arteries of the interior, that shall make us independent, and enable us to preserve ourselves against foreign invasions upon our northern lakes and at our inland ports. The voice that comes from his State for the initiation and carrying out of that policy is not to be mistaken; and I tell the Senator here to-day that when the scheme is presented in a practical form, it will have support from me, for I do not think there is any measure which has yet been contemplated by the American people so necessary as that.

The Senator smiles. I do not instance the case as illustrating the inconsistency of the Senator. The Senator is doubtless consistent with himself in opposing this measure. But let me address myself to an indication given by the Senator from Iowa, when he asked the Senator from Vermont to answer him as to whether there is not another measure coming, namely, the one indicated in the pamphlet lying upon the Senator's desk, from the New York Chamber of Commerce. I ask the Senator from Iowa if, when a measure is proposed to establish and subsidize a line of steamers to connect San Francisco with the ports of Japan and China, and to control and possess that trade, he is determined to oppose it, and whether he is disposed to advertise that opposition at this time in advance of its introduction? I think he had better wait until such a measure is introduced. Such a measure will find no advocacy from me, nor, I apprehend, from any other Senators, unless the merits of the case demand it. For what, I would ask, are we constructing a railroad to connect the Pacific and the Atlantic oceans? Is it merely to control and facilitate our internal commerce? Does it not contemplate reaching farther out and controlling the commerce of the Indies? Yes, sir, let us go on, not resolving that because the Collins line was a failure, we will drop this policy and will not pursue it, until we shall not have a ship upon the ocean able to sustain itself with the nations of the world. The point made by the Senator from Vermont and the Senator from Maryland is conclusive in this case. Our commerce has been driven from nearly every sea, and it is only that portion of it which is carried on by means of fast and swift steamships, able either to fight or to run, from which we can expect its continuance.

I hope, sir, that this bill will pass, not for the inauguration of a system of extravagant legislation, but for the inauguration of an economical and enlightened and a most profitable policy, to be followed up judiciously and carefully wherever it shall be found to be a good investment for the American people.

Mr. TRUMBULL. Mr. President—

Mr. HOWARD. Do you want to go on now?

Mr. TRUMBULL. If this subject is to be continued, I desire to say something upon it. In spite of my disinclination to go into a discussion on this bill, the remarks made by some gentlemen are so extraordinary that I think they should be replied to; but I will not insist upon going on now if the Senator from Michigan wishes to call up his bill.

Mr. HOWARD. I do.

Mr. TRUMBULL. Very well, I will go on at some other time.

Mr. DOOLITTLE. I suggest to the honorable Senator from Michigan that undoubtedly in twenty minutes we shall be able to dispose of this bill. Probably, after the honorable Senator from Illinois replies, we can take the vote and finish the matter at once.

Mr. HOWARD. I leave it to the honorable

Senator from Illinois to make his remarks now if he chooses.

Mr. TRUMBULL. I shall make no promises in regard to the time that may be consumed in this discussion. I did not intend to enter at any length into the discussion of this matter, and am not prepared to do so, and would rather have it go over to enable me to look more thoroughly into it; but if its consideration is to be continued, I have something to say upon it now.

Mr. HOWARD. Under the circumstances I must insist on proceeding to the order of the day.

The PRESIDING OFFICER, (Mr. Foor.) The order of the day, the Pacific railroad bill, is now before the Senate.

#### PUBLIC DEBT.

Mr. HENDERSON. With the permission of the Senator from Michigan having charge of that bill, I desire to call up a resolution of inquiry that I introduced on Tuesday last. It will take but a moment to dispose of it. It is a resolution of inquiry calling for information that I desire to have before the Senate.

There being no objection, the Senate proceeded to consider the following resolution:

*Resolved*, That the Secretary of the Treasury be directed to communicate to the Senate a statement showing the full amount of the public debt of the United States at the present date; and that in making said statement he cause to be arranged separately the several items of said indebtedness; under what law each item occurred, whether it bears interest, and if so, whether in coin or lawful money; the amount of Treasury notes, United States notes, fractional currency, certificates of indebtedness, temporary loans, &c., and the rate of interest, if any, paid on each of said items, with the date and title of the act under which each class was issued.

The resolution was adopted.

#### BANK REPORTS.

Mr. HENDERSON. I offered another resolution on the same day, concerning certain bank reports, which I should be glad to have acted upon now.

There being no objection, the Senate proceeded to consider the following resolution:

*Resolved*, That the Secretary of the Treasury be, and he is hereby, directed to communicate to the Senate copies of the full reports of the banks, associations, corporations, and individuals doing a banking business, which are required to be made to the Commissioner of Internal Revenue under the act entitled "An act to provide ways and means for the support of the Government," approved March 3, 1863; and that in communicating said reports he be requested to cause those required to be made within thirty days after the first day of October, 1863, and those required to be made six months thereafter, to be arranged in separate tables.

Mr. SHERMAN. I suggest to the Senator that instead of the full reports abstracts will be sufficient. We do not want the full reports. That would cover all the letters from the banks, &c., which are entirely unnecessary. The Senator can obtain all the information he desires in an abstract.

Mr. HENDERSON. I believe the Senator is correct. An abstract showing the amount of circulation, &c., is all that I desire.

The PRESIDING OFFICER. The resolution will be so modified.

The resolution, as modified, was adopted.

#### LAND TITLES IN DENVER CITY.

Mr. HARLAN. With the consent of the Senator from Michigan, I will ask the Senate to take up House bill No. 432, for the relief of the citizens of Denver, in the Territory of Colorado. The Delegate from that Territory tells me that the people of that town are on the point of civil war on account of the difficulties in procuring titles to their town property. This bill is intended to enable them to do so.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to extend the provisions of an act for the relief of the citizens of towns upon the lands of the United States, under certain circumstances, approved May 23, 1844, so as to authorize the probate judge of Arapaho county, in the Territory of Colorado, to enter, at the minimum price, in trust for the several use and benefit of the occupants of the town of Denver, the following legal subdivisions of land, or such portions thereof as are settled and occupied, for town purposes, to wit: section No. 33, and the west half of section No. 34 in township No. 3 south, of range No. 68 west, of the sixth principal meridian; but there are to be reserved from such sale

and entry such blocks or lots in the town of Denver as may be necessary for Government purposes, to be designated by the Commissioner of the General Land Office.

The second section provides that in all respects, except as modified by this act, the probate judge and his successors in office are to be governed by the provisions of the act of May 23, 1844.

The Committee on Public Lands reported the bill with amendments, the first of which was in section one, line nine, to strike out the words "occupants of the town of Denver" and to insert "rightful occupants of said land and the bona fide owners of the improvements thereon, according to their respective interests."

The amendment was agreed to.

The next amendment was in section one, line thirteen, before the word "occupied" to insert the word "actually," and in line fourteen after the word "purposes" to insert "by the town of Denver aforesaid;" so that the clause will read:

The following legal subdivisions of land, or such portions thereof as are settled and actually occupied for town purposes by the town of Denver aforesaid, to wit, &c.

The amendment was agreed to.

The next amendment was in section two, line two, after the word "modified" to strike out the words "the said probate judge and his successors in office shall be governed," and to insert "the execution of the foregoing provisions shall be controlled;" and at the end of the section to add "and the rules and regulations of the Commissioner of the General Land Office;" so that the section will read:

That in all respects, except as herein modified, the execution of the foregoing provisions shall be controlled by the provisions of said act of 23d of May, 1844, and the rules and regulations of the Commissioner of the General Land Office.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in and ordered to be engrossed and the bill to be read a third time. It was read the third time, and passed.

#### PACIFIC RAILROAD.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 132) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, the pending question being on the adoption of the amendment reported by the Committee on the Pacific Railroad as amended.

Mr. HOWARD. I desire to offer some amendments relating more particularly to the phraseology of the committee's amendment. In section twenty, line sixty-four, I move to strike out the words "being wholly or in part incomplete or unconstructed," and to insert, "shall not have constructed the number of miles of its said road within the time herein required;" so that the clause will read:

And in case, upon the completion by such consolidated organization of the roads or either of them, of the companies so consolidated, any other of the road or roads of either of the other companies authorized as aforesaid, (and forming or intended or necessary to form a portion of a continuous line from each of the several points on the Missouri river, hereinbefore designated, to the Pacific coast,) shall not have constructed the number of miles of its said road within the time herein required, such consolidated organization is hereby authorized to continue the construction of its road and telegraph in the general direction and route upon which such incomplete or unconstructed road is hereinbefore authorized to be built, &c.

That will give perspicuity and clearness to the language.

The amendment to the amendment was agreed to.

Mr. HOWARD. In the same section, line seventy-one, after the word "therewith" I move to insert the following words:

At the expense of said company which is in default, at the actual value of such work, to be estimated by competent engineers, subject to the approval of the President of the United States.

Mr. HARLAN. I am opposed to that amendment. I had prepared an amendment to this same section that I will submit to the Senate, and ask the Senator to allow his amendment to go over until he hears the amendment I have prepared.

The PRESIDING OFFICER. Does the Senator from Michigan withdraw his amendment to the amendment for the time being?

Mr. HOWARD. Yes, sir.

Mr. HARLAN. Then I move to amend the amendment in section twenty, line eighty-one, after the word "thereto," by inserting:

And said consolidated company shall pay the said defaulting company the value, to be estimated by competent engineers, of all the work done and material furnished by said defaulting company which may be adopted and used by said consolidated company in the progress of the work under the provisions of this section: *Provided, nevertheless*, That said defaulting company may at any time before receiving pay for its said work and material as hereinbefore provided, on its election, pay said consolidated company the value of the work done and the material furnished by said consolidated company, to be estimated by competent engineers, necessary for and used in the construction of the road of said defaulting company, and resume the control of its said road.

The amendment to the amendment was agreed to.

Mr. HARLAN. I move further to amend the amendment in section one, line twenty, after the word "from," by striking out the following words:

A point on the one hundredth meridian of longitude west from Greenwich, between the south margin of the valley of the Smoky Hill fork of the Republican or Kansas river in the State of Kansas.

And to insert in lieu thereof:

A point on the western boundary of the State of Iowa, to be fixed by the President of the United States, if not heretofore fixed, as the terminus of the so-called Iowa branch of the Union Pacific railroad, under the law amended by this act, upon the most direct and practicable route, to be subject to his approval, to a point on the one hundredth meridian of longitude west from Greenwich between the south margin of the valley of the Republican river.

Mr. HOWARD. I should like to hear some reason given by the honorable Senator from Iowa for this very important amendment.

Mr. HARLAN. Mr. President, two years ago, when the bill was pending which is now a law, after a protracted discussion, the Senate fixed on the one hundredth meridian, between the south valley of the Republican fork of the Kansas river and the north valley of the Platte river, as a starting point for the main line of the road. There were Senators here at that time who desired to have the starting point further south, and others that desired to have it further north. There are those in the northern States who believe that the running water one hundred miles north of the Platte would furnish a better line than either the Platte or Kansas rivers. But after full discussion, after hours of debate here, the Senate agreed on the point which I have recited in this amendment. This amendment proposes to leave the law as it now stands, where the Senate and Congress fixed it two years ago, giving the company the latitude of country between the south border of the Republican fork of the Kansas river and the north border of the Platte river.

The other part of the amendment will make the starting point of the Pacific railroad on the western border of Iowa, where the Iowa branch now is fixed by the President under the law as it exists. I see no propriety in having two distinct laws embodied in the same bill for constructing substantially the same road. As the bill now stands, it provides that the Union Pacific railroad shall build a railroad from the one hundredth meridian of west longitude to the western boundary of the Territory of Nevada, and from the one hundredth meridian east to the eastern boundary of Iowa. The point is fixed now by the President of the United States, under the law as it stands. It seems to me it would simplify the bill to embrace the whole line in the same provision. This is all there is in the amendment that I have offered.

Mr. HOWARD. The committee that reported this amendment or substitute to the Senate have enlarged the line upon the one hundredth degree of west longitude, which is to be the starting point of the main trunk. Under the act of 1862 the place of departure was to be upon that line of longitude and was to be at some point to be fixed by the President of the United States between the north margin of the valley of the Platte river and the south margin of the valley of the Republican river. I do not know whether the President of the United States has fixed and ascertained the point of departure upon that one hundredth degree of longitude. It may be that he has done so; some Senator here perhaps will be able to inform us; but it is immaterial whether he has or not. The committee thought it best to allow a larger space for the selection of the initial point of the road upon the one hundredth degree, and for this reason: they were informed by persons



who had been engaged in making explorations in that region of country that the probable route proceeding westwardly from the point contemplated by the act of 1862 would be found to be destitute of timber, wood, coal, and iron ores, and that this destination would be in fact a very great disadvantage to the company itself, making it necessary to transport the vast quantities of timber which they would be compelled to use in the construction of their road for a very great distance, and the same as to other heavy materials which they will be compelled to use; whereas they seem to have formed the idea that by selecting the initial point on that one hundredth degree of longitude at a more southerly point they would go into a region where they would find plenty of timber useful for the construction of the road, and probably plenty of coal and plenty of iron also. It is manifest to every one that if this road could be built through a region of country where there would be plenty of these articles, timber, iron, and coal, it would be a very great saving to the company and would enhance the value of its stock.

These are the only motives which have influenced the committee in changing the initial point, giving it a larger margin upon the one hundredth meridian. It is for the Senate to say whether it is best to allow them this additional margin. I think it is, so far as I have been advised; but I shall not make any point upon it. I leave that entirely to the better judgment of the Senate.

One word, sir, as to the commencement of the Pacific line of road. I believe the amendment of the honorable Senator from Iowa contemplates that the Union Pacific railroad line shall commence on the western boundary of Iowa.

Mr. HARLAN. Just where the branch road now commences.

Mr. HOWARD. I hope that amendment will not be made. It will involve the necessity of changing the phraseology of the bill throughout. It will require a revision and almost a reconstruction of the bill in order to make its language and provisions adapt themselves to the amendment offered by the Senator from Iowa. There is really no need of it whatever. The corporation created in 1862 by the act of that year is directed to construct a railroad from the one hundredth degree of west longitude westwardly to the Pacific coast, or rather to the western boundary of the Territory of Nevada. Then the same charter proceeds to declare that the same corporation shall be required to construct sundry branches, and among these branches is the one running north westwardly and terminating upon the western line of the State of Iowa. It is very true it will be a part of the Pacific railroad; but I object to the introduction of that amendment because it will derange the other provisions of the bill and render necessary a complete reconstruction and recomposition, perhaps, of the bill itself.

I hope, therefore, that the honorable Senator from Iowa will not press that part of his amendment. It is a question of mere description and phraseology.

Mr. POMEROY. That portion of the Senator's amendment which makes the main line start from the western boundary of Iowa, I think, is entirely against the spirit of the bill as we agreed upon it in the last Congress; because it was agreed that on the one hundredth meridian the various branches should come together; that east of that one hundredth meridian they should all be branches. It would be manifestly very unjust to the branches that have the right to connect on this one hundredth meridian to construct and consolidate the main line down to the State of Iowa. I know very well that the Union Pacific Railroad Company building the main line from the State of Iowa and owning the main line from the State of Iowa will of course feel a deep interest in having the freight, passage, and travel continued throughout the whole length of the main line; but we have provided in this bill that these various companies shall unite upon equal terms, and, in order to do that, there should be some agreement that they should unite; and the bill does make that upon the one hundredth meridian. If you extend the main line down to the State of Iowa it is against the entire compromises in reference to these branches that we entered into in the last Congress and against the bill as it is now drawn. I certainly hope that that portion of the Senator's amendment will be abandoned or voted down.

In regard to the other branch of the amendment I have not much to say. I do not think it is of very great importance. I have always thought that the Saline river was the best one for this road to go up. I said so in the last Congress. I think it is for the interest of my State, at any rate, that the line should go up one of those streams. The difficulty to which I will call the attention of the chairman of the committee is this: we incorporate a company to build a road only in the Territories. The Smoky Hill and the Saline rivers are both in a State, and under the decision that we made in the last Congress that Congress could not incorporate a company to run through or in a State we abandoned the idea of going up the Smoky Hill or the Saline river and allowed the connection to be on the Republican or Platte, in a Territory. It was supposed that Congress could not incorporate a company that should run one foot of road in a State except by the permission of the laws of that State or the consent of the Legislature of that State. That was the reason why we were defeated in this in the last Congress.

Mr. HARLAN. If the Senator from Kansas, or any other Senator, deems that part of the amendment changing the phraseology so as to commence the road at the Missouri river instead of commencing it one or two hundred miles out in the plains objectionable, I am willing to return to the old phraseology, if they will allow the phraseology to remain throughout as it now is. If they are willing to permit the law to stand as it now exists in relation to the starting point I am content.

But, as the Senator himself has well remarked, it was insisted here by some of the best lawyers in the country, two years ago, that Congress had no right to create a corporation to build a railroad within the limits of a State. The law as it now stands does not provide for the construction of one foot of road by the Union Pacific Railroad Company through any State. The amendment to the bill as proposed by the committee does provide that this road may start about midway in the State of Kansas and be built one hundred miles or so through that State. It seems to me that it would simplify the bill to provide for the commencement of the Pacific railroad on the navigable waters of the Missouri river; to provide that they may build out from the river until they arrive at a point on the one hundredth meridian, to be determined by the President of the United States, between the south border of the valley of the Republican fork and the northern border of the valley of the Platte. It seems to me it would avoid an absurdity in the language that strikes the mind of every individual; and as the same company is required to build both ends of the road, from the one hundredth meridian westward, and from the one hundredth meridian eastward, it seems to me it cannot damage any other corporation in the least.

The suggestion made by the Senator from Kansas, that the law requires that all branch roads shall be required to connect on equal terms, will not affect the interests of the east end of the Union Pacific railroad line in the least, because it is to be owned by the Union Pacific Railroad Company itself in either event, whether this amendment shall prevail or not; though, as I have before remarked, I do not deem it material and shall not insist upon it, if Senators will permit the law on that subject to remain as it now exists.

In relation to the point of fact suggested by the chairman of the committee, I beg leave to differ with him. There may be more timber on the Smoky Hill fork of the Kansas river, which I understand is the main channel of the Kansas river, than on the Platte river; but that is a question that has never been settled. There is no body of timber on either river. The timber that is to be found is to be found on the lateral branches of those streams. Away from the valleys, up in the hills, you will find cedar and pine to some extent in the vicinity of both these streams; but one hundred miles north, on the running waters of the Niobrara, there is a large body of pine timber; so that if the Senator is in search of timber he ought to go one hundred miles north, where the timber exists. But this whole subject was discussed in the Senate two years ago, and it was then the judgment of the Senate and the judgment of Congress that the point of

departure should be fixed on that margin between the two rivers named in the law. This is the language of the law as it now stands:

"And the said corporation is hereby authorized and empowered to lay out, locate, construct, furnish, maintain, and enjoy a continuous railroad and telegraph, with the appurtenances, from a point on the one hundredth meridian of longitude west from Greenwich, between the south margin of the Republican river and the north margin of the valley of the Platte river, in the Territory of Nebraska, to the western boundary of Nevada Territory."

Thus avoiding the question suggested by the Senator from Kansas of the doubtful power of Congress to organize a corporation to build a railroad through a State, and also fixing the departing point within reasonable limits so as to accommodate the system of railroads through the States east of the Missouri river. I think that a question that has been thus settled after long and protracted discussion in both branches of Congress ought to remain so. Nevertheless, if it is to be thrown open, I am in favor of correcting the whole evil, if an evil does really exist.

Mr. TRUMBULL. If I understand the Senator from Iowa his objection is to extending the boundaries to the Smoky Hill fork of the Kansas river.

Mr. HARLAN. Certainly.

Mr. TRUMBULL. He is willing to leave it between the south margin of the valley of the Kansas river in the State of Kansas and the north margin of the valley of the Platte river; but his objection is that we ought not to extend the limits of the initial point of this road.

Mr. HARLAN. Exactly. With the leave of the Senate, on the suggestion of the Senator from Kansas that he is content to leave this question as the law now fixes it, I will modify my amendment by striking out in line twenty-three of the first section the words "Smoky Hill fork of the," and after the word "Republican" to strike out the word "or" and insert the words "fork of the," and after the word "river" to strike out the words "in the State of Kansas;" so that the clause will read:

And said company is hereby authorized and empowered to lay out, locate, construct, finish, maintain, and enjoy a continuous railroad and telegraph, with the appurtenances thereto, from a point on the one hundredth meridian of longitude west from Greenwich, between the south margin of the valley of the Republican fork of the Kansas river and the north margin of the Platte river, in the Territory of Nebraska, &c.

Mr. TRUMBULL. That is not the way the old law stood.

Mr. HARLAN. It is substantially the same, I think.

Mr. TRUMBULL. Why not put it in the very words?

Mr. HARLAN. I have no objection to that; but I will remark to the Senator from Illinois that it is repeated twice in the old law, and I think the bill as I now propose to amend it will conform to the phraseology in one of the places where it occurs exactly. I am sure it does to the sense.

The PRESIDENT *pro tempore*. The question will be on the amendment of the Senator from Iowa, as modified, to the amendment of the committee.

Mr. HOWARD. I do not wish to be strenuous on this subject. I simply wish to call the attention of Senators to the fact, which I have already stated, that gentlemen connected with this enterprise have regarded this extension of the length of the initial line, so to speak, as of considerable importance on account of the probability of their finding plenty of timber and coal on a more southern route. I simply wish to state this to Senators in order that they may know as much as I do about it. If after that they see fit to adopt the amendment of the Senator from Iowa, I have nothing further to say. It seems to me we had better retain the language of the bill as it is.

Mr. HENDERSON. I hope the amendment proposed by the Senator from Iowa will not be adopted. When the Pacific railroad bill was pending two years ago I proposed an amendment which would have made that bill similar to the bill now proposed by the Committee on the Pacific Railroad. I desired then, if I possibly could, to secure the possibility of building this road on the Smoky Hill fork, and I will state my reasons. I stated them then, and I will restate them now in a very few words.

Mr. President, this is a proposition to fix the eastern terminus of the Pacific railroad proper.

That is the part of it that is to be specially built under a charter from the Government. I stated then, and I restate the proposition now, that unless my information be incorrect, the proper route on which to build that road is upon the Solomon river or the Smoky Hill fork. The difference between the south margin of the Republican fork of the Kansas river and the north margin of the Smoky Hill fork would not vary more than twenty-five or thirty miles; perhaps not over twenty at several points. I ask the Senate then in all seriousness, if the Smoky Hill fork should be found to be the best route on which to build this road, why should we confine it a little north of that point? I do not desire to confine it within any given point. The fact is, if I had my way about it I would leave a much larger margin on which to build this road. If it be found best to put it north, I certainly shall not object to it.

My impression is that this road will have to be built ultimately by the way of Denver. There is an immense settlement at Denver, in the Territory of Colorado. We all know the very great importance in the construction of a road, if we intend to build it cheaply, of building it through settlements. Not only do we know the importance of building it through settlements in order to get it cheaply built, but the importance of so building it in order to give it business after the road has been built. Suppose this road is built through the South Pass. Where are the settlements from the Missouri river to California on that route, or at least until you get to Salt Lake? Is it practicable to go through Berthou's Pass? Our information is that it is the very best practicable route on which to build a road from the Missouri river to the Pacific ocean. I assume it to be a fact that the road ought to be constructed by the way of Denver, and I assume that this road will ultimately go by the way of Denver. We owe it to that country to build the road there. An immense country there is now being settled up very rapidly. In the course of a very short time Colorado will be a State in the Union. Its population is rapidly increasing. The mountains of Colorado are filled with precious ores of every kind, gold and silver, &c., and the lands are said to be very fertile and of the very best quality. It is exceedingly desirable, if a good route can be obtained at all, to build it upon that line. If we go by way of Denver—and any Senator who will take up the map and examine it can decide that question for himself in a moment—the road ought to go up the Smoky Hill fork of the Kansas river. There can be no question about that. Any gentleman can satisfy himself in one moment as to the proper location of the road.

Another question to be determined is, whether, if located upon the Smoky Hill fork, the material necessary to construct the road can be obtained in equal quantities upon that route; and another consideration is, whether the surface of the country is such as to enable a road to be built as well upon that as upon the other fork of the river; that is, upon the Republican fork. Mr. President, had we not better leave that to actual survey? I do not wish to fix it on the Smoky Hill fork, because I really do not know whether there is as much timber upon it as there is upon the Republican fork. I do not wish to settle that question. It ought to be settled by survey. I understand that actual survey has settled that point: that the timber is better, as stated by the Senator from Michigan, upon that fork than it is upon the other.

If you will look at the route you will find that it is a much shorter route, provided you go by the way of Denver. If you do not intend to go by that route, you might as well put the road north. I do not object to that; but if actual survey, if the necessities of that people, if the requirements of the immense settlement around Denver City which is rapidly growing up, require that it should go by that route, it ought not to go up the Republican fork, but it ought to go up the Smoky Hill fork of the Kansas river.

But, Mr. President, where is the necessity of fixing the point absolutely in this bill unless we have further information on the subject than we have at present? What do Senators know about it? I suppose they know as much as I do, and I know as much as they do, and all of us together know nothing in regard to it. Then why not let those gentlemen who are to build this road have a

scope of twenty-five or thirty miles additional in that country for their initial or starting point? Every argument that can be advanced on the subject is in favor of retaining the bill as introduced by the Committee on the Pacific Railroad. I have no doubt they have given it the examination that it needed in order to ascertain the proper terminus of the road.

The proposition as originally introduced by my friend from Iowa would have changed this whole thing. Instead of making the initial point on the one hundredth meridian of west longitude, he would have made the commencing point of this road on the Iowa line. That would certainly have been unjust to the other roads. Instead of commencing at a point where all the connecting roads from the East could meet upon a common ground, one or two hundred miles west of the Missouri river, and let each road strike its own branch at that point, the proposition as first introduced was to make the initial point on the Missouri river, and to make the main road absolutely go through the State of Iowa. That would certainly have been unjust to the other roads; but if it had been found to be the best route, if we were in a condition to settle that point to-day, to determine the fact that that was the best route for this great Pacific railway, that it ought to be commenced there, that the geography of the country is such as to induce its location there for the benefit of the company and for the benefit of the country, I, for one, would have made no objection whatever. But such is not the fact. We have no such information as to induce us to believe that it would be proper to commence the road there.

Mr. President, let this question be settled by actual survey. Two years ago when this subject was under consideration I offered a proposition similar to the one now contained in this bill as reported from the Committee on the Pacific Railroad. It is true the Senate voted it down; but subsequent experience has satisfied the country, it has satisfied the enterprising gentlemen who have undertaken the construction of this road, that that is the point, and that they ought to have the benefit of the Smoky Hill fork. If it is not agreed to at this session it will be the next. The country will demand it. We shall find that it will be necessary in the end to build the road by the way of Denver. The immense settlement of people gathering there and constantly and rapidly increasing there will demand of the Government that this road pass by them. Why, sir, it is the direct and straight route from the Missouri river to California. It is the best route to Salt Lake, as I have understood. The Berthou Pass is a practicable route. It is further south, and attended with less frost and snow during the winter, and is the proper route on which to build this railroad.

But, sir, whether it be the proper one or not is not for us to determine. Let us leave it to actual survey and give a proper scope for the commencement of this great work. We are interested only in having such a point as will give to the country the very best practicable route from the Missouri river to California. We cannot get the best route by confining it within certain limits. If I had my way, as I have said before, I would extend these limits; give us broader room, give us greater area of country in which to select the point to commence this great work.

Mr. TRUMBULL. I am sorry that this question is opened up again in the Senate for discussion. I was not aware that the committee had made this change in the bill. I was called away from the city and was not present to attend all the sessions of the committee. Being a member upon it I ought to have known of this change, and probably should have known of it had I been present. We had a great deal of discussion and a great deal of difficulty two years ago in settling the route of this Pacific railroad, and Congress after spending a great deal of time upon it agreed that the road should start from some point on the one hundredth meridian of west longitude between two rivers, leaving a considerable margin between these streams, in which to select the point whence the road should start. It is now proposed to enlarge these boundaries, and instead of limiting the starting point of the road to the Republican river on the south, to extend it to the Smoky Hill branch.

I am opposed to opening that question, and I trust that the amendment of the Senator from Iowa will prevail. I have no such information that satisfies me, as the Senator from Missouri communicates to the Senate. He says it will be better to take this road further south. It may be so. Congress did not think so two years ago. He made then the same proposition that he is pressing to-day. The Senate voted it down then, and I am sorry that we have opened up the question. I trust that the amendment suggested by the Senator from Iowa will prevail and that we will stand by the bill as Congress originally passed it in this respect. The object of this bill is to remedy certain defects in the old law and enable the parties who are taking hold of this measure to construct the road. That is what Congress desires; it is what the nation desires; and I do not think it was intended to open up this controversy again as to the location of the road. I hope the Senate will stand by the bill in this respect as we had it before.

Mr. HOWARD. As I remarked before, I feel no anxiety on this subject one way or the other. I felt it a duty to state to the Senate the reasons which influenced the minds of many gentlemen connected with this enterprise for allowing an extension of this mutable point, so to speak, as the initial point of the road. I have done so. Having done that, I have nothing further to say, except in reply to the remarks of the Senator from Illinois, that this is as much an open question before this body as any other point connected with this Pacific railroad; and if he did not want this question opened his duty was to have attended the sessions of the committee, with a view there to express his opinions and have them embodied in the form of a bill. I do not feel that he has any peculiar privilege of calling me, as the chairman of that committee, to task for inserting this thing, that thing, or the other in the bill, so long as I have acted in good faith and under the advice of so many of the members of the committee as I was able to get together. I do not regard it as a very gracious mode of treating the bill or the committee. I have nothing further to say upon this subject.

Mr. TRUMBULL. Why, Mr. President, I made no attack on the chairman of the committee. I said I was called away and was not present at the different meetings of the committee, and did not know of this change. I made no attack upon the chairman of the committee or the committee at all. I excused myself for not knowing of the change because I was necessarily absent from the city, and was not present at the meetings of the committee.

Mr. HOWARD. The Senator resorted to rather a censorious tone against the committee for introducing a subject-matter into the bill which they saw fit to introduce, and it was that censorious tone to which I desired to reply.

Mr. MORRILL. When the bill to which this is an amendment was before the Senate two years ago I gave the subject some consideration with a view of obtaining some definite idea of the general character of this enterprise, and I have, I think, a pretty distinct recollection of this particular question, and I think it was very carefully considered at the time with reference to two or three points. The question was to find a point of departure on the one hundredth meridian. How should that be determined? It seemed to be settled that we should take our departure on that meridian. What shall determine it? It was very evident there were a great many private wishes on the subject. Looking for facts which would determine the point of departure, it was said that to this one hundredth meridian the railroads of the States east of it would seem to conspire, and I think that that fact contributed somewhat in fixing that as the point of departure. But beyond that it was stated that the general features of the country determined this to be the proper point of departure; and it was stated that these features of the country indicated that on that meridian, within one hundred miles between two points, one point on the north and another on the south, you might find a place where it was perfectly practicable to commence the point of departure. Above that and below that it was said not to be so well defined; that the natural features of the country were not so accessible, were believed to offer obstacles, and that if you went above or

below you would find difficulties in the natural configuration of the country.

I remember very distinctly that these were the considerations which influenced my mind, and which I think were stated then to be the controlling considerations in fixing this line of departure on the one hundredth meridian and between the two points indicated in the original bill. If that was so, they were certainly substantial reasons, and they ought to obtain now. I have heard no new facts stated which contravene those general propositions. For that reason, according with the original convictions I had, which were then quite definite, I shall be inclined to vote for the proposition of the Senator from Iowa to amend this bill so as to confine it to the original point of departure.

Mr. HARLAN. I wish only to add this additional observation: if the amendment I have suggested should prevail it will not prevent the company from building the road to Denver. The route up the Republican fork is known to be quite as good as that up the Smoky Hill fork.

The amendment to the amendment was agreed to.

Mr. HOWARD. In the twenty-fifth line of the first section, after the word "river," I move to strike out the words "in the Territory of Nebraska." As the clause has just been amended, it reads:

From a point on the one hundredth meridian of longitude west from Greenwich, between the south margin of the valley of the Republican fork of the Kansas river and the north margin of the valley of the Platte river, in the Territory of Nebraska, to the western boundary of the Territory of Nevada.

I understand that a part of the valley of the Platte river lies in the State of Kansas, and I desire to have the whole of that valley within which to fix the starting point, if necessary.

Mr. POMEROY. It is a part of the valley of the Republican that may be in the State of Kansas. I am in favor of the amendment of the Senator to strike out those words, "in the Territory of Nebraska," because as the clause now stands it obliges the point to be in Nebraska even though the river does not run there.

Mr. HOWARD. That is the difficulty.

Mr. POMEROY. We cannot by any law of Congress make the river in Nebraska if it does not lie there. It is very near the line; but as the country has never been surveyed, and as the river has never been surveyed, we do not know certainly which side of the line it is on; so that if we strike out that phrase we shall have to commence on the river.

Mr. HARLAN. Personally I have no objection to the amendment suggested by the Senator from Michigan; but it raises the question whether Congress has the right to organize a corporation to build a railroad through a State without the consent of the State. That is the only question.

Mr. POMEROY. There will be no difficulty practically. The State of Kansas will give the right if there is any trouble about that.

Mr. TRUMBULL. I hope these words will not be stricken out for the reason that I suggested before. I am for leaving the starting point of the road as we left it in the old bill. I do not think there is any demand for changing it. This is the language of the old law. It is the way the law is now.

Mr. POMEROY. Let me remind the Senator that when the old bill was under discussion a map was produced in which it was thought that the Republican was all in the Territory of Nebraska. It has since been ascertained that the south margin of the Republican will probably fall a little within the State of Kansas, and we cannot make the point in the bill if we say that it shall be in Nebraska, because the river, it is thought, does not all lie in Nebraska.

Mr. TRUMBULL. The Senator from Kansas will observe that it is the "north margin of the valley of the Platte river, in the Territory of Nebraska," that is here spoken of.

Mr. POMEROY. That phrase, "in the Territory of Nebraska," applies to the point, not to the river. I admit that the Platte river is in Nebraska; there is no question about that; but that phrase, "in the Territory of Nebraska," refers to the point of connection.

Mr. HOWARD. The starting point must be in Nebraska according to the law as it now stands, and according to this bill.

Mr. TRUMBULL. No, sir; I do not so un-

derstand it. Let me read to the Senate the way it will stand as amended, and as the old law is. The clause now reads:

From a point on the one hundredth meridian of longitude west from Greenwich, between the south margin of the valley of the Republican fork of the Kansas river, and the north margin of the valley of the Platte river in the Territory of Nebraska.

Somewhere between those two points the road is to start. It is not necessarily to start in the Territory of Nebraska, but it is to start between the north margin of the valley of the Platte river, which reaches into Nebraska—everybody knows that—and the south margin of the valley of the Republican river. I think it should remain. That is the old law, I believe.

Mr. HOWARD. I think the Senator is entirely mistaken as to the meaning of the phrase, if he will allow me to say a word. The words "in the Territory of Nebraska" are to have some meaning. They were inserted in the connection in which they stand in the law for the purpose, undoubtedly, of avoiding the difficulty which has been alluded to by the Senator from Kansas; that is, the impossibility of Congress taking land lying within a State and applying it to make a railroad. The object of Congress in this enactment in 1862 was to commence the work of this railroad within the Territory of Nebraska and not in the State of Kansas. That was the purpose of inserting the words: "There can be no doubt about that, and I think the Senator from Illinois on reviewing the language will see his mistake." He has misapprehended the meaning and intent of the expression.

As to the right of the Government to take land for the purpose of constructing a railroad, I hold, and I think there can be no dissent from that principle, that the United States has the same power of eminent domain over the lands lying within a State for the purpose of constructing a railroad in order to carry out the objects of a corporation as is possessed by the State, and I have in my mind not the slightest difficulty as to the power of the Government to seize and to condemn the lands of private persons lying within a State for such a purpose. We have plenary power for that purpose, if we have power to erect a corporation for such a purpose; and I think no one will deny the power of Congress to erect a corporation for such a purpose.

Mr. POMEROY. These lands are all public lands of the United States, both in Kansas and in Nebraska. There are no settlers there. But the Senator from Illinois will bear in mind that this phrase "in the Territory of Nebraska" has the same meaning as though it occurred after the word "point" in the twenty-first line so as to read, "from a point in the Territory of Nebraska on the one hundredth meridian of longitude west from Greenwich," &c.

Mr. TRUMBULL. Between these lines.

Mr. POMEROY. But the idea that this bill intends to convey is not to confine it necessarily to Nebraska, but to confine it to those two rivers. If those rivers do not both happen to be in Nebraska—and nobody knows at present anything about it; there has been no accurate survey—we want the privilege of making connection on the Republican, even though it falls within the State of Kansas; and by striking out the words "in the Territory of Nebraska" we accomplish that object.

Mr. TRUMBULL. No doubt that object will be accomplished if these words are stricken out, and the road may then be commenced in the State of Kansas; but Congress thought proper two years ago to fix the boundaries within which this road should be commenced between these two valleys, the south margin of the valley of the Republican river and the north margin of the valley of the Platte river. I am not for extending it.

Mr. POMEROY. This does not extend it.

Mr. TRUMBULL. It does extend it if it shall be found that any portion of the valley of the Republican river lies in the State of Kansas.

Mr. POMEROY. But you gave us the whole of that valley.

Mr. TRUMBULL. We gave you that whole valley provided the whole of it lay in the Territory of Nebraska, otherwise we did not; and now you propose to unsettle that matter. It is the same question over again. It involves this other question that I think need not be brought up now,

as to whether the Government of the United States has authority to charter a company to construct railroads in the States. That is a question that I do not think we need go into. There is no necessity for raising it now on this point. There will be no difficulty in finding sufficient ground upon which to build this road. There is margin enough as the law stands. I am for abiding by the law of 1862 in that respect. I hope the amendment will not be made.

Mr. DOOLITTLE. I should like to inquire whether the law of 1862 says the "Republican river or Kansas river" or the "Republican fork of the Kansas river?"

Mr. TRUMBULL. I will read what the law of 1862 says:

"From a point on the one hundredth meridian of longitude west from Greenwich, between the south margin of the valley of the Republican river and the north margin of the valley of the Platte river."

The bill before us has already been amended to conform exactly to the law of 1862. The motion now pending is to strike out the words "in the Territory of Nebraska," so as to extend the limits within which to start this route, if the amendment prevails. If it does not prevail we shall stand by the law of 1862, about which we had so much discussion when it passed.

Mr. DOOLITTLE. I should like to have the Secretary report the clause as it now stands as amended. I want to hear the language as it is now.

The Secretary read, as follows:

And said company is hereby authorized and empowered to lay out, locate, construct, finish, maintain, and enjoy a continuous railroad and telegraph, with the appurtenances thereto, from a point on the one hundredth meridian of longitude west from Greenwich, between the south margin of the valley of the Republican fork of the Kansas river and the north margin of the valley of the Platte river, in the Territory of Nebraska.

Mr. HENDERSON. My friend from Illinois certainly maintains this proposition by the most remarkable argument. He says that he wants to stick by the bill of the last Congress, no matter whether it has any sense in it or not, as I understand the argument. Every inch of the Republican fork of the Kansas river may be in Kansas, and yet he will stick to the bill of the last Congress, whether there can be any initial point upon the Republican fork or not! I am very fond of that which is consecrated by the past; I am very fond of precedent; I am very fond of sticking to the letter of the law; but if the letter of the law turns out to be improper I have no such prejudice as will prevent me from amending it.

Now it is stated here that at the last Congress we supposed the Republican fork of the Kansas river was entirely in the Territory of Nebraska. Any gentleman can take a recently published map and ascertain for himself that the southern margin of the Republican fork of the Kansas river on the one hundredth meridian of west longitude is in Kansas. Why then shall we stick to the law of last Congress, provided the meaning is such as is intimated by the Senator from Illinois, whether we can get an initial point on it or not? Suppose the north margin of the Republican fork turned out to be in Kansas, how would the law be executed? Suppose they wanted to commence on the Republican fork; that would prevent them commencing on the Republican fork at all.

I am free to confess that my construction of this law is as the Senator from Illinois originally stated to be his construction; that is, that the words "in the Territory of Nebraska" were simply descriptive of the Platte river, and not of the point of beginning; but certainly some doubt has arisen in the true construction of the law as to whether it defined the initial point of beginning or whether it was descriptive of the Platte river. If descriptive of the Platte river the phrase need not be in. Was that the intention of the framers of the law originally? If that is the case there is no harm in this remaining, provided such may be made the construction.

But suppose the river be found to be in the State of Kansas as now intimated, and suppose the proper construction of the law turns out to be that the words "in the Territory of Nebraska" are descriptive of the initial point, then we cannot get an initial point there at all. I ask the Senator from Illinois if it ought not to be amended so that



the initial point may be had. If the bill is liable to such a construction why not amend it? Why cling to the language of the original bill? The way it is at present amended is not the language of the original bill; but I do not object to it. The language of the original bill was the "Republican river." It is now the "Republican fork of the Kansas river." The Senator makes no objection—

Mr. TRUMBULL. The Senator is mistaken. There is no mention of any "fork" in the bill as it is amended.

Mr. HENDERSON. It was so read by the Secretary just now.

Mr. TRUMBULL. I did not understand him to read it so. I will ask that it be reported again. The Secretary read, as follows:

And said company is hereby authorized and empowered to lay out, locate, construct, finish, maintain, and enjoy a continuous railroad and telegraph, with the appurtenances thereto, from a point on the one hundredth meridian of longitude west from Greenwich, between the south margin of the valley of the Republican fork of the Kansas river and the north margin of the Platte river.

Mr. DOOLITTLE. That is right, because the name of the branch of the Kansas river is the Republican fork.

Mr. HENDERSON. I do not object to it because it changes and makes proper the description of that which was uncertain before; but I believe there is a river in that section of the country called the Republican river.

Mr. LANE, of Kansas. This is sometimes called the Republican river, and sometimes the Republican fork.

Mr. HENDERSON. I do not object to it; but it is a change from the law of the last Congress. The description here, perhaps, is proper; but why does the Senator from Illinois object to making that clear and plain which is now in doubt? Four or five Senators have spoken, and they all differ about the construction of the law of the last session. Then why not make it plain? Why should we be so tenacious about the words that were adopted by the Senate two years ago, as to lose sight of the main principle of the measure? I think the Senator, on reconsideration, will let these words be stricken out.

Mr. DOOLITTLE. The language of this bill is very peculiar, and so was that of the original bill in defining the points between which this railroad was to begin. They used these most extraordinary words, "the south margin of the valley of the river," not the south margin of the river. I should like to know where the east margin of the valley of the Mississippi is? It is the Alleghany mountains; and the west margin of the valley of the Mississippi would be the Rocky mountains. This language, "the south margin of the valley," is the most indefinite and undefinable language that could be used in describing the valleys of the great rivers of this country. It takes a sweep of hundreds and thousands of miles. The reason why these words, "in the Territory of Nebraska," were inserted was to give definiteness to that which was otherwise exceedingly indefinite.

Now, if you look upon the map the river itself on the one hundredth meridian is in the Territory of Nebraska. It is not in the State of Kansas, nor within forty miles of the State of Kansas. I repeat that the Republican fork of the river on the one hundredth meridian is in the Territory of Nebraska, forty miles and more from the State of Kansas.

Mr. POMEROY. It is not five miles from the line. The only question is whether it is five miles or not.

Mr. DOOLITTLE. The south margin of the valley would extend into Kansas. It would extend as a matter of course to the highlands which separate the waters that flow into the Republican fork from the waters that flow into the Solomon fork, which is the next one south.

Mr. POMEROY. I was not talking about the valley, but about the river itself, which is very near there.

Mr. DOOLITTLE. The base line of the survey by the maps shows that the Republican fork runs away up into the Territory of Nebraska. It is true, when you go two or three degrees of longitude further west there is a little lake in Kansas which seems to be the head of this Republican river; but this river takes a direction running northwest across up into Nebraska, and then

down again into Kansas. That is the way it evidently is on the map. There is a lake in Kansas, and then from that the river runs up into the Territory of Nebraska. The words "in the Territory of Nebraska" were inserted in this clause on purpose to say that the south line should be the limit south to which they might go in fixing this starting point on the hundredth meridian of longitude, and to avoid the other question, which was very much discussed heretofore, whether it was within the constitutional power of Congress to create a corporation to build a railroad within a State. We avoided both questions by inserting these words, "in the Territory of Nebraska," which fixes the south line to which it could go.

Now, I will say, in relation to this matter, and I think we have some right to speak upon it, representing, as we do, the western States, though none of the States west of Michigan happened to be represented on the committee; we had no voice in this business—

Mr. TRUMBULL. Iowa is represented.

Mr. DOOLITTLE. None of the northern range of States is represented. We thought that as we had interests in this matter, as we had a great many railroads that were pointing in this direction, we had about as good a right to be represented on the committee and have something to say on the subject as the States that lie just on the central line—Kansas, Missouri, Illinois, and Iowa. We think now that the committee ought to be satisfied at least to leave this matter of the starting point of the railroad where it was fixed two years ago. We are satisfied to let that stand; and if there is an attempt to change the starting point, I confess, for one, I am not entirely satisfied. This bill undertakes to change the starting point by running down to what is called the south margin of the Smoky Hill fork of the Kansas river, which is down next to the Arkansas river, for the Arkansas river is the next river which lies south of the Smoky Hill fork; and when you come to the south margin of the valley of the Smoky Hill fork you get just to the dividing line between the Smoky Hill fork and the Arkansas. It changes the starting point more than one hundred miles.

Mr. LANE, of Kansas. Oh, no.

Mr. DOOLITTLE. Certainly it does by the map. I do not desire to take up the time of the Senate. I simply say to the committee that I hope they will leave the starting point to stand where it was fixed when the matter was discussed before.

Mr. HENDERSON called for the yeas and nays, and they were ordered.

Mr. HENDERSON. I desire to make one statement before the vote is taken, and I will not detain the Senate. Senators will see by examining Johnson's map recently published that the south margin of the valley of the Republican fork of the Kansas river is some twenty-five or thirty miles in Kansas; that the main road that runs from Atchison, in Kansas Territory, to Denver, in the valley of that river, is some twenty-five miles inside of the State of Kansas at the point of the one hundredth meridian. If these words be retained it will make it almost utterly impossible for the company to obtain an eligible position if they go on the south bank of the Republican fork. That certainly was not the intention of the original bill. It was a mistake at the time, and these words ought to be stricken out.

Mr. DAVIS. I am requested by my colleague [Mr. POWELL] to state that he is necessarily absent at the Departments.

The question being taken by yeas and nays, resulted—yeas 15, nays 17; as follows:

YEAS—Messrs. Anthony, Buckalew, Conness, Davis, Dixon, Harding, Henderson, Howard, Lane of Kansas, Morgan, Pomeroy, Richardson, Saulsbury, Van Winkle, and Willey—15.

NAYS—Messrs. Chandler, Clark, Collamer, Doolittle, Fessenden, Foot, Foster, Hale, Harlan, Harris, Howe, Ramsey, Sherman, Sumner, Trumbull, Wade, and Wilkinson—17.

ABSENT—Messrs. Brown, Carlile, Cowan, Grimes, Hendricks, Hicks, Johnson, Lane of Indiana, McDougall, Morrill, Nesmith, Powell, Riddle, Sprague, Ten Eyck, Wilson, and Wright—17.

So the amendment to the amendment was rejected.

Mr. HARLAN. I have another amendment that I wish to present. Before doing so, however, I desire to remark that, as far as I understand it, the phraseology of this bill was never

fixed by a vote of the committee. I say this that I may be understood by the Senate and more particularly by the chairman of the committee. The committee, at a meeting at which I was present, decided on the principles that should control in drawing up the bill, and having great confidence, as every member of the committee had, in the ability of the chairman of the committee, they directed him to draw up the bill on those principles; so that if we discover or suppose we discover some defect or want of congruity in the language, I trust it will not be construed as opposing a decision of the committee, for, as I before remarked, at no meeting when I was present was the phraseology of the bill ever decided on by a vote of the committee. I move, on page 5, line one hundred and three of section one, after the word "shall," to insert:

On which the assessments provided for in this act, not less than ten per cent. of the par value, have been actually paid in money.

The purpose that controls me in offering this amendment is this: on the following page, the 6th page, there is this provision:

And every person now a subscriber to said capital stock, for each share of \$1,000 heretofore subscribed and on which there has been paid not less than ten per cent., shall be entitled to a certificate for ten shares of \$100 each on the surrender of his original certificate.

So that no person now a member of the corporation, who holds stock on which he may have paid less than ten per cent., can vote on a share. The phraseology as it now stands unamended on the 5th page, would entitle a new subscriber to vote before he had paid anything on the new stock thus subscribed. That would enable individuals now coming into the organization to take control of the organization without paying in any money, taking it out of the hands of those who originally organized the company under the law as it now stands. This, of course, was not the intention of the committee, or of the chairman of the committee. If this amendment shall prevail it will place the holders of the new stock hereafter to be subscribed in the same situation precisely with the holders of the old stock.

Mr. POMEROY. If the Senator will turn to the 3d page he will see that no new subscriptions can be made until ten per cent. is paid in. In the forty-seventh and forty-eighth lines, after speaking about books being opened in these various cities to receive new subscriptions, it is said that before the subscriptions are taken the subscriber "shall pay to the treasurer of the company an amount per share subscribed by him equal to the amount per share previously paid by the then existing stockholders." That is precisely the same provision, but I have no objection to the amendment.

Mr. HOWARD. I have no objection to the amendment. It does not change the meaning at all.

The amendment to the amendment was agreed to.

Mr. HARLAN. I offer the following amendment: on page 6, line one hundred and twenty-three, section one, after the word "paid" insert "or may hereafter be paid according to the provisions of this act."

The amendment to the amendment was agreed to.

Mr. HARLAN. I move to amend on the 8th page by inserting in line one hundred and sixty-eight of section one, after the word "paid" these words, "as such directors each." The text is, "they shall, while absent from home attending to their duties, be paid their actual traveling expenses and compensation at the rate of eight dollars per day, for the time thus actually employed." I suppose the object is to pay each of these Government directors eight dollars a day, but the phraseology as it now stands I think might be construed to limit them to the amount of eight dollars for the services of both persons.

The amendment to the amendment was agreed to.

Mr. HARLAN. On page 11, commencing in line forty-four of section three, I move that the following words be stricken out:

And shall also deduct from the damages to be awarded to the applicant for the same any increase in the value due to the construction of the road, of the premises retained by him, provided such premises formed a portion of those taken.

Mr. HOWARD. I hope that amendment will not be adopted. That provision is nothing but a reenactment of a clause which is found in almost every railroad charter in modern times.

Mr. HARLAN. The clause as it now stands provides—

And said commissioners, in their assessments of damages, shall appraise such premises at what would have been the value thereof if the road had not been built.

That I propose to leave in the bill, so that the railroad company will not be compelled to pay the holder of real estate the enhanced value of the property growing out of the work that they themselves do; but it seems to me to be a great hardship to deduct from the original value of what is left in the hands of the holder the supposed enhanced value of what the railroad arbitrarily takes from the owner. It may be that if a man owns ten acres of land on the line of this road, and the railroad company chooses to take five of those acres, thereby the remaining five acres may be enhanced in value double the original amount; and if they take the five acres, paying nothing therefor, the original holder will be as rich a man as he was before. That would be true if he desired to sell his land; but if he desired to cultivate the remaining five acres for the purpose of supporting his wife and children, they would not produce any more bushels of potatoes, wheat, or corn than they would before the railroad was built; so that if he retained his property he would receive no additional advantage from the construction of the road growing out of the enhanced value of the property which he would not desire to sell.

It seems to me that with these words stricken out these companies will have secured all they have a right to claim, to pay for the property they take at the value of that property assessed at a standard which existed preceding the construction of the road. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. DOOLITTLE. I do not know but that the railroad charters in the State of Michigan and some other States may contain a provision like that here proposed to be stricken out; but I am quite sure that the provision contained in this bill is against the railroad charters in the State of Wisconsin and the State of New York, and against the decisions of the courts in the estimation of the damages to which parties are entitled. I do not understand that in estimating the damages done to the private property of an individual by taking a portion of it for railroad purposes the railroad company is authorized to offset against the damages that general enhancement of the value of property which arises from the construction of a railroad in that section or region of the country. That has never been held with us; but it has always been held that if there were any direct advantages created to the land by the building of the railroad, as, for instance, the draining of the land by the construction of the railroad ditches, the land being enhanced in value in that way, the enhancement could be offset as against the damages resulting from the value of the land taken. Never have the courts gone to the length of saying, nor have any acts of legislation gone to the extent of saying, that the enhancement of the value growing out of the creation of such an improvement in that section, neighborhood, or town, by the building of a railroad or a canal, should be taken from the damages to which an individual is entitled for land actually taken from him.

This question has arisen a hundred times; when I have been acting as judge in the State of Wisconsin it has been before me. My own opinion, of course, on the subject I do not claim any particular consideration for; but it has been in the higher courts of our State acted upon frequently. This question of the appraisal of railroad dangers I understand to be very clearly settled and very well defined by the decisions of the courts; and if this clause were left out of the bill the general law and the decisions of the courts in reference to such damages would be the rule that would prevail. Take the case which has been put; suppose that a man has ten acres of ground located, if this railroad is not constructed, perhaps a hundred miles from a railroad; it may not be worth over twenty dollars an acre; build a railroad by it, and take half of it, and the building of the railroad probably would make the rest of the land worth fifty dollars an acre. So the general rise and enhancement in the value of the land by the building of the railroad would be more than the whole of the damages that this in-

dividual would suffer from the taking of his land. But here are large numbers of persons whose lands are not taken, whose lands are in the immediate neighborhood, and whose lands are doubled and quadrupled in their value by the building of the railroad, and the railroad does not damage them; it does them just as much good, and inflicts no damage; and yet to the man whom you damage you say, "While we damage you by taking away one half of your land, you shall have nothing, because the remainder of the land has been doubled in value because of the building of the railroad in that section of the country."

Mr. TRUMBULL. I would like to inquire of the Senator from Wisconsin if he calls that damaging a man to make the balance of his land worth four times what it was worth before.

Mr. DOOLITTLE. One man has just as good a right to the general improvement of the country produced by the building of a canal or a railroad, and the general enhancement of property which he happens to own, as another, and it is an injustice to a particular individual if you take half his land and do not touch the land of the man adjoining him; you put thousands of dollars into the pockets of one man and you take the other man's land from him. There is an injustice in that; and I tell my friend from Illinois that the courts do not sustain any such doctrine. It has been decided in a hundred cases. The effect of this provision is that a man whose land is taken cannot enjoy the general benefit which arises from the construction of the road. My friend from Illinois had better examine the cases bearing on this question.

Mr. TRUMBULL. I confess I cannot appreciate how the man is damaged who is better off than he was before he received the damage; but the Senator from Wisconsin thinks the injustice consists in this; some man owns a tract of land just off the railroad, that is not touched, and that is quadrupled in value, and he makes a fortune; and then the man whose land is touched is damaged wonderfully because somebody else has made a fortune, because the other man whose land was not taken is going to make more than he whose land was taken; therefore he is greatly wronged; it hurts his feelings because his neighbor makes more money than he! I do not know what they have decided in the State of Wisconsin, but it is the commonest thing in the world in my State. When we lay out streets in the cities and take a portion of somebody's lots of land, the jury that assess the damages always take into consideration the benefits that the party is to derive from the opening of those streets and ways through his land. That is the practice in my State, and the courts sustain that practice. I think if my worthy friend from Wisconsin will look into the law-books he will find a great many decisions sustaining that doctrine.

Mr. DOOLITTLE. Will my friend allow me to state that the Constitution of the United States says that you shall not take from a man his property without giving him compensation.

Mr. TRUMBULL. Very true.

Mr. DOOLITTLE. You must pay him for the property that you have taken. You do not pay him for that property by saying generally, "We built a railroad somewhere in the country by means of which indirectly we have doubled the value of the property." That does not pay him a dollar, does not pay him a cent. Your provision is unconstitutional, and the courts will so hold it, if you go beyond the direct benefits which you confer by the drainage upon the land, by the direct act of the company in cutting its ditches through the land. You may drain a piece of land that is a swamp, you may drain a piece of meadow, if you please, and the direct benefit that the land may receive from the putting of your ditches through the land may be taken into the account, but you can go no further.

Mr. TRUMBULL. I quite agree that you shall not take a person's property without paying him for it, and we propose to do that; we propose to have a jury sworn and to assess and ascertain whether he is not paid for it; and if he really gets more by reason of what you do to his land than he had before, I think he is paid for it. That is the very question the jury is to be impaneled to try. He may be made rich by the building of your road, and the jury is sworn to ascertain that very question. We do not propose to take his

land without paying him for it. If he is damaged in the least he is to be paid for it; but when he is not damaged the bill proposes not to pay him.

Mr. DOOLITTLE. I desire to put a case to the Senator from Illinois, if he will allow me. Suppose a man has a piece of land consisting of five acres by itself, and he has unconnected with it a piece of land consisting of fifty acres; you build a railroad and in building it you take the whole of the five acre piece; the fifty acre lot, which does not adjoin with it, has no connection with it, by means of the building of a railroad in that section of country perhaps is doubled in value; do you give him anything for the five acres?

Mr. TRUMBULL. The difficulty with the Senator's proposition is that that is not the bill. The bill provides, "and shall also deduct from the damages to be awarded to the applicant for the same any increase in the value, due to the construction of the road, of the premises retained by him, provided such premises formed a portion of those taken." All the difficulty with the case put by the Senator from Wisconsin is that it does not happen to be the provision of the bill.

Mr. DOOLITTLE. Is there any difference in principle whether the five acres happen to join another five acres which he owns or whether there is a ten acre lot between? There is no difference in the principle; and it is because the gentleman stands on a foundation of sand that he is getting into this difficulty. I wish he would examine the cases on the question.

Mr. HARRIS. I did not intend to interfere in this discussion; but I am persuaded that this provision is unconstitutional, and I will state in a word the reason why. The railroad company can only acquire the title to land for the purposes of the company by paying for it. This provision does not provide for such payment. What is it? It simply declares that these commissioners shall award to the owner of the land what it would have been worth if the railroad had not been made, not its value. It is not proposed to pay its value as it is when it is taken, as the owner has a right to have, but what the land would have been worth if a certain contingency had not happened. That is not complying with the provision of the Constitution.

Mr. TRUMBULL. Those are not the words proposed to be stricken out.

Mr. HARRIS. Certainly.

Mr. TRUMBULL. The motion is to strike out the latter part of the clause.

Mr. HARRIS. The clause reads that in the assessments of damages the commissioners shall appraise the land "at what would have been the value thereof if the road had not been built."

Mr. TRUMBULL. There is no motion to strike out those words.

Mr. HARRIS. I am stating what this provision is, and I insist that this is an unconstitutional provision. It will not give to the railroad company title to the land. If the commissioners assess the damages according to the provisions of this bill as it stands, the company will not acquire a valid title. But there is this further provision which it is sought to strike out, and which is equally objectionable, that after the commissioners assess the value of the land taken they shall deduct from that the amount of the advantage which they shall deem that the owner of the land has acquired in respect to other land not taken. Such a set-off was never yet allowed, I apprehend, by any intelligent court. It cannot be done. In order to acquire a valid title, under the Constitution, the railroad company must give to the owner of the land its present value, as it is estimated by commissioners or a jury. I admit that in assessing those damages where there is no such provision as this, a jury or commissioners will be very apt to estimate and measure the amount of the value by taking into consideration the collateral advantages which the owner will receive; but that is a matter for the commissioners or the jury, a question of fact in the valuation, and not a constitutional question.

Mr. HOWARD. It is rather late in the day, sir, to discuss so dry a question of constitutional law, and I am not disposed to enter upon it at this time; but I shall feel very much obliged to the honorable Senator from New York if he will state to the Senate upon what principle of the Constitution it is that he rests the assertion that either one or both of these clauses is obnoxious to

constitutional objection. Which clause is it that violates the Constitution of the United States, and what is the clause of the Constitution that is violated? I do not understand, I confess. I suppose the honorable Senator refers to that clause of the Constitution which declares that private property shall not be taken without just compensation; if I misunderstand the Senator I should like to have him correct me.

Mr. HARRIS. Certainly, that is it.

Mr. HOWARD. "Without just compensation." The only question between the Government of the United States and the private person when the property of the private person is taken, is what is a just compensation to be made by the Government to the private person who was the owner of the property. "Just compensation." I do not understand that the Constitution requires such a question to be settled by a jury *ad quod damnum* at all, but that it is quite sufficient if the Government in the exercise of its powers shall appoint an impartial commission to determine what shall be, under the circumstances, a just compensation; and certainly a just compensation will be such as shall place the owner of the land in such a condition as that he shall not upon the principles of equity be a loser by the taking of his property. Will the honorable Senator from New York say that the effect of this clause will be to do such an act of injustice to the private owner of property? Does it not propose to give him a just compensation? Certainly it proposes to give him what his lands would have been worth if the company had not constructed the road in the first place. That we must give him. We propose to pay him that, that is to allow it to him, in every event. Suppose, then, his property which we take was worth \$1,000; and suppose at the same time that while we take this property that is worth \$1,000 we do by the construction of the road increase his adjoining property, property belonging to the same parcel, to the amount of \$4,000 actually: are we bound under the Constitution to allow to the owner actually his \$4,000 worth of enhanced value? It seems to me that that is not a just compensation. It is surely unjust toward the Government, because it is the act of the Government in the construction of the road that imparts the enhanced value to the remaining part of the property; so that all that remains to be done by the Government in such a case, it seems to me, is to strike an account between the Government and the private person, to charge him with the benefit which the construction of the work is likely to confer upon him, and to credit the Government with the enhanced value of the remainder of his property. It seems to me to be a very simple principle. I cannot see that there is anything here in violation of the Constitution. On the other hand, I think I do see a very plain rule by which common justice is administered.

Mr. JOHNSON. If I had not heard the Senator from New York so confidently express an opinion as to the unconstitutionality of this provision, I should have supposed it was free of all doubt upon that point. The provisions in all the railroad charters which Maryland has granted, and as far as I know of all the charters that have been granted in the States this side of New England, contain a provision similar to this.

The constitutional limitation on the power of Congress that private property shall not be taken for public use except for just compensation, is the same limitation which is to be found in all the State constitutions, and would be a limitation if there was no provision upon the subject in either constitution. But the construction of that clause has been that no man's property shall be taken without placing him in the same situation peculiarly in which he would have been if his property had not been taken; and we have always supposed in Maryland that if you take one acre of a man's land for the purpose of an improvement of this description, and the effect of the improvement is to add to the value of his own land more than the original value of the acre taken, he is entitled to nothing; and in the absence of provisions on the subject, which I understand is the case in some of the New England States, the jury or the commissioners who are to decide upon the question do the same thing. If the acre that is taken was worth \$1,000 at the time, they will not give the owner \$1,000 if they are satisfied that

his adjoining acres are increased by force of the improvement more than the thousand dollars. We have gone further in our city, though we have not gone to that extent in the country. The streets in the city of Baltimore are opened under the authority of acts of the Legislature, and we have directed, without any doubt at all as to the constitutionality of it, that the expense of the improvement shall be defrayed by all the property that the commissioners who are authorized to act shall decide is benefited by the improvement, and the owners are taxed the amount of the benefit. That happens every day in all the recent improvements in the city of Baltimore; I mean by "recent," improvements for the last twenty or thirty years, in the opening of streets and widening of streets, they have been made under provisions of that description.

Mr. HOWE. How is it as to property taken by a private corporation?

Mr. JOHNSON. The original difficulty as to the authority for a private corporation was whether that was appropriating the property to public use; in other words, whether the Government had a right to authorize a private corporation to take private property; but that has been decided over and over again. It has over and over been held that that is a proper exercise of the right of eminent domain, and all that the courts have held is that these private corporations are authorized to do precisely as the Government is authorized or is supposed to be authorized to do, to see justice done as between the corporation and the individual whose property is taken.

My own opinion, therefore, is that the provision itself, whether politic or not, is clearly constitutional.

Mr. HARRIS. I agree with the Senator from Maryland that in the case of opening streets the rule is as he states it. There the property is taken for public use; it is for a public purpose; and the owners of adjacent property are assessed for the purpose of paying for that improvement, so that if a part of a lot is taken for opening a street and the remaining part is benefited by it, the authorities award to the owner of the lot the value of that part of it which is taken, and then assess back upon him the amount of benefit that he derives from the property not taken.

That is a very different question from this. This is where property is being taken for private use. It is being taken by a railroad corporation from the owner for private use. I understand the rule to be well settled that full compensation must be made under the provisions of the Constitution or else no title passes. It must be compensation for the property as it is at the time it is taken, not as it would have been if the improvement had not been made. That is the difficulty with this bill, in my judgment. The commissioners who stand in the place of a jury are required to assess the value of the property upon a mere abstraction. They are to guess what the property would have been worth in a state of things which does not now exist. It is not making compensation for the property as it is, but it is making compensation for the property as it would have been if the improvement had not been made, an improvement which is already in existence, which is contemplated at least. Here is a rule prescribed for the commissioners which is not in conformity with the Constitution. That is the difficulty in the case. In my judgment that provision cannot be upheld.

Mr. DAVIS. Mr. President, I think the questions involved in this argument are plain and have been settled by the courts in a hundred decisions in different States. I understand that private property may be taken for public use under the exercise of the power of eminent domain, and that private property may be taken by authority of law, to be appropriated by a corporation such as is proposed to be incorporated by this act. But, sir, to authorize private property to be taken for public use, the law itself must declare that it shall be so taken; and unless the law in its provisions declares that private property shall be taken for the use contemplated by the act of incorporation, it cannot be taken at all; and the courts have so decided again and again. If gentlemen expect to take private property without an express authority in this act, to be appropriated to this road, and it is resisted by the owner, they will find that the resistance will be successful in any intelligent and impartial court. The only mode by which they

can effect that object is for the act of incorporation itself to provide, as the express law of the Congress of the United States, that this property shall be taken for that purpose; and unless the act of incorporation contains such a provision it will be ineffective to subserve all the purposes that gentlemen who are friends to this project contemplate.

When private property is thus provided by the law of a State, or by a law of Congress constitutionally passed, to be taken and to be used either wholly and exclusively by the Government or by an incorporated company acting by authority of law, the question then is, what shall be the rule of compensation? That has been settled hundreds of times, and upon this plain principle, that the value of the property taken at the time it is taken shall be paid. You may assess that value by a jury or you may assess it by commissioners, but you must prescribe the mode in the act itself by which it shall be assessed, whether by a jury or by a commission; and the courts of the States have decided again and again that either mode is constitutional and valid; but it is an inquiry in the nature of a judicial proceeding whether it is in the one form or the other.

Now, in relation to incidental advantages resulting to contiguous property by a proposed improvement, it is decided uniformly and always that that shall not diminish the assessment of the value of the property that is actually taken from the owner. The actual value of that property at the time it is so taken, without any consideration of the enhanced value of contiguous property, is to be assessed and is to be paid to the owner before you can deprive him of his property. You have to pay the full value of the property, but you are not bound to pay a prospective, increased value that will result as one of the indirect consequences of the construction of the improvement. You take the property without regard to the improvement and the effects that the improvement will have on contiguous property belonging to any neighbor; and you just assess the value of that property at the time you take it, without any regard to the effects that the construction of the improvement will have in the enhancement of the property. I think that the principles decided are perfectly plain.

It is not analogous to the taking of property for public improvements in cities and in towns. There the corporation may compel the owners of property to improve, and they exercise that as a police power of their town or city corporations. But there is no analogous power that can be claimed in relation to this or any other act of incorporation for a railroad company. You here simply propose to take a man's private property for public use. You may by a jury or by a commission, after the law as proposed has invested the company with power to take the private property, go upon the premises, and ascertain and assess the value of the land so taken, without any regard to the enhanced value of contiguous property by the construction of the work of internal improvement, and you simply pay for the original value of the property as thus ascertained.

I think that this section of the clause secures everything that the company would be bound to pay to the owner of the property and everything that the owner of the property would be entitled to claim, namely:

And said commissioners, in their assessments of damages, shall appraise such premises at what would have been the value thereof if the road had not been built.

I think that is an ample provision, both to protect the interests of the company and to remunerate the owner of the property for what portion of his property is taken from him. The other words I think are wrong and ought to be struck out, which go on to say:

And shall also deduct from the damages to be awarded to the applicant for the same any increase in the value due to the construction of the road of the premises retained by him, provided such premises formed a portion of those taken.

That endeavors to establish a principle that has uniformly been determined against by the courts. Their uniform decision has been that the incidental enhancement of contiguous property by a work of internal improvement shall not diminish in any degree or to any extent the value of the property that is actually taken for the work. Property that is actually taken is to be paid for by the corporation or by the Government,



if the Government takes it for its own purposes, at the price which it would be worth regardless of the construction of the work of internal improvement.

Mr. GRIMES. I move that when the Senate adjourns to-day, it be to meet on Monday next.

Mr. POMEROY. I hope not.

The PRESIDENT *pro tempore*. The motion can be received at this time only by unanimous consent.

Mr. POMEROY. We can finish this bill tomorrow if we sit.

Mr. HOWARD. I hope we shall proceed to finish the bill.

Mr. SUMNER. I think we had better finish the bill first.

Mr. GRIMES. I will not insist on the motion now.

Mr. HENDERSON. We are discussing a question and making no progress. Is it in order now to move an amendment?

The PRESIDENT *pro tempore*. It is not.

Mr. HENDERSON. If the Senator from Iowa [Mr. HARLAN] will give me his ear, I think we can arrange this section so as to accomplish what he desires, and in such a way that there will be no objection on the part of the committee. With that view I suggest an amendment which will make the clause read thus:

And said commissioners in their assessments of damages shall appraise the premises so taken at the reasonable value thereof, and shall also deduct from the damages to be awarded to the applicant for the same any increase in the value, arising from the construction of the road, to the whole tract remaining, over and above the general increase in the value of other lands in the vicinity.

I think that will accomplish all that is desired, and it is in accordance, I am satisfied, with the decisions of the courts throughout the United States on this subject of damages.

Mr. HARLAN. I think the amendment suggested by the Senator from Missouri meets the point I had in my mind, and I therefore accept it as a modification of my amendment.

The PRESIDENT *pro tempore*. It is not in the power of the Senator from Iowa to modify his amendment, the yeas and nays having been ordered on it. It can be modified only by unanimous consent.

Mr. HOWARD. I hope the amendment proposed by the Senator from Missouri will not prevail.

The PRESIDENT *pro tempore*. Objection being made, the modification cannot be made. The question is on the amendment of the Senator from Iowa to the amendment of the committee.

Mr. DOOLITTLE. I have taken occasion since I was last up to look for a moment at some of the cases on this subject to refresh my recollection, and I find an almost unbroken series of decisions. It is true that in some of the States under special statutes, as, for instance, in the State of Illinois, where I apprehend the Senator from Illinois got his education on this subject, under a special statute somewhat similar in its provisions to this, the courts of Illinois did once hold to the doctrine for which he contends here; but the courts in Massachusetts, in New York, in Ohio, in Iowa, in Wisconsin, and in most of the States have held the contrary doctrine. I, of course, have not had an opportunity to look through them to a sufficient extent to state them all. So manifestly unjust is the provision contained in this bill to appraise a man's lands as wild lands without any railroad near them, then take a portion of his lands from him, and appraise that portion as land having a railroad constructed in its neighborhood, and deduct from what you appraise as wild lands the enhanced value of the improved land, indirectly improved by the building of the railroad, that in the State of New York, by statute, it is expressly forbidden that the courts shall take any such thing into consideration; and in the State of Ohio it is put into the constitution of the State that in estimating the compensation which is to be made for a man's property taken the court and the jury shall not consider the enhanced value of the lands which are not taken. It is unjust in every way in which you can view it.

The true rule of damages as established by the courts generally is that you appraise the land independent of the enhanced value that the improvement may produce to the lands of the country generally; appraise the land as you find it, independent of the consideration of the enhanced value

caused by the construction of an improvement in that section of the country. Such is the general doctrine of the courts, and such is manifestly the justice of the case. The Constitution of the United States says that a man shall have "compensation," payment, for what you take from him, not indirect benefits, but compensation for what you take. As to the mode of ascertaining that compensation I have before me a case arising in the State of Iowa, *Sator vs. The Burlington and Mount Pleasant Plank Road Company*, and I suppose a plank road company taking lands is governed by the same principle as a railroad company. In that case the court said:

"In ascertaining what that compensation shall be we see no more practical rule than first to ascertain the fair marketable value of the premises over which the proposed improvement is to pass, irrespective of such improvement, and also the like value of the premises in the condition in which they will be after the land for the improvement has been taken, irrespective of the benefit which will result from the improvement; the difference in value to constitute the measure of compensation."

That is the rule there laid down by the court after full argument; and that is only one case. This principle of common justice and common honesty in dealings between the Government and individuals in condemning and taking their property from them by this power of eminent domain is so strong that it is even incorporated into the constitutions of many of the States. Ohio I have mentioned as one, Kansas as another; and we know that the constitutions of the new States usually embrace within them all the improved clauses of the other State constitutions as from time to time they arise and are established. The provision in the constitution of Kansas is:

"No right of way shall be appropriated to the use of any corporation until full compensation therefor be first made in money, or secured by a deposit of money, to the owner, irrespective of any benefit from any improvement proposed by such corporation."

I am confident that the principle contended for by my friend from Iowa is the correct principle.

Mr. MORRILL. I am satisfied that the general current of authority is against this provision, and I am sure that the justice of the case is equally clear. Now let us consider the provision for a moment. "And shall also deduct from the damages to be awarded to the applicant for the same any increase in the value, due to the construction of the road, of the premises retained by him, provided such premises formed a portion of those taken." That is the proposition: you are to estimate the land, and then you are to deduct from it any supposed value due to it from the construction of the road. What value? That value which is added to this in common with property in the country generally; property situated with reference to the road as this is. I think it would be very difficult to find a decision in any of the courts to justify that. I understand the rule never to have gone further than this: if there be any particular benefit to the residue of the land connected with that which is taken, you may estimate that, but you may not estimate as against the owner's damages any general benefit which is common to him and the whole country; that is no set-off.

Mr. DAVIS. Will the Senator from Maine allow me a word?

Mr. MORRILL. Certainly.

Mr. DAVIS. I think the utmost extent to which the courts have gone in the assessment of incidental damages is that where there is a claim set up for incidental damages, incidental profits or advantages may be set off against the incidental damages. But the position of the honorable Senator from Maine, that in relation to the positive and absolute value of property that is to be taken, there is not and cannot be any set-off, is a well-established principle.

Mr. MORRILL. I do not know that I disagree with the proposition of the honorable Senator.

Mr. DAVIS. I suppose not.

Mr. MORRILL. My proposition is that you can only deduct as a set-off against the owner's damages such direct and peculiar advantages as accrue to him in the particular case; but the general improvement which is common to him and to all those situated around him, is not a proper consideration for the estimation of a jury. That is what I mean to say, and I think the authorities on that subject are entirely uniform, so far as I have observed, unless where the courts are controlled by some special statute. I will read

from the Massachusetts Digest one decision on this point:

"In estimating damages for land taken for a highway or railroad, any direct and peculiar benefit or increase of value accruing thereby to land of the same owner adjoining or connected with the land taken, and forming part of the same parcel or tract, is to be considered by the jury and allowed by way of set-off; but not any general benefit or increase of value received by such land in common with other lands in the neighborhood, nor any benefit to other lands of the same owner, though in the same town. And when the sheriff instructed the jury that if the owner of land which, by reason of the benefits derived from the railroad, was as valuable as before, was entitled to no damages, the verdict was set aside as having been assessed upon erroneous principles."

Mr. JOHNSON. What was the law in that case?

Mr. MORRILL. This was under the general statute of Massachusetts, in conformity with the provision of the Constitution cited here, securing to the land-owners compensation for land taken by the construction of a railroad. I am sure that this provision of the bill is directly in contravention of this principle.

Mr. HOWARD. If it be in order, for the purpose of reconciling these differences as far as possible I beg to offer an amendment.

The PRESIDENT *pro tempore*. A further amendment is not in order at the present time.

Mr. HOWARD. I will state it then, as a mere suggestion, if the Senate will allow me to do so. I propose so to amend the clause that it shall read, "and said commissioners, in their assessments of damages, shall appraise such premises at such sum or price as shall when paid be a just compensation to the owner for the property so taken," adopting the language of the Constitution itself, and leaving it to be settled by the courts ultimately, if any question is to grow out of it. [Agreed.]

Mr. HARLAN. Does the Senator intend that to be in lieu of the whole clause?

Mr. HOWARD. Yes, sir, to strike out all the rest.

The PRESIDENT *pro tempore*. The Chair will suggest that if the pending amendment be agreed to, striking out the words proposed by the Senator from Iowa to be stricken out, it will be competent to move the amendment now suggested.

Mr. HARLAN. I ask leave of the Senate to accept the suggestion of the Senator from Michigan as a modification of my amendment.

The PRESIDENT *pro tempore*. It may be done by unanimous consent, the yeas and nays having been ordered. Is there any objection to the Senator from Iowa modifying his amendment as proposed?

Mr. HOWE. I object; and if the Senator from Michigan will indulge me, I will state why I object to it. It is my opinion that if Governments in the exercise of this right of eminent domain had never made the owners of private property poorer, it would never have been felt as a public abuse; and if it had never been felt as an abuse, there never would have been this constitutional restriction on the exercise of the right. But it having been found ordinarily to make men poorer instead of richer to take their property for public use, it was deemed necessary to put some restriction upon it. That restriction was not a prohibition against the exercise of the right, but it was subjecting it to this condition, that private property should not be taken without making just compensation.

Now, what is "just compensation?" I should have said, independent of judicial interpretation, that if a man is not made poorer by the taking of a part of his land but is made richer, he gets just compensation by the mere act of taking. If it is put to a use which makes him as well off as he was before or better off, he has just compensation; he has recompense, which is just compensation. But I do understand, as others have said here, that the courts have not taken that view of it. They have not put that interpretation upon it. I understand that the courts have said that if property is taken, a piece of land for railroad purposes, the value of the land taken must be assessed by commissioners or a jury, and that must be paid for.

Mr. JOHNSON. What court has so held?

Mr. HOWE. I am not quoting any particular decision, but I understand that to be the doctrine of the courts generally. I am going to put a qualification on it presently. This must be paid

for; but if the owner of that land which is taken has received any special benefit by the taking of it to his other land in the way of draining, if his bogs or swamps have been drained, or any special advantage has been conferred on property not taken, that may be offset against the value of the land which is appropriated to the building of the road. As far as the courts have gone, I believe they still insist—that is my recollection; I have not looked at a law book in reference to this question for a long time—that the commissioners must appraise the land taken at its value at the time of appraisal; and therefore when lands have been enhanced in value by the mere prospect of building a road, the mere proffer of building a road, commissioners have been compelled to make the assessments upon that new basis.

The language which the Senator from Iowa proposes to strike out of this bill is language put in there in order to make the commissioners adopt a rule of assessment which the courts have, as I understand, uniformly repudiated and rejected, to make them assess the general advantages derived from building the road to the land of a man who has some land taken, as well as to other lands in the neighborhood, and to offset that against the value of the land taken. I shall vote to strike out these words, because I do not believe the courts will abandon the position they have taken upon that question. I am in favor of the words preceding these, which call upon the commissioners to assess these lands at the value they had irrespective of the building of the road. I want to see those words incorporated into a law and placed before a court, to see whether they will recognize that rule or not. I believe they will. I believe it is a just rule. I believe the other is just, too, but the courts, I understand, have so uniformly rejected it that I do not think they will acquiesce in it. Therefore I want to retain these words.

But the Senator from Michigan now proposes to incorporate just the language of the Constitution. That language of course is incorporated, let your bill be as it will. It leaves the question for judicial interpretation just as it always has, and the commissioners will be governed by the body of the adjudications as they now stand. The law is just as all other laws have been; it uses the language of the Constitution, and that language will be the controlling language, let the words employed in the bill be what they may. For that reason I ventured to object to the substitution of the amendment suggested by the Senator from Michigan for that offered by the Senator from Iowa. I think we had better strike out the words proposed to be struck out by the Senator from Iowa, because they have been so often rejected by the courts. I think we had better retain the other words, for I do not understand that the courts have ever expressly ruled upon them when found in a law. I think we had better experiment on them.

Mr. WILSON. It is necessary to have an executive session to-day, and I therefore move that the Senate proceed to the consideration of executive business.

Mr. RAMSEY. Will the Senator give way for a motion that when we adjourn to-day it be to meet on Monday?

The PRESIDENT *pro tempore*. That motion can only be received by unanimous consent.

Mr. FOOT. I object.

Mr. CONNESS. I hope we shall come to a vote on the proposition before the Senate. I do not wish the discussion renewed again on a future day so as to consume another day. I hope we shall come to a vote.

Mr. HOWARD. I think we could get through the bill to-day if we only addressed ourselves to it.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Massachusetts.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question is on the amendment submitted by the Senator from Iowa to the amendment of the committee, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 26, nays 16; as follows:

YEAS—Messrs. Buckalew, Carlile, Chandler, Clark, Collamer, Conness, Cowan, Davis, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harding, Harlan, Harris, Henderson, Hendricks, Howe, Lane of Kansas, Morrill, Ramsey, Saulsbury, Sherman, and Sprague—26.

NAYS—Messrs. Anthony, Dixon, Howard, Johnson,

Lane of Indiana, Morgan, Pomeroy, Powell, Richardson, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Willey, and Wilson—16.

ABSENT—Messrs. Brown, Hicks, McDougall, Nesmith, Riddle, Van Winkle, and Wright—7.

So the amendment to the amendment was agreed to.

Mr. WILSON. I move that the Senate now proceed to the consideration of executive business.

Mr. HOWARD. I hope not. I think we had better go on and finish this bill.

Mr. CONNESS. I inquire of the Senator from Massachusetts if there is any pressing business in executive session.

Mr. WILSON. We have nominations before us that I think the Senate owes it to the country to confirm to-day.

Mr. HOWARD. Only a very few officers whose nominations are pending before us, except paymasters and quartermasters. There are very few generals, I think. I think the country can well dispense with action on them.

The PRESIDENT *pro tempore*. The Senator from Massachusetts moves that the Senate proceed to the consideration of executive business.

The question being put, there were, on a division—yeas 22, nays 7. So the motion was agreed to; and after some time spent in the consideration of executive business, the doors were reopened.

#### RAILROADS IN IOWA.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had disagreed to the amendments of the Senate to the bill of the House (No. 381) to amend an act entitled "An act making a grant of land to the State of Iowa, in alternate sections, to aid in the construction of certain railroads in said State," approved May 15, 1856, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. WILLIAM B. ALLISON of Iowa, Mr. JOHN A. J. CRESWELL of Maryland, and Mr. CHARLES A. ELDRIDGE of Wisconsin, managers at the same on its part.

On motion of Mr. HARLAN, the Senate proceeded to consider its amendments to the bill of the House (No. 381) to amend an act entitled "An act making a grant of land to the State of Iowa, in alternate sections, to aid in the construction of certain railroads in said State," approved May 15, 1856, and

On motion of Mr. HARLAN, it was

Resolved, That the Senate insist upon its amendments to the said bill, disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the managers on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. FOOT, Mr. HARLAN, and Mr. POWELL.

#### COMMITTEE SERVICE.

Mr. SHERMAN. I wish to have the question taken on my motion to reconsider the vote by which the Senator from Wisconsin [Mr. Howe] was excused from service upon the Committee on Finance.

The motion to reconsider was agreed to.

Mr. HOWE. I beg leave to withdraw my motion to be excused.

The PRESIDENT *pro tempore*. Is there consent that the motion may be withdrawn? The Chair hears no objection.

#### ADJOURNMENT TO MONDAY.

Mr. WILKINSON. I move that when the Senate adjourns to-day, it be to meet on Monday next.

Mr. LANE, of Kansas, called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 20, nays 21; as follows:

YEAS—Messrs. Buckalew, Carlile, Chandler, Cowan, Davis, Grimes, Hale, Harding, Harlan, Harris, Henderson, Hendricks, Johnson, Morrill, Powell, Ramsey, Richardson, Saulsbury, Wilkinson, and Wilson—20.

NAYS—Messrs. Anthony, Clark, Collamer, Conness, Dixon, Doolittle, Foot, Foster, Howard, Howe, Lane of Indiana, Lane of Kansas, Morgan, Pomeroy, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Wade, and Willey—21.

ABSENT—Messrs. Brown, Fessenden, Hicks, McDougall, Nesmith, Riddle, Van Winkle, and Wright—8.

So the motion was not agreed to.

On motion of Mr. CONNESS, the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, May 20, 1864.

The House met at twelve o'clock, m. Prayer by Rev. Dr. HOSMER, of Buffalo, New York. The Journal of yesterday was read and approved.

#### QUALIFICATION OF A MEMBER.

On motion of Mr. WASHBURN, of Illinois, Mr. E. C. INGERSOLL, a member-elect from the State of Illinois in the place of Owen Lovejoy, deceased, appeared, was sworn to support the Constitution of the United States, &c., as prescribed by the act of July 2, 1862, and took his seat in the House.

#### COLLECTION DISTRICTS IN OREGON.

Mr. WASHBURN, of Illinois. The Secretary of the Treasury has sent to the Committee on Commerce a little bill which does away with a couple of ports of delivery in Oregon as ports of entry, and recommending that they be attached to the collection district of Oregon. As this is legislation in the right direction, reducing offices and the expenses of the Government, and is promotive of the public interest, I ask that the bill may be introduced and put upon its passage now.

No objection being made,

Mr. WASHBURN, of Illinois, introduced a bill to abolish the collection districts of Cape Perpetua and Port Orford, Oregon, and to attach the same to the collection district of Oregon; which was read a first and second time, was ordered to be engrossed and read a third time, and being engrossed, was accordingly read the third time, and passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### GRANT OF LANDS TO IOWA.

On motion of Mr. ALLISON, the bill (H. R. No. 381) to amend an act entitled "An act making a grant of land to the State of Iowa, in alternate sections, to aid in the construction of certain railroads in said State," approved May 15, 1856, with the Senate amendments thereto, was taken up for consideration.

The Senate amendments to the bill were not concurred in.

Mr. ALLISON. I move that a committee of conference be appointed on the disagreeing votes of the two Houses on the bill.

The motion was agreed to.

The SPEAKER subsequently appointed Mr. ALLISON, Mr. CRESWELL, and Mr. ELDRIDGE as such committee.

Mr. HOLMAN. I ask the unanimous consent of the House that the remainder of the day be devoted to the consideration of private bills, with the exception of reports from conference committees.

#### ADJOURNMENT OVER.

Mr. COFFROTH. I rise to a privileged question. I move that when the House adjourns to-day it adjourn to meet on Monday next.

Mr. WILSON. On that motion I demand tellers.

Tellers were ordered; and Mr. SPALDING and Mr. COFFROTH were appointed.

Mr. HOLMAN. I trust the House will consider the importance of giving us one day of this week for visiting the hospitals.

The SPEAKER. Debate is not in order.

The House divided; and the tellers reported—yeas 47, nays 42.

Mr. SPALDING demanded the yeas and nays. The yeas and nays were ordered.

Mr. COFFROTH. I withdraw the motion. It can be renewed when the House is fuller.

Mr. HOLMAN. I renew the motion that when the House adjourns to-day it adjourn to meet on Monday next.

Mr. SPALDING. On that I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 49, nays 50; as follows:

YEAS—Messrs. James C. Allen, Bliss, Boyd, Brooks, James S. Brown, Coffroth, Cox, Cravens, Creswell, Thomas T. Davis, Dawson, Donnelly, Edgerton, Eldridge, Farnsworth, Garfield, Griswold, Hale, Hall, Harrington, Charles M. Harris, Holman, Hotchkiss, John H. Hubbard, Hutchins,

# THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

MONDAY, MAY 23, 1864.

NEW SERIES.....No. 150.

Ingersoll, William Johnson, Long, Mallory, Marcy, McAllister, James R. Morris, Pendleton, Pruyn, William H. Randall, Ross, Schenck, Scott, Smith, Shannon, John B. Steele, William G. Steele, Stiles, Stuart, Sweet, Thomas, Elihu B. Washburne, Wheeler, and Yeaman—49.

**YAYS**—Messrs. Alley, Allison, Bailey, John D. Baldwin, Blaine, Boutwell, Chanler, Freeman Clarke, Cole, Dawes, Dixon, Driggs, Eckley, Finck, Gooch, Grinnell, Herrick, Hooper, Asahel W. Hubbard, Jenckes, Kalbfleisch, Kelley, Francis W. Kellogg, Kernan, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Amos Myers, Norton, Orth, Patterson, Perham, Pike, Price, Edward H. Rollins, Sloan, Smithers, Spalding, Stevens, Thayer, Tracy, Upson, Joseph W. White, Wilson, Windom, Fernando Wood, and Woodbridge—50.

So the House refused to adjourn over.

Mr. WILSON moved to reconsider the vote by which the House refused to adjourn over; and also moved to lay the motion to reconsider on the table.

Mr. WASHBURN, of Illinois. That does not preclude another motion to adjourn over at a subsequent stage of the proceedings.

The SPEAKER. The Chair will decide that question when it comes up.

Mr. HOLMAN. I call for the yeas and nays on the motion to lay on the table.

Mr. WILSON. I withdraw the motion to reconsider.

Mr. FARNSWORTH. I ask unanimous consent to make a report from the Committee on Military Affairs.

Mr. SPALDING. I call for the regular order of business.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed an act (H. R. No. 272) for the relief of Julia A. Ames, with an amendment, in which he was directed to ask the concurrence of the House.

Also, that the Senate further insisted on its former action on the bill (H. R. No. 198) making appropriations for the service of the Army for the year ending June 30, 1865, and asked a further conference with the House, and had appointed Messrs. COLLAMER, GRIMES, and NESMITH the second committee of conference on the part of the Senate.

## PRIVATE BILLS.

The House proceeded, as the regular order of business, to the consideration of the private bills reported last on Friday last from the Committee of the Whole House on the Private Calendar, with recommendations that they do pass. The bills were disposed of as indicated below.

## THIRD OHIO BRIGADE.

A bill (H. R. No. 293) to provide for the payment of the second regiment, third brigade, Ohio volunteer militia, during the time they were mustered into the service of the United States.

The bill provides that the second regiment, third brigade, Ohio volunteer militia, mustered into the service of the United States at Cincinnati, Ohio, on the 4th of September, 1862, notwithstanding irregularity may have occurred in the manner of their mustering into the service of the United States, shall be paid for the time the officers and men were in the service, respectively, after being so mustered, not, however, to exceed the period of thirty days.

Mr. HALE moved the previous question.

The previous question was seconded, and the main question ordered; and under its operation the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HALE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## AARON T. DOLL.

Joint resolution (H. R. No. 48) for the relief of Aaron T. Doll.

The joint resolution authorizes the Quartermaster General to audit and pay to Aaron T. Doll his account of fifty dollars for a horse purchased of him by Lieutenant D. C. Daggett, quartermas-

ter of the eighth regiment of Ohio volunteers, on the 23d of July, 1861, upon being satisfied by evidence that the account is just and ought to be paid.

Mr. HALE moved the previous question.

The previous question was seconded, and the main question ordered; and under its operation the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HALE moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## HARRIET AND EMILY W. MORRIS.

A bill (H. R. No. 314) for the relief of Harriet and Emily W. Morris, unmarried sisters of the late Commodore Henry W. Morris.

The bill provides that Harriet and Emily W. Morris, the unmarried sisters of the late Commodore Henry W. Morris, shall be entitled to the same pension as the brother would have been entitled to had he been totally disabled, to commence from the death of the brother; and the Secretary of the Interior is directed to place the names of Harriet and Emily W. Morris upon the pension roll of Navy pensions; provided, that in case of the death or marriage of either of the said sisters her pension shall cease.

Mr. HALE moved the previous question.

The previous question was seconded, and the main question ordered; and under its operation the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HALE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## \*FREDERICK A. BEELLEN.

A bill (H. R. No. 345) for the relief of Frederick A. Beelen, late secretary of legation to Chili.

The bill authorizes the Secretary of the Treasury to pay to Frederick A. Beelen, late secretary of legation to Chili, the sum of \$166 66, out of any money in the Treasury not otherwise appropriated, in full for difference in salary under the several acts of Congress on that subject, while he acted as such secretary, before he was informed of such reduction, and until he had full time to return to the United States.

Mr. HALE moved the previous question.

The previous question was seconded, and the main question ordered; and under its operation the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HALE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## ADJOURNMENT OVER.

Mr. HOLMAN. I rise to a privileged question. I offer the following resolution:

*Resolved*, That when this House adjourns to-day it shall be adjourned to meet next Monday, that the members of the House may have leisure to visit the wounded officers and soldiers of their respective districts and see that they are properly cared for.

Mr. SPALDING. I move to amend the resolution by striking out "wounded soldiers" and inserting in lieu thereof the words "female acquaintances." [Laughter.]

Mr. SMITH. I rise to a question of order. Is the amendment of the gentleman from Ohio germane to the resolution?

Mr. HOLMAN. I raise the question of order that the gentleman from Ohio had not the floor to move any amendment.

The SPEAKER. The gentleman from Indiana resumed his seat and the Chair recognized the gentleman from Ohio.

Mr. HOLMAN. I respectfully submit to the Chair that I did not surrender the floor. As soon as the resolution had been read by the Clerk, the Chair said the business of the House would be

interrupted by a message from the Senate. I therefore resumed my seat, but did not yield the floor.

The SPEAKER. Upon that statement by the gentleman from Indiana, the Chair will assign him the floor, and decide that the amendment of the gentleman from Ohio is not before the House.

Mr. HOLMAN. I demand the previous question on the resolution.

Mr. A. MYERS. I ask the gentleman from Indiana to withdraw that, to permit me to ask him a question.

Mr. HOLMAN. I must insist upon my demand for the previous question.

Mr. BOUTWELL. If the previous question is not sustained, will the resolution be open to debate?

The SPEAKER. It will not. It being a motion to adjourn over, it is not debatable. It would be open to amendment if the previous question should not be seconded.

Mr. SPALDING. I move to lay the resolution on the table.

Mr. BOUTWELL. I call for tellers on seconding the demand for the previous question.

Tellers were ordered; and Messrs. BOUTWELL and LAW were appointed.

The House divided; and the tellers reported—yeas 63, nays 40.

So the previous question was seconded.

The main question was ordered to be put.

Mr. KELLOGG, of New York, called for the yeas and nays upon the adoption of the resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 76, nays 49; as follows:

**YEAS**—Messrs. James C. Allen, William J. Allen, Ames, Beaman, Blaine, Jacob B. Blair, Brooks, James S. Brown, Cobb, Coffroth, Cox, Cravens, Creswell, Dawson, Donnelly, Eckley, Eden, Edgerton, Eldridge, Finck, Garfield, Grider, Griswold, Hale, Hall, Harding, Harrington, Charles M. Harris, Holman, Hotchkiss, John H. Hubbard, Hutchins, Ingersoll, William Johnson, Julian, Kalbfleisch, Kasson, Law, Long, Mattory, Marcy, McAllister, McKimney, James R. Morris, Morrison, Neison, Noble, Norton, John O'Neill, Pendleton, Perry, Pruyn, Radford, Samuel J. Randall, William H. Randall, John H. Rice, Robinson, James S. Rollins, Schenck, Scott, Shannon, Smith, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweet, Thomas, Tracy, Voorhees, Elihu B. Washburne, Webster, Whaley, Wheeler, and Joseph W. White—76.

**NAYS**—Messrs. Allison, Bailey, John D. Baldwin, Boutwell, William G. Brown, Chanler, Ambrose W. Clark, Cole, Dawes, Dixon, Driggs, Elliot, Grinnell, Herrick, Higby, Hooper, Asahel W. Hubbard, Jenckes, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, Loan, Longyear, McBride, McClurg, McIndoe, Samuel F. Miller, Morrill, Orth, Patterson, Perham, Pike, Pomeroy, Price, Alexander H. Rice, Edward H. Rollins, Ross, Scofield, Smithers, Spalding, Stevens, Thayer, Upson, Van Valkenburgh, Wilder, Wilson, Windom, and Fernando Wood—49.

So the resolution was adopted.

Mr. HOLMAN moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act to amend the act entitled "An act to enable the people of Nevada to form a constitution and State government, and for the admission of said State into the Union on an equal footing with the original States;" when the Speaker signed the same.

## MONTANA TERRITORY.

Mr. WEBSTER, from the committee of conference on the disagreeing votes of the two Houses on the bill to provide a temporary government for the Territory of Montana, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 15) to provide a temporary government for the Territory of Montana, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows, namely:

That the first amendment of the Senate to the said bill be amended to read as follows, namely: amend section five by striking out in lines one, two, three, and four the fol-



lowing words: "That every free white male inhabitant above the age of twenty-one years, who shall have been an actual resident of said Territory for thirty days prior to the first election;" and insert in lieu thereof, "all citizens of the United States and those who have declared their intention to become such, and who are otherwise described and qualified under the fifth section of the act of Congress providing for a temporary government for the Territory of Idaho, approved March 3, 1863;" and in line five of the said section, after the word "said," insert the word "first."

That the Senate recede from its second amendment to the said bill, and that the Senate recede from its third amendment to the said bill.

M. S. WILKINSON,  
L. M. MORRILL,  
CHARLES R. BUCKALEW,  
*Managers on the part of the Senate.*  
EDWIN H. WEBSTER,  
WILLIAM S. HOLMAN,  
*Managers on the part of the House.*

Mr. WEBSTER. With the consent of the House I will make a short explanation of the report. It will be noticed by the House that the report is not signed by all the House committee. I will state that it is a unanimous report of the committee; one of the members failed to sign it in consequence of his absence from the city. He concurred in the report. It will be seen that the report refers to the fifth section of the act providing a temporary government for the Territory of Idaho.

The bill as it now stands, with the report of the committee of conference, is precisely as it passed the House, with a single exception.

The committee of conference in its report restricts that in this manner—not in this language, but this is the meaning of the amendment—that every free white male citizen of the United States and those who have declared their intention to become such shall vote.

Mr. GARFIELD. Is the word "white" in the bill?

Mr. WEBSTER. The word "white" is not in the bill, but the right of voting in the Territory of Montana is to be the same as under the fifth section of the act for the organization of the Territory of Idaho.

Mr. HOLMAN. The inquiry was made whether the word "white" was incorporated in the bill as a qualification of voters. I desire to suggest that although the word "white" is not incorporated, yet that as amended by the committee of conference it is inserted by reference to the fifth section of the act for the organization of the Territory of Idaho.

Mr. WEBSTER. I ask the Clerk to read that fifth section.

The Clerk read, as follows:

"Sec. 5. And be it further enacted, That every free white male inhabitant above the age of twenty-one years, who shall have been an actual resident of said Territory at the time of the passage of this act, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualifications of voters, and of holding office, at all subsequent elections, shall be such as shall be prescribed by the Legislative Assembly."

Mr. STEVENS. Is that the way it will read under the report of the committee of conference?

Mr. WEBSTER. The word "white" is not in the report of the committee.

Mr. STEVENS. It is in the bill as amended by the report of the committee of conference.

Mr. HOLMAN. It is in the bill by reference to the Territory of Idaho.

Mr. WEBSTER. The report of the committee of conference says that every citizen of the United States, and every person who shall declare his intention to become such, who shall be qualified under the fifth section of the act to organize the Territory of Idaho, shall be entitled to vote. That section provides that the voters shall be white persons. The voters under this bill must be white citizens of the United States, or white persons who have declared their intention to become such. I demand the previous question on the adoption of the report.

The previous question was seconded, and the main question ordered.

The question being on the adoption of the report, the House divided, and there were—ayes 79, noes 21.

Mr. BLAIR, of West Virginia, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 102, nays 26; as follows:

YEAS—Messrs. James C. Allen, Bailly, Beaman, Blaine, Jacob B. Blair, Bliss, Brooks, William G. Brown,

Chanler, Coffroth, Cox, Cravens, Creswell, Thomas T. Davis, Dawson, Donnelly, Driggs, Eden, Edgerton, Eldridge, Farnsworth, Finck, Grider, Hale, Hall, Harding, Harrington, Charles M. Harris, Herrick, Holman, Hotchkiss, Asahel W. Hubbard, Hutchins, Ingersoll, William Johnson, Kalbfleisch, Kasson, Francis W. Kellogg, Kernan, King, Law, Lazear, Long, Longyear, Mallory, Marcy, McAllister, McBride, McDowell, McIndoe, McKinney, Samuel F. Miller, James R. Morris, Morrison, Amos Myers, Nelson, Noble, Norton, Charles O'Neill, John O'Neill, Orth, Pendleton, Perlman, Pike, Pomeroy, Pruyn, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Robinson, James S. Rollins, Ross, Scofield, Scott, Shannon, Sloan, Smith, Smithers, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweat, Thayer, Tracy, Upson, Van Valkenburgh, Voorhees, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Wheeler, Wilson, Windom, Fernando Wood, Woodbridge, and Yeaman—102.

NAYS—Messrs. Atley, Allison, Ames, John D. Baldwin, Boutwell, Ambrose W. Clark, Cobb, Cole, Dawes, Dixon, Eliot, Gooch, Grinnell, Higby, John H. Hubbard, Julian, Kelley, Orlando Kellogg, Loan, Morehead, Morrill, Price, Edward H. Rollins, Spaulding, Stevens, and Wilder—26.

So the report of the committee of conference was adopted.

Mr. WEBSTER moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### ARMY APPROPRIATION BILL.

Mr. MORRILL moved that the House comply with the request of the Senate, and agree to another committee of conference on the disagreeing votes between the two Houses on the Army appropriation bill.

The motion was agreed to; and the Speaker appointed Messrs. MORRILL, FARNSWORTH, and GRISWOLD as such conferees on its part.

The House then resumed consideration of private bills on the Speaker's table reported from the Committee of the Whole House on the Private Calendar.

#### CHARLES M. WETHERILL.

A bill (H. R. No. 346) for the relief of Dr. Charles M. Wetherill.

The bill directs the Secretary of the Treasury to pay to Dr. C. M. Wetherill the sum of \$750, in full for his services as chemist of the Agricultural Department, out of any money in the Treasury not otherwise appropriated.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HALE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### MARTHA JANE SKAGGS.

A bill (H. R. No. 347) for the relief of Martha Jane Skaggs.

The bill directs the Secretary of the Interior to place the name of Martha Jane Skaggs, widow of Alfred Sykes Skaggs, late a private of company E, of the twenty-seventh regiment of Kentucky, and who died at Elizabethtown, Kentucky, on the 27th of January, 1862, upon the pension roll from the 27th of January, 1862, to continue during her widowhood.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HALE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### SOLOMON PARSONS.

A bill (H. R. No. 387) for the relief of Solomon Parsons.

The bill directs the Secretary of the Treasury to pay to Solomon Parsons, of West Virginia, the sum of \$125, in full payment for twenty-four hundred pounds of beef furnished United States troops at St. George station, Virginia, by order of Captain Horace Kellogg, commanding post.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HALE moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MARY SHIRCLIFF.

A bill (H. R. No. 389) for the relief of Mary Shircliff.

The bill directs the Secretary of the Interior to place the name of Mary Shircliff, widow of John Shircliff, on the pension roll, and pay her a pension, at the rate of eight dollars per month, during her widowhood, from the passage of this act.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HALE moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### EMILY A. LYON.

A bill (H. R. No. 390) for the relief of Emily A. Lyon.

The bill directs the Secretary of the Interior to place the name of Emily A. Lyon, widow of Alfred M. Lyon, late a sutler in the twenty-third Iowa regiment of infantry, and who died in the service of his country the 17th of May, 1863, upon the pension roll, at the rate of eight dollars per month, from the 17th of May, 1863, to continue during her widowhood; provided, that proof satisfactory to the Commissioner of Pensions be made of the material facts of the petition.

Mr. CRESWELL. I move to amend the bill by striking out the words "of the petition" and insert the words "above stated."

Mr. HOLMAN. I think the amendment ought not to be adopted. The bill only requires that proof shall be made of the facts stated in the petition.

Mr. CRESWELL. All the necessary facts are set forth in the bill itself—that she was married, and that her husband died in the service of the United States.

Mr. HOLMAN. It seems to me that the facts set forth in the petition should be established.

Mr. KASSON. I desire to say to the gentleman from Indiana that this amendment has been offered at my suggestion, because the petition is not within the cognizance of the Commissioner of Pensions. Under the order issued by General Grant prior to the commencement of the campaign against Vicksburg, all unnecessary lumber was to be left behind. The husband of this woman took a musket in his hand and fought in all those battles until he was killed at the charge at Black river, which resulted in the capture of a large number of prisoners. He died, leaving his family destitute. Those facts, together with other unnecessary facts, are stated in the petition on file with the committee, but which is not before the Commissioner of Pensions. The bill states all the necessary facts, and those only, and hence the proposed amendment, in order that it might not be necessary to prove unessential facts.

Mr. HOLMAN. The objection the gentleman raises, that the petition is not before the Commissioner of Pensions, is obviated by the fact that the petition is a public record. That petition goes into the record as a part of this case. Upon the facts set forth in that petition, this lady, no doubt, should have a pension, but those facts are not in the bill.

Mr. KASSON. The only trouble is that this petition will have to be withdrawn from the files, certified, and sent to the Commissioner of Pensions. And there may be unnecessary facts set forth in the petition. This lady is a neighbor of mine, and I am acquainted with all the facts. Under the circumstances I think the proviso is entirely unnecessary.

Mr. HALE. Move to strike out the proviso.

Mr. KASSON. I am entirely willing that it should be done, but I do not wish to interfere with the action of the committee in that respect.

Mr. HALE. I will move to strike out the proviso.

Mr. HOLMAN. I trust the gentleman from Pennsylvania will not make that motion. The whole case rests upon the petition in this case.

Mr. KASSON. I hope no variation from the general rule will be made in this case. I wish the Commissioner to ascertain that this man was killed in the service of the United States on the 17th of May, 1863, and that this woman was his wife and is now his widow. Those are the material facts. I am perfectly willing that the proviso shall stand, but I hope there will be no objection to the amendment.

Mr. HALE. I withdraw my motion to strike out the proviso.

The amendment offered by Mr. CRESWELL was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HALE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

WILLIAM BURNS.

A bill (H. R. No. 391) for the relief of William Burns.

The bill directs the name of William Burns, of Richland county, Ohio, first lieutenant in Captain Flannegan's company of Pennsylvania volunteers in the war of 1812, to be placed on the roll of invalid pensioners, at four dollars per month, during his natural life, commencing on the 1st of January, 1860.

Mr. HALE demanded the previous question.

The previous question was seconded, and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HALE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

EDWARD WILLIAMS.

A bill (H. R. No. 392) for the relief of Edward Williams.

The bill directs the Secretary of the Interior to place the name of Edward Williams, of —, in the county of —, New Jersey, upon the list of three-fourths-pay pensioners at the rate of \$11 25 per month, to commence from the 1st of January, 1861, and to continue during his natural life.

Mr. HALE demanded the previous question.

The previous question was seconded, and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HALE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PETER ANDERSON.

A bill (H. R. No. 419) for the relief of Peter Anderson.

The bill directs the Secretary of the Treasury to pay, out of any money in the Treasury not otherwise appropriated, to Peter Anderson the sum of \$1,128, being in full for back pension, at the rate of six dollars per month, from the day he received his wounds to the day his pension commenced, under award of the Commissioner of Pensions, that is to say, from November 7, 1847, to July 13, 1863.

Mr. HALE demanded the previous question.

The previous question was seconded, and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HALE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

REBECCA SCOTT.

A bill (H. R. No. 436) granting a pension to Rebecca Scott, widow of Major John B. Scott, late of the United States Army.

The bill authorizes and directs the Secretary of the Interior to place the name of Rebecca Scott, of Maryland, widow of the late Major John B. Scott, of the United States Army, on the pension roll, at the rate of twenty-five dollars per month, and to pay her a pension at that rate from the 22d of November, 1860, during her widowhood.

Mr. HALE demanded the previous question.

The previous question was seconded, and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HALE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

MARY SCALES ACCARDI.

A bill (H. R. No. 394) for the relief of Mary Scales Accardi.

The bill directs the name of Mary Scales Accardi to be placed on the roll of invalid pensioners at the rate of six dollars per month, commencing at the date of her husband's death.

Mr. HALE demanded the previous question.

The previous question was seconded, and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HALE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

JOHN C. MCCONNELL.

A bill (H. R. No. 461) for the relief of John C. McConnell.

The bill appropriates \$2,000 in full for money advanced by John C. McConnell for raising troops in the State of Maryland.

Mr. HALE demanded the previous question.

The previous question was seconded, and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question recurred on the passage of the bill.

Mr. HOLMAN. I would like to make some inquiries about this bill. I believe it comes from the Committee of Claims, and probably the gentleman from Pennsylvania [Mr. HALE] will explain the basis upon which this appropriation is sought to be made. I believe it is a claim for the arming of the first, second, and third Maryland regiments.

Mr. HALE. It appears from the facts which were before the committee that Colonel McConnell has raised a large number of troops and has paid a large sum of money out of his own pocket for the subsistence of those troops, for which he never received any compensation. The committee believed that the Government of the United States ought justly to compensate him for his expenses. He claims a much larger sum than this, but this is the amount which we thought we ought to allow him. It is a very long story and it is not worth while to repeat it now. The committee were satisfied of the justice of the claim, and that he really expended the money in raising troops. I demand the previous question on the bill.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was passed.

Mr. HALE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

MARGARET L. STEVENS.

A bill (H. R. No. 195) for the relief of Margaret L. Stevens, widow of General Isaac I. Stevens. The bill provides that the proper accounting officers of the Treasury Department be directed to pay, out of any money in the Treasury not otherwise appropriated, to Margaret L. Stevens, widow of Isaac I. Stevens, late Governor and superintendent of Indian affairs for the Territory of Washington, such sum per annum for the time he served as superintendent as was allowed by law to the superintendent of Indian affairs for the Territory of Oregon by the act of Congress approved June 5, 1850; provided the sum shall not exceed the sum of \$4,000.

Mr. HALE. I move the previous question.

Mr. WASHBURN, of Illinois. I wish the gentleman from Pennsylvania would withdraw the previous question, in order to have the report in this case read.

Mr. HALE. I withdraw for that purpose.

Mr. WINDOM. I desire also that the letters from the Secretary of the Interior and the Commissioner of Indian Affairs be read.

The report was read, as follows:

"The Committee on Indian Affairs, to whom was referred the memorial of Margaret L. Stevens, widow of General Isaac I. Stevens, make the following report:

"That said Isaac I. Stevens was, on the 9th of May, 1853, appointed Governor of Washington Territory, and *ex officio* superintendent of Indian affairs, in which capacity he served until the 31st day of May, A. D. 1857; that during that time, under instructions of the proper officers of the Government, he negotiated many important treaties

with various Indian tribes; that, by the treaty with the Flatheads and other Indians, the Government obtained a title to 14,720,000 acres of land, and by the treaty with the Nez Percés 15,400,000 acres were acquired; that by the treaties with the Quinault and Gullehute Makah, Wyamish, Walla-Walla, Nisqually, and other Indians, immense quantities of land were acquired by the Government; and that in 1855 he was party to making the treaty with the Blackfeet and other Indians east of the Rocky mountains. His labors were varied, extensive, important, difficult, and dangerous, and were always performed with ability and fidelity to the Government. He received as Governor a salary of \$1,500 per annum, and as superintendent of Indian affairs a salary of \$1,500. By the act of Congress approved June 5, 1850, the superintendent of Indian affairs for the Territory of Oregon received a salary of \$2,500 per annum. Your committee believe that the duties performed by General Stevens were far more arduous and important than those performed by the superintendent of Indian affairs in Oregon, and as much of General Stevens's labor was, under instructions of the Government, performed outside of the limits of his superintendency, your committee are of opinion that he is justly entitled to receive the additional sum of \$1,000 per annum for said services.

"General Stevens was killed at the battle of Chantilly, on the 1st day of September, 1862, at the head of the division which he was commanding, and while in the act of bearing the colors and successfully rallying the regiment in advance.

"Your committee, therefore, report a bill for the relief of the petitioner, and respectfully ask its passage by the House."

Mr. UPSON. I would inquire of the gentleman who reported this bill whether—General Stevens having been paid his regular salary as Indian agent and as Governor of the Territory—this bill would not establish a precedent for every Governor of a Territory making a similar claim?

Mr. WINDOM. That precedent has been already established, and this bill only follows a precedent established in Oregon Territory. I wish to have the other papers read.

Mr. UPSON. If I am rightly informed the widow of General Stevens is already receiving a pension of fifty dollars per month, being twenty dollars more than the regular rate allowed by the pension law. I am not aware that General Stevens himself ever in his lifetime claimed compensation for those services, or deemed himself entitled to it.

Mr. WINDOM. I do not know what pension Mrs. Stevens is receiving. But with regard to the other point, that General Stevens never made this claim during his lifetime, I have to say that among his papers was found a bill prepared for this very purpose. It is well known that General Stevens devoted far more attention to the public business than he did to his private business. I am satisfied that this bill should pass. It is strongly urged by the Secretary of the Interior and by the Commissioner of Indian Affairs, and some gentlemen were willing the other day to vote a large amount of money on their recommendation.

Mr. WASHBURN, of Illinois. It is a very ungracious thing at all times, Mr. Speaker, to oppose these private bills; and it is by me considered particularly so in this case. I knew Governor Stevens well, and served with him many years in this House. He was an accomplished gentleman and a brave officer. He was Governor of Washington Territory and *ex officio* superintendent of Indian affairs. He discharged his duties, I believe, faithfully and well; but did no more than his duty. He received his salary and went out of office. He has since died nobly on the field of Chantilly. But I do not see on what possible ground this additional salary can be given. I do not see what good reason there can be in this case for voting to the widow of General Stevens, whom I know to be an excellent lady in all the relations of life, this additional salary.

Mr. NELSON. As a member of the committee, the same question suggested by the gentleman from Illinois occurred to my mind—that General Stevens received his salary; and I desired to know why this additional salary should be voted. The answer seemed to me to be perfectly conclusive—that this was outside and beyond his duty as Governor of the Territory. He had performed the duties of Indian agent, and made various treaties by which the Government had been greatly benefited. And I found that it had been the practice of the Government, by bill, to pay additional compensation where a man merited it. All the facts are embodied in the report. The papers from the Department will satisfy my friend from Illinois, if he looks into them, that these duties, being outside his strict duties as Governor, entitle him to a greater compensation than \$1,500. I asked the same question which has been asked here, why General Stevens did not make this claim in his life-

time, and it was established conclusively that he had prepared a bill against the Government for these services. It was found in his own handwriting among his papers when he died.

Mr. WASHBURN, of Illinois. I am not entirely clear that the Government ought to pay an additional amount for the services of Governor Stevens for his services as superintendent of Indian affairs. It was his duty *ex officio* to negotiate these treaties. That was for what this office was established, and he therefore only did his duty. If he had been entitled to anything more under the law, he would have presented his claim to the Indian department, and would have been paid. But it seems there was no demand made upon the Government.

The gentleman says there was a bill found among the papers of Governor Stevens, in his handwriting, which was to have been presented to Congress, but which it seems was not presented to Congress. That of itself negatives the idea that he would have been entitled to any pay without the passage of an act of Congress.

Now, sir, I should be as willing as any man here to vote anything I could properly for the widow of General Stevens, but it is for us to be just before we are generous, and I am told by the gentleman from Michigan that we have very properly placed Mrs. Stevens on the roll of pensioners at fifty dollars a month. I have now the act before me granting that pension, approved March 3, 1863, entitling her to a pension of fifty dollars a month, which she is receiving at this time, it being twenty dollars a month beyond the amount to which she would have been entitled under the general law.

Mr. McBRIDE. I desire to say to the gentleman that these extra services were to a great extent performed outside of Washington Territory. Governor Stevens spent at one time almost a whole year in the Rocky mountains outside of Washington Territory.

Mr. WASHBURN, of Illinois. He was at this time, however, Governor and superintendent of Indian affairs for Washington Territory, was he not?

Mr. McBRIDE. He was.

Mr. WASHBURN, of Illinois. Then the Government was entitled to his whole services.

Mr. McBRIDE. I will say that Congress has already established a precedent for this bill by a law passed two years ago paying Anson Dart for precisely similar services.

Mr. WASHBURN, of Illinois. I know all about that claim, and there is no private claim I ever voted for which I more regret. It was an utterly bogus claim. I think, Mr. Speaker, we have no right in a case of this kind to set a precedent on which every man who was ever superintendent of Indian affairs may come here and put in his claim for additional salary.

These, sir, are the facts. I have the greatest respect for the memory of General Stevens, and I have the greatest regard for his estimable lady, but I do not believe we have any right in these times to vote back salaries of this description. It is impossible to tell what it may lead to. My friend from Minnesota, who comes here as a Representative from his district, does credit and is doing very great service to his constituents, and why may they not as well come here and demand additional compensation for him?

In regard to this case of Dart, if it was a case which should be considered a precedent for anything, it is not precisely similar to this. There were other considerations for which that additional compensation was paid. The act states that it was also to indemnify him for expenses incurred for an extra assistant clerk and for the board of an Indian interpreter employed by him. The act provided for a great deal more than merely for additional salary.

Mr. McBRIDE. There is one thing in connection with this case which I desire to state. General Stevens had always been in the service of the Government. He was a graduate of West Point, and from the time he graduated until his death his entire time was spent in the service of the Government, I believe, with the exception of two or three months before he was elected to Congress in 1861. He gave no time to his private affairs, and in fact has left his family almost entirely destitute, as I believe is generally the case with that class of men.

Mr. WINDOM. I wish to say in relation to the case of Anson Dart, which the gentleman from Illinois says does not furnish a precedent, that the act distinctly provides a salary of \$4,000 a year for his services. The other provisions for indemnifying him, &c., have nothing to do with that. I say, therefore, that it is a precisely parallel case, and that if Anson Dart was entitled to \$4,000 a year salary, Governor Stevens was entitled to the same amount.

Mr. WILSON. I wish to call attention to this joint resolution for the relief of Anson Dart. The amount appropriated is \$4,000 a year, but how much of that sum is intended to indemnify him for services of assistant clerk six months and for board of Indian interpreter employed by him during the time he was acting as superintendent is not stated.

Mr. WINDOM. I cannot, nor do I think it is necessary under any fair interpretation of the joint resolution. In the first place, the joint resolution appropriated to Anson Dart \$4,000 per annum; and then it further provides that the accounting officers of the Treasury shall settle with him on principles of justice and equity for expenses incurred, &c. The latter, it will be seen, is distinct from the former proposition. He gets \$4,000 per annum, and also the settlement of his claim for expenses.

Mr. WILSON. I ask the gentleman from Minnesota, as he is chairman of the Committee on Indian Affairs, and ought to understand the Anson Dart case, whether anything was paid in addition to the \$4,000 per annum? Was not that \$4,000 per annum considered as all that was due to Dart?

Mr. WINDOM. I do not know the facts of the Dart case. I do not think it could be so considered under any fair construction of the joint resolution.

The bill before the House provides that Mrs. Stevens shall have the same sum that was paid to Anson Dart. I do not know whether that is a proper case or not. I have only alluded to it for the purpose of showing that we are not establishing a new precedent in this case. The services performed by the late Governor Stevens were performed outside of his Indian superintendency. The salary that he received was small; and for these services that he was ordered to discharge by the proper officers it is only just and fair that he should have compensation.

Our opinion was not only founded upon the statements of the memorial, but we had also the statements in favor of the claim by the proper officers of the Government. It was recommended by the Commissioner of Indian Affairs and by the Secretary of the Interior.

Now, I do not see, because the Government has been liberal to the widow of General Stevens for his gallantry during this war, by giving her a pension, that we should deny this just claim for his past services.

Mr. DAVIS, of New York. I want to know what kind of precedent we are establishing in this case. At an early day of the session I had occasion to present the petition of Mrs. General Sumner for compensation for the services of her husband, who for a time acted as Governor of California. The committee of this House not only denied that claim, but did not propose to pay her a pension of \$600 per annum. If this bill passes, I shall make a similar proposition in the case of Mrs. General Sumner.

Mr. HALE. This case is sufficiently understood by the House. The bill was reported unanimously by the Committee on Indian Affairs, and is recommended by the proper officers. I demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. WASHBURN, of Illinois, demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 73, nays 37; as follows:

YEAS.—Messrs. James C. Allen, Alley, Bailly, Jacob B. Blair, Brooks, James S. Brown, Chandler, Coffroth, Dawson, Dixon, Donnelly, Eden, Edgerton, Eldridge, Elliot, Finck, Garfield, Gooch, Grimes, Jencks, Hale, Hall, Charles M. Harris, Herck, Higby, Jencks, Philip Johnson, William Johnson, Julian, Kalbfleisch, Kasson, Kernan, Knapp,

Law, Lazear, Long, Marcy, McBride, McClurg, McIndoe, Moorhead, Amos Myers, Leonard Myers, Nelson, Noble, Charles O'Neill, John O'Neill, Pendleton, Perlman, Perry, Price, Pruyn, Samuel J. Raudall, William H. Randall, Alexander H. Rice, John H. Rice, Ross, Scott, Smith, Smithers, William G. Steele, Stiles, Strouse, Sweet, Thayer, Thomas, Webster, Whaley, Wheeler, Joseph A. White, Wilder, Windom, Fernando Wood, and Woodbridge—73.

NAYS.—Messrs. Allison, John D. Baldwin, Beaman, Boutwell, Ambrose W. Clark, Freeman Clarke, Cole, Creswell, Thomas T. Davis, Dawes, Briggs, Eckley, Farnsworth, Grinnell, Holman, Hotchkiss, John H. Hubbard, Hubbard, Francis W. Kellogg, Orlando Kellogg, King, Longyear, Samuel F. Miller, William H. Miller, Orin, Pomerooy, Radford, Scofield, Sloan, Spaulding, Stevens, Upson, Van Valkenburgh, Ellihu B. Washburne, William B. Washburn, Wilson, and Yeaman—37.

So the bill was passed.

Mr. WINDOM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### INDIAN TRIBES IN NEW MEXICO.

A bill (H. R. No. 108) authorizing the making of treaties with the Navajo, Apache, and Utah Indian tribes, in New Mexico, defining their limits, and extinguishing their title to lands outside of said limits, reported back from the Committee of the Whole with a recommendation that it be referred to the Committee on Indian Affairs.

The bill was so referred.

#### CHARLES M. POTT.

Mr. MILLER, of Pennsylvania. I ask unanimous consent to report from the Committee on Invalid Pensions a bill for the relief of Charles M. Pott, in order that it may be acted on now. I will say that this is one of the first bills referred to that committee, but which the committee has failed to report at an earlier day, for the reason that they waited for the testimony by which this claim is made good. I trust the House will dispose of it now.

No objection being made,

Mr. MILLER, of Pennsylvania, reported from the Committee on Invalid Pensions a bill for the relief of Charles M. Pott; which was read a first and second time.

The bill requires the Secretary of the Interior to place the name of Charles M. Pott, late of company K, one hundred and seventy-ninth Pennsylvania militia, on the pension roll at the rate of eight dollars a month from the date of discharge, March 7, 1863, for total disability sustained by loss of an arm by accident while in the hospital detained for his pay after his discharge had been ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER, of Pennsylvania, moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The SPEAKER. The next business in order is the call of committees for reports of a private nature.

#### JOSIAH O. ARMES.

Mr. HOLMAN. I desire to make an inquiry of the Chair. Some three or four weeks ago, perhaps longer, a bill was reported from the Committee of the Whole to the House for the relief of Josiah O. Armes. I would inquire whether that bill does not come up in its regular order this morning?

The SPEAKER. The gentleman probably was not in the House when the Chair stated that this bill could be called up at any time on Friday by any gentleman who desired, for action by the House. It was called up at one time, and was laid over on the objection of the gentleman from Illinois [Mr. WASHBURN] that it would be taking precedence of other bills. It was laid over with the right to call it up at any time on private bill day.

Mr. HALE. I call it up now.

The bill requires the Secretary of the Treasury to pay to Josiah O. Armes, out of any money in the Treasury not otherwise appropriated, the sum of \$9,500, in full for damages sustained by him in consequence of the burning of his buildings and the destruction of his property, at Anandale, Fairfax county, Virginia, by the United States troops.



Mr. WASHBURNE, of Illinois. I move to postpone the consideration of the bill until the next session of Congress.

The SPEAKER. The gentleman from Pennsylvania [Mr. HALE] is upon the floor.

Mr. HALE. I wish to state, for the information of the House, that this bill is to indemnify Mr. Armes for the destruction of his property by the United States troops, in Fairfax county, Virginia, during the present rebellion. The amount reported by the committee is much less than the loss he sustained, as proven by his witnesses, but the committee, in view of the *ex parte* character of the testimony necessarily received on the question of the value of the property destroyed, agreed to allow him a very low value for the property which was admitted to have been destroyed by the military authority in command of that department. It consisted of a large and valuable stone structure erected for a seminary, and cost \$20,000. It was used by the rebels as a sort of fort or lookout, and when our troops took possession, that stronghold of the enemy was burned by order of the military officer in command.

Mr. Armes is proved to have given valuable information to our generals, and his loyalty was indorsed by the general commanding in that department. And indeed his wife suffered so much on account of her loyalty, that disease fastened upon her by which she lost her life. Everything the man had in the world was invested in that property. He is a poor man, and entirely destitute of the means of support, as all his property has been taken and destroyed by our Government. It does seem to me that if ever there was a claim for indemnity which appealed to the justice as well as to the humanity of Congress, it is a claim of this character.

Mr. SLOAN. I desire to inquire of the gentleman whether this claim has been presented to the Court of Claims?

Mr. HALE. It has not.

Mr. SLOAN. I am informed that this claim was presented to the Court of Claims, and that while it was pending in that court this application for relief was made to Congress.

Mr. HALE. I am not aware of that fact.

Mr. SLOAN. I suppose the Court of Claims has jurisdiction of claims of this kind, and if that be true, why not refer it to that tribunal?

Mr. HALE. I do not answer the gentleman one way or the other, because I do not know that the fact he states is true.

Mr. WEBSTER. I am convinced that it is not the fact.

Mr. HALE. Whether true or not, this House has jurisdiction.

With this statement of facts, as I do not wish to take up the time of the House or to make any further statement, as there is no dispute about the facts, I move the previous question on the passage of the bill.

Mr. WASHBURNE, of Illinois. I hope the gentleman will not demand the previous question on a claim which I undertake to say involves more than any other private claim before Congress.

The SPEAKER. Debate is not in order during the demand for the previous question.

Mr. WASHBURNE, of Illinois. I ask the gentleman to withdraw the demand. I notified the gentleman long ago that I desired to speak upon this bill.

Mr. HALE. How much time does the gentleman want?

Mr. WASHBURNE, of Illinois. Only a few moments. I only wish to speak now to the question of postponement, and to state briefly the considerations in support of it. The gentleman ought not to object to that.

Mr. HALE. Will the gentleman renew the demand for the previous question?

Mr. WASHBURNE, of Illinois. I will yield the floor to the gentleman to renew it.

Mr. Speaker, the amount which is provided to be paid under this bill is not in itself of any great importance when we consider the millions, tens of millions, and hundreds of millions we are daily voting. It only amounts to \$9,500. But I undertake to say that by the passage of this bill we shall establish a precedent which will take from the Treasury \$500,000,000. It is no more nor less than the establishment of the principle that the Government is bound to pay for all the casualties of war, to pay every citizen who may have

lost property through the casualties and misfortunes of war, and indemnify him for losses which have occurred in the prosecution of the present contest. Hence it is one of the most important measures that we can be called upon to consider. I understood the gentleman from Indiana, [Mr. HOLMAN,] who reported the bill, to say that while he had very great doubts in regard to the principle, he was willing to report it in order that the House might pass upon the question involved. That gentleman, I believe, considered that it involved one of the most important principles upon which we could be called to act.

Now, sir, I propose to postpone this bill until the next session of Congress, for two reasons. The first is, that the House may have time to consider fully all the important questions which bear upon the case; and second, that we may understand the position which the case holds in the Court of Claims. I am advised, by authority which I consider good, that this very case is now pending in the Court of Claims, and is there for its decision.

The bill provides, as I have said, for the payment to Mr. Armes of the sum of \$9,500 in full for damages sustained by him in consequence of the burning of his building and the destruction of his property in the progress of the war.

The gentleman from Pennsylvania has referred to the personal status and sufferings of Mr. Armes, and in all cases of this class the character and the situation and the hardships of the individual are brought in, in order to enlist the sympathies of the House and get the claim through.

Now, I am willing to concede all that the gentleman says in favor of Mr. Armes. I believe he is a loyal citizen. I am willing to concede that he gave valuable information to the Government, and if it was possible I would vote to pay him for all the valuable information he gave to the Government. But such concessions do not touch the real merits of this question at all. I will concede that he has lost property, but I will not concede that he is such a loser of property as, according to national law, entitles him to be indemnified by the Congress of the United States.

This question, sir, has been fully settled over and over again. It was settled over and over again after the last war with Great Britain. I believe it is a part of history that the city of Buffalo was burned by the enemy, and vast amounts of property destroyed for which indemnity was claimed as in this case. That city had claims to the amount of millions of dollars, claims resembling that of Mr. Armes now before us, and the question of the election of a member of Congress in that district turned for years, as I am told, upon that question; but I believe that Congress constantly and persistently refused to pay the claims. Why? Because it was against national law. No Government upon the face of the earth has ever undertaken to pay claims of this kind, for the very reason that no Government ever could pay such claims. Those casualties and damages which happen to the citizen during a war are like casualties by fire and flood and earthquake. A man may suffer by having his property destroyed by fire or tornado or lightning, but does that, while it excites our sympathies, give him the right to demand of Congress that we shall tax all of our constituents to indemnify him for his misfortune? No, sir. No such principle exists or ever has existed, for no nation could ever stand up under it, and for one I protest against its establishment in this case, entailing untold millions more of public debt on the country.

Sir, I have a case in point in the Black Hawk war. The portion of the country which I represent was ravaged and devastated in that war, thirty years ago. Houses were destroyed by the enemy, fields ravaged, fences torn down, crops ruined, and great damage done to the people by the prevalence of Indian war. Congress was applied to for general relief, but it never gave it. The first session that I served in Congress I presented a petition asking for an indemnity very much like that asked here for Mr. Armes. The petition was referred to the Committee on Indian Affairs. That committee considered it fully, and made a unanimous report adversely to the claim, settling the principle which, I say, should govern us in this case, and in all cases of a like character. I beg the attention of the House to the report made by Mr. Orr, who was at that time chairman

of the Committee on Indian Affairs, and who, though now a traitor in arms against our Government, is a man of great ability, and who fully mastered all questions he undertook to consider. I read from his report, which I have before me:

"The claims, for the payment of which a general law is now asked to be passed, have been, in a great measure, specifically brought before Congress and rejected. An adverse report on these claims was submitted at the first session of the Twenty-Fourth Congress, which was sustained by the House, thereby rejecting the claims now sought to be revived and discharged. The committee have been furnished by the Indian Bureau with abstracts of a great number of these claims. The abstracts are predicated upon the report of a commission organized under the direction of General Atkinson, in January, 1833. The commissioners, Captain Palmer and William Hempstead, Esq., were charged with the duty of 'collecting, adjusting, and examining all outstanding claims arising from the movements of the militia and friendly Indians called into service' during the spring and summer of 1832. All the claims on file in the Indian Bureau, (and your committee are satisfied that they embrace all contemplated in the resolution which is the occasion of this investigation,) though presented to and received by the commissioners, were not within the limits of their instructions, and were consequently disallowed. This decision of the commissioners, which was approved by the Indian Bureau, it is not pretended violated any right of the claimants under existing laws or the uniform practice of the Government. Should Congress now interpose a remedy, and pay that class of claims to which the resolution refers? Your committee think not. The depredators, the Sac and Fox Indians, were at war with the United States. Soon after the commencement of hostilities the inhabitants on the Indian frontier abandoned their homes, crops, and property, and sought safety by retreating into the denser white settlements. It is alleged by some of the claimants that their absence from home, occasioned by apprehensions of danger from the Indians, prevented them harvesting their growing crops; some ask reparation because they were prevented, from the same cause, sowing their crops; and others found their claims upon the seizure and appropriation of their personal property by the hostile savages. Is there anything peculiar in this state of the facts which should authorize and require the Government to pay for these real and speculative losses? The rule which has been uniformly pursued by this Government toward its citizens is to pay only such losses as were occasioned by the action or authority of its own officers. For example, if the buildings of a citizen are occupied by troops, and are destroyed by the enemy on account of such occupancy, the Government will indemnify; but for casualties arising in the progress of the war from the action of the enemy, or the citizen himself, to his property, no indemnity has been made, whether the enemy was white or red; and it would be, in the judgment of your committee, highly inexpedient to change the rule. War is calamitous to the Government as well as to the citizen, and if the former should attempt, in addition to the support of armies and navies, to indemnify the citizen for every personal loss, positive and mediate, it would entail a most burdensome public debt, to be only discharged eventually in national bankruptcy. Every citizen encounters a share of the sacrifice of a national war, and it would not be just to tax all to relieve from that sacrifice a few whose losses may be susceptible of ascertainment, when the great mass have been equal sufferers, remotely, if not directly.

"Your committee, being satisfied that any legislation upon the subject is inexpedient, ask to be discharged from the further consideration of said resolution."

Mr. NELSON. Under the authority of that opinion, is not the claimant in this case entitled to recover?

Mr. WASHBURNE, of Illinois. I do not so understand the case.

Mr. NELSON. Is not the meaning of that report this: that where property is destroyed by the enemy in war, there the Government does not pay; but where the property is destroyed by officers of our own Government in prosecuting the war, on our part, there the Government does pay. Is not that the authority of the case cited?

Mr. WASHBURNE, of Illinois. There is nothing in the record which shows such a state of fact as the gentleman alludes to.

Mr. WEBSTER. The gentleman from Illinois is mistaken.

Mr. WASHBURNE, of Illinois. After stating that the Government would not pay for casualties arising in the prosecution of a war, the report says—with great truth, and one which should be impressed upon us—

"War is calamitous to the Government as well as to the citizen; and if the former should attempt, in addition to the support of armies and navies, to indemnify the citizen for every personal loss, positive and mediate, it would entail a most burdensome public debt, to be only discharged eventually by national bankruptcy."

That, sir, is the report of the Committee on Indian Affairs of this House; and it applies, I contend, to this very question. That report was adopted unanimously by the House, and became the law of the House. The gentleman from New York [Mr. NELSON] asks me if the case in question does not come within the exception as laid down by the report. I answer that it does not, for it is not shown that the property was destroyed by the command of an officer who had

a right to give the command. The party claiming on that ground must be held strictly to the proof to bring himself within the rule. All that the report says is that the order was apparently given by the commanding officer; but no order is set out and the name of no commanding officer given. If the property were destroyed by the lawless act of the troops, there can be no pretense of liability on the part of the Government.

I say, therefore, this case involves the great principle of how far and to what extent we are going to pay for these casualties of war; how far we shall be passing this act sanction a principle which will result in national bankruptcy. I had, on a previous occasion, intended to have spoken somewhat at length on a bill brought in by my friend from Iowa [Mr. Wilson] limiting the jurisdiction of the Court of Claims; a bill taking away from that court a jurisdiction which I understand they have assumed over cases of this kind. I had examined into these questions as they have arisen heretofore in this country, and had addressed a letter to Hon. William Whiting, the very able Solicitor of the War Department, with a view to ascertain the nature and amount of the war claims now being presented for payment at the War Department. Mr. Whiting sent me a reply ably reviewing the whole matter, which I will have read to the House.

The Clerk read the letter, as follows:

WAR DEPARTMENT,  
WASHINGTON CITY, January 15, 1864.

SIR: Your letter of the 13th instant has been received, in which you have requested me to "state, if consistent with my views of public duty, the nature, extent, and character of the various claims which have come to my notice against the Government, growing out of the loss and destruction of property during the present rebellion; and also to make any general suggestions on the subject that may seem proper."

In reply, I have the honor to state that a great variety of claims have been made against the United States, growing out of the loss or destruction of property in the southern States. Damages have been claimed by loyal citizens who have always resided in the northern States for real estate situated in the rebellious districts, and taken into possession of the Union troops for military purposes, as for quarters, or for storage, or hospitals, barracks, &c.

Damages have also been asked by the same class of persons for personal property, as cotton, sugar, flour, horses, mules, wagons, agricultural implements, money of the United States, money of the confederates, hay, grain, corn, and all kinds of forage, wood for burning, and wood cut down but not removed from the spot when cut, and damages for crops trampled or eaten up by our cavalry, &c.

But by far the larger proportion of claims are made by persons residing in the disloyal districts, for every species of real and personal property alleged to have been used, injured, seized, or destroyed by our troops: fences burned, crops trampled down or consumed by the Army; horses, mules, beef cattle, captured, seized, and taken away; money, furniture, and household articles, lost or stolen; cotton captured, burned, used, lost, or damaged by dirt or otherwise in the use of it for military or naval forces. Every variety of personal property lawfully captured by our forces has been claimed, or damages have been demanded for its use, detention, or destruction. *Rents* are continually requested for the use of real estate seized by our troops. Property which has been condemned as lawful prize in our courts has been claimed, or its value in damages.

And, what is singular, every claimant purports on affidavits to be a *loyal citizen*, even when in some cases it is well known to the Department that the party really interested in the claim is actively engaged in rebellion at the time the claim is presented.

Respectable gentlemen, on many occasions, act as claim agents on behalf of the parties interested.

Often it happens that shift is made in the title or apparent title of property, in order that the party making the application may be deemed loyal. And were we to regard the evidence presented to this Department as conclusive on the question of loyalty, it would be doubtful whether there is, or ever was, a disloyal person in the seceded States.

Many claims have been made for property seized in attempts to violate the laws regulating the commerce with the inhabitants of the rebellious States. Few, if any, instances have occurred of claims for restoration of property seized *in transitu* on its course from Maryland, New York, or other States to Virginia without being accompanied by testimony of the loyalty, honesty, and high character of the criminal, even where he has been arrested and caught in the act of violating the law.

Rebel printing offices have been gutted out, secession houses have been burned, arms and munitions of war have been seized, vessels have been used, seized, or captured by our forces, railroads have been taken for military use, their rolling stock has been worn out, tracks have been destroyed, bridges burned or blown up, and every form of devastation and destruction has been inflicted on the enemy's property by our armies.

From all these injuries, the inevitable result of warlike operations, claims arise against the Government from some persons claiming to be *loyal*, even though residing in the districts at war with us. Whenever the armies move they scatter broadcast the prolific seed which will ripen into claims against the Government.

As to the character of these claims, so far as known to me, some of them have but a slight foundation in fact, many are purely fictitious, and a large proportion of them have been exhibited and unreasonable.

Sometimes the amount of annual rent demanded for a

piece of real estate is equal to half or the whole of its value. The valuation placed upon many articles has been more than ten times their real worth; and as a general statement these claims are of so gross and outrageous a character as to stamp them as fraudulent.

Although some claims of this class are fairly stated, yet it would seem as though it were thought fair game by some claimants to rob the Treasury to any practicable extent.

In answer to the inquiry as to the amount of these claims which have been or will be brought against the Government, I can only say that it is impossible to ascertain the aggregate. I believe that *hundreds of millions of dollars* will be required to satisfy these demands.

If it were now understood that they were allowed and promptly settled in the War Department, and paid by the Treasury, I do not believe that we could carry on the war three months for want of money or credit.

I look upon the army of claimants as really quite as formidable to the Government as the army of rebels; and if this great and impending danger is not looked in the face, and promptly and decisively met by Congress, I shall feel a diminished confidence in the ultimate preservation of our national honor.

In regard to all claims arising in the rebellious districts of the character above described, I have uniformly refused to acknowledge their legal validity, whether the claimant is loyal or otherwise. I have not felt at liberty to waive the legal right of the Government to act according to its own will and pleasure in recognizing these obligations. The question as to what shall and what shall not be conceded to persons whether loyal or disloyal, friendly or hostile, who reside in those parts of the country now in rebellion, is a question of *public policy* to be settled by Congress. Congress may or may not assume such obligations. If they should amount to hundreds of millions of dollars Congress may refuse by recognizing them to add such an amount to our national debt, but if they should be of comparatively trifling amount a different policy might be justified.

Perhaps the time has not yet arrived when we can tell what is best to be done, for we do not know when the war will end, what will be the amount of our debt, nor what the extent of demands upon our national resources.

It therefore seems to me that we ought not to allow any court or tribunal to pass upon this class of claims in anticipation of the action of Congress, however small the amount involved may be, and the Government ought not to commit itself, through any of its legislative or executive departments, or through the Court of Claims, or by any commissioners or other functionaries, to an acknowledgment of the validity of claims of persons residing or having property in rebellious districts while the war is going on.

I have the honor to be, sir, your obedient servant,

WILLIAM WHITING,  
Solicitor of the War Department.

HON. EMILIO B. WASHBURN,  
United States House of Representatives.

Mr. WASHBURN, of Illinois. I have sent to the Library for the American State Papers, in which this question was considered very fully by Mr. Hamilton in a report made by him while he was Secretary of the Treasury, in which he says:

"That, according to the laws and usages of nations, a State is not obliged to make compensation for damages done to its own citizens by an enemy, or wantonly or unauthorized by its own troops; yet humanity requires that some relief should be granted to persons who by such losses are reduced to indigence and want; and as the circumstances of such sufferers are best known to the States to which they belong, that it be referred to the several States (at their own expense) to grant such relief to their citizens who have been injured, as aforesaid, as they may think requisite; and if it shall hereafter appear reasonable that the United States should make any allowance to any particular States who may be burdened much beyond others, that the allowance ought to be determined by Congress; but that no allowance be made by the commissioners for settling accounts for any charges of that kind against the United States."

That is the rule which was laid down by Mr. Hamilton, and I believe it has been universally followed ever since.

Now, Mr. Speaker, having stated some of the results which will follow the passage of this bill, I move to postpone its further consideration to the third Friday in December; and in accordance with my promise yield the floor to the gentleman from Pennsylvania, [Mr. HALE.]

Mr. HOLMAN. Did the gentleman from Pennsylvania yield the floor for a motion to postpone to be made?

The SPEAKER. The Chair understood the gentleman from Pennsylvania to yield the floor generally.

Mr. BLAIR, of West Virginia. I did not understand the gentleman to yield the floor for the purpose of making any such motion as that.

The SPEAKER. The sole condition made by the gentleman from Pennsylvania in yielding the floor was that at the close of his remarks he should surrender it again for the purpose of moving the previous question.

Mr. HALE. I first moved the previous question and then yielded the floor to the gentleman from Illinois, on condition that he should renew the demand for the previous question, on condition that he should make the same motion which I had made, which of course would not admit the motion to postpone to intervene.

The SPEAKER. The Chair supposed at the time that was perhaps the gentleman's intention, but he understood him only to make the condition that he should renew the demand for the previous question or yield the floor for that purpose.

Mr. BLAIR, of West Virginia. I understood the gentleman from Pennsylvania distinctly to decline to allow a motion to postpone to be made.

Mr. WASHBURN, of Illinois. I will state exactly how the matter stands, and there can be no difference between the gentleman from Pennsylvania and myself. I appealed to the gentleman from Pennsylvania in the first place to allow me to move to postpone the bill, which he declined to do. I then asked him to withdraw the demand for the previous question, to allow me to make a few remarks. He replied that he would withdraw it provided I would renew the demand. I declined to do that, but said I would yield him the floor as soon as I had finished; I did not understand there was any agreement which would deny me the privilege of making a motion to postpone. If, however, the gentleman from Pennsylvania understands there was, I will not persist in the motion, but will ask the House to permit me to enter it.

Mr. HALE. I certainly did not yield the floor for the purpose of allowing that motion to be made.

Mr. WASHBURN, of Illinois. If the gentleman insists on the point I withdraw the motion, but I will ask the House to vote down the demand for the previous question to enable me to move to postpone the bill, and I will remark just here that I stated in the outset that what I had to say would be directed to the motion to postpone.

Mr. HALE. That may be very true, but I did not yield for that motion to be made.

Mr. STEVENS. I ask my colleague to yield me the floor for a few moments.

Mr. HALE. I will yield to my colleague.

Mr. STEVENS. Mr. Speaker, I have but a single word to say. I do not think that the law is at all doubtful. It has been settled, ever since war was first made, by the law of nations that whenever a nation is at war and the enemy destroys the property of one of the belligerents it is his misfortune—he bears it, and no nation pays for that except as a gratuity; as an act of humanity, in the words of General Hamilton. But, on the other hand, it is as well settled that where ever any act of the Government itself causes the destruction of the property of the individual either by taking it for the troops, by storing munitions of war by which the enemy is induced to destroy private property—wherever the Government from military necessity destroys private property, I say, it is quite as clear that every just nation pays its own citizens for such destruction. It does not do to say that it would be a hardship to pay so much. It may be a hardship for me to pay my debts—it is rather a burden, [laughter;] but that is no reason why I should not pay them to the last dollar, at least to recognize them.

How else is this war to be carried on? In the raid by the rebels into Pennsylvania millions of private property were destroyed by the enemy, for which no claim that I know of has been made to Congress. But there was a case in Chambersburg. The Government stored munitions of war in a private building, and the enemy, discovering that fact, destroyed the building and munitions both together. The Government recognized the claim in that case, and paid it at once. Mr. Ames proves that he was a loyal citizen, owning more than nine thousand five hundred dollars' worth of property. Our troops were there, but the enemy took possession of it, using it as a fort. It became, in the judgment of our armies, a military necessity to destroy it. They did destroy it. There is no doubt that our troops did destroy it. This beautiful farm was occupied by the enemy, and it became necessary to dislodge them. The committee infer that it was done by the direct order of the commander of our troops. If it were not done by direct order, if the troops were there in a body and found the enemy sheltering themselves there, and to get at them and destroy them they destroyed the house, it is precisely the same as if they had received an order from the military commander.

Mr. WEBSTER. It will be found in the evidence that this property was destroyed by the order of the military commander.

Mr. WASHBURN, of Illinois. Will the gen-

tleman be good enough to read that evidence? The committee do not say so.

Mr. WEBSTER. I do not think that the gentleman has read the evidence, as I did not think he had read the law a little while ago.

Mr. WASHBURN, of Illinois. There is no necessity for the gentleman getting into a heat about it. The report of the committee does not state there was such an order. If there be such order I ask the gentleman from Indiana to read it for the benefit of myself and the House.

Mr. STEVENS. Let me finish my remarks. I have only to say it is asserted here that in consequence of the enemy taking this property and using it as a fort our troops were compelled to destroy it. The committee think that it was destroyed by direct military order. I do not care whether it was destroyed by direct order or not, if it were necessary in the combat to destroy it to dislodge the enemy. The case then comes within the law of nations. No one ever heard of a nation so dishonest as to repudiate such a claim as that. Hence I will go for the bill.

Mr. HALE. Before I proceed further I wish to state a fact in reference to the destruction of this property by military authority. General Heintzelman, in command of that department as military governor, stated, in a letter to the committee, that this property was destroyed by the military authority of the United States. That was considered by the committee as sufficient evidence of the fact. It is well known that no record is kept by persons commanding companies of the property destroyed by them; but a superior officer said, in a letter, that this property was destroyed by the military authority of the United States. That being a fact established, the only questions, it seemed to us, were whether the claimant was loyal, and what was the value of the property. Is there any reason why the property should not be paid for, whether taken by the Government for use, or taken by the Government and destroyed? In either case it is lost to the owner. That would be a very strange Government that would take the property of its citizens for its own use, or for the purpose of destroying it, and then refuse to pay for it.

But if the Government destroys property for its own purposes, it would be, according to the idea of the gentleman from Illinois, [Mr. WASHBURN,] improper for us to pay for it. Why should we not pay for it as soon as we would if we had used it? There is no principle of morals or of law which would excuse an individual from the payment of property so taken by him and destroyed. I agree with the gentleman from Pennsylvania that that would be a most odious Government which would take the property of its own citizens and refuse to make just compensation. It may be necessary in the prosecution of a war to destroy the property of citizens in order that military operations may be carried on with more success, or it may be necessary to use it for feeding the army.

Mr. WINDOM. Will the gentleman allow me to have an affidavit read?

Mr. HALE. For what purpose?

Mr. WINDOM. It bears upon the fact of this property being destroyed by order of General Stahl.

Mr. HALE. I will hear it.

The Clerk read the affidavit, which is as follows:

*District of Columbia, City of Washington, to wit:*

On the 19th day of March, A. D. 1863, before me, the subscriber, a justice of the peace in and for said county, personally appeared Captain Max P. Amelunson, of the sixty-eighth regiment New York State volunteers, and made oath on the Holy Evangelists of Almighty God that on or about the latter part of November or first week in December, 1861, he was present with the regiment to which he was attached when the order was given by General Stahl to destroy all the houses and buildings at Anandale, Fairfax county, Virginia. This deponent further declares that the houses and barns owned by Professor J. O. Armes at Anandale were destroyed at the same time; that the order for the destruction of the houses and barns in that vicinity was deemed a military necessity at the time, and that the object for thus ordering the destruction of said houses and barns was to clear the place of rebel pickets who would secrete themselves and shoot down Federal pickets and soldiers; and further, that this deponent has no pecuniary interest in the matter.

MAX P. AMELUNSON,  
Captain Sixty-Eighth Regiment New York Volunteers.

Sworn to and subscribed.

JOHN H. JOHNSON, Jr.,  
Justice of the Peace.

[L. S.]

Mr. WASHBURN, of Illinois. Is that the kind of evidence by which they support claims in the courts of Minnesota?

Mr. HALE. The affidavit which has been read establishes the fact, if any more evidence was necessary for that purpose, that the property was destroyed by our own troops under the authority of United States officers, in order for the more successful prosecution of the war in that quarter; and the law read by the gentleman from Illinois establishes the fact that every just Government recognizes its obligation to make just compensation for property taken for its own use or destroyed by its authorized officers. We do not propose to pay for property destroyed by the rebels, but by our own Government. Is it possible that our Government has arrived at that stage that it will take the property of its own citizens for any purpose whatever and refuse to make compensation? If we are too poor to do that we are too poor to prosecute this war. But I deny that we are too poor to do justice by our citizens. We would not deserve the name of a Government if we did not compensate citizens for our own acts. And the gentleman from Illinois entirely overrates the amount which will be required to pay for these losses.

Now, I claim to know something upon this subject. The whole amount of the claims presented to the Committee of Claims at this session will not amount, in my judgment, to \$150,000. The largest claim is that of the Columbia bridge; the others are all of small amount. But I care not whether they amount to one million or five million dollars; if the claims are just and right we ought to allow them. The only question in a case of this sort is, is it right, is it just? Every claim, I trust, when it comes before Congress will be decided upon its own merits. We are not compelled to ask the opinion of Mr. Whiting what we ought to do. We are competent to decide the question for ourselves. When a claim comes here let us examine the case and decide upon the merits, and when we want Mr. Whiting's opinion whether we ought to pay our just debts or not, we will ask it. In my opinion, the honor of the Government, which he says will be stained by paying these claims, will be much more injured by not paying them. Our honor can never be hurt by paying our just debts.

Mr. WASHBURN, of Illinois. The gentleman misunderstood me. I did not say our honor would be stained by the payment of these claims.

Mr. HALE. I did not say the gentleman did; but Mr. Whiting says our honor will not be preserved if we pay these claims.

Mr. WASHBURN, of Illinois. I suppose he meant that if we paid all these claims brought in in this way we could not pay other claims, and therefore maintain our honor.

Mr. HALE. Well, that may be so. His letter speaks for itself. I hold that we cannot maintain our honor by not paying these claims, if they are just and right.

Now, Mr. Speaker, I do not wish to take up the time of the House in discussing this claim. I think it is fully understood. There is no dispute about the facts, about the loyalty of Mr. Armes, or about his poverty; and with all due respect to the gentleman from Illinois, I think his poverty is a reason why we should pass this bill now, and not postpone it until next session. If it were the claim of a rich man it might more properly be postponed, but Mr. Armes has nothing; you have taken his all, and consequently what we give him we must give him promptly, to save him from starvation. He is an old man, a poor man, a weak and sickly man, and I hold that it is our duty to act in this matter now. I therefore demand the previous question.

Mr. WASHBURN, of Illinois. I appeal to the gentleman, inasmuch as I acted under a misapprehension, to withdraw the demand for the previous question, and let me make the motion to postpone, so that the House may pass upon it.

Mr. HALE. I prefer not to do it.

Mr. WASHBURN, of Illinois. Then I hope the House will vote down the previous question.

Mr. HALE. And I hope not.

Mr. HOLMAN. Will the gentleman from Pennsylvania yield to me for a moment?

Mr. HALE. For what purpose?

Mr. HOLMAN. A question has been raised as to whether this claim is before the Court of Claims or not.

Mr. HALE. It is not before the Court of Claims. I have received information from Mr. Armes since this case came up that it is not before the Court of Claims at all.

The previous question was seconded—ayes 69, noes 34.

The main question was then ordered to be put. The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. HALE demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. WASHBURN, of Illinois, demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 84, nays 36; as follows:

YEAS—Messrs. James C. Allen, Baily, Jacob B. Blair, Brooks, William G. Brown, Chandler, Cobb, Coffroth, Cox, Cravens, Thomas T. Davis, Dawes, Driggs, Eden, Edgerton, Eldridge, Finck, Gooch, Griswold, Hale, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Holman, Hotchkiss, Asahel W. Hubbard, Philip Johnson, William Johnson, Julian, Knabfsch, Kasson, Kelley, Francis W. Kellogg, Kernan, King, Knapp, Law, Lazear, Long, Longyear, Mahory, Marcy, McAllister, McBrine, McClurg, McIndoe, William H. Miller, Moorhead, James L. Morris, Morrison, Amos Myers, Leonard Myers, Nelson, Noble, Charles O'Neill, John O'Neill, Patterson, Pendleton, Perry, Pruyn, William H. Randall, Ross, Scott, Smith, William G. Steele, Stevens, Stiles, Strouse, Stuart, Thayer, Thomas, Tracy, Wadsworth, Webster, Whaley, Wheeler, Joseph W. White, Wilder, Windom, Fernando Wood, and Yeaman—84.

NAYS—Messrs. Alley, Allison, Ames, John D. Baldwin, Beaman, Boutwell, Freeman Clarke, Dixon, Eckley, Elliot, Garfield, Higby, John H. Hubbard, Hubbard, Ingersoll, Jenckes, Orlando Kellogg, Lunn, Norton, Perkins, Pike, Pomeroy, Price, Radford, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shaunon, Sloan, Smithers, Spalding, Upson, Elihu B. Washburne, William B. Washburn, and Wilson—36.

So the bill was passed.

Mr. HALE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### LEGISLATIVE APPROPRIATION BILL.

Mr. STEVENS, from the Committee of Ways and Means, reported back the Senate amendments to the bill (H. R. No. 192) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th June, 1865, and moved that the amendments be printed, and their consideration postponed till Monday next, after the morning hour.

Mr. WASHBURN, of Illinois. I move that the House do now adjourn.

Mr. COX. I ask the gentleman to withdraw the motion to allow me to offer a resolution.

Mr. WASHBURN, of Illinois. Let us hear the resolution.

Mr. COX. I ask leave to offer the following resolution:

*Resolved*, That the forcible seizure by the Federal military authorities at New York of the offices of the New York World and Journal of Commerce, and the suspension of those papers for the innocent publication of a forged State paper, is an act unwarranted by the circumstances connected with said publication, an arbitrary outrage on the constitutional rights of citizens, and deserves the reprobation of every friend of public liberty and private rights.

Mr. FARNSWORTH. I object.

#### QUARTERMASTER'S DEPARTMENT.

Mr. SCHENCK, by unanimous consent, reported back from the Committee on Military Affairs a bill (S. No. 134) to provide for the better organization of the quartermaster's department; which was ordered to be printed and recommitted.

#### PREVENTION OF SMUGGLING.

Mr. ELIOT asked unanimous consent to report back from the Committee on Commerce a bill to prevent smuggling, and for other purposes, in order to have the same recommitted and ordered to be printed.

Mr. JOHNSON, of Pennsylvania, objected.

Mr. WASHBURN, of Illinois. I renew my motion that the House do now adjourn.

Mr. SMITH called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 68, nays 48; as follows:

YEAS—Messrs. Alley, Blaine, Jacob B. Blair, Boutwell, Freeman Clarke, Cole, Cox, Cravens, Dawson, Dixon, Eckley, Eden, Edgerton, Eldridge, Farnsworth, Finck, Gooch, Griswold, Hall, Harding, Harrington, John H. Hubbard,



Jenckes, Philip Johnson, William Johnson, Kalbfleisch, Knapp, Law, Long, Mallory, Marcy, McAllister, McBride, McIndoe, William H. Miller, Moorhead, Morrison, Leonard Myers, Nelson, Norton, John O'Neill, Perry, Pike, Pomeroy, Pruyn, Alexander H. Rice, Scofield, Shannon, Smithers, Spalding, William G. Steele, Stevens, Stiles, Strouse, Stuart, Sweat, Tracy, Upson, Wadsworth, Ward, Elihu B. Washburne, Webster, Whaley, Wheeler, Joseph W. White, Wilson, Fernando Wood, and Yeaman—68.

**YAYS**—Messrs. Allison, Ames, John D. Baldwin, Brooks, William G. Brown, Cobb, Coltoth, Dawes, Donnelly, Driggs, Eliot, Grinnell, Hale, Charles M. Harris, Herrick, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, King, Loan, Longyear, McClurg, James R. Morris, Amos Myers, Noble, Charles O'Neill, Orth, Patterson, Perham, Price, Radford, William H. Randall, John H. Rice, Ross, Schenck, Smith, Thayer, William B. Washburn, Wilder, Windom, and Woodbridge—48.

So the motion was agreed to.

The House thereupon (at a quarter to four o'clock p. m.) adjourned till Monday next.

## IN SENATE.

SATURDAY, May 21, 1864.

Prayer by the Chaplain, Rev. Dr. BOWMAN.

The Journal of yesterday was read and approved.

### SENATOR FROM ARKANSAS.

Mr. LANE, of Kansas. I present the credentials of Hon. WILLIAM M. FISHBACK, elected a member of this body from the State of Arkansas, which I ask to have read. As the Senate is not full to-day, on consultation with some other Senators, I will not make a motion that Mr. FISHBACK be sworn in as a member until Monday.

The **PRESIDENT pro tempore**. The credentials will be read for information.

The Secretary read them, as follows:

*State of Arkansas, to wit:*

The General Assembly of this State on the 5th day of May, 1864, having, in pursuance with the Constitution of the United States of America, chosen WILLIAM M. FISHBACK a Senator of the United States to fill the unexpired term of William K. Sebastian.

Therefore, I, Isaac Murphy, Governor of the State of Arkansas, do hereby certify the same to the Senate of the United States.

[L. S.] Given under my hand and the seal of the State of Arkansas, this 7th day of May, 1864.

ISAAC MURPHY,  
Governor of Arkansas.

By the Governor:

ROBERT J. T. WHITE, Secretary of State.

The **PRESIDENT pro tempore**. The credentials will lie upon the table.

Mr. SAULSBURY. I wish to make an inquiry of the Chair whether this would be the proper time, or on Monday, when it is suggested the motion will be made to swear in the Senator from Arkansas, to move to refer these credentials to the Committee on the Judiciary with power to inquire into the election and qualifications of the person who is proposed to be admitted as a member of the body. If Monday will be the proper time I will wait until Monday, and then if any other Senator desires to make the motion I will not make it.

Mr. LANE, of Kansas. There is no question as to the regularity of the credentials. According to the precedent established in the session before the last, I think the proper motion would be to refer the motion to swear in the member.

Mr. HOWARD. I should like to be informed as to what the proposition before the Senate is.

The **PRESIDENT pro tempore**. There is no distinct proposition before the Senate.

Mr. HOWARD. Then if it be in order I move that the Senate proceed to the consideration of the order of the day, the unfinished business of yesterday, the Pacific railroad bill.

The **PRESIDENT pro tempore**. That is not now in order.

Mr. CONNESS. Prior to that motion, I move that the credentials presented be referred to the Committee on the Judiciary.

Mr. LANE, of Kansas. I ask the Senate not to act on that motion immediately. I should like the whole question to come up on Monday.

Mr. CONNESS. I am perfectly willing that the motion shall lie over.

The **PRESIDENT pro tempore**. That course will be taken if there be no objection. The credentials will lie, with the motion, on the table.

### COMMISSIONER OF PUBLIC BUILDINGS.

Mr. FOOT. I move, and I ask the indulgence of the Senate, to take up for consideration at this time Senate bill No. 43, relating to the office of

Commissioner of Public Buildings; and on that motion I have a word of remark by way of explanation.

This bill has been on the Calendar for more than four months. It has been twice taken up for action, partially considered, and superseded by the special orders. I have deferred, on several occasions, calling it up for action, in deference to the wishes and convenience of the Senators from Indiana, at their request, in consequence of the absence of one of the Senators at the time, not being disposed to take any advantage of the absence of any Senator who felt an interest in this question. I therefore move to take it up for consideration at this time. If the motion is carried, when the bill is before the Senate, I shall very cheerfully give way for the introduction of the ordinary business of the morning hour.

Mr. COLLAMER. I had hoped that the unfinished business of the morning hour of yesterday, being the bill for the establishment of a line of ocean steamers to Brazil, might be taken up this morning, if we took up anything except the ordinary calls of the morning business. In the state in which that bill stands unfinished, I desire to have it closed.

Mr. FOOT. I will say in reply to the suggestion of my colleague that this bill has been twice up before, and partially considered, and superseded by the special orders of the day and left as the unfinished business twice, but there is no rule giving precedence to the unfinished business of the morning hour.

The **PRESIDENT pro tempore**. Is there any objection to the present consideration of the bill? The Chair hears none, and the bill is before the Senate. With the indulgence of the Senator from Vermont the Chair will now receive petitions and memorials.

### PETITIONS AND MEMORIALS.

Mr. FOOT presented memorials of citizens of the towns of Castleton and Milton, Vermont, and a memorial of citizens of the town of Granville, New York, remonstrating against the extension of the Goodyear patent for the manufacture of vulcanized India rubber; which were referred to the Committee on Patents and the Patent Office.

Mr. SHERMAN presented a memorial of citizens of the State of Ohio, remonstrating against the extension of the Goodyear patent for the manufacture of vulcanized India rubber; which was referred to the Committee on Patents and the Patent Office.

### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the following bills and joint resolution; in which it requested the concurrence of the Senate:

A bill (No. 161) for the relief of Josiah O. Armes;

A bill (No. 195) for the relief of Margaret I. Stevens, widow of General Isaac I. Stevens;

A bill (No. 240) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1865;

A bill (No. 293) to provide for the payment of the second regiment, third brigade, Ohio volunteer militia, during the time they were mustered into the service of the United States;

A bill (No. 314) for the relief of Harriet and Emily W. Morris, unmarried sisters of the late Commodore Henry W. Morris;

A bill (No. 345) for the relief of Frederick A. Beelen, late secretary of legation to Chili;

A bill (No. 346) for the relief of Dr. Charles M. Wetherell;

A bill (No. 347) for the relief of Martha Jane Skaggs;

A bill (No. 387) for the relief of Solomon Parsons;

A bill (No. 389) for the relief of Mary Shircliff;

A bill (No. 390) for the relief of Emily A. Lyon;

A bill (No. 391) granting an invalid pension to William Burns, of Ohio;

A bill (No. 392) for the relief of Edward Williams;

A bill (No. 394) for the relief of Mary Scales Accardi;

A bill (No. 419) for the relief of Peter Anderson, of the District of Columbia;

A bill (No. 436) granting a pension to Rebecca Scott, widow of Major John B. Scott, late of the United States Army;

A bill (No. 461) for the relief of John C. McConnell;

A bill (No. 478) for the relief of Charles M. Pott; and

A joint resolution (No. 48) for the relief of Aaron T. Doll.

### HOUSE BILLS REFERRED.

The following bills and joint resolution from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 161) for the relief of Josiah O. Armes—to the Committee on Claims.

A bill (No. 195) for the relief of Margaret L. Stevens, widow of General Isaac I. Stevens—to the Committee on Indian Affairs.

A bill (No. 240) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1865—to the Committee on Finance.

A bill (No. 293) to provide for the payment of the second regiment, third brigade, Ohio volunteer militia, during the time they were mustered into the service of the United States—to the Committee on Military Affairs.

A bill (No. 314) for the relief of Harriet and Emily W. Morris, unmarried sisters of the late Commodore Henry W. Morris—to the Committee on Pensions.

A bill (No. 345) for the relief of Frederick A. Beelen, late secretary of legation to Chili—to the Committee on Foreign Relations.

A bill (No. 346) for the relief of Doctor Charles M. Wetherell—to the Committee on Agriculture.

A bill (No. 347) for the relief of Martha Jane Skaggs—to the Committee on Pensions.

A bill (No. 387) for the relief of Solomon Parsons—to the Committee on Claims.

A bill (No. 389) for the relief of Mary Shircliff—to the Committee on Pensions.

A bill (No. 390) for the relief of Emily A. Lyon—to the Committee on Pensions.

A bill (No. 391) granting an invalid pension to William Burns, of Ohio—to the Committee on Pensions.

A bill (No. 392) for the relief of Edward Williams—to the Committee on Pensions.

A bill (No. 394) for the relief of Mary Scales Accardi—to the Committee on Pensions.

A bill (No. 419) for the relief of Peter Anderson, of the District of Columbia—to the Committee on Pensions.

A bill (No. 436) granting a pension to Rebecca Scott, widow of Major John B. Scott, late of the United States Army—to the Committee on Pensions.

A bill (No. 461) for the relief of John C. McConnell—to the Committee on Claims.

A bill (No. 478) for the relief of Charles M. Pott—to the Committee on Pensions.

A joint resolution (No. 48) for the relief of Aaron T. Doll—to the Committee on Claims.

A bill (No. 477) to abolish the collection districts of Cape Perpetua and Port Orford.

Mr. CHANDLER. I ask that that bill be put on its passage. The committee have already reported a similar bill. There are only two lines to it, and I ask unanimous consent to put it on its passage now.

Mr. NESMITH. I prefer that the bill should be passed over.

The **PRESIDENT pro tempore**. It will be referred to the Committee on Commerce.

### COMMISSIONER OF PUBLIC BUILDINGS.

The Senate resumed the consideration of the bill (S. No. 43) relating to the office of Commissioner of Public Buildings, the question being on ordering it to be engrossed for a third reading.

Mr. LANE, of Indiana. Mr. President, it will be remembered that when this subject was last before the Senate I spoke somewhat at length and gave the reasons for my opposition to this bill. I do not desire now to trespass on the time of the Senate by repeating those reasons. I am more and more satisfied, however, by subsequent reflection that I was correct in those conclusions. I wish now simply to have a letter of the Secretary of the Interior, addressed to the committee,

read, which will put the Senate in possession of all the facts, and then so far as I am concerned I am willing that the vote shall be taken.

The PRESIDENT *pro tempore*. The letter will be read if there be no objection.

The Secretary read it, as follows:

DEPARTMENT OF THE INTERIOR,  
WASHINGTON, D. C., January 22, 1864.

SIR: I have the honor herewith to communicate for the information of yourself and the Committee on Public Buildings and Grounds of the Senate, copies of reports recently made to me by the architect and superintendent of the Capitol extension, and other papers, which explain to some extent my action with reference to the matters to which they relate.

It will be perceived from my letter to Mr. Walter of the 11th instant, (paper marked E,) that I was induced to call for a report from him in consequence of the conversation you had held with me upon the subject. For the same reason I directed Mr. West, the superintendent and disbursing agent, to make the detailed report of expenditures herewith furnished, marked B.

I presume I am not mistaken in the inference that Senate bill No. 43 was subsequently introduced by you in consequence of your belief that there had been and was still some mismanagement in the prosecution of the work on the Capitol extension, and that the public interest required that not only that edifice but the Patent Office building also should be withdrawn from the supervision and control of this Department and committed to the care of the Commissioner of Public Buildings and Grounds. If this inference is correct, I am of course chargeable with the supposed mismanagement.

That the work might have progressed with greater rapidity and with more economy under the control of another is quite possible; but I would gladly convince you, if the fact will justify it, that my action in the premises has been discreet, and that I have been actuated solely by a desire to practice the utmost economy the nature of the case would justify. Since the work has been under my control but few contracts have been made. Those were for bricks and coal.

Every care was taken to conserve the public interests, and I am confident the articles needed were procured at the lowest possible rates. The principal contracts had all been made when the work was first commenced, and I had only to see that they were faithfully executed. You will remember that, in consequence of the prohibitions contained in certain recent acts of Congress against the decoration and embellishment of the Capitol, by sculpture or painting, or other works of illustrated art, and with a view to avoid what seemed to me an unnecessary expenditure of public money at this particular juncture of national affairs, I suspended the execution of the contract with Mr. Brumedi, for painting the canopy over the eye of the dome, at an expense of \$40,000, as soon as I had become aware of its existence, until I was assured by you that the appropriation made by the act of 3d March, 1863, expressly contemplated that work of art, and that in consequence of such assurance, and by your advice, I allowed Mr. Brumedi to resume and continue his labors until I found that the work was not progressing in just proportion to the payments which had been made to him, when I directed that no further advances should be made to him until the work should justify it.

You will perceive from my letter to Mr. West, of the 1st of July, 1863, (paper marked D,) that I entertained the opinion that more economy could and ought to be attained in the prosecution of the work on the Capitol extension and new dome; and while the changes made in its management have not resulted in as great a reduction of expenditure as I had anticipated, something has been saved to the Treasury, and a more thorough and satisfactory control over the work obtained.

I feel it my duty to say a word in justification of the appointment of Captain West as general superintendent and disbursing agent of the Capitol extension.

Mr. French, the disbursing agent, and Mr. Walter, the architect, addressed a communication to this Department, setting forth in strong terms the necessity then existing for the appointment of a general superintendent possessing a knowledge of architectural design and of those branches of mechanical and mathematical science which relate to the principles of construction and of the nature and property of materials. A copy of that communication is herewith, marked C. At the period of its date Mr. Huestis was the superintendent of the stone work, but, notwithstanding the skill in the art claimed for him, both those gentlemen seem, then, to have been of the opinion that it was not adequate for the purpose required. It came to my knowledge that Messrs. French and Walter had previously concluded to address a joint communication to my predecessor, advising him of the incompetency of Mr. Huestis for the position he then held, but for certain reasons, other than a satisfaction with his ability, postponed it. I found that the returns made by him as a basis for the adjustment of the accounts of some of the contractors were not to be relied upon, and that, in consequence of his incapacity, the books of the contractors themselves had to be referred to in order to a settlement of their claims against the Government; and serious objections, not necessary here to mention, appearing against other employees on the work, I determined to have a thorough overhauling of the entire management, and knowing that Captain West possessed all the qualifications for such a general superintending as Messrs. French and Walter had deemed necessary, I appointed him in the first place chief clerk, and, subsequently, disbursing agent and general superintendent of the work. He was an architect of at least average skill in his profession, having been a pupil of Mr. Walter, and had spent much time upon the building and acquired a knowledge of its details. I knew him to be a scholar, and possessed of superior clerical ability, and, withal, a man of the strictest integrity and of more than ordinary capacity. He had been recommended to the President at the commencement of the present Administration by many Senators and Repre-

sentatives, as well as prominent citizens of Washington and Georgetown, for appointment to the office of Commissioner of Public Buildings and Grounds. He had served in the Army as assistant quartermaster to the entire satisfaction of the Department until his health became seriously and permanently impaired by exposure. He had been favorably noticed in public orders, and complimented by officers with whom he had served for his fidelity and efficiency. He had manifested his conscientious and disinterested sense of duty by preferring to resign his commission rather than to receive the pay of his rank without being able to perform the duties pertaining to it. I had full faith in him. I wanted just such a man as I knew him to be, and I appointed him. I also devolved upon him the disbursement of the appropriation for the completion of the Washington aqueduct, and thereby effected a further saving of expense to the Government. In this connection I may also state that since the 1st of March, 1863, Mr. Walter, without additional compensation, has performed the duties of architect of the Patent Office building, for which a salary of \$2,000 per annum had for some time previously been paid. He was reluctant to supersede the very acceptable and accomplished gentleman who then occupied that position, but I was determined to practice as much economy as possible, and imposed those duties upon him.

The accompanying copy of Mr. Walter's report to me of the 14th instant, marked A, will show in detail the work that has been done with the small appropriation made at the last session of Congress, and what remains to be done. It will also appear therefrom that the only cause of failure to finish the two eastern porticos and steps of the Capitol extension, before the assembling of the present Congress, was the want of marble, which the contractors found it impossible to supply in time, and not the result of any changes the Department saw proper to make in the superintendence and organization of the working parties.

The copy, herewith sent, of the report of the disbursing agent and general superintendent, marked B, will exhibit the total expenditures on the work, and also the cost of the clerical and other administrative force employed on the Capitol extension and new dome in each month of the year 1863. It will be seen from it that while the entire expenditures on the work from the 1st of January to the 30th of June amounted to but \$236,539 14, the cost of the clerical and administrative force employed was \$12,215 75; and that although the expenditures from the 1st of July (the date when Captain West took charge as disbursing agent and general superintendent) to the 31st of December amounted to \$255,359 70, the cost of the clerical and administrative force employed was only \$9,081 57, showing an actual saving in six months of over \$3,000 in the executive branches of the work, and a saving, all things considered, of over \$7,000 per annum.

Until the year 1849 the Commissioner of Public Buildings was under the supervision and control of the President of the United States. It had then become manifest that amidst his numerous legitimate cares of State it was impossible for the President to exercise that proper and necessary supervision over the acts, expenditures, &c., of the Commissioner of Public Buildings as was called for by the theory and practice of our Government toward all disbursing officers and agents, and by the ninth section of the act of the 3d March, 1849, creating this Department, that officer was placed under the control of the Secretary of the Interior by the enactment in the following words:

"Sec. 9. And be it further enacted, That the supervisory and appellate powers now exercised by the President of the United States over the Commissioner of Public Buildings shall be exercised by the Secretary of the Interior, who shall sign all requisitions for the advance or payment of money out of the Treasury, on estimates or accounts, subject to the same adjustment or control now exercised on similar estimates or accounts by the First Auditor and First Comptroller of the Treasury: *Provided*, That nothing in this section contained shall be construed to take from the Presiding Officers of the two Houses of Congress the power now possessed by them to make and enforce rules and regulations for the care, preservation, orderly keeping, and police of the Capitol, and its appurtenances." (See volume 9 Statutes, p. 396.)

Until the year 1854, the Commissioner of Public Buildings transmitted his estimates and made his annual reports to Congress direct. But in that year, and while the present incumbent held that office, Congress saw fit to enact the fifteenth section of the appropriation act of August 4, 1854, which is in these words:

"Sec. 15. And be it further enacted, That hereafter the warden of the penitentiary of the United States for the District of Columbia and the Commissioner of Public Buildings and Grounds shall make to the Secretary of the Interior annually, in time to accompany the annual message of the President to Congress, report of their operations for the preceding year, and of the manner in which all appropriations have been applied respectively; and that all estimates of the Commissioner of Public Buildings and Grounds shall hereafter be approved and submitted by the Secretary of the Interior annually, through the Treasury Department, as other estimates, to the two Houses of Congress. And further, that all appropriations which are herein made, or may be hereafter made, for repairs or improvements of the public buildings, grounds, and streets within the District of Columbia, and now under the charge of the Commissioner of Public Buildings and Grounds, shall be expended under the direction of the Secretary of the Interior; and that all laws or parts of laws inconsistent with this section shall be, and the same are hereby, repealed." (See volume 10 United States Statutes at Large, pages 573, 574, 575.)

On the 16th of April, 1862, Congress enacted a joint resolution in the following words:

"Resolved, \* \* \* \* \* That the supervision of the Capitol extension and the erection of the new dome, be, and the same is hereby, transferred from the War Department to the Department of the Interior, and all unexpended money which has been heretofore appropriated, and all money which may be hereafter appropriated, for either of the improvements heretofore mentioned, shall be expended

under the direction and supervision of the Secretary of the Interior: *Provided*, That no money heretofore appropriated shall be expended upon the Capitol until authorized by Congress, except so much as is necessary to protect the building from injury by the elements, and to complete the dome." (See volume 12, page 617, Statutes at Large.)

Senate bill No. 43 proposes to repeal all this and other legislation, and to place the Capitol extension and new dome and Patent Office building, and all appropriations that may hereafter be made for public buildings and grounds belonging to the United States, in the city of Washington, under the control of the Commissioner of Public Buildings and Grounds, who is to draw all his requisitions upon the Treasury direct, and to place his office under the supervision and control of the President of the United States. If, now, the President, with his multiplied cares and responsibilities, can now exercise that supervision and control over the acts and doings of the Commissioner of Public Buildings which he could not do prior to the year 1854, it is difficult to perceive; nor is it apparent from any public considerations, why the office of Commissioner of Public Buildings and Grounds should now be released from the customary restraints and supervision which Congress deemed it expedient and necessary by special enactment to place over it in that year.

I beg to assure you that this communication is not prompted by any desire on my part to retain control over, or official connection with, these public works or the office of Commissioner of Public Buildings and Grounds; but simply to repel by a simple statement of facts the implied censure of my official action in reference to them. That Mr. French, the Commissioner of Public Buildings and Grounds, was annoyed at my relieving him of the duty of disbursing the appropriation for the Capitol extension and new dome, I am aware; but he had ceased to be legally entitled to receive any compensation therefor, and I knew that the ordinary duties of his office, if properly performed, were sufficiently onerous to demand all his time and attention. It never occurred to me that he would complain of being relieved from a fiduciary trust which yielded him no emoluments, but only increased his labors and responsibilities; and, even if it had, I should not have been thereby deterred from making a change which I deemed to be called for by the best interests of the Government.

It is, of course, quite immaterial to me whether the supervision and control over the acts and expenditures of the Commissioner of Public Buildings and Grounds remain with this Department or not, but that the public interests require that such supervision and control should be exercised by the President or the head of some one of the Executive Departments, my experience places beyond a doubt; and that it is wholly impossible for the President to exercise it must, I think, be manifest. I beg to disclaim any purpose of dictating as to what legislation is proper or necessary on the subject, but am confident that a full inquiry into all the facts will show conclusively that the supervision I have exercised over his official acts, has resulted beneficially to the public.

I have the honor to be, sir, very respectfully, your obedient servant,

J. P. USHER,  
Secretary.

Hon. SOLOMON FOOT, U. S. Senate, Chairman of Committee on Public Buildings and Grounds.

The PRESIDENT *pro tempore*. The question is on ordering the bill to be engrossed and read a third time.

Mr. LANE, of Kansas. I think that before the bill passes that letter should be printed and read by Senators. I should like to read it. I will move that the further consideration of this bill be postponed until Monday, and that the letter of the Secretary be printed.

Mr. FOOT. I hope, sir, it will not be postponed for the third time. The Senators from Indiana will bear me witness that I have exhibited every courtesy and indulgence that could be reasonably asked, and it has been delayed on that account. I desired to meet their wish and their convenience on this question, and hence it has been delayed to this time after having been upon the Calendar four months, twice taken up and partially considered, and superseded by the special order of the day. A postponement now would be equivalent to a defeat of the bill, and I should abandon all hope of getting it up again. This letter was addressed to myself as chairman of the Committee on Public Buildings and Grounds, was read in committee, was delivered to the Senator from Indiana, [Mr. LANE,] and he has had it in his possession from that time to this. It has been read in the hearing of the Senate, and will be published of course in the debates of the body as part of the speech or connected with the speech of the Senator who introduced it, the Senator from Indiana. I hope the bill will not be postponed.

If there are no further remarks to be made by Senators in opposition to the bill, I will occupy, with the indulgence of the Senate, a very brief time in a general exposition again of the character of the bill.

Mr. LANE, of Kansas. I have no objection to withdraw my motion until the Senator makes his speech.

Mr. FOOT. I had hoped, however, to hear all

that was to be said in opposition to it before I should be called upon to reply.

Mr. LANE, of Kansas. I have no speech to make. I am opposed to the passage of the bill, and I should like to have the privilege of reading that letter.

The PRESIDENT *pro tempore*. Does the Senator withdraw his motion?

Mr. LANE, of Kansas. Yes, sir.

The PRESIDENT *pro tempore*. The motion is withdrawn, and the Senator from Vermont is entitled to the floor.

Mr. FOOT. I will ask the indulgence of the Senate, Mr. President, for a short time, while I may reply, as briefly as I may, to some points of objection which have been urged against the passage of this bill, both by the Secretary of the Interior, in the letter which has been read in our hearing, and by one or two members of the body who have addressed the Senate in opposition to it, so far at least as to correct some errors of fact into which they have fallen, inadvertently, no doubt, and to remove, if possible, a strange misapprehension in respect to the purport and object and effect of the bill under consideration.

It has been made an objection to the passage of this bill, in the first place, that its passage will carry with it a sort of implied censure or rebuke of the action of the Secretary of the Interior. I remember that my honorable friend, the Senator from Indiana, [Mr. HENDRICKS,] very emphatically asked, "Why rebuke the Secretary of the Interior?" The simple answer to that inquiry is, that nobody proposes or has proposed or thought of proposing to rebuke the Secretary of the Interior. Nothing of the kind is intended. Nothing of the kind can fairly be inferred from the bill itself. Nothing of the kind, I undertake to say, can be reasonably extorted from the character and nature of the bill; and the Senator will allow me to say, in all kindness, that I cannot regard it as quite generous on his part to attempt to place me, or the committee which I represent here, in an attitude of apparent or seeming antagonism to the Secretary of the Interior, a gentleman for whose integrity of character I have a high respect, and in the honesty of whose motives I have entire confidence.

This is but an ordinary act of legislation, a mere matter-of-fact business legislation, and not one of unusual character by any means. But two years ago the joint resolution to which the Secretary refers in his letter, introduced by myself and passed both branches of Congress, transferred the supervision of these works from the War Department to the Department of the Interior. Was that act regarded by anybody as carrying with it an implied censure of the Secretary of War? Sir, the idea was never thought of, much less was it urged as an argument or a reason against the transfer.

But besides, Mr. President, this bill, as amended by recommendation of the committee and concurred in by the Senate, does not at all take from nor in the slightest degree restrict the appellate and supervising power and direction of the Secretary of the Interior over the official acts of the Commissioner of Public Buildings. It simply assigns to the Commissioner of Public Buildings the general personal superintendence of those works instead of having it assigned, as now, to a mere agent, a new or additional officer created by the Secretary of the Interior to act as his agent in this matter.

The office of Commissioner of Public Buildings is itself a part or branch of the Department of the Interior, and all its acts are subject to the general supervision and control of the Secretary of the Interior. It stands upon the same footing in relation to that Department as does the office of Commissioner of Patents, or of the Commissioner of the General Land Office, or of the Commissioner of Pensions, or of the Commissioner of Indian Affairs, all of whose acts are subject to the official supervision and control of the Secretary of the Interior.

This bill does not remove from the Secretary of the Interior any appellate and supervisory control over the acts of the Commissioner of Public Buildings, as conferred upon him by the general act of 1849, establishing a Home Department, or Department of the Interior, as it is called, by combining all these several offices under one general head or Department. These are, indeed, but

different parts or branches of the Department of the Interior, and constitute that Department. The bill, therefore, so far from removing the general supervision of these works from the control and direction of the Department of the Interior, simply assigns it to a member of that Department, to the head of a branch or bureau of that Department, and whose official acts are at all times subject to the appellate and supervisory power of the Secretary of the Interior. This objection is therefore obviated by the bill as amended upon the recommendation of the committee.

It is also said, rather by way of excuse or apology for the appointment of this general superintendent than as an argument or reason for having originally made it, and much less for its present continuance, that the appointment was made by the request and upon the recommendation of the architect and the Commissioner, Mr. Walter and Mr. French. What if it were so? Does that preclude all action of Congress in the matter? May we not inquire into and determine for ourselves, nevertheless, whether this appointment was demanded or called for by any considerations of public interest or of public advantage as connected with these works? Most assuredly we may.

But, Mr. President, what is the fact relative to these gentlemen having recommended this appointment? They never recommended or asked for the appointment of the present superintendent. The letter alluded to has been read, or, if not read, its substance was stated by the honorable Senator from Indiana when he was upon the floor on this question some time ago, and it was this: in August, 1862, as will appear from the date of that letter, these gentlemen addressed a note to the then Secretary of the Interior, Hon. Caleb B. Smith, advising the appointment, of whom? Not the present superintendent, but advising the appointment of Mr. Edward Clark, then the architect of the Patent Office building, and a gentleman of acknowledged high personal and professional character. Mr. Smith, however, did not see fit to make the appointment; probably for the reason either that he had not, in his own judgment, the authority to make such an appointment, or that, if he had, there was no necessity and no occasion for the creation of such an agency or superintendency. Either reason was abundantly sufficient. Certainly if there was no authority for it in 1862 when Mr. Smith declined to make the appointment, there was none in 1863, when the appointment was made by his successor. If there was no necessity and no occasion for such an appointment in 1862, when Mr. Secretary Smith declined to make it, there was certainly none in 1863, when the work had advanced still further toward the point of completion, when the work was confined to a comparatively small portion of the building, and the force formerly employed upon it had been greatly reduced.

But, sir, the practical question recurs, is there any necessity, is there any occasion for the appointment of a general superintendent of this work aside from and in addition to that general supervision and oversight which the architect, by virtue of his office, and which the Commissioner of Public Buildings, by virtue of his office, would exercise? If there is, and if there be authority on the part of the Secretary of the Interior to make such an appointment, and if economy and efficiency in the prosecution of these works require this agency, let it stand; otherwise, let it be discontinued, and this item of four or five thousand dollars for salaries be saved to the Government.

Again, it is urged as an objection to the passage of this bill and to the discontinuing of this office of general superintendent, that economy and efficiency in the prosecution of the work have been secured by it. That is a legitimate argument if it can be sustained by the facts. That is really the practical question and the only practical question before us in the consideration of this bill. Now, how is that fact? Is it so? Is it true that a greater economy and a greater efficiency in the prosecution of these works have been secured by the appointment of this superintendent, who commenced the duties of that office now nearly a year ago, the 1st of July, 1863? The Secretary of the Interior says so; but upon what authority does he say it? Not from his own personal knowledge, not from his own personal observation of the progress of these works from year to

year and from month to month and from day to day; but he makes that statement solely upon the authority of the statement of his superintendent, the person of all others most directly and deeply interested in this very question now pending before us—interested, indeed, to magnify the importance of the office which he holds, and above all to magnify the importance and the value of his own services. And what evidence does he adduce to you to show that under his administration there has been a greater economy and efficiency in the prosecution of these works than before? Undoubtedly he would present the best case for himself that the facts and circumstances would admit of; and it is simply this: he makes an exhibit in parallel columns of the quarterly disbursements for the Capitol extension for the six months immediately preceding his appointment, that is, from the 1st of January to the 1st of July, 1863, and of the aggregate quarterly disbursements for the six months immediately succeeding his appointment, and comparing the two, he shows in that way an excess of between eighteen and nineteen thousand dollars of expenditure during the first six months of his administration over that of the preceding six months; and in the meanwhile that he had paid some two thousand three hundred dollars more than had been paid the preceding six months for mechanical and other labor; thus showing, as he says—and I will read his own words, for I have a copy of his letter addressed to the Secretary of the Interior, I think sometime in the month of January past and immediately after the introduction of this bill into the Senate—

The PRESIDENT *pro tempore*. The Chair must interrupt the Senator to call up the unfinished business of yesterday.

Mr. FOOT. I ask the indulgence of the Senate, and especially of my friend from Michigan, to postpone the special order for the time being, until, at any rate, I conclude my remarks.

Mr. HOWARD. I shall be happy to extend any courtesy to my friend from Vermont, but I suppose he will be able to assure the Senate that he will not occupy much further time on this question.

Mr. FOOT. I will not occupy much time. I never do.

The PRESIDENT *pro tempore*. If there be no objection the special order will be temporarily laid aside, and the Senator from Vermont will proceed.

Mr. FOOT. After making this exhibit and showing how much more had been expended in the same length of time under his administration than had been expended during the same period immediately preceding his appointment, he says this shows "an increase of expense and activity in these branches."

And the Senator from Indiana, upon this exhibit that the present superintendent had expended eighteen or nineteen thousand dollars during the last six months of the last year more than had been expended during the preceding six months, exclaimed, "Why supersede the present superintendent when he shows you that he has expended \$18,000 in six months more than had been expended the six months preceding, thus showing that he had done just so much more work on this building?" I admit, Mr. President, that the superintendent very clearly shows an "increase of expenditure" from the appropriations for these buildings during his administration; but it does not appear quite so clear to my mind how it shows an increased efficiency, or "activity," as he calls it, in the prosecution of these works. That discovery must be left to those whose keener optics will enable them to discover what is not apparent to ordinary observation. And yet the Secretary of the Interior is pleased to accept this inference which the superintendent draws from this exhibit, inconclusive and illogical as it is, as evidence of the fact; that is, as evidence of an increased facility and energy and vigor in the prosecution of these works. It proves no such thing. The grand result, comparing the amount of expenditure for a given time with the progress of the work for the same length of time, shows entirely the contrary.

Near the close of the last session of Congress the House of Representatives, in their miscellaneous appropriation bill, among other items, provided for an appropriation of \$500,000 for the



continuation of the Capitol extension, and the bill came from the House of Representatives with that item of appropriation. The Committee on Public Buildings, upon consultation, thought it advisable that the work for the coming season should be confined to the eastern front of the Capitol; that is, to the north and south wings, to the porticos, the flights of steps at each wing, and the flagging in front of the corridors; in short, that it should be confined to the completion of the work on the eastern side of the Capitol, and to reduce the House appropriation to such sum as would be necessary for the completion of that portion of the work. The Committee on Finance entertained the same view upon this subject. With these views, my colleague, then a member of the Committee on Finance, and for that committee, with myself for the Committee on Public Buildings, called upon Mr. Walter, the architect, and requested him to make an estimate of the cost for the completion of the work on the eastern front of the north and south wings of the Capitol, and to give us his judgment as to the length of time that would be required to complete it. Mr. Walter informed us that in his judgment that work could be completed in nine months, or by the 1st of December following, or by the next meeting of Congress, which was the same thing. He made his estimate of the amount necessary to complete that work, and placed a copy of that estimate in the hands of my colleague, a member of the Committee on Finance, and that estimate was before that committee. They recommended a reduction of the appropriation of the House of Representatives from \$500,000 to \$150,000 for that purpose, that being the estimate made by Mr. Walter as amply sufficient, with the appropriation yet unexpended and on hand of \$184,000, making in all \$334,000, on the 1st of March a year ago, for the completion of the work on the eastern side of the north and south extensions. The appropriation of the House of Representatives was reduced in the Senate to that sum—\$150,000—leaving \$334,000 in hand for the purpose of completing these portions of the work, including in the estimate the cost for the "bronze door," of about thirty thousand dollars.

How did we find it on coming here on the 1st of December last at the time when, according to the estimate of Mr. Walter, the work was to have been completed; and according to the estimate of Mr. Walter, it should have been completed within the appropriation made for it expressly upon his estimate? We found the work about half done, not more. Six months have passed since, and it is far from complete yet, as you all see. But that was not the worst of it. The work was not only merely half completed, but the entire appropriation of \$334,000 was completely exhausted, and we have since appropriated \$150,000 to supply the deficiency. There is evidence for you of "increased activity" in the expenditure of the public money; but tell me, where is the evidence of increased "activity" and efficiency in the prosecution of the work? Six months more have passed, and six months more in addition, I now venture to say, will still pass and the work will be unfinished, still behindhand, a large deficit again to be supplied, and another appropriation asked for to complete it, notwithstanding we have already in the early part of this session appropriated \$150,000 for this deficiency. There may have been abundant and unavoidable cause for delay in the prosecution of the work; but that does not answer the question. I am answering the fallacious and absurd assumption that the amount of expenditure in a given time is to be taken as the measure and the evidence of the amount of work actually performed in that time. A most preposterous pretension, indeed, to be presented for the acceptance of men of practical common sense!

Again, great merit is claimed for the superintendent in reducing the executive or administrative force upon the work, and thus reducing in proportion the expenditure of Government for this class of employes. How was that? Not of his own accord, not of his own motion, but by instructions from the Secretary of the Interior, he recommended the discharge of some three or four overseers or foremen of different branches of the work, and I think some half dozen watchmen. They were discharged, and there was a corresponding reduction of cost to the Government for those employes; and if he had only dismissed

them all while his hand was in, there would have been a still greater reduction of cost to the Government for these employes, provided that none others had been appointed in their place. But the question that naturally arises is this: if there was reason to suppose that this executive force was too large, larger than necessary, that it was costing the Government too much, that a due regard to economy required its reduction, could not that have all been inquired into and ascertained and the proper reductions made by the Secretary of the Interior upon consultation and coöperation with the architect of the building, who knew more about it than any other man, who had been the superintending architect of the building from the beginning? Upon consultation and coöperation with him, could not these facts have all been ascertained, and the proper reductions made, without the appointment and employment of a general superintendent at so large a salary? I am not complaining of the changes that were made. These may all have been well enough. I am only wondering that the Secretary of the Interior in his laudable efforts, which I doubt not were sincere, and in his anxiety to reduce the expenses of the Government as far as possible in this regard, should have found it necessary to employ an agent at so heavy a cost to assist him in carrying out his work of reform in the way of economy; in other words, that he should have deemed it necessary to appoint an additional employe at an unusually high compensation in order to help him find out whether there were not already too many of these employes on the work!

Mr. President, the main object and purpose of the bill now upon your table is to supersede, to discontinue this office or agency of general superintendent, as unnecessary, as utterly useless, and even worse than useless, and as involving an unnecessary expenditure. I have no hesitation in saying that its discontinuance is demanded by considerations of public interest; that it is demanded by considerations both of economy and of energy and efficiency in the prosecution of these works; and in this opinion I have the concurrence of the committee who have examined the subject, whose business and whose duty it was to examine the subject and to recommend such measure, such modification, or such change as in their judgment the public interest demanded. We have simply tried faithfully to perform that duty.

I can say for myself, and I am sure I can say for every member of the committee, that in this we have been influenced by no considerations of a mere personal character either of prejudice or of favoritism toward anybody. The present superintendent is personally a stranger to me, as I presume he is to most if not to all the members of this body. I have no prejudices against him. I have no personal knowledge of the man; I would do him no injustice; I would not speak harshly or unkindly of him. But from all the information I have in relation to him, I infer that he is a young man of fair qualifications to discharge acceptably the duties of an office clerk; that he is a very good, even an expert penman, and he is said to be a very good draughtsman; but I infer also that he has not the experience, that he has not the habits of industry, the application to business, in short, that he has not those qualifications which are requisite for the duties of a general superintendent of these important and costly works. At all events, if I am correctly informed in that regard, and I believe I am, he devotes little or no time to the personal supervision and superintendence of these works. If I am correctly informed, he has hardly spent a day or an hour on or about these works since his appointment in the way of personal direction and superintendence. For aught I know, he may have been well and profitably employed otherwise in the service of the Government; I do not undertake to say how that is; but I say he does not give to the Government the benefit of his personal attention to these works. I can say that I have never seen him on or about these works myself, and I have not been altogether an inattentive observer of their progress; and when I have inquired about it, I have been uniformly told that he rarely if ever makes his personal appearance there, either to give any direction or order in relation to the work or to see how it has been done. In fact, the question has been asked me, a question which, though quaint in phrase, carries with it great significance, and carries with it its own answer:

"What is the use of having a general superintendent of these works unless he superintends something?" I confess I do not see.

But, Mr. President, not to consume the time of the Senate in further discussion upon this subject, I have only to repeat that we ask and urge the passage of this bill with a view and for the purpose of relieving the Government of this unnecessary and useless agency and its attendant cost of four or five thousand dollars per annum; not a very large amount, to be sure, but nevertheless not unworthy of our consideration in these times of enormous and rapidly accumulating national debt and public taxation—debt and taxation rendered necessary for the support of the Government, and for the maintenance of its honor, its faith, and its integrity.

I will say further, Mr. President, that upon the action of Congress on this bill, in my judgment, depends, in no small degree, the question whether these works shall be completed within any reasonable length of time, or within any reasonable limit of expenditure. In conclusion I will add, if the present superintendent must be retained in the public service, if he must have employment under the Government—and that seems to be the issue in a great measure—if he must be the recipient of public patronage, I pray you let it be in some other capacity, let it be in some other position than that of general superintendent of these Government works.

The PRESIDENT *pro tempore*. The Senate will resume the consideration of the order of the day.

Mr. CONNESS. Can we not have a vote on this measure?

Mr. LANE, of Indiana. Not now.

J. H. CLARK AND COMPANY.

Mr. POMEROY. Yesterday morning I made a report from the Committee on Claims upon the joint resolution of the House of Representatives to refer the claim of J. H. Clark & Co. to the Court of Claims, and I asked the Senate to pass the joint resolution at once. It was, however, laid over at the suggestion of the Senator from Illinois, [Mr. TRUMBULL,] because he desired to know what the nature of the claim was. I can now explain it to him. It is simply a claim growing out of a contract with the quartermaster's department for furnishing supplies at Cincinnati. They delivered the supplies in part and claim pay for the whole, I believe. It should under the law have gone to the Court of Claims without being considered in the House of Representatives; but after the House took possession of the claim and saw its character, they proposed that it should be referred to the Court of Claims, and passed this joint resolution to that effect.

Mr. TRUMBULL. I have no objection to the reference, that being the character of the claim.

The joint resolution (H. R. No. 74) referring the claim of J. H. Clark & Co. to the Court of Claims was considered as in Committee of the Whole, reported to the Senate, ordered to a third reading, read the third time, and passed.

#### PACIFIC RAILROAD.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 132) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862.

Mr. HARLAN. I move to amend the substitute of the committee by striking out in line one hundred and three of the third section on the 14th page the word "three" and inserting "ten," so as to read, "in case no claimant shall appear within ten years from the time of the opening of said road across any land, all claim to damages against said company shall be barred."

Mr. HOWARD. I hope that amendment will not be adopted. The subject was considered very fully and amply by the Committee on the Pacific Railroad, and they came to the conclusion that three years would be a reasonable time to allow persons owning unoccupied lands to make their appearance and present their claim.

Mr. HARLAN. I believe that in no State in the Union is there such a statute of limitations as this, giving a party who has quiet possession for

three years an absolute title to the premises; and especially in times like these, it seems to me that it would be improper to reduce the limitation all along the line of this road to so brief a period. This may be a very important proposition when we come to apply it to property in the vicinity or within the limits of Sacramento and San Francisco cities. Immense possessions may be passed in this way from the real owner, without one time of compensation, to this corporation. It seems to me that it would be grossly wrong to permit such a thing to take place, especially when there are so many men in the Army and Navy of the United States who have enlisted for the period of three years and are not enabled to return to their homes to take care of their private interests.

Mr. HOWARD. This clause applies only to the route of the Pacific railroad from the one hundredth degree of west longitude to the western boundary of the Territory of Nevada, and does not apply to any case arising within the limits of the State of California or any other State. I understood the Senator from Iowa to express the idea that it would apply in a State. It does not.

Mr. HARLAN. In the clauses of the bill authorizing other corporations to build roads, all the rights, privileges, and immunities conferred on the Union Pacific Railroad Company are conferred on each of the other corporations, so that if this is an immunity or privilege conferred on the Union Pacific Railroad Company, by the provisions of the bill pertaining to the other corporations it would alike pertain to them.

Mr. HOWARD. It is impossible for the Congress of the United States to give to a State corporation any right, or faculty, or immunity that it does not possess under its charter, without the consent of the State granting the charter; and it was not the purpose of the committee, nor is it the meaning of this expression, that it shall be applied to State charters—charters granted by the State of California or any other State. The purpose was to secure to the Union Pacific Railroad Company a quiet and peaceful title to lands which it may occupy and which shall not be claimed by the non-resident owner for three years after the company has gone into the actual occupancy and possession of the land. Of course cases must arise, where the lands are unoccupied, where their owners may not be known, in which it is absolutely necessary, in order to push forward the work, to occupy the lands and build the road and sometimes perhaps in the ignorance of the owner. In such cases, I submit that the owner of the land cannot be very seriously injured if we give him three years' time, after his land has thus been taken and used by the company, to make his claim; and that is the sole effect of the clause. What are we to do? Is the company to remain for ten years with the title to its land uncertain, insecure, the owner of the land unknown? Such would be the effect of the amendment of the Senator from Iowa if it should be adopted by the Senate. I trust that this clause may remain as the committee have reported it. The committee were unanimous upon this identical clause, and the Senator from Iowa was present, if my recollection serves me, when it was taken up for consideration by the committee and was passed upon by them.

Mr. HARLAN. The Senator is manifestly in error in the conclusion that he draws. On page 13 the following provision will be found: "And in case it shall be necessary for the company to enter upon lands which are unoccupied, and of which there is no apparent owner or claimant, it may proceed to take and use the same for the purpose of said railroad, and may institute proceedings in manner described for the purpose of ascertaining the value of and acquiring a title to the same;" so that if no owner should appear, the company themselves may appear in court and require that the land shall be appraised and condemned, and appropriated to their use at its appraised value; but this additional clause on the following page, which I move to strike out, will enable them to take the land without payment after having quiet possession for three years. It seems to me that this provision is unnecessary. The company may proceed and occupy the land and have it condemned and pay over to the clerk of the court its appraised value and hold it, if they choose; and if they neglect to do this, the clause that I propose to strike out would enable

them to acquire title without payment if the real owner should fail to appear within three years.

The Senator says this is not intended to apply to any of the States; but this road may pass through the city of Denver, which has now grown to be a populous city, with millions of dollars' worth of town property; independent of that, it will pass through the country where there are hundreds of millions of dollars' worth of lands that are rapidly going into the hands of private owners, hundreds and thousands of whom may be in the armies of the United States or serving in its navies, and who are unable to appear and protect their own rights.

Mr. HOWARD. I am not ignorant of the effect of the clause, as the Senator seems to imagine. Let me read it as it stands in the bill, and then the Senate will understand it clearly:

And in case it shall be necessary for the company to enter upon lands which are unoccupied, and of which there is no apparent owner or claimant, it may proceed to take and use the same for the purpose of said railroad, and may institute proceedings in manner described for the purpose of ascertaining the value of and acquiring a title to the same; but the judge shall determine the kind of notice to be given such owner or owners, and he may in his discretion appoint an agent or guardian to represent such owner or owners in case of his or their incapacity or non-appearance.

Where there is no appearance the judge has authority to appoint a guardian or an agent to appear in court and act for the absentee, and thus protect all his rights; but the clause proceeds:

In case no claimant shall appear within three years from the time of the opening of said road across any land, all claim to damages against said company shall be barred.

He is allowed three years after the land shall have been actually taken and used by the company to appear and make his claim for compensation as against the company. If at the end of that time he does not appear, and the land has thus been occupied by the company, it seems to me it is not unjust to bar all his claim for compensation.

Mr. MORRILL. Will the Senator allow me to make an inquiry?

Mr. HOWARD. Certainly.

Mr. MORRILL. The provision to which the Senator refers authorizes the company to have the damages assessed by an application to the court, and the judge is to designate what notice shall be served.

Mr. HOWARD. It depends on the direction of the judge.

Mr. MORRILL. I say that is your provision. You authorize the company to have the land condemned and appraised—the court determining what notice shall be given to the supposed owner. Is it imperative on the company to do that?

Mr. HOWARD. I suppose so.

Mr. MORRILL. But if the company do not do it do they not still get title to the land at the end of three years under the provision as it stands?

Mr. HOWARD. I suppose there must be notice in every case where there is a private ownership of land.

Mr. MORRILL. It seems to me that that is the difficulty with this section, that it contemplates in the provision read that a company may do that, may secure a title to lands of a non-resident and non-occupant, where the owner is not known, by appealing to the judge; but suppose the company do not find an occupant and still take and possess the land for three whole years, is not the owner, by their occupation for three years, absolutely excluded from making any further application?

Mr. HOWARD. I think the question of the Senator is sufficiently answered by the clause itself which I have read, which says that—

In case it shall be necessary for the company to enter upon lands which are unoccupied, and of which there is no apparent owner or claimant, it may proceed to take and use the same for the purpose of said railroad, and may institute proceedings in manner described for the purpose of ascertaining the value of and acquiring a title to the same; but the judge shall determine the kind of notice, &c.

I take it the implication is irresistible that the notice must at all events be given, and that you cannot take even unoccupied land of the owner without this notice.

Mr. MORRILL. Then I suggest, to make it entirely clear, that the Senator accept an amendment which I will propose in the last clause, to insert the words "so taken and condemned," so as to make it read:

In case no claimant shall appear within three years from

the time of the opening of said road across any land so taken and condemned, all claim to damages against said company shall be barred.

Mr. HOWARD. Undoubtedly; I have no objection to that. That is the idea.

Mr. MORRILL. I move that amendment.

The PRESIDING OFFICER. (Mr. ANTHONY in the chair.) The amendment of the Senator from Iowa is an amendment to an amendment, and therefore is not amendable.

Mr. HARLAN. I take great pleasure in withdrawing my amendment to enable the amendment of the Senator from Maine to be presented. I suppose it will effect the same object.

Mr. MORRILL. I was not aware that there was any amendment pending.

The PRESIDING OFFICER. The amendment of the Senator from Iowa is withdrawn.

Mr. MORRILL. I move, then, to insert after the word "land," in line one hundred and four of section three, the words "so taken and condemned."

The amendment to the amendment was agreed to.

Mr. HARLAN. I move to amend in the fourth section by striking out the words "future use and," in the tenth line, and inserting after the word "road" of that line "until the said road shall be completed, unless the said lands may be reserved, or otherwise disposed of or settled upon under the laws of the United States at an earlier period."

Mr. HOWARD. Will the Senator from Iowa state what particular evil he discovers in the bill which is to be remedied by this amendment? I confess I do not see the need of it myself. I think all these cases are otherwise provided for in other provisions of the bill.

Mr. HARLAN. The section as it now stands provides:

That in addition to the right and authority granted to the said company in said original act to take from the public lands adjoining said road stone, timber, and other materials, for the construction of the road, said company is hereby authorized and empowered to take and use any coal or iron ores lying within any of the public lands upon the general route of the proposed road, and within the limits of ten miles on each side of the line thereof, and which may be made available either in the construction or future use and operation of said road.

It seems to me that this might be construed to convey to them a title to the iron and coal on all the public lands within the limits stated, of ten miles on each side of the road, which I suppose is not the intention of the committee. If the amendment I propose shall prevail, it will enable them to take and use the coal and iron until the land shall pass from the possession of the Government of the United States in the ordinary way to private holders, and no longer.

Mr. HOWARD. I have no objection to striking out the words "future use and" in the tenth line, for I do not perceive that it would change the sense of the clause to strike them out; but I regard the other portion of the amendment, which consists of an insertion of certain words after the word "road" in that same line, as superfluous entirely. No such danger need be guarded against, because the very terms of this section show that the company is not to be considered the owner of these coal and iron lands, the language of the section being:

And in case said company is desirous of becoming purchasers of the fee of such lands containing coal and iron ores, patents therefor shall be issued to said company by the Government of the United States, at the price at which Government lands without minerals are sold at the time such patents issue.

Plainly enough showing that the only effect of the previous clause is to allow to the company as a mere bonus, as a mere gratification, the right to go and get iron and coal for the purpose of making their road with it and operating the road after it is made.

Mr. HARLAN. I will accept the modification suggested by the Senator.

Mr. HOWARD. I consent to strike out "future use and," but I object to the insertion of the other words.

The PRESIDING OFFICER. The question is on the amendment as now modified.

The amendment to the amendment was agreed to.

Mr. HARLAN. I move to amend in section four, line fourteen, by inserting after the word "which" the word "such," and by striking out at the end of that line and the commencement of line fifteen the words "without minerals," so as

to read, "at the price at which such Government lands are sold at the time such patents issue."

The amendment to the amendment was agreed to.

Mr. HARLAN. I move to insert, in line fifteen of section five, these words at the end of the line, "granted to said company."

Mr. TRUMBULL. It seems to me that that makes a limitation that destroys the effect of the provision if I understand it. The bill as it now reads provides:

That within two years after the passage of this act the said company shall designate such general route of said road, as near as may be, and shall file a map of the same in the Department of the Interior; whereupon the Secretary of the Interior shall cause the lands within fifteen miles of such designated route to be withdrawn from preemption, private entry, or sale.

The Senator from Iowa moves to insert the words "granted to said company," so as to read, "whereupon the Secretary of the Interior shall cause the lands granted to said company within fifteen miles of such designated route to be withdrawn," &c. There is no use in withdrawing them from the market; if they are granted to the company, of course they are not in the market.

Mr. HOWARD. The sole object of withdrawal is to ascertain what lands will be granted to the company. The whole mass of the lands lying on each side of the line of the road for a certain distance are to be withheld from sale or preemption for the very purpose of making the selection of the proper alternate sections.

Mr. HARLAN. There is no selection of alternate sections to be made. The bill itself provides that the odd sections and parts thereof shall be granted, and it does not grant an acre of an even section. The text of the bill, as it stands, would require the Secretary of the Interior to withdraw from sale not only the odd sections which are provisionally granted, but also to withdraw from sale, preemption, and settlement, all the even sections; and as there are public lands lying along the line of these branch roads where the lands have been surveyed and been in market for a series of years, as well as in the unsurveyed Territories, it seems to me the Senate will perceive that it would work great inconvenience to these settlements to prohibit persons from settling on the even sections of land which this bill does not propose to grant to any of these companies. If my amendment shall be adopted, it will require the Secretary to withdraw from sale, preemption, and settlement, the odd sections within the limits indicated, and the even sections will be subject to sale, preemption, and settlement.

Mr. TRUMBULL. I suppose the object of withdrawing these lands from sale is evident. The bill provides that in case the odd sections which are proposed to be granted to the company shall have been previously appropriated, previously entered or preempted, or belong to some other person than the Government, the company is to be authorized to select in lieu of the sections which it cannot obtain other sections within fifteen miles of the road; and I suppose the object of withdrawing the land is to afford an opportunity to go outside to the extent of thirty miles, fifteen on each side of the road, for the purpose of selecting lands to make up the quantity that is intended to be granted by the bill, to make up the full complement.

Now, if you simply provide, as I said before, to withdraw from preemption and sale the lands that are granted to the company, you do not provide anything, and you had better strike out the whole of it. There is no need of such a clause as that. The lands granted to the company are by the grant withdrawn from preemption, sale, or private entry. Nobody else can enter them, or settle upon them, or meddle with them after they have been granted to the company. It would require a change of the whole section, I think, to carry out the Senator's idea. This is a temporary provision, as I understand it—I do not remember now how long it extends—to withdraw from the market, when the company shall have located the road, all the lands within fifteen miles of it, to give them an opportunity, not to select the odd section, as the Senator from Iowa very properly remarks, within ten miles of the road, because the law determines that, and it requires no selection; but in case that an odd section has been appropriated to other purposes, and the company cannot therefore have the benefit of it, the inten-

tion, I suppose, is to give them an opportunity within this limit to make the selection, and then the lands will come into market again.

Mr. HARLAN. With the consent of the Senate, I will modify my amendment, so as to insert the words "odd sections of" before the words "the lands," in line fifteen of section five. The clause will then read:

Whereupon the Secretary of the Interior shall cause the odd sections of the lands within fifteen miles of such designated route to be withdrawn from preemption, &c.

Mr. CONNESS. Does the Senator withdraw his other amendment?

Mr. HARLAN. Yes, sir, and offer this in lieu of it.

The chairman of the committee laughs at my suggestion. Sir, there are some things that I know as well as he does, and this is one of them. I know that he is not right and that I am. The bill grants the odd sections of land within the limits of ten miles on each side of the road, and if these odd sections or parts of them have been sold by the Government or preempted, or homestead settlers have settled on them, or if they have been reserved or granted for other purposes, the company may go outside of the ten mile limit, within fifteen miles, and select lands to make up for the deficiency thus occasioned. The object I have in view is, that the Secretary of the Interior shall withdraw from sale the odd sections of land not only within the limits of ten miles which are granted, but the odd sections without the limit of ten miles and within fifteen miles; though that ought to be twenty miles, for in another provision they are authorized to go within the limits of twenty miles, while the text of the bill here says fifteen miles. I intended to offer an amendment to strike out "fifteen" in this clause and insert "twenty," so as to make the provisions of the amendment on this subject congruous throughout. The object I have is that the Secretary shall withdraw from sale the odd sections of land within twenty miles on each side of the road, so as to enable the companies to go outside of the ten mile limit and within the limit of twenty miles to make up the deficiency of land in lieu of those that may have been otherwise disposed of by the Federal Government before the company may have filed the plat of the surveyed route of the road.

Mr. TRUMBULL. There will be no objection to that.

Mr. HOWARD. I said expressly that I should accept the amendment as modified by the Senator from Iowa, and I supposed it had passed the body. The Senator seems to complain that I laughed at him. I am not conscious of having laughed or smiled at the honorable Senator from Iowa. He is certainly under an entire misapprehension in that regard.

Mr. DOOLITTLE. I suggest to the Senator from Iowa whether the language of the amendment would not be more consonant with the language of the bill if he were to say "designated by odd numbers." It will then read:

Whereupon the Secretary of the Interior shall cause the lands designated by odd numbers within fifteen miles of such designated route to be withdrawn from preemption, private entry, or sale.

That is the language used in the bill.

Mr. HARLAN. I have no objection to that modification if the Senator prefers it.

The PRESIDING OFFICER, (Mr. ANTHONY.) The amendment to the amendment will be so modified.

The amendment, as modified, to the amendment was agreed to.

Mr. POMEROY. I think it would now be necessary in that clause to strike out "fifteen" and insert "twenty."

Mr. HARLAN. It would be; and I have marked such an amendment.

Mr. POMEROY. In section five, line sixteen, I move to strike out "fifteen" and insert "twenty;" in line twenty-one of the same section to strike out "fifteen" and insert "twenty;" and in line thirty-one of the same section to strike out "fifteen" and insert "twenty." That will make the section in harmony with the other provisions of the bill.

Mr. HOWARD. I have no objection to that amendment.

The amendment to the amendment was agreed to.

Mr. HARLAN. In section five, line seventeen, I move to insert the words "homestead set-

tlement" after the word "preemption," so that the clause will read:

Whereupon the Secretary of the Interior shall cause the lands designated by odd numbers within twenty miles of such designated route to be withdrawn from preemption, homestead settlement, private entry, or sale.

Mr. HOWARD. I have no objection to that. The amendment to the amendment was agreed to.

Mr. DOOLITTLE. I suggest to the Senator from Iowa whether in the twentieth line of the fifth section, after the word "lands," the same words ought not to be inserted as were inserted after the word "lands" in the fifteenth line, "designated by odd numbers?"

Mr. HARLAN. I think it would be necessary.

Mr. DOOLITTLE. I move that amendment. The amendment to the amendment was agreed to.

Mr. HARLAN. In section five, line twenty-three, I move to strike out the word "hereinbefore" and to insert "herein."

Mr. HOWARD. What is the reason for that change?

Mr. HARLAN. The word "hereinbefore," as I suppose, would refer to the grants made in the first part of the bill preceding that word. In the succeeding parts of the bill there are grants made conditionally to other corporations through different parts of the country, and I suppose that that word might be construed, so as to limit the grant to this one company alone.

Mr. HOWARD. It seems to me that the Senator's criticism is entirely hypercritical, for every possible case and contingency that can arise in relation to these other companies is provided for in plain terms in this substitute which has been reported by the committee; so that, in my judgment, it is impossible that any such difficulty as the Senator seems to apprehend could arise in the operation of the bill. Nevertheless, I am willing to yield to him and allow the amendment to be made in order to remove any doubt that may hang upon his own mind in relation to this subject, for I wish to get through with the bill.

The amendment to the amendment was agreed to.

Mr. HARLAN. In section five, line thirty-two, after the word "road," I move to insert the following words:

But this clause shall not be so construed as to impair the vested rights of settlers, preceptors, or purchasers at the date of the publication of said change at the proper land offices, to be made by the registers thereof, under the direction of the President of the United States.

Mr. POMEROY. I should like to inquire of the chairman of the Committee on Public Lands what effect that amendment would have upon that portion of the route where the lands were withdrawn from market last year under the old bill of 1862? If this measure goes into effect from and after its passage, would it not make valid all the claims of the settlers that have entered on those lands during the past year?

Mr. HARLAN. I think not. It was not my intention to affect them. The bill first provides in this section that a plat of the road shall be filed within two years in the Department of the Interior, and afterwards the odd sections of land within certain limits shall be withdrawn from market. It then provides that the companies may relocate their line, and, as it seemed to me, the phraseology of the bill would enable the companies to undermine the persons who might have settled on the public lands outside of these limits by a change of the line of their road to the right or to the left. The language is this:

And the Secretary of the Interior shall cause the said lands herein granted to be surveyed and set apart as may be necessary for the purposes herein named whenever any portion of said line of road shall be finally located.

Now comes the clause:

And said company are authorized to modify and change the location of any portion or portions of its line, with the approval of the President of the United States, and thereupon the provisions herein mentioned as to withdrawal, survey, and setting apart of said lands shall be deemed to refer and apply to the land within twenty miles of such changed location of the road.

So that if a party should settle on lands outside of the twenty mile limits, and these companies were to change the location of the road, two, three, or five years afterwards so as to bring those lands within the limits of the twenty miles, the effect of this clause would be to oust him from his possessions.

Mr. HOWARD. I think that would be im-



possible under the bill itself; it would not be the effect, as I suppose. I apprehend no such consequence could follow; but still, in order to guard against such an evil, I am entirely willing that the amendment shall be adopted.

The amendment to the amendment was agreed to.

Mr. HARLAN. In section six, line twenty, after the word "other," I move to insert the word "public," and in the same line after the word "States," I move to insert the words "not sold, reserved, or otherwise disposed of, and to which a preemption or homestead claim may not have attached as aforesaid, and designated by odd numbers;" and after the word "lying," in the same line, to insert "nearest to said tier of granted sections;" so that the clause will read:

But if by reason of sale by the United States, or by preemption or homestead right attaching to any such alternate section or part of a section so hereby granted to said company, or if from any other cause the said company shall be unable to locate or receive the whole of five full alternate sections per mile for each mile on each side of said road, it shall in either case be lawful for said company to select, locate, and receive patents for so much of the other public lands of the United States not sold, reserved, or otherwise disposed of, and to which a preemption or homestead claim may not have attached as aforesaid, and denominated by odd numbers, lying nearest to said tier of granted sections, within twenty miles of each side of said road, as will make up the quantity granted, &c.

Mr. HOWARD. I have no objection to that amendment, but it is provided for by other provisions of the bill.

The amendment to the amendment was agreed to.

Mr. CONNESS. In the twenty-seventh line of the same section, after the word "company," I move to insert the following words: "except such as shall be necessary to the operating and working of said mines." The clause proposed to be amended reads thus:

But all mineral lands, except those containing mines of iron or coal, shall be excluded from the operation of this section, although where the same shall contain timber the timber thereon is hereby granted to said company.

A sufficiency of timber requisite to the operation of a mine is as necessary as the mine itself.

Mr. TRUMBULL. If the Senator from California will allow me, why not strike out this grant of timber to the company? They will have other lands in lieu of these mineral lands.

Mr. CONNESS. I understand that that grant is made to them in the act of 1862, and it is now in the nature of a vested right, and I understand this is a continuation of it. That, of course, involves a very important question.

Mr. TRUMBULL. The Senator does not understand me. Notwithstanding it was in the law of 1862, the bill we are now passing will not be binding upon the companies unless they accept it, and if they do accept it, that would do away with the vested right.

Mr. HARLAN. I think the Senator from Illinois is right. Under the law as it now stands the companies are not permitted to go outside of the ten mile limits to make up for deficiencies, nor are they allowed to go on any mineral lands. As an equivalent for being excluded from all mineral lands, it was provided that they might take the timber off the mineral lands; but this bill now provides that they may go outside of the ten mile limits, within twenty miles, in order to select lands to make up the deficiency. Hence I think they ought not to be allowed to go outside of the sweep of the timber that may be found in that country.

Mr. CONNESS. If that is the understanding, I will agree to the striking out of this clause.

The PRESIDING OFFICER. Does the Senator from California withdraw his amendment?

Mr. POMEROY. I hope not.

Mr. CONNESS. I do not. It is suggested, however, that the grant of timber contained in the clause that I propose to modify by my amendment shall be stricken out.

Mr. POMEROY. A great deal of this land is called mineral land where there are no mines. The surveyors will return a whole tract of country as mineral land, although but a small portion of it may contain mines. The amendment of the Senator from California, however, is a good one. There may be some mines, and wherever there are mines there should be a sufficient amount of timber reserved to the mines for their working.

Mr. CONNESS. I agree to the suggestion of the Senator from Kansas. Notwithstanding the grant made to these companies, wherever the

mineral lands are excepted from the grant there should be a reservation of sufficient timber to go with those mines to provide for their working. That is a necessity. Otherwise you expose the persons upon those lands engaged in mining to any tax that the owners of this timber may see fit to impose. I will ask the Senator from Illinois whether he desires to strike out that clause?

Mr. TRUMBULL. I thought there was no necessity for it. Where they do not get the mineral land they get other land in lieu of it, and they are just as likely to get timber upon that. I do not see that there is any necessity for the clause. I am not particular about it.

Mr. CONNESS. Then I wish to insert the words I have offered as an amendment.

Mr. TRUMBULL. I will suggest to the Senator from California that his amendment would be very likely to lead to complications and difficulties between the proprietors of the mines and the company as to what timber will be necessary for the working of the mines. I do not really think there is much importance in the grant of timber upon these lands to the company, because, if the company do not get the lands where the minerals are, they will get other lands in lieu of them, and they will be just as likely to get timber on those other lands as on the mineral lands. I do not think there is any importance in it. If the amendment that the Senator suggests is inserted, he will readily see that it will lead to disputes as to what is necessary.

Mr. CONNESS. In a mining country there can be no dispute as to what is necessary. To work a mine, certain tunneling and bridging is necessary, and certain timber is necessary for that purpose. Everybody understands it. There will be no trouble between the miners and the proprietors in this case, the grantees coming to an exact understanding. I wish in every case where the timber is granted to insert a provision of this kind. If the Government allows the people to work those lands and search for minerals and precious metals in them, they should be protected in the use of the necessary amount of timber to facilitate that work.

Mr. HARLAN. I had prepared an amendment to offer to the amendment of the committee proposing to insert the words that I hold in my hand, which I think will cover the case, at the same point that the Senator suggests. My amendment would be to insert after the word "company" in the twenty-seventh line of the sixth section these words:

To the extent that said selections, together with the granted sections and parts of sections, may fall short of ten full sections per mile.

So that if they were unable to secure ten full sections of land per mile on account of the existence of mineral lands and not agricultural lands, and if these mineral lands should contain timber, they may take the timber from the mineral lands to an amount sufficient to make up the full number of ten sections per mile. Although they would not receive the land, it being mineral, they would receive the timber growing on the land; if otherwise, they would receive the land had it not been mineral.

Mr. CONNESS. That covers it exactly.

Mr. HARLAN. I think this amendment will effect the object, if the Senator will adopt it.

Mr. CONNESS. I have no objection to the amendment of the Senator; but in addition to that—I will pass it by now—it will require a provision such as I have suggested.

I want to be clearly understood, if possible, before I take my seat, on this point. I understand that by the act of 1862 the timber upon the lands in the mining section of the country—and in California it covers a distance of about one hundred and twenty miles on the line of the road—for ten miles wide on each side of the road has been granted to the company as an absolute grant. The mines are permitted to be worked there by the Government, and the lands containing the mines are not granted to the company; and I desire that a provision be inserted accompanying this grant of timber in every case—

Mr. POMEROY. If the Senator will allow me, the old bill only gave them the timber on the mineral lands of the odd sections, not of the even sections.

Mr. CONNESS. Very well. I propose that on those sections the miner shall be allowed the

amount of timber necessary to operate his mine. We will come to it by and by.

Mr. HARLAN. I understand the Senator to say that he will accept the language I have sent to the Secretary as a modification of his motion.

Mr. CONNESS. Yes, sir.

The PRESIDING OFFICER. The question, then, is on the amendment of the Senator from Iowa.

The amendment to the amendment was agreed to.

Mr. HARLAN. I move to amend the amendment in section ten, line twenty, after the word "thereon," by inserting the words "from the date of this indorsement;" and after the word "obligor," at the end of the twenty-third line, by inserting:

And the said indorsement shall bear the date of the completion of the section of the road on account of which it was issued, as shown by the report of the commissioners provided for in this act.

So that the clause will read:

The United States hereby undertake and agree with the lawful holder of the within bond to pay the first year's interest accruing thereon, from the date of this indorsement, as a gratuity to the Union Pacific Railroad Company, the obligor, and to pay the interest accruing thereon for the subsequent nineteen years, immediately upon default of such payment by said obligor; and the said indorsement shall bear the date of the completion of the section of the road on account of which it was issued, as shown by the report of the commissioners provided for in this act.

Mr. POMEROY. I do not know but that that amendment may be in the usual form. It occurs to me, however, that the body of the bond will provide in itself when and where the interest shall be paid, and this indorsement on the back of the bond that the interest shall be reckoned from the date of that indorsement may conflict with the body of the bond itself. Each bond in itself provides when it shall be paid, and where the principal and interest shall be paid. I do not think it is contemplated that the interest should bear from the date of the indorsement, but from the time specified in the bond.

Mr. HOWARD. I think the honorable Senator from Iowa entertains a wrong apprehension as to the railroad scheme which the bill proposes. The company—I take as an example the Union Pacific Railroad Company—on its organization, and on the passage of this bill, will have the right at once to issue its own corporate bonds under its corporate seal, to sell them to A, B, C, and D, to any person who may see fit to buy them, to fill the market with them, if you please, to the amount of millions upon millions. That is the corporate right of the company. The United States undertake to guaranty the payment of twenty years' interest upon these bonds; but they do not give this guarantee until the various sections of forty or twenty miles of the road shall have been completed, and until evidence of that completion is submitted to the President of the United States, and by him to the Secretary of the Treasury. How would this operate then? If the obligation of the Government to pay the interest on the bonds is not to accrue and commence until the indorsement is actually made upon the bond by the Secretary of the Treasury, there will be great difficulties arising from it. These bonds may be sold in the market on the faith of the statute which we are about to pass, that the Government will pay the twenty years' interest upon them from the date of the bond; that is, from the date of its issue. That is the only value connected with the guarantee of the United States. It is the principal element which gives credit and value to the bond of the company, that the Government of the United States shall pay the interest for twenty years from its date, and not merely from the date of the indorsement. We do not know at what date the bond may be made. It may be made to-day; it may be made ten years hence. It is immaterial to the United States what the date of the bond may be. The undertaking of the Government is to pay ten years' interest upon it, beginning with the date of the bond.

Mr. CONNESS. It seems to me also, sir, that this is a very proper consideration as contained in the bill as we now find it: the guarantee of the Government should be entirely separate and apart from the body of the bond, which is the work of the company.

Mr. HARLAN. This is an important amendment, I admit. If the bill should take effect as it now stands, and the company should put under

contract the whole line of this road and issue bonds for the construction, as it may, to one contractor, the bonds would bear date of course from the date of the contract; I will suppose it to be the date of the taking effect of this law. The bonds will run until the holders choose to present them to the Secretary of the Treasury for an indorsement. They need not present any of them at any particular time; and the company may have thirteen full years under this bill for the completion of the road. If at any time after completing forty miles of a certain portion of the road or twenty miles of other sections of the road the bonds are presented to the Secretary of the Treasury, he will be compelled to make this indorsement and the interest will become due, first from the company but in the end from the Treasury of the United States, from the date of the bond, which may be thirteen years from the time the bond was issued; and this must be paid in gold and silver. The whole amount of more than the face of the bond would thus be due from the Government of the United States the very moment that the Secretary placed on the bond this indorsement. I supposed that the object of the committee was—that is my desire at least—to obligate the Government to pay the interest on these bonds from the date of the completion of each section of the road, for a period of twenty years, provided the company should fail to pay it.

Mr. HOWARD. It is in that point that the Senator from Iowa is entirely mistaken. The committee intend that the holders of the bonds issued by the company shall have the benefit of the Government credit for any purpose connected with this road, and that that benefit shall accrue to the company and to the holder of the bond the moment this bill shall become a law, so that they may take their bonds into the market and sell them and raise money to go on with the work. The holders of the bonds are not to wait nor are the companies to wait until after the road shall be completed. To make such a requisition in the bill would be to defeat the scheme almost entirely. Let me refer once again to the clause. Section eight of the bill which I hold in my hand declares—

That no United States bonds shall be issued under the act of which this is an amendment; but the said company may make, execute, and issue its own first mortgage bonds, to be signed by its president and secretary, and sealed with the corporate seal of the company, to the following amounts in respect of the following parts of said road, and under the following conditions, to wit:

They may issue the bonds whenever they see fit under their corporate seal. Then section ten is as follows:

That for the purpose of aiding said company in the construction, completion, and equipment of said railroad and telegraph line from the initial point on the said one hundredth meridian of west longitude to its western point of termination on the western boundary of the Territory of Nevada, such first mortgage bonds of said Union Pacific Railroad Company may be produced to the Secretary of the Treasury of the United States—

They may be produced at any time—

And upon the presentation to him [the Secretary] of the certificates of the said commissioners of the completion and equipment as herein required of any of the portions of forty miles or twenty miles, as the case may be, or of consecutive portions exceeding these portions in length, the Secretary of the Treasury shall indorse upon each and every of such first mortgage bonds so produced to him under his hand the guarantee of the United States of the payment of the interest thereon, in the following words, namely:

Then follows the guarantee. The same section provides that the Secretary of the Treasury shall cause all such bonds to be kept for that purpose, in which all the bonds are to be described. It goes further, and declares that the Secretary shall note upon each of the bonds the certificate under which it is issued; that is, the certificate of the commissioners of the completion of such and such a section of the road. The Secretary is to note upon each of the bonds the "certificate under which the same is issued by proper numbers or other distinct mode of identification." The very object, therefore, which the Senator seems to have in view is already accomplished by the bill, inasmuch as it requires the Secretary, whenever he puts upon the back of one of these bonds the Government guarantee, to note upon the bond the certificate under which it has been issued. There can be no misapprehension or mistakes as to the sections of the road to which these various bonds appertain. Every bond is to be properly registered and entered in a book to be kept by the Secretary of the Treas-

ury. The great misapprehension of the Senator from Iowa seems to have been that the bonds were not to be issued until the road was completed. If we should wait until that time the contractors and the company would be entirely deprived of all benefit of the Government guarantee during the long and tedious period of constructing the road.

Mr. SHERMAN. My attention was not before called to the difficulty that may grow out of this bill; and I think it is a question well worthy of the consideration of the honorable Senator from Michigan. It is a much more difficult matter than he imagines it to be. The eighth section authorizes the company to issue their bonds, but does not require them to be issued only as the road progresses, or as the road is completed. The tenth section requires the Secretary of the Treasury to guaranty the payment of the interest on the bonds. Suppose that in advance of the completion of any portion of the road they should issue bonds to the amount of \$10,000,000. After the first section of the road is completed, the United States must guaranty the payment of the interest that has already accrued, past due, as you may say. Is that the purpose of the bill? That is not my idea of the bill, and I could not vote for it if such a construction were placed upon it.

My idea is this: that the persons who invest their capital in this undertaking should proceed to complete forty miles of the road, and then we should authorize them to issue their own bonds to a certain amount, to be fixed by the law, and, simultaneously with the issue of their bonds, the United States should guaranty the payment of the interest. That, I think, is the meaning of the two sections when you take them together; but if there is any doubt about it, that doubt ought to be removed. The eighth section, it seems to me, ought to contain a proviso that no bonds should be issued by the company until it had completed a certain section of the road, and that they should be issued from time to time as the road was completed, and, simultaneously with their issue, the Secretary of the Treasury should make the guarantee. In any other way you might place it in the power of the directors of this railroad company to issue their bonds to a large sum, thirty or forty million dollars, sell those bonds, and get the money in their own hands without security to the Government, and yet you would compel the Government, as they construct the road section by section, to guaranty the interest on the bonds, although one half of the interest may have accrued. It would throw upon the United States the interest of the whole of the bonds from this date, at the pleasure of the railroad company, and compel them to pay all the past accrued interest, although the road was not completed.

The intention of Congress, as gathered from these two sections is, to authorize the railroad company to issue their own bonds instead of receiving bonds from the United States. Under the old act this railroad company could not receive the bonds of the United States until they completed a section of forty miles, and then they would have a right to demand the bonds of the United States. The main idea of this bill is, instead of issuing the bonds of the United States, to authorize the companies to issue their own bonds with the guarantee of the United States of the interest. The same limitation as to the time when these bonds should be issued should be attached to section eight of this bill as was contained in the act of 1862, that the bonds shall not be issued until after a section of the road has been completed, and then the guarantee shall be made simultaneously. If that is done, there can be no trouble about it. There will be no practical difficulty in the way, because this railroad company should not expect the guarantee of the United States except as they build this road section by section. The sections of the road have been made less in this bill than in the old one in order not to throw too much burden upon them, and to give them the full benefit of the aid of the Government from time to time as they completed the sections of the road. I should dislike very much to vote for this bill with a construction that would authorize the company to issue the aggregate of their bonds now, and then as the road was completed to compel the United States to pay in gold the interest past due that had been accumulating for two, three, four,

or five years. I do not think that was the intention in framing the bill, and I do not think it is right to pass it if there is any danger of such a construction.

Mr. CONNESS. That was not the intention of the bill.

Mr. POMEROY. I agree with the Senator from Ohio measurably. I do not think it was the intention. If that is the construction to be placed upon it, we will certainly have the bill altered. But I do not think it is the intention of the bill, I do not think it is the letter or the spirit of the bill, that this railroad company should issue a large amount of railroad bonds, and sell them before they complete forty miles or any other portion of the road. As I understand it, this bill or amendment reported by the committee is simply a substitute for the old law in this particular. The law of 1862 granted \$16,000 a mile, principal and interest, for thirty years; this bill grants the interest of \$24,000 a mile for twenty years. The interest on \$24,000 for twenty years is exactly equal to the interest on \$16,000 for thirty years. The difference between this bill and the act of 1862 is just \$16,000. Under the old bill we were to get the principal and interest from the Government in case the company should prove a defaulter, and under this bill we simply get the interest. It is better than the old bill to the company, as \$16,000 a mile is better than nothing.

Mr. CONNESS. Why does the Senator say "we?"

Mr. POMEROY. I say "we" because, in common with all the men of the West, I feel interested in this road, and I use it only in that regard.

Mr. President, this bill is so guarded, or should be, that when forty miles of the road are completed and certificates presented to the president that such is the fact, the bonds should then for the first time be presented to the Secretary of the Treasury and he should then indorse upon them the guarantee of the Government, and they should be held for twenty years only from that date. There is no mistake about that. They should not be held to pay for any interest that had accrued on the bond prior to presentation, because there may be a conflict between parties. Here may be various parties holding these bonds, and as soon as forty miles of the road are built, A, B, and C may rush to the Secretary of the Treasury for his guarantee, and there will be a conflict which will have no end. This measure should be so guarded that the bonds should not of necessity even be issued or presented until forty miles of the road are built, and then only enough bonds should be issued and presented to meet the guarantee contained in the bill, which is, on this side of the Rocky mountains, \$24,000 a mile.

I desire to make one other remark. I do not know that it is for the interest of this road or the Government that these bonds should of necessity run thirty years. The Government guarantees the interest for twenty years. Why not allow the company if it chooses to issue twenty-year bonds?

Mr. HOWARD. They can.

Mr. POMEROY. They cannot under this bill. Under this bill they are obligated to have thirty-year bonds, as will be seen by looking to the provision in section eight, on the 20th page of the bill:

Said company may make and execute as aforesaid its first mortgage bonds in sums of \$1,000 each, payable in thirty years after date.

I can conceive of a case in which the company may desire to change the nature of its bonds at the end of the twenty years when the Government guarantee shall close. I should like to have an amendment put in there to allow them to execute their bonds for a period "not exceeding thirty years." But such an amendment is not now in order, and I will not move it.

Mr. SHERMAN. That is an important provision reserved to the Government. We do not want the principal of the bonds to become due when the guarantee of the Government expires. In the first place, a person would prefer a long bond to a short one. The longer a bond has to run the better it is for the holder; and it is better for the Government that the principal of the bond should not fall due at the end of their guarantee. The bondholder would then rely upon the secu-

rity of the company for ten years interest after the Government guarantee should expire.

I think it will be better for all parties to leave that clause in. It was very carefully considered in committee, and it was fully discussed. It was discussed and acted upon and adopted in accordance with the opinions of good, able financiers and also the railroad men themselves. They thought that on the whole it was wiser to allow the guarantee of the Government to extend only for a portion of the time the bond had to run, so that the bondholder himself should have an interest in the construction of the road for the ultimate payment of the interest and the ultimate payment of the bond. It was deemed better for all parties that the bond should run a long period of time, and therefore the term was fixed at thirty years.

Mr. POMEROY. I should like the company to have the right to issue them for thirty years. My query was whether they should be compelled to issue them for that length of time.

Mr. HARLAN. Under the law of 1862 the Government of the United States proposed to issue its bonds after a section of the road should have been found to be completed according to the terms of the act by commissioners to be appointed by the Government. The Government bonds thus issued after the completion of a section of the road were to bear interest. The company was to provide for the payment of the interest on the Government bonds, and the Government took a mortgage on the road, its rolling stock, and all its effects, to secure the reimbursement of the Government for the interest the company might fail to pay, and for the face of the bond if the company should fail to pay the face of the Government bond when it matured; so that under the law as it now stands the Government did not obligate itself to pay a single dollar of principal or interest on the bonds issued on account of any section of the road until after the section of the road had been completed.

This bill as it now stands provides that the Government shall not issue its bonds, but that the companies shall issue their bonds, and the Government shall guaranty that the companies will pay the interest on their bonds; but it does not provide that these company bonds shall be issued only at the date of the completion of a section of the road. The bonds may be issued at any moment after the passage of the bill, and after they shall have issued the interest begins to run, and may run any length of time from one day to thirteen years; and after a section of the road shall have been completed, and the company shall fail to meet the interest due on the bond for the entire period elapsing from the date of the bond to the date of the completion of the road, it will be due from the Treasury of the United States, provided the companies do not pay it themselves.

This might work a very great hardship at the Treasury. I have made a little computation here. On some sections of the road the companies are permitted to issue bonds to the amount of \$96,000 per mile. These bonds will bear six per cent. interest, which would be \$5,760 a year per mile. Now if the company should be ten years in completing such a section, there would have accrued interest on the bonds used to secure the completion of one mile of such section \$11,520, and on a section of twenty miles during a period of ten years there would have accrued interest to the amount of \$1,152,000, all of which would be due from the Treasury of the United States the very moment the Secretary of the Treasury made his indorsement across the back of the bond.

I suppose that the object of the committee was, and in my judgment it ought to be, to obligate the Government to pay interest on these bonds from the date of the completion of each section of the road, and not to obligate it to go back and meet the interest that may have accrued preceding that period. These companies ought to have some money of their own. They ought not to "kite" this work through on the credit of the Government alone. They ought to be able to raise money enough to build one section of the road on their own credit, on the per cent. to be paid in on the stock subscribed. Why do you require them to take stock and to pay in a per cent. on that stock unless they are expected to use some of their own money? Then let them use their own money until they shall have built one section of the road, and then issue their bonds to

enable them to raise money to proceed to the completion of an additional section. The bill, as it stands, would not require the company to raise means to build a single mile of this road.

I think this amendment or some equivalent amendment ought to be adopted. I was well pleased with the suggestion of the Senator from Ohio; perhaps that would be better; and if he would offer an amendment of that kind, I should with great pleasure adopt it in place of my own.

Mr. HOWARD. Mr. President, it cannot be very material to the Government of the United States at what time it shall make good its guarantee of the payment of the twenty years' interest upon these bonds. We shall probably be compelled to pay the most of this twenty years' interest.

Mr. COLLAMER. Will the Senator indulge me one moment?

Mr. HOWARD. Certainly.

Mr. COLLAMER. It is true, as was stated by the Senator from Iowa, and as the gentlemen of the committee all understand, that we agreed upon the principles on which this bill was to be framed, and for the purpose of reducing it to a proper form it was placed in the hands of the chairman, and was very well committed to his hands; but I think I cannot be mistaken in this: I distinctly understood that it was to require a section of the road to be completed before the bonds were to issue. It will be recollected by the members of the committee that we made the sections in California twenty miles in length in order to enable the company to finish them and to get some bonds a little sooner. If the bill is drawn as now represented, that these bonds can issue before a section of the road is completed and certified to by the commissioners, it is entirely different from what I understood it.

Mr. HOWARD. I do not know what may have been the understanding of the Senator from Vermont on that subject. All I know is that this clause in the bill after having been drafted by myself was read over to the committee assembled together for the purpose of considering it. It is very true there was no special discussion relating to this particular feature of the bill; and therefore it is doubtless true, as the honorable Senator from Vermont says, that he understood the bonds were not to issue until after the various sections of the road should be completed.

Mr. COLLAMER. *Scrutin* as they were completed.

Mr. HOWARD. I have no doubt that that was his understanding; but at the same time I cannot say that that was my understanding. The difference, it will be observed, is very important, very striking. It is certainly true that if the Government guaranties the payment of the interest upon the bond for twenty years from and after the date of the bond, it does give to the corporate bond a greater value in the market, because a person willing to invest his money in such a bond would be more willing to buy and would pay a larger price for it, knowing that he had the agreement of the United States to pay the interest from the date of the bond. The bond, therefore, would be very likely to sell for a larger sum in the market than it would if the interest was not to be paid by the Government of the United States until there should be a certainty of the completion of the work to which it was attached.

I do not, however, regard it as of much importance whether this particular feature of the bill shall be retained or whether it shall be so altered as to prohibit the issuing of these bonds until the work is completed. So far as the United States is concerned, I shall feel better satisfied to have the amendment of the honorable Senator from Iowa adopted; but at the same time I must say that in my judgment it will greatly embarrass the company in the construction of the road; because it will throw upon the stockholders of the road, at first at least, the entire burden of raising the cash means for prosecuting the work. If we help them at all, we may as well help them in their infancy, in the midst of their struggles, as to wait until they are grown men.

Mr. CONNESS. I confess that my understanding was like that of the honorable Senator from Vermont, and my judgment now is that a proper consideration of safety requires that the bonds should bear date from the period of their indorsement by the Government. Although we

aid these companies very largely, this aid is predicated and granted to them upon their ability to enter upon the building of the road and to construct forty or twenty miles, as the case may be, themselves, by their own means, as a beginning. Upon the construction of twenty or forty miles, as the case may be, they are to have their bonds prepared, and upon the certificate of the commissioners appointed by the President that that length of the road has been constructed, they are to receive the indorsement of the Government, and from that date the interest and the responsibility of the Government for that interest is to begin. That is my clear understanding, and it is my decided judgment that it should be adopted as the rule; and therefore I am in favor of the amendment proposed by the honorable Senator from Iowa.

I do not agree with my friend, the chairman of the committee, that it will affect the value of the bonds in the market at all. Indeed, I would not wish those bonds to have any value or to be put in the market until they had the indorsement of the Government made upon them. It will be observed by the Senate that the companies already engaged in the building of this road, both on this side and on the Pacific side of the continent, and who have issued bonds of their own to aid them in the construction of the road, are furnished abundant means by the provisions of this bill for converting these bonds into the Government bonds provided to be issued. I am decidedly in favor of such a provision as was indicated in the remarks made by the Senator from Iowa.

Mr. SHERMAN. If the Senator from Iowa will withdraw his amendment I will offer an amendment to be added to the eighth section which I think will accomplish this purpose and relieve us from this difficulty.

Mr. HARLAN. If it be in order I ask leave to withdraw my amendment.

Several SENATORS. Let the other amendment be read first for information.

The Secretary read, as follows:

*Provided*, That no bonds the interest of which is to be guarantied by the United States shall be issued by said company, except from time to time as a section of its road is completed and its completion is certified by the Secretary of the Treasury, as herein provided.

Mr. POMEROY. The completion is to be certified by the President.

Mr. SHERMAN. It is to be certified to by Secretary of the Treasury by the tenth section.

Mr. POMEROY. No, sir; it is to be certified by the President to the Secretary of the Treasury.

Mr. CONNESS. I suggest to the Senator to leave out the designation of any officer to whom the completion of the road shall be certified, and let it stand to be certified as required by this act.

Mr. SHERMAN. Very well; I will so modify it.

The PRESIDENT *pro tempore*. Does the Senator from Iowa accept the amendment of the Senator from Ohio in lieu of his own?

Mr. HARLAN. Yes, sir.

The PRESIDENT *pro tempore*. The amendment of the Senator from Iowa is withdrawn, and the question is on the amendment of the Senator from Ohio.

Mr. HARLAN. Where does it come in?

Mr. SHERMAN. At the end of the eighth section, because it is appropriate to that section.

Mr. HARLAN. I ask that it may be read again as modified.

The Secretary read it, as follows:

That no bonds the interest of which is to be guarantied by the United States shall be issued by said company, except from time to time as a section of its road is completed, and its completion is certified as herein provided.

Mr. HOWARD. It should read "by any of said companies."

Mr. SHERMAN. Let it be so modified.

The amendment, as modified, to the amendment was agreed to.

Mr. CONNESS. I now renew the amendment that I withdrew some time since, to add at the end of the sixth section the following:

*Provided*, That in all grants of timber growing upon mineral lands made to the companies designated, there shall be reserved to the person or persons engaged in working and operating any mines on such lands sufficient timber for the successful operation of the same.

Mr. HARLAN. I do not perceive the practical effect of the amendment. The bill as it now stands, with the amendments that have been adopted



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ed, provides that the odd sections to the extent of ten sections a mile shall be granted to this company if found within the limits of twenty miles on each side of the road.

Mr. CONNESS. Ten miles in my State.

Mr. HARLAN. But they may go out to the extent of twenty miles. If they are unable to find so large a quantity of agricultural land, and they find timber growing on odd sections that are mineral land and thereby excluded from the operation of the grant, the company may take the timber. That is the effect of the bill as it now stands. This amendment, if I comprehend it, proceeds to say that the timber thus granted to the company may be used by miners working mines on the land. That, then, would be to take from the company the timber growing on mineral lands which otherwise would become their timber had the land been agricultural land. In other words, it limits the grant to the company. If that is the intention of the Senator, I understand it. Personally I have no objection to it, but it seems to me that we ought to grant the timber at least, if we cannot grant the land to the extent of ten sections a mile.

Mr. CONNESS. If the Senator was acquainted with the section of country on the west slope of the Sierra Nevada mountains, I know he would favor the adoption of this amendment. It is perhaps one of the finest timber regions of the world. There are very few sections of it that do not contain the most magnificent forests of timber. The effect of passing this bill as it now stands, making the grant as it was made in the original act of 1862, would be to compel the miners, although they are permitted to work the mines upon the land from which the timber is given to the companies, to purchase the timber necessary for the operation of their mines from those companies; and it would therefore subject that branch of industry to just such tax and price as those companies might see fit to impose. I do not pretend to say that the companies in this case would act unjustly or oppressively; but we are now making a law. That law includes a grant of lands to these companies where they can get them, and of timber upon the lands where they cannot take the lands. Those lands, almost invaluable, contain minerals. They are now settled upon. There are hundreds, I may say thousands, of miners' homes upon them. Will you say that the miner shall not cut a stick of timber from the forest beneath which his mine is, for the proper working of that mine, without being subjected to such a price as these companies may see fit to demand from him? I hope not. I take it it is our interest, our highest interest to promote by every means in our power the production of the precious metals. We want them, and we should encourage their production.

Mr. POMEROY. I hope this amendment of the Senator from California will prevail, from the fact that almost that whole region of country has been declared to be mineral land.

Mr. CONNESS. And is all excepted from sale and survey.

Mr. POMEROY. The railroad companies will get title to none of them, and they ought not to monopolize all the timber. Wherever there are mines to be opened, and wherever a miner settles, he ought, at least, to have timber sufficient for his use.

Mr. CONNESS. I understand that the Senator from Iowa assents to the amendment; but I wish to make one suggestion to him to which I do not think his attention has been called. Upon the lands, the timber upon which is thus granted, there are now settled farmers in the little nooks and valleys, men who have made their homes there forever, men whose homes have been made there for ten or twelve years last past. We are absolutely granting the timber upon those men's homes. I think some additional provision or reservation should be made in favor of the parties who are located and settled and have their homes upon these lands, in addition to the reservation to miners. I think this amendment is but just

and fair. Otherwise, we shall subject these people, not generally rich people, persons who have gone into the forest to reduce the wilderness to civilization, to just such a price as the companies may see fit to impose. Before the bill passes I shall prepare an additional amendment, which shall at least require the companies to convey the timber at some reasonable price. That will apply to the question of settlement between the companies and the persons located upon these lands.

Mr. HARLAN. I think all the cases the Senator has described are protected now sufficiently by the preemption laws.

Mr. CONNESS. Let me say to the Senator that this whole region is exempted by congressional act from survey and sale, and the preemption laws do not apply. The miners are there by no legal right. They are simply permitted to be there by the Government.

Mr. HARLAN. I think the preemption laws now apply to all the Territories of the United States and all the States of the Union.

Mr. CONNESS. They do not. The Senator is mistaken.

Mr. HARLAN. It was doubtful a few years ago whether they did apply to California; but in a bill that was enacted two years since the preemption laws were extended to the whole country; and I think these parties may avail themselves of the benefit of the preemption laws if they choose to do so.

Mr. CONNESS. I beg the Senator's pardon. He is certainly in error in this matter. The preemption laws do not apply to what are denominated by congressional act mineral lands in California, but those lands, on the contrary, are specifically exempted from survey and sale; neither do the preemption laws apply to the lands within exterior boundaries upon which Spanish grants are claimed to have been made.

Mr. HARLAN. The Senator is right in that.

Mr. CONNESS. And in the other also.

Mr. HARLAN. I believe they do not apply to the mineral lands or private claims.

Mr. CONNESS. Very well. These are all mineral lands. I will draw up a provision to meet the case.

Mr. SHERMAN. I should like to have the amendment read.

The Secretary read it, to insert at the end of the sixth section the following:

Provided, That in all grants of timber growing upon mineral lands made to the companies designated herein, there shall be reserved to the person or persons engaged in the working and operating any mines on such lands sufficient timber for the successful operation of the same.

Mr. SHERMAN. I have no objection to that as long as the present policy is adopted; but I would rather reserve to the United States this privilege, because we have never yet by legislation given to the miners the right to mine on the mineral lands. It is a great question, one which I do not wish to decide in an indirect way. The object of the Senator would be accomplished by reserving this timber to the United States. We have never interfered with these miners. I believe we do in the tax bill, much to the regret of the Senator, propose to tax the miner to get some kind of revenue from mining. I am inclined to think that this will be impliedly a surrender of the rights of the United States, a surrender never yet made by express law, although it has been done practically by custom.

I simply wish to call the attention of Senators to the implied effect of this amendment, the reservation of a right to the miners, which we have never yet given by express legislation. If we deliberately made up our minds to give to all persons the right to go and mine upon any lands of the United States for gold and silver, it would be well enough to reserve to the miners these things; but if not, we had better reserve them to the United States, and then let the United States by a well-prepared law grant to all its citizens and other persons the right to mine in the mineral lands of the United States—a thing never yet done by law, I believe.

Mr. CONNESS. The Senator has raised a very nice distinction indeed, but it will be observed that the Senator is not exactly right; we are making a grant absolute in its character of the timber upon the mineral lands, or a certain amount of them, to this company, and if we pass this bill without any reservation that grant is complete. Therefore, the man mining in the land beneath its surface will be subject to just such price and tax as the parties to whom we grant this timber shall see fit to impose. The language of this amendment does not contain any legal concession to the miner concerning the mines. We know it is a fact that they mine. Does the Senator deny that? I simply say in this amendment that the men engaged in mining, as permitted by the United States, shall be entitled to take the few sticks of timber they may require for carrying on their business purposes without being considered trespassers. Trespassers against whom? Against the grantees that we are now about to enfranchise.

Mr. POMEROY. They will need timber for firewood also.

Mr. CONNESS. Certainly; but that, I presume, follows as a matter of course, for they could not live without that.

I am sorry that the Senator should raise this question here, and see in this proposition a purpose to concede indirectly a right which, as the Senator says, has not yet been given, but which, in my opinion, should have been given long since. There is no difference of opinion in the great mining section of this country as to whether the United States should continue to regard its citizens as trespassers upon the public domain because they engaged in the business of mining. We only find those jealousies existing in the minds of gentlemen who live on the other side of the continent; gentlemen who, if they extended the area of their travels, would also undoubtedly change their opinions.

The Senator says we are now about to tax the mines. We will discuss that subject when it comes up. Although the Government up to this time has not taken each miner by the throat, or in a more civil way met him by its agent or tax collector, and said, "Sir, one twentieth of your production is mine," the Senator will not deny that this war could not be conducted to-day were it not for the production of those mines. Without them you could not have issued with any credit \$400,000,000 of legal-tender notes; and your banks could not emit their issues as they do, giving money sufficiently extensive for all the operations of trade at this time.

But, sir, that question is not pertinent to this discussion. I cannot see that the amendment is obnoxious to the objection made by the Senator. It simply says to these companies, You shall own all the timber upon the lands spoken of, except so much of it as the man operating the mines thereon shall need for his purposes, and which is as necessary to him as the water he drinks or the air he breathes.

Mr. MORGAN. The Senate has now been engaged for some time on this bill; it is very evident that we cannot get through with it to-day; and it is very important to have an executive session.

Mr. HOWARD. I think we can get through with the bill this afternoon.

Mr. CONNESS. I hope the Senator will allow us to come to a vote on this question.

Mr. SUMNER. I hope we may get through with this bill and then go into executive session.

Mr. MORGAN. I think it is very evident that we cannot get through with the bill to-day. A great many Senators have already left the Chamber. If there should be any time to be filled up after we dispose of executive business, before the usual hour of adjournment, I should be willing to come back to legislative business. I move that the Senate now proceed to the consideration of executive business.

Mr. HOWARD. I hope not.

Mr. CONNESS. That motion is debatable.

The PRESIDENT *pro tempore*. To a certain extent.

Mr. CONNESS. Well, sir, I will not debate it long. I wish to make an appeal to the Senator from New York. This bill, as the Senator well knows and appreciates, is of the greatest possible consequence; it has been considered day after day, and the discussions upon it are now pretty well over. It is of the greatest importance that we should dispose of this bill before the internal tax bill comes upon us, which will claim all our attention, and is so necessary. I hope the Senator will not persist in his motion.

Mr. MORGAN. I entirely agree with the Senator from California in regard to the importance of this bill, and because it is important, it seems to me we ought not to proceed with it when the Senate is so thin. It is now quite late; a great many Senators who are usually here are now absent; and it is important that this executive session should take place. If Senators are willing to remain half an hour hence, when the executive business shall be disposed of, they might continue the consideration of this bill.

Mr. CONNESS. They will not do any legislative business after they go into executive session.

Mr. MORGAN. I will not press the motion for a few minutes.

The PRESIDENT *pro tempore*. The motion is withdrawn, and the question recurs on the amendment proposed by the Senator from California to the amendment of the committee.

The amendment to the amendment was agreed to.

Mr. HARLAN. In section ten, line ninety-one, after the word "same" I move to insert these words, "and such other evidence as the said Secretary may require;" so that the proviso will read:

And provided further, That before any bonds shall be so guaranteed by the United States, the company claiming them shall present to the Secretary of the Treasury an affidavit of the president and secretary of the company, to be sworn to before the judge of a court of record, setting forth whether said company has issued any such bonds or securities, and if so, particularly describing the same, and such other evidence as the said Secretary may require so as to enable said Secretary to make the deduction, &c.

The amendment to the amendment was agreed to.

Mr. HARLAN. To perfect the language, it would be well to strike out the words "said Secretary" at the end of the ninety-first line and to insert the word "him."

The amendment to the amendment was agreed to.

Mr. POMEROY. There is another amendment that should be made to make the bill harmonize with the provision already adopted. In section eight, line four, after the word "bond" there should be inserted, I think, the words, "as sections are completed according to the provisions of this act;" so that it will read:

That no United States bonds shall be issued under the act of which this is an amendment; but the said company may make, execute, and issue its own first mortgage bonds as sections are completed according to the provisions of this act.

Mr. HOWARD. That amendment will be made necessary in consequence of the adoption of the amendment of the honorable Senator from Ohio.

The amendment to the amendment was agreed to.

Mr. HARLAN. I offer the following amendment to be inserted at the end of section ten:

Provided, also, That no land granted by this act shall be conveyed to any party or parties, and no bonds shall be indorsed and the interest thereon be paid or guaranteed to be paid to any company or companies, party or parties, on account of any road or part thereof made prior to the passage of the act to which this is an amendment, or made subsequent thereto under the provisions of any act other than this act and the act amended by this act.

The object of the amendment is to prevent parties who may have constructed sections of road heretofore coming in and claiming them to be a part of this road and presenting certificates of the completion of sections of their road and receiving bonds thereon.

Mr. LANE, of Kansas. I should like to understand the Senator from Iowa. We have twenty-five miles of a road in running order and forty miles graded.

Mr. HARLAN. Built under the provisions of the act of 1862?

Mr. LANE, of Kansas. Yes, sir.

Mr. HARLAN. This amendment will not affect that.

Mr. HOWARD. Let the amendment be read again.

Mr. LANE, of Kansas. I wish to ask the chairman of the committee if it is proposed that

that forty miles shall be completed under this bill or under the bill of 1862?

Mr. HOWARD. The company building it will be entitled to the benefits and privileges granted by this act, although the actual construction of it was under the former act. Every right is preserved by the present bill which has accrued, and every remedy is also preserved to the party claiming it in the same manner as if this bill had not been passed. Every right is secured to every person and every corporation.

The amendment to the amendment was agreed to.

Mr. HARLAN. On page 44, section twenty, line six, I move to strike out the words "the President of the United States shall prescribe," and insert "now provided by law." This section provides that the tracks of the respective roads shall be of such uniform width as the President of the United States shall prescribe, and it is necessary to change that phraseology.

Mr. HOWARD. I should like to have an explanation of that amendment from the Senator from Iowa. This is the same language that was embraced in the act of 1862.

Mr. HARLAN. Since the passage of the act of 1862 Congress has passed a law fixing the gauge of the road, and that is now the law of the land.

Mr. HOWARD. Then I have no objection.

The amendment to the amendment was agreed to.

Mr. HARLAN. I move to amend on page 49, line thirty-four of section twenty-one, after the word "dollars" by inserting "and such other damage as he may have suffered on account of said refusal or failure;" and in line thirty-five by striking out the words, "in an action of debt;" so that the clause will read:

On pain of forfeiting to the person injured, for each offense, the sum of \$100, and such other damage as he may have suffered on account of said refusal or failure, to be sued for and recovered in any court of the United States, &c.

Mr. HOWARD. Let me inquire of the honorable Senator from Iowa whether he contemplates that this shall be all one proceeding, the collection of the penalty of \$100 for each offense, and also the private damages which may have accrued. I do not fully understand his amendment. There seems to be a little incompatibility in recovering these two things in the same suit.

Mr. HARLAN. That may be so in some States; but it would not be so in Iowa under our laws, and I suppose there will be no difficulty in bringing two suits in States where you cannot bring a suit for a sum that is fixed and also for a sum not fixed in one action. This contemplates that the action shall be brought for the exact sum of \$100, and therefore the action is to be styled an action of debt, not *assumpsit*; but in the States where any difficulty may accrue on this account, two suits may be brought.

The amendment to the amendment was agreed to.

Mr. HARLAN. I move to amend on page 50, section twenty-two, line eight, by striking out the words "not exceeding ten dollars," and inserting "less than \$1 25;" and in lines twelve and thirteen of the same section, by striking out "right of purchase with bonds shall only be exercised as to Government sections, and subdivisions thereof," and inserting "purchase shall be made in legal sections and subdivisions of sections;" so that the clause will read:

Paying or allowing to such company such price for any such lands as shall be agreed upon, not less than \$1 25 per acre; and the guarantee of the Government for the payment of interest on any such bonds, so used, in payment for lands shall thereupon cease and be extinguished: *Provided, however*, That such purchase shall be made in legal sections and subdivisions of sections.

Mr. HOWARD. If I understand this amendment properly, it seems to me it ought not to be adopted. Section twenty-two authorizes the holders of the bonds of any of the companies named in the act, upon which the Government guarantees the payment of any interest, to use such bonds in payment for any lands herein granted to the companies issuing the bonds, at the par value of the bonds, paying or allowing to such company such price for any such lands as shall be agreed upon, not exceeding ten dollars per acre. How does the amendment alter that?

Mr. HARLAN. If the amendment shall be amended as I propose, they may sell the land for as much as the purchaser may agree to give, not less than \$1 25 an acre.

Mr. HOWARD. This requires the company to sell all such land at a sum not exceeding ten dollars per acre; that is the maximum which the company can charge for any of its lands to the purchaser. I wish to call the attention of the Senate to this. I do not know whether it is worth while to retain that maximum, but it seems to me there should be some limit beyond which the company cannot go in charging third persons for their lands.

Mr. HARLAN. This section contemplates that the holders of bonds the interest of which shall be guaranteed by the Government may buy the land granted under this act with the bonds, and when such purchase shall be made by the holder of the bonds, the liability of the Government to pay the interest shall cease. So the interest of the Government will be promoted by the highest possible price that the land will bring, because in that way a larger nominal amount of bonds will be invested for the land and the Government liability terminated.

In addition to this, it is an unusual provision. In all the land grants made by Congress heretofore to aid in the construction of railroads, the companies have not been limited as to the price they might charge for the land. They have been limited as to the time during which they might hold the land as a corporation, and so are these companies thus limited in this bill; but it is plainly the interest of the Government that the company shall sell the land for as high a price as possible when they sell the land for the purpose of taking up their own bonds, the interest on which this Government has guaranteed the payment of.

The amendment to the amendment was agreed to.

Mr. POMEROY. In the same section there is a clause in the last two lines which reads:

And to an amount by any one holder not exceeding one such section of six hundred and forty acres in any one township.

I move to strike that out. The idea that a man may not buy more than one section in a township is ridiculous.

The amendment to the amendment was agreed to.

Mr. LANE, of Kansas. I desire now to call the attention of the chairman of the committee to an amendment I suggested the other day in line fifty-four of section thirteen, on page 32, to strike out the words "the act of which this is an amendment," and insert "this act."

The PRESIDENT *pro tempore*. That amendment has already been made, the Chair is informed.

Mr. HOWARD. Let me read to the Senator the clause as it is now amended by the Senate:

The said Kansas company shall complete and equip not less than one hundred miles of its said railroad and telegraph within two years from the time of filing their assent to the provisions of this act.

That is the way it reads at present.

Mr. LANE, of Kansas. I was not present when that alteration was made. I have another amendment. On page 29, line twenty-one of section twelve, after the word "that," I move to insert "after the completion of said road."

Mr. HOWARD. It seems to me that does not reach the object which the honorable Senator has in view. If that amendment should be adopted, it would release the company from keeping accurate accounts until after the whole road is completed. I certainly think the honorable Senator does not intend that.

Mr. LANE, of Kansas. No, sir, but till after the completion of forty miles. They will, of course, receive some small amounts before the section is completed, and I do not want to put them to the trouble of keeping accounts of that.

Mr. HOWARD. But what is the objection to asking them to keep correct accounts of what they do receive?

Mr. LANE, of Kansas. It will be so small a matter.

Mr. HOWARD. It may be a small matter, but it may be a very considerable matter.

Mr. LANE, of Kansas. We have now twenty-five miles completed. To employ a clerk to keep the accounts of the receipts of a few dollars a month seems to me to be a useless trouble to the company. I will modify the amendment by inserting "after the completion of a section of said road."

Mr. HOWARD. I hope that will not pass.

The same reason exists against it that existed against the prior amendment.

The amendment to the amendment was rejected.

Mr. HARLAN. I move to amend the amendment by adding the following as an additional section:

And be it further enacted, That before any land granted by this act shall be conveyed to any company or party entitled thereto, under this act, there shall be first paid into the Treasury of the United States the gross cost of surveying, selecting, and conveying the same, by the said company or party in interest, which amount shall, without any further appropriation, stand to the credit of the proper account to be used by the Commissioner of the General Land Office for the prosecution of the survey of the public lands along the line of said roads, and so from year to year, until the whole shall be completed, as provided under the provisions of this act.

The object of this amendment is that the companies shall pay for the survey of their own land; that is, of the land that is to be granted to them under this bill. This has become almost necessary, as it seems to me. The entire receipts from the land system do not now more than pay the expense of the system. The adoption of this bill will very greatly enlarge the work of the office here and the work in the field; and it seems to me that those who are to derive an advantage from the grant ought to pay at least for the survey of the land.

The amendment to the amendment was agreed to.

Mr. HARLAN. I offer the following—

Mr. LANE, of Kansas. If it is not too late, I ask for the yeas and nays on the last amendment proposed by the Senator from Iowa.

The PRESIDENT *pro tempore*. In the opinion of the Chair it is too late. They can be had in the Senate.

Mr. LANE, of Kansas. I move to reconsider the vote.

The PRESIDENT *pro tempore*. Let the amendment now proposed be reported.

The Secretary read the amendment of Mr. HARLAN, which was in line thirty-seven of section two, on page 9, after "1877" to insert:

And at the rate of not less than one hundred miles for every year after any branch railroad shall be completed from the Missouri river to the said initial point on the one hundredth meridian.

Mr. HARLAN. The object of this is to require the company to keep at work. The bill, as it stands, provides that they shall complete the road within a given period of ten years, I think, which may be extended by the President five years more. This amendment is intended to compel them to continue the work from year to year and build at least one hundred miles every year. I believe the chairman of the committee told me he had no objections to it.

Mr. HOWARD. I have no objection to it.

The amendment to the amendment was agreed to.

Mr. HARLAN. I propose now an amendment to come in on page 36, after the forty-sixth line of section fifteen, as a separate provision. If it shall be adopted, (and I wish to make this explanation,) I shall then move to strike out of section fifteen all that pertains to the Sioux City branch. The object of this amendment is to enable the companies named in the amendment to proceed to build the Sioux City branch road after a railroad shall have been completed to Sioux City through Iowa or through Minnesota.

The PRESIDENT *pro tempore*. The amendment will be reported.

The Secretary read it, as follows:

Insert after line forty-six of section fifteen:  
SIoux CITY BRANCH.

That for the purposes herein mentioned the Dubuque and Sioux City Railroad Company, the McGregor and Western Railroad Company, each of said companies being a body corporate under the laws of the State of Iowa, and the Minnesota Valley Railroad Company, the said company being a body corporate under the laws of the State of Minnesota, or any two of them so agreeing to form a consolidated company for this purpose, and in case of disagreement, then any one of them so desiring it, to be indicated by the President of the United States, whenever there shall be a line of railroad fully completed and equipped through Minnesota or Iowa to Sioux City, on the Missouri river, is hereby authorized to construct a railroad and telegraph from said Sioux City, upon the most direct and practicable route, to intersect and unite with the said railroad from said western boundary of Iowa, at such point thereon as the President of the United States shall fix, not further west than the said one hundredth meridian of longitude, and to construct the same at a rate of not less than fifty miles each year, from and after the time when any such road shall be built through Minnesota or Iowa to said Sioux City, as aforesaid; and for and in aid of such purposes the said company may do and perform, in reference to said road provided for in this section, and in reference to the construction, equip-

ment, maintenance, and enjoyment thereof, all and singular the several acts and things hereinbefore provided, authorized, granted, or required to be done by said company; and shall be entitled to similar and like grants, benefits, immunities, guarantees, acts, and things to be done and performed by the Government of the United States, by the President of the United States, the Secretaries of the Treasury and of the Interior, or by commissioners, and be subject to like terms, conditions, restrictions, and regulations hereinbefore contained, relating to that portion of the said Union Pacific railroad and telegraph line between said initial point and said eastern base of the Rocky mountains, so far as such acts and things, grants, benefits, immunities, and guarantees are applicable to said road; the route of said road to be subject to the approval of the President of the United States.

Mr. HOWARD. I hope that will not prevail. I do not wish to make it a subject of debate. It is introducing into the bill matter which was not considered by the committee, and I think the whole ground is sufficiently covered already by the other provisions of the bill. The fifteenth section of the bill requires the Union Pacific Railroad Company to construct a line from Sioux City, southwestwardly, to unite with the main trunk, wherever there shall be a railroad in operation through the State of Iowa or Minnesota. Whenever that thing shall be done, it will be the duty of the Union Pacific Railroad Company to construct this branch and unite Sioux City with the main trunk, and not until then. This amendment, I believe, would authorize the consolidated companies mentioned in it to proceed at once to the construction of this branch.

Mr. HARLAN. Not at all; only when a road shall be constructed through Iowa or Minnesota to Sioux City.

Mr. HOWARD. Then it is sufficiently provided for in the bill already.

Mr. HARLAN. The only object that will be effected by this amendment, if it shall be adopted, will be to authorize these companies now organized in Iowa and Minnesota to build this branch road, under precisely the same provisions that are now in the bill, instead of the Union Pacific Railroad Company. Under the terms of the law of 1862, the Union Pacific Railroad Company was required to build this branch road, and if they failed to do so they forfeited all their rights and franchises; but under this bill there is no forfeiture, so that it amounts to merely the privilege on their part to build the road. The people in Iowa, and Minnesota, and Wisconsin, might very well doubt whether it would be the interest of any company that might be organized as the Union Pacific railroad to build a branch road to connect with their northern system of roads, and thereby divide the profits of transportation with those who own the roads directly east of the main line. It might be the interest of the Union Pacific Railroad Company under this bill not to build this branch, and if they do not there are no forfeitures. They are under no obligations whatever to build this branch road; they merely have the privilege to do so. What I seek to secure by this amendment is that this privilege to build the road shall be extended to the companies organized in Iowa and Minnesota if they choose to do so, and not be granted to the Union Pacific Railroad Company. It will be giving two companies in Iowa the same right that is granted in the old law and in this bill to the railroad company in Missouri owning the road from Hannibal to St. Joseph, and nothing more.

Mr. POMEROY. I do not object to this amendment myself; I only want to make a remark in reference to what the Senator from Iowa said yesterday, when he stated that Congress had adopted a principle that it could not authorize a company to build a railroad in a State. Congress has never yet authorized a corporation of a State to build a railroad in a Territory. This is as much a new feature as the other feature of the bill of which the Senator spoke yesterday. The Senator's amendment proposes to authorize two corporations created by States to build a railroad in a Territory where the United States have exclusive jurisdiction. I do not know that there is anything in the point, but I think if those State companies may be authorized by Congress to build a railroad in a Territory, Congress may at least authorize a company to build a railroad in a State.

Mr. HARLAN. The bill itself provides that the Hannibal and St. Joseph Railroad Company, in the State of Missouri, may build a hundred miles of this road in the State of Kansas.

Mr. POMEROY. But not in a Territory.

Mr. GRIMES. What is the difference?

Mr. HENDRICKS. That is still worse.

Mr. HARLAN. That is, they cannot build a railroad in a Territory when they may build one in a State. It is supposed by some that Congress has jurisdiction over the Territories and may enact laws for the Territories, and modify laws now in existence in a Territory; and if Congress has that power, of course such a question as the Senator from Kansas suggests cannot be raised as to my amendment. But there are others who think that Congress has no right to organize a company to build a road in a State without the consent of the State. I respectfully differ, therefore, in opinion with the Senator from Kansas on this subject.

Mr. POMEROY. I only spoke of it as a new feature, not that I thought it unconstitutional or very objectionable. The Senator's objection to our amendment yesterday was on the ground of its being a new feature.

Mr. HOWARD. I have no doubt about the power of Congress to recognize a railroad charter, granted by a State, and to give it certain privileges and franchises in regard to the public lands in the Territories of the United States. I have not any question about that, and I make no such point. I think we have full and plenary power.

Mr. POMEROY. I have no doubt about it.

Mr. HOWARD. My objection to this amendment is that it introduces into the bill a new feature that I do not fully understand, I confess. At the same time I am bound to say that the Senators who represent those States that are immediately concerned understand it much better than I do; and I shall throw no obstacle in the way of the adoption of this amendment if they see fit to urge it. I am a little afraid of it myself under the circumstances.

The amendment to the amendment was agreed to.

Mr. HARLAN. I now move to amend section fifteen so as to conform to this amendment. Let the heading of the section, instead of reading "Omaha and Sioux City branches," read "Omaha branch."

The PRESIDENT *pro tempore*. That amendment will be made.

Mr. HARLAN. In line three, I move to strike out the words "single line of." That is a provision that does not pertain to any other branch road or to the main line, and I see no reason why it should pertain to the Omaha branch. If they desire to build a double-track railroad from Omaha to the hundredth meridian, it seems to me they ought to have the right to do so.

The PRESIDENT *pro tempore*. The modification will be made, if there be no objection. The Chair hears no objection.

Mr. HARLAN. I move to amend the fifteenth section as I have marked it in red on the printed copy in my hand. The amendments are numerous, but merely as to phraseology, so as to make the section apply to the Omaha branch line.

The PRESIDENT *pro tempore*. The amendments will be read.

The Secretary read:

In section fifteen, line eight, after the word "longitude," strike out "and whenever there shall be a line of railroad fully equipped through Minnesota or Iowa to Sioux City, on the Missouri river, said Union Pacific Railroad Company is hereby authorized and required to construct a railroad and telegraph from said Sioux City, upon the most direct and practicable route, to intersect and unite with the said railroad from said western boundary of Iowa, at such point thereon as the President of the United States shall fix, not further west than the said one hundredth meridian of longitude, and to construct the same at a rate of not less than one hundred miles each year, from and after the time when any such road shall be built through Minnesota or Iowa to said Sioux City as aforesaid."

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The Senator from Iowa also moves further to amend the fifteenth section by striking out in line twenty-two the words "each of," and the letter "s" from the word "roads" in the same line. This amendment will be made. The next is on page 36, line thirty-seven, of the same section, after the words "applicable to said," to strike out the word "two" and the letter "s" from the word "roads;" and in the thirty-eighth line to strike out the words "or either of them," and "each of said," and the letter "s" from the word "roads;" and in line forty-one to strike out the word "first."

The amendments to the amendment were agreed to.

Mr. LANE, of Kansas. I move to amend line six,



section thirteen, page 30, after the word "thereof," by inserting "via Lawrence and Topeka." The company that is now building this road have located it within about two miles of each of those towns, and ask of the towns a large amount of money to make it to the towns. I desire to remind the Senate that Lawrence suffered a loss a few months since of \$1,100,000, and that Topeka is the seat of government of our State. Those who are interested in the road here have conversed with me on the subject and have no objection to the amendment being inserted. I ask it in justice to those two towns and to the State that I represent in part.

Mr. HOWARD. I should be very glad to do anything in reason to indemnify the good people of Lawrence for the losses which they have recently sustained, but I take it that this is not exactly the occasion and form in which that is to be done; I hope therefore the amendment will not be adopted, as it would change the tenor and effect of the bill very much. It has not been the purpose of the committee to change the original routes as fixed by the act of 1862, leaving them all to stand precisely as before.

Mr. POMEROY. I think the object of my colleague will be accomplished if he only obliges the road to touch at the river opposite these points. The road is being built on the opposite side of the river; and if the amendment prevails it will oblige them to build on the opposite side of the river to that where they have now finished a part of the road. If the amendment of my colleague should prevail, the law would be that they begin on the south side of the Kansas river, extending the road by way of Lawrence and Topeka, which are both on the south side. In point of fact, the road is being built on the north side. The object of my colleague, I think, is a very good one; I am in favor of having these roads touch the river opposite those towns if they come up on the north side; but to oblige them to cross the river and go up on the other side, I think ought not to be done. That should be left to the company. Let them come up on which side they please. If my colleague will amend his amendment so as to have them touch the river opposite to these towns, I shall have no objection.

Mr. LANE, of Kansas. I am perfectly willing to agree to that modification; it is all I desire; I am willing to have the road within a mile of the towns. I desire to say to the chairman of the committee that there is nothing in nature to prevent this company constructing the road opposite these two towns. The chairman seems to feel some sympathy for the town of Lawrence. We have had an application here for remuneration; but the Government is not now prepared to remunerate. I hope that this amendment will prevail. The result of the theory of the company will be this—and I desire the ear of the chairman of the committee when I state it—

Mr. HOWARD. Let me inquire of the Senator from Kansas whether this amendment of his will not necessitate the construction of two bridges across the river?

Mr. LANE, of Kansas. Not at all. I propose to amend it so as to read, "within a mile of either of the towns." The river is not more than an eighth of a mile across.

Mr. HOWARD. It seems to me we had better leave that matter to be regulated between the company and the citizens of those places. This whole subject was discussed, if I remember rightly, during the discussion of the original bill in 1862. This present bill does not vary in this respect from the act of 1862; it is the same thing; the committee thought it not best under the circumstances to alter it.

Mr. LANE, of Kansas. I think the chairman does not understand me. This question was discussed in the committee, of which I was a member. The Senator from Ohio [Mr. SHERMAN] will recollect that it was fully discussed; but as the road was to follow the valley of the Kansas river, it was not deemed necessary to insert the names of these two towns, in the expectation, and the confident expectation on my part, that these two towns would be made points upon the road. Now, the object is to destroy—no, I will not say that; I do not know that that is the intention, but the result will be that Lawrence and Topeka must give bonds to the amount of two or three hundred thousand dollars, which they are un-

able to do, to obtain that which was intended by the committee at the session when the original bill was adopted. The result, however, will be this: if the two towns cannot raise this amount of bonds there will be rival towns built up two miles from each of them, and destroy them both. I called the attention of Senators to this subject some time since; and a letter was drawn up, signed by the Senators of this body, asking these contractors to make these two towns points upon the road; and it was signed, I believe, by thirty-eight members of this body. They have as yet failed to do it, although I have their written pledges here in my desk, pledging themselves to make these two towns points upon the road. They require these bonds. I have, I believe, two telegrams stating that the two towns would be made points on the road, in response to the letter to which I refer, signed by thirty-eight members of the Senate. I modify my amendment by saying "within one mile of Topeka and Lawrence."

Mr. HENDERSON. I have no feeling on this subject except that I desire to see all these roads built on the best possible ground that can be obtained. I desire also to have the line as straight as it can be. I of course know nothing about the facts stated by the Senator from Kansas. Personally, I really felt a very great desire, if it possibly can be done, to have this road go by the way of Lawrence, and I asked Mr. Hallett, who is or was for a time the president of the company, some time ago, if it could be carried by the town of Lawrence, and he said to me that it would deviate from a right line very considerably, and would cost the company an immense sum of money to do so, and that it ought not to be constructed by the way of Lawrence. I of course know personally nothing in regard to it.

Mr. LANE, of Kansas. The Senator is doing a great injustice to Mr. Hallett, or he has done great injustice to himself, for, as I have stated here, I have his letters and telegrams—

Mr. HENDERSON. You did not state that they were from Mr. Hallett.

Mr. LANE, of Kansas. I state now that I have Mr. Hallett's letters and telegrams pledging me in the most emphatic terms that he would make these two towns points on the road. I am, of course, as well acquainted with the land opposite those two towns as I am with this Capitol or the Senate Chamber, and I say here that there is nothing in nature to prevent the road running opposite these two towns.

Mr. HENDERSON. I ask the Senator how far the line of the contemplated road, as at present surveyed, is from the river opposite to Lawrence?

Mr. LANE, of Kansas. Two and a quarter miles.

Mr. HENDERSON. How far is it from Topeka?

Mr. LANE, of Kansas. About the same distance, but perhaps not quite as much.

Mr. HENDERSON. As I stated before, I have no interest or feeling about this thing. If this road can be carried by Lawrence or by Topeka as well as by some other line, it would be my desire to see it pass by those towns. Of course it cannot touch the towns, because the road is being constructed on the north side of the river, and, as has been stated, the two towns are on the south bank of the river. In reality, the road will be no more serviceable to the two towns by touching the river, or passing along upon the river right opposite to them, in sight of them, than it would be two miles away. I cannot conceive what additional advantage it would be to them to have it immediately upon the bank of the river. But, sir, why not in all this matter let the actual survey determine the line of the road? I would not be in favor of permitting a company to impose upon any town on the line of the road; but it seems to me that the true interest of the company would dictate the policy of building the road where there would be the fewest number of curves, where the curves would not be so great, and upon a line of road where the surface of the ground would enable them to build it cheapest. In all this matter connected with the building of the Pacific railroad my policy has been to let actual survey determine; and I am sure that if actual survey carries this road by either of these two points no man will be more highly gratified than myself. Indeed it seems to me that a company building a road, if they can carry it by the way of a large flourishing

town where there is a trade, would certainly carry it there. There is every inducement in the world for them to deviate from a right line if they can possibly do so; but in working a great road like this how important it is that it shall be a straight line.

Mr. LANE, of Kansas. That is the case generally, but the Senator will bear in mind that this company owns the land opposite Lawrence.

Mr. HENDERSON. Which company?

Mr. LANE, of Kansas. This railroad company owns the land opposite Lawrence.

Mr. POMEROY. If my colleague will accept my amendment to his amendment, we can take a vote on it and close the question on it at once, I have no doubt.

Mr. LANE, of Kansas. That I have accepted. The object of this detour from Lawrence is to build up a town on the land of the company and destroy Lawrence.

Mr. HENDERSON. I suppose the Senator from Kansas [Mr. POMEROY] will hardly take the vote until I have yielded the floor.

Mr. POMEROY. I thought the Senator had concluded his remarks.

Mr. HENDERSON. The Senator is evidently tired of me, and I will yield the floor so that he can offer his amendment and let his colleague accept it. It is highly important that we should not take up time. I have not spent the time; the Senator has been on the floor to-day twenty-five times in regard to this bill; I have not opened my mouth on it before.

Mr. MORGAN. I now renew my motion for an executive session.

Mr. HOWARD. I hope not. I hope we shall get a vote on this bill.

Mr. HENDERSON. I desire to state that I have several amendments to offer to this bill, and I desire further to say that I am unwilling now to vote on this bill since the numerous amendments which have been adopted to-day until there is a reprint of it, so that I can see what has been adopted. I do not wish to take any time, but I would like, since these various amendments have been adopted, to see the bill as it stands. It is a bill of very great importance to my State, and I have spent none of the time of the Senate in regard to it.

Mr. MORGAN. I renew my motion to proceed to the consideration of executive business.

Mr. HENDRICKS. The suggestion of the Senator from Missouri is of importance. The amendments of the Senate ought to be ordered to be printed.

Mr. HENDERSON. With the permission of the Senator from New York, I will move that the bill with the amendments adopted up to this time be printed.

Mr. CONNESS. I hope if that course is to be taken that the amendments now prepared to be offered will first be allowed to be voted upon.

Mr. HENDERSON. I have no objection to that.

Mr. CONNESS. Let a vote be taken on the pending amendment at any rate.

Mr. HENDERSON. I have no objection.

Mr. MORGAN. I must insist on my motion. There are a great many amendments to be offered.

Mr. HENDRICKS. I think on Saturday night we might take a little bit of rest, and I move that the Senate adjourn. [Oh, no!]

Mr. JOHNSON. I ask the Senator to withdraw his motion for a moment.

Mr. HENDRICKS. Certainly, if the Senator from Maryland asks it.

Mr. JOHNSON. Before the question is put on the motion to go into executive session I will state to the Senate why I think an executive session should be held. One of the officers who distinguished himself with great gallantry in the late battle was very severely wounded as it has turned out in point of fact, but his gallantry was so conspicuous that his promotion has been recommended by the President, and I heard with great regret about an hour since that his wound is likely to prove fatal; and under these circumstances I am sure it will be gratifying to him, and of course be very gratifying to the Senate personally, that his nomination should be confirmed. I hope, therefore, the motion will be agreed to.

The motion was agreed to; and after some time spent in the consideration of executive business, the doors were reopened, and  
The Senate adjourned.

## IN SENATE.

MONDAY, May 23, 1864.

Prayer by the Chaplain, Rev. Dr. BOWMAN.

The Journal of Saturday last was read and approved.

## EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 12th instant, a list of all general officers of the regular and volunteer forces in commission at the beginning of the present war, or appointed since, with the States in which they were born and from which they were appointed; which was ordered to lie on the table, and be printed.

## PETITIONS AND MEMORIALS.

Mr. SUMNER presented a petition of men and women of Mason county, Illinois, praying for the abolition of slavery, and that the Constitution may be so amended as to forever prohibit its existence in any portion of the Union; which was referred to the select committee on slavery and freedmen.

Mr. HARLAN presented five petitions of men and women of Iowa, praying for the abolition of slavery, and that the Constitution may be so amended as to forever prohibit its existence in any portion of the Union; which were referred to the select committee on slavery and freedmen.

Mr. HALE presented the memorial of J. Brown, jr., of New York, praying for additional compensation for services rendered as an artist with the naval expedition under Commodore Perry to Japan; which was referred to the Committee on Naval Affairs.

Mr. WILKINSON presented a letter from the Commissioner of Indian Affairs, addressed to the chairman of the Committee on Indian Affairs, in relation to the condition of the Wea, Peoria, Kaskaskia, and Piankeshaw Indians, and recommending an appropriation for their relief; which was ordered to be printed.

## REPORTS FROM COMMITTEES.

Mr. WILKINSON, from the Committee on Indian Affairs, to whom was referred a bill (S. No. 219) for the relief of the Wea, Peoria, Kaskaskia, and Piankeshaw Indians, of Kansas, reported it with an amendment.

## BILL INTRODUCED.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 286) to prohibit the discharge of persons from liability to military duty by reason of the payment of money; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

## TRANSPORTATION OF SUPPLIES.

Mr. LANE, of Kansas, submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be instructed to report to the Senate the amount estimated for this current year to be paid for transporting Government supplies from Platte country railroad to Fort Leavenworth, and from the latter point via Fort Kearney and Fort Riley westwardly. If the amounts are not estimated for to furnish his opinion of the probable sums to be expended.

## BILL BECOME A LAW.

A message was received from the President of the United States, by Mr. NICOLAY, his Secretary, announcing that the President of the United States had approved and signed on the 21st instant an act (S. No. 267) to amend an act entitled "An act to enable the people of Nevada to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States."

## NAVAL SUPPLIES.

Mr. GRIMES. There seems to be very little business to be done this morning, and there is a special order set for one o'clock, on which I propose to address the Senate for a short time. If it be agreeable to the Senate, I will move that that be taken up at this time, and I will proceed now with my remarks.

The PRESIDENT *pro tempore*. The Chair will suggest to the Senator that that bill being postponed until one o'clock, it will not be reached by a motion of that kind; but by unanimous consent the Senate may consider it now.

Mr. COLLAMER. I desire to have the bill to establish a line of mail steamers to Brazil considered at the present time. It was laid over a few days ago, and I should like to finish it this morning. The bill to which the gentleman from Iowa refers, I understand, is the special order for one o'clock.

Mr. GRIMES. It is the special order, but the unfinished business of Saturday will cut me off—that is, the Pacific railroad bill—unless I can anticipate it.

Mr. POMEROY. I hope the Senator from Iowa will be allowed to proceed now.

The PRESIDENT *pro tempore*. The Chair will entertain the proposition, if there be no objection.

Mr. COLLAMER. I will not make any objection.

Mr. HALE. I will not make any objection, with a single proviso. The subject upon which the Senator from Iowa desires to address the Senate is upon a report made by the Committee on Naval Affairs, or, as he says, by the chairman of the Committee on Naval Affairs, which renders it proper that I should have an opportunity to reply to his speech. I shall probably want to reply to it, and I shall want to reply to it as soon as he is done. If the bill is taken up now before the hour fixed for the assignment, the Senator will probably occupy until about one o'clock, and I shall be cut off from replying. If it is taken up with the understanding that the Pacific railroad bill may be postponed until I can have an opportunity of replying to the Senator's speech, I have no objection to its being taken up; but if there cannot be such an understanding as that I must object, because when the Senator makes his speech upon that report I want to have the privilege of answering it, and answering it at the time. If that arrangement can be entered into, I am perfectly willing and anxious that it should be taken up now; but if not, if the Senator is to occupy three quarters of an hour and I am to be cut off by the special order, and thus prevented from replying to it, I will object.

Mr. GRIMES. I hope there will be an opportunity furnished to the Senator to reply. I shall not occupy a very long period. I cannot say how long exactly, but not very long.

Mr. HOWARD. I do not wish to enter into any such agreement. I am entirely willing to extend any courtesy in my power to the gentleman from Iowa or the gentleman from New Hampshire; but I do not wish to see the order of the day thrown out of its position. I wish to have it come up in its regular order, and that we may proceed to finish it to-day if possible. If it were possible to foresee how long the Senators would occupy in the discussion to which reference is made, I might form some judgment of it; but as that is not possible, I cannot enter into any agreement now.

The PRESIDENT *pro tempore*. Is there any objection made to the motion of the Senator from Iowa?

Mr. CONNESS. I shall object, sir, if it be a part of the arrangement or understanding that the Senator from New Hampshire is to reply immediately. I do not understand why the Senator from New Hampshire should attach that as a part of the arrangement.

Mr. COLLAMER. As that arrangement does not seem likely to be made, I believe I must call up the bill to which I have referred providing for a line of steamers to Brazil.

The PRESIDENT *pro tempore*. The Chair understands objection to be made by the Senator from California.

Mr. GRIMES, (to Mr. CONNESS.) Let him reply.

Mr. CONNESS. It is postponing the Pacific railroad bill, and that should not give way to personal matters, I think.

Mr. GRIMES. What I have to say is not personal matter.

Mr. CONNESS. It is going to wear that appearance before we get through with it. I do not like to object to the Senator's speaking, because he has notified the Senate that he would speak to-day on this subject; but it appears to me it is carrying it too far to allow a debate of this kind to go on and occupy the day to the injury of the public business.

Mr. COLLAMER. I ask the Senate to take up House bill No. 407.

The PRESIDENT *pro tempore*. Does the Senator from Vermont object to the motion of the Senator from Iowa?

Mr. COLLAMER. I understand that it is objected to.

Mr. HOWARD. I have no objection to it.

Mr. CONNESS. I withdraw my objection, with this understanding, that if the debate is prolonged too far, we will call for the special order.

Mr. COLLAMER. Then I will not stand in the way.

The PRESIDENT *pro tempore*. The Chair hears no objection to the motion of the Senator from Iowa, and the bill which was made the special order, by special assignment, for one o'clock to-day is now before the Senate.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 165) in relation to naval supplies.

Mr. GRIMES. Mr. President, on the 14th of March last I had the honor to submit to the Senate "a bill in relation to naval supplies," which was read twice, and referred to the Committee on Naval Affairs. On the 7th of April following the committee reported it back to the Senate, with the recommendation "that the bill do not pass." In their written report the committee say:

"The bill proposes a total and radical change in the mode of purchasing naval supplies at one blow, and overthrowing and entirely abolishing a system which has been in operation for more than half a century."

They also say:

"The system sought to be overthrown has been in operation, as before stated, for more than half a century, and, in the opinion of your committee, has operated well, and is well calculated to effect the object sought to be attained, namely, supplying the Navy at reasonable prices with the best articles demanded for the service."

"The committee are not aware of any inconveniences to the service by the operation of the present system that can be remedied, or even ameliorated, by the proposed change."

I shall endeavor to show, first, what the present system is which has been thus unhesitatingly and unqualifiedly indorsed by the Naval Committee of this body; and how, in their language, it "is well calculated to effect the object sought to be attained, namely, supplying the Navy at reasonable prices with the best articles demanded for the service;" and, second, to point out the remedies that I think should be applied to correct the evils believed to exist in the present system. In order to do this satisfactorily I must first show what the system has been as well as what it is now.

Prior to the establishment of the Navy Department under the act of Congress of April 30, 1798, and from that time until 1802, this branch of the public service as well as the Army was supplied by officers known as purveyors of public supplies. These officers were required by the act of February 23, 1795, under which they were appointed, "under the direction and supervision of the Secretary of the Treasury to conduct the procuring and providing of all arms, military and naval stores, provisions, clothing, Indian goods, and generally all articles of supply requisite for the service of the United States." They were officers of the Treasury, without military rank or responsibility. By the act of March 16, 1802, chapter nine, military agents were created who were required "to purchase, receive, and forward to their proper destination all military stores and all articles for the troops in their respective departments, and all goods and annuities for the Indians, which they may be directed to purchase, or which may be ordered into their care by the Department of War." It would seem that the provisions of this act contravened the act of 1795, and that the relations of the purveyor of public supplies with the War Department thereupon ceased, although the act of 1795 was not in terms repealed. It will be observed that the military agents created by the last-named act of Congress were also civil officers, and therefore subject to no military responsibility. The evils resulting from a system that gave no military control over and created no military subordination among the supply officers of the Army soon became so apparent and intolerable that Congress applied the remedy by the act of March 28, 1812, when the quartermaster and commissary departments of the Army were created. Then for the first time the supply agents of the Army became military officers, bear-

ing commissions, and subject to the rules and articles of war. By this act also the office of purveyor of public supplies was abolished in terms.

While these changes were taking place in regard to furnishing supplies to the Army, the matter of supplying the Navy seemed to attract very little attention. Experience had everywhere demonstrated the absolute necessity for military control over such officers, and Congress, recognizing that necessity, established it so far as the Army was concerned, but took no action whatever in relation to the supply officers of the Navy. Why this distinction was made it is impossible to conjecture, unless it arose from the comparative insignificance of our Navy at that time, and the consequent small amount of supplies required for its support.

Answering to and corresponding with the quartermasters and commissaries of the Army are the Navy agents and naval storekeepers in the Navy. As the quartermasters and commissaries are the purchasing agents and depositaries of supplies for the Army, so are the Navy agents and naval storekeepers the purchasing agents and depositaries of supplies for the Navy.

It is impossible to discover the precise time at which Navy agents were first known in our service. They were originally mere temporary agents appointed by the head of the Department for the performance of a specific duty, and probably sprang up after the abolition of the office of purveyor of public supplies and the creation of military agents. They were recognized for the first time by law as in legal existence by the act of May 15, 1820, in which it is declared that certain enumerated officers to be appointed under the laws of the United States, and among them Navy agents, "shall be appointed for the term of four years, but shall be removable from office at pleasure." Navy agents and naval storekeepers are and always have been civil appointees; that is to say, they have for forty years been selected from the political friends of the dominant party, through the influence of politicians residing in the States where the navy-yards were established, and selected, not because of their eminent qualifications, but because they have been experienced merchants, but because of the personal and party services they have rendered or have been expected to render to some prominent politician in the neighborhood. Every change in the domination of political parties has produced a change of these officers.

Now, let us look at the present system of supplying the Navy Department, examine the duties that Navy agents and naval storekeepers are required to perform, and ascertain how they discharge those duties.

Some time before the beginning of each fiscal year each bureau of the Navy Department makes out a schedule of the various articles and the amounts of each that will probably be required during the year at each navy-yard. To inform themselves on this subject the chiefs of the bureaus call upon the commandant of each yard to furnish this information, so far as it relates to the yard under his charge. At each yard are an engineer and a master-workman for each description of work done at the yard, as, for example, master blacksmiths, master carpenters, master painters, master boat-builders, master rope-workers, &c., &c. These master mechanics are also political appointees, holding their offices at the instance and during the pleasure of some prominent politician, and generally in the interest of some contractor. With a political change in the national administration they also are all swept out of office, and their places supplied by new men hungry for place and money, the only merit of many of them consisting in their fidelity to the political fortunes of some member of Congress. Nine tenths of all of the clamors that have at various times been raised against the chief of the Bureau of Yards and Docks has proceeded from the fact that he, having the general supervision of such appointments, has attempted to retain the services of some of the most experienced and honest master mechanics in the yards.

When the commandant receives the order from the Navy Department to report the probable wants of his yard he at once refers the matter to the various master mechanics, and requires them to furnish schedules of the articles and the amount

of each article that will be required by each of their departments in the yard. The master mechanics report the wants of the yard in what the law terms "classes," i. e., the various kinds of iron are embraced in different classes, hardware in another, lumber of various kinds in others, and so on until all of the anticipated wants of the yard are reported to the commandant and through him to the Navy Department at Washington. The award of the contract is made to the lowest aggregate bid for the articles embraced in the class. It will be readily perceived how easy it has always been for one of the professional contractors, who abound about the yards, and who is in collusion with the master-workmen, to defraud the Government under this system. The contractor, through the influence of a friendly politician, secures the appointment of his tool as a master mechanic at a yard where he designs to conduct his operations. This master mechanic thus appointed furnishes to the commandant of the yard a schedule of the articles which he says will be wanted in his department. In this schedule will be included many articles of which the master mechanic well knows there will be but small amounts if any needed, but of which he will represent that large amounts will be required.

The honest contractor who is not in the secret of the fraud will bid upon each of those articles the price at which they can be reasonably furnished; while the dishonest one, being in the secret, and knowing that little if any of some articles will be called for, and knowing which those articles are, bids for them a merely nominal sum. While this master mechanic thus estimates for some articles which the contractor is not really expected to furnish, he at the same time and in the same "class" estimates for very small amounts of such articles as are of prime necessity, and of which large quantities will be required. In this way the aggregate of the bid of the dishonest contractor being much below the aggregate bid of the honest one, who is not in collusion with the Government employe, he has received the contract, and thus honest men have been driven away from competing with the knaves.

It should be borne in mind also that the contracts have always contained a provision declaring that "if additional quantities, not exceeding twice the amount of the articles named in the contract be demanded, they shall be furnished on like terms and conditions" with those specified in the contract.

The working of this system can be best illustrated by copies of bids upon which contracts have been awarded, taken from the public files of the Navy Department. I have selected those which I shall read because the particular contractors named have carried nominal bidding to a greater extent than any contractors that I know, and because they make great professions of mercantile integrity. They have even published two pamphlets in part to convince the public that they were justified in resorting to this flagitious practice of fictitious bids because others had done so or would do so. Indeed, they make the extraordinary pretension of being great reformers of abuses, but their virtuous zeal for reformation did not extend so far as to lead them to recommend the rejection of nominal bids; for those who have read the letter of Mr. Franklin W. Smith to Hon. Charles B. Sedgwick, under date of February 10, 1863, have observed that Mr. Smith recommends "the omission" from the act of 3d March, 1863, "of the clause allowing the rejection of bids for nominal prices, because if the quantities are fixed, as above mentioned, there can be no fictitious bids."

The first bid I read is that of Smith Brothers & Foster, of 4th June, 1861, for pig iron. The market price for American iron at that time was eighteen dollars per ton, and for Scotch iron was twenty-one to twenty-three dollars per ton:

Smith Brothers & Foster. Date of Contract June 4, 1861.  
Class No. 13—Pig Iron. Miscellaneous.

Bid.	Deliveries.
20 tons (2,240 pounds) Scotch pig iron, at \$1 per ton, 9 tons.....	\$9
20 tons (2,240 pounds) American pig iron, at \$31 per ton, 87 tons.....	2,697
Total .....	\$2,706

They proposed to furnish twenty tons of Amer-

ican pig iron when the market price was \$18 a ton according to the price-current of that month at \$31 a ton, and the Scotch pig the market price of which was \$21 to \$23 per ton, at \$1 per ton. Of the Scotch pig at \$1 per ton only nine tons were ever delivered, while of the American pig at the exorbitant price of \$31 per ton there were eighty-seven tons delivered, or more than five times the amount contracted for. Will any one say that this transaction furnishes no evidence of collusion between the contractors and the parties who made the estimates and the requisitions?

But it is said that Smith Brothers & Foster were compelled to bid thus in order to secure the contract, and because other contractors did the same thing. They contend that they were justified in following the multitude to do evil. Let that question be determined by the offers of their competitors, some of whom, at any rate, judging from their bids, were honest men. The bids for this class were:

Schedule.	20 tons (2,240 lbs.) Scotch pig iron.....	20 tons (2,240 lbs.) American pig iron.....
Smith Brothers & Foster.	\$1	31
J. R. Elvans.	\$45	25
W. E. Coffin & Co.	\$25	25
N. W. Coffin.	\$25 00	24 75
H. J. Collins & Co.	\$32	50
Tilton, Wheelwright & Co.	\$23 50	29 50
William Lang.	\$28	28
Oakman & Eldredge.	\$23 50	24 00
E. R. Tucker.	\$25	30
E. H. Castle.	\$25	25

The next bid I read was made by Smith Brothers & Co., the same individuals that composed the firm of Smith Brothers & Foster, for class thirteen; also American and Scotch pig iron, and is as follows:

Smith Brothers & Co. Date of Contract October 14, 1861.  
Class No. 13—Pig Iron. Miscellaneous.

Bid.	Deliveries.
170 tons (2,240 pounds) American pig iron, at \$30 per ton, 295 1219-2240 tons.....	\$8,866 32
80 tons (2,240 pounds) Scotch pig iron, at \$1 per ton, 9 2125-2240 tons.....	9 95
	\$8,876 27

Here it will be observed that there were eighty tons of Scotch iron contracted for at one dollar per ton, of which only about ten tons were delivered, and one hundred and seventy tons of American pig at thirty dollars per ton, and two hundred and ninety-five and one half tons delivered. Let those who desire to know how substantial the defense is that if this robbery had not been perpetrated by these contractors it would have been by others, examine the list of their competitors and their bids, and then calculate for themselves the loss to the Government by the nominal bidding of houses of "high mercantile integrity." Compare the amount of Scotch iron contracted for and its price; compare the amount of it called for at one dollar a ton with the amount called for of American iron at thirty dollars, and then tell me whether there is any evidence of col-



lusion between contractors and the employes of the Government. The bids for this class were:

Schedule.		
170 tons (2,240 lbs.) Amer- ican pig iron.....	\$30	Smith Brothers & Co.
80 tons (2,240 lbs.) Scotch pig iron.....	\$45	Peter Townsend.
	\$35	William Henshaw.
	\$25	Oakman & Eldredge.
	\$22 50	E. P. Dwight.
	\$24 50	William Lang.
	\$23 80	N. W. Coffin.
	\$20	W. B. Russell.
	\$20 00	E. R. Tinker.
	\$25	J. R. Evans.
	\$28	Tilton, Wheelwright & Co.

On the 9th of October, 1862, Smith Brothers & Co. entered into contract with the Bureau of Yards and Docks for the supply of pig iron for the Boston yard. Their bid and deliveries were as follows:

Schedule.		Bid.	Average of bid.	Deliveries.
20 tons (2,240 lbs.) Scotch pig iron.....	\$1	\$20	10 130-2240	\$10 00
50 tons (2,240 lbs.) American pig, anthracite, No. 1.....	36	1,500	85	3,006 00
35 tons (2,240 lbs.) American pig, anthracite, No. 2.....	20	300	15	300 00
10 tons (2,240 lbs.) American pig, charcoal, No. 1.....	20	200	3	60 00
10 tons (2,240 lbs.) American pig, charcoal, No. 2.....	10	100	2	20 00
115		\$22,650	116 130-2240	\$2,188 06

The average cost to Government of the iron delivered was thirty dollars per ton, worth in the market about twenty dollars, being an excess of ten dollars per ton on one hundred and sixteen tons or a clear profit over and above the market price of \$1,160.

I might illustrate by many other contracts made with this firm of Smith Brothers & Co., more

enormously fraudulent, if possible, than these I have read, but these must suffice. I might also illustrate by reference to similar fraudulent bids and contracts, based upon the bids of H. D. Stoon, H. J. Collins & Co., C. N. Scofield & Co., J. L. Savage & Co., and other contractors, but the facts in regard to those cases will be sufficiently explained, I apprehend, in the testimony of Franklin W. Smith, of the firm of Smith Brothers & Co., before a select committee of this body. Mr. Smith describes, in his evidence, with great particularity the mote in the eye of his brother contractors, but fails to remark upon the beam in his own eye. I have attempted to supply the omission.

Mr. President, I know no stronger testimony that could be afforded of the demoralizing tendency of the naval contract system than is exhibited by the case I have presented. A mercantile firm, professing to have a respectable standing in the community where it does business, even boasting of its reputation for commercial integrity, resorts to the practice of fictitious bidding, and resorts to it systematically. For the sake of securing a contract for lumber they propose to deliver the best quality of pine shingles at \$1 per thousand, and white pine boards at \$40 per thousand; No. 2 three-inch white pine plank for \$5; and No. 2 two-inch white pine plank for \$30 per thousand. For the sake of securing a contract for lead they agree to furnish 5,000 pounds of pig lead at 1 cent per pound, and 15,000 pounds of shot lead at 15 cents per pound, when the current market price was 8 1/2 cents, of which latter kind of lead they deliver 30,000 pounds, and tendered to the Government and tried to force the Department to accept upon this latter bid 186,000 pounds at 15 cents per pound. When, I say, this firm had reduced fictitious bidding to a science, and had reaped the present personal advantages resulting from it, when required by the chief of the Bureau of Yards and Docks to make deliveries upon their fictitious bids at once decline to do so, deny the power of the Department to enforce such deliveries, and become indignantly virtuous on the subject of naval contracts.

It is not an agreeable duty, Mr. President, to speak of any one as I am compelled to speak of this firm. But when men sit down and, according to their own admissions, make nice mathematical calculations to determine how they can excel their neighbors in their efforts to defraud the Government, and, when detected and rebuked by the chief of the Bureau of Yards and Docks for their conduct, are swift to bear testimony against their associates in frauds, and begin to prate of their own patriotism and honesty, and to declare in their publications that "at a time when our Government is engaged in an exhaustive struggle for life" they "have been compelled as citizens to urge its protection against unfaithfulness in its service and fraud by those enjoying its patronage," it has seemed to me that they should be held up to the reprehension of honest men. Why did they not come to Congress and expose the frauds? Why did they not "cry aloud and spare not" until the evil complained of was corrected? Did they ever address the Department or Congress on this subject? Did they suppose we would be indifferent to this great wrong? Was it necessary to the public interests or to their own reputations that they should be partakers in the wickedness and enjoy its gains?

So much, Mr. President, of the system of fictitious bidding of which Smith Brothers & Co., of Boston, have been the great apostles.

The last Congress sought to ameliorate some of the evils existing in the naval contract system by declaring in the act of March 3, 1863, "that every contract shall require the delivery of a specified quantity, and no bids having nominal or fictitious prices shall be considered." But the effort was futile. The great fundamental evils in the civil administration of the supply system and the method of making appointments in the yards, without any responsibility, military or otherwise, on the part of the employe. You may denounce as much as you please the fraudulent transactions occurring at all of our yards, but you will accomplish nothing until you create a responsibility on the part of every man in your service that shall be speedy, efficient, severe.

Notwithstanding the efforts of the Navy De-

partment to secure full estimates of the probable wants of the service during the next ensuing fiscal year, and to advertise for the supplies that will thus be needed, a large part of the naval supplies for the Bureaus of Yards and Docks, Engineering, Construction and Equipment, are bought in open market without advertisement and at private sale by the respective Navy agents. Especially has this been the case since the commencement of this war, for the demand has been such, arising from the exigencies of the public service, as no human foresight could foretell. In order to throw some restraint around and some check upon the Navy agents who were to exercise this great power of purchasing large values of property, without public notice and of whomsoever they pleased, the Department issued the following order in 1855, which is unrevoked and stands as a departmental regulation to-day:

[Circular.]

BUREAU YARDS AND DOCKS,  
December 29, 1855.

SIR: I am directed by the Secretary of the Navy to issue this circular, which supersedes that of the 8th of June last, and which by his order is to apply to all the bureaus of the Navy Department.

When articles are required for one of the bureaus of this Department which are not embraced in contracts with that bureau, or which are to be procured by open purchase, the Navy agent will ascertain in writing from the contractors with all the bureaus dealing in the kind of articles required, or from their agents, if any near the place of delivery, the prices at which they will respectively deliver the articles required.

He will also ascertain from at least two other parties dealing in such articles, including the one, if any, named in the requisition, the prices at which they will deliver them as required. All the parties and their prices are to be noted on the back of the requisition, and the purchase made from the lowest bidder, subject to the usual inspection.

The commandant will take care not to approve requisitions for articles to be procured by open purchase when similar articles under contract or in store can be made to answer the purpose of those required.

When open purchases are indispensable, let at least a month's supply be included in one requisition, unless otherwise specially directed by either bureau.

When the prices are the same, the contractors are always to have the preference.

A bill of the articles purchased, with the cost price of each, must in all cases accompany the goods when delivered.

Respectfully, your obedient servant.

JOSEPH SMITH.

C. SWACKHAMER, Esq., Navy Agent, New York.

At the time this circular was issued, honest contractors had not been driven entirely away from the competition sought by the Government, and fictitious bidding had not been reduced to a science. If the instructions contained in it were obeyed, if the Navy agents would "ascertain in writing from the contractors with the bureaus dealing in the kind of articles required, or from their agents, if any near the place of delivery, the prices at which they will respectively furnish the articles required," and if they would "also ascertain from at least two other parties dealing in such articles, including the one, if any, named in the requisition, the prices at which they will deliver them as required, all the parties and their prices noted on the back of the requisition, and the purchase made from the lowest bidder, subject to the usual inspection," the interests of the Government would be measurably protected. But the Navy agents either wholly neglect to obey or they evade the regulation, and how can obedience be enforced? In no manner that I am aware of.

Let me illustrate the method in which these open purchases are made: if an additional quantity of iron, steel, cordage, or any other article not provided for by contract, is wanted, a report is made by the storekeeper of the yard to the Navy agent, with an indorsement thereon of the commandant of the yard, who accepts the statement of the storekeeper as facts. The Navy agent thereupon issues a requisition or order directing the person to whom it is sent, and he directs it to be sent to whomsoever he pleases, to purchase and deliver the articles named in the requisition at the navy-yard, subject to inspection there. The articles thus delivered at the yard are inspected by some one of the employes, who is usually an instrument of the contractor and Navy agent; the contractor then presents his bills in triplicate, which, being approved by the commandant on the strength of the inspection certificate, are paid by the Navy agent.

It should be borne in mind, too, that these requisitions are not directed to dealers in the articles

wanted, but to some middle-man, or contractor, who, after receiving the order from the Navy agent, goes into the market and buys at his own price of the legitimate and regular dealers; and the articles are sent direct from the warehouses of the first vendors to the navy-yard, the contractors not being to the expense even of storage. The Navy reports show that such contractors as Smith Brothers & Co. and C. W. Scofield & Co., whose regular business is that of dealing in hardware, have, under this system, furnished to the Navy Department firewood, lumber, lime, hair, plaster, iron, nails, hard ware, paints, glass, ship-chandlery, charcoal, oils, belting, staves, packing, leather hose, stoves, cooking utensils, tin, and copper. In Philadelphia, among the principal furnishers of goods to the Government upon the requisitions of the Navy agent are Nobilit, Brown & Nobilit, cabinet-makers, who furnish spelter, port-lights, glue, chalk, life-preservers, sheathing felt, yellow metal, copper-wire, asphaltum, Japan dryers' oil, leather, screw-bolts, and iron chains; and D. B. Dieterich, dealer in India-rubber goods, who furnishes hardware, lime, sheet-hemp, hose, gas pipe, glass, whiting, wire rope, gun gaskets, buff leather, cut nails, coffee boxes, block tin, pig lead, tarred paper, &c.

Those who have taken the trouble to examine the subject have discovered that what I have already said of master-workmen and employes in the yards is true also of the contractors. There is a change of contractors just as regularly as there is a political change in the national Administration. No matter what may be the professed political opinions of either Navy agents or contractors, it will be invariably found that the agents and the great leading contractors are in perfect personal accord. Referring to the published schedule of contractors attached to the annual reports of the Secretary of the Navy, it will be discovered that the names of the principal contractors since 1861 are new to the report. They have been brought into prominence by the new Navy agents and the political influences that are behind both. Smith Brothers & Co. only became contractors in 1861, and since that time have been paid upon their contracts \$1,010,582 93. H. D. Stover, a comparatively new name in the Navy Department, has in the same time received \$1,023,138 93. C. W. Scofield & Co., of New York, began their contracts at the same time and have been paid \$1,152,214 99, and Trickey & Jowett, a firm composed of a citizen of New Hampshire and a citizen of Maine, only began to contract in 1862, and have already received for lumber, hay, and provender, delivered at the Kittery and Charlestown navy-yards, \$1,383,650 32, with large deliveries and payments yet to be made upon their contracts. It is not a difficult thing, Mr. President, to denounce one's adversaries, whether real or imaginary, for frauds or for profligate expenditures, but it does doubtless require the exercise of some public virtue to assist in breaking up a system by which one's friends are gorging themselves with public plunder.

And now, Mr. President, to show that the prohibition of nominal bids has been of no advantage to the Government, and can be of none so long as there can be collusion between the Navy agents and contractors, or between contractors and master mechanics and inspectors, without a prompt responsibility and as prompt a punishment, I will illustrate by a few examples.

As already stated, one of the principal contracting firms at the New York yard is C. W. Scofield & Co. A very large part of their deliveries to the Government were made upon what are called open purchases; that is to say, upon orders from the Navy agent at New York directing them to deliver to the naval storekeeper at the yard these certain specified articles. These orders contain no allusion to the price to be paid, no memorandum of the market value of the articles, and no offers from dealers in similar articles, or certificates of value from dealers, as required by the departmental circular of December 29, 1855. Now, it so happens that the books of C. W. Scofield & Co. are in the hands of an agent of the Government, and from these books, kept by themselves, the following statement has been prepared. It will be observed that the first column contains the cost price of the articles named and

the last column the price at which the same articles were turned over to the Government:

	Cost to C. W. S. & Co.	Charged to Government at
May 26, 1863. 329, 330, &c.		
240 pair brass hinge stationary pins, 3/4 in. 90c.....	\$17 32	\$216 00
360 pair brass hinge stationary pins, 3 in. 70c.....	49 33	252 00
400 pair brass hinge stationary pins, 2 1/2 in. 45c.....	16 45	180 00
1,000 gross brass screws, assorted, at \$4.....	787 80	4,000 00
1,500 gross iron screws, assorted, at \$1 40.....	555 85	2,100 00
	\$1,426 75	\$6,748 00
November 2, 1863. 1708. (bill.)		
C. & R. C. G. P. Caulker, 20 barrels pitch, at \$25.....		\$500 00
Cartage, 3 loads, at \$1 50.....		4 50
	\$50 00	\$504 50
September 7, 1863. 426. (bill.)		
Ord. 100 black buff hides, at \$16.....		\$1,600 00
Cartage.....		1 25
	\$625 00	\$1,601 25
April 20, 1863. 357. (bill.)		
Ord. 48 sheets 13 lb. copper, 724, 60c..	\$123 00	\$434 40
Charges taken from C. W. Scofield & Co.'s open-purchase book. December 26, 1863. 2077. (bill.)		
J. R. S. E. shipment Pensacola. December 31. 500 square yards boiler felt. Hair and wool, 4,500 square feet, 25c.....		\$1,125 00
Cartage.....	\$540 00	\$1,128 00
August 15, 1863. 1031.		
20 barrels turpentine, 86 3/4 gallons, at \$3 60.....	\$1,169 40	\$3,108 60
2 barrels copal varnish, 112 gallons, at \$5 50.....	267 20	616 00
2 barrels Japan varnish, 86 gallons, at \$4 50.....	115 80	387 00
	\$1,552 40	\$4,111 60
April 20, 1863. 366. (bill.)		
Ord. 20 boxes tin 1xx 14x20, at \$20... 20 boxes tin 1x 14x20, at \$18.... 2 cartages, at \$1 25 deduct.....		\$420 00 350 00 2 50
	\$288 75	\$772 50
December 1, 1863. 1990. (bill.)		
J. R., E. & R. G. P. Joiner. 10 dozen Prescott chairs, at \$42.. Cartage, 3 loads, at \$1 50.....		\$420 00 4 50
	\$165 00	\$424 50
September 16, 1863. 425. (bill.)		
Ord. 250 sides flap leather, 5,615 1/2 lbs. 125 sides body leather, 2,375 1/2 70 sides loop leather, 1,470 1/2 60 sides inside flap leather..... 80 sides scabbard leather..... 50 sides light flap leather..... 10 sides passing box leather.....	1,141 1/2 1,680 1/2 936 220 1/2	
	13,429 1/2 at 45c.	
60 sides pocket leather, 236 lbs., at \$6 50.....		\$390 00
Currying 705 sides, at 75c.....		528 75
Cartage, 6 loads, at \$1 25.....		7 50
	\$1,865 97	\$6,969 52

(N. B. The \$1,865 97 is supposed to cover the whole cost of the above bill.—H. F. S.)

I am told, Mr. President, that these are by no means the most flagrant cases of robbery exhibited by the books of Scofield & Co., and are not the basis of the charges upon which the members

of that firm are now being tried before a naval court-martial. And yet we are gravely told by the Naval Committee of the Senate, in their report, that the system under which this sort of robbery can be perpetrated with impunity "has been in operation more than half a century, and, in the opinion of your committee, has operated well, and is well calculated to effect the object sought to be attained, namely, supplying the Navy at reasonable prices with the best articles demanded for the public service!"

I hold in my hand a table showing the amount of oils delivered at the New York navy-yard during the last two years, the date of delivery, the price at which it was furnished to the Government, and the market price of the article at the time the delivery was made, as compiled by an intelligent and reliable merchant. These invoices of oils were mostly secured upon open purchases upon the requisition of the Navy agent, and turned out to be, in most cases, adulterated by the admixture of oils of an inferior quality, although invariably to be of the best quality known in the market. [See table referred to at the foot of next page.]

The Senate will obtain a very correct idea of the manner in which the naval supply system is conducted in New York, our most important navy-yard, from the extracts of a letter from Nathaniel Wilson, Esq., to the Secretary of the Navy, under date of May 12, 1864. Mr. Wilson is a most intelligent and reliable authority, and is the special counsel of the Navy Department in investigating frauds committed in New York. It must be borne in mind that the inspector spoken of by Mr. Wilson is an officer appointed by the commandant of the yard, and is not an officer created by law.

"I have proof that from fifty to seventy-five per cent., exclusive of provisions and clothing, of all the open purchases for the Brooklyn navy-yard during the last year were made through the house of C. W. Scofield & Co. I have heretofore stated that a justification for the course pursued is sought by the Navy agent in the circulars from the Department relative to the preference to be given to contractors in the distribution of orders for goods at open purchase. I now call your attention to another explanation. It is alleged that very many of the most respectable merchants of New York decline to sell directly to the Government because of the disappointments and delays to which they are subjected in the payment of bills. It is stated that there are difficulties and detentions in obtaining the approval of bills at the navy-yard, and that there is further trouble and tardiness in procuring the money due for goods delivered, upon bills approved, from the Treasury through the Navy agent. These reasons, it is said, deter merchants from selling their goods to the Government, and cause those who do sell to charge higher figures than any private person would be expected or would be willing to pay.

"Undoubtedly the causes I have mentioned have had considerable effect in excluding merchants of the better class from the lists of those who sell to the Navy Department. The delay referred to is partially necessarily incident to the system which substitutes for one direct, responsible head a score or more of subordinates, through whose hands the goods and bills must pass on their tedious and uncertain journey to the Navy agent, and partially it is the creation of the very persons who have secured so large a share of the open purchases in New York. I know of one instance in which one of the party distinctly expressed an intention of preventing a competing contractor from obtaining his money promptly, and succeeded in his effort.

"The difficulties recited, and that were so serious that other merchants could not successfully encounter them, were avoided by Messrs. Scofield & Co. in the following manner: first, by the payment of five or six hundred dollars to a young man employed in the storekeeper's department in the navy-yard, they secured immediate attention to the goods delivered by them, and the prompt passage of their bills through the official routine. With these in their possession they borrowed large sums of money of the Navy agent, and left with him in many instances their bills as collateral security. They thus had advantages that fairer traders were not possessed of. These facilities they used with no sparing hand, despite the remonstrances made by the inspector at the yard, to the Navy agent; and with the consequences of their indulgence you are familiar.

"Concerning the prices that have been charged for goods obtained at open purchase, the only limit that has been placed upon them is the action and vigilance of the inspector at the navy yard. If it is the theory of the law and your expectation and belief, that the Navy agent as a skillful and experienced merchant makes the bargains as to the qualities and prices of goods to be bought, then the Navy agent's definition of his offices and duties is quite the opposite of that theory, and must disappoint your expectation. He regards the office as one primarily for the disbursement of money, and declares that the immense increase of business and the vagueness of the requisitions made upon him make it absolutely impossible for him to make bargains and agreements as to the prices of things before they are delivered to the yard, and he unhesitatingly places the responsibility of correctness as to quality and price upon the inspector.

"Practically the only labor performed by the Navy agent in making the purchases is the mere sending of orders, with no agreement as to price, to such persons as he may elect,

and the payment of bills when they are presented. Whatever of financial sagacity, whatever of trained mercantile skill the laws or the policy of the Department expect to find and to use in the efforts of the Navy agent in making bargains for supplies, it is confessedly evident that neither the one nor the other have been called into practical service. "What would be thought of the skill or prudence of a merchant who on one day would receive varnish at the rate of one dollar per gallon, under contract, costing and worth but eighty cents per gallon, and who would on the same day receive, from the same parties, the same quality

of varnish, and pay for it \$3 50 per gallon? Yet such instances are of frequent occurrence in the history of the transactions of the Brooklyn navy-yard. You will understand that I state no fictitious cases, but only such as I have examined, and the very fact that such cases have happened presents to my judgment the most convincing proof of the evils and imperfections of the present system. The responsibilities and duties of inspection are divided among so many persons, and there is such a wide discrepancy between the duties that by law and regulation are devolved upon the Navy agent, and the labor the Navy agent

feels himself called upon to perform and does actually perform, that it is quite in vain to expect economy and efficiency without a change in the law or in the estimate of official duty entertained by the Navy agent."

"The statement I have made is not as complete as I would wish it to be, but you may trust that there is nothing in it unreliable. I have confined myself to a statement of the practice prevailing rather than to particular illustrations."

The PRESIDING OFFICER, (Mr. MORGAN in the chair.) The hour having arrived for the consideration of the special order, it becomes the duty of the Chair to call up the unfinished business of Saturday.

Mr. FOOT. I suggest, and I presume it will meet the unanimous concurrence of the Senate, that the special order be passed over for the time being, until the Senator from Iowa shall have concluded his remarks. It is a courtesy that is always extended by the Senate.

Mr. HALE. I know it is; but I shall ask the same courtesy, to be allowed to reply to him.

Mr. HOWARD. Let the special order be passed over informally.

The PRESIDING OFFICER. That will be considered the sense of the Senate, if there be no objection.

Mr. GRIMES. Need I remind the Senate that the system of which Mr. Wilson thus speaks is the same system which the Senate Committee on Naval Affairs declares "has been in operation" "more than half a century, and in the opinion of your committee has operated well, and is well calculated to effect the object sought to be attained, namely, supplying the Navy at reasonable prices with the best articles demanded for the public service?"

Any one can see by reference to the last report of the Secretary of the Navy, page 996, that quite as great frauds can be perpetrated now as before fictitious bidding was abolished. The case to which I refer by way of illustration, for I have no time to do more than to refer to one case, is the contract of J. L. Savage, of date April 7, 1863, and under advertisement of February 12, 1863, for miscellaneous engineers' tools. The items were:

	Market value.
3 anvils, each.....	\$50 00
2,000 pounds cotton waste at.....	80 40
18 chopping-handled axes, each.....	3 00
12 small axes, each.....	1 50
6 callipers, each.....	2 00
6 dividers, each.....	2 00
4 grindstones, each.....	30 00
6 hydraulic jacks, each.....	290 00
4 scale beams, each.....	50 00
12 sieves, each.....	5 00
50 scoop shovels, each.....	2 00
6 steel squares, each.....	2 00
6 iron squares, each.....	1 50
4 dozen monkey wrenches.....	150 00

Yet Savage was the lowest bidder for this class. His bid amounted to \$4,689. The other bidders were H. D. Stover, \$5,039, and H. J. Collins & Co., \$4,700; all, doubtless, confederates to defraud the Treasury. Suppose all their bids had been rejected. Then, doubtless, one of them would have been selected to make an open purchase of the same articles, and we would have had a reenactment of the open-purchase transactions of C. W. Scofield & Co. in New York. Still, I have no hesitation in saying that the Bureau of Engineering ought to have at once rejected all the bids in this case, whether with or without law, even at the risk of being consigned to the tender mercies of a Navy agent and the open purchases of Scofield, Savage, or Stover. The only excuse for not doing so is to be found either in the immediate and pressing necessity for the articles contracted for, or in the fact that in the hurry and multiplication of business the attempt by the confederates to defraud the Government was not detected by the officers having the subject in charge.

Mr. President, we are told that the system under which such transactions as this are possible "is well calculated to effect the object sought to be attained, namely, supplying the Navy at reasonable prices with the best articles demanded for the public service!"

Another device resorted to by nearly all of the contractors during the past year has been the false verification or summing up of the totals of class bids. This has been done in the expectation that in the hurry of opening five hundred or a thousand bids at one sitting, and the immediate award of the contracts, the aggregates set down by the contractors would be accepted as correct.

[Table referred to on preceding page.]

Prices paid by Government for Oils compared with market prices.

Date.	Kind.	No. of gallons.	Gov't price.	Market price.	Amount paid.	Amount at market rates.	Overcharge.
1863.							
January 8.....	Sperm oil.....	5,036	.....	\$1 90	.....	\$9,568 40	
28.....	do.....	3,005	.....	2 10	.....	9,510 45	\$1,101 10
February 9.....	do.....	3,025	.....	2 10	.....	6,050 00	302 50
13.....	do.....	3,010	.....	2 00	.....	6,020 00	301 00
25.....	do.....	7,010	.....	2 15	.....	15,071 50	14,370 50
25.....	Metallic oil.....	1,852	.....	1 50	.....	277 88	
26.....	Sperm oil.....	3,008	.....	2 15	.....	6,467 20	5,955 84
26.....	do.....	3,015	.....	2 15	.....	6,482 25	5,969 70
27.....	Lard oil.....	2,138	.....	1 05	.....	1,495 20	
March 6.....	Sperm oil.....	2,175	.....	2 25	.....	4,893 75	4,567 50
11.....	do.....	2,045	.....	2 25	.....	4,601 25	4,294 50
20.....	W. S. sperm oil.....	4,300	.....	2 25	.....	9,675 00	9,030 00
20.....	do.....	5,045	.....	2 25	.....	11,351 25	10,493 60
20.....	do.....	10,025	.....	2 25	.....	22,556 25	20,352 00
21.....	do.....	5,025	.....	2 25	.....	11,306 25	10,452 00
21.....	do.....	1,045	.....	2 25	.....	2,351 25	2,173 60
April 1.....	Linseed oil.....	80	.....	2 00	.....	161 00	
May 1.....	Lard oil.....	1,685	.....	70	.....	1,179 85	
13.....	do.....	1,001	.....	1 40	.....	1,401 40	
13.....	do.....	1,025	.....	1 25	.....	1,281 25	922 50
26.....	Sperm oil.....	5,080	.....	2 20	.....	11,176 00	9,632 00
26.....	Metallic oil.....	306	.....	1 80	.....	550 80	
26.....	Sperm oil.....	2,500	.....	1 68	.....	4,200 00	
26.....	do.....	2,506	.....	2 20	.....	5,513 20	4,761 40
June 11.....	Lard oil.....	1,019	.....	1 25	.....	1,273 75	896 72
18.....	do.....	423	.....	1 25	.....	529 38	372 68
18.....	Sperm oil.....	5,007	.....	2 20	.....	11,015 40	9,413 16
23.....	do.....	7,000	.....	2 20	.....	15,400 00	13,160 00
25.....	Metallic oil.....	1,000	.....	1 40	.....	1,400 00	
25.....	Lard oil.....	4,000	.....	1 25	.....	5,000 00	3,520 00
July 1.....	Sperm oil.....	7,000	.....	2 20	.....	15,400 00	12,390 00
3.....	Fish oil.....	86	.....	-	.....	-	-
18.....	Sperm oil.....	7,000	.....	2 20	.....	15,400 00	12,460 00
18.....	Metallic oil.....	1,000	.....	1 40	.....	1,400 00	
20.....	Sperm oil.....	7,000	.....	2 20	.....	15,400 00	12,460 00
20.....	Lard oil.....	4,000	.....	1 25	.....	5,000 00	3,400 00
20.....	Metallic oil.....	1,000	.....	1 40	.....	1,400 00	
27.....	Sperm oil.....	7,062	.....	2 20	.....	15,536 40	12,499 74
27.....	Lard oil.....	4,072	.....	1 25	.....	5,090 00	3,583 36
27.....	Metallic oil.....	1,045	.....	1 40	.....	1,463 00	
28.....	Sperm oil.....	7,075	.....	2 20	.....	15,565 00	12,522 75
28.....	Lard oil.....	4,055	.....	1 25	.....	5,068 75	3,568 40
28.....	Metallic oil.....	1,045	.....	1 40	.....	1,463 00	
August 11.....	Sperm oil.....	5,077	.....	2 20	.....	11,170 50	8,885 63
14.....	Lard oil.....	170	.....	85	.....		
18.....	Sperm oil.....	7,094	.....	2 20	.....	15,606 80	12,414 50
18.....	Lard oil.....	4,068	.....	1 25	.....	5,085 00	3,457 80
18.....	Metallic oil.....	1,040	.....	1 40	.....	1,456 00	
18.....	do.....	520	.....	1 40	.....	728 00	
24.....	Lard oil.....	3,075	.....	1 25	.....	3,843 75	2,706 00
24.....	do.....	542	.....	1 25	.....	677 50	476 96
24.....	Sperm oil.....	5,060	.....	1 25	.....	6,335 00	
25.....	Tallow oil.....	82	.....	1 50	.....	123 00	
25.....	do.....	81	.....	1 50	.....	122 25	
September 1.....	do.....	86	.....	1 50	.....	129 75	
2.....	Metallic oil.....	202	.....	-	.....	-	
10.....	Tallow oil.....	164	.....	1 50	.....	246 00	
16.....	Sperm oil.....	2,968	.....	.....	.....	.....	.....
16.....	Lard oil.....	1,949	.....	.....	.....	.....	.....
16.....	Sperm oil.....	4,869	.....	.....	.....	.....	.....
24.....	do.....	4,162	.....	2 20	.....	9,156 40	
28.....	Lard oil.....	3,162	.....	1 25	.....	3,952 50	3,320 10
28.....	Metallic oil.....	501	.....	1 40	.....	701 40	
October 5.....	Tallow oil.....	81	.....	1 50	.....	121 50	
7.....	Sperm oil.....	4,142	.....	2 10	.....	8,698 20	7,372 76
7.....	do.....	5,315	.....	2 10	.....	11,158 35	9,458 03
7.....	Lard oil.....	2,106	.....	1 00	.....		
19.....	do.....	3,104	.....	1 25	.....	3,880 00	3,259 20
19.....	do.....	4,042	.....	.....	.....	.....	.....
21.....	Sperm oil.....	4,132	.....	2 05	.....	8,470 60	7,850 80
21.....	do.....	3,108	.....	2 05	.....	6,371 40	5,905 20
22.....	Metallic oil.....	516	.....	1 40	.....	722 40	
14.....	do.....	501	.....	1 40	.....	701 40	
22.....	Linseed oil.....	119	.....	1 54	.....	183 26	
23.....	do.....	122	.....	1 54	.....	187 88	
22.....	do.....	117	.....	1 54	.....	180 18	
November 30.....	Metallic oil.....	118	.....	-	.....	-	-
2.....	do.....	82	.....	-	.....	-	-
4.....	Fish oil.....	420	.....	-	.....	-	-
4.....	Sweet oil.....	25	.....	-	.....	-	-
6.....	Metallic oil.....	510	.....	-	.....	-	-
9.....	do.....	120	.....	-	.....	-	-
9.....	do.....	83	.....	-	.....	-	-
14.....	Lard oil.....	3,146	.....	1 25	.....	3,932 50	3,303 30
14.....	do.....	1,014	.....	1 25	.....	1,267 50	1,064 70
19.....	do.....	2,054	.....	1 25	.....	2,567 50	2,156 70
December 17.....	Metallic oil.....	83	.....	1 40	.....	116 90	
17.....	do.....	84	.....	1 40	.....	117 60	
31.....	Sperm oil.....	1,289	.....	1 90	.....	2,450 05	2,385 58
1864.							
January 2.....	do.....	42	.....	2 20	.....	92 40	77 70
14.....	do.....	707	.....	1 90	.....	1,343 30	1,307 95
26.....	Metallic oil.....	122	.....	1 40	.....	170 00	



I believe this trick was successful in one or two instances, but since attention has been called to it it can deceive no longer.

It was pretended that the act of March 3, 1863, which provided that "every contract shall require the delivery of a specified quantity," would operate to the benefit of the Department, and I confess that I was once led to believe that this would be so. A leading contractor, as I have before stated, expressed the opinion in one of his publications that the adoption of this provision would obviate the necessity for any prohibition of fictitious bidding, and hence he recommended the "omission of the clause allowing the rejection of bids for nominal prices" from the act. Now, the truth is, whatever may have been the intentions of those who conceived the law and secured its passage, it has operated only for the benefit of a few contractors—those of them who have been selected by the Navy agents to make the open purchases. When the estimates are made of the ordinary and anticipated wants of the yards, only such articles and such quantities of articles will be included in that estimate and advertised for as the officer in charge of the subject supposes will be absolutely required. Now, no one can anticipate or imagine what the wants of the service may require in a time like this. New ships are built, captured, or purchased or destroyed, new depots established, the number of men in the service increased; in fact, a thousand unexpected events occur that require unanticipated supplies. As the act of 1863 only requires the delivery of the amount of articles specified in the contract, all that may be required above the amounts thus specified must be procured by the Navy agent through his trusted and favorite contractors upon open purchase, and as it would seem at his own price.

Hence it is that, as Mr. Wilson informs us, Scofield & Co. have furnished three fourths of all the open purchase supplies bought in New York during the last year; hence it is that Smith Brothers & Co. have already been paid \$137,144 37 upon open-purchases made during the same period of time. How much may be still due them of reservation money or otherwise, I have no means of knowing. If the Government is thus the loser when the estimates for supplies are honestly reported to the Department, how much more will the loss be when a civil engineer or master workman at the yard who is in collusion with the contractor makes the estimates! Who can wonder that the favored contractor should be exceedingly anxious to maintain such an engineer or master workman in office with plenary powers? To be satisfied as to the operations of contractors favored by the Navy agents under this law, I again refer you to the bills of C. W. Scofield & Co., all of which were open-purchase contracts made after the passage of the act of 1863. Go to the Navy Department and examine the bills sent by the Navy agent at that yard—cap paper worth \$5 per ream charged at \$8; envelopes charged at \$6 per thousand worth \$3; 6,335 pounds of chain cable bought of the India-rubber dealer Dieterich, worth 13 cents per pound charged at 18 cents per pound—and then tell me if in your opinion the present system "is well calculated to effect the object sought to be attained, namely, supplying the Navy, at reasonable prices, with the best articles demanded for the service." I do not say that all open purchases made during the past year have been as outrageously fraudulent as those I have quoted. It is enough to show that such frauds have been perpetrated, and that they can be repeated as the law now stands.

I much regret that the pendency of the court-martial in New York, before which the contractors Scofield, Stover, Savage, and others are to be tried, precludes me from using facts within my possession, showing the *modus operandi* by which Navy agents, clerks, master workmen, inspectors, and other servants of the Government have been debauched by bribes, promises, and threats in order to secure the prompt payment of bills, and to induce them to receive and pay for short measure, weight, and count. Rather than trench upon the ground which I suppose is to be occupied by that court, I abstain from attempting to elucidate that branch of my subject, satisfied that all the facts will be made public before this subject shall pass from the recollection of the Senate.

The question now recurs, what is the remedy

for all these evils now existing in the naval contract system? I answer, without any hesitation:

1. Moderate salaries, permanency in the tenure of office, and prompt and sure military responsibility of all supply agents. In the bill which I had the honor to submit to the Senate I proposed that the Navy agents and naval storekeepers should be naval commissioned officers. Why should they not be? If it be necessary that quartermasters and commissaries in the Army should hold permanent positions, if it be necessary that they should be held to an immediate and strict military accountability for their acts, why is it not important that officers performing similar duties in the Navy should be placed under similar conditions? Can a single substantial reason be assigned for the distinction? A dishonest quartermaster may render abortive the best matured plan of a military commander by furnishing defective transportation, clothing, or shoes. May not a Navy agent cripple the efforts of a whole fleet by furnishing adulterated oils for steam machinery, and has it not been done? In the one case, the dishonest or incompetent officer would be brought before a court-martial, tried, convicted, deprived of his commission, and otherwise punished; in the other he is permitted to go wholly "unwhipt of justice," and allowed to proceed in his career of crime.

We are told in effect by the report of the committee that naval officers are unfitted for this duty; and, as an evidence of it, it is said that Congress has sometimes been called on to relieve commanders of small vessels, who had been required to perform the duties of pursers or paymasters as well as commanders, from the liabilities they had incurred. To this the reply is:

1. Such cases seldom occur. I have no recollection of such a case since I was first connected with the Naval Committee.

2. That I know no case where Congress has ever been called to do any such thing in behalf of an officer who was educated at the Naval Academy and received the clerical education now given to officers, or who has entered the service within the last twenty-five years.

3. That there is a very wide difference between the case of an officer who commands and navigates his own ship, keeps his ship's log, pays his own men, deals out rations, clothing, small-stores and grog, keeping separate accounts of each without the assistance of a clerk, and the case of an officer of age and experience simply making purchases for Government in obedience to specific rules and instructions of the Navy Department. If it be necessary that Navy agents should be merchants, why do you not appoint merchants to those offices? Will any one be kind enough to tell me which of your Navy agents were experienced merchants before they were appointed Navy agents? Not one of them. Look at your illustrious procession of defaulting Navy agents in New York. It is urged in the report that these offices should be filled by appointees from civil life in order to popularize the Navy. Popularize the naval service by the appointment of two politicians at each yard! Let that argument, if it may be called such, be answered by the facts that I have detailed as occurring under civil appointees, popular favorites! when taken in connection with the fact that all of the medical supplies and most of the provisions and clothing for the Navy have been purchased by regular naval officers, against whom have I never heard any charge or intimation of complicity in fraud in purchasing, inspecting, or in disbursing supplies intrusted to them.

In my conviction, Mr. President, safety to the Government is to be found in the commission of the officer quite as much as in his bond. Let your public officer feel that honesty is sure to be rewarded by continuance in office and promotion, and that dishonesty will be punished by a summary court-martial, dismissal from office, and disgrace, and you will have very few if any complaints of frauds in the procurement of naval supplies. If you will not select commissioned officers to perform these duties, then I beg you to make those whom you do appoint amenable to military law for their insubordination and malfeasance. By law you now try and punish the criminal contractor. Why not try and punish the criminal Navy agent and naval storekeepers?

2. The entire abolition of all bids and contracts

by classes of articles, whether such contracts be made upon advertisements or under sealed bids or in open market. I am aware that the abolition of class contracts will cause a necessary increase of the clerical force, both at the navy-yards and in the Department, and may cause some complications and inconveniences at the outset, but it will furnish an assurance of honest dealing which the present system does not afford. The bill under consideration and reported against by the Naval Committee provides—

That all laws and parts of laws requiring bids to be made in classes of articles of supply, or that require all of the articles enumerated in a class to be accepted as an entire bid, be, and the same are hereby, repealed.

3. A change should be made in the method of paying for purchases made for the Navy. There is no reason in the world why this Department should not be authorized, as the War Department is and always has been, to make advance requisitions for supplies and pay. Why should a *bona fide* contractor be required to wait seventy days after delivery of his merchandise, which is the average time, for the payment of that which is confessedly his due? And this rule should be applied to the payment of wages. Why should all the custom-house and other officials in the cities be paid their salaries on the last day of each month and the mechanics and laborers in the yards be compelled to wait for their pay until the 12th of the following month, thus forcing many of them to suffer a discount of their certificates of wages in order to realize the money with which to pay their monthly family expenses? To secure promptitude on the part of contractors and industry and cheerfulness on the part of laborers their pay must be as prompt as it is sure.

4. What are called "open purchases," that is, the purchase of articles not included in the annual estimates, should only be made under express naval direction, should be advertised for and awarded to the lowest bidder, unless the purchasing agent and the commandant of the yard certify in writing to the Secretary of the Navy that the lowest price bid is exorbitant, and that the articles required can be more advantageously purchased otherwise than from the lowest bidder. In this way two officers will be responsible for the price, quality, and quantity of the article bought, while at present even the fact that the purchase is to be made is confined to the Navy agent and naval storekeeper. It seems to me that section six of the bill I introduced, and which was reported against by the Naval Committee of the Senate, covers this whole case. It provides—

That all articles of naval supply that can be estimated for in advance with a reasonable degree of accuracy shall be advertised for as now required by law, and obtained by contract with the lowest responsible bidder, under such regulations as may be prescribed by the Secretary of the Navy. All articles of supply, the kinds and quantities of which cannot be anticipated and estimated for with reasonable accuracy, shall be procured by the disbursing and purchasing agent of the yard upon the weekly or monthly requisition of the commandant thereof, by purchase in open market. All such requisitions shall emanate from or be submitted to the proper bureau of the Navy Department and approved, except at the Pensacola and Mare Island yards; and when thus approved, such requisitions shall be returned to the commandant of the yard, who shall give notice, by advertisement in at least two public newspapers published in the vicinity of the yard, and more extensively if the Secretary of the Navy shall direct, at least ten days prior to the day of purchase, describing as accurately as may be the description of the articles of supply required, and when and where to be delivered, and the day and hour when the bids received in compliance with each advertisement will be opened. The contract for each article of supply thus bid for shall be awarded to the lowest bidder, unless the disbursing and purchasing agent, and the commandant of the yard, shall be satisfied, and shall so certify in writing to the proper bureau of the Navy Department, that the bids are unreasonable, and the articles of supply, or any of them mentioned therein, could be purchased upon more advantageous terms in open market and at private sale; in which event the Secretary may direct such purchases to be made by private contract, and without regard to the bids.

That there might be modifications of the plan I here propose that would be of advantage to the Government I do not deny, but I do believe that its adoption would be of vast advantage to the Department and save large sums of money that now, with the connivance of Navy agents, go into the pockets of dishonest contractors.

5. All dishonest transactions, all complicity with fraud on the part of any of the Government employes at the yards, should be promptly investigated before military tribunals and summarily punished. It is only by a vigorous administra-

tion and swift justice that you can prevent false estimates of the supplies needed, false reports of the amounts on hand, false measurements, false inspections, false reports of weights and quantities. At present you have no means of punishing such offenses as these either civilly or militarily. What folly to rely upon removal from office as a restraint upon crime when the guilty person would realize more money by suffering himself to be a party to one fraud than he would realize by two or three years' salary in the employment from which you eject him! Such men only laugh at your stupidity and mock at your punishment. The tenth and eleventh sections of the bill I had the honor to introduce to the Senate, and against the passage of which the Naval Committee has reported, covered this case by providing—

That if any officer, employé, or servant connected with or in the employment of the Navy Department, or any officer or agent thereof in any navy-yard or elsewhere, shall defraud, or attempt or be privy to any attempt to defraud, said Department by false count, measure, weight, quantity, or quality of naval supply, he shall, upon conviction thereof before a naval court-martial, be fined in any sum not exceeding \$10,000, and be imprisoned in some penitentiary in the United States not exceeding ten years.

SEC. 11. *And be it further enacted*, That if any officer, agent, master workman, inspector, storekeeper, or other person in the employment of the Navy Department, shall make a false report or estimate of the amount of supplies on hand or that may be needed at any navy-yard, with a view to defraud the Government, or to benefit any person to the injury or disadvantage of the Government, he shall, upon conviction before a naval court-martial, be fined in a sum not exceeding \$5,000, and be imprisoned in some penitentiary in the United States not exceeding three years.

Can any reason be assigned why this should not be enacted into a law? The parties proposed to be subjected to trial and punishment are in the employment of the Government. It only applies to the case of those who commit or attempt to commit a palpable fraud. In the military service you would punish such an offense without hesitation by a military court-martial. Is there any reason why the same punishment should not be inflicted by the same kind of tribunal in the naval service?

6. My views as to what should be the liabilities of contractors are embodied in the ninth section of the bill I had the honor to introduce, and are as follows:

That if any contractor for naval supplies shall defraud, or attempt to defraud, the Government by false count, measure, weight, or quality of the article to be supplied, or procure, or attempt to procure, the same to be done, or shall directly or indirectly give, or offer to give, to any officer, employé, or servant of the Navy Department connected with the purchasing, inspecting, and custody of naval supplies, or to any member of the family of any such officer, employé, or servant, any bribe or present of any kind or description, for any purpose whatever, or shall offer, promise, or threaten to procure the removal, transfer, or promotion of any such officer, employé, or servant, he shall, on conviction before a naval court-martial, be imprisoned at hard labor in some penitentiary in the United States for a period not exceeding five years, and fined in a sum not exceeding \$10,000.

Can any reason be given why such a provision as this should not be enacted into a law? Is it not desirable to place the servants of the Government in a perfectly independent position and beyond the reach of threats, bribes, or promises?

7. The purchasing agents of the Government should be authorized and required to employ experts to examine and analyze, if necessary, oils and other articles that are subject to adulteration or deterioration, as is provided for in the third section of the bill under consideration.

8. The duties of Navy agents and naval storekeepers should be specifically defined by law, which has never been done. If the first four sections of the bill I introduced are not such in this respect as they ought to be, modify them, change them, but let there be a written law on the subject, both for the agent's protection and for our own. The provisions incorporated into the bill were drawn after mature consideration by officers who have had the charge of the subject for many years, and upon consultation with many leading merchants in the commercial cities. If a better plan for securing the Government against loss can be devised let us have it. It is no apology for doing nothing that the plan proposed is defective.

Mr. President, we are attempting to administer the affairs of the Navy Department, with an expenditure of \$140,000,000 per annum, under a system that was established for its administration when its expenses were less than \$1,000,000 a year. We are trying to confine the limbs of

manhood within the swaddling-clothes of infancy. The argument that the present system should be continued, because it has already existed fifty years, is a very shallow one. The officers of the Department who are familiar with the subject desire a change. They tell us that it is impossible to protect the Government against frauds so long as the present system shall be adhered to. Why will we not heed their advice?

The time has arrived when it should be thoroughly understood that our navy-yards are national establishments, to be controlled for the benefit of the nation exclusively, and not for the benefit of the neighborhoods in which they are established, or of the politicians who surround them. They cost us too much money, we have too deep an interest in them, to permit them to be surrendered to local influences.

Let me say to gentlemen representing Atlantic States, in which are our navy-yards, that we of the States remote from the seaboard are as much inclined to support and cherish the Navy as you are. We are interested in your commerce and manufactures. We want the flag that floats at the mast-head of your ships protected upon every sea, and recognized as an emblem of the power of a great nation. To do this we know that we must give of our substance, and we will give it cheerfully, if we have the assurance that naval affairs are conducted economically and wisely. We must know that the affairs of this Department are managed by the officers of the nation, acting for the common interest, and not by your officers, acting for the interest of a few contractors among you. We do not recognize the right of any man or set of men to dictate to the Government who shall be the commandant of this yard, which engineer shall be attached to that, or what shall be the regulations in another. No local political considerations can justify any such interference. We cannot consent that the Navy Department shall be administered as a "close corporation," for the benefit of a section or of individuals. I do not speak thus because of the manifestation of any such general desire on the part of the people of any section. I know that they do not feel so, but I also know that there are those, few it may be, who do entertain this sentiment, and that it is likely to increase, unless the reflecting men of your section shall rebuke and crush it.

I beg Senators to remember that the people of the great section of which I am a citizen are very slightly identified with the Navy. There are no navy-yards among them, and not one in a hundred of them ever saw a naval officer or a ship-of-war. Unless they have the assurance of economy and fidelity in its entire administration, therefore, it is the department of the public service that they will be the least likely to cheerfully tax themselves to support. Give them that assurance, and the Navy will always have, as it always has had, the unwavering support of the agricultural people of the West. Believe me, if the present condition of things be continued, let peace come, and retrenchment and economy will come with it, the Navy will be the first branch of the service to suffer, and will suffer the most. That great arm of the national defense will be punished for our infidelity to duty.

Mr. President, having assigned the reasons why I do not concur in the report of the Committee on Naval Affairs in their expression of opinion that the present system of procuring naval supplies "has operated well, and is well calculated to effect the object sought to be attained, namely, supplying the Navy at reasonable prices with the best articles demanded for the service," I leave the subject in the hands of the Senate.

Mr. HALE. Mr. President, before I proceed to answer some of the things suggested by the Senator from Iowa, I want to make one single remark of a general character. I agree entirely with the Senator that gross, enormous, outrageous frauds have been perpetrated upon the Navy Department and in the Navy Department; but the difference between us is radical, I think constitutional. I do not think the Senator can help thinking as he does; and I know I cannot help thinking as I do. I will read the view of the Senator. In a speech which he made in this body on the 11th of April last he gave his views as follows:

"Under the present system bids are submitted in classes. Suppose the Government wants a large quantity of various

descriptions of iron. An order comes from the Navy Department to the commandant of the yard to know how much and what descriptions of iron will be needed at that yard for the next year. The commandant says to the master blacksmith, 'Fill out a schedule of these articles and a description of them.' The contractor goes to the master blacksmith, and corrupts him. He bribes him, and gets him to make a schedule certifying that he will need, for instance, a thousand pounds of one inch square iron, and ten thousand pounds of two inch square iron. The contractor thereupon bids for the largest article (i.e. the smallest amount); for instance, a quarter of a cent; for that of which the smallest amount is to be furnished he bids eight cents, the average price of iron being four cents. Having this perfect understanding with the master blacksmith, when the contractor is required to fill his contract, and to go on as they are required to do, and fill, in addition to the amount originally stipulated, in the contract, any more of that description of iron that is required, only a very small portion of this quarter cent iron will be called for, while enormous quantities of the eight cent iron will be called for. Thus the Government is defrauded. So it is in regard to lumber, and so it is in regard to every article of supply that is furnished to the Navy Department.

"Why, Mr. President, I have had an opportunity within a few days of looking into this subject. I have seen how these naval contractors, under the present system, corrupt the officers of the Government—I mean the subordinate officers of the Government; I mean the master workmen in the various navy-yards of this country—by presents and by promises."

And the Senator gave the list of the men who are thus corrupted, master blacksmiths, master painters, master carpenters, boat-makers, sail-makers, builders, &c., including every class of mechanics in the land. Those are the men that are corrupted; and to remedy that he proposes to put them all under the supervision and direction of an officer of the Navy. While the Senator believes that the great mass of the laboring people of this country are corrupt, virtue, in his mind, only exists under an epaulet; and if you can dispense with these men and substitute a naval officer in place of them, a remedy will be had!

Mr. President, permit me to say that in this respect I differ as widely from the Senator as it is possible for two men to differ on any given subject. Instead of believing that the blacksmiths, carpenters, sail-makers, and every description of mechanics—for it is as broad as that—are corrupted and bribed, and that virtue can only be restored in the administration of public affairs in the Navy by wiping them all out of place and authority, and putting them all under military control, I hold the contrary opinion.

One other remark I want to make in regard to that speech, and then I will answer the present one. In the speech which the Senator made on the 11th of April, he gave an instance of how the Government was defrauded. He said:

"Under the present system if anything is wanted at a navy-yard the Navy agent directs the contractor to procure it. For instance, there is the article of Massey's logs that are used on our ships, and which are manufactured at New York. The place where they are sold is on Broadway. They are sold there at the price of twenty dollars. When we wanted some of them the order to furnish them was given to a man by the name of Scofield, and they were furnished to the Government at the price of thirty-six dollars. The Naval Committee do not think it necessary to abolish the system under which this is done."

I have been furnished with a letter from New York on that subject which has a little curious information in it, and the facts of the case are these: the bureau heard just this story—whether they got it from the Globe, or somewhere else, I do not know; they heard that they had been imposed upon, and without consultation with anybody, or letting anybody at New York know what they were doing, they sent one of their shrewdest purchasers to convict the Navy agent of this fraud and to purchase, at private contract one of these Massey's logs, and I hold in my hand the receipted bill at which it was bought, and it was bought at forty instead of twenty dollars, as alleged by the Senator. The assumption of the Senator from Iowa follows him throughout, and to show that he does not stand alone in it I will read an extract from some evidence that has been taken before a committee of the body in which the same opinion is expressed by the acting chief of the Bureau of Ordnance:

"The Navy agents are, for the most part, ignorant of the nature of the articles to be purchased by them, and therefore entirely unfit to comply with the regulation that requires them to procure articles of proper quality, and in fact they for the most part ignore this portion of their duty; and not only this, the Navy agents are almost invariably found acting on the side of the contractor in his efforts to get poor articles accepted by the Government, and the same is true of prices: there is in this the same ignorance and recklessness, and the same identity of interest with the contractor. Here lies the great defect of the system: the

interest of the Navy agent becomes linked with that of the contractor against that of the Navy Department."

That is a wholesale denunciation in direct terms by an officer of the Navy against a class of officers, general, sweeping, crushing. They are ignorant and they are corrupt, and linked with the contractors to defraud the Government, to furnish it poor articles at high prices! Mr. President, I believe there are but five of these officers now in commission, at least on the Atlantic coast. They are the Navy agents at Kittery, at Boston, at New York, at Philadelphia, and at Washington. It is my fortune to be acquainted with three of them—with two of them I am not acquainted. I will begin with the Navy agent at Kittery, Thomas L. Tullock; and I say what every citizen of New Hampshire, what every citizen of Maine that knows anything of Mr. Tullock will bear me out in saying, a more upright, conscientious, honest, faithful, vigilant officer never held a commission under this Government from the days of Washington to the present time. A Christian, who illustrates the sincerity of his faith by the purity of his life; a man of the most exemplary integrity; a man against whose reputation the breath of scandal never breathed, and was never uttered until he was subjected here on the floor of the American Senate to the denunciations which have been uttered against him. Mr. Tullock I have known for many years. You know him, Mr. President, [Mr. CLARK, President *pro tempore* in the chair.] I think other gentlemen on this floor know him. I take pleasure and pride in saying to the Senate that he is my friend, my personal friend, and I am proud of the honor of being allowed to call him so; and I tell you, sir, that he stands as much higher in public estimation than those who detract and decry him as it is possible in the present constitution of things for one man to stand above another.

I have read—I think it is in *Æsop's Fables*—that a viper once being impelled, either by the cravings of hunger or the demands of his nature, though he could make a meal of a file. He gnawed at it some time. What the effect upon his teeth was is not recorded; but I believe from that time to this the attempt of vipers to feed themselves with files has been given over. Just exactly as useless will it be for any man anywhere to undertake to build up a reputation for himself or for any Department of this Government by attacking and vilifying such men as Mr. Tullock.

The next of these officers whom I have the pleasure of knowing is Mr. E. L. Norton, the Navy agent at Charlestown. I speak in the presence of some who know him, and I aver, without the fear of contradiction from anybody that is acquainted with him, that a more upright man, a man of more sterling integrity, a man of more conscientious devotion to his duty, a man of greater purity of life, is not to be found anywhere.

The other officer whom I have the pleasure of knowing is Mr. S. P. Brown, Navy agent in this city. When Mr. Brown was first nominated for this office his nomination was referred to the committee of which I was chairman, and some charges were made, not against his character, but against his business relations, that he was then interested in some contracts. Under those circumstances the committee hesitated to recommend his confirmation. Subsequently Mr. Brown made a written communication to the committee entirely vindicating himself from this charge; and from that day to this I have never heard a word against his character until now.

Now, Mr. President, what is it that has excited this deep and bitter hostility against these Navy agents? I will tell you, sir. I have got before me, and I propose to read to the Senate, an official correspondence which will explain the secret source of this bitter, deadly hostility to Navy agents. It is, so far as these three gentlemen are concerned, because they are honest, inflexible, incorruptible men, who will not suffer the heads of bureaus to reward their political partisans at the public expense. They have incurred their hatred, and it is a compliment to them. I beg the indulgence of the Senate to be allowed to read this correspondence; it will not take long. I would send it to the Chair to be read, but I have the impression (it may be a weakness in me) that I can read quite as well as the Clerk, and I will therefore read it myself.

In the first place, I will give you an account of

it so that you may understand the letters as they go along. The commandant of the Charlestown navy-yard, under orders from one of the bureaus, ordered a crank for the steamer Cambridge, of Lazelle, Perkins & Co., for which Lazelle, Perkins & Co. charged seventy cents a pound, at least seventy-five per cent. above the fair market price. The Navy agent knew that just exactly such an article as that could be bought at that time, or at any time, for less than forty cents a pound; and, as it did not come through the regular channel, was purchased without any sanction of law, when he was called upon to pay this enormous price, nearly one hundred per cent. over the market price, he refused to do it; he preferred to perform his duty to the public, and thus incurred the hate of the bureau. Let me read the correspondence. The first is a letter from Lazelle, Perkins & Co., complaining of the action of the Navy agent. This is a letter addressed by Lazelle, Perkins & Co. to Rear Admiral Joseph Smith, not because it was a matter that came under the cognizance of that bureau, but because, as the Senator says, he was in the habit of rebuking merchants and others, and it wanted a rebuker to silence Mr. Norton:

BRIDGEWATER, MASSACHUSETTS, February 9, 1864.

SIR: During last summer, Chief Engineer Wood, of the Boston navy-yard, (by order of the commandant of that station,) ordered from our forge a shaft for the United States steamer Cambridge. The shaft was made at considerable inconvenience to us by working night and day, as we were informed the steamer was required on the blockade, and were specially urged to do the work in the shortest possible time.

The shaft was made and delivered in the city of New York, and after inspection by a Government engineer the bills were sent to the commandant of the Boston yard.

After waiting several months and hearing nothing from them, the writer went to Boston January 26, and ascertained by inquiring at the commandant's office that the bills (which dated in October) were approved by him November 12, and sent to the Navy agent in Boston, and I was requested to go there, where I would doubtless find the money. I accordingly called upon him, when he informed me they were not in his possession. I insisted that he must have them, but he said no. I again told him they must be in his office, and finally, by opening a side drawer, he found them all (original, duplicate, and triplicate) duly approved. I asked him if any requisition had been drawn for the amount. He said no, and that there would not be by him; that Commodore Montgomery or Chief Engineer Wood had no business to order anything for the yard; that all orders must come through him, and if they saw fit to order they must pay for it, as he should not.

I respectfully call your attention to the above matter, that it may be brought to the notice of the proper officials in Washington, with a view that such conduct on the part of these officials (Navy agents) may be corrected; and to state further that it is my opinion, as well as that of manufacturers generally, who have had the supplying of their goods to the Department, that his conduct in this case has been caused in not giving this order to such parties as may have been selected by himself to execute the work.

I am, very respectfully, yours,

GEORGE B. STETSON,  
for LAZELLE, PERKINS & CO.

Rear Admiral JOSEPH SMITH,  
Chief of Bureau of Yards and Docks, Washington, D. C.

BUREAU OF CONSTRUCTION,  
NAVY DEPARTMENT, September 10, 1863.

Commodore J. B. MONTGOMERY: Inclosed please find a copy of a report from the steamer Cambridge relating to the crank pin of that vessel; and a new one is required. You will please direct the chief engineer of the yard under your command to ascertain where it was made (which is probably at Boston, as the vessel was purchased at that port) and have a new one forwarded to her, in Admiral Lee's squadron, as quickly as possible. If you have not direct communication by steamer, the most expeditious mode will be to send it to New York, and request the commandant of that yard to forward it at once. When ready to be sent forward you will inform the Bureau of Steam Engineering.

JOHN LENTHALL.

BUREAU OF YARDS AND DOCKS, February 25, 1864.

GENTLEMEN: Your letter of the 9th instant to me was referred to the Navy agent at Boston for explanation of his long detention of your bill without action.

Inclosed I send you a copy of the Navy agent's letter on the subject to the Secretary of the Navy, which I transmit to show you how much more reasonably that agent can procure the work referred to than you seem to have charged. That, however, is no excuse for his non-action in the premises.

Respectfully, your obedient servant,

JOSEPH SMITH,  
Chief of the Bureau.

MESSRS. LAZELLE, PERKINS & CO.,  
Bridgewater, Massachusetts.

BUREAU OF YARDS AND DOCKS, March 7, 1864.

GENTLEMEN: I inclose a copy of explanations made by the Navy agent at Boston, touching the price you charged for the shaft for the steamer Cambridge.

Please state whether your price per pound was for the shaft finished.

You will observe that the Navy agent complains of your price as exorbitant, and if it is really so, you should of course make a deduction.

After reading the Navy agent's letter please forward to the bureau such explanations as you may think the matter requires.

I am, respectfully, your obedient servant,  
JOSEPH SMITH,  
Chief of the Bureau.

MESSRS. LAZELLE, PERKINS & CO.,  
Bridgewater, Massachusetts.

BRIDGEWATER, MASSACHUSETTS, March 11, 1864.

SIR: We beg to acknowledge receipt of yours of the 7th inclosing copy of letter from E. L. Norton, Esq., Navy agent at Boston, in which he charges us with asking your Department an exorbitant price for the crank shaft of steamer Cambridge, and says that Mr. Dearborn, of the firm of Dearborn, Robinson & Co., forged the original one at ten cents per pound, and would now make the same finished at forty cents per pound. Also, that Mr. Curtiss, of the Atlantic Works, says that forty cents at the present time would be the highest price for such a one finished, and further, that Mr. Curtiss says we are now making much larger and more difficult ones at thirty-nine cents per pound.

Mr. Curtiss must, we think, forget that we are now under contract with him to make a crank shaft, and have six months in which to do the work, and that he is to pay us fifty cents per pound for the same.

Mr. Norton further states that our establishment is at work day and night as a matter of economy, and that such establishments are run day and night. So far as our experience goes, we can assure you there is no economy in any such operation, and we beg to state that it costs much more to run day and night, comparing the expense with the amount of work turned out. We cannot turn out as much work in a night as in a day, and we are quite sure that others have had the same experience as ourselves.

He also says that we do not pay our workmen anything extra for working nights, which is not correct, as we do pay extra for night work.

We have shown you, as above, that our works are not run day and night as a matter of economy, but merely from a press of work.

If the Navy agent had considered the bill an overcharge he should have so stated it at the time our man called on him, and not say that he would not pay it for reason of its having been ordered by Commodore Montgomery instead of himself.

When the bill was rendered we considered it a just one under the circumstances; if it is not so, we stand ready to correct and refund any overcharge.

Our price for such work is fifty cents per pound finished when we have the other forgings required for the engine. We have within the past three months forged all the work for five engines of similar shape for one of our customers, and we charged him for the same twenty-five cents per pound in the rough. The crank-shaft is the most difficult piece to make of all others required in the construction of a marine engine, and there is double the risk attending its manufacture. At the present time we would not undertake to make one at the price charged your Department, (thirty cents per pound, forged weight.)

When the order was received it was stated the ship was required on the blockading station, and that we must not lose a moment's time on it.

Under these instructions we commenced it at once, laying aside other work that the wants of our customers had pressed us for delivery. When it was forged we at once put it into our largest lathe, (for which we charge twenty dollars per day,) stopping the work it was on. We cannot make these changes without incurring additional expense and loss of time.

We appeal to you, sir, if we should not receive more for this work than if we had plenty of time in which to execute it.

The parties from whom Mr. Norton obtained the prices he quotes, are competitors of ours in business, and he doubtless explained to them the nature of the case before getting their figures.

We always have been, and are now, ready to serve your Department in any way, and at quickest possible time, and ask no other compensation for so doing than what is just and right; and in this case we worked with an understanding that the services of the ship were valuable to the Government, and the first thing to be looked to was dispatch.

We leave the matter entirely in your hands, and shall cheerfully abide by any decision made in the case by yourself or the Department, and any overcharge shall be promptly remitted as you may direct.

Mr. Norton's treatment to us has not been what we should have received from a man in his capacity; we have at least a right, we think, to demand civil and courteous treatment from him as a Government officer. We mean all our claims and bills shall be at market rates; if not, we stand ready to make them so.

Awaiting your reply, we remain yours, very truly,  
LAZELLE, PERKINS & CO.

Rear Admiral JOSEPH SMITH, United States Navy,  
Chief of Bureau of Yards and Docks, Washington, D. C.

BUREAU OF YARDS AND DOCKS, April 8, 1864.

GENTLEMEN: Yours of the 11th March I referred to the Bureau of Engineering, as it pertains to that bureau, to pay your bill for the crank made for the Cambridge.

It was a matter which did not appertain to this Bureau, but was investigated by it as stated in letter of 7th March, in reply to yours of 9th February last, and which has not escaped the observation of the investigating committee of the Senate on the subject of naval frauds.

You will please call on the Bureau of Engineering to examine and settle your bill for the crank.

I am, respectfully, your obedient servant,  
JOSEPH SMITH,  
Chief of the Bureau.

MESSRS. LAZELLE, PERKINS & CO., Bridgewater, Mass.



Here is Mr. Norton's account of the transaction. It is a very straight one:

NAVY AGENT'S OFFICE, BOSTON, February 23, 1864.

SIR: Referring to my letter of the 20th instant, I respectfully inform the Department that I have made inquiries of the principal forgers and manufacturers of shafts such as was furnished the steamer Cambridge by Lazelle, Perkins & Co., and have ascertained that the price of the shaft, the bill of which was presented to me for payment, and which, for the reasons before stated, I declined to include in my requisition, is exorbitant.

The cost of such work at the present time is greatly above that for which it could have been furnished at the time the bill referred to was made. In no instance has the price named by the parties of whom I inquired been above forty cents per pound for the finished shaft. One manufacturer of great responsibility and experience offers to do such work at the present time for thirty-eight cents.

It will be observed that Lazelle, Perkins & Co. charge for 7,410 pounds (which is probably the gross weight of the forging) \$2,445 30, and for finishing \$570, total, \$3,015 30.

Based upon the original shaft, and the estimated weight from the drawing, the weight of this shaft finished would be about 4,500 pounds, which, at the price offered me for such work, would amount to \$1,710. It thus appears that Lazelle, Perkins & Co. have charged about \$1,300 in excess of a liberal estimate for the shaft. I am informed that the manufactory of Lazelle, Perkins & Co. is usually in operation day and night, consequently the cost of the work could not have been enhanced by night labor.

As this bill will probably be presented for payment, I consider it my duty to inform the Department of the result of the inquiries I have made.

Very respectfully, your obedient servant,

E. L. NORTON, Navy Agent.

Hon. GIDEON WELLES, Secretary of the Navy, Washington.

To that letter of Mr. Norton's Rear Admiral Smith replied as follows:

BUREAU OF YARDS AND DOCKS, February 27, 1864.

SIR: The honorable Secretary of the Navy has referred your letter to him of the 23d instant, on the subject of the shaft furnished by Lazelle, Perkins & Co., for the steamer Cambridge, to this bureau. Please state who the parties are of whom you say neither of them would have charged over forty cents per pound for the shaft in question, finished, the time they would have required to deliver it, and also who is the party who would do the work at the present time at thirty-eight cents per pound, and if these parties or either of them would furnish the shaft by working night and day at these prices.

It appears the shaft was ordered of the establishment which made the original one, to be made with all possible dispatch, and, whether the prices charged be high or not, there was no excuse for your putting the bill away without notice or report, and when asked for it saying you had it not, but after searching you found it.

If you declined to pay the bill you should at least have so reported to the commandant who approved it, with your reasons for not paying it.

Your opinion that because the works of Lazelle, Perkins & Co. are in operation day and night the work on the shaft should not be enhanced in price, is quite unreasonable, when it is known that night labor is charged at double rates at nearly all of the navy-yards and private establishments in the country.

No doubt the labor is charged at double the ordinary cost of work of that sort, for that part of it done by night work.

I am, respectfully, your obedient servant,

JOSEPH SMITH,

Chief of the Bureau.

E. L. NORTON, Esq., Navy Agent, Boston, Massachusetts.

NAVY AGENT'S OFFICE, BOSTON, March 5, 1864.

SIR: In reply to the bureau's letter of the 27th ultimo, asking me to state who the parties are who would have made a shaft such as was furnished for the Cambridge, I have to reply that Mr. Dearborn, of the firm of Dearborn, Robinson & Co., says he forged the original shaft for the Cambridge at ten cents per pound, and would make the same forging at the present time for twenty cents per pound, and would have made and finished the same shaft at the time it was made by Lazelle, Perkins & Co. for thirty-five cents per pound, finished weight, and at the present time at forty cents, and would have engaged to finish it in four weeks.

Mr. Herrick, agent of the Nashua Iron Company, says at the present time he will engage to make such a shaft at thirty-eight cents per pound; but at the time it was made by Lazelle, Perkins & Co. it would not have cost as much, and that it could be finished after forging in three weeks, working only days. By working days and nights it could be done in less than two thirds that time, and would enhance the cost but very little. He should work day and night forging the shaft, as a matter of economy. Mr. Herrick says he would work nights finishing the shaft, if desirable, by charging for extra steam and lights, which he says would be but a trifle.

Mr. Curtis, agent and treasurer of the Atlantic Works, says that forty cents per pound at the present time is the highest price for such work, and that in September and October last it would have been much less. Mr. Curtis further says that Lazelle, Perkins & Co. are now making shafts, much larger and more difficult to make, at thirty-nine cents per pound. The foregoing prices are for the finished work, a close calculation of which from the original drawing makes the weight of the shaft forty two hundred pounds.

As stated in my letter of the 23d ultimo, the works of Lazelle, Perkins & Co. are in operation day and night, and as a matter of economy such establishments are run day and night for heavy forgings, and the extra expense of night labor in finishing such work is acknowledged to be "but a trifle" by those most interested.

If nearly all the navy-yards and private establishments in the country pay double for night labor, the bureau does

not say that such is the practice at the works in question. On the contrary, I am informed that Messrs. Lazelle, Perkins & Co. do not pay their workmen double, or even anything extra for night labor for finishing work, and, as before stated, all forces run night and day on heavy work as a matter of economy. Therefore, instead of being unreasonable in my opinion that, because the works of Lazelle, Perkins & Co. are in operation day and night, the price of the shaft should not have been enhanced, I might have further added that the work could not have been done exclusively by day labor without a very serious inconvenience to them.

As the withholding of the bill from my requisition has been considered by the Department upon such explanation as I have been able to give, it appears unnecessary that I should say more in relation to the matter. The case may be stated briefly as follows: a requisition for a crank shaft was drawn by the authorities of the navy-yard directly and unconditionally upon me. By law and regulation it was my exclusive duty upon that requisition to have made the purchase; but it appeared from the memorandum bill of Lazelle, Perkins & Co., that some person had undertaken my function and had made the purchase.

By including that open-purchase bill in my requisition when no special authority from bureau or Department appeared for the purchase by another person, I considered that I should become a party responsible for the proper conditions of the bill. It was accordingly laid aside to await from day to day the call of the party to whom it belonged. It could not have been anticipated that two months would elapse before such call would be made, nor is it matter for surprise that I should not recall the circumstance of the reception of the bill upon the instant. It seems to me sufficient that I was unable to correct a first impression and find and deliver the bill within a five minutes' interview with the person who called.

My whole purpose and action in this matter has been governed by an earnest desire to protect the public interest by insisting upon those wholesome laws and regulations which have been devised for this purpose; and whatever difference of opinion may be entertained as to who may or may not be purchasing agents for the Department, I considered that when I called attention to an apparent exorbitant charge, I was entitled to consideration rather than reproof from the bureau.

Very respectfully, your obedient servant,

E. L. NORTON, Navy Agent.

Rear Admiral JOSEPH SMITH, Chief of Bureau of Yards and Docks, Washington, D. C.

BUREAU OF YARDS AND DOCKS, March 7, 1864.

SIR: Your letter of explanation of the 5th instant has just been received. The bureau passed no censure for your declining to pay Lazelle, Perkins & Co. for the shaft for the Cambridge. It would rather approve your action in such cases, and trust you have always been thus scrupulous and particular in regard to exorbitant claims presented to you for payment; for the bureaus are not always the most correct judges of the proper value of purchases made without investigation. But the bureau did intend to censure you for not reporting the exorbitant price stated by you as charged for the shaft to the authority (the commandant) who approved the bill, instead of putting the bill away and waiting until the manufacturer called for his money, and then simply telling him you could not pay the bill.

It was your duty to have reported the case to the commandant when the bill came to you and you objected to it; or you should have reported it to the bureau, making the purchase forthwith.

In neglecting to do so you were, in my opinion, delinquent in your duty.

As to the cost of night work it was not for me to decide. All the reports from outside establishments to the Department in regard to hours of labor, extra time and extra pay, state that a large increase is allowed for night work and extra time.

Respectfully, your obedient servant,

JOSEPH SMITH,

Chief of the Bureau.

E. L. NORTON, Esq., Navy Agent, Boston, Massachusetts.

This correspondence explains one of the reasons why these Departments and bureaus want to get rid of Navy agents, because they have tried to break up this practice of ordering from favorites work outside of the law for which exorbitant charges are made. I trust I have said enough about the Navy agents.

The Senator also, in enumerating those who have committed frauds upon the Navy, mentions another firm of whom I have some knowledge, and who have furnished pretty large supplies to the Navy Department. They are Trickey & Jewett. I do not know that it is necessary for me to say a word about them. I am sure it would not if Senators knew them. Mr. Jewett is a citizen of the State of Maine, unquestionably well known to the two Senators from that State, a man unimpeached and unimpeachable, of the highest repute for integrity, intelligence, and perfect uprightness in all the walks of life. He is at this moment while I speak a member of the Senate of the State of Maine. He and Mr. Trickey have furnished, as has been stated, supplies to the amount of \$1,000,000 to the Department. Mr. Trickey is an inhabitant of my own city, and I hardly know how to speak of him; but I will say this: in that city of ten thousand inhabitants, it is no disparagement to any one else to say that there is no man, in point

of business enterprise, of high-toned integrity, and all those characteristics that go to make up a good man, that stands ahead of Mr. Trickey; a man of high-toned integrity, great enterprise, generous to a fault, and of the most diffusive benevolence. I venture to say that within the whole range of the acquaintance of every man here, there is not a mercantile or a business house anywhere in any place or in any country that would not feel itself, at least not dishonored, but on the other hand flattered, by being set down in the same category with Messrs. Trickey & Jewett. But the difficulty with them, in the mind of the Senator from Iowa, is that they do not wear epaulets. They do not belong to that class.

But a great portion of the labor of this effort of the Senator is made upon Mr. Smith, of the firm of Smith Brothers & Co. of Boston. Let me say this of Mr. Smith: I know him; he is a merchant of the highest character; of unimpeachable integrity and unblemished reputation with all who know him. There is not a mercantile house in Boston, and that is a place, I think, where the standard of mercantile integrity is as high as it is in any city of this Union—there is not a mercantile house nor a mercantile man in Boston whose reputation excels or exceeds that of Mr. Smith. Mr. Smith is not only a man eminent in the walks of mercantile and private life, of unspotted integrity, and of unsuspected fairness, but, besides all that, he is an able man; he is a keen man as well as an honest man; and do you want to know the secret of this hostility to Mr. Smith? I have it in my hand here now.

When the report of the Secretary of the Navy communicated to the two Houses of Congress on the 7th of December last was published, Mr. Smith saw, as every man can see that will look at it, evidence of the grossest and most outrageous frauds under the published evidence of the Secretary of the Navy—not one of them perpetrated through the agency of the Navy agents. As became a man of integrity and of keen intellect, he, in a little pamphlet which I hold in my hand, exposed some of these frauds perpetrated, not through Navy agents, but through officials here at Washington. He exposed them in his pamphlet. Let me call your attention to one or two of them. He found, for instance, in the contract for sperm oil that a Mr. H. D. Stover, who has figured considerably in this matter, by some remarkable coincidence, furnished all the oil for all the navy-yards on this side of the continent, at Charlestown—there was none furnished at Kittery—at Philadelphia, at New York, and at Washington; and it was a little singular that the price varied from about \$1 65 a gallon up to \$2 44; at Charlestown it was \$1 65, at New York \$1 68, at Philadelphia \$2 35, and at Washington \$2 44—Stover sweeping the board. It is a little curious that Stover's bid, in every case, was within a few cents of the next highest bid. For instance, where Stover got the contract at \$2 44, the next highest bid was \$2 46, two cents difference, and when he got it at \$1 68 the next highest bid was \$1 70. So in the various instances where he got it at other prices, the price that Stover bid in no instance fell more than five cents below the next highest bid, though the difference in prices ranged from \$1 65 to \$2 44.

It struck the select committee on naval supplies, who had the subject before them, as exceedingly curious that one man should be gifted with such wonderful sagacity as to be enabled so to gauge his bids at four different yards at such widely different prices, and just fall a cent or two below the next highest bidder; and that astonishment was increased when, upon a critical examination of the bids and by evidence given before the committee by the clerk of the chief of bureau who executed the contract, it appeared that the bid of \$1 68 a gallon for oil was originally made at \$1 40, and after it was made it was raised twenty-eight cents a gallon, and was still two cents below the next highest bid. I do not know what the Senate will think about that; I do not know what the country will think; but I do not believe there is a man anywhere who can have a doubt that in some mode known only to the contractor and the bureau with which the contract was made, the bidder in that case was exactly advised of the next highest bid, so that he was enabled to put his a few cents lower in each case. Mr. Smith had the audacity to bring this to light.

There can be no doubt what verdict a jury of twelve honest men would render in such a case.

There is another contract to which I will call the attention of the Senate; it was before the Senate on another occasion, and a different solution from that which is now suggested was then attempted to be given. That is what is called the wrench contract, one of the most extraordinary contracts that ever was entered into. That was a contract by which certain articles amounting in price to \$4,687 were contracted for that were in fact worth a little less than \$1,600. In other words, about two hundred per cent. was put upon this contract, two hundred per cent. put into the pocket of this man Savage by a contract not made with a Navy agent, not made with a hard-handed blacksmith, or a carpenter, or a dishonest sail-maker, or any of those hardy sons of toil whose hard hands are a certificate to the honorable Senator of their dishonesty; but executed at the Navy Department, by which the Government in a transaction amounting to \$4,600 was swindled and robbed out of \$3,000. This was a fact which Mr. Smith brought to the attention of the public. He exhibited other facts in this pamphlet which I hold in my hand, showing that there were erroneous computations made on the face of the contracts, and on inspection it appears that there were various other frauds, such as where an article was bid for at 30 cents a figure 1 was put on the left hand, so that it was made to read \$1.30; and various frauds of that kind. Mr. Smith brought these facts to light and published them, and for it he is entitled to the thanks of every man that desires purity in the administration of the Government. Instead of it he has received and secured to himself, and probably to his children after him, the undying hatred of the men whose conduct is thus implicated.

Again, Mr. Smith has not only exposed these wrongs, but he has been guilty of another gross offense in the view of the heads of these bureaus. When his attention was first called to this subject of fictitious bidding, he looked back to years ago when it went on quietly year after year, and year after year; and while the profits of that plunder went into Democratic hands not a word was said against it; but the very first year Mr. Smith's attention was called to it he did what the Senator said he ought to have done; he notified the heads of bureaus and the Secretary of the Navy of these frauds by correspondence. He had correspondence, too, with the gentleman appointed to prepare a naval code, and made a suggestion of the very frauds that had been practiced, and the mode in which they might be practiced; and for that, too, he has committed, in the eyes of these gentlemen, an unpardonable sin.

Mr. GRIMES. Will the Senator allow me to interrupt him?

Mr. HALE. Certainly.

Mr. GRIMES. Do I understand the Senator to say that Mr. Smith called attention to these fictitious bids before he himself made the fictitious bids to which I alluded?

Mr. HALE. No, sir.

Mr. GRIMES. He first availed himself of the law, as I understand it, for a year or two, and then called attention to fictitious bids.

Mr. HALE. I have said that Mr. Smith is not only an honest man but he is a keen man. I do not know that I shall be doing any injustice to the Senator from Iowa—I certainly do not mean to do any—if I say to the Senator from Iowa that he is quite as keen a man as he is, and I think he is a little keener in one respect. The Senator from Iowa—I do not mean to say anything unkind or disrespectful to him—is charged and surcharged with the concentrated venom of all the men that Mr. Smith has disturbed by writing this pamphlet, and he has been so highly charged that he let some of it off before he made his speech here, as I think the Senator will see when I read as I propose to read Mr. Smith's answer to the speech of the gentleman, made before the speech was delivered. I will read it:

WASHINGTON, May 21, 1864.

SIR: Having been summoned before the select committee of the Senate on naval supplies to give testimony concerning the naval contract system, the business transactions with Government of the house of Smith Brothers & Co., of which I am a member, my knowledge as to the evidence of fraudulent transactions, and several other subjects having relation to the above, it occurs to me that from the nature of my testimony responsive to interrogatories and its voluminous extent, the most important points will not readily be recalled by you.

I take the liberty, therefore, to address to you this communication, in the endeavor to present a clear and concise statement of these points.

It has been alleged, as though to our discredit, that our proposals contained fictitious bids. This we have always openly declared. Why were such fictitious prices inserted in our proposals? Because the system established and acted upon through many years, as appears by the reports of the Navy Department, had made such fictitious bids a necessity for successful competition; and I assert that on certain classes, such as those for which we principally bid, there would have been no probability of obtaining contracts except by fictitious bidding, according to the precedents established and published to the world by the Navy Department.

It was solely by a mathematical analysis of the said published reports, revealing to us the precedents as to high and low prices on certain articles, that we based our first bids and obtained our first naval contracts; and we embraced the earliest opportunity that occurred to protest, to the Navy Department, against the system, and express a desire for its reform.

This we did within about six months from the date of our first contracts, and before their completion. In February, 1862, we addressed the chief of the Bureau of Yards and Docks as follows:

"We are especially pleased at your allusion to contracts and the mode of obtaining them, for it gives us an opportunity we have desired to place on record our knowledge of the system and our experience of its practical results."

"We believe that your judgment, after long experience, must coincide with our own, namely: that the contract system, as now existing in two bureaus of the Navy Department, is essentially wrong in contracting for a continued supply of a large assortment of goods upon the lowest aggregate fractional schedule. Instead of a clearly defined contract indicating what the buyer is to receive and the seller to give during its continuance, the result is a lottery to each. Such is the system, and it is the system that is responsible for the absurdities that follow, not the merchant who approaches Government with his wares and finds this system in his way."

"Now as to the mode of obtaining contracts. We do not see, with you, that bidders 'practice deception' when they state prices 'without regard to the value of the articles.' The motive is apparent. It is, as you remark, simply 'to become the successful bidder in the aggregate.' To illustrate: how did we obtain our contracts?"

"The writer of this, who prepared our bids last June, was never in the naval apartments until in your presence the bids were opened. He had not then asked a question nor did he know an official or clerk within the gates of the navy yard. Having decided to attempt some Government contracts, we analyzed the published reports of the Department in previous years to discover the *modus operandi*; and, in passing, we would say we were astonished that a system that left such records of bargaining could have so long been maintained. We reduced the prices throughout from ten to twenty per cent., and entered the lists. It is for this reason that 'no schedules abound with more fictitious prices than our own.' Can the Government find fault with fictitious prices that offer goods much less than they had paid upon fictitious prices for many years?"

After quoting from the last schedules of merchandise advertised, descriptions of files which were probably never seen in this country, certainly never wanted, we said:

"The history of their origin would be an interesting subject for antiquarian labor of a contract investigating committee, as such schedules appear during successive years in the published contracts of the bureau."

"We have endeavored thus to make an exhibit of the present system of contracts, the mode of obtaining them, and their purchase results. We shall be glad to aid any effort to replace it by one more distinct in its demands upon the seller of merchandise, and therefore far more agreeable to those who would be honorable competitors for Government patronage."

An exhibit was made in this paper, also, of our deliveries of merchandise to date, at high and low prices, proving that the average had hardly equaled a fair mercantile rate of profit.

I discussed this subject again more fully in February, 1863, in a paper addressed to the honorable Secretary of the Navy, and to Hon. C. B. Sedgwick, as follows:

"The evils of the contract system of the Navy Department have existed for many years. The disadvantages that have followed to the Government have been inherent in the system itself. In two bureaus of the Department a system of proposals by advertisement has been maintained that in result was a mere matter of chance to the respective parties."

"Thus in the Bureau of Yards and Docks it has been customary to advertise for a great variety of articles, which were only to be called for if wanted. The chance, therefore, for the bidder to calculate upon is what articles will be wanted."

"In the Bureau of Construction it has been the custom to advertise for a quantity of assorted merchandise, with the stipulation that any additional amount of either kind is to be furnished during the fiscal year as may be demanded. Here the chance for the bidder to consider is what quantities will be wanted."

"Thus the schedules advertised have been no fixed criterion as to what is really to be supplied."

"If the contracts of the Department, as published for years past, be analyzed, it will be found that a system of bidding has been maintained by which the merchandise advertised has been offered to the Government at very much less than its value in the market, the bidders having calculated according to their estimate of the real wants of Government. The law has required that the lowest bid in aggregate upon the whole should be accepted."

"The merchant, therefore, who would approach Government with his offer must follow these old precedents or be entirely distanced by his competitors. Honorable mercantile houses have desired and urged a reform in the system that would place the transactions of the Department upon a more legitimate basis to all parties concerned."

"Now as to the practical results of the system. Absurd as it proves to be in its details, the record of our business proves that in the aggregate it is as likely to prove favorable to the Government as to the contractor, though a lottery to each. Government pays large prices for some articles. It receives others for mere nothing. The figures annexed are the basis of our opinion that upon the entire amount of our year's business with your bureau the average per cent. of profit will not exceed or equal a fair mercantile rate."

#### The Remedy.

"The bill reported by the committee is an advance toward remedying the evils of the system. In two of its provisions, however, in our judgment, it is defective:

"1. By providing (section two, line five) that there may be an increase of fifty per cent. or a decrease of twenty-five per cent. upon the quantities advertised, the game of chance is still open."

"Let the Navy Department, as the War Department, advertise for precisely what is to be received; no more, no less. There can then be no 'nominal prices.' They will disappear, for the merchant will know that the merchandise described is to be furnished."

According to my recommendation, the bill then before Congress was amended, and by the joint resolution of March 3, 1863, limiting quantities to no more and no less than those advertised, the evil of fictitious bidding was remedied; and, in agreement with my prediction, thence afterward fictitious bids disappeared."

The earliest report of the Secretary in my possession is for the year 1855-56.

Items from contracts therein are as follows: round iron, 4 cents per pound; tinable iron, 1 cent per pound; copal varnish, \$3 per gallon; coach varnish, 2 cents per gallon, &c., &c., &c.

In a contract for 1856-57, large and costly files are at 1 cent per dozen.

For the Charlestown yard, American iron, common sizes of round, is at 4½ cents per pound; Russia sheet iron, 2 cents per pound.

The contracts for 1859-61 show the increase of fictitious bidding.

The following are but specimens of many items therein: Contract of Horton, Hall & Co., for Charlestown yard, with Bureau of Yards and Docks: round iron, 5 cents per pound; iron wire, 1 cent per pound; steel, 17 cents per pound; steel wire, 1 cent per pound; sperm oil, \$1.40 per gallon; neat's foot oil, 10 cents per gallon.

Contract of J. L. Savage, for Gosport: half round bars, 14 inch, (worth \$6,) for \$10; dead smooth bastard files, 12 inch, (worth \$15,) for 2 cents; three square files, 10 inch, (worth \$4,) for 1 cent, &c., &c., &c. Nails, 1d. to 4d., 3½ cents per pound; nails, 4½ inch, 1 cent per pound.

In the iron contract for Charlestown: round iron is at 3½ cents per pound; flat iron, 3½ cents per pound; sheet iron, 6 cents per pound; cast steel, 18 cents per pound; blister steel, 3 cents per pound.

"The records of the bureau will show that of profitable articles under the last named contract, quantities were delivered enormously in excess of the face of the contract as advertised."

And it is further to be remarked, that while some of the prices above quoted are far more fictitious than any in our contracts, they are transmitted to the Secretary and to Congress without any reflections upon the bidders, my suggestions for reform, any comments whatever. In the report of the select committee on naval affairs and expenditures, 1859, Admiral Smith gives evidence as to a contract for railroad iron at 80 cents per ton, worth \$70; other articles of iron being "double a fair price." But I find no discussion of the bad features of the contract system; not a word of argument or protest against the feature of unlimited supplies during a year which forced him to contract for railroad iron at 80 cents per ton worth \$70.

Such were the extraordinary agreements entered into by citizen traders on the first part, and the Government of the "United States" "on the second part," according to law and practice, meanwhile undisturbed. Although in the case of the railroad iron a dispute occurred, and the contractor was refused settlement, yet others must have obtained settlements and secured profits on like fictitious proposals, as above quoted, or the same parties would not have continued as contractors through a period of years."

We resolved, upon the signature of our first contracts, to spare no effort for a remedy for such absurd records of transactions with the Government. In a few months we recorded our protest against it; and before the expiration of the second year accomplished a remedy as above stated.

As to the profits on contracts under such a system we remark:

First, that if the profits had been large, they would have been rightfully obtained, under contracts devised by the bureaus, and faithfully executed by ourselves.

Second, we have placed sworn testimony before your select committee that the average per cent. of profit, (offsetting gains by losses, under the old contract system,) upon contracts under the new law and upon open purchases, during three years of Government business, has not equaled the rate of profit meanwhile upon our regular business in Boston and New York as wholesale merchants."

Again, we remind you that as to the deliveries under our contracts, we have no option but to fill requisitions made upon us. Nor have we demurred as to unprofitable orders upon us, except in two cases, against which we protested, as illegitimate, and contrary to the intent of the contracts. We replied to the Chief of the Bureau of Construction thus:

"Neither the spirit nor letter of the contracts demands of us to supply material not to be wanted until the year 1863-64; or to furnish merchandise when demanded, because of its cheapness, in retaliation for other legitimate sales. The possible wants beyond the face of the contracts are a matter in which the Government and contractor take their advantage or loss, as the necessity for use may arise."

No further claim was made upon us for the requisition debated.

We are informed of a suspicion or allegation of collusion

with officers; but such suspicion is not only wholly unfounded, but, even if it were not wrong, it can be shown there is no necessity for such collusion to insure large orders for certain material.

As has been stated, the annual reports supply indices of articles wanted in extra quantities; but besides, it would require slight experience to be fully informed in the matter. For instance, any party knowing the construction of a ship, is aware that rounds  $\frac{1}{2}$ , 1, and  $1\frac{1}{2}$  inch, and flats  $4\frac{1}{2}$  inch are used for bolting and strapping in enormous proportion to all other sizes; and these are kinds which of necessity Government has required.

In ignorance of the routine in navy-yards, these requisitions for iron for ships have been attributed to the master machinist, whereas they originate with the naval constructor or naval storekeeper.

In a letter of February, 1862, discussing the subject of large deliveries of profitable articles under the old or fictitious system, the chief of the Bureau of Yards and Docks wrote to Smith Brothers & Co.:

"For these supplies I attach no blame to you."

Again, afterwards he wrote:

"I have no complaints to make of your failure to comply promptly with all demands upon you, so far as this bureau is concerned."

After two years' additional business relations with our house, the chief wrote to the Secretary of the Navy:

"I believe the house of Smith Brothers & Co. to be of respectable standing, and that they employ no means not considered legitimate in those times to obtain orders."

He has also repeatedly in conversation admitted his opinion "that they are an honest and respectable house."

The records will prove that we have faithfully fulfilled all contracts with the Department, and that our contracts have been exceedingly advantageous to Government, owing to the great advance of merchandise during the war.

Upon our contracts of August last, amounting to about \$150,000, to be completed before the 1st of July next, the advance upon the merchandise has been more than \$50,000, and we have delivered largely iron at \$100, when worth \$150 per ton. The contracts have been faithfully fulfilled.

It is possible that two instances of sales by our house may be presented in a form to our disparagement; said sales, namely, of lead under our contract with the Bureau of Construction, and of boiler iron to the Bureau of Ordnance, having been the subjects of prolonged discussion with the bureaus. The original correspondence, which we printed in full from satisfaction with our record, will show that our claims were vindicated, the decisions of the bureaus having been overruled, while our integrity was not questioned.

In March last it was assumed that some tin we had delivered to the Bureau of Ordnance was not Banca, according to the inspector's voucher, but Revelly tin. We replied that "besides the voucher on file in the bureau, we had ample evidence of the fact that the tin was as described;" and furthermore said, "we repeat the challenge to produce any just claim against us for restitution upon sales by us of tin or other merchandise to Government." No claim has since been presented.

For the record of our integrity in all transactions with Government we appeal confidently to the very extended testimony before the Senate committee of investigation, and which we are eager should be given to the public. A complete vindication will be found therein from any and all aspersions which can be made upon us.

Especially is said evidence full and conclusive as to the suspicion of collusion or pecuniary interest with the Navy agent. Thirty-two interrogatories were presented, covering almost every possible form of suspicion, (inquiring as to relations of "consanguinity or marriage;" and irrelevantly penetrating private matters according to the decision of the committee. They were welcomed as opportunity for a full exhibit of the truth.

In December last upon request I prepared a paper for the commissioner of the naval code, suggesting means for the greater protection of public buildings, and of weights and measures in navy-yards. These suggestions were so acceptable as to be embodied in the new draft of a naval code submitted to Congress.

Subsequently, in January last, we communicated to the Secretary of the Navy an analysis of certain contracts, developing evidence of collusion, to the great wrong of Government. This exposé has occupied largely the attention of your committee.

In the Congressional Globe of May 20, the honorable Senator from Iowa is reported as saying:

"I think it will turn out that the frauds to which the Senator from New Hampshire alluded, which I suppose grew out of fictitious bidding, were not called to light, and the publication that has been referred to was not made by the firm or the member of the firm that did make it, until after he had been rebuked by the chief of the Bureau of Yards and Docks himself for having made fictitious bids, and been called upon to respond and to deliver over some of the articles for which those fictitious bids were made."

In this statement the honorable Senator is under mistaken impressions.

First, as to the "rebuke," as he styles it, for fictitious bids. This was discussed, as above stated, nearly two years before.

Second, as to the explanation of the bad contracts in question by fictitious bids. The honorable Senator attempted this theory on a former occasion in explanation of the wrench contract; but it is entirely inapplicable. The contracts were executed under the act of 3d March, 1863. There were no fictitious prices therein; but they vary from twice to twelve times the value of the article.

Third, as to the suggestion of the analysis, and the time when it was made.

From information I had received and which was communicated in June last to the honorable Secretary of the Navy by gentlemen of the highest respectability from Massachusetts, I anticipated that the next report of the Department would reveal some extraordinary contracts. As soon as the report appeared, wrong was detected.

But charges as serious as those in the analysis were not made without careful consideration. The evidence upon which they are based, after compilation from the report of

the Secretary of the Navy, was examined in detail by a gentleman whose competent judgment of evidence would be admitted.

After the paper was placed in type, for greater distinctness the proof was submitted to a counselor of Boston, eminent for character as ability. Upon a critical examination thereof, in connection with the Secretary's report, he pronounced it a conclusive statement of evidence, sufficient to prove the allegation to any intelligent jury beyond a reasonable doubt; and furthermore with others declared it my personal duty, as a citizen, to place said paper with the Secretary of the Navy, that the serious wrong discovered might be thoroughly investigated. The unpleasant, and, as might have been expected, thankless duty, was performed.

From this last remark I must except the honorable Secretary. He alone of the officials concerned expressed his cordial appreciation of the service, remarking it was as important to the country as that rendered in the field.

In conclusion we remark that while regretting the existence of a system which compelled us to resort to fictitious bidding in order to obtain naval contracts, (until that system was changed, as we consider, principally through our instrumentality,) we know of no transaction which was not strictly just toward Government, or of any action on our part which, under the circumstances, was not fully warranted.

We hope that our efforts in behalf of reform, our fearless assertion of our rights as merchants in correspondence with heads of bureaus, and our exposure of collusion and fraud, have not stimulated an eager search for wrong on our part which has no existence in fact, and thus called down upon us an unfriendly criticism.

I remain, sir, respectfully, your obedient servant,

FRANKLIN W. SMITH.

HON. JOHN P. HALE,

Chairman of Senate Committee on Naval Affairs.

Mr. President, I have read this long communication to the Senate because I thought it due to a gentleman whose character was thus assailed, and, I think, as it will be published side by side with the statements of the Senator from Iowa, that the injurious imputations thrown upon the character of Mr. Smith will carry with them their own antidote. I believe there is no higher duty than a Senator or the Senate owes to the country, to the Government, and to itself, than to vindicate, whenever it is unjustly assailed, the character of any citizen whose conduct may be thus brought before the Senate. Neither shall I, even though the Senator from Iowa has made the astounding declaration that he is not a non-resistant, at any time be deterred from the course which I think my duty imposes upon me in defense of individual character, or in ferreting out public wrongs where ever I may believe that they exist.

In regard to this bill of the honorable Senator, I believe that in the speech which he has read today he states that the report upon it is actually the report of the Committee on Naval Affairs. A little while ago it was the report of the chairman only, and I believe, standing in his place in the Senate, he undertook to poll the committee, and asked if any of them had ever seen it before, and as none of them rose in his place he assumed that it was mine. The Committee on Naval Affairs, in the exercise of the duty which this body devolved upon them—I am not going to say that they did not show a great want of taste, of discernment, of appreciation of exalted worth and great attainments, in not putting the Senator from Iowa at the head of that committee; I waive that; it is settled for the present—but, sir, the Committee on Naval Affairs in the deliberate exercise of their unbiased judgment upon that bill came to the conclusion that it was unwise and inexpedient to pass it. In my humble judgment, it would be particularly unwise at this time, when a class of officers of unsurpassed integrity, and of most scrupulous fidelity in regard to the public interests in carefully guarding and watching the public treasure, are pounced upon by those whose hands they have endeavored to keep from the public Treasury, to pass such a sentence of condemnation against those faithful officers for the honest and faithful performance of their duty.

But, sir, in recommending to the Senate that that bill do not pass, the committee did not undertake to say, and do not say, that there may not be many suggestions in it worthy of the consideration of the Senate, and which it would be well to incorporate into the law, but they looked upon the bill in its principal feature, and that was the abolition of the very few civil officers there are in the Navy.

The honorable Senator says that we propose to "popularize the Navy." I do not know where he got that phraseology. After the most careful examination of the report that I have been able to give to it since this subject has been up, I do not find anything of the kind in it; but the report

of the committee is based upon the idea that the Senator in the close of his remarks said he wanted to see carried out. He says he does not want to see the Navy made a close corporation. Neither do I. There are but two classes of officers, Navy agents and naval storekeepers, that are now appointed in the naval service from civil life. The expenses of the Navy, as given by the Senator in his speech, are \$140,000,000 a year. Of course some of that, in contracts for vessels, goes outside of the Navy proper. But in regard to all its employment of officers and men they are confined to a particular service, and there are but two classes now left that are taken from civil life, to wit, Navy agents and naval storekeepers, and it is proposed by the Senator's bill to abolish them.

But, Mr. President, because there have been frauds committed, and the Naval Committee report against this change, is it fair, is it candid, is it just, is it ingenious to say that the committee are in favor of perpetuating frauds? As well might we retort upon the Senator from Iowa (taking the facts that have been disclosed in regard to contracts made at the Navy Department by which the grossest frauds that were ever perpetrated under the sun have been carried into successful execution without the intervention of any Navy agent or storekeeper) and say that he was in favor of perpetuating these very frauds and these very abuses and enlarging the sphere of their operation in the navy-yards, because he recommends the substitution of naval officers for civilians. But, sir, it would be neither candid, nor just, nor ingenious to do it. I do not believe the Senator has any such intention of any such wish.

The Senator labors under one of the strangest hallucinations that ever was allowed in the providence of God to afflict so clear an intellect as his; and that is, that all the evils that have been committed, all the wrongs that have been done, all the thefts that have been committed upon the public Treasury, would be saved, remedied, and prevented in all coming time by withdrawing from the naval service the exercise of all control except by those who wear epaulets and hold commissions: an epaulet is the sovereign remedy for all wrongs. I have as high a regard for naval officers as the Senator has. I respect them. I believe that as a class they are upon the whole as upright, as honest, and as pure as any other class; not more so. I yield that to them.

But, sir, how does this wholesale onslaught upon the mechanics of this country sound? How will it be received by the country? Who are to save this nation in this its hour of peril? Who have volunteered more readily, more earnestly, and more heartily in defense of the national life, which is this day in peril, than the hard-handed sons of toil whom it is proposed by this action in the Senate to-day to disfranchise? Pass this bill, sir, and it is in itself a standing libel published by the American Government, to be read by all nations and to go through all time as the judgment of this Senate, that the great body of the mechanics in the various walks and occupations in which they are to be found are bribed, corrupted, and have the price of this corruption in their hands to-day. I do not believe it. When that comes to be the conviction of this Senate and of this Government, or of this people, I tell you, sir, you have little left that is worth preserving. If that be the fact, it matters but little to the interests of humanity, to the progress of the race, and to the elevation of man, what is the result of this rebellion. If you believe the great body of your people are not to be trusted, if they are to be put under the control and agency of men in military power because they are corrupt; it is a sentence of condemnation and of ostracism upon that great class upon which this Government and every other Government must in its hour of emergency depend.

Whenever you do that you strike a fatal blow at the Navy. You separate it from the sympathies and the respect of the great mass of your people. You pronounce against it a sentence which will work its utter ruin. You isolate them from the masses. You make them, as the Senator from Iowa says he does not want them to be made, a close corporation, and then you will see what you have seen, and what you are now witnessing, in regard to these contracts to which I have



called the attention of the Senate, on a more extended scale.

Mr. President, this is a question of no light, no trifling moment. It is radical; it looks down to the very foundations of the Government; it is searching; it goes out into all the ramifications of society; it is lasting. Enter upon this course, and you separate the Navy in fact and in deed from the great mass of the people upon whom every institution, Army, Navy, courts, and everything else, must depend.

Again, the Senator bases his action not only upon the corruption of all the mechanics in every branch that are engaged in the naval service, but he does more than that; and I believe in the speech which he has made this morning he did not make a solitary exception of every contractor that he named that he did not classify as corrupt and as intending and cooperating with bribed employees of the Government to defraud the national Treasury. Sir, the Secretary of the Navy is engaged, I understand, to-day in prosecuting these fraudulent contractors. I am glad of it. Let him go on; let him find them out; let him convict and let him punish them; but the Secretary of the Navy and everybody else must remember it generally takes two persons to make a fraudulent contract where a third party is to be defrauded; and let him get every one of these contractors inside the penitentiary or of Fort La Fayette, and the most guilty culprits will be outside then.

Now, Mr. President, what is our duty? It is not our duty, as I understand it, in this hour of danger and of peril to the country, to enter into any new and untried experiments. But so far as experience sheds any light on the path of our duty, as evils are discovered let us remedy them, and apply the remedy, and not with ruthless hands at one blow upset a system which in the main, I repeat, as I said in the report, has operated well. That there have been frauds and great frauds, and gross wrongs, I do not deny. I shall be glad to see them rectified; I shall be glad to see our legislation purged of any evils that our history demonstrates to exist. But, Mr. President, if you had the wisdom of the wisest man that ever lived, if you had a patriotism as uncalculating and unselfish as ever pulsated in the breast of man, if you had a sagacity such as no history records, if you had a wisdom to legislate little short of infinite wisdom, you could make no system of laws, you could devise no plan that can be carried into successful operation, which shall preserve your character and your Treasury, and keep yourselves intact from depredations such as these, until you find men of perfect integrity to administer them; and, sir, when you fail to find such men, when you find that there has been any dereliction in this respect, you should not look with a too superstitious reverence upon the epaulet worn upon the shoulders of a man who has committed the deed.

Mr. President, if I know myself, I desire nothing in this administration of the Navy or of anything else that does not look to the best good of this country. I have been opposed from the beginning to transactions such as I have alluded to, such as I have delineated. I was opposed to them under the Democratic Administration. I am opposed to them under this Administration. I have been opposed to them and I will continue to be opposed to them to the latest hour of my life. For this I have been denounced as an enemy to this Administration; as if denouncing fraud, falsehood, corruption, profligacy, and extravagance in the use of the public Treasury is to be opposed to this Administration! Mr. President, I desire to support this Administration with the sincerity and the deep conviction of my whole nature, that cannot possibly be appreciated by the thieves and plunderers that support it only for the opportunity it gives them to prey upon the Treasury. I look upon ourselves, sir, as engaged in a struggle, the issue of which is not yet, that is to decide the greatest questions that have ever been raised in the history of the world. It was one of the injunctions laid upon the ancient people of Israel that when the host went forth to battle they should do no wicked thing. When the host goes forth to battle, when the armies of your country, with their lives in their hands, go out to meet the embattled hosts that are gathered for the overthrow and the destruction of the national life, it becomes us by purity in the administration of

our public affairs, by honesty in every walk of life, by every act that we do, to see to it that we do not by our national or personal sins at home hinder the beneficent purpose of a benign Providence that would smile upon our arms but for the baseness of the people whom they defend. Sir, the man that is guilty of public crime, the man that winks at frauds on the public Treasury, the man that seizes this hour, when the blood and treasure of the nation are poured out as they are being poured out, for the purpose of enriching himself at the expense of the public Treasury, commits a crime second only to that of him who is in arms against the cause of his country.

Let us, then, sir, dispassionately and calmly, as becomes men and statesmen, look, and look fearlessly and candidly, upon the condition of things which our country presents; where we have seen wrongs, let us remedy them; and again let us be careful here in this high council of the nation, where calmness and prudence and wisdom and justice are required of us, that we do not allow ourselves, from any mistaken impulse, wantonly and causelessly to assail the just reputation of those who are not before us and cannot answer for themselves.

Mr. President, I know that the careful and elaborate speech of the Senator from Iowa may be supposed to require a more minute, a more critical, and a better-prepared answer than I have been able upon the spur of the moment to make; but, sir, unprepared, incoherent, and undigested as it is, there is one thing I know, it is founded in truth, in justice, and in right. I have no friends to reward. The Senator spoke of the yards being filled with the political friends of some member of Congress. I neither know nor care to whom he alluded; but there is not in any navy-yard a single officer that holds his place, so far as I remember, by any recommendation or suggestion of mine. I do not know how it may be with others, nor do I care. But I trust that upon a subject so vital as the government of the Navy, so important to the best interests of the country, we will calmly and dispassionately weigh the subject, and come to the conclusion which justice, patriotism, and wisdom may require.

Mr. DAVIS. Mr. President, I have risen only to say a word. The speeches of the two Senators to-day have confirmed the suspicion that a very simple state of things exists. The honorable Senator from New Hampshire, the chairman of the Committee on Naval Affairs, has stated here again and again, and did two years ago, with distinct emphasis, that the country had more to apprehend from the profligacy and corruption in the different Departments of the Government than it had from the enemy in the field. To-day in the opening of his remarks he admits that in the administration of the Departments, and especially of the Department with which he is more nearly officially connected, there is enormous corruption and speculation and robbery in the disbursements of the money appropriated to the Naval Department, and near the close of his speech he concedes that the Naval Department and the Government generally is infested with thieves and robbers. I suppose it is all true; I do not doubt that it is true, but here is the honorable Senator—

Mr. DOOLITTLE. Will the Senator from Kentucky allow me?

Mr. DAVIS. No, sir; I have but a word to say, and I will not detain you long. I will give place to the honorable Senator from Wisconsin in two or three minutes, and he may speak to his heart's content. But, Mr. President, what I am driving at is this: here is the chairman of the Committee on Naval Affairs, a gentleman of rare ability, of great senatorial experience, a lawyer by profession, whose life has been appropriated to the ferreting out of crime and bringing criminals to punishment; he, as chairman of the Committee on Naval Affairs, is peculiarly bound to perform this office in relation to the great and numerous delinquents in that Department. He ought not to content himself with the denunciation of speculation and of fraud and of robbery in general terms in the Naval Department or any other Department of the Government. He ought not to speak in general terms of thieves and robbers, and leave the matter there. From his concessions in relation to the Administration of our Government, there is none on earth, or that ever was upon earth, more corrupt. I am not in-

formed as he is, but I have much reason to believe that his general assumptions are true; and if the matter were proved and investigated to individual cases throughout the Government its truth would be found not to be at all over-stated.

But while the honorable Senator is making these concessions, what does he show in the way of measures of reform to have been proposed by him and by his committee? What measures is he devising for the purpose of ferreting out and exposing and punishing the thieves and robbers that he admits infest the whole Government? Why does he not introduce his measures, well considered, efficient, and elaborately and carefully prepared, for the purpose of correcting and reforming this monstrous abuse that is so dangerous to the perpetuity of the Government and its institutions, according to his own concessions? If he knows of any thieves and robbers in his Department, why does he not hold them up to public scorn and condemnation and punishment by naming them? This admitting in vague and indefinite terms that a Department and a whole Government is corrupt, infested by thieves and robbers, and that the amount of plunder and speculation and robbery is enormous, amounts to nothing, corrects nothing, if such be the state of things.

Mr. DOOLITTLE. Will the Senator allow me to interrupt him a moment?

Mr. DAVIS. I will take my seat, if the Senator pleases, in a minute.

Mr. DOOLITTLE. The question the Senator put I desire to answer.

Mr. DAVIS. I am addressing myself to the Senator from New Hampshire.

Mr. HALE. That is against the rules; you ought to address the Chair. [Laughter.]

Mr. DAVIS. I look to the Chair but speak to you. [Laughter.] Now, sir, I ask the Senator from New Hampshire to enter on this work as a business man, in the detail of his duties as chairman of the Committee on Naval Affairs; let him hunt up and ferret out these enormous corruptions; let him ascertain who are the men that are engaged in them; let him introduce measures to reform these corruptions and to bring the men who are so corrupt and who are such thieves and plunderers to the public notice and to punishment and scorn.

Sir, I got up merely to make an expostulation with the Senator, and to bring his attention to the plain duty that devolves upon him as one of the ablest members of this body and as chairman of one of its most important committees, to reveal, to reform, to punish, to expose, and to bring to infamy and contempt both the corruption and the thieves and plunderers that have been so largely engaged in that infamous work.

Mr. HOWARD. I call for the special order.

Mr. DOOLITTLE. I appeal to the Senator from Michigan—

Mr. HOWARD. I desire to go on with the Pacific railroad bill.

Mr. DOOLITTLE. I wish to say a single word in reply to the question of the Senator from Kentucky on the matter which has been discussed this morning.

Mr. HOWARD. I must insist upon proceeding with the consideration of the Pacific railroad bill.

The PRESIDENT *pro tempore*. The Senate will resume the consideration of the order of the day, unless by unanimous consent it be laid aside.

Mr. DOOLITTLE. I do not desire to speak more than five minutes, I will say to my friend from Michigan; and it seems very extraordinary, after the long indulgence of this debate in reference to matters as to which I am one of a committee of investigation, to deny me the right to say a few words.

Mr. CONNESS. I object to any further consideration of that subject to-day. The Senator can have abundant time hereafter. The Pacific railroad bill awaits consideration.

Mr. SUMNER. With the indulgence of the Senator from Michigan I will make one remark. I do not rise to make any expostulation or to offer any argument—

Mr. CONNESS. I have objected to allowing the Senator from Wisconsin to proceed. Why should I object to his going on, and allow the Senator from Massachusetts to proceed? I object, sir.

• Mr. SUMNER. The Senator will bear in

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mind that I barely wish for one moment to vindicate a citizen of Massachusetts who has to-day been assailed; that is all.

Mr. CONNESS. I take it the Senator will excuse me for insisting upon our going on with the order of the day. That bill is of great consequence, and there will be abundant time for the vindication. The Senator knows well that the internal revenue bill awaits consideration, and that when it is taken up, until it shall be disposed of we can do nothing else. I hope the Senator will not ask to proceed now.

Mr. SUMNER. I only want to say one word; I think there can be no objection—

Mr. DAVIS. I object to the Senator's proceeding. The Senator from Massachusetts gets up here and by his importunity and by his pertinacity—

Mr. HALE. I object to the Senator from Kentucky proceeding. [Laughter.]

The PRESIDENT *pro tempore*. Senators will come to order. The business regularly before the Senate is Senate bill No. 432, being the Pacific railroad bill.

## PACIFIC RAILROAD.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 132) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, the question pending being on the motion of Mr. LANE, of Kansas, to amend the amendment of the Committee on the Pacific Railroad by inserting after the word "thereof," in line six of section thirteen, the words "via Lawrence and Topeka."

Mr. DOOLITTLE. Mr. President, in relation to the amendment offered by the Senator from Kansas I can only say that I have no wish to do more than so to confine the route of the road that in locating it the towns of Lawrence and Topeka shall not have it in their power, to use a common expression, to bleed the railroad company; nor do I wish to have these towns placed in such a position that the railroad company can bleed the towns of Lawrence and Topeka. I am willing that that question should be settled on principles of justice and equity.

But, Mr. President, there is another word which I wish to say, and that is in answer to the question of the Senator from Kentucky to the Senator from New Hampshire, why, in his continual denunciation of frauds against the Administration he does not name the man that is guilty. I will answer.

Mr. CONNESS. What has this to do with Topeka? [Laughter.]

Mr. DOOLITTLE. The Senator is entirely out of order in interrupting me. Mr. President, my answer is this: I have been engaged in an examination for weeks with the Senator from New Hampshire as the chairman, and the simple reason that he does not name the man is that there is not one man in the Navy Department, neither the head of it nor the head of any bureau, nor any clerk in that Department, against whom there is one shadow of evidence of fraud in the transactions of the Department. I say the evidence will so show, and I am prepared to show it when the evidence shall be reported. That is all the answer I have to make.

Mr. DAVIS. You must settle it with the Senator from New Hampshire, not with me. I made no charge.

Mr. POMEROY. When the Senate left the consideration of this Pacific railroad bill on Saturday, a motion was pending to so amend the bill that the Leavenworth and Pawnee road should go by the way of the towns of Lawrence and Topeka in my State. It was then thought that that would compel the company to build one or two bridges, and might subject them to some extra expense that would not be promotive perhaps of the public interest, but only of the interest of

those towns. I propose, therefore, with the consent of my colleague, to modify that amendment so that it shall not subject the company to the expense of building any extra bridges, but allow them to construct their road on either side of the Kansas river that they may elect. It is not material to the purpose I have in view to confine them to either side. I only want the best interests of the road subserved, and let these towns have the incidental benefit that may accrue to them. I think that proposition is only a fair one. Topeka is the capital of the State, it is the seat of government, and it is only the incidental advantages arising from the building of this road that I expect to accrue to either of these towns. I desire to modify the amendment by saying in the seventh line, in section thirteen, on the 32d page, after the word "Missouri," "via Lawrence and Topeka, or on the bank of the Kansas river opposite those towns," so that the company may run the road on either side of the river, and shall not be required to build a single bridge or do anything to accommodate these towns otherwise than building the road up the valley so as to accommodate them, either on the one side or the other.

This matter has occupied the attention of the Senate too long. I do not want to argue it. I merely state the fact that I think the incidental advantages of building this road ought to accrue to these towns, and I want the company to build on either side of the river they choose, but I want them to build so as to accommodate the towns, whether they go on one side or the other, and I propose to modify the amendment so as to allow them to go on either side.

Mr. LANE, of Kansas. I suggest to my colleague that the amendment should come in after the word "thereof" in the sixth line of that section.

Mr. POMEROY. It makes no difference.

Mr. LANE, of Kansas. I accept the modification suggested by my colleague.

The PRESIDENT *pro tempore*. The Senator from Kansas modifies his amendment to the amendment by proposing to insert after the word "thereof," in the sixth line of the thirteenth section, the words "via Lawrence and Topeka, or on the bank of the Kansas river opposite those towns."

Mr. CONNESS. I ask the Senator from Kansas whether that language is not too indefinite to compel the company to run their line near those two cities? I ask him whether the language is sufficiently definite?

Mr. POMEROY. I suppose it to be sufficiently definite. They are to run on "the bank of the Kansas river opposite those towns," or by the towns if they go up on the south side.

Mr. CONNESS. I then say that I hope this amendment will be made, and that it will be made sufficiently definite. I have had some conversation with parties who know that ground with great exactness and thoroughly, and have some knowledge of the facts stated by the honorable Senator from Kansas [Mr. LANE] when we were last considering the bill, and I am entirely satisfied that it is but an act of simple justice that this be done, so that the people of those towns shall not, that they may reap the incidental advantage that seems to be properly their due, be exposed to inflictions by these companies. I hope the amendment will prevail in such language as will compel its observance.

Mr. LANE, of Kansas. I made a statement on Saturday in reference to this subject. We give this company \$24,000 a mile; we give them ten sections of land to each mile in addition. If this amendment be not adopted we give them power to black-mail the town of Lawrence and the town of Topeka to the tune of \$500,000. They have already located their road within two and a quarter miles of the one town and within two miles of the other, and have said to the towns, "Now pay us \$300,000 the one, and \$200,000 the other, and we will bring the road to you." This ought not to be, in my opinion. Here is a Government project, a project that the Government

enables these men to construct, and they undertake to levy black mail on the people of my State, fifteen thousand of whose children are now battling for the defense of the people of other States, and who have already during this rebellion suffered a loss of \$3,000,000 in the way of depredations from the enemy; Shawneetown, Lawrence, Humboldt, Olathee, and Lanesfield have been laid in ashes by the hands of the rebels. This very town of Lawrence that will be robbed of \$300,000 in this way, unless protected by the Senate, lost on the 21st of August last \$1,100,000 at the hands of Quantrell's men. I want the chairman of this committee to understand that two and a quarter miles from Lawrence is land belonging to this company, and they have located their road at that point for the purpose of building up a town upon their own land to the destruction of Lawrence. I said on Saturday, and I now repeat, that there is nothing in nature to prevent this road being made to the river on the opposite side of these towns, and as an act of justice to the citizens of Kansas I ask the Senate to protect us from being black-mailed by this soulless railroad company.

Mr. HOWARD. I hope the amendment offered by the Senator from Kansas will be reported again. I wish to see how it reads.

The Secretary read the amendment, as follows:

After the word "thereof," in line six of section thirteen, insert "via Lawrence and Topeka, or on the bank of the Kansas river opposite those towns."

Mr. HOWARD. Then I submit to the honorable Senator who offers the amendment that it may be best to strike out the words, "on the south side thereof," in the sixth line of the section, because if it goes through Lawrence and Topeka it must go on the north side of the river, as I understand.

Mr. POMEROY. Lawrence and Topeka are on the south side of the river; but the road must start on the south side in order to connect with the Pacific railroad of Missouri, which goes up to the State line, which is only about half a mile from the river. It must commence on the south side in order to make that connection. Then I want the company to be entirely free to go up the river on either bank they choose.

Mr. HOWARD. I wish to have the language sufficiently precise.

Mr. POMEROY. The language will be right if this amendment prevails.

Mr. HOWARD. The honorable Senator knows better than I do the topography of the country there.

Mr. HENDERSON. When this question was up the other day, I made some remarks in regard to it, and I will state to the Senate now, so that there may be no mistake about it, the facts on which I based my remarks. As I said then, I have no objection to this road going by way of Lawrence and Topeka, provided it can be done. I do not know anything in reference to the road near Topeka, but I believe no actual survey has yet been made west of Lawrence, and therefore I do not know what the location of it may be.

Mr. LANE, of Kansas. There has been a survey on both sides of the river.

Mr. HENDERSON. I have before me a map which has been submitted to me and upon which I based the remarks I made a few days ago, and I desire before Senators vote on this subject that they will look at the map showing the location of this road on the Kansas river. Lawrence is laid down upon the map, and the bend of the Kansas river at that place is shown and the points between which the road is located. I know nothing in regard to Topeka, but the map before me I presume to be a perfect map of the location of the route as far up as Lawrence, and any Senator can judge for himself. This is the engineer's survey, and all I desire is that it shall be properly understood.

I wish the Senators from Kansas to understand that I have no feeling in this matter; but I have the very warmest desire, if it can be done properly, that this road shall go by Lawrence and Topeka. In fact, as I stated the other day, I

cannot conceive that any railroad company would undertake to construct this road within a mile or two miles of the town of Lawrence without going by the town, for I understand that it is a very thriving and industrious town, improving in population very rapidly; and it seems to me that if the railroad company could possibly take their line there without very great loss and inconvenience to themselves and without making a road that would be very costly and expensive in its operation, they would certainly go by that town in order to prevent any competition for that business hereafter.

I know nothing in regard to the intimation of the Senator from Kansas that there is an attempt to levy black mail on the town of Lawrence. I do not know even the members of this company except one, and he is a gentleman from my own State, who, I believe, has very recently been elected president of the company, John D. Perry, and I know no other man connected with it in any way whatever that I am now aware of, unless it be Mr. Hallett. I became acquainted with Mr. Hallett in December last, and had a conversation in reference to this very matter, springing out of a petition which the Senator from Kansas presented to me to sign, asking to have it go by the way of Lawrence, and which, I believe, I signed; but the subject was fresh upon my mind at the time, and I came to the conclusion that I had improperly signed that petition; and hence it was that the other day when this subject came up, remembering that I had examined this map, I made the few remarks that I did make.

I desire, and have desired from the beginning, to fix no points about this railroad by law, but to leave it to actual survey. When the question came up in regard to the Smoky Hill fork I wanted the railroad to run there, provided upon actual survey it should be determined to be the best route. I think that is the better plan now, to leave this question alone to the company, and let them select the most eligible route. That is my idea about it, and I think the proper plan for all of us to pursue is to do that and fix as few points as possible. At the last Congress, when a proposition was made by the Senator from Kansas [Mr. POMEROY] to run the St. Joseph branch by way of Atchison, I opposed it on the ground that I did not desire to fix any points. I put a curve in the road; I desired to keep it out, but the Senate insisted on it, and it remained in. I shall not now undertake to move to strike out that point; but if I had my way about it, I would not leave that point in the bill. I do not desire to present any obstacles in the way of the passage of the bill, and much less do I desire to put obstacles in the way of a straight, direct, and proper road.

Why, sir, this is to be a great highway; it is to be a road to be operated in all time to come, from the Missouri river to the Pacific ocean, a road over two thousand miles in length. Every gentleman knows how expensive it is to operate a road in which there are short curves. A statement has been handed to me by some gentleman connected with this road, Mr. Perry perhaps, which I will read. If it is wrong the Senator from Kansas [Mr. LANE] can correct it:

"To run the main line of the Union Pacific railway to Lawrence will increase the length of the line two and a half miles. It will increase the length of the Leavenworth section two miles, and increase the curvatures of the first section of the main line two hundred and twenty-eight degrees, and make a loss of grading now completed, of six miles."

I understand that the company have already graded the road from where the creek, which Senators will see on this map, enters the Kansas river, for a distance of six miles west of the town of Lawrence. If it be now required that they go by way of Lawrence, I understand that grading will be lost.

"On any great commercial road, every mile that can be saved in distance, other characteristics of the competing lines being the same, is worth about \$70,000. This is equal to the capital of, at six per cent., representing the annual expense of running and maintaining one mile of a first-class road doing a profitable business. For the four and a half miles increased length in the main line and Leavenworth section, this would amount to \$315,000. That is to say, the short line would be worth this sum more than the line to Lawrence, assuming the grades and curvature to be the same; but add two hundred and twenty-eight degrees increased curvatures, and the amount will be still greater."

These are the facts that are furnished to me. I know but little about it; and I desire, once for all, that the Senator who takes so deep an interest

in this amendment [Mr. LANE, of Kansas] shall not understand that I am in the least opposed to it if it can be done so as to secure a good road. All I desire is to have a good road, a straight road; and if this survey be correct the amendment proposes a curve in the road of two hundred and twenty-eight degrees, making such a road as will be almost inoperative in consequence of the sudden bend made in it. I do not know that this survey is correct; but if it is, certainly this amendment will make a very crooked road; and it will increase the distance, increase the cost, increase the curves, and the expense of operating the road infinitely.

Further, I desire to state one additional fact. There is a branch road being built from Leavenworth City, in Kansas, down to Lawrence, on the Kansas river, and according to my understanding that road runs down to Lawrence and crosses this road almost at right angles two and a quarter miles from the river. So Lawrence will have a branch of the main road anyway, and it will have in all probability the main stem, because in my State they are now talking of building a road from Lawrence, so as to tap the Hannibal and St. Joseph road, which would make the Leavenworth and Lawrence branch of this road in all probability the straight life. Whether that line will be constructed or not I cannot say; but Lawrence is not deprived of a railroad connection according to my understanding. I believe they are now constructing the road from Leavenworth to Lawrence, so that Lawrence will have a railroad connection direct with the main line to the Pacific. It is only upon this ground that I make any opposition whatever to the amendment. Really desiring, as I do, a straight line, one that will be least expensive in its operation, I must with my present views oppose the amendment.

Mr. LANE, of Kansas. I am greatly surprised at the statements made by the Senator from Missouri. If they be true, God protect Lawrence from the men who are engaged in constructing this road. Last winter this very man, J. D. Perry, that the Senator speaks of, who is the moneyed man of the concern, wrote a letter in yonder marble room to Sam. Hallett directing him to make this road by way of Lawrence. In response to that letter Hallett telegraphed to me that the road should be made to Lawrence, and that telegram was published in the Lawrence papers. On last Thursday in that marble room J. D. Perry advised me to insist upon this amendment, and Sam. Hallett acquiesced in it. I would not like to take a map made by these men as evidence in this case. On last Thursday J. D. Perry told me to enforce this amendment, and Hallett acquiesced and said he had no objection to it. The map shows that making Lawrence a point on this road would extend it two miles, and they ask of us \$300,000 to induce them to go around there. But the Senator says it will extend the Leavenworth road. Not one inch, for the reason that the Leavenworth road intersects the Lawrence road east of the creek on the map, at Coshocoon.

I have only to say that we have the promise of these men to make the road to Lawrence three times in letters to me and twice in telegrams; and while Sam. Hallett was telegraphing to me that the road should be made to Lawrence, his brother was in Lawrence telling the people that they would not make the road to Lawrence unless they gave them \$300,000. The people of Lawrence telegraphed to me, and I saw him, and he told me the road should be made to Lawrence; and I do ask the Senate to protect the people of these two towns against these sharpers. I hope the Senator from Missouri is mistaken. I only give the facts; the letters and telegrams are matters of record.

Mr. HENDERSON. I desire to say once for all that I am not representing any gentleman connected with this company. The only question is whether this is a correct map or not. The Senator can state whether it is a correct or incorrect map of the river and of the country there. I do not know whether it is correct or not. If the Senator says the map is an incorrect one, very well. It has been furnished to me, and represented to be the survey made by the engineer of this company. If it is an incorrect map I am deceived about it. If it is a correct map it simply means that the amendment ought not to be adopted. I know nothing and I care nothing about it, except

to have a straight road. The Senator understands my position, I hope. I am not the representative of anybody about this thing.

Mr. LANE, of Kansas. My colleague and the Senator from Ohio [Mr. SHERMAN] will bear me witness that the land opposite Lawrence and opposite Topeka is bottom land, and is as level as this floor. There is nothing in nature to prevent the road being made to Lawrence. Indeed, on an examination made when I was at home last fall, I am satisfied, although not much of a railroad man, that the least expensive route for this road is by the way of Lawrence and Topeka, on the river bank.

Mr. HOWARD. I wish the Senator from Kansas would state further, if he is able, whether this slight change of route is going to involve the necessity of making any portion of the road in that vicinity upon piles; whether the character of the ground is such as to admit of its being constructed on the surface?

Mr. LANE, of Kansas. I have said that it is level bottom.

Mr. HOWARD. But is it hard and firm enough to sustain a road without being supported by piles or other artificial means?

Mr. LANE, of Kansas. Certainly. It is not overflowed; it is solid land, timber land, heavily timbered.

The PRESIDENT *pro tempore* put the question on the amendment to the amendment, and declared it to be agreed to.

Mr. HENDERSON. I misunderstood the question, and I desire to have a division or the yeas and nays on that subject. I thought the question was on the amendment suggested by the Senator from Kansas [Mr. POMEROY] to the amendment of his colleague; but I wish to call the yeas and nays on the adoption of an amendment of that character.

Mr. POMEROY. The Senator can do that when the bill is reported to the Senate. We are now in Committee of the Whole.

The PRESIDENT *pro tempore*. The Chair will put the question again, if there be no objection.

Mr. HOWARD. I suppose we can take the vote again in the Senate, and that will answer the Senator's purpose.

Mr. SHERMAN. I desire to make a suggestion in order to avoid misapprehension on that subject. The amendment pending reported by the committee is a substitute for the whole bill, and I take it that it will be reported to the Senate as one amendment in the form in which it is finally agreed upon, and that this amendment to that amendment will not be reported and cannot be reached in the Senate.

The PRESIDENT *pro tempore*. That will undoubtedly be so, and the Chair will put the question again on the amendment proposed by the Senator from Kansas to the amendment of the committee, in section thirteen, line six, after the word "thereof" to insert "via Lawrence and Topeka, or on the bank of the Kansas river opposite those towns."

Mr. HENDERSON. I ask for the yeas and nays on the amendment to the amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 27, nays 5, as follows:

YEAS—Messrs. Anthony, Carlile, Clark, Conness, Cowan, Dixon, Fessenden, Foot, Foster, Grimes, Harlan, Harris, Hendricks, Howard, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Pomeroy, Powell, Ramsey, Saulsbury, Sherman, Sprague, Sumner, and Ten Eyck—27.

NAYS—Messrs. Davis, Henderson, McDougall, Van Winkle, and Wiley—5.

ABSENT—Messrs. Brown, Buckalew, Chandler, Coltamer, Doolittle, Hale, Harding, Hicks, Morrill, Nesmith, Richardson, Riddle, Trumbull, Wade, Wilkinson, Wilson, and Wright—17.

So the amendment to the amendment was agreed to.

Mr. McDOUGALL. I move to insert at the end of the twenty-first section the following:

*It is further provided, That should the Central Pacific Railroad Company of California complete their line to the eastern line of the State of California before the line of the Union Pacific Railroad Company shall have been extended westward so as to meet the line of said first-named company, said first-named company may extend their line of road eastward one hundred and fifty miles on the established route so as to meet and connect with the line of the Union Pacific road, complying in all respects with the provisions of this act as to said Union Pacific road, and upon doing so shall enjoy all the rights, privileges, and benefits conferred by this act and the act to which this is an amendment on the said Union Pacific Railroad Company.*

This amendment is one in which all interests,



I believe, concur. They have been consulted. The line of the Central Pacific Railroad Company in California would terminate in the mountains and would not accommodate the people of Nevada Territory. It is desirable to extend it still further as a matter of present business. It will be a long time before the Union Pacific railroad working westward can arrive at the Territory of Nevada. This amendment allows the California company to carry their line one hundred and fifty miles through into Nevada Territory and thus furnish facilities for their business. The representatives of the Union Pacific Company as well as of the Central Pacific Company concur in this amendment, and I hope there will be no objection to it.

Mr. CONNESS. I will state, in addition to what my colleague has said, that in the act of 1862 this privilege was given to the Central Pacific Railroad Company, and it is but continuing that act to put it in here.

Mr. McDOUGALL. Without the limitation.

Mr. HOWARD. I think there ought to be an amendment made in the phraseology of the amendment. The Central Pacific Railroad Company ought to be subjected to the same restrictions that are contained in this amendatory act; but the Senator has not incorporated that in his amendment. Why not give them the same privileges with the same restrictions?

Mr. McDOUGALL. I have no objection to that.

Mr. HOWARD. At the same time I regard the amendment as superfluous, because I think the company has already the same privilege; but still I have no objection to it.

Mr. McDOUGALL. I will modify my amendment by inserting the words "and restrictions" after the word "provisions."

The PRESIDENT *pro tempore*. The amendment will be so modified.

Mr. SHERMAN. I suggest this difficulty, which the chairman of the committee will perceive at once: This amendment gives to the California company in case it extends its road eastward all the privileges conferred by this act and the act to which it is an amendment. As this act gives one form of bounty and the act to which it is an amendment gives another form of bounty, the California company in case it extends its road eastward might claim the benefits of both acts; and therefore I desire the Senator from California to so modify his amendment as to avoid that difficulty.

Mr. HOWARD. It should be modified so as to confine it to the act we are now passing. This act in that regard supersedes the old act.

Mr. SHERMAN. That is all I want, to avoid that difficulty.

Mr. McDOUGALL. Let it be so modified.

The PRESIDENT. It will be so modified. The Secretary will read it as modified.

The Secretary read it, as follows:

*It is further provided, That should the Central Pacific Railroad Company of California complete their line to the eastern line of the State of California before the line of the Union Pacific Railroad Company shall have been extended westward so as to meet the line of said first-named company, said first-named company may extend their line of road eastward one hundred and fifty miles on the established route, so as to meet and connect with the line of the Union Pacific road, complying in all respects with the provisions and restrictions of this act as to said Union Pacific road, and upon doing so shall enjoy all the rights, privileges, and benefits conferred by this act on the said Union Pacific Railroad Company.*

The amendment to the amendment was agreed to.

Mr. RAMSEY. I desire to offer an amendment to the bill, to insert as a new section, after section seventeen, the following:

*And be it further enacted, That for the purpose of completing a railroad connection between the eastern termini of the road of the Union Pacific Railroad Company and Lake Superior, the Sioux City, St. Paul, and Lake Superior Company, a corporation existing under the laws of the State of Minnesota, are hereby authorized to construct a railroad and telegraph line from the head of Lake Superior, in the State of Minnesota, via St. Paul and Mankato, to the southern boundary of said State in the direction of Sioux City, and to connect at said Sioux City with the Union Pacific railroad, upon the same terms and conditions and with like aid in all respects as the Central Pacific Railroad Company of California are or may be authorized by Congress to construct a railroad to the eastern boundary of the said State of California, to connect with said Union Pacific railroad: *Provided, Said Sioux City, St. Paul, and Lake Superior Railroad Company shall complete and fully equip and put in running order not less than fifty miles of its said road in one year from the passage of this act, and not less than fifty miles within each year thereafter.**

Mr. HOWARD. I hope this amendment will

not be adopted. It is introducing another branch into the general system of roads. The amendment involves in it matters of so much importance that I think it had better run its risks upon a bill by itself. If it is a measure that is deserving of the attention of Congress, it will stand upon its own merits. I do not feel justified in allowing it to pass as an amendment to this bill. We have already got a sufficient number of branches connected with this main trunk; and if we go on multiplying the branches to this road there will be no end of that multiplication; there will be no end of the expense to be incurred by the Government. I think we had better put a stop to it here, and not adopt any more branches.

Mr. RAMSEY. It is true there are already a number of branches to this road; but I think none so important as this. I think that a connection with Lake Superior, as this amendment proposes, is indispensable to the very construction of this road. The greater part of it passes over an immense extent of treeless plains. They want timber, they want lumber, they want ties. Where can they get them, unless they get them from the valley of Superior? It is in this view, I think, indispensable for the company's own purposes. Then the people of the plains, the people of this immense gold region, will get their supply of fish from Lake Superior. Immense quantities of fish are salted and preserved there every year. In every view I think it is the most important branch there is to this main Pacific road. It only surprises me that the committee in their investigation and the preparation of this bill should have omitted it. I hope the Senate, however, will at once see the propriety of amending the bill in this particular.

Mr. CONNESS. It is a matter of surprise that the Committee on the Pacific Railroad did not discover that the Senator from Minnesota wanted five or ten million acres more of public lands for railroads in that State. I should like to ask the Senator, as it is proposed to run this branch through the celebrated Red river valley, whether they have not got all the land in that country now? I am sure the Senator is not in earnest in presenting this amendment.

Mr. RAMSEY. Yes, sir, I am. I think it is really a valuable connection with the road; but the Red river is north and west of this connection.

Mr. HARLAN. There is no doubt but that the line of road proposed by the Senator from Minnesota is a valuable one, and that a railroad ought to be built on that line. In pursuance of that judgment the Committee on Public Lands reported a bill making a grant of land of ten sections to the mile from the head-waters of Lake Superior to St. Paul and then increased a donation that had previously been made from St. Paul in the direction of Sioux City four sections a mile; so that on that line they will now receive probably ten sections per mile. But if the Senator's amendment should be adopted it would enable them to secure in addition to that the interest on \$24,000 worth of bonds per mile. I think perhaps it would not be well to give this additional encouragement to build that road, for the reason that other roads through Iowa and other parts of the country east of the termini of these branch roads would probably ask a similar subsidy. I, for example, should see no reason why a similar grant of bonds should not be made to aid Iowa in constructing roads across that State. This line of road will be all the way through the State of Minnesota, and we have already made the grant that I have just described.

Mr. RAMSEY. Part of it will be through Iowa.

Mr. HARLAN. A few miles probably will run through the northeastern corner of Iowa. We have already made this grant of lands to aid in the construction of the road to which the amendment of the Senator refers, and I think personally it would be as well to let the matter rest there.

The amendment to the amendment was rejected.

Mr. CONNESS. I offer an amendment, to add at the end of the sixth section the following:

*And provided further, That wherever settlements have been made prior to the passage of this act upon lands the timber upon which is herein granted to any company, there shall be reserved to the occupants or settlers in actual possession thereon the timber growing upon the lands so possessed by them.*

The amendment to the amendment was agreed to.

Mr. HENDERSON. On page 34, section fourteen, line four, after the word "Atchison," I move to insert the words "commencing at St. Joseph, Missouri;" so that it will read:

That for the purposes herein mentioned the Hannibal and St. Joseph Railroad Company of Missouri is hereby authorized to extend its road from St. Joseph via Atchison, commencing at St. Joseph, Missouri, so as to connect and unite with said railroad through Kansas, &c.

It is a mere verbal amendment.

Mr. HARLAN. I have been informed that there is now a railroad completed and in use from St. Joseph to Atchison, through the State of Missouri, and if this amendment should be adopted it will simply require the construction of a road parallel with the road to which I have referred. I will inquire of the Senator from Missouri if I am right in the information that I have received.

Mr. HENDERSON. That is true; but the road is on the south side of the Missouri river. The Senator will see by looking to the proviso to the fourteenth section that the company is not bound to build the road by the way of Atchison at all, but may build it upon a line directly west, if a survey shall indicate that that is the best route. In that event, therefore, we want the road to commence at St. Joseph. The Senator will see the necessity of the amendment at a glance if he will look at the proviso. It is right. There is no doubt about it.

Mr. POMEROY. The Senator from Iowa is right in saying that there is a road from St. Joseph to Atchison on that side of the river at present. I do not suppose it is in harmony with the public policy to build two roads. If they shall adopt that road, I suppose it will answer all the purposes.

Mr. HENDERSON. But suppose they do not. That is just what I want to avoid.

Mr. POMEROY. If they do not, they have got to build on the opposite side of the river.

Mr. HENDERSON. To build straight west, Mr. POMEROY. If they build straight west, this amendment ought not to come in here; it should come in on the proviso.

Mr. HENDERSON. No, sir; it is right here. Mr. LANE, of Kansas. Is it in order to offer a substitute for the amendment proposed by the Senator from Missouri?

The PRESIDENT *pro tempore*. It is not.

Mr. LANE, of Kansas. Probably the Senator will accept it.

Mr. HENDERSON. I would rather not at present. The Senator can offer it after I have amended this clause as I propose, and it will then be in order.

Mr. HOWARD. I wish to ask the Senator from Missouri whether this amendment will not involve the necessity of making a new branch; whether it does not provide for additional expenditure on the part of the Government?

Mr. HENDERSON. I have several amendments that I designed offering to this bill, but I believe that I shall retire from the field and offer none and oppose the whole bill. I have offered an amendment here which is nothing but a verbal amendment, to make plain what is intended, and without which this company need not build a road from St. Joseph, Missouri, at all. There is a road completed in my State from Hannibal, connecting with all the roads in the United States east, up to St. Joseph. This bill is so drawn that this Pacific railroad may commence at some other point than St. Joseph. It does not compel the company to commence at St. Joseph at all. That is just what I desire them to do. This section provides:

That, for the purposes herein mentioned, the Hannibal and St. Joseph Railroad Company of Missouri is hereby authorized to extend its road from St. Joseph via Atchison, so as to connect and unite with said railroad through Kansas.

They may commence at Atchison, and never build the road from St. Joseph at all. When the act of 1862 was under consideration I offered a proviso to prevent the necessity of its going to Atchison, because I did not want this road to turn off at an angle of forty-five degrees and run out of a straight line instead of going west; but the Senate decided that that must be done. Why? Because Atchison was a considerable town, and it was necessary that a great trunk railroad, built from the States east of the Mississippi river, upon which the commerce of the world is to be carried, should go down there. It is a very respectable

town, in which my friend from Kansas [Mr. POMEROY] lives; I am told it is a very thriving town, and I have no doubt of it, though I have never been there. It was decided that it must go by that town. I thought it ought not to go there. I did not say that it ought not to go there, but I thought the company ought to be left to select the best route. The best I could do was to get a proviso on the bill declaring that the company might build the trunk west on a straight line toward California without going by the way of Atchison. It was to be left to the people of Kansas; and the Legislature of Kansas, according to my understanding, after a terrible contest in that State, decided that the road might be built north of Atchison, without touching Atchison, thus showing that the Legislature of Kansas agreed with me on that point; but now this bill is prepared on an entirely different principle. Of course the Senator from Michigan does not intend it; I know his honest nature; I know what he intends; but as the measure now stands it compels the road to go by the way of Atchison instead of adopting what I succeeded in placing upon the bill two years ago and what the Legislature of Kansas indorsed me in doing. The proposition here is:

That, for purposes herein mentioned, the Hannibal and St. Joseph Railroad Company of Missouri is hereby authorized to extend its road from St. Joseph via Atchison.

I simply wish to insert there the words "commencing at St. Joseph, Missouri." What do you want to commence anywhere else for? What is the necessity of commencing anywhere else provided you do not build by Atchison? If the Senator from Michigan will look at the proviso, he will see the company have the right to build directly west by the way of Troy without going to Atchison at all. Then why not let them commence at St. Joseph? In commencing at St. Joseph they commence at the terminus of the Hannibal and St. Joseph railroad. But, sir, as the bill stands, the company may be deprived practically of the privilege in accordance with the vote of the Kansas Legislature of commencing at St. Joseph at all. That is all I desire. It cannot do any harm. I am sorry to be compelled to offer the amendment. It is a mere verbal amendment, and I hope it may be adopted.

Mr. POMEROY. The only objection to this amendment, I suppose, is that it will compel the company to build two roads parallel to each other. The Senator from Iowa very well expressed it—

Mr. HENDERSON. Does the Senator say it will compel the company to build two roads?

Mr. POMEROY. That is if they go that way. This bill is so drawn that it is entirely optional with them to go one way or the other.

Mr. HENDERSON. With the permission of the Senator I will state that the Hannibal and St. Joseph road has no road from St. Joseph to Atchison. That is a separate and independent road, and is called the Platte country road in my State.

Mr. POMEROY. I was about to explain, if the Senator will allow me, precisely how it is. This section is so drawn that the Hannibal and St. Joseph road have it entirely at their own option to build straight out, as it is called, west from St. Joseph or to connect with the Kansas road via Atchison. The bill is also so drawn that if they conclude to connect with the Kansas company via Atchison, they may commence building there, because they run cars down that road now although they do not own the road. Although that company do not own the road, the road is built; they run their cars upon it, the connection is perfect and complete; and the reason why it is not necessary to commence building at St. Joseph, if they conclude to run that way, is that the road is already built; that is, another company has built it, and they use the road.

But the bill is so drawn that they are entirely free to go the other way if they choose to do so. I do not suppose, however, that it would be public policy for the Government of the United States to appropriate money to build one road parallel with another, even though another company owns it. That does not matter at all. The public interest is not promoted by building two parallel roads by the side of each other, even though different companies own them. As long as the Hannibal and St. Joseph company run cars over it and make connection, that is sufficient. If they conclude to go that way all that the Government can require is that they run their cars down there on

the road already built, and then commence from there building west; but I repeat, they are entirely free to go the other way. They are not compelled to go that way. The bill is right in that particular as the Senator from Michigan wrote it.

Mr. HENDERSON. The misfortune about this whole thing arises from the fixing of the location of this route in the beginning. Having once got it in this fix we are compelled to go by Atchison, deflecting from a straight line at least forty-five degrees. The object—I will not say object, for I do not charge any design about it—the effect of the present legislation taken in conjunction with the former bill will be to compel the road to start from Atchison. That is what I want to avoid. If they can make an arrangement with the Platte country road to use it, I have no idea that they will build another road; but my proposition is that if they build it the other way they shall commence at St. Joseph and not elsewhere. I do not think there is any objection to it. A straight line as I propose to enable this company to build makes it necessary that this amendment should be adopted.

Mr. HENDRICKS. The proposition of the Senator from Missouri is so clearly right that I cannot doubt that the Senate will adopt it, if it be understood. It is to make it sure that this road shall commence at St. Joseph, and run thence westward or southwestward by Atchison. The point is that it shall start at St. Joseph; and it is an important question. Is it the intention of the Senate that this Pacific railroad shall make a connection with that very important road, the Hannibal and St. Joseph road? If the Senate intend that, it ought to be stated plainly. The Hannibal and St. Joseph road is a road that was constructed in part by the Government of the United States. As a member of the House of Representatives a number of years ago, I felt it to be my duty to vote in favor of a land grant to enable the State of Missouri to build that very important road, and I gave a reason in the House so far back as that, that I voted for the grant because I thought that road would at some time be a connecting link with the Pacific line of railroad. I now want to see that made certain in the Senate to-day which I contemplated in that vote in the House of Representatives ten years ago. Can the Senate hesitate to say in plain terms that this Pacific road shall connect with the great road running through the State of Missouri, the Hannibal and St. Joseph road, which was built in part by aid from the Government of the United States with a view to this very connection?

Mr. HOWARD. I do not think there is any uncertainty or any obscurity in the language of this fourteenth section. The clause proposed to be amended reads as follows:

That, for the purposes herein mentioned, the Hannibal and St. Joseph Railroad Company of Missouri is hereby authorized to extend its road from St. Joseph via Atchison, so as to connect and unite said railroad through Kansas.

Can there be any doubt that it is the duty of this railroad company to commence this extension at St. Joseph? It seems to me impossible to entertain a doubt on that subject. It is the plain, direct meaning and intent of the language, as I understand it; and I therefore regard the amendment of my friend from Missouri as superfluous if the purpose of that amendment be to give it any greater certainty than it has already. This extension must begin at St. Joseph, and it must extend "via Atchison;" that is, through Atchison. Can there be the slightest doubt about it? St. Joseph is on the left bank of the Kansas river, about twelve miles north of the boundary line between Nebraska and Kansas. Atchison is on the right bank of the river, that is, the western bank of the river; and this extension, if I understand it properly, must cross the river somewhere and go through Atchison. I may be in error about this, for I know nothing about the topography except what I learn from the maps and from the conversations I have held with those who have been there; but such I regard to be the undoubted and unquestionable meaning of the language and its effect. If I am wrong, I should like to be corrected.

Mr. HENDERSON. I was aware that the Senator from Michigan intended just what I intend. He says now that there is no doubt about the construction; that he intended just what I desire to accomplish by my amendment. If that

be true, then my amendment makes it perfectly certain to carry out what he intends. Therefore there can be no difference between us. I desire to use language that will make what he desires to obtain perfectly certain. Then there can certainly be no objection to use the language I propose. I knew the Senator so designed.

Mr. HOWARD. The question I put to the honorable Senator from Missouri was whether his amendment would not necessitate a further outlay on the part of the Government; in other words, whether it would not require the construction of another and additional branch?

Mr. HENDERSON. Not at all.

Mr. HOWARD. Very well. If the Senator had answered the question which I put to him in the first place, we should have had no difference of opinion.

Mr. HENDERSON. I misunderstood the Senator. I answer him now that it does not necessitate the construction of any other branch.

Mr. HOWARD. That is clear on that point.

Mr. TRUMBULL. In agreeing to this bill in the committee I was opposed to adding anything more to it. I think we are committing the Government by the bill as presented here to as great an extent as we ought to go; but I understand the proposition of the Senator from Missouri as involving the Government in the expense of building a road at \$24,000 a mile from St. Joseph to Atchison. The distance I do not know, but I suppose it to be thirty or forty miles.

Mr. LANE, of Kansas. Twenty miles.

Mr. TRUMBULL. The sum then would be \$480,000 additional expense in which the Government will be necessarily involved if this amendment prevails. It is on that ground that I am opposed to it; as the bill now stands the Hannibal and St. Joseph Railroad Company may make their connection with the main road, and they may make it over the line already constructed. As the bill is proposed to be amended by the Senator from Missouri, it will require them to commence the construction of a branch road at St. Joseph. Now they have got to connect with the main trunk from St. Joseph, but they may connect by means of a road that is already built for twenty miles, while this amendment compels them to make a new road from St. Joseph. That is all there is in it. I would not compel them to do that. It adds just that much more, and, as has been said, there being already a road to Atchison on one side of the river, this would authorize them, if they thought proper, to make a road on the other side of the river, and you would have two roads, one running down one side of the river and the other on the other side from St. Joseph to Atchison, a distance of twenty miles. I do not think the Government of the United States in entering upon this great enterprise of constructing a road across the continent should go into this little squabble as to which side of the Missouri river is to have this railroad line. I trust the amendment will not be adopted.

Mr. HENDERSON. I regret very much that it becomes necessary for me to say anything in answer to such remarks as have just been made. I explained once before, and the Senator from Illinois seems determined not to understand, or else he cannot understand, that the Hannibal and St. Joseph Railroad Company does not own one inch of road between St. Joseph and Atchison.

Mr. TRUMBULL. Will the Senator from Missouri tell me of what interest it is to this nation whether the Hannibal and St. Joseph Railroad Company owns it or not?

Mr. HENDERSON. The Senator the other day stuck so tenaciously to the legislation of the last Congress that he would not suffer an amendment to be made to this bill which would improve that legislation; and I ask him now, in all conscience, if he intends to compel this road to start from Atchison instead of St. Joseph, if he is not willing to let the law of the last Congress stand in this respect, which enables the Hannibal and St. Joseph Railroad Company to build a railroad directly west from St. Joseph instead of going to Atchison. That was the legislation of the last Congress; but I undertake to say that if the provision, with the Senator's construction, remains as it appears in the present bill, the company will get rid of the construction of any road from St. Joseph, and in fact may commence at Atchison, and defeat the very object of the original bill. The

Senator ought to know that Atchison is southwest from St. Joseph, while a straight route to California would go from St. Joseph a little north of west in order to reach the initial point which he compelled us to take the other day. St. Joseph is in about latitude 40°. The initial point will be about 41°. Instead of allowing us to run north of west to reach the initial point, he now compels us to go down to Atchison, which is directly southwest, and gives us no privilege whatever of going west. That is what I object to. If the company wants to go down by way of Atchison I have no objection, and I shall not move to strike that out; but what I desire is, that the construction of the road shall be commenced at St. Joseph in case they do not make an arrangement to go to Atchison such as is indicated. If they want to make an arrangement to go to Atchison, I have no objection; but suppose they determine to build it by the other route, how then are we to get the road west from St. Joseph according to the construction given by Senators? I hope the amendment will be adopted.

Mr. TRUMBULL. I will tell the Senator how he will get the road west from St. Joseph. If he will look at the proviso on page 36 he will find that it says:

*Provided, That if said Hannibal and St. Joseph Railroad Company shall deem it desirable, it may construct said extension, with the consent of the State of Kansas, on the most direct and practicable route west from St. Joseph, Missouri, so as to connect and unite with the railroad hereinafter mentioned, &c.*

Is there any difficulty in the Hannibal and St. Joseph Railroad Company constructing their road west? They need not go to Atchison; the bill does not compel them to go to Atchison.

Mr. SHERMAN. "With the consent of the State of Kansas."

Mr. TRUMBULL. Can you build to Atchison without the consent of the State of Kansas?

Mr. HENDERSON. I believe the State of Kansas has already given consent to build a straight road.

Mr. TRUMBULL. Suppose it has not; you are involved in the same difficulty in both cases. How are you going to build a railroad down to Atchison without the consent of Kansas? And I ask the Senator from Indiana [Mr. HENDRICKS] what more he wants? Everything is here that is necessary to be here, unless you want two rival roads on opposite sides of the Missouri river, and to appropriate the money of this Government to build one of them.

Mr. LANE, of Kansas. I have an amendment here such as I think the Government demands, and the interests of our State require. It is to commence this branch at Fort Leavenworth, and run it through Atchison, Troy, and Marysville. The Hannibal and St. Joseph Company has a road graded to Troy, which is immediately west of St. Joseph. By running to Troy you give the Hannibal and St. Joseph railroad a western connection. I do not propose to-day to discuss this question. I have asked the Secretary of War to furnish the Senate with a statement of the amount that the Government pays yearly for transporting Government supplies from Fort Leavenworth to Fort Kearney and Fort Laramie. It will be found when that comes in that it is indispensable to connect Fort Leavenworth with those points; that the expense that accrues to the Government every year for transporting Government supplies from Fort Leavenworth to Fort Kearney and Fort Laramie will almost pay the amount that the Government agrees to pay on these hundred miles. The military road now to Fort Kearney, the initial point of the branch I propose, runs from Fort Leavenworth within four miles of Atchison, close to Troy, and through Marysville. By adopting this amendment we can accommodate Atchison, we accommodate the Hannibal and St. Joseph railroad, and we accommodate the Government in transporting supplies from Fort Leavenworth.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Missouri to the amendment.

The amendment to the amendment was rejected. Mr. LANE, of Kansas. I will now present my amendment. In section fourteen between the words "via" and "Atchison," in the fourth line, I move to insert "Fort Leavenworth," and after the word "Atchison," in the same line, to insert "Troy, and Marysville, (with the consent of the Legislature of Kansas from Fort Leavenworth to

Atchison,) and by any company now chartered by said State for the remainder of the route."

Mr. POMEROY. This amendment cannot be offered in any sincerity. We cannot extend a road from St. Joseph down to Fort Leavenworth, which is forty miles directly south of St. Joseph, and then bring it back again up to Troy, which is twenty miles west from St. Joseph. There is some mistake about the points of the compass.

Mr. LANE, of Kansas. There is a road already from St. Joseph to Fort Leavenworth, or within three miles of it, the Platte country railroad. I propose to commence this branch at Fort Leavenworth, the depot for Government stores for the whole western country. It has no connection with this great work across the continent; I propose to give it a connection, to run it as the military road now runs, through Atchison to Troy, which gives to the Hannibal and St. Joseph road a western connection, Troy being directly west of St. Joseph, and the road being graded from St. Joseph to Troy and four or five miles of iron laid upon it, running through Marysville as the military road now runs, thereby connecting Fort Leavenworth with Fort Kearney. I shall be able to show to-morrow, when I get an answer to the resolution I introduced to-day, that we pay out for transportation from Fort Leavenworth to Fort Kearney yearly more than the Government agrees to pay on these one hundred miles of road.

Mr. SHERMAN. I wish to say a few words to the friends of this bill, and I do so in all kindness. The Senate have been occupied some three or four days in discussing the details of the bill, and they have scarcely made any change worth noticing. To-morrow the revenue bill comes up, which, in all human probability, will crowd this out of the way if it be not very soon disposed of. I assure Senators who are interested in the passage of this bill much more than I am, that any further delay in the consideration of the bill is likely to endanger its passage at the present session of Congress.

I shall vote for the bill with extreme reluctance. I made up my mind in committee to vote for it, but I do so with great reluctance, and chiefly because of the numerous branches attached to it both in the old bill and in the new one. There is no reason in the world why the Government of the United States should build a single one of these branch roads. The construction of a Pacific railroad to connect the Atlantic with the Pacific is an object of great national importance; but the Pawnee and Leavenworth branch, and the Omaha branch, and the branch now being discussed we all know practically are of no national use to the Government. The State of Kansas ought to build her road with the ordinary land grant, and all these branches ought to be built with the ordinary land grants.

The bill cannot be justified on principle except as to the main trunk from the one hundredth degree of longitude to the eastern boundary of California. The branch roads in the State of California and in other States ought to be built by the ordinary grants of land. Two years ago, however, we passed a Pacific railroad bill providing for various branches, and I felt bound by the action of Congress to support the appropriation for those branches, changing the mode of assistance rendered by the national Government; but I assure Senators that if they put any more branches in this bill, if they load it down any more, I certainly will not in this time of war vote for it. The most we ought to do now, it seems to me, is to provide for one great national line.

I speak now entirely disinterestedly in regard to these branches. I do not care whether the main road starts from Leavenworth, or from Kansas City, or from St. Joseph, or from Atchison, or from Omaha; it makes no difference to me. One road ought to be constructed. These branches have been put on for the purpose of reconciling local interests. I shall vote for this bill retaining the branches provided for in the old law, but I will put on no additional branch.

I know enough of the geography of the country to know that the proposition of the honorable Senator from Kansas is absurd. In my judgment a railroad running from St. Joseph down the Platte country to Leavenworth, and then crooking up along the Missouri river by way of Atchison, and then going west, would be absurd. Be-

sides, that branch under the provisions proposed, would be one hundred miles long. What interest has the Government of the United States to build a road to Atchison, or to St. Joseph, or to any other point? They may be very important points to gentlemen living near them, but they are utterly insignificant in the geography of the United States.

Mr. LANE, of Kansas. Is Fort Leavenworth insignificant?

Mr. SHERMAN. Although it is a depot of military supplies, which can be removed probably for \$100,000, and although it is a rapidly growing town of ten or fifteen thousand inhabitants, it is in the geography of this country a mere mote; not to be considered. The fort may be removed, the fort may be burned down; we are losing every day by our military operations more than all that Fort Leavenworth is worth. I have been there and know all about it; it is a beautiful place; but when you look at the value of Fort Leavenworth in a national point of view, it is of utter insignificance.

I say, therefore, that if the friends of this bill desire to pass it I recommend them just to take the bill as it has been considered and elaborated in the committee, with as few amendments as possible, and let us have a vote on it so that it will be out of the way of other bills that will probably crowd it out unless it be very speedily disposed of.

Mr. HOWARD. If there was one subject upon which more than upon another the committee to whom this bill was referred were unanimously in accord, it was that we would not recommend any further branches to be attached to this road; that we would not extend one single inch to new branches the privileges which we have extended to the main trunk and to the branches connected with it by the act of 1862; and for this plain reason, that we must put on the brake somewhere, and we may as well do it now as at any time. If we yield to the importunities of persons interested in these various branches from time to time we shall yield once and again until we have saddled the Government with a most enormous debt. If there be any scheme which has merits in and of itself, I do beg Senators to present it separately and distinctly for the consideration of this body, and not embarrass the passage of this bill by attempting to put it in by way of amendment. Let us act upon this bill if we can, and pass it. But I give the Senator from Kansas and others who may concur in his views notice that whenever there shall be another branch road created and attached to this bill, I shall vote against the whole bill and against the whole scheme henceforth and forever, for I see the difficulties which are perpetually growing out of the increase of the branches. We must stop, and we must stop here and now; otherwise we shall lose the whole scheme; the enterprise will be swamped by making it so enormous and elephantine in its proportions that it will be utterly unwieldy not only for the individuals and companies concerned, but for the Government itself.

Mr. WADE. Do you retain all the original branches?

Mr. HOWARD. We have retained all the original branches as a matter of justice, and Kansas wants another now. I trust this will not be pressed upon the consideration of the Senate. I cannot vote for it if another branch is attached to it, and will not.

Mr. LANE, of Kansas. Mr. President, my proposition is misunderstood entirely—

Mr. HOWARD. It is the last feather that breaks the camel's back.

Mr. LANE, of Kansas. I desire to say that the proposition which I have brought before the Senate has shaken my State from base to summit. It was this very proposition that brought on that premature senatorial election last winter. Therefore I feel it a duty I owe to my State to bring it forward. I do not propose to add one cent to this bill. This branch is limited to one hundred miles. All I propose is to start it at Fort Leavenworth, instead of Atchison; Fort Leavenworth is eighteen miles from Atchison; I propose to run it from Fort Leavenworth to Atchison, from Atchison to Troy, which gives to the Hannibal and St. Joseph railroad a western outlet, and from there to Marysville, following the military road.

The Senator from Ohio [Mr. SHERMAN] should not have denounced this scheme as absurd. I do not propose to make a road down the river on the other side from St. Joseph. There is a road already



built there. I propose, instead of commencing this one hundred mile branch at Atchison, to commence it at Fort Leavenworth; and I propose to have it intersect the Hannibal and St. Joseph road at Troy, to which a section is already graded and on which four miles of the iron have been laid down. It will not do for gentlemen to warn me that I am overloading this bill, when I am doing no such thing. I propose to connect Fort Leavenworth with Fort Kearney, and I heretofore state that the Government pays annually for transporting Government property from Fort Leavenworth to Fort Kearney as much as the interest on the Government aid for the whole one hundred miles will be.

Mr. POMEROY. I do not desire to discuss this bill, but this amendment of my colleague I never heard of before, and I do not believe there is a company in my State organized to build the road it contemplates. I never heard of anybody that wanted a road built in that direction. This is the first time I ever knew of a proposition to build a railroad from Fort Leavenworth to Atchison by the way of Troy or any other place. I will say further—I know it is late and I will not take up time—that Fort Leavenworth is already accommodated by the Leavenworth and Pawnee road; and it surely is not necessary to commence two branches at one place. The proposition is ridiculous. I never heard of anybody being for it before.

Mr. LANE, of Kansas. I ask the Senator, my colleague, and I desire a categorical answer, was not the fact that he proposed to run the road through Atchison on the parallel line, instead of through the county seats Troy, Seneca, and Marysville, the cause of the revolution in our State? Did he never hear of that?

Mr. POMEROY. I will say distinctly that I never before heard of building a road from Fort Leavenworth according to the proposition contained in my colleague's amendment.

Mr. LANE, of Kansas. I ask my colleague if he never heard of a desire on the part of the northern tier of counties to have a railroad running west from St. Joseph.

Mr. POMEROY. I certainly did; but Leavenworth is not in the northern tier of counties; Leavenworth is down forty miles south.

Mr. HOWARD. Let me appeal to my friend from Kansas, [Mr. LANE.] Let us, if possible, get a vote on some of these amendments. This bill has been under discussion now the best part of five days. Does he not see as distinctly as the sun in heaven that this bill will be lost if he persists in offering such amendments and protracting the discussion? ["Vote," "Vote."]

Mr. HENDERSON. I desire to say that this amendment would accomplish the object which I have had in view. By the amendment I should accomplish that object if the Senate would adopt it. If it be adopted the Hannibal and St. Joseph Railroad Company, by building a road twenty miles, I believe the best part of it already graded, directly west from St. Joseph, would have a road to the main trunk in a very short time, and the Government aid from Troy west would be given to it. That would be the result of the proposition made by the Senator from Kansas, [Mr. LANE,] but that does not suit my worthy friend on the left, [Mr. POMEROY.] Why? Because it commences the road down at Leavenworth, and Leavenworth has already been provided with the Leavenworth and Pawnee branch, as it is called. Under the bill you are passing here to-day there never will be a railroad built from St. Joseph, although the company in my State have gone on and graded, as I understand, some twelve or fifteen miles of road in the direct line of Troy. That will all be abandoned, there never will be a railroad there, but the route will be deflected from the main line and run down to Atchison, and from Atchison it will deflect northwest again, thus giving a road not quite so objectionable as the one presented by my friend on the right, [Mr. LANE,] but certainly very objectionable. It is against that that I have stood up all the time. I have been defeated. Now, I cannot go with my worthy friend on the right, although his amendment will accomplish all I want. I intend to be consistent, although at the expense of my State.

The PRESIDENT *pro tempore* put the question on the amendment of Mr. LANE, of Kansas, and declared that it was rejected.

Mr. LANE, of Kansas. I ask the favor of the

Senate to grant me the yeas and nays on this question. ["No," "No."]

Mr. TRUMBULL. Let me appeal to the Senator to take the yeas and nays when we get into the Senate, if he wants them; there is no need for having them twice.

Mr. LANE, of Kansas. Very well. I withdraw the call now.

The PRESIDENT *pro tempore*. The amendment to the amendment is not agreed to.

Mr. HENDERSON. I will venture to offer a second amendment; I have offered only one. Senators say we must not offer any amendments, but I hope they will remember that I have offered but one, and have sat quietly while a great many amendments were offered by others. I move on page 35, in lines thirty-three and thirty-four of section fourteen, to strike out the words "the route and location of said extension from Atchison shall be subject to the approval of the President of the United States." I do not want another legislative indorsement to the effect that this branch shall commence at Atchison anyhow. Another thing, I do not want the President to determine the route of a railroad that has been already located under the old bill.

Mr. HOWARD. I hope this alteration will not be made.

Mr. POMEROY. There is not the least importance in this, and there can be no objection to the amendment. You have got to make the connection within one hundred miles, and if engineers have located it there is no use in getting the President's approval. I have no objection to the amendment.

Mr. HENDERSON. I am exceedingly gratified to have the indorsement of my friend from Kansas, [Mr. POMEROY,] and to see how quietly my friend from Michigan [Mr. HOWARD] takes it: he does not object to it, because I have the indorsement.

Mr. HOWARD. I do not know what is meant by that reflection. I recognize no right in the Senator from Missouri to read me a lecture upon the proprieties appertaining to this body or to my duties here. I am waiting for the vote to be taken upon his proposition, and I shall vote against it. I do not wish, however, to spend the time of the Senate. Whether I am quiet or disorderly I wish to be the master of my own conduct and not to appeal to him.

Mr. HENDERSON. What I said was not intended with a view of reading a lecture to the Senator. What I stated I stated. So soon as I made the proposition the Senator, as usual, made the objection, hoped it would not be done. My friend from Kansas rose, and the very moment he said it was all right the Senator from Michigan took his seat. He was reading me a lecture I thought for offering the amendment.

Mr. HOWARD. The Senator is mistaken as to the matter of fact; he did not observe what was proceeding in the Senate. I objected to the amendment offered by the Senator from Missouri because I dissented from it and thought it an improper amendment. I then took my seat. The Senator from Kansas then arose and said a word in favor of the amendment. I made no reply. Was it necessary for me to make a reply? Has the Senator from Missouri any right to infer from the fact of my silence that I had changed my mind and was in accordance with the Senator from Kansas? When he has known me longer, sir, he will know me better.

Mr. HENDERSON. I simply desire to state that the Senator is mistaken. He was standing on the floor when the Senator from Kansas made his remarks, and did not take his seat until the Senator from Kansas was through.

Mr. DAVIS. I am a friend to this measure, and I voted for it at the last Congress. The measure was then upon its trial, upon its test whether it was to get the sanction of the Senate of the United States or not. I listened with much pleasure to the remarks of the honorable Senator from Ohio [Mr. SHERMAN] in relation to this bill a few minutes since. I think they were eminently just, wise, and proper. It seems to me that as far as it can be done, the points that were prescribed in the law of the last Congress ought to be adhered to at the present time. I understand, however, that there is some deviation.

Mr. HOWARD and Mr. TRUMBULL. Oh, no; we voted that down.

Mr. DAVIS. I understand that there are two towns in Kansas that were not named as points in the road as the law was passed at the last Congress, that have been introduced into the bill in the form of an amendment this evening.

Mr. CONNESS. That does not add anything.

Mr. DAVIS. The way to obviate difficulties in relation to points of locality is not to introduce any. Put the verbiage of this bill in relation to points of locality in the road as it was in the last law, and I shall have no objection.

Like the Senator from Ohio, I am a friend to this measure as a great national measure connecting the two oceans across the continent. I want to give the measure my support as I did then; but I want to do it upon the terms and understandings of members of the Senate when the law was passed two years ago. In that form it received the sanction of the Senate, and I do not think there ought to be any departure in relation to points in the road or localities fixed, from what was then agreed upon.

The question being put upon the amendment to the amendment, there were, on a division—ayes 14, noes 8; no quorum voting.

Mr. CONNESS and others called for the yeas and nays.

Mr. RAMSEY. I move that the Senate do now adjourn. I think there is no possibility of getting a vote on the bill.

The PRESIDENT *pro tempore*. The motion to adjourn is not in order while the Senate is dividing. The question is on seconding the call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 19, nays 13; as follows:

YEAS—Messrs. Carlile, Davis, Doolittle, Foot, Grimes, Harlan, Harris, Henderson, Hendricks, Lane of Indiana, Lane of Kansas, Pomerooy, Powell, Ramsey, Sherman, Sprague, Ten Eyck, Van Winkle, and Willey—19.

NAYS—Messrs. Anthony, Clark, Collamer, Conness, Howard, Howe, Johnson, McDougall, Morgan, Morrill, Sumner, Trumbull, and Wade—13.

ABSENT—Messrs. Brown, Buckalew, Chandler, Cowan, Dixon, Fessenden, Foster, Hale, Harding, Hicks, Nesmith, Richardson, Riddle, Saulsbury, Wilkinson, Wilson, and Wright—17.

So the amendment to the amendment was agreed to.

Mr. HOWARD. I offer an amendment to come in on page 21 of the bill as printed this morning. I will read the clause and then suggest my amendment:

The rails and other iron used in the construction and equipment of the said road shall be of American manufacture, of the best quality, except so much thereof as shall be needed for two years next after the approval of this act.

I move to strike out the words "except so much thereof as shall be needed for two years next after the approval of this act." I do not wish to make it a subject of debate and I am entirely willing that the vote shall be taken upon it without discussion, so far as I am concerned. My motion is to strike out the exemption, and that will make it necessary to construct the whole work of American iron.

Mr. POMEROY. I hope the Senate will not strike out that clause. I think it is a very important provision.

Mr. SHERMAN. That exception was adopted after a long discussion in committee and after full consideration.

Mr. HOWARD. Yes, Mr. President, after a very full discussion in the committee. I do not offer the amendment on behalf of the committee, but on my own motion.

Mr. SHERMAN. I trust it will not be adopted, because the Senator merely speaks for himself.

Mr. HOWARD. I speak merely for myself, not for the committee.

Mr. SHERMAN. That exception was adopted after grave consideration in view of the impossibility of procuring the iron now in this country.

Mr. CONNESS. If this amendment is to be adopted, I have an amendment prepared that I shall offer in lieu of the words thus stricken out, but if it be not adopted I will not offer this amendment. I will read it, so that it may be understood. I propose to make the clause read:

Except so much thereof as shall be needed for the use of the portion of the Pacific railroad lying westward of the eastern boundary of California, which exception shall continue until the end of the present rebellion.

I have summed up before me—which will not take a moment to state, and I invite the attention of Senators to it—the cost of shipment and insurance from the Atlantic seaboard to California

pending the war and before the war. Before the war it was \$8 90 a ton. It has since the war, by the increase made necessary by it, become \$34 05 per ton. It will appear at once that the privilege, if this is stricken out, of extending this exception to the California portion of the road is a very material one, and I would ask the Senator to accept my suggestion; but I will let the vote be taken first on the proposition of the Senator from Michigan.

Mr. JOHNSON. I do not think there will be any occasion for the amendment which the Senator from California contemplates offering. The question itself which the proposition of the chairman of the committee presents to the Senate was before the committee, very carefully considered, as he will remember, and we came almost to the unanimous opinion that the enterprise would be defeated unless the parties were permitted to import their iron for two years. All the works in the Union are now so full of employment by the Government itself that it is utterly impracticable to get the iron here. I am sure that if the Senator from Michigan was of that opinion he would not persevere in his amendment. It can be got from England, at a pretty high price, to be sure, but it cannot be obtained in the United States in any reasonable time; and, as I said in the beginning, it was because of that information, coming to us in such an authentic form that it could not be doubted, that we came to almost the unanimous conclusion that it would be well to give to these companies the authority to import their iron for a limited time.

Mr. HOWARD. What the Senator from Maryland says is entirely true; such was the sentiment of the committee when this matter was before them for consideration. I have since been informed, however, by gentlemen well acquainted with the iron trade, that it is very practicable to procure the American iron in this country even by introducing iron from abroad and exchanging it for it. However that may be, I do not wish to spin out the discussion, and I will therefore, by the leave of the Senate, withdraw my amendment, and permit the bill to stand as it is in this respect.

Mr. SPRAGUE. I wish to offer an amendment. Section twelve provides "that the Government of the United States shall be permitted to transport its mails, troops, munitions of war, supplies, and public stores upon as favorable terms as individuals can secure the same service from the company." I move to amend the section by inserting after the word "service," in line sixteen, these words:

*Provided*, That officers and enlisted men in the military, naval, or revenue service of the United States, on furlough, may pass over the roads named in this act at one half the rate established for other passengers, or one half the rate contracted for by the United States for transportation, if less than the rate established for other passengers.

The roads, in my opinion, will be debarred from no income by the adoption of this amendment. Furloughs to men in the Army and Navy of the United States are very few; and hereafter when our Army or Navy may be established on the Pacific coast the distance over this road will be so great that if charged the usual fare they will not be able to reach their homes. It is my experience that men in the public service, on account of the tax thus imposed, have been deprived of the privilege of visiting their families when it was perhaps important that they should be allowed to do so. My opinion is that the adoption of this provision will secure the travel over the road of an increased number of passengers, and in the end secure as much income as would be received without the provision. I am in favor of the bill to every extent, and I trust this amendment will meet the approbation of Senators.

Mr. WILKINSON. Is the amendment subject to amendment? ["No."]

The PRESIDENT *pro tempore*. It is in the second degree now.

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The Senate having perfected the substitute, will now proceed to the first amendment of the committee to the bill.

Mr. McDOUGALL. I move that the amendments be taken together.

Mr. TRUMBULL. I hope that we shall take the question on all the amendments together, unless some gentleman wishes to except a particular one.

The PRESIDENT *pro tempore*. Senators do not understand the Chair. The committee to whom this bill was referred reported the bill back with sundry amendments to the original bill. They afterwards reported an amendment by way of substitute. The Senate has perfected the substitute, but has not acted upon the amendments to the original bill. Those must be first disposed of.

Mr. TRUMBULL. Then to have it understood, we do not want to adopt the amendments to the original bill. If we reject them, then this substitute will come up.

The PRESIDENT *pro tempore*. The Chair is of opinion that they may be all rejected together by unanimous consent.

Mr. HOWARD. I hope that will be done; or, to make it more formal, I move that the Senate disagree to the former amendments of the committee to the original bill.

The PRESIDENT *pro tempore*. That course will be taken, if there be no objection. The Chair hears none, and those amendments are rejected.

The substitute of the committee, as amended, was agreed to.

Mr. HENDRICKS. I move to strike out the latter half of section four, on page 15.

Mr. TRUMBULL. Let me appeal to the Senator from Indiana; let us now get the bill into the Senate, and then it will be open to amendment, and we shall not have to vote twice, and that will get rid of these other amendments.

Mr. HENDRICKS. Very well.

Mr. TRUMBULL. Let it be reported to the Senate, and then it will be open to amendment still.

The bill was reported to the Senate as amended. The PRESIDENT *pro tempore*. The question is on concurring, in the Senate, with the amendments made as in Committee of the Whole.

Mr. LANE, of Kansas. I want a vote on my proposition.

Mr. HENDRICKS. If it is now in order, I move the amendment which I suggested before. It is on page 15, section four, to strike out the residue of the section after the word "road" in line ten. The words to be stricken out are:

And in case said company is desirous of becoming purchasers of the fee of such lands containing coal and iron ores, patents therefor shall be issued to said company by the Government of the United States at the price at which such Government lands are sold at the time such patents issue: *Provided*, That said company shall, within ten years, make its selection of the land it desires to purchase, and that the lands so selected shall not exceed in area one hundred thousand acres.

It will be observed by the Senate that the first part of this section allows the company to go upon the Government lands adjoining its road for the purpose of getting material for the construction of the road, and going also upon mineral lands for the purpose of aiding in the construction of the road. That is all right. I think that is very proper. But the part of the section which I propose to strike out contemplates that the company shall become the owner in fee, not with the view of selling but of holding, to the extent of one hundred thousand acres of coal and iron lands. I cannot see the propriety of this. Is it the intention of the Senate that this railroad corporation shall become a mining company or a company manufacturing iron? The Senate has already decided that the company shall not go on the adjoining lands for the purpose of getting iron to keep the road in repair—that question was decided on Saturday by an amendment then adopted—but only for the purpose of constructing the road. Why, if that be the view of the Senate in that regard, shall the Senate allow to this corporation the privilege of becoming the owner in fee at \$1 25 an acre, of valuable iron and coal lands when those lands if exposed, according to the general laws of the United States, at public sale might bring very much more when purchased by citizens?

A further objection which I have is that the power of this corporation will be quite sufficient without allowing it to go into the industrial pursuits which are ordinarily reserved from corporations to the citizens.

Mr. FOOT. I move that the Senate adjourn. ["Vote," "Vote."] Will you guaranty a vote within half an hour?

Mr. HOWARD. Yes, sir.

Mr. FOOT. I withdraw the motion.

Mr. HOWARD. I hope the amendment will

not be adopted. I do not wish to spend time in discussing it. It has been fully discussed before. The amendment to the amendment was rejected.

Mr. HOWARD. There was one amendment made in committee upon which I wish to take a vote distinctly, and that was in section two, relating to contracts for labor, service, materials, &c. It was struck out in Committee of the Whole, and I wish now to insert the clause with a modification.

The PRESIDENT *pro tempore*. The Senator must move to insert the words.

Mr. HOWARD. I move to insert the clause in this form:

All contracts for the grading, building, and construction of said railroad, and for supplying the rolling stock thereof, which may be made by or on behalf of said company, shall be terminable at the pleasure of said company, or of the directors thereof, by notice in writing to the other contracting parties, their heirs, executors, administrators, or assigns; and upon and after service of such notice, all liability and obligation on account thereof, on the part of the company, shall cease and determine, except in so far as performance shall be by either party required during the six months next succeeding such service; and all such contracts of said company shall contain, or be deemed to contain, a clause providing for such termination thereof.

Mr. JOHNSON. That is rather a severe provision, and I think that was spoken of in committee. Without the amendment, it will be in the power of the company to insert a clause of that sort in their contracts; but with the amendment, all contracts would be liable to that reservation of power on the part of the company, and I am very much inclined to think that no good contractor perhaps would be willing to enter into a contract of that description.

Mr. HOWARD. The great object is to protect the rights and interests of the company against any possible fraud that might be committed by one board of directors in the letting of the vast contracts which will have to be let. For instance, a board of directors this year might let upon contract the construction of the whole road between the one hundredth degree and the western boundary of Nevada Territory, and the contractors would have a right to go on upon the contract and construct the entire line at the price fixed by the first board of directors, and the company would forever be without any remedy. It does seem to me that this is exposing the company.

Mr. FOSTER. Allow me to ask the Senator, if such a contract should be made and fraud could be proved between the directors and contractors, does he hold that the company would be bound by it?

Mr. HOWARD. Such a contract may be made without the slightest fraud.

Mr. FOSTER. If an honest contract, why should it be broken?

Mr. HOWARD. An honest contract but totally ruinous to the company.

Mr. JOHNSON. The effect of that will be that if the contract, in the judgment of the company, is to be a losing one to the contractor, it will not be put an end to; but if by a change of circumstances it is obvious that it will be to the interest of the company to put an end to it because it will give to the contractor what he expects to make, the company will put an end to it. I understand that a similar provision is to be found in very many of the charters which have been granted to these companies, and that it has been found not to act prejudicially. It appears to me, however, to be a very unjust provision.

Mr. HOWARD. I look upon it, with great deference to the opinion of others, as a very essential provision to be contained in this charter. I think it will be promotive of the interests of the company and of the public; but I will not spend any time in discussing it.

Mr. TRUMBULL. It is the same proposition that we discussed at length the other day and voted upon and voted it out of the bill. I am so anxious to get a vote on this bill and action on it to-night that I will take up no time; but we discussed this matter at considerable length; I think it is a one-sided arrangement, and I hope the amendment will not be adopted.

The question being put, there were, on a division—ayes 14, noes 17.

Mr. CONNESS. I call for the yeas and nays. ["It is too late."] It is a very important amendment.

Mr. TRUMBULL. The Senate has twice voted it down.

The PRESIDENT *pro tempore*. The Senator from California asks for the yeas and nays on this amendment.

Several SENATORS. It is too late.

The PRESIDENT *pro tempore*. The Chair will entertain the call.

The yeas and nays were ordered.

Mr. FOSTER. I move that the Senate adjourn. If we are to have the yeas and nays and various other amendments we cannot get through.

Mr. HOWARD. I hope we shall not adjourn.

The PRESIDENT *pro tempore*. The Senator from Connecticut moves that the Senate adjourn.

Mr. CONNESS. I hope that will not be done. The Senator from Connecticut seems to have done this—

The PRESIDENT *pro tempore*. It is not a debatable question.

Mr. CONNESS. I understand that.

The motion was not agreed to.

Mr. HENDRICKS. I desire to say just one word before a vote is taken on this proposition. I have given some little attention to charters that are granted to corporations, and I have never known so extraordinary a provision as this. Any man that takes a contract—

Mr. CONNESS. If the Senator will permit me, I will withdraw the call for the yeas and nays.

Mr. HENDRICKS. I ask for the yeas and nays.

The PRESIDENT *pro tempore*. The yeas and nays having been ordered, the call can be withdrawn only by unanimous consent.

Mr. CHANDLER. I renew it.

Mr. HENDRICKS. I was not speaking about the Senator's call for the yeas and nays. That was a matter of entire indifference to me. I would have called for the yeas and nays myself.

Mr. CONNESS. The Senator will pardon me. I supposed that the withdrawal would gratify the Senator and that would be the end of it.

Mr. HENDRICKS. I did not understand the Chair to decide that the proposition was rejected.

The PRESIDENT *pro tempore*. Yes.

Mr. HENDRICKS. Then I misunderstood the decision of the Senator from California, and I withdraw the remark about the yeas and nays being called. I suppose the Senate of course will not change its views, and I do not feel it necessary to discuss it further.

The question being taken by yeas and nays, resulted—yeas 13, nays 17; as follows:

YEAS—Messrs. Anthony, Chandler, Conness, Davis, Elihu, Howard, Howe, Morgan, Pomeroy, Sprague, Sumner, Wade, and Wilkinson—13.

NAYS—Messrs. Buckalew, Clark, Doolittle, Foot, Foster, Hendricks, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morrill, Powell, Saulsbury, Ten Eyck, Trumbull, Van Winkle, and Willey—17.

ABSENT—Messrs. Brown, Carlile, Collamer, Cowan, Dixon, Fessenden, Grimes, Hale, Harding, Harris, Henderson, Hick, Nesmith, Ramsey, Richardson, Riddle, Sherman, Wilson, and Wright—19.

So the amendment to the amendment was rejected.

Mr. ANTHONY. I offer this amendment, to come in at the end of section fourteen:

But all lands shall be excluded from the operation of this section, and of the act to which this is an amendment, which were located or selected to be located under the provisions of an act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, and notice thereof given at the proper land office.

Mr. HOWARD. There is no objection to that.

Mr. TRUMBULL. I do not see any object in it.

The amendment to the amendment was agreed to.

Mr. WILKINSON. I want to offer some additional sections to the bill.

Mr. FOOT. I suggest that had better come in as an independent amendment. It is not necessarily an amendment to the pending amendment, and the question may as well be taken now on the amendment made as in Committee of the Whole. That will not interfere with the offering of this amendment as additional sections afterwards.

Mr. WILKINSON. Then I withdraw this amendment for the present.

The amendment made as in Committee of the Whole, as amended, was concurred in.

Mr. WILKINSON. Now I offer my amendment. It is not necessary that it should be read. It is to change the routes of certain railroads in Minnesota. It grants no lands. It has passed the

Senate; and the reason why I propose to put it upon this bill is that I am fearful the proposition may not pass as an independent measure in the House of Representatives.

Mr. TRUMBULL. I hope it will not be put on here.

The PRESIDENT *pro tempore*. The amendment will be reported.

Mr. FOOT. The mover suggests it is not necessary to read it. After his explanation I presume it is not. The great objection is its incongruity to the whole bill. It cannot be ruled out of order; but it is good reason for voting against it.

Mr. WILKINSON. I admit it has no particular relation to this bill.

Mr. HOWARD. I really hope my friend will withdraw his amendment. It is not congruous to the bill itself, and I think he does not want to embarrass the bill and consume time by it.

Mr. WILKINSON. I withdraw it.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. TEN EYCK called for the yeas and nays on the passage of the bill, and they were ordered; and being taken, resulted—yeas 23, nays 5; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Conness, Davis, Doolittle, Foot, Foster, Harlan, Howard, Johnson, Lane of Kansas, McDougall, Morgan, Morrill, Pomeroy, Sprague, Sumner, Trumbull, Van Winkle, Wade, Wilkinson, and Willey—23.

NAYS—Messrs. Buckalew, Hendricks, Powell, Saulsbury, and Ten Eyck—5.

ABSENT—Messrs. Brown, Carlile, Collamer, Cowan, Dixon, Fessenden, Grimes, Hale, Harding, Harris, Henderson, Hicks, Howe, Lane of Indiana, Nesmith, Ramsey, Richardson, Riddle, Sherman, Wilson, and Wright—21.

So the bill was passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had passed a joint resolution (No. 81) amendatory of the joint resolution to increase temporarily the duties on imports, approved April 29, 1864; in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had passed a resolution to terminate the present session of Congress by an adjournment on the 6th day of June next at twelve o'clock meridian.

#### ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House of Representatives had signed an enrolled joint resolution (H. R. No. 74) referring the claim of J. H. Clark & Co. to the Court of Claims; and it was thereupon signed by the President *pro tempore*.

#### HOUSE BILL REFERRED.

The joint resolution from the House of Representatives (No. 81) amendatory of the joint resolution to increase temporarily the duties on imports, approved April 29, 1864, was read twice by its title, and referred to the Committee on Finance.

#### ORDER OF BUSINESS.

Mr. SUMNER. I now move that the Senate proceed to the consideration of the bill to establish a Bureau of Freedmen.

Mr. RICHARDSON. I move that the Senate adjourn.

Mr. SUMNER. I hope not until my motion is put. I only want my bill taken up.

Mr. POWELL. I am opposed to taking up that bill. If we want to take up any bill let it be the bill to prevent military interference with elections.

The PRESIDENT *pro tempore*. The question is on the motion to adjourn.

The question being put, there were, on a division—ayes 10, noes 11; no quorum voting.

Mr. BUCKALEW. I call for the yeas and nays.

Mr. CONNESS. On the motion to take up the bill referred to by the Senator from Massachusetts I ask for the yeas and nays.

The PRESIDENT *pro tempore*. The vote just taken discloses no quorum present, and therefore no business is in order.

Mr. CONNESS. Then I call for the yeas and nays on the motion to adjourn.

Mr. POWELL. I move that the Sergeant-at-Arms be directed to request the attendance of absent members.

Mr. TRUMBULL. Before putting that motion, I move that the Senate adjourn.

Mr. SUMNER. I give notice that to-morrow as early as possible I shall move to proceed to the consideration of the bill I have mentioned.

Mr. TRUMBULL. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

Monday, May 23, 1864.

The House met at twelve o'clock, m. Prayer by Rev. Dr. Hosmer, of Buffalo, New York.

The Journal of Friday was read and approved.

PAY OF MESSRS. SEGAR, CHANDLER, KITCHEN.

Mr. DAWES. I rise to a question of privilege. I report back, from the Committee of Elections, the following resolution:

Resolved, That there be paid out of the contingent fund of the House to Joseph Segar, Lucius H. Chandler, and B. M. Kitchen, claimants of seats in this House as Representatives from Virginia, each the usual mileage of a member for one session, and the monthly pay from the commencement of the session till the passage of the resolution in each case declaring them not entitled to a seat.

The resolution was referred to the committee for the purpose of ascertaining the fact of Mr. Chandler's holding an office under the United States Government during the time for which the resolution proposes to pay him. The fact in that respect is that Mr. Chandler is a district attorney of the United States. I understand that as such he does not receive a salary, but is paid by fees which he receives from time to time, and whether his compensation from fees amounts to as much as \$2,500 per annum I am unable to state. The law on the subject, which would prevent an officer receiving a salary of as much as \$2,500 per annum from receiving pay for any other office, is as follows:

"No person hereafter who holds or shall hold any office under the Government of the United States whose salary or annual compensation shall amount to the sum of \$2,500, shall receive compensation for discharging the duties of any other office."

The case contemplated by the law is where the person receives an annual compensation, and therefore does not include the case of Mr. Chandler, and it is merely a question of propriety whether under the circumstances Mr. Chandler shall have this compensation for the time spent and expenses incurred in the prosecution of his claim to a seat on this floor as a Representative from the State of Virginia. It does not come within the provision of the statute, and whether or not the House will vote him this compensation is of course for the House to decide. The compensation provided in the resolution is the monthly pay of a member—\$250—from the commencement of the session until the resolution passed, and mileage for one session. The mileage in this case is very small.

I will say further, with the permission of the House, that the other two gentlemen whose names are mentioned in the resolution, Mr. Segar and Mr. Kitchen, have suffered very severely at the hands of the rebels. They are represented by their friends, and I have no doubt correctly, to be in very necessitous circumstances.

Mr. HOLMAN. Do I understand this resolution to embrace the three cases?

Mr. DAWES. It does.

Mr. HOLMAN. I will suggest to the gentleman from Massachusetts whether it would not be better to separate these cases and allow the vote to be taken upon that of Mr. Chandler by itself. I understand Mr. Chandler has, during this whole time, been receiving a per diem compensation, and certainly the same reasons do not apply in his case as apply to the other cases. I therefore suggest that the cases be separated.

Mr. DAWES. I will say that the committee reported back the resolution without any recommendation at all. I desire to leave the matter entirely with the House, and have therefore no objection to the suggestion of the gentleman from Indiana.

Mr. HOLMAN. I believe I understood the gentleman from Massachusetts to say that Mr. Chandler has been receiving his compensation as district attorney during the whole time covered by this resolution.

Mr. DAWES. Mr. Chandler has been district



attorney since July last, and as such has received the fees to which he was entitled. What amount of business he has done I am unable to say. The business would be very small outside his fees connected with confiscation cases. How much he may have done in that respect I do not know.

Mr. HOLMAN. One question further. He is still holding the same official position. Therefore, for the purpose of getting the subject before the House, I will, with the consent of the gentleman from Massachusetts, modify the resolution.

Mr. DAWES. I yield for that purpose.

Mr. HOLMAN. I move to strike out so much of the resolution as applies to Mr. Chandler; and I desire to state my reason for that modification. He holds an official position under the Government, and the chairman of the Committee of Elections is not able to state the extent of his compensation. He holds an office of profit and trust which does not bring him within the law read by the gentleman from Massachusetts. I therefore suggest, to avoid complicating this case, and inasmuch as they stand upon a different footing, that we take the vote on Mr. Chandler's proposition by itself.

Mr. DAWES. While I think that there is a propriety in making a distinction between these gentlemen, still if we strike out the name of Mr. Chandler it may not be within our power to bring his case before the House again.

Mr. HOLMAN. It is difficult to modify the resolution so as to accomplish the object. The modification ought to be to put Mr. Chandler upon the same compensation of \$250 per month, deducting the amount he may have received in his capacity of assistant district attorney of Virginia. It has been suggested to pay Mr. Chandler only mileage. That may do him injustice. These gentlemen ought to stand upon the same footing. I therefore move to strike out Mr. Chandler's name, and at the end of the resolution to add the following words:

That we pay to Mr. Chandler the same compensation provided for the other gentlemen of \$250 per month and mileage, deducting therefrom the amount he may have received as assistant district attorney of the United States for Virginia.

That can be ascertained officially.

Mr. DAWES. Does the gentleman from Indiana intend that he shall pay over the balance?

Mr. HOLMAN. If the gentleman has any doubt that he has received a compensation beyond this amount, then it is proper to strike out the name of Mr. Chandler.

Mr. BLAIR, of West Virginia. Mr. Speaker, I am not prepared to say what the fees have amounted to which Mr. Chandler has received since he has been in office; but I do know the fact that the district attorney of West Virginia some five or six months ago was determined to resign because the fees received from his office would not support him and pay his traveling expenses. I feel quite certain that the fees which Mr. Chandler now receives are merely nominal.

Mr. WILSON. I think that the gentleman is entirely mistaken about the amount of compensation received by Mr. Chandler. The gentleman refers to the amount received by the district attorney in West Virginia. That is no criterion for determining Mr. Chandler's case, for the gentleman must remember that the district court of West Virginia has not been as active under the confiscation act as the district court of Virginia. I understand from statements which satisfy my mind that the compensation of Mr. Chandler as assistant district attorney of Virginia, has been enormously large. I will not state the precise sum stated to me, but I believe I shall be perfectly safe in saying that he has received during the last year \$10,000. I think the amendment of the gentleman from Indiana ought to be adopted.

My attention has been called to the fact by the gentleman from Massachusetts [Mr. Dawes] that, in accordance with the opinion of the Attorney General of the United States, the compensation allowed to district attorneys under the confiscation act is not included in the \$6,000 limit of the amount to be retained by district attorneys as compensation under the general law.

Mr. BLAIR, of West Virginia. The gentleman from Iowa is mistaken when he says that the courts in West Virginia have not been as vigilant in regard to confiscation as other courts.

Mr. WILSON. What I said was that it was

not as active in relation to confiscated property as the court at Alexandria.

Mr. BLAIR, of West Virginia. Well, I do not know. There has been a great deal of criminal business in our State; men are brought up upon various charges and the courts have to sit days and weeks hearing complaints against men who are supposed to be in sympathy with the rebellion. For all this the attorney gets nothing, and it is only in confiscation cases and in cases where the parties are convicted that he receives anything. I think the district attorney of the district of West Virginia has done as much and perhaps more than the district attorney of Virginia.

This compensation is not designed as a salary, but to compensate this man for the trouble and expense he has been to in seeking his rights before this House. And what would it be? All he could get under the resolution of the gentleman from Indiana would be but a drop in the bucket. It would not pay his board while he has been here. This House, in my judgment, committed a great wrong when it deprived him of a seat, and I trust they will not now add to it an insult by refusing to pay the pitiful allowance mentioned in this resolution, and to which he is as much entitled as is Mr. Segar.

Mr. WILSON. During most of the time that Mr. Chandler's case has been before the committee and the House he has been attending to his duties as district attorney of the United States district court at Alexandria. His compensation as such has been going on all the time, and it has been enormously large during the last year.

Mr. BLAIR, of West Virginia. It has been going on only so far as the fees of the office are concerned. When he could be relieved from attending to his case here, of course he was attending to his duties at Alexandria, or at any other place where they called him. He would not be a good officer did he not do so. I hope, therefore, this House will not make a distinction between him and his colleague, but pay him the same mileage and per diem.

I am as much in favor of strict economy as any gentleman in this House, especially in times like the present; but when we come down to a small matter of this kind, and deprive a man of the little compensation which belongs to him, I think we are descending below our dignity.

Mr. DAVIS, of Maryland. I desire to make a practical observation. Mr. Chandler, as I understand, holds an office under the United States. If the House had voted him into his seat he could not have drawn a cent of his salary before the day of his admission; and after that, of course, he would be obliged to renounce the other office before he could hold a seat in this House. Therefore the proposition is, because he failed, to give something which, if he had succeeded, he could not have received.

Mr. DAWES. There is a difficulty in fixing a general rule, as has been said, for the reason that in the different cases there is a great difference in the time necessary to be spent, and in the expenses to be incurred in taking depositions, in traveling over a large district to examine into the case, and in prosecuting the cases before the House. Some cases require a great deal of time and expense, while some cases require but little. It is difficult to say that you will pay each man a fixed sum according to a general rule, for while that does not fully compensate some men it more than compensates others. Therefore it is proper that we should look into the circumstances of each particular case.

Now, if we propose to take a portion of the compensation given to Mr. Chandler, and divide it between Mr. Segar and Mr. Kitchen, I think it would be doing greater justice than to vote to each one of them the same sum, for the reason I have stated. There is the further reason that Mr. Chandler held an office under the United States. I think the proposed compensation is rather small for Mr. Segar and Mr. Kitchen, while under the circumstances it is quite enough for Mr. Chandler. I think Mr. Chandler should have a small compensation for the time and money expended in this behalf. However, I shall not oppose the amendment proposed by the gentleman from Indiana, provided I can see the way clear for giving Mr. Chandler some smaller compensation than the others.

Mr. STEVENS. I think the resolution is in accordance with the rule which the House adopted the other day, and which the House affirmed. I think we must have some general rule. Men who are contesting seats are supposed to be here from the commencement of the session until the contest is terminated. We know, in point of fact, that they are not. I suppose Mr. Kitchen was not, and Mr. Segar may not have been; but they came here to contest their right to a seat. If they went away and came back three or four times before we were ready to try their cases, are they to be paid mileage, or when they come on must they stay all the time? I see a difficulty in making any distinction between them. Suppose Mr. Segar to have had some other trade; suppose him to have been a blacksmith and Mr. Kitchen a shoemaker—I hope they will not be offended at the supposition, for I know they are not in those trades—and suppose that while waiting here during the winter to have their cases decided, instead of being idle, they chose to be industrious and earn some little at their trades, either at home or here, are we to inquire how much they earned and deduct it from their per diem? We might just as well do that as to inquire into the professional earnings of a man who happened to take up a case while waiting for his own case to be decided. It is suggested the adoption of such a rule would be a premium on idleness. You would keep men claiming seats in this House lying around idle all the time.

I think, therefore, that we cannot do better than to pass the resolution as it was reported by the Committee of Elections. I think this thing of inquiring into a man's private business because he did not choose to be round here while his case was pending would be a bad precedent, for if we followed it out it would be exceedingly delicate in some cases that had better not be examined into. I hope, therefore, the amendment will not be adopted.

Mr. DAWES. I now call the previous question.

Mr. A. MYERS. I desire to ask the gentleman from Massachusetts a question. This resolution proposes to pay these gentlemen from the beginning of the session. I want to know if that means from the 4th of March last or from the first Monday in December?

Mr. DAWES. The first Monday in December.

The previous question was seconded, and the main question ordered, being first upon Mr. HOLMAN's amendment.

Mr. BLAIR, of West Virginia, demanded the yeas and nays, and tellers on the yeas and nays. Tellers were not ordered.

The yeas and nays were not ordered.

The amendment was agreed to—yeas 58, noes 37.

The question recurred upon agreeing to the resolution as amended.

Mr. SCHENCK demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 60; nays 57; as follows:

YEAS—Messrs. James C. Allen, Arnold, Baily, Augustus C. Baldwin, Jacob B. Blair, Boutwell, Brooks, Brownell, William G. Brown, Cobb, Coffroth, Cravens, Dawes, Eckley, Edgerton, Eldridge, Finck, Grider, Herrick, Hutchins, Philip Johnson, William Johnson, Kernan, Knapp, Law, Long, Mallory, Marcy, McAllister, McClurg, McDowell, McIndoe, Moorhead, James R. Morris, Nelson, John O'Neill, Pendleton, Pike, Pruyn, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, James S. Rollins, Ross, Scofield, Scott, Sloan, Smith, Thayer, Thomas, Van Valkenburgh, Wadsworth, Ward, William B. Washburn, Webster, Whaley, Wheeler, Joseph W. White, and Wilson—60.

NAYS—Messrs. Alley, Allison, Ames, John D. Baldwin, Baxter, Beman, Blaine, Bliss, Boyd, Brandegee, Ambrose W. Clark, Freeman Clarke, Cole, Henry Winter Davis, Thomas T. Davis, Dawson, Deading, Denison, Dixon, Donnelly, Driggs, Eden, Garfield, Grinnell, Benjamin G. Harris, Charles M. Harris, Higby, Holman, Julian, Kalbfleisch, Kelley, Francis W. Kellogg, Loan, Longyear, Marvin, Samuel F. Miller, Morrill, Morrison, Anos Myers, Charles O'Neill, Orth, Pomerooy, Price, John H. Rice, Robinson, Edward H. Rollins, Schenck, Smithers, Spalding, John B. Steele, William G. Steele, Stevens, Sweat, Williams, Windom, Fernando Wood, and Woodbridge—57.

So the resolution was agreed to.

Mr. DAWES moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

## MESSAGE FROM THE PRESIDENT.

A message from the President, by Mr. NICOLAY, his Private Secretary, informed the House that he had approved and signed bills and joint resolutions of the following titles:

An act (H. R. No. 251) to organize a regiment of veteran volunteer engineers;

An act (H. R. No. 151) making appropriations for the naval service for the year ending June 30, 1865, and for other purposes;

Joint resolution (H. R. No. 72) relative to pay of staff officers of the Lieutenant General;

Joint resolution (H. R. No. 77) relating to Green Clay Goodloe; and

Joint resolution (H. R. No. 78) providing for the election of a member of Congress for the State of Illinois by the State at large.

## ADJOURNMENT OF CONGRESS.

Mr. COFFROTH offered, as a privileged question, the following resolution, and moved the previous question on its adoption:

*Resolved*, (the Senate concurring,) That the present session of the Thirty-Eighth Congress be adjourned on the 6th of June next, at twelve o'clock meridian.

The previous question was seconded, and the main question ordered; and under its operation the resolution was adopted.

Mr. COFFROTH moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## REPORTS FROM COMMITTEES.

The SPEAKER proceeded, as the business next in order, to call upon committees for reports, to be referred to the Committee of the Whole, and not to be brought back on motions to reconsider, commencing with the Committee of Elections.

## JOHN WARREN AND SON.

Mr. LONG, from the Committee of Claims, reported a bill for the relief of John Warren & Son; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

## CHARLES F. ANDERSON.

Mr. BLAIR, of West Virginia, from the Committee on Public Buildings and Grounds, reported back, with a recommendation that it do pass, a bill (S. No. 207) for the relief of Charles F. Anderson; which was referred to the Committee of the Whole House on the Private Calendar, and ordered to be printed.

## CALL OF STATES.

The SPEAKER proceeded, as the business next in order during the continuation of the morning hour, to call the States and Territories for resolutions, commencing with the Territory of Idaho.

## SETTLEMENTS UNDER PREEMPTION LAWS.

Mr. COLE, of Washington, introduced a bill to provide for the payment of certain claims to lands within the limits of the Indian reservations in Washington Territory, arising under the preemption laws and donation act, in consequence of preemptions and settlements made prior to the establishment of such reservations; which was read a first and second time, and referred to the Committee on Indian Affairs.

## DUTY OF CONGRESS.

Mr. KINNEY offered the following resolution, and moved the previous question on its adoption:

*Resolved*, (as the sense of this House,) That the present crisis in the history of this causeless and unjustifiable rebellion calls loudly upon Congress for united patriotic legislation; that while our gallant and self-sacrificing soldiers are, with a courage unexampled either in ancient or modern warfare, sustaining the honor of the nation in the field, they are entitled to the thanks of the country and the hearty support of Congress; and, forgetting for the present all differences upon old party issues, it is the duty of Congress to sustain the constituted authorities of the country in their efforts to suppress the rebellion.

The previous question was seconded, and the main question ordered; and under its operation the resolution was unanimously adopted.

## RAILROAD GRANT TO MINNESOTA.

Mr. DONNELLY introduced a bill making an additional grant of lands to the State of Minne-

sota to aid in the construction of railroads from Stillwater, by way of St. Paul and St. Anthony, to a point between Big Stone lake and the mouth of Sioux Wood river, with a branch to St. Cloud, and to the navigable waters of the Red River of the North, as the Legislature may determine; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

## TRANSMISSION OF MAILS.

Mr. SLOAN introduced a resolution instructing the Committee on the Post Office and Post Roads to report a bill authorizing any person or corporation to carry letters and other mailable matter between all places where it now generally requires double the time to transmit letters by mail that it requires to transport passengers by the ordinary public conveyances, and to receive compensation therefor.

Mr. ALLEY. I suggest to the mover of the resolution to modify it so as simply to instruct the committee to inquire into the expediency of reporting such a bill.

Mr. SLOAN. I have no objection.

The resolution having been so modified was adopted.

## NORTHERN PACIFIC RAILROAD.

Mr. PRICE introduced a bill granting public lands to aid in the construction of a branch Union Pacific railroad and telegraph line through the mineral lands of the Territories of Colorado, New Mexico, and Arizona; which was read a first and second time, referred to the select committee on the Pacific railroad, and ordered to be printed.

## SUSPENSION OF NEWSPAPERS.

Mr. GRINNELL. I submit the following resolution, and demand the previous question on its adoption:

*Resolved*, That the President be requested to communicate to this House whether by any order of the Government, or by any officer thereof, the *World* and *Journal of Commerce*, newspapers in the city of New York, were suspended from being published; and if so, that said order be communicated to this House, and the proceedings in the execution of that order.

The SPEAKER. That being a resolution requesting information, can only be considered on this day by unanimous consent.

A MEMBER objected.

Mr. GRINNELL. I demand the previous question.

The SPEAKER. The resolution has already gone over for one day.

## HOUR OF MEETING.

Mr. HUBBARD, of Iowa, submitted the following resolution, and on its adoption demanded the previous question:

*Resolved*, That hereafter, until otherwise ordered, this House will meet at eleven o'clock, a. m., for the transaction of business.

Mr. PENDLETON. Does not that change one of the rules of the House, and therefore must it not go over for one day?

The SPEAKER. It does not. The Chair will have the rule read.

The Clerk read, as follows:

"1. He shall take the chair, every day, precisely at the hour to which the House shall have adjourned on the preceding day."

Mr. MALLORY. I ask the unanimous consent of the House for the gentleman to answer why he desires the House to meet at eleven o'clock. The Senate are behind us in business, and I see no reason for this resolution.

Mr. HUBBARD, of Iowa. I have demanded the previous question on the resolution.

Mr. PENDLETON. I move to lay the resolution on the table.

The motion was agreed to—ayes 93, noes 20.

## FEES OF MARSHALS, ETC., ON THE PACIFIC.

Mr. COLE, of California, submitted the following resolution, and moved that it be referred to the Committee on the Judiciary:

*Resolved*, That it shall be lawful for United States district attorneys and United States marshals in the States of California and Oregon to charge and receive for the services they may perform double the fees and emoluments allowed to like officers in the southern district of New York for similar services.

The resolution was referred to the Committee on the Judiciary.

## EAST VIRGINIA CIRCUIT COURT.

Mr. WILSON submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of providing by law for holding a session of the United States circuit court for the eastern district of Virginia at Alexandria.

## FORGERY OF OFFICIAL DOCUMENTS.

Mr. ARNOLD submitted the following resolution, on the adoption of which he demanded the previous question:

*Resolved*, That the Committee on the Judiciary be instructed to inquire and report what, if any, additional legislation may be necessary to punish the forgery and publication of official documents, and what legislation is necessary to punish those who through the press or otherwise give information, aid, or comfort to the rebels.

Mr. COX. I would like to amend that resolution.

The SPEAKER. A motion to amend is not in order pending the demand of the previous question.

Mr. COX. I appeal to the gentleman from Illinois to withdraw his demand for the previous question.

Mr. ARNOLD. It is a mere resolution for information. I insist upon the demand for the previous question.

Mr. COX. If it is merely a resolution for information it must go over one day under the rule, but I desire to amend it so as to direct the committee also to inquire what suitable pains and penalties should be inflicted upon subordinates of the Government who arrest proprietors of newspapers and suspend the publication of their papers.

Mr. ARNOLD. That may come in as a separate resolution. I insist upon my demand for the previous question.

Mr. COX demanded tellers.

Tellers were ordered; and Messrs. Cox and ARNOLD were appointed.

The House divided; and the tellers reported—ayes 59, noes 49.

So the previous question was seconded.

The main question was then ordered to be put.

The resolution was adopted.

Mr. ARNOLD moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## EVACUATION OF CUMBERLAND GAP.

Mr. COX submitted the following resolution, and on its adoption demanded the previous question:

*Resolved*, That the Secretary of War be directed to answer the former resolution of this House, and transmit a copy of the report of General George W. Morgan in relation to the evacuation of Cumberland Gap, &c.

Mr. WASHBURN, of Illinois. Has the morning hour expired?

The SPEAKER. It has expired.

Mr. COX. I have demanded the previous question on my resolution.

The SPEAKER. The gentleman's resolution goes over till Monday next.

Mr. DAVIS, of Maryland. I call for the regular order of business.

## SUSPENSION OF NEW YORK NEWSPAPERS.

Mr. PRUYN. Before the regular order of business is called for, I ask the gentleman from Maryland to allow me to submit a resolution to the House in behalf of the New York delegation on this side of the House, and perhaps to some extent on the other, which we regard of great importance. I ask that the resolution may be read for information.

Mr. GRINNELL. If the gentleman will allow the resolution that I have offered to come in, I will not offer any objection.

Mr. WASHBURN, of Illinois. I hope the resolution of the gentleman from New York will be allowed to be read.

Mr. DAVIS, of Maryland. I do not object to the resolution being read for information.

Mr. PRUYN. Before the resolution is read I would like to say further on behalf of my associates that with the kind permission of the House I shall beg to say a few words in explanation of the reasons which have induced us to present this resolution. I pledge myself, if that permis-

sion be granted, not to occupy but a very few minutes. I ask that the resolution be read.

The Clerk then read the resolution, as follows:

*Resolved*, That the conduct of the executive authority of the Government in recently closing the offices and suppressing the publication of the *World* and *Journal of Commerce*, newspapers in the city of New York, under circumstances which have been placed before the public, was an act unwarranted in itself, dangerous to the cause of the Union, in violation of the Constitution, and subversive of the principles of civil liberty, and as such is hereby censured by this House.

Mr. KELLOGG, of Michigan, and other members objected.

Mr. DAVIS, of Maryland. The reason why I will not yield to the gentleman from New York to offer that resolution is that the gentleman from Iowa [Mr. GRINNELL] submitted a resolution of inquiry on the same subject, and it was objected to from that side of the House. I now ask that my resolution be read.

Mr. COX. I will say to the gentleman from Maryland that if there was any objection on this side of the House to the resolution of the gentleman from Iowa it will be withdrawn, provided you will give us an opportunity to amend it. All we want is to obtain the facts for the people, and to express our censure of this cowardly and base attempt to suppress the freedom of the press.

#### FRENCH IN MEXICO.

Mr. DAVIS, of Maryland. I ask the Clerk to read my resolution.

The Clerk read, as follows:

Whereas the following announcement appeared in the *Moniteur*, the official journal of the French Government:

"Le gouvernement de l'Empereur a reçu du gouvernement des Etats-Unis des explications satisfaisantes sur le sens et la portée de la résolution prise par l'Assemblée des représentants à Washington, au sujet des affaires du Mexique."

"On sait, d'ailleurs, que le Sénat avait déjà ajourné indéfiniment l'examen de cette résolution, à laquelle, dans tous les cas, le pouvoir exécutif n'eût point accordé sa sanction."—*Moniteur*.

"It is known, besides, that the Senate had indefinitely postponed the examination of that question, to which in any case the executive power would not have given its sanction."

Therefore, *Resolved*, That the President be requested to communicate to this House, if not inconsistent with the public interest, any explanations given by the Government of the United States to the Government of France respecting the sense and bearing of the joint resolution relative to Mexico, which passed the House of Representatives unanimously on the 4th of April, 1864.

Mr. SWEAT. I object.

Mr. DAVIS, of Maryland. I move that the rules be suspended for the purpose I have indicated.

Mr. DAWSON. I hope there will be no objection to the resolution.

The resolution was again read.

Mr. SWEAT. At the first reading of the resolution I did not have the same understanding of it that I do now, and I therefore withdraw my objection.

Mr. COBB. I renew the objection.

Mr. DAVIS, of Maryland. I move that the rules be suspended.

Mr. ARNOLD. I rise to a question of order. I make the point that this is a call for information on one of the Executive Departments, and must under the rules lie over for one day.

The SPEAKER. The gentleman from Maryland moves to suspend that and all other rules.

Mr. COX. I suggest to the gentleman from Maryland that the resolution might be enlarged to include all the correspondence relative to the subject.

Mr. DAVIS, of Maryland. I think that the resolution covers the ground.

The rules were suspended.

Mr. DAVIS, of Maryland, demanded the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. DAVIS, of Maryland, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### DUTIES ON IMPORTS.

Mr. STEVENS, by unanimous consent, from the Committee of Ways and Means, reported a joint resolution amendatory of the joint resolu-

tion to increase temporarily the duties on imports approved April 29, 1864, which was read a first and second time.

The resolution was read *in extenso*, as follows:

Whereas a joint resolution of Congress to increase temporarily the duties on imports was approved by the President on the 29th of April; at thirty minutes past seven o'clock, p. m., but was not promulgated until the day following, to wit, April 30, 1864: Therefore,

*Resolved*, That the resolution shall not be deemed to have taken effect until the said 30th day of April, 1864; and the said resolution shall not be construed to include goods in public store or bonded warehouse, or bonded for warehousing or transportation prior to the said 30th day of April, 1864; and any duties which shall have been exacted and received contrary to the provisions of this resolution shall be refunded by the Secretary of the Treasury.

Mr. STEVENS. I have merely to say that upon consultation with the Treasury Department I ascertained that although the Secretary felt bound by the decision of the Supreme Court which would hold this resolution operative on Friday, although no one had notice of it, and it was not signed until half past seven o'clock in the evening, yet he thought it unjust, and desires to have it amended accordingly. Many merchants who paid that day at the old rates have been called upon to pay according to the new rates, which are fifty per cent. in advance of the old. I look upon that as evidently unjust; and the Secretary looks upon it in the same way.

Mr. BROOKS. I am glad the honorable gentleman from Pennsylvania has introduced that resolution, as a matter of justice to the country, and especially to the importers of the city of New York, which I in part represent. But permit me to remark that this resolution only shows the perilous mode in which this House does business. We do a thing one Monday with great rapidity, and we have to undo it on the next Monday. I am very glad that this legislation is being undone.

Mr. STEVENS. I demand the previous question.

The previous question was seconded, and the main question was ordered to be put; and under the operation thereof the resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEVENS moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### NORTHERN PACIFIC RAILROAD.

Mr. STEVENS. I ask unanimous consent to introduce a bill for the purpose of having it printed and recommitteed.

The bill was read by its title, as follows: "A bill granting land to aid in the construction of a railroad and telegraph line from Lake Superior to Puget sound on the Pacific coast by the northern route."

Mr. SPALDING. I object.

Mr. STEVENS. I move to suspend the rules.

Mr. WILSON. I rise to a question of order. I desire to know whether that subject has been referred to the committee since they last reported—they being a select committee.

The SPEAKER. The gentleman offered the bill as a member, and moves to have it referred to the committee.

Mr. WILSON. I understood the gentleman to say that he reported it, and moved to recommit it.

The SPEAKER. If he did, then it might not be in order.

Mr. STEVENS. The committee had before them two bills upon this subject.

The SPEAKER. Then they have the right.

Mr. WILSON. They have reported upon the two bills which were referred to them. They made up their report upon the two bills.

The SPEAKER. The Chair will state also, that a bill has been referred to that committee today, and that would revive the committee. But the committee, is not discharged, because they state that they have under consideration several matters referred to them.

Mr. WASHBURN, of Illinois, called for the yeas and nays upon the motion to suspend the rules, and also tellers upon the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The rules were suspended, and

Mr. STEVENS reported the bill, which was read a first and second time, and recommitteed to the committee.

Mr. WILSON moved to reconsider the vote by which the bill was recommitteed; and also moved to lay the motion to reconsider on the table.

There being, on a division—yeas 31, noes 63, Mr. WILSON withdrew the motion.

The SPEAKER. The gentleman asks that the bill may be printed.

Mr. WASHBURN, of Illinois. I object.

The SPEAKER. A majority can order the printing.

The motion to print was agreed to.

#### LEAVE OF ABSENCE.

Mr. WASHBURN, of Illinois. I ask leave of absence for two weeks for my colleague, Mr. NORTON, on account of ill health. I desire to say that he is paired with Mr. STUART.

Leave of absence was granted accordingly.

#### SUSPENSION OF NEWSPAPERS IN NEW YORK.

Mr. PRUYN. I move to suspend the rules in order to introduce the resolution which was submitted by me a few moments ago in reference to the *World* and the *Journal of Commerce*, and which was submitted by me in behalf of all my associates seated upon this side of the House.

Mr. STEVENS. I ask the gentleman to allow us to go to the consideration of the appropriation bill which we were upon Friday. It is of more importance.

Mr. PRUYN. I consider this subject of greater importance to the country than any other.

The SPEAKER. Debate is not in order.

Mr. PRUYN. I simply wish to ask leave of the House for a purpose which I will state. I beg leave to ask permission of the House, before the vote is taken on my motion to suspend the rules, not only for myself but for all my friends upon this side of the House who form a part of the New York delegation.

Mr. WILSON. I object.

The SPEAKER. The Chair thinks what the gentleman is saying is in the nature of debate.

Mr. PRUYN. I say on behalf of myself and others, and they could not all rise.

The SPEAKER. The Chair thinks it is in the nature of debate.

Mr. PRUYN. I ask leave of the House to present to the House very briefly the reasons which have led me to present the resolution, and then I will ask leave to offer it.

Mr. WILSON, and Mr. DAVIS of Maryland, objected.

Mr. PRUYN. I move, then, that the rules be suspended to enable me to offer the resolution.

Mr. KERNAN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 54, nays 79; as follows:

YEAS—Messrs. James C. Allen, Augustus C. Baldwin, Bliss, Brooks, Jacob B. Blair, Blow, Boutwell, Boyd, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Garfield, Gooch, Grinnell, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, Ingersoll, Jenekes, Julian, Kelley, Francis W. Kellogg, Loan, Longyear, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Amos Myers, Leonard Myers, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spaulding, Stevens, Thayer, Thomas, Upson, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Williams, Wilder, Wilson, Windom, and Woodbridge—79.

NAYS—Messrs. Alley, Ames, Arnold, John D. Baldwin, Baxter, Beaman, Jacob B. Blair, Blow, Boutwell, Boyd, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Garfield, Gooch, Grinnell, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, Ingersoll, Jenekes, Julian, Kelley, Francis W. Kellogg, Loan, Longyear, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Amos Myers, Leonard Myers, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spaulding, Stevens, Thayer, Thomas, Upson, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Williams, Wilder, Wilson, Windom, and Woodbridge—79.

So (two thirds not voting in favor thereof) the rules were not suspended.

During the roll-call,

Mr. KERNAN stated that Mr. GANSON was absent from the city, being one of the committee appointed to attend the remains of General Wadsworth.

Mr. RADFORD made a similar statement in regard to Mr. WINFIELD.

Mr. JOHNSON, of Pennsylvania, stated that Mr. ANCONA had been called home by sickness in his family.

The result of the vote having been announced as above recorded,



Mr. STEVENS obtained the floor.

Mr. PRUYN. I ask leave of the House to print the remarks I intended to make in behalf of myself and my associates.

Mr. WILSON. I object.

Mr. STEVENS. I see no objection to his printing them in any of the New York papers. [Laughter.]

Mr. PRUYN. I thank the gentleman for the suggestion.

Mr. KERNAN. We want them in the Globe, for the New York papers may be suppressed.

#### PREVENTION OF SMUGGLING.

Mr. ELIOT, by unanimous consent, from the Committee on Commerce, reported back, with an amendment in the nature of a substitute, bill of the Senate No. 266, to prevent smuggling, and for other purposes.

The bill was recommitted to the committee, and the substitute was ordered to be printed.

#### LEGISLATIVE APPROPRIATION BILL.

Mr. STEVENS. I now call up the Senate amendments to the legislative appropriation bill, postponed till this day.

#### THE BANK BILL.

Mr. HOOPER. I ask the unanimous consent of the House to take from the Speaker's table the bill commonly known as the bank bill, for the purpose of non-concurring in the amendments of the Senate, and asking a committee of conference.

Mr. CHANLER. I object.

Mr. WASHBURN, of Illinois. I suggest to the gentleman from Massachusetts that he can move to go to the Speaker's table.

Mr. STEVENS. I cannot yield any further.

Mr. WASHBURN, of Illinois. I suggest to the gentleman from Pennsylvania that he allow us to go to the Speaker's table and dispose of the bills there.

Mr. STEVENS. I would like first to get rid of this bill with the Senate amendments to it.

#### EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, in response to the resolution of the House of Representatives, dated December 15, 1863, requesting a copy of the report of Major General Blunt in respect to speculations on the Government in removing certain refugee Indians, &c., stating that search has been made for the report in the several bureaus of the War Department, and that their records show that it has not been received by them; that Major General Blunt was called on for a copy of it but that he was unable to furnish a copy; it was therefore impossible to comply with the resolution of the House; which was laid on the table, and ordered to be printed.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

The House then proceeded, as in Committee of the Whole, in accordance with the order adopted on Friday last, to consider the amendments of the Senate to the bill of the House (No. 192) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1865:

First amendment of the Senate:

Page 3, line forty-four, strike out "four hundred and eighty" and insert in lieu thereof "six hundred."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Second amendment:

Page 3, line forty-seven, add as follows:

Captain of the Capitol police, \$370; Capitol police, \$11,880; one policeman, \$480.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Third amendment:

Page 3, line forty-six, strike out "seventy-nine" and insert in lieu thereof "ninety-two."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Fourth amendment:

Page 3, line forty-six, strike out "and fourteen" and insert in lieu thereof "four hundred and eighty-four."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

The four amendments adopted will make the latter clause of the paragraph providing salaries for the officers of the Senate read as follows:

Two laborers at \$600 each; Chaplain to the Senate, \$750, making \$32,484; captain of the Capitol police, \$370; Capitol police, \$11,880; one policeman, \$480.

Fifth amendment:

Page 4, strike out, "for Capitol police, \$12,275."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Sixth amendment:

Page 8, insert, "for mapping in cases pending in the Supreme Court of the United States, \$5,000."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Seventh amendment:

Page 8, line one hundred and sixty-five, insert the word "three" before the word "laborers," so as to make the paragraph read, "for compensation of Librarian, three assistant librarians, messenger, and three laborers, \$10,500."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Eighth amendment:

Page 8, insert as follows:

To enable the Joint Library Committee to purchase a complete file of selections, from European periodicals from 1861 to 1864, relating to the rebellion in the United States, to be deposited in the Library, \$4,000: *Provided*, That no part of said sum shall be expended until the entire collection, and an index thereto, is completed and approved by said committee.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Ninth amendment:

Page 10, insert as follows:

And so much of the second section of the act of Congress approved August 8, 1846, entitled "An act to provide for the more effectual publication of the laws of the United States," as restricts the publication of the said laws in two of the newspapers of each of the States and Territories of the United States, be, and the same is hereby, repealed, in respect to States and Territories bordering on other States or Territories under the military control of insurgents: *Provided*, That the said laws be not published in more than four newspapers in any such border State or Territory: *And provided, also*, That the publication aforesaid shall not require any further appropriation by Congress to defray the expense thereof.

The Committee of Ways and Means recommended non-concurrence in the amendment.

The amendment was non-concurred in.

Tenth amendment:

Page 10, line two hundred and thirty-three, strike out the words "blank-books, binding" after the word "stationery."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Eleventh amendment:

Same page, line two hundred and thirty-four, strike out "\$10,000" and insert in lieu thereof "\$9,000."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

The paragraph, as amended, under the heading of "for the incidental and contingent expenses of the Department of State," would read as follows:

For stationery, furniture, fixtures, and repairs, \$9,000.

Twelfth amendment:

Page 11, line two hundred and forty-nine, after the word "clerks," under the heading of "Treasury Department," insert "superintending architect at a salary of \$3,000, assistant architect at a salary of \$2,000."

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Thirteenth amendment:

Same paragraph strike out "\$17,400" and insert in lieu thereof "\$16,400."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

The paragraph, as amended, reads:

For compensation of the Secretary of the Treasury, two Assistant Secretaries of the Treasury, chief clerk, clerks, superintending architect, at a salary of \$3,000, assistant architect, at a salary of \$2,000, messengers, assistant messenger, and laborers, \$16,400.

Fourteenth and fifteenth amendments:

Strike out "\$112,940" and insert in lieu thereof "\$107,140;" so as to make the paragraph read:

For compensation of the Second Comptroller, chief clerk,

and the clerks, messenger, assistant messenger, and laborer in his office, \$107,140.

Sixteenth amendment:

Strike out "twenty-two" and insert "thirty-seven."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Seventeenth amendment:

Strike out "five" and insert "three."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

The paragraph, as amended, reads:

For compensation of the Second Auditor, chief clerk, and the clerks, messenger, assistant messengers, and laborers in his office, \$337,340.

Eighteenth amendment:

Strike out "\$47,640" and insert in lieu thereof "\$47,840;" so that it will read:

For compensation of the Fifth Auditor, chief clerk, and the clerks, messenger, and laborer in his office, \$47,840.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Nineteenth amendment:

In the paragraph "for compensation of the Treasurer of the United States, Assistant Treasurer, cashier, assistant cashier, chief clerk, and the clerks, messengers, assistant messengers, and laborers in his office, \$109,980," after the word "cashier" insert the words "chiefs of divisions."

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Twentieth amendment:

In the same paragraph, before the word "clerks" insert the word "officers."

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Twenty-first amendment:

In the same paragraph, after the word "messengers" insert the word "employees."

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Twenty-second amendment:

In the same paragraph strike out "nine" and insert "seventy."

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Twenty-third amendment:

In the same paragraph strike out "nine" and insert "three."

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Twenty-fourth amendment:

In the same paragraph strike out "eighty" and insert "forty."

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Twenty-fifth amendment:

Strike out "\$50,000" and insert "\$30,000;" so that the paragraph will read:

For compensation of temporary clerks in the Treasury Department: *Provided*, That the Secretary of the Treasury be, and he is hereby, authorized, in his discretion, to classify the clerks authorized according to the character of their services, or assign to such of them as he shall see fit any compensation not exceeding that of clerks of the first class, \$30,000.

Mr. PENDLETON. On behalf of the Committee of Ways and Means, I move to agree to the amendment of the Senate, with an amendment, which is to strike out "\$30,000" and insert "100,000."

Mr. HOLMAN. It seems to me, Mr. Speaker, that the amendment to the amendment, at least, should not be agreed to.

Mr. PENDLETON. I ask that some letters from the Treasury Department explanatory of this item shall be read.

The letters were read.

The amendment to the amendment was agreed to; and the Senate amendment as amended was concurred in.

Twenty-sixth amendment:

Strike out the words "blank-books, binding."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

**Twenty-seventh amendment:**

Strike out "\$2,000" and insert in lieu thereof "\$1,500."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

The paragraph, as amended, reads:

For stationery and miscellaneous items, including subscription to one city newspaper, to be bound and preserved for the use of the office, \$1,500.

**Twenty-eighth amendment:**

Strike out the words "blank-books, binding."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

**Twenty-ninth amendment:**

Strike out "five" and insert "three."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

The paragraph, as amended, reads:

For stationery and miscellaneous items, \$1,300.

**Thirtieth amendment:**

Strike out the words "required for a large number of temporary clerks;" so that the paragraph will read:

In the office of the Second Auditor:

For stationery, office furniture, and miscellaneous items, including two of the city newspapers, to be filed and preserved for the use of the office, and for additional office furniture and stationery, \$15,000.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

**Thirty-first amendment:**

Strike out the words "blank-books, binding."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

**Thirty-second amendment:**

Strike out "five" and insert "four."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

The paragraph, as amended, reads:

In the office of the Third Auditor:

For stationery, office furniture, carpeting, two newspapers, preserving files and papers, bounty land service, and miscellaneous items, \$4,000.

**Thirty-third amendment:**

Strike out "blank-books."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

**Thirty-fourth amendment:**

Strike out "\$2,000" and insert "\$1,500."

The Committee of Ways and Means recommended concurrence, with the following amendment:

Strike out "\$1,500" and insert "\$1,800."

The amendment to the amendment was agreed to; and the Senate amendment, as amended, was concurred in.

The paragraph, as amended, reads:

In the office of the Fifth Auditor:

For stationery, postage, and miscellaneous expenses, in which are included two daily newspapers, \$1,800.

**Thirty-fifth amendment:**

Strike out "blank-books, binding."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

**Thirty-sixth amendment:**

Strike out "six hundred."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

The paragraph, as amended, reads:

For furniture, carpeting, stationery, labor, light, ice, and miscellaneous items, \$3,000.

**Thirty-seventh amendment:**

Strike out "blank-books, binding."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

**Thirty-eighth amendment:**

Strike out "two hundred."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

The paragraph, as amended, reads:

For stationery, labor, and miscellaneous items, and for statutes and reports, \$2,000.

**Thirty-ninth amendment:**

Strike out "blank-books."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

**Fortieth amendment:**

Strike out "binding."

The Committee of Ways and Means recommended concurrence, with an amendment, as follows:

Increase the appropriation from \$1,000 to \$2,000.

The amendment to the amendment was agreed to; and the Senate amendment, as amended, was concurred in.

The paragraph, as amended, reads:

Office of the Commissioner of Customs:

For stationery, miscellaneous items, and office furniture, \$2,000.

**Forty-first amendment:**

Strike out "blank-books."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

**Forty-second amendment:**

Strike out "eight" and insert "six."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

The paragraph, as amended, reads:

For stationery, furniture, and miscellaneous items, \$6,000.

**Forty-third and forty-fourth amendments:**

Insert the following:

For additional clerks in the Pension Bureau, during the remainder of the present fiscal year and the fiscal year ending the 30th of June, 1865, the sum of \$21,009: *Provided*, That the Secretary of the Interior, at his discretion, shall be, and is hereby, authorized to use any portion of said appropriation for piece-work, or by the day, week, month, or year, at such rate or rates as he may deem just and fair, not exceeding a salary of \$1,200 per annum.

The Committee of Ways and Means recommended concurrence.

The amendments were concurred in.

**Forty-fifth amendment:**

Strike out "blank-books, binding."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

**Forty-sixth amendment:**

Strike out "five" and insert "four."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

The paragraph, as amended, reads:

For stationery, and miscellaneous items, including two of the daily city newspapers, to be filed, bound, and preserved for the use of the office, \$4,000.

**Forty-seventh amendment:**

In line four hundred and fifty-five, after the word "stationery," strike out the words "blank-books, binding books."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

**Forty-eighth amendment:**

In the same clause strike out "fifteen" and insert "twelve."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

The clause, as above amended, will read:

For stationery, engraving, and retouching plates for bounty land warrants, and binding the same, office furniture, and repairing the same, and miscellaneous items, including two city daily newspapers, to be filed, bound, and preserved for the use of the office, \$12,000.

**Forty-ninth amendment:**

Strike out the words "blank books" from the following clause relating to the office of the Commissioner of Public Buildings:

For stationery, blank-books, plans, drawings, and other contingent expenses of his office, \$500.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

**Fiftieth amendment:**

Line five hundred and thirty-three strike out "1864," and insert "1865;" so that the clause will read:

For defraying the expenses of the supreme, circuit, and district courts of the United States, including the District of Columbia; also for jurors and witnesses, in aid of the funds arising from fines, penalties, and forfeitures incurred

in the fiscal year ending June 30, 1865, and previous years, &c.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

**Fifty-first and fifty-second amendments:**

Lines five hundred and forty-four and five hundred and forty-five strike out "ninety-two;" and insert "two hundred and twenty-three;" and strike out "one" and insert "nine;" so that the clause will read:

For compensation of the clerks and messengers in the office of the Adjutant General, \$223,920.

The Committee of Ways and Means recommended concurrence.

The amendments were concurred in.

**Fifty-third and fifty-fourth amendments:**

In lines five hundred and forty-nine and five hundred and fifty strike out "one hundred and eighty-one" and insert "three hundred and ninety;" and strike out "five" and insert "seven;" so that the clause will read:

For compensation of the clerks, messengers, assistant messengers, and laborers in the office of the Quartermaster General, \$390,160.

The Committee of Ways and Means recommended concurrence.

The amendments were concurred in.

**Fifty-fifth and fifty-sixth amendments:**

Increase the appropriation for the compensation of the clerks and messengers in the office of the Paymaster General from \$109,480 to \$255,200.

The Committee of Ways and Means recommended concurrence.

The amendments were concurred in.

**Fifty-seventh amendment:**

Increase the appropriation for the compensation of the clerks, messengers, and laborers in the office of the Commissary General from \$35,640 to \$55,640.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

**Fifty-eighth and fifty-ninth amendments:**

Increase the appropriation for the compensation of the clerks, messengers, and laborer in the office of the chief engineer from \$25,680 to \$28,880.

The Committee of Ways and Means recommended concurrence.

The amendments were concurred in.

**Sixtieth and sixty-first amendments:**

Increase the appropriation for the compensation of the clerks and messenger in the office of the colonel of ordnance from \$37,640 to \$172,040.

The Committee of Ways and Means recommended concurrence.

The amendments were concurred in.

**Sixty-second amendment:**

Strike out the words "blank-books" from the following clause relating to the office of the Secretary of War:

For blank-books, stationery, labor, books, maps, extra clerk hire, and miscellaneous items, \$20,000.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

**Sixty-third amendment:**

Strike out the words "blank-books" and the word "binding."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

**Sixty-fourth amendment:**

Strike out "ten" and insert "fifteen."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

The clause, as amended, reads:

Office of the Adjutant General:

For stationery and miscellaneous items, \$15,000.

**Sixty-fifth amendment:**

Strike out the words "blank-books" and the word "binding;" so that the clause will read:

Office of the Quartermaster General:

For stationery and miscellaneous items, \$15,000.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

**Sixty-sixth amendment:**

Strike out "blank-books" and "binding;" so that the clause will read:

Office of the Paymaster General:

For stationery and miscellaneous items, \$6,000.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

**Sixty-seventh amendment:**

Strike out the words "blank-books" and the words "and binding, including."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Sixty-eighth amendment:

Insert the words "and miscellaneous items."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

The clause, as amended, reads:

Office of the Commissary General:

For stationery, rent of office and hire of watchmen, and miscellaneous items, \$15,000.

Sixty-ninth amendment:

Strike out the words "blank-books" and the word "binding;" so that the clause will read:

Office of the Chief Engineer:

For stationery and miscellaneous items, \$3,500.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Seventieth amendment:

Strike out the words "blank-books" and "binding;" so that the clause will read:

Office of the Surgeon General:

For stationery and miscellaneous items, including rent of office, \$10,000.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Seventy-first amendment:

Strike out the words "blank-books" and "binding."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Seventy-second amendment:

Strike out the words "including \$1,000 for library, \$11,000," and insert in lieu thereof, "\$7,500."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

The clause, as amended, reads:

Office of the Colonel of Ordnance:

For stationery and miscellaneous items, \$7,500.

Seventy-third amendment:

Strike out the words "blank-books, binding;" so that the clause will read:

Office Secretary of the Navy:

For stationery, labor, newspapers, periodicals, and miscellaneous items, \$3,440.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Seventy-fourth amendment:

Strike out the word "books;" so that the clause will read:

Bureau of Yards and Docks:

For stationery, plans, drawings, and incidental labor, \$800.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Seventy-fifth amendment:

Strike out the word "books;" so that the clause will read:

Bureau of Equipment and Recruiting:

For stationery and miscellaneous items, \$500.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Seventy-sixth amendment:

Strike out the words "blank-books;" so that the clause will read:

Bureau of Navigation:

For stationery and miscellaneous items, \$800.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Seventy-seventh amendment:

Strike out the words "blank-books;" so that the clause will read:

Bureau of Ordnance:

For stationery and miscellaneous items, \$1,000.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Seventy-eighth amendment:

Strike out the words "blank-books, binding;" so that the clause will read:

Bureau of Construction and Repair:

For stationery and miscellaneous items, \$1,000.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Seventy-ninth amendment:

Strike out the words "blank-books, binding;" so that the clause will read:

Bureau of Steam Engineering:

For stationery and miscellaneous items, \$1,200.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Eightieth amendment:

Strike out the words "blank-books;" so that the clause will read:

Bureau of Provisions and Clothing:

For stationery and miscellaneous items, \$1,000.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Eighty-first amendment:

Strike out the words "blank-books;" so that the clause will read:

Bureau of Medicine and Surgery:

For stationery and miscellaneous items, \$450.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Eighty-second amendment:

Strike out the words "blank-books, binding, and."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Eighty-third amendment:

Insert the words "fuel for."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

The clause, as amended, reads:

Contingent expenses of the Post Office Department:

For stationery, fuel for the General Post Office building, including fuel for the Auditor's office, oil, gas, and candles, printing, repair of the General Post Office building, office furniture, glazing, painting, whitewashing, and for keeping the fire-places and furnaces in order; for engineer, (for steam engine,) laborers, watchmen, repairs of furniture, and for miscellaneous items, \$35,000.

Eighty-fourth amendment:

Under the heading "Department of Agriculture" strike out the following:

For compensation of Commissioner of Agriculture, chief clerk, botanist, entomologist, and chemist, \$11,000.

For compensation of clerks, draughtsman, assistant chemist, translator, messengers, and laborers, \$29,600.

For contingencies, viz:

For stationery, wood, coal, gas, and miscellaneous items, \$3,500.

For collecting agricultural statistics, \$23,000.

For the payment of articles furnished for the agricultural report for 1861, \$3,393.

For the purchase of library, \$1,000.

For purchase of laboratory, \$5,000.

For purchase and distribution of new and valuable seeds, viz:

For purchase of cereal, vegetable, and flower seeds, \$30,000.

For seed-room:

For compensation of superintendent and clerks, \$5,000.

For seed-bags and bagging, and distribution of seeds, \$24,000.

For contingencies of seed-room, viz:

For coal, gum, packing paper, and miscellaneous items, \$3,000.

For propagating garden, for propagation and distribution of valuable plants, cuttings, and shrubs, viz:

For labor, repairs of old propagating house, new propagating house, rebuilding shop, and for purchase of trees, cuttings, vines, and bulbs, \$10,800: *Provided*, That such trees, cuttings, vines, and bulbs, so purchased or which shall be propagated, shall be such as are adapted to general cultivation and to promote the general interests of horticulture and agriculture throughout the United States.

For experimental garden on reservation number two, viz:

For salary of foreman and laborers, \$3,000.

For keep of a horse, stable, and necessary buildings, and for seeds, manure, tools, and miscellaneous items, \$2,000.

For furniture for the Department, viz:

Carpets, desks, and stoves, \$800.

And insert in lieu thereof the following:

For compensation of the Commissioner of Agriculture, chief clerk, one clerk of the fourth class, four clerks of the third class, four clerks of the second class, six clerks of the first class, an entomologist at an annual salary of \$3,000, a chemist at an annual salary of \$2,000, an assistant chemist at an annual salary of \$1,400, a draughtsman at an annual salary of \$1,400, a translator at an annual salary of \$1,200, two messengers at an annual salary of \$600, and two laborers at an annual salary of \$400 each, \$33,800.

For contingencies, viz:

For stationery, wood, coal, gas, and miscellaneous items, \$3,500.

For collecting agricultural statistics, and information for reports, \$20,000.

For furniture, viz:

Carpets, desks, and stoves, \$800.

For the purchase of a library and laboratory, \$4,000.

For purchase and distribution of new and valuable seeds, and for labor in putting up seeds, seed-bags, and bagging, \$54,000.

For compensation of superintendent of seed-room, at an

annual compensation of \$1,600, and for two clerks of the first class, \$4,000.

For contingencies of seed-room, viz:

Coal, gum, packing paper, and miscellaneous items, \$3,000.

For propagating garden, for propagation and distribution of valuable plants, cuttings, and shrubs, viz:

For labor, for repair of old propagating house, new propagating house, rebuilding shop, and for purchase of trees, cuttings, vines, and bulbs, \$10,800: *Provided*, That such trees, cuttings, vines, and bulbs so purchased or which shall be propagated shall be such as are adapted to general cultivation and to promote the general interest of horticulture and agriculture throughout the United States.

For experimental garden on reservation number two, viz:

For salary of foreman and laborers, \$3,000.

For keep of a horse and stable, and for seeds, manure, tools, and miscellaneous items, \$2,000.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Eighty-fifth amendment:

Under the heading of "Territory of Idaho" strike out "\$33,320" and insert in lieu thereof "\$20,000;" so that the paragraph will read:

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, \$20,000.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Eighty-sixth amendment:

Insert the following:

Territory of Idaho. For the fiscal year ending June 30, 1864:

For salary of Governor, chief justice and two associate judges, and secretary, \$12,000.

For contingent expenses of the Territory, \$1,000.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, \$20,000.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Eighty-seventh amendment:

After the word "sixty" insert the word "one;" so that the paragraph will read:

For salaries of the Chief Justice and nine associate justices, \$61,500.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Eighty-eighth amendment:

Strike out the following:

For salaries of clerks in the office of the Assistant Treasurer at St. Louis, \$3,000.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Eighty-ninth amendment:

Strike out the words "fourth section of;" so that the paragraph will read:

For compensation to designated depositaries under act of August 6, 1846, for the collection, safe-keeping, transfer, and disbursement of the public revenue, \$8,000.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Ninetieth amendment:

Under the heading of the "Metropolitan Police" strike out "for salaries and other necessary expenses of the metropolitan police for the District of Columbia, \$110,000," and insert in lieu thereof the following:

For salaries of superintendent, sergeants of police, and police patrolmen, \$62,900, and that the salaries of said superintendent, sergeants, and police patrolmen are hereby increased twenty per cent., and that one half of the salaries and other necessary expenses of the metropolitan police, provided for in the act entitled "An act to create a metropolitan police district of the District of Columbia, and to establish a police therefor," approved August 6, 1861, and in this act, are hereby imposed upon and shall be borne by, after the 30th day of June next, the cities of Washington and Georgetown and the county of Washington, and in the following proportion, to wit: the city of Washington twelve fifteenths, the city of Georgetown two fifteenths, and the county of Washington one fifteenth.

The Committee of Ways and Means recommended concurrence in the Senate amendment, with the following amendment:

Strike out all of said Senate amendment to be inserted after the word "salaries" and insert in lieu thereof the following:

And other necessary expenses of the metropolitan police for the District of Columbia, \$110,000; and the compensation of said metropolitan police force, officers and clerks, be, and the same is hereby, increased fifty per cent., commencing on the 1st of July, 1864, said increase to be borne by the cities of Washington and Georgetown and the county of Washington, in the District of Columbia, in the proportion equal to the number of patrolmen allotted severally to the city of Washington, to the city of Georgetown, and the county of Washington, beyond the limits of said cities. And the corporation authorities of said cities of Washington and Georgetown, and the levy court of said county, be,



and they are hereby, authorized and empowered to levy a special tax not exceeding one quarter of one percent. for the purpose aforesaid.

**Mr. HOLMAN.** Mr. Speaker, the Committee of Ways and Means proposes by the amendment reported to the Senate amendment to increase the pay of the metropolitan police fifty per cent., and to impose the payment of that additional amount on the corporations of Washington county, Washington city, and Georgetown city. The policy of increasing this pay twenty per cent. as proposed by the Senate, or fifty per cent. as proposed by the Committee of Ways and Means, is the main question involved here. Probably some member of the Committee of Ways and Means can give the House a good reason for the proposition.

**Mr. MORRIS, of Ohio.** The present pay of the metropolitan police is forty dollars per month; and the appropriation of \$110,000 is only to pay them at that rate. The increase of fifty per cent. will fix their pay at sixty dollars per month. Every gentleman here knows that even sixty dollars a month is too small a compensation for these men. I would be in favor of increasing their present pay one hundred per cent.—the increase to be levied on the citizens.

**Mr. HOLMAN.** Will the gentleman inform the House as to the number of persons employed in the metropolitan police?

**Mr. MORRIS, of Ohio.** I cannot say exactly. Their annual compensation is only \$480, while we are paying the Capitol police from eleven to twelve hundred dollars a year. Certainly the increase recommended is not unreasonable.

**Mr. HOLMAN.** The argument which the gentleman from Iowa suggests is the usual argument urged in increasing salaries. By some means or other through political partiality the salary of some officer is raised, and that is made the ground of argument of raising the salaries of other officers; because, unfortunately and improperly, the salaries of one set of policemen were raised from \$600 to \$1,320 it seems to me is no argument for increasing the salary of all policemen in the District, especially while so large a portion of our people, and certainly the most meritorious part, are employed at a compensation of only thirteen dollars per month, and, taking into consideration the rations they receive, not more than twenty dollars per month. And now that it has been increased to sixteen dollars per month, with the rations, makes only twenty-four dollars per month. While the Government is struggling for its life it seems to me that gentlemen ought not to insist on this increase of compensation to these policemen. You have increased the pay of your soldiers from thirteen dollars to sixteen dollars per month, and here the House proposes to increase the pay of these men, who perform not military but merely police services, fifty per cent. [Here the hammer fell.]

**Mr. MORRIS, of Ohio.** Mr. Speaker, the gentleman from Indiana certainly well knows that the members of the metropolitan police live in Washington, and probably most of them are renters; and he knows from what he pays for his room or suite of rooms that the police officers who get but forty dollars a month, out of which they have to pay house-rent and buy provisions at a rate at which butter at sixty cents a pound is an example, cannot support their families on any such pay. If I could have my way I would make the increase one hundred per cent. and provide that the additional salary should be paid by the cities of Washington and Georgetown and adjoining county. We know that there is no city in the United States where the citizens pay so little taxes as do the people of Washington.

I understand when the Senate struck out the original appropriation of \$110,000 which passed this House and inserted \$62,000 in place of it, it was with the understanding and expectation that a like sum was to be raised by the people of these cities and county for that purpose. The proposition now is to retain the original appropriation of \$110,000 and to require \$55,000 additional to be raised by these cities and county.

**Mr. HOLMAN.** Is there any good reason why the entire expenses should not be borne by the people here?

**Mr. STEVENS.** Will the gentleman allow me to answer the question? This increase was to be added at the expense of the citizens of the

cities of Washington and Georgetown, they agreeing and desiring that it should be done. The Government does not pay one dollar of the proposed increase.

**Mr. HOLMAN.** I desire to submit an amendment to the amendment now pending. I move to amend by striking out the appropriation for the metropolitan police, leaving their compensation to be paid by the cities of Washington and Georgetown and the county of Washington.

**Mr. MORRIS, of Ohio.** In reply to the question asked me by the gentleman from Indiana, why any portion of this sum should be paid by the Government, I will say that the Government owns nearly one half of the real estate of the city of Washington—the proportion being that of \$30,000,000 to \$34,000,000—and it seems to me that they should bear their proportion of the expenses of the city, and especially when Congress has under the Constitution the exclusive legislation for the District. The gentleman will remember too that this police was, in the first instance, provided for by Congress at the expense of the Government.

**Mr. HOLMAN.** The suggestion of the gentleman from Ohio, with the fact that this subject has already been before the House, leads me to decline to submit any proposition with a hope of its being adopted. I will modify my amendment by striking out "fifty" and inserting "twenty." I am opposed to any increase of these salaries.

**Mr. STEELE, of New York.** Does the gentleman from Indiana think that the police of this city are necessary?

**Mr. HOLMAN.** I do.

**Mr. STEELE, of New York.** They cannot actually go on, they cannot live, unless they are paid more than they are now paid.

**Mr. HOLMAN.** Mr. Speaker, we heard a great deal of virtuous indignation at an early day of the session in reference to the increase of salaries. It was stated again and again, by gentlemen on this and the other side of the House, that during the existing vast pressure upon the finances of the country there should be no increase of salaries. The compensation of the soldiers was not increased, upon the score of economy, until we passed a bill providing for a severe taxation of the country. Then as soon as that measure was adopted—

**Mr. BEAMAN.** I presume that the gentleman from Indiana will at least offer an amendment to give those policemen rations. There can, I think, be no objection to that, because the soldier gets his rations.

**Mr. HOLMAN.** Would the police consent to receive the same rations as soldiers? I do not think that they would be willing to receive the same pay and rations. They do not incur the hardships and perils incident to the field; still if they are willing to receive sixteen dollars a month and the rations of our soldiers I do not know that I will object to it. The soldiers of our Army possess the same capacity for public affairs as the police or any men in any other department of the public service, and yet, in this great struggle, we are constantly making this discrimination against the stalwart men who are defending our public liberty. Are not their services and danger entitled to as much compensation?

**Mr. BROWN, of Wisconsin.** I ask the gentleman this question. Because we cheat and plunder our soldiers, is that any reason why we should not pay a fair compensation to other persons?

**Mr. HOLMAN.** I am not indulging in any such argument. The argument the gentleman offers is like that of the gentleman from Ohio, [Mr. MORRIS,] that because we pay certain policeman \$1,300 a year, therefore we must increase the pay of these policemen from forty dollars a month to sixty dollars. This comparative reasoning is always fallacious. I say we ought not to increase any salaries at the present time. The condition of the country will not admit of it. That such is the impression on the mind of the House appears by the paltry increase of the pay of the rank and file of our Army.

**Mr. MORRIS, of Ohio.** This increase of fifty per cent. is asked for by the people of the cities of Washington and Georgetown and of the county of Washington. They propose to tax themselves to pay the increase.

**Mr. HOLMAN.** Does not the Senate amendment do that very thing?

**Mr. MORRIS, of Ohio.** One hundred and ten thousand dollars was the original sum reported by the Committee of Ways and Means, but the Senate struck it out. It is the sum which has been heretofore appropriated. The amendment proposes to allow Washington and Georgetown to increase the pay fifty per cent. They ask to pay it themselves, and I do not see how there can be any objection to so reasonable a proposition. The people are willing to tax themselves to pay these policemen fifty per cent. more than they now get, because they know that they cannot live on their present compensation, that they cannot keep their families and pay their rents.

**Mr. HOLMAN.** I modify my amendment so as to strike out all that relates to the fifty per cent. increase.

**Mr. HOLMAN's** amendment to the amendment was disagreed to.

The amendment of the Committee of Ways and Means was agreed to; and the Senate amendment, as amended, was concurred in.

#### Ninety-first amendment:

Insert after the word "buildings," in the deficiency appropriation for Capitol police, the words "to be paid only to loyal men."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

#### Ninety-second amendment:

Insert the following:  
For salary of warden of jail in the District of Columbia, \$1,600.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

#### Ninety-third amendment:

Insert the following:  
Sec. — And be it further enacted, That the office of the Treasurer of the United States be reorganized, under the direction of the Secretary of the Treasury, so as to authorize the employment of the officers and clerks, and with the annual salaries hereinafter specified, viz:

One Assistant Treasurer, with a salary of \$2,800.  
One cashier, with a salary of \$2,800; one assistant cashier, with a salary of \$2,500; one chief of the division of issues, with a salary of \$2,200; one chief of the division of redemption, with a salary of \$2,200; one chief of the division of loans, with a salary of \$2,200; one chief of the division of accounts, with a salary of \$2,200; one chief of the division of national banks, with a salary of \$2,200; two principal book-keepers, each with a salary of \$2,200; two tellers, each with a salary of \$2,200; two assistant tellers, each with a salary of \$2,000; one chief clerk, with a salary of \$2,000; fifteen clerks of class four, fifteen of class three, eleven of class two, nine of class one, one messenger in charge of mails, with a salary of \$1,000; nine messengers, with a salary of \$900 each; five messengers, with a salary of \$700 each; sixty female clerks, with a salary of \$600 each; five laborers, with a salary of \$600 each; and seven female laborers, at a salary of \$240 each. And the officers, clerks, and employees hereby authorized shall be in lieu of all the force now employed in the said office. And the amount necessary to pay the salaries of said officers, clerks, and employees, in addition to the amount heretofore provided for the present fiscal year, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

**Mr. HOLMAN.** It will be observed that no definite amount is appropriated by this section, and there is no estimate for it. It is only one of those instances in which a radical change is made not only in the number of public officers but in their compensation, and for which no Department can be held responsible in consequence of there being no open recommendation of the change and no estimate at all for the appropriation of the public money resulting from the change. I understand that all these different offices named here were offices unknown at the time the annual estimates were sent to Congress. The people of this country can never know anything of the extent of their expenditures if they look only to appropriations, for the simple reason that large appropriations are made independent of the estimates, and at the same time you hold no Department responsible for the expenditure. You have estimates laid upon the table, and you inform the country that they are the real estimate of expenditures; but before the proper bill is finally passed, item after item, appropriating hundreds of thousands of dollars, are added, for which Congress alone is responsible, and Congress ordinarily gives the matter but little consideration.

I should like to have the chairman of the Committee of Ways and Means give the House to understand to what extent there is an increase in this clerical force, and of these heads of divisions, and the various employees enumerated in this

amendment of a page and a half of the printed bill; how many were employed before, and how many it is proposed to employ now. I presume we shall have no information upon the subject. The House is acting in the dark upon the subject, and I presume no gentleman outside of the Committee of Ways and Means is aware of the number that have heretofore been employed, and what number is proposed to be employed hereafter by this amendment. We are acting upon no estimates and upon no recommendations, as far as I am informed. I object to acting upon amendments making appropriations of hundreds of thousands of dollars in reference to which no one outside of the Committee of Ways and Means can give us any information.

I think not a dollar should be appropriated except upon an estimate of the Department, and that there should be no increase in clerical force and heads of divisions, &c., without such a statement to the country and to Congress as will inform the whole people in what manner their money is being expended. But they will know nothing of this. In the midst of these tremendous expenditures, when the Treasury is so embarrassed, and our resources ought to be husbanded to the last extreme, while we will spend hours of time over partisan feuds, yet when the question affects the rights of the people and the expenditure of the money of the people, of which we should be the guardians, half a dozen men of the Ways and Means Committee are the only ones who have any information whatever upon the subject. I would like some member of the Committee of Ways and Means to explain the extent of this increased expenditure, and tell us what is the present clerical force and what the present number of heads of divisions, and also what increase is proposed by this amendment both in numbers and compensation. There is not the scratch of the pen, not a printed or written document from which gentlemen can obtain this information. I presume this measure will be adopted and these high salaries established, and then I suppose we will go home and tell our constituents in the midst of this great commotion we are unable to obtain the information upon which our expenditures are to be made, and deliberate properly on their affairs.

Gentlemen seem to be apprehensive of raising any question on the subject of expenses for fear of being called to account for "embarrassing the Administration" in the present state of public affairs. For one, as a Representative, and as the Representative of intelligent men, I will never consent to a change so radical as the one which is now proposed both in the number and pay of these employes without some knowledge of the data upon which we are called upon to act.

[Here the hammer fell.]

The question being upon concurring in the amendment of the Senate, it was put; and there were—ayes 48, noes 18; no quorum voting.

Mr. STEVENS demanded tellers.

Tellers were ordered; and Messrs HOLMAN, and KELLOGG of New York, were appointed.

The House divided; and the tellers reported—ayes 64, noes 28.

So the amendment was concurred in.

Ninety-fourth amendment:

Add as an additional section:  
Sec. — And be it further enacted, That from and after the present fiscal year the salary of the Treasurer of the United States shall be \$6,000 per annum.

The Committee of Ways and Means recommended concurrence.

Mr. HOLMAN. I believe the present salary of the United States Treasurer is \$5,000, and this is a proposition to increase it to \$6,000. This proposition is a little bolder and plainer than the one we have just passed upon, for it proposes a definite increase of salary.

This proposition comes from a party that came into power on the pretense of an improper expenditure of the public money in extravagant salaries. They charged that the Buchanan administration would ruin the country by its extravagance and profligacy. And yet now, when the nation is bearing everything that a nation can bear, it proposes to increase these already too large salaries. This repudiation of economy is one of the most remarkable instances of a party abandoning and violating its pledges that this or any other country has ever seen.

I know that the gentleman who fills this office is one of the most sterling and faithful officers in the public service, and he is well paid for his services. Five thousand dollars a year is a very good compensation for that officer or any other. There is not, to use my old comparison, a humble soldier in the Army who has a musket on his shoulder who is not, in a free Republic like ours, entitled to just as much consideration and to just as much compensation for his services as a gentleman who spends his time in superintending the affairs of one of your bureaus.

The salary is now \$5,000 and you propose to increase it to \$6,000. As the nation grows poorer, and as the people more and more shrink and writhe under the burdens you are imposing upon them, in the same proportion you increase expenditure and enlarge salaries, and will presume to go to your constituents and advocate the continuance in power of a party that is wholly indifferent to the woe and misery which the tremendous public debt you are creating is heaping upon the shoulders of the toil and labor of this country.

Why, sir, since God created the heavens and the earth there has never been such a disregard of the expenditure of the public treasure for unnecessary purposes as is exhibited here. I saw, after we had been trying for four long months to increase the pay of the soldier from thirteen dollars to twenty dollars a month, how unwillingly gentlemen opposite approached the question, and now we shall see whether you will vote to increase this already sufficient salary and other salaries so high that they ought to command and would command the very best talent in the country; we shall see whether, for the purpose of increasing these salaries, you will impose additional burdens on the country.

I shall ask for the yeas and nays upon this proposition, and let us determine whether this is to be the steady policy of the party in power, whether there is to be no end or limit to the wonderful extravagance and profligacy which now pervade Congress in the disposal of the public money.

Mr. KASSON. Mr. Speaker, I sought an opportunity to respond to the remarks made by the gentleman from Indiana on the preceding amendment. I should have done it, and explained even to the satisfaction, I trust, of the gentleman from Indiana, [Mr. HOLMAN], if that were possible, the reasons for the amendment. Unfortunately, the papers were not then in my possession, and the vote was taken before I had an opportunity to explain. I cannot recur, therefore, to that subject now, except incidentally. I wish to say on the point now before the House that if there be one officer under this Government who earns his salary over and over and over again it is the Treasurer of the United States, a man whose life has been almost sacrificed, as is well known to many members, by his excessive labors during the past and present year.

Mr. HOLMAN. And the lives of a great many thousand soldiers have been sacrificed during the same time, who were receiving only thirteen dollars a month.

Mr. KASSON. That officer is not at this moment paid at the rate fixed by Democratic precedent for the salary of an officer of less importance than that of the Treasurer of the United States. The Assistant Treasurer at New York, an officer subordinate to him, has a salary of \$6,000 a year, fixed by a Democratic Government at a time when the expense of living was hardly one half what it is at present, while millions upon millions of responsibility are accumulating in the office of the Treasurer of the United States here, in excess of that of the Assistant Treasurer in New York. The gentleman from Indiana having first introduced his harangue here (I beg his pardon for the phrase, I should say his speech) by the statement that we on this side of the House complained of high salaries, and by the further statement that we have been consuming time with buncombe speeches, rises on every one of these amendments—the only member who does so—and makes what every member of the House knows to be purely a buncombe speech, to be read in the country, and not intended to have any influence on the House.

Mr. HOLMAN. Mr. Speaker, if I understand that remark, it is a little personal. [Laughter.]

Mr. KASSON. I apply it in a political sense.

A MEMBER. The gentleman does it in a Pickwickian sense.

Mr. HOLMAN. If the gentleman from Iowa means to say that the remarks made by me on these amendments were not intended to influence the action of the House, he is laboring under a very great delusion. Did I understand the gentleman to say that my remarks here were not made in view of affecting the action of the House, but from other considerations?

Mr. KASSON. I made the remark that the speech was evidently calculated to be read elsewhere, and not to influence the action of the House, because the gentleman from Indiana made repeated allusion to our refusal to increase largely the pay of the Army at his own figures, which if done would make the expenses of prosecuting the war more than the Treasury could stagger under. Besides, Mr. Speaker, the country never can pay our soldiers for the work they are doing. Congress may vote them millions of additional pay, but it can never compensate them for the sacrifices they make, in exposing life and limb. The soldiers do not go to war for money. They go for their love of country. And if that gentleman and myself and all other members of this House would attend to our business with half the patriotic devotion that the soldiers exhibit, we would be far more in advance with the public business than we now are. But let me return to the subject.

Mr. HOLMAN. I desire to say to the gentleman from Iowa—

Mr. KASSON. My time is short, and the gentleman must excuse me from yielding to him. I certainly would yield, only that my time is so very brief, and the gentleman from Indiana is on the floor so much.

The SPEAKER. The gentleman from Iowa has only one minute more.

Mr. KASSON. Then let me say this: we but propose to put the salary of the Treasurer at the same figure that is paid to the Assistant Treasurer at New York, as fixed by Democratic precedent in years gone by. His responsibility is vastly greater. His labors are vastly greater. He is entitled to some increase of salary, if only to furnish him with a premium to insure his life. His department is well managed. There are certain officers in the employment of the Government whose pay I would willingly increase to \$10,000 rather than that the Government should lose their services. Some of these officers are perpetually being tempted to leave the service of the Government by offers made by banking-houses and other corporations. We must act justly toward these men. The Treasurer does not ask this increase, but it is our duty to give it.

[Here the hammer fell.]

Mr. HOLMAN. I move to amend by striking out "\$6,000" and inserting in lieu thereof "\$5,000." Now, Mr. Speaker, I wish to say, very temperately, that when the gentleman from Iowa undertakes to arraign a member upon this floor the gentleman will remember for motives which influence his conduct he can convict but one person, and that person himself, of being ruled and controlled by such unworthy considerations.

Mr. KASSON. Will the gentleman allow me to say, if I have not already explained my remark—

Mr. HOLMAN. I cannot yield the floor. I understood the gentleman to say that he supposed, from the association and connection of the remarks that I made, that I made them not for the purpose of influencing this House, but for their effect upon the country. The gentleman was certainly not justified in making that remark. I have been in the habit of discussing questions before the House touching the public expenditure, and I acknowledge that during this session but very little attention has been given to anything that has been said when an appropriation of money was before us; but, sir, whatever remarks I have made have not been for the purpose of going to the country, but with the hope of influencing the action of the House. I acknowledge my failure in that regard. I am sensible that I have met with very little success. I have found it difficult to even get from a member of the Committee of Ways and Means information in reference to items of expenditure for which an appropriation was asked and not embraced in the estimates. I know that every proposition, however extravagant in

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its nature, calling for an appropriation of money for any purpose is almost certain to receive favor in this House to an extent never before known in the history of the country.

The condition of the country, the great financial distress into which we are bound to be precipitated, furnishes a reason to my mind why we ought to scrutinize every appropriation and hesitate before we appropriate one dollar, unless imperatively required.

I tell the gentleman from Iowa that when his side of the House shall see proper to encourage economy in the management of public affairs, instead of voting largely increased salaries; when they shall be ready to frown down this fearful extravagance in every branch of the public service, he may then claim for himself and his friends that their legislation is for the benefit of the men who are sacrificing life and everything for the country. The gentleman talks about not being able to pay the soldiers a higher rate of compensation. I hesitate to allude to that subject from the fact that whenever an allusion is made to it the motive is called in question, but I do say that if this House would present the same exhibition of economy in respect to everything else that they have done in respect to the pay of the soldiers, there would be money enough in the Treasury to enable us so largely to increase the pay of the soldier as might do something at least toward alleviating the sorrows and privations of his wife and children at home. But the gentlemen who are responsible for our legislation here, and who refuse to increase that pay beyond the pittance of sixteen dollars a month, are the gentlemen who resist every effort at economy in other expenditures, and who vote money without any examination and without any knowledge of the details or circumstances upon which such appropriations are sought to be obtained. I tell the gentlemen that every word which has been said upon this side of the House in favor of an increase of compensation to that most worthy class of our people who are sacrificing so much for our country has been influenced by no other consideration than an honest desire to afford them a reasonable compensation, for none deserve so much consideration as those who have so well performed their duty to the country.

[Here the hammer fell.]

Mr. WASHBURN, of Illinois. I desire to ask the gentleman how he voted on Friday last on the Armes case, establishing a precedent which I undertake to say will take \$500,000,000 out of the Treasury?

Mr. HOLMAN. I reply to the gentleman that inasmuch as the property in the case to which he refers was destroyed by military order by our own Army, and as the claimant was a loyal citizen, I voted with great pleasure to pay him for the property destroyed.

Mr. BLAINE. I rise, Mr. Speaker, to make a single remark in reply to what fell from the gentleman from Iowa [Mr. Kasson] in regard to the danger of the Government losing the invaluable services of General Spinner unless we increase his salary to \$6,000. For one, I confess to some curiosity on that point, and am anxious to see whether there is any good foundation for the apprehensions expressed by the gentleman from Iowa. I think there is no more unbecoming argument ever employed than one which is produced far too frequently in this House, to the effect that unless we instantly increase the pay of this or that officer the Government will lose his services. We are told, as we have been in this instance, that some banking association or railroad corporation will step in and bid higher, and thus deprive the Government of the services of an officer whose place cannot be made good. And this argument is seriously produced here with the view of influencing the vote of the House.

Now, sir, I have no doubt that General Spinner is a very excellent officer, and that he discharges his duties as Treasurer with great fidelity to the Government and with great credit to himself. But I do not believe at all, sir, in the

existence of "indispensables;" and efficient as General Spinner is, I have no doubt that if he were to resign to-morrow his place could be made good in twenty-four hours. The northern cities abound with cashiers of great ability and large experience who would consider it a capital piece of fortune to be called to General Spinner's place at the present salary of \$5,000. That salary, sir, is ample and very liberal, and a proposition to increase it seems to me like the merest wantonness of extravagance. I should far rather vote to take a thousand from it than to increase it a single dollar. I hope, therefore, the amendment will be rejected.

Mr. NELSON. I move to reduce the amount to \$4,000. I have, Mr. Speaker, some serious doubts on this question, although my disposition has been on the subject of men and money to vote liberally. The gentleman from Maine, who has preceded me, in the remarks which he made has taken the wind out of my sails. There is one idea, however, which he has not touched upon, and it is this: is the General Spinner, who holds this position, and whose services may be lost unless we increase his salary, the same General Francis E. Spinner referred to in the paragraph which I send to the Clerk's desk to be read?

The Clerk read, as follows:

Francis E. Spinner, Assistant Secretary of the Treasury, during the Fremont campaign said:

"Should this [the election of Fremont] fail, no true man would be any longer safe here from the assaults of the arrogant slave oligarchy, who then would rule with an iron hand; for the free North would be left the choice of a dissolution of the Union, a civil war which would end in the same, or an unconditional surrender of every principle held dear by freemen."

Mr. NELSON. If it is put on the ground that the Fremont campaign having failed, officials are unsafe in Washington, I may be persuaded to increase his salary, because of the great risk which he runs. But I do not think that just now is the time to increase the salaries of officers who are already getting \$5,000 a year. We need he under no apprehension of getting good men to fill these offices at that salary.

Mr. KELLEY. What is that book which is so often sent to the Clerk's desk?

Mr. NELSON. There is no use of yielding; I am through.

Mr. KALBFLEISCH. It is not Anna Dickinson's last speech. [Laughter.]

Mr. KELLEY. As gentlemen will not give the authority they quote, will it be in order for the Clerk to inform us what the book is from which he has just read?

The SPEAKER. The Clerk has not the right to speak in the House except through the Chair.

Mr. COX. I will tell the gentleman what it is. It is a collection of disunion speeches made by the gentleman's friends.

Mr. KELLEY. The gentleman does not give the title of the book; so many gross lies have been read from it that I would like to know its title. There is scarcely an extract read from it, from the present reading back to when it was sent to the desk by the distinguished gentleman from New York, [Mr. Fernando Wood,] that is not replete with falsehood, assailing the character of some distinguished man; and I do not wonder that gentlemen are so averse to letting the title be known. Is it some private compilation, some book unpublished, that they are afraid to lay before the public? I again ask for the title of that collection of slanders on the patriots of the country.

Now, sir, another word. I have no fear that the people will fail to understand who are their friends and the friends of the country. They will scrutinize our votes on financial affairs, and they will not charge the heavy debt which gentlemen so frequently refer to upon the men who have borne the burden of this Government. They will know well where to saddle it. They will put it upon the men who have availed themselves of their position as members of this House to infuse hope into and to fire the energy of the rebel army, and who have spoken day after day words of comfort

and inspiration to the leaders of the rebellion. They will saddle it upon the men who have endeavored to confine the dangers and burdens of the war to the white men of the North, and to keep them in our armies merely as armed police to prevent the laborers of the South from escaping from the service of their rebel masters. The gentlemen who say that it was wrong to enroll one hundred and thirty thousand stalwart negroes to help bear the brunt of this war must not come into this House and lecture us on expenditures and appeal to the people on account of the debt swollen by each day's expenditure made necessary by them. Wives and children have not only been burdened with debt, but have been made widows and orphans by reason of the fact that the gentleman and his colleagues have resisted the use of the strong arm of the negro, and it is not for him to go to these widows and orphans to talk with them about the dollars we are spending. They would spurn his suggestions, and say that their husbands and fathers had taught them to value country and honor more than dollars and cents.

Mr. NELSON. I think the gentlemen must be mistaken, for I believe this official is a white man. [Laughter.]

The amendment was withdrawn.

Mr. COX. I renew the amendment. The gentleman from Pennsylvania upon this occasion has seen proper to travel a little out of the ordinary course of debate for the purpose of attacking this side of the House generally. He thinks we have given certain aid and comfort to the rebellion in the South. I know, Mr. Speaker, we have not the same sort of record with the honorable gentleman from Pennsylvania. Most of us upon this side of the House have not perhaps been out as he has—a soldier doing duty for the Republic. We have not done, as he has told us frequently, that he did—gloriously battled in behalf of this Government; but our friends have been there; our white friends have been there.

Mr. GARFIELD. Upon which side?

Mr. COX. Upon the side of the Government and the Constitution, and not upon the side of gentlemen who would "blow the Constitution to the winds," not on the side of gentlemen who would break down the only bond of union, like the gentleman from Ohio. Ay, we have been doing better service than the gentleman who interrupted me, for if I had time I would show that his boasted military exploits, so blazoned in the newspapers, would not even stand by the side of the eminent services of the gentleman from Pennsylvania [Mr. KELLEY] who acted as private in this great war against the rebellion.

I beg leave to call the attention of the gentleman from Pennsylvania to the fact that this book, which was read from, is the "Logic of History," five hundred—

Mr. KELLEY. By the author of "The Buckeye Abroad?"

Mr. COX. Far more interesting and altogether more pertinent to the question before the House than "The Buckeye Abroad." And I wish to call the attention of the gentleman to an extract of a speech which is not but should be published here, a speech made by the gentleman from Pennsylvania himself. I wish I had the power to read it as he gave it to us; I wish I had the comic-tragic power with which he uttered it. [Laughter.] I send it to the Clerk's desk to be read in order that the gentleman may go down to history as one of the heroes whose services in this great war of rebellion entitles him to fling sneers and slang upon this side of the House. Let the Clerk read the first sentence.

The Clerk read, as follows:

"It was during that time that I lay down one night, carbine in hand, and gazed at the Milky Way with its innumerable myriads of stars."

Mr. COX. I would like to call the attention of the House to the gentleman from Pennsylvania lying upon his back out upon the borders of Pennsylvania gazing upon the Milky Way, looking up to that great cohort of stars, and drawing his inspiration thence for putting down this great



rebellion! How insignificant are the services of my military colleague [Mr. GARFIELD] compared to this brilliant performance of the critical member from Pennsylvania!

The SPEAKER. The Chair doubts whether this discussion is germane to the salary of an officer of the United States. [Laughter.]

Mr. COX. Will the Clerk read a little further? I am replying to the gentleman from Pennsylvania.

The SPEAKER. The speech of the gentleman from Pennsylvania was in response to some allusion made by the gentleman from Indiana.

Mr. COX. And I am responding to the gentleman from Pennsylvania. Why did not the Chair call him to order? The question is upon extracts, and I am presenting some beautiful ones.

The SPEAKER. The Chair will not make the point himself if no one else objects.

Mr. COX. The Chair has taken up nearly all my five minutes. Read on.

The Clerk read:

"And while I thought of home and family, and of the folly of a man who, until then, had scarcely known how to handle the weapon he held, rushing to such a post, I also thought of the grandeur of my country and of its immense future."

Mr. COX. The Clerk cannot do justice to that extract. I would like the gentleman from Pennsylvania to speak it over again. [Laughter.]

Mr. KELLEY. If the gentleman will give me the balance of his five minutes I will gratify him. [Cries of "Oh, no!" and "Order!"]

Mr. COX. I want it distinctly understood that the gentleman was lying on his back at the time. [Laughter.] Now, the Clerk will please read on.

The Clerk read, as follows:

"I felt, sir, that in this great struggle the life of the best loved or greatest of us all, or the sorrows of families, was no more in comparison with the cause than was the smallest star in all that immense multitude to the sun of the material universe."

Mr. COX. I want the House to understand that the gentleman was still upon his back, gazing upon the "milky way," and I want the Clerk to put a little more energy into his reading. [Laughter.]

The Clerk continued the reading, as follows:

"And I have felt since that time, that to secure the peace of this country I would sacrifice the lives of the grandest and most delicate by thousands, and of the powerful and muscular and least valuable by tens of thousands."

[Here the hammer fell.]

Mr. STEVENS. Is it in order to move to close all further debate upon this amendment?

The SPEAKER. The gentleman can move the previous question.

Mr. STEVENS. Then I move the previous question on the amendment of the Senate.

The previous question was seconded, and the main question ordered.

Mr. COX. I withdraw my amendment to the amendment.

Mr. HOLMAN. I withdraw my amendment, and demand the yeas and nays on concurring in the amendment of the Senate.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 37, nays 78; as follows:

YEAS—Messrs. James C. Allen, Arnold, Jacob B. Blair, Blow, Ambrose W. Clark, Freeman Clarke, Coffroth, Cole, Henry Winter Davis, Thomas T. Davis, Dixon, Eliot, Garfield, Griswold, Hotchkiss, Jencks, Kasson, Kelley, Francis W. Kellogg, Marvin, Melbridge, Meludoe, Morrison, Leonard Myers, Charles O'Neill, Pendleton, Pomeroy, Robinson, Schenck, Smith, Stevens, Upson, Voorhees, Wadsworth, Webster, Williams, and Wilder—37.

NAYS—Messrs. William J. Allen, Allison, Ames, John D. Baldwin, Baxter, Blaine, Bliss, Boutwell, Boyd, Broomall, James S. Brown, William G. Brown, Cobb, Cravens, Dawson, Denison, Donnelly, Driggs, Eckley, Eden, Edgerton, Eldridge, Farnsworth, Finck, Harding, Harrington, Benjamin G. Harris, Herriek, Holman, Asahel W. Hubbard, Ingersoll, Philip Johnson, William Johnson, Kathleisch, Orlando Kellogg, Kernan, Law, Lazear, Loan, Long, Longyear, Mallory, McAllister, McClurg, McKinney, Samuel F. Miller, James R. Morris, Amos Myers, Nelson, Noble, Orth, Perham, Pike, Price, Radford, William H. Randall, James S. Rollins, Scofield, Scott, Shannon, Sloan, Smithers, Spalding, William G. Steele, Strouse, Sweat, Thayer, Tracy, Elihu B. Washburne, William B. Washburn, Whaley, Wheeler, Joseph W. White, Wilson, Windom, Fernando Wood, Woodbridge, and Yeaman—78.

So the amendment of the Senate was not concurred in.

Ninety-fifth amendment:

Add the following as an additional section:

Sec. —. And be it further enacted, That twenty per cent. be added to the annual compensation of the messengers, watchmen, and laborers employed in the several Departments and under the Commissioner of Public Buildings, to

commence on the passage of this act and to terminate at the close of the next fiscal year, but to be calculated only upon the amount of compensation accruing after the approval of this act: *Provided, however,* That no salary be increased hereby so as to exceed the sum of \$300. And the sums necessary to pay the additional compensation herein specified for the present and the next fiscal years are hereby appropriated.

The Committee of Ways and Means recommended concurrence in this amendment, with an amendment, as follows:

Strike out after the word "that" all of said Senate amendment, and in lieu thereof insert the following:

From the 1st day of January, 1864, until the 30th of June, 1865, inclusive, the pay of the employes hereinafter designated, whose annual pay is now less than \$1,000, and who are employed at the date of the passage of this act or thereafter in the several Executive Departments and under the Commissioner of Public Buildings at Washington, shall be adjusted and allowed according to their respective term of service within that period, as follows: the pay of messengers at the rate of \$1,000 per annum; the pay of assistant messengers at the rate of \$350 per annum; the pay of watchmen and laborers at the rate of \$800 per annum: *Provided,* That the pay of female employes in the several Executive Departments, and of laborers at the Capitol, including those in the Library of Congress, where such employes or laborers now receive less than \$600 per annum, shall be at the rate of \$600 per annum; and the sums necessary to pay the additional compensation for the period above prescribed are hereby appropriated.

The amendment reported by the Committee of Ways and Means was agreed to.

The amendment of the Senate, as amended, was then concurred in.

Ninety-sixth amendment:

Add the following as an additional section:

Sec. —. And be it further enacted, That the accounting officers of the Treasury are hereby authorized and directed to allow to the late reporter of the Supreme Court the amount of his annual salary for the fiscal year ending June 30, 1864, on the production of satisfactory evidence that he has delivered to the Secretary of the Interior the number of copies of the decisions of said court prescribed by law, and that said books have been received and accepted by said Secretary.

The Committee of Ways and Means recommended concurrence in this amendment with the following amendment as an addition thereto:

Sec. —. And be it further enacted, That, in addition to the clerical force now authorized by law, the following clerks are hereby authorized in the office of the Commissioner of Customs, to be employed and continue only during the rebellion and for one year after its close, viz: two clerks of class four, two of class three, and two of class two, and the sum of \$11,200, or so much thereof as may be necessary to pay their salaries from the date of their appointment to the 30th of June, 1865, is hereby appropriated therefor; and the classification of the clerks in the office of the Commissioner of Customs shall hereafter be as follows: six clerks of class four, eight of class three, eight of class two, and two of class one.

Sec. —. And be it further enacted, That in executing the act of the 3d of March, 1849, and the act amendatory thereof, providing for payment for steamboats and other vessels, and railroad engines or cars lost or destroyed while in the military service of the United States, the Third Auditor of the Treasury be, and he is hereby, authorized in person, or in such manner as he may deem most compatible with the public interests, to take testimony and make such investigations as he may deem necessary in adjudicating claims filed under said act, and for such necessary expenses incurred therein payment may be made out of the appropriation contained in said act, upon proper vouchers certified and approved by the Third Auditor.

Sec. —. And be it further enacted, That from and after the 1st day of July, 1864, in lieu of the clerks heretofore authorized and provided, the Assistant Treasurer at New Orleans be, and he is hereby, authorized to appoint, with the approbation of the Secretary of the Treasury, one chief clerk, at a salary of \$2,500 per annum; one clerk, at a salary of \$2,000 per annum; two clerks, at a salary of \$1,500 per annum each; one porter, at a salary of \$900 per annum; and two watchmen, at a salary of \$600 per annum each; and the compensation for such clerks for the next fiscal year be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated. And in case of the sickness or unavoidable absence of the Assistant Treasurer, he may, in his discretion, authorize the chief clerk to act in his place and to discharge all the duties required by law of the Assistant Treasurer.

Sec. —. And be it further enacted, That so many of the clerks in the office of the Paymaster General as have been or may be deemed unnecessary, not exceeding thirty-seven in number, who shall be found competent, to be selected by the Secretary of the Treasury, are hereby transferred to the office of the Third Auditor of the Treasury, and shall be classified as follows: twelve clerks of class two, and twenty-five of class one; and the sum of \$46,800, or so much thereof as may be found necessary, be, and the same is hereby, appropriated for said purpose.

Sec. —. And be it further enacted, That the President of the United States be, and he is hereby, authorized to appoint, in addition to the present number, two appraisers for the port of New York, at an annual salary of \$2,500 each, and the sum of \$5,000 is hereby appropriated therefor.

Sec. —. And be it further enacted, That, in addition to the sum of \$25,000 heretofore appropriated for salaries and expenses of nine supervising and fifty local inspectors of steam vessels, with traveling and other expenses, the sum of \$55,000 be, and the same is hereby, appropriated.

Sec. —. And be it further enacted, That there be, and hereby is, appointed, in the office of the Secretary of the

Treasury, five clerks of class three, in lieu of five clerks of class one, and the sum of \$2,000 is hereby appropriated for said purpose.

Mr. PENDLETON. I am instructed by the Committee of Ways and Means to offer the following amendment to the amendment, to come in after the last section but two of their amendment:

For twelve additional clerks in the office of the Assistant Treasurer at New York, at an annual salary of \$1,400 each, authorized by act of 6th March, 1862, \$16,800.

Mr. HOLMAN. I rise to a point of order. I believe there can only be one amendment to the Senate amendment pending.

The SPEAKER. There can be an amendment to the Senate amendment and an amendment to that. It will be seen by the Digest that the Senate amendment is treated as the original text.

Mr. HOLMAN. But can any gentleman offer an independent section?

The SPEAKER. Yes, if it be germane.

Mr. HOLMAN. Can anything be offered that is germane to the original bill as it passed the House?

The SPEAKER. Anything germane to the ninety-sixth amendment of the Senate, or to the amendment to that reported by the Committee of Ways and Means, is in order.

Mr. HOLMAN. I raise the point of order that the amendment offered by the gentleman from Ohio is an independent proposition and is not an amendment to the amendment.

The SPEAKER. The Chair overrules the point of order. The Chair thinks it is.

Mr. HOLMAN. Then I make the point of order that there is no provision in this section of the bill having any relation to custom-house clerks in New York.

The SPEAKER. The Chair overrules the point of order, inasmuch as all these sections are in the nature of one amendment, and inasmuch, also, as this is to carry out an existing law.

Mr. HOLMAN. Do I understand the Chair to decide that the amendment to the amendment is germane?

The SPEAKER. The Chair overrules the point of order on the ground that all these amendments from the Committee of Ways and Means are in the nature of one amendment.

Mr. HOLMAN. But is it germane?

The SPEAKER. It is in relation to clerks, who are referred to several times in the amendment, and the Chair therefore thinks it germane. It is also in order on another ground, that it carries out an existing law.

The question was taken on Mr. PENDLETON's amendment to the amendment reported from the Committee of Ways and Means, and it was agreed to.

Mr. PENDLETON. I propose to send up to the Clerk's desk a communication from the Secretary of the Treasury in explanation of the amendments reported from the Committee of Ways and Means.

The Clerk read the letter.

Mr. KERNAN. I move to amend the amendment of the Committee of Ways and Means by striking out the following paragraph:

Sec. —. And be it further enacted, That the President of the United States be, and he is hereby, authorized to appoint, in addition to the present number, two appraisers for the port of New York, at an annual salary of \$2,500 each, and the sum of \$5,000 is hereby appropriated therefor.

They have got along in New York when the imports have certainly been as large as they can be expected to be hereafter. It seems to me that the creation of these additional offices is entirely unnecessary.

Mr. PENDLETON. I send up to the Clerk's desk to be read a letter from the Secretary of the Treasury on the subject of the amendment proposed by the gentleman from New York.

The letter was read by the Clerk.

Mr. KERNAN. Mr. Speaker, it seems to me that the increase of imports spoken of in the Secretary's letter must be temporary. If the present force has been adequate to do the work during the last year of very heavy importations, I think that it ought to be quite adequate now that the importations will be considerably diminished.

The question being on Mr. KERNAN's amendment to the amendment,

Mr. HERRICK called for the yeas and nays. The yeas and nays were not ordered.

Mr. HOLMAN called for tellers.

Tellers were ordered; and Messrs. KERNAN and MARVIN were appointed.

The House divided; and the tellers reported—ayes 25, noes 70.

So the amendment to the amendment was rejected.

The question then recurred on agreeing to the amendment reported from the Committee of Ways and Means to the amendment of the Senate, and it was agreed to.

The question recurred on the Senate amendment, as amended, and it was concurred in.

The last amendment of the Senate was to amend the title of the bill by adding the words "and for other purposes," and it was concurred in.

Mr. PENDLETON moved to reconsider the votes by which the several amendments of the Senate were disposed of; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled joint resolution (H. R. No. 74) referring the claim of J. H. Clark & Co. to the Court of Claims; when the Speaker signed the same.

#### BUSINESS ON SPEAKER'S TABLE.

Mr. HOOPER. I move to proceed to the business on the Speaker's table for the purpose of disposing of the Senate amendments to the bank bill.

Mr. BROOKS. The only objection I have is this, that the bill, in the form in which it passed the House, was never discussed here at all. It was introduced and put through under the previous question. I shall therefore object to its coming up now, unless the amendments of the Senate can be considered separately.

Mr. HOLMAN. I suggest to the gentleman from New York that when these amendments shall be taken up they will of course be discussed *seriatim*.

Mr. BROOKS. I do not object to going to the business on the Speaker's table if the amendments are to be considered *seriatim*, but that is not the proposition of the gentleman from Massachusetts. His proposition is to put the bill right through without discussion or consideration.

Mr. HOOPER demanded tellers on the motion. Tellers were ordered; and Messrs. HOOPER and BROOKS were appointed.

The House divided; and the tellers reported—ayes 63, noes 32.

So the motion was agreed to.

The SPEAKER stated that the business first in order was the consideration of House bills with Senate amendments.

#### PAYMASTERS' CLERKS.

An act (H. R. No. 300) for the classification of the clerks to paymasters in the Navy and graduating their pay, reported from the Senate with an amendment.

The amendment of the Senate was read. It provides for changing the classification of clerks to paymasters in the Navy.

Mr. WASHBURN, of Illinois. I move that the bill be referred to the Committee on Naval Affairs.

The SPEAKER. The Chair will suggest that it may be a long time before the committee will be permitted to report it back.

Mr. WASHBURN, of Illinois. If I understand it, I should hope it would never be reported back.

Mr. COX. I move that the House adjourn.

Mr. RICE, of Massachusetts. I hope that the gentleman from Ohio will give way and have this matter disposed of. The amendment of the Senate provides simply for classifying the clerks of paymasters of the Navy.

The bill passed the House and has been returned from the Senate with this amendment, which the Committee on Naval Affairs have substantially agreed to. I hope the amendment will be concurred in before the House adjourns.

Mr. COX. I have no objection to the passage of that bill. I have examined it and think it is a good bill; what I object to is to having this bank bill come up to-night. I withdraw my motion to adjourn.

Mr. WASHBURN, of Illinois. Does this amendment increase the salary of these clerks?

Mr. RICE, of Massachusetts. It does not; it is a classification for the express object of not doing that.

Mr. WASHBURN, of Illinois. Then I have no objection to it, and withdraw my motion to refer.

The amendment of the Senate was concurred in.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the amendment of the Senate was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### NATIONAL CURRENCY.

An act (H. R. No. 395) to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof, reported from the Senate with amendments, was now taken up.

Mr. COX. I move that the House do now adjourn.

Mr. ELDRIDGE demanded the yeas and nays on the motion.

The yeas and nays were ordered.

Mr. WASHBURN, of Illinois. If the House adjourns now will this bill come up in the morning?

The SPEAKER. It will come up in the morning immediately after the reading of the Journal.

Mr. WASHBURN, of Illinois. I hope, then, by unanimous consent the yeas and nays will be dispensed with.

There being no objection, the order for the yeas and nays was rescinded.

And then (at fifteen minutes past four o'clock, p. m.) the House adjourned.

#### IN SENATE.

TUESDAY, May 24, 1864.

Prayer by the Chaplain, Rev. Dr. BOWMAN.

The Journal of yesterday was read and approved.

#### PETITIONS AND MEMORIALS.

Mr. SHERMAN presented a memorial of the board of control of the State Bank of Ohio, remonstrating against the levy of a tax on the issue of notes by State banks, with a view of expelling them from circulation; which was ordered to lie on the table.

#### PAPERS WITHDRAWN.

On motion of Mr. HARLAN, it was

Ordered, That Mary B. Hook have leave to withdraw her petition and other papers from the files of the Senate.

#### COUNTERFEITING OF COIN.

Mr. VAN WINKLE. I am instructed by the Committee on Finance, to whom was referred the bill (H. R. No. 455) to punish and prevent the counterfeiting of coin of the United States, to report it back without amendment, and with a recommendation that it pass; and as there is probably but one opinion about it I will ask that the bill be considered now.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the bill to-day.

Mr. COLLAMER. I have on three or four occasions endeavored to finish a bill that was under consideration some days ago; but I find that as long as committees can come in with their reports and ask for their immediate consideration they can have consideration, and nothing else can be done in the morning hour.

The PRESIDENT *pro tempore*. It is for the Senator to object to the consideration of the bill, and then it will go over as a matter of course.

Mr. COLLAMER. I do object to it.

The PRESIDENT *pro tempore*. Reports are still in order.

#### MAIL SERVICE TO BRAZIL.

Mr. COLLAMER. I move that all previous orders be postponed for the purpose of taking up House bill No. 407, authorizing the establishment of an ocean mail steamship service between the United States and Brazil. If gentlemen will allow me to take up my bill I shall have no objection to giving way to allow them to make reports.

Mr. CHANDLER. I have four or five bills reported from the Committee on Commerce that I should like to ask the indulgence of the Senate to pass this morning in the morning hour, and it

will not take more than twenty or thirty minutes to pass them all.

Mr. COLLAMER. I desire to have this bill passed just as quick as gentlemen choose to vote upon it. It has been under consideration for three mornings.

Mr. CHANDLER. That is the very reason why I object to its consideration now, because if it is taken up I know I shall not have an opportunity to pass my bills, which will lead to no debate.

Mr. COLLAMER. I will remark to the Senator in all courtesy that it is not three or four bills that I desire to take up, but only one, which has been under consideration now three mornings, and therefore I wish to have it finished.

The PRESIDENT *pro tempore*. The question will be on the motion of the Senator from Vermont.

Mr. SUMNER. I shall not certainly throw myself in the way of the Senator from Vermont; but the Senate will remember I gave notice last night that I should deem it my duty to press at the earliest possible moment the bill which is now on the table to establish a Bureau of Freedmen. Senators about me will bear witness that for the last three weeks I have tried every day to bring that bill forward, but I have failed. I had hoped to bring it into line, if I may so say, immediately after the passage of the Pacific railroad bill, and I still hope I may be able to do it.

Mr. DAVIS. This is the morning hour.

Mr. SUMNER. I know it is the morning hour; but I had hoped to take up my bill immediately after the Pacific railroad bill as the first business, and proceed with it until finished. But I shall not throw myself in the way of the Senator from Vermont.

Mr. TRUMBULL. I will say in regard to the bill that the Senator from Vermont desires to call up that it was perhaps at my instance that it went over when it was up before, or rather I desired to make some remarks at that time in reply to the remarks of other gentlemen in reference to it; but I will—

Mr. DAVIS. I ask for the call of the morning business, the regular order.

Mr. TRUMBULL. I will forego making those remarks, and content myself with asking for the yeas and nays on the passage of the bill.

Mr. GRIMES. They have been ordered.

Mr. TRUMBULL. But I will say to the Senator from Vermont, for the benefit of these other gentlemen who are pressing their bills, that, so far as I am concerned, I cannot be responsible for the rest of the Senate. The Senator from Vermont may get a vote on his bill without delay, unless others wish to debate it.

The PRESIDENT *pro tempore*. The Chair will take this occasion to state, in answer to the suggestion of the Senator from Kentucky, that the Chair has called for the regular business, the reading of the Journal, petitions, and reports, and it is now under the control of the Senate to determine the order of business.

Mr. DAVIS. But, Mr. President, I understand that that is but a part of the morning business. I understand that there is other business that succeeds that. There is a call for bills and joint resolutions and for resolutions.

The PRESIDENT *pro tempore*. The Chair will state to the Senator in answer to that suggestion that the call for bills and joint resolutions and for resolutions is a mere practice of the Senate, not required by the rules.

Mr. DAVIS. Well, I hope the practice will be adhered to.

Mr. HENDRICKS. Are reports now in order?

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Vermont.

Mr. CONNESS. I hope we shall have a vote on that.

The motion was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 407) authorizing the establishment of an ocean mail steamship service between the United States and Brazil.

The PRESIDENT *pro tempore*. The question is on the passage of the bill, and on that question the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 21, nays 14; as follows:

YEAS—Messrs. Anthony, Carlile, Clark, Collamer, Conness, Cowan, Davis, Dixon, Doxittle, Foot, Foster, John-

son, McDougall, Morgan, Morrill, Ramsey, Sprague, Sumner, Wade, Wilkinson, and Willey—21.

NAYS—Messrs. Chandler, Grimes, Harlan, Henderson, Hendricks, Howe, Lane of Indiana, Powell, Richardson, Saulsbury, Sherman, Ten Eyck, Trumbull, and Van Winkle—14.

ABSENT—Messrs. Brown, Buckalew, Fessenden, Hale, Harding, Harris, Hicks, Howard, Lane of Kansas, Nesmith, Pomeroy, Riddle, Wilson, and Wright—14.

So the bill was passed.

#### REPORTS FROM COMMITTEES.

Mr. HENDRICKS, from the Committee on Public Lands, to whom was referred a memorial of Joel Wayburn Van Orman, praying for the passage of an act authorizing the proper officers of the Government to issue a patent to him for certain lands in the State of Iowa, reported a bill (S. No. 288) to amend an act for the relief of Solomon Wadsworth; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred a joint resolution (S. No. 42) to extend the time for the reversion to the United States of the lands granted by Congress to aid in the construction of a railroad from Pere Marquette to Flint, and for the completion of said road, reported it with an amendment.

#### BILL INTRODUCED.

Mr. JOHNSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 287) granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget sound; which was read twice by its title, and referred to the Committee on Public Lands.

#### FRENCH OCCUPATION OF MEXICO.

Mr. McDUGALL submitted the following resolution:

*Resolved*, That the Committee on Foreign Relations be discharged from the further consideration of the joint resolution relative to the substitution of monarchical for republican government in Mexico, under European auspices, the same being House resolution No. 58.

Mr. SUMNER. Let that lie over.

The PRESIDENT *pro tempore*. Objection being made, it must lie over.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to some and disagreed to other amendments of the Senate to the bill of the House (No. 192) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th of June, 1865, and had agreed to other amendments of the Senate to the said bill, with amendments; in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had agreed to the amendments of the Senate to the bill of the House (No. 300) for the classification of the clerks to paymasters in the Navy, and graduating their pay.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; which thereupon received the signature of the President *pro tempore*:

A bill (H. R. No. 15) to provide a temporary government for the Territory of Montana; and

A bill (H. R. No. 300) for the classification of clerks to paymasters in the Navy, and graduating their pay.

#### BILLS BECOME LAWS.

The message further announced that the President of the United States had approved and signed on the 20th instant the following act and joint resolutions:

An act (H. R. No. 251) to organize a regiment of veteran volunteer engineers;

A joint resolution (H. R. No. 72) relative to pay of staff officers of the lieutenant general;

A joint resolution (H. R. No. 77) relating to Green Clay Goodloe; and

A joint resolution (H. R. No. 78) providing for the election of a member of Congress for the State of Illinois by the State at large.

And on the 21st instant he approved and signed:

An act (H. R. No. 151) making appropriations for the naval service for the year ending June 30, 1865, and for other purposes.

#### VOTING IN WASHINGTON.

Mr. WADE. I desire to report a joint reso-

lution from the Committee on the District of Columbia, for the passage of which there is an immediate necessity. That committee have directed me to report a joint resolution to amend the charter of the city of Washington. It relates to the registration of voters, and if it is to be passed at all it ought to be passed immediately. I believe there is no objection to it. It alters none of the present qualifications of voters, but improves the present law as to registration, which is very defective. I believe the people of the District all want it done, and I ask for the present consideration of the subject.

By unanimous consent the joint resolution (S. No. 57) to amend the charter of the city of Washington was read twice, and considered as in Committee of the Whole. It provides that in case any person shall offer and claim the right to vote at any election held in the city of Washington, whose name is not registered, his name shall be registered by the commissioners of election upon his taking an oath or affirmation to answer truly the questions put to him, if he shall state in his answers positively that he has resided in the city one year next preceding the day of election, designating particularly the place of his residence, and that he possesses the other qualifications of an elector now required, and if some qualified elector of the city, not a candidate for any office at the election, shall swear that he has reason to believe and does believe that all the statements of the applicant are true. If the applicant be unable to understand the English language the oath may be interpreted to him by one of the commissioners or an interpreter sworn by a commissioner, which interpreter shall also interpret the applicant's answers. In lieu of presenting himself in this manner, the applicant may present the affidavit of himself and a qualified elector, duly certified before any justice of the peace for the county of Washington, satisfying the commissioners that he has been a resident of the city one year next preceding the day of election, and that he is otherwise a qualified elector, and thereupon the commissioners may cause his name to be registered and shall thus receive his vote. Any willful false statement is made perjury.

Mr. JOHNSON. I would ask the honorable member who reported this joint resolution how it changes the present law. I have not recently seen the law as it stands now, and I do not know what change this effects.

Mr. WADE. It points out a mode whereby many may be registered whom the old law does not provide for. For instance, where parties are foreigners their oath may be interpreted under this joint resolution. That is one change. Then, as the law now stands, persons cannot be registered after the 31st of December preceding an election; so that no one can vote at the coming election in June who was not registered at the end of last year. This enables them to be registered now. I do not know that I can point out all the variations between this and the old law, but it enables those who are qualified under the old law and who are not registered to be registered now. I think there is no objection to it.

Mr. JOHNSON. I do not know that there is. I only proposed to ask one or two questions of the committee by whom the resolution was reported. I am not sure that I heard distinctly its reading. Is there any limit of time?

Mr. GRIMES. One year.

Mr. JOHNSON. I know; but is there any limit of time at which a party, if this bill passes, may register himself? May he register himself on the day of the election?

Mr. WADE. On the day of election he may be registered, I believe.

Mr. JOHNSON. Then, however I may be in favor of the joint resolution in other respects, I must vote against it. These registration laws have been tried in other places; and to leave them open on the day of election would create confusion, and would lead, as has been supposed, to very great fraud. If you limit some time before the election when the registration is to be made, provided the resolution only lets into the exercise of the franchise those who are really entitled to it, it would not be objectionable. It has been found practically that to permit men to be registered on the day of election opens the door to the perpetration successfully of fraud, and permits to vote a great many persons who in point of

fact are not entitled to vote: they are brought in for the purpose. These oaths, although some security, are not the absolute security that they are generally supposed to be. I would suggest, therefore, to the member from Ohio if he had not better limit some time within which the registration may be made. To allow it to be done on the day of election would create great confusion at the polls, and the officers would not be able perhaps to take the votes.

Mr. WADE. I have no objection to a limitation of that kind, though it does not occur to me that it would lead to fraud to let the provision be as broad as it now is in the resolution.

Mr. HALE. I think it would be a good idea to require the gentlemen who register these names to be in session some three days prior to the election for the purpose of receiving applications. I believe that is the law in our own State, where we have a registration; the assessors are required to be in session three days before the election.

Mr. JOHNSON. Any time that will enable them to do it. If you permit it to be done on the day of election it leads to trouble.

Mr. WADE. I supposed this resolution would not lead to debate, and I promised the Senator from Michigan, [Mr. CHANDLER,] who desires to pass some bills, that if it did I would give way to him.

Mr. MORRILL. I desire to propose an amendment to obviate the difficulty that is suggested.

Mr. CHANDLER. I move that this joint resolution be postponed until to-morrow and be printed, and that we take up House bill No. 426. The motion was agreed to.

#### STEAMBOAT INSPECTORS.

On motion of Mr. CHANDLER, the bill (H. R. No. 426) to create an additional supervising inspector of steamboats and two local inspectors of steamboats for the collection district of Memphis, Tennessee, and two local inspectors for the collection district of Oregon, and for other purposes, was considered as in Committee of the Whole.

It provides for the appointment, in the mode prescribed by law, and who shall be paid the same annual compensation as is now paid, one additional supervising inspector of steamboats, and two local inspectors of steamboats, in Portland, in the collection district of Oregon, and two for the collection district of Memphis, Tennessee, at an annual compensation of \$700, to be paid as provided by law, as in case of other like inspectors. They are to perform the duties and be subject to the provisions of the steamboat act of August 30, 1852.

It also proposes to repeal so much of that act as provides for the appointment of two local inspectors of steamboats in the district of Wheeling, on the Ohio river, and to provide that each engineer and pilot, licensed according to the provisions of that act, shall pay for every certificate granted by any inspector or inspectors the sum of ten dollars, to be accounted for in the mode provided by law.

The amendment of the Committee on Commerce was to insert the following new sections:

SEC. 4. *And he it further enacted*, That the forty-second section of the act of August 30, 1852, be so construed as to require the inspection of the hull and boiler, in the manner prescribed by that act, of every vessel propelled in whole or in part by steam, and engaged as a ferry-boat, tug or towing-boat or canal-boat, in all cases where, under the laws of the United States, such vessels may be engaged in the commerce with foreign nations, or among the several States.

SEC. 5. *And he it further enacted*, That all engineers and pilots of ferry-boats, tug-boats, towing-boats, or canal-boats, subject to inspection by this act, shall be classified and licensed in the same manner as are pilots and engineers by said act of August 30, 1852.

SEC. 6. *And he it further enacted*, That, in lieu of the fees for inspection required by the thirty-first section of the act of August 30, 1852, the following shall be paid: for each vessel of one hundred tons or under, twenty-five dollars, and in addition thereto for each one hundred tons, over the first one hundred tons, five dollars.

The amendment was agreed to.

Mr. WILLEY. I move to strike out the second section of the bill in the following words:

SEC. 2. *And he it further enacted*, That so much of said act as provides for the appointment of two local inspectors of steamboats in the district of Wheeling, on the Ohio river, and for their compensation, is hereby repealed.

Mr. CHANDLER. It is the opinion of the Treasury Department and likewise of the Committee on Commerce that inasmuch as there are two other inspection districts on the Ohio river,



one at Pittsburg and one at Cincinnati, it is an unnecessary expense to continue the one at Wheeling. The Senate can decide. The effect of this amendment will be to retain the inspection district at Wheeling.

Mr. VAN WINKLE. I did not hear the Senator from Michigan distinctly, but I know of no reason why this section should not be stricken out, and I have heard none.

Mr. CHANDLER. I said it was the opinion of the Treasury Department and likewise of the Committee on Commerce that inasmuch as there was an inspection district at Cincinnati and also one at Pittsburg, the one at Wheeling was a needless expense to the Government; but that is for the Senate to decide.

Mr. VAN WINKLE. I desire to say, then, Mr. President, that Wheeling is a place where a great many steamboats are built. Steamboats are also built along the river between there and Parkersburg, and at Parkersburg in considerable numbers. The navigation above Wheeling particularly is for a great portion of the year interrupted for a boat of any size; and if the boats thus constructed are under the necessity of going to Pittsburg to be inspected, it is putting a heavier tax on the citizens than the expense of maintaining these inspectors can possibly be to the Government. The present system has been in operation for a number of years; Wheeling is the only city of great importance in the State of West Virginia, and this is a convenience that their interests demand. Wheeling is a manufacturing place where all these departments of business are carried on. Steamboats are there built from the keel up, furnished with their engines and everything else needed. On a mere representation that it may possibly be a little more economical to abolish the inspection district there, I do not think it ought to be done. The interests of these people are, if not as extensive as those of Pittsburg, certainly as near to them, and I am not sure that the number of steamboats built between Wheeling and Parkersburg and at Parkersburg is not equal to the number built at Pittsburg.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The amendments were ordered to be engrossed, and the bill to be read a third time; it was read the third time, and passed.

#### DUTIES ON FOREIGN SALT.

On motion of Mr. CHANDLER, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 356) requiring proof of payment of duties on foreign salt before payment of the allowances provided for by the act of July 29, 1813, and March 3, 1819. It provides that the allowance of bounty to certain vessels employed in the Bank and other cod fisheries, as provided for in the act of July 29, 1813, laying a duty on imported salt, granting a bounty on pickled fish exported, and allowances to certain vessels employed in the fisheries, and the act of March 3, 1819, amendatory thereof, are not hereafter to be paid to any such vessel until satisfactory proof has been furnished to the collector of customs charged with the payment of such bounty that the import duty imposed by law on foreign salt imported into the United States has been duly paid on all foreign salt used in curing the fish on which the claim to the allowance of bounty is based.

Mr. POWELL. I should like that bill to lie over until to-morrow, and I make that motion.

Mr. CHANDLER. I hope not. It simply compels proof that the duties have been paid before any drawback can be paid by the collector of the port.

The motion was not agreed to.

The bill was reported to the Senate without amendment.

Mr. POWELL. I desire to offer an amendment to the bill, but I want a little time to draw it up. I hope the Senate will indulge me for a few moments while I draw it up.

Mr. CHANDLER. Very well. I move that this bill lie over informally with a view of taking up another bill.

The motion was agreed to.

Mr. CHANDLER subsequently said: I am informed by the Senator from Maine [Mr. Fessenden] that the proposed amendment to House

bill No. 356 will probably lead to debate, and if so, I will not insist on that bill to-day, but will let it lie over until to-morrow.

#### COLLECTION DISTRICTS IN OREGON.

On motion of Mr. CHANDLER, the bill (S. No. 283) to abolish the collection districts of Port Orford and Cape Perpetua, in the State of Oregon, was read the second time and considered as in Committee of the Whole. It proposes to abolish the collection districts of Cape Perpetua and Port Orford, heretofore established by law, and to attach them to the collection district of Oregon.

Mr. NESMITH. That is a bill which interests my constituents somewhat, and as I am not familiar with the subject I will ask the chairman of the Committee on Commerce to state what the effect of the bill will be, and whether, under existing laws, the Secretary of the Treasury would be authorized to appoint deputy collectors for those districts.

Mr. CHANDLER. Yes, sir, he will; that will be the effect.

Mr. NESMITH. If that will be the effect I will not object to it.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, was read the third time, and passed.

#### TRADE ON THE RED RIVER OF THE NORTH.

On motion of Mr. CHANDLER, the bill (S. No. 272) to facilitate trade on the Red River of the North was read the second time, and considered as in Committee of the Whole. It proposes to authorize the President of the United States to designate and establish such points or places upon the Red River of the North as to him shall seem expedient for lading and unlading the cargoes of vessels navigating the river.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### JAMES KEENAN.

On motion of Mr. CHANDLER, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 63) to settle the account of James Keenan, late consul at Hong Kong, China. It directs the Secretary of the Treasury to settle the account of James Keenan, late consul at Hong Kong, China, by allowing him \$2,801 84, the amount of judgment in certain cases obtained against him and paid by him; and also to pay him the amount incurred by him in the exchange between the countries, whatever it may be, and charge him with any balance on the books of the Treasury against him, and to pay him the balance, if any appears in his favor, out of any money not otherwise appropriated.

The PRESIDENT *pro tempore*. It is suggested to the Chair by the Secretary that the words "in the Treasury" ought to be inserted after the word "money" in the last clause of the bill, "out of any money not otherwise appropriated."

Mr. CHANDLER. Very well.

The PRESIDENT *pro tempore*. That amendment will be made, if there be no objection.

The bill was reported to the Senate as amended, and the amendment was concurred in and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

#### AMENDMENT OF THE RULES.

Mr. DAVIS. I desire to give notice of my intention to offer an amendment to the rules of the Senate. It is to add the following words to Senate Rule 24, to be a part thereof:

And when the call for the reports from standing and select committees are through, the President shall first call for joint resolutions of the two Houses, and then for resolutions proposed to be adopted by the Senate.

#### SIoux INDIAN DEPREDACTIONS.

Mr. WILKINSON. I move that the Senate take up House bill No. 377.

Mr. FESSENDEN. I suggest to the Senator that if that bill will be likely to occasion any debate it had better be deferred, because I gave notice on Friday that on Tuesday, that is to-day, at one o'clock I should move to proceed to the consideration of the tax bill. I deem it very important to take it up at that hour, and I shall make the motion when the hour arrives. I suggest to him, therefore, unless it is a matter that will not lead to debate, it is hardly worth while to take it up now.

Mr. WILKINSON. I presume this bill will lead to no debate.

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 377) making appropriations for the payment of the awards made by the commissioners appointed under and by virtue of an act of Congress entitled "An act for the relief of persons for damages sustained by reason of the depredations and injuries by certain bands of Sioux Indians," approved February 16, 1863.

The bill proposes to appropriate the sum of \$928,411, or so much thereof as may be necessary, for the payment of the several amounts awarded by the commission appointed under and by virtue of an act for the relief of persons for damages sustained by reason of the depredations and injuries by certain bands of Sioux Indians, approved February 16, 1863, to the several persons, firms, estates, and corporations, respectively, to whom such amounts were awarded by the commissioners, except the following persons, estates, and firms to whom awards were made, to wit: Antoine Roberts, J. C. Toberer, Gilbault & Co., W. L. Sumner, G. L. Mendelssohn, D. C. Marvin, Joseph Popp, B. Heinbeck, W. W. Pendergrast, Louis Thobald, J. and C. M. Dailey, B. H. Randall, Louis Robert, W. H. Forbes, estate of S. B. Garvie, deceased, A. Vajen and Brother, T. I. Pierce, estate of Francis Labathe, deceased, S. A. Hopper, estate of James C. Dickenson, deceased, Henry Apple, Theodore Crone, Charles Jacobs, F. Immel, H. C. Cooper, H. D. Cunningham, Joseph Descoleau, and Henry Behnke, which last claim is numbered three hundred and sixty-six on the books of said commissioners.

The second section provides that for the payment of so much of the awards made by the commissioners to the persons, firms, and estates specifically named in the first section of this act, as the Secretary of the Interior shall upon examination find to be due to them respectively, under the act approved February 16, 1863, there shall be appropriated the further sum of \$241,963, or so much thereof as may be necessary. The Secretary of the Interior is directed to pay to the several claimants, or to their attorneys heretofore or hereafter duly authorized, other than those claimants specifically named in the first section, the several amounts as awarded by the commissioners, and also to pay the several sums he may find due, not exceeding the amounts respectively awarded by them to the persons, firms, and estates so specifically named.

Mr. FESSENDEN. I notice that the member of the Committee on Finance who reported this bill, the Senator from Pennsylvania, [Mr. Cowan,] is not now in his seat, and I hope it will not be acted upon until he comes in and makes an explanation of it. I suppose it may be taken up to-morrow morning in the morning hour.

Mr. WILKINSON. I am very anxious to have it disposed of; but if I thought there was or could be any objection to it now I would not urge it, and I would not urge it if I thought it would lead to any debate.

Mr. FESSENDEN. It is one o'clock now, and I would rather that it should go over until to-morrow, as the Senator from Pennsylvania is not in his seat.

Mr. WILKINSON. I will let it go over, with the understanding that I can have it taken up in the morning hour to-morrow.

#### INTERNAL REVENUE.

Mr. FESSENDEN. I move to dispense with all prior orders with the view of taking up the tax bill.

Mr. SUMNER. Of course we are all in favor of the tax bill and I am in favor of proceeding with it, but I will make one remark simply to explain my own position with reference to other business. It is known, as I have already observed to-day, that I have been watching my opportunity to move the consideration of Senate bill No. 227, to establish a Bureau of Freedmen; that when my friend who had the Pacific railroad bill in charge rose to move his bill I rose at the same time, and that I united with him in fixing the order for the consideration of his bill with the understanding that mine should be proceeded with immediately after that. Of course it was not supposed then that the Pacific railroad bill

would occupy so much time. Indeed, the Senator from Michigan assured me that it would be disposed of in one or two days, and I had supposed, therefore, that the Senate would be in a condition to proceed with the other bill some time last week. However, it has not been. The Pacific railroad bill has occupied all the time, as we know to our cost, until late last evening, and now we are to proceed with the consideration of the tax bill. As I have said, I am for the tax bill and I am for proceeding to it; but I cannot allow the bill to be taken up without this explanation with regard to the business which has been intrusted to me by the Senate, and which I may say I have much at heart myself.

The motion of Mr. FESSENDEN was agreed to; and the bill (H. R. No. 405) to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes, was considered as in Committee of the Whole.

Mr. SUMNER. If I may make one further observation, I would say that I shall venture to throw myself on the indulgence of the Senate tomorrow in the morning hour, and ask them to proceed with the bill to which I have referred, hoping that in at least one or two days, perhaps in one day, we may get through with it.

Mr. FESSENDEN. I will simply remark to the Senate that I shall insist, if it is proper for me to use that expression, at any rate I shall persist in asking the Senate to proceed with the tax bill regularly at one o'clock every day until it is disposed of, to the exclusion of all other business. It is important that we should finish it and send it back to the other House, as very much remains to be done after we have concluded our labors upon it. With reference to the morning hour, I shall not of course attempt to interfere with that. I move to dispense with the reading of the bill through as is usual, in the first place, and to consider the amendments as they are reached in their order, section by section.

The PRESIDENT *pro tempore*. That course will be taken, unless there be objection.

Mr. HOWE. Is it the purpose of the chairman to act upon all amendments, or only upon those reported by the Committee on Finance, as the reading proceeds?

Mr. FESSENDEN. Upon those reported by the committee in the first place, and then it will be open to other amendments afterwards.

The PRESIDENT *pro tempore*. The Chair understands the Senator from Maine to desire that the reading of the bill be continued until an amendment is reached, and then to have the amendment voted on, and so on.

Mr. FESSENDEN. Yes, sir.

The PRESIDENT *pro tempore*. That course will be pursued.

The Secretary proceeded to read the first section of the bill. The first amendment of the Committee on Finance was before the word "under," in line twelve of section one, to strike out the words "and hereby is charged;" so as to make the clause read:

A Commissioner of Internal Revenue, with an annual salary of \$4,000, who shall be charged, under the direction of the Secretary of the Treasury, with preparing, &c.

The amendment was agreed to.

The next amendment of the committee was to strike out the words "as aforesaid" after the word "Commissioner," in the seventh and in the fifteen lines of the second section.

The amendment was agreed to.

The next amendment was in the fourth section, after the word "revenue," in the fifth line, to insert, "and in the enforcement of the collection thereof;" so as to make the section read:

That the Secretary of the Treasury may appoint not exceeding five revenue agents, whose duties shall be, under the direction of the Secretary of the Treasury, to aid in the prevention, detection and punishment of frauds upon the internal revenue, and in the enforcement of the collection thereof, &c.

The amendment was agreed to.

The next amendment was in section five, to insert after the word "inspectors," in line five, the words "and revenue agents aforesaid;" and before the word "Secretary," in line seven, to strike out the word "said;" and after "Secretary" to strike out the words "as aforesaid;" so as to make the clause read:

And such inspectors and revenue agents aforesaid shall

be subject to the rules and regulations of the said Secretary, and have all the powers, &c.

The amendment was agreed to.

The next amendment was in line two of section six, to strike out the words "be and he" before "is," and the word "hereby" after "is;" so as to make the section read:

That the President of the United States is authorized to appoint, by and with the advice and consent of the Senate, a competent person who shall be called the Cashier of Internal Duties, &c.

The amendment was agreed to.

The next amendment was in section seven, line four, to strike out the words "be and he" before "is," and the word "hereby" after "is," and the word "respectively" after "divide," and to insert the word "respective" before "States" in line five; and after the word "alter" in line seven to strike out "lessen, enlarge, or merge in other districts;" so as to make the section read:

Sec. 7. And be it further enacted, That, for the purpose of assessing, levying, and collecting the duties or taxes hereinafter prescribed by this act, the President of the United States is authorized to divide the respective States and Territories of the United States and the District of Columbia into convenient collection districts, which he may alter as the public interests shall appear to him to require, and to nominate, and, by and with the advice and consent of the Senate, to appoint, an assessor and a collector for each such district, who shall be residents within the same: *Provided*, That any of said States and Territories and the District of Columbia may, if the President shall deem proper, be erected into and included in one district: *Provided further*, That the number of districts in any State shall not exceed the number of Representatives to which such State shall be entitled in the present Congress.

The amendment was agreed to.

The next amendment was to insert the words "Senators and" before "Representatives" in the sixteenth line of the seventh section; so as to make the proviso read:

*Provided further*, That the number of districts in any State shall not exceed the number of Senators and Representatives to which such State shall be entitled in the present Congress.

Mr. SUMNER. I should like to know the reason of that amendment. Is the existing system, by which our States are divided into districts according to the number of their Representatives, found not to work efficiently? Is it supposed that adding two more districts will increase the efficiency of the system? On that I have no evidence, and I merely ask for information.

Mr. FESSENDEN. It is done on the recommendation of the Commissioner. He stated that in some States, owing to the very great territorial extent of the districts, it was impossible to have the work well done with only the number of districts allowed according to the number of Representatives; and particularly in the State of New York, where in some of the districts, not from their territorial extent but from the amount collected, it is necessary to have additional force. The Senator from Iowa [Mr. GRIMES] suggests that in the State of Iowa there is one district, and that has thirty counties. This provision is not imperative; it is only permissive. I presume no officers will be appointed who are unnecessary. It was thought best to allow an increase of the districts to some few States.

Mr. JOHNSON. It is a maximum only.

Mr. FESSENDEN. It is a maximum.

Mr. SUMNER. The only objection that occurred to me was what appeared on its face, that it was opening the door to two new offices in every State; that is all.

Mr. DAVIS. In the State of Kentucky one of the collection districts is composed of between two and three congressional districts. I received a communication from the collector which I laid before the chairman of the Committee on Finance, expressing his belief that it was not only inconvenient but impracticable to collect the revenue in so extensive a district as that, and he wanted it diminished at any rate to the size of a congressional district. I think the proposed reduction of districts in size and the increase of the whole number to the number of Representatives and Senators is not unreasonable.

The amendment was agreed to.

The next amendment was in section eight, to strike out the words "of the" after "each" in line one; to strike out the letter "s" at the end of the word "assessors" in line two; to strike out "he" in line six and insert "the Secretary of the Treasury;" after the word "appoint," in

line seven, to strike out "with the approval of the said Commissioner;" to strike out "who shall be resident therein" after "assistant assessor" in line eight; so as to make the section read:

That each assessor shall divide his district into a convenient number of assessment districts, which may be changed as often as may be deemed necessary, subject to such regulations and limitations as may be imposed by the Commissioner of Internal Revenue, within each of which the Secretary of the Treasury shall appoint one assistant assessor."

The amendment was agreed to.

The next amendment was in line fifteen of section eight, after the word "appointed" to insert "and accepting the appointment;" and after the word "will," in line twenty-three, to strike out the words "to the best of my knowledge, skill, and judgment, diligently and faithfully execute the office and duties of assessor for (naming the assessment district,) without favor or partiality, and do equal right and justice in every case in which I shall act as assessor," and in lieu of them to insert "diligently and faithfully perform the duties of assessor (or assistant assessor) for (naming the assessment district) according to my best skill and judgment;" so as to make the clause read:

And each assessor and assistant assessor so appointed shall, before he enters on the duties of his office, take and subscribe, before some competent magistrate, or some collector, to be appointed by virtue of this act, (who is hereby empowered to administer the same,) the following oath or affirmation, to wit: I, A B, do swear (or affirm, as the case may be) that I will bear true faith and allegiance to the United States of America, and will support the Constitution thereof, and that I will diligently and faithfully perform the duties of assessor for (naming the assessment district) according to my best skill and judgment.

Mr. ANTHONY. I should like to ask the reason of this change in the form of the oath. I confess I like the old one best, but I presume there is some good reason for it. I should like to hear what it is.

Mr. FESSENDEN. It is a matter of taste. We thought it very much involved, and regarded it best to simplify it.

Mr. ANTHONY. I like the oath that he will administer his duties without favor or partiality, the same as judges declare that they will administer justice.

Mr. FESSENDEN. Will he administer it faithfully if he does not administer without favor or partiality?

Mr. ANTHONY. No, sir.

Mr. FESSENDEN. We thought the words "diligently and faithfully" would cover every possible duty of his office.

Mr. ANTHONY. I think "without favor or partiality" is more particular. Still I shall not object to the amendment.

The amendment was agreed to.

The next amendment was in section nine, line two, to strike out the word "such" before "collector;" in line six, after the word "approved" to strike out "as sufficient;" in line seven to strike out the words "containing the condition" and insert "conditioned;" in line fourteen to strike out the final "s" in "collectors;" in line fifteen, after the word "increase" to strike out "their" and insert "his;" and in line sixteen, after the word "direct" to insert "with such conditions as the said Commissioner shall prescribe;" so that the section as amended will read:

Sec. 9. And be it further enacted, That before any collector shall enter upon the duties of his office he shall execute a bond for such amount as shall be prescribed by the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, with not less than five sureties to be approved by the Solicitor of the Treasury, conditioned that said collector shall faithfully perform the duties of his office according to law, and shall justly and faithfully account for and pay over to the United States, in compliance with the order or regulations of the Secretary of the Treasury, all public moneys which may come into his hands or possession; which bond shall be filed in the office of the First Comptroller of the Treasury. And such collector shall, from time to time, renew, strengthen, and increase his official bond, as the Secretary of the Treasury may direct, with such conditions as the said commissioner shall prescribe.

Mr. HOWE. Was it the purpose of the committee to authorize the Commissioner to change the conditions of these bonds?

Mr. FESSENDEN. Not to change the conditions, but to require such additional ones as might be necessary and desirable as the experience of the Department should suggest.

Mr. HOWE. The amendment, it seems to me, would authorize the Commissioner to require entirely different conditions from those which we

have required. It seems to me that the section requires precisely the conditions that you want in such a bond. I cannot conceive that you would ever want any additional ones; I certainly think you would always want those named; but as often as the Secretary directs a new bond to be given this last amendment seems to authorize the Commissioner to change the conditions.

Mr. FESSENDEN. Say "with such additional conditions" or "such other conditions besides those herein specified." If the Senator will suggest an amendment I shall be very glad to hear it.

Mr. HOWE. I would suggest "additional conditions," if you want any change.

Mr. FESSENDEN. I think the amendment was suggested by the Commissioner, and we saw no objection to its being put in.

Mr. HOWE. I move to amend the amendment by inserting the word "further" before "conditions," in line sixteen.

Mr. FESSENDEN. I make no objection.

The amendment to the amendment was agreed to; and the amendment as amended was agreed to.

The next amendment was in section ten, to strike out the following proviso:

*Provided, That nothing herein contained shall prevent any collector from collecting himself the whole or any part of the duties and taxes so assessed and payable in his district.*

Mr. SUMNER. I suppose the reason for striking that out is that the proviso is unnecessary.

Mr. FESSENDEN. That is all.

The amendment was agreed to.

The next amendment was in section twelve, line four, after the word "deputies" to insert "and on all other persons."

The amendment was agreed to.

The next amendment was in section fourteen, line two, after the word "her" to insert "residence or;" in line three strike out "residence" and insert "business;" and in line six, after the word "residence" to insert "or business;" so that the clause will read:

That in case any person shall be absent from his or her residence or place of business at the time an assistant assessor shall call to receive the annual list or return, it shall be the duty of such assistant assessor to leave at such place of residence or business, with some one of suitable age and discretion, if such be present, otherwise to deposit in the nearest post office, a note or memorandum, &c.

The amendment was agreed to.

The next amendment was in line eleven of section fourteen, after the word "memorandum" to insert "which return shall be verified by oath."

Mr. SHERMAN. The amendment I think should say "which return in all cases shall be verified by oath," so as to include the return provided for in the thirteenth section. I doubt whether the construction would not be that the words "which return shall be verified by oath" here would apply only to the return provided for in the fourteenth section, and would not extend back to the list or return provided for in the thirteenth section. To relieve all doubt about it, I move to amend the amendment.

Mr. FESSENDEN. The Senator does not notice that the fourteenth section does not provide for the return, but for a notice to be served, and of course it refers to the previous return. "Shall call to receive the annual list or return" is the language, and you must refer back to the other section to find out what that return is. I do not know but that the language is rather defective. It is:

If such be present, otherwise to deposit in the nearest post office a note or memorandum, addressed to such person, requiring him or her to present to such assessor the list or return required by law within ten days from the date of such note or memorandum, which return shall be verified by oath.

I think the words "which return shall be" before "verified" are unnecessary.

Mr. HOWE. That evidently requires an oath only to the return obtained upon this notice.

Mr. FESSENDEN. What does the notice refer to?

Mr. HOWE. The notice refers only to those cases where the persons are absent at the time the assessor calls. The law first provides that it shall be the duty of anybody who has anything to list to list it. If he does not do it the assessor may call on him and obtain the list. If he lists it voluntarily, or lists it upon being called on by

the assessor, he furnishes to the assessor the material out of which he can make a list, and in that case an oath is not required as the bill now stands. I think it ought to be required.

Mr. SHERMAN. That was the impression I had.

Mr. HOWE. If a man neglects to make his list voluntarily, or if he is not at home when the assessor calls on him, the assessor is to leave this notice, and in obedience to the notice he is to make out a return, and that return is to be upon oath, according to this amendment.

Mr. POMEROY. I should think that where the assessor was entirely satisfied of the correctness of the return we ought not to require an oath. It is a matter of some inconvenience as well as some expense to require an oath in every case. Where the assessor is not satisfied, of course I would require an oath; but to require every man all over the country, whether he have much or little, whether he be rich or poor, in all cases to swear to his return, I think is going too far. I think it is a hardship and expense.

Mr. FESSENDEN. That is a matter which was very much discussed in the committee, and the committee became so well convinced from the evidence before them that there were a large number of persons who would avoid making correct returns, and there would be sometimes great danger of collusion, or rather of a sort of easy disposition on the part of the officers appointed to allow people to get along pretty much in their own way and an unwillingness to interfere with them, that they thought the safest course was to provide that in all cases the return should be sworn to. I will not object of course to any words which are necessary in order to carry out the views of the committee in that particular.

Mr. POMEROY. Does the bill authorize the assessor to administer the oath?

Mr. FESSENDEN. Certainly; or the parties may take the oath before anybody—they please who is authorized to administer it.

Mr. SHERMAN. I submit to the Senator from Maine whether in the preceding section, after the word "signed," in line twelve, the words "and verified by oath" had not better be inserted, so as to avoid all ambiguity. I think the literal construction would confine the oath to the return provided for by the fourteenth section; that is, to the return in case a notice is left in the absence of the person, while section thirteen provides for cases where the return is signed in the presence of the assessor.

Mr. FESSENDEN. The Senator will notice that he will be obliged to go back to section eleven to make his amendment. Section eleven is the section that provides for the return. Section thirteen provides that if any person liable to pay any duty or tax, or owning, possessing, or having the care or management of property, goods, &c., liable to pay any duty, tax, or license, shall fail to exhibit the list or return required by law, but shall consent to disclose the particulars, the officer shall make the list or return for the person; but the eleventh section provides that it shall be the duty of any person, partnership, firm, association, or corporation made liable to any duty, license, stamp, or tax, to make a list or return to the assistant assessor. In that section the Senator might move to put in the words "which return shall be verified by oath," and strike out those words in the fourteenth section, because by inserting them in the eleventh section they would apply to all cases of returns, as was intended, and I think that would be a better place for the provision.

Mr. SHERMAN. I am inclined to think so myself.

Mr. FESSENDEN. If the Senator will make that motion, I shall have no objection to the clause being inserted in the proper place in section eleven.

Mr. SHERMAN. I will therefore move to insert the words of the amendment under consideration in the sixth line of the eleventh section. After the word "return" in that line let the words "verified by oath" be inserted. Then I think there will be no harm in leaving this clause where it is in the fourteenth section.

Mr. HOWE. You ought to leave it there; and I would suggest to the Senator from Ohio that in order to effect his object those words ought to be inserted both in section eleven and section thirteen, and left in section fourteen where they are.

Mr. SHERMAN. Very well.

Mr. HOWE. They are three distinct cases, as I understand it.

Mr. SHERMAN. I will say "verified by oath or affirmation."

The PRESIDENT *pro tempore*. The question will first be on the amendment proposed by the committee to the fourteenth section, to insert after the word "memorandum," in line eleven, the words "which return shall be verified by oath."

The amendment was agreed to.

Mr. SHERMAN. I now move to insert after the word "return," in the sixth line of the eleventh section, the words "verified by oath or affirmation."

The amendment was agreed to.

Mr. SHERMAN. I propose also—

Mr. FESSENDEN. Before the Senator moves his amendment, I suggest to him whether it would be proper to make that provision in section thirteen. It will be noticed that that section provides that where a person shall fail to make this return verified by oath, the assessor in that case may himself make it, if the person shall consent to disclose the particulars of any and all property, goods, wares, and merchandise, articles and objects liable to duty or tax. In that case "it shall be the duty of the officer to make such list or return, which being distinctly read, consented to, and signed by the person so owning, possessing, or having the care and management as aforesaid, shall be received as the list of such person."

Mr. SHERMAN. The amendment should be inserted in line seven of that section so as to read, "shall consent to disclose on oath or affirmation the particulars of any and all the property," &c. That would probably be a better place for the amendment, and it would make the section in accordance with the laws of Ohio.

Mr. HOWE. Under that section the assessor acts but as a mere clerk of the party. He gives the officer the items and the officer writes them down, takes them right from the mouth of the party.

Mr. FESSENDEN. I make no objection to the amendment.

Mr. SHERMAN. My amendment is in line seven of section thirteen, after the word "disclose" to insert "on oath or affirmation."

Mr. HOWE. I think the amendment had better be made at the close of the section, so as to have the written statement sworn to rather than have the disclosure made on oath.

Mr. SHERMAN. The case provided for in the thirteenth section is one which the law of Ohio provides for. Some conscientious men, especially Dunkers and a few other classes of religious people, do not swear or affirm; and yet they are very honest people and will always disclose the value and particulars of their property, and never seek to avoid taxes. In such cases by the laws of Ohio a kind of affirmation is administered to them which they do not subscribe to, but which is substantially certified to by the officer. I know it is rather an evasion of the law, and I move it in this place in order to relieve that class of conscientious people.

Mr. FESSENDEN. I will say to the Senator that the word "affirmation" in all the States with which I am acquainted means simply the affirmation that is taken by people of the Society of Friends, who are conscientiously scrupulous about taking an oath, and they affirm.

Mr. SHERMAN. There are branches of that society that will not even take an affirmation.

Mr. HOWE. Then I submit that if the Senator wishes to relieve that class of people, he should not require them to make this disclosure on oath. That will not relieve them; they will not take that oath.

Mr. SHERMAN. They affirm in a kind of way.

Mr. HOWE. But the amendment proposed is that this disclosure shall be made "on oath."

Mr. SHERMAN. "Or affirmation."

Mr. HOWE. Are they any more conscientiously opposed to swearing or affirming to a written statement than to a verbal one?

Mr. SHERMAN. They will not sign a written oath or affirmation; that is their dogma; although I have seen a kind of affirmation administered to them in courts. In a great many cases it creates embarrassment so that they can scarcely



act as executors or administrators. In many cases they refuse to act as the law requires an oath or affirmation.

Mr. HOWE. I may be mistaken about this; but while the Senator from Ohio is endeavoring to furnish some relief to a peculiar class of people, of whom I never heard before, men so conscientious that they will neither take an oath nor make an affirmation, it seems to me he is exposing the framework of this bill to very serious peril. If you do not require this return to be sworn to, while all others are, any man who wishes to withhold a just return will say to the assessor, "I will not make any list; I will not make any return; I will give you the items out of which you can make one." The assessor administers an oath to him to give true returns. It is on parol; there is no record of it. He goes on then, having taken such an oath as the assessor sees fit to administer, to make true statements, to give his list, to give the particulars. What he actually swears to does not appear in writing. There is no return of that oath made. The assessor writes down the items he gets from him. If in law he is supposed to have sworn to that return which the assessor makes, then you substitute a legal inference for a certificate appended; and it seems to me you make that uncertain which ought to be certain.

Mr. FESSENDEN. I will suggest to Senators whether the difficulty would not be avoided by striking out the word "shall" in the fourteenth line and inserting "may," so that it will read, "may be received as the list of such person," leaving the discretion to the assessor on the subject if he is satisfied that the list is a correct one. I have no objection to putting in the words "on oath or affirmation," if Senators desire it.

Mr. SHERMAN. I think they had better be put in there.

Mr. FESSENDEN. After the word "disclose?"

Mr. SHERMAN. I do not care where they are inserted. They could just as well be inserted after the word "disclose," but if the Senator prefers to insert them in the twelfth line I have no objection.

Mr. FESSENDEN. Then let them be inserted in that line.

Mr. SHERMAN. I think the better place would be to insert them after the word "signed," in the twelfth line. The clause now reads:

Then, and in that case, it shall be the duty of the officer to make such list or return, which being distinctly read, consented to, and signed by the person so owning, possessing, or having the care and management as aforesaid, shall be received as the list of such person.

I will move after the word "signed" to insert the words "and verified by oath or affirmation."

The amendment was agreed to.

Mr. FESSENDEN. I suggest whether it would not be well to change the word "shall" in the fourteenth line to "may," so as not to make it imperative to receive it, but leave it to the discretion of the assessor.

Mr. SHERMAN. I think that ought to be so.

The PRESIDENT *pro tempore*. That amendment will be made, if there be no objection.

Mr. SHERMAN. It is provided for in the subsequent section.

Mr. FESSENDEN. In the subsequent section, section fourteen, line eleven, I move to strike out the words "which return shall be" before the word "verified," so that it will read:

It shall be the duty of such assistant assessor to leave at such place of residence, with some one of suitable age and discretion, if such be present, otherwise to deposit in the nearest post office, a note or memorandum, addressed to such person, requiring him or her to present to such assessor the list or return required by law within ten days from the date of such note or memorandum, verified by oath.

It is a mere notice to him. I think it will read better in that way.

The amendment was agreed to.

Mr. FESSENDEN. I propose further to amend that clause by inserting after the word "oath," in the twelfth line of the section, the words "or affirmation."

Mr. JOHNSON. I think those words are always understood.

The amendment was agreed to.

The next amendment of the committee was in section fourteen, line eighteen, to strike out the words "false or fraudulent" before the word "list," and after the word "return" to insert "which in the opinion of the assessor is false or

fraudulent," and in line nineteen after the word "or" to strike out the words "a list on which there is," and to insert the word "contains;" so that the clause will read:

And if any person, on being notified or required as aforesaid, shall refuse or neglect to give such list or return within the time required as aforesaid, or if any person shall not deliver a monthly or other list or return without notice at the time required by law, or if any person shall deliver or disclose to any assessor or assistant assessor any list, statement, or return which, in the opinion of the assessor, is false or fraudulent, or contains any under-statement or under-valuation, it shall be lawful for the assessor to summon by subpoena, to be served by any assistant assessor, such person, &c.

The amendment was agreed to.

The next amendment was in section fourteen, line thirty-two, after the word "contempt," to insert "and for the purpose of enforcing such attachment said assessor shall be vested with all the powers exercised by judges of the district courts of the United States in like cases."

Mr. JOHNSON. What is to be the operation of that amendment? Is it to give authority to the assessor to commit persons to prison?

Mr. FESSENDEN. Yes, sir.

Mr. JOHNSON. That seems to me going rather further, I think, than at present advised I should be willing to go.

Mr. FESSENDEN. I do not know of any other way to reach it. At any rate, as the section reads without amendment, it cannot have much effect: "And to enforce such writ by attachment for contempt." He may attach a person for contempt; but what will he do with him afterwards if he refuse to do anything after he is attached? There must be some power of commitment.

Mr. JOHNSON. He can hand him over, I suppose, to the courts.

Mr. FESSENDEN. There is nobody to hand him over to, and there is no other course to be taken. You must either strike out the whole clause, which would deprive the assessors of all power with reference to the matter, or else you must give them sufficient authority to enforce the writ. I do not think there is any danger that can arise from it. It is merely for the purpose of obtaining testimony. If persons refuse to testify, they ought to be compelled to do so, and punished if they do not.

Mr. DAVIS. I am opposed to the amendment reported by the Committee on Finance, and will move to amend the amendment by striking out of the text of the bill the words "and to enforce such writ of attachment for contempt," and in connection with those words to strike out the whole amendment as reported by the committee. The amendment is somewhat obscure and ambiguous in its language, I think; but to give it the construction to which it would be entitled, it clothes the assessor with enormous powers by which he will be enabled to harass and oppress men very greatly. It would be entirely too much power to place in the hands of men of the legal intelligence of those who generally fill the office of assessor. I do not object to his examining a party upon oath, and I do not object to declaring a false oath before him to be perjury or false swearing, and that a person guilty of that perjury or false swearing shall be subject to the pains and penalties generally attached to those crimes; but I do utterly object to the proposition to invest in these assessors a power parallel with that of the district courts in case of contempt. The committee propose to insert these words:

And for the purpose of enforcing such attachment said assessor shall be vested with all the powers exercised by judges of the district courts of the United States in like cases.

What like cases?

Mr. FESSENDEN. Cases of contempt.

Mr. DAVIS. So I supposed. Now, what are the powers vested in district courts in cases of contempt? They issue an attachment; they summon the party before them for contempt; they fine and imprison him. Do the committee propose to invest all this power in an assessor? It is a power that would be very greatly abused. I know some of the men who are assessors in Kentucky, and I know it is a power which many of them are utterly incompetent to exercise for the want of intelligence, and many for the want of high moral principle. Under that amendment, an assessor having a spite against a particular individual or who might be inimical to him, would

have the power to summon him before him, to examine him upon oath; and if the examination was not satisfactory to him, he would have the still further power to confine and imprison him, just as a judge of the district court of the United States may imprison a person for contempt. Why, sir, it is clothing a pigmy with the power to wield a thunderbolt. It is a power altogether disproportionate to the office of assessor, and disproportionate to the intellect and intelligence and legal capacity of the men who fill it. It is one of the highest powers with which a civil officer can be clothed, to call up a man before him summarily to answer to him for contempt, and if the answers do not suit the august judge, that he shall have the power forthwith to fine him at the discretion to which a judge may fine for contempt, or order him to be imprisoned in jail. I am opposed to clothing these assessors with any such extensive and grave powers as those.

The PRESIDENT *pro tempore*. The Chair will suggest to the Senator from Kentucky that the amendment he proposes will hardly be an amendment to the amendment, but is an amendment of the original text of the bill which may be moved after the amendment of the committee shall have been disposed of.

Mr. DAVIS. If that amendment should be adopted, can I then move to strike out the original text including the amendment?

The PRESIDENT *pro tempore*. The Chair is of the opinion that the Senator can do so.

Mr. TRUMBULL. Let me suggest, by way of obviating what seems to be a difficulty—and the clause is really obnoxious to some objection, I think, by allowing these inferior officers to exercise this high power—that it be amended so as to allow the assessors to enforce such writ of attachment for contempt, returnable before the judge of the district court of the United States of the district where the defaulting witness resides, and let him proceed as in other cases.

Mr. DAVIS and Mr. JOHNSON. That will do.

Mr. GRIMES. Why not say "judge of the district or commissioner of the United States?"

Mr. TRUMBULL. No, sir; I do not wish to give to a commissioner of the United States authority to imprison a man for contempt. Let the party pay the expenses, and let the writ be returnable before the judge of the district court.

Mr. FESSENDEN. The Senator can make the proposition in writing.

Mr. TRUMBULL. I merely suggest it to obviate this difficulty, but it can be reduced to writing in a minute.

Mr. FESSENDEN. I do not know but that would be better than the amendment as it stands. We are not at all anxious to retain anything obnoxious, and if the Senator will be kind enough to put it in shape I will not object to it.

Mr. TRUMBULL. I will prepare an amendment to carry out that idea. The Senate can in the mean time pass to the next amendment.

Mr. FESSENDEN. I think we had better fix this first.

The PRESIDING OFFICER. (Mr. Foot in the chair.) The Senator will put in writing his proposed modification of the committee's amendment.

Mr. TRUMBULL. I move to strike out all of the amendment reported by the committee and to insert:

And returnable before the judge of the district court of the United States, having jurisdiction over said assessor's district, and who, for the purpose of enforcing such attachment, is vested with all the powers exercised by judges of the district courts of the United States in like cases.

Mr. DAVIS. Why not say "cases of contempt?"

Mr. TRUMBULL. "Like cases" would mean "cases of contempt."

Mr. FESSENDEN. I suggest to the Senator to insert these words:

Returnable before the judge of the district court in the district in which such person resides, who shall forthwith proceed to hear and determine the same, and make such order and decree thereon as he may judge necessary.

Mr. TRUMBULL. I desired to preserve the language of the bill. That is the same thing, and I have no objection to that, though I think the language of the bill is just as good. I will withdraw my amendment, and allow that to be offered.

The PRESIDING OFFICER. The question now is on the amendment of the Senator from

Maine to the amendment of the Committee on Finance, to strike out all of the committee's amendment in the following words:

And for the purpose of enforcing such attachment said assessor shall be vested with all the powers exercised by judges of the district courts of the United States in like cases.

And to insert in lieu thereof the words that have been read by the Senator from Maine.

Mr. FESSENDEN. I will change the phraseology so as to read, "forthwith proceed to hear and determine thereon, and to make such order and decree as he may judge necessary for the purpose of enforcing such attachment."

The PRESIDING OFFICER. It will be so modified, and as it now stands will be read.

The Secretary read, as follows:

Returnable before the judge of the district court for the district in which such person resides, who shall forthwith proceed to hear and determine thereon, and to make such order and decree as he may judge necessary for the purpose of enforcing such an attachment.

Mr. HARRIS. Mr. President, I am not satisfied with this proposition, even as it now stands. I think it is very objectionable. It proposes to confer upon this excise officer judicial power so far as it relates to the issuing of process. It authorizes an assessor to issue process to punish for contempt. That would be very extraordinary, very objectionable, very obnoxious, I think. What kind of process would this be? An attachment for contempt is issued by a judicial tribunal; it is issued under the seal of the court; and it is served by an officer of the court. Who is to serve this attachment? Who is to arrest this person and execute this process, this subpoena? Has the marshal power? Has the assessor power? Has the deputy assessor power? Has any individual power? Who is to execute this attachment and to arrest this person?

Again, sir, the judge in the district in which I reside sometimes resides four hundred miles from the assessor; and is this person that is to be deputized by him, this imaginary person that is to serve this extraordinary process, issued without the seal of a court, issued by an assessor, a process to punish for contempt—is he to take this individual four or five hundred miles to the district judge for the purpose of having the matter inquired into? Sir, this is very extraordinary. It will never do. Some other mode must be devised. It will never do to confer upon an assessor, an excise officer, this extraordinary power.

Mr. FESSENDEN. One suggestion that the Senator has made is valuable. I see by a previous provision in this bill that the assessor is to summon by subpoena to be served by any assistant assessor. I move to insert after the word "contempt" in the thirty-second line the words "to be served by any assistant assessor;" so that it will read:

And to enforce such writ by attachment for contempt to be served by any assistant assessor, returnable before the judge of the district, &c.

I suppose that modification can be made without taking a vote.

The PRESIDING OFFICER. The amendment to the amendment will be so modified, if there be no objection.

Mr. FESSENDEN. I really see no objection to this clause. The Senate will observe that it operates only upon persons in specific cases; that is, where they refuse to answer interrogatories, where they refuse to produce their books. A great difficulty arises in the collection of taxes, because the assessor cannot get at the information necessary to assess them. Suppose that after notice is given to a person to render an account he refuses to do it, or, when it comes in, the account is in such a condition that on the face of it it cannot be relied upon in any way. Then we propose, if it cannot be relied upon, or he refuses to render an account, to give power to the assessor to interrogate him on them, to make him come and answer questions. If he refuses to do that, if he has refused to render an account in the first place, and then refuses to answer any questions about it, so that the assessor is left entirely in the dark, then, in such a case, with reference to such an individual, thus contumacious, this power is given to the assessor, and is to be given to nobody else. If you are to have legal process issued against him and carry the matter through the courts there will be no end to it and no end to the expense; but we provide here that the assessor may arrest

that person and take him, for his contumacy, his entire neglect and refusal to answer, before a court and compel him to answer questions which the assessor may put.

Suppose that it does excite feeling: It excites feeling only in the breast of a man who utterly refuses to do his duty. I hardly think that we should pay attention to the feeling that may be excited among such people who will not do what the law requires of them under such circumstances. We simply propose to take him before a person entirely unprejudiced, a judge of a court, to make him do that or to take the consequence. I do not see any ground for the objection, as the amendment now stands, made by the Senator from New York. I trust that the amendment may be adopted. I see no other way to accomplish the purpose.

The PRESIDING OFFICER. The question is on the amendment to the amendment in the first instance.

The amendment to the amendment was agreed to. The amendment of the committee as amended was adopted.

The next amendment was in section fourteen, line fifty, after the word "refusal" to insert "or neglect, except in cases of sickness or absence from the State;" in line fifty-two, after the word "return" to insert "or to verify the same as aforesaid;" in line fifty-three to strike out "twenty" and insert "fifty;" and in the same line after the word "duty" to strike out the words "and in case of neglect (except in case of sickness) he shall add ten per cent. to such duty," and to insert "and in case of neglect occasioned by sickness or absence as aforesaid, the assessor may allow such further time for making and delivering such list or return as he may judge necessary, not exceeding thirty days;" so that the clause will read:

And in case of the return of a false or fraudulent list or valuation, he shall add one hundred per cent. to such duty; and in case of a refusal or neglect, except in cases of sickness or absence from the State, to make a list or return, or to verify the same as aforesaid, he shall add fifty per cent. to such duty; and in case of neglect occasioned by sickness or absence as aforesaid, the assessor may allow such further time for making and delivering such list or return as he may judge necessary, not exceeding thirty days; and the amount so added to the duty shall in all cases be collected by the collector at the same time and in the same manner with the duties; and the lists or returns so made and subscribed by such assessors or assistant assessors shall be taken and reputed as good and sufficient lists or returns for all legal purposes.

The amendment was agreed to.

The next amendment was to add at the end of the fifteenth section the words "with costs of prosecution;" so that it will read:

That if any person shall deliver or disclose to any assessor or assistant assessor appointed in pursuance of law, any false or fraudulent list, return, account, or statement, with intent to defeat or evade the valuation, enumeration, or assessment intended to be made, or if any person who being duly summoned to appear to testify, or to appear and produce such books as aforesaid, shall neglect to appear or to produce said books, he shall, upon conviction thereof before any circuit or district court of the United States, be fined in any sum not exceeding \$300, or be imprisoned for six months, or both, at the discretion of the court, with costs of prosecution.

The amendment was agreed to.

The next amendment was in section seventeen, line twelve, to strike out the word "at" and insert "as."

The amendment was agreed to.

The next amendment was in section seventeen, lines eight and nine, to strike out the final "s" in the words "assistants" and "persons."

The amendment was agreed to.

The Secretary read the eighteenth section of the bill.

Mr. HOWE. There are several verbal corrections which it seems to me ought to be made in that section, and I will suggest them now to the chairman. It occurs to me that the words "firms or corporations" ought to be inserted after the word "persons," in the eleventh line. They are used in the sixteenth line of the section.

Mr. FESSENDEN. Does the Senator move that amendment?

Mr. HOWE. Yes, sir.

Mr. JOHNSON. Are those words used in the other clauses of the bill? Is there in any other clause a distinction between "persons" and "corporations?" If not, "persons" would include "corporations," as here used.

Mr. HOWE. By an express statutory interpretation they do, and I do not know but at the common law they do; but the Senator will observe that these words are used in the sixteenth line of this section and repeatedly throughout the bill.

Mr. JOHNSON. That is another matter. I asked if they were used as contradistinguished from each other.

Mr. HOWE. Yes, sir. I move in the eleventh line, after the word "persons" to insert "firms or corporations."

Mr. FESSENDEN. In the sixteenth line it reads, "firm, company, or corporation."

Mr. HOWE. Then I will say, "firms, companies, or corporations."

Mr. JOHNSON. It cannot be necessary to say "firms or companies."

Mr. FESSENDEN. It is so used in the sixteenth line of the same section:

Or for which any firm, company, or corporation is liable, with the amount of duty or tax payable thereon.

Mr. JOHNSON. I meant to say that the word "persons" would certainly include "firms."

Mr. FESSENDEN. This will make it consistent with the language used in other parts of the bill.

The PRESIDING OFFICER. The question is on the amendment as modified, in line eleven, after the word "persons" to insert "firms, companies, or corporations."

The amendment was agreed to.

Mr. HOWE. In the twenty-third line of the same section I think the word "list" should be "lists," and I make that motion. There are two general lists.

The amendment was agreed to.

Mr. HOWE. In lines twenty-three and twenty-four I propose to strike out the words—and this, perhaps, is a little more than a verbal amendment—"the assessor under the direction of," so as to let these forms be devised directly by the Commissioner of Internal Revenue. The clause now reads:

The forms of the said general lists shall be devised and prescribed by the assessor, under the direction of the Commissioner of Internal Revenue.

Mr. FESSENDEN. I think you had better let that stand as it is.

Mr. HOWE. Very well; I will withdraw that amendment. The clause continues:

And lists taken according to such forms shall be made out by the assistant assessors.

I suppose it means "and lists according to such prescribed forms shall be made out." These lists are taken by the assistant assessors and these general lists of the form prescribed are made out by the assistant assessors to be delivered to the assessors.

Mr. FESSENDEN. Do you propose to strike out the word "taken?"

Mr. HOWE. Yes, sir.

Mr. FESSENDEN. I think that may as well be allowed to stand.

Mr. HOWE. Very well.

The next amendment of the committee was in section nineteen, line six, after the word "advertise" to insert "by not less than ten days' notice," and in line seven, after the word "time" to strike out the following words, "of which not less than ten days' notice shall be given," so that it will read:

That the assessors for each collection district shall, by advertisement in some public newspaper published in each county within said district, if any such there be, and by notifications to be posted up in at least four public places within each assessment district, advertise, by not less than ten days' notice, all persons concerned of the time and place within said county when and where appeals will be received and determined relative to any erroneous or excessive valuations, assessments, or enumerations by the assessor or assistant assessor returned in the annual list.

The amendment was agreed to.

The next amendment was to insert at the end of the nineteenth section the following:

The bills for the attendance and mileage of said witnesses shall be taxed by the assessor and paid by the delinquent parties, or otherwise by the collector of the district, on certificate of the assessor, at the rates usually allowed in said district for witnesses in courts of justice.

The amendment was agreed to.

The Secretary proceeded to read the twentieth section of the bill.

Mr. HOWE. There is evidently a mistake in the nineteenth and twenty-first lines of that sec-

tion. "Assistant assessor" should be "assessor" in both those places. It refers to the lists made out by the assessor of the district and handed over to the collector.

The PRESIDING OFFICER. Does the Senator move to amend by striking out the word "assistant?"

Mr. HOWE. Yes, sir.

Mr. FESSENDEN. I wish to look at that a little. I am not satisfied about it.

Mr. HOWE. You will find it so.

The PRESIDING OFFICER. The Chair will suggest that the reading continue until we reach an amendment by the committee, and then the whole section will be open for consideration.

The Secretary continued the reading.

The next amendment was in section twenty, line forty-eight, after the word "monthly" to strike out the words "or special."

Mr. HOWE. The object of that portion of the section is to enable assessors to correct these lists by adding to them other names that they may find liable to a duty or a license:

And the same proceedings shall obtain and be had with respect to such objects of duty or tax as are by this act required in respect to objects of duty or taxes, and persons liable to tax regularly entered and returned on any monthly or special list.

That is the way it reads in the bill. This amendment proposes to strike out the words "or special." There are three of these lists; one is an annual, one is a monthly, and one is a special list, in which these different duties and licenses are enumerated. Some of these corrections will be of duties or licenses found only on the annual, some on the special, and some on the monthly list. I think all three of those terms ought to be employed.

Mr. FESSENDEN. I think the Senator is right about it. That amendment should not be agreed to.

Mr. HOWE. I will move to insert the word "annual" before "monthly."

The PRESIDING OFFICER. The first question will be on agreeing to the amendment recommended by the committee to strike out the words "or special."

The amendment was rejected.

The PRESIDING OFFICER. The Senator from Wisconsin now moves to amend by inserting the word "annual" before the word "monthly."

The amendment was agreed to.

Mr. FESSENDEN. I am inclined to think that the Senator from Wisconsin was right in the amendment that he suggested to the first part of this section. I observe that the clause preceding the one to which he referred reads thus:

And where there is any property within any collection district liable to the payment of the said duty or tax, not owned or occupied by or under the superintendence of any person resident therein, there shall be a separate list of such property, specifying the sum payable, and the names of the respective proprietors, where known.

Then follows the clause to which the Senator referred:

And the assistant assessor making out any such separate list shall transmit to the assistant assessor where the persons liable to pay such tax reside.

That presupposes that they do not reside in the district. It should read, therefore, "to the assessor of the district where the persons liable," &c., inserting "of the district" after "assessor," should it not?

Mr. HOWE. Yes, sir.

Mr. FESSENDEN. That I understand to be the proposition of the Senator. I have no objection to it.

The PRESIDING OFFICER. The proposition, if the Chair understands it, is to strike out the word "assistant" in the nineteenth line, and also in the twenty-first line.

Mr. FESSENDEN. No, sir; not to strike out the word "assistant" in the nineteenth line.

Mr. HOWE. Yes, sir; it is the assessor who is to make out these lists.

Mr. FESSENDEN. I beg the Senator's pardon. These lists are made out by the assistant assessors, I believe.

Mr. HOWE. The section reads thus:

Sec. 20. And be it further enacted, That the said assessors of each collection district, respectively, shall, immediately after the expiration of the time for hearing appeals concerning taxes returned in the annual list, and from time to time as duties, taxes, or licenses become liable to be as-

essed, make out lists containing the sums payable according to law upon every object of duty or taxation for each collection district; which lists shall contain the name of each person residing within the said district, or owning or having the care or superintendence of property lying within the said district which is liable to any tax or duty, or engaged in any business or pursuit requiring a license, or when such person or persons are known, together with the sums payable by each; and where there is any property within any collection district liable to the payment of the said duty or tax, not owned or occupied by or under the superintendence of any person resident therein, there shall be a separate list of such property, specifying the sum payable, and the names of the respective proprietors, where known.

The PRESIDING OFFICER. The Chair understands the proposition of the Senator from Wisconsin to be to strike out the word "assistant" where it first occurs in line nineteen, and also where it occurs in line twenty-one.

Mr. HOWE. Yes, sir; and also to insert the words "of the district" in the twenty-first line.

The PRESIDING OFFICER. The first question will be on striking out the word "assistant," in the places named.

The amendment was agreed to.

Mr. HOWE. I now move, after the word "assessor," in the twenty-first line, to insert the words "of the district."

The amendment was agreed to.

The PRESIDING OFFICER. The Chair will inquire of the Senator from Wisconsin whether he wishes to have the same words inserted after the word "assessor" in the twentieth line.

Mr. HOWE. No, sir.

Mr. FESSENDEN. They are not necessary there.

The next amendment was to strike out the following proviso at the end of the twentieth section:

Provided further, That it shall be in the power of the Commissioner of Internal Revenue to exonerate any assessor, as aforesaid, from forfeitures, in whole or in part, as to him shall appear just and equitable.

The amendment was agreed to.

The next amendment was to strike out, after the word "court," in line twenty-two of section twenty-one, the words "and the said court shall also render judgment against the said assessor or assistant assessor for double the amount of damages sustained in favor of the party injured, to be collected by execution."

The amendment was agreed to.

The next amendment was to strike out the words "and shall not exceed the sum of \$400,000," after the word "dollars," in line six of section twenty-two; so as to make the clause read:

Sec. 22. And be it further enacted, That there shall be allowed and paid to the several assessors, from the date of their appointment, a salary of \$1,500 per annum, payable quarterly, and in addition thereto, where the receipts of the collection district shall exceed the sum of \$100,000 annually, one half of one per cent. upon the excess of receipts over \$100,000, &c.

Mr. HOWE. I should like to have that amendment passed over for the present. I was very much opposed in committee to striking out those words, and I am still.

Mr. FESSENDEN. I am averse to passing over an amendment, because it makes confusion. I should like to have the Senator state his objections now.

Mr. HOWE. Perhaps it may be just as well to act upon it now. I think the effect of this amendment, and the one which follows it in the tenth line of this section, is to raise these salaries above what we ought to pay. The proposition of the bill as it came to us was to pay this percentage in all the districts where the collections were over \$100,000 and did not exceed \$400,000, and to fix \$3,000 as the maximum of the salary in any case. The effect of these two amendments together is to make the limitation \$4,000 instead of \$3,000. I think there are in these few lines two pieces of injustice perpetrated. I think we provide a higher salary in some districts than should be paid anywhere; and I think that in other districts we make the salary lower than it should be. My idea is that there is not so much difference in the amount of labor performed in the poor districts, so to speak, and that performed in the wealthy districts as this amendment contemplates. Each of these districts has about the same number of people who will be assessed, or who are to be canvassed with a view to assessment, and there is no more labor in putting down a heavy sum against an individual than a light sum. You have to go over about the same number of names. But ordinarily in those districts

where you get the least money you have to travel over the largest extent of country in order to find the people. The travel in some of your frontier districts is very considerable. It is not all performed by the assessor, nor any considerable part of it by the assessor, to be sure; but he has to correspond with a great many assistants living at a great distance from him. He has an extensive correspondence to carry on, and more extensive than would be required if his district was more compact. I think, therefore, if you pay a percentage at all, you ought to commence at the first dollar, and you ought to stop paying it when you get the pay up to \$3,000.

My idea is that the offices of assessor and collector in the district in which Peoria, in the State of Illinois, is situated, would be the two best places probably in that State, and I do not suppose it costs any more to live in that district than it does in any other district of the country. I do not suppose the amount of labor is very much more than it will be in any other district. There will be a little more vigilance required, perhaps, to oversee that business.

My view is, as I said before, that we ought to commence paying this percentage on the first dollar if it is to be paid at all, and I am not very urgent that it shall be paid. I am not sure that you cannot get just as efficient service for \$1,500 a year and these expenses, postage, stationery, clerk hire, and office rent fairly adjusted and fairly liquidated, as you can by these higher salaries; but I think it very unjust that the assessor in the district adjoining the Peoria district, in Illinois, or in the district adjoining the first district of my State, should be limited to \$1,500 and no percentage, while the assessor in the first district, in which Milwaukee is, should have \$4,000. It does not follow that he will live in Milwaukee, nor does it follow that his living in Milwaukee is any more expensive. There is an inequality about it and an injustice which I should be glad to get rid of if possible.

Mr. FESSENDEN. The difficulty is inherent in the business. It is impossible to make these things equal. We all know that a large business is done in some districts and comparatively small business in others; and any attempt to equalize the compensation, unless you fix a mere salary and make it square throughout, will be entirely futile. Now, then, the question arises whether there should be a percentage, and upon that I believe the committees of both Houses have been entirely agreed, for the simple reason that if you allow a percentage the result is an effort or an inducement to an effort on the part of the assessors to pick up all the assessable property that there is. Suppose you fix a salary, the assessor receives that salary whether he assesses more or less, or whether he assesses anything. It therefore has been believed to be a sound principle that, while we provide for paying a respectable salary to some extent, in part at least the compensation shall be made up of a percentage on the collections to induce him strenuously, carefully to discover what property there is in his district that is assessable. I think it would be entirely unsafe to proceed on any other principle.

Again, take the salary we fix of \$1,500. No one supposes that in the city of New York or the city of Boston, for instance, any man who is fit for the office could be found who would perform its duties for that amount of salary. It is a salary that is paid to the inspectors of revenue, to the weighers and gaugers; and here is a man who has control of the assessment which leads to the collection of millions of dollars, performing most important duties, and requiring responsible persons of character and of ability. It is vain to expect that you can find such a man in many places in this country, and in those places especially where the largest amount of revenue is collected, for any such sum as is fixed as a salary. You must therefore make up a proper compensation to him in some other way, and the only way in which you can make it up is by giving him a percentage on the collections up to a given point. You must fix your point somewhere and stop, because in the districts to which I have alluded, in the city of New York, or a great manufacturing district, if you give him a percentage on the whole amount collected his pay might be very much more than he ought to receive, and therefore you must fix a maximum, which we have



done in this case, and we have increased the present maximum somewhat. That principle is found to be necessary, also, in order to prevent too great an inequality and the receipt of more money than a man is entitled to for the labor he performs.

But with regard to this particular case I think my friend cannot have scanned the section carefully, because, as it read originally, an assessor in a district where the collections were over four hundred thousand dollars would not be entitled to anything but his salary. Mark the peculiar phraseology:

And in addition thereto, where the receipts of the collection district shall exceed the sum of \$100,000, and shall not exceed the sum of \$400,000 annually, one half of one per cent. upon the excess of receipts over \$100,000.

Suppose they went up to \$500,000, he would get nothing but his \$1,500. Therefore you must strike that out of course. That was an error unquestionably in the drafting of the bill. And then comes up the other principle, shall you stop when you get up to a given amount, and say he shall receive no more? Will you hold out to him an inducement to go on carefully, keenly, stringently, to find out what there is to be assessed in the district? We believed, and it was much discussed, that it was best, while you gave on the first \$100,000, and necessarily gave on the first \$100,000, a somewhat higher rate of percentage in order to bring up the salary to a proper sum, you should then give a small percentage on everything above that until he got up to the maximum fixed. I believe that is the best system that can be devised.

Mr. GRIMES. Why raise the maximum from \$3,000 to \$4,000?

Mr. FESSENDEN. There are very few districts in which the assessor will get over \$3,000, and in some of the districts, in large cities, he ought to have more than \$3,000. In some places where the assessments are largest and much revenue is collected you cannot get such a man as you ought to get for \$3,000, as the rate of living is now in view of the depreciation of the currency. That was the belief of the committee; but Senators of course will judge for themselves about it. The committee considered the question carefully, and examined a great deal of testimony that was before them. They considered the increased rates of living, they considered the responsibilities that were imposed upon these men in places where a very large amount of revenue was collected, and they believed that comparatively a very small number of them would get a pay exceeding \$3,000 under this provision; and they believed that the object which we seek to accomplish, that is, the collection of revenue, the putting of money into the Treasury, would be advanced very much by giving a more liberal salary in certain cases, and making it the interest of the men charged with this important duty to discharge it carefully and vigorously.

Such was the conclusion to which the committee came. If the Senate choose to cut down the amount, so be it. Senators know that I am as anxious as anybody to keep the expenditures within as narrow limits as possible, and to pay as small salaries as we can possibly get along with and as is consistent with the public service. If Senators think we have made a mistake in changing this maximum they will so vote. We have changed it also in the case of the collectors, raising it there to \$5,000. At first we placed them on exactly the same footing; but we afterwards concluded to raise the maximum of a collector to \$5,000, for the simple reason that in many cases where it would reach that sum the collectors must necessarily pay out a good deal. They employ their own assistants and pay them, and they are not allowed the same privileges that assessors are in other particulars; and while we limit the whole amount that they are entitled to appropriate for the pay of their assistants, we limit also the amount that they are allowed to retain for their own compensation. I believe there are few cases where it will come up to the maximum which we have fixed. Besides, they are obliged to give very heavy bonds, and their responsibilities are very great. The money responsibilities of assessors are nothing; they receive no money, they are responsible for none; they do nothing but make the assessments; and their allowances are larger in proportion than those of collectors. On very careful

consideration, and with a view to have the matter discussed in the committee of conference which will undoubtedly be raised between the two Houses if the amendments which the Finance Committee have proposed be adopted, and to have the matter thoroughly reexamined there upon the evidence, we thought it best to fix the compensation at these sums. If the Senate disagree with us, very well; it is a matter which, of course, is of no more interest to me than to anybody else.

Mr. HOWE. Of course I have no especial interest in this matter; but the Senator from Maine has discussed this rate of compensation from two points of view. He defends this percentage, first, upon the assumption that it is necessary to secure honest service on the part of the assessor, and secondly, on the ground that it is necessary to secure efficient service. Now, if the payment of a percentage is supposed to be necessary in order to secure honest service, it is certainly as necessary after you get up to \$4,000 as before you get there. If you want to secure and think to secure an honest administration of the office by holding out to the assessor the payment of this commission, tell him to be diligent, because in proportion to his diligence will be the amount of his compensation, then you should continue that inducement to him until he has exhausted his efforts, and you should pay him the same compensation on every dollar that he raises. If that be the purpose for which this commission is given, there should be no limitation upon it; you should begin it when he begins to assess, and you should only stop it when he stops assessing; pay it on the first dollar that he imposes upon any property in his district, pay it also upon the last dollar that he assesses on property in that district.

I think, however, it is not necessary to secure honest service. If you think you are going to employ in the collection of this revenue a class of men whose consciences are to be rectified and guided by a commission of one half per cent. on the amount of money they can get, I believe you had better employ another class of men or give up the idea of pretending to collect revenue in this way. You must bid higher if your men are going to be made honest by the amount of your compensation; you must bid higher, or else you will be outbid. The men who have the taxes to pay will pay more than one half per cent. for a dishonest administration of the office. I think, therefore, it is inexpedient to attempt to secure an honest administration of this office by holding out any such inducements as these.

Now, is it a just measure of compensation anywhere for this class of duties? There are a few officers employed within the State of New York, and within the State of Massachusetts, that is, in the city of New York and in the city of Boston, and in some other cities, who receive as high or a higher salary than \$4,000 per annum. There are but few of the Governors in the northern States, I think, who receive so high a salary as \$4,000. With the exception of the collector of the customs, I think there is no man employed in the collection of that branch of our revenue in the city of New York who receives anything like \$4,000. That is my recollection about it; but I do not speak with any confidence, because I have not looked at the book.

I believe we are mistaken in supposing that the largest revenues are secured from districts in the largest cities. That matter was not considered, I believe, in committee; we had no statistics in regard to it. I have looked at some of the returns as they have been published, although they are partial and incomplete; and according to my recollection we get the largest revenues in several cases from country districts where the reason for these high salaries on the score of the cost of living does not obtain. It is said that we cannot in the city of New York and the city of Boston and in other cities secure the class of service we want in these offices for a salary so low as \$1,500. I have been advised by persons residing in those cities that that is a mistake, that we can get them, and that the very class of men who are employed ordinarily in this kind of duty in these offices are a class of men who before they received these appointments were actually earning less money.

Mr. FESSENDEN. We want to get a better class.

Mr. HOWE. I do not know that any one of these offices has ever been tendered to any man

who has refused it because the salary was not sufficient; and if you raise the salary I do not know that these offices will be tendered to any different class of men or any different style of men. I have no reason to believe that, and I do not believe it. I hope, therefore, as I said in the outset, that this amendment will not be agreed to unless the Senate think it is sensible. If they think so, I shall not be particularly sorry; but if they disagree to the amendment, I shall want a new amendment offered which will prevent these high salaries.

The amendment was agreed to.

The next amendment was in line ten of section twenty-two, to strike out "three" and insert "four;" so as to make the clause read:

But the salary of no assessor shall in any case exceed the sum of \$4,000.

Mr. GRIMES. On that question I want a division of the Senate by the yeas and nays.

The yeas and nays were ordered.

Mr. FESSENDEN. I really hope the Senate will adopt the amendment. There is very great doubt whether \$3,000 is enough in some cases; and if we adopt the amendment we can hereafter, when we come to the discussion of the matters wherein we differ from the House of Representatives, settle it back to \$3,000 if it is then thought that \$4,000 is too much; but if we fix it at \$3,000 now there will be nothing to discuss and the matter will be settled. The Committee on Finance became convinced of the propriety of this change. I think that after discussion there was no objection in the committee by anybody to fixing the maximum at the rate named in this amendment.

Mr. GRIMES. There is a little responsibility devolving upon the members of the Senate as well as upon the committee of conference that will be constituted by the House of Representatives and the Senate hereafter, and I choose to let my constituents know how I vote on a question of this sort. I do not agree with the chairman of the Committee on Finance that \$3,000 is less than ought to be paid to any one of these officers. I know very well that it is more than is received by men performing corresponding duty in civil life in New York. There are men who receive much larger sums of money, given in a great degree as gratuities, in some instances because of the extraordinary character that they possess, being placed at the head of some sort of corporation; but we have an illustration of the point that I make, here in this city. It is only a few months ago since the principal man in the sub-Treasurer's office in the city of New York, a gentleman whom I have heard spoken of, and I think I have heard the chairman of the Committee on Finance speak of him, as one of the most accomplished officers in that establishment in New York, was brought here and made Assistant Secretary of the Treasury at a salary of \$3,000. It is said that we do not want men to perform the duties of assessor similar to those who are performing the duties of cashiers. I apprehend that most of the men who are capable of performing the duties of a teller or cashier in a bank can be made in a very short time capable of performing the duties of an assessor.

Mr. FESSENDEN. I will say to the Senator from Iowa that I am informed by the Senator from New York [Mr. MORGAN] that the average pay of cashiers of banks in the city of New York is \$6,000 a year.

Mr. GRIMES. I should like to have the Senator from New York state how much bank tellers are paid. This man is not responsible for any public money. He merely performs clerical duties. He goes through the city and makes assessments. Why should we pay him such an exorbitant sum? Because of any responsibility that he assumes to the Government? Not at all. I do not think that his responsibilities to the Government are any greater than the tellers in a bank or the book-keeper in any private establishment in New York to their employers. I am unwilling that this question shall go to a committee of conference to be decided until there shall first be an opportunity for every member of the Senate to set himself right on the record.

Mr. FESSENDEN. I have not the slightest objection to the yeas and nays, and if the Senator wants to set himself right I have no objection to that. I did not speak on that account. I simply said that I hoped the Senate, on the yeas and nays, would not adopt the views of the honor-

able Senator from Iowa, and I trust so still. That is all I said.

I of course have no sort of feeling or wish upon the matter. The idea is that an assessor is a very important officer. If the Senator from Iowa has examined this bill and knows what is in it he must be aware that the duties of the assessor are great and varied, requiring not only integrity but capacity of a high order so far as judgment, discretion, clearness of view, and all those qualities which go to the making up of a very able man of business are concerned. As a general rule, so far as I had anything to do with it in my own State, I endeavored to select for these offices a very superior set of men, and I think we succeeded in doing it in the State of Maine; I do not know how it is elsewhere. Now, sir, to compare a man having the charge of such important interests, requiring so much ability and so much character, to a mere teller of a bank, who has simply to count money from day to day, is to my mind an absurdity.

Mr. GRIMES. Will the Senator allow me then to put another case? Let him compare them with the Comptrollers and Auditors of the Treasury of the United States.

Mr. FESSENDEN. Compare them with those. Some of them receive more than three thousand dollars salary. The First Comptroller receives \$3,500; the Comptroller of the Currency receives \$5,000; we have men here who receive much larger sums than the amount here fixed; but that is no argument on the subject. We know very well how the class of officers referred to, who receive \$3,000, complain of the smallness of their pay; but they have a set of duties to perform which are not of the nature to be performed by these officers.

But, sir, I am not disposed to argue the matter. Every Senator will judge for himself. I only know that on looking at the whole subject, as I said before, we came to the conclusion to propose this amendment, and also for the reason that we thought it ought to be open for some discussion after the communications we had upon the subject and the views expressed, especially in the present state of things. Senators are aware that \$3,000 now is not more than \$2,000 would be at an ordinary time, so that in fact when you fix a man's salary at \$3,000, it is equal to saying \$2,000 in an ordinary time; and we had that in view also, and we must conform in some degree to these circumstances.

Mr. HOWE. I rise simply to correct a statement of fact. The Senator from Maine was under the impression that there was no opposition to this amendment in the committee, that the committee were entirely unanimous upon it. I believe he certainly is mistaken as far as my own action is concerned, and I think as far as one other member of the committee is concerned; I think the Senator from Ohio did not agree to it.

Mr. FESSENDEN. The Senator from Ohio expressly agreed to it.

Mr. HOWE. I cannot speak with certainty as to him.

The question being taken by yeas and nays, resulted—yeas 20, nays 9; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Cowan, Dixon, Fessenden, Foot, Foster, Hale, Harris, Henderson, Johnson, Lane of Indiana, Morgan, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, and Van Winkle—20.

NAYS—Messrs. Buckalew, Grimes, Harlan, Hendricks, Howe, Lane of Kansas, Ramsey, Wade, and Wilkinson—9. ABSENT—Messrs. Brown, Carlile, Collamer, Conness, Davis, Doollittle, Harding, Hicks, Howard, McDougall, Morrill, Nesmith, Pomeroy, Powell, Richardson, Riddle, Salsbury, Willey, Wilson, and Wright—30.

So the amendment was agreed to.

Mr. SHERMAN. Is it in order now to change the amount named in lines five and six of the section? I desire to increase the amount to \$200,000. In country districts I think the salary is sufficient. There will be very few districts under this bill where the pay will be above \$3,000. If it is in order, I would move to increase the minimum of the amount of collections named to \$200,000. I think that in country districts where labor is cheap and provisions and rents are cheap the minimum compensation fixed is sufficient, and nearly all the districts will yield \$200,000 revenue. I move, in line five, to raise the minimum to \$200,000 instead of \$100,000. I think there are certain city districts where the compensation of \$3,000 would be inadequate, and therefore I voted for the propo-

sition to increase the rate in certain districts, but I think that \$1,500 is sufficient in ordinary country districts.

Mr. FESSENDEN. I think that would be very hard on them.

Mr. SHERMAN. They are entitled to their postage; and their office rent and all incidental expenses are provided for in this same section. The law allows them a fixed compensation of \$1,500, and then if they collect over \$200,000 they get one half of one per cent. until they reach the maximum of \$4,000. If my amendment is adopted, in the country districts where the collections are less than \$200,000 they would only get their salary and expenses. I think that is enough in a country district.

Mr. HENDERSON. I hope that amendment will not be adopted. I voted with some reluctance to retain \$4,000 as the highest salary of an assessor. It ought to be remembered by the Senate that in some of the districts that are rather large in territorial extent, but where small amounts will be collected, the assessors, if the Senate should change this minimum to \$200,000, will have nothing except the salary fixed by the bill. The responsibility will be very great; they will have to travel over a very large district of country necessarily, and especially to get the income tax.

Mr. SHERMAN. All that is done by the assistant assessors.

Mr. HENDERSON. There is as much responsibility on the assessor. He has to see that the returns and everything are correctly made. There is as much responsibility there as in a case where the district is compact and the receipts large. Neither will handle any money. I think it would be much better to reduce the maximum amount of the salary to \$3,000, as proposed by the Senator from Iowa, than to extend the minimum of collections to \$200,000, because it will affect assessors in a great many cases where it ought not to be done. I hope the amendment will not be made.

Mr. WILKINSON. This amendment of the Senator from Ohio will operate very harshly on the districts where there is the most labor to be performed. Take my State, if you please, where there are two districts, either of which comprises a territory larger than Connecticut and Massachusetts combined, and the assessors have to travel over that entire country, it being sparsely settled and an agricultural community.

Mr. SHERMAN. The assessor does not travel.

Mr. FESSENDEN. He must go into every county to hear appeals.

Mr. SHERMAN. But he does not go around to make assessments. He has assistant assessors.

Mr. WILKINSON. There are twenty large counties in one district of our State three hundred miles in extent one way and one hundred and fifty miles the other way.

Mr. GRIMES. I do not know how it may be in Minnesota or any other State; but I had occasion last fall to travel all over or nearly all over the State of Iowa, and I took the trouble to inquire as to the operation of this law; and if I had not taken that trouble there was such universal indignation in some parts of the State as to the administration of it on the part of the deputy assessors, that my attention could not but have been called very strongly to it. I found that under the law—I do not know whether the construction was correct or not that had been placed on it—there was a deputy assessor in almost every county, whether there was any amount of revenue collected in the county or not, and that in almost every instance the deputy assessors had charged a per diem ranging from fifteen up to twenty-five days in a month, although the receipts from the entire county into the Treasury of the United States would not be more than half enough to pay the per diem. One great argument that was urged to me, especially by some of the collectors, was—I do not know whether that is remedied by this bill—that the assessors were allowed to pay their own deputy assessors and to audit the accounts. I remember very well that a collector told me that if he was permitted to audit the accounts of the deputy assessors, they would not be permitted to gouge the Treasury in the manner in which they were doing. I do not know whether that has been obviated by this bill or not. I believe I called the attention of one member of the committee to it in the early part

of the session. The account was approved by the assessor, the man who made the appointment.

Mr. HENDERSON. He cannot make the appointment under this bill.

Mr. GRIMES. He will make it virtually under this bill. The appointment will be made, on the designation of the assessor, by the Secretary of the Treasury or the Commissioner of Internal Revenue. The right way I think is to have the accounts of the deputy assessors audited by somebody else than the chief assessor himself, the man from whom hitherto the appointment has emanated, and from whom it will hereafter virtually emanate. It is true that under the law the chief assessor of the district is required to go into each county once a year to hear appeals from the deputy assessors, but he only goes where appeals are made. In the sparsely settled counties in Minnesota and Iowa there is not an appeal made in one county out of twenty-five. I have never known an appeal made in my State from the deputy assessor to the assessor.

Mr. WILKINSON. I never heard of one in our State.

Mr. GRIMES. If there is no appeal taken, the assessor is not required to go into any other county in the district than the one in which he resides.

Mr. FESSENDEN. My great objection to this amendment is that there are very few districts, comparatively speaking, taking the country through, where we collect above one hundred thousand dollars. Is it not an object, is it not desirable that we should hold out some inducement to assessors to bring this matter up just as high as they can? We know as a matter of fact that there are very few districts where the amount comes up to \$200,000. If you allow only a fixed salary, you hold out no sort of inducement to the assessor to go beyond it, to be strenuous and careful in the discharge of his duties. You must take men in this world as you find them and as they are; and the ground upon which the percentage was fixed was expressly with a view to hold out a further inducement to assessors to do their duty carefully, because if they get up beyond a certain point they receive a percentage on receipts.

I believe that we should make twenty or fifty dollars where we lose one in the payment of salaries, by retaining the principle which I contend for in that single provision, by providing that the assessor if he brings his assessments in a district up to a certain point shall receive a percentage. I deem it to be exceedingly important. My best judgment on the subject, after the most careful deliberation I could give it, is that we miss it by being so very particular about these small percentages, which are paid in reality as an inducement to men to put in process of collection all they can. Fifteen hundred dollars may be pay enough if you appoint a man who is to sit down quietly in his office and send his assistant assessors around, and have them make their returns, and he simply hear appeals from them, and do no more. That may be well for him; but is it well for us, is it well for the Treasury, is it well for the revenue of the country? That is the question, and it is that consideration which influences me in advising that this feature be retained as it is.

The amendment was rejected.

The next amendment of the Committee on Finance was to strike out "\$3 50" and insert "four dollars," in line twenty-two of section twenty-two; so as to read:

And there shall be allowed and paid to each assistant assessor four dollars for every day actually employed in collecting lists and making valuations, the number of days necessary for that purpose to be certified by the assessor.

Mr. SHERMAN. I wish the attention of the Senate to the pay of these assistant assessors. There are a great number of them, and consequently, though the increase to each is but small per day, it may make a large sum in the aggregate. This is not all the compensation of the assistant assessor, because the bill provides that he shall have three dollars for every hundred persons assessed on the tax list, as completed and delivered by him, and he is entitled to twenty-five cents for each permit granted to any tobacco, snuff, or cigar manufacturer.

Mr. FESSENDEN. How many districts are there where there is such a manufacturer?

Mr. SHERMAN. That is not an important item, I know; but the other item of three dollars

for every one hundred persons assessed is very important, in addition to postage, office rent, and stamps.

Mr. FESSENDEN. The assistant assessors have no such allowances; they are only for the assessor.

Mr. SHERMAN. The provision is:

And there shall be allowed and paid to each assistant assessor four dollars for every day actually employed in collecting lists and making valuations, the number of days necessary for that purpose to be certified by the assessor, and three dollars for every hundred persons assessed contained in the tax list as completed and delivered by him to the assessor, and twenty-five cents for each permit granted to any tobacco, snuff, or cigar manufacturer; and the said assessors and assistant assessors, respectively, shall be allowed, after the account thereof shall have been rendered and approved by the proper officers of the Treasury, their necessary and reasonable charges for stationery and blank-books used in the discharge of their duties, and for postage actually paid on letters and documents received or sent, and relating exclusively to official business.

I did not mean to say that the assistant assessor is entitled to office rent, but he is to books, stationery, postage, and incidental expenses. He is entitled not only to three dollars for every hundred names returned by him on the tax list and to incidental expenses, but there is another provision that an increase may be allowed in certain cases by the Secretary of the Treasury.

Mr. FESSENDEN. That is only in certain States.

Mr. SHERMAN. The pay of the assistant will really amount in some cases to more than the pay of the assessor. Take the case of a district where the pay of the assessor is \$1,500, and the amount collected is \$100,000. In such a district as that the pay of the assistant, if employed the year round, is higher than the pay of the principal assessor. Four dollars a day for thirty days is \$120 a month. It is higher than persons performing similar duties are paid in any of the western States. Perhaps in some of the eastern States they get as much, but it is much more than is paid in any State West, including the State of Ohio.

Mr. FESSENDEN. I see, Mr. President, that I may have very hard work of it in getting through with this bill. I thought that I represented the committee, and the Senate seem to be very well satisfied with the committee's report; but on the right hand and on the left I find gentlemen of the committee meeting me in the Senate upon matters which were thoroughly discussed and decided by the committee. I thought I had a right to call for their aid to support me. I have excused my friend from Wisconsin, however, in the particular case that he suggested, because he gave notice that he was opposed to the amendment of the committee and should oppose it here.

I can only say with regard to this question that the matter was thoroughly discussed in the committee when the Senator from Ohio was present, and it was decided there that under the circumstances of the case, in view of the considerations that I have suggested, it was best to raise this pay. The Senate will do as they please about it. My opinion remains the same in regard to it. Considering the number of days these men are employed, their aggregate pay is not large. If there is fraud about it, if the assessors allow them more days than they ought to have, that cannot be helped here. My friend from Iowa says it is so, and particularly in the State of Iowa. I am sorry to hear that there is such a state of morals there that better officers cannot be found to discharge the duties of their offices under this law. I do not think it is so in my own State. I do not know what kind of men my friend recommended for appointment to office there under this law. I believe the bill is right as it stands, as we have reported it, and I hope the Senate will sustain it.

Mr. GRIMES. When the news came in from the battle out West the other day, the Senator from Maine boasted that the State of Maine had furnished a large population to the State of Iowa, and perhaps that fact will account for the conduct of the assessors in the State of Iowa. [Laughter.] I have only stated here to-day what I have been told by the collectors and gentlemen who are familiar with this subject, and my testimony has been vouched by a Senator who lives on the Atlantic coast and sits behind me, and I think that those gentlemen who will take the trouble to examine the records in the Treasury will find that

such is the case in every State in the Union, that a very large number of assessors in the agricultural counties where there has been comparatively no money received and paid into the Treasury have been drawing compensation where there was actually no service rendered.

Mr. FESSENDEN. That is the fault of the assessor. We must trust somebody.

Mr. GRIMES. I do not know how it may be in other sections of the country; but in my region these deputy assessors are merchants or lawyers or doctors in some remote county in the district, and while they act as deputy assessors they perform their regular legitimate business. The performance of this duty does not interfere in the remotest degree with their regular business; and yet it is now proposed to pay them four dollars a day for as many days as they shall certify to the man who appoints them—

Mr. TRUMBULL. They are to be appointed by the Secretary of the Treasury hereafter.

Mr. GRIMES. But does not the Senator know how those appointments will be made? On the designation of the assessor; and I believe we do not require these gentlemen to swear (as you require every man who pays taxes to support these men to swear) that they have actually been employed during the days they draw pay.

Mr. HOWE. I have got such an amendment to propose.

Mr. FESSENDEN. They take an oath to discharge their duties faithfully.

Mr. GRIMES. They take an oath at the commencement when they first enter on their duties that they will discharge them faithfully; but they are not obliged to take an oath to the verification of their accounts.

Mr. FESSENDEN. I am not disposed to talk much more about this matter; but I protest against Iowa being made the particular illustration of every part of the country in this respect. We must provide necessarily for all; and how much is four dollars a day to pay to men in your large cities for the few days they are employed, and the kind of men you want, even with what they get for the lists? In your large cities and large manufacturing places you want men who are almost if not quite equal to the assessor himself in capacity. What kind of men can you employ for the very small sum fixed in such cases? If they were employed the year round this amount would be enough. It is unquestionably true that in some cases there are impositions; but you collect the great amount of your revenue in the cities and in the manufacturing towns, and we must act according to the necessities of the case with a view to the very subject of revenue itself, and that was the idea upon which the committee went.

Mr. HOWE. I am entirely satisfied that four dollars a day is not too high for this class of employees. I know I have the permission of the chairman to oppose this amendment, but this is not one of the amendments I wanted to oppose; I did not oppose it in committee. I know so far as I am acquainted with these assistant assessors that they are not the class of men alluded to by the Senator from Iowa. They cannot devote a day to this duty but it takes them from their regular employment. For instance, the assistant assessor in the county in which I live is a lawyer, an industrious, hard-working man. He has to travel over a large tract of country. He has not a horse and carriage; he has to hire one at the livery stable to go into a remote part of the county. He cannot devote a day to this duty without paying out of his pocket nearly the whole amount of his compensation. He cannot go to a livery stable and hire a horse and carriage, ride out into the country through the various towns, maintain his horse, and get a dinner for himself, without expending nearly four dollars.

Mr. DAVIS. He ought to have a horse. [Laughter.]

Mr. HOWE. The Senator from Kentucky says he ought to have a horse. I think so myself, and the Government ought to give him one, [laughter,] but I do not feel disposed to propose an amendment of that sort. I think you ought to pay him a sum which will enable him to hire one, for I do not think you ought to compel him to go on foot.

The amendment was agreed to.

Mr. HOWE. I have prepared several amendments, intended to guard against the abuse of

which the Senator from Iowa spoke, and I will offer them now, or defer them—

Mr. FESSENDEN. I should prefer that the Senator would defer them until the amendments of the committee shall have been disposed of.

Mr. HOWE. Very well; but let me suggest a couple of verbal alterations.

Mr. FESSENDEN. I shall be obliged to the Senator if he will do so.

Mr. HOWE. In lines thirty and thirty-one the section reads, "shall be allowed, after the account thereof shall have been rendered and approved by the proper officers." I propose to alter "allowed" to "paid," and to insert "to" after "rendered."

The PRESIDENT *pro tempore*. The alterations proposed by the Senator from Wisconsin will be made, if there be no objection. The Chair hears none.

The next amendment of the committee was in line forty of section twenty-two, to strike out the word "in" before "continuance."

The PRESIDENT *pro tempore*. This amendment will be made.

The next amendment was in line fifty-two of section twenty-two, to strike out the word "two" and insert "to."

The PRESIDENT *pro tempore*. This amendment will be made.

The next amendment was to insert the words "revenue agents and inspectors" after the word "assessors" in line fifty-three of section twenty-two, and to strike out the words "the States of" before "Louisiana" in line fifty-four; so as to make the proviso read:

*Provided further*, That the Secretary of the Treasury shall be, and he is hereby, authorized to fix such additional rates of compensation to be made to assessors and assistant assessors in cases where a collection district embraces more than a single congressional district, and to assessors and assistant assessors, revenue agents and inspectors in Louisiana, North Carolina, Mississippi, Tennessee, Missouri, California, and Oregon, and the Territories, as may appear to him to be just and equitable, in consequence of the greater cost of living and traveling in those States and Territories, and as may, in his judgment, be necessary to secure the services of competent officers; but the rates of compensation thus allowed shall not exceed the rates paid to similar officers in such States and Territories respectively.

The amendment was agreed to.

Mr. SPRAGUE. Before we pass from section twenty-two I desire to ask the chairman of the Committee on Finance whether, having limited the gross amount of compensation of assessors, a limit should not also be put upon that of the assistant assessors. There is no limit in the section to the aggregate compensation that assistant assessors may obtain.

Mr. FESSENDEN. The reason is that they are only paid for the days they are actually employed.

Mr. SPRAGUE. I merely submit if it is not desirable to impose some limit.

Mr. FESSENDEN. I do not know how it could be done very well, because that would depend on the circumstances in each case.

The next amendment of the committee was in section twenty-four, line three, to strike out "one thousand" and insert "fifteen hundred;" so as to read:

That there shall be allowed to collectors, in full compensation for their services and that of their deputies, a salary of \$1,500 per annum, to be paid quarterly, and in addition thereto a commission, &c.

The amendment was agreed to.

The next amendment was in line five of the same section, after the word "of" to strike out "two and one half of one" and insert "three;" so that the clause would read:

And in addition thereto a commission of three per cent. upon the \$100,000.

Mr. WILKINSON. I hope that amendment will not be adopted. Under the old law there was four per cent. allowed upon the first \$100,000. In some of the districts in the new States the collections are not large. Take the largest district in the State of Minnesota, and I think it pays but a little over sixty thousand dollars; and yet the collector in that district has actually paid out, as I know—for he lives in the town where I reside—to the deputy collectors every cent of the four per cent. that was coming to him, and also several hundred dollars out of his pocket, relying on the general clause giving the Secretary of



the Treasury the power to allow such further salary as he should deem proper.

Mr. FESSENDEN. The Senator will perceive that we increase instead of diminish the pay.

Mr. WILKINSON. I see you allow \$1,500 per annum, but you strike down the percentage to three per cent.

Mr. FESSENDEN. By the last bill there was no salary whatever.

Mr. WILKINSON. I understand that. Now, in this district to which my attention has been called the collector gets nothing at all under the law. The difference between two and a half per cent. and three per cent. on \$60,000 would be \$300. The duties of this officer are just as arduous and more so than the duties of a collector in a large city or a county where he would collect \$500,000. He has a vast extent of country to attend to, and there is no earthly reason why he should not be reasonably paid. It seems to me that this \$1,500 is to pay for all the services of the collector and deputy collectors. It says "that there shall be allowed to collectors, in full compensation for their services and that of their deputies."

Mr. FESSENDEN. Will the Senator allow me to suggest that as the bill comes from the House of Representatives the percentage is two and a half per cent.? We propose to increase it to three per cent., the Senator will observe, thus enlarging the House proposition.

Mr. WILKINSON. I find I am mistaken and the committee are right as far as they go, but they ought to go further and allow the rate fixed by the existing law, four per cent.

Mr. FESSENDEN. The Senator will be at liberty after we get through the amendments of the committee to move to strike out the whole clause as amended if he pleases, and to make the percentage more, but of course he does not object to our amendment.

Mr. WILKINSON. That did not occur to me in reading it. I only saw that it was a reduction from four as the law now is to three per cent.

Mr. TRUMBULL. I think there is force in what the Senator from Minnesota has said; and in the country districts, especially in large districts of country, the collectors, as he has very truly remarked, receive nothing. I know a collector in the State of Illinois, a very honest, correct, faithful, and truthful man as I think, who has sent me a statement of the transactions in his collection district showing that he paid out to his deputies and for the expenses of his office more than he actually received as compensation. In a district where \$50,000 is collected the collector will receive just \$1,500 under this provision. There are many districts where there are no more than fifty or one hundred thousand dollars collected. I think that four per cent. on the first \$100,000 would not be unreasonable, and I think that is the way it was in the old bill.

Mr. FESSENDEN. But that did not allow the \$1,500.

Mr. TRUMBULL. If you allow three per cent., and \$50,000 is collected, I suppose the collector would not get the three per cent. besides the \$1,500.

Mr. FESSENDEN. Yes, he would.

Mr. TRUMBULL. Is it the intention of the committee, that he shall have the \$1,500 and the three per cent. additional?

Mr. FESSENDEN. Certainly, and we fixed it in that way on careful consideration.

Mr. TRUMBULL. I supposed the \$1,500 would be deducted out of the three per cent.

Mr. FESSENDEN. Not at all. If he collects \$50,000 he will get \$1,500 salary, and the three per cent. would be \$1,500 more, so that his pay would be \$3,000.

Mr. TRUMBULL. I have no objection to it with that understanding.

Mr. FESSENDEN. We have made it so that I think it ought to be satisfactory all around.

Mr. WILKINSON. I still believe that in those districts where there is less than one hundred thousand dollars collected four per cent. should be allowed in addition to the salary, for this reason: those are districts of vast territorial extent, and where the collector is obliged in consequence of the great extent of the territory to employ a large number of deputies. In the large towns, for instance in a congressional district in the city

of New York, \$1,000,000 may be received and the collector's percentage will amount to a vast sum, while a collector in a district in a new State where there is but little received has a vast amount of territory to look to and just as much labor to perform as if he collected a larger amount of money.

The amendment was agreed to.

Mr. HOWE. I propose the same verbal amendments in this section that I did to the section in regard to assessors. I move to strike out "allowed" and to insert "paid," in the fourteenth line, and to insert "to" after "rendered," in the same line.

The PRESIDENT *pro tempore*. Those amendments will be made if there be no objection.

The next amendment of the committee was in section twenty-four, line twenty-one, to strike out the word "cases" and insert "States and Territories;" so as to read:

*Provided, however,* That the salary and commissions of no collector, except in the States and Territories mentioned in the proviso, &c.

Mr. FESSENDEN. I think that had better not be agreed to.

The amendment was rejected.

The next amendment was in the twenty-fourth line of the same section, after the word "than," to strike out "four" and insert "five;" so that the clause will read:

\* \* \* That the salary and commissions of no collector \* \* \* shall exceed \$10,000 in the aggregate, nor more than \$5,000 exclusive of the expenses for deputies and clerks, to which such collector is actually and necessarily subjected in the administration of his office.

The amendment was agreed to.

The next amendment was to strike out the following proviso after "office" in line twenty-seven:

*Provided further,* That nothing contained in this section shall be construed to allow any collector more than \$4,000 per annum, exclusive of stationery, blank-books, and postage, and pay of deputies and clerks.

The amendment was agreed to.

The next amendment was in section twenty-five, line three, after the word "revenue," to insert "which shall accrue after the 30th of June, 1864," and in line five, after the word "compensation," to insert "for services after that date;" so that the clause will read:

That in the adjustment of the accounts of assessors and collectors of internal revenue, which shall accrue after the 30th of June, 1864, and in the payment of their compensation for services after that date, the fiscal year of the Treasury shall be observed, &c.

The amendment was agreed to.

The next amendment was to add to the section:

And the salary and commissions of assessors and collectors heretofore earned and accrued shall be adjusted, allowed, and paid in conformity to the provisions of this section, and not otherwise.

The amendment was agreed to.

The next amendment was in section twenty-six, line three, after the word "assessors," to strike out "respectively."

The amendment was agreed to.

The next amendment was to strike out in line four "given on" and insert "made upon;" and in line five to strike out "such" and insert "each;" and in line nine to strike out "given on" and insert "made upon."

The PRESIDENT *pro tempore*. This amendment will be made if there be no objection.

The next amendment was in section twenty-seven, to strike out the words "respectively as aforesaid" after "assessors" in line three.

The amendment was agreed to.

The next amendment was in lines eighteen, twenty-two, and twenty-seven respectively of section twenty-seven to strike out "summons" and insert "notice."

The amendment was agreed to.

The next amendment was to strike out in lines thirty, thirty-one, and thirty-two of section twenty-seven the words, "but no such summons shall be necessary in respect to annual taxes assessed upon any property or articles included in schedule A of this act."

The amendment was agreed to.

The next amendment was after the word "assessor," in line thirty-eight, to strike out "or within twenty days from and after receiving the list thereof from the assessor," and in line forty-two, after the word "annual," to strike out "and" and insert "or."

The amendment was agreed to.

The next amendment was in line fifty, after the word "chattels," to strike out "which may be."

The PRESIDENT *pro tempore*. That amendment will be made if there is no objection. The Chair hears none.

The next amendment was in section twenty-nine, line twenty, after the word "the" to strike out "place of residence of the person whose;" and after "estate," in line twenty-one, to strike out "shall be;" so as to make the clause read:

And the said officer shall also cause a notification to the same effect to be published in some newspaper within the county where such seizure is made, if any such there be, and shall also cause a like notice to be posted up at the post office nearest to the estate so seized, and in two other public places within the county.

The amendment was agreed to.

The next amendment was in line twenty-three of section twenty-nine, to insert after "seized" the words "except by special order of the Commissioner of Internal Revenue;" so as to read:

And the place of said sale shall not be more than five miles distant from the estate seized, except by special order of the Commissioner of Internal Revenue.

The amendment was agreed to.

The next amendment was in line sixty-nine of section twenty-nine after the word "person" to insert "or for which any person may be liable."

The amendment was agreed to.

The next amendment was in section twenty-nine, line one hundred and eight, after the word "accrued," to strike out the word "in" and to insert the word "at."

The amendment was agreed to.

The next amendment was in section thirty-three, line seven, after the word "credited," to insert "with all payments of duties or taxes collected;" so that it will read:

That each collector shall be charged with the whole amount of taxes, whether contained in lists delivered to him by the assessors, respectively, or delivered or transmitted to him by assistant assessors from time to time, or by other collectors, and with the additions thereto, and amount of penalties or forfeitures collected, and shall be credited with all payments of duties or taxes collected, and with the amount of duties or taxes contained in the lists transmitted in the manner above provided to other collectors, and by them receipted as aforesaid.

Mr. HOWE. I do not like the phraseology of that amendment, because it does not specify where these payments are to be made. I do not know how to state the objection, because I purpose by and by, after I have an opportunity to consult with the chairman, to move some amendments requiring all these payments to be made into the Treasury or the several depositories selected by the Secretary of the Treasury.

Mr. FESSENDEN. This would cover all everywhere. They are ordered to be paid as it stands now.

Mr. HOWE. I see it would; but the question is, how complete will be our control over it if we now adopt this amendment. It is, I think, a very serious objection to the bill as it stands that it leaves this matter under the control of the Commissioner of Internal Revenue.

Mr. FESSENDEN. The Senator will observe that the particular clause on which we are now acting is merely settling the principles on which the accounts shall be settled, and has nothing to do with the person who is to receive the payments.

The amendment was agreed to.

The next amendment was in section thirty-three, line eleven, after the word "also," to strike out the word "for" and insert "with;" so that it will read:

And also with the duties or taxes of such persons as may have absconded or become insolvent prior to the day when the duty or tax ought, according to the provisions of this act, to have been collected.

The amendment was agreed to.

The next amendment was in section thirty-three, line fifteen, to strike out the words "First Comptroller of the Treasury" and to insert "Commissioner of Internal Revenue;" and in line eighteen, after the word "recovered," to insert "who shall certify the facts to the First Comptroller of the Treasury;" so that the proviso will read:

*Provided,* That it shall be proved to the satisfaction of the Commissioner of Internal Revenue that due diligence was used by the collector, and that no property was left from which the duty or tax could have been recovered, who shall certify the facts to the First Comptroller of the Treasury.

Mr. HOWE. I wish the chairman would pass over that amendment.

Mr. FESSENDEN. I think I can explain it.  
Mr. HOWE. Very well.

Mr. FESSENDEN. That is only putting in the shape of a law what is now the practice. The papers are all in the possession of the Commissioner of Internal Revenue, but the accounts are settled before the First Comptroller of the Treasury. He settles the principles upon which these settlements are to be made; but the facts with regard to the settlement of the accounts are in the possession of the Commissioner of Internal Revenue, and the necessary information must be obtained from him. On consultation and full investigation this provision was found to be essential in order that the First Comptroller of the Treasury may have the proper information as to the facts to enable him to settle the principles and settle the accounts. I think it is right as it is. It is according to the practice.

The amendment was agreed to.

Mr. FESSENDEN. I suggest to the Senator to make a memorandum of that amendment, and if he finds it is not right, when we get into the Senate he can correct it there.

The next amendment was in section thirty-four, line eleven, after the word "paid," to insert the words "over by him."

The amendment was agreed to.

The next amendment was in section thirty-four, line thirty-six, to strike out the words "may and" before the words "shall be sold."

The amendment was agreed to.

The next amendment was in section thirty-five, line two, after the word "shall," to strike out the words "exercise or;" in line seven to strike out the word "fail," and insert the words "willfully neglect;" in line eight to strike out the word "their," and insert "his" before the word "compensation;" and in line sixteen, after the word "court," to strike out the words "and the said court shall also render judgment against said collector or deputy collector for double the amount of damages accruing to the party injured, to be collected by execution;" so that the section will read:

SEC. 35. *And be it further enacted*, That each and every collector, or his deputy, who shall be guilty of any extortion or willful oppression, under color of law, or shall knowingly demand other or greater sums than shall be authorized by law, or shall receive any fee, compensation, or reward, except as herein prescribed, for the performance of any duty, or shall willfully neglect to perform any of the duties enjoined by this act, shall, upon conviction, be subject to a fine of \$500 and to a forfeiture of his compensation, or to be imprisoned for one year, or both, at the discretion of the court, and be dismissed from office, and be forever thereafter incapable of holding any office under the Government; and one half of the fine so imposed shall be for the use of the United States, and the other half for the use of the informer, who shall be ascertained by the judgment of the court. And each and every collector, or his deputies, shall give receipts for all sums by them collected.

The amendment was agreed to.

The next amendment was to insert at the end of section thirty-six the following proviso:

*Provided, however*, That when such premises shall be open at night such officers may enter while so open in the performance of their official duties.

The amendment was agreed to.

The next amendment was in section thirty-seven, line three, after the word "collector" to insert the words "or inspector;" so that it will read:

\* That if any person shall forcibly obstruct or hinder any assessor or assistant assessor, or any collector or deputy collector, or inspector, in the execution of this act, &c.

The amendment was agreed to.

The next amendment was in section thirty-seven, line ten, to strike out the word "amount," and insert the word "value;" so that it will read:

The person so offending shall, upon conviction thereof, for every such offense forfeit and pay the sum of \$500, or double the value of property so rescued, or be imprisoned for a term not exceeding two years, at the discretion of the court.

Mr. HOWE. I suggest whether the words "revenue agent" should not be inserted after "collector," in the third line of that section, and before the words "or inspector," that have just been inserted.

Mr. FESSENDEN. I think it would be well to do so.

Mr. HOWE. Then I move to insert the words "revenue agent."

Mr. FESSENDEN. A revenue agent, how-

ever, is a mere officer to look after them, to see that their duties are performed, and to give information, and would hardly come within the meaning of the section.

Mr. HOWE. He has about the same class of duties to perform as the inspector.

Mr. FESSENDEN. I have no objection to it, if the Senator thinks it necessary.

Mr. HOWE. I move to insert the words "revenue agent" before the words "or inspector" in the third line.

The amendment was agreed to.

The next amendment was in section thirty-eight, line six, to strike out the word "or" and insert the word "and;" and in lines seven, eight, and nine, to strike out the following proviso:

*Provided*, That information thereof be immediately communicated to the Secretary of the Treasury, and shall not be disapproved by him.

So that the section will read:

SEC. 38. *And be it further enacted*, That in case of the sickness or temporary disability of a collector to discharge such of his duties as cannot under existing laws be discharged by a deputy, they may be devolved by him upon one of his deputies; and for the official acts and defaults of such deputy the collector and his sureties shall be held responsible to the United States.

The amendment was agreed to.

The next amendment was in section thirty-nine, line three, to strike out the words "their successors are" and to insert "his successor is;" in line five, after the word "preceding," to strike out the words "may and;" in line twelve, after the word "shall," to strike out the words "in like manner;" in line fourteen to strike out the word "such," and insert the letter "a;" in line fifteen to strike out the words "the fifth section of;" in line seventeen to strike out the word "proper" before the word "deputy;" and in line eighteen to strike out the word "so" before the word "succeeding;" so that the section will read:

That in case a collector shall die, resign, or be removed, the deputies of such collector shall continue to act until his successor is appointed; and the deputy of such collector longest in service at the time immediately preceding shall, until a successor shall be appointed, discharge all the duties of said collector; and for the official acts and defaults of such deputy a remedy shall be had on the official bond of the collector, as in other cases; and of two or more deputy collectors, appointed on the same day, the one residing nearest the residence of the collector at the time of his death, resignation, or removal, shall discharge the said duties until the appointment of a successor. And any bond or security taken from a deputy by such collector, pursuant to this act, shall be available to his legal representatives and sureties to indemnify them for loss or damage accruing from any act of the deputy so continuing or succeeding to the duties of such collector.

The amendment was agreed to.

The next amendment was in section forty, line five, after the words "recovery of," to strike out the words "the same, and for the recovery of;" and in line nine, after the word "shall," to strike out the words "and may;" so that it will read:

That it shall be the duty of the collectors aforesaid, or their deputies, in their respective districts, and they are hereby authorized, to collect all the duties and taxes imposed by this act, however the same may be designated, and to prosecute for the recovery of any sum or sums which may be forfeited by virtue of this act; and all fines, penalties, and forfeitures which may be incurred or imposed by virtue of this act shall be sued for and recovered in the name of the United States, &c.

The amendment was agreed to.

The next amendment was to add at the end of section forty the following words:

Nor shall the fees of any attorney or counsel employed by any such officer be allowed in the settlement of his account, unless the employment of such attorney or counsel shall be authorized by the Commissioner of Internal Revenue, either express or by general regulations.

Mr. HOWE. I will not move an amendment to that amendment; but I think these last words "or by general regulations" ought to be stricken out.

Mr. FESSENDEN. The reason of that is, that this country is so large you cannot very well get intelligence of these suits in sufficient season. The clause is drawn with reference to California and the Pacific coast. You must make some regulations under which those cases may be allowed.

Mr. HOWE. I should think we were as competent to make general regulations as the Commissioner.

Mr. FESSENDEN. But we have not time to do it, and do not understand the cases. They must be made in different cases.

The amendment was agreed to.

Mr. POWELL. I move that the Senate do now adjourn. It is twenty minutes to five o'clock.

Mr. FESSENDEN. Does not the Senator think we had better go on until five o'clock? I should like to get as far as the whisky this afternoon. [Laughter.]

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, May 24, 1864.

The House met at twelve o'clock, m. Prayer by Rev. Dr. Hosmer, of Buffalo, New York. The Journal of yesterday was read and approved.

### DAKOTA CONTESTED ELECTION.

Mr. DAWES, from the Committee of Elections, submitted the following resolutions; which were laid upon the table, and, with the accompanying report, ordered to be printed:

*Resolved*, That William Jayne is not entitled to a seat in this House as a Delegate from the Territory of Dakota in the Thirty-Eighth Congress.

*Resolved*, That J. B. S. Todd is entitled to a seat in this House as a Delegate from the Territory of Dakota in the Thirty-Eighth Congress.

### BANK BILL.

Mr. HOOPER. I call for the regular order of business.

The SPEAKER stated the regular order to be the unfinished business of yesterday, being the amendments of the Senate to House bill No. 395, "to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof."

Mr. HOOPER. I am instructed by the Committee of Ways and Means to move a non-concurrence in all the amendments of the Senate, and to ask for a committee of conference.

Mr. KERNAN. I hope that we will at least have the amendments read.

The SPEAKER. Gentlemen can have a separate vote on each amendment.

Mr. HOLMAN. I make the point of order on this bill as to whether it provides a tax or not; and that if it does it must, under the rules, have its first consideration in the Committee of the Whole on the state of the Union. I make the point especially in reference to Senate amendment on page 35. I ask that the section may be read, so that the point may be fairly presented to the House.

Mr. FENTON. This is a House bill, and the proposition has been considered already in the Committee of the Whole on the state of the Union. It is a House bill coming back to us from the Senate with amendments. I do not think, therefore, that the gentleman's point is a good one.

The SPEAKER. The Clerk will read the amendment, and then the Chair will decide.

The Clerk read, as follows:

And in lieu of all existing taxes, every association shall pay to the Treasurer of the United States, in the months of January and July, a duty of one half of one per cent. each half year from and after the 1st day of January, 1864, upon the average amount of its notes in circulation, and a duty of one quarter of one per cent. each half year upon the average amount of its deposits, and a duty of one quarter of one per cent. each half year, as aforesaid, on the average amount of its capital stock beyond the amount invested in United States bonds; and in case of default in the payment thereof by any association, the duties aforesaid may be collected in the manner provided for the collection of United States duties of other corporations, or the Treasurer may reserve the amount of said duties out of the interest, as it may become due, on the bonds deposited with him by such defaulting association. And it shall be the duty of each association, within ten days from the 1st days of January and July of each year, to make a return, under the oath of its president or cashier, to the Treasurer of the United States, in such form as he may prescribe, of the average amount of its notes in circulation, and of the average amount of its deposits, and of the average amount of its capital stock, beyond the amount invested in United States bonds, for the six months next preceding said 1st days of January and July as aforesaid, and in default of such return, and for each default thereof, each defaulting association shall forfeit and pay to the United States the sum of \$200, to be collected either out of the interest as it may become due such association on the bonds deposited with the Treasurer, or, at his option, in the manner in which penalties are to be collected of other corporations under the laws of the United States; and in case of such default the amount of the duties to be paid by such association shall be assessed upon the amount of notes delivered to such association by the Comptroller of the Currency, and upon the highest amount of its deposits and capital stock, to be ascertained in such other manner as the Treasurer may deem best: *Provided*, That nothing in this act shall be construed to prevent the market value of the shares in any of the said associations, held by any person or body corporate,

from being included in the valuation of the personal property of such person or corporation in the assessment of all taxes imposed by or under State authority for State, county, or municipal purposes, but not at greater rate than is assessed upon other moneyed capital in the hands of individual citizens of such State. And all the remedies provided by State laws for the collection of such taxes shall be applicable thereto: *Provided further*, That no tax shall be imposed under the laws of any State upon the shares in any of the associations authorized by this act at a rate exceeding that imposed upon the shares in banks organized under authority of the State where such association is located: *Provided, also*, That nothing in this act shall exempt the real estate of associations from either State, county, or municipal taxes to the same extent, according to its value, as other real estate is taxed.

Mr. HOLMAN. I raise the point of order on the 110th rule, which I believe is the only one applicable to the subject.

The Clerk read the rule, as follows:

"110. No motion or proposition for a tax or charge upon the people shall be discussed the day on which it is made or offered; and every such proposition shall receive its first discussion in a Committee of the Whole House."

The SPEAKER. The gentleman from Indiana [Mr. HOLMAN] makes the point of order that the Senate amendment which has just been read, being a tax upon national banks, is a tax under the 110th rule of the House, and must be considered in the Committee of the Whole on the state of the Union. The Chair overrules the point of order, as he did when the bill was previously pending before the House. The language of the 110th rule is that—

"No motion or proposition for a tax or charge upon the people shall be discussed the day on which it is made or offered; and every such proposition shall receive its first discussion in a Committee of the Whole House."

The 111th rule provides that—

"No sum or quantum of tax or duty, voted by a Committee of the Whole House, shall be increased in the House until the motion or proposition for such increase shall be first discussed and voted in a Committee of the Whole House; and so in respect to the time of its continuance."

The 111th rule applies to all taxes or duties, whereas the 110th rule is limited by express language to a specified kind of tax, a tax upon the people. The Chair understands, and believes that he is sustained by the former practice, that this is not a charge or tax upon the people at large. One or two illustrations may be given. Congress has been in the habit of granting lands for railroads with the provision that these railroads shall carry troops and munitions of war of the United States free of charge. That is in the nature of a tax upon the railroad companies authorized by Congress for certain privileges granted. The Chair has examined the precedents, and such grants have not been regarded as a tax or charge upon the people requiring them to be considered in the Committee of the Whole on the state of the Union.

These national banks are established by Congress, and it is provided that they shall pay a tax into the Treasury of the United States for privileges conferred upon them, and the Chair does not think that the provision is to be considered as a charge upon the people.

Mr. HOLMAN. Then the Speaker does not regard rule 111 as applicable to this case?

The SPEAKER. The Chair does not.

Mr. HOOPER. I now demand the previous question on the amendments of the Senate.

Mr. J. C. ALLEN. I understand the gentleman from Massachusetts to move to non-concur in all the amendments of the Senate and to demand the previous question. I desire to ask whether, if the previous question is seconded, we may have a separate vote on each amendment?

The SPEAKER. It will be in the power of any member of the House to demand a separate vote.

Mr. FERNANDO WOOD. Will this motion, if it prevails, cut off all discussion upon these amendments?

The SPEAKER. The previous question will of course cut off discussion.

Mr. KERNAN. And all amendment?

The SPEAKER. And all amendment; a separate vote, however, may be had on each amendment of the Senate.

Mr. HOLMAN. Will it be in order to move to concur in any amendment?

The SPEAKER. The form of putting the question is, Will the House concur in the amendment?

Mr. BROOKS. I rise to make an inquiry. If the previous question is sustained shall we be

allowed the same five minutes' debate which was permitted in the House upon the legislative bill yesterday?

The SPEAKER. Not if the previous question is sustained.

Mr. UPSON. Do I understand the Chair to say that after the previous question is sustained we can demand a separate vote upon each amendment?

The SPEAKER. A separate vote can be demanded on each amendment.

Mr. HOLMAN. I demand tellers on seconding the previous question.

Tellers were ordered; and Mr. HOLMAN and Mr. FENTON were appointed.

The House divided; and the tellers reported—ayes 64, noes 38.

So the previous question was seconded.

The question being on ordering the main question to be put,

Mr. FENTON demanded tellers.

Tellers were ordered.

The SPEAKER. The Chair will appoint Mr. BROOKS, and Mr. BALDWIN of Massachusetts.

Mr. BROOKS. I decline to act as a teller in the case, except by positive order of the House.

The SPEAKER. The Chair will then appoint Mr. MORRIS, of Ohio.

The House divided; and the tellers reported—ayes 64, noes 31.

So the main question was ordered to be put.

The SPEAKER. The question is upon the motion to non-concur in the Senate amendments, and ask for a committee of conference.

Mr. HOLMAN. I move to lay the amendments upon the table, and upon that I demand the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the negative—yeas 56, nays 80; as follows:

YEAS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Bliss, Brooks, James S. Brown, Chauncy, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, Finck, Grider, Hall, Harding, Harrington, Charles M. Harris, Herrick, Holman, Hutchins, Philip Johnson, William Johnson, Kernan, King, Knapp, Law, Lazar, Long, Malby, Marey, McDowell, Middleton, James R. Morris, Nelson, Noble, John O'Neill, Pendleton, Pruyn, Samuel J. Randall, Robinson, James S. Rollins, Ross, Scott, John B. Steele, William G. Steele, Strouse, Sweet, Wadsworth, Wheeler, Joseph W. White, Fernando Wood, and Yeaman—56.

NAYS—Messrs. Alley, Allison, Ames, Arnold, John D. Baldwin, Beaman, Blaine, Jacob B. Blair, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clark, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Deasing, Dixon, Donnelly, Briggs, Eliot, Farnsworth, Fenton, Garfield, Gooch, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubbard, Ingersoll, Jackson, Julian, Francis W. Kellogg, Orlando, Kellogg, Littlejohn, Longyear, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Amos Myers, Leonard Myers, Charles O'Neill, Orth, Patterson, Perkins, Pike, Powers, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spalding, Stevens, Thayer, Thomas, Upson, Van Valkenburgh, Elihu R. Washburn, William R. Washburn, Webster, Whaley, Williams, Wilder, Wilson, Windom, and Woodbridge—80.

So the House refused to lay the amendments on the table.

#### PACIFIC RAILROAD.

Mr. STEVENS. I move to reconsider the vote by which the Pacific railroad bill was re-committed to the select committee.

The motion to reconsider was entered.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 300) for the classification of the clerks to paymasters in the Navy, and graduating their pay; and

An act (H. R. No. 15) to provide a temporary government for the Territory of Montana.

#### BANK BILL—AGAIN.

Mr. HOLMAN. I demand a separate vote upon each Senate amendment.

The SPEAKER. The Clerk will report the amendments of the Senate.

First amendment of the Senate:

Page 2, line fourteen, strike out the words "by and with the advice and consent of the Senate;" and insert the words "upon reasons to be communicated by him to the Senate;" so that the clause will read:

He [the Comptroller of the Currency] shall be appointed by the President, on the recommendation of the Secretary

of the Treasury, by and with the advice and consent of the Senate, and shall hold his office for the term of five years unless sooner removed by the President, upon reasons to be communicated by him to the Senate.

Mr. WASHBURN, of Illinois, demanded tellers upon the amendment.

Tellers were ordered; and Mr. WASHBURN, of Illinois, and Mr. NOBLE, were appointed.

The House divided; and the tellers reported—ayes 58, noes 41.

So the amendment was concurred in.

Second amendment:

Page 2, line thirty, strike out the words "freeholders as" after the word "responsible," so that the clause will read:

And he [the Comptroller] shall give to the United States a bond in the penalty of \$100,000, with not less than two responsible sureties, &c.

The SPEAKER ordered tellers on the amendment, and appointed Mr. BOYD and Mr. ELDRIDGE.

The House divided; and the tellers reported—ayes 48, noes 44.

So the amendment was concurred in.

Mr. BROWN, of Wisconsin. I move to reconsider the vote by which the House concurred in the first amendment of the Senate.

Mr. WEBSTER. I move to lay that motion on the table.

The motion was agreed to; and the motion to reconsider was laid on the table.

Mr. HOLMAN. I move to reconsider the vote by which the House concurred in the second amendment of the Senate.

Mr. FARNSWORTH. I move to lay that motion on the table.

The motion was agreed to; and the motion to reconsider was laid on the table.

Third amendment:

Page 3, line seven, insert "not necessarily in the possession of engravers or printers;" so that the clause will read:

That there shall be assigned to the Comptroller of the Currency by the Secretary of the Treasury suitable rooms in the Treasury building for conducting the business of the Currency Bureau, in which shall be safe and secure fire-proof vaults, in which it shall be the duty of the Comptroller to deposit and safely keep all the plates not necessarily in the possession of engravers or printers, and other valuable things belonging to his department, &c.

The amendment was concurred in.

Fourth amendment:

Page 5, line eight, after the word "particular" insert the words "county and;" so that the clause will read:

Second. The place where its operations of discount and deposit are to be carried on, designating the State, Territory, or district, and also the particular county and city, town, or village.

The amendment was concurred in.

Fifth amendment:

Page 5, line twenty, insert "such certificate with."

The amendment was concurred in.

Sixth amendment:

Same page and clause, line twenty-one, after the word "notary" strike out "and."

The amendment was concurred in.

The clause, as above amended, reads as follows:

The said certificate shall be acknowledged before a judge of some court of record or a notary public, and such certificate with the acknowledgment thereof authenticated by the seal of such court or notary shall be transmitted to the Comptroller of the Currency, who shall record and carefully preserve the same in his office.

Seventh amendment:

Page 8, section ten, line six, after the word "State" insert "Territory or district."

The amendment was concurred in.

Eighth amendment:

On same page, same section, line nine, strike out "said State" and insert "the same" in lieu thereof.

The amendment was concurred in.

Ninth amendment:

Same page and section, on line twenty-one, after the word "loan" strike out the words "obtained from."

The amendment was concurred in.

Tenth amendment:

Same page and section, on line twenty-two, strike out the words "owing to the association of which he is a director."

The amendment was concurred in.

The ninth section, as amended, reads:

SEC. 9. And he it further enacted, That the affairs of every association shall be managed by not less than five directors, one of whom shall be the president. Every director shall, during his whole term of service, be a citizen of the United States; and at least three fourths of the directors shall have resided in the State, Territory, or district in



# THE CONGRESSIONAL GLOBE.

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which such association is located one year next preceding their election as directors, and be residents of the same during their continuance in office. Each director shall own, in his own right, at least ten shares of the capital stock of the association of which he is a director. Each director, when appointed or elected, shall take an oath that he will, so far as the duty devolves on him, diligently and honestly administer the affairs of such association, and will not knowingly violate, or willingly permit to be violated, any of the provisions of this act, and that he is the *bona fide* owner, in his own right, of the number of shares of stock required by this act, subscribed by him, or standing in his name on the books of the association, and that the same is not hypothecated, or in any way pledged as security for any loan or debt; which oath, subscribed by himself, and certified by the officer before whom it is taken, shall be immediately transmitted to the Comptroller of the Currency, and by him filed and preserved in his office.

#### Eleventh amendment:

Page 9, at the end of section ten add the following:

*Provided*, That if the directors fail, to fix the day, as aforesaid, shareholders representing two thirds of the shares may.

The amendment was concurred in.

#### Twelfth amendment:

Page 10, section twelve, beginning on line nineteen, strike out "except that the shareholders of any banking association having not less than \$5,000,000 actually paid in as its capital stock shall be liable as aforesaid only to the amount invested in their share," and insert in lieu thereof the following:

Except that shareholders of any banking association now existing under State laws, having not less than \$5,000,000 of capital actually paid in, and a surplus of twenty per cent. on hand, both to be determined by the Comptroller of the Currency, shall be liable only to the amount invested in their shares; and such surplus of twenty per cent. shall be kept undiminished, and be in addition to the surplus provided for in this act; and if at any time there shall be a deficiency in said surplus of twenty per cent. the said banking association shall not pay any dividends to its shareholders until such deficiency shall be made good; and in case of such deficiency the Comptroller of the Currency may compel said banking association to close its business and wind up its affairs under the provisions of this act.

The question was put on concurring in the amendments; and there were—ayes 59, noes 17; no quorum voting.

Mr. KERNAN. I ask the unanimous consent of the House to move to strike out that part of the amendment which exempts the stockholders of these large banks from personal liability.

Mr. WASHBURN, of Illinois. I object.

Tellers were ordered on the amendment of the Senate; and Messrs. BAXTER, and STEELE of New Jersey, were appointed.

The House divided, and the tellers reported—ayes 68, noes 24.

So the amendment of the Senate was concurred in.

While the House was dividing on the above vote,

Mr. BROOKS rose to a point of order.

The SPEAKER declined to entertain a point of order while the House was dividing.

The result of the vote having been announced as above recorded,

Mr. BROOKS said: I rose merely to say that I am opposed both to the provision of the House bill and to the amendment of the Senate, but the amendment of the Senate makes the House bill a little better. I desired to know how I was to vote when I was opposed to both.

The SPEAKER. If the gentleman from New York will follow the counsel of the Chair the Chair will answer his question with great pleasure. [Laughter.]

Mr. BROOKS. That will depend on what the decision of the Chair is.

The SPEAKER. The Chair cannot give a decision on such a question unless it is to be followed. [Laughter.]

#### Thirteenth amendment:

Page 12, section thirteen, after the word "currency," on line seven, strike out the words "and no increase of the capital beyond the maximum so determined shall thereafter be made without the consent of the Comptroller;" so that the section will read:

Sec. 13. *And be it further enacted*, That it shall be lawful for any association formed under this act, by its articles of association, to provide for an increase of its capital from time to time as may be deemed expedient, subject to the limitations of this act: *Provided*, That the maximum of such increase in the articles of association shall be determined by the Comptroller of the Currency, &c.

The amendment was concurred in.

#### Fourteenth amendment:

Page 15, section sixteen, after the word "desire," on line twenty-two, insert the words "to reduce its capital or;" so that the proviso will read:

*Provided*, That nothing in this section shall prevent an association that may desire to reduce its capital or to close up its business and dissolve its organization from taking up its bonds upon returning to the Comptroller its circulating notes in the proportion hereinafter named in this act.

The amendment was concurred in.

#### Fifteenth amendment:

Same page and section, add at the end of the above proviso the words "nor from taking up the bonds upon which no circulating notes have been delivered."

Mr. HOOPER. Would it be in order to move an amendment to that amendment?

The SPEAKER. Only by unanimous consent.

Mr. KERNAN. I must object.

The question was taken; and the amendment was non-concurred in—ayes 21, noes 71.

#### Sixteenth amendment:

Page 17, section nineteen, line four, after the words "United States" insert the words "in trust for the association."

The amendment was concurred in.

#### Seventeenth amendment:

Same page and section, line seven, after the word "deposit" insert the words "a receipt therefor to be given to said association."

The amendment was concurred in.

#### Eighteenth amendment:

Page 18, same section, line twenty-five, strike out the word "of" and insert in lieu thereof the words "and numerical designation of the."

The amendment was concurred in.

The section, as amended, reads:

Sec. 19. *And be it further enacted*, That all transfers of United States bonds which shall be made by any association under the provisions of this act shall be made to the Treasurer of the United States in trust for the association, with a memorandum written or printed on each bond, and signed by the cashier or some other officer of the association making the deposit, a receipt therefor to be given to said association, or by the Comptroller of the Currency, or by a clerk appointed by him for that purpose, stating that it is held in trust for the association on whose behalf such transfer is made, and as security for the redemption and payment of any circulating notes that have been or may be delivered to such association. No assignment or transfer of any such bonds by the Treasurer shall be deemed valid or of binding force and effect unless countersigned by the Comptroller of the Currency. It shall be the duty of the Comptroller of the Currency to keep in his office a book in which shall be entered the name of every association from whose accounts such transfer of bonds is made by the Treasurer, and the name of the party to whom such transfer is made; and the par value of the bonds so transferred shall be entered therein; and it shall be the duty of the Comptroller, immediately upon countersigning and entering the same, to advise by mail the association from whose account such transfer was made of the kind and numerical designation of the bonds and the amount thereof so transferred.

#### Nineteenth amendment:

Page 19, section twenty-two, line two, after the word "issued" insert the words "or the amount of capital stock of the associations organized;" so that it will read:

Sec. 22. *And be it further enacted*, That the entire amount of notes for circulation to be issued or the amount of capital stock of the associations organized under this act shall not exceed \$300,000,000.

Mr. KERNAN called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 57, nays 71; as follows:

YEAS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Blaine, Bliss, Brooks, James S. Brown, Chanler, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, Finck, Hall, Harding, Harrington, Charles M. Harris, Herick, Holman, Hotelkiss, Asahel W. Hubbard, William Johnson, Kalbfleisch, Kernan, King, Knapp, Law, Long, Mallory, Marcy, McDowell, Middleton, James R. Morris, Morrison, Nelson, Noble, John O'Neill, Pendleton, Pike, Price, Pruyn, Radford, Samuel J. Randall, Robinson, Sloan, John B. Steele, William G. Steele, Strouse, Thomas, Ward, Wheeler, Joseph W. White, Windom, and Fernando Wood—57.

NAYS—Messrs. Alley, Ames, Arnold, John D. Baldwin, Baxter, Beaman, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Henry Winter Davis, Dawes, Deming, Dixon, Donnelly, Eckley, Eliot, Fenton, Garfield, Goehs, Grinnell, Hooper, John H. Hubbard, Hulburd, Ingersoll, Jenekes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Longyear, McBride, McClurg, Samuel F. Miller, Moorhead, Amos Myers, Leonard Myers, Charles O'Neill, Orth, Patterson, Perham, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, Edward

H. Rollins, Schenck, Scofield, Shannon, Smith, Smithers, Spalding, Stevens, Thayer, Tracy, Van Valkenburgh, E. L. B. Washburne, William B. Washburn, Webster, Wiley, Williams Wilder, Wilson, and Woodbridge—71.

So the amendment was not concurred in.

During the roll-call,

Mr. COLE, of California, stated that his colleague, Mr. HENRY, was absent on account of sickness in his family.

#### Twentieth amendment:

Page 20, section twenty-three, line thirteen, after the words "national debt," insert the words "and in redemption of the national currency;" so that it will read:

Sec. 23. *And be it further enacted*, That after any such association shall have caused its promise to pay such notes on demand, to be signed by the president or vice president, and cashier thereof, in such manner as to make them obligatory promissory notes, payable on demand, at its place of business, such association is hereby authorized to issue and circulate the same as money; and the same shall be received at par in all parts of the United States in payment of taxes, excises, public lands, and all other dues to the United States, except for duties on imports; and also for all salaries and other debts and demands owing by the United States to individuals, corporations, and associations within the United States, except interest on the public debt, and in redemption of the national currency.

The amendment was concurred in.

#### Twenty-first amendment:

On page 21, section twenty-four, line four, strike out the words "loss or."

The amendment was concurred in.

#### Twenty-second amendment:

Same page and section, line twelve, strike out the word "three," and insert in lieu thereof the word "four."

The amendment was concurred in.

#### Twenty-third amendment:

Same page and section, line fourteen, strike out the word "and."

The amendment was concurred in.

#### Twenty-fourth amendment:

Same page and section, line fifteen, after the words "United States" insert the words "and one by the association."

The amendment was concurred in.

The section, as amended, reads:

Sec. 24. *And be it further enacted*, That it shall be the duty of the Comptroller of the Currency to receive worn-out or mutilated circulating notes issued by any such banking association, and also, on due proof of the destruction of any such circulating notes, to deliver in place thereof to such association other blank circulating notes to an equal amount. And such worn-out or mutilated notes, after a memorandum shall have been entered in the proper books, in accordance with such regulations as may be established by the Comptroller, as well as all circulating notes which shall have been paid or surrendered to be canceled, shall be burned to ashes in presence of four persons, one to be appointed by the Secretary of the Treasury, one by the Comptroller of the Currency, one by the Treasurer of the United States, and one by the association, under such regulations as the Secretary of the Treasury may prescribe. And a certificate of such burning, signed by the parties so appointed, shall be made in the books of the Comptroller, and a duplicate thereof forwarded to the association whose notes are thus canceled.

#### Twenty-fifth amendment:

Page 21, section twenty-five, line two, strike out the words "either the president or cashier of."

The amendment was concurred in.

#### Twenty-sixth amendment:

Page 22, same section, line thirteen, before the word "agent" insert the words "officer or."

The amendment was concurred in.

#### Twenty-seventh amendment:

Same page and section, line sixteen, after the word "cashier" insert the words "and a duplicate, signed by the Treasurer, shall be retained by the association."

The amendment was concurred in.

The section, as amended, reads:

Sec. 25. *And be it further enacted*, That it shall be the duty of every banking association having bonds deposited in the office of the Treasurer of the United States, once or oftener in each fiscal year, and at such time or times during the ordinary business hours as said officer or officers may select, to examine and compare the bonds so pledged with the books of the Comptroller and the accounts of the association, and, if found correct, to execute to the said Treasurer a certificate setting forth the different kinds and the amounts thereof, and that the same are in the possession and custody of the Treasurer at the date of such certificate. Such examination may be made by an officer or agent of such association, duly appointed in writing for that purpose, whose certificate before mentioned shall be of like force and validity as if executed by such president or cash-



States. Of late years, owing to the organization of banks in the States west of this, their circulation has been more limited; but they continue to command general confidence, and are held by many persons as a very reliable security. It must be obvious that it will be a very difficult and a very slow process to withdraw from the hands of the public notes which have been so long in circulation over so extensive a district of country, particularly after a reduction has already been made of well-nigh thirty-three per cent., that is, from \$8,000,000 in 1862 to \$5,500,000 in 1864. To impose a heavy tax upon this five and a half million of notes, so extensively diffused, and consequently so difficult to get in, will cause it to operate simply as a penalty for not doing that which it is impossible to do.

The bill pending is, therefore, unjust and oppressive, inasmuch as it not only imposes a heavy penalty for doing what was lawful to be done, but that which the parties on whom the penalty is inflicted have not the power to abate otherwise than through the slow operation of regular business transactions.

Your petitioner, therefore, prays your honorable bodies, if it is deemed expedient and proper to impose a penalty on the issue of bank notes with a view of expelling them from circulation, to so modify the pending bill as that it may operate only on such issues made subsequent to its passage, or may be so graduated as to past issues as to allow a reasonable time for their withdrawal.

All which is respectfully submitted.

J. ANDREWS,

President Board of Control of the State Bank of Ohio.  
COLUMBUS, OHIO, May 19, 1864.

#### Thirty-eighth amendment:

Page 29, section thirty-two, strike out the clause "that such association shall select, subject to the approval of the Comptroller of the Currency, an association in either of the cities named in the preceding section at which it will redeem its circulating notes at par;" and insert in lieu thereof as follows:

That each association organized in any of the cities named in the foregoing section shall select, subject to the approval of the Comptroller of the Currency, an association in the city of New York at which it will redeem its circulating notes, at a rate of exchange for all cities west of the Alleghany mountains not exceeding one quarter of one per cent., and for all cities east of the Alleghany mountains at par. And each of such associations may keep three fifths of its lawful money reserve in cash deposits in the city of New York. And each association not organized within the cities named in the preceding section shall select, subject to the approval of the Comptroller of the Currency, an association in either of the cities named in the preceding section at which it will redeem its circulating notes at par.

Mr. POMEROY called for tellers on the amendment.

Tellers were not ordered.

The amendment was non-concurred in.

#### Thirty-ninth amendment:

Page 30, section thirty-two, at the end thereof insert as follows:

And provided further, That every association formed or existing under the provisions of this act shall take and receive at par, for any debt or liability to said association, any and all notes or bills issued by any association existing under and by virtue of this act.

The amendment was concurred in.

#### Fortieth amendment:

Page 34, section forty, line seven, insert after the word "association" the words "and the officers authorized to assess taxes under State authority;" so as to make the clause read:

That the president and cashier of every such association shall cause to be kept at all times a full and correct list of the names and residences of all the shareholders in the association, and the number of shares held by each, in the office where its business is transacted; and such list shall be subject to the inspection of all the shareholders and creditors of the association, and the officers authorized to assess taxes under State authority, during business hours of each day in which business may be legally transacted.

The amendment was agreed to; there being, on a division—ayes 53, noes 40.

#### Forty-first amendment:

Page 35, section forty-six, line nine, after the word "act" strike out "and nothing in this act shall be construed to prevent the taxation by States of the capital stock of banks organized under this act, the same as the property of other moneyed corporations, for State or municipal purposes; but no State shall impose any tax upon such associations, or their capital, circulation, dividends, or business, at a higher rate of taxation than shall be imposed by such State upon the same amount of moneyed capital in the hands of individual citizens of such State: Provided, That no State tax shall be imposed on any part of the capital stock of such association invested in the bonds of the United States, deposited as security for its circulation," and insert in lieu thereof as follows:

And in lieu of all existing taxes, every association shall pay to the Treasurer of the United States, in the months of January and July, a duty of one half of one per cent. each half year from and after the 1st day of January, 1864, upon the average amount of its notes in circulation, and a duty of one quarter of one per cent. each half year upon the average amount of its deposits, and a duty of one quarter of one per cent. each half year, as aforesaid, on the average amount of its capital stock beyond the amount invested in United States bonds; and in case of default in the payment thereof by any association, the duties aforesaid may be collected in the manner provided for the collection of United States duties of other corporations, or the Treasurer may reserve the amount of said duties out of the interest, as it may become due, on the bonds deposited with him by such defaulting association. And it shall be the

duty of each association, within ten days from the 1st days of January and July of each year, to make a return, under the oath of its president or cashier, to the Treasurer of the United States, in such form as he may prescribe, of the average amount of its notes in circulation, and of the average amount of its deposits, and of the average amount of its capital stock, beyond the amount invested in United States bonds, for the six months next preceding said 1st days of January and July as aforesaid, and in default of such return, and for each default thereof, each defaulting association shall forfeit and pay to the United States the sum of \$200, to be collected either out of the interest as it may become due such association on the bonds deposited with the Treasurer, or, at his option, in the manner in which penalties are to be collected of other corporations under the laws of the United States; and in case of such default the amount of the duties to be paid by such association shall be assessed upon the amount of notes delivered to such association by the Comptroller of the Currency, and upon the highest amount of its deposits and capital stock, to be ascertained in such other manner as the Treasurer may deem best: Provided, That nothing in this act shall be construed to prevent the market value of the shares in any of the said associations, held by any person or body corporate, from being included in the valuation of the personal property of such person or corporation in the assessment of all taxes imposed by or under State authority, for State, county, or municipal purposes, but not at greater rate than is assessed upon other moneyed capital in the hands of individual citizens of such State: And all the remedies provided by State laws for the collection of such taxes shall be applicable thereto: Provided further, That no tax shall be imposed under the laws of any State upon the shares in any of the associations authorized by this act at a rate exceeding that imposed upon the shares in banks organized under authority of the State where such association is located: Provided, also, That nothing in this act shall exempt the real estate of associations from either State, county, or municipal taxes to the same extent, according to its value, as other real estate is taxed.

Mr. VAN VALKENBURGH called for the yeas and nays.

Mr. HOTCHKISS called for tellers on the yeas and nays.

Tellers were ordered; and Messrs. HOTCHKISS and DAWSON were appointed.

The House divided; and the tellers reported twenty-nine in the affirmative, a further count not being demanded.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 61, nays 66; as follows:

YEAS—Messrs. Allison, Augustus C. Baldwin, John D. Baldwin, Bennett, Boutwell, Brooks, William G. Brown, Ambrose W. Clark, Cobb, Dawes, Eckley, Eden, Eliot, Fenton, Gooch, Grider, Griswold, Charles M. Harris, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubbard, Ingersoll, Kibbleschick, Orlando Kellogg, Kernan, Knapp, Law, Lazar, Littlejohn, Long, Mallory, Marey, McDowell, McIndoe, Samuel F. Miller, Moorhead, Amos Myers, Patterson, Pendleton, Perham, Pike, Pomero, Price, John H. Rice, Edward H. Rollins, Ross, Schenck, Smith, Strouse, Thayer, Tracy, Upson, Van Valkenburgh, Wadsworth, Ward, William B. Washburn, Whaley, Wheeler, Williams, and Wilson—61.

NAYS—Messrs. James C. Allen, Ancona, Bliss, Blow, Chanler, Freeman Clarke, Coffroth, Cole, Cox, Henry Winter Davis, Thomas T. Davis, Dawson, Deming, Denison, Driggs, Eldridge, Finck, Ganson, Garfield, Grinnell, Harding, Harrington, Benjamin G. Harris, Holman, Hooper, Jencks, Philip Johnson, William Johnson, Julian, Kasson, Kelley, Francis W. Kellogg, Loan, Longyear, McBride, McClurg, Middleton, Morrill, James R. Morris, Leonard Myers, Nelson, Noble, Charles O'Neill, John O'Neill, Orth, Prayn, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, Scofield, Shannon, Sloan, Smithers, Spalding, William G. Steele, Stevens, Thomas, Elihu B. Washburne, Webster, Joseph W. White, Wilder, Windom, Fernando Wood, Woodbridge, and Yeaman—66.

So the amendment was agreed to.

#### Forty-second amendment:

Page 41, section forty-four, line thirty-four, after the words "that no such association shall have a less capital than" strike out the words "\$100,000, nor less than \$200,000 if in a city of more than fifty thousand inhabitants" and insert in lieu thereof "the amount prescribed for banking associations under this act."

The amendment was concurred in.

#### Forty-third amendment:

Page 41, section forty-five, line fourteen, insert: Provided, That every association which shall be selected and designated as receiver or depository of the public money shall take and receive at par all of the national currency bills, by whatever association issued, which have been paid in to the Government for internal revenue, or for loans or stocks.

The amendment was concurred in.

#### Forty-fourth amendment:

Page 42, section forty-six, line eighteen, after the word "currency" insert the words "retaining a copy thereof;" so as to make the clause read:

And such notary public, on making such protest, or upon receiving such admission, shall forthwith forward such admission or notice of protest to the Comptroller of the Currency, retaining a copy thereof.

The amendment was concurred in.

#### Forty-fifth amendment:

Same page and section, line nineteen, after the word "default" strike out the word "and."

The amendment was concurred in.

#### Forty-sixth amendment:

Same page and section; line twenty; after the word "and" strike out the word "his," and insert after the word "notice" the words "by him;" so that the clause would read:

And after such default, on examination of the facts by the Comptroller, and notice by him to the association, it shall not be lawful for the association suffering the default to pay out any of its notes, discount any notes or bills, or otherwise prosecute the business of banking, except to receive and safely keep money belonging to it; and to deliver special deposits.

The amendment was concurred in.

#### Forty-seventh amendment:

Strike out the word "equal" before the word "amount;" on page 44, line twenty-four, section forty-seven; so that the section will then read:

Sec. 47. And be it further enacted, That on receiving notice that any such association has failed to redeem any of its circulating notes, as specified in the next preceding section, the Comptroller of the Currency, with the concurrence of the Secretary of the Treasury, may appoint a special agent, (of whose appointment immediate notice shall be given to such association,) who shall immediately proceed to ascertain whether such association has refused to pay its circulating notes in the lawful money of the United States when demanded as aforesaid, and report to the Comptroller the fact so ascertained; and if, from such protest or the report so made, the Comptroller shall be satisfied that such association has refused to pay its circulating notes as aforesaid, and is in default, he shall, within thirty days after he shall have received notice of such failure, declare the United States bonds and securities pledged by such association forfeited to the United States, and the same shall thereupon be forfeited accordingly. And thereupon the Comptroller shall immediately give notice, in such manner as the Secretary of the Treasury shall, by general rules or otherwise direct, to the holders of the circulating notes of such association, to present them for payment at the Treasury of the United States, and the same shall be paid as presented in lawful money of the United States; whereupon said Comptroller may, in his discretion, cancel an amount of bonds pledged by such association equal to current market rates, not exceeding par, to the notes paid. And it shall be lawful for the Secretary of the Treasury, from time to time, to make such regulations respecting the disposition to be made of such circulating notes after presentation thereof for payment as aforesaid, and respecting the perpetuation of the evidence of the payment thereof, as may seem to him proper; but all such notes, on being paid, shall be canceled. And for any deficiency in the proceeds of the bonds pledged by such association, when disposed of as hereinafter specified, to reimburse to the United States the amount so expended in paying the circulating notes of such association, the United States shall have a first and paramount lien upon all the assets of such association; and such deficiency shall be made good out of such assets in preference to any and all other claims whatsoever except the necessary costs and expenses of administering the same.

The amendment was concurred in.

#### Forty-eighth amendment:

Insert in page 46, line thirteen, section fifty, the words "and may, if necessary to pay the debts of such association and enforce the individual liability of the stockholders provided for by the twelfth section of this act;" so that the section will then read:

Sec. 50. And be it further enacted, That on becoming satisfied, as specified in this act, that any association has refused to pay its circulating notes as therein mentioned, and is in default, the Comptroller of the Currency may forthwith appoint a receiver, and require of him such bond and security as he shall deem proper, who, under the direction of the Comptroller, shall take possession of the books, records, and assets of every description of such association, collect all debts, dues, and claims belonging to such association, and, upon the order of a court of record of competent jurisdiction, may sell or compound all bond or doubtful debts, and, on a like order, sell all the real and personal property of such association, on such terms as the court shall direct; and may, if necessary to pay the debts of such association and enforce the individual liability of the stockholders provided for by the twelfth section of this act, &c.

The amendment was concurred in.

#### Forty-ninth amendment:

Section fifty-three, page 49, line eight, insert the words "in a suit brought for that purpose by the Comptroller of the Currency, in his own name, before the association shall be declared dissolved;" so that the section will read:

Sec. 53. And be it further enacted, That if the directors of any association shall knowingly violate, or knowingly permit any of the officers, agents, or servants of the association to violate any of the provisions of this act, all the rights, privileges, and franchises of the association derived from this act shall be thereby forfeited. Such violation shall, however, be determined and adjudged by a proper circuit, district, or territorial court of the United States, in a suit brought for that purpose by the Comptroller of the Currency, in his own name, before the association shall be declared dissolved. And in cases of such violation, every director who participated in or assented to the same shall be held liable in his personal and individual capacity for all damages which the association, its shareholders, or any other person, shall have sustained in consequence of such violation.

The amendment was concurred in.

#### Fiftieth and fifty-first amendments:

Section sixty one, page 54, line seventeen, after the word "third" strike out the words "to suggest;" and line twenty-one, after the word "fourth" strike out the words "to report;" so that it will read:

Sec. 61. And be it further enacted, That it shall be the



duty of the Comptroller of the Currency to report annually to Congress at the commencement of its session.

First. A summary of the state and condition of every association from whom reports have been received the preceding year, at the several dates to which such reports refer, with an abstract of the whole amount of banking capital returned by them, of the whole amount of their debts and liabilities, the amount of circulating notes outstanding, and the total amount of means and resources, specifying the amount of lawful money held by them at the times of their several returns, and such other information in relation to said associations as, in his judgment, may be useful.

Second. A statement of the associations whose business has been closed during the year, with the amount of their circulation redeemed and the amount outstanding.

Third. Any amendment to the laws relative to banking by which the system may be improved and the security of the holders of its notes and other creditors may be increased.

Fourth. The names and compensation of the clerks employed by him, and the whole amount of the expenses of the banking department during the year. And such report shall be made by or before the 1st day of December in each year, and the usual number of copies for the use of the Senate and House, and one thousand copies for the use of the Department, shall be printed by the Public Printer, and in readiness for distribution at the first meeting of Congress.

The amendments were severally concurred in.

Fifty-second and fifty-third amendments:

Section sixty-four, page 56, line two, after the word "Congress" strike out the words "reserves the right," and insert the word "may;" and after the word "time" strike out the word "to;" so that it will read:

SEC. 64. And be it further enacted, That Congress may at any time amend, alter, or repeal this act.

The amendments were severally concurred in.

Mr. HOOPER moved to reconsider the vote by which the several amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. HOOPER moved that there be a committee of conference on the disagreeing votes between the two Houses.

The motion was agreed to.

#### RECIPROCITY TREATY.

The SPEAKER stated that the next business in order was the report of the Committee on Commerce in regard to the reciprocity treaty, on which the gentleman from New York [Mr. DAVIS] is entitled to the floor.

Mr. WARD. I ask the unanimous consent of the House that this joint resolution be taken out of the morning hour and made the special order for to-morrow after the morning hour, and from day to day until disposed of.

Mr. MORRILL. I think that there will be no objection to disposing of it at once, without making it a special order.

The SPEAKER. There are seven or more speeches to be made on the subject.

Mr. SLOAN. I object.

#### NEWSBOYS' HOME.

Mr. PATTERSON, by unanimous consent, from the Committee for the District of Columbia, reported a bill to incorporate a newsboys' home; which was read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. BROOKS. What is the use of incorporating a home for boys who circulate newspapers, if newspapers can be summarily suppressed by executive power?

Mr. GARFIELD. If the gentleman's foreboding be true, then the more necessity for this home.

Mr. COX. We do not know that newspapers may not be suppressed in this country pretty soon, that Fremont and other papers will be suppressed, and these boys will want a home, and I am not surprised the benevolent gentleman from New York makes objection.

Mr. ELDRIDGE. I desire to ask the gentleman from New York a question. I would like to know of him whether the Government is not furnishing homes to editors.

Mr. BROOKS. I am not able to answer that question. Gentlemen upon the other side can answer that question better than I can.

Mr. KERNAN. As this question has been started, and coming from a State where the people have been very greatly aggrieved recently by one of those spasmodic efforts of energy which has trampled down the Constitution and the rights of some of its citizens there, I desire to make a few remarks upon that subject.

Mr. DAVIS, of New York. I rise to a point of order. I believe the previous question was

moved by the gentleman from New Hampshire, [Mr. PATTERSON.]

The SPEAKER. That is true; but the previous question was moved while the gentleman from New York was upon the floor, and was not, therefore, in order.

Mr. MORRILL. I rise to a point of order. Here is a bill merely for incorporating a newsboys' home, in order to enable the owner of the building to get an insurance on it. Now, the gentleman from New York proposes to discuss the matter of the suppression of the World and the Journal of Commerce, and I submit that such discussion is not in order upon this bill.

The SPEAKER. The Chair sustains the point of order.

Mr. KERNAN. Allow me to say that the gentleman raised a point of order on what I proposed to state. Now, I desire to state what I proposed.

The SPEAKER. The gentleman can go on, and the Chair will arrest him when he departs from the course of debate allowed under the rule.

Mr. COX. If I understand the ruling of the Chair, I appeal. I desire to know what the ruling of the Chair is.

The SPEAKER. The Chair will state his decision.

Mr. KERNAN. I will not struggle with the Chair or with the House.

The SPEAKER. The gentleman from Ohio appeals from the decision of the Chair, and that question must be first decided. The gentleman from Vermont [Mr. MORRILL] rose to a question of order, stating that the remarks of the gentleman from New York in regard to the suppression of the World and Journal of Commerce in the city of New York are not in order upon a bill for the incorporation of a newsboys' home in the District of Columbia. The Chair sustained the point of order, as the bill is a bill incorporating a newsboys' home in this city, and thinks debate must be confined to that question. From that decision the gentleman from Ohio appeals.

Mr. COX. I will withdraw the appeal, for I do not understand that the gentleman from New York has said a word in regard to the World. Somebody's conscience has pricked him.

The SPEAKER. The gentleman from New York can proceed in order.

Mr. KERNAN. It is not my intention to, nor will I ever, make any struggle to get in remarks which I desire to make against any rule or decision of the Chair; but I do desire to oppose this bill, if I may be permitted to give my reasons, namely: that it is idle for us here to be passing laws to protect newsboys or to protect any one else, if we will not see to it that the laws and the Constitution, which are intended to protect citizens, are not trampled down; [hear! hear!] and if I may be permitted to do so I desire to state why this House, the council of the nation, the only grand inquest to which the people look, should see that the laws are enforced and the rights of the people preserved. I intend, in respectful terms and in no partisan spirit, to call the attention of this House to the importance of adding to this bill an express provision that the press shall not be suppressed nor citizens arrested or imprisoned at the dictation and arbitrary will of any executive officer.

Mr. MORRILL. I rise to a point of order. It is that the freedom of speech is not the subject-matter of this bill, and therefore it is out of order to discuss that question upon this bill.

The SPEAKER. The Chair sustains the point of order, and he will say to the gentleman from New York that the speech which he signifies his desire to make would certainly be quite as appropriate upon a bill granting a pension, or upon a bill making a grant of land to aid in the construction of a railroad, as upon this bill. The debate must be confined to the subject-matter of the bill, and that is whether a newsboys' home shall be incorporated.

Mr. KERNAN. I do desire to say to the House that I feel deeply impressed with the importance, for the well-being of the country, of our so acting in reference to this subject that the people shall not be tempted to disorders of any kind. I do not desire to use intemperate language, but I wish to call the attention of the House, in emphatic language, to the importance of seeing that no executive officer shall, from mis-

take or impulse, or any other motive, do an act the tendency of which is to alienate the people from sustaining those in authority, and the tendency of which is to weaken the legitimate authority of the Government.

Mr. STEVENS. I hope the gentleman from New York will not be allowed to go on any further.

The SPEAKER. It requires unanimous consent. Is there any objection to the gentleman from New York making the speech which he has indicated?

Mr. STEVENS. I object to his making it now. If the gentleman desires, I will move that an evening be set apart for hearing it.

Mr. KERNAN. I will be very happy to speak on the subject at any time.

Mr. STEVENS. I am willing to give the gentleman an evening.

Mr. COX. I rise to a point of order. I submit that the gentleman from Pennsylvania is not in order.

The SPEAKER. On what ground?

Mr. COX. The Chair ruled the gentleman from New York out of order.

Mr. BROOKS. I hope these interlocutory remarks will not come out of my time.

Mr. COX. As a friend of the Chair, I would like to suggest one point before he overrules the gentleman from New York.

The SPEAKER. The Chair was about deciding the point of order just made by the gentleman from Ohio himself. He made the point that the gentleman from Pennsylvania [Mr. STEVENS] was not in order. The gentleman from Pennsylvania objects to the gentleman from New York [Mr. KERNAN] proceeding now, but suggests that he will be willing to give him some evening; whereupon the gentleman from Ohio calls him to order, and the Chair sustains the point of order.

Mr. MALLORY. I rise to a point of order. My question of order is this, that no member had a right to arrest the gentleman from New York [Mr. KERNAN] in his remarks, as he was arrested by the gentleman from Pennsylvania, [Mr. STEVENS], because the Speaker had distinctly stated that the gentleman from New York was in order if he intended to pursue the line of argument that inasmuch as all the laws intended to secure our personal rights were being stricken down by the arbitrary exercise of power by the Executive, it was useless to discuss in this House the propriety of erecting a house of refuge for newsboys or any other destitute class of persons. The Chair had made that decision, and after he had stated that the gentleman from New York would be in order in that line of argument, the gentleman from Pennsylvania rose and objected to the gentleman from New York proceeding. My point of order is that the gentleman from Pennsylvania had no right to make such an objection when the Chair had decided that the gentleman from New York had a right to proceed in that line of argument.

The SPEAKER. The gentleman from Kentucky would be correct in his point of order if he were correct in his premises; but the fact happens to be exactly the reverse. The Chair decided exactly the reverse of what the gentleman from Kentucky understood him to decide. He decided that the gentleman from New York was not in order, because the argument he was making was that because, as he assumed, laws had been stricken down, there was no use in passing any laws. The Chair said that if that speech was in order on this bill it would be just as much in order on a pension bill or a land-grant bill, or any other bill. The gentleman from New York then proceeded and stated that he would not endeavor to speak in opposition to the intimation of the Chair, but that he would like to have unanimous consent to make his remarks; and he gave as a reason that his motive was the preservation of the public peace; whereupon the gentleman from Pennsylvania [Mr. STEVENS] rose to object.

Mr. MALLORY. Then I misunderstood the Chair. I understood him to say that the gentleman's argument would be in order on any bill; on this bill as well as on a pension or land-grant bill.

The SPEAKER. The Chair stated very distinctly that the gentleman's remarks were out of order, because if they were in order such a line of debate would be in order on any bill. The Chair spoke of a pension bill or a land-grant bill

in order that the whole House might see the irrelevancy of the gentleman's remarks to the bill now pending.

Mr. BROOKS. I desire to offer an amendment as an additional section to the bill.

The SPEAKER. Amendments at this stage are not in order. The bill has passed the third reading, and the question now is, shall it pass?

Mr. BROOKS. Would it be in order to move a reconsideration?

The SPEAKER. It would be.

Mr. BROOKS. Would that bring up the merits of the bill?

The SPEAKER. It would, but the merits of this bill only.

Mr. BROOKS. It would leave no more latitude for discussion?

The SPEAKER. No wider latitude than the bill itself.

Mr. BROOKS. I move, then, to recommit the bill to the Committee for the District of Columbia, with instructions to add the following as an additional section:

The provisions of this bill shall apply to the city of New York, and the persons herein named shall have power to organize and manage a home for newsboys in said city: *Provided*, It shall not be lawful for the Executive of the United States, or any officer acting under his authority, to suppress newspapers in said city by military force, thus depriving said newsboys of their employment.

Mr. MORRILL. I rise to a point of order.

The SPEAKER. The Chair decides, without the point of order being made, that the amendment is palpably out of order.

Mr. BROOKS. My proposition is that the bill be recommitted to the Committee for the District of Columbia, with instructions to report that as an additional section.

The SPEAKER. The committee cannot be instructed to do what the House itself cannot do. An amendment with reference to the city of New York is not in order. The gentleman from New York of course understands that.

Mr. WADSWORTH. I rise to a question of order. The House decided lately that Congress had power to charter railroads in New Jersey, and I do not see why it cannot charter a newsboys' home in the city of New York.

The SPEAKER. The Chair overrules the point of order. The decision of the House on the New Jersey railroad bill has nothing to do with this case.

Mr. BROOKS. I move to recommit the bill with instructions to report an additional section that no newsboy in the city of Washington shall be arrested or editor incarcerated without due process of law.

The SPEAKER. The Chair decides the motion out of order, on the ground that it has nothing to do with the propriety of the incorporation of a newsboys' home.

Mr. COX. Has the Chair read the Constitution of the United States on that subject? [Laughter.]

The SPEAKER. The Chair has read it very often, [laughter,] and he has also often sworn to support it.

Mr. FENTON. I move the previous question on the bill.

Mr. KERNAN. I have not yielded the floor for that purpose.

Mr. BROOKS. I have not demanded the previous question.

The SPEAKER. The gentleman from New York [Mr. Brooks] gave up the floor and took his seat, as the Chair understood.

Mr. BROOKS. I beg pardon of the Chair. The Chair misunderstood me. I have taken particular care not to sit down since this discussion commenced, knowing how sharp gentlemen on the other side of the House are.

Mr. FENTON. The Chair decided the motion of the gentleman to be out of order. The gentleman then commenced writing at his desk without intimating what his purpose was.

The SPEAKER. The Chair thinks that the gentleman from New York surrendered the floor.

Mr. BROOKS. I have not surrendered the floor.

Mr. COX. I raise the point of order that the ruling of the Chair always is that the word of a member in all these cases must be taken.

The SPEAKER. When the gentleman from Ohio can find a case where the Chair has refused

to take the word of a member it will be time for him to make the point of order.

Mr. COX. The gentleman from New York [Mr. Brooks] states that he did not sit down.

The SPEAKER. Then the Chair decides that the gentleman is entitled to the floor.

Mr. KERNAN. I ask the gentleman from New York to yield to me.

Mr. FENTON. I object.

The SPEAKER. The gentleman can yield in explanation of this measure, according to the decision on page 72 of Barclay's Digest.

Mr. FARNSWORTH. Do I understand the Chair to decide that the gentleman from New York [Mr. Brooks] is still entitled to the floor?

The SPEAKER. The gentleman from New York states that he did not resume his seat, and according to his general usage the Chair accepts what the gentleman has stated, although he seemed to have taken his seat.

Mr. FARNSWORTH. I raise the point of order that the Chair and the House cannot be trifled with by a gentleman rising and sitting, and rising and sitting, and experimenting with amendments from time to time, getting the decisions of the Chair against them, and then commencing to write others.

Mr. BROOKS. That is no point of order. I am not trifling with the House.

Mr. FARNSWORTH. It is nothing else.

The SPEAKER. The Chair decides that the gentleman from New York has the right to the floor for an hour.

Mr. BROOKS. I yield to my colleague, [Mr. KERNAN.]

Mr. MORRILL. Does the gentleman from New York yield unconditionally?

Mr. BROOKS. No, sir.

Mr. MORRILL. Then I object to his yielding.

The SPEAKER. The gentleman has the right to yield according to the rule which says that when a member is occupying the floor he may yield it to another for explanation of the pending measure as well as for personal explanation. The gentleman yields to his colleague for explanation of the pending measure—the incorporation of a newsboys' home—but the remarks of the gentleman must be confined to that matter.

Mr. KERNAN. I desire to urge upon the House that in view of recent events it is important that this home should be incorporated, and made a very extensive institution. If it be true that any executive officer can in a moment arrest the circulation of a paper of large circulation—

Mr. WILSON. I rise to a question of order. I submit that the gentleman is not confining himself, in the remarks he is making, to this bill.

The SPEAKER. The Chair sustains the question of order, and states to the gentleman from New York that he cannot, with the consent of the Chair, do by indirection what the House and the Chair have decided he cannot do directly.

Mr. KERNAN. Will the Chair allow me a suggestion, in good faith, for I do not wish to trouble him or the House out of order? I did suppose that I might legitimately argue, from recent events, that it was important to have a newsboys' home established, for the reason that they were liable at any moment to be thrown out of employment. That was the line of argument I was pursuing, and I was applying to it facts of recent occurrence.

The SPEAKER. The Chair has heard the suggestion of the gentleman from New York, but still decides his remarks to be out of order, upon the same ground. The gentleman might discuss the whole policy of the war upon this bill if the remarks he now makes are in order.

Mr. KERNAN. I did not desire to discuss the questions of the war, but the uncertainty at this time of the business of selling newspapers.

The SPEAKER. The Chair thinks the remarks of the gentleman are not in order.

Mr. BROOKS. I am decidedly in favor of this bill, and hope it will be passed. I know of no period of time so well adapted for the establishment of a newsboys' home as the present period, and of no place more appropriate than this city of Washington. It always has been necessary, and now more than ever is it indispensably necessary for the welfare and safety of the country, and above all for the journalism of the country. It is your pride, Mr. Speaker, it is my pride that in our earlier years we have been newsboys, raised

in newspaper offices, and are journalists. And it is highly desirable that if any misfortune should overtake us either by poverty, disease, or by any arbitrary exercise of Federal power, that a home be prepared for us to be sanctioned and sustained by the Federal Government, and under the command of officers high in authority.

Mr. NELSON. I think some of the newspaper men have been assigned to Fort La Fayette as a home; I wish to ask the gentleman from New York if he is in favor of the maintenance of that as a home?

Mr. BROOKS. This is a bill for the establishment of a home for newsboys in the city of Washington, and I am in favor of establishing it in the building now known as the Old Capitol prison. I desire to see that building well prepared and decorated for their entertainment and comfort when the high hand of Federal authority shall be laid upon them. I ask for the erection of a newsboys' home, and I desire that it may be in a situation that will lead them to the thorough study and comprehension of the great principles of human liberty. I would have them read and reread the Magna Charta not only in the translation, but in the original Latin. I would have them educated and thoroughly trained in all the principles in which that great charter was extorted by the Barons at Runnymede from King John. I would especially have impressed upon them that great principle—*nullus liber homo capitur, vel imprisonetur, aut desseisiatur de libero tenemento, &c.*—no freeman shall be seized or imprisoned but by due process of law. I would have it placarded upon the walls of that Capitol prison to be read and reread in English, in Latin, in German, in Spanish, and in all modern languages, so that it may be thoroughly understood by every newsboy who went to that home. I would have the newsboys educated in that school where they should read and reread the whole history of England, that the facts may be brought home to them that were brought home to our fathers, who made the Constitution of the United States, and provided that no man should be arrested without due process of law. I would have brought home to them the fact that there is nothing original in that Constitution which had not already existed in the common law of England for three or five hundred years before it was ingrafted in the Federal Constitution. I would have these newsboys so thoroughly trained in these great principles that when they stepped from selling newspapers to the position of journalist and saw the attempt made to strike down the liberty of the press they should rise up in their might and vindicate these great doctrines. Is that out of order? [A voice on the Democratic side, ironically, "It's slightly treasonable, I am afraid."]

Mr. BROOKS. Treasonable! Sir, they who commit treason against the United States are they who violate these great principles. They who commit treason against the Constitution are they who imprison newsboys, or journalists, or any other class of persons in any sort of home, against the guarantees of the Constitution. Treason against the Constitution is a violation of the Constitution.

The SPEAKER. The Chair must arrest the remarks of the gentleman from New York, as they are not in order.

Mr. BROOKS. If this is not in order, then I may as well sit down.

Mr. PATTERSON. I demand the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was passed.

Mr. PATTERSON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### RECIPROCITY TREATY—AGAIN.

Mr. FENTON. I ask the gentleman from Wisconsin, [Mr. SLOAN,] to withdraw his objection to making the joint resolution in regard to the reciprocity treaty the special order for tomorrow after the morning hour, and from day to day until disposed of.

Mr. SLOAN. I withdraw the objection.

Mr. STEVENS. Does not this come up in the morning hour?

Mr. FENTON. It does; and my proposition is that it be made the special order for to-morrow after the morning hour.

Mr. STEVENS. I hope not. I hope that it will be discussed in the morning hour. There is much other business that ought to be attended to.

The SPEAKER. Gentlemen have desired to see resumed the call of committees, which has been suspended for nearly three months. There are other bills in the morning hour besides this one which must be got out of the way before that call can be continued.

Mr. STEVENS. That result can only be accomplished by our voting instead of talking, and I am opposed to letting this thing run beyond another morning hour. I wanted to speak on it myself; I would speak on it with great pleasure, but I am willing to forego that great pleasure, and let the vote be taken without saying another word.

Mr. WILSON. I suggest that it be the unanimous consent of the House to take the vote on the joint resolution to-morrow at three o'clock, p. m.

Mr. STEVENS. I shall not object to that.

Mr. WARD. I think that we can close the discussion of the joint resolution to-morrow. The gentlemen who are to speak will do so briefly, and it is probable that the vote can be taken at the time indicated. It will at least expedite the business of the House to make the pending joint resolution the special order for to-morrow.

Mr. PRICE. Let us have night sessions for this discussion.

The SPEAKER. Is there objection to the joint resolution being made a special order for to-morrow, after the morning hour?

Mr. RADFORD. I object.

Mr. DAVIS, of New York. Mr. Speaker, inasmuch as the effort which has been kindly made by my friend and colleague, the honorable member from New York, [Mr. FENTON,] to postpone the consideration of the joint resolution before the House until to-morrow, by reason of my indisposition to-day, seems to occasion some embarrassment, I will now proceed with the remarks which I purpose to submit. I confess, however, that my physical condition is such that I ought not to make the exertion necessary to render my voice audible in this Hall.

I did not intend to address to the House any remarks on this subject until a very recent period, for I hoped that my colleague, the honorable member from the twenty-second district of New York, [Mr. LITTLEJOHN,] who, from an intimate experience of thirty years in the commerce of the North and of the lakes, is eminently qualified to discuss all the questions involved in the reciprocity treaty, would be able to present to the House his own enlightened views, which would be far more worthy of consideration than mine. But illness which now disables me has for the whole session prostrated him, and I therefore feel compelled to say something in behalf of his constituency and my own.

The existing treaty with Great Britain, in reference to reciprocal traffic and commerce between the British provinces of North America and the United States, is about to terminate, provided either Government shall give the notice authorized by its terms. It is evident that the people of the United States are to a considerable extent dissatisfied with its operation, and a resolution is now introduced authorizing the notice to be given which by the terms of the treaty will, as now claimed, accomplish its abrogation.

In looking at the treaty in reference to the legal effect of its provisions, I do not believe that the time has yet arrived when the notice to abrogate it can be given.

The following is the language, so far as necessary to quote it, of the fifth article of the treaty:

"The present treaty shall take effect as soon as the laws required to carry it into operation shall have been passed by the Imperial Parliament of Great Britain and by the provincial Parliaments of those of the North American colonies which are affected by this treaty, on the one hand, and by the Congress of the United States on the other. Such assent having been given, the treaty shall remain in force from the date at which it may come into operation, and further until the expiration of twelve months after either of the high contracting parties shall give notice to the other of its wish to terminate the same."

This treaty, although signed by the contracting parties in June, 1854, did not become a law until the respective Legislatures of Parliaments of the provinces and of England and the Congress of the United States had passed the several acts

necessary to give it validity. This legislation was not effected until the month of September, 1854, when the commercial season of that year had almost expired.

Therefore, practically, it did not go into effect upon commerce until 1855, and ten years have not yet elapsed since it in any legal sense went into operation, nor indeed since the execution of the treaty itself.

Before the expiration of ten years in its operation, and on the first Monday of December next, Congress again convenes; the legal term will then be fully passed, and we may, if we then deem it expedient, direct the notice of abrogation to be given. It seems to me that under the terms of the treaty, and without reference to any other consideration, it would be discreet to postpone any action upon the subject until the next session.

I know it will be replied, on the other hand, that by virtue of legislation in Congress, in England, and the provinces, affecting the operation of the treaty, and subsequent to its date, it virtually took effect in June, 1854, because this legislation provided that all duties paid by either party upon the importation of goods made free by treaty provision should be refunded, and that all bonds given for the payment of duties after the date of the treaty should be canceled. But I say that according to legal construction it did not, it could not, become legally effective until after every act of legislation required by the terms and language of the treaty was passed by each of the parties to be affected by it.

And I cannot illustrate my view of this point better than by proposing to the honorable gentleman from Maine, [Mr. PIKE,] who made allusion to it the other day, the question whether a party on the 1st day of August, 1854, importing produce from the provinces into the United States, subject to duty under the laws in operation before the date of the treaty, would be protected by anything in this treaty from the payment of the duty. The former laws were not repealed until the treaty became valid by the legislation which was a condition precedent to its operation. That legislation might or might not be adopted; all was contingent and uncertain; and until the fact of the legal acceptance of the terms by all the parties, the treaty did not begin to exist, and its term did not begin to run. The subsequent legislation giving it a retrospective effect was no part of the treaty, and the time thus covered no part of the ten years specified.

But independently of any legal consideration of this nature, let us inquire whether it would be consistent with sound judgment, and with a statesmanlike and comprehensive view of our internal affairs and our foreign relations, to give notice of our determination to abrogate this treaty. The giving of any notice at this time is, in my judgment, on political grounds, a matter of very doubtful policy, and it seems to me clear that the imperative terms of the resolution are specially unnecessary and unadvisable.

The honorable gentleman from Maine [Mr. PIKE] who advocated the positive and mandatory terms of the resolution, told us that he did not feel willing to take any step or to employ any language which might be regarded as bowing down to Great Britain and soliciting terms of her.

I do not wish to humble my country before that Power or any other on the globe, and I have no fear, not the slightest, that, occupying to-day the position of one of the greatest military Powers of the earth, with a Navy more formidable than any of which England ever boasted, with armies in the field superior in numbers and appointment to that which carried the eagles of Napoleon to Vienna or to Moscow, our dignity or our honor is to be impeached by a frank and honest intimation to Great Britain of our desire not to abrogate or annul the treaty, but to modify and amend it, so as to make it mutually just and beneficial. I would not hesitate to give the notice because of the greatness or power of Britain, but because I believe it unnecessary and demanded neither by justice nor policy nor interest.

Sir, the great system of commercial communication between these States and the provinces, provided by nature and improved by art, unrivaled as it is in any country of the globe, in itself suggests the idea and propriety of intimate commercial relations. The provinces and the States lie side by side, stretching from ocean to ocean across

a continent, with a common highway and boundary of lakes and rivers, extending for more than two thousand miles between.

In addition to this, we within our own limits have provided artificial channels from Erie and Ontario to the tide-waters of the Hudson, as more convenient, direct, and economical avenues for the commerce of the West than the one which nature constructed in the valley of the St. Lawrence.

I cannot forget in the consideration of this subject that the great object of the American people and of the State of New York, in the creation of these artificial highways, has been the benefit of commerce, and progress in the development of our natural and exhaustless resources.

Sir, there are many physical facts and considerations connected with this subject which are worthy of remembrance.

The projectors of our system of internal improvements naturally asked what was to be the nature of their business and what the sources whence it should be derived.

From the first exploration of the northwestern States, and of the vast region lying beyond and outside of the lines of general settlement and cultivation, it has been known that within our own jurisdiction we possessed a vast area of territory well adapted to the culture of wheat, corn, and other valuable grains, and that north of the lakes, extending from the St. Lawrence to the sources of the Mississippi and beyond, within the lines of British jurisdiction, another vast field existed, where soil and climate indicated an extensive cereal production. Indeed, throughout a very considerable portion of eastern Canada, even, it is known that wheat can be successfully cultivated; and although we regard it in common parlance as a cold and cheerless region, a reference to the map will teach us that if we extend our own northwestern boundary, the forty-ninth parallel, easterly till we strike the St. Lawrence, and thence by a right line to the northern limit of Maine, a little north of the forty-seventh parallel, we shall find south of that line, in what is now British territory, a territory of nearly four hundred thousand square miles, in a large portion of which, especially at the west, wheat is the most extensive and profitable agricultural production.

Now, sir, if we add to this region the area lying between the longitude and latitude of Lake Superior and the Rocky mountains, a territory of far greater extent and adapted by peculiar physical conditions to the culture of wheat and other cereals, we shall discover that we have room enough in British territory for an unlimited production and an inexhaustible commerce. I will not here enlarge upon the physical facts which make this region specially favorable to agricultural production. It is for the present enough to know that the British Territories of the Northwest are destined to become most important contributors of agricultural production to the marts of our eastern shores.

The only outlets by water to the Atlantic afforded to this production and to the production of the western and northwestern States are by the Ohio or other western streams, and the Mississippi to the Gulf of Mexico; or by the lakes and the St. Lawrence to the Gulf of St. Lawrence, or by the lakes and the New York canals to the Hudson and New York. There are important reasons why the produce of all our northwestern States and of the British territories north of them should seek our Atlantic ports rather than New Orleans or the St. Lawrence.

Is it not, then, our policy to keep open all our communications and relations with our British neighbors with the view of retaining the commerce and controlling the production which were distinctly in the view of those who laid the basis of our internal communications? Commercial interest dictated the treaty of reciprocity, and although we may have been disappointed in some regards as to its workings, we have by its means secured a large interest in the commerce it was intended to reach. Commerce unrestricted will naturally seek those channels which secure, in the greatest degree practicable, directness, safety, economy. Water communication within the limits of the facilities it affords is, for considerable distances, cheaper than any other mode of transportation, and therefore will be sought in preference to other transportation to the same point. Our lakes and canals furnish a more direct and safer



transit of property to and from the West and Northwest than can be found by the St. Lawrence, the navigation of which at its entrance into the Gulf is closed for more than half the year, and made dangerous by fogs and storms for the residue. The Mississippi route is less favorable than ours, both on account of increased distance, cost, and safety. It was therefore that the line of water communication was made between the lakes and the Hudson, affording an uninterrupted, cheap, and convenient channel for commerce, in a favorable climate, and connecting with the most ample and safest seaport on the Atlantic coast. Moreover, it is on the only line within our national jurisdiction, from the Bay of Fundy to the Gulf of Mexico, where a water or canal communication could be constructed from the Atlantic to the lakes or the Mississippi.

If we trace the physical outlines even of Lower Canada we find the Laurentian mountain chain extends from the northerly and westerly shores of the Gulf of St. Lawrence southwesterly between the head-waters of the Ottawa river and Lake Huron. The Appalachian range lifts its forbidding outlines from central New York to Alabama and Georgia, leaving but one gateway through which commerce may pass untaxed for artificial aid, and through that gateway the unrivaled Hudson rolls its flood. For these reasons the New York canals possess the most practicable and safe and economical communication for the British provinces of the Northwest to the seaboard. I may perhaps properly add in this connection that British productions, as well as our own in the West and Northwest, will be permanently, to a great extent, excluded from the Mississippi channel of exportation by reason of high temperature not only of the lower Mississippi but of the waters of the Gulf through or over which these productions are exported. Wheat in bulk, corn, oats, and other grains are often destroyed by heat and vapor on their southern passage. Flour itself is injured, and sometimes made worthless, while through our own channels injuries seldom result from these causes. With the exception of a few months during the present war the Mississippi has been open for commerce since the purchase of Louisiana, yet I think it will appear by authentic reports which I have examined that not one bushel of grain in fifty of that exported to Europe has been shipped from New Orleans.

The purposes of the treaty of 1854 were to afford mutual benefits to all by the establishment of intimate permanent commercial relations between them, and to promote the importation and exportation of the productions of the several countries for their mutual convenience.

In addition to the traffic we expected to secure in Canadian grains, we anticipated the importation of lumber, especially of pine, both from Canada and from New Brunswick, in exchange for produce we might sell to them. Lumber is one of the principal, perhaps the principal of the products of Canada, while with us the production each year is becoming less, from the clearing up of accessible lands. The lumber of the pine region of Canada between the St. Lawrence and Lake Huron is inexhaustible for a century. The production of this lumber affords employment to the Canadian laborer, profit to his employer, freight to the carrier, and from the arrival of lumber at our own ports it becomes a source of public and private profit to us. It pays freight to our boatmen, tolls to our canals, commissions to our merchants, premiums to our insurers, and taxes to our Government.

All Upper Canada as well as Lower Canada is destitute of fossil coal, and it is furnished by Ohio and Pennsylvania, and perhaps a little by Michigan, in payment of imports. The annual consumption of American coal in Canada West and East will not probably fall far short of four hundred thousand tons. From its mining to its delivery on Canadian wharves it is a source of profit to our people.

We thus supply the Canadas of the West with fuel adapted to their uses, and cheaper than any other to be obtained, all which we can spare from our infinite abundance.

Now, on the other hand, in the provinces of Nova Scotia and New Brunswick nature has stored immense deposits of coal, in which our eastern States are deficient, and thus we receive from the eastern provinces, for New England at least,

what Pennsylvania and Ohio furnish to the western provinces. Thus the trade becomes mutually advantageous; and I cannot see why in that regard we should be willing to put a stop to it.

I am not here, Mr. Speaker, for the purpose of saying that this treaty with Great Britain has produced all the good effects anticipated by us. I am aware that its operation has been in many respects what we did not anticipate, and what we had no right to anticipate. Effects have resulted, not from the treaty, but from subsequent legislation of the Canadian provinces, which we now attribute to the treaty itself. When that treaty was entered into it was, doubtless, with the understanding on both sides that the legislation of the provinces and of the States would be such as to favor the terms and spirit of the treaty. And yet we found that after 1855, and from time to time up to 1859 the provincial legislatures imposed discriminating duties in favor of Canada and against us, as will appear by the following schedule:

Articles.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.
	1855.	1856.	1857.	1858.	1859.
Molasses.....	16	11	11	18	30
Sugar, refined.....	32	28	25	26½	40
Sugar, other.....	27½	20	20	21	30
Boots and shoes.....	12½	14½	17½	21	25
Harness.....	12½	17	20	21	25
Cotton goods.....	12½	13½	15	15	20
Iron goods.....	12½	18½	15	16	20
Silk goods.....	12½	13½	15	17	20
Wool goods.....	12½	14	15	18	20

The idea of selling our manufactured goods to Canada was one of the inducements on our side to enter into the treaty. We have therefore, perhaps, a right to complain of the violation of the spirit of the treaty; though, from an examination which I have given to the treaty itself, I do not find that this subsequent legislation is any technical violation of its terms.

On the other hand, I might refer to what the Canadian authorities say in regard to American legislation. They admit that they have legislated in a way which discriminates in favor of their own productions, and they place it on the ground of political and financial necessity. They say that the expenditures in which they have become involved, or for which they have incurred obligations for the purpose of developing the interests of Canada, have rendered it absolutely essential that they should impose duties beyond what they had anticipated in order to meet the interest on their public debt.

Now, sir, I apprehend that it will not be necessary for us to go far back to find that we have been in that same condition, and they, therefore, with as much justice reply to us that we have imposed duties discriminating against the interests of Canada. And it is so. The facts and statistics, the details of which I have not time now to present, will prove that proposition. It is a matter that is distinctly set forth in the communication of the finance minister of Canada in his report to his Government in 1862.

I have heard it stated upon this floor that the operation of this treaty was entirely against American interests and American commerce. I say, sir, that the report made by the Secretary of the Treasury of the United States, showing the entire operations of this treaty from 1854 to 1862, proves that the commerce between the two countries has been constantly increasing, although less since 1859 than before that time. Still there has been a general and constant increase in the extent of that traffic which it was the purpose of that treaty to encourage.

Now, sir, I will say here that it is hardly a fair comparison to date the commencement of the trade under this treaty back to 1854. It substantially went into operation in 1855. It did not legally go into operation until so late in 1854 that the trade under it could not be fairly said to have commenced until 1855. Since that time up to 1862 the following has been the amount of trade between the two countries:

Exports from June, 1855, to June, 1862, of for-	
eign goods.....	\$31,603,362
Domestic.....	135,522,179
Apparent total.....	167,125,541
Imports during same period.....	145,183,096
Excess of exports over imports.....	\$21,942,445

Mr. ARNOLD. With the permission of the gentleman, I desire to offer an amendment in the nature of a substitute for the joint resolution before the House in order that it may be printed.

Mr. MORRILL. I suggest to the gentleman that his amendment will not be in order as a substitute inasmuch as one substitute is already pending.

Mr. ARNOLD. I will then offer my amendment to the original resolution if that will be in order.

The SPEAKER *pro tempore*, (Mr. Cobb in the chair.) An amendment will be in order to the original resolution.

Mr. ARNOLD then submitted the following amendment, which was read and ordered to be printed:

Strike out after the word "authorized," in the fourth line of the original resolution, "by and with the advice and consent of the Senate, to appoint three commissioners to confer with persons duly authorized by Great Britain in that behalf, to negotiate a new treaty, based upon the true principles of reciprocity between the two Governments and the people of both countries, with the view of enlarging the basis of the present treaty, and for the removal of existing difficulties," and insert in lieu thereof as follows:

By and with the advice and consent of the Senate, to appoint three commissioners to confer with persons duly authorized by Great Britain in that behalf, to negotiate a new treaty, based upon the true principles of reciprocity between the two Governments and the people of both countries, with the view of enlarging the basis of the present treaty, and for the removal of existing difficulties: *Provided*, That in case no such treaty shall be agreed to by both Governments, then, in such case, the President is hereby authorized, in his discretion, to give the notice terminating said treaty according to the provisions thereof.

Mr. DAVIS, of New York. These figures show that all this loud talk which we have heard against the unjust and inequitable operations of this treaty has not facts on which it is based, but that, on the contrary, during this period we have exported to Canada \$22,000,000 more than we have imported from Canada.

Sir, while I admit that a portion of the imports under that treaty has been free of duty, still I say that it has afforded business support to our own citizens. All that has been sold has been paid for with a profit to ourselves, and all that has been bought and sold has added so much to our business, which, under other circumstances, we might not have had at all.

Now, sir, let us follow this operation for a moment. Suppose we imported of British fabrics or West India productions \$25,000,000 a year, which we sent to Canada. Do we not receive on that the ordinary profit of purchase abroad, shipment to New York or other port in the United States? Do we not receive freight on our internal navigation? Do not some of the States receive tolls on their avenues of communication? Thus we find wherever this product may be purchased that it is a source of profit to our own citizens until we part with it.

In a report which I have had occasion to examine on this subject, I find it stated that in one year we actually sent \$3,000,000 in gold into Canada to pay the difference between exports and imports. I do not care if it were \$10,000,000. Why do we send it there? Simply for the purpose of purchasing produce which we send abroad and thus increase our business. That is not an alarming proposition. In that same year Canada sent to New York nearly twice the amount of gold that we sent to Canada, at least one and a half times as much; and if we pay gold to any extent to Canada, we convert the import into gold again in Europe where we ship our Canadian imports as freights for our own shipping.

But, sir, there are other considerations I desire to present which affect those points in which I have an interest. I might refer to salt. My own district is largely interested in salt. We send, perhaps, three hundred thousand barrels of salt to Canada every year, and we get our pay in their lumber or in articles which they can furnish to us cheaper than we can get them anywhere else. Is there anything wrong in that traffic? I think not; and to take a comprehensive view of the subject it seems to me that we ought to regard Canada as we do Ohio. Whatever Ohio brings to us swells our commerce, and whatever Canada brings to us does the same thing.

But the other reason to which I especially wish to draw attention is this: that the communication by the St. Lawrence with the ocean is one of commercial necessity. Sir, when the State of New York commenced her grand system of in-

ternal improvements, uniting the ocean with the great lakes and the valley of the Mississippi, the country lying west of Lake Erie was a desert. Illinois, Wisconsin, Minnesota, and almost Ohio were a perfect wilderness. It was with a view of developing that region that De Witt Clinton and those with him proposed a water communication between the Hudson and the lakes. They foresaw that an empire would arise there, and they meant that it should be tributary to the East, to New York and New England, by making the only water communication with it north of the Gulf of Mexico. Sagacious as they were they failed to foresee the rapid growth of this empire. The Erie canal was hardly built before it failed to meet the demands made upon it by western productions for transportation. Now, sir, if I had time I might show by the transportation by that commercial avenue from year to year the growth and expansion of the western States. The Erie canal being incompetent to carry what the West forced upon it, the State of New York, as a matter of State pride and State interest, enlarged it. It spent millions in doing it, but before that enlargement was completed another was called for, and other millions have been expended in responding to the call of the West for additional facilities for transportation. New York has, sir, invested nearly fifty million dollars in the erection of her canal system, now yielding her a fair income and reward. Yet, sir, the Erie canal with its present capacity is entirely insufficient to carry off the products of Illinois and the great West; and within the last two years, affected somewhat by the closing of the Mississippi river in consequence of the war, you have found that it cost the same to send a bushel of wheat or a barrel of flour from the ports on Lake Michigan to New York, whether by way of the lakes and canals, by the Pittsburgh, Chicago, and Fort Wayne, and the Central Pennsylvania roads, by the Dunkirk and Erie road, or by the New York Central and Hudson River roads. It costs the same price for the reason that every channel has been filled to its utmost capacity, and of course the carrier could charge whatever he pleased.

The traffic of the West over the New York canals, the New York Central road, the New York and Erie and the Pennsylvania roads in 1862 amounted to nearly four million tons, consisting of the cereal products grown upon the prairies of Illinois, Minnesota, Iowa, and the northwestern States. I say they are the great producing States of the West, and we have got to look to their interests, for let me tell you the States which were once the favorite regions for cereal grains produce them no longer as before. New York has ceased to be a wheat-growing State, and Ohio to-day produces three or four million bushels less than she did twenty years ago. You have got to look to the Northwest, to this great and rich country, where the climate and soil both unite for producing the best and hardest wheat, which can be taken to market without injury or loss.

In Minnesota, and in all the region of the upper Mississippi, the climate is singularly favorable to the cultivation of grains.

Climate, sir, depends often upon physical considerations, other than latitude: it depends upon elevation, upon the currents of the atmosphere and the currents of the ocean. The mercury falls, as we ascend from the general level of the earth, about one degree Fahrenheit in every three hundred and ten feet of ascent, or, in other words, an ascent of three hundred and ten feet has upon the thermometer the equivalent effect of a northern movement over a degree of latitude. The wheat-growing plains of the Northwest are not, on an average, nine hundred feet above the Atlantic, a less elevation, indeed, than is given to the old wheat fields of Pennsylvania and New York. We look naturally, then, for a mild climate; but will it be one free from injurious moisture? The mysterious laws which supply the irrigation of the globe are not yet fully comprehended; but we know, as a general thing, in this day, from what springs or sources the rains which are precipitated at any given point are gathered, and where the waters are wafted as vapors in the atmosphere. The rains which fall in the great Northwest are supplied, to a great extent, from the evaporation of the south Pacific ocean; are borne on the south wind's wing through heated and tropic climes, to be partially condensed by

contact with the moderate elevations of the Rocky mountain range, and passing on over elevated plains yield their remaining moisture to the colder atmospheric currents of the northeast, and are precipitated on the plains of the Northwest to give life and vigor to vegetation.

While on the Pacific slope the annual precipitation taking place, mainly in a few months, is from sixty to eighty inches of water; in the upper Mississippi it does not exceed thirty inches. We have then a climate not surcharged with vapor, and where dry winds prevent injury to the harvest. It embraces all the upper Mississippi, the Red River of the North, and all that region where the isothermal lines of Humboldt mark a temperature of 60° for the summer months.

I must confess that I look to this part of our continent as an important field for cereal productions, and the outlet to which must be through our own country or through the Canadas; and when I remember that the States on which we were formerly dependent for flour have ceased to become important producers of wheat—that Ohio, New York, and Pennsylvania severally produce less annually by several million bushels than in 1840, and that Europe itself is to be largely supplied by American productions—it seems to me that we should pursue a policy calculated to preserve the most friendly relations with the agriculturists of the British provinces.

But, sir, my views go further than that. There are political considerations affecting this question. The people of western Canada are of our own blood and race, and I regretted to hear the gentleman from Maine [Mr. PIKE] the other day use language imputing to them hostility to us in the great struggle in which we are engaged. I did not like to hear him speak of resolutions passed in Toronto, or in Kingston, or elsewhere as indicating the true sentiment of the Canadian people. It is a falsehood; it is a libel. Sir, I know the Canadian people.

Mr. PIKE. The gentleman does not intend to impute falsehood to me?

Mr. DAVIS, of New York. Of course, I do not. I mean only to say that those resolutions give a false impression of the sentiments of the people of Canada.

Mr. PIKE. I did not speak of any resolutions adopted in Canada.

Mr. DAVIS, of New York. I thought the gentleman did. I perhaps received that impression from a personal statement. I listened with emotion and with considerable excitement to the picture which the gentleman drew of the depredations upon our commerce, of the waves of the ocean lighted up at night by the fires of our burning merchantmen. But did the gentleman mean to say that the people of Canada are responsible for that?

I know that the public meetings sympathizing with the rebellion which have been held in Canada have been directed and controlled by refugees, by men who have fled from the South because they were not only traitors but cowards; they have dictated the resolutions and controlled these public demonstrations, and given tone to what the gentleman calls the public sentiment of Canada. I undertake to say that the people of Western Canada are friendly to us, and sympathize with us in our present struggle. They are most of them of American descent, and I do not think it is worth while for us to attempt to get up difficulties between people of the same race and blood. Sir, let us bide our time. Years tame the current of human passion. The prejudices of the past yield to the present; the prejudices of the present will yield to the convictions of the future, and if we pursue the even tenor of our way and act, as we should do, in a fair and honorable manner, we shall find that the people of Canada by and by, freed of necessity from the restraints of the power of Great Britain, will become either an independent empire, united to us by the most intimate and friendly ties of commercial and social intercourse, or will become an integral part of this Union, when the banner which floats over you will become the emblem of sovereignty from the Gulf of Mexico to the Arctic ocean.

Sir, I am not ashamed to intimate to the Government of Great Britain that we are ready to revise the treaty. I am not prepared to say to them that we are ready to abrogate it. Doubtless it does need revision and amendment, and I

hope that measures will be adopted here that will secure a new convention, and which will give the President authority to signify to the Government of Great Britain our dissatisfaction with the present operation of the treaty: and if that be done, I have no doubt that Great Britain will receive the intimation kindly, and will meet us without anger, prejudice, or passion. I do not believe that our dignity will be at all promoted by employing the language of threat or menace. It is a practical business question, and should be treated in a business-like and common-sense manner.

I intended, sir, offering an amendment leaving the matter discretionary with the President, but this necessity may be obviated by the amendment proposed since I took the floor.

[Here the hammer fell.]

Mr. ELIOT obtained the floor, but yielded it to Mr. WILSON, who moved that the House adjourn.

The motion was agreed to; and thereupon (at half past four o'clock p. m.) the House adjourned.

## IN SENATE.

WEDNESDAY, May 25, 1864.

Prayer by the Chaplain, Rev. Dr. BOWMAN.

The Journal of yesterday was read and approved.

## PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a petition of citizens of Salisbury, New Hampshire, praying for the abolition of slavery, and for the adoption of such an amendment to the Constitution as will forever prohibit its existence in any portion of our common country; which was referred to the select committee on slavery and freedmen.

Mr. McDOUGALL presented a memorial of the Chamber of Commerce of the city of San Francisco, remonstrating against the taxing of the gross products of the mines in the Pacific States and Territories; which was ordered to lie on the table, and be printed.

Mr. JOHNSON. I beg leave to present the memorial of the banks of New Orleans, which states that during the possession of that city by the confederates they were forced to take confederate currency, and they received it upon special deposit from their customers with the understanding in writing, as I recollect, that they were to have the right to pay back the debt consequent upon the deposit in the same currency. They allege, however, that after General Butler got possession of the city he issued an order compelling them to pay to those depositors in gold and silver or in their own currency the amount of the deposit, the result of which was that they have been compelled to make themselves responsible in our currency for an amount of nearly a million dollars. They ask that the tax which Congress has imposed or is about to impose upon currency may not be imposed upon that portion of their circulation until they shall have an opportunity of testing before the courts the legality of that order. I move its reference to the Committee on Finance.

The motion was agreed to.

Mr. SPRAGUE. I desire to present a memorial from the president of the New Jersey State Medical Society, which, with the permission of the Senate, I will read. It is as follows:

### To the Military Committee of the American Congress:

As president of the State Medical Society of New Jersey, and for the time being a humble representative of the profession in this State, I have been requested to give my views, so far as I believe them to represent those of the physicians of the State, in respect to the application made to the honorable members of Congress, through their Military Committee, in reference to the rank in certain medical departments of the Army. It has long been a subject of regret, not only in our profession and among those immediately interested, but with others of high standing in the Army and in civil life, that to the Army surgeon there has not been accorded the same opportunity of promotion, as a reward for valuable and acknowledged superiority, as to those belonging to other grades. If any man in an army is strictly identified with it it is the surgeon. In the camp or on the field, with the garrison or at the post, in the siege or the advance, he must ever be on the alert. The value of human life is the measure of his responsibility. His professional duties are in a military way, under military discipline, modified by all the circumstances of military law, and he is by plain interpretation a military man. He brings not only himself but his profession to the service of his country. In addition to strictly professional aid he has large executive responsibility. Not unfrequently the du-

ties of a commissary, a quartermaster, a director, an inspector, a purveyor, devolve upon him. Often by direct appointment he performs the duties assigned to the higher grades of military authority.

Plain, old-fashioned justice seems to suggest that when thus rising in the scale of real, admitted merit, he should not be debarred the only recognition which military regulation can confer. A case illustrative and not isolated is familiar to me. A young gentleman of this State, favored with all that social position and high culture could bestow, twenty-five years since entered the Army as an assistant surgeon. In camp and hospital, in garrisoned forts and at frontier outposts, he shared with others the vicissitudes of military life. Through all the exposures of the Mexican war, amid the perils of guerrilla warfare and the still more secret shafts of pestilential air, he did his duty. At the outbreak of the rebellion he was summoned as medical director of the eighth Army corps. Amid the trying days of Maryland patriotism, twenty thousand sick and wounded men looked to him for superintending care. The position needed him but it had no rank or emolument to confer. Privates, corporals, and captains who began with him their military career, and numbers who started but recently, have long outstripped his rank, only because the law of promotion with them has permitted it. Yet the medical director still grades in rank as before, and must live on the pay of a major. The same is true of medical purveyors. The profession at large as well as our brethren in the Army feel this to be an oversight. So palpable is this exception to military justice, that we believe your honorable body will permit it no longer. Without the *éclat* of military success or the power of systematized political effort to press these claims, we feel that if we can only fasten your attention upon it, what is due to the country as much as to them will not be overlooked. The English and the French armies have different and more complete orders of rank for the medical corps. The surgeon of the Russian fleet, at the entertainment by Governor Bradford at Annapolis stated the progressive rank of our profession in the Russian army as much higher than in our own. The profession in this State beg the honor of uniting with the American Medical Association, with the patriot physicians of the Army, and with those who in military and civil life recognize the humble claims of the medical corps, in praying your honorable body to grant such increase of rank to surgeons holding chief executive and administrative places as shall accord with their position and merits.

I have the honor to be, with profound respect to your honorable committee,  
EZRA M. HUNT,  
President of New Jersey State Medical Society.

I move that this petition be referred to the Committee on Military Affairs and the Militia.  
The motion was agreed to.

#### PAPERS WITHDRAWN.

On motion of Mr. MORGAN, it was  
Ordered, That R. W. Meade have leave to withdraw his memorial and other papers from the files of the Senate.

#### REPORTS FROM COMMITTEES.

Mr. SUMNER, from the select committee on slavery and freedmen, to whom was referred a bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs, reported it with an amendment.

Mr. MORGAN, from the Committee on Military Affairs and the Militia, to whom was referred a bill (S. No. 286) to prohibit the discharge of persons from liability to military duty by reason of the payment of money, reported it with amendments.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the petition of Ida Hoffman, widow of Solomon Hoffman, who was killed on the 14th of March, 1863, while in the performance of his duties as deputy provost marshal in the State of Indiana, in arresting deserters, praying for a pension, submitted a report accompanied by a bill (S. No. 289) for the relief of Ida Hoffman. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Mrs. William Whistler, widow of the late Colonel William Whistler, United States Army, praying for a pension, submitted an adverse report; which was ordered to be printed.

Mr. NESMITH, from the Committee on Military Affairs and the Militia, to whom was referred a bill (S. No. 149) granting lands to the State of Oregon to aid in the construction of a military road from Portland to Dalles City, reported it with an amendment.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred a joint resolution (S. No. 45) in relation to the taking of a census in the year 1865, reported it without amendment.

He also, from the same committee, to whom was referred a joint resolution (S. No. 53) providing for the taking of a census of the United States, asked to be discharged from its further consideration, the subject being embraced in the preceding joint resolution; and the report was agreed to.

#### VOTING IN WASHINGTON.

Mr. WADE. I move to postpone all prior orders for the purpose of taking up the joint resolution (S. No. 57) to amend the charter of the city of Washington, that I reported here yesterday, the object of which is to correct the registry of votes in the District.

The PRESIDENT *pro tempore*. Reports are still in order.

Mr. WADE. If I have the floor I want to know if it is in order for me to move to postpone all prior orders, even if reports are in order.

The PRESIDENT *pro tempore*. The rule requires the Chair to receive reports. The Chair, with the permission of the Senate—of course the Chair will be guided by the decision of the Senate—is desirous of holding to the rules to get through reports, and then other business will be in order.

Mr. WADE. My inquiry is, if it is in order to make a motion to take up the resolution, to test the sense of the Senate on that question.

The PRESIDENT *pro tempore*. The practice has been both ways, as the Chair understands, sometimes one way and sometimes the other; but the Chair will be guided by the sense of the Senate. The rule requires that the Chair should receive reports. The Chair will put the question on the motion of the Senator from Ohio, and that will guide the Chair on this occasion. It is moved by the Senator from Ohio that the Senate now proceed to the consideration of the joint resolution indicated by him.

Mr. WILKINSON. Yesterday morning during the morning hour there was a bill, on my motion, taken up and the Senate proceeded at some length to consider it, but when the hour of one o'clock arrived it went over until to-day. I shall be obliged to object to this proposition of the Senator from Ohio if it is to interfere with that bill coming up.

Mr. WADE. I am not generally very obtrusive here; I occupy but very little time; but I reported this resolution from the Committee on the District of Columbia, and there seems to be a necessity, if it is to be acted upon at all, for it to be acted upon soon. It relates to voting here in the District, and is designed to give every voter an opportunity fairly to vote and to prevent favoritism and fraud; as I understand it. It is deemed right and proper to the people here that that resolution should pass. If it is to pass it must be passed very soon to be effectual, and therefore I ask the sense of the Senate on the motion to take it up.

The PRESIDENT *pro tempore*. The Chair is informed by the Secretary that the resolution to which the Senator refers has not been returned from the printer. The Chair will finish receiving reports, if there be no objection.

#### REPORTS FROM COMMITTEES—AGAIN.

Mr. HARLAN, from the Committee on Public Lands, to whom were referred the following resolutions, petitions, and memorial, asked to be discharged from their further consideration; which was agreed to:

Resolutions of the Legislature of Kansas in favor of a grant of land for the endowment of Olathe college in that State;

Two petitions of citizens of Iowa, praying for an extension of the act of March 3, 1857, for the relief of purchasers of swamp lands;

Two petitions of citizens of California, praying for the repeal of an act entitled "An act to grant the right of preemption to certain purchasers on the Soscol Ranch in the State of California," approved March 3, 1863; and

A memorial of the Legislature of Minnesota, in favor of a grant of lands to aid in the construction of the Southern Minnesota railroad.

He also, from the same committee, to whom were referred the following bills and joint resolution, reported them severally without amendment and with a recommendation that they be postponed indefinitely:

A bill (S. No. 71) to authorize a loan on the security of the public lands of the United States, and to promote the sale and settlement of the same;

A bill (S. No. 74) to secure homesteads to persons in the military service of the United States; and

A joint resolution (S. No. 22) in reference to lands belonging to certain States.

He also, from the same committee, to whom

was referred a bill (H. R. No. 205) authorizing the issue of patents for locations made with certificates granted under authority of the act of Congress, approved March 17, 1862, allowing floats in satisfaction of lands sold by the United States within the limits of the Las Ormigas and La Nana grants in Louisiana, reported it without amendment.

Mr. WADE. I am instructed by the Committee on Territories, to whom the subject was referred, to report a bill (S. No. 291) to amend an act entitled "An act to enable the people of Colorado to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States."

The bill was read and passed to a second reading.

Mr. WADE. I ask for the present consideration of the bill, inasmuch as it ought to be passed at once.

Mr. DAVIS. I object.

The PRESIDENT *pro tempore*. Objection being made, it cannot be considered now.

#### BILLS INTRODUCED.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 290) to increase the facilities of telegraph communication between the Atlantic and Pacific States and the Territory of Idaho; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 58) in relation to the professors of the Military Academy at West Point; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. HALE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 292) to provide for the efficiency of the Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

#### APPOINTMENT OF MILITARY OFFICERS.

Mr. SPRAGUE. I submit the following resolution, and ask for its present consideration:

Whereas large corps have been and are now being organized in the military service of the United States without the advice and consent of the Senate in the appointment and commissioning of the officers thereof:

Be it therefore resolved, That the Committee on Military Affairs and the Militia be, and they hereby are, directed to report a bill to the Senate requiring that all appointments in the service aforesaid heretofore made, or which may hereafter be made, shall have the advice and consent of the Senate, as provided by law in other cases, and that the commissions of all officers not receiving the advice and consent of the Senate to their nominations will expire with the present session of Congress.

By unanimous consent, the Senate proceeded to the consideration of the resolution.

Mr. WILSON. I hope the Senator from Rhode Island will consent to modify that resolution. As it now stands it is in the form of a positive instruction to the committee. I hope it will be put in the usual form, instructing the committee to inquire into the expediency of doing this, and not proposing a direct vote of instruction to report a particular bill. I have no doubt the committee will be very glad to enter into an examination of the subject, without being told positively what to do.

Mr. SPRAGUE. I have no objection to that modification; but it seemed to me that the case was so clear—as must be apparent to every Senator when he reflects—that it was well to take action at once. To-day the Government of the United States is organizing an invalid corps and negro troops, and appointing officers for them without the knowledge, advice, or consent of the coordinate branch of the Government which by the Constitution is intrusted with a share of the appointing power. In the regular Army, in the signal corps, in every other corps of the Army, and in the marine corps and in the Navy, the advice and consent of the Senate are required to all nominations. I suppose there has been a simple omission in the law regulating the organization of these corps.

Mr. WILSON. I will simply say that a bill is now being prepared under the care of the Senator from Michigan [Mr. HOWARD] in regard to the invalid corps and for its reorganization. He has had that subject under advisement some little time, and I believe good progress is being made. As to the organization of colored troops, Congress passed an act empowering the President to



embody and to organize and officer those troops, without requiring that the nominations of the officers should come to the Senate. It may be best, however, to pass a bill requiring that the names should come here for confirmation. I hope the resolution will not be adopted in the form in which it is proposed; and I move to amend it by striking out the words "directed to report" and inserting "directed to inquire into the expediency of reporting."

The amendment was agreed to.

The resolution, as amended, was adopted.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a bill (No. 484) to incorporate the Newsboys' Home; in which it requested the concurrence of the Senate.

#### NATIONAL CURRENCY.

The message further announced that the House of Representatives had agreed to some and disagreed to other amendments of the Senate to the bill (H. R. No. 395) to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. SAMUEL HOOPER of Massachusetts, Mr. E. B. WASHBURN of Illinois, and Mr. ROBERT MALLORY of Kentucky, managers at the same on its part.

Mr. SHERMAN. I move that the Senate insist on its amendments, and agree to the conference asked for on the bank bill. The House have agreed to all the amendments except four, I understand, and on those they ask for a conference.

Mr. TRUMBULL. I did not so understand. I understood they had agreed to part of our amendments and disagreed to others, without asking for a committee of conference.

Mr. SHERMAN. They ask for a committee of conference.

The motion was agreed to; and Messrs. SHERMAN, FOSTER, and JOHNSON were appointed conferees on the part of the Senate.

#### HOUSE BILL REFERRED.

The bill from the House of Representatives (No. 484) to incorporate the Newsboys' Home was read twice by its title, and referred to the Committee on the District of Columbia.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

The Senate proceeded to consider its amendments to the bill of the House (No. 192) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th June, 1865, disagreed to by the House of Representatives, and the amendments of the House to other amendments of the Senate to the said bill; and

On motion of Mr. FESSENDEN, it was Ordered, That they be referred to the Committee on Finance.

#### SIOUX INDIAN DEPREDACTIONS.

Mr. WILKINSON. I move to take up House bill No. 377, which was up yesterday morning.

Mr. DAVIS. I hope not. I hope that resolutions will be called for.

Mr. HENDRICKS and Mr. CARLILE. What is the bill?

The PRESIDENT *pro tempore*. The title will be read.

The Secretary read the title, namely: A bill (H. R. No. 377) making appropriations for the payment of the awards made by the commissioners appointed under and by virtue of an act of Congress entitled "An act for the relief of persons for damages sustained by reason of the depredations and injuries by certain bands of Sioux Indians," approved February 16, 1863.

Mr. WILKINSON. I will simply state that this bill was up yesterday morning, and the Senate considered it until the hour of one o'clock arrived, when it was laid over at the suggestion of the chairman of the Committee on Finance, by whose committee it was reported, that it should lie over until the honorable Senator from Pennsylvania, [Mr. COWAN,] who made the report, was in his seat. I presume there will be no debate upon it whatever. It is a matter local to our State, and I hope it will be done.

Mr. McDOUGALL. I hope we shall have resolutions considered.

Mr. DAVIS. I object to that bill being taken up. It is now about a week since resolutions were called for, and I ask for the yeas and nays on the motion to take up the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 31, nays 7; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Collamer, Conness, Cowan, Dixon, Foot, Foster, Grimes, Hale, Harlan, Harris, Hendricks, Howard, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Pomeroy, Ramsey, Sumner, Ten Eyck, Trumbull, Van Winkle, Wilkinson, Wiley, and Wilson—31.

NAYS—Messrs. Buckalew, Carlile, Davis, McDougall, Powell, Richardson, and Saulsbury—7.

ABSENT—Messrs. Brown, Doolittle, Fessenden, Harding, Henderson, Hicks, Riddle, Sherman, Sprague, Wade, and Wright—11.

So the motion was agreed to; and the consideration of the bill was resumed as in Committee of the Whole.

The bill was reported to the Senate without amendment.

Mr. HENDRICKS. I have not a copy of the bill before me. I wish to inquire if it is reported by the Finance Committee.

Mr. RAMSEY. It has been reported by the Finance Committee unanimously.

The bill was ordered to a third reading, and was read the third time, and passed.

#### DISLOYAL INDIANS.

Mr. LANE, of Kansas. I offer the following resolution, and ask for its present consideration:

Resolved, That the Committee on Indian Affairs be requested to consider the question of confiscating the reserves of all Indian tribes who are, or have been, in arms against the Government, and providing homes for the loyal members of such tribes and to report by bill or otherwise.

Mr. DAVIS. If it is not to lead to any debate I do not object, but if it is I object. I want the ordinary rule enforced.

The PRESIDENT *pro tempore*. Is there any objection?

Mr. DAVIS. I object.

Mr. LANE, of Kansas. I will say to the Senator from Kentucky there will be no discussion; it is a mere resolution of inquiry.

The PRESIDENT *pro tempore*. Objection being made, it must lie over.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution (No. 82) in relation to the distribution of books and documents, in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had agreed to the amendments of the Senate to the bill of the House (No. 272) for the relief of Julia A. Ames.

#### RAILROADS IN IOWA.

The message further announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 381) to amend an act entitled "An act making a grant of land to the State of Iowa, in alternate sections, to aid in the construction of certain railroads in said State," approved May 15, 1856.

Mr. FOOT submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 381) to amend an act entitled "An act making a grant of land to the State of Iowa, in alternate sections, to aid in the construction of certain railroads in said State," approved May 15, 1856, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from its disagreement to the first amendment of the Senate and agree to the same, amended to read as follows: on page 2, line five, of section one, strike out the words "by said company" and insert "and not further north of said town than the north line of section twenty-two, township eighty north, of range nineteen, according to the United States surveys, if the citizens of the county of Jasper shall first pay to said company the difference in cost, if any, between the line proposed by the company and the one contemplated by this proviso, including extra cost of right of way, if any, said difference in cost to be estimated by competent engineers to be selected by the parties."

That the House recede from its disagreement to the amendments of the Senate numbered two, three, four, five, six, seven, eight, nine, ten, eleven, thirteen, fifteen, seventeen, eighteen, nineteen, twenty, twenty-one, and twenty-two, and agree to the same.

That the House recede from its disagreement to the twelfth amendment of the Senate, and agree to the same with the following amendment, namely, in the tenth line

of the said amendment, between the word "the" and the word "line," insert the word "original;" and in line eleven of the amendment, after the word "railroad," insert the words "as laid down on a map on file in the General Land Office."

That the House recede from its disagreement to the fourteenth amendment of the Senate, and agree to the same with an amendment as follows: at the end of the amendment insert "but each of said companies may select an equal quantity of public lands as described in this act within the distance of twenty miles of the line of each of said roads in lieu of lands thus settled upon and improved by bona fide inhabitants in good faith under color of title as aforesaid."

That the House recede from its disagreement to the sixteenth amendment of the Senate, and agree to the same with an amendment as follows: strike out the word "Legislature" in the said amendment and in lieu thereof insert "Governor."

SOLOMON FOOT,  
JAMES HAILAN,  
L. W. POWELL,

Managers on the part of the Senate.

WILLIAM B. ALLISON,  
C. A. ELDRIDGE,

Managers on the part of the House.

The report was concurred in.

#### CONDITION OF MEXICO.

Mr. WADE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested to communicate to the Senate, if not incompatible with the public interest, any correspondence between the Secretary of State and the Mexican minister in relation to the course of trade between France and the United States, while France and Mexico were at war with each other, in articles supposed to be in derogation of the rights of neutrals, and also all other information in possession of the Government relative to the present condition of affairs in the Republic of Mexico, and especially upon the attempt of any European Powers to overthrow republican institutions on this continent with a view of establishing monarchical forms of government in their stead.

#### SENATOR FROM ARKANSAS.

Mr. HARRIS. Mr. President—  
Mr. LANE, of Kansas. I rise to a question of privilege—

The PRESIDENT *pro tempore*. The Senator will state his question.

Mr. LANE, of Kansas. I move that the usual oath be administered to Hon. William M. Fishback, Senator elect from the State of Arkansas. I believe it has been considered a question of privilege.

The PRESIDENT *pro tempore*. It is so.

Mr. LANE, of Kansas. I make that motion.  
Mr. SUMNER. I beg to inquire if there is not a motion already pending with reference to the credentials of the gentleman?

The PRESIDENT *pro tempore*. There is a motion to refer the credentials to the Committee on the Judiciary which takes precedence of the motion of the Senator from Kansas.

Mr. SUMNER. I presumed so.

Mr. LANE, of Kansas. I desire to make a brief statement to the Senate before the vote is taken.

Mr. HOWARD. I should like to be informed what is the motion before the Senate.

The PRESIDENT *pro tempore*. To refer the credentials of the member elect from Arkansas to the Committee on the Judiciary—a motion made last week.

Mr. LANE, of Kansas. The people of Arkansas in primary assemblies in forty-two counties out of fifty-four elected delegates to a State convention; that convention met and amended the constitution of the State, prohibiting slavery or involuntary servitude, and prohibiting the apprenticeship system as regards all persons over twenty-one years of age. In that convention, as I before stated, forty-two counties out of fifty-four were represented. The constitution so amended was submitted to the people of that State for their adoption or rejection. At that election 12,177 votes were cast for the amended constitution and 226 against it, on a vote of 54,000, that being the vote the year before the State seceded from the Union, almost one fourth of the entire vote of the State, and believed to be a majority of the legal voters in the State at the time the constitution was voted upon. The convention provided for the election of State officers and members of the Legislature on the day that the amended constitution was adopted. In that election the same number of votes were cast, over 12,000. The Legislature, composed of seventy-five members, forty-eight out of the fifty-four counties in the State being represented, elected Mr. Fishback

and Mr. Baxter his colleague; Mr. Fishback in the place of Mr. Sebastian, whose term of service would have expired on the 4th of March, 1865, and Mr. Baxter in the place of Mr. Mitchell, whose term of service would have expired on the 4th of March, 1867.

Mr. HALE. I will ask the Senator how it is that the State of Arkansas has sent a man here now to occupy a seat that will not be vacant until 1865?

Mr. LANE, of Kansas. The former Senators were expelled, and these Senators have been elected to fill the vacancies occasioned by their expulsion.

Mr. McDOUGALL. Mr. Sebastian was not expelled, I take it.

Mr. LANE, of Kansas. I so understand. I understand that both the former Senators were expelled by a vote of the Senate since I have been a member of the body.

Mr. HOWARD. Will the Senator from Kansas allow me to make an inquiry?

Mr. LANE, of Kansas. Certainly.

Mr. HOWARD. I should like very well to be informed by the Senator from Kansas under what authority this so-called State election has been held: first, under what authority was the convention of the people of Arkansas held, who directed the calling of an election for the purpose of electing members of the convention; and secondly, under what authority the members of the so-called State Legislature of that State were chosen? He will of course observe that these are very important inquiries that must be met at the threshold of this discussion.

Mr. LANE, of Kansas. I do not propose to detain the Senate except to state that the people of Arkansas in this movement have followed the proclamation of the President called the amnesty proclamation. The voter was compelled before he cast his ballot to take the oath recited in that proclamation. The people met, as I believe they have a right to meet, and elected delegates to a State convention—an inalienable right in my opinion, an American one, at least—amended their constitution, submitted it to the people, elected their Legislature, and that Legislature elected these Senators. I do not see anything to refer. The credentials are regular. Arkansas was represented upon this floor for twenty-eight years. The credentials are filed in accordance with the Constitution of the United States and the laws of the United States. The people of Arkansas, in their representative capacity, forty-eight counties out of fifty-four, elected these Senators.

Mr. HOWARD. Mr. President, I put to the honorable Senator from Kansas two questions, the object of which was to ascertain by what authority the elections were held in Arkansas which have resulted, as it appears, in the delegation of this gentleman, Mr. Fishback, from that State, as a member of this body. I do not understand that the honorable Senator has given us any authority, or referred to any, except that contained in the proclamation of the President of the United States, commonly known as the amnesty proclamation. I am not about to say anything respecting that proclamation. The time, however, may come when it may be necessary for members of this body to take it into consideration, and to express an opinion as to the right and power of the Executive of the United States to issue such an instrument for the purpose of the reorganization, or reconstruction, no matter which term is used, of the rebellious States. All I know at present in regard to Arkansas is this, and the tale is a very simple one: on the 6th of May, 1861, a convention of the people of that State, held, as we are bound to presume, under some law of the State of Arkansas, passed an ordinance commonly called an ordinance of secession, and in the course of that ordinance they make this strange declaration:

"That we do hereby further ordain and declare that the State of Arkansas hereby resumes to herself all rights and powers heretofore delegated to the Government of the United States of America; that her citizens are absolved from all allegiance to said Government of the United States, and that she is in full possession and exercise of all the rights of sovereignty which appertain to a free and independent State."

That ordinance was passed in that convention by a vote 69 pro to 1 con., being a majority of 68. I find further on looking at the history of the pro-

ceedings in that State that on the 17th of May, 1861, the then so-called State of Arkansas was admitted into the rebel confederacy as a member of that confederacy under its then provisional constitution, and that its delegation to the rebel congress consisted of the following persons: 1. R. W. Johnson, of Pine Bluff; 2. A. Rust, of Little Rock; 3. A. H. Garland, of Little Rock; 4. W. W. Watkins, of Carrollton; 5. H. F. Thomasson, of Van Buren. That seems to have been the status or condition of the State of Arkansas at that date.

Now in what way it has become a loyal State and has restored itself legitimately, constitutionally, and properly into the Union of the United States, is a most important question. What we know is that that entire community known as the State of Arkansas has been in arms against the Government of the United States from the date of this ordinance of secession down to the present time, and that, if the authority of the United States is maintained and upheld anywhere within the limits of that State, it is thus upheld, not by the free consent of the people of that State, but by virtue of the superior military strength of the Government of the United States, who hold it in the Union now only and solely by force of military occupation.

Sir, I for one must confess, and I take this early occasion to say, that I am totally opposed to readmitting into the Union a State whose Unionism consists solely in the exertion of the military power of the United States in order to hold it within its allegiance. The exertion of that military power is a necessity. I trust in Heaven the time will come when this exertion may properly cease; but until that time shall come, until there shall be the free consent of a reasonably numerous portion of the people of the rebellious States, I am totally opposed to the recognition of any of those States as States of the Union. Sir, this war is costing us a little too much in the shape of blood and treasure to allow us to trifle with the subject, and to act the part of boys and children when we are called upon by gentlemen who come here and ask seats within this body. I desire to see a constitutional restoration of the Union, and no bogus restoration of the Union. I wish to see the Union resting upon the assent of the people of the States, and that such measures may be adopted as are best calculated to insure that assent at an early day.

And while I am up I must beg to be allowed to say further that I do not concede to the President of the United States, as Commander-in-Chief of the Army and Navy of the United States, or as the Chief Magistrate of the nation, the power to reconstruct and reestablish this Union, broken up as it has been by a bloody rebellion. I insist that that power belongs, and belongs exclusively, to the Congress of the United States, and not to the Executive of the United States; and that it is our bounden duty to see to it at a reasonably early day, but not, however, in particular haste about it, that such measures are adopted as shall result in the peaceful and permanent restoration of this Union upon constitutional principles.

I do not ask that this resolution may be referred to the Committee on the Judiciary, or any other committee. I think the Senate is competent to treat this subject in open session, and to dispose of it in such a way as shall be satisfactory to the country and be consistent with our duty to the Constitution and the country.

Mr. LANE, of Kansas. Mr. President—  
Mr. FESSENDEN. I believe the hour has arrived for the regular order of business, and I must ask that it be proceeded with.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) This is a question of privilege that it requires a vote of the Senate to supersede.

Mr. CONNESS. I hope we shall take the vote without further debate, and let the resolution go to the committee.

Mr. FESSENDEN. If there is to be no further debate, very well.

Mr. LANE, of Kansas. I am not willing that it shall go to the committee without debate.

Mr. RICHARDSON. There will be debate. Mr. FESSENDEN. Then I move that this subject be postponed, and that the regular order of business be proceeded with.

The motion was agreed to.

## INTERNAL REVENUE.

The Senate, as in Committee of the Whole, accordingly resumed the consideration of the bill (H. R. No. 405) to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes.

The next amendment of the Committee on Finance was in line five of section forty-one, to strike out the word "willingly" and insert "willfully" before "swear."

The amendment was agreed to.

The next amendment was in section forty-three, after the word "prescribed" in line three, to strike out "under the direction of" and insert "by;" so as to read:

That the Commissioner of Internal Revenue, subject to regulations prescribed by the Secretary of the Treasury, shall be, and is hereby, authorized, on appeal to him made, to remit, refund, and pay back all duties erroneously or illegally assessed or collected, &c.

The amendment was agreed to.

The next amendment was after the word "and," in line eighteen of section forty-three, to strike out "it is further provided that;" after the word "penalties," in line twenty, to insert "shall;" to strike out "accounted for and" before "paid," in line twenty-one; after the word "paid," in line twenty-one, to strike out "by" and insert "to;" and after the word "and," in line twenty-two, to strike out "also that the" and insert "all;" so as to make the clause read:

And all judgments and moneys recovered or received for taxes, costs, forfeitures, and penalties shall be paid, to the collector as internal duties are required to be paid; and all sums of money which the Commissioner is authorized to pay by virtue of this section shall be paid by drafts drawn on collectors of internal revenue.

The amendment was agreed to.

The next amendment was to strike out the following words in lines ten, eleven, twelve, thirteen, fourteen, and fifteen of section forty-five:

The sums which would have been due from the persons residing or holding property, goods, wares, or merchandise, object or article therein liable to any duty, license, or tax, with interest at the rate of six per cent. per annum thereon from the time such duty, license, or tax ought to have been paid, until paid in the manner and.

And in lieu of them to insert, "taxes in such States and Territories;" so as to make the section read:

Sec. 45. *And be it further enacted*, That if, for any cause, at any time after this act goes into operation, the laws of the United States cannot be executed in a State or Territory of the United States, or any part thereof, or within the District of Columbia, it shall be the duty of the President, and he is hereby authorized, to proceed to execute the provisions of this act within the limits of such State or Territory, or part thereof, or District of Columbia, so soon as the authority of the United States therein shall be reestablished, and to collect taxes in such States and Territories under the regulations prescribed in this act, as far as applicable; and where not applicable, the assessment and levy shall be made, and the time and manner of collection regulated, by the instructions and directions of the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury.

The amendment was agreed to.

The next amendment was in line thirty-five of section forty-seven, to strike out "shall" and insert "may at the option of the collector."

The amendment was agreed to.

The next amendment was in section forty-seven, line forty-three, to insert after "thereof" the words "the collector;" to insert "collector" before "marshal" in line fifty-four; and to insert "collector or" before "marshal" in lines fifty-nine and sixty respectively.

The amendment was agreed to.

Mr. HARRIS. I presume there is a misprint in line fifty-one of section forty-seven: "appraiser" should be "assessor."

Mr. FESSENDEN. The assessor is made the appraiser; but the amendment had better be made, perhaps.

Mr. HARRIS. I move the amendment to strike out "appraiser" and insert "assessor" in line fifty-one.

The amendment was agreed to.

Mr. FESSENDEN. "Appraiser" should be altered to "assessor" also in the fifty-sixth and fifty-eighth lines. I move the amendment.

The amendment was agreed to.

The next amendment of the Committee on Finance was in section forty-nine, line four, to insert before "shall" the words "now in force;" after the word "embracing," in line five, to strike out

"any act done under the excise or internal revenue laws of the United States" and insert "all laws for the collection of internal duties, stamp duties, licenses, or taxes;" after "to," in line nine, to insert "assess;" after "receive," in line ten, to strike out "assess;" and after "enumerated," in line fourteen, to insert "or conferred;" so as to make the section read:

SEC. 49. *And be it further enacted,* That the provisions of an act entitled "An act further to provide for the collection of duties on imports," approved March 2, 1833, now in force, shall be taken and deemed as extending to and embracing any act done under all laws for the collection of internal duties, stamp duties, licenses, or taxes, which have been or may be hereafter enacted; and all persons duly authorized to assess, receive, or collect such duties or taxes under such laws are hereby declared to be and to have been revenue officers within the true intent and meaning of the said act, and entitled to all the exemptions, immunities, benefits, rights, and privileges therein enumerated or conferred.

The amendment was agreed to.

The next amendment was in section fifty-two, line two, to strike out "applying for license," and insert "required by law to be licensed;" so as to read:

That any person required by law to be licensed as a distiller, &c.

The amendment was agreed to.

The next amendment was in line twenty-eight of the same section, after the word "first" to strike out "tenth" and insert "eleventh;" and after the word "and" to strike out "twentieth" and insert "twenty-first;" and in lines thirty-one and thirty-two to strike out the words "taken from his books;" so that the clause will read:

And also that he will render to the said assessor or assistant assessor on the first, eleventh, and twenty-first days of each and every month, or within five days thereafter, during the continuance of said license, an exact account in writing of the number of gallons of spirits distilled, &c.

The amendment was agreed to.

The next amendment was in the same section, to strike out the following clause in lines forty-seven, forty-eight, forty-nine, and fifty:

That he will, at the time of rendering said account, immediately forward to the collector or deputy collector of the district a copy thereof duly certified by the assessor or assistant assessor.

The amendment was agreed to.

The next amendment was in line fifty, after the word "will" to strike out "also" and insert "at the time of rendering said account;" so that the clause will read:

And that he will, at the time of rendering said account, pay to the said collector, or his deputy, the duties which by law are imposed on the spirits so distilled.

The amendment was agreed to.

The next amendments of the committee were to the fifty-fourth section. The section, as the bill was passed by the House of Representatives, was as follows:

SEC. 54. *And be it further enacted,* That, in addition to the duties payable for licenses herein provided, there shall be levied, collected, and paid on all spirits that may be distilled and sold, or distilled and removed for consumption or sale, of first proof, on and after the 1st day of May, 1864, and prior to the 1st day of January, 1865, a duty of \$1 on each and every gallon; and on and after January 1, 1865, a duty of \$1.25 on each and every gallon; which duty shall be paid by the owner, agent, or superintendent of the still or other vessel in which the said spirits shall have been distilled, within five days after the time of rendering the accounts of spirits so chargeable with duty, required to be rendered by law. And the said duty shall be a lien on such spirits and also on the interest of all persons in default in the distillery used for distilling the same, with all the stills, vessels, fixtures, and tools therein, and in the lot or tract of land upon which the said distillery is situated, until the said duty shall be paid: *Provided,* That the duty on all spirits shall be collected at no lower rate than the basis of first proof, and shall be increased in proportion for any greater strength than the strength of first proof.

The Committee on Finance proposed to amend the section, so as to make it read:

SEC. 54. *And be it further enacted,* That in addition to the duties payable for licenses herein provided, there shall be levied, collected, and paid on all spirits that may be distilled and sold, or distilled and removed for consumption or sale, of first proof, on or after the 1st day of June, 1864, and prior to the 1st day of October, 1864, a duty of \$1 on each and every gallon; and on and after October 1, 1864, and prior to the 1st day of January, 1865, a duty of \$1.25 on each and every gallon; and on and after the 1st day of January, 1865, a duty of \$1.50 on each and every gallon; which duty shall be paid, &c.

Mr. HOWE. I was not present when these amendments were agreed to by the committee, and I have not been able to recognize the wisdom of them. I think this is the worst time we have yet seen to increase the duty on distilled spirits. I

think there is the largest quantity on hand now that probably ever was in the country at any one time. I believe that is the testimony we have from all quarters. I believe it is conceded that there never was so large a quantity on hand. It must also be borne in mind that we are just approaching that season when the distillation of spirits usually ceases. It is the close of the distilling year. The old stock of grain is about worked up. The cattle and the hogs which are fed at the distilleries are disposed of, are marketed, and it is at about this season of the year that distillers usually do, under any circumstances, stop the manufacture for thirty or sixty days, as the case may be, to repair and to fit up for another year's business. If now, at this time, we increase the duty from sixty cents per gallon to one dollar, it seems to me we must expect that it will be a long time before the distillation will start again.

When we were considering this question last winter and it was proposed to graduate the duty upon distilled spirits, the proposition to raise the duty ten cents at a time upon a gallon, I know was regarded by many persons of excellent judgment as an extreme measure. The most radical proposition then made, I think, was to raise the duty twice, and ten cents at a time. Here is a proposition to raise the duty at once forty cents, and to raise it twice thereafter within a little more than six months at twenty-five cents per gallon each time. My own opinion is that I should be willing to vote to increase this duty to one dollar on the 1st of October or the 1st of November, about the time that the new crop comes out and about the time that distillers will want to stock their distilleries for another year's operations. I believe that is as early as we can hope to raise this duty, and get any revenue from the distillation. And now as to the increase after that time, I only wish to say that I am willing to increase the duty just as fast as you can and continue the distillation and not stop the revenue, and to continue it just as long as you find you can do that. I have no sort of doubt but that this beverage will bear the highest rate of duty proposed here. I have thought so from the beginning, and have been among the fastest of those who were making progress toward the highest point, but I must confess that these propositions take me off my gait. I believe the effect of these propositions will be to stop the distillation at once, take every dollar of revenue away from the Treasury for a time, and put a larger fortune than we can spare into the hands of the present holders of liquors.

For that reason I shall concur in these amendments as they now stand. I will very cheerfully concur in a proposition to raise the duty about the 1st of October or November to one dollar, and from that time to raise it as fast as we can. I thought last winter that the business would stand a raise of ten cents at a time, and I think so still. I think now, as I thought then, that that is as fast as we can go in raising these duties.

Mr. SHERMAN. I do not intend to discuss this question, but wish simply to state what course I shall pursue in regard to the tax on whisky. I think whisky can bear the rate of taxation proposed by this amendment, and I would be willing to vote for the rate of taxation proposed by the amendment, provided a reasonable tax, such as was put by the House of Representatives upon spirits on hand, be adopted by the Senate. If this tax is put upon the future manufacture, and no tax is put upon the spirits on hand, it is a bounty to the whisky manufacturer and to the dealer in whisky so enormous as to make all engaged in the business very wealthy. I never could see any reason why they ought not to pay a reasonable tax upon the stock on hand, especially when the legislation of Congress tends directly to increase the value of the article on hand which they hold. That principle was adopted in raising the tariff the other day.

I wish, therefore, to await action on this proposition until we vote upon the proposition to strike out the tax upon spirits on hand. I shall not now object to the tax proposed by this amendment of the committee, but I simply give notice that when the amendment relative to the tax upon spirits on hand is before the Senate at the close of this bill, I shall make another effort, perhaps a fruitless one, to retain the tax proposed by the

House of Representatives upon spirits on hand; and in case that is refused, I think the tax proposed by this amendment on the future manufacture is too high. I believe it will at once stop all distillation of spirits, prevent our getting any revenue for a year or two, and will simply inure as a bounty to the manufacturer and the holder of whisky. That is the course I shall pursue; I do not wish to take up time in discussing the question now.

Mr. POMEROY. Before I vote on this amendment, I should like to have the question settled whether we are to tax whisky on hand. I agree in what the Senator from Wisconsin [Mr. Howe] has said. While I do not think this tax is too high, I believe it will stop the manufacture for the time being, and, in my opinion, it ought to be stopped. The Government is buying corn now for the Army at an enormous price, and it is made large by this very demand for the use of corn in the manufacture of whisky. If this amendment be adopted just as the committee have reported it I think it will stop the manufacture of whisky, and I shall vote for it with that view. We have got enough on hand. As the Senator from Wisconsin has said, this is the season to stop. The old crop of corn on hand ought not to be gone into for the manufacture of whisky; the Government is buying all it can buy, and buying it now at an enormous price, made so by the demand for corn for the manufacture of whisky. I think that if we impose a tax of one dollar a gallon from and after the passage of the act it will suspend the operations of the distillers for the time being; but as soon as the new crop of corn comes in the price of that will be regulated by the demand of the distillers, and I am willing that they shall manufacture the new crop under this increased tax. But while the Government is buying all the surplus corn in the country I do not propose to encourage the manufacture of it into whisky. It is not a good financial measure to encourage it. We ought rather to suspend the manufacture for the time being. The men who have been dealing largely in it have been holding the amount of whisky they have on hand, and I think it is time for them to sell it; they ought to sell it. We should not encourage the manufacture of another gallon to add to the value of the old corn crop on hand; but for the purpose of supporting the Army the Government should be allowed to purchase the old crop of corn, not at present prices, but at reduced prices, because the reduction of price would be the effect of stopping the manufacture of whisky.

If the committee had reported this amendment in another shape, so as to tax whisky one dollar or even one dollar and half a gallon from and after the passage of this act, and two dollars a gallon within a year from that time, so as to take in the next year's crop, instead of proposing to do the work piecemeal, as the surgeon cut off the man's leg, I think it would have been better. I do not think there is any policy in raising the tax ten cents at a time. We should go up in a sliding scale, to be sure; but I do not think we ought to slide more than twice. I would have a tax assessed upon what is on hand, and upon all manufactured after the date of the passage of the act; and then the larger tax I would put on a year from that time.

Mr. FESSENDEN. There is undoubtedly at present in the country a very large stock of whisky, perhaps enough to answer the demand for a year. How that may be, I do not know; but the stock on hand is larger probably than it has been at any previous period; for since we commenced the discussion of this topic last winter undoubtedly the distillers have been running with all the force they could muster; and a very large quantity has been produced in view of the increase of the tax. Whether when the time comes, that is, when we arrive at the end of the bill, where the section is which the Committee on Finance propose to strike out, we shall, with a view to revenue, agree with the House of Representatives to lay a tax upon the liquor on hand, or whether we shall agree to adhere to our former decision, and lay no such tax, will be for the Senate then to decide.

In settling a question of this description, however, I do not see the force of the argument of my honorable friend from Ohio [Mr. Sherman] founded on the idea that he would lay this duty,



because otherwise a certain set of men will make a great deal of money. I have no disposition to legislate either to help men make money or to prevent their making money. That, it strikes me, is a very trifling consideration when you are attempting to digest a great system which is to endure not only for this year but also is to answer our purpose through many succeeding years. We must act with reference to the great question of raising revenue under the bill we pass; and the incidental result, whether thereby we deprive this set of men or that set of men of money they would otherwise make, or whether we are to legislate it into their pockets, may be considered collaterally, but I take it, that is not to influence the great question.

Now, sir, leaving that question to be settled, so far as the particular quantity of liquor on hand is concerned, till the time when we arrive at it, let me state what the committee had in view in reference to the amendments which they have proposed to this section. We do not suppose that from the 1st day of June (if we should get through the bill and it should become a law by that day) by raising the rate of duty at that time and from thence to the 1st of October, we shall effect much in the way of producing revenue; and why? Because, as is stated by Senators, that is the time when the old crop is pretty much used up; there is not much of it on hand; the cattle and hogs are disposed of; and the distillers do not usually operate to any considerable extent at that period of the year. If we lay a largely increased duty upon it at that time, it will operate in aid of what is their general practice, to stop operations. I agree with the Senator from Kansas [Mr. POMEROY] that if that should be the effect, the little we lose in one particular will be more than made up by what we shall probably gain in another; because if we lay no additional duty on the 1st of June—and that day is only fixed as a supposed day—we mean to put it into effect the very earliest day that we can pass the bill, and of course as to the date we shall be guided by the progress that the bill makes; if we omit to lay any additional duty on the 1st of June, and let it go till the 1st of October, we hold out a direct inducement and a very strong inducement, to distillers to keep their distilleries in operation, and to use up as much corn as they can in the intermediate time with a view to increase the quantity manufactured before that time as much as possible, because then there will be a large increase of duty.

Therefore it is advisable with reference to both those considerations, in fact. We may gain very little now, owing to the reduced crop, by making the increase take effect at once; but on the other hand we might lose largely in the increase of the price of the raw material, which is needed for the consumption of our Army; and therefore it was deemed advisable, in the judgment of the committee, to increase the duty at the present time. Taken in connection with the fact that the distilleries cannot ordinarily run to advantage in this particular period of the year until the new crop comes in, the result would be, if you please, to operate either to prevent the distillation, in which case we should not lose much, or if they went on to distill they would pay a duty upon it; and in either case we should not get the stock so largely increased between now and October; and I believe that view to be a sound one.

Then we change from the 1st of January to the 1st of October for the reason that has been suggested; and that is, that then the new crop comes in, and then the distilleries begin their operations. We thought it best that the Government should have the advantage of the large manufacture that would probably take place for the three months between the 1st of October and the 1st of January. That is the view with which we changed the time when the duty of \$1 25 should go into effect from the 1st of January, 1865, to the 1st of October, 1864. Then the question arose whether we should still further increase the duty on the 1st of January next. At that time I suppose the distilleries are all largely in operation; they have got their cattle and hogs, &c., and they have got their stock of raw materials on hand. The question with reference to that was simply whether the article would bear the increased rate. I have no doubt that it will bear that rate and a larger rate. I have no doubt it will bear two dollars. The rate in England is \$2 80, or thereabouts, upon

the manufacture of this article, and the large duty has been found in practice not to diminish the quantity apparently, while it largely increases the revenue in consequence of the quantity being increased instead of diminished. The truth is it is an article that you cannot prohibit the manufacture of by duties if they are anywhere within a reasonable limit.

With that view the House of Representatives having expressed its opinion that \$1 25 should be the extent of taxation, we having the opinion in our committee that the duty should not be laid on the whisky on hand, but should be laid as largely as we could reasonably expect it would bear on the article to be manufactured hereafter, we have proposed to increase it a quarter of a dollar after the 1st of January next, and bring it up to \$1 50. I have no doubt myself that it might be carried even higher; but all these things are progressive. When we began, with much doubt and much hesitation, we fixed it at twenty cents; we did not think it could go any higher than that, and now we find in the opinion of everybody that we may go up much higher. I think we may go very much higher, and put on the increased duties better now than then, because it does not do to shake the country even in times of war more than we can help. It requires time for men to accustom themselves to an idea, if it is a new idea, and to get familiar with it, and as they get familiar with it they pass to it and understand it, and find they can get along a great deal better with the consequence of carrying it out than they supposed.

Then comes the important question suggested by my friend from Ohio; and I will say one single word upon it with a view of laying down a general principle. Gentlemen in both Houses of Congress and the people of the country are anxious to obtain as much revenue as possible out of this article. It is a subject peculiarly fit for revenue. It is one of those things that you can legislate upon and get money out of without doing injury to anybody; for how much you make a man pay for his drinks is of no sort of consequence. It is a good thing for the country; and if he will diminish the quantity that he does drink, we gain in that way. I have never yet been convinced that a cent or two more or less on a glass of liquor made any difference to a man who wanted to drink it. It certainly does not to me, [laughter,] and I am not so fond of it as a great many other people.

But, sir, in putting a system of this kind into operation, you must give it time. The idea that you can inaugurate a great system of taxation all at once, lay your hand upon all the sources of revenue, and that you can get everything out of it by your legislation, is, in my judgment, a perfectly fallacious notion. If we wanted revenue for this year alone, and must have it at all hazards, I might consent to do many things that in the present condition of things I do not think wise; but, as I said before, we are legislating for a long series of years. We must not only have revenue this year, but we must have it the next year, and the year after that, and so on; we do not know how long, probably longer than I shall live and many others of us. You must therefore be content to be patient and wait for any system to get into operation. No great one ever goes into operation and takes full effect in a month, or a year, or perhaps longer. We have inaugurated this system. We are now getting our twenty cents. For a long time we did not get that, owing to the stock on hand. We are now getting our sixty cents on a large portion of it under the bill that we passed last winter. So far, so good; but there was much on hand then upon which we did not get the twenty cents, but only on that which has been made since. It will operate thus in all cases. The time will come, and that shortly, when we can put these laws with reference to revenue in full operation. Why? Because before a very long time the stock on hand must disappear; it must be used up; it must be gone; the appetites of men and the needs of men in manufactures and in other directions for the use of liquor will use it, and then the system will be in full operation. We must frame our system with reference to these well-known facts, which are familiar to all of us on a moment's reflection.

I do not propose to anticipate any discussion that may take place upon that question, but simply to enunciate a general principle and to suggest to

gentlemen that in order to make the system what it should be we must give time for it to accommodate itself to the existing state of facts among the people.

Mr. HENDRICKS. I believe Mr. Lincoln is the author of the sentiment, at least he repeated it, "the world moves on." At the first part of this session I thought the proposition to tax whisky at the rate of sixty cents a gallon almost an alarming proposition. It seemed to me to be such a high tax upon a western production that I felt it to be my duty to oppose it. I do not now propose, when we have come up to the proposition to tax whisky a dollar a gallon, to oppose it. I am satisfied it is the sentiment of the Senate that the production shall be taxed at that rate; but upon one or two practical questions I desire the attention of the Senate, and particularly of the Finance Committee.

It is proposed to tax this article at one rate for a while, and then at another rate for another period. If that be adopted as the idea of this bill, then the times ought to be so fixed as not seriously to interfere with the business which is taxed. The 1st of October and the 1st of January are the two most unfortunate periods in the whole year at which to change the rate of taxation. You can do it at the 1st of June and not materially interfere with the interests of the men engaged in this pursuit; but if you take the 1st of January, and double the tax at that time, it would materially interfere with the business. The business of the distiller is not alone to produce whisky, but, to make his pursuit profitable, he must feed stock, cattle, and hogs; and when he buys his stock of corn in the fall he must also, to make his business profitable, buy his stock of hogs and cattle, so as to use up during the winter, and the proper season of distilling, that which does not go into whisky.

You propose then to tax whisky at a certain rate from this time until the 1st of January, and then increase the tax fifty per cent. What is the effect? You stimulate the production of whisky unnaturally until the 1st of January, and then your legislation has a tendency to stop the production. Right in the middle of winter, when the cattle and hogs are on hand and being fed, you take away the motive to produce whisky. In other words—I desire the point to be understood by the Senate—this policy tends to make whisky and whisky only, while the policy of the Senate ought to be, not the production of whisky, but to encourage the feeding of stock. You encourage the production of whisky at an unnatural rate up to a particular period when you ought not to stop for the reason that you need to feed the stock during the balance of the season.

I shall not oppose the tax of a dollar a gallon; but surely Senators will admit that that is a very high tax. I think Senators will admit that there is nothing in the execution of the former law or of the law that we passed during the early part of the session which justifies us in saying that this interest ought to be taxed higher than a dollar a gallon. The bill admits that it ought not now be taxed more than a dollar. That is the proposition of the committee; that one dollar is a very high tax. I believe it is five times the tax that was imposed two years ago. It is an increase over the tax two years ago of five hundred per cent. Is not that enough?

Senators may say that whisky will still be produced. The Senator from Maine suggested that whatever almost may be the tax, within a reasonable limit, the production will go on and the consumption of whisky will go on. That may be so; but surely the Senator will admit that you may tax this production at such a rate as that corn will cease to go into whisky, as that men cannot produce it and sell it. While I was in the State of Indiana recently, I consulted some gentlemen on this subject and they expressed the opinion, that a tax of a dollar on the gallon would very seriously decrease the production, and a tax of \$1 50 would almost stop the production of whisky. That is their opinion. To be sure, we cannot tell whether that will be so or not; but it is very certain that you may tax to a point that will stop production, that will be prohibitory. Then what is the effect of it? Not to produce revenue, but to prevent a very important western production.

Representing to some extent this interest, In

diana producing a very large amount of whisky and having a very large corn production, a portion of which goes into whisky, I am going to ask Senators to so arrange this bill as not right in the middle of the winter time to change the rate of taxation, but that that change of rate shall be fixed at a period of the year, say the 1st of June, that will not very seriously interfere with the business of the distiller, especially as regards the raising of cattle and hogs, useful to the country generally, useful to the Army, useful in every respect. The Senate ought not to fix a time at which these rates shall be increased which will interfere with that which all concede to be useful to the country.

The proposition that I now make to the Senate is that this sliding scale shall be fixed to take effect on the 1st of June, and that there shall be no change from the 1st of June, 1864, until the 1st of June, 1865. Is it not a short time, one year, during which the law shall operate? Do you so treat any other interest of the country, taxing it at one rate for three months, and then at another rate for three months again, and still a third rate to be fixed? Is it not a fair suggestion that I make to Senators, that in view of the true interests of the distiller and of the whole corn interest of the Northwest you shall allow the rate that is fixed for the 1st of June to continue for one entire year, and then, if Senators believe there ought to be an increase, let it be fixed to take place on the 1st of June? Distillers on the 1st of June are about stopping their operations. They have fattened their stock and sold it, and have not much on hand. Then if you discourage this production of whisky during the summer months, as was suggested by the Senator from Kansas, it is all well enough; I have no objection to that; but during the winter months when the stock is on hand and the supply for that stock, it ought not to be cut off. It is not wise policy to increase the tax at that time.

If Senators are not content that a dollar shall be the rate of taxation—an increase of five hundred per cent. for one short year—then let them make it more. It is better for these distillers that you shall fix it at \$1 25 and let that \$1 25 run through the entire year, than that you shall fix it at one dollar now and raise it a quarter of a dollar in the middle of the winter.

It seems to me this is but a fair proposition. Senators are not willing that their interests shall be submitted to a system of taxation that fluctuates and changes from time to time. This interest, as well as all other interests of the country, requires stability of legislation, that it shall accommodate itself for some considerable period of time to the taxation which is imposed; but you change it. For a few months you encourage production, and then you encourage speculation. It seems to me the Senate can secure the interests of the act with a view to revenue and at the same time protect what are the true interests of the Northwest in this production.

In respect to the suggestions of the Senator from Ohio in his proposition to tax the article on hand at this time, I have nothing to say except this: two or three months ago the Senate said deliberately, and by a very large vote, that it would not agree to the proposition of the House of Representatives that the article which had already paid a tax should be taxed again. That was the deliberate judgment of the Senate, and that, too, after a very bitter contest with the House. The whole country thought that the Senate had adopted that as its policy, that the article should not be taxed a second time. Acting upon that men have traded in this article; they have bought and sold.

The Senator says a large profit has been made. That profit has been anticipated. The present price of liquor shows that. Since the legislation two or three months ago liquor has gone up in the market very much, and men have anticipated the present increase. One man has sold at a profit of one or two cents; his purchaser has sold at a profit of three or four cents it may be, until in the hands of the present holder there may be but a very small and a very reasonable profit. If you tax the article in the hand of the present purchaser, who has purchased upon the faith of the action of the Senate, you destroy him. I say the Senate ought not to do it. It owes it to itself, it owes it to the trade of the country that has gone on in its ordinary channels, not to depart from the policy which in a protracted struggle with the

House of Representatives three months ago it declared should be its policy.

Mr. RICHARDSON. Mr. President, this production is a very large one in the State that I in part represent, and I desire to submit a very few observations upon the proposition now under discussion.

I agree with the Senator from Indiana, after conversing as fully and freely as I could with the manufacturers at home, that they could bear this duty at a dollar a gallon; but they want stability in the legislation of the country. This sliding scale is disadvantageous to them. You might increase the tax to a dollar on the 1st day of June, if you make no increase for a year thereafter, and for this very good reason: the manufacturer of the article makes his plans and arrangements this fall with a view to the carrying on of that manufacture for a year. During the progress of that time it is impossible for him to quit if he wished to do so. He may lose money every day in the manufacture; but still to stop is ruin.

But, sir, there is another subject being discussed here more important to him than the amount of the taxation upon the article to be manufactured; and that is, the proposition to levy a duty upon the stock on hand. I care not if that duty is but five cents a gallon, the effect upon him, if it is adopted, is disastrous in this: you assert the principle that you have the right to levy a second tax upon this article at any time; and if he has not capital enough in advance to carry on his year's operations he cannot enter upon the business; and why? He has to call upon capitalists to advance to him money to buy upon speculation; and people who have money in this country generally make money out of it. The man of capital will invest nothing in the purchase of whisky. Why? Because, when it is in his hands you may levy a tax hereafter of fifty cents or a dollar a gallon upon it and destroy the capital that he has invested in the article. The levying of a duty of five cents a gallon upon the stock on hand does the manufacturer more mischief than the levying of \$1 50 upon the article to be manufactured.

In reference to the other subject that has been discussed here by Senators, I have only this to say: I imagine that, whether we manufacture whisky in the Northwest or not, it will have but little influence upon the price of the corn that the Government is compelled to have. Suppose you put corn in Iowa, Illinois, and Indiana down to ten cents a bushel; what effect will that have on the price on the seaboard? It is the transportation of the corn that so enhances the price when it reaches the sea-shore or any point where our armies are. The original price paid for it is a matter of very little importance. It is important that we should have distilleries there for the purpose of carrying some of it off, so that it may be disposed of in the shape of whisky. I repeat, however, that whether the manufacture of whisky is carried on or not, it has but little influence on the price of corn and forage to the Government, because the transportation is the great expense and not the cost of the corn itself.

Mr. McDUGALL. Mr. President, it is well known to the chairman of the Committee on Finance and the members of the old committee that I have always insisted that this particular article would bear a high rate of taxation. I was in favor of it when we adopted our first tax bill. I said then it would bear a tax of a dollar a gallon, and urged a higher rate of taxation. I am of the same opinion still. I think if we pass the bill as it now stands, and fix the tax at a dollar a gallon, that ultimately when the law comes into full operation and full application, the amount of production will be very little different from what it would be otherwise. Therefore, I say, I am in favor of deriving from this subject-matter as much revenue as possible. I would not object, and I do not think it would be unsound policy to raise the tax that we propose to assess, as soon as it can be applied, to \$1 50 a gallon, and then again raise it at the end of a year, or at the proper time to make the change, to \$2 a gallon; and I believe there would be as much whisky distilled as there would be with a less rate of taxation. It is one of those things that are produced or consumed without reference to price. It was observed by every person who has noticed anything about the consumption

of brandies, for instance, that after the change of the tariff of 1846, raising the duty on brandies as delivered in our markets, there was no perceptible difference in consumption; and that has been the result of all observation and statistics with regard to the same kind of subject-matter.

But I agree with the Senators from Indiana and Illinois with regard to the objection to a regular ascending scale. The committee propose an increase of twenty-five cents at the end of certain periods named. The effect will be that between now and the 1st of October there will be a forced manufacture to avoid the twenty-five cents increase at that time; then between the 1st of October and the 1st of January there will be a forced manufacture to avoid the additional twenty-five cents at that time; and then between the 1st of January and the 1st of June there will be another forced production; whereas the same thing might be accomplished and be consistent with all these interests by fixing now a high rate of taxation. I would go for \$1 25 or \$1 50, and let it run through the season, and then put it up to \$1 50 or \$2. I would prefer myself to go for a tax of \$1 50 now, and let this season's business be done with a tax of \$1 50, and then in June, 1865, fixing it at \$2, so as not to have this continual pressure and this forcing of the manufacture every three months between this time and June, 1865.

I do not think it wise policy. This forcing of the manufacturers from time to time forces these interests right against the interests of the country, for we need this material to a very large extent to maintain our armies in the field. There are many reasons why it is impolitic, independent of its interfering with the regular legitimate business of the manufacturers themselves. The same object can be accomplished, the same revenue derived, by simplifying the matter, by having one rule from this time until June, 1865, making the duty high enough; I would say myself \$1 50.

As this subject is up now, I only throw out my views as other gentlemen are throwing out their views, but when the time comes for the proper amendment to be moved, I shall represent my opinion by my vote.

Mr. FESSENDEN. I dissent entirely with gentlemen in their proposition to lay one tax now and another a year from next June. It will be perceived that our object is to reach if possible the manufacture of the coming season, and to fix a time by our legislation, not in terms but substantially, when the whole tax will go into operation, that time to be as near as possible. What would be the effect of the proposition suggested by Senators? Suppose we fix the duty upon the 1st of June next at a dollar, as proposed by the honorable Senator from Indiana, and then let the next time fixed be the succeeding 1st of June after the season is over. The consequence would be simply this: during this season the distilleries would be run to their utmost extent, and a stock accumulated on hand against the rise in June which would prevent our receiving any benefit for a very long period. Our object is (and it is a very proper object in my judgment) to strike at the coming season, and the best mode of doing that was a question of consideration with the committee. It was a serious question with the committee (and that is for the Senate to decide) whether we would not put on the whole tax at once. I should be willing to go up to two dollars. I think the article would bear it.

Mr. JOHNSON. Now?

Mr. FESSENDEN. Now; that is to say if we adopted that system; and if we adopt that system I would prefer to put on the two dollars now; but the objection to that would be, it being so very high it would stop production entirely during the next season if it was all put on at once, because there is stock on hand which perhaps might be sufficient to last over, and it might therefore have an injurious effect in that particular. We want some revenue out of it as fast as we can get it, and we want to secure substantially what is coming in the next season by way of production. We supposed, as I stated a few moments ago, that from June to October there would be little or nothing produced, and no great injury would accrue. When the fall crop comes in, the tax being raised to \$1 25, there is a stimulus to production up to the 1st of January, when it will be raised again, and then after January, when it is raised, we have the balance of the year.

I think the objection that it is to operate injuriously with reference to the hogs, cattle, &c., is a mistaken idea. In the first place I do not attach as much consequence to the statements of distillers, however plausibly made, with reference to these things as I once did, not long ago. I find they have varied so fast in their opinions according to the necessities of the case that I have come to the conclusion we have given altogether too much confidence to their statements. Why, sir, when we first laid the tax of twenty cents on whisky, we were told by them that a tax of forty cents would ruin the business. No longer ago than last winter, when our committee-room was filled with the first distillers in the country, they told us that seventy-five cents, possibly eighty, was the highest that the article could possibly bear. My friend from Indiana now says the distillers in his section of the country tell him it will bear \$1 or \$1 25, but \$1 50 is altogether too tough; they cannot stand that at all. In my judgment, it will bear a tax of \$1 50 just as well as it will any other sum, for the simple reason that the article must be had; it must be produced; the appetites of the people require it; and inasmuch as it must be produced, and paid for when produced, it makes no difference what tax you put on it except so far as it affects other interests.

Mr. McDougall. I suggest, then, why it would not be as well to put on the \$1 50 now, and then allow it to run through this season instead of changing it this year again.

Mr. Fessenden. I thought I answered that when I commenced my remarks. You may put on the \$1 50 now. I said that if you undertake to impose the whole of the duty now I should be in favor of putting it up at once to \$2, because perhaps a tax of \$1 50 would produce the same effect if put on now, and there was not the stimulus that was afforded by a sliding scale. The object of the sliding scale was simply a stimulus to production through the season instead of at once putting on a duty which being so high might have the effect to induce them to let their distilleries lie comparatively idle and trust to the stock on hand to sustain them until they begin another season. We want money now—that is the simple reason. We want to get revenue out of this particular thing. It is a great source of revenue, and therefore we want it. There are only two questions to be considered: first, what will the article bear; and, in the next place, how shall we lay this duty so as to get money out of it immediately and money all along. The committee came to the conclusion, as we did before when we reported the sliding scale originally to the Senate at a much lower rate, that this was the best mode of accomplishing that purpose.

With reference to the objection the honorable Senator from Indiana makes, that it will operate injuriously upon them, they understand how to systematize their own business. He said they must keep their hogs and cattle all through, but if we stimulate the production so largely for three months it will not be so large afterwards, and therefore, not being so large, their business will not be profitable, and with reference to the particular things which they must keep. Sir, the control of the matter is all in their own hands. They all keep these hogs, they all keep these cattle, and they know how to manage their own business with reference to extending it through the whole season, and with reference to the sliding scale. They have ample notice of it. It is with them to increase their production largely or not. The men who carry on that business to a great extent—and some of them do to an enormous extent—can see how best to manage their own affairs to make it profitable through the whole season. If they only know what our legislation is in advance for the year, they can accommodate themselves to that legislation for the year, and save themselves from any loss. It is in their hands, and not in ours; and that I take to be a sufficient answer to the objection that was made by the honorable Senator on that particular point.

I hope the amendment of the committee will be adopted, and when we come into the Senate, if it becomes necessary to alter it on account of the action of the Senate with reference to the tax on whisky on hand, which I do not propose now to discuss any further, we can do so.

Mr. POMEROY. I wish to inquire whether, if the amendment of the committee prevails, it will be in order to change that amendment when we come into the Senate.

The PRESIDENT *pro tempore*. It will be so.

Mr. POMEROY. When we come into the Senate—and I think perhaps by that time this view of the subject may commend itself to Senators—I want to have a vote of the Senate on the proposition to tax all whisky manufactured after the date of the law at \$1 50 per gallon. I want the distillers to have one season under that tax, and at the opening of the next season I want to put it at \$2. My earliest recollections were in a distillery. I know something about this business. The first thing I can remember in this life was stirring the fire under a distillery. Though I am not connected with the business in any way so that I have the least interest in it, yet all my life long I have known something about it, and I believe it would bear the highest tax that has yet been named by any Senator. I said so a year ago. I tried then to obtain a vote of the Senate on a proposition to put a tax of one dollar a gallon upon it, but it was thought at that time that a tax of twenty cents would ruin everybody. I want a vote of the Senate to see if we cannot agree on a proposition providing that all whisky to be manufactured during the year shall pay a tax of \$1 50, and all manufactured after the year, that is from June, 1865, \$2; and you will find that will not interfere with the business at all.

Mr. Fessenden. I will not ask the Senator whether the result would not be to produce so large a quantity between now and June of next year that probably there would be none at all manufactured the next year, and consequently we should receive no revenue then.

Mr. POMEROY. Suppose the result is that they produce a large amount, this year. They pay \$1 50 on it, and the increase beyond that is only fifty cents. We now increase the duty from sixty cents up to \$1 50, an increase of ninety cents. All manufactured during this year will pay ninety cents a gallon over and above the sixty cents that is paid now, and all manufactured next year will pay only fifty cents over and above what is manufactured this year.

I think that proposition will produce the largest amount of whisky and the largest amount of revenue. That is what I am after. I have no sympathy with distillers. I am looking at this matter with a view to produce the largest amount of revenue, and at the same time not destroy the business. I desire to secure the largest possible amount of revenue, and I do not care how much whisky is produced if we get the tax of \$1 50 a gallon.

I believe that this tax of \$1 50 will suspend the distilleries for this year; but, as I have said before, that will help us in another direction. It will reduce the price of all the produce of the country; for the price of oats and all the forage for the Army is regulated more or less by the price of corn. When we have stopped distilling corn of course there will be no great demand for it; the Army will get it at lower prices; and if we do not get revenue in one direction the Government will get the benefit of it in another. I am in favor of imposing a tax of \$1 50 on whisky from and after the passage of this act, and a tax of \$2 the next year after that; and those two steps are all the steps I want to take in the matter: I will offer such an amendment in the Senate. I think that will be the best place to offer it.

Mr. HENDRICKS. I was going to offer an amendment now, but at the suggestion of Senators who agree with me in the principle involved in this matter, I will postpone it until the bill is in the Senate.

Mr. HOWE. I am really gratified to see to what an extent the public confidence, and especially the confidence of the Senate, has increased in this article of whisky within the past two years. It is true, as the chairman of the committee has remarked, that when we first proposed to put a tax of twenty cents per gallon on the article the proposition was received with fear and trembling. It was asserted in many directions in and out of the Senate that it was too feeble; it would not stand any such tax. The proposition to increase that duty to sixty cents per gallon was resisted very strenuously for the same reason. I thought

then if every Senator had understood the article as well as I did they would have more faith in it, as I had. I believed it would stand a higher duty then; I believe it will stand a higher duty now; and I am glad to see that even the Senator from Indiana has grown somewhat in grace and in the knowledge of this article since these discussions first commenced.

The only question now in dispute seems to be how we shall get up from this low rate of taxation, which really is injurious to the country and disgraceful to the article of whisky, to that higher rate of duty which the dignity of the article and the interests of the Treasury demand. Shall we go up at once now by a single enactment, or shall we go up by regular foreordained gradations; and if in the latter way, shall these steps be near together and with slight elevations, or shall they be far apart, extreme, radical?

The difficulty, it seems to me, in reaching this elevation by a single step, by a single enactment and now, is this: you are affecting the interests of two classes of men, distinct and with interests diverse, almost at war with each other, who are dealing in this article of whisky that you propose to tax; one class are the holders, the speculators, and the other the manufacturers. The manufacturer of spirits, like almost all other manufacturers, passes it out of his hand as he produces it. That is the rule. There are exceptions to it, because there are some manufacturers of spirits, as there are manufacturers of cotton, who are speculators in the article as well as makers of it. The rule is, they make to-day to sell as fast as the market will take it off their hands. The capitalists, the men with money, buy and hold for a better market. To-day the holders of this article have the largest quantity of it, perhaps, the country ever knew of at one time in their hands. If you put a tax of \$1 25 or \$1 50 or \$2 a gallon on the article now, what do you say to the manufacturer? Simply this: You cannot start your distilleries again until you can afford to make whisky and to pay two dollars a gallon upon it and bring it into market and sell it in competition with these holders who have bought their whisky when it paid but sixty cents a gallon. When do you suppose he would start under those circumstances? Not for a good many months to come.

That is the difficulty, as I perceive, in putting up this duty at once to a very high rate; but I think you can increase it between this and the 1st of October, and I remarked when I was on the floor just now that I thought the increase should be made about the 1st of October or the 1st of November. I am not sure, upon reflection, but my own reasoning requires me to vote the increase at the present time; and I think that is the true policy, upon reflection. Whether you increase the tax or not the distillation will stop for a time for reasons that have before been spoken of; but you may raise the tax, and yet I think the influence of the new crop will enable the manufacturer (if you do not put on too high a duty) to start his distilleries when the new crop comes in, buy up his cattle and his hogs, and prepare for another year's operations.

But how high can you raise the duty and enable the distiller to do that in competition with the holder of this large stock? I am sure I do not know the precise figure. I would venture to vote an additional duty of twenty-five cents; but in view of all the testimony we have had on this subject during the past few months, I think an increase of twenty-five cents per gallon would be a radical measure. I think it is as high as you ought to go and expect these manufacturers will be able to resume their business when the next crop comes off. If Senators differ from me, and they think they can put on a higher rate of duty, I am entirely content that they shall do so. I cannot justify such a vote myself, and therefore I shall not give such a vote.

If we put it at a dollar, it would be an addition of forty cents. Suppose we put it at a dollar, is that the maximum? I do not believe it at all. Other Senators say that it will bear even a higher duty than that; but they say put it on now, or postpone what you do not put on now for a year to come. Mr. President, I do not want an increased duty put upon this article of whisky that you do not provide for when this law passes. I want you to sound yourselves in the examination



of this bill, examine the testimony you have on the subject, and provide before this bill becomes a law for the very maximum that you intend to put upon this article. I want it provided for in this bill. I do not want the maximum duty to be imposed at once, but to be provided for in this law; for every time you change the law you produce just the state of things you have here to-day—rival interests, manufacturers who want an open market to sell in, and the holders of the whisky whom by your legislation you enable to foreclose the markets, to monopolize them for a time.

But it is said that the imposition of these graduated duties, this sliding scale, as it is called, makes the business of manufacturing uncertain, unsettled. I think those who assert this are entirely mistaken. Hitherto, when we have discussed the propriety of this sliding scale, I have never heard a distiller object to it. The distiller is not injured by it at all. The purchaser, the speculator loses an opportunity if you make the increase at short periods and in inconsiderable sums. If you raise the duty ten cents a month or five cents a week by a foreordained enactment, the distiller works upon it; he runs his distillery as it is ordinarily run; he settles with the collector under one law for one week's work or one month's work, and under another law for another; and his spirits come forward to market with just the difference in price marked upon them that he paid to the collector; and that is all there is of it.

But the speculator, if I may so speak, is played out, for he has no sort of inducement where the increase is only five cents or ten cents at a time to raise the capital and invest it in this article in order to enable him to monopolize the market against the distiller. When you allow him three months to accumulate in and propose to put up the duty twenty-five or forty cents at a time, that opens a field to bold and daring speculation. You have seen that field occupied two or three times already in the course of our legislation on this subject. It is occupied completely to-day. I never want to see it opened to them again after we have got through with this bill.

I therefore still adhere to the idea that I defended as well as I could all through the winter, and that I broached when I was on the floor before, that we should now make up our minds as to what should be the maximum of duty imposed upon this article, and we should incorporate it in this bill. Make the present rise as high as you think you can afford to go, and yet allow the manufacturer, under the influence of the new crop, to come in with his stock and divide the market with the holder of the stock now on hand, and thereafter go on in regular gradations, frequent and slight. Guided by these views, I think I shall ask for a division of the question upon the amendments in this section. I am arguing from a different point of view than the Senator from Ohio is. I want the policy of the Senate settled upon these questions before I am brought face to face with that other question, the question of taxing the stock on hand; for I say here that if you put the present duty upon this article so high as to give the holders of the stock now on hand a monopoly of the markets beyond the cutting of the new crop, I shall feel compelled, much as I dislike the principle, to vote for imposing a tax upon that stock on hand and try to get it. The principle of that taxation is utterly obnoxious to me; but necessity may possibly drive me even to more obnoxious measures than that. I want to be spared it, and therefore I do not want this duty put too high at once.

The PRESIDENT *pro tempore*. The Senator from Wisconsin desires a division of the question. The first question will be on the first amendment which is in line five of section fifty-four, to strike out "May" and insert "June."

Mr. FESSENDEN. I suppose there is no objection to that.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The next amendment is in line seven to strike out the words "January, 1865," and insert "October, 1864."

Mr. HENDRICKS. If these amendments are now agreed to, will there be any difficulty when the bill comes into the Senate, on a question of order, in moving to strike out the whole and insert another grade of taxation?

Several SENATORS. Not at all.

The PRESIDENT *pro tempore*. There will be no difficulty as to the point of order.

Mr. TRUMBULL. I do not see why we may not take a vote now and ascertain the sense of the Senate on these amendments.

Mr. FESSENDEN. The objection is that it takes two votes, for we shall have the matter all over again in the Senate.

Mr. SHERMAN. I state again, that if the action of the Senate may be considered as definite on these amendments, it will necessarily involve the discussion of the tax upon spirits on hand, which I have declined to discuss now, and I will state the reason. If we now raise so largely the duty on the article to be manufactured in the future, I think it is our duty to the Government, needing money, to put an equivalent tax upon the article on hand. The price of whisky to-day is \$1 25 a gallon, or about equivalent to the cost of manufacture and \$1 a gallon tax. The market has risen just about to the standard of the House bill. If the Senate propose now to increase the tax on the future manufacture of the article the article on hand will bear an equivalent tax. I therefore think, as a matter of policy, it is better to decide that question first, unless the Senate have made up their minds and look on it as a settled question. I know it has been decided two or three times, but there are considerations now that did not operate before. The proposed amendments of the Senate committee would increase the value of the article on hand to at least the amount of the House tax. Therefore I think that the question is presented in a very different form. The House proposed a tax of a dollar a gallon upon whisky. The market has risen to that standard. But our committee proposes to increase very largely the tax on the manufactured article. There will be scarcely any whisky manufactured between this and the 1st of January, none between this and the 1st of October, because there is no corn to be had, and the distilleries are generally stopped in the summer months, and they rarely commence again until the coming in of the new crop, so that the effect of the amendment we are now considering, if adopted, will be at once to raise the value of whisky on hand at least forty or fifty cents a gallon. It seems to me, therefore, you cannot consider this amendment without also considering the other branch of the subject. I hope that the Senate will just pass over this subject by adopting the amendments of the committee, and when they definitely consider the subject of the tax upon spirits on hand all this matter will be open in the Senate, and we can then perhaps agree to a different form of taxation. I shall then probably vote with the Senator from Indiana to fix a standard tax on whisky to continue during the year; but before I ascertain how much I am willing to vote as a tax on the future manufacture of the article I wish to have the views of the Senate definitely on the question whether they will tax the article on hand.

If the Senate determine that they will not tax the article on hand I think the rate fixed by the House of Representatives on the future manufacture is sufficient, and as much as can be reasonably levied. I do not believe you will get \$50,000 for the coming fiscal year as the result of your tax on spirits manufactured in the future unless you put a tax upon the spirits on hand. Under the operation of section fifty-four the manufacture will entirely cease, I think, for one year. The stock on hand is now so large that I do not believe the distilleries will run during all the next winter at \$1 50 a gallon. That is my judgment.

We have all been deceived in regard to the stock on hand from the very beginning of this controversy. We have never estimated it at one third the real amount. I have myself been deceived. We were told when the subject was first considered in the Senate that there was but sixty days' stock on hand; but the actual result showed that more than six months transpired before any was manufactured. Even when the tax was only twenty cents a gallon the stock on hand was equivalent to six months' supply. Nor was that all, because the old stock was not half exhausted before they commenced manufacturing at the twenty cents tax. I have seen various estimates made in regard to the stock on hand, ranging from forty to one hundred million gallons. The very highest amount that has ever been manufactured

in this country in any one year is eighty millions; and I believe there is fully one year's stock on hand, though it is very difficult to arrive at that, because there is no exact basis of estimate; we cannot tell how much is stored away.

I again repeat, therefore, that unless the Senate wish prematurely to raise the question of the taxation of the stock on hand, and raise it in such a way that we cannot have a vote that will settle it, it is much wiser to let the whole matter go over until that question is settled, and then probably I shall agree with the Senator from Indiana in having a fixed standard tax on the value of whisky manufactured in the future.

If the Senate should refuse to put a tax upon spirits on hand then I am in favor of the House tax of one dollar a gallon without the gradation; but if the Senate is willing to put a tax of fifty cents a gallon upon whisky on hand, according to the House proposition, I am perfectly willing to raise the tax on the future manufacture to \$1 50 a gallon; and it will not do injustice to anybody. It will not do injustice to a single operator, to a single man who has stock on hand, because the advance will at once be equivalent to the increased tax. That is the view I take of it. I do not desire to distress anybody engaged in this business. More people are engaged in the business of making whisky in the State of Ohio than in any other State of the Union. Her production was said to be, in 1860, forty per cent. of the whole. I believe next to the State of Ohio was the State of Illinois. Her production was larger than any other one State.

Mr. HOWE. I should like to ask the Senator from Ohio if he believes that those holders who have bought whisky at \$1 25 a gallon can pay forty cents additional tax without being injured?

Mr. SHERMAN. I do say that those who have bought it at \$1 25 a gallon, in case we raise the duty on the future manufactured article to \$1 50, can afford to pay fifty cents a gallon tax, for the price will at once advance to \$1 75 a gallon.

Mr. HOWE. The proposition is only to charge a dollar to anybody.

Mr. SHERMAN. But I again repeat, the Senator must have understood me, that if a tax is put upon the article on hand, then I am in favor of increasing the tax on the future manufactured article from this time, from the passage of the act, to \$1 50 a gallon, so as to make the matter equal. The effect will be to raise the price of whisky in the market to \$1 75 a gallon; the holder would pay the increased value of fifty cents to the Government; the Government would derive that benefit; and then on the future manufactured article the Government would get the full amount of the revenue.

Mr. HENDRICKS. There is one question that might as well be settled now as at any time, especially as the discussion has to some extent touched it. I agree with the proposition of the Senator from Ohio, that as to the rate of taxation, the vote may well be postponed until we reach the other question. I shall move so to amend this section as to present the question that I regard as one of great importance to this interest. It is to strike out of the original bill and the Senate amendments the dates wherever they occur after "the 1st day of June, 1864," and to insert in lieu thereof "the 1st day of June, 1865," so that the tax, whatever that is, shall remain for one entire year; and the Senate can as well decide that question now as at any time, for whether the tax be one dollar upon the gallon, or one dollar and a half upon the gallon, the question whether that tax ought to run during the whole year can as well be considered in the one case as in the other; the question is the same.

The Senator from Maine suggested this objection to my proposed amendment, that if we tax at the rate of one dollar a gallon from the 1st day of June, 1864, to the 1st day of June, 1865, and at that date increase the tax fifty per cent., the distilleries will be run to their utmost capacity through this entire year, and that then for the year following the Government will realize no revenue. I am surprised that the Senator suggested that argument, when his own proposition presents in three instances the same difficulty and objection.

Mr. FESSENDEN. Not to that extent.

Mr. HENDRICKS. Perhaps not to the same

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extent, but that is not important. The Senator has proposed in this bill that there shall be a tax of \$1 on the gallon until the 1st of October, and from the 1st of October to the 1st of January \$1 25 a gallon; and after the 1st of January \$1 50 a gallon. Does it not suggest itself to the Senator's mind that it will be the interest of the distillers to run their distilleries to their utmost capacity up to the 1st day of October, and then not to produce so much until near the 1st day of January, and then for a while to produce all that it is possible to produce, with a view to the increased price, owing to the increased taxation?

Mr. FESSENDEN. The Senator will observe what my answer to that was: they cannot run their distilleries with profit from June to October, unless we omit to lay a further duty now and make the increase so great in October as to pay them for running them during that interval, when we have no hogs and no cattle; therefore I say that if we lay no increased duty now, and put it off till October, they would undoubtedly have the stimulus, but if we lay an increased duty now they would not have it, but would defer it till October. When October comes, what inducement have they to run to January? They are not obliged to sell. They would do precisely what they have done heretofore: they would say to themselves, "We will run our distilleries to January." Why? "Because by that time, although we shall then be obliged to pay an increased tax, we will make up for it by having our whisky manufactured in the mean time upon hand then, on which we will make a profit equal to the increased duty;" and that was the argument they advanced against the proposed tax upon liquor on hand. The distillers said, "If you lay this tax on liquor on hand you destroy us, for we cannot in the first place get the credit necessary; but if you leave us what we have got on hand, for us to make a profit on, we can offset one against the other, and sustain ourselves." I want to have the increased tax come precisely at that period of the year when they are in that condition that they must keep on from necessity. They have their stocks, and they cannot leave off on the 1st of January; they must keep on manufacturing. I am for legislating for the Government, and not for the distillers. While I do not want to hurt the distillers, I want to help the Government, and not lay the tax in such a way that the Government will fail to be benefited.

Mr. HENDRICKS. With great respect to the Senator I have to suggest to him that he is legislating to discourage the production of whisky alone, disconnected with the feeding of stock. The real interest of the distiller and of the country, in my judgment, is not to discourage his business, but to so act that the production of whisky and the feeding of stock may go together. I understand, although I am not very well informed on the subject, that the slops after the grain has passed through the still are worth nearly one half the original price of the grain, for the purpose of feeding cattle and hogs. Now the Senator proposes a tax of \$1 a gallon from the 1st day of June until the 1st of October, and then of \$1 25 to the 1st day of January, and after the 1st day of January \$1 50, an increase of fifty per cent., so that the distiller can produce in the mean time his liquor without feeding stock, if he can hold the liquor until the 1st day of January, and make the same profit that he would make, if this increased tax did not take place, by distilling and feeding stock together. Certainly that is not the interest of the country, it is not the interest of the Government.

What I ask for this interest is that there shall be stability in the policy toward it. It is a very important interest to us in the Northwest now. Our market in the South, which was a very profitable one to us when we sent our corn down the rivers, is cut off; we must depend upon another market; and all Senators know very well that corn is so bulky and so heavy that it cannot with profit to the farmer find a market in that shape in the eastern ports. We must have a market somewhere. The production of whisky in the North-

west does furnish us to some extent a market for our immense production of corn, not alone by distilling it, but by feeding stock. The stock finds a market anywhere; there is no difficulty in that; and there is no difficulty in carrying our corn to a market after it is turned into whisky. But if you strike down this interest and compel us to send our corn to an eastern market, you to that extent destroy a very important interest in the Northwest.

Is it not a reasonable thing that we shall ask that a law which taxes an article on the 1st day of June, 1864, shall be the law touching that interest for one entire year? Is the Senator from Maine willing that any interest of New England shall be taxed for three months at one rate, and for three months thereafter at another rate, producing instability, disturbing the whole course of business? I do not know that this feature of legislation is applied in this bill to any interest except this of the Northwest; and I ask now of the Senate that they shall say that whatever the rate of taxation shall be, that rate shall continue for one entire year, during the course of one entire operating season. If the distiller commences to produce whisky out of the corn raised this year at a taxation of one dollar on the gallon, allow him to complete the entire year's operation at that same rate of taxation. It can be so adjusted as to be just to the distiller and profitable to the Government.

My proposition then, Mr. President, is that the rate, whatever it shall be, shall remain the same for one year; and then at the end of that year, if it is the pleasure of the Senate to increase it, it may be done without serious detriment to the interest. We can meet this question now as well as at any time during the consideration of the bill.

Mr. GRIMES. Does the Senator fix any rate?

Mr. HENDRICKS. No, sir. The rate fixed by the House of Representatives is in the bill, of course; but my amendment does not propose to touch that question, but simply provides that the rate which may be fixed shall continue for one entire year; and with a view to this question, it is not important whether the rate be \$1, \$1 25, or \$1 50. Whatever the rate is, let it stand for a year; let this interest know that there is some stability in the legislation. The Senate legislates for a few months with a view to revenue, and with a view to speculation. Senators complain that at the end of a particular period the tax is increased and then there is speculation by the holder. A void that by giving some permanency to the policy that shall be adopted; let the same tax run through a year, and you cut off this speculation of which Senators complain. It is just to the distiller, and it is not injurious to the Government. The amendment which I propose is to strike out the dates after "1864," in the sixth line, and to insert "the 1st day of June, 1865."

Mr. GRIMES. If that amendment should be adopted by the Senate, as I understand, it would cause the tax to be \$1 until the 1st of June, 1865. If the Senator from Indiana would change his proposition so as to make the tax \$1 50 at this time, and from this time forward, I am inclined to think that I should vote for it; but I should think that \$1, after the Senator himself has admitted on the floor of the Senate this morning that whisky will stand a tax of \$1 25, would be rather too small an amount to put on it at this time, when we are taxing every other article as high as it will possibly bear.

Mr. HENDRICKS. I cannot propose what the Senator from Iowa suggests. I cannot propose a tax upon a production of my own section of the country which I do not think is right. I think \$1 50 is an oppressive tax. It is not proportionate to the taxation proposed upon other interests of the country. I think that \$1 is a high tax. Nor did I say that the interest would well bear a taxation of \$1 25. I said this, however: that it were better for the interest that the tax should be \$1 25, and that that tax should run throughout the whole year, than that you should commence with \$1, run up in a few

months to \$1 25, and in a few months afterwards to \$1 50; that instability, that change of the rate of taxation, stimulated the production for a while, and then taking away the stimulant, encouraging speculation, is an injury to the interest instead of a benefit. We had better have a high tax at once and let it run through the whole year than to have a low taxation for a while and then a higher rate of taxation. I am of the opinion that one dollar on the gallon, as is fixed by the House of Representatives, is a very high rate; but I do not propose, in connection with this particular question, to consider what shall be the rate. If the Senator from Iowa thinks \$1 25 ought to be the rate for the year, he can propose it; but does he not believe it to be a right principle of legislation that the rate fixed shall continue for one entire year, during one entire producing season? Is not that a right principle? If so, let him stand up to it without reference to the rate of taxation.

The PRESIDENT *pro tempore*. The amendment of the Senator from Indiana to the amendment of the committee will be reported, so that it will be understood.

The SECRETARY. The amendment to the amendment is to strike out the dates after "1864," in the sixth line of section fifty-four, and to insert "the first day of June, 1865;" so that the section will read:

On all spirits that may be distilled and sold, or distilled and removed for consumption or sale, of first proof, on and after the 1st day of June, 1864, and prior to the 1st day of June, 1865, a duty of \$1 on each and every gallon; on and after the 1st day of June, 1865, and prior to the 1st day of January, 1866, a duty of \$1 25 on each and every gallon.

Mr. FESSENDEN. That is not right. The amendments of the committee have been divided.

Mr. HENDRICKS. The Secretary has not quite fully conceived the amendment which I have proposed. I will read the section as I think it will stand if my amendment be adopted:

On and after the 1st day of June, 1864, and prior to the 1st day of June, 1865, \$1 on each and every gallon; and on and after the 1st day of June, 1865, \$1 50 on each and every gallon.

That will be the language of the section if my amendment be adopted; and I desire to say again that the rate of taxation will be within the control of the Senate after this particular proposition is considered.

Mr. McDOUGALL. I desire to say that I was a member of the Committee on Finance during the last Congress when our first bill was pending, and I was the first person that urged on the committee an ascending scale like this, and I proposed then that we should ascend from the minimum to a very heavy maximum. The chairman of the Committee on Finance at that time, however, and some members of the committee, urged such potent reasons that it was against the policy of the bill to adopt such an ascending scale, that it would interfere with the general course of business as well as afford a stimulant that was not a healthy one, and interfere with the course of trade, and disturb the whole business as a matter of commerce as well as a matter of production; that I abandoned the proposition. I think the gentlemen have changed their opinions since then. They then convinced me that these continuous changes by an ascending scale were unwise. I became satisfied of that fact, and I have remained up to this time of the same conviction which they then impressed upon me.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Indiana to the amendment.

Mr. LANE, of Kansas, called for the yeas and nays; and they were ordered.

Mr. HENDERSON. I hope the Senate at present will adopt the amendments of the committee. I feel the force of what has been said by the Senator from Ohio in reference to the tax upon the stock on hand. I shall be controlled in all probability by the decision of the Senate on that subject in my vote on this particular section finally; but I shall vote now to sustain the committee amendments to the House bill, not that I desire at present to say that in the end I will do

so; I may vote with the Senator from Indiana ultimately; but I think it will be a great deal better to adopt the amendments at present. Doing so will not interfere with our regulating this section as we may desire when we come into the Senate. I think this is not the proper time to settle the question, and we are merely losing time by undertaking to settle it now. Unquestionably whatever we may determine now on this point will be unsettled after we settle the other question alluded to by the Senator from Ohio.

Mr. HENDRICKS. If that is the view of a Senator representing a western State, and who, I suppose, sympathizes with the interests of that section, and if, at this time, we are likely to lose his vote on what I think a very important question, I will, with the permission of the Senate, withdraw my amendment, and let the matter take the course that was suggested some time ago.

The PRESIDENT *pro tempore*. The Senator's amendment can be withdrawn only by unanimous consent, as the yeas and nays have been ordered upon it. Is there any objection to its being withdrawn? The Chair hears none. The amendment to the amendment is withdrawn, and the question now recurs on the amendment of the committee. The amendment was agreed to.

The PRESIDENT *pro tempore*. The next branch of the amendment is in line nine of section fifty-four, to strike out "January 1, 1865," and insert "October 1, 1864, and prior to the 1st day of January, 1865."

The amendment was agreed to.

The next amendment was after the word "gallon," in line twelve of section fifty-four, to insert:

On and after the 1st day of January, 1865, a duty of \$1 50 on each and every gallon.

The amendment was agreed to.

The next amendment was in section fifty-five, before the word "in," in line eight, to strike out "that," and after the word "in" to strike out "reducing the temperatures to the standard of sixty, and in;" in line ten, to strike out "table of commercial values" and insert "tables;" in line sixteen, to strike out "and" and insert "until otherwise ordered by;" after "Treasury," in line sixteen, to insert "who;" and after "regulations," in line eighteen, to strike out "not inconsistent but corresponding with the standard and value hereinbefore indicated;" so as to make the section read:

SEC. 55. *And be it further enacted*, That the term first proof used in this act and in the laws of the United States shall be construed and is hereby declared to mean that proof of a liquor which corresponds to fifty degrees of Traill's centesimal hydrometer, adopted by regulation of the Treasury Department, of August 13, 1850, at the temperature of sixty degrees of Fahrenheit's thermometer. And in levying duties on liquors above and below proof, the tables contained in the manual for inspectors of spirits, prepared by Professor McCulloch, under the superintendence of Professor Baché, and adopted by the Treasury Department, shall be used and taken as giving the proportions of absolute alcohol in the liquids gauged and proved according to which duties shall be levied until otherwise ordered by the Secretary of the Treasury, who is hereby authorized to adopt such hydrometers and prescribe such rules and regulations as he may deem necessary to insure a uniform system of inspection and gauging of spirits subject to duties throughout the United States.

The amendment was agreed to.

The next amendment was in line seven of section fifty-six, after the words "shall use" to strike out "or intend to use."

The amendment was agreed to.

The next amendment was in line ten of section fifty-six, after the word "kept" to strike out "by him;" and in line eleven, after the word "distilled" to strike out "by him."

The amendment was agreed to.

The next amendment was in line eighteen of section fifty-six, after the word "first" to strike out "tenth" and insert "eleventh," and in line nineteen to strike out "twentieth" and insert "twenty-first," and in line twenty to strike out "a general" and insert "an;" so as to read:

And shall render to said assessor or assistant assessor, on the 1st, 11th, and 21st days of each and every month in each year, or within five days thereafter, an account in duplicate, &c.

The amendment was agreed to.

The next amendment was in line thirty-three of section fifty-six, before the word "accounts" to strike out "general."

The amendment was agreed to.

The next amendment was in lines thirty-seven and thirty-eight of section fifty-six, after the word "duly" to strike out "certified to by the assessor or assistant assessor" and insert "verified as aforesaid."

The amendment was agreed to.

The next amendment was at the end of section fifty-six to add the following clause:

*And provided further*, That brandy distilled from grapes shall pay a tax of twenty-five cents per gallon.

The amendment was agreed to.

Mr. FESSENDEN. We intend in all cases to change "tenth" and "twentieth" to "eleventh" and "twenty-first." I notice one place in section fifty-six, the proviso on page 62, where the change is not reported. It is not particularly material there perhaps; but I move to strike out "tenth" and "twentieth" and insert "eleventh" and "twenty-first," so as to compare with the other provisions of the bill.

The amendment was agreed to.

The next amendment was in section fifty-seven, line two, to strike out after the word "every" the word "assessment" and insert "collection;" so as to read:

There shall be appointed by the Secretary of the Treasury in every collection district where the same may be necessary, one or more inspectors of spirits, refined coal oil or other oil, tobacco, &c.

The amendment was agreed to.

The next amendment was in line ten of the same section after the word "inspected" to strike out "or," and after "gauged" to insert "or proved."

The amendment was agreed to.

The next amendment was in section fifty-eight, line eleven, after "distiller" to insert "to the collector, and a duplicate thereof."

The amendment was agreed to.

The next amendment was in section fifty-eight, line thirteen, after the word "be" to strike out "assessed and;" so as to read:

And the duty imposed by law shall be paid on all spirits, &c.

The amendment was agreed to.

The next amendment was to strike out after the word "warehouse," in line fourteen of section fifty-eight, the words "and the fees of such inspector shall in all cases be paid by the owner of the spirits so inspected, gauged, and proved."

The amendment was agreed to.

Mr. FESSENDEN. I have been conversing with different members of the Senate who think that on the whole it would be as well, perhaps, while this bill is under consideration—at any rate we can try the experiment—to hold evening sessions. A large portion of it is mere reading, and if we can get a couple of hours in the evening we shall get over a good deal of space. The session is getting to be late; and if we sit only in the day time for bills of this kind, it will be no very easy matter to judge when we shall get through. I therefore move that at half past four o'clock this afternoon the Senate take a recess until seven o'clock.

Mr. SUMNER. May I not suggest to the Senator whether on the whole it would not be better to begin to-morrow, and merely give notice now?

Mr. FESSENDEN. I have no objection.

Mr. SUMNER. Senators may have engagements for this evening, not knowing that it was proposed to hold an evening session. I happen to have made an engagement for this evening; but of course I must abandon it if it be necessary for me to be here.

Mr. FESSENDEN. If Senators prefer, I will content myself now with giving notice that to-morrow I shall move to take a recess from half past four until seven o'clock.

Mr. RAMSEY. I suggest to the Senator to begin the recess at four o'clock instead of half past four.

Mr. FESSENDEN. From half past four to seven gives two hours and a half, which I think is enough.

Mr. RAMSEY. But I propose to take a recess at four and commence again at six.

Mr. ANTHONY. What is the objection to beginning to-day?

Mr. FESSENDEN. The objection is that some members of the Senate, not having anticipated it, have made engagements for this evening,

who would prefer to be here while the bill is being considered. I therefore give notice that I shall make the motion to-morrow; but if gentlemen insist upon it I am willing to make it to-day. Perhaps, however, it is better to give a day's notice; and I now give notice that to-morrow I shall ask that the Senate take a recess from half past four to seven o'clock.

Mr. TRUMBULL. The motion may as well be made to-day, to take effect to-morrow.

Mr. FESSENDEN. The motion can be made to-morrow.

The next amendment of the Committee on Finance was in section fifty-nine, line three, after the word "warehouse" to strike out "of iron, stone, or brick, with metal or other fire-proof roof, and such warehouse," and to insert "established in conformity with such regulations as the Secretary of the Treasury may prescribe;" so that the clause will read:

That the owner or owners of any distillery or oil refinery may provide, at his or their own expense, a warehouse established in conformity with such regulations as the Secretary of the Treasury may prescribe, &c.

The amendment was agreed to.

The next amendment was to strike out section sixty and to insert a substitute for it.

Mr. FESSENDEN. That is a very long section. The Senate can do as it pleases about having it read. I will simply state that the new section which is drafted instead of it is drafted with a view to put the same provisions in a shorter and more compact and more intelligent compass, and it has been very carefully examined.

Mr. GRIMES. Read the amendment only.

The PRESIDING OFFICER, (Mr. FOSTER.) Unless some Senator requests it, the reading of the sixtieth section of the bill as it came from the House of Representatives will be dispensed with, and only the amendment proposed in lieu of it will be read.

The Secretary read the words proposed to be inserted in lieu of the sixtieth section of the House bill, as follows:

That all distilled spirits and all refined coal oil and naphtha, upon which an excise duty is imposed by law, may, after being inspected, gauged, proved, and marked by the inspector according to the provisions of this act, be removed, without payment of the duty, under such rules and regulations, and upon the execution of such transportation bonds or other security as the Secretary of the Treasury may prescribe. The said spirits, oil, or naphtha so removed shall be transferred directly from the distillery or refinery to a bonded warehouse established in conformity with law and Treasury regulations, and may be transported from such warehouse to any other bonded warehouse used for the storage of distilled spirits, coal oil, or naphtha. And after the arrival of such distilled spirits, coal oil, or naphtha at the bonded warehouses within the district of the assessor to which it has been transferred, it shall be again inspected, and the duty shall be assessed and paid on any deficiency or reduction of the number of proof gallons beyond such allowance for leakage as may be established by the regulations of the Commissioner of Internal Revenue, received at the warehouse, from the number of proof gallons as stated in the bond given at the place of shipment. And any distilled spirits, coal oil, or naphtha in the public warehouses shall be subject to the same rules and regulations, and be chargeable with the same costs and expenses in all respects to which imported goods deposited in public store or bonded warehouse may be subject; and shall be in charge of a proper officer to be designated by the Secretary of the Treasury, who, with the owner and proprietor of the warehouse, shall have the joint custody of all the distilled spirits, oil, or naphtha so stored in said warehouse, which shall be at the risk of the owner of the said spirits, oil, or naphtha. And all labor on the same shall be performed by the owner or proprietor of the warehouse, under the supervision of the officer in charge of the same, and at the expense of said owner or proprietor of the warehouse. And no drawback shall in any case be allowed on any distilled spirits, coal oil, or naphtha upon which an excise duty shall have been paid, either before or after it shall have been placed in a bonded warehouse: *Provided*, That any distilled spirits, coal oil, or naphtha may be withdrawn from the bonded warehouse after payment to the collector of the duty imposed by law, or may be removed without payment of the duty for the purpose of being exported, or for the purpose of being redistilled for export, after the quantity and proof of the spirits, oil, or naphtha to be removed has been ascertained and inspected according to the provisions of law, under such rules and regulations and the execution of such bond or other security as the Secretary of the Treasury may prescribe. And any spirits, oil, or naphtha so removed for distillation shall be returned to the warehouse and shall be again inspected and the duty shall be paid to the said collector or any deficiency or reduction beyond the allowance for loss by redistillation established by the Commissioner of Internal Revenue, in the number of proof gallons received at the warehouse for the purpose of being exported as aforesaid. And nothing in this section shall be construed to prevent the manufacture for exportation, without payment of duty, of medicines, preparations, compositions, perfumery, cosmetics, cordials, and other liquors manufactured wholly or in part of domestic spirits, as provided for in this act.

The amendment was agreed to.



The next amendment was in section sixty-one, after the word "entries," in line one, to insert "required to be;" in line two, after the word "distiller" to strike out "required to be kept in the foregoing section" and to insert "as aforesaid;" in line four, after the word "first" to strike out "tenth" and insert "eleventh," and to strike out "twentieth" and insert "twenty-first;" and in lines six and seven to strike out the words "to be taken as aforesaid," so that the clause will read:

That the entries required to be made in the books of the distiller, as aforesaid, shall, on the 1st, 11th, and 21st days of each and every month, or within five days thereafter, be verified by oath or affirmation, &c.

The amendment was agreed to.

The next amendment was in line ten, after the words "assistant assessor" to insert "or officer."

The amendment was agreed to.

The next amendment was in line four, section sixty-three, after the word "dollar" to insert "and fifty cents;" so as to read:

That there shall be paid on all beer, lager beer, ale, porter, and other similar fermented liquors, by whatever name such liquors may be called, a duty of \$1 50 for each and every barrel containing not more than thirty-one gallons, &c.

Mr. SHERMAN. It is with a good deal of regret that I oppose an amendment increasing the tax on anything, because I am in favor of the highest rate of taxation; but I have examined this subject of the tax on beer, and I am satisfied that the article will not bear the proposed increased tax. In the first tax bill of 1862 we levied a tax of one dollar per barrel upon beer. It was found to operate very severely, and the next year it was decreased to sixty cents a barrel. The House of Representatives have now proposed to raise the tax to one dollar a barrel, the same rate fixed by the law of 1862. The Senate committee propose to increase it fifty cents, so as to make the tax \$1 50 a barrel. I believe I assented to that; but I am satisfied on examination that the article will not bear it.

I have before me a memorial signed by a committee of brewers from different portions of the country, in which they set out the tax in other countries on beer and malt liquors. I have also before me a table by which I have verified the statements made by this committee. The highest rate of taxation levied on malt liquors in any other country on earth is sixty-three and three fourth cents per barrel of thirty-one gallons American beer, which is the tax in England.

Mr. FESSENDEN. How much do they put on malt?

Mr. SHERMAN. I have looked to that. The tax on malt is two shillings and seven pence per bushel. In this memorial it is correctly computed. The rate on malt and hops is equivalent to sixty-three and three fourth cents a barrel of thirty-one gallons American beer.

Mr. FESSENDEN. Do they not tax the beer?

Mr. SHERMAN. They do not tax the beer. They tax the malt and the hops. They tax malt two shillings and seven pence per bushel of forty-three pounds, and they impose a tax of two shillings on a bushel of hops. The aggregate of the tax, when computed, amounts to what I have said, sixty-three and three fourth cents per barrel of thirty-one gallons American beer. It seems there is a difference in the weight of our malt and the weight of the English malt. The tax in Prussia amounts to twenty-three cents per barrel of thirty-one gallons of beer.

Mr. FESSENDEN. What is it on spirits?

Mr. SHERMAN. I do not know what the tax on spirits in Prussia is. In England the tax on spirits is ten shillings a gallon. The tax in England on a gallon of whisky is \$2 or \$2 20, if you call the shilling twenty-two cents, and it is really worth twenty-four cents by the difference in exchange, so that the rate of taxation proposed to be levied by this bill without the amendment on malt liquor is one and two third times the English tax, while our rate on spirits, even if we adopt the highest sum here proposed, is only a little over one half the English tax.

It struck me from the reading of this memorial, which I think states the case very fairly and frankly, that the article will not bear a higher rate than that proposed by the House of Representatives, which is one dollar a barrel, or a little over three cents a gallon. That is the concurrent testimony of these people. It is an interest

which we ought not to sacrifice. It ought to pay of course as much as we can possibly levy from it; but as it takes but a comparatively few number of drinks of beer to make a gallon the tax on the drink is really much heavier in the case of beer than in the case of spirits.

I do not know that I can add anything to what is said by these people in their memorial. If Senators desire any further explanation on the subject I should like to have the memorial read.

Mr. FESSENDEN. The committee are not very strenuous in respect to this tax; they had some doubt about it themselves; but they recollected certain facts. When we passed the tax bill two years ago we put a duty of twenty cents a gallon on spirits, and one dollar a barrel on beer. The objection made at that time by the manufacturers of beer was that the discrimination was not sufficient; that really the tax on beer at one dollar a barrel was too high in proportion to the tax on spirits at twenty cents a gallon. What was objected to was the proportion, and they said that if the tax on beer could be reduced to sixty cents a barrel it would make a proper proportion between the two, and they could get along. We reduced it to sixty cents a barrel. We are now raising spirits to \$1 50, or, if you please to take the lowest rate, \$1 a gallon from twenty cents, a five-fold increase. If we raise the tax on beer from sixty cents to \$1 50 a barrel the proportion between the two will then be, compared with what it was before, altogether in favor of the manufacturer of beer, so that we do not possibly do any justice in that particular.

I am aware of the fact that the discrimination in England is what has been stated in the memorial; I have cast my eye over the memorial. It is stated there that it was found that when the rate upon beer was raised it very largely diminished the consumption, whereas raising the rate on spirits did not decrease the consumption but it kept on as before. We shall not gain much by increasing the duty on beer, if we thereby largely decrease the consumption; and that is stated to be, and I presume correctly stated to be, the reason why the British Government finally came back to their original position with regard to beer.

It is a question involving considerable difficulty. We thought on the whole that the matter required further discussion between the two Houses; and inasmuch as the other House put it at one dollar, if we agreed to that rate it would end the matter and it would no longer be open. As we thought it would require more discussion and examination, we deemed it better to change the rate somewhat; and then finally in a committee of conference, with all the advantages to be derived from the information afforded to both committees on the subject, the question can be settled. I would prefer, therefore, that the amendment should be adopted now, although I do not know that on more full examination I should be in favor of changing the rate fixed in the bill.

Mr. HENDERSON. It is only one third of a cent on a glass.

Mr. FESSENDEN. It is very small. The tax of \$1 50 a barrel compared with the rate proposed on whisky is nothing to be compared to the ratio which before existed between the two. It was sixty cents tax on a barrel of beer and twenty cents on a gallon of whisky. Now we propose to put \$1, and in a very short time \$1 50, a gallon on whisky, and \$1 a gallon on beer, to raise beer once and a half while we raise whisky four or perhaps six times. I prefer to have this amendment adopted, in order that the question may still be open to both Houses.

Mr. GRIMES. I believe it is admitted on all hands, and I think the chairman of the Committee on Finance admitted it to-day, that the tax that we put upon whisky, if it had any tendency at all, would be rather to increase its production.

Mr. FESSENDEN. I say it would not diminish it.

Mr. GRIMES. It will not diminish it at any rate. I should like to know if he can inform the Senate whether the tax on beer has had the same effect.

Mr. FESSENDEN. It is stated in the memorial that it diminished the consumption very largely.

Mr. GRIMES. That corresponds with the information I have derived from the brewers in the

town in which I live, and generally in the State of which I am a citizen. They say that the effect of the law we passed before, although it was a small tax, as the Senator says it was, and as we all know it was, had the effect then, at sixty cents a gallon, to reduce the production of beer a great deal, especially of lager beer, that some portion of my constituents' indulge in; and I fear that their representations are true in regard to the probable effect of this increase of tax, and that the result will be that we shall drive our people from a very harmless beverage to a very destructive one, whisky; and I prefer to have an opportunity to vote on this in some shape or other.

Mr. FESSENDEN. If it produces that one effect it will be to the advantage of the country, because the tax being very much higher on whisky, we shall get more money out of it. [Laughter.]

Mr. GRIMES. It may be to the advantage of the revenue but to the destruction of human life; and while we are legislating for the Treasury we ought to legislate for the people.

Mr. HARRIS. I entered upon the consideration of this bill with this principle before me as my guide: that I would vote for the highest tax upon everything; and I do not propose to depart very seriously from that rule now. I thought the tax of \$1 50 a barrel on beer would bring to the Government more money than a tax of a dollar, I would vote for it. My own knowledge on the subject (because I suppose the town in which I reside manufactures more beer than any other town in the United States) is such as to lead me to the conclusion that a tax of \$1 will give the Government more money than a tax of \$1 50. I understand, indeed it is stated in this circular to which reference has been made, that now it costs the manufacturer of beer somewhat over two dollars a barrel more than it formerly did to manufacture the article, while he can get from his customers not more than \$1 or at most \$1 25 a barrel more, so that this increase of the expense of manufacturing falls on the manufacturer and not on the consumer, to a very great extent. Its effect has been to close up a great many little manufacturing establishments. And there are others who inform me that they would be very glad to get out of it were it not for the fact that they have so much capital engaged in the business that they cannot readily engage in any other pursuit. My own apprehension is that if we impose a tax of \$1 50 a barrel on beer—an article that cannot be accumulated like whisky and kept on hand year after year; which must be consumed, as this circular says, like bread; it cannot be kept long; where the manufacturer must find his customers as the baker his—it will greatly diminish, as experience has shown it did in England, the manufacture and consumption of the article. I think it will stand a dollar; and if I believed it would bear more, I would vote for it as I will in every case. My own impression, and a very decided impression it is, too, is that a dollar is as much as the article will bear.

Mr. FESSENDEN. I ask Senators if they will not consent to make some change by increasing it somewhat, in order to leave the matter open for further examination. I am hardly prepared to close it now. Suppose they propose to put the tax at \$1 25?

Mr. SHERMAN. I do not object to letting the question go over. My action is based on conversations with men engaged in this business and on the memorial.

Mr. FESSENDEN. If the facts are as they are stated, I am perfectly willing to yield, for my only object is to get as much money as possible for the Government consistently with justice. If this increase is to have the effect that is supposed, I prefer to let the bill remain as it is in this respect; but it struck the committee on examination that it was hardly satisfactorily shown that when we increased the duties on spirits so largely beer would not bear the increase here proposed. I would rather leave the matter open for consideration by the conference committee than to close it now by rejecting our amendment.

Mr. HARRIS. I move to amend the amendment by striking out "fifty" and inserting "twenty-five," so as to make the tax \$1 25 a barrel.

The amendment to the amendment was agreed to, and the amendment, as amended, was adopted.

The next amendment was to insert in section sixty-three, line twenty-eight, after the word "liquors" the words "in bottles;" in line twenty-nine, after "dollar" to insert "and fifty cents;" and after "thirty" to insert "one;" so as to read:

*Provided further,* That beer, lager beer, ale, porter, and other similar fermented liquors in bottles, shall be assessed, according to the quantity contained therein, at the rate of \$1.50 for thirty-one gallons.

Mr. HARRIS. I move to amend it by making "fifty" "twenty-five" to correspond with the other amendment.

The amendment to the amendment was agreed to, and the amendment, as amended, was adopted.

The next amendment was in section sixty-five after the word "affirmation" to strike out "to be taken as aforesaid."

The amendment was agreed to.

The next amendment was to insert after the word "assessor," in the eighth line of section sixty-five, "or officer administering the same."

The amendment was agreed to.

The next amendment was in line twenty of section sixty-seven, to strike out "been notified to" and insert "come to the knowledge of;" and after "collector," in line twenty-seven, to strike out "as aforesaid."

The amendment was agreed to.

The next amendment was to strike out the word "duplicate" before "account" in line five of section sixty-eight.

The amendment was agreed to.

The next amendment was in section seventy-one, line two, to strike out "desiring" and insert "required by this act to."

The amendment was agreed to.

The next amendment was to insert the word "value" after "rental" in line fifteen of section seventy-one; and in line sixteen to strike out "or" before "it."

The amendment was agreed to.

The next amendment was after the word "trade" in line twenty-two of section seventy-one to strike out "or occupation, which license shall continue in force for one year, at the place or premises described therein," and to insert "business or profession."

The amendment was agreed to.

The next amendment was in section seventy-two, to strike out the word "or" before "business" in line two; after "business" to insert "or profession or do any act;" strike out "or" after "exercising," in line four; after "on," in line four, insert "or doing;" strike out "or" in line five, before "business," and after "business" insert "or profession;" after "offense," in line seven, strike out "respectively at the discretion of the court" and insert "besides being liable to the payment of the tax;" strike out "of" after "fine" in line ten, and insert "not exceeding;" so as to make the section read:

SEC. 72. *And be it further enacted,* That if any person or persons shall exercise or carry on any trade, business, or profession, or do any act hereinafter mentioned, for the exercising, carrying on, or doing of which trade, business, or profession a license is required by this act, without taking out such license as in that behalf required, he, she, or they shall, for every such offense, besides being liable to the payment of the tax, be subject to imprisonment for a term not exceeding two years, or a fine not exceeding \$500, or both, one moiety of such fine to the use of the United States, the other moiety to the use of the person who shall first give information of the fact whereby said forfeiture was incurred.

The amendment was agreed to.

The next amendment was in section seventy-three, to strike out the word "or" before "business" in line three, and after "business" to insert "or profession;" in line four to strike out "true" before "name;" in line seventeen to strike out "or" before "business," and after "business" to insert "or profession;" in line twenty-three to strike out "their principal" and insert "the" before "place;" and in line twenty-four to strike out "of business" and insert "of production or manufacture."

The amendment was agreed to.

The next amendment was after the word "manufacture," in the amendment last adopted, to insert:

And every person exercising or carrying on any trade, business, or profession, or doing any act for which a license is required, shall, on demand of any officer of inter-

nal revenue, produce such license, and unless he shall do so may be taken and deemed to have no license.

The amendment was agreed to.

The next amendment was in the thirty-fourth and thirty-fifth lines of section seventy-three, to strike out the words "it was issued" and insert "the liability therefor accrued."

The amendment was agreed to.

The next amendment was in section seventy-four, lines four and five, to strike out "he, she, or they were authorized by such license to exercise or carry on;" and after the word "license," in line six, to insert "was authorized."

The amendment was agreed to.

The next amendment was in lines seven and eight of section seventy-four, to strike out "assessor or assistant assessor" and insert "collector."

The amendment was agreed to.

The next amendment was in lines twenty-two and twenty-three of section seventy-four, to strike out the words "to him, her, or them, in that behalf granted."

The amendment was agreed to.

The next amendment was after the word "thereof," in line twenty-seven of section seventy-four, to strike out "upon the payment to the assistant assessor of a fee of twenty-five cents."

The amendment was agreed to.

The next amendment was to strike out the words "insurance agents" in line nine of section seventy-five.

The amendment was agreed to.

The next amendment was in section seventy-six, line five, to strike out "nor" and insert "or by virtue of said license;" to strike out "if" before "any" in line six; after "any" to strike out "such person" and insert "auctioneer who;" to strike out "such" before "goods" in line seven; after "commodities," in line seven, to strike out "as aforesaid;" to strike out "such" before "license" in line nine and insert "a;" and after "license" to strike out "as aforesaid;" before the word "shall," in line ten, to strike out "he or she;" after "penalty," in line ten, to strike out "in that behalf;" after "license," in line thirteen, to strike out "to him or her before;" to strike out in lines fifteen, sixteen, seventeen, and eighteen "or selling any goods or chattels, lands, tenements, or hereditaments at auction, anything herein contained to the contrary notwithstanding; *Provided always,* That," and insert the word "and;" after "commodities," in line eighteen, to strike out "as aforesaid;" after "auctioneer," in line twenty-four, to strike out "or selling any goods or chattels, lands, tenements, or hereditaments by auction as aforesaid;" after "commodities," in line twenty-seven, to strike out "as aforesaid;" and in line twenty-eight to strike out "and upon his, her, or their entered" and insert "at auction in said;" so as to make the section read:

SEC. 76. *And be it further enacted,* That no auctioneer shall be authorized, by virtue of his license as such auctioneer, to employ any other person to act as auctioneer in his behalf, except in his own store or warehouse, or in his presence; or by virtue of said license to sell any goods or other property at private sale; and any auctioneer who shall sell any goods or commodities otherwise than by auction, without having taken out a license for that purpose, shall be subject and liable to the penalty imposed upon persons dealing in, or retailing, trading, or selling any such goods or commodities without license, notwithstanding any license granted, as aforesaid, for the purpose of exercising or carrying on the trade or business of an auctioneer; and where such goods or commodities are the property of any person or persons duly licensed to deal in, or retail, or trade in, or sell the same, such person or persons having made lawful entry of his, her, or their house or premises for such purpose, it shall and may be lawful for any person exercising or carrying on the trade or business of an auctioneer, being duly licensed for that purpose, to sell such goods or commodities for and on behalf of such person or persons, and at auction in said house or premises, without taking out a separate license for such sale. The provisions of this section shall not apply to judicial or executive officers making auction sales by virtue of any judgment or decree of any court, nor public sales made by executors and administrators.

The amendment was agreed to.

The next amendment was in line ten of section seventy-seven, to strike out "or" and insert "on."

The PRESIDENT *pro tempore*. This amendment will be made, if there be no objection.

Mr. JOHNSON. I do not know that it is in order to propose an amendment, but I rise for the

purpose of asking the chairman of the Committee on Finance what construction the committee put upon the proviso in the seventy-seventh section. I suppose that except so far as express power is given to the United States to do so, if it exists in any case, we cannot authorize business to be done in the States. The question what business is to be carried on is one exclusively for the States. Now this proviso as I read it would seem to imply that a business might be carried on in a State not only without the consent but against the laws of the State. The language is:

*Provided,* That nothing in this act shall be held or construed so as to prevent the several States, within the limits thereof, from placing a duty, tax, or license, for State purposes, on any business, matter, or thing on which a duty, tax, or license is required to be paid by law.

And then the portion to which I call attention is:

Nor shall any law of any State or Territory prohibiting any trade, business, or profession, be held to exempt or excuse any person following or being engaged in any such trade, business, or profession, from the payment of the license tax herein required.

I suppose the true construction of that would be, if there is authority in Congress to give the power, that the license would authorize a particular business or profession to be carried on against the laws of the State. I do not think that can be the view of the committee.

Mr. SHERMAN. I can tell the Senator that the laws of nearly all the States prohibit the sale of lottery tickets; and yet that business is openly carried on; the law is not enforced. Under the existing law the United States license does not allow the person holding it to carry on any business prohibited by the State law, does not justify it. It would be no defense to a prosecution in a State court to show that a man is licensed by the United States to do that thing.

Mr. JOHNSON. That is the very difficulty. Then what is the meaning of the clause? The particular business referred to by the honorable member illustrates the view that I suppose is the correct view. Over the subject of lotteries the States have exclusive control. The United States have no authority to authorize a lottery in a State. It was doubted very much by the Supreme Court whether they had authority to authorize a lottery even here in this District; but certainly it was not doubted by them that they had no right to authorize a lottery established here to sell tickets in a State against the laws of the State. The first part of the proviso says that the States are notwithstanding this law to have a right to place a duty, &c., "on any business, matter, or thing on which a duty, tax, or license is required to be paid by law," but it goes on further to say:

Nor shall any law of any State or Territory prohibiting any trade, business, or profession be held to exempt or excuse any person following or being engaged in any such trade, business, or profession from the payment of the license tax herein required.

Mr. SHERMAN. The Senator overlooks the principal proposition in the section. The proposition of the section is this:

That no license heretofore provided for, if granted, shall be construed to authorize the commencement or continuation of any trade, business, or profession therein mentioned within any State or Territory of the United States in which it is, or shall be, specially prohibited by the laws thereof, or in violation of the laws of any State or Territory.

That is, the license granted by the laws of the United States shall not allow the citizens of any State to conduct any business within that State that is prohibited by the laws of the State. Then the next proviso is that the exercise of the taxing power by Congress shall not be exclusive, but that the State may exercise the taxing power also. The next is that if, notwithstanding the prohibition by the State of this employment within the State, it is openly exercised in the State, that shall not be a reason for not taking out a license. Perhaps the second clause of the proviso is unnecessary, but I do not know that it is when you consider that the laws of nearly all the States prohibit lotteries, and yet lottery tickets are sold in nearly all the States. That is the reason of it. It is in the old law, I think.

Mr. GRIMES. This is an exact transcript of the law as it stands, and I will put a case that has occurred in the town in which I live. We have a State law there prohibiting the selling of liquor; yet, unfortunately for the community, we make and drink and sell liquor. A year ago, upon the idea that they could avail themselves of the construction that the Senator from Maryland has

given to this clause, those holding licenses from the United States went on to sell liquor, and there have been upwards of one hundred of them indicted, tried, and convicted, and it was held by our court that they could properly be convicted.

Mr. JOHNSON. I should convict them, too, if it was before me as a court, but it would only be on the ground that Congress had no authority to insert such a proviso as this. Assuming that Congress has the power, if they say a bare license shall give an authority to violate the laws of a State, then it certainly would be a defense against the laws of the State. If this section means anything, it means that. It says that if a man attempts to carry on any business prohibited by the laws of a State he shall take out a license; and I suppose if he is licensed to carry on the business from Congress, and Congress has the authority to grant the license, that is a protection against any of the laws of a State.

Mr. FESSENDEN. We provide that it shall not be.

Mr. JOHNSON. You provide that it shall not be a defense, and you provide that he shall not be exempted from taking out a license.

Mr. FESSENDEN. We provide in the first place that it shall be no defense for a violation of the laws of the State, and in the next place that it shall not have the effect to authorize any business to be carried on without a license, on the ground that it is prohibited by State law.

Mr. JOHNSON. That I understand. Now, I submit to the Senator if a State has the authority to prohibit the trade, is it right to authorize a license to be taken out under this law to carry on that very prohibited trade? That is the difficulty I have.

Mr. FESSENDEN. This question was discussed two years ago, and we came to the conclusion that this was the only mode we could adopt in order to protect the revenue. We say to every man who applies for a license, "We will give you a license, so far as that is concerned; but by the law the license is subject to State regulation; it does not authorize you to break the laws of the State." That is expressly provided for. He proceeds therefore at his own risk. Such a provision has been found to be very necessary.

Mr. TEN EYCK. In my opinion the point raised by the Senator from Maryland is a good one. I think the last portion of this section is inconsistent with the first part. Allusion has been made to the law, and it is said that this provision is the same as that contained in the law of two years ago on the subject of these licenses. Questions have already arisen under it in two of the States in this Union I know, where suits have been commenced against persons selling lottery tickets. It has been held by the United States courts in both those States that the act of Congress did not give them a license to sell lottery tickets, where the law of the State prevented it. Such has been the decision in the district court in the State of New York, and was also held in another State, as I understand. The question was brought up on appeal and is pending before the Supreme Court of the United States at this time, the officers here holding that the act of Congress passed two years ago did authorize the issuing of a license for the purpose of selling lottery tickets even in the States where they were prohibited by law.

I take it that the first portion of this section would prevent that business, according to an ordinary and proper construction; but the latter portion of the section might negative the first portion. I think the one is inconsistent with the other. The latter part of the section referred to by the Senator from Maryland might with great propriety be stricken out; and then this business which is sought to be licensed contrary to the laws of the States would be entirely put an end to. I do not want a contradiction to appear upon the face of the same section in relation to this grant of power, in the one instance preventing the States in the exercise of it, and in another instance allowing it; but this section as it stands admits that kind of construction. I will not take up time by reading the section over again, because it has been read on two different occasions; but I think that will be the construction that must be put upon it by those who critically examine it.

Mr. FESSENDEN. I am not satisfied that the section goes quite far enough, on looking at it more critically. I suppose it was the intention

of its framers—it certainly was my understanding—to provide here that the granting of a license under this act should not be held to exempt any man from the penalties that might be inflicted by any State for carrying on that particular part of the business, or to authorize him to carry it on against the law of the State. I do not find that that is in the section.

Mr. JOHNSON. No, sir, it is not there.

Mr. FESSENDEN. I think it ought to be there, especially with regard to the sale of liquors; and that section will need a little closer examination. I find on looking further that with regard to wholesale dealers in liquors and retail dealers in liquors the same provision, which I supposed was in there, is not in. It will take me a little time to look over it specifically, so as to prepare the amendment.

Mr. JOHNSON. I certainly have no objection to the chairman taking time to do that; but I submit to the chairman of the committee that the suggestion he made that these licenses are to be taken at the hazard of the man taking the license—I do not mean to say that he is protected against State legislation—would appear in its real colors if the provision was found in the first part of the section. How would it appear if the section was written in this way:

That no license—

Mr. FESSENDEN. In the first part of the section is the very provision that I spoke of. It escaped my attention in looking it over.

Mr. JOHNSON. It reads in this way:

That no license herebefore provided for, if granted, shall be construed to authorize the commencement or continuation of any trade, business, or profession therein mentioned, within any State or Territory of the United States in which it is, or shall be, specially prohibited by the laws thereof, or in violation of the laws of any State or Territory—

But we will grant you a license. I am sure the Senator did not intend that; but that is virtually what is done.

Mr. FESSENDEN. That is precisely what we intended there. We say, "If you choose to take out a license you can pay for it and take it out, but you take it out on your peril and proceed on your peril so far as the laws of the State are concerned. So far as we are concerned, we give you the license."

Mr. JOHNSON. With all possible respect for the better judgment of the chairman of the committee and the Committee on Finance, I will move to strike out all that part of the section beginning in the eleventh line after the word "law." I do not ask a vote upon it now.

The PRESIDENT *pro tempore*. Then the reading of the bill will proceed.

Mr. TRUMBULL. I do not know why the amendment should be laid over. Attention is called to it now, and it seems to me we had better dispose of it.

Mr. FESSENDEN. It may as well be acted upon at once.

Mr. TRUMBULL. I think that clause ought to be stricken out. It looks to me precisely in this way: as if it was an attempt by Congress to license a trade prohibited by a State.

Mr. JOHNSON. Certainly, that is the way I understand it.

Mr. FESSENDEN. What will be the result? This matter was very fully discussed two years ago. Gentlemen do not understand it, unless they mean to establish a principle that may affect the revenue considerably in many of the States. For instance, take the Maine law as it exists in my State as an illustration. We prohibit the sale of liquors entirely, except by apothecaries for medicinal purposes; but, although we prohibit it and make seizures and destroy the liquor, it has been found practically that you cannot enforce it, especially in large towns.

Mr. TRUMBULL. Will the Senator from Maine allow me to inquire if this bill does not provide for just that case by imposing a penalty where a man sells liquor without a license? Can you not collect your penalty under that provision?

Mr. FESSENDEN. Undoubtedly you can; but it makes another set of officers; that is to say, it makes it the duty of another set of officers to watch these very men. We say to them, "If you proceed to sell liquor without a license you shall be subject to such and such a penalty;" and those penalties are very severe. It has been found in practice that men who did not fear the State law,

who would risk it, so far as the State was concerned, were not willing to risk the additional penalties under the United States, and consequently a revenue to a certain extent was obtained. The sale of liquor, for instance, is prohibited in some States and not in others, and unless you insert this provision the result will be these men will take their risk under State law and go on and sell; and we shall get no license fee from them. There is no harm in it. If they will go on to sell liquor in violation of the State law we put another penalty upon them. We say to them, "Sell it if you dare without a license from us."

Mr. JOHNSON. If the Senator will permit me, in one sense there is no harm. You can get the money, and that seems to be the object of this particular legislation; but I submit to the Senator there is very great harm in another respect. We are aiding a man who violates the law of a State.

Mr. FESSENDEN. Not in the slightest possible degree, with due respect to the Senator.

Mr. JOHNSON. You grant him a license, and let him take the chance of having the license considered valid or not, to do a thing which the laws of the State prohibit. You therefore lend yourself to him as far as he may suppose he is protected by the license to violate the law of his own State. Now, I understand the honorable member to say that in his State they have a law against the selling of liquor, a pretty rigid one I believe it is; but they have not been able to enforce it, and they have not been able to enforce it because people will sell liquor. He assumes that to be true, and of course it is, because he says it is true. Is it the business of Congress to say to the men in Maine who are violating the State law, "We will give you a license provided you will pay for it, and you may fight it out with your State if you think proper?" Is not that virtually saying, "We will stand alongside of you so far as the authority which the license may give to enable you to violate the law of your State is concerned; but we are only willing to do that upon the condition that you pay us something?" We therefore by such legislation get into the Treasury a fund arising from licenses granted to persons in the States to violate the laws of the States.

That I am sure the Senator does not mean to say is morally right; but I think he forgets, if he will permit me to say so, that this is a question of power and not of expediency. The question which I submitted to the Senate was, whether we have any right to authorize a State law to be violated in this particular. The first part of the section proceeds upon the ground that we have no such right, but after saying we have no such right then it directly says in the same breath, "Although no license which we shall grant you will authorize you to carry on any trade or business prohibited by the laws of the State, yet if you will pay us for granting you the license we will grant it." I could not make my own view of it plainer, perhaps, by multiplying words. I think, therefore, with due deference to my friend the chairman of the committee, that it is legally wrong, and, if he will permit me to say so, as he advocates a different view of it, it is morally wrong.

Mr. FESSENDEN. I think it is legally right and morally right, and there is no such objection to it, and the only force there is in the Senator's objection is the legal ingenuity with which he urges it. In many of the States there are laws prohibiting the sale of liquor, for instance; for this section is intended particularly to cover those cases; but experience has shown that they will sell liquor in violation of the State law. Now, we are making a general law with regard to licenses. We license retailers of spirituous liquors. The Senator wants us to put it in such a shape with regard to all those States that have passed such a law as not to exact a license from the persons who sell liquor in those States in violation of the State laws, and thus lose a very large portion of revenue. The proposition is that we will in fact, so far as we are concerned, make an exemption in favor of the people who choose to sell liquor in violation of the laws of the States in all those States where such laws exist, and thus encourage them to that extent.

Now, what do we say by this section? We say, "Notwithstanding you live in States where



the laws prohibit the sale of liquor, yet if you undertake to do it you shall be responsible to us just as you would be in a State where the laws do not prohibit it; you shall have, so far as we are concerned, no privileges over those who live in States where the laws do not prohibit it. If you undertake to deal in liquors, or anything else that is prohibited in your State, you shall be subject to our laws, and you shall not do it without a license; if you do, you will be subject to the penalty." But we say to them at the same time, and that sets the moral view of it right, "We want you to understand, notwithstanding we prohibit you from selling liquor without a license, we do not mean to authorize you to break the laws of the State; but if you choose to break those laws, although the license is a protection against us, it shall be no protection against the laws of the State, and you must take the consequences."

It is just like a man who has no title perhaps to real estate, if you please to say so. The Senator, I suppose, has drawn a great many quit-claim deeds in his life; and quit-claim deeds, perhaps, that did not convey very much; at least it was very doubtful. It was not considered bad morals if he told him, "Sir, you shall have my deed for a dollar; but I warn you that my title may prove to be good for nothing." The Senator would not hesitate to draw the deed and take his fee under those circumstances. He would not refuse to act on the ground of bad morals.

Mr. JOHNSON. Yes, I should.

Mr. FESSENDEN. I never knew of a lawyer yet that did.

Mr. JOHNSON. I should refuse unless there was color of title.

Mr. FESSENDEN. The morals of the profession must be particularly nice in Maryland.

Mr. JOHNSON. I do not know that they are any more nice there than elsewhere.

Mr. FESSENDEN. You do precisely in reference to that matter what is done here, so that the whole thing is understood by the party. We practice nothing upon him when we say to him, "You shall not proceed in this business, so far as we are concerned, without a license from us, and then you can settle your difficulties with the State as you choose." The effect of a contrary decision here would be to say that in all those States where men choose to violate the laws of the States, they shall do it with impunity so far as we are concerned. We in fact give them a license to do it without exacting any pay whatever. That is the result as it strikes me.

Mr. SPRAGUE. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, May 25, 1864.

The House met at twelve o'clock, m. Prayer by Rev. Dr. HOSMER, of Buffalo, New York. The Journal of yesterday was read and approved.

### AGRICULTURAL REPORT.

The SPEAKER laid before the House a communication from the Commissioner of Agriculture, transmitting his annual report for 1863; which was laid upon the table, and ordered to be printed.

Mr. WINDOM submitted the following resolution; which was read, and referred, under the law, to the Committee on Printing:

*Resolved*, That there be printed by the Superintendent of Public Printing, under the direction of the Commissioner of Agriculture, one hundred and fifty thousand extra copies of his annual report for 1863, with the accompanying documents, for the use of the present House, and fifty thousand extra copies for distribution by that Department, with the engravings interspersed through the volume in their appropriate places; and that ten thousand of these shall be printed for the use of said Department on fifty-six pound paper.

### DISTRIBUTION OF BOOKS AND DOCUMENTS.

Mr. BALDWIN, of Massachusetts, from the Committee on Printing, reported a joint resolution in relation to the distribution of books and documents; which was read a first and second time by its title.

The joint resolution provides that the undistributed portion of books and documents heretofore printed or purchased for its use by order of either House of Congress previous to the Thirty-Seventh Congress and now deposited in the Interior Department and elsewhere shall be distrib-

uted to members of the present Congress, under the direction of the Joint Committee on Printing, and the committee is directed to divide the books in question into parcels equal in number to the whole number of Senators, Representatives, and Delegates from Territories and as nearly equal in value and importance as possible, and to distribute them to the Senators, Representatives, and Delegates by such method as may be found most feasible and proper.

Mr. BALDWIN, of Massachusetts. This joint resolution is reported from the Committee on Printing because the subject of distributing these books was referred to that committee. I call the previous question.

Mr. KERNAN. I desire to inquire the number and value of the books that it is proposed to distribute.

Mr. BALDWIN, of Massachusetts. I cannot state that.

Mr. KERNAN. I have learned at some time that these books were useful to the Government in making exchanges; and if that be so I am opposed to voting for this distribution. It seems to me that, without knowing their value, we ought not to vote to distribute these books among the members.

Mr. BALDWIN, of Massachusetts. This resolution relates to books heretofore printed or procured for the use of members of Congress. There are broken and imperfect sets, and in consequence there have been difficulties about their distribution. There are not enough full sets to go around, and this resolution is submitted for the purpose of making a satisfactory distribution. It relates to books ordered by the Senate and the House, and to none others.

Mr. COLE, of Washington. Was not a similar resolution passed at the last Congress?

Mr. BALDWIN, of Massachusetts. Not precisely like this.

Mr. COLE, of Washington. In what respect does it differ?

Mr. BALDWIN, of Massachusetts. We provided at the last Congress that the distribution should be under the direction of the Secretary of the Interior, and this resolution proposes that the distribution shall be under the superintendence of the Committee on Printing.

Mr. COLE, of Washington. Will this distribute the books in the hands of the Secretary of the Interior?

Mr. BALDWIN, of Massachusetts. Yes, sir.

Mr. COLE, of Washington. I have had occasion to inquire of the Secretary of the Interior or the person having charge of the books proposed to be distributed. Under the resolution passed at the last Congress if these books are distributed, or if they are distributed under this resolution, then there will be none left to present to the new States and Territories that may hereafter be organized. New States hereafter to be admitted into the Union will not get the books which have been provided for the new States since the formation of the Government. It strikes me that the House ought to look into the matter. It will be impossible for the new States to obtain these books unless from the source which we now propose to destroy. If the effect of the resolution be such as that the Secretary of the Interior shall distribute the books he has now on hand, then the new Territories and new States will be deprived of the archives of the Government. I think that the resolution ought not to be passed.

Mr. HUBBARD, of Connecticut. These books were originally designed for distribution among the people, and I hope that the resolution will pass.

Mr. BALDWIN, of Massachusetts. These books were printed or procured for the use of the Senate or the House. They can only be distributed by order of Congress, and no one else has control over them. They belong to the two Houses for distribution among the people, and they are at present getting illegitimate distribution. They are melting away, and we think that they ought at once to be distributed among the members of Congress. I call for the previous question.

Mr. JOHNSON, of Pennsylvania. I ask the gentleman to yield to me for a moment.

Mr. BALDWIN, of Massachusetts. I withdraw the call for the previous question for that purpose.

Mr. JOHNSON, of Pennsylvania. I only

want to say a few words on the resolution. During the last Congress a resolution was passed similar in purport to this one, but not so full in detail. It was provided that these books should be distributed by the Secretary of the Interior, but it was found impossible to comply with that resolution so as to make the distribution as contemplated. The reason was because of the great number of broken sets, amounting to some twenty to forty volumes, and hence they could not be equally distributed among members of Congress. I do not know that those broken sets will ever be replenished; it is not probable that they will be; and I presume, taking the natural course of things, the numbers of them are getting smaller every day, and we might well distribute them in some way.

But there is a point I wish to suggest to the gentleman from Massachusetts. Under a resolution of the Thirty-Fifth Congress there was a resolution adopted directing the distribution among the congressional districts of certain copies of the American State Papers. They have not all yet been distributed, and they are due to some of those congressional districts, and due properly. I refer to my own district for one. My immediate predecessor did not draw his copies while here, and he died soon after his time expired, and there are two sets due that district yet. I was notified officially three years ago by the librarian that they were due the district, and I applied for them then, and have continually applied for them from that time to this, but I have never been able to get them awarded. Others have had theirs awarded to their districts to make up what was deficient. Now, I would like to have the resolution amended if possible so as to provide that no documents which have heretofore been ordered by any resolution of Congress to be distributed shall be affected by the passage of this resolution.

Mr. A. W. CLARK. In reply to the gentleman from Pennsylvania I will say that this resolution will not reach those books at all. They are already provided for, and still remain in the Department, subject to the direction of the successors of those former members who were entitled to them.

Mr. BALDWIN, of Massachusetts. I demand the previous question on the third reading of the resolution.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the resolution was ordered to be engrossed and read a third time.

Mr. BEAMAN demanded the yeas and nays upon the passage of the resolution, and tellers upon the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

Mr. BALDWIN, of Massachusetts, demanded the previous question upon the passage of the resolution.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the resolution was passed.

Mr. BALDWIN, of Massachusetts, moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

OWEN TULLER.

Mr. VOORHEES presented the petition of Owen Tuller, a mail contractor, for compensation for the destruction of property on a mail route in Missouri by rebel guerrillas; which was referred to the Committee of Claims.

### ARMY APPROPRIATION BILL.

Mr. MORRILL made the following report from a committee of conference:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 198) making appropriations for the support of the Army for the year ending the 30th of June, 1865, having met, after full and free conference have agreed to recommend, and do recommend to their respective Houses, as follows:

That the Senate recede from their ninth amendment.

That the Senate recede from their disagreement to the amendment of the House to the seventh amendment of the Senate, and agree to the same with the following amendments:

After the word "any," in the first line of said House amendment, insert the word "free," and strike out after the word "call," in the eighth line, all of said House amendment.

That the House recede from their amendment to the eighth amendment of the Senate, and agree to the same with the following amendment: strike out of said Sen-

ate amendment after the enacting clause, (being section four,) and in lieu thereof insert the following, and the Senate agree to the same:

That in every case where it shall be made to appear to the satisfaction of the Secretary of War that any regiment of infantry, or any battery, or any company of cavalry, of colored troops has been enlisted and mustered into the service of the United States, under any authorized assurance given by any officer or agent of the United States, or by any Governor of any State authorized thereto by the President or the Secretary of War, the non-commissioned officers and privates of such regiment, battery, or company shall be paid the same as other troops of the same arm of the service, then they shall be so paid for the period of time counting from the date of their being respectively mustered into the service to the 1st day of January, 1864: *Provided*, however, that this section shall not be construed to prevent like payment to other colored troops from the time of their being mustered into the service if such shall be held by the proper authority to be their right under the law.

J. COLLAMER,  
J. W. NESMITH,  
J. W. GRIMES,

*Managers on the part of the Senate.*

JUSTIN S. MORRILL,  
J. F. FARNSWORTH,  
JOHN A. GRISWOLD,

*Managers on the part of the House.*

Mr. MORRILL. It will be seen that the Senate have receded from their seventh and ninth amendments, and have agreed to the eighth amendment with an amendment, which I think will be satisfactory to all parties. The matter was sufficiently explained by the reading of the report by the Clerk, and I call the previous question.

Mr. STEVENS. I hope the gentleman will allow us to say a word upon the report.

Mr. HOLMAN. I rise to a point of order. It is that in the midst of this noise and confusion it is not even known upon this side of the House upon what bill the report of the committee is made.

The SPEAKER. The Chair stated that the gentleman from Vermont rose to a privileged question, to make a report from a committee of conference upon the Army appropriation bill, whereupon the report was read by the Clerk, and the gentleman from Vermont rose subsequently and demanded the previous question.

Mr. STEVENS. I hope the gentleman from Vermont will not at this time insist upon the demand for the previous question. I desire to submit a very few remarks upon the report.

Mr. MORRILL. I did not occupy any time myself in advocating the agreement of the conference committee, and I think it is but fair, therefore, that there should be no discussion on the other side. If I had occupied any time in advocating the report I would withdraw the demand for the previous question. As it is I cannot withdraw the demand.

Mr. STEVENS. I hope, then, that the demand for the previous question will be voted down.

The previous question was not seconded—yes 46, noes 60.

Mr. STEVENS. I wish to state to the House simply what the committee of conference have done; and then if they choose to overrule the decision to which they came before by a vote of five to one, I shall have nothing to say.

When the House bill came back from the Senate, it contained the provision which is now agreed upon by the committee of conference, under which certain colored troops, who had been promised full pay for the time of their enlistment, were to receive full pay, leaving all the rest out. The Committee of Ways and Means reported an amendment striking that out and inserting in lieu thereof a provision that all colored troops should be allowed full pay and placed on an equality with white troops from the time of their enlistment and mustering into the service. That proposition was carried by an overwhelming majority.

But, sir, the committee of conference have seen fit to disregard the instructions of the House upon that point, and restore the provision of the Senate entire, with the exception of adding a proviso that this shall not affect the existing law in regard to others, thereby leaving the implication that the whole matter, which we had hoped was settled, was open again to be adjudicated by the Departments.

Now, I say that those in this House who have advocated the employment of negro troops are bound in justice and fairness to treat them precisely as they treat white soldiers. I have no idea that those who call themselves by any other name—conservatives, if you please—shall dodge this question and put the matter on the ground of being

referred to some other tribunal. It is due to ourselves, I repeat, that, if we accept the services of colored troops, they should be paid for their services like any other soldiers; and I would rather lose the whole bill than adopt the principle of doing injustice to those who enlisted from patriotic motives merely, and of doing justice only to those who enlisted from mercenary motives.

Now, that is the whole question. I do not wish to occupy the time of the House, but I wish to bring the matter fairly to their attention. I hope the report of the committee of conference will be voted down and that we shall have another committee which will represent the wishes of the House.

Mr. MORRILL. By the existing law all the colored soldiers from the 1st of January last are to receive the same pay as white soldiers. By the amendment of the Senate, adopted by them in lieu of the House provision, it was provided that all colored persons enlisted and mustered into the service of the United States shall be entitled to receive the amount of pay allowed by law, provided that the full pay of white soldiers shall be allowed to such as were promised it by competent authority at the time of their enlistment.

By the agreement of the committee of conference it will be seen that colored troops who have had reason to expect the pay of white soldiers by reason of pledges on the part of the Secretary of War and Governors of States are to receive it. Now, to make a sweeping clause giving all colored troops, or all such persons employed in the Army, that full amount of pay, dating back to the beginning of the war, would involve the drawing of a very large amount from the Treasury—much larger than for one I feel willing at this time to authorize. The committee of conference have inserted a proviso at the end of their amendment in substance, that if all these colored troops shall be decided by proper authority to be entitled under the existing law to the full pay of white troops, as it is contended by the Attorney General of the United States, they shall then receive it. This report of the committee of conference, as I understand it, covers every case where any encouragement has been given by the government of any State or by any officer authorized by the War Department to give it; and yet it does not prevent its being paid to those who have no such encouragement if, according to the Attorney General, it is the legal right of the parties so to have it.

Mr. GARFIELD. I wish to ask the gentleman from Vermont if the committee of conference, in the report they have made, provide that all negroes in the service shall have the same pay as white soldiers hereafter?

Mr. MORRILL. That has been provided by another law.

Mr. GARFIELD. Then that is not the question involved?

Mr. MORRILL. That is not the question involved here.

Mr. GARFIELD. I wish the gentleman would state what the question is.

Mr. MORRILL. The report involves the question of the payment of colored men enlisted prior to January 1, 1864.

Mr. GARFIELD. All colored men?

Mr. MORRILL. Yes, sir; all free colored men.

Mr. GARFIELD. Will the gentleman state what the point involved is?

Mr. FARNSWORTH. I will state, in answer to the question of the gentleman from Ohio, that the question involved in this discussion is the question which was passed upon by the Military Committee of the House; and the section which has been adopted by the conference committee is almost identical with the section agreed upon by the Military Committee of the House.

Mr. GARFIELD. What did it provide for?

Mr. FARNSWORTH. For the payment of such regiments of infantry, such batteries, and such companies of cavalry of colored men as had been enlisted with an authorized assurance that they should receive certain pay and bounty. This provides that on the Secretary of War being informed to his satisfaction that they had such assurances he shall order them to be paid at the same rate as other troops.

Mr. STEVENS. The gentleman refers to the amendment agreed upon by the Military Com-

mittee. I ask him if that was not overruled and voted down by the House, who adopted the amendment of the Committee of Ways and Means, which is now rejected.

Mr. FARNSWORTH. The House did adopt certainly a different section, which the Senate amended, and which was referred to the conference committee.

Mr. GARFIELD. Will the gentleman state what the clause was which is rejected?

Mr. STEVENS. Let me state it again, if I may be allowed this irregularity. The House decided that all free persons of color who had entered the Army should from the time of their mustering in be allowed the same pay as white soldiers. The amendment of the committee of conference is that those who were promised it shall receive it, leaving all others to the old law. The difference, therefore, is between those who can prove that they had a specific promise and those who were enlisted without it, although all are in the same service.

Mr. FARNSWORTH. The report of the committee of conference in this case, if adopted by the House and the Senate, will not preclude the passage of any law authorizing the payment of colored men enlisted before the 1st of January last at the same rates as other troops. This simply provides so far, that such colored troops as were enlisted with the assurance that they should receive the same pay and bounty as white troops shall be so paid, and as was stated by my colleague on the committee, [Mr. MORRILL], as sweeping law for the payment of all colored troops clear back from the commencement of the war to the present time, thirteen dollars a month and the same bounty as white men were paid, would make a very large draft upon the Treasury. There is equity in paying regiments and companies who were enlisted with the assurance that they should receive certain pay and bounty; it is equitable and just that they should be paid that pay and bounty. But where men were enlisted with assurances from the War Department that they were only to receive so much per month and no bounty, they cannot urge the equity and justice of the claim.

Mr. DRIGGS. I would ask the gentleman whether the colored troops massacred at Fort Pillow were enlisted under the old law, and whether the bill as now proposed to be passed will provide for payment to the heirs of those slaughtered soldiers?

Mr. FARNSWORTH. I believe nothing in relation to that subject was referred to the committee of conference.

Mr. DRIGGS. I understand that the bill does not provide for that. I am in favor of paying them even if it does involve a large amount.

Mr. FARNSWORTH. The heirs and representatives of colored soldiers are placed on the same footing as the heirs and representatives of other soldiers, not by this bill, but by other legislation of Congress. It is understood that we have already provided that all colored soldiers enlisted after the 1st day of January last shall receive the same pay and bounty as white soldiers. The question now is shall we go back to the commencement of the war and pay them at that rate?

Mr. MORRILL. I desire to call the attention of the House to the precise state of the question as it is now presented. As the bill was originally sent from the House to the Senate there was nothing in it upon this subject. When it came back from the Senate, it came with this clause:

That all persons enlisted and mustered into the service as volunteers under the call dated October 17, 1863, for three hundred thousand volunteers, who were at the time of enlistment actually enrolled and subject to draft in the State in which they volunteered, shall receive from the United States the same amount of bounty without regard to color.

To that the House adopted this substitute:

That all free persons of color who have been or may be mustered into the military service of the United States shall, from the date of their enlistment, receive the same uniform, clothing and equipments, camp equipment, rations, medicine and hospital attendance, pay and emoluments and bounty, as other soldiers of the regular and volunteer forces of the United States of like arm of the service.

Mr. STEVENS. When the bill came from the Senate it came with a proviso giving this full pay to those who had been promised it, and to no others.

Mr. MORRILL. I have read what came from the Senate on this subject, every word of it, and the House provision adopted as a substitute shows

the difference there is between the two propositions.

The committee of conference found the Senate very fixed in their purpose not to go back and include any others among these colored troops except those who had received the assurance from competent authority that they should receive it. The substitute adopted by the committee of conference received the unanimous concurrence of that committee as a fair compromise between the two Houses.

Mr. HUBBARD, of Connecticut. I would like to ask the gentleman from Vermont how it is to be ascertained what troops have received that assurance.

Mr. MORRILL. By the records of the Department.

Mr. UPSON. I desire to ask the gentleman from Vermont how this proposition will affect the pay of colored troops who were enlisted prior to the 1st of January, 1864, or of those who have enlisted since that time.

Mr. MORRILL. Under the existing law those who have enlisted since the 1st of January will be entitled to the same pay as white soldiers. Under the provision as agreed upon by the committee of conference it will be seen that all classes of colored troops who, on their enlistment, received assurance that they should receive the same pay as white soldiers, including two regiments from Massachusetts, and some others, are to receive the pay promised them. The section as agreed upon by the committee of conference is as follows:

That in every case where it shall be made to appear to the satisfaction of the Secretary of War that any regiment of infantry, or any battery, or any company of cavalry, of colored troops, has been enlisted and mustered under any authorized assurance given by any officer or agent of the United States, or by any Governor of any State authorized thereto by the President or the Secretary of War, that the non-commissioned officers and privates of such regiments, battery, or company shall be paid the same as other troops of the same arm of the service, then they shall be so paid for the period of time counting from the date of their being respectively mustered into the service to the 1st day of January, 1864: *Provided, however,* That this section shall not be construed to prevent like payment to other colored troops from the time of their being mustered into the service, if such shall be held by the proper authority to be their right under the law.

I have been unable to ascertain the amount which would be drawn from the Treasury by paying all these freedmen who have been employed in Louisiana and other States from the commencement of the war, although in minor positions, the full amount; but I am assured that it would involve many millions of dollars. I think we are doing full justice to these men, and I hope the House will sustain the action of the committee of conference.

Mr. STEVENS. The House amendment provided only for free people of color. The gentleman misleads the House by speaking of it as if it included all persons of color who had been employed.

Mr. FARNSWORTH. I desire to ask the gentleman from Pennsylvania, who speaks of the House amendment as embracing only free people of color, whether he does not recognize all persons enlisted in the Army of the United States as free.

Mr. STEVENS. The word "free" was inserted for the express purpose of excepting all those who are taken from slavery. I think the House understands the distinction, and I have nothing further to say. I had rather see this bill go down forever than to see this amendment of the committee of conference adopted.

Mr. SPALDING. Mr. Speaker, as I understand this question it is this: whether we will pay the free blacks who volunteered in the service of the United States anterior to the 1st day of January last, without stipulating that they shall have any higher pay than ten dollars a month, as much as we have agreed to pay those who did stipulate that they should have a higher rate. Now, sir, I regard it as more equitable to those who disinterestedly entered the service and risked their lives without claiming that they should have ten, thirteen, or sixteen dollars per month. They went in and fought our battles, and the question now is whether they should be paid according to the same measure of payment as those who did stipulate for higher pay. There is no doubt that in some parts of the country they received encouragement that Congress would do them justice and put them on the same footing with white

soldiers. I know that is the case; and I know that free blacks enlisted on the understanding, though they did not stand back to make an express covenant that they should have one sum or another, that ultimately Congress should make them in their pay equal to white soldiers. I agree with the gentleman from Pennsylvania [Mr. STEVENS] that we had better not pass this bill than to do injustice to these patriotic men. I think that all the free blacks, who have voluntarily gone into the service either before or after the 1st day of January, 1864, should have the same pay.

Mr. GARFIELD. Mr. Speaker, I desire to differ with my colleague on a matter so delicate and important as the one before the House, to which I beg to call the attention of members for a few moments. The question is not whether we shall or shall not pay the free blacks who enlisted in the service from the free States the same as white soldiers from the date of enlistment. That question is not before the House. The question was once before us whether the increased pay of all colored troops should reach back beyond the 1st of January. The House decided affirmatively, but restricted the provision to such volunteers from the free States alone as had an authorized pledge at the time of enlistment that they should receive higher pay. It is proposed to-day to pay thousands of colored soldiers what they were never promised, what they never had a right to expect to receive. It is now proposed to go back and pay colored soldiers thirteen dollars per month, besides rations and clothing, for a time when the law did not allow them but ten dollars per month, clothing included. It is proposed to grant gratuities to these men which you have never given to white soldiers, so far as I know, in any case. There are plenty of instances—I could spend half an hour in giving them—where white men have gone into the military service with the understanding that they were to be paid a certain additional sum, and it has been found afterwards that there was no law for it, and they have not been paid. Men have been enlisted as engineer soldiers, with the understanding from the recruiting officers that they should be paid as such by the Government, but in looking at the matter subsequently it was found there was no law for it, and they were not paid. There has been legislation to cover such cases, but it has generally been prospective and not retrospective.

I have for a long time believed that God would never give us victory in this great struggle till the nation does justice to the black man. When he puts on the uniform of a soldier he ought to have the honors, the pay, and the protection of a soldier; and I have voted and shall always vote to place all American soldiers on the same footing, without regard to color. But I do not propose to pat the black man upon the back merely because he is black. I do not propose to do for him what I would not do for a white man. I do not propose to show any special favoritism in the application of the law. I will not propose to consent to putting the hand of Congress into the Treasury of the United States to draw out millions therefrom, and scattering it among a body of men to whom it was never promised, but who enlisted under the law fixing their pay at seven dollars per month and clothing. The antecedent question, whether that law was wise and politic, is quite another thing. I believe it was not wise. I believe we ought to have made the pay of the white and black soldier the same in the beginning; but Congress thought otherwise in 1862. This Congress has equalized the pay of black and white soldiers, and has raised the pay of all private soldiers, black and white, to sixteen dollars from the 1st day of May. I am unwilling to go back of that date to pay either black or white what they were not promised. I am not desirous of making political capital by showing an excessive zeal for the black man. I do not say that any of these gentlemen desire to do so, but I say affirmatively that I do not desire to make any political capital out of this matter by showing extreme haste in making this gratuitous and unnecessary disbursement of the public moneys when we have none to waste.

Mr. THAYER. I would like to ask the gentleman by what authority, by what law, the Secretary of War was authorized to promise a compensation to certain regiments, of which other regiments were to be deprived. And I would like

to ask him what law authorized the Secretary of War to make use of any discrimination in the matter.

Mr. GARFIELD. I am not aware that the Secretary had any right to make any discrimination. I did not say that he had any such right.

Mr. THAYER. I would ask the gentleman the further question: upon what ground has Congress a right to discriminate between men who have borne the perils and burdens of the war?

Mr. GARFIELD. We always use the right, when we are called upon to do justice to men, to decide whether in good faith those men went into the service under an arrangement by which they had the right to suppose they would have that which they do not receive.

Mr. FARNSWORTH. It seems to me to be sound law and sound justice that whether the Secretary of War was or was not authorized to make promises to these men, yet if the promise was given, and they enlisted and were mustered into the service with the expectation of the fulfillment of that promise, the Government is bound to fulfill the contract between the contract officers and these black men.

Mr. STEVENS. I would ask the gentleman whether he does not know that the Attorney General of the United States has decided that that discrimination was unlawful, and that every black man enlisted was entitled to thirteen dollars a month.

Mr. FARNSWORTH. I know the Attorney General has so decided.

Mr. MORRILL. If that is so this provision will give it to them.

Mr. FARNSWORTH. But that does not change the position of the question. The promise was made, and the Government has accepted the services of those men, knowing that the promise was made, and I hold it to be good law that the Government is bound to pay them.

Mr. SPALDING. I desire to ask my colleague [Mr. GARFIELD] if he made any personal allusion to myself when he referred to some gentleman who desired to make political capital by patting the negro on his back?

Mr. GARFIELD. I distinctly stated that I did not know that any gentleman desired to make political capital out of this matter. I said affirmatively that I did not.

Mr. STEVENS. That is the same affirmative proposition which is contained in the report of the committee of conference.

Mr. GARFIELD. I do not understand the pertinency of that to the matter in hand.

Mr. SPALDING. I asked the gentleman whether he alluded to me in that remark.

Mr. GARFIELD. I have already said I made no personal reference to any gentleman, nor do I intend to do so. I was about to say in reference to the report of the committee of conference that when this measure was before the House I did all I honorably could to procure the passage of the bill in the shape I desired it, but since I have become satisfied that we could not carry out our desire, I have been in favor of making some concession to the other branch of Congress for the sake of getting as near it as we could. If, as the gentleman from Pennsylvania [Mr. STEVENS] says, the committee of conference is bound to stand by the action of the House, we could not come to any agreement if the committee upon the part of the Senate should take the same view of their duty. The very idea of such a committee is that there shall be mutual concession and a mutual composition of the differences between the two Houses. The committee of conference in this case has made such concession, and the concession has been mutual. It has not been an abandonment of all we asked and a granting of all the Senate asked, but a mutual concession, the result of which is that we get something of what we wanted, if not all. I am, therefore, in favor of adopting the report of the committee of conference.

Mr. THAYER. It is in vain to attempt to disguise the gross injustice of the proposition now before the House. No sophistry can possibly sustain it. The argument made use of is that the Secretary of War gave promises to some particular colored regiments which were raised, while others received no such promises. If this be so, I ask who authorized the Secretary of War to make this discrimination with regard to the



Army of the United States? I ask what act of Congress or what law empowers the Secretary of War to make a difference between the pay of soldiers received into the service of the Government?

Sir, I am bound to suppose that the Secretary of War, in making any such promises to black regiments, if any such were made, acted upon the presumption that Congress would, when it assembled, do justice to all the soldiers of the Republic, black as well as white, and that the former would be placed upon a just and equitable footing in regard to pay and rations as well as the white soldiers of the Government. It never could have entered into the mind of the Secretary of War that he was empowered to make any discrimination in regard to the pay of the soldiers of the Union, or to promise this regiment one rate of pay and that another. He never could have meant to be understood in that manner. He must have acted on the idea that Congress intended to place all of these soldiers upon the same footing, and that as soon as Congress assembled they would do justice to these men who had shed their blood and imperiled their lives in defense of the country.

I say, therefore, that the argument made use of that the Secretary of War had promised an advance of pay to some regiments falls to the ground. Any man who treated with the Secretary of War on the subject must have well known that he had no authority to make any such promises, and that they must look eventually for justice in that respect to the Congress of the United States; and the colored soldiers who went into the service of the country relying upon the eventual justice which is said to have been promised to them by the officers of the Government must have supposed that Congress, when they came to act at all upon this question, would do what is plain and simple justice to them all, without distinction, and would not pick out certain regiments and favor them to the exclusion of others which have rendered the same service.

Sir, the very fact, if it be a fact, that this pay was promised to certain regiments, I have no doubt encouraged others to enlist, because it never could have been supposed by any one who had any confidence in the justice of this country that certain regiments among the black troops would be picked out by Congress for just compensation, and that men who had undergone the same perils, who had shed their blood in the same cause, and who had made the same sacrifices, would be denied that just compensation.

Mr. KELLEY. With the permission of my colleague, I may be able to mention a fact or two that will throw some light upon this question. When it was first determined to recruit negro troops orders were sent to the department of South Carolina, and authority was given to the Governor of Massachusetts to recruit colored troops, and the statement went forth that they were to receive the same pay, rations, clothing, &c., as all the troops of the United States. Subsequently to that, the question whether these orders were consistent with existing laws was raised and was submitted by the Secretary to the Solicitor of the War Department, who, upon examining the various acts, decided that the act of July 17 provided ten dollars a month as the pay to be given to the colored people, whether enlisted or merely employed by the Government under that act. Accordingly an order went forth to the pay department to act in accordance with that law.

The first South Carolina and the fifty-fourth and fifty-fifth Massachusetts regiments had been recruited and sent to the field, and other regiments were in process of recruiting when notice was given of the construction put upon the act in respect to the pay of colored soldiers. That construction, though doubted by large numbers of citizens, was not officially questioned until quite recently, when it was referred by the President to the Attorney General, who decided that the construction given by the War Department was erroneous, that the provision of Congress limiting the pay to ten dollars a month was not intended to embrace regularly enlisted men, but that it should be confined to laborers and others employed out of the military service proper; so that under the decision of the Attorney General every one of these soldiers is entitled to receive the same pay as white soldiers, under existing law, from the time he entered the service of the United States.

Mr. THAYER. I ask the gentleman whether they must not under that decision be paid thirteen dollars a month?

Mr. KELLEY. We have been paying them but ten dollars a month. Colonel Higginson, who was authorized to recruit the first South Carolina regiment, received special instructions to assure them that they would receive thirteen dollars a month, with the same rations as other United States soldiers.

Mr. STEVENS. I ask my colleague if he does not know that these regiments refused to receive ten dollars a month?

Mr. KELLEY. I was about saying that the fifty-fourth and fifty-fifth Massachusetts have refused to receive any pay at all. The Governor of Massachusetts tendered them an amount sufficient to make their pay equal to that of white soldiers; they, however, unanimously refused to receive it from Massachusetts, saying that they were not fighting for money, that they were fighting in the service of the United States, and desired to be recognized as in that service, and as United States soldiers.

Mr. STEVENS. And one regiment from Pennsylvania refused it.

Mr. KELLEY. If my colleague will allow me to go on he will find that I understand the facts of the case. I was about to add that one regiment from Pennsylvania had refused, with those from Massachusetts, to receive a less rate of pay than is given to United States soldiers; and a still more striking fact I will mention in respect to the first South Carolina regiment is, that they were paid thirteen dollars a month, but under the new construction of the law given by the Solicitor of the War Department, the payment of three dollars made at first was proposed to be deducted from their subsequent pay; so that it appears that it was not only the express instruction of the War Department when they were recruited to place them upon the same basis as to pay as the white soldiers, but that under those instructions at least one payment was actually made.

Mr. THAYER. I am much obliged to the gentleman for his explanation. I do not know upon what basis the War Department has proceeded in its treatment of this subject. I can understand, sir, that an honest difference may exist in this House upon the question discussed when this bill was before the House, namely, whether the pay of colored troops should be made equal to that of white troops; but I cannot understand upon what principle of justice or of public policy it can be pretended that in paying colored troops you may discriminate between those who have made the same sacrifices, performed the same labors, and braved the same perils of war. For these reasons, sir, I think it is plain that the paltry pretense made, that some of these men have received promises from the War Department and some have not, and therefore that the former should be paid and the latter should not, falls to the ground as an argument. No man can pretend to say that such an argument has any foundation in justice, good faith, or an honorable public policy. Sir, all of these men are alike entitled to the justice of the country, and none are entitled to be preferred to others because they may have received left-handed promises from the War Department.

Mr. GARFIELD. I would like to inquire of the gentleman why he repeatedly speaks of left-handed or indirect promises. I would like to know if the gentleman can inform us what these left-handed promises were. The information I have is that these men had direct pledges as to the pay they were to receive; there were no left-handed promises made.

Mr. THAYER. I will explain to the gentleman's satisfaction what I mean. I mean, sir, that no promise pretended to have been given by the Secretary of War was a valid or legal promise; that if made it was a promise without authority of law, and cannot therefore be set up as a just ground of discrimination between the different regiments of colored soldiers. I mean to say that I suppose what these men received from the War Department was something in the nature of encouragement, for the Secretary of War was not authorized to do more. The Secretary of War was not authorized to make a promise in this respect which would bind the Government.

Mr. GARFIELD. Then all I have to say is, that if those promises were of that vague, indi-

rect character, the money will not be paid under the legislation already had.

Mr. THAYER. Then, sir, the sooner we require the money to be paid the better, and the more just will be the position this body will occupy before the country.

Sir, this excuse for discrimination is mere sophistry; there is nothing in it at all. There is no one who does not see that the equity and justice claimed by the two classes of colored troops, referred to are equal. No man can say that the men who in the same service have undergone the same hardships and exposed their lives to the same perils should not be paid alike.

But, sir, it is said that it will involve the expenditure of some money to do justice to these troops, that it will require a large sum of money to do it. Grant it; but, sir, we had better pay the money and economize in some other respects. We cannot afford to hazard the reputation of our country for justice and fair dealing to save a paltry sum of money. Let gentlemen find out some other pretext for not paying alike those who served alike. If they wish to economize let them begin their economical reforms in some less objectionable quarter and carry them out in a manner which will not strike down the justice and good faith of the country.

Mr. ROSS. I move to recommit the report to the committee, with instructions that they report it back with a provision to increase the pay of the soldiers to at least twenty dollars per month.

Mr. FARNSWORTH. I rise to a question of order. I make the point of order that the motion is not germane to the pending proposition.

The SPEAKER. The Chair sustains the point of order.

Mr. DAVIS, of Maryland. Mr. Speaker, I wish to assign very briefly the reasons for the vote I shall give. The law authorizing the President to accept the services of volunteers, I believe, nowhere limits them to white volunteers. It was his privilege to accept colored soldiers on the first day that he accepted regiments from Pennsylvania and Massachusetts. The law providing for the pay of the soldiers makes no reference in the original form to the color of the soldier. The Secretary of War had no right, if he did so, to put colored regiments upon different terms from those which he had a right to apply to white soldiers. I understand that the construction of the law at the Department has been different, and that the action of the Government has been different from this view. I merely desire to put the law explicitly and peremptorily as I presumed it was, and for that reason I shall vote to adhere to the section in the shape in which the House put it.

Mr. SCHENCK. Mr. Speaker, I am somewhat astonished at the warmth of the debate on this subject; and I can only explain it to myself upon the supposition that gentlemen do not apprehend clearly the points of difference between the form which this section assumed when it was offered as an amendment to the House bill and passed here and the form in which it is presented by the committee of conference in their report. It has been alluded to here by gentlemen who have spoken on the assumption that there are those who wish to make invidious distinctions between colored troops and other troops. I undertake to say that if there be invidious distinction it is not in the bill of the House or the report of the committee of conference.

What are the facts in reference to this whole matter? Both Houses have agreed to this feature of the bill, that black soldiers and white shall be put upon the same footing, and paid in the same manner and the same amount, relating back to the date of that policy which the two Houses fixed to take effect on the 1st of January last. That, then, is settled.

Now there are certain black troops who enlisted in the service of the United States and served at a date prior to the 1st of January. What shall be done with regard to them? The gentleman from Pennsylvania [Mr. STEVENS] moved an amendment when the bill was formerly before the House, which is the section contended for by those who claim to be the peculiar friends of the black troops, and which provides that every free colored soldier who was enlisted prior to the 1st of January, 1864, shall be put upon the same footing with white troops, but it cuts off from any such claim all those colored troops who, by any

construction of law, any pretense, or any admission, held the relation which formerly existed between them and those who had been their masters in the slave States.

Now the committee of conference say they will go behind the 1st of January. In what respect? That they will go behind the 1st of January and declare that all those colored troops who in Massachusetts, Pennsylvania, South Carolina, and elsewhere were enlisted upon any assurance that they should be put upon an equality with the white troops shall be so treated, no matter what construction may be put upon the law by the War Department; and that as to all others who are not included in any such contract or assurance or engagement they shall receive pay under the law, and that nothing in this section shall be construed to prevent their receiving it. They make no distinction between the freedmen and the slaves, and they say that all free men of color, and those formerly slaves, shall be put upon the same footing, no matter what the construction of the law may be. The distinction formerly made between those two classes is not made by the committee of conference. They make no difference in reference to the status which they formerly had. That distinction was only made by the amendment of the gentleman from Pennsylvania, and which was adopted by the House, and which is now part of the bill. Perhaps the discrimination was made with a purpose. But if gentlemen are desirous to wipe out all distinction let them go with the committee of conference, who decide, as against the War Department and all constructions made to the contrary there or elsewhere, that those who have had assurances of the kind referred to shall be absolutely paid, and that those, whether freedmen or slaves, who have had no such assurances shall be remitted to the law as construed here by the gentleman from Maryland [Mr. Davis] and other gentlemen and by the Attorney General to receive precisely what others receive under like circumstances. I shall vote to sustain the committee of conference.

Mr. RANDALL, of Pennsylvania. I desire to say that when this bill was returned from the Senate, and was under consideration in this House, the gentleman from Indiana moved to strike out the sixth amendment of the Senate. By some mistake or fault of my own I was recorded on the Journal as having voted in the affirmative upon the adoption of the Senate amendment. I attempted to correct the Journal; and the mistake was corrected in the report made to the associated press. But being an inexperienced member here, I did not follow up the correction quite far enough, and I find I am recorded in the Globe as having voted for the Senate amendment. I desired to make this statement, so that the correction may appear in the Globe.

The SPEAKER. The Chair will state that the gentleman is correctly reported in the Journal.

Mr. GRISWOLD. I submit to gentlemen who have been discussing this question that the recommendation of the conference committee only proposes to discriminate in favor of those who had a legal and authorized assurance—not any left-handed assurance or innuendo, but an assurance from an authorized party—that they should receive this pay.

Mr. THAYER. I would like to ask the gentleman whence that legal authority was derived.

Mr. GRISWOLD. I am giving you the recommendation of the conference committee. They only report in favor of doing thus and so provided a legal and authorized assurance was given. Again, I submit that if the ruling of the Attorney General be established, there can be no legal discrimination made between the colored and the white troops.

Mr. STEVENS. Then had we not better settle the question definitely in this bill, and not leave it open?

Mr. GRISWOLD. All I can say in answer to the gentleman from Pennsylvania is that the committee of conference found diverging sentiments and extreme views in either direction, and they knew of no other way in which to reconcile the action of the two Houses except by some medium course that should satisfy measurably all parties in the two Houses.

Now, I desire to ask the gentleman from Pennsylvania [Mr. Thayer] who last spoke, whether there is any greater injustice in this discrimina-

tion in pay between colored and white troops than there is in the discrimination between the pay of the white troops themselves.

I submit to the gentleman that there are very great inequalities existing in the pay of white troops. A large number of the white troops who have entered the service of the United States have done so without any bounty at all, while a large number of others have received very large bounties. I submit that if we do justice in the present emergency of the country, that is all that can be expected of Congress. Hereafter, if the gentleman chooses to appeal to our magnanimity or our benevolence, why then, for one, I shall be willing to go with him in that direction. But I submit that this is no time for any undue liberality or magnanimity. If we do justice to these black troops that is all that can be required of us.

Mr. MORRILL. I am about to demand the previous question, but before doing so I desire to call the attention of the House back to the original proposition. As the bill passed the House there was nothing in it in relation to this subject. The Senate, more regardful of the interests of the colored men than were the House, introduced a proposition. The House took that up, and, not thinking that it went far enough, they went still further, and so far that the Senate regarded it as involving too heavy an expense upon the Treasury, more than it can afford to bear at the present time. It does not seem to me that this is a question for any great deal of eloquence or heat. I do not see any reason why we should get excited over this proposition, when we originally voted ourselves here to pay colored men only ten dollars per month. That was the original proposition.

Mr. STEVENS. Let me correct the gentleman. We voted no such thing in the Army bill.

Mr. MORRILL. A year ago we voted to pay colored men ten dollars per month.

Mr. STEVENS. Not colored troops, but simply contrabands employed about camps.

Mr. MORRILL. There is no provision in relation to that, except that we provided that we would pay them ten dollars a month. Now it is proposed that we shall go back and pay all of these men who have been employed in the Army, in minor offices, in menial employments, wherever they have been enlisted and employed by the Army, the full sum that we have paid our white troops from the start. Under existing circumstances, and in view of the condition of the Treasury, I think that we ought to hesitate before we place such a heavy burden upon the Treasury. And yet my friend from Pennsylvania [Mr. STEVENS] comes in here and, with his usual emphasis, says that he is willing to lose this Army bill rather than forgo the privilege of being thus magnanimous to a portion of the colored troops who have never received any assurance, either from us or from the War Department, that they were to receive any such sum as it is now proposed to pay them.

Under the circumstances, at this late stage of the session, when we are all anxious to terminate it as early as possible, I think it wise that we should not, as legislators, assume that all other men shall agree with us. I was originally in favor of the proposition of the gentleman from Pennsylvania, [Mr. STEVENS] but finding that it is going to involve so large a sum I was ready to yield my opinion. I think it is but fair that we should yield something, and should admit that the judgment of other men is worth something as well as our own. I move the previous question on the adoption of the report.

Mr. WADSWORTH. I ask the gentleman from Vermont to withdraw the previous question, and I will renew it.

Mr. MORRILL. I withdraw the previous question.

Mr. WADSWORTH. Mr. Speaker, I have endeavored to hear what has been said in this discussion, but I am afraid, from the noise in the lively House, with ill success. If I can understand the subject and the report of the committee of conference, it is proposed to pay a portion of the negro troops in the service of the United States, by retroactive operation, thirteen dollars a month from the date of enlistment, leaving a still larger portion of the negro troops to be paid at the rate of ten dollars a month. The reason given for that is, as I understand, that certain persons holding official re-

lations with the Government, without any authority of law to do so, made promises or gave assurances to those regiments that are proposed to be thus distinguished that Congress would in the future make their pay equal to that of the white troops, or would make no distinction as to pay between the negro and white troops; and that, as to other negro regiments, no such encouragement had been held out. That I understand to be the ground substantially on which this discrimination rests. I am not satisfied that such a discrimination is just.

I do not believe that such a distinction between negro troops in the employment of the Government should be made. I can see no reason for it. My own opinions on the business of employing negro troops are well known. But, sir, if I were in favor of employing negro troops I should certainly make no distinction between different regiments of negro troops in their pay or between their pay and the pay of white troops. Whoever consents to employ the African race as soldiers in this war has pledged himself before the country and before mankind that he will treat the African race upon the principles of justice and equality. He has no right to hesitate after he has done that thing. He cannot take the position of calling a subject race into this struggle for the preservation of the Union, taking that race through all the blood and suffering of a long war, and then denying to it justice and equality. He cannot do it. I would be ashamed to do it if I were responsible for calling the African race into this struggle. Witnessing here from day to day the hesitation of anti-slavery politicians, I am almost tempted to hold the opinion expressed by a distinguished leader of the ultra-abolitionists—that no honest abolitionist can take office under the Government of the United States. I have seen men holding office under the Government of the United States fall so far short of that to which they are pledged by the principles on which they profess to stand, that I am almost tempted to come to the same conclusion. Men responsible for arming the African race, for its sufferings and blood, hesitate here to give the negro the right to vote. For shame! For shame! You employ negroes to the extent of one hundred and thirty thousand men, you seek the aid of more than twice that number, to fight for you, to die for you, to preserve your Government, to give you empire, and then you refuse to allow them the commonest rights of men. Do not tell me that you give the negro liberty, and that that is a fair compensation for his struggles and blood. Just men, wherever through the world, will remain unsatisfied with you. You merely mock him by giving him liberty and then denying him all those rights which give value to liberty in the eyes of every man fit to be free. Come, be consistent; follow your principles, and let us, although we cannot agree with, at least respect you. Tell the country that you aim at abolishing all distinctions of race and color. The country may sustain you, and there's an end of the struggle. The country may condemn you, and then, if you have the truth, "learn to labor and to wait."

Mr. Speaker, I shall not vote to make any difference in the pay of negro troops in the service of the Government. If I shall vote to pay any I shall vote to pay all. I cannot make any discrimination between them. What right had the Secretary of War to promise to the fifty-fourth Massachusetts regiment of negro troops thirteen dollars a month? Or why should he have hesitated to hold out the same encouragement to other negro regiments? Would Congress do justice to only the negroes of Massachusetts and not to all? But whence did he get the right to give any pledge for Congress? He had just the same right that he had to seize the World and Journal of Commerce in New York—to violate the freedom of the press, and thereby to insult liberty, to insult the whole American nation, to stamp our cause with the odium which attaches to vile tyranny. His promise was, as usual, worth nothing. It ought not to have misled anybody. The only ground on which this claim for back pay can be put is that the negro soldier is entitled to the same compensation as the white soldier; and that is as true in regard to the negro regiment as it is to another.

Now, sir, I shall not vote in any instance to pay any negro regiment. I will be perfectly frank with

you, Mr. Speaker, and the House in that respect. I shall not expect, unless under duress, to pay negro soldiers ten dollars, thirteen dollars, or any other sum. If I do vote in any instance to pay negro troops it will be because the proposition is coupled with doing justice to the white soldiers of the land, and because I am compelled to do it for such a reason. But I say to those who are in favor of employing negro soldiers they cannot consistently make any distinction by law between one black regiment and another black regiment. We cannot afford to act upon any such principles. If we are to allow them to fight at all, and propose to do justice to black soldiers at all, we must do justice to all alike.

Why, sir, the twelve-months men raised in Kentucky—it is true they were nothing but *white men*—were promised by the recruiting officers \$100 bounty. They fought under our flag to the best of their ability, with such humble courage and ability as *white men* possess, and having served out their term of enlistment, they were mustered out, and received only fifty dollars bounty. They then discovered that the recruiting officers who had promised \$100 bounty had no authority to do so. They never have received that \$100, and they never will from this Congress. There is no majority in this House feeling a sufficient interest in *white soldiers* to come here with a bill redeeming the promise made by the recruiting officers to those men. Yet these brave white men of Kentucky have served twelve months under the promise of \$100 bounty, and are finally paid with fifty dollars.

Now, sir, my own opinion is that the true way would be to pay the negro soldiers what was promised them by law, and no more. But if you go behind the law, if you hold that it is odious and unjust to make a discrimination between negro soldiers and white soldiers, then every consideration of propriety, consistency, and justice obliges the advocates of negro soldiers to pay all such troops with an equal, impartial hand.

In accordance with my promise, I call for the previous question.

The previous question was seconded, and the main question ordered to be put.

Mr. HOLMAN. I suppose the various propositions will be considered independently.

The SPEAKER. They will not. The gentleman can have the amendments read if he desires; but the vote must be taken upon the report of the committee of conference.

Mr. HOLMAN. I desire to have the amendments read in connection with the report.

The amendments were read *extenso*.

Mr. FARNSWORTH demanded the yeas and nays on the adoption of the report of the committee of conference.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 25, nays 121; as follows:

YEAS—Messrs. Bally, Royd, William G. Brown, Ambrose W. Clark, Thomas T. Davis, Farnsworth, Garfield, Griswold, Hooper, Kasson, Schenck, Shannon, Smith, Smithers, Thomas, Tracy, Whaley, and Woodbridge—25.

NAYS—Messrs. James C. Allen, Alley, Allison, Ames, Ancona, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Jacob B. Blair, Bontwell, Brandegee, Brooks, Broomall, James S. Brown, Chandler, Cobb, Coffroth, Cole, Cox, Cravens, Henry Winter Davis, Dawes, Dawson, Deming, Denton, Dixon, Donnelly Driggs, Eckley, Eden, Eldridge, Elliot, Fenton, Finck, Frank, Ganson, Goodrich, Grider, Grinnell, Hall, Harding, Harrington, Charles M. Harris, Herriek, Holman, Assheton W. Hubbard, John H. Hubbard, Hutchins, Jenckes, Philip Johnson, William Johnson, Julian, Kalbfleisch, Kelsey, Francis W. Kellogg, Kernan, King, Knapp, Law, Leazear, Littlejohn, Loan, Longyear, Mallory, Marcy, McClurg, McDowell, McKinney, Middleton, Samuel F. Miller, William H. Miller, Moorhead, Daniel Morris, James L. Morris, Morrison, Leonard Myers, Nelson, Noble, Charles O'Neill, Orth, Patterson, Pendleton, Perry, Pike, Pomeroy, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Robinson, Rogers, Edward H. Rollins, James S. Rollins, Ross, Scofield, Scott, Sloan, Spalding, William G. Steele, Stevens, Stiles, Strouse, Sweet, Tilden, Upson, Van Valkenburgh, Voorhees, Wadsworth, Ward, Elisha B. Washburne, William B. Washburn, Joseph W. White, Williams, Wilder, Wilson, Windom, Winfield, Fernando Wood, and Yeaman—121.

So the report was rejected.

During the call of the roll, Mr. WEBSTER stated that his colleague, Mr. HARRIS, had been called home by sickness in his family, and that he had paired off with him.

Mr. GANSON stated that his colleague, Mr. ODELL, was detained at home by sickness.

The vote was announced as above recorded.

Mr. STEVENS. I move that the House insist, and ask for another committee of conference.

The motion was agreed to; and the Speaker appointed Messrs. STEVENS, PENDLETON, and DAVIS of New York, managers of said conference on the part of the House.

#### RELATIONS WITH FRANCE.

The SPEAKER laid before the House the following:

To the House of Representatives:

In answer to the resolution of the House of Representatives of yesterday, on the subject of the joint resolution of the 4th of last month relative to Mexico, I transmit a report from the Secretary of State, to whom the resolution was referred.

ABRAHAM LINCOLN.

WASHINGTON, May 24, 1864.

DEPARTMENT OF STATE,  
WASHINGTON, May 24, 1864.

To the President:

The Secretary of State, to whom has been referred the resolution of the House of Representatives of yesterday, requesting the President to communicate to that House, if not inconsistent with the public interest, any explanations given by the Government of the United States to the Government of France respecting the sense and bearing of the joint resolution relative to Mexico, which passed the House of Representatives unanimously on the 4th of April, 1864, has the honor to lay before the President a copy of all the correspondence on file or on record in this Department on the subject of the joint resolution referred.

Respectfully submitted.

WILLIAM H. SEWARD.

Mr. Seward to Mr. Dayton.

[Extract.]

DEPARTMENT OF STATE,  
WASHINGTON, April 7, 1864.

SIR: \* \* \* I send you a copy of a resolution which passed the House of Representatives on the 4th instant, by a unanimous vote, and which declares the opposition of that body to a recognition of a monarchy in Mexico. Mr. Geoffrey has lost no time in asking an explanation of this proceeding.

It is hardly necessary, after what I have heretofore written with perfect candor for the information of France, to say that this resolution truly interprets the unanimous sentiment of the people of the United States in regard to Mexico. It is, however, another and distinct question whether the United States would think it necessary or proper to express themselves in the form adopted by the House of Representatives at this time. This is a practical and purely executive question, and the decision of it constitutionally belongs not to the House of Representatives, nor even to Congress, but to the President of the United States. You will of course take notice that the declaration made by the House of Representatives is in the form of a joint resolution, which, before it can acquire the character of a legislative act, must receive, first, the concurrence of the Senate, and secondly, the approval of the President of the United States, or, in case of his dissent, the renewed assent of both Houses of Congress, to be expressed by a majority of two thirds of each body.

While the President receives the declaration of the House of Representatives with the profound respect to which it is entitled as an exposition of its views upon a grave and important subject, he directs that you inform the Government of France that he does not at present contemplate any departure from the policy which this Government has hitherto pursued in regard to the war which exists between France and Mexico. It is hardly necessary to say that the proceedings of the House of Representatives were adopted upon suggestions arising within itself, and not upon any communication of the executive department, and that the French Government would be seasonably apprised of any change of policy upon this subject which the President might at any future time think it proper to adopt.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

Mr. Dayton to Mr. Seward.

[Extract.]

No. 454. PARIS, April 22, 1864.

SIR: I visited M. Drouyn de l'Huys yesterday at the Department of Foreign Affairs. The first words he addressed to me on entering the room were, "Do you bring us peace or bring us war?" I asked him to what he referred, and he said he referred more immediately to those resolutions recently passed by Congress, in reference to the invasion of Mexico by the French, and the establishment of Maximilian upon the throne of that country. I said to him, in reply, that I did not think France had a right to infer that we were about to make war against her on account of anything contained in those resolutions; that they embodied nothing more than had been constantly held out to the French Government from the beginning. That I had always represented to the Government here that any action upon their part interfering with the form of government in Mexico would be looked upon with dissatisfaction in our country, and they could not expect us to be in haste to acknowledge a monarchical Government, built upon the foundation of a republic which was our next neighbor. That I had reason to believe you had held the same language to the French minister in the United States. This allegation he did not seem to deny, but obviously received the resolutions in question as a serious step upon our part; and I am told that the leading secessionists here build largely upon these resolutions, as a means of fomenting ill feeling between this country and some others and ourselves. Mr. Mason and his secretary have gone to Brussels to confer with Mr. Dudley Mann, who is their com-

missioner at that place. Mr. Slidell, it is said, was to have gone to Austria, although he has not yet got off.

I am, sir, your obedient servant,

WILLIAM L. DAYTON.

Hon. WILLIAM H. SEWARD, Secretary of State, &c.

Mr. Dayton to Mr. Seward.

[Extract.]

No. 461. PARIS, May 2, 1864.

SIR: Immediately upon the receipt of your dispatch, No. 325, I applied to M. Drouyn de l'Huys for a special interview, which was granted for Saturday last. I then said that I knew that the French Government had felt some anxiety in respect to the resolution which had recently passed the House of Representatives in reference to Mexico; and inasmuch as I had just received a copy of that resolution, together with the views of the President of the United States, I begged, if agreeable, to read to him your dispatch in reference to the latter. To this he assented, and, as the shortest and most satisfactory mode, following out my instructions, I read to him that entire portion of your dispatch which applies to this subject, stating, at the same time, that I thought it was a remarkable illustration of the frankness and straightforwardness of the President. When the reading was closed, M. Drouyn de l'Huys expressed his gratification, and, after asking some questions in regard to the effect of laying a resolution upon the table in the Senate, the conversation terminated.

The extreme sensitiveness which was manifested by this Government when the resolution of the House of Representatives was first brought to its knowledge has, to a considerable extent at least, subsided.

I am, sir, your obedient servant,

WILLIAM L. DAYTON.

Hon. WILLIAM H. SEWARD, Secretary of State.

Mr. Seward to Mr. Dayton.

[Extract.]

No. 542. DEPARTMENT OF STATE,  
WASHINGTON, May 9, 1864.

SIR: Your dispatch of April 22, No. 454, has been received.

What you have said to M. Drouyn de l'Huys, on the subject of the resolution of the House of Representatives concerning Mexico, as you have repeated it, is entirely approved. The resolution yet remains unacted upon in the Senate.

Mr. Corwin was to leave Vera Cruz on the 2d instant, under the leave of absence granted to him by this Department on the 8th of August last.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

WILLIAM L. DAYTON, Esq., &c.

Mr. Seward to Mr. Dayton.

[Extract.]

No. 561. DEPARTMENT OF STATE,  
WASHINGTON, May 21, 1864.

SIR: I have the honor to acknowledge the receipt of your dispatch of May 2, No. 461, and to approve of your proceedings therein mentioned. We learn that Mr. Corwin, our minister plenipotentiary to Mexico, is at Havana, on his return to the United States, under leave of absence.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

Mr. DAVIS, of Maryland. I move that the papers be printed and referred to the Committee on Foreign Affairs, with leave to report at any time.

Mr. WILSON. I object to that part of the proposition that the committee have leave to report at any time.

Mr. COX. I should like to say a few words on the subject.

Mr. DAVIS, of Maryland. I demand the previous question on my motion.

The previous question was seconded, and the main question ordered.

The papers were referred to the Committee on Foreign Affairs, and ordered to be printed.

Mr. DAVIS, of Maryland, moved to reconsider the last vote; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### IOWA LAND GRANT.

Mr. ALLISON. I submit the following report: The Clerk read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 381) to amend an act entitled "An act making a grant of land to the State of Iowa, in alternate sections, to aid in the construction of certain railroads in said State," approved May 8, 1856, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the first amendment of the Senate, and agree to the same amended to read as follows:

On page 2, line five of section one, strike out the words "by said company" and insert "and not further north of said town than the north line of section twenty-two, township eighty north, of range nineteen, according to the United States surveys, if the citizens of the county of Jasper shall



first pay to said company the difference in cost, if any, between the line proposed by the company and the one contemplated by the proviso, including extra cost of right of way, if any, said difference in cost to be estimated by competent engineers to be selected by the parties."

That the House recede from its disagreement to the amendments of the Senate numbered two, three, four, five, six, seven, eight, nine, ten, eleven, thirteen, fifteen, seventeen, eighteen, nineteen, twenty, twenty-one, and twenty-two, and agree to the same.

That the House recede from its disagreement to the twelfth amendment of the Senate, and agree to the same with the following amendment, namely: In the tenth line of the said amendment between the word "the" and the word "line" insert the word "original;" and in line eleven of the amendment, after the word "railroad" insert the words "as laid down on a map on file in the General Land Office."

That the House recede from its disagreement to the fourteenth amendment of the Senate, and agree to the same with an amendment as follows: at the end of the amendment insert, "but each of said companies may select an equal quantity of public lands as described in this act within the distance of twenty miles of the line of each of said roads in lieu of lands thus settled upon and improved by bona fide inhabitants in good faith under color of title as aforesaid."

That the House recede from its disagreement to the sixteenth amendment of the Senate, and agree to the same with an amendment as follows: strike out the word "Legislature," in the said amendment, and in lieu thereof insert "Governor."

SOLOMON FOOT,  
JAMES HARLAN,  
L. W. POWELL,  
*Managers on the part of the Senate.*  
WILLIAM B. ALLISON,  
C. A. ELDRIDGE,  
*Managers on the part of the House.*

Mr. ALLISON moved that the report be concurred in.

The motion was agreed to.

Mr. ALLISON moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### MURDER OF CAPTAIN REED.

The SPEAKER laid before the House a letter from the Secretary of War, in response to a resolution of the House in regard to the murder of Captain T. Reed, of Philadelphia, by the citizens of Accomac, Virginia; which was laid upon the table, and ordered to be printed.

#### MAIL STEAMERS TO BRAZIL.

Mr. ALLEY, by unanimous consent, moved that the House take up the amendment of the Senate, which is a verbal one, to House bill No. 407, authorizing the establishment of an ocean mail steamship service between the United States and Brazil, and that it be concurred in.

The motion was agreed to.

Mr. ALLEY moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### MISSOURI CONTESTED ELECTION.

Mr. DAWES. I desire to give notice to the House that it is my intention to call up the election case of Knox vs. Blair on Friday next.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, their Chief Clerk, informed the House that the Senate insist upon their amendments disagreed to by the House to the bill of the House (No. 395) to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof, agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and have appointed Mr. SHERMAN, Mr. FOSTER, and Mr. JOHNSON the committee of conference on the part of the Senate.

#### MILITARY RAILROAD IN TENNESSEE.

Mr. SCHENCK. Among the many bills waiting to be reported by the Committee on Military Affairs is a joint resolution in relation to the construction of a military road from the valley of the Ohio river into East Tennessee. I ask unanimous consent to report that resolution at this time.

The resolution was read by its title, as follows:

A joint resolution authorizing the President to construct a military railroad from the valley of the Ohio river into East Tennessee.

Mr. WILSON. I would inquire of the gentleman whether that resolution has been printed? It seems to me we ought not to consider such a bill without some opportunity to examine it.

Mr. SCHENCK. It has not been printed.

Mr. SMITH. Let the resolution be reported, and then we can fix upon a time when it shall be considered.

Mr. SCHENCK. It is a matter of the last importance that the subject should be acted on speedily.

The resolution was read *in extenso*.

Mr. HOLMAN. I simply desire to say, considering the magnitude of the subject, it would be inexpedient to act upon the resolution at once. I would not object to its introduction if its consideration is postponed to some reasonable day in the future.

Mr. SCHENCK. I am willing that it shall be reported and postponed until some future day. I hope an early day, however, will be fixed on, for Generals Grant, Burnside, Foster, and other generals represent that a road there is necessary, and two of those generals have considered it important enough to come and represent the matter before the committee.

Mr. SMITH. I trust the gentleman from Ohio will indicate an early day, because of the importance of the measure.

The SPEAKER. The day can be fixed after the resolution is reported. Is there objection to having it reported?

Mr. WILSON. I will not object if it is to be printed and postponed.

Mr. SMITH. I suggest that it be postponed until next Monday.

Mr. HOLMAN. That will be hardly long enough. I suggest next Friday week.

Mr. PRUYN. Oh, no; we will adjourn by that time, I hope.

Mr. SMITH. If this is postponed until next Friday week the probabilities are that for a week following there will not be a sufficient number of members present to transact business. According to all the testimony of military officers and others there has been no bill before Congress of more importance than this, and I hope gentlemen will not insist upon postponing it beyond Monday next. I hope the gentleman from Indiana will withdraw his proposition for Friday next. By Monday the bill will have been printed and examined by everybody, and we can come to a conclusion that day as well as we can a week after.

Mr. HOLMAN. Monday it will interfere with other business.

Mr. SMITH. Say Tuesday, then.

Mr. HOLMAN. I will not object to that.

Mr. GRIDER. According to my recollection this very proposition was before the House last session, was referred to the Committee on Roads and Canals, was reported by them, and passed; but subsequently a joint resolution was passed repealing the law.

Mr. SCHENCK. Yes, sir; and it would have been built long ago but for that.

Mr. GRIDER. I hope an early day will be fixed upon.

Mr. SCHENCK, by unanimous consent, reported the resolution, which was postponed until Tuesday next, made a special order from day to day until disposed of, and ordered to be printed.

Mr. SMITH moved to reconsider the vote by which the bill was postponed and made a special order; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### THE RECIPROCITY TREATY.

The House proceeded, as the regular order of business, to the consideration of joint resolution (H. R. No. 56) authorizing the President to give the requisite notice for terminating the treaty made with Great Britain on behalf of the British provinces in North America, and to appoint commissioners to negotiate a new treaty with the British Government, based upon the true principles of reciprocity; upon which the gentleman from Massachusetts [Mr. ELIOT] was entitled to the floor.

Mr. ELIOT. Mr. Speaker, I will ask the Clerk, before I proceed with my remarks, to read the resolution reported by the Committee on Commerce.

The Clerk read the resolution, as follows:

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized and required to give notice to the Government of

the United Kingdom of Great Britain and Ireland that it is the wish and intention of the Government of the United States of America to terminate the said treaty at the end of twelve months from the expiration of ten years from the time when the said treaty went into operation as aforesaid, such notice to be given at the expiration of the said term of ten years, to the end that the said treaty may be abrogated as soon as it can be done under the provisions thereof, unless a new convention shall before that time be concluded between the two Governments by which the provisions shall be abrogated or so modified as to be mutually satisfactory to both Governments; and that the President of the United States be, and he is hereby, authorized to appoint three commissioners, by and with the advice and consent of the Senate, for the revision of said treaty, and to confer with other commissioners duly authorized therefor whenever it shall appear to be the wish of the Government of Great Britain to negotiate a new treaty between the two Governments, and the people of both countries, based upon true principles of reciprocity, and for the removal of existing difficulties.

Mr. ELIOT. Mr. Speaker, I have had the resolution reported by the Committee on Commerce read at the Clerk's desk because I desired that members of the House, before being called upon to vote upon it, should have their attention directed especially to its phraseology. It was found when the resolution that was offered at an early period of the session by the gentleman from Vermont [Mr. MORRILL] came under discussion in the committee, that there were entertained there by the gentlemen composing the committee different views upon the general subject, similar to those which have been represented here by amendments offered to the resolution as reported. It was thought by some gentlemen that the time had come when it was important that we should give to Great Britain immediate notice of abrogation, to take effect as soon as possible by the terms of the treaty. It was thought by others that all that we were called upon to do was to ask a proper revision of the treaty, and to direct that commissioners should be appointed in order that the treaty, where it operated injuriously to us, should be revised. There were others who thought that the true course for us to take—and I confess that I was of that number—would be to state frankly and distinctly that while we were disposed to have the provisions of the treaty revised, we yet did not believe that it was consistent with our interests that the treaty in its present form should be continued, and that unless it was revised it must be abrogated. On the whole, it was believed that the form in which the resolution is now presented would be the true one for us to adopt, and although it may be that the members of the committee have not given way and yielded the preferences which they had before, yet the resolution comes reported from the committee with the consent of all its members who were present when final action was taken.

It will be seen from the terms of the resolution that the President is called upon, as soon as it can be done within the terms of the treaty, to give notice of abrogation; that it is not left discretionary, but that he is "authorized and required" to do it. I ought to say that I am informed by the gentleman from New York [Mr. DAVIS] who spoke yesterday, that it is his intention to offer an amendment leaving it discretionary with the President, and not altering the resolution otherwise. But as the resolution stands it makes it imperative upon the President, as soon as it can be done according to the terms of the treaty, to give notice of abrogation. Very well, sir; then when the time has elapsed which must elapse before the abrogation can take effect, by the terms of the resolution that abrogation will be perfect unless before that time a new convention shall be formed which will put this whole matter of the treaty upon grounds mutually satisfactory.

Now, in order that there may be no time lost, in order that unless there is a revision within a year the treaty shall be abrogated, the resolution goes on to provide that the President is to appoint commissioners, but they are not to act unless within a year it shall be signified in some proper form by Great Britain that that Government is disposed to enter upon the formation of a new and satisfactory treaty. If it is so disposed, and if within a year that treaty can be made, then I suppose no one of us would object, unless it be these gentlemen who believe that we had better have no treaty at all. I was surprised, therefore, the other day, when the gentleman from Maine [Mr. PIKE] thought it right to say that the resolution which the Committee on Commerce had reported was a resolution begging Great Britain for a treaty. I

think the gentleman had not read the terms of the resolution, or he would have been unwilling to make that statement from his place here. So far from that, it will operate to abrogate the treaty unless Great Britain shall signify her desire to have it revised, and unless within a year commissioners shall succeed in revising it satisfactorily; otherwise the treaty is abrogated.

Now, Mr. Speaker, if there are any gentlemen upon the floor of this House who do not desire any treaty, they will vote against this resolution. I understand that that is the case so far as my friend from Vermont [Mr. MORRILL] is concerned, who has offered an amendment to the resolution. Sir, we have had memorials and petitions and representations and resolutions from our constituents in different parts of the country in regard to this subject, all of which have been referred to the Committee on Commerce; and I have yet to see the first one that has requested us to give notice of a peremptory abrogation of this treaty.

I have caused to be made out a statement of the memorials and resolutions that have come before the Committee on Commerce. It is as follows:

#### Illinois.

Chicago. Board of Trade, February 10, 1862, states that the "treaty has been of great value to the producing interest of the whole Northwest." Says that "we should not check the energy nor circumscribe the industry of our country, but take a broad national view of the question, and firmly advocate the principle of the greatest good to the greatest number." "Cannot recommend any measure that will in the least cripple the energies of our people, but cheerfully advocate the revision of the treaty, if any of its parts are unjust or oppressive." "What we desire is to make our trade still more reciprocal, still more free with our Canadian neighbors."

#### Massachusetts.

Boston. Board of Trade, March 7, 1864, "resolved that the continuance of the reciprocity treaty of 1854 between the United States and Great Britain, as the same may be revised in certain particulars by commissioners of the two high contracting parties, is of great moment to both countries, and is demanded by the principles of human brotherhood as well as by the interests of American commerce."

#### Minnesota.

Memorial of the Chamber of Commerce at St. Paul, referred to the Committee on Commerce, February 5, 1862, invokes the "sober second thought" of the country on the subject of our continental policy; reiterates the "uniform utterance of the authorities and citizens of Minnesota" in anticipating "an adjustment of the relations of the United States and all the British provinces on this continent upon a basis of mutual interest and good-will;" does "not deny the expediency of a revision of existing stipulations, but always in the interest of further freedom, not additional restriction of commercial intercourse."

#### Wisconsin.

Chamber of Commerce at Milwaukee, January 13, 1864, desires "such action as shall result in securing a new treaty founded upon the true principles of reciprocity between the two Governments and the people of both countries, and which shall obviate the objections and inequalities existing in the present treaty, and be upon a more liberal and enlarged basis."

Residents of Oconto county, Wisconsin, and other memorialists, forty-three in number, pray that the treaty may be so "modified" as either to prevent the admission of lumber from Canada, or that a tax may be laid thereon.

This comprises all the memorials, it is believed, referred for several years last past to the Committee on Commerce, or presented to Congress, on "reciprocity," but the Legislature of New York passed resolutions complaining of Canadian legislation since the treaty, and affirming that the full and free development of all the natural advantages of the United States and the British provinces was for the benefit of each, and urged the appointment of commissioners to secure that result. Cleveland and Detroit are in favor of an extension of the treaty, and through their boards of trade have expressed themselves to that effect.

#### Resolutions of the State of New York.

Concurrent resolutions of the Legislature of the State of New York in relation to the treaty between the United States and Great Britain, commonly known as the reciprocity treaty.

Whereas, under the treaty made by the United States with Great Britain, on behalf of the British North American colonies, for the purpose of extending reciprocal commerce, nearly all the articles which Canada has to sell are admitted into the United States free of duty, while heavy duties are now imposed upon many of those articles which the United States have to sell with the intention of excluding the United States from the Canadian markets, as avowed by the minister of finance and other gentlemen holding high official positions in Canada; and similar legislation with the same official avowal has been adopted by the imposition of discriminating tolls and duties in favor of an isolating and exclusive policy against our merchants and forwarders, meant and intending to destroy the natural effects of the treaty, and contrary to its spirit; and whereas we believe that free commercial intercourse between the United States and the British North American provinces and possessions, developing the natural, geographical, and other advantages of each, for the good of all, is conducive to the present interest of each, and is the only proper basis of our intercourse for all time to come; and whereas the President of the United States, in the first session of the Thirty-Sixth Congress, caused to be sub-

mitted to the House of Representatives an official report, setting forth the gross inequality and injustice existing in our present intercourse with Canada, subversive of the true intent of the treaty, owing to the subsequent legislation of Canada; and whereas the first effects of a system of retaliation or reprisal would injure that portion of Canada known as the Upper Province, whose people have never failed in their efforts to secure a permanent and just policy for their own country and ourselves, in accordance with the desire officially expressed by Lord Napier when British minister at Washington, for the "confirmation and expansion of free commercial relations between the United States and British provinces;" Therefore,

Resolved, That the Senators and Representatives in Congress from the State of New York are requested to take such steps, either by the appointment of commissioners to confer with persons properly appointed on behalf of Canada, or by such other means as may seem most expedient, to protect the interests of the United States from the said unequal and unjust system of commerce now existing, and to regulate the commerce and navigation between her Majesty's possessions in North America and United States in such manner as to render the same reciprocally beneficial and satisfactory, as was intended and expressed by the treaty. And

Resolved, That the foregoing preamble and resolutions be transmitted to our Senators and Representatives in Congress, with a request that they be presented to both Houses thereof.

No one has asked the abrogation of this treaty. The Legislature of Maine—which passed the strongest resolutions that I have seen on this subject—in its last action, as I am informed, adopted a resolution calling on Congress to see that a proper revision of the treaty should be made, but not that the treaty shall be abrogated.

The treaty has undoubtedly, in some respects, operated adversely, not because of any of its own provisions, but because of action outside the treaty itself. There are, in fact, as gentlemen know, seven parties to this treaty. The United States and Great Britain are the two great contracting parties, but besides them are Canada, Nova Scotia, Prince Edward's Island, Newfoundland, and New Brunswick. Each of these provinces has its own tariff. Each regulates its own finances by its own laws, and only owes political allegiance to the Government of Great Britain. One of these parties, and only one, that is Canada, has adopted a tariff system which is in its operations adverse to our interest. It does not violate the letter of the treaty, but it is inconsistent with those friendly relations that it was supposed would exist between the two Governments if the treaty were ratified.

The treaty contains a schedule of free articles. Those articles are of the growth or the produce of the two countries. The treaty does not embrace the manufactures of either country, or articles of foreign growth. As to all these matters—manufactures and articles of foreign growth—the two Governments might legislate, or either of the provincial legislatures might take action as to them respectively might seem right. Very soon after the treaty went into operation it was found that in Canada there was legislation adverse to us, the direct result of which was to injure our interests and to benefit the home country. The effect of that has been to reduce our exports to Canada of manufactured goods from \$4,185,516 in 1858-59 to \$1,510,802 in 1862-63. The *ad valorem* system adopted by Canada, levying duties on the value of merchandise at the last place of purchase, and also the discrimination with reference to the different routes over which merchandise was to pass, have, beyond doubt, operated greatly to our prejudice. Gentlemen will see at once that a cargo of foreign goods can be placed within the control of Canadian consumers at a cheaper price, provided the duties are levied on these goods at the English valuation, than if levied at their valuation at New York or Boston, after the duties are paid and incidental expenses incurred. There is no doubt, in my opinion, that if such legislation had been supposed or anticipated no such treaty as is now in force could have been ratified until provision had been made in it protecting us against such adverse action. It ought not to be forgotten, however, that this adverse action has come from Canada alone. None of the other provincial governments have followed her example, and I have yet to learn that any dissatisfaction has grown out of the legislative action of either of the other provinces.

Now, it is within the possibility of things that a treaty may be ratified not including Canada. We know perfectly well how very much larger the proportion of our business with Canada is than with the other provinces. Nevertheless, we do know that this treaty itself was when formed designed to

be operative without Newfoundland, and that it applied to Newfoundland on condition. There is no difficulty, no impossibility in the way of a treaty which shall embrace Canada on condition.

But it seems to me, in view of the facts which gentlemen will find embodied in the reports from the Committee on Commerce in 1862 and during this year, in the letter of the Secretary of the Treasury, and in the volume containing the abstract of the last census; that it would be most unwise to adopt any such plan as that proposed by the gentleman from Vermont. And to give notice to the Government of Great Britain peremptorily abrogating this treaty, without signifying in any way our willingness or desire to have the treaty revised or put upon a proper basis, would indicate what perhaps the gentleman from Vermont wants, that we desire to have no treaty at all. I can scarcely understand by what reasons the gentleman has been brought to that conclusion. I know that Vermont grows wool, and that wool is a free article under the present treaty, and the argument may be that the introduction of Canadian wool might interfere with the interests of the wool-growers of this country.

Now, Mr. Speaker, if that were a fact, which I hardly think can be maintained, I should be right sorry if my eloquent friend from Vermont should succeed in drawing over the eyes of the House so much wool that we could see nothing but sheep, [laughter;] but I take issue with him, and from information derived from personal conversation with parties who know the practical operations of this treaty, as well as from official documents, I have no reason to believe that Vermont wool would be less profitable to the farmer if the Canadian supply were not so free.

Why, sir, the wool that is grown in Canada and sent to this country does not and cannot compete with that grown in the State of Vermont. The Vermont wool, as my friend knows very well, is short and fine, of a superior quality, while that grown in Canada is long and coarse. That is unfit for clothing, it is fit only for worsted. The Vermont wool comes from sheep that mean wool; the Vermont farmers raise their sheep for the wool's sake, while the Canadian farmers raise their sheep for the mutton, and take the wool such as it is. We buy a great deal of foreign wool; we import wool from Buenos Ayres. That also is of a coarse character, not coming into competition with the finer wools that are raised under the care and expense that have been bestowed in Vermont and other States upon our sheep. The fleece of the Vermont sheep has been growing heavier and heavier for the last quarter of a century. It did not use to average more than two pounds, now it will average scarcely less than four pounds. It would not pay our farmers to raise the sheep from which Canadian wool is taken. We have not raised wool enough for our own use, and we cannot at present raise enough for our consumption. In 1860 we worked up in the United States 80,000,000 pounds of wool; of that we raised 60,500,000 pounds; that is to say we fell short of the demand in the raw material 19,500,000 pounds.

Mr. MORRILL. I desire to ask my friend from Massachusetts a question. He says we manufactured last year 80,000,000 pounds of wool.

Mr. ELIOT. No, sir; I said 1860.

Mr. MORRILL. And that we produced 60,000,000 pounds. Now, the facts are that we raised last year 74,000,000 pounds. If, then, we manufactured 80,000,000 pounds, I would like to know where we have a market for 19,500,000 pounds of imported wool?

Mr. ELIOT. The gentleman from Vermont, in reply to a statement I made for 1860, puts me a question in reference to last year. Now, if the gentleman will permit me to finish my statement, I think I will satisfy him of its consistency. I have taken the last year, of which we have census returns, 1860, and I say that for that year we worked up 80,000,000 pounds, while we raised but 60,500,000 pounds. We sent to Canada the same year 222,000 pounds; and we had, therefore, to buy for our own purposes that year about 19,722,000 pounds of wool. We brought from Canada that year 1,000,000 pounds, leaving us still between eighteen and nineteen million pounds short.

Now, sir, I cannot answer the gentleman's question as to the facts this year. I cannot tell how much wool we have worked up this year. There has

been a largely increased demand for wool because of this rebellion. I speak of the general course of that business, and I say that we cannot now raise by millions of pounds wool enough for our own consumption.

Mr. STEVENS. Let me interrupt the gentleman.

Mr. ELIOT. Certainly, if it does not come out of my time.

Mr. STEVENS. If we have to import it, ought we not to import it from some country that will allow a duty on it?

Mr. ELIOT. That is a question growing out of another consideration, and that is our need for money. We import it from Canada free. If the argument be that we had better import it from a country that will pay a duty it will bring us to this, that we had better not have any reciprocal treaties with any country on earth. The argument proves too much; it goes against a treaty of any kind, because we want money now.

Mr. STEVENS. Does the gentleman believe that the treaty-making power of this Government has the right to regulate commerce?

Mr. ELIOT. To answer that question will make it necessary for me to go into an examination of the constitutional question, which would run deep into my time. I do not want to discuss that question. We have the treaty made; the treaty is here, whether or not the parties had the constitutional right to make it. Now, the gentleman will not deny that we have the constitutional right to pass the resolution reported from the Committee on Commerce.

The gentleman from Maine [Mr. PIKE] stated the other day that this treaty was a failure so far as the fishing interest is concerned. He put it upon two grounds: first, that it was quite as well, if not better, that our fishermen should fish beyond the three miles from land, which we had the right to do before the treaty; and secondly, because of the great increase in the price of the articles used in the fishing business, that is to say, leads, nets, and everything on board fishing vessels. For these reasons the gentleman holds the treaty to be a failure. He introduced letters which had been addressed to him by two of his fishermen correspondents; and I beg to call the attention of the House to the extracts in the gentleman's speech. I cannot read the whole as given in the Globe, but members will find that the objections which are named do not grow out of the treaty at all, but out of the state of facts which has arisen since the formation of the treaty, that is to say, the rebellion in which we are now engaged. This is the statement to which I refer:

"The reciprocity treaty operates against the fishing interest. It would be an advantage to the fishing interest to have it abolished, with an understanding that a tariff should be put on foreign fish. The privilege of fishing in-shore in common with the English is duly appreciated by us who are in the business, as the annoyance and loss of vessels under the three-mile restriction was troublesome and hard to bear. But things have entirely changed since the treaty was made. In 1854 the duties were only nominal, and they were so small that it did not make much difference whether they were continued or not; and for the purpose of getting clear of the three-mile restriction we thought we had better let foreign fish come in. But although just now the importation is checked on account of the high price of exchange, as soon as that resumes its usual course free foreign fish will drive us entirely out of the market. Salt is now worth with them \$1 50 per hoghead; with us, \$4 50. Cod-lines, leads, duck, nets, everything that we use on board of our vessels, and the materials of which our vessels are built, cost about in the same proportion, or nearly so. All of us thought, in 1854, that fighting had ceased, and tariffs were among the things that had gone by. This rebellion brings about a new order of things. With us it is taxes, taxes. While we are taxed on everything that we see, smell, or taste, and very properly, too, should the provincials have our markets open to them and invited to come in without taxation? It is most certainly for the interest of the fisheries that the treaty should be repealed."

It was supposed in 1854 that there would be no tariff and no taxes, and that foreign fish might come in free; but by reason of existing facts and because of the rebellion it would be to the interest of the fishermen to have the treaty abrogated. The view taken here may be somewhat selfish, but it is a frank view nevertheless, because it puts the objection to the treaty on fair ground, and on that ground we should not make any treaty, as we are now in a position where we want money. But the object of the treaty as it concerned the fisheries was to confer and adjust rights. That has not failed.

The history of the questions connected with the fisheries, which were so debated and had so nearly

involved us in war, ought to be in the mind of every gentleman who wants to discuss the abrogation of this reciprocity treaty.

The gentleman says that fish might be taken as well outside as within three miles from the land. I will not stop to discuss that. I remember to have heard that some years ago fishermen along a short strip of coast, not more than twelve miles, on what was known as Fox Island thoroughfare, succeeded in taking not less than five hundred thousand barrels in one season.

But no matter about that question. The treaty settles certain national rights, rights which we have always regarded as of the utmost importance. It is not Massachusetts, it is not Maine alone, that is concerned, but it is the nation at large. There are rights which we cannot surrender, and there is no man upon this floor who would advocate their surrender. You cannot abandon them, and since the first treaty of peace in 1783, we have always insisted upon them. During the time which intervened between the date of that treaty and the convention of 1818 there were differences which grew up in regard to our rights, and war had come in between those two dates. And when the treaty of peace between this country and Great Britain, after the war of 1812, was about to be made, a difference between our plenipotentiaries and those of Great Britain in regard to this question presented itself at once. I have caused to be taken some extracts from a valuable report made by Mr. Sabine upon the subject of the fisheries. Mr. Sabine is a gentleman who lived a number of years in the State of Maine, and devoted great attention to the subject. He has given us some valuable aid, and I ask attention to this history of the controversy which was settled by the treaty of 1854.

By the treaty of 1783 our first fishing rights were secured. But it was contended that the war of 1812 had annulled and destroyed them. During the war the distant fishing grounds were abandoned. "The British colonists determined that we should never occupy them more. The duties which devolved on Messrs. Adams, Clay, Gallatin, Bayard, and Russell, the American commissioners at Ghent, were consequently difficult and arduous. On the one hand, they were expected to arrange conditions of peace, and yet were instructed, in terms which admitted of no discretion, to break off their consultations and return home rather than allow the subject of surrendering the fisheries to come under discussion; on the other hand, the British plenipotentiaries met them with the doctrine that the privileges were entirely destroyed by hostilities. Said the late President Adams:

"These gentlemen, after commencing the negotiations with the loftiest pretensions of conquest, finally settled down into the determination to keep Moose Island and the fisheries to themselves. This was the object of their deepest solicitude. Their efforts to obtain our acquiescence in their pretensions, that the fishing liberties had been forfeited by the war, were unavailing. They presented it to us in every form that ingenuity could devise. It was the first stumbling-block and the last obstacle to the conclusion of the treaty."

In the course of the negotiations "Mr. Adams suggested to his associates, and Mr. Clay embodied in a proposition to be presented to the British commissioners, the principle that we held our rights of fishing by the same tenure that we did our independence; that, unlike another class of treaties, the treaty of 1783 is to be regarded as perpetual, and of the nature of a deed, in which the fisheries are an appurtenant of the soil conveyed or parted with, and that, therefore, no stipulation was necessary or desirable to secure the perpetuity of the appendage more than of the territory itself. In other words, if we must contract anew for fishing grounds, so must we also obtain a new title to our territories. This, as I understand it, is the substance of the proposition itself, and of the various discussions of which from time to time it formed the basis. The position was impregnable."

But the treaty was concluded without a recognition of this view, and, in 1815, "the commander of his Majesty's ship-of-war the *Jasseur*, heeding the clamors of the colonists more than the qualified instructions of the admiralty, commenced the seizure of our fishing vessels; and in one day in June of that year sent no less than eight into the port of Halifax as lawful prizes. This outrage, and the right assumed by the commander of this ship to warn our fishermen not to come within sixty

miles of the coast, (as elsewhere remarked,) led to negotiations and to the convention of 1818. Mr. Baker, the British chargé d'affaires, in reply to Mr. Monroe's note of July 18, 1815, declared that the commander of the *Jasseur* had transcended his authority, and gave the assurance that orders had been transmitted to the naval officers on the Halifax and Newfoundland stations which would "prevent the recurrence of any similar interruption;" but the schooner *Nabby* was seized by his Majesty's ship *Saracen*, Captain Gore, and proceedings in the admiralty court of Nova Scotia were instituted against her in August, 1818, only two months before the convention was concluded. Eleven other American vessels were seized by Captain Chambers, under orders from Admiral Milne, for alleged violations of British maritime jurisdiction."

The convention of 1818 quieted the discontents for a season. But that treaty contained a renunciation which has been alluded to by the gentleman from Maine, and an unfair construction of the words occasioned fresh and bitter controversy.

This was the clause in the treaty:

"And the United States hereby renounce forever the liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish, on or within three marine miles of any of the coasts, bays, creeks, or harbors of his Britannic Majesty's dominions in America not included within the above-mentioned limits: *Provided, however*, That the American fishermen shall be admitted to enter such bays or harbors for the purpose of shelter, and of repairing damages therein, of purchasing wood and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them."

"The distinguishing features of this article, compared with the stipulations of the treaty of 1783, are obviously two: first, that we gave up the catching along certain shores; and secondly, that our facilities of drying and curing were increased. The practical construction of both Governments" was, at first, that "our vessels could fish everywhere, as under the treaty of 1783, except within three miles of certain coasts; in other words, that our rights were not impaired on the southern shore of Newfoundland, between Cape Ray and the Rameau islands, on the western and northern shores of Newfoundland, from said Cape Ray to the Quirpon islands, at the Magdalen islands, between Mount Joly and the Straits of Belleisle, and through these straits to an indefinite extent along the shores of Labrador; while elsewhere in British America we retained the sea fisheries, but surrendered the inner or shore fisheries."

"The four years succeeding the ratification of the convention were years of comparative quiet and security. But in 1823 the ships-of-war *Argus* and *Sparrowhawk* spread alarm among our fishermen who were employed in the Bay of Fundy, and elsewhere in the waters of Nova Scotia and New Brunswick. They molested some and ruined the voyages of others; but the *Charles* of York, Maine—a prize to the *Argus*—is believed to be the only vessel captured and sent into port for trial.

"In 1824 Captain Hoare, of his Majesty's brig *Dotterel*, seized nine vessels. The conduct of this gentleman caused much excitement and indignation. I personally witnessed many of his proceedings. However censurable his general course, it is not remembered that he disturbed the humble men who fish in small open boats in the bay of Passamaquoddy, and in waters always considered free and common to the people of the two flags. Of the vessels which he captured, one was retaken by her crew, assisted by one of his own men, and two others were rescued by their crews, aided by an armed party from Eastport.

"Early in 1826 the *Dotterel* was again the terror of our fishermen. The presence of the United States sloop-of-war *Lexington*, Captain Shubrick, under orders to cruise upon the fishing grounds, relieved their fears; and the season passed away without any serious disturbance. But there had been no adjustment of the difficulties which occurred in 1824."

Without referring to some comparatively unimportant differences we come to the year 1839.

"These seizures in the course of the year were numerous. The *Java*, *Battelle*, *Mayflower*, *Charles*, *Eliza*, *Shedland*, *Hyder Ali*, *Independence*, *Hart*, *Ocean*, *Director*, *Atlas*, *Magnolia*, *Amazon*, and



Three Brothers were among the number. Her Majesty's cruisers spread consternation on the fishing-grounds throughout the season. Hon. Keith Stewart, in command of the Ringdove, was as much dreaded by our fishermen in the Bay of Fundy as Captain Hoare had been, in the Dotterel, in the year 1824. In July a gentleman of one of the frontier ports of Maine informed an official personage at Washington that four or five hundred American fishing vessels were then in that bay; that the complaints of the colonists of the island of Grand Menan had caused the commanders of the British cruisers to refuse shelter to our flag even in stormy weather; that nearly one hundred of our vessels, which had been driven from positions secured to them by the treaty, had fled for refuge to a single harbor on the American side of the line; and that our fishermen were generally armed, and would not bear the indignities to which they were exposed. He added that 'they can furnish some thousands of as fearless men as can be found anywhere, at short notice; and unless our Government send an armed vessel without delay you will shortly hear of bloodshed.' Such was the condition of things, now well remembered, at and near the border. Elsewhere there was so much difficulty and excitement that the masters of our vessels, whether at sea or at anchor, felt themselves unsafe; and, molested along the entire coast of Nova Scotia, many of them adjusted their affairs at the close of the season without reward for their toil and exposure, and in sadness of spirit as to the future. In a word, there seemed to persons of calm judgment a determination on the part of colonial politicians to drive our countrymen to extremities. To exclude us from the bays of Fundy and Chaleurs and other large bays by lines drawn from headland to headland; to deny to us resort to the colonial ports and harbors for shelter and to procure wood and water, except in cases of actual distress; to dispute our right to fish on the shores of the Magdalen islands, and thus to render the treaty stipulation valueless; and to close against us the Strait of Canso, and of consequence to compel us to make the dangerous voyage around the island of Cape Breton, when bound to or from the Gulf of St. Lawrence, are among the pretensions of Nova Scotia seriously asserted in the memorable year 1839. The seizures of our vessels and the other proceedings which we have briefly noticed attracted the attention of our Government, and the United States schooner *Grampus*, under the command of Lieutenant John S. Paine, was dispatched to the scene of alarm and commotion. Lieutenant Paine informed himself of the matters in dispute and performed his duty with zeal and efficiency."

I omit the history of the next six years.

"The events of 1845 were highly interesting and important. The colonists had apparently accomplished their long-cherished plans. The opinion of the Crown lawyers in 1841; the declaration of Lord Stanley in 1842, that our Government 'practically acquiesced' in the new construction of the convention; and the capture of the *Washington* in 1843, for an infringement of that construction, and for no other offense whatever, were all calculated to impress them with the belief that the contest was at an end. Such, I confess, was the inclination of my own mind. My home was on the frontier; I was a dealer in the products of the sea, and was in the daily transaction of business with fishermen of New Brunswick and Nova Scotia, and was well advised of the measures which were adopted by the colonists from time to time to induce the ministry at home to sustain their pretensions. The zeal which was manifested by those who managed the British side of the case, and the seeming apathy of the American press and the American people; the rumors from the Government House at Halifax, and the want of all information from the White House at Washington, gave rise to much alarm. Official silence on our part was at last broken; and such of our citizens as were engaged in the fisheries, or were otherwise involved in the issue of the controversy, were astounded, in June, at the following paragraph which appeared in the *Union*, a newspaper supposed to enjoy the confidence of our Government, and said, in the popular sentiment, to be its 'organ.' Said that paper:

"We are gratified to be now enabled to state that a dis-

patch has been recently received at the Department of State from Mr. Everett, our minister at London, with which he transmits a note from Lord Aberdeen containing the satisfactory intelligence that, after a reconsideration of the subject, although the Queen's Government adhere to the construction of the convention which they have always maintained, they have still come to the determination of relaxing from it, so far as to allow American fishermen to pursue their avocations in any part of the Bay of Fundy, provided they do not approach—except in the cases specified in the treaty of 1818—within three miles of the entrance of any bay on the coast of Nova Scotia or New Brunswick.

"This is an important concession, not merely as removing an occasion of frequent and unpleasant disagreement between the two Governments, but as reopening to our citizens those valuable fishing grounds within the Bay of Fundy which they enjoyed before the war of 1812, but from which, as the British Government has since maintained, they were excluded by the convention of 1818."

"The assertion, from such a source, that the British Government had 'always maintained' the construction of the convention contended for in the 'case' submitted to the Crown lawyers by Lord Falkland, in 1841; the announcement that our vessels were no longer to fish 'within three miles of the entrance of any bay on the coast of Nova Scotia or New Brunswick,' the bay of Fundy alone excepted; the further declaration that the fishing grounds of that bay 'enjoyed before the war of 1812,' and lost to us by that event, were now 'reopened' to us by 'an important concession'—excited the liveliest sensibility, and were regarded in the fishing towns of Maine and Massachusetts with dismay.

"The events of 1846, and of the three succeeding years, will detain us but a moment. The seizure and total loss of several American vessels, and the renewed efforts of the Nova Scotia House of Assembly to close the Strait of Canso, for reasons stated in three annual reports of committees of that body, are the most important, and all which we need notice."

I now come to the year 1851.

"But there is good authority for saying that the British admiral (Seymour) was instructed by the admiralty, in the course of August, to allow our fishermen to pursue their avocation in the Bay of Fundy on the terms of the arrangement of 1845; to allow us to fish at the Magdalen islands, as in former years; to forbear to capture our vessels when more than three miles from the shore, as measured without reference to the 'headlands,' and by the old construction of the convention; and generally to execute his orders with forbearance and moderation. That the British ministry have been disposed, from first to last, to adjust the controversy on honorable terms can hardly be doubted. In 1852, as in 1845, the clamors, remonstrances, and, I will add, the misrepresentations of the colonists, changed their intentions. As at every former time, the politicians of Nova Scotia led off in opposition to a settlement. Early in September a public meeting was called at Halifax which, according to the published report of its proceedings, was attended by persons of all classes and interests, to 'petition her Majesty in regard to the rumored surrender of the rights of fishery secured to British subjects by the convention of 1818.' One gentleman of consideration and influence appears to have 'protested against the utility of the meeting,' but to have been 'promptly checked by his worship the mayor,' who presided. Several merchants were present, but performed a secondary part. The political leaders had everything their own way."

"There is now but little to add to complete a record of the more important events connected with the history of this controversy."

"The Queen of England, in her speech at the opening of Parliament, November, 1852, remarked that—

"The present and well-grounded complaints on the part of my North American colonies of the infraction by the citizens of the United States of the fishery convention of 1818 induced me to dispatch, for the protection of their interests, a class of vessels better adapted to the service than those which had been previously employed. This step has led to discussion with the Government of the United States; and while the rights of my subjects have been firmly maintained, the friendly spirit in which the question has been treated induces me to hope that the ultimate result may be a mutually beneficial extension and improvement of our commercial intercourse with the great Republic."

The paper written by Mr. Webster in July, 1852, and the debate in the Senate during the summer of that year, will be remembered.

I have now given from Mr. Sabine's valuable report a statement of the material facts concern-

ing the fisheries, before the reciprocity treaty of 1854. The first article of the treaty is as follows:

"It is agreed by the high contracting parties that in addition to the liberty secured to the United States fishermen by the above-mentioned convention of October 20, 1818, of taking, curing, and drying fish on certain coasts of the British North American colonies therein defined, the inhabitants of the United States shall have, in common with the subjects of her Britannic Majesty, the liberty to take fish of every kind, except shell-fish, on the sea-coasts and shores, and in the bays, harbors, and creeks of Canada, New Brunswick, Nova Scotia, Prince Edward's Island, and of the several islands thereunto adjacent, without being restricted to any distance from the shore, with permission to land upon the coasts and shores of those colonies and the islands thereof, and also upon the Magdalen islands, for the purpose of drying their nets and curing their fish: Provided, That in so doing they do not interfere with the rights of private property, or with British fishermen in the peaceable use of any part of the said coast in their occupancy for the same purpose."

"It is understood that the above-mentioned liberty applies solely to the sea fishery, and that the salmon and shad fisheries, and all fisheries in rivers and mouths of rivers, are hereby reserved exclusively for British fishermen."

The gentleman from Maine [Mr. PIKE] argued that the treaty had been a "business failure." But it brought to a settlement all the controverted questions which until then had troubled the two Governments, which had excited our people, which had occasioned collision upon the waters, and which had brought the two Governments within sight of war.

If this treaty shall not be revised—and I assume that if Great Britain does not indicate her desire for a revision it will be abrogated—and put it into shape satisfactory to us all, we shall have to meet again the same questions; and then my friend from Vermont [Mr. MORRILL] and my friend from Maine, [Mr. PIKE,] and those gentlemen here who are in favor of abrogating the treaty, will be as ready as any of us to stand up for the rights of American citizens—rights which we have had secured since 1783—for it will then become a question in which the pride and patriotism of the gentlemen, as Americans, will be enlisted.

The gentleman from Maine says if the fishermen violate the treaty of 1818 they must take the consequences. But it is not they alone that have to bear the consequences. 'It is the nation! And I do not desire, unless it shall be necessary, to have renewed discussions of questions under the treaty of 1818, upon which we cannot agree, and which must lead to collision or to a new treaty. If they violate the treaty of 1818 let them suffer, the gentleman argues. But they never admitted that they violated it. That was the question. They claimed they had a right to fish where they were seized; and our Government, in many cases, upheld them; and the question was one of fact and of construction.

The question was, where was the line? The only way to ascertain the point, as gentlemen will see, would be to drop a buoy at the precise spot where the seizure was made, and carry a line from that to the nearest headland in order to ascertain whether it was three miles or more from land. The question, in fact, was whether they were fishing where they had a right to fish. Upon that point, all those who were interested upon our side would testify in one way, while upon the other side it would be contended that they were fishing inside of the proper line. The question of fact would have to be settled, and then the question of law would have to be settled as to the construction of the treaty of 1818.

At one time it was supposed the Government had abandoned the ground we took upon that treaty in its earliest years. But I apprehend that will not be found to be the case, and that both the fact and the law will come in question again.

I say these rights cannot be surrendered, and those questions cannot be determined between the two Governments except by a renewed treaty or by war.

Mr. PIKE. I desire to ask the gentleman whether during the whole time the treaty was in operation, from 1818 to 1854, there were not numerous seizures made, beginning as early as 1823, and whether there is any more likelihood of war hereafter from that source than there was during that period of thirty years?

Mr. ELIOT. There were seizures made, and if the gentleman had listened to my remarks he would have heard me speak of seizures between 1818 and 1854. If the same questions are to be passed upon we shall be just so much nearer

war, because we have gone over the negotiations once and gone over them unsuccessfully.

Mr. PIKE. I would ask the gentleman further, whether twenty-five vessels were not, from time to time, seized and condemned without interference from the Government?

Mr. ELIOT. That does not touch the argument at all. It only shows that in those particular cases the seizures were correct, and that the gentleman's constituents violated the law and suffered the consequences.

Now, whether these fishermen care to fish within a quarter of a mile of land or not is an unimportant question at this time.

But let the vessels of these gentlemen whose letters their able Representative has read be seized on the ocean, fishing, as they will contend, more than three miles from land, but within three miles, as the captor vessel will contend, then what? We know what from past history. No matter who owns these vessels, nor from what region upon the seaboard he may have come, if he is the humblest citizen that owes allegiance to this Government our nation stands pledged to maintain his rights; for his rights become yours and mine, and they cannot be trampled upon with impunity.

But is it not wise, when exciting questions have been adjusted as these have been by this reciprocity treaty, to avoid their renewed discussion if Great Britain is disposed to revise this treaty and to renew it? If she is not disposed, then, I say, let the consequences come.

The gentleman from Vermont and the gentleman from Maine have, however, adduced some arguments to which I wish to reply. Both of these gentlemen contend and believe that the treaty will have been in operation ten years in September of this year. If that is so, then, in order to have the benefit of the year, notice of abrogation should be given this fall. I cannot agree to that view. The final proclamation of the President was made March 16, 1855, (United States Statutes, volumeten, page 1173,) and it may be well doubted whether the treaty "came into operation" before then. But that is not of consequence now. The President, if this resolution shall now pass, will be guided by his own judgment, aided by his official advisers, and will not give the notice until the period of ten years shall have passed.

But the gentleman from Vermont argues that there has been no reciprocity at all, and the gentleman from Maine follows up the argument. What reciprocity it is said, is there in sending cotton free into Canada when Canada raises no cotton? What right have we to find fault with that? We have a free market for our cotton, and that I suppose is what we want. But he asks, whose ax is ground because grindstones are permitted to come in free from Canada? We make no grindstones. Well, then, it is not the colonial ax that is ground, surely! The gentleman says:

"What reciprocity is there in making cotton free to the United States from Canada when Canada produces no cotton? 'King Cotton' was in no danger from long staple or short raised north of the forty-fifth degree. Whose ax is ground by making grindstones free to Canada from the United States, when the United States are mainly dependent upon the British provinces for their own supplies? What equality is there in exchanging the grain and cattle markets of New York and Boston for those of Montreal and Quebec, when the former in their normal condition are twenty-five per cent. better than the latter, and when the latter under no circumstances can be available to the United States? What is the advantage of free trade in lumber with a country whose forests are inexhaustible and coeval with the world?"

But the markets of Montreal and of Canada generally are available to the United States. So far as the article of cattle is concerned, although we have imported more animals than we have sent to them, nevertheless we sent to them in 1855 an amount worth \$207,586; and between 1855 and 1862 we have sent values varying from \$473,697 in 1856 to \$347,936 in 1862. So far, then, as any complaint in this respect against the reciprocity treaty is concerned, it must rest upon the ground indicated by the gentleman from Pennsylvania, [Mr. STEVENS,] that we had better import these articles from countries where we can impose a duty upon them. But it is said that our forests are inexhaustible, and that we do not want lumber from the provinces. That is not true at the North, I apprehend. I think the gentleman from Maine will not deny that the Ashburton treaty opened to this country the last untouched forest in New England. I have a communication upon

this subject from Mr. Sabine, who has been officially engaged and speaks from knowledge, and to which I will call the attention of the House. He says:

"In 1852 I was appointed agent of the Treasury Department, for the special purpose of making a minute examination of the region on the upper waters of the river St. John and its tributaries, and this service was rendered. Nothing necessary to the faithful performance of the duty assigned to me was neglected. I discoursed freely with loggers, sawyers, river drivers, &c., to obtain the information which Mr. Corwin wished, touching the operation of that treaty, [the Ashburton treaty.] I was amazed at the extent of the business which had origin only nine or ten years previously. Since that time, large mills have been erected near the city of St. John at the mouth of the river, by several of my old friends in Maine. The members of Congress from that State, whatever their opinion upon the continuance of the reciprocity treaty, will tell you that though spruce and hemlock trees are still sufficient for the present, pines fit for doors, casing, and the general finish of buildings are becoming scarce on the St. Croix, Machias, Penobscot, Kennebec, and the Saco. At the West the case is quite different, as I well know, for Chicago has supplanted Bangor as the capital of Lumberdom."

So far as this article of lumber is concerned, the West will find more than compensation for any loss (if any has been occasioned, which I do not believe,) in the benefits otherwise derived from the treaty.

It is said that by this treaty "the ancient laws of trade have been subverted, and our exports to Canada, which formerly largely exceeded our imports, are now greatly less. They sell to us but go elsewhere to buy." The Secretary of the Treasury tells a very different story. During the ten years prior to 1863 we exported to Canada values to the amount of \$170,635,000. During that same time we imported from Canada \$152,051,000. We sold to them in excess of what they sold to us \$18,584,000.

Our annual sales exceeded our annual purchases by \$1,858,400. The gentleman from Maine [Mr. PIKE] has given in his speech a tabular statement from which it would appear that we have imported from the whole of these provinces less than we have exported, during the existence of this treaty, to the amount of \$56,774,000. And yet it is said that they sell to us but go elsewhere to buy. Why, sir, the fact is that they buy more from us than they do from all the rest of the world together. From 1855 to 1860 (inclusive) the entire imports into Canada were \$215,982,776. Of that aggregate \$114,259,345 were imports from the United States, and from all other countries \$101,723,431; so that during that time Canada bought of us more than she did from all other countries to the amount of \$12,535,914, equal to \$2,089,319 annually.

The gentleman from Vermont refers to our exports of coin. He says:

"The amount of our export of coin for this year I have been unable to ascertain, but Canadian returns credit us in 1862 with \$2,530,000, and in 1863 with \$3,502,180. That it was much more there can be no reasonable doubt. The fair inference would be that not less than \$10,000,000 are annually drawn from us in gold, or its equivalent, to pay for agricultural productions not required, and to glut markets which our own people are all the while eager to supply. We have no reciprocity treaty with any other country, and no other presents so unfavorable a balance sheet. Even our trade with China is more profitable."

From this it would appear that the balance of trade is largely against us. But I have shown that to the end of the year 1863—the fiscal year—Canada had in ten years bought of us \$18,500,000 more than we bought of her. Have we suffered a drain of \$10,000,000 in gold, or its equivalent, as the fruits of reciprocity? Our exports to Canada in 1863 were \$19,898,718, our imports were \$18,816,999, showing a balance in our favor of \$1,081,719. And what is the fact as to gold—are coin remittances all one way? It would seem to be so from the argument. But the same tables to which I have referred show that although we did export as it was said in 1863 coin to the amount of \$3,502,180, we imported in that same year in coin \$4,892,195, showing a balance in our favor of \$1,590,015, and nearly all of that was due to us to pay for the difference between our exports and our imports.

Mr. MORRILL. The gentleman will allow me to say that his statement applies to all the provinces, while mine applied only to the Canadas.

Mr. ELIOT. We find from the statistical tables furnished by the Secretary of the Treasury that since the treaty has been in operation we have sold to the British provinces nearly twenty-six and a half millions more than they

have sold to us. Within eight years we have sold to Canada nearly twenty-three million bushels of wheat and have bought from them somewhat less than twenty-one million bushels. Our western and central grain-growers have been benefited, for it happens that the Canadians prefer the grain of Illinois and Wisconsin. They know there is grit somewhere in Illinois and Wisconsin, but they believe the grit is in the people and not in the grain.

During the five years before 1861, we have sent to all the provinces \$6,000,000 in breadstuffs more than we have received from them. And yet the gentleman says that the Canadians go elsewhere to buy.

The gentleman from Maine [Mr. PIKE] says that this treaty has affected our commercial and shipping interests adversely because the carrying trade is done in colonial bottoms and not in American bottoms. If he will look at the report made this year by the Committee on Commerce, he will see that from 1856 to 1861 there were entered in our ports from Canadian provinces ten million tons of American tonnage and six million tons of foreign tonnage; and that there were cleared to Canada at the same time ten million tons of American tonnage and seven millions of foreign tonnage.

Mr. MORRILL. I suppose the gentleman from Massachusetts would wish to be corrected on this subject, and I desire to correct him. The statement he quotes shows the amount of stuff transported over our railroads and not in vessels. The gentleman will find that there were no other means of making up the tables than to include what is carried on railroads as well as in vessels.

Mr. ELIOT. I must refer the gentleman to the report from which I take the statement. But I will annex the statement itself.

The following table shows the nationality of the vessels employed in the carrying trade between the United States and the British North American provinces during the last five years:

Year.		American tonnage.	Foreign tonnage.
<i>Entered.</i>			
1857-58...	From Canada.....	1,240,159	1,105,356
	From other British North American provinces.....	138,640	382,712
1858-59...	From Canada.....	1,344,717	922,930
	From other British North American provinces.....	171,624	390,926
1859-60...	From Canada.....	1,936,955	957,063
	From other British North American provinces.....	229,749	411,432
1860-61...	From Canada.....	2,617,276	638,036
	From other British North American provinces.....	184,062	475,051
1861-62...	From Canada.....	1,996,892	624,879
	From other British North American provinces.....	196,709	465,141
Total.....		10,036,183	6,453,520
<i>Cleared.</i>			
1857-58...	To Canada.....	1,133,584	1,104,650
	To other British North American provinces.....	319,985	461,945
1858-59...	To Canada.....	1,364,580	1,012,358
	To other British North American provinces.....	242,407	475,399
1859-60...	To Canada.....	1,963,596	1,083,566
	To other British North American provinces.....	371,257	516,646
1860-61...	To Canada.....	2,678,276	896,124
	To other British North American provinces.....	293,812	599,430
1861-62...	To Canada.....	2,625,670	731,123
	To other British North American provinces.....	297,172	569,928
Total.....		10,707,329	7,391,399

It cannot be fairly denied by any one who examines the facts officially within our reach that so much advantage has accrued to us from the treaty that it is the part of wisdom to connect with a notice of abrogation an expression of willingness to renew upon terms mutually satisfac-

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tory. There can be no doubt that continued peace between the two Governments requires some treaty adjustment of questions imperfectly adjusted in 1818. The navigation of the St. Lawrence and of the St. John ought to be free. Our conterminous frontiers, extending a length of from four to five thousand miles, which shows no natural line of division, ought to exhibit no artificial line, unless it may not be fairly avoided. A free enlargement of business intercourse will, in substance and in fact, enlarge our consuming markets. I have already said that I am not willing that this treaty should remain in its present form. It is not possible for these friendly treaty relations to exist between the two Governments while the present illiberal, narrow-minded, and unfriendly laws of Canada are in operation. I am willing to have notice of its abrogation given, to have that notice imperative, and that it shall operate at the end of the year, unless before that time a new treaty be made on terms that shall protect our interests. If Great Britain desires to have a treaty that shall be reciprocal in fact, and such treaty can be arranged, then it seems to me that the best and truest interests of both countries will be subserved.

Mr. KELLOGG, of Michigan, next addressed the House. [His speech will be published in the Appendix.]

Mr. SPALDING. I have the honor, Mr. Speaker, to represent a constituency who have derived, perhaps, as much benefit from the treaty of 1854 as the constituency of any gentleman upon this floor; but, at the same time, they believe it to be anything else than what it purports to be, a *treaty of reciprocity*. Hence I am in favor of giving the notice contemplated by the terms of the compact, at the close of the "ten years."

I desire for a moment, however, to occupy the attention of this House in taking a broader view of the subject than can be obtained from merely a local stand-point; I desire to consider the question in its national aspects.

And in the first place I claim, notwithstanding the protest of my friend from Massachusetts, [Mr. ELIOT,] that it is legitimate to inquire whether this treaty could ever have been concluded without violating the spirit of the Constitution of the United States; for I insist again, with some of my friends upon the other side of the House, that we still have a Constitution the principles of which should be observed.

The compact or treaty which we are considering purports to be made for the purpose of regulating commerce between the United States and a foreign nation. The Canadian possessions of Great Britain are not to be placed on the footing of one of our own States, although, in many respects, they are so treated by the terms of this contract.

Now, if I read the Constitution correctly, Congress alone has power "to regulate commerce with foreign nations." The President cannot regulate commerce with foreign nations by means of treaties negotiated by his ministers, even if sanctioned by two thirds of the Senate.

Again, the revenue of the United States is concerned in the operation of this treaty; for it dispenses with a tariff on imports in respect to many and indeed almost all the productions of the Canadas, which are brought into this country. It thus indirectly takes from Congress the power to "lay and collect duties and imposts" so far as the productions of the Canadas are concerned, and in that regard I say the treaty militates against the Constitution of the United States.

I do not advance this opinion as my own crude theory alone. I am supported in it by some of the best constitutional lawyers in the country, who have all along, from 1854 to the present time, declared that this treaty was in contravention of the Constitution of the United States, in that it assumed to regulate matters over which Congress had exclusive jurisdiction.

But, sir, passing by this constitutional objection, let us look at the terms of the treaty itself, and then glance at the conduct of the Canadian authorities since its formation. We will find

whether it has been regarded by the parties to it as a "reciprocity treaty." The treaty proposes to let into our country nearly all the productions of the Canadas free of duty. It proposes, indeed, to let the same articles pass from the United States into the Canadas free of duty, but the advantage on the part of the Canadas consists in this, that the raw material is the main object of traffic with them. They sell to us the products of their soil, of their forests, and of their fisheries. These all come free of duty. But when we desire to traffic with them in the varied manufactures of the States, we are met with exactions which they have the right to impose, in the shape of a tariff, and the effect has been that from the time that treaty went into operation they have increased their tariff of duties upon our manufactures from sixty-two and a half to one hundred per cent. No man doubts this; and I understand that the ratio of articles of merchandise subjected to duties as between the Canadas and the United States, following out the consequences of this treaty, are as forty-five to one in favor of the Canadas.

It is said that we derive a great benefit from the treaty by having thrown open to us the free navigation of the St. Lawrence river, and by being permitted to navigate the canals of Canada. It is true that by the terms of the treaty we are permitted to navigate the waters of the St. Lawrence river and the navigable canals; the Welland and others, subject to no other restrictions than are imposed upon vessels belonging to British subjects; but how has that part of the treaty been regarded by the Canadian Parliament? I will read from an able report made to the last Congress from the Committee on Commerce, who seem to have collected many important facts in connection with the subject. They say:

"The Welland canal, connecting Lakes Erie and Ontario, is extensively used by American shipping. Under an enactment of 1860, if vessels and goods having paid toll on the Welland canal enter the St. Lawrence canals or any Canadian port, all except ten per cent. of the Welland charges is refunded; thus creating a discrimination of ninety per cent. against vessels going to American ports, besides a free passage through the canals of the Galopé, Point Iroquois, Rapid Flat, Favian's Point, Cornwall, Beauharnois, and Laclune—a discrimination against the forwarders and millers of Rochester, Oswego, and Ogdensburg, the carrying systems of New York, and the shippers and merchants of that port. In the same way, vessels from Canadian ports on Lake Ontario or the St. Lawrence are charged only one tenth of the Welland tolls exacted if they pass from American ports."

Now, sir, most of the American vessels that pass through the Welland canal are destined for the port of Oswego, or Ogdensburg, in the State of New York. They go with rich cargoes of grain from Chicago, which thence find their way through the New York canal and over the railroads to New York city and Boston. A discrimination is made in favor of a vessel going with her cargo to a Canadian port. An American vessel bound to an American port is charged the whole amount of tolls for passing through the canal; but the vessel, American or English, passing to an English port has returned to her nine tenths of those duties. Now, sir, I appeal to every member of this House to say whether this is keeping the treaty in good faith as between the Canadian Parliament and our Government? Is it treating our citizens who are engaged extensively in the commerce of the lakes with ordinary fairness, and is it to be wondered at that we are disposed to put an end to the treaty by giving the notice that is required to effect that object?

Sir, I feel very much humbled in view of the necessity which prompts this great American Republic to throw itself into the lap of this English Delilah to be shorn of its strength. I do not know what the national necessities at other times may have required at our hands, but the news we have received this morning from our gallant armies in the field does not warrant us, in my judgment, in stooping so very low as to feel ourselves abused. I do not like exactly the tone of the communications which were read to-day as those made by our minister to the court of France. I think that the times have come to a singular pass when a unanimous vote of the American House

of Representatives, protesting against foreign interposition, is to be treated lightly here or elsewhere, and I have yet to learn that it can be thus treated with impunity.

I say, sir, that we have been too much accustomed to throw ourselves into the power of Great Britain by the treaties we have hitherto made with that nation, and it may be germane to the present argument to allude briefly to the arrangement made in 1817 between the two Governments, whereby the northwestern lakes, with a population of ten million people upon their American borders, and upon whose bosoms floats one third part of the whole commercial wealth of our country, were placed at the tender mercies of Great Britain. That arrangement provides that neither Power shall keep more than one vessel on either of the great lakes, and that each vessel shall be limited to the use of one eighteen-pound gun. Now, Mr. Speaker, the authorities of our country are at this moment so much afraid of giving offense to the British Lion that they dare not place a naval depot or a navy-yard on the American coast of any one of those lakes, lest, forsooth, it may seem to infringe upon the spirit if not the letter of the treaty.

We have permitted Great Britain to go on since that compact was entered into and provide ship canals, by means of which she could determine, as she did determine when the "Trent affair" agitated the public mind, that the principal theater of war, in case a war should occur between the two Governments, should not be upon our seaboard, but upon the northern lakes, where they already have facilities for transporting their gunboats from Quebec, on the St. Lawrence, to Chicago upon Lake Michigan, and where they could devastate our fairest cities and destroy our richest commerce before we could prepare the simplest means of defense.

This is the situation in which we have placed ourselves in relation to the gigantic power of England. While we have folded our arms and been content to abide by the terms of the treaty, they have been preparing the way to throw a complete naval force upon the lakes at any moment that may suit their convenience without contravening the terms of the compact, but in reality overreaching us, and defeating the only object that led us into the arrangement.

Mr. WASHBURN, of Illinois. I want to say to the gentleman that the last House of Representatives refused to enlarge the Illinois and Michigan canals so that we could bring gunboats from the Mississippi river into the lakes in order to meet British gunboats.

Mr. GANSON. For what good?

Mr. WASHBURN, of Illinois. To defend your own city of Buffalo, for one thing, from the attack of the Canadas.

Mr. PRUYN. This discussion turns upon the supplemental treaty of Ghent, and I will ask the gentleman from Ohio and the gentleman from Illinois whether they understand the terms of the supplemental treaty of Ghent to relate to Lake Michigan, and whether that is one of its lakes intended to be included within the terms of that treaty? That is exclusively an American lake, and entirely within the American lines; and there we can build as many gunboats as we like.

Mr. SPALDING. I will reply to the gentleman by saying that I have corresponded with the head of the Navy Department on this subject, and I put the question directly to him whether Lake Michigan was intended to be included, and the reply was in the affirmative.

Mr. ARNOLD. The waters of Lake Michigan are entirely within American jurisdiction, and that treaty was made in reference to the boundary line between Great Britain and the United States.

And I will say further, in reference to the remarks about the enlargement of our canals, that there are a hundred vessels-of-war upon the Mississippi and its branches which, had the last Congress or this Congress had the wisdom to adopt the measure advocated by gentlemen from Illinois and other northwestern States, would have been



available for the defense of the lakes from Chicago to Buffalo.

Mr. SPALDING. And I have a constituent who controls fourteen steam propellers, running from Chicago through the Welland canal to Ogdensburg, every one of which would make an efficient gunboat in one week, if we had a navy-yard in which we could prepare them for purposes of war.

I wish now to read for the information of the House a few sentences from this treaty of 1817, for I think we have some lawyers in the House as well qualified to judge of the true construction of that treaty as the officers of the Navy Department:

"The naval force to be maintained upon the American lakes, by his Majesty and the Government of the United States, shall henceforth be confined to the following vessels on each side; that is—

"On Lake Ontario, to one vessel not exceeding one hundred tons burden, and armed with one eighteen-pound cannon.

"On the upper lakes, to two vessels not exceeding like burden each, and armed with like force.

"On the waters of Lake Champlain, to one vessel not exceeding like burden, and armed with like force.

"All other armed vessels on these lakes shall be forthwith dismantled, and no other vessels-of-war shall be there built or armed. If either party shall hereafter be desirous of annulling this stipulation, and shall give notice of that fact to the other party, it shall cease to be binding after the expiration of six months from the date of such notice. The naval force so to be limited shall be restricted to such service as will, in no respect interfere with the proper duties of the armed vessels of the other party."

Mr. Speaker, I hope when we get our hands once in we will make clean work, and give this other notice spoken of in the treaty from which I have now read.

It will be conceded, I suppose, that Great Britain is prepared by means of her canals to guard against any unfriendly results growing out of the abrogation of either of these treaties.

Mr. WILSON. As the gentleman has again referred to the subject of canals, I would ask him whether the canal to which he refers is the one which the Illinois Legislature proposed to influence Canada to construct through the British provinces for the purpose of transporting the produce of the West to a market?

Mr. WASHBURN, of Illinois. I will answer the gentleman for my colleague: the canal we propose to construct will enable the gentleman's constituents to get their produce to New York at a great deal less price than they do now.

Mr. ARNOLD. In response to the gentleman from Iowa I would say that the people of the Northwest have suffered so much from the exorbitant prices levied upon their produce by the New York canals and railroads that they are willing and anxious, inasmuch as they could not secure an enlargement of the New York canals, to find a way for their produce through Canadian canals. Necessity compels them to do it, and it is because of that necessity that I am so much opposed to the termination of this treaty which affords us facilities for getting out our produce.

Mr. SPALDING. It is on account of that necessity that I am so strenuous for making a canal around the falls of Niagara.

Mr. WILSON. We are to understand, then, that it is necessary for us to prepare for the defense of the northern border of the United States by constructing a canal in conjunction with the Canadian authorities so as to admit more readily the passage of British gunboats into the lakes of the Northwest! We must do it in order to ship corn from the West to the East—the corn which the gentleman from Illinois told us in his speech last session is absolutely necessary for the sustenance of Europe and without which Europe would starve. We must, therefore, construct a ship canal within the British provinces, admitting the passage of British gunboats into the lakes, in order that we may ship the corn without which British subjects must starve!

Mr. ARNOLD. A single word in reply to my friend from Iowa. He complains that while we are seeking to defend the northern frontier by means of a canal through our own territory, which will enable our gunboats to go upon the lakes, it is inconsistent that we should desire additional canals through Canada. If the gentleman will examine with care the whole subject, he will find that there is not any inconsistency. Great Britain has already, as is well known, complete facilities for introducing her gunboats from the Atlantic, through the St. Lawrence and the canals, into the lakes. The construction of the

proposed additional canal would not increase those facilities, but would very largely increase the facilities of the Northwest for carrying off its surplus produce. We would prefer to carry that produce through the New York canals. We would prefer to have a canal constructed around the falls of Niagara. We would desire the enlargement of the Erie and Champlain canals. As I said the other day, enlarge them all, construct them all, and we will tax them to their utmost capacity; but if New York will not do that, if Congress will not do it and these extortions are to continue, then we must go to the Canadians.

Mr. PRUYN. The gentleman talks about the high prices of transportation in New York. I would like to ask him whether the prices in Illinois are not very much higher than those in New York.

Mr. ARNOLD. There are some gentlemen in New York who have constructed railroads in the State of Illinois on which high rates are charged.

Mr. SPALDING. I must now resume the floor, and I hope I shall be permitted to proceed without further interruption. I wish to read a passage from the London Times, to which I have already adverted. It is headed, "Arming the northern frontier and the lakes," and is as follows:

"The worst part of the struggle, however, will not be on the Atlantic seaboard, but on the great lakes of Upper Canada and North America. We are glad, therefore, to be able to tell our readers that this danger has been foreseen, and amply provided against, and that within a week after the breaking of the ice a whole fleet of gunboats, with the most powerful of screw corvettes, sent out to Admiral Milne, will carry the protection of the British flag from Montreal to Detroit."

Mr. PRUYN. Were these gunboats ever sent?

Mr. SPALDING. No, they were never sent; but that is the threat given out in a British newspaper in regard to our helpless condition. And now I appeal to the pride of every American in this House whether this condition of things should be permitted to last much longer? In saying this, perhaps I am advocating the cause of the gentleman from Illinois, [Mr. ARNOLD.] If I am, so be it. I speak as an American citizen when I say that we are not to rest under this disadvantageous treaty which has been in existence for the last ten years between this Government and Great Britain because we are afraid of disturbing the amicable relations that now exist between the two countries. The way to preserve amicable relations is for the Government to show itself always ready and always able to resent insult and injury. In no other way can we maintain our own self-respect and the peace of the nation.

Mr. WARD took the floor.

Mr. WASHBURN, of Illinois. I suggest that the vote on this question be taken at a given hour to-morrow, when there can be a full attendance of members.

Mr. WARD. I desire to move the previous question, and then I will yield the floor.

Mr. MORRILL. After the previous question is moved, the gentleman from New York will have an hour's time. I desire to occupy five or ten minutes on the subject; and the gentleman from New York offers to let me have that much time in his hour.

There was no objection.

Mr. PRUYN. I desire to say to my colleague that either now or to-morrow I should like to have ten minutes.

Mr. WARD. I prefer that my colleague should take his ten minutes now; for there are two other gentlemen who desire to speak for ten minutes each.

Mr. ARNOLD. My colleague, [Mr. J. C. ALLEN,] desires to occupy ten minutes.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled an act (H. R. No. 272) for the relief of Julia A. Ames; and an act (H. R. No. 377) making appropriations for the payment of the awards made by the commissioners appointed under and by virtue of an act of Congress entitled "An act for the relief of persons for damages sustained by reason of the depredations and injuries by certain bands of Sioux Indians," approved February 16, 1863; when the Speaker signed the same.

#### STEAMBOAT INSPECTORS.

Mr. WASHBURN, of Illinois. I move to take from the Speaker's table the Senate amend-

ments to the bill (H. R. No. 426) to create an additional supervising inspector of steamboats and two local inspectors of steamboats for the collection district of Memphis, Tennessee, and two local inspectors for the collection district of Oregon, and for other purposes.

The motion was agreed to.

Mr. WASHBURN, of Illinois. I move that the Senate amendments be non-concurred in, and that the House request a committee of conference on the disagreeing votes between the two Houses.

The motion was agreed to.

JOHN H. SHULER.

Mr. UPSON, by unanimous consent, introduced a bill for the relief of John H. Shuler, M. D.; which was read a first and second time, and referred to the Committee of Claims.

#### PUBLIC PRINTING.

An act (S. No. 265) to expedite and regulate the printing of public documents, and for other purposes, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Printing.

#### RECIPROCITY TREATY—AGAIN.

Mr. PRUYN. I did not expect at this time to address the House on this question, nor did I expect at any time to go into its details. I thought it quite likely that my friend from the Buffalo district would be prepared to speak on the subject to a much larger extent than I would venture to do. I wish to say briefly, in reference to the proposition submitted by the Committee on Commerce, and to the substitute offered for it, that the body of the delegation from the State of New York are, as I understand, in favor of the proposition reported by the Committee on Commerce. The difference between the two I understand to be this: that the substitute contemplates the giving of notice for an entire and final abrogation of the treaty, leaving it to future negotiation to determine whether any steps shall be taken for the formation of a new treaty; while the resolution reported by the committee provides also for a notice of the intention of the Government to abrogate the treaty, with the additional notification that this Government stands ready to enter into negotiations with Great Britain for the purpose of making a new treaty, if that be found desirable. It also authorizes the appointment of commissioners by the President for that purpose.

Now it seems to me, Mr. Speaker, that in every point of view the resolution of the committee is more desirable and more expedient than the substitute proposed. In the first place, no exception whatever can be taken by Great Britain to such a notice. In the second place, I look upon it as desirable, because it will permit arrangements to be made between the two countries in reference to the northwestern territory.

With our long frontier if we have no arrangement whatever we may rest assured that a contraband intercourse, an intercourse in violation of our revenue laws, will be constantly taking place to a very large extent. The gentleman from Illinois, from the Chicago district, thinks that we, in New York, are very selfish in regard to this matter, that we have imposed upon the West burdens too intolerable for them to bear. Now, what are the facts? Our State has raised on credit at a rate of forty-five or forty-six per cent. interest the money required for constructing the Erie and Champlain canal which we have given to the world almost free of charge. There is no channel of internal communication that I know where transportation is afforded with as much speed, certainty, and economy as the canals of New York furnish.

Now, in regard to our railroads it is well known that between the different parallel lines running east and west the competition is such that it is impossible for any railroad line through New York, Pennsylvania, or for the Baltimore and Ohio railroad, to obtain transportation at unreasonable or exorbitant rates. I will venture to say that so far as the New York railroads and canals are concerned, running back for a period of fifteen or twenty years, there is not one of them which has returned to its owners more than a fair or reasonable percentage of profit for the capital and labor expended.

While, therefore, I reach the same conclusion upon this point with the gentleman from the Chi-

cago district, that which is contemplated by the committee in their resolution, I arrive at it by an entirely different mode of reasoning. I do not fear competition from the Canadian canals—we never feared it in New York—I simply wish to take advantage of our own facilities, and to do what we ought to do in our own State for the purpose of facilitating our own commerce, and I have no fear that we shall not retain the commerce of the great West.

Mr. ARNOLD. I desire to ask the gentleman from New York whether, during the last three years, the New York canals and railroads have been able to transport all the produce of the West to market. I ask him whether there has not accumulated in the warehouses at Chicago and at other points in the West millions of bushels of grain, for which it was impossible to obtain means of transportation.

Mr. MORRILL. I desire to ask the gentleman from Illinois a question.

Mr. ARNOLD. I hope the gentleman will first permit the gentleman from New York to answer my question.

Mr. MORRILL. I desire to ask the gentleman from the Chicago district, or any other gentleman who brings up this question of canals and railroads upon this bill, what it has to do with the reciprocity treaty? I do not understand that the reciprocity treaty touches the canals and railroads in any respect, or that its abrogation will interfere at all with the competition that now exists. It will not interfere with any single question touching the matter of canals and railroads at all.

Mr. ARNOLD. If the gentleman from New York will allow me I will answer the gentleman's question; but I desire first to obtain an answer from the gentleman from New York to my question in regard to the capacity of the canals and railroads in New York to carry the products of the West as shown by the experience of the last three years. I desire also to know what dividends the New York Central Company has paid during the last year? I ask the gentleman whether it is not true, as stated in the public press, that they have divided ten per cent., and have a large surplus on hand.

Mr. PRUYN. I had not expected to go into the details of this question. I will answer the gentleman from Vermont in a general way, by saying that I had supposed that the arguments of all the gentlemen who have addressed the House on this subject in regard to the supposed effects of the reciprocity treaty bore directly upon the avenues of trade and commerce leading from our seaboard to the West. Why, sir, it is a question whether a vast amount of property is to pass over the railroads of Pennsylvania and New York and to some extent of New England. It is a question whether a vast amount of property is to pass over these lines to Canada, and whether in return a large amount of property is to come from Canada to pass toward the seaboard. It is an important question with reference to any line of communication as to what may be the character of this treaty if we are to draw a line between Canada and ourselves which cannot be passed except under restrictions that amount to prohibition.

Now, in regard to the question of the gentleman from Illinois [Mr. ARNOLD] as to the accommodation afforded by the American lines of traffic for the purpose of carrying freight from the West to the seaboard; there is no question, and never any made, as to the entire capacity of these lines of communication to carry from the seaboard to the interior. It is only with reference to the vast accumulations of property which take place occasionally in the West that the question is asked. In all carrying trade you have to look at two considerations, not only traffic one way, but traffic both ways. If there is no traffic one way, or very much less one way than another, the way in which on that line of traffic the most is carried must be expected to be charged the most. When there has been a great crop in the West the lines of railroad and canal in New York and Pennsylvania which connect the West with the seaboard have hardly been sufficient for the purpose.

In regard to the canals in New York, what that State has made out of them has been four and a half, five, and six per cent. The whole railroad and canal system together has not paid legal interest on the investment.

And I venture to say in addition that the charge from Lake Erie to New York is much less than on the same kind of property in Illinois. As I understand this matter, it does not become the gentleman from Illinois [Mr. ARNOLD] to complain of the high price in New York, for I believe the prices out there are much higher in proportion. They are certainly for passengers, and I think they are for goods traffic. I understood the gentleman to say that that was doubtless owing to the fact that the stock of Illinois railroads was owned in the East, and in New York. All I mean to say about that is, that we have men in New York, fortunate or unfortunate, as the case may be, to own stock West. As to the rates of dividends on railroad stock West I am not informed. I do not own a dollar in any of them. I must refer the gentleman, for detailed information on that point, if he has it not, to gentlemen in New England, as they own the greater portion of railroad stock in his State.

I come now to New York. The New York and Erie has never paid a dollar of dividend until a year past; and the New York Central has only paid seven per cent., the last being five per cent. for six months.

Mr. ARNOLD. I desire to ask the gentleman from New York what the effect will be if \$18,000,000 additional products, instead of going to Canada, are thrown upon the New York railroads and canals? Will it not be necessarily to enhance the cost of transportation?

Mr. PRUYN. So far as the railroads are concerned, I will say that they will meet that traffic and take care of it. The roads would lay down a third line if necessary.

I do not occupy the narrow ground which the gentleman from Illinois seems to think I do, neither do my friends upon this floor. I take the ground that we are willing to see reciprocally broad relations existing between Canada and this country. We have no desire to check the growth of Canada, but on the contrary we wish to see her developed, for in time she is to be annexed to us and form a part of this country, and I look upon her growth and prosperity with the highest satisfaction. It may not be in five or ten years that this will be brought about, but the logic of events will bring these provinces to us in time. I want the gentleman from Illinois to occupy ground as broad as we do in New York.

One word more in relation to gunboats. I will not speak of building canals and railroads for commercial and business purposes, but the idea of enlarging canals for the purpose of transporting gunboats from the Atlantic to the lakes, or from the Mississippi to the lakes, is fallacious and absurd. Should war take place with a foreign Power we shall need all our naval force we have upon the Atlantic to protect our sea-coast, and all we have upon the Mississippi river to take care of the southern coast and the Gulf of Mexico. We can build all the gunboats we need in ninety days upon the streams leading into the lakes. We can build them upon the Chicago river, upon Buffalo creek, and upon some of the streams of Ohio leading into the lakes. We can do that even while the six months' notice is running, which, if we wish to abrogate the treaty of Ghent, we are obliged to give.

The gentleman from Ohio [Mr. SPALDING] read a few moments ago the supplemental clause which provides for the force to be maintained by the two parties upon the great lakes. This question came up two years ago in the New York Senate, when I had the honor of a seat in that body, and a discussion arose much like that which has taken place here to-day, and particularly the question of enlarging or building canals for the purpose of transporting gunboats from one point to another; that is, the question of undertaking a work which will require from six to ten years to complete, and which will cost vastly more than all the gunboats we shall ever build, and all for the purpose of enabling us, at some future and distant period, to carry gunboats from one point to another.

The question I then raised was whether Lake Michigan, being entirely within American jurisdiction, and not being one of the lakes which could be the subject of negotiation, unless expressly named between Great Britain and this country, could fairly be considered as being included within the supplemental treaty of Ghent; and whether that treaty did not relate exclusively to the great

lakes which were owned by the parties in common. And the suggestion derives force from the fact that Lake Champlain, which for certain purposes is also called one of the great lakes, is expressly named, whereas Lake Michigan is not named. I do not, however, undertake here to solve that question, but it appears that the proper Department of our Government is of opinion that Lake Michigan is fairly included within that treaty of Ghent.

Mr. BROWN, of Wisconsin. I have seen the communication of the Secretary of the Navy to which reference has been made, and I do not think it will fairly bear the interpretation attempted to be given to it. It was merely a recommendation and not a legal opinion upon the subject. The Attorney General of the United States has not given an opinion at all.

Mr. PRUYN. Now, sir, it so happened when I made this suggestion in the Senate of New York that a distinguished member upon the other side of the House, the Republican side, who had been earnestly advocating the measure then pending before that body, a man of great learning and a lawyer of high standing and ability, said that if that was the true construction of the supplemental treaty of Ghent, there was no use of discussing the question longer about enlarging our canals for that purpose.

But independent of that, I say that if we wish to build gunboats—and I trust we never shall need to build another—but if we are compelled to encounter war with a foreign Power and find it necessary to build gunboats for the protection of our northern frontier, we can do it better and more economically in the streams entering into the great lakes and on Lake Michigan, if we have the right to do so, than we can possibly do it at New York, Boston, or elsewhere, and transport them through to the lakes. The matter of building a fleet of gunboats would be very easily accomplished within the six months given us for the purpose; and it strikes me that it would be very unwise—speaking of the subject in this view only and not in a commercial point of view—for this country or for any one State to undertake an enormous expenditure of money, running through a long series of years, in order to accomplish such a result as is now spoken of.

Mr. Speaker, as I have already said, I trust that the resolution reported by the Committee on Commerce will pass the House, and that we will not summarily and arbitrarily cut off even any attempt at negotiation upon this subject. It is of vast importance to us of New York. We think that the very best commercial relations and the best feeling should be cultivated between this country and Canada. It will be mutually beneficial.

Mr. WARD. I now move the previous question.

Mr. MORRILL. There are several gentlemen who desire to occupy ten or fifteen minutes upon this question. The gentleman from New York [Mr. WARD] has kindly offered me ten minutes of his time, but I hope that by unanimous consent his time will be extended, so that he will be enabled to yield to others.

Mr. ARNOLD. My colleague, [Mr. J. C. ALLEN,] I know, desires to speak some ten or fifteen minutes.

Mr. SWEAT. I think an additional hour will afford an opportunity to all the gentlemen who desire to make short speeches on this question to be heard.

Mr. MORRILL. Say half an hour.

Mr. PRICE. I move that we take a recess until seven o'clock, and have these speeches tonight.

Mr. WASHBURN, of Illinois. That motion is not in order pending the demand for the previous question.

The SPEAKER. It is in order; but the Chair will state to the gentleman from Iowa that he requires a quorum to take a recess, and there is evidently not a quorum in the Hall.

Mr. PRICE. Well, we can send for members. Mr. WASHBURN, of Illinois. If the gentleman from Iowa insists on his motion, I shall move that the House do now adjourn.

The SPEAKER. That motion will take precedence.

Mr. PRICE. I do not insist on it.

Mr. WARD. I understand that there are four gentlemen who desire to speak ten minutes each.

I do not propose to occupy the whole of my hour, and will yield a portion of it to others, but I ask that the time for debate may be extended half an hour so that these gentlemen may be accommodated.

The SPEAKER. Then, if there be no objection, the understanding will be that the gentleman from New York [Mr. WARD] is to have an hour and a half, and he can divide the time among other gentlemen as he sees fit, the vote to be taken at the end of that time.

No objection was made.

The previous question was seconded, and the main question ordered.

And then, on motion of Mr. COFFROTH, (at five minutes to five o'clock, p. m.) the House adjourned.

#### IN SENATE.

THURSDAY, May 26, 1864.

Prayer by the Chaplain, Rev. Dr. BOWMAN.

The Journal of yesterday was read and approved.

#### PETITIONS AND MEMORIALS.

Mr. WADE presented the petition of Francis Miller, praying for the payment of a balance alleged to be due him for supplies furnished to various navy-yards; which was referred to the Committee on Claims.

Mr. LANE, of Kansas, presented a petition of officers in the civil service of the Government resident in Washington, District of Columbia, praying for an increase of compensation; which was ordered to lie on the table, and be printed.

Mr. COWAN presented a memorial of persons engaged in the express business in the State of Pennsylvania, and two memorials of persons engaged in that business in the State of New Jersey, remonstrating against any change in regulating the manner of taxing express companies; which were ordered to lie on the table.

Mr. WILSON. I present the petition of the Hamilton Bank and other banks of the city of Boston, and also bank officers and directors and business men of that city, respectfully petitioning Congress to have the act for the establishment of banking institutions in the United States, now under consideration, so amended as to require the associations under it to hold at any and all times a proportion of the reserve in the lawful money of the United States, provided for by the thirty-first section of the act now referred to, in specie, gold and silver coin, either or both, and that this reserve in specie shall be continued until the resumption of specie payments by the Government and banks of the United States. I suppose it is too late to act on the subject now, and I therefore move that the petition lie upon the table.

The motion was agreed to.

#### REPORTS FROM COMMITTEES.

Mr. MORRILL, from the Committee on the District of Columbia, to whom the subject was referred, reported a joint resolution (S. No. 59) to provide for the revision of the laws of the District of Columbia; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill (S. No. 153) to provide for the revision and codification of the laws of the District of Columbia, reported adversely thereon.

Mr. HALE, from the Committee on Naval Affairs, to whom was referred a bill (S. No. 292) to provide for the efficiency of the Navy, reported it with amendments.

He also, from the same committee, asked to be discharged from the further consideration of the following subjects; which was agreed to:

A petition of citizens of Wisconsin, praying that seamen transferred from the Army to the Navy may be entitled to the benefit of the State family aid funds of the States furnishing such aid, and that the Government furnish such seamen their uniforms, to be refunded from any prize money to which they are entitled; and

A resolution of the Senate of March 16, instructing the committee to inquire if some mode of promotion in the volunteer Navy, analogous to that of the regular Navy, may not be established.

Mr. HENDERSON, from the Committee on the District of Columbia, to whom was recommended a bill (H. R. No. 383) to incorporate the Home for Friendless Women and Children, reported it with amendments.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. FESSENDEN, from the Committee on Finance, to whom were referred the amendments of the Senate to the bill (H. R. No. 192) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th June, 1865, disagreed to by the House of Representatives, and the amendments of the House to other amendments of the Senate to the said bill, reported a recommendation that the Senate insist upon its amendments disagreed to by the House and disagree to the amendments of the House to other amendments of the Senate to the said bill.

The Senate proceeded to consider its amendments to the said bill, disagreed to by the House of Representatives, and amended as aforesaid; and

On motion of Mr. FESSENDEN, it was

Resolved, That the Senate insist upon its amendments to the bill (H. R. No. 192) disagreed to by the House of Representatives, disagree to the amendments of the House to other amendments of the Senate thereto, and ask a conference on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

#### THE "ARQUELLES" CASE.

Mr. JOHNSON submitted the following resolution, which lies over for consideration:

Resolved, That the President be requested to inform the Senate, if he shall not deem it incompatible with the public interest, whether he has, and when, authorized a person alleged to have committed a crime against Spain, or any of its dependencies, to be delivered up to officers of that Government, and whether such delivery was had, and, if so, under what authority of law or of treaty it was done.

#### SUPPRESSION OF NEWSPAPERS.

Mr. POWELL. I submit the following resolution:

Resolved, That the conduct of the executive authority of the Government, in recently closing the offices and suppressing the publication of the World and Journal of Commerce, newspapers in the city of New York, under circumstances which have been placed before the public, was an act unwarranted in itself, dangerous to the cause of the Union, in violation of the Constitution, and subversive of the principles of civil liberty, and as such is hereby censured by the Senate.

Mr. SUMNER. Let that lie over.

The PRESIDENT *pro tempore*. Objection being made, the resolution will lie over.

Mr. POWELL. I ask that the resolution be printed.

The PRESIDENT *pro tempore*. The motion to print will be referred to the Committee on Printing.

Mr. SUMNER. I presume there will be no objection to printing the resolution.

Mr. POWELL. It has not been the custom to refer a motion to print a resolution.

The PRESIDENT *pro tempore*. It will be treated as a bill, and the motion will be put to the Senate.

The motion was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to the amendments of the Senate to the bill of the House (No. 432) for the relief of the citizens of Denver, in the Territory of Colorado.

The message further announced that the House of Representatives had disagreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 198) making appropriations for the support of the Army for the year ending the 30th June, 1865, and for other purposes, asked a further conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. THADDEUS STEVENS of Pennsylvania, Mr. GEORGE H. PENDLETON of Ohio, and Mr. THOMAS T. DAVIS of New York, managers at the same on its part.

The message further announced that the House of Representatives had agreed to the amendment of the Senate to the bill of the House (No. 407) authorizing the establishment of ocean mail steamship service between the United States and Brazil.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; which were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 272) for the relief of Julia A. Ames;

A bill (H. R. No. 377) making appropriations

for the payment of the awards made by the commissioners appointed under and by virtue of an act of Congress entitled "An act for the relief of persons for damages sustained by reason of the depredations and injuries by certain bands of Sioux Indians," approved February 16, 1863;

A bill (H. R. No. 407) authorizing the establishing of ocean mail steamship service between the United States and Brazil; and

A bill (H. R. No. 432) for the relief of the citizens of Denver, Territory of Colorado.

#### STEAMBOAT INSPECTORS.

The message further announced that the House of Representatives had disagreed to the amendments of the Senate to the bill of the House (No. 426) to create an additional supervising inspector of steamboats and two local inspectors of steamboats for the collection district of Memphis, Tennessee, and two local inspectors for the collection district of Oregon, and for other purposes, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. E. B. WASHBURN of Illinois, Mr. THOMAS D. ELIOT of Massachusetts, and Mr. WELLS A. HUTCHINS of Ohio, managers at the same on its part.

The Senate proceeded to consider its amendments to the bill (H. R. No. 426) to create an additional supervising inspector of steamboats and two local inspectors of steamboats for the collection district of Memphis, Tennessee, and two local inspectors for the collection district of Oregon, and for other purposes, disagreed to by the House of Representatives; and

On motion of Mr. CHANDLER, it was

Resolved, That the Senate insist upon its amendments to the said bill, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. CHANDLER, Mr. NESMITH, and Mr. VAN WINKLE.

#### CONGRESSIONAL GLOBE.

Mr. ANTHONY. I am instructed by the Committee on Printing, to whom was referred the bill (H. R. No. 421) to pay, in part, for publishing the debates of Congress, and for other purposes, to report the same back to the Senate without amendment and recommend its passage. I am also instructed to make a statement of the two propositions that have been made to Congress by the publishers of the Globe; and although I do not propose to ask for a vote upon the bill at this time, if Senators wish to examine it, I should like to make a statement of the case now.

The PRESIDENT *pro tempore*. The Senator from Rhode Island asks the unanimous consent of the Senate to make a statement concerning the bill just reported by him. The Chair hears no objection.

Mr. ANTHONY. It must be obvious to every one that the publication of the Globe cannot be continued under the present contract, unless it was one that was enormously too high at the time it was made. All the expenses of publishing have been greatly increased; some of them have been doubled, some more than doubled, and the publication probably in the hands of almost any other man would have been discontinued; but the late Mr. Rives had made this work his idea, his object, and the pride of his life, and he kept it along in the expectation that there would be some increase in the compensation. We can hardly expect that his representatives will do the same thing. It is for Congress to decide whether they desire the continuation of the debates in the Congressional Globe; and, if they desire it, to decide upon which of the modes of increased compensation they will accept. I have prepared a memorandum on this subject which is very brief, and which I will submit to the Senate.

In one of the earliest sessions of Congress a proposal to supply the members with three copies each of a register of debates was voted down. The propriety of having the debates reported, however, was recognized, and in February, 1795, Hon. William Loughton Smith, a very able debater, afterward minister to Portugal, reported a resolution, which was passed, directing the Secretary of State to receive proposals from stenographers for furnishing accurate reports.

In January, 1796, Mr. Smith introduced a res-



olution by the passage of which David Robertson, of Petersburg, Virginia, was appointed official reporter to Congress. It was stipulated that his annual salary should be \$4,000 in full for his services, clerk hire, stationery, and all incidental expenses. Moreover, it was stipulated that if he furnished his manuscript to Andrew Brown, printer of the Philadelphia Gazette, for publication, Mr. Brown was to pay therefor \$1,100 of the salary, making the expense to be defrayed from the public Treasury \$2,900.

On the removal of the seat of Government from Philadelphia to Washington, Mr. Harrison Smith followed with his printing office, and on the 31st of October, 1800, commenced the publication of the National Intelligencer, which gave an imperfect report of the proceedings of Congress. In 1807 Mr. Smith engaged the services of Mr. Joseph Gales, an excellent stenographer, who became a part owner of the National Intelligencer, and in 1810 purchased Mr. Smith's interest. Other papers had reporters at Washington, but the reports of the proceedings of Congress by the National Intelligencer were regarded as the most accurate, although they were often weeks in arrears.

In 1833 John C. Rives conceived the idea of publishing the debates in Congress, and soon afterwards employed W. E. Moore, a stenographer, to report them for him. The first number of the Congressional Globe was published—as a weekly sheet—on the 7th of December, 1833.

In 1845 the Senate Committee on the Library examined into the feasibility of having the debates published the morning after their delivery. They examined Mr. Gales, Mr. Rives, and others. In 1847 a bargain was concluded with Mr. Houston, a stenographic reporter, to furnish reports for the press. He was to print them on "slips," to be delivered to each Senator, and commenced to do so with the session of 1847-48. Before the session closed, he was several weeks behindhand with his reports, and the Senate finally paid him \$5,000 to give up his contract.

On the 7th of August, 1846, the Senate Committee on the Library made a report, providing for a daily report of the proceedings of each day on the morning of the following day, and a revised and corrected publication of the same debates in book form, to constitute a parliamentary record. The editors of the National Intelligencer and of the Union agreed to publish the debates in their respective papers, in accordance with a resolution passed, at \$7 50 a column. Subsequently, the editors of the National Intelligencer and of the Union relinquished their contracts, and Mr. Rives then reestablished the Daily Globe to publish the debates. It was understood by him that he was to receive the same price which had been paid the retiring contractors for reporting the debates and publishing them in the Daily Globe so that members could read their remarks in print and correct them before they were permanently placed "on the record" in the Congressional Globe. Mr. Rives also understood that he was to have the privilege of supplying every new member of Congress with a complete set of the Congressional Globe, and that he was also to receive "one cent for every five pages excess over three thousand for a long, and fifteen hundred for a short, session."

Congress evidently agreed with Mr. Rives in his construction of the verbal understanding between its committees and himself for several years. But in 1856, on the passage of the bill changing the compensation of members, the purchase of complete sets of the Congressional Globe for new Senators, Representatives, and Delegates was abrogated. In the opinion of Mr. Rives, (as expressed in a letter written under his direction just prior to his death,) the furnishing of these back volumes of the Congressional Globe was as much a part of his agreement with Congress as was the furnishing of the current report of debates. He had the back numbers reprinted and stereotyped, erecting a fire-proof building for the reception of the stereotype plates, and was always ready to furnish the back volumes, which he regarded it as his right to supply and to receive compensation for. His efforts during the Thirty-Fourth, Thirty-Fifth, Thirty-Sixth and Thirty-Seventh Congresses to be permitted to carry out in good faith what he regarded as his part of the agreement proved unavailing, but he continued the work—to

use his own words, as dictated to his chief clerk—"in the belief that Congress would finally do him justice; would restore that which had been taken from him. But for this belief the reporting and printing of the debates by Mr. Rives would have ceased several years ago."

The increase in the rates of compensation to employes, the price of paper, &c., &c., at the commencement of the present session, rendered it imperatively necessary for Mr. Rives to enter into some new arrangement for reporting and publishing the debates, and after informal consultation with the two Committees on Printing, he submitted two propositions, either one of which would be acceptable to him, namely:

The second proposition was in accordance with the expressed wish of a majority of the Senate's Committee on Printing, that an increased rate of payment, equivalent to the increased cost of publication, might be agreed upon. It was that Congress should "pay an advance of fifty per cent. on the prices now paid to the proprietor of the Globe for the work done by him for the two Houses. This increase will make the price for reporting and printing the debates in the Daily Globe \$11 25 a column; and \$9 a copy for the Congressional Globe and Appendix for a long session, and \$4 50 a copy for a short session. This increase to date from the beginning of the current (Thirty-Eighth) Congress." This, however, was regarded by Mr. Rives only as a temporary arrangement.

The first proposition is that which is embodied in the bill now before the Senate, which was passed in the House of Representatives by a very large majority. It proposes that Congress shall "restore that feature of its agreement with him which was observed for eight years from its date, and abrogated without notice to him at the close of the first session Thirty-Fourth Congress, on the passage of the bill changing the compensation of members, which agreement provided for the purchase from him of a complete set of the Congressional Globe and Appendix for each new member who had not before received them." It also restores the additional compensation, paid by repeated acts of Congress in past years, of "one cent for every five pages exceeding three thousand pages for a long session, or fifteen hundred pages for a short session, including the indexes and the laws of the United States for this and each future Congress."

The difference in the cost of carrying these two propositions into effect is not very great.

The total amount paid for reporting and printing the Daily Globe, and for the Congressional Globe, during the Thirty-Seventh Congress was \$166,570. Fifty per cent. additional on this sum makes \$83,275.

This proposition requires an expenditure of \$9,424 for the books for the Senate, and \$47,120 for those for the House of Representatives. Add to this the increased pay of one cent for every five pages of the excess of the former contract, (and taking the Thirty-Seventh Congress as a fair average for the extent of the work,) it may be estimated that this will amount to an excess of fifteen hundred and four pages, which will produce the sum of \$42,000. Add to this the amount required for the purchase of the Globes, the total cost will be \$98,544, showing a difference of \$15,000 between the two propositions. The difference will be less for the succeeding Congresses, inasmuch as the distribution will be made to fewer members.

It may not be improper to state that both these propositions were made to the House of Representatives, and the bill now before the Senate, which has been passed by the other House and which accepts the first proposition, was reported by the committee by order of that House. It is not the desire of the committee to press this bill to a vote now; but if the Senate is ready to vote upon it, as it is a matter that affects the business of the Senate, and that must be settled during the present session if it is the pleasure of the Senate to continue the publication of the Globe, it may perhaps be as well to act now.

Mr. SHERMAN. I should like to ask the Senator from Rhode Island if his attention has been directed to the propriety of an effort to reduce the volume of the Congressional Globe so as to save the increased expense in that way. I have always thought the full report in the Con-

gressional Globe was a useless and cumbersome work, and that a reduction of it by some general system to about one half the present bulk would be fully as serviceable to the Government, and probably make the work more valuable as a book of reference. As is known to all of us, it is now very difficult to find anything in the Congressional Globe, because during the long session there are four or five volumes of it. It would be much more valuable if it were reduced. I, for one, and I think all members, would be perfectly willing to have what we say curtailed to an amount sufficient to reduce the cost of the Globe to at least the old price. I ask the Senator whether the attention of the committee has been directed to the practicability of reducing the volume.

Mr. ANTHONY. Somewhat; but it is an exceedingly difficult thing to do. It is impossible to cut down a Senator's speech without his own consent; and each Senator is apt to have quite as large an idea of the importance of what he says as his associates, I think. I do not see how we can publish the debates unless we publish them in full; although a careful and accurate abridgment of the debates, I have no doubt, would be more valuable.

I will take occasion now to state that in the early part of the session a resolution was adopted directing the Committee on Printing to inquire into the expediency of preparing a synoptical report of the debates, to be transmitted by telegraph, and to be made out accurately, giving the full business of the Senate and the points of the debates. That would undoubtedly be of more value, certainly of more transient value, and I think, upon the whole, perhaps of more permanent value than the publication of the Congressional Globe. But this difficulty is in the way at once: the committee were very favorably impressed with the idea, but upon consultation with those upon whom we must rely to transmit and to publish the report we found that they declined to enter into the arrangement; and I supposed the ruling reason was that they did not desire to place the expense of telegraphing in the control of Congress.

Mr. COLLAMER. I wish to ask the Senator from Rhode Island a question.

Mr. WADE. I perceive that this matter is going to lead to considerable debate. I want to get up this morning a joint resolution of some importance. There is nothing before the Senate, I believe.

The PRESIDENT *pro tempore*. The bill reported by the Senator from Rhode Island is before the Senate by unanimous consent.

Mr. COLLAMER. I merely wish to ask the Senator from Rhode Island a single question. I observe in the published debates that we have sometimes fourteen columns of a speech delivered in the other House, where, according to the standing rule, a man is allowed but one hour—an amount of matter which could not be read in three hours. I consider that a very great abuse of this Government hiring a publication of the debates; and I want to know whether there is not some way in which that can be corrected. I wish the debates as they are delivered, not as they are written out after delivery; but I see very often in the publication of the debates of the other House speeches very much longer than those made here in the Senate. I wish to know whether that cannot be corrected.

Mr. ANTHONY. That is a matter, I suppose, for the consideration of the House of Representatives. The abuse has certainly been known to the committee for a long time; but we have not supposed it was our business to—

Mr. COLLAMER. My idea is that the bill should be so made and its provisions so arranged that the publication should not include speeches not delivered.

Mr. ANTHONY. I think that is the letter of the law now. I think the publication of those speeches that are written and not delivered is not within the law. I think it is a matter of courtesy—of abuse, rather.

I wish to say further in regard to a synoptical report, that I think the reports that have been made for the associated press, although at the beginning of the session they were justly subjected to a great deal of complaint, have improved a great deal during the progress of the session; but it is utterly impossible for a man to take a synoptical report of proceedings and transmit it as the debate

is going on, and so that it will be published the next morning. Unless he waits until the Senate adjourns before he commences to make out his report, it is not possible for him to judge what space should be given to one part of the speech and what reserved for another. A Senator rises, and the reporter does not know whether he is going to speak five minutes or two hours. He gives no analysis of his speech to begin with; it is impossible to make a tolerable report of it and send it off while the proceedings are going on. The only way to have an accurate and thorough synoptical report is to have it prepared and revised after the adjournment, and then it would have to be transmitted at the expense of Congress, for the newspapers would not do it.

Mr. WADE. I move to postpone—

Mr. ANTHONY. If it is the pleasure of the Senate to take a vote now on this bill, without debate, we may as well do it.

Mr. COLLAMER. We are not ready to do it.

Mr. ANTHONY. Then I will not press it now.

#### VOTING IN WASHINGTON.

Mr. WADE. I move to postpone all previous orders and take up Senate joint resolution No. 57. The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. No. 57) to amend the charter of the city of Washington.

Mr. SUMNER. On examining this joint resolution I find that it is entitled a "joint resolution to amend the charter of the city of Washington;" of course in that aspect it is very important. On looking into the resolution I find that it provides as follows:

That in case any person shall offer and claim the right to vote at any election held in the city of Washington, whose name is not registered, his name shall be registered by the commissioners of election upon the terms and conditions following.

It will be observed here that the language is very broad. It is applicable to any person who shall offer and claim the right to vote at any election, and his name shall be registered upon certain specified conditions. Proceeding with the resolution, it appears the first condition is that he shall take a certain oath which is set forth, and if he be unable to understand the English language it is further provided that the oath shall be interpreted to him, so that it will be observed that this clause actually contemplates that certain persons shall be registered who do not speak the English language. It then proceeds to say:

If in his answers on oath he shall state positively that he has resided in the city one year next preceding the day of said election, designating particularly the place of his residence, and that he possesses the other qualifications of an elector, and if, furthermore, some qualified elector of the city, not a candidate for any office at that election, shall take an oath before said commissioners, which any one of them may administer, that he is well acquainted with such applicant; that he is, in fact, a resident in the city, and has been one year next previous to such election, and that he (the qualified elector) has good reason to believe and does believe that all the statements of such applicant are true, the commissioners shall cause his name to be registered by their clerk, and shall then receive the vote of said applicant.

Now, it will be perceived from these words which I have read, first and last, that it is directly applicable, in the first place, to any person who shall offer and claim the right to vote at an election, but after taking the oath he is to show residence for a certain term in the city, and then it is added, he is also to show that "he possesses the other qualifications of an elector." What are the other "qualifications of an elector?" I presume if we go back to the original charter we shall find it is that qualification which, as I said the other day, is the tail of slavery, that discrimination of color left to us unhappily by the former presence of slavery in the national capital. I know not if the committee that reported this bill propose to keep alive that ancient and odious discrimination; but it seems to me that if the language of this joint resolution be interpreted according to its natural signification, and certainly as such language is apt to be interpreted here in Washington, it will operate to the exclusion of persons except of the favored color. I know my friend from Ohio does not contemplate any such exclusion; but this joint resolution which seeks to amend the charter of the city of Washington ought to be made clear and also in that respect unobjectionable; it ought not to be made the means of continuing and of extending that odious dis-

crimination. I therefore propose to amend the joint resolution by adding to it these words:

*Provided*, That there shall be no exclusion of any person from the register on account of color.

Mr. WADE. I suppose the Senator from Massachusetts knows what my views are as to the question of the exclusion of colored persons from the right of voting. I have stated my views on that question often enough, and I have expressed them by my votes occasionally. It was not my purpose in reporting this joint resolution to alter the present law on that subject, and it does not contemplate any such thing now. There is another measure pending upon which that question as to the qualification of voters in this District will come before us and will be debated and passed upon by the Senate. The object of this joint resolution is barely to regulate the right of voting among the qualified voters of the District, without adding to or diminishing anything from the qualifications now fixed. It is a temporary measure, necessary for the justice of the approaching election, without which a fair vote of the whole qualified electors cannot be had. By an old law, persons must be registered six months before the election in order to be entitled to vote. The election for mayor of the city will soon come on; and as the law does not provide for registering any one whose name was not registered six months ago, it causes great difficulty. The judges of election, as I understand, have sometimes construed that law in different ways, biased probably very much by their party predilections as the elections have come on from time to time. The object of this joint resolution is barely to fix the law on that point and to give effect to a custom that I understand has sometimes prevailed in the District, which is a fair one so far as the voting of the qualified electors is concerned. Many of them have not been registered, not availing themselves of the old law, perhaps because they were absent from the city, perhaps from carelessness, or from a thousand other reasons. The result is, as I am told, that some of the oldest and most respectable persons in this city are not eligible to vote at the coming election under the technicalities of the old law. The committee only wish, in accordance with the will of the people here, to rectify that so that there may be a fair election. It does not contemplate going into the question of the right of suffrage, or extending that right beyond those who are at present authorized to exercise it. It does not widen the suffrage; it does not narrow it. It does no more than to permit those who are qualified under the existing laws to come in fairly and vote, instead of being deprived of the right by the technicalities of the old law, which render it impossible for some of the best men in the city to vote at the coming election.

As I said before, there are different constructions put upon the law. Sometimes it has been construed in one way and sometimes in another, biased undoubtedly by the party predilections of the judges. At any rate it is uncertain, and it ought to be made certain. This joint resolution is brought up for that special purpose. Of course we all know that if we undertake now to fix the elective franchise permanently, if we undertake to alter the qualifications of electors here, we cannot pass this resolution in time for it to be of any avail. There is a bill back of this which fixes that matter, and I suppose I need not now define my position upon that bill, because it is well known that I am utterly opposed to any restriction upon the voting of any intelligent person in the community, whatever his color or condition may be. I do not think it is proper for us on this occasion to attach such an amendment as is now proposed, because it is not the object to raise that question on this resolution, and if it be brought up we cannot pass the resolution in time to make it available. We might as well say that we will pass no law on any subject until this grievance is corrected, if grievance it be. I know that I am as strenuous an advocate for the right of voting for colored people as the Senator from Massachusetts; and whenever a case can be made where that question can be tested, I shall endeavor to make myself known and understood upon it, if I have not already done so. I do not, however, think it is incumbent upon us to insist upon it all the time whenever the question may be raised in any possible shape. We know that

it is impracticable to act upon it now. This is a temporary law. The permanent law is before us and can be acted upon hereafter. This is a temporary measure to do the deed of justice to the qualified electors now under existing law, that the exigency requires. If we cannot now do all the justice we want to do, let us do what we can, and when the other bill comes up let us fix it right according to our judgment. I do not suppose this is a question of the greatest importance; but it is a question of some importance to the people here who are interested in having their political rights fairly weighed and appreciated in the District. Without this joint resolution it cannot be done.

Mr. SUMNER. Mr. President, the argument of my friend from Ohio was that the measure now before the Senate was temporary in its character. That is inconsistent with the title of the joint resolution. As I read it, it is as follows—

Mr. WADE. Let me explain: I say temporary, because we all know that there is a bill fixing the right of voting that I suppose is intended as a permanent law. This is temporary in that view. That is all I meant.

Mr. SUMNER. That certainly will not justify my friend in his argument, for on the face of it this is permanent. It is as permanent as anything else in the existing charter. Its title is "to amend the charter of the city of Washington." When this is done, what assurance has my friend that anything else will be done? There is a bill on our tables. How many other bills are there on our tables relating to other matters which we may not reach during this session, or, if we reach, on which we cannot expect harmonious votes in the two Houses?

The PRESIDENT *pro tempore*. The Chair must interrupt the Senator to call up the order of the day, being the tax bill.

Mr. MORRILL. Let us vote on this.

Mr. HENDRICKS. I suggest that we finish this joint resolution. It has been up two or three days and the debate is nearly through. I observe that by taking up a bill one day and leaving it unfinished it takes up as much time the next day. I hope the Senator from Maine will allow us to dispose of this question.

Mr. FESSENDEN. If there is to be no more debate I shall not object.

Mr. HENDRICKS. I think the debate is about ended. I suggest it for the purpose of getting on with the business of the Senate. I am anxious for an early adjournment. There is certainly no necessity for elaborating this question; we can all understand the condition of the negro in respect to public affairs now.

The PRESIDENT *pro tempore*. Is there any objection to the further consideration of the joint resolution before the Senate?

Mr. FESSENDEN. I object if there is to be any further debate.

Mr. CONNESS. I hope there will be no further debate, but that we shall vote on the amendment of the Senator from Massachusetts, and then on the joint resolution. It is necessary that some action should be taken. I hope the Senator from Massachusetts—

Mr. SUMNER. I do not wish to throw any impediment in the way of business.

Mr. CONNESS. Then let us vote.

Mr. SUMNER. I wish to make a remark in reply to my friend from Ohio. I had not finished what I have to say. It is very little I have to say.

Mr. DAVIS. If this subject is going to produce further debate, I object to its going on. If the Senator from Massachusetts makes a speech there will be speeches in reply to it, I do not care whether his speech is long or short.

The PRESIDENT *pro tempore*. The Senate, then, will resume the consideration of the special order.

#### INTERNAL REVENUE.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 405) to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes.

The PRESIDENT *pro tempore*. The Chair will inquire if the Senator from Maryland desires at this time a vote on the amendment which he submitted yesterday?

Mr. JOHNSON. I understand that the chairman of the Committee on Finance proposed him-

self to offer an amendment to the particular clause in the seventy-seventh section on which I commented yesterday, and that may dispense with the necessity of the amendment I suggested.

Mr. FESSENDEN. I have drawn a substitute for that section which I will submit now. I move to strike out all of section seventy-seven after the word "that," and to insert:

No license hereinafter provided for shall, if granted, be held or construed to exempt any person carrying on the trade, business, or profession specified in said license, from any penalty or punishment provided by the laws of any State for carrying on such trade, business, or profession within such State; or in any manner to authorize the commencement or continuance of such trade, business, or profession contrary to the laws of such State, or in any places prohibited by municipal law; nor shall any such license be held or construed to prevent or prohibit any State from placing a duty or tax for State or other purposes, on any trade, business, or profession for which a license is required by this act; nor shall any person carrying on any trade, business, or profession for which a license is required by this act, be exempted from procuring such license, or from any penalty or punishment herein provided, by or in consequence of any State law either authorizing or prohibiting such trade, business, or profession.

Mr. JOHNSON. The latter part of the amendment proposed by the chairman of the committee seems to me to be liable to the same objection to which I supposed the latter part of the section itself as it originally stood was liable. It all other respects it seems to me to be very much better than the section itself. But still I am at a loss to see with what propriety, I was about to say, we can authorize a license to be granted to carry on within a State a trade prohibited by the laws of that State. The argument of the honorable Senator from Maine is that unless that is done the business prohibited will be carried on and the State law will be violated just as much without such a clause as this as with it, and that the effect of such a clause on the contrary would be to assist in the execution of the State law. It may be so, but I do not exactly see it in that light. In order to carry out my own view and be consistent with myself, (though that is a matter of indifference on a question like this,) I propose to amend the amendment by striking out the latter part of the amendment suggested by the chairman. I move to strike out of it the following words:

Nor shall any person carrying on any trade, business, or profession, for which a license is required by this act, be exempt from procuring such license or from any penalty or punishment herein provided, by or in consequence of any State law either authorizing or prohibiting such trade, business, or profession.

Mr. FESSENDEN. The result of that would be that in States which prohibit a particular business, it may be carried on in defiance of the State law and we can exact no license. For instance, take the State of Maine. I exemplify that because I am more familiar with its laws, which prohibit the sale of spirituous liquors; a person may sell liquors if he chooses to do so in defiance of the State law prohibiting it and take his risk about it, and the existence of that law would be considered as an exemption to him from taking out a license under this law. The result is that we exact a license for selling liquor in all States where it is not prohibited, but cannot exact any license in any State where it is prohibited. The operation of the law in our State and in other States has been this: the State law prohibits the business; we prohibit it also without a license; but so far as we are concerned, if you choose to take a license, we have no claim on you for carrying on this business; you may go on at your own risk in regard to the State laws. The effect of that is, that if a license is taken out it really points the State officers to the man who designs to violate their law. It is no violation of his rights where he assents to it; and where two parties agree, one to take a license and the other to give it, it does not extend beyond the parties themselves; and there is no reason why it should not be taken if he chooses to take it.

We cannot very well make a distinction between different States. We are saying that no business shall be carried on any where within the Union of a particular kind without a license. We know that in some States of the Union they prohibit the business entirely. Very well; we put in a clause substantially saying, "you must take your risk about this; our license shall not justify you in breaking the State laws; we will give you one which will excuse you so far as we are concerned, but you must proceed at your own hazard in regard to the State laws." If we do anything else,

if we take any other course, we make a distinction between the States, and say that in some States we will not require any license at all. The effect, in my judgment, will be very bad, and I believe that the working of the law as it existed two years ago, which was substantially the same as this section of the bill, has been very beneficial.

Mr. HARRIS. I always hesitate to disagree with my friend from Maryland; but it seems to me that this section is very skillfully framed to accomplish a very useful purpose. Let me suppose a case. By the law of the State of New York dealing in lottery tickets is prohibited, and it is an indictable offense; but I will suppose—I speak within bounds when I say—that there are one hundred persons engaged in the sale of lottery tickets in the city of New York. Suppose the State authorities prosecute one of these men for a violation of the laws of New York, and he answers that by the tax law passed by Congress he is authorized to take out a license to sell lottery tickets, the public authorities carrying on the prosecution reply to him, "By the seventy-seventh section of that law it is provided that your license shall be no defense." That is as it should be.

Now, I will suppose another case; suppose this same lottery dealer is prosecuted by the collector or assessor for selling lottery tickets without a license. He answers to that prosecution, "It is true I am selling lottery tickets without a license; but this is a thing that is illegal in the State of New York." The last clause which it is proposed to strike out here says that shall be no defense. It ought not to be a defense. If he will sell lottery tickets he ought to take out a license; and he ought to be amenable to the law of Congress, and he ought to be amenable to the law of the State, I can see no objection to it; and these provisions are framed so as to be an answer to a defense set up if he is prosecuted by the State authorities, or if he is prosecuted under this law.

Mr. JOHNSON. I am certainly very far from desiring to throw any impediment in the way of the beneficial operation of this law. The difficulty with me, however, in relation to the particular question before the Senate, is whether we have any authority to do what we are about to do if we adopt either the seventy-seventh section as it originally stood or as it is proposed to be modified by the honorable chairman. The Senator from New York supposes that he illustrates the necessity of such a provision as this by telling us that the sale of lottery tickets in New York is prohibited by a law of the State, and notwithstanding that they are sold from time to time. Over that we have no control in one sense unquestionably. Whether a man sells lottery tickets or not in the State of New York is a matter over which the Congress of the United States have no control. They can neither authorize the sale nor prohibit the sale.

Then he supposes that if such a man takes out his license under this act and he is prosecuted for violating the State law, he cannot rely upon the license as a defense against that prosecution, because the law under which the license is granted says in so many words that the license shall not be a defense, and that that is all right. Well, in one sense that is right. It is right because we have no authority by a license to authorize the sale of lottery tickets; but that is not the difficulty that stands in my way. I want to know upon what ground it is that we can first maintain the authority of Congress to demand a license to carry on a trade prohibited by a State law.

As far as that question is concerned, the amendment admits that we have no authority, because it says in so many words that the license shall not be a protection to him who shall violate, by carrying on the particular trade, the State laws. If we have no authority to authorize the violation of the State laws, upon what ground is it that we can say to him who is willing to violate the State laws, "Take a license from us; pay us for attempting to do what we admit is an illegal act; and if you do not take a license from us, and you undertake to sell without a license, we will prosecute you?" Now, where has Congress the authority—for it comes around at last to a question of power—where is to be found the authority in Congress to punish a man for not taking out a license to carry on a trade prohibited by a State, and which the State, as against Congress, has a

right to prohibit? I am forced, therefore, to adhere to the opinion which led me to propose to amend the amendment.

Mr. DAVIS. I suppose there can be no reasonable doubt that both Congress and the State Legislature have a right to tax the same subjects; and that a question of jurisdiction between the two authorities cannot come up unless the taxation proposed by one of them has exhausted the subject and leaves nothing upon which can be paid anything to the other authority. I suppose if Congress grants a license under this bill to do any business it does not prohibit the State authorities from requiring a State license for the same business. But I understand the proposition is to introduce an express provision in this bill that the license to be granted under it shall be no defense against a prosecution under a State law for a violation of that law. In my opinion, upon that point the bill should contain no provision whatever. It should leave the party obtaining the license to the full operation and effect of the license under this bill, and also to the full effect and operation of the law of the State that required a license for the same business.

I do not think that a person obtaining a license under this bill should be deprived of any ground or right of defense which he might have under and in virtue of the bill against a prosecution under the State law, by any express words or provision of the bill which we are about to pass. I think he ought to be left to take his fate under the jurisdiction of the two authorities; that is, the authority of Congress and the authority of the government of the State, without any expression on the part of the law which may be passed by Congress that he shall have no right of defense, perfect or imperfect, under that law against a prosecution under the State law and authority.

I think, therefore, that so far as the proposition under consideration proposes to insert words declaring that a license obtained under this act shall not be pleaded or considered as matter of defense in favor of the party who obtains the license, against a prosecution under a State law, it is wrong. If a license is directed by the law of that State to be granted, and the business is allowed to be carried on under a license, of course the State law is not violated; but if a particular business is not allowable by the State law, and there is a positive prohibition and a penalty in the case, and he carries on the business against the positive prohibition of the State law, your United States license should not shield him; but I do not think that the party to whom, by the authority of this act, a license may be granted should be deprived of any right whatever which he might claim under the proper effect of this act, if it becomes a law, in any defense that he might make against a prosecution under a State law.

Mr. CONNESS. The object of this bill is to get revenue. If we can obtain revenue from the sources referred to I suppose there will be gain in that. We do not interfere, nor undertake to determine what is a moral transaction or what is not. We leave that to the States; the State determines it. If the party carrying on, we will say, the sale of lottery tickets as a business, or, in the State of Maine, the sale of liquor as a business, shall not take out a license, then the State authorities who have denounced these trades as immoral and wrong, and in violation of the public policy, will have the additional vigilance of the Federal officials to discover them. If they do take out a license to avoid that, then the State authorities who have denounced those transactions and trades will have the absolute evidence, and will know where to get it, to prosecute those parties engaged in illegitimate transactions, and thus destroy them. On the one hand, therefore, we shall get revenue, or, on the other hand, it will tend to destroy transactions and trades that are illegitimate and destructive to the community. I hope the amendment of the Senator from Maine will be adopted for these as well as other reasons that I will not occupy time in stating. It will give us revenue, and it will materially tend to cripple the operations of a cunning set of men who are engaged in making large profits from that which there is scarcely any difference of opinion about are discreditable transactions and trades.

Mr. DAVIS. In our desire to obtain revenue we ought not to violate a principle of common honesty to obtain it. If a business is immoral



and vicious in its nature or tendency, and is so treated by State legislation and prohibited, the United States Government ought not, in the face of such a law and policy as that on the part of the State, to grant a license for carrying on that business. If it does do so, it ought not to carry the double dealing with it of seeking by a provision of the law to deprive the party to whom it grants the license to carry on the business of any legal defense or advantage which that license would give him. If Congress is about to pass a law authorizing a license to be given to a citizen of the United States to sell lottery tickets, or to sell spirituous liquors, it ought not, in the same, provision authorizing the granting of these licenses, to deprive him of the benefit of any legal defense which the license would give him against all antagonistic State laws. Why, sir, what sort of legislation would it be for Congress to pass a law licensing a business which the honorable Senator from California intimates may be vicious, against public law and public policy, and at the same time saying to the party to whom the license was granted, "Although we charge you money for carrying on this business, and give you our consent that you shall carry it on, yet our consent that you shall carry it on shall not inhibit any State in which it may be carried on from passing a law making it penal on your part to carry on that identical business, and to prohibit it and to punish you as a malefactor if you carry it on?"

It seems to me that that sort of legislation would be highly improper; that it would be derogatory to the character of Congress. If Congress passes a law imposing a tax upon any particular business for the purpose of obtaining revenue, in my opinion it ought to be satisfied with that amount of legislation, and ought not in the same legislation to say, "If you do carry on this business that you have paid us money for liberty to carry on, the license which we give you authorizing you to carry it on shall not be pleaded or used as matter of defense against State legislation which inhibits you from carrying it on."

It seems to me it is only necessary to state the proposition that the obliquity of that sort of legislation may be apparent. I repeat it would be, in my opinion, derogatory to the character of Congress to pass such legislation. It ought not to offer an inducement to a citizen of the United States to violate morals and public policy and State legislation, and require money to be paid for that inducement, and then expressly to say to the party who was beguiled into this business by this license at the cost of the money which he paid for it that he shall have no benefit of legal defense growing out of the license. I admit my surprise that such legislation is proposed; and especially do I express my surprise that the fair-minded Senator from California should give any countenance whatever to that character of legislation.

Mr. CONNESS. I cannot see the double-dealing in this legislation that the honorable Senator from Kentucky does. We do not say to any party, "You may carry on this business in violation of State law, or in derogation of any law, if you take this license;" but on the contrary we do say to him, "You shall not carry on this business unless you take the license; we do not say that you shall carry it on in violation of the State law if you do take the license." We leave the subject of morals in these matters where it belongs, to the legislation of the States. I cannot see anything unfair in it. I confess that the moral perceptions of my honorable friend from Kentucky are too fine for me this morning.

The PRESIDING OFFICER. (Mr. FOSTER in the chair.) The question is on the amendment to the amendment.

Mr. DAVIS. I will ask for the reading of the proposition upon which the Senate is about to vote.

The Secretary read the amendment proposed by Mr. JOHNSON, to strike out the following clause in the amendment offered by Mr. FESSENDEN as a substitute for the seventy-seventh section of the bill:

Not shall any person carrying on any trade, business, or profession for which a license is required by this act be exempted from procuring such license, or from any penalty or punishment herein provided by or in consequence of any State law, either authorizing or prohibiting such trade, business, or profession.

Mr. JOHNSON. I think I was mistaken in

moving to strike out the whole clause, and in lieu of that I propose to strike out the words "or prohibiting" only.

The PRESIDING OFFICER. The proposed amendment to the amendment will be modified as suggested by the mover; and the question is on the amendment to the amendment, as modified.

The amendment to the amendment was rejected.

The amendment was agreed to.

The next amendment of the Committee on Finance was in section seventy-eight, line two, after the word "sum" to strike out the word "herewith" and to insert "herein;" in line six, after the word "business" to strike out the words "at any place;" in line seven, after the word "at" to strike out the word "such" and to insert the word "the," and after the word "place" to strike out the words "under such" and insert the words "specified in their;" so that it will read:

Sec. 78. And be it further enacted, That there shall be paid annually for each license granted the sum herein stated respectively. Any number of persons, except lawyers, conveyancers, claim agents, physicians, surgeons, dentists, cattle brokers, horse dealers, and peddlers, carrying on such business in copartnership may transact such business at the place specified in their license, and not otherwise, that is to say.

The amendment was agreed to.

The next amendment was in section seventy-eight, line twenty-two, at the end of the clause imposing a license on bankers, to add the following proviso:

Provided, That each savings bank shall be liable to pay \$100 for license as a banker.

Mr. COLLAMER. That amendment provides, as I understand, that every savings bank shall pay \$100.

Mr. FESSENDEN. If it does business as a banker it is required to pay \$100 "for license as a banker."

Mr. COLLAMER. No. It provides that every one of them shall take out a license as a banker and pay for it whether they do any business or not.

Mr. FESSENDEN. That is not the meaning of the clause.

Mr. COLLAMER. It is evidently the meaning of the words of the clause.

Mr. FESSENDEN. "That each savings bank shall be liable to pay \$100 for license as a banker."

Mr. COLLAMER. It appears to me as plain as the English language can read. This proviso stands entirely independent by itself. It is a proposition by itself that every savings bank shall pay \$100 as a banker.

Mr. FESSENDEN. The idea is, that if a savings bank does business as a banker it shall pay \$100 for a license.

Mr. COLLAMER. Undoubtedly it should if it does that sort of business, but the savings banks in my State do nothing of the kind.

Mr. FESSENDEN. If the Senator will move an amendment to make it more clear I shall be very glad to accept it.

Mr. COLLAMER. I propose to insert the words "doing business as a banker;" so that the proviso will read:

Provided, That each savings bank, doing business as a banker, shall be liable to pay \$100 for license as a banker.

Mr. JOHNSON. What is "doing business as a banker?"

Mr. COLLAMER. It is defined in the first part of the clause to which this proviso is an amendment.

Mr. JOHNSON. All savings banks lend money out.

Mr. COLLAMER. "Every person, firm, or company, and every incorporated or other bank, having a place of business where credits are opened by the deposit or collection of money or currency, &c., shall be regarded as a banker under this act." These institutions have nothing of the kind.

Mr. JOHNSON. They have with us.

Mr. COLLAMER. That is the difference in the country.

Mr. FESSENDEN. Then they should pay a license.

Mr. COLLAMER. The savings banks in the part of the country with which I am acquainted do no sort of business as bankers. They simply receive deposits of money and lend it upon notes, bonds, mortgages, &c., for the benefit of the depositors—nothing else in the world. They issue no bills or anything of that sort. I move to amend the amendment by inserting those words,

"doing business as a banker," after the words "savings banks."

Mr. POMEROY. I suggest that they all do business as bankers, but all of them do not do banking business, and the phraseology of the amendment should be "doing a banking business." They do not do a discount business, and so they are not doing business as bankers.

Mr. COLLAMER. I take it the meaning of the word "banker" is defined in this section.

Mr. FESSENDEN. There are two or three definitions; one is, employing a certain capital in the business of banking. Savings banks have no fixed capital. Then again opening accounts "by the deposit or collection of money or currency subject to be paid or remitted upon draft or check or order."

Mr. COLLAMER. "Or where money is advanced or loaned on stocks, bonds, bullion, bills of exchange," &c.

Mr. FESSENDEN. The proviso is intended to meet those cases where savings banks are incorporated and where they unite with the business of a savings bank that of a banker and trade upon the capital. It provides that where they trade upon their capital and become bankers, in the ordinary sense of the word, or the sense of the word defined here, then they shall take out a license. That is all there is of it.

Mr. COLLAMER. Our country savings banks lend money on notes, and they may come in under that definition.

Mr. FESSENDEN. They invest the money in a certain way; that is all.

Mr. JOHNSON. They will come in under that clause, and I do not see why they should not.

Mr. FESSENDEN. They do not do business at a profit. They do not discount.

Mr. JOHNSON. Many of them do.

Mr. FESSENDEN. Those that do should pay for a license.

Mr. JOHNSON. The mass of the savings banks in Maryland, as far as I know, in the larger cities, are, in the sense of the definition in this section, bankers.

Mr. COLLAMER. Then they are mentioned in this proviso.

Mr. FESSENDEN. This is an exception. All savings banks will come in under this clause, whether they loan money or not, unless you put in this exception: the tax will be on the whole of them.

Mr. JOHNSON. I know that. Now the honorable member refers to what he calls the exception of the proviso.

Mr. FESSENDEN. No, sir.

Mr. JOHNSON. Where then?

Mr. FESSENDEN. The difficulty we wished to meet was this: savings banks generally have no fixed, established capital. That is a part of the definition here. The tax is imposed on all banks having a capital. Under that, savings banks having no fixed, established capital, might escape it entirely, and yet they might go on, as some of them do, to do all the business of banking. What we wanted to provide for was simply this: that where they attempt, whether they have a fixed capital or not, to do business as bankers in the ordinary sense of the word, they shall take out a license; where they do not do that business they shall not take out a license. That is it precisely.

Mr. JOHNSON. That I understand; but I was about to say that looking to the object my friend from Vermont has in view, he will not accomplish it, I think, by his amendment. I agree with the chairman.

Mr. FESSENDEN. The amendment of the Senator from Vermont is good as far as it goes.

Mr. JOHNSON. But it will not accomplish his object.

Mr. FESSENDEN. I think it will.

Mr. JOHNSON. The savings banks in Vermont, I suppose—I know it is the case with those in Baltimore—loan their money upon bonds, upon promissory notes, upon stocks; and any who loan their funds in that way are considered as bankers under this section. It must be so.

Mr. COLLAMER. I find I must qualify my amendment. I wish in the first place to describe the kind of savings banks in the part of the country where I am and generally. They are mere depositories of small sums, but making considerable in the aggregate. They receive them without pay and give certificates. They then lend that

money. Most of it they lend as far as they can upon mortgage. They get the best security they can. Sometimes they loan it upon bank stocks. They get their interest in that way from year to year, and make dividends among the depositors who have made deposits longer than three months. They are generally enabled by this means to get about six per cent., and out of that they are enabled to pay expenses and divide five per cent., as they do generally. They loan money upon notes. That would bring them within the description mentioned in this section, and therefore they would be bound to take a license as the section stands. I am not prepared at this moment to say to what extent the amendment would go. What I desire is—and I can hardly think the chairman wishes to defeat it—that these little savings banks, undoubtedly highly beneficial to our country, should not be compelled to take a license for a business they do not do—banking. They receive no deposits except from people who deposit the money that they lend out for them and pay them the interest they get on it. They have no profits. They make no charges. They merely pay the expenses of their room and of their treasurer. It is not a place in which there can be any profit made to anybody, and I can hardly think it was really intended to include them.

Mr. FESSENDEN. I have stated that it was not.

Mr. COLLAMER. How then shall we get along with the provision about loaning money on "promissory notes?"

Mr. FESSENDEN. Because they have no fixed capital.

Mr. COLLAMER. You do not require that.

Mr. FESSENDEN. Yes; "bankers using or employing a capital not exceeding the sum of \$50,000."

Mr. COLLAMER. But beginning with the fourteenth line:

Every person, firm, or company, and every incorporated or other bank, having a place of business where credits are opened by the deposit or collection of money or currency, subject to be paid or remitted upon draft, check, or order, or where money is advanced or loaned on stocks, bonds, bullion, bills of exchange, or promissory notes are received for discount or sale, shall be regarded a banker under this act.

They fall within this description. They are placed where money is loaned on promissory notes and bonds.

Mr. JOHNSON. They are covered by "deposits," too.

Mr. COLLAMER. They are not deposits in the common sense of the term. They receive deposits of money to lend. I shall have to let this pass for the present until I prepare with more care the amendment I desire.

The PRESIDING OFFICER. (Mr. FOSTER.) The Chair understands the proposed amendment of the Senator from Vermont to the amendment of the committee to be withdrawn for the present.

Mr. COLLAMER. Yes, sir.

The PRESIDING OFFICER. The question is on the amendment.

Mr. COLLAMER. I desire to have it passed over for the present if I can.

Mr. JOHNSON. I have received one or two letters from the officers of savings banks in some of the counties in my own State, where the deposits are \$10,000 and sometimes \$20,000 in a year, and where it is not expected that they will go beyond that, or \$25,000 at farthest. They suggested—and it appeared to me with some force—that if savings banks were required to take out a license at all it should be limited to those whose deposits on hand exceed some twenty or twenty-five thousand dollars. I think the chairman, perhaps, will agree to that.

Mr. SHERMAN. I do not wish to propose a remedy for this difficulty, but there is no difference of opinion as to what ought to be done, and it seems to me it could be remedied by inserting after the words "savings bank," in the twenty-second line, these words, "having no fixed capital." But at the suggestion of Senators I will consent to let it pass over informally.

The PRESIDING OFFICER. If there be no objection, the action on this proposed amendment will be passed over for the present, and the reading of the bill will be proceeded with. The Chair hears no objection. The question on that amendment will not be considered, therefore, as having been taken.

The next amendment was in line twenty-five, of section seventy-eight, to strike out "twenty-five" and insert "fifty," so as to read:

Wholesale dealers whose annual sales do not exceed \$50,000 shall pay fifty dollars for each license.

The amendment was agreed to.

The next amendment was in line thirty-six of section seventy-eight to strike out "obviously" and insert "in the judgment of the assessor or assistant assessor."

The amendment was agreed to.

The next amendment was in line fifty-nine of section seventy-eight, after the word "sales" to insert "including sales of other merchandise."

The amendment was agreed to.

The next amendment was in line ninety-three of section seventy-eight, after "is" to strike out "to" and insert "as a broker to negotiate;" in line ninety-four to strike out "purchase or sell" and insert "purchases or sales;" and after "securities," in line ninety-six, to strike out "for themselves or others;" so as to make the clause read:

Brokers shall pay fifty dollars for each license. Every person, firm, or company, except such as hold a license as a banker, whose business it is as a broker to negotiate purchases or sales of stocks, exchange, bullion, coined money, bank notes, promissory notes, or other securities, shall be regarded as a broker under this act.

The amendment was agreed to.

The next amendment was in lines one hundred and twenty-six and one hundred and twenty-seven of section seventy-eight, to strike out the words "and if exceeding the sum of \$10,000, one dollar for each additional \$1,000;" in line one hundred and twenty-nine to strike out "or" before "whose;" and after "products," in line one hundred and thirty, to insert "and whose annual sales do not exceed \$10,000;" so as to make the clause read:

Produce brokers, whose annual sales do not exceed the sum of \$10,000, shall pay ten dollars for each license. Every person, other than one holding a license as a broker, wholesale or retail dealer, whose occupation it is to buy or sell agricultural or farm products, and whose annual sales do not exceed \$10,000, shall be regarded as a produce broker under this act.

The amendment was agreed to.

The next amendment was in section seventy-eight, line one hundred and thirty-five, after "dealer" to insert "or produce brokers;" in line one hundred and thirty-six to strike out "the agent of others to purchase or sell" and insert "a broker to negotiate sales or purchase of;" in line one hundred and forty to strike out "manage" and insert "negotiate freights and other;" so as to make the clause read:

Commercial brokers shall pay twenty dollars for each license. Any person or firm, except one holding a license as wholesale dealer or produce brokers, whose business it is, as a broker, to negotiate sales or purchases of goods, wares, or merchandise, not otherwise provided for in this act, or seek orders therefor, in original or unbroken packages, or to negotiate freights and other business for the owners of vessels, or for the shippers or consignors or consignees of freight carried by vessels, shall be regarded a commercial broker under this act.

The amendment was agreed to.

The next amendment was after "chemical," in line one hundred and fifty-nine of section seventy-eight, to insert "or scientific;" so as to make the clause read:

And provided further, That no license shall be required for any still, stills, or other apparatus used by druggists and chemists for the recovery of alcohol for pharmaceutical and chemical or scientific purposes which has been used in those processes.

The amendment was agreed to.

The next amendment was after "apples," in line one hundred and sixty-one of section seventy-eight, to insert "or grapes;" so as to make the clause read:

And provided further, That stills of apples, grapes, and peaches, distilling or manufacturing less than one hundred and fifty barrels per year from the same, shall pay \$12 50 for a license for that purpose.

The amendment was agreed to.

The next amendment was in line one hundred and sixty-eight of section seventy-eight, after the word "part" to insert "or from any substitute therefor;" so as to make the clause read:

Brewers shall pay fifty dollars for each license. Every person, firm, or corporation, who manufactures fermented liquors of any name or description, for sale, from malt, wholly or in part, or from any substitute therefor, shall be deemed a brewer under this act.

The amendment was agreed to.

The next amendment was in section seventy-eight, after the word "barrels," in line one hundred and seventy-five, to insert "packages;" after the word "barrel," in line one hundred and seventy-seven, to insert "package;" and after the word "barrels," in line one hundred and seventy-eight, to insert "packages or casks."

The amendment was agreed to.

The next amendment was before the word "rental," in line two hundred and ten of section seventy-eight, to strike out "rental or estimated" and insert "yearly."

The amendment was agreed to.

The next amendment was after the word "kind," in line two hundred and twenty-four of section seventy-eight, to insert "not including spirits, wines, ale, beer, or other malt liquors;" so as to make the clause read:

Eating-houses shall pay ten dollars for each license. Every place where food or refreshments of any kind; not including spirits, wines, ale, beer, or other malt liquors, are provided for casual visitors and sold for consumption there-in, shall be regarded as an eating-house under this act.

The amendment was agreed to.

The next amendment was after the word "license," in line two hundred and seventy-four of section seventy-eight, to strike out "and one dollar additional for every \$100 premiums received by such agent;" so as to make the clause read:

Foreign insurance agents shall pay fifty dollars for each license.

The amendment was agreed to.

Mr. CONNESS. The word "or" in the two hundred and eighty-sixth line of the section should be stricken out. I move to strike it out.

The amendment was agreed to.

The next amendment was after the word "horses," in line two hundred and eighty-nine of section seventy-eight, to insert "or mules;" after "horses," in line two hundred and ninety-one, to insert "or mules;" after "horse," in line two hundred and ninety-three, to insert "or mule or;" to strike out in lines two hundred and ninety-three, two hundred and ninety-four, and two hundred and ninety-five the words "the third class, and shall pay twenty dollars for each license; when traveling;" and to strike out "fourth" in line two hundred and ninety-five and insert "third;" so as to make the clause read:

Peddlers shall be classified and rated as follows, to wit: when traveling with more than two horses or mules, the first class, and shall pay fifty dollars for each license; when traveling with two horses or mules, the second class, and shall pay twenty-five dollars for each license; when traveling with one horse or mule, or on foot, the third class, and shall pay ten dollars for each license.

The amendment was agreed to.

The next amendment was to strike out the words "as aforesaid" after "persons" in line three hundred and three of section seventy-eight.

The amendment was agreed to.

The next amendment was after the word "butchers," in line three hundred and forty-eight of section seventy-eight, to insert "whose annual sales do not exceed \$1,000, and butchers;" after the word "exclusively," in line three hundred and forty-nine, to strike out "from a cart or wagon;" and after the word "agents" to insert "and persons who sell shell or other fish, or both;" so as to make the clause read:

That butchers whose annual sales do not exceed \$1,000, and butchers who retail butchers' meat exclusively by themselves or agents, and persons who sell shell or other fish, or both, travelling from place to place, and not from any street or stand, shall be required, &c.

Mr. SUMNER. There is an ambiguity in that clause it seems to me in the use of the word "street" in line three hundred and fifty-two. I would suggest the word "shop" instead of "street," so as to read "and not from any shop or stand." On page 99 the word "street" is used to indicate an out-door sale. I presume here from the context that it is not intended to mean a sale from a shop or stand. It seems to me that the ambiguity which is in the clause from the use of the word "street" would be removed by the substitution of "shop."

Mr. FESSENDEN. I have no objection to that.

Mr. SUMNER. Then I move to amend the amendment by striking out the word "street" and inserting "shop."

The amendment to the amendment was agreed to; and the amendment, as amended, was adopted.

The next amendment was to insert after

"meat," in line three hundred and fifty-six, the words "or fish."

The amendment was agreed to.

The next amendment was to strike out the following clause in lines three hundred and fifty-seven, three hundred and fifty-eight, and three hundred and fifty-nine of section seventy-eight:

*And provided further,* That no license shall be required of a butcher whose annual sales do not exceed \$1,000.

And to insert:

And no license shall be required of persons who sell shell or other fish from hand-carts or wheel-barrows exclusively.

The amendment was agreed to.

The next amendment was to strike out the word "and" after "museums," in line three hundred and sixty-two of section seventy-eight; and after the word "museums" to insert "concert halls and melodeons."

The amendment was agreed to.

The next amendment was in line three hundred and sixty-six of section seventy-eight, after the word "operatic" and before "representation" to insert "or other."

The amendment was agreed to.

The next amendment was to add after the word "act," in line three hundred and sixty-nine of section seventy-eight, the following proviso:

*Provided,* That when any such edifice is under lease at the passage of this act the fee for license shall be paid by the lessee, unless otherwise stipulated between the parties to said lease.

The amendment was agreed to.

The next amendment was in line three hundred and ninety-two of section seventy-eight, after the word "pay" to strike out "according to the number of alleys or tables belonging to or used" and insert "ten dollars for every alley or table;" so as to read:

Bowling-alleys and billiard-rooms shall pay ten dollars for every alley or table in the building or place to be licensed.

The amendment was agreed to.

The next amendment was after the word "licensed" to strike out "when not exceeding one alley or table, ten dollars for each license; and when exceeding one alley or table, ten dollars for each additional alley or table."

The amendment was agreed to.

The next amendment was after the word "used," in line four hundred and twenty of section seventy-eight, to strike out the following proviso:

*Provided,* That all accounts, notes, or demands for the use of any such horse or jack without a license, as aforesaid, shall be invalid and of no force in any court of law or equity.

The amendment was agreed to.

The next amendment was in line four hundred and twenty-five of section seventy-eight, after "person" to strike out "whose business it is" and insert "who;" after "reward," in line four hundred and twenty-six, to strike out "to" and insert "shall;" in line four hundred and twenty-eight, before "advice" to insert "legal;" after "to" to strike out "causes" and insert "any cause;" and after "or" to strike out "matters pending therein" and insert "matter whatever;" so that the clause will read:

Lawyers shall pay ten dollars for each license. Every person who, for fee or reward, shall prosecute or defend causes in any court of record or other judicial tribunal of the United States or of any of the States, or give legal advice in relation to any cause or matter whatever, shall be deemed to be a lawyer within the meaning of this act.

The amendment was agreed to.

The next amendment was in line four hundred and sixty-one of section seventy-eight, after the word "miners" to strike out "actually producing;" so as to make the clause read:

Miners shall pay for each and every license the sum of ten dollars. Every person, firm, or company who shall employ more than one person under him or them in the business of mining coal, gold, silver, quicksilver, copper, lead, iron, zinc, spelter, or other minerals, shall be regarded as a miner under this act.

The amendment was agreed to.

Mr. CONNESS. I move to strike out that paragraph beginning in the four hundred and sixty-first line and ending in the four hundred and sixty-sixth line with the word "act."

Mr. HOWE. With the consent of the Senator from California I propose to offer a substitute for that paragraph.

Mr. CONNESS. Very well; I withdraw my motion.

Mr. HOWE. I move to strike out that paragraph beginning with the word "miners" and ending with the word "act," and in lieu of the words stricken out to insert:

Assayers assaying gold and silver, or either, of a value not exceeding in one year \$250,000, shall pay \$100 for each license, and \$200 when the value exceeds \$250,000 and does not exceed \$500,000, and \$500 when the value exceeds \$500,000. Any person or persons or corporation whose business it is to separate gold and silver from other metals or mineral substances with which such gold or silver or both are alloyed, combined, or united, or to ascertain or determine the quantity of gold or silver in any alloy or combination with other materials, shall be deemed an assayer for the purposes of this act.

The amendment was agreed to.

The next amendment of the committee was to insert at the end of section seventy-eight the following clause:

A license fee of ten dollars shall be required of every person, firm, or corporation engaged in any business, trade, or profession whatsoever, for which no other license is herein required, whose gross annual receipts therefrom exceed the sum of one thousand dollars per annum.

The amendment was agreed to.

The next amendment was in section seventy-nine, line three, after the word "dealers" to insert "except retail dealers in spirituous and malt liquors."

The amendment was agreed to.

Mr. HARRIS. The word "tobacconists" should be repeated after "eating-houses" in line six of this section. I move that amendment.

The amendment was agreed to.

The next amendment of the Committee on Finance was in section eighty, line six, after the word "produced" to strike out "or at any other principal place of business of such manufacturer or producer."

The amendment was agreed to.

Mr. COLLAMER. I do not know that I understand section eighty exactly. By a previous section manufacturers who sell any goods, wares, or merchandise are required to take out a license; but if I read this section aright, no license is required of any such manufacturer for anything he sells at the manufactory. Is that really the intention of it? A cotton manufacturer, according to this section, as I read it, no matter how much he sells, much or little, if he sells only at his own factory, does not require any license. I fancy that the committee intended to include in the sixth line the words "not exceeding \$1,000." I think that has been neglected. I cannot conceive that the section is consistent with the rest of the bill unless the words "not exceeding \$1,000" be inserted; and I presume those words have been omitted.

Mr. FESSENDEN. Let that section be passed over, and I will look at it.

Mr. JOHNSON. I suppose it was thought that because a license was required of manufacturers we ought to permit them to sell their goods at the factory without another license.

Mr. FESSENDEN. The Senator from Maryland is right. The manufacturer is required to take out a license for manufacturing; and this section is intended to provide that he shall not be required to have an additional license for selling at his own manufactory. The license here mentioned is for the sale of the goods.

Mr. COLLAMER. No man is required by this bill to take out a license for making anything unless he makes it for sale. A man is not to take out a license for making anything that he makes for his own use. The license is to make and sell.

Mr. FESSENDEN. Let the section be passed over and I will look further into it. I think the design was simply to say that a person who manufactures articles, having taken out a license as a manufacturer, shall not be required to take out an additional license to sell, where he sells at the manufactory.

The next amendment was in section eighty-one, in line nine, to strike out after "any" the word "such;" after "manufactory" to strike out "for which he, she, or they may be;" and in line twelve, after "elsewhere," to strike out "he, she, or they," and insert "every person;" so as to read:

First. Before commencing, or, if already commenced, before continuing, any manufacture liable to be assessed under the provisions of this act, and which shall not be differently provided for elsewhere, every person shall furnish, without previous demand, &c.

The amendment was agreed to.

The next amendment was in line twenty-three, after the word "return" to insert "under oath."

Mr. HOWE. Usually where we have employed those words we have included "or affirmation" with them. I move that modification.

The amendment to the amendment was agreed to; and the amendment, as amended, was adopted.

The next amendment was in section eighty-two, before the word "manufactures," in line nine, to insert "products or."

The amendment was agreed to.

The next amendment was in line ten of section eighty-two, after the word "demand" to strike out "either personal or written" and insert "in writing delivered to him in person or;" after "his," in line twelve, to strike out "her, or their;" after "manufactory," in line thirteen, to insert "or sent by mail;" and after "such," in line fifteen, to insert "producer or;" so that the clause will read:

And for neglect to pay such duties within ten days after demand in writing delivered to him in person, or left at his house or place of business, or manufactory, or sent by mail, the amount of such duties, with the additions hereinbefore prescribed, may be levied upon the real and personal property of any such producer or manufacturer.

The amendment was agreed to.

The next amendment was in line twenty-one of section eighty-two, to strike out after "in" the words "the general provisions of;" and after the word "act" to strike out "provided, that" and insert "and."

The amendment was agreed to.

The next amendment was in line thirty of section eighty-two, before "manufactured goods" to insert "produced or."

The amendment was agreed to.

Mr. HOWE. I do not wish to make a motion, but it really seems to me that the words "are sent by mail" should not be inserted in the thirteenth line of this section. Before this business can be carried on by anybody the party has got to give specific notice of where it is to be done and who is to do it; and there does not seem to me to be any difficulty in the world or that there can be any difficulty in giving personal notice. The forfeitures which are to follow upon a disobedience to this notice, it seems to me, are too severe to be entailed upon a notice sent through the mail.

Mr. FESSENDEN. I can only say that we had letters and communications on the subject from several assessors stating that a good deal of embarrassment and expense were occasioned by the fact that they had to go in person all over their districts or send some one to give notice merely, and that, as a general rule, sending it by mail would be quite as certain. We proposed to insert those words on consideration for that reason. It was not done without consideration.

The next amendment was in section eighty-three, line nineteen, to strike out the words "such persons or parties interested" and insert "the manufacturers or producers thereof;" in line twenty-one to strike out "the manufacturers or producers of the same" and insert "the parties interested;" and in line twenty-eight, after "shall" to strike out "then be" and insert "be found."

The amendment was agreed to.

The next amendment was in line thirty-nine of section eighty-three, before "declared" to insert "by him;" and in line forty, after "over" to insert "by the collector."

The amendment was agreed to.

The next amendment was to strike out the following proviso, beginning at line forty-four of section eighty-three:

*Provided,* That the proceeds of the sale of said articles, if any there be after deducting the duties and additions thereon, together with the expenses of summons, advertising, and sale, or the excess of the value of said articles, after deducting the duties and additions and expenses accrued thereon when turned over to the use of any department of the Government, shall be refunded and paid to the owner, or, if he cannot be found, to the manufacturer or producer, or to the person in whose custody or possession the articles were when seized.

And to insert in lieu thereof:

And the proceeds of sale of said articles, if any there be after deducting the duties and additions thereon, together with the fees, costs, and expenses of all proceedings incident to the seizure and sale, to be determined by said Commissioner, shall be refunded and paid to the owner, or, if he cannot be found, to the manufacturer or producer in whose custody the articles were when seized, as the said Commissioner may deem just, by draft on the same or some other collector; or if the said articles are turned



over without sale to the use of any department of the Government, the excess of the value of said articles, after deducting the amount of the duties, additions, fees, costs, and expenses accrued thereon when turned over as aforesaid, shall be refunded and paid by the said department to the owner, or, if he cannot be found, to the manufacturer or producer in whose custody or possession the said articles were when seized as aforesaid.

The amendment was agreed to.

The next amendment was to strike out, after "forfeited," in line eighty-two of section eighty-three, the words "as aforesaid."

The amendment was agreed to.

The next amendment was in line eighty-six of section eighty-three, after the word "of" to strike out "this section as aforesaid" and insert "the eighty-first section of this act."

The amendment was agreed to.

The next amendment was to strike out in lines eighty-eight, eighty-nine, and ninety, of section eighty-three, the words "cases of neglect or refusal to pay duties on manufactured articles or articles produced under the provisions of this act," and in lieu of them to insert:

This section; but before forfeiture shall be declared by virtue of the provisions of this section, the amount of duties which may be due from the person whose manufactures or products are seized shall first be ascertained in the manner prescribed in the eighty-fourth section of this act.

The amendment was agreed to.

The next amendment was in line ninety-seven of section eighty-three, after "fine" to insert "or penalty."

The amendment was agreed to.

The next amendment was in line one hundred and two of section eighty-three, after the word "given," to strike out "in the same manner as is provided in this section in case of forfeiture" and insert "as the said Commissioner shall prescribe."

The amendment was agreed to.

The next amendment was in section eighty-five, after the word "aforesaid," in line twenty-two, to strike out "and subject to an *ad valorem* duty."

The amendment was agreed to.

The next amendment was in section eighty-five, line twenty-five, after the word "behalf" to insert:

And where such goods, wares, and merchandise have been removed for consumption or for delivery to others, or placed on shipboard, or are no longer within the custody or control of the manufacturer or his agent, not being in his factory, store, or warehouse, the value shall be estimated at the average of the market value of the like goods, wares, and merchandise at the time when the same became liable to duty.

The amendment was agreed to.

The next amendment was in line thirty-nine of section eighty-five, after the word "commission" to insert "not exceeding three per cent."

The amendment was agreed to.

Mr. SPRAGUE. I have in my hand a paper received this morning addressed to the Committee on Finance, and with the consent of the Senate I will read it. It has reference to this subject, and after reading it I shall move that it be referred to that committee, and at the same time I give notice that I shall move when this bill comes into the Senate that "the reasonable commission not exceeding three per cent." be increased to the actual amount paid:

NEW YORK, May 25, 1864.

GENTLEMEN: The undersigned, merchants in the city of New York, beg leave respectfully to ask your attention to section eighty-five in the new internal revenue law passed by the House of Representatives and now being considered by your honorable committee.

Said section provides that a manufacturer in making his return of goods shall only deduct from the full market value actual freight and three per cent. commission.

We think a manufacturer should be allowed what he actually has to pay to convert his goods into cash; which is for—

Packing boxes, freight, fire insurance, cartage, storage.....	1 1/2 per cent.
Commission.....	3 "
Guarantee for selling.....	3 "
As goods are usually sold on six months' credit—	
Loss of interest.....	3 "

Total.....10 1/2 per cent.

Which we think, in justice to them, they should be allowed to deduct from their return to the inspector.

HUNT, TILLINGHURST & CO.,  
HOYT, SPRAGUE & CO.

The honorable the Committee on Finance, United States Senate.

I move that the communication be referred to the Committee on Finance; and I give notice that I shall move to amend this clause when the bill comes into the Senate.

The motion was agreed to.

Mr. FESSENDEN. I desire to move a verbal amendment in the forty-ninth line of the eighty-fifth section. I move to strike out the words "used or" before "consumed," as they are entirely unnecessary.

The amendment was agreed to.

The next amendment was in line thirty-six of section eighty-six, to strike out the words "assessor or," and after "assistant assessor" in line thirty-seven to insert "of the proper assessment district."

The amendment was agreed to.

The next amendment was in line forty of section eighty-six to strike out the words "provided that" and insert "and."

The amendment was agreed to.

The next amendment was in section eighty-six, line forty-four, to strike out "one" and insert "three," so as to read, "a penalty of \$300."

The amendment was agreed to.

The next amendment was in section eighty-six, line forty-six, to strike out "six months" and insert "one year," so as to read, "imprisonment for a term not exceeding one year."

The amendment was agreed to.

The next amendment was in the eighty-seventh section, line twelve, after the word "shall" to insert "preserve the same in his office," and to strike out "transmit the same to the Commissioner of Internal Revenue. And the said assessor shall, on the 1st days of January and July of each year, transmit to said Department a statement in writing showing all changes in or additions to said record of such manufacturers."

The amendment was agreed to.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The next amendment of the Committee on Finance is to strike out the eighty-ninth section and insert in lieu of it—

Mr. CLARK. I hardly think it is necessary to read the part proposed to be stricken out; but there is a mistake in the printing of the bill. A portion of that section should not be stricken out; and before the question is taken on striking out, I move to amend by making the word "stem" before "tobacco" on the 121st page, in the thirty-sixth line of the section, "stemmed."

Mr. HENDERSON. What will be the effect of the amendment the Senator proposes? Will it be to class stemmed tobacco with tobacco that is taxed under this bill?

Mr. CLARK. Not at all. This is only a provision for storage and exportation.

Mr. HENDERSON. I notice that on page 144 the bill does provide for taxing stemmed tobacco or what is called strips.

Mr. CLARK. It does; but this is a provision for storing it in bonded warehouses and for exportation.

Mr. HENDERSON. I understand it provides only for storing that quality of tobacco which is taxed. There is no necessity for providing for storing the tobacco in the leaf until it is manufactured in some shape so as to incur the tax.

Mr. CLARK. The Senator is mistaken. This stemmed tobacco is prepared and mainly exported; and the amendment is desired by the exporters and raisers of tobacco. It is a provision for transporting it from the place of stemming to a bonded warehouse, so that it may go out of the country without paying a tax.

Mr. SUMNER. Do I understand that the stemming is done in a particular place? According to the information I have received, it is sometimes done by the producer on his farm.

Mr. CLARK. At a particular place. A difficulty arises in regard to the ambiguity of the language resulting from what may be the broad or narrow construction of the word "manufactured." If stemming the leaf, taking out the stem, is the manufacture of tobacco, we should not need this amendment; but it is doubtful whether that may be considered a manufacture, so that the committee desire to insert the words "or place of stemming" after "manufacture," in line thirty-eight, so that they may transport it directly from the place of manufacture or place of stemming to a bonded warehouse.

Mr. HENDERSON. I desire to state for the information of the Senate, those who may not understand this process, that my understanding of stemmed tobacco is strips—

Mr. FESSENDEN. I will say to the Senator that on this amendment, the question of the tax on stemmed tobacco does not come up. Although we provide here for depositing it in warehouses, he can move to strike out the stemmed tobacco afterwards. There is no such thing as "stem tobacco," as it is spelled now, and therefore we want to make it as we intended it to be by substituting "stemmed." Then if the Senator chooses he can move to strike it all out, and that will be another question.

Mr. HENDERSON. I do not desire to discuss this matter, but to make a single remark. Since the blocking up of the Mississippi river, the farmers in the West, I suppose very generally now, stem the tobacco in order to save transportation. The stem itself is like the stalk, only it is smaller. It is no more the manufacture of the tobacco than is the taking out of the stalk. As I understand the bill now, if a farmer in my State, in order to save the cost of transportation by railroad, stems the tobacco (for he can take the stems and sell them in St. Louis or Cincinnati, where they are manufactured into snuff, while the stalk is sent to Boston, or New York, or Philadelphia, and there manufactured) he will be compelled to pay a tax of thirty-five cents, and the manufacturer in the East will also have to pay a tax of thirty-five cents. It cuts the leaf into two pieces, and he will be compelled to pay twenty-five cents tax, and the manufacturer in New York will also have to pay thirty-five cents on the article when manufactured. The Senate will understand that stemming is the first process of manufacture; it takes the stem out; but it is by no means a manufacture of tobacco. If these words be retained here, the provision will be very hard on the farmers of the West, who have to ship their tobacco to the East now over railroads.

Mr. CLARK. No such question as the Senator from Missouri suggests arises here. There is no question of taxation here. This provides only a process by which we authorize the growers to remove this stemmed tobacco, or strips, as he calls it, from the place where the stripping is done to the bonded warehouse, there to remain until exported.

Mr. HENDERSON. Without payment of duties, which implies that it cannot be used without payment of duties.

Mr. CLARK. Exactly, and for the purpose of going into the bonded warehouse it does not pay any duty.

Mr. HENDERSON. But you do not require the leaf when the stem is in it to go into bonded warehouse for shipment.

Mr. CLARK. Not at all.

Mr. HENDERSON. I want this to remain exactly as leaf tobacco, because it is nothing else than leaf tobacco.

Mr. CLARK. As the committee understand, tobacco is generally stripped, and goes into the bonded warehouse to be exported, and this provision applies only to the stemmed tobacco. If the Senator desires to have some other classes of tobacco included, he can move that as a separate amendment, but it does not apply to this.

Mr. HENDERSON. The proviso is "that manufactured tobacco, stem tobacco," as it is now, or "stemmed tobacco," as the amendment would make it, "snuff, or cigars may be transferred without payment of the duty" to the bonded warehouse.

Mr. CLARK. Exactly.

Mr. HENDERSON. But that implies that stemmed tobacco must pay a duty. I do not want that implication, because it is nothing but leaf tobacco. It is true that no tobacco is ever manufactured until it is stemmed, nor is it manufactured until the stalk is taken off; but stemming is not manufacturing it. Taking the leaf off the stalk is called stripping. Taking the large fiber, the stem, out of the leaf is called stemming. No tobacco is manufactured until it has undergone both operations.

Mr. CLARK. The committee desired to provide that manufactured tobacco might be removed to a bonded warehouse without paying the duty.

Mr. HENDERSON. It is not manufactured tobacco.

Mr. CLARK. Here is a provision that manufactured tobacco may be so removed. The Senate understands that. Then there is another provision that stemmed tobacco may also be removed without payment of the duty. That is what the committee intend by it.

Mr. HENDERSON. I do not want it to pay any duty.

Mr. CLARK. The committee do not. That is what we are trying to come at.

Mr. HENDERSON. Does the Senator from New Hampshire mean to say that if the stemmed tobacco is used in this country it must pay a duty?

Mr. CLARK. We do mean to say that if it is used in this country the stemmed tobacco when so manufactured and made up shall pay a duty.

Mr. HENDERSON. Do you mean to say that stemming tobacco is manufacturing it?

Mr. CLARK. We do not undertake to decide that by putting in this amendment, but only to allow them to take it from the place of stemming to the bonded warehouse.

Mr. FESSENDEN. If the Senator from Missouri will wait until we get over to the provision imposing the duty, we can settle that question then.

Mr. CLARK. This has no application to that.

Mr. POWELL. If the provision of this bill on page 144 remains, placing this tax at thirty-five cents a pound on stemmed tobacco, it is eminently proper that this proviso should remain and be amended as indicated by the Senator from New Hampshire. Stemming tobacco, that is, taking the central fiber out of the leaf, is carried on for the purpose of shipping the leaf abroad to the British empire. It all goes there. They take out the central stem for the purpose of avoiding the tax in that country, which is very heavy. The planters estimate the central stem to be one third in weight of the leaf, and by taking out that central stem, which is of very little comparative value, they send the strips abroad and avoid one third of the duty in Great Britain. I do not suppose there is a manufacturer of tobacco in the United States that ever bought a hoghead of strip for the purpose of consumption here or working it up. This proviso relieves them from the necessity of paying the tax here, and allows them to put it in their warehouse for the purpose of shipping, and then to transmit it to a bonded warehouse without paying any duty whatever. It is very important, therefore, that these words "or place of stemming" should be inserted, because the stemming of tobacco is not manufacturing tobacco; it is all leaf, and remains leaf. I think it would be much better to strike out the provision so that there should be no tax on stemmed tobacco, because I think all of it is exported; but this provision is very important if amended as indicated by the Senator from New Hampshire, because it will save us the payment of the duty when we export from this country, and there will be no drawback connected with it. I hope the amendment indicated by the Senator from New Hampshire will be adopted. The question whether we shall place a tax on stemmed tobacco will come up afterwards.

The amendment was agreed to.

Mr. CLARK. In the forty-fourth line the same words should be inserted after the word "warehouse," "or place of stemming," so that it will read:

And may be transported from such warehouse or place of stemming to a bonded warehouse.

The amendment was agreed to.

Mr. CLARK. In the fifty-first line the word "stem" before the word "tobacco" should be "stemmed," and the same amendment should be made in the fifty-third line.

The amendment was agreed to.

Mr. CLARK. Now I desire to transfer the whole of that proviso at the close of the original eighty-ninth section to the end of the new section proposed to be inserted by the committee.

The PRESIDING OFFICER. That amendment will be made, if there be no objection. The question now is on striking out the eighty-ninth section of the bill and inserting what will be read by the Secretary in lieu thereof.

The Secretary read, as follows:

Sec. 89. And be it further enacted, That any person, firm, company, or corporation, now or hereafter engaged in the

manufacture of tobacco, snuff, or cigars of any description whatsoever, shall be, and hereby is, required to make out and deliver to the assistant assessor of the assessment district a true statement or inventory of the quantity of each of the different kinds of tobacco, snuff, cigars, cigars, tin-foil, liquorice, and stems held or owned by him or them on the day this act takes effect or at the time of commencing business under this act, setting forth what portion of said goods was manufactured or produced by him or them, and what was purchased from others, whether chewing, smoking, fine-cut, shorts, pressed, plug, snuff-flour, or prepared snuff, the several kinds of cigars and the market price thereof, which statement or inventory shall be verified by the oath or affirmation of such person or persons, and be in manner and form as prescribed by the Commissioner of Internal Revenue; and the said person, firm, company, or corporation engaged as aforesaid, on the first day of January in every year hereafter, shall make out and deliver to the said assistant assessor a true statement or inventory, in manner and form as aforesaid and verified as aforesaid, of all such articles aforesaid, then held or owned by him or them, setting forth all and singular what is required to be set forth in the statement or inventory first aforesaid; and every such person, company, or corporation shall keep in a book, in such manner and form as said Commissioner may prescribe, an accurate account of all the articles aforesaid thereafter purchased by him or them, the quantity of tobacco, snuff, snuff-flour, or cigars, of whatever description, sold, consumed, or removed for consumption or sale, or removed from the place of manufacture; and he or they shall, on Wednesday of each week, furnish to the assistant assessor of the district a true and accurate copy of the entries in said book during the week ending on the preceding Saturday, which copy shall be verified by oath or affirmation, on the receipt whereof an assessment of the duties due by said person, company, or corporation shall be immediately made and transmitted to the collector of the district, to whom said duties shall be paid within five days thereafter; and in case the duties shall not be paid within the said five days, the said collector may, on one day's notice, distrain for the same, with ten per cent. additional on the amount thereof, subject to all the provisions of law relating to licenses, returns, assessments, payment of taxes, liens, fines, penalties and forfeitures, not inconsistent herewith in the case of other manufacturers; and such duty shall be paid by the manufacturer whether manufacturing for himself or others: Provided, That it shall be the duty of any manufacturer or vendor of tin-foil used in covering manufactured tobacco, on demand of any officer of internal revenue, to render to such officer a correct statement, verified by oath or affirmation, of the quantity and amount of tin-foil sold or delivered to any person or persons named in such demand; and in case of refusal or neglect to render such statement, or of cause to believe such statement to be incorrect or fraudulent, the assessor of the district may cause an examination of persons, books, and papers to be made in the same manner as provided in the fourteenth section of this act: Provided, That manufactured tobacco, stemmed tobacco, snuff, or cigars, may be transferred, without payment of the duty, directly from the place of manufacture or place of stemming to a bonded warehouse established in conformity with law and Treasury regulations, under such rules and regulations and upon the execution of such transportation bonds as the Secretary of the Treasury may prescribe; said bonds or other security to be taken by the assessor of the district from which such removal is made, and may be transported from such warehouse or place of stemming to a bonded warehouse used for the storage of merchandise at any port of entry and withdrawn therefrom for consumption or payment of the duty or removed for export to a foreign country without payment of duty, in conformity with the provisions of this act relating to the removal of distilled spirits; all the rules, regulations, and conditions of which, so far as applicable, shall apply to tobacco, stemmed tobacco, snuff, or cigars, in bonded warehouse. And no drawback shall in any case be allowed upon any manufactured tobacco, stemmed tobacco, snuff, or cigars, upon which any excise duty has been paid either before or after it has been placed in bonded warehouse.

Mr. SUMNER. Before the vote is taken on that amendment, it seems to me we ought to understand what is meant by stemmed tobacco. I was at the trouble of making some inquiry out of the Senate on this subject of a person whose duty it is to understand it, and according to the information that I gained there is no material difference between stemmed tobacco and tobacco in the leaf. The greater part of the stemmed tobacco is still in the hands of the producer on his farm or plantation, whatever it may be. As I understand it, the stem, which is of no value, is extracted from the leaf. The leaf is relieved of that useless part. I understand that that in a just sense is no part of the manufacture of tobacco, but it is a process by which the leaf is brought into marketable condition. I may have been misinformed; but that is the information I received; and according to that information it seemed to me that the Senate was unconsciously, perhaps, approaching a very important question, and that is, the tax on tobacco in the leaf. On reflecting upon that tax I think there is much to be said in favor of it. I do not know that there is any way in which we could so easily raise from twenty to fifty million dollars of money; that is according as we made the tax ten cents or twenty cents a pound. But then if we do impose that tax I want to impose it knowing what I do. I do not want to impose it under another phrase which may mean or may not mean that. I throw out these observations founded on

certain inquiries which I have made. I may have been misinformed, however.

Mr. CLARK. The Senator from Massachusetts is undoubtedly correct. We understand by stemmed tobacco the tobacco out of which the stem has been taken, or stripped tobacco, so as to save the transportation of the bulky part of the stem. What the committee designed by this provision is to allow that tobacco, after it has been stripped from the stem, or the stem extracted, to be removed to a bonded warehouse and exported from the country without payment of duty. This is not a question of imposing any tax upon it at all. There is no question of a tax raised here in this clause, or in any other.

The amendment was agreed to.

Mr. FESSENDEN. Before going any further, I will make the motion of which I gave notice yesterday, that at half past four o'clock the Senate take a recess until seven o'clock.

Mr. SUMNER. Why not say half past six?

Mr. FESSENDEN. Seven o'clock is as early as we can get together.

Mr. CONNESS. I suggest half past seven o'clock.

Mr. FESSENDEN. Two hours and a half, from half past four till seven, will do, I think.

The PRESIDING OFFICER. The Chair did not understand whether the Senator moved the recess for this day only or daily.

Mr. FESSENDEN. I move it for this day.

The PRESIDING OFFICER. It is moved that at half past four o'clock to-day the Senate take a recess until seven o'clock.

The motion was agreed to.

The next amendment of the committee was in section ninety, line two, after the word "manufacturer," to strike out the words "or maker;" in line ten, after the word "manufacturer," to strike out the words "or maker;" in line twelve, before the word "forfeiting," to strike out the words "such manufacturer or maker;" in line fourteen, after the word "manufacturer," to strike out the words "or maker;" in line sixteen, after the word "manufacturer," to strike out the words "or maker;" and in line twenty, after the word "exceeding," to strike out the words "six months" and insert "one year;" so that the section will read:

Sec. 90. And be it further enacted, That every manufacturer of tobacco, stemmed tobacco, snuff, or cigars of any description, as heretofore mentioned, or his chief workman, agent, or superintendent, shall, at the end of each and every month, make and sign a declaration, in writing, that no such article or commodity, as aforesaid, has, during such preceding month or time when the last declaration was made, been removed, carried, or sent, or caused, or suffered, or known to have been removed, carried, or sent, from the premises of such manufacturer other than such as have been duly assessed and the duties imposed by law paid thereon, on pain of forfeiting for every refusal or neglect to make such declaration \$100. And if any such manufacturer, or his chief workman, agent, or superintendent, shall make any false or untrue declaration, such manufacturer, or chief workman, agent, or superintendent, making the same, upon conviction thereof, shall forfeit \$300, or, at the discretion of the court, be liable to imprisonment for a term not exceeding one year.

The amendment was agreed to.

Mr. POWELL. Is it in order to move to amend the section just read?

The PRESIDING OFFICER. The Chair will entertain the motion if there be no objection.

Mr. POWELL. I move to strike out the words "stemmed tobacco" in the second line.

Mr. FESSENDEN. I think we had better get through with the committee's amendments, and settle that question on the tax.

Mr. POWELL. Very well; I will withdraw my amendment for the present.

The next amendment was in section ninety-one, line four, to strike out the word "stem" and to insert the word "stemmed;" and in line fourteen, before the word "dollars" to strike out "fifty" and insert "one hundred;" so that the section will read:

Sec. 91. And be it further enacted, That if any person other than the manufacturer shall sell, or consign, or remove for sale, or part with the possession of any manufactured tobacco, stemmed tobacco, snuff, or cigars, upon which the duties imposed by law have not been paid, such person shall be liable to a penalty of \$100 for each and every offense. And any person who shall purchase or receive for sale any such tobacco, stemmed tobacco, snuff, or cigars, upon which the duty has not been paid, with knowledge thereof, shall be liable to a penalty of \$100 for each and every offense. And any person who shall purchase or receive for sale any such tobacco, stemmed tobacco, snuff, or cigars from any manufacturer who has

not a permit to manufacture, shall be liable for each and every offense to a penalty of fifty dollars, and, in addition thereto, a forfeiture of all the articles, as aforesaid, so purchased or received, or the full value thereof.

The amendment was agreed to.

The next amendment was in section ninety-two, line five, to strike out the word "annual" before "product;" in line six to strike out the word "sum" and insert "rate," and after the word "dollars" to insert "per annum;" in line nine to strike out the word "annual" before "product;" in line ten to strike out the words "the sum of \$600" and to insert the words "such rate;" in line eleven to strike out the word "sum" and insert "rate," and after the word "dollars" to strike out the words "the sum of \$600 shall be exempt, and;" in line thirteen after the word "collected" to insert the word "only," and after the word "above" to insert the words "the rate of;" and in line fourteen, after the word "dollars" to insert the words "per annum;" so that the section will read:

Sec. 92. *And be it further enacted*, That all goods, wares, and merchandise, or articles manufactured or made (except refined petroleum, refined coal oil, gold and silver, spirituous and malt liquors, manufactured tobacco, and snuff and cigars) by any person or firm, where the product shall not exceed the rate of \$600 per annum, and shall be made or produced by the labor of such person or firm, or by his or their family, shall be, and are, exempt from duty; where the product shall exceed such rate and not exceed the rate of \$1,000, the duty shall be levied, assessed, and collected only upon the excess above the rate of \$600 per annum; and in all other cases the whole annual product, including any business or transaction where one party has been furnished with materials, or any part thereof, and employed by another party to manufacture, make, or finish the goods, wares, and merchandise, or articles, paying or promising to pay therefor, and to whom the same are returned when so made and finished, shall be assessed and the duty paid thereon by the producer or manufacturer: *Provided*, That whenever a producer or manufacturer shall use, or shall remove for consumption or use, any article, goods, wares, or merchandise, which if removed for sale would be liable to taxation, he shall be assessed upon the salable value of the articles, goods, wares, or merchandise so used or so removed.

The amendment was agreed to.

Mr. FESSENDEN. I wish to change the phraseology in that proviso a little. In line twenty-two, I move to strike out the word "use" and insert "consume," and in line twenty-three I move to strike out the words "or use;" so that it will read:

*Provided*, That whenever a producer or manufacturer shall consume, or shall remove for consumption, any articles, &c.

The amendment was agreed to.

The Secretary proceeded to read the ninety-third section of the bill.

Mr. POWELL. In the fourteenth line of the ninety-third section, after the word "coal," I move to amend by inserting the words "and coal mined and used exclusively for the distillation of coal oil." I think it eminently proper that those words should be inserted. I understand it was the original intention of the committee of the House of Representatives to make the clause read in that way. The remnant of coal after it has been used for the distillation of oil is utterly worthless. I do not think the coal used exclusively for the purpose of being made into oil should be subject to the tax that is imposed by this section.

Mr. FESSENDEN. It is not subject to it now.

Mr. POWELL. Those who wish to protect that interest think it is.

Mr. FESSENDEN. This relates to the manufacture of foreign coal altogether.

Mr. POWELL. Oh, no, sir.

Mr. FESSENDEN. That coal will pay its duty in the first place at the mine.

Mr. POWELL. I wish to prevent that by inserting these words: "and coal mined and used exclusively for the distillation of coal oil." That will exclude it.

Mr. FESSENDEN. There will be no reason in that whatever.

Mr. POWELL. I think there is a very good reason for it. This clause proposes to lay a tax on the coal, and then the bill lays a tax on the oil. I do not think the business can stand the double tax.

Mr. FESSENDEN. That would only be giving Kentucky a preference over other places.

Mr. POWELL. Kentucky has very little interest in the question, comparatively. Other

States are more interested than Kentucky. West Virginia has much more interest in this matter than Kentucky, and so has Pennsylvania.

The PRESIDENT *pro tempore*. The Chair will receive the amendment of the Senator from Kentucky at this time, unless objection be made to it.

Mr. FESSENDEN. I would rather go through with the committee's amendments first. The Senator can make a memorandum of it, and offer it afterwards.

Mr. POWELL. This is a very short amendment.

Mr. FESSENDEN. I could not allow it to be inserted now without further examination.

Mr. POWELL. Well, I will withdraw it for the present.

The next amendment of the committee was in section ninety-three, line twenty-five, to strike out the words "five hundred thousand cubic feet per month, a duty of twenty cents per thousand cubic feet" in the following clause: "on gas, illuminating, made of coal, wholly or in part, or any other material, when the product shall be not above five hundred thousand cubic feet per month, a duty of twenty cents per one thousand cubic feet," and to insert in lieu thereof "two hundred thousand cubic feet per month, a duty of ten cents per one thousand cubic feet; when the product shall be above two and not exceeding five hundred thousand cubic feet per month, a duty of fifteen cents per one thousand cubic feet."

Mr. SUMNER. I suppose the committee have looked into this subject, but still the scale that has been adopted is not according to the information that I have received. I venture to suggest that "five cents" should be substituted for "ten cents" in the twenty-eighth line. In making that suggestion I wish to remark that I am for the highest tax that is practicable; but according to the information I have received this tax of ten cents where there is but two hundred thousand cubic feet of gas per month manufactured will operate to extinguish those comparatively small concerns, and therefore the Government will get nothing out of them. I am assured from a quarter well informed on this subject that five cents is as much as those small concerns manufacturing only at the rate of two hundred thousand cubic feet per month can pay. My information, of course, cannot be as extensive as that of the committee; it may be found, on inquiry, inadequate; but it is such as produced an impression on my mind; and therefore I throw out the suggestion. I do not care about making a motion on the subject.

Mr. FESSENDEN. We carefully examined that subject on a communication from a gentleman from Massachusetts, and came to the opinion that this was the proper rate to fix. It will make too great a distinction to put it down to five cents in the first case. The Senator will see that we have struck off one half when the product is above that amount.

Mr. SUMNER. I observe that.

Mr. FESSENDEN. This is as low as we can make it, considering the other rates.

Mr. SUMNER. As the Senator says that the subject has been looked into carefully by the committee, I shall not press the suggestion.

The amendment of the committee was agreed to.

The next amendment was in section ninety-three, line thirty-four, after the word "twenty" to strike out the word "five," and in line thirty-five to strike out the word "thirty" and insert "twenty-five;" so that the clause will read:

When the product shall be above five hundred thousand and not exceeding five million cubic feet per month, a duty of twenty cents per one thousand cubic feet; when the product shall be above five million, a duty of twenty-five cents per one thousand cubic feet.

The amendment was agreed to.

The next amendment was in section ninety-three, line eighty, after the word "purpose" to insert the following proviso:

*And provided also*, That naphtha of specific gravity exceeding eighty degrees, according to Baume's hydrometer, and of the kind usually known as gasoline, shall be subject to a tax of five per cent. *ad valorem*.

The amendment was agreed to.

The next amendment was in section ninety-three, line ninety-nine, to strike out the following clause:

On molasses, sirup of molasses, concentrated molasses or melado, and cistern bottoms, produced directly from the

sugar-cane and not made from sorghum or imphee, and on cane juice, when removed from the plantation, a duty of five per cent. *ad valorem*.

And to insert in lieu thereof:

On molasses produced from the sugar-cane, and not from sorghum or imphee, a duty of six cents per gallon.

On sirup of molasses or sugar-cane juice, when removed from the plantation, concentrated molasses or melado, and cistern bottoms, of sugar produced from the sugar-cane and not made from sorghum or imphee, a duty of one cent and one fourth of one cent per pound.

The amendment was agreed to.

The next amendment was in section ninety-three, line one hundred and eleven, to strike out the word "directly" in the following clause:

On brown or Muscovado sugar not above No. 12, Dutch standard in color, produced directly from the sugar-cane and not from sorghum or imphee, other than those produced by the refiner, a duty of two cents per pound.

The amendment was agreed to.

The next amendment was in section ninety-three, line one hundred and eighteen, to strike out the word "three" and insert "two and one half;" so that the clause will read:

On all clarified or refined sugars above No. 12 and not above No. 18, Dutch standard in color, produced directly from the sugar-cane and not from sorghum or imphee, a duty of two and one half cents per pound.

The amendment was agreed to.

The next amendment was in section ninety-three, line one hundred and twenty-two, to strike out "four" and insert "three and one half;" so that the clause will read:

On all clarified or refined sugars above No. 18, Dutch standard in color, produced directly from the sugar-cane and not from sorghum or imphee, a duty of three and one half cents per pound.

The amendment was agreed to.

The next amendment was in section ninety-three, line one hundred and thirty-seven, after the word "cents" to insert "per pound;" so that the clause will read:

On sugar candy, and all confectionery made wholly or in part of sugar, valued at not exceeding twenty cents per pound, a duty of two cents per pound.

The amendment was agreed to.

The next amendment was in section ninety-three, line one hundred and fifty-three, after the word "twenty" to insert "eight;" in line one hundred and fifty-four, after the word "twenty" to insert "eight;" in line one hundred and fifty-five, after the word "thirty" to insert "eight;" and in line one hundred and fifty-seven, after the word "thirty" to insert "eight;" so that the clause will read:

On gunpowder, and all explosive substances used for mining, blasting, artillery, or sporting purposes, when valued at twenty-eight cents per pound or less, a duty of one cent per pound; when valued at above twenty-eight cents per pound and not exceeding thirty-eight cents per pound, a duty of one and a half cent per pound; and when valued at above thirty-eight cents per pound, a duty of eight cents per pound.

The amendment was agreed to.

The next amendment was in section ninety-three, line one hundred and eighty-two, to strike out "ten" and insert "five;" so that the clause will read:

On screws, commonly called wood screws, a duty of five per cent. *ad valorem*.

The amendment was agreed to.

The next amendment was in section ninety-three, after line two hundred and sixteen to insert the following clause:

On photographs, or any other sun picture, being copies of engravings or works of art, or used for the illustration of books, a duty of five per cent. *ad valorem*.

The amendment was agreed to.

The next amendment was in section ninety-three, line two hundred and twenty-one, after the word "articles" to insert "except vessels propelled exclusively by sails;" so that the clause will read:

On all repairs of engines, cars, carriages, or other articles, except vessels propelled exclusively by sails, when such repairs increase the value of the article so repaired ten per cent, or over, a duty of three per cent. on such increased value.

Mr. SHERMAN. That exception ought not to be extended at any rate beyond vessels employed in the foreign trade.

Mr. FESSENDEN. The Senator is mistaken about that. This does not apply to the question of freight.

Mr. SHERMAN. I do not speak of that, but of vessels on our western lakes. I know nothing about the commerce on the Atlantic seaboard, and



therefore cannot speak about it; but the building of vessels on the western lakes has now become an enormous business, and there is no reason why the building of those vessels should not be taxed just the same as the building of steam vessels. There may be reasons operating on the Atlantic coast why this duty should not be imposed, but certainly they do not operate on the western lakes. I have heard this discrimination and also the other one in regard to the freights complained about. I cannot see any reason why this tax should not be imposed. There are now extensive ship-yards in Detroit, Cleveland, Erie, Buffalo, and other points, in which they are building a great number of vessels for commerce on the lakes, and very profitably.

Mr. FESSENDEN. The Senator does not understand it, I think. The reason why this exception is made is simply this: our neighbors in the British provinces can build vessels so much cheaper than we can that if we put a tax on the business of building vessels that business will fall exclusively into their hands. That is the great trouble.

Mr. SHERMAN. That may be true along the seaboard, but certainly that reason does not apply on the lake shores, where they cannot get the facilities to do so.

Mr. FESSENDEN. They will get the facilities if it is found that it is so much cheaper for them to build vessels. The result will be precisely this, that the business of building vessels will fall into their hands. That is the reason why the House of Representatives passed the section on this subject which they did pass by a very large vote.

Mr. SHERMAN. Then I ask why this duty should not apply to steamboats as well as sailing vessels.

Mr. FESSENDEN. Because they have not gone into the business of building steamboats in the provinces.

Mr. SHERMAN. The argument is precisely the same. I have heard this argument suggested in reference to the Atlantic coast, that there is the competition to be looked to in the building of the vessels; but that is not the case with the commerce of the lakes, which is said now to be equal to our commerce on the ocean. The transportation of wheat in these vessels is immense, and it is increasing. The number of steamboats is decreasing and the number of sailing vessels is increasing; and I do not see why the manufacture of those vessels should not pay a tax.

Mr. FESSENDEN. The Senator confounds the question of building the vessels and the question of freight.

Mr. SHERMAN. Not at all. I say here is a tax on the building of vessels, a discrimination against the building of steamboat vessels in favor of the vessels propelled by sails. It reads now, as it came from the House:

On all repairs of engines, cars, carriages, or other articles, when such repairs increase the value of the article so repaired ten per cent. or over, a duty of three per cent. on such increased value.

The House made no discrimination; but it is proposed now to make a discrimination, and to amend the clause so that it will read:

On all repairs of engines, cars, carriages, or other articles, except vessels propelled exclusively by sails, when such repairs increase the value of the article so repaired ten per cent. or over, a duty of three per cent. on such increased value.

Mr. FESSENDEN. The Senator is mistaken again. The House did make a discrimination.

Mr. SHERMAN. Where?

Mr. FESSENDEN. Over in the last part of the bill.

Mr. SHERMAN. On freight?

Mr. FESSENDEN. No, sir. The one hundred and seventy-sixth section declares:

That the tax levied in section ninety three shall not be held to apply to vessels propelled exclusively by sails.

The committee simply propose to transfer that provision to section ninety-three. That proposition, after a debate in the House, was adopted by a very large vote because so many persons there knew the fact. But the House also made a discrimination, and I think without much thought and unwisely, on the question of freight. That discrimination, I think, should not be made, at any rate so far as the coasting trade is concerned, and it was upon that subject that I spoke to the Senator.

The reason why this discrimination does not apply to steam vessels is this: steamers are a different kind of manufacture into which the British provinces have not gone for want of capital and facilities. The time may come when we shall be obliged to take off the duty on the building of those vessels. But they can build sailing vessels with just as much facility as we can. If the Senator was familiar with it, he would know that wherever there is a harbor with a sufficient depth of water they can build them, and it requires no outlay of capital. We have imposed so many heavy duties on everything that goes into the manufacture of a ship that if we impose a duty also on the manufacture itself we shall destroy the ship-building interest not only here but on the lakes. It is a different question from the question of freight.

Mr. SHERMAN. With due deference to the Senator, I must confess that I cannot see it. The question is on taxing the manufacture of ships, and I can see no reason for taxing the manufacture of steamboats that will not apply to sailing vessels. On the Atlantic coast, where our manufactures of sailing vessels are brought into more direct competition with all the world, there may be a reason why this tax should not be applied to vessels there, although I cannot see that very strongly. It is said it is a discrimination against our manufactures. All internal taxes are a discrimination against our own manufactures, because we cannot impose a tax in this bill on the manufactures of other countries, and therefore to some extent all these taxes are a discrimination against our own industry. But there may be reasons in regard to the building of vessels on the Atlantic seaboard that would operate against this tax, but they cannot operate; it seems to me, in the interior portions of the country. In Canada they build but a very few vessels. They have their own tax laws. We build a large number. Now, if a person should embark his capital in building a steamboat, even the hull of a steamboat, which may be manufactured on the Canadian side and floated across to our side, filled with iron and machinery, he would have to pay the tax.

Mr. FESSENDEN. That would be a very good reason for striking it all out.

Mr. SHERMAN. I do not see any reason why the tax should not apply to the building of all vessels.

Mr. COLLAMER. Neither do I.

Mr. SHERMAN. The Senator from Maine seems to think it so perfectly clear that I am somewhat confused that I cannot see it. The Senator from Vermont says he cannot. I think there is no reason for it. I believe, that the shipping interest on the Atlantic coast and in the interior could bear a reasonable and moderate tax. This is but three per cent. in one case and two per cent. in another. I believe that all of them could bear it a great deal better than other people can bear many of the other taxes imposed by this bill.

Mr. CHANDLER. It seems very clear to me that if there is any discrimination in this tax it should be in favor of steam vessels rather than of sailing vessels. It is very well known that the materials of which steam vessels are made are much more complex and pay a much larger revenue in the way of indirect and direct taxation prior to their going into those vessels. Then it is likewise well known that your sailing craft come in direct competition with your steam craft, and it is manifestly unjust to discriminate against the steam vessels. We all know it is very much more expensive running a steam vessel than a sailing vessel. We all know that sail vessels have a most decided advantage in the way of low freight. They can freight much lower than the steam vessels. The competition is very great. The steam vessels cost much more to run than the sailing vessels; and I really do not see the force of the argument of the Senator from Maine.

The Senator says that if this tax should be imposed they will build vessels in Canada and bring them here. Why, sir, they cannot be naturalized in this country without a special act of Congress.

Mr. FESSENDEN. They can make a sale to our citizens, as a matter of course.

Mr. CHANDLER. Not as a matter of course by any means. On the contrary, unless a vessel has been repaired and I think either three fourths or four fifths of her value placed upon her in the

shape of repairs in this country she cannot get an American register, and there are very few exceptions where registers have been granted unless a very large share of the value of the vessel was placed upon her in American waters. I repeat, I cannot see the force of the argument of the Senator from Maine. In my judgment, this is an unjust discrimination against the vessels propelled by steam, and in favor of those propelled by sails. I hope the proposition of the Senator from Ohio will be adopted and that no such discrimination will be made.

Mr. FESSENDEN. I think Senators in their anxiety to accomplish a purpose for the lakes do not make a proper distinction, and, with great deference to them, I think they are confounding the two questions of freight and the building of vessels. The argument of the Senator from Michigan mixes the two questions up together. I agree with him that sailing vessels can carry cheaper comparatively, but they cannot carry freights so often; they cannot do the business with so much facility as steamers.

The argument of both Senators might apply very well, if they think there is any difficulty about it, to the building of steamers. The real truth of the matter is that the contest arises and has arisen there on the lakes between the owners of steamers and the owners of sailing vessels. The owners of steamers contend that the sailing vessels should be made to pay freight. That is true to a very great extent; I agree to it. I see no reason why they should not; that is to say, all that are engaged in what is called the coasting business. But with regard to these vessels, we cannot by our treaties now prevent the owner of a foreign vessel, a vessel trading to foreign ports, from bringing cargoes to our own ports. They do it with the same facility and on the same terms precisely that our own vessels do. There is no discrimination against them. I speak of course of British vessels, with whom we have the greatest business; and we may just as well consider all others as of no comparative consequence. Into that question the cost of building the vessels enters most materially. In our country at present we are obliged to impose very heavy duties on iron and cordage and a great many materials of that kind which enter into the composition of a vessel. Even without this tax we cannot build a vessel, and have never been able to build a vessel, as cheap as they do in the British provinces. The labor is much cheaper with them. If you burden the building of these vessels so heavily they will be enabled almost at any time to monopolize our foreign trade; that is, taking cargoes to the West India islands and bringing cargoes from there home, without any very considerable difficulty. Those employed in the coasting trade, as I said before, ought to pay a tax on freight. I have never known a case where a vessel was purchased where an American register was refused to it by an act of Congress if desired.

Mr. HOWE. I wish the Senator would explain what difficulty there is practically in the way of protecting ship-building on the Atlantic coast against this competition either through your registration laws or through your tariff laws.

Mr. FESSENDEN. You can protect it undoubtedly if you will prevent foreign vessels from bringing cargoes to our shores.

Mr. HOWE. That is the freighting business; this is the manufacturing business.

Mr. FESSENDEN. Undoubtedly; but does not the Senator perceive that the expense of freight, the power to make freight, depends very materially on the cost of the vessel? Can a vessel which costs twice as much as another carry freight as cheap? The Senator will see that cannot be done; and you cannot possibly exclude them, such is the state of our treaties and our business. The fact is at present that we cannot build a vessel anywhere near so cheap, leaving this duty out of the question, as the provinces can build them; and if in addition to the duties that are piled upon all that goes into the manufacture of a vessel you put a duty of this kind on the business of manufacturing, you heap upon it a burden that it will be unable to bear.

If Senators will inquire into the matter it will be found probably that they have not gone into the business of making vessels on the lakes to so large an extent as we have; they have not any

foreign trade on the lakes, and the reason does not apply there as it does to the Atlantic coast. The question is, whether you have a disposition to break down a business which is so important as the business of building sailing vessels in connection with our commerce. I say they should pay a duty on freight, and the bill should be amended in that particular for this reason: because our laws exclude foreign vessels entirely from the coasting trade; they cannot enter into competition with us; and therefore you may put a duty upon the freight of sailing vessels engaged in our coasting trade; but you cannot put a duty upon the freight of vessels engaged in the foreign trade, because if you do you only take another step to drive our commerce entirely from the ocean. The Senator from Michigan, as the chairman of the Committee on Commerce, and understanding this question, is quite as familiar, or more familiar, with these facts than I am.

The House of Representatives, when the matter was explained to them, by a very large and decisive vote struck out this duty on the repair and manufacture of sailing vessels, as it was proper they should do. Although the reason for that exception does not apply upon the lakes, that is to say, so far as the building of vessels is concerned, because there is no foreign trade there, to the same extent, yet you cannot pass a law laying an excise duty that is not equal and the same through all sections of the country. You cannot pass an excise law applicable to the State of Vermont and not to the State of Maine. Therefore I say you cannot pass an excise law which shall apply to the Atlantic border and not apply to the lakes, or *vice versa*. That is the reason why we cannot make an exception. The Senator from Ohio says he will admit that perhaps the reasoning is true as applicable to the shipbuilding interest on the Atlantic border, but it does not apply to the shipbuilding interest on the lakes. You might make an exception if you saw fit, if you could do it constitutionally; but you cannot pass a law of this kind that shall apply to one section of the country and not to another section of the country. These excise laws must be equal.

This question affects my own State very materially, and it affects all the States on the Atlantic border; and I say to gentlemen that if you undertake to pile on these discriminating duties on the building of sailing vessels the result will be that you will break down the shipbuilding interest. Senators, whatever section of country they may represent, do not want to do that, I take it. For the sake of imposing those duties on the vessels upon the lakes they do not want to break down the shipbuilding interest on the Atlantic coast. In my judgment that would be almost the inevitable result; and that was the opinion to which the House of Representatives came. I beg Senators, therefore, to consider the question as it stands in the estimation of those who are most familiar with it.

Mr. CHANDLER. The Senator entirely misapprehends the commerce of the lakes. He says we have no foreign commerce. Why, sir, we build a very large number of ships, and they are engaged in foreign commerce. Then, again, a large proportion of the commerce of the lakes is done by sailing craft. I do not know what proportion, but I should think three fourths or four fifths of the whole commerce of the lakes is done by sailing vessels. I believe there are more tons of sailing vessels constructed and put afloat in the State of Michigan than there are in the State of Maine. All I claim is justice between the parties.

Mr. FESSENDEN. You are not exposed to competition with foreign trade.

Mr. CHANDLER. We have a foreign trade. We have a regular line from Detroit to Europe. There are just as regular lines between Detroit and Liverpool as there are between New York and Liverpool, only there are not quite so many of them.

Mr. FESSENDEN. About two vessels a year.

Mr. CHANDLER. Thirty-eight. We build a very large number of these sailing vessels of a certain draught and size, that go through the locks, for sale.

All I claim is justice between the parties. The owners of steam vessels on the lakes say, "We are willing to pay our tax for the support of the

Government, but give us justice; we come in competition every day with the sailing craft and they can underbid us; why will you tax us and relieve the sailing vessels?" I can see no reason on earth for the distinction. It seems to me to be a manifest injustice without any reason whatever. So it strikes me. I may be mistaken. I think I am not.

Mr. HOWE. I live on the lakes myself, and I cannot conceive of any lake interest that we are going to protect or promote by imposing a tax on the building of sail vessels on the lakes, especially if the like manufacture is to be exempt from taxation on the coast. The Senator from Maine insists, and I understand the Senator from Ohio concedes, that because of the competition between the building of sailing vessels in the British provinces and on the sea-coast in the United States they must be exempt from this tax there; but he still insists that the tax ought to be imposed upon the building of sail vessels on the lakes. My understanding is that the building of vessels on the lakes for sale on the coast is an established business; and I do not understand how we are going to promote the interests of that business. I do not understand why we do not strike a very injurious if not a deadly blow at it when we propose a tax of three or five per cent., or any other rate, on the building there and exempt the building on the Atlantic coast from a like tax. We give the building of sail vessels on the Atlantic coast a protection of whatever the rate of duty is over the building of those vessels on the lakes when we are trying and are building vessels there for sale on the coast, and selling them every year in large numbers. If, therefore, the building on the coast is to be exempt from duty, it seems to me of the utmost importance that no duty should be put upon the same manufacture on the lakes.

I confess I do not see the difficulty in the way of imposing a tax on this whole manufacture wherever they are built. The Senator from Maine argues that it will increase the cost of the vessel so much that it cannot compete in the market with the foreign-built vessel. I will inquire what is the rate of duty proposed, three or five per cent.?

Mr. SHERMAN. Two per cent.

Mr. HOWE. Then a vessel that will cost \$100,000 would pay \$2,000; and the argument is made here that to add \$2,000 to the cost of the vessel would not enable it to compete with a foreign-built vessel in freighting. I should not have suspected that, and I hardly think it is true. I hardly think any such danger is to be anticipated. But if it is the judgment of the Senate that the building of any vessels should be exempted from the duty, I certainly hope all will be. I hope the building of vessels on the lakes will be put on an equal footing with the building of vessels anywhere.

Mr. SHERMAN. I will state the history of this matter so far as it is presented on the face of the bill and as I remember the discussion in the House of Representatives.

The bill as reported from the Committee of Ways and Means, taxed the building of all sail vessels two per cent., the building of hulls two per cent., and repairs three per cent. The House in the course of the debate inserted at the end of the bill the section referred to by the Senator from Maine. It was not reported from the Committee of Ways and Means, but introduced perhaps by a member from the State of Maine. It is the one hundred and seventy-sixth section of the bill:

That the tax levied in section ninety-three shall not be held to apply to vessels propelled exclusively by sails.

That was then made part of the bill and sent to us. The Committee on Finance of the Senate struck it out in the place where it was, and inserted it in this clause on page 135 of the bill.

There are two ideas contained in this bill: one is to levy a tax on everything that is to be consumed in this country, higher or lower. Scarcely a single article manufactured in this country is exempt from taxation; but we do exempt from taxation a large number of articles that are manufactured in this country and exported abroad. Even whisky may be exported abroad free of duty. That is the general principle of the bill, not to tax our productions which come into competition with the production of foreign countries.

When we came to apply these principles to the

building of vessels we found this difficulty; there is no reason why vessels built in this country should not be taxed except that it might destroy or injure our own business in the competition with the building of foreign countries. That was the only reason that I know of for this exception. But as the tax is only two per cent. I am disposed to agree with the Senator from Wisconsin, and apply the tax to all. Certainly, if it is applied to steamboats it ought to be applied to sailing vessels. There is no reason for that distinction. I hope, therefore, we may have a vote on the amendment proposed by the Committee on Finance, and if that should be rejected it will leave the matter open to stand upon the House bill.

Mr. FESSENDEN. The Senator will agree, I presume, that this is precisely the same as the House provision, only it is put in the proper place.

Mr. SHERMAN. I have already intimated that it is only a transposition; but the provision as it came to us in the bill was not a provision reported by the framers of the bill, but a section inserted on the motion of some member of the House.

Mr. FESSENDEN. Does that make any difference?

Mr. SHERMAN. It does not make any difference; but it shows that the framers of this bill in contemplating and framing this system did not distinguish between sailing vessels and any other vessels.

Mr. FESSENDEN. The framers of the bill made no sort of objection to it when it was offered, but admitted its propriety.

Mr. SHERMAN. That I do not know anything about; but there is no reason for this distinction. There is no reason for exempting the manufacture of ships from this tax, unless the Senator from Maine or some other Senator can show that such an insignificant tax as two per cent. on the hull of a vessel would destroy our ship-building interest in the eastern States. It does not seem to me it can be so, because, if so, our taxes will prevent the building of steamboats and the building of all other vessels. I do not think a tax of two per cent. on the hull of a vessel will prevent any man from building ships in the State of Maine or any other State. It certainly would not prevent the building of any vessel in the West. This shipping interest is a very large one, and a tax of two per cent. upon all the vessels built in the United States will yield a very considerable sum of money, and I think we might as well apply it.

The PRESIDENT *pro tempore* put the question on the amendment of the committee, and declared that the "noes" appeared to have it.

Mr. FESSENDEN. I must ask for the yeas and nays upon it. It is a matter that I deem to be of so much importance to my State that I want to have the expression of the Senate by yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 13, nays 22; as follows:

YEAS—Messrs. Clark, Dixon, Doolittle, Fessenden, Foot, Foster, Johnson, Morgan, Sumner, Ten Eyck, Van Winkle, Wiley, and Wilson—13.

NAYS—Messrs. Anthony, Chandler, Collamer, Conness, Davis, Grimes, Harlan, Harris, Henderson, Hendricks, Howe, Lane of Indiana, Lane of Kansas, Nesmith, Pomeroy, Powell, Ramsey, Richardson, Sherman, Sprague, Trumbull, and Wade—22.

ABSENT—Messrs. Brown, Buckalew, Carlile, Cowan, Hale, Harding, Hicks, Howard, McDougall, Morrill, Riddle, Saulsbury, Wilkinson, and Wright—14.

So the amendment was rejected.

The next amendment was in section ninety-three, line two hundred and twenty-five, to strike out the word "ships" before the word "steamboats," and after the word "vessels" to strike out the words "not propelled exclusively by sails;" so that the proviso will read:

Provided, That on such repairs made upon steamboats or other vessels, not propelled exclusively by sails, a duty of two per cent. only on the increased value shall be assessed.

Mr. FESSENDEN. That amendment must be rejected according to the vote of the Senate just taken.

The amendment was rejected.

The next amendment was in section ninety-three, line two hundred and thirty, after the word "craft" to insert "except vessels propelled exclusively by sails."

The amendment was rejected.

The next amendment was in section ninety-three, line two hundred and thirty-two, after the word "made" to strike out the word "or," and after the word "constructed" to insert the words "or finished;" so that the clause will read:

On the hulls, as launched, of all ships, barks, brigs, schooners, sloops, sail-boats, steamboats, canal-boats, and all other vessels or water craft (not including engines or rigging) hereafter built, made, constructed, or finished, a duty of two per cent. *ad valorem*.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The hour of half past four o'clock having arrived, the Senate will now take a recess, according to its order, until seven o'clock.

#### IN SENATE.

THURSDAY, May 26, 1864.

#### EVENING SESSION.

The Senate reassembled at seven o'clock, p. m.

#### HOUSE BILL REFERRED.

The joint resolution from the House of Representatives (No. 82) in relation to the distribution of books and documents was read twice by its title, and referred to the Committee on Printing.

#### PETITIONS AND MEMORIALS.

Mr. FESSENDEN presented the memorial of George W. Gaffit, a match manufacturer in New York, remonstrating against the mode of taxing friction matches as proposed by the tax bill now before Congress; which was ordered to lie on the table.

Mr. ANTHONY presented additional papers relating to the petition of C. A. Pitcher; which were referred to the Committee on Claims.

#### DISLOYAL INDIANS.

Mr. LANE, of Kansas, submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Interior be instructed to report to the Senate what tribes of Indians are in arms against the Government of the United States, the location and extent of the reserves of such Indian tribes, the tenure by which they hold them, the amounts received by such tribes from the rebel authorities, and the dates when received, in the shape of annuities, and the amounts paid and expended by the Government of the United States for such Indian tribes since they were paid by the rebel authorities, and also the number of loyal and disloyal of such tribes.

Mr. LANE, of Kansas. I submitted yesterday morning a resolution of inquiry on the same subject, which was objected to by the Senator from Kentucky, [Mr. Davis.] I should like to have that taken up and passed now. I move that it be taken up.

The motion was agreed to; and the Senate proceeded to consider the following resolution submitted yesterday:

*Resolved*, That the Committee on Indian Affairs be requested to consider the question of confiscating the reserves of all Indian tribes who are or have been in arms against the Government, and providing homes for the loyal members of such tribes; and to report by bill or otherwise.

The resolution was agreed to.

#### CONDITION OF FREEDMEN.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be requested to furnish to the Senate a copy of the preliminary report, and also of the final report of the American Freedman's Inquiry Commission, with the accompanying documents.

#### INTERNAL REVENUE.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 405) to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes.

The Secretary continued the reading of the bill, the amendments of the Committee on Finance being acted on as they were reached in their order.

The next amendment of the committee was after the word "wood," in line two hundred and fifty-two of section ninety-two, to strike out "having been;" so as to read:

That all furniture, or other articles made of wood, previously assessed, and a duty paid thereon, shall be assessed a duty of five per cent. *ad valorem* on the increased value, &c.

The amendment was agreed to.

Mr. SHERMAN. I call the attention of the

Senator from Maine to the two hundred and forty-ninth line of this section. There seems to be some ambiguity about it:

On all furniture, or other articles made of wood, sold in the rough or unfinished, a duty of five per cent. *ad valorem*.

I do not see that there is any duty levied upon the article when finished. It seems to me that the qualification "sold in the rough or unfinished" applies to "all furniture or other articles made of wood," and there is no duty on the finished article.

Mr. FESSENDEN. I do not see any ambiguity about it.

Mr. SHERMAN. Is there any duty on furniture finished? What language covers it?

Mr. FESSENDEN. If the Senator will look to the last portion of the section he will see that all manufactured articles not enumerated and made of wood, leather, or anything else, pay a duty of five per cent.

Mr. SHERMAN. A general provision of that kind would cover it.

The next amendment was in line two hundred and seventy-six of section ninety-two to strike out "four" and insert "three;" so as to read:

On blooms, slabs, or loops when made in forges or bloomeries, directly from the ore, a duty of three dollars per ton.

The amendment was agreed to.

The next amendment was in line two hundred and ninety-two of section ninety-two, after the word "spikes" to strike out "and horseshoe nails when wrought by hand, kept for sale and not for the use of the maker in his trade;" and in line two hundred and ninety-seven to strike out "four" and insert "five;" so as to make the clause read:

On band, hoop, and sheet iron, thinner than No. 18 wire gauge, plate iron less than one eighth of an inch in thickness, and cut nails and spikes, not including nails, tacks, brads, or finishing nails, usually put up and sold in papers, whether in papers or otherwise, nor horseshoe nails wrought by machinery, a duty of five dollars per ton.

The amendment was agreed to.

Mr. SPRAGUE. In the previous clause, on page 138, I notice a proviso "that a ton shall, for all the purposes of this act, be deemed and taken to be two thousand pounds." I ask the chairman of the Committee on Finance if it is meant that this proviso shall refer to coal, a ton of which in all commercial parlance is twenty-two hundred and forty pounds.

Mr. FESSENDEN. I suppose it refers only to iron in that connection.

Mr. SPRAGUE. It appears to me to refer to the whole act. There is nothing to limit it.

Mr. COWAN. Mr. President—

Mr. FESSENDEN. Let it go until we get through with the amendments of the committee. I will make a memorandum of it, and we can consider it afterwards.

The next amendment was in line three hundred and three of section ninety-two to strike out "one dollar" and insert "two dollars;" so as to make the proviso read:

*Provided*, That bars, rods, bands, hoops, sheets, plates, nails, and spikes, not including such as are usually put up in papers; nor horseshoe nails wrought by machinery, as before mentioned, manufactured from iron, upon which the duty of three dollars has been levied and paid, shall be subject only to a duty of two dollars per ton in addition thereto, anything in this act to the contrary notwithstanding.

The amendment was agreed to.

The next amendment was in line three hundred and seven of section ninety-two to strike out "two" and insert "three;" so as to make the clause read:

On iron castings used for bridges or other permanent structures, three dollars per ton.

The amendment was agreed to.

The next amendment was after the word "ton," in line three hundred and seven of section ninety-two, to strike out the following proviso:

*Provided*, That bar iron, used for like purposes, shall be charged with no additional duty beyond the specific duty imposed by this act when not increased in value more than ten per cent.

The amendment was agreed to.

The next amendment was in line three hundred and fourteen of section ninety-two, to strike out "three" and insert "five;" so as to make the clause read:

On stoves and hollow-ware and castings of iron exceeding ten pounds in weight for each casting, not otherwise provided for, a duty of five dollars per ton.

The amendment was agreed to.

The next amendment was in line three hundred and sixteen of section ninety-two, after the word "nuts" to insert "and washers not;" after the word "bolts" in line three hundred and seventeen to strike out "not less than four ounces in weight" and insert "exceeding five sixteenths of one inch in diameter;" and in line three hundred and eighteen to strike out "four" and insert "five;" so as to make the clause read:

On rivets exceeding one fourth of one inch in diameter, nuts and washers not less than two ounces each in weight, and bolts exceeding five sixteenths of one inch in diameter, a duty of five dollars per ton.

The amendment was agreed to.

The next amendment was to insert the words "not less than" before "three," in line three hundred and twenty-two of section ninety-two, and in line three hundred and twenty-three to strike out "fifty cents" and insert "two dollars;" so as to make the proviso read:

*Provided*, That when a duty upon the iron from which rivets, nuts, and bolts, as aforesaid, shall have been made, has been assessed and paid a duty of not less than three dollars per ton, a duty only, in addition thereto, shall be paid of two dollars per ton.

The amendment was agreed to.

The next amendment was to strike out "\$1 50," in line three hundred and twenty-nine of section ninety-two, and to insert "three dollars;" so as to make the clause read:

*Provided further*, That all iron and castings of iron of all descriptions advanced beyond pig iron, blooms, slabs, or loops, upon which no duty has been assessed or paid in the form of pig iron, shall be assessed and paid, in addition to the foregoing rates of iron so advanced, a duty of three dollars per ton.

The amendment was agreed to.

The next amendment was after the word "smoked," in line three hundred and seventy-two of section ninety-two, to insert "when sold or removed for sale;" so as to make the clause read:

On oil-dressed leather and deer skins, dressed or smoked, when sold or removed for sale, a duty of five per cent. *ad valorem*.

Mr. HARRIS. Mr. President—

Mr. FESSENDEN. The Senator has no objection to this amendment, I suppose.

Mr. HARRIS. No, sir; but I wish to make a suggestion. I desire to have this provision modified somewhat, and I will either propose my amendment now or wait—

Mr. FESSENDEN. Wait until we get through the amendments of the committee.

Mr. HARRIS. Very well.

The amendment was agreed to.

The next amendment was in line three hundred and ninety-eight of section ninety-two, to strike out "ten" and insert "five;" so as to make the clause read:

On furs of all descriptions, when made up or manufactured, a duty of five per cent. *ad valorem*.

The amendment was agreed to.

Mr. FESSENDEN. The committee have directed me to offer the following proviso as an amendment after line three hundred and ninety-eight of section ninety-two:

*Provided*, That all manufactured furs on which a duty has been previously assessed and paid before manufacture shall be assessed only on the increased value thereof when so manufactured.

The amendment was agreed to.

The next amendment was in line four hundred and six of section ninety-two, after the word "shoes" to insert "gloves, mittens, and moccasins;" so as to make the clause read:

On ready-made clothing, boots and shoes, gloves, mittens, and moccasins, caps, hats, and bonnets, or other articles of dress for the wear of men, women, or children, five per cent. *ad valorem*.

The amendment was agreed to.

The next amendment was in line four hundred and seventeen of section ninety-two, before "per cent." to strike out "five" and insert "three;" so as to make the proviso read:

*Provided*, That any tailor, boot or shoemaker, hat, cap, or bonnet maker, milliner or dressmaker, exclusively engaged in manufacturing any of the foregoing articles to order as custom work and not for sale generally, who shall make affidavit to the assessor or assistant assessor that the entire amount of such manufactures so made does not exceed the sum of \$600 per annum, shall be exempt from duty; when exceeding \$600 per annum a duty of three per cent. *ad valorem* on the excess above \$600.

The amendment was agreed to.

The next amendment was in line four hundred



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and fifty-six of section ninety-two, after the word "manufacturing," to strike out "ten" and insert "fifteen;" so that the clause will read:

On cut smoking tobacco, made exclusively of stems, and not sweetened or otherwise prepared, and on shorts or other refuse separated from fine-cut tobacco in the process of manufacturing, fifteen cents per pound.

The amendment was agreed to.

The next amendment was after line four hundred and sixty-two of section ninety-two, to insert:

On cigars known as cheroots or short sixes, made of refuse tobacco, and valued at not over seven dollars per thousand, three dollars per thousand.

The amendment was agreed to.

The next amendment was in line four hundred and sixty-six of section ninety-two, after the word "cigars" to insert "not otherwise provided for;" so that the clause will read:

On cigars, not otherwise provided for, valued at not over ten dollars per thousand, five dollars per thousand.

The amendment was agreed to.

The next amendment was after line four hundred and seventy-five of section ninety-two to insert:

And all tobacco and snuff manufactured after the passage of this act shall, before being removed from the place of manufacture, be inspected by an inspector of tobacco, and each box, barrel, hoghead, keg, bag, jar, bottle, bale, or other package branded or marked with the name of the tobacco or snuff, and the tax paid thereon, with the name of the manufacturer; and any box, barrel, hoghead, keg, bag, jar, bottle, bale, or other package removed from such place of manufacture, except to a bonded warehouse, without such inspection and brand shall be forfeited to the United States, and liable to seizure and sale; one half the proceeds of such sale shall be paid to the informer and the other half to the United States.

Mr. CLARK. Before that amendment is adopted, I think it should be amended a little further, at the close of line four hundred and seventy-eight on page 145, by inserting the words, "unless the same shall be removed to a bonded warehouse for exportation."

The amendment to the amendment was agreed to.

Mr. CLARK. The word "shall," in line four hundred and eighty-seven, after the word "sale," should be "to." I move that amendment to the amendment.

The amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

The next amendment was to insert after the last amendment the following paragraph:

And that all cigars manufactured after the passage of this act shall be packed in bundles or boxes, open to inspection, and correctly labeled with the number and kind contained therein, and after inspection shall be stamped by the inspector with stamps to be provided by the Commissioner of Internal Revenue, deducting the tax paid thereon, and so affixed that the bundle or box cannot be opened without effacing or destroying said stamp. And any bundle, box, or package of cigars which shall be sold or pass out of the hands of the manufacturer, except into a bonded warehouse, without such stamps so affixed by an inspector, shall be forfeited, and may be seized wherever found, and sold, one half to the informer and the other to the United States.

Mr. CLARK. I move to strike out the word "that" after "and," so as to read, "and all cigars manufactured," &c.

The amendment to the amendment was agreed to.

Mr. CLARK. The word "deducting," in line four hundred and ninety-four, should be "denoting." It is a misprint.

The PRESIDING OFFICER. (Mr. FOOT.) That modification will be made.

Mr. CLARK. After the word "inspection," in line four hundred and ninety-two, I move to insert "unless the same shall be removed to a bonded warehouse for exportation."

The amendment to the amendment was agreed to.

Mr. CLARK. After the words "one half," in line five hundred, I move to insert "the proceeds of such sale to be paid."

The amendment to the amendment was agreed to.

Mr. CLARK. There should be another amendment in the four hundred and ninetieth line to correspond with the expression in line four hundred and ninety-six. After the word "bundles,"

in line four hundred and ninety, I move to insert "packages," so as to read, "bundles, packages, or boxes."

The amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

Mr. DOOLITTLE. I desire to change the word "seven" to "eight" in the four hundred and sixty-fourth line of section ninety-two, on page 145, so as to read, "on cigars known as cheroots or short sixes, made of refuse tobacco, and valued at not over eight dollars per thousand, three dollars per thousand."

Mr. CLARK. I hope that will not be done. After mature consideration by the committee, "seven" was agreed to.

Mr. DOOLITTLE. I will state what I understand—

The PRESIDING OFFICER. The Chair will suggest to the Senator from Wisconsin, that inasmuch as the clause which he desires to amend is an amendment that has been already agreed to, it will be necessary to reconsider that vote in order to reach the point.

Mr. FESSENDEN. We can go back to that by unanimous consent.

Mr. DOOLITTLE. I will state what I understand, that if a tax of three dollars a thousand is laid on that kind of cigar it will amount to a prohibition almost absolute on the manufacture. If you deduct three dollars for the tax, it will leave but four dollars besides, and as I am informed it will actually cost for the material and the labor of making, \$3 50.

Mr. JOHNSON. What do they sell for, is the question.

Mr. DOOLITTLE. They must sell for not over seven dollars a thousand, according to this provision, or otherwise the tax would be five dollars, which would be an absolute prohibition.

Mr. FESSENDEN. They must be valued at seven dollars a thousand. That is the valuation before the tax.

Mr. DOOLITTLE. "Over seven dollars."

Mr. FESSENDEN. The Senator is right. It is "not over seven dollars."

Mr. DOOLITTLE. And the valuation includes the tax.

Several SENATORS. No, no.

Mr. DOOLITTLE. That is the point in the case. I understand, on inquiry of the honorable Senator from New Hampshire, that such is the construction the Department put upon this clause—that the valuation includes the tax.

Mr. JOHNSON. That cannot be.

Mr. DOOLITTLE. I understand that that is the construction which the Department has put upon it, and that is what makes the point material.

Mr. JOHNSON. It is impossible that that can be so.

Mr. CLARK. I do not know that the Department holds so, but I have been so told.

Mr. DOOLITTLE. My proposition is to substitute "eight" in place of "seven."

Mr. SHERMAN. I suggest to the Senator that we had better let that go over until we make further inquiry.

Mr. CLARK. I do not think the amendment should be made whether they assess the tax one way or the other. We had before us the gentlemen who are engaged in the manufacture of these short sixes or cheroots, and when they first came before us they represented that they could be made at six dollars a thousand, and after consideration we fixed the value at seven dollars, one dollar higher than they fixed it; but after we fixed it they were very much disturbed that we had not fixed it at eight dollars instead of seven dollars.

I am willing the clause should go out and leave them under the tax for cigars valued at ten dollars per thousand. I think we ought to adhere to the amendment which the committee proposed on mature deliberation. This is only an effort to get a little more margin and a little less tax.

Mr. DOOLITTLE. If the tax is not a part of the valuation I shall not urge the amendment.

Mr. CLARK. Let that be inquired into: It will be open in the Senate.

Mr. DOOLITTLE. Very well, I will wait until the bill comes into the Senate. It all turns in my mind on the question whether the valuation includes the tax or not.

The next amendment of the committee was in section ninety-five, which is the section mentioning the exemptions from taxation of products and manufacturers, before "plaster" in line eight to insert "bone-dust."

The amendment was agreed to.

The next amendment was to strike out the word "paraffine" in line thirteen of section ninety-five.

The amendment was agreed to.

The next amendment was to insert in line eighteen of section ninety-five, "and Swedes, iron rolled expressly for tacks and used for no other purpose."

The amendment was agreed to.

The next amendment was in section ninety-eight, line one, after the word "brokers" to insert "and bankers doing business as brokers," and after "sales of" in line three to insert "merchandise, produce;" so as to read:

That all brokers, and bankers doing business as brokers, shall be subject to pay the following duties and rates of duty upon the sales of merchandise, produce, gold and silver bullion, foreign exchange, uncurrent money, promissory notes, stocks, bonds, or other securities as hereinafter mentioned.

The amendment was agreed to.

The next amendment was to insert in line twelve of section ninety-eight, "upon all sales of merchandise, produce, or other goods, one eighth of one per cent."

The amendment was agreed to.

The next amendment was in line fifteen of section ninety-eight, to strike out "fifth," and insert "twentieth;" so that the clause will read:

Upon all sales of stocks, bonds, gold and silver bullion and coin, sterling exchange, promissory notes, or other securities, one twentieth of one per cent, on the amount of such sales, and of all contracts for such sales.

The amendment was agreed to.

The next amendment was in line eighteen of section ninety-eight, after "broker" to insert "or banker."

The amendment was agreed to.

The next amendment was in section ninety-nine, line two, after the word "on" to strike out "the first Monday of May in each year, to be paid by any person or persons owning, possessing, or keeping any" and to insert "every;" after the word "table" in line four to strike out "plate;" after the word "instruments" in line five to insert "and on all gold and silver plate;" and after "annexed" in line eight to strike out "and marked A" and insert "to be paid by the person or persons owning, possessing, or keeping the same on the first Monday of May in each year;" so as to make the section read:

Sec. 99. And be it further enacted, That there shall be levied annually, on every carriage, yacht, billiard table, gold watch, or piano-forte, or other musical instruments, and on all gold and silver plate, the several duties or sums of money set down in figures against the same, respectively, or otherwise specified and set forth in schedule A hereto annexed, to be paid by the person or persons owning, possessing, or keeping the same on the first Monday of May in each year, and the same shall be and remain a lien thereon until paid.

The amendment was agreed to.

The next amendment was after the word "anything" in line thirty-nine of schedule A annexed to section ninety-nine to insert "herein."

The amendment was agreed to.

The next amendment was after the word "sale" in line five of section one hundred, to insert "except when slaughtered for the hides and tallow exclusively;" so as to make the clause read:

On all cattle and calves exceeding three months old, slaughtered for sale, except when slaughtered for the hides and tallow exclusively, forty cents per head.

The amendment was agreed to.

The next amendment was in section one hun-

dred, line twelve, to strike out "all" before "cattle;" in line thirteen to strike out "all" before "calves;" after "exceeding" in line thirteen to insert "in all;" to strike out "altogether" in line fourteen; after "consumption" in line fourteen to insert "in any one year;" after "duty" in line sixteen to strike out "and all cattle slaughtered for the hides and tallow shall pay ten cents only per head;" so as to make the proviso read:

*Provided, That cattle, not exceeding five in number, and calves, swine, sheep, and lambs, not exceeding in all twenty in number, slaughtered by any person for his or her own consumption, in any one year, shall be exempt from duty; and all sheep slaughtered for the pelts shall pay two cents only per head.*

The amendment was agreed to.

The next amendment was in line four of section one hundred and one, to strike out the words "whose business or occupation it is to slaughter for sale," and to insert "who shall buy and slaughter for sale, or who shall be the occupant of any building or premises in which such cattle, sheep, or swine shall be slaughtered;" and to strike out "general" before "provisions" in line twenty-five.

The amendment was agreed to.

The next amendment was in section one hundred and two, to strike out in line four the words "upon which steam is used as a propelling power" and to insert "propelled by steam or any other power;" and after "power" in line six to strike out "shall be subject to and pay a duty of two and a half per cent. on the gross amount of all the receipts of such railroad or railroads or steam vessel for the transportation of the United States mails, freight, express freight, and passengers over and upon the same; and any person or persons, firms, companies, or corporations, owning or possessing, or having the care or management of any railroad or railroads using any other power than steam thereon, or owning, possessing, or having the care and management," and to insert "or of," so as to make the clause read:

*That any person, firm, company, or corporation, owning or possessing, or having the care or management of any railroad or railroads propelled by steam or other power, or of any steamboat or other vessel propelled by steam power, or of any ferry-boat or vessel used as a ferry-boat, propelled by steam or horse power, shall be subject to and pay a duty of two and a half per cent. upon the gross receipts, &c.*

Mr. JOHNSON. Is it intended to lay a tax upon the city railroads?

Mr. FESSENDEN. That was done before. We have simply changed the phraseology. The tax is laid upon horse railroads as well as upon steam railroads.

Mr. JOHNSON. What do you mean by "before?" The antecedent law?

Mr. FESSENDEN. No; by this bill, before the amendment. We have inserted "propelled by steam or other power" in line four, and down below in the thirteenth line we have struck out "any railroad or railroads using any other power than steam thereon." We merely change the phraseology, putting it in better shape than it was before, as we thought.

The amendment was agreed to.

The next amendment was, after "railroad," in line eighteen of section one hundred and two, to insert "steamboat;" so as to read, "gross receipts of such railroad, steamboat, or ferry-boat," &c.

Mr. JOHNSON. There is a line, perhaps more than one, I know there is one line of steamboats that runs between Baltimore and Philadelphia, and I think a separate one goes between Baltimore and New York. They go not outside, but through the Chesapeake and Delaware canal and through the Delaware and Raritan canal; and they pay tolls to each of the canals through which they pass. This tax, as I understand it, is a tax on the gross receipts of such steamboats. I believe by the bill you tax the canal companies on their receipts. Then you tax the steamboat owners on what they pay out, provided you make the tax on their gross receipts. For example, a steamer running from Baltimore to Philadelphia will receive, say \$100 gross, but of that \$100 gross it has to pay fifty dollars to the canal company. Now, I submit to the honorable chairman of the committee and to the Senate whether in such a case it is not right to make a provision that they shall be credited with the amount which they pay in the way of tolls. They get from a customer

whose goods they carry to Philadelphia, say \$100; they charge him \$100; but of that \$100 they pay fifty dollars to the canal company.

Mr. FESSENDEN. I will say to the Senator that if there is a case which he thinks ought to form an exception, it can be done by way of amendment afterwards. We are now acting simply upon the amendments of the committee. He can look at the section and see if it is necessary to amend it. The general principle adopted is to tax gross receipts.

Mr. JOHNSON. I know; but I made the suggestion now because the committee recommend as an amendment the insertion of the word "steamboat" in the section. It was not in the section before.

Mr. FESSENDEN. That is in order to carry out the previous amendment.

Mr. JOHNSON. Steamboats perhaps would not have been in but for this amendment; but a tax of two and a half per cent. on the gross receipts will be found perhaps to leave them nothing. What I thought might be done was to provide that in settling the accounts they should be entitled to be credited with the amount paid for tolls.

Mr. FESSENDEN. The Senator will notice in the fifth line of the original section without our amendment, were the words "or of any steamboat or other vessel propelled by steam power;" we have merely changed the phraseology to carry out the idea.

Mr. JOHNSON. I can offer my proposition afterwards.

Mr. FESSENDEN. Certainly.

The amendment was agreed to.

The next amendment was in line twenty-six of section one hundred and two, to strike out "five" and insert "three;" so as to make the clause read:

*And any person or persons, firms, companies, or corporations, owning, possessing, or having the care or management of any toll road or bridge authorized by law to receive toll for the transit of passengers, beasts, carriages, teams, and freight, of any description, over such toll road or bridge, shall be subject to and pay a duty of three per cent. on the gross amount of all their receipts of every description.*

Mr. JOHNSON. Why do you not tax canals?

Mr. FESSENDEN. The difficulty is that most of the important canals are owned by the States, and we did not see how we could reach them.

Mr. HARRIS. The Delaware and Hudson canal is owned by a corporation.

Mr. JOHNSON. The Chesapeake and Delaware is owned by a private company.

Mr. FESSENDEN. We should single out some canals and not tax others. We would not be allowed to tax the Erie canal of New York, which is owned by that State.

Mr. JOHNSON. We might except those belonging to the States.

Mr. FESSENDEN. Why should those belonging to the States be exempt, and those belonging to private companies be taxed? I hope my friend from New York will look at the matter and draw a provision to reach the case if he can.

Mr. CONNESS. I do not see any reason why canals owned by States should not pay a tax too. We tax railroads, and they add the tax to those whose freight and merchandise they carry. It is but that much discrimination in favor of the canals unless we tax them too. I think we had better tax the canals.

Mr. FESSENDEN. I will only say that I am very anxious to get at it if we can in any way; and if my friend from New York or my friend from Maryland, who understands this matter, will frame a clause to meet the case, I shall be very much obliged to him.

The amendment was agreed to.

The next amendment was to add to section one hundred and two the following words:

*But when the gross receipts of any such bridge or toll road shall not exceed the amount necessarily expended to keep such bridge or road in repair, no tax shall be imposed on such receipts: *Provided, That all such persons, companies, and corporations shall have the right to add the duty or tax imposed hereby to their rates of fare whenever their liability thereon may commence, any limitations which may exist by law or by agreement with any person or company which may have paid or be liable to pay such fare to the contrary notwithstanding.**

Mr. HENDRICKS. I move to amend the amendment by striking out the proviso. In the

first place, if the laws of the State do not regulate the matter of toll, then without any such provision it is competent for the companies to add the tax to their charges, and no law of Congress is needed to enable them to do that. But I submit that if the State has regulated the question of toll Congress cannot interfere with it. These companies are created by State law; they are authorized to erect railroads, to construct turnpikes, and to build bridges. All the powers that they possess as corporations are given to them by State law, and that State law has fixed the charges that they may make upon the people. Now, is it within the power of Congress to interfere so as to enable them to charge that which the State law creating them has forbidden them to charge? If Congress cannot do that it is unnecessary to do anything which this proviso attempts. It seems to me it ought to be stricken out.

Mr. FESSENDEN. The answer to that is very obvious. There are some cases where the rate of fare is fixed by the laws creating the corporation and they cannot charge any more. Now, if we put so heavy a burden as this on them, it seems very hard that they should not have the power if they please to bring up their rates so as to cover the tax. These companies, where the charge is not fixed by law, can, if they choose, add the tax. Those whose charges are fixed by State law cannot. That would operate very unequally, and, as we think, very unjustly. Under these circumstances we thought it best to insert a provision allowing them to add the tax to their charges.

The question which the Senator from Indiana makes in regard to this amendment was also considered by the committee; but inasmuch as these companies were very desirous that they should have the power of trying the question, we thought it no more than right to make the provision and allow them to do it. The Senator will see that in fact it operates only upon very few companies, because, as I before stated, where these limitations do not exist they will add the tax to their charges, if they please, according to their own will. My own impression is, that inasmuch as Congress creates the burden, Congress can, if it pleases, say how that burden shall be assessed, and give this power; but that is a question which might be made a question for the courts, if the State chose to do it. Undoubtedly it would be a question between the corporations and the States creating them. When the States affixed these limitations they affixed them probably without reference to any action of Congress increasing the burdens of the companies and taxing them heavily for the benefit of the national Treasury. Could they have foreseen that anything of this sort would take place they undoubtedly would either not have affixed the limitation or they would have provided for it. It is an emergency unforeseen; and it is not probable that a State will object in the slightest degree to it, or institute proceedings to forfeit the charter of any company for simply making the addition, an addition in the same proportion that companies not thus limited make. We came to the conclusion, and I think we came to it unanimously in the committee, that it was not only wise but fair and just that this provision should be inserted for the benefit of companies laboring under those disabilities.

Mr. JOHNSON. It is a question of power.

The question being taken upon the amendment to the amendment, there were, on a division—ayes 12, noes 17.

Mr. TRUMBULL. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. TRUMBULL. I voted to strike out the proviso under the impression that Congress has no authority to make any such provision—

Mr. SHERMAN. If the Senator will allow me I will state my view of it.

Mr. TRUMBULL. Certainly.

Mr. SHERMAN. There are many gas companies that were organized under special acts or general laws, where the amount they can charge for gas is fixed by the State law. If we require the gas companies to pay this tax, in the present condition of the coal market and the depreciation of money, it will break them up. Is there any difficulty in Congress saying who shall pay this tax?

We are levying taxes on the citizens through the corporations. We make these corporations merely agents of ours to collect the tax from individuals. It is not a tax assessed upon the gas company so much as upon the consumption of gas; it is a tax assessed on the consumer, and we allow the gas company to collect from the consumer of the gas the tax that we choose to impose.

I think there is no legal or constitutional difficulty in the way. We simply make these corporations created by the States agents of the General Government to collect from their customers the tax that we put upon the article. We may say who shall pay this tax, whether it shall be paid directly by the corporation or paid directly by the consumer. We can if we choose change the terms of this law and say that each consumer of gas shall pay so much per thousand feet; or we may say that the gas company shall pay it and may collect it from the customer, and in that way it is a direct tax upon the consumer, although the money is paid into the national Treasury by the corporation. I take the case of gas merely as an illustration.

There are many cases where our tax laws from the peculiar circumstances of the time are very oppressive on corporations. The railroad laws of the States in some cases fix the price to be charged for the transportation of passengers and freight. In some cases, owing to the increase of business, the railroad companies make a great deal of money, but in other cases the tax operates very severely on them, because they have to pay higher prices for all they use and consume while their receipts are not proportionately increased. If we put all this tax on the corporations and do not allow them to collect it back again from their consumers or the persons who employ them, it will be very oppressive on them. Therefore, as in this case the State law fixes the limit of price and we impose a burden upon the corporation, or rather upon the consumer of the article, upon the person who rides in the railroad car or the consumer of gas, we make the corporation the medium to collect it. We have a right to say who shall eventually pay the tax. I see no difficulty in it.

Mr. TRUMBULL. Mr. President—

Mr. FESSENDEN. I should like to ask the Senator from Illinois a question before he proceeds. Could anybody object to this in its operation except the State that chartered the corporation?

Mr. TRUMBULL. The individual could.

Mr. FESSENDEN. How? In what way could he try it?

Mr. TRUMBULL. He may refuse to pay.

Mr. FESSENDEN. They say "We demand so much from you for carrying you over our railroad."

Mr. JOHNSON. He replies, "Under what authority? Your charter does not give it." Then they say, "We do it under the act of Congress." That brings up the question directly, have you any power by act of Congress to authorize it? If you have the power to pass this act of Congress the question could not arise even as between the State and the corporation.

Mr. FESSENDEN. The individual might bring an action against the company for refusing to carry him over the road.

Mr. JOHNSON. He might refuse to pay.

Mr. FESSENDEN. Then they would not carry him.

Mr. JOHNSON. But that brings up the question of power.

Mr. TRUMBULL. The argument of the Senator from Ohio seems to me to be rather ingenious than sound. He thinks it right that we shall tax these companies or corporations, or that we shall derive a tax from this kind of business, and then says that it will be very unjust if a corporation is made to pay the tax and is not allowed to impose an additional charge upon the persons for whom it does business or renders service. That may be so; and in the end he says this is to be paid at any rate by the consumers, and therefore you have a right to collect it directly from the company or corporation.

I think these positions are not sound. In the first place, you have no authority and no power to make these corporations your agents to do this business. You may pass a law authorizing State

officers to perform certain duties under acts of Congress; but it has been decided that you cannot compel them to do them. It is optional with them whether they will do so or not. In order to enforce your own laws you must have your own instruments. Therefore you cannot, as the Senator from Ohio supposes, make these companies and corporations your agents to collect this tax from the consumers. You have no power to do that. They are not your officers. Although they may voluntarily assume to perform the duty for you, you cannot impose it upon them.

Again, I know of no authority that you have to change this contract. This proviso declares that notwithstanding any contract or agreement which has been entered into to perform a particular service for a given sum, you will authorize one of the parties to that agreement to charge an additional sum. I agree, to take the case put by the Senator from Ohio, that you may levy a tax upon the consumers of the gas; you may get at it in that way; but it does strike me—my attention has only been called to it now—that such a provision as is contained in this amendment is manifestly unconstitutional. The manner in which you do it is a violation of the contract of the parties, and you cannot change the charters granted by States. If a State has authorized a company to carry on a particular business and to charge a certain price the Congress of the United States has no power to authorize that company to charge a higher price. You cannot vary the charter of a State Legislature. It is the mode you have provided in this amendment to get at it which I insist is unconstitutional. While I agree to all the Senator from Ohio says about the injustice of the case, I think we must assess this tax in some different way than imposing it on the corporation, and in some different way from saying that those rates which have been agreed upon by the parties shall be changed by this law and that any agreement to the contrary shall not be binding. It strikes me that Congress has no such power, and I shall therefore vote to strike out this proviso.

Mr. FESSENDEN. One company which applied to us and argued the question with very great force was the gas company of the city of Chicago. It represented that if we imposed the tax on gas companies upon that company, limited and controlled as it was by its charter from the Legislature of the State of Illinois, it must inevitably leave the city of Chicago in darkness. The same remark applied to the gas company of the city of Philadelphia. They were limited in their rates; they could charge but a certain sum; and with the amount they have to pay for coal and their greatly increased expenditures, if they are not at liberty to raise their rates when we put this very heavy tax on them, the result will be that they cannot get along. We were satisfied that that was so, and we were satisfied that it was so in regard to some railroads, which are limited in the same way.

It is a very simple process for a Senator to say "You must get at it in some other way." Why does not the Senator exercise his ingenuity, and tell us what other mode there is than to assess this tax directly on the companies? There is no other mode in which we can do it that we know of. We must therefore either give up the tax, give up the revenue to be derived from the gas tax, which is very large, and from all the railroads, which is also very large, or else we must include all in the same category; and when we include them as we are compelled to do in order to carry out the principle, we include some few important gas companies and some few important railroads that in another time and in another state of things were subjected by their charters to particular limitations. We see that we have no choice. We must either subject them to this great hardship or we must give up our tax; or else we must provide what they wish us to provide, give them the power to assess this tax upon those who are their customers. We cannot afford to give up the revenue. We think it is very hard to attempt to make companies thus situated pay the tax themselves and ruin them perhaps; I do not know how far it would go toward that. The only thing that is left, if we do not wish to give up the tax, is simply to make this provision.

The Senator from Illinois thinks we have no power to make this provision. On that point

opinions may differ. Although that is his opinion, there are others, and the Senator from Ohio is one of them, and I am another, who do not consider that there is a want of power to make this provision. Under the circumstances, what is the difficulty, considering the inherent trouble of the case, in leaving that question to be settled by the courts, if anybody chooses to raise it? There are but two classes of persons who can raise it. You may find a litigant who, for the sake of settling the principle, will expend some hundreds of dollars rather than pay half a dollar. I do not think it is exactly a case for a new John Hampden to defend his interest. The only other party is the State itself that chartered the company, and I do not think that, under the circumstances, the State would feel that its dignity required that it should enforce it.

In this state of things the committee, as I before said, came unanimously to the conclusion that it was but fair and right, and the only mode by which we could possibly reach it, to put in a provision of this kind and leave the question to be settled by the courts if anybody chooses to raise it. The committee thought that, inasmuch as we imposed the tax, we had the power to authorize it to be put in this way upon those who have to pay it ultimately, and who ought to pay it ultimately. I trust the provision will be retained.

Mr. HENDRICKS. I wish to add but a word or two to what I feel it to be my duty to say to the Senate. I ask the attention of Senators to the language of this proviso:

*Provided, That all such persons, companies, and corporations shall have the right to add the duty or tax imposed hereby to their rates of fare whenever their liability thereto may commence, any limitations which may exist by law or by agreement with any person or company which may have paid or be liable to pay such fare to the contrary notwithstanding.*

"Any limitation which may exist by law to the contrary." By a law of a State; by the law of a State which says that the charges shall not exceed a certain amount. Can we in respect to any of these corporations change the charter? Can we say that they may charge that which the State law has prohibited them to charge? I was struck with the argument of the chairman of the Finance Committee on this point. He is usually very clear in all the propositions which he states to the Senate; and yet after informing the Senate that this subject was very carefully considered by his committee he would not give it as his opinion clearly and plainly to the Senate that this was within the power of Congress. He says that this question may be referred to the courts.

Mr. FESSENDEN. I stated that although the question was not free from doubt, the honorable Senator from Ohio had given his opinion that we had the power, and that I entertained the same opinion.

Mr. HENDRICKS. I did not understand the Senator to express himself so positively as he now does; but his suggestion that we may act upon this question and refer it to the courts is rather a new one, I think, in the Senate of the United States. If Senators do not believe that we have the power, shall we say that we will attempt to exercise it, and let the courts pronounce against our usurpation of power? We have to decide this for ourselves under the same obligations of an oath that the judges of the courts have upon them. If we doubt, that doubt must carry us against the exercise of the power. If we doubt whether the Constitution allows us to do this, I think we cannot do it.

Two of the Senators have referred to the case of gas companies. I do not know what is the condition of particular companies; but I understand that there is no stock in the country so valuable, that brings so large a return to the holder, as gas stock. It may not be so in Chicago; I do not know how that is; but I understand that generally in the cities it is the very best stock a man can buy; and there are not many gas companies upon whom this tax will be a hard one. But is the hardship of a particular case, the case of the company in Chicago, to control? "Hard cases make a shipwreck of law." Are they to be the shipwreck of the Constitution too? My notion about it is that this tax ought to be upon the net receipts of the employments, of the roads,



of the business of the companies; that we ought not to tax their gross incomes but their net receipts. Then we do tax an income as we tax the income of each citizen; and I think that the tax on a corporation ought to be in that respect precisely as it is imposed upon the citizen. If you make it a tax on the net receipts or income, there is no more hardship on the corporation than on any individual in the country. All the citizens pay on their income. Let corporations do that; and from the gross income are to be deducted the expenditures in the particular business.

Mr. FESSENDEN. We pay on our gross income.

Mr. HENDRICKS. Not exactly that. An attorney pays on the proceeds of his profession, but not upon all the proceeds, because the construction of the law is that we may deduct from the income the expenses connected with our profession, our office rent and the like of that. So a tax on the income of a railroad corporation ought to be upon the net income after deducting its expenditures. The committee, however, have not seen fit to adopt that principle of legislation in respect to these corporations. Still I do not think we ought to disregard the constitutional difficulty which lies in the way of the adoption of the proposition of the committee in this instance. If the cases alluded to by Senators are hard cases, they ought to be remedied by the proper tribunal, the Legislatures of the States. If the Legislatures are disposed to aid Congress in the collection of a revenue, let them give the proper relief; I do not think Congress can; I have therefore proposed my motion. I wish to add that I am glad the Senator from Illinois has called for the yeas and nays, because this is an important question, and our decision will be a precedent upon other questions of a similar sort.

Mr. CLARK. I understood the Senator from Indiana to call this a new question. It is not a new question. The same question was before the Senate two years ago when we passed the tax bill. The same provision was inserted in that law, and it was after mature deliberation then that the Senate adopted it. It was not precisely in the same words as this or in the same connection, but the same principle is in the law. I recollect it very well. The same question was raised and the same discussion had. For two years the provision has worked and never has produced any collision between the States, and the Government of the United States, or between any individual and the United States. I suggest to the Senate that we had better now retain it, the practice having commenced under it. Let the States change their charters if necessary, as they undoubtedly will, because it will be a great hardship in many cases to compel these corporations to pay the tax and give them no redress over.

Mr. JOHNSON. I have said upon an analogous question that I thought there was no authority to pass a provision of this kind. I do not propose to argue the question again as a question of law. The object of the committee is to raise money, and that of itself in the abstract is quite a laudable object; but they are attempting to do it, I think, by this mode of taxation, to a greater extent than is just in itself, and they try to avoid that injustice in the practical result of what they are doing, by seeking to do what, as I think, they have no power to do, lay your tax on the gross proceeds of these companies instead of the net proceeds. Because a tax on the gross proceeds is very onerous to these companies, you propose to authorize them to throw that burden from their own shoulders on the persons with whom they deal. My idea, and that is the idea expressed by the Senator from Indiana, is that if the charters of these several companies limit the charge which they are authorized to make for doing the business which they are authorized by their charters to carry on, we have no power to give them the right to go beyond that charge; and yet that is precisely what is proposed to be done by this proviso. There is no necessity for it except the necessity which grows out of your mode of imposing the tax. If you will impose the tax on the net proceeds there will be no necessity for it.

Mr. COWAN. I should like to ask the Senator from Maryland whether the Government, if it disturbs the relations which exist between vendor and vendee, in the legitimate exercise of its

functions, has not a right to relieve in equity against the operation of its law. For instance, if A contracts to deliver whisky at fifty cents a gallon to B on a given day, three months from this time, and in the meanwhile whisky is taxed a dollar or a dollar and a half a gallon, it becomes utterly impossible for A, owing to the legitimate exercise of the Government power, to deliver; has it not the power to say to the vendee, B, that if he insists upon the specific performance of the contract he must pay the tax?

Mr. JOHNSON. That is another question altogether.

Mr. COWAN. That is this question precisely; and it is the same principle which underlies all these questions. What is the charter of a corporate company? Nothing but a contract between it and the State which gives the charter. This Government has the power to tax; and if by levying a tax it makes it impossible for the company to discharge its duties under the charter that it holds from the State, we can relieve as against that just in the same way as we can say to the vendor, "If the vendee does not pay the tax you are discharged from the obligation of the contract." So it is with the charter of these gas companies: if the people do not desire to pay what the charter allows the company to charge and the additional tax, and the company cannot get along otherwise, they need not have gas-light; that is all.

Mr. JOHNSON. I do not admit the law to be as stated by the honorable member from Pennsylvania. I understand him to say that if A contracts with B to sell goods to B for a specific price, and the taxing power of the State or the taxing power of the United States imposes a tax on that sale, the same power has a right to authorize the vendor to charge that amount to his vendee. That I deny. Whether the vendor could go into a court of equity and ask upon that ground to be relieved from the obligation to perform his contract is another question. I do not believe he could; but, if I recollect, the question propounded by way of illustration by the honorable member from Pennsylvania was passed upon by the Senate on a former occasion at this session. I think the honorable member from Wisconsin [Mr. DOOLITTLE] proposed to authorize the vendor in certain cases to charge the amount of the increased duty which we imposed to his vendee, and it was voted down.

Mr. FESSENDEN. The honorable Senator will recollect that it was voted down because the majority of the Senate wanted to pass that bill without any amendment, so as to prevent its going back to the House of Representatives, and therefore they would listen to no proposition. That was the ground; that was the reason given for it.

Mr. JOHNSON. I do not know what ground influenced the action of the majority of the Senate; but I know that I took objection to the amendment proposed by the member from Wisconsin precisely on the ground that the object contemplated by that amendment, as by this, is what we have no power to do. I do not propose to argue it further.

Mr. DAVIS. Mr. President, I have no recollection of this question at the time of the passage of the former act, as referred to by the Senator from New Hampshire. All the opinion I have about it is formed at this time; and I will express in a few words what that opinion is.

This provision applies to railroad companies, ferry companies, and other associations that exercise franchises. A railroad company has two classes of interests in the railroad. It owns the bed of the road, which is real estate; and whether the sill and the rail itself is a part of the realty or personalty I shall not undertake to define. But the chief property of a railroad company or of a ferry company is the franchise which it receives from the State that incorporates the company. One question involved in this provision is, has Congress a right to tax a franchise granted to a corporation by a State? I say it has not. Another question would arise, whether Congress has the power to impose a tax upon the real estate of the railroad company or of the ferry company. I will concede that it has. Congress has a power to impose a tax upon all real and personal estate. Consequently, upon the property of any railroad or ferry company or of any gas-light company, so far as that property is real estate, Congress has the right to impose a tax on

the value of that real estate. The other and additional question is, whether it has the right to impose a tax on the franchise granted to the corporation by the State. I say it has not. I accept the position of the Senator from Illinois that Congress has no right to substitute a corporation created by a State, to make it the collector or instrument by which this tax is to be collected. If it imposes a tax and wants a tax-gatherer, it must constitute that tax-gatherer by its own law, and it cannot adopt the agency of agents of a State to do that office unless at the option and by the voluntary consent of the State agency.

But I say that I am entirely opposed to the manner in which this thing is proposed to be done; and I am opposed to the substance of the thing itself. My position is that the franchise, either directly or indirectly, in the earnings of the franchise which is granted by a Legislature of a State in an act of incorporation is not a subject for congressional taxation. Why, sir, what would be the operation? The State may originally grant or withhold the franchise. It grants the franchise upon a condition and for a consideration; and what is that condition and that consideration? It is that the corporators shall execute the franchise at a certain rate of charge. This rate of charge is not for the benefit of the State as a political corporation; it is for the benefit of the people; it is for the benefit of the mass of the people who use the corporation, who travel on the railroad, who cross the ferry, who purchase the gas where a gas company is incorporated with power to impose a certain rate of charge, and to collect that by law. That is the essence of the franchise; that is the privilege granted by the State Legislature. The question is whether this privilege granted by a State Legislature to a portion of its people, this franchise, is properly the subject of taxation by the General Government or not. I maintain that it is not; because if the General Government may tax the corporation or the franchise it may tax it indefinitely; it may tax it to such an amount as to be oppressive, so that the State would never have granted the franchise to the corporators if it had anticipated that that rate of charge by the railroad or by the ferry company would be imposed upon its people.

Here, sir, is a contract between the State and the corporators by which the State sells a franchise to the corporators. It is a matter over which the General Government has no jurisdiction or control. It is a matter purely of State legislation and of State polity between it, acting for its people generally, and the corporators. It chooses to sell one of its franchises to a railroad company to construct a line of railroad, and authorizes it to adopt a scale of charges for the transportation of passengers and of merchandise limited by a certain rate. It is a franchise, in another form, granted by the State to a ferry corporation, by which it vests in the corporators the right to build boats for the purpose of ferrying individuals across a stream, and it authorizes the ferry company to impose a rate of taxation and to collect it summarily. These features constitute the franchise. It is originally in the pleasure of the State to grant or to withhold the franchise. No State grants a franchise upon an illimitable power on the part of the corporators to levy what tolls they please or what charges they please for the rates of travel and transportation. It is always done upon contract, and upon a limit upon the amount of such charges that the corporators may impose.

The question is whether those rates may be augmented by Congress imposing a tax upon the corporation and empowering the corporators to collect the tax in the form of additional rates of travel and transportation from those who travel or do business upon their road or ferry. That is the whole question. I say that that would be an interference on the part of Congress with a contract. A grant of a franchise by a State to corporators is a contract in the literal and rigid sense of the term. It is a contract whose sanctity is protected by the constitutions of the States and of the United States respectively. Neither party to a contract granting a franchise upon the conditions that I have referred to can change that contract of himself. If any change is made it must be made by the mutual consent of the parties to the contract; and Congress has no right to intervene in the matter, and to levy a tax upon the fran-

chise and authorize the corporators to impose the amount of that tax as an additional charge on the customers who use their road or ferry. While I assume that ground, I concede that on any visible property that any corporation may own, any real estate at its fair value assessed like other real estate in the country, Congress may impose a tax. Beyond that amount or in any other form I deny that Congress has the power to impose a tax.

The question being taken by yeas and nays, resulted—yeas 13, nays 20; as follows:

YEAS—Messrs. Buckalew, Davis, Grimes, Hale, Harlan, Harris, Hendricks, Howard, Johnson, Pomeroy, Powell, Ten Eyck, and Trumbull—13.

NAYS—Messrs. Anthony, Clark, Conness, Cowan, Dixon, Doolittle, Fessenden, Foot, Foster, Howe, Lane of Indiana, Morgan, Ramsey, Sherman, Sprague, Sumner, Van Winkle, Wade, Willey, and Wilson—20.

ABSENT—Messrs. Brown, Carlile, Chandler, Collamer, Harding, Henderson, Hicks, Lane of Kansas, McDougall, Morrill, Nesmith, Richardson, Riddle, Saulsbury, Wilkinson, and Wright—16.

So the amendment of Mr. HENDRICKS to the amendment of the Committee on Finance was rejected.

The amendment of the committee was agreed to.

The next amendment of the Finance Committee was in section one hundred and five, line three, to strike out "three" and insert "five;" so as to read:

That for every passport issued from the office of the Secretary of State there shall be paid the sum of five dollars.

The amendment was agreed to.

The next amendment was in section one hundred and seven, line six, after the word "horsemanship" to strike out "or;" after "acrobatic sports" to insert "or other shows;" after "concerts," in line eight, to strike out "exhibitions;" and in line thirteen, after "exhibitions" to insert "shows."

The amendment was agreed to.

The next amendment was in section one hundred and eight, line four, after the word "or" to insert "of any toll-road or;" and after "carrying," in line five, to insert "on."

The amendment was agreed to.

The next amendment was in line seventeen of section one hundred and eight, after the word "also" to strike out "within ten days;" and in line eighteen strike out "Commissioner of Internal Revenue" and insert "collector."

The amendment was agreed to.

Mr. SHERMAN. In regard to the next section I have an amendment intended as a substitute for that and the various amendments reported by the committee to it. I propose that my amendment be printed, and that that section be passed over.

Mr. SUMNER. What section is that?

Mr. SHERMAN. Section one hundred and nine, covering banks and banking. My amendment is rather too long to understand it by the mere reading of it. I want it printed, and the section to be passed over informally.

Mr. FESSENDEN. I have no objection.

The amendment was ordered to be printed, and section one hundred and nine was passed over.

Mr. CONNESS also submitted an amendment, which was received informally and ordered to be printed.

The next amendment was in section one hundred and ten, line three, after the word "lotteries" to strike out "as aforesaid;" and in line four to strike out "five" and insert "ten;" so as to read:

That every individual, partnership, firm, and association, being proprietors, managers, or agents of lotteries, shall pay a tax of ten per cent. on the gross amount of the receipts from the said business.

The amendment was agreed to.

The next amendment was in line twenty-five, after the word "dollars" to insert "or be imprisoned not exceeding one year."

The amendment was agreed to.

The next amendment was to strike out the second "from," in line thirty-nine of section one hundred and ten, before "tax."

The amendment was agreed to.

The next amendment was in section one hundred and thirteen, line twenty-seven, after the word "district" to strike out "as aforesaid;"

and in line thirty, after the word "return" to strike out "as aforesaid."

The amendment was agreed to.

The next amendment was in line fifty-five of section one hundred and thirteen, after "law" to, strike out "as aforesaid;" and in line fifty-six to strike out "\$1,000" and insert "\$600," so as to read, "and that the receipts for advertisements to the amount of \$600 annually," &c., "shall be exempt from duty."

The amendment was agreed to.

The next amendment was after the word "duty," in line sixty of section thirteen, to strike out the following proviso:

And provided further, That all newspapers whose circulation does not exceed two thousand copies shall be exempted from all taxes for advertisements.

Mr. HALE. I move to amend the amendment by striking out "two" and inserting "one;" so as to read, "all newspapers whose circulation does not exceed one thousand copies shall be exempted from all taxes for advertisements."

Mr. CONNESS. I hope that amendment will not be adopted. If the exemption is made at all, let it be made up to two thousand, because that is a very small circulation for a newspaper. One thousand would be simply no circulation at all.

Mr. HALE. If there be any papers that have but one thousand, and that is no circulation at all, there would be the more necessity for making the exemption in their case. I can tell the Senator that there are a great many newspapers which do not circulate a thousand copies, little country papers.

Mr. HENDRICKS. I desire to ask the Senator from New Hampshire to make his amendment fifteen hundred instead of one thousand.

Mr. HALE. Very good. Try fifteen hundred.

Mr. HENDRICKS. That will cover most of the country newspapers.

Mr. GRIMES. I should like to know what is meant by "circulation." Does it mean regular daily or weekly subscribers? If I am correctly informed, there are some of the most profitable publications in the country that have not comparatively any regular subscribers, but they are advertising sheets that circulate some weeks very extensively and other weeks comparatively none; they are advertising papers published in the large cities, and they have no legitimate circulation in the sense in which we understand that term. They do not have any subscription books with two or three thousand names down; but they sell an immense number through the cars by boys, and to the merchants to distribute for western and southern trade. Shall not that class of publications be taxed? It seems to me they should. I should like to understand exactly what we are voting for when we are striking this out.

Mr. BUCKALEW. By the word "circulation" is meant all copies distributed. That is the general sense.

Mr. GRIMES. Regular distribution or irregular distribution?

Mr. BUCKALEW. Either.

Mr. HENDRICKS. Insert the word "distribution."

The PRESIDING OFFICER. (Mr. POMEROY.) The question is on the motion of the Senator from New Hampshire, to amend the clause by striking out "two thousand" and inserting "fifteen hundred."

The amendment was agreed to.

The PRESIDING OFFICER. The question now is on the amendment of the committee, to strike out the clause as amended.

The amendment was rejected.

The next amendment was in section one hundred and fourteen, line three, after "any" to insert "person or;" after "any," in the same line, insert "person;" after "incorporated," in line four, to insert "or unincorporated;" and after "company," in line four, to insert "having more than one place of business;" so that the clause will read:

That whenever by this act any license, duty, or tax of any description has been imposed on any person or corporate body, or property of any person, incorporated or unincorporated company having more than one place of business, it shall be lawful for the Commissioner of Internal Revenue to prescribe and determine in what district such tax shall be assessed and collected, and to what officer

thereof the official notices required in that behalf shall be given, and of whom payment of such tax shall be demanded.

The amendment was agreed to.

The next amendment was to insert at the end of the section the following proviso:

Provided, That all manufacturing corporations shall be assessed, and the tax collected in the district within which the place of manufacture is located.

The amendment was agreed to.

Mr. GRIMES. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, May 26, 1864.

The House met at twelve o'clock, m. Prayer by Rev. Dr. HOSMER, of Buffalo, New York.

The Journal of yesterday was read and approved.

### RELIEF OF CITIZENS OF DENVER.

Mr. ALLISON. I ask the unanimous consent of the House to take from the Speaker's table bill of the House No 432, for the relief of citizens of Denver, in the Territory of Colorado, in order that the amendments of the Senate may be concurred in. I will state that the amendments are merely verbal.

There was no objection; and the bill was taken up, and the amendments of the Senate were read and concurred in.

Mr. ALLISON moved to reconsider the vote by which the amendments were concurred in; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

### HARBOR IMPROVEMENTS.

Mr. WASHBURN, of Illinois. The gentleman from the Oswego district, [Mr. LITTLEJOHN,] who has been detained from the House by ill health nearly the whole session, a few days ago introduced a bill, which was referred to the Committee on Commerce, in relation to the repair of the harbors on the lakes. The Committee on Commerce is entirely opposed in the present state of the finances of the country to reporting any general river and harbor bill; but they directed me to report back the bill which was introduced by the gentleman from New York, with amendments. The first section of that bill provided an appropriation of \$300,000 for the purpose of repairing such public works upon the lakes as require to be repaired in order that they may not be entirely destroyed. Another section provided that the same sum should be appropriated for the preservation of the harbors on the sea-coast. The Committee on Commerce have directed me to report that bill back, reducing the amount in the first section to \$250,000; and in the second section—and it is done in accordance with the views of the gentlemen on the committee who represent the seaboard—we reduce the appropriation from \$300,000 to \$100,000. That, according to them, is enough for the repairs needed to preserve the harbors on the seaboard, so far as the public works are concerned. These appropriations are to be expended under the direction of the Secretary of War and of the engineer of the War Department, who has full knowledge of the repairs necessary to prevent the public works upon the great lakes and the seaboard from going to decay.

This bill, as every gentleman knows, must go to the Committee of the Whole on the state of the Union, if objection be made. I have made this statement to the House, and if any objection be made to considering it now I ask that it may be printed, and its consideration postponed to another day.

Mr. BROWN, of Wisconsin. I suggest to the gentleman from Illinois that instead of having the bill printed and postponed indefinitely, the bill be postponed to a day certain, when we may go into the Committee of the Whole on the state of the Union, and take it up and consider it.

Mr. WASHBURN, of Illinois. I am willing to conform to what seems to be the wish of the House, but I will state to my friend from Wisconsin that I am as much interested in this bill as he is, and I think that there will be no ob-

jection to it, and that what I propose is all that we can accomplish at the present time.

Mr. HOLMAN. I rise to make an inquiry of the gentleman from Illinois. Was the original bill based upon estimates from the War Department?

Mr. WASHBURN, of Illinois. It was drawn up by the gentleman from New York, after consultation with the engineers of the War Department. They, of course, could not give any very accurate estimates. They thought that \$300,000 for the lakes was as little as could be got along with. The committee reduced that \$50,000. I would have been glad to have cut it down more, but I think the wants of commerce require that we should make this appropriation, and make it speedily, to prevent our harbors going to destruction.

Mr. HOLMAN. I want to know whether the War Department has made any recommendation on the subject at all. It is not embraced in the estimates.

Mr. WASHBURN, of Illinois. It has not made any specific recommendation, and we did not call for any. The knowledge of the members of the Committee on Commerce and of the House was sufficient to justify us in reporting the bill to the House.

Mr. GANSON. The gentleman will find that the report of the Secretary of War contains an express recommendation for an appropriation for the preservation of these harbors.

Mr. WASHBURN, of Illinois. This bill was not referred to the Secretary of War. I know he has made a general recommendation.

Mr. GANSON. Special reference was made to the harbor of Buffalo. A breach was made in the wall last January, and something must be done at once to save that harbor.

Mr. STEVENS. Have we not appropriated for it?

Mr. GANSON. It was struck out by the Senate.

Mr. HOLMAN. I do not object to the bill being referred to the Committee of the Whole on the state of the Union.

Mr. STEVENS. I do not object to the reporting of it if it goes to the Committee of the Whole.

Mr. WASHBURN, of Illinois. That I could introduce the bill and refer it to the Committee of the Whole I knew very well; but I did not suppose that to a bill of this kind, so intimately connected with the great interests of commerce, there would be any objection.

Mr. COX. I desire to ask the gentleman whether the appropriations in this bill are in gross or in detail for the various harbors.

Mr. WASHBURN, of Illinois. For the various harbors upon the lakes which are mentioned. The lakes are mentioned.

Mr. COX. So much for each harbor.

Mr. WASHBURN, of Illinois. I ask that the bill may be reported and postponed.

Mr. STEVENS. I object, unless it is sent to the Committee of the Whole.

The SPEAKER. Then the bill is not before the House.

Mr. WASHBURN, of Illinois. Then the gentleman from Pennsylvania objects?

Mr. STEVENS. I do not object if it be referred to the Committee of the Whole.

Mr. WASHBURN, of Illinois. I shall ask the House on Monday next to suspend the rules to allow me to report it.

#### IDAHO TERRITORY.

Mr. WALLACE, of Idaho. I ask the unanimous consent of the House to introduce a bill to amend an act entitled "An act to provide a temporary government for the Territory of Idaho."

Mr. COX. I object to its being reported to be acted upon now.

Mr. HOLMAN. I suppose the object is to refer it to the Committee on Territories.

Mr. WALLACE, of Idaho. There is necessity for immediate action, and I hope the gentleman from Ohio will withdraw his objection until I can make a statement showing that necessity.

Mr. COX. I do not see any necessity for immediate action upon a bill of this kind.

Mr. WALLACE, of Idaho. I can show it, if the gentleman will allow me.

Mr. COX. These bills are always referred to

the Committee on Territories. I have no objection if it be so referred.

Mr. WALLACE, of Idaho, thereupon, by unanimous consent, reported the bill, which was read a first and second time, and referred to the Committee on Territories.

#### PAYMENT OF PERUVIAN CLAIMS.

Mr. STEVENS. I ask unanimous consent to take up the bill, which has been long neglected, to pay the Peruvian award. The Peruvian agent is now here, and is anxious, on account of the troubles in his country, to go home. The bill was reported some time since.

The SPEAKER. The bill is in Committee of the Whole.

Mr. STEVENS. Then I ask unanimous consent to discharge the Committee of the Whole from the further consideration of the bill (H. R. No. 65) to pay certain claims of Peruvian citizens, and that the same be considered in the House.

Mr. WASHBURN, of Illinois. The bill I desired to report is of quite as much importance as the payment of Peruvian citizens. I object.

#### RECIPROCITY TREATY.

The House proceeded, as the regular order of business, to the consideration of a joint resolution (H. R. No. 56) authorizing the President to give the requisite notice for terminating the treaty made with Great Britain on behalf of the British provinces in North America, and to appoint commissioners to negotiate a new treaty with the British Government based upon the true principles of reciprocity; upon which the gentleman from New York [Mr. WARD] was entitled to the floor for one hour and a half, with leave of the House to parcel out that time to such persons as he should designate.

Mr. WARD stated that he would yield fifteen minutes of his time to Mr. BAXTER, and ten minutes each to Messrs. J. C. ALLEN, SWEAT, DAVIS of Maryland, LITTLEJOHN, and MORRILL.

Mr. BAXTER. By the courtesy of the gentleman from New York I am permitted to submit a few remarks upon this subject, not to occupy beyond fifteen minutes. Of course the remarks cannot be very well considered, or put into the shape of a speech. That I am not able to do, but I will refer to one or two matters connected with this subject. The question before this House as now presented is whether a notice to terminate this treaty, called the reciprocity treaty, shall be given pure and simple, or whether it shall be diluted to a milk-and-water consistency. This reciprocity treaty, so called, is a misnomer entirely. After the people of Great Britain became dissatisfied with taxing themselves for the benefit of the colonies, and after the corn laws were repealed, it became necessary that that Government should be supplied with breadstuffs from some other quarter. Immediately the question was agitated in Canada, and men were sent here to make profers to our Government, pretending that they had something to give for what they asked in return. General Taylor's Cabinet, with Mr. Preston, of Virginia, in it, gave it no heed whatever, beyond a proper examination, declaring that they had no constitutional right to make such a treaty or compact; and, in the next place, to do it would be impolitic and destructive of American interests and American policy. The next move made in Canada was to send some of the ablest and most distinguished men under that Government here, to press upon this Government the absolute necessity of carrying that measure through.

Immediately—whether honestly or dishonestly does not become me to say—the question was raised by the party, the head of which is now the head of the Canadian Government, of Canadian annexation. Annexation was their cry; they could not live without being annexed to this country. They came here with that cry. On one side they said, "You give us this reciprocity treaty, give us a closer commercial connection with you, and our people will become so completely fascinated with your institutions that the fruit will soon become ripe and will drop into your lap." On the other side to the men of the South, "Give us what we want; let us have your rich markets for our products without taxation, and our people will have no desire for annexation;" and those men of the South, always skillful legislators, un-

derstood and were willing to concede to them the treaty, notwithstanding the influence of Colonel Preston to the contrary, when he was in the Cabinet of General Taylor.

Ay, Mr. Speaker, but that is not all. They undertook to intimidate our oily whalebone friends—always a little slippery. They said to them, "If you do not let us into your rich markets not a mother's son of you shall ever catch another cod or another mackerel in the waters of Newfoundland." They were a little frightened by that, and began to think they were "gone, hook and line;" but then these Canadians said again, "If you do not give this treaty we will break these nurseries of your seamen, and then how will you cope on the water with Great Britain, so long claiming to be mistress of the seas?" They then said to the great West, to Chicago, "Give us this treaty and you can have direct communication with Europe, and you can become direct importers; and when a vessel is hailed on the ocean, 'Where are you bound?' the answer will be, 'Chicago.'" [Laughter.] Well, sir, the treaty was granted, and how many vessels on the ocean were ever hailed "Where are you bound?" that answered "Chicago?" The tracks have been very few and all in one direction.

There is another question, Mr. Speaker, of vital importance, which should be considered in this connection; it is the question of immigration. We are at this moment losing brave men at the rate of a thousand every day, and how are we to make up the loss except from the men of Europe? Every port of Europe is now swarming with men from Canada, agents of emigration, asking men to come to Canada, offering them lands free of cost. These Canadian free lands, however, have never prevented the immigrant from coming to this country. But these agents have now to add to their plausible stories that this country is engaged in a death-struggle, and that the taxation of this people is so enormous under which we groan that they will be ground to powder if they come here, and they ask the emigrants, "Will you go to this land of desolation, when you may go to Canada and get your lands for nothing, and, at the same time, have all the advantages of United States markets without being subjected to any of their taxation?" And is not that so? Ay, sir, it is so. Within twelve months after this reciprocity treaty—as by an infamous misnomer it is called—went into operation real estate in Canada rose twenty-five per cent., and within twelve months thereafter it rose fifty per cent. And why? Because my neighbor from the Canadas could go to our market any morning with me, in the same car, and receive the same price that I could get for my produce without incurring any of the burdens which I have to bear.

I say, therefore, that this question of emigration has become a national question. Now, sir, we owe Great Britain no particular favor, but I would scorn to bring any such consideration into this discussion. But are we to have no regard for the prosperity of our own people? Shall the right to bear American secure less than the right to be a Canadian? Are we to beat the bush and let somebody else catch the bird? I hear men who reside upon the border say, "We cannot bear this; we have given our children to the country, and now we are to be taken besides." The man upon the other side of the border says, "Your country is bankrupt; your currency is not worth a fraction; you are going to ruin, while we are prosperous and content; I go to your markets and fill my pockets, and your pockets are being constantly depleted by this horrid taxation."

Now, sir, one word as to this taxation and as to the Canadians. I do not expect to shut them out. I expect that they will enjoy our markets. God knows I do not want to destroy that people entirely, because some of them have been and still are most glorious friends of ours. I wish I could say that there were a majority of such there, but they are such men as I honor. I know they have nowhere else to go but to our markets. The "mother country," as they call it, has failed to protect them. The markets there do not suit them and are of no account to them, but they come to us for our markets. I say let them come, but let them not come to rob the brave men of our own country, who have given their best blood



for the protection of our liberties. Let them not come to the exclusion of those who have birth-rights and who bear the heat and burden of the day. We will treat them as well as we do the most favored nation, as neighbors, but we will not feed and clothe them. If they are to enjoy our markets let it be on the same terms with other nations of the world. Why not? Is there any man opposed to giving this notice who can show what has ever been discovered during the working of this treaty which would induce us to believe that there is anything on the part of the Canadians that they can give us for what we give them? What reciprocal advantages can they return to us? What benefits do they give us for those we confer on them? They tell us that we may go to their markets. Why, sir, they have no markets. We may go there, but what is the use of going there if there are no markets? I know there are no markets there; I was born near there, and I know what I say. Fifty bullocks from Illinois would frighten every butcher out of Montreal!

The House will excuse my homely comparisons. I am, when at home, nothing but a farmer, and I thank God for it. If it were not for him what trade or commerce would we have? He has, by his industry and skill, brought this land into cultivation, and upon his labor the past and the future of our country rests securely.

Mr. Speaker, you have raised up the manufactures of Canada since this treaty went into operation. Since its ratification at every session of the provincial Parliament they have imposed duties upon our manufactures. Their manufactures are now going on and flourishing, for the very reason that they are driving out our manufactures. Our manufacturers take their capital and workmen and set up their establishments there. Do you see anything flattering in that? Is that one of the reciprocal advantages? Do our manufacturing interests ask us to continue that condition of things?

This is a subject in which I feel an interest, and I may, perhaps, show some warmth, but I know that I am right. I want the abrogation of the treaty to be unconditional. If they want anything of us, and can show that they can furnish us with some reciprocal advantage, then it will be time to consider the subject, but they have nothing to give us in return.

I will now say a few words as to the line of communication between the great West and the Atlantic. They have, at great expense, opened up a line of communication from Casco bay to Lake Michigan, and beyond to Grand Rapids.

The SPEAKER. The gentleman's time has expired.

Mr. RICE, of Maine. I move that the gentleman be allowed to proceed for ten minutes longer. There was no objection; and it was agreed to accordingly.

Mr. BAXTER. I thank the House for its favor.

What was the argument of Mr. Galt, the Canadian finance minister, for the making of that line of communication? I am acquainted with Mr. Galt, and know him to be a talented and skillful man, for he took from John Bull's pocket millions that will never gladden his eyes again. What was the cry by which he took the money out of John Bull's pocket? Why it was this, that they were going to drain the great West. If this argument had not been used they could not have raised stock to have built sixty miles of the road.

Now, it has been said that if we abrogate this treaty they will take umbrage and deprive us of their trade. Do you believe that they will do that? If they did they would not make one per cent. to keep their lines of communication in repair. They want all the trade they can get, and they will take all they can get. Do you know of any country that wants to decrease its carrying trade? Our products will continue to go to the Canadas and to Casco bay—to Portland, that beautiful city, God bless her—whether the treaty be abrogated or not.

Gentlemen have talked about importing wool. I am happy to say that in a few days we will have something that will lead the people to believe that we have a protecting Government. If the tariff bill, which will soon be reported from the Committee of Ways and Means, shall be passed, by

this House, you will see the great prairies of the West dotted all over with sheep, and within a few years after, instead of importing wool, we will supply the whole world with wool. Does any man know where it can be produced cheaper than here? Only give us support, only give us reason to believe that the people shall have support in that respect, and we shall be able to do that.

I am much obliged to the House for indulging me, and I will detain them but one moment longer. If you are going to pass this resolution I want to amend it a little. If this commission is to be provided for, I want its name changed to "A commission to arrange terms for continuing, in a dignified position, the wet-nurse of the sick British colonies." [Laughter.] I have done.

Mr. J. C. ALLEN. I shall not attempt to discuss all the questions involved in this resolution, but I will ask the indulgence of the House while I address myself very briefly to two questions growing out of it. It strikes me that in our present position, particularly in the Northwest, the great granary of this continent, we need the cheapest transportation to the seaboard that can possibly be obtained.

Until the breaking out of this rebellion the Northwest had one outlet unobstructed, in the Mississippi river, through which channel passed the greater amount of her surplus products. For three years that has been closed, but before it was closed the people of the Northwest, and I may say of the East too, felt the necessity of securing another cheap outlet to the ocean through the lakes and the St. Lawrence. If a necessity for that outlet was felt before the Mississippi river was closed, its importance addresses itself to us with double force at the present time. It is a question which comes home to the grain-growers of the West whether, while the great Mississippi river is closed to us, we will abrogate this treaty and close the St. Lawrence also.

It was said by the gentleman from Maine [Mr. PIKE] the other day, when discussing this question, that the free navigation of the St. Lawrence river was of very little importance to the people of any section of the country, and that since the adoption of this reciprocity arrangement with Great Britain but few cargoes had left the ports of the lakes and gone to the ocean. That may be true, but it is no answer to the other point. The very fact that the St. Lawrence has been open to our free navigation has had a tendency to keep down the rate of transportation from the western States to the Atlantic coast, because, although we did not send many cargoes of produce directly from the western lake ports through the lakes and the St. Lawrence to the Atlantic ocean, the cost of transportation was reduced by precisely the amount we would have had to pay under this treaty.

Again, the treaty has operated favorably to the grain-growing interest of the West in this, that, while this line of communication with the Atlantic ocean was unobstructed by duties, it forced those lines of canal and railroad communication between the western country and the seaboard, by which we reach New York and other points upon the seacoast, to carry produce at a low rate of freight, for the reason that if they exacted exorbitant rates that produce would seek an outlet to the Atlantic ocean through the St. Lawrence. Hence this treaty has operated in a double sense to cheapen the rate of transportation from the West to the Atlantic seaboard.

Now, sir, with the great Mississippi closed against us, and with the St. Lawrence closed against us, as it will be if you abrogate this treaty, you place our grain-growing interest in the West at the mercy of the canal and railroad corporations which exist between the western country and the Atlantic ocean. You place them in a position where they will compel us to pay just such tribute as their love of money may exact. Suppose you close this free outlet to the ocean by abrogating this treaty, you thereby place every shipping merchant in the West at the mercy of railroad and canal corporations controlling and operating the only channel through which we can reach the broad Atlantic. If, then, there ever was a reason why we should have free navigation of the St. Lawrence so as to operate as a check upon this exorbitant spirit that con-

trols the corporations of the country, that reason operates with double force since our other water outlet to the ocean—the Mississippi river—has been closed to us by reason of this war.

Again, sir, it has been manifested throughout this discussion by those advocating the abrogation of this treaty that there is another reason, which does not appear upon the face of the measure, and it was alluded to by the gentleman from Maine, [Mr. PIKE.] They desire to abrogate this treaty in order that our Government may be placed in a position where they can tax the products of our western soil. The gentleman said that the treaty stands in the way of taxing our flour and grain; that during the existence of the treaty, owing to the peculiar circumstances in which the Government is placed, the Committee of Ways and Means have not thought proper to incorporate into the internal revenue bill a tax upon the flour and other products of the West. Sir, I oppose the abrogation of the treaty for that reason. The West have burdens enough to bear. The West has already felt the burdens of this Government during the war for the last four years more heavily than any other section of the country. You have not only withdrawn, in constituting your Army, the bone and sinew of the West and left our farms to the winds and storms for the want of labor to cultivate them, but now you propose to increase the taxation imposed on us in reaching the markets of the world, and, in addition to that, to tax the products of our soil. As a western man, representing an agricultural interest, I protest against the abrogation of this treaty, first, because it would place the agricultural interests of the West in the power of corporations that have no souls, by compelling us to use their lines of communication; and, second, because the avowed purpose is to saddle us in addition to that with increased taxation. For these reasons I am opposed to the abrogation of this treaty, and shall vote against it.

Mr. SWEAT. Mr. Speaker, it is so evidently impossible to discuss this question in ten minutes—a question of so great commercial and international importance—that I could not accept the ten minutes so courteously extended to me by the gentleman from New York were it not for the purpose of simply saying to the House that the people of the State which I in part represent here are not altogether in favor of the views presented by the gentleman from the fifth district [Mr. PIKE] last week. I would not, even for this purpose occupy the attention of the House for a moment if the gentleman from New York [Mr. WARD] were willing or disposed to occupy the whole of his time, because I believe that from the research which that distinguished gentleman has devoted to this subject his views are much more valuable and would have much more effect upon this House than anything I can say. I have read with great care the speech which he made some days since upon this subject, and I hope every gentleman in the House has read it, for to my mind it is very conclusive upon the matter under discussion. The views therein set forth are, in my judgment, not only correct and sound, but are just and wise, and worthy the careful consideration of all who would look at this subject dispassionately. To my mind it is the most exhaustive treatment that has been given to any subject that has come before the House this session. And in this respect I cannot forbear saying that it presents a very wide contrast to the remarks, which have been made by other gentlemen upon this question, which, I say in no offensive sense, have savored more of prejudice than of statesmanship.

Now, sir, this treaty was promulgated by the President of the United States on the 11th day of September, 1854, and we ought all to know something about its bearings and history. What are the propositions now before the House? One proposition, advocated by the gentleman from Vermont, [Mr. MORRILL], is to give notice to the British Government that we propose to abrogate this treaty entirely; that we propose to shut down the gate at once; that we propose to say to them, "Hands off; we can take care of ourselves with out your aid; we wish no further commercial relations with you; get behind me, Satan."

Now, I am not aware whether that view is entertained by many members in this House or not. It does seem to me that the proposition of the

gentleman from Vermont embodies an exceedingly narrow policy. It is an unwise policy; it is not the policy of statesmen; it is not prudent; it is not in accordance with the wishes or desires of the American people. I believe there will be no difficulty in voting down the proposition of the gentleman from Vermont.

The second proposition is to give notice of our intention to abrogate the treaty, and at the same time accompany it with a grant of power to the President to appoint commissioners for the purpose of reopening negotiations and perfecting arrangements with the colonies upon just principles of reciprocity.

It seems to me that this is a much more sensible proposition and much more for the interests of the country than that of the gentleman from Vermont. It embraces a policy in favor of which I could state many reasons if the time allowed me would permit. I would prefer the passage of a resolution different from either of the two now before the House, containing no provision for giving the notice to abrogate, but simply giving the President power by and with the consent of the Senate to appoint three commissioners, to confer with persons duly authorized by Great Britain in that behalf, to negotiate a new treaty, based upon the true principles of reciprocity between the two Governments and the people of both countries, with the view of enlarging the basis of the present treaty, and for the removal of existing difficulties. If I could by my word carry it I would be in favor of the last proposition; in other words, I think the time has not come, I think there is no pressing necessity for giving notice to the British Government of our desire to abrogate the treaty. We can do this at any time, we can do it next month, next fall, or we can do it two years from now, or at any subsequent time. After twelve months' notice given by either of the high contracting parties the treaty is abrogated. I suggest, therefore, that it is not yet time to give that notice, and I will be very frank and say that unless we can have another treaty I believe the present one upon the whole is better than no treaty at all. I have yet to learn that any board of trade or any association of commercial men, or any Legislature, has ever advocated the idea of an unconditional abrogation of the treaty existing between us and the British provinces.

I have risen more especially in order to present to the House resolutions passed by the Legislature of the State of Maine at its last session in 1864, bearing upon this question. I ask the Clerk to read them.

The Clerk read, as follows:

*Resolved*, As the sentiment of the people of Maine, that sound policy and enlarged statesmanship dictate a judicious effort to secure just and equal communication of trade between all the countries of North America; and that it is the interest of this State, as well as of the whole country, to cultivate friendly relations with the provinces of British America, by such regulations as shall secure an advantageous reciprocity between the inhabitants of these provinces and the citizens of the United States; and for that end it is the duty of the Federal Government, while abrogating the existing treaty, to propose, and if possible secure, such new agreements and stipulations as will remove the objections that have been developed by experience, and more perfectly secure the objects held in view when the present treaty was entered into, said treaty having operated with peculiar hardship upon the interests of Maine.

Mr. SWEAT. I will say that this resolution was passed by the Legislature of Maine which recently adjourned, by an almost unanimous vote. Mr. Speaker, Maine is deeply interested in this question. I believe that it operates perhaps as injuriously upon the agricultural interests of Mainely as upon the agricultural interests of any other State, and yet the people of Maine do not desire an unconditional abrogation of this contract, while, as I understand, they would have it revised. My idea is that we can revise this treaty without abrogating it, and that we can treat better with these provinces while the present treaty is living than we can with a dead treaty.

It has been said that there exists an unfriendly feeling between the provinces and the United States. Sir, the people of the lower provinces of Canada are friends of the loyal citizens of the United States. However much the Canadian papers may have given an appearance of a public sentiment against us, it is a mistake to suppose that their interests are adverse to ours or that the people there are unfriendly to us.

[Here the hammer fell.]

Mr. STEELE, of New York. I move that the gentleman be allowed to continue five minutes.

The SPEAKER. The Chair hears no objection.

Mr. WASHBURN, of Illinois. This, I understand, is to come out of the time of the gentleman from New York.

The SPEAKER. The Chair understands otherwise.

Mr. SPALDING. I object unless it comes out of the time of the gentleman from New York.

The SPEAKER. The Chair decides that the objection comes too late. The time of the gentleman from Maine has been extended five minutes.

Mr. SWEAT. Now, sir, the details of the operation and effect of this treaty I cannot, for obvious reasons, discuss. I would like very well to present some considerations in reply to those of my colleague from Maine [Mr. Pike] who is in favor of abrogating this treaty unconditionally. I could be able to show, if I had time, that several of the great interests of my State, namely, fisheries and ship-building, are very much promoted and aided by this treaty.

An able thinker and writer, Mr. Cyril Pearl, of Maine, has recently discussed the effect of this treaty upon the interests of that State, and, without any comments of my own, I will read a few sentences from his very conclusive argument on the subject. He says:

"As we are largely interested in navigation, we are equally so in ship-building, standing quite in the front rank of ship-building States. Various causes have combined to increase the cost of this building. One of these is the scarcity of ship-timber. A very large portion of the timber used in Maine, as well as other States, now comes from Canada and New Brunswick. The cost of iron, sails, and cordage is greatly increased by a high revenue tariff. Cut off this supply of timber, or tax it by a high tariff, and you transfer the ship-building from Maine to the shores of the St. Lawrence and the harbors of New Brunswick and Nova Scotia, where the tariff on European iron, cordage, and sails, is about half what it is in Maine."

Again, he says:

"No State is more favorably situated to reap a rich harvest from the fisheries of the Grand Banks and the British American waters, than is Maine. A large amount of tonnage owned and built in the State, a large portion of her sons bred to the sea, her shores furnishing the most ample flats for supplying the fishing bait, her advantages for taking, curing, and marketing fish, are not equaled by any State in the Union. By the treaty immensely greater advantages in the fisheries are secured by the English Government to the United States, than are by the United States secured to British subjects; so that, if it be true that in other respects the treaty is of more benefit to them than it is to us, in this matter of the fisheries we have an immense advantage, which, by the abolition of reciprocity, we wantonly throw away."

The question is not whether the treaty is what we would have it—in my opinion it is not—but whether commissioners shall be appointed to revise and improve it. Sir, if there is to be a revision of the treaty it will need amendments in behalf of the interests of Maine quite as much as of the interests of any other State.

Now, sir, shall we be governed by such a course as this, or shall we be governed by passion, excitement, purposes of retaliation, or promptings of revenge? Because some Canadians have exhibited ill-feeling against this country shall we undertake to stultify ourselves by breaking up our commercial relations with them and destroying the interests of our own citizens to a large extent? I believe that some gentlemen upon this floor are actuated more by their prejudices against this people than by any other consideration in the line of policy they are advocating in this matter. Now, I submit to gentlemen upon this side of the House and upon the other side, that even if all that is alleged in reference to this Canadian people be true, whether we are justified in allowing ourselves to be governed by such considerations in determining a national, commercial question.

Shall we, if we can, negotiate a new treaty upon the principles of reciprocity? If we make the effort to revise this, and to make it mutually beneficial and satisfactory, and fail, I need not inform the House that we may then give notice of the abrogation of the existing treaty. It is said there is a necessity now of giving this notice, as though we could not even wait until the 11th of September, which will be the termination of the ten years, as though we could not even make an effort to come to a fair and honorable understanding.

With all the defects of the present treaty, the balance of trade for the last ten years has been in favor of the United States. By the report of the

Secretary of the Treasury recently made, it appears that our exports to the British provinces were \$26,445,683 more than the amount imported from them to the States.

I annex a table showing our trade with Canada since 1854. The statistics are as follows:

Total value of Canadian imports from all parts of the world.....	1854.	1855.	1856.	1857.	1858.	1859.	1860.	1861.	1862.
Value of free goods imported from the United States.....	\$40,529,325	\$35,056,169	\$43,584,387	\$39,430,398	\$39,078,527	\$33,555,161	\$34,447,935	\$43,034,236	\$48,600,633
Value of dutiable goods imported from the United States.....	2,083,756	9,379,304	9,933,586	10,258,220	7,161,958	8,556,545	8,740,455	12,729,755	19,044,374
Total value of Canadian exports to all parts of the world.....	23,019,130	28,188,461	32,047,017	27,006,634	23,472,609	24,766,981	34,631,890	36,614,185	33,506,125
Value of free goods exported to the United States.....	8,159,200	16,409,567	17,979,733	12,556,722	11,463,903	13,270,589	17,533,009	13,566,910	14,288,969
Value of dutiable goods exported to the United States.....	489,802	327,710	575,564	639,714	406,191	631,725	574,939	519,517	774,761

Total value of Canadian imports from United States, 1854, \$15,533,101; 1862, \$25,173,157.  
Total value of Canadian exports to United States, 1854, \$8,649,002; 1862, \$15,063,730.

Showing the balance to be more than ten millions in our favor. And the statistics of our trade with the "maritime provinces" are equally striking, in showing it to be in our favor. For example, in 1863 our exports to Nova Scotia were \$3,857,765, while our imports from that province in the same year were \$1,869,672.

The SPEAKER. The gentleman from Maryland [Mr. Davis] is now entitled to the floor for ten minutes.

Mr. DAVIS, of Maryland. I shall not occupy my ten minutes. The proposition before the House is to give notice to Great Britain to terminate the treaty known as the reciprocity treaty. The next proposition is to request the President to appoint commissioners to negotiate another treaty.

I am in favor of the first part of the resolution; I am opposed to the last part of the resolution. I oppose it, first, because reciprocity between Canada and the United States is the last remnant of the old one-sided Democratic policy of the United States, always for the benefit of foreign nations and against the United States.

In the next place I am opposed to it for a more local reason; which is, that it keeps up a very lucrative trade in coal against the interest of the State of Maryland.

In the next place I am opposed to it for another reason. The Canadas have availed themselves of a freedom of legislation to modify their tariff so as to make it injurious to us without in terms violating the treaty.

It is impossible to prevent legislation of an unfriendly character which will evade any treaty we can adopt, unless that treaty involves absolute reciprocity, and embodies free trade to its fullest extent. I need not go into an argument to prove that a treaty at this time would be absolutely impossible; impossible for this reason—that we are now a heavily taxed people; the Canadians are a lightly taxed people; and any treaty of absolute reciprocity would give the Canadians the benefit of the difference between the taxes of Canada and the United States. Under that state of circumstances any such treaty must be one-sided—the profits must all belong to Canada.

In the next place we are not only heavily taxed now, but we shall continue so for the next generation, and probably for the next two or three generations, and whether our financial ability will be sufficient to bear us through this contest no man can yet say. It is impossible that we can make arrangements for free trade with Canada or with any other country in the world by treaty stipulations which are to bind our legislative discretion in so controlling ourselves as to render it impossible for us to change our internal tax laws from year to year as experience and the necessities of the time require. It is impossible that we can so far take away the legislative discretion of Congress as to render it impossible to adjust our internal tax system as the public interest requires. At this moment any gentleman on the Committee of Ways and Means will tell the House that they have been seriously interfered with in the adjustment of the bill for internal taxes, and they will be seriously interfered with in the adjustment of the bill for the tariff, by the fact that there are certain articles which are exempted from the operation of our laws by the treaty; and with reference to our internal tax that there are certain articles which being allowed to be brought in from the Canadas cannot be subjected to tax by the internal tax system without discriminating against our own people and in favor of the Canadians. This will enable us to go on and tax so far as our interest requires that they should be subjected to taxation. We show no hostile legislation; we do not anticipate hostile legislation with Canada. Each party will make the law to suit its own convenience and interest, and so far as commerce is mutually beneficial commerce will be left free.

The final consideration which controls my vote is that a commercial treaty of this kind is a direct invasion of our constitutional prerogative to regulate commerce with foreign nations. It is in direct contravention of the power of Congress to lay and collect taxes, duties, imposts, and excises. It takes away from Congress its discretion if the treaty is valid, and to that extent it tends to transfer to the President and two thirds of the Senate prerogatives which the Constitution vests in Congress. Whatever power is vested here is to be exercised according to our will and according to our judgment, and not according to the will and judgment of foreign nations; and in my opinion we cannot abandon our discretion. It is imprudent to permit the Executive to make a treaty with foreign Powers which some majority here may abrogate as the supreme law of the land and bring us into difficulty. Let every department exercise its own prerogative. Let Congress regulate commerce, and let the other departments be confined to their proper spheres.

MR. LITTLEJOHN. Mr. Speaker, in times like the present, when the people of the country are overburdened with taxation to carry on an internal warfare against wicked men, it becomes us as wise statesmen to promote the prosperity of the people by judicious legislation in every de-

partment, in agriculture, manufacture, and commerce, so that they may be enabled to bear these heavy burdens. And therefore, sir, though in feeble health, I could not permit the vote to be taken on so important a question without occupying a few moments to protest against the abrogation of this treaty, for in my judgment no great system of trade and commerce should be hastily or arbitrarily interrupted. I shall content myself by a reference only to one or two great interests which will greatly suffer if this resolution be adopted. The question was asked yesterday, what have the railroads and canals to do with this subject? I reply, much, very much, as relates to the prosperity of the Northwest and the New England States, and the States of New York and Pennsylvania.

The canals and railroads of Maryland, Pennsylvania, and New York are already taxed to their full capacity. In the time of a pressure of commerce, this period of the year when the produce of the West seeks a market, the railroads and canals, all constructed upon our own soil, are entirely inadequate to afford means for the transportation of the produce of the West.

And, sir, what have the necessities of the case brought upon the Northwest? The use of the railroads which cross the peninsula of Canada, of which there are four. The short railroad, side by side with the Welland canal, has within four years passed sixteen million bushels of grain, the product of the Northwest, from Lake Erie into Lake Ontario, for distribution in New York, New England, and the Canadas. The Great Western and the Grand Trunk railroads, with the Collingswood road, from Lake Huron to Toronto on Lake Ontario, have also borne the property of the producers of the West to a market, and I think I am safe in saying that those products, taking the pork and flour into consideration, are equivalent to fifteen or twenty million bushels of wheat.

Abrogate this treaty and you effectually close up these avenues, so far as the transportation of western products is concerned, when destined to one of our own ports on Lake Ontario; for it becomes dutiable, every bushel and barrel, when it arrives at an American port. Let me give an illustration: a vessel leaves Chicago with a cargo of grain, and arrives at Port Colborne or Port Sarina in Canada, and is there transferred to a railroad for transportation to Lake Ontario. It is there placed in another bottom, either American or British, to be delivered at Oswego, for transportation hence to New York by canal or railroads to New York, or at Cape Vincent, hence by rail to Rome and by the New York Central to New York, or at Ogdensburg, hence by rail to Rouse's Point and the eastern States. And what then? On its arrival at Oswego, Cape Vincent, or Ogdensburg the collector would demand a duty upon every barrel and every bushel of it.

Some gentlemen here say "No." There is no law upon the statute-book of the nation that will permit a collector to pass, duty free, property which has broken bulk, and passed through the territory of Canada, for the reason that it cannot be identified. There are no means of identifying it. If it is a cargo of wheat, it may be mixed *in transitu* with Canadian grain, or an entire cargo of Canadian grain may be substituted. Hence, when this property reaches the lower port it is dutiable.

Abrogate this treaty, and I ask gentlemen of the western States, if our means of transportation upon our own soil are so utterly overtaxed and burdened, what will you do with this surplus of your products which has found an outlet heretofore over the Canadian peninsula? Upon our own soil a barrier exists to transit from the upper to the lower lakes, at the falls of Niagara. The Canadians, by a liberal policy, have removed that barrier by the construction of the Welland canal and these railroads, and we are enjoying these benefits to-day. The greater portion of these western productions cross Canada by those canals and railroads, to find a market within our own territory in New England and New York.

I admit that this treaty does not work reciprocally throughout; but within the last ten years, in addition to the use of Canadian railroads and the St. Lawrence river, it has created an annual trade of over fifty million dollars along that frontier of two thousand miles. If you abrogate the treaty, do you expect to derive a revenue by imposing a

duty on Canadian produce that can by any possibility compare with the profit now enjoyed by your citizens out of this trade? No, sir; not at all. Men engage in trade for profit, and the profit arising from the interchange of commodities between the two countries must be large upon an aggregate amount of fifty millions of money.

Is it wise at this time to interrupt so summarily this great and profitable commerce? Can it be done without inflicting great pecuniary injury upon the citizens who reside along our entire northern frontier?

It has been stated upon this floor that we have sold less to the British provinces than we have purchased. Strike out of existence 1854, and take the trade of the five years previous to 1854, and you will find that we sold them some twenty-four millions, if the report of the Secretary of the Treasury is to be relied upon, more than we purchased. Take the five years subsequent to 1854 and you will find that it was \$38,000,000 as against \$24,000,000 in the first five years. This is the result of the trade, showing under the treaty most favorable results.

Now, what is the interest of New York and New England and Pennsylvania upon this question? Pennsylvania is pouring into the lap of Canada the wealth of her soil, in the shape of coal, duty free, and New England is supplying the Northwest through Canadian avenues with her manufactures in exchange for its produce. It is for the interest of New England that there shall be a vast and mighty population upon these western prairies at the earliest possible day. Every twenty thousand emigrants located in Iowa or Illinois or in any western State support a factory on the rocky soil of New England. New York and the New England States are compelled to carry on a trade with the West through the mighty chain of lakes, over the Canadian railroads and through the canals of Canada, because our own Government has failed to remove the barrier at Niagara falls by the construction of a canal upon her own side.

Sir, I had hoped that this resolution would assume the form of the appointment of commissioners to make more perfect the trade between the two countries and not an abrogation of the treaty, and I still hope that when it shall be brought to a vote the abrogation feature will be stricken out from the resolution and that it will stand adopted appointing commissioners to render more perfect a system of trade which has conferred so many and such vast benefits upon the residents of the northern frontier.

MR. MORRILL. Mr. Speaker, not a single gentleman has addressed the House upon this subject who has not admitted at the outset that the treaty operates injuriously to the United States. The gentleman from Maine [Mr. SWAZZ] has seen fit to characterize the original proposition introduced by me as unwise, narrow, and unstatesmanlike. I do not profess, sir, to have such broad, statesmanlike, and wise views as the gentleman who represents the city of Portland, who, by the by, practically confines his views to the city limits of Portland and not to his State, for I have in my possession the resolution passed by that State last year, which was almost unanimously passed, in favor of the unconditional termination of the treaty. Therefore, if I have learned anything that is unwise or narrow or unstatesmanlike, I have learned it from Maine herself, and I appeal from the gentleman to the people of his own State. This year her Governor also recommended its abrogation. To be sure the resolution which was passed then was a sort of a mongrel thing asking for its termination but presenting the case very much as it has been presented by the substitute proposed by the Committee on Commerce, and perhaps borrowing the idea from it.

Now, Mr. Speaker, the original proposition, as introduced by me, is couched in the language which has been used by this Government in like cases for seventy years. There is nothing in it that could justly give offense in any quarter. It merely recites, according to the provisions of the treaty, our wish that it should be terminated. It does not even go upon the broad ground that nothing further is to be done, for it contemplates that there will be further legislation or negotiation, as will be seen from these words:

And that the attention of the Governments of both countries may be directed to the adoption of all proper measures



for an amicable adjustment of any matters of difference or dispute which may remain or arise in consequence of the termination of said treaty, &c.

Mr. Speaker, in relation to this subject, I am more than ever convinced that there is not a single interest in this country, whether commercial, agricultural, manufacturing, or fishing, that is subserved by this treaty or that can be. If the distinguished gentleman from New York should be appointed one of these commissioners, notwithstanding his ingenuity in the discussion of this subject, and his ability, I have no doubt that he might spend years with other gentlemen on such a commission, and spend them very pleasantly too, but if this treaty should not be terminated by a vote of this House requesting the President to give the proper notice, it never would be changed or improved by the labors of such a commission. We all know the beauty of procrastination whenever diplomacy is employed. Even, therefore, if we are to have a new treaty, the proper course for us to pursue is at once to give the notice, and then if the Canadian or the British Government have a proposition to make that we think will be really reciprocal or beneficial to us, we shall then be free to adopt or reject it. But first let us see what they have to propose. When it is admitted on all hands that the treaty operates injuriously, are we to come forward and beg for the continuance of such a treaty? Will this House again surrender in advance one of its constitutional prerogatives?

Why, Mr. Speaker, the gentleman from Illinois [Mr. J. C. ALLEN] this morning grows eloquent over the fact that it is proposed to tax the grain and flour of the West. It is possible the gentleman has made a mistake. Is he now unwilling that the productions of the vast regions of the Canadas drained by the great lakes shall, before they come into competition with those of the West, pay a tax? Will it hurt the West to tax those who enjoy our markets and our war prices something for so priceless a boon? Gentlemen know, I presume, that if we tax Canadians ten cents a bushel upon their barley they must perforce still send it to our market. Have gentlemen in the West any objection to such a proposition as that? There is no danger of driving them away from our market; they cannot dispose of any considerable portion of their agricultural products unless they bring them to our markets. If they paid into our Treasury twenty-five per cent. they would then sell here, and realize twenty-five per cent. more than at home. Then I ask the gentleman who represents the New Bedford and Nantucket district whether, if we should tax the fish which come into competition with the fish his constituents catch, they would object to that? Do they object to our placing a tax upon whale oil and all other products of the sea which now come in duty free? But it is said that if this treaty is terminated the facilities for bringing the products of the West will be diminished—that they could not have the use of the railroads, the St. Lawrence river, and canals within the Canadian provinces. Why, sir, our right to use those canals may be abrogated by England at any moment without interfering with the treaty itself. By article four it is provided that they may terminate that commerce whenever they choose. That article reads as follows:

"ART. 4. It is agreed that the citizens and inhabitants of the United States shall have the right to navigate the river St. Lawrence and the canals in Canada used as a means of communicating between the great lakes and the Atlantic ocean with their vessels, boats, and crafts, as fully and freely as the subjects of her Britannic Majesty, subject only to the same tolls and other assessments as now are, or may hereafter be, exacted of her Majesty's said subjects; it being understood, however, that the British Government retains the right of suspending this privilege on giving due notice thereof to the Government of the United States."

They can suspend this part of the treaty any time they please; but, as my colleague has suggested, their railroads and canals cannot live without our patronage. They will not bite the hand that feeds them, so that there need be no apprehension on our part of being denied the poor privilege of using their railroads and canals in consequence of the termination of this treaty. Besides, if there was, we have an ample remedy. The transit of merchandise from Portland to Canada is through our permission, and now gratuitous.

Now, in relation to our commerce, which is diminishing, and ought to be increased. Under the operation of the treaty, vessels load in provincial and come to our ports, taking such freights

as they can find to carry back; but our vessels must start out empty, or nearly so, and go there to obtain a return freight, which they are unwilling to do, and the result is that almost the entire business with the provinces is now carried on in British or provincial bottoms.

There is another question greater than all these, involving the rights of this House. From Jay's treaty down to the date of this unfortunate treaty this House has always resisted these commercial treaties. The Democratic or Republican party has always been opposed to the doctrine of the President and Senate exercising control over commercial matters, and have always demanded that the House should be consulted in all treaties wherein an appropriation was involved. All parties up to 1854 resisted these commercial treaties, and as late as in 1844, as I said in my former speech, the Senate itself, when called on to ratify a similar treaty, declared that it was "an invasion of the uniform practice of the Government to change by treaty duties laid by law."

If the Senate and President can make a treaty changing in any respect the revenue laws, they may in a short time monopolize the whole power of the Government delegated to Congress over the subject of commerce and to the House over subjects of taxation, and set the legislation of Congress at defiance as well as the rights of the House of Representatives. I trust that the House will consider that it is entirely wise and statesmanlike that we shall give this notice in the decorous and proper terms contained in the proposition before us. I am sure that no member here will be actuated in this matter by any ill-will toward or fear of the British Government, and our experience for the last two or three years certainly does not inspire us with any lively sense of gratitude for favors received. The treaty has not brought us the gospel of good-will. It is well known that in many parts of the provinces the people are as hostile toward this Government as any part of the South, and that feeling still reigns predominant in Great Britain, as their action in the case of the Georgia, fitted at Liverpool, recently returned, abundantly shows. And I presume no gentleman in this House doubts that but for the recognition by the British Government of the rights of the southern confederacy as belligerents the rebellion could not have lasted twelve months.

[Here the hammer fell.]

Mr. WASHBURN, of Illinois. With the permission of the House, I desire to reply a moment to my colleague from the Chicago district, [Mr. ARNOLD,] who dwelt very largely upon the fact that if this treaty were abrogated one great channel of communication with the West would be closed up. Now, as I understand it, under that treaty the power was reserved by the British Government, without any notice at all, to close that communication, and if that Government chooses at any time to exercise that power, I ask my colleague how the condition of the West in respect to these means of communication is to be relieved.

Mr. MORRILL. I desire to say in response to that, that under the treaty they have the power, but we have a greater power in reserve if we choose to exercise it over them.

Mr. WASHBURN, of Illinois. I am for the unconditional abrogation of the treaty; every member must see that the treaty as it now exists ought to be changed, and if it is to be changed, I say let us in the first place abrogate the treaty entirely. If Great Britain, which derives, as I contend, all the benefits of the treaty, wants another, let her come and ask us, and do not let us go to her.

Mr. MORRILL. If the treaty should be abrogated I should not be unwilling to agree to some fair proposition by legislation, and legislation mainly. But I wish the House to keep the subject under its own control, so that we may have some countervailing legislation whenever that may become proper and necessary.

Mr. WARD. Mr. Speaker, in the consideration which I have given to this question I have regarded it from no sectional or partisan point of view, but have studied it in its international aspects, and thus I shall continue to present it.

I know there are objectionable features in the working of the treaty, but with very few exceptions the points raised in opposition to it were presented in the report of the Committee on Commerce and also in my remarks when opening this

discussion. I named impartially the merits and the defects, the advantages and evils existing in the present arrangements. Nothing was suppressed, nothing was exaggerated, and I endeavored to judge the subject with the utmost possible justice and impartiality. I confide in the honor and character of this House to treat this great international question as to our northern neighbors in the same candid and honest spirit of good-will and truth with which we rightfully wish them to regard us and our affairs. I trust this House will rise above mere local considerations. It must rise above prejudice. I have no fear of Great Britain. I have considered this question as one affecting many of the most important interests of this nation. Thus I trust this House also will consider it, uninfluenced by any fear or intimidation of Great Britain. I cannot regard with complacency the frequent assertions made by several honorable members as to our national reputation. There is no need to vindicate it. It should be, like the character of Cæsar's wife, above suspicion, and I am impatient when I hear it unnecessarily asserted or called into question.

I propose to review as briefly as I can the chief remarks made during this debate in opposition to the treaty, or rather to any equitable and mutually beneficial and satisfactory arrangement of our commercial relations with the provinces.

The gentleman from Ohio [Mr. SPALDING] referred to the treaty of 1817—a treaty entirely irrelevant to the present subject. We have the power on a notice of six months to terminate that treaty; but there is no necessary connection between the two. If the resolution of the Committee on Commerce be adopted, questions regarding the armaments of both nations on the lakes may, I think, without impropriety be discussed and very probably would be discussed by the proper authorities on both sides.

It has been attempted to influence the action of this House by the introduction of letters from different individuals. I have not endeavored to acquire any support for my views from this source, although I have received many letters from various gentlemen of eminent ability and character. I may, however, be permitted to give portions of letters from Hon. Edward Everett, who was Secretary of State during a considerable part of the negotiations leading to the treaty. When acknowledging the receipt of a copy of the report of the Committee on Commerce in 1862, he said:

"It seems quite evident that the provincial Government has violated the spirit of the treaty in various ways. I trust, however, that there will be no countenance given to the threat of abrogating it, a measure never admissible but in a case of the greatest provocation from the other party. Having the interests of Canada West enlisted in favor of a just policy under the treaty, and I presume also the sympathies of the Imperial Government in the same direction, there will be no difficulty, I imagine, in persuading the provincial Parliament that there is nothing to be gained by a war of tariffs."

In a subsequent letter he said:

"In saying that I hoped the abrogation of the treaty would not be thought of, I meant its abrogation before the time appointed by the instrument itself. When that time arrives, if it shall appear that the colonial legislation is in contravention of the spirit and policy of the convention, security must be taken for a change in that legislation, or the convention be given up, which I trust will not be the case."

"I have reason to think we shall have the Imperial Government with us in a fair and honest execution of the convention."

I will in passing make one remark in regard to the Constitution so far as this question is concerned. The gentleman from Vermont [Mr. MORRILL] occupied a column and a half of his speech in attempting to show that no treaty can deprive us of our right to legislate in regard to revenue measures. All I have to say is that this treaty did not deprive this honorable body of any portion of our rights in this respect. The treaty was imperative until the act was passed by this House on the 5th day of August, 1854, for the purpose of carrying the treaty into effect. The House may by its own sanction and by a solemn act give effect to such a treaty.

I shall, without any further general remarks, confine myself mainly to the consideration of the chief points which have been most frequently urged in favor of abruptly terminating our commercial arrangements with the provinces.

The main assertions on which the member from Maine [Mr. PIKE] relied as regards the statistics or business aspect of the case are that our trade to

the provinces has created a balance against us. In one form or another this assertion has frequently been made. The question he has raised is one of easy solution, and needs nothing more than a brief examination of the statement of the Secretary of the Treasury compiled from the duly authenticated official records. The treaty went partially into operation in 1854, extensive transactions having that year been made, based upon the expectation that drawbacks would be, as I am told they ultimately were, allowed. That was the year of the treaty—neither before nor after. Its transactions were mixed. Therefore its trade should be excluded from the statistics of commerce in the periods before and after the treaty. No full and fair inference can be drawn from that year, as it belongs to neither epoch. In 1853, the year before the treaty, our imports from the provinces were \$7,550,718 and our exports to them were \$13,140,642; leaving a balance in our favor of less than \$6,000,000; and the change was so great that in 1855, the year after the treaty took effect, our exports increased to \$27,806,020, being more than double those of 1853. As these imports in 1855 were \$15,136,734, the balance in our favor the year after the treaty was more than \$12,600,000; a larger amount than we either sold to or bought from them with one exception, in any year before the treaty. Yet it is at least implied by the member from Maine that when we made the treaty there was *annually* a balance in our favor, paid to us in gold, of about sixteen million dollars; a sum larger by about three millions than we ever sold to them in any year whatever before the year when the treaty was made.

I deeply deplore the misrepresentations which are current on this subject. Do they proceed from a conscious and willful desire to mislead us on a subject of so great importance? I hope not. I am not willing to think they do. Few national injuries are more pernicious than the perversion of facts in the national councils, thus misleading and betraying the people by poisoning one of the fountains whence they derive their information. There may be some—I trust they are not many—in this House who do not see that however popular this kind of betrayal may be for a time, it not only inflicts an injury upon our pecuniary interests and our honor, but, creating and cherishing a habitual sense of national injury and wrong, leads us in the end to such results as we are now experiencing in the deadly struggle between the different sections of this Union. I attribute no unworthy motives to any one, but whoever will examine the official records of our own Government will find that my statements are accurate.

It was said by the honorable member—he repeated the remark several times—that the balance of our trade with the provinces is against us. The statement appears slightly modified in his remarks as printed in the Globe, but is substantially retained there. Did he mean during the last year of which we have official information? It was then nearly two millions in our favor. Did he mean during the whole time since the treaty went into operation? In that time it was more than twenty-six millions in our favor. There is nothing vague about this. There is no mystery in the figures. There is no need of passion or declamation. The solution is as easy as that of any school-boy sum in arithmetic or of any ordinary settlement of accounts between individuals. I find my data on the sixth page of the letter from the Secretary of the Treasury in answer to the resolution of this House on the 17th day of last December, asking for information as to the operations of this treaty. We asked him for information, and it is furnished to us. Shall we ignore it, and substitute for it such conclusions as our several fancies may suggest? We may in this way point a paragraph or lend some illusory brilliance to a speech; but this is not statesmanship. It does not accord with our duty to the nation. The balance of gold on which so much stress has been laid was not paid by us to the provinces but by them to us. It amounted to \$26,445,692. This is the state of affairs as to which the honorable member says he "would if necessary use force to put an end to an alliance so injurious."

The subject has been treated as if there were no difference between paying money for foreign gewgaws or costly luxuries and for such articles as are daily and hourly necessary to the support of our Army and Navy, and for that

yet larger army—the industrial army—the laboring population, on whom the existence of the Army and Navy and of all classes of society must depend. With exceptions too trivial to be worthy of notice, all our importations free under the treaty are the plainest necessities of life. It is an outrage upon the best and wisest principles of modern political science to tax them. They are an essential part of all that enables us to pay taxes, and support either Army or Navy—of all that makes us strong or prosperous either in war or peace.

There is another consideration to be regarded in connection with this balance of trade in relation to these colonies—a reason why this trade is not identical in principle with many other transactions, but is an exceptional case. I will illustrate the point by a familiar and practical example. It is readily understood that if a merchant or dealer goes over to Canada, and there buys certain articles—say, for instance, a thousand barrels of flour or five thousand bushels of wheat—he does an act which, so far as it goes, creates a balance against the United States, to be paid in gold or its equivalent. But if he sends the flour or wheat over American railroads or canals to Boston or New York, and thence has it reshipped to England, France, Cuba, or elsewhere, he, by his series of actions, gives freight and profit to our inland carriers and Atlantic shippers, employs a large number of our people in various occupations, and brings home at last the original outlay, increased by the additional sum invested for freight, storage, commissions, and labor of various kinds, together with additional profit for himself, all in the same precious metal or its equivalent. Gentlemen who reason as the honorable member has argued forget that this nation has commercial dealings; and that in such a case as I have described, it is quite as just to complain of the balance of trade being against us as it would be for a merchant who has extensive transactions in all parts of the world to complain of the farmer or manufacturer from whom he buys more than he sells to him. He buys from one man for the purpose of selling to another.

While the honorable member takes a narrow and limited view of our commercial relations with the provinces, he has gone a long way back in his statements as to the colonial policy of Great Britain. He quoted certain laws enacted by the Government of that country a hundred and fifty years ago, ordaining that none of the colonial trade should be carried in any but British vessels. Since the time to which he referred five generations of men, with their inventions, their experience, and their changes, have lived and died. The folly of those laws was long ago demonstrated. They were tried, found wanting, and have been repealed. Even the colonial tariffs discriminated in favor of British and colonial produce and manufactures until 1843, when these discriminations were abolished. The colonies now make their own tariffs and tax British manufactures at high rates, to encourage production in their own territory. For several years—for all the years, so far as I know—since the treaty the trade of Canada with the United States was greater not only than with Great Britain, but than with all other countries but our own added together.

I wish to accept facts as I find them. Should I do otherwise I should be unworthy of a place in this House, and false in my duty to my country. Coming down as closely as I can to the present time and to the special point named by the honorable member, I find on reference to our own reports on commerce and navigation that during the last five years the entries and clearances of tonnage employed in carrying on the trade between the United States and the British North American provinces have been about fifty per cent. in favor of this country. They were 20,763,512 of United States tonnage, and 13,844,919 of foreign tonnage.

A very large increase in our exports to the provinces, both of our own manufactures and agricultural produce and of goods of foreign origin, did result from the treaty, as was reasonably expected. Our domestic exports increased from \$7,404,087 in 1853 to \$15,806,642 in 1855 and \$22,714,697 in 1856, having doubled and trebled in periods of one and two years respectively. Our exports of goods of foreign origin were \$5,736,555 in 1853, being larger in that year than they had

ever been before. In 1855, the year next after the treaty, they were \$11,999,378, having doubled in full accordance with the natural tendency of the treaty. My statements rest on the official authority of our own Government. They cannot be refuted. No attempt has been made to meet them. No notice was taken of them by the honorable member or by any gentleman who has spoken in opposition to the resolutions of the Committee on Commerce.

A few more words as to this balance of trade. Before the treaty Canada admitted the cereals and many other products free of duty. Consequently we sold to her although we refused to buy from her. The result was that a large amount of these articles went abroad through the St. Lawrence, to the injury of our merchants, canals, railroads, seaports, ocean shipping, and of all classes of our population. The year after the treaty the trade by the St. Lawrence decreased to the amount of \$15,203,600, and so soon as the routes and markets of the United States were opened the whole was transferred to our carriers, for in the same time the trade to the United States increased \$15,856,624, or from \$24,971,096 to \$40,827,720. In this way a change was made in the "balance of trade," and that change was beneficial.

Much has been said in this connection about the Alabama and the Florida. I fully concur with those who have condemned the outrages perpetrated by these vessels. The honorable member spoke at some length of the southerly port of Nassau. I am unable to discover in his remarks upon this subject any adequate reason for our injuring ourselves by curtailing or destroying a profitable trade with the colonies in North America, still less why we should not endeavor to make it more profitable than it is, and to place it on a just and equitable basis. He discussed at one time two subjects which have no proper or logical connection with each other. All such inquiries as I have been able to make, and a careful study of a considerable portion of the organs of provincial opinion, from day to day, since the beginning of the war, have led me to the result that although, as must be the case in every country where freedom of thought and utterance prevail, where men think and speak for themselves; some will be right and some will be wrong, (and the various minds of individual colonists have arrived at very different conclusions as to the present war, some taking the side of the South, some friendly to the North, and approving of the course of the Administration, and some equally friendly, but believing that a different policy would have been more conducive to our interests,) the flagrant expressions adverse to us, and which sometimes obtain wide circulation, are the words—only of individuals or cliques, and not of the vast majority or masses of the people of these provinces on whom it is proposed as retaliation to inflict commercial injuries which will equally injure our own people, before we have made any effort to remove those obstacles which some years after the treaty took effect have prevented each nation from reaping the full benefits which would naturally have accrued from it. I have already, in my previous remarks, explained the operation of the increased tariffs of Canada, especially of the tariff of 1859. These enactments, which substituted artificial restrictions for free and natural laws, should not be mistaken for the principles or results to which they are in direct contradiction. I am desirous of remedying the evils thus created.

It is argued that the treaty has deprived us of revenue. During the last year the imports and exports between the United States and Canada of articles free under the treaty were nearly equal. If we levy duties on their productions, they may do the same on ours. This principle is a two-edged sword. Or they may admit our products free of duty as they did before the treaty, and thus be the carriers of a considerable portion of our produce as well as of their own. When a revenue was paid to our Government on Canadian productions, the provincial railroads and means of communication were imperfect, and its population was comparatively scanty. By renewing the duties we shall drive away the trade and render our people less able to pay taxes. The utmost amount of revenue the Government can derive from duties on colonial productions is inconsiderable compared with the loss of commerce we shall sustain, and the consequent loss of employment

to the laborer and profit to the merchant or capitalist.

Under a reciprocal system, instead of attempting to make money by restriction and injuries, each will partake of those natural advantages which have appropriately and eloquently been termed "the gratuities of nature." Otherwise, if a restrictive policy is mutually adopted, we destroy the trade of such ports as Oswego and Portland, and two or three men will be employed to do the work of one, as in the case of compelling the Canadians to carry sugar from Cuba to Toronto round by way of the St. Lawrence instead of carrying it ourselves for adequate remuneration to the benefit of our people through New York, Boston, or Portland; or, in the case of coal, compelling the people of each country to carry this essential element of success from remote mines, hundreds of miles from the places where it is used. It is as necessary to the comfort and maintenance of the poor as to the accumulations and luxuries of the rich. It saves labor, enabling one man, through the creation and application of steam, to do the work of twenty. Thus it creates wealth and power, diffusing its beneficent results through every department of society on each side. It is a just illustration of the whole subject. Let us place no fetters upon these beneficial exchanges, nor compel the people of either country to a perpetual system of labor in vain, wasting in circuitous routes the labor and capital which might be profitably expended. The waste of labor is a waste of human beings and of life.

As to smuggling, which it is said exists to a great extent on our frontier, I ask if it is likely to be diminished by the increased duties created by our own recent tariffs, or by entering upon a system of commercial hostilities with the whole population of the provinces and stimulating all their sympathies in favor of the smuggler. Neither we nor they are alone in the world, or can carry out in all respects our own wishes and desires. England and France, with a most expensive and numerous coast-guard, were never able to prevent smuggling except by mutual liberality. Still less can we prevent it from countries which are so near to us that a merchant may have one half of his store in the United States and the other in the provinces. Already two free ports exist in Canada. All goods from the United States, from France, Germany, England, and all other parts of the world, are admitted free of any duty into these ports, which are not, as might be inferred from their names, mere cities. One of them in the Northeast extends, at the mouth of the St. Lawrence, over a sea-coast twelve or fifteen hundred miles in extent. The other "free port" is in the Northwest, and, under the name of Sault Ste. Marie, includes practically a coast on Lakes Huron and Superior and their islands of more than one thousand miles in extent. Do those who oppose the appointment of commissioners and our whole system of reciprocity think it is wise to reject all approach to any unity of legislation between us and the provinces, and impel them to an extension of anything like this system of free ports, which already extends over some twenty-five hundred miles of coast, until it prevails over the remainder of the provinces? It is a case where each Government can assist the other or injure it.

Various memorials from different parts of the United States have been presented to Congress and referred to the Committee on Commerce. They proceed from persons having distinct interests and living, some of them on the western and some of them on the eastern extremity of our frontier. Although they all unite in requesting modifications of the treaty, not one of them is in favor of its unconditional abrogation. There is no exception. The State of Maine in March last, through its Legislature, passed resolutions decisively in favor of the appointment of commissioners to negotiate a more extended and impartial system of commercial relations with the provinces; and in my opinion scarcely any State in the Union has a stronger interest in a liberal settlement of this question.

After mature deliberation, the Committee on Commerce believes that the appointment of commissioners on both sides to consult together as to the course most conducive to our mutual interest, combines more advantages than any other plan. The treaty was made between the United States and

Great Britain, but as regards the management of financial affairs the colonies are independent of Great Britain. More than this, the British North American colonies of Canada, New Brunswick, Nova Scotia, Prince Edward's Island, and Newfoundland are commercially distinct and independent of each other, each placing the other provinces, and the United States, Great Britain, France, and other countries upon a footing of equality as regards importations. The subject involves on our side an adjustment of the interests of the eastern, central, and western States—an earnest and full consideration of the course best adapted to promote manufactures, agriculture, and commerce, and the removal of such restrictions as exist, by means of the legislation of Canada, inconsistent with the general expectations when the treaty was made. No other plan can bring the parties whose interests are involved so closely and directly into communication with each other, and its importance demands the full and undivided attention of able and comprehensive statesmen.

I will say in addition that the terms of the resolution do not seem to be fully understood. The resolution contemplates that the notice shall be given at the proper time unless in the interim a convention shall have met and agreed upon a treaty based upon the true principles of reciprocity, and that whenever Great Britain shall indicate a willingness to enter into negotiations for that purpose, the President is authorized to appoint commissioners to ascertain on what terms such a treaty can be made.

#### ENROLLED BILLS:

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 407) authorizing the establishment of ocean mail steamship service between the United States and Brazil; and

An act (H. R. No. 432) for the relief of the citizens of Denver, in the Territory of Colorado.

#### RECIPROCITY TREATY—RESUMED.

The SPEAKER. The first question is upon the amendment offered by the gentleman from Illinois, [Mr. ARNOLD,] which will be reported by the Clerk.

The amendment was reported, and is as follows: Strike out "and required to give notice to the Government of the United Kingdom of Great Britain and Ireland that it is the wish and intention of the Government of the United States of America to terminate the said treaty at the end of twelve months from the expiration of ten years from the time when the said treaty went into operation as aforesaid, such notice to be given at the expiration of the said term of ten years, to the end that the said treaty may be abrogated as soon as it can be done under the provisions thereof, unless a new convention shall before that time be concluded between the two Governments by which the provisions shall be abrogated or so modified as to be mutually satisfactory to both Governments; and that the President of the United States be, and he is hereby, authorized to appoint three commissioners, by and with the advice and consent of the Senate, for the revision of said treaty, and to confer with other commissioners duly authorized thereby, whenever it shall appear to be the wish of the Government of Great Britain to negotiate a new treaty between the two Governments and the people of both countries, based upon true principles of reciprocity, and for the removal of existing difficulties;" and insert in lieu thereof the following:

By and with the advice and consent of the Senate, to appoint three commissioners to confer with persons duly authorized by Great Britain in that behalf, to negotiate a new treaty, based upon the true principles of reciprocity between the two Governments and the people of both countries, with the view of enlarging the basis of the present treaty, and for the removal of existing difficulties: *Provided*, That in case no new treaty shall be agreed to by both Governments, then, in such case, the President is hereby authorized, in his discretion, to give the notice terminating said treaty according to the provisions thereof.

Mr. ARNOLD demanded the yeas and nays on the amendment, and tellers upon the yeas and nays.

Tellers were ordered; and Mr. CHARLER and Mr. AMES were appointed.

The House divided; and the tellers reported—ayes forty-three; a sufficient number.

So the yeas and nays were ordered.

The question was put; and it was decided in the negative—yeas 54, nays 97; as follows:

YEAS—Messrs. James C. Allen, Aucona, Arnold, Bailly, John D. Baldwin, James S. Brown, William G. Brown, Cobb, Cox, Cravens, Thomas T. Davis, Denison, Donnelly, Eden, Edgerton, Eldridge, Finck, Grider, Griswold, Hall, Harrington, Charles M. Harris, Asahel W. Hubbard, Hutchins, William Johnson, Kalbfleisch, King, Knapp, Lazear, Le Blond, Littlejohn, Marcy, McAllister,

McDowell, McIndoe, William H. Miller, James R. Morris, Morrison, Noble, Price, William H. Randall, James S. Rollins, Ross, Sloan, John B. Steele, William G. Steele, Stiles, Strouse, Sweat, Tracy, Voorhees, Wheeler, Joseph W. White, and Whidom—54.

NAYS—Messrs. Allison, Ames, Augustus C. Baldwin, Baxter, Beaman, Blaine, Jacob B. Blair, Boutwell, Boyd, Brandegee, Brooks, Broomall, Chamer, Ambrose W. Clark, Freeman Clarke, Cole, Creswell, Dawes, Dawson, Denning, Dixon, Eckley, Eliot, English, Farnsworth, Fenton, Frank, Ganson, Garfield, Gooch, Grinnell, Hale, Harding, Holman, Hooper, Hotchkiss, Ingersoll, Jenckes, Philip Johnson, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, Law, Loan, Long, Longyear, Mallory, McBride, McClurg, Middleton, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Nelson, Charles O'Neill, Orth, Patterson, Perlman, Perry, Pike, Pomeroy, Prun, Radford, Samuel J. Randall, Alexander H. Rice, John H. Rice, Robinson, Edward H. Rollins, Schenck, Scofield, Scott, Shannon, Smith, Smithers, Stevens, Thayer, Thomas, Upson, Van Valkenburgh, Wadsworth, Ward, Ellihu B. Washburne, William B. Washburn, Webster, Chilton A. White, Williams, Wilder, Wilson, Winfield, Fernando Wood, and Yeaman—97.

So the amendment was not agreed to.

During the roll-call,

Mr. DRIGGS stated that he was called out a few moments since to see a wounded soldier, and had paired off with Mr. BLISS, who was still absent.

Mr. WOODBRIDGE stated that he was paired off with Mr. ALLEY; that he would have voted in the affirmative, while Mr. ALLEY would have voted in the negative.

The question next recurred on the substitute offered by the gentleman from Vermont [Mr. MORRILL] for the resolution reported from the Committee on Commerce.

The substitute is as follows:

That the President of the United States be, and he is hereby, authorized, at his discretion, to give to the Government of Great Britain the notice required by the fifth article of the said reciprocity treaty of the 5th of June, A. D. 1854, for the termination of the same.

Mr. WASHBURN, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the negative—yeas 74, nays 82; as follows:

YEAS—Messrs. Allison, Ames, Baxter, Beaman, Blaine, Jacob B. Blair, Boyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Cole, Creswell, Henry Winter Davis, Dawes, Denning, Eckley, English, Fenton, Frank, Garfield, Grinnell, Hale, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubbard, Ingersoll, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Charles O'Neill, Orth, Patterson, Perlman, Pike, Pomeroy, William H. Randall, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Smith, Smithers, Spalding, Stevens, Thayer, Tracy, Upson, Van Valkenburgh, Wadsworth, Ellihu B. Washburne, William B. Washburn, Webster, Whaley, Williams, Wilder, and Wilson—74.

NAYS—Messrs. James C. Allen, Aucona, Arnold, Bailly, Augustus C. Baldwin, John D. Baldwin, Boutwell, Brooks, James S. Brown, Chanler, Cobb, Cox, Cravens, Thomas T. Davis, Dawson, Denison, Dixon, Donnelly, Eden, Edgerton, Eldridge, Eliot, Farnsworth, Finck, Ganson, Gooch, Grider, Griswold, Hall, Harding, Harrington, Charles M. Harris, Hutchins, Philip Johnson, William Johnson, Kalbfleisch, Kernan, King, Knapp, Law, Lazear, Le Blond, Littlejohn, Long, Mallory, Marcy, McAllister, McDowell, McIndoe, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Pendleton, Perry, Price, Prun, Radford, Samuel J. Randall, Alexander H. Rice, Robinson, James S. Rollins, Ross, Scott, Sloan, John B. Steele, William G. Steele, Stiles, Strouse, Sweat, Thomas, Voorhees, Ward, Wheeler, Chilton A. White, Joseph W. White, Winfield, Winfield, Fernando Wood, and Yeaman—82.

So the substitute was not agreed to.

During the roll-call,

Mr. WOODBRIDGE stated that he would have voted in the affirmative but that he was paired off with Mr. ALLEY.

Mr. DRIGGS stated that he should have voted in the affirmative had he not been paired off.

Mr. J. W. WHITE stated that Mr. McKINNEY had gone to Fredericksburg to look after some wounded soldiers.

Mr. FRANK stated that Mr. MARVIN was detained from the House by sickness.

Mr. FARNSWORTH moved to reconsider the vote by which the amendment was rejected.

Mr. SLOAN moved to lay the motion to reconsider upon the table.

Mr. WASHBURN, of Illinois, demanded the yeas and nays on the latter motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 80, nays 74; as follows:

YEAS—Messrs. James C. Allen, Aucona, Arnold, Bailly, Augustus C. Baldwin, John D. Baldwin, Boutwell, Brandegee, Brooks, James S. Brown, Chanler, Cobb, Coffroth, Cox, Thomas T. Davis, Dawson, Denison, Dixon, Don-



nelly, Eden, Edgerton, Eldridge, Eliot, Finck, Ganson, Gooch, Grider, Griswold, Hall, Harding, Harrington, Charles M. Harris, Hutchins, Philip Johnson, William Johnson, Kalbfleisch, Kernan, King, Knapp, Law, Lazear, Le Blond, Littlejohn, Long, Mallory, Marcy, McDowell, McIndoe, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Pendleton, Perry, Price, Pruyn, Samuel J. Randall, Alexander H. Rice, Robinson, James S. Rollins, Ross, Scott, Sloan, Spalding, John B. Steele, William G. Steele, Stiles, Strouse, Sweet, Thomas, Ward, Wheeler, Chilton A. White, Joseph W. White, Windom, Winfield, Fernando Wood, and Yeaman—80.

**NAYS**—Messrs. Allison, Ames, Baxter, Beaman, Blaine, Jacob B. Blair, Boyd, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cole, Creswell, Henry Winter Davis, Dawes, Deming, Eckley, English, Farnsworth, Fenton, Frank, Garfield, Grinnell, Hale, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, William H. Randall, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Smith, Smithers, Stevens, Thayer, Tracy, Upson, Van Valkenburgh, Wadsworth, Eliza B. Washburne, William B. Washburn, Webster, Whaley, Williams, Wilder, and Wilson—74.

So the motion to reconsider was laid upon the table.

The question recurred on ordering the joint resolution to be engrossed and read a third time.

**Mr. STEVENS.** I now move to lay the joint resolution on the table. I think we had better let the treaty run another year.

**Mr. FENTON** demanded the yeas and nays on the motion to lay on the table.

The yeas and nays were ordered.

**Mr. ANCONA.** I ask that the joint resolution be reported.

The **SPEAKER.** The Clerk will report the joint resolution, and also the preamble, as the motion to lay the resolution on the table carries the preamble with it.

The Clerk read the preamble and resolution as follows:

Whereas, under the treaty made by the United States with Great Britain, proclamation of which was made by the President of the United States on the 11th of September, 1854, for the purpose of extending reciprocal trade between the British North American colonies and the United States, nearly all the articles which Canada has to sell are admitted into the United States free of duty, while heavy duties are now imposed upon many of those articles which the people of the United States have to sell with the intention of excluding them from the Canadian markets; and whereas the President of the United States, in the first session of the Thirty-Sixth Congress, caused to be submitted to the House of Representatives an official report setting forth the inequality and injustice existing in our present intercourse with Canada, subversive of the true intent of the treaty, owing to the subsequent legislation of Canada; and whereas by the fifth article of the treaty provision was made that it should remain in force for ten years from the date at which it should go into operation, and further until the expiration of twelve months after either of the high contracting parties should give notice to the other of its wish to terminate the same, each of the high contracting parties being at liberty to give such notice to the other at the end of the said term of ten years, or at any time afterwards; and whereas by a further proclamation issued by the President of the United States, bearing date the 16th day of March, 1855, it was declared that the said treaty should go into effect and be observed on the part of the United States; and whereas it is desirable that friendly relations should be continued between the United States and the British North American provinces, and that commercial intercourse should be hereafter carried on between them upon principles reciprocally beneficial and satisfactory to both parties: Therefore,

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States be, and he is hereby, authorized and required to give notice to the Government of the United Kingdom of Great Britain and Ireland that it is the wish and intention of the Government of the United States of America to terminate the said treaty at the end of twelve months from the expiration of ten years from the time when the said treaty went into operation as aforesaid, such notice to be given at the expiration of the said term of ten years, to the end that the said treaty may be abrogated as soon as it can be done under the provisions thereof, unless a new convention shall before that time be concluded between the two Governments by which the provisions shall be abrogated or so modified as to be mutually satisfactory to both Governments; and that the President of the United States be, and he is hereby, authorized to appoint three commissioners, by and with the advice and consent of the Senate, for the revision of said treaty, and to confer with other commissioners duly authorized therefor, whenever it shall appear to be the wish of the Government of Great Britain to negotiate a new treaty between the two Governments and the people of both countries, based upon true principles of reciprocity, and for the removal of existing difficulties.

The question was taken; and it was decided in the negative—yeas 73, nays 76; as follows:

**YEAS**—Messrs. Allison, Ames, Baxter, Beaman, Boyd, Broomall, William G. Brown, Cobb, Cole, Cox, Cravens, Creswell, Henry Winter Davis, Deming, Eckley, Eden, English, Farnsworth, Garfield, Grider, Grinnell, Hale, Hall, Harrington, Charles M. Harris, Holman, Hooper, Asahel

W. Hubbard, Ingersoll, Philip Johnson, William Johnson, Julian, Kasson, Kelley, Francis W. Kellogg, King, Law, Le Blond, Loan, Longyear, McBride, McClurg, Middleton, Moorhead, Morrill, Daniel Morris, Morrison, Amos Myers, Leonard Myers, Charles O'Neill, Orth, Patterson, Price, William H. Randall, Edward H. Rollins, James S. Rollins, Ross, Schenck, Shannon, Smith, Smithers, William G. Steele, Stevens, Stiles, Strouse, Thayer, Tracy, Eliza B. Washburne, Wheeler, Chilton A. White, Williams, Wilder, and Wilson—73.

**NAYS**—Messrs. James C. Allen, Ancona, Arnold, Augustus C. Baldwin, John D. Baldwin, Blaine, Boutwell, Brandegee, Brooks, James S. Brown, Chanler, Ambrose W. Clark, Freeman Clarke, Coffroth, Thomas T. Davis, Dawes, Dawson, Dixon, Donnelly, Edgerton, Eldridge, Eliot, Fenton, Finck, Frank, Ganson, Gooch, Griswold, Hotchkiss, John H. Hubbard, Hulburd, Hutchins, Jenckes, Kalbfleisch, Orlando Kellogg, Kernan, Knapp, Lazear, Littlejohn, Long, Mallory, Marcy, McAllister, McDowell, McIndoe, William H. Miller, James R. Morris, Nelson, Noble, Pendleton, Perham, Perry, Pike, Pomeroy, Pruy, Radford, Samuel J. Randall, Alexander H. Rice, John H. Rice, Scofield, Scott, Sloan, Spalding, John B. Steele, Sweet, Thomas, Upson, Van Valkenburgh, Wadsworth, Ward, William B. Washburn, Whaley, Joseph W. White, Windom, Fernando Wood, and Yeaman—76.

So the House refused to lay the joint resolution on the table.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

**Mr. WARD** demanded the previous question on the preamble.

The previous question was seconded, and the main question ordered, and under the operation thereof the preamble was agreed to.

**Mr. STEVENS.** I move to postpone the joint resolution till the second Tuesday in December next.

**Mr. WARD.** Is that motion in order after the previous question being seconded?

The **SPEAKER.** The previous question was called on the preamble, and exhausted itself.

**Mr. WASHBURN,** of Illinois, moved the previous question on the motion to postpone.

The previous question was seconded, and the main question ordered.

**Mr. BROWN,** of Wisconsin. What would be the effect of postponing the joint resolution?

Several **MEMBERS.** The effect would be to postpone it. [Laughter.]

The **SPEAKER.** It would be postponed till the second Tuesday in December.

**Mr. BROWN,** of Wisconsin. In the mean time could action be taken on a new report from the Committee on Commerce?

The **SPEAKER.** If the committee were called again, it might report another bill on the same subject.

**Mr. STEVENS.** Will not this joint resolution, if postponed, come up as a matter of course next session?

The **SPEAKER.** It will come up immediately after the ship-canal bill, which has been postponed until the second Tuesday in December. [Laughter.]

**Mr. FARNSWORTH.** I think that is a good reason why this joint resolution should go over to next session. If we postpone canal propositions, we had better also postpone propositions in regard to our trade and commerce.

**Mr. WASHBURN,** of Illinois, demanded the yeas and nays on the motion to postpone.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 77, nays 72; as follows:

**YEAS**—Messrs. Allison, Ames, Arnold, Baxter, Beaman, Boyd, Brandegee, Broomall, James S. Brown, William G. Brown, Cobb, Cole, Cox, Cravens, Creswell, Henry Winter Davis, Deming, Eckley, Eden, Eldridge, English, Farnsworth, Frank, Garfield, Grinnell, Hale, Hall, Charles M. Harris, Hooper, Asahel W. Hubbard, Ingersoll, Philip Johnson, William Johnson, Kelley, Francis W. Kellogg, Orlando Kellogg, Law, Lazear, Le Blond, Littlejohn, Loan, Longyear, McBride, McClurg, McIndoe, Moorhead, Morrill, Daniel Morris, Morrison, Amos Myers, Leonard Myers, Charles O'Neill, Orth, Patterson, Pike, Price, William H. Randall, John H. Rice, Edward H. Rollins, Ross, Schenck, Scofield, Shannon, Smith, Smithers, William G. Steele, Stevens, Stiles, Thayer, Tracy, Eliza B. Washburne, Wheeler, Chilton A. White, Williams, Wilder, Wilson, and Windom—77.

**NAYS**—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, John D. Baldwin, Blaine, Jacob B. Blair, Boutwell, Brooks, Chanler, Ambrose W. Clark, Freeman Clarke, Coffroth, Thomas T. Davis, Dawes, Dawson, Dixon, Donnelly, Edgerton, Eliot, Fenton, Frank, Ganson, Gooch, Grider, Griswold, Harding, Holman, Hotchkiss, Hulburd, Hutchins, Jenckes, Julian, Kalbfleisch, Kasson, Kernan, King, Knapp, Long, Mallory, McAllister, McDowell, Middleton, Samuel F. Miller, William H. Miller, James R. Morris, Nelson, Noble, Pendleton, Perham, Perry, Pomeroy, Pruy, Radford, Samuel J. Randall, Alexander H. Rice, Scott, Sloan, Spalding, John B. Steele, Sweet, Thomas, Upson, Van Valkenburgh, Wadsworth, Ward, William B.

Washburn, Webster, Whaley, Joseph W. White, Winfield, Fernando Wood, and Yeaman—72.

So the joint resolution was postponed till the second Monday in December next.

**Mr. STEVENS** moved to reconsider the vote by which the joint resolution was postponed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### KENTUCKY CONTESTED ELECTION.

**Mr. SMITHERS.** I desire to give notice to the House that to-morrow, after the reading of the Journal, I will ask the attention of the House to the consideration of the contested-election case of McHenry and Yeaman.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by **Mr. McDONALD**, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the Iowa land bill; and insisted on its amendments to the Army appropriation bill, and agreed to the conference asked for by the House.

#### BUSINESS ON SPEAKER'S TABLE.

**Mr. SCHENCK.** I move to proceed to business on the Speaker's table. The special object that I have in view is to get the amendments to the bill to increase the pay of soldiers referred to the Committee on Military Affairs, with leave to report at any time.

The motion was agreed to.

#### CONSUL AT HONG KONG.

The first business on the Speaker's table was the Senate amendment to a joint resolution (H. R. No. 63) to settle the account of James Keenan, late consul at Hong Kong, China.

The amendment was to insert after the word "money" the words "in the Treasury;" so that it will read, "out of any money in the Treasury."

The amendment was concurred in.

**Mr. DAWSON** moved to reconsider the vote by which the Senate amendment was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PAY OF THE ARMY.

The next business on the Speaker's table was the Senate amendments to the amendments of the House to the bill (S. No. 145) to equalize the pay of soldiers of the United States Army.

The amendments were read.

**Mr. SCHENCK.** I move that the Senate amendments be referred to the Committee on Military Affairs, with leave to report at any time; and on that I move the previous question.

The previous question was seconded, and the main question ordered; and under its operation the motion was agreed to.

**Mr. HOLMAN.** I move that the amendments be printed.

It was so ordered.

#### PERUVIAN CLAIMS.

**Mr. STEVENS.** I now move to go into the Committee of the Whole, for the purpose of taking up the bill to provide for the payment of Peruvian claims, of which there is a necessity for its immediate passage.

#### PUNISHMENT OF GUERRILLAS.

**Mr. GARFIELD.** I ask the gentleman to yield to enable me to ask the unanimous consent of the House to present and have considered at the time from the Military Committee a bill for the punishment of guerrillas.

**Mr. STEVENS.** I will yield for that purpose.

**Mr. ANCONA.** I must object to the reporting of that bill from the Military Committee.

**Mr. WASHBURN,** of Illinois. Is that a bill for the punishment of those guerrillas who shot our wounded soldiers?

**Mr. GARFIELD.** It would include those.

**Mr. SCHENCK.** Mr. Speaker, I think nobody has objected to the immediate consideration of that bill.

The **SPEAKER.** The gentleman from Pennsylvania objected.

**Mr. SCHENCK.** Surely it cannot be possible that any member of this House has objected to considering a bill to provide for punishing the guerrillas who are committing such mischief and crimes, and murdering defenseless citizens and

wounded soldiers in the rear of our armies. [Cries of "Order!"]

The SPEAKER. Objection is made to the bill, and no debate is in order.

Mr. SCHENCK. I only want to be satisfied ["Order!"] and know if there is any gentleman on this floor who will object to a bill for such purposes. I therefore have asked the question. [Cries of "Order!" from the Democratic side, and confusion.] I want to know whose sympathies run in that direction. [Shouts of "Order!"]

The SPEAKER. The gentleman is not in order. The gentleman from Pennsylvania objects to the bill, and no debate is in order.

#### PERUVIAN CLAIMS.

Mr. STEVENS. I now renew the motion to go into committee for the purpose of considering the Peruvian claims bill, and move to postpone all prior special orders to enable the committee to consider that bill.

The latter motion was agreed to.

Mr. STILES moved that the House adjourn. The motion was disagreed to.

Mr. STEVENS. I now ask for a vote on my motion to go into committee.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and proceeded to the consideration of Senate bill No. 65, to provide for the payment of the claims of Peruvian citizens, under the convention between the United States and Peru of the 12th of January, 1863.

The bill was read. It declares that for the purpose of discharging the obligations of the United States, under the convention with Peru, of the 12th of January last, there be paid to Stephen G. Montano, or to his legal representatives, in the current money of the United States, the sum of \$41,782 38, and to Juan del Carmen Vergel, or his legal representatives, the sum of \$1,070, in the silver money of the United States, or its equivalent, out of any money in the Treasury not otherwise appropriated.

Mr. COX. I move that the committee rise and report the bill to the House, with the recommendation that it do pass.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the committee having, according to order, had the state of the Union generally under consideration, and particularly Senate bill No. 65, relative to Peruvian claims, had instructed him to report the same back to the House without amendment, and with the recommendation that it do pass.

Mr. STEVENS demanded the previous question on the third reading of the bill.

The previous question was seconded, and the main question ordered to be put.

The bill was then ordered to a third reading, and was accordingly read the third time, and passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### OREGON HOMESTEAD LAW.

On motion of Mr. McBRIDE, by unanimous consent, the Senate bill (No. 271) to amend an act of Congress making donations to settlers on the public land in Oregon, approved September 27, 1850, and the acts amendatory thereto, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Public Lands.

#### PRINTING OF PACIFIC RAILROAD BILL.

On motion of Mr. STEVENS, by unanimous consent, the bill which came from the Senate yesterday amending the Pacific railroad bill was ordered to be printed.

#### PUNISHMENT OF GUERRILLAS.

Mr. GARFIELD. Is it in order to move to suspend the rules to enable me to report a bill from the Committee on Military Affairs for the punishment of guerrillas?

The SPEAKER. A motion to suspend the rules is not in order except on Monday.

Mr. GARFIELD. I again ask the unanimous

consent of the House for permission to report that bill; and I ask that it may be read for information.

The Clerk read the bill.

Mr. ANCONA. I object to the introduction of that bill.

Mr. THAYER. Mr. Speaker, who objects?

Mr. SPEAKER. The gentleman from Pennsylvania, Mr. ANCONA.

Mr. ANCONA. I did object, and do not withdraw it.

The SPEAKER. The bill, therefore, is not before the House.

Mr. FENTON. I move that the House do now adjourn.

The House divided on the motion; and there were—ayes 77, noes 24.

Mr. PRICE demanded the yeas and nays.

Mr. SMITH demanded tellers on the yeas and nays.

Tellers were ordered; and Messrs SMITH and BROOKS were appointed.

The House divided; and the tellers reported—ayes twelve; a further count not being demanded.

So the yeas and nays were not ordered.

The motion was therefore agreed to; and the House (at fifty-five minutes past three o'clock, p. m.) adjourned.

#### IN SENATE.

FRIDAY, May 27, 1864.

Prayer by the Chaplain, Rev. Dr. BOWMAN.

The Secretary proceeded to read the Journal of yesterday.

Mr. WADE. I move that the reading of the Journal be dispensed with. Nobody is listening to it.

The PRESIDENT *pro tempore*. The further reading of the Journal will be dispensed with, unless there be objection. The Chair hears none.

#### PETITIONS AND MEMORIALS.

Mr. JOHNSON. I am requested to present the memorial of D. W. Whitney, of New York, praying that the expenses to which he has been subjected by his arrest and prosecution before a court-martial may be indemnified for. I move its reference to the Committee on Claims.

The motion was agreed to.

Mr. WILSON presented the petition of Mrs. Fanny M. Smith, widow of the late General C. F. Smith, praying for compensation for the services of her late husband as a member of the military board for the settlement of the California war claims; which was referred to the Committee on Claims.

#### REPORTS FROM COMMITTEES.

Mr. WADE, from the Committee on Territories, to whom was referred the bill (H. R. No. 244) to guaranty to certain States, whose governments have been usurped or overthrown, a republican form of government, reported it with amendments.

Mr. SHERMAN, from the Committee on Agriculture, to whom was referred a bill (H. R. No. 411) to encourage immigration, reported it with an amendment.

He also, from the same committee, to whom were referred various petitions and memorials praying for the enactment of suitable laws for the encouragement of immigration, asked to be discharged from their further consideration; which was agreed to.

Mr. ANTHONY, from the Committee on Naval Affairs, to whom was referred a resolution instructing the committee to inquire into the expediency of placing the professors of ethics, of Spanish, and of drawing, at the Naval Academy, on the same footing with the other professors, asked to be discharged from its further consideration, the subject having been enacted into a law.

The report was agreed to.

Mr. HOWE, from the Committee on Claims, to whom was referred a joint resolution (H. R. No. 39) for the relief of Alexander Cross, reported it with an amendment.

Mr. FESSENDEN. I am directed by the Committee on Finance, to whom was referred the joint resolution (H. R. No. 81) amendatory of the joint resolution to increase temporarily the duties on imports, approved April 29, 1864, to report it with an amendment. I should like very

much to take it up for consideration, but I suppose I cannot ask for that at present.

Mr. SHERMAN. It will lead to debate.

#### BILL INTRODUCED.

Mr. JOHNSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 293) to empower the Superannuated Fund Society of the Maryland Annual Conference to hold property in the District of Columbia, and to take a devise under the will of the late William Doughty; which was read twice by its title, and referred to the Committee on the District of Columbia.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the following bills of the Senate:

A bill (No. 65) to provide for the payment of the claims of Peruvian citizens under the convention between the United States and Peru of the 12th of January, 1863; and

A bill (No. 248) in relation to franked matter.

The message further announced that the House of Representatives had agreed to the amendment of the Senate to the joint resolution of the House (No. 63) to settle the account of James Keenan, late consul at Hong Kong, China.

The message further announced that the House of Representatives had passed a bill (No. 493) for the relief of William Brindle; in which it requested the concurrence of the Senate.

#### BILLS BECOME LAWS.

The message further announced that the President of the United States had yesterday approved and signed the following acts and joint resolution:

An act (H. R. No. 15) to provide a temporary government for the Territory of Montana;

An act (H. R. No. 300) for the classification of the clerks to paymasters in the Navy, and graduating their pay; and

A joint resolution (H. R. No. 74) referring the claim of J. H. Clark & Co. to the Court of Claims.

#### VETO POWER IN WASHINGTON TERRITORY.

Mr. WADE. The Committee on Territories, to whom was referred the bill (S. No. 285) to regulate the veto power in the Territory of Washington, have had the same under consideration, and have directed me to report it back with an amendment in the nature of a substitute. I ask the unanimous consent of the Senate to put the bill on its passage now.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. WADE. I do not suppose it is necessary to read the original bill. The committee report a substitute for it, which will explain itself.

The PRESIDENT *pro tempore*. If there be no objection, the reading of the original bill will be dispensed with.

The Secretary read the amendment, which was to strike out all of the bill after the enacting clause, and to insert the following in lieu thereof:

That every bill which shall have passed the Legislative Assembly of Washington Territory shall, before it become a law, be presented to the Governor. If he approve, he shall sign it; but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large upon their Journal, and proceed to reconsider it. If, after such reconsideration, two thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the Journal of each House respectively. If any bill shall not be returned by the Governor within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Legislative Assembly by their adjournment prevents its return, in which case it shall not be a law.

Mr. JOHNSON. I will inquire of the honorable Senator from Ohio what is the necessity for this measure. What is the present state of the law?

Mr. WADE. The Governor and all the executive officers of that Territory have sent a telegraphic dispatch here stating that it is very necessary. The Delegate from that Territory also says so. He says that a great many transient people get into the Legislature without much responsibility, and that they are burdening the people there with taxation, and he thinks the Gov-

error should have this power to counteract their influence.

Mr. JOHNSON. Is there no veto power there now?

Mr. WADE. None at all at present. This is an exact copy of the veto power prescribed in the Constitution of the United States for the President, with the exception that that gives the President ten days within which to return bills, and this bill gives the Governor but five, because the Legislative Assembly is limited in its time.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### INDEX TO TAX BILL.

Mr. FESSENDEN. I ask permission to lay upon the table, with a view to have printed, an index to the tax bill. I suppose it can be printed by to-morrow, and I think it will afford great convenience to gentlemen in the examination of the bill. It has been prepared by the Commissioner of Internal Revenue. I move that it be printed for the use of the Senate.

The motion was agreed to.

#### ORDER OF BUSINESS.

Mr. WADE. If there be no more reports, I will ask the Senate to take up the joint resolution to amend the charter of the city of Washington.

Mr. DAVIS. I hope the Chair will now call for resolutions.

The PRESIDENT *pro tempore*. It is entirely under the control of the Senate. The question is on the motion of the Senator from Ohio.

The motion was agreed to.

Mr. SUMNER. Now, with the permission of the Senator from Ohio, I wish to offer a resolution.

Mr. DAVIS. If the rest of us cannot have the privilege of offering resolutions I shall object to it.

Mr. SUMNER. I presume the Senator can have every privilege that I can have. I certainly should not undertake to object to it.

Mr. DAVIS. Then will the Senator permit me to call up a resolution?

Mr. SUMNER. That is a different proposition.

Mr. DAVIS. Then I object to the Senator's resolution being received.

The PRESIDENT *pro tempore*. Objection being made, it cannot be entertained at this time.

Mr. POMEROY. I ask unanimous consent to introduce the following resolution of inquiry:

*Resolved*, That the President of the United States be requested to furnish the Senate an account current between the United States and the Indian band of Wea, Peoria, Kaskaskia, and Piankeshaw Indians of Kansas, since date of their last treaty, (30th of May, 1854,) showing the amount and date of each remittance to said Indians under said treaty, and on what account each remittance was made; also showing the date of each investment of the proceeds of the lands of said Indians in State stocks, and amount of interest, if any, on said stocks, the date of investment, and the time during which interest was paid by the States respectively owing said stocks, and what balance, if any, is now in arrear and due said Indians either on account of interest on stocks or otherwise.

*Resolved further*, That a similar account be furnished between the United States and Western Missions of Kansas.

Mr. DAVIS. I object.

The PRESIDENT *pro tempore*. Objection being made, the resolution cannot be considered today.

Mr. DAVIS. I desire to call up a resolution that I offered on the 29th of March last.

Mr. GRIMES. There is a bill now before the Senate.

Mr. DAVIS. Well, I ask that that resolution be now taken up.

Mr. WADE. I wish I could consent to that; but I do not think that sheuld have priority over a bill that there is a necessity for passing at once, and which is now before the Senate.

Mr. DAVIS. I am willing to have the resolution acted upon without any debate.

Mr. WADE. That may be. I never offer one that I am not perfectly willing to have so acted on.

The PRESIDENT *pro tempore*. The Senator from Kentucky moves that the Senate postpone all prior orders and proceed to the consideration of the resolution indicated by him.

Mr. WADE. I hope not.

Mr. DAVIS. Is not that a debatable motion?

The PRESIDENT *pro tempore*. Undoubtedly,

to a certain extent, not involving the merits of the question.

Mr. DAVIS. Exactly. I will ask for the reading of the resolution. It will take but a minute.

The Secretary read it, as follows:

*Resolved*, That the Committee on the Judiciary inquire and report to the Senate whether or not William Yocum, a citizen of the United States, late a resident of Cairo, or not confined in the penitentiary of New York, situated in Albany, or some other prison, by or under the sentence of a military court, for which the said William Yocum has received the full and unconditional pardon of the President of the United States; and that the said committee have power to send for persons and papers. And that the committee report to the Senate all of the facts in regard to the charges against said Yocum, and the proceedings in his trial, and all the facts in relation to such pretended pardon.

Mr. DAVIS. I will state a few facts why that resolution should now be taken up and acted upon. On the 4th of March last I presented a resolution in relation to the same matter, which I will now read, and which was passed by the Senate:

*Resolved*, That the President of the United States be requested to communicate to the Senate a copy of the charge or charges, the sentence or judgment, the proofs, and all the papers and proceedings, including his pardon, connected with the case of William Yocum, of the State of Illinois, or of the State of Kentucky; and also if the said Yocum is now in prison, and if so, where, and for how long a time.

That resolution was passed upon on the 4th of March last. The President has not deigned to take any notice of it. On the 29th of March I offered the resolution now under consideration, which I will read:

*Resolved*, That the Committee on the Judiciary inquire and report to the Senate whether or not William Yocum, a citizen of the United States, late a resident of Cairo, is or not confined in the penitentiary of New York, situated in Albany, or some other prison, by and under the sentence of a military court, for which the said William Yocum has received the full and unconditional pardon of the President of the United States; and that the said committee have power to send for persons and papers.

I called that resolution up on several mornings, and finally, on the 14th of April, the Senator from Massachusetts, the chairman of the Committee on Military Affairs, [Mr. WILSON,] offered the following resolution, which was passed:

*Resolved*, That the Secretary of War be directed to report to the Senate the papers in the case of William Yocum, now confined in the penitentiary at Albany, New York, together with the record of the court before which the said Yocum was tried and sentenced to imprisonment.

Mr. WADE. I will inquire whether this proceeding is in order. If it is, it is perfectly certain that any Senator can prevent the doing of any business. The Senate have just determined to take up for consideration the joint resolution that I moved to take up. Now the Senator rises and moves that that be superseded by taking up a resolution, and proceeds to argue the question whether his resolution shall supersede it or not. If that is to be allowed another Senator can get up with another proposition and argue against him; and so it may go on. I cannot believe that that course of proceeding is in order.

The PRESIDENT *pro tempore*. Will the Senator state his point of order, whether it is to the entertaining of the motion of the Senator from Kentucky, or to the range of debate?

Mr. WADE. The range of debate. I hold that even if he can make such a motion he cannot debate it; but I will submit to the decision of the Chair.

The PRESIDENT *pro tempore*. The Chair is of opinion that the Senator is entitled to debate it and show the reasons why it should be taken up, but not to go into a general debate on the merits of the question.

Mr. DAVIS. So I was admonished by the Chair when I first rose, and so I will endeavor to restrict myself in what I say. I am going to state the reasons why this resolution should be taken up, and I will do it in as short a time as I can. I probably would not have occupied much more time than has already been consumed if I had not been interrupted.

I repeat, sir, that on the 14th of April the Senator from Massachusetts offered the following resolution; which passed the Senate without any objection:

*Resolved*, That the Secretary of War be directed to report to the Senate the papers in the case of William Yocum, now confined in the penitentiary at Albany, New York, together with the record of the court before which the said Yocum was tried and sentenced to imprisonment.

It will be seen that the point in my resolution is that Yocum has received a full and uncondi-

tional pardon for any offense, if he committed any, from the President, and that, in defiance of that pardon, he is now and has been since that time held in imprisonment. The resolution offered by the Senator from Massachusetts evades the true point in the case, and that is, whether there has been a pardon of William Yocum; and whether he is still kept in infamous confinement in defiance of that pardon.

Now, sir, on the 4th of March last a resolution, respectful in its terms, addressed to the President of the United States, was passed by the Senate, requesting him to give all the facts in relation to this case. Nearly three months have expired, and that resolution has not received any attention. Some six weeks afterwards, or nearly so, one of the friends of the President in this Chamber offered a resolution calling, not for the papers in relation to the pardon of the offense, if any was committed, by the President, but in relation to the sentence and charge originally. That was directed to the Secretary of War, and he has not answered it.

I have no doubt the fact is that Yocum committed no offense against the law. He was sentenced, nevertheless, by a court-martial to imprisonment, and the President of the United States, in the exercise of his constitutional power, granted him a full and unconditional pardon from the sentence and judgment of the court-martial. That pardon was placed in the hands of the Secretary of War. It was left in the hands of one of his principal subordinate officers, and in defiance of that pardon the Secretary of War still holds him in prison, and does not deign to answer the calls of the Senate in relation to the facts of the case. If that is not one of the most flagrant abuses of power that ever occurred in this or any other country I cannot comprehend the nature of the matter. I think it makes an imperative case in which the Senate ought to require the matter to be investigated by the Committee on the Judiciary. I ask for the yeas and nays on my motion.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. TRUMBULL (when his name was called) said: By unanimous consent I should like to say just one word. I intend to vote against taking up this resolution because it interferes with the matter now before the Senate, and interferes with the business of the Senate; but I do think that the respectful resolutions of the Senate should be answered by the officers of the Government, and on another occasion I should so vote. I now vote "nay."

The result was then announced—yeas 16, nays 19; as follows:

YEAS—Messrs. Buckalew, Canfield, Cowan, Davis, Dixon, Hendricks, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Powell, Ramsey, Richardson, Salisbury, Sherman, and Willey—16.

NAYS—Messrs. Anthony, Chandler, Clark, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Morgan, Morrill, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Wilkinson, and Wilson—19.

ABSENT—Messrs. Brown, Collamer, Conness, Doolittle, Harding, Henderson, Hicks, Howard, Howe, Nesmith, Pomroy, Riddle, Sprague, and Wright—14.

So the motion was not agreed to.

#### VOTING IN WASHINGTON.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. No. 57) to amend the charter of the city of Washington; the pending question being on the amendment proposed by Mr. SUMNER to insert at the end of the resolution the following proviso:

*Provided*, That there shall be no exclusion of any person from the register on account of color.

Mr. SUMNER. I was interrupted yesterday by other business being called up while I was undertaking to reply to my friend from Ohio, [Mr. WADE.] I did not propose to make any extensive reply.

It is with pain that I differ from my friends. But with me there is no choice. Here is a measure which opens the whole question of suffrage in the national capital, and assumes the form of an amendment to the charter of the city of Washington. It provides that certain persons shall be registered, including even persons who cannot speak English, but in positive terms it continues and keeps alive the old rule founded on color. Now, sir, I cannot sanction any such rule directly or indirectly.



But it is said that in pressing my amendment the original proposition may be lost. This I shall regret much, very much; for I desire its passage sincerely. But I can see no reason why any discrimination of color should be made in the bill, or in our proceedings. If white persons are kept out of their rights, so are colored persons; and I would ask my friend from Ohio [Mr. WADE] which has been kept out the longest? I am for securing the rights of both, to the end that we may have at last in the national capital equality before the law.

We are shocked daily by the report of outrages upon colored persons. In Tennessee a colored woman has been murdered under the lash. Near Fortress Monroe another colored woman has been cruelly treated under the lash. This must be stopped. But I know no way so effective as to set an example of justice and humanity on our part. If we sanction slave-hunting, if we disregard the rights of colored persons, if we treat them as inferior in rights, why, sir, there are others who will follow our example, and add, also, a vindictive cruelty.

Therefore, in insisting upon the rights of colored persons here, I insist upon their rights everywhere. Nor do I see how I can abandon their rights here without abandoning them everywhere. We are Senators of the United States, bound to consider the whole country in all its extent, and to do nothing here which shall do mischief elsewhere. Especially are we held not to yield to any local pressure, or to any imagined local interests, and thus forget the cause of justice.

It is vain to say that this measure is temporary; for, in plain terms, it undertakes to amend the charter of Washington. It is vain to say, also, that there is another bill now on your Calendar which undertakes to regulate this whole question. Who can say that this bill will become a law? Ay, sir, who can say that, in the hurried hours of these closing days of the session, the bill will even be considered again? And yet on these grounds we are asked to abandon the present assertion of the rights of colored persons. But, if the bill in question can pass, when it confers these rights, so also can the present measure. If it be practical to assert these rights on one bill, it is equally practical to assert them on another bill, where such assertion is germane. It only remains that Senators should stand firm.

For myself, I will not sanction an injustice; nor will I miss any opportunity of asserting the rights of an oppressed race. I may be alone; but, to the extent of my powers, I mean to be right. Adopting again the language of General Grant, "I propose to fight it out on this line, if it take all summer."

Mr. CONNESS. I have no speech to make. I hope we shall come to a vote on this resolution, which has been pending so long, and dispose of it. The morning hour has been consumed now for three or four days in its consideration, and I am very anxious to call up another bill.

Mr. MORRILL. I shall vote against the amendment of my friend from Massachusetts; and, after the remarks he has made, I feel called upon to give the reasons why. This resolution comes from the Committee on the District of Columbia. It will be remembered that some four weeks ago the same committee reported a bill regulating the right of suffrage in this District, which is full and impartial. It does not make color an exclusion. It fixes the condition upon which the right of suffrage shall be exercised in this District entirely independent of color. It puts the right of the colored man to vote upon precisely the same conditions that it puts those of every other man. I suppose that bill to be entirely satisfactory to the honorable Senator from Massachusetts. He has had the assurance of that committee that at the earliest practicable moment they intend to urge it upon the consideration of the Senate. It regulates the whole question of suffrage in this District. But that Senator knows as we all know that there are many things that are practicable here, and some things are impracticable. Some things may be done, and other things cannot be done; and no Senator knows better than the honorable Senator that this is precisely one of those things which at this moment cannot be done.

I disagree with the honorable Senator when he tells the Senate that this joint resolution covers

the whole question of suffrage. I do not so understand it. It is simply a provision providing against frauds and to facilitate elections; and it is introduced with reference to the coming election that is to come off on the 1st of next month. It is only designed to be temporary in its effect upon this District. The committee believed that this was so simple a proposition that it would not divide the Senate; that this at least might be done; that nobody would object to it; that it was practicable to do this; and not waiving the purpose of the committee to urge the other question when the opportune time comes and it is practicable to do it, the committee deemed it their duty to do this. This much is practicable to be done; this much we can do; and we thought the Senate would not probably divide on it. The only practical question now for anybody to consider is whether we will do the thing which we can do, and which all admit ought to be done, or whether we shall fail to do that because we cannot, at this moment, do precisely what we desire to do, but what we know we cannot do. Now, as a question of practical statesmanship, I submit to my honorable friend whether it is not the part of wisdom to say we will do this now, and we will consider the other question when it comes up. I conceive that that is all there is in this question. For that reason I shall vote against the amendment.

Mr. HARLAN. I move to amend the amendment by adding at the end of it, "and who have borne arms in the military service of the United States, and have been honorably discharged therefrom;" and the word "person," in the amendment of the Senator from Massachusetts, should be changed to "persons" to make it congruous. I desire to record my vote on this amendment to the amendment, and I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 26, nays 12; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Collamer, Conness, Dixon, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Pennington, Ramsey, Sherman, Ten Eyck, Trumbull, Wade, Willey, and Wilson—35.

NAYS—Messrs. Buckalew, Curdile, Cowan, Davis, Hendricks, McDougall, Powell, Richardson, Saulsbury, Sumner, Van Winkle, and Wilkinson—12.

ABSENT—Messrs. Brown, Doolittle, Harding, Henderson, Hicks, Howard, Howe, Nesmith, Riddle, Sprague, and Wright—11.

So the amendment to the amendment was agreed to.

Mr. WILLEY. Is it in order now to move to amend the amendment as amended.

The PRESIDENT *pro tempore*. It is.

Mr. WILLEY. I move to strike out all after the word "provided" and insert:

However, That no such resident who is entitled to vote elsewhere shall be entitled or allowed to vote under and by virtue of this resolution.

Mr. WADE. I hope that amendment will not be agreed to. I am not going to argue it, for there is not time for that.

Mr. WILLEY. I do not propose to go into the question of negro suffrage on this bill. It is sufficient for me to state that there is a bill amending the charter or proposing to amend the charter of the city of Washington in all respects, giving the city an entirely new charter, and which proposes to regulate the right of suffrage among other things. It is in the recollection of the Senate, too, that several Senators have laid on the table various amendments to that bill which have been ordered to be printed, so that when that bill comes up, which we are assured will in due time come, the whole matter can be considered, where it ought to be considered, in a bill amending the whole charter of the city of Washington.

Now, sir, it seems to me utterly incongruous and improper to be fighting on this little line all summer. Why, sir, it is the Senator from Massachusetts that is hanging on to the tail and the tip end of the tail of slavery whenever he can get hold of it. That bill will come up fairly and properly upon the bill in which it is proposed to amend the entire charter of the city of Washington.

The amendment which I have just offered is designed to meet a practical difficulty. For illustration: I did understand that the Secretary of the Treasury, during the last gubernatorial election in Ohio, took the advice of counsel whether he had a right to go home and vote in Ohio, and being advised that he had such right, did go home and vote. Now, shall the Secretary of the Treasury

be allowed, having been a resident here for more than twelve months, to vote in the city of Washington? Also? How many are there in the same condition, and yet under this resolution as it now stands these transient passengers, temporary residents, will be allowed not only to cast votes at home in their own States, but also to vote in the city of Washington. It is with a view to meet that difficulty that I propose this amendment, as well as to get rid of the other difficulty and postpone the consideration of negro suffrage until that question comes up properly.

Mr. GRIMES. The Senator from West Virginia uses in his amendment the words "entitled to vote." Who is to determine whether these men are entitled to vote? The judges of election or each man for himself? If he would change his amendment so as to say that any man who has voted or offered to vote in any other place within the year preceding shall not be entitled to vote here, I would not object.

Mr. WILLEY. I have no objection.

Mr. GRIMES. But it leaves it open to the construction of every man that happens to be the judge of an election, as I understand.

The PRESIDENT *pro tempore*. The Chair must call up the order of the day at this hour.

Mr. WILLEY. On reflection I will not accept the amendment of the Senator from Iowa, because there may be many men who have not offered to vote in the States that are still entitled to vote there.

The PRESIDENT *pro tempore*. The Senate will resume the consideration of the order of the day.

Mr. CONNESS. I ask the chairman of the Finance Committee and the gentleman having charge of this bill together, to cease the discussion on it and let us come to a vote. It consumes the morning hour day after day, and business of more consequence is kept back by it. Let us vote.

Mr. WADE. If we offered the ten commandments here, there would be a thousand propositions to amend, probably, and debates on them, and the final vote would be very uncertain. [Laughter.]

Mr. CONNESS. So it will be as long as we debate. Let us have a vote.

Mr. DAVIS. What is the pending question? The PRESIDENT *pro tempore*. The tax bill is now properly before the Senate, and the reading will proceed.

Mr. CONNESS. I ask that it be temporarily laid over to see if we can get a vote on this joint resolution.

Mr. FESSENDEN. There is another amendment to be offered, I see.

Mr. DAVIS. I have an amendment to offer to the preceding joint resolution. I do not propose to debate it, but I have an amendment to offer.

Mr. FESSENDEN. Then I must insist on the regular order.

#### READMISSION OF REBEL STATES.

Mr. SUMNER. I ask leave to offer the following resolution. I do not wish it acted on now; I proposed to offer it half an hour ago, but it was then objected to:

*Resolved*, That a State pretending to secede from the Union and battling against the national Government to maintain this pretension must be regarded as a rebel State, subject to military occupation, and without title to representation on this floor until it has been readmitted by a vote of both Houses of Congress; and the Senate will decline to entertain any application from any such rebel State until after such vote of both Houses of Congress.

I wish to have it lie on the table to be referred to the committee to which we shall eventually refer the credentials of the claimant from Arkansas.

The PRESIDENT *pro tempore*. The resolution will lie over.

#### INTERNAL REVENUE.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 405) to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes.

The next amendment of the Committee on Finance was to insert the word "and" before "a," in the twelfth line of the one hundred and fifteenth section, and in the fourteenth, fifteenth, and sixteenth lines of that section to strike out the words "and not exceeding \$25,000; and a duty of ten

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per cent. on the excess over \$25,000;" so as to make the section read:

That there shall be levied, collected, and paid annually upon the annual gains, profits, or income of every person residing in the United States, or of any citizen of the United States residing abroad, whether derived from any kind of property, rents, interest, dividends, salaries, or from any profession, trade, employment, or vocation, carried on in the United States or elsewhere, or from any other source whatever, except as hereinafter mentioned, if such annual gains, profits, or income exceed the sum of \$600, a duty of five per cent. on the excess over \$600 and not exceeding \$10,000; and a duty of seven and one half of one per cent. per annum on the excess over \$10,000.

Mr. SUMNER. That is an important departure from the House bill, and I am free to say that I think it is a departure from correct principle; but then I know that that point has been the occasion of a good deal of discussion and in some quarters is regarded with disfavor. I do not mean myself to push any theoretical opinions on the question against what may seem to be the well-considered conclusions of our committee. I wish, therefore, to know whether on that point the committee were fixed in their opinions, whether they made up their mind deliberately to abandon the principle that an income tax should be graduated by an ascending ratio.

Mr. FESSENDEN. The Senator will see that it is not entirely abandoned; only one portion of it is stricken out.

Mr. SUMNER. The highest parts of the scale are struck out.

Mr. FESSENDEN. The mode in which it was fixed in the former bill, if I recollect aright, was by imposing a tax of three per cent. on the excess of income over \$600 and not exceeding \$10,000, and five per cent. on all over \$10,000. This bill makes the tax five per cent. on the excess over \$600 and not exceeding \$10,000, and seven and a half per cent. on the excess over \$10,000; and then the House of Representatives added ten per cent. on the excess over \$25,000, which we propose to strike out.

Mr. SUMNER. The idea of the House bill as I understand, was that the very large incomes ought to have a larger proportion of tax than the smaller incomes. On that point a great deal has been said, and the speculative writers on the subject differ very much, and indeed they differ somewhat according to the countries from which they are; the French writers, as I understand, being entirely agreed on the principle of the House bill, and the English writers agreed on the principle which would seem to be implied by the proposition of our committee in striking out this feature of the House bill.

Mr. FESSENDEN. The Senator will perceive that we retain the principle, but modify the details. The principle is retained in going up to seven and a half per cent. on incomes over \$10,000. We have modified the details by omitting the clause which puts an additional rate on incomes over \$25,000.

Mr. SUMNER. So I understand.

Mr. FESSENDEN. That is all the difference that is made. I can only say that there was very considerable discussion in the committee on the subject. For myself individually, my own opinion is not exceedingly well fixed on this point. The income tax at best is a discrimination and a tax on property not often resorted to except in cases of emergency. I have no doubt about the propriety of our laying the income tax in the circumstances in which we find ourselves. I have been in favor of that from the beginning, and I have been in favor of making some discrimination as against large incomes. The bill of two years ago, if I recollect aright, first proposed to put a tax of three per cent. on all incomes over \$600 and up to \$10,000; five per cent. on all over \$10,000 and up to \$50,000; and upon the excess over \$50,000 seven and a half per cent. The seven and a half per cent. provision was struck out by the Senate on the recommendation of the Finance Committee, and the rates were fixed as I have before stated.

We went on the same principle in this instance. There is an objection in the mind of many per-

sons to making so very large a discrimination against property. The tendency of our free institutions, naturally perhaps, is to impose the heaviest burdens upon property; and yet there is and ought to be a sort of conservative sentiment to protect property. While in times of emergency especially we call upon it to pay largely, it is believed by many that it ought not to be unreasonably harshly burdened; because Senators will see, as the country sees, that the interests of the country and its wealth are wrapped up in property in a very great degree. It is for the interest of the community that men should be incited in every possible way to accumulate, because as much as they accumulate by their industry they add to the national wealth; that all should be encouraged to accumulate; and the prosperity of our country in a very great part is owing to the fact that our institutions leave the path of wealth, as of honor, open to all men, and encourage all men, whatever may be their situations in life and however they may start, to better their condition and to accumulate wealth, because the more they accumulate the more the nation has of wealth, as well as to seek the honors of the Republic by all proper means. For myself, I deem it but reasonable that every portion of the community should be made to understand not only that they are to be protected in their rights, but that no odious and ungenerous discrimination is to be made against the minority from the simple fact that it is convenient to lay your hands upon them.

For this reason, while we adopt the principle that those having very large incomes can afford, and perhaps better afford than those who have smaller ones, to pay a tax, and a larger tax, and the discriminating tax, if you please, there are limits even to that. All portions of the community, as I remarked before, should be made to understand that there is not to be against a class, because it is a smaller class and a prosperous class, an unreasonable and what might seem to them an unjust discrimination; and although we might put a few dollars into the Treasury—for there are not many of these large incomes in the country—by such means, yet the ill-feeling it would create, the establishment or the encouragement of the belief in the community that the Government may without stint lay its hands upon the property of the country without taking into consideration all those principles which I have stated, and which certainly are to the advantage of the community generally, would more than counterbalance what we should gain.

These in brief are the principles upon which the matter was discussed by the Committee on Finance, and which induced them, with entire unanimity, if I remember aright, to strike out the last clause of this provision, supposing that if the other House should insist upon retaining it our amendment would at any rate leave the whole subject open to further consideration by a committee of conference, and we thought that perhaps it needed further calm discussion before finally adopting a principle which is of so decided a character as this.

Mr. SUMNER. I am obliged to the Senator for his explanation, which is to me entirely satisfactory. My object has been accomplished in calling attention to the question. On grounds of principle, my own opinion would incline to the House proposition, I am free to say; but I understand that such a tax would probably produce comparatively little, and I am sure in certain quarters would be odious. I doubt therefore whether, however correct it may be on principle, it would be found to be very advantageous. On that ground I had made up my mind, unless something occurred which I had not anticipated, to follow the committee in their proposition of amendment. At the same time I thought that so important a change, on grounds of principle, ought not to be passed over in the Senate unnoticed.

Mr. TRUMBULL. I hope this amendment of the Finance Committee will not be adopted. I very much prefer the bill as it came from the

House of Representatives in this respect; and though I do not propose to argue the question, and am as anxious as the Senator who has this bill in charge, to progress with it and not delay it, I will take time briefly to state why I think there is no violation of principle in the sliding scale that is here adopted, and why it is eminently proper to impose this larger tax upon the larger income.

This is a bill to provide internal revenue, and it operates very unequally. It is not a bill to collect the tax out of the property of the country according to the property each individual has; but by the terms of this bill the poor man often pays as much tax as the rich man. He pays upon all the articles which he consumes. A man in this country worth \$5,000, who is living comfortably and who has an income perhaps of six hundred or one thousand dollars a year, has as many mouths to feed, as many members in his family to clothe and to shoe and to furnish with all the necessaries of life, as the man who has an income of \$500,000 a year; and he pays just as much tax on his sugar and his tea and his meats and everything which he buys. That is not equal; that is, it is not according to the property of the individual. To make this up to some extent we propose by this bill to put a tax upon income. The man who has an income of less than \$600 a year is not taxed upon that income; and I am sorry to see that this bill, as it comes to us from the other House, proposes to increase the tax on the small incomes from three to five per cent. I would have left that as it was before, at three per cent.; but inasmuch as many provisions of this tax bill operate upon numbers, upon persons rather than upon property, and the revenue is collected in that way, I think it but right that we should impose a larger tax upon the large incomes. Where the income exceeds \$25,000, and the individual who has that income and the vast amount of property from which it is derived, pays no larger tax under all other clauses of the bill than the man who has not five hundred dollars income, I think he may well afford to pay, and it is but just that he should pay, a higher rate of taxation upon this large amount of property which he possesses. It will be no more than equal then. I would even go further if I could have my way. I would not only have a tax of ten per cent. on the income exceeding \$25,000, but when the income exceeds, say \$100,000 a year, I would go even higher than that. I think that when the poor men of this country are giving their all to the defense of the country, when they are fighting to protect these millionaires who are receiving hundreds of thousands of dollars of income every year, whose property is protected by the poor men of the country to this vast extent, the millionaires can afford to pay liberally of their means; and I would tax every income exceeding \$100,000 twenty per cent. I trust that this proposition to strike out the ten per cent. on incomes of \$25,000 will not prevail.

As I said, I merely wished to make a statement to the Senate. I do not design to take up time in arguing the question. I ask, however, for the yeas and nays on the question of agreeing to this amendment.

The yeas and nays were ordered.

Mr. SHERMAN. I do not wish to say anything in regard to the pending amendment. I shall vote for it because I think that discriminations in the rates of duty are objectionable. They have been adopted in England only in regard to the smallest incomes. There, I believe, if the income is between £100 and £150, the rate of taxation is less than if the income is over £150. On all incomes above £150, which is \$750 of our money, the rate of taxation is the same. The point to which I rise to call the attention of the Senate is, that this income tax will not apply to the current year; and I regret it very much. The time for assessing the income tax has passed under the old act, and the income tax payable in 1864 having accrued on the 1st of May, this bill will not affect it. There never was a time in the history of the country when an income tax could be paid so cheerfully as this year; and I wish to sur-

gest to the serious consideration of Senators whether we cannot, this year, on the 1st of October next, or at some time that may be agreed upon, levy a war tax of say ten per cent. on all incomes without exception, or if any exception is made, excepting only the very smallest incomes. This course has been pursued in England several times; and I believe there never was a period in this country when a large income tax, made specially for this year and for war purposes, would be so readily and cheerfully paid as now. All persons who have sources of income, unless they are fixed incomes, have had their incomes very largely increased; and I believe they would now cheerfully pay an income tax of ten per cent. for this year. I do not intend to offer the proposition without the consent of the Committee on Finance, and I do not know whether they will assent to it; nor shall I press it upon the Senate unless I think it will obtain its sanction. I know that many members of the other House are in favor of assessing this large tax; the Secretary of the Treasury is in favor of it; and I believe if Senators will reflect on the circumstances by which we are surrounded, they will see that so heavy a tax as this could not only be readily collected this year, but would be assented to by all our people, and would strengthen the credit of the Government by showing that we are disposed to exercise our power of taxation to the utmost.

In regard to the pending amendment, I will simply say that all discriminations between rates of taxation on incomes tend to promote perjury and lead to abuse. I do not think that because a man is wealthy he ought to pay a higher rate of taxation. The effect of such a proposition is generally to induce a man to resort to subterfuges to decrease the apparent amount of his income, so as to avoid the payment of the tax. All taxes are paid more readily when people believe that they are paid equally by all classes of citizens. Because a man is very wealthy, I do not think a different rule of taxation should be applied to him any more than because he is poor.

Mr. TRUMBULL. I should like to understand the Senator from Ohio if he does not regard it as applying a different rule of taxation when the poor man pays just as high taxes on all articles he consumes under this bill as a rich man.

Mr. SHERMAN. If we could frame a system of taxation by which we taxed what the rich man consumes at a higher rate than what the poor man consumes, it might be then reasonable enough to consider the Senator's proposition.

Mr. TRUMBULL. If we cannot do that, we can approximate it by putting a higher tax on the additional income to some extent.

Mr. SHERMAN. I think it is very onerous, and not defensible on principle.

Mr. GRIMES. I should like to inquire of the Senator if these distinctions are so odious, why have the committee recommended a distinction? We are to have one class of men taxed at five per cent. and another at seven and a half per cent., according to the report of the committee.

Mr. SHERMAN. We simply left in one discrimination. The House of Representatives inserted two and we have left in one. Perhaps it is not defensible; perhaps it is better to have but one rate of income tax. I think it would be better and wiser to have one rate, say ten per cent. if you please, placed on all income. In England they have several times levied two shillings on the pound and in some cases three shillings on the pound on income. Two shillings would be equivalent to ten per cent. and three shillings to fifteen per cent. We can pay a heavier income-tax than they ever paid in England, especially during the continuance of the war, when the inflation of paper money makes the payment much easier on our people. We have continued one inequality by leaving in the increase of two and a half per cent. above \$10,000; I think that is enough.

Mr. FOOT. Mr. President, I shall vote for the amendment as recommended by the committee, and would have preferred it if it had included in the motion to strike out so much of the House bill as proposes any discrimination whatever in the rates of taxation upon incomes. I do not like and cannot approve the discrimination, the distinction in the rates of assessment or taxation upon incomes as proposed by the House bill. I cannot but regard it as wrong and indefensible in principle, and I think it will prove to be odious

in practice. It is calculated to excite jealousy and dissatisfaction, and I apprehend that it will prove, upon experience, if it shall be suffered to stand, productive of harm, much more than of benefit, in its operation. I trust, therefore, that the amendment recommended by the Committee on Finance to the House bill will prevail, that this provision will be stricken out; and I hope further, that if this shall be stricken out, some member, when it shall be in order, will move to strike out that other provision of the House bill which imposes a tax of seven and a half per cent. upon incomes over \$10,000.

Mr. President, the loyal and patriotic people of this country are not unwilling to be taxed; they expect to be taxed; and they will be content to be taxed to the utmost extent which the necessities of the country may require. They expect, however, as they have a right to expect, that these taxes shall be levied upon all classes alike, according to their several ability, and means to pay, without prejudice upon the one hand or favoritism upon the other, and in pursuance of some equitable and uniform rule of assessment. Discriminations of this kind, imposing a higher rate of taxation upon one class of persons than upon another, and that, too, upon the same subject-matter of taxation, can hardly fail to be received with disfavor, and to be a fruitful source of complaint and dissatisfaction. We all concede the importance of avoiding, so far forth as it is practicable to avoid it, in laying these taxes, all just ground or real cause of complaint. Taxes are regarded as a burden, though generally a necessary burden, upon the people; but when these burdens shall be distributed among all classes and all persons upon some just and equitable rule or rate of assessment, these burdens will be borne cheerfully and without complaint and without murmur by a patriotic and loyal people. Under a uniform rate of assessment, whether it be high or low, the burden of taxation falls equally upon all, according to their several means and ability to pay. Under such a rule the man of large estate, having a large income, pays a larger tax or impost than the man of less estate and less taxable income, just in the exact proportion that his assessed income is larger than that of the man of less estate. In this case the burden falls upon the two in the exact proportion to the relative amount of their respective incomes. We ought to ask no more and no less. In other words, and to illustrate, the man who has a taxable income, for instance, of \$10,000 pays just ten times as much on that income as the man whose income is but \$1,000. That is just and equitable, because both alike, in proportion to their respective means, contribute to the support of the Government; and there is no ground of complaint here, for both pay alike upon the same rate of taxation. Now, upon what principle of ethics or of equity would you impose a higher rate of taxation upon one of these parties than upon the other? I am unable to conceive of any. A departure from the old, and recognized, and established rule and practice in reference to the rates of assessment and taxation, in my judgment, will be alike unwise and impolitic. I am ready to vote for five per cent., as the bill proposes, or seven per cent. or even ten per cent. upon incomes; but let it be uniform; otherwise it is discriminating against one class, and that a small class, I am aware. I am content, for the present, to vote for the proposed amendment.

Mr. JOHNSON. Mr. President, I concur with the honorable member from Vermont that these discriminations are very impolitic, and are calculated to produce nothing but dissatisfaction; and I am by no means sure that we have a right to make the discrimination. In relation to direct taxes, or taxes upon specific property, I suppose it would hardly be maintained that we should have the power to tax one man's real estate specifically more than we tax the same kind of real estate in the hands of another; and if not, we cannot tax the real estate of a rich man specifically higher than we can tax the real estate of a poor man. So in relation to his personal property. The reason why in England, and why here, where income taxes have been resorted to, a certain extent of income, a minimum extent of income is exempted from the operation of the tax, is that it is supposed that that extent is necessary to maintain the man and his family, on the same principle that you exempt from taxation a pauper.

The policy of every country requires of course that no amount of taxation should be levied inconsistent with the ability of the citizen to support himself; and for the same reason all Governments have exempted from taxation that portion of property, whether real or personal, without which it supposes that the owner of it would not be able to maintain himself and his family. In England, in 1857, they did exempt from the income tax all incomes less than £100, and they did impose a discrimination in the tax upon incomes between £100 and £150, and the incomes which exceeded £150. In 1857 and in 1858 that was done, but the discrimination was not very great; and in 1859—I do not know how it is now—they taxed all alike, five pence in the pound, I think.

The honorable member from Illinois, and apparently there would seem to be some force in the suggestion, thinks that the rich man ought to pay more by a greater rate of tax upon his income than the poor man, because it is but right that he should contribute more to the support of the Government than the other. That is true; but that is done by this bill whether you discriminate between incomes or not. The rich man pays more because he is rich, and pays more just in proportion as he is rich; but the question now is not whether he is to pay more income tax because he is rich, but whether he is to pay a great deal more by increasing the rate by which you tax the income of the poor man. If you cannot distinguish between the poor and the rich in laying a specific tax upon real or personal property of any other description than the personal property of which income consists, what justice is there in discriminating between the income which one man may receive and which another man may receive? The view which seems to me to be demanded by proper policy, if not upon strictly legal grounds, is that you should make it what you please, but make it uniform.

Mr. SUMNER. Mr. President, I have already said that I am content for myself to leave this proposition on the recommendation of the Committee on Finance, and especially after the statement of the chairman of the committee. The consequence of the adoption of their recommendation would be as the chairman has suggested, that the subject would be still open in the conference committee between the two Houses; whereas should we reject their recommendation, the whole question is closed. Having that view, I should not have made another remark but for the principles that have been advanced by several Senators who have spoken. The Senator from Ohio, the Senator from Vermont, and also the Senator from Maryland, all seem to concur in condemnation of the House proposition as inequitable, as unjust. Now I am not prepared to go to that extent, and since that question has been distinctly stated I desire to call the attention of the Senate to some very authoritative words of one of the most remarkable writers who has discussed this subject. I mean Mr. Say, in his work on Political Economy. He treats this question somewhat at length, but, as I suggested some moments ago, the writers of France substantially adopt one view on this question, and the writers of England, with one great exception, another view. I ask the Senate to listen to what Mr. Say says:

"If it be desired to tax individual income in such manner as to press lighter, in proportion as that income approaches to the confines of bare necessity, taxation must not only be equitably apportioned, but must press on revenue with progressive gravity."

"In fact, supposing taxation to be exactly proportionate to individual income, a tax of ten per cent., for instance, a family possessed of 300,000*fr.* per annum would pay 30,000*fr.* in taxes, leaving a clear residue of 270,000*fr.* for the family expenditure. With such an expenditure the family could not only live in abundance, but could still enjoy a vast number of gratifications by no means essential to happiness. Whereas another family, with an income of 300*fr.* reduced by taxation to 270*fr.* per annum, would, with our present habits of life and ways of thinking, be stinted in the bare necessities of subsistence. Thus a tax merely proportionate to individual income would be far from equitable; and this is probably what Smith meant by declaring it reasonable that a rich man should contribute to the public expenses, not merely in proportion to the amount of his revenue, but even somewhat more. For my part, I have no hesitation in going further, and saying that taxation cannot be equitable unless its ratio is progressive."

Then in a note this same eminent writer adds, after quoting Smith's *Wealth of Nations*:

"It has been objected that a progressive scale of taxation presents the disadvantage of operating as a penalty to deter activity and frugality from the accumulation of capital. But it must be obvious that taxation of all kinds sub-



tracts a portion only, and generally a very moderate portion, of the addition made to the fortune of an individual, so that every one has a much stronger inducement to invite than penalty to deter accumulation. If a person had to pay 2000 more in taxes upon every addition of 1,000 to his revenue, still he would multiply his enjoyments in a larger ratio than his sacrifices."

I have read these passages simply by way of giving the testimony of an eminent authority on this question when viewed in the light of principle, and I come back again to what I said at the beginning, that in our country at this moment, according to the best of my inquiries, the tax that is proposed by the House of Representatives and which our committee proposes to strike out would not be very productive, and I have reason to believe that it would be odious. I do not think that we shall accomplish enough by it to pay for what it will cost.

Mr. DAVIS. The first remarks of the honorable Senator from Massachusetts in relation to this subject indicated to my mind that he intended to vote against the amendment proposed by the committee and to adhere to the proposition of the House of Representatives. I received that enunciation of what I deemed to be his position with a good deal of pleasure. It is so seldom that that honorable Senator is right, that when he gets into that neighborhood it seems to me he ought to be a little more constant in sticking to it.

The honorable Senator's second speech was entirely against his first position. He has now come forward with a third speech and a most eminent authority that reasons the subject philosophically and with great force in favor of his first position and against the amendment proposed by the Committee on Finance, and for an adherence to the proposition as it came from the other House. I was sorry to hear the honorable Senator say that he intended to vote against his speech and against the principles of his speech, and especially against the high authority from which he read.

It seems to my mind that the reasoning of that French author upon this subject is absolutely conclusive. In relation to taxes and the payment of debts something like this general principle is recognized in the system of all the States and the United States: that men shall pay according to their ability to pay; that a bare, stunted subsistence, that which is necessary to hold body and soul together, to use a homely but expressive phrase, shall not be taxed, nor shall it be charged with the payment of a debt, even in the form of execution or of attachment. Hence there is a modicum of property, I believe, in the systems of all the States, exempt from attachment and execution. The same principle of graduation is recognized in relation to taxes, and is, with general indistinctness, I think, acted upon in all the systems, whether State or national, that impose taxes; and it is that taxes shall be imposed according to the ability of men to pay.

The honorable Senator from Maryland says that this graduation of incomes for the purposes of taxation was recognized in England. It has been recognized in the legislation of Congress also. It was incorporated in the former bill, and in that bill incomes under \$600 were not subject to be taxed at all, as they are not proposed to be taxed in the pending act. The former bill subjected incomes between \$600 and \$10,000 per annum, if I recollect aright, to three per cent., and I believe that that is enough tax to impose upon small incomes. Why are incomes under \$600 all exempt from taxation? It is simply upon the ground of the absolute necessity of those incomes for the subsistence of the father of a family and the members of the family. Does not that recognize the principle against which gentlemen debate, that taxes upon incomes shall not be arithmetically equal? That is not the principle of legislation on the subject, but the principal is a general, vague recognition of the idea that taxes shall be paid according to the ability of persons to pay.

Now, sir, which is most able to pay—an income between \$600 and \$10,000, five per cent., or an excess of income above \$25,000 to pay a rate of ten per cent.? Every man's income to the amount of \$600 is exempt. In that point of view the provision is equal and uniform upon all income. Incomes between \$600 and \$10,000 are by this bill subject to a tax of five per cent. A duty of seven and a half per cent. is proposed by the House of Representatives on the excess over \$10,000 and not exceeding \$25,000, and a duty of ten per cent.

on the excess over \$25,000. The effect of the amendment of the Committee on Finance is to exempt incomes above \$25,000 from the increased taxation. It is apparent to every one that \$25,000 is as much as any man ought to require for his annual support as a general rule; that any income above \$25,000 is in excess and redundant, and that there is no necessity and no just and wise political economy that ought to operate upon Congress to induce it to protect by its legislation in war times the excess of income in any man's case above \$25,000.

The honorable Senator from Illinois placed the subject in another aspect that struck me forcibly. He said truly that the poor men do the fighting in the war. Will any gentleman point to me a single millionaire or a man in the United States whose income is above \$25,000 that has gone to the field?

Mr. FESSENDEN. I can point the Senator to one, and who fell in the field; and that is General Wadsworth.

Mr. DAVIS. Yes, sir; and he went into the field with two epaulets on his shoulders.

Mr. FOSTER. The Senator will pardon me. I know men who went in as privates and who served as privates who were worth over a million dollars.

Mr. DAVIS. They were eminently praiseworthy; but I imagine the number is very few.

Mr. FOSTER. Because there are very few who have that amount of money.

Mr. DAVIS. They are exceptional cases.

Mr. HOWE. As my friend is in quest of information, and I am devoted to the educational interest, let me tell him an instance. The Paymaster General informed me—I think it was about two years ago, when our finances were a little reduced—that a private from the State of Connecticut called in and lent the Government forty odd thousand dollars to pay some arrearages.

Mr. TRUMBULL. That, I suppose, is the same case that was mentioned by the Senator from Connecticut.

Mr. HOWE. I do not know.

Mr. FOSTER. Not the one.

Mr. DAVIS. There are miracles in this time of national trouble and of war, but they are very few. The idea that millionaires and men whose incomes exceed \$25,000 as a general rule go into the camp is not supposable. There may be some exceptional cases; but if they go into camp at all it is not by shouldering the musket, unless in very rare cases. They do not send their sons there as a general rule unless the sons go with epaulets upon their shoulders.

Mr. FESSENDEN. The Senator is very much mistaken. In New England a great many of the sons of the richest men have gone in as privates.

Mr. DAVIS. All honorable praise to them. Such men as those do not want \$25,000 and upwards of income exempted from the three additional per cent. of taxation.

Mr. CONNESS. Will my friend permit me to state—

Mr. DAVIS. I have called up, I believe, the whole bee-hive. [Laughter.]

Mr. CONNESS. Will my friend permit me to state another case where a distinguished citizen, and I have no doubt a man of great fortune, went into the battle-field, as has been stated positively to me, with a musket on his shoulder—the case of Hon. Garrett Davis of Kentucky? [Laughter.]

Mr. DAVIS. Mr. President, I went in without asking a dollar of pay.

Mr. CONNESS. Deserving the more honor for that.

Mr. DAVIS. If the gentlemen will give me an income of \$25,000, they shall not only have ten per cent. upon the excess above \$25,000 but the whole of it. [Laughter.]

The gentlemen who have such enormous estates and whose estates and personal rights are protected by the Government and by its continuance, in this time of war ought not to grudge a tax on the excess above an annual income of \$25,000 to go to save the life of the nation, over which we have heard so many lucubrations.

No, Mr. President, my principle has always been, and is now, that all that is due from a man in the payment of debts, and especially in the payment of taxes for the protection which his Government gives to him and to his property, ought

to be assessed upon the general principle of ability to pay. He that owns most is most able to pay. He that owns most is most largely protected. He that has an income above \$25,000 is infinitely more able to pay than the man who has an income of from six hundred to a thousand dollars. The one might part with all that excess without any injustice to his family, without any injustice to himself, and the other is taxed when the tax is a charge upon the actual comforts and wants of those whom it is his duty to maintain and support. I hope myself that the amendment offered by the Committee on Finance will not be adopted. I think, on the contrary, that there ought to be a proposition to strike out "five" and restore the tax of "three" per cent. upon incomes between \$600 and \$10,000.

The question being taken by yeas and nays, resulted:

YEAS—Messrs. Anthony, Chandler, Clark, Collamer, Cowan, Fessenden, Foot, Foster, Harris, Howe, Johnson, Morgan, Morrill, Pomeroy, Powell, Sherman, Sprague, Sumner, Ten Eyck, Van Winkle, Wade, and Wiley—22.

NAYS—Messrs. Carlile, Conness, Davis, Doolittle, Grimes, Hadian, Hendricks, Howard, Lane of Indiana, Lane of Kansas, Nye, Ramsey, Trumbull, Wilkinson, and Wilson—15.

ABSENT—Messrs. Brown, Buckalew, Dixon, Hale, Harding, Henderson, Hicks, McDougall, Richardson, Tilden, Saulsbury, and Wright—12.

So the amendment was agreed to.

The Secretary read the next amendment of the committee, in section one hundred and fifteen, line twenty-three, to strike out the following proviso:

*Provided, That only one deduction of \$600 shall be made from the aggregate incomes of all the members of any one family composed of parent and minor children, or husband and wife, except in cases where such separate income shall be derived from the separate and individual gains or labors of the wife or child; and the deduction in such cases made shall be allowed only upon the income of the head of family.*

And to insert:

*And provided further, That net profits realized by sales of property upon investments made within the year, for which income is estimated, shall be chargeable as income; and losses on sales of property purchased within the year, for which income is estimated, shall be deducted from the income of such year.*

Mr. SHERMAN. I call for a division of the question. I desire to have a separate vote on striking out the proviso in the bill as it came to us from the House of Representatives.

The PRESIDING OFFICER. (Mr. Foot in the chair.) Then the question will be on striking out that proviso.

Mr. SHERMAN. I hope that proviso will not be stricken out. It was intended to prevent frauds that were perpetrated under the old act; and I think if Senators will read it they will agree that it should be retained. The object was to prevent the head of a family from dividing up his income among his wife and children, and thus covering his whole income by the exemption. I was not present in the Committee on Finance when the proviso was stricken out, but I am informed by the chairman of the committee that it was deemed better to strike it out because there was no reason for making the discrimination. I think I can see a very obvious reason. The purpose of the exemption of \$600 is to provide enough of food and the absolute necessities of life for the head of a family free from taxation; but where the different members of a family have each separate property all derived from the same source, I do not see why the same exemption should extend to all of them. If the wife has a separate and independent property, she is entitled to the deduction of \$600 under the language of the proviso as it now reads; and where the property of the child is derived from the labor of the child he is entitled to the exemption of \$600. But suppose the income of the child is derived by inheritance, not from his labor or even by a gift from the father; why should the exception be made in favor of that child who is actually supporting the father? I am told that under the old law there were many cases where the heads of families scattered their property among their children and thus made the exception of \$600 to cover an income of \$6,000. The purpose of the proviso as it stands is to prevent that abuse.

Mr. WILSON. I shall vote against striking out this proviso if we are to retain this exemption. I am against this \$600 exemption. I regard the whole thing as a cover under which the great mass of the income of the country protects itself from taxation. I believe two thirds of the incomes of the country are under \$600. Men who own property worth thousands of dollars get exempted under

it wholly and entirely. I intend to move, when the proper time comes, to tax all incomes under \$600 or \$1,000 three per cent. I think the ratio adopted here based on sound principles, and I shall vote against striking out this proviso on that ground.

This bill, as it now stands to-day, will exempt nearly all the farmers of the country from paying any income tax. The most independent portion of the community in this country are exempted from paying any tax at all under this bill. No man can be more independent than the man who has got a good farm well stocked, and an income of less than \$600 after supporting his family. If the exemption was confined to persons who had no property and exempted the mere product of their labor necessary to support their families, that would be a fair consideration; but as it stands to-day two thirds of all the incomes in this country are exempted under the provisions of this bill. I believe great frauds are perpetrated under this exemption as it now stands; that wealthy persons divide their property among their wives and children, and thus get exempted from tax under this \$600 clause. I am opposed, however, to striking out this proviso if that exemption clause is to be retained.

Mr. SHERMAN. I have nothing to say in regard to that matter. If the exemption would apply to independent farmers I think they ought not to be excepted. Where it applies to a man's manual labor I think he ought not to be taxed.

Mr. WILSON. I ask the Senator if he does not believe that under that exemption whole farming townships in the country will not pay a farthing of revenue?

Mr. SHERMAN. I believe so. They will cover it up. I will state to the Senate that the most fruitful source of revenue in England, where the income tax is reduced to a system, is the small incomes between £100 and £150. That class of incomes yield an aggregate to the British Government greater than any other class of incomes. The amount of revenue derived from incomes between £100 and £150 in England in 1857 was £682,229.

Mr. GRIMES. Do they tax incomes below £100?

Mr. SHERMAN. Yes, sir; but only in a certain class of cases. The amount of revenue derived in the year 1857 in England from incomes under £100 a year was only £66,336. They exempt all incomes derived from manual labor, I understand, but they tax all other incomes below £100. No other classification of income there above £150 yields anything like as much as that between £100 and £150. The nearest approach to it is the class of incomes between £200 and £300, where the difference is £100 instead of £50, which yielded in 1857 £516,576. I have no doubt, therefore, that if you could remove this exception of \$600, if it is possible to do so without injustice, you would probably increase your income tax more than in any other way.

The PRESIDING OFFICER. The Chair desires to make a word of explanation. The Chair has entertained this as a separate and distinct proposition simply to strike out the first proviso which has been read. If, however, the intent of the committee was to strike out and insert, that is a separate and distinct proposition and is indivisible, and it is not in the province of the Chair to allow a division of the question.

Mr. FESSENDEN. The committee did not intend it as one amendment. It is plain and clear as it is. The trouble is that the clerks where they find one amendment to insert and another to strike out make them parts of one amendment, and thus mingle together two subjects which are totally distinct. I hope they will not trouble us in that way when they come to arrange the amendments to this bill.

The PRESIDING OFFICER. The question then will be on striking out the proviso commencing in the twenty-third line of the one hundred and fifteenth section.

Mr. FESSENDEN. They are totally distinct things. In the report that was made by the committee one amendment was to strike out these words and the next amendment to insert others. They are distinct in their nature, and intended to be so. I hope when the clerks come to fix this bill they will not undertake to accommodate themselves in drafting it, but will put it just as the com-

mittee have reported it. Otherwise they will make a great deal of difficulty.

Now, sir, the question whether the \$600 exemption shall be stricken out of the bill or not is one totally distinct from this particular clause, and has nothing to do with it except this: that if that is stricken out this would follow as a matter of course. The reason why the committee thought it best to strike out this proviso was that it is so indeterminate. The Commissioner of Internal Revenue was before the committee, and suggested as an alteration that the words "or child" should be stricken out, leaving it to apply to the wife alone; that it was difficult to execute and would be found attended with a great deal of difficulty in practice, and in fact lead to frauds. The idea was not to prevent frauds, as supposed by the honorable Senator from Ohio; and perhaps, had he been with us at the time this clause was under discussion he might have been convinced by the long discussion and examination that took place before the committee in relation to it. It will be noticed that the concluding clause of the proviso is in these words:

And the deduction in such cases made shall be allowed only upon the income of the head of family.

• Suppose the head of a family has no property, but his wife has an income: the result will be that no deduction is allowed. There are numerous cases of that description. Suppose the head of a family has no income and his child has: then the child would get no deduction, because it is to be made in all cases on the income of the head of the family. The Senator on reexamining the provision will see that he has not examined it with minuteness and care.

Mr. SHERMAN. That might be obviated by saying that it should be deducted from the highest income.

Mr. FESSENDEN. That might be very difficult to ascertain. Those cases might occur very frequently. But take the case of the child; suppose the child has an income and the father has an income also. The father nevertheless has to support the child and pay his expenses. He is not exempted from the obligation that is upon him to support his child until he attains his majority. The obligation, therefore, is that the property of the child accumulates and there is to be no benefit to the parent derived from it. He must pay the expenses of the child without any income, comparatively, and without any deduction, so far as he is concerned.

Mr. SHERMAN. If the Senator will allow me, by the laws of Ohio we provide for that very case.

Mr. FESSENDEN. We are not legislating for Ohio.

Mr. SHERMAN. I know, but I am speaking of the general principles of the law. We provide that where the child has property and the parent none, the courts may make an allowance.

Mr. FESSENDEN. That might be where the child has property and the parent has none; but suppose the parent has property.

Mr. SHERMAN. Then he is bound to support the child.

Mr. FESSENDEN. Certainly he is bound to support the child, and the deduction is made from his property and not from the child's. So it is with the wife. He is bound to support the wife. She may have property and he may have property. The same rule would hold precisely. He must pay all the expenses, and he derives no benefit so far as the law is concerned. With regard to minor children he could not do it because he is bound to account for everything.

There were so many innate difficulties about the clause itself and its execution that on consideration and examination the committee came to the conclusion to strike it all out. There may be cases of fraud possibly arising from this exemption, but they cannot be very numerous. They may arise under every clause of this bill. You cannot prevent them in all cases. If the assessors are vigilant, watchful, and careful in the execution of the law they will undoubtedly prevent the most of them. They can look into these things and see how the matter is. They have power to put men under oath, and in all cases they must render their accounts under oath, as we have amended the bill, in all cases, and explain the whole matter from beginning to end. They are subject to examination and cross-examination;

they must testify; they must answer questions; and if the assessors do their duty they can in most cases get at the real state of the facts with regard to it.

Looking at the whole clause as it stood and the difficulties that were about it in the view of the Commissioner himself and the difficulties that we, as a committee, had on examining it, in attempting to reduce it to a shape that would make it effective and operative without producing injustice, the committee came to the conclusion on the whole that it was best to leave the statute as it stood originally and strike out this clause. If the Senate shall be of a different opinion it is all the same to the committee. The committee on full examination had no doubt that it should be stricken out.

The amendment was agreed to.

The PRESIDING OFFICER. The question now is on inserting the following words at the end of section one hundred and fifteen:

And provided further, That net profits realized by sales of property upon investments made within the year, for which income is estimated, shall be chargeable as income; and losses on sales of property purchased within the year, for which income is estimated, shall be deducted from the income of such year.

Mr. FESSENDEN. Perhaps I ought to make an explanation of that particular clause. There is a good deal of difficulty about it. The Senator from Pennsylvania [Mr. BUCKALEW] called my attention to it. It was first started in the House of Representatives.

That amendment originated in the fact that the Commissioner of Internal Revenue has ruled that where a man bought an estate, for instance, land, no matter at what distance of time, say twenty years ago, for a given sum, and held it for the twenty years and sold it in any given year, say for instance this year, he must account for, as income of the year, making all due allowance for taxes, interest, &c., the amount that he sold it for over and above what he gave for it originally.

Mr. JOHNSON. Although he had not received it?

Mr. FESSENDEN. If he sold it; that is to say, if the honorable Senator from Maryland invested a certain portion of his property in real estate twenty years ago and held it until this year, and this year sold it at an advance, all the increase in price, making these deductions, must be considered as income for this year. The thing itself was manifestly wrong, because it is capital, and it is capital as it accumulates from year to year.

Mr. JOHNSON. Has it been so construed under the old law?

Mr. FESSENDEN. That was the construction the Commissioner put upon it in writing. Our difficulty was to fix any ratio of income. If anything could be considered as income in such case, it is the increase of value for the year. If, for instance, you buy property one year and hold it, and by last year's accumulation on it it became so much more valuable, that might be considered as income when you sold it; but how could you tell very readily what that was? The committee, therefore, in considering the question and looking into the difficulties that surrounded it, came to the conclusion that the only mode in which it could be arranged—and it should certainly be fixed in some way—was to provide that if a person sells property of any sort within the year, you may estimate the increased value, what he made upon the transaction, as income; but certainly it should not apply to purchases existing before we ever thought of passing an income tax or internal revenue tax. We fixed it in that way, coming to the conclusion that that was the only reasonable mode in which to fix it, and trusting that if the House differed with us in opinion they would enable us to establish some other rule that would be better than ours.

The amendment was agreed to.

The next amendment was in section one hundred and sixteen, line six; after the word "income" to strike out the words "has been," and to insert "is or should be;" in line ten, to strike out the words "as an officer," and to insert "for services;" in line thirteen, to strike out the word "sum," and to insert "rate," and after the word "dollars" to insert the words "per annum;" in line fifteen, after the word "any," to strike out the words, "bank, trust company, savings institution, insurance, railroad, canal, turnpike, canal

navigation, or slackwater," and to insert, "corporation or joint stock;" in line nineteen, to strike out the word "railroad," and insert "corporation or joint stock;" in line twenty, to strike out the word "be," and to insert "have been," and after the word "and" to insert the words, "the tax;" and in line twenty, after the word "said," to strike out the words, "banks, trust companies, savings institutions, insurance, railroad, canal, turnpike, canal navigation, or slackwater," and insert "corporation or joint stock;" so that it will read:

Sec. 116. *And be it further enacted*, That in estimating the annual gains, profits, or income of any person, all other national, State, and municipal taxes other than income lawfully assessed within the year upon the property or sources of income of any person, as aforesaid, from which said annual gains, profits, or income is or should be derived, shall be deducted, in addition to \$600, from the gains, profits, or income of the person who has actually paid the same; whether owner, tenant, or mortgagor; also the salary or pay received for services in the civil, military, naval, or other service of the United States, including Senators, Representatives, and Delegates in Congress, above the rate of \$600 per annum; and there also shall be deducted the income derived from dividends on shares in the capital stock of any corporation or joint stock company, and the interest on any bonds or other evidences of indebtedness of any corporation or joint stock company, which shall have been assessed and paid by said corporations or joint stock companies, as hereinafter provided.

The amendment was agreed to.

The next amendment was in section one hundred and sixteen, line twenty-five, after the word "family" to strike out the words "not exceeding \$200. The annual rental value," and to insert "and the rental value;" in line twenty-seven, after the word "homestead," to strike out the words "in excess of \$200;" in line twenty-nine, after the word "shall," to insert the word "not;" and in line thirty, after the word "person," to strike out the words "for each year;" so that the clause will read:

Also the amount paid by any person for the rent of the homestead used or occupied by himself or his family, and the rental value of any homestead used or occupied by any person or by his family, in his own right or in the right of his wife, shall not be included and assessed as part of the income of such person.

Mr. FESSENDEN. I feel bound to explain an amendment of that importance to the Senate and the views which the committee had in relation to it. It makes an important change of the House bill. According to the old law every man was allowed his homestead; that is to say, its rental value was not to be considered as income if he owned it; if he hired the house, the amount which he paid for rent was to be allowed. The committee of the House, however, in framing this bill adopted a new rule; and that was to allow \$200 to each person for that purpose and make him account for the residue. The matter occasioned very considerable discussion in the Committee on Finance, and the committee came to the conclusion that it was impossible to carry out that provision without making a very odious discrimination especially between town and country. Inasmuch as it depended upon the rent, it would have no sort of connection with the cost of a man's house originally but merely upon the rental value, and the rental value would depend in a very great degree upon the place where it happened to be located. Thus it would be impossible to make it equal in any way. It would impose a burden upon certain men who happened to live in a city, from which men living in the country where rents are low, comparatively nothing, would be exempted entirely. The committee thought the safer and better principle would be to allow every man, as the old law did, the rental value of his house, whether he owned it himself or in right of his wife or anybody else, or rented it.

The amendment was agreed to.

The next amendment was in section one hundred and sixteen, line forty-six, after the word "year" to insert the following:

And all companies, whether incorporated or partnership, other than the companies specified in section one hundred and nineteen of this act, shall pay the tax on income herein provided on all gains and profits, whether divided or otherwise.

The amendment was agreed to.

The next amendment was to insert at the end of section one hundred and sixteen the following proviso:

*Provided*, That in cases where the salary or other compensation paid to any person in the employment or service of the United States shall not exceed the rate of \$600 per annum, or shall be by fees, or uncertain or irreg-

ular in amount or in the time during which the same shall have accrued or been earned, such salary or other compensation shall be included in estimating the annual gains, profits, or income of the person to whom the same shall have been paid, in such manner as the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, may prescribe; and in all cases where such salary or other compensation shall have been heretofore omitted from the list or return of the annual gains, profits, or income of the person receiving the same, and no income tax has been deducted or withheld therefrom, it shall be competent for the Commissioner of Internal Revenue, under like direction, to cause the list or return thereof to be made and the income tax thereon to be assessed and collected in the same manner and to the same extent as if the salary or other income so received had been properly listed and returned for taxation.

Mr. FESSENDEN. In the sixty-fifth line the word "the" should be inserted before the word "amount," so as to read, "uncertain or irregular in the amount."

The PRESIDING OFFICER. That word will be inserted.

Mr. FESSENDEN. I do not see any member of the Committee on Finance present except the Senator from California, [Mr. CONNESS], and I do not know whether he remembers it; but I am inclined to believe that the last clause of that amendment was not agreed to by the committee; at any rate it never was agreed to by me, I know. I objected to it at the time. The Senate will notice that this amendment provides where an uncertain salary or fees paid do not amount to \$600 of themselves, they shall be taken into consideration with the other income of the present year if the whole amount to more than \$600, so that the person may be charged upon the excess. That is all right. That is an amendment suggested by the Commissioner in order to cover certain cases which ought to be covered. The last clause, commencing after the word "prescribe" in the seventy-first line authorizes the Commissioner to look up the cases of the last year and have the like proceedings with regard to them. That is a principle which if brought to my attention at the time I should not have agreed to. It reads in this way:

And in all cases where such salary or other compensation shall have been heretofore omitted from the list or return of the annual gains, profit, or income of the person receiving the same, and no income tax has been deducted or withheld therefrom, it shall be competent for the Commissioner of Internal Revenue, under like direction, to cause the list or return thereof to be made and the income tax thereon to be assessed and collected in the same manner and to the same extent as if the salary or other income so received had been properly listed and returned for taxation.

If we omitted certain things in the law of last year by which certain persons escaped taxation, I do not think we are now authorized to go back and insist that the Commissioner shall have the right to say what should have been the tax last year, and attach it to this provision. I think the principle is a bad one.

Mr. JOHNSON. Was the omission an omission of the law itself?

Mr. FESSENDEN. Yes, sir; the omission was in the law itself. This amendment is intended to remedy that omission in the future. I will therefore take the liberty—I suppose the Senator from California, who is the only member of the committee present, will agree to it—to move to amend the amendment by striking out all after the word "prescribe" in the seventy-first line, in the words that I have just read.

The amendment to the amendment was agreed to. The amendment, as amended, was adopted.

The next amendment was in section one hundred and seventeen, line nineteen, to strike out the word "general" before the word "provisions," and in line thirty-eight to strike out the words "as aforesaid."

The amendment was agreed to.

The next amendment was in section one hundred and nineteen, line seven, after the word "inland" to insert the words "insurance company, either;" and in line eight, after the word "mutual," to strike out the words "insurance company;" so that it will read:

Sec. 119. *And be it further enacted*, That there shall be levied and collected a duty of five per cent. on all dividends in scrip or money thereafter declared due, and whenever the same shall be payable, to stockholders, policy-holders, or depositors, as part of the earnings, income, or gains of any bank, trust company, savings institution, and of any fire, marine, life, inland insurance company, either stock or mutual, under whatever name or style known or called, in the United States, &c.

The amendment was agreed to.

The next amendment was in section one hundred and nineteen, after the following proviso—

*Provided*, That the duty upon the dividends of life insurance companies shall not be deemed due or to be collected until such dividends shall be payable by such companies—

To add the following words:

Nor shall the portion of premiums returned by mutual life insurance companies to their policy-holders be considered as dividends or profits under this act.

The amendment was agreed to.

The next amendment was in section one hundred and twenty-one, line forty-three, to strike out the word "general" before the word "provisions."

The amendment was agreed to.

The next amendment was in section one hundred and twenty-three, line six, after the word "passing" to strike out the words "from any person who may die," and in line seven, after the word "act" to insert the words "from any person;" so that it will read:

Sec. 123. *And be it further enacted*, That any person or persons having in charge or trust, as administrators, executors, or trustees, any legacies or distributive shares arising from personal property, where the whole amount of such personal property, as aforesaid, shall exceed the sum of \$1,000 in actual value passing after the passage of this act from any person possessed of such property, &c.

The amendment was agreed to.

The next amendment was in section one hundred and twenty-three, line twenty, after the word "at" to strike out the words "and after."

The amendment was agreed to.

The PRESIDING OFFICER. The Chair will state that there are several propositions of amendment of this kind in this section, mere verbal corrections, striking out the words "and after," and those amendments will be regarded as agreed to, if there be no objection, without any further formal notice.

The next amendment was in section one hundred and twenty-four, line six, to strike out the word "paying" and insert "payment;" in line seven to strike out the words "distributing any portion thereof;" and inserting the word "distribution;" and in line fifteen to strike out the word "property" and insert "legacy or distributive share."

The amendment was agreed to.

The next amendment was in section one hundred and forty-two, line three, to strike out the word "successor" and insert "succession."

The amendment was agreed to.

The next amendment was in section one hundred and forty-six, line three, to strike out the word "their" and to insert the word "his;" and in line seventeen to strike out the word "or" after the word "assessor."

The amendment was agreed to.

The next amendment was in section one hundred and forty-eight, line four, before the word "assistant" to strike out the words "assessor or;" so that it will read:

Sec. 148. *And be it further enacted*, That it shall be lawful for any party, liable to pay duty in respect of his succession, who shall be dissatisfied with the assessment of the assistant assessor, within thirty days after the date of such assessment, to appeal to the assessor, &c.

The amendment was agreed to.

The next amendment was in section one hundred and fifty, line one, after the word "that" to insert "all laws in force at the time of the passage of this act in relation to stamp duties shall continue in force until the 1st day of July, 1864, and;" in line four to strike out the words "the 1st day of July, 1864," and to insert the words "that day;" and in line twelve, after the word "for" to insert "whom or for;" so that the section will read:

Sec. 150. *And be it further enacted*, That all laws in force at the time of the passage of this act in relation to stamp duties shall continue in force until the 1st day of July, 1864, and on and after that day there shall be levied, collected, and paid for and in respect of the several instruments, matters, and things mentioned and described in the schedule (marked B) herewith annexed, or for or in respect of the vellum, parchment, or paper upon which such instruments, matters, or things, or any of them, shall be written or printed, by any person or persons, or party who shall make, sign, or issue the same, or for whom or for whose use or benefit the same shall be made, signed, or issued, the several duties or sums of money set down in figures against the same, respectively, or otherwise specified or set forth in the said schedule.

The amendment was agreed to.



The next amendment was in section one hundred and fifty-one, line three, to strike out the words "the proper" and to insert the word "a," and after the word "stamp" insert "or stamps of the proper amount;" and in line six, after the word "stamp," to insert "or stamps to the proper amount;" so that the section will read:

Sec. 151. *And be it further enacted,* That it shall not be lawful to record any instrument, document, or paper required by law to be stamped, unless a stamp or stamps of the proper amount shall have been affixed; and the record of any such instrument, upon which the proper stamp or stamps aforesaid shall not have been affixed, shall be utterly void, and shall not be used in evidence.

The amendment was agreed to.

Mr. POMEROY. I do not see myself how we are to make this law with reference to stamps harmonize with the existing laws of the States. We say in this section that it shall not be lawful to record an instrument, or document, or paper unless it is stamped, and yet this recording is done under the laws of the States, and the recorder is required to record all instruments presented to him. He is liable to heavy penalties if he does not do so, and it is not his fault if the stamp is not affixed to the instrument. I do not see precisely how this statute is going to be in harmony with the existing laws of the States; nor do I see how we can protect the rights of third parties under it. Suppose a man in one of our States (and our State laws are alike in this respect) writes to another and asks him to ascertain whether the title to a certain piece of land he wants to buy is in the man proposing to sell it. That person goes to the recorder's office and finds that it is; it so stands on the record; but no man can tell whether those deeds were stamped or not. In that way an innocent purchaser of land may be defrauded of his title entirely. While I cannot suggest exactly the proper amendment, I can see some difficulties that may arise under this section, though I do not know how they can be remedied. I do not see how we can say that a man who is required to record a deed shall not record it unless there is a stamp attached to it.

Mr. FESSENDEN. The Senator is aware that within the constitutional limits the laws of the United States are supreme, and they control State laws. Therefore the supreme obligation may be imposed upon an officer of the State so far as a record is concerned. But there is no real effect given to the word "lawful" in the second line of the amendment beyond that which follows in the next sentence which says the record shall be invalid.

Mr. POMEROY. I want to ask the Senator, if I should prosecute a recording officer in my State for refusing to record a deed without a stamp being affixed according to the provisions of this act, could he plead this statute in court?

Mr. FESSENDEN. I do not see why he could not if we had the right to pass the law, because the laws of the United States are paramount in all cases.

Mr. POMEROY. That is the very question, whether we have the right to pass the law.

Mr. FESSENDEN. That I have no doubt about. We have a right to impose excise duties, and of course we have all the incidental rights to see that the laws imposing those duties are obeyed and carried into execution.

Mr. POMEROY. The point I suggest is, whether we have the right to say to an officer of a State that he shall not record an instrument without this stamp.

Mr. FESSENDEN. Certainly; just as much right as we have to say that the citizen of any State shall not do a thing, and the law of the State obliging him to do it would not excuse him.

Mr. POMEROY. The States had some rights before the rebellion. I do not know whether they have any now or not.

Mr. FESSENDEN. They never had that right, to make their laws supreme over the laws of the United States.

Mr. POMEROY. But did the United States ever have the power to make its laws supreme over the law of the State if the State law was not in contravention of the Constitution of the United States?

Mr. FESSENDEN. It is in contravention of a law passed under the Constitution of the United States, and that is the same thing; if it comes in conflict with it it must yield. The only effect, I take it, however, of using that expression is found

in the next sentence, which says that the record shall be invalid and of no effect. I do not see that there is any doubt about it myself.

Mr. JOHNSON. What page is that on?

Mr. FESSENDEN. It is on the 202d and 203d pages, and I should like to have the opinion of the honorable Senator from Maryland on that section.

Mr. TEN EYCK. I do not feel disposed, as the bill is in Committee of the Whole, to make any point on this matter. It can be alluded to now, and a motion made in regard to it in the Senate.

The PRESIDENT *pro tempore*. Undoubtedly.

Mr. TEN EYCK. I cannot myself understand this proposition. I do not see where the power of Congress is to interfere with an internal matter of State regulation respecting the recording of titles to lands. But I do not mean to stop the progress of the bill now by discussing it. I have had some conversation with the Senator from Vermont [Mr. COLLAMER] on the subject, and I think he proposes to make some amendment, but he is not now in his seat.

Mr. FESSENDEN. This amendment can be adopted, and any amendment necessary to perfect it can be suggested hereafter.

The PRESIDENT *pro tempore*. The amendment has already been adopted.

The next amendment was in section one hundred and fifty-four, line twenty-three, to strike out the word "any" where it occurs the second time, and to strike out the words "got off" and insert "remove;" in line twenty-four to strike out the words "got off" and insert the word "removed;" and in line thirty to insert the word "any" before the word "stamped."

The amendment was agreed to.

The next amendment was in section one hundred and fifty-five, line four, after the word "thereupon" to insert the words "the initials of his name and;" so that the clause will read:

Sec. 155. *And be it further enacted,* That in any and all cases where an adhesive stamp shall be used for denoting any duty imposed by this act, except as hereinafter provided, the person using or affixing the same shall write thereupon the initials of his name and the date upon which the same shall be attached or used, so that the same may not again be used.

The amendment was agreed to.

Mr. POMEROY. I think there ought to be some way of erasing or destroying these stamps entirely different from the arrangement under the existing law, and from what is proposed in this bill. I notice that the Postmaster General, in a report that he made, stated that the amount of postage stamps that had been redeemed that had been used a second time amounted to very many thousand dollars, simply because men have manufactured some chemical process by which they can take off the ink mark, and leave the stamp as perfect as it was before. In our large bank corporations, where notes are paid every day, there is a large amount of paid notes with these stamps affixed; the stamps are not destroyed, and they could be used again if they would only erase the ink. That any chemist can do with little or no trouble. It occurred to me that if the committee could frame an amendment by which the stamp should be destroyed more effectually, punched or effaced in some way, so that it could not be used again by a process of that kind, it would prevent a great many of them being used a second time. It would at least prevent a great temptation which is certainly held out in some of our banking institutions, where the clerks have access to a large amount of paid notes, the stamps on which have never been effaced except by writing the initials of a name across them and putting the date on them. Whenever the ink is taken off, those stamps can be used a second time; they are not counterfeit; and the imposition can be practiced upon anybody.

Mr. FESSENDEN. I will inquire of my friend if he has anything to propose.

Mr. POMEROY. Yes, sir, I have an amendment which I thought I should propose to this section requiring the stamp to be punched. I will prepare an amendment that the stamp shall be so entirely destroyed that it cannot be used again.

Mr. FESSENDEN. That is very easily said. The question is, how is it to be done?

The PRESIDENT *pro tempore*. The reading of the bill will proceed.

The next amendment was in section one hundred and fifty-five, line eleven, after the word "provided" to strike out the word "nevertheless;" and in line seventeen to insert the words "made under the direction and to be;" so that the proviso will read:

*Provided,* That any proprietor or proprietors of proprietary articles, or articles subject to stamp duty under schedule C of this act, shall have the privilege of furnishing, without expense to the United States, in suitable form, to be approved by the Commissioner of Internal Revenue, his or their own dies or designs for stamps to be used thereon, to be made under the direction and to be retained in the possession of the Commissioner of Internal Revenue for his or their separate use, which shall not be duplicated to any other person.

The amendment was agreed to.

The next amendment was to insert at the end of section one hundred and fifty-seven the following:

And such instrument, document, or paper, bill, draft, order, or note, shall be deemed invalid and of no effect.

Mr. HENDRICKS. I do not like that amendment proposed by the committee. It proposes to declare every instrument of writing which requires a stamp to be absolutely null and void if it has not that stamp affixed. I do not think that should be the case. The purpose of the section is to secure revenue, and it seems to me there is abundant guard by imposing in the body of the section as it came from the House a penalty on the party who makes an instrument requiring a stamp without affixing the same, and also a penalty upon the party who shall receive, accept, or pay such an instrument that requires a stamp. I would not insist that the instrument should be valid until stamped; but if the parties by carelessness or inadvertence should neglect to stamp the instrument, which in my own professional observation very often occurs, the interest of the Government in securing a revenue is equally promoted by allowing them to stamp it afterwards, and let the instrument then be a valid one. I propose to amend the amendment by adding these words, "until duly stamped, which may be done by the holder if the party making the same refuse so to do;" so that the amendment, if amended, will read:

And such instrument, document, or paper, bill, draft, order, or note shall be deemed invalid and of no effect until duly stamped, which may be done by the holder if the party making the same refuse so to do.

The Government secures her revenue, but does not defeat what was intended perhaps to be a fair contract between the parties. It seems to me the chairman will not object to this amendment to the amendment.

Mr. FESSENDEN. If that amendment should be adopted I should regard the stamp act as of very little value. The House of Representatives left out this clause, which the committee propose to insert. There was very little discussion about it, and there is not usually much opportunity for discussion given in the House of Representatives upon these bills. Two years ago we had a provision of the same kind. The provision was considered in committees of both branches, and it was considered at length in the House of Representatives and in the Senate, and after deliberation adopted. It has been found to be productive of no injury, for the reason that Congress is always ready to prevent any essential injury arising under it. In the first place, we extended the time for the act to go into operation for many months so far as that particular clause was concerned, and we have now inserted a clause in a subsequent part of this bill by which we provide that no instrument heretofore executed without a stamp shall be invalid; and it may be that we shall have to do the same thing again in order to prevent difficulties.

Mr. HENDRICKS. If the Senator will allow me, since I proposed my amendment my attention has been called by a member of the Committee on Finance to a proviso to section one hundred and sixty-two, which, if it is not changed as proposed by the committee, would perhaps accomplish what I think ought to be secured:

*Provided,* That no instrument, document, or paper made, signed, or issued prior or subsequent to the passage of this act without being duly stamped, or having thereon an adhesive stamp to denote the duty imposed thereon, shall, for that cause, if the stamp or stamps required shall be subsequently affixed, be deemed invalid and of no effect.

Mr. FESSENDEN. The committee propose to strike out the words "or subsequent" in that proviso.

Mr. HENDRICKS. So I observe, and it presents the same question which I now raise.

Mr. FESSENDEN. Let me explain it. It is all part of the same subject-matter.

Mr. HENDRICKS. I was going to say that inasmuch as the judgment of the Senate on this very question may be reached when we come to that proviso, I am willing to withdraw my amendment.

Mr. FESSENDEN. I may just as well explain it now. We may as well meet the matter in one place as in another; because if you leave in those words "or subsequent" in that proviso, you will effect the same thing.

This amendment was inserted on very great consideration, and it was done by the light of the experience of England on the subject. No penalties that you impose will protect the revenue with reference to stamp duties. In the first place, it is nobody's interest to enforce them, and it is impossible almost to enforce the great multitude of them that would occur. You must therefore have some sharp, short, and decisive argument to apply to every man to induce him not to attempt to defraud the revenue in this way. The Senator supposes he might reach it by providing that the instrument shall not be used until it has been stamped; but I should like to ask him what proportion of the instruments upon which you provide here for a stamp duty ever come into a court of justice? Not one, I suppose, in a million, and the question, therefore, would not arise. Take the infinity of bank checks that are drawn, and it is very seldom that you ever hear of one of them in a court of justice. The same is true of notes and great numbers of papers of different descriptions. Once in a while you have a litigation upon one, and upon that you get your stamp duty; but what would become of the nine hundred and ninety-nine thousand? Many of them perhaps would be stamped; but you hold out nothing but a penalty which it is not anybody's interest to look up and enforce; and thousands and thousands of men probably would pay no sort of attention to the law requiring a stamp, especially when they find that there was another provision in the law that if they are compelled to appear in a court of justice they can then put on their stamp.

The result of the amendment proposed by the Senator from Indiana would be that you would materially lessen the revenue from stamps. I do not believe you would get one half the revenue that you otherwise would from that source, such would become the looseness of practice under the law. Great Britain tried it and found that everything in the shape of penalty utterly failed; that the only way was to render the instrument invalid unless it had the stamp.

When we passed a similar law two years ago, the same argument was raised, the same fears were entertained. In practice there has been found to be no difficulty, for the simple reason that up to the present time we have provided against all such troubles in the first place by putting the time for the law to go into execution far ahead, and we have relieved it here by making all instruments good, or rather declaring that none of them shall be invalid for the want of a stamp, up to some time after the passage of this act; I think up to the 1st day of July.

That saves all this. All you want and all you ever wanted in regard to it is to give abundance of time to have the law properly understood by the community; and then if men choose to omit it they may take the consequences or we may from time to time remedy it. But if we take away this fear which hangs over men in regard to their instruments, in my judgment the stamp duties will not produce one half of what they would produce under other circumstances. Men are very careful now when they take papers to look after the stamp. The man who gives a paper has to stamp it himself, and it is the interest of the individual who receives it in the ordinary course of business to see that the stamp is on the paper when he takes it. By adding this provision rendering the instrument invalid in case it is not stamped, we have an additional inducement to vigilance on the part of the person who takes the paper to see that it is properly stamped. The mere fear of the penalty which now exists has no great effect. Senators can understand very well how men, if the thing was suffered to pass by, might not put on stamps. If that was done and the paper were circulated in the community, how many men do

you suppose would be prosecuted to recover the fifty dollars or the \$100 penalty? Probably not one in a thousand. I am so well satisfied of it that I really should almost feel inclined to abandon the stamp duty entirely unless this provision be made.

Mr. COLLAMER. I believe this to be the first attempt under this Government to render these papers void for want of a stamp. I am safe in saying that this is the first time it has ever been attempted to render deeds of conveyance void for the want of a stamp. We have in each of our States a system of registry of title—

Mr. FESSENDEN. We made them void by the act of two years ago for want of the stamp.

Mr. COLLAMER. When I say that this is the first time we have attempted it, I mean that during this war is the first time. I have heard much of it since we passed the law of two years ago. It gave me much trouble at that time, and it has given me much more since. I was about remarking that our system of registering titles in this country has been regarded as of very great value. It is to be observed that under this provision if in the line of a man's title there is a deed which happens to be without a stamp, his title is gone. Suppose I own a piece of land, that I purchase it and receive for it a deed duly stamped. The record shows the regular line of deeds from the original proprietor of the land down to my grantor. I see that he has a title of record. If I am to be subject to be defeated of my title by its being shown that one of the deeds in the line was without a stamp, our registry system is good for nothing. I see that the other House has put in this bill a provision that a deed shall not be recorded unless it is stamped. That is no security. Our Supreme Court have decided over and over again that any law of Congress directing the duty of a State officer is void.

Mr. FESSENDEN. Will my friend answer whether the Supreme Court has ever decided that a law of Congress prohibiting a State officer from doing a certain thing is void?

Mr. COLLAMER. The court has said that he is under no obligation to regard your law.

Mr. FESSENDEN. That he is not under obligation to do an act that Congress orders; but that is a very different question from saying that he has a right to do an act which Congress prohibits. That has never been decided.

Mr. COLLAMER. This provision of the law is totally without sanction; there is no penalty if the officer does record the deed without a stamp being on it. The State law compels him to record a deed if it is authenticated agreeably to the laws of the State. The law of one State, for instance, requires that it shall be a sealed instrument; that it shall be acknowledged; that it shall be witnessed by two witnesses. When whatever the State makes necessary for the authentication of the paper has been complied with, and it is presented to the register to be recorded, he is obliged to record it under very severe penalties imposed by the State law. There is nothing in this bill which attempts to interfere with that, or proposes to punish the officer if he records a deed not stamped. The provision here, then, furnishes no security.

Besides, the provision being that it shall not be recorded without a stamp, the effect is at once to raise the presumption that if a deed is recorded it is stamped, while the fact may be entirely otherwise; and a man is therefore subjected to the hazard of having it shown by parole testimony that his deed was not stamped; and though it is recorded, which would imply that it was stamped, because the law says that if not stamped it shall not be recorded, yet on its being shown in point of fact that it was not stamped, his title is gone.

The truth is that the undertaking to put into operation this idea of producing an effect upon third persons by unstamped papers will not do. I say nothing now about the topic of which the Senator has spoken, in regard to which I do not entirely agree with him, in relation to negotiable paper; but in regard to matters which affect third persons, the question is entirely different. The Senator says that if a note is given by one man to another, you want to make it as much the interest of him who gives as of him who takes the note to have it stamped. I will say nothing now about the great injustice and inequality of a provision which declares that if I take a note of \$100 un-

stamped I shall lose it, and that if my neighbor takes one for \$10,000 without a stamp he shall lose the whole \$10,000. The thing is perfectly monstrous. But there is this saving clause about that; it is a man's own fault; he sees the paper and he can see whether it is stamped or not; he is not obliged to take it without a stamp; and there the thing is confined in its operation to the parties to the paper. But when you come to deeds of conveyance of land, it is entirely a different thing; they relate to the interests of persons who are not parties to the deed. Nor will it do to say that you will give a man the right to come into court afterwards, when a subsequent owner gets into a dispute about the ownership of the land, and he wishes to show his title, to stamp the deeds then. He cannot get them to stamp. It is entirely a different affair in this country from England, where the title deeds may pass with the sale and the purchaser holds them and can see what they are. We do not do that here. All we do when we undertake to show a man's title to a piece of land by the record, is to produce office copies from the record duly certified. As to getting all the deeds in the line of title all the way through into court for the purpose of stamping them, the thing is utterly impossible.

Nor can an example of this kind be drawn from Great Britain, where a totally different state of things exists. Indeed, it is not true that deeds are there declared void for want of a stamp. I am convinced of the utter impracticability of getting along with a provision declaring deeds inoperative and void unless they are stamped. Such a policy cannot be adapted to our registry system so as to preserve that system as having any value. It so appears to me, and I have prepared some amendments with a view to that which will perhaps satisfy the chairman of the committee. I cannot but say that I very much doubt the expediency of declaring any of these papers void for want of a stamp.

We have had in this country two or three different stamp acts. Our first stamp act was in 1797. Notes were required by that act to be stamped, but were not declared void without a stamp; but it was enacted that they should not be given in evidence until they were stamped. That I believe is the English law. That act did not include deeds of land. It provided for stamping paper, vellum, &c., for certain instruments, and forbade under penalties any person writing such an instrument on unstamped paper. Paper was stamped for the different kinds of instruments.

Afterwards there was a provision as to bills payable abroad not stamped. They were not declared void, but a heavy penalty was put upon passing them. Subsequently an act was passed that allowed those instruments to be stamped that had not been stamped. Upon paying ten dollars to the collector he would stamp them, which ten dollars went to the United States; and there was a subsequent law also extending the time of getting them stamped.

In 1813 we had another stamp act, and it was confined to notes discounted in the banks; and the banks, instead of buying stamped paper were allowed to commute at one half per cent. on their annual dividends, which they did. None of those papers were declared void for want of a stamp; but it was provided that they should not be given in evidence or be available in court until they were stamped; but by paying the stamp duty and two dollars to the collector, he gave his receipt upon the paper, and that was a good stamp. That was the way the law stood.

There was nothing in those laws which extended to the case of deeds of conveyance of land; and it seems to me that the difficulty which arises in relation to our registry system cannot possibly be avoided unless some amendment is made. I think the penalty imposed by declaring the paper void is so exceedingly unequal that it does not commend itself to our acceptance. The Senator tells us that it is now proposed that in the case of all instruments heretofore executed the parties may go and get them stamped, or may stamp them in court, and that we may hereafter pass laws from time to time to help the holders of unstamped instruments. Is not that a very questionable power? If I give a note without a stamp that is void, and that the law declares to be void—the law not merely saying that it cannot be given in evi-

dence but that it is absolutely void—and a man holds that note for two or three years, and then comes to Congress and gets a law by which he may stamp it and make it good, is not that a very questionable sort of legislation? If it was a void note under the law of the land when it was made and delivered, I do not see how it can grow good without the man's consent.

Mr. TRUMBULL. I should like to ask the honorable Senator from Vermont a question. Suppose it was a deed in a chain of title the validity of which had been tested in court and the real estate recovered on the ground that the title was defective in consequence of a deed having had no stamp upon it, what would be the effect then of your coming in with a law afterwards declaring the deed valid?

Mr. COLLAMER. I fancy, Mr. President, that there is a great deal of difference between papers made between the parties, and affecting them only, and those affecting the interests of third persons. Take the case of a man who lends me a sum of money and takes my note for \$100 unstamped. By and by he wants his money from me. He has got my note. I tell him it is unstamped and good for nothing. Then he says, "I want the money I lent you," and he can prove that he lent me the money for the note. If he sues me for money loaned and advanced by him, I might perhaps show that I gave him a note for it, and that might be a defense to such a general action; but suppose he comes into court and says, "Yes, you gave me the note, but it is good for nothing, it is void by the law, and now I want the money that I lent you," I ask the Senator from Illinois whether he doubts the power to recover that; does he not believe that could be recovered?

Mr. TRUMBULL. I suppose it could be recovered as a debt.

Mr. COLLAMER. But now take the case of land. I contract for a piece of land, and I pay for it, perhaps, in other property—I may have paid for it in other land—and the man gives me a deed which is not stamped. Can I recover that land of him? Most clearly I cannot. There was no legal conveyance of it; I never got it. There is clearly a great deal of difference between the two cases. The great point I have on my mind relates to our undertaking to make a deed of land void in relation to third parties. That relates to the conveyance of property, which property remains in existence and continues on and passes down in the course of title. It seems to me that in relation to that, at least, it ought to be protected from being declared void. I find that in the statutes of Congress to which I have referred, notes which were not stamped were not declared void, but they were inoperative as evidence in court until they were stamped. I think there ought to be no objection at least to an amendment going to this extent:

That the title of a purchaser of land by a deed duly stamped shall not be defeated or affected by the want of a proper stamp on any deed conveying the said land by any person from or under whom he claims or holds title.

Mr. JOHNSON. The effect of that is to secure one stamp.

Mr. COLLAMER. I say the man must get his own deed stamped, but other deeds are not affected.

Mr. FESSENDEN. I am not certain that I shall object to that amendment hereafter, after I have looked at it, if the Senator will let us go on with the amendments of the committee.

Mr. COLLAMER. I had intended to withhold all remark on this question during this reading of the bill; but several gentlemen around me said to me that this topic of which I had spoken to them was up, and that I ought to express my views about it.

Mr. FESSENDEN. I am very glad that the Senator has given his views; but we are now acting as in Committee of the Whole, and I think it is as well to adopt the amendments of the Committee on Finance; and then if other amendments are not made so as to make the provision satisfactory to gentlemen, we can strike out the committee amendments when we get into the Senate.

Mr. COLLAMER. I did not mean to interrupt the bill on my own account.

Mr. FESSENDEN. I am glad to hear the Senator's views on the subject. I want to make it as perfect as we possibly can.

Mr. CLARK. I feel that the subject is one of some difficulty, and I am very glad that the Sen-

ator from Vermont has made the remarks he has made; but I hope that where the amendments of the committee do not contravene any amendment or notion of his, he will allow us to go on with our amendments, and then the whole thing will be open again. We can be instructed as we go on by getting the views of different Senators. I have felt that the matter has been a difficult one from the beginning, and I have not been satisfied with it.

Mr. FESSENDEN. Before proceeding further I move that at half past four o'clock to-day the Senate take a recess until seven o'clock.

Mr. RAMSEY. Let us take it at four o'clock.

Mr. CLARK. I think that if we go on half an hour longer now and make a little progress, with the time we shall have in the evening, we shall get through with the reading of the bill to-night.

Mr. HENDRICKS. There will be before the reading of the bill is finished some very important questions, and Senators of course know that a night session cannot be very full.

Mr. FESSENDEN. My view is to get through to-night with the reading of the bill and the amendments proposed by the committee.

Mr. HENDRICKS. Almost the last amendment proposed by the committee is to strike out a section of the House bill in relation to the tax upon liquors on hand, and I desire to have a vote on that.

Mr. FESSENDEN. If that shall be found to lead to great debate, it can be passed over when we reach it. I do not propose to stay here a great while this evening, because my strength will not allow me to remain very long after being at work all day, but I think we might get through to-night with reading the bill and general amendments.

Mr. CLARK. If we shall get through all the amendments but the one referred to by the Senator from Indiana, we shall do very well, and we can reserve that.

Mr. FESSENDEN. My motion is, that at half past four o'clock to-day the Senate take a recess until seven o'clock.

The motion was a *recedo*.

The PRESIDING OFFICER, (Mr. FOSTER.) The question is on the amendment of the Senator from Indiana to the amendment of the Committee on Finance.

Mr. HENDRICKS. I like the amendment proposed by the Senator from Vermont well enough as far as it goes, but I do not think it covers this subject at all, and I ask that the amendment as I have modified it since I proposed it be now read to the Senate.

The PRESIDING OFFICER. The amendment of the Senator from Indiana to the amendment of the committee will be read again.

The Secretary read it. It was to insert after the amendment of the committee:

Until duly stamped, which may be done by any holder or party interested therein, if the party making the same refuses or is unable to do it.

Mr. HENDRICKS. If all the cases where a stamp is not put upon a paper as required by the law were cases of fraud between the parties, the idea of the Senator from Maine would be entitled to great consideration by the Senate; but I think that a case of that kind would not occur where a hundred cases of the omission of the stamp by mere neglect without any fraudulent purpose would occur. If the Senator wishes to provide against a combination between parties to leave the stamp off with the view of the discharge of the paper without a stamp, a case of fraud, I am willing that such a provision be made. If the party making the paper and the party receiving it, by collusion and for the purpose of defrauding the Government in its revenue, leave the stamp off, then I am willing that such a paper in the hands of the payee, if you please, shall be void, but not in the hands of an innocent purchaser.

My own observation for the last year or two, since the passage of the stamp law, leads me to know that there are thousands of cases in the country in which parties neglect, by mere mistake, by want of having their attention called to it, to put the necessary stamp upon the paper. I know bankers will never neglect it; I know merchants will never neglect it where their attention is called to it every day; but I do know that the farming community will forget it in one half the cases. I do not think that where I have had oc-

casion myself to draw a check upon a bank within the last year I have thought of putting a stamp upon it in one half the cases. Of course the banker would always call my attention to it, and he put the stamp upon it himself; but suppose the person receiving that paper from me without any fraudulent purpose on my part, a mere oversight, a forgetfulness, if you please, has the paper in his hands representing \$1,000 or \$10,000, and I choose afterward to say to him, "This shall be considered as a void document," shall the law come in and enable me to perpetrate such a wrong upon him? There is no necessity for it. The interest of the country does not require it, the interest of the Government does not require it, in my judgment. For some years in the State of Indiana we had a law declaring all usurious contracts void. It was tried for a while. Penalties were found insufficient to stop usury, and then the Legislature thought by declaring the contract itself void between the parties and between all holders of the instrument it would eradicate the evil; but after trying it for a few years our Legislature abandoned it, and merely visited upon the parties a penalty, and we have had no serious complaint on the subject since.

I think this is a similar case. If the stamp is not upon the paper punish the man if he has intentionally left it off, punish the man who discharges the contract if he has discharged it with the view of defrauding the revenue; but certainly do not inflict upon a party who holds the paper innocently so great a loss as the entire benefit of the contract; it may be \$10,000. He may be innocent. The person who makes the bill of exchange or promissory note may intend to evade the law; but the person receiving it may receive it in good faith, honestly, and then you punish the one by a small penalty who really intended to defraud the revenue, whose duty it was to put the stamp upon it, and you punish the other by the loss of his money, perhaps \$1,000 or \$10,000. I cannot support such legislation or a bill with such a feature in it. My amendment I think is right. We may as well test it by the yeas and nays, I suppose, and I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. CLARK. It seems to me that the amendment of the Senator from Indiana completely nullifies the amendment of the committee, and perhaps that is the design of the Senator. I think an amendment of that kind would go a great way to do away with the care that ought to be exercised in executing these instruments. For instance, I execute a note to some Senator. The Senator takes it without regard to any stamp upon it, because he knows if there is not a stamp upon it by and by when he finds he wants the stamp he can get me to put one on, and if I do not he can put it on himself. The result would be, in my judgment, that in a million of cases, almost, there would be no stamp on these papers because the man has nothing to do but put it on when the stress comes, and he can run his chance of that coming.

Mr. TRUMBULL. He will be subject to a penalty, will he not?

Mr. CLARK. It is very true there is a penalty; but the question is whether the penalty is sufficient, whether the man will not say to himself, "If I give this note nobody will know; nobody will know if I take it." If the payee refuses to pay it, then perhaps the man who took it will hunt him up and get his penalty; but there ought to be some more stringent provision than that. I submit to the Senator if he has not forgotten himself to put on stamps.

Mr. HENDRICKS. Certainly; I said so. On one half the checks I have given since the passage of the law I have forgotten to put on a stamp.

Mr. CLARK. Then the penalty did not quicken his memory.

Mr. HENDRICKS. Was there any penalty before?

Mr. CLARK. A penalty was imposed.

Mr. HENDRICKS. I would not want the man that took my check to lose the money he was entitled to because I forgot to put on a stamp.

Mr. CLARK. Quite true. Even by the forfeiture of the paper a man's memory is not quickened sufficient to put the stamp on. The Senator from Indiana is not singular. I was exactly in that same condition myself; and being in the habit



of drawing checks, I told the cashier to put a stamp on all my checks that reached the bank without one.

**Mr. HENDRICKS.** And after you had passed that to a third person in the payment of a debt you owed him, what right under this law would the cashier in the bank have to put a stamp on it? It is a complete instrument in the hands of the man you hand it to.

**Mr. CLARK.** I generally went and took or sent it by somebody to get the money for myself; but a very serious question arises, whether when you have given away a void instrument and it has gone into the hands of other parties and it then comes into the hands of some person who puts a stamp on it, you can then renew it and make it good as the Senator proposes. There is a difficulty about the matter, and I suggest that the Senator perhaps had better let it go until we get through with the whole provision in regard to the stamps, and see whether in connection with the other matter mentioned by the Senator from Vermont and this matter we shall not get some plan which may be satisfactory. I do not think the penalty is sufficient, and I feel that the penalty imposed by the avoiding of the instrument in some cases would be very hard.

**Mr. HENDRICKS.** I would suggest to the Senator from New Hampshire, as he is on the committee, whether he would not favor a proposition of this sort: that where an instrument is drawn between two parties, they fraudulently combining to defraud the Government of its revenue by the omission of a stamp, that instrument never can be made good as between themselves or any persons taking it with notice. I am willing to go that far.

**Mr. CLARK.** It seems to me the difficulty in that case would be to prove that those two persons designed to defraud. But we shall have an opportunity of thinking of this whole matter; and without adopting this amendment to the committee's amendment, we can leave the subject in such a shape that we can come to it again if we are not entirely satisfied with it when the bill gets into the Senate. I desire only to have the provision made perfect. I confess I am not entirely satisfied with it myself, and never have been.

**Mr. HENDRICKS.** At the suggestion of the Senator from New Hampshire I am willing to pass over the amendment I have suggested and also the amendment proposed by the Committee on Finance. Let the whole matter stand over until we consider it fully.

**Mr. CLARK.** I suggest to the Senator that even if the amendment of the committee be adopted it will still remain open.

**Mr. HENDRICKS.** I know that; but I want to leave the door wide open if it is to be open at all.

**Mr. FESSENDEN.** It will not do to go through and leave so many things unfixed in committee. The Senator can move to strike out this amendment in the Senate, if he desires to do so, although we adopt it now in committee.

**The PRESIDING OFFICER.** The question is on the amendment of the Senator from Indiana to the amendment of the Committee on Finance.

**Mr. HENDRICKS.** I understood that the chairman of the Committee on Finance was willing to let both amendments be passed over.

**Mr. CLARK.** The chairman did not express a willingness to let the amendment be passed without some vote upon it, for fear it might escape.

**Mr. HENDRICKS.** Then we might as well meet it now, perhaps.

The question being taken by yeas and nays, resulted—yeas 13, nays 18; as follows:

**YEAS**—Messrs. Bucknow, Carille, Collamer, Davis, Dixon, Foster, Hendricks, Powell, Ramsey, Richardson, Trumbull, Van Winkle, and Wiley—13.

**NAYS**—Messrs. Anthony, Chandler, Clark, Conness, Fessenden, Foot, Harlan, Harris, Howard, Lane of Kansas, Morgan, Morrill, Sherman, Sprague, Sumner, Ten Eyck, Wade, and Wilson—18.

**ABSENT**—Messrs. Brown, Cowan, Doolittle, Grimes, Hale, Harding, Henderson, Hicks, Howe, Johnson, Lane of Indiana, McDougall, Nesmith, Pomeroy, Riddle, Saulsbury, Wilkinson, and Wright—13.

So the amendment of **Mr. HENDRICKS** to the amendment was rejected.

The amendment of the committee was agreed to.

The next amendment was in line twelve of section one hundred and fifty-eight to strike out "one" and insert "two;" so as to make the clause read:

If any person shall pay or negotiate, or offer in payment, or

receive or take in payment, any such draft or order, the person or persons so offending shall forfeit the sum of \$200.

The amendment was agreed to.

The next amendment was in section one hundred and fifty-nine, to strike out the following clause:

No conveyance, deed, mortgage, or writing, whereby any lands, tenements, realty, or other property shall be sold, granted, assigned, or otherwise conveyed, or shall be made as security for the payment of any sum of money, shall be required to pay a stamp duty of more than the sum of \$1,000, anything to the contrary notwithstanding; and.

The amendment was agreed to.

The next amendment was in line twelve of section one hundred and fifty-nine, to strike out "or" and insert "of."

**The PRESIDING OFFICER.** This amendment will be made, if there be no objection.

The next amendment was in line twenty-four of section one hundred and fifty-nine, to strike out "is" and insert "shall be;" so as to make the clause read:

And whenever any bond or note shall be secured by a mortgage, but one stamp duty shall be required to be placed on such papers: *Provided*, That the stamp duty placed thereon shall be the highest rate required for said instruments, or either of them.

The amendment was agreed to.

**Mr. COLLAMER.** I wish to make a little amendment in the one hundred and fifty-ninth section which I think nobody will object to. It is a section containing the exceptions of papers that need not be stamped. After enumerating the various instruments which are required to be stamped, the schedule of stamp duties provides that all other contracts not herein mentioned shall have a certain stamp. I fancy that there will be very little question that an indorsement of a note is a contract. Clearly it is a contract; and in order to prevent the requirement of a stamp to every indorsement made on a note, I desire, in the nineteenth line of section one hundred and fifty-nine, after the word "nor" to insert the words "to any indorsement of a negotiable instrument or."

**Mr. HENDRICKS.** I wish to ask the Senator from Vermont whether he means to include all cases of indorsement with a view to assigning a legal instrument in writing. If so, I want to suggest to him that according to the laws of some of the States, and among them the State which I in part represent, all contracts in writing are assignable by indorsement thereon, and I suppose it is the purpose of the Senator to include them in his amendment.

**Mr. COLLAMER.** We regard nothing as negotiable in my part of the country except notes and bills.

**Mr. HENDRICKS.** In the State of Indiana, and other western States, not only bills of exchange and promissory notes, but all instruments between parties are assignable.

**Mr. SHERMAN.** The word "negotiable" is never applied to anything but a bill. In our State a sealed bill is assignable by indorsement.

**Mr. COLLAMER.** I do not want to go to the extent of covering all assignments. Assignments of a mortgage require a separate instrument, and are provided for.

**Mr. FESSENDEN.** There is no trouble about it, because it will be seen, on looking at the list of stamp duties, that assignments are left out entirely.

**The PRESIDING OFFICER.** The question is on the amendment of the Senator from Vermont.

**Mr. DAVIS.** Do I understand the chairman of the Committee on Finance to say that assignments are to be stamped?

**Mr. FESSENDEN.** No; only assignments of a mortgage, a lease, or a policy of insurance, they being the only assignments mentioned in schedule B.

The amendment was agreed to.

**The PRESIDING OFFICER.** The time having arrived at which the order of the Senate requires a recess to be taken, the Senate will now take a recess until seven o'clock this evening.

#### EVENING SESSION.

The Senate reassembled at seven o'clock p. m.

#### PETITION.

**Mr. DIXON** presented a petition of manufacturers and others, citizens of Hartford, Connecti-

cut, praying for the enactment of suitable laws for the encouragement of immigration; which was ordered to lie on the table.

#### ARMY APPROPRIATION BILL.

**Mr. FESSENDEN.** The House of Representatives has sent to us the bill (H. R. No. 198) making appropriations for the support of the Army for the year ending the 30th of June, 1865, with a request for a second committee of conference. I move that the request be granted.

The motion was agreed to.

The **PRESIDENT pro tempore** was, by unanimous consent, authorized to appoint the committee; and Messrs. **Howe**, **Morrill**, and **Buckalew**, were appointed.

#### SOLOMON WADSWORTH.

**Mr. HENDRICKS.** A few years ago an act was passed for the relief of Solomon Wadsworth, allowing him to enter about one hundred and thirty or one hundred and forty acres of land on his paying for it, but in the act there was a mistake in the description of the land. The Committee on Public Lands instructed me a few days since to report a bill correcting that mistake. I ask that that bill may be taken up and passed so as to secure his title during the present session, as it has yet to go to the House of Representatives. There is no trouble about it; it will merely take the time that will be required to read the bill. I now move to take it up.

The motion was agreed to; and the bill (S. No. 288) to amend an act for the relief of Solomon Wadsworth, was read the second time, and considered as in Committee of the Whole. It proposes to amend the act for the relief of Solomon Wadsworth, approved June 16, 1860, so as to read as follows:

That the title of Solomon Wadsworth, of Clayton county, in the State of Iowa, be, and the same is hereby, confirmed to lots Nos. 2 and 3, in section No. 15, in township thirty-five north, of range three west, containing one hundred and thirty-four and eighty-four hundredths of an acre in said State of Iowa, and that a patent issue therefor in accordance with the laws of the United States, upon the payment of \$1 25 per acre therefor into the proper land office of the United States: *Provided*, That if the Commissioner of the General Land Office shall find that the said land has already been paid for, and a certificate of entry or location has issued for the same, he shall issue the patent upon such certificate to the assignee thereof.

The bill was reported to the Senate, ordered to be engrossed for a third reading, and was read the third time, and passed.

#### ADMISSION OF COLORADO.

**Mr. WADE.** I move to take up the bill amending the enabling act of Colorado.

**Mr. FESSENDEN.** I shall not object if there will be no talk about it.

**Mr. WADE.** That I will not warrant you; but if there shall be debate I will consent to drop it at once. There is no occasion for talk about it.

The motion was agreed to; and the bill (S. No. 291) to amend an act entitled "An act to enable the people of Colorado to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," was read the second time, and considered as in Committee of the Whole.

It provides that so much of the fifth section of the act to which this is an amendment as provides by ordinance for submitting the constitution to the people of the State of Colorado for their ratification or rejection, at an election to be held on the second Tuesday of October, shall be so amended as to read, "on the second Tuesday in September, and that the election shall be held on that day."

The bill was reported to the Senate, ordered to be engrossed for a third reading, was read the third time, and passed.

#### MEXICAN AFFAIRS.

**Mr. McDougall.** I move to take from the table the resolution offered by me to discharge the Committee on Foreign Relations from the further consideration of the joint resolution of the House of Representatives, which was referred to them in regard to Mexican affairs.

**Mr. JOHNSON.** The chairman of that committee is not here.

**Mr. McDougall.** I have sought here day after day in the morning hour to have a simple resolution passed discharging the committee from the consideration of this subject. If they do not

choose to act upon it, I should like to have them discharged, so that it can come before the Senate. I have sought repeatedly during the morning hour to call up the question, and now I am here in my place and I ask to have the committee discharged, so that the joint resolution can lie on the table. I do not want it considered now; I simply want to bring it before the Senate.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) The motion is that the Senate now take up for consideration the resolution referred to by the Senator from California, which is to discharge the Committee on Foreign Relations from the further consideration of the joint resolution of the House of Representatives in regard to Mexican affairs.

Mr. CLARK. It seems to me that should not be done now. When the Senate took a recess the tax bill was under consideration, and undoubtedly Senators expected that it would be resumed immediately on the Senate's coming together again, and that may be the reason why the chairman of the Committee on Foreign Relations is not in his place. I hope no other subject will be taken up, but that the regular order of business will be proceeded with.

The PRESIDING OFFICER. The Chair is of opinion that the bill under consideration at the time the Senate took its recess is still before the Senate, and that the matter which has been taken up has been so taken up by common consent of the Senate. The Chair thinks that any discussion of a subject which is not before the Senate, unless by common consent, is out of order.

Mr. McDOUGALL. The Senate have power to take up this resolution by a majority.

The PRESIDING OFFICER. The Chair will put the question to the Senate if it is requested; but the Chair cannot entertain discussion on the subject without common consent.

Mr. McDOUGALL. I do not desire to engage in discussion upon it. I have sought to bring this question before the Senate, but have not been able to obtain the floor in the morning hour, though I have tried to do so for a long time. I simply ask for the vote of the Senate.

The PRESIDING OFFICER. The Chair will put the question on the motion of the Senator from California, which is to postpone the bill regularly before the Senate for the purpose of taking up the resolution indicated by him.

The question being put on a *viva voce* vote, the Chair decided that the motion appeared not to be agreed to.

Mr. McDOUGALL. I ask for a division. I desire to have this question on the table so that it may be called up for action, no more. I want it before the Senate; it belongs here by right; and I have waited long for it.

Mr. POWELL. I am clearly of opinion that the Senate ought not to allow a committee to keep a matter the whole session in this way and not report.

Mr. McDOUGALL. I have been trying to get the floor for a long time to move in this matter, and I insist on a division.

A division being had, the yeas were 3 and the nays 20.

The PRESIDING OFFICER. There is no quorum voting.

Mr. CLARK and others called for the yeas and nays.

Mr. McDOUGALL. I withdraw my motion.

The PRESIDING OFFICER. It is too late now, the vote of the Senate having disclosed the want of a quorum.

Mr. HENDRICKS. I suppose if another motion were interposed that difficulty would not be in the way.

The PRESIDING OFFICER. No motion can be entertained by the Chair, except to adjourn or send for the absent members, when a vote discloses the want of a quorum. The presence of a quorum may, however, be developed by the yeas and nays on the motion of the Senator from California, and on this motion they have been demanded.

The yeas and nays were ordered; and being taken, resulted—yeas 5, nays 23; as follows:

YEAS—Messrs. Davis, Hendricks, McDougall, Powell, and Sautsbury—5.

NAYS—Messrs. Clark, Conness, Dixon, Fessenden, Foot, Foster, Hale, Harlan, Harris, Howard, Howe, Johnson, Morgan, Morrill, Pomeroy, Ramsey, Sherman, Ten

Eyck, Trumbull, Van Winkle, Wade, Willey, and Wilson—23.

ABSENT—Messrs. Anthony, Brown, Buckalew, Carlile, Chandler, Collamer, Cowan, Doolittle, Grimes, Harding, Henderson, Hicks, Lane of Indiana, Lane of Kansas, Nesmith, Richardson, Riddle, Sprague, Sumner, Wilkinson, and Wright—21.

So the motion was not agreed to.

#### INTERNAL REVENUE.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 405) to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes.

The next amendment was in section one hundred and sixty-two, line three, after the word "been" to insert "heretofore."

The amendment was agreed to.

The next amendment was after the word "affixed," in line seven of section one hundred and sixty-two, to insert "with his initials."

Mr. VAN WINKLE. Those words "with his initials" are in the wrong line. They should appear after "affixed" in the eighth line. I move that they be transposed to that place.

The PRESIDING OFFICER. That transposition will be made if there be no objection; and the question is on the amendment in that form.

The amendment was agreed to.

The next amendment was in line twelve of section one hundred and sixty-two, after the word "court" to insert "register, or recorder, respectively."

The amendment was agreed to.

The next amendment was in line fifteen of section one hundred and sixty-two, after the word "prior" to strike out "or subsequent."

Mr. HENDRICKS. That question, of course, I suppose will be reserved for consideration in the Senate as the other amendments in relation to stamps.

Mr. FESSENDEN. It may be adopted now, but it will be open when we come into the Senate. I suggest to the Senator to make a memorandum of those questions that he will wish to reserve for separate votes in the Senate, so that they will not be overlooked.

The amendment was agreed to.

The next amendment was in section one hundred and sixty-four, line one, after the word "that" to strike out "no" and insert "if any."

The amendment was agreed to.

The next amendment was in line five of section one hundred and sixty-four to strike out "waxed papers" and insert "wax tapers."

The amendment was agreed to.

The next amendment was in line ten of section one hundred and sixty-four, after the word "mentioned" to strike out "and in default thereof," and to insert "he or they;" and after "dollars," in line twelve, to insert "for every omission to affix such stamp;" so as to read:

Without affixing thereto an adhesive stamp or label denoting the duty before mentioned, he or they shall incur a penalty of ten dollars for every omission to affix such stamp.

The amendment was agreed to.

The next amendment was in section one hundred and sixty-six, line seven, after the word "shall" to strike out "hide" and insert "secrete;" and after "to be," in line eight, to strike out "hidden" and insert "secreted."

The amendment was agreed to.

The next amendment was in section one hundred and sixty-seven, line three, after the word "or" to strike out "waxed" and insert "wax;" and after "tapers" to insert "cordials and other liquors manufactured wholly or in part of domestic spirits."

The amendment was agreed to.

The next amendment was after "half," in line fifteen, to insert "of that."

The amendment was agreed to.

The next amendment was to add to section one hundred and sixty-eight the following proviso:

Provided, That when any such articles shall be sold by any person other than the manufacturer thereof, in the original and unbroken package in which the bottles or other inclosures were packed by the manufacturer, the person so selling said articles shall not be subject to any penalty on account of the want of the proper stamp.

The amendment was agreed to.

The next amendment was in section one hun-

dred and sixty-nine, alter the word "and," in line seven, to insert "to the," and strike out the final "s" in "assessors;" and after "United States" to insert "or designated depository thereof."

The amendment was agreed to.

The next amendment was to add to section one hundred and sixty-nine the following clause:

And the Commissioner of Internal Revenue is further authorized, from time to time, to furnish, supply, and deliver to any manufacturer of friction or other matches, cigar lights, or wax tapers, a suitable quantity of adhesive or other stamps, such as may be prescribed for use in such cases, without prepayment therefor, on a credit not exceeding sixty days, requiring, in advance, such security as he may judge necessary to secure payment therefor within the time prescribed for such payment. And upon all bonds or other securities taken by said Commissioner under the provisions of this act, suits may be maintained in the circuit or district courts of the United States, in the several districts where the persons giving said bonds or other securities reside, in any appropriate form of action.

The amendment was agreed to.

The next amendment was in schedule B, line seven, after the word "one," to insert "appraisalment," and after "paper" to strike out "or otherwise;" so that the clause will read:

Provided, That if more than one appraisalment, agreement, or contract shall be written upon one sheet or piece of paper, five cents for each and every additional appraisalment, agreement, or contract.

The amendment was agreed to.

The next amendment was in line ten of schedule B, after "money" to insert "whatsoever," and after "banker," insert "or;" after "or" to insert "for any sum exceeding ten dollars drawn upon," and after "any" to insert "other;" so as to read:

Bank check, draft, or order for the payment of any sum of money whatsoever, drawn upon any bank, banker, or trust company, or for any sum exceeding \$10 drawn upon any other person or persons, companies, or corporations, at sight or on demand, 2 cents.

Mr. JOHNSON. There is now a limitation that bank checks for less than twenty dollars need not be stamped. How does this affect that?

Mr. FESSENDEN. That limitation is taken away as to checks on banks; but makes a limitation of ten dollars on checks drawn on other persons.

The amendment was agreed to.

Mr. FESSENDEN. I move, in lines forty-seven, forty-eight, and forty-nine of schedule B, to strike out "where the penalty or money ultimately recoverable thereupon is \$1,000;" and also to strike out lines fifty, fifty-one, and fifty-two, which are:

Where the penalty or money ultimately recoverable thereupon exceeds \$1,000, for every additional \$1,000, or fractional part thereof in excess of \$1,000, 50 cents.

The result of my amendment is to leave the provision as to bonds to stand thus:

Bond.—For indemnifying any person for the payment of any sum of money, or for the due execution or performance of the duties of any office, or to account for money received by virtue thereof, 50 cents.

Bond of any description, other than such as may be required in legal proceedings, or used in connection with mortgage deeds, and not otherwise charged in this schedule, 25 cents.

There are collectors and other officers who give bonds for the honest discharge of their duties who might have to pay a stamp tax of \$50 or \$100 if the provision be left as it has come to us.

The amendment was agreed to.

The next amendment was in lines sixty-one, sixty-three, and sixty-four of schedule B, respectively, to strike out "hundred" and insert "thousand;" so as to make the clause read:

Certificate of profits, or any certificate or memorandum showing an interest in the property or accumulations of any incorporated company, if for a sum not less than \$10 and not exceeding \$50, 10 cents.

Exceeding \$50 and not exceeding \$1,000, 25 cents.

Exceeding \$1,000, for every additional \$1,000, or fractional part thereof, 25 cents.

The amendment was agreed to.

The next amendment was after line one hundred and five of schedule B to insert:

Gaugers' returns, if for a quantity not exceeding five hundred gallons gross, 10 cents.

Exceeding five hundred gallons gross, 25 cents.

The amendment was agreed to.

The next amendment was after line one hundred and thirty-eight of schedule B to insert:

Measurers' returns, if for a quantity not exceeding one thousand bushels, 10 cents.

Exceeding one thousand bushels, 25 cents.

The amendment was agreed to.

Mr. POMEROY. I want to inquire of the chairman of the committee whether, where a mortgage is given for the security of a note; the note and the mortgage both are to be stamped? In line one hundred and forty-two I see the provision is that the mortgage shall bear a stamp according to its size and value; but must the note also by which the mortgage is secured be stamped?

Mr. FESSENDEN. There is a previous provision that only one of them need be stamped.

Mr. POMEROY. I had not seen that. I was looking for it.

Mr. JOHNSON. I call the attention of the chairman of the committee to what appears in line one hundred and sixty-one, on the page we are now reading. It proposes a stamp upon a passage ticket for a passage by any vessel "from a port in the United States to a foreign port," and the words are comprehensive enough to embrace foreign vessels. I doubt very much whether there is authority to execute it on foreign vessels. We can pass it by now, though, and think of it afterwards.

Mr. FESSENDEN. I do not know that we can make any different provision in that respect from that which we have made.

The next amendment was in schedule B, after line one hundred and eighty-five, to strike out the following clause:

Receipts for the payment of any sum of money, or for the payment of any debt due, not being for the satisfaction of any mortgage or judgment or decree of any court, and a receipt for the delivery of any property, 2 cents.

The amendment was agreed to.

Mr. SHERMAN. In line two hundred of that schedule the word "whisky" ought to be inserted before "beef."

The amendment was agreed to.

Mr. FESSENDEN. Is that qualified by the words, "or other salted, cured, or preserved meats?" The clause reads:

Warehouse receipt for not exceeding fifty barrels of beef, pork, or bacon, or other salted, cured, dried, or preserved meats held in storage in any public or private warehouse or yard, 10 cents.

Mr. SHERMAN. It is not affected.

Mr. JOHNSON. Strike out the word "other."

Mr. SHERMAN. "Other" ought to be stricken out, but the words "or other" would relate only to the meats and not to the whisky. I move to strike out the word "other." It does no harm, but it might as well be left out.

Mr. FESSENDEN. I suppose "or other" might as well be left in.

Mr. JOHNSON. Insert "or" after "whisky," and then it will be plain enough. I move to insert the word "or" after "whisky."

Mr. SHERMAN. I withdraw my amendment.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Maryland.

The amendment was agreed to.

Mr. HALE. I want to ask the Senator from Ohio what he selected whisky for and left out all other liquors? Are they provided for in some other place?

Mr. SHERMAN. Whisky is stored in very large quantities by the barrel, and it is an article that will yield some revenue. You might put in some other things, but no other article that I know of now would yield much revenue. Beer and ale are very seldom stored except at the place of manufacture. Whisky, though, is an article of commerce, and is stored in large quantities in the cities.

The next amendment was in schedule B, after line two hundred and fifteen, to insert the following:

Weights' returns, if for a weight not exceeding five thousand pounds, 10 cents.  
Exceeding five thousand pounds, 25 cents.

The amendment was agreed to.

Mr. JOHNSON. I move to insert after the word "either," in the two hundred and twenty-first line of the schedule, the word "of," so that it will read:

Writ, or other original process by which any suit is commenced in any court of record, either of law or equity, 50 cents.

The PRESIDING OFFICER. That amendment will be made, if there be no objection, to make the style more correct.

The next amendment was in schedule B, line two hundred and thirty-three, after the word

"provided," to insert "or by any police or municipal court having no larger jurisdiction as to the amount of damages it may render than a justice of the peace in the same State;" so that the proviso will read:

Provided, That no writ, summons, or other process issued by and returnable to a justice of the peace, except as hereinbefore provided, or by any police or municipal court having no larger jurisdiction as to the amount of damages it may render than a justice of the peace in the same State, or issued in any original or other suits commenced by the United States or any State, shall be subject to the payment of stamp duties.

The amendment was agreed to.

The next amendment was in schedule C, line four, to strike out the word "or" between "troches" and "lozenges."

The amendment was agreed to.

The next amendment was in schedule C, line sixty-four, after the word "lights," to insert the word "and," and after the word "tapers" to strike out the words "or matches made without the use of sulphur;" so that it will read:

For all cigar lights and wax tapers, double the rates herein imposed upon friction or lucifer matches.

The next amendment was in schedule C, line sixty-eight, after the word "lights" to insert "or;" and after the word "tapers" to strike out the words "or matches made without the use of sulphur;" and in line seventy to strike out "July" and insert "August;" so that the proviso will read:

Provided, That so far as this act relates to friction or lucifer matches made in part of wood, or to cigar lights or wax tapers, the same shall not take effect until the 1st day of August, 1864.

Mr. HOWARD. I move to amend that amendment by inserting "September" instead of "August," and by adding after "1864," in line seventy, these words, "or apply to manufactured stock on hand when this act shall go into operation."

Mr. FESSENDEN. Let me suggest to the Senator that the committee still have that matter under consideration; and if we adopt the amendment now which they propose, it can be struck out when we get into the Senate if it be necessary to do so. There is a great deal of difficulty about it so as to provide against frauds, and we would rather have the amendment adopted as it is, and then, if we cannot come to some arrangement, the Senator can move his proposition in the Senate.

Mr. HOWARD. Very well. I withdraw my amendment for the present.

Mr. FESSENDEN. We have not yet concluded our examination on this matter. I trust the Senator will make a memorandum of it, so that it shall not be forgotten when the bill comes into the Senate.

The PRESIDING OFFICER. The question is on the amendment of the committee.

The amendment was agreed to.

The next amendment was in line seventy-one of schedule C, after the word "pictures" to insert "except copies of engravings and works of art;" so as to make the clause read:

Photographs, ambrotypes, daguerreotypes, or any sun pictures, except copies of engravings and works of art, upon each and every picture of which the retail price shall not exceed 25 cents, 2 cents.

The amendment was agreed to.

Mr. CLARK. I move to amend by striking out in that section, on page 226, from line seventy-one down to the eightieth line—to strike out all the provisions in regard to stamps on photographs, ambrotypes, and daguerreotypes.

Mr. POMEROY. I do not understand why the provision should be struck out.

Mr. CLARK. I will state to the Senator and to the Senate the reason why the committee desire to strike it out. There are some of these articles so very small, not bigger than half your finger nail, on which it is impossible to affix a stamp; and the committee propose to amend on the 135th page, section ninety-two, where there is a provision that photographs or any other sun picture, being copies of engravings or works of art, or used for the illustration of books, shall pay a duty of five per cent. *ad valorem*. It is proposed to assess the tax *ad valorem* on the whole of them. I shall move that amendment hereafter if this be adopted.

The PRESIDING OFFICER. The question now is on the amendment of the Senator from

New Hampshire to strike out from line seventy-one to line seventy-nine, in the following words:

Photographs, ambrotypes, daguerreotypes, or any sun pictures, except copies of engravings and works of art, upon each and every picture of which the retail price shall not exceed 25 cents, 2 cents.

Exceeding the retail price of 25 cents, and not exceeding the sum of 50 cents, 3 cents.

Exceeding the retail price of 50 cents, and not exceeding \$1, 5 cents.

Exceeding the retail price of \$1, for every additional dollar or fractional part thereof, 5 cents.

The amendment was agreed to.

The next amendment was in schedule C, lines eighty-one, eighty-three, eighty-five, eighty-seven, and eighty-nine respectively, to strike out the word "retail" before "price;" in line eighty-one to strike out "five" and insert "two" before "cents;" in line eighty-four to strike out "ten" and insert "four" before "cents;" in line eighty-six to strike out "fifteen" and insert "ten" before "cents;" in line eighty-eight to strike out "thirty" and insert "fifteen" before "cents;" and in line ninety to strike out "twenty" and insert "five" before "cents;" so as to make the clause read:

Playing-Cards.—For and upon every pack of whatever number, when the price per pack does not exceed 18 cents, 2 cents.

Exceeding the price of 18 cents, and not exceeding 25 cents per pack, 4 cents.

Exceeding the price of 25, and not exceeding 50 cents per pack, 10 cents.

Exceeding the price of 50 cents, and not exceeding \$1 per pack, 15 cents.

Exceeding the price of \$1, for every additional 50 cents, or fractional part thereof, in excess of \$1, 5 cents.

Mr. HENDRICKS. I am not in favor of these amendments unless the chairman or some gentleman of the committee can give some reason why the tax on playing-cards proposed by the House of Representatives should be reduced by the Senate. I think they are a very proper subject of taxation.

Mr. FESSENDEN. We reduce it with a view to get more revenue out of this subject of taxation if we can. The largest part of the revenue probably is derived from a very cheap description of card. We examined the subject two years ago. At that time the other House proposed a very large tax in the same way. If you put it on with a view to lessening the use of cards as much as possible, it might perhaps have the effect; but we became satisfied on examination that if the idea is to get a revenue out of this source of taxation, we must put upon it something like a proportionate duty to that imposed upon other articles. A great many of the cards, those that are used most, are a cheap kind which are used in eating-houses and on board steamboats and perhaps on railroad cars. They are used by persons who not paying a large price for them do not keep them, but perhaps throw them out of the window when they are done with them, and they are not used for playing again. The largest number of cards is probably used in that way. If you put a high duty upon them, the result will be that when they are purchased they will be played with again and again, being used economically. We became satisfied that the result of imposing so high a duty would be that we should in reality lessen the revenue instead of increasing it. If we want to get a good respectable revenue out of cards, we must put on a moderate duty and must not impose a tax with a view to put an end to the use of the article. It is hardly worth while to go on the idea that the use of playing-cards is always vicious when it is a matter of such common amusement with so many sorts of people.

I may state that a friend of mine belonging to a club of gentlemen told me in reference to the last duty imposed on playing-cards, that at that club, until the price was raised so much in consequence of the duty being put upon cards, they never thought of using a pack of cards a second time; but when the price increased so much in consequence of the duty, it became somewhat common to lay aside a pack that was used and play with it a second time. They found it necessary to economize. The same result will follow in a very much larger degree if we increase the duty so much as is now proposed. The reasoning upon which the committee proceeded was to get as large a revenue out of the article as we possibly can.

Mr. JOHNSON. To have as many packs made as possible. [Laughter.]



Mr. FESSENDEN. We have not been guided by the question whether the thing was to be used well or ill, but simply by the consideration how we could get the most money. That was our object. I think the present revenue from this source is fifty or sixty thousand dollars.

Mr. HENDRICKS. The other day the argument of the Senator from Maine was so powerful as to stagger my judgment upon the question whether a high tax upon whisky would reduce its use, and I think the passion for card-playing, perhaps, is almost as strong as the passion for liquor; and playing-cards can very well bear a high tax. If the committee has investigated the subject thoroughly, I do not insist on the provision as it stands in the bill, but I should like to have the vote of the Senate upon it.

Mr. FESSENDEN. We came to the conclusion which I have stated; but if a committee of conference, which will undoubtedly be raised, shall be satisfied to the contrary, I shall be willing to put this tax up to the highest notch.

The amendment was agreed to.

The next amendment was after "1862," in line five of section one hundred and seventy-three, to insert "except the one hundred and nineteenth section thereof."

Mr. SHERMAN. The Senate ought to understand the importance of this exception. I am not prepared now to give any definite opinion as to the propriety of continuing the direct tax on land, but the exception does reserve and continue in force the direct tax after 1865. The one hundred and nineteenth section of the act of 1862 referred to is as follows:

Sec. 119. *And be it further enacted*, That so much of an act entitled "An act to provide increased revenue from imports to pay interest on the public debt, and for other purposes," approved August 5, 1861, as imposes a direct tax of \$20,000,000 on the United States, shall be held to authorize the levy and collection of one tax to that amount; and no other tax shall be levied under and by virtue thereof until the 1st day of April, 1865, when the same shall be in full force and effect.

If this exception is put in, as a matter of course it will continue the direct tax after next year. I so understand the effect of it.

Mr. FESSENDEN. If this exception is not put in it will be continued.

Mr. SHERMAN. I do not understand it so. The act from which I have read is repealed by the section now under consideration.

Mr. FESSENDEN. And that would leave the original act laying a direct tax in full force.

Mr. SHERMAN. I do not know about that. Here you except from the operation of the repeal section one hundred and nineteen, which itself continues the direct tax. I will read that section again, so that Senators can see that if it is kept in force it will continue the direct tax:

Sec. 119. *And be it further enacted*, That so much of an act entitled "An act to provide increased revenue from imports to pay interest on the public debt, and for other purposes," approved August 5, 1861, as imposes a direct tax of \$20,000,000 on the United States, shall be held to authorize the levy and collection of one tax to that amount; and no other tax shall be levied under and by virtue thereof until the 1st day of April, 1865, when the same shall be in full force and effect.

If this one hundred and nineteenth section of the act of 1862 is excepted from the repeal, the effect will be to continue the direct tax on the 1st of April, 1865, and so from that time. I do not know whether that is the purpose of the committee, but that seems to me to be the legal effect of making this exception.

Mr. FESSENDEN. The intention was to leave that section in force. If we repeal the one hundred and nineteenth section, does not the law laying a direct tax necessarily revive and go into operation at once?

Mr. SHERMAN. Perhaps so; but if you keep it alive it will continue the direct tax next year, and so on after that.

Mr. FESSENDEN. That is what we design, to keep that section alive. That section suspends the direct tax for the present, but after next year it goes into effect.

Mr. SHERMAN. My impression is that if we wish to lay the direct tax we had better insert it directly.

Mr. FESSENDEN. The idea is not to meddle with that. By the one hundred and nineteenth section of the act of 1862 we have suspended the direct tax until the year 1865. That is the effect of that section. Now if you repeal that section,

does not the law imposing the direct tax go into effect immediately again, so that it is laid this year and next year? If you do not repeal that section, it stands just as it did before, suspended until the year 1865, and then it is to go into operation. We do not propose this year to act upon it in any way, but to leave the matter as it stands, suspended until next year.

Mr. SHERMAN. I wish to call the attention of the Senate precisely to that point. The Senate will also perceive that the amendment suggested in lines thirteen and fourteen of section one hundred and seventy-three ought to be inserted in lines five and six, because the second act repealed, the act of December 25, 1862, is a short act and does not contain any section one hundred and fifteen. That is intended to be repealed by the bill as it comes to us. No doubt there has been a mistake in the printing of this section. The words "except the one hundred and fifteenth section thereof," which are proposed to be inserted as an amendment in lines thirteen and fourteen of this section, should be inserted in lines five and six. I think, however, that the one hundred and fifteenth section of the act of 1862 should be repealed; I will read it:

"Sec. 115. *And be it further enacted*, That the pay of the assessors, assistant assessors, collectors, and deputy collectors shall be paid out of the accruing internal duties or taxes before the same is paid into the Treasury, according to such regulations as the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, shall prescribe; and for the purpose of paying the Commissioner of Internal Revenue and clerks, procuring dies, stamps, adhesive stamps, paper, printing forms and regulations, advertising, and any other expenses of carrying this act into effect, the sum of \$500,000 be, and hereby is, appropriated, or so much thereof as may be necessary."

I think we agreed in committee that that section should be repealed, and that another section should take its place.

Mr. FESSENDEN. The Committee on Finance propose to insert as the last section of this bill this provision:

Sec. — *And be it further enacted*, That the pay of the assessors, assistant assessors, collectors, and deputy collectors shall be paid out of the accruing internal duties or taxes before the same is paid into the Treasury, according to such regulations as the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, shall prescribe; and for the purpose of paying the Commissioner of Internal Revenue and clerks, procuring dies, stamps, adhesive stamps, paper, printing forms and regulations, advertising, and any other expenses of carrying this act into effect, the sum of \$400,000 be, and hereby is, appropriated, or so much thereof as may be necessary.

The new act which we propose begins its operations next July, at the end of this fiscal year. Up to the end of this year, the matters must proceed as they are now. There is about one hundred thousand dollars left of the appropriation made by the one hundred and fifteenth section of the act of 1862, and we thought it best to leave it still in order to finish out this year, and therefore not to include that section in the repealing clause.

The new provision only commences after the close of this fiscal year. I am told by the Commissioner that there is about one hundred thousand dollars left of that \$500,000 appropriation, and some portion of it at least, how much we do not know, will be necessary in order to meet the expenses under the existing law. I do not know but that the Senator from Ohio is right as to the place where the exception should be put in. On consideration I think the Senator is right in that respect, and therefore I move to put in the words "one hundred and fifteenth and" before "one hundred and nineteenth" in the fifth line, so as to except from the repeal the one hundred and fifteenth and one hundred and nineteenth sections of the act of 1862.

The amendment was agreed to.

Mr. JOHNSON. Then in the thirteenth and fourteenth lines the words "except the one hundred and fifteenth section thereof" should be stricken out.

The PRESIDING OFFICER. The amendment of the committee is to insert those words, and the Chair will put that question.

The amendment was rejected.

The next amendment was in section one hundred and seventy-three, line twenty-four, to strike out "second" where it occurs the second time and insert "section."

The PRESIDING OFFICER. That clerical mistake will be corrected.

The next amendment was in line thirty of sec-

tion one hundred and seventy-three, after the word "repealed" to insert:

And that an act entitled "An act to increase the internal revenue, and for other purposes," approved March 7, 1864, and all acts and parts of acts inconsistent herewith, be also repealed.

The amendment was agreed to.

The next amendment was in line thirty-five of section one hundred and seventy-three, to strike out after "taxes" the word "already," and to insert "properly;" after "assessed" to insert "under the provisions of former acts," and in line thirty-seven, after the word "forfeitures" to strike out "already accrued" and to insert "incurred under and by virtue thereof;" so as to read:

*Provided*, That all the provisions of said acts shall be in force for levying and collecting all taxes properly assessed under the provisions of former acts, and of maintaining and continuing liens, fines, penalties, and forfeitures incurred under and by virtue thereof, &c.

Mr. SHERMAN. In line thirty-six, I think the amendment there ought to be amended by inserting the words "or accruing," so as to read:

That all the provisions of said acts shall be in force for levying and collecting all taxes properly assessed or accruing under the provisions, &c.

That would cover the case of the income tax not yet assessed, but accruing, where the person is absent; and so of licenses. I move this amendment to the amendment.

Mr. FESSENDEN. I am obliged to the Senator from Ohio for his suggestion. What we want to cover is to keep those provisions in force to include all the taxes already assessed or that must be assessed under them, that do not come under this act. If that is broad enough to cover it, very well.

Mr. SHERMAN. I am a little afraid yet that the language is not broad enough, but we can keep it under advisement.

Mr. CLARK. I have provisions already drawn to come in at some other place to cover what the Senator from Maine suggests.

Mr. SHERMAN. It is a very important matter; we may repeal the old laws before we get this into operation.

Mr. FESSENDEN. I shall be glad to hear any suggestion that occurs to any Senator about it.

The amendment to the amendment was agreed to; and the amendment, as amended, was adopted.

The next amendment was in line forty of section one hundred and seventy-three, after the word "commenced" to strike out "in enforcing" and to insert "or that may be commenced to enforce."

The amendment was agreed to.

The next amendment was in line forty-eight after "appointment" to strike out "and;" after "bonds" to strike out "or" and insert "and;" and after "office" in line forty-nine to strike out "and provided, also," and insert "section one hundred and seventy-four, and be it further enacted," so as to convert the proviso into a new section.

The amendment was agreed to.

Mr. FESSENDEN. I wish to call the attention of gentlemen to section one hundred and seventy-three, as I should really like to have their opinion upon it. We were under the impression that there might be considerable danger in it; inasmuch as we repeal the former act under which these officers were appointed, and under which their bonds were given with sureties, and pass a new act containing other provisions, we doubted whether unless they executed new bonds their sureties will be held. Here is a provision that the office shall not be vacated, but the officers shall continue to hold the office without reappointment. It would be a matter of very great inconvenience unquestionably to require reappointments, and if that is the law a time must elapse when they will not be under bond, between the passage of the act and the giving of new bonds. If that is unnecessary it would be very much better to strike out all after the word "reappointment" in line forty-eight; but if there is any doubt about it, in order to meet the difficulty, or rather to lessen the inconvenience in some measure, I have an amendment to be added at the end of the section. The question is, whether (these officers having been appointed, and having given bonds under the former law, we now repealing that law, but passing another on the same subject-matter, and providing that they shall continue to hold their offices,) their sureties or they themselves will be held under the bonds formerly given. I

should really like to have the opinion of gentlemen learned in the law on that subject. We had not time to examine the authorities on the subject; but the Commissioner stated that there had been some decisions to the effect that, if new laws were passed on the same subject, imposing additional obligations, the bonds would still hold; but here is a case where the old law is entirely repealed and a new one substituted, and we continue the same officers. We should be very glad to get rid of the difficulty.

Mr. JOHNSON. The provision for the execution of new bonds is not a provision suggested by the Senate committee, but, as I understand it, is in the original bill.

Mr. FESSENDEN. It is in the bill, and we merely propose to alter the phraseology.

Mr. JOHNSON. I am not prepared to speak positively, but according to my recollection the courts have decided that the repeal of a law creating an office under which the officer is required to give bond, extinguishes the liability; but I should not understand this as a case of repeal in that sense. The repeal that puts an end to the obligation of the office is a repeal which puts the officer out of office.

Mr. COLLAMER. The fear is here, that inasmuch as the bill undertakes to say that the old act is repealed, the result may follow which is apprehended. If the office is continued, the bond is continued of course; but the question is, can the office be continued without reappointment?

Mr. JOHNSON. I understand that; but I was about to assume that that could be done; we will examine that in a moment. Assuming that that could be done, certainly the obligation of the officer and of his bond would remain; but if that could not be done, and the law is to be considered as a law repealing altogether the original law under which the appointment was made, the bond would fall with it.

The honorable chairman mentioned the question to me a few moments ago, and upon thinking of it I thought all difficulty might be avoided perhaps by making the repeal not an absolute one but a conditional one; and with that view I thought of proposing to insert after the word "repealed," in the thirtieth line of the section, the words "and shall have no operation except as is provided for in the following part of this section." That, I think, would keep the responsibility of the bond; otherwise it may be necessary perhaps to require new bonds to be executed.

Mr. COLLAMER. As the chairman of the committee has asked for the opinion of Senators on this point, I will say that I think the question resolves itself into this: the responsibility of the bond can be preserved if the office can be. If the office is superseded by the repeal of the law, your mere saying that it is continued does not continue it. If the law creating the office is repealed, though you may have the same officer, he must be appointed again. Everything depends upon the manner of the repeal. If you absolutely repeal the present law, you cannot continue under this law the officers appointed under that without a reappointment, and then the bond would be discharged; but if you only repeal it qualifiedly, if you express the repeal in such a way that that law shall be and remain in force except in so far as it is altered, amended, or changed by the present law, then the officer will continue and the bond will continue.

Mr. FESSENDEN. I suppose the object can also be accomplished by a suggestion which has been made to me by my friend from New Hampshire, [Mr. CLARK.] The proviso now reads:

That all the provisions of said acts shall be in force for levying and collecting all taxes properly assessed or accruing under the provision of former acts, and of maintaining and continuing liens, fines, penalties, and forfeitures incurred under and by virtue thereof, and for carrying out and completing all proceedings which have been already commenced or that may be commenced to enforce such fines, penalties, and forfeitures.

My friend from New Hampshire suggests that we insert there, "and also for continuing the officers heretofore appointed," and so on.

Several SENATORS. Let us settle that in the morning.

Mr. FESSENDEN. I think we had better pass over the remaining portion of the section and fix it more at our leisure. It will need a little more careful looking at than we can give it here hurriedly in the Senate.

The PRESIDING OFFICER. This section will be passed over for the present. It will be considered that amendments to the section are still open.

The next amendment was to strike out section one hundred and seventy-four of the bill, as follows:

Sec. 174. *And be it further enacted*, That on all sales of ice there shall be paid five per cent. *ad valorem*.

Mr. JOHNSON. Why not tax ice?

Mr. FESSENDEN. We have the subject yet under consideration. The difficulty is how to tax it. If you tax all sales of ice you will do what you do not do in any other case—tax sales. If you undertake to tax every pound sold by A to B and B to C by the pound, it cannot be followed in that way. It must be taxed in the ice-houses or places of deposit by the ton in order to get at it.

Mr. SHERMAN. And it should only be taxed when removed for consumption or sale.

Mr. FESSENDEN. When removed for consumption and sale we must provide for keeping an account and bringing it under a former section. The subject is yet under consideration. As it stands in this section it cannot be executed without doing violence to the whole principle of the bill.

The amendment was agreed to.

The next amendment was to strike out section one hundred and seventy-six, as follows:

Sec. 176. *And be it further enacted*, That the tax levied in section ninety-three shall not be held to apply to vessels propelled exclusively by sails.

The amendment was agreed to.

The next amendment was to strike out section one hundred and seventy-eight, as follows:

Sec. 178. *And be it further enacted*, That all spirits of domestic production, and held for sale on the 1st day of May, 1864, and upon which no tax shall have been paid, shall be subject to a duty of fifty cents per gallon; and all such spirits on hand for sale upon which a prior duty shall have been paid shall be subject to a duty of thirty cents per gallon: *Provided*, That bona fide retail dealers in spirits, duly licensed, shall not be taxed on their stock on hand whose quantity on hand does not exceed two barrels.

Mr. FESSENDEN. Let that section be passed over. We cannot possibly consider it to-night.

Mr. HENDRICKS. Let the section be considered as stricken out and bring it up in the Senate.

Mr. SHERMAN. I think we had better take that up in the morning.

Mr. CLARK. Pass it now, and when we have read the bill through return to it. That will leave it as unfinished business for the morning.

Mr. HENDRICKS. It is not worth while to take two votes on it.

Mr. CLARK. We do not take any vote on it now.

Mr. FESSENDEN. I suppose that one vote after discussion will settle the matter one way or the other. It makes no difference to me.

Mr. SHERMAN. Pass it over.

The PRESIDING OFFICER. By common consent section one hundred and seventy-eight will be passed over and the question not taken on striking it out.

The next amendment was to insert as a new section the following:

Sec. — *And be it further enacted*, That every collector to whom any duty upon cotton shall be paid shall mark the bales or other packages upon which the duty shall have been paid in such manner as may clearly indicate the payment thereof, and shall give to the owner, or other person having charge of such cotton, a permit for the removal of the same, stating therein the amount and payment of the duty, the time and place of payment, the weight and marks upon the bales and packages, so that the same may be fully identified. Whenever any cotton, the product of the United States, shall arrive at any port of the United States from any State in insurrection against the Government, the assessor or assistant assessor shall immediately assess the taxes due thereon, and shall, without delay, return the same to the collector or deputy collector of said district, and the said collector or deputy collector shall demand of the owner, or other person having charge of such cotton, the tax imposed by this act, and assessed thereon, unless evidence of previous payment of such tax shall be produced, under such regulations as the Commissioner of Internal Revenue, by the direction of the Secretary of the Treasury, shall from time to time prescribe; and in case the tax so assessed shall not be paid to such collector within ten days after demand, the collector or deputy collector, as aforesaid, shall institute proceedings for the recovery of the tax, as hereinbefore provided, which said tax shall be a lien upon said cotton from the time when said assessment shall be made: *Provided*, That all cotton sold by or on account of the Government of the United States shall be free and exempt from duty at the time of and after the sale thereof, and the same shall be marked free, and

the purchaser furnished with such a bill of sale as shall clearly and accurately describe the same, which shall be deemed and taken to be a permit authorizing the sale or removal thereof.

The amendment was agreed to.

Mr. SPRAGUE. I ask the indulgence of the Senate to offer several amendments to the bill, which I desire may be printed.

The PRESIDING OFFICER. The amendments will be received and ordered to be printed, if there be no objection.

The next amendment was to add the following as an additional section:

Sec. — *And be it further enacted*, That consuls of foreign countries in the United States, who are not citizens thereof, shall be, and hereby are, exempt from any income tax imposed by the act referred to in the first section of this act, which may be derived from their official emoluments, or from property in such countries: *Provided*, That the Governments which such consuls may represent shall extend similar exemption to consuls of the United States.

Mr. FESSENDEN. There is an error in the drawing of that section. The words in the fourth line, "imposed by the act referred to in the first section of this act," should read "imposed by this act." I move to strike out the words "the act referred to in the first section of."

The PRESIDING OFFICER. That amendment will be made.

The amendment, as modified, was agreed to.

The next amendment was to insert the following as a new section:

Sec. — *And be it further enacted*, That, where it is not otherwise provided for in this act, it shall be the duty of the collectors, in their respective districts, and they are hereby authorized, to prosecute for the recovery of any sum or sums that may be forfeited by virtue of this act; and all fines, penalties, and forfeitures which may be imposed or incurred by virtue of this act shall and may be sued for and recovered, where not otherwise herein provided, in the name of the United States, or of the collector within whose district any such fine, forfeiture, or penalty shall have been incurred in any proper form of action, or by any appropriate form of proceeding, before any circuit or district court of the United States for the district within which said fine, penalty, or forfeiture may have been incurred, or before any court of competent jurisdiction; and, where not otherwise herein provided for, one moiety shall be to the use of the person who, if a collector or deputy collector, shall first inform of the cause, matter, or thing whereby any such fine, penalty, or forfeiture shall have been incurred, and the other moiety to the use of the United States. And the several circuit and district courts of the United States shall have jurisdiction of all offenses against any of the provisions of this act committed within their several districts.

The amendment was agreed to.

The next amendment was to add the following as a new section:

Sec. — *And be it further enacted*, That if any person liable and required to pay a tax upon any article, goods, wares, merchandise, or manufactures, as herein provided, shall sell, or cause or allow the same to be sold, before the tax to which such article, goods, wares, merchandise, or manufacture is legally liable is paid, with intent to avoid such tax, or in fraud of the revenue herein provided, any debt contracted in the sale of such article, goods, wares, merchandise, or manufactures, or any security given therefor, unless the same shall have been bona fide transferred to the hands of an innocent holder, shall be entirely void, and the collection thereof shall not be enforced in any court. And if any such article, goods, wares, merchandise, or manufacture has been paid for in whole or in part, the sum so paid shall be deemed forfeited; and any person who will sue for the same in an action of debt shall recover of the seller the amount so paid, one half to his own use and the other half to the use of the United States.

The amendment was agreed to.

The PRESIDING OFFICER. The next amendment will be read.

Mr. FESSENDEN. That is to be the final section of the bill. I think that may as well be omitted, as that matter is yet under consideration by the committee. Do not read the final section yet.

The PRESIDING OFFICER. The last section will be passed over, then, without being acted upon.

Mr. FESSENDEN. We have passed over several sections which will occasion some debate, and especially the one in regard to liquors on hand and the one with reference to banks. We can take one of those up in the morning.

Mr. CLARK. Take up one now, so as to have it the pending question.

Mr. FESSENDEN. The whole bill will be a special order at any rate. We have not got through with it. We can make our choice in the morning.

Mr. POWELL. If it is in order, I have an amendment that I desire to offer as an additional section to the bill.

Mr. FESSENDEN. We have not finished the committee's amendments yet.

Mr. CLARK. Perhaps the Senator from Kentucky wants his amendment printed.

Mr. JOHNSON. The Senator from Kentucky can give notice of his amendment and have it printed.

Mr. POWELL. My amendment is to repeal the law giving bounties to vessels engaged in the cod-fisheries.

The PRESIDING OFFICER. The amendment of the Senator from Kentucky can be received and laid upon the table, to be acted upon when in order.

Mr. POWELL. I will keep it until the proper time. I notify the Senate that I will offer it.

Mr. LANE, of Kansas. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

FRIDAY, May 27, 1864.

The House met at twelve o'clock, m. Prayer by Rev. JAMES I. FERRIE.

The Journal of yesterday was read and approved.

### DISTRICT OF COLUMBIA BUSINESS.

Mr. STEELE, of New York. I am directed by the Committee for the District of Columbia to ask the House to set apart a day for the consideration of business relating to the District of Columbia. I would suggest next week Thursday, after the morning hour.

Mr. FENTON. Say Friday.

Mr. STEELE, of New York. I have no objection to that.

No objection being made, Friday next, after the morning hour, was set aside for the consideration of business relating to the District of Columbia.

### MARINE HOSPITAL AT CHICAGO.

Mr. ARNOLD, by unanimous consent, introduced a bill to authorize the Secretary of the Treasury to sell the marine hospital at Chicago, and to select a new site therefor; which was read a first and second time, and referred to the Committee on Commerce.

### TARIFF BILL.

Mr. MORRILL, by unanimous consent, reported from the Committee of Ways and Means a bill to increase the duties on imports, and for other purposes; which was read a first and second time by its title, ordered to be printed, and its consideration postponed until next Tuesday after the morning hour.

### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, informed the House that the Senate had passed an act (S. No. 285) to regulate the veto power in the Territory of Washington; in which the concurrence of the House was requested.

### EXECUTION OF TREATIES.

Mr. WILSON, by unanimous consent, introduced a bill to provide for the execution of treaties between the United States and foreign nations respecting consular jurisdiction over the crews of vessels of such foreign nations in the waters and ports of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

Mr. WILSON subsequently entered a motion to reconsider the vote by which the bill was referred to the Committee on the Judiciary.

### ADJOURNMENT OVER.

Mr. KALBFLEISCH. I move that when the House adjourns it adjourn to meet on Monday next.

Mr. SPALDING. Upon that I demand the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 61, nays 52; as follows:

YEAS—Messrs. James C. Allen, Ancona, Arnold, Beaman, Bliss, Brooks, Broomall, James S. Brown, William G. Brown, Chandler, Cole, Cravens, Creswell, Henry W. Davis, Denning, Dixon, Donnelly, Edgerly, Eldridge, English, Fenton, Hanson, Grider, Griswold, Hale, Harding, Harrington, Holman, Hotchkiss, Hutchins, Ingersoll, Kalbfleisch, Le Bond, Loan, Longyear, Mallory, Middleton, Moorhead, James R. Morris, Morrison, Nelson,

Charles O'Neill, John O'Neill, Pendleton, Pruyn, Robinson, James S. Rollins, Shannon, Smith, John B. Steele, William G. Steele, Stiles, Tracy, Van Valkenburgh, Wadsworth, Elihu B. Washburne, Whaley, Wheeler, Williams, and Woodbridge—61.

NAYS—Messrs. Alley, Allison, Ames, Baily, Augustus C. Baldwin, Brandegee, Ambrose W. Clark, Freeman Clarke, Dawes, Driggs, Eckley, Eliot, Finck, Frank, Gooch, Herrick, Asahel W. Hubbard, Julian, Kelley, Francis W. Kellogg, Kernan, Lazear, Long, Marcy, Marvin, McDowell, McIndoe, Samuel F. Miller, Morrill, Amos Myers, Orth, Patterson, Perham, Pomeroy, Price, William H. Randall, Edward H. Rollins, Scofield, Sloan, Spalding, Stevens, Sweat, Thayer, Thomas, Upson, William B. Washburn, Chilton A. White, Joseph W. White, Wilson, Window, Fernando Wood, and Yeaman—52.

So the motion was agreed to.

Mr. ANCONA moved to reconsider the vote by which the motion was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

### FRANKED MATTER.

Mr. ALLEY. I ask unanimous consent to take from the Speaker's table the Senate bill in relation to franked matter, for the purpose of having it considered now. It will require but a moment's time.

No objection being made, the bill (S. No. 248) in relation to franked matter was taken from the Speaker's table, and read a first and second time by its title.

The bill, which was read, provides that all communications relating to the official business of the Department to which they are addressed, of whatever origin, addressed to the chiefs of the several Executive Departments of the Government, or to such principal officers of each Executive Department, being heads of bureaus or chief clerks, or one duly authorized by the Postmaster General to frank official matter, shall be received and conveyed by mail free of postage without being indorsed "official business" or with the name of the writer.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. ALLEY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The SPEAKER, as the regular order of business, proceeded to call the committees for reports of a private nature, commencing with the Committee of Claims.

### D. McV. STUART.

Mr. BROWN, of West Virginia, from the Committee of Claims, reported a bill for the relief of D. McV. Stuart; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and the bill and accompanying report ordered to be printed.

### HORACE E. DIMMICK.

Mr. BROWN, of West Virginia, from the Committee of Claims, reported a bill for the relief of Horace E. Dimmick; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and the bill and accompanying report ordered to be printed.

### PRACTICE IN COURTS OF JUSTICE.

Mr. ALLEY, by unanimous consent, introduced a bill to prescribe the practice in courts of justice in certain cases; which was read a first and second time, and referred to the Committee on the Judiciary.

### C. J. FIELD AND C. F. CLAY.

Mr. HALE, by unanimous consent, from the Committee of Claims, reported a bill for the relief of C. J. Field and C. F. Clay; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

### WILLIAM BRINDLE.

Mr. HALE, by unanimous consent, from the Committee of Claims, also reported a bill for the relief of William Brindle, which was read a first and second time.

The bill provides that there be allowed to William Brindle, late receiver of public moneys at LeCompton, Kansas, for extra clerk hire and office rent, as settled and allowed by the Secretary of the Interior, under the act of Congress of 18th of August, 1856, \$4,703.

Mr. HALE. I ask that the bill be put on its passage. It does not take any money out of the Treasury; he is indebted to the Government to this amount, and the bill only settles his accounts.

Mr. WASHBURNE, of Illinois. The gentleman from Pennsylvania says that the bill does not take money out of the Treasury. Now, if this bill be not passed, will not this man have to pay this amount into the Treasury?

Mr. HALE. I suppose he will, but it is not likely under the circumstances that any administration of the Government will require him to do so. The Secretary of the Interior states that this expense was incurred under an act of Congress, and that this man is entitled to this amount.

Mr. WASHBURNE, of Illinois. The House will judge for itself on the facts whether it was authorized or not. I oppose this bill with no expectation of success. But I wish to call the attention of the House to the items, so that we may act understandingly in reference to voting away this money.

Mr. HALE. This same amount was passed in one of the general appropriation bills, and failed at the last hours of the session on account of the want of time. It passed then and perhaps it ought to pass now in that shape.

Mr. WASHBURNE, of Illinois. I suggest to the gentleman that as there is no report from the committee this bill had better be recommitted and come back to us with a report of all the facts, and then be referred to the Committee of the Whole House on the Private Calendar.

Mr. HALE. The Secretary of the Interior recommends the appropriation because this man was authorized to incur this expense by act of Congress.

Mr. WASHBURNE, of Illinois. This man was an officer of the Government under a salary.

Mr. HALE. The act of Congress authorized the employment of additional clerk hire, and an appropriation is necessary to pay for that clerk hire.

Mr. FENTON. I hope that my friend from Pennsylvania will consent to have this matter take the direction suggested by the gentleman from Illinois.

Mr. HALE. The report of the Secretary of the Interior states all the facts in the case.

Mr. WASHBURNE, of Illinois. If there be such a law, as is alleged, authorizing the payment of office rent and extra clerk hire, then it must be within the power of the Secretary of the Interior to allow it without the passage of this bill. And I would like to know, if under the law of 1856 this man was entitled to pay for clerk hire and rent, why it has not been paid by the General Land Office.

Mr. HALE. I send the law to the gentleman.

Mr. WASHBURNE, of Illinois. I will read it. The seventh section is as follows:

Sec. 7. And be it further enacted, That in the settlement of the accounts of registers and receivers of the public land offices, the Secretary of the Interior be, and he is hereby, authorized to allow, subject to the approval of Congress, such reasonable compensation for additional clerical services and extraordinary expenses incident to said offices as he shall think just and proper, and report to Congress all such cases of allowance at each succeeding session, with estimates of the sum or sums required to pay the same.

The gentleman from Pennsylvania says that this act or provision was adopted for the purpose of giving Congress the revision in regard to the allowance of these items. The case now comes before us under that law for our revision, and I take it that if it comes in as a claim under that law it should come in in a regular appropriation bill.

The letter upon which this proceeding is founded was written in 1861 by Moses Kelly, who was then acting Secretary of the Interior in place of Jacob Thompson, who turned traitor and left the Cabinet of Mr. Buchanan, and it was addressed to Robert W. Johnson, of Arkansas, who also turned traitor and left the Government. Here are the items set forth in this letter of Mr. Kelly, upon which Congress is to pass: for rent from 1857 to 1860, \$1,145; and for extra clerks, \$440.

Mr. HALE. The Secretary of the Interior, in obedience to the act of Congress, has settled these claims, and has reported the fact that so much money is needed to pay them, and now Congress is merely called upon to carry out the recommendation of its own officer. I know of no reason why the claim should not be passed, and I therefore move the previous question.



The previous question was seconded, and the main question ordered.

The question being upon ordering the bill to be engrossed and read a third time,

Mr. HALE demanded tellers.

Tellers were ordered; and Messrs. NELSON and WOODBRIDGE were appointed.

The House divided; and the tellers reported—ayes 51, noes 46.

So the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. HALE demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. WASHBURN, of Illinois, demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 65, nays 58; as follows:

**YEAS**—Messrs. James C. Allen, Ancona, Arnold, Bailly, Augustus C. Baldwin, Bliss, Brooks, James S. Brown, William G. Brown, Chandler, Coffroth, Cox, Dawson, Driggs, Eden, Edgerton, Eldridge, English, Gauson, Grider, Griswold, Hale, Harrington, Herick, Hotchkiss, Hutchins, Philip Johnson, William Johnson, Julian, Kalbelsch, Kernan, King, Le Blond, Long, Mallory, Marey, Marvin, Samuel F. Miller, Moorhead, James R. Morris, Nelson, Noble, Charles O'Neill, Perry, Pruyn, William H. Randall, Alexander H. Rice, Robinson, James S. Rollins, Ross, Scott, Smith, John B. Steele, William G. Steele, Stiles, Thayer, Tracy, Voorhees, Wadsworth, Wheeler, Chilton A. White, Joseph W. White, Windom, Fernando Wood, and Yeaman—65.

**NAYS**—Messrs. Alley, Allison, Ames, Beaman, Boyd, Brandegee, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Thomas T. Davis, Dawes, Dixon, Donnelly, Eckley, Eliot, Farnsworth, Fenton, Finck, Frank, Gooch, Grinnell, Hooper, Asahel W. Hubbard, John H. Hubbard, Burlingame, Ingersoll, Jenckes, Kelley, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Loan, Longyear, McClurg, McDowell, Daniel Morris, Anos Myers, Orth, Patterson, Pomeroy, Price, John H. Rice, Edward H. Rollins, Scofield, Shannon, Sloan, Smithers, Spalding, Stevens, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, and Winfield—58.

So the bill was passed.

Mr. HALE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### J. J. STEVENS'S HEIRS.

Mr. PRUYN, by unanimous consent, introduced a joint resolution for the relief of the heirs of the late J. J. Stevens; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the report, ordered to be printed.

#### E. F. AND S. A. WOOD.

Mr. STEVENS, from the Committee of Ways and Means, by unanimous consent, reported a joint resolution repealing an act entitled "An act for the relief of E. F. & Samuel A. Wood," approved March 28, 1864; which was read a first and second time, postponed until Wednesday next after the morning hour, made a special order, and ordered to be printed.

#### JUDICIARY COMMITTEE BUSINESS.

Mr. WILSON. I ask the unanimous consent of the House to set apart Thursday of next week, after the morning hour, for the consideration of the business of the Committee on the Judiciary.

Mr. GANSON. I would like to ask the chairman of the Committee on the Judiciary what has become of the resolution I introduced early in January last, relative to providing for winding up insolvent national banks and enforcing individual liability against the stockholders.

The SPEAKER. The Chair desires first to know whether there be objection to the proposition of the gentleman from Iowa.

There was no objection.

#### MESSAGE FROM THE PRESIDENT.

A message from the President was received, by Mr. NICOLAY, his Private Secretary, informing the House that he had approved and signed bills and a joint resolution, of the following titles:

An act (H. R. No. 15) to provide a temporary government for the Territory of Montana;

An act (H. R. No. 300) for the classification of the clerks to paymasters in the Navy, and graduating their pay; and

Joint resolution (H. R. No. 74) referring the claim of J. H. Clark & Co. to the Court of Claims.

#### KENTUCKY CONTESTED ELECTION.

Mr. SMITHERS. I now call up the Kentucky contested-election case, and ask that the resolution reported by the Committee of Elections may be read.

The Clerk read the resolution, as follows:

*Resolved*, That George H. Yeaman is entitled to a seat in this House as the Representative from the second congressional district of Kentucky in the Thirty-Eighth Congress.

The SPEAKER. The Chair would suggest before the gentleman from Delaware proceeds that the order of speaking on the part of the contestant and sitting member shall be fixed, inasmuch as some difficulty occurred in determining the order of debate in the Missouri contested-election case.

Mr. SMITHERS. I had supposed the same order of debate would be observed as in the Missouri case; that the contestant would be permitted to occupy an hour, the sitting member to follow, being entitled to occupy an hour and a half, and the contestant to close the debate, with half an hour, subject to the right of the member reporting the resolution, under the rules of the House, after the previous question shall have been ordered.

The SPEAKER. There being no objection, that course will be followed.

Mr. SMITHERS. In pursuance of notice, I now ask the attention of the House to the contested election of the second congressional district of Kentucky, in which John H. McHenry, jr., contests the seat of Hon. George H. Yeaman.

In proceeding to develop the case I shall be exceedingly brief, because, as it strikes me, it lies in a very narrow compass, and I shall endeavor to present only such facts as the majority of the committee—being the whole of it, I believe, with the exception of the gentleman from Indiana, [Mr. VOORHEES,] who presented the minority report in this case—believed sufficient to sustain the conclusion that Hon. George H. Yeaman is rightfully entitled to the seat he now holds. The congressional district is composed of twelve counties, namely: Breckinridge, Butler, Christian, Daviess, Edmondson, Grayson, Hancock, Henderson, Hopkins, McLean, Muhlenberg, and Ohio, and in each of which counties the sitting member received a majority of the votes cast. The election, as the result of which Mr. Yeaman received his certificate, was held in August, 1863. At that election there were cast 11,398 votes, of which George H. Yeaman received 8,311, and John H. McHenry, jr., 3,087, being a majority for the sitting member of 5,224, nearly double the entire number of votes received by the contestant. It is manifest, therefore, from this presentation of the case, that there can be no pretense of claim upon the part of the contestant. Either the whole election is void or the sitting member is entitled to the seat he occupies. It is not pretended that John H. McHenry, jr., received more than 3,087 votes, or that illegal votes were cast for his opponent, so as to form the basis of any valid claim on his part.

The sole question, therefore, for the House to consider is, whether the election was void, or whether the sitting member is entitled to the seat which he now occupies by virtue of the certificate. That is the only question I shall present to the House, for it is the only one presented by the report of the Committee of Elections.

Mr. Speaker, I shall omit to say anything concerning certain military orders issued by Colonel Shackelford and General Burnside. The House will perceive, if they look at the report of the committee, that the Legislature of Kentucky had passed what is familiarly known as the expatriation act, which required an oath from every voter at the election that he had not after the passage of that act given any aid or comfort to the rebellion. Governor Robinson, shortly before the election, issued his proclamation calling the attention of the people of Kentucky to the existence of the statute. After that proclamation certain military orders were issued which are printed in the report of the committee, and to which I presume members have had their attention called. It is not my purpose, as I have already said, to take up these military orders or the proclamation of the Governor of Kentucky.

It is manifest that the only question before us is whether there was in fact an election by the people of the second congressional district of the

State of Kentucky, and whether the majority of the voters of that district did actually choose Mr. Yeaman as their Representative; for I presume it will not be contended that if, despite the orders, such majority did fairly indicate their preference for him, the election was thereby invalidated.

As I have stated already the whole number of votes cast was 11,398, and of those the sitting member received 8,311, nearly three fourths of all the votes cast at that election. It only becomes requisite therefore that we shall determine whether the voting capacity of the district was out; and we can only determine that by the vote cast at prior elections. When we turn to these elections and compare the vote cast with this vote we find the following to be the result: the largest vote ever cast in the second congressional district was in 1860, amounting to 15,236. At the next election, which was for members to the border States convention, in 1861, the vote was 13,328. The vote cast for member of Congress in 1861 was 14,656; and at the election by virtue of which the sitting member holds his seat there were cast 11,398 votes. It must be remembered that the voting capacity of the whole district was affected by the condition of society existing in all of the border States where rebellion has been rampant. But we are not left to conjecture alone on that question. It is in evidence by the certificate of the adjutant general of the State of Kentucky, of October 9, 1863, that 5,714 volunteers were furnished by the second congressional district alone to the armies of the United States. Add these to the vote that was actually cast and it brings it up to the full voting capacity of the second congressional district. Taking the fact that of the 11,398 votes cast Mr. Yeaman received 8,311, and that the largest vote ever cast in the district was 15,236, it is impossible by any species of arithmetic with which the majority of the committee are familiar to come to any other result than that the sitting member is entitled to his seat.

I have no desire, Mr. Speaker, to enter into the details of this contest; so far as they are concerned I will leave them to be dealt with by the sitting member as he may deem just and proper. But I cannot forbear calling the attention of the House to the estimate of the contestant himself as to what his chances were, as shown in a letter addressed by him to the voters of the second congressional district of Kentucky, prior to the election, and printed in Miscellaneous Document No. 36, in which the evidence in this case is contained, on page 55. This letter furnishes a solution of the cause why the contestant McHenry did not receive more votes.

Speaking of a desire of the rebel States to return to submission to the Constitution, he says:

"Whenever any manifestation of such a desire on the part of the rebellious States is apparent, I am then for an armistice and a national convention; a foreign, friendly, mediating power may in such an event be necessary, in the same manner as a third party in a personal difficulty acts as a friend and mediator in bringing about a reconciliation. I have, and did in my speech at Calhoun and elsewhere suggest such a state of affairs; I did it as a mere matter of reflection and digestion on the part of the people—not urging it as a proposition that ought to be adopted by our Government, or as my position in the canvass.

"I have also urged my utter hostility to the proclamation of freedom by the President; to the arming of slaves; to the proposition of compensated emancipation in Kentucky; and all other unwarranted assumptions of power by the President.

"Such are the positions, my fellow-citizens, that I have endeavored to assume before the public. This is the head and front of my offending."

"Reporters of my speech at Calhoun have misrepresented me, and at a moment that will prove fatal to me, if I allow my name to be used in the district convention in June. The effect of this misrepresentation has been to throw off from me the support of two of the leading Union papers in Kentucky, which previously had spoken favorably of me—the Frankfort Commonwealth speaking of me as a 'rebel, no better than Breckinridge,' and the Louisville Journal republishing the article, and with many regrets recalling everything that it had formerly said in my behalf. That abolition journal, the New York Tribune, has called on General Burnside to arrest me. Public meetings have been held in counties where I had the confidence of the people, and delegates appointed to the Calhoun convention instructed to vote for any one against me. The blow has been struck and the injury inflicted, and it is now too late for me to be fairly represented in that convention; but I assure you that the injury will be repaired and mistake corrected."

He then proceeds, in closing his letter, to say:

"I respectfully decline submitting to the action of the convention, and announce myself a candidate for your consideration at the August election."

I beg not to be misunderstood. I do not cite

this letter or use it for the purpose of intimating in the slightest degree that the gentleman is disloyal. I beg he will have no such understanding of my remarks. I cite it only to show what was the estimate which the people of the second congressional district of Kentucky had in relation to his position; I cite it as his own declaration that certain leading newspapers of Kentucky, papers which he himself declares had been favorable to him, turned their backs upon him, and recalled everything which they had previously said in his behalf; I cite it for the purpose of showing that a press so influential as the Louisville Journal and the Frankfort Commonwealth, which had previously been friendly to him, repudiated him, and necessarily affected the opinion of the people of his district, and to show that under the force of that sentiment those formerly friendly to him refused to sustain him at the polls; I cite it as showing that the vote he alleges he did not receive is not to be charged to the military interference or orders of General Burnside, but to the settled conviction upon the part of the people leading to a preference for the sitting member, according to the announcement of those newspapers which were most in their confidence.

I do not choose to enter upon the question of the propriety or impropriety of those orders. I have my special and particular views in relation to them; but representing as I do now the majority of the committee, and not expressing my own sentiments merely, I forbear entirely to comment upon or give expression to my opinion in regard to their propriety or legality. Waiving their consideration, a majority of the committee have come to the conclusion that the sitting member is entitled to his seat, and therefore have introduced the resolution which is now for action before the House.

Mr. McHENRY, (contestant.) Mr. Speaker, I am before my country to-day for the purpose of appealing to it, and to this House, to sustain me in the advocacy of a high principle, which you, sir, and which every lover of republican government has been taught to love and to respect since the very hour this great Government of ours first struggled for existence. I am truly thankful and feel deeply grateful to this House for the privilege that has been extended to me, as well as to other contestants, to address you, and to lay our own claims before the country. Oftentimes since the commencement of this contest have I been met with the discouraging remarks on the part of those who disagree with the policy and politics of the party which now controls the destiny of this country, as "What will it avail you, sir, to make this contest?" "Do you hope to succeed against the fanaticism which now rules the country?" "Do you think that this party will listen to your plea for an instant?" "It is time and labor lost." But, sir, I have never lost my confidence in the natural goodness of the human heart, and I hope I may never lose that high respect for the Congress of the nation which it has in all times past commanded, and which has been extended to it by the people of all nations; and it is indeed encouraging to know that the petitions of the humblest citizen of the Republic, as well as that of its proudest and mightiest, has met at all times from Congress a respectful consideration.

I have been told that no justice could be received at the hands of the controlling party of this House, by one who differed, however honestly, from it in politics; but justice is heaven-born, and cannot safely be neglected by any party that derives its power from the people, who are, at last, the final arbiters of all political questions that arise in this Government. That government of man is strongest and most likely to be perpetual which approximates most nearly to the divine. But the divine government, with the universe for its domain and this mighty earth for its footstool, has declared that not even a "sparrow" can fall to the earth without its observation. Can a Government like ours, therefore, which has been founded upon and which has at all times professed to regard the rights of the individual man, afford to slight the case of even its humblest citizen, much less one who appears and appeals to you for simple justice in the name of an outraged people, who have in all times past commanded respect and admiration for their devotion to the purest principles of government? And when I behold around me the assembled wisdom, worth, and loyalty of this

mighty nation, I feel that the appeal to you of the people to save to them a great principle of government, the purity of the elective franchise, will not be made in vain.

I am here, sir, in no factious opposition to the gentleman who occupies the seat which I contest. The relations which have for years and do now exist between us are of the most intimate and amicable character. But, sir, as a freeman and an independent citizen of the Republic, and one who is entitled to its protection, I am here as the humble volunteer champion of a portion of the people of Kentucky who, seeking the protection of the Government, have found it denied to them, and, as lovers of constitutional liberty and republican freedom, when they asked their rights as citizens, have been met with indignant insults at the hands of the constituted authorities of the Government.

And I am here, as I verily believe, as the representative of a large majority of the people and legal voters of my district; and although my competitor holds the certificate of election and a majority of votes cast were for him, yet it is a well-known fact in Kentucky that this certificate and majority was obtained by preventing a fair expression of public opinion at the polls, and depriving the people of their elective franchise through fear, intimidation, threats, violence, bribery, corruption, and bloodshed. And, sir, I am here as the representative of the people to appeal to this Congress upon a principle the proper maintenance of which is far more important to the country, to my own constituents, and to myself, than any personal or political consideration which I may feel in this immediate contest.

I take occasion here to remark that I have no complaints to make toward the Committee of Elections or toward any member of it; but on the contrary desire to express my gratification and thanks to them for the patient and impartial manner in which this case has been investigated, and to the distinguished chairman of the committee, who has won me by his dignity, candor, fairness, and ability, and having carefully watched his course during the sessions of the committee in the present session, have thought it strange that any one could think otherwise than that he is a man of honor by principle, a scholar by education, and a gentleman by nature.

Among the various questions that have been presented to this House by the different cases of contested elections that have occurred since the formation of the Constitution, there have never been any that has presented the same issues to the House for its consideration as this, and similar cases presented to the Thirty-Eighth Congress. And paradoxical as it may appear, with a majority of 5,000 votes that were cast against me, I yet contend and expect to demonstrate that I am and was the choice of a large majority of the legal voters of my district. The reason why this majority was not cast for me at the polls will be made evident and manifest when the House comes to read the proof taken in this case, and see the "fantastic tricks played before high Heaven" on the "dark and bloody ground," by the minions of power in brief authority, clothed in the honored uniform of the Government, whose laws they had solemnly sworn to sustain, thrusting their bayonets between the people and the exercise of the most sacred right of an American freeman.

Not only do we behold the people prevented from voting, but every device which human ingenuity could invent is brought forward to accomplish the election of certain candidates. In many places a file of soldiers is stationed around the polls with instructions to allow no man to vote for certain candidates. In others the names of these candidates were erased from the polls, and the soldiers sent out to bring the people up to vote for those whose names remained upon the poll-book. In some places the people are informed that they can vote by taking an oath prescribed by one military commander, and at another the oath prescribed by another commander. The depositions in this case show that legal voters, after conforming to all the rules laid down by the State and military laws, were arrested after they were allowed to vote and confined in prison for voting. Some were encouraged to vote by being informed that they would be arrested if they did not vote; some that they would be arrested if they attempted or asked to be allowed to vote. Some who ap-

plied to vote and offered to take the oath prescribed by the Legislature of Kentucky and swear to support the Constitution of the United States and of Kentucky were refused and threatened with arrest if they attempted to vote again. Orders were issued from "Headquarters, District of Western Kentucky," informing the people that all those who voted for certain candidates would have preference shown them in the impressment of horses and other pauper for the use of the Government, and that the Government stood in need of the property of these people was made manifest by sending out squads of cavalry through the country to impress the horses of the elect.

Sir, I can bear defeat, oppressions, wrongs, slander, abuse, and sorrow, and I have been made the unjust victim of all this within the last few years of my life, but never have I been so grieved as when I beheld my friends persecuted, oppressed, and robbed for no other reason than that they voted, or wanted to vote, for me. I appealed to the officer charged with this pleasant duty, as it seemed to him, to spare the favorite and only horse of a friend who had voted for me, but was unheeded. I appealed to the sitting member, my competitor, to stop this outrage upon my friends, but my prayers were again unheeded, while a serene smile of secret delight and horrid pleasure flitted across his countenance as he beheld the outrage. Not satisfied with driving the people from the polls by oaths, threats, intimidation and military interference, but persecution, malicious and demon-like, must follow the few who were brave enough to exercise their rights as freemen by casting their vote as they always had done before. I desire to refer the House to the testimony of a few witnesses upon this point—W. S. Britain, Possiter, O'Brian, Whiteley, Render, and Hocker. (Miscellaneous Document, No. 36.) Not only are the peaceable, quiet citizens met upon the highway and robbed, but we behold this knight of perfection, this chosen officer of the third Kentucky cavalry, invading the sacred precincts of God's consecrated grounds, disturbing religious worship, scattering the honest people who had there collected for worship, and singing out and leading away, for the use of and in the name and by the authority of the Government, the only horse of a poor itinerant Methodist preacher, who, like his revered and honored pioneers of "God's living light" in the West, the Methodist ministry, was upon his circuit in the wilderness, "going forth into all the world and preaching the gospel to every creature." He, too, must suffer. I blush for such conduct in a Kentucky soldier, and more especially is it painful to me coming from an officer in a regiment that is a pride and ornament to our State and honored by the people of our district, as being the regiment that was organized by that gallant and lamented hero who preceded us as the Representative in this House, and who left these attractive scenes to participate in the din and clangor of arms, and who laid down his valuable life for the honor and glory of his country upon the hard-fought field of Perryville.

I beg leave here to allude to an episode in the political history of the sitting member in this case, not because I think it will have any particular bearing in this case, but to show the great injustice that has been done me, and also to vindicate myself from the charge of disloyalty that is urged against me here, and to show that the incumbent is the last one under the circumstances that ought to allude to it.

The sitting member has thought proper to charge and endeavor to prove that my political positions were disloyal, and therefore that it was not improper that the people should not be allowed to vote for me. I endeavored to introduce the deposition of a witness, whose evidence was checked up by the gentleman, objecting to the introduction of a communication in his own handwriting that I was anxious the world should see, and particularly this Congress. And here, sir, I will make the point that the examiner had no right to prevent this testimony coming before the House, which was done, thus stifling this investigation, and saying to the Congress of the nation, "You are not entitled to know anything that ever Mr. Yeaman said or did that may be considered disloyal; but everything against Mr. McHenry is admissible." This may give my friends an idea of the difficulties under which I labored in taking proof in this case. Witnesses were frightened away

# THE CONGRESSIONAL GLOBE.

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from the examiner's office, and many of them told me they were afraid to testify and had been warned not to give their depositions as voters had been warned not to go the polls. What right has a county court judge or magistrate to stifle the evidence that I desire to bring before this Congress, as has been done? But I will make the exposition, every word of which I am responsible for, and will not be denied. When this rebellion first began the President called an extra session of Congress, to meet July 4, 1861. We had to elect our Representatives in Kentucky, and in our district General James S. Jackson was a candidate, and among others Mr. Yeaman, on the Union side. Kentucky held at that time the position of armed neutrality, and while General Jackson was occupying the position of sustaining the Government in case Kentucky took sides, the sitting member was in any event the most ultra armed-neutrality man I ever saw; and this question was carried so far that when the division of the question of "armed neutrality" came, the people of my section found that the rebels had all the arms and we had the neutrality.

Now, as this race for Congress progressed Fort Sumter fell, and the President called for seventy-five thousand men to sustain the Government. The furor created in Kentucky by the idea of seventy-five thousand men being raised was so great that the strongest and stanchest Union men in the State weakened and many of them went clear over to the rebellion. Never shall I forget the excitement that prevailed in our county and town and in our section of the country. A large company was rapidly raised and marched south from our town; people flocked to town and an immense mass meeting was held, for the purpose of organizing the military home guards. The secessionists got hold of the meeting, and, with the wildest excitement I ever saw, passed the most violent secession resolutions. Some of our best speakers and strong Union men let down and gave the Union up as lost. My friend had given it up several days before and did not attend that meeting; if he had I think he would have started for Dixie that night. He could not stand the seventy-five thousand men at any rate, and abandoned the track as a candidate for Congress. It is said, in alluding to this meeting, that there was but one man in all that crowd that had the bravery to vote against the resolutions that carried with so much enthusiasm that night, and was only spared from violence by his age and the respect that all had for him as a citizen, and that man (my father) was said to be the only man in our county who could, without perjury, take the oath prescribed to voters at the polls by General Shackleford or Colonel Foster, who seemed to have the second district under their special charge.

After my friend had left the track for Congress, General Jackson came to our town and made a speech, taking exactly the same position that is now occupied by the Union Democracy of Kentucky, and after he had finished I pledged him my support and did everything in my power to secure his election over a man who was running upon what was called the southern rights platform, and I did support him. Not so my friend, who not only could not support General Jackson for Congress against the candidate of the secession party, but expressed himself so fiercely against the general's position of sustaining the Government by force, and regretted so much that he had left the track, that he was solicited to run as the southern rights candidate for Congress, and, in view of making the race, submitted to this committee his views; and it was this paper that I desired to introduce as evidence in this case which was ruled out. I have not the whole document, but in it will be found the following choice sentiment:

"I would allow time for reflection and reconciliation, and if then a reconstruction is impossible on the bases of consent, honor, and interest, I would have no reconstruction on the basis of force, and would rather acknowledge the independence of the southern confederacy than to urge a war of subjugation against them."

He did not run, however, and in order to heal

his disappointed hopes we run him for the Legislature, and elected him over a straight-out secession candidate. The day before the election, in August, 1861, we find another *exposé* of his political position in the following language written for the public eye and for political purposes, and of course I commit no breach of faith in alluding to it:

August 3, 1861.

SIR: I understand it has been reported in your neighborhood that I am in favor of voting men and money to subjugate the South. I am for the Union and against secession, but have constantly gone against subjugation. I am also for defending against all attacks.

I have constantly held to the legal right of the Government to execute its laws, but that as a question of policy and statesmanship would not forcibly do so against the eleven seceded States, relying on time, reconciliation, and compromise to heal the difficulties.

G. H. YEAMAN.

This was after the battle of Manassas, after Congress had voted five hundred thousand men and \$500,000,000, when the whole country was flying to arms, and Mr. Speaker, when the records will show that I was recruiting men for the Federal service and when General Jackson had determined to leave Congress and enter the field. What was the position of Congress at that time? It was when Congress had solemnly declared and

"Resolved, That the present deplorable civil war has been forced upon the country by the disunionists of the southern States now in revolt against the constitutional Government and in arms around the capital; that in this national emergency Congress, banishing all feeling of mere passion or resentment, will recollect its duty to the whole country; that this war is not waged upon our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor for the purpose of overthrowing or interfering with the rights or established institutions in those States, but to defend and maintain the supremacy of the Constitution and to preserve the Union with all dignity, equality, and rights of the several States unimpaired; and as soon as these objects are accomplished the war ought to cease."

With this declaration of Congress before him, with the rebels collecting and arming by thousands all along the southern border of Kentucky for the purpose of invading and dragging our State out of the Union, when she had given a majority of 65,000 for the Union candidates, the sitting member in this case "would not vote men and money to forcibly execute the laws of the Government against the eleven seceded States." There was no cry of "negro and abolition" then. The President, indeed, had allayed all fears of that by declaring publicly to the world in his inaugural address that he "had no intention, either directly or indirectly, to interfere with the institution of slavery in the States where it existed; he believed he had no lawful right to do so."

But the Union people of Kentucky, seeing that a clash of war was inevitable, went forth to the young men of the State; and our public speakers rallied them to the cause of the country, and did so with this solemn declaration of Congress and pledge of the President as a text, from which they harrangued the people all over the State. And it was under this state of affairs that the people of Kentucky rallied to arms; and I speak it not boastfully when I say that I am entitled to the credit of establishing the first camp in southern Kentucky; and when General Buckner invaded the State he found Kentuckians rallying to resist him; and the first clash of arms that occurred upon Kentucky soil was between rebel soldiers from Bowling Green and Federal soldiers under my command, of the seventeenth Kentucky regiment, which regiment is now a pride and honor to the country, and whose gallant achievements and immortal dead now form a part of the history of this rebellion. And when the gallant Representative before alluded to left these Halls and published his proclamation to the people of Kentucky and to his constituents of our district to rally to the cause of the Union, the sound of his voice was like Roderick's bugle horn, "one blast of which was worth a thousand men."

There are many in this House who knew that gallant soldier, but none probably more intimately than myself; and I never shall forget his genial and social converse among his officers and friends

the evening before the terrible battle of Perryville; and in parting with him for the evening and speaking of the probabilities of an engagement, he spoke with the deepest feeling and interest in regard to the approaching conflict. He had recently assumed the command of a division, and all the troops under his command were new recruits, raw and fresh, and he was too good a soldier not to feel the importance of the responsibility that rested upon him. He dreaded the idea of his division meeting the first shock of the engagement, but hoped that some older and tried troops would open the ball; and in shaking hands with me he remarked, as if in anticipation of the terrible reality that did occur the next day, "When this engagement comes off I may go down, but if I do, sir, it will be with my harness on." The very collision occurred that he so much dreaded, and he did fall in the very commencement of the engagement. He fell at the front of his division, and, sir, he did "go down with his harness on." So, also, fell the next two ranking officers of his division shortly afterwards, General Terrill, of Virginia, and Colonel Webster, of Ohio. On the following night, in a neighboring town a few miles in rear of the battle-field, where I had command, I took charge of the bodies of these three glorious heroes, and performing all the sad offices to them that was in my power, I forwarded their corpses to Louisville; and, sir, in the quiet rays of the moon which fell upon and lighted up that sad scene of death as I posted the "guard of honor" around their bodies and contemplated their well-known features, rendered terrible in the struggle in which they had died, I thought of my struggling country, of my State whose fair fields were being desolated by the fratricidal strife that was then progressing, of the happy past in connection with the departed friends that were then before me, and, in contemplating them, could but exclaim—

"Shrine of the mighty, can it be  
That this is all remains of thee!"

And I still think that it was a hardship and great injustice that the soldiers of the third Kentucky cavalry should under all the circumstances have, as I have shown, thus persecute me and my friends at the last election in Kentucky.

When, in the history of this country or of political parties in the country, has it ever before been required of the citizens who desire to support a particular political ticket to take an oath to support a particular policy before they were allowed to vote, and that oath being exactly antagonistic to the principles which they desired to support at the polls? And why was it necessary, as in our district, to require the people who desired to vote for me to take an oath, when the whole "disloyal ticket," as it was called, was erased from the polls by order of the military authorities. And standing as I did upon the same political platform as my opponent, why were my friends required to take an oath not found in the laws nor in the Constitution, while those of my opponent were allowed to vote undisturbed and unchallenged?

In anticipation of this interference at the election, I urged before the people that it was wrong, illegal, and unconstitutional. I contended that Congress or the Legislature of Kentucky would immediately expel from their halls any man whom they regarded as disloyal, as they had done; that the military authorities would arrest, as they had done before, any enemy to the Government who should be elected to office. I contended and do still that the right of franchise should be held sacred and the people allowed to vote; but that it was nothing more than right and proper for the Government to refuse to allow any man to qualify for an office in a Government whose previous acts had shown that he was in favor of destroying that Government.

The Legislature of Kentucky had early in the year 1862 taken this subject into consideration and passed an act that "any citizen of the State who shall enter into the service of the confederate States in either a military or civil capacity, or into



the service of the provisional government of Kentucky, and continued in it after the act took effect," should be considered as having expatriated himself, and that a person might be required to negative an oath that he had not violated this act at the polls before he could vote. This is what is called the expatriation act of Kentucky.

I never made any objection to this law and did not expect the vote of any person whom it would reach. The law was resisted, however, in the Kentucky Legislature by some of the ablest men in it on the ground that it was unconstitutional.

Had this been the only oath required at the polls it would have been the height of folly for me to have urged my claim before this House. But, sir, military men throughout the whole State prescribed oaths to suit themselves.

Twenty days before the election the Governor of the State issued a proclamation simply calling the attention of the officers of the election to the expatriation act, and

"Earnestly enjoined and required a strict observance and enforcement of the act and all other laws of the State regulating elections, as being alike due to a faithful discharge of duty, to the purity of the elective franchise, and to the sovereign will of the people of Kentucky expressed through their Legislature."

This proclamation of the Governor of Kentucky was issued through the purest motives and through a sense of duty; and I have nothing to say against it.

But General Burnside takes command of the department of the Ohio fresh from his glorious victory at Fredricksburg, and, as if in spite of the whole world for the useless slaughter of thousands of gallant soldiers at that place, he immediately inaugurates a new régime in Kentucky. By his General Order No. 38 he institutes a new discipline over us. He bridle the tongue, already as silent as the grave, in Kentucky; he shuts down the lip and places a lock upon it; he stifles the freedom of speech, and seemed as if he could crush the immortal mind of man for not bowing to his sovereign will; he strikes at the affections of the human heart and drives weeping women and children from the land of their birth, because the dearest objects of their affections have been exiled by the fortunes of war. Like a midnight burglar he breaks open the door of a peaceable and unoffending citizen, drags him from the bosom of his family, and exiles him to a foreign country. These orders come upon us so thick and fast that the terror-stricken people of his department stand in awe and exclaim, as did the disciples of old at the wonders wrought by the Messiah, "What manner of man is this?" who commands these things, "that even the winds and the sea obey him?" "And lo the end is not yet," for not satisfied with the limits of his broad domain, he reaches to the cities of New York and Chicago and Cincinnati, and with a dash of his pen suppresses the freedom of the press and strikes down the liberties of the people to such an extent that the President, to his honor be it said, steps forth at last and checks the reckless career of this madman. May God in his goodness save the suffering people of Kentucky from the tender mercies of such a tyrant. His proclamation declaring martial law in Kentucky, on the 31st July, says:

"Whereas the State of Kentucky is invaded by a rebel force with the avowed intention of overawing the judges of the election, of intimidating the loyal voters and keeping them from the polls, and forcing the election of disloyal candidates at the election to be held on the 3d of August; and whereas the military power of the Government is the only power that can defeat this attempt, the State of Kentucky is hereby declared under martial law, and all military authorities are hereby commanded to aid the constituted authorities of the State in support of the laws and the purity of suffrage as defined in the late proclamation of his Excellency Governor Robinson. It is not the intention of the commanding general to interfere with the proper expression of public opinion," &c.

The reasons given by General Burnside for declaring the State under martial law were false, and the evidence in this case shows that the general knew they were false. The rebel force to which he alludes as having invaded the State were but a small band of cavalry that came into the State, as General Burnside afterwards telegraphed to General Halleck, "to make a diversion in favor of Morgan;" and this same body of cavalry were actually in retreat and out of the State before the election. This proclamation was an outrage upon the laws and established usages of the State, and has done an irreparable injury to the Union cause in Kentucky.

Three days previous to the publication of General Burnside's proclamation Colonel John W. Foster, commanding post at Henderson, in this district, issues his pronouncement upon the subject, and sends squads of soldiers with his orders into eight counties in the district, and into almost every voting precinct in those counties.

It will be seen by reference to the testimony in this case that this Colonel Foster was solicited thus to interfere in the election, and was solicited by the friends of the sitting member; that this order was gotten up and submitted to the inspection of the sitting member in this case before it was issued.

Mr. YEAMAN. Do I understand the gentleman to say that the order was submitted to me before its publication?

Mr. McHENRY. That is the statement.

Mr. YEAMAN. The statement is not true.

Mr. McHENRY. It is manifest from the record that he was induced to make a mysterious visit to the town of Owensboro', where the sitting member resides, only a few days before the election. This order was issued and printed in the office of the paper published in the town and in the interest of the sitting member, and franked by him over the district only a few days previous to the election.

This officer was induced to make this mysterious visit to Owensboro', because he was solicited to do so by the friends of the sitting member. Why? Because in the language of a witness it was feared that the rebels would attempt to vote, and that the county would be carried against the sitting member. An alarm had arisen in the minds of the sitting member and his friends that he would be defeated if the people were allowed to vote; that a conspiracy had been formed to elect me; that the people would elect me; and whereas, in the language of General Burnside, "the military force of the Government is the only power that can defeat this attempt," therefore Colonel Foster, General Shackleford, and others were appealed to to save the country from the frightful conspiracy to overthrow the Government.

These two officers, both subordinate and inferior to the general commanding the department, seemed to have anticipated General Burnside's intention, and accordingly issued their orders before the proclamation of martial law; and I make a point of military law that this order of General Burnside, whether right or wrong, superseded their orders and rendered them null and void; but it is a fact that the election in the second district of Kentucky was controlled by the orders of these subordinate officers, and no attention paid by them to the orders of their superior officer. Sir, I had the misfortune of being dismissed from the Army for publishing an order to my regiment which was intended to uphold the laws of my State. These two officers are retained in the service after publishing and executing orders which were not only in violation of the laws of the State, but in disobedience of the orders of their superior and commanding officer.

By this oath and order, the soldiers at the polls and officers were required to take an oath that they "had not given any aid, assistance, or comfort to any person in arms against the Government, that they had demeaned themselves as loyal citizens in all things since the beginning of the present rebellion."

How stands General Shackleford upon this question? Here are his opinions upon the subject of this war, found in a letter written to some friends in order to explain his views upon the politics of the day. I will thank the Clerk to read the letter explaining General Shackleford's views.

The Clerk read, as follows:

MADISONVILLE, April 28, 1861.

GENTLEMEN: Yours of the 27th instant, requesting that on Monday next, at your town, I should address the citizens of Muhlenberg county upon the absorbing questions that affect the honor and destiny of Kentucky, was received this morning. I regret exceedingly that previous engagements will prevent me from complying with your wishes. For I can assure you that you judge me aright when you say you doubt not my loyalty to my native State, and that I appreciate her true position. Among the series of resolutions adopted by the two conventions that assembled at Louisville in January last you will find the following:

"Resolved, That we deplore the existence of a Union to be held together by the sword, with laws to be enforced by standing armies. It is not such a Union as our fathers intended, and not worth preserving."

The proof is now overwhelming, that if we are to have any further Union it is to be just such a Union as the two great parties in convention assembled, in January last, de-

nounced as not being such a Union as our fathers intended, and not worth preserving. And the action of the conventions was subsequently indorsed by the members of the parties throughout the State. I ask if any member of either of the conventions, or any one who indorsed their action, can now indorse a Union to be held together by the sword, and that in the hand of Lincoln, with Black Republican laws enforced by standing armies. I answer emphatically, for one, I never will. It is nowhere to be found in the entire proceedings of the conventions that Kentucky ever contemplated any other position than that assigned her by interest, honor, and nature—and that is with the South. In proof of this I refer you to the sixth resolution, which is as follows:

"Resolved, That if this anti-slavery party should increase in strength and be able to carry out its purpose in the use of the Federal Government, the South (not that Kentucky will take a neutral position) has ample means of resistance, and is fully able at any time to resist unconstitutional aggressions," &c.

Proving conclusively that the recently discovered safety for our proud and noble Commonwealth in an "armed neutrality" was not once thought of.

In a speech I made before the Union convention, I then assumed the position that if all hope should be lost, and the issue should be an issue between the North and South, that, for weal or woe, my destiny was firmly and inevitably linked with that of my native South. That issue has been made, and I stand ready to redeem my pledge.

I have made this letter much longer than I had contemplated, but I find my apology in the intense interest I feel in these great questions. It will afford me much pleasure to meet with you on some future occasion, and address your people upon these momentous subjects.

You will please accept my warmest gratitude, gentlemen, for the complimentary manner in which you have been pleased to use my name in connection with these great interests, and of the position I occupy in the esteem of your people, whom I have ever loved.

I have the honor to remain your obedient servant,  
J. M. SHACKLEFORD.

And it is a well-known fact that he commenced his military career by starting to recruit a regiment for the southern army and nearly succeeded, when he was diverted from his course and raised one, as I did, for the Federal service. The men, however, that he had raised for the rebel army went South; and I make the statement as a fact that this very man did more for the rebel cause in the early stage of the rebellion than any man in the southern portion of the State. He returned to his loyalty, and has done much to repair the injury he had effected; but I cannot see why this new-fledged loyal man could not appreciate the feelings of those who like him had strayed from their loyalty and desired to return to it, but were prevented from it by the oath prescribed by him for them to take, and his officers, placing such a construction upon it as would have disfranchised the very author of the oath and order, and which he could not have taken without perjury?

Under these circumstances, sir, I ask how was it possible to have a fair, a legal, or a constitutional election? But the gentleman contends that it was a quiet and peaceable election. Sir, it was quiet; it was a peaceable election. There never was in the history of the Commonwealth a more peaceable and quiet day in Kentucky than the 3d of August, 1863. The declaration of martial law by General Burnside in Kentucky, for the purpose of "sustaining the purity of the elective franchise," cast a pall of gloom and darkness over that State which caused peace and quiet to reign supreme that day; which hangs over it yet.

This declaration of martial law gave an unbridled license to every soldier throughout the State to set the State laws at defiance and run rough-shod over the rights of the people. On election day I visited two different voting precincts in my county; the judges at one place, both of whom were supporters of mine, told me that they were afraid to act contrary to the military orders, because the State was under martial law. At another I was boldly told that the State was under martial law, and that civil law had nothing to do with their actions. At one of these places friends of mine could only be allowed to vote by taking an oath to support the policy of the present Administration, and when I protested against it was threatened with punishment if I did not go away. It was at this place, that Crather, (page 15,) a respectable citizen of our county, testifies that he saw old men come forward to vote, offer to take any oath prescribed by the constitution or laws of the State or United States, and were driven away with tears in their eyes; tears! The human heart in its struggles must find relief, and it does so often in tears. It is not an indication of weakness to weep; it is manly to weep.

"A child may weep at a bramble's smart;  
A maid to see her lover part;  
But woe unto a country when  
She sees the tears of bearded men."

In one instance the poll-book was taken possession of by the commanding officer of a squad of soldiers, and the election broken up, and he positively prohibited the people from voting at all. It is not necessary for me to refer the House to the various outrages which did occur, and which are in proof in this case, but simply to refer them to it, and ask of them a careful consideration of it.

The Constitution provides that each House of Congress shall be the judge of the election, qualification, and return of its own members. Now, I ask the question, was this sublime farce under which the sitting member in this case holds his seat an election? If so, was it such an election of the people as the Constitution and laws of the country intended, by which members were to be sent to this House?

The election throughout Kentucky was so much interfered with by the military as, in my opinion, to vitiate the gubernatorial election of the State. Far better had it been for our party to have elected the whole Wickliffe ticket in Kentucky than to have secured the election of our candidates by a resort to such unconstitutional, illegal, and violent means as disgraced the State of Kentucky on 3d August, 1863.

Sir, two years ago, when that aged and honorable man who was recently defeated for Governor in Kentucky, took his seat in this House as a Representative of Kentucky, no man in this House commanded more respect, and no one was more entitled to it. He was peculiarly situated. Almost all of his numerous talented and accomplished family had taken sides with the rebellion, but this sundering of family ties and affections did not affect the noble old patriot in his devotion to the Constitution and the duty which he owed to his Government, to the pure principles of which he had devoted a large portion of his life, and to the support and maintenance of which he had contributed as much as had his distinguished colleague and contemporary who has been gathered to his fathers since the adjournment of the last Congress.

Sir, there was not a Kentuckian who did not feel proud at seeing these two old men eloquent, these honored relics of the olden times, these representatives of opposite political parties, and these rival politicians of half a century, these veterans who had been called from their retirement, whether they had gone to spend the few days that were yet allotted to them in peace and quiet, called by the spontaneous voice of the people once more to assist our country in its present desperate struggle.

In obedience to that call, laying aside the prejudices of the past and thinking only of the future, they thought not of honor, of party, of conquest, of subjugation, of interfering with the rights or established institutions in the States, but of their country, their whole country, the maintaining of the supremacy of the Constitution and of sustaining the dignity, rights, and equality of the several States unimpaired.

Sir, I know not which is to be the more regretted, the actual loss of the one, or the wholesale, systematic, unjust, and villainous attempt on the part of a faction in Kentucky to tarnish and injure the fair fame and unsullied reputation of this oldest and noblest of living Kentucky patriots. If there is anything that would bring the burning blush of shame to the face of the admirer of free speech and free election—those bulwarks of constitutional government and popular liberty—it would be the insult to him at Shelbyville on the part of Federal soldiers, upon his attempting to address his fellow-citizens, by dispersing the crowd, preventing him addressing the people, and threatening to shoot him, or the still greater indignity perpetrated upon him, as a candidate, and our State, in Bardstown, on the 3d of August, 1863.

It may be asked why the defeated candidate for Governor in Kentucky did not contest his election. In answer I would say that he was debarred from it by a provision in the constitution "that the candidate receiving the highest number of legal votes given" should be declared to be elected. The contest is tried by the Legislature, and in that whole body I believe there are but three members who are political friends of Mr. Wickliffe, and as they were not allowed to vote for him as citizens at the polls, they therefore

could not expect to accomplish anything for him as representatives.

The constitution of Kentucky provides that "all elections shall be free and equal," and the Constitution of the United States provides that each House of Congress shall be the judge of the election returns and qualifications of its own members. It is as much your duty to uphold the constitution of Kentucky as it is to uphold the Constitution which you have sworn to support. There is no conflict between the two. In fact the one is dependent upon the other, and in taking an oath to maintain the one you necessarily take the other under your sworn protection. Then this election shall be free and equal. Now I ask this House, was it "free and equal" to scratch my name from the poll-book without any authority from me, and allow that of my opponent to remain undisturbed? Was it "free and equal" to station soldiers around the polls who challenged the votes, and drove from the polls men who desired to vote for me and no interruption offered to any one who desired to vote for him? Was it "free and equal" for military officers to issue orders only a few days before the election declaring that no man should be voted for unless he advocated certain political principles? Was it "free and equal" for the military authorities to forcibly take possession of the poll-book and take it off, and never return the book to the clerk's office, where the law says the poll-books are to be kept? Was it "free and equal" to arrest men after they had complied with all the requirements of the military and had voted for me? Was it "free and equal" for threatening to arrest men if they did vote? Was it "free and equal" for impressing the horses of men because they voted a particular ticket? Was it "free and equal" for the sitting member in this case to use the privilege granted him by this House to frank these illegal military orders to different counties in the district for the purpose of carrying his election fraudulently? Was it "free and equal" for my friends to be shot down in the street for cheering for me, while whole companies of soldiers and homeguards cheered for him unmolested? Was it "free and equal" to grant unauthorized furloughs to large numbers of soldiers with instructions that any soldier who voted for me should get no more pay, while soldiers of my former regiment who were unanimously for me were not allowed to come home? Was it "free and equal" to require an oath at the polls of voters that they would "support the policy of the present Federal Administration"? Was it "free and equal" to require one oath at one voting precinct and a different oath at another? Was it "free and equal" to close the polls before the time required by law, and thus prevent many of my friends from voting? Was it "free and equal" for General Burnside to declare martial law in Kentucky on the ground that the State was invaded by a rebel force, with the avowed intention of overawing the judges of the election, intimidating and keeping legal voters from the polls, &c., and the second day after telegraph to General Halleck that the same rebel force had left the State and had come into Kentucky for the purpose of making a diversion in favor of Morgan? Can any election thus conducted be free and equal, and can any member of this House thus stultify reason and good sense by allowing himself to come to any other conclusion than that it was, in the intention and meaning of the founders of the Constitution, no election at all, and no fairness and no equality about it? If such elections as this are "free and equal," then I beg of you to do away with the form and ceremony of the election and allow the general commanding the department to save the people the expense and trouble of an election, but let him designate and appoint the individuals whom he desires for the various offices, and so far as my district is concerned I assure you that a majority of the people will be as satisfactorily represented as they are at the present time.

There is another provision in the constitution of Kentucky providing that the privilege of the right of suffrage shall be supported by laws regulating elections, and "prohibiting, under adequate penalties, all undue influences thereon from bribery, tumult, and other improper practices." Now, certainly the spirit of this provision would show a disposition on the part of the founders of the State constitution not to have any such elections as the one to which I object—an evident de-

sire to protect the purity of the elective franchise so as to bring out a free and unbiased expression of public will. While the Legislature of Kentucky has very properly provided for punishing persons guilty of the violation of the laws regulating the elections, qualifications of voters, &c., yet it makes no provision that the validity of the election shall in any manner be affected. I made an unsuccessful attempt to induce the judiciary in my district to take this matter in hand, and appealed to the judge to instruct the grand jury to indict such persons who had interfered with the elective franchise, and who had refused to allow legal and qualified voters to exercise this right; but upon my attempting to make a statement to the grand jury, I found that the friends of my opponent had been ahead of me, and had nearly succeeded in inducing the grand jury to indict me, because I had protested against the outrage that was being committed against the laws of the land by virtue of the order of his most royal highness "Colonel John W. Foster, commanding post at Henderson."

Yes, sir, to such a system of terrorism have we been reduced in Kentucky, that even the high judges of the court, whose duty is simply to expound the law and say to the civil officers of the State, *Ita lex scripta est*, are forced to yield to this higher law of a temporary military commander, as if it was a settled question of years as the law of the land.

These threats, military orders, the appearance of soldiers at the polls, had the effect to drive men from my support who would otherwise have voted for me; others were deterred from voting by the knowledge that they would be required to take an illegal oath, or would be insulted or prevented from voting if they even attempted. (See Blair's deposition.)

An instance well known in our county will illustrate the influence under which the people acted on that day.

The gentleman contends that all the rebels voted for me; but there is a case notorious in our county where one of the most influential and notorious rebels in the precinct in which he lives told a Union man that his horses would be impressed if he voted for McHenry; that he, the rebel, would vote for Yeaman; and a short time after, when this Union man's horse was taken because he voted for me, the rebel reminded him of the neighborly warning he had given him, and said, "I was smart enough to save my property; I voted for Yeaman."

Sir, it is unnecessary for me to proceed any further in mentioning instances which show the manner in which the election in the second district of Kentucky was conducted. It is a fact as well known to the country as it is that there is a contest about it.

It may be asked, why is it that other contestants from Kentucky are not here also contesting their seats? Had any of the distinguished gentlemen who were candidates in Kentucky at the last election thought proper to lay this matter before you, I would have been satisfied. But I presume that in no part of Kentucky was the military interference so great as to vitiate the whole election, as in the first and second districts. The gentleman in the first district had been arrested for being a candidate and advocating different political views from Colonel Foster, and there was no reason why he could not be arrested for contesting his election. But, sir, there is one thing I have never feared, and that is to be arrested by any order from the Government. I have done too much for my country in this struggle for the charge of disloyalty to be maintained against me; and as one who feels that he is discharging a solemn duty, I have laid this matter before you, under the clear and solemn conviction that had the election in Kentucky been held in accordance with the laws and usages of the State, I believe honestly, and will till my dying day, that I would have been triumphantly elected.

I propose now briefly to allude to the "facts, laws, and principles" upon which the sitting member in this case "claims and rests the validity of his election." He says:

1. The election was held and conducted according to the Constitution and laws of the United States and of the State of Kentucky.

I have shown that it was not, and I have also shown that the Constitution and laws of the United

States and of Kentucky were ruthlessly violated and trampled under foot; that there was no attention paid to either the laws of the Federal Government or of Kentucky. This statement is in such palpable contradiction of facts as they existed that I will say no more about it.

2. The election was free, fair, open, and untrammelled, and was a free and deliberate expression of the electors in the district in the selection of a Representative in the Congress of the United States.

I suppose there is no one who has thought enough of this subject to give his attention to the evidence in this case can agree with the gentleman that this election was "free, fair, open, and untrammelled." The election, I admit, was perfectly "free, fair, open, and untrammelled" to any one who wanted to vote for him, but it was a very different thing when a voter desired to cast his vote against the gentleman. It was all right so far as he was concerned. He or any of his friends will probably never complain of the manner in which the election was conducted. I have never been a candidate for a political office before this, sir, and I sincerely hope I may never be elected by such a free and deliberate expression of public opinion as that by which the gentleman holds his seat. I never desire my political, professional, or personal promotion to be obtained at the sacrifice of law, of order, of principle, or the liberties of the people. I do not desire to ride into office by crushing out a fundamental principle of republican government. I do not desire to have my fellow-citizens insulted at the polls, forsooth, because they do not choose to vote for me, nor would I have my friends drive old men away from the polls with tears in their eyes because they claimed their right to vote as they always had in times before. Sir, I do not wish, I would not have, I would not hold a seat in Congress if I had to do it by crushing out these cherished principles of American freemen, for I think that there must be in store some thunderbolt.

"Red with uncommon wrath to blast the man  
Who owes his greatness to his country's ruin."

The loyal people of Kentucky, to which I have always belonged, have since the commencement of this struggle and in all times past clamored for the Constitution, regarding it as the sheet-anchor of our hopes and of our salvation; they still cling to it, and bend over it with all the affection and devotion of a fond mother over her child when she beholds the numbered moments of its life are passing away. Is it to be wondered at then that you, the assembled wisdom and deputed Representatives of the States, are called upon, as you now are, to save us from the impending wreck and destruction that these outrageous violations of fundamental principles are sure to bring upon us? And where will be the sitting member from the second district when he beholds crumbling around him the liberties and rights of the people whom he claims to represent? When this general chaos and confusion is brought upon us by these gradual encroachments of arbitrary power of which he is now the willing representative, he will startle and cower before the indignant frown of the goddess of liberty as the guilty Macbeth did before the ghost of Banquo, and exclaim—

"Never shake thy gory locks at me,  
Thou canst not say I did it."

3. A majority of all the votes cast were for him. This is one of his grounds, and it is one which I frankly confess is true. And the strangest and most unaccountable thing in this whole matter is that his majority was not greater than it was. In good old times in Kentucky when the question was asked of a defeated candidate, "Why were you not elected?" the answer invariably was, "Simply because I did not get as many votes as my opponent did." Now, when the question is asked, it is answered as in this case, "Sir, the reason why I was not elected was because my friends were not allowed to vote; they were driven away from the polls at the point of the bayonet."

4. A majority of all the voters in the district cast their votes for him.

It is a great deal easier matter to make a statement than it is to prove it. This statement is not founded either upon facts or figures. It is founded upon fable and has its origin in the fertile brain of the gentleman. Let us look at the facts: There are twelve counties in the second con-

gressional district. By the auditor's report for the State of Kentucky, there were in the counties composing the second congressional district white males over twenty-one years old: for the year 1861, 21,171; for the year 1862, 19,387; for the year ending October 10, 1863, 20,274. It is fair to presume that out of this last number there were 19,500 white males in the district over twenty-one years old who were entitled to vote, yet there were cast in the district, in this election, only 11,398 votes, of which the sitting member received 8,311, and the contestant 3,087, leaving a deficit of 8,102 votes that were actually in the district at the time that were not polled.

The evidence taken in the case relates only as to the election in six counties, which is half the number of counties in the whole district. The auditor's report for 1862 shows that there were in the second district 19,387 white males over twenty-one years old. The soldiers who had left their homes and gone into the Federal Army, and the soldiers who had gone off south, are not to be taken from this number because they are not counted in it. They were not reported by the commissioners of tax for 1862 or 1863, because they are by law specially exempt from poll-tax.

According to the law the number of legal voters are officially reported from each county in Kentucky once in every eight years. The last report was in 1857, when we had 19,363. The annual report of the assessors of tax for 1862 makes 19,387, showing that there had been only 24 more voters in 1862 than there were in 1857, when it is a notorious fact that the second congressional district of Kentucky has improved in her agricultural products and increased in population probably more in proportion than any other district in Kentucky. It is evident, therefore, that the large number of voters who had left the district are not taken into account in these figures, and the statement made by the gentleman that he received a majority of all the votes in the district is simply absurd.

There were four regiments recruited in this district, namely: the seventeenth, eleventh, and twenty-sixth infantry, and third cavalry, with portions of the twenty-seventh infantry and eighth and twelfth Kentucky cavalry. Now, it is in evidence charged and proven that hundreds of soldiers from these regiments were furloughed home, and did go home, all of whom voted against me. We hear of them coming home by hundreds under command of their field officers under arms, intimidating the people, giving three cheers for Yeaman, as if he was one of the heroes of this war; and at another place we see the soldiers instructed by their colonel that "if they voted for me they would get no more pay," when he (the colonel) knew at the time he said it that it was false.

All the soldiers from these regiments who could possibly be spared were sent home, and under a false impression were induced to cast their votes against me. There was an informal and unofficial election held that day by a regiment which at that time was in the front, in sight of the enemy, in front where it has ever been when danger was near, in front where it was on the frozen hills at Donelson, in front where it was at Shiloh during the long and tedious hours of that terrible day, resisting the steady but deadly advance of the enemy before the disheartened and dispirited army of Grant was reinforced by the glorious "army of the Ohio;" it was from this gallant regiment that I heard of an election held and a vote taken with no outside pressure to bear upon them, but an election where each man voted as he chose, and out of over six hundred votes I am credibly informed the sitting member in this case received only nine votes. The regiment to which I allude was the seventeenth Kentucky volunteers, and I have not the slightest doubt that if that regiment, which I formerly had the honor to command, had been allowed to come home, and were subjected to the same influences that those soldiers were who did come home, I have no doubt that their votes would have been cast unanimously against me. I mention this merely to show the "freedom and fairness" of the election for which the gentleman contends.

But I was, as the charges state, "in complicity in an unlawful scheme, in a political combination, to place the State of Kentucky in political and military antagonism with the Government of the United States; that I sought the votes of rebels,

and nearly all the votes I got were rebels, rebel sympathizers, and secessionists," and that the rebels expressed preference, &c.

Sir, we approach now the discussion of a point upon which I have been told that this contest may hinge. It is not necessary for me to discuss the question or explain the political combination which the gentleman charges was gotten up for the purpose of placing the State of Kentucky in political and military antagonism with the Government of the United States. The convention which met in Frankfort on February, 1863, which was broken up and dispersed by Colonel Gilbert, may have had that object in view. There was no man who had previously been recognized or identified with the Union party of Kentucky that had anything to do with that meeting. It was a meeting of the first-class secessionists and disunionists of the State who were there assembled. The Wickliffe party of Kentucky had no more to do with it than did this House. There is no intelligent man in our district, or in Kentucky, who noticed the contest in our district but remembers my political positions, which were published in the public press and sent in circulars and handbills all over the district. They have been spread before this House. I am upon record, and do not propose to retreat from those positions; and the gentleman well knows that our canvass was made upon those principles. This circular was issued long before the political combination of which he speaks was brought to light.

I had no fear of the leading men of Kentucky known as the supporters of Mr. Wickliffe. The principles of that party are the same as those that are maintained by many of the most distinguished and influential members of this House. Differing with them only as to "a vigorous prosecution of the war," I have the highest respect for the loyalty, honesty, patriotism, and love for the Constitution which characterizes the party known as the peace Democracy of the country—and to this party the Wickliffe and Harney (who were the leaders of the Douglas Democracy) party of Kentucky belonged.

But all his party voted for me, and all the rebels, rebel sympathizers, and secessionists voted for me. The question is, What is a rebel? Who are the rebel sympathizers? It would be well for Congress or for the Government to define by resolution, by order, or by an additional article of war the meaning of the word rebel, and also give out to the world the meaning of the words loyalty and disloyalty. It is time for a revised edition of our acknowledged lexicon to be issued. There are thousands of men in Kentucky who would like to know what is meant by a loyal man and a disloyal man. I thought I was a loyal man. I have endeavored always to be so according to my interpretation of the word. I had no idea that I was anything else until I find in looking over the testimony in this case that I was, in the classic language of an officer of the third Kentucky cavalry, a "d—d rebel," and that any man who voted for me was "disloyal."

There were different interpretations to these words given by military men and officers of the election at the polls, August 3, 1861. No rebel or disloyal man could vote, and this included all those who had been placed under bonds and taken the oath; all those who had even subscribed to an oath on the back of the military passes that were issued at every military post, which included probably three fourths of the whole population of the State. This was the definition of disloyalty at one precinct in Muhlenburg county in our district: all those who had ever given any aid or assistance to the rebels, when by the deposition of Mr. Sutherland he says he applied to vote and offered to take an oath that he had given no voluntary aid or assistance, but had contributed about three thousand dollars to the rebels when he could not help it; the practicing physician who under the call of humanity, or the Christian under the teachings of his religion, charitably administered to the necessities of a dying rebel soldier who had fallen at his door, or that large class of individuals in Kentucky who had fed the hungry but errant and rebellious son who had wandered from his loyalty and returned to old Kentucky, his home, to catch a glimpse of the old folks as he was passing by; and the hundreds of non-combatants in Kentucky who had been forced to furnish food and lodging to guerrillas and rebel



soldiers whether they wanted to do so or not. All this class of persons fell under the ban of disloyalty and were called rebel sympathizers, and excluded from the polls.

This suspicion of disloyalty appeared to have fallen at the polls upon all those whose near relatives have joined the rebel cause; but the distinction was invidious; for if it were not, then the charge of disloyalty might be maintained against almost every man who claims Kentucky as his native State. It would fall heavily upon my friend, the incumbent in this case, whose nearest and dearest blood-relations have taken sides against the Government. It would fall upon me, sir. It would fall upon other Representatives from Kentucky in this Hall; and if such were the case it would convict of high treason some of the most prominent and leading Union men of our State.

This is indeed one of the most terrible and trying ordeals to which the loyal heart of Kentucky is subjected, this struggle between affection and patriotism, between love and duty, between the heart and head, between the ties of consanguinity and the love of country. The immutable laws of nature are fixed and cannot be changed. You cannot crush the affections, for in doing so you would stifle Divinity itself.

All those men who were not for a vigorous prosecution of the war or who were opposed to men and money were counted disloyal in many places and not allowed to vote.

And, to crown all, those who would not take an oath to support the policy of the present Administration were not allowed to vote as being disloyal.

These are some of the classes of men who come under the scope of "rebels, rebel sympathizers, and secessionists," alluded to in the notice of the gentleman.

2. I notoriously sought the rebel vote of the district.

All the so-called rebel voters in my district are opposed to the war. They voted for me with the full understanding that I was a war man and in favor of a vigorous prosecution of it. We have gone too far in Kentucky with this war to think of stopping it now, and we could not do it if we wanted to. If we do not whip the rebels they will whip us. If we do not save the Union they will dissolve it. If we do not sustain our Government and the Constitution upon which it is founded, they will overthrow and destroy it. And as long as a bayonet gleams in the hands of a Federal soldier and the stars and stripes wave over him, I am for sustaining him with "the last man and the last dollar." We have in Kentucky gone too far in this war to retreat from it. Our fifty-five thousand soldiers who have fought under the banner of our country and in the cause of the Union must be sustained. They are an institution in our State that cannot be overlooked, ignored, nor neglected. It is now with us a matter of life and death. It has, I may say, assumed a personal character in Kentucky in which every man feels that he has taken his position and will not abandon it.

But as to the rebels voting for me. There is one great reason why every one in the district would have cast his vote for me in preference to the gentleman, all other matters being equal, and that was that I was dismissed from the Army for standing up for a principle which they as well as the majority of the Union men approve and admire; and they thought by my election to Congress that the Administration party would be rebuked, and that one of the great principles which every slave State adheres to would be maintained and sustained by the people.

I am glad to have an opportunity of explaining this matter before my country and to the people. It is a well-known fact that the Republican party as well as the President in the beginning of this war disclaimed any intention of interfering with the institution of slavery in the States where it existed. In fact the President said in his inaugural address that he "had no purpose, directly or indirectly, to do so, and believed he had no right to do so if he had." This assurance, together with the resolution of Congress known as the Crittenden resolution, gave every assurance to the people of the border slave States, and, I may say, saved Kentucky to the Union. The revocation of General Fremont's freedom proclamation in Missouri by the President was another

guarantee that such was not the policy of the Government. And under these circumstances was it that the people of the border slave States rushed to arms. All those acquainted with the feeling of the border slave States will agree with me in saying that if Mr. Lincoln in his inaugural address had laid down the policy to be pursued by the Administration in the prosecution of this war that now controls it—that of setting the slaves free in the South, of placing arms in their hands and turning them loose upon innocent women and children, and of taking the slaves of the people, even the loyal people in the border States, against their will, and to say, as he had in his last message, that this course would not be deviated from—I honestly believe that Kentucky, instead of having now fifty-five thousand men in the Federal Army, would have had one hundred thousand men in the southern army.

Kentuckians did not go into this war to fight the institution of slavery. We have no prejudice against it, and we are not responsible for it. Slavery is in the Constitution of the country; we did not place it there, and the only way to get it out, or at least the only proper way, is to change that Constitution as it is provided by the instrument itself it shall be changed. I have always thought that the dissolution of the Union was a sure way to abolish the State of Kentucky, and that was one reason why I was opposed to a dissolution. It is not necessary to discuss this point here. When this rebellion commenced every man in our section of the State who said he was a Union man was denounced by the secessionists as an abolitionist. There was scarcely one but denied the charge and repudiated the idea, and they still do. The public presses of the State, the Legislature, the Governor of the State, the whole people, I may say, still repudiate it; and now, after all these solemn pledges made to the people, to our own consciences, to the world, indeed, it is terrible that we should now be called upon to violate those pledges and principles by the Government and are denounced as disloyal if we do not. It is terrible indeed that all those gallant soldiers who have from Kentucky been periling their lives for the preservation of the Union and the Constitution of our fathers, should at this late day, after all the precious blood that has been shed in their defense, be called upon thus to belie the time-honored principles of our statesmen and of our Commonwealth in dread of such a frightful alternative.

There was in my opinion one period in the history of the rebellion when this war could have been stopped and the Union restored upon a constitutional basis gloriously and harmoniously to the whole nation and to the world. My opinion is founded from my idea of the public sentiment of the South by a free intercourse and conversation with the people and prisoners of the southern States whom I freely mingled with for the purpose of ascertaining their sentiments. It was immediately after the series of disasters that followed each other in rapid succession in the early part of the year 1862. First Fort Henry fell, then Fort Donelson went down with a terrible crash which caused a panic throughout the South. The battle of Mills Spring was fought which resulted disastrously to the rebel prospects in Kentucky. Bowling Green was evacuated. Kentucky was set free. Nashville fell an easy prey to our victorious armies. The beautiful city of Clarksville was surrendered. Columbus Memphis, and Island No. 10, gave up the struggle. The rebel army retreated from Manassas, and a panic for the first time fell upon the citizens of the rebel capital. The leaders of their disheartened armies seeing the state of affairs rushed to the contest. The great battle of Shiloh was fought; they are again foiled and fall back upon Corinth to make a final stake, but soon abandon that stronghold. The whole of Tennessee was reclaimed to the Union; and finally—the most terrible blow of all—New Orleans, the great metropolis and emporium of the South, capitulated, and the old flag was raised upon the spires of that beautiful city.

Sir, I believe as a Christian man if the President of the United States had at that time gone forth with a proclamation of amnesty to the misguided people of the South, guarantying to them the full protection of the Government in the enjoyment of the domestic and State institutions,

that the great mass of the people would have risen up as one man and compelled their leaders to abandon their mad scheme of dissolution and destruction. But the golden moment was lost; and now, under the present amnesty proclamation, with its provisos and oaths and exemption exception threats and insecurities, I cannot see how any intelligent southern man can look upon it in any other light than as an insult added to injury.

When General Buell's army separated from that of General Grant at Corinth and moved toward Chattanooga, it marched through a fertile and beautiful section of country. No damage was done to the people on the march, much to their surprise; not near so much, we were assured, as had been done by the rebel army under Beauregard. Not a private premise was invaded, no fences burned, no property stolen or impressed, no arrest made among the people, no insults offered to or imagined by them; scarcely a blade of grass was trampled upon or a flower plucked by the roadside; but we moved through the country a thorough, a magnificent, and beautiful system of military science.

When General Bragg invaded Kentucky in the fall of 1862, it was my fortune to command a regiment in pursuit of him, and to be placed in a brigade and division that had not been with General Buell, and of course had not been subjected to the same system and discipline to which I have alluded; but on the contrary, had been under the command of an officer of foreign birth who, it appears, had inaugurated in his field an entirely different system of warfare, that of destruction and desolation; and it was a source of continual annoyance and an absolute feeling of shame and degradation to us to notice day after day, and night after night, continued and repeated acts of lawlessness and depredation committed by these fellow-soldiers upon the people of Kentucky as we passed through that State; many of whom, indeed, were the intimate friends, relations, neighbors, and associates of the men of the regiment which I had the control of. There were hundreds of fugitive slaves in our army. They were under no military restraint, but running loose and wild under the first flush of their freedom. The army had been upon half rations for three weeks; these negroes were not counted in the returns of the regiment, and we of course could not draw rations for them. They consequently had to depredate upon the country, which they did, and the soldiers would in many instances get the credit of it. They would steal horses, mules, or anything that came in the way; they would fill up the ambulances and wagons, while the poor soldier could be seen every moment falling and fainting by the wayside; they would entice the slaves of loyal men away, carry them to some regiment that would protect them from recapture. And thus were we continually annoyed with these "free Americans of African descent," not knowing at what hour a terrible battle would take place. Every day we were appealed to by some loyal citizen of the State, old acquaintances, friends, to assist them in recovering their slaves that had been enticed away and were hiding about and skulking in the army.

The statute laws of Kentucky say that any free white male who shall be found guilty of harboring a slave shall be confined in the penitentiary for not less than two nor more than twenty years. And, sir, I contend that any commanding officer of a regiment who allows a fugitive slave to come into his camp and refuses to give him up to his owner upon application, is guilty of harboring that slave, and therefore commits a penitentiary offense. Taking this view of the matter, I issued an order to my regiment, the substance of which was that any fugitive slave which came into the camp of the regiment which I commanded would be given up to his owner upon application, whether that owner was loyal or a rebel. For this order I was summarily dismissed from the Army without trial, and without being allowed the privilege of even an explanation. If I was wrong then the whole Legislature of Kentucky was wrong, for it was heartily and fully indorsed by the Legislature. So was it also approved by the Governor of Kentucky in an official message as being "right in itself, and in accordance with the clearest dictates of a sound and enlightened policy." The whole people of the State indorsed

it; the press indorsed and approved it; and the rebels of the district, as they are called, would have voted for me on this account without my seeking their votes. For this I was dismissed, while another man who had never fought a battle, a foreigner, who was tried by a court-martial and convicted of "conduct unbecoming an officer and a gentleman," stealing and abducting slaves, was not only reinstated but promoted. Cases of individual wrong have been frequent in this war; but in comparing the action of the Government in my case to that of the other case to which I alluded I have always thought it was a great outrage, and still think so.

When we turn with despair and search and pray that some great arbiter may rise up to allay the terrible strife that is now defuging our country with fratricidal blood, we are forced to admit that in this great republican Government of ours we can look alone to that source from whom all power in this nation is derived, the people; for there is an undercurrent of truth, of godlike charity and honesty in the great heart of the American people, that manifests itself, not by the effervescing passion of mob or excited public assemblages, nor among those striving amid the din and clash of arms, but it manifests itself upon the trembling lip of the Christian philanthropist when he communes alone with his God and asks that he may be led in the paths of righteousness. I have an abiding faith and confidence in the honesty of the American people, and I appeal to them, as I did with confidence to the people of my district, to sustain me in my efforts to serve them, my State, and my country. I do not ask of this House to grant me the seat occupied by the present incumbent as the Representative from our district. He has said that he has every confidence in the people, and ought therefore to be willing to risk his chances in their hands when they can come forward and vote according to law and not according to the mere dictum of one who knows nothing of their wants, their wishes, or their desires. Turn this election back to the people with the instruction that in accordance with the Constitution and the ancient law and usage of the land "it shall be free and equal." It is all that I ask, and all that the people desire. Sir, I plead for the suffering people of Kentucky. Go see her desolated households, her fair fields, but a few years before teeming with the rich products of a fertile soil, now covered with brambles and briars, her dwellings and granaries deserted and empty, her rich gardens given up to the wild flowers, her population driven in many instances from their homes, and the torch of the incendiary applied to all their worldly goods. No longer do we see the cheerful smile and the countenance beaming with joy and prosperity, but death, gloom, and sorrow you will find at the door of every man's household. The secessionists and enemies of our Government who are responsible for the inauguration of this state of affairs, have long since departed from the State, and the men, women, and children who are left behind, look now to the Government which has protected us so long, and to the proper enforcement of the laws under the Constitution, as the only thing that can save us from an eternal anarchy. And how anomalous is her position compared with other States of this Union. Her devotion to the Constitution and to fixed principles has in this case been made the means whereby she has been deprived of her rights under that Constitution. Suspected by the Federal Government, derided and scoffed at by leading traitors who would have ruined her irretrievably, her strong arm weakened by the exit of her fifty-five thousand soldiers who have left her to maintain and uphold our Government, weak and powerless, prostrate and bleeding, the first-born of this nation, she is denounced as disloyal, ay, sir, from these very Halls.

There was a time when the step of a Kentuckian was as free and proud as that of the bounding deer upon its native hills. It was not the sky above us, for the "same blue arch that hangs over us and the same pure stars that we have loved to watch, and that blossom at twilight's gentle hour" are the admired wonder of the world. It is not the soil upon which we tread, for far richer soils may be found under the sun. It is not the mild winds that whistle around and about, for the "spicy breezes that blow so soft o'er Ceylon's isle" pass to a neighboring island laden with

their rich perfume to whet the appetite and fan the cheek of the cannibal and savage; but it was because we felt that we were standing in the midst of a mighty, prosperous, and glorious nation, secure in the enjoyment of liberty, happy in the pursuit of our daily avocations, upon terms of equality and friendship with every one, protected at all times by the Government which we respected and obeyed. "From the center all round to the sea" we were the envied and honored of all. Deprive her gallant people now of this right of elective franchise and you crush her to the earth. The people of Kentucky in such a degradation would rather have no representation in this Hall, if they are not allowed to say by "a free and equal election" who their Representatives shall be. We want no dictation from military quarters as to who we must vote for; we want no political platform of principles laid down for us by persons who have no sympathy in kind with the cherished principles of the people. The large and lucrative revenue now flowing into the Treasury of the Government arising from the taxes imposed upon her products entitle our people to an equal enjoyment of the laws and Constitution of the Government. "Taxation without representation" was the great principle upon which achievement of our independence as a nation was effected. I ask the Representatives of those old States whose early heroes fell in the great struggle for American independence, are you now ready to violate that sacred principle handed down to you by your fathers as relics of the past that are to be treasured and guarded inviolable?

I need not invoke the aid of the Representatives of those great and mighty sister and neighboring States of the West to sustain us in this contest for principle and right. I urge here no personal claim for your consideration, but I speak for a whole people, a whole district, a whole State. I urge the claim of that people for the right to choose her own Representative in accordance with her own laws, and to elect their Representatives to the national councils as you have been elected. We have a common destiny in the West. Whatever may be the fate of this Union, the union which binds us together can never be dissolved. "What God has joined together let not man put asunder." Adopt this principle of depriving people of their elective franchise in Kentucky, and you know not how soon it may fall upon you also. But if you determine to do so—if the blow must fall, and this sacred right is to be violated, and Kentucky is to be made the example in the establishment of this principle—I would request in her behalf, in the language of a distinguished man upon a similar occasion before this House, "that you blot from the spangled banner of this Union the bright star that glitters to the name of Kentucky, but leave the stripe as an emblem of her degradation."

And, sir, it is charged against me as a great crime by the gentleman, in his response to my notice of contest, that I urged the people, in our canvass before them, to stand firm to their principles, and "fight North, South, East, or West against the tide of fanaticism that rolled against her," and that I said, "let Kentucky go when she might, I would go with her." Sir, I confess the sentiment, and here repeat it:

"Lives there a man with soul so dead,  
Who never to himself hath said,  
This is my own, my native land?"

I would be unworthy of the name of a Kentuckian did I forget her glorious history; the early struggles of our ancestors with the savage, which gave it the name of the "dark and bloody ground," and beneath whose surface now sleep these honored and glorious heroes whose deeds have given a name imperishable to our Commonwealth. I love my native State, and I will not abandon her, and I will abide her fortunes whatever they may be. I love her gallant sons and beautiful women. In childhood I sported upon her hill-sides, slept beneath her shades, laved in her streams, and fished in her brooks.

"Land of the brown heath and shaggy wood,  
Land of the mountain and the flood,  
Land of my sires, what mortal hand  
Can er' unite the sacred band  
That binds me to thy native strand?"

Mr. VOORHEES took the floor, but yielded it to

Mr. WADSWORTH, who said: Mr. Speaker, I would not have troubled the House at this time with any observations upon this contest except

for the reason that I cannot give my vote in silence for the sitting member. I agree with almost, if not quite all, that my gallant friend (Mr. McHenry, the contestant) has said in denunciation of the interference with the freedom of elections by the military force of the Federal Government. I agree with him in condemning and denouncing the military orders issued to the State of Kentucky prior to the last congressional and State election; and particularly the orders reported by the Committee of Elections from subordinate Federal officers in the second congressional district. I deny that they had any legal power to issue such orders. The orders of Colonel Foster, of General Shackleford, and of General Burnside were all illegal, arbitrary, unconstitutional, and dangerous to the liberties of the people of the whole country. These orders (except, indeed, that of General Burnside) say to the officers of election, appointed under the laws and constitution of Kentucky, that none but a particular description of individuals should be candidates for office; and that none but this class of persons should vote for any candidate for office. They say that not only all voters shall be "loyal men," leaving it to some "petty, petting officer" of the Federal Government to say who is a "loyal man," but they say that no man shall be a candidate for office, or shall vote, who is not in favor of voting men and money to carry on the war. Why, sir, what man is there who will claim that such an order as that was legal? If we concede that military officers have the right to determine who shall be a candidate for office, to prescribe the qualifications of candidates for office, and, above all, to say that he shall be in favor of the war, we transfer the question of peace or war from the legislative forum to the Army, and the Army will have it in its power to perpetuate the war forever against the will of the people. Of such a character are the orders of Colonel Foster and General Shackleford. You will find them in the report of the majority of the Committee of Elections. I beg to read a single sentence from the order of Colonel Foster:

"No one will be allowed to offer himself as a candidate for office, or be voted for at said election, who is not in all things loyal to the State and Federal Governments, and in favor of a vigorous prosecution of the war for the suppression of the rebellion."

Thus, sir, inferior officers of the Army undertake to determine the question how long the war shall last, and by physical force obstruct every man from voting or being a candidate who is in favor of terminating the war. Could there be anything more flagrantly illegal in principle, arbitrary, and tyrannical? Is not the civil power entirely subordinated to the military, if we concede this usurpation?

Now, sir, in common with the colleagues from Kentucky with whom I act on this floor, condemning as I do this illegal and arbitrary exercise of military power in the second congressional district of Kentucky, they would not vote, and I should not vote as I expect to vote, in favor of my colleague, the sitting member, if I were satisfied that these orders had influenced the election to such an extent as to give him a majority of the whole vote of the district. We are satisfied that he is the choice of that district, we are satisfied that the party which nominated him, and to which both the gentleman contesting (Mr. McHenry) and the sitting member belonged, had an indisputable control of the district on any fair test, and that the orders were impertinent and unnecessary. We are satisfied that the sitting member received a majority of all the votes of the district, and that that majority was not due to the moral effect of these orders, nor the disgusting military wrongs perpetrated in portions of the district. We believe that he would have obtained a majority in that election if these orders had never been issued; I think he would have received a larger majority; at least I am warranted in coming to that conclusion from my own experience in the same canvass, and belonging, as I do, to the same political organization, pledged to the same unequivocal platform of opposition to the radical measures of the Administration, of opposition to the Republican party, to a war for the negro, but in favor of the war for the Union; the same platform to which every member of this Congress from Kentucky was pledged, and upon which all of them were elected. I am satisfied from my own expe-

rience, and from the result in my own district, that if the proclamation of martial law had not been made a larger vote would have been cast and a larger majority given for most of the Union Democratic candidates. The only effect of that unnecessary order was to discourage a full vote, and rob the success of the Union party of all moral weight with the country. I confess that the most objectionable feature to me in this case is the seeming indorsement which my colleague gave to the military order by franking it to different parts of his district. But we do not know what he wrote with the orders which he thus franked, or under what peculiar circumstances he was led to do so. I would fain hope and believe that he sent them to some manly and intelligent citizens of his district, calling their attention to the interference of the military in the election in Kentucky, and requesting them to use their influence to counteract it. But I do not believe that that order increased his majority. I know that he received a majority compared with any vote hitherto cast in that district, and that fact will control my vote, although I am dissatisfied with his seeming indorsement of these military orders.

Mr. YEAMAN. It is not proved in the evidence that I franked any of these orders, and yet it is interpolated into the minority report in this case.

Mr. WADSWORTH. I beg my colleague's pardon; I have misunderstood the reports from the committee.

Mr. YEAMAN. My recollection is that I sent two or three of them, not exceeding three, at the request of citizens of other counties who happened to be in my town at the time; and I sent them without comment and without request.

Mr. WADSWORTH. I am glad, Mr. Speaker, to hear from this explanation of my colleague that he sent them upon request from a few friends without indorsing them; and he will recollect that I did not affirm that he had given these orders any indorsement, but only seemed to do so.

Mr. YEAMAN. Of course I recollect that.

Mr. WADSWORTH. On the contrary, I was trying to insinuate what I would fain hope and believe to be the fact, that my colleague did not approve of them. I do not know how any Kentuckian could approve this arbitrary interference with the action of the people of his State on so great and solemn an occasion as an election for Governor and Legislature, and Representatives in Congress. It would be a surrender of the dignity, rights, and independence of the State to Federal usurpation.

There is another feature Mr. Speaker, from which I must express my dissent. Our gallant Kentucky soldiers came home and voted. God bless them and shield them everywhere! They had a right to come home and vote. Long may that right remain with them and the rest of their fellow-citizens unobstructed, and unpolluted! What was the influence on the mind of the soldier of these orders of his superior officers? Could the gallant soldier vote freely with orders of that description hanging over him? Could he, when he saw his superior officer interfering with the election and aiming his interference at a particular candidate, be supposed to vote freely?

Mr. A. MYERS. Will the gentleman from Kentucky permit me to ask him a question?

Mr. WADSWORTH. Yes, sir.

Mr. A. MYERS. These soldiers, about whom the gentleman is proposing to speak, did they vote for the candidate or for the sitting member?

Mr. WADSWORTH. I understand that they voted for the sitting member; at least in great part.

Mr. A. MYERS. Then, Mr. Speaker, I will vote for him, too.

Mr. WADSWORTH. I know whom the gentleman would vote for if he were in my State. I could pick out the men he would vote for. He would vote for the men who stay at home and lie a-bed and loll about and prate of "putting down the rebellion," and taint with their vile breath the loyalty of gallant Union soldiers like my friend, (Mr. McHenry,) who stood boldly in the storm of battle at Donelson and Shiloh, watering the soil with his blood.

Mr. McHENRY. I aver, and have proven, that these soldiers were sent home under a misapprehension; and in some instances they were told by the commanding officer that if they voted for me they would not be allowed their money. It

has been also stated that men of my own regiment were not allowed to come.

Mr. WADSWORTH. I think the soldiers should have voted for my colleague, the sitting member. He was the regular nominee of the Union Democratic party, Colonel McHenry's party, and my friend Colonel McHenry was bolting the nomination, and I think the soldiers should have sustained the nominee of the Union Democracy. My friend, Colonel McHenry, has a record which will forever fix his "loyalty." If my humble testimony to his "loyalty" were worth anything, but I am afraid it is not, I would cheerfully give it. He is as patriotic a man as lives. To prove whose blood is redder for the Union, he has made incision on the battle-field. The line from which he draws that blood attests his patriotism. The principles upon which he stands to-day attest it.

But I was about to observe, Mr. Speaker, that I object to these military orders because of their natural influence on the minds of the soldiers. If I had testimony sufficient to convince me that there were enough of soldiers voting on that presupposition to give the majority to my colleague, I confess that I should hesitate before I would declare him entitled to his seat. I do not know how a private in the ranks could vote freely under the influence of such orders, and of the active interference of his superior officer against a candidate. But I do not believe that that operated to any such extent as to vitiate the election. On the contrary, I am of opinion that although many of the soldiers would have preferred to vote for my friend Colonel McHenry, from knowing him a fellow-soldier in the field, and some, perhaps, from having served under him, yet I am of opinion that the soldiers of Kentucky in general would wish to sustain the nominee of the Union Democracy, that noble party that, under the lead of men immortal, piloted them through the darkness and storm of '61 and '62.

Mr. Speaker, I have made these observations because, while I intend to vote for my colleague, I did not intend to do it in silence, under any circumstances that might seem to give my indorsement, or the sanction of the colleagues from Kentucky with whom it is my pride and pleasure to act on this floor, of the right of Federal officers, civil or military, to interfere in the election in Kentucky, to dictate to county judges whom they should appoint as judges of election, or to dictate to judges of election whom they should permit to be candidates, or whom they should permit to vote; denying with uplifted hands that they have any right, under any circumstances, to do anything of that sort. And, sir, as this may prove a matter of considerable importance in the coming presidential election, I have been all the more desirous to express thus publicly my disapprobation of these orders, as well as that of the colleagues with whom I cooperate.

I want no repetition of these outrages. I want a fair, peaceable, and free election in Kentucky in the approaching presidential election. Then, if she gives her vote to General Fremont, or Abraham Lincoln, or Benjamin Butler, or anybody else, no one will yield a more perfect obedience to the voice of the mother of all Kentuckians, the ever-honored Commonwealth, than I, the humblest of her children.

But I want that election to be free, because the people of that State are free, descended of free-men, and I trust unable to endure life on any terms unworthy of the sons of the free. And if that election is not free, I trust, animated by the spirit of those ancestors, they will prove that their blood still lives in their veins and burns with generous ardor.

Mr. VOORHEES resumed the floor.

Mr. SMITH. I ask the gentleman from Indiana, before he proceeds, to allow me a few minutes' time.

Mr. VOORHEES. How much time does the gentleman from Kentucky desire?

Mr. SMITH. Not more than fifteen or twenty minutes.

Mr. VOORHEES. I will state to the gentleman from Kentucky that I do not expect to occupy anything like the hour to which I am entitled, and I prefer to go on now.

Mr. SMITH. If it is understood that the debate in this case is not to close when the gentleman from Indiana has concluded his remarks, I

have no desire to interfere with the gentleman at this time.

The SPEAKER *pro tempore*. (Mr. Gooden in the chair.) The Chair understood the arrangement to be that the contestant was to occupy an hour, then with the assent of the sitting member the gentleman from Indiana was to have the floor, after which the sitting member and the contestant were to close the debate.

Mr. YEAMAN. It may have been so expressed. My intention was that all the members who desired it should address the House before I claim my right to the floor.

The SPEAKER *pro tempore*. If there be no objection, that will be the understanding of the House.

Mr. VOORHEES. I will yield the floor to the gentleman when I get through. I do not expect to occupy more than half the time allotted me.

Mr. Speaker, I perhaps ought to be content to leave this case as it stands, after the able, thorough, and very eloquent speech of the contestant himself. He has covered the whole ground, so that there is hardly a place for a word to be added in his behalf. Whatever may be the action of the House, the contestant has added one more claim to the gratitude and affection of the people of Kentucky, and to the pride which they already entertain in him as one of her most brave and gifted sons. This he has done by the presentation of his case to-day, and in the presentation, in that connection, of the cause of constitutional liberty.

But, sir, having made a minority report from the Committee of Elections, I deem it proper to state very briefly the reasons which induced me to take that course. Before I do so, however, I must express my surprise at the course the Kentucky delegation have seen fit to pursue, a course which places me in the peculiar attitude of defending the freedom and purity of the elective franchise in that State without the support of her own Representatives. I was amazed at the position assumed by the gentleman from Kentucky who has just taken his seat, [Mr. Wadsworth], speaking on behalf of the Kentucky delegation, admitting fully the illegality of the arbitrary and unconstitutional interference on the part of the military authorities in this election, and yet failing to hold invalid the election which resulted from that interference and usurpation. Sir, I regret the position in which I am placed, but I feel in some degree authorized to speak for Kentucky. Though not quite "to the manner born," yet my fathers were, and their dust sleeps in her earliest graves. I shall therefore speak as one of kin by blood, if not an immediate child of the household.

Mr. Speaker, the gentleman who has just spoken [Mr. Wadsworth] says this election was not, in his judgment, controlled or affected by these military orders, which he joins me in denouncing. Sir, I find in the Constitution of the United States that "the times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof." In accordance with this provision of the Constitution Kentucky prescribed the time, place, and manner of holding elections for Representatives in her various districts. But this election in the second district is confessedly and abundantly proven in every part of the evidence to have been held, not pursuant to the laws of Kentucky, but precisely pursuant to these military orders, which the gentleman [Mr. Wadsworth] has so eloquently denounced. The judges of election swear to these facts. They swear that they held this election in conformity to these military orders and not with reference to any law that Kentucky had made on that subject; that if the law conflicted with these orders they obeyed the orders and not the law. This is sworn evidence, sir.

Mr. Speaker, I have served nearly four years as a member of the Committee of Elections, ever since I entered this House. I have taken for my rule of action as a member of that committee and of this House that when I indorse an election it shall be both free and pure. I propose to show that this election was neither. The judges themselves swear that it was not free, and I will show you by the evidence that it was vastly impure.

What are the facts? A colonel by the name of John W. Foster, of Indiana, issued the first reg-



ulation of the elective franchise in the State of Kentucky contrary to her own laws. On the 28th of July, 1863, he issued his order. What is it? He commands that "none but loyal men shall act as officers of the election." What next? These judges of election are ordered to allow no one to offer himself as a candidate for office, or be voted for at said election, who is not in all things loyal to the State and Federal Governments, and in favor of a vigorous prosecution of the war for the suppression of the rebellion. The order then winds up in this wise:

"The judges of election will allow no one to vote at said election unless he is known to them to be an undoubtedly loyal citizen, or unless he shall first take the oath required by the laws of the State of Kentucky."

"No disloyal man will offer himself as a candidate, or attempt to vote, except for treasonable purposes; and all such efforts will be summarily suppressed by the military authorities."

"All necessary protection will be supplied and guaranteed at the polls to Union men by all the military force within this command."

How did this work? How was it executed? I find by the evidence that in many instances those who offered to vote and those who refused to vote, those who took the oath and those who refused to take the oath, were alike arrested; one for taking it and the other for refusing to take it. They were arrested for voting and for refusing to vote; for swearing and for refusing to swear. Such were the workings of the orders of this emperor of Kentucky. He was colonel of the sixty-fifth Indiana. He was not the greatest man in our State, but he was great enough, it seems, to be supreme in Kentucky. He was lord and dictator there, and the laws perished at his glance. Liberty fled before him. Kentucky ceased to be a sovereign State in his presence. Land of ancient glory, has age dimmed thy eye and palsied thy arm?

Sir, this order of enslavement was written in the town of Owensboro', where the sitting member resided. The sitting member says that the assertion of that fact in the minority report which I have presented, and that he franked it to his constituents, is an interpolation. In order to show how accurate the sitting member is in his statements, I will read from his own printed answer to the notice of the contestant—his own personal statement on that subject. He says:

I did not "investigate the publication of said order and oath with a view of preventing a full and fair expression of public opinion on August 3, 1863, but, in a conversation with said Foster, told him that, owing to my position, I would give no advice or make no suggestion what the military ought to do, except to request that any action taken should be as mild as possible, and sought no interview with him for that or any other purpose; and I deny that said order was intended or used for any other purpose than to enforce the law of Kentucky, and the proclamation of Joseph F. Robinson, Governor of Kentucky, of date July 20, 1863, enforcing obedience to the act of March 11, 1862. Colonel Foster did have a right to issue said order."

Mr. YEAMAN. Will the gentleman yield to me?

Mr. VOORHEES. Certainly.

Mr. YEAMAN. The language the gentleman has quoted is in the allegation in the notice. I quoted that language, putting it in quotation marks and denying it. The denial I made was that I had seen this order before it was published. The assertion I made while the contestant was speaking, and which I now repeat to the House, was that the interpolation into this minority report of the fact of franking was made without finding it in the record or any evidence in the case, and he cannot avoid it.

Mr. McHENRY. I think I can explain all this matter. It is stated in the minority report that it was stated by the contestant in the committee-room that the sitting member had franked that document, and it was not denied. Therefore the admission upon the part of the sitting member that he had done so was drawn from that.

I take occasion here to remark that I would not say anything to do the gentleman an injury, or say anything here which was not strictly correct, and I do not suppose the gentleman believes I would. I misapprehended the gentleman's question, or at least I did not understand it, when I was asked in relation to what I stated about his knowing anything about this order before it was published. What I intended to say was that the gentleman knew of these orders before they were issued. I meant before they were sent out to the country. If that is not so, as a matter of course I withdraw anything I said with reference to that matter.

Mr. YEAMAN. I affirm distinctly that I never saw or heard of that order until I saw it in printed form on the street. The allegation I denied was that it was not submitted to me before it was printed; and I now deny it again.

Now I desire to ask the gentleman from Indiana a question, and I want him to answer it fully. I affirm that he never was present in that committee-room to hear one motion, one argument, one allegation, or one denial. Now I ask him where he got that fact which he put into that minority report?

Mr. VOORHEES. I will answer—

Mr. YEAMAN. One remark more.

Mr. VOORHEES. No, sir. I will answer the gentleman now. I have drawn this minority report from the evidence as it is printed, from the notice of contest upon the part of the contestant, and from the answer of the sitting member. From these sources, which comprise the whole case, and every word of which is printed in a book which I hold in my hand, I drew the minority report. It is true I was not enlightened by the argument the gentleman made before the committee, and of that he complains. I confess it was my loss, but I was absent for the best of reasons—the condition of my health. I examined everything, however, in connection with this case, and reached the conclusion I have stated in this report.

One word further on this point. The gentleman from Kentucky [Mr. YEAMAN] need not put on any airs in catechising me. I want him to distinctly understand that if he means to state that I interpolated anything into my report attaching a personally offensive meaning to that charge, he states what is false, and the truth is not in him. That is my answer to that.

Mr. YEAMAN. One remark.

Mr. VOORHEES. No, sir; I have yielded to him time and again.

Mr. YEAMAN. Very well; the gentleman will hear from me.

Mr. CRAVENS. I trust my colleague will yield. It is a mere question of fact, which can easily be explained.

Mr. VOORHEES. I believe I generally conduct debate in a fair way; at least such is my purpose. So far as this case is concerned, I have not had the slightest personal feeling; certainly none against the sitting member. The House will bear witness in what manner he has treated what I conceived to be a legitimate argument upon this subject.

But to return to the point from which I have been diverted. Here is his answer, which I again read. He says it is a quotation. There are quotation marks at the commencement of this paragraph, but none anywhere else. Where it ends I cannot say; but I will read it again, and the House can judge whether it is not his own statement, and not that of somebody else. He says:

I did not "investigate the publication of said order and oath with a view of preventing a full and fair expression of public opinion on August 3, 1863, but, in a conversation with said Foster, told him that, owing to my position, I would give no advice or make no suggestion what the military ought to do, except to request that any action taken should be as mild as possible, and sought no interview with him for that or any other purpose; and I deny that said order was intended or used for any other purpose than to enforce the law of Kentucky, and the proclamation of Joseph F. Robinson, Governor of Kentucky, of date July 20, 1863, enforcing obedience to the act of March 11, 1862. Colonel Foster did have a right to issue said order."

There is the answer of the sitting member. I found it in examining this case. As to his franking this order over the district, he admits it upon the floor of this House. He says he had the right to do it. So he had. The law of Congress allows two kinds of matter to be franked. One is public documents. This was not a document of that kind; it was not printed by order of Congress. The other kind is a member's own private papers; and when the sitting member franked this order, as he has admitted he did, he made it his own under the law. I leave it to the House to judge how probable it is that a gentleman aspiring to office would circulate an important document bearing upon his election of which he disapproved. Sir, I do not know which is the oldest, the gentleman from Kentucky [Mr. WADSWORTH] or myself; we are neither, however, very far advanced in life; but it has been a long time since I was young enough to believe in simplicity of that kind.

Sir, this was the first military edict in that department. What comes next? General Shackelford was not satisfied with the laws of Kentucky; he desired to improve upon them. What was the necessity? By an act of the Legislature of that State any one who had participated in the rebellion was disqualified from participating at the polls as a citizen of Kentucky. The laws of Kentucky expatriate such a man; but this, it seems, was not enough for this general. Sir, I abhor usurpation and tyranny. I love liberty; I love it with all my soul. I hate usurpation; I abhor tyrants; but I detest and despise the instruments by which tyrants work. This man erects a standard of loyalty before which all Kentucky must bow. He says that no man shall be a candidate for any office, or shall be voted for, who is not in favor of a vigorous prosecution of this war. This order was issued on the 28th of July. On the 31st, two days after, General Burnside issued his order. This pyramid of infamy, of iniquity and crime, commenced at the apex, is inverted, stands upon the small end; commences with Foster and ends with Burnside. On the 31st General Burnside issued his order; and what a fall was there! Kentucky laid down prostrate; put her mouth in the dust while the chains of a white man's slavery clanked above the graves of Clay, Crittenden, Hardin, Bowen, McKee, and Menefee. The election took place under these three orders; and you ask me to say that it was a free and pure election! I can do nothing of the kind; no, sir, not for a moment. But these orders treat of the question of loyalty. Who is "a loyal man?" My friend from Delaware [Mr. SMITHERS] who made the majority report in this case has his notions as to what constitutes a loyal man. I have mine, and you have yours. We differ, and we have the right to differ. But the constant use of this word loyalty is a little unfortunate; it means fidelity to a prince or potentate. It may be that this is an initiative word to bring us up to that point.

But Kentucky occupies no doubtful position in regard to loyalty. She has defined who are loyal citizens, and has by law expatriated from her bosom those who have raised their arms against the Federal Government. He who has given aid to, joining with and assisting this rebellion, is, by a law of Kentucky, wiped out of existence as one of her citizens. That is easy and plain to be understood. Why not stand upon that law? Why was not this Colonel Foster satisfied with that state of things? Why should he add to the definition, that a man in order to be loyal must be in favor of a vigorous prosecution of the war? There are many men in the country, and honest men too, and in my opinion wiser, who think that a vigorous prosecution of peace would do a great deal more good, and result infinitely more favorably to the cause of the Union, to the cause of liberty and humanity, than the constant and wholesale destruction of human life which we now behold. They have a right to think thus, a right that will be maintained, Mr. Speaker, at all hazards.

But the orders did not stop there. I will now show by the evidence that it was not even a question of supporting this war. On page 11 of the printed documents in this case this item of testimony occurs:

"By same. Was not the following additional oath tendered to voters and made a condition upon their voting: 'You do solemnly swear that you will support the Constitution of the United States, the present Administration, and the enforcement of its laws, the constitution of Kentucky and the enforcement of its laws;' and did not voters apply to vote and offer to take Colonel Foster's oath or the expatriation oath of Kentucky, and were refused because they would not take the above oath?"

"Answer. That is correct."

Oaths were plenty there. Foster required one. The laws of Kentucky required another. And here was still another tendered to this voter:

"By same. State if you do or not know that persons at Curdsville desired to vote for McHenry and were refused by the officers because they would not swear 'to support the policy of the present Federal Administration.'"

"Answer. I do."

"By same. State the names of some of them."

"Answer. Henry Clay, Nelson Beard, George Clark, and N. Beard went up and claimed a right to vote. But they were refused their votes because they would not take the oath to support the Administration. They were old men, and Nelson Beard was ordered away from the polls. He left with tears in his eyes."

"Woe unto a country when She sees the tears of bearded men."

I repeat that as but the mournful echo of the touching eloquence of the contestant.

Now, Mr. Speaker, this was the system adopted. All laws except the military law were stricken from existence by the pen of usurpation. The judges swear here, some of them at least, that they held this election in accordance with these military orders and with a view to no other authority. The oaths tendered were not those required by the laws of Kentucky. In many instances they were not even those prescribed by military dictation. And am I to sit here and be told that this mockery of an election must be endured?

But it has been stated here, Mr. Speaker, that the sitting member got a large majority of the votes cast at this election. I do not wonder at that. I could carry any district, anywhere between the two oceans, and by any majority, if you give me such appliances as these. The majority was large, says the gentleman from Kentucky who pleaded for the sitting member a moment ago, [Mr. WADSWORTH.] Had I the time or the inclination I could go through this proof in detail and show the system of terror which caused men not merely not to vote, but really to vote against their principles and wishes. I will turn to one case as a specimen:

"There were a good many who did not vote on account of the oath; most of them I cannot remember. John L. Davie told me he should vote for Yeaman for protection, saying he was too old to be put in prison and too poor to be robbed."

Other witnesses swore that they were threatened with the impressment of their property, horses, and stock if they voted for the contestant. The sitting member complains that I was not present to hear the argument in the committee-room. I have read this book, and that is all of the case. It is enough to satisfy my mind that this election was a farce; that it was not free; that it was not pure; that it was not legal; that there was no election in the second district of Kentucky; none. This case ought to be sent back. Let the people of that district freely, by the law of their State, express whom they will have here to represent them. I am the last man to interfere with a man's vested rights; but as my political career is coming to a close, as I expect soon to leave these halls to come back no more, to intend to finish my record by a continued and unshaken fidelity to popular liberty. Such has been my course hitherto, and such it shall remain to the end. In the dark days of despotism which I fear are soon to gather over us the people shall not point at me as one who was false when their rights were assailed in this high sanctuary of American freedom. Let those who have trimmed their sails for every wind of doctrine during the last three years, whether in my own party or the opposite, strike me now if they choose. My public work has not been done in a corner, and justice will be rendered me by those who think from honest motives.

But once more, on the subject of these military orders. They all dwell upon loyalty as a condition precedent to every right in connection with the elective franchise. And how is the question to be determined? Are you, as a judge of an election, to look into my breast and see what is there? Did John W. Foster or any other of these usurpers bestow omniscience on the judges of this election so that they could divine a loyal man when he approached the polls? Do not press such a consideration. On the contrary, the law of Kentucky prescribes the oath he shall take, and when he has taken it that is the end of it. That is the sole standard of loyalty and the guarantee of his rights. The law of Kentucky prescribes that when a man has lifted his hand in rebellion he is no longer a citizen, and it provides the mode by which that shall be ascertained. In the face of this are you going to clothe judges of election with irresponsible power to say who shall and who shall not vote, to say who is and who is not loyal? But I know that my time and breath are wasted. I know that facts and law make no impression; men have made up their minds; I have a feeling closely akin to despair, and I only speak now that free government may have a few words of defense, however feeble. Sir, everything else is gone. This is the last. The ballot alone remains. The privilege of the writ of *habeas corpus* is destroyed, the liberty of the press stricken down, newspaper offices seized and their editors

arrested because an abolitionist commits a forgery. If we surrender the right to free elections we surrender all.

What has been the action of this House on the subject of elections? I went through with the cases from Missouri. I heard the proof, and I know what military elections are; I know what they mean. And this last stronghold of liberty, the ballot-box, is now in the hands of unlawful, heartless, and audacious power. The talons of the vulture have seized the very heart of American liberty. Sir, it may be that our doom is sealed; it may be that the people will submit to all; it may be that we are to be added to the long list of nations that have finally surrendered their liberties. It may all be; I cannot read the future, but I hope my eyes may be closed in eternal sleep before that hour arrives.

Our Government is based upon the absolute consent of the people acting through their particular local communities, acting through their municipalities, acting through their State sovereignties, and acting as sovereigns in all matters in which they are not limited by the Constitution of their own making. It is their province to provide when and where and how their elections shall take place; they are to prescribe it by their action as States. Kentucky had done so, but the Federal Government steps in and strikes down that right.

Sir, personal considerations are trifles light as air in connection with so great a question as this. I regret very much that the sitting member should for a moment think that my feelings had influenced me in the slightest degree in the conclusions which I have reached. On the contrary, I had entertained none but the kindest feelings for him. His conduct since he has been a member of this House has been such as to make no unfavorable impression upon my mind. What I have done has been solely in the discharge of an official duty and in pursuance of the course I have marked out for myself in all matters of this character. I repeat this is a popular Government; I stand by my Government; its foundation rests upon a free ballot-box, and I hope it will never be surrendered. It never shall be by my act. I hope the people will barricade it with their dead bodies piled high before it ere they allow it to be torn from them. The cause of liberty is the cause of good government; it is the cause of law; it is the cause of the Union; it is a cause all men ought to live for; it is a cause all honest men are willing to die for.

You prate about the liberty of one race, I speak for the liberty of another. The black man has his champions on this floor, the white man shall have his. Let but the finger of wholesome restraint touch the hem of the garment of the black man and the air becomes redolent with your impassioned wails. He is your theme and your joy. I stand here for the forgotten, neglected white man and for his rights. I strike for my own blood and my own race.

Now, Mr. Speaker, it was far from my purpose, when I rose, to go into an elaborate argument upon this case. It would have afforded me infinite pleasure to have rested the case upon the argument of my friend, the contestant, but it is due to him that I should notice one other matter. Not content with robbing the people of the second congressional district of Kentucky of their right to a free election, the attempt is also made to rob the contestant of his well-earned character and brilliant reputation for devotion and fidelity to his Government, not to a temporary Administration, but to a permanent framework of law. He has been unfortunate. He obeyed the Constitution and laws of the United States and the constitution and laws of Kentucky on the subject of slavery instead of rendering obedience to the party in power. All other sins are venial but this. There is no grace or pardon for this enormity. Let crime take any other shape than that if it expects favor with those who rule us now. For this offense the contestant's head rolled from the block under the ax of arbitrary power without a moment's notice to shrive himself and prepare. It was true that he had led his regiment through the fiercest battles of this war with more than conspicuous gallantry. It was true that he had fallen on the field, and given the poor boon of his young blood to what he conceived to be a struggle for the Government of his ancestors. It was true that Colonel John H. McHenry, at the head

of the seventeenth Kentucky, planted with his own hand the first Federal flag that waved over the enemy's works at Corinth. But all this weighed lighter than a feather in his behalf when he refused to suffer his camp to be made a house of refuge for runaway slaves.

Sir, I have the message of the Governor of his native State; I have the resolutions of the Kentucky Legislature; I have the papers of the time, replete with tributes of grateful praise to this brave, chivalric young Kentuckian. It is not enough to rob him of his seat; it is not enough to deprive him of that mark of confidence, dear to every virtuous heart, the favor of his countrymen, but he must be further pursued, and his good name taken from him. And why? Where is his fault? Why should it be insinuated all through these proceedings that he is not a loyal citizen? My friend from Illinois [Mr. MORRISON] told me a moment ago, with a tremor of emotion that did his heart honor, that as he himself lay wounded on the field at Fort Donelson, and looking out for relief, the first that he saw furthest in advance, where death was busiest at its awful work, was the seventeenth Kentucky, and the contestant at its head, face to the foe, and at a full run. There was the contestant, breasting the storm of battle, and pushing back the enemy who had overrun his own State, while the sitting member and his friends were quietly and peacefully at their homes, made secure by the valor of the contestant whom they now seek to destroy.

Mr. Speaker, I have now submitted the views which governed me in the presentation of this minority report. I take my stand first upon the Constitution of the United States, which guarantees to the State of Kentucky the right by her own laws to prescribe the time, place, and manner of holding elections for Representatives in Congress. That Kentucky has done, and there, sir, is the end of it. But J. W. Foster, Colonel Shackleford, first an incipient rebel and then intensely loyal, and then Burnside, to make it all complete, abrogated the laws of Kentucky, and put forth a code of their own for the observance of the people. I cannot and will not vote to sanction that action.

You may say that men were not influenced by these things. The evidence says otherwise. Escape it if you can, men were driven from the polls for refusing to swear, not merely to support the laws of the United States and the Constitution of the United States, but the Administration and its laws.

Mr. MALLORY. Allow me one remark. I ask my friend whether there is any proof in this case at all that any man in that district was induced to vote for the sitting member by these orders. That some were prevented, or said that they were prevented, from voting may be proved; but that any man was forced to vote for the sitting member by these orders is not in the proof. The ground relied on by the sitting member and those who support him is that he received a majority of the legal votes of the district.

Mr. VOORHEES. There are two answers to that proposition. I am not called upon to uphold an election held in Kentucky, unless it is held in accordance with the laws of that State. I do not care how the people voted, if it is not a legal election. I care not whether men were kept away, or forced to the polls if it were an election without law. It is enough for me to know that here is an illegal election, that it was held in obedience to military orders which destroyed the laws of Kentucky. I mean, sir, that in so far as they conflicted with the laws of Kentucky and of the Federal Government, to that extent the military power held sway and the civil laws perished. Then it matters not to me what might be the especial fact as to its effect upon the vote; it is an illegal election.

But, sir, there is a large amount of testimony going to show the pernicious effect of these orders, as I have already shown. One man, for instance, that I have already alluded to, said that he should vote for the sitting member for protection, saying he was "too old to be put in prison and too poor to be robbed." Other threats I have alluded to, and I now simply refer to them again in answer to my friend, [Mr. MALLORY.]

Now, sir, take all these facts together, and will any candid man say that such a state of terror, such a state of threatening and violence would

have no effect upon the voting population? I appeal to the men of the border States, who have witnessed the devastation which has taken place among them, to answer me whether it would not have the most powerful effect in deterring men from voting for the contestant, and in inducing them to vote for the sitting member?

But the point I make is not upon the count of the votes. I will not stop to count for majorities; I stop to count principles and sum up the law against this election. I care not how many votes are cast one way or the other. It was held under a system which subverts all Governments, tears down all law. Sanction it you who will and who dare, but, sir, I shall be no party to it; I wash my hands of it.

I have done what I consider to be my duty—my duty to the people who make this Government. Trust the people, is my motto. Why not trust them? Why thrust power between them and the elective franchise? Give us free election and all evils can be prevented or cured; strike that down and the day of evil has but just commenced.

Mr. SMITH sought the floor.

The SPEAKER *pro tempore*. (Mr. Gooch in the chair.) By the order of the House the sitting member will now close the debate. The gentleman from Kentucky can address the House only by unanimous consent.

Mr. J. C. ALLEN. I move the gentleman be allowed the time he asks.

Mr. DAWES. I did not understand that it was directed by the House that there should be no other discussion, but only that after those who desired to participate in the debate had done so, then—

The SPEAKER *pro tempore*. The understanding was that the gentleman from Indiana should address the House, and that then the sitting member should close the debate.

Mr. DAWES. I did not so understand it.

The SPEAKER *pro tempore*. How much time does the gentleman want?

Mr. SMITH. Only twenty or thirty minutes.

The SPEAKER *pro tempore*. Is there any objection? The Chair hears none. The gentleman will proceed.

Mr. SMITHERS. I desire to refer this question entirely to the sitting member. I desire that his wishes shall be taken in regard to it. I presume it is not the purpose to take a vote this evening, and the case will have to go over until Monday, and my friend from Kentucky [Mr. YEAMAN] could do no more than open his case to-night, and would have to pause in the midst of his argument. If he does not consent to allow the gentleman from Kentucky [Mr. SMITH] to proceed, I object.

The SPEAKER *pro tempore*. The objection comes too late.

Mr. YEAMAN. I have not only consented but have demanded that every gentleman who wishes to debate the question should have the opportunity to do so.

Mr. WASHBURNE, of Illinois. I would ask the gentleman from Delaware if he desires to take a vote upon this question this evening?

Mr. SMITHERS. I propose to take the vote as soon as the sitting member has closed his remarks.

Mr. WASHBURNE, of Illinois. The gentleman does not surely propose to take the vote to-night.

Mr. SMITHERS. No, sir; certainly not.

Mr. SMITH. It is not my purpose to make a speech on this occasion, nor do I intend to make any remarks except such as are directly connected with the case under discussion. I do not expect to vote upon this case, simply from the fact that I was in Kentucky at the time the committee were examining into its merits.

Mr. HARDING. With the permission of my colleague, I will move an adjournment.

Mr. SMITH. If it is the wish of the House I will yield for that purpose. [Cries of "Oh no," and "Go on, go on."] ]

Mr. HARDING. Well, I withdraw my motion.

Mr. SMITH. I desire to say a few words in regard to Kentucky, and to the orders which have been referred to, issued by military men in Kentucky. It is known to every gentleman who has read the history of this rebellion, in Kentucky and all along the border, that we who have been

thus situated have, to a greater or less extent, been imposed upon not only by home rebels, but that our territory has been invaded by rebels numbering from a hundred to fifty or sixty thousand.

In the inception of this great struggle of our country, it was difficult for any man in Kentucky to understand exactly the position the State would take; and when the Legislature of 1861 met, after the action of a portion of the people through their Legislature which met before had been well understood, and great efforts had been made to call a convention and take the State by force out of the Union, that Legislature of 1861 was called upon to pass such laws as would more perfectly identify her with the Government. The Legislature was called upon to pass such laws, not only forever fixing Kentucky in the Union, but that it should provide a force in Kentucky which could repel any force from the South which should wantonly invade her territory.

This Legislature passed an act which I will ask the Clerk to read.

The Clerk read, as follows:

An act to amend chapter fifteen of the Revised Statutes, entitled "Citizens, Expatriation, and Aliens."

SEC. 1. Be it enacted by the General Assembly of the Commonwealth of Kentucky, That any citizen of this State who shall enter into the service of the so-called confederate States in either a civil or military capacity, or into the service of the so-called provisional government of Kentucky in either a civil or military capacity, or, having heretofore entered such service of either the confederate States or provisional government, shall continue in such service after this act takes effect, or shall take up or continue in arms against the military forces of the United States or the State of Kentucky, or shall give voluntary aid and assistance to those in arms against said forces, shall be deemed to have expatriated himself, and shall no longer be a citizen of Kentucky, nor shall he again be a citizen, except by permission of the Legislature, by a general or special statute.

SEC. 2. That whenever a person attempts or is called on to exercise any of the constitutional or legal rights and privileges belonging only to citizens of Kentucky, he may be required to negative on oath the expatriation provided in the first section of this act, and upon his failure or refusal to do so shall not be permitted to exercise any such right or privilege.

Mr. SMITH. Mr. Speaker, in 1861, I believe it was, that act was passed by our Legislature; and it was passed because it was then supposed that there were from ten to fifteen thousand men from Kentucky who had joined the rebellion. In the fall of that year the State of Kentucky was invaded by Zollicoffer, by Buckner, and by Folk, in three different directions; and the men of Kentucky came from every direction to oppose these men who had boldly joined the rebel service. These men left behind them their friends, who gave every aid and comfort to the rebels in arms. The State of Kentucky thought it necessary for its own defense that these men should no longer be recognized as citizens; they believed that if our arms should be successful a large number of these men would return to their homes and claim the rights of citizenship.

Now, as to this military call, in view of the circumstances, there was not a Union man in Kentucky who did not indorse it. There was not a Union man in the Commonwealth of Kentucky who did not believe that that was just and a matter of duty. In the elections held after it became a law none but unconditionally loyal men were elected. At least it was supposed so. I remember very well that in the election in 1862 the then commanding officer in the Commonwealth of Kentucky, General Boyle, issued an order prohibiting every disloyal man from voting. And why did he do this? Because disloyal men, men who had been disposed to fight against their State and nation, had the brazen impudence to come and offer themselves to vote, so that they might control the offices of the State. This order, however, had the effect of having Union men elected, and of repelling rebels and rebel sympathizers.

In 1863 there was another election. The whole State of Kentucky had been under rebel rule prior to that time; Bragg and Smith had occupied the entire State.

The battles of Richmond and Perryville, and other small engagements, from one end of the Commonwealth to the other, had been fought. How was the Union sentiment or the rebel sentiment in Kentucky to be discovered? When these two great rebel armies came in under Bragg and under Smith, Union men all over the State fled from it, especially those who had any prominence. The rebel sympathizers remained at home; received the rebels with open arms, and waved

rebel flags from the windows of their houses. Were the eyes and ears of Union men closed to these demonstrations? Did not those who had to flee from the State feel the position in which they were placed? They did; and what was their course when they came back? Conventions were held. The nominations were made. The Governor, the Lieutenant Governor, the members of the Legislature and of Congress were all elected under orders issued in consequence of that affair. The former Governor (Magoffin) having been requested to resign on account of his disloyalty, his successor, who was elected by the Senate, (Governor Robinson,) issued, just prior to the election in 1863, a proclamation which I will read to the House:

Proclamation by the Governor.

COMMONWEALTH OF KENTUCKY,  
EXECUTIVE DEPARTMENT.

For the information and guidance of all officers at the approaching election, I have caused to be herewith published an act of the Legislature of Kentucky entitled "An act to amend chapter fifteen of the Revised Statutes, entitled 'Citizens, expatriation, and aliens.'"

The strict observance and enforcement of this and all other laws of this State regulating elections are earnestly enjoined and required, as being alike due to a faithful discharge of duty, to the purity of the elective franchise, and to the sovereign will of the people of Kentucky expressed through their Legislature.

Given under my hand as Governor of Kentucky, at Frankfort, this 10th day of July, 1863, and in the seventy-second year of the Commonwealth. J. F. ROBINSON.

By the Governor:  
D. C. WICKIATTE, Secretary of State.

Following up that proclamation, General Burnside, on the 31st of July, issued his order. Was it true or not that at that time Kentucky was to be or had been invaded? John H. Morgan with three or four thousand men had been in the State for some time and had traversed it from one end to the other. He had crossed over to Indiana, and was on that grand raid which terminated in the capture of himself and his men. Not only was John Morgan on that expedition, but it was understood by the military authorities that he was but a forerunner of General Bragg, and that he had been sent to attract attention till Bragg could move with his force and occupy such portion of Kentucky as he thought proper. Bragg was foiled by Rosecrans. He sent out Colonel Scott with fifteen hundred or two thousand men, who were driven into the district of my colleague, [Mr. WADSWORTH], and from that into the district of my colleague, [Mr. RANDALL]. He was in a portion of the State until after the election. General Saunders, who fell at Knoxville, under orders from General Burnside, met him first at Richmond in the central portion of the State, and drove him to Paris, Mr. CLAY's district, and then with fighting more or less for ten days drove him out.

Was there then, in view of these facts, any authority for this military order? Was not the State overrun, from one extremity to the other, by rebels under Morgan, killing our men, burning our stores, wasting our property, stealing our horses, and laying waste our lands? And yet they were received with joy and gratification by the sympathizers with these devils and fiends incarnate. Was there no authority on the part of the commander-in-chief to say that these sympathizers and aiders and abettors in treason should not vote, and should take no part or parcel in the State organization and State election?

Sir, as a loyal man, I say it was right; as a loyal man, I indorse it; as a loyal man, I approve of what General Burnside did; as a loyal man I say he would have been recreant to his duty as a patriot, that he would have betrayed his duty as a general had he not done it.

Now, sir, if there had been no war, if there had been no invasion of the Commonwealth of Kentucky, if there had been peace all over the land, there would have been no orders. Who made the war? Who made such an order for Kentucky necessary? It was the traitors of Kentucky in conjunction with the traitors of the South. I tell you it was right he should issue the order, and it was right to execute it in the second district of Kentucky. What its effect may have been in the second district of Kentucky I know not, for, as I said, I have not gone into an examination of the facts of this case, and I would not have troubled this House at all if these sweeping assertions had not been made affecting the elections in the entire Commonwealth of Kentucky.



Mr. WADSWORTH. I desire to ask my colleague whether he indorses the order issued in this second district by Colonel Foster?

Mr. SMITH. I am not speaking of the order of Colonel Foster. I will come to that by and by. I am speaking of the order of General Burnside. That order reads:

"Whereas the State of Kentucky is invaded by a rebel force with the avowed intention of overawing the judges of elections, of intimidating the loyal voters, keeping them from the polls, and forcing the election of disloyal candidates at the election on the 3d of August."

Was that "whereas" true? Had not Kentucky been invaded? Had not a force come into the State from Tennessee, where the rebel army was, and had not the declaration been made that there should be no election in Kentucky? It was so understood everywhere, it was so understood by the Governor and by every official in the State. In the short canvass I made through my district I was three days in company with the present Governor of Kentucky, who was then making his speeches. He believed it; he took the same position which I took and which I take now, that these secessionists were not entitled to vote, that they were not citizens of the Commonwealth of Kentucky.

Well, sir, what induced General Burnside to exercise that authority? Was it because he felt he was a tyrant? Was it because he wanted to come down with an iron grasp upon the people of Kentucky, grind them to dust, and wipe out their liberty? No, sir, it was to operate against a class of men who have never received any condemnation from a certain class of newspapers in this country, against whom the gentleman from Indiana [Mr. VOORHEES] has never uttered a word; who are trying to suppress the loyal people of Kentucky and grind them in the dust. That is the reason why he exercised that authority; that is why he issued the order; these rebels were there in force and a larger force was behind them. It was these loyal men the order of General Burnside was issued to protect. It was asked for by the loyal men of Kentucky, and if you will ask the leading and all loyal men of Kentucky to-day if they indorse it they will say yes.

Mr. WADSWORTH. If my colleague will allow me, I would like to ask who those loyal men are? I have never heard of them. I think the people of Kentucky would like to know who they are.

Mr. SMITH. I will not undertake to give my colleague the names of the men who indorse the order of General Burnside upon that subject, but I would like to ask him, if he believes the order was wrong, if he believes it was illegal, if he believes it was unconstitutional, if he believes it was tyrannical and oppressive, why he did not call upon the Government of the United States to know by what authority General Burnside had issued it? Why did he not raise his voice when he was canvassing his district, and denounce it before the people?

Mr. WADSWORTH. I did.

Mr. SMITH. My colleague may have done it, but I never heard of it before.

Mr. WADSWORTH. My colleague will recollect, if he calls to mind what I said, that I addressed my remarks principally to the orders issued by Colonel Foster and General Shackleford, and drew a distinction between those orders and the orders of General Burnside. I expressed the opinion that those orders of Shackleford and Foster were entirely illegal. I have asked my colleague to say what he thinks of these orders of Foster and Shackleford, but he has not given me any answer.

Mr. SMITH. I hope that the gentleman will not press me for an answer on that point until I get to it.

Now, Mr. Speaker, it is not my purpose to discuss that law passed by the Kentucky Legislature, and what has been alluded to by my colleague. That will be discussed before our people; they will be the arbiters, and will decide what platform they will indorse, and what President they will elect at the next November election. These orders, which date back into 1862 and 1863, have nothing to do with the presidential election. They were for the benefit and the salvation of the people of Kentucky. There are now no orders in Kentucky preventing a man from doing his duty if he does it honestly.

But, sir, I say that these men have no more right to vote in the presidential election than they have in the State election. I will say, furthermore, so far as fairness in election is concerned in Kentucky, that in every district gentlemen had opposition. I know that in my own district, while my opponent was a clever man, no man was more opposed to the Government, or had stronger sympathies, in my opinion, with the South, than he, though he did nothing absolutely against us. I know that my colleague from the Louisville district [Mr. MALLORY] had opposition. I know that he discussed the policy of the Administration, the course of the war, and everything connected with it. The people indorsed my colleague because his opponent was allied with the copperhead element in Kentucky.

Mr. MALLORY. Let me do justice to my opponent, as he has been alluded to by my colleague. I was opposed by a man who claimed that he was a better Union man than I was, and that he had a record showing that he had voted, while a member of the Legislature of Kentucky, for acts more radical than I was disposed to advocate. But the direct issue between my competitor and myself was whether any more men and money should be voted to carry on this war; he taking the ground that it should be stopped summarily by withholding men and money, while I was not ready for that yet. He claimed that he was a Union man; many believed that he was a Union man. He voted for the expatriation act which has been referred to.

Mr. SMITH. Does my colleague believe he was a better Union man than his opponent?

Mr. MALLORY. I believed that I was a better Union man than he was.

Mr. SMITH. I know that the gentleman's opponent in the beginning of the war was a strong Union man. I served with him in the Legislature, and he and I voted on these propositions together. We voted together for that law which was read by the Clerk. I know that he voted for men and money, and for resolutions calling on the Government to furnish men and money to put down the rebellion. But before the rebellion was put down, when the rebels overran the State of Kentucky, when they grew strong, he changed his tactics and opposed the prosecution of the war. My colleague says that he believed that he was a better Union man than his opponent. I believe it. I would have voted for my colleague in preference.

Now, sir, all of these gentlemen had opposition, as I am informed. What the character of that opposition was, except so far as I have mentioned, I do not know. In reference to Colonel McHenry I will say, and he will pardon me for doing so in his presence, that a more gallant, braver, better man I do not know in the Commonwealth of Kentucky. I heard of him long before I knew him. I heard of him at Fort Donelson and at Shiloh, and when he was raising his regiment, and I commended him for the course he pursued. I have nothing to say against his character as a gentleman, officer, and true man, but I will say in reply to his criticisms on these military orders that they were for the protection of the Government which he fought to defend. The charge that they are wrong, are criminal and tyrannical, would come with better grace from a man who had not distinguished himself so much in the same cause. Burnside every one knows to be a good man and patriot. Every one knows that what he did was for the best, and his language is not improper, and it has not affected the loyal sentiment of the people of Kentucky at all. He says:

"And whereas the military power of the Government is the only force that can defend this attempt, the State of Kentucky is hereby declared under martial law, and all military officers are commanded to aid the constituted authorities of the State in support of the laws and of the purity of suffrage, as defined in the late proclamation of his Excellency Governor Robinson."

"As it is not the intention of the commanding general to interfere with the proper expression of public opinion, all discretion in the conduct of the election will be, as usual, in the hands of the legally appointed judges at the polls; who will be held strictly responsible that no disloyal person be allowed to vote, and to this end the military power is ordered to give them its utmost support."

"The civil authority, civil courts, and business will not be suspended by this order. It is for the purpose only of protecting, if necessary, the rights of loyal citizens and the freedom of election."

If my mind does not deceive me, the Legisla-

ture of 1861 passed a law which provided that none but loyal men should be judges of elections or clerks or sheriffs. The law of Kentucky prior to that was that there should be one Democrat and one Whig or one American judge, and that there should be a Whig clerk and a Democratic sheriff. But by the law of 1861 we declare, if I am not mistaken, that there shall be none but true men appointed judges of elections or clerks or sheriffs. That is my recollection distinctly. I would ask my colleague if I am correct?

Mr. YEAMAN. Undoubtedly.

Mr. SMITH. That was my recollection.

Next comes the order of Colonel Foster, who they say is the best man against guerrillas in the world, and I guess he will continue to be. I will read his order:

"In order that the proclamation of the Governor and the laws of the State of Kentucky may be observed and enforced, post commanders and officers of this command will see that the following regulations are strictly complied with at the approaching State election:

"None but loyal citizens will act as officers of the election."

"No one will be allowed to offer himself as a candidate for office, or be voted for at said election, who is not in all things loyal to the State and Federal Governments, and in favor of a vigorous prosecution of the war for the suppression of the rebellion."

"The judges of the election will allow no one to vote at said election unless he is known to them to be an undoubtedly loyal citizen, or unless he shall first take the oath required by the laws of the State of Kentucky."

Where did he get that provision about who should be candidates for office? He had a high precedent for it. That precedent was given by the commander of the department, General Boyle, a year before. Was there any complaint made in 1862 of that order of General Boyle, except by those who were ruled out? I know at the time I did not approve of General Boyle's order, because I thought the loyal sentiment of Kentucky would defeat and overthrow all opposition; but I know that in my own county, and throughout my district, so far as I could learn, the rebel sympathizers who were candidates for office all resigned, and none but loyal men were elected, and they were elected peaceably.

Mr. WADSWORTH. Did I understand my colleague to say that General Boyle the year before issued an order that no man who was opposed to voting men and money should be a candidate for office?

Mr. SMITH. That is what I understand.

Mr. WADSWORTH. I never saw it.

Mr. SMITH. It may have been in the winter of 1862-63. I know an order was issued and sent to my town, and I know that men withdrew from the canvass because not allowed to run under that order. I know I am not mistaken about that. This order goes on to say:

"No disloyal man will offer himself as a candidate or attempt to vote, except for treasonable purposes; and all such efforts will be summarily suppressed by the military authorities."

"All necessary protection will be supplied and guaranteed at the polls to Union men by all the military force within this command."

Now, sir, the statute says that this class of men referred to in the order, men who had taken up arms against the Government, men who had given aid and comfort to the enemy, should not vote except by a special act of the Legislature. The proclamation of the Governor says that act should be enforced. The Legislature said that none but loyal men should vote. The commander of the department issued an order in compliance with the proclamation of the Governor and said it should be carried out and that none but loyal men should vote, and that those who had given aid and comfort to the enemy should not be entitled to that privilege. And Colonel Foster follows the example of the Governor, and General Burnside also said that none but loyal men should vote.

Why was that done? Gentlemen upon this floor will remember that a provisional government was set up in a portion of Kentucky including the first district and a part of other districts. The headquarters were at Bowling Green, the residence of my colleague, [Mr. GRIDER.] There they held their legislature; they held their elections and elected members of the legislature, and members to the southern congress; they had a governor and all the municipal officers necessary for a perfect State organization. They sent their members to congress, they arrested our sheriffs and took the money from their pockets, and they com-

mitted every outrage upon Union men. That whole portion of the State was under their influence for months. And yet after we have driven those men out, do you suppose there were none left behind who had given aid and comfort to the rebels?

General Shackelford issued this identical order. He was a resident of that country, and knew the people with whom he was dealing. I say that it was the duty of the commanding officer there and of every loyal man there to prevent any disloyal man, or any man who had been disloyal, from having anything to do with the operations of the Government.

Mr. WADSWORTH. I desire to ask my colleague [Mr. SMITH] a question. I have not understood him distinctly to indorse the order of Colonel Foster. He seems to indorse that order in so far as it directs the judges of election not to permit any man who is not loyal to vote. I would like him to define who is the loyal man, as Foster's order does.

I have a practical object in view. I want to know whether he is in favor of preventing men from voting who are opposed to furnishing men and money for this war. I want to know whether my colleague is in favor of disfranchising such men.

Mr. SMITH. It seems to me that the question resolves itself into this plain proposition, that there are now from three to five hundred thousand rebels in arms, attempting to invade the loyal States, to seize the capital of the country and the Treasury and archives of the Government and to drag this Congress from Washington.

Now, then, sir, no man who is not in favor of repelling these invading armies and crushing out this rebellion can be truly loyal to this Government unless he is willing to vote men and money to whip the rebels. [Applause in the galleries.] Is my colleague satisfied?

Mr. WADSWORTH. Mr. Speaker, that does not satisfy me, for two reasons: first, it is not a candid, direct indorsement of Foster's order; second, if it does indorse that order I am yet more dissatisfied, because this is wrong. Whenever a majority of the people of this country shall be opposed to the war they have a right to stop it. Every citizen, therefore, who has a right to vote at all, may vote men and money or refuse to vote men and money, may vote peace, may vote war, and neither the Army nor the Federal Executive can obstruct this right without attacking the Constitution and the liberty of the people. Thus it will be seen I make a direct issue with my colleague from the Covington district, he affirming and I denying the legality of Foster's order; he affirming and I denying the right of the Federal military power to prescribe the qualifications of candidates and voters in the States.

Mr. SMITH. My colleague will allow me to ask him a question. In the first district in Kentucky, in 1861, the polls were opened, and men went up there and voted for Willis B. Machen for the confederate congress. I would ask my colleague if he thinks that those men were loyal, constitutional, legal voters in the Commonwealth of Kentucky.

Mr. WADSWORTH. Under the laws of Kentucky every male citizen, over twenty-one years of age, who has resided in the State two years, or in the county where he offers to vote one year, and in his precinct sixty days next before the election, is entitled to vote unless he has taken up arms voluntarily for the southern confederacy, or held a civil office under the confederacy, or under the so-called "provisional government" of Kentucky, or has voluntarily given "aid and assistance to those in arms against the forces of the United States or the State of Kentucky," or has been convicted of certain infamous crimes.

Now, sir, if any citizens of Kentucky in the first district, in 1861, or at any time, voted for Willis B. Machen to represent them in the confederate congress, (and I believe some did,) they were guilty of a wicked and unpatriotic act, and if any man where I live should try to open a poll and vote to send a rebel member of congress to the rebel body at Richmond I would kill him if I could. He should not live where I was and do that thing without my employing all the force in my reach to obstruct it, even to the end. But if my colleague wishes to know whether I would now, in the first district, hinder by force a law-abiding,

peaceful citizen of our State from voting to send Mr. Lucien Anderson or Judge Trimble to the Congress of the United States, or sanction the use of force by anybody for such a purpose, because in the wreck and crash of 1861 he voted there for Machen, I tell him no. I hail the return of every man who in good faith looks once more toward the old flag, and with national aspirations turns his thoughts away from rebellion and its congresses. What are we fighting for unless to compel the people of the revolted districts to ground the arms of rebellion, and return to the duties and the privileges of free and equal citizens of the United States? I would not shed a drop of blood for any other purpose.

But on the question of law I affirm that because a man voted for Willis B. Machen for the Richmond congress in 1861 he was not thereby under the laws of Kentucky disfranchised and denied the right of voting for Anderson or Trimble in 1863 to represent the district in this Congress.

Mr. SMITH. Was not that giving aid and comfort to the enemy?

Mr. WADSWORTH. If it is aiding and comforting the enemy within the meaning of the law against treason, that would disqualify him only when convicted "by due process of law" and sentenced. My own opinion is that every man who took up arms against the State and General Governments, in the service of a rebel power, expatriated himself, and transferred from the State to a foreign power his allegiance. He thereby lost his residence in Kentucky. If that is not so, the expatriation act is unconstitutional. If it is so I see no necessity for the act. Now, if voting for Machen in 1861 was a crime under the legislative act of March 11, 1862, then that Legislature can pass *ex post facto* laws. Those men are not disqualified. But if they were, the United States could not interfere lawfully, unless requested by the Legislature of Kentucky, or the Governor, in case the Legislature could not be convened. Thus these usurpations of the military, justified by my colleague, are without a decent pretext.

But to return to the point. My colleague argues that it was right and proper to use military force to keep from the polls men who were opposed to prosecuting the war. If that were so in a congressional election, how much more must it be so in the presidential election!

That is my colleague's position. It reaches far and affects the rights and threatens the peace of everybody. It amounts to this: he says to a man in Maine, in New York, or in Kentucky, unless he is willing to vote men and money to prosecute the war he must not be a candidate for office, or must not vote at an election; and that the soldiers of the Government should be employed in keeping him from the polls. Now, the right of the military to say "You shall not vote against war," is the right also to say "You shall not vote against peace;" "Indeed you must just vote as we tell you." There is no freedom where there is no choice. Every man in Maine, New York, Kentucky, and elsewhere, if he has a right to vote at all, has a right to vote for peace, or has a right to vote for war, without let or hindrance from mortal man; and there is no power anywhere to prevent him. When the people get tired of the war they ought to stop it. They have the right to stop it, whether my colleague or the Executive consent or not.

I draw a distinction between General Burnside's order and the other two military orders. General Burnside only calls on the military to support the State authorities and to enforce the State laws. His interference is as little offensive as such an act could well be. But these other and inferior officers struck down the State laws, and substituted the will of the military in their place. By the laws of Kentucky a voter has a right to vote for a candidate who is opposed to the war.

The military satrap, Foster, employed the troops of the United States to obstruct the exercise of this legal right, and in doing so went far beyond the order of General Burnside. I wish to repeat that I stand uncompromisingly opposed to such a power. The indorsement of it by a friend of the Administration from Kentucky at this time is particularly significant and alarming. If the majority of the House are of the same opinion as my colleague, the coming presidential election will not be a peaceful one. I am persuaded that

every patriot desires that whoever has a right to vote under the Constitution and laws of the land, may exercise that right freely and without obstruction from the military power. If the position which my colleague takes, that no man shall be allowed to vote unless he is in favor of giving men and money to carry on the war, is to be sustained by this House or persisted in by the Administration, then there are hundreds and thousands of voters, north as well as south of Mason and Dixon's line, who will be excluded from the polls by military force, or the exclusion will be attempted. Whether that will be good for the Union cause I leave the House to decide. We are in the thick of a civil war that tasks all our resources and our united strength. The result is distant and yet doubtful.

The extraordinary partisan policy of the Government has already divided the hearts of the people. To overawe or obstruct the presidential election by military violence would defeat the last hope of peace and union. Long time ago I pointed out to this House what I deemed the chief dangers which beset our path in prosecuting the war for the Union—a division of the people in the adhering States and foreign intervention; the last only possible when the first became a fact patent to Europe. I invoked concord and fraternity; but revolution never thinks, it only feels. The Administration persevered in the work of exasperation and division. It had one prescription for every ill, force, coercion; one ambition, the consolidation and perpetuation of party power. It assailed the prejudices and attacked every right of the white race; while proclamations swept away constitutions and States, the *habeas corpus*, liberty of speech, of the press, of the ballot were swept away by the hand of military power. This power filled new prisons with the people, incarcerated without charges, and dismissed without trials or banished from home and family by orders from subordinates, with cool impartiality high and low, man and woman, old and young, all conditions, sexes, ages. It became a crime at last in the eyes of the Administration to belong to that historic party which from the post-revolutionary age had held sway in America, and given to the Republic Presidents, statesmen, orators, and warriors without number, and which filled the Army of the Union, from general-in-chief to drummer-boy, with its heroes.

Thus the people were divided, cut in twain, and one half driven from the support of the Administration. Yet more; for while on the one side Democrats and true Whigs withdrew from the Administration, on the other, honest and logical abolitionists, pledged for thirty years to freedom of the person, free press, free speech, free ballot, hopeless of "justice to the negro," depart from it with loud and bitter protest against destruction of *habeas corpus*, arbitrary arrests, suppression of free speech, profanation of the press, pollution of the ballot-box, thus isolating it upon the bad eminence of military despotism.

These capital dangers are sequents. The first is upon us; we are divided; judge how far from us is the other and final calamity.

Sir, if the people of the adhering States were united, foreign intervention could not harm us—our Government, mailed in the love of a united people, could mock at all its missiles. Nay, it might do us good, by warming and rousing the one heart of twenty million freemen to that pitch of enthusiasm which would at last show to Europe the real vigor and power of democratic institutions. But the quarrel is fundamental; the Administration, surrounded by flatterers and parasites, and emboldened by the forbearance of the people, will not yield its claims to despotic power, and the freemen of America can never surrender *habeas corpus*, free speech, free press, free ballot; and the Administration or the people, one or the other, must go down. Many things the people will endure and be patient, many things they will surrender to arbitrary power in a situation like the present—their products and property to taxation, their slaves to armed violence, their sons to battle—but they cannot give up their homes to unreasonable search, their persons to arbitrary arrest, their orators to banishment, their newspapers to the bayonet, and that last hope of redress, the right to vote.

And I say to the House, Mr. Speaker, that if the principle of my colleague is carried out, and

military violence is brought to control the presidential election, a widespread extension to the civil war will be the result. Then foreign nations will wait no longer, but add their might to crush a people already by their own dissensions paralyzed and lost. There is but one way to maintain the Union, and that is to respect the rights and privileges of the people; to pay a wise regard even to their prejudices; to respect those ancient rights which they have possessed for over seventy years, and can never be base enough to surrender. Respect those privileges, call upon the people of the country in a constitutional manner to support the flag of the country, and they will do it with the generous enthusiasm of 1861 and 1862, before the days of the draft. The people will cheerfully undergo any sacrifices to preserve "liberty and Union;" but personal liberty, free press, free speech, free suffrage, they will never surrender. All these rights my colleague [Mr. SMITH] proposes to conquer at the polls. And to that conclusion must he come at last. Men who take the position of my colleague—that the majority shall not rule for peace or for war; that that majority shall be obstructed by the bayonet from deciding the great issues of peace or war—take a position the legitimate consequence of which is the destruction of this Union with all the glorious hopes that cluster around it.

Now, Mr. Speaker, there has never been a decent pretext for armed interference with the ballot in Kentucky since there has never been any doubt about a Union majority in Kentucky. Her people are Union to-day; in spite of this Administration and all its tyranny, they love the Union to-day. They desire to live in the Union only, and a great majority of them are ready to die for it if need be to-day. As they have no memories in the past so they have no hopes for the future that are not connected with it. Sir, it is Kentucky's Union. In the happy past, Kentucky, reposing in the very bosom of the Union, was a sister cherished and loved by North and South alike; and thus her love for it rose to idolatry. Each wound now inflicted upon it, by whatever cruel hand, draws blood from her heart. South Carolina and Massachusetts, dwelling far apart by the shores of the sea, struggling for the gains of art and commerce, may hate and part and endure existence; but Kentucky, bordered by great Commonwealths whose infancy she sheltered with her arms and protected with heroic blood, whose growth and aggrandizement have been assisted by the talents and labors of her sons and daughters, whose love she receives and repays; Kentucky, hating no section, no State, sees in a dissolution of the Union only death; death to her interests, death to her affections, death to national greatness and internal peace. Her people need no despot's bayonets to make them vote for such a Union; and if, in view of the dangers which now environ that Union, the world beholds her patient under wrongs, enemies should not grow too bold, and friends might spare their idle taunts. And Kentucky will make a struggle in the coming presidential election for this Union. Yes, Kentucky will make a struggle for this Union with or without slavery, with or without war; but for this Union of free and equal and independent States, centering in the Federal Government, supreme within its circle, with the Constitution of the country as the radius of that circle. They will make a struggle for that Union by supporting free election at the polls, by supporting free press, by supporting liberty of person and safety from imprisonment except by due process of law. Ay, Mr. Speaker, they will make a struggle for freedom of the ballot, and, if need be, resist by force all efforts by violence to destroy that liberty; and if the people are compelled to fight their way to the polls, it will be the fault of those who seek to enslave them, and upon their heads be the consequences. Such a contest over the ballot-box will be deplorable and doubtful. One thing only is certain: the party that fights its way to the polls successfully never finds room there for its adversaries.

Now, sir, I am not against men and money. I have been for war since my State was invaded by the rebel army. I was not swift to shed brothers' blood, and sought the honor and safety of the Union by peace, but accepted war at the hands of audacious invasion as a necessity when I could no longer play any honorable part except

in war. I am for war now, war against armed rebellion to restore obstructed Federal rights, not for a war of subjugation or extermination, a war against States or upon the property of peaceable citizens, not for war upon *habeas corpus*, public speakers, and newspapers, not for war upon the ballot-box. I do not, therefore, fall within the category my colleague proscribes, the "no more men and no more money" men. I am for more men and more money until the rebellion shall be put down. But, sir, I say that if the freemen in the North and in the South believe at any time that it is better to have peace than war, they have the right to express that opinion at the ballot-box. According to the opinion of my colleague they have no such right, and force should hinder them. According to my colleague the military have the right to determine who shall vote and who shall not vote, to determine who shall be candidates and who shall not be candidates.

Now, sir, suppose the Chicago convention should do what I suppose it will not do—nominate some man who is for peace, who says this war has lasted long enough, who says we have sacrificed enough blood and enough treasure, and that he is in favor of settling this question by amicable arrangement, that he is for referring it to the arbitration of some foreign Government; (I am not for such a man;) but suppose he should be nominated, and present the question whether the war has not lasted long enough, and whether the future safety and prosperity of the country does not depend upon the restoration of peace. Will my colleague say that men all over the country, from Maine to Louisiana, must be obstructed by military force from voting for a man so nominated? I cannot believe my colleague will answer that question in the affirmative; and yet when he indorses the orders of Foster and Shackleford he cannot consistently give an answer in the negative.

There is no difference between him and myself as to the other class: Those who have taken up arms against this Government, those who have taken office under the rebel government at Richmond and the "provisional government" for the State of Kentucky, and all those who have assisted their "armed forces," are not citizens of Kentucky and not voters. How are you to find that out? Are you to send Federal sous-lieutenants all over the State, and station them at the polls to say what men aided the rebellion, who was "loyal?" You would have varying decisions. Each officer would have a different standard of "loyalty"—a different understanding of what is meant by giving "aid and comfort." Some would say refusing to vote men and money was giving aid and comfort to the rebellion, and would exclude that class of men from the polls. Some refusing to vote for the candidate of the "Loyal League;" some refusing to go for our "gallant colored soldiers;" some for denouncing the war on speech, press, suffrage, liberty. There would be a dozen different decisions. It would be subjecting every one to the arbitrary will of the bayonet. No Federal officer, civil or military, dare interfere in a State election without taking upon himself a responsibility that will some day overwhelm him with ruin; like a rock falling on him, it will grind him to powder. No, sir, men disqualified, men disfranchised are those men whom the impartial judges of the election primarily determine to be disfranchised when offering to vote, with an appeal to the courts for redress of any injury which the judges may have done by refusing the ballot to the voter.

I want it known that I vote to retain my friend from the second congressional district in his seat because the majority of the people elected him, and wanted to elect him, and had the opportunity to do so. That is proved, and I believe he is the fair choice of the district. On that principle alone I am for his right to the seat.

Sir, if the correctness of the positions I have assumed is generally recognized, there need be no trouble outside of the conflict of arms between armed forces in the further progress of the civil war, and will be none, unless the servants of the people, listening to such doctrines as my colleague indorses, use the power temporarily committed to their hands to attempt the establishment of a military despotism.

Mr. SMITH. My colleague cannot divert the mind of the country from the fact at issue. There

has been no military interference in the loyal States; it is only where men have actually engaged in treason that military interference has occurred; only in that section of country where armed rebels have stood and stand to-day. In the Commonwealth of Kentucky, however much I regret it, in my own district and in the district of almost every member from that State, there is not a day which passes by that does not tell us of the death of some Union man.

Who is to judge as to who is a loyal man and who is not? These men who are called sub-lieutenants, who have gone into the field and risked their lives for the country, shall be the judges so far as I am concerned.

No, sir, my colleague cannot fix it on me. It has not been in any political canvass I have made since the war began; in no speech at home or abroad have I ever recognized the right of the country to disfranchise a man who is entitled to vote. If a man in Kentucky, Ohio, Pennsylvania, or Massachusetts, becomes disfranchised, it is because of his own act, and he must not put the blame at the door of any one else. If he chooses to trample under foot the Constitution and the laws and is shot, or sent to prison, or kept from the polls, he has no one but himself to blame. The Government pursues its course in defiance of him.

But my colleague has gone a step further than I have. He declares that he would shoot down like a dog the man who should come to the polls who had voted for Macheen. Who is the worse man of the two, I, who would but keep him from the polls, or he who would shoot him down?

Mr. WADSWORTH. I would be a friend of his if he would be a friend of his country, but no man should give such a vote as that where I was if I could prevent it.

Mr. SMITH. I propose to do this thing legally; I propose to do it under the acts of Congress, and under the acts of the Commonwealth of Kentucky. Within those laws I intend to keep, and by those laws I would keep disloyal and treacherous men from the polls. But I would not redden my hands in their blood.

Whatever effect this doctrine may be intended to have through the country I know not. My impression is that the presidential election will be a peaceful one; but no man is afraid of military interference who is not afraid of what beats in his breast. I do not doubt that my colleague is a true patriot, for I have seen him at home, and I cannot impugn his loyalty. I cannot, and I would not. He knows the opinion I have of him. He is right in heart, and can go to the polls, and no one will interrupt him. I could go to the polls, and the veriest traitor of Kentucky would not dare to challenge me. Why? Because he knows I have always been true to my Government from the beginning to the end. It is alone those who deserve to be kept away that will be kept away, and in this coming contest for the next Presidency none but skulking traitors and cowards will fear the consequences at the polls. They are the men that ought to be afraid. They, above all others, are the men who have not courage enough to shoulder the musket, go to the field, and face the enemy. They lurk around home, sowing the seed of poison in the young and tender minds, and send the young men into the field to do battle for them. The man who stands by my side and hands me a knife to commit murder is as guilty as I who strike the blow. I have done.

Mr. YEAMAN obtained the floor, but yielded it with the understanding that he should be entitled to it when the House should resume the consideration of the subject.

#### EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting therewith, in compliance with a resolution of the House, a copy of Brigadier General G. W. Morgan's report of the evacuation of Cumberland Gap by the forces under his command in April, 1862; which was laid on the table, and ordered to be printed.

#### ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (H. R. No. 63) to settle the account of James Kee-



nan, late consul to Hong Kong, China; when the Speaker signed the same.

#### LEAVE OF ABSENCE.

Mr. WHALEY. I ask leave of absence for my colleague, Mr. Brown, for ten days, on account of sickness.

Leave was granted; and then, on motion of Mr. MALLORY, (at ten minutes past five o'clock, p. m.) the House adjourned.

#### IN SENATE.

SATURDAY, May 28, 1864.

Prayer by the Chaplain, Rev. Dr. BOWMAN.

The Secretary proceeded to read the Journal of yesterday.

Mr. WADE. I move that the further reading of the Journal be dispensed with. I do not see any use in reading it, as no attention is paid to it.

The PRESIDENT *pro tempore*. It may be dispensed with by the unanimous consent of the Senate. The Chair hears no objection. Petitions and memorials are in order.

Mr. WADE. As there seem to be no petitions or memorials, I move to take up Senate joint resolution No. 57.

The PRESIDENT *pro tempore*. If there are no petitions, reports from committees are next in order.

#### REPORTS FROM COMMITTEES.

Mr. SHERMAN, from the Committee on Agriculture, to whom was referred a bill (H. R. No. 346) for the relief of Dr. Charles M. Wetherill, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. SHERMAN. The President of the United States some time since communicated a message to the Senate accompanied by a report from Hon. Joseph A. Wright, in relation to the International Agricultural Exhibition at Hamburg, in 1862, which was referred to the Committee on Agriculture. There is nothing in it to be acted upon by Congress except a claim made on behalf of Governor Wright, our late fellow Senator. It is suggested by the President that he should be paid for his services. I therefore move that it be referred to the Committee on Claims.

The PRESIDENT *pro tempore*. Is it a report, or in the nature of a petition?

Mr. SHERMAN. Rather in the nature of a petition. The message is now lying on the table. I move that it be referred to the Committee on Claims.

Mr. HENDRICKS. I think it should go to the Committee on Finance.

Mr. SHERMAN. It is in the nature of a claim. I do not care which committee it goes to; the Senator can say whichever he chooses.

The PRESIDENT *pro tempore*. It will be referred to the Committee on Claims.

Mr. MORRILL, from the Committee on Commerce, to whom was referred a bill (S. No. 232) in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured and abandoned property, and the prevention of frauds in States declared in insurrection, reported it with amendments.

#### CONSULAR AND DIPLOMATIC BILL.

Mr. SHERMAN. I desire to present the following report from the committee of conference on the civil and diplomatic appropriation bill:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 40) entitled "An act making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1865, and for other purposes," having met, after a full and free conference have agreed to recommend and do recommend to their respective Houses, as follows:

That the House recede from its disagreement to the second amendment of the Senate, and agree to the same with the following amendments:

Strike out the words "twenty-five" and insert the word "thirteen."

Strike out the word "pupils" and insert the word "clerks."

That the House agree to the twenty-eighth amendment of the Senate.

That the Senate recede from all the twenty-ninth amendment after the enacting clause, and that the following be inserted in lieu thereof:

"That the President be, and is hereby, authorized, whenever he shall think the public good will be promoted thereby, to appoint consular clerks, not exceeding thirteen in number at any one time, who shall be citizens of the Uni-

ted States and over eighteen years of age at the time of their appointment, and shall be entitled to compensation for their services respectively at a rate not exceeding \$1,000 per annum, to be determined by the President; and to assign such clerks, from time to time, to such consulates and with such duties as he shall direct; and before the appointment of any such clerk shall be made it shall be satisfactorily shown to the Secretary of State, after due examination and report by an examining board, that the applicant is qualified and fit for the duties to which he shall be assigned, and such report shall be laid before the President; and no clerk so appointed shall be removed from office except for cause stated in writing, which shall be submitted to Congress at the session first following such removal."

That the Senate recede from its thirtieth amendment, after the enacting clause, and that the following section be inserted in lieu thereof:

"That an envoy extraordinary and minister plenipotentiary, appointed at any place where the United States are now represented by a minister resident, shall receive the compensation fixed by law and appropriated for a minister resident, and no more."

That the House recede from its amendment to the thirty-first amendment of the Senate, and agree to the same.

JOHN SHERMAN,

CHARLES SUMNER,

E. D. MORGAN,

Managers on the part of the Senate.

JOHN A. KASSON,

J. W. PATTERSON,

Managers on the part of the House.

Mr. FESSENDEN. There are one or two amendments there referred to in that report which I do not understand. I should like to have an explanation of them.

Mr. SHERMAN. The amendments concurred in by the House of Representatives are the amendments in regard to the consulates. They were disagreed to, and are now concurred in by the House. The House objected to the amendment of the Senate in regard to the appointment of twenty-five consular pupils, and in this report it is modified so as to provide, for the present, for thirteen consular clerks to be examined in the mode provided for by the law of 1856. The provisions of that law with reference to those pupils are retained, except that they are now called consular clerks instead of pupils. I think that is the only change in that respect.

In regard to the minister at Brussels, the committee struck out the amendment of the Senate and inserted simply a provision that whenever the President shall appoint a minister plenipotentiary at a court where we now have a minister resident, the effect of such an appointment shall not be to increase the salary. Under the law as it stands, the law of 1856, he may appoint a minister plenipotentiary at any of the courts of the world; there is no limit upon his power; but the effect of such an appointment would be to increase his salary. The only effect of the amendment as proposed by the committee of conference is, that in case the President does exercise this power, it shall not have the effect of raising the salary beyond the present pay of a minister resident.

Mr. FESSENDEN. That is not exactly according to my recollection, as it stands with reference to the power of the President.

Mr. SHERMAN. There is no doubt about it.

Mr. FESSENDEN. I should like to have the report lie on the table until I can look into it. I have had the impression that the salaries of the officers at those different places was defined in every case by the statute.

Mr. SHERMAN. In the law of 1855, called the Perkins law, the salary was defined at different places; but in the law of 1856, which is now the law of the land, the salary is fixed by the grade. Our ministers plenipotentiary to England and France receive \$17,500; in other places \$10,000; and then the pay of a minister resident is fixed at three fourths of the pay of a minister plenipotentiary; but the pay is not fixed to the court or place where he is assigned. We examined the law very carefully, and I think if the Senator will look at it he will find it is very clear.

Mr. FESSENDEN. I should like to have an opportunity to look at it.

The PRESIDENT *pro tempore*. Does the Senator move the postponement of the report?

Mr. FESSENDEN. Let it lie on the table.

Mr. SHERMAN. I have no objection to its postponement.

The PRESIDENT *pro tempore*. It will lie on the table, if there be no objection.

Mr. MORRILL. I should like to make an inquiry of the Senator from Ohio. An error occurred in the engrossment of the bill after it passed the Senate, to which my attention has

since been called, by which two amendments for consulates in Canada were omitted.

Mr. SHERMAN. I am told it is corrected in that respect. The conferees on the part of the House examined it, and said it was correct.

Mr. MORRILL. As the report is to lie over I will look into it.

Mr. SHERMAN subsequently said: I will ask to have the vote taken on adopting the report of the committee of conference on the consular and diplomatic appropriation bill. I understand the Senator from Maine [Mr. FESSENDEN] has no objection to it.

The PRESIDENT *pro tempore*. If there be no objection, that subject will be considered as before the Senate, and the question is on concurring in the report of the committee of conference.

The report was concurred in.

#### ORDER OF BUSINESS.

Mr. HENDRICKS. I move to suspend all prior orders with a view of taking up Senate joint resolution No. 8.

The PRESIDENT *pro tempore*. The Chair will first finish receiving reports from committees. Reports are still in order.

Mr. WADE, (after a pause.) If there are no other reports I move to take up the unfinished business of the morning hour of yesterday.

The PRESIDENT *pro tempore*. The Senator from Ohio moves that the Senate postpone all prior orders and proceed to the consideration of the joint resolution indicated by him.

Mr. HENDRICKS. Does not my motion come up first?

The PRESIDENT *pro tempore*. The Chair is of opinion that it does not.

Mr. HENDRICKS. Was it not in order to make the motion?

The PRESIDENT *pro tempore*. It was no more in order than the first motion of the Senator from Ohio, which was made prior to the motion of the Senator from Indiana and postponed for the same reason, that reports from committees were first in order.

Mr. DOOLITTLE. Are not joint resolutions next in order?

The PRESIDENT *pro tempore*. Not by the rule. The whole matter is under the control of the Senate.

Mr. DOOLITTLE. I desire to offer a joint resolution for reference merely.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio.

The motion was agreed to.

#### FRENCH OCCUPATION OF MEXICO.

Mr. McDUGALL. With the consent of the Senator from Ohio, I submit the following resolution, upon which I do not ask present consideration:

Resolved, That the Committee on Foreign Relations be discharged from the further consideration of the joint resolution relative to the substitution of monarchical for republican government in Mexico, under European auspices; the same being House resolution No. 58.

Mr. SUMNER. Let that resolution lie over.

Mr. McDUGALL. Certainly; I do not ask for its present consideration.

The PRESIDENT *pro tempore*. It will lie over under the rule.

#### BILL INTRODUCED.

Mr. DOOLITTLE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 60) tendering the thanks of Congress, and for the presentation of a medal, to Lieutenant Colonel Joseph Bailly, of the fourth regiment Wisconsin volunteers; which was read twice by its title.

Mr. DOOLITTLE. I desire the joint resolution to lie on the table for the present. I shall make a motion to refer it to the Committee on Military Affairs and the Militia on Monday morning, but previous to doing so I desire to make a statement in regard to it.

The joint resolution was ordered to lie on the table.

#### VOTING IN WASHINGTON.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. No. 57) to amend the charter of the city of Washington; the pending question being on the amendment of Mr. WILLEY to the amendment

proposed by Mr. SUMNER, to add the following proviso:

*Provided, however,* That no such resident who is entitled to vote elsewhere shall be entitled or allowed to vote under or by virtue of this resolution.

The amendment to the amendment was rejected; there being, on a division—ayes nine, noes not counted.

**THE PRESIDENT *pro tempore*.** The question now recurs on the amendment of the Senator from Massachusetts, as amended, which will be read.

The Secretary read it, as follows:

*Provided,* That there shall be no exclusion of any person from the register on account of color who have borne arms in the military service of the United States and have been honorably discharged therefrom.

Mr. GRIMES. That ought to be modified by inserting the word "persons" instead of "person," making it plural.

**THE PRESIDENT *pro tempore*.** That modification will be made.

The amendment, as amended, was agreed to.

Mr. CARLILE. I move to insert after the word "he," in the sixteenth line, the words "is a citizen of Washington and;" so that the clause will read:

If, in his answers on oath, he shall state positively that he is a citizen of Washington and has resided in the city one year next preceding the day of said election, &c.

I can state the object of the amendment in a moment. It is known to the Senate, I presume, that there are a great many persons residing in this city in a clerical capacity and in other capacities in the employment of the Government who are residents in other States, who have not relinquished their citizenship, and go home to the States to vote at elections. I think the control of the municipal affairs in this city should be confided to persons who are actual citizens and look upon this city as their permanent home, and who do not claim citizenship elsewhere.

Mr. MORRILL. I really do not understand the proposition of the Senator from Virginia. I cannot for my life see how a man can be a citizen of the District of Columbia otherwise than he is a citizen of the United States. A man may be a permanent resident of the District of Columbia; but is there any rule for making citizens of the District of Columbia distinct from citizens of the United States? I cannot conceive of the distinction which the honorable Senator seeks to raise in the case. He speaks of "citizens in Washington." What constitutes a citizen of Washington? If the distinction he desires to raise is this, a distinction between temporary and permanent residents, I can understand that; but I cannot understand that, in any legal sense, a man can be a citizen of Washington. He may be a citizen of the United States, or of one of the several States; but is there such a thing as citizenship peculiar to the city of Washington? That is my question. I think there is not. If a man is a citizen of the United States he is necessarily a citizen of Washington; and therefore the motion of the Senator from Virginia amounts to nothing, and carries nothing with it. It does not reach the distinction he desires to attain.

Mr. CARLILE. The object that I wish to accomplish by the amendment is to exclude from the right of suffrage in this city temporary residents, employes in the service of the Government, who have never relinquished their citizenship in their States, and who claim the right to return to their States and exercise the right of suffrage at the various State elections.

Mr. MORRILL. That is provided for.

Mr. CARLILE. I think not. It has been suggested to me by the Senator from Iowa [Mr. GRIMES] that the object which I desire to accomplish can be accomplished by inserting the words "is otherwise a qualified elector," instead of the words that I originally proposed.

Mr. WILLEY. The Senator from Virginia will see that those words are already in the resolution, in a subsequent portion of it, and none but qualified voters can vote under this resolution, except those that will be included in addition to the electors as now qualified by law by the scope and provision of this joint resolution.

Mr. TEN EYCK. I think the Senator from West Virginia is in error in his statement. I had intended to propose a short amendment to come in at the commencement of the resolution, which

I think would effect the object that the Senator from Ohio had in view. I submitted it to him, and understood him to say that it would do so. Although it may not perhaps be in order just now, I will state what it is; and then state the reason for it in one word. I propose, after the word "person" in the third line, to insert the words "who is a qualified voter in other respects."

The Senator from West Virginia says that is not necessary, because in the latter clause of the resolution that is provided for. I respectfully submit that it is not provided for; that the term "qualified elector" in the latter portion of this resolution applies only to a certain class of persons who present certificates for registry different from that which is provided for in the first portion of the resolution; and that unless the amendment that I propose, or one similar to it is made, any person offering to have his name registered, must be registered by this commissioner, if the party offering his name for registry shall swear that he is qualified to vote. It makes the voter the judge of his own qualification, and requires the commissioner to register his name if he makes that oath. We have it here provided for that men who speak a foreign language, and who are not able to speak our own, may have the oath interpreted to them, and then make their oath. Unless the amendment that I propose is incorporated, and it is similar to the amendment of the Senator from Virginia, you make the voter himself the judge of his right to vote. I therefore propose to amend the resolution in this respect if the Senator from Virginia will allow me.

Mr. CARLILE. Certainly. Read your amendment, and I may withdraw mine.

Mr. TEN EYCK. It is to insert after the word "person" in the third line the words "who is a qualified voter in other respects;" so that it will read:

That in case any person who is a qualified voter in other respects shall offer and claim the right to vote at any election held in the city of Washington, &c.

Mr. CARLILE. I withdraw my amendment.

**THE PRESIDENT *pro tempore*.** The Chair understands the amendment of the Senator from Virginia to be withdrawn, and the question now is on the amendment proposed by the Senator from New Jersey.

Mr. GRIMES. The Senator from Ohio who has charge of the joint resolution [Mr. WADE] has been necessarily called away, and he requested me to take charge of it. I believe I am tolerably familiar with it, and I think there is no objection to the amendment proposed by the Senator from New Jersey.

Mr. DAVIS. I think there is a general agreement between the members who have expressed an opinion on this point; they all concede that no person who votes and claims a right to vote in another locality ought to vote at an election in this city. It would certainly be preposterous to allow a temporary resident here, who claimed his citizenship and his right to vote out of the District, to vote in the city elections. A citizen of this District has furnished me with a provision which he thinks will furnish a more certain and effective remedy against fraudulent voting in this city than has yet been proposed.

Mr. GRIMES. Let us take a vote on this amendment first.

Mr. DAVIS. I will read it as part of my remarks, and for the consideration of the Senate:

*And be it further resolved,* That all persons who may vote at any election to be held in Washington, shall lose their citizenship and right to vote in all other places until they become resident of and entitled to vote in some other place by the laws thereof; and whenever any question may arise whether any person has voted at an election held in Washington, the examination on oath of the person alleged so to have voted, or the original poll-book with the affidavit of the proper custodian thereof, or the testimony of witnesses shall be received.

Mr. GRIMES. I should like to know of the Senator how he proposes to regulate the laws of the States in regard to the elective franchise.

Mr. DAVIS. I will explain it. The provision is, that when a man has once voted here, he shall forfeit his right to vote in other places.

Mr. FOSTER. Why not let those places determine that?

Mr. DAVIS. I confess the proposition is liable to the objection that it undertakes to regulate State laws. The next time I propose an amendment it will be one drawn by myself.

**THE PRESIDENT *pro tempore*.** The question

is on the amendment offered by the Senator from New Jersey.

The amendment was agreed to.

Mr. SUMNER. I now move to add a proviso drawn by the Senator from Maine, [Mr. MORRILL,] which he proposed to offer to Senate bill No. 114. So good a proviso, in default of something better, cannot be out of place. It would be clearly better to have the general provision which I first moved, that there should be no discrimination of color; but that failing, I fall back next on the proposition of the Senator from Maine, and move to add it as a proviso at the end of the proviso that has already been adopted. I will read it.

*And provided further,* That all persons, without distinction of color, who shall, within the year next preceding the election, have paid a tax on any estate, or been assessed with a part of the revenue of said District, or been exempt from taxation having taxable estate, and who can read and write with facility, shall enjoy the privilege of an elector. But no person now entitled to vote in the said District, continuing to reside therein, shall be disfranchised hereby.

Mr. JOHNSON. Will the honorable member permit me to ask whether what he is reading is a copy of the amendment contemplated by the Senator from Maine?

Mr. SUMNER. Yes; with one or two verbal emendations.

Mr. JOHNSON. And one of the "verbal emendations," I believe, is "without distinction of color." [Laughter.]

Mr. SUMNER. It is.

Mr. GRIMES. When this joint resolution was reported from the Committee on the District of Columbia by the Senator from Ohio it was not his intention, nor the intention of any member of this body, to affect the qualifications of electors in the District, either to enlarge or to diminish them. The sole purpose of the resolution was to change the law of the District which related to the enrollment of voters, the law now being that everybody's name shall be enrolled in the month of December preceding the election in June, as now construed. There have been various interpretations put upon the law, Mr. Carlisle, the former corporation attorney, deciding the law to be one way, and Mr. Bradley, the present corporation attorney, deciding it to be another. The Committee on the District of Columbia concluded that the question should be put at rest once and forever by the introduction of this joint resolution.

The Senator from Massachusetts chooses to attempt to complicate this question by bringing in every day the question of the qualification of voters. We do not wish to be incumbered with that question. We have got a bill behind this which we intend to urge the passage of, that will relate to the qualifications of voters in the District, and I give my pledge to the Senator from Massachusetts that when his Freedmen's Bureau bill comes up I will propose upon that that all the men who shall be put under the charge of the Freedmen's Bureau shall have the elective franchise, and I suppose that will cover all the persons who ought to be included in this District as well as those beyond, so that he shall have the colored qualification to his heart's content, if he will only allow us to pass this joint resolution which was not intended to relate to the qualifications of voters at all.

Mr. SUMNER. The Senator says it does not relate to the qualification of voters. I have the joint resolution before me, and by its express terms it perpetuates the existing qualifications of electors. I need not say that among the existing qualifications of electors is color. A person with one kind of skin may vote, but a person with another kind of skin cannot vote. But the Senator says that another bill is pending before this body which proposes to deal with this whole question. Has the Senator any assurance that that bill will become a law? Has he any assurance even that that bill will be again considered during the present session? I have none. For myself I believe it a duty not only when that bill comes up, but when any other bill comes up to which the question may be germane, not to fail to uphold the rights which have been long denied to an oppressed people.

The Senator says this resolution is simply to regulate the register. Sir, that is hardly a candid way of stating the object of the joint resolution. Its object is to extend the electoral fran-

chise to certain persons in the District, including by express terms even those who cannot read the English language. I am unwilling that the Senate shall legislate on that matter, especially that they shall undertake to extend the electoral franchise to any persons in this District, unless they embrace in that extension a class whose rights have been postponed much longer than those whom the Senator now comes forward to protect.

I am in favor of the Senator's joint resolution; most sincerely do I wish it to pass; but I believe on this occasion, as on all others, it is better for us to consult the great, permanent, standing interest of the Republic, rather than any local interest. Permit me to say that the Senator, in urging this measure at this moment, to the exclusion of the colored race, does put forward a local interest, and at the same time forgets the larger interest which concerns the whole country.

I alluded yesterday to a document which I now have in my hand; it is the report of a court-martial held in Tennessee. A white man, it seems by the proceedings of this court-martial, was tried for murder; and the facts are set forth judicially. I will remark that there was simply an allegation that a colored woman had stolen money, and the white man treated her as follows, according to the statement of the court:

"The prisoner then procured a rope, and, addressing himself to the bystanders, asked if there was any one present who could tie a 'hang-knot,' when a man named Womack stepped forward and tied it. The prisoner then adjusted it around the neck of the woman, and throwing it over the limb of a tree, in the sight of his own dwelling, where were his wife and daughters, the work of murder began. Finding that the woman protected herself by seizing the rope with her hands, it was slackened and her hands tied, and again she was drawn up, so that her toes barely touched the ground, and in this position she was held by the prisoner until from suffocation and exhaustion her head fell on one side. Through the interposition of the prisoner's wife and the bystanders, the rope was then loosened, and an opportunity given the woman to revive. While this torture was going on the prisoner declared his object to be to compel the woman to confess the theft charged upon her, but she stoutly denied any knowledge of the money alleged to have been lost.

"She was now taken by the prisoner to his yard, distant two hundred or two hundred and fifty yards, and was there stripped by him of all her clothes except her chemise. In the language of one of the witnesses, she was then confined by crossing her hands and tying them together, then putting them over her knees with a stick thrust under, holding them in that position. Thus pinioned and lying alternately on her face and on her side, as the purposes of her tormentor required, for some two hours and a half, with brief intervals, she was whipped by the prisoner with a leather thong, two inches wide and three feet long, having a knot on the end. At the expiration of this time some neighbors present said they thought he had whipped her about enough for that time, and he thereupon desisted. She was then untied and assisted by one of the neighbors toward the kitchen, staggering and falling several times from exhaustion on the way. She succeeded, however, in reaching the kitchen, on the threshold of which she fell, in the presence of the prisoner's wife, and a few minutes thereafter expired. The shameless character of the defense was in keeping with the crime. It was insisted in the defense that the woman's death was produced by some cold water, of which, in her heated and exhausted condition, she had drank; and in attempted palliation of the prisoner's murderous brutality, it was proved by several of his neighbors that he bore a good moral character, and clothed and fed his slaves well; and for himself he stated that he had once before, on a similar charge, given the woman even a worse whipping than that of which she died."

We all feel, sir, the brutality of this act. It was done by a white man on the person of a colored woman. Would he have been the author of such a brutality toward a white woman? No; it was because she was black that he thus insulted human nature and performed an act which can never be read without a blush that he is a member of the human family. And now, sir, how are we to discountenance such acts? Is it by keeping up this odious discrimination of color, by giving it the sanction of law, by giving it the authority of this Chamber? Clearly not. I appeal to you, Senators, as men of humanity, do not continue to sanction a discrimination which when it proceeds from this Chamber must exercise a far-reaching influence. It is not simply the question of a few voters more or less in this District, but it is a question of human rights everywhere throughout this country, involving the national character and its good name forevermore.

Mr. COWAN. Mr. President, I should like to hear the honorable Senator from Massachusetts explain how, in what way the brutality of a white man exercised upon a negress will show that other negroes are properly qualified to vote in the District of Columbia.

Mr. SUMNER. Does the Senator wish an answer?

Mr. COWAN. If there is any, the most remote, connection between the two, I should like to hear it stated.

Mr. SUMNER. I have already stated the connection, and it must be very obvious. The acts in both places, in Tennessee the outrage there, the exclusion here, both have their origin in that same discrimination of color.

Mr. JOHNSON. I rise to ask the honorable member what was the decision of the court-martial. If I understood him, the man was tried before a court-martial.

Mr. SUMNER. I am very much obliged to the Senator for asking me the question. The decision of the court-martial was that the prisoner was guilty, and he was sentenced to be confined in the State penitentiary for the period of five years. But the President, in directing that sentence to be carried out, went forward in very proper terms to condemn the lenity of the court, as follows:

"The President directs that the sentence—inadequate as it is—shall, except as to the place of confinement, be carried into execution, and Albany, New York, is designated as the penitentiary where he shall be confined; but while doing so, he feels it incumbent upon him to call the attention of the Army, and especially of those charged with the administration of military justice, to the insensibility displayed by this commission, and to express the disapprobation with which it is regarded. The members of the commission, in this lightly dealing with one of the most revolting murders on record, have done no honor to themselves, and afford an example which it is hoped will never again be witnessed in the service."

Sir, the court itself acted under the influence of that same fatal discrimination of color. Had this outrage been perpetrated upon a white person, the court-martial never would have awarded so light a sentence; but, sir, it was because she was black, and therefore her pretended owner was allowed cruelly to murder her and to insult human nature.

Mr. JOHNSON. Has the honorable member any knowledge of who the members of the court were?

Mr. SUMNER. Their names appear as follows: I have before me the order from the War Department, Adjutant General's office, Washington, May 9, 1864, published in the Army and Navy Official Gazette, and signed, "By order of the Secretary of War, E. D. Townsend, Assistant Adjutant General."

"Before a military commission, consisting of Captain C. Thompson, nineteenth Michigan volunteers; Captain Owen Griffith, twenty-second Wisconsin volunteers; Captain James Nutt, ninth Indiana volunteers; Captain D. R. May, twenty-second Wisconsin volunteers; First Lieutenant George Bauman, twenty-second Wisconsin volunteers; and which convened at Murfreesboro', Tennessee, September 14, 1863, pursuant to Special Orders, No. 8, dated Post Headquarters, Murfreesboro', September 9, 1863, was arraigned and tried Robert Taylor, a citizen."

Mr. JOHNSON. My object in asking the question is answered. I had some suspicion, and it turns out to have been a well-founded suspicion, that every member of that court was a citizen of a State in which slavery does not and never did exist, and they therefore could have had no prejudice against color. I had supposed that it was barely possible that they might have been the citizens of some southern State, and had adopted what is considered a prejudice in the public mind in those States upon that account; but the whole of that court came from the same section in which more or less the same sentiments are entertained as those entertained by the honorable member from Massachusetts. I agree with the President in thinking that if the facts stated were true the sentence pronounced was a very inadequate sentence for such a crime; but I hardly think that that mildness of sentence was the result of the fact that the person upon whom the crime was committed was a black woman instead of a white woman.

Besides that, I submit to the honorable member whether it is fair, logically fair, to attribute errors of judgment or errors of a higher character to a mere prejudice, barely from the fact that a black woman has been the subject of crime? The honorable member seems to think that the fact that a black man or a black woman has been treated unjustly and cruelly, or even put to death, is conclusive evidence to show that there must be in the public mind some prejudice against that color which legislation may remove; and he supposes that that prejudice, if it has not its origin in, is in some measure cultivated and strengthened

by, the fact that persons of that description are not permitted to vote.

Sir, you cannot take up a paper of the day—I am sorry to say it—in which you will not see cases of crime just as atrocious committed by white men upon white men and upon white women. I notice in the papers to-day an account of a prosecution going on in the city of New York against a white man of some sixty years of age, who has always been a voter in the city of New York, and who perhaps agrees in opinion politically with the honorable member from Massachusetts, for the cruel and barbarous murder of his wife, a white woman. Would the honorable member infer from that that any white man has been debarred from the privilege of voting, and that the fact that he has been debarred accounts for his inhumanity to his own color, or to any color?

I submit that the honorable member is wrong, logically wrong, in the view which he takes upon this question. One thing is certain, that whether a black woman has been murdered or not in the State of Virginia or the State of Tennessee proves nothing toward showing that black men here should be entitled to vote, and that we should give them that privilege by an amendment to this resolution. As the honorable member from Iowa has said, the sole object of the resolution is to do away with a practical mischief in the operation of the law as it now stands in reference to those who are entitled to vote. There are other measures pending before the Senate, as is well known, which may perhaps assume a shape that will get rid of that difference in the right of suffrage, from which, according to the philosophy of the honorable member from Massachusetts, it is clear that black men and black women are being whipped and murdered!

Mr. SUMNER. Mr. President, the Senator from Maryland reminded us that all the members of this court came from States where slavery did not exist, and he inquired whether such persons coming from such States could have any prejudice on account of color. Now, sir, I am not going to reply to the Senator by any personal remark, but I content myself with reminding him that on this floor one of the most earnest advocates of the discrimination of color is a Senator from a powerful State, which to his honor does not sanction slavery. That, sir, is a sufficient answer to that portion of the remarks of the Senator from Maryland.

But the Senator thinks that I am not logical because I quote an outrage in Tennessee which has its origin in the prejudice of color, and insist that here in this Chamber we shall not found our legislation on a prejudice of color. Sir, I submit the question to the judgment of the Senate: am I illogical, or is the Senator illogical? I insist, sir, that you cannot sanction injustice here, especially you cannot sanction a prejudice founded on color, without quickening that prejudice and sustaining it wherever it now unhappily exists throughout our whole country.

The PRESIDENT *pro tempore*. The Chair must interrupt the Senator to call up the order of the day.

Mr. HENDRICKS. I move that the order of the day be suspended until this joint resolution is disposed of. I suppose the morning hour during the residue of the session is to be taken up with this particular joint resolution, or at least the morning hour of every day until the election shall have passed, to provide for which this resolution has been introduced. I suppose that if we now postpone it until Monday morning the Senator from Massachusetts will have some additional irrelevant proposition touching the negro. This joint resolution has nothing to do with the negro, but is simply to allow men to be registered who are now qualified to vote; and yet every morning that we postpone it we have some new proposition from the Senator from Massachusetts.

I desire it to be obvious to the Senate and the country that a Senator occupying a position in the majority has impeded the ordinary course of legislation upon a measure not at all connected with the questions which he has introduced into the debate. I move that the consideration of the revenue bill be postponed for a reasonable time until we can finish this joint resolution, so that other measures, in which other Senators feel some interest, may be brought before the body during the



# THE CONGRESSIONAL GLOBE.

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morning hour. If I find, however, that this measure unreasonably delays the consideration of the revenue bill, I shall then move to take it up.

Mr. SHERMAN. Let it be done informally.

Mr. GRIMES. Let the regular order be laid aside by unanimous consent. No one wants to speak, I think, except the Senator from Massachusetts.

Mr. SUMNER. I do not want to speak further.

Mr. JOHNSON and others. Let us vote.

The PRESIDENT *pro tempore*. The special order can be passed over informally, if there be no objection. The Chair hears no objection. The question is on the amendment offered by the Senator from Massachusetts to the joint resolution.

Mr. LANE, of Kansas, and Mr. SUMNER called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 8, nays 27; as follows:

YEAS—Messrs. Anthony, Clark, Lane of Kansas, Morgan, Pomeroy, Ramsey, Sumner, and Wilkinson—8.

NAYS—Messrs. Buckalew, Canlie, Collamer, Cowan, Davis, Dixon, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Hendricks, Hicks, Johnson, Lane of Indiana, McDougall, Morrill, Powell, Sausbury, Sherman, Ten Eyck, Trumbull, Van Winkle, Willey, and Wilson—27.

ABSENT—Messrs. Brown, Chandler, Conness, Doolittle, Harding, Henderson, Howard, Howe, Nesmith, Richardson, Riddle, Sprague, Wade, and Wright—14.

So the amendment was rejected.

The joint resolution was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment which has been made as in Committee of the Whole.

Mr. COWAN. I should like to inquire whether there are any amendments to the joint resolution now which will widen and enlarge the franchise. I think it is the general understanding of the Senate that it is merely to correct and avoid technical difficulties which lie in the way of those who otherwise would be qualified voters to exercise the franchise, not to change the existing law but merely to remove obstructions which may exist in the way of those who are otherwise legally qualified. If that is the understanding I am prepared to vote for the resolution; otherwise not.

Mr. GRIMES. That is the resolution as I understand it. That was the purpose of the committee who reported it and that was the purport of the resolution as it originally stood; but the Senate, acting as in Committee of the Whole, have adopted an amendment which was offered by the Senator from Massachusetts and amended on the motion of my colleague, providing that colored persons who have borne arms in the service of the United States and been honorably discharged may vote. In so far as there may be anybody of that description, it enlarges the franchise, but not otherwise.

Mr. TRUMBULL. I ask for the yeas and nays on concurring in that amendment made as in Committee of the Whole.

The yeas and nays were ordered.

Mr. BUCKALEW. I ask that the amendment be read.

The Secretary read the amendment, which was to insert at the end of the joint resolution the following proviso:

*Provided*, That there shall be no exclusion of any persons from the register on account of color who have borne arms in the military service of the United States and have been honorably discharged therefrom.

Mr. JOHNSON. I was here during the whole of the proceedings in relation to this joint resolution at the time that amendment was suggested by the honorable member from Iowa [Mr. HARLAN] and was proposed to be modified by the honorable member from West Virginia, [Mr. WILLEY], and my recollection is that we voted on the change proposed by the honorable member from Iowa, but upon the amendment as amended there never was a vote.

The PRESIDENT *pro tempore*. It was voted upon this morning.

Mr. JOHNSON. I was not aware of that.

The PRESIDENT *pro tempore*. The question

is on concurring in the Senate on that amendment made as in Committee of the Whole.

Mr. COLLAMER. The amendment reads rather singularly: "no exclusion of any persons from the register on account of color who have borne arms." Which does it mean, white or black?

Mr. SHERMAN. I suppose the meaning is obvious enough.

Mr. POMEROY. I suppose the Senator from Iowa did not mean to discriminate against those who have been in the naval service. This is a discrimination in favor of those who have borne arms in the military service. I understand that colored men have always been in the Navy.

Mr. HARLAN. I have no objection to the modification of the amendment as suggested by the Senator from Kansas, if he deems such a modification necessary; but I think that "military service" is a generic term that covers both the Army and the Navy.

Mr. GRIMES. The Senator from Vermont has asked me if there are such people in the District. I do not understand that there are, and I do not think there is the slightest necessity for or propriety in this amendment. Abstractly I am in favor of it, and I would vote for it on almost any other bill, but I desire that this joint resolution shall pass the Senate in such a condition that it can be immediately taken up and passed by the House of Representatives without being referred to a committee and having there to await the arrival of a day when the committee may be permitted to report, which may be days and perhaps weeks after this time. Whenever a bill shall come up embracing the principle embodied in this amendment, where it shall be likely to have any practical effect, to be of any advantage to any person or class of persons, I shall be prepared to vote for it; for I am willing to say that the men who have periled their lives in defense of the country should have the elective franchise; but the amendment here is not germane or pertinent to the joint resolution, and for that reason I shall vote against it.

Mr. HICKS. I must ask the Senate to indulge me in allowing the joint resolution to be read, or else to excuse me from voting upon it, for I have been confined to my room by indisposition, as the Senate knows, and I cannot vote understandingly unless I hear the resolution read.

The PRESIDENT *pro tempore*. The resolution will be read, if there be no objection.

The Secretary read the original resolution and the amendment.

Mr. LANE, of Kansas. I desire to make a suggestion, if gentlemen will allow me. There is no penalty imposed by the resolution on the commissioners for refusing to register, which is usual in such cases. There is a penalty on the voter who perjures himself, but no penalty on the commissioners. Such laws are usually framed with such a penalty.

Mr. GRIMES. Then they will act under the old law.

Mr. LANE, of Kansas. Does that law contain a penalty?

Mr. GRIMES. Yes, sir.

Mr. TRUMBULL. I wish to ask whether all this is not out of order, the call of the roll having commenced and an answer having been made?

The PRESIDENT *pro tempore*. No answer has been made.

Mr. TRUMBULL. I thought there was.

Mr. SUMNER. I will suggest a modification of the pending amendment, in order to carry out the idea of my friend from Iowa, and to meet the criticism of the Senator from Vermont. I propose to strike out the word "who," and insert "where such persons;" so that it will read:

*Provided*, That there shall be no exclusion of any persons from the registry on account of color where such persons have borne arms in the military service.

The amendment to the amendment was not agreed to; there being, on a division—ayes ten, noes not counted.

Mr. WILSON. I move to strike out the words

"on account of color" from the amendment, so that it will read that "there shall be no exclusion of any persons who have borne arms in the military service."

Mr. GRIMES. Then it will mean nothing.

Mr. TRUMBULL. Let me ask the Senator from Massachusetts, suppose they are minors, what then?

Mr. SHERMAN. We have three or four regiments of Ohio troops here now, and if the amendment should be amended as now proposed by the Senator from Massachusetts, they would be allowed to vote. I do not know but that would be the best thing they could do. [Laughter.]

Mr. WILSON. I withdraw the amendment to the amendment.

The PRESIDENT *pro tempore*. Then the question recurs on concurring in the amendment made in Committee of the Whole; and on that question the yeas and nays have been ordered:

The question being taken by yeas and nays, resulted—yeas 18, nays 20; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Dixon, Foot, Foster, Hale, Harlan, Howard, Howe, Lane of Kansas, Morgan, Pomeroy, Ramsey, Sherman, Sumner, Wilkinson, and Wilson—18.

NAYS—Messrs. Buckalew, Canlie, Cowan, Davis, Grimes, Harris, Hendricks, Hicks, Johnson, Lane of Indiana, McDougall, Morrill, Nesmith, Powell, Richardson, Sausbury, Ten Eyck, Trumbull, Van Winkle, and Willey—20.

ABSENT—Messrs. Brown, Collamer, Conness, Doolittle, Fessenden, Harding, Henderson, Riddle, Sprague, Wade, and Wright—11.

So the amendment was non-concurred in.

The joint resolution was ordered to be engrossed for a third reading; was read the third time, and passed.

## PETITIONS AND MEMORIALS.

Mr. HOWE presented the petition of James Storm, of Stockbridge, Calumet county, Wisconsin, praying that he may be authorized, as the assignee of the late Catherine Mills, to make the proofs and payments and receive the title to lot No. 194 of the Stockbridge reservation, agreeably to the sixteenth article of the treaty between the Munsee and Stockbridge Indians and the United States, of the 5th of February, 1856; which was referred to the Committee on Indian Affairs.

## THE ARGUELLES CASE.

Mr. JOHNSON. With the consent of the chairman of the Committee on Finance, I will ask, supposing it will produce no debate, the consideration of a resolution of inquiry that I offered the day before yesterday.

There being no objection, the Senate proceeded to consider the following resolution:

*Resolved*, That the President be requested to inform the Senate, if he shall not deem it incompatible with the public interest, whether he has, and when, authorized a person alleged to have committed a crime against Spain, or any of its dependencies, to be delivered up to officers of that Government, and whether such delivery was had, and if so, under what authority of law or treaty it was done.

The resolution was adopted.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House of Representatives had signed an enrolled joint resolution (H. R. No. 63) to settle the account of James Keenan, late consul at Hong Kong, China; and it was thereupon signed by the President *pro tempore*.

## HOUSE BILL REFERRED.

The bill from the House of Representatives (No. 493) for the relief of William Brindle was read twice by its title, and referred to the Committee on Public Lands.

## INTERNAL REVENUE.

The PRESIDENT *pro tempore*. The Senate will resume the consideration of the order of the day.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 405) to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes.

The PRESIDENT *pro tempore*. The Chair awaits the pleasure of the Senate as to what amendments shall be considered.

Mr. FESSENDEN. There were certain amendments passed over, and we may as well take them up in their order. I will inquire whether the proviso on page 87, section seventy-eight, line twenty-two, in relation to the license to be paid by savings banks, was adopted?

The PRESIDENT *pro tempore*. It was not. It was passed over.

Mr. FESSENDEN. If there is no objection to that, as I understand the Senator from Vermont does not object to it and does not propose to amend it, I should like to have it adopted.

Mr. COLLAMER. I shall object to it unless the gentleman will accept of a clause that I have drawn in addition to it.

Mr. FESSENDEN. Read it.

Mr. COLLAMER. It is to add this proviso: *Provided*, That savings banks having no fixed capital and whose business is confined to receiving deposits and loaning the same, and who do no other banking business, shall not be required to take a license under this act.

I propose to add that to the committee's amendment, which is to insert this proviso:

*Provided*, That each savings bank shall be liable to pay \$100 for license as a banker.

Mr. FESSENDEN. I do not know that I object to the principle of the Senator's amendment, but I suggest to him to put it in this form: to amend the amendment of the committee so that it will read:

*Provided*, That each savings bank, except such as have no fixed capital and whose business is confined to receiving deposits and loaning the same, and who do no other business of banking, shall be liable to pay \$100 as license.

Mr. COLLAMER. That only incorporates my amendment in the committee's amendment. I thought it would be more distinct the other way, and I think so still; but if the gentleman prefers it in that way I have no objection.

Mr. FESSENDEN. It will avoid the multiplication of provisos. I understand the Senator to accept the modification of his amendment that I have suggested.

Mr. COLLAMER. Yes, sir.

The PRESIDING OFFICER. (Mr. ANTHONY in the chair.) The Senator from Vermont proposes to amend the amendment of the committee by inserting in line twenty-two, after the word "bank," the words "except such as have no fixed capital and whose business is confined to receiving deposits and loaning the same and who do no other business of banking;" so that it will read:

*Provided*, That each savings bank, except such as have no fixed capital and whose business is confined to receiving deposits and loaning the same, and who do no other business of banking, shall be liable to pay \$100 for license as a banker.

Mr. SHERMAN. I do not want to make any opposition to it, but I see no reason in the world why savings banks ought not to pay a license like other people. If they only received small deposits then I would say they ought to be exempt from all tax, because we do not wish to strike at that kind of deposits.

Mr. FESSENDEN. They do pay on the dividends that are made precisely like other people. This is a provision to take out a license in addition.

Mr. SHERMAN. You license lawyers, you license doctors, you license every employment of life, and why should you exempt a savings bank?

Mr. JOHNSON. It is not an employment.

Mr. SHERMAN. It is an employment. It is a mode of getting profits by receiving deposits.

Mr. FESSENDEN. You get the same tax out of them that you do out of the individual who lends money on notes of hand, that is upon the interest; but you do not compel an individual who lends money on notes of hand to pay for a license in addition.

Mr. JOHNSON. You do not make a man pay a license for loaning his own money.

Mr. GRIMES. I should like to know whether it be true that savings banks are established on the principle on which the Senator from Maine and the Senator from Vermont suppose them to be. This is a subject that has been brought recently before the Committee on the District of Columbia. We chartered at the commencement of this session a savings bank in this city. The charter was drawn by my friend from Maine, [Mr. MORRILL,] and drawn according to the prin-

ciples, as I understand it, upon which savings banks are ordinarily established. Recently a petition was sent to us asking that the privilege be extended so as to allow them to receive general deposits. When it came before the committee the other day I objected to the granting of that petition for the reason that I did not think, first, that there was any precedent for it, and in the second place I did not think it was safe policy to allow them to receive general deposits, because I was afraid it might disturb the special deposits, which are used as part of the sinking fund. But I was told that these savings banks in Pennsylvania

Mr. MORRILL. And New York.

Mr. GRIMES. And, my friend says, in New York—I do not remember how that is—are allowed to receive general deposits and negotiate paper.

Mr. HARRIS. That is so.

Mr. GRIMES. The Senator from New York says it is so. If that be so, savings banks of that description ought to be taxed.

Mr. FESSENDEN. They are taxed.

Mr. COLLAMER. We do tax them, and make them pay a license in addition. Every savings bank, except such as have no fixed capital, and whose business is confined to receiving deposits and loaning the same, and who do no other business of banking, is liable to pay \$100 for a license, under this amendment.

Mr. FESSENDEN. That is exactly its effect.

Mr. COLLAMER. In the first place, the amendment of the committee provided that every savings bank should pay a license of \$100. I propose to insert as an exception, except savings banks who have no capital and whose business is confined to the loaning of deposits and do no other banking business.

Mr. JOHNSON. Where do you insert it?

Mr. COLLAMER. In the body of the committee's amendment.

The amendment to the amendment was agreed to. The amendment of the committee, as amended, was adopted.

Mr. FESSENDEN. The next section to which I will call attention is section eighty, on page 106. That seems to be very obscure as it now stands. I think the obscurity may be relieved by striking out the word "a," in line three, after the word "require," and to insert "an additional;" and after the word "license" to insert the words "as a dealer;" so that it will read:

SEC. 80. And be it further enacted, That nothing contained in the preceding sections of this act laying duties on licenses shall be construed to require an additional license as a dealer for the sale of goods, wares, and merchandise made or produced and sold by the manufacturer or producer at the manufactory or place where the same is made or produced.

The amendment was agreed to.

Mr. FESSENDEN. There is another verbal amendment that I wish to make in that section. In the second line I move to strike out the words "laying duties on" and to insert "requiring;" so that it will read:

That nothing contained in the preceding sections of this act requiring licenses shall be construed, &c.

The amendment was agreed to.

Mr. FESSENDEN. I have an amendment with regard to bullion; but I see that the Senator from California, [Mr. CONNESS,] who takes some interest in that question, is not at present in the Chamber, and I will pass it over and take up section one hundred and sixty-one, relating to the question of banks.

Mr. McDougall. I call the Senator's attention to the duty on the article of quicksilver, just before the provision in regard to bullion.

Mr. FESSENDEN. I see that the other Senator from California is not in his seat; and I propose to defer that question until he is present.

Mr. McDougall. I wish to reserve also the duty on quicksilver as well as on gold and silver.

Mr. FESSENDEN. I propose now to take up section one hundred and nine, relating to banks and banking, on page 161.

Mr. SHERMAN. When that section was up the other day I offered an amendment to it, which I suppose is the pending question, to strike out the whole section and insert a substitute.

Mr. FESSENDEN. I suggest to the Senator

—he can act according to his own pleasure about it—I understand there is a committee of conference on the bank bill at the present time which will probably report early in the week; and perhaps it would be as well to defer action on this subject until that is determined. I think we shall then be able to act more understandingly upon it.

Mr. SHERMAN. Very well. I wish to modify my amendment a little, but I can do it when the matter comes up again.

Mr. FESSENDEN. There is a very slight amendment in section one hundred and thirteen, line sixteen, page 168, which was suggested by the Senator from Rhode Island, who is now in the chair, [Mr. ANTHONY,] which I think ought to be made. I move to add a final "s" to the word "assessor" in that line.

The amendment was agreed to.

Mr. POMEROY. I suggest to the Senator that there are two or three places in the bill where "the District of Columbia" should be inserted in connection with the States and Territories. I do not know whether it is best to do it now or not.

Mr. FESSENDEN. If the Senator will omit them now and move them some other time, I shall be very glad to have those amendments made. I dare say there are omissions.

Mr. POMEROY. Very well.

Mr. FESSENDEN. I suppose we may as well now take up section one hundred and seventy-eight, on page 232. It is the section striking out the duties on liquors of domestic production on hand.

The PRESIDING OFFICER. The question then will be on the amendment proposed by the Committee on Finance to strike out section one hundred and seventy-eight, which will be read.

The Secretary read it, as follows:

SEC. 178. And be it further enacted, That all spirits of domestic production and held for sale on the 1st day of May, 1864, and upon which no tax shall have been paid, shall be subject to a duty of fifty cents per gallon, and all such spirits on hand for sale upon which a prior duty shall have been paid shall be subject to a duty of thirty cents per gallon: *Provided*, That bona fide retail dealers in spirits duly licensed shall not be taxed on their stock on hand whose quantity on hand does not exceed two barrels.

Mr. SHERMAN. Mr. President, if the question of the tax on spirits on hand was not now presented in a somewhat different form I would not say anything in addition to what I have said heretofore in regard to it. I still retain my opinion, although I found myself in a very small minority, that from the beginning when we commenced putting the exceptional tax on spirits, the first tax amounting to more than the original cost of the spirits, we should have assessed a corresponding duty on that on hand. The Senate, however, adopted a policy founded upon a principle that seemed to be just in itself. While I differed from the Senate upon that subject I have no complaint to make in regard to their decision in times past. But now it is proposed to raise the duty on spirits something like six or seven times its cost. It is proposed to levy a duty of \$1 50 a gallon after the 1st of January. That is about equivalent to six times the original cost of the article. It seems to me, therefore, it now presents another question when we are levying this very large duty on the article to be manufactured whether we cannot also properly levy a duty on the article on hand.

I do not wish to discriminate against the manufacture of whisky. I do not seek to tax the article of whisky because the use of whisky sometimes is a great moral evil, doing more harm probably to mankind than any other vice. In framing tax laws we cannot regulate the morals of our people. My only purpose is to levy a duty which will yield us the largest sum of money that the article can pay. I believe that spirits will yield more than any other article of excise. It has done so in France; it does it in England, and in all other countries where the system of taxation is now carefully elaborated, each item of which is carefully stated, and each item of which can be estimated almost to the £1,000 in the course of a year.

We now propose by this bill to levy a duty of \$1 50 a gallon on spirits manufactured in the future; and here I may say that it would be much wiser to levy the whole of this tax on the passage of this law than to divide it into gradations. There will be no spirits manufactured after the passage of this law prior to the 1st of October. Your first scale will therefore be inoperative. In the course

of the manufacture of whisky, very little is manufactured at any time during the summer and early fall months, because it is only done in connection with the operation of feeding stock and hogs, and this cannot be profitably done in the summer or fall of the year when pasturage is so cheap. The levying of one dollar a gallon on what is manufactured after the passage of this law to the 1st of October will yield you nothing unless the manufacture of spirits is forced out of its usual channel by the bounty paid between this and the 1st of October next. The same reasoning would apply to the tax proposed to be levied between the 1st of October and the 1st of January. At that time, no doubt, in the ordinary process a good deal of whisky will be manufactured.

There is no reason why a lower tax should be levied before the 1st of January than after the 1st of January except this: that the prospective tax in the future will probably force the manufacture of whisky between the 1st of October and the 1st of January. So far as it does so, it will tend to do an injury. The Government of the United States is now in the market for nearly all the surplus agricultural products of the country. We now buy more than any other person, for the use of the Army, for food and forage, of corn, wheat, oats, and all the articles which are used in the manufacture of whisky. This forcing up of the price of agricultural products between the 1st of October and the 1st of January next will only tend to compel the Government of the United States to pay a higher price for the articles which it is necessary for us to buy between those months. The only view in which this tax can be defended is that it will continue the manufacture of whisky in those months; and I say that even in that view it is a narrow-sighted policy to levy a small tax in those months, because it will tend to raise the price of corn, wheat, barley, and the other products which necessarily enter into the consumption and manufacture of whisky.

I therefore yield at once to the reasoning which would induce us to put the highest rate of duty that we propose to impose during the coming year from this time, or from the 1st of July, if you please; because after the passage of this law, and after the increased tax shall be put upon whisky, it is probable the manufacturer will stop until the demand in the future shall have exhausted the supply on hand and compel the manufacture of spirits to be sold in the future. I think, therefore, it is important that we should fix a rate to commence upon the 1st of July, or upon the passage of this bill, and that rate should be the highest proposed by Congress to be put upon this article, not only for one year, but for two or three years. By any of these taxes the manufacture of whisky during the next year, in my judgment, will be stopped in a great measure. I have inquired from those who are engaged in the business, and they have generally informed me that the stock on hand is amply sufficient, considering the high tax that will have to be paid on that manufactured in the future, to suspend the operations of the distilleries for some months and perhaps for a year; but upon that there is a difference of opinion. My own opinion is that very little whisky will be manufactured for one year if the tax is now levied at \$1 50 a gallon.

The question then occurs to us whether now, when we need so much money, when our legislation has added so much to the value of this article on hand, we can afford to forego taxation on this article for at least a year to come. I go upon the assumption that the stock on hand will be sufficient to suspend the ordinary operation of the manufacture of this article until that stock is so reduced that the price will rise to about \$1 75 or \$2 a gallon, and then the manufacture of whisky will be again resumed. I believe that process will not occur within less than one year from this time. Under these circumstances, it is a very serious question whether we can afford to surrender to the manufacturers or holders of whisky the enormous profits that will accrue from raising the price from its original cost, fifteen or seventeen cents a gallon before the war, up to \$1 75 a gallon, which it must be before any can be manufactured under the operation of your excise law.

It is said it is hard to levy a tax on an article on hand, because people buy and sell that article in the ordinary course of business, and that by so doing you interfere with the ordinary opera-

tions of trade. If the Senate in this case put a moderate tax on the article on hand they will not interfere with any legitimate or fair profit. We propose now an increase of the tax on the article to be manufactured from sixty cents a gallon up to \$1 50 a gallon. The price of the article now in the market is from \$1 25 to \$1 30. It has risen in anticipation of a tax of one dollar a gallon. If we now levy a tax of thirty or fifty cents a gallon on spirits on hand, we shall do no injustice whatever to any man who has dealt in the article, or who now holds in hand. They can afford to pay a tax of at least fifty cents a gallon on that in hand in addition to the twenty cents already paid; and yet they can retain that article, without competition from the manufacturers until it attains a price at which they can sell it without loss. If you levy a duty of \$1 50 a gallon upon all of the article manufactured in the future, none will be manufactured until the price approaches \$1 75 a gallon. That proposition is so obvious that it requires no argument; because the manufacturer, as a matter of course, will not continue the manufacture of whisky until the price reaches that point when, in the market at the time, he may sell it at a reasonable and fair profit. With a duty, therefore, on future manufacture of \$1 50 no whisky will be manufactured by any sane man until whisky rises in the present market to a price approaching from \$1 75 to \$2 a gallon. The question now is whether, in levying such taxes as we are now called upon to levy on our people, the Government of the United States, in anticipation of the future rise, should not levy a tax on the article on hand, so that the holder of whisky at present prices will not be a loser in the market. It seems to me we have the right to do it and it is our duty to do it.

I do not concur in the idea so often mentioned here, that we have no right to tax property because property is something that is acquired and fixed, and we ought not to apply our duties to property. That is not a correct principle. All direct taxes are taxes upon accumulated property. Most of our internal and indirect taxes are taxes on future products, future manufactures, future labor; but all direct taxes are taxes on property; and yet we do not consider those taxes as unjust.

But it is said that you propose to levy a higher rate of taxation on this article of property than you do upon other articles of property. So you do, and if you did not confer upon that property a corresponding benefit the tax would be unjust, and I might say unconstitutional; it would be unjust and unequal. But here by your act of legislation you confer upon this identical property an additional value; and that makes the distinction. If you were to attempt to levy a direct tax on whisky of so much a gallon as property and a tax of so much upon land and were to make the tax on whisky higher than your tax on land, it would be unjust unless there were corresponding provisions in your bill which would tend to raise the price of whisky in the market, so as to take away the tax entirely from the value of the property. But in this case you do by your legislation add to the value of that property, and therefore you do injustice to no one.

Mr. President, I do not propose to extend this discussion any further. It is a simple proposition. The House of Representatives have adhered to this tax somewhat tenaciously. I regret very much that it was not adopted long ago. If adopted now it will add but thirty cents a gallon to the whisky which has already paid thirty cents a gallon, and it will add fifty cents to that which is in bond, and there is very much of it. It will not injure any man to the amount of a dollar, because the price now at \$1 25 a gallon will at once advance, if this tax is levied, to an amount equal to the amount of your tax; so that the persons who hold the property can realize all the profits they have acquired in the market, and this section will only give to the Government the future increased value of the article.

Mr. HENDRICKS. I think it is unnecessary to add much to what has been said in the debate on this question, for I presume every Senator has his mind made up. Indeed, I understood that two or three months ago every Senator had decided what were his views upon the propriety of a tax like this upon an article that has already borne the burden which the law has said it should bear, and in the hands of persons who hold it on the

faith of the action of Congress. Two months ago, when the question was an original one, although the House of Representatives insisted upon it, the Senate would not consent to tax that which had already borne a tax. The principle was regarded as sufficient to carry the Senate to that point. The reason is made much stronger now, for all the dealers in the country have relied upon it that that was the position of the Senate. They have sold and bought upon that understanding. We have said to the country that we would not consent to a tax upon that which had already borne a tax. Having faith in that assurance of the Senate, men have bought up to the present hour upon the supposition that there would be no tax imposed upon that on hand. Until within a few days past, men have been buying at from \$1 25 to \$1 30 a gallon, as I have observed in the papers. If you impose this additional tax, you take from them that benefit which they expected to derive from the legislation of Congress according to the principle that had been recognized by the Senate.

It seems to me the objections to this legislation are much stronger, one hundred per cent. stronger now than they were when the Senate decided upon it two months ago. The argument of the Senator from Ohio is exclusively based upon the proposition that we shall, from the commencement of this tax, impose such a tax on future production as will enable the present holder to sell at an increased price which will remunerate him. The argument of the Senator is that we shall tax whisky at \$1 50 a gallon, and in connection with that he says that if we do impose such a tax, we need expect no revenue from production during the coming year.

I ask Senators if they are willing to adopt a policy that will strike down this interest entirely? The Senator has well said that we cannot correct the morals of a people in a revenue bill; that it is not the purpose of Congress in considering such a bill to legislate with a view to its effect upon the morals of the community. I ask him to consider this question, while he will not attempt to tax whisky with a view to its effect upon the morals of the people; will he attempt to legislate with a view to strike down this large interest of the country?

I think that a tax of \$1 50 a gallon will prostrate this interest. It is a very important one to the section of the country with which I am connected, as I attempted in a very few words the other day to explain to the Senate. Our corn is so weighty and so bulky that it cannot find an eastern market in that shape; but if reduced into the form of whisky it may conveniently and profitably find a market. The Senator will not undertake to say to the people of the Northwest that it is an immoral pursuit. The Senator yields that. He admits that it is a proper pursuit, one that may legitimately be pursued, and which the Senate should tax only with a view to revenue; but he admits in the course of his argument that a duty of \$1 50 defeats revenue while it prostrates the interest. It defeats revenue because it prostrates the interest. I ask Senators then not to adopt a policy that will strike down a very important interest of the Northwest.

I said the other day that I was not going to insist any further against the tax of a dollar a gallon on the manufacture of whisky. It seemed to be the view of the Senate that that should be the rate. I think that is a very high tax. It is five hundred per cent. above what was imposed two years ago, and five or six hundred per cent. above what was the value of whisky two years ago. I ask Senators if they have imposed a like tax upon any other production of the country? Are the productions of New England so taxed? Are the productions of the middle States so taxed? The tax now to be imposed is five hundred per cent. upon what was the value of the article at the commencement of the war. I ask for this interest the same justice, the same fair dealing, that is extended to every other interest of the country, that it shall bear its fair proportion of the burdens of this war in connection with every other interest of the country; and in making that request of the Senate, I ask that which is but right and fair.

It may be said that we can cease to produce whisky, but then we cease to obtain revenues; we defeat the purpose of the bill; and at the same time very materially impair the interests of the



corn-growing section of the country. I then will rely upon it that the Senate will not impose a tax for the coming year of more than a dollar a gallon.

The argument of the Senator from Ohio was certainly very conclusive that there ought not to be gradations in the tax through the year. It has a tendency to stimulate the production of whisky during these fall months, which ought not to be done in view of the interest of the Government, as he has well suggested, in the purchase of corn, which she needs in such large quantities, and also in view of the interest of the distiller himself. It is his interest to commence with the coming crop, with the supply of corn, with the supply of stock, and to carry it on according to the ordinary course of business without any special stimulant at any portion of the producing season. When he has supplied himself with his hogs and his cattle sufficient to use up the slops, (which is a very important matter in connection with the distilling business,) then it is his interest to go on during that season without any change of the tax, so as to supply his stock uniformly during the whole season until that stock may be disposed of in the market. This is also the interest of the Government, in view of the fact that she has to buy corn, cattle, and hogs to supply the Army.

This is all, Mr. President, that I feel it necessary to say on this subject. It has been very fully discussed, and I ask the Senate to stand by its judgment expressed two months ago.

Mr. POMEROY. I agree with many things that the Senator from Ohio has said; but I would very much prefer to have the question that arises in the fifty-fourth section settled first. If we can raise the tax upon this article on the 1st of July or after the passage of the act, as the Senator from Ohio suggests, to what it is proposed to raise it during the whole year, there would be some good reason why we should not sustain the action of the committee in regard to this section; but I am going to vote to sustain the action of the committee in regard to this section until the fifty-fourth section is settled, and then, if we can correct the legislation in that section, I shall move to reconsider this. I think what tax we put on whisky during the year should be put on it from the 1st of July, or the passage of the act. That is my idea; and then what we tax that on hand will not be injurious to anybody.

Mr. HARRIS. Mr. President, when this question was before the Senate two or three months ago, I voted steadily against taxing the stock on hand. I felt bound to do so on principle. I shall now, however, vote to retain this section as it came from the House of Representatives; and I do it upon this ground: my belief is that the manufacture of domestic spirits will bear a tax of \$1 50; I expect to see that tax imposed; and expecting that, I believe the stock on hand may be taxed the amount provided in the section now under consideration, without injustice to the holders, and that the Government can derive a very considerable revenue from it, doing no injustice to any one. I shall, therefore, vote to retain this section, and if afterwards it should turn out that the tax upon the future manufacture is not increased, I shall feel myself at perfect liberty to reverse the vote whenever the opportunity occurs.

Mr. POMEROY. I suggest to the Senator whether we cannot have the other vote taken first.

Mr. HARRIS. I do not care which vote is taken first.

Mr. LANE, of Kansas. The very reason which induces the Senator from New York to change his vote induces me to adhere to mine—the belief that this article will bear a tax of \$1 50. I propose, instead of killing the goose that lays the golden egg, to preserve her. I am satisfied—with great knowledge of this business, having resided in a State where a large amount of this article is manufactured—that taxing the liquor on hand will destroy the distilleries and prevent the manufacture of the article.

Mr. POWELL. I am somewhat amazed at the declaration of the honorable Senator from New York. He announced that he steadily voted against taxing whisky on hand upon principle, and then he announced in the next sentence that he would now vote in favor of taxing whisky on hand. I had thought that principle, correct principle—and there can be no principle except that which is true—never changed. I have steadily voted against

taxing whisky on hand. I cast my vote as did the Senator from New York, upon principle, and upon principle I shall steadily continue to vote against it.

I concur with the Senator from Kansas and the Senator from Indiana in saying that I do not believe this tax should be imposed, and I do not believe that the whisky-distilling interest will bear a tax of \$1 50 a gallon. I think that tax is outrageously high and will be destructive of that interest. I believe that the imposition of a tax upon the stock on hand will also tend much to destroy that interest. The very greatly increased tax which I am certain the Senate will lay on this article of whisky will damage to a great extent the distillers, and the only salvation they will have is in the increased profit they will have on the article on hand.

I put it to the Senate if it is quite honest to tax an article twice. Is it not the duty of every Government, of every honest legislative department, when they make their laws and proclaim to the citizens what they are in order that they may shape their business accordingly, to stand firmly and fairly by what they decreed should be the law touching a particular subject? You have taxed and collected the tax upon a large portion of the whisky that you propose to tax over again; and the reason assigned by my friend from Ohio is that you will not injure these persons in consequence of imposing this double tax upon the whisky. The Senator is certainly mistaken in announcing that you will not injure those persons who hold whisky to the amount of thirty cents a gallon if that is the additional tax you impose on them. Gentlemen seem to think that whisky is something unpopular in the country, and that there is a want of moral odor about it which will allow the men engaged in that interest to be robbed in this kind of way. Sir, you may just as well—and you could do it with as much honesty and integrity on the part of the law-making department of this Government—lay a double tax upon the income of each and every citizen in this land. The Senator from Kansas says it is "confiscation." It is, and that in the most odious form. How would it look before the world if we were to declare by law here that each citizen who was taxed last year under your law should now pay double the amount of income tax that he then paid, and that every other interest which was taxed then should pay now double the amount of tax that was then imposed? Would it be dealing justly with the citizen? Certainly not. It would be grossly unjust.

Mr. RAMSEY. Allow me to ask the Senator a question. Has not whisky doubled in price by our legislation?

Mr. POWELL. I do not know whether it has or not; but if you have by your legislation increased its value, that is no reason for departing from the principle that every Senator must admit to be sound; that is, when you fix a tax on the citizen for any business or profit on any pursuit and collect that tax, you should not turn round and relax him upon the very same thing. I would ask the Senator if he thinks it would be right to put on him another tax of ten dollars in addition to that he paid last year per possibility as attorney-at-law for his license? Would it be proper to make every physician in the country, every shopkeeper in the country, and every person who was taxed for carrying on his business, by way of license pay the same amount over again merely because he had some profit in his business and was able to stand it? If that is to be our rule of legislation we depart from all correct principle, and the citizen will not know what he is to pay. It is proposed to put thirty cents additional tax on each gallon of whisky which has been heretofore taxed; and next year you may think that the \$1 50 a gallon which the Senator from Ohio indicates that he wishes to impose is too low, and you may imagine at the next meeting of Congress that it would bear sixty cents more, and you would add sixty cents to it, and so you might continue to tax it until it should be sold and consumed. In my judgment there is no equity or justice in it. I think it is unfair dealing with the citizen. I know that we must have heavy taxes in order to raise revenue; but when we do tax an article, and the party pays the tax, let us not interfere with that article any more; but let us arrange our taxes as to get revenue enough to meet the

exigencies of the Government without violating principle.

If you adopt the principle of this section, how will any man in this country know how to arrange his business? If you depart from just principle in regard to the article of whisky, you may with some reason depart from it in every other instance. How with the manufacturer? Under the existing law you charge him, I believe, three per cent. on his profits. Suppose you say that you want money, and that the manufacturing interest has been exceedingly profitable, and can pay more; that they have declared their heavy dividends, that their profits in consequence of the war have been very excessive and great, and therefore you will make the manufacturing interest pay six per cent. in addition to that three per cent., would that be honest or just or right? Certainly not.

Mr. LANE, of Kansas. Will the Senator allow me to make a suggestion?

Mr. POWELL. Certainly.

Mr. LANE, of Kansas. The Senator from Minnesota [Mr. RAMSEY] inquires if whisky has not doubled in price the last year. Has not the distiller had to pay double price for corn and other products out of which whisky is manufactured? Does the Senator not know that to be a fact? After the distiller has bought corn and other products at double price and has distilled whisky, which he has on hand, you propose to say to him that he shall pay thirty cents a gallon upon the whisky that he has manufactured out of the products that he has paid two prices for. I will say to the Senator from Minnesota that I have conversed with several distillers from the neighborhood I came from in Indiana, men whom I have known from childhood, and they assure me that this tax will compel them to give up business altogether.

Mr. POWELL. I am obliged to the Senator from Kansas for making the suggestion. I was just about to reach that point.

Mr. RAMSEY. I have no doubt that since the imposition of sixty cents a gallon tax on whisky, corn, as well as all products of the country, has increased in value, but in no proportion at all to the rise in the price of whisky.

Mr. HENDRICKS. The Senator is mistaken about that.

Mr. LANE, of Kansas. I speak now of my own neighborhood. We have one distillery in my own neighborhood in Kansas. Corn was there twenty-five cents a bushel, and now since this rise it is seventy cents a bushel. I know that of my own knowledge.

Mr. POWELL. I can say to the Senator that corn now is \$1 05 and \$1 10 a bushel in many parts of the valley of the Mississippi. To tax the same article twice is wrong in principle. The Senator from Minnesota asks if whisky has not greatly risen in value. I admit that it has; but I ask him if almost everything else has not risen equally in value. Has he an article of clothing upon his person now that has not trebled or quadrupled in value since the commencement of this civil war? The linen that he wears has quadrupled in value. The manufacturing interest has reaped the profits from that rise. Why not duplicate your taxes upon the manufacturing gentlemen? It would be equally as just to do it as in the case of the whisky makers. The mercantile interests in many parts of the country have been exceedingly prosperous. You may suppose that they are well able to bear taxes. Why not double their taxes? When you have once exacted your tax, and men enter into business of any kind on the faith of it, there is no justice, no equity in afterwards coming in and levying an additional tax; and if this proposition were not advocated by Senators whom I know to be honorable gentlemen, I would say that it was not quite honest. If you enter upon such a system of legislation you cut yourselves loose from all principle. Under such a system no manufacturer, no business man of any kind can pursue any business with security. If you adopt the principle that the tax you lay this year may be duplicated before the end of the year, no sensible business man will know what to do in view of your legislation. Taxes should be laid so as to make them bear as uniformly as possible on the whole people, and laid in such a manner as to allow the business community to know what they have to meet and what they have to pay. Then they can intelligently conduct their pursuits,

and they cannot do it otherwise. Suppose you put this thirty cents additional tax upon whisky which has been heretofore taxed, I ask gentlemen who favor the proposition whether if they were manufacturers of whisky they would feel authorized to enter into any business arrangements in view of another meeting of Congress that might so far depart from principle as to impose another tax of thirty or perhaps sixty cents on the same whisky?

I know, sir, that some Senators think the whisky interest will bear any amount of tax. I am not one of those. I think one dollar a gallon is the very outside point to which you ought to go, if you wish to raise the revenue from this interest. Indeed, that is higher than I would go. I believe you will get more revenue from a tax of sixty cents a gallon than a tax of \$1.50, or even \$1. This interest cannot stand that very great taxation, and it is not just or right that it should.

My friend from Ohio has said that in the latter part of the summer and the early fall months there will be no whisky made if the bill be passed as now proposed; and he assigns as a reason for that opinion that the latter summer and the early fall, up to the 1st of October, is the time when they do not want to feed stock. Now, sir, I have had some little experience in this business of distilling; I have been all my life in the midst of it; and I have observed it. I have also some little experience in feeding stock; and allow me to tell the Senator from Ohio that the stock that are fed, the hogs particularly, are fed in the latter part of the summer and in the early autumn. The hogs that are packed at Cincinnati are fed in the latter part of the summer and the early autumn, and the knives are put to their throats as soon as it is cold enough to keep the pork. From the 1st of August to the middle of October is the time when they are fed, and then they are killed and taken to market. What time is the pork-packing business over in the Senator's great city of Cincinnati? It is over early in the winter. So it is in Louisville; so it is in the great slaughtering places in the valley of the Mississippi. The hogs which are fed after that are killed and carried to market in small lots, and sold as fresh meat and sausages in the large cities.

I heard some Senators the other day in speaking on this subject say that if whisky was not distilled the effect would be to leave the corn on hand to be fed to stock and to be sold to the Government, and that would be a great advantage to the Government, as it has to buy a large amount of provisions now both for man and beast. Senators who entertain that idea are very much mistaken. The slops from the distilleries are worth fully one half the price of the grain originally for feeding hogs and cattle. Any practical distiller will tell you that he relies upon two sources of profit from the distillation of the grain, namely, the price of the whisky and the feeding of the stock; and without both he cannot get on. I venture to say that there is not a distiller in the valley of the Mississippi who would run his distillery a day unless he had these two sources of profit. By stopping the distillation you will not lessen the price of corn much, because in the region of country where the heaviest distilleries are is the corn with which you would have to feed your Army and Army horses; and the transportation of the corn would cost a great deal and bring it up probably to present prices.

In my judgment those who wish to tax this interest so very heavily are mistaken. I do not believe the result will be to secure the amount of revenue that would be derived if the taxation was lower. The proposition to tax the liquor on hand after it has paid one tax, or has complied with your law and is subject to pay the existing duty, is in every respect wrong in principle. I do not believe we should so tamper with any business interest of the country. I will never agree here to lay a tax upon any commodity that has been once taxed, I care not what it be, whether it be whisky or any product of mechanical skill. I would just as soon think of making all professional men take out a license over again, and of taxing every man's income over again, and of taxing every manufacturing interest over again, as to tax this whisky over again. It is such a departure from principle that I cannot think of voting for it.

Mr. TRUMBULL. Having expressed my

views when this question was up before in favor of imposing a tax upon whisky on hand, and seeing no reason in principle why we should not do so, and not knowing why we may not just as well impose another tax on whisky as to tax a horse one year five dollars and the next year ten dollars, or a tract of land one year five dollars and the next year ten dollars, I shall adhere to my former vote. The Senator from Kentucky says that he will never impose an additional tax on an article that has been once taxed. He does it every twelve months, but there is no principle in its running a year. You may as well tax land twice over in a year, once every six months. I see no principle in it. But, sir, I do not suppose that I shall convince the Senator from Kentucky or anybody else in the Senate by what I have to say in reference to it. It is a question that has been discussed, and probably every Senator has made up his mind in regard to it. I rose simply to ask for the yeas and nays on the motion to strike out this section which proposes a moderate tax of only fifty cents a gallon on the whisky on hand. I hope that we shall not agree to the recommendation of the Committee on Finance, but will retain the section.

The yeas and nays were ordered.

Mr. HENDRICKS. I wish to say just one word, in addition to what I have said, on a subject that there seems to be some misunderstanding about by the Senate, and that is the cost to the distiller of the production of liquor. It seems to be understood that the cost is but very trifling. At the present time, and for a great many months past, (and it will be so for a good many months yet to come,) the cost has been very large indeed. At one time the price of corn in the Northwest was very low, from fifteen to thirty cents a bushel; but during this year, because of the large demand for the Army, perhaps, but mainly because of the loss of the last crop to a very considerable extent by reason of an early frost, the price has gone up to very nearly a dollar, from seventy cents up to a dollar, so that the cost is very great. That seems not to be understood.

Mr. FESSENDEN. Senators have expressed their determination to vote for this section one hundred and seventy-eight as it stands. I suggest to them that as it stands it is rather a queer section. It reads:

That all spirits of domestic production and held for sale on the 1st day of May, 1864, and upon which no tax shall have been paid, shall be subject to a duty of fifty cents per gallon, and all such spirits on hand for sale upon which a prior duty shall have been paid shall be subject to a duty of thirty cents per gallon.

It makes a difference between the whisky that has paid the original tax of twenty cents and that upon which nothing has been paid. Some three months ago we imposed an additional tax increasing the rate to sixty cents. The result is that upon all the liquor which has been manufactured, and I suppose it is very large, since then, we should impose an additional tax of thirty cents. That, then, would have to pay ninety cents, while whisky manufactured before would pay only fifty cents. If Senators are satisfied to let it stand so, so be it. That is the effect; an effect most unjust and wrong provided the principle of taxing liquor on hand is to be adopted. I do not propose in any way to amend it myself, because my own opinions have been expressed so decidedly in reference to the thing, that it is wrong in principle, that I shall vote against it in any shape in which it may be put; but if gentlemen desire to have it passed, if they have any expectation that it can be sustained, it strikes me that it is their duty to contrive some way to make the thing just and equal. Now, it is decidedly wrong.

I will not attempt to recapitulate the arguments which I advanced before in relation to the matter. Every Senator understands the question. I will only say that I really wish—I wish as strongly as any person can—that there was some way, consistent with what I believe to be a just and honest principle, to get a revenue out of this large amount of liquor. I believe with the Senator from Ohio that at some time, either now or at a period in the future near at hand, there is to be a lull for a time in this matter, and that for a time we shall get comparatively no revenue from the production of whisky. I believe that is a necessity arising out of the case itself, a difficulty which cannot be got over unless you attempt to get over it by violating the principle of the bill,

and what I believe to be an honest and true principle in legislation, and even then you will reach it only imperfectly. You may get a certain amount of money, and there is the end of it, and the question is whether, in getting that money, you have not in such a way violated principle and thrown all dependence upon the regularity of proceedings, upon the system of legislation which Congress may adopt in the future, so entirely into confusion that no men in business can place any sort of reliance upon your legislation. I am very anxious to get money; to get just as much as we can out of this bill.

Mr. JOHNSON. The Senator will recollect that it does not escape the tax. There is a very heavy tax on it. If it be true that the profit upon the whisky on hand is to be very large, just in proportion as it is large is the income of the proprietor increased, and you tax his income.

Mr. FESSENDEN. I know that. I should be glad to get money out of it, and as much as we can get, and I believe the country needs all we can get; but I am yet to learn that our necessities are so great at this day or are likely to become so great that we are compelled from that consideration alone to shape our legislation merely for the moment, and in violation of what I believe to be a correct and a very important and vital principle of legislation. Nothing is gained by it in the long run, but much is lost; and when I legislate for this country I take it for granted that it is to have a long run, that what we lose at present we more than make up in the future by adhering to a correct system. Therefore I have not changed my opinion on the subject.

Mr. SHERMAN. I wish to make one observation in reply to the remarks of the Senator from Maine. This section probably will need some amendment. It would not be very difficult to provide for the case suggested by him, and it ought to be transposed to another place in the bill; but I have not offered any amendment because I thought it was better first to take the sense of the Senate on the motion to strike out the section. If the Senate shall refuse to strike out the section it will then be open for amendment, and we can amend it. It would only consume unnecessary time to offer an amendment prior to that. In case the Senate decline to strike out the section I think there may be some slight amendments needed, and it ought to be transposed to that part of the bill which relates to the duties on spirits.

Mr. TRUMBULL. I did not intend to take up any time in discussing this matter; but the Senator from Maine seems to put this upon what he regards as a violation of principle, and he says it is rendering uncertain the business of the country if we impose a tax upon an article which is on hand and on which no tax has heretofore been laid at all, it seems; for this section applies in part to whisky which has never paid a tax. Does the Senator from Maine consider that it is any violation of principle to assess a tax on an article of property which an individual may hold that has never before been taxed?

Mr. FESSENDEN. The Senator will observe that it does not apply so particularly to that as to the other. How much of that there may be is doubtful. It would be very small in quantity.

Mr. TRUMBULL. But so far as that goes—

Mr. FESSENDEN. The principle of the bill, on which the whole system is founded from the beginning, is to tax production solely, and not property, except with reference to a few individual articles which are in their nature permanent, and not consumable.

Mr. TRUMBULL. I understand that this bill proposes to tax my carriage, my silver-ware, and a variety of articles which were not before taxed. The internal revenue law of 1862 put the first tax on those articles, and if there is any principle in it, that principle is violated just as much in taxing the silver-ware which was not before taxed as in taxing whisky which was not before taxed. It is violated just as much in taxing carriages, and a great variety of articles which are here taxed; and the tax is not put on the production of them, but the owner of the articles is taxed because he owns them and has them. If there is any principle in it, why may we not tax whisky which has not been taxed? The Senator tells us that the principle that he objects to does not apply so much to whisky upon which no tax has been previ-

ously levied, as I understand it, as it does to the imposition of an additional tax upon an article which has already paid one tax.

Now, let us see how this bill is in that respect, whether it is proposed to unsettle the business of the country in regard to whisky, and to make it an exception. This bill contains a provision that unsettles the agreements of parties, that declares laws of no effect under which they have been made. There is a provision in this bill that where gas companies have agreed to furnish gas at a certain price, and where the law provides that they shall charge no more for it than that price, yet notwithstanding that be the law, and notwithstanding that be the agreement of the parties, still a certain tax shall be levied upon so many cubic feet of gas and it shall be paid by the consumer, any law or any agreement to the contrary.

When I made that objection the other day, not in reference to gas particularly, but in reference to the provision in the bill which allowed corporations and companies to charge upon the consumer the amount of the tax as an additional price upon the article, I met with a singular answer. I did not reply to it then, because I thought there could be no force in the argument, and I thought the Senator from Maine would see that there was none, and I did not think anybody would suppose there was any until I was spoken to by another Senator who regarded it as a conclusive answer to the objection which I had made. I was told one reason for inserting the clause in the bill was, that an application came from Chicago, that the Chicago gas company was involved in difficulty. I am sure the Senator from Maine did not suppose that that would make any difference with my vote any more than it would with his, whether it came from Chicago or from some other city.

Mr. FESSENDEN. The Senator is drawing on his imagination. I will thank him not to judge my kind of argument by the operations of his own mind. Our minds are as distinct as two can be. I gave that as an illustration because it happened to be a good one.

Mr. TRUMBULL. Then if the Senator from Maine supposes it would make a difference with me, that his mind is very different from mine—

Mr. FESSENDEN. Of course I did not suppose it would make a difference. I say I merely gave it as an illustration.

Mr. TRUMBULL. I did not suppose it would make any difference with the Senator, and I did not suppose he thought it would, or would impute that it would, make any difference with any member of the Senate whether it affected a person in his State or not. I presumed the Senator from Maine would not act from such motives, and would not impute to me that I would. I supposed that, however different and distinct our minds were, on that point at least we should have agreed.

Mr. FESSENDEN. The Senator misapprehends me, as I think he always makes a point of doing when he can. I meant to say distinctly that I did not suppose it would have any effect on the Senator's mind. I simply gave it as an illustration because it was a fact.

Mr. TRUMBULL. Coupling it with the expression that our minds were different and therefore we disagreed, thereby imputing that on that point we disagreed.

Mr. FESSENDEN. Not at all.

Mr. TRUMBULL. The Senator either did not understand me, or else his remarks are not susceptible of any other construction than that which I have given them.

Now, sir, this bill makes these provisions, and it contains another in regard to advertisements in newspapers. I am not aware that the newspaper proprietors of the country are not as well paid as other business men; I am not aware that they do not get as fair compensation for advertisements as men engaged in other business get for their labor; and yet there is a provision in this bill that a certain tax shall be imposed upon newspaper advertisements, and another provision in it that that additional tax shall be paid by the person inserting the advertisement, any law to the contrary notwithstanding. Although the law of the State of Maine or of my State may provide that for a legal advertisement a certain sum shall be paid, or not exceeding a certain sum, the officer who inserts that advertisement in a paper, by the provisions of this bill, is to be charged an ad-

ditional sum, any State law to the contrary notwithstanding. And yet we are told when an attempt is made to impose a tax upon whisky on hand, an article that the speculators of this country have been engaged in making money out of upon the legislation of Congress, "you must not touch it, because you will unsettle the business of the country."

Now, sir, I see no principle that is to be violated by imposing a tax upon the whisky on hand. I look upon it as simply a question whether speculators shall make money off the distresses of the country and out of the legislation of the country and put it in their pockets, or whether the Government of the United States shall derive a revenue from this species of property. That, sir, is, as it seems to me, the real question. I know that the cities have been full of these operators, at least I am so told, purchasing large quantities of this article in anticipation that Congress would put a tax upon it that would raise its price in the market and they thereby realize fortunes.

I did not intend to say so much, but it does seem to me that there is no principle in the way of the imposition of a tax upon whisky on hand, especially that which has paid no tax, and that there is the greatest propriety in the imposition of such a tax.

Mr. FESSENDEN. I did not regard this matter of imposing a tax upon liquor which has never paid any tax as of the slightest consequence in connection with the question, because it cannot be supposed that there is any such amount of it in the country as would afford any revenue worth speaking of. Very nearly two years have elapsed since the original bill went into operation, and although undoubtedly there may have been some quantity of liquor held over by rich men, it is most probable that the liquor which was then on hand and which did not come within the tax we first laid has for the greater part been consumed; and the real question is in regard to that which has been made since and upon which taxes have been levied. I attach very little consequence, therefore, to that part of the argument.

I think I am perfectly safe in saying that if gentlemen who have been in favor of this proposition had supposed that all its effect was to derive revenue from that whisky which had never been taxed they would not have thought of laying it, for the simple reason that the additional expense of hunting up the article and collecting the tax would about eat up all they could get, or drink up all they could get. [Laughter.] I therefore attach no consequence to it; and as I said before, the general principle of the bill is to tax production and not to tax property. I supposed the Senator from Illinois was aware that in most systems of legislation it has been thought advisable to take certain kinds of articles out of the general rule. For myself, I doubted the expediency of laying any taxes on articles of jewelry, watches, &c. I thought very little would be got by them, and that it would make a feeling in the community that it would lose us in fact more than we gain. I remain of the same opinion; but still it is not unusual to tax watches and jewelry and plate and a few things of that sort, taking them out of the general rule. They are not in their nature what are called consumable articles; they are not like clothing and liquors and those things which are worn and eaten and drank. They are of a totally distinct character, and they are rather an exception to the bill than forming any rule.

Now, sir, as to the other matter the Senator and I differed on as to our views. I thought that the additional tax should be borne in certain cases by the purchaser, and that Congress should relieve against the effects of its own legislation, and had the power to relieve against it. I take it that is a very distinct question from the one we are now considering, and affords no illustration. As to my remark there certainly shall be no misunderstanding between my friend from Illinois and myself on that subject. He entirely misunderstood me. I do say, and I repeat—and that is what my remark had reference to—that in matters of opinion upon questions of this description he and I generally differ; our minds seem to run in different grooves; but that breaks no squares between myself and my friend. He has his mode of reasoning and I have mine. We reason, perhaps, on different principles. It does not become me to say, and I will not say, and I do not think

that I am any more likely to be right than he is. I only say that we are both fixed and stubborn and obstinate in our opinions, and are not very likely to come together; and I think he is as stubborn as I am, and that is perhaps carrying him a considerable distance further than he goes. But when you come to the question of voting, I repeat that I only suggested the Chicago case because it was an illustration in my mind, and I gave it as an illustration. There were two cases, one at Chicago and one at Philadelphia. I never dreamed that it would affect the honorable Senator's vote; because I will admit that however much we may differ in the operations of our minds, I hope that in our motives of action and our conscientious convictions of right we are very near together. At any rate, I will say that I shall be quite well satisfied with myself when, in that particular, I approach the standard which I think the honorable Senator always sustains with reference to questions of right and his motives of action.

Mr. JOHNSON. I think the honorable member from Illinois is confounding things that are clearly distinct. He says that we are taxing again what is already taxed by this bill, and he has mentioned a good many instances in which that is being done; but this is not a tax on liquor before taxed, it is a tax upon the trade, upon the business of making spirits and the business of selling them; it is a license, therefore, to trade. I ask the honorable member if he knows an instance in which a State has licensed a trade within her limits, and has, during the period for which the license is to run according to its terms, increased the license fee. The man who engages in the business for which the license is granted makes up his mind to engage in it and on a consideration of the expense to which he is to be subjected by the Government, and the Government tells him, "If you will pay us fifty or one hundred dollars we will grant you a license to carry on your trade." After having induced him to engage in the trade by telling him, "Pay the money and you shall have that privilege," you turn around the next day and say, "No, you must stop; you shall not carry on the trade at all; you may keep your \$100, unless you will pay us \$100 more." That does not seem to be right in point of morals; and it is decidedly wrong in point of policy. I think the history of the commercial world will prove that duties, when imposed, which operate in the nature of a license are never increased so as to affect importations made under the old rate of duty. It is impossible, as the honorable member, the chairman of the committee, says, for the business man to know what to do under such a system. He knows to-day that he is liable to pay one rate of duty, but he is warned that it may be possible, such is the unsteadiness of legislation where such a system is resorted to, that before his goods arrive he may be made to pay five times or ten times the amount.

I think, therefore, that the honorable member is mistaken in supposing that there is any analogy between a tax upon the advertisements that may appear in newspapers or a tax upon horses and carriages, and the license fee (for it is a license fee) which is provided for in the section which we propose to strike out. It is not a tax on the whisky according to the value of the commodity. You do not ask the whisky to be appraised and say you will levy a tax of one, two, three, four, or five per cent. on the appraisement. That is what you do not propose to do; but you say, "No matter what the whisky is worth, you shall not make it, you shall not sell it unless you pay us a greater license for making and selling than we have already said if you will pay us you may make and sell the whisky."

The question being taken by yeas and nays, resulted—yeas 25, nays 15; as follows:

YEAS—Messrs. Buckalew, Carlile, Clark, Collamer, Conness, Cowan, Davis, Fessenden, Foster, Hendricks, Hicks, Howe, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Nesmith, Pomeroy, Powell, Richardson, Saulsbury, Ten Eyck, Van Winkle, and Wiley—25.

NAYS—Messrs. Anthony, Chandler, Dixon, Foot, Grimes, Hale, Harlan, Harris, Howard, Ramsey, Sherman, Sumner, Trumbull, Wilkinson, and Wilson—15.

ABSENT—Messrs. Brown, Doolittle, Harding, Henderson, Morrill, Riddle, Sprague, Wade, and Wright—9.

So the amendment was agreed to.

Mr. FESSENDEN. We have gone through with the amendments proposed by the Committee on Finance, with a few exceptions, which have



been passed over, and those questions may need a little further examination. There is only one thing that I care to act upon to-day, and it is a matter of indifference to me in fact whether the Senate act upon it now or not, and that is the question in regard to bullion. The committee have several other important amendments under consideration which need considerable examination, and we are not prepared to go further with the bill to-day. I understand that an executive session is desired, and I am therefore entirely at the disposal of the Senate as to whether the bill shall now be thrown open for general amendments or whether we shall go into executive session.

Mr. SHERMAN. There is one section that the Senator has probably overlooked, that in relation to the tax on carriages.

Mr. FESSENDEN. That was not passed over.

Mr. SHERMAN. I understood that it was. Mr. FESSENDEN. No; I think all the amendments to that section were adopted. Now, as it is three o'clock and it is desirable to have an executive session, I am willing that that shall take place if the result of it will be that the bill does not lose its precedence but will come up regularly as the order of the day on Monday. I desire to ask of the Chair if the effect of our going into executive session now will be to leave the bill the order of the day for Monday?

The PRESIDENT *pro tempore*. It will.

Mr. FESSENDEN. Then I submit the motion that the Senate now proceed to the consideration of executive business.

Mr. HENDRICKS. I rise to ask the Senator from Maine to withdraw his motion so that I may ask for the consideration of Senate joint resolution No. 8, which has been discussed and upon which I suppose there will not be any more debate. It is a joint resolution providing for the payment to the State of Wisconsin of her five per cent. upon the proceeds of the sales of the public lands within her limits. As that measure relates to a State, and I think it is entirely right, I desire to have it disposed of soon.

Mr. FESSENDEN. I cannot yield to that, because if I should do so the effect would be to lose the precedence which I wish to retain for the revenue bill, to have it taken up on Monday at one o'clock as the order of the day.

Mr. HENDRICKS. Of course I do not want to interfere with that bill.

Mr. FESSENDEN. But it will necessarily lose its precedence if I give place to other business.

Mr. HENDRICKS. I shall not insist on my request now, hoping to have an opportunity on Monday morning to call up the joint resolution to which I have referred.

Mr. CONNESS. For two weeks past I have been very desirous to call up a bill affecting the State of California, and I have watched the slow proceedings of the Senate on the joint resolution of the Senator from Ohio [Mr. WADE] affecting the District of Columbia, which seems to lie in the way of all business, yet—

Several SENATORS. We have passed that to-day.

Mr. FESSENDEN. My friend from California is hardly in order. The motion is that we go into executive session.

Mr. CONNESS. I am aware of that; but I should like to have the bill to which I have referred made the special order for the morning hour on Monday, or a portion of the morning hour, when the Senate will be full.

Mr. JOHNSON and Mr. HENDRICKS. What is the bill?

Mr. CONNESS. It is Senate bill No. 109. I think we can soon get a vote on it after we take it up.

Mr. HENDRICKS. The joint resolution which I desire the Senate to take up has been before the Senate on two or three occasions.

Mr. CONNESS. So has this bill. It has been partially considered, and has been lying on the table for nearly two months. I am very desirous to obtain action upon it, but as the Senator from Indiana preceded me with his notice, I will agree not to trench on his rights.

Mr. HENDRICKS. The Senator is very clever.

Mr. CONNESS. I move with the consent of the Senate that the bill to which I have referred

be made the special order for Monday morning at half past twelve o'clock.

The PRESIDENT *pro tempore*. The motion can only be entertained by unanimous consent.

Mr. COLLAMER. I have always insisted that the morning hour should not be made the subject-matter of special orders.

Mr. CONNESS. I was aware of that, and I ask the indulgence of the Senator from Vermont to agree to the proposition I have suggested. I have named a time in the middle of the morning hour, at half past twelve o'clock. I have labored here to get this bill up; but the floor has been occupied morning after morning—

Mr. JOHNSON. Will the Senator be kind enough to tell us what the bill is?

Mr. CONNESS. It is Senate bill No. 109, relating to land surveys in California. Do I understand the Senator from Vermont to object to my motion?

Mr. COLLAMER. It is not in my power to do more than state that I think the morning hour should not be made the subject of special orders.

Mr. CONNESS. I shall ask it only in this case.

The PRESIDENT *pro tempore*. The motion of the Senator from California can be entertained only by unanimous consent.

Mr. CONNESS. With the consent of the Senator from Maine I will name one o'clock, and agree not to trench on the tax bill. If this bill shall lead to any considerable debate, I will let it go over.

Mr. COLLAMER. I do not mean that my saying that I do not think the bill should be a special order in the morning hour is to prevent the motion being made.

Mr. CONNESS. I supposed so; but I was aware that it was not exactly a proper motion to be made, but I consider that I have been somewhat cheated out of the time by the interminable joint resolution relating to the District of Columbia.

Mr. COLLAMER. If it rests with me simply, I withdraw any objection that I may be supposed to have made, and the Senator may try the question with the Senate to see whether they will make his bill a special order.

Mr. FESSENDEN. I cannot consent to anything which displaces the revenue bill; the Senator from California is aware of that, and I have no doubt he does not desire to do it.

Mr. CONNESS. I will say to the honorable Senator from Maine that if the bill which I move to take up shall occupy any considerable time when it is taken up, I will consent to let it go over.

Mr. FESSENDEN. But by agreeing to this proposition I should be simply displacing this bill.

Mr. CONNESS. Then I name half past twelve o'clock on Monday.

Mr. FESSENDEN. I wish to inquire of the Chair whether, if the Senator's bill be made the special order for half past twelve o'clock, it will displace the revenue bill at one o'clock?

Mr. CONNESS. I will agree that it shall not.

The PRESIDENT *pro tempore*. The Chair is of the opinion that a special order for half past twelve o'clock must yield at one o'clock to the unfinished business of the preceding session of the Senate. The question is on the motion of the Senator from California to assign the bill mentioned by him as the special order for half past twelve o'clock on Monday.

The motion was agreed to.

The PRESIDENT *pro tempore*. The question now is on the motion of the Senator from Maine, that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

#### IN SENATE.

MONDAY, May 30, 1864.

Prayer by Rev. T. EDDY, D. D., of Chicago, Illinois.

The Journal of Saturday last was read and approved.

#### PETITIONS AND MEMORIALS.

Mr. MORGAN presented a memorial of acting assistant surgeons in the United States Army,

praying for an increase of their compensation, which was referred to the Committee on Military Affairs and the Militia.

Mr. CHANDLER presented a petition of John Pridgeon and others, citizens of Michigan, praying that an American enrollment may be granted to the Canadian-built propeller Michigan, which was referred to the Committee on Commerce.

Mr. HARLAN presented the petition of Henry Rudd, praying for reimbursement for losses sustained by him under a contract for supplying the Government with horses; which was referred to the Committee on Claims.

He also presented the petition of James J. Johnson, praying for compensation for services rendered as veterinary surgeon of the fourth Iowa cavalry; which was referred to the Committee on Claims.

#### REPORTS FROM COMMITTEES.

Mr. HOWARD, from the Committee on the Pacific Railroad, to whom was referred a letter of the Secretary of the Treasury, transmitting the second annual report of the Central Pacific Railroad Company, showing the condition of its affairs on the 1st day of March, 1864, asked to be discharged from its further consideration; which was agreed to.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the petition of Mrs. Eliza Donnelly and Miss Sarah Donnelly, praying for a pension, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred a bill (H. R. No. 314) for the relief of Harriet and Emily W. Morris, unmarried sisters of the late Henry W. Morris, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred a bill (H. R. No. 419) for the relief of Peter Anderson, of the District of Columbia, submitted an adverse report; which was ordered to be printed.

#### PRIVATE BILL DAY.

Mr. BUCKALEW. I offer the following resolution in reference to the order of business on Friday:

*Resolved*, That the session of Friday next, after the morning hour, be devoted to the consideration of private bills upon the Calendar, in their order.

Mr. SUMNER. Let that lie over.

The PRESIDENT *pro tempore*. It will lie over.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a bill (No. 450) to provide for the repair and preservation of certain public works of the United States; in which it requested the concurrence of the Senate.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 65) to provide for the payment of the claims of Peruvian citizens under the convention between the United States and Peru of the 12th of January, 1863; and

A bill (S. No. 248) in relation to franked matter.

#### ACADEMY OF SCIENCES.

Mr. ANTHONY. Some days ago the Committee on Printing reported a resolution for printing five hundred copies of the report of the Academy of Sciences. The Senator from Vermont [Mr. COLLAMER] objected to the consideration of the resolution. I understand he has withdrawn his objection. It is desirable, if it is to be printed at all, that it be printed at once, and I therefore move that the Senate take up the resolution and dispose of it now.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

*Resolved*, That five hundred additional copies of the report of the president of the National Academy of Sciences be printed and bound for the use of the Senate.

The resolution was adopted.

WILLIAM YOCUM.

Mr. DAVIS. I move that the resolution that I offered on the 29th of March last in relation to

the pardon and imprisonment of William Yocum be now taken up.

Mr. WILSON. I am inclined to think that if the Senator from Kentucky will wait a day or two an answer will come to the call that has already been made. I was told at the War Office a day or two ago that the papers had just been ordered from the Attorney General's office to the War Office.

Mr. DAVIS. I will acquiesce in that suggestion.

The PRESIDENT *pro tempore*. The motion is withdrawn.

#### PAY OF PENSION AGENTS.

Mr. FOOT. I ask the Senate to postpone all prior orders and take up Senate bill No. 199, relating to the compensation of pension agents.

The motion was agreed to; and the bill was read a second time, and considered as in Committee of the Whole. It provides that there shall be paid, over and above the compensation now allowed by law, to every pension agent disbursing \$50,000 annually, not exceeding \$500 per annum for clerk hire, rent of office, and office expenses; and to every agent disbursing \$100,000 annually, not exceeding \$750 per annum; and for every \$50,000 additional, not exceeding \$250 per annum for those purposes; but in no case is the amount of compensation to any one agent to exceed the sum of \$3,500.

The Committee on Pensions reported the bill with an amendment in line thirteen, to strike out "\$3,500" and insert "\$4,000;" so that the proviso will read:

*Provided, That in no case shall the amount of compensation to any one agent exceed the sum of \$4,000.*

The amendment was agreed to.

Mr. FOOT. I will simply say that this bill has been fully and carefully considered by the Committee on Pensions, and has their unanimous approval, and is in accordance with the recommendation of the Commissioner of Pensions.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### LAND TITLES IN CALIFORNIA.

Mr. CARLILE. I move the postponement of all prior orders for the purpose of taking up Senate bill No. 238, to ascertain and settle certain private land claims in California.

Mr. CONNESS. I object.

Mr. HALE. I hope that bill will not be taken up, as I understand it will give rise to debate. The Senator from California is opposed to it. I think the Senator from Virginia had better withdraw the motion at present.

Mr. CARLILE. I should like very much to comply with the request of the Senator from New Hampshire; but it is a bill that was here for some time before the Committee on Public Lands, and it has been some time since it was reported, and I am anxious to have it disposed of. I do not see how it can lead to much discussion, because it is upon a subject that has been acted upon by this body before. A similar bill was passed by the Senate at the last session. I do not myself propose to take up much time in its discussion.

Mr. CONNESS. I have no objection that this bill shall be taken up and made the special order for some time to be designated; but I object to its being taken up now to the exclusion of important business. It is a bill, in my opinion, that never can pass; at least it never should pass; and I shall be prepared at any time when it is taken up to give abundant reasons why it should not pass. That it cannot be discussed and passed upon this morning is quite certain. We have made special orders for the morning hour to-day. There are two appointed, I believe. I dislike to be placed in the position of objecting to a motion made by my friend the Senator from Virginia; but I will say to that Senator it is quite impossible that his measure can be acted upon without discussion, and considerable discussion too; for I apprehend it involves even more than the Senator, although he has considered it, has had time to understand, and therefore I object to its being taken up now. I am quite willing, nay, I am very anxious that it shall be taken up and disposed of at some early period, because I do not want it to hang here in the Senate forming a cloud upon the title to lands in California.

Mr. CARLILE. Will the Senator before he takes his seat allow me to ask him if he will make a motion to make it a special order for some time that will suit his convenience and the convenience of other Senators?

Mr. CONNESS. I am not sufficiently interested in its well-being to do that. If the Senator who has charge of the bantling will undertake that, I will accord with his suggestion, whatever it is.

Mr. CARLILE. I have no interest in the world in this proposition other than to discharge my duty as a member of this body and as a member of the Committee on Public Lands. In reporting the bill it was accompanied by a report from the committee which has been laid upon the desks of Senators, and I will content myself with the reading of that report. If it is agreeable, however, to the Senate to have the bill made the special order for some future day, I am disposed to let it take that course, and I suggest Wednesday or Thursday or any other day this week.

Mr. SHERMAN. I object to making a special order of any bill of this character at this stage of the session.

The PRESIDENT *pro tempore*. The first question is on taking up the bill.

Mr. HALE. I guess we had better not take it up.

The motion was agreed to; there being, on a division—ayes 17, noes 9.

Mr. HENDRICKS. I move to postpone the consideration of the bill just taken up until to-morrow at half past twelve o'clock, with a view, I desire to state, of taking up Senate joint resolution No. 8, for the relief of the State of Wisconsin, to which I called the attention of the Senate on Saturday.

The PRESIDENT *pro tempore*. It is moved that the bill now before the Senate be postponed to and made the special order for half past twelve o'clock to-morrow.

Mr. HALE. The Senator from Indiana says he makes the motion with a view to take up a certain joint resolution which he names. I shall vote for his motion with a view to take up another joint resolution which is before the Senate and ought to be considered, and that is the joint resolution for the relief of the contractors for the machinery of the gunboats known as "double-enders." I shall give the same vote as the Senator, but with a different view.

Mr. COLLAMER. I cannot but again feel it my duty to protest against making special orders within the morning hour. I hope gentlemen will not consent to make any special order whatever within the morning hour.

Mr. SUMNER. I agree with the Senator from Vermont, and I think in relation to the bill that is now pending it would be enough if we vote to postpone it generally, without undertaking to fix any particular time for its consideration. There are several matters, one or two that I am interested in myself, that I should like to move to take up to-morrow, and there are also other Senators around me who are desirous of moving to take up other propositions; and yet if we fix a special order for half past twelve o'clock to-morrow our hands will be tied.

Mr. CARLILE. I am anxious to facilitate the business of the Senate, but I believe that if the Senate will enter upon the consideration of this bill at this time the probabilities are that we shall dispose of it much earlier than we shall after taking it up by postponing it and making it a special order. My experience is that special orders really interfere with business and tend to delay rather than to facilitate it. I will content myself by simply asking that the Clerk read the report which accompanies the bill.

The PRESIDENT *pro tempore*. The report will be read, unless objection be made.

Mr. CONNESS. I object. In less than ten minutes the time fixed for the consideration of the special order for this morning will arrive, and I therefore object to proceeding with this bill now. I object to this bill obtaining precedence over other important business. It is a bill, as I have said before, that should not pass. I shall be fully prepared to show that. I do not know of any reason why it should get a special preference in its consideration. I suggest to the honorable Senator that its consideration be made the special order at some future day. Half past twelve o'clock to-morrow is not the only time that can be named.

Let the Senator name a day at the end of the morning hour.

The PRESIDENT *pro tempore*. The Senator from Virginia having called for the reading of the report and objection being made, the Chair will submit the question to the Senate, shall the report be read?

Mr. TRUMBULL. Before proceeding with that question, I wish to say that I regret very much that the Senator from Indiana should have made the motion he has made. We never can do any business under such a practice. I understand the Senate to have voted, on a division, to take up the bill indicated by the Senator from Virginia. Am I right? If I am that matter has been taken up by a vote of the Senate; and the moment it is up another Senator rises and moves to postpone that bill and take up another. Suppose the motion of the Senator from Indiana should be carried: as soon as it is carried the Senator from Massachusetts, [Mr. SUMNER,] who has two or three matters in charge that he is very anxious about, may rise and move to postpone the resolution called up by the Senator from Indiana, and take up one of his bills. Shall we ever do any business in that way?

The PRESIDENT *pro tempore*. The Chair will suggest to the Senator from Illinois that the question is not to postpone the bill under consideration simply, but to postpone it and make it a special order.

Mr. TRUMBULL. Yes, sir; but that motion is made immediately after we have taken up the bill. The Senate, on a division, as the Senator from Indiana will observe, the question being made, resolved to postpone all other orders and take up the bill indicated by the Senator from Virginia. The moment that bill is taken up by a vote of the Senate, the Senator from Indiana rises and moves to take up something else. Can we ever do any business in that way? We should either adhere to the bill of the Senator from Virginia after we have taken it up, or else we ought not to have taken it up at all.

Mr. HENDRICKS. I desire to ask the Senator from Illinois, inasmuch as he criticises my motion, how the motion could be made to postpone until the bill was taken up?

Mr. TRUMBULL. A majority of the Senate decided to take up the bill indicated by the Senator from Virginia. If a majority had refused to take up the Senator's bill, then the Senator from Indiana could have called up his. He should have voted in the negative, as he probably did, on the motion of the Senator from Virginia; but a majority of the Senate disagreed with him; they agreed to take up the bill of the Senator from Virginia. Having taken it up, the Senator from Indiana moves to postpone it. The motion of the Senator from Virginia was to postpone everything, and proceed to the consideration of the bill indicated by him. The Senate so decided; and the moment they so decided the Senator from Indiana asks to postpone that bill and everything else, and take up some measure that he indicates. We shall never accomplish any business if that practice prevails. I hope, therefore, the Senator from Virginia, having succeeded in getting his measure up, will obtain some action upon it.

Mr. HOWE. The question put to the Senator from Illinois is not answered yet; and that is, how this motion to postpone the bill of the Senator from Virginia and make it a special order could possibly have been made before the bill was taken up. The complaint is that after the Senate has voted to proceed to the consideration of a bill a motion is interposed to set the bill down as a special order for a certain time. That is the motion of the Senator from Indiana. How could that motion have been made before the bill was taken up?

Mr. TRUMBULL. I do not object particularly to that portion of the motion proposing to make the bill a special order; but I do object to this practice of following one motion by another, one immediately after the other. I do not understand, however, that the Senator from Indiana has made a motion to make the bill a special order.

Mr. HOWE. Yes, sir.

Mr. TRUMBULL. No, sir; his motion was to postpone the bill until to-morrow at half past twelve o'clock. I do not think he said anything about making it a special order. That was just such a motion as had been before made by the Senator from Virginia. If the Senator from In-

diana succeeds with his motion, I can make a motion to postpone and take up a bill that I have in charge.

Mr. CARLILE. There is a special order, as I understand, for half past twelve o'clock this morning, and as I am anxious to accommodate the Senate and particularly the Senator from California, I am willing that this bill may lie on the table, but I give notice that I shall call it up on Wednesday morning.

Mr. CONNESS. I am much obliged to the Senator. I am equally anxious to act on this bill that it may be finally and definitely disposed of.

The PRESIDENT *pro tempore*. It is moved that the further consideration of the bill be postponed until to-morrow.

The motion was agreed to.

Mr. HALE. I move that the Senate postpone all prior orders and take up Senate joint resolution No. 50, for the relief of the contractors for the machinery of the side-wheel gunboats known as double-enders.

Mr. CONNESS. I suggest to the honorable Senator that the hour has now arrived, or it is within a minute of it, fixed for the consideration of the special order, and I hope we shall be allowed to go on with that bill, as it was made the special order for this morning, and let the Senator come in next after that.

Mr. HALE. I will inquire whether there is any such thing as "unfinished business" in the morning hour?

The PRESIDENT *pro tempore*. There is often business unfinished, but it does not come up as a matter of course.

Mr. HALE. I want to state what this resolution is, and then I will leave it to the Senate to decide. It is a resolution for the relief of the builders of the steam engines of the gunboats known as "double-enders." I have here both the letters of the Secretary of the Navy on the subject. I think the Senate owes it to the country and to these men to dispose of their case, if they mean to do anything for them, and if they do not they should let them know it.

Mr. CONNESS. I put it to the Senator again to allow me to go on with the bill that has been made the special order. It has been lying on the table for two months partially acted upon.

Mr. HENDRICKS. I believe there was an understanding between the Senator from California and myself on Saturday that the joint resolution for the relief of the State of Wisconsin, which is somewhat under my charge, should take precedence of his bill. I interposed no objection to his motion, but suggested to the Senator that that should be the course; it seemed to be the general understanding. I therefore move that the consideration of his bill be suspended informally until we can take a vote on that resolution. I do not propose to discuss it at any length. I merely wish to make a suggestion or two.

The PRESIDENT *pro tempore*. The hour of half past twelve o'clock having arrived, the Chair will call up for consideration the special order for this hour, being the bill (S. No. 109) to expedite the settlement of titles to lands in the State of California.

Mr. HENDRICKS. My motion is—

Mr. CONNESS. Let me say a word to the Senator. I will stand by my agreement, and if the Senator insists on that order of proceeding I shall certainly not object; but I want to make an appeal to him. I think a vote can be taken on this bill without discussion; I hope so; and then it will occupy but a few moments. It has been reported by the Committee on Public Lands; the chairman of that committee is in his seat, and I think it will occupy but a few minutes if we proceed with it now; but if the Senator insists I shall certainly give way.

The PRESIDENT *pro tempore*. Senate bill No. 109 is before the Senate as in Committee of the Whole.

Mr. HENDRICKS. The Senator from Maryland [Mr. JOHNSON] informs me that there will be discussion on this bill. If there is discussion, I will appeal to the Senator from California—

Mr. CONNESS. I will allow the Senator to have his way on that subject. I simply ask his indulgence.

The PRESIDENT *pro tempore*. The Chair did not understand whether the Senator from Indiana moved the postponement of the bill or not.

Mr. HENDRICKS. The Senator from California suggests that a vote can be taken on this bill at once. If so, I shall not object.

The PRESIDENT *pro tempore*. The question before the Senate is on the amendment of the Committee on Public Lands to the bill as amended.

Mr. TRUMBULL. Let it be read.

Mr. CONNESS. I suggest that it has been read once. It is a long bill. It is a substitute offered by the committee and moved by them.

The PRESIDENT *pro tempore*. It will be read again unless there be objection.

Mr. BUCKALEW. What is the title of the bill?

The PRESIDENT *pro tempore*. "A bill to expedite the settlement of titles to lands in the State of California."

Mr. SHERMAN. I think a bill like that ought to be read at any rate.

The PRESIDENT *pro tempore*. It will be read again unless there be objection.

Mr. TRUMBULL. I understand it has been read.

Mr. CONNESS. It has been. Let me state that the chairman of the Committee on Public Lands has some amendments to offer.

Mr. SHERMAN. I should like to hear the reading of so important a bill as that. It ought to be read three times by the rule. I want to hear it once at least.

Mr. HARLAN. The Committee on Public Lands report a bill in the nature of a substitute. Perhaps the reading of that will suffice.

Mr. SHERMAN. That is all I desire.

The PRESIDENT *pro tempore*. The amendment will be read.

The Secretary read the amendment, as follows: Strike out all after the enacting clause of the original bill, and insert:

"That whenever the surveyor general of California shall, in compliance with the thirteenth section of an act entitled 'An act to ascertain and settle the private land claims in the State of California,' approved March 3, 1851, have caused any private land claim to be surveyed and a plat to be made thereof, he shall give notice that the same has been done by a publication, once a week for four consecutive weeks, in two newspapers, one published in the city of San Francisco and one published near the land surveyed; and shall retain in his office, for public inspection, the survey and plat until ninety days from the date of the first publication in San Francisco shall have expired; and if no objections are made to said survey, he shall approve the same, and transmit a copy of the survey and plat thereof to the Commissioner of the General Land Office at Washington, who shall immediately, upon receipt, proceed to examine the same; but if objections are made to said survey within the said ninety days, by any party claiming to have an interest in the tract embraced by the survey, or in any part thereof, such objections shall be reduced to writing, stating distinctly the interest of the objector; and signed by him or his attorney, and filed with the surveyor general, together with such affidavits or other proofs as he may produce in support of the objections. At the expiration of said ninety days the surveyor general shall transmit to the Commissioner of the General Land Office at Washington, a copy of the survey and plat, and objections, and proofs filed with him in support of the objections; and also of any proofs produced by the claimant and filed with him in support of the survey, together with his opinion thereon; and the said Commissioner shall, immediately upon receipt, proceed to examine the same; and if the survey and plat are approved by him he shall indorse thereon a certificate of his approval. If objections are made to such survey and plat by the said Commissioner, he may require a further report from the surveyor general of California touching the matters objected to, or proofs to be taken thereon, or may direct a new survey and plat to be made. Whenever the objections are disposed of, or the survey and plat are corrected, or a new survey and plat are made in conformity with his directions, he shall indorse upon the survey and plat adopted his certificate of approval. After the survey and plat have been, as hereinbefore provided, approved by the Commissioner of the General Land Office, it shall be the duty of the said Commissioner to cause a patent to issue to the claimant as soon as practicable after such approval.

Sec. 2. And be it further enacted, That the provisions of the preceding section shall apply to all surveys and plats by the surveyor general of California, heretofore made, which have not already been approved by one of the district courts of the United States for California, or by the Commissioner of the General Land Office: Provided, That where proceedings for the correction or confirmation of a survey are pending on the passage of this act in one of the said district courts, it shall be lawful for such district court to proceed and complete its examination and determination of the matter, and its decision thereon shall be subject to appeal to the circuit court of the United States for the district in like manner and with like effect as hereinafter provided for appeals in other cases to the circuit court, and such appeals may be in like manner disposed of by the said court.

Sec. 3. And be it further enacted, That where a plat and survey have already been approved or corrected by one of the district courts of the United States for California, and an appeal from the decree of approval or correction has already been taken to the Supreme Court of the United States, the said Supreme Court shall have jurisdiction to hear and

determine the appeal; but where from such decree of approval or correction no appeal has been taken to the Supreme Court, no appeal to that court shall be allowed, but an appeal may be taken within twelve months after this act shall take effect to the circuit court of the United States for California, and said circuit court shall proceed to fully determine the matter. The said circuit court shall have power to affirm or reverse or modify the action of the district court, or order the case back to the surveyor general for a new survey. When the case is ordered back for a new survey, the subsequent survey of the surveyor general shall be under the supervision of the Commissioner of the General Land Office, and not of the district or circuit court of the United States.

Sec. 4. And be it further enacted, That whenever the district judge of any one of the district courts of the United States for California is interested in any land the claim to which, under the said act of March 3, 1851, is pending before him, on appeal from the board of commissioners created by said act, the said district court shall order the case to be transferred to the circuit court of the United States for California, which court shall thereupon take jurisdiction and finally determine the same. The said district courts may also order a transfer to the said circuit court of any other cases arising under said act pending before them, affecting the title to lands within the corporate limits of any city or town, and in such cases both the district and circuit judges may sit.

Sec. 5. And be it further enacted, That all the right and title of the United States to the lands within the corporate limits of the city of San Francisco, as defined by the act incorporating said city, passed by the Legislature of said State on the 15th of April, 1851, are hereby relinquished and granted to the said city and its successors, for the uses and purposes specified in the ordinance of said city, ratified by an act of the Legislature of the said State, approved on the 11th of March, 1850, entitled "An act concerning the city of San Francisco, and to ratify and confirm certain ordinances of the common council of said city," there being excepted from this relinquishment and grant all sites or other parcels of lands which have been or now are occupied by the United States for military, naval, or other public uses, or such other sites or parcels may hereafter be designated by the President of the United States, within one year after the rendition to the General Land Office by the surveyor general of an approved plat of the exterior limits of San Francisco as recognized in this section, in connection with the lines of the public surveys: And provided, That the relinquishment and grant by this act shall in no manner interfere with or prejudice any bona fide claims of others, whether asserted adversely under rights derived from Spain, Mexico, or the laws of the United States, nor preclude a judicial examination and adjustment thereof.

Sec. 6. And be it further enacted, That it shall be the duty of the surveyor general of California to cause all the private land claims finally confirmed to be accurately surveyed and plats thereof to be made, whenever requested by the claimants: Provided, That each claimant requesting a survey and plat shall first deposit in the district court of the district within which the land is situated a sufficient sum of money to pay the expenses of such survey and plat, and of the publication required by the first section of this act. Whenever the survey and plat requested shall have been completed and forwarded to the Commissioner of the General Land Office, as required by this act, the district court may direct the application of the money deposited, or so much thereof as may be necessary, to the payment of the expenses of said survey and publication.

Sec. 7. And be it further enacted, That it shall be the duty of the surveyor general of California, in making surveys of the private land claims finally confirmed, to follow the decree of confirmation as closely as practicable whenever such decree designates the specific boundaries of the claim; but when such decree designates only the out-boundaries within which the quantity confirmed is to be taken, the location of such quantity shall be made, as near as practicable, in one tract; and if the character of the land, or intervening grants, be such as to render the location impracticable in one tract, then each separate location shall be made, as near as practicable, in a compact form. And it shall be the duty of the Commissioner of the General Land Office to require substantial compliance with the directions of this section before approving any survey and plat forwarded to him.

Sec. 8. And be it further enacted, That the act entitled "An act to amend an act entitled 'An act to define and regulate the jurisdiction of the district courts of the United States in California, in regard to the survey and location of confirmed private land claims,'" approved June 14, 1850, and all provisions of law inconsistent with this act, are hereby repealed.

Mr. HARLAN. I move to amend the amendment on the 6th page, line eighteen of section one, by striking out after the word "Washington" these words, "who shall, immediately upon receipt, proceed to examine the same;" and inserting in lieu thereof, "for his examination and approval."

The amendment to the amendment was agreed to.

Mr. HARLAN. I move to amend the same section in line thirty-two, after the word "thereon," by striking out the words "and the said Commissioner shall, immediately upon receipt, proceed to examine the same."

The amendment to the amendment was agreed to.

Mr. HARLAN. In line thirty-four, I move to strike out "him" and insert "said Commissioner."

The amendment to the amendment was agreed to.

Mr. HARLAN. In line thirty-five, after the word "if," I move to strike out "objections are



made to such survey and plat by the said Commissioner," and to insert in lieu thereof "disapproved by him, or if in his opinion the ends of justice would be subserved thereby."

The amendment to the amendment was agreed to.

Mr. HARLAN. In line thirty-eight, I move to strike out the words "objected to," and insert, "indicated by him."

The amendment to the amendment was agreed to.

Mr. HARLAN. In the eighth section on the 11th page in the ninth line, after the word "tract," I move to insert "and in a compact form."

The amendment to the amendment was agreed to.

Mr. HARLAN. In the fifth section, line nine, I move to strike out the word "finally" before "determine."

The amendment to the amendment was agreed to.

Mr. HARLAN. I move to strike out the fourth section of the amendment as reported.

The PRESIDENT *pro tempore*. The Chair is informed that it has already been struck out.

Mr. CONNESS. It was struck out when the bill was up before.

The amendment as amended was agreed to.

The bill was reported to the Senate as amended.

Mr. TRUMBULL. This is a very important bill, and my attention has only been called to it since it has now been called up, though I believe it has been some time before us. I observe in the bill some peculiar features. I hardly feel at liberty to oppose the bill with the limited information I have in regard to it, and yet I desire to call the attention of the members of the Senate to some singular provisions here. In the third section there is a singular provision, opening all cases that have been decided, no matter how long ago, to an appeal. That is a very strange feature.

Mr. CONNESS. Read the words, if you please.

Mr. TRUMBULL:

That where a plat and survey have already been approved or corrected by one of the district courts of the United States for California, and an appeal from the decree of approval or correction has already been taken to the Supreme Court, the said Supreme Court shall have jurisdiction to hear and determine the appeal.

So far very well.

But where from such decree of approval or correction no appeal has been taken to the Supreme Court, no appeal to that court shall be allowed, but an appeal may be taken within twelve months after this act shall take effect to the circuit court of the United States for California, and said circuit court shall proceed to fully determine the matter.

Here there may be a case that was disposed of five years ago; the titles to the purchasers all settled; no appeal taken; and now every such case is opened to an appeal to the circuit court of California, although no appeal has heretofore been taken.

Mr. CONNESS. No. That is not the understanding.

Mr. TRUMBULL. That is the way it reads. I will read it again:

Where from such decree of approval or correction—

That is, the decree of the district court—

no appeal has been taken to the Supreme Court, no appeal to that court shall be allowed—

The Supreme Court shall never hear it—

but an appeal may be taken within twelve months after this act shall take effect to the circuit court of the United States.

When may an appeal be taken? Within twelve months after the passage of this act in all cases in which appeals have not been taken. That is the language. If it does not mean that, I do not know what it does mean.

Mr. CONNESS. This refers not to cases that have been definitely settled, but to cases that are now pending in court. It does not refer to questions of title to land; it refers to the location of land or the determination of land by survey, after the question of title has been determined and settled.

Mr. TRUMBULL. The Senator from California will allow me. The language of the first line is "where a plat and survey have already been approved."

Mr. CONNESS. "Or corrected by one of the district courts."

Mr. TRUMBULL. That is where it has been done, not where it is pending.

Mr. CONNESS. If a few words were inserted, the meaning would be made plain to the Senator. It is that where a plat and survey have already been approved or corrected by one of the district courts for California, and an appeal from the de-

creed of approval or correction has already been taken, those cases shall continue and go to the Supreme Court; but where those cases are pending and an appeal to the Supreme Court has not been taken, an appeal may be taken from the district court to the circuit court; but it reopens nothing; it does not propose to reopen any case. The very contrary is the object and purpose of the entire act. It is to expedite and settle, not to open anything that has been settled. It is simply a provision for disposing of the cases of survey that are now pending in the courts of the United States, and that is all.

This bill, I may as well say, has been before the Senate a long time. It was referred early in the session to the Committee on Public Lands; it was reported by them favorably; it was afterwards recommittees to that committee and again reported favorably by them. The chairman of the committee is in his place. He has given it very close consideration, and it is a bill upon which, in my opinion, the interests of the State that I in part represent here are very deeply involved and depend.

Mr. TRUMBULL. I may be in error about it, but I think the section is not susceptible of the construction which the Senator from California gives it. The language is, "where from such a decree of approval or correction no appeal has been taken"—that refers to cases already decided, not to cases pending. It is in the past tense.

Mr. CONNESS. I suggest to the Senator to insert the language "in cases pending."

Mr. TRUMBULL. The Senator will observe that you cannot appeal from a pending case until it is decided. It would be necessary, I think, to alter the language somewhat, and provide that in all cases hereafter an appeal shall be allowed, but you cannot appeal from a pending case.

Mr. CONNESS. Let me explain again. The Senator seems to misunderstand the whole tenor of this section. The mode of operation is this: the surveyor general of the State, in the first place, surveys the land in question. If there be objections to the plat returned by him to the district court, the district court hears testimony in the case, and inquires into it. If the district court confirms the plat and survey made by the surveyor general, either party may appeal to the Supreme Court of the United States from that decision. This section refers to those cases in that condition where the district court has been appealed to by one party, and where the plat has been approved by the district court. In that case, where no appeal has been taken to the Supreme Court, this bill provides that the appeal shall be taken and lie in the circuit court for California, simply to expedite and settle, and not to compel persons to come here to the Supreme Court of the United States.

Mr. McDUGALL. I wish that this matter may be understood. Under the original act to settle land titles in California, the act of 1851, after the causes had been adjudicated by the board of commissioners, there was an appeal of course to the district court, and also an appeal provided for to the Supreme Court upon the merits of the claim; but after the right of the claimant had been adjudicated, it was the business of the surveyor general himself to make the survey, and upon the completion of the survey his return was made to the General Land Office and the patent issued as of course.

Mr. TRUMBULL. Will the Senator from California inform me whether heretofore an appeal has lain from the district to the circuit court there?

Mr. McDUGALL. No.

Mr. TRUMBULL. That is a new feature.

Mr. McDUGALL. That is a new feature, and I will state the reason for that. In 1860 a law was passed which provided that after the final confirmation of the claim so far as the sufficiency of the title was concerned, and after the survey, the survey might be carried into the district court and there the proper location of the survey contested. The result was that every case was carried into the district court, testimony taken there under its rules, and an appeal to the Supreme Court, and now there remain in the district court and on the way to the Supreme Court nearly all the cases that have been determined upon the merits since 1860. They are probably—

The PRESIDENT *pro tempore*. The Chair

must interrupt the Senator to call up the order of the day.

Mr. CONNESS. I ask the indulgence of the chairman of the Finance Committee for a while. I think we shall get to a vote directly.

Mr. FESSENDEN. I know that the Senator's bill is to be contested; and if I should yield it would be necessarily for some considerable time.

Mr. CONNESS. If it occupies much time I will say to the Senator that I will not ask him to give way.

Mr. FESSENDEN. The Senator is aware that if I give way to him I must to others.

Mr. CONNESS. I do not often make an appeal to the Senate. This bill has lain on the table for two months, and we are getting to the end of the session. I hope the Senator from Maine will indulge me this morning by letting us consider it.

Mr. FESSENDEN. I know that the Senator from Maryland will contest this bill, as I understand from him, and I have already given notice to the Senator that I shall contest it myself, and the result will be necessarily the consumption of considerable time.

Mr. McDUGALL. I hope the Senator from Maine will allow me to conclude my remarks by way of explanation. It will take me but a few minutes.

Mr. FESSENDEN. Having resisted one appeal, I must insist. I must ask for a motion and let the Senate decide.

Mr. CONNESS. I shall not put a motion to the Senate. What position will this bill occupy if we pass it by?

The PRESIDENT *pro tempore*. It will be liable to be called up on motion; it will not come up as a matter of course.

Mr. CONNESS. Well, sir, I will let it go over.

#### INTERNAL REVENUE.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 405) to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes.

Mr. FESSENDEN. I have in my hand an amendment which has been prepared at the Treasury Department in reference to bullion, which is to come in on page 146 of the bill, at the end of section ninety-three:

On bullion in lump, ingot, bar, or otherwise, a duty of one per cent., which shall be paid by the assayer of the same and be deducted from the amount of coin returned in exchange for such bullion not previously assayed, by any mint or branch mint of the United States; and all assayers shall stamp the product of the assay, as the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, may prescribe by general regulations. And every and all sales, except by the miner or producer of gold and silver combined, alloyed, or in union with other metals or substances prior to the same being assayed and duly stamped according to the provisions of this act and the regulations aforesaid, shall be and are hereby made and declared to be invalid and void; and every person or corporation who shall sell, or transfer, or deal in such unstamped gold or silver, or export or attempt to export the same from the United States, shall be subject to a penalty of \$1,000, and to a fine not exceeding that sum and to imprisonment for a term not exceeding two years: *Provided, however,* That this prohibition shall not extend to miners or original producers of such gold or silver.

Mr. CONNESS. I do not understand the chairman of the Committee on Finance as moving this amendment as a substitute for the language occurring on the 140th page of the bill, beginning at line three hundred and forty-eight and ending with line three hundred and fifty. I understand him to offer this as an additional proposition, leaving that objectionable feature in the bill.

Mr. FESSENDEN. My idea is that if this is adopted that provision must be struck out.

Mr. CONNESS. Then I suggest that whatever is offered should be offered as a substitute for that language in the bill, and that we proceed in that way.

Mr. FESSENDEN. We cannot very well put it in that place.

Mr. CONNESS. Then I ask the Senator to move first to strike out this language.

Mr. FESSENDEN. I think the proper way is to see whether the Senate will adopt this amendment before they strike out that clause, because if this is not adopted I would not consent to strike out that.

Mr. CONNESS. I suppose the other cannot remain at any rate.

Mr. FESSENDEN. That is for the Senate to decide.

Mr. CONNESS. If the other shall remain, I rather think the amount of revenue collected in the mines will be very small.

Mr. FESSENDEN. I say to the Senator that if this amendment is adopted I shall myself move to strike out the other clause to which he refers.

Mr. CONNESS. I understand that, but I do not understand why that mode should be pursued.

Mr. FESSENDEN. Because that is the usual mode.

Mr. CONNESS. The amendment offered by the honorable chairman of the Committee on Finance is very objectionable in one respect, not to say more, in this, that it prohibits and punishes all transactions in gold in its natural state, unassayed and unstamped, within the United States, except when those transactions and sales are made by the producers thereof. There is a large portion of the United States where gold and silver are produced, where there is no coin, where there is no paper issued, where there is no means of commerce but the actual gold as it is produced, and that is used as a medium of exchange, and is weighed by small scales kept by miners for that purpose. The parties with whom they trade take it in exchange for goods at a given amount per ounce. The parties who get it in exchange for goods sell it to those from whom they buy. It is impracticable and impossible for those parties to send it to an assay office to have it assayed and receive the stamp of the United States, so that this provision is equivalent to a prohibition of all commerce in certain sections of the country, and it is simply impracticable and impossible. Having read the amendment, and understanding something about its impracticability, I have rewritten the provision, and I have had it printed, and it has been lying on Senators' desks for several days. I send it up to the desk to be read as a substitute for the amendment proposed by the honorable chairman of the Committee on Finance.

There are other objections to the amendment proposed by him. It contains no provision compelling workers in the precious metals to use stamped bullion, and the result would be that all that portion of the precious metals which goes into articles of ornament and use, which is very great, in the mining sections particularly, would go untaxed. Now, if we are to lay a tax upon the production of gold, I propose that we do not go through the farce of simply imposing a few conditions that will give us all the responsibility against the public opinion of the section of country to which it will apply, and give us no result, or but a partial one, in the way of revenue. I have inserted in my amendment a provision relating to and covering the exportation of ore containing the precious metals, and I have a proviso fixing the time when this general provision regulating the tax on mines shall go into operation, which is also necessary, because if you prohibit transactions in bullion unless it be stamped, and require at the same time that a particular stamp shall be impressed upon it, you want a sufficient length of time allowed to enable the Treasury Department to adopt its regulations and furnish to the assay offices the stamp provided before it goes into operation, otherwise you would be exposing all these persons to criminal prosecution and severe penalties. I send my amendment to the Chair, and ask that it be read, and I offer it in lieu of the amendment of the chairman of the committee.

The PRESIDING OFFICER. (Mr. FOSTER in the chair.) The Senator from California proposes to amend the amendment offered by the Senator from Maine, by striking out all after the word "on," and inserting what will be read.

The Secretary read the words proposed to be inserted, as follows:

On bullion in lump, ingot, bar, or otherwise, a duty of — per cent. *ad valorem*, to be paid by the assayer of the same, who shall stamp the product of the assay as the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, may prescribe by general regulations. And every and all sales, transfers, exchanges, transportation, and exportation of gold or silver assayed, any mint of the United States, or by any private assayer, unless stamped as prescribed by general regulations, as aforesaid, is hereby declared unlawful; and every person or corporation who shall sell, transfer, transport, exchange, or deal in the same shall be subject to a penalty of \$1,000 for each offense, and to a fine not exceeding that sum, and to imprisonment for a term not exceeding two years nor less than six months. No jeweler, worker, or

artificer in gold and silver, shall use either of those metals except it shall have first been stamped as aforesaid, as required by this act; and every violation of this section shall subject the offender to the penalties contained herein. No person or corporation shall take, transport, cause to be transported, export, or cause to be exported from the United States any gold or silver in its natural state, uncut, or unassayed, and unstamped, as aforesaid; and for every violation of this provision every offender shall be subject to the penalties contained herein: *Provided*, That the foregoing subdivision of this section providing for a tax on gold and silver shall only be in force from and after sixty days after the passage of this act.

Mr. NESMITH. The amendment offered by the Senator from California removes a very great objection in my mind to the one offered by the chairman of the Committee on Finance. That practically prohibits any dealing in, any transfer of, gold in its natural state. If that amendment should be adopted, it would bear exceedingly hard on a very large portion of my constituents, as well as on the people of Washington Territory and the Territory of Idaho, and as I apprehend on the people of the interior portions of California. That amendment admits of only one transfer of gold in its natural state. It provides that the miners who produce gold may sell or dispose of it in that condition, but it absolutely prohibits and renders null and void, and renders the parties subject to fine, who shall make any sale or disposition of it afterwards before it has passed an assay office. The interior of the country, the great gold-producing districts in the eastern portion of Oregon and the mountainous region of California and in Idaho and Washington Territories are entirely destitute of assay offices. The consequence would be that gold in its natural state would be prohibited from being made the circulating medium. The miner might take his gold and sell it, and that would be the only possible transfer that could be made. The custom or usage there has been since the discovery of the mines, that gold dust at a certain fixed price has been the circulating medium of the miners, passing from one to another; and every miner and every trader carries the scales about with him, prepared to weigh and use the dust as a circulating medium in that condition.

If the provision which is incorporated in the amendment offered by the chairman of the Committee on Finance shall be adopted that trade will be entirely cut off, and any man who attempts to use gold dust in that way in its unrefined, unassayed state becomes subject to a penalty. I will illustrate. The small traders in the interior of the country are generally the men who purchase the dust from the hands of the miners for supplies and sometimes for coin. That transaction is rendered legitimate and legal by the amendment of the Senator from Maine, but it is impossible for the man who purchases that dust to make another transfer of it until he takes it to an assay office, and in the great interior districts to which I have referred there are no assay offices. You have to get into the civilized and older-settled sections of the country before you can reach an assay office where your gold can be reduced to that condition in which you can legally make a transfer of it. The large wholesale establishments in San Francisco or any of the great towns on the Pacific coast sell their goods to dealers in the mining regions and exchange them for gold dust in the hands of the miners. The wholesale merchant goes there to make his collections, and he expects to make his collections in gold dust, the natural product of the country and the only thing which they have to pay for the goods. By the amendment of the chairman of the Committee on Finance, one transfer having been made from the miner to the trader, that trader would be prohibited from paying his debts in the only material which he has on hand, or which he can possibly acquire, gold dust being the only circulating medium. He is prohibited, as I say, by this provision from making another transfer to pay a legitimate debt for the goods which he originally purchased and which he has sold to get possession of the gold. I think that provision ought to be stricken out. If it be enacted into a law it will paralyze all trade in the interior. A man having \$1,000 in gold dust in the interior of Idaho, or Washington, or Oregon, located a thousand or fifteen hundred miles from an assay office, cannot be expected to send or carry that dust to an assay office to have it stamped and its exact value ascertained and pay this tax to the Government be-

fore he is permitted to use it. The gold must eventually find its way there, and the amendment which the Senator from California has offered prohibits its exportation from the country in its crude condition. Therefore when it is taken out of the country it must inevitably be assayed. If this transaction be permitted to be continued, the Government will lose nothing; it will not interfere with the daily transactions in the mining regions in transferring gold from one to another. It must in the end inevitably pass the assay offices before it leaves the country.

The only practical effect of that provision in the amendment offered by the chairman of the committee will be to paralyze trade and prohibit the usual transactions which are constantly and every day being made in that country. To us in Oregon, Washington, and Idaho the nearest assay office is at San Francisco. It is fifteen hundred or two thousand miles from the great gold-producing regions of the interior to a Government assay office. In order to take the dust there, and have it reduced to bullion, and get the assay, and obtain the Government stamp, the party owning it must necessarily be out of its use for three or four months, in addition to paying an expense equal to eight or ten per cent. to get it transferred to the assay office and back, to say nothing about the risk and danger of loss in the transportation.

I think the proposition is so clear that there can be no possible objection to the adoption of the amendment of the Senator from California in lieu of the one offered by the chairman of the Committee on Finance. As I stated before, the Government cannot possibly be defrauded at all or lose any of its revenue by that amendment, while the people will be greatly accommodated.

The PRESIDING OFFICER. The question is on the amendment of the Senator from California to the amendment of the Senator from Maine.

Mr. FESSENDEN. I do not think I shall offer any objection to the general form in which this has been put by the Senator from California. The amendment which I offer, as I stated, was drawn at the Treasury Department, as I understand. I do not know whether the persons who drew it there considered the aspect of the case which is presented with so much force by the Senator from California and the Senator from Oregon. I would, however, ask the Senator from California what his views particularly are in reference to the clause that no jeweler, worker, or artificer in the precious metals shall use any of those metals until they shall first have been stamped.

Mr. McDougall. It strikes me that the Senator from California might leave that out.

Mr. CONNESS. I have no objection to acting on one provision at a time.

Mr. FESSENDEN. I want to hear his views about the necessity of it, if it is intended to reach anything. The Senator will notice that the reason I ask the question is that in that section of the bill which makes exceptions, the ninety-fifth section, there is an exception made of "bullion used in the manufacture of silver-ware, silver bullion rolled or prepared for platers' use exclusively." A duty is not laid upon that. As the Senator's amendment reads at present, unless the whole act is deferred until a particular time, every jeweler would be prohibited from using what he may have on hand already.

Mr. CONNESS. I will say in reply to the Senator that I propose that this part of the act shall go into effect sixty days after its passage.

Mr. FESSENDEN. Does that apply to the whole section?

Mr. CONNESS. No, to this particular provision. The necessity of it I stated briefly. That would leave a considerable time for them to consume their supply. Gold is so easily obtained, and it is so valuable, that it is not kept idle for any length of time. There is no stock on hand kept by jewelers, because gold and silver have a standard value and are obtainable at any time. However, any additional provision that the Senator may suggest I shall probably have no objection to.

The Senator asks me what my purpose is. My purpose is fairly and honestly, if you are going to tax the product of the mines, to equalize the tax so as to have it apply to all the people alike; in other words, to obtain a tax upon the entire

product. In the mining sections of this country, which are now very extensive, the manufacture of gold and silver into articles of ornament and use is carried on very largely, there being no incorporation of other metals with it, no filling it with spelter in the center, but the jewelry is made with a lavish hand; and a very large portion of the gold, if not required to be first stamped, being used in this way, would escape taxation. My purpose in this amendment, which was drawn up at my own suggestion at the Treasury Department, but somewhat incompletely, was that in adjusting and applying any taxation that Congress may see fit in its wisdom to apply to the gold and silver product of the country, it should be so arranged that the tax collector and the producer of the precious metals should never meet; in other words, to provide for the tax in as indirect a manner as possible, and to avoid the objectionableness of a direct tax to be attempted to be collected from the producers of the precious metals.

Senators will remember that nearly a generation, certainly half a generation, has passed away since the people of the United States began to be producers from the earth of gold and silver. During that time they have gone whither they might in search of those metals, and they have been unobstructed by the tax collector, or by the agents of the Government. Their habits are formed, and we cannot change them by any law we may pass here. The people, to whom any law that we may pass upon this subject will apply, are far removed from the centers of power, far removed from the coercive agencies of the Government, and any attempt to enforce a provision such as is contained on the 140th page of this bill would simply have one effect: it would offend the entire population of that country to such an extent as to affect their allegiance to the Government. I have no doubt of that. It would immediately be taken advantage of by persons indisposed toward our Government, and it would be suggested that it was the cost and price of this war; that the war was not only being conducted for illegitimate purposes and with illegitimate objects, but that here was one of its results.

Besides, it will be borne in mind by the chairman of the committee that no adequate provision is made in any part of the bill for the collection of the tax as proposed and passed by the House of Representatives. You simply pay your tax collectors and assessors what they are paid for collecting and assessing other taxes. You do not increase their number. The result would be that it would be simply impossible; the attempt would be as futile and as unprofitable as anything in the world to attempt to collect the tax under the provision contained in the bill. My object and purpose, if the Government are determined to tax gold and silver, is that they shall tax them in a manner that will be least objectionable to their producers, and therefore I suggested to the Treasury Department that the tax imposed, whatever it may be, should be imposed at the mints and assay offices of the United States, and at the private assay offices established throughout the mining country, licensing those offices, subjecting them to the surveillance of the officers of the Government, and there deducting the tax imposed. A small tax imposed, because the expenses of collection would in that way be small, would be profitable to the Government. My object in this provision relating to jewelers was to prevent the absorption of a very large amount of gold and silver from the circulation of the country into articles that are made for ornament and use of those metals, without paying a tax. If we subject one man who is a producer of gold to the payment of the tax, all men who produce it should be subjected alike to the payment of that tax.

Mr. FESSENDEN. The Senator, I perceive, does not exactly understand the bearing of my question. I suppose that there is all over the country a very considerable amount of bullion which has been assayed that you cannot get any tax upon in the way we propose. Now, why should a jeweler, if he has a chance to purchase that bullion in the market and use it, be prohibited from doing so?

Mr. CONNESS. I have no objection to any provision that will exempt stock on hand, if you can identify it.

Mr. FESSENDEN. I do not see any way but to strike out the provision in regard to jewelers.

The time will come when there will be none in market but that which is stamped.

Mr. CONNESS. The Senator is not correct in that. There is never a time when the native gold and silver are not obtainable in the market. They are obtainable, and under this amendment any person may buy them and convert them into articles of ornament or use. I have no objection that the provision referred to shall be stricken out, but I give the Senator from Maine notice that if it is stricken out a very large portion of these articles will escape taxation.

Mr. McDUGALL. I think, with the chairman of the committee, that this particular provision should be struck out. There is not so large an amount of the precious metals that go into manufactures in California, not as much by far as go into manufactures on this side, and then what does go into the manufactures of the country is assayed metal. They do not take the gold dust as it comes from the mines, nor do they take the gold as it comes from the mills, more or less amalgamated with quicksilver, and use it, but they wait until it has gone through the assay office and is pure gold, and then they alloy it according to the quality of the article they desire to prepare. It would be very difficult to apply this provision. Indeed, now our manufacturers go and get the silver dollars and half dollars and melt them down; they pick up old silver and melt it down and prepare it in due form.

Mr. FESSENDEN. I should like to ask the honorable Senator whether there is any danger, in his judgment, that a jeweler, or manufacturer of gold, can take away the gold dust or the raw gold and go through the process?

Mr. McDUGALL. He must assay it as a matter of course, and then it becomes subject to taxation.

Mr. FESSENDEN. Would it not cost him a great deal more than it would to purchase the assayed gold?

Mr. McDUGALL. Undoubtedly.

Mr. NESMITH. A great deal of it is used about the mines that it is not necessary to assay; a very large quantity is used in making breast-pins, and those pieces are not assayed.

Mr. McDUGALL. But that amounts to a very small item. A man at the mines will take out a fancy piece and give it to his friend or make it into a breast-pin.

Mr. FESSENDEN. If we undertake to say that no jeweler after sixty days from the passage of this act shall use any gold except what is assayed, we apply a rule to him that we apply to nobody else; we say that he shall not use gold which is now on hand for his purposes.

Mr. McDUGALL. I do not think that is a necessary feature in the amendment proposed by the Senator from California; and there is another trouble about both these provisions. As has been evident from the commencement, the assessment of this tax is a difficult subject to legislate about. I suggest whether it is advisable to affix a penalty upon the exportation of anything that is in the form of merchandise. The provision of the Constitution has been interpreted at various times; and I am inclined to think it would affect the latter clause of the amendment. The provision of the Constitution is that "no tax or duty shall be laid on articles exported from any State." If a tax or duty cannot be levied on an article exported, can a fine or penalty going into the public Treasury, which will operate in the same way, be executed against a party who exports the product of a State?

Mr. FESSENDEN. I do not see the difficulty. There is nothing in the Constitution that prevents Congress from prohibiting the exportation of any article that they choose to prohibit. The provision is that an export duty shall not be laid.

Mr. McDUGALL. I am not disposed to urge any such objection as that if the difficulty can be overcome so as to enable the miner to get the product of his labor to the assay office. I think that is the object to be gained.

Mr. CONNESS. The object of this provision, which it has been before suggested to me might be considered as trenching on our constitutional power, must be palpable and evident to every man. If you undertake to tax the mines, to tax the gold and silver product of the country at all, you must provide that that tax shall be imposed upon it in some particular form. Every variation

from that policy carries you, as a means of obtaining the tax, down to the point where it is produced from the mine. It is very desirable to avoid the latter mode. To go then to the proposition that we have now before us, and tax it in its assayed form, seems to demand that you are at the same time to prohibit the exportation in any other form.

Mr. McDUGALL. I will state to the Senator that that suggestion merely occurred to me. I do not urge it as an objection.

Mr. CONNESS. I simply suggest that otherwise it would go out of the country unassayed, and you would get no tax.

Mr. McDUGALL. I would ask whether the chairman of the Committee on Finance has moved to strike out so much of the proposition as assesses a tax upon the manufactured article? Is there any understanding about that?

Mr. FESSENDEN. I have not made any motion in regard to it. I was inquiring as to its effect.

Mr. McDUGALL. I think that had better be left out.

Mr. CONNESS. Mr. President, it is rather an anomalous position for me to place myself in in the Senate, as an advocate of a tax upon a portion of the people of the State I in part represent here; but I do feel devoted to filling the coffers of the Government. As suggested to me the other day by a Senator not now in his seat, I am for the Government emphatically; and, as I suggested before, if you are going to tax gold and silver, I see no reason why you should not tax it equally to all persons. There is no peculiar burden upon jewelers or workers in gold and silver if they are compelled to use the article that has been assayed and stamped; in other words, the article that has paid its tax. A Senator suggests to me that manufacturers in gold and silver are already required by another provision to pay a tax of five per cent.; but, sir, they impose that tax in every case upon the consumers of the articles; it is not paid by them at all. I do not feel that that is a burdensome tax. When I desire to use articles of ornament, I think I shall be willing to pay for them.

But it must be remembered that the tax, whatever we shall fix it at in this amendment after it shall be adopted, is not like a tax on any article manufactured. It is an absolute subdivision of the gold and silver itself. If we shall fix a quarter of one per cent. as the amount to be collected, it takes a quarter of one per cent. away that never returns. If it is to be one half of one per cent., it is one half of one per cent. separated from the whole mass. The same is true of whatever amount we shall impose. That tax then being a subdivision apportioning a certain portion of it to the Government, would fall equally upon all persons. There is no burden in compelling the jeweler to use the gold and silver that has been stamped and that has paid its tax. I think it is but just and fair that it should be done.

Mr. HENDRICKS. If this were a question of interest only to the gold-producing section of the country, I should not say one word upon it; but I regard it as one affecting the interests of every section of the country. I think it is very apparent to every reflecting man that the value of the currency of the country can only be maintained in two events: one is that we shall produce in the country in large quantities articles that have a foreign demand, and that shall restore the balance of trade in our favor; another is that we shall encourage the production of gold from the mines so as to supply in the channels of trade in the country that gold which is being taken away by two things: first, the extravagance of the country, and, secondly, the fact that the balance of trade is against us.

I cannot see the propriety in taxing the production of gold. I am against it entirely. With my present views on the subject I think it ought not to be taxed at all. I think the miner who furnishes to the country \$100 in gold does a very substantial benefit to the Government as well as to the trading and producing community. I think we ought in every way to encourage the production of gold. With that view I supported not long since the bill proposed by the Senator from Oregon, [Mr. NESMITH], to facilitate the production of gold in Oregon and the Territories adjoining, by establishing a mint in that region of country. I was controlled in my vote upon that subject



exclusively by this consideration. I supported the establishment of territorial governments out there, the establishment of law and courts, with a view to invite a population there; and we can even spare a portion of our population from agricultural labor if they will only go into the channels of producing gold and silver. But now, after we have adopted a policy like that, to turn around and tax gold even one per cent., seems to me to be against the true interest of the Government as well as the commercial interests of the country.

Mr. NESMITH. I fully concur in the very sensible remarks the Senator from Indiana has made on this subject, and I should long since have presented a protest against taxing the production of gold but for the fact that under the peculiar condition of affairs and the great demands upon the Treasury I presumed that that species of industry, the mining of gold, could not possibly escape some sort of tax. I should only assent to it under any circumstances by reason of the great pressure upon the Treasury in consequence of the war. The bill as it came to us from the House of Representatives proposed a tax of five per cent. That I regard as enormous, one to which the people would not readily submit. I believe it to be, however, the determination of Congress to levy some sort of a tax upon the production of the precious metals, and so believing I am in favor of the amendment of the Senator from California, to make the proposition as palatable as possible to the people of my section of the country. I should very much prefer to have the mining interest encouraged and not taxed at all, if it were possible that Congress would consent to such an arrangement; but I apprehend from the condition in which the bill came to us from the other branch of Congress there is a settled determination to lay some sort of a tax on that production. I shall very readily concur in the sentiment of the Senator from Indiana, that there shall be no tax at all upon the production of the precious metals, and I believe that the country, as he has so forcibly stated, would be benefited by that policy. I assent to any tax only because it is beyond my power, as I apprehend, to resist it.

Mr. FESSENDEN. I do not see the slightest objection to putting this tax upon gold. The only difficulty heretofore has been in the way of reaching it. I do not think there is any mystery about it. It will go out of the country as long as the balance of trade is against us, whatever may be the quantity produced. I do not look upon the miner who produces \$100 worth of gold as conferring any greater benefit upon the community than the farmer who produces one hundred bushels of corn. It is merely a product. One is money, and the other demands money.

Mr. CONNESS. You are treating them differently. You are not taxing one product as you do the other.

Mr. FESSENDEN. Yes, we do.

There is another argument that applies to the production of gold. The Government own the mines. The Government will not sell them, and there should be some way in which they shall give a revenue from them. The great difficulty has been to find out how it could be done. People go there and mine as much as they please. Great ingenuity has been exerted to find out some way in which the Government shall derive some sort of revenue from the land which contains these mines. After great consideration, this mode is thought by Senators who represent the mining region of the country to be the best for the miner and the best to accomplish the purpose. I have no doubt the House of Representatives is fixed upon the idea that we are to have some revenue out of this product, and they take it in its manufactured state. I see no reason why it should not be just precisely as it is upon other products that go into the use of the country.

Mr. CONNESS. I agree very fully in most of the remarks made by the Senator from Indiana, but would suggest to him that that question is hardly involved now. The gentlemen from the Pacific slope, where gold is produced, are necessarily deeply concerned about this proposition, not (I will state to Senators here, though I need not state that) because they are unwilling to have their people taxed; but being more conscious of the difficulties that surround it and the uncertainty of mining as a profession and business, and knowing the burden that a very small tax ap-

parently would be to those prosecuting enterprises in mining, these gentlemen, feeling the weight and responsibility of their position here and being duly sensible of it, have considered this question pretty thoroughly. The House of Representatives, I undertake to say, very hastily incorporated a very objectionable, impracticable, and unstatesmanlike provision in the bill as it came to us. A scheme is presented in lieu of that; but in that the amount of the tax is not fixed; it is left in blank. When this amendment shall be adopted in lieu of the one sent to the table by the honorable chairman of the Finance Committee, by a fair vote of the Senate we can fill up that blank and let the Senate determine how much that tax shall be. I do not feel disposed how to say anything upon that exact question until it shall come before us. I hope a vote will be taken on the substitution of the one form of amendment for the other.

Mr. CLARK. When a man goes upon his own land and digs a quantity of iron ore and takes it to the furnace and makes it into pig iron, you make him pay two dollars a ton for it; but if he goes upon the Government land, which the Government have reserved, and takes the Government gold, and has it assayed, then gentlemen object to his paying a very small per cent. I do not see why the man who takes the gold of the Government *a fortiori* should not pay a tax if you tax the man who takes his own ore and makes it into pig iron. In some respects iron is a very much more desirable and more important commodity than gold.

Mr. HOWE. But if we had a public statute fixing the price of the iron, could we put a tax of two per cent. on it?

Mr. CLARK. I do not know that I exactly understand the Senator from Wisconsin.

Mr. CONNESS. Will the Senator from New Hampshire permit me to interrupt him?

Mr. CLARK. Certainly, if the interruption is not too long.

Mr. CONNESS. I suggest to the honorable Senator that the reason why it would be a vastly greater burden to impose two per cent. or two dollars a ton or any amount upon gold than upon iron is found in this fact: that no matter what tax you put upon gold, whether it be little or much, it adds nothing to the value of the gold. The value of the gold is fixed. When you add two dollars a ton or ten dollars a ton to iron, it is made into railroad iron or some other form and that two dollars or ten dollars is charged to the consumer. That is the difference. You have but to repeat your tax of one per cent. or one half of one per cent. a sufficient number of times to consume the product of the gold entirely. Every time you affix a tax to an article like iron, that goes into all the manufactures of the country, you affix a tax upon the consumers of the articles that are made out of it.

Mr. CLARK. Let us look a little into this matter and see how it is. The man who digs the iron ore and manufactures it into pig iron depends upon what happens to be the market for that article when he gets through. Perhaps it will pay him for digging and manufacturing; perhaps it will not. He may be entirely ruined by his undertaking, if he has gone largely into it, by not finding a market. It is very true that if he manufactures that which he intended for iron into something else, and there is a demand for that, he may dispose of it in that way. But does not that apply to the manufacture of gold? Suppose a jeweler manufactures it into gold spoons or plate, and finds a market for it in that way. The miner of gold has this advantage: he has a uniform value for his gold when he has got it, and a miner of iron has not. The miner of iron is subject to much greater vicissitudes than the miner of gold, and the miner of gold in addition digs that gold out of the Government's own soil.

Mr. McDougall. I desire to make a single remark in reply to a suggestion made by the chairman of the Committee on Finance, and also by the Senator from New Hampshire, that this gold belongs to the Government, and is taken from the Government lands. The great evil in all the mining districts of the Sierra Nevada, of Oregon, and Colorado, is, that the Government has not made provision by which individuals may acquire the right in those lands and mines. Many of the wealthiest mining districts in California are

now being abandoned because absolute rights to them cannot be acquired. The mines of the best character when discovered cannot secure foreign capital, because no fixed price can be ascertained. If a man is proprietor of a mining interest and he dies in California, there is only one chance in ten that his heirs or legatees can obtain any interest out of their results. And valuable mines have been abandoned, and are now unworked, because they cannot secure the proper capital. It is now some ten years ago since the mining interest of California, and some of the finest mines of California, the quartz mines, were ruled out of exchange in London, no man daring to present the stock for the want of a solid basis of right.

I suppose two thirds of the area of California is what is called mining land. Not an acre of it has been surveyed. It has not been laid off into sections; it has not been laid off into small parcels, so that individuals can acquire rights to it. They go upon it temporarily and perhaps put up cabins; they stay there as long as they can work with some special advantage; but it is only a place for a day, or a month, or a season, and then they wander off to other places; whereas if they could acquire permanent rights they would make their homes there; such land as was arable they would turn into gardens; they would employ labor, and it would be a benefit to the country.

It is not the fault of the people of California or of the enterprising miners that those are Government lands. They have had no opportunity to acquire a right to the lands. The State of California would be twice as strong and twice as populous to-day if at an early period provision had been made whereby persons seeking rights there could secure permanent and fixed interests. I hope to see the day, and that not long distant, when we shall have titles throughout California to all the property that is worth the purchase, and then the Government can assess its charges there as it does throughout other portions of the country. Then men will derive regular incomes from the property they possess. It is no fault of ours that the lands still belong to the Government. When they shall have been surveyed, and men shall have acquired rights to them, then mining will be pursued everywhere as a system, as a regular business, and property will descend from father to son, and the country will be developed in its mining as well as its agricultural interests. Much of that mining country is agricultural, but only here and there do you find a small garden. There are sections of country there that would sustain large farms and furnish large quantities of grain. It is no fault of the people of California or the people of the Pacific coast that this property is Government property. It would be much better for them to pay large prices to the Government and obtain a title which they could establish and maintain in the courts of the State and in the Federal courts.

Mr. CONNESS. I desire to state, in reply to what was said by the honorable Senator from New Hampshire, that upon all that portion of gold or silver that enters into manufactures, the bill provides a tax of five per cent. That is a very heavy tax on that portion of gold. But it will be remembered that gold and silver differ very much in that respect from iron, the larger portion of the gold and silver entering into coin, or the standard of value. That is not enhanced in value by being coined except to the extent that base metal is incorporated with it by provisions of law, and in no other way. We do not complain of the tax that is imposed, nor shall I complain, no matter how much it is, upon that portion of gold and silver that is manufactured. But, as I suggested before, the question of how much the tax shall be is not involved in the proposition as it is now before us. I hope the vote will be taken on the proposition now before the Senate, and then we can proceed to discuss the question of the amount of the tax.

Mr. DAVIS. The thoughts expressed by the Senator from New Hampshire were passing through my mind to some extent before he uttered them. The gold-producing States certainly render a great service, in the production of the precious metals, to the Government and to the people of the United States at large, and there is every disposition on the part of the Government, of Congress, and of the people to uphold and guard the interests of the mining States and of

the people of the mining States. But this war and its vast expenditures constitute the reason and the necessity for the imposition of such enormous taxes. If one or two States in their products, in their great business, in their principal profits and income, are to have an immunity from the burden of taxation necessary to sustain the war, it seems to me it would operate prejudicially to the other States whose property and business are charged with the burden of sustaining the war. If you would free my own State, for instance, from the burden of taxation on the most of its property, the most of its annual income, or the product of its industry, it would be very slow in becoming wearied with this war, because it would be exempt very much from its burdens. I suppose it is so with California. I understand that the products of the mines average from fifty to a hundred million dollars annually. I do not know what may be the cost of mining, the cost of labor and machinery, and all the other expenditures of mining; but I presume it would be safe to conjecture that one half of the gross products of the mining operations would pay for all the labor.

Mr. CONNESS. Oh, no.

Mr. DAVIS. It is a matter that I know nothing about, and it is one that I feel very incompetent to act upon.

Mr. CONNESS. I will state to the honorable Senator that there is a memorial on the desk which perhaps states the facts as nearly as they can be approximately stated, which, when the amendment now pending shall be adopted, and the question comes up in relation to the amount of tax to be imposed, I shall call for the reading of. I think it states the case very clearly and succinctly.

Mr. DAVIS. If the amount of expenditure in mining is nearly equivalent to the gross product of the mining, I do not think it would be just or politic to tax the mining operations at all.

Mr. CONNESS. I think it is greater.

Mr. DAVIS. Then it is a little curious that the mining should be prosecuted with so much vigor and energy. I suppose, however, it is on the principle of a lottery.

But, sir, I was going to make this remark in connection with an idea thrown out by the Senator from New Hampshire. The mines belong to the United States. If one of those mines belonged to an individual and another individual was to obstruct upon that mine and extract gold from it by mining operations, the owner of the mine could recover the amount of the product of the mining operation from the trespasser without any allowance to him for the cost of mining. I suppose that the gold in the mines belongs to the United States. The nature and essence of the product of the mining is not materially changed after the mining operation is complete; that is, after the gold is taken from the mine. It may be purified in some instances; in others it is dug pure from the mine; but at any rate its essential essence is not changed, and consequently the product of the mining belongs to the owner of the mine. That is the general law. If that be so, the product of these mines belongs to the United States because the mines belong to the United States.

I do not say that I am in favor of imposing any tax upon the product of mining. My mind wants information and light upon that subject. But I want the whole people of the United States to be put in a position of equality so far as the burdens of the war are concerned. We are engaged in a great and expensive war, under the burdens of which my constituents are becoming wearied, and greatly wearied. Why? Because they have to sustain their proportion of the whole, and that proportion is becoming grievous to them. If the mining States are not subject to the same burden; if, on the contrary, their industry and the products and avails of that industry are exempt from these burdens in an undue degree, they occupy a condition which I think they ought not to occupy, because they are not made to bear their just portion of the burdens of this war.

Mr. President, the people of the United States are getting tired of this war. There is not a man in the United States but what would bring it to a close to-morrow if he could upon what he thought to be an honorable basis; not one. The idea that the immense flow and expenditure of blood and of treasure in this war should not produce revulsion and weariness in the hearts and minds of the people of the United States to the continuance of

the war is a most absurd, preposterous, and untrue position. Every man would terminate the war to-day if he could upon what he would deem—

Mr. NESMITH. With great respect to the honorable Senator from Kentucky, I will state that that question is not now before the Senate. There is a blank in the amendment offered by the Senator from California, which is to be filled with the amount of tax which shall be assessed upon this mining interest, and when the amendment now before the Senate shall be adopted, if it should be adopted, that question will come up for discussion. On that subject I shall probably have something to say; and I shall be very glad to listen to the remarks of the Senator from Kentucky, if he will consent to give way until action can be had on the amendment now pending, and then his argument will be legitimate enough on the question as to the amount to be placed in the blank.

Mr. DAVIS. I propose to conclude in a very few minutes what I have to say on this subject. It is not my purpose to say another word on this subject. I do not wish to be instrumental in acting any injustice to the miners or to the people or to the States of California and Oregon, nor will I do it knowingly. I am not prepared to vote at this time for or against this proposition. I want further light and information on the subject.

But, sir, when I was interrupted I was making one or two general remarks. I want the people of the United States, including the mining States as well as other States, to bear equally the burdens of this war, and I want them to become wearied with it, and desirous to terminate it *pari passu*, and I know that that disposition on the part of the people will be much more uniform if there is something like a uniformity of its burdens upon the people of all the States and of all the sections of the United States. I believe and I have no doubt that it is because this war is profitable to the manufacturing States, especially to those that manufacture the war material and the military stores that are necessary to carry on the war, it is because they find it profitable to their people and enriching to their States that they do not feel the same revulsion to the continuance of the war that the people of Kentucky and of the Northwest do. If I could devise a system of legislation I would make the burdens of this war operate with equal weight and impartially upon all the people. I would not have the gold of California or Oregon unduly exempt. I do not intimate that it is; I do not know that it is so; but I do believe from my conscience that the people of the manufacturing States do not meet their full and just proportion of the grievous burdens of this war; that is to say, their industry is of such a character, and is purchased to such an extent for the consumption of our armies by the Government of the United States, as to make the continuance of the war, which is so burdensome and impoverishing to others, profitable and enriching to them. If California and Oregon are in any degree favored in that way I should like to see that favoritism removed. I have no information on the subject whether it is so or not; but as the honorable Senator from California intimates to me that the expenses of mining in the aggregate exceed its profits, if my mind is left in doubt on that proposition, I would not vote to impose one cent of tax upon the mining operations or upon the miner.

I merely make these remarks for the purpose of eliciting facts and information. I want to vote understandingly, and I want to vote as wisely as I can in relation to this most important subject.

Mr. HENDRICKS. The Senator from Oregon has suggested that the question which is now being discussed is not pertinent to the present debate, and the same suggestion was made by the Senator from California, who proposes this amendment. I am not able to see it as those Senators do. It is proposed by the amendment to tax gold at some rate. They say the amount is left in blank, and that is to be filled. If no tax is to be imposed, which would be my view, then the amendment is not required; nor is the original provision of the bill proper to be left in.

I understand that the gold is disposed of in three ways: first, a portion of the production of the mines is exported. It is conceded that we cannot tax that; that we cannot lay a duty on exports. I do not think we can evade that provis-

ion of the Constitution here by requiring gold to be stamped with a view to exportation. Another use of gold is to be manufactured into jewelry. That is already taxed, and I presume every Senator will concede that five per cent. is a very high tax. In addition to that, there is a tax upon the persons who use jewelry. Then the only remaining use that can be made of gold is the change of it into coin; and now it is proposed to tax that, to reach that question in considering this amendment. I cannot agree to it.

I do not think that the illustrations furnished by the able Senators from New Hampshire and Maine meet the objection that I attempted to present. The Senator from New Hampshire says that we tax the labor of the iron miner, and if it is right to tax him it is not also right to tax the laborer who produces gold and silver from mining? I have not looked at this question as a question between the Government and the miner. I have looked at it as a question affecting the commerce and the finances of the country. Gold regulates the value of the currency; iron does not.

The illustration furnished by the Senator from Maine was that if we tax the man who produces corn by the cultivation of the soil we should in like manner tax the man who digs the gold from the mine. Corn does not regulate the currency of the country or determine the value of the paper money, unless that corn becomes an export to foreign countries and brings into this country, in return, gold.

Mr. President, it has been said, and it is a beautiful expression, that he who made two blades of grass to grow where one had grown before was a public benefactor. In view of the condition of our currency, of our commerce, and of our Treasury, we may well say that he who produces \$200 of gold where but \$100 was produced before is a public benefactor and a patriot. Certainly one of the necessities of the Government is that the value of the paper currency shall be brought nearer to the value of gold. The distance between paper and gold is daily increasing; what it may become none of us can say. It is a matter of alarm to us all. Whether it is dependent upon the extravagance of the country or the folly of the Treasury Department, I do not choose now to discuss; but certainly it is our duty to adopt that policy which will give a greater value to the paper currency of the country; and that is done by increasing the gold in the country.

I am in favor of that policy which will encourage the miner to produce two dollars now where in past years he has produced but one. Let us add \$100,000,000 a year, if we can, to the gold in the country. In former times it has not been the true interest of the country, in my judgment, to increase the gold of the country. It is not real wealth. It is not a real advantage to a people to have too much gold. But now we cannot have too much. The condition of our country demands an immense currency, hundreds of millions where but thousands were required before. The commerce and the business of the Army require it.

Then, sir, if to-day we find paper as compared with gold at 190, it certainly is the business of Senators to look to it how we shall bring the paper and the gold in value nearer together. I am in favor of everything on our part which shall encourage the production of gold and silver. Certainly for the Government and the commerce of the country it is a wise policy. That, sir, controls my vote against any tax whatever upon gold.

Mr. FESSENDEN. I hope we shall take a vote. We have already consumed an hour and a half on this question. If we go on at this rate we shall not get through with the bill by this time next year.

The PRESIDING OFFICER. The question is on the amendment of the Senator from California, as a substitute for the amendment of the Committee on Finance.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question now is on the amendment as amended.

Mr. FESSENDEN. Before that question is taken, I move to fill the blank in the amendment that has just been adopted by inserting the word "one;" so that it will read:

On bullion in lump, ingot, bar, or otherwise, a duty of one per cent. *ad valorem*, to be paid by the assayer of the same, &c.

Mr. CONNESS. Will an amendment to that amendment be in order?

The PRESIDING OFFICER. (Mr. FOSTER.) The Chair thinks it would.

Mr. CONNESS. Then I move to amend the amendment of the Senator from Maine by inserting "one half of one" in lieu of "one" per cent, as proposed by him; and upon that I call for the reading of a memorial presented to this body and the House of Representatives by the Chamber of Commerce of the city of San Francisco; and also a very brief telegraphic dispatch that I hold in my hand, sent to me by one of the judges of Nevada Territory, who presided at a public meeting in Virginia City, in that Territory, on this subject of taxing the gross product of the mines. I will state, also, that I have in my possession a very extensive correspondence on this matter, both by telegraph and by letter. I shall not intrude it on the Senate, being only desirous to have as much read as will give Senators an opportunity to consider the subject upon which they are now to vote and the opinions of the people of that country in regard to it.

The PRESIDING OFFICER. The Chair desires to state that in reply to an inquiry of the honorable Senator from California a moment ago, the Chair answered that an amendment to the amendment would be in order; but an amendment such as is moved by the Senator from California now, in the opinion of the Chair, would not be in order, because it requires all that was moved by way of amendment to be struck out. It leaves nothing for the amendment to the amendment to act upon. It will simply stand upon the ground of different sums named to fill a blank, and on that question the rule is to take the question upon the highest number first. Different numbers may be named, and the Chair will put the question upon the highest number first.

Mr. CONNESS. It will be in order afterwards to move the amendment I have suggested.

The PRESIDING OFFICER. Certainly, after the highest number has been voted upon. Different numbers may be named. The Chair understands that "one" is the highest number named, and the question is upon inserting that number.

Mr. CONNESS. I ask for the reading of the memorial in question.

The PRESIDING OFFICER. The papers offered by the Senator and whose reading is requested will be read, if no objection be made. The Chair hears none.

The Secretary read, as follows:

To the Senate and House of Representatives of the United States in Congress assembled:

The Chamber of Commerce of San Francisco hereby respectfully remonstrate against taxing the gross product of the mines in the Pacific States and Territories. The proposition for levying such a tax is regarded with surprise and alarm by the people of this coast, and we believe that it must be based on misconception of the situation and nature of our mines and of the character of mining enterprises. The mineral wealth of our mining districts has not been exaggerated, but the popular estimate of the profits of mining enterprise is excessive because the difficulties, risks, and expenses which are inseparable from them are not appreciated. Our most valuable mines and mineral lodes are found in the sterile mountains of the Sierra Nevada range, frequently far removed from wood or water, and accessible only by roads cut and hewn in the steep mountain sides. To develop them main shafts, drifts, and tunnels must be worked through solid rock, consuming months and often years of toil. Good ore is rarely found except at a considerable depth, and in most cases it is necessary to expend many thousands of dollars in the erection of steam machinery to keep the mine free from water. The lode, when reached at a great depth, may yield ore that is fabulously rich, or perhaps rebellious ore, that retains its treasure in defiance of the skill thus far attained by mining experts, or may be barren rock, which will compel the abandonment of the work. Mills containing ponderous and expensive machinery are indispensable to the reduction and treatment of ores, and in many instances the ores and the wood required for the mills are hauled from distant points by teams that consume provender which must be transported hundreds of miles by other teams. These present only a few of the difficulties incident to the business of mining, yet that people abroad seem unable to comprehend the facts that the bullion extracted from the depths of our mountains does not actually represent the amount of labor expended; that the entire production of most of our mines is consumed by the extraordinary expenses peculiar to working them, and that mining enterprises may afford employment and revenue to many thousands of men, support various branches of industry, sustain the prosperity of States, and augment the wealth of a nation, and still fail to remunerate those who project and control them, as science can detect the spot where a mine can be profitably opened, and no experience can predetermine the expense of such an undertaking.

Mining operations are from the beginning laborious, tedious, costly, and extremely precarious. Of this the countless number of abandoned shafts and tunnels, and the nu-

merous others wherein the unrewarded labor of years is vigorously continued in the hope of ultimate success, afford the most conclusive evidence. Nothing but the liberal policy heretofore observed by Government respecting the working of mines could stimulate men to embark in such perilous enterprises. To that liberal policy may be justly attributed the peopling of vast Territories belonging to the national domain, the organization of new States, the building of towns and cities, the aggrandizement of commerce, and the actual production of metallic currency sufficient to preserve the vitality of our national finances during a period of unprecedented trials. We respectfully submit that the national benefits derived from these fruits surpass any results that could emanate from a less liberal policy. We further represent that the business of mining is the chief support of our industrial and commercial systems; that a tax on the gross products of mines would utterly crush and destroy the mining interests, and consequently involve us in general ruin; that it would give the foes of Government in our midst a strength and support that might produce critical results; that it would drive population, capital, and enterprise from the Pacific States and Territories to Mexico and British America, and divert commerce in the same direction; that instead of increasing the amount of national revenue desirable from this coast, it would inevitably at no distant day reduce it comparatively to an insignificant sum; that the mineral lodes recently discovered in our mountains are beyond the capacity of our present population to develop, and the business of mining, relatively considered, is yet in its infancy. The physical difficulty and peculiar points that now embarrass it are slowly yielding to the energy, enterprise, and experience of our people, who have been greatly encouraged by a few notable instances of success; and while we do not magnify the evil consequences that would result from the proposed taxation, we believe that under a continuance of the present liberal policy the business of mining would ultimately prove a grand success and confer incalculable benefits on the nation at large. In view of all the foregoing, we respectfully but earnestly remonstrate against the enactment of any law imposing a tax on the gross production of the mines.

By order of the Chamber:

JAS. DE FREMERY,  
President.  
C. ADOLPHE LOW,  
First Vice President.  
RADMOND GIBBONS,  
Second Vice President.  
WM. R. WADSWORTH,  
Secretary.

SAN FRANCISCO, May 19, 1864.

Dated VIRGINIA CITY, May 10, 1864.

Received WASHINGTON, May 11, 1864.

To Hon. JOHN CONNESS:

Resolved, That loyal Nevada, desirous of contributing her energy to the support of the Government to crush out this unholy rebellion, does in mass meeting declare that the tax upon the gross proceeds of the mines is an onerous, unequal, and impolitic measure; and that such a law will have a direct and immediate tendency to stop the development of the mineral wealth of our Territory, and ruinously decrease the sources of revenue of the General Government.

Resolved, That while we are willing to pay an equitable and reasonable tax on all interests, and while we recognize the right of the Government in self-preservation to call upon us for our last man and our last dollar, yet humbly we represent that a tax by Congress upon the gross proceeds of our mines will be destructive to the general prosperity of our Territory, and especially at this period of limited development of our mines.

Resolved, That these resolutions be forwarded by telegraph to Hon. JOHN CONNESS, and to be by him respectfully submitted to the Senate of the United States.

L. D. S. TURNER, President.  
G. R. JONES, Secretary.

Mr. CONNESS. I now call for the yeas and nays on the amendment proposed by the Senator from Maine to make the tax one per cent.

The yeas and nays were ordered.

Mr. JOHNSON. I rise to ask if this tax is one per cent. on the gross proceeds.

Mr. CONNESS. Yes, sir, it is a tax on the gross proceeds.

Mr. FESSENDEN. It is a very different tax from the one the Chamber of Commerce of San Francisco remonstrate against.

Mr. CONNESS. The honorable chairman of the Committee on Finance says it is a different tax from the one they remonstrate against. They remonstrate directly against a tax on the gross proceeds. They do not remonstrate against the amount, but against the mode of the tax. They are willing to submit to a tax upon the net proceeds or a tax upon the profits of mining; but as that system is not pursued in any part of this bill, except in regard to the income tax, and as they are already subject to that, I have not asked that that system shall be resorted to here. The tax imposed at the mints and assay offices with the other provisions of this amendment will necessarily be a tax on every ounce produced as near as the law can compel it in the entire mining region.

Mr. HOWE. As the yeas and nays have been called on this question, I desire to say just two things. I shall vote against the tax of one per cent. because I prefer a tax of one half of

one per cent. if there is to be any; but I shall vote against the tax of one half of one per cent. because I am opposed to any taxation upon this product. I believe, as the Senator from Indiana said a short time ago, that if there is no other product in the country, this is one which is the interest of the Government to encourage and not to discourage. This is unlike any other tax to be found in this bill; everything else, every other product that you impose a tax upon, you impose it with direct reference to its being paid, not by the producer, but by the consumer. It is so with coal; it is so with iron; it is so with copper; it is so with cloth; it is so with raw cotton; but with regard to gold and silver, it must be paid by the producer, and cannot be paid by anybody else, because the statute which you have yourselves enacted says that it is worth so much, and it never can be sold for any more than that. It is therefore unlike any other tax; and the most burdensome, the most discouraging tax that you impose upon any product, you impose upon that product which is the sternest necessity of the country at this time. I object to it.

It has been said in the course of this debate that you are the proprietors of all this wealth, and that you impose this tax by way of gathering some slight compensation for the use of your property. Sir, I wish to remark here that in truth you are not the owners of this wealth; you do not own these mines. Why? You may own the soil in which they are imbedded, you may own the mountains in which are buried this gold and this silver; but after all the Government does not possess them. You do nothing to develop them, you do nothing to ascertain the fact. What if Omnipotence can understand that there is buried underneath us to-day untold wealth in gold and silver and diamonds; you know nothing about it; you are not the possessors of it. In every block of marble lying outside in this yard there is I suppose a statue of almost incalculable value imbedded. Canova or somebody else might develop it; but until it is developed who shall say who is the owner of it? Is it the man who owns the block? Can he say that in truth he owns a statue? You do not own these mines. You know nothing about them.

Mr. FESSENDEN. I ask my friend, to carry out his argument, whether, if I own a piece of marble and a man who has the power to make a statue out of it comes along, has he not a right to take it and use it without paying me anything?

Mr. HOWE. No, sir.

Mr. FESSENDEN. Of course; because he can develop it and I cannot.

Mr. HOWE. No, sir.

Mr. FESSENDEN. Certainly; that is the logic of the whole argument.

Mr. HOWE. I own my own logic and I propose to use that, as I consent the Senator shall use his own marble, just as we please respectively. [Laughter.] My logic does not go to any such extent. I do not insist on the right of these miners to go and take this gold at all. If you deem that the public interest will warrant you in saying so, say to them, "You shall not take it." If you prefer that it shall lie in the mines than that it shall be dug out of the mines, say so; but you do not say so; I do not say so. I say it is the first interest of the public—and I am legislating not for the miner, but for the public—to have this wealth developed and brought into the use of man, and therefore I do not vote for a law to prohibit mining; I do not vote for any enactment that shall discourage the development of this wealth.

The PRESIDING OFFICER. The question is on filling the blank in the amendment with the word "one," and upon that question the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 18, nays 21; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Cowan, Doolittle, Fessenden, Foster, Grimes, Hale, Hadden, Harris, Morgan, Morrill, Sherman, Ten Eyck, Van Winkle, and Wiley—18.

NAYS—Messrs. Buckalew, Carlile, Collamer, Conness, Davis, Dixon, Foot, Hendricks, Howard, Howe, Johnson, Lane of Kansas, McDougall, Nesmith, Pomeroy, Powell, Ramsey, Saulsbury, Sumner, Wilkinson, and Wilson—21.

ABSENT—Messrs. Harding, Henderson, Hicks, Lane of Indiana, Richardson, Riddle, Sprague, Trumbull, Wade, and Wright—10.

So the amendment was rejected.



Mr. CONNESS. I move now to insert the words "one half of one" in the blank; so that it will read:

On bullion in lump, ingot, bar, or otherwise, a duty of one half of one per cent. *ad valorem*, to be paid by the assayer of the same, &c.

The amendment was agreed to.

The PRESIDING OFFICER. The whole amendment having been previously agreed to, the amendment is now adopted.

Mr. FESSENDEN. I move to strike out lines three hundred and forty-eight, three hundred and forty-nine, and three hundred and fifty, on page 140.

Mr. CONNESS. That is the tax proposed in the House bill upon the same subject.

Mr. FESSENDEN. The House imposed a tax of five per cent. on this same production, but the Senate seem to think that one per cent. is too much.

Mr. HOWE. Has this amendment been adopted?

The PRESIDING OFFICER. It has.

Mr. HOWE. I understood it was only adopted as an amendment to the amendment offered by the Senator from Maine.

Mr. FOOT. They were independent propositions to fill the blank.

Mr. HOWE. I understood that the amendment of the Senator from California was offered as an amendment to the amendment offered by the Senator from Maine.

Mr. FESSENDEN. That was so.

Mr. HOWE. We adopted the amendment to the amendment. There was a blank in that to be filled. That blank has been filled, and the question is upon the amendment as amended.

Mr. FOOT. The Senator is wrong about it. They were taken as independent propositions to fill a blank which was according to the rule. The Chair was undoubtedly right. It could not have been entertained as an amendment to the amendment. They were separate and independent propositions to fill a blank.

Mr. HOWE. The Chair was entirely right about that and I do not controvert that at all; but I say this whole proposition was voted upon as an amendment to the amendment proposed by the Senator from Maine.

Mr. FESSENDEN. I believe that is so.

The PRESIDING OFFICER. In reply to the suggestion, the Chair will state that the Chair was under the impression that the vote had been taken on the amendment as amended, but the Chair was mistaken; it was not so; the question has not been taken on the amendment as amended, and it is still a pending question. The question is on the amendment as amended.

The amendment, as amended, was agreed to.

Mr. FESSENDEN. Now, sir, I move on page 140, section ninety-three, lines three hundred and forty-eight, three hundred and forty-nine, and three hundred and fifty, to strike out the following words:

On gold and silver produced from quartz mines, from beds of rivers, from the earth, or in any other way or manner, a duty of five per cent.

Mr. ANTHONY. Does not the Senator mean to have any tax on gold?

Mr. FESSENDEN. We have got a tax of one half of one per cent. as the bill now stands with the amendment just adopted, only in a different form. It is on the bullion as assayed.

Mr. JOHNSON. Those lines go out, as a matter of course.

The amendment was agreed to.

Mr. CONNESS. I move to strike out—

Mr. FESSENDEN. If the Senator will let me get through with some amendments I have to offer I shall be much obliged to him.

Mr. CONNESS. Certainly.

Mr. FESSENDEN. On page 148, section ninety-five, lines fourteen and fifteen, I move to strike out the following words:

Bullion used in the manufacture of silver-ware, silver bullion rolled or prepared for plates' use exclusively.

The amendment was agreed to.

Mr. FESSENDEN. On page 151, section ninety-eight, line fourteen, I move to strike out the word "sterling" and to insert "foreign" before the word "exchange."

The amendment was agreed to.

Mr. FESSENDEN. On page 172, section one

hundred and sixteen, line two, I move to strike out the word "other" before "national," so that it will read:

That in estimating the annual gains, profits, or income of any person, all national, State, and municipal taxes, &c.

The amendment was agreed to.

Mr. FESSENDEN. On page 46, at the end of section thirty-seven, I move to insert the following proviso:

Provided, That if any assessor or assistant assessor shall divulge to any party or make known in any manner, other than as provided in this act, the operations, style of work, or apparatus of such visited manufactory, said assessor or assistant assessor shall be subject to the penalties prescribed in section thirty-five of this act.

Mr. HOWARD. I should like to hear what explanation the honorable Senator from Maine has to make of that amendment. It is rather an important one.

Mr. FESSENDEN. This is one of the amendments which the Senator from Rhode Island gave notice he would offer. The object, as I understand it, is simply this: that if the assessor, in visiting a manufactory and making the examination which he is entitled by law to make, shall become familiar with any of the secrets of the manufacturing he shall not divulge them; that the person who is sent there by the Government to collect merely the tax, if that enables him to obtain possession of the secrets of their manufactory, shall not divulge what he may learn.

Mr. HOWARD. Does the honorable Senator mean to say that the power to punish that description of offense is one which we can properly exercise under the Constitution?

Mr. FESSENDEN. I do not see why we should not.

Mr. ANTHONY. I think I can explain it to the Senator.

Mr. HOWARD. I see the justice and propriety of it, but the question with me is the question of power.

Mr. ANTHONY. There may be not merely processes of manufacture but styles of manufacture which vary every year. A calico printer, for instance, might very well afford to pay a large sum to an assessor to go into a rival establishment and come back and report the styles and colors and modes of fabric which he intends to introduce. It is necessary that the assessor should have access to the establishment, but certainly not that he should disclose what he sees either to the disadvantage of the manufacturer or printer.

The amendment was agreed to.

Mr. FESSENDEN. I now desire to amend an amendment that we have already inserted in the bill. It is on page 170, section one hundred and fourteen, line ten, after the word "all" to insert the words "taxes on manufactures, manufacturing companies, and;" so that the proviso will read:

Provided, That all taxes on manufactures, manufacturing companies, and manufacturing corporations shall be assessed and the tax collected in the district within which the place of manufacture is located.

Mr. BUCKALEW. The word "manufacturing" where last used in that amendment is unnecessary.

Mr. FESSENDEN. It will not do any harm to repeat it.

The amendment was agreed to.

Mr. FESSENDEN. Now, sir, I should like to take up the important provision in relation to banks and banking that was passed over.

Mr. CONNESS. Before that subject is taken up, as it will involve debate, I should like to offer one amendment, as I desire to leave the Chamber for a few moments. Does the Senator consent?

Mr. FESSENDEN. If it is a plain proposition that will give rise to no discussion I have no objection.

Mr. CONNESS. I do not think it will. I have no desire to discuss it.

Mr. FESSENDEN. What is it?

Mr. CONNESS. The tax on quicksilver.

Mr. FESSENDEN. That will give rise to discussion.

Mr. CONNESS. I think not.

Mr. FESSENDEN. I think we had better go through with the amendments of the committee, and dispose of them.

Mr. CONNESS. Very well.

Mr. FESSENDEN. I move now to proceed

to the consideration of section one hundred and nine, relating to banks and banking, on page 161.

The PRESIDING OFFICER. That section is now before the Senate.

Mr. SHERMAN. I offered an amendment the other day as a substitute for that section. I propose to amend my amendment in one or two particulars. I suppose I have the right to modify it. On page 3 of the amendment, line forty-nine, I propose to strike out "one fourth," and to insert "one fifth," so as to make the duty one fifth of one per cent. a month.

Mr. FESSENDEN. I thought the Senator proposed to insert "one sixth," so as to make it the same as it is in the original bill.

Mr. SHERMAN. At present I think I shall leave it at one fifth. In line eighty-one of my amendment, page 4, I propose to strike out the word "further" and to insert the word "additional;" and in line eighty-four, after the word "capital" I propose to insert the words "stock paid in."

The PRESIDING OFFICER. The question is on the amendments reported by the Committee on Finance to this section one hundred and nine. The Senator from Ohio proposes to strike out the whole section and insert an amendment, in lieu of the committee's amendments, which he has sent to the desk and which has been printed. It will be, however, first in order, previous to taking the question on the motion of the Senator from Ohio to strike out the whole section and insert his amendment, first to perfect the section and the amendments reported to it by the committee.

Mr. SHERMAN. The ordinary parliamentary way is to perfect the original bill.

Mr. FESSENDEN. The amendments of the committee to that section have been adopted, I think.

The PRESIDING OFFICER. The question is on the amendments reported from the Committee on Finance to the section, which have not been taken up heretofore, but were passed over.

Mr. FESSENDEN. I thought they had been adopted.

Mr. SHERMAN. I suppose it would be perfectly in order to strike out the original proposition and then amend the matter inserted in lieu of it.

Mr. FESSENDEN. Let us first take the question on adopting the amendments reported by the committee to the original section.

The PRESIDING OFFICER. The question will be taken on the amendments reported by the committee by way of perfecting the section before the question is put on striking it out. The amendments will be read.

The first amendment was in the second line of the section, to strike out the word "eighth," and to insert the word "quarter;" so that it will read:

Sec. 109. And be it further enacted, That there shall be levied, collected, and paid a duty of one quarter of one per cent. each half year upon the average amount of the deposits of money, subject to payment by check or draft, with any person, bank, association, or corporation engaged in the business of banking, &c.

The amendment was agreed to.

The next amendment was in line six, after the word "banking," to insert the following words:

Other than associations organized and established under and by virtue of "An act to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved February 25, 1863.

The amendment was agreed to.

The next amendment was in line eleven, to strike out the word "also" and insert the word "and;" and in line twelve to strike out the word "its" before the word "capital;" and after the word "stock," in line thirteen, to insert "invested in such business beyond the amount invested in United States bonds;" so that it will read:

And a duty of one quarter of one per cent. each half year, as aforesaid, upon the average amount of capital stock invested in such business beyond the amount invested in United States bonds.

The amendment was agreed to.

The next amendment was in line twenty-five, to insert the words "capital and" before the word "deposits."

The amendment was agreed to.

The next amendment was in line twenty-eight,

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to strike out the word "eighth" and to insert the word "quarter."

The amendment was agreed to.

The next amendment was to strike out in line forty of section one hundred and nine, the words "provided, that" and to insert "and," and in line forty-one after the word "corporation" to insert:

Other than associations organized and established under and by virtue of "An act to provide a national currency, secured by a pledge of United States stocks, and to provide for the circulation and redemption thereof," approved.

The amendment was agreed to.

The next amendment was in line forty-seven, to strike out "fourth" and insert "half," in line forty-eight, after "each" to strike out "month" and insert "half year," and after "the" to insert "average."

The amendment was agreed to.

The next amendment was in line forty-nine, after "obligations" to strike out "so issued by said person, bank, association, or corporation," and to insert "in circulation during the preceding half year;" and in line fifty-three, to strike out "each and every month" and insert "April and October of each year."

The amendment was agreed to.

The next amendment was in line sixty-nine, after "Monday" to strike out "in each and every month" and insert "of April and October of each year;" after "one" to strike out "fourth" and insert "half;" in line seventy-one, before "amount" to insert "average;" after "amount" to strike out "so returned" and insert "of its circulation as aforesaid;" so as to read:

And shall, within ten days from the first Monday of April and October of each year, pay to said collector the said duty of one half of one per cent. on the average amount of its circulation as aforesaid.

The amendment was agreed to.

The next amendment was in line seventy-five, after "of" to strike out "one" and insert "five," so as to make the penalty for neglecting to make return and payment five per cent.

The amendment was agreed to.

The next amendment was after the word "provided," in line eighty-one, to strike out "further."

The amendment was agreed to.

The next amendment was after the word "liquidation," in line eighty-two, to insert:

*Provided, also,* That all banks, associations, corporations, or individuals, issuing notes or bills for circulation as currency, shall be liable to and pay the further duty of one and one half per cent. in each half year upon the average amount of such currency issued beyond the amount of ninety per cent. of its capital. In the case of banks with branches, the duty herein provided for shall be imposed upon the circulation of each branch, severally, and the amount of capital of each branch shall be considered to be the amount allotted to or used by such branch. And the additional duty herein provided for shall be collected and paid at the time and in the manner hereinbefore specified. And so much of an act entitled "An act to provide ways and means for the support of the Government," approved March 3, 1863, as is inconsistent with this act is hereby repealed.

Mr. FESSENDEN. I wish simply to say that that section is necessarily left imperfect because the national banks which are referred to are organized under two separate acts, and the act we propose to pass this year repeals the old one; therefore, on page 161, after the words "February 25, 1863," we shall have, when that act becomes a law, to insert it also.

Mr. SHERMAN. The bank bill does not repeal the old law, I think, but it modifies it.

Mr. FESSENDEN. They are organized under both acts.

Mr. SHERMAN. Certainly.

Mr. FESSENDEN. And therefore we shall have to repeat both in this clause.

Mr. SHERMAN. That can be done at any stage of the bill.

Mr. FESSENDEN. We can leave it at present.

Mr. COLLAMER. I wish to make one or two suggestions about this provision before we pass the amendment. In the first place, begin-

ning at the close of the amendment, I call the attention of the committee to the expression, "and so much of an act entitled 'An act to provide ways and means for the support of the Government,' approved March 3, 1863, as is inconsistent with this act is hereby repealed." I understand this lays a different tax on banks from what that act did. That is not at all "inconsistent" with this act. Because one act imposes three per cent. on circulation, and another imposes three per cent. more, they are not inconsistent; the last act is cumulative, it adds so much. It seems to me that if that be so, (without a particular examination of the old statute,) this repealing clause should be qualified so as to read, "so much of the act, &c., approved March 3, 1863, as provides a tax or excise upon banks is hereby repealed." I take it the committee intended this tax on banks to be in lieu of all other taxes. If that is what they intended to do, this latter expression should be qualified in the way I have stated. I suggest to them whether it should not be so. Strike out the words "as is inconsistent with this act," and insert "as provides a tax or excise upon banks."

Mr. FESSENDEN. "As provides any other tax than as is herein imposed."

Mr. COLLAMER. Say "any tax."

Mr. FESSENDEN. "Any tax other than herein imposed."

Mr. COLLAMER. The law proposed to be repealed cannot provide for the tax "herein imposed." Why not say "which provides any tax upon banks," &c.? I propose to strike out the words "as is inconsistent with this act" and insert "which provides any tax or excise upon banks."

Mr. FESSENDEN. I suggest to the Senator to take this language: "so much of the act, &c., as imposes any tax on banks or their circulation other than is herein provided."

Mr. COLLAMER. I will state why I do not like that. Suppose I should find on looking at the other act that it put in exactly the same tax as this does; then it would make two taxes.

Mr. FESSENDEN. That is "other," though not different.

Mr. COLLAMER. "If it provides any tax on banks what is the objection to this amendment?"

Mr. FESSENDEN. I do not like that language without looking more particularly at the act.

Mr. COLLAMER. I have no wish to help the gentleman's bill if he does not want it.

Mr. FESSENDEN. I have asked you particularly.

Mr. COLLAMER. I ask the gentleman whether this very provision that I call attention to is not wrong.

Mr. FESSENDEN. I do not see it necessarily, but I am disposed to yield to the judgment of the Senator; but I want to qualify his language a little.

Mr. COLLAMER. I do not want the gentleman to yield to my judgment.

Mr. FESSENDEN. Let it read "as imposes any tax upon banks, their circulation, or deposits, other than is herein provided for."

Mr. COLLAMER. I do not like that language so well as the other, but if the Senator likes it better I will agree to it.

The PRESIDING OFFICER. (Mr. FOSTER.) Does the Chair understand the Senator from Vermont to consent to the modification of his amendment proposed by the Senator from Maine?

Mr. COLLAMER. Yes, sir.

The PRESIDING OFFICER. The amendment as modified will be read.

The Secretary read the amendment, which was to strike out in line ninety-six "as is inconsistent with this act," and to insert "as imposes any tax on banks, their circulation, capital, or deposits other than is herein provided."

The amendment to the amendment was agreed to, and the amendment, as amended, was adopted.

Mr. COLLAMER. I propose in the seventy-second line of section one hundred and nine, on

page 163, after the word "aforesaid" to insert "not including that in vault or on deposit for said bank." Gentlemen desire an explanation of this amendment. It arises from the peculiar wording of this section taken together. It is provided that the banks

Shall, on the first Monday of April and October of each year, make and deliver to the assessor of the district in which such bank, association, or corporation may be located, or in which such person may reside, a true and accurate return of the amount of notes, bills, or other obligations so issued—

That is with a view to taxation upon currency—whether in circulation or in its vaults, or elsewhere in possession or on deposit.

The bank is required to make a return of the amount of its notes, bills, and other obligations so issued "whether in circulation or in its vaults, or elsewhere in possession or on deposit."

And shall annex to every such return a declaration, with the oath or affirmation of such person, or of the president or cashier of such bank, association, or corporation, in such form and manner as may be directed by the Commissioner of Internal Revenue, that the same contains a true and faithful statement of the amount of circulation as aforesaid; and shall deliver a copy of said return to the collector of the district in which said person resides, or in which the said bank, association or corporation is located; and shall, within ten days from the first Monday of April and October of each year, pay to said collector the said duty of one half of one per cent. on the average amount of its circulation as aforesaid.

That includes all in its own vaults or on deposit elsewhere, because that is required to be returned. Now, if you want a tax on circulation, I desire to provide that when they pay one per cent. on the average amount of circulation it shall not include that in vault or on deposit for the bank.

The amendment was agreed to.

Mr. SHERMAN. Now I will offer my amendment as a substitute for the section.

Mr. COLLAMER. I wish to amend that somewhat in the same way.

Mr. SHERMAN. I have adopted the last and put it in.

Mr. COLLAMER. But I think there is a misprint here. In the sixty-ninth line it reads now: "every month, pay to said collector the said duty of one fourth of one per cent."

The gentleman means one twenty-fourth, I suppose.

Mr. SHERMAN. No.

Mr. COLLAMER. The word "twenty" is omitted before "fourth."

Mr. SHERMAN. It was one fourth of one per cent. every month, amounting to three per cent. per annum. That I have changed to one fifth of one per cent. This is the tax on circulation, not the tax on deposits. In the forty-ninth line I have changed it; and it should be changed to correspond in this line.

Mr. COLLAMER. After the word "aforesaid," in line seventy-one of the amendment, I move to insert "not including that in vault, nor on deposit for the said bank."

Mr. SHERMAN. I think that is the meaning now; but I have no objection to the modification.

Mr. COLLAMER. The same change should be made in line eighty-three; after the word "currency" add "not including that in vault or on deposit for the said bank."

The PRESIDING OFFICER. The Chair understands the Senator from Ohio to accept these modifications of his amendment.

Mr. SHERMAN. Yes, sir; also at the end of line ninety-three I propose to strike out the words "inconsistent with this act" and insert the words already adopted to the section in the first amendment offered by the Senator from Vermont.

The PRESIDING OFFICER. The question will be on the amendment of the Senator from Ohio, as amended; which will be read.

The amendment was read. It is to strike out all of section one hundred and nine, and to insert in lieu of it:

And be it further enacted, That there shall be levied, collected, and paid a duty of one twenty-fourth of one per cent. each month upon the average amount of the depos-

its of money, subject to payment by check or draft, with any person, bank, association, or corporation engaged in the business of banking, other than associations organized and established under and by virtue of "An act to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved February 25, 1863; and a duty of one twenty-fourth of one per cent. each month, as aforesaid, upon the average amount of capital stock invested in such business, beyond the amount invested in United States bonds. And on the first Monday of every month of each year a true and accurate return of the amount of deposits and of capital, as aforesaid, shall be made and rendered to the assessor of the district in which such bank, association, or corporation may be located, or in which such person may reside, by all such persons, banks, associations, or corporations, with a declaration annexed thereto, and the oath or affirmation of such person, or of the president or cashier of such bank, association, or corporation, in such form and manner as may be prescribed by the Commissioner of Internal Revenue, that the same contains a true and faithful statement of the amount of capital and deposits as aforesaid; and shall also deliver a copy of said return to the collector of the district, and shall, within each and every month, pay to said collector the duty of one twenty-fourth of one per cent. on the amount of deposits, and of one twenty-fourth of one per cent. on the capital so returned. And for any neglect to make or render such return and payment as aforesaid, every such person, bank, association, or corporation shall be subject to and pay a penalty of \$1,000, besides the additions, penalties, and forfeitures in other cases provided; and the amount of deposits and capital shall, in default of the proper return, be estimated by the assessor upon the best information he can obtain, and every such penalty, together with the duties as aforesaid, may be recovered for the use of the United States in any court of competent jurisdiction. And every person, and every bank, association, or corporation, other than associations organized and established under and by virtue of "An act to provide a national currency, secured by a pledge of United States stocks, and to provide for the circulation and redemption thereof," approved —, issuing notes, bills, or obligations calculated or intended to circulate as money, shall pay a duty of one fifth of one per cent. each month on the average amount of such notes, bills, or obligations in circulation during the preceding month, or which, having been issued, shall remain in circulation; and shall, on the first Monday of each and every month, make and deliver to the assessor of the district in which such bank, association, or corporation may be located, or in which such person may reside, a true and accurate return of the amount of notes, bills, or other obligations so issued, whether in circulation or in its vaults, or elsewhere, in possession or on deposit, and shall annex to every such return a declaration, with the oath or affirmation of such person, or of the president or cashier of such bank, association, or corporation, in such form and manner as may be directed by the Commissioner of Internal Revenue, that the same contains a true and faithful statement of the amount of circulation as aforesaid; and shall deliver a copy of said return to the collector of the district in which said person resides, or in which the said bank, association, or corporation is located; and shall, within ten days from the first Monday in each and every month, pay to said collector the said duty of one fifth of one per cent. on the average amount of its circulation as aforesaid, not including that in vault or on deposit for the said bank. And for any neglect to render or make such return and payment as aforesaid, every such person, bank, association, or corporation shall pay a penalty of one per cent. on the amount of notes, bills, or other obligations issued as aforesaid, which amount shall, in default of the proper return, be estimated by the assessor upon the best information he can obtain; and every such penalty may be recovered for the use of the United States in any court of competent jurisdiction: *Provided*, that all banks, associations, corporations, or individuals issuing notes or bills for circulation as currency, shall be liable to and pay the additional duty of one third of one per cent. each month upon the average amount of such currency, not including that in vault or on deposit for the said bank, issued beyond the amount of ninety per cent. of its capital stock paid in. In the case of banks with branches, the duty herein provided for shall be imposed upon the circulation of each branch severally, and the amount of capital of each branch shall be considered to be the amount allotted to or used by such branch. And the additional duty herein provided for shall be collected and paid at the times and in the manner hereinbefore specified. And so much of an act entitled "An act to provide ways and means for the support of the Government," approved March 3, 1863, as imposes any tax on banks, their circulation, capital, or deposits, other than is herein provided, is hereby repealed.

Mr. SHERMAN. I will state, as I desire a vote on this question, that the difference between the section of the bill as amended and my proposition is not very material. The first difference is that the tax I propose is a monthly tax, and it is desired more particularly to get a return of the circulation every month, the same kind of return as is provided for from the national banks, and it is desirable to have a return made monthly by all the banks of the United States, so as to show precisely at the beginning of each month the amount of circulating notes. The rate of tax is one fifth of one per cent. a month, and the aggregate, of course, two and two fifths per cent. per annum on the circulation not exceeding ninety per cent. of the capital stock. On all excess of circulation above ninety per cent. of capital stock the amendment proposed by me lays a monthly tax of one third of one per cent., equivalent to

four per cent. per annum. The machinery is very nearly the same as is provided for in the original section.

Mr. COLLAMER. I understand that the tax laid upon the circulation by the committee's section is two per cent. This is two and two fifths. Another thing, their tax on capital does not include that part of the capital which they have in United States bonds.

Mr. SHERMAN. Nor does mine:

A duty of one twenty-fourth of one per cent. each month, as aforesaid, upon the average amount of capital stock invested in such business beyond the amount invested in United States bonds.

On capital and deposits the tax is the same, except one is monthly and the other semi-annually.

Mr. COLLAMER. If I understand it aright there is two fifths of one per cent. more on the circulation by this amendment than by the committee's.

Mr. SHERMAN. On all within ninety per cent. of the capital stock.

Mr. COLLAMER. And this tax by the amendment is to be collected once a month and the other is collected only twice a year.

Mr. HENDRICKS. I was not pleased with the proposition of the bill as amended by the Committee on Finance; but certainly I have greater objection to the amendment proposed by the Senator from Ohio. The committee, I think, propose to make war upon the State banks and in favor of the system of national banks.

Mr. FESSENDEN. The tax we propose is precisely the same as is imposed on the national banks.

Mr. HENDRICKS. I do not so understand it. I do not understand the bill correctly if that be so. I understand the bill of the committee to propose to tax one fourth of one per cent. upon deposits every six months, which will be one half per cent. upon deposits per annum.

Mr. FESSENDEN. It is the same upon national banks.

Mr. HENDRICKS. I will read it and see if I understand it correctly:

That there shall be levied, collected, and paid a duty of one quarter of one per cent. each half year upon the average amount of the deposits of money, subject to payment by check or draft, with any person, bank, association, or corporation engaged in the business of banking, other than associations organized and established under and by virtue of "An act to provide a national currency," &c.

Mr. FESSENDEN. We did not put the tax on national banks here, because the same tax is imposed upon them by the act authorizing those banks. It is in the banking bill, and we did not want to put it on again in this bill.

Mr. HENDRICKS. That is the reason why it was not inserted here?

Mr. FESSENDEN. Yes, sir. This was drawn to correspond with that. We leave that bill to operate on the national banks, and this operates on the State banks.

Mr. HENDRICKS. Then I will ask the Senator whether upon the issues of the banks the same tax is laid. The tax upon capital stock is one half per cent. per annum, so far as that stock is not in Government bonds. I have no complaint to find with that. Then there is one half per cent. upon issues. That is the proposition of the committee, but that is not imposed upon the issues of the national banks.

Mr. FESSENDEN. Yes.

Mr. HENDRICKS. Not in this bill?

Mr. FESSENDEN. In the other bill.

Mr. HENDRICKS. That is what I desired to understand. Then the proposition of the Committee on Finance is to make the tax equal, except so far as the capital is invested in United States bonds.

Mr. FESSENDEN. To make it precisely the same in that respect.

Mr. HENDRICKS. Our State banks do not usually issue upon United States bonds, or very few of them.

Mr. FESSENDEN. Very true; but this is put in for the benefit of such State banks as do that. If they have invested in United States bonds they are to have the credit.

Mr. HENDRICKS. Some of our State banks do not give that kind of security, and do not bank on the United States bonds.

Now, I desire to speak of the amendment of the Senator from Ohio, which I suppose is peculiarly the Treasury proposition, and is to carry out the idea that was expressed some time since in a letter of the Secretary of the Treasury, that the difference between gold and paper in its value was owing to the inflation of the currency by State banks. I do not think the facts sustain the Secretary of the Treasury in that proposition; nor do I think he is authorized in making war upon State banks. I think there is nothing in the conduct of the State banks or the security which they have given to the public to justify the war which the Secretary of the Treasury makes on the State banks, nothing which would justify the support of that policy, I believe, by the Senator from Ohio.

I have not taken the pains to look into the condition of other State banks than those of the western States. The State Bank of Indiana furnishes a very much better currency than is furnished by the Secretary of the Treasury. It is a currency that the people of Indiana and of the Northwest have a great deal more confidence in than in any of the issues of the Treasury Department. For more than a year and a half, I believe, in the course of my professional life I have not been able to be paid one dollar in the issues of the State Bank of Indiana. The people of the Northwest, when they have the issues of the State Bank of Indiana—and I believe the same is true in reference to the State Bank of Ohio—choose to keep them safely in their pockets; and if they have any of the currency furnished by the Treasury Department they prefer to pay that out.

Upon the question of fact made by the Secretary of the Treasury against the State banks, which statement of facts he supposes to justify him in making a war against the State institutions, I desire to speak of the history of the State Bank of Indiana. That bank, at the time of the passage of the law which authorized the issue of greenbacks, had a circulation of \$5,800,000; she now has a circulation of \$2,400,000—a reduction in her current circulation since the issue of the greenbacks of \$3,400,000. It is proposed to make war upon her, to tax this circulation very unequally, with a view to force her circulation into her vaults again. She cannot get her currency. She can scarcely buy it. Some branches of the State Bank of Indiana within the last eighteen months have been paying, so as to withdraw their circulation, from one to five per cent., and in some cases ten per cent. has been paid to withdraw from circulation the issues of some of the branches of the State Bank of Indiana; and with all that she has only been able to withdraw her circulation \$3,400,000, leaving \$2,400,000 yet out. I see by a statement made by the president of the State Bank of Ohio that on the first Monday of April, 1862, the current circulation of that bank was \$8,104,500; at the same time in 1863 it was \$6,630,416; the same month in 1864 it was \$5,512,685; showing a reduction from April, 1862, to April, 1864, of \$2,591,815. I understand that the same is true in respect to the State Bank of Missouri.

Then, sir, these State banks have been endeavoring to reduce their currency within the last two years, but have been unable, because of the fact that the people will not pay it over the counters of the banks for the greenbacks. The people retain it in preference to the Government money.

Now, I ask the Senate, when these State banks have been laboring to reduce their circulation, when the allegation of the Secretary of the Treasury is not sustained in point of fact, that the State banks have been increasing their circulation, is it fair, is it right to make them pay an unequal tax upon a currency which they are unable to retire because of its better credit than the credit of the greenbacks? I say it is not fair; and no inequality of taxation ought to be imposed.

This statement is all that I desired to make on this question. I desired to show the condition of the State Bank of Indiana and of the State Bank of Ohio, and, so far as their statements show the facts, to prove that the allegation of the Secretary of the Treasury is not sustained, and therefore he is not justified in attempting to make war upon the State institutions.

Mr. FESSENDEN. I move that to-day the



Senate take a recess from four and a half to seven o'clock p. m.

The motion was agreed to.

Mr. SHERMAN. The Senator from Indiana will, I think, do me the credit to admit that what I propose to do in legislation I endeavor to do directly and without deception. I frankly admit to him that my purpose in this amendment is to make a discrimination against the State banks, and to compel them to withdraw their circulation. The tax which I propose on the circulation of local bank paper is two and two fifths per cent. per annum on the amount of circulation up to ninety per cent. on the capital stock; and four per cent. per annum on all circulation above ninety per cent. I must take this occasion to make some general observations in regard to our finances and of the currency.

No man of intelligence can reflect upon the present condition of public affairs, and especially the monetary affairs of this country, without feeling a sentiment of alarm. Every one will admit that the great evil of the times now is the inflation of paper money. I will not stop to inquire into the causes of this inflation, but every one can see on the surface of things that undue inflation of the currency of a country is one of the greatest evils that could befall it. It induces the hoarding of gold; but that is the least of the evils of inflation. It induces wild and reckless speculation. Men, seeing their neighbors make sudden profits by the depreciation of paper money, embark in the wildest speculations; become involved in debt; engage in enterprises that are far beyond their reach, and ruin is sure to follow. Inflation deranges all values, so that no man can tell what is the real value of the property he possesses; it may be very high to-day and very low to-morrow. This creates an excited condition of the public mind, so that people become in turn alarmed or elated, sometimes needlessly. The evils of the inflation of paper money have been so often depicted by historians in the experience of other nations that I will not stop to dwell on them.

What are the causes of this inflation? I say there are many. The great cause is the fact that we are in the midst of an expensive war. We are compelled to use an amount of money that no other nation in ancient or modern times has been able to use. The sums of money we are now appropriating and expending are far beyond any sums that have ever been expended before by any nation, even the wealthiest and the greatest. When this war broke out, the whole currency of the Government was gold and silver. Bank paper was only used as a medium of local exchange. The paper of the Bank of the State of Indiana, however good it may be, and I know it has always been well managed, and of the Bank of the State of Ohio would not pass current in New England or in New York or in any of the eastern States, although it was founded upon a gold basis, and every dollar of it when presented was redeemed in gold and silver. After all it was but a local currency which could not be disseminated and used all over the country. The paper of New England floated into the West, was paid out for our products, and finally came back to procure exchange; but the only national currency was gold and silver. When the war broke out gold and silver disappeared like magic. Coin disappeared in December, 1861, and from that time it has been considered simply an article of commerce; it has been demonetized. Why? Because of the state of war. This is one of the evils and incidents of war. Gold and silver coin is more timid than a woman, more timid than a child. In the midst of war it has always disappeared. The Government of the United States was compelled therefore to rely on paper money. For six months we carried on this war upon the basis of gold and silver. The banks now state that the Government broke them because it withdrew the gold and silver from their vaults and paid it out to the Army, spread it broadcast over the country, and they could not get it back into their vaults in time to pay it out again for their notes when they were presented. But that was the incident of war. We had to receive money, and in large sums, and to pay it out. Such is a consequence of war, and one of the most important consequences. The very need of large sums produces a scarcity of it

and compels an enlargement of the volume of currency. If gold cannot be had rapidly enough, then in war either military supplies must be impressed by force or paper promises must be issued as a substitute.

The Government of the United States was compelled to resort to one of three expedients. It must make the State bank paper the medium of exchange as was done in the war of 1812, or it must issue its own paper, its credit, its notes, and circulate them as money, or it must throw on the market the bonds of the United States and receive for those bonds gold and silver coin. What course ought to have been adopted? Does the Senator from Indiana think the United States should have repealed the sub-Treasury law wisely put upon the statute-book by the Democratic party in its best days? Would he have recommended the repeal of the sub-Treasury law and the use of local bank paper for all the transactions of the Government? I think not, because, although he now seems to be very much attached to these local banks, he would scarcely have recommended a policy which would place the Government of the United States in the power and control of banks organized by thirty different States, over the extent of whose issues the Government of the United States had no control—banks organized on various bases; some founded upon stocks, like the banks of New York; some founded upon capital paid in, like the banks of New England; and some wildcat banks with no foundation at all.

It was manifest that the operations of this war could not be carried on upon the basis of the bank currency. What was to be done? Were we to sell the bonds of the United States and procure money in that way? This was tried for six months. Our seven-thirty bonds, bearing an interest in gold of seven and three tenths per cent., were thrown into the market and sold at a loss. Our six per cent. bonds, principal and interest payable in coin, redeemable at the end of twenty years, were sold at something like 92. Every man of sense knows that the effort to carry on the operations of this great war by the sale of the bonds of the United States would have glutted the markets of all the world. There was not gold enough in the United States, nor in the world, to carry on a war of this magnitude and form a circulating medium. If we had pursued that policy, a policy which no man recommended, we should soon have exhausted the supplies of gold. If we had thrown our bonds upon the market, the result would have been that they would now be scarcely worth what the French assignats were during the revolution in that country.

What else was left to us? We were compelled to resort to the issue of paper money. We did it, first limiting the amount of the issue to \$200,000,000, then increasing it to \$250,000,000, and finally reaching \$400,000,000. There the Secretary of the Treasury determined to stop, and he told us in his annual report that he would not issue another dollar unless he was compelled to do so by the peremptory legislation of Congress, and that has been his position since.

Mr. President, it is one of the plainest and simplest laws of finance and of currency that you can only have a certain amount of circulating medium in the country. It may be difficult to fix the limit, but whenever that limit is reached, you cannot issue more; any attempt to issue more only destroys all values. Currency is to the nation precisely what blood is to the individual. It is the medium of exchange; it enlists the soldier; it feeds him, it clothes him, precisely as the blood conveys the nutriment from air, food, and water to support human life. Currency is like blood; the very moment a sufficiency is in the human frame to form a healthy circulation you dare not add to the quantity without producing disease and finally death. So it is with the currency of the country, whether it is gold or paper money. The United States had the right to issue its notes. It was the only course left. There was no way to conduct this war except by issuing them. Now the question comes up whether the bank notes issued by local corporations do not tend to embarrass and hinder the Government in the use of its clear power to borrow money and issue paper.

I will not go back to the argument which I presented to the Senate two years ago, in which I

laid before them the authorities on this question, and showed that some of the framers of the Government, that such statesmen as Jefferson and Madison, and, to come later down, even the great Daniel Webster, expressed the opinion that the issue of State bank paper money was not within the purview of the Constitution; that paper money issued by a State bank was really a bill of credit issued by a State, and therefore prohibited by the Constitution. But waiving that question, I ask whether, when the Government is compelled to enter the arena and make a paper money currency, the supply of a similar currency by organized banks, chartered by thirty different States, does not tend to embarrass and destroy the power of the Government? The Government of the United States cannot regard the paper issued by State banks as money. Would the Senator from Indiana, I ask him now in all candor, vote for a law that would authorize the Government of the United States to pay out the notes of the banks of New England, New York, or of the other States? If so, he would abandon his favorite theory. I believe no one of us would be willing to do it, because, although some of those banks are substantial and well founded, we should not like to resort to paper not controlled by the Government and not depending on the security of the Government. He does not propose to do it.

Now, sir, what are the facts? We have four hundred millions of United States notes outstanding, and the State banks have one hundred and sixty-seven millions of their notes out. We have two hundred millions of legal-tender notes bearing interest, but which are only in circulation to a limited extent. Who does not know that this enormous volume of paper tends to embarrass all the operations of the Government, tends to raise the prices of all the provisions needed for the Government, tends to create extravagance and profligacy, and a wild spirit of speculation?

It is, therefore, the problem of the times; the most important thing Congress can do is to reduce even by arbitrary measures the volume of circulation. How shall it be done? I say in the first place that it ought to be done by compelling the State banks to withdraw their paper issues. In times of peace they did no harm. They merely filled the channels of local circulation. In times of war, however, these bank notes compete with the notes issued by the Government, necessarily issued by it, which it could not get along without, and they tend to swell the volume of currency beyond what is necessary. I say, then, and I proclaim it openly, that my purpose is not so much revenue as it is to retire the circulation of local bank paper with a view to the reduction of the currency.

Suppose we should now by a system of taxation, high taxation, if you please, compel the banks to pay their \$167,000,000 of indebtedness to the people in the form of circulating notes, would not that reduce the currency? The withdrawal of that bank paper would do more to bring prices down to the old standard than any measure which could be proposed. Has not the Government the right to do this? Has it not the power to do it? I think it has, and I think it is its duty to do it. If I had my way I would levy on these banks as a tax the full amount of lawful interest on their circulating notes; and why?

These banks do not redeem their notes; they do not comply with their contract with the people; they do not pay gold and silver coin for their notes. They do not redeem their notes in the mode pointed out by law. There is not a single charter organizing a bank in the United States that has not been forfeited by the express provisions of that charter. Suppose we enforce that forfeiture, have we not a right to do it? These banks are receiving now from the people interest on their circulating notes. Why should not that be paid and used for the benefit of the General Government? I know no reason.

I say, therefore, that it will be a wise act of legislation to induce the State banks to retire their issues, or to compel them to do so by taxation. It has been often said that this is an interference with the right of property. It is not. It only compels these banks to pay their debts and withdraw their circulation. It has been called a confiscation of existing rights. It is not. It does not confiscate a single right; and when these banks

pay off their debts they only do what they have engaged to do: In ordinary times I would not interfere with them; but now, when it is indispensably necessary for us to reduce the volume of paper currency, I would compel the State banks to retire theirs; and I would not end there, and it is not the desire of the Government to end there. I know that the amount of United States notes now outstanding is entirely too large, and it is the determination of those who conduct the finances to reduce the volume of circulation. I know it is now being reduced day by day, and it will be reduced more. It will be and must be funded. There is no other course left. This large redundant circulation must be retired as rapidly as possible, but I ask you how it can be done now, with two systems of banks rivals with each other. Suppose the Government desires to reduce the circulating medium. The very moment the Government commences reducing its circulation, that very moment these banks would commence to increase theirs. There would be a pressure on the money market, and the banks would come in with new notes issued by them, and increase the circulation. The Senator refers to Indiana. Although the Government has been reducing its circulation for the last six months, I have tables before me showing that certain banks in every one of the eastern States have largely increased their circulation. These tables, which I will print, show a wonderful exhibit. At a time when every man in the country nearly is crying out against the inflation of paper money, these banks, scattered all over the principal commercial States, are largely inflating their issues. In the State of Maine, here is a selection of twelve banks, showing an increase in the last six months of \$311,410. In the State of New Hampshire there is an increase in twelve banks—the banks with the largest increase of circulation are selected—within the last six months, of \$146,325.

Mr. POMEROY. That is without any increase of capital.

Mr. SHERMAN. With no increase of capital and no redemption. In the State of Vermont—the State so ably represented by the honorable Senator, [Mr. COLLAMER]—twelve banks in that State have in the last six months increased their circulation \$450,349, or thirty-two per cent. of their aggregate circulation. In the State of Massachusetts twelve banks have increased their aggregate circulation in six months \$827,278. In the State of Rhode Island twelve banks whose total increase is \$160,660, or twenty-five per cent. on their old circulation. In the State of Connecticut there is an increase in twelve banks of \$314,132, or eighteen per cent., and that at a time when everybody admits that there is an inflation of the paper money, and when it is an offense, not against the public morals, but against the public safety, to further increase the volume of circulation.

In the State of New York the total increase is \$1,254,087, of which \$530,970 was in the city. In New Jersey a list of twelve banks shows an increase of \$499,539, or thirty per cent. on their circulation within the last six months. In Pennsylvania in twelve banks there is an increase of \$1,266,443, or twenty-five per cent. on their circulation; in Maryland there is an increase of \$754,096, or thirty-eight per cent. by nine banks. The increase by four banks in the State of Delaware is \$55,725.

I know that in Ohio and Indiana and the Northwest generally, the circulation of State banks has decreased; and why? Because our banks are gradually going into the national system, where they do render an active aid to the Government by the purchase of United States bonds and by coming under the general supervision and control of the national authorities. But the banks in the States I have designated have largely inflated their paper money at this time when every man knows that it is improper to increase it. What power have we over them, what power has this great Government over these banks? They may issue tomorrow \$100,000,000 of their notes, and what power have we over them? They would forfeit their charters, it is true; but they have forfeited their charters at any rate already. When every addition of \$1,000,000 to our aggregate circulation is destroying the vital element which sustains the national life, here are these banks be-

hind your power and control inflating the currency, running rivals to the national Government in the issue of paper money. In a time of war the issue of paper money is the same as coining money; gold having disappeared there is nothing but paper money, and when a bank issues paper money it coins money. This is the very highest attribute of sovereignty, carefully reserved to the national Government by the Constitution. These banks, then, in issuing money in this time when money is superabundant, coin money in express violation of the Constitution, and exercise that function of sovereignty which Congress alone has the power to authorize.

Mr. HENDRICKS. I desire to ask the Senator from Ohio whether his table shows the increase of circulation of the different State banks from the time the law authorized the issue of the legal tender Treasury notes until the present time.

Mr. SHERMAN. No, sir. But I will tell the Senator that he will find full information on that subject in the Finance Report which is on his table, or he can get it by sending for it. I give these figures because they are later than those shown by the published reports. I know that there are other causes of inflation besides the issue of bank paper, and it would be very wrong for any one to leave the impression that that alone is the cause of bank inflation. One fruitful source of inflation is the common habit adopted now in the city of New York and extending all over the country, of using certified checks where money is never paid; and these certified checks are used precisely as currency. I have it from intelligent bankers engaged in the business, that nothing has tended so much to inflate the currency of the country as the use of certified checks in the form in which they have been used; but that is not all.

The Government of the United States has undoubtedly tended to inflate paper money by the issue of United States notes, but there is this material difference between the banks and the Government in this respect. The Government has been compelled by the necessities of war to issue its paper money in order to furnish a circulating medium to pay the soldiers and to carry on the operations of war. The banks, however, have no excuse for their increase of circulation. They do it for gain, for profit, to the manifest detriment and injury of the public credit and of the whole country, because every citizen has his property affected by this enormous inflation. The Government has been compelled to issue paper money by its stern necessities. It has had no choice. If it had any choice I would not resort to it for one. It must use paper money in order to carry on the war; but the banks have no such pretext and no such reason. They issue their paper money now when they know that all the channels of circulation are filled. I say, therefore, that it is an act of patriotism in them to retire their circulation; and I am thankful that the State Bank of Indiana and the State Bank of Ohio have done their share in this respect. All I desire by this amendment is to induce them or compel them to withdraw their circulation, and thus leave the channels of trade to be filled by the circulation of United States money.

But it was said the other day by my friend from Missouri, [Mr. HENDERSON,] and I am sorry he is not here, as I wish to reply to one or two observations that he made, that the national bank bill which we passed the other day tends to create the same inflation. The purpose of that bank bill is, and I believe the effect of it will be, to reduce the circulation; and why? It will be necessary, I have no doubt, in the process, to induce the State banks scattered all over the United States to go into the national system or to retire from the field. That will be done. I think an unhealthy competition long continued between these two systems of banks would be injurious to both. I wish that the State banks themselves would look at it in a patriotic view and see that two rival systems standing side by side, filling the channels of circulation, cannot exist and prosper. One or the other must give way. I have no doubt of it. The objection to the State banks is that they are diversified; they are not under a common head; they are under no common control; they make no common reports; they have no common security, no common basis of redemption, no common system

of exchange. The most that can be said of them is that the banks of the State of New York are compelled to redeem in the city of New York.

This system of local bank paper will not answer the purpose; and it is a good old Democratic doctrine that the Government must not rely upon the use of local bank paper. It cannot use it as currency. We have provided a medium through the national bank system by which the State banks, without a sacrifice of any interest of theirs, may go into the system based on national stocks, where they will be compelled by their organization to render the Government some aid in the purchase of bonds, and where they will be under the control and supervision of Congress, and, through Congress, of the people, where they may be called to account, where their circulation may be limited, where all their functions and operations may be controlled by the public will, for the national banks depend solely on the public will; they are always within the power of Congress; every man who goes into them knows that the system must be so conducted that the public sentiment will sustain them, or else they will go to the wall. The law organizing them may be repealed, and they may be driven out at any time by the power of Congress. They are under bonds for good behavior. They file in the vaults of the United States more than the amount of their circulation in bonds of the United States taken at this time when it is necessary for us to sell our bonds. I say these two systems running rival with each other will undoubtedly endanger each other, and therefore it is our duty and our right, exercising the sovereign power of Congress, to compel the local banks either to retire from the field or to go into the national system.

But, Mr. President, the remark has been made several times, and I may as well answer it now, as I do not wish to continue this discussion long, "Why issue bank paper, why not continue the issue of greenbacks without interest, and let the Government get the benefit of the interest?" There are several answers to this suggestion. The first is that paper issued without any plan of redemption is always uncertain and unstable, and tends to inflate and depreciate the currency. The greenbacks are simply a promise of the Government of the United States, redeemable in bonds. To the amount of a reasonable circulation, say two or three hundred million dollars, they would be nearly equivalent to gold; but the very moment you issue more than that you depreciate their value. The aggregate notes of the United States now, about \$400,000,000, are not worth as much in gold and silver as \$250,000,000 would have been if only \$250,000,000 had been issued. We know that very well. Every issue tends to depreciate their value. The ease with which this paper can be issued, the fact that it is not redeemable, that there is no private interest to protect it, operates against it. There is another and a very striking argument against the further use of United States paper money; and that is, that the experience of several nations, where the Government has issued too much circulating money, shows that the inevitable road which has been often traveled is, first, a decline, and, finally, repudiation. France repudiated her Government paper money. Our own Government repudiated the Continental money. That has been the history of large issues of paper money by all Governments; but it is very different with bank paper. No bank paper will be repudiated by the Government, because it is not a loan of the people, it is not a debt of the people who control the legislation of Congress, but it is the debt of banks, of private individuals, of private associations, who are bound by the law to redeem their notes. No Government will ever relieve a bank from that liability.

Therefore it is that the notes of the Bank of France, which is a private corporation, are just as good as gold and silver. They may fluctuate backward and forth occasionally, but after all the French people will demand that the private individuals who have invested in the Bank of France shall redeem the notes of that bank. So in Great Britain, the notes of the Bank of England are not the debt of the people, but they are the debt of the corporations, the individual citizens who own the bank, and the people of England will always insist that those notes shall be redeemed. If the question

should ever come up hereafter in future times, and we should have a large issue of paper money outstanding without any foundation for it except the credit of the Government; there would be a bare possibility, although I can scarcely conjecture it, that the United States might do what other nations have done. That, however, can never be the case with notes which individuals are bound to pay, which individuals have pledged their property to pay, which individuals are personally liable to pay. The nation will always enforce such a contract against individuals, though it might not as against itself; and therefore it is that bank paper secured by the Government is always better than the Government paper itself. If the United States should repudiate the greenbacks, it might be excused by the example of other nations; it would be a wiping out of a debt of the people of the United States, it operating as an unjust form of taxation, but the people will never allow the owners of these banks, the men who take stock in the national associations, to repudiate their notes until not only the stocks in the hands of the Government are exhausted and sold, but until their individual liability is exhausted, and that is more than ample to redeem them whatever may come.

It is for these reasons that bank paper, secured by the Government, has sanctions and securities that are not contained in the mere issue of Government circulation, because it has the liability of the Government in the first instance, based also upon the liability of individuals, with the interest of the whole community to compel the banks to pay their debts. The national bank currency will be better and less in danger of repudiation than the greenbacks, though I have entire faith and confidence in both.

But, Mr. President, it is said that the issue of this national currency has the same effect as the issue of local bank paper, and that it will tend to depreciate the value of United States paper. So it would if you kept out in circulation all the United States money you now have out, and also authorize the issue of national bank currency besides. The inevitable effect would be to destroy both; both would go down together; but, sir, I take it to be the policy of the Government, as it is the plainest dictate of reason, to retire its circulation at least as fast as the national bank currency is issued. We can do it by funding; we can do it in various ways. We must do it. If the United States continue to issue its own notes in the form of currency and also authorize national bank notes to be issued *par passu*, both together, in overwhelming amounts, as a matter of course the result would be to destroy all values; but I take it that it is and must be the policy of the Government to retire as rapidly as possible the United States notes and to substitute for them the national currency. It may not be done to-day; it may not be done to-morrow. It will be a gradual process, taking time. It is a slow operation. The sad perils and necessities of war may keep this money outstanding longer than it ought to be, but still that the policy of the Government will be what I have just stated no man can doubt.

Suppose to-morrow we should hear of great and glorious victories from our armies in the West and our armies in Virginia; suppose confidence should be restored in this country and the Union restored, how rapid a process would the funding of all the United States notes be! Very rapid. Every man then would have confidence in the Government. Although the debt of the United States now may be \$1,700,000,000, who doubts the power of the Government to pay the interest on this debt and very rapidly to pay the principal? Even the retirement of \$200,000,000 of outstanding circulation would be worth more to us than a great victory, by reducing the value of gold and removing the perils and dangers by which we are now surrounded. I say, therefore, that the national bank circulation will be of great importance when we shall step out of this stage of war into the stage of peace, when the notes of the United States shall be funded and retired from circulation and we again assume it in the form of a debt. Then this national currency, made uniform in its redemption, in its execution, in its security, in its law, will furnish us what we never have had in this country, a national currency founded upon the public faith, secured by the

public bonds, and also doubly secured by the individual liability of the stockholders and the interest of all the persons engaged in the system.

Mr. President, I have said all that I desire to say in regard to taxing banks, but as the tax bill is now under consideration I will occupy a moment or two in relation to the general merits of the bill. In my judgment this effort to codify our tax law this year was unwise. I believe that all that is vital and essential in this volume of law might have been far better condensed into five or ten pages. But still the House of Representatives, being the judges of this subject, have sent us this bill. In my judgment it is not sufficient. It is trifling with a great duty and is inadequate to sustain our vast expenditure. I believe that a simple law trebling the income tax, or raising it to ten per cent., (not a very high war income tax), a tax of about twenty per cent. on manufactures, would be far better than this complex mammoth bill. I would levy it any moment. If Senators will look back to the discussions in the early history of the Government they will notice a very singular change of opinion in regard to taxation. In the First Congress when the first impost law was framed duties on imported goods were put at the rates of five to twelve and a half per cent. They hesitated whether they would put three per cent. or five per cent. on many articles. They finally concluded, as the country was terribly in debt, that they would levy a duty of five per cent. on certain imported goods. They looked then upon a tax upon imports precisely as we do now upon a tax on manufactures. A duty of fifty per cent. on all the manufactures of this country would not add to the price of the articles sold by the manufacturer one half as much as your inflated currency has added to that price.

Take bar iron in its roughest state, the simplest production of labor; it was worth before this war commenced about \$50 a ton; it is now worth \$140. It is true this is partly caused by the demand for labor; many causes operate in this matter. It has more than doubled in price. The inflation of the currency has contributed some to it as well as the absence of labor. How much now does the little tax of five dollars a ton we have put on that article contribute to its cost? Nothing whatever. If we had a stable currency, limited in amount, well regulated, controlled by law, so that the people would have confidence in it, a tax of twenty-five or even fifty per cent. on all the domestic manufactures of this country would not be felt by our people. It would be cheerfully and promptly paid. The tax we here impose does not add materially to the cost of the article. A system of taxation could be devised that, in my judgment, would yield much more revenue; but I do not propose to offer any such amendments, nor do I suppose the Committee on Finance will, and may entirely disagree with me in these propositions. We would not be justified in the present condition of the country in delaying this tax longer in order to change and modify this, or adopt a new system.

This bill, such as it is, has been sent to us; we ought to pass it. It is said it will yield \$250,000,000, but I believe that an income tax of ten per cent. on all incomes above the mere product of a man's daily toil, a tax of twenty-five or even fifty per cent. on manufactures fairly collected, a large tax on those articles of luxury consumed by the rich, and then a tax on common carriers who are but the freight agents of this country, would yield more than twice as much, with far less trouble and expense in collection. We could then dispense with all the insignificant and trifling taxes with which the bill abounds. A tax of one half of one per cent. on gold dug out of the bowels of the earth in California is perfectly insignificant. We have never exercised our power of taxation. The wealth of this country and the manufacturers of this country are capable of bearing an enormous taxation. We could pay twice the amount levied by this bill. I do not feel alarmed at taxation. I feel more alarm at the condition of the currency than I do at any system of taxation or on account of our public debt. If we could reduce the currency by a wise system of legislation to a stable basis, so that every man would feel that the note he held in his hands was the representative or nearly the representative of gold and silver, we should have no

difficulty by taxes in carrying on the war. A system of taxation might be devised that would yield \$500,000,000, which could be paid now better than at any other time. Now, prices are necessarily inflated by the war, but when the war is over there will be a period of depression. Now is the time to collect taxes. England for years collected sixty per cent. of her enormous war expenditures in her struggle with Napoleon; her income tax was raised to fifteen per cent; many of her taxes would now be considered almost fabulous.

We have all this rich mine of taxation open to us. We have a people who are patriotic beyond comparison, a people every where demanding a just and fair system of taxation; nowhere complaining that the burdens of this war are thrown upon them. They feel that their national existence, all that is near and dear to them as citizens, as families, as States, and as a nation, is depending on this contest. They do not complain of the burdens that are heaped upon them; they demand those burdens; all they ask is fairness and equality.

Sir, I believe that if Congress should now resume its just and legal power over the currency of the country, and control all currency with its mighty power, we might do more good to our country than General Grant can do even by a great victory at Richmond. Yes, sir, although the State Bank of Indiana may be a very good bank, although the State Bank of Ohio may be, as I know it is, a very excellent bank, yet as the \$167,000,000 of State bank currency is now a part of our circulating medium, it fills a place that is dangerous to our peace, dangerous to the condition of our country. I would, without doing any unnecessary injury to the owners of this property, put it out of the way, compel these bank proprietors to pay their debts, to retire their circulation, and conform to the general laws prescribed by Congress, or else cease to do the business that now inflicts a great national harm. Then, sir, I would, if necessary, by law, although I do not believe it is necessary to pass any such law, adopt a policy that would compel the funding of the United States notes to an amount that is reasonable, even if necessary by a sale in open market for what they will bring of the bonds of the United States. It is better for us to sell our bonds even below par than to continue this enormous inflation of paper money. Then, sir, by a wise system of taxation we could approach very nearly our expenditures, and the difference between our expenditures and receipts should be paid by the sale of bonds of the United States. Make them a mortgage on the future earnings of our country. I believe we should do more good to our country by such a financial system than even General Grant can do at the head of his army against our foes at Richmond.

*Synopsis of increase of circulation in State Banks (as shown by report made to the Commissioner of Internal Revenue) from October, 1863, to April, 1864.*

#### MAINE.

Seventy-one banks, of which but thirty-eight show circulation for both periods, October, 1863, and April, 1864.

Of these thirty-eight twelve exhibit an increase, as follows:

Name of Bank.	Capital.	Average circulation.	
		Oct'r, '63.	April, '64.
Biddeford Bank.....	\$150,000	\$89,741	\$110,642
Calais Bank.....	100,000	60,349	79,127
Casco Bank.....	60,000	321,145	402,524
Coburn Bank.....	100,000	44,121	81,032
Frontier Bank.....	75,000	57,033	69,674
Gardiner Bank.....	50,000	24,407	37,054
Granite Bank.....	75,000	35,442	65,219
Northern Bank.....	100,000	55,635	80,754
Oakland Bank.....	50,000	20,399	47,328
Orono Bank.....	50,000	37,368	44,157
Richmond Bank.....	75,000	39,037	53,562
Rockland Bank.....	150,000	74,301	103,705
	\$1,035,000	\$866,968	\$1,178,378
			866,968
			\$311,410

Total increase, \$311,410, being over 35 per cent.

#### NEW HAMPSHIRE.

Fifty banks, of which but thirty-three show the circulation for both periods, October, 1863, and April, 1864.



Of these thirty-three twelve exhibit an increase, as follows:

Name of Bank.	Capital.	Average circulation.	
		Oct'r, '63.	April, '64.
Belknap County Bank...	\$80,000	\$60,118	\$71,023
City Bank.....	150,000	128,941	137,080
Claremont Bank.....	100,000	81,170	98,067
Citizens' Bank.....	70,000	55,382	67,078
Cheshire Bank.....	100,000	84,089	89,190
Cheshire County Bank...	100,000	74,555	87,281
Great Falls Bank.....	150,000	77,945	101,458
Moudonock Bank.....	50,000	46,943	48,857
Rochester Bank.....	80,000	71,258	73,019
Rockingham Bank.....	200,000	131,929	162,275
Souhegan Bank.....	100,000	86,674	90,000
Somersworth Bank.....	100,000	68,000	88,000
	\$1,280,000	\$967,003	\$1,113,328
			967,003
			\$146,325

Total increase, \$146,325, being over 15 per cent.

## VERMONT.

Forty-two banks, of which but twenty-five show the circulation for both periods, October, 1863, and April, 1864. Of these twenty-five twenty exhibit an increase, and twelve as follows:

Name of Bank.	Capital.	Average circulation.	
		Oct'r, '63.	April, '64.
Bank of Bellows Falls...	\$100,000	\$104,686	\$147,530
Bank of Caledonia.....	75,000	62,036	105,057
Bank of Newbury.....	75,000	113,353	136,614
Bank of Royalton.....	50,000	76,593	95,072
Bank of Vergennes.....	150,000	224,528	265,164
Bank of Waterbury.....	80,000	91,905	113,334
Lamolle County Bank...	50,000	53,161	86,133
Merchants' Bank.....	120,000	199,334	218,333
Northfield Bank.....	75,000	94,246	117,653
Rutland County Bank...	69,925	127,064	188,162
Vermont Bank.....	100,000	87,896	184,940
Woodstock Bank.....	100,000	148,363	174,722
	\$1,044,926	\$1,383,165	\$1,833,514
			1,383,165
			\$450,349

Total increase, \$450,349, being over 32 per cent.

## MASSACHUSETTS.

One hundred and eighty-four banks, of which but one hundred and ten show the circulation for both periods, October, 1863, and April, 1864. Of these fifty-eight show an increase, and twelve as follows:

Name of Bank.	Capital.	Average circulation.	
		Oct'r, '63.	April, '64.
Atlas Bank.....	\$1,000,000	\$181,160	\$224,913
Globe Bank.....	1,000,000	38,938	65,829
Granite Bank.....	900,000	110,054	195,853
Howard Bank.....	500,000	172,319	228,118
Massachusetts Bank.....	200,000	143,580	175,096
Meyrick Bank.....	400,000	65,598	132,624
Mechanics' Bank.....	600,000	259,068	318,908
National Bank.....	750,000	79,827	101,810
North Bank.....	860,000	201,529	422,028
Rollstone Bank.....	250,000	153,336	200,756
Shoe and Leather Bank...	1,000,000	281,008	354,794
Suffolk Bank.....	1,000,000	247,740	311,685
	\$8,460,000	\$1,935,160	\$2,762,444
			1,935,166
			\$827,278

Total increase, \$827,278, being over 42 per cent.

## RHODE ISLAND.

Eighty-seven banks, of which but forty-eight show the circulation for both periods, October, 1863, and April, 1864. Of these twenty show an increase, and twelve as follows:

Name of Bank.	Capital.	Average circulation.	
		Oct'r, '63.	April, '64.
Bank of America.....	\$195,600	\$91,246	\$130,062
Hope Bank.....	130,000	21,562	25,886
Liberty Bank.....	121,150	36,067	54,217
Mechanics and Manufacturers' Bank.....	228,900	122,360	138,120
Patuxet Bank.....	150,000	18,224	25,459
Rhode Island Union Bk.	165,000	35,141	45,355
State Bank.....	154,450	29,685	43,179
Smithfield Union Bank.	150,000	33,572	38,239
Wakefield Bank.....	100,000	29,402	37,744
Washington Bank.....	150,000	66,316	80,262
What Cheer Bank.....	160,400	65,145	80,311
Union Bank.....	500,000	87,472	108,044
	\$2,265,500	\$636,218	\$796,878
			636,218
			\$160,660

Total increase, \$160,660, being over 25 per cent.

## CONNECTICUT.

Seventy-five banks, of which but forty-four show the circulation for both periods, October, 1863, and April, 1864. Of these twenty-four show an increase, and twelve as follows:

Name of Bank.	Capital.	Average circulation.	
		Oct'r, '63.	April, '64.
Bank of Commerce.....	\$205,000	\$77,162	\$86,133
Citizens' Bank.....	300,000	157,000	210,392
City Bank, New Haven.	500,000	200,950	251,750
City Bank, Hartford.....	500,000	274,184	358,524
Danbury Bank.....	327,000	150,000	191,368
Mercantile Bank.....	500,000	314,556	384,000
Merchants' Bank.....	214,503	70,816	105,549
Norwich Bank.....	220,000	71,230	109,914
Paliquoque Bank.....	250,700	148,805	179,663
Shetucket Bank.....	100,000	13,773	33,936
Thames Bank.....	582,000	287,939	332,390
Windham County Bank.	107,900	42,067	78,895
	\$3,807,103	\$1,808,482	\$2,322,614
			1,808,482
			\$514,132

Total increase, \$514,132, being over 18 per cent.

## NEW YORK CITY AND STATE.

Fifty-six banks, of which but thirty-three show the circulation for both periods, October, 1863, and April, 1864. Of these thirty-three nine show an increase, as follows:

Name of Bank.	Capital.	Average circulation.	
		Oct'r, '63.	April, '64.
<i>New York City.</i>			
East River Bank.....	\$206,525	\$89,314	\$115,952
Importers and Traders' Bank.....	1,500,000	97,749	187,000
Irving Bank.....	500,000	51,094	86,537
Mechanics and Traders' Bank.....	600,000	107,186	210,217
North River Bank.....	400,000	45,785	63,736
Ocean Bank.....	1,000,000	47,954	94,928
Oriental Bank.....	300,000	116,170	155,857
Park Bank.....	2,000,000	223,066	340,000
Shoe and Leather Bank.	1,500,000	516,023	564,784
	\$8,006,525	\$1,287,341	\$1,818,311
<i>New York State.</i>			
Albany Exchange Bank.	\$300,000	\$260,418	\$339,305
Auburn City Bank.....	200,000	109,270	131,317
Bank of Geneva.....	205,000	140,397	198,750
Bank of Lansingburg.....	150,000	190,882	297,841
Bank of Lowville.....	100,000	130,787	202,723
Bank of Poughkeepsie.....	250,000	174,167	223,759
Central Bank.....	200,000	155,101	186,492
City Bank, Oswego.....	276,400	135,817	288,524
Cuba Bank.....	100,000	135,605	182,304
Farmers and Drivers' Bank.....	111,150	61,000	95,000
Flour City Bank.....	300,000	116,033	154,577
Montgomery County B'k.	100,000	106,744	157,796
	\$2,292,550	\$1,725,271	\$2,458,388
			\$530,970
			733,117
			\$1,264,087

Being over 41 per cent.

## NEW JERSEY.

Fifty-seven banks, of which but twenty-six show the circulation for both periods, October, 1863, and April, 1864. Of these twenty-six eighteen exhibit an increase, and twelve as follows:

Name of Bank.	Capital.	Average circulation.	
		Oct'r, '63.	April, '64.
Bank of Jersey City....	\$246,600	\$114,936	\$138,124
Bank of Ocean County....	50,000	15,857	32,632
Burlington County B'k...	70,000	46,214	68,148
Central Bank of N. J....	75,000	61,188	77,141
Essex County Bank.....	300,000	297,742	364,171
Farmers and Mechanics' Bank.....	200,000	242,743	444,204
Lambertville Bank.....	50,000	48,689	60,123
Mercantile Bank.....	100,000	111,417	160,146
Mount Holly Bank.....	100,000	111,140	143,593
Salem Banking Company	75,000	97,493	139,937
Trenton Banking Company.....	350,000	329,744	407,893
Union County Bank....	40,000	68,746	82,336
	\$1,656,600	\$1,618,009	\$2,118,448
			1,618,009
			\$499,539

Total increase, \$499,539, being over 30 per cent.

## PENNSYLVANIA.

Ninety-seven banks, of which but forty-five show the circulation for both periods, October, 1863, and April, 1864.

Twelve of these show an increase, as follows:

Name of Bank.	Capital.	Average circulation.	
		Oct'r, '63.	April, '64.
Allegheny Bank.....	\$500,000	\$783,870	\$931,905
Bank of Chester Valley...	150,000	155,796	171,558
Bank of Crawford County	297,481	420,766	585,121
Bank of Pottstown.....	100,000	215,438	257,042
Exchange Bank, Pittsburg.....	1,000,000	1,732,988	1,845,146
Government Bank.....	50,000	49,925	125,630
Farmers & Mechanics' Bank.....	360,000	409,791	625,256
Lancaster County Bank	260,480	456,783	514,856
Mechanicsburg Bank...	70,000	64,613	84,495
Petroleum Bank.....	100,000	120,095	286,640
Venango Bank.....	100,000	139,167	289,500
York County Bank.....	150,000	241,000	299,526
	\$3,146,961	\$4,790,232	\$6,016,675
			4,790,232
			\$1,226,443

Total increase, \$1,226,443, being over 25 per cent.

## DELAWARE.

Fifteen banks, only eight of which show the circulation for both periods, October, 1863, and April, 1864. Of these eight the following four exhibit an increase:

Name of Bank.	Capital.	Average circulation.	
		Oct'r, '63.	April, '64.
Bank of Delaware.....	\$110,000	\$95,239	\$109,025
Delaware City Bank....	50,000	113,756	117,064
Farmers & Mechanics' Bank.....	100,000	44,496	69,510
Branch Farmers' Bank of Delaware.....	120,000	133,538	147,315
	\$380,000	\$387,409	\$443,134
			387,409
			\$55,725

Total increase, \$55,725, being over 14 per cent.

## MARYLAND.

Thirty-seven banks, of which but twenty-one show the circulation for both periods. Nine of these thirty-one exhibit an increase, as follows:

Name of Bank.	Capital.	Average circulation.	
		Oct'r, '63.	April, '64.
Bank of Commerce, Baltimore.....	\$500,000	\$548,186	\$602,580
Bank of Westminster....	91,517	121,555	130,278
Easton Bank of Maryland.....	200,000	153,043	187,147
Farmers & Mechanics' Bank of Greensboro'...	100,000	20,050	50,061
Farmers & Mechanics' Bank of Elkton.....	50,000	32,324	66,277
Farmers and Planters' Bank, Baltimore.....	800,000	311,712	495,629
Fell's Point Bank.....	350,012	91,996	107,336
Howard Bank, Baltimore	245,870	73,978	139,810
Merchants' Bank, Baltimore.....	1,500,000	630,000	958,000
	\$3,837,399	\$1,982,854	\$2,736,950
			1,982,854
			\$754,096

Total increase, \$754,096, being over 38 per cent.

Name of Bank.	Capital.	Average circulation.	
		Oct'r, '63.	April, '64.
Bank of Jersey City....	\$246,600	\$114,936	\$138,124
Bank of Ocean County....	50,000	15,857	32,632
Burlington County B'k...	70,000	46,214	68,148
Central Bank of N. J....	75,000	61,188	77,141
Essex County Bank.....	300,000	297,742	364,171
Farmers and Mechanics' Bank.....	200,000	242,743	444,204
Lambertville Bank.....	50,000	48,689	60,123
Mercantile Bank.....	100,000	111,417	160,146
Mount Holly Bank.....	100,000	111,140	143,593
Salem Banking Company	75,000	97,493	139,937
Trenton Banking Company.....	350,000	329,744	407,893
Union County Bank....	40,000	68,746	82,336
	\$1,656,600	\$1,618,009	\$2,118,448
			1,618,009
			\$499,539

Total increase, \$499,539, being over 30 per cent.

## PENNSYLVANIA.

Ninety-seven banks, of which but forty-five show the circulation for both periods, October, 1863, and April, 1864.

298 New England banks out of 509 show perfect reports; 60 of these.....	\$2,410,154
252 other eastern banks out of 525 show perfect reports; 58 of these.....	3,799,790
550 banks in eastern States out of 1,034 show perfect reports; 118 of these.....	\$6,209,944

Estimated increase of all the banks east of the Alleghenies and including western Pennsylvania, \$13,000,000 in six months.

**THE PRESIDING OFFICER.** It becomes the duty of the Chair, under the order of the Senate, to announce that a recess will now be taken until seven o'clock this evening.

#### EVENING SESSION.

The Senate reassembled at seven o'clock p. m.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 450) to provide for the repair and preservation of certain public works was read twice by its title, and referred to the Committee on Commerce.

#### PRINTING OF AMENDMENTS.

**Mr. SUMNER.** I ask the consent of the Senate to have an amendment printed which I propose to offer to the bill (S. No. 286) to prohibit the discharge of persons from liability to military duty by reason of the payment of money.

**THE PRESIDENT *pro tempore*.** The amendment will be received, and the order to print be made, if there be no objection. The Chair hears none.

**Mr. WILSON** submitted amendments which he intends to offer to House bill No. 405, to provide internal revenue, &c.; which were received, and ordered to be printed.

#### PORT OF ENTRY AT PLATTSBURGH.

**Mr. MORGAN.** I move to suspend all previous orders, and take up the bill (H. R. No. 120) to reestablish the principal port of entry for the district of Champlain at Plattsburgh, and for other purposes. I think there is no objection to it.

**Mr. CLARK.** I hope we shall not postpone the bill before the Senate.

**Mr. MORGAN.** This bill will not take time.

**THE PRESIDING OFFICER.** (Mr. Foot in the chair.) If there be no objection, the motion will be regarded as carried, without displacing the regular order.

The bill (H. R. No. 120) was considered as in Committee of the Whole. It proposes to repeal the third section of an act to equalize and establish the compensation of the collectors of the customs on the northern, northeastern, and northwestern frontiers, and for other purposes, approved March 3, 1863, changing the port of entry for the district of Champlain from Plattsburgh to Rouse's Point, and to reestablish Plattsburgh as the principal port of entry for that district, at which the collector of customs shall reside; and a deputy collector is to reside at Rouse's Point, and be vested with all the power and authority given to deputy collectors by law; and all vessels coming into Lake Champlain from Canada, through the Richelieu or St. John's river, are to enter and report to him.

**Mr. MORGAN.** At the suggestion of the Senators from Vermont, I move to strike out the last clause of the bill in these words: "and all vessels coming into Lake Champlain from Canada, through the Richelieu or St. John's river, shall enter and report to him."

The amendment was agreed to.

The bill was reported to the Senate, and the amendment was concurred in. The amendment was ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed.

#### INTERNAL REVENUE.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 405) to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes.

**Mr. CLARK.** There are several amendments which have been unanimously agreed upon by the Committee on Finance to perfect the bill, and while Senators are coming in perhaps the pending amendment may be informally passed over, and I can offer these amendments in behalf of the committee.

**THE PRESIDING OFFICER.** It can be done by unanimous consent, there being a pending amendment. If there be no objection, that will be passed by for the time being to consider other amendments moved by the Senator from New Hampshire.

**Mr. CLARK.** I move to amend by striking out, in the first section of the bill, the words "an office is hereby created in the Treasury Department to be called the office of the Commissioner of Internal Revenue; and the President of the United States is hereby authorized to nominate, and, with the advice and consent of the Senate to appoint, a Commissioner of Internal Revenue, with an annual salary of \$4,000, who," and in lieu of them to insert, "the Commissioner of Internal Revenue, whose annual salary shall be \$4,000." I will state what is the object of this amendment, and several others which I shall offer in connection with it. It is to prevent the giving of new bonds by the Commissioner, Deputy Commissioner, cashier, assessors, and inspectors, &c.

**Mr. JOHNSON.** Leaves them in under the present law?

**Mr. CLARK.** Leaves them in under the old law. The office of Internal Revenue Commissioner was established by the old law, and I propose to let him stand under the old law, so that his old bond will hold good.

**Mr. WILSON.** I doubt the wisdom of this amendment, and I have prepared an amendment that I intended to offer to this section, requiring that immediately after the passage of this act the President shall appoint a Commissioner. I desire to have this bill so framed that it will require the appointment of a new Commissioner immediately. I think the great interests of the country demand it. I think that it depends very much upon the man what we are to receive as revenue; that some men will raise from fifty to one hundred million dollars a year more than others. I have not a word to say against the gentleman who at present fills that office, but in my judgment it requires one of the very first men of this country to fill that place. He ought to be a man fit for the office of Secretary of the Treasury of the United States. The salary ought to be larger than \$4,000; it should be at least \$6,000. I find in this bill that the Commissioner, who ought to be one of the foremost men of this country, a man fit to take any Department of this Government, is to have \$4,000 a year, while some collectors in some of the districts may have \$5,000.

I do hope that we shall not attempt to legislate the present Commissioner in his place; but I hope that it will be so amended that it will require that a new Commissioner shall be sent into this body, and that the Executive will understand that we demand one of the first men of this country. We want a man who will cast his eye over the whole country, who will sleep with his hands upon the wires, who will know every man under him, who he is and what he is, and all about the condition of every district of the country. We want a man of power, of influence, who knows how to interpret the laws, and how to administer the laws. We want the President to understand that if such a man is not sent in the Senate will not confirm him. I hold this to be one of the most important things before the country; that in assessing these great taxes upon the country there shall be put at the head of the Internal Revenue Department one of the ablest men of this country.

There is nobody who will pretend that the present gentleman, respectable as he is, is that man. Few men in the country are fit for the place, very few men; and I think the Senate should demand in passing this bill that if we have such a man in the country he shall be put at the head of this great department of our Government. The present condition of our finances demands this action, and we shall be false to duty if we fail to place a first-class man at the head of the Internal Revenue department, which is to collect three fourths of the revenues of the nation.

**Mr. RICHARDSON.** I desire to call the attention of the Senator from New Hampshire to one point in the proposed amendment. I believe all our courts have held that when you change the duties of an officer, or impose a new duty upon an officer, the securities that he formerly gave are not bound.

**Mr. TRUMBULL.** That depends on the character of the bond and the form of the law.

**Mr. RICHARDSON.** I am told by gentlemen around me that the Supreme Court have decided the reverse of what I have said. If so, I am mistaken.

**Mr. TRUMBULL.** If my colleague will allow me, I will state that it depends on the character of the bond and of the law. The bond may be so drawn as to make the securities responsible for additional duties imposed upon the officer, and I think that was provided probably in the other law and in the bond. If so, the securities are bound.

**Mr. RICHARDSON.** My opinion had been in reference to the law on that point that you had to require the securities to give their assent before they were bound.

**Mr. TRUMBULL.** Not if the law provided when the man took the office, and the bond provided that in case other duties should be cast upon him, he would discharge the duties of the office and any additional duties imposed upon him by law. Then if the securities enter into that bond with that understanding, I see no difficulty.

**Mr. McDUGALL.** That is the law undoubtedly; but is that the case in this instance?

**Mr. CLARK.** I did not suppose, Mr. President, that it was the object of the House of Representatives or of the Senate in framing this bill to legislate the Commissioner out of office. I should agree with much that has been said, perhaps with all that has been said by the Senator from Massachusetts in regard to the qualifications of the person who shall hold this office of Commissioner of Internal Revenue. It should be filled by a man of extraordinary ability, of fine talent, and great watchfulness; but I did not suppose that Congress would wish to take the extraordinary course of abolishing the office and establishing a new one to get rid of the incumbent. If that be so, and the Senate come to the conclusion that it is best for them to retain the provision of the bill for the purpose of turning out the incumbent and establishing a new office, then I suggest to the Senator from Massachusetts that that should be done in regard to the whole of them, that you should not single out by legislation this one man and discharge him in that way. I submit to the Senator whether it would not be best to make the effort in another direction, because if you legislate the man out of office you have no surety that the President will not appoint the same man.

**Mr. WILSON.** The Senate can take care of that.

**Mr. CLARK.** That may be or may not be. I think we have had a great deal of experience in that direction. I think it may be worth the Senator's consideration whether it would not be best to let the bill be perfected; let the amendment be made in Committee of the Whole, and let us see what we get from the bill, and then he can retain his control of it in the Senate.

**Mr. McDUGALL.** Will the Senator allow me to ask him a question?

**Mr. CLARK.** Certainly.

**Mr. McDUGALL.** Having just come in, and not understanding exactly the run of the debate, I should like to know how the amendment affects the status of the present Commissioner.

**Mr. CLARK.** The amendment that I propose allows the present Commissioner to remain in his office. It does not abolish the office or create a new one. I move the amendment for that purpose, to leave the Commissioner in his old office, with his old bond standing until he is removed, or in some other way out of the office. I will suggest to Senators, as I have done already, to let the amendment be adopted and let us perfect this series of amendments; let us see how the bill looks, and then the Senate will have control over it; and if when the Senate is fuller it chooses to take the extraordinary course suggested for the purpose indicated, I do not know but that it will be wise; I do not know but that I shall go with the Senator from Massachusetts if that is thought to be best. I concur with him in his object to a very great extent, but I should desire to reach it in another way if I could.

**Mr. SHERMAN.** There is a whole series of amendments now offered by the Senator from New Hampshire, simply to carry out that idea, in order to avoid impairing the validity of the bonds, to recognize the offices as continuing. The Pres-

dent, of course, will have power of removal ample and complete, and it is very important to preserve the existing liability of the bonds. If the bill should pass as it came from the House of Representatives, the securities would be discharged and the bonds released, and new appointments would have to be made; and besides that, the probability is we should lose the benefit of the income tax for this year. It is a very serious question. I hope, therefore, the Senate will adopt the amendment of the Senator from New Hampshire, simply for the purpose of preserving the bonds and the liability of the sureties. If the President chooses he can make removals and send in new appointments at any time; but we ought not to force him to make removals or changes by legislation.

Mr. WILSON. On the suggestion of the Senator from New Hampshire, to allow him to present his amendments and perfect the bill as he desires in committee, I will withdraw opposition to his amendment at the present time; but I certainly want it understood that before this matter is closed I shall want an understanding about this bill, for I have no heart to vote for a bill to be administered as the law is now administered in the country.

Mr. CLARK. I will say to the Senator from Massachusetts that I will labor with him cheerfully to accomplish his object.

The amendment was agreed to.

Mr. CLARK. I move further to amend the bill upon the 4th page, section three, by striking out after the word "that" in the first line of the section down to "shall" in the sixth line, and inserting what I send to the Chair.

The Secretary read the words proposed to be stricken out, as follows:

The President shall appoint in the Department of the Treasury, by and with the advice and consent of the Senate, a competent person, who shall be called the Deputy Commissioner of Internal Revenue, with an annual salary of \$2,500, who.

The words proposed to be inserted were read, as follows:

The Deputy Commissioner of Internal Revenue, whose annual salary shall be \$2,400.

So as to read:

That the Deputy Commissioner of Internal Revenue, whose annual salary shall be \$2,400, shall be charged with such duties in the Bureau of Internal Revenue, &c.

Mr. McDOUGALL. Let me ask the Senator from New Hampshire, does he mean to withdraw him from the confirmation of the Senate?

Mr. CLARK. Not at all. I propose to leave him standing under the old law as I did the Commissioner.

Mr. McDOUGALL. Very well.

The amendment was agreed to.

Mr. CLARK. I move to strike out "who" at the close of the eighth line of section three, so as to read, "and shall act," &c.

The amendment was agreed to.

Mr. CLARK. I move further to amend the bill in the sixth section, page 5, by striking out after "that" the words "the President of the United States is authorized to appoint, by and with the advice and consent of the Senate, a competent person, who shall be called the cashier of internal duties, with a salary of \$2,500, who," and inserting in lieu thereof "the cashier of internal revenue, whose salary shall be \$2,500."

The amendment was agreed to.

Mr. CLARK. On the 6th and 7th pages I move to strike out the whole of section seven and to insert the following section in lieu of it:

SEC. 7. And be it further enacted, That the President of the United States may divide the respective States and Territories of the United States and the District of Columbia into convenient collection districts, and may after such districts as the public interests may require, and may include any of said States and Territories and the District of Columbia in one district; but the number of districts in any State shall not exceed the number of Senators and Representatives to which such State shall be entitled in the present Congress.

The only effect of the amendment is to leave the assessors and collectors under the old law.

Mr. DAVIS. I should like to have the law read for information.

Mr. CLARK. It is precisely as it is here.

Mr. DAVIS. Then there is no necessity for striking it out.

Mr. CLARK. It is for the purpose of preventing them from being obliged to give new bonds.

It maintains the organization and prevents appointing new assessors and new collectors or giving new bonds.

The amendment was agreed to.

Mr. CLARK. I move further to amend by inserting in the seventh line of the eighth section, after the word "Treasury," the words "whenever there shall be a vacancy or the public interests shall require."

The amendment was agreed to.

Mr. CLARK. I further move to amend by striking out all after the word "that" in the first line of section one hundred and seventy-three, on page 229, down to the proviso on the 230th page, in line thirty-three, and to insert in lieu of the words stricken out the following clause:

The following acts of Congress are hereby repealed, to wit: the act of July 1, 1862, entitled "An act to provide internal revenue to support the Government and to pay interest on the public debt," except the one hundred and fifteenth and the one hundred and nineteenth sections thereof, and excepting further all provisions of said act which create the offices of Commissioner of Internal Revenue, assessor, assistant assessor, collector, deputy collector, and inspector, and provide for the appointment and qualification of said officers; also, the act of July 16, 1862, entitled "An act to impose an additional duty on sugars produced in the United States;" also, the act of December 25, 1862, entitled "An act to amend an act entitled 'An act to provide internal revenue to support the Government and to pay interest on the public debt,' approved July 1, 1862;" also, the act of March 3, 1863, entitled "An act to amend an act entitled 'An act to provide internal revenue to support the Government and to pay interest on the public debt,' approved July 1, 1862, and for other purposes," except the provisions of said act which create the offices of Deputy Commissioner and cashier of internal revenue and revenue agents and provide for the appointment and qualification of said officers; also, the twenty-fourth and twenty-fifth sections of the act of July 14, 1862, entitled "An act increasing temporarily the duties on imports, and for other purposes;" also, the second section of the act of March 3, 1863, entitled "An act to prevent and punish frauds upon the revenue, to provide for the more certain and speedy collection of claims in favor of the United States, and for other purposes;" so far as the same applies to officers of internal revenue; and also, the act of March 7, 1864, entitled "An act to increase the internal revenue, and for other purposes," together with all acts and parts of acts inconsistent herewith.

It repeals the same acts that are provided to be repealed by the section as it stands, but in different language, except those clauses which create the offices that have been retained.

Mr. GRIMES. I move to amend the amendment by adding to it:

That so much of an act entitled "An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," approved August 5, 1861, as imposes a direct tax of \$20,000,000 on the United States, be, and the same is hereby, repealed.

Mr. CLARK. I hope that amendment will not be made at this time without further consideration. It was not the design of the committee to repeal that act, but to leave it suspended as it now is.

Mr. SHERMAN. In case the amendment of the Senator from Iowa be adopted, he should also propose to strike out the exception of the one hundred and nineteenth section of the act of 1862, which otherwise would continue the direct tax.

Mr. CLARK. The Senator from Iowa can move to insert his amendment at any time. It does not qualify this amendment of the committee. It only adds to it.

Mr. GRIMES. As I understand it, the Senator's amendment alludes to the particular section that I wish to have repealed.

Mr. SHERMAN. The Senator is a little mistaken. The act that he proposes to repeal is the original act which provided for the direct tax; but that act was modified and suspended till 1865 by a section reserved from repeal by the Senator from New Hampshire, so that in order to accomplish the purpose of the Senator from Iowa he must not only repeal the original act providing for the direct tax but repeal also the one hundred and nineteenth section of the act of 1862, which is expressly reserved from repeal by the amendment of the Senator from New Hampshire.

Mr. GRIMES. I think my object will be accomplished by repealing the original act. There is an act passed since that that suspends the operation of the act of August 5, 1861.

Mr. SHERMAN. But that second act expressly provides that after 1865 this direct tax shall be put on. If you repeal the original act, you may still leave the direct tax to stand.

Mr. GRIMES. Then I withdraw my amendment for the present.

The PRESIDING OFFICER. The question is on the amendment moved by the Senator from New Hampshire.

The amendment was agreed to.

Mr. CLARK. I move further to amend by inserting after the word "assessed," at the end of the thirty-fifth line of the one hundred and seventy-third section, the words "or liable to be assessed."

The amendment was agreed to.

Mr. CLARK. I further move to amend the bill at the close of section one hundred and seventy-three, on page 231, by striking out all after the word "reappointment," which occurs in the forty-seventh and forty-eighth lines. The words to be stricken out are "upon the execution of new bonds and taken anew the oath of office."

The amendment was agreed to.

Mr. CLARK. These are all the amendments which relate to that particular object. I have several further amendments, but I will give way if the Senator from Ohio desires to go on with his bank amendment.

Mr. SHERMAN. I think we may as well take a vote on that now. The Senate is about as full now as it will be to-night.

Mr. HENDRICKS. I suggest to the Senator from Ohio to let that question lie over until the morning. I wish to say a little in reply to him in regard to it.

Mr. SHERMAN. The bill is not in my charge. I offered the amendment simply on my own account.

Mr. CLARK. I have sent to the committee-room for the chairman.

Mr. McDOUGALL. Why cannot the Senator from New Hampshire go on with his amendments?

Mr. CONNESS. I desire to offer an amendment if the Senator from New Hampshire is not going on.

Mr. CLARK. I will go on. I move to amend the bill on page 144, by striking out the item between lines four hundred and forty-six and four hundred and fifty-two of section ninety-three, and inserting in lieu thereof:

On tobacco manufactured with all the stem in, the leaf not having been butted or stripped from the stems, and not sweetened, twenty-five cents per pound.

On tobacco, cavendish, plug, twist, and all other descriptions, from which the stem has been taken in whole or in part, or which is sweetened, including fine-cut and shorts, thirty-five cents per pound.

Mr. SUMNER. I should like to know what is meant by the first class of tobacco there indicated.

Mr. CLARK. The committee meant to impose thirty-five cents duty on all tobacco which is manufactured by taking out the stems in whole or in part, and sweetening, including fine-cut.

Mr. SUMNER. The sweetening qualifies it.

Mr. CLARK. Stripping the outer stem and sweetening makes the line of distinction. The lower grade is that in which the stem is not stripped from it, and which is not sweetened. It is found to be a better line of distinction.

Mr. SUMNER. In what does the latter differ from what is sometimes called leaf tobacco?

Mr. CLARK. It does not differ from leaf tobacco with the stem in.

Mr. SUMNER. Such as you would find on the farm or on the plantation.

Mr. CLARK. Certain grades you will find on the farm or plantation. There is a difficulty about the provision as it now stands. By the provision of the bill as it came from the House of Representatives, smoking tobacco, which is manufactured of the leaf and stem ground up together, is taxed thirty-five cents a pound. It is thought by the committee and by others that that is too high, and that it is best to make a second grade. In the purchase of tobacco, say of one hundred hogsheds, you will get perhaps thirty hogsheds first quality and then fifty or sixty of inferior grade, some to be made into chewing tobacco and some into smoking tobacco with the stems all in. It was necessary to have a provision of this kind so as to include that description of tobacco, which we propose to tax at twenty-five cents.

Mr. SUMNER. I should like to know whether in point of fact and practically this is not a tax on what is usually known as tobacco in the leaf. I incline in favor of that tax, but I wish to understand precisely the effect of the language that is



used, because such a tax as that would attract very great attention in the country, and if it were imposed I am sure it would be very profitable, though I do not know how popular it would be in certain quarters.

Mr. POMEROY. I feel no particular interest in this amendment myself, but I wish to state that the Senator from Missouri [Mr. HENDERSON] feels a great interest in it; and the effect of the amendment, as he suggested to the Senate the other day, is that taxing stemmed tobacco is in fact taxing the raw material. The process in the West, especially in Missouri, now, is to take the stem out of the leaf and ship it. It is like shipping the raw material formerly. When we had water communication from the West all the way to New York, tobacco was shipped to New York in the stem, but since the communication is cut off by the way of New Orleans, and the article must be transported by rail all the way, the tobacco is stemmed before it is shipped, and the stemming process has no more to do with manufacturing tobacco than taking off the stalk has. The expense of transportation by rail is so much now that the tobacco raised in the West, in Missouri especially, cannot be sent East by rail in the stem. This taxing at thirty-five cents a pound with the stem out is taxing leaf tobacco as raw material thirty-five cents. That is the effect of it. I do not know that that is too high a tax; but it will have this effect: the manufacturing of it will have to be done West instead of East, because it will not bear transportation by rail all the way to carry the stems.

Mr. CLARK. I do not know that it affects the process of stemming, and it is necessary to tax the tobacco in this form to prevent a great deal of fraud. I am told by the Senator from Kentucky that not much of it, if any, is manufactured in this country, but that it is carried to the coast and exported. It is necessary, therefore, that it should be taxed in this country the same as other tobacco is, in order to prevent frauds and prevent its use without the tax; and if it is afterwards worked up in this country into cavendish or other forms of tobacco, it pays no additional tax, because the discrimination is made by taking out the stems and the process of sweetening. Where the stems are out and the tobacco is taxed, it does not bear any additional tax if it is worked into cavendish or anything else.

Mr. POMEROY. What is the tax on leaf tobacco under the old law?

Mr. CLARK. I cannot tell the Senator precisely now.

Mr. SUMNER. There is none on leaf tobacco.

Mr. POMEROY. I thought there was none, and this is virtually a tax of thirty-five cents a pound on leaf tobacco.

Mr. CLARK. On tobacco after it is stemmed.

Mr. POMEROY. The stemming process is no more than taking out the stalk.

Mr. CLARK. I understand it, and it stands precisely the same in the amendment I propose as in the bill that came from the other House. It does not make any alteration in that particular, except that in the other provision the stemmed tobacco is liable to be taxed again when it is worked into cavendish, plug, or twist. That ought not to be. It should only be taxed once. I think if Senators will examine the provision they will see, on looking at line four hundred and fifty-one of this section of the bill, that stemmed tobacco is taxed, and there is also a tax on cavendish, plug, twist, or manufactured, so that if stemmed tobacco is not manufactured tobacco, when it comes to be manufactured it is liable to be taxed again. We propose a new line of discrimination, which is stemming and sweetening.

Mr. POMEROY. It occurs to me that where we have imposed no tax before, thirty-five cents now is rather high. It may not be too high, however.

Mr. GRIMES. I trust the Senator from New Hampshire will permit this amendment to lie over until the Senator from Missouri, who feels a very deep interest in it, shall return. He will be here to-night or to-morrow morning. It is a matter in which the people of Missouri are deeply interested; and I will say to the Senator that the people of my State are becoming very deeply interested, as are all the other people of the Northwest. As I understand the proposition it will operate to the

injury of the Treasury, and only to the advantage of railroad corporations that transport our tobacco to the eastern markets, and to the advantage of the large manufacturers of tobacco. However, I may not comprehend it, but I prefer that it should lie over.

Mr. CLARK. I think it is very evident the Senator does not comprehend it.

Mr. GRIMES. Is the Senator willing that it should lie over?

Mr. CLARK. If such is the pleasure of the Senate. I want to make as much progress as we can; but if Senators are ready now to take up the bank amendment I am entirely willing.

Mr. BROWN. I trust the Senator from New Hampshire will permit this matter to lie over.

Mr. CLARK. Very well; I am willing to let it go over.

Mr. POWELL. If the question is going to be laid over I should like to have the amendment of the Senator from New Hampshire printed.

The PRESIDING OFFICER. If there be no objection, that order will be made.

Mr. POWELL. I think the last amendment moved is very wrong, and should not be adopted. It needs modification, certainly.

The PRESIDING OFFICER. The question properly before the Senate, which was passed over by unanimous consent, is the amendment of the Senator from Ohio [Mr. SHERMAN] to section one hundred and nine.

Mr. SHERMAN. Before the question is further debated I will modify the amendment by making the tax on circulation one sixth of one per cent. instead of one fifth of one per cent. a month.

The PRESIDING OFFICER. By common consent that modification will be made on the suggestion of the Senator from Ohio, but the amendment, having undergone amendment already, is placed beyond his control.

Mr. SHERMAN. One sixth of one per cent. a month would be two per cent. per annum on circulation up to ninety per cent. of the capital stock paid in.

The PRESIDING OFFICER. The modification will be made by unanimous consent.

Mr. FESSENDEN. That modification being made, let me state the difference between the two sections. There is the same tax on deposits and the same on capital in the section which the committee reported as in the amendment of the Senator from Ohio; but while we propose a tax of one per cent. on circulation he proposes two per cent. Then there is a difference in the time of collecting the tax.

Mr. HENDRICKS. I ask the Senator from Maine if in the bill as reported by the committee there is not this discrimination against the State banks that the amendment of the Senator from Ohio contains?

Mr. FESSENDEN. No, sir.

Mr. HENDRICKS. Upon their issues over ninety per cent. of their capital stock there is a tax of one half per cent. semi-annually, which cannot be on the issues of the national banks, for the reason that they can only issue ninety per cent. of the amount of bonds.

Mr. FESSENDEN. That was put in to make them equal and to prevent the excess of circulation. The national banks now can only issue ninety per cent. of the bonds they deposit.

Mr. HENDRICKS. But you tax all the issues of State banks, whether below or above ninety per cent., one half per cent. semi-annually first, and then you impose an additional tax of one and one half per cent. semi-annually on State bank issues which cannot be put on national bank issues.

Mr. FESSENDEN. The Senator understands that the national banks can only issue ninety per cent.

Mr. HENDRICKS. I understand that.

Mr. FESSENDEN. We allow the State banks to issue ninety per cent. of their capital on precisely the same terms and conditions. We design if they go over the ninety per cent. to put so heavy a tax on them as will make it unprofitable. The object is to restrict them also to ninety per cent. of their capital. It is not a discrimination against them, because we do it merely for the purpose of bringing them to the same ratio with the national banks precisely.

Mr. HENDRICKS. I understand then the difference between the taxation of the two systems

is to be learned by taking this bill in connection with the bank bill.

Mr. FESSENDEN. We tried to make it equal, and I think we did.

Mr. HENDRICKS. I was reluctant to say anything further on this subject this evening.

Mr. McDUGALL. Before my friend from Indiana proceeds, I should like to hear the amendment read.

The PRESIDING OFFICER. The words proposed to be inserted by the Senator from Ohio in lieu of section one hundred and nine will be read.

The Secretary read the amendment.

Mr. HENDRICKS. I was remarking that I was reluctant to ask the attention of the Senate to-night, for I am not in a condition to discuss this question on account of my health; but I am not willing to ask for a delay in the consideration of any part of this bill. An early adjournment is desired as much by myself as by any other Senator, and I shall therefore submit now a very few remarks in reply to some arguments presented by the Senator from Ohio, [Mr. SHERMAN.]

The Senator from Ohio, with his usual frankness, states to the Senate that the purpose of his amendment is not so much revenue as to drive the State banks from the field, and to give up the commercial field not to the Treasury in its issue of Treasury notes, but to the system of national banks about being established, which was provided for by a law at a former session. I submit to Senators that that is not a proper motive to govern us in legislating on a revenue bill. This purports to be a bill to raise revenue; its consideration is claimed on the part of the Senate on the ground that it will increase our revenue, that it will supply to the Treasury that revenue which the condition of the country demands. Then, when we are legislating for that purpose, is it proper that we shall depart from that purpose with a view of striking a blow at any interest in the country? To legislate against the State banks with a view of driving their currency from the commercial world is not an effort to raise revenue, but an effort to favor one system of banking to the prejudice of another; and I submit that this is not a proper consideration to govern us in legislating upon a revenue bill.

But the Senator discusses the merits of the State banks; and first he says that they furnish but a local currency, that they cannot regulate exchanges. This is a very old argument, an argument that has been used from the time I believe that a system of national banking was first advocated. I suppose that we of the Northwest are as much interested in the question of exchange as the people in any other part of the country. The eastern States are not much interested in that question. The exchange for a number of years has been so trifling as not materially to interfere with the operations of our trade. Our currency at the West has been so good, it has had the confidence of the country to so great an extent, that exchange has been but very trifling against our section of country.

But the Senator says that the State banks furnish but a local currency, that the currency furnished by the State Bank of Indiana or of Ohio is not well received in the eastern States. That is not an argument in favor of revenue; it is not an argument to be addressed to the Senate, in my judgment. It might be an argument to be addressed to the Legislature of Indiana or of Ohio if a proposition were pending in the Legislature to repeal the charters of those two banks, but with us it is not a consideration as I attempted to suggest a moment since.

The Senator's main argument, however, is upon this proposition, that the inflated condition of the currency is the evil of which we now complain. That is true; and he says that \$167,000,000 of this currency is furnished by State banks; but does the Senator propose to reduce the currency? Does the Senator propose to reduce the paper currency of the country by \$167,000,000? By no means; he proposes simply to drive from the channels of trade a currency in which the people have confidence, and to supply its place with a currency that the people have less confidence in. It is to give place for the operations of the system of national banks. Instead of having \$167,000,000 of State bank paper, the Senator proposes by this policy to give us at least \$167,000,000 of free bank paper; a paper that cannot now

compete with the State bank paper. If the Senator proposes to give us a better currency, if he proposes to give us a currency in which the commercial world will have greater confidence, if he proposes to give us a currency that will have good credit in every portion of the country, he need not be afraid of the contest between that currency and the State bank currency, because the better currency will control the contest and occupy the field. If the Senator proposes simply to reduce the currency by \$167,000,000, there would be some force in his argument. I admit all that he says in respect to the condition of our trade so far as it is influenced by an excessive paper currency. I do not question that; but I do question the propriety of driving from the field by arbitrary legislation a currency in which the people have confidence, to supply its place by one that cannot take its place by virtue of its own merit.

The Senator as an argument against State banks has said that in the earlier days of the Republic our statesmen doubted the power of the States to authorize the issue of State bank paper. I believe he is correct about that; but it has now come to be established that the States may charter State banks and that those banks may issue bank paper as a currency or as money. That is not a question now, I believe, and it is hardly worth while to dig up from the grave that argument, which is now disposed of by the decisions of the courts. I will not discuss the question whether bank notes are bills of credit prohibited to the States by the Constitution or not; for the reason that I assume it to be a settled question by judicial authority. Whether that be so or not, it is not for Congress to undertake to decide that question. The States have incorporated these banks, they have issued their paper, and it is not for Congress to decide that the States had no authority to do this thing.

The next objection made by the Senator to the State banks is that having failed to redeem their paper money in gold and silver they have violated their charters. That argument might have come with some force from myself, but I think it cannot be heard from the Senator from Ohio. The charter of the State Bank of Indiana requires that that bank shall redeem every dollar in gold or silver; and why does she not redeem in gold and silver? She is prepared to-day to do it; she would experience no difficulty, as I understand, in redeeming her whole circulation in gold and silver. Why does she not do it? For the reason that the Senator in connection with the rest of his political party have made the Treasury notes a legal tender; and the supreme court of Indiana have decided, in a case taken before it last year, that it was competent under this law for the State Bank of Indiana to redeem her issues in this legal-tender money. It is not her charter; it is no action of the State of Indiana that has enabled the State Bank of Indiana to redeem in anything else than gold and silver; it is the policy that has been adopted by Congress making the Treasury notes a legal tender, and enabling the State Bank of Indiana and every other State bank to discharge their indebtedness, as it has enabled every citizen to discharge his indebtedness by the payment of Treasury notes. I thought it was a very singular argument coming from the Senator. Inasmuch as the courts have decided that under the law of Congress the State banks have the right to redeem their currency in the legal-tender Treasury notes, the Senator cannot say that those banks have forfeited their charters. I suppose he alluded to the fact that they had claimed to discharge their indebtedness in legal-tender notes when the Senator said that they had violated their charters, and he even went so far as to say that they had forfeited their charters. So far as there has been any decision of the courts on the subject, those decisions are uniform that the State banks may redeem their bills in Treasury notes. I believe that one of the courts in the State of New York at one time decided that they could not so redeem their currency; but the court of appeals, as I understand, has decided otherwise.

The Senator has admonished us that the gold disappeared from the country at the commencement of the war. It was not the war that drove the gold out of the country. It was something else; and I think the Senator from Ohio had something to do with that policy which has driven gold out of our country. I think the Senator from

Ohio had something to do with the policy which has created the distance between the paper money of the country and gold and silver. By the very act which authorized the issue of Treasury notes, those very notes were depreciated in the market. That law did allow the receipt of those notes in the payment of customs at your custom-houses, and to that extent from the first they were a currency inferior to gold and silver. As I understand, the first issue of Treasury notes which were receivable in payment of duties never did fall but to a small percent. below gold and silver; but as soon as that issue was exhausted and this other class of Treasury notes came into the market with a prohibition against their being received in the discharge of duties, that very instant the difference between gold and paper commenced increasing, and has gone on until the present time. That is one of the causes of the depreciation of the paper currency.

Another cause is its enormous increase. As the Senator informs us, \$400,000,000 have been issued under one law, and \$200,000,000 under another law, making in all \$600,000,000 of paper money issued by the Government. When the Senator makes this statement to the Senate, does it not strike every Senator that the statement made by the Secretary of the Treasury to which I have alluded, that the depreciation of the paper currency was owing to the increased circulation of the State banks, is not sustained? When but \$167,000,000 of the bank issues are in circulation, and \$600,000,000 of the Treasury notes are in circulation, it can hardly be said that the depreciation of the paper currency is owing to these \$167,000,000.

The Senator called my attention to the tables to be found in the last report of the Secretary of the Treasury. If I understand those tables aright, I will make a statement from it. From 1834 to 1840 the average bank paper currency of the country was \$120,904,000; from 1841 to 1845, \$82,872,000; from 1846 to 1850, \$117,133,000; from 1851 to 1855, \$173,231,000; from 1856 to 1860, \$193,228,000; from 1861 to 1863, \$208,206,000. And now I understand the Senator to say that in the northern States the circulation is about \$167,000,000.

Mr. SHERMAN. The statement in that table I think shows that it is not any less now than at any previous period. It is, I said, \$167,000,000.

Mr. HENDRICKS. I understand that is about the case, independently of the table furnished by the Secretary. I thought it was about \$168,000,000. Senators will observe that between 1856 and 1860 the bank circulation amounted to \$192,000,000; after 1860, and between then and 1863, it footed up to \$208,000,000, being an increase of only \$15,000,000, and since then it has fallen off very many millions of dollars.

Then, sir, is it fair to say that the inflation of the paper currency of the country, and its consequent depreciation, is chargeable upon the issues made by the State banks? The facts do not sustain the Senator; the facts do not sustain the Secretary of the Treasury. But, sir, if it be so, does the Senator order the Secretary of the Treasury by the present policy propose to remove the evil? His proposition is not to decrease the currency, but to supply the place now occupied by the State bank issues with money issued by the national banks. The amount being maintained, the effect cannot be changed. While we have so much currency, while the proportion between the paper and the gold of the country is as it now is, we cannot expect paper to come any nearer to the gold standard than we now have it.

What does the Senator propose? I do not speak of his proposition upon this particular bill alone, but upon this bill in connection with the bank bill which he has reported. He informs us, as we were before informed, that \$400,000,000 of legal-tender Treasury notes are in circulation, together with \$200,000,000 of interest-bearing Treasury notes. He then brings into the Senate and advocates the passage of a bank bill authorizing the national banks to issue \$300,000,000 more of currency. According to his policy we shall have in the country \$900,000,000 instead of \$767,000,000 of paper money. He now shows that we have \$600,000,000 of Treasury notes, legal-tender and interest-bearing; and that we also have \$167,000,000 of bank paper, which makes \$767,000,000 of paper currency, and his policy is to withdraw the \$167,000,000 if possible

and to supply its place with \$300,000,000 more, to be issued, not by the Treasury direct, but by the national banks; and that is the policy of the Treasury Department by which the currency of the country is to be reduced and the difference between gold and paper money removed!

Mr. SHERMAN. I know the Senator does not wish to do me injustice; it is not a subject on which that could be desired.

Mr. HENDRICKS. Certainly not.

Mr. SHERMAN. I think I said expressly, at least I ought to have said, that I had not the slightest doubt that the Secretary of the Treasury had so declared in public communications, and in every other way, that he intended to reduce the circulation of United States notes at least equal to if not more than the amount of national bank currency issued from time to time. I will now state a fact to the Senator that within the last month over sixteen millions of interest-bearing notes have been retired, and they will be retired just as rapidly as possible. The Senator is also probably aware that that species of paper money was issued under compulsion to pay bounties to soldiers, and the policy of the Secretary is to withdraw it just as rapidly as possible. The amount fixed by him in his annual report for the circulation of the United States notes was \$400,000,000. The interest-bearing notes are to be retired. Every dollar of them that comes in in the ordinary course of payments at the Treasury is canceled and not reissued. It was issued under the circumstances by which the Secretary was compelled in December last to provide for the payment of bounties and other unforeseen expenses of the war. His own standard, according to his reports, fixes the amount of United States paper money at \$400,000,000, and just to the extent that national currency is issued he expects to retire United States paper money. The Government of the United States is ultimately bound for the redemption of the national currency. The Senator ought not in justice to account the \$300,000,000 as additional, but it is a part of the \$400,000,000 which is fixed in the mind of the Secretary as the ultimate limit of paper money in this country.

Mr. HENDRICKS. I was not making any attack upon the Secretary of the Treasury; I was not in this connection charging him with improperly issuing the legal-tender notes or the interest-bearing notes. I may have something to say about that directly; but I was attempting to defend the State banks against the charge made by the Secretary of the Treasury. He has assumed to say that it is the presence of the State bank currency in the market that has depreciated the national currency. That is not the fact. The fact is that the State bank currency has been depreciated by the presence of the legal-tender notes. This day, in my judgment, the bills of the Bank of the State of Indiana would be worth nearly gold were it not for the fact that the bank may redeem them in the legal-tender currency furnished by the Treasury. The very fact that the bank cannot retire her currency shows that it is not in the way of the national currency. As I stated before, for three years the State Bank of Indiana—and I believe the same is true of the State Bank of Ohio—has been trying to retire her circulation; and she has not been able to do it, because in the market it is worth more than the greenbacks; and while that is the case the people will not pay it in to receive greenbacks in its stead. Can it be said, then, when the people are simply locking this money away, putting it in their pockets and in their safes, that it is causing an inflation of the currency? It is not the case.

But the Senator anticipated a question that would of course have been asked him. He asks, why does the Secretary of the Treasury then favor a national banking system instead of issuing the notes directly from the Treasury Department? That question has presented itself to my mind, and I presume to the mind of every Senator. Why is it that the Secretary of the Treasury has recommended, why does the Senator from Ohio advocate, the issue of bank paper by a national bank under a law such as has been passed by the Senate, instead of issuing the notes directly from the Treasury Department? The Senator has given one reason, and that reason is that Governments usually repudiate their obligation to redeem their paper currency. Does the Senator contemplate a possibility of that sort

that we shall ever fail to redeem our Treasury notes, our interest-bearing Treasury notes or the legal-tender notes? He cannot. It is a question of ability on the part of the people to pay the taxes that will enable the Government to redeem this currency.

What is the practical effect? The Treasury notes, legal-tender notes, pass and circulate, of course. They must circulate, because they are a legal tender in discharge of indebtedness. Upon them the Treasury pays no interest. The holder of such a note feels secure that while the Government is maintained, while the credit of the Government is good, it will be a good paper currency in his pocket. He has the confidence in that which he has in his Government. The Secretary of the Treasury then says, "I will issue no more of this paper, but I will favor a national banking system;" and how does he do that? He first issues the bonds of the Government at six per cent. interest. He sells those bonds to the people. Persons wishing to establish a bank buy the bonds and deposit them in the Treasury, and then the banker receives, on the deposit of those bonds, bank bills from the Government, and he turns round immediately and loans those bank bills to the Government, and they then become the Government currency. With that the Government pays the soldier; with that the Government pays the contractor. But what is the effect? No better currency, no higher security, because the security for this bank paper rests upon the bonds of the Government; it is upon the faith and the ability of the Government to pay the bonds. That is the security of the bill-holder. And yet to get this currency into the market, to supply the place of the State bank currency with this currency, the United States is paying six per cent. upon every dollar of it. The bonds are lying in the Treasury, but the banker is receiving the interest upon those bonds, which are the security for the payment.

Then, sir, the Government, instead of furnishing the people any better currency, furnish what I think is not so good a currency as our own legal-tender notes, and for every dollar that finds its way into the market the Government is paying six per cent. That is the policy that has been adopted by the Treasury Department, a policy that costs us upon these \$300,000,000 that are to be issued interest to that extent, interest payable in gold or silver equal to nine per cent., and that to supply the place of the State bank paper.

Senators say that this will be an unquestionable security in the hands of the holders. I do not intend to discuss that now. If the bank bill shall be in the Senate again in a shape proper for discussion, I may have something to say about it. I have never believed in the free-banking system. I opposed it in the State of Indiana. It subsequently proved a failure. I do not believe in it when supported and fostered by the General Government.

The value of this paper depends on the value of the United States stocks. While our bonds are taken at 110 in the market, of course this bank paper will be all good and the bonds will remain at 110 while the currency is so inflated that it will float them. The Secretary of the Treasury could not sell a six per cent. bond, payable in gold, until he had so inflated the currency of the country that it became a desirable investment under the depreciation of the currency. Does the Senator expect that this currency will remain so inflated without limit? I admit that while the Government has out \$600,000,000 of notes in the market, the bonds will be worth par and above par; but when our currency is reduced, when it approaches the gold and silver standard, what then is to be the value of the bonds? The value will depend upon the ability of the people to pay the taxes. It will depend upon the ability of the people of the country to pay the interest in gold and silver upon the bonds. Do Senators not have some doubt that the time may come when that interest will not be paid in gold and silver?

I understand that the chairman of the Committee of Ways and Means in the House of Representatives announced, during one of the discussions of the present session, that he desired to meet the question at once, and that the interest on these bonds ought to be paid in paper. I did not read the debate, but I understood that a statement like that was made by him in the course of

debate. I am not ready to take any such ground. As far as I am concerned, while the people are able to pay it, I shall vote for its payment. But when the currency is reduced, when hard times come upon the country, such as are sure to follow a terrible war like this, are Senators sure that these bonds will always be at par? Suppose the banker does not redeem this paper, then what is to be done? The Secretary of the Treasury, I suppose, is to sell in market the bonds. The banks are not going to fail in good times when there is an abundance of currency, when trade is flourishing, but the failure will come when the people can least bear a failure, when there is but little money in the country with which to buy stocks, when there is no special demand in the market for stocks, and that is the time when the Secretary will be called upon to provide for the failure of the banks to redeem at their counters this currency of the national bank system; and I ask the Senate then, when that time comes, when there is no demand in the market for bonds, when there is a scarcity of money, when there are hard times all over the country, if this is a good security dollar for dollar for the issues of the national banks.

The Senator has alluded to the fact that there is a personal responsibility on the part of the stockholders. I have never known a bill-holder yet to realize a dollar from the personal responsibility clause. We had it in our State; I have known law-suits about it; but I have not known one dollar to be collected on the personal responsibility clause in any charter; and I do not believe under this charter a dollar ever will be collected. As soon as the time comes for failures the stocks are generally found in the hands of persons from whom but very small collections can be made; at least up to this time it has been found to be a valueless provision in the charters. That, then, I regard as no security at all; and the only security filed here is the bonds deposited in the Treasury Department. While they remain at par we have the security; while there is a demand for them at par we have the security; but when the times come during which banks are likely to fail, my judgment is this will not be a good security.

What I have to say I will close, for I do not intend to discuss at this time the general banking system. I regard it as a very dangerous system, placing in the hands of one man a power over the values and business of the country that ought not to be placed in the hands of any one man; but my purpose was to vindicate the State banks from the charges that have been made against them. So far as I know, in the Northwest they have furnished the people a currency with which they were content and in which they had confidence. I have no patience with this war that is being attempted to be made against State banks, not with a view to give place to the Government money, but to give place to a system of banks that I regard, and the people regard, as not so good as that against which the war is being made.

Mr. DAVIS. Mr. President, I inquire if the amendment offered by way of substitute by the Senator from Ohio will be amendable if it shall be adopted.

The PRESIDING OFFICER. Not so as to qualify any portion of the body or text of the amendment; but additional matter, by way of provisos, may be added after its adoption, if it shall be adopted as a substitute.

Mr. DAVIS. I wish to offer a proviso, which I will read. If it will be in order to offer it after the substitute amendment is adopted, I will defer offering it until the vote is taken on the amendment of the Senator from Ohio. If not, and it is in order now, I will offer it now as an amendment to his substitute. It is in these words:

And provided further, That the notes or bills of circulation of all banks, associations, corporations, or individuals, issued before this act goes into operation, shall not be liable to pay any duty whatever.

Probably it is in order, and I might as well offer it as an amendment at this time. The Senator from Indiana has uttered much truth, indeed nothing else but truth, in the remarks which he has made.

The PRESIDING OFFICER. Does the Chair understand the Senator from Kentucky as offering this as an amendment now to the pending

amendment offered by the Senator from Ohio? The Chair will suggest to the Senator that it will be in order now or after the amendment, if it shall be adopted, has been adopted. It is independent matter, not qualifying the text of the original amendment.

Mr. DAVIS. I will defer offering it until the question has been taken on the amendment of the Senator from Ohio.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Ohio.

Mr. POWELL. The matter under consideration is one of very great moment. I have been somewhat struck with the speech of the Senator from Ohio in advocacy of this proposition. It seems that a conflict has come up now, and to that the question is to be narrowed down, between the State banks and the national banks. The truth is the system of finance that has been presented by the Secretary of the Treasury, and which has found an able and zealous advocate in the Senator from Ohio, is wrong in principle. There is not a sound principle of finance, in my humble judgment, connected with the whole scheme. It has thus far proved a failure and disastrous to the country, and the longer you continue it the more disastrous will be the result, the more manifest and striking will be the failure of the paper-money system of the Secretary of the Treasury. I remember, sir, when the national bank bill was introduced here originally, when it was so ably and zealously advocated by the honorable Senator from Ohio, we were told that it would furnish the best currency in the world, a better currency than gold and silver. We were told that it would equalize exchanges throughout the whole country, and that the result would be a currency based upon the credit of the Government, and one that would be sound, healthy, and uniform throughout the whole land. I then opposed the national banking system. I felt confident then that it would result in the most disastrous ruin to the commercial and industrial interests of the country; and from the time the first note was issued up to this hour my saddest anticipations have been more than realized.

After trying a Government paper-money system for a year and more, by issuing greenbacks, and other forms of paper currency, some with and some without interest, the Secretary of the Treasury at the last session of Congress presented the national bank scheme; and we find that this paper money is going down in value daily until to-day gold is worth 134½ in the city of New York. You come up now to try and tinker it up again. Allow me to tell you, Mr. President, the Senate, and the country that the only way to relieve the country from this great disaster is to abandon the system utterly.

But the Senator from Ohio to-day ascribes the ills that arise from this system to the local bank issues. He and the Secretary of the Treasury desire to make the local banks, the State banks, the scape-goats to bear their financial blunders into the wilderness. Sir, that cannot be done. It is not the State banks but it is the rottenness of the system that has been adopted that causes the disasters we all witness and feel. If you wish to remedy it you must put the ax to the root of the evil, you must stop your infamous system of paper money, you must curtail the issues, you must repeal your national bank law. That is the remedy, and that is the only remedy. No financial tinkering of Secretary Chase will relieve the system from that disaster which has followed and will continue to follow it.

I have stated that the system is wrong in principle. There is nothing new in this system of the Secretary of the Treasury. I mean no disrespect to that distinguished functionary; I admit that he is a man of ability; but his abilities have not been displayed in a financial line. He presents his reports to the Senate and to the country; he comes here rigged out in all the effete and exploded ideas that mark the pathway of commercial disasters and bankruptcies in other nations for a thousand years. He has adopted all their bad policies and rejected all their good. He has his advocates; he has those who laud him as the great financier of the age. So it was with Law when he threw his paper-money system upon France. So all the paper-money-bubble men have had their followers. Under such a system money is plenty, prices high; to the superficial observer



everything looks well. The results ever have shown and ever will show that the system is rotten to the core, and will result in injury, bankruptcy, and ruin to any and every country that adopts it.

The Senator from Ohio advocates his scheme and the scheme of the Secretary with very great ability, and certainly with very great tenacity. I had thought that a year or two's experience would have caused the Secretary himself to abandon it, and the able Senator from Ohio to come up and admit that it was an error and ask that the system be repealed, and that we resort to those principles of finance that have been received as good by all the nations of the earth; but so far from that his whole speech to-day has been an effort to lay the sins of the Secretary of the Treasury upon the State banks. Why, sir, the State banks have not been in default in this matter, as I think I am fully able to show.

But, sir, allow me here to state, as I have often before stated to the Senate, that no system of banking ever was or in my judgment ever will be sound and advantageous to the commercial and business interests of the country unless the notes of the bank are made redeemable, at the counter from which they are issued, in coin upon demand. That is a principle in banking that cannot be departed from without injury to the country upon which the system is inflicted. I do not suppose there is a financier now in any commercial State in the world, save and except Mr. Secretary Chase, that would think that any other system was calculated to promote the good of the country.

Have you such a system in your national banks? No, sir; and I am very much mistaken if the word "coin" appears in the national bank bill at all. I tried, when your first national bank bill was passed, to introduce "coin" into it. I wanted to give it a little stiffening. I wanted to let the people see when it went out to them that it contemplated something like coin; something at some time like a redemption of the paper in gold and silver coin; but I could not get the word "coin" into the bill. I offered an amendment that they should be required to redeem their issues in coin. It was rejected. I then asked that they be required to keep on hand one fourth of the amount of their issues in coin, for the benefit of the note-holders. That, too, was rejected. I then asked that a smaller amount should be required to be kept on hand, but none was put in. What security have the holders of the notes of your national banks? The distinguished Senator from Ohio to-day told you that bank paper secured by the credit of the Government was better than the Government itself. If that be true, the Government is at a very sad discount to-day. I should be pained to think that the Government was in no better credit than the national bank issues. I should be sorry if it had no more credit. The Government to-day, according to the Senator's theory, is at a very heavy discount, nearly two for one, and perhaps by this time to-morrow it will be at little over two to one. Many countries have passed through dark and stormy trials, and have come out with honor, with dignity, with grandeur, with wealth, and with power; but it has always been by abandoning paper-money schemes. The paper-money system has fallen to atoms all around us. It has been tried in almost every commercial country in Europe at some period of its history, and the experience of its sad effects should be a warning to us. We resorted to it in the time of our own Revolution. The Continental money was issued, and it finally became utterly worthless. Still we held on to our Government, and we thought that our fathers had given to us in the Government a priceless legacy; and if we can preserve it with all the constitutional guarantees given us by our fathers, it will prove a priceless legacy to our children after us.

Sir, this paper-money system is wrong. There is not a single sound principle of finance in it. I have asked the question, what are the securities for the bills issued by the national banks? The Senator says they are issued on the basis of the Government bonds, to the extent of ninety cents of notes to a dollar of bonds. What is your Government bond worth to-day? I suppose it is at fifty per cent. discount, gold being at the price it is to-day in New York. What other security have you? The national banks are required to keep on hand in greenbacks twenty-five per cent. of the

amount of their issues; and those greenbacks are at a greater discount than your Government bond. Put the two together, and the issues of the national banks are not secured. You issue ninety per cent. of notes on the basis of the Government bond, and when you take the bond and the twenty-five per cent. in greenbacks required to be kept on hand, and put them together, they will fall twenty or thirty per cent. short of securing the issues. I speak of the security of the notes of the national banks, considering gold as the measure of value. Do not tell me that such a system of banking will result otherwise than in injury to the country. The national bank notes fall still-born; the country does not take them except at a ruinous and heavy discount. The securities for the bank issues are greater to-day than they will be to-morrow or next day. The issues are not secure now; what can you expect will be the result two years hence? It will get worse every day. It has grown worse every hour since the first note was issued. I admit there has been some little fluctuation; it has been some days up and then has fallen back again; but the general tendency of the paper money has been downward. Six months ago, when we met here, I declared that by midsummer a dollar of gold would be equal to two dollars of paper. Already that point of depreciation has been about reached.

The Senator from Ohio says you must have this paper-money issue in consequence of the exigencies of the war, and he wishes to know what else we could have done. He asks whether we could have kept the sub-Treasury law in operation all the time, receiving and paying out nothing but gold and silver. During the consideration of the national bank bill which is now on the statute-book, I suggested to the Senate what I would have done. I would not in this crisis content myself with receiving and paying out coin alone; I would have suspended so much of the sub-Treasury law as required payments to be made in coin; and I would have used the issues of sound State banks, receiving and paying them out during the war. If you had done that, you would have had a paper currency which the people appreciated, a currency furnished by State institutions that were solvent and in good credit. The Senator said to-day that many of the State banks were good and others bad. I admit that some of the banks in some States were not worthy of credit, but at the beginning of this war the larger portion of the State banks were in excellent condition, and they are in excellent condition to-day. I believe that all the banks of the New England States at that time were in good condition and are to-day. The banks of New York certainly were. The larger portion of the banks of Pennsylvania were. The banks of Ohio were. The State Bank of Indiana and all the banks of Kentucky were. As to the condition of the banking system in the more remote Northwest, I am not so intimately advised; but the Government could have well regulated that matter and issued its orders monthly or quarterly saying which bank notes should be received; and then at the end of the war we should have solvent institutions with which our people were familiar. There might have been some expansion in the course of the war, and after it was over there would probably have been necessity for contraction; but things would soon have accommodated themselves to the wants of the country.

The Senator desires the conflict between the two systems to subside. He says it ought not to go on; it is injurious to both. I concur with him in that. I want the conflict to cease; but I want that bank paper taken out of existence which is of the least value. I want the State banks to maintain themselves, and I want your national bank trash to be driven out and the law authorizing it to be repealed. I think it is a lamentable thing that the contest ever commenced. I suppose every Senator here wishes the best paper issue we can have. Surely it is not seriously proposed to drive out the better to substitute a meaner paper currency. We should desire to continue that which is most secure, that which is most solvent, that which will pass with the least discount, and every Senator must know that that is the currency of the State banks. Why then destroy the State banks for the purpose of foisting upon the country the paper issues of your miserable rotten national bank system?

The Senator says that the State banks have for-

feited their charters. When did they forfeit them? What they have done they have been forced to do by the action of the Federal Government. Many of them never failed to redeem their issues at their counters in coin, in accordance with the provisions of their charters, until the Federal Government at Washington passed laws making its greenbacks a legal tender, and then they did as the citizens of the United States did, they paid out the greenbacks. I think the country is pretty well satisfied now, notwithstanding the glowing predictions which were made as to the success of your national bank system and the excellency of the currency it would furnish, that the issues of the State banks are much better, and they are to-day at a premium over your greenbacks and national bank issues throughout the whole land. The truth is that in obedience to a law that regulates currency here and everywhere, the State bank issues have pretty well gone out of circulation, at least in all the region of country from which I come. The reason is that that which is of the least value and which will pass at all fills all the channels of currency. The greenbacks and national bank issues being the most trashy and least secure of all the paper money in the country has taken the place of the State bank notes. I do not believe that \$5,000 of Kentucky bank paper is now paid out and received in the State from which I come in a year. So it is in the State of Indiana, and I dare say it is so in other States. Why is it so? The bank paper of the States I have mentioned is so much better than the greenbacks that the people put it in their pockets and keep it, and use the Government paper in their ordinary transactions. If your currency goes on depreciating, what will become of the securities for the issues of the national banks? It may happen, and I believe it will happen whenever an intelligent and honest and upright court of final resort shall sit in judgment upon the greenbacks, that they will be held not to be a legal tender. If that should occur, what will become of your issues? Then the twenty-five per cent. of greenbacks which the national banks have to keep on hand will be comparatively worthless, for we all know that there is scarcely anything which keeps up that description of paper now but the fact that it is made by law a legal tender; the national bank issues are redeemable by law in greenbacks.

I will say no more, Mr. President, as to the question of the security of the national bank bills. The Senator from Ohio has told us over and over again that it is necessary in time of war to have paper money. My reading of history differs widely from that of the honorable Senator. My opinion is that in times of war when excessive issues of paper money have been resorted to they have always resulted disastrously to the country that has issued them. It was so in England at one time. Great disasters followed there in consequence of the very large issue of paper money. I hold in my hand a pamphlet written by Mr. Gallatin, of New York, and I wish to God we had his financial brains in the Treasury Department to-day, in which he treats of the subject very elaborately; but I shall not trouble the Senate by reading it. In the French Revolution that Government issued their assignats, and, as we all know, the result was utter ruin. When the first Napoleon came into power he swept their paper-money system by the board and he paid the soldiers that bore his eagles in coin. Then he had victory, and then he restored that country and relieved it to a very great extent from the disasters that had followed the fatal paper-money system. Napoleon I, on the 20th of October, 1805, from the scene of Ney's victory, from which he took his title as Duke of Elchingen, the day after the capitulation of Ulm, when engaged in the great and marvelous campaign of 1805, consequent upon the coalition of Russia, Austria, and England, wrote the following letter:

ELCHINGEN, October 20, 1805.

M. REGNIER: I am sorry to see that my Tribunal of Commerce does not attend to its business. Bank notes are not money, and do not bear the mark of the sovereign. Payment in notes is no longer an obligation. In a country where justice is compromised social order no longer exists. The bank must exchange its notes for coin at the counter, or close its doors if it has no coin. I will not have paper money.

NAPOLÉON.

This letter of one of the greatest soldiers and

statesmen the world ever knew plainly expresses his views of the use of irredeemable paper money in time of war.

How was it in the war of the Revolution? What was the condition then? Did our Continental paper serve us in that trying struggle of our fathers? No, sir. They issued two or three hundred million dollars of Continental money, and what was the result? They passed laws decreeing that a man was not a patriot who would not receive it; and they published every edict possible to compel the people to take it; but what was the result? It went down and became worthless. How were the fortunes of our fathers then relieved in a financial way? Every reader of American history knows that it was the genius of Robert Morris who formed a bank in Philadelphia—the bank that was afterwards called the Bank of North America, a few years afterwards chartered by the State of Pennsylvania. It was a hard-money bank. It paid its issues in coin. He it was who furnished the sinews of war to Washington when your paper issues had brought us almost to utter ruin. And yet, sir, with these examples before us, we are told every day and every hour when this question is up that in consequence of the war we must have excessive paper issues. It is all a mistake. There is no more necessity in time of war for having a paper currency that is not convertible at the counter from which it is issued into coin than there is in a time of peace; and that Government which enters upon that description of finance does the greatest injury possible to itself.

It is claimed that the necessities of the war have caused the excessive paper issues. What has been the result? It is this excessive paper-money system and the inflations that have followed which have entailed and will entail on this country nearly one half the public debt under which we labor and will labor for years and years to come. How has it that effect? When you make these very great and very redundant issues, you inflate the price of everything. We are told here now that the Government is the heaviest purchaser in the market for all the products of the farm and of the loom. They have to feed their armies; they have to clothe their soldiers; they have to furnish the meat, the bread, and the vegetables to the soldier; and the food for their horses and their stock used in the Army. In consequence of this inflation prices have risen, nearly quadrupled on many articles. The Government when it goes into the market has to pay these very extravagant prices, and every dollar that it pays becomes a six per cent. interest debt payable in coin. That is the way your debt is increased. It requires much more of this trash of money to subserve the purposes of circulation than it would if your money was good. For this reason it does not take more than half a dollar of good money to buy a dollar's worth of the commodities that you have to buy and pay for in this paper trash. Half the amount of issue would do. Suppose you go to buy \$10,000 worth of pork, or corn, or flour, or horses, and you pay in this paper money, those commodities are doubled in value. You have to pay \$10,000 in this paper money. But suppose there had been no inflation of currency and prices had remained as they were, it would have cost but \$5,000 to make that investment, and you could have bought it for \$5,000 in good currency. As a currency depreciates in value it requires more of it to answer the purposes of trade and commerce; there can be no doubt about that; and hence it is that by this inflation, caused by the blundering and bad policy of Secretary Chase, you have put hundreds of millions of debt upon this people. You have destroyed confidence in your currency. Everything has gone up to the most extravagant price, and when you go into the market to purchase you create a debt the interest of which is not payable in this paper money, for the interest on your bonds is payable in coin, and a six per cent. debt with interest payable semi-annually in coin is a very heavy interest for a solvent Government to pay for money.

But, Mr. President, it is claimed that you sell your bonds at par. The honorable Senator from Ohio spoke the other day about these bonds being sold at par now, and he said that before this paper-money system you could not sell them at all perhaps, or else at a discount. Why, sir, they

never have sold at par. If you sell one to-day, you sell it at a most ruinous discount. Senators will remember that when I speak of discount, I always speak of gold and silver as the standard of value. That is what I conceive to be the constitutional currency, and none other. You sell every one of your bonds at the most ruinous discount to-day. There is no question about that. You receive for them this paper money, and you give a bond, the interest of which is payable in coin; and so really, instead of borrowing money at par, you are paying ten, twelve, or fifteen per cent. interest to-day.

The Senator from Ohio says that you must decrease the paper issues, and that, he says, is the policy of the Secretary of the Treasury. If so, he goes to work to effect it in a most singular manner. He does it by recommending a system of banks that are authorized to issue \$300,000,000 of paper money. I concur with the Senator from Ohio in saying we must reduce the circulation of paper money before we can have a healthy currency. What amount of paper money have we now? I hold in my hand a table that I have made out from the best information that is at hand; I do not suppose it is entirely accurate, but it foots up as follows: of temporary loan there is \$47,207,545; United States Treasury notes, \$449,073,616; fractional currency, \$19,173,320; interest-bearing Treasury notes, \$200,000,000; certificates of indebtedness, \$131,098,000; and the State bank circulation I put down at \$170,000,000. That makes \$1,016,552,481. I do not take into that account the issues of national banks, which perhaps amount now to some fifteen or twenty million dollars. I include the certificates of indebtedness because I know that in large mercantile transactions they are passed as currency. Then we have to-day over a thousand millions of paper money in circulation in these various forms. Does anybody suppose that we can have any healthy system of currency with that enormous issue of paper money? But what is the remedy the honorable Senator proposes? He says we must retire it, and first he wishes to legislate out of existence the State banks. I will not enter into any argument to prove that State bank paper is a better currency than the notes of these national banks or the greenbacks. Although the country knows that the Government here at Washington is making war upon them, notwithstanding the Secretary of the Treasury cries out daily that they must be put down, notwithstanding his able and eloquent advocate, the Senator from Ohio, every time this question is up proclaims boldly, and I admire his manhood, that his object is to put them down—notwithstanding all that pressure upon them, the issues of those banks are greatly more valuable than the paper of your national banks.

I could without the least trouble take up the charters of these banks and show the security that exists for their issues, and make it manifest everywhere that they are solvent, while no man on earth can take up the law you passed here organizing the national banks and prove that there is a sufficient security for the issues of these banks. It does not exist to-day, and every day, in my judgment, the securities will grow less valuable.

But, sir, the Senator would retire the one hundred and sixty or one hundred and seventy millions of State bank issues. That will not do. You would have some eight hundred and forty-six millions of currency left. I will suppose that three hundred millions of issue, at the outside, would be sufficient for this country, particularly with the seceded States off. I know that in 1837 we had three hundred and forty-four millions of bank issues, and what was the result? A crash and a breaking up, commercial disaster and bankruptcy throughout the whole country. In 1857 we again had an expansion, and a crash followed, not so great, however, as that of 1837. The crash is now upon us in consequence of the Secretary's paper-money issues. The honorable Senator from Ohio would reduce them, I suppose, by retiring the greenbacks; and right here, while I never did advocate the issue of a greenback, I must come to the defense of greenbacks. I think if we must resort to Government paper money the greenback, costing the Government no interest, is the one we should have stuck to. I was opposed to the issue of that description of paper money. I was opposed to it upon policy, such as satisfied my judgment, at least. I was opposed to the legal-

tender clause, because: I thought it was a gross violation of the Constitution of the country.

But, sir, how is the Senator to get clear of the greenbacks? How can he get clear of them and support his national bank system? In the bill authorizing your national banks, you require the issues of those banks to be redeemed in what you call lawful money of the United States, and that is a greenback. You cannot retire them while you have your rotten paper-money system created by this national bank scheme. You have to keep twenty-five per cent. of them in the vaults of each bank as security for the note-holders; there twenty-five per cent. is absorbed. You have to redeem the bank notes in them. So, then, it is utterly impossible to retire them. You might retire a portion of them, I grant you, but a very large issue of them must remain out for the purpose of redeeming the national bank paper. Suppose you issue three hundred millions of bank paper, I should suppose that, according to every system of correct banking, there must be at least half of that amount in greenbacks for the purpose of meeting the provisions of the law, and for the redemption of the bank issues. It will not do for the advocates of the bill to say that gold and silver may be used, for I suppose there is no man who thinks that a note issued by a bank formed on this national bank system ever can be at par in coin. Such a thing does not exist and never will exist in any State in the American Union. That is the very worst species of "wildcat" banking. It has been exploded in the States. Many of them had a similar system, and there was not one in which the system was not better than your national bank system, because all of them with which I have any acquaintance required a certain amount of coin to be kept on hand, some ten, some fifteen, some twenty per cent. Those systems, too, required another thing which your banking system does not require. If there was a depreciation in the bonds, they either had to retire their issues or furnish to the custodian of the bonds an additional amount sufficient to secure their issues.

I say, then, you will be compelled to keep your greenbacks afloat. You cannot retire them under this system. As long as you retain the national bank system, so long will you be compelled to keep the greenbacks out to enable those banks to comply with the provisions of the law; for the idea of their ever redeeming their notes in coin is absurd unless you amend the law and require them to keep coin on hand for the purpose.

I would suggest to the Senator from Ohio that in order to carry out the principle which he has in mind when he says that the issues of paper money must be reduced, we should commence by retiring that which is of least value, and whenever you apply that test the favorite pet scheme of the Secretary and of the Senator will be at an end, and the issues of the national banks will be retired. If we must have paper money that is not redeemable in coin let us have that which is of greatest value and which approximates nearest to coin. That, it strikes me, is what wise, prudent, and sensible men would do. But the Senator from Ohio and the Secretary of the Treasury desire to retire the best paper currency we have and to leave that which is most worthless and trashy in the hands of the people. To that I am opposed. I admit, with the Senator and with the Secretary, that you must retire the redundant issue of paper before you can have a paper circulation that approximates to the value of coin; but let us act like wise and sensible men and retire that which is of the least value.

There are many other reasons why I cannot advocate this scheme for the destruction of the State banks. The Senator from Ohio makes that direct issue. He says these two systems cannot live; either your national bank system must go down or the State banks must be destroyed. I for one will stand by the State banks, and I will endeavor to destroy that system which I think furnishes the least valuable currency. I am glad he has made the issue, for I do not believe there is a Senator in this Chamber except himself who does not believe that the State banks furnish a better currency than the national banks. That being the case, let us hold on to the State banks, and let us commence the retrenchment of these issues at the right place; let us repeal the national bank law, and then, as we receive the greenbacks for dues to

the Government, retain them and not reissue them; and then when your paper circulation shall be reduced to some two hundred and fifty or three hundred million dollars, you will find that it will approximate to gold in value, and not till then.

Secretary Chase may come here with his financial tinkering; he may ask you to pass gold bills, and you may pass them, and yet you will not put down the value of gold nor put up the value of this paper money. When you withdraw your paper money from circulation, bank paper, if issued in accordance with approved systems of banking, having sufficient capital, and the note being redeemable in coin at the counter from which it is issued, you will have a paper currency that will be of equal value with gold, and not till then. No financial tinkering ever did or ever will cause a bank note not issued on healthy principles of banking to circulate at par with coin. I believe that since the world commenced no country was ever cursed with a more disastrous financial policy than the present Secretary of the Treasury has inflicted upon our country. We have seen its bad effects all around us, and the longer it is continued the more glaring they will be.

I am opposed to taxing State banks. I am opposed to the proposition contained in the report of the committee as well as to the amendment of the Senator from Ohio. There is really very little difference between the two propositions. I do not believe that the circulating medium should be taxed. It should be like the air we breathe, free. Of itself it is not of value. Its value is representative altogether. It is the medium of exchange. It is the measure of values. It does for commerce the office that the vital air does for the human system. All the tax you should lay on the State banks is a tax on their earnings, their profits, as you tax citizens engaged in other business. You have taxed the net income of men in business heretofore three per cent. Tax the profits of the banks that much. If you raise your income tax on individuals raise it on the banks. Treat them as you treat individuals. If you lay additional taxes on them, everybody knows that if they issue their notes the corporations will not pay the tax, for they will exact it from their customers in some way. I would tax them like individuals on their income, and I would not tax them any more. I think it is bad policy to do it; and particularly would I not do it in order to carry out the object avowed by the Senator from Ohio and the Secretary of the Treasury, to kill off the State banks and substitute for their paper this miserable national bank currency.

Sir, was there ever such a magnificent failure as this national bank currency? You have had it for some time; it went forth with the faith of this mighty nation pledged to it. It was proclaimed to the people, "If your Government stands this money will be good." And yet it is not to-day worth more in gold than about half its nominal value, and every hour it is growing worse. I admire the tenacity of my friend from Ohio. I thought we had had experience enough to convince him that the system was a failure. The Senator, I know, has discussed the question with great ability. I do not believe you could find a gentleman here or elsewhere who would have made so elaborate, able, and plausible a speech in advocacy of such a rotten scheme. I had hoped that after our past experience he would give it up; but he fights on with the tenacity of Butler's hero, Hudibras:

"Down he fell; yet falling, fought;  
And being down, still laid about."

He is now laying about the corpse of this miserable system, for it has died in its infancy. We find him and the Secretary of the Treasury harping on it, and wishing to murder everything that comes in competition with it. I expect that after the State bank currency is all put out of the way, an edict will be issued banishing gold and silver coin, because it is a better currency than the issues of the national banks.

Mr. President, I hope the country will no longer listen to those who urge this paper-money system. Let us act for ourselves. I know and the Senate knows that the national bank bill which was passed here at the last Congress was passed against the judgment of the Senate. We thought we had killed it; but the Secretary of the Treasury came into this Hall; he told Senators privately that he could not carry on the Government for

sixty days without the bill; and yielding their judgments to him they gave it to him; and how did he get along with his finances afterwards? I think nobody will now say that the national banks have helped him. The Senate yielded their judgment to that functionary then: I hope they will do so no more. It has proved a most magnificent failure, if I may be allowed to use such an expression. Let us act like free and independent Senators, and protect our country from the great and crushing disaster that must follow from this paper-money system of Mr. Secretary Chase. I verily believe that this paper-money system of the Secretary will be quite as disastrous to the commercial and industrial interests of this country as the rebellion itself. For God's sake do not let us follow such a leader any longer; let us turn to the right path; let us carry out such financial schemes as the history of the world for a thousand years has indicated are not fallacious, and then we will discharge the duty of patriotic Senators.

Senators have spoken of the Continental money. Sir, I verily believe that the fall of this paper system that we now have will be ultimately as great and more rapid than that of the Continental money. I have a table here showing the fall of that Continental money. We passed the first law for the issue of legal-tender notes on the 25th of February, 1862; then we passed another in July of that year. We have had those legal-tender issues now for about two years, and what are they worth? Gold is 194 to-day. I hold in my hand a table of the value and depreciation of Continental money, which I will send to the Secretary's desk and ask him to read it.

The Secretary read, as follows:

CONTINENTAL CURRENCY.—A friend hands us an extract from an almanac written for the year 1791, giving a scale of the depreciation of the Continental money for the settlement of old debts, as directed by the General Assembly of Pennsylvania, from which we gather some particulars of the progress of the depreciation of Continental currency which may not be uninteresting to the readers of the Age:

Date.	Per cent. discount.
1777. January.....	1½
February.....	1½
March.....	2
April.....	2½
May.....	2½
June, (slightly improved).....	2
July, August, September, October, November.....	3
December.....	4
1778. January.....	4
February and March.....	5
April, (highest point for two years).....	6
May, (again improved).....	5
June and July (still better).....	4
August, September, October.....	5
November and December.....	6
1779. January.....	8
February.....	10
March.....	10½
April.....	17
May.....	24
June (temporary reaction).....	20
July, (temporary reaction).....	19
August.....	20
September.....	24
October.....	30
November.....	38½
December, (about present discount on greenbacks).....	41½
1780. January.....	42½
February.....	47½
March, April.....	61½
May, (last spasmodic recovery).....	69
June.....	61½
July.....	64½
August.....	70
September.....	72
October.....	73
November.....	74
December.....	75

In 1781, the depreciation was fixed at about 75 during the months of January, February, March, and April. At 75 per cent. discount it required four dollars of paper to represent one silver dollar. From this point the depreciation was much more rapid; it soon required five, then six, then eight paper dollars to represent one in specie. On the 1st of May, 1781, one hundred paper dollars were equivalent to one dollar in coin, after which the difference became so wide that the Continental money ceased to circulate.—*Philadelphia Age*.

Mr. POWELL. Mr. President, we all know the condition of that Continental currency. It became utterly worthless. It will be observed, however, from the table that has been read that it stood much better than the issues of paper money we have now at the end of two years after it was issued. I have no doubt that this paper money will become quite as worthless as that.

The law establishing the national banks makes

them depositories of the public money, at the discretion of the Secretary of the Treasury, and overthrows the independent Treasury system, a system that has worked well and met the approval of the entire country until the bill to create national banks was introduced. I had supposed that there were no statesmen of this day who were not fully and entirely satisfied that the public money should be kept apart from the banks, that the wisdom of the independent Treasury system had been fully vindicated by its practical workings.

When you make the national banks depositories of the public money you will entail upon the country tenfold the evils of the pet bank system, which worked so disastrously to the country. That illustrious patriot and statesman, General Jackson, placed the country under a debt of everlasting gratitude by his overthrow of the United States Bank, which he conceived to be dangerous to the liberties of the people, and his advocacy of hard money. That wise statesman said:

"Give the people an honest Government, freedom from monopolies and privileged classes, and hard money, not paper currency, for their hard labor, and all will be well."

In the place of an honest Government we have the most corrupt and venal Administration the world has ever seen, monopolies in the shape of a high protective tariff and mammoth systems of internal improvement, followed by high taxation, which impoverish the people by wringing from them the honest earnings of their labor, while a worthless paper currency floods the land.

I have another objection to this national bank system. I believe that it is unconstitutional. I think there is no warrant in the Constitution for the organization of such banks. I believe it tends to consolidation. I believe that it creates a moneyed power here which, if they carry it out, will be dangerous to the liberties of the people. I am utterly opposed to it in every form. I am in favor of the local banks. I wish to make no war upon them. I believe that no institutions ever acted more patriotically than those banks have done during this war. It was the banks of New York chiefly, and the banks of Philadelphia and Boston acting in conjunction with them, that gave the sinews of war to the Government at the beginning of the strife. We could not have got along without them. They enabled the Secretary of the Treasury to get along; and he now, with great ferocity, has turned against them, and wishes to crush and destroy them. I think it is a species of ingratitude that a virtuous and honest people ought not to submit to.

Mr. McDougall. I move that the Senate do now adjourn.

Mr. FESSENDEN. Before the question is put I have a word to say.

I shall not oppose an adjournment if the Senate see fit to adjourn, and I am perfectly willing to stay here as long as the majority of the Senate see fit to stay. But in the course of the day many Senators apply to me, as having charge of this bill, and ask me to have an evening session. They say, "We cannot otherwise get through with the bill; it is necessary to close this session; we must finish up some time or other." Very well; we have an evening session. When we meet in the evening, many Senators come to me and say, "It is very oppressive in this Chamber; I cannot stay here; my health is suffering; let us adjourn until to-morrow." I ask Senators as a personal kindness to me to do either one thing or another; either not ask to have an evening session or else not ask me to agree to end it, and then settle the question for themselves without reference to what I may think or wish on the subject. I am willing to stay here as long as Senators choose; but I warn the Senate that if we expect to get through before this time next year we must be content to act on a bill of this kind, large as it is, without these very long speeches, because if we continue them, especially on our side of the Chamber—I have nothing to complain of at all—we shall not see the end of it for many weeks, and we want to get through some time.

Having said thus much I leave the Senate to act on the question of adjournment at this time according to their own pleasure.

Mr. CONNESS. I hope we shall come to a vote on this amendment to-night before we adjourn.

Mr. FESSENDEN. I understand the honor-



able Senator from California [Mr. McDougall] desires to address the Senate upon it, and that is the reason why he has made the motion to adjourn.

Mr. CONNESS. I was not aware of that.

Mr. WADE. I think we might commence earlier in the day.

Mr. FESSENDEN. I will state to the Senator that the Committee on Finance is obliged to be in session every morning at half past nine o'clock, and do not get through their business until twelve, and then they are compelled to be in the Senate Chamber. I have more business on my hands than I can possibly attend to in the committee-room. Senators must reflect that at this period of the session all this business accumulates on the Committee on Finance, and if they do not give us some time to attend to that, we shall be compelled to act without any consultation in the committee in the premises. I should be very desirous to meet as early as you please if I could only be relieved from the committee-room; but I am obliged to go there at half past nine in the morning and work until twelve, then come into the Senate and work here until half past four o'clock, and then come here again in the evening and work until the Senate adjourns.

Mr. WADE. I have nothing more to say about it.

Mr. McDougall. Of course this debate is all out of order. I stated to the chairman of the Committee on Finance that I desired to address the Senate on this subject. We have been in evening session until twenty minutes to ten o'clock. Many Senators have left the Chamber, and those who have not left have generally been engaged in private business. I should like to have the privilege of addressing the Senate on this subject in the morning, and therefore I have moved the adjournment.

The motion was agreed to; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

Monday, May 30, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

The SPEAKER proceeded, as the regular order of business, to call the committees for reports, to go upon the Calendar, and not to be brought back by motions to reconsider.

#### CAPTAIN ANDREW RUSSELL.

On motion of Mr. PRICE, the Committee on Revolutionary Claims were discharged from the further consideration of the petition of W. F. Percell and others, in reference to Captain Andrew Russell; and the same was laid on the table.

#### PENSIONS TO SOLDIERS OF THE WAR OF 1812.

Mr. SPALDING, from the Committee on Revolutionary Pensions, reported back, with sundry amendments, a bill (H. R. No. 266) granting pensions to the surviving soldiers of the war of 1812; which was referred to a Committee of the Whole on the Private Calendar and the bill and accompanying report ordered to be printed.

No further reports being made from committees, the House proceeded, as the regular order of business during the remainder of the morning hour, to the call of States for resolutions.

#### EVACUATION OF CUMBERLAND GAP.

Mr. COX. Under this order of business, I suppose, the resolution which I offered last Monday, calling upon the Department to inform us why my former resolution calling upon the Department for the report of General Morgan, in reference to the evacuation of Cumberland Gap, has not been answered, comes up for consideration. Since that time the original resolution has been answered, and I withdraw the pending resolution.

#### CABINET OFFICERS IN CONGRESS.

Mr. PENDLETON offered the following resolution, on which he demanded the previous question:

*Resolved*, That the select committee to which was referred the bill to admit members of the Cabinet to seats on the floor of the House be continued during the present Congress.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the resolution was agreed to.

#### JUVENILE OFFENDERS IN THE DISTRICT.

Mr. MORRIS, of Ohio, introduced the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee for the District of Columbia be instructed to inquire into the expediency of reporting a bill providing that all juvenile offenders convicted of crimes in the District of Columbia shall be sentenced to that house of correction outside of the District which, after sixty days' notice shall have been given by the Secretary of the Interior in some newspaper in each of the principal cities of the United States, shall agree to keep them at the least expense to the Government.

#### CHANNEL OF THE POTOMAC.

Mr. THOMAS submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Commerce be instructed to inquire into the expediency of making an appropriation to deepen the channel of the Potomac river from the Long bridge to the wharves in Georgetown, so as to open an outlet for the Chesapeake and Ohio canal, in place of the Alexandria canal aqueduct, which has been seized and appropriated to the use of the quartermaster's department of the United States.

#### SIDE-WHEEL GUNBOATS.

Mr. BRANDEGEE, by unanimous consent, introduced a joint resolution for the relief of the contractors for the machinery of the side-wheel gunboats known as double-enders; which was read a first and second time by its title, and referred to the Committee on Naval Affairs.

#### ADDITIONAL AIDS-DE-CAMP.

Mr. DAVIS, of New York, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be requested, as soon as practicable, to furnish to this House the names, rank, and date of commission of all aids-de-camp, commonly called additional aids-de-camp, who were in the military service of the United States March 31, 1864, and who have been appointed by authority of the act approved August 5, 1861, entitled "An act supplementary to an act entitled 'An act to increase the present military establishment of the United States,'" approved July 19, 1861, and been continued in service by authority of section nineteen of the act approved July 17, 1862, entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," together with the name of the major general for whom such additional aid-de-camp was appointed; the name of the major general or other officer under whom he was serving on the last day of March, 1864; the nature of the duty performed by such additional aid at the date, and the place where performed.

#### WASHINGTON MONUMENT.

Mr. DAVIS, of New York, also submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee for the District of Columbia be instructed to inquire into the present condition of the Washington National Monument Society, to ascertain the amount of funds collected for the association since its last report; the amount expended and paid for salaries, since said report, to the respective officers of the company, and also in what manner the funds on hand are invested or kept; and that said committee be authorized to make any other inquiries which they may think best, and also to send, if necessary, for books and papers, and witnesses, and that they report to the House.

#### THE DRAFT.

Mr. ANCONA asked the unanimous consent of the House to offer the following resolution:

*Resolved*, That the Secretary of War be directed to inform the House what notice has been given to the people of the quotas due and required from the sub-districts after the credit for veterans reenlisted and volunteers under the various calls for troops have been ascertained and deducted.

Mr. WASHBURN, of Illinois. That resolution calls for information from one of the Departments. I object to its consideration to-day.

#### RENDITION OF FUGITIVE SLAVES.

Mr. HUBBARD, of Connecticut, asked the unanimous consent of the House to offer the following resolution:

*Resolved*, That the Committee on the Judiciary be instructed to report to this House a bill for the repeal of all acts and parts of acts providing for the rendition of fugitive slaves; and that it be in order for said committee to make said report at any time.

Mr. HOLMAN objected.

#### OBJECTS OF THE WAR.

The House then proceeded, as the regular order of business, to the consideration of a resolution offered on the 16th of December, 1863, by Mr. ROLLINS, of Missouri, declaring that, prompted by a just patriotism, we are in favor of an earnest and successful prosecution of the war, and that we will give a warm and hearty support to

all those measures which will be most effective in speedily overcoming the rebellion, and in securing a restoration of peace, and which may not substantially infringe the Constitution and tend to subvert the true theory and character of the Government; and we hereby reiterate that the present deplorable civil war has been forced upon the country by the disunionists now in revolt against the constitutional Government; that in the progress of this war Congress, banishing all feeling of mere passion or resentment, will recollect only its duty to the whole country; that this war is not waged on our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; that as soon as these objects are accomplished the war ought to cease.

The SPEAKER stated the pending question to be on the motion of Mr. MORRILL to refer the resolution to a select committee.

Mr. ROLLINS, of Missouri. Mr. Speaker, the resolution which has just been read I had the honor to offer to the House on the 16th day of December last. It is in effect the same resolution which was adopted at the July session, 1861, of the Thirty-Seventh Congress, with only two dissenting voices—Potter of Wisconsin, and Burnett of Kentucky; the last-named individual being now a member of the confederate congress at Richmond. I believed it to be right then—I voted for it—and I believe it to be right now. It is presented in no partisan spirit. At the time of its introduction it was pronounced by a member on this floor, now deceased, (Mr. Lovejoy,) a "secession document." Upon a motion to lay the resolution on the table the vote stood—59 yeas, 114 nays. After the vote, the gentleman from Illinois [Mr. WASHBURN] proposing to debate it, it went over under the rules of the House, and now for the first time since comes up for consideration to-day. While it is not my purpose to detain the House at length, I feel that it is but right, as the mover of the resolution, that I should say a few words in regard to it. Whatever may come of it I have to say, Mr. Speaker, that it presents a platform upon which I have stood from the commencement of the rebellion; and it has occurred to me that it is a safe platform, upon which every sincerely patriotic Union man in the nation might stand, no matter to what political party he might belong. And it was offered not only as expressive of my own sentiments, but as affording a rallying point for all the friends of the Government in the terrible struggle for its maintenance. I hope the House will come to a direct vote on the resolution. Let us see who is for it, and who is against it. I hope there will be no indifferent motions made in regard to it.

If ever there was a time, Mr. Speaker, when there should be a cordial unity of sentiment and of action among all those who desire to preserve the happy form of Government under which we live, it is the present moment. And, sir, if we fail in this gigantic and important struggle; if the ship of State, so richly freighted, tempest-tossed, and threatened on all sides with dangers, shall go down, it will be lost not on account of inability on our part to preserve it, but because we exhaust our strength upon questions of secondary importance, and because of the infidelity of the crew, in not directing their whole energies to the safety of the vessel. Sir, for what do we contend? Is it that this or that institution, long existing in some of the States, should suddenly perish? Is it to have this or that amendment hastily, and it may be irregularly, incorporated into the Constitution? Or is it for the far higher and nobler object of preserving the Constitution itself, and which is the only bond of union which can bind indissolubly together the people of all the States?

Mr. Speaker, in my younger days it was often a matter of congratulation to myself that the American people were so blessed in their happy and matchless form of Government, and so far advanced in Christian civilization, that they would never attempt to settle political questions in any other mode than by the peaceful processes of reason and of logic. In the history of the world

I had read of the desolating civil wars by which other nations had been visited to gratify the ambition of kings and of despots, but I had flattered myself that we would be exempted from these calamities, and that the fierce barbarism which in other periods of the world's history had stained with blood the annals of our race would never disturb the good order of society, endanger the structure of our own Government, or mar the beauty of our social and political organization. In this I have been sadly mistaken.

I confess, sir, I placed far too high an estimate on the good sense, the virtue, and intelligence of the American people. Foolishly involved, as we are, in one of the most causeless and disastrous struggles that the world has ever witnessed, we are but following in the footsteps of those who have preceded us, setting at naught the precepts of wisdom, trampling under foot the teachings and setting at defiance the moderation of the great and good men who, with so much care, had built this grand temple of liberty, and beneath whose shadow their posterity for ages might have lived in the enjoyment of every blessing which a great country and the noblest and freest institutions ever planted on earth could confer; we find ourselves rapidly undermining this beautiful temple, bringing poverty and death upon ourselves, and destroying the hopes of the world in the capacity of men to maintain and preserve a Government based upon the will of the people and a written Constitution. It is an old adage that "human nature is the same in every period of the world," and we seem determined that its truth shall be fully exemplified in our own history. Sir, mankind are amazed at the events which are now transpiring around us, and we are stupefied at the follies and calamities which we have brought upon ourselves. We are now solving the important problem whether we shall be equal to the task of preserving a Government and a Union which our ancestors had the wisdom to create and establish. No greater problem was ever presented for solution since the first dawn of creation; and no question more important to the well-being of our race in all the ages that are to follow, was ever discussed among men. And, sir, if we can pass through this civil war with the Federal Constitution and the American Union preserved, it will be the sublimest spectacle that the world has ever witnessed, growing out of the political interests and actions of men.

In my poor view war is not the best mode of preserving a Government and a Union founded in the popular will and having for its chief cornerstone the affections of the people; and a fearful responsibility rests upon all those who, in public and in private life, have in any way opposed conciliation, and by their conduct nurtured and encouraged the deplorable civil war which alike disgraces and afflicts our country. But, sir, for the present we must pass by these questions. At another time, and under other circumstances we may be permitted to inquire into these matters, while the record of history will be properly made in fixing the blame which rightfully attaches to all those to whom the country is indebted for its present misfortunes. The question now is not so much for what causes and by whose indiscretion this civil war exists, but how we can most safely and honorably get out of it, with the life of the nation and the union of the States preserved. In the settlement of these important questions the heart of every true patriot throbs with anxiety; and to these, and these alone, should all our energies be now directed. In the midst of these great events, more important in their consequences than any that have ever transpired in the world's history, we should rise above all considerations of party malevolence or mere personal revenge. For whatever may be the errors, however great the crimes, which the southern people have committed in commencing this war against the Government of their fathers, we must remember that they sprang from the same stock with ourselves, that we have the same religion, speak the same language, were educated in the same schools, have the same traditions, and must share a common destiny; and in the very war now being waged they have proved themselves in generalship, in ingenuity, in courage, in pertinacity, in endurance, and in military skill a foe in all respects "worthy of our steel." It is idle for us in these particulars to underrate the high qualities of the

southern people. Upon a hundred bloody and well-fought fields they have attested their valor, and wrung from us an unwilling tribute of their stern devotion to the bad and unjustifiable cause in which they are engaged. If we may boast of a Grant, a McClellan, a Hancock, a Sedgwick, and a Sherman, we must remember they have their Lees, their Johnstons, their Beauregards, their Longstreets, and their Hills. I know, sir, that in giving expression to these liberal sentiments, founded as they are in truth, I run the risk of incurring the displeasure of those rampant patriots who are unwilling to acknowledge the possession of any virtue by our obstinate and deduced enemy. We have underrated these people. Engaged as they are in an unholy cause, and despising it as we do, we have been slow to acknowledge the high qualities by which they have thus far sustained it; and at last, sir, when their military power is overcome, as, by the blessing of God, it will be, if we would then expect to have peace in the land, we shall have to treat with them upon the same terms and in the same manner that other liberal and enlightened nationalities have treated with those violators of the law, who have attempted to overthrow and destroy the Governments under which they lived.

Mr. Speaker, since the outbreak of the rebellion, the actual commencement of the war, I have seen no other mode of ending the struggle than by fighting it out. It was, and is either this or the acknowledgment of the independence of the confederate States. These have been and are now the alternatives presented to the American people. These issues cannot be changed; and regarding disunion as fraught with every possible evil to ourselves and to our posterity, as a stigma upon our national escutcheon never to be obliterated, a disgrace to the American name, a drawback to civilization and progress, a destruction to our nationality, in the continuance of which is centered the best hopes of mankind, I have seen no other way since the war commenced of ending the controversy and reestablishing the authority of the Government than by the dread arbitrament of arms. The southern people themselves who are actually engaged in the rebellion contemplate nothing else; they have staked their all upon it; disunion is their watchword; to it they are wedded, and they will give it up only when, exhausted in men and resources, they shall be compelled to yield to the superior power of the Government. Hence, sir, in my view that legislator best meets the obligations of true patriotism in this crisis and sustains the idea of an early and a lasting peace who stands by the Government in voting men and money to carry on the war, and in encouraging every constitutional measure calculated to weaken and at the same time to end the rebellion; not in a spirit of "passion or resentment," in the language of the resolution, "nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired."

Such is the language of the resolution; and these, in my view, are the only true objects for which the war ought to be prosecuted. And any departure hitherto or hereafter made from the spirit of this resolution will only tend to prolong the struggle, complicate it with new and difficult questions, produce division and alienation among those who ought to be united in the one essential object of saving the Government and reestablishing its authority over the entire country. To the securing of these everything else ought to be incidental and subordinate. And, sir, I venture the assertion, that if from the beginning, when a similar resolution was adopted with such great unanimity by this House, and approved and sanctioned, I believe, by all the departments of the Government, its spirit and purpose had been strictly adhered to, and the policy of the Government in no respect changed, we would this day have not only greater harmony among ourselves, but we would be much nearer the end of the rebellion. In other words, sir, if from the beginning we had pursued the policy which all Union men started out upon, if we had held aloft the Constitution and the olive branch in one hand and the sword in the other, assuring in every way the people of

all the States of the South that our sole purpose and duty was to defend the Constitution of the United States, to maintain the authority of the Government and uphold the Union of the States, it is my firm conviction that to-day, sir, there would have been a Union party in the South equal in numbers to the party who are now endeavoring to destroy the Government. For we know at the commencement there was a powerful Union party in every southern State with, perhaps, the exception of South Carolina. And if we find matters so greatly changed we have mainly to look for the cause in the changed policy into which we have drifted and which has been pursued. Commencing the war without excuse or justification, we have been continually making a cause for them until they now present an almost unbroken phalanx against the Government and the progress of the national arms.

I know, sir, that the President has been surrounded by great difficulties growing out of the rebellion, far greater than any which ever beset any other President, and having confidence in his patriotism and his sincere desire to overcome the rebellion at the earliest possible day, and to reestablish the authority of the Government, I have not felt it to be my duty to make war upon him in regard to those questions wherein I differed from him. In a great crisis like this, while there must be wide differences of opinion there should at the same time be permitted the freest toleration of sentiment among all those who claim to have the same patriotic object in view. Nor would I hold men to the strictest account for those changes of opinion which revolution and the constantly varying aspect of public questions tend to create in their minds. I can well see that men may be equally honest and patriotic, and yet differ widely in reference to the best policy for the Government to pursue, where dangers threaten on all sides. But many questions have been started and issues presented having no necessary connection with the war, and which have been greatly calculated to distract and divide and draw the attention of the people from that which should be the only true issue before the country. And to the extent that these ill-timed and irrelevant questions are continued to be urged upon us will the cause of the Government and of the Union be weakened and endangered. For at last, at the end of the struggle, we shall have to come back if we would save the Union, and to which all of us profess so much attachment, to the very terms and spirit of the resolution now under discussion. In the language of Mr. Lincoln in his inaugural address, "Suppose you go to war, you cannot fight always; and when after much loss on both sides and no gain on either you cease fighting, the identical old questions as to terms of intercourse are again upon you." And I repeat, to be settled if at all in the spirit of that resolution.

I know of no punishment too severe to be inflicted upon the authors of this cruel and unnecessary rebellion; but so far as the masses are concerned, who have been deluded and led astray, we should not only adopt a policy of the broadest amnesty, but we should abandon all schemes of confiscation and legalized plunder, some of which have been persistently and too successfully urged upon this House. I take the same view of all those insane theories, having for their object the subversion of the State governments, and converting them into territorial dependencies. In looking to reunion, I have no other idea than that the States will be preserved in the same geographical and political relations to the General Government which existed anterior to the rebellion. That there will be changes in some respects I do not doubt. As well might we expect to see the hurricane and the storm sweep across the land without uprooting the forests as to see a country like ours pass through the bloody ordeal of a great revolution without some important modifications in the organic law. But it is to be hoped that these changes will not materially infringe the true theory and character of our Government or upturn the essential features of the Federal Constitution.

These unavoidable and incidental changes produced by a great rebellion we must submit to. But we can never have, in my view, a better form of government than the one under which we have lived—the most perfect, consistent with the idea of the fullest enjoyment of human liberty, which

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was ever formed. The division of the powers of the General and State Governments, so admirably adapted to the protection and the promotion of the interests of the nation and of the individual States; the perfect harmony and beautiful simplicity of the whole machinery working in such admirable order, commanded alike the admiration and wonder of men. Endangered at last by an attempt to put into practical operation the extreme and dangerous and, I would add, absurd theory of the constitutional right of a State to secede from the Union, we must be careful, in avoiding this danger in our political system, not to drift to the other extreme, whereby the rights of the States would be ignored and swallowed up in consolidation and centralization. Our safety consists in guarding with jealous care the rights and the powers of the individual States as well as of the General Government, as defined in the Federal Constitution; a Constitution which in the achievements of human wisdom stands without a parallel, and of which a distinguished Virginian, at one time an eloquent member of this House, now a general in the confederate service, said:

"Washington, Franklin, Jefferson, all combined, in Congress or out of Congress, in Convention or out of Convention, never made that Constitution; God Almighty sent it down to your fathers. It was a work, too, of glory, and a work of inspiration.

"I believe that as fully as I believe in my Bible. No man, from Hamilton and Jay and Madison—from Edmund Randolph, who had the chief hand in making it, and he was a Virginian—the writers of it, the authors of it, and you who have lived under it from 1789 to this year of our Lord 1858, and none of your fathers, and none of your fathers' sons, have ever measured the height, or the depth, or the length, or the breadth of the wisdom of that Constitution."—Speech of Henry A. Wise, 1858.

I act upon the theory that the Union is to be preserved and the Government saved from wreck; for it may be, if we fail in the grand effort which we are now making for national preservation, the whole character of our institutions may be changed, and the Government itself converted into an absolute military despotism. For one, sir, I would be content to-day with the old order of things, with "the Constitution as it is and the Union as it was." They met the objects for which they were created. No people on earth ever prospered as have the American people under the influence of our free and beneficent institutions. They were established by the wisest and noblest set of men who ever adorned the annals of human history. I was satisfied with their work. It was good enough for me and for my children. I would not have changed it myself, nor do I know the men who are wise enough to improve it. And all this is perfectly consistent with that advancement and rational progress in the science of government and human improvement which a more liberalized culture among the masses and a steadily advancing Christian civilization would be sure to bring.

Mr. Speaker, as we seem to approach the termination of this struggle, questions of the greatest magnitude constantly spring up, demanding of us the most earnest consideration in their proper settlement. Even after the rebellion is overthrown, their capital taken, and their archives (if they have any) scattered to the four winds, and their military power so far overcome as to be no longer effective and dangerous, the question will still be asked, how can the masses of the people be best brought back to their former relations to the Government? I know the theory is encouraged by some gentlemen—I hope they are not very numerous—that these people are to be deprived of all their political rights, that they are no longer to be readmitted to the full privileges of citizenship under the Government. Whatever justice there may be in all such suggestions as applicable to the leaders in this rebellion, I cannot appreciate the wisdom or practicability of such a policy being extended to all the masses of the people. It would certainly be destructive of "all the ends we aim at," in endeavoring to bring about a restoration of the Government. We all profess a desire to see the southern people, who have been led astray, return to their allegiance

and meet the common obligations which we all owe to the parent Government. But how can we expect them to do this with all the onerous conditions which are so strenuously urged by some imposed upon them? No, sir, even after the war is over there must be negotiation and reconciliation. All these people cannot be driven in exile from the country; you cannot punish them all for the crime of treason; they must come back, and while they will be taught and if need be forced to obey the laws, they must be made to feel that under the Government all their rights will be respected and protected, and by a faithful observance of all the laws they will be placed upon the same footing of equality with every other citizen of the Republic. To insure their fidelity, they may and perhaps they ought to be required to take such oaths and to conform to such other reasonable conditions as will be sanctioned by the good judgment and accord with the enlightened liberality of the country. By this policy we may reasonably hope to have peace after the war is over; the disorders of society produced by the rebellion will be assuaged; prejudices enkindled by the fierce conflict of arms will be softened; and we must leave to time to heal other wounds and to wear away the sectional animosities so long agitating the country, culminating, at last, in a disgraceful and bloody war, and shaking the very foundations upon which the superstructure of our Government rests.

Mr. Speaker, in my poor view this is the only mode by which we can ever expect to restore perfect peace to the country and bring again once more to all the people that prosperity and good order which existed prior to the breaking out of this rebellion. Residing in a State where at one time the opposition to the Federal Government on the part of many of the citizens was violent and unrelenting, which has furnished a large number of soldiers to the confederate army, and in which the authority of the General Government has been almost entirely reestablished, and the citizens have returned to their allegiance, I am not wholly without experience in reference to the influence and good effect of the policy to which I have adverted. I know that these opinions will find but little sympathy with many gentlemen on this floor. Extremely radical as they are and indignant at the attempt to destroy the Government, irritated at the calamities which the war has brought upon the country, and the heavy burdens which must rest for many years to come upon the shoulders of the people, and following the instincts of human nature, they think more of inflicting punishment upon the guilty than by a liberal and humane policy endeavoring to win them back to their allegiance. They would confiscate their estates; they would parcel out their lands among the brave soldiers who have borne aloft the banner of their country in the suppression of the rebellion; they would deprive them of the right to vote, as well as of the right to hold office under the Government; they would establish a system of serfdom over the entire southern States; they would create a necessity for a standing army in every county and district of that part of our country in order to keep the peace and prevent revolt! And some would even go so far as to elevate the negro to the privileges of citizenship, and the ownership of the property of the country, while they would see our own race, men of Anglo-Saxon blood, degraded in the scale of being, and become mere "hewers of wood and drawers of water" for that servile and inferior race of men whom they had hitherto held as slaves! Sir, I cannot repress the indignation which I feel and which the bare intimation of a policy like this awakens in my bosom, and I can regard the men who would attempt the execution of such a policy as none other than madmen.

"Oh, judgment! art thou fled to British beasts,

And have men lost their reason?"

Mr. Speaker, I think I appreciate at its full value the importance of the preservation of the American Union and of the Government of the United States. The idea of a continuance of our

national unity and the grand results in the long vista of coming years which would flow from it in diffusing the blessings of liberty and of free government to mankind in every part of the habitable globe, has been the thought, more than any other, which has guided and influenced my political action in life. It has been the political divinity at whose altar I have worshiped from my infancy; and when I contemplate the horrors which must inevitably result from the breaking up of this national unity, the degradation and dishonor which must forever attach to the very name of American, I feel that we ought to be ready to make any and every sacrifice in order to preserve it. But, sir, there are some things, in my view, which are even worse than disunion; and rather than see that bright and beautiful land destroyed, its people deprived of citizenship, the southern States brought into complete subjection and controlled and governed by the other States, rather than see the negro, under the influence of a false philanthropy and a pertinacious fanaticism, taking the place of the white man, and made by law politically and socially his equal, or, as some would prefer, his master; sir, rather than to witness these things, horrible as the idea of disunion has ever been to me, I would say let there be separation, hoping still, however, that in the future, when the animosities of the present hour no longer controlled, another generation of men, following the patriotic example of the fathers of the Republic, would bring about union once more, so much demanded by the interests of this continent and the happiness and liberty of our race. No, sir, I am for preserving the Government, but with all the "dignity, equality, and rights of the several States unimpaired," and, I will add further, with the rights of the people, of every citizen of the Republic, in whatever part of it he may reside, equal under the law and under the Constitution, responsible only in a legal and constitutional manner for any violations of the law or for any crimes and offenses which he may commit against the Government. These are the general views which have occurred to me as most proper to be adopted in any plan of reunion which may come up for consideration after the cessation of hostilities, and they are substantially embodied in the resolution which we now have under consideration. But, sir, all these theories will fail, all resolutions passed by this House or by the Congress of the United States will be of no avail unless our arms meet with success. The overthrow of the military power of the South is a *sine qua non* to the reestablishment of peace and the restoration of the Union; and every measure which tends to strengthen our Army, to encourage our soldiers in the field, to sustain our generals, should receive the cordial support and hearty approbation of every patriot in the land.

Mr. Speaker, I have never despaired of the Republic. I know the terrible trial which is now upon us, and the still more terrible ordeal through which we may yet have to pass before we reach the end of the struggle. But, sir, I believe that the American people will be equal to all emergencies that may spring out of this contest. They are alive to its importance. They know the issues at stake. Hitherto they have responded with alacrity and promptness to every call which the Government has made upon them; they have not spared their means; and they have proved themselves ever ready to bare their bosoms to the storm. And now, at the very crisis of the nation's fate, in the midst of the remorseless and desperate struggle which has at last come upon us; when the capital of the confederate States is threatened, and, as we hope, on the eve of being taken, and the president and high officers driven from the sacred soil of Virginia, and their government literally broken up; when the brave and immortal Grant, worthy, as he has proved himself to be, of the highest honors of the nation, is bearing aloft the national ensign, and carrying the eagles of the Republic to the very heart of rebellion, we have abundant cause of thankfulness to Almighty God for the bright bow of



promise which spans our skies. And in this hour of the deepest anxiety, when the fate of the nation and the perpetuity of our Government is trembling in the balance, and when the complete success of our arms will send a thrill of gladness and of joy, of hope and of confidence to the heart of every friend of free Government throughout the habitable globe, may God inspire every true friend of the Constitution and of the Union with courage, with patience, with hope, with magnanimity, that we may meet the duties of the hour like "men, high-minded men," not only at the present time, but also when we shall have passed the great impending crisis which is now upon us.

With these remarks, Mr. Speaker, if no other gentleman desires to discuss the resolution, I move the previous question; but I first desire to modify it by striking out the word "substantial."

The SPEAKER. When the resolution was offered on the 16th of December last the gentleman from Vermont moved its reference to a select committee. The previous question, of course, covers that motion.

Mr. FERNANDO WOOD. I ask the gentleman from Missouri to give me an opportunity to offer an amendment before he moves the previous question.

The SPEAKER. The gentleman from Vermont is entitled to the floor.

Mr. ROLLINS, of Missouri. Having modified the resolution, I believe I must insist upon the previous question.

Mr. MORRILL. I rise for the purpose of modifying my motion so as to refer the resolution to the select committee on the rebellious States.

Mr. SMITHERS. I rise to a privileged question. I desire the House to resume the consideration of the Kentucky contested-election case.

The SPEAKER. That question will take precedence.

Mr. MORRILL. I appeal to the gentleman from Delaware to allow this question to be disposed of.

Mr. SMITHERS. If I was certain that it would be disposed of under the previous question I would do so.

Mr. WASHBURN, of Illinois. A contested-election case is always a matter of privilege.

The SPEAKER. The Chair desires to ascertain from the gentleman from Delaware whether he calls up his question of privilege.

Mr. SMITHERS. As it seems to be the desire of the House that I should waive it for a moment, I will do so.

Mr. COX. Have the yeas and nays been ordered?

The SPEAKER. They have not been.

Mr. COX. I call for the yeas and nays.

The yeas and nays were ordered.

The previous question was seconded, and the main question ordered; which was on the motion to refer to the select committee on the rebellious States, on which the yeas and nays had been ordered.

#### MESSAGE FROM THE PRESIDENT.

A message from the President of the United States, by Mr. NICOLAY, his Private Secretary, announced that the President had approved and signed an act (H. R. No. 272) for the relief of Julia A. Ames; an act (H. R. No. 407) authorizing the establishment of ocean mail steamship service between the United States and Brazil; and an act (H. R. No. 432) for the relief of the citizens of Denver, in the Territory of Colorado.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, announced that the Senate had passed an act (S. No. 199) relating to the compensation of pension agents; an act (S. No. 288) to amend an act for the relief of Solomon Wadsworth; and an act (S. No. 291) to amend an act entitled "An act to enable the people of Colorado to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States."

#### SUPPORT OF THE WAR—AGAIN.

Mr. FERNANDO WOOD. Is it in order to move to lay the resolution on the table?

The SPEAKER. It is.

Mr. FERNANDO WOOD. I make that motion.

Mr. COX. I ask unanimous consent to put an

inquiry to the gentleman from Vermont. [Cries of "Object!"]

Mr. MALLORY. I make the point of order that the committee on the rebellious States, being a select committee, having made its report, and that report having been acted on by the House, is *functus officio*.

The SPEAKER. The gentleman from Kentucky is correct; but a select committee can be revived by the reference of a bill, resolution, or petition to it by the House.

Mr. BALDWIN, of Massachusetts. That committee has before it a petition which I presented, and has not yet reported.

Mr. FERNANDO WOOD called for the yeas and nays on his motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 27, nays 114; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnold, John D. Baldwin, Brandegee, Creswell, Thomas T. Davis, Dawes, Donnelly, Eliot, Farnsworth, Garfield, Grinnell, Asahel W. Hubbard, John H. Hubbard, Hulburd, Littlejohn, Schenck, Sloan, Spalding, Stevens, Elihu B. Washburne, Wilder, Wilson, Windom, and Fernando Wood—27.

NAYS—Messrs. James C. Allen, Alley, Ancona, Bailly, Augustus C. Baldwin, Baxter, Beaman, Blaine, Jacob B. Blair, Bliss, Boyd, Brooks, James S. Brown, Chanler, Ambrose W. Clark, Freeman Clarke, Cobb, Coffroth, Cole, Cox, Cravens, Dawson, Eckley, Eden, Edgerton, Eldridge, English, Fenton, Finck, Frank, Ganson, Gooch, Griswold, Harding, Harrington, Charles M. Harris, Herrick, Higby, Holman, Hooper, Hotchkiss, Hutchins, Ingersoll, Jenckes, Philip Johnson, William Johnson, Kasson, Kelley, Orlando Kellogg, Kernan, King, Knapp, Le Blond, Loan, Long, Longyear, Mallory, Marcy, Marvin, McAllister, McBride, McClurg, McDowell, Samuel F. Miller, Morrill, James R. Morris, Morrison, Amos Myers, Leonard Myers, Nelson, Noble, Odell, Charles O'Neill, John O'Neill, Orin, Pater-son, Pendleton, Perham, Pike, Pomeroy, Price, Pruyn, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Rogers, Edward H. Rollins, James S. Rollins, Ross, Scofield, Scott, Shannon, Smith, Smathers, John B. Steele, William G. Steele, Stiles, Sweet, Thayer, Thomas, Upson, Van Valkenburgh, Voorhees, Wadsworth, William B. Washburn, Webster, Whaley, Wheeler, Joseph W. White, Williams, Woodbridge, and Yeaman—114.

So the House refused to lay the resolution on the table.

Mr. COX. I wish to make an appeal to the House to give us a direct vote on this resolution, and not strangle it by referring it to a committee.

The SPEAKER. The gentleman is not in order. No debate is in order.

Mr. RANDALL, of Pennsylvania. Is it in order to move to amend the motion by directing the committee to report the resolution at a specified time?

The SPEAKER. That motion would not be in order, the previous question having been ordered.

Mr. ROLLINS, of Missouri. I wish to make an appeal to my friend from Vermont.

Mr. WASHBURN, of Illinois. I object.

Mr. ROLLINS, of Missouri. I merely wish to make a suggestion.

The SPEAKER. No debate is in order.

Mr. ROLLINS, of Missouri. I desire to say—[Shouts of "Order!"]

The SPEAKER. The previous question was ordered on the motion of the gentleman from Missouri himself, and he must know that it is not in order to debate.

Mr. ROLLINS, of Missouri. Well, sir, I merely want to appeal to patriotic gentlemen on all sides to pass this resolution.

The question was taken on Mr. MORRILL's resolution, and it was decided in the affirmative—yeas 81, nays 66; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, John D. Baldwin, Baxter, Beaman, Blaine, Boyd, Brandegee, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Donnelly, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Loan, Longyear, Marvin, McClurg, Samuel F. Miller, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Charles O'Neill, Orin, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smathers, Spalding, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, Windom, and Woodbridge—81.

NAYS—Messrs. James C. Allen, Ancona, Bailly, Augustus C. Baldwin, Jacob B. Blair, Bliss, Brooks, James S. Brown, Chanler, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Griswold, Harding, Harrington, Charles M. Harris, Herrick, Holman, Philip Johnson, William Johnson, Kernan, King,

Knapp, Law, Le Blond, Long, Mallory, Marcy, McDowell, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Pruyn, Radford, Samuel J. Randall, Rogers, James S. Rollins, Ross, Scott, John B. Steele, William G. Steele, Stiles, Sweet, Voorhees, Wadsworth, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Winfield, Fernando Wood, and Yeaman—66.

So the resolution was referred to the select committee on the rebellious States.

During the call of the roll,

Mr. LAZEAR stated that he had paired with his colleague, Mr. MOORHEAD.

Mr. COX stated that Mr. MCKINNEY had gone home with the dead body of an officer.

Mr. HOLMAN stated that Mr. MIDDLETON had paired with Mr. BOUTWELL.

Mr. J. C. ALLEN stated that his colleague, Mr. W. J. ALLEN, was detained in Baltimore by sickness.

Mr. McALLISTER said he had paired with Mr. BROOMALL.

Mr. ANCONA stated that he understood his colleague, Mr. MILLER, had paired with Mr. JULIAN.

The vote was announced as above recorded.

#### HARBORS ON THE LAKES.

Mr. WASHBURN, of Illinois. The gentleman from Kentucky, who is entitled to the floor on the Kentucky contested-election case, [Mr. YEAMAN.] yields the floor to me to move to suspend the rules to report and have passed a bill to provide for the repair and preservation of certain public works of the United States. I move to suspend the rules for that purpose.

Mr. ANCONA. I ask if that bill has been before the Committee of the Whole on the state of the Union?

The SPEAKER. It has not.

Mr. ANCONA. Then I raise the question of order that the bill, making appropriations, must go to the Committee of the Whole on the state of the Union.

The SPEAKER. The motion of the gentleman from Illinois is to suspend all rules that interfere with the consideration of the bill at this time in the House.

Mr. JOHNSON called for the yeas and nays on the motion to suspend the rules.

The yeas and nays were not ordered.

The rules were suspended—yeas 90, nays 20.

Mr. WASHBURN, of Illinois. I now report the bill, and demand the previous question on its engrossment and third reading.

The previous question was seconded, and the main question ordered to be put.

The bill was read.

The bill was ordered to be engrossed and read a third time, and was accordingly read the third time.

Mr. ANCONA. I demand the reading of the engrossed bill.

The SPEAKER. The bill is not engrossed, but it has received its third reading, and the demand of the gentleman therefore comes too late.

Mr. WASHBURN, of Illinois. I demand the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered to be put.

The bill was passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PUNISHMENT OF GUERRILLAS.

Mr. SCHENCK. I ask the unanimous consent of the House to report from the Committee on Military Affairs a bill for the punishment of guerrillas, and for other purposes.

Mr. LE BLOND. I object to that bill.

Mr. SCHENCK. I move to suspend the rules.

The bill was read. It is to provide for the more speedy punishment of guerrillas, and for other purposes. It enacts that the provisions of the twenty-first section of an act entitled "An act for enrolling and calling out the national forces," approved March 3, 1863, shall apply as well to the sentences of military commissions as to those of courts-martial; and authorizes the commanding general in the field, or the commander of the department, as the case may be, to carry into execution all sentences against guerrillas for robbery, arson, burglary, rape, assault with intent

to commit rape, violations of the laws and customs of war, &c. The second section enacts that every officer authorized to order a general court-martial shall have power to pardon or mitigate any punishment ordered by such court, including that of confinement in the penitentiary, except the sentence of death, or of cashiering or dismissing an officer, which sentences it shall be competent, during the continuance of the present rebellion, for the general commanding the army in the field, or the department commander, as the case may be, to remit or mitigate; and it repeals the fifth section of the act approved July 17, 1862, chapter two hundred and one, so far as it relates to sentences of imprisonment in the penitentiary.

Mr. CHANLER. I call for the yeas and nays on that motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative; yeas 79, nays 42; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Baily, John D. Baldwin, Baxter, Beaman, Blaine, Jacob B. Blair, Boyd, Brandegee, Ambrose W. Clark, Cobb, Cole, Creswell, Thomas T. Davis, Dawes, Deming, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Grinnell, Griswold, Higby, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Kasson, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Marvin, McClurg, Samuel F. Miller, Daniel Morris, James R. Morris, Amos Myers, Leonard Myers, Charles O'Neill, Orth, Patterson, Perham, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward W. Rollins, Schenck, Scofield, Shannon, Smith, Smithers, Spalding, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Williams, Wilder, Wilson, Windom, and Woodbridge—79.

NAYS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Brooks, James S. Brown, Chanler, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, Finck, Ganson, Harding, Harrington, Herrick, Philip Johnson, William Johnson, Kernan, Kuapp, Le Blond, Long, Mallory, Marcy, Noble, Odell, Prayn, Radford, Samuel J. Randall, James S. Rollins, Ross, Scott, John B. Steele, Stiles, Sweat, Wadsworth, Chilton A. White, and Fernando Wood—42.

So the rules were not suspended, two thirds not having voted therefor.

#### REGISTRATION OF VOTERS IN WASHINGTON.

Mr. DAWES. Mr. Speaker, there is a joint resolution on the Speaker's table which provides for registering the names of voters in this District which have been omitted. It does not alter the qualifications of voters at all, and I ask that it may be taken up and passed, as the charter election takes place next Monday. It only authorizes the registering of the names of voters which have been omitted. It is Senate joint resolution No. 57, to amend the charter of the city of Washington.

Mr. STEELE, of New York. I object, unless it is referred to the Committee for the District of Columbia.

Mr. DAWES. Before moving to suspend the rules I ask the gentleman whether he desires to amend the resolution.

Mr. STEELE, of New York. I ask that it be referred to the Committee for the District of Columbia for action. It properly belongs to that committee.

Mr. DAWES. Let it come before the House, and then the gentleman can make the motion to refer.

Mr. STEELE, of New York. What is the object of that?

Mr. WASHBURN, of Illinois. Let us go to the Speaker's table, and pass the joint resolution.

The SPEAKER. It is the last one upon the Speaker's table.

Mr. DAWES. Let it come before the House, and then the gentleman can make the motion to refer it.

Mr. STEELE, of New York. Why cannot I make that motion now?

Mr. DAWES. Because it is not before the House. I do not object to the gentleman's motion.

Mr. YEAMAN. Is it competent for me to insist on the regular order of business?

The SPEAKER. There is a motion pending to suspend the rules.

Mr. COX. Does the gentleman from Massachusetts want the resolution referred to the Committee for the District of Columbia?

Mr. DAWES. I prefer to have it passed now. The gentleman from New York can make his motion to refer it. If the House shall think it

proper to refer the resolution to the Committee for the District of Columbia, I will not object.

Mr. COX. There may be objection on that side of the House.

Mr. DAWES. It will be within the control of the House.

Mr. COX. Why take this resolution out of the ordinary course?

Mr. DAWES. The charter election occurs next Monday, and the only purpose is, not to alter the qualification of a single voter, but to permit the voter whose name has been omitted by mistake or otherwise, to be registered. That is all I desire to do. It ought to be done before the charter election. I do not see why there should be objection to it.

Mr. COX. The Committee for the District of Columbia have a special day assigned to them, next Friday, when they can report this resolution back. I hope the gentleman will consent to that arrangement.

Mr. DAWES. I do not see why there should be objection to registering the names of qualified voters.

Mr. MALLORY. Is this debate in order?

The SPEAKER. It is not.

Mr. DAWES. I move that the House proceed to the business upon the Speaker's table.

Mr. YEAMAN. I insist on the regular order of business.

Mr. DAWES. I ask the gentleman to give way for a moment.

The SPEAKER. By going to the Speaker's table it will be a long while before the resolution is reached.

Mr. DAWES. In order to expedite business, I will agree to let the resolution be referred.

The joint resolution was taken up, read a first and second time, and referred to the Committee for the District of Columbia.

The SPEAKER. Is there authority to report at any time?

Mr. ANCONA. I object to that.

#### MARQUETTE AND ONTONAGON RAILROAD.

Mr. ENGLISH. I ask unanimous consent to make a report from the Committee on Public Lands.

Mr. SMITHERS. I will not object if it does not take long.

Mr. ENGLISH. The Committee on Public Lands have had but little time to make reports. I desired to submit one, but was prevented from doing so. I ask unanimous consent to report back from that committee House bill No. 469, extending the time for the completion of the Marquette and Ontonagon railroad, in the State of Michigan.

Mr. SLOAN. I object.

Mr. ENGLISH moved a suspension of the rules.

Mr. KELLOGG, of Michigan, demanded the yeas and nays.

The yeas and nays were not ordered.

The House divided; and there were—ayes 70; noes 25.

So the rules were suspended, two thirds voting in favor thereof.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. ENGLISH demanded the previous question on the passage of the bill.

The previous question was seconded.

The SPEAKER ordered tellers on ordering the main question, and appointed Messrs. ENGLISH and SLOAN.

The main question was ordered, the tellers having reported—ayes 78, noes 22.

Mr. FARNSWORTH. I desire to ask whether anything has been done toward the completion of this railroad, and if so, how much has been built; and I would also like to inquire how large a grant of land this is, and whether it is in the hands of the State of Michigan or in the hands of speculators?

Mr. FENTON. I object to debate, as the main question has been ordered.

Mr. FARNSWORTH. I am surprised at the attempt to put through a bill of this kind.

The SPEAKER. Debate is not in order.

Mr. SLOAN. I move that the bill be laid on the table.

The motion was not agreed to.

The bill was then passed.

Mr. ENGLISH moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same, namely:

An act (S. No. 248) in relation to franked matter; and

An act (S. No. 65) to provide for the payment of the claims of Peruvian citizens under the convention between the United States and Peru of the 12th of January, 1864.

#### KENTUCKY CONTESTED ELECTION.

The House proceeded, as the regular order of business, to the consideration of the report of the Committee of Elections in the contested-election case of McHenry vs. Yeaman, of Kentucky; upon which the gentleman from Kentucky (Mr. Yeaman) was entitled to the floor.

Mr. YEAMAN took the floor.

Mr. HARDING. Will my colleague yield to me?

Mr. YEAMAN. For a few moments, if it does not come out of my time.

The SPEAKER. It will come out of the gentleman's time except by unanimous consent.

Mr. PRICE. I object, unless it is taken out of the time of the gentleman from Kentucky.

Mr. HARDING. I hope the gentleman will withdraw his objection, as this is a case from my own State.

Mr. PRICE. I cannot do it.

Mr. YEAMAN. I will yield the gentleman five minutes of my time.

Mr. HARDING. It is not my desire to make any extended remarks, yet I am not entirely satisfied to give a silent vote upon a case peculiarly situated as this is, coming from my own State. I contend, in the first place, that there was no necessity for any military interference whatever, because under the statute of Kentucky every man who had aided in the rebellion was disfranchised. He had no rights, and was expatriated. That statute had been pressed upon the judges of elections by the proclamation of the Governor, and there was therefore no possible danger of any interference upon their part. A few of those rebel citizens were scattered about, but not in sufficient numbers to congregate and make any difficulty at the polls. However, an order of General Burnside was issued, the most objectionable feature of which was the proclamation of martial law on the day of an election. It was unnecessary. But the orders of Shackelford and Foster, which followed, were outrages upon all principles of law and Constitution.

The issue between most of the candidates of that election was a vigorous prosecution of the war or not, and consequently those who were in favor of a vigorous prosecution of the war were in favor of voting men and money. Those upstart military despots undertook to decide the question in advance by declaring that whoever was in favor of a vigorous prosecution of the war, and of course in favor of voting men and money, might vote, but that whoever was not in favor of a vigorous prosecution of the war for the suppression of the rebellion should not vote, nor should he run as a candidate. While I was in favor of furnishing men and money, and of a vigorous prosecution of the war, yet I would look with indignation and scorn upon any attempt upon the part of any officers to crush out those opposed to me or to that sentiment.

I protest, therefore, against all military interference in the State of Kentucky. It was unnecessary and uncalled for; and, moreover, it never can take place to any extent without a violation of the Constitution and law, and is wholly unjustifiable. The right of free and untrammelled voting is the great foundation right of all other rights, and the people ought to struggle to the very last to maintain it. They ought to struggle at the expense even of their blood to maintain this the most precious of their constitutional rights. While I take this view of the case, I condemn in the strongest terms imaginable all interference in the State of Kentucky or elsewhere with the freedom of election. The right is one that should never be

surrendered under any circumstances, and force should be met by force everywhere where the attempt is made.

Now, here is a clear case of military interference, unjustifiable, unconstitutional, and lawless, and justified on no principle whatever. Yet the question is, does it therefore follow that where there was any military interference to any extent whatever the election was rendered void? To illustrate the matter, suppose that in an election between A and B, the sheriff in a single precinct, with a mob surrounding him, in a lawless manner and by force excludes half a dozen good and loyal citizens who had a right to vote and who would have voted for B, but still A has received a majority of five thousand in the whole district, is the whole election to be declared void? The mere fact that there was unlawful and criminal interference does not necessarily and *per se* render the election void. We must come down to some better test than that. I have here the votes in all the districts in Kentucky, and the vote received by the sitting member in this district would have elected any man in any district in Kentucky at the last August election. The vote he received would have been a majority of the largest vote given in any one of the congressional districts in Kentucky. He received over 5,000 majority.

Now, while these unjustifiable orders may have kept some men from the polls, yet is it not to be presumed that the majority who voted for my colleague were compelled to vote for him? The gentleman received a vote which would have elected any congressional candidate in Kentucky, and I must therefore conclude that the election was not rendered void, while at the same time I would denounce in the strongest terms all military interference; and if I give a vote in favor of the sitting member, I do not desire to be understood as giving the least countenance to military interference. I would treat it always with scorn and contempt.

Mr. YEAMAN. Mr. Speaker, there are various allegations in the contestant's notice, all of which are specifically denied, and a few of which have a shadow of support in the evidence taken. I will not trouble the House with reading the pleadings, but will in a few words state the points in controversy. The contestant alleges that my election was procured and his defeat was caused by military interference. He affirms that and I deny it; and that is the issue which this House has to try. It is not a question whether this or that order was right; the question is whether the people of the district have spoken, and whether I was elected and he was defeated by military interference or their choice.

Before I address myself to the main question at issue in this case, I desire to make a few passing allusions to the debate that occurred in this House on Friday evening. The contestant then declared, as I distinctly understood him after a repetition of what he said, that this order of Colonel Foster was exhibited to me in writing before it was promulgated. That statement I emphatically denied. I understood the contestant afterwards to disclaim it. When my colleague from the Maysville district [Mr. WADSWORTH] made allusion to a fact which he supposed was legitimately stated in the minority report, I explained to him that at the request of gentlemen from other counties, who were in my town, I did frank two copies of it without comment or direction.

In regard to the matter of franking this order I said on this floor that it was a statement which had been interpolated into the minority report by the gentleman from Indiana, [Mr. VOORHEES.] That is, foisted, improperly, unduly inserted without authority. In connection with that statement I alleged that it was not a fact averred and relied upon in the pleadings; I alleged that it was nowhere proved in the evidence; I alleged that it was a statement of a thing said to have been hinted or charged in the committee-room; and that the minority member of that committee who made allusion to this matter never was in the committee-room to hear what had occurred there. Having made this distinct statement I appealed to him (my manner may have been earnest, as it usually is, but my language was respectful,) to state when, where, and from whom he got this statement, and by what authority it was put into the minority report. The House will distinctly remember that he distinctly flinched from the question; that he

made no pretense or attempt to answer it; but straightway commenced reading an extract about another irrelevant matter, putting an improper construction on what he did read, and finally illustrated his vexation and defeat by firing a volley of conditional epithets at me, and closed the door to further remark on my part by refusing to yield to me. Truly that was a piece of gallant and courtly and generous and knightly conduct on this floor. Such logic is powerful, only it cuts backwards and slays its author. Such manifestations of courage come through a cheap advertisement, and the world generally comes to the conclusion that the article is worth just about as much as the advertisement cost the owner. Having refused to answer the question, having failed to contradict the statements I made, the only possible inference that the House can draw is that he had this statement in an *ex parte* out-door representation from the mouth of the contestant; and on that authority he presumed to put it in this minority report. I submit to the House whether the charge I made has not been fastened on him by the facts of the case, and by his conduct in that debate.

I wish, Mr. Speaker, that that was the only instance of the kind to be found in the minority report. There is here a military order made part of it, dated "Headquarters, District of Kentucky, Louisville, July 25, 1863," signed "By order of Brigadier General Boyle." Where did that order come from? I affirm that it did not come from the record in this case. It is nowhere averred and relied upon in the pleadings. It is nowhere given in evidence under the general issue. It is barely alluded to by one witness, who makes the allusion without being asked. The contestant's brother—a gentleman who practices law for a living, and who therefore ought to know something about the rules of evidence—undertook to state a part of that paper without stating all of it, and without making proof of the instrument. He undertook to state that three or four men were prevented from voting, without giving the name of a man that was so prevented, and without swearing a single one of the men so referred to. I thank them for introducing that order into this case. I find in it this clause:

"Whenever it becomes necessary to seize or impress private property for military purposes, the property of sympathizers with the rebellion and of those opposed to furnishing any more men or any more money to maintain the Federal Government and suppress the rebellion, will be first seized and impressed."

This is an order by a Kentucky general. It furnishes authority for the conduct complained of in the notice in regard to the impressment of horses.

That order was found in a black pamphlet issued soon after the election by a committee of disappointed candidates, editors who had jumped off the Union train, and original secessionists; a defeated candidate for Governor, a defeated candidate for Congress; a defeated candidate for the Senate; in short, a very select company of courtly gentlemen with sour stomachs. The pamphlet has been industriously used by the contestant in prosecuting his case.

What else do I find in this minority report? I find an allegation that "scarcely a vote was cast for him (the contestant) that was not subject to some illegal test or improper criticism." I affirm that the member of that committee who makes that allegation in this minority report cannot rise in his place and give the names of five men who were treated as he alleges that almost all of the 3,083 who voted for the contestant were treated. In speaking of the order of General Burnside he says that he was called upon to interfere. That is not in the record. If it is true I do not know it to be true. He says in this connection that "every military officer in the State was converted into a judge of the qualifications of voters and candidates, and transmitted their opinions, in the shape of military orders, to the judges of county courts and judges of poll-books, who were constrained to receive and execute them 'at the point of the bayonet.'" The words "at the point of the bayonet" are put in quotation marks, as if they were an extract from the proclamation, or from some of these orders, while they appear in none of them. General Burnside's order gave no such directions. Besides that, his order was issued after all these other orders were issued. What is his order? To see how it comports with the

statement that is made of it, I read one extract from it:

"As it is not the intention of the commanding general to interfere with the proper expression of public opinion, all discretion in the conduct of the election will be, as usual, in the hands of the legally appointed judges at the polls, who will be held strictly responsible that no disloyal person be allowed to vote, and to this end the military power is ordered to give them its utmost support."

"The civil authority, civil courts, and business, will not be suspended by this order. It is for the purpose only of protecting, if necessary, the rights of loyal citizens and the freedom of election."

I find, Mr. Speaker, another allegation in this minority report. It says:

"But there is another point in the career of the contestant, from which dates all his misfortunes. He sinned against the spirit of fanaticism on the subject of the negro. He issued an order as colonel of his regiment enforcing the laws of Kentucky on the question of slavery. For this he was dismissed from a service which he had adorned, and in which he had shed his blood."

These facts are not affirmed or relied upon in the pleadings; they are not given in evidence in the general issue. There is but one witness who I remember speaks of the fact, and he brings it out in answer to a question by the contestant himself in order to show why rebels had voted for him. Deposition of J. B. Bennett, page 163 of printed record:

"Question by McHenry, No. 1. Do you, or not, think that the southern-rights men, secessionists, and rebels of Ohio county would have voted for McHenry over Yeaman on account of the manner and principle upon which he was dismissed from the Army, all other things being equal between him and Yeaman?"

"Answer. I think they would have voted for McHenry, on account of the order he issued to his regiment which caused his dismissal, before they would for Yeaman."

Sir, I had no intention of introducing this matter into this discussion; but after its introduction into the House by the minority of the committee and by the contestant himself, let him have the benefit of it. I do not intend to mortify him by reading the order dismissing him from the Army. I do not intend to make any effort to create capital against him by reading that part of the order of the contestant which was construed to be a violation of the Articles of War, and for which he was dismissed from the Army. But it was a common remark in the district that the man who wrote that order ought to go to school a while before he went to Congress; and I will read a single paragraph from the order for the purpose of showing the justice of that opinion.

"All negroes, not slaves or freedmen, will hereafter not be allowed in this regiment, and all officers and soldiers are forbidden from employing any other than slaves or negroes known to be free."

Now, it was a curious question with plain men to know how any negroes could be excluded from camp after admitting all slaves and all free negroes. [Laughter.]

Now, sir, it was no part of my purpose to lug these matters in here against the contestant, and I should not have referred to them if they had not been brought to the attention of the House by the minority report; but I have been constrained by the course pursued by the author of that singular document.

The Committee of Elections, having given this case a protracted, laborious, and patient investigation, reported that I was entitled to the seat. They did this without hesitation, and the vote was unanimous among gentlemen of both political parties who heard the case or paid any attention to it in committee. The case was elaborately argued on both sides. The labors of such a committee on such a question are eminently judicial in their character. Its disposition ought to be attended with the candor, the propriety, and the absence of foreign matter that appertain to judicial investigation and judgment.

I would have nothing to say about this report, notwithstanding its limited and partial view of the case, but for a coarse personal assault on me which its author has seen proper to make. He says:

"But another issue has been presented by the sitting member in this case. He calls in question the loyalty of the contestant, and by elaborate insinuations attempts to identify him with the cause of the southern confederacy."

Omitting some epithets as to myself and some glowing praise upon the contestant, he says again:

"The sitting member remained at his home, which was made secure from the enemies of the country by the patriotism and courage of the contestant, whose fidelity to



his Government is now impeached. *This war has developed many strange traits of character, but none more so than such a trait as this.*"

The allegations which I have made in my answer to contestant's notice in regard to his conduct and speeches in the canvass, were made to show *why* the loyal people of the district voted for me and against him, and in this view were perfectly legitimate. They are fully sustained by the proof in this case. I made them and others to the contestant's face on the stump every day when we canvassed together for two months, and he never once ventured to deny them. I charged that at Calhoun he urged that he ought to be elected to Congress *because he had the confidence of both parties*, whereas I insisted that I had not the confidence of both parties, but only of one, and deemed it a fatal objection to a man to claim that he had it of both. That at Owensboro' he said, in referring to the beginning of these troubles, "the South said this was an assault on States rights, State laws, and State institutions, and African slavery. We Union men denied it, but it has come upon us, *showing that they were right and we were wrong.*" That at Brownsville he exhorted the people *not to send their sons to the Army to fight for radical principles which they could not approve.* That at various points he would exhort the people to take their stand upon the principles he would advocate, and *fight both North and South to sustain them.* That at Whitesville he stated that the rebels had approached him and offered him their votes and all the money he wanted to make the race on if he would take a position against the war, said he declined it, and claimed to himself credit in rejecting the proposition. I charged that he openly, publicly, and privately sought the rebel vote of the district, and boasted that he would receive it. That a great majority of the votes he got were those of rebels and rebel sympathizers. That he and his friends and relations first asked for a Union convention to make a nomination, pledged himself to abide by it, bolted it a month before it was held, boasting that he intended to beat the nominee, and after it had met and made a nomination denounced it all over the district as a radical abolition concern. These are the objections I urged against him on the stump. These are the things that disgusted the Union men of the district and made them vote for me and against him. And because I have used some of these things to illustrate the real character of the canvass the minority member makes it the occasion for the use of language in this report which we would have more naturally expected to hear in a police court. I omitted all allusion to these matters in the argument before the committee, as all the members who heard the case will attest, and as the dissenting member would have known had he deigned to give the case any attention there. I had no desire to allude to them here. I certainly intended not to do it, and now only do it in self-defense.

In referring to that remarkable order issued by the contestant to his regiment, or rather to the newspaper press of the State, and for which he was dismissed from the service, the minority member says, "But lawless fanatics in power and out pursued him as a pack in full cry, and it is with regret that the sitting member is found adding his mouth to the trail." I believe, sir, I made but one allusion to that order in the canvass. I have made none in the record. It does not appear in the record, nor does the persecution complained of. I made no allusion to it in the debate before the committee, and had intended to make none in the discussion here. And this is the justification for my being thus officially blackguarded in this manner. My first impulse was to pass this by in silence as being the best measure of the contempt it deserves. There is but one circumstance inclines me to bestow any notice upon such language found in an official report designed to advise and enlighten this House upon a question affecting the rights of a member and his constituency. That circumstance is that he who found himself capable of using such language is one of the official advisers of the House, and is, in legal contemplation, the official peer of other members. It ought to have occurred to any one who knew something of the proprieties of place and the amenities of civilized life, that such epithets applied to a member here would not convince gentlemen in the House or out of it that the language was deserved,

but would rather indicate that its author was so fitted and accustomed to "mouth the trail" with "a pack in full cry" that he had fallen into the innocent error of mistaking it for the natural vocation of man. I offer this as the best apology for this canine offense to the House.

I would scorn to complain of it as any injustice to myself. I have had heavier metal, and certainly more polished shafts, aimed at me in times past. I have survived them; I hope to survive this. But what I do complain of is the insult to this House, to the committee, and to all official and parliamentary courtesy. Such language would be offensive to polite ears and cultivated gentlemen if used in the heat of debate. But to be deliberately offered in printed form as the rhetorical ornamentation of an official semi-judicial judgment, can only be excused upon the ground of the most deplorable lack of culture and good taste. This is the most agreeable solution.

Now, Mr. Speaker, there are other matters that occurred on Friday which I am constrained to notice; and in the first place I will refer to some matters alluded to in the argument of the gentleman from Indiana, [Mr. VOORHEES.] The gentleman selected two cases designed to illustrate to this House the character of this contest. One was that of Robertson, who had heard Davis say that he, Davis, had voted for me, for certain reasons. Davis was not sworn to prove that he said it, and no man is sworn to prove that even if he did say it the charges alleged were true, or that there was any military interference at that precinct; and that is the sort of hearsay evidence by which it is sought to unsettle me here.

Another case referred to by the gentleman from Indiana is a case where, as stated in the evidence, four men presented themselves at the polls and were not allowed to vote unless they would swear to uphold the Administration. There are gentlemen here who received the impression this had been required by some orders to that effect. Now, sir, there were no such orders civil or military in this case; it was merely the act of one judge, of one person, on one day, at one moment; nowhere else, at no other time; and by whom is it proved? It is proved by a secessionist, who swears that the men to whom it was done were secessionists. Page 16 of record:

"Was any Union man required to take the oaths you have referred to?"

*Answer.* Of those who are called Union men, there was not.

"What were the men whose votes you have spoken in politics, or what are they called?"

*Answer.* They are called southern rights."

And, sir, who was it who committed this irregularity which I regretted when I heard of it? An upright man, a good citizen, an impulsive man, a loyal man, a man who at that time carried in his face, yet carries, and will carry to his grave, a rebel bullet that was fired at him on his own threshold, in the presence of his own family, a few months before the act complained of. Is there no allowance to be made for the weakness of human nature? Is there no allowance for rebel outrage; no allowance for the torn, volcanic, unsettled, heated condition of society and of government in the border States? There are men in the world who expect the machinery of society, of government, and of the law to flow along as smoothly in time of civil war as in the times of peace. We know that it is impossible, and I am pained to say that men rise upon this floor and repeat and howl over the complaints of the men and the demons who have brought this great misery and woe on my State.

What else about some of these orders? In the order of events the Legislature of Kentucky prescribed a law disfranchising these men. Governor Robinson issued his proclamation enjoining the officers of the election to enforce that law. The witnesses called by the contestant in this case show that in Owensboro' there was a conspiracy to defeat that law by rebels and secessionists; that threats were made to set aside the law of Kentucky and the proclamation of the Governor, and to vote in despite and regardless of them. It was in connection with those threats that Colonel Foster was called to Owensboro'. It was in connection with those threats which he mentioned to me that I used the language in my answer, "Whatever action you take, let it be as mild as possible." I had no knowledge or information that he intended to issue an order.

What do these orders of Foster and Shackleford state? There are expressions in them which might have been omitted: What is their main purport? They declare that they were issued to enforce the laws of Kentucky. They declare that they were issued to protect Union men and to prevent rebel disturbances. "None but loyal citizens will act as officers of the election." The law of Kentucky formerly said that these officers of election should be divided among the two great parties of the State without calling them Whigs and Democrats. When the rebellion broke out an amendment was passed for the purpose of constraining that law, that those opposed to the Government and the Union and in favor of the rebellion should not for the purposes of the law be held and considered to be one of the political parties of the State. Therefore the practical operation was that Union men, loyal men, under the law of Kentucky were appointed as judges of the election. The military orders practically applied the law of Kentucky on the subject.

What else?

"No one will be allowed to offer himself as a candidate for office, or be voted for at said election, who is not in all things loyal to the State and Federal Governments, and in favor of a vigorous prosecution of the war for the suppression of the rebellion."

Be that right or wrong, upon whom did it operate? The contestant in this case and the minority report claim that it could not operate upon him. They both affirm that he stood upon the same principle I did; and though I deny that, yet, as they claim and affirm it, they are estopped from objecting to the order, for I am sure it could not apply to one of my position in that campaign.

"The judges of election will allow no one to vote at said election unless he is known to them to be an undoubtedly loyal citizen, or unless he shall first take the oath required by the laws of the State of Kentucky."

Do you hear that? Where there is no doubt of their loyalty the judges are to allow them to vote; but where there is doubt they shall vote by taking the oath prescribed by the law of Kentucky.

In regard to some of the things said here on last Friday by the contestant, and which I regretted, and which I had never intended to lug into this discussion, I desire to make a passing allusion. He said that in the spring of 1861 I corresponded with a committee of secessionists with a view of making the race for Congress. He bandied that thing all over the second congressional district, and I everywhere denied it, and the people responded with a majority for me of 5,224. What are the facts? I was requested to make the race for Congress by gentlemen who said they were Union men on the basis of the Crittenden compromise. They afterwards turned secessionists, and now to-day I am to be held responsible for their changes.

He read from a paper an extract setting forth my political principles in 1861, which he says I submitted to them, and in that paper the language occurs that I was opposed to a war of subjugation. I used that language, and this House used that language two months afterwards, in July, 1861. He said he did not have all that paper. He did not have it all because he did not want it. He could have procured it all as easily as he obtained the extract, and he read that part only which he thought would injure me in this House. Had he read all it would have turned out that at that early day I announced myself uncompromisingly opposed to secession. While I did use the language to which the gentleman refers, I also announced that I was for all the men and all the money necessary to defend the Government, to defend the public property, and execute the laws wherever the Government was in possession. The proof shows it. It shows my position was too strong for those who wanted me to run, and that I refused to run in any event.

But as the gentleman has undertaken to resurrect these things, and has thrown the wager of battle, he shall have it. He has alluded to a celebrated secession meeting held at Owensboro'. He will remember that when he attempted to introduce these things into the records of this case that I objected, and that the judge sustained the objection. I thereupon challenged him to amend his notice of contest; that I would amend my answer, and then we would bring in all this trash about the personal history of both men. He promptly declined the proposition. Had he accepted the challenge I should have alleged and

proved that he acted as an officer of that secession meeting of which he spoke.

I read from our village paper of that day:

*A Card from Captain McHenry.*

SIR: I desire to say through your columns that the resolutions adopted at the mass-meeting of the citizens last week at the court-house, and of which meeting I was the secretary, do not altogether meet my approval, and, as a whole, I cannot indorse them. I expressed my disapproval of them at the time and did not vote on the passage of them.

As I was one of the officers of that meeting I take the liberty of making this announcement.

JOHN H. McHENRY, Jr.

*Editor Southern Shield.*

"**MASS-MEETING IN OWENSBORO'.**—At a large mass-meeting held in Owensboro' on Wednesday, the 17th instant, Thomas Pointer was called to the chair, and John H. McHenry, jr., appointed secretary."

The following are some of the resolutions adopted:

"Resolved, That Kentucky should dissolve her connection with the Government of the States known as the United States of America, and resume the powers delegated to that Government.

"Resolved, That Kentucky should unite herself with the confederate States of America.

"Resolved, That we instruct our representatives upon their assembling to immediately place this State upon war footing.

"Resolved, That the Legislature ought as soon as convened to order the calling of a convention.

"T. H. POINTER, Chairman.  
"J. H. McHENRY, Jr., Secretary."

I would have alleged and given in evidence, also, that he made one of the most violent speeches at that meeting, offering the power of his right arm and the price of his blood to the cause of the revolution. I would have alleged and given in evidence that he afterwards helped to drill secession soldiers recruiting in our district; and after I had done these things I perhaps should have left a doubt upon the minds of some gentlemen in this House whether he was, under existing laws, eligible to a seat in this House.

Mr. McHENRY. I am glad the gentleman has had candor and fairness enough about him to read a card I published in a paper in connection with the proceedings of that convention. The gentleman knows, and all his friends and our constituents know, that I never entertained any such principles as those set forth in those resolutions. I disapproved of them at the time, and expressed my disapprobation, and the only thing left for me to do was to publish it in a card. The reason I did not vote against them was, I thought it not prudent to do so. There was only one person in that large assemblage of furious, fiery, and drunken men that dared to vote against them, and he was saved from injury for doing so only by his gray hairs.

In reference to the drilling of men who subsequently went South, the gentleman understands as well as I do that in the border slave States anybody who knew anything about military matters was drilling men all over the States. I drilled into the gentleman himself all the military knowledge he ever had, and I am sorry that he has converted that knowledge to no better purpose. And those men who did go South I had an opportunity to drill in a very different way a short time afterwards.

Mr. GRINNELL. I ask the gentleman whether he was the secretary of that meeting.

Mr. McHENRY. I acted in that capacity. I will state that that meeting was not called with a view of passing any such resolutions as those. When I took my seat at the secretary's table I understood that the meeting was called simply for the purpose of organizing a home-guard of the militia of the town and county. But the secessionists got control of the meeting and passed the resolutions. The strongest friends of the sitting member in that meeting, men who voted for him and made speeches for him, sustained those very resolutions in that meeting, and some of them are the strongest Union men in that section of the country.

Mr. YEAMAN. I was about to allude to the personnel of that meeting. Where are the men who officiated as officers and speakers at that meeting? One of them who had spoken only to allay excitement expressed himself to a friend as they walked out of the court-house, "My dear sir, we have committed a mistake here to-night, and we will regret it." A few months after that he joined a Union regiment and led it gallantly at the battle of Shiloh, where he was felled to the earth by a ball in his side, and returned to my town to re-

sume his profession, and acted as clerk of the Union convention which gave me a unanimous nomination for Congress. One of them is assuming to be the second representative from my district in the bogus congress at Richmond; one is a confederate prisoner on Johnson's island, and one is here to-day contesting my seat.

The contestant undertook to volunteer the suggestion, when he alluded to that meeting, that if I had been there I too would have gone off to Dixie. Where was I on that day? Thirty miles away in a neighboring county, filling a previous appointment, and making a strong Union speech in reply to a strong secession speech from John W. Crockett, who a few months afterwards helped to organize the bogus provisional government of Kentucky, and a few months afterwards took his seat in the confederate congress! The contestant says that he made a speech early in the canvass, and that his position was misrepresented, and that he issued a circular to make a correction. I remained quiet until I thought it proper for me to speak, lest my silence might be improperly construed. I did speak, and I will read a few words from my circular to the people of the second congressional district of Kentucky, dated Owensboro', May 16, 1863:

"I make my statement upon my own knowledge and responsibility, and if any gentleman thinks he can enhance his political prospects by contradicting it, let him make the experiment. I challenge a contradiction, and will pay no attention to anything less in the form of suggestions or explanations.

"At Calhoun Colonel McHenry spoke first. He reviewed at length the secession conspiracy and the rebel movement, and condemned them, avowing himself for the Union and against the theory of secession as a political principle in government."

"In regard to himself he claimed that his election was necessary to indorse his conduct in the promulgation of his order, and to rebuke the Administration for his dismissal, and further urged his election upon the ground that he was acceptable to both parties, 'having the respect and esteem of both Union men and southern rights men.'

"He advocated the holding of a national convention, and then commented in an impressive manner upon the horrors of war and the blessings of peace. Peace upon honorable terms was very desirable, and asked the question: 'How can this be accomplished?' I can give not only the substance of his answer, but my memory and my notes will not vary materially from his own language: 'Let there be an armistice, a suspension of hostilities, and, if necessary, a withdrawal of the armies; let commissioners be appointed from the seceded States and from our own Government; let them meet and discuss this thing and arrange it if they can, and if they cannot agree they may call in the mediation of some foreign friendly Power, or refer it to this convention, or settle it in some other way.'

"I spoke next. I urged that though the proclamation and the abolition policy were wrong and a great calamity, the war against the rebellion must be prosecuted, nevertheless!"

"That military success was the first thing needed, for at present it was purely a military question. I alluded to an armistice, commissioners, mediators, &c., and made an earnest and distinct argument against them. This elicited no reply or explanation from Colonel McHenry at the time."

"Colonel McHenry was the first candidate, and, so far as I know, the first man in the district to demand or ask for a convention. He was present and consented to the calling of a convention. He told the editor of a Union paper in the district to announce him, subject to the convention, which was inadvertently omitted. He agreed to abide the decision of that convention. He sought the nomination of that convention. If several gentlemen are not sadly mistaken he very soon began to consider whether he should not bolt the convention; and now in a card, dated just one month in advance of its meeting and while professing to believe honestly that he is 'the choice of the Union men of the district,' he yet 'respectfully declines submitting to the action of the convention.' I did not demand a convention, I always consented it might be called, I agreed to abide by its decision, and I yet abide by that agreement."

With that challenge for contradiction outstanding, the contradiction never came, either on the stump or in printed form, and the only objection I ever heard to that circular of mine was among my own friends, who complained that I did not state the facts as strongly as they existed.

Allusion has been made to the vote of the soldiers. The proof shows that there were some fifty soldiers who voted in my congressional district. I verily believe that there were not over one hundred who voted. It is said that they voted for me. They did vote for me. I am proud of it, and I leave it to the House to say whether they had not good reason for so doing.

Allusion has been made by the contestant to the smile which he says illumined my countenance when he applied to me to get somebody's horse released from impressment. Sir, I do not remember the smile. I presume the smile was thrown in by way of ornament, or perhaps the

contestant happened to approach me when I had just got my own horse free from impressment, not because of any political considerations, but because my wife and children loved old Charlie, and because he was too old and stiff to do cavalry service. That may have accounted for the smile, and it may be that he found me that day not in a mind to help him to save the horseflesh of his rebel friends who voted for him, as he has boasted on this floor, only five days after he had tried to stir up violence and hostile demonstrations against me in a rebel precinct in our own county, as is proved by one of the depositions in this case, by making inflammatory appeals to them, based on false statements of my conduct in helping to arm and organize the home-guards of the county to defend ourselves against the enemies of the Union, of the Government, and of all law. And he got his reward at that precinct, which is proved in the record to be largely secession, by beating me two to one there; and he got his reward in the neighboring precinct of Yelvington, the political Charleston of our county, by beating me four to one there.

Mr. Speaker, I now desire to read that which is the only thing I had intended to offer to the House in this case, some estimates, figures, and extracts from the record: the vote in August, 1863, was 11,398; of which I received 8,311, and McHenry received 3,087, making my majority 5,224. In 1861, before anybody had gone to the war on either side, the total vote in the counties now composing that district was 14,665. The district afterwards furnished 5,714 Union troops, according to the official account, and about 2,200 rebel troops according to the evidence. The whole number of men in the district who refused to vote on account of the oaths required, giving the largest effect to hearsay evidence, second-hand statements, and guesses, was 77; and the total number who are really proved by competent evidence to have refused to vote on account of oaths required was 17; and some of these refused to take the oath prescribed by the law of Kentucky. The precincts where any interference is attempted to be proved are Owensboro', Curds-ville, Oakford, Murray, Walnut Bottom, Henderson, Sacramento, Myers's Mill, Skylesville, Greenville, the Point. Strike out the vote of these precincts and it leaves me 7,024, and leaves the contestant, McHenry, 2,909, still leaving my majority in the district 4,115. Exchange the vote, give him mine and give me his at these precincts, and I have 7,212, and McHenry has 4,096, leaving my majority 3,016. Strike out the vote of the entire counties in which these precincts are and I have 6,178, and McHenry has 2,306, leaving my majority 3,872.

Decidedly the largest vote ever cast in the twelve counties composing the second district was in the triangular race for President between Bell, Douglas, and Breckinridge in 1860, when the whole number of votes cast was 15,236. Make that election the basis, and give me the votes I got in August, 1863, 8,311, and give contestant all the balance, 6,925, and my majority is 1,386.

At the election for delegates to the border State convention in the same counties in 1861 the vote was 13,328. Upon the same plan, giving me the vote I got in August, 1863, and contestant all the balance, and my majority is 2,294.

At the congressional election in June, 1861, the vote in the same counties was 14,665. My majority of this vote, estimated in the same way, would be 1,957.

In the second district in June, 1861, before nearly eight thousand men had gone out, the vote of James S. Jackson (Union candidate) was 9,281; the vote of J. T. Bunch (secesh) was 3,364, making a total of 5,917.

At the special election in October, 1862, to fill a vacancy, the entire vote for myself and E. R. Weir, as loyal a man as breathes the air of Kentucky, was 4,027. So that my majority in August, 1863, exceeded the entire vote of October, 1862, by 1,197.

The evidence shows in all about 7,916 soldiers to have gone out on both sides. These were not all voters. Deduct twenty-five per cent. for minors and it would leave as absent from the district 5,937 voters. Cast all the balance, as shown by any fair estimate, give me 8,311 and the contestant the remainder, and I beat him 3,172. But this is not a fair estimate. It is supposing all

the votes to be polled, which never occurs, and is giving the contestant all the non-voters, which surely would not have occurred.

Professor Lieber, in a chapter based on a vast research of the statistics of elections in countries both of limited and of universal suffrage, and having special reference to the United States, says:

"If the number of qualified voters exceeds several thousand, one half of it is generally a fair number for the actual voters; two thirds shows an animated state of things, and three fourths an evidence of great excitement."

The history of this district shows that at the presidential election in 1860 twenty-five per cent. of the voters staid away from the polls; in May, 1861, for border State delegates, thirty-seven per cent.; for Congress, in June, 1861, thirty per cent. There are no figures for August, 1861, but we will say twenty-five per cent. This leaves out this contested case and the special election in October, 1862, when the vote was confessedly small.

Then at four elections, in times of high political excitement and while there was a full voting population at home, the average of non-voting citizens was twenty-nine per cent., nearly one third. Take the highest number of white male adults shown on the auditor's books for any one year, 21,170. Say that from alienage, recent removals, and other causes, 500 of these could not vote, an estimate conceded by contestant, leaving on auditor's books 20,670. For fear of under-estimating the number of minors among the volunteers and the number of discharged and returned soldiers, we will say there were absent from the district on election day only 3,000. That leaves in the district 17,670 as the voting population of the district on the day of election. Deduct from this, not the largest per cent. nor the average per cent., but the *smallest* per cent., one fourth, that ever staid away from the polls in that district, 4,417, and it leaves as the probable vote for August, 1863, 13,253; number really cast, 11,398; apparent deficit, 1,855.

How is this deficit accounted for? In the first place there are many rebels in that district who are too consistent and too honest to vote for anybody to come to this Congress, deeming themselves citizens of the confederacy. And then it is in proof that large numbers of them could not vote and did not offer to vote under the law of Kentucky and Governor Robinson's proclamation. But cast the whole vote, 13,253; give me what I got, 8,311, and the contestant all the balance, 4,942, and my majority is 3,367.

I desire to add another remark about two small precincts that were selected to give a false coloring to this whole case—Yanovers, where one man is said to have said certain things, and Curdsville, where four sympathizers were required to take an oath which their politics and the resentment of an intensely loyal man may have suggested as proper. The strict rule of law is to take from my vote, or add to the contestant's, that number. The widest rule is not to condemn the whole election, nor the poll of the whole county, but only of the precincts where irregularities occurred. Concerning the recent election in Maryland a *minority report* was made to the Legislature of that State by some of the members belonging to that political party supposed to have been wronged by certain orders, from which I take the following language:

"This act of illegal and violent interference with the election meets with the unqualified condemnation of the undersigned, as an act of gross usurpation and wrong; but they cannot understand why this closing of one precinct out of fifteen in the county should invalidate the whole election, unless it could be also shown that the closing of said polls defeated the choice of the voters of said county, which the testimony by no means sustains.

"At a majority of the other precincts there was more or less of military interference, appearing mainly to be designed to impair the vote of Mr. Crisfield and to promote the election of Mr. Creswell, opposing candidates for Congress, without aiming especially at any other candidate, except by one John W. Davis, provost marshal at Tyaskin precinct, who was willing that any voter should vote for whom he pleased, provided the voter would vote or promise to vote for him for sheriff. But he does not seem to have received many votes; nor does it appear that many, if any, voters were excluded from the polls at that precinct. At some of the precincts there was little or no interference."

"In the cases before you it is unquestionably true that no fraud, violence, or other illegalities were prompted, instigated, or practiced by the successful candidates, or by or through any of their friends, agencies, or means, or in any way intended to promote their election."

I would the same fairness and candor could be

practiced here. Apply that rule, and you will have excluded from the count less than an aggregate of two hundred votes; still leaving me the county and leaving me the district by over five thousand votes. I will now ask the Clerk to read some extracts from the evidence.

The Clerk read, as follows:

A. L. Morton, clerk of court at Hartford, says, page 161 of printed record:

"I do not know of any military interference in the county. I think there was but one man's vote questioned; he refused to take the oath, consequently he did not vote at the time; but he afterwards voted, and voted for McHenry. This man was D. S. Stevens."

"Has he, or not, always been considered a secessionist?"

"Answer. He belongs to what is called the southern-rights party."

"Did, or not, every secessionist and rebel in this precinct vote without being required to take any oath?"

"Answer. Every one voted that wished to. I heard of no one that was required to take any oath except D. S. Stevens; and he voted without taking any oath, so I have been told."

"Did you ever know a fairer election in Ohio county than the last August election?"

"Answer. I never knew a fairer election than the August election in this county."

"How many soldiers voted at the Hartford precinct?"

"Answer. I do not know of more than five or six. I have examined the poll-books, and did not see any more that I knew. There may probably have been two or three that I did not know."

"How did the secessionists vote for Congressmen in Ohio county?"

"Answer. I do not know how all of them voted. I know of no one that voted but what voted for McHenry."

"Did you, or not, ride about a great deal over the county? and state whether or not any one was prevented from voting in Ohio county by any military order or military interference?"

"Answer. I was in several precincts in the county before the election, and was always of the opinion that Yeaman would carry the county. I know of no one that was prevented from voting by any military orders or military interference of any kind."

H. M. Woodruff says of Owensboro', page 8:

"Did not the election pass off very quietly, and was any person interrupted by the few soldiers who were present on the court square?"

"Answer. The election was a remarkably quiet one, and I saw or heard no interruptions of citizens by the soldiers."

John R. O'Bryan says of Knottsville, page 13:

"Was there any interruption of the voting by the soldiers?"

"Answer. None that I ever heard of or saw."

"Was there any restriction upon the voting that day?"

"Answer. None that I know of."

John A. Robertson says of Vanover's, page 18:

"Were there any soldiers present, and what regiment did they belong to?"

"Answer. There were soldiers present, and belonged to the third Kentucky cavalry, most of them."

"Were these soldiers guarding the polls, or were they on furlough?"

"Answer. They did not disturb the polls. Some of them said they were on furlough, and that they came there to vote."

A. C. Sutherland says of Murray's, page 19:

"Were there soldiers at the polls?"

"Answer. Two men came there in soldier's uniform with muskets, and voted and went away. They did not take any further part in the election."

"Was the Wickliffe ticket scratched off; was McHenry's name erased?"

"Answer. I do not know whether Wickliffe's name was scratched off or not. I know McHenry's was not."

J. C. Ashby says of Boston, page 20:

"Was there a full vote polled at your precinct?"

"Answer. Not a full vote, but as large as has been polled since the rebellion commenced."

"Was there a free and fair vote for Colonel McHenry?"

"Answer. I heard of no objections made to anybody voting for him."

Elijah Hocker, page 42:

"Where is your voting precinct? and state if any unfairness was carried on in that precinct by soldiers or any one else."

"Answer. My voting precinct is Hartford. There was none that I saw."

J. L. Render says of the same town and county, page 43:

"Was there or not a full vote given in Ohio county at the last August election?"

"Answer. I do not know what vote was cast."

"Was there any unfairness in conducting said election, by soldiers or any one else?"

"Answer. I saw no unfairness by soldiers or any one else; everybody was allowed to vote. I voted at the Hartford precinct."

Edmund Roach says of Adams Fork, page 52:

"Were all the McHenry men required to take the oath?"

"Answer. No, they were not. I voted for McHenry myself, and many others also voted for him, who were not required to take the oath."

"Was there a full vote taken at the Adams Fork precinct?"

"Answer. I do not know whether there was or not; but

I think the voters were nearly all there, and nearly all voted."

"Did the soldiers interfere with the election?"

"Answer. Not that I saw or heard. The soldiers were more peaceable than the citizens. I saw some of them vote; they were all citizens of the precinct that I saw vote."

"Was there any person called a secessionist or southern rights man in that precinct who voted for Yeaman? State if they did not all vote for McHenry."

"Answer. I saw none called secessionists but what voted for McHenry. I know of none such who voted for Yeaman."

J. H. Reno says of Muhlenburg county, page 131:

"Judge Yeaman had written me about five days before the election, on the subject of how the vote would go in Muhlenburg county. In answer to this, and before the election, my memory is, I wrote Judge Yeaman he would receive a majority in this county of eight hundred. The majority was something over that, but not very considerable."

John O'Brien, clerk of county court, says of Owensboro', page 135:

"State how the election passed off on Monday, the 3d of August, 1863."

"Answer. So far as I know it seemed to be quiet; there was no disturbance or fuss. There were some troops about the court-house, armed."

"Did you see or hear of any interference by them with anybody?"

"Answer. I did not."

"Were you at Oakford, in this county, when we spoke there in July?"

"Answer. I was."

"Did you notice who applauded and who interrupted either of us? If so, state by whom it was done."

"Answer. I did not notice particularly who they were. There was a good deal of applause while he was speaking. I did not know who they were."

"Was it the rebel or the Union party?"

"Answer. There was not much Union party there; they were generally secessh."

"Who was interrupted, and by what party or persons?"

"Answer. Judge Yeaman was interrupted in the beginning of his speech; and you flashed your eyes so keen I thought I would get out, as there might be a row."

Major Calhoun, page 147:

"The Union party of McLean voted almost unanimously for Hon. G. H. Yeaman. The result was as most of the Union men of the county had expected; at least I had heard many of them express themselves before the election that such would be the result."

"McLean has been considerably infested by guerrillas since the rebellion first commenced. Owing to the countenance and comfort rendered to guerrillas, many of the citizens of McLean did not offer to vote."

"So far as I know, the election in the county was quiet and orderly."

Henry Griffith, late sheriff of McLean county, says, pages 150, 151:

"I was in McLean county on the 3d of August last, and at the voting precinct of said county in the town of Calhoun. The election was quiet and orderly, so far as my knowledge extends, save one instance, and that was when P. B. Hicks proposed to vote, Captain Smallhouse told him he was not entitled to a vote. If I am not mistaken, however, after some parleying Hicks did vote. I was at the polls frequently during the day of election, and saw no force used to prevent any one from voting."

"I know that the county of McLean has been much infested by bands of guerrillas since the rebellion began, and am satisfied that the guerrillas did receive voluntary aid from the rebel sympathizers in the county. A number of those that I consider rebel sympathizers did not go to the voting place, and I presume it was on account of Governor Robinson's proclamation of July 30, 1863, and the Kentucky act of March 11, 1862. I heard some one or two say that they would not take the oath prescribed by the Legislature of Kentucky."

"The Union party, as a general thing, voted for George H. Yeaman in the race between him and John H. McHenry, jr. The result of the election was about as I expected it would be for weeks prior to the election of August 3, 1863. So far as I know, the election was quiet throughout the county of McLean."

Thomas Shackelford, sheriff of McLean county, page 155:

"I was in Rumsey on the day of the election, and there was no interference with the soldiers stationed in Rumsey at that time with the voting at the polls, and the election was quiet and orderly carried on, so far as I know, as any previous election was ever conducted in the county."

Wm. A. Layton says, page 156:

"I am a justice of the peace of McLean county, and was one of the judges of the election of August 3, referred to above."

"State whether or not the election in the precinct of Livermore was not quiet and orderly."

"Answer. It was."

"Do you or not know that no force or threats were used in your precinct to prevent persons from voting?"

"Answer. None that I saw or heard of."

"Was or not every person who offered to vote allowed to do so?"

"Answer. Every person who offered to vote did so except two, who refused to take the oath."

"So far as you know or are informed, was or not the election throughout the county of McLean, on the 3d of August last, as quiet and orderly as elections in this county usually are?"

"Answer. So far as my information extends it was."



"There were soldiers at the election, persons whose homes were in that voting precinct, and who came to the election to vote, and did vote. They did not control or in any way interfere with the voting. The election was entirely controlled by the officers appointed for that purpose by the McLean county court, who, in every instance, determined the qualifications of voters."

James B. Bennett says, page 162:

"I travel a great deal over the county. I had my notion about it. My opinion was that they stood for Yeaman before the election."

"Was there any military interference in Ohio county by soldiers or military orders to prevent any one from voting for McHenry?"

*Answer.* Not that I know of. I saw none here at the Hartford precinct, nor did I hear of any in this county. I was here all the day of the last August election, and the military did not interfere at all.

"Was any man prevented from voting for McHenry or any one else in the Hartford precinct?"

*Answer.* Not that I saw or heard of.

"Did you ever see an election conducted more fairly in Ohio county?"

*Answer.* As far as this precinct is concerned, I never did."

"How did the secessionists vote for Congressman in Ohio county, so far as you have learned?"

*Answer.* They voted for McHenry as far as I know. I have not heard of any voting for Yeaman."

J. B. Stevens says, page 163:

"I acted as sheriff at the election precinct at Hartford. There was no interference by the military or any one else; all were allowed to vote who made application, and no oath was required of any one."

T. Maddox says, page 140:

"I acted as sheriff of election at the Knottsville precinct, No. 4."

"How was the election conducted, and how did it go off?"

*Answer.* A more peaceable election we never have had there, and I have acted as sheriff a good many years.

"Was anybody disturbed or prevented from voting by soldiers or anybody else?"

*Answer.* There was not, sir.

"What was done in the way of swearing voters, or requiring oaths of them?"

*Answer.* There were but two required to be sworn.

"What oath was administered to those two?"

*Answer.* The one required by the proclamation of Governor Robinson, of July 20, 1863, and the act of the Kentucky Legislature, of March 11, 1863, and no other oaths."

Colonel James M. Holmes, page 142:

"Were you or not present at Knottsville on Saturday the 1st day of August, 1863, when I and Colonel McHenry spoke there?"

*Answer.* I was.

"In his speech that day was he much applauded; if so, by whom?"

*Answer.* He was applauded a good deal, and by the rebel party.

"Did he or not charge me with having said I would not receive rebel votes, and that if elected by them I would not serve; and said he would not get mad at anybody for voting for him, nor resign either?"

*Answer.* He did.

"Did I or not make such a statement in my speech on that day about rebel votes, as charged by him?"

*Answer.* You did.

"Do you remember any statements or charges or allusions made by him against me calculated to excite the rebel population against me?"

*Answer.* I remember he said something about your assuming command of the home guard here without authority, and sent out a party who shot a man in cold blood; and further that you had been instrumental in procuring assessments to be levied on the rebels because of guerrilla raids.

"Do you or not remember that he made a statement in language or substance to this effect: 'That Kentucky must take her position, and fight North and South, East and West, and roll back the tides of fanaticism from her?'"

*Answer.* I do.

"Do you or not remember he made a statement in that speech in language or substance as follows: 'Kentucky is my home and my native State, and I will follow her, and her position shall be mine wherever she goes?'"

*Answer.* Yes, sir.

"Did he or not object to me that I had not and would not endorse the sentiment?"

*Answer.* He did.

"Question by McHenry. Do you think there was any effort made by McHenry to excite any hostile demonstration against Mr. Yeaman there that day?"

*Answer.* I thought there was."

H. M. Woodruff, page 136, says:

"After his (Colonel McHenry's) refusal to submit his name to the Union convention of the district, whose support did he seek and receive, judging from his conduct, associations, and the conduct of the two political parties of this county and district?"

*Answer.* It is my opinion that Colonel McHenry sought the support of both parties, but that he received his suffrages chiefly from the party styling themselves 'southern rights men.'"

R. M. Hathaway, page 25, says:

"Since Colonel McHenry's dismissal from the Army, and his refusal to go into the Union convention, how has he been regarded by the Union party and loyal men generally?"

*Answer.* The Union men gradually lost confidence in Colonel McHenry from the time of his dismissal from the Army; and since he avowed himself opposed to furnishing any more money or men, taken in connection with his

associations with the secesh party, I am convinced a very large majority of the Union party have lost all confidence in him as a Union man."

Mr. YEAMAN. Mr. Speaker, I have but one remark to make in reference to this testimony; that is, that a majority of the witnesses from whose evidence I have quoted were witnesses called on behalf of the contestant in this case. I carried every county in the district. In a contested election where the result is charged to military interference, it would seem my majorities ought to be largest where contestant has complained most; and surely, as a good manager, he would take his proof where he could make the most of it. Now, to the facts: just in the counties where most is alleged and where the proof was taken, my majorities were smallest; and just in the counties—more than half in the district—where nothing is alleged and no proof taken, my majorities are largest. This remark does not apply to Muhlenburg, where some proof was taken and nothing proved except that the people nearly all voted for me, because they were nearly all loyal.

I desire now to call the attention of the House to some of the principles involved in this case. In a contested election from the Territory of Michigan, Biddle and Richard vs. Wing, in 1826, this House held—

"An election is the act of selecting on the part of the electors a person for an office of trust."

Speaking of referring a case back to the people, it is said:

"This, however, ought not to be done when it is possible to ascertain what the true result has been. The elective privilege is a very important one, and ought to be held in the highest estimation."

"No doubts which are capable of being solved ought to be permitted to operate against them. Indeed, nothing short of the impossibility of ascertaining for whom a majority of votes have been given ought to vacate an election."

In another case coming from Virginia in 1793—Trigg vs. Preston—a company of soldiers under the command of Captain Preston, a brother of the sitting member, had a disturbance at the polls; a magistrate was knocked down, blood was spilled, the poll surrounded, and voters kept away. The sitting member had a majority in the whole district of 10 votes instead of 5,224. The committee on account of the disturbance reported against his right, but after a protracted discussion the House confirmed him in his seat.

None will doubt General Burnside's naked legal right and power to declare martial law in his department or any portion of it. The propriety of it or the sufficiency of the reasons that moved him are another question. His power as a military commander was undoubted. Does then martial law *per se* make void an election not controlled by it, when the result could not have been otherwise, and when the order specified it was to secure the enforcement instead of the suspension of the local law or elections? Admitting any given act or order to be illegal, is the sitting member to be held responsible for it unless he be shown to be *particeps criminis*? If any irregularity will make void an election, a candidate seeing his defeat sure might spoil the election by procuring the commission of an irregularity, and thus do by fraud and connivance what he could not do at the ballots. If any order by the military will vitiate an election, no matter what the vote, it is in the power of any Administration to perpetuate itself in power by secretly causing some subordinate to issue some order, and then, though it had no control over the election, though the sitting member got a clear majority of all the votes in the district, he must go out because of this order. So that the question in every case is, Has there been an election? Have the people spoken, and what have they said? And this House is the sole and supreme judge of that without any appeal.

Viewing this case in the light of these principles, what do we find? This contestant, in giving me the notice of contest, does not claim that he is entitled to a seat in this House. I submit, therefore, whether the statute was made for such a case. I submit whether he had the right to come here and trouble the House with his case, not claiming in his notice that he is the duly elected member. In the petition to this House he says in one sentence that the facts on which he claims his seat are set out in the notice; but in the notice he does not claim the seat. In the next sentence he says that the whole election was void, null,

and unconstitutional; and then in the next he asks that the case be sent back to the people. A man cannot claim under the will and against the will. He must take either as heir or devisee. A man cannot go before the chancellor claiming the re-scission and the specific performance of the same stipulation. He must elect one or the other.

It would seem, then, that he comes here without knowing exactly what he is entitled to. It is a sort of experimental litigation which this House is under no obligation to encourage or listen to. The same kind of pleading is manifested in his notice. In one sentence he says that Burnside's proclamation was unauthorized and unconstitutional; in the next place he says it was issued without cause, and that the causes alleged were false, thus raising a question of veracity between him and the distinguished general; and in the next sentence he complains that the election was not carried on in accordance with Burnside's proclamation. That, sir, is remarkable pleading for a man to come into this body with.

Now, I suggest for the consideration of the House that in a case of this kind where any matter is complained of or relied upon by the contestant it must be alleged and must be shown that it went to the full length of changing the result; in point of fact, that my election must have been caused and his defeat must have been caused by the influences complained of, or else no case at all is shown. It is not like an action in law, where you can measure the damages in dollars and cents. Here is no case, here are no damages, unless the thing complained of goes to the whole length of changing the result. Because if the result is not changed the party complaining is not damaged. That is the point of law I make in this matter.

Here is a case of a gentleman working two saws; with one saw he wants to get into this House, and with the other he wants to get before the people again. With one saw he works against Burnside's proclamation, and with the other against the election, because it was not conducted in accordance with Burnside's proclamation.

In regard to this testimony, Mr. Speaker, there is one thing perfectly manifest, to which I desire for a moment to call the attention of the House. We in Kentucky—and it is a point material in the determination of this case—had not the same kind of political organizations which you gentlemen of the North have. We had not there Republicans, Abolitionists, War Democrats, and Peace Democrats. We had but two parties, Union men and secessionists; friends of the Government and friends of the rebellion. There is at present an unfortunate division grown up in the Union party, but at the time this contest was going on the evidence shows that the State was divided into these two parties.

I made plain sailing with these gentlemen. I told them I wanted no misunderstanding with them. I told them that if I was elected and came here I would go for granting all the material resources of the Government to overcome that rebellion with which their sympathies were in such active support. I told them more; I told them that if they wanted this Government overturned, that if their labors and their prayers were in active co-operation with the armed enemies of the country, if they were respectable or self-respecting men they would neither consent to hold office under a Government they desired to overturn nor would they vote for any man who would hold office under such a Government.

Sir, I went further with them. I told them that if they wanted my Government destroyed, that if their sympathies were in unison and harmony with armed rebellion, I did not expect their support, that I did not ask their support, and that if they persisted in voting for me, and I could trace enough of their names on the poll-books to control my election, I would not take my seat in this House. And, so help me God, I would not have done it. To whom did I thus address myself? A vast majority of the men who voted for the contestant. I will read an extract from page 132 of printed record:

"Do or do not the rebels, secessionists, and rebel sympathizers call themselves southern rights men?"

*Answer.* Yes, sir.

"Are they or not the same who in times past, since the commencement of the present civil war, and before they were prevented by military orders and the presence of military force, would openly and fiercely advocate the rebellion, secession, and Jeff. Davis, and denounce the Govern-

ment, the Union, and Union men, and rejoice over every reverse of the Union arms?

"Answer. Yes, sir."

Another from page 136:

"From your knowledge of the county, and conversation and expressed intentions of the secessionists and rebel sympathizers of this county and district since the beginning of the present civil war, state whether it would have been possible to preserve the peace, and the rights, lives, and property of loyal men, without the presence at times of a military force, and without the organization of home guards, composed of Union men, and armed with guns and ammunition from the Government.

"Answer. I do not think it would.

"Without that force is it not apparent that entire submission to them or emigration or expulsion from the county would have been imposed on loyal men?

"Answer. I think so."

And another from page 138:

"Answer. I concur in the answers of said Woodruff to those questions, and do now render the same answers myself. I believe it was their intention to carry into effect the Richmond ordinances of the rebel authorities, that all men should take the oath prescribed in forty days or leave the country, and if found in the country after the expiration of that time should be liable to be seized and treated by the military or civil authorities as traitors and spies.

"What is the reason such ordinances are not carried out in Kentucky now?

"Answer. My opinion is, it is from the protection given by the military power."

And another from page 26:

"Answer. I agree with him in the facts stated in answer to said questions, and do now answer them myself as he did, except as to No. 7, that I am thoroughly convinced the peace could not have been preserved and Union men protected without such force and assistance, and it was not always done with that assistance, but much outrage committed on them; and as to No. 8, I answer that such threats were openly made before any military force was posted here or organized among the citizens; such threats were made about me in person.

"No. 7. What is the reason such threats and schemes are not now carried out by the secession party of this district and State?

"Answer. I know of no other reason except they are afraid to do it and have not the power; it is not for the want of the will."

Mr. ANDERSON. With the consent of my colleague I desire to ask him whether he signed a letter addressed to the people of Kentucky, in which the Senators and Representatives advised cooperation with the Wickliffe party in the coming presidential election? I saw such a statement in a call for a Democratic convention, published in the Louisville papers, addressed to the people of Kentucky, stating that the two Senators and all the Representatives in the House, with the exception of three abolitionists, had advised the union of all parties in opposition to the present Administration, and advising the sending of delegates to the Chicago convention.

Mr. YEAMAN. I do not know what letter my colleague refers to; and I only state positively and in general terms that I have signed no letters to anybody in regard to calling any political convention in Kentucky. That is all I have to say about it.

Mr. MALLORY. With the permission of my colleague I wish to say a word. Any statement in any newspaper, any charge that the Senators and Representatives from the State of Kentucky have advised a union between the secessionists and their party, or any party in that State, is false. There is not one word of truth in it.

There has been a letter addressed to the people of Kentucky which I signed, and which the Senators and several members here signed. I do not know whether my colleague [Mr. YEAMAN] is among them. It calls upon the people of Kentucky, all who are entitled to vote under the laws of Kentucky, all freemen and citizens of that State who have the right to the elective franchise, to unite in opposition to the present administration of the Government, and to vote at the next presidential election for some candidate to displace it. That is the letter that was written. There was no invitation to the secessionists of Kentucky to vote with us, and I give any such statement the lie here in the House.

Mr. ANDERSON. My colleague will understand I only stated what I saw in the papers.

Mr. MALLORY. Of course I so understood it.

Mr. YEAMAN. I desire now to allude to another matter which I was about to omit. If there is any gentleman in the House who feels inclined to vote against my having my seat with a view of retaining his political consistency, and to put himself right on the record on all orders of military commanders in reference to elections, I tell him to be careful how he does it, for in the light of the past, and in the light of

coming events which cast their shadows before them, he may be stating a case which will embarrass him. Let me read:

HEADQUARTERS ARMY OF THE POTOMAC,  
WASHINGTON, October 29, 1861.

GENERAL: There is an apprehension among Union citizens in many parts of Maryland of an attempt at interference with their rights of suffrage by disunion citizens on the occasion of the election to take place on the 6th of November next.

In order to prevent this, the major general commanding directs that you send detachments of a sufficient number of men to the different points in your vicinity where the elections are to be held to protect the Union voters, and to see that no disunionists are allowed to intimidate them, or in any way to interfere with their rights.

He also desires you to arrest and hold in confinement till after the election all disunionists who are known to have returned from Virginia recently, and who show themselves at the polls, and to guard effectually against any invasion of the peace and order of the election. For the purpose of carrying out these instructions you are authorized to suspend the habeas corpus. General Stone has received similar instructions to these. You will please confer with him as to the particular points that each shall take the control of.

I am, sir, very respectfully, your obedient servant,  
R. B. MARCY, Chief of Staff.  
Major General N. P. BANKS,  
Commanding Division, Muddy Branch, Maryland.

Show me an order in regard to the election in Kentucky half so strong as that! Suspend the habeas corpus, send detachments of soldiers, arrest secessionists who show themselves at the polls, and confer with General Stone as to the points to be controlled.

Mr. PRICE. Who issued that order?

Mr. YEAMAN. Mr. Speaker, I was about to say that when the political and military history of the struggle in the border States comes to be written, that order will appear as one of the brightest gems in the life and services of General George B. McClellan.

I would I had time to allude in fitting terms to the gallant officers who have been referred to in this case, and to the declamatory and superlative denunciation that has been heaped upon them by the contestant and the gentleman from Indiana, [Mr. VOORHEES.] Some men have a talent for making up in words what they lack in ideas, and it is a prompt and instinctive resource with some natures to supply with coarseness what they lack in power.

Colonel Foster's services protected all that region of Kentucky, my home, the contestant's home, from rebel and guerrilla outrage and depredation. Without those services the courts could not have been held nor the laws administered in a large district of country. He afterwards led a brigade with brilliant success in East Tennessee. And the contestant will not forget that day on the banks of Green river, when he and I waged a bloodless war of words about politics in stone's throw of where Foster and his gallant Hoosiers stood in battle order, expecting John Morgan and his avalanche of cavalry, nor how they traveled all night in a different direction when it was learned Morgan was crossing into Indiana.

Colonel Maxwell issued no improper furloughs; he made no threats and issued no orders to influence soldiers to vote for me. A gallant gentleman, a learned lawyer, an orator by nature, from the beginning a Union man without "if" or condition, the conqueror of cruel difficulties in early life, he led his regiment on many a well-stricken field, and was attending to his business there while the contestant was trying to disorganize the Union party in my district, and during the six long months he has been staying here to defeat in this Hall the expressed will of the people.

A letter was read said to have been written by my constituent, General Shackleford, early in 1861, and his conduct has been the subject of severe comment. Why this ungenerous assault on him at this late day? Suppose he did write it. He afterwards led his regiment in the assault on Donelson; afterwards shed his blood in battle with the enemies of his country in cannon sound of where that letter was dated, performed that brilliant pursuit and capture of Morgan and his forces in Indiana and Ohio, and by his generalship and great victory at Cumberland Gap laid all East Tennessee in the power of Burnside's campaign.

General Burnside needs no defense at my hands. His services have become a part of the history of his country. And some will suspect that those services, illustrated by his modesty in victory and his frankness in defeat, have been more offensive

to some men than his order about the election in Kentucky, especially to one of my colleagues in the north end of the Capitol, who has in his place in the Senate denounced him as "the ever-infamous Burnside." If the cause of the country is infamous, so is Burnside's career; if the cause of the rebellion is glorious, Burnside's career has been a crime.

Mr. Speaker, I know not what the result of this case may be; I only know what it ought to be. If I am in this seat improperly, there is to-day no *de jure* Governor in the State of Kentucky, for he was elected under the same order of things. If I am here to-day improperly, there is no *de jure* Legislature in Kentucky, for they were elected under the same order of things. If I am here improperly not a man on either side of this House from Kentucky is entitled to his seat.

Sir, it strikes not at me: It strikes at the loyal people of my district, at the loyal people of Kentucky, and our entire State organization. I know not what the effect would be to tell those people after what they have done that they shall not receive protection at the hands of the Government; to discourage, mortify, and disgust the loyal people of my district and the whole State by putting the seal of condemnation by this House upon that whole election, and thereby listen to the complaints of the enemies of the country and give them encouragement and moral sanction by which they would leap into the next contest with renewed life and energy and tenfold venom, malignity, and insolence.

I make no predictions as to what the effect of such a course upon these people might be. I only say if you want to increase the friends of the Union in Kentucky don't you do it. While I make no promises for others I can speak for myself. The contestant has said upon this floor, and repeatedly in the canvass, that Kentucky was his native State, that he loved Kentucky, and would follow her destinies wherever she went. Mr. Speaker, I, too, love Kentucky; profoundly, tenderly do I love her; land of my birth, home of my manhood. She gave me existence; she gave me position; she gave me her confidence, and she has my gratitude. All that I am, all that I can hope to be, I owe first to the name of America, and next to the name of Kentucky; and I will follow her course, accept her counsels, and abide her destiny so long as she doth walk proudly in the light of the stars that gleam from the flag of my country, and girdles her loins in the beauty and strength of its tricolored zones. [Applause in the galleries.]

Mr. SMITHERS. I move the previous question on the adoption of the resolution.

The previous question was seconded, and the main question was ordered to be put.

The question being on the following resolution reported from the Committee of Elections—

Resolved, That George H. Yeaman is entitled to a seat in this House as a Representative from the second congressional district of Kentucky in the Thirty-Eighth Congress—

Mr. ANDERSON demanded the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 96, nays 26; as follows:

YEAS.—Messrs. Alley, Allison, Ames, Anderson, John D. Baldwin, Baxter, Beaman, Blaine, Jacob B. Blair, Boyd, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Henry Winter Davis, Dawes, Deming, Donnelly, Driggs, Eckley, Eliot, English, Farnsworth, Fenton, Frank, Canson, Gooch, Grider, Grinnell, Griswold, Harding, Herrick, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulbard, Ingersoll, Jenckes, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, Littlejohn, Loan, Longyear, Mallory, Marvin, McBride, McClurg, Morrill, Daniel Morris, Anos Myers, Leonard Myers, Nelson, Odell, Charles O'Neill, Otis, Patterson, Perham, Pike, Pomeroy, Price, Radiator, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, James S. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, John B. Steele, William G. Steele, Stevens, Sweat, Thayer, Tracy, Upson, Wadsworth, Elihu D. Washburne, William B. Washburn, Whaley, Wheeler, Williams, Wilder, Wilson, Windom, Winfield, and Woodbridge—96.

NAYS.—Messrs. James C. Allen, Ancona, Chanler, Cof-foth, Dawson, Denison, Eden, Edgerton, Eldridge, Finck, Benjamin G. Harris, Philip Johnson, William Johnson, Knapp, Le Ross, Long, McDowell, Morrison, Pendleton, Pruyn, Rice, Stiles, Voorhees, Chilton A. White, Joseph W. White, and Fernando Wood—26.

So the resolution was agreed to.

During the roll-call,

Mr. WEBSTER stated that he would have voted

in the affirmative, but he was paired off with Mr. HARRIS, who had been called home in consequence of sickness in his family.

Mr. HUBBARD, of Iowa, stated that Mr. KASSON was sick and confined to his room, and that he would have voted in the affirmative if he had been here.

Mr. ANCONA stated that his colleague, Mr. MILLER, would have voted in the negative had he not been paired off.

Mr. GRINNELL stated that Mr. JULIAN, who had gone to attend the funeral of Mr. Giddings, would have voted in the affirmative.

Mr. WASHBURN, of Illinois, stated that Mr. ARNOLD had been obliged to leave the House on account of sickness in his family.

The vote was then announced as above recorded. Mr. SMITHERS moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### REBEL SOLDIERS IN HOSPITALS, ETC.

Mr. COLE, of California, by unanimous consent, introduced the following resolution, upon which he demanded the previous question:

*Resolved*, That the Committee on Military Affairs be instructed to inquire by what authority and under whose direction rebels were interspersed with the national soldiers throughout the various hospitals in this city, and as to the comparative treatment of the rebel and Union soldiers in the hospitals.

*Resolved further*, That the same committee be instructed to inquire whether or not persons lately in the rebel army are employed in places of trust and profit by the United States Government at Giesboro' Point, and if so by whose authority, how many, and in what capacity they are employed; and

*Resolved further*, That the same committee be instructed to inquire whether any disloyal persons are employed as clerks in any of the Departments of the Government; and if so, who are responsible for such employment; and that the committee have authority to send for persons and papers, to compel the attendance of witnesses, and to report the facts to this House at any time.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the resolution was agreed to.

Mr. COLE, of California, moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### THE WAR.

Mr. LAZEAR asked unanimous consent to introduce the following resolution:

Whereas the fratricidal war which has for the last three years filled every neighborhood of our once united and happy country with mourning, and has drenched a hundred battle-fields with the blood of our fellow citizens, and laid waste many of the fairest portions of the land, and yet has failed to restore the authority of the Federal Government in the seceded States; and whereas we believe a misapprehension exists in the minds of a large portion of the people of the South as to the feelings which actuate a large portion of the people of the free States, and which misapprehension we are called upon by every consideration of humanity and a sense of justice to correct and if possible remove, whether we regard in making this effort what we owe to ourselves, to our fellow-countrymen of the South, or to the world: Therefore,

*Resolved*, That no truly loyal citizen of the United States desires the application of any rule or law in determining the rights and privileges and the measure of responsibility of the people of any of the States but such as shall have been determined by the Supreme Court to be in accordance with and sanctioned by the Constitution and well-established usages of the country.

*Resolved*, That the President, in his capacity of Commander-in-Chief of the Army and Navy of the United States, be, and he is hereby, required to adopt such measures as he may think best, with a view to a suspension of hostilities between the armies of the North and the South for a period not exceeding — days; and that he be also authorized to adopt or agree upon some plan by which the decision of the great body of the people North and South may be secured upon the question of calling a convention composed of delegates from all the States, to which shall be referred the settlement of all questions now dividing the southern States from the rest of the Union, with a view to the restoration of the several States to the places they were intended to occupy in the Union, and the privileges intended to be granted to them by the framers of our national Constitution, who were in our opinion the most enlightened statesmen and purest patriots that ever lived, and than whom we cannot hope to find wiser or better counselors in the present exigency in our national affairs.

Mr. KELLOGG, of Michigan, and others objected.

Mr. BLAIR, of West Virginia. I move that the House adjourn.

Mr. DAWES. I rise to a privileged question. Mr. DAWSON. My colleague has not yet yielded the floor.

The SPEAKER. The resolution is not before the House. Objection was made.

Mr. LAZEAR. I move to suspend the rules to enable me to introduce the resolution.

Mr. WASHBURN, of Illinois. Pending that motion, I move the House adjourn.

#### CHARTER OF WASHINGTON CITY.

Mr. DAWES. I ask my friend from Illinois to yield to me for a moment to enable me to move to reconsider the vote by which the joint resolution of the Senate to amend the charter of the city of Washington was referred to the Committee for the District of Columbia.

Mr. WASHBURN, of Illinois. I yield for that purpose.

The SPEAKER. The motion will be entered, and can be called up at any time.

Mr. WASHBURN, of Illinois. I now insist on my motion.

The motion was agreed to; and thereupon (at a quarter past four o'clock, p. m.) the House adjourned.

#### IN SENATE.

TUESDAY, May 31, 1864.

Prayer by the Chaplain, Rev. Dr. BOWMAN.

The Journal of yesterday was read and approved.

#### SENATOR FROM ARKANSAS.

Mr. FOOT. I present the credentials of Hon. Elisha Baxter, a Senator-elect from the State of Arkansas. I move that the credentials be read, and that they lie on the table until the Senate shall have taken action on the credentials of Mr. Fishback, claiming to be a Senator from the same State.

The Secretary read the credentials, as follows:

*State of Arkansas, to wit:*

The General Assembly of this State, on the 3d day of May, 1864, having, in pursuance with the Constitution of the United States of America, chosen Elisha Baxter a Senator of the United States to fill the unexpired term of Charles B. Mitchell—

Therefore I, Isaac Murphy, Governor of the State of Arkansas, do hereby certify the same to the Senate of the United States.

Given under my hand and the seal of the State of Arkansas, this 7th day of May, 1864.

ISAAC MURPHY,  
Governor of Arkansas.

By the Governor:

ROBERT J. T. WHITE, Secretary of State.

The PRESIDENT *pro tempore*. Unless otherwise ordered, they will lie on the table.

#### PETITIONS AND MEMORIALS.

Mr. TEN EYCK. I present the petition of citizens of Monmouth county, New Jersey, praying for increased railroad facilities between the cities of New York and Philadelphia. Inasmuch as there has been a report upon this subject from one committee, and another committee has it under examination, and will report in a very few hours, I move that this petition lie upon the table.

The motion was agreed to.

Mr. SUMNER. I offer a memorial adopted at a public meeting of the Church Anti-Slavery Society, held in the city of New York, and signed by their committee, George B. Cheever, Henry A. Hartt, and Edward Gilbert. It is entitled "A memorial against the exclusion of the colored race from the right of representation." It is somewhat elaborate. I shall not read it; but I ask attention to a passage which explains the desires of the memorialists, as follows:

"The undersigned believe that the continuance of our oppression of the colored race is the cause of our disasters and defeats, and that it is impossible for us to succeed until we cease from our oppressions, and repent, and do justice. We are sure that the introduction of the color of the skin into our national legislation, as a ground of injurious discrimination, and of penalty and taint, as if for crime, is derivative of the Creator, and a violation of our Constitution, impious, cruel, barbarous, exposing us to the scorn of mankind and the anger of the Almighty."

The memorial afterwards proceeds:

"Believing the elevation of this race to be both a Christian duty and the wisest statesmanship, and that equality before the law is essential to such elevation, we implore the present Congress, standing as they do at the beginning of legislation on this subject, to put away and forbid such oppressive and injurious discrimination."

Again they say:

"As American citizens, we pray to be relieved from the burden of such disgrace and from the curse that must accompany such a wrong. We therefore implore your honorable body to remove from the bill providing for the States a republican form of government the clause imposing dis-

ability on account of color, and to secure its privileges to all classes alike."

As that bill is now pending before the Senate, I ask that this memorial lie on the table.

The motion was agreed to.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, communicating, in answer to a resolution of the Senate of the 25th instant, a partial report from the Secretary of State, with accompanying papers, in relation to Mexican affairs; which was ordered to lie on the table, and be printed.

#### REPORTS FROM COMMITTEES.

Mr. GRIMES, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 293) to empower the Superannuated Fund Society of the Maryland annual conference to hold property in the District of Columbia and to take a devise under the will of the late William Doughty, reported it without amendment.

Mr. SUMNER, from the Committee on Foreign Relations, to whom were referred the following messages of the President of the United States, asked to be discharged from their further consideration; which was agreed to:

A message communicating a report of the Secretary of State in compliance with the act to regulate the diplomatic and consular systems of the United States;

A message relative to a proposed treaty of reciprocity between the United States and the Sandwich Islands;

A message communicating a copy of the correspondence relative to a controversy between the republics of Chili and Bolivia; and

A message in relation to the establishment of monarchical Governments in Central and South America.

Mr. RICHARDSON, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 275) to prohibit cattle, horses, mules, and other domestic animals from running at large, asked to be discharged from its further consideration; which was agreed to.

Mr. BUCKALEW, from the Committee on Indian Affairs, to whom was referred a petition of A. J. Campbell, praying for the payment to him of an amount of money alleged to be due his father, Scott Campbell, under a treaty with the Sioux Indians, made June 19, 1858, submitted an adverse report, which was ordered to be printed; and asked to be discharged from its further consideration, which was agreed to.

Mr. CARLILE, from the Committee on Public Lands, to whom was referred a bill (S. No. 241) granting to the State of Wisconsin a donation of public land to aid in the construction of a ship canal at the head of Sturgeon bay, in the county of Door in said State, to connect the waters of Green bay with Lake Michigan in said State, reported it with amendments.

#### CHARGES AGAINST GENERAL BUTLER.

Mr. DAVIS. I submit the following resolution, which I ask to have read and printed:

Whereas it has been frequently charged in the public prints and other modes that when the leaders of the present rebellion were engaged in plotting and maturing it, Benjamin F. Butler was cognizant of and privy to their treasonable purposes, and gave them his countenance, sympathy, and support; and that he, the said Butler, after some of the rebel States had published ordinances of secession, turned against the conspirators whom he had been sustaining, to get position and office under the Government of the United States to enable him to consummate his own personal and corrupt objects; and that after he was appointed to, and while he was acting in, the military service, he was, by himself and his accomplice, A. J. Butler, and many others, guilty of many acts of fraud, peculation, and embezzlement against the United States, and many acts of extortion, plunder, despoliation, oppression, and cruelty against individuals: Wherefore,

*Be it resolved*, That the President of the Senate appoint a committee of three to investigate all such charges against the said Butler; that said committee have power to sit during the recess of the Senate, to employ a clerk, to send for persons and papers; and that it report all the testimony and its proceedings to the next session of the Senate.

Mr. WILSON. I object to the consideration or printing of that resolution.

The PRESIDENT *pro tempore*. Objection being made, it will lie over.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that



the House of Representatives had passed the joint resolution of the Senate (No. 57) to amend the charter of the city of Washington.

The message further announced that the House of Representatives had passed the following bills and joint resolution; in which it requested the concurrence of the Senate:

A bill (No. 469) extending the time for the completion of the Marquette and Ontonagon railroad of the State of Michigan;

A bill (No. 487) to provide for the execution of treaties between the United States and foreign nations respecting consular jurisdiction over the crews of vessels of such foreign nations in the waters and ports of the United States; and

A joint resolution (No. 83) authorizing the President to construct a military railroad from the valley of the Ohio to East Tennessee.

#### BILLS BECOME LAWS.

The message further announced that the President of the United States had approved and signed on the 28th instant the following acts:

An act (H. R. No. 272) for the relief of Julia A. Ames;

An act (H. R. No. 407) authorizing the establishment of ocean mail steamship service between the United States and Brazil; and

An act (H. R. No. 432) for the relief of the citizens of Denver, in the Territory of Colorado.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

The President *pro tempore* appointed Mr. FESSENDEN, Mr. COWAN, and Mr. DAVIS the committee of conference on the part of the Senate on the disagreeing votes of the two Houses on the bill (H. R. No. 192) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th June, 1865.

#### NEWSBOYS' HOME.

Mr. GRIMES. I am instructed by the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 484) to incorporate the newsboys' home, to report it back without amendment, and recommend its passage. I have been requested, inasmuch as it is very important that this bill should pass at once, in order to insure the property belonging to this company at an early day, to ask the Senate to consider it now.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to incorporate Joseph Henry, J. W. Forney, Henry Beard, Sayles J. Bowen, and A. M. Gangewer, their associates and successors, being members of the society by paying into its treasury the sum of two dollars annually, or life members by paying fifty dollars at one time, and make them a body-politic, by the name of "The Newsboys' Home of Washington city," for the purpose of providing lodgings, meals, and instruction to such homeless and indigent boys as may properly come under the charge of such association, to provide for them a suitable home, board, clothing, and instruction, and to bring them under Christian influence; and by that name they are to have perpetual succession, with power to use a common seal, to sue and be sued, to plead and be impleaded in any court of competent jurisdiction within the District of Columbia, to collect subscriptions, make by-laws, rules, and regulations needful for the government of the corporation not inconsistent with the laws of the United States; to have, hold, and receive real estate by purchase, gift, or devise; to use, sell, or convey the same for the purposes and benefit of the corporation, and to choose such officers and teachers as may be necessary, prescribe their duties, and fix the rate of their compensation. The officers of the association are to consist of a president, two vice presidents, secretary, treasurer, and a board of managers, to be composed of fifteen members, the whole to constitute an executive committee, whose duty it is to be to carry into effect the plans and purposes for which the association was formed, all of which officers are to be elected on the first Tuesday in February in each year at the annual meeting of the association, which is to be held on that day; their successors are to be elected and hold their offices for the term of one year, and until their successors shall be duly elected. And in case of a vacancy it is to be filled by the other members of the executive committee.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### FREDERICK A. BELEN.

Mr. SUMNER. The Committee on Foreign Relations, to whom was referred the bill (H. R. No. 345) for the relief of Frederick A. Beelen, late secretary of legation to Chili, have directed me to report it back to the Senate without amendment, and with a recommendation that it pass. As it only concerns a question of \$166, I think perhaps the Senate had better act upon it now.

Mr. CONNESS. I hope not.

Mr. SUMNER. There will be no question or debate about it. It is only a question of \$166.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which authorizes the Secretary of the Treasury to pay to Frederick A. Beelen, late secretary of legation to Chili, the sum of \$166 66, in full for difference in salary under the several acts of Congress on that subject while he acted as such secretary, before he was informed of such reduction, and until he had full time to return to the United States.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### LIEUTENANT COLONEL JOSEPH BAILEY.

Mr. BOOLITTLE. I desire to call up for reference a joint resolution that I laid on the table on Saturday last.

The President *pro tempore*. Simply for reference?

Mr. DOOLITTLE. I desire to call it up and have it referred to the Committee on Military Affairs and the Militia; but previous to doing so I wish to make a statement in regard to it.

Mr. CONNESS. I hope it will not be done if we are going to have a statement.

Mr. DOOLITTLE. There can be no objection to it.

Mr. CONNESS. The only objection I have is the time it will consume in the morning hour. If the Senator will move its reference without discussion, I shall have no objection.

Mr. DOOLITTLE. I suppose it is legitimate in the morning hour to refer a bill or joint resolution. I do not desire to occupy five minutes, not as long as the Senator will occupy in interrupting me.

The President *pro tempore*. The Senator from Wisconsin moves to postpone all prior orders for the purpose of proceeding to the consideration of the resolution indicated by him.

The motion was agreed to; and the Senate proceeded to consider the joint resolution (S. No. 60) tendering the thanks of Congress and for the presentation of a medal to Lieutenant Colonel Joseph Bailey of the fourth regiment of Wisconsin volunteers.

Mr. DOOLITTLE. This resolution is one providing for a vote of thanks, and that a medal be presented to Lieutenant Colonel Joseph Bailey. This gentleman is from the State of Wisconsin, and is about thirty-five years of age. He was an engineer upon the La Crosse railroad. He built a dam across the Wisconsin river at a point where most engineers said such a thing was impossible. He enlisted in our fourth regiment, was appointed a captain, and came out in the fourth regiment to the State of Maryland. While there he built Fort Dix. Subsequently, he took charge of one of the most important fortifications about the city of Washington and constructed it. His regiment was then ordered to New Orleans to join the department of the Gulf, and took part in the capture of New Orleans. While there, he built one of the largest fortifications that have been built since the war commenced. He was assigned to the nineteenth Army corps, and became one of its chief engineers. But the crowning act performed by him, which develops a genius most remarkable, is that by which he saved the fleet of Admiral Porter lately upon the Red river. It was such an act as to draw from the Admiral himself, from General Banks, and from all who know the facts, the most decided testimonials of their approbation. I will close all I have to say by reading an extract from what Admiral Porter says on that subject. I read from his official report,

dated Mississippi squadron, flagship Black Hawk, mouth of Red river, May 16:

"Sir: I have the honor to inform you that the vessels lately caught by low water above the falls at Alexandria have been released from their unpleasant position. The water had fallen so low that I had no hope or expectation of getting the vessels out this season; and as the Army had made arrangements to evacuate the country, I saw nothing before me but the destruction of the best part of the Mississippi squadron. There seems to have been an especial Providence looking out for us in providing a man equal to the emergency. Lieutenant Colonel Bailey, acting engineer of the nineteenth Army corps, proposed a plan of building a series of dams across the rocks at the falls, and raising the water high enough to let the vessels pass over. This proposition looked like madness, and the best engineers ridiculed it, but Colonel Bailey was so sanguine of success that I requested General Banks to have it done, and he entered heartily into the work. Provisions were short and forage was almost out, and the dam was promised to be finished in ten days, or the army would have to leave us. I was doubtful about the time, but had no doubt about the ultimate success if time would only permit. General Banks placed at the disposal of Colonel Bailey all the force he required, consisting of some three thousand men and two or three hundred wagons. All the neighboring steam mills were torn down for material, two or three regiments of Maine men were set to work felling trees, and on the second day after my arrival in Alexandria from Grand Ecore the work had fairly begun. Trees were falling with great rapidity; teams were moving in all directions bringing in brick and stone; quarries were opened; flat-boats were built to bring stone down from above; and every man seemed to be working with a vigor I have seldom seen equaled, while perhaps not one in fifty believed in the success of the undertaking. These falls are about a mile in length, filled with rugged rocks, over which, at the present stage of water, it seemed to be impossible to make a channel.

"The work was commenced by running out from the left bank of the river a tree dam, made of the bodies of very large trees, brush, brick, and stone, cross-tied with other heavy timber, and strengthened in every way which ingenuity could devise. This was run out about three hundred feet into the river; four large coal barges were then filled with brick and sunk at the end of it. From the right bank of the river cribs filled with stone were built out to meet the barges. All of which was successfully accomplished, notwithstanding there was a current running of nine miles an hour, which threatened to sweep everything before it. It will take too much time to enter into the details of this truly wonderful work. Suffice it to say that the dam had nearly reached completion in eight days' working time, and the water had risen sufficiently on the upper falls to allow the Fort Hindman, Osage, and Neosho to get down and be ready to pass the dam. In another day it would have been high enough to enable all the other vessels to pass the upper falls. Unfortunately, on the morning of the 9th instant, the pressure of water became so great that it swept away two of the stone barges, which swung in below the dam on one side. Seeing this unfortunate accident, I jumped on a horse and rode up to where the upper vessels were anchored and ordered the Lexington to pass the upper falls, if possible, and immediately attempt to go through the dam. I thought I might be able to save the four vessels below, not knowing whether the persons employed on the work would ever have the heart to renew their enterprise.

"The Lexington succeeded in getting over the upper falls just in time, the water rapidly falling as she was passing over. She then steered directly for the opening in the dam, through which the water was rushing so furiously that it seemed as if nothing but destruction awaited her. Thousands of beating hearts looked on anxious for the result. The silence was so great as the Lexington approached the dam that a pin might almost be heard to fall. She entered the gap with a full head of steam on, pitched down the roaring torrent, made two or three spasmodic rolls, hung for a moment on the rocks below, when she went into deep water by the current, and rounded to safely into the bank. Thirty thousand voices rose in one deafening cheer, and universal joy seemed to pervade the face of every man present. The Neosho followed next, all her hatches battened down, and every precaution taken against accident. She did not fare as well as the Lexington, her pilot having become frightened as he approached the abyss, and stopped her engine, when I particularly ordered a full head of steam to be carried; the result was that for a moment her hull disappeared from sight under the water. Every one thought she was lost. She rose, however, swept along over the rocks with the current, and fortunately escaped with only one hole in her bottom, which was stopped in the course of an hour. The Hindman and Osage both came through beautifully, without touching a thing; and I thought if I was only fortunate enough to get my large vessels as well over the falls, my fleet once more would do good service on the Mississippi. The accident to the dam, instead of disheartening Colonel Bailey, only induced him to renew his exertions after he had seen the success of getting four vessels through."

Mr. CONNESS. I hope the further reading of that paper will be dispensed with. The morning hour is of great value to us and should not be consumed in this way.

The President *pro tempore*. The reading having been objected to, the Chair will put the question to the Senate whether the reading shall proceed.

Mr. CONNESS. We have business of great importance to transact in the morning hour, and I hope the Senator will desist from the further reading.

Mr. DOOLITTLE. There is not much left, and besides I adopt it as a part of my speech on the question of reference.

Mr. CONNESS. If this is only a part of it I object.

Mr. DOOLITTLE. The report continues:

"The noble-hearted soldiers, seeing their labor of the last eight days swept away in a moment, cheerfully went to work to repair damages, being confident how that all the gunboats would be finally brought over. These men had been working eight days and nights up to their necks in water in the boiling sun, cutting trees and wheeling bricks, and nothing but good humor prevailed among them. On the whole, it was very fortunate the dam was carried away, as the two barges that were swept away from the center swung around against some rocks on the left and made a fine cushion for the vessels, and prevented them, as it afterwards appeared, from running on certain destruction.

"The force of the water and the current being too great to construct a continuous dam at six hundred feet across the river in so short a time, Colonel Bailey determined to leave a gap of fifty-five feet in the dam and build a series of wing dams on the upper falls. This was accomplished in three days' time, and on the 11th instant the Mound City, Carondelet, and Pittsburg came over the upper falls, a good deal of labor having been expended in hauling them through, the channel being very crooked, scarcely wide enough for them. Next day the Ozark, Louisville, Chillicothe, and two tugs, also succeeded in passing the upper falls. Immediately afterwards the Mound City, Carondelet, and Pittsburg started in succession to pass the dam, all their hatches battened down, and every precaution taken to prevent accident. The passage of these vessels was a most beautiful sight, only to be realized when seen. They passed over without an accident, except the unshipping of one or two rudders. This was witnessed by all the troops, and the vessels were heartily cheered as they passed over. Next morning at ten o'clock the Louisville, Chillicothe, Ozark, and two tugs passed over without any accident except the loss of a man, who was swept off the deck of one of the tugs. By three o'clock that afternoon the vessels were all coaled, ammunition replaced, and all steamed down the river, with the convoy of transports in company. A good deal of difficulty was anticipated in getting over the bars in lower Red river; depth of water reported only five feet; gunboats were drawing six. Providentially we had a rise from the back-water of the Mississippi, that river being very high at that time, the back-water extending to Alexandria, one hundred and fifty miles distant, enabling us to pass all the bars and obstructions with safety.

"Words are inadequate to express the admiration I feel for the abilities of Lieutenant Colonel Bailey. This is without doubt the best engineering feat ever performed. Under the best circumstances a private company would not have completed this work under one year, and to an ordinary mind the whole thing would have appeared an utter impossibility. Leaving out his abilities as an engineer, the credit he has conferred upon the country, he has saved to the Union a valuable fleet worth nearly two million dollars. More, he has deprived the enemy of a triumph which would have emboldened them to carry on this war a year or two longer, for the intended departure of the army was a fixed fact, and there was nothing left for me to do in case that event occurred but destroying every part of the vessels, so that the rebels could make nothing of them. The highest honors the Government can bestow on Colonel Bailey can never repay him for the service he has rendered the country."

I move that the joint resolution be referred to the Committee on Military Affairs and the Militia.

The PRESIDENT *pro tempore*. That order will be made.

#### REMITTANCES TO INDIANS OF KANSAS.

Mr. POMEROY. I ask the Senate now to take up and pass a resolution of inquiry that I introduced on Friday last, and which went over on the objection of the Senator from Kentucky, [Mr. Davis.] It is merely a resolution calling on one of the Departments for a report in reference to the funds in the hands of the Government belonging to certain Indian tribes, which will be passed without opposition.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

*Resolved*, That the President of the United States be requested to furnish the Senate an account current between the United States and the united band of Wea, Peoria, Kaskaskia, and Piankeshaw Indians of Kansas, since date of their last treaty, (30th of May, 1854,) showing the amount and date of each remittance to said Indians under said treaty, and on what account each remittance was made; also showing the date of each investment of the proceeds of the lands of said Indians in State stocks, and amount of interest, if any, on said stocks, the date of investment, and the time during which interest was paid by the States respectively owing said stocks, and what balance, if any, is now in arrear and due said Indians either on account of interest on stocks or otherwise.

*Resolved further*, That a similar account be furnished between the United States and Western Miamis of Kansas.

Mr. HARLAN. I think it would be as well to let that resolution go to the Committee on Military Affairs. These investigations are very laborious, and sometimes occupy the time of clerks for years. We have had some such papers before the committee during this session that have occupied clerks in the office for a year and a half last past. Unless there is some necessity for the imposition of such immense labor on the Department I would oppose the passage of the resolution.

Mr. POMEROY. I have no particular objection to the reference. What this resolution calls for would not take two hours' time; but still I have no particular objection to the reference of the resolution to the Committee on Indian Affairs if the Senator desires it to go there.

Mr. HARLAN. If the Senator agrees to the suggestion I will move that it be referred to the Committee on Indian Affairs.

The motion was agreed to.

#### REVISION OF DISTRICT LAWS.

Mr. MORRILL. I ask the Senate to take up for consideration the joint resolution (S. No. 59) to provide for the revision of the laws of the District of Columbia. It will not occupy five minutes. It only contains one simple provision.

The motion was agreed to; and the joint resolution was read a second time, and considered as in Committee of the Whole.

As the revised code of the District of Columbia, prepared under the authority of Congress, entitled "An act to improve the laws of the District of Columbia, and to codify the same," approved March 3, 1855, and which was published by order of Congress in the year 1857, is believed to have been a comprehensive, complete, and accurate compilation of the laws of the District at the period of its execution, and measures should be taken to have the work brought down to the present time and perfected, the bill therefore instructs the Committees on the District of Columbia of the two Houses of Congress, respectively, to cause the code to be so revised, amended, and corrected, and also the laws of Congress for the District passed since that compilation, as shall adapt them to the present condition of the laws; and they may employ not more than two suitable persons on the preparation of the work at a compensation of ten dollars per day for the time employed. The code so prepared is to be printed by direction of the committees in a neat and convenient form for the use of the committees and Congress; and the committees are to report it to their respective Houses at the next session of Congress for adoption.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### CONGRESSIONAL GLOBE.

Mr. ANTHONY. I move that the Senate proceed to the consideration of the bill (H. R. No. 421) to pay, in part, for publishing the debates of Congress, and for other purposes.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which directs the Secretary of the Senate and the Clerk of the House of Representatives to purchase from the publishers of the Congressional Globe and Appendix, for each Senator, Representative, and Delegate in the present and each succeeding Congress, who has not heretofore received the same, one complete set of the Congressional Globe and Appendix.

The second section provides that there shall be paid to the publishers of the Congressional Globe and Appendix, by the Secretary of the Senate and the Clerk of the House of Representatives, out of the contingent funds of the two Houses, according to the number of copies of the Congressional Globe and Appendix taken by each, one cent for every five pages exceeding three thousand pages for a long session, or fifteen hundred pages for a short session, including the indexes and the laws of the United States for this and each future Congress.

The third section appropriates the sum of \$98,544 for the purposes named in the bill for the present Congress; \$30,424 of which is to be disbursed by the Secretary of the Senate, and the remainder by the Clerk of the House of Representatives.

The fourth section repeals all acts and parts of acts inconsistent herewith; and the above provisions are made upon the express condition that they may be abrogated by either Congress or the publishers of the Congressional Globe and Appendix at any time after giving two years' notice for that purpose.

Mr. HALE. If I remember aright, the first section of this bill is in direct contravention of an existing law, and one that has been pretty scrupulously observed ever since it has been passed. I do not know whether this bill would repeal that

law or not. That law was passed a few years ago, when the printing or purchasing of books for the use of Congress had got to be a great abuse. The whole subject was considered in connection with the increased compensation of members of Congress, giving them an annual salary instead of a per diem. I have not that law before me, and can only speak from recollection, but my recollection is that there was a condition in that law that any books hereafter purchased by Congress for distribution among its members should be deducted from their pay; and I think that is the law to-day. I do not know whether the Committee on Printing mean to repeal that law or not; but my own impression is that that is a wise law. It has been adhered to hitherto very strictly, and I think it had better be adhered to hereafter.

A friend has just handed me a copy of the bill, and I observe that the fourth section provides—

That all acts and parts of acts inconsistent herewith be, and the same are hereby, repealed.

Mr. CONNESS. Do not discuss it.

Mr. HALE. I see that my friend from California is impatient. I am opposed to this bill; I think it has not been considered as it ought to be; and I therefore move to postpone its further consideration until to-morrow.

Mr. ANTHONY. I have no objection to its being postponed if it is postponed and made the special order for to-morrow. I should like to have it disposed of. It is a thing that so nearly concerns the business of the Senate as to rise almost to the importance of a privileged question. The committee are quite indifferent whether the bill passes or not; but they desire to have the action and the decision of the Senate upon it, because, unless Congress make some further compensation for the publication of the Congressional Globe, it must cease. Every person who is conversant with the expenses of printing must know that this must be the case, unless the contract has been hitherto enormously profitable. As I explained at considerable length the other day, it has been sustained up to the present time, more than from any other cause, by the pride which the late proprietor, Mr. Rives, had in the publication. He desired to have it as the monument of his life, and he always felt a confidence that Congress would at some future and not very remote time raise the compensation to a living business. If it is not the disposition of Congress to do that, let the publication cease. I will not object to the postponement; but I should like to have it made the special order for half past twelve o'clock to-morrow.

Mr. COLLAMER. I object to making any special orders in the morning hour. I hope it will not be done. If it must be done, let it be done by the Senate regularly.

Mr. ANTHONY. Well, sir, I am not going to press this bill against the desire of the Senate. I have no more interest in it than any other Senator, and if it is the pleasure of the Senate to postpone it and let it go by, I shall not trouble myself about it.

Mr. COLLAMER. Let us act upon it now.

Mr. ANTHONY. Very well; that is what I would prefer to do.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from New Hampshire to postpone the further consideration of the bill until to-morrow.

The motion was not agreed to.

Mr. HALE. I had not the slightest wish to have the bill postponed except that I saw some of my friends were a little impatient and I did not want to take up time; but I am as ready to act upon it now as I shall be at any other period.

I am opposed to this bill on several accounts. In the first place, it is indefinite; and, Mr. President, I appeal to you, not only as Presiding Officer of the Senate, but as a member of the Senate on that point. If there is any subject on which I have been enlightened since I have been in the Senate, it has been by remarks made by yourself upon the indefiniteness of appropriations. You have contended with a force, an energy, and a distinctness which has impressed itself on my mind against the propriety of making indefinite appropriations, the amount of which we do not know.

Now, sir, one cent is a very small sum indeed; it is the smallest coin known to the law now; but if there is any truth in arithmetic it may be

multiplied so many times as to count up to a very large sum. Let us see what this one cent, that harmless cent, amounts to in this second section:

Sec. 2. *And be it further enacted*, That there shall be paid to the publishers of the Congressional Globe and Appendix, by the Secretary of the Senate and the Clerk of the House of Representatives, out of the contingent funds of the two Houses, according to the number of copies of the Congressional Globe and Appendix taken by each, one cent for every five pages exceeding three thousand pages for a long session, or fifteen hundred pages for a short session, including the indexes and the laws of the United States for this and each future Congress.

Now, I should like to know from the chairman of the committee if the committee have made an estimate of what that will amount to.

Mr. ANTHONY. Does the Senator want an answer?

Mr. HALE. Yes, sir; right here.

Mr. ANTHONY. If the Senator would listen to the very few remarks that I make with as much attention as I do to the much more extended and better ones that he makes, he would have known that I explained this whole matter when I reported the bill. I did not wish the Senate to vote blindly. Of course it is impossible to tell precisely what this one cent for every five pages will amount to; for it is not within the power of mortal comprehension to conceive how long it may suit members to speak, and as the Congressional Globe reports everything that is said, and every Senator says as much as he pleases, it is impossible to tell in the beginning how long the Globe may be spun out. It is very proper, therefore, that, fixing the price of the Globe at a certain sum, it should be for a certain number of pages, and then if the debates shall extend to a larger number of pages that there shall be some additional compensation. It is very proper that that compensation should be in proportion to the number of pages printed. Taking the last Congress as the average, the excess of one cent for every five pages will amount to \$42,000, as I stated when I introduced the bill. There were three sessions during that Congress, and they were pretty long ones. I think the Congressional Globe for the last Congress is larger than it ever was before; I am not able to say about that; but according to that average it will make \$42,000.

Mr. HALE. Mr. President, I think the whole thing is injudicious. I think it has a tendency to encourage talk, and that does not need any encouragement. I wonder that the sagacity of our Committee on Finance in seeking for some subject of taxation has not led them to tax this eternal gabble that is practiced in all the branches of the Government. I think we could get a very handsome revenue out of a tax levied on every speech exceeding fifteen minutes over an hour. I see that my friend from Maryland [Mr. JOHNSON] looks rather pale at such a proposition, [laughter;] but still I think it would be a judicious one.

Mr. JOHNSON. It is on your account. [Laughter.]

Mr. POWELL. I hope the Committee on Finance will introduce no such measure. If they do it will bankrupt the Senator from New Hampshire, and we do not want to see that. [Laughter.]

Mr. HALE. That remark of the Senator is based rather upon a supposition of my poverty than an experience of my talk. [Laughter.]

Now, Mr. President, this practice of setting down everything that is said here is unwise and injudicious. I remember the first time that I was in the State of Ohio. I was something of a lion at that time, [laughter;] and the late Joshua R. Giddings, of whose death we have heard with so much sorrow lately, acted as my trumpeter on that occasion. I was called upon by radicals of all ages, sexes, and conditions, and among the rest there came to me a strong-minded woman, with her heart full of sympathy for the laboring classes. In her benevolence she had drawn out a plan for their amelioration and elevation; and what do you suppose it was? Why, that there should be a newspaper printed at the seat of the national Government every day which should contain every word that was said in both Houses of Congress that day. [Laughter.] She thought that would be a remedy that would cure all the social evils that afflicted society. I looked at her with a little astonishment. I asked her if she had ever seen the New York Courier and Inquirer. She said she never had. I told her it was about

the size of a small bed-quilt, and if it was printed all over in small type it would not contain everything that was said in both Houses of Congress during a day. [Laughter.] She wanted to put this paper into the hands of every laboring man in the community; so I asked her this question: "Do you not think if you were to put that paper into the hands of the laboring men of the country and tell them that they must read it through that day, it would be the hardest day's work they ever did? Again," said I, "suppose the laboring class have time to read so much, do you not think it barely possible that they might find some more profitable reading?" [Laughter.] The woman had the sense to sit still and did not answer, and that question never has been answered to this day.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the special order of the day.

Mr. HALE. Well, sir, I am perfectly willing.

Mr. ANTHONY. If the Senate is ready to take a vote on this bill I should like to have it disposed of now.

Mr. HALE. I have not got through with it.

Mr. ANTHONY. I hope, then, that the Committee on Finance will introduce the tax that the Senator from New Hampshire suggests. I should like to have it while this bill is under consideration. [Laughter.]

The PRESIDENT *pro tempore*. The Senate will resume the consideration of the tax bill.

Mr. POWELL. I move that the tax bill be temporarily passed over to enable us to take a vote on this bill.

Mr. FESSENDEN. The Senator from New Hampshire says he has not got through with his remarks.

Mr. POWELL. Well, we can allow the Senator to conclude.

Mr. FESSENDEN. I prefer to go on with the tax bill.

The PRESIDENT *pro tempore*. Objection being made, the special order is before the Senate.

#### INTERNAL REVENUE.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 405) to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes, the pending question being on the amendment offered by Mr. SHERMAN to strike out the one hundred and ninth section of the bill and to insert in lieu thereof the following:

#### BANKS AND BANKING.

SEC. 109. *And be it further enacted*, That there shall be levied, collected, and paid a duty of one twenty-fourth of one per cent. each month upon the average amount of the deposits of money, subject to payment by check or draft, with any person, bank, association, or corporation engaged in the business of banking, other than associations organized and established under and by virtue of "An act to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved February 25, 1863; and a duty of one twenty-fourth of one per cent. each month, as aforesaid, upon the average amount of capital stock invested in such business, beyond the amount invested in United States bonds. And on the first Monday of every month of each year a true and accurate return of the amount of deposits and of capital, as aforesaid, shall be made and rendered to the assessor of the district in which such bank, association, or corporation may be located, or in which such person may reside, by all such persons, banks, associations, or corporations, with a declaration annexed thereto, and the oath or affirmation of such person, or of the president or cashier of such bank, association, or corporation, in such form and manner as may be prescribed by the Commissioner of Internal Revenue, that the same contains a true and faithful statement of the amount of capital and deposits, as aforesaid; and shall also deliver a copy of said return to the collector of the district, and shall, within each and every month, pay to said collector the duty of one twenty-fourth of one per cent. on the amount of deposits, and of one twenty-fourth of one per cent. on the capital so returned. And for any neglect to make or render such return and payment, as aforesaid, every such person, bank, association, or corporation shall be subject to and pay a penalty of \$1,000, besides the additions, penalties, and forfeitures in other cases provided; and the amount of deposits and capital shall, in default of the proper return, be estimated by the assessor upon the best information he can obtain, and every such penalty, together with the duties as aforesaid, may be recovered for the use of the United States in any court of competent jurisdiction. And every person, and every bank, association, or corporation, other than associations organized and established under and by virtue of "An act to provide a national currency, secured by a pledge of United States stocks, and to provide for the circulation and redemption thereof," approved —, issuing notes, bills, or obligations calculated or intended to circulate as money, shall pay a duty of one sixth of one per cent. each month on the average amount of such notes, bills, or other obligations in circulation during the preceding month, or which, having been issued, shall remain in

circulation; and shall, on the first Monday of each and every month, make and deliver to the assessor of the district in which such bank, association, or corporation may be located, or in which such person may reside, a true and accurate return of the amount of notes, bills, or other obligations so issued, whether in circulation or in its vaults, or elsewhere, in possession or on deposit, and shall annex to every such return a declaration, with the oath or affirmation of such person, or of the president or cashier of such bank, association, or corporation, in such form and manner as may be directed by the Commissioner of Internal Revenue, that the same contains a true and faithful statement of the amount of circulation as aforesaid; and shall deliver a copy of said return to the collector of the district in which said person resides, or in which the said bank, association, or corporation is located; and shall, within ten days from the first Monday in each and every month, pay to said collector the said duty of one sixth of one per cent. on the average amount of its circulation as aforesaid, not including that in vault or on deposit for the said bank. And for any neglect to render or make such return and payment as aforesaid, every such person, bank, association, or corporation shall pay a penalty of one per cent. on the amount of notes, bills, or other obligations issued as aforesaid, which amount shall, in default of the proper return, be estimated by the assessor upon the best information he can obtain; and every such penalty may be recovered for the use of the United States in any court of competent jurisdiction: *Provided*, That all banks, associations, corporations or individuals, issuing notes or bills for circulation as currency, shall be liable to and pay the additional duty of one third of one per cent. each month, upon the average amount of such currency, not including that in vault or on deposit for the said bank, issued beyond the amount of ninety per cent. of its capital stock paid in. In the case of banks with branches, the duty herein provided for shall be imposed upon the circulation of each branch, severally, and the amount of capital of each branch shall be considered to be the amount allotted to or used by such branch. And the additional duty herein provided for shall be collected and paid at the times and in the manner hereinbefore specified. And so much of an act entitled "An act to provide ways and means for the support of the Government," approved March 3, 1863, as imposes any tax on banks, their circulation, capital, or deposits other than is herein provided, is hereby repealed.

Mr. McDUGALL. Mr. President, I am opposed to the amendment of the Senator from Ohio and also to the provision of the bill that he proposes to amend. The people of the State I in part represent have not any great pecuniary interest in the question of the taxation of the circulation of banking institutions. The circulation of California is a circulation of gold and silver coin, and is not to be affected by this bill as it stands in the original text or as it is proposed to be amended by the Senator from Ohio; but there are considerations in which the people of this whole country are concerned as a matter of policy if the views indicated by the Senator from Ohio are to be carried into legislation. I may say for myself here that I have always been and am now opposed upon principle to all banks of circulation. We have found practically in that portion of the country from which I come that banks which confine themselves to the office of transacting the business between merchants and citizens can do that business as well without a paper circulation as with it, and even much better. While the system of banks without circulation is quite as convenient, it is much more for the health of the business of the country. The truth of this general proposition has been demonstrated by all those who have written on this subject for the last century. The experience of the world proves it. Nevertheless, banks of circulation have existed throughout the older States for a long period and have become a substantial feature of the system of business in all those States. I suppose there is not a State among the old States of the Union that has not banks of circulation; and in New England particularly every city and every town and every considerable village has its bank for the local accommodation of the people. The young mechanic is dependent upon the bank in his neighborhood for his first facilities in engaging in business, and the young trader having a reputation for integrity and character is dependent upon the local bank for his first facilities in carrying on trade. They are a part of the established system of the country. It is now proposed openly by the Senator from Ohio, and substantially by the bill itself, to make a destructive war upon all these institutions, to uproot and destroy them.

Mr. HOWE. Will the Senator allow me to ask him what war the bill proposes to make upon these banks?

Mr. McDUGALL. The bill itself in its taxation, independent of the amendment, makes that war, although the amendment is much more radical than the bill itself.

Mr. HOWE. The bill itself proposes no rate



of taxation upon the State banks that it does not upon national banks.

Mr. McDUGALL. Indeed it does. It taxes all their business except what is based upon the circulation furnished by the Federal Government, and makes a distinction all the way through. It is not wise at any time suddenly to uproot long-established institutions and long-established business relations. I will take New England as an illustration. I suppose there is not a village of any considerable size or a manufacturing town in New England without its bank that has done for many years and is now doing the business of the neighborhood. It is now proposed that the Federal power shall legislate them all out of existence, with all their relations, their place to be supplied by organizations to be framed under the authority of the Federal Government without any basis except the basis of bonds, those bonds irredeemable, and the currency issued by the Government and furnished by it to the banks irredeemable.

It would be well to consider for what all this change is to be made, for what cause all the relations of business, of money to industry, of money to trade throughout the greater part of this country are to be changed in this way. Why is this war to be made? And let me say that I think this war made upon \$170,000,000 of bank circulation may prove quite as mischievous a war as that which is now waged upon us from the South, for this is to be a war of the North upon the North, and a moneyed war is sometimes as disastrous as the war of arms. It is a war made in order that a banking system organized under the auspices of the Secretary of the Treasury may be established throughout all parts of this Union, a banking system to radiate from this center, to commence with \$300,000,000 of capital, capable of indefinite expansion. It can be extended just as our legal-tender notes have been extended. When the first application for legal-tender notes was made to Congress by the Secretary of the Treasury, it was said that what was then required would be all that would be required, that more could not be safely placed in circulation and more would not be demanded; but since then that sum has been quadrupled, and \$300,000,000 are now asked to organize a system of national banks. They say they want facilities for the Government. Next year, wanting more, they may ask for \$600,000,000 of bank facilities, and the next year after that we shall look fearlessly upon a circulation of \$1,200,000,000.

The greatest mischief of this war upon the local circulation of the State banks is the character of the substitution. It was thought, and I think it was wisely thought by one of our former Presidents, a man of infinite sagacity, that a bank of \$30,000,000—not a mere Government bank, but having capital of its own and to which the Government was a party—that that single bank of \$30,000,000, with its branches in the various States, was dangerous to the integrity of the Union—was dangerous at least to the proper administration of a free republican Government; and why dangerous? Among other things, for the reason that in every State they were able to secure by employment the young growing talent of the States and bind it to the interests of the \$30,000,000 mammoth institution. The first talent of the North and the East and the South and the West became allied to the institution with \$30,000,000 of capital, and that alarmed a sagacious President, and alarmed the American people. Here we propose at the outset to multiply the thirty by ten, and not making a regular banking institution as the old institution was, embracing a majority of private capital, but a system of banks located in every town and village throughout the country, distributing from this center to them \$300,000,000 of circulation, and every one of these banks under the power of the Secretary of the Treasury and the Comptroller of the Currency. I should like to ask Senators if they have looked carefully to see the power that is vested here with the Comptroller of the Currency.

Mr. FESSENDEN. Permit me to suggest to the Senator that all those questions were proper to be answered perhaps upon the bill for establishing these banks, but this is a mere provision for taxing State banks.

Mr. McDUGALL. I understand that quite well, if the Senator pleases; but I suppose I have

the right to reason that the cause for this change suggested by the Senator from Ohio is that the State banks are to be driven out of existence that their place may be supplied by national banks.

Mr. FESSENDEN. I was not interfering with the Senator's reasoning. He was asking a question of Senators.

Mr. McDUGALL. I ask them whether they are advised of the power that has been conferred on the Comptroller of the Currency. I am inquiring into the character of these institutions for which, and on account of which, the State banks are to be driven out of existence. I do not profess myself to favor either of them as an original question. If we had no banks of circulation in the country I should oppose them everywhere. I trust it will never be a necessity on my part to oppose banks of circulation in California, for I think the time will never come when they will be supposed to be needed there. I choose now to remark on the character of the system which is to take the place of the State banks. The Comptroller of the Currency at Washington has the authority of a chancellor, one of the highest judges of our courts, and may by his *ipse dixit* close up any one or all these banks. He may require them at any time by his own word or order to file additional bonds. He may appoint a receiver and take charge of all their assets. He has perfect power here at Washington to pull the strings upon every moneyed interest. This system is to aggregate all the active capital of the country, and it is to be held here at one man's power. I say that under this system, which has been devised by the Secretary of the Treasury, and has received the sanction of Congress, when it shall be inaugurated and in full force, if it is permitted to be thus organized and put into full force, it will possess a power that will relieve Senators from the responsibility of office, and it will relieve members of the House of Representatives from the responsibility of canvass. We shall then have members of Congress and Senators and Presidents made by a moneyocracy more potent than the word or ukase of the czar. These things have not been sufficiently looked to. Of all powers that can be made the governing powers of a country, there is nothing like the concentrated moneyed interest of a country. Before them will have to yield our manufacturing interest; before them will have to yield our agricultural interest; before them will have to yield and bend our commercial interest. Legislation will be controlled by them as their interest may dictate. That this is true is as patent as the words I see before me in the bill that lies upon my desk.

How many banks will spring up under this system, suppose they go along as the Secretary of the Treasury anticipates? A thousand, perchance; there will be four or five banks for every member of Congress, and twenty-five or thirty for every Senator. Their business belongs here by virtue of your law, and they will be appealing to the legislation of the Federal Government to change the law to promote their interests, to favor them in the machinery of their operation, the extension of their business, the regulation of the rates of interest. There will be a thousand other things before Congress affecting them *pro* and *con*, as they may relate to merchandise, trade, and manufactures, or to commerce abroad.

I would, if I had been in my seat, have urged all these reasons primarily against the bill which we have already passed establishing this banking system; but the argument is as pertinent here against this centralizing power. Your bill designs to centralize all power in the Government here at Washington and in the Treasury Department of that Government; and now, in aid of that centralization it is proposed to drive out of existence all the institutions in the United States established by State authority that furnish banking facilities, so that these new banks may have the field alone. That is one of the means to extinguish the States. There is a strong disposition, I know, on the part of many Senators to extinguish all the boundaries of the States and to establish here a central Government. Every one who has read history and has profited by the teachings of her greatest masters of political science, knows and understands that a single consolidated republic cannot exist over such an immense area. It was never attempted in ancient or modern times. Montesquieu, who is one of

the ablest writers on the subject of free Government, and a friend of free Government, lays it down as a rule that republican institutions cannot be maintained over a vast extent of country except by the combination, the concentration, and affiliation of, to a certain extent, independent Governments; that only in that way can they maintain sufficient vitality at their centers and sufficient strength to unite and continue the Government of a largely extended territory. All history has taught this lesson. Our fathers understood it when they established the Constitution under which we now pretend to live. This is a movement to obliterate the boundaries and destroy the vitality of the States, which, on the other hand, should be cultivated.

There is not vital force enough in this country by honest and free means and the free expression of a free people, to handle all the intricacies of trade, commerce, business, exchanges, currency from here to the extremest parts of the country. What here do you know about the region in which I live? I am compelled to say that the Senate and House of Representatives, with very few marked exceptions, are profoundly ignorant about every one of our particular and general necessities; and when measures involving our interests come before Congress, what is affirmed by the representatives of our coast has to be taken on trust, or otherwise it is ignored, and what they ask for, and ask for justly, is often denied them.

Sir, while we are laboring under our great calamities and while making a united struggle to put down hostile arms in rebellion, we must not forget that yet under our system, a necessary and a politic system, we must have States, and States within their spheres independent, just as well as the national Government within its sphere is independent. This attempt here to go out beyond the legitimate sphere of Government to control the money business of every neighborhood throughout the whole Republic is in violation of the fundamental idea of our system, and it is in violation of fundamental law. It never was affirmed in the days of the old United States Bank that the Government had the right to create a bank except as it was necessary as a fiscal agency to carry on the business of the Government itself. This system is not framed for the purpose of furnishing a fiscal agency for the Government. It is to usurp the money business of the country, to control and handle the exchanges of the country and its entire currency. Not only that; the Federal Government not only undertakes to go out of the line of its jurisdiction by creating this system to be handled here at the central point of power, but it undertakes to make war upon institutions existing in almost every State of the Union with which the business of thousands and hundreds of thousands of people is immediately concerned. The stockholder, the lender, the borrower, persons who have furnished facilities and persons who have sought facilities, the mechanic, the trader, the merchant, the manufacturer are all dependent on these institutions upon which war is to be made by the Federal Congress. Has the Federal Congress any office which justifies it in making such war? I say it is a usurpation of power, and an unjust war upon the States and upon institutions established by the various States, and upon established relations between debtor and creditor, borrower and lender, the man of money and the man of trade and the man of labor.

It seems to me strange that such a proposition as has been made by the Senator from Ohio should be boldly announced as designed to drive out of existence by unequal taxation the State banks, to drive out what has been recognized as a legitimate business and has been followed since the commencement of the Government, to drive out of business by unequal taxation a large body of men, men of retired capital, engaged in banking, and then to drive out of the way of convenient facilities another large class of men, and to make out of the whole banking system of the country a political machine. Now, a bank is a business institution looking solely to the returns monthly, quarterly, or yearly of its business to be divided among the persons who engage in that kind of transaction; and it makes a very little difference to them who a man is, they do not inquire what his particular persuasion may be, or what his alliances with A, B, and C; but is he an honest man, can he be trusted, has he got the credit due

to character, or has he got the credit due to capital? If he has, his business is done." This system, on the other hand, is to organize a set of banks where the strings can be pulled here by the party in power. If they find that a bank has loaned \$50,000 to A, A being an obnoxious person to the individual in authority, the Comptroller of the Currency may write immediately, "Why did you accommodate A with that \$50,000? He is not a solvent man; you will ruin yourself, and the Comptroller of the Currency may be compelled to put you in liquidation and appoint a receiver for you; that kind of business will not do." They will soon find out that they have got to consult the head of the system here in Washington, and they, like all moneyed institutions, will consult their own interests, and not put themselves in the way of a power that may despoil them at any time and close up their business. The system makes every one of this multitudinous set of banks the agent of the Comptroller of the Currency and the Secretary of the Treasury, the central power at Washington, to do their behests. If they cannot compel a discount, they can at least prevent one, and the business is to be conducted as they will. Money is always subservient to interest. It is in the very nature of the moneyed business.

If you aggregate all these interests, so that they are to be controlled at one place, there will be no further use for Legislatures in your several States, no further use for a House of Representatives here or a Senate here, unless those Legislatures shall be appointed by the village banks, your Representatives by the district banks, and your Senators by the banking influence in the States; they will come here to represent that interest; but an interest as large as that will swallow up all minor interests. Money has been always potential in securing office in this country, and it may be said that this is true of all countries. If the United States Bank, with its \$30,000,000 and its few branches, could threaten to control, and did control, to a large extent, for some time, the legislation of the Federal Congress, and did control the young talent of the country, what will a thousand branches and \$300,000,000, or, perchance, shortly \$600,000,000 do? They will control everything. It will be a farce for men to come here who can represent an independent community. I represent a community that probably never will be troubled with the incubus of bank paper circulation; that probably will be true of the coast which I represent; but what will be the use of persons coming here from my coast, representing an independent interest, when all around them they find persons who represent the great moneyocracy of the Republic?

It is proposed to drive out all the circulation of the State banks, to drive out all competition. As between business men engaged in business in the same place, it would be considered as outrageous if the one of largest capital should try to drive out all the small capitalists; for instance, if Alexander Stewart should try to drive out everybody else in New York engaged in his department of business, that he might monopolize it, would it not be regarded as a commercial outrage? Now, if we, with the power of the Federal Government used with a lavish and reckless hand, organize a system of banks, armed to make war on the smaller institutions with the intent to force out of existence the business of a body of men engaged in a lawful business, deprive all the persons connected with them in their business relations of the facilities they have received, and establish a new set of relations under political authority throughout the country, can any just man attempt to justify it? Can any prudent man justify himself in promoting it? It is a thing to be protested against. An individual who would undertake to do it because he had the power as against another individual, would be looked upon as guilty of an outrage as a business man and an outrage as an honorable man; and the Government with its power can claim no exemption from its particular want of individuality. The amount which the banks have of the Government currency, and the amount which they do business upon on Government account, is not to be taxed by the same ratio; but all the private capital that goes into this business is to be taxed. The Government is going to take, then, a higher ground, a safer place, a better business position than the individual capitalist. What

right has the Government to do this? It has no such right. It is an outrage on the rights of the private citizen.

The effort has often been made on the part of the Federal Congress to interfere with the private business of the country; but here is a giant stride toward the control of all the private business of the country. It may be permitted for a day, it may be suffered for a day, because unfortunately in these times of great trial, when Senators should be alive to any question of public interest, when they should weigh every movement, when they should consider with great care every public question, they are on the other hand found rushing recklessly forward in the indorsement of any scheme that is offered by those at the head of the Administration. Their measures are not canvassed, they are not examined, they are not considered; but the time for consideration will come, and it will come before long, for after all the people of this country are the persons who will first feel and then see these great evils that are to be thrust upon them; and then those who have invented them, those who have organized them, those who have put them in motion, will be hurled from their places of power, and if not forgotten will only be remembered to be execrated.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) The question is on the amendment of the Senator from Ohio to the one hundred and ninth section of the bill.

Mr. SHERMAN called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 11, nays 25; as follows:

YEAS—Messrs. Anthony, Conness, Harlan, Howard, Lane of Kansas, Pomerooy, Ramsey, Sherman, Sumner, Wade, and Wilson—11.

NAYS—Messrs. Brown, Buckalew, Carlile, Clark, Colamer, Cowan, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harris, Hendricks, Hicks, Johnson, Lane of Indiana, McDougall, Morgan, Powell, Richardson, Van Winkle, and Wiley—25.

ABSENT—Messrs. Chandler, Harding, Henderson, Howe, Morrill, Nesmith, Riddle, Saulsbury, Sprague, Ten Eyck, Trumbull, Wilkinson, and Wright—13.

So the amendment was rejected.

Mr. HENDRICKS. I want to have a vote on the proviso to this one hundred and ninth section, and I do not know whether it is necessary to move to strike out the proviso as it is reported from the Committee on Finance.

Mr. CLARK. Will the Senator allow the committee to go on with their amendments?

Mr. HENDRICKS. I think we ought to dispose of this subject. The proviso imposes a tax upon the issues of the State banks of three per cent. per annum over and above ninety per cent. upon their capital.

The PRESIDING OFFICER. Will the Senator state his amendment?

Mr. HENDRICKS. The proposition is to strike out the proviso to the one hundred and ninth section, if it be necessary; but as that proviso was reported by the Committee on Finance as an amendment to the bill, I suppose the question will be upon its adoption. I wish to say just one word upon that question.

The State Bank of Indiana, by her charter, is allowed to issue beyond her capital in view of the safety that is secured by the other features of the charter to the bill-holders; and I do not think it is right for Congress in a tax bill to discriminate against these banks at all. The purpose of a tax bill ought to be to tax with a view to revenue alone, and not to drive from the field of circulation any portion of the circulation of the State or other banks. Inasmuch as this is the only discrimination left in the bill against the State banks and in favor of the national currency, I desire a vote upon this, and on that question I will call for the yeas and nays.

Mr. JOHNSON. What do you propose to strike out?

Mr. HENDRICKS. The whole proviso. The whole proviso relates to that subject.

Mr. FESSENDEN. I will simply say that this is merely retaining a provision that existed in the law passed two years ago with reference to the same subject. There can be no objection to our laying a tax on the banks, and we may impose it in such a manner as we see fit. A circulation of ninety per cent. on their capital is deemed to be within the limit of safety, and that is the limit imposed on the national banks. There being no discrimination in point of fact as to the

amount of circulation that can be issued, this tax on circulation beyond the ninety per cent. will have this effect: it will prevent this undue expansion, which is so injurious to the public interests; it will place the State and national banks upon precisely the same level, while it will have the effect to restrain the issue beyond ninety per cent., because the national banks are limited to a circulation of ninety per cent., and it would not do to leave it as it stood in the bill. This proviso in its terms is not confined to the State banks, but covers the whole. I have no doubt not only of the value but of the imperative necessity of such a provision.

Mr. HENDRICKS. I desire to say in reply to the Senator that this does not place them upon terms of equality with the national institutions, for the reason that the basis of the banking of the national institutions is the bonds of the Government which pay six per cent. in coin, equal now to nearly twelve per cent. of interest upon the investment. The national banks buy these bonds with the Treasury notes. A thousand dollars of Treasury notes will pay for a \$1,000 bond. Upon that investment of \$1,000, the national banks secure from the national Treasury what is equivalent in currency to nearly twelve per cent. Then upon that the issues are made.

But the State banks are required, according to their charters, to keep in their vaults enough money, gold and silver, and under the present legislation of Congress perhaps Treasury notes, to meet the demands of the bill-holders, whatever those demands may be. Our charters require a dead capital as security for the bill-holders in the vaults, while the national bank system requires a capital that pays nearly twelve per cent. interest. In order to make a State banking system profitable they must issue more than ninety per cent. of their capital. At ninety per cent. alone, they could make no profits, while the national system could make large profits in view of the interest that is paid to them upon their bonds in gold and silver.

I think the committee is right in the main in saying that there ought to be no distinctions. When you come to tax the circulation, whether the circulation is by a State bank or a national bank, let the tax be equally imposed, and put it upon everybody, and then it is fair, and leave these institutions to struggle for the field as they may. That institution which gets the best credit will have the field. Do that, and if the national bank system is best, it will by force of its better credit drive this other currency out of the field; but if it is not the best it cannot do it; and then by arbitrary legislation we ought not to do it. I appeal to the Senator to let this principle of equality of taxation apply throughout the whole bill.

The PRESIDING OFFICER. The Chair will suggest to the Senator from Indiana that the amendment proposed by him is not strictly in order. The Senate having agreed to this proviso in Committee of the Whole it is hardly proper while the bill is in committee to move to strike it out.

Mr. HENDRICKS. I did not know a vote had been taken upon it. Has it been agreed to?

The PRESIDING OFFICER. It has been agreed to in Committee of the Whole, and it cannot be stricken out while we are in Committee of the Whole, but it can be reached when the bill is reported to the Senate.

Mr. HENDRICKS. Very well.

Mr. FESSENDEN. That is so; but I will answer now what the Senator has said, and it will save both of us the necessity of explanation hereafter.

The Senator carries my language further than I intended it should go. When I said we meant to place them on an equality I meant an equality with reference to the tax we imposed. So far as other things are concerned, I for one, and I take it the majority of the committee would desire that the distinction that arises from the different position of the banks under the bank bill should be such as would induce the State banks to come into the national system entirely. They can avail themselves at any time by that bill of all the advantages of which the Senator has spoken if they choose to come into the national system; and I for one am glad that the national system has the advantages spoken of, for I hope it will have that effect.

I will go further and say that while I was opposed at present to imposing these heavy duties or any very heavy discriminating tax upon the State banks, my view of it with reference to that matter was only temporary. I wish to give them time, without being unduly burdened, to exercise their privilege of winding up without affecting the business of the community by withdrawing their circulation too rapidly, or being forced to do it before these national banks can get into operation, and thus give them the opportunity, having an understanding that they should do so, to come into the national system. If they do not choose to do it or to take any steps with reference to it, but are disposed to hold on to their present system, the time may come when I might be willing to impose discriminating taxes upon them if the public good required it.

My view of it, therefore, is confined and limited by the circumstances of the time and the necessities of the time, and treating them fairly and giving them time within which to act. In that, however, I speak simply for myself. If I am in a position to give a vote on the subject, unless I change my views with reference to it, which all men may do, if this national bank system works well, if it approves itself to the community, I shall be prepared to say that within a reasonable time that shall be the only currency of the country in the shape of bank paper.

Mr. JOHNSON. As I differ from the honorable member from Maine, I rise—

The PRESIDING OFFICER. There is no motion before the Senate at this time.

Mr. JOHNSON. The whole bill, I suppose, is before the Senate. As I differ from the honorable member from Maine, it is proper that I should state very succinctly the grounds of that difference.

The taxing power of the United States cannot be questioned, but it is a power given exclusively for the purpose of raising revenue, except so far as it relates to the use which may be made of the power for the protection of domestic manufactures; and even as to that, as the Senate are aware, there has existed, and still exists, very contradictory opinions. Some have supposed, and I concur in that view, that under the taxing power, the power to lay imposts and duties, it may be exerted for the very purpose of protecting manufactures, and if the protection cannot be accomplished except by prohibiting the importation of similar articles from abroad, it may be laid with that view. Others have supposed that although it may be used for the purpose of protecting domestic manufactures, that result is to be affected only incidentally; the object still must be in the imposition of the tax to collect revenue. But with the exception of that use of the taxing power I had supposed the true construction of the Constitution in that particular was that the power must be exerted for the purpose of raising revenue alone.

It is true that the motive which may influence Congress in passing a law of this description cannot be inquired into in any judicial proceeding, and if in a judicial proceeding the court should be of opinion that the limitation upon the power is a limitation which confines Congress to its exercise for the purpose of revenue, the court would conclude that that was the purpose in any and every case in which Congress might think proper to impose the tax, unless it thought proper in the law imposing the tax to state its real purpose. I understand my friend from Maine (for whose opinions on questions of this description, particularly such of them as are constitutional, I have the greatest possible respect) to say that so far as he is concerned he would be willing, unless the banks should proceed hereafter to adopt such a course as he thinks is for the benefit of the country at large, to force them by taxation into the adoption of that course; and he says that the discrimination which the bill proposes as against the State banks in taxing their surplus of circulation beyond ninety per cent. is made for the very purpose of forcing them to reduce their circulation to ninety per cent.

In my view—and that of course the argument assumes to be a correct statement of the fact—if the charter of a State bank authorizes the bank to issue more than ninety per cent. Congress has no authority to interfere with it, because to the extent of any interference which reduces the au-

thority to issue beyond the ninety per cent. and up to the whole extent of the limitation of the charter, Congress is virtually changing the charter. My friend sees that and he thinks that the interest which these banks will have in adopting the national bank system will be such that they will come into that system; but his purpose is, if they fail from a motive of interest to adopt the national system, to compel them to do it or to go out of existence so far as he can accomplish the purpose by the taxing power, or by going even further than the taxing power, if I understand him correctly, by denying them the right to issue any circulation at all. I may be mistaken, but I do not see under what power Congress can go to that extent, provided it be true that the States have the authority to establish banking institutions with the power to issue a banking circulation.

The opposite of that opinion stated by my friend from Ohio [Mr. SHERMAN] in the speech to which we listened yesterday is not, as I think, to be considered an open question. It is true that in the beginning of the Government doubts were entertained whether the States possessed the power to establish banks of circulation so as to make that circulation money; but that doubt arose, not, as my friend from Ohio supposes, from the existence of the power in Congress to coin money and regulate the value thereof, but because of the prohibition upon the States to issue bills of credit. It was supposed by very well-judging men, men of large experience and great ability, that a bank note issued under the authority of a State by a company chartered by a State was virtually a bill of credit, and fell therefore within the prohibition; but that idea has long been surrendered as a tenable one.

The Supreme Court of the United States—I speak from recollection, but I know that I am right—in the case of *Craig vs. Missouri*, reported in 4 Peters, held that in that particular case what was done by Missouri was in violation of the prohibition upon Missouri to issue bills of credit only because of the particular circumstances and what the suitor proposed to do in that case. But in the case of *Briscoe vs. The State Bank of Kentucky*, reported in 11 Peters, the court decided that it was in the power of Kentucky to establish a bank literally belonging to the State, having a capital altogether belonging to the State, and to authorize it to issue bank bills. They decided that those bills were not bills of credit, and consequently that they did not fall within the restriction. Mr. Justice Story expressed a dissenting opinion. The case was first argued before the Supreme Court during the lifetime of Chief Justice Marshall, and held under advisement. It was argued again when the decision was pronounced, after the Chief Justice ceased to adorn that tribunal and shed luster upon our country. Mr. Justice Story in pronouncing his opinion said that in that opinion he had the concurrence of Chief Justice Marshall. But from that day to this the question is supposed to have been settled as to the meaning of the words "bills of credit" as used in the Constitution, and as not prohibiting a State to issue in a bank of its own, setting aside funds for the purpose of meeting the notes to be used in the community as money; but simply—

Mr. DAVIS. Will the honorable Senator permit me a moment?

Mr. JOHNSON. Certainly.

Mr. DAVIS. I will state that the case from Kentucky to which he refers was the case of *Briscoe* against the Bank of the Commonwealth of Kentucky; that that bank was established wholly upon the credit of the State, and never pretended to redeem its notes in specie, and was not redeeming its notes in specie at the time at which the controversy originated to which he has referred.

Mr. JOHNSON. I know; and that made it a stronger case. Even in relation to a bank of that description owned by the State of Kentucky, and whose notes were not redeemable in specie, the majority of the court held that the prohibition did not extend to notes issued under such an authority. If my friend from Ohio, if he has not had occasion recently to recur to it, will turn to the first volume of Story's Commentaries upon the Constitution of the United States he will find a note stating that although the learned commentator was inclined to believe that Mr. Justice

Story was right when the question was a new one, yet in his judgment the question was put at rest by the decision of the Supreme Court in the case of *Briscoe* and the Commonwealth of Kentucky. In Story's Commentaries on the Constitution he again repeats his doubt whether, as a new question, the State could have had a right or had a right to authorize paper to be issued at all for the purpose of being used as money, and appealed to the authority of a speech made by Mr. Webster in this body not many years ago, before the Commentaries were written, and to a communication made by Mr. Webster when he was in the Administration. But Chancellor Kent says that the authority against such a proposition was much greater than the authorities relied upon by the commentator, being the authority of Hamilton, who, as he showed, recognized the right and authority of the States notwithstanding the Constitution of the United States to authorize the issue of State bank paper.

If it be true that the power exists in the States to establish State banks and to give to those banks the power to establish a currency, then that power is just as much out of the sphere of congressional power as any other power which the States may have reserved to them or not surrendered by the Constitution. I think, therefore, certainly with very sincere respect, that the honorable chairman of the Committee on Finance is mistaken in his constitutional law. Whether we should have the power is not a question to be considered when we are called upon to decide whether we have the power. If it be really doubtful whether the power exists—doubtful as an original question, doubtful as a question at this day, notwithstanding the judicial decisions which have been pronounced on the subject—then the policy of the power, the necessity of the power would go a great way, or rather, as I think, should go a great way, in causing us to solve the doubt so as to enable us to subserve the public interests. But in the view which I take there is no doubt; and if there is no doubt, then the Congress of the United States have no authority to interfere on this question.

Mr. President, the propriety of this banking system is not now before us. The question, as stated by the chairman in his interruption for a moment of the honorable Senator from California, was perfectly correct. The propriety of that system is not a question involved in this debate. The system was adopted before, and so far as the Senate have thought it should be altered, the Senate have altered it. Some of their amendments and alterations have been assented to by the House of Representatives; some have been rejected; and the subject is now before a committee of conference. One of the amendments suggested by the Senate was, that the States should have the right of taxing these national banks. I hope that that may be the final result.

Mr. COLLAMER. Taxing the shares?

Mr. JOHNSON. Yes, sir. But if it should not be the result, as it seems to me the opposite decision will have a very material bearing upon a proper decision of the question which is now before us: shall the State banks be taxed, and if they shall be taxed to what extent shall they be taxed? If taxation with reference to both systems of banking is to go on *pari passu*, or, in other words, if the United States is to have the right, as she certainly has, of taxing the State banks, and the States are to have the right of taxing the United States banks, or the shares in the United States banks, then the taxation may be made equal, as it is in this instance with the exception which has been spoken of. But if you deny to the States the right to tax the national banks, it may become a very important question whether you will exercise your right to tax the State banks. That question cannot arise until we know what may be the determination of Congress upon the particular question which is now in abeyance.

One word more, and I shall have done. I have heard upon more occasions than one in debate some doubt expressed whether the country will be able to meet the debt which it is incurring; even whether it will be able to meet the existing debt, the one incurred; and still greater doubt whether it will be able to meet any increase of that debt. I have heard, therefore, repudiation spoken of, not in clear terms, but ambiguously given out. With all deference to those who may



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have such apprehensions, I submit whether it is proper at this time to announce them. The announcement of our inability to pay the national debt strikes at the credit of the Government more fatally than any other one thing of which I can conceive. The moment it is supposed to be probable, and it may be supposed probable when Senators or members of the other House express a belief that the end will come, that the Government will not be able to meet its engagements, you inflict a wound that will tell at once, and tell more fatally from hour to hour and from day to day, as that doubt may be made to fasten itself upon the public judgment.

Sir, I entertain no such doubt. Be the war on our part successful or unsuccessful, terminate it now or terminate it a year hence, and this debt, of a magnitude almost appalling looked at by itself, may still be met, the public honor preserved, the name of the nation saved, and not only its name and honor preserved and saved, but made to be higher by the ability which it will exhibit and may exhibit that it is capable to meet even the gigantic expenses necessary to carry on the gigantic war in which we are engaged for the purpose of saving the life of the nation. Looked at by itself, considered only arithmetically, it is a burden hard to be borne; but look away from it, look at the resources of the nation, look at the enterprise of our people, look at our magnificent domain, look at the invention and the patriotism of our people, see what we are now doing and how we are now apparently prospering, and I submit there is no well grounded fear but that the nation will be able to emerge from this war, whether it succeeds in restoring the Union, as I doubt not it will, or whether it fail, greater even than it was before the attempt to dissolve it.

Mr. FESSENDEN. I do not mean to enter into a discussion of constitutional principles, or to cite cases. I think it is a little too late to do anything of that sort, especially on a bill of this kind. The Senator misunderstood me entirely. He must have misunderstood me, for he never misrepresents anybody. He says just what I said: Congress has an undoubted right to tax State banks just as it pleases and as much as it pleases. That he assumes. That is true; I said that myself; and I said that for myself I would exercise that power if it became necessary to accomplish a great national purpose. The Senator admits further, (what every lawyer knows,) that when we exercise a constitutional power our motives may be what they please; the courts never look into them; and therefore they do not affect the question. That is all I want. The question of constitutionality does not arise either directly or indirectly, or even remotely in any shape or form, and therefore all such discussions are out of place.

What I meant to say was—and I repeat it for fear of being misunderstood—that at present I see no occasion to exercise the discriminating power, and at present I think it would be unwise to do it to any considerable extent, because I think too great stringency would affect injuriously the business of the country. I will say moreover that I agree with the honorable Senator from Ohio that these two systems cannot long exist together; one must yield to the other for the good of the community and the good of the currency of the country; but you cannot make violent changes. At present the national bank system has hardly gone into operation; the capital is very small; we must give some time for the community to accommodate itself to it. I would give the time necessary; and if it shall be found after giving that time that the national bank system, as it is called, is a success, succeeds well, if it be found to be good and strong and that it has fastened itself upon the confidence of the community, then will be the time to act with reference to the other question, and we shall not have acted hastily.

How I should act in such an emergency one year hence or two years hence or three years hence would depend upon the state of things at that time. When the time comes we act accord-

ing to the necessities of the case as they present themselves. If it shall then be found that here is a national system which is beneficial and useful in itself and ought to go into operation for the benefit of the currency of the country, and the State banks stand in its way after having had ample notice and time to accommodate their business to it, then will be the time for more stringent measures, and if the good of the country shall require it I shall not hesitate to apply those measures either in the shape of increased taxation, or, if that will not accomplish the purpose, in the shape of prohibition. Whether that time will come or not, whether events will illustrate the necessity of that we must wait to see. I trust all of us who shall have the privilege or the burden of acting upon such questions will be wise enough at that time to act according to the necessities of the case as it presents itself.

This, sir, is what I meant to say before.

Mr. JOHNSON. The Senator has certainly stated me incorrectly. I did say that the motive of Congress or of an individual member of Congress in passing a law for exerting a power which they have a right to exert is a matter which cannot be questioned; but it is a very different matter when we are here ourselves to decide what is the limitation upon our power. We are as much bound to adhere to the Constitution as the courts, and we are just as much violating the Constitution of the United States if we do, in the execution of the particular power, what the power was not granted to accomplish, as the courts would do if they sanctioned it. What I said was this: that if the purpose stated by the Senator from Maine was placed in the preamble to the bill, that that would raise the question whether the Congress had the power of taxing to accomplish that purpose.

Mr. FESSENDEN. If I drafted the bill I should not put it there.

Mr. JOHNSON. No; of course you would not put it there. Then if that purpose is not to be put there because that purpose would, in the judgment of the Supreme Court of the United States, be unconstitutional, do we not violate the Constitution if we act upon the purpose?

Mr. FESSENDEN. The Senator is arguing a case of individual conscience, not of law.

Mr. JOHNSON. No; I mean the conscience of every member of the Senate, the conscience of Congress. That is what I mean. I cannot make it plainer, it seems to me. If we have not the power, under the taxing power, of putting an end to State banks, then we ought not to exert it. We do not get clear of the difficulty by failing to state that we do exert it with that view.

Mr. CLARK. I offered last evening an amendment in regard to tobacco. I will withdraw that amendment now if the Senate pleases, because there are some parties who are desirous to converse with me further about it before it is offered.

The PRESIDING OFFICER. If there be no objection, the amendment will be considered as withdrawn. The Chair hears none.

Mr. CLARK. I move to amend the bill—

Mr. DAVIS. I will ask the courtesy of the Senator from New Hampshire. I propose to amend the section that is under consideration.

Mr. CLARK. I think the Senator had better let the committee go on with their amendments. He can offer his amendment afterwards.

Mr. DAVIS. Certainly; but I did not know that the Senator was acting in that capacity at this time.

Mr. CLARK. I am moving amendments for the committee. The amendments which I shall offer may be considered as amendments that have been agreed upon by the committee, and I offer them in behalf of the committee.

Mr. DAVIS. I desire to make this suggestion: I do not want to forfeit my right to offer an amendment to the section that has been under consideration. If I have it at any time it will suit me just as well to offer it hereafter as now.

Mr. CLARK. The Senator will have just as much right to offer it in the future as now. I do

not desire that he should forfeit that right. If he fears that he is in danger of forfeiting it, I will give way; but I do not understand that there is any such danger.

Mr. DAVIS. I merely wanted to preserve my right.

Mr. CLARK. On page 226, I move to strike out the proviso in lines sixty-seven, sixty-eight, sixty-nine, and seventy, and to insert what I shall send to the Chair instead of it.

Mr. FESSENDEN. I call the attention of the Senator from Michigan to this change.

Mr. HOWARD. Yes, sir; I have my eye on it.

The Secretary read the amendment, to strike out the following proviso:

*Provided, That so far as this act relates to friction or lucifer matches made in part of wood, or to cigar lights or wax tapers, the same shall not take effect until the 1st day of August, 1864.*

And to insert:

*Provided, That the stamp duties herein provided for on friction or lucifer matches made in part of wood, or on cigar lights or wax tapers, shall not be imposed until the 1st day of September, 1864; but until that time the tax shall be assessed and collected as heretofore; and on and after said 1st day of September every package or parcel sold by any person, firm, company, or corporation shall be stamped as herein required.*

Mr. SUMNER. I should like to know what is the reason of that postponement.

Mr. CLARK. The reason is this: that it requires some time for the parties to dispose of the stock that is on hand. It could not be disposed of under the provision which the committee reported originally, because a great many of the matches are packed and cannot be stamped unless they are repacked, and many of them have been sold. The committee have concluded to give them until the 1st of September to dispose of the stock on hand and to get their machinery ready for the new preparation. Then, after that time, on whatever package is made by any person, no matter whom, the stamp will be required.

Mr. HOWARD. I will ask the Senator from New Hampshire whether he will not also consent to exempt the manufactured stock which is on hand then; that is, on the 1st of September?

Mr. CLARK. No; that would not do, I will state to the Senator from Michigan, because if we did that they would go on from this time until then manufacturing them; they would employ the three or four months to come in manufacturing a stock to have on hand at that time which would be sold under the old law. We give them this time simply to enable them to get rid of what they have on hand, and we require them, if they manufacture and have on hand anything at that time, to place the stamp upon it.

Mr. HOWARD. That I understand to be an amendment offered by the committee.

Mr. CLARK. This is an amendment of the committee on consideration of the various objections that were made to the other provision.

Mr. FESSENDEN. I will state to the honorable Senator from Michigan that it relieves them of all the difficulties that they urged, while at the same time it prevents them from accumulating a large stock at the time this tax goes into operation.

Mr. HOWARD. I see the effect.

Mr. CLARK. We found great difficulty in fixing it so that they should not continue to manufacture and escape the tax and at the same time relieve the matter of the objections that were made to it.

Mr. HOWARD. I think I should have concurred with the committee if I had been on the committee in regard to that.

The amendment was agreed to.

Mr. CLARK. I move further to amend the bill on page 135, section ninety-three, line two hundred and nineteen, by inserting after the word "books" the words "and on photographs so small in size that a stamp cannot be affixed, a duty of five per cent. *ad valorem*."

Mr. SUMNER. I suggest whether it would not be a simpler tax to amend that clause so as

to read, "On photographs or any other sun picture, a duty of five per cent. *ad valorem*," striking out the intermediate words, "being copies of engravings or works of art, or used for the illustration of books." That, of course, would require the striking out of the provision on page 226. It seems to me that there is an unnecessary complication here in connection with rather a small matter. If the committee have considered this matter and its details, I should not set my knowledge of the subject or the conversations I have had with persons interested in it against their conclusions; but I was led to believe that in this case, as in most others, the preferable tax was that which was the simplest in form; and I doubt the expediency of the exceptional tax here on a particular kind of photograph. I should suggest, therefore, as I said in the beginning, one single tax on all photographs, not going into any question of detail. But when I make the suggestion that is all I propose to do.

Mr. CLARK. The committee have given their attention, and a good deal of attention, to this matter. As the bill came to us from the House of Representatives, photographs were taxed by stamps; and that is probably the simplest way in which they can be taxed. But then it was represented to the committee, and the committee provided for the case, that there were photographs, or sun pictures, as they are sometimes called, which are copies of engravings and works of art, that are sold as low as three and one half cents a card, and to impose a tax on them like other card photographs would be onerous upon them. We then made the provision which stands in lines two hundred and seventeen, two hundred and eighteen, and two hundred and nineteen, to exempt that class of cases. Then it was again represented to us that there are photographs made so small as memorials and mementoes, to put into lockets, that you cannot put a stamp upon them. We have concluded to exempt those also, and put them under the *ad valorem* clause. But, let me say to the honorable Senator from Massachusetts, this is not a small matter in the way of revenue. By the stamp we can get a great deal of revenue without its being onerous. I desire to have the amendment which I have now moved adopted, and then I shall move a reconsideration of the vote by which the Senate struck out the stamp duty the other day, so as to leave the stamp duty as it stood. The committee, on more mature consideration, think it should remain.

The amendment was agreed to.

Mr. CLARK. I now move to reconsider the vote of the Senate, by which the clause commencing at line seventy-one and ending at line seventy-nine, on page 226, was stricken out. We struck out all the stamp duty on photographs. I desire to have it restored.

The motion to reconsider was agreed to.

Mr. CLARK. I now move to amend that clause in the seventy-second line, by striking out the words "copies of engravings and works of art," and inserting the words "as hereinbefore provided;" so that it will read:

Photographs, ambrotypes, daguerrotypes, or any sun pictures, except as hereinbefore provided, upon each and every picture of which the retail price shall not exceed twenty-five cents, two cents; exceeding the retail price of twenty-five cents, and not exceeding the sum of fifty cents, three cents; exceeding the retail price of fifty cents, and not exceeding one dollar, five cents; exceeding the retail price of one dollar, for every additional dollar or fractional part thereof, five cents.

The amendment was agreed to.

Mr. SUMNER. Before we pass from that subject, allow me to ask the Senator if it does not leave copies of engravings or works of art with the smallest tax?

Mr. CLARK. It leaves them with the *ad valorem* tax of five per cent.

Mr. SUMNER. I was going to observe that some of the most valuable photographs would fall under that clause as "copies of engravings or works of art."

Mr. CLARK. That may be very true; but they are sold generally very cheap, and there is no other way of distinguishing them. You can buy them at the rate of three and a half cents. The committee found it necessary to make that amendment.

Mr. SUMNER. Very well.

Mr. CLARK. On page 22, section twenty-two, lines two and three, I move to strike out the

words "from the date of their appointment;" so that it will read:

That there shall be allowed and paid to the several assessors a salary of \$1,500 per annum, &c.

It is necessary to strike out these words on account of the amendment made last night allowing them to have their appointments under the old law, otherwise they would get the increased salary from the date of their appointment.

The amendment was agreed to.

Mr. CLARK. On page 59, section fifty-four, line fourteen, after the word "gallon," I move to insert these words:

And all spirits which may be in the possession of the distiller on either the 1st day of June, October, or January aforesaid, no duty having been paid thereon, shall be held and treated as if distilled on each of those days respectively.

Mr. GRIMES. What is the effect of that amendment?

Mr. CLARK. The effect of it is to prevent their evading the tax on all that portion of liquor which they may have on hand and distilled, but which they have not sold or removed for consumption and sale. As the bill now stands that would not fall under either class; it will be distilled but not removed, so that it cannot be taxed without this provision.

Mr. JOHNSON. I understand this amendment does not interfere with the decision of the Senate not to tax liquor on hand.

Mr. CLARK. Not at all.

Mr. HENDRICKS. I move to amend the amendment by adding the words "if the tax has not been paid thereon."

Mr. FESSENDEN. Of course if the tax has been paid, it has been removed. They do not pay the tax until they remove or sell it.

The PRESIDING OFFICER. The Chair will suggest to the Senator from Indiana that the words he proposes to insert are already in the amendment.

Mr. CLARK. The object of my amendment is only to guard against an evasion of the law.

Mr. HENDRICKS. I wish to ask the Senator whether, if the distiller desires to pay the tax the day before on all the stock that is in his establishment, he may do so, and thereby avoid the increase on those days?

Mr. CLARK. He may, and it would not fall within this provision, because the duty would have been paid.

Mr. COWAN. This is to supply a *casus omis*sis in the law.

Mr. CLARK. That is all.

The amendment was agreed to.

Mr. CLARK. On page 65, section fifty-nine, line six, I move to insert after the word "prescribe" the words "and such warehouse;" so that it will read:

That the owner or owners of any distillery or oil refinery may provide, at his or their own expense, a warehouse established in conformity with such regulations as the Secretary of the Treasury may prescribe; and such warehouse, when approved by the collector, is hereby declared a bonded warehouse, &c.

The amendment was agreed to.

Mr. CLARK. On page 86, section seventy-six, line twenty-eight, the committee desire to strike out the words "at auction," in the amendment reported from the committee which has been adopted. They should not be in there, in the opinion of the committee, and they desire to have them stricken out. I suppose by unanimous consent that amendment can be made.

The PRESIDING OFFICER. That amendment will be made if there be no objection.

Mr. CLARK. On page 98, section seventy-eight, line two hundred and seventy-nine, after the word "auctioneers," I move to insert the words "whose annual sales do not exceed \$10,000, shall pay ten dollars for each license; auctioneers whose annual sales exceed \$10,000;" so that the clause will read:

Auctioneers whose annual sales do not exceed \$10,000 shall pay ten dollars for each license; auctioneers whose annual sales exceed \$10,000 shall pay twenty dollars for each license.

This amendment divides the auctioneers into two classes, according to the amount of their sales. It is thought that we may obtain more revenue by allowing the auctioneers to pay a smaller license in case their sales were small; that there would be more of them in some of the small towns.

The amendment was agreed to.

Mr. CLARK. On page 125, section ninety-

one, line five, after the word "paid" I move to insert the words "with the knowledge thereof;" so that it will read:

That if any person other than the manufacturer shall sell, or consign, or remove for sale, or part with the possession of any manufactured tobacco, stemmed tobacco, snuff, or cigars, upon which the duties imposed by law have not been paid, with the knowledge thereof, such person shall be liable to a penalty of \$100 for each and every offense.

The amendment was agreed to.

Mr. CLARK. On page 146, section ninety-three, line four hundred and eighty-one, in the amendment recommended by the Committee on Finance and adopted by the Senate, the committee desire to strike out the word "paid." It now reads, "and the tax paid thereon, with the name of the manufacturer." The tax may be paid or it may not. That amendment may be made by unanimous consent.

The PRESIDING OFFICER. That amendment will be made, if there be no objection.

Mr. CLARK. On the same page, line four hundred and ninety-four, I desire to make the same amendment, to strike out the word "paid."

The PRESIDING OFFICER. That amendment will be made.

Mr. CLARK. On page 149, at the end of section ninety-six, I move to insert the following:

That all manufactures and productions on which a duty was imposed by either of the acts repealed by this act which shall be in the possession of the manufacturer or producer, or of his agent or agents at the place of manufacture on the day when this act takes effect, the duty imposed by said former act not having been paid shall be held and deemed to have been manufactured or produced after said date; and whenever, by the terms of this act, a duty is imposed upon any articles, goods, wares, or merchandise manufactured or produced, upon which no duty was paid by either of said former acts, it shall apply only to such as are manufactured or produced on or after the day when this act takes effect, and to such as are manufactured or produced and not removed from the place of manufacture or production prior to that act.

This amendment relates to manufactures, and it provides that manufactures which have been manufactured, but on which no duty has been paid and that have not been removed on the day this act takes effect, shall be taxed by this act, but up to the time of its passage they shall not; so that they shall not escape the tax in the same way in which the whisky escaped it.

The amendment was agreed to.

Mr. CLARK. On page 151, section ninety-eight, line nineteen, after the word "any" I move to insert the words "merchandise, produce, or," so as to make it correspond with the amendment made by the committee in the fourth line of that section. The proviso will then read:

That any person, firm, or company licensed as a broker or banker who shall sell or offer to sell any merchandise, produce, or gold or silver bullion, &c.

The amendment was agreed to.

Mr. CLARK. On page 13, section fourteen, line thirty-seven, I move to strike out the word "reside" and to insert the words "have taxable property;" so that it will read:

It shall be the duty of the assessor or assistant assessor of the district within which such persons shall have taxable property to enter into and upon the premises, &c.

The amendment was agreed to.

Mr. CLARK. Those are all the amendments that I propose at the present time in behalf of the committee.

Mr. POWELL. I move to amend the bill on page 127, section ninety-three, line fourteen, by inserting after the words "dust coal" the words "and coal mined and used exclusively for the distillation of coal oil." The bill as it now stands taxes the coal out of which this coal oil is made; the oil also is taxed. That should not be. It was the intention of the committee of the House of Representatives, as I understand, to exempt it, but somehow it was omitted. The clause now reads:

On mineral coals, except such as are known in the trade as pea coal and dust coal, a duty of five cents per ton.

I desire to make an exception of the coal that is used for the manufacture of this oil. It is evidently proper that it should be done.

Mr. FESSENDEN. I hope that amendment will not be made. We have already made a distinction of five cents between the oil that is made from coal and the oil that is made from petroleum. That is distinction enough, and is really more than enough, and the amount of that was fixed larger than it otherwise would have been to ac-

commodate the gentlemen in Kentucky and West Virginia that the Senator represents in relation to this manufacture. There is no duty on the coal unless it is sold. If they choose to mine their coal and turn it into oil, it is all for their benefit. I trust therefore that there will be no distinction of this kind made.

The amendment was rejected.

Mr. POWELL. I have another amendment to propose. It is on page 129, section ninety-three, line seventy, to strike out the word "fifteen" and insert "twelve." That clause now reads as follows:

*Provided*, That such oil, refined and produced by the distillation of coal, asphaltum or shale, exclusively, shall be subject to pay a duty of fifteen cents per gallon, anything to the contrary notwithstanding.

I desire to have "fifteen" stricken out and "twelve" inserted. When this bill was before the House of Representatives the Committee of Ways and Means reported in favor of a duty of fifteen cents a gallon upon oil produced from coal, and twenty cents upon that produced from petroleum. The House of Representatives raised the tax on that produced from petroleum to thirty cents, and this other to fifteen cents. They afterwards struck out thirty cents and inserted twenty cents, but neglected to reduce the other duty of fifteen cents to twelve cents. It is evidently proper that the reduction should be made.

Mr. FESSENDEN. I hope it will not be made. When the committee of the House of Representatives reported that duty of twelve cents on the oil produced from coal they reported a duty of fifteen cents on the other, making a difference of three cents. In the course of the arrangement that was made in the House of Representatives it was left with a distinction of five cents in favor of the manufacturers of oil from coal, thus increasing the difference between the two to five cents instead of three cents. That was done, as I have stated, at the express and particular wish of the gentlemen from Kentucky, as I understand it, who represented that the distinction should be greater than it was. I suppose the difference of three cents would have been satisfactory, if nothing better could be got, to all the other manufacturers of oil in the country; that is to say, those who manufacture in the eastern States; but it was finally allowed to stand as it is. The manufacturers of petroleum have been very anxious to put it back to the old difference of three cents a gallon; but the Committee on Finance concluded from the statements made to them that on the whole it was better to leave it as it was, and have no further discussion about it, to let the duty stand at twenty cents and fifteen cents. The articles will bear those rates, and a distinction of five cents is ample between the two. I trust the amendment will not be agreed to.

Mr. POWELL. I do not understand the facts in regard to this tax as the Senator does. I have been informed that the Committee of Ways and Means reported a tax of twenty cents and twelve cents respectively on this oil. The House of Representatives raised the tax on the oil produced from petroleum from twenty to thirty cents and raised this other tax to fifteen cents. Subsequently it reduced the tax on petroleum oil from thirty to twenty cents, but in reducing the one it did not reduce the other.

Mr. FESSENDEN. None of them asked of us more than a difference of five cents.

Mr. POWELL. The Senator is a little mistaken in that. My colleague in the House of Representatives who represents this district asked me to have it reduced from fifteen to twelve cents.

Mr. FESSENDEN. I speak of what the gentleman who came before the committee with the Senator asked for.

Mr. POWELL. I think this amendment ought to be made. I think it was the intention of the committee of the House of Representatives.

Mr. FESSENDEN. The Committee on Finance think not. The committee think the distinction is as great as it ought to be between the two.

Mr. COWAN. I will further remark that the discrimination is now more favorable to those who distill oil from coal than it was under the old law. Under the old law there was a tax of eight cents upon coal oil, and ten cents upon petroleum. That was twenty-five per cent. in favor of the coal oil. Now it is fifteen cents upon coal oil, and twenty

cents upon petroleum, making a discrimination of thirty-three and one third per cent. That, we thought, was sufficient for their protection, considering the difficulties in the manufacture of coal oil.

The amendment was rejected.

Mr. POWELL. I have been a little unfortunate in my amendments; but I will propose another, which I hope will meet the approval of the chairman of the Committee on Finance. It is to insert as a new section:

*And be it further enacted*, That from and after the 1st day of July, 1864, all acts and parts of acts granting allowances or bounties on the tonnage of vessels employed in the Bank or other cod fisheries, be, and the same are hereby, repealed.

Mr. CONNESS. Let us have the yeas and nays upon that amendment.

The yeas and nays were ordered.

Mr. FESSENDEN. There ought at least to be an amendment to that amendment before it is acted upon. If there is any probability of its being adopted, there should at any rate be a drawback allowed on the salt that is used in the curing of the fish, as it was originally. These bounties took the place of the drawback. In process of time there came to be no duty on salt. The duty is now replaced, not in this bill, but in the tariff bill. I forget what it is, but it is very large; and

if these bounties are to be repealed there should at any rate be a drawback allowed on the salt used in the curing of the fish.

Mr. COWAN. That question is before the Committee on Commerce now.

Mr. FESSENDEN. They should provide a drawback on this as well as on other articles.

Mr. POWELL. After we get the bounty laws repealed we can adjust the salt duty.

Mr. FESSENDEN. That is all very true, but it should be a part of the proposition.

Mr. POWELL. We had better see whether we can repeal the bounties first.

Mr. FESSENDEN. Perhaps the Senator will consent to let it go over until we get through with other amendments.

Mr. POWELL. I prefer to have it acted upon to-day.

Mr. FESSENDEN. If the Senator insists upon it, very well.

Mr. SHERMAN. I do not intend to discuss this proposition. When the subject was before the Senate on a previous occasion the question was asked me as to the amount of these duties. I have now before me a table, from the office of the Register of the Treasury, showing the amount paid for these bounties for the last four or five years, which I will read for the information of the Senate.

Statement of Annual Payments on account of Fishing Bounties for the years 1859, 1860, 1861, 1862, and 1863.

	1859-60.	1860-61.	1861-62.	1862-63.	1863-64.
Passamaquoddy.....	\$3,565 53	\$3,761 58	\$5,224 12	\$6,876 67	\$6,656 97.
Machias.....	2,965 10	4,898 37	5,362 07	2,602 23	1,402 42
Penobscot.....	65,941 51	65,537 62	66,510 76	60,311 46	51,704 29
Frenchman's Bay.....	35,211 18	34,775 03	38,391 70	50,883 94	18,900 92
Waldoborough.....	25,617 23	25,460 81	26,813 69	25,597 01	24,966 72
Wiscasset.....	29,637 22	32,301 22	35,707 23	34,146 42	33,573 99
Bath.....	7,765 34	9,328 12	9,655 97	10,995 00	9,769 87
Portland.....	9,683 49	9,779 91	11,307 56	10,528 08	10,443 73
Kennebunk.....	2,186 05	2,080 05	2,292 01	3,398 18	1,982 81
Saco.....	1,406 40	1,145 90	.....	1,427 53	.....
York.....	391 92	775 90	1,014 72	1,034 32	953 53
Portsmouth.....	5,833 07	7,480 03	6,631 30	10,981 34	4,775 52
Newburyport.....	5,286 99	5,855 73	6,186 33	5,420 04	5,088 03
Gloucester.....	94,390 51	106,400 60	121,389 16	113,794 23	100,350 96
Salem.....	18,362 81	18,375 10	15,750 73	13,419 43	11,642 43
Boston.....	949 65	2,243 78	1,811 81	1,039 36	.....
Marblehead.....	19,672 26	18,340 84	16,818 41	29,974 73	10,129 20
Plymouth.....	16,618 24	16,377 36	.....	15,596 52	15,484 08
Barnstable.....	46,360 65	54,482 70	35,336 38	45,287 20	44,549 59
Edgartown.....	.....	.....	.....	168 00	.....
Bolton.....	30,781 77	33,733 19	37,538 37	30,731 90	24,281 12
Bangor.....	4,334 63	5,329 79	4,061 22	6,593 96	1,947 35
Total.....	\$428,961 55	\$458,393 63	\$467,833 62	\$481,437 56	\$378,611 63

L. E. CHITTENDEN, Register of the Treasury.

TREASURY DEPARTMENT, REGISTER'S OFFICE, May 24, 1864.

Mr. MORRILL. Mr. President, there are some reasons why I feel called upon to say a few words on this question. I submit to the honorable Senator who offers this amendment that as the proposition is one to reverse the settled and uniform policy of the Government from the earliest period of our history it would have been as well if he had given to the Senate at least some reasons for it at the present time. From the persistency with which the honorable Senator presents this question now and has done so heretofore, I have no doubt he has made up his mind that the bounties ought to be repealed; that the earlier policy of the Government ought to be changed—that policy which was coeval with the establishment of the Constitution, which originated in the first Congress of the United States under the Constitution, and which has been uniformly continued from that day to the present, to cherish and foster the fisheries not only as a branch of national industry, but as an interest of peculiar importance to the naval power of this Government and the commercial marine of the country. I submit, sir, that it would have been quite decorous at least in that Senator to give some intimation to the Senate of the grounds upon which he proceeds and upon which he expects the Senate now to reverse this early, uniform, and established policy of the Government.

I am afraid I shall be obliged to trespass upon the patience of the Senate much more than I ought to do in considering this question. I am not disposed to allow it to be taken for granted that this policy is to be reversed, and I will state the reasons as I advance why I am not disposed to allow it to go by default.

If I am to understand that an appeal is made to New England at this time for a sacrifice, I do not stand here to oppose it. If it is necessary to change this uniform, established policy of the Government toward this great national industry; if the times demand it; if the necessities of the Government are such that this bounty is to be given up by New England—for it seems to be assumed by the honorable Senator offering this amendment that this is exclusively a New England interest—if I am to understand that this is a national demand upon the generosity of New England, then I am not here to dissent from it. If it is a demand in favor of the necessities of the nation as against an interest in New England, I am not here to interpose any opposition to it. But, sir, if it is an individual whim, if it is the caprice of any man or set of men whatever, I am here to say that I am not ready to yield to it to-day, and I shall not be to-morrow or next week—never. Sir, New England—for that seems to be the sense in which this measure is pursued so far as the honorable mover of it is concerned—never surrenders on such grounds—never.

Therefore, sir, taking the view I do of this subject, that it is one of national concern, that it is one that concerns the country at large, that, although in some sense it is peculiar to New England, it is a great American interest, a great American industry, I shall be obliged to travel a little outside of the proposition as proposed by the honorable Senator from Kentucky, and look at the history of this subject and see whether it is local or whether it is national, and consider the opinions of those who hold the other side of this question.



I understood the honorable Senator from Kentucky [Mr. DAVIS] to state the other day, when this question was up, that he too was in favor of the repeal of the fishing bounties, and I will do him the honor to say that on that as on all occasions he was entirely frank. I understood him to say that as a matter of principle he was in favor of the fishing bounties and always had been; that he recognized in that policy a sound policy; he recognized in it the wisdom of the founders of the Government who instituted the policy. He did not understand that it was against the Constitution; he did not understand that it was against a wise and sound political economy, even. He thought it judicious, prudent, wise, just. He knows enough of the history of the country to know that the fisheries from the foundation of the Government down to the present time have been an American interest to be cherished as a great industry, to be cherished, moreover, as a national necessity, as a necessity to your naval power and your commercial marine; and therefore, in the spirit of wise statesmanship, the honorable Senator told the Senate that he had always been in favor of this policy. I am sorry to say that he notifies the Senate now of his purpose to vote for the repeal. Why? On the ground of public necessity? No. On the ground that we cannot afford to pay the bounties? No. On the ground that now, when you desire to strengthen your naval power, when the nations of the earth are frowning upon you, that you can afford to relax your hold on the fisheries? No. What then? Why, sir, the honorable Senator says that New England has become fanatical on the subject of the negro, and therefore, for that reason, he will repeal the fishing bounties! With all the respect I feel for the honorable Senator, he must allow me to say that I think he could have assigned a great deal better motive for what he proposes to do than that.

Mr. DAVIS. I ask the honorable Senator by what right he presumes to discuss my motives.

Mr. MORRILL. I suppose, with great respect to the honorable Senator from Kentucky, that whenever he chooses on a measure to assign his motives, they are common stock.

Mr. DAVIS. The honorable Senator has only assigned one of the motives which I gave for my vote. I said distinctly in the speech that I made that those bounties were allowed in the infancy of our marine, and that then there was a necessity for them; but that our marine, both commercial and military, had now grown to such a degree that there was no longer any necessity for that fostering legislation.

Mr. MORRILL. I will venture to say, although I know my honorable friend would not say anything on this subject that he did not suppose he had said on the occasion referred to, yet if he will turn to the report of his remarks he will find no such thing. But if he thinks he did, if he asserts it here—

Mr. DAVIS. I ask the honorable Senator—

Mr. MORRILL. I think the honorable Senator had better allow me to go on.

Mr. DAVIS. I ask the Senator if he wishes to make a question of veracity with me here on the Senate floor?

Mr. MORRILL. I do not particularly, unless the honorable Senator chooses to raise it himself.

Mr. DAVIS. I am disposed to meet any that the honorable Senator may raise. I will inquire of him whether he wants to raise a question of veracity here with me or not?

Mr. MORRILL. Mr. President, have I the floor?

The PRESIDING OFFICER. Yes, sir. The Senator from Maine is entitled to the floor.

Mr. MORRILL. I was saying that I was sorry the honorable Senator assigned for the vote he proposes to give on this subject the reason or the motive which he did assign. I think a better one could have been assigned. I take no especial pleasure in alluding to it, but it becomes necessary in the consideration of this question. I do not intend that a stab shall be made at New England, whether the motives are assigned or not, and especially if they are assigned. I do not intend that the action of the Senate shall be influenced by them until they have been properly noticed, if it were possible to suppose that it could be so influenced. Why, sir, it is not two years since that honorable Senator seemed quite in love with New England, quite enamored of her character.

He spoke of it in terms of eulogy which would be hardly fitting for me, perhaps, to repeat; which would be considered fulsome. He was enamored with the lofty elements of her character, her marvelous industry, her matchless commerce, her distinguished love of letters and science and the arts. But all at once "a change comes o'er the spirit of his dream," and you find him, with his great research and his wonderful capacity, searching in the dark chambers of her history and dragging out to light whatever is exceptional in her history, as if he had not lived long enough to know that no individual or national character is without its imperfections, just as the sun in its mid-day glories has its spots, but which in nowise whatever touch the honor or the glory of the nation. Day after day has that Senator stood here to arraign New England and to bring forward from the recesses of the dark chambers of her history whatever could tell against her. I will not characterize the measure introduced here by him in the same direction. I leave him to explain, and other Senators to draw their own inferences, when he brings in here a measure to put New England "out in the cold," to divide New England into two States, denominating them East and West New England, and then he tells us that he is to vote against the continuation of this policy of the Government in regard to this interest.

I have no unkindness in the allusion to the honorable Senator; but inasmuch as when this question was up incidentally he took occasion to make that remark, it seemed necessary in the outset of this argument that I should look around for the reasons for this measure, in the absence of any stated by the honorable Senator from Kentucky who moved it.

With the Senator from Kentucky on this side of the Chamber [Mr. POWELL] the case is quite otherwise, I admit. He has no love for New England; he never had. If I am to understand him, he hates New England; he despises New England character.

Mr. POWELL. I do not know upon what ground the Senator from Maine says that I despise New England.

Mr. MORRILL. If the Senator will only be patient, I will tell him why. I do not mean to say anything here that I am not prepared to prove. I repeat that the honorable Senator has no love for New England. Those who have paid the slightest attention to his remarks during the last two years know that he has lost no opportunity to let the country so understand; and I have not been an inattentive observer and listener. In the speech he had the honor to submit to the Senate a few days ago, fresh in the recollection of us all, he expressed himself in terms which leave no doubt upon the mind of the most incredulous of the feelings and sentiments the honorable Senator entertains for New England, as a matter of friendship and in regard to New England character. Let me read a little from the speech of the honorable Senator:

"I do not stand here to denounce our Yankee brethren of the North!"

I suppose the "denunciation" would not be quite parliamentary or decorous in a body like this—"but everybody knows that cupidity and love of gain is their strongest characteristic."

The honorable Senator will hardly claim that he is very much in love with a country whose characteristics are cupidity and love of gain, or that he entertains a very high respect for that country that he will stand in the high court of the nation and denounce as influenced by such unworthy sentiments. He adds:

"That is known the world over and acknowledged by themselves."

Mr. President, does the history of the country—the history of New England—authorize this assumption of the Senator? Is there anything in either or both that authorizes that Senator in the high court of the nation to so characterize New England and declare that her ruling characteristic is cupidity and love of gain? Is there any student of American history who has so read the history of New England?

But, sir, these opinions are not new or peculiar to the honorable Senator from Kentucky. New England from the earliest dawn of her history has had—I do not say her traducers, because I do not intend to apply that epithet to the honorable Senator—but there have been those from the

earliest dawn of her history who did not believe in her. Why, sir, if you go back to the days of the Pilgrims, the court of Great Britain, the high Church and the high State party, did not believe in the Pilgrims. They did not believe in their pilgrimage across the waters. They did not believe in their grand effort to establish civil and religious liberty on this side of the water. They believed it "fanatical" altogether. They believed them to be "fanatics in religion and republicans in politics." The history of that era is full of it.

Coming down to the time of our Revolution we find that there were those who held the same opinion then. There were those then, as there are now, who were jealous of New England, those who did not like New England character. If you look into the Tory papers of that period you will find them full of just such epithets as are repeated here, and have been for the last two years in both branches of Congress, against New England, against New England fanaticism, against New England republicanism, and all that.

As the honorable Senator seems to be so oblivious to the character of New England, perhaps I shall be pardoned by the Senate in referring to a standard authority or two upon this subject for opinions in contradistinction to the opinions which are put forth by the honorable Senator from Kentucky. I will read some of the good opinions of New England and of New England character in the time that was said to try men's souls. Let us take the opinion of Jefferson, who was supposed to know something of his country and all parts of his country, who was supposed to know something of human liberty and human rights, and have some just appreciation of them. What did he say? In 1775, when the great storm of the Revolution was coming on, speaking of New England, and vindicating New England against the loyalists, he spoke—and the historian says these people regarded it with amazement that he should have said it—of "the adventurous genius and intrepidity of the New Englanders." In the convention held in South Carolina a short time afterwards, when those who were opposed to the Revolution, the loyalists, those adhering to the party of the king as against the party of the country, denounced New England, and, in the language of the historian, an "unhappy jealousy of New England" broke forth, and a member "insinuated distrust of its people as artful and designing men, altogether pursuing selfish purposes," Mr. Gadsden, of South Carolina, said in their defense:

"I only wish we would imitate, instead of abusing, them. I thank God we have such a systematic body of men, as an asylum that honest men may resort to in the time of their last distress, if driven out of their own States. So far from being under any apprehensions, I bless God that there is such a people in America."

Let us look a little further into this subject, particularly touching the characteristics of the New England people, and learn what the great American historian says in regard to the New England character, as contradistinguished from the character given her by the honorable Senator from Kentucky:

"Lovers of speculative truth, struggling earnestly to solve the problem of the universe, in an age of materialists, they cherished habitually a firm faith in the subjection of all created things to the rule of divine justice, and their distinguishing career was one of action; the vigor of their will was never paralyzed by doubt; they were cheered by confidence in the amelioration of the race, and embraced in their affections the world of mankind. This wonderful people set the example of public schools for all their children, with a degree of perfection which the ancient mother country yet vainly strives to rival; and in their town governments they revealed the secret of republics. None knew better than they how to combine the minute discharge of the every-day offices of life with large and ready and generous sympathies; sometimes soaring high and far in the daring of their enterprise, and sometimes following with painful assiduity even the humblest calling that promised lawful and honest gain; but always the advocates of disinterested benevolence as the true creed of a nation."

Against this assault of the honorable Senator upon the character of New England I set this opinion of the great American historian, Bancroft.

The honorable Senator, in this connection, said another thing which I must notice. He spoke of the loyalty of New England as extremely questionable. He said:

"Suppose you were to propose to pass an amendment to the Constitution laying your hand on the property interests in New England, I will not say equal, but one half equal to the property interests of the southern States which you now propose to strike down: does any man believe that all New England would not be in revolution to-morrow?"

That is a speculation, perhaps, with which it is a little difficult to deal; but allow me to ask the honorable Senator whether New England is not making sacrifices to-day, whether she is not pouring out her money and her treasure, and whether she has not sent her first-born to this war under circumstances which show that she has not departed from the old Abrahamic faith, that she believes in God and liberty to-day? I say to that honorable Senator that when New England is pouring out her treasure and sending her first-born down to defend his own State against her own traitorous children, it does not become him to stand here and arraign New England, and to see if by possibility she is not vulnerable at some point at which he can reach her.

Mr. President, it seemed to be necessary to say this much, as the honorable Senator did not condescend to tell the Senate upon what ground he proceeded, by way of preface to what I shall have to say upon the merits of this question.

I oppose the repeal of the fishing bounties upon the ground that the fisheries are a great national industry which you cannot afford to cripple, which you cannot afford to embarrass; but more especially do I oppose it as affecting a great element of national strength, which is indispensably necessary to your naval power, which now by all the means within your reach you should strengthen and not cripple. Without such fisheries no nation, in modern times at least, has ever succeeded in her naval or commercial marine.

I trust I need not stand here to argue in the Senate of the United States in the year 1864 that this interest is essential to the naval power and the commercial marine of the nation. I should certainly not presume to speak upon such a theme if it had not been for the fact that on my right hand and certainly on my left on many occasions this interest with which we are attempting to deal was said to be only a local affair, that it only concerned New England, that it was exclusively confined to New England, that the nation at large had no interest whatever in it. Senators tell us, you may strike it down to-day and the nation trembles not throughout any department of industry and any department of commerce or navigation. The idea is that you may strike it down with impunity. Is that so? Sir, if it is a local interest I abandon it this moment. Senators, I crave your attention on that point. If I do not demonstrate to you in the argument and upon the proof that it is national, national in the highest sense of nationality, so intensely and peculiarly national that you cannot surrender it unless you are willing to surrender your independence upon the seas, unless you are willing to surrender your commerce—if I do not prove that, I invite you to vote against me; but if I do, I trust that you will not; nay, I trust, as you hold the good of the nation, you dare not.

Now, does any man in this broad land, any man least acquainted with American history, need to be told that this interest is national? How shall we settle the question? The Senator from Kentucky [Mr. POWELL] says it is local; he has no doubt about it; he does not want to bestow a second thought on the subject; he does not want to speak of the thing twice; he is ready the moment he introduces his amendment, without explanation or proof, to demand the action of the Senate, upon the ground that this is a local interest, that nobody is concerned but New England, and of course he is ready to strike it down. How shall we settle the question? When questions are found difficult and proof is not at hand, there is always a ready way to settle all these questions of a public character, by an appeal to the intelligence especially of such a body as this; and that is all that is necessary.

I appeal to your recollections of history. How have the civilized nations of the earth held this question? How have the commercial and naval and maritime Powers of the earth held this question? What did they say upon the great subject of the fisheries? Why, sir, the history of Holland will tell you that Amsterdam was said to be "built on herring-bones," and owes the success of her naval and commercial power almost wholly to her fisheries. Look at her history; look at the declarations of her statesmen and diplomats. They cherished it as a thing essential to both those interests. How is it with England and France? England and France for two hun-

dred years have struggled alternately for the possession of the Newfoundland fisheries. Many of the wars between those two countries have grown out of their struggle for those fisheries. Is any Senator here so ignorant of the history of those two countries, of their naval power and their commercial supremacy, as not to know that both these Powers attribute their success mainly to the fisheries?

Sir, I maintain the proposition that these fisheries are of prime necessity to the naval power of the nation and its commercial marine. The Navy is always recruited from the fisheries. That has been so for one hundred and fifty years with every maritime and naval Power on the globe, and it is so to-day. Each of these naval Powers has during all that time and does to-day precisely what this Government has done from the start and is doing to-day; that is, they encourage and stimulate and foster the fishing interest by bounties, to the end that out of it they may sustain their naval power and their commercial marine. They hold the fisheries to be "a nursery for seamen." Without seamen educated, "born upon the sea," you can have no efficient navy. That is the general judgment of the commercial and naval Powers of the earth in regard to this great subject.

You get some idea of the estimated importance of the fisheries and of the deeds of daring and enterprise of those engaged in them in the famous speech of Mr. Burke on American affairs, in 1774. He said:

"As to the wealth which the colonies have drawn from the sea by their fisheries, you had all that matter fully opened at your bar. You surely thought these acquisitions of value, for they seemed to excite your envy; and yet the spirit by which that enterprising employment has been exercised ought rather, in my opinion, to have raised esteem and admiration. And pray, sir, what in the world is equal to it? Pass by the other parts, and look at the manner in which the people of New England carry on the whale-fishery. While we follow them among the trembling mountains of ice, and behold them penetrating into the deepest frozen recesses of Hudson's bay and Davis straits; while we are looking for them beneath the Arctic circle, we hear that they have pierced into the opposite region of polar cold; that they are at the antipodes and engaged under the frozen serpent of the South. Falkland Island, which seemed too remote and too romantic an object for the grasp of national ambition, is but a stage and resting place for their victorious industry. Nor is the equinoctial heat more discouraging to them than the accumulated winter of both poles. We learn that while some of them draw the line or stick the harpoon on the coast of Africa, others run the longitude and pursue their gigantic game along the coast of Brazil. No sea but what is vexed with their fisheries; no climate that is not witness of their toils. Neither the perseverance of Holland, nor the activity of France, nor the dexterous and firm sagacity of English enterprise, ever carried this most perilous mode of hardy industry to the extent to which it has been pursued by this recent people; a people who are still in the gristle, and not hardened into manhood."

Just in accordance with this general judgment of the civilized nations of the earth is the judgment of this nation. Let us look at it. We are now in the midst of a civil war calling for the exercise of all our resources, and placing our destiny in peril; apprehensive of danger from abroad, we are doing whatever seems wise and practicable to strengthen the naval power of the Government. We would like to call into our service every skilled man upon the sea; and now at this moment, when from menaces abroad you are obliged to look into the future and see that this great arm of the nation must be strengthened to its utmost capacity and utmost tension, the honorable Senator from Kentucky comes in with this proposition as if it were an ordinary affair, as if nobody had any interest in this subject but New England, about whom nobody cares, and assumes that you can afford to strike down this long-cherished interest. Where do you get your sailors from? From Kentucky? Are you to go to the tobacco plantations of Kentucky to get the sailors to man your ships of war? Is that the experience of the world? No, the experience of the world is that practiced seamen, men born upon the waves, are the men required. They are the men who have carried your banner triumphantly and gloriously through all the wars in which this country has been engaged, and upon them you must rely in the future, if you intend that in the future the renown of the country shall be what it has been in the past.

What is the history of this subject, so far as our own Government is concerned? I have shown you the estimate that the naval and commercial Powers of the globe place upon it. I have shown you that they cherish and sustain and stand by

it as the right arm of the Navy. They say, if you have a Navy and commerce you must sustain it; and how? You must have "nurseries" for your sailors; and therefore, as the fishing business is a small business, generally a losing business, always a precarious business, it must be encouraged; for the experience is that unless it is encouraged it declines; and hence the policy of all modern nations upon that subject. What has been our own history? One would think we had no history on this subject; one would think from the readiness with which the Senator from Kentucky undertakes to overthrow the bounties that they have always been a stigma. I cannot but reflect that a man whose name I will not take upon my lips at this moment, for the last ten years he was permitted to linger about this Capitol, before he went off to make piratical warfare upon the sea on the commerce of the nation, made a systematic effort here in this Senate to do precisely what the Senator has now undertaken to do since his predecessor has gone and left the Senate.

The honorable Senator from Kentucky thought it extremely indecorous—I do not know that that is the phrase—but exceedingly out of place that he had not been able to get a favorable report from the Committee on Commerce on his proposition to repeal these fishing bounties. He thought the Committee on Commerce had nothing else to do but consider this question, and if they had they ought to have nothing else to do than consider it. He seemed to think that the Committee on Commerce should address itself to this subject at once and persistently until they had brought in a bill for the repeal of these fishing bounties; and he made it a matter of complaint. I say to that honorable Senator that the person to whom I refer persistently pursued this same question for ten consecutive years, while his party was in power, and had the responsibility of administering this Government, and had the commerce and the Navy of the nation in charge, and they did not dare lay their fingers on it; not one of them; they could not do it. But that Senator, now that he is in a minority, arraigns this body for not doing it the first forty-eight hours after it is his pleasure to see the thing done.

Now, sir, let me read a little of the history of this country on the subject, not for the enlightenment of anybody except the Senator, but because it seems necessary, as it is so often assumed here, whenever this question comes up, that it is simply a local affair which nobody cares anything about except New England, and nobody has any interest in it except New England. It seems to be the idea that somehow in some evil moment New England got possession of the Congress of the country, and got this policy inaugurated. What is the fact? Why, sir, during the revolutionary struggle the "fisheries" were considered a matter of great moment. As soon as the Government was organized under the Constitution of the United States this question came up. What is our legislative history on this subject? I read from a document submitted to the Treasury Department in 1852:

"Whoever examines the records of Congress will find that between February and August, 1779, the various questions connected with the fisheries were matters of the most earnest and continued debates, and of the most anxious solicitude."

Wherefore? Who were anxious? New England. Anybody else? Yes, sir; the nation at large. No statesman of that day was so narrow-minded as not to comprehend their importance; no statesman of that day who did not consider the fisheries an American interest; an interest identified with the nation and the nation's prosperity; an interest essential to the naval power of the country and to its commercial importance. All the history of that time shows that both in Congress, in the Cabinet and out of it, and by the nation at large, the possession and encouragement of the fisheries was a question of the first moment and the first importance. Let me read another extract from the document:

"During the discussions upon a proposition to open a negotiation for peace, Mr. Gerry introduced the following resolutions: first: 'That it is essential to the welfare of these United States that the inhabitants thereof, at the expiration of the war, should continue to enjoy the free and undisturbed exercise of their common right to fish on the banks of Newfoundland.'"

Washington, in 1790, in his speech to Congress, remarked that:

"Our fisheries and transportation of our produce off-rus

abundant means for guarding ourselves against the evil of depending upon foreign vessels."

In the address of the Senate to the President is the following:

"The navigation and fisheries of the United States are objects too interesting not to inspire a disposition to promote them by all means which shall appear to us consistent with their natural progress and permanent prosperity."

This document, which contains the history of the fisheries, is full of the opinions of the statesmen of that day on the subject. Jefferson recommended the encouragement of the fisheries as "nurseries" for the Navy. The founders of the Government and all the early statesmen of the country held that this interest was not only a national industry, but one essential to the commercial marine and the naval power of the nation, and so they inaugurated this policy, the precise policy which by the amendment of the honorable Senator from Kentucky we are now asked to repeal, to reverse, as if this were the time to do it.

I desire to call the attention of the Senate to another phase of this question. It is said this is a question of bounty to the fishermen, and there is no reason why they should have a bounty; that bounties to industry are not expedient. Is this the only thing upon which you pay bounty? Is this the only interest that you seek to stimulate by your favor? What is the principle that lies at the bottom of these bounties? I have already said it is because the fisheries are essential to your commerce. You must have a commerce, and in order to have commerce you must have sailors. Sailors come from their employment. What is their employment? The fisheries. So of the Navy.

In order to support the Navy it is said that you must have skilled officers. Where are they educated? Why, sir, annually as the time comes around for appropriations you find I do not know how many thousands, perhaps \$100,000, more or less, appropriated for the support of the Naval Academy. For what? Tell me, Senators who stickle on this question as a constitutional question, by what authority you ask me to vote \$100,000 for the support of fifty or one hundred or two hundred boys for the Navy? Under what power of your Constitution is it done? Is there any express provision on the subject? None whatever. I suppose the framers of the Constitution and those who inaugurated this policy did not find it difficult, however, under the power to provide for the general defense, for the defense of the nation and the general welfare, to educate one hundred boys at the expense of \$100,000; for what? You must have a Navy, and you must have skilled men for officers of the Navy. It is necessary, therefore, to your Navy and to your naval power, and so you make the appropriation for the Naval School. But Senators who scruple not to make that appropriation, when asked to pay \$250,000 to educate thirty thousand seamen, without whom your Navy is nothing and your educated officers nothing, then have scruples, then they talk about bounties, then they talk about fostering an interest peculiar to a section.

It will be seen that the principle underlying the bill is the same, precisely the same. The authority for making an appropriation for the Navy is identical with the authority for making an appropriation to encourage and educate the sailor boy on board your fishing-smacks; and the necessity, allow me to tell the Senator from Kentucky, is the same. If you can afford to spare anybody, you can the officer. You had better withdraw your support from the Naval Academy to-day than to refuse this appropriation.

Then, sir, in regard to the Academy at West Point, on what principle do you maintain it? Is not the principle the same? Where in the Constitution can you show me the authority for an appropriation of \$250,000 to educate a few boys at West Point? It is said we must have an army. What has this to do with an army? It is to educate the officers. Very well. I have always voted for it; I am not arguing against it now; but the principle which authorizes you to make that appropriation to educate those young men is the principle which lies at the foundation of this policy of bounties precisely, and, I repeat again, the necessity for the one is the necessity for the other.

So, Mr. President, to whatever department of the Government you look, you find that the prin-

ciple upon which these bounties were inaugurated in the early period of the Government, and have been uniformly and persistently maintained ever since, prevails in regard to the subjects I have mentioned; and the reason applies in this case, and the same necessity exists.

But, sir, I feel obliged to notice another fact, which I cannot but observe here in the Senate, and which I attribute not to any disposition or willingness to injure this great national interest, but I have sometimes thought that it was not unfair to attribute it to a want of attention to this subject: I find Senators here declaring their purpose to vote against these fishing bounties, as they are a bounty to a local industry or a local interest, who feel no compunctions in voting millions upon millions for interests that are entirely and exclusively local. What is our history on this subject? Let us see; let us state an account current to-day, if you please, with the Senators who vote for local appropriations, and who shrink from voting an appropriation for these bounties. I take it for granted that there are some subjects in this country to be encouraged. I take it for granted there are certain subjects that it is the interest and the duty of the nation to encourage. What are they? Let us see. How many million dollars have we voted for railroads in the West? It is very seldom that I see any of my western brethren wince on a question of that kind, and I have the honor of informing them that among those who have been foremost on this subject, I have been neck and neck with them. I have always voted for those grants. Do Senators know the amount of appropriations that have gone out from the Government of the United States to build roads that are entirely local—no pretense of nationality whatever except in a sense I will mention by and by? Within the last fifty years more than fifty-five million acres of lands have been given to the States for local railroads, roads beginning in the State and ending in the State. On what grounds do we justify that? Will not some Senator who has conscientious scruples about this question be kind enough to put his finger on that clause of the Constitution which authorizes this Government to vote away its lands, give its lands to an enterprise that is entirely local, to build a railroad in a State over which the Congress of the United States is to have no jurisdiction and no control whatever? It is explainable, I do not deny, to my own satisfaction at least, and I have always voted for it accordingly.

It is on the ground that we have a right to do what is conceived to be for the general welfare, to contribute to the general well-being; and these railroads contribute to the general welfare in two particulars. In the first place, they serve to enhance the value of our own lands, and so contribute to the general welfare. Inasmuch as they are enhanced, to that extent the interest of the country is advanced. That is one particular. The other is that they stimulate industry and promote the settlement of those local States. "Well," says the objector, "what has that to do with nationality? What has the growth of Wisconsin or Minnesota to do with the great nation? Let Minnesota and Wisconsin take care of themselves; the nation has enough to do to take care of itself." But what is the nation, sir? The nation is made up of these communities and the like; and just as these communities are prosperous and successful so is the nation grand, great, and glorious; and in that sense we vote these bills for railroads; in that sense in the last few years we have voted fifty-five million acres to these communities of the West, who send their representatives here; and some of them, I am very sorry to say, when a question of this kind comes up, when the fisheries are mentioned, turn up their faces as if they were really afraid to encounter it, as if it was not purely national, as if it were of a section—sectional and not national.

There are some other subjects upon which I touch only by way of illustration, and only by way of showing that there is an undue sensitiveness on this question. In my country one of the prime objects of government, one of the first duties of the State is the education of the children. I will not stand here to say—certainly in no sense invidiously—that the system is peculiar to New England, but it prevails in New England, and it prevailed at an early day; the State educated the child; but look through the length and breadth of

the Constitution, and you will find no obligation on the national Government to educate children; it is left to the States entirely; and the New England system of education rests on the States, not the nation. Yet what do you find? You will find that within the last fifty years this Government has donated to the new States more than one hundred million acres of land—for what? To endow schools, to found your systems of common schools. My honorable friend from Minnesota—I wish he was here—[Mr. WILKINSON] the other day expressed his willingness to vote down these bounties; forgetting that by the bounty of this Government—I speak it in no offensive sense; I am proud of it—Minnesota to-day is so endowed that she can educate every child in the State on the bounty of the Government. It is a wise provision; I would not wish it otherwise; I rejoice that it is so; but when they are called upon to vote a little penny bounty to stimulate a great national industry in which at least thirty thousand men are engaged and \$12,000,000 worth of shipping employed, men reaping a somewhat precarious livelihood, I beg Senators who occupy such positions toward the Government, and who are sharing of its bounty in that way, not to look with a sour aspect on this long-cherished interest of the country, even though in some sense it is of New England.

There are other points on which I might touch, in the same direction, illustrating this whole question, showing that this bounty to this New England interest is not peculiar to New England; that while the nation has been wise in providing for this great national interest, it has not been laggard in looking after the local interests of other sections of the country; and I think if honorable Senators will look at this question in that light they will see that there is little occasion to complain of New England that she is sharing a bounty from the fisheries. I do not deny that it is the interest of New England; I do not deny that I feel the deepest solicitude on this subject, as it is somewhat peculiar to New England; but I rest the argument, as I address it to Senators, on the fact that while it is peculiar to New England, it is national in the highest sense, and it is upon that aspect of the case that I ask your judgments and your votes.

As I am obliged, Mr. President, in no invidious sense I beg to be believed, to make these statements, to look at these current events in American history by way of vindicating New England from what I understood to be the position in which she was attempted to be placed, you must bear with me while I run the comparison one step further; and I ask Senators if they can afford to do what is proposed just at this time. I ask Senators who mean to prosecute this war with vigor and to the end, I ask Senators who want all our resources and want to stimulate all the energies of the country to the utmost tension, if they can afford to do this. If you look, Senators, to the burdens which New England bears to-day, I am inclined to think you will agree with me that she ought not to be an object of your envy. Looking to the revenue bill under which we have been collecting the revenues of the last year, I find that New England with a population of a fraction over three millions, and a territory which could all be crowded into Virginia, pays a fraction over eight million dollars under that revenue bill. I find by running the comparison that eight western and northwestern and two Pacific States, making ten, and six Territories, paid only a fraction more. I do not complain of it. But when you are collecting revenues of New England, when her property is so situated and her industry is so situated that it becomes necessary that she should pay in that proportion, I ask Senators if this is the time to strike at interests which she thinks vital and which thus contribute to the national burden, and she thinks vital not only to herself but to the nation at large.

And now, for the benefit of the Senator from Kentucky, who takes so deep a solicitude on this question, I would like to run a comparison between Massachusetts and Kentucky as to what they are doing in sustaining the nation in this great struggle. I do it in no spirit of hostility to that State. Massachusetts has a population in the aggregate of 1,232,000 according to the last census; Kentucky, 1,065,000. Massachusetts has assessed on her, to be paid into the Treasury of the United States to carry on this war, \$7,370,000;



Kentucky, \$1,730,000; and the honorable Senator from Kentucky thinks this is the time to strike Massachusetts in the face! Massachusetts on her income paid \$1,628,000; Kentucky paid \$408,845. While Massachusetts is thus giving of her treasure to defend the nation, the honorable Senator from Kentucky thinks it an opportune moment to strike at this interest so cherished and so long one of her material and essential interests. New England was assessed for property \$16,412,988, and she has paid pretty much the whole of it; and the ten other States and six Territories to which I have referred were assessed \$19,326,246. When it is recollected that the latter have a population of some ten millions, and New England a population of a fraction over three millions, and all crowded into a little sterile patch of earth, I submit whether this is the time and the occasion for crippling her in her interests and rendering her less able to perform her duty to the Union. Massachusetts has paid into the Treasury of the United States \$10,048,592; Kentucky, \$2,416,523, leaving the balance against Kentucky \$7,622,069; and with that balance against the Senator, with a population nearly equal, with a territory three times as large, he thinks it is worth while to stand here in the Senate and badger New England, and talk about New England interests as if they were entirely separate and apart from the national interests.

I have some statistics here in regard to the commerce of these States, in regard to the commerce of the country, and the navigation of the country. Of this great commerce, which is the glory of the nation, does the honorable Senator from Kentucky ever stop to reflect how large a portion of it belongs to New England? Of all the ships built in this nation, the little State I have the honor in part to represent builds one half of them annually; and when Senators reflect upon that and what proportion of her people are engaged in the fisheries, they will see at once how sensitive her people must be on this question. And if it really had not the national importance which I attribute to it, I submit whether Senators would not, especially if they will run down the parallels which I have instituted here to-day, be a little chary in times like these of prosecuting a measure which must be so detrimental to this great interest. But, sir, I am persuaded that the Senate is so well informed on this question of the comparative importance of the commerce of the country that I do not feel justified in trespassing longer on its patience. Therefore I take my seat.

Mr. HOWE. Mr. President, there is only a single feature of the remarks just made by the Senator from Maine to which I feel called upon to reply. I have not had the pleasure of hearing the whole scope of his argument, and I am inclined to feel as if I wished I had heard the part I did not hear, and had not heard the part which I did hear. So far as the Senator from Maine or any other Senator is able to defend the payment of this bounty which I understand is under discussion, upon the ground of national necessity or upon any other principle whatever, I am disposed to listen and to conform to his views. That it may not be defended upon such grounds, I am not here to deny. I have always voted for the fishing bounties; I am not prepared to say that I shall not always continue to vote for them. I believe New England has enjoyed them for over forty years; and that certainly bars an ejection, and I believe it also bars a writ of right. It is going to be, I concede, a difficult matter to dispossess her.

Mr. DAVIS. She took an annual lease of them.

Mr. HOWE. Yes, it may have been renewed from year to year; but repeatedly since I have had the honor of a seat on this floor, whenever a draft was intended on the Treasury for any specific purpose which the friends of the measure felt they could not defend upon principle, it has been my misfortune to hear the West arraigned as being indebted to the East, as having something to pay, and bound to go for it, principle or no principle, upon the score of personal or local obligation; and it is to that part of the Senator's remarks that I beg leave to submit a few words of reply.

Now, sir, I deny the indebtedness altogether; I plead the general issue; we do not owe you a dime.

Mr. MORRILL. The honorable Senator did

not understand me to put the question in that way, I hope.

Mr. HOWE. I did understand the Senator to put it in that way exactly.

Mr. MORRILL. I beg to disclaim intending any such thing. I did not intend any such thing; the furthest from it possible.

Mr. HOWE. The Senator might have been entirely unconscious that he was trying to make out a case of indebtedness; but after all he did state the account so specifically, and went into the items so fully, that I thought I must either repudiate or acknowledge the indebtedness. He calls to mind the millions of acres of land Congress has granted for local purposes in building up the Northwest; and that is one item, and one very considerable item, in the account which he states against us. I admit that you have granted a great many acres of land to build railroads, but you have done it upon two grounds: first, because you wanted to improve your own lands, and therefore you have provided for building the most popular of all known highways through them, taking care, however, that the exact value of the lands you gave away you assessed upon the lands you retained. When you gave away an acre of land worth ten shillings you put upon the adjoining quarter section of land twenty shillings.

Mr. FESSENDEN. Will my friend give way for a moment to me to make a motion?

Mr. HOWE. Yes, sir.

Mr. FESSENDEN. I move that at half past four o'clock to-day the Senate take a recess until seven o'clock.

Mr. SUMNER. Had we not better go on a couple of hours?

Mr. FESSENDEN. I have been consulted with in several directions, and it seems to be the opinion that we should have a session this evening.

The motion was agreed to.

Mr. HOWE. Then, Mr. President, when the Senator from Maine [Mr. MORRILL] undertakes to say you have been giving the lands to the Northwest he is under a mistake. You have been selling them; you have been appropriating them to the building of these highways, one half of them that you might get the other half improved; and you have been governed by another consideration. You are manufacturing in the East very largely, and you must get the bread to feed your operatives somewhere. We are raising that bread for you; but we found it difficult to get to market with it, and it came to you charged with pretty high prices, and you wanted to enable us to get to market cheaper, to get our products at a lower price, and so you felt an interest in the building of every one of those roads, and every one of those roads is but a highway to your own markets and to your own doors, over which we bring the bread and the meat that you consume yearly. That is another reason which has governed the Congress of the United States in making these grants. Thus I dispose of that charge against the Northwest with these two reflections.

The Senator charges us also with the amount of lands that the Congress of the United States has donated to the several western Territories for the purposes of education, and that is another item of the indebtedness. If it is a debt at all, unquestionably it is a very considerable one; but how is the fact? When you had untold millions and unsurveyed millions there, you felt that you were in the position of a man who had an elephant. You had property which you did not know what to do with, and you wanted men to go out and cultivate it. You found that you had something to do to encourage them to go. You proposed to give one section in each township for educational purposes. With that poor encouragement, the emigration of the East and the emigration of the world has gone out there; and what have you got to-day in return for it? You have got an empire in return for these donations. You think this is a display of great liberality. Mr. President, building towns is a very common business out there in the Northwest, and no proprietor ever undertook to build up a town on any harbor there, or at the confluence of any two rivers, that did not exhibit more liberality toward the early settlers on his town-plot than the Government of the United States has exhibited to build up those great States which now nestle about the lakes;

and he never thought that he was out of pocket in doing so; he found his account in it. If you are not satisfied, let me say to the Senate, with the returns you have got for this donation of a section of land out of every township, if you are not satisfied with the return that is made, if you would rather depopulate those States and get back your sixteenth section in every township, I think you would make a mistake; but if you really think the balance of trade is still against us, I wish to have the account settled, and, as I said here once before, I believe we are prepared to pay the balance in money. I do not want to be twitted with it every time these questions come up.

Another item of the indebtedness is that New England is paying a much larger share of the revenues required now by the necessities of the Government than the northwestern States. I suppose I know how the Senator procured his figures. I suppose he procured them by looking at the returns from the different States and ascertaining how much was collected within those States; and he assumes that whatever is collected in Massachusetts is paid by the people of Massachusetts, and whatever is collected in Wisconsin is paid by the people of Wisconsin. That is a very unjust way of stating the account. Setting aside the amount of tax you pay on incomes, as a rule we in Wisconsin pay what is collected in Massachusetts, and as a rule you will allow me to say that you in Massachusetts pay what is collected in Wisconsin. Why? Because we assess upon you a percentage on your manufactures, which we buy and pay to you, and pay a large commission, and thus we pay eventually what is collected in Massachusetts, and you pay in Massachusetts what is collected in Wisconsin; and why? Because it is collected from the distillers in Wisconsin, the distillers of whisky; that is about the only article we make to sell to the East, and as we do not drink that out there ourselves, it is consumed, I suppose, in Massachusetts or elsewhere in the East. Thus it is charged over upon the eastern States. So the Senator's method of stating this account is not a just one.

Now, I want to say once more that we have no complaint to make of the policy of the General Government as it bears on the States of the Northwest. Whenever we have asked for any legislation, we have asked for it upon national and upon public grounds, and I am very certain that whenever it has been obtained by us it has been granted upon those grounds; and I would not have said a word in this debate but for the fact that, repeated I think as many as a dozen times during this very session, I have heard these obligations supposed to exist on our part urged here in defense of some legislation which it was supposed we were otherwise hostile to. I do not want to hear it again. As I said before, I do not believe in the obligation, I do not believe in the indebtedness. Whenever you have legislated in reference to us, you have adopted such legislation as you supposed the public interests demanded and warranted, and no other.

The PRESIDING OFFICER. By a vote of the Senate, the Senate will now take a recess until seven o'clock.

#### EVENING SESSION.

The Senate reassembled at seven o'clock p. m.

#### PETITION.

Mr. SUMNER presented a petition from women employed as clerks in the dead letter office at the Post Office asking for an increase of compensation; which was referred to the Committee on Post Offices and Post Roads.

#### HOUSE BILLS REFERRED.

The following bills and joint resolution from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 469) extending the time for the completion of the Marquette and Ontonagon railroad of the State of Michigan—to the Committee on Public Lands.

A bill (No. 487) to provide for the execution of treaties between the United States and foreign nations, respecting consular jurisdiction over the crews of vessels of such foreign nations in the waters and ports of the United States—to the Committee on Foreign Relations.

A joint resolution (No. 83) authorizing the Pres-

ident to construct a military railroad from the valley of the Ohio to East Tennessee—to the Committee on Military Affairs and the Militia.

#### VETO POWER IN WASHINGTON TERRITORY.

Mr. WADE. I wish to make an explanation. When Senate bill No. 285, to regulate the veto power in the Territory of Washington was under consideration, I was asked by the Senator from Maryland [Mr. JOHNSON] whether the people of the Territory requested that the Governor should be clothed with this veto power. I informed him that by a telegraphic dispatch the Governor and several of the executive officers of the Territory had asked for it. I am also reported as using this language:

"The Delegate from that Territory says so. He says that a great many transient people get into the Legislature without much responsibility, and that they are burdening the people there with taxation, and he thinks the Governor should have this power to counteract their influence."

I believe I made use of language like that. It was under these circumstances: the gentleman who handed me the papers stated at the time that he wished I would present the bill and the papers in the Senate, because the House committee requested him to hand them over to me, telling him they wished the bill to be passed, and that they could not introduce it so well as we could in this body. I therefore took the papers and inquired of him the reasons why the people wanted the veto power conferred upon the Governor, not being very much in favor of that power myself, and he informed me about the same as I stated in the language I have read, as near as I can recollect. He stated there were transient persons coming into the Territory and going out, and they got into the Legislature, and they had but little responsibility, and they passed laws without much consideration and burdened the people with taxation, and therefore it was necessary that the Governor should have this power. I supposed that gentleman to be the Delegate from Washington Territory; but it seems I was mistaken. The Delegate has written to me saying that he is not the person; that he did not utter these sentiments, and therefore I am bound to believe that it was not the Delegate that came to us. I do not know him personally. I did not ask the person who came to me who he was; but I took it for granted that he was the Delegate. I do not really know who he was; but the gentleman who handed me the papers made these remarks. In justice to the Delegate I make this statement, because he would not like to have these remarks put into his mouth. He says, in a communication to me, that he is opposed to the granting of this veto power.

#### WILLIAM WHEELER HUBBELL.

Mr. RAMSEY. Will it be in order to move to take up a bill or joint resolution?

The PRESIDENT *pro tempore*. Not without postponing the tax bill, which is the business regularly before the Senate, except by unanimous consent.

Mr. GRIMES. What is the bill?

Mr. RAMSEY. It is a joint resolution which has passed the House of Representatives unanimously, and been unanimously reported by the Committee on Naval Affairs of the Senate; it is a small matter. It is House joint resolution No. 51, relative to the claim and letters patent of William Wheeler Hubbell.

Mr. GRIMES. I object to it.

The PRESIDENT *pro tempore*. Objection being interposed, the motion cannot be entertained.

Mr. RAMSEY subsequently said: I move to postpone all previous orders, and proceed to the consideration of the resolution I indicated before. The Senator from Iowa, after looking at the resolution, withdraws his opposition to it.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. No. 51) relative to the claim and letters patent of William Wheeler Hubbell. William Wheeler Hubbell claims compensation for the use of his patent for the thunderbolt shell and fuse, which he claims were patented by him, and have been used by the Government, under a verbal contract, as he alleges, between him and the late George Bomford, colonel of ordnance of the United States, and for the use of his patent percussion apparatus for exploding shells, the letters patent for which are dated January 22, 1856, reissued January 19, 1858, for fourteen years

for the shell, January 7, 1862, for seventeen years for the fuse, and January 24, 1860, for fourteen years for the percussion device. As the testimony in support of the claim submitted with the patents, and especially with regard to its validity and the verbal contract mentioned, is very voluminous, and the shells and fuses in the service, which Hubbell claims, are made and used in great numbers by the Government, and the committee feel that they have neither the time nor means for procuring witnesses and giving the case the careful legal investigation which its importance demands, the resolution therefore proposes to refer the claim to the Court of Claims, which is vested with jurisdiction, and whose duty it is to investigate and determine, first, is William Wheeler Hubbell the original inventor of the shell and fuse and percussion device aforesaid, or either of them, and has he a just and equitable right to compensation for the same; and second, what amount of compensation is he entitled to receive for the use of his inventions and patents, as claimed, up to the time of adjudication, and for a full and entire transfer of his patents to the United States. Either party may appeal to the Supreme Court of the United States within ninety days, and the Court of Claims is to certify any judgment that may be rendered in favor of Hubbell, his heirs, or legal representatives in the same manner, and when presented to the Secretary of the Treasury it is to have the same effect as now provided by law, and be paid out of any general appropriation in relation to judgments of the court, or for private claims; but the sum hereby authorized to be paid is not to exceed \$100,000, which sum the claimant agrees to accept in full of all claims whatever by virtue of his patents and contract against the Government. And the payment of such judgment is to vest the full and absolute right to the patents in the United States.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### IDA HOFFMAN.

Mr. FOSTER. I have a little bill from the Committee on Pensions in favor of the widow of a man who was killed in attempting to arrest a deserter, that I believe would not be objected to. I will move, at all events, to take it up. It is Senate bill No. 289, for the relief of Ida Hoffman.

The motion was agreed to; and the bill was read the second time and considered as in Committee of the Whole. It directs the Secretary of the Interior to place the name of Ida Hoffman, widow of the late Solomon Hoffman, of Carroll county, Indiana, who was shot and instantly killed on the 14th of March, 1863, while engaged in the performance of the duties of deputy provost marshal, on the roll of pensioners, at the rate of eight dollars per month, to commence from the 14th of March, 1863, and to continue during her widowhood.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### RHODA WOLCOTT.

Mr. BUCKALEW. There is another little pension bill on the Calendar, reported from the Committee on Pensions, which I move to take up. It is House bill No. 290, for the relief of Rhoda Wolcott, widow of Henry Wolcott.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Pensions, with an amendment to strike out all of the original bill after the enacting clause, in the following words:

That the Secretary of the Interior be, and is hereby, directed to issue to Rhoda Wolcott, widow of Henry Wolcott, deceased, who was a private in the company of "New York United States detached militia," of the regiment commanded by Colonel Thomas B. Benedict, a certificate of pension, which shall grant to the said Rhoda Wolcott a pension of four dollars per month, commencing on the 24th day of December, 1812, the time of the decease of said Henry Wolcott, and to continue during the natural life of the said Rhoda Wolcott: *Provided, however*, That in the event of the marriage or death of the said Rhoda Wolcott, the said pension shall cease: *Also provided*, That all pledges or mortgages of the said pension shall be void, and that the said pension shall inure solely to the use and benefit of the said Rhoda Wolcott.

And to insert in lieu thereof:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Rhoda Wolcott, widow of Henry Wolcott, who was a private in a com-

pany of New York United States detached militia, of the regiment commanded by Colonel Thomas B. Benedict, in the war of 1812, on the pension roll, at the rate of four dollars per month, said pension to begin on the 1st day of January, 1861, and to continue during her widowhood.

The amendment was agreed to.

The bill was reported to the Senate as amended.

Mr. GRIMES. I should like to inquire of the Senator from Pennsylvania why the committee recommend that this pension shall date back to 1861. That is contrary to the practice of the Senate hitherto, or what used to be the practice when I was a member of that committee.

Mr. BUCKALEW. It is because the proof of the case in the Pension Office was made complete on that day.

Mr. GRIMES. But it seems to me that there is no proof, or else there would not be any necessity of appealing to Congress. If they could appeal to the Commissioner of Pensions and submit the proper proof to him, the pension would date from the time the proof was completed; but it seems that—

Mr. HENDRICKS. The Senator is mistaken. The law has been changed within a few years, so that a pension commences now from the time the proof is filed, whether it is complete or not. That is the law passed a few years ago.

Mr. GRIMES. I do not know when that change was made; but our rule in the last Congress, or the last Congress but one when I served on the Committee on Pensions, was that the pension should only commence from the time the papers were filed here and the proof was completed. That was the rule upon which the Senate always acted.

Mr. BUCKALEW. I have not the papers here, but the case is not a doubtful one.

The amendment was concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### FRIENDLESS WOMEN AND CHILDREN.

Mr. MORRILL. If the Senate do not wish to act on the tax bill at this moment, I should like to call up a small bill that will not take more than five minutes. I move that the Senate proceed to the consideration of House bill No. 383.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 883) to incorporate the Home for Friendless Women and Children.

The Committee on the District of Columbia reported the bill with various amendments. The first amendment was to strike out from the list of incorporators the following persons: Jane Ashton Alexander, Anne E. Husted, Susan Schiemer, Malvina Tolson, Mary E. French, Elmira White, Myra Grace Ruggles, Elizabeth E. Holmead, Eliza Dorsey, Hannah Holmead, Sallic E. Cooper, Ellie R. Cooper, Margaret F. Calvert, Anna H. Eastman, Mary Thomas.

The amendment was agreed to.

The next amendment was to strike out the third section of the bill, as follows:

SEC. 3. And be it further enacted, That there shall be a board of fifteen female managers, to be selected from the various religious denominations of the city of Washington, or District of Columbia, to conduct the business of the corporation, for the purposes aforesaid, in such manner as shall be prescribed by its constitution or by-laws, as the same may be adopted or altered from time to time: *Provided*, That nothing in said constitution or by-laws shall be inconsistent with any law of Congress.

The amendment was agreed to.

The next amendment was in section four, lines four, five, and six, to strike out the following words: "and six other ladies to be selected from the members of such association by the ladies named;" so that it will read:

SEC. 4. And be it further enacted, That Mary T. Hay, Eliza M. Morris, Eliza Wade Fitzgerald, Georgiana Sparks, Emily B. Ruggles, Indiana Plant, Jane F. James, Mary Graham, Maria Virginia Brown, shall constitute the board of managers, &c.

The amendment was agreed to.

The next amendment was in section six, line sixteen, after the word "Columbia" to strike out the words "and the board of counselors created by this act;" so that the clause will read:

The said board of managers may, in their discretion, place such child to service with some proper person under articles of indenture, to be executed in due form of law, with such provisions for maintenance and education as shall be approved by one of the judges of the supreme court of the District of Columbia.

The amendment was agreed to.

The next amendment was to insert at the end of section seven the following proviso:

*Provided*, That no surrender of any such child shall be made under the provisions of this section, unless such surrender shall, on examination, be approved by one of the judges of the supreme court of said District.

The amendment was agreed to.

The next amendment was to strike out section eight, in the following words:

Sec. 8. *And be it further enacted*, That there shall be a board of counselors for said corporation, consisting of seven gentlemen, citizens or residents of the District of Columbia, four of whom shall, on and after the first Monday of May, A. D. 1865, be elected annually at the meeting of the associates for the election of managers; and that the Secretary of War, the Secretary of the Treasury, and the mayor of the city of Washington shall, *ex officio*, be managers of such board from and after the passage of this act; and the managers of the board shall, as early as practicable after their organization, elect by ballot four gentlemen as members of said board, to hold office until the first Monday of May, A. D. 1865, and till their successors shall be chosen. It shall be the duty of this board of commissioners to advise the board of managers, from time to time, in regard to the interests of the association, and for the promotion of the objects thereof. Four members of the board of counselors shall constitute a quorum for the transaction of business; and no purchase of real estate shall be made, and no lease, sale, or mortgage of real estate shall be executed by or to said corporation without the approval of a majority of the board of counselors.

The amendment was agreed to.

The next amendment was in section nine, line four, to strike out the words "the board of counselors;" after the word "treasurer;" so that it will read:

That the board of managers may elect from their own number a president, vice president, and secretary; and they may further elect a treasurer.

The amendment was agreed to.

The next amendment was to strike out section ten, as follows:

Sec. 10. *And be it further enacted*, That no manager nor member of the board of counselors shall receive or charge any compensation for any services rendered to the institution or corporation by virtue of her or his office in either board: *Provided, however*, That the treasurer of the corporation may receive such reasonable salary or compensation for assuming and discharging the duties of the office as shall be determined by the concurrent resolution of the board of managers and the board of counselors to be just.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in and ordered to be engrossed, and the bill to be read the third time. It was read the third time.

Mr. DAVIS. I will inquire of the Senator who reported the bill if the corporators are all white persons.

Mr. GRIMES. I can inform the Senator that they are white; at least they were when last heard from. [Laughter.]

Mr. DAVIS. That satisfies me.

The bill was passed.

#### INTERNAL REVENUE.

Mr. POMEROY. I move that we now proceed to the consideration of the tax bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 405) to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes, the pending question being on the amendment of Mr. POWELL to repeal the fishing bounties.

Mr. POWELL. Mr. President, I had no idea when I offered the amendment to this bill, the object of which is to repeal the bounties on the tonnage of vessels engaged in the cod and other Bank fisheries, that I should throw the very able Senator from Maine [Mr. MORRILL] into such a rage. The Senator has exhibited wonderful temper. He discussed the question with a hot and earnest zeal that in my judgment but little comports with that steady and cool temper that characterizes the people of the section from which he comes. In my reply to the honorable Senator I shall not follow him in his hot zeal. I will take the matter very coolly, and state to the Senate very calmly the reasons I have for striving to repeal the law indicated in the amendment that I propose.

The Senator very adroitly tries to avoid the true issue. He takes a tilt at creation generally. He runs a tilt at me and at my colleague, and then at the whole Northwest. He vindicates New England with great zeal from charges that have never been made against that people. He charges some with having changed their notions about New

England; he charges others with having hatred to New England all the while. The Senator will get me off on none of those issues. It is not my purpose to say anything specially against New England or anybody else in this discussion. I have no hatred toward New England or any part of her people—none at all.

He quotes from a speech that I made in which I spoke of New England, attributing to them a characteristic that I did not think the honorable Senator would deny: that they were fond of thrift and gain. I made that charge in no ill-temper, although I confess when I made it I was somewhat excited, for my State had been heavily assailed by three honorable Senators from New England; but if I wanted any evidence to establish the fact beyond doubt that our New England friends were fond of thrift and gain, I should want nothing more to prove it than the Senator's zeal to save to his people these little fishing bounties.

The zeal of the honorable Senator establishes the fact that our New England brethren are very tenacious, and hold with a death-like grasp to any little advantages that legislation may give any of their interests.

The Senator runs a parallel between Massachusetts and Kentucky. I am not going to take up that parallel. He says that Massachusetts pays very great taxes to the Government, and Kentucky and other western States pay very little. He says that the little New England States upon a barren soil pay more than ten other great States in the West. I dare say all that is true. I will merely say in passing to my friend that had Kentucky and the great West the bounties that his people have upon vessels engaged in this fishing business, upon their pigs, their cattle, their potatoes, their corn, and all their products, they would have untold wealth. If the people of the great valley of the Mississippi were fostered and protected in their industrial pursuits as New England is by the present tariff system, they would have untold millions of wealth. But, sir, we are the recipients of no such favors from the Government; and I do not intend, so far as I am concerned, to allow New England to be the recipient of this little bounty, as the Senator calls it, on fishing, any longer if I can possibly avoid it.

The Senator tells us that New England never surrenders. I concur with the Senator in that. New England never will surrender any privileges that odious and unjust laws take from the other people of the country and put into the coffers of her citizens if her Senators can possibly prevent it. They will never surrender any odious discrimination made by the laws in favor of their industrial pursuits. They were never known to surrender such a thing as that. But, sir, I hope that this Senate will decree that the great States of Maine and Massachusetts may be compelled to let go of these fishing bounties.

The Senator speaks of the constitutionality of this law. He speaks of the bounties that have been conferred upon the western people by railroad grants. All that has been sufficiently met by the Senator from Wisconsin, [Mr. HOWE.] I am not going to enter into any of these collateral issues. The Senator, however adroit he may be, will not lead me off into any argument of that kind.

He says that the antiquity of these fishing bounties ought to shield and protect them. Why, sir, if the Senator and his constituents were less tenacious of gain, having enjoyed this immunity and privilege so long, it strikes me, in this day of trial when our people are taxed in such a manner as they can scarcely bear, they would be willing to yield it for a time, at least.

But, sir, what were the reasons for the establishment of this policy? The Senator has stated the argument, the one that I have heard stated over and over again in this Chamber whenever there is an effort made to repeal these bounties, that it is to foster the fisheries as a nursery for seamen. I think it probable at the beginning of the Government that might have been the case when we had no merchantmen afloat, or if any very few, and our mercantile marine was small. Then it might be necessary to encourage this fishing business by bounty as a nursery for the training of sailors and making expert seamen. But, sir, even before this war commenced I believe we had the largest mercantile marine in the world. That is a sufficient nursery for our seamen. You

cannot navigate ships without men trained to the art and mystery of navigation. What more nursery do you want than to have the largest quantity of ships of any country in the world engaged in commerce on the ocean? Certainly you can want no more.

But, Mr. President, I believe that the principles upon which these bounties were given were wrong. I do not think a bounty should be given to any portion of the people, and those bounties be paid by taxes gathered from the other portions of the people, to encourage any branch of industry or promote any branch of industry. All the protection that I would ever give would be the incidental protection arising under our revenue laws. I would give no more.

There have been paid from the beginning of this Government something like fourteen or fifteen million dollars to the persons engaged in the fishing business as bounty. The State the honorable Senator represents so ably, and which he represented so zealously to-day, receives the larger portion of these bounties. According to my recollection of the tables I think Maine and Massachusetts receive about four fifths of them, and I think that Maine receives more than Massachusetts. That, however, is an immaterial question. My friend from Ohio [Mr. SHERMAN] has submitted a table on the subject which exhibits the bounties that have been paid recently. I have not looked into this question since the war commenced until I glanced over the table shown me by the Senator from Ohio, but before that time I got the tables and examined them very closely; and I examined very closely the reports made on the subject. Mr. Guthrie, during the Administration of President Pierce, made a report on this subject, in which he said that about one half the money obtained was by fraud. He said he thought it more a nursery for perjury than for seamen. I think, at this time, when the country is pressed for money at every point, we should not pay something like half a million dollars annually in bounties to Massachusetts and Maine, or to the people in any part of the country.

It is not because these bounties are paid to the people of Massachusetts or Maine that I desire their repeal. If they were paid to the people of California or to the people of the West, North, or South, I would go for their repeal, because I think the principle is wrong, and the reason, if any valid reason ever did exist why those bounties should be paid, has long since ceased.

If New England has the millions of wealth of which the Senator boasts, she might well give up this little matter. While the people there are enjoying such wealth and able to pay such enormous taxes as the Senator has indicated to-day that section of the country pays, while he shows that other regions of the country are poor, I do not think, in an hour like this, wealthy as they are, it is magnanimous on their part to exact from those who are so much poorer than themselves, this tribute. But, sir, I never knew a miser to cry that he had enough. These money-sharks and money-hoarders and money-lovers grow more avaricious every day. I suppose if, through the instrumentality of high protective tariffs and high bounties upon fishing interests and protection to every other pursuit of New England, they were to quadruple their wealth, still they would be unwilling to give up any little tribute which they wrung by taxes from the hard earnings of the people of the less favored regions of the country. The very exhibition of the wealth of that region of country is an argument against the Senator, why they should be compelled, if they have not the magnanimity to do it willingly, to yield this tribute which they take from the taxes wrung from other portions of the people; yes, sir, wrung from the hand of poverty and toil.

But, Mr. President, the Senator has utterly failed to show any valid reason why the law authorizing these fishing bounties should not be repealed. The only argument that he has presented that has validity, is one that does not now exist, and that is that the fisheries are a nursery for seamen.

Sir, for the reason I have stated, that in our merchant service we employ men enough to train our sailors, that consideration if it ever did exist has no validity now; but in this our day of trial and war, judging from the tabular statement that my friend from Ohio has exhibited here, I do not



think the persons engaged in this fishing business have diverted much of their labor from that pursuit. They receive now since this war about as much money from the bounties as they did before. That indicates very clearly that the people in that line of business are still engaged in it, so that these are bounties actually paid to keep men out of the Navy. The Government is giving these people a bounty absolutely to hire them to go into other pursuits, and that of itself keeps them out of the Navy; and the proof from the record is that these people have not gone much into the Navy; and why? Because you take the money of the people to hire them to stay in this business of fishing. The bounty does not tend to bring them into your Navy. By the Government giving the bounty, they are hired to go into the fishing business, and they find it more profitable in consequence of the bounty to stay out of the Navy, and they do stay out. So the whole argument of the Senator about this matter of bounties being necessary for seamen is an utter fallacy; there is nothing in it.

There is no more reason why you should pay bounties to those who are engaged in the fisheries than why you should pay the miners on the Pacific coast a bounty for digging the gold from the bowels of the earth; and indeed if I were driven to pay one a bounty and neglect the other, I would give it to the miners who are delving in the mountain sides, because we want the precious metals as a circulating medium. There is no more reason why we should pay these men bounties than why we should pay the farmers of the West bounties for raising their pigs, their sheep, or their cattle. The thing cannot be justified upon any principle. It is absolutely giving up the money of the people to foster a particular interest, without receiving any adequate return, and the astonishment to me has been that this law has so long remained upon the statute-book.

But the Senator said it was not repealed when those were in power with whom I act politically. I can tell the Senator that a bill for the repeal of the law, I think, passed the Senate more than once, but it was lost in a conflict between the two Houses; but if we get it through here now I do not think it will be lost; we shall get it in perhaps the very best place in the world to insure its final passage, and that is on this enormous tax bill. Many Senators differ from me about the tax bill. They say the people want to be taxed, that their patriotic hearts are calling for taxation everywhere. That may be, but I do not think my people want to be taxed. If we get this provision on this bill I think it will be certain to become a law, and then we shall be clear of this system of bounties forever.

It was not my intention to make a speech of any length on the subject, and I have really said about all that I intended to say. The Senator cannot get me into any controversy about monopolies or favors shown to the West in regard to their railroads. I can very easily show that it was no detriment to the public to give those western States land to make railroads, because we gave them alternate sections, and the Government got double price for the sections not appropriated to the railways; yet I have not been a special advocate of those railway grants. And then, as the Senator from Wisconsin very well observed, everybody knows that the people of New England, a manufacturing people, do not raise enough to eat up there. From the statistics I saw a year ago made by a very learned gentleman by the name of Ruggles, it is very clear that New England consumes in three months all the wheat she raises in a year. She has to have railways and water communications to carry the grain from other parts of the Union to feed her people. It is to her interest as well as the interest of the farmers of the West to have those communications made. There can be no doubt about that.

But, Mr. President, I should like very much if Senators when they enter into this argument would meet the question as it is, that they would show the real benefits to result to the country from the imposition of this annual burden upon the people, that they would give us some good reason for it, that they would tell us something else than that it has been sanctified by time. Having enjoyed this immunity and drawn this money from the hard earnings of the people pretty nearly from the organization of the Government, they are now

loth to let it go. They have grown rich by means of these and other bounties and privileges that they have received by the sanction of the law, and they ought to be contented when they have grown rich and can flaunt their wealth in the faces of other States to let this "pittance" alone, and perhaps after a while, if you take away the protection and the bounties you bestow on their labor, other portions of the country may grow as rich as they. We do not envy New England her wealth, but we do desire that her wealth shall not be increased by an imposition of an unjust tax upon the rest of the people. That is the point we make. This is a benefit that is conferred upon New England alone. The Senator from Maine says it is national, and he speaks with wonderful vehemence and volubility about its nationality. There is no nationality about it. We want no such nurseries for seamen. Having floated more ships in the merchant service than any other nation on the earth, independent of the Navy that we have in the public service, that is a nursery sufficient. And, sir, if you give this tribute and these bounties to men to stay in the fishing business you will have to give very high bounties to lure them into your naval service. There is no good or valid reason why the people should be taxed to support this interest any longer.

I know that when persons enjoy a privilege of this kind for a long time they begin to think and they imagine it is absolutely right, and they make a great noise when you take it away from them. It is so with all animals. Every old farmer knows that when you attempt to wean a calf that is allowed to suck till he is a year and a half or two years old he makes a great deal of fuss; you can hear him bellow all over the plantation—not that I am comparing any of these gentlemen to an animal of that kind. I do not do that; but they have had it so long that if you wean them from it now they make a terrible noise over it. They have had it so long that they think they are absolutely entitled to it. In my judgment they never were entitled to it. If there ever was a reason for it, as I before stated, that reason has long since ceased. I am not going to take up the time of the Senate in discussing this question any further. I think I have stated reasons sufficient why the amendment I have proposed should prevail; and I hope it may be adopted.

Mr. FESSENDEN. I propose to say a very few words, Mr. President, on this subject, because it becomes my duty from the relation which I bear to the section of country the interests of some of whose people are affected by the amendment now before the Senate. I shall not follow or attempt to follow the Senator from Kentucky in what he has said in regard to the prosperity of New England having been fostered by legislation. A very small part, comparatively, of the prosperity of New England depends upon the fisheries; and in regard to its other prosperity, I suppose everybody knows pretty well that up to the breaking out of this war the prosperity of New England could in no manner be imputed to any protection that her manufactures or any part of her industry had received for a long series of years, for the legislation of Congress had been directed entirely the other way, and had been carried to the extent of reducing the duties on imports down to the very lowest possible point consistent with paying the expenses of Government. Certain gentlemen who were afraid that a tariff would encourage manufactures, actually reduced the duties, so as to bring the receipts below the expenditures of the Government, and they were compelled in a time of profound peace to borrow money and run the country in debt some twenty or thirty million dollars on Treasury notes in a single year. That was the policy of the section of country a part of which the honorable Senator from Kentucky now represents. Although our expenses were then at the lowest possible point the tariff was reduced so low (we depending entirely upon customs) that under the two Administrations which preceded this the revenue was found entirely insufficient in a time of profound peace to pay even the moderate expenses of the Government at that period.

So, sir, the Senator is entirely mistaken in imputing the prosperity of New England or of the North, so to call it, in any degree to the legislation of the country. It was prosperous in spite of the legislation of the country; and while it

continues to be what it is, and the men there continue to be what they are, it will prosper in spite of the legislation of Congress.

Mr. JOHNSON. It was prosperous commercially before the tariff system.

Mr. FESSENDEN. Yes, sir, before the tariff system was introduced, New England was prosperous. She protested against that system; it was introduced against her wishes; she conformed to it and prospered; and then the policy of the Government was changed, and an effort was made to run her down. The legislation of the country was directed first against her commerce, and when she turned her attention to manufactures then against her manufactures. It failed both times and always will; the legislation of the country will fail in any ordinary time to do any such thing. Why? Because we have intelligence; we have the power to labor; we have something to work upon; we have will; we can work, and we do work. That is the simple secret of it, and I have no doubt that my friends all around me from all sections of the country are very glad to hear it, and probably they believed it before, for I do not think there is any particular ill feeling on the part of one section of the country against another. There are individuals in all sections who are mean enough to be local and personal and to envy their neighbors when they see them prosper; but those individuals are few, and they form exceptions to the general rule.

Now, sir, this question is a very simple one, and I propose to state it and leave it there. The Senator from Kentucky says that there is no doubt about it; that nothing can be said on the other side; that no reason exists for these bounties; and therefore it is a plain matter. I have heard that said before; it has been repeated over and over again from the foundation of the Government, and always unsuccessfully, up to the present time. The grounds on which these bounties were first given are very evident. The fishing interest is and always will be a poor interest; that is to say, an interest carried on by a poor class of people; it is in its nature hard; it is necessarily precarious, not leading to wealth, hardly to a bare sustenance, and attended with great exposure and great danger; and yet upon the seacoast, near where fish abound, it will always be found that a certain class of adventurous persons will engage in that pursuit, sometimes from the love of adventure, the love of the excitement of the thing itself, sometimes from education and tradition; various motives of that kind enter into it. That has been the case upon the coast of New England.

Government took that into consideration in early times; they looked at the thing as it stood. It had been the policy of England, and it is to this day, to give high bounties to encourage fishing upon these very shores. They own a large share of the provinces where are the very best fishing grounds, and they deem it of importance to their national power and their national wealth to encourage the business, to support and sustain it. So it is with the French, who own two of the best fishing stations on that coast. They also give very high bounties, for the simple reason that they think it has a very important and powerful effect in building up their marine to have as large a class of men as possible engaged in this most adventurous and dangerous pursuit. It is a fact well known that there is no navigation in the world that is equal in its dangers to the fishing upon these coasts. Liable to sudden storms, the greatest nautical skill, the greatest courage, and the greatest carelessness as to exposure are required; and these qualities are found there. The numerous shipwrecks and losses, the destruction that occurs every year in this pursuit, have proved that most abundantly. There is no dispute about it. Yet these men remain poor. They make, as was said in the last war with Great Britain, the very best sailors in the world. They are hardy, adventurous, bold, among the very bravest men that can be found exposed to the perils of the sea. Senators are probably aware that the Constitution, which won so much glory for us in the last war with Great Britain, was manned almost exclusively by Marblehead sailors picked up on a sudden emergency, a call made, a crew found out of the fishermen, and they navigated that vessel and fought the battles which she won. There are numerous other

instances, not so striking as that, perhaps, but almost equally remarkable in our history.

Mr. FOSTER. Commodore Hull had been a fisherman himself when a boy.

Mr. FESSENDEN. Yes, sir. It was deemed, for these reasons, by those who went before us, the men of the Revolution and the men who succeeded to the Revolution, wise men as they were considered in their day, Mr. Jefferson being one of the leading men and the first to recommend the system of which we speak—not so wise, to be sure, as we are; of course they cannot be considered so, [laughter;] not so familiar with what is for the good of the nation as the men of the present day, judging from the estimate which we seem to have of ourselves, but in the eyes of others perhaps quite equal to us in statesmanship and wisdom—they thought it was best for them, in a country like this, to build up such a class of men, to encourage them, to sustain them, and to have them always ready at call; and it has been found even in this war that we have drawn a large number of men from that very source to navigate our vessels of war. Many of our best shipmasters, men who are now serving in the Navy as masters, and masters' mates, and ensigns, are men that were educated in these very fisheries, and they have done much of what has been done in achieving the successes we have had in the Navy.

There was one other ground which seemed to our ancestors a matter of justice. We had in those times pretty heavy duties on salt, and we exported a good deal of fish. We have pretty much lost the foreign market now, I understand, owing to causes which are obvious to everybody at present. In the first place, I believe a drawback was given for the salt duties; but it was found very difficult to ascertain precisely what that was. As the salt duties went down that ground failed, and the argument was on the part of Colonel Benton and some others, that there being no duties on salt there was no occasion for the bounties. The bounties took the place of the drawback precisely. Instead of giving a drawback, the Government simply gave a bounty on the tonnage with a view to cover this loss. Now look at how we stand, because the events of a nation sometimes return upon it. We are now in war and want sailors; we are now in war and want money; and we impose very heavy duties on salt. I am informed, and looking into the duties as they stand, I presume it to be true—the estimate has been made by one of the collectors in our State—that we pay thirty-three cents duty on the salt that is used in every quintal of fish, which is one hundred and twelve pounds. Now see the disadvantages under which this poor class of men labor. The best fisheries are right at the doors of the English; they are on their own shores. We have a right by the reciprocity treaty to go there. They have all the advantages of curing their fish on their own soil. We have to navigate to a very considerable distance away from home to enter into competition with them. They have always received much larger bounties than have been paid by this Government. They pay no duty on their salt. Thus the difference is so great that our men lately, as I am informed, have been in the habit of curing their fish there because they get their salt cheaper, and then bringing their fish home; but at this very session we have passed a law making them pay the duty on the salt that they bring home in the shape of cured fish. Then we have taken away that benefit from them. These fishermen stand, therefore, exposed to these disadvantages. The fishing of France and England is at the door of their colonies on their own shores; they have no duties to pay on their salt when they cure their fish; and we have heavy duties to pay. The result of all that is that they have driven us out of foreign markets.

Now, look a little further. We have made a reciprocity treaty with Great Britain. By that we admit their fish duty free into our own markets to compete with us. Our fishermen must go all that distance to catch their fish and bring them home at these disadvantages, and at a very much lower rate of bounty than is paid by the French and English Governments; when they bring them home to our own markets they pay thirty-three cents a quintal duty on the salt put into them, while the people in the British provinces take the fish at their own doors, bring them into our mar-

kets without any duty, under the reciprocity treaty, and drive us out of our own market; and you propose, in addition to all that, to repeal the small bounty that is paid.

If it is thought advisable to break down this interest entirely, to drive these men off the ocean, to say that the policy which Great Britain and France deemed to be a wise one in reference to their own fisheries and their own nurseries for seamen, is no policy for us, that we do not need it and that therefore we will drive them out entirely, let the Senate of the United States and the House of Representatives of the United States so decide. For my own part I am not convinced that it would be a wise policy even in time of war. The argument is that we ought to save this money. It has been decided over and over again here with reference to other interests that the time has not yet come in this country when, even if it is a time of war, we cannot sustain interests that are important and valuable in regard to keeping the country in its present position. If the rule and argument applied to all other interests is not to be applied here, so be it.

Senators, I do not stand here to beg money for New England. I do not ask it even for the poorest class of our community, which is the fishermen. If you think they are of no value to the country, if you think this interest is of no value to the country in any shape or form, that no benefit is derived from it, and that this is a mere pittance dealt out to the people of New England to keep them alive, vote according to your opinions upon that subject. I do not look at it in that way. If I did, I would vote with you. But I repeat that I hope you will be disposed to look at the question as statesmen, and not in the light in which my friend from Kentucky seems to look at it and represent it, as a mere matter not worth considering, and not having an argument or view either from history or fact to sustain it.

Mr. DAVIS. I did not intend to say a word on the subject of the repeal of the fishing bounties at this time. I said on a former occasion everything that I wished to say in regard to it, and would not now speak on the amendment offered by my colleague to-day but for the personal notice of me by the Senator from Maine, [Mr. MORRILL,] which makes it incumbent on me to say something. I shall be short, and I will endeavor to restrict myself merely to the subject under consideration and to some personal remarks made by that Senator.

The Senator charged me with having gone into the dark holes of history and having dug up narratives of facts that were derogatory to New England. I do not pretend to recite his language; I only give the substance of what he said, according to my best and general recollection of it. He of course referred to a speech that I made some few weeks back in the Senate, and which I was delivering in the course of two days. In that speech I spoke nothing of New England generally. I adverted to the history of Massachusetts particularly and specially; and I said nothing in relation to any other of the New England States except two, and what relates to those States was in short paragraphs, which I will ask the privilege to read. I was reviewing the history of Massachusetts in the war of 1812, and the support which that State then gave to Mr. Madison's Administration in waging that war, when I used this language:

"Sir, there is another specimen of Massachusetts loyalty: the Governor of Massachusetts having refused to order the militia of that State into the service of the United States, some of the patriotic people of the district of Maine volunteered, and were placed by the President under the command of General William King. In the year 1813 the Legislature of that State passed a resolution inquiring of General King whether he had accepted any agency or commission from the United States, or received from them any arms or munitions by order of the President of the United States. General King replied:

"The volunteers who tendered their services to the President for the defense of their country were accepted and organized, and have been furnished with arms on application to the General Government. Soon after the commencement of the present war, when the services of the detached militia were withheld from the General Government, I aided the War Department in organizing such a volunteer corps as was considered necessary for the defense of this district. After two regiments were organized the services of such a number of companies were offered as would have made three other regiments, if necessary. As a citizen of the United States I have duties to perform as well as a citizen of the State in this just and holy war."

"A response worthy the friend of that often tried and true patriot, John Holmes."

Maine was then a district, and was attached in its local government to the State of Massachusetts. I have read all that I said in relation to Maine in that speech. If the Senator from Maine considers that what I have read—and it was all that I said in relation to Maine in that speech—brings shame and reproach upon the people of Maine or upon the history of Maine, I dissent entirely from his position. I have no doubt that many people of Massachusetts had at the time the estimate of this conduct of General King and of the volunteer militia of the district of Maine who entered the service of the United States under his command, that would be characterized by the language used to-day by the Senator from Maine. If he chooses to form that estimate of the conduct of General King and of the patriotic volunteers of that district who took service under him in that holy war in defense of the district of Maine, I dissent entirely from his position, from his political ethics, from his sense of patriotism. If that is not the estimate which he places upon the conduct of General King and of his patriotic soldiers, there is no ground of complaint even with him against me for anything that I said of the people of Maine in the speech to which he referred.

Now, I will read a short paragraph that is the only reference in this speech to any other State of New England than the States of Massachusetts and Maine:

"This traitorous Governor Strong and his coadjutors in Massachusetts procured the weak and corrupt Governor of Vermont, Chittenden, to take their position, that it was the exclusive right of the Governors of the States to decide whether and when there existed an exigency that required the State militia to be put into the service of the United States, and to issue an infamous proclamation commanding the volunteer militia of Vermont to march back from Plattsburgh, whither they had rushed to defend that place against the assault of one of the most formidable British armies that was assembled during the war. The traitors of Massachusetts were loud in their promises to stand by their victim, and to sustain him in their common crime; but their guilty souls shrank from the necessary action. The brave and patriotic citizen soldiers of Vermont flung back their contempt upon the treacherous misdeeds of their Governor, who was representing not his State, but British feelings and interests, and remained to cover themselves with glory in one of the most brilliant achievements of the war. All honor to the memory of those gallant and true men! They were fit representatives of the heroes of Bennington."

I was unconscious, in that just and truthful eulogy to the volunteer militia of Vermont, of having in fact offered them or having intended to offer them any insult. I deny that the charge made by the Senator from Maine against me is true. I deny that I hunted into dark holes for the history of the New England States for the purpose of rummaging and collecting their dishonoring much less their infamous history with a view to reproach them with it in the Senate. I did, upon great and grievous and repeated provocation, search into the history of Massachusetts; and that history, according to all the lights and authorities which I had been able to consult, I presented truthfully and frankly to the Senate. If I fell into any error, it would afford me pleasure then and always to correct the error and to do justice to that State in any matter whereon I had done her injustice.

But, Mr. President, the Senator from Maine is like many other men in this: it is the revelation of the truth that gravels him. It is not the enactment of a degrading history, it is not the performance of acts or the expression of opinions and principles that should shame and bring ignominy and reproach upon a man or a people to which that Senator objects, so much as to the revelation or to the reproducing to the memory of that history; and his resentment is not against those who enacted the history, however infamous and degrading it may be, but it is against those who write the story or who recite the story if it has been written. I think it would become manliness, honor, and truth if that Senator would visit the men who enacted the history and who did those deeds of ignominy with his invective, rather than me for having upon great provocation reproduced them for the condemnation of the present generation.

But, Mr. President, I have a sequel to read of the history of Massachusetts on the subject of the negro; I will not recite it now, because it is not the most appropriate occasion; but when one of those never-ending negro bills, that has darkened this Senate Chamber during the whole of this session and for a good portion of two previous sessions, is brought up again, I will present the sequel of that history.

The honorable Senator says that I had changed my feelings in relation to the New England States, and he reproves me for having offered a proposition to organize the six New England States into two, and he goes on, and in very just and truthful terms, to eulogize the wealth and the resources of New England, and sets forth exultingly the amount of revenue she pays into the United States Treasury. All that was proper enough. He contrasts it with ten of the western States and with Kentucky and thrushes in three or four Territories as an adjunct of those eight or ten western or northwestern States. If the honorable Senator was fond of drawing comparisons he might have found one on the other side of this view. He might have compared the six New England States with New York, and he would have ascertained that New York has a population of five or six hundred thousand people more than the aggregate of all the New England States; and that the assessed value of the property of New York is within a small fraction of the entire aggregate of that of all the New England States; and yet we have a Constitution that gives to New England twelve members of this body and to the State of New York but two. If the honorable Senator from Maine and the Senators from New England had rested satisfied with the great principles on which this Government by its Constitution is adjusted in other matters of equally vital importance, and had been willing to permit that adjustment to remain undisturbed, I would have been one of the last men in the Senate or out of it to have disturbed it by proposing to reduce the New England States to two, or in any other mode. But when each and all of them, seeking to break up the fundamental principles of the Constitution and to bring about an extensive and most mischievous revolution of the Government, if I had the power, the New England States should be reduced to two, if not to one. In the disruption which she has lent herself to so efficiently it would be no injustice, but a proper retribution to her and only justice to the other States.

Now, Mr. President, I will read a paragraph or two from a speech that I made upon this subject when a similar proposition to the one now pending was made by my colleague on another bill. I said:

"Mr. President, I shall vote for the amendment of my colleague. Whenever I have been in a position heretofore to support the policy of these fishing bounties I have voted for their continuance. Many years ago I was taught, session after session, by gentlemen representing the New England States, that these fisheries were the best nursery of seamen on the globe, and that whenever our country should be involved in war these adventurous and hardy seamen would be ready-trained sons of Neptune to man our ships-of-war and privateers, and bear our flag in triumph against all comers through the battle and the breeze, and in that way would compensate the country for the cost it paid for their tuition in the form of these bounties. My own State cherished the laurels won by her gallant tars upon oceans and lakes with as true national pride as did New England, and she voted without grudging these largesses that our country might have the first seannanship of the world.

"The principles and policy of my State, too, as her people were induced by her great statesmen, were to regard every section and every State as equally part of our common country, and entitled in their leading interests to the same protection and fostering care from the General Government. Until since New England has become wholly sectionalized and selfish, we had cultivated for her feelings of fraternal pride, conceding that she contributed her full share to our national greatness and glory, and we sustained the measures and policy that developed her industry, wealth, and power, not only as a duty, but with a generous and proud satisfaction. We felt that whatever was aggrandizing New England was at the same time bearing aloft the United States; and we so regarded every section and every State.

"We had been taught by New England statesmen to consider the seamen formed in those fisheries and sustained by these bounties did not belong to that or any other section, but, like the graduates of West Point, to be the property of the nation at large; and that when they took post on the decks of our ships-of-war they were not to be credited to New England or any State, but to the United States. But since the States of New England have, during this civil war, unanimously claimed and each is to receive the benefit of having her seamen computed in the quota of soldiery she is to furnish to the war, one of the chief arguments for the continuance of these bounties is removed.

"Another cogent one when they were first established was, that our marine, both military and mercantile, was then in its infancy, and these bounties were necessary stimulants to foster it against the severe competition of other maritime Powers. This argument was then entitled to and received much consideration, but time and the great growth of our Navy have shorn it of all force.

"But the present political position of New England, which she has been gradually approaching for many years, until at length she is absorbed by it, is what chiefly determines me to vote for the repeal of these fishing bounties. The Federal Constitution was formed upon several

important concessions and compromises between the northern and southern States, without which it would have been impossible to have formed a Constitution. Than this there is no fact in history better established. New England adheres, as is her right and her duty, to all the compromises in her favor; but those beneficial to the South, to my section and State, she has been for many years fiercely assaulting, against the spirit and letter of the Federal Constitution, until she has become a unit, and in a spirit of destructive frenzy is bent upon the subversion of the Constitution and the Union which it formed, to expunge all the compromises that protect the rights of the slave States."

I concede that that last paragraph expresses the principal motive upon which I now act. There never has been a bill before Congress to promote justly by incidental duties the industry and manufactures of New England when I was a member of either House, that I have not given it my hearty support. The great master in whose school of politics I was taught, and whom I now follow as the lamp to my feet and the guide to my path, so instructed me. But when New England not only becomes so sectional and selfish as to assail the primary and essential interests of other sections of the United States, and of my State particularly, but undertakes audaciously to disregard the Constitution and all the guarantees which it gives to slave property for the purpose of despoiling its owners, she puts herself where she cannot justly claim any favors from the representatives of the States and the people whom she so deeply wrongs. I would not deny to her any right which the law would give her, much less those which are guaranteed to her by the Constitution. But whether these bounties are to be continued or not is not a matter of constitutional or legal right; it is a matter of continuing a policy from year to year; and when a State or a section forgets comity and justice, the claims of common nationality, and the guarantees which the Constitution of the United States gives to the property of a great section of the country, and of my State particularly, and expects me to come up with a liberal and national spirit and return generosity and bounty for evil and ruin, there will be disappointment. No, sir, I would establish a countervailing policy. If I could I would repeal to-night all the protection which New England industry receives from the legislation of Congress, and I would do it upon the principle of a countervailing policy. I would teach her and her people and her statesmen that if they expect a liberal, a protecting, a national, and American policy from other States, they must extend the same principles and the same spirit to those States.

I hold that the right of the State of Kentucky to adhere to slavery is just as irrefragable and as true, on legal and constitutional principles, as was the right of Massachusetts or any other State to abolish slavery. I hold that New England has no more right to abolish slavery in the State of Kentucky than Kentucky has a right to reestablish slavery in New England. I hold that the General Government, in any of its departments, in any of its authorities or officers, civil or military, or in its totality, has no right to strike the shackles from a slave. That power appertains to the States respectively, and their people alone, as a part of their reserved sovereignty, which they never did and never would have surrendered to the Government of the United States. With the exception of the Senator from Massachusetts who hails from Boston—and I have no doubt he thinks he is big enough to represent a continent, [laughter,] though I should dissent from him on that point—with the exception of that honorable Senator, I know none other in this body that is so ultra, so radical, so unconstitutional, so utterly reckless and disregardful of the Constitution, as the honorable Senator from Maine, [Mr. MORRILL,] on all questions connected with slavery. From the time of the introduction of the measure to abolish slavery in this District, which ex-President Fillmore condemned then as an entering wedge that was to lead to a policy of mischief and encroachment upon State rights, the evils and results of which no imagination could foretell, there has been no proposition that went to damage slavery, to impinge upon or weaken the rights of the slaveholder or of the slave States, to exalt the slave, the negro, to the level of the white race, or to degrade it to the inferior position where the God of nature has placed the negro, and to raise him from that to an equality with the white race, in which all the puny efforts of fanatics and fools, from the creation to the present time, have failed, and will

continue to fail until the omnipotent Creator shall reconstruct the negro—there has been no proposition of that character that the honorable Senator from Maine has not made haste to support.

Now, I say to him that I have the same legal and constitutional right to my slave that he has to his land or his horse; that the General Government has no more power or authority over my slave than it has over his horse or his land, or my horse or my land. Every class of property has the same legal guarantees under the Federal Constitution. Any description of property may be taken for public use, as well negroes as any other kind; and neither that nor any other description of property can be taken from the owner except for public use, and that upon the indispensable condition that he shall have just compensation for his property. This right is guaranteed by an express provision, in the form of an amendment, of the Federal Constitution; and it applies in the same force to negro and every description of property. There is no position more false than that military necessity in time of war invests the President with the power to abrogate that provision of the Constitution, or to free slaves, generally or particularly, which would be its practical abrogation. This new-born heresy, "military necessity," as President Lincoln claims and exercises it, is the sum of all political and military villainies, to adopt a phrase which is sometimes used in this Chamber by the Senator from Massachusetts, [Mr. SUMNER,] and it is no less absurd than it is villainous. How would this doctrine of military necessity have been treated by Chancellor Kent, Chief Justice Marshall, Judge Shaw, Judge Tilghman, or any other able judge or jurist?

The question of property in slaves has been brought in a multitude of cases before the Supreme Court and other courts, national and State, and invariably they decided and maintained the principle that the owner of a slave had a property in him, and, like any other property it was protected by the Constitution and laws, and its invasion would be redressed in the same mode in the courts.

We had two hundred and fifty thousand slaves in Kentucky. Your war has not been upon the rebellion for the last two years so much as it has been upon slavery; and the reason that McClellan was not sustained when he was on the Peninsula like Grant is now sustained, was that he would have brought the war to too speedy a conclusion for the purposes of the Administration and the supporters of the war, one of them being to abolish slavery everywhere; and that was the reason that he was displaced from his position. Our slaves were worth \$150,000,000 at the least. I suppose that in horses and ships and lumber, and other articles of property necessary for the consumption of the Army, Maine had an equal amount of property. Suppose that he who is at the other end of Pennsylvania avenue had said, as he did say, "I have a right to do anything that promises to bring this war to a conclusion; military necessity clothes me with every power; authorizes me to take all property, and do every act which I may think will tend to bring this war to a successful conclusion;" could he not, under that vast warrant of power, have seized all that property of Maine? His power, our Solon says, fluctuates; it expands and contracts. It is not to be sought for in the fundamental law of government, the Constitution, in its language, and provisions, and spirit; but it springs out of the condition of things, out of the military exigencies of the country. What greater exigency for the country in the prosecution of this war than that it should have ships, and all sorts of military supplies, provisions, horses, arms, money, that supplies every sinew of war?

The President upon his principle, if it may be so denominated, could with more reason have taken the ships, timber, horses, and other material for ship-building and everything necessary for the supply and use of the Army found in the State of Maine, as slave negroes, and with a great deal more, because he has substituted the inferior negro for the superior white man, the higher and nobler race animated by the love of constitutional government and liberty, by the loftiest inspirations of patriotism. Soldiers of this class, of the highest of all the types of man, upon a constitutional system of policy could long since have been com-



manded in abundance to have brought this war to a close.

But President Lincoln confounds matters and questions of legislative expediency and policy, varying with changing circumstances and exigencies, and which within certain limits would be constitutional, but which are purely of a legislative character, and therefore belong exclusively to Congress, and seeks to usurp them to himself in an extent subversive of every principle, limitation, restriction, and guarantee of rights and liberties assured by the Constitution, under the pretext of *military necessity*. No claim of power ever surpassed this in absurdity, audacity, and destructiveness of constitutional government and popular rights and liberty.

But suppose under this vague indefinite power of military necessity, this sum of all political absurdities and political villainies, he had said to the State of Maine, "The condition of the country, the exigencies of the military and naval service require that I shall have all your ships, all your ship-building material, all your horses, all your manufactured products; they are necessary and they can be appropriated to the use of the Army; therefore I will take them. I will take them under this imaginary power of military necessity, and you shall have no compensation for them." What then would have been the language of the Senator from Maine? He would have made as resolute and as uncompromising a protest against that enormous and absurd and most tyrannical power as I when it seeks to seize on the slaves of my State. I have the same guarantees of Constitution and law to my property that he and his constituents have to theirs. And yet, sir, military tyrants, tools of usurpers, unflinching ensigns and military provosts come through the country, seize upon the slaves of loyal men, and when the officer of the law with its process appears at the encampment to execute the process of the law, myrmidons with fixed bayonets are sent forth, and they prick the officer of the law with the process of a sovereign State in a matter over which it has supreme and exclusive jurisdiction, by brute violence from the execution of its mandate. I have witnessed that scene myself; and, so help me Heaven, if I had been Governor of the State of Kentucky, or a commander of a Kentucky regiment, I then and there would have made the question by the issue of battle, and I would do it to-morrow if I was in a position so to act.

Here are New York and New England and the eastern States that have a vast amount of aggregated capital in the form of bank stocks and manufacturing stocks and other stocks, safety fund banks and savings banks. What more necessary to enable his majesty the Emperor Abraham I, to carry on war than money? Why then should he come to Congress and ask for the levy of taxes if military necessity vests him with the power to do everything, to command anything and any agency that the exigencies of war may demand? There is no greater necessity or power of war than money. Why does he come to Congress and ask Congress to assess taxes? Why, instead of calling out seventy-five thousand men for three months, did he not call out a million during the war, at the outset? Why did he trouble himself with the delay and the debates and the discordant views and clashing arguments of Congress at all? If the magic power of military necessity gives him a right to override the Constitution and all its provisions and guarantees, why did not he go on in the most summary and energetic manner to execute this vast power and bring this rebellion to a close at once? Sir, he has no such power. There is no greater absurdity to a well-ordered and well-read legal mind than that the President is clothed with any power of necessity that will enable him to trample under foot one single provision of the Constitution. He is the creature of the Constitution. He is legally and legitimately its slave; it is his master.

The man has never spoken or lived who can prove by any provision of the Constitution, or by any principle, or by any argument to be deduced logically and fairly from it, that he has any such power as this vast, gigantic, all-conquering, and all-crushing power of military necessity which he has the audacity to claim. This modern emperor, this Tiberius, a sort of a Tiberius, and his Sejanus, a sort of a Sejanus, the head of the War Department, are organizing daily their military

courts to try civilians, to try men not engaged in the military or naval service of the United States, or in the militia of the States in the actual service, and not for military offenses either, but for civil offenses. The honorable Senator from Massachusetts [Mr. SUMNER] put a case the other day that in its features was shocking; but every member of that court-martial who was engaged in trying that barbarian in Tennessee under martial law and convicting him of homicide in the form of manslaughter or murder was a trespasser. I might see a man, a ruffian, an assassin in the most wanton and unprovoked manner make an assault upon the Senator from Massachusetts. He might slay him. If in the act of slaying him I could interfere so as to save his life, I would be authorized to take the life of the assailant; but when the deed was consummated, if it was but for one instant of time, if I then slew the assailant, I myself would be a murderer; and any intelligent and independent court in America would so instruct a jury trying me upon an indictment for murder. Sir, it is only in cases arising in the military and naval service of the United States, or in the militia when in the actual service of the United States, that a military court by military law, martial or any other kind, can assume jurisdiction of a crime and a criminal.

Whenever a citizen is charged with an offense, and that citizen is not in the Army or Navy, and doubly so where the offense is not of a military character, the military or naval court have no more jurisdiction over the subject than would the honorable Senator from Maine and myself. Suppose we were to interfere and organize ourselves into a court to try the case and sentence the man as a murderer to be hung, and direct our myrmidons to take him off and hang him; we should be murderers although he had murdered a man but the moment before. Sir, I want one labor of love before I die. I want the President of the United States, I want his Secretary of War, I want some of his high officers in military command to bring a civilian to a military execution, and me to have the proud privilege of prosecuting them for murder.

This principle has often been tested in England, and it was tested in the case of Governor Wall, as I said here on a former occasion, the military commander of the colony of Angola, in Africa. He there had a soldier arraigned, a man in the military service of his Majesty, for a military offense, and the drum-head court-martial condemned him to receive eight hundred stripes. The Governor was present and gave directions for its being laid on, and when the vigor of blows was about relaxing he stimulated them to strike harder and with more force. The man did not die immediately, but did in a few hours from the atrocious punishment. Twenty years afterwards Governor Wall returned to England. He was indicted for murder, although he had had that man sentenced by a drum-head court-martial, and the sentence literally executed under which he died. Lord Loughborough tried the case, and he charged the jury that it was murder, and the jury found a verdict that it was murder, and the felon governor was condemned to die the death of a murderer.

Sir, I want this war to close for one great, grand, moral reason, and the reign of liberty and of well-regulated liberty restored. I want the reign of the Constitution and of the laws and of the civil courts once more to be resumed in this enslaved country of ours, in all its majesty, grandeur, and power. I want these high delinquents, such as Abraham Lincoln, and Stanton, and thousands of others that I could name, brought to trial in our civil courts under the civil law, and the court presided over by such judges as Holt and Hale, and others who have adorned the English and American bench. I want the law and its just retribution to be visited upon these great delinquents. I would sooner, if I had the power, bring about such an atonement as that than I would even put down the rebellion. It would be a greater victory in favor of freedom and constitutional liberty, a thousand-fold, of all the people of America besides, than the subjugation of the rebel States could possibly be.

Mr. President, Franklin once said that our sins and our debts were greater than any of us took them to be; and I find that whenever I get up to speak, I do not care on what subject, my speech

runs to a much greater length than I intended it should. At the time I rose I thought I would make a few remarks in reply to the honorable Senator from Maine, for whom I have great personal respect, indeed; and my only regret is that he has not more respect for the Constitution of his country and the rights of other States than he has. I think that if he and all New England had been of a less meddling and less aggressive and less—I had almost said selfish and fanatical disposition, but I might call him up again. I will not trespass longer on the Senate.

Mr. RICHARDSON. I desire, sir, to submit a few remarks in favor of the amendment proposed by the Senator from Kentucky, [Mr. POWELL,] and I propose to confine myself as far as I can to the subject under consideration.

The very argument used by the Senator from Maine [Mr. MORRILL] in favor of a continuation of these bounties is a good reason why they should not be continued. He says that they have had them for eighty years. Any interest in this country that cannot sustain itself after it has been sustained by the Government for eighty years ought not to be continued.

In a discussion that we had on this subject at the last session of Congress it was admitted by the gentlemen who insist that these bounties shall be continued, that of all the persons in the naval service of the United States two thirds of them received their education in the mercantile marine and not under this fishing bounty. It was admitted during the progress of that debate, and I presume it will not be denied now, that those persons who were drawn from the mercantile marine were just as good sailors as those that had been engaged in the fisheries. Why is it then that we pay \$400,000 every year to keep up these fisheries when we can get just as good naval seamen from our mercantile marine to which we pay no bounties?

And, Mr. President, there is another reason. You have lost during the progress of this rebellion one fifth of the tonnage of the country, while the decrease in the amount of bounties that you pay for these fisheries is very small. While your mercantile marine has suffered very greatly, this interest that has been fostered for eighty years by the Government bounty that you draw from the hard hands and toil of my constituents has decreased but very little. Is there any necessity, then, when there is such a scarcity of money, such a demand for it, why the Government should attempt to educate seamen at this enormous expense when they can get just as good from the mercantile marine? There is no reason that can be urged why this should be done.

But, sir, it is said that we must not touch these persons; that they have rights which have been respected for many years. Mr. President, we are at this moment taxing every interest in the country for the purpose of keeping up the public credit and keeping our Army fed and clothed in the field. You tax articles to-day so that you have driven them from use throughout this country, that had become articles of necessity; that had never been taxed before since the foundation of the Government. A gentleman suggests that you are taxing whisky and tobacco. It is avowed on the floor of the Senate that you intend to draw your revenue mainly from those two articles. You are taxing them five hundred per cent. more than you did a year ago; but you say we must not touch this bounty that we pay the seamen. It would be infinitely cheaper to-day, it would have been infinitely cheaper at any time during our past history, to have bought out the fisheries, to have bought all the craft that have been sailed there, rather than to pay these bounties to them.

Mr. President, every portion of the country is making sacrifices now to maintain the public credit; and why is it, for what purpose, what beneficial purpose of the Government are we to pay these bounties and keep up this little fishing party that goes up there and draws its support I apprehend mainly from the Government? I have no great anxiety or fear in reference to this subject. The bounties may not be repealed to-day; but when you come to lay the hand of taxation upon our people, when they come to examine and explore what has become of the money, they will begin to make a little noise about this; after a while they will begin to inquire what becomes every year of \$400,000. They will be told that it has gone to

the people of Massachusetts and Maine—for I believe they are the two States that are particularly interested in it—for catching fish down near Newfoundland, or in that neighborhood. Our people will not be content and satisfied to pay this amount as bounty to them when they are being taxed upon every article that they use, every article that they produce, when they are toiling from early light until the stars come at night to get the money to make the payment to carry on their Government. The time is coming, and coming very speedily, when you will not be able to pay out this bonus. I shall vote for the amendment and vote for it whenever it is proposed now and hereafter during my continuance in Congress.

Mr. McDUGALL. Mr. President, perhaps I am myself not quite old enough, perhaps I am not sufficiently long a member of this body to act the censor in the Senate; but I will take occasion to say, notwithstanding, that when gentlemen from the hills and valleys and the wide-wooded plains of Kentucky undertake disparagingly to discuss the *morale* and particular quality of the people of the hills of New England, in doing this they do not well. And again, when from the tall pine woods of Maine a Senator echoes back a response in the same spirit of acrimony, he does not well. In all these discussions sound argument and true conclusions are lost or not observed; or if for the moment observed, for the multitudinousness of talk not noted. This is a matter to be regretted by all who look at the serious business of legislation and understand that it is a grave office we have in hand here as Senators of a great people. I will for this occasion be censor for thus much.

Now, with regard to this present question, that of the fishing bounties on our northeastern coast, I might make a comparison with an interest in my own State by starting the inquiry, is it not as well to promote the bringing out of the yellow gold from the rugged mountains of the West as drawing up the fish from the bottoms of the sea on our northeastern shores? And is there not equal reason for promoting the mines of the mountains as the mines of the sea? But that would be stating antagonistic propositions; and while I am inclined to think that both would be right, the denial of one does not prove that the other is wrong. I am inclined to think, and have always been inclined to think, that the policy of building up a body of men trained to dare the sea from boyhood until manhood and from manhood until old age on our northeastern shores was a policy that would aid us in securing what we have aimed at from an early day, the empire of the seas against Great Britain and all the Governments of Europe. I thought it a wise policy long since. We are not a people limited to a single interest. The tobacco of Kentucky, the corn of Illinois, the gold of California, the manufactures of New England, the commerce of the seas, the wealth of other lands, our rule at home, our policy abroad; these interests and considerations furnish the materials for a large policy, worthy of a great nation; and in my contemplation of the considerations that should govern our action I embrace them all.

On the northeastern shores of New England we have, from an early day, even from a period as early as the Revolution, sought to raise up a body of hardy, fearless seamen, men who could and would maintain our flag first on the seas. Our northeastern coast is a school for seamen better than that at Newport or Annapolis. It is a school where men learn fearlessly to face and firmly to triumph over peril. The man who learns to plant the prow of his frail smack against the storm-lashed waves of the northwestern Atlantic must be a brave man—one of such men as were the Vikings who, from the stormy coast of Norway, came down and swept the coast of Europe.

I understand this interest in that sense; it is a school for seamen. It is a school for men who will hold the helm firmest when the storm blows wildest, and who, with Long Tom Coffin, stand by the last plank. I understand it to be a school for a class of men of that kind that have made and will continue to make our Navy in times of war one unequalled for skill, daring, and success.

I had occasion to vote on this question at a former time, some ten or twelve years since. I then entertained the opinions I now express. I have been a little jealous, I may say, Mr. President, for the reason that while we out in the West

expend the same energy and show the same spirit in developing another equivalent necessary to our Government, it is not protected but is taxed. My own opinion is that that is a legitimate subject of protection and not of taxation; but two wrongs do not make a right, and if the Government does not look as kindly as it ought upon the interest which I more particularly represent, it is no reason why it should not look kindly upon another interest that should justly be protected.

I have never lived upon the eastern shore of this continent. I hardly know what New England is; I have visited it but for a brief period twice in my life; but I know what the American sailor is, and I know what they have done from the organization of our Government, from the war of independence, until now; and I know what a New England sailor is; and I know that any man trained to a fishing-smack on the northeast coast must have the high qualities of a true sailor; such experience would out of a semi-coward make a courageous man. The sea is the school of courage. It has been so through all time, and is so to-day. For myself I think these fishing bounties have not been ill bestowed; I think they have been well bestowed; not as a favor to New England, not as a favor to Massachusetts, not as a favor to Maine, but as building up a class of men to maintain our honor and our flag upon the seas when the time of peril shall come. I do not know how many here have been tempest-tossed on the wide sea, when the crested waves seemed snow-capped, mountain-high, when it required hearts of fire and arms of iron to struggle with the angry elements. Those who have can understand that the master of a fishing-smack who dares the storms of the northeast coast dares more than he who carries a vessel out of the port of New York to Havre or Liverpool or who doubles Cape Horn. A class of brave, bold men are raised in these fisheries, and I am glad they are being raised, for we shall have use of them in a very short time. There is a great war before us. The chairman of the Committee on Foreign Relations may ignore it; gentlemen here may ignore it; it may be ignored or dodged by many persons; but it is in our path; it cannot be avoided; it is inevitable; it is written in the book; we have to front and meet a war with the most aspiring State in Europe. The American people have already declared war with France. All required now is some of the forms of office. It should have been invited by us long ere this time; and if we had true manly courage it would have been invited. We have lost strength, we have lost tone, we have lost character, we have lost dignity as a people by seeming acquiescence in the outrage of France upon our shores. But if we are slow we are not the less sure. War with France is one of our inevitable fates; it has to come; and then, then I want the Vikings from our northeastern coast to man our ships, spread our sails upon all the seas, drive France from the ocean as we will drive her from our continent.

Mr. WILKINSON. Mr. President, at an earlier stage in this session I voted for a proposition to abolish these fishing bounties. I had not then examined the question very fully. Since that my attention has been turned to one or two facts, and I am willing now to vote to abolish the fishing bounties upon the condition that the reciprocity treaty with Great Britain shall terminate. We passed a law this session, I think, providing that this bounty should not be paid until the fishermen or the parties claiming it should establish to the satisfaction of the Treasury Department the fact that they had paid into the Treasury the duty imposed by law upon the salt used in curing the fish taken by them, and for which they claimed the bounty. I am told by those who are conversant with the facts that that duty amounts to just about as much as the bounty. Under the treaty of 1854, commonly called the reciprocity treaty, fish of all kinds are received into this country from the British provinces free of duty, and as the people in those provinces do not have to pay a duty upon the salt they use, they have a great advantage over our fishermen. They have at least the advantage of the duty which our men have to pay upon the salt used in curing their fish, and this amounts, I am told, to as much as the sum which is paid as bounty under the law as it now stands.

Mr. JOHNSTON. About the same.

Mr. WILKINSON. I do not think it is fair

for us to make a treaty with England and permit it to stand, by which we give their people who are engaged in one particular branch of trade an advantage over our own people who are engaged in the same trade; and until that treaty is terminated I think it is legitimate and proper that we should allow these bounties to stand as they have stood for a long number of years.

I do not agree with the Senator from Kentucky that New England is illiberal to the other portions of the Union. As the Senator from Maine [Mr. MORRILL] said, we of the West have asked for a great many measures which have tended directly to the development and prosperity of the West; and since I have been here I have found that, with now and then an exception, the Representatives and Senators from New England have been liberal and generous in the support they have given to those measures, and there is no earthly reason why they should not, for their people go as far as the settlements of this country go. I do not agree with the Senator from Kentucky in regarding this as a purely sectional question. We are one country, and when we foster or sustain the interests of one portion of the country, we are so intimately connected together that we can but benefit the interests of the whole people.

The question being taken by yeas and nays, resulted—yeas 11, nays 24; as follows:

YEAS—Messrs. Buckalew, Conness, Davis, Grimes, Hendricks, Nesmith, Powell, Richardson, Saulsbury, Sherman, and Trumbull—11.

NAYS—Messrs. Anthony, Chandler, Clark, Dixon, Doolittle, Fessenden, Foot, Foster, Hale, Howard, Howe, Johnson, Lane of Kansas, Morgan, Morrill, Pomeroy, Ramsey, Sumner, Ten Eyck, Van Winkle, Wade, Wilkinson, Wiley, and Wilson—24.

ABSENT—Messrs. Brown, Carlile, Collamer, Cowan, Harding, Harlan, Harris, Henderson, Hicks, Lane of Indiana, McDougall, Riddle, Sprague, and Wright—14.

So the amendment was rejected.

Mr. WILSON. I have several amendments to propose to this bill. The first one I shall offer is to come in as an additional section.

Mr. ANTHONY. Before the amendment is read, I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, May 31, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

### WAGON ROADS IN IDAHO.

The SPEAKER stated that the regular order of business was the consideration of the bill of the House No. 323, reported from the Committee on Roads and Canals, to construct certain wagon roads in the Territory of Idaho.

### BUSINESS OF THE COMMITTEE ON COMMERCE.

Mr. ELIOT. I ask the unanimous consent of the House to report from the Committee on Commerce two or three bills of a public nature on Saturday next after the morning hour.

Mr. HOLMAN. I have no objection to that being done after the committees shall have been called for reports of a private nature.

The SPEAKER. The Chair would remind the gentleman that Saturdays have been set apart by order of the House for public business.

Mr. HOLMAN. Then I have no objection. No objection being made, the leave was granted.

### ENFORCEMENT OF TREATIES.

Mr. WILSON. I rise to a question of privilege. I call up the motion to reconsider the vote by which House bill No. 487, to provide for the execution of treaties between the United States and foreign nations, respecting consular jurisdiction over the crews of vessels of such foreign nations in the waters and ports of the United States, was referred on Monday last to the Committee on the Judiciary.

I desire to have that vote reconsidered, and the bill put upon its passage. I have a communication from the Secretary of State which explains the necessity for it. I will state that the bill has been informally before the Committee on the Judiciary, and they concur in the recommendation that it be passed.

The motion to reconsider was agreed to.

Mr. WILSON. I now withdraw the motion to refer the bill to the Committee on the Judiciary. I hold in my hand the communication from the Secretary of State, which will explain the necessity for the passage of this bill. I send it to the Clerk's desk, and ask that it be read.

The Clerk read the communication, as follows:

DEPARTMENT OF STATE,  
WASHINGTON, May 26, 1864.

SIR: The eighth article of the consular convention with France of the 23d of February, 1853, is in the following words:

"The respective consuls general, consuls, vice consuls, or consular agents, shall have exclusive charge of the internal order of the merchant vessels of their nation, and shall alone take cognizance of differences which may arise, either at sea or in port, between the captain, officers, and crew, without exception, particularly in reference to the adjustment of wages and the execution of contracts. The local authorities shall not on any pretext interfere in these differences, but shall lend forcible aid to the consuls, when they may ask it, to arrest and imprison all persons composing the crew whom they may deem it necessary to confine. Those persons shall be arrested at the sole request of the consuls, addressed in writing to the local authority, and supported by an official extract from the register of the ship or the list of the crew, and shall be held during the whole time of their stay in the port at the disposal of the consuls. Their release shall be granted at the mere request of the consuls made in writing. The expenses of the arrest and detention of those persons shall be paid by the consuls."

By the fifteenth article of the treaty with Sardinia of the 26th of November, 1838, it is stipulated that "the two high contracting parties reciprocally grant to each other the liberty of having each in the ports and other commercial places of the other, consuls, vice consuls, and commercial agents of their own appointment, who shall enjoy the same privileges, powers, and exemptions as those of the most favored nations."

A similar stipulation is contained in most of the other subsisting commercial treaties between the United States and foreign countries, the effect of which is to make the stipulation in the consular convention with France common to them all. There is no law of the United States for the purpose of carrying that stipulation into effect, and as it appears from the note of the minister of Italy accredited to this Government, a translation of which is herewith communicated, that vessels of his nation, in ports of the United States, have been put to serious inconvenience in consequence of having been improperly deprived of the services of parts of their crews, the expediency of enacting a general law for the purpose of enabling the Government faithfully to execute such treaties is submitted to your consideration.

A draft of a bill is herewith transmitted.

I have the honor to be, sir, your obedient servant,  
WILLIAM H. SEWARD.

Hon. JAMES F. WILSON, Chairman of the Committee on the Judiciary, House of Representatives.

Mr. WILSON. Unless some member of the House desires some further explanation of the bill, I will move the previous question upon it.

Mr. COX. I will say to the gentleman from Iowa that this bill has been referred to the Committee on Foreign Affairs, and that they yesterday passed upon it and authorized their chairman to report the bill back to the House. I do not know how it got to the Committee on the Judiciary.

Mr. WILSON. I have only to say that the Secretary of State sent that bill to me with the communication which has just been read, asking that action be taken upon it. I have followed his advice, and the Committee on the Judiciary found no objection to the bill.

Mr. COX. There is no objection to the passage of the bill. The Committee on Foreign Affairs have examined it and find it correct and necessary.

Mr. WILSON. I ask the previous question. The previous question was seconded, and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PAYMENT OF MISSOURI TROOPS.

Mr. COX, by unanimous consent, introduced a joint resolution amendatory of an act to provide for a deficiency in the appropriation for the pay of officers and men actually employed in the Western department or the department of Missouri; which was read a first and second time by its title, and referred to the Committee on the Judiciary.

#### RAILROAD GRANT TO MICHIGAN.

Mr. UPSON. I ask unanimous consent to have taken from the Speaker's table and put on its passage Senate bill No. 250, to amend an act

entitled "An act making a grant of alternate sections of the public lands to the State of Michigan, to aid in the construction of certain railroads in said State, and for other purposes."

Mr. SPALDING. I call for the regular order of business.

#### WAGON ROADS IN IDAHO.

The SPEAKER. The regular order of business is the consideration of a bill (H. R. No. 323) to construct certain wagon roads in the Territory of Idaho, reported back from the Committee on Roads and Canals on April 19, and postponed for ten days.

The bill was read. It appropriates \$240,000, to be expended, or so much as may be necessary, under the direction of the Secretary of the Interior, for the location and construction of the following roads in the Territory of Idaho: First. Beginning at a point on the present emigrant road at or near the mouth of Deer creek on the Platte river, to the mouth of Big Horn river; thence up the valley of the Yellowstone river to the head of the Missouri river. Second. From a point on the western boundary of the State of Minnesota, on or near the forty-fifth parallel of north latitude, thence west to intersect the first-named road at the mouth of the Big Horn river. Third. Beginning at the mouth of the Niobrara, on the Missouri river, thence up the valley of the Niobrara to a proper place of intersection with the first-named road; provided, the sum appropriated shall be apportioned to the roads named, as follows: to the first road the sum of \$100,000; to the second-named road the sum of \$100,000; and to the third road named the sum of \$40,000.

Mr. HOLMAN. If the object be to refer the bill, I have no objection; otherwise I make the point of order that the bill, making an appropriation, must be referred to the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair sustains the point of order.

The bill was accordingly referred to the Committee of the Whole on the state of the Union.

#### MISSISSIPPI RAPIDS.

The SPEAKER stated that the next business in order was a bill (H. R. No. 420) to construct a canal to improve the upper rapids and lower or Des Moines rapids of the Mississippi river; which had been postponed till the 3d of May, the question being on its engrossment.

Mr. WILSON. I move that the bill be further postponed till the 8th day of June next, after the morning hour.

The motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, informed the House that the Senate had passed an act (H. R. No. 120) to reestablish the principal port of entry for the district of Champlain at Plattsburgh, and for other purposes, with amendments; in which the concurrence of the House was requested.

Also, that the Senate had passed, without amendment, bills of the following titles:

An act (H. R. No. 484) to incorporate the Newsboys' Home; and

An act (H. R. No. 345) for the relief of Frederick A. Beelen, late secretary of legation at Chili.

#### PACIFIC RAILROAD.

The SPEAKER stated that the next business in order was a bill (H. R. No. 190) to amend section fourteen of an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, which had been postponed till the 5th of May; the question being on its engrossment.

The bill was passed over informally.

#### PUBLIC BUILDINGS IN TERRITORIES.

The SPEAKER stated that the next business in order was a bill (H. R. No. 342) making appropriation for public buildings in the Territories of Colorado, Nevada, Dakota, Idaho, Arizona, and Montana, and for other purposes.

The bill was read. It appropriates \$240,000 for the erection of capitol and penitentiary buildings in the Territories of Colorado, Nevada, Dakota, Idaho, Arizona, and Montana, to be ex-

pendent in the proportion of \$40,000 for each Territory, and under the direction thereof; and appropriates the further sum of \$7,500 to furnish the Territories of Idaho, Arizona, and Montana, each, with a public law library, to be expended in the proportion of \$2,500 for each Territory, and under the legislative authority thereof, and appropriates the sum of \$— to defray the expenses of taking the census of the Territory of Idaho.

Mr. RICE, of Maine. Mr. Speaker, the Committee on Territories reported this bill and desires its passage. The committee had some doubt whether, in the present state of the Treasury, it was advisable to appropriate this large sum of money; but in consideration of the fact that these Territories are now supplying the country with large amounts of the precious metals, estimated by good judges at \$150,000,000 per annum, and from the necessity of having these Territories properly organized, the committee deemed it proper to report this bill to the House, leaving it to the House to say, under all the circumstances of the case, whether it should be passed at this time.

Unless there be some other disposition of the bill desired, I will move the previous question on its passage; but first I move to fill the blank by inserting \$9,500.

Mr. HOLMAN. I make the point of order that this amendment has not been before the Committee of the Whole on the state of the Union, and that it must be considered there.

The SPEAKER. The Chair sustains the point of order.

Mr. RICE, of Maine. I withdraw the amendment.

Mr. FENTON. I suggest to the gentleman from Maine to let the bill be postponed till next December. This is a large appropriation, and there is no time to give it a proper investigation.

Mr. RICE, of Maine. I am perfectly willing to have it postponed, if such be the desire of the House.

Mr. FENTON. Then I move to postpone it till the third Tuesday in December next, after the morning hour.

The motion was agreed to.

The SPEAKER announced the next business in order to be the call of committees for reports, beginning with the committee on the bankrupt law.

#### REGISTRATION IN THE DISTRICT.

Mr. DAWES. I rise to a privileged question. I call up the motion to reconsider the vote by which the joint resolution in reference to the charter of the District of Columbia was yesterday referred to the Committee for the District of Columbia.

Mr. COX. I understood the gentleman from Massachusetts to agree to have the bill referred.

Mr. DAWES. I did agree to have it referred; and it was referred to the committee. I ascertained, since the reference, what has led me to move to reconsider; and these facts I desire to state to the House that there may be a perfect understanding.

The nature of the resolution is such that it can be easily understood even before it is read upon a simple statement of its contents. As I stated yesterday, and upon a further examination I find it to be so, while it does not affect the qualification of a single voter in the District of Columbia according to the laws now in force, it simply provides that where any man otherwise a voter, according to the laws of the District, failed to get his name on the registry list six months ago, he may, upon presenting the proper evidence to the proper authority heretofore constituted, get his name registered now and vote.

Now, that is a very simple proposition, a proposition which it seems to me nobody who desires to secure the elective franchise of every man who is entitled to vote can object to; and inasmuch as the charter election in this city comes off on next Monday it did seem to me, upon examining this measure and ascertaining the delay which must necessarily follow by its consideration in the Committee for the District of Columbia, that I could not do my duty better than to move the reconsideration which I did last night.

I propose to call up that motion to reconsider now, and to submit a few remarks upon it. Then, if the House does not concur with me, of course



it is within the control of a majority to lay the motion on the table, and thereby retain it in committee, and have it considered there.

If any gentleman has any amendment to submit to the bill, any amendment which has been considered in committee or any amendment which suggests itself to any gentleman in the House, he may submit it. The simple matter which I desire is that the bill may be acted on in time to be available for the election about to be held.

I can conceive of no other object for insisting upon retaining the bill in the Committee for the District of Columbia except to deprive men otherwise entitled to the elective franchise in this District of the opportunity to vote.

The provisions of this bill have an analogy, I believe, in the laws of every State in the Union where a registry is required. I do not know of any State where a registry of votes is required in which there is not a provision authorizing the proper authorities to place on the list the names of all persons entitled to vote, and whose names have been omitted from it. And if there be any State which has not that provision, it is quite time they had. I call the previous question on the motion to reconsider.

Mr. STEELE, of New York. I ask the gentleman from Massachusetts to withdraw the demand for a moment.

Mr. DAWES. I will; and, retaining the floor, will yield to the gentleman from New York.

Mr. STEELE, of New York. I presume the gentleman from Massachusetts, who seems to have taken charge of the business belonging to the Committee for the District of Columbia, does not suppose that that committee are desirous of interposing any obstacles in the way of legal voting. But there seems to be a disposition now, as on one other occasion sometime ago, to take the business of the District out of the hands of the committee appointed by the House to consider it. On that occasion a colleague of mine volunteered to take charge of a measure appointing a warden for the jail, a proposition, as he thought, so simple as to require no reference to a committee, and under his guardianship it was immediately passed. It so happened that there was lying in jail at that time a man sentenced to death, and, in consequence of my colleague's law, there was nobody who could legally hang him. And as his execution was thus prevented, the House may be entitled to some consideration as philanthropists for saving the life of a convicted felon.

I apprehend there is no particular necessity for assuming the business legitimately belonging to the Committee for the District of Columbia or the business belonging to any other committee. I apprehend the members of this House are well aware that there are several things connected with the elective franchise that it would be well to consider in committee.

I have no feeling in regard to this bill. I do not know that I have any objection to its passage, but I do object to its being taken away from the proper committee and passed without consideration by the House.

We have a day set apart by the courtesy of the House for the transaction of the District business—Friday next—and I think this particular amendment which is proposed now to the existing law, and which has been allowed to sleep for so many years in the District, may safely be allowed to rest until Friday, when it will regularly come before the House for its action.

I am perfectly willing that the House shall relieve the Committee for the District of Columbia from all of their business, if on every occasion when any question happens to come up in which some gentleman on the other side takes a particular interest the business of this District is to be taken out of our hands; yet if we are not to be allowed to consider these important measures and to report on them in the legitimate way, the Committee for the District of Columbia ought to request of the Speaker, out of respect to themselves, to relieve them and appoint some other members to take charge of that business.

Mr. COX. Mr. Speaker, I was about to say to the gentleman from Massachusetts that I hardly think it good faith on his part to move a reconsideration and bring the question again before the House, as the House only consented to have that bill reported on the understanding that it should

be referred to the Committee for the District of Columbia, there to be considered. That was the unanimous understanding of the House. It was the contract entered into by the House unanimously that this subject should have the consideration of the Committee for the District of Columbia, and I think it only fair to the House to now leave this matter with that committee.

What is it? Only a scheme for manufacturing a lot of voters a week before the election. That is all it is. The gentleman says that it is only a registration of voters. It is making voters; giving them the qualification of voters for this city—men who have joined the Loyal Leagues, newly appointed clerks, men after patronage. They are to be registered here for the purpose of controlling perhaps a doubtful election. That is the best view we can take of this thing.

I ask the gentleman whether or not, if this be a fair and good bill and ought to receive the sanction of the House, it should not be sent to the committee to which it was referred yesterday, so that it may be reported on and the question fairly decided on next Friday? Why this haste? Why urge it now? Is there anything he cannot understand? If there is, let the committee sift it and report on it. Is there any fear that the Committee for the District of Columbia will not act fairly in regard to the District business? If there is, then, as the gentleman from New York, the chairman of that committee said, make a new committee, of better men, men more in favor of free suffrage in the District. And I hope until that is done the House will treat the committee with perfect respect and keep its faith on the terms made yesterday.

Mr. BEAMAN. I do not desire to go into any discussion of the merits of this case, but I desire to say to the House that I do not sympathize with my colleague on the Committee for the District of Columbia entirely in regard to the remarks that he has seen proper to make. I do not regard this motion as any disrespect to that committee, nor do I see the necessity for this bill going to it. It is brief and simple in its provisions, and if it be referred to that committee there will hardly be an elaborate report in regard to it. I am opposed to sending it to the committee, and I hope that it will pass.

Mr. MALLORY. I was here yesterday when the gentleman from Massachusetts made the motion to suspend the rules in order that this measure might be taken up, and finding that the rules would not be suspended, there being not two thirds in favor of taking the resolution up and acting on it, he proposed to the gentleman from New York [Mr. STEELE] that it should come before the House with the understanding it should be referred to the Committee for the District of Columbia. The gentleman from New York agreed to that suggestion, and the House acted on it. When this agreement was made that it should be referred to the committee to digest it and make a report, I went to the gentleman from New York and told him that I thought he had acted under a misapprehension. I said, "By your agreement and the action of the House the control of this matter by one third of the House has been given up, and the control given to a majority of the members of the House, and my impression is that action will be had by a majority because of the motion you have consented to just now." He replied, "I conceive that impossible, for in good faith that matter has been committed to the Committee for the District of Columbia, and I deem it hardly possible that they will take it up and act upon it without allowing the Committee for the District of Columbia to report upon it."

That conversation was between the chairman of the committee and myself. I at last concurred with him in his views, and supposed he was right; and that the House, after referring this matter to the committee, when it had no power to get it up and act upon it without the consent of two thirds, would stand by the good faith it had pledged, and would let the committee act upon the bill, and report their action to the House.

Mr. STEELE, of New York. I desire to state not only that I had the conversation referred to by the distinguished gentleman from Kentucky, but that I should have selected, as the last man in this House, perhaps, my friend from Massachusetts as a gentleman who would in any way, directly or indirectly, flinch from what was a fair

and honorable understanding. The gentleman from Massachusetts said to me that if I would consent to let this bill come before the House—I having objected to its coming before the House—he would consent that it should go to our committee. That arrangement was made between us before the whole House; and I did not expect that my friend from Massachusetts was to be the man to attempt to get rid of a fair and straightforward arrangement.

Mr. DAWES. Nothing could pain me more than the loss of confidence of my friend from New York, although much of it must have arisen from his private conversation with the distinguished gentleman from Kentucky, which he did not do me the honor to communicate to me.

Mr. STEELE, of New York. I wish to ask the distinguished gentleman from Massachusetts if he did not propose to me that if I would withdraw my objection he would allow this bill to go to the Committee for the District of Columbia?

Mr. DAWES. I was going to state the transaction just as I understood it.

Mr. STEELE, of New York. One question more.

Mr. DAWES. One at a time.

Mr. STEELE, of New York. Another question just here. I would ask the gentleman from Massachusetts whether when he did that he did not intend in good faith that the committee should consider the bill?

Mr. DAWES. If my friend has got all his questions put now I will try to answer them. I did try to get this matter before the House to be acted upon yesterday. The gentleman from Kentucky is quite mistaken when he says I moved to suspend the rules, and finding that I could not get a majority of two thirds to suspend the rules, I resorted to an arrangement. I made no motion to suspend the rules, and consequently did not find that a majority of two thirds was lacking. I made no such motion, because no such motion was necessary. The bill was at all times under the control of a majority of the House, and the only difficulty existing was that it would take some time to take up and dispose of the matters on the Speaker's table before this bill could be reached. That was all. A majority of the House could have controlled it at all times. I never had the matter at any time in a position that it required any more than a majority of the House to control it, but it did require some little time to reach the bill upon the table.

The gentleman from New York did object. I then urged some reasons why I wanted the bill considered. The gentleman said he would object. The Speaker said it could be reached by a majority by taking up one bill after another upon the Speaker's table. I said to the gentleman from New York that if I could not do any better he might make a motion to refer it to the Committee for the District of Columbia, that that would hasten it to some extent, and that would be as much as I could do.

I say in all good faith to the House that when I made that suggestion to the gentleman from New York I had no idea of a motion to reconsider; and the motion to reconsider which I entered at the last moment was the result of an examination of the measure, and of a consideration of the chances that the measure would not be reported from the committee on Friday next. Without any idea that I had committed myself to any arrangement that the bill should be referred to the committee, I suggested to the gentleman from New York that if he would make the motion to refer the bill to the Committee for the District of Columbia it would hurry it along, and place it ahead of the other business on the Speaker's table.

I wish now to say a word about the character of the measure, in reply to the gentleman from Ohio, [Mr. Cox], who says it is not a measure to enable legal voters to cast their votes. That shows that the gentleman has not read the measure, but has taken some suggestion from outside. The very first line of the bill will show to the gentleman that it applies only to those otherwise qualified to vote. The phraseology is that men who have every qualification as voters required by the laws of this District, excepting the one of having succeeded six months ago in getting their names registered, may vote, and it provides for proof to be furnished to the appropriate parties—the same

# THE CONGRESSIONAL GLOBE.

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men that were to take it six months ago. I submit that nobody who understands this measure and knows what it is can oppose it, unless he desires to deprive men otherwise qualified from casting their votes next Monday.

Now, sir, it is not for any disrespect to the Committee for the District of Columbia, it is not with any disposition to take matters that properly belong to that committee away from it that I make this motion. It is a motion which is made every day by the friends of measures which are upon the Speaker's table, and which they desire to have passed. It is the every-day practice for members to move to take up bills and put them on their passage without reference to a committee, and it is done without any reflection upon the committees to whom such measures would otherwise be referred. It is not done because members have not confidence in the committee, but because the reference of bills to committees in the last days of the session is equivalent to the killing of the measures.

In the case of a measure which can be considered fairly, and understood on its merits in the House, and which ought, if passed at all, to be passed at once, any member of the House can, with all faith to the House and respect to its committees, move to put it upon its passage. I trust that upon a question whether men otherwise qualified to cast their votes, but not registered, shall be permitted to vote, there can be no political division in this House. I trust that political divisions in the House are not to rest upon the question whether we are to permit or to prevent legal voters from casting their votes in this District where we have jurisdiction. I have heard no argument from anybody who seems to have read this resolution that can for a moment have any weight upon the question of postponement. I now call the previous question.

Mr. STEELE, of New York. I move to lay the motion to reconsider upon the table, and on that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 57, nays 73; as follows:

YEAS—Messrs. James C. Allen, Ancona, Jacob B. Blair, Bliss, James S. Brown, Chandler, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Hall, Harrington, Herrick, Charles M. Harris, Hutchins, Holman, Hutchins, Philip Johnson, William Johnson, Kalfschich, Kernan, Knapp, Law, Le Blond, Long, Mallory, Marcy, McDowell, James R. Morris, Morrison, Noble, Odell, Pendleton, Prun, Radford, Ross, Scott, John B. Steele, William G. Steele, Stiles, Sweet, Wadsworth, Wheeler, Chilton A. White, Joseph W. White, Winfield, and Fernando Wood—57.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Beaman, Blaine, Boyd, Broomall, Ambrose W. Clark, Cobb, Cole, Thomas T. Davis, Dawes, Deming, Donnelly, Briggs, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Hale, Higby, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Marvin, McClurg, Samuel F. Miller, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Spaulding, Stevens, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, Windom, and Woodbridge—73.

So the House refused to lay the motion to reconsider upon the table.

During the roll-call, Mr. THAYER stated that he was paired for to-day and to-morrow upon all political questions with his colleague, Mr. RANDALL, or he would have voted no.

Mr. STILES stated that Mr. STROUSE was absent on account of sickness in his family.

Mr. WILSON announced that Mr. KASSON was detained from the House by sickness.

The result of the vote was announced as above recorded.

The previous question was seconded, and the main question ordered, which was on reconsidering the vote by which the bill was referred to the Committee for the District of Columbia.

Mr. ELDRIDGE called for the yeas and nays, and for tellers on the yeas and nays.

Tellers were ordered; and Messrs. HOTCHKISS and LE BLOND were appointed.

The House divided; and the tellers reported—ayes thirty-six, noes not counted.

So the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 75, nays 53; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, Baily, John D. Baldwin, Beaman, Blaine, Boyd, Broomall, Ambrose W. Clark, Cobb, Cole, Thomas T. Davis, Dawes, Deming, Donnelly, Briggs, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Marvin, McClurg, Samuel F. Miller, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Spaulding, Stevens, Thomas. Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, Windom, and Woodbridge—75.

NAYS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Bliss, Brooks, James S. Brown, Chandler, Coffroth, Cox, Denison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Hall, Harrington, Herrick, Holman, Hutchins, Philip Johnson, William Johnson, Kalfschich, Kernan, Knapp, Law, Le Blond, Long, Mallory, Marcy, McDowell, James R. Morris, Morrison, Noble, Odell, Pendleton, Prun, Radford, Samuel J. Randall, Ross, Scott, John B. Steele, William G. Steele, Stiles, Sweet, Wadsworth, Wheeler, Chilton A. White, Joseph W. White, and Fernando Wood—53.

So the vote was reconsidered.

The question recurred on the reference of the bill to the Committee for the District of Columbia.

Mr. DAWES. On that I move the previous question.

Mr. STEELE, of New York. I would like the gentleman from Massachusetts to yield to me for a few moments to make a statement.

Mr. DAWES. Certainly.

Mr. STEELE, of New York. I desire to say that the condition of the business before the Committee for the District of Columbia is such that there is no sort of difficulty whatever in considering this bill and reporting it here and putting it on its passage on Friday next; provided a majority of the committee shall decide to report it. I hardly think that the gentleman is much afraid to trust to that committee, for a majority of its members have voted with him, and that majority can report the bill, without regard to whether the chairman is willing or not.

Mr. DAWES. If the gentleman had the slightest amendment to offer to such a simple proposition as this—

Mr. STEELE, of New York. I have not had an opportunity to examine the bill. The gentleman consented to refer the bill to the District Committee, and we have never had an opportunity to examine it.

Mr. DAWES. I insist on the previous question.

Mr. COX. Has the bill been printed?

The SPEAKER. The Chair is not informed whether it has been printed by order of the House. It may have been printed by order of the Senate.

The previous question was seconded, and the main question ordered.

Mr. MORRIS, of Ohio. I desire unanimous consent to put an inquiry to the gentleman from Massachusetts.

There was no objection.

Mr. MORRIS, of Ohio. I wish to ask the gentleman whether he will permit amendments to be offered to the bill.

Mr. DAWES. I will hear any amendment the gentleman will suggest. I would like to hear an amendment to so simple a proposition as this.

Mr. MORRIS, of Ohio. There is one amendment that I would like to offer to the bill.

Mr. DAWES. Let me hear what it is.

Mr. MORRIS, of Ohio. The amendment which I wish to offer to the bill is, that in taking the oath of voters, they shall also be required to take the oath that they have been for twelve months past residents of this city and that they have no legal residence in any other place.

Mr. DAWES. I would like to know how any

man can have a residence in this city and also have a residence elsewhere.

Mr. MORRIS, of Ohio. Then there can be no objection to the amendment which I propose.

The SPEAKER. The main question is ordered.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a joint resolution for the revision of the laws of the District of Columbia, in which he was directed to ask the concurrence of the House.

## REGISTRATION IN THE DISTRICT—AGAIN.

The House resumed the consideration of the joint resolution to amend the charter of the city of Washington, the first question being on its reference to the Committee for the District of Columbia.

Mr. ELDRIDGE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 55, nays 73; as follows:

YEAS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Jacob B. Blair, Bliss, Brooks, James S. Brown, Chandler, Coffroth, Cox, Dawson, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Hall, Harrington, Herrick, Holman, Hutchins, Philip Johnson, William Johnson, Kalfschich, Kernan, King, Knapp, Law, Lenzar, Long, Mallory, Marcy, McAllister, McDowell, James R. Morris, Morrison, Noble, Pendleton, Prun, Radford, Ross, Scott, John B. Steele, William G. Steele, Stiles, Sweet, Wadsworth, Ward, Wheeler, Chilton A. White, Joseph W. White, Winfield, and Fernando Wood—55.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Boyd, Ambrose W. Clark, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Donnelly, Briggs, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Hale, Higby, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Marvin, McClurg, Samuel F. Miller, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Spaulding, Stevens, Thomas. Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, Windom, and Woodbridge—73.

So the motion to refer was disagreed to.

The bill was ordered to a third reading, and was accordingly read the third time.

Mr. MORRIS, of Ohio. I would like to ask the gentleman from Massachusetts [Mr. DAWES] if he or any other member of the House can inform us what are the qualifications of an elector in the District of Columbia.

Mr. DAWES. I think the Committee for the District of Columbia, of which the gentleman is a member, ought to understand that.

Mr. MORRIS, of Ohio. The committee have not had the subject referred to them. That is what we desire to have done, so that we may know if this bill needs amendment.

Mr. DAWES. I think if the gentlemen on that committee have served until this time without understanding it there would be very little prospect of their understanding it before Friday. [Laughter.] I demand the previous question.

Mr. MORRIS, of Ohio. The bill has never been printed, and the gentleman will not allow it to be referred so that the committee can understand it.

The previous question was seconded, and the main question ordered to be put.

Mr. J. C. ALLEN. I move to lay the bill on the table; and on that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 47, nays 72; as follows:

YEAS—Messrs. James C. Allen, Augustus C. Baldwin, Bliss, James S. Brown, Chandler, Coffroth, Cox, Dawson, Denison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Hall, Harrington, Holman, Hutchins, Philip Johnson, William Johnson, Kalfschich, Kernan, King, Knapp, Law, Long, Mallory, Marcy, McAllister, McDowell, James R. Morris, Noble, Odell, Pendleton, Prun, Radford, Ross, Scott, John B. Steele, William G. Steele, Stiles, Wheeler, Chilton A. White, Joseph W. White, and Fernando Wood—47.

NAYS—Messrs. Alley, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Jacob B. Blair, Boyd, Broomall, Ambrose W. Clark, Cobb, Cole,

Henry Winter Davis, Thomas T. Davis, Dawes, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Hale, Higby, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulbard, Ingersoll, Jenckes, Kelley, Francis W. Kellogg, Loan, Longyear, Marvin, McClurg, Samuel F. Miller, Daniel Morris, Amos Myers, Leonard Myers, Charles O'Neill, Orth, Patterson, Perham, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Spalding, Stevens, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, Windom, and Woodbridge—72.

So the bill was not laid on the table.

The bill was passed.

Mr. MORRIS, of Ohio. I move to amend the title so as to make it read: "A bill to provide that the residents of Washington may vote in two places." [Laughter.]

Mr. DAWES. I demand the previous question on the title.

The previous question was seconded, and the main question was ordered to be put.

The amendment to the title was disagreed to.

The title was agreed to.

Mr. DAWES moved to reconsider the vote by which the title and the bill were passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### KENTUCKY AND EAST TENNESSEE RAILROAD.

The SPEAKER stated that the business next in order was the consideration of joint resolution (H. R. No. 83) authorizing the President to construct a military railroad from the valley of the Ohio to East Tennessee, postponed on the 25th instant until to-day, and made a special order.

The joint resolution was read, as follows:

Whereas, in accordance with the recommendation in his annual message of 1861, the President of the United States was authorized by an act of Congress, approved January 31, 1862, to open and construct a military railroad from the valley of the Ohio river into East Tennessee, over such route and under such conditions as in his judgment seemed just and most judicious; and whereas said act was modified and partly repealed by a joint resolution, approved July 14, 1863, restraining the President from exercising the discretion confided in him by said act; and whereas in a special message, dated April 28, 1864, in accordance with the strong recommendations of all the generals successively commanding in the department of the Ohio, the President has called the attention of Congress again to the importance of an early completion of said military railroad as a measure of economy in transportation of supplies and men to the valley of East Tennessee, as a means of suppressing the rebellion, and as a perpetual bond of Union: Therefore,

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be, and he is hereby, authorized to construct said military road on such route, with reference to economy, as in his judgment may be most advisable, and in such a manner as may best serve the interests of the Government and insure the most speedy completion of said road.*

Mr. SCHENCK. The construction of this railroad is a subject which has attracted the attention of the military authorities of the country since the commencement of the war. The gentleman on the committee who framed the resolution has embodied so many of the reasons for passing it in the preamble that I do not think it necessary to consume any time in its discussion. I will simply say a word.

This road is needed, is essentially necessary for military purposes in holding East Tennessee, in order to keep open communication between the valley of the Ohio and East Tennessee.

I will say, in addition, that the condition of the people of East Tennessee requires that this road should be constructed to connect them with the loyal part of the Union. Their condition is such as to make this a great humanitarian measure, independent of its necessity.

In both views, then, as a military necessity for the Government and as an act of absolute mercy and justice to the people of East Tennessee, this road ought to be constructed and constructed immediately. If it had been constructed before the repeal of the former power given to the President on this subject, it would have long since more than repaid all the cost of its construction. It will not require more than fifty miles by the route proposed to connect and make a complete line.

Mr. MALLORY. I ask the gentleman to yield to me when he has concluded his remarks.

Mr. SCHENCK. Yes, sir. It is not necessary to construct the road the whole length of what seems to be the whole line. A short link will make a complete connection.

I will add further, that the services of colored men employed by the Government and the labor

of the Army combined will not make it proper that the Government should be put to any unnecessary expense; very little, indeed, if any at all, beyond the cost of the iron put down on the track. With these few remarks, I will now yield to the gentleman from Kentucky, before calling for the previous question.

Mr. MALLORY. I will detain the House but a moment. I wish to inquire of the gentleman from Ohio, for I did not hear the bill distinctly, whether the route is indicated by the bill?

Mr. SCHENCK. Not by the bill; but only as we understand from General Burnside, General Foster, and others who have been in command there, that by constructing fifty miles we will make the connection.

Mr. MALLORY. I will say to the House that some two years since, at the suggestion of leading men of Kentucky and Tennessee and myself, the President recommended the construction of a road from a point in Kentucky at or near Danville to Knoxville, in East Tennessee. I was then chairman of the Committee on Roads and Canals, and prepared a bill which the committee authorized me to report to the House, providing for the construction of a road from Danville, in Kentucky, to some point at or near Knoxville, Tennessee, on the Virginia and Tennessee railroad. While I was holding that bill in my possession, the gentleman from Missouri, [Mr. BLAIR,] then at the head of the Military Committee of this House, reported a bill, I think, to increase the engineer force of the Army of the United States, to which he appended a section that the President should have power to construct any line of railroad, complete any incomplete line of road, or take possession of any line of railroad he might deem necessary for the operation of the Government. That was passed by the House and Senate, and became a law, and is a law yet. Deeming that the object I sought by the bill which I had been directed to report by the Committee on Roads and Canals had been secured by this, I held it in my possession, and never reported it to the House. Some time afterwards a gentleman from Ohio, Mr. Trimble, introduced a joint resolution, repealing so much of the military bill to which I have referred as authorized the construction, completion, or use of these roads. That repealing resolution passed this House, but failed to pass the Senate; and the law conferring this power on the President now stands upon the statute-book.

The President has now as much power as he will have if the pending bill be passed. I admit that is an important measure. I have tried to impress the House with my view of its importance on more than one former occasion. I am glad that it has been brought forward this morning by the gentleman from Ohio. It is important not only for the military necessities of the Government but for the uses of the people after the war is over. We have expended vast sums of money to carry on this war and sacrificed thousands and hundreds of thousands of lives the utility of which may be questioned by humanitarians; but in times to come this act will stand as a monument in our honor. History will record the fact that these thousand millions of treasure have not all been poured out without leaving a trace except in hecatombs of slain, in suffering, and destruction.

I hope this great work will be finished. By it not only will the military operations of the Government be facilitated and millions be saved to it in the transportation of Army supplies, but remote regions be brought almost into contact; and long after this war shall cease, the commercial intercourse between the far-distant sections of our country which it will establish will continue to pour its blessings on a once more happy and united nation. By it, sir, the great lakes of the North will be connected by continuous rail with the cities on the Atlantic coast and the Gulf of Mexico, and the bonds of union strengthened, should this war be brought to the conclusion so ardently prayed for by every patriot, a preserved Union, and the restoration of peace and harmony to our suffering and distracted people. Should our prayers and efforts prove in vain, should discord and war continue until our Government is destroyed, our people permanently estranged and divided, and our country become a scene of desolation and ruin, then it will not matter whether we have expended our efforts and our treasure on this great work or not.

Although I am persuaded that the President has the power under existing law to construct this road, yet I see no objection in that to the passage of this act, reaffirming that power. It may, by indicating to him the desire of this House that this work shall be constructed, incite him to commence at an early day a road that should be now finished, and which, if it had been completed a year ago, would have saved the Government, in the cost of transportation, more than twice the amount of its cost.

Mr. SMITH. The President informed me that he had some delicacy in proceeding with this matter after the action of Congress, as referred to by my colleague, [Mr. MALLORY.] The gentleman will remember that in 1862, as well as in 1863, this project was put on foot; prior, however, to the resolution offered by the gentleman from Ohio to repeal the previous action of Congress. Engineers were called out, and the route indicated upon which the road should be built. In the midst of the work which had just begun, and which if continued would have completed the road and put it in running order before this time, the action of Congress to which reference has been made was taken, and thereby the whole thing was broken up. The President has informed me that he could not, under the action of Congress, proceed with the building of the road without some further action.

Now, as has been remarked by the two gentlemen who have preceded me, this road is a short one, and makes a direct communication with eastern Tennessee, which is now the basis of operations of the army in that section of the country. The testimony of Generals Burnside and Foster before the committee was that Knoxville was an important post, the point which the Government must hold in the event the war is to continue any length of time. When the war will close none of us can tell; and as to the necessity in the future of holding Knoxville as an important military point no one can doubt. Chattanooga is south of Knoxville, and Knoxville must be supplied by sending stores first to Nashville, from Nashville to Chattanooga, and thence to Knoxville, making a distance of over six hundred miles.

It will also be seen from the geography of the country that it requires an immense force and a tremendous expenditure of money to protect those roads to prevent their being cut. A large number of bridges are upon those three roads, which are constantly being cut by guerrilla parties, and bridges burned, and supplies cut off. If this road is built from the Ohio river immediately to Knoxville—of which about one hundred and ten miles are already built—the distance will be shortened by from two hundred to one hundred and thirty miles, and that will reduce the number of men required to protect it, and reduce the expenditures of the Government in supplying that region tenfold.

In the expedition of General Burnside to West Tennessee, in 1863, no one can conceive, unless he has the figures before him, of the vast amount of money which was required to carry his army to Knoxville. No one can imagine the amount of labor which was required to prepare the roads so that wagon trains could go over them; and no man can imagine the amount of money expended in horses, cattle, and mules to transport the necessary supplies for even the small army under General Burnside. And I have no doubt that if the Government had built that road one year ago it would have saved from three to five million dollars in the short space of ten or twelve months. If that road is built now—and I understand from military gentlemen that it can be built in eight or ten months without trouble, for it runs through a fine wooded country, and will require but few bridges—it will save to this Government millions and millions of dollars; and not only that, it will enable you to hold Knoxville as a great central point, and as an essential point to the prosecution of this war. It will supply the army there; and not only there, but the army all the way down South. And it will not only supply your army and be a benefit to your Government, but I tell this House and the country that it will feed five hundred thousand people who are to-day almost in a state of starvation. It feeds within the mountain regions of East Tennessee, eastern Kentucky, and western Virginia five hundred thousand true, loyal, and devoted men, and



will give back to them in a little while the bread and meat that they took from their houses and from their places of safety to feed Burnside's army when he had not a morsel of bread to give to his soldiers. You remember that when the siege of Knoxville was made by Longstreet, Burnside was unable to determine whether he could hold that place or not. He could not have held it had not these people given all they had of meat and food to his army. There are gentlemen in the city of Washington to-day who will tell you that the people came on horseback and in their horse carts and ox carts, and with baskets on their shoulders, and fed the soldiers of the country while they were defending the city of Knoxville and the whole rear of country from there to the Ohio river.

Sir, the construction of this road is a matter of justice to the Government, a matter of necessity to the Army, and a matter of humanity to those people. Unless this communication is opened, these people must necessarily leave that country. When they see that the Government is disposed to take hold of the matter and build the road and open this communication, they will stay at their homes and get along as well as they can until the road shall be completed.

Those who have observed the country will remember that from Knoxville there are roads running all through the South and connecting with all the States, with all the cities of importance, and with all the commercial points upon the coast. They will remember that from Cincinnati and Louisville there are roads diverging all through the North, and it only needs this connecting link running through the mineral regions of Kentucky into East Tennessee to have those two networks of railroads connected. As my colleague [Mr. MALLORY] has said, it will be one of the strongest bonds of union that can possibly be brought to bear. In the eastern part of Kentucky alone there is coal enough and lumber enough and minerals of various descriptions enough to supply this whole country. There is coal enough there to supply the world for fifty years if you should shut up every other known coal mine on the face of the earth. There is also the finest timber in the world there and the best people—the most industrious, the stoutest, the finest, the bravest men, and the healthiest, sweetest, and prettiest women. [Laughter.]

Mr. SCHENCK. With a single explanation in reply to the gentleman from Kentucky, [Mr. MALLORY], who first addressed the House, I shall then call the previous question. I think the gentleman is mistaken in regard to the power not having been taken away from the President. The act of Congress of January 31, 1862, being an act to authorize the President in certain cases to take possession of railroads and telegraph lines, and for other purposes, gave him, among other powers, the power "to extend, repair, and complete the same in the manner most conducive to the safety and interest of the Government." The joint resolution of July 14, 1862, is brief, and I will read the whole of it:

"That an act to authorize the President of the United States, in certain cases, to take possession of railroads and telegraph lines, and for other purposes, approved January 31, 1862, shall not be so construed as to authorize the construction of any railroads of the completion of any line of road the greater part of which remained uncompleted at the time of the approval of said act, or to engage in any work of railroad construction; and so much of said act as authorizes the President of the United States to extend and complete any railroad, is hereby repealed."

The construction given to that law is that although there need only be fifty miles of a road to be built to connect it with other roads, it is in fact the construction of a military road, and that that is forbidden by the joint resolution of July, 1862. Now, it may be that that is not a right construction. I think myself, however, that the power has been taken away from the President; and because the power has been taken away the committee propose to restore the power as to this particular road, which we think a peculiar and exceptional case in its merits. If the power does now exist, no harm can be done in reconsidering it. If it does not exist, which is the opinion of the President, then we give it to him, so far as this one road is concerned, because of its peculiar merits and the necessity for the construction of this road. I move the previous question.

Mr. HOLMAN. I hope the gentleman will not move the previous question at this time.

Mr. WILSON. Will the gentleman from Ohio yield to me for a question?

Mr. SCHENCK. Certainly.

Mr. HOLMAN. I object to the gentleman yielding the floor unless he yields unconditionally.

Mr. SCHENCK. Well, then, I cannot yield.

Mr. HOLMAN. I hope the House will not sustain the previous question.

The SPEAKER. The gentleman from Indiana is not in order. He refused to allow the gentleman from Ohio to yield the floor.

Mr. HOLMAN. I call for tellers on seconding the previous question.

Tellers were ordered; and Messrs. FINCK and ANDERSON were appointed.

The House divided; and the tellers reported—ayes 66, noes 26.

So the previous question was seconded.

The main question was then ordered to be put.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. HOLMAN called for the yeas and nays on its passage.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 64, nays 56; as follows:

YEAS—Messrs. Alley, Allison, Anderson, Baily, John D. Baldwin, Beaman, Blaine, Jacob B. Blair, Boyd, Broomall, Ambrose W. Clark, Henry Winter Davis, Thomas T. Davis, Dawes, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Grider, Griswold, Hale, Harding, Higby, Hotchkiss, John H. Hubbard, Hulburd, Jenckes, Francis W. Kellogg, Orlando Kellogg, King, Loan, Longyear, Mallory, Marvin, McClurg, Samuel F. Miller, Daniel Morris, Leonard Myers, Charles O'Neill, Orth, Patterson, Pendleton, Perlman, Pike, Price, William H. Randall, Alexander H. Rice, Edward H. Rollins, James S. Rollins, Schenck, Shannon, Smith, Stevens, Thayer, Upson, Wadsworth, Williams, Wilder, Windom, and Yeaman—64.

NAYS—Messrs. James C. Allen, Ames, Aucona, Augustus C. Baldwin, Bliss, James S. Brown, Chanler, Freeman Clarke, Coffroth, Cole, Cox, Cravens, Dawson, Eden, Edgerton, Eldridge, English, Finck, Ganson, Gooch, Harrington, Herrick, Holman, Ingersoll, Philip Johnson, William Johnson, Kalbfleisch, Kernan, Knapp, Law, Lazear, Le Blond, Marcy, McDowell, Morrill, James K. Morris, Morrison, Noble, Odell, Pruyn, Radford, Rogers, Ross, Scofield, Sloan, Spaulding, William G. Steele, Stiles, Thomas, Tracy, Elihu B. Washburne, William B. Washburn, Chilton A. White, Joseph W. White, Wilson, and Fernando Wood—56.

So the joint resolution was passed.

During the call of the roll,

Mr. HOLMAN stated that Mr. MADDLETON was paired off with Mr. BOUTWELL.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### LEGISLATIVE APPROPRIATION BILL.

Mr. PENDLETON. I move that the request of the Senate for a committee of conference on the disagreeing votes to the legislative, executive, and adjudicatory appropriation bill be complied with.

The motion was agreed to.

#### NORTHERN PACIFIC RAILROAD.

Mr. STEVENS. I call up the motion to reconsider the vote by which House bill No. 483, granting lands to aid in the construction of a railroad from Lake Superior to Puget sound, was re-committed to the select committee on the Pacific railroad; and on that I move the previous question.

The previous question was seconded, and the main question ordered.

Mr. WASHBURNE, of Illinois, called for the yeas and nays on the motion to reconsider.

The yeas and nays were not ordered.

Mr. MALLORY. Will it be in order to ask the gentleman from Pennsylvania to withdraw the call for the previous question in order that I may ask him to make an explanation to the House? I want to know what he desires by his motion.

The SPEAKER. The previous question has been already seconded by the House, and the main question ordered.

Mr. STEVENS. I wish the vote reconsidered, and then I will explain.

Mr. MALLORY. The vote on reconsideration depends very much on what the gentleman's intention is.

The question being on reconsideration, The SPEAKER ordered tellers; and appointed Messrs. MANN and GRINNELL.

The House divided; and the tellers reported—ayes 72, noes 22.

So the vote was reconsidered.

The question recurred on recommitting the bill to the select committee on the Pacific railroad.

Mr. STEVENS moved the previous question.

Mr. HOLMAN. I understand that this is the same bill that has been already before the House; and I raise the point of order that it cannot be again considered.

The SPEAKER. The Chair is of opinion that the point of order is erroneous, as the House has considered this bill, read it the first and second time, and re-committed it to the select committee, and has reconsidered that vote.

Mr. HOLMAN. The reason I make the suggestion is that if the bill has been already read to the House I should not insist on its being read this time.

Mr. SPALDING. I desire to know if it is the same bill that the House has already acted on.

The SPEAKER. The Chair cannot answer the question.

The bill was read.

Mr. STEVENS. I withdraw the demand for the previous question; and I also withdraw the motion to refer to the select committee, and offer a substitute for the bill. I do not intend to make a speech upon it, inasmuch as the bill has been already fully discussed. I simply want to explain the difference between the substitute which I offer and the original bill. The bill on your files is, so far as the land grants are concerned, just the same as the bill which was rejected the other day, making the charter by the Maine Legislature the charter of the company. That was objected to by many gentlemen, and the bill was lost. In order to accommodate those who objected on that ground, the bill is changed. It provides for the opening of books to receive subscriptions for the stock, in the ordinary way, the same as the Union Pacific railroad. The substitute gives the precise quantity of land as in the bill; and therefore there is no explanation necessary under that head. The difference between the bill and the substitute is, that the latitude of forty-four and a half degrees is changed to forty-five degrees. Thus the line will not encroach too closely on the Union Pacific railroad.

There is also on page 14 of the bill as originally printed an amendment made by striking out three years as the limit of time for commencing the road and inserting two years. As this is a new corporation and the stock is to be taken differently from that provided for in the bill before the House the other day, I think it proper to change the time to two years, as some objection was made to the length of time then proposed.

I have also provided that the alternate sections if sold by the Government shall not be sold under \$2 50 an acre. And I have confined the alternate sections if there be land to be taken up within the limits of ten miles of the line of the road. The company are not permitted to go all over the country to select as I see in some of the bills they are allowed to do. I think it a vicious principle, and I have therefore confined it to within a limit of ten miles.

Mr. WILSON. Do I understand the gentleman to say that these alternate sections are to be sold by the Government at \$2 50 an acre?

Mr. STEVENS. Under the existing law they would be open to homesteads. I provide that if the Government sells them at all the Government shall not sell them at less than \$2 50 per acre.

Mr. WILSON. There is nothing in the bill which interferes with the homestead law?

Mr. STEVENS. Nothing; the provision is merely that if hereafter the Government sees fit to sell the lands they shall not sell them at less than \$2 50 an acre. There is no money asked for from the Government as there was no money asked for by the Maine law which was before us, the main difference being that this creates a new corporation while that granted the privileges conferred to a Maine corporation. Some changes have been made in the substitute, in the names of the persons selected as incorporators or commissioners, who are to keep the books open until the whole stock has been subscribed, after which the stockholders are to elect directors for three years.

We have reduced the time in which the road shall be commenced, and have required that a hundred miles shall be constructed within two years thereafter.

Now, as I said before, I suppose it would be tedious for gentlemen to make their old speeches over again on a bill almost precisely similar to the one rejected, and I therefore, unless some gentleman desires to ask some questions, will call the previous question.

Mr. SPALDING. I notice that the names of General McClellan and General Grant are among the corporators. I ask the gentleman if he will not allow us to put in General Fremont, so as to have one of our former friends among them?

Mr. STEVENS. I have no objection to inserting the name of General Fremont. I want to get all the railroad men in, and will accept the gentleman's modification.

Mr. WILSON. I will suggest to the gentleman that if he intended to insert all the presidential candidates he has omitted the "rail-splitter."

Mr. STEVENS. Oh! this is not a rail-splitting business, it is a railroad line. [Laughter.] I move the previous question.

The previous question was seconded, and the main question ordered to be put.

The substitute was agreed to.

Mr. WILSON. Before the vote is taken I wish to ask the gentleman from Pennsylvania whether he has taken care to provide that this road shall be built of American iron? [Laughter.]

Mr. STEVENS. It says so in the bill. I go for nothing but American iron, of course.

The bill as amended was ordered to be engrossed and read a third time.

Mr. ANCONA. I call for the reading of the engrossed bill.

The SPEAKER. The bill has not been engrossed.

Mr. STEVENS. I move the previous question on the third reading.

The SPEAKER. The bill has been ordered to be read a third time, but if the gentleman from Pennsylvania insists upon his objection, it cannot be read until it has been engrossed.

Mr. ANCONA. I will withdraw my objection. The bill was read the third time.

Mr. STEVENS demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered to be put.

Mr. HOLMAN called for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 74, nays 50; as follows:

YEAS—Messrs. James C. Allen, Allison, Anderson, Augustus C. Baldwin, John D. Baldwin, Bonaman, Blaine, Jacob B. Blair, Boyd, Broomall, James S. Brown, Cobb, Coffroth, Cole, Creswell, Henry Winter Davis, Donnelly, Driggs, Eden, Eldridge, Farnsworth, Frank, Garfield, Gooch, Grinnell, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Kellogg, Francis W. Kellogg, Orlando Kellogg, King, Knapp, Lazear, Loan, Longyear, Marvin, McAllister, McClurg, Daniel Morris, Leonard Myers, Nelson, Noble, Odell, Charles O'Neill, Patterson, Perham, Price, Pruyn, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, James S. Rollins, Scott, Shannon, Sloan, John B. Steele, William G. Steele, Stevens, Sweat, Thayer, Upson, Voorhies, Ward, William B. Washburn, Whaley, Wheeler, Williams, Wilder, and Winfield—74.

NAYS—Messrs. Alley, Ancona, Baxter, Bliss, Brooks, Chanler, Cox, Cravens, Dawson, Denison, Eckley, Edgerton, Eliot, Fenton, Finck, Ganson, Harrington, Herck, Holman, Hubbard, Ingersoll, William Johnson, Kabbelsch, Kernan, Law, Le Blond, Littlejohn, Long, Mallory, Marcy, McDowell, Morrill, Morrison, John O'Neill, Orth, Pendleton, Pike, Pomeroy, Radford, Ross, Schenck, Scofield, Spalding, Stiles, Tracy, Wadsworth, Elitha B. Washburne, Joseph W. White, Wilson, and Winfield—50.

So the bill was passed.

\*During the call of the roll,

Mr. WEBSTER stated that he had paired with his colleague, Mr. HARRIS, of Maryland, on this bill.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### SPEAKER'S TABLE.

Mr. WILSON moved that the House proceed to the business on the Speaker's table.

The motion was agreed to.

The House accordingly proceeded to consider the business on the Speaker's table, as follows:

#### PORT OF ENTRY FOR CHAMPLAIN DISTRICT.

An act (H. R. No. 120) to reestablish the principal port of entry for the district of Champlain at Plattsburgh, and for other purposes.

The SPEAKER. The Senate have returned this bill with the following amendment:

Strike out these words:

And all vessels coming into Lake Champlain from Canada through the Richelieu or St. John's river, shall enter and report to him.

Mr. WASHBURN, of Illinois, moved that the amendment be concurred in.

The amendment was concurred in.

The bill, as amended, provides that the third section of an act to equalize and establish the compensation of the collectors of the customs on the northern, northeastern, and northwestern frontiers, and for other purposes, approved March 3, 1863, changing the port of entry for the district of Champlain from Plattsburgh to Rouse's Point be repealed, and that Plattsburgh be reestablished as the principal port of entry for said district, at which the collector of customs shall reside; and a deputy collector shall reside at Rouse's Point, and be vested with all the power and authority given to deputy collectors by law.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the Senate amendment was concurred in; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### TRANSFERS FROM MILITARY TO NAVAL SERVICE.

An act (S. No. 218) to repeal the first section of a joint resolution therein named.

Mr. RICE, of Massachusetts, moved that the bill be put on its passage.

The bill was read a first and second time.

It provides for the repeal of the first section of the joint resolution entitled "A joint resolution relative to the transfer of persons in the military service to the naval service," approved February 24, 1864.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WASHBURN, of Illinois, moved to amend the title so that it will read, "An act to repeal the first section of a joint resolution entitled 'A joint resolution relative to the transfer of persons in the military to the naval service.'"

The amendment was agreed to.

#### ABOLITION OF SLAVERY.

Joint resolution (S. No. 16) submitting to the Legislatures of the several States a proposition to amend the Constitution of the United States.

Mr. HOLMAN. I object to the second reading of the joint resolution.

The joint resolution is as follows:

That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid, to all intents and purposes, as a part of the said Constitution, namely:

#### ARTICLE XIII.

Sec. 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Sec. 2. Congress shall have power to enforce this article by appropriate legislation.

The SPEAKER. The question then is, "Shall the joint resolution be rejected?"

Mr. WILSON demanded the previous question. The previous question was seconded, and the main question ordered.

Mr. SCHENCK demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 55, nays 76; as follows:

YEAS—Messrs. James C. Allen, Ancona, Bliss, Brooks, James S. Brown, Chanler, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, Finck, Ganson, Grider, Hall, Harrington, Herck, Holman, Philip Johnson, William Johnson, Kabbelsch, Kernan, King, Knapp, Law, Long, Mallory, Marcy, McAllister, McDowell, James R. Morris, Morrison, Nelson, Noble, Odell, Pendleton, Pruyn, Radford, William H. Randall, Ross, John B. Steele, William G. Steele, Stiles, Sweat, Voorhies, Wadsworth,

Ward, Wheeler, Chilton A. White, Joseph W. White, Winfield, and Fernando Wood—55.

NAYS—Messrs. Alley, Allison, Ames, Anderson, John D. Baldwin, Baxter, Beaman, Blaine, Jacob B. Blair, Boyd, Broomall, Ambrose W. Clark, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Donnelly, Driggs, Eckley, Eliot, Fenton, Frank, Garfield, Gooch, Grinnell, Griswold, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubbard, Ingersoll, Jencks, Francis W. Kellogg, Orlando Kellogg, Kernan, Littlejohn, Loan, Longyear, Marvin, McClurg, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Spalding, Stevens, Thomas, Tracy, Upson, Elitha B. Washburne, William B. Washburn, Webster, Whaley, Williams, Wilder, Wilson, and Winfield—76.

So the joint resolution was not rejected.

During the vote,

Mr. MORRILL stated that his colleague, Mr. Woodbridge, was confined to his room by illness.

Mr. THAYER stated that he was paired with his colleague, Mr. RANDALL; otherwise he would have voted in the negative.

Mr. HUBBARD, of Connecticut, stated that his colleague, Mr. BRANDEGEE, was absent on account of illness.

Mr. PIKE stated that he was paired with Mr. HARRIS, of Maryland.

Mr. LAZEAR was paired with his colleague, Mr. MOORHEAD; otherwise he would have voted in the affirmative.

Mr. STILES stated that his colleague, Mr. STROUSE, if present would have voted in the affirmative.

Mr. EDEN stated that his colleague, Mr. W. J. ALLEN, was absent on account of illness.

Mr. COX stated that his colleague, Mr. McKINNEY, had gone home with the dead body of a soldier.

Mr. ANCONA stated that his colleagues, Mr. RANDALL and Mr. MILLER, if present would have voted in the affirmative.

Mr. GRINNELL stated that Mr. JULIAN was called away by the death of his father-in-law.

The vote was then announced as above recorded.

The joint resolution was read a second time.

Mr. WILSON. I do not propose to occupy the floor myself, but will yield to my colleague on the Committee on the Judiciary, the gentleman from New York, [Mr. MORRIS.]

Mr. COX. Does the gentleman intend to press it to a vote to-day?

Mr. WILSON. I do not. I desire to afford a fair opportunity for discussion to both sides of the House.

Mr. MALLORY. Will the vote be taken this week?

Mr. WILSON. It is suggested that the House take a recess until seven and a half o'clock this evening, after my colleague upon the committee has concluded his remarks. Other gentlemen desire to speak upon the subject, and I hope the House will take a recess, with the understanding that there shall be no vote taken to-night.

The SPEAKER. That motion can be made now.

Mr. WILSON. Then I move that at the conclusion of my colleague's remarks the House take a recess until half past seven o'clock, with the understanding that no vote shall be taken and no business done this evening.

Mr. PENDLETON. I hope that will not be done to-night. This bill has passed the Senate and there can be no hurry in pressing it to a vote. A few days' discussion will not delay business at all.

Mr. WILSON. I do not intend to hurry it to a vote.

Mr. PENDLETON. We do not wish to go on with the discussion to-night.

Mr. WILSON. I hope the gentleman will not object to such an arrangement for this evening, and we can come to some understanding hereafter as to the time when we shall take a vote upon the proposition. I am not disposed to cut off debate, but intend to allow a reasonable time for that discussion.

Mr. PENDLETON. If the House will allow me I will ask the gentleman from Iowa whether some of his friends are ready to go on with the discussion to-night? If that be the case I will not object to an evening session.

Mr. WILSON. I cannot say positively whether they are ready or not.

The SPEAKER. The Chair will state that he

has the names of several gentleman who desire to speak upon this subject.

Mr. PENDLETON. But probably not to-night. It was not expected that the subject would come up at this late hour of the day. I will not object if the gentleman knows that his friends want to go on to-night. We do not.

The SPEAKER. It is understood that there is to be no vote to-night.

Mr. PENDLETON. What I want to guard against is this: the gentleman will say to us to-morrow, "You had all last evening to discuss this matter, and nobody was ready." If gentlemen on the other side wish to discuss this bill to-night I will not object.

Mr. WILSON. I shall not meet the gentleman with any such statement to-morrow.

Mr. MALLORY. I desire the gentleman from Iowa to state whether he will or will not press a vote during the week. I hope he will give us at least a week to discuss the bill.

Mr. WILSON. I can only say that I shall allow a reasonable time. If the discussion can be closed this week, well; if not it will go over until next week. I desire to have the bill fairly discussed, allowing a fair opportunity to that side of the House for discussion.

Mr. ELDRIDGE. I did not hear the gentleman's remark, and I desire to ask him a question. Does the gentleman intend to press this matter to a vote this week, provided there are gentlemen who still desire to discuss it?

Mr. WILSON. I intend to be reasonable on the subject.

Mr. ELDRIDGE. Then I understand the gentleman to say he will not press the question to a vote this week, provided gentlemen still desire to discuss it?

Mr. WILSON. I do not say that.

The SPEAKER. The Chair will state that there are several special orders this week, and the consideration of the tariff bill was postponed until one day this week.

Mr. MORRILL. I shall ask the House to consider the tariff bill on Thursday, and to continue its consideration from day to day until disposed of. Therefore there will be very little time this week for a long discussion if the House take up that bill; and if the House desires an early adjournment, as I think they do, they will have to have some evening sessions.

Mr. PENDLETON. Certainly.

The motion for an evening session was agreed to; and it was agreed, by unanimous consent, that no vote should be taken and no business done during the evening session.

#### LEAVE OF ABSENCE.

Mr. SHANNON asked leave of absence for ten days for Mr. McBride.

Leave was granted accordingly.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 484) to incorporate the Newsboys' Home;

An act (H. R. No. 345) for the relief of Frederick A. Beelen, late secretary of legation to Chili; and

An act (H. R. No. 381) to amend an act entitled "An act making a grant of land to the State of Iowa, in alternate sections, to aid in the construction of certain railroads in said State," approved May 15, 1856.

#### ABOLITION OF SLAVERY.

Mr. MORRIS, of New York. Mr. Speaker, the questions which now engross so much of the public attention as to the status of the several States in rebellion, and just what disposition shall be made of them when finally subdued, are increasing in interest. Upon these points loyal men are known to differ; hence an examination and a discussion of them may be profitable. My own convictions are that much of the difficulty in this, as in numerous other instances which have perplexed and divided our counsels since the organization of our Government, grows out of an element known to be at war with its avowed purposes. If each State in the Union had a republican form of government in fact, I apprehend there would be no controversy upon this subject. Or, to be

explicit, were there no slavery all difficulty would vanish.

The truth is, that since the formation of the Federal Government its legislation has not only been embarrassed, but at times it has been wholly impeded by reason of this system. To such an extent has this influence prevailed that nearly every interest of the nation has been made to serve its purposes. And now, when in its death struggles it wields a giant's arm, and is as imperious as ever, its ruling passion increases as it approaches its dissolution. It is not surprising, therefore, that at this eventful period we find conflicting opinions. Not a few, I have no doubt, are influenced by a recollection of an alliance through which they and their political associates secured and for years held the ascendancy in the nation. They are in favor of a return of the revolted States to the Union; but they wish them to return unshorn of the power through which they again hope to secure the control of national affairs. "A fellow feeling makes us wondrous kind."

Others when they contemplate this matter advert to the past. They recall the practical workings of slavery, they remember its tyrannical rule, its unholy aims, and they see its present wicked enormities. Such desire a return of those misguided States, but they insist it must be without this element of inevitable mischief. Hence each man modifies his views as he is inclined for or against the institution of slavery. In this I condemn the motives of no one. I only recite the facts, and leave it for others to judge; for every one knows a sailor at mast-head may perceive an approaching sail, while his companions on deck can see nothing but the distant horizon and the receding waves. It does not follow that those of the deck are deficient in vision, but I apprehend it does show he of the mast-head has the advantage in stand-point. In this way I account in part for the discrepancy of opinions in this Hall and in the country. For the same reason also the averments of one man are entitled to more regard than are another's. But while I account for this conflict of views, I can hardly excuse that perversity which stubbornly remains on deck and will neither ascend nor be admonished by those at the mast-head.

But to the question, what is the status of the States in rebellion? Are they really in or are they actually out of the Union? Paradoxical as it may seem, I hold they are neither, and yet are they both. Suppose the officers and crew of any Federal vessel should mutiny and run out a piratical flag, would this act absolve the mutineers from allegiance to the Government? When the malcontents are subdued, should they be restored to command? May they insist upon the control of the recaptured vessel? By their acts they have forfeited this privilege, and yet they are amenable to the laws. They owe the fealty of a citizen without a citizen's rights. There can be no question as to the status of the vessel. Why should there be as to who shall command it? Should this be done by piratical outlaws, or by men of unquestioned loyalty? A highwayman by transgression does not absolve himself from obedience to the law he has trampled upon and defied. As far as allegiance, duty, and obligation are concerned his condition is unchanged, but he has no voice at the ballot-box, he may not hold an office of trust, nor can he participate as a witness or juror in any of our courts. He is a felon, he wears the taint and the disabilities of a felon. No one complains of this except the transgressor.

When Cromwell usurped the Government in Great Britain all kingly rule was suspended. He attempted to institute a new form of government, and was temporarily successful. Yet upon the death of this usurper and the dispersion of his adherents, the royal family were restored, and the suspended Government revived. Did the rulers in this instance ask the consent or seek the coöperation of those who had aimed to subvert the Government by force? Yet they were subjects of the realm as absolutely as were the adherents of the Crown. There was no difficulty here; and why? The English Government was homogeneous in all of its parts. It was monarchical, and whatever was not in harmony with this was swept out of being. The consequences were, recuperation and longevity; the fruit, stability and prosperity. May we not profit by this example?

A Government to be stable must be homogeneous. "A house divided against itself cannot stand."

Wherein do the rebellious States differ from the piratical crew, the outlawed felon, or the English usurpers? Ambitious men have usurped not destroyed the several State governments at the South—they now traitorously hold them and defy the Federal authority. These felons maintain their usurpations by force, and menace the Government with formidable armies. It is proposed to disperse these armies, capture their leaders, and restore order in these unfortunate States. This being done, what is their position? May they claim a restoration to the places and the power they have forfeited by willful abuse? This is not the usual rule, nor is it just. These States, while they may not claim the prerogatives of loyal constituents of the Union, yet are they as actually subject to its dominion and power as if they never had rebelled. I go further; a State can no more secede from the Union than can the arm from the natural body. The arm may be severed by force, but irreparable disaster would follow. A State may be separated from the body-politic of which it is a member by revolution, but peacefully, rightfully, never. The efficiency and completeness of the corporate whole would be destroyed by the act.

I insist the inhabitants of these States may be treated in a twofold light. The Government against which they have sinned may elect to try and punish them under the civil law or under the laws of war. Or it may elect to punish some under one and some under the other. The civil code would be to them what the divine law is to rebellious man. By this they are condemned already. They are adjudged traitors, and they must meet a traitor's doom. But under the laws of war, as under the system of grace, there may be mercy. The former would annihilate them, the latter extends pardon and forgiveness upon repentance and faith evidenced by appropriate fruit. Man, by rebelling against the government of God, did not thereby absolve himself from allegiance. His duties and his obligations remained the same as before his transgression. The Jews did not obtain the inheritance by murdering the heir, but by reason thereof they lost their own birthright and others supplanted them.

So it is with the rebels. They owe fealty to the Union as ever, but being felons they have forfeited their birthright. Any other rule would be destructive of government, and place virtue and vice upon a common level. The safety of society, as well as the laws of God, demands this interpretation.

Why, then, do men differ? It is owing to the stand-point they severally occupy. The lookout of each is from some point upon his own partisan barge.

It is well known that some four years since the Democratic fleet, then anchored at Charleston, through the mutiny of its commanders, if not hopelessly wrecked, was divided and thoroughly scattered. Some of this armament, with damaged timbers and tattered sails, still struggle against adverse winds, hoping to regain its former supremacy. The flag-ship, the most rotten of them, has been refitted, and is now cruising in our southern waters with the ensign of treason defiantly floating from its mast-head.

Another of these ill-fated vessels, more sound, yet quite leaky and unsafe, is found in our northern waters, from which the stars and stripes still float; but its officers, with some noble exceptions, are ready to compromise with these mutineers and even to make base submission for the purpose of again reuniting their fortunes and fleet under its former command.

There is another barge. It is the Union. From its mast-head and capacious deck its officers and men have their lookout. It is now recruiting. New Hampshire, Connecticut, Maryland, and Rhode Island have recently greeted this noble vessel and sent such tokens to its patriotic crew as will quicken their efforts, cheer their hearts, and stimulate to deeds which will enable them to subdue all enemies and again bring back the wayward fleet to allegiance and to its ancient moorings.

But I digress. I repeat, why do men differ? I again answer, it is attributable to the workings of slavery. Our State governments are not homogeneous. To this fact we may attribute our past troubles and the present revolt. Were there no



slavery the problem were solved. Hence I may as well say it here as elsewhere, that, like an evil spirit in man, there can be no rest, no health, no peace, no permanent prosperity until the turbulent and wicked devil is cast out and utterly destroyed. There is no alternative. We must have two Governments and eternal estrangement and border feuds, or one nation with slavery, or with freedom only in all of its parts. The question is, which will we have? The answer to this, as I believe, involves the happiness of coming generations, and also the perpetuity of a Government admitted by those who seek to destroy it, "with all its defects to come nearer the objects of all good government than any other on the face of the earth."

I conclude, therefore, that the revolting States are still in the Union. The converse would concede the right of secession, and stamp the present war as unjust. But these States can have no voice in the enactment of law or in amending the Constitution until they are pardoned and restored to their forfeited rights. Is this too severe? I hold this is a charitable view; and as they suffer the consequences, they may severally exclaim in truth,

"The thorns which I have reaped are of the tree  
I planted; they have torn me, and I bleed;  
I should have known what fruit  
Would spring from such a seed."

I now come to the question, what shall be done with these States when subdued? I answer, amend the Constitution so as to for ever prohibit slavery in the Union, and then discriminate in pardoning the rebels in such a manner as to restore to citizenship such as were not voluntarily in hostility to the Federal Government. This involves the further inquiry, what power has Congress in this behalf? In discussing this I hope I shall be pardoned for adverting to some elementary principles, and also for quoting largely from our organic law. Man's moral and intellectual growth, as well as his weakness, constrains to intercourse and communion with his fellows. Society is an admitted necessity, and government its natural fruit. Out of society man is independent, and subordinate to no one but his Maker. In society, equality exists; but the new relation begets duty and responsibility from man to man. It is a principle in mechanics that what is gained in power is lost in velocity. It is conceded in ethics that each good, every substantial benefit, has its counter-check. Analogous is society and government; to secure the general, certain specific advantages must be surrendered. Each individual makes some sacrifice, and thereby obtains a guarantee of protection. Therefore each member upon entering society covenants to yield his particular to the general good, and to so comport as to infract none of the rights of others, and also not to incapacitate himself for the discharge of the duties growing out of the social relations. There is mutuality of interest, equality of rights, and a positive undertaking by each member to protect and defend the aggregate and also each constituent part. The enforcement of these duties and the redress of a breach of this covenant require the enactment and the enforcement of law. Therefore the founders of our Government adopted and we indorse the cardinal truths:

"That all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness. That, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that, whenever any form of government becomes destructive of these ends it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness."

Under this authority some have strangely sought to justify the rebellion of the southern States. It should be borne in mind that the power conferred by this instrument is upon an entire, not an integral part of a people, and its exercise is limited expressly to the altering or the abolishing of a Government that has become destructive of certain enumerated rights. I find no warrant in this for the secession of a State, but on the contrary I find authority directing the people (the Federal Government) to alter and abolish any law or constitution whenever the public interests demand it. We sometimes err in supposing that our Government and the people are distinct entities. Hence we hear of the Government's exactions and tyr-

anny. The truth is, the Government and the people are identical.

The Executive of the nation, the Legislature, and the Judiciary, are not severally nor are they jointly the Government; they are only servants. They represent and act for the sovereign people, and to them must yield obedience and render an account. This common error is a source of much mischief. Many suppose they may assail the Government and embarrass its action with impunity, not reflecting that by so doing they injure their own interests. In ordinary business a similar proceeding would excite suspicions of insanity. Others claim to discriminate between the Government and the Administration, and while they profess to respect the former, they abuse the latter. What is a Government? It is "the body of persons charged with the management of the executive power of a country." What is an Administration? "The collective body of persons who direct the Government of a country." I leave it for others to discriminate between them. It seems to me it were wise to aid the Administration which represents the people in the discharge of trusts in which each man has an immediate interest.

When the doctrines I have quoted were first announced, the original colonies were dependents. The instrument that gave them to the world also abrogated the power of the Crown and declared the colonies free and independent. In 1787 the people of these colonies, then States, being the only authority in the land, ordained and established a Constitution. This Constitution contains the following expressive preamble:

"We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

Thus the sovereign power of the nation, for the purpose of perfecting the work so well begun in 1776, incorporated the elementary principles of the original Bill of Rights into their organic law. In the adoption of this instrument the several States in their corporate capacity are unknown, but without regard to geographical or corporate boundaries the people carved out and perfected a Government for the purposes so forcibly and eloquently expressed in the preamble of our national charter. If the framers of this instrument omitted any clause by oversight or mistake, may their descendants remedy this and perfect the plan of their ancestors? No one will doubt this, unless the Constitution inhibits it, or unless it would infract some reserved right of the States. Upon this point let the Constitution speak. Article six, subdivision two, provides:

"The Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding."

Thus the people of the United States, by their voluntary act, ordained and established a Constitution which is not only paramount, but it is the fundamental law of the nation. It expressly subordinates each State, and declares that any act of legislation, or any adjudication therein, which conflicts with the provisions of this fundamental law, shall be utterly void. A State, then, sustains the same relation to the Union that an individual does to society. They are constituents, are severally equal, severally dependent, and actually subordinate to the whole. The converse would create several sovereign heads in one Government, which would be as destructive to harmony and strength as would several heads in one family. Thus we have one unbroken chain from the individual to society, from society to the State, from the State to the nation: "all are parts of one stupendous whole."

Once more I quote from the Constitution, article five:

"The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution; or, on the application of the Legislatures of two thirds of the several States, shall call a convention for preparing amendments, which in either case shall be valid to all intents and purposes as part of this Constitution when ratified by the Legislatures of three fourths of the several States, or by conventions in three fourths thereof, as one or the other mode of ratification may be proposed by the Congress."

The power to amend the Constitution is ex-

press. The only remaining points are: first, is it necessary for Congress and the States to exercise this power? Second, what States may participate in such amendment as provided by article five just quoted?

As to the second point, I have already shown that the revolting States are within the Union so far as fealty and obedience are concerned; but as far as having a voice in the enactment of laws and amending the Constitution, they are out of the Union. Till they are pardoned and restored to favor, they are not to be counted among the States of the Union. Wherefore three fourths of the now loyal States are competent and they alone are to be heard in ratifying any amendment of the Constitution that may be proposed.

Upon the remaining question, is it necessary for Congress and the loyal States to exercise the power conferred, I remark it depends much upon the question whether slavery should be cherished or destroyed.

The framers of the Constitution knew little of the true character of slavery. It was reserved for their descendants to learn this by an experience bitter and expensive. Few persons at the moment realize the danger of the first error. The snow-flake when associated with kindred particles forms a barrier of strength. The imperceptible process of evaporation furnishes the nucleus around which concentrated drops expand to an ocean. Nature generates unseen the subtle essences which nourish the embryo shoot until it becomes a stalwart oak. How similar is life! The infant thought, at first as gentle as the snow-flake, intangible as is evaporation's breath, imperceptible as the agents that minister to the growth of the forest tree, by as quiet and as certain a process, becomes irresistible as an avalanche and deep as fathomless waves. In Governments, one improper influence is permitted to attain, one unpretending precedent obtains, others cluster around, until they become too powerful to be resisted. These are the lessons of experience. We have graduated in this school. Our education has been expensive, as is evidenced by an impoverished Treasury and desolated hearthstones. Shall we profit by the tuition? I aver no nation can violate any moral law without incurring a penalty. No member of society, no matter how weak or humble, can be oppressed without injury to the whole. It is an inexorable law. There is a system of compensation in the economy of God, and applicable to nations and individuals, as inevitable as that fire will burn. We may not admit it, but time will realize the fact. We may not recognize the hand, but the chastening will come as certainly as that God is just. Legislators as well as divines should remember these truths.

Not a few attribute our troubles and sufferings to the agitation and discussion of this subject. I might reply, remove the cause and discussion will cease. But I have another answer. I knew a man; he was a noble and generous companion, endowed with wonderful powers of mind and of unusual business capacity. Industry and sobriety won him wealth and position. But in an unguarded hour he allowed his cups to obtain the mastery. His wasting fortune, his broken health, his neglected business, his weeping family, all evidenced the effects of the first error. His neighbors remonstrated as was their right, pointed to the cause, and kindly advised a reformation. Poor man, he only railed at them as intermeddling fanatics, who had destroyed his business and beggared his family. He persisted in his course till his head was actually severed from his body as he lay unconscious upon an adjacent railway. Was it the friendly counsels, the truthful admonitions, the Christian efforts of these friends that wrought his ruin, or was it the law of inevitable compensation? I have supposed it was transgression and not the preaching of Noah that destroyed his contemporaries. We may attribute our misfortunes to erroneous causes, but we shall learn the fact that they follow transgression as certainly as that gravitation is an established law. This is attested by history; and the events of the last three years are fearful illustrations.

Once more: our fathers permitted slavery from a supposed necessity. This was their first error. They expected it would become extinct under the workings of the Constitution. This was a second error. Others followed, and since the forma-

tion of our Government millions have been enslaved. An entire race has been deprived of all social rank, barred our schools, shut out from the gospel, and then held to be inferior for not rising in spite of their hinderances to an equality with the Saxon in the enjoyment of each of these privileges. Under our Government the African is a nondescript; he is not a man, nor yet is he a brute; he has no rights nor the protection of either; he has no resting place, no refuge within this land of liberty and Christianity, and yet he is the only innocent party within its entire boundaries. Tell me where he may rear the home altar and enjoy unmolested the companionship of wife and children. Up to this hour, such is the force of prejudice, that if, rising above and forgetting the inhuman treatment of our Government, the colored man enters our armies and imperils his life in its defense, he is denied not only the pay but the protection of a soldier. And yet we crave Heaven's blessing.

Had slavery been content with despoiling the colored race only, its existence, I doubt not, might have been prolonged for years. But, in its greed, its exactions reached beyond: It inaugurated a plan of adding territory, by conquest and purchase, to our already immense unpopulated domain, for the avowed purpose of creating slave States, that an equilibrium might be preserved between freedom and slavery. What a scheme in a free Government! It was a procedure as prudent and quite as certain to be productive of good as it would be if a Christian church, for the promotion of harmony and a growth in grace, should, upon the receipt of each saint, admit an avowed infidel and libertine into its communion. Satisfy me that a union of holiness and sin, a blending of heaven and hell are essential to harmony and peace, and I will admit not only the policy but the wisdom and justice of retaining the system of slavery in our Government.

Territory was acquired, and yet slavery with all of its efforts could not compete with the enterprise and progress of freedom. Seeing this, and maddened by disappointment, it abrogated its solemn covenants and commanded the Federal Government to create a slave State in Kansas. Failing here, too, with a mendacity known only to unmixt wickedness, it resolved to rule or ruin the nation. To this end it entered, corrupted, and divided our churches and political parties, incarcerated Christian men and women for teaching the alphabet, waged war against free speech, framed new issues, prostituted the ballot-box, suborned legislators, and even polluted the pure robes of the judiciary with its guilty hands. But, as if its cup of iniquity were not full, it placed a frigid ingrate in the Executive chair, surrounded him with its instruments, and then bade the old man worship and obey it. I should except the patriot Cass, who in the trying hour nobly preferred his country to his place. Thus strengthened and guarded, with a fiendish malignity slavery grasped the implements of war, drained the coffers of the nation, and rushed to the destruction of a Government upon whose bounty and forbearance it had been nurtured and fed; and when with uplifted dagger it threatened the nation's life, men were found, ay, men at the North, who gravely asked the Government to pause and examine the Constitution to see if there was any express clause in that instrument permitting the exercise of the power of self-preservation. The superannuated old man did pause. The marshaled hosts, the millions of expended treasure, the bleaching bones and the uncoffined ashes of half a million of brave men now scattered upon a thousand hills and valleys, are among the consequences. The scarlet waters of a hundred sweeping rivers, and the crimsoned earth dyed with patriot blood, cry out against this wicked act. The deep wailings in the land, the drooping head of age, the weeping wife and mother as she prays and watches for the absent, all witness against the criminal neglect of an Executive steeped in slavery and doomed to eternal infamy. God forgive the State that bore this degenerate son!

Self-preservation! it is engraven upon each soul by the finger of God. It is an instinct in every breast. It is recognized by every being on earth, except such as have lost their humanity through the influence of this damned sin. Self-preservation! it is written in every constitution in Christendom; it underlies all Govern-

ments, and is tolerated even by those absolute monarchies where the tyrant's will is the only law. Pause to examine the Constitution when the assassin's dagger is at my breast! I would first hurl him to the earth and trample him to dust, and then vindicate my act by the universal approval of mankind, and also by the laws of Almighty God. Violate the Constitution to save the life of the nation! It is absurd. There can be no such thing. He who hesitates to repel the assault when the nation's life is imperiled, not only violates this instrument by the act, but he is a coward—he who refuses is a traitor.

We see that slavery, after despoiling the African, has steadily and aggressively advanced in its exactions and lusts, till it is now thundering at our gates and threatening the nation's existence. Shall we yield this? The nation and slavery cannot both live. Which is of the greater value? I say destroy this monster at once, root out this noxious plant, leave not a fiber to again sprout and choke the tree of liberty planted by our fathers. We have the power; the necessity is apparent; therefore let us perform this duty and save the nation. To stop short of this is a criminal truce.

Sir, this is not a mere struggle between the North and the South; it is a conflict between two systems; a controversy between right and wrong. This is not a war between the Puritan and the Cavalier; freedom begat the former and slavery the latter. They are only instruments in the hands of their respective creators.

Mr. Speaker, the present American Congress occupies a position at this moment of greater responsibility than has devolved upon a like body since the year 1776. The events of an entire century transpire in a year. The United States have made more history in the three years last past than can be written out in an ordinary lifetime. Our action upon this question will adorn or forever sully one of its pages. Our action this day will give perpetuity to a nation of freemen or of slaves. By our action at this time shall we be honored or execrated by the millions who shall people the continent of the West. The eyes of a world are upon us; the hopes of the oppressed, the interests of freedom in every land hang upon our decision, and the blessings or the cursings of Almighty God await our final proceedings.

Mr. HERRICK obtained the floor.

The House then took a recess until half past seven o'clock p. m.

#### EVENING SESSION.

The House reassembled at half past seven o'clock p. m., (Mr. L. MYERS occupying the chair as Speaker *pro tempore*), and resumed the consideration of joint resolution of the Senate No. 16, submitting to the Legislatures of the several States a proposition to amend the Constitution of the United States.

Mr. HERRICK. Mr. Speaker, as I intend to vote against this proposition to tamper with the Constitution of our fathers, which I have been taught to reverence as a masterpiece of wisdom in statesmanship, and as being the foundation of the most perfect system of human government ever devised by man, it is but proper that I should state to the House and the country some of the reasons which impel me to make the record I intend upon the question of the passage of this important resolution. I have, however, no hope that anything I may say will affect the action of this House upon the measure now pending; but for all that, as the Representative of a constituency as deeply interested in the perpetuation of the American Union as any other population within its borders, I feel it to be my duty as well to raise my voice against this measure as to record my vote. My remarks, however, will be brief, and, I hope, pertinent to the question before the House.

In the first place, Mr. Speaker, I am impelled by my understanding to regard the introduction of this pregnant resolution at this particular time, during the progress of a terrible war, and amidst the very clashing of arms and the slaughter of our citizens by tens of thousands, a war prosecuted professedly for the enforcement of the laws and the preservation of the Constitution we propose to amend, only as another of the ill-devised and malicious measures of the political dynasty in

power, especially designed to protract the desolating conflict, and to render entirely impossible the ultimate restoration of the Union after our armies shall have completely overcome and dispersed the armed force of the rebellion.

To my mind, this is a disunion measure; and in my view the adoption of this resolution by Congress, and its subsequent incorporation into the Constitution through the assent of "bogus" State organizations to be improvised for the occasion, under the President's one tenth amnesty proclamation or the reconstruction bill introduced by the distinguished gentlemen from Maryland or new States to be organized by dividing old ones, as in the case of West Virginia, or created out of Territories not having a sufficient number of inhabitants to entitle them to a single Representative upon this floor—I say the adoption of this measure under such circumstances can have no other effect than to seal forever the dissolution of the Union declared by the seceding States three years ago, however superior the northern States may prove in military power.

Sir, this resolution is nothing else than a disunion measure. It means nothing else than eternal disunion and a continuous war. Its design could have been only to widen the existing breach between the Union and the slave States now in rebellion, and to render peace upon any acceptable terms to the South unapproachable. It will give the rebel leaders a new pretext for continuing in arms, for it is virtually a formal declaration of Congress and the northern people that submission to the Federal authority and a renewal in good faith of their allegiance to the Government will profit them nothing in the way of securing to themselves and their posterity the rights which the Constitution, as their fathers and our fathers made it, guarantees to all the States. I mean the right to regulate their own internal affairs, to determine their own system of labor, to control their own social institutions, to have slavery or leave it alone, to fix the status of their inhabitants severally, and to give or withhold the rights of citizenship and suffrage as they may see fit, and to exercise the attributes of absolute sovereignty in all matters not especially delegated to the General Government.

This resolution, which strikes at the original compact between the several States, and which, I apprehend, is to be "put through" and forced into the Constitution "by hook or by crook," by the creation, if necessary, of new or bogus States enough to insure for it the requisite indorsement of the Legislatures of three fourths of those which the ruling power may please to reckon in the Union, will, in my judgment, close the last avenue to a reconciliation of our present sectional difficulties, and in the eyes of the world will furnish sufficient justification for continued resistance on the part of those States which may not be allowed to freely participate in making this virtually new Constitution—new, because this amendment will absolutely upset the social organization in which the people of the slaveholding States were bred, while it will disturb the rights of property among them, disarrange all their industrial pursuits, and completely wipe out of existence, without compensation, the patrimony of a multitude of innocent people, many of whom may not have participated in the rebellion in any degree.

Do the advocates of this measure want the old Union restored? Are they desirous of having this sanguinary contest terminated in the return of the southern States to their allegiance? Do they wish to reestablish fraternal relations through an honorable peace with those people who are now in rebellion, and are they ready, through the coöperation of a reconciled South, once more to form a united country that we may again take our place in the front rank of the nations of the earth? If so, I beg them to pause before they consummate this momentous action. How can they expect to get the seceded States back into the Union by enacting measures to keep them out, is a question that has been pertinently asked; and here I ask it again of the supporters of this resolution. Why, if they be really desirous of restoring the Union, will they not drop the negro and cease to tamper with the Constitution until peace shall once more spread her wings within our borders?

The Constitution as framed by the founders of our Government should be the bond of peace. Fidelity to its provisions and strict adherence to

its considerate compromises is the sacred duty of all who have shared its blessings. It was designed as the guarantee of reciprocal advantages and the anchor of safety for contested rights. It is an instrument of harmony, wrought out of discordant elements and various sectional and conflicting interests, to secure a glorious sisterhood of coequal States in one majestic nation, for a common destiny. That majestic nation I would preserve in all its greatness and glory. I would not sacrifice it nor abate a solitary square mile of its territory for the freedom of all the negroes ever born in Africa, much less for the poor satisfaction of wreaking vengeance upon the wretched and thwarted traitors who have vainly sought to destroy it by rebellion and secession. I would freely pardon every traitor that breathes the southern air if thereby I could save the Union and restore our bleeding country to peace and tranquillity.

If the object of this bloody war is really to restore the Union, as its promoters would have us believe in spite of their disunion policy, I have never been able to understand why slavery, or the condition of the negroes of the South, should have any more necessary connection with it than the horses, mules, and other property of that section of the country. If the aim of the Administration is to compel the insurrectionary States to perform their duties under the Constitution—and that should be its only aim in this war—to pay duties on imports to the Federal Treasury, and to yield obedience to Federal authority in all respects like the other States, it seems to me to be folly in the extreme to war upon the tenure of any description of southern property. But my understanding is at fault, Mr. Speaker, if the party in power have any such intention. On the contrary, they seem to have ingeniously and successfully devised a system of measures looking directly to the complete destruction of the very rights of which the southern people are most jealous and which the Crittenden resolutions declared should be respected and protected. Instead of seeking to restore the States to the Union with their constitutions and rights unimpaired, it has now become the avowed object of the party in power to prevent the restoration of a solitary State with any of its independent rights. The reconstruction bill which passed this House the other day, as well as the measure now under consideration, amounts to a full confession of such a policy.

In view of the recent gratifying achievements of our arms, it seems to me, sir, that it would be wise in the further prosecution of the war to confine our policy to the use of force against force; and not, by aggressive legislation like that we have now under consideration and that which we have been maturing for the last six months, to blast the love and repel the attachment to the Union that may be still lingering in the breasts of tens of thousands of honest citizens of the South who have been rebels only by compulsion, on account of the inability of the Government to protect them in their loyalty and crush the rebel authorities, which they have been forced to support and obey upon their peril.

Why will not our friends upon the other side of the House let this whole negro question rest until we shall have subdued the rebellion; or at least, why will they not leave it to abide its fate at the hands of the military department? While we are conquering the rebellion, Mr. Speaker, we should learn to conquer our prejudices and contemplate the obnoxious domestic institutions of the South in a spirit of patriotism and toleration as did the considerate statesmen who laid the foundation of the Government upon compromises and concessions which must still be perpetuated if we would preserve that Government from the convulsions which now threaten its overthrow, and which can never be quieted by any rough-shod measures like this. While we are expending life and treasure without measure, and learning to look upon blood and carnage with composure, is it too much to ask of the politicians who now direct the affairs of the Government to sacrifice their political theories, it may be their philanthropic impulses or their humanitarian philosophy, as well as their partisan prejudices and party affinities, for the sake of our suffering country? If negro emancipation is found to stand in the way of the reestablishment of our free and

united Government, upon the principles and compromises which guided our fathers in its original construction, is it not their high and patriotic duty to let the negro slide while we reconcile the dreadful sectional antagonism which is deluging the land with the best blood of our people?

Sir, the assumption that slavery is the cause of this war, and that there can be no union of these States while slavery is tolerated in any of them, is a position which the facts do not warrant or justify. The Union, according to my understanding, was established upon the idea that a free Government could exist when composed of independent States, of various geographical positions, and possessing altogether different systems of social organization, for common purposes; and the assumption of the Republicans, to which I refer, is an argument not only against the rights of States to govern themselves, but it is a concession that the great principle contended for in the Revolution of 1776, after a trial of eighty years has proved a failure, and that we are now carrying on a gigantic civil war to establish a consolidated central Government upon a homogeneity of interests. Success in this undertaking would only undo what our fathers accomplished in 1776. But, sir, in my judgment this can never be accomplished.

Before we can have any right to expect peace, Mr. Speaker, and such a peace as will reconcile the people of the two sections again to live together under one Government and present to the world a united and prosperous country, the glowing fanatics of the party now in power must cease to breathe threatenings and slaughter upon the southern people for the sin of slaveholding, and cease to clamor for extermination, general confiscation, and universal emancipation. The history of mankind, Mr. Speaker, should teach us that if we would have this Government reunited with equal rights and equal privileges to the States, that end must be brought about by other agencies than military force and unforgiving hate. Sir, I believe there have been times in the progress of this war when the exercise of a little wisdom on the part of the Administration and the manifestation of a conciliatory policy might have closed it with honor and without humiliation on the part of either of the belligerents; but those opportunities have been invariably destroyed by some exasperating proclamation, order, or act on the part of the Government, apparently especially designed to drive the minds of relenting rebels into more desperate enmity. Sir, the resolution we are now considering is one of those measures the adoption of which can have no other than an embarrassing effect upon the negotiation which must inevitably precede a restoration of amicable relations between the now antagonist sections of our unhappy country, if such relations should ever be reestablished.

Sir, the slavery issue, which this resolution seeks to finally settle in a summary manner by the immediate abolition of slavery, is legitimately merged in the higher issue of the right of the States to control their domestic affairs, and to fix each for itself the status, not only of the negro, but of all other people who dwell within their borders. That is the great question involved in the resolution now before the House. It must be recollected, Mr. Speaker, that even in the free States we have diverse local laws to regulate the status of different classes of people. While some of the western States have, or have had, laws forbidding negroes to come within their lines to reside either as freemen or slaves, some of the New England States, under the Know-Nothing fanaticism, enacted that men born in foreign countries should not become citizens or be entitled to the elective franchise until after a probationary residence of twenty-one years, and California has a code applicable to its Chinese settlers, fastening burdens upon them to which none of its other inhabitants are subjected.

Now, sir, in resisting the various unconstitutional schemes of the President and his party in Congress to accomplish the abolition of slavery, the Democratic party have not sought to uphold the institution of negro bondage on its merits, but only to maintain the constitutional right of each State to determine for itself, as the northern States have done, what shall be the relative position of the black race in their midst; and to determine also, when they will abolish slavery, or whether

they will abolish it at all. These rights, guaranteed by the Constitution, have been exercised by the northern States at their pleasure, and the Democracy hold as a principle that the southern States cannot and should not be deprived of the same privileges. The people of the several States, when the Constitution was formed, had, from their first settlement as colonists, enjoyed the right to manage their domestic and local affairs through their own legislative bodies; and when the representatives of the States came together in Convention to form the Constitution, no proposition was made from any quarter that those inherent rights should be invaded, much less surrendered. No State at that time would have yielded one tithe of those rights for the sake of a Union. They justly regarded the central Government, which they then organized, and which is the same to this day, as incompetent to manage the local affairs and regulate the domestic concerns of so many different communities; and possibly that is one reason why they were never confided to the General Government. While on the contrary, by an express provision of the Constitution, they are with jealous care especially reserved to the States, whose independence in that respect was not impaired in the least degree by the terms of the original Union. The States were all left at liberty to abolish, continue, or establish slavery as they pleased, and the right of Virginia to adhere to slavery was as clear as the right of Massachusetts, New York, and other States to abolish it.

I perfectly agree with the distinguished Senator who said that the States which adhered to slavery and continued it, it being the normal condition of the colonies, had more reason and juster grounds for complaint against the States which abolished it than those States had against such as chose to continue it. I believe also that if all the States holding slaves at the close of the revolutionary war had continued to hold them to the present time the mischievous agitation of the "negro question" by the people of some of those States would never have occurred and this rebellion would never have been heard of. If there had been no abolition in Massachusetts, New York, Pennsylvania, New Jersey, and other States which held slaves at the organization of the Government, slavery would never have been accused of being the cause of this war, and no trouble could have arisen between the States on account of it.

Nobody, Mr. Speaker, will pretend to say, even at this day, that the Union could have been formed in the first place if the Constitution had not recognized and protected the slave institution. Sir, does anybody believe that if the representatives of a majority of the States in the Convention which framed the Constitution had insisted upon incorporating into that instrument the resolution now upon your table our Union could have been consummated? No, sir. Had New England then insisted upon the abolition of slavery we all know that the Constitution would have failed and there would have been no Union for the rebels of the present day to destroy or for us to save. This country then would have been split up into sundry confederacies, or perhaps each of the States would have been left to "go it alone."

Now, sir, the truth is that the protection which the Constitution threw around the slavery system of the South, and the guarantee it gave to the African slave trade for a period of twenty years, was in fact the very bond of our Union; for it is manifest that no Union could have been formed if those, in these days, horrid provisions had been omitted! What a terrible idea for our negro-worshipping friends on the other side of the House to contemplate!

In this view of our governmental compact—denominated by the abolitionists "an agreement with hell"—and its provisions establishing the tenure of slave property, the rights of the people of the slaveholding States in such property cannot be equitably or honestly abrogated without their consent. It is not, however, my intention to argue this point, for I am sure that I should never be able to convince the majority of this House that they have not the right by some "higher law" to abrogate every species of property belonging to a slaveholder, and to tinker the Constitution to suit themselves, and then say to the people of the South, "This shall be your



Constitution; submit to it without a murmur, or we will exterminate your whole race from the face of the earth and parcel out your lands to your negroes in forty-acre lots!"

In this spirit they have conducted the war from its beginning—as full of venomous persecution toward slaveholders for the sin of slavery as was Saul of Tarsus when he made that memorable journey from Jerusalem to Damascus, breathing threatenings and slaughter against the saints! But, sir, Paul on that occasion saw a great light and heard a loud voice; and I am hopeful that before our once happy land is utterly ruined—say in the month of November next—the relentless career of the fanatics in power will in like manner be arrested by the mighty voice of the people at the polls. It cannot be possible, Mr. Speaker, that the spell of fanaticism, the incomprehensible negro mania which now reconciles the free people of this free country to the despotic power and the unconstitutional usurpations of this Administration, and impels them to the toleration of such aggressions upon the personal liberty of citizens and the rights of free speech and a free press as have been made again and again by the military power under its direction, is to last much longer. The exile and imprisonment of citizens for no crime known to the laws, the abrupt invasion of printing offices and other places of business by armed soldiers, and the arbitrary arrest of editors for the innocent publication of matters displeasing to the men in power—as in the case of the New York Journal of Commerce and the World the other day—are startling offenses against the constitutional rights of the people, which, when fully comprehended, can hardly fail to arouse a tornado of indignation among the masses that will hurl from their seats of power the arrogant despots who are now trampling under their feet the sacred charter of our liberties, even while their pliant partisans are here endeavoring, through the insidious resolution under consideration, to wrest from the States all control over their local institutions and constitute a consolidated General Government entirely different from that which our fathers instituted.

But, sir, while I forego the argument I might make upon this point and ignore all the quotations which might be impressed to sustain my position, I may be at liberty to express my humble opinion, that as there would have been no Union in the first place if the power to regulate the matter of slavery had not been left to the exclusive control of the States in their unsundered sovereignty, so now, if that power be taken from the States by this amendment of the Constitution, without permitting the southern States to participate in the formalities proposed—as they cannot participate in their present condition—disunion will be perpetuated for all time and the glory of the American Republic will never return, no matter how successful our armies may be in overcoming the physical power of the rebellion.

Now, Mr. Speaker, I ask if this is the proper time for our people to consider so grave a measure as the amendment of the Constitution in so vital a point? We should not forget, sir, that this great charter of human rights and a free Government was framed by wise men after grave and mature deliberation, at a time when no popular excitement disturbed the public mind and no party prejudices existed to warp their judgment or influence their feelings; but, sir, we are approaching its amendment, proposing to remodel it, in the very midst of a bloody and exasperating war, when the passions of the people are inflamed with sectional bitterness and fanatical zeal, and while partisan prejudices and political animosities are swaying the popular mind almost to frenzied blindness. In the midst of this turmoil of deadly sectional strife, when truth and reason and humanity, as well as fraternity, forgiveness, and common charity have been overwhelmed by heated passion and exasperated hate, it may well be questioned if the public mind is in a proper condition to consider and pass upon any proposition to amend or in any way disturb the fundamental law upon which our very liberties are established. Mr. Speaker, this is no fitting time for such work, and I therefore pray that this House will at once wash its hands of the measure and not hesitate to disagree with the Senate in the disunion movement now under consideration.

The Constitution as it stands is the master-work of wise, experienced, and purely patriotic men—giants in intellect—whose equals, I am bold to say, are not to be found among the pigmy demagogues who wield the destinies of our country in these degenerate days. It is the matchless product of unquestioned wisdom, profound patriotism, practical justice, and approved statesmanship. Immortality has justly crowned the name of every one who participated in its making, and even the glory of the Father of his Country was augmented in being the presiding officer of the august body which gave it to the world. What a magnificent structure for the nations of the Old World to contemplate was the free Government it ordained! How wisely adjusted its division of State and national powers; its granted and reserved rights; its checks and balances; its restrictions and limitations; its adjustment of legislative, executive, and judicial functions; its studied guards against the abuse of power; and its jealous protection of the rights and liberties of the people! What wonder that it attracted the admiration of the civilized world, and what a shame that the people who have attained greatness and glory and honor and unparalleled prosperity through its protecting care should now suffer it to be destroyed by a disregard of the great principles upon which it is based, and a violation, by the administrators of the Government it created, of the sacred rights it was designed to protect. Ought we not, Mr. Speaker, as the Representatives of the people, to be deliberate and cautious when we set about amending this sacred charter of civil and religious liberty? Ought we not to hesitate long and consider well before we efface a single inscription from this monument of the wisdom and patriotism of our fathers? Can such a thing be wisely done in the present agitated state of the public mind?

Mr. Speaker, from my very heart I am constrained to say that of all the measures of this Congress apparently designed to perpetuate the disunion of these States, I regard that now under consideration the most pernicious, because it will be the most effective, and will, as I have before said, entirely close the door to a peaceful reconciliation, if it should be consummated, by incorporating the proposed amendment into the Constitution without the free consent of the States now in rebellion.

Sir, we want those rebellious States to return to the Union under the Constitution to which they owe unquestioned allegiance, and we should be careful to supply them with no justification for continued hostility to the Federal authority. We should hesitate to erect, in our hatred of slavery and slaveholders, even the slightest barrier to prevent their return to their old positions in the Union the moment their physical power shall be overcome by our military movements. In their present condition we have no right to impose upon them this proposed constitutional provision, which we know will be obnoxious, even as a punishment for their rebellion. If they are again to become a part of the General Government, they surely, after they shall so become, ought to be consulted in amending the fundamental law under which they are expected to live in communion with us. I repeat, Mr. Speaker, that I consider this the worst and most to be feared of all the disunion measures of this Congress, for the reason that when this resolution shall have been made, no matter how unfairly, a part of the Constitution, it will be irreparable in the second sober thought of Congress, while all the other iniquitous schemes which have been enacted to promote the rebellion and procrastinate the war may be repealed at will upon the returning reason of the people, when true patriotism, justice, and humanity shall resume their sway in the public councils and supersede the fanaticism, political profligacy, and degenerate recklessness which now pervade these legislative Halls. But, sir, this project, when consummated, becomes a portion of the organic law, and at once raises a barrier of insurmountable magnitude in the way of that peace and reconciliation which all sober-minded and truly loyal citizens hope to see accomplished the moment complete success shall crown our military operations against the rebellion.

There are a great many loyal citizens, Mr. Speaker, who stand upon that face of the three-

sided platform the President laid down in his celebrated letter to Horace Greeley, which looks to the salvation of the country with slavery unimpaired; and they would molest that institution in no other way than through the movements of our military organization during the continuance of the war. No true patriot, in my estimation, will insist upon a prosecution of this horrid war for the sole purpose of extinguishing negro slavery; and yet such a purpose is now the avowed determination of the leaders of the Republican party, boldly proclaimed in the radical press. In a recent number of the New York Tribune I find the following "key-note" of that policy, which indicates that the question of saving the Union is to be entirely ignored until slavery is forever dead and buried. Listen to the shocking invocation of the Tribune which puts entirely out of sight the objects of the war, as declared by Congress and as professed by the President at its commencement:

"Friends of the wounded in Fredericksburg from the battle of the Wilderness, friends and relatives of the soldiers of Grant's army beyond the Wilderness, let us all join hands and swear upon our country's altar that we will never cease this war until African slavery in the United States is dead forever, and forever buried!"

That I take to be the war creed of the party on the other side of this House, and the proposition to amend the Constitution now under consideration is the bugle blast which directs the abolition cohorts to still prosecute the work of blood and carnage after the armed rebellion against the Government shall have been quieted.

This resolution, Mr. Speaker, contains the concentrated venom of the whole abolition crusade, and if it should be adopted while the States most interested are deprived, by their own act it may be said, of all voice in the matter, I fear the result will prove that we have gone one step too far. If this measure should be "put through," as "the powers that be" doubtless intend it shall be, if it commands a sufficient number of votes in this House, the Constitution as it was framed by our fathers, in a spirit of broad and unselfish patriotism, will have passed away. Its substitute will be but the mandate of a sectional oligarchy, the product of exasperated partisan feeling and intense hatred toward a large portion of the people who are to be compelled to live under it, against their will, after being despoiled of their property and their rights.

I think, Mr. Speaker, that I have already said sufficient to define my position on this question, and to satisfy my constituents of the propriety of the vote I intend to give; but before I conclude, I may be permitted to remark that if instead of adopting such measures as this, and the confiscation act, the absurd freedmen's bill, the negro forty-acre homestead project, and the Union-destroying reconstruction measure of the gentleman from Maryland, and the country were rid of all the negro legislation which now disgraces the journals of this Congress, we might reasonably hope, through the achievements of our armies in the movements now progressing, to witness the speedy restoration of the Union upon the basis of the Constitution "as it is." But, sir, our friends on the other side are after something else; and are so emphatic in their protest against any Union until slavery is abolished in all the States, as to demolish that hope. Therefore I apprehend that we will be compelled by their action to endure the contemplation of a multitude of battle-fields yet to be baptized in the best blood of the land, and to look for the further wholesale slaughter of our citizens, while we await the salvation, not of the Union, but of the negro!

I believe, Mr. Speaker, that we may be able to conquer submission to the Constitution as it is, leaving the States all the rights and guarantees of the original compact; but I have no idea that we can ever make the South the slave of the North, and subject it, in its local government, to our will and pleasure. Nor do I think we ever ought to do so. I would not have the northern States assume toward the South, after all her treason and rebellion, the attitude of England to Ireland, Austria to Hungary, or Russia to Poland; but I would have the patriots of our land awake to the dangers that beset our free institutions, and willingly sacrifice not only life and fortune but opinions and prejudices and sentiment for the salvation of the country. I would have them to labor with one heart and one mind, without ha-

tered or revenge, in a spirit of unbounded patriotism, for the suppression of the rebellion, the preservation of the Constitution, and the perpetuation of the Union of these States, that we may still further progress in solving the great problem of popular sovereignty. But, sir, the attempt to press the measure now under consideration in this important crisis of our national affairs indicates no such disposition on the part of the ruling powers; and we are left to the sad conclusion that while the President of the United States regards his own reelection as the chief purpose of the war, his partisans in Congress and throughout the country have determined to prosecute it solely for the enfranchisement and elevation of the negro. In their partisan blindness, seeking to attain an impossibility, let me counsel them to be cautious, lest they lose all and make shipwreck of the noble institutions erected by our fathers, and dedicated to the civil and religious liberty of the people.

Mr. KELLOGG, of New York. Mr. Speaker, of all the various measures this Congress has in hand and upon which it must act, the most important in my judgment are those which most directly bear upon the terrible issue now on trial for the unity or dismemberment of our country, and which decides for weal or woe the present and future well-being of ourselves and our country. This inclination of my mind does not lead me to dissent from those who find time to consider and provide the measures necessary to our restored condition, for I agree with them that if our cause be lost it is immaterial what follows, and therefore legislate upon the foregone determination that the Union must be, and shall be, and will be preserved. Whether the revolted States are or are not in the Union is a question which is answered variously by different minds, and for myself after thinking and hearing much on the subject I am content that they are still in the Union in law, and therefore in fact, but that their governments have been and are subverted and overthrown, and that they are without a republican form of government such as the Constitution guarantees to them, and which it is our duty and privilege under the Constitution to establish. To crush and conquer this rebellion, therefore, and bring the inhabitants of the revolted States under and into obedience to the Constitution and the laws, is our first great work and bounden duty; and that done, and thoroughly done, the way to reconstruction will be clearly seen and acted on. The President in answer to a clamor, raised by those whose vocation it is to afford aid and comfort to the enemy, that he was substituting the military in place of the civil power, and in his zeal to establish civil government in those States where it has been subverted, proposed a plan which, if it had no other merit, silenced that clamor, but to be reproduced at the opposite enormity, thereby disclosed to them the greater danger of dispensing with military rule and at the same time denying to traitors the elective franchise. Whether the President's plan is entirely wise, or that of others, including that before this House, is in my judgment about equally doubtful. But the rebellion crushed, that reconstruction follows as a consequence, I have no doubt. Nor that alone; but slavery, the cornerstone of the rebellion, is thereby and therewith destroyed, leaving the way to reconstruction plain and obvious. The Congress of the United States, being the ultimate tribunal to decide whether the form of government adopted by a State entitles it to representation here under the Constitution, should do its duty promptly in aid of the event.

And here, sir, permit me to call to the stand, in proof of the fact I have just stated, the best and highest evidence possible. In his Democracy a Hebrew of the Hebrews, a slaveholder, knowing whereof he speaks, Andrew Johnson, of Tennessee—the utterance of whose name excites almost to reverence for his almost superhuman efforts and saving power put forth for the salvation of his country in this great crisis of its fate: “The people made the Government, and it must remain under the control of the people. The Government being under the people, and the institutions under the Government, any institution antagonistic to the Government must necessarily give way for the preservation of the Government. Institutions must not rise above the Government. Institutions are tolerated for a time, they are not fixed; they are subject to change, or they die out. Not so the constitutional Government, which is a fixed, a lasting institution of the people.”

situations must be subordinate to the Government of the United States. Before the rebellion we could discuss all institutions, all subjects, all measures, except slavery. On that subject no one dared speak, or write, or print, except on the side of the slave aristocracy. Now, thank God, the time has come, when the press is ununmuzzled—when the press can discuss this and all other subjects. The time has come when this institution is dead—when the chains are broken and the captive set free. The institution is dead.” \* \* \* \* \* “Being dead, let us in a becoming manner prepare for the funeral obsequies. Now is the time to dispose of this great question. It is a great question, and one which must be settled upon the great principle of human freedom; not by abolitionists in the North, nor by secessionists in the South, but by that great law of self-preservation which governs all men alike. Slavery is a cancer upon the body-politic, which must be rooted out before perfect health can be restored. The great law I refer to is now at work, and negroes and all things else which may be in the way to impede its course must get out. Do not go to inventing, but find out the great principles of this law, and conform your actions thereto. \* \* \* \* \* “Destroy the rebellion, and let slavery go with it.” \* \* \* \* \* “The Union and the Constitution must be preserved intact.” \* \* \* \* \* “The edict has gone forth, and all that remains to be done is to change the relation of master and slave. The day is not far distant when this nation will be the great center of civilization, of the arts and sciences, and of true religion.” \* \* \* \* \* “Let us go on with our mighty work. To talk about breaking up a Government like this for slavery! ’Tis madness. Let it go on with its great mission.”

The border States, all acknowledging the fact, hail and adopt the great edict of emancipation, and only some halt and hizzle for compensation. But the great work sweeps on. All rebellion admit it, and stand or fall by it and with it. They have staked all on it and lost. Let them bide the consequences.

That slavery is dead presupposes and assumes that freedom triumphs, and is to triumph on its battle-field. No one, not even Governor Seymour, the most plausible, powerful, and persistent sympathizer with the allies of their southern brethren on the other side of this floor, claims as far as I know that the emancipation proclamation was or is unconstitutional as a war measure. Bitter and unceasing as their maledictions upon that great and indispensable military measure have been, when followed to their conclusion they all tame down to the assertion that the proclamation is powerless and impotent, and that assertion hunted to its corner disappears in the pitiful and shameful protest that it is irritating to their southern brethren. So, then, these oath-breakers and violators of all laws human and divine, striking at your life and mine, at your liberties and mine, and intent upon the disruption and ruin of our common country, must not be irritated even by any measure or means, essential though they be to our very existence and self-preservation.

But is the proclamation of freedom to the slave impotent and powerless? Is not a slave who comes into our lines under it free; is not the dominion over him of his master then lost? The slave is a most potent power in the hands of his rebellious master, and directly used and wielded by him in this wicked war to dig their trenches and build their forts and drag their cannon and carry their burdens and cut and clear their roads to the battle-field; and who but they supply their traitorous masters in the field with the food and sustenance of their armies? If their horses be taken they are the property of their captors, and so of their guns and munitions, and all their engineering of war; and why not their slaves? They hold and claim them as property, and devote them to the purpose and maintenance of the war; and when captured and within our military control, whose slaves are they then? Are we to hold them in bondage or trust for traitors? Something of this has been done by some of our heretofore generals then and still high in the esteem and favor of traitors and their friends on this floor and elsewhere; but, thank God! that is over. Are they, then, not free? And being so, who shall enslave them again? Has not the promise gone forth that they are “henceforth free?” “A promise that must be kept.” Now, all know that this rebellion must be put down by force, by military power. All other arbitrament is rejected by the rebels in arms. They have referred to their generals in the field the dastardly overtures of peace to rebels in arms by their sympathizers here. And when the loyal people of the Union shall by their armies put down and crush out this rebellion, and “occupy and possess” by military force and power every revolted State, and every acre belonging to this Union, and our glorious flag

floats proudly over all, will not the proclamation of emancipation, that great military order, then be executed in fact, and the promise of freedom then be fulfilled, and all slaves be free? The illustrious Senator from a border State has well said that a slave of a rebel coming within our military control is free, and no man or men can gainsay it. That the proclamation alone and unaided, like an order of a general or an admiral declaring the property of a town besieged or a ship when captured a spoil or a trophy, waits fulfillment till the dependent events transpire, and then is accomplished.

The rebellion put down, then, and slavery destroyed with it, both cause and effect are disposed of, and to attain that end we may wisely address ourselves to the means to attain it, pausing as we go to make sure and certain that the cause of the rebellion being dead and buried may have no future resurrection. Pass the resolution now pending submitting an amendment of the Constitution to the States prohibiting slavery forever hereafter in the United States or its Territories. This should be done, sir, not by a mere two-thirds vote, but by every vote. And yet it will be seen that the allies of slavery and of traitors to their country are not all as yet conscripted into the hostile ranks of treason, and gathered, as they should be, where their heart is, on the sacred soil, with their erring brethren. But here while the battle rages some will be regretting, with the member from New York, as they have before, their inability to arm brother traitors by the ship-load, and others, with the unworthy member from Maryland, will bewail, as heretofore they have, even in this Congress of the Union, the murderous cruelty of their patriotic countrymen, who go forth to battle and to die, if need be, that their country may live, and piously invoke the curse of God on their country and its cause; others, with assumed prophetic vision, will clearly see and graphically depict the greater ruin, if we do not abjectly submit to the spoliation and dismemberment of our country, and, on the whole, choose the last alternative; and others, with an eloquence and zeal worthy of a better cause, clamor unceasingly that the Constitution should be trammelled with a prohibition against the possibility of taking from proscribed, acknowledged traitors in arms, leaders and authors of this unnatural and unholy war upon their country and humanity, their property, lest their dear progeny, the spawn of treason, may come to discomfort and want, and be exempted from all acknowledgment that “the way of the transgressor is hard;” and herein the Democracy—God save the mark!—the other side of this House, mainly all concur. But not one of their crocodile tears has dropped, or will, for the wreck of fortunes and the want and destitution this slaveholders’ war entails on the children of the North. Better so. They shall henceforth be the children of their country, nursed, fostered, and adopted by it, and held too dear to be polluted by the divided sympathies or concern of those aping treason.

The time was when Democracy meant something, and was first in the field when the country was assailed, and was first and foremost in the councils of the nation, shouting the war-cry of freedom, and when those who failed to respond in concert, and failed to marshal themselves against their country’s enemies, and held their country and its cause in the wrong, were branded as traitors, and consigned to everlasting infamy and contempt. But here and now such men stalk these Halls, and make open and public gowal; and, lest freedom of speech should be abridged, the very inmost counsels and purposes of the Government are laid open to, nay, shared in, by traitors self-confessed, and under and in the name of liberty and freedom and the Constitution this is tolerated and continued here. And how and by whom? Let Democratic voices and votes give answer as they have answered. Sir, the day cometh and now is, when men shall be driven from their refuges of lies, when traitors and impostors and pretenders shall be known and despised of all true men, as were the Cow-Boys of old. Sir, the times demand earnest work and plain talk; and let us have it.

Is it any longer wonderful that all our ways and purposes are manifest to our deadly enemies as soon as conceived, when their friends and open

sympathizers have place here? They, in my judgment, are in the wrong Congress, and should follow their illustrious predecessors out from these Halls where they, too, invoked the curse of God on those who stood by their country, to that other congress of their friends, and we, if need be, might better add to their mileage the distance they have stopped short of their journey's end and pass them on to Richmond. Entertaining these views I have not hesitated to offer them by my vote and voice, as I do now, a pass hence and herefrom, nothing doubting but our country would be the gainer.

These, sir, are your peace Democrats, who stay at home to fight, and they represent and gather to their folds all who claim to support the Government in this its terrible day of trial, and yet oppose, denounce, and malign the Administration and its every act and measure, knowing as all must know that weakening and embarrassing the Administration to the same extent paralyzes and impairs the Government.

"What would ye have, ye curs,  
That like no peace nor war?"

In favor of war, but opposed to coercion and subjugation, is of a piece precisely with the pretense of supporting the Government while opposing its measures; each is alike hollow and insincere, impossible in practice and false in fact, and amounts to aiding treason. Let none be deceived by it; "it is but the word of promise to the ear, and broken to the hope," and so shall our country be lost and broken if such counsels prevail. Beginning with James Buchanan, who first betrayed humanity in Kansas, and then his country, in the final hour his weakness and treachery had prepared for her, with all others denying the right of the Government to coerce obedience to the Constitution and laws, and including the Janus-faced politicians who, pretentiously fierce for a more vigorous prosecution of the war yet oppose subjugation—they uphold the cause but oppose the effect. And only so for war unless freedom shall take nothing as a consequence, and unless slavery shall be maintained by it and held unimpaired, and unless negroes shall be driven from our lines; and, greater than all, unless they are proscribed the privilege of fighting and dying in the common cause with freemen. All this conceded, and their conservative general in command, no other, the peace Democracy, with the olive-branch and compromise in one hand, and Democratic platform and submission in the other, and clothed with shame as with a garment all white, sir, yes, and pale, for that matter, will march forth and change base, fired on by their great war oracle, with Cooper Institute fourth of July lamentations, and crying, "Peccavi," "I have sinned," take up the chant of their erring brothers, for they know no other music, and straggle on in their devious way to war, keeping step to and singing never so sweetly, "Let us alone, let us alone."

Such men, sir, have plied their vocation aforetime in this country. In the war of 1812 they embraced the same opportunity they now do to vilify and oppose the war Administration of the day; and hear what Felix Grundy, a Democrat and supporter of the Administration, in a speech in Congress said of them, and the description holds perfect now as then:

"An individual goes over, joins the ranks of the enemy, and raises his arms against the country; he is clearly guilty of treason under the Constitution, the overt act being consummated. Suppose the same individual not to go over to the enemy, but to remain in his own neighborhood, and by means of his influence to dissuade ten men from enlisting; I ask in which case has he benefited the enemy and injured the country most?"

"Whom then do I accuse? I accuse him, sir, who professes himself to be the friend of his country and enjoys its protection, yet proves himself by his actions to be the friend of its enemy. I accuse him who sets himself at work systematically to weaken the arm of this Government by destroying its credit and dampening the ardor of its citizens. Such men I cannot consider friends of this nation."

We are told, Mr. Speaker, of a war Democracy, and such there are—their name is legion—good men and true; they are found in the Union ranks bearing arms in support of the Government and the Administration that wields it. At the ballot-box, whether at home or in the camp, they are Union men, and vote as they fight, and hold little in common with the political leaders of the Democratic party in or out of this Hall—the Seymours, the Woods, the Vallandighams, the

Woodwards, and their indorsers, who hold and control the Democratic party here, and taint it with treason, till it is a stench in the nostrils of all patriotic men. Mr. Speaker, the war Democracy as yet have no existence as a party that I can learn outside of the party of the Union, nor need they; and the great leader of the Democratic party so affirms, which would not be high authority with me after his denial of the established fact that he would furnish guns to traitors in arms and would turn over the city of New York to secession were he not supported in the assertion by facts. The war Democrats of New York could find no place in Democratic State conventions, and left it and the convention, as I am informed, ignoring a war platform, or resolutions even, sent delegates for the Democratic party to Chicago, and left the war Democracy out in the cold.

Sir, it is undeniable that the leaders of this rebellion in the outset counted confidently and openly on the support of their time-long friends and allies politically, the northern Democracy. Jeff. Davis at the beginning, before the congress of traitors banded together as the first fruits of treason, pledged himself that he would hold in the hollow of his hand all the blood the war should spill on southern soil, but that the North would divide in their favor, and the war, if any, would be there and end there. And from that day to this they have looked hopefully and anxiously for allies from the North. So long had they in the name of Democracy played into each other's hands by joint action and success that they might divide the fruits, the South taking the power and dictating the policy of the Government, the North the plunder and profits; and so potent and controlling had party discipline become, and so unscrupulous and unprincipled had they themselves become, that they doubted if any virtue was left in the land. The question still remains to what extent they reckon without their host. The peace Democracy, and mere party hacks in the North, are fulfilling their masters' expectations industriously, unceasingly, and as far as in them lies. Not even the shouts for victory in these Halls can divert their southern allies here. A sullen gloom at the defeat and discomfiture of their southern brethren settles down on their disastrous countenances, from which no ray of joy can be reflected; you might as well extract sunbeams from a cucumber. No, sir; they even vote solid here against a law to punish guerrillas.

Sir, in my judgment, many of those who withhold from their country the support they would otherwise give it find allegiance to party too strong for their weak patriotism; and now, as in times of peace, subordinate every other interest, even their country's safety, to mere party trammels. Rejecting the example and counsels of Stanton and Dickinson and Butler and Douglas and Dix and Holt and Andrew Johnson and Logan and Rosecrans and Grant and a host of others, all Democrats of the straitest sect, to forget all other ties and cleave only to their country for their country's sake, and rejecting the overtures and example of the Republican party to drop and forget their party name, that all might unite and band together for their country's salvation as Union men, they turn a deaf ear and cold shoulder and sullenly pass by on the other side, thanking God they are not as other men are, and lend, if at all, a calculating, qualified, and conditional and halting support, under protest, to their country's cause; thus justifying the only hope of the rebellion to-day, that party spirit at the North will distract its counsels, divide and discourage and paralyze its efforts, and ultimately make way for the traitor and the parricide to do their worst.

And here, Mr. Speaker, it is painful to know and feel that in this crusade of party, warring to the knife against all who will not bow down and worship it, the State of New York, my native State, has most offended. Her son, whom she delighted to honor had he proved true to his great trust, and directed his great talents and influence with a single eye to the welfare and salvation of his country, and united and wielded the powers and energies of that great State and hurled it against its enemies, as it was his great privilege, the very demonstration would have brought treason to its knees and peace to the country. Sympathizers with traitors in other States, imitating his example, would have come over to the side of

their country, and we should have been united and strong, and in that strength he might have gone up to the goal of his ambition, by the consent of a united and grateful people, to the portico of your Capitol to pronounce an inaugural of peace and unity to a now warring and distracted people. But how shallow are man's devices! Man proposes but God disposes. Ambition betrayed him. Forgetting the claims of his country, and shrinking into the narrow compass of the wrangling partisan, when the country waited to hear the bugle-blast of a great and patriotic leader, he uttered forth only the wayward and uncertain squeakings of a party fife. Calling back those who would otherwise obey their country's call, and invoking the law's delay and constitutional doubts in aid of the delinquency, he led the van in opposition. His imitators in other States joined in and echoed his specious sophistries, and some, bolder than he, reduced them to practice, and banded together to resist the execution of the laws he and his kith had taught them to condemn, and bloody and riotous hostility to the Government followed their teachings, till, startled at their work, he called off his friends and appealed to the ballot-box against the Government.

The judgment of an outraged and indignant people recorded against them by hundreds of thousands sent them reeling and staggering from the blow back to their lowest beginnings, and some now "watch and wait" for their country's defeat "over the border;" and some not yet waited on by the people they misrepresent pray for it here; while he of New York, heeding the people's rebuke, again comes puffing up the wind he should have gone before, and suffers what he can no longer prevent, the people's edict of elective franchise to our brave soldiers to become a law, opposed only by himself and his political friends, and at last yields even that the willing black man may fight for his liberty and country; one day sends forth our gallant militia to the defense of a sister State, the next denies them to the defense of his own against his fourth of July friends who stay at home and fight, and the while, as their orator, devotes his country's birthday to pestilent poisoning of the public mind, to denouncing his country's efforts to crush the rebellion, to deprecating its patriotism, and predicting its downfall; an effort as baleful in its influence at home as it was aiding and comforting to traitors abroad. With a varying and fickle policy and practice, not unmingled with good, he has obtained and reflected occasional glimmerings of patriotism, and has received therefor prompt and merited acknowledgment, and again relapsed. His whole course relating to this rebellion and war has been a broken and disjointed thing. The present pronounces it, as the future will, an opportunity for his country's good lost or misemployed, alike damaging to himself, his country, and his friends; a meager harvest, but such as misguided ambition always brings to the garner of its husbandman. These conclusions, sir, somewhat differ from those expressed by my distinguished colleague who has so eloquently commended such course and conduct for our approval here.

But, sir, this is not a time when doubtful men or measures can be tolerated. The country expects that every man will do his whole duty, and will accept nothing less. No people in the course of time ever had greater reason to feel that "sufficient for the day is the evil thereof" than the people of this now sorely tried and distracted country, including all, both North and South, East and West, for I look upon all as our country and our countrymen, and bound together by compact indissoluble except by the same power and authority that ordained it, the free and full consent of all. The present wicked attempt of a portion of the people to disrupt and disintegrate that Union and compact is a violation of the rights of all and each, and an atrocious attempt to install might in its place, an insult to all affected, suicidal in all its ends and consequences, and impossible of attainment against the will of a people indubitably competent to maintain the right against all and every assailant. The conflict, inaugurated on precisely the terms and for the purpose stated, is sustained with a tenacity of purpose and energy of power and boundlessness of resources never before witnessed or conceived of; because such a people, counting by such millions



and possessing such vast material and domain, such wealth of attributes, and, above all and more than all, each sovereign and equal and free, never before challenged comparison of an observant world. The judgment of the world already attests these truths. Nations who should be our brothers, though denying their fraternity with ill-concealed envy and enmity, evince their prudence and discretion by confining themselves to covert injuries and diplomatic evasions of duty in our case, who are not wanting in promptness of execution or over-exact in measures, in cases squaring with their interests or inclinations touching less formidable Powers. As to them "sufficient for the day being the evil thereof," we bide our time, treading firmly and protesting plainly, and expecting ultimately voluntary justice, or otherwise exacting it. But, sir, as my time will not permit, I come to the measures and means I deem necessary to the putting down of this rebellion. Men abound, men ready to stake their life and devote their life to its overthrow, and as their mission is fulfilled, others are ready and prompt to take their places.

"It is as though the earth again  
Grew quick with God's inspiring breath,  
And from the vales and glades and glen  
Rise ranks of lion-hearted men,  
To battle to the death."

Sir, the sinews of war must also be forthcoming; and here and now it behooves us of this Congress to act well our part. Knowing and feeling the justice of their cause, the poor will contribute uncomplainingly, the rich lavishly. But the people will rigidly demand of us that their burdens be made equal. Legislators in an American Congress must ever remember that they are acting as the servants of a people wise and sagacious as themselves. Hence, foreseeing the necessity, their voice in no doubtful accents comes to us demanding taxation sufficient to meet the emergency—sufficient to fill their magazines, clothe and feed and supply their armies, pay the soldiers, and pay them liberally, pension the disabled and the widows of this war, uphold the public credit, pay the public debt, and maintain their Government; and this should be done, and so done as to disturb as little as possible the established course of trade, business, and production, and to that result I must and shall, according to my best judgment, contribute. I have not hesitated nor shall I hesitate to lay a generous tax upon the profitable business and manufactures and accumulated wealth and means of the country where it will be least felt and most productive, and will add in passing that the true interest of those that have will be best promoted by cheerfully parting with a portion and thereby guaranty and secure and save the residue. A depreciated and inflated currency unsettles all values, enhances prices, and we, in fact, are poorer in proportion to its abundance. We shall be wanting in our duty if we fail to provide against such calamity by looking the danger square in the face. Passing it by to a more convenient season is only daubing with untempered mortar and trifling away opportunity.

Mr. Speaker, intimately connected with our duty to lay necessary taxes is the kindred duty of protection and ample and sure and permanent protection to our home labor, home manufacture, and domestic productions—our great and main reliance against bankruptcy and ruin. Free trade, always a humbug, imposed on us by an institution and interest in antagonism with free and remunerated labor, in our present condition would be a blunder little short of criminal. Though the revenue thereby would to that extent seem convenient, yet to drain ourselves of all our gold in exchange for the various importations of the products of foreign labor at the expense of our own, at the extravagant rate now and lately indulged in, will inevitably sink us in bankruptcy too deep for our great Secretary, unrivaled financier as he is, to extricate us. Our debt, staggering as it is, we can yet carry and pay if we keep it where it is and should remain, at home. Here is our weak side; and our good-faith-keeping, neutrality-observing course will strike us here a blow more damaging and disastrous than all their pirate craft of all their Lairds and Commons. Sir, let us encourage and protect and make prosperous our home manufactures and productions, and then we can meet and face down

taxation. This duty of protection is well illustrated and made manifest by the article of wool.

The total amount of foreign wool imported into the United States during the fiscal year ending June 30, 1863, was 71,882,123 pounds.

Pounds.	
Of this under 18 cents per pound.....	61,572,584
Of this from 18 to 24 cents per pound.....	7,214,582
Of this above 24 cents per pound.....	1,114,904
Free of duty from Canada.....	1,980,053

Total.....71,882,123

The above eighteen cent wool and under by foreign valuation paid a duty of three fourths of a cent per pound. Of the second class, eighteen to twenty-four cents, three cents per pound; and the third class, valued above twenty-four cents per pound, a duty of nine cents per pound. The supposition that the wool entered under our present tariff law, valued at eighteen cents and under, would only be that used for coarse cloths, carpets, &c., and would not come in competition with wool produced in our own country, has proved fallacious; the fact being that seven eighths of the whole importations were invoiced and paid a duty of only three fourths of a cent per pound, and came in direct competition with nearly all our wool of domestic production, thus defrauding the Government of millions of revenue and driving our wool out of market. Need anything further be said showing the utter absurdity of a system of foreign valuations as a basis for either protection or revenue? In my judgment, so long as it is followed all your legislation will fail of its object. Sir, I wait to hear and challenge answer why it is that we still adhere to a policy that commits our most vital interests to the tender mercy of foreigners. We are systematically defrauded by it, and we are materially impoverished by it. But, sir, the policy will be vigorously insisted on in this Hall. All who look if not pray for the dismemberment of this country and a repudiation of its debts, with all who find no warrant in the Constitution for self-protection, self-preservation, or self-existence, may well and consistently do so, and will do so; and their professions and practice will therein be consistent. As to others I pause for a reason and a reply.

The same necessity exists for a change of policy and protection of our great iron interest. Our country, so rich in all the productions of its surface, contains in its bosom minerals and mines of wealth exhaustless and undeveloped. Friendly legislation on our part, stimulating enterprise and discovery, and rewarding labor and production and manufacture in that direction, will keep more gold in our depleting Treasury than all the gold bills of all the sorcerers, than all the devices of all the theorists. Sir, whatsoever profitably employs a nation enriches it, and whosoever keep what they gather have abundance to spare. It is scattering abroad that leaves nothing in hand with nations as with individuals; and, above all, temporary and time-serving expedients and mere soothing and not saving remedies are out of place in times like these, when the nation is taxed and tried to its utmost.

Sir, the policy that covets revenue through encouragement of foreign importations is a cheat and a delusion; it pays us a portion for the privilege of taking our all; and in accepting the temporary expedient we plunge into the very gulf of bankruptcy from which we shrink.

Sir, the cry from abroad is, "Who will buy?" And how answered, I shall presently show. We buy all and sell nothing, mainly, but ourselves. As in wool, we go abroad to gather and return shorn, and, our treasure exhausted without payment, we stand, like the lamb, dumb before our shearers. That this is not an overdrawn statement, I read the following statement, furnished me by the Treasury Department, which exhibits the value of the goods, wares, and merchandise imported and exported during the months of January, February, and March, 1864, at the port of New York:

Imports.	
Specie and bullion.....	\$334,387
Free goods (exclusive of specie).....	2,717,687
Dutiable goods (entered for consumption).....	44,037,644
" " (warehoused).....	17,204,742
Total.....	\$64,188,450

## Exports.

Specie and bullion.....	\$10,275,005
Foreign goods, dutiable.....	1,720,937
" " free.....	192,617
Domestic merchandise.....	39,515,222
Total.....	\$51,604,761

Amount of goods withdrawn from warehouse, \$15,451,081; to which I add a statement of business in the district of Champlain during the eleven months ending November 30, 1863:

	Value.	Duties.
Dutiable imports entered, duty paid.....	\$68,866 46	\$20,869 54
Dutiable imports entered, warehoused.....	385,148 00	244,955 43
Free goods entered.....	3,814,474 00	None.
Goods exported from warehouse.....	611,284 00	267,308 07
Domestic exports.....		\$876,413 00
Foreign exports dutiable.....		116,870 00
Foreign exports free.....		27,749 00
Amount received for fees.....		5,740 40
Amount received for tonnage duty.....		4,168 24
Amount received for M. H. Money.....		487 30
Specie imported.....		4,108,632 50
Specie exported.....		2,534,539 50

These figures are stubborn things, and bring clearly to light the vortex of inevitable bankruptcy into which we are heedlessly rushing. These enormous balances must be canceled by gold; and when done is it any longer a question where our gold goes to, and has gone to? And is this the way to replenish either our public or private coffers, and be able to meet the expenses of this war and furnish its sinews? Sir, let us lay a heavy hand on foreign luxuries, discouraging their purchase, that we may retain their price in aid of our terrible struggle for self-existence; and, above all, let us lay high and protecting duties on all the great leading articles of foreign production that compete with our own, and make it sure by specific duties and home valuation. But, sir, that free list—who is the father of that enormity?—that balance of nearly four million dollars is emptied upon us from the province of what was once called "perfidious Albion" nearest our border; (if it has lately earned a more gracious title at our hands, let another assert it, and not I;) and that balance is the fruit of the reciprocity treaty, bringing to the very doors of our farmers, lumbermen, and producers, rival foreign commodities to undersell them; yes, sir, subjecting them all and all their productions to foreign valuation. Sir, it denies us the privilege of our own market even, and without the slightest equivalent to our Treasury, or otherwise, stalks in upon us, and bears down and bears away our substance remorselessly. And whether this shall continue depends upon no accident, but upon whether we are true or recreant to our duty. Let the notice go forth terminating this flagrant evil, and we shall thereby also make some amends to our Treasury.

Mr. Speaker, while considering the methods which will best enable us to maintain ourselves and our Government, we are admonished that our monetary system is radically defective; that the power to issue currency as a circulating medium without limit should be restrained; and that when issued it should be on the same basis and of equal value throughout the United States; and that to effect this it should be all brought under one general law and under the control of the General Government, and not subject to the varying moods of State legislation. Urged, as these considerations are, by the powerful reasoning and confident opinion of the Secretary of the Treasury, who in my judgment stands second to no man in the nation in wisdom and ability in that Department, and who, if he shall carry us through the financial difficulties that environ us, successfully, will be acknowledged by all as a chief instrument in working out our salvation, I yield my assent to them. To the methods proposed to reach that result I find it more difficult to agree. This Government must look for its support and find it in the voluntary choice and action of the people. Any project that on its face manifestly tends to prejudice any vested right or interest of the people, they will reject and condemn, and it must therefore fail. Now it is urged that in order to make way for the proposed national banking system onerous and unequal burdens must be imposed upon the State banks now in existence; that they must be driven into the fold or out of existence. In this I differ. I would offer inducements rather. Make the way easy and beneficial for them to come voluntarily into the general national scheme, and you shall

not long wait for that desired result. Some affect to deny the right of States to charter banks; but there can be no serious question on that subject. Again, it is proposed to withdraw all the national banks and bank capital from State and municipal taxation, because of the necessity to tax them exclusively for the support of the General Government; and secondly, because the power being left to the States to tax includes the power to destroy; a result which, in my judgment, does not follow, because it may be provided against by providing against them what I demand for them, equal burdens and equal taxation with every other like property.

I am unable to see the wisdom of sequestering property of any description, and withdrawing it from taxation generally. It has never been our policy, and, in my judgment, never can or ought to be. In case of revenue from foreign importations, it was found necessary to bring that within the General Government jurisdiction exclusively; otherwise commercial relations with foreign nations could not have assured fulfillment, and because rivalry between the several States to secure trade would underbid all revenue. Hence that single source of income was sequestered to the national Treasury to defeat and prevent injurious competition between the several States. Beyond that I know of no other case. I see no reason or necessity for it in this case. Better to leave all property equally liable to all taxation; the General Government drawing for what it must, leaving States and localities to do the same, and only so can the burdens of all be made equal to all. Sir, you may tax heavily if necessary without a murmur, but unequal taxation you cannot long enforce. It is an injustice to which none will willingly submit, and the plan proposed must result in inequality. The very argument urged in its favor persuades me against it. It presupposes that the measure will be odious, and hence that it will be taxed by the States to destruction. Sir, a better guarantee of its permanency and usefulness will be found in combining the greatest possible benefits with the fewest possible evils; and that accomplished, it will become universal in favor and practice.

The withdrawing from States their natural and most obvious reliance for self-support, weakens the bands of union by severing the unity of interests, and proceeds upon the mistaken idea that the whole may survive though all the parts perish; that the General Government can be strong while the States languish.

Mr. Speaker, the loyal States have gallantly emulated each other in their generous and uncalculating sacrifices in support of the Government. They have contributed of their sons and substance without stint or measure. In doing so they have contracted heavy State debts. Counties and towns have vied with each other in furnishing forth soldiers of the Union, and adopted their families during their absence in the field, and pledged their faith and property to provide their bounties; and their means to meet all or any of these their great undertakings must not be needlessly circumscribed by partial and class legislation. We must all stand or fall together. That determined on and decided, be our burdens ever so great, we shall bear them triumphantly through. In union is our strength; whatever stands in the way of it must go down. No expense, no sacrifice, no allurements must deter or divert us, but rising with the emergency, and equal to every fate, meet and master every obstacle that stands in the way of the complete supremacy of the Constitution and the laws.

Mr. HIGBY obtained the floor, but yielded it to Mr. STILES, who moved that the House do now adjourn.

The motion was agreed to; and thereupon (at five minutes to nine o'clock p. m.) the House adjourned.

#### IN SENATE.

WEDNESDAY, June 1, 1864.

Prayer by the Chaplain, Rev. Dr. BOWMAN.

#### RECORDING OF VOTES.

Mr. McDUGALL. Before the reading of the Journal, I desire to state that just before the vote was taken last evening on the amendment to the revenue bill relative to the fishing bounties, I had stepped out for a moment, leaving word with the

chairman of the Committee on Finance where I was going, not thinking that a vote would be taken immediately. I should like, by unanimous consent, to have my vote recorded in its appropriate place.

The PRESIDENT *pro tempore*. It requires unanimous consent, and the Chair doubts whether even then it can be done.

Mr. TEN EYCK. I have no objection, but I have been refused on one or two occasions a similar privilege when I requested it five minutes after a vote had been taken.

Mr. McDUGALL. Having discussed the question just a moment before, I should like to have my vote on the record.

The PRESIDENT *pro tempore*. The Chair will refer to the rules.

Mr. McDUGALL. I hope the Senator from New Jersey will allow me to do it. There is a special reason why I desire to do it, having just discussed the question.

Mr. FOOT. I doubt whether by unanimous consent it can be done within the meaning and intent of the rule, which is very imperative that it shall be done under no circumstances.

The PRESIDENT *pro tempore*. The Chair was of that impression, and that is the reason he was going to refer to the rule.

Mr. McDUGALL. Without, then, desiring to make a question about this, allow me to say that I was called from my place by a call which I thought required my attendance for a moment; and I regret very much that I was not in my seat when my name was called.

Mr. POMEROY. There has been a usage in the Senate, and I remember one or two instances where parties have recorded their names by unanimous consent.

The PRESIDENT *pro tempore*. The Chair thinks the usage has been the other way.

Mr. POMEROY. There have been instances of that kind since I have been in the Senate.

The PRESIDENT *pro tempore*. There may be one or two instances.

Mr. SHERMAN. I move that the reading of the Journal be dispensed with.

The PRESIDENT *pro tempore*. That can be done by unanimous consent. Is there any objection? The Chair hears none; and the reading of the Journal will be dispensed with.

#### PETITIONS AND MEMORIALS.

Mr. SUMNER presented three petitions of men and women of the United States, praying for the abolition of slavery and for such an amendment of the Constitution as will forever prohibit its existence in any portion of the Union; which were referred to the select committee on slavery and freedmen.

Mr. JOHNSON. I present the petition of Charles de Arnaud, who represents himself to have been a loyal citizen of the United States. He states that he was doing a very lucrative business in Jackson, Mississippi, at the breaking out of the rebellion, and determined to return to the States that were not in rebellion, and he removed to Louisville, Kentucky, where he was employed by General Rousseau to obtain information from the rebels. He did it, he says, at great expense of money and great hazard of life, and he complains that he has not been paid a sufficient indemnity for his services. I move that the petition be referred to the Committee on Claims.

The motion was agreed to.

#### NATIONAL CURRENCY.

Mr. SHERMAN. I desire to make a report from the committee of conference on the bank bill. The matter ought to be disposed of now for the purpose of getting this bill out of the way. I ask for its present consideration; it will take but a moment.

The Secretary read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 395) to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House of Representatives recede from their disagreement to the fifteenth amendment of the Senate, and agree to the same with an amendment, as follows: line two of said amendment strike out the words "the bonds," and insert in lieu the following words, "any excess of bonds beyond one third of its capital stock and," and the Senate agree to the same.

That the Senate recede from their nineteenth amendment.

That the House of Representatives recede from their disagreement to the thirty-sixth amendment of the Senate.

That the House recede from their disagreement to so much of the thirty-seventh amendment of the Senate as proposes to insert the words "Buffalo, and Providence, Rhode Island," and agree to the same with an amendment, as follows: strike out the words proposed to be inserted by said Senate amendment and insert in lieu thereof the words "Washington city," and the Senate agree to the same.

The House recede from their disagreement to the thirty-eighth amendment of the Senate and agree to the same with the following amendments: strike out all after the word "notes," in line seven of the matter proposed to be inserted by said Senate amendment, down to and including the word "mountains" in line ten; and in line twelve, strike out the words "three fifths," and insert in lieu thereof the words "one half," and the Senate agree to the same.

The House recede from their disagreement to the forty-first amendment of the Senate and agree to the same with the following amendment: strike out all after the word "provided," in line forty-seven of said Senate amendment down to and including the word "located," in line sixty-six, and insert in lieu thereof the following:

"That nothing in this act shall be construed to prevent all the shares in any of the said associations held by any person or body corporate from being included in the valuation of the personal property of such person or corporation in the assessment of taxes imposed by or under State authority, at the place where such bank is located, and not elsewhere; but not at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of such State: *Provided further*, That the tax so imposed under the laws of any State upon the shares of any of the associations authorized by this act shall not exceed the rate imposed upon the shares in any of the banks organized under the authority of the State where such association is located," and the Senate agree to the same.

JOHN SHERMAN,  
REVERDY JOHNSON,  
*Managers on the part of the Senate.*  
S. HOOPER,  
E. B. WASHBURN,  
L. MALLORY,  
*Managers on the part of the House.*

Mr. COLLAMER. I should like to hear the report read again.

Mr. ANTHONY. I think if the chairman of the committee would explain it, that would be of much more value.

Mr. SHERMAN. I will do so. I will remark that the House of Representatives originally agreed to nearly all the amendments of the Senate, and there were only six points of disagreement. The fifteenth amendment of the Senate is agreed to with a slight modification, not affecting the meaning. That amendment of the Senate authorized a bank to take up the bonds upon which no circulating notes had been issued. The amendment of the committee of conference to this amendment prohibits the bank taking up any bonds except beyond one third the excess of bonds, and upon which no circulating notes have been delivered. It is rather a change of phraseology than meaning. The nineteenth amendment of the Senate was one proposed by the Senator from Vermont, limiting the amount of capital stock of the banks organized under this act. That is stricken out, so that the limitation applies only to the circulation. It was deemed difficult at present to fix the amount of limitation of the capital stock, because it was represented to us that many of the banks in New England and New York that might go into this system might carry in a much larger capital than the amount of circulation they would probably take, and that at any rate for a year or so it was not at all likely that the limitation of \$300,000,000 could be reached. There was a radical difference between the Senate and House of Representatives, so that we receded from that amendment of the Senate.

The thirty-sixth amendment inserted Leavenworth as a place of redemption. That is left out. The thirty-seventh amendment inserted Providence and Buffalo. We receded from that amendment and inserted Washington City, the Comptroller of the Currency desiring that the notes of banks in Washington should be redeemable in New York, so that they should keep on hand the highest amount required in cities of redemption, thirty-five per cent.

The thirty-eighth amendment was an important one. It required the banks west of the Alleghany mountains to redeem in the city of New York at one fourth of one per cent., and those east of the Alleghany mountains to redeem in New York at par. We require all of them to redeem at par, make no distinction between east and west of the mountains, so that all the banks in centers of redemption redeem in New York at par.

The last amendment, which was the only material one upon which there was disagreement, and the only one upon which there was much trouble, was the forty-first amendment, reserving to the States the power of taxation. We have slightly modified the Senate amendment, but the legal effect is very much the same as the Senate amendment, in my judgment. The slight difference between the Senate amendment and the amendment proposed by the committee of conference will be very readily seen. These were the only points of disagreement.

Mr. HALE. Will the Senator be kind enough to inform me how the matter of taxing the State banks and national banks relatively is left by the bill.

Mr. SHERMAN. This bill says nothing about taxing the State banks. It provides for a tax of one per cent. on the circulation of the national banks, one half of one per cent. on their deposits, and one per cent. on their capital above the amount invested in United States bonds. It reserves to the States the right to levy a tax on national banks not exceeding the rate that they assess upon their own banks, and it is to be levied at the place where the bank is located.

The report was concurred in.

#### PUBLIC PRINTING.

Mr. ANTHONY. The Committee on Printing, to whom was referred a bill (H. R. No. 474) to amend an act relative to the public printing, have instructed me to report it back and recommend its passage. It is a mere formal bill, intended to promote the convenience of the Departments, and I ask for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes that that part of the act entitled "An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1864, and for other purposes," approved March 14, 1864, as provides "that hereafter no printing or binding shall be done or blank-books be procured for any of the Executive Departments of the Government without a written requisition on the Superintendent of Public Printing from the head of such Department," shall be amended by inserting after the last word "Department" the words "or his assistant or assistants," so that it will read, "the head of such Department or his assistant or assistants."

Mr. HALE. That seems to be an important bill, and it was impossible to hear it read. I wish the chairman to state what it is.

Mr. ANTHONY. The present law provides that no printing, however small, shall be executed for the Departments unless on the written order of the head of the Department addressed to the Superintendent of Public Printing. Those orders are so numerous and frequently so small as to subject the head of the Department to considerable inconvenience in examining and signing them; and this bill allows the Assistant Secretaries to sign the orders instead of the Secretaries. That is all.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### ORDER OF BUSINESS.

Mr. HALE. I move to postpone all prior orders.

Mr. LANE, of Kansas. I rise to a question of privilege. I move that the credentials presented by me in behalf of Hon. Mr. Fishback, Senator-elect from Arkansas, in place of Mr. Sebastian, be referred to the Committee on the Judiciary. The motion is pending.

Mr. CONNESS. There is no privilege connected with that question over any other. It is a motion regularly pending, and lies over for consideration. I have no objection to the reference, but I do not want it to occupy the morning hour by eliciting debate. Do I understand that there is any privilege connected with that question?

The PRESIDENT *pro tempore*. The Chair is of opinion that the matter having been postponed by a vote of the Senate, it has not now the character of a question of privilege. The Senator from New Hampshire is in order.

Mr. LANE, of Kansas. I do not know of any one that is going to discuss this question.

Mr. HALE. I understand the question is decided. It is not a matter of privilege.

The PRESIDENT *pro tempore*. The Chair will remark that in transacting the business of the morning, as the session comes to the close, he will hold pretty rigidly to the rule as to the reading of the Journal, and then receiving petitions, and then going through with reports.

Mr. JOHNSON. I have a report to make.

Mr. LANE, of Kansas. I have not yielded the floor.

The PRESIDENT *pro tempore*. The Senator from New Hampshire has the floor.

Mr. LANE, of Kansas. The Chair recognized me, and I have not relinquished the floor.

The PRESIDENT *pro tempore*. The Chair is of opinion that the Senator from Kansas has no right to the floor. He claimed it for a question of privilege; and the Chair decided that the question presented by him was not a question of privilege.

Mr. LANE, of Kansas. I ask the unanimous consent of the Senate now to let these papers go to the Committee on the Judiciary.

Mr. BUCKALEW. I object.

Mr. SUMNER. Before they go, I desire to debate the question.

Mr. HALE. I move that the Senate postpone all prior orders for the purpose of considering Senate joint resolution No. 50.

The PRESIDENT *pro tempore*. Reports are in order; and the Chair will receive reports.

#### REPORTS FROM COMMITTEES.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred a memorial of the Board of Trade of Philadelphia, praying for an amendment of the act of March 3, 1863, entitled "An act to protect the liens upon vessels in certain cases, and for other purposes," so as to protect the claims of loyal citizens, asked to be discharged from its further consideration; which was agreed to.

Mr. HOWARD. The Committee on the Judiciary, to whom was referred the bill (S. No. 222) extending the jurisdiction of district courts, have directed me to report adversely thereon. It is a bill which purports to extend to the rivers and lakes of the United States the admiralty jurisdiction more amply than it exists at present.

Mr. HARLAN, from the Committee on Public Lands, to whom was recommended a bill (S. No. 166) authorizing the archives in the office of the recorder of land titles in the State of Missouri to be delivered to said State, reported it with an amendment.

He also, from the same committee, to whom was referred a bill (S. No. 258) making Dakota or Sioux half-breed land scrip assignable, reported adversely thereon.

He also, from the same committee, to whom was referred a bill (S. No. 137) to exclude disloyal persons from the public lands of the United States, asked to be discharged from its further consideration, and that it be referred to the Committee on the Judiciary; which was agreed to.

He also, from the same committee, to whom were referred the following bill and memorial, asked to be discharged from their further consideration; which was agreed to:

A bill (S. No. 269) making additional grant of lands to the State of Minnesota to aid in the construction of railroads from Stillwater, by way of St. Paul and St. Anthony, to a point between Big Stone lake and the mouth of Sioux Wood river, with a branch to St. Cloud and to the navigable waters of the Red river of the North, as the Legislature may determine; and

A memorial of the Chamber of Commerce of Milwaukee praying for the construction of a wagon road to Idaho, through Minnesota and Dakota.

Mr. JOHNSON, from the Committee on the Judiciary, to whom was referred a bill (S. No. 259) supplemental to the laws relating to the War Department, and authorizing the settlement and payment of certain claims against the United States, reported it with an amendment.

He also, from the same committee, to whom was referred a bill (S. No. 276) concerning the jurisdiction of the Court of Claims, and for other purposes, asked to be discharged from its further consideration; which was agreed to.

Mr. LANE, of Indiana, from the Committee on Military Affairs and the Militia, to whom was referred a bill (H. R. No. 293) to provide for the

payment of the second regiment, third brigade, Ohio volunteer militia, during the time they were mustered into the service of the United States, reported it without amendment.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred a joint resolution (S. No. 60) tendering the thanks of Congress, and for the presentation of a medal to Lieutenant Colonel Joseph Bailey, of the fourth regiment of Wisconsin volunteers, reported it with an amendment.

He also, from the same committee, to whom was referred a joint resolution (S. No. 58) in relation to the professors of the Military Academy at West Point, reported it without amendment.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred a bill (S. No. 93) to repeal so much of the acts of Congress approved March 3, 1845, and August 6, 1846, as authorize the transportation of goods imported from foreign countries through the United States to the Canadas, or from the Canadas through the United States, to be exported to foreign countries, asked to be discharged from its further consideration; which was agreed to.

Mr. FOSTER, from the Committee on Pensions, to whom was referred a memorial of the Legislature of Minnesota, in favor of an increase of pension to Army and Navy pensioners, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Mary Ann Watson, praying for a pension, submitted an adverse report thereon.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a bill (No. 483) granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget sound, on the Pacific coast, by the northern route; in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had agreed to the amendment of the Senate to the bill of the House (No. 120) to reestablish the principal port of entry for the district of Champlain, at Plattsburgh, and for other purposes.

The message further announced that the House had passed the bill of the Senate (No. 218) to repeal the first section of a joint resolution therein named, with an amendment to the title of the bill; in which it requested the concurrence of the Senate.

The message also announced that the House of Representatives had insisted upon its disagreement to the amendments of the Senate to the bill (H. R. No. 192) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1865, insisted on by the Senate, and upon its amendments to other amendments of the Senate to the said bill, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and had appointed Mr. GEORGE H. PENDLETON of Ohio; Mr. WILLIAM WINDOM of Minnesota, and Mr. ORLANDO KELLOGG of New York, managers at the same on its part.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolution; which were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 345) for the relief of Frederick A. Beelen, late secretary of legation to Chili;

A bill (H. R. No. 381) to amend an act entitled "An act making a grant of land to the State of Iowa, in alternate sections, to aid in the construction of certain railroads in said State," approved May 15, 1856;

A bill (H. R. No. 484) to incorporate the Newsboys' Home; and

A joint resolution (S. No. 57) to amend the charter of the city of Washington.

#### LAND CLAIMS OF WISCONSIN.

Mr. HENDRICKS. I move to postpone all prior orders, and take up Senate joint resolution No. 8, for the relief of the State of Wisconsin.



The PRESIDENT *pro tempore*. Reports are still in order. If there be no reports, the question is on the motion of the Senator from Indiana.

Mr. HALE. Has everything been gone through with under the rule? Have resolutions and joint resolutions been called for?

The PRESIDENT *pro tempore*. Resolutions and joint resolutions are not required to be called for by the rule.

Mr. HALE. I am glad of that. [Laughter.]

Mr. CARLILE. Is the motion of the Senator from Indiana subject to amendment?

The PRESIDENT *pro tempore*. The Chair is of opinion that it is not. The question is on the motion of the Senator from Indiana.

The motion was agreed to; and the consideration of the joint resolution (S. No. 8) for the relief of the State of Wisconsin was resumed as in Committee of the Whole.

Mr. HENDRICKS. This question has been somewhat debated, and I desire to say to the Senate simply that the joint resolution provides for the payment to the State of Wisconsin of her five per cent. of the proceeds of the sales of the public lands within her limits. There were some equities connected with this claim which the committee found some difficulty in adjusting, but finally arrived at what they believed to be a fair and equitable adjustment of the rights of the several parties, the Government as well as the canal company and the State of Wisconsin. The Committee on Claims to whom this joint resolution was referred were unanimous in favor of it as reported. I ask that there be a vote upon it.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the Committee on Claims in the nature of a substitute for the original joint resolution.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

Mr. GRIMES. I ask that the joint resolution as it now stands be read.

The resolution was read.

Mr. HARLAN. I will inquire of the Senator who has the joint resolution in his charge the necessity of the first clause of the committee's amendment, which is in these words: "the Secretary of the Department of the Interior be, and he is hereby, authorized to allow to the State of Wisconsin five per cent. of the net proceeds derived from the sale of the public lands within the State, as provided in the act of Congress approved August 6, 1846." I desire to know if that law is not still in force, if Wisconsin is not now receiving the five per cent. of the net proceeds of the sales of the public lands within the State under the law as it exists.

Mr. HENDRICKS. Certainly the law of 1846 is in force, but the accounts of the State of Wisconsin have been suspended in the Department and no payments have been made for a number of years because of the conflicting equities which are provided for in this joint resolution. It is because of these questions, that cannot be adjusted in the Department, that the State has had to come to Congress for this relief. Payments are not in fact being made under the law which gives to the State of Wisconsin the five per cent.

Mr. HARLAN. If the State of Wisconsin is now receiving the five per cent. of the net proceeds of the sales of the public lands within its limits under existing laws, there can be no necessity for reenacting that provision, and therefore I move to strike out all after the word "Interior" in the third line of the amendment of the committee, down to and including the word "and" in the seventh line.

Mr. HOWE. Let me suggest to my friend from Iowa, that in the first place this amendment having been adopted, it is scarcely amendable now; but those first lines were introduced only for the purpose of stating what the account is that is to be settled.

The PRESIDENT *pro tempore*. The Chair is of opinion that the proposed amendment is not in order at the present time.

Mr. HOWE. If those words were struck out, there would be nothing for the word "that" preceding "account" in line eight to refer to. After the words proposed to be struck out, the language is "and shall in the settlement of that account," &c. It is a mere statement of the account that is to be settled.

Mr. HARLAN. I will state to the Senator

from Wisconsin what my object is, and then perhaps he can frame an amendment that will meet my view, if he shall approve it.

If I understand this case it is about this: many years ago a grant of land was made to Wisconsin to aid in the construction of a canal; it was stipulated in that act that the canal should be completed within ten years, and that if the canal should not be completed within ten years the State of Wisconsin should account to the Federal Government for the lands thus donated to the State, it then being a Territory, at the rate of \$2 50 an acre. Subsequently the Territory of Wisconsin became a State, and, under the provisions of law then in force and at that time enacted, became entitled to five hundred thousand acres of land to aid in carrying on works of internal improvement and to five per cent. of the net proceeds of the sales of the public lands made within the State subsequent to the date of its admission. In the settlement of the account since that period with the State of Wisconsin the Commissioner of the General Land Office has charged the State of Wisconsin with the whole amount of the canal grant at \$2 50 an acre, and has been, and still is, deducting that amount from the sums of money which fall due to the State under the law granting the State five per cent. of the net proceeds of the sales of the public lands. I suppose this is right with this exception, that Wisconsin ought not to be charged more than \$1 25 for the canal lands, or only so much more than \$1 25 an acre as she may have received for these lands by their sale in the market.

This joint resolution provides various other things. It provides that the Commissioner of the General Land Office shall state an account between the State of Wisconsin and the canal company, and ascertain how much money may be due from Wisconsin to the canal company which engaged in the construction of the canal under the law of the Territory of Wisconsin, and after ascertaining any amount of money that may be due to that company from the State of Wisconsin, to withdraw it from the Treasury of the United States, and I believe it makes an appropriation to pay it from the Treasury of the United States. I object, as a member of this body, to instituting any such commission. It is enough for this Government to do to administer the public lands, to administer the laws of the United States on that subject, as between itself and its own grantees, without converting itself into a kind of sheriff to stop in the Treasury any money that may be due to the State of Wisconsin, for the purpose of paying it over to the creditors of Wisconsin. If Wisconsin is indebted to this company, let Wisconsin settle with the company and pay the company from its own treasury. If the Government of the United States is indebted to Wisconsin, if in the adjustment of this account under which Wisconsin is entitled to sums of money from year to year the Government of the United States is indebted to Wisconsin, let the amount due be estimated on the public lands at the usual rate, and let whatever may be due to Wisconsin be paid over to the State, and not convert the office of the Commissioner of the General Land Office into that of an arbitrator to intervene between the agents of the State of Wisconsin and the State itself to settle the conflicting claims or disputed claims set up by these agents of the State against the State of Wisconsin.

We now charge Wisconsin \$2 50 an acre for the land originally granted to the Territory to aid in the construction of the canal. As that amount of acres of land was not deducted from the subsequent five hundred thousand acres falling due to Wisconsin when Wisconsin became a State, the Commissioner is now deducting the value of the land at \$2 50 an acre from the five per cent. fund, and it is said that he is compelled, under the law as it exists, to charge \$2 50 an acre. I think this is too much. I think \$1 25 an acre, the ordinary minimum price of the public land, is the amount that ought to be charged to Wisconsin; and that amount ought to be deducted from any money that would otherwise be due the State. I desire to reach that point, and I am not willing to make an appropriation of any other moneys, of any larger sum of money, nor to institute any commission to intervene between the agents of the State of Wisconsin and the State of Wisconsin itself.

Mr. HOWE. I think the Senator from Iowa labors under a misapprehension on two points. First, the act making the grant to the Territory of Wisconsin did not require the State of Wisconsin to pay it back if the canal company did not build the canal, except upon the condition that after the State was admitted into the Union the Legislature of the State should assent to the terms of the act, which the Legislature never has done. When the Senator states that this grant was made on the condition that if the canal was not made in ten years the State should pay back the money, he should remember that there was also a condition that the State Legislature should assent to that provision, which the Legislature never did.

I think the Senator is mistaken upon another point, in supposing that Congress intervenes here, to enforce a settlement between the State and the canal company. The simple fact is that by the amendment of the committee which has been adopted, provision is made that a certain fund which the State acknowledges she has in her hands belonging to the United States or to the canal company shall be disposed of. The State simply acknowledges that she has the fund; it belongs either to the United States or to the canal company, she does not know which; she is a mere stakeholder. The canal company show that a part or the whole of it belongs to them. The amendment provides that the Commissioner of the General Land Office shall determine how much of this fund does belong to the canal company, and as much as does belong to the canal company shall go to them and the balance shall be retained in the Treasury. That is all there is of it. We are mere stakeholders of a fund there, that we are willing the proper owner shall have. Two parties claim it, the United States and the canal company. We allow the United States officer to settle with the canal company, and determine how much if anything is due to the canal company. These are the two points on which I think the Senator was slightly mistaken.

Mr. DOOLITTLE. I desire to add a word to what my colleague has said, and to it especially I call the attention of my friend from Iowa. The ground which he has taken is the ground which heretofore, during the time I have been in Congress, we have sometimes urged upon the committees on this subject; that is to say, that the State of Wisconsin ought to receive her five per cent. from the Treasury, and if we owe anything to the canal company we are able to pay, and we can settle with them; but the committees here have always replied to us by saying that we stood in the character of a trustee holding this fund for the canal company as a kind of *cestui que trust*, and that Congress were unwilling to pay over the money to us without at the same time looking to the equitable rights of the canal company, and therefore it is a thing which is imposed on Wisconsin that she shall submit to settle the claims of this company against her. That is the truth about it. We believed it would be better if our five per cent. were paid over directly to the State, and let us respond to all claims the company has upon us, legal or equitable, but the committees of Congress who have had this matter in charge have not been satisfied to let the matter stand in that light, and therefore they have presented it in the light in which it is now presented unanimously by this committee. They have taken the ground that Congress granted this land to the Territory of Wisconsin as a trustee for the benefit of the canal company. The real truth is, stripped of all verbiage and of all gloss that legislation has thrown over it, that a certain set of men in the city of Milwaukee desired to get up a canal to connect Milwaukee with the Rock river, and they applied to the Legislature of the Territory of Wisconsin in 1836 for a charter, and they did not then succeed, but in 1838 they got a charter, and they got a clause put into it that they might be at liberty to apply to Congress for a grant of land. The Territory of Wisconsin never applied for this grant of land, but this interested corporation did apply and did get Congress to make a grant of land for their benefit, the grant being nominally to the Territory to be expended for the company.

After some years it was found, in the estimation of the people of the Territory, that the whole scheme of this canal was an impracticable thing; it was a thing that could not be done. They

expended \$100,000 or more upon it and succeeded in building up a first-rate water power in the city of Milwaukee, bringing it down to a plat of land on the west side of the river where the city of Milwaukee is now built up—a water power which this company now holds and is renting out on long leases. That is all there is of the company.

The Territory of Wisconsin finding itself in this condition was unwilling to go on and involve itself further in liability to pay the debts and endorse the bonds of the company, which it undertook to do in the first instance, because it became satisfied that the building of the canal was an impracticability and would have to be abandoned by the Territory. It was abandoned by Congress, too, for Congress authorized the released sections to be sold at \$1 25 an acre, which previously were to have been sold at \$2 50 an acre.

The scheme having been abandoned, the thing stands now on a matter of account. We apply for our five per cent. We are told we cannot have it; and why? Because it is said there has been some grant to us for the benefit of a canal company, and that canal company stands here across our path. It is the canal company that has been here all the while opposing the very proposition which the Senator from Iowa wishes to carry into effect, and that is to pay us the money that belongs to us, and let us settle with the company. The canal company opposes that and claims to have equitable interests. Perhaps under the law they have. At all events, the committee so regard it, and they have, therefore, reported unanimously this resolution, which settles the whole question by leaving it to the Commissioner of the General Land Office to say how much of this money, which otherwise would belong to the Territory of Wisconsin, shall go to the canal company. I understand that to be the whole effect of the proposition.

Mr. HALE. This question has occupied a good deal of time, and it seems to me it ought to be settled. I have not gone into the particulars of all these statements, but as the impression is on my mind, it is a very simple case. I think, strictly speaking, that we have nothing to do with the dealings of the General Government with the Territory of Wisconsin prior to her admission into the Union as a State unless there be an equitable consideration growing out of the amount of money that the State of Wisconsin has received from this grant that was made to the Territory for certain specified purposes. If Wisconsin has got any such money as that, it seems to me it should be deducted from the amount due her by the General Government, and there is an end of the case. I think it does not become the General Government to interfere arbitrarily in the suit of any corporation in Wisconsin against the State itself. The general impression is that the judiciary of a State can be trusted to adjudicate any claims of that sort. The five per cent. Wisconsin is entitled to under your law. That is clear and indisputable. The canal grant was first made, as I understand, to the Territory of Wisconsin, and made to the Territory not for general purposes for the use of the Territory, but for a specified purpose; in other words, the Territory was made the trustee for the company. If in that relation, acting as trustee for the company, the Territory of Wisconsin realized money which subsequently went into the treasury of the State of Wisconsin, that money should undoubtedly be deducted from the amount of five per cent. allowed on the proceeds of the public lands, and that is the whole of it. It seems to me that is the course Congress ought to take.

Mr. COLLAMER. Either I or some of the gentlemen who have spoken on this subject do not understand it aright. The original grant of land was made to the Territory of Wisconsin, as is stated, for the purpose of making a certain canal. A corporation was created by the Territory for that purpose, and the Territory was in fact and in law, I suppose, trustee for them. There was in the act making the grant a provision that if the canal was not finished in the time stipulated, ten years, the Territory should become bound to the United States for all the avails of the land. They were to have it only on the condition that they finish the work. Those were the terms of the grant; but it does not matter now how that was.

After something had been done on this canal,

no matter now how much, the Territory interfered, and not only disposed of the intermediate sections of the land, the price of which they got the Government to reduce to \$1 25, but they sold a considerable portion of the land of which they were the trustees, and took the money for it. Part of it I am told they sold above \$1 25 and part of it at \$1 25, and I believe they paid some of that money over to the canal company in the progress of the work.

When Wisconsin was admitted as a State it was stipulated expressly as part of the conditions of admission "that the liabilities incurred by the territorial government of Wisconsin under the act" granting land for the canal "shall be paid and discharged by the State of Wisconsin." The Territory had disposed of the lands which were to go to that canal and used up the money in the business of the Territory, and the State was to stand in the place of the Territory in the payment of that money. That was all understood. The work stopped, and for a very good reason: the Territory sold the land, took the money, and refused to pay it over to the canal company to prosecute the work any further, but used it for public purposes. It is now suggested that the work was stopped from the intrinsic inability or impracticability of the scheme, or something of that kind, about which I know nothing. It may be true. At any rate, the work was stopped.

Now the State of Wisconsin has a claim upon the United States for five per cent. of the net proceeds of the sales of the public lands in that State. The account comes up for settlement, and the question is how it shall be settled. Some gentlemen say, let us settle with the State for the five per cent. we owe them, and take out the money for which they sold this canal land, and let the question about the canal company go altogether, in order that the company and the State may settle it. I cannot understand how gentlemen who have any regard to the equities of the case can go upon that view. Many committees have considered the question. Years ago, in the other House, the Senator from Michigan, [Mr. HOWARD,] then a member of that body, made a full report from a committee to that House upon the question, and from that day to this every committee who have examined it have regarded that as an unjust and improper mode of proceeding, and so our committee say now. The committees all say that as much money as the canal company laid out, and the State or Territory did not pay back, should be paid to the company; that the company should be settled with as far as they went. Now if we settle with the State of Wisconsin and leave the company to look to the State, I can merely say there is no probability that the company will ever get a single cent. The Territory said it was an impracticable thing and the quicker it was stopped the better; and it may be said now that so far from having lost anything the company made money by the work being stopped, and therefore nothing should ever be paid to them. I think we ought to say that so far as they went they ought to be settled with. This joint resolution proposes to do it, and I understand that the Senators from Wisconsin do not object to it.

Mr. DOOLITTLE. We do not; we concede it because the committees so report, and their opinion is that it ought to be settled in this way. We have acquiesced in it.

Mr. COLLAMER. There is no necessity of our settling with the State and then leaving something else to be settled. We may as well settle the matter all around at once. We had better do it now when the State itself and the company and our own committee are all willing to have the question settled and closed. We had better, therefore, pass the joint resolution and have a general settlement all round.

It is perfectly clear in my mind that if we take from Wisconsin the whole amount of money for which they sold the canal lands we shall owe that much to the canal company ourselves. They will then come to Congress at once and say to the United States, "You appropriated some land to us to build a canal; the Territory as trustee stopped it, sold the land, took the money; you settled with them for that money and accounted for it toward your five per cent.; now pay us the money as far as we did go." If they pretend to urge a claim on the State, the State will say, "We settled with the Government, they

have paid us, and what money we received for you was taken from us in the account and went toward our five per cent. fund, and now if you want anything you must go to Congress."

Unless we settle it as the resolution proposes, it is clear that the matter will not be closed. I am therefore of opinion the joint resolution should be passed unless it be for one or two things which we can amend, and I will state what they are. At first we put on \$2 50 an acre as the price of the reserved lands that we did not grant for the canal. The Territory sold some of its land for \$1 25, and I believe some of it was not sold, and we provided that that part should be reckoned toward the five hundred thousand acres which the State received on admission into the Union. It was right that all which was not sold should go toward making up the five hundred thousand acres. Of that which they did sell I do not know but that they sold some at \$2 50, and they sold the rest at \$1 25. They paid over some money to the canal company. They soon came to Congress and got the price of the reserved sections reduced from \$2 50 to \$1 25. They then went on and sold theirs at \$1 25. They had no authority for that.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday.

Mr. HARLAN. I desire to present the amendment that I indicated some time ago in a more perfect form, and I ask the unanimous consent of the Senate to do it, so that when the question comes up again I shall not have to restate the amendment of the committee.

The PRESIDENT *pro tempore*. The Chair will receive the amendment.

Mr. COLLAMER. I wish to observe that I am not through with the remarks I have to make about this joint resolution, and I shall claim the floor when it comes up again.

Mr. HARLAN. I submit my amendment and ask that it be printed.

The amendment was ordered to be printed.

#### TRANSFERS FROM THE ARMY TO THE NAVY.

The PRESIDENT *pro tempore*. The House of Representatives have returned the bill (S. No. 218) to repeal the first section of a joint resolution therein named, with a slight amendment which the Chair will lay before the Senate at this time.

The amendment was read. It was to alter the title of the bill so as to make it read: "An act to repeal the first section of the joint resolution relative to the transfer of persons in the military service to the naval service, approved February 24, 1864."

The amendment was concurred in.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting, in answer to a resolution of the Senate of the 28th instant, a report from the Secretary of State, with accompanying documents, communicating information relative to the delivery of a person charged with crime against Spain, or its dependencies, to the officers of that Government; which was referred to the Committee on Foreign Relations, and ordered to be printed.

The PRESIDENT *pro tempore* also laid before the Senate a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate of May 20, a report from the Commissioner of Internal Revenue, accompanied by an abstract of the reports of the banks, associations, corporations, and individuals doing a banking business, which are required to be made by the Commissioner of Internal Revenue, under the act entitled "An act to provide ways and means for the support of the Government," approved March 3, 1863. A motion of Mr. HENDERSON to print the report was referred to the Committee on Printing.

#### BILL INTRODUCED.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 294) for the better protection of the tribal rights and interests of the Indians; which was read twice by its title, and referred to the Committee on Indian Affairs.

## INFORMATION FROM THE ARMIES.

Mr. JOHNSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be requested as soon as he receives information from the armies of the United States to communicate the same to the Senate during its present session, when in his opinion such information can be given without injury to the public interest.

## STEAMBOAT INSPECTORS.

Mr. CHANDLER submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 426) to create an additional supervising inspector of steamboats, and two local inspectors of steamboats for the collection district of Memphis, Tennessee, and two local inspectors for the collection district of Oregon, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from their first amendment.

That the House recede from their disagreement to the second amendment of the Senate, and agree to the same.

Z. CHANDLER,

J. W. NESMITH,

*Managers on the part of the Senate.*

E. B. WASHBURN,

THOMAS D. ELIOT,

W. A. HUTCHINS,

*Managers on the part of the House.*

The report was concurred in.

## INTERNAL REVENUE.

The consideration of the bill (H. R. No. 405) to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes, was resumed as in Committee of the Whole; the pending question being on the amendment proposed by Mr. WILSON to add the following as an additional section to the bill:

SEC. —. *And be it further enacted*, That a tax of one half of one per cent. shall be levied and paid, according to such forms and regulations as may be prescribed by the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, upon the gross amount of all sales of goods, wares, merchandise, produce, live-stock, sailing and steam vessels of all descriptions, and other articles of commerce or trade, whether foreign or domestic, excluding coin, and gold and silver unmanufactured, and including real estate, whether such sale be judicial, public, or private, and whether made by the owner or his agent, or by any officer of the law, which shall be paid in the manner in this act provided: by the owner, when such sale is made by him; by the owner or agent, as shall be provided by regulation of the Secretary of the Treasury, when such sale shall be made by an agent, commission merchant, or broker; by a guardian or commissioner or other officer of the law, when such sale shall be made by or for him; by the parties selling, when the name of the owner is not disclosed: *Provided*, That any officer of the law shall have the right to add to the taxable costs of the proceedings the amount of tax due upon such sale, and to demand and receive the same before executing or delivering possession or evidence of title to the purchaser: *Provided also*, That no tax shall be levied or required on sales of such personal property in any month in which the amount of sales shall be less than \$100: *Provided*, That in case of all sales of real estate, and on all sales of personal property, made by guardians, commissioners, sheriffs, marshals, or other officers of the law, the said tax shall be levied without limitation in the amount of sales.

Mr. WILSON. The Committee on Finance have considered this bill carefully, have made several amendments to it, and it is now before us subject to further amendments. It is understood that the needs of the country require that we should raise from three to four hundred million dollars a year by internal taxation. I have read the bill with some little care, and I have conversed with gentlemen who, I think, understand the subject quite well, and I believe that this bill will not raise within a hundred or a hundred and fifty million dollars of the amount of money that the country requires should be now raised. I think that some of the best minds of the country believe this bill will not raise over two hundred or two hundred and twenty-five million dollars.

Mr. FOOT. What is the Senator's estimate of the amount that will be produced by the tax on sales which he proposes?

Mr. WILSON. I think this half per cent. tax on sales will bring us from a hundred to a hundred and fifty millions. I think we ought not to allow this bill to go from the Senate unless we are very sure that it will give us \$350,000,000

of revenue. There has never been a time in the history of the country when we could pay taxes better than at the present time. We can pay taxes much better now than we can when we shall have peace. We have more than seven hundred million of money in circulation. Labor is high, skilled labor in all parts of the country especially high; many men employed in mechanical pursuits are receiving three or four dollars a day. The cost of living, it is true, is very high; but this great cost of living has been brought upon the country because we have not raised revenue enough and have expanded the currency. We should be better off now if during the past two years we had paid treble the taxes provided for in this bill. I believe the people of the country will make money by putting on a tax that will pay the interest on our public debt and at least one half of all our annual expenses. We shall all save money by it, because by that means, and by that means alone, we can keep down the redundancy of the currency. We have passed gold bills without effect; all expedients have failed and will fail. We have hoped that General Grant's victories would bring down gold, but gold goes up in the face of our victories. If Lee's army should capitulate this day gold would keep up to an enormous standard until we reduced the \$700,000,000 of paper currency now in circulation to at least three hundred and fifty or four hundred million.

The rate of taxation I propose on sales may be too high, but I have no doubt it will give us at least \$100,000,000, and it is believed that it is an easy way to raise a large revenue. Many of the best practical men of the country believe in this system, and have always advocated it. I see no inconsistency in adding it to the system embodied in this bill.

I am in favor of another amendment, which I intend to propose, and that is in regard to the exemption of \$600 incomes, under cover of which a large majority of all the incomes in the country pay no tax, under which some of the most independent men in the country pay no income tax. I think we should exempt the earnings of men engaged as laborers and in mechanical pursuits under say \$600; but to men who own property, who own farms, who employ others, we should not make this exemption. Thousands and hundreds of thousands of the most independent men in the country pay no income tax at all under your law, and whole communities go without paying any income tax.

There are some other provisions in this bill, and especially those increasing the compensation of the officers, to which I object. I have a table which shows that the increase of salaries by this bill as it now stands is \$547,000. I hope we shall do nothing of the kind. I believe the salaries are sufficiently high now. We ought not to add a dollar except to the Commissioner. I think we should pay him a good salary, and demand the first mind of the country to administer this great department of our Government.

If Senators think the half per cent. on sales proposed by my amendment is too large, they can make it one fourth per cent.; but I believe that if we add this amendment to the other provisions of the bill we can raise three hundred and fifty or four hundred million dollars, and all the interests of the country will be promoted by it; and everybody who has got anything or hopes to get anything, and everybody who desires to live within his means, will be benefited by this increased taxation, for it will reduce the redundant circulation that is now carrying up the prices of everything to an enormous rate.

Mr. SHERMAN. The great objection to a tax on sales is that it will put upon the tax-duplicate nearly every able-bodied citizen of the United States, and perhaps about one fourth or one fifth of the women of the country. It will be a tax very difficult to be collected and very expensive in its collection. It will very materially check the transfer of property by levying a tax upon property passing from hand to hand rapidly many times in the course of a year. For instance,

the crop of wheat in its ordinary course, in passing from producer to consumer, goes through at least four or five different channels. All clogs in the way of trade are injurious.

Besides, a tax of this kind would make a necessity for more than doubling your army of office-holders, and would add very largely to the expense. A tax on sales could not be collected, in my judgment, for less than one tenth of what it would yield. When applied to auction sales, or sales by merchandise brokers, the only classes of sales included in our tax law, it may be collected, because auctioneers and brokers sell in large quantities in the cities, and can be reached; but when you apply the tax on sales to the whole country, extending to the produce of the farm, to the produce of the shop, and to all the various transactions of business, you so multiply the tax that you have not the machinery to collect it under this bill. I would vote for a general tax on sales if it could be fairly executed, but as I am satisfied it cannot be, I cannot vote for this amendment.

I agree with what the Senator from Massachusetts has said as to the necessity of taxation. I believe that this bill is inadequate to produce what is absolutely necessary for the wants of the Government. The estimated yield under it is \$250,000,000. It may yield that after a year or two, but it probably will not in the first year. We know by the experience of the present tax law that it did not yield one half the estimate at first, and it is probable that during the first year this tax law will not yield so largely as has been estimated. In my judgment, the true way to raise the amount necessary is to assess the tax so that the persons who are to pay it will be as few as possible. If the Senator will propose to increase the tax on manufactured articles fixed in the ninety-third section of the bill, to double or even quadruple the tax on manufactures, it will yield twice or three times the amount of the tax on sales and will be collected from comparatively few persons. If a tax of twenty or twenty-five per cent. is levied on manufactures, it will be mostly paid in the manufacturing States, but it will be added to the cost of the articles and will be finally collected from the consumers. Experience has taught in England and France and in our own country that a large tax on manufactures, which is collected in the first instance from comparatively few persons, can be levied at less expense than any other, and is finally disseminated among the people in the least offensive form. I do not know any way in which you can increase the taxes proposed by this bill unless you increase the tax on manufactured goods. If, therefore, the Senate really feels that the amount provided for by this bill is not sufficient, the only way in my judgment—every Senator must form his own opinion—is to levy a tax on manufactures sufficiently high to raise the requisite sum of money. The reduction of the currency and the addition of twenty or thirty per cent. to the tax on manufactures would yield the money we need. A tax of even fifty per cent. on manufactures would only add one half to the cost of the articles; it would not add as much to the cost of the articles now consumed in this country as the inflation of paper has already added. It could be readily collected first from the manufacturers in very large sums, and finally from the people when they consume the articles. I have conversed with many manufacturers in the eastern States—nearly all of them are in the eastern States—and they do not object to it. As a general rule, they make a profit on the tax because they not only add the tax itself to the price of their goods, but they add a reasonable profit on the tax besides.

I think, then, that if the Senator has convinced the Senate that the bill is not sufficient to raise the money necessary, the mode which he proposes is not the proper one to accomplish the object, because it is expensive, troublesome, and burdensome. It will put on the tax-duplicate at least one million persons. A tax on sales would extend to every employment of life. It would be a tax most difficult and expensive in its col-



lection, and it would be very often evaded, and would lead to sham sales. It would destroy all those intermediate agents through whom sales are made, brokers, factors, and all those men whose operations tend to keep down prices.

I will only say further that in case the amendment of the Senator from Massachusetts is adopted, the machinery of this bill, in my judgment, is not sufficient to execute it. Instead of one assistant assessor for each county in the western States, you must have many more. The amendment, if I understand it correctly, extends to all agricultural productions; probably it is right that it should; there is no reason why a tax should not extend to agricultural productions as well as other productions; but the effect will be to put every farmer in the country on the tax-duplicate, and you will have to assess the amount of his production and the amount of his sales. A portion of his productions are converted into hogs and sold in that shape, and so on. It will be very difficult indeed to assess such a tax without at least as many tax officers as there are now under State laws, one for every township in the United States. It will be a task so difficult that I think any one would be deterred from doing it. It is not a proper mode of taxation. The proper mode is to reach those articles which will pay the largest tax, and let the tax be distributed afterwards on the consumption of the articles taxed. If I am correctly informed, no nation has ever attempted a tax on sales. England has not tried it; France has not attempted it; and that very fact is a reasonable argument against our attempting the experiment now.

Mr. WILSON. Early in the war one of the most practical men in the country, Mr. Bigelow, of Boston, came here and pressed upon Congress this plan of raising revenue. He thought it was a practicable measure. I had consulted with many other manufacturers and business men, who believe the plan practicable. Still I know that it will not do to rely entirely upon the judgment of business men or of bankers in dealing with these questions, for they differ very much in opinion, and I think we have found sometimes that they have changed their opinions very often.

The Senator from Ohio says that this amendment, if adopted, will require the addition of an immense number of Government officials. That certainly is a very great objection, for I think we have quite too many of them now. I am very anxious, however, to adopt some plan that shall raise more revenue than I think can be raised by this bill. I am willing to carry the taxes up from five to seven per cent., and to increase the duty on whisky and tobacco, and I think we ought to do it. At any rate, I think we ought to meet the question now, and make a bill that we are sure will give us from three to four hundred million dollars during the next year. We want the money and we want it now. A hundred million dollars is of more consequence to us now, probably, than it ever has been at any other period during the war, or perhaps ever will be to us again. I shall not, however, urge this amendment. I know some very excellent men, whose opinions are entitled to great weight, who think that this is a practicable measure; and it did seem to me that with our present organization under this bill we could, with some increase of officers, enforce this provision, and raise out of it the money necessary to make up the sum that I think we all admit we ought to raise.

Mr. FESSENDEN. My friend from Ohio has stated in brief and very clearly the objections to this mode of taxation. I do not propose to repeat them, as I hope we shall get along with as little talking as possible. I will only say in addition that this measure was proposed two years ago, when we made the original tax bill. It was urged with a good deal of vehemence by the gentleman alluded to, and by some others. It was thoroughly, and I will say exhaustively, examined by the committees of both branches of Congress, and it was also urged, I think, in both branches of Congress on motion. The committees came to the conclusion almost with entire unanimity that the thing was utterly impracticable, especially in this form. The only mode in which we could get at a tax on sales, and the mode that was proposed by the gentleman alluded to, was by a system of stamp duties, requiring a stamp on every package sold. That was also found to involve such seri-

ous difficulties that it was also deliberately abandoned. I should be very glad if anything could be made out of it; I should be very glad to find any sources of revenue which we could appeal to to raise the increased amount of money we have to raise, but I am satisfied this is not one of them; and I feel, therefore, having once thoroughly examined the subject, and it having been so maturely and carefully considered and deliberately rejected, as no new light whatever is afforded us, and no new scheme proposed by which it can be carried into effect, to still object to it as impracticable, and involving difficulties that are too great for us to surmount. It may be that I am in error about it; I am apt to be mistaken about a great many things; but if I am mistaken I err in common with almost every man who has examined the subject of taxation. The system that has been found the most practicable is that the subjects of taxation should be as few as possible; that as far as possible the taxes should be laid and laid severely upon luxuries; and some things must be so considered which are in general and almost universal use. If we are obliged to enlarge that list we should enlarge it as little as possible, and upon articles where the tax can best be laid, and where the collection can be most easily and most securely enforced.

These are the principles upon which the bill is framed. The bill covers a vast number of articles as it is. I should like it better if we could reduce the number, but I see no way to do that. We have resorted to almost everything that could be thought of. We even propose to add ice, not that it is likely to yield a large revenue, but I give it as an instance. I should be glad to go further; but I assure my friend from Massachusetts that if his amendment should prevail I should not have the slightest hope or expectation that it would be adopted by the other branch; it would create a division. It is introducing in a short section an entire new system, which would need a great many details in order to render it effective. I think, therefore, it is unwise, and I should advise that it be not done.

Mr. WILSON. I withdraw the amendment under the circumstances.

The PRESIDING OFFICER, (Mr. Anthony in the chair.) The amendment is withdrawn.

Mr. WILSON. I have an amendment. I propose in section fifteen to strike out all after the word "income," in the ninth line, to the word "and," in the twelfth line, and to insert:

Do not exceed the sum of \$600, and be not derived from compensation for actual personal labor or services personally rendered in mechanical pursuits, a duty of three per cent.; and on all incomes over \$600, and not exceeding \$10,000, five per cent.

The words which I propose to strike out are:

Exceed the sum of \$600, a duty of five per cent. on the excess over \$600 and not exceeding \$10,000.

Under the provision exempting \$600, more than half and I think nearly two thirds of all the incomes in the United States pay no tax. Some of the most independent men of the country, men who have possession of houses and lands, of flocks and herds, who employ other persons to work for them, who have families that they support in independence, pay no income tax whatever. An examination of the income tax returns show that the incomes of the country do not pay the tax they ought to pay. I am willing to exempt the products of a man's personal labor if he works on a farm or as a laborer or as a mechanic and earns under \$600 a year. I am willing to let that go to support his family.

Mr. FESSENDEN. Suppose he is a lawyer or a doctor?

Mr. GRIMES. Or a preacher.

Mr. WILSON. I think lawyers and doctors and preachers ought to pay their income tax as the rest of us pay ours.

Mr. COWAN. I ask the Senator what he would do in the case of a widow living on a dower of less than \$600 or an orphan child that had a distributive share yielding less than \$600.

Mr. WILSON. I am against making exemptions of persons who have property or possess incomes not earned by their own toil. If persons labor, I am willing to make the exemption; but I do not believe in this system of exemption. The facts are before us; the results show that whole townships do not pay a dollar of income tax, or that but one or two men pay it—whole farming communities pay not a dollar,

Mr. COWAN. I should like to ask the Senator whether the very men whose incomes are less than \$600 do not pay almost all the taxes of the country, from the fact that they are the consumers of the products which are taxed.

Mr. WILSON. No, sir, they do not pay almost all the taxes. That is a very great error which is prevalent in the country. The working men of my State, of New England, of New York, who labor for a living in our various mechanical and manufacturing pursuits, our mechanics who work for wages and never employ others, pay three times as much tax for the support of this Government as the farmers of any part of the country. There are many laboring men, men who labor for others for wages, who pay toward the support of the Government three times as much as farmers living by their side worth their thousands. Every man knows this who knows anything about the subject. Talk not to me about the farming communities paying the taxes on our imports or our internal productions. The communities who have to buy with their labor all that supports them pay the greater proportion of the taxes.

Senators say that we in the manufacturing States do not pay the taxation. I tell you, sir, that the commercial and manufacturing States pay three or four times as much tax on the consumption both on foreign and domestic products under the tariff laws and under your system of internal taxation as do the communities that are engaged in farming. It is so in the towns in our own States. In some towns the people engaged in mechanical or manufacturing occupations purchase everything they consume; in other towns the people engaged in farming purchase hardly anything. In towns of great wealth where there are rich farmers they buy but very little compared with the poor men who live in commercial, manufacturing, and mechanical towns.

If this amendment of mine be adopted, all persons receiving under \$600, with the exception of those who earn that much by labor or in some mechanical pursuit, will pay three per cent. on their incomes, and all persons having incomes from \$600 to \$10,000 will pay five per cent. The bill provides that all incomes above \$10,000 shall pay seven and a half per cent. That, I believe, we have settled upon.

All over this country there is a great deal of cheating in regard to the income tax. I was told the other day of some seven or eight gentlemen in one of the most wealthy towns of New England who met together one fine morning in the office of the assessor and assessed themselves. One of them said to another, "Your income, I suppose, is about six thousand dollars a year." He answered, "Yes, about that." To another it was said, "Yours is about four thousand dollars;" and to another, "Yours is about three thousand dollars," and so on. They made out their incomes in that way; and the man who had his income put down at \$6,000 had really an income of from forty to fifty thousand dollars, and the others in proportion. It is so all over the country. Men who have large incomes are returning their incomes reduced in every way; and some men are absolutely changing their places of residence to escape paying this income tax. We have that abuse at one end; and at the other we have the great mass of our countrymen receiving under \$600 exempt from paying anything. I am opposed to this system. Exempt as few as possible, and see to it that the large incomes are taxed as they should be.

Mr. CLARK. I have not any doubt that some people of large wealth do avoid the proper proportion of their tax; nor have I any doubt that under any system which we may frame some will do it. The fault may be somewhat in the law, but in my judgment it is very much more in the breast of the individual, and if he is disposed to cheat the Government he will contrive some way to do it. That, however, is no argument why we should not make the bill as perfect as possible to reach all classes of persons, and to reach all property. But it seems to me that the Senator from Massachusetts is not directing his amendment to what he wants to obtain. He proposes here in this amendment to provide that unless the person has earned the \$600 with his own hands in some mechanical employment he shall not be exempt from this tax. What is the theory on which the exemption goes? That the man needs

\$600 for the support of his family, and if he only gets \$600 for that support that you shall not take any of it from him for the support of the Government. I desire to ask the Senator whether, if that be the true theory, the family of the man who earns \$600 in some other way is not just as dear to him and just as necessary to be supported as the family of the man who earns \$600 by his own hands. Take for instance the man who trades in a shop; the profits of his business have been only \$600; he has a family of little ones at home; they are to be supported just as much as the family of a man who works in the mechanic shop. Take the clergyman, if you please, who lives on a salary of \$600, and there are very many of them all through his country and mine who do not get more than that, with their families at home. Shall they be taxed any more than the man who labors only six days of the week with his hands in some mechanical employment? Take other professional men; take the lawyer who only gets his \$600 and has a family; take the doctor who only has his \$600 and has a family; and there are many of both classes. Are they to be taxed, and the man who earns it with his hands to be exempted? Would it not be invidious, and would it not be exempting a class instead of all the classes that were in a like situation?

I submit to the honorable Senator that the cheating is not so much with these small men who have only \$600 as it is with the men who have hundreds of thousands such as he suggests; but under this bill the incident that he mentions cannot take place, because we propose now to require every person under oath to make his return and to state what his income has been; and I submit that in the very case which he names the fault was not so much in the law as it was in the execution of the law, because all the assessors have been furnished with blanks and regulations by the revenue bureau, requiring a man to return his income on this account and that account, and to specify his credits, to state the account. That might have been done; but if the assessor chose to let a man say, "I will be taxed for so much income," it was the fault of the officer and not the fault of the law, and there may possibly be dishonest officers. We must do the best we can, but a provision of this kind would not reach such cases.

I suggest to the Senator that his amendment reaches a very small class and a very worthy class, when he should have directed it against the men who have large property. I hope the amendment will not be made. I hope that while we are taxing heavily—and I agree to all that has been said in regard to the necessity of taxes—we shall not begin by imposing heavier burdens on those individuals who have the least and take from them what they need for the support of their families.

The amendment was rejected.

**Mr. WILSON.** As it seems we cannot adopt anything that will increase the taxes, I propose now to diminish the expenses a little. I move to amend the twenty-second section of the bill by striking out all after the word "quarterly," in line four, to the word "and" in line ten, and to insert:

And in addition thereto, where the receipts of the collection district shall exceed the sum of \$200,000, and shall not exceed the sum of \$400,000 annually, one half of one per cent. upon the excess of receipts over \$200,000; where the receipts of a collection district shall exceed \$400,000, and shall not exceed \$600,000, one fourth of one per cent. upon the excess of receipts over \$400,000; where the receipts shall exceed \$600,000, one tenth of one per cent. upon such excess. But the salary of no assessor shall in any case exceed the sum of \$4,000.

The words which I propose to strike out are:

And in addition thereto, where the receipts of the collection district shall exceed the sum of \$100,000 annually, one half of one per cent. upon the excess of receipts over \$100,000; but the salary of no assessor shall in any case exceed the sum of \$4,000.

This amendment will offer an inducement by paying something for the assessment where the collections in the district are over six hundred thousand dollars. By the bill as it now stands, the assessor gets a fixed salary and then he is allowed a certain percentage up to a certain sum, and when he gets that sum he has no particular inducement to go on and assess other property where he may find it. I propose by this amendment that he shall have as much as \$3,000 where the collections reach \$600,000; that is \$1,500 salary and a percentage up to \$400,000, and then a certain per-

centage to \$600,000, and one tenth of one per cent. on all over six hundred thousand dollars, so that if the amount collected should be \$1,600,000, the assessor would get \$1,000 additional percentage, making altogether \$4,000. I think that amount abundant. I think \$3,000 is salary enough for a man who assesses property which yields \$600,000, and then I would hold out an inducement by giving him one tenth of one per cent. to go on and get more if he could, limiting his compensation, however, to \$4,000.

I have before me a statement which shows that by the bill as it now stands before us we are now raising salaries very largely. Forty assessors now receiving \$3,000 will get under the bill as it stands \$4,000. Ten assessors receiving \$2,500 will get \$4,000. Forty assessors receiving \$2,000 will get \$3,200. Fifty-five assessors receiving \$1,500 will get \$2,700. It will add to the assessors altogether \$181,000 in salaries. There are two thousand five hundred and forty-eight assistant assessors. The average number of days per month service on their part is twelve days. The addition proposed by the bill to their salary for a year on that basis is \$366,912, making an aggregate increase of \$547,912. I am of the opinion that we ought not to increase these salaries. My amendment will increase the salaries of about forty assessors a small amount.

**Mr. FESSENDEN.** I can only say that the question which the Senator suggests was considered carefully by the committee, and they finally settled down on the bill as it now stands. We had a great many representations made to us on the subject. We did not make any calculation to show how much the bill would increase the pay of assessors taking the whole country through; we were not furnished with those statistics; but we took into consideration what the assessors in small districts would be likely to receive, being aware too that in some of the large ones the pay must be increased somewhat, and we deemed it necessary that it should be. The result of the amendments which have been made on the motion of the committee will be that the matter will probably be in debate and be considered in a committee of conference. We moved our amendments principally with a view to have the matter left open for further consideration. I am very glad the Senator has presented the statistics. If his amendment should be adopted, the result probably would be that there would be a disagreement which would remain to be considered by the committee of conference, but I think he would attain his object as well (presuming that the same course will be taken with the bill as was taken two years ago) by submitting his amendment, with the statistics he has, to the consideration of the committee of conference that will be appointed.

I hardly think it advisable to make the change he has suggested, for the reason that there is a large number of districts, very much the largest number of districts, where there is not \$200,000 assessed and collected. Many districts range somewhere from sixty to a hundred thousand dollars. In these he would confine the salary to \$1,500. It may be enough, perhaps, in such cases, and we do not propose to give any percentage on the first \$100,000, but I think when the collections are above \$100,000 probably \$1,500 would not be enough to meet the necessary expenses which the assessor must be at and pay him a fair remuneration. I think, therefore, it is hardly advisable to make the change, but of course the whole matter is for the consideration of the Senate.

**Mr. HENDRICKS.** I am very glad that the Senator from Massachusetts has offered this amendment. When I read the bill before I thought these rates of compensation too high, but I did not understand the subject well enough to make any suggestion in regard to it. When we are taxing the people so heavily I do not think it is a time to give very large salaries. Four thousand dollars is a very enormous salary in the country districts, and in cities I should think good men could be had at very much less rates.

**Mr. FESSENDEN.** That is not a fixed salary, but it is a maximum, and there are very few districts where that maximum will be reached. At any rate we changed the bill as it stood originally in this respect, with a view to have the matter open to further discussion. It was represented to us, and we were certainly induced to believe, that there were some districts where the maxi-

mum formerly fixed, \$3,000, is hardly sufficient to obtain the kind of men that you must have to discharge these duties faithfully. Take, for instance, the city of New York; you cannot get men to devote their whole time to the duties for the salary now allowed. In the present state of the currency of the country it only amounts to \$2,000 actually, and you want first-class men and you cannot get them for that sum in your large cities, where the expenses of living are really very high. You cannot get there the kind of men that you want and must have in order to collect your revenue, for that sum. I am perfectly convinced of that; and as the districts where the maximum will be reached are so few, we predicated it upon the necessities of the time, believing that what we lost by the slight addition to the maximum of salary we should very much more than gain by having the right kind of men, willing to accept the office and to discharge the duties properly. It may be that we are mistaken; I have no pride of opinion about it; but it was in reference to that consideration that the salaries were raised, and in view of the increased prices of living growing out of the present state of the currency, which really makes the matter worthy of consideration. As I said before, however, the committee had no other object than every gentleman here ought to have, and undoubtedly has, to effect the great purposes of the bill at as reasonable a rate as we can.

**Mr. GRIMES.** If I agreed with the Senator from Maine that it was necessary in order to secure the services of the right sort of men to fix the salary at \$4,000, I should vote with the committee, but I do not exactly agree in that opinion. I believe the services of as competent men as there are in the country can be secured for less than the amount which has been fixed by the Committee on Finance. I have never heard that there has been any trouble growing out of the declinations or resignations of gentlemen who held these offices in New York or Boston or elsewhere. I think that if there should happen to be a vacancy by death or resignation there would be an abundance of patriotic gentlemen in each of those cities who would be willing to fill the vacancy. Nor do I altogether concur in the suggestion that it is very expensive to live in the cities. Only last Sunday I was reading a Boston paper in which there was an account of a meeting of boarding-house keepers—it seemed to be a very large one—in which they fixed the price of board, aside from lodging, at four dollars a week. That is no higher than board in the cities of the Northwest. I do not know how it may be in New York. I only cite this illustration of the expense of living in Boston from the fact that a meeting of this body of people, a very respectable body of people everywhere, determined that they must increase the price of board, aside from lodging, to four dollars a week. We furnish these men with their offices, and, according to the returns made to the Commissioner from some of the Boston assessors and collectors, we furnish them most luxuriously.

**Mr. HENDRICKS.** During this session I have been a good deal embarrassed about what was my proper duty in respect to the question of salaries. I appreciate the suggestions of the Senator from Maine touching the expense of living in view of the condition of the currency; but if we go into a general increase of salaries it is hard to tell how much the expense of the Government will be increased. In this city there is a very large class of clerks, generally intelligent business men; who get \$1,200. I do not see how they live and support their families; and yet my acquaintance with that class of gentlemen satisfies me that most of them are fit to be assessors under this law. They are generally intelligent business men, and I should think one half of them were fit for these places; if they are fit to be clerks, I know they are; I know it from my connection with the public offices at one time. I do not feel that I can do what I should like to do, if we do justice to the Government under the circumstances.

**Mr. TEN EYCK.** Mr. President, it matters not how much patriotism there is in the country, and how men are disposed to go into this war with a perfect rush, when you appeal to the pockets of the people and begin to impose on them the onerous burden of taxation they commence to count the cost and look about them. We should do nothing to make our tax bill unpopular or any more burdensome to the country at

large than is barely possible; and I know of no feature in the bill which is more calculated to dissatisfy the public mind of the body of the community—the tax-payers—than the provision for the undue increase of the salaries of those persons who are employed in the assessment and collection of these taxes.

I know that there is a great anxiety on the subject of increasing the salaries of persons engaged in this duty; and it is perfectly natural that it should be so. Men want to benefit themselves and receive a large reward. But there has been just as strong an interest in procuring these appointments, and that interest is felt to this day; and there are thousands of good men who have not these appointments at the hands of the Government who are fully as competent as the incumbents, and who would be willing to take the appointments and stipulate not to ask for an increase of their salaries. I did not the other day vote against the amendment of the committee, though I thought it very impolitic indeed, which proposed to raise the per diem allowance of the deputy assessors, increasing it a dollar a day more than they have been in the habit of receiving. I have some knowledge of the class of persons who are employed as deputy assessors. They are worthy men; they are excellent men; but they are men many of whom are receiving almost double what they have received for any employment in which they have heretofore been engaged.

How does it strike a community, either a manufacturing town or an agricultural district? You send your tax-gatherers into every hole and corner; they are numerous; there are swarms of them; it is necessary that there should be a large number; and the men who have to pay the taxes ascertain the amount of these men's salaries, and they make a difficulty about it. It makes the law unpopular, and it is one of the many reasons why the patriotism of the country, which was so warm and glowing at the start, has cooled off and become chill; and I fear that if too heavy burdens be put on it may die out altogether. I want the war carried on; I want all the taxes raised that we can possibly raise to keep down the public debt, and to insure the payment of interest on our public debt. One of the means of doing it is to keep down the expenses of the collection of the internal revenue. I want to relieve the system from the objection which is raised to it and the odium cast upon it on the part of the great mass of the community because of the amount deducted from the fund for the purpose of defraying the expenses of collection.

Mr. FESSENDEN called for the yeas and nays; and they were ordered.

Mr. WILSON. By the bill as it now stands an assessor who assesses \$600,000 will get a salary of \$4,000. By the amendment which I propose an assessor who assesses \$600,000 will get a salary of \$3,000, and \$3,000 is enough. We sit here for \$3,000 a year. Our services may be worth very little; but I think they are worth quite as much as those of the assessors in the various congressional districts. If an assessor assesses over \$600,000 I propose to give him one tenth of one per cent. on the excess until he gets up to \$1,600,000, where I propose to stop. There are some large districts that raise over \$600,000, and we ought to encourage the assessors to go on and assess for the Government all that can be assessed; but by the provisions of the bill as it stands he gets his salary of \$4,000 when he gets up to \$600,000, and he has no motive to go further. I believe this amendment is right, and ought to be adopted.

Then I propose to add another provision. I notice in the bill that clerks are allowed to be employed without limitation. I know that frauds have been committed by some of these assessors. In one case an assessor employed a boy as clerk and paid him twelve dollars a month and charged the Government six hundred a year. In another district the assessor used the assistant assessors and made them do the work, and then charged the Government for their pay as clerks.

Mr. JOHNSON. In what State was that?

Mr. WILSON. In the State of New York.

Mr. FOOT. The assessors should have been reported and discharged.

Mr. WILSON. Some of these offending assessors have been reported, and some others will

be reported. I am in favor of fixing the salaries in this act as they ought to be, and giving as little discretion to anybody as possible. Three thousand dollars is enough for any assessor in this country who assesses \$600,000. I propose to give a percentage above that, simply as an inducement for the assessor to go on and get something more than \$600,000 for the Government. I shall further propose an amendment, in another section, to provide that the allowance for clerks shall not exceed \$3,000 for any one office. In some cases of two offices that collect the same amount of money, one does it for one third the clerk hire and one third the expenses of the other. I have read the list of the districts of the country, and have compared them carefully, so that I know whereof I affirm when I say that abuses exist in some of the offices.

Mr. FESSENDEN. I suggest to the Senator, (for really I do not feel disposed to contest his amendment very much; I like the principle of it, and was originally in favor of it in committee,) whether he does not make the minimum a little too high; whether an assessor, if he assesses over \$100,000, should not be entitled to a commission of one half per cent. Of course I do not want to meddle with the amendment, as he has prepared it, but I would suggest whether this \$1,500 is salary enough in all cases where an amount less than \$200,000 is assessed.

Mr. WILSON. My reason for fixing that minimum was that in those districts where we collect less than two hundred thousand dollars the people are generally poor people, and in those parts of the country the expense of living is not very great, and a salary of \$1,500 is probably as high a salary as is paid to any public officers. It seemed to me that a salary of \$1,500 was sufficient for the assessor in a district where he did not assess more than \$200,000.

Mr. GRIMES. The judges of the circuit court in my State get \$1,350 a year, and they have on an average eight counties in a district to which they go twice a year; and we propose to pay these assessors who are permitted to have deputy assessors in every county in the district, \$1,500 a year.

Mr. FESSENDEN. The assessor must go into every county.

Mr. GRIMES. He goes in once; he is there a day. The business is all done in the counties by the deputy assessors.

Mr. FESSENDEN. I do not object to the amendment very much individually; but as chairman of the committee, I stand by the amendment proposed by the committee. I must say I like the principle of this amendment very much, and I have been from the beginning in favor of it; but it seems to me the minimum is very high. I think the Senator from Massachusetts had better change it to \$100,000. We shall get more revenue by it in that way, because there are very few districts that go up to \$200,000, and a great many that stand between \$100,000 and \$200,000, and it might induce a large number of assessors to make every exertion to get the revenue up.

Mr. WILSON. The Senator, I understand, agrees to the principle of my amendment; he simply proposes that instead of saying that on all exceeding \$200,000 one half per cent. shall be allowed, the commission shall begin with \$100,000. That would add something to the expense; but it might be some inducement, and I will agree to strike out "two" and insert "one." I so modify the amendment.

Mr. FESSENDEN. I rather advanced an argument against myself. I meant to say that there was a very large number of districts, in my judgment—I do not know how many—where the revenue does not come up to \$100,000, and they might probably take extra pains to bring it up to that sum if the commission began there.

Mr. GRIMES. You have about doubled, as I understand, or expect to double the receipts by this bill. There is hardly a district in the country that is so poor that it has not yielded in the neighborhood of eighty or ninety thousand dollars under the law as it now stands. Under this bill I take it we are going to realize in any district hardly less than \$200,000.

Mr. FESSENDEN. It is not of very great importance how you fix it if you introduce this system, because it will all come under the revision of the committee of conference finally which will examine it.

The PRESIDENT *pro tempore*. The Senator from Massachusetts may modify his amendment by unanimous consent, the yeas and nays having been ordered.

Mr. WILSON. I think on consideration I will not do it, in view of the fact that we are largely increasing taxation. I think most of the districts will be over two hundred thousand dollars.

The PRESIDENT *pro tempore*. The question is on the amendment.

The question being taken by yeas and nays, resulted—yeas 29, nays 8; as follows:

YEAS—Messrs. Brown, Cardie, Chandler, Collamer, Conness, Cowan, Davis, Doolittle, Foot, Foster, Grimes, Hale, Harlan, Harris, Hendrickson, Hendricks, Hicks, Lane of Indiana, Morgan, Powell, Ramsey, Salisbury, Sherman, Sumner, Ten Eyck, Trumbull, Wade, Willey, and Wilson—29.

NAYS—Messrs. Anthony, Buckalew, Clark, Fessenden, Johnson, Nesmith, Richardson, and Van Winkle—8.

ABSENT—Messrs. Dixon, Harding, Howard, Howe, Lane of Kansas, McDougall, Morrill, Pomeroy, Riddle, Sprague, Wilkinson, and Wright—12.

So the amendment was agreed to.

Mr. WILSON. I propose to amend the twenty-second section in the eighteenth line after the word "compensation" by inserting "not exceeding \$3,000 for any one office."

Mr. FESSENDEN. I will state to the Senator that the committee have considered that subject, and the Senator from Wisconsin, who is not in his seat, [Mr. Howe] has an amendment to cover that whole matter. We are cognizant of the abuses that have existed, and think we have provided against them.

Mr. WILSON. Very well. But I wish to ask the Senator in regard to another amendment. In line twenty-three of that section we have amended the House bill by striking out \$3 50 and inserting \$4 a day as the pay of assistant assessors. I suppose it is not in order now to strike that out.

Mr. FESSENDEN. No. You can object to it when it comes into the Senate.

Mr. WILSON. I shall have to defer that, then. I want to ask the Senator further if in the fiftieth and fifty-second lines of the twenty-second section, before the word "assessors," the word "collectors" ought not to be put in?

Mr. FESSENDEN. No, sir. The collectors stand by themselves in another portion of the bill. This section relates simply to assessors, and has nothing to do with collectors.

Mr. WILSON. I propose in section twenty-three, line twenty, to strike out "Commissioner of Internal Revenue" and insert "accounting officers;" and I wish to state why I do that. I think that the money ought not to be paid over to the collector; I think he should not settle these accounts, but they should go to the accounting officers of the Treasury, where all other accounts go.

Mr. FESSENDEN. I will state to the Senator that that whole subject is under consideration, and we propose to materially change the whole frame of the bill in that respect. The Senator from Wisconsin has a series of amendments to offer, when they are perfected, in that respect.

Mr. WILSON. I wish to ask the Senator if in the twenty-fourth section, on page 27, these words are to be retained in the bill:

That the Secretary of the Treasury be authorized to make such further allowances, from time to time, as may be reasonable in cases in which, from the territorial extent of the district, or from the amount of internal duties collected, or from other circumstances, it may seem just to make such allowances.

Mr. FESSENDEN. Yes, sir, we propose to retain them.

Mr. WILSON. Then I move to strike out those words, and I do it for this reason: I do not think the Secretary of the Treasury ought to have any discretion in the matter whatever. I have as much confidence in the present Secretary of the Treasury as any other man in the country can have or ought to have; but I do not think he should be now allowed in the law any discretion in the matter. When we established the system there might be reasons for it because we did not understand how it would work; but the act is in operation, the condition of every district is well known by the returns that are made, and I happen to know that every effort has been made and every influence brought to bear to get allowances from some parts of the country for these officers. So long as the Secretary of the Treasury is al-



lowed any discretion he will have these men besieging the Treasury building for the increase of their compensation.

The Secretary of the Treasury cannot attend to these matters; they must be turned over to some of the subordinates, and when these men know that this subject is turned over to some of the subordinate officers of the Treasury, they know just how to approach them and persuade them and apply every influence to get their ends answered. I know that such influences have been brought to bear and are being brought to bear by these officers, and I want no discretion left in the Treasury Department. An honest, faithful Secretary of the Treasury cannot devote his time to the subject in the multiplicity of his engagements; he must turn it over to some subordinate officer, and I have not the fullest confidence in all the subordinate officers of the Government, either in the Treasury or any other Department. Therefore I move to strike out these words; they are not needed in the law, and so long as they are there several districts will be agitated more or less by an effort to get the compensation increased. If Senators knew the amount of labor, the running to Washington, the efforts that have been made during this session of Congress by Government officials to get their compensation increased, they would not permit the clause to stand in this act for one moment.

Mr. FESSENDEN. I suppose I need not assure the Senate that a clause of this importance did not pass either in the original bill or in this bill without very careful consideration, and that there was no member of the committee that did not have very considerable reluctance as to allowing the clause to stand. We, however, came to the conclusion that there was no other way to reach it. Such is the diversity of districts in the country that it is in the nature of things impossible to frame a system of salaries and payments to these officers which will apply with equal justice to the whole country. You cannot do it by any human ingenuity. I should like to have the Senator from Massachusetts, who is so positive on the subject, who speaks of what he knows, when he moves to strike out this clause, propose something by which we can avoid the very difficulties that we want to avoid. I am averse to giving this power to the Secretary of the Treasury, to the present Secretary or to any other; and why? If he is an honest man I do not want to burden him with the labor and trouble; I do not want to subject him to the annoyance to which he must be subjected by it; and if he is a dishonest man I do not want him to have the power. There is a good reason either way why you should not give him the power. But you cannot frame a system that will apply equally to all. Take, for instance, a State like California, in one of the districts of which we were assured, and I have no doubt of it, the collector not only spent all his pay, but was out of pocket.

Mr. CONNESS. Out of pocket \$3,000.

Mr. FESSENDEN. That resulted from the very great extent of the district, and from the very small amount that could be collected. We cannot say that we will not attempt in any district of this country to collect revenue, although the amount there may be very small, because we must apply an equal rule to the whole country. We must therefore appoint an officer and let him see what he can do. As we are only giving a salary of \$1,500—and in such a country as that such a salary might be entirely insufficient from the very great extent of the district—we must leave some discretion. The salary is only now allowed under this bill; it was not allowed under the former one. That amount may be utterly inadequate, and you may not be able to find a man who can be trusted that is willing to take it. This difficulty is not confined to California alone. You cannot fix the ratio here in any possible way that will cover the infinite diversity of cases. In some districts of very small territorial extent you collect a very large amount of revenue, while in other districts of immense territorial extent you collect a very small amount of revenue. In both cases the ratio fixed as the maximum may not be sufficient, because the expenses connected with the office may be more. Therefore the only way we can reach it is to say that in such cases the Secretary of the Treasury shall have power to do what is just and right. Under that provision here-

before applications have been made to the Secretary of the Treasury, and have not been answered; he will not touch them; and the result has been resignations in some cases. Men say that they cannot afford to work a year round and pay money out of their own pocket for the Government, as they have been obliged to do.

If the Senator thinks this is all wrong, let him tell us what is right; let him show how we are to meet these difficulties. It is very easy to pull down; it is another thing to build up. When a legislator here gets up and proposes to strike out a provision without knowing the reason why it was put in, or inquiring why it was put in, I think it is his duty to say what shall take its place to meet the difficulty. He should know in the first place what it was intended to meet, and then propose a mode by which it may be met. He cannot do the Committee on Finance the discredit to suppose that all the objections which addressed themselves to his mind did not address themselves to the mind of every member of the committee; and yet we retained this provision, and he ought to have taken it for granted that we had a reason for it. I have stated the reason. Now if the Senate choose to say that it shall not be there, and they take the consequences of striking it out without providing anything else, be it so. It is the only thing we could hit upon. We have done our duty in relation to it, and there is no further responsibility upon us.

Mr. CONNESS. I was a little offended at the Finance Committee, I confess, because they would not agree to insert "shall" in place of "may" in this identical provision allowing the Secretary of the Treasury to increase the compensation of assessors and collectors in the State of California. Why should I feel so? Simply because for two years past gentlemen have engaged in the business in my State earnestly, honestly, faithfully, and have absolutely in a majority of the districts paid money out of their own pockets; and with all the appeals that could be made to the honorable Secretary of the Treasury, to this hour he has never made a dollar of allowance to those officers. One man holding the office of collector in the third district for one year goes out of the office minus \$3,000 of money. There is no allowance made to us by reason of the disparity between the money paid by the Government and the money in circulation in our State; and I will here say that gold and silver are in circulation in the western Territories on the other side of the mountains as in California.

Mr. JOHNSON. How are the taxes paid in California?

Mr. CONNESS. All in coin. There is no such thing as a legal-tender note or paper money in circulation there. It is merchandise sold in the market, and every officer, civil or military, who receives it sells it at forty per cent. discount, and now the discount is more than that, of course, because of the recent advance in the price of gold. The cry comes up from that State, from every officer, both military and civil, for an allowance in lieu of this. My table at my lodgings is burdened by applications of this character, by petitions coming from the common soldiers and from officers, for we have guarding and holding posts in the western Territories and in California, and reaching forward to New Mexico and the borders of Texas some seven thousand of our soldiers receiving this money from the Government and trying to pay their expenses with it. I will state here that I have not presented these applications to the Congress of the United States, because from every part of the country here applications come up for an increase of salary in every conceivable shape, based upon the immense advance and enhancement in the price of everything that is consumed; and I knew that if I presented such applications from my people it would but open the way for a pressure that Congress could not afford to respond to, and I took the responsibility of saying to all those persons, "These are times of war, they are times of difficulty to the whole people; you must for a while bear your portion of the burden." But when you undertake to take away the compensation that the revenue officer receives, the man who assesses and the man who collects, you strike at the very basis and foundation of your revenue. It is better of the two, and more profitable and will pay better, to extend even some extra compensation to the men

engaged in assessing and collecting the revenue than to stint and starve them.

This is our experience, Mr. President, in the State from which I come. We tried for many years to reduce the enormous expense of collecting the revenue in that State. In some of our attempts, we cut down those expenses too low, and the result was immediately a falling off of revenue. Now, after fifteen years of experience, the lowest compensation that we pay in any of our counties is from five to seven dollars per diem in gold and silver to our local assessors and deputy collectors for collecting our State revenue. The deputy collectors who collect the internal revenue of the United States under this act receive, I think, four dollars in legal-tender notes. What must the result necessarily be? Inefficiency in collection.

I ask the Senator from Massachusetts not to pursue a penny-wise and a pound-foolish policy in regard to this matter. I hear testimony in addition to every word that was spoken by the honorable chairman of the Committee on Finance; and in regard to that gentleman I will state here that notwithstanding the dissatisfaction that I hinted at, which was, I am willing to say, perhaps my own fault, the fault of my own temper, no man in the Senate could be chosen who has given the amount of labor, the amount of exact consideration that he has given to every part and portion of this bill. It is my duty to say this. I know it. Everything has been weighed and poised by him by an exact and even-handed justice, his desire being to so construct the law that we should get the greatest amount of revenue with the smallest possible expenditure and burden to the people.

I hope, sir, that this amendment will not prevail, but that the discretion allowed in the section proposed to be stricken out by the Senator from Massachusetts, so rarely exercised by the Secretary of the Treasury, will be permitted to remain. I intend prior to leaving the city, which will occur very soon, to sit down after the pressure of Congress is taken away from the Secretary, and to show him exact facts and figures, and to beg him to make such allowance as will enable the people of California to pay their proper portion of the taxes into the national Treasury. I have intended to put it off until that time shall occur.

Mr. WILSON. I hope, sir, that the chairman of the Committee on Finance will not suppose, and that no other member of the committee will suppose, that because we propose amendments to the bill, or make suggestions or give our opinions, we are reflecting upon the members of the committee.

Mr. FESSENDEN. Not at all. I am glad to hear any suggestion.

Mr. WILSON. Certainly no one appreciates the members of that committee and the chairman of the committee more than myself for their ability, industry, and fidelity. I understand that we can easily provide a way in this bill to meet all the cases suggested by the Senator from California. The bill provides in regard to assessors and other officers in the rebel States and on the Pacific coast that the Secretary of the Treasury may increase their compensation to such an extent that the gross amount shall not exceed that paid to other officers in those sections.

Mr. CONNESS. It never has been done.

Mr. WILSON. I should say that it ought to be done on the Pacific coast and in the rebel States where there are great difficulties in going over those States on account of travel and other expenses; but in the other parts of the country, east of the mountains, and in the loyal States, I do not see any necessity for this. By inserting the word "collector" in the proviso to the twenty-second section of the bill, collectors will be placed on the same footing with assessors in the rebel States and on the Pacific coast. Everybody knows that the assessors ought to be paid as high as the collectors. I think the assessor is by far the most important officer. It requires more capacity to assess the property of a district than it does to collect the revenue. The twenty-fourth section provides that the collector shall have \$1,500 per annum salary, and, in addition, a commission of three per cent. upon the first \$100,000 collected, and a commission of one half per cent. on all sums above \$100,000 and not exceeding

\$400,000. Under the provision of that section a collector of a district that pays \$100,000 will get a salary of \$1,500 and then three per cent. on \$100,000. That is a very large salary—enough for him, in my judgment. The bill, however, provides that no collector shall receive over \$5,000 exclusive of his expenses, and allows him to go up to \$10,000 including expenses. With that increase provided for by the bill, there can be but very few districts which will need any action of the Secretary; and it appears that where they have needed it they have not got it. I can say that if they have not got it, it has not been for the reason that they have not tried to get it, and many men have tried to get it who ought not to have it. I give it as my judgment that so long as this discretion is confided to the Secretary of the Treasury, you will have the collectors from all parts of the country striving to get their compensation increased, running up the expenses in their collection districts unnecessarily; and many of them have done it.

Take the districts and examine them. Look at the expenses for clerk hire and stationery. Some districts that raise more money than others have not expended over one third as much for clerk hire, stationery, and other expenses. I invite Senators to examine the details and comparisons of these districts. They will find that in eastern Pennsylvania and eastern New York, where the men employed live in or about cities and know how to make up accounts, it costs about three or four times as much for clerk hire as it does in other parts of the country. Senators may take two districts, one of which raises \$600,000 and the other \$250,000, and the cost of clerk hire and stationery is two or three times as large in the district that raises the smaller amount as in the other. Take the Hartford district in Connecticut, and then take some of the districts in the eastern part of New York where we have men that know how to make up accounts, and we shall see that in several of those districts there have been great extravagance or corrupt practices—

Mr. FESSENDEN. The Senator need not make a speech on that subject, for as I have already told him we intend to make amendments preventing all that, and it has nothing to do with this question.

Mr. WILSON. I want to show that if the discretion is left to the Secretary of the Treasury he will be deceived by interested representations. I think we ought not to allow the discretion, and therefore I have moved the amendment.

The amendment was rejected.

Mr. WILSON. I propose to add the following as an additional section to the bill:

SEC. —. And be it further enacted, That no account for the compensation for services of any clerk or other person employed in any duties in relation to the collection of revenue under this act shall be allowed until such clerk or other person shall have certified on oath or affirmation that the same services have been performed, that he has received the full sum therein charged to his own use and benefit, and that he has not paid, deposited, or assigned, nor contracted to pay, deposit, or assign any part of such compensation to the use of any other person, nor in any way, directly or indirectly, paid or given, nor contracted to pay or give, any reward or compensation for his office or employment, or the emoluments thereof.

Mr. FESSENDEN. I will say to the Senator that a member of the committee, the Senator from Wisconsin, has an amendment prepared to cover that whole ground.

Mr. WILSON. Very well. I withdraw it.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. WILSON. In section ninety-three, line two hundred and ninety-two, after the word "thickness" I move to insert "five dollars per ton," and after the word "spikes," in the same line, to insert "one half cent per pound;" so that it will read:

On band, hoop, and sheet iron, thinner than No. 16 wire gauge, plate iron less than one eighth of an inch in thickness, five dollars per ton; and cut nails and spikes, one half cent per pound.

I move also to strike out all after the word "spikes" in line two hundred and ninety-two to line three hundred and five, inclusive, and to strike out lines three hundred and six and three hundred and seven.

The Secretary read the words proposed to be stricken out, as follows:

Not including nails, tacks, brads, or finishing nails, usually put up and sold in papers, whether in papers or otherwise, nor horse-shoe nails wrought by machinery, a duty

of five dollars per ton: *Provided*, That bars, rods, bands, hoops, sheets, plates, nails, and spikes, not including such as are usually put up in papers, nor horse shoe nails wrought by machinery, as before mentioned, manufactured from iron upon which the duty of three dollars has been levied and paid, shall be subject only to a duty of two dollars per ton in addition thereto, anything in this act to the contrary notwithstanding.

On iron castings used for bridges or other permanent structures, a duty of three dollars per ton.

Mr. WILSON. I propose a tax of five dollars per ton on this iron, and on nails and spikes half a cent a pound. It will be an increase of the amount now put upon nails. I understand that they can bear it. It will be entirely satisfactory, and I am told by gentlemen who understand this subject thoroughly that we can increase our revenue by so doing; and by striking out the other words from lines two hundred and ninety-two to three hundred and five, the duty on those items will be increased, for they will come under another head.

Mr. FESSENDEN. I can only say that the gentleman to whom the Senator refers, who knows all about it, came to the committee and suggested a series of amendments. The committee considered them very deliberately and very carefully, and also consulted with other persons, who perhaps knew as much as he did in relation to it, and looked at the whole subject with care, and they came to the conclusion to make some of his amendments and not to make others. I hardly think it would be wise, merely on the statement of the Senator from Massachusetts that he has this from a gentleman who knows all about it, to overrule a great many gentlemen who profess to know something about it. I think it had better be left as it is.

Mr. WILSON. I will state that that gentleman is not alone in regard to it, but several other gentlemen who have been in the city have assented to the fact that the interest can bear the tax if it be increased from five dollars to ten dollars a ton on nails.

Mr. FESSENDEN. We have made one or two amendments that he suggested and we have had a tremendous outcry on that very point. I am rather inclined to think we did wrong, but on the whole we thought we would leave it as it was fixed after consultation between the two committees. I think it had better be left as it is, unless the Senator can demonstrate from his own knowledge that the tax he proposes can be readily borne.

Mr. WILSON. I cannot from my own knowledge. But on the suggestion of Senators I withdraw my amendment.

Mr. GRIMES. I have an amendment to propose as an addition to section one hundred and seventy-three:

And provided further, That no direct tax whatever shall be assessed or collected under this or any act of Congress heretofore passed, until Congress shall enact another law requiring such assessment and collection to be made.

Mr. FESSENDEN. That matter was a subject of consideration between the two Houses at the last session, and they finally fixed on the law as it stands now, and I hope it will not be interfered with. We put off the direct tax until 1865, to see if we could get along without one, so that we have another year to consider it. If it is found that we can get along without one, we can then act upon it; but it is hardly worth while, I think, to act in advance, for we really do not know now but that we shall be obliged to enforce the collection of a direct tax after next year. At any rate, as there is time before us, as the time originally fixed after much discussion has not been changed, and the amendment will lead to a great deal of discussion, I hope the Senator will not insist on it now. His great anxiety to rid all the lands of the West from any possibility of a direct tax, as well as of other sections of the country, at any rate can wait until it is found out whether we can get along without it.

Mr. GRIMES. I have some anxiety too in regard to the lands of the eastern section of the country as well as the western.

Mr. FESSENDEN. We have not any.

Mr. GRIMES. Perhaps the Senator has not, as he lives in a city; but I have seen gentlemen who entertain very much the same opinions on this subject that I do, from his own State. The argument urged against the adoption of this amendment is that having the statute now on our statute-book, we can repeal it next winter if we choose. If we decide between now and the first Monday of

next December that it is necessary there should be a direct tax imposed, will it not be equally easy for us then to enact a law to that effect? The next session is a short session; it is to last only three months; and if there should be any disagreement between the two Houses, if any fatality should happen to befall a very few members of the Senate who are in favor of the repeal of this section, the matter will be left entirely in the hands of those who may happen to be in favor of the imposition of a direct tax and who would therefore be able to prevent the repeal of the law which imposes it. I think the safest way in every point of view is to strike off the law that imposes the direct tax, and whenever the necessity arises for its reimposition to reenact it. What is the use in keeping that law upon your statute-book? It is agreed on all hands that it shall not be enforced now. If it is not to be enforced, why not just as well repeal it as to keep it in a state of suspension?

Mr. FESSENDEN. The answer to that is that the Senator has furnished an argument against himself. It is very much easier to repeal a law, for that is done in a few words, than to enact one; and if next session be a short one, and we shall be pressed for time, the shorter the work to be done the easier it is to do it. The Senator asks the question, if he should happen to die in the mean time what will become of the matter?

Mr. GRIMES. Oh, no.

Mr. FESSENDEN. That is the amount of it. I think somebody else may live, and that the State of Iowa will not be left without Senators. The same fatality which may strike a Senator from the Northwest may strike a Senator from the Northeast.

The fact is that this is merely anticipation. The law is of importance in one particular at least; and that is in reference to its bearing on the act which was introduced by my friend, the Senator from Wisconsin, [Mr. DOOLITTLE], under which it may have an effect, a very valuable and beneficial effect, in getting something from the Confederate States by way of direct taxation if it be left to stand. Although it may not operate during the next year, it may be found very advisable to continue it.

I do not want to get up a discussion now between the two Houses on this question. An attempt was made in the other House to repeal the law. It failed. An effort was made in the other House also to continue it, that is, to put it into immediate operation, and that failed. The result was a conclusion that it had better be left to stand as it is, and if we find at the next session of Congress that we can get along without it, it is very easy in five lines to repeal it then. I deprecate at this late period of the session the introduction of a question of this kind, which is unnecessary at the present time, into this bill, and I hope the amendment will not be adopted.

Mr. GRIMES. I am very much gratified that I furnished my friend with an argument; it is the only one he has urged against the adoption of the proposition I have submitted.

Mr. FESSENDEN. I am frequently indebted to my friend from Iowa in that respect.

Mr. GRIMES. Is it not just as easy for us to pass a law to reenact the law that is now upon our statute-book next winter as it is to pass a short law repealing that statute? We can take the statute as it now stands bodily and reenact it. Is it compelled to go through any more legislative stages than an act to repeal it would be compelled to go through? Where, therefore, is the force of that argument?

Mr. President, I protest against this effort always whenever a proposition is submitted by myself, or by somebody from my section of the country, to say that here is an issue attempted to be raised between the Northwest and the Northeast. I have not offered the amendment in any such spirit. I can tell the Senator that I have seen representatives from his region of country who have exercised as much influence in regard to this question in the House of Representatives during the present session of Congress as any man in it on the same side entertaining the same opinions I do on this subject. They did ask for its repeal and were content with its suspension. I go one step further and ask for its repeal, and I do not intend to be content until I get an opportunity to record my vote in favor of its absolute repeal; and then when we come here at the next session

of Congress, if the chairman of the Committee on Finance can satisfy me that the public interest requires that there shall be another direct tax imposed, no man will vote for it more freely than I will. But I cannot see any force in any argument that has been urged here or elsewhere for allowing a dead statute to repose upon our law-books. I am in favor of getting rid of it; let the dead be buried; and then if you want to revive it hereafter, pass a law to do so. It will take no more time to do it than it will to repeal it.

Mr. FESSENDEN. My friend is not afraid of anything that is dead. It is asleep, and it may wake. This troubles him, and he wants to kill it, and kill it effectually. If he would acknowledge what is really in his mind about it, he would admit that to be his object. If it was dead he would not say anything about it; but it is because it is not dead that he is concerned. So far as I am individually concerned, there is no law that could possibly be passed with reference to taxation that would affect me personally so severely as a direct tax upon real estate. I happen to be so situated that so far as the pressure of taxation is concerned on myself, the worst tax that could possibly be passed would be one precisely of that description. Notwithstanding that, I do see in the present state of the country and in the future state of the country, that it may possibly be right and proper to impose a direct tax. I voted for the direct tax in the first instance; I voted against its suspension; I believed the money ought to be collected, and events have proved that we needed the money, and it should have been collected; but nevertheless a majority has been against me, and I submit. Still I believe that it may be that this statute should revive, and it may be that we shall have to increase it. If the necessity comes, let us do it; at any rate I do not see the necessity of raising the question now at this time, because at present it is sleeping, and it hurts nobody.

Mr. DAVIS. I am decidedly in favor of the proposition of the Senator from Iowa; and I am opposed to the principle of direct taxes altogether, for the reason that they bear exclusively on the land property of the States. There is a suspended law for direct taxes that is expressly retained by the provision of the act now under consideration. That direct taxation now, I suppose, rests in the main upon land. When it was enacted before it based upon land and slaves; but the mischievous legislation of Congress in relation to slaves has virtually abolished that subject from the operation of the law, and has left as its only subject the landed estate of the country. The direct tax which the law assessed upon the State of Kentucky was somewhere in the neighborhood of \$700,000. Suppose the revenue system of our State required us to collect \$700,000, and there was a proposition made in the Legislature and a law about to be passed to raise that \$700,000 exclusively from landed estate, and to exempt all other property from the burden or any portion of it, would our people submit to such a system of taxation? Would the people of any State submit to such a system of finance as that? Take, for instance, the State of Pennsylvania, the State of Indiana, the State of Illinois: they are to raise, say \$5,000,000, or any amount of money for the purpose of State expenditure, and a proposition is made in the Legislature of those States to raise the amount exclusively off the landed property, would their people allow it?

Look and see how this measure will operate sectionally. In Massachusetts, and in the eastern States generally, there is a large aggregation of capital that does not exist in the form of real estate; it exists in stocks; bank stocks, manufacturing stocks, canal stocks, and railroad stocks, and in other forms. What is to be the effect of this proposition that the direct tax shall slide silently into operation next year without any additional legislation and without the attention of the people being brought to the fact that there is now proposed a reenactment for the purpose of continuing that law? The effect will be that all the property in the United States including the eastern States, except landed property, will be exempt from being taxed or burdened to raise the amount that is proposed to be raised by direct taxation. In Illinois and in Indiana the real estate amounts to something like three fifths or more of the aggregate property of those States. In some of the eastern States it does not amount to more

than about one half; probably in some of them not half. Sectionally the operation of this law would be to impose upon three fifths of the aggregate property of the northwestern States the whole burden of raising the amount that is to be raised in those States by the direct tax; and in the eastern States, where there is a large aggregation of personal estate in the form of capital, and where it exists in other forms, the effect would be to impose at most only upon about half their estate the burden of raising the sum of money that is proposed to be collected from them under this system of direct taxation.

A great many years ago the taxes in my State were collected off lands, negroes, and horses. When a young man I was a member of the Legislature of that State, and I proposed that the entire aggregate of property should be the basis of taxation, and that there should be an *ad valorem* tax on all a man's estate, whether it was real, mixed, or personal, and that he should pay in proportion to the value of his estate upon the *ad valorem* principle. It was an innovation. It took it a year or two to get the assent of the Legislature to its adoption, but it was assented to, and now the system and burden of taxation in that State has been uniform and equal upon all property, with some exceptions of a small amount in favor of every person. The great and equal principle of taxation is that the whole of a man's property and estate, be it real, personal, or mixed, shall be equally subject to the support of Government, and that no classification of property shall take place by which upon any class there is to be a distinct and separate assessment and collection of taxes. Upon that general principle the tax is more equal, it is more impartial and just. Personal estate is more able to pay taxes than real estate in many instances. The landed property in the Northwest is divided into small farms, and the produce of the entire farm is often necessary to support the family. The owner of the farm has no surplus wealth vested in bank stock and in manufacturing stocks and internal improvement stocks. These stocks yield a certain revenue, and often a considerable revenue. We have seen through all the sources of information that these stocks in the northeastern States have been and are now eminently profitable. All these stocks are exempt from the operation of the direct tax law. They in truth have more capacity to pay than real estate has, because they yield a much greater amount of annual profit. The proceeds of personal estate in those farms are much more productive in annual fruits than are the proceeds of the small farms in the northwestern States. The effect of this law then is to charge upon the large portion of the property collectively and individually of the northwestern States that is not very productive annually the whole of the direct estate tax, and to exempt something like an equal portion of the estate of the northeastern States collectively, and of the people there individually, that are eminently productive in their annual fruits, entirely from the taxation.

It seems to me that if the people of the United States are now about to have reimposed upon them, as provided for in a distinct provision of the act under consideration, from the next year the direct tax law which will thus unequally tax them and their property to the partial exemption of the older States where there is large accumulated wealth in the form of stocks that yield annually large profits, they ought to be fully and distinctly advertised that such a principle of legislation is now about to be adopted. Sir, I am against it. The slaves of my State when this direct tax was assessed were of large value, and yielded a large proportion of the tax; that is, a large proportion of it was assessed upon them; but now, under the demoralizing and unjust and iniquitous system of legislation of Congress those slaves are of no value. The entire direct tax, then, will be assessed upon the landholders of that State; and even in Kentucky there are large masses of personal property accumulated in a few hands that would be entirely exempt from the burden of taxation so far as is involved in the sum that is to be raised by direct taxation.

The great mass of landed estates in America are of small amount and value as to acres and productiveness. They are scattered among and belong to the general mass of the population. In the northwestern States particularly this system

of direct taxation will have the effect to impose upon and to oppress a vast number of small landholders whose means and whose profits from their lands give them no surplus, or a very stunted surplus, with which to meet this taxation.

Sir, I come back to the principle with which I started, that the taxes upon property ought to be equal as far as practicable; and to adopt any practicable rule at all you must assess taxes not upon land alone but upon every description of property real and personal, and consequently the owners of personal estate that amounts to such a large proportion of the aggregate wealth of the United States ought not to be wholly exempt from the direct tax and the entire burden of it devolved on the real estate of the country, but equally subject to it.

Mr. GRIMES. I call for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. DAVIS. I omitted to say one word that I intended to say, and it is this: if this matter slides over silently now until the next session and this tax shall be disagreeable and burdensome and odious to the people they may whistle to have it repealed. Why? Because there intervenes the veto power, and it would require two thirds of both Houses to remove this burden from their shoulders. If the burden is to be removed from the people now or in the future, now is the time to leave it off. The next session will not avail. If the tax, in the language of the Senator from Iowa, shall be indispensably necessary to enable the Government to continue its operations of any character, the patriotism of the people no doubt will come up and reenact it; but the people may be trusted with that matter. There is a congressional election for the whole United States to intervene between now and the time when this proposition could be reenacted in all probability. Let the people now have the matter within their own power subject to their own will and their own judgment. Repeal it now, suspend it at least until further legislation shall take place to give it vitality and action, and then, if it becomes indispensably necessary to enable the Government to progress with its operations, the people may be safely trusted to reenact it.

Mr. WILSON. I desire to ask the Senator from Iowa if his amendment will affect the cases that have already been entered upon. We have already made one assessment.

Mr. FESSENDEN. If this amendment should be adopted the law will stand repealed; there will be nothing further to be done under it then.

Mr. GRIMES. I beg the Senator's pardon. It will not stand repealed so far as relates to what has heretofore taken place. The amendment reads:

That no future direct tax whatever shall be assessed or collected under this or any act of Congress heretofore passed until Congress shall enact another law requiring such assessment and collection to be made.

It does not repeal the law so far as it relates to any arrearages that may be due from any State under the law as it now stands. If there shall be any State that has not paid up its proportion or any State that has not paid up any of the tax that was assessed under the laws, it does not repeal it as to that, but declares that there shall be no future direct tax assessed under any law until there shall be some permanent action of Congress on the subject. I will read the language again:

And provided further, That no future direct tax whatever shall be assessed or collected under this or any act of Congress heretofore passed until Congress shall enact another law requiring such assessment and collection to be made.

Mr. FESSENDEN. What does the Senator call a tax upon watches under this act but a direct tax?

Mr. GRIMES. Does the chairman of the Committee on Finance call that a direct tax under the Constitution?

Mr. FESSENDEN. Certainly I do.

Mr. JOHNSON. I am not sure that I understand the amendment. I was not present when it was offered. What is called the direct tax—we differ as to the meaning of that term—is now suspended until 1865; that is to say, no such tax can be imposed or collected until 1865. During the present year, therefore, the tax cannot be collected. I understand the amendment to repeal at once the authority to levy a direct tax. I understand there is some difference of opinion as to whether it applies to that tax which may be con-



sidered as in arrear, if any can be considered as in arrear, so as to prevent our collecting it in the future; but there can be no difference of opinion as to this: that the law under which the tax is to be levied, if this amendment passes, is repealed and cannot be enforced again, unless Congress impose it again.

It seems to me that at this time it would be very impolitic to say that Congress would tie up its hands in any way; that either branch of Congress would tie up its hands in any way against the imposition of this tax. We do not want it now, or at least it has been supposed that we do not want it now, and that we may not want it until 1865; but the amendment of my friend from Iowa suggests that we are not to want it at all unless each branch of Congress shall assent to it. Now look at the probability of each branch of Congress assenting to it. The taxes that you propose to pass, considered as indirect taxes, as contradistinguished from direct taxes, will be collected principally from the States that will be least affected by the direct tax; and if it should turn out that those taxes are adequate to meet the exigencies at once of the Government, then you will have no direct tax, and the whole burden of the support of the Government will be thrown upon the indirect taxation. Taking that view of it I shall vote against the amendment proposed by the Senator from Iowa.

Mr. GRIMES. The Senator says there is some contrariety of opinion among gentlemen here as to what may be the effect of this proposition. I do not understand that there is any. I have not heard that there was any. I suppose that there is but one kind of direct tax known to the Constitution and laws of the United States. It was in pursuance of the provision of the Constitution which authorizes Congress to levy such a tax that three years ago, in 1861, we passed an act imposing a tax of \$20,000,000 upon the people of this country. At a subsequent session of Congress that was suspended. Nobody professes that there is any desire on the part of anybody that that law shall be enforced. It was not imposed by this Congress, but by another. It was not imposed by a Congress that had the same kind of representation that this Congress has. We had another apportionment entirely of the people, and they were represented under different circumstances in Congress than they are now. All I propose is this: that that law which you do not pretend that you want to enforce, under which you do not propose to collect any tax for twelve months, shall stand repealed, and that you shall rely upon the voluntary action of this Congress at the next session to supply you with direct taxation if you desire it.

The amendment is not open to the criticism which is attempted to be raised against it, that it may prevent the collection of taxes that were assessed under the law which it is alleged I propose to repeal. I do not propose to repeal it, even. The amendment declares:

That no future direct tax whatever shall be assessed or collected under this or any act of Congress heretofore passed until Congress shall enact another law requiring such assessment or collection to be made.

Mr. FESSENDEN. I look at it in another point of view; and that is, as a declaration, substantially, that this Congress do not mean under any circumstances to have a direct tax, and as such it would affect our credit very materially. At present the declaration is not necessary; the thing is inoperative; and we need not make it and affect the credit of the country until the time comes, to say the least of it, in my judgment.

Mr. WILSON. I am afraid that the amendment of the Senator from Iowa will be understood in the country as a declaration that no effort will be made to collect the tax already ordered to be collected. Two or three years ago we assessed, I think, \$20,000,000 of a direct tax. In some of the States that assessment has not been paid. I am in favor of making that assessment and collecting those taxes, and I do not wish so to act as shall interfere with that purpose. I desire to see these large rebel estates assessed, taxed, and sold by the Government for taxation and settled by our soldiers and our toiling people. I understand that Forrest and Beauregard, and the runaway Governor Harris, of Tennessee, have all paid their taxes within a very few weeks in order to save their lands. I do know that some traitors

have, under the amnesty proclamation which has been so injurious to the loyal men of the country, paid their taxes to save their estates. I am in favor of imposing these taxes in the rebel States and collecting them, and using them not only for the purpose of putting money into the Treasury, but also of breaking down the great landed estates of these slaveholding traitors.

Otherwise, I wish to say this: that I have not the slightest doubt that we shall not have any more direct taxes assessed. We see opposition enough here now to prevent it. Senators say such a tax is unequal. It is unequal; and we shall have a stern opposition to it that will prevent it. I should not like to see the direct tax law stand on the statute-book, except for the reason that it seems to me if we repeal it the Administration will take it as a declaration on the part of Congress that they must not undertake to collect these taxes in the rebel States that have already been ordered. If those taxes were collected I would vote to repeal the direct tax law, because I have not the slightest idea that we shall have any more taxes assessed on lands. I think it would be wiser to let those lands be taxed by the States to pay their own State expenses, and the expenses of their local communities, and to raise the revenue of the nation in some other form. I fear, however, if this amendment passes in its present form it will be deemed and taken by the Administration as an intimation not to undertake to collect the taxes in the rebel States that have already been ordered to be assessed. If Senators are sure the amendment is not liable to this construction I shall vote for it.

Mr. GRIMES. All I have to say in answer to that is that if the Administration is not familiar with the ordinary rules of grammar and the construction of language they are as liable to a misconstruction of any other law as they are in regard to this. I do not think the Senator from Massachusetts entertains the opinion that any such construction can be given to it as he says or thinks the Administration may give to it.

Mr. POMEROY. I suggest to the Senator from Massachusetts that if the Administration construe the law as it now is to mean a suspension of this direct tax in the seceded States, a law to suspend the direct tax would be as bad as a law to repeal it. I am certainly for repealing this statute and getting it out of the way. If the argument of the Senator is worth anything it proves too much.

The question being taken by yeas and nays, resulted—yeas 21, nays 16; as follows:

YEAS—Messrs. Brown, Buckalew, Carlile, Chandler, Davis, Doolittle, Grimes, Harlan, Henderson, Hendricks, Howe, Lane of Indiana, Lane of Kansas, Pomeroy, Powell, Ramsey, Richardson, Sherman, Trumbull, Wilkinson, and Wilson—21.

NAYS—Messrs. Anthony, Clark, Conness, Fessenden, Foster, Hale, Harris, Hicks, Johnson, Morgan, Morrill, Sumner, Ten Eyck, Van Winkle, Wade, and Wiley—16.

ABSENT—Messrs. Collamer, Cowan, Dixon, Foot, Harding, Howard, McDougall, Nesmith, Riddle, Saulsbury, Sprague, and Wright—12.

So the amendment was agreed to.

Mr. TEN EYCK. On page 141, section ninety-three, line three hundred and seventy-two, I move to strike out the words "when sold or removed for sale." The clause now reads:

On oil-dressed leather and deer skins, dressed or smoked, when sold or removed for sale, a duty of five per cent. *ad valorem*.

The PRESIDENT *pro tempore*. The Chair is of opinion that that amendment is not now in order, the clause having been agreed to in that form.

Mr. SHERMAN. It will be in order in the Senate.

Mr. TEN EYCK. If it is not in order I will let it go by for the present, and propose another amendment. On page 144, section ninety-three, I move to strike out the proviso commencing in line four hundred and forty-one, in the following words:

*Provided*, That when diamonds, emeralds, precious stones or imitations thereof, imported from foreign countries, or upon which import duties have been paid, shall be set or reset in gold or any other material, the duty shall be assessed and paid upon the value only of the settings.

The object of this amendment is to prevent an unjust discrimination in favor of articles of useless character which may be regarded as luxuries over articles of prime necessity and in every-day use. The whole clause reads as follows:

On all diamonds, emeralds, precious stones, and imitations thereof, and all other jewelry, a duty of ten per cent.

*ad valorem*: *Provided*, That when diamonds, emeralds, precious stones, or imitations thereof, imported from foreign countries, or upon which import duties have been paid, shall be set or reset in gold or any other material, the duty shall be assessed and paid upon the value only of the settings.

If I understand the effect of the proviso, if it should be adopted, it will be this: a diamond worth \$1,000, if it has been set before and is now reset in a setting that costs five dollars, is to be entirely free from this duty of ten per cent. *ad valorem*. I do not understand the reason of the discrimination in favor of an article of this kind over articles which I see upon the opposite page, such as "hats, caps, bonnets, or other articles of dress for the wear of men, women, or children, five per cent. *ad valorem*." The very articles that go to make hats, caps, bonnets, and other articles of wear for men, women, or children, are taxed in the raw state, and are also taxed by this bill when they are manufactured.

If this proviso stands, I think it will enable persons engaged in this business of selling and disposing of diamonds and precious stones to cheat the Government out of a duty that they ought to be subject to; and in the next place, as I stated before, it will make an odious, unjust, and improper discrimination in favor of a luxury against an article of prime necessity and every-day use. I received a letter from a gentleman engaged in the jewelry business, in which he expressed the surprise of himself and a large number of persons engaged in that very business that Congress should propose to do a thing of this description.

Mr. FESSENDEN. I think the gentleman to whom the Senator refers really did not consider the effect of the provision. The Senator will see that the clause preceding the proviso puts a duty of ten per cent. on all diamonds and precious stones. Suppose, for instance, the Senator himself owns a diamond worth \$500; he has to pay a duty upon that of ten per cent.

Mr. TEN EYCK. Oh! no; not under this clause.

Mr. FESSENDEN. Why not? This is not an import duty. It is a duty "on all diamonds, emeralds, precious stones, and imitations thereof," unless it is intended to apply to those that are in the hands of manufacturers to be sold. Now, then, take it either way: we either impose a tax upon these things in the hands of individuals or we do not. If we do not tax a person for a diamond so long as he keeps it in its present condition, and he chooses to carry it to a jeweler and have it reset, why should we do it because he wants to have it reset?

Mr. TEN EYCK. I understand the effect of this clause, and so does my correspondent, to be, that if it can be made to appear that the precious stones which are subject to this duty of ten per cent. have been set before they are only subject to a tax upon the value of the setting alone and not upon the precious stones. That is the way that I understand it. Therefore, if it can be made to appear that the diamond had once been set before and had once been used as an article of attire or been manufactured for sale, it should not be liable for any duty of ten per cent. *ad valorem*, but only the setting, which might be of the value of two dollars, should be liable to it. Why, sir, this would be an inducement to the men who deal in these precious stones to make it appear to the Government officials that the precious stones had been set before when they never had, and would throw open the door to fraud and imposition upon the Treasury. That is the light in which I view it.

Mr. FESSENDEN. Does not the Senator see the meaning of this clause? When they are imported from foreign countries they pay a duty upon their value. Then, if the person who has paid this duty on their value carries them to a jeweler's to have them reset, the proposition of the Senator is to make him pay the duty over again on the whole value of the diamonds instead of upon the setting.

Mr. TEN EYCK. That is not my understanding of the direct operation of this clause. A diamond may have been imported fifty years ago, and, I take it, under this tax bill, that precious stone ought to be subject to the duty of ten per cent. *ad valorem* in order to raise revenue. That is the object. We want to keep the wheels of Government moving.

Mr. FESSENDEN. The Senator could not

have heard me when I was up before. I repeat, it either does or does not come under the preceding clause:

On all diamonds, emeralds, precious stones, and imitations thereof, and all other jewelry, a duty of ten per cent. *ad valorem*.

That must be paid according to the language of the act. If I, for instance, have paid that duty on a diamond, and then carry it to a jeweler and have it set over again at an expense of ten dollars, I have got to pay the whole duty over again, according to the Senator's proposition.

Mr. TEN EYCK. If that is its effect I shall insist upon the amendment.

Mr. FESSENDEN. I do not see any other effect; that is, if it is subject to that clause. If it is not subject to that clause, then it is only saying, "As long as you keep your diamond at home you need not pay anything; but if you have it reset you shall pay ten per cent. on the value of the diamond." Of course nobody would have them reset under those circumstances.

Mr. TEN EYCK. What does the duty in this clause refer to? A duty on importation?

Mr. FESSENDEN. I will read it again:  
On all diamonds, emeralds, precious stones, and imitations thereof, and all other jewelry, a duty of ten per cent. *ad valorem*.

Mr. TEN EYCK. That means a duty under this internal revenue law.

Mr. FESSENDEN. Of course.

Mr. TEN EYCK. Then where is the propriety of subjecting these precious stones to a duty of ten per cent. *ad valorem* upon the article, when, if it is made to appear that it has once been set before, it is not subject to a duty of ten per cent. at all, but only a duty levied upon the resetting, which may be of the value of five dollars when the diamond is worth \$1,000. That is the way I understand it.

Mr. FESSENDEN. As I read it a duty of ten per cent. is to be collected upon all these stones in the hands of whoever may have them. Now, then, that duty being paid, if you choose to put them into another shape at an expense of ten dollars, you must pay the whole duty over again, according to the amendment.

Mr. JOHNSON. I do not see any such difficulty as the Senator from New Jersey supposes. All diamonds, emeralds, precious stones, &c., in the condition in which they shall be, have to pay a duty of ten per cent.; that is, without any reference to any import duty that they may have paid. All diamonds now in the country upon which duties may have been paid upon the importation are, in the hands of the holders of such diamonds, to be subjected to a further duty of ten per cent. *ad valorem*. But it may happen that the diamonds, emeralds, &c., which are now in the country, and on which is to be assessed a duty of ten per cent. *ad valorem*, may have an additional value imparted to them by being reset; and the provision in the proviso is that where they are reset the duty shall be paid only upon the value of the setting. But for a provision of that description, if you were to state that all diamonds in the country shall first pay a duty of ten per cent., and then that all such diamonds when they shall be reset shall be subject to a duty *ad valorem* upon their then value, including the value of the diamond and the value of the resetting you would impose a double duty upon the diamond.

Mr. HARRIS. I should like to ask the Senator from Maryland what construction he puts upon the words "imported from foreign countries or upon which import duties have been paid" in that very proviso. If his construction of it be correct, it seems to me those words are very useless there.

Mr. JOHNSON. I was looking to the first part of the clause independent of the proviso. The first part of it is in these words:

On all diamonds, emeralds, precious stones, and imitations thereof, and all other jewelry, a duty of ten per cent. *ad valorem*.

Then it provides:

*Provided*, That when diamonds, emeralds, precious stones, and imitations thereof, imported from foreign countries, or upon which import duties have been paid, shall be reset in gold or any other material, the duty shall be assessed and paid upon the value only of the settings.

The meaning of that is, that if it has paid the import duties, that of itself is sufficient.

Mr. HARRIS. That is, equivalent to this internal revenue duty.

Mr. JOHNSON. Yes, sir.  
Mr. HARRIS. That is the construction of the Senator from New Jersey.

Mr. JOHNSON. Then it is to be subjected only to a duty, if it is reset, on the value of the resetting.

Mr. HARRIS. If they have paid the foreign duty, it exempts them from taxation.

Mr. JOHNSON. Striking out the words "or upon which import duties have been paid" will answer the purpose and effect the object.

Mr. FESSENDEN. I will not object to the amendment of the Senator from New Jersey. It can be made now and the matter can be considered in the committee of conference.

Mr. HARRIS. This clause was not in the old bill.

Mr. FESSENDEN. I will not object to it. I confess I really do not understand what the exact operation of the clause is. It may have the effect that the Senator from New Jersey says, and if so it ought to be amended.

The amendment was agreed to.

Mr. TEN EYCK. I have another amendment, to be inserted on page 82, section seventy-three, line twenty-nine, after the word "license," at the end of the amendment that was inserted there by the Committee on Finance. I propose to add a further provision to secure the object of that amendment, for the purpose of making it certain that this section shall not be avoided by those upon whom it is intended to have an effect. I move to insert these words after the word "license":

And in case any peddler shall refuse to produce his or her license when demanded by any officer of internal revenue, said officer may seize the horse, wagon, and contents of pack, bundle, or basket of any person so refusing, and hold the same until the license is produced.

The amendment was agreed to.

Mr. DAVIS. At the end of section one hundred and nine, relating to banks and banking, I move to insert the following additional proviso:

*And provided further*, That the notes or bills for circulation of all banks, associations, corporations, or individuals issued before this act goes into operation shall not be liable to pay any duty whatever.

I will say a word or two in explanation of this amendment. The banks in Kentucky, with an aggregate capital of some twelve or fourteen million dollars, have a very small circulation of their own paper and a large deposit of gold and silver. They have been very anxious for the last two years, ever since the legal-tender notes began to circulate pretty freely, to withdraw all their circulation. The Northern Bank of Kentucky, for instance, has a capital of \$2,250,000. Its circulation amounts to about \$900,000 and its specie on hand to about \$1,100,000, independent of its assets in the form of paper upon other banks and the notes of the United States. I suppose not \$100 of that paper has been put into circulation in the last two years. On the contrary, the officers of that bank have reported to me frequently that they were extremely solicitous to get in their whole circulation and they were offering inducements, not in the way of premium but facilities for banking operations, to get their paper returned upon them.

One effect of the small amount of paper that those banks have in circulation and the large amount of paper that they have to redeem it has been to raise the paper of those banks to a premium of from three to five per cent. upon the greenbacks. The better currency is always hoarded. The inferior currency, the more depreciated currency is always forced into circulation by the holder. That has been the effect in my State. I suppose these banks in the aggregate have four or five million dollars of their paper in circulation. There is not a dollar of it out with their will. On the contrary they have earnestly desired and have been making efforts for the last two years to obtain the return of all their paper upon them, but they have been unable to effect it. It seems to me that that state of fact furnishes an equitable and proper case in which the duty upon the circulation of the banks, on those banks at least, should not be imposed, and I know of no other mode by which to reach it than to exempt them entirely from the duty that is proposed to be imposed upon the circulation of the banks.

Mr. President, I agree with the proposition made by the Senator from Maryland [Mr. JOHNSON]

yesterday, that for the purpose of restricting the circulation of State banks the Congress of the United States have not one jot or tittle of constitutional power. I admit that they may tax a bank circulation, but it ought to be with the sole object and view of getting revenue, and not with the indirect purpose of regulating or forcing a recall of the circulation of State banks. If the Congress of the United States wanted to adopt a salutary rule in relation to this subject, it seems to me it would be somewhat in this form: I maintain that they have no right or power whatever to discriminate between the paper circulation of the State banks and the associations going into operation under the banking law which was recently passed by the Senate; that identically the same rate of taxation or duty should be imposed on the State banks as on the associations under the bank law recently passed by Congress, or which probably is yet in an inchoate state; they ought to adopt a uniform rule of taxation; and they have no power to discriminate in favor of the associations going into operation under the legislation of Congress, and against the State banks, especially with a view to restrict or totally annihilate their circulation.

Congress might discriminate upon principle in relation to these subjects and upon good reason; and that, to my mind, is this character of discrimination: let them tax the circulation of any banks that do not redeem in gold and silver a higher rate than those who do redeem in gold and silver. If they adopted that principle it would operate wholesomely in relation to the circulating medium of the country. To claim for Congress under the clause of the Constitution so often adverted to by the Senator from Wisconsin, [Mr. DOOLITTLE,] granting to them the power "to coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures," an indirect power to determine or to attempt to regulate what amount of property its gold coin shall purchase, seems to me eminently unsound.

They have the same power over foreign coin in relation to regulating its value as they have over the coin which they may authorize. The words of the Constitution are:

"To coin money and regulate the value thereof and of foreign coin."

They have precisely the same power over both subjects, domestic coin emitted under the authority of Congress and foreign coin; and that is an analogous power to what follows in the clause in the few words which I will read: "And fix the standard of weights and measures."

Congress has the right, for the convenience of the country, in the sale of solids and liquids to fix the standard of weights and measures; but that does not authorize Congress in any way to interfere with the market price which any of these various species of solids and liquids may bring in market. Its whole effect is a restriction to the exercise of the power in denominating what shall be a bushel of solid matter or what shall be a gallon of liquid matter, that so many inches or so much of contents by any other measurement shall be the medium by which these solids and liquids shall be sold.

It is so in relation to coin. The whole power of Congress over the subject of coin in regulating its value is merely to determine the denomination by which the various classes of coin shall pass, and nothing more. They authorize and direct so many penny weights or ounces of gold to be coined, and they denominate it an eagle or a double eagle. So of silver; so many penny weights of pure metal and so much of alloy to be coin in silver dollars or half dollars. The whole power of Congress to regulate that subject is simply to determine the pay or the count at which these various classes of coin, gold or silver, shall pass. That Congress under this power "to coin money and to regulate the value thereof" has the indirect power to restrict, to interdict, to impose penalties or fines upon the emission of State bank paper or to prohibit it, is to my mind as illogical a conclusion as ever was drawn. The power to coin money and to regulate the value thereof, in truth, does not give Congress a single iota of power over the circulating paper of State banks. It does not give to Congress an iota of power to regulate the value of coin, except to determine what shall be the count of the various denominations of coin, gold

and silver, which it may direct to be coined, and the same power over foreign coin; it may declare by law at what value foreign coin may pass, and that is all the jurisdiction or power that it has over the subject of regulating the currency.

The greatest curse in the world to a country, financially and commercially, is a spurious currency, an unsound currency. The only standard of a sound currency is the precious metals, gold and silver, and the viciousness of a currency is measured by its depreciation below that common standard of the world. I admit that Congress may indirectly operate to bring up a paper currency to the par of gold and silver. The first or second United States Bank, I believe, once performed that office; I have an indistinct recollection of it; but at one time, when there was a general suspension of specie payments by all the banks, it gave notice beforehand to those banks that on a particular day it would resume specie payments, and that forced all the State banks that were solvent to the same step, and those that were not able to resume specie payments went to the wall, as they should have done.

The General Government may perform two important offices in bringing back the country to specie payments. The honorable Senator from Ohio [Mr. SHERMAN] the other day spoke justly and truly in relation to the necessity of a sound and wholesome circulating medium, and he likened it, properly, to the circulation of the human system. Both circulations must be healthy, neither redundant, to perform their respective offices properly. The General Government is in duty bound, when it can incidentally in the proper exercise of its power, to aid the country and the moneyed institutions of the country to return to specie payments.

There are but two legitimate modes, according to my understanding of the powers of Congress, by which this can be effected or attempted by the Secretary of the Treasury or the Congress or the Government of the United States, and the first is, let the Government itself resume specie payments; let it give notice to all the banks of the United States that on a given day it will resume specie payments. Whenever that notice is given by the Government the banks in Kentucky will be ready to resume specie payments. They are in a condition that will enable them to resume any day after a very short notice, and that is the state of affairs and the business which they would prefer.

If it is so necessary, as I concede it is, for the business of the country, for the operations of its Government, for all of its commerce and all of its industry, that we should have a sound and uniform currency, we can only have a mixed currency upon that inflexible and essential principle of all legitimate banking, that no paper should circulate when it is not redeemable at its counter in coin by the power that emits it. If the Government of the United States would just put itself in position to resume specie payments in six or twelve months or at any time, and give to the banks of all the States timely notice that on such a day it will resume specie payments, my word for it that movement followed up by the corresponding action of the Government would force every bank in the United States that could live at all to resume specie payments on the very same day, and those that could not live ought to go to the wall and cease to be banks and to emit a circulating medium. That is one legitimate mode in which the Government of the United States may operate, and which its duty to the people of the United States and to the commerce and business and industry of the United States requires that it should operate to bring about a general resumption of specie payments, by resuming itself.

There is another legitimate mode in which the Congress and the Government of the United States might operate properly and safely and within the pale of its powers to effect this great desideratum of the resumption of specie payments; and that is, to repeal the law making greenbacks a legal tender. Whenever that law shall be repealed and banks and individuals are permitted by the authority of the laws of Congress to collect their dues in gold and silver, all banks that are based upon a solid capital will soon place themselves in position to resume specie payments. The unwise and vicious legislation of Congress has made an

irredeemable paper a legal tender, in my judgment, against the Constitution. I think that question will yet come up in a form in which the principle will be decided by the courts of the country under the imperious and universal demands of the people of the country and its business and industry, that nothing but gold and silver can be emitted by Congress or the authority of the General Government as a legal tender. I think it was a great mistake, and I think the results have proved that it was a great mistake on the part of the Government to resort, in the first instance, to this irredeemable paper, and to force it upon the country as a legal tender. In my judgment, it would have been much wiser and much more beneficial to the interests of the country and the convenience and economy of the Government if the Government had at once gone into the market and borrowed as individuals borrow, upon its credit; and I believe that the amount of cost and discount to the Government would not have borne any proportion to its loss between the par of greenbacks and the par of gold and silver.

I have merely adverted to these two modes in which the Government can legitimately and efficiently operate to bring the country to specie payments generally. Let it pay specie itself, and when it does so it will be an example of so much force and efficiency that none can withstand it. Let it withdraw by funding or otherwise all of its legal-tender notes; let Congress leave the business of the country alone, and let them restrict the operations of the Government to the legal, constitutional currency, gold and silver. That is the only currency and medium of exchanges of the world.

But, sir, in relation to this immediate amendment, here are banks in Kentucky that have dollar for dollar in gold and silver to redeem all their circulation; some a little less and some a little more. They have been striving ever since this spurious paper assumed the place of a sound, constitutional currency, to get in their paper. They have not been able to effect it. It is not their fault nor default that they have not redeemed this paper. I ask, then, if it is not unjust and oppressive legislation to impose upon these banks a duty upon their paper in circulation under these circumstances. It seems so to me, sir, and therefore I offer the amendment.

Mr. SHERMAN. I can scarcely think that the Senator expects or anticipates this amendment to be adopted by the Senate. The Senate have already acted upon this subject very fully. The reduced tax agreed upon by the Senate, I suppose, will not be objected to by any one. If the Senator wishes to compel the retirement of these notes, or wishes to provide a mode by which the banks will have an opportunity to redeem them, I will join with him in such an endeavor; and I will suggest to him a mode by which we can compel the redemption of these notes. He says the banks cannot redeem them because they are not presented for payment. If I had the power I would adopt some such device as has been adopted in the rebel congress, and I would sooner compel their redemption by authorizing the bank to deduct two, three, or four per cent. for every month that those bank bills remain outstanding. In that way you would compel their presentation and redemption, and that is a thing that ought to be accomplished to prevent the inflation of the currency.

The small tax that is now placed upon the circulation of the banks is one that they can very readily pay. They draw full interest on every bank bill that is outstanding. They hold in their vaults the notes of their customers to an amount equal to the amount of their circulation. As a matter of course they did not part with their circulating notes without receiving something for them. They hold the notes of their customers on which they are receiving from six to ten per cent. interest. If, as the Senator says, these notes are not presented for redemption, then they are drawing this interest without any risk, without any danger, without any liability, for nothing. I think instead of paying one per cent. interest to the Government they ought to share the interest they are receiving; that is, pay three per cent. If I had the power, and I only regret that the Senate did not agree with me, I would at least compel a share of the profits of the banks derived from the condition of affairs in which we are now placed.

As the Senate will not agree with me in that, I

am surprised that the Senator from Kentucky should object to the tax of one per cent. on their circulation when he can see that they are drawing at least six per cent. on their circulation outstanding. If what he says is true that these notes are never presented to the bank, that they will not be presented, that they are hoarded, that is only the more reason why we should increase the tax and not diminish it. If he desires legislation to compel the holders of the notes to present them for payment I will join with him in providing that legislation, and it will be some such mode as I have suggested, by levying a tax on the holder of the bank bills and requiring the bank to deduct a tax of one or two or three per cent. if it is not presented within three months. Some such device as that would remedy the evil of which the Senator from Kentucky complains, and I would be very glad to see it adopted.

Mr. POWELL. I do not think that the plan proposed by the Senator from Ohio is at all feasible. We certainly have no power to pass any law by which we will compel a bill-holder to present his note, and if he does not to take off a portion of it every month. Certainly such a proposition would not be regarded as in the shape of taxation in any form.

I think that the amendment proposed by my colleague is eminently proper. I know that all the banks of Kentucky have ceased virtually to issue any paper; and most of the banks, I believe all of them, some of them I absolutely know, have been making efforts within the last year or two to retire all their paper. I conversed with the president of one of our banks who was in this city a very few days ago, and he told me that for the last year he had been using every effort to retire all the paper issues of his bank, that he had not issued in that period a single dollar, and that absolutely he had agents at work giving premiums to buy it up, and he had still a million dollars or more of circulation out. I do not think that a bank struggling to get in its issues in that way, should be taxed. The moment they come in they will be retired. The truth is that it is a good bank the issues of which stay out in this way. If you would tax the trashy paper that comes in quicker, you would do the country more service; but those banks who desire to retire all their issues, who try all they can to get in their notes and when they are in do not reissue them, should not be taxed upon their circulation. Tax the issues made hereafter if you choose. I hope the amendment will be adopted.

Mr. DAVIS. I will only add a word to what has been said. If the honorable Senator from Ohio had offered his amendment in the form in which he now suggests it, as a substitute for the section which was offered a few days ago, that there should be a tax of a certain percentage upon all the outstanding circulation of the various State banks in the hands of the holder, and that on the presentation of those notes the bank should be at liberty to withhold from the redemption as much as would meet the tax upon the paper, I should have much less objection to that proposition than to the one which he offered.

Mr. SHERMAN. I can assure the Senator that if I supposed Congress would adopt it, I would propose to levy a tax of three per cent. after three months, six per cent. after six months, and twenty per cent. after twelve months, and I would make it the interest of every bill-holder very promptly to come in and present his bill for redemption within the three months, so as to avoid the tax; but I am told that such a proposition as that would not be sustained.

Mr. DAVIS. But I have a radical and fundamental objection to the proposition of the honorable Senator. In the first place every note that is issued by a bank is a contract. It is a contract between the bank and any person who accepts that note, and, consequently, neither party to the contract can change its terms. But there is a general leading principle of taxation which the Senator's proposition would, as he last explained it, violate. I hold that all unequal taxation is unconstitutional. My explanation is that where the same subject or class of subjects is taxed, the tax must be laid equally on the article in the hands of all persons who own it. For example, could Congress in this bill, or any other bill, assess whisky, or any other subject of taxation, at one rate in one State and at a different rate in another



State, and at still a different rate in a third State? Could they impose a varying rate of taxation upon the same article in any or in all States? Not at all. I think it is a constitutional and fundamental principle of taxation that the rate of taxation imposed upon any subject under the same state of circumstances must be equal and uniform, whether that subject is held by A or B, and that, consequently, this varying tax which the Senator from Ohio suggests would be an infraction of that principle, would be unjust in itself, and ought not to be adopted; and I hold that Congress has no power whatever to legislate upon or to attempt to regulate this subject.

Mr. HENDERSON. I desire to hear from my friend from Kentucky as to the effect of his amendment in one respect. Suppose that his amendment should be adopted, and that the circulating notes now out should be reissued by the banks, would they be taxable?

Mr. DAVIS. Oh, yes, certainly; that would be an issue. A reissue is an issue. The amendment applies only to notes that have been issued and that are now in circulation.

Mr. HENDERSON. The difficulty about the amendment is that we cannot distinguish between those notes now out and those reissued unless we provide some means by which they shall be stamped when they come in.

Mr. DAVIS. If the body is disposed to accept the amendment which I have offered, when the bill comes into the Senate we can provide some mode for identifying the notes. The suggestion of the Senator from Missouri is very timely and very proper.

Mr. HENDERSON. I think there would be some difficulty about it as it now stands.

Mr. DAVIS. But for the purpose of testing the principle, the vote may be taken on the amendment in its present form; and if the principle should be favored by the Senate, the matter can be readily provided for; if it should not be, there will be no necessity for providing for it.

The amendment was rejected—ayes three, noes not counted.

Mr. CLARK. I move to amend the bill by striking out in line four hundred and fifty-seven of section ninety-three, on page 145, the words "and snuff-flour," so as to leave the tax to be assessed on the snuff when it is manufactured and ready for sale. The distinction between snuff-flour and snuff is this: the snuff-flour is the tobacco after it is ground and before it is manufactured into snuff by pickling or scenting or anything of that kind, and the two provisions here make a difficulty. It is sometimes to be taxed as snuff-flour and sometimes as snuff, and between the two you may not get any tax. My proposition is to strike out "snuff-flour" and leave it to be taxed as snuff when prepared for the market, because in manufacturing it into snuff the weight is increased about one seventh, and you get more pounds to tax, and it is better for the Government to do it.

Mr. CHANDLER. I think I can offer an amendment that will be better for the revenue and it may perhaps meet the case. I would insert after line four hundred and fifty-nine this proviso:

*Provided, That the tax on snuff or snuff-flour shall be paid by the person or persons grinding the same, and snuff-flour having once paid a tax shall not be subject to any additional tax after being mixed or scented, except upon the additional weight added thereto.*

Ground tobacco is not snuff; but, as I am informed, druggists and other dealers in snuff are in the habit of purchasing ground tobacco, "snuff-flour," as it is called, and manufacturing it themselves; and yet no collector would think of going into one of those places to collect a tax on snuff; and this is the only way, in my estimation, to insure the collection in every instance of the tax. I am informed that it is a very common occurrence for a druggist or a dealer in snuff to purchase ten, fifteen, or twenty bushels of snuff-flour, and manufacture it himself into snuff, without any tax ever being previously laid. The result of that will be absolutely to defraud the Treasury out of this tax of thirty-five cents a pound which belongs to us.

Mr. CLARK. It is as I had supposed; I had seen the proposition of the Senator, and I know very well whence it comes, and it is worthy of some attention. But upon careful consideration and upon information from other people, I had

thought this was the better way, and if we strike out "snuff-flour" in this clause it will leave the whole matter to be considered between the two Houses; and then I propose to put in after the word "tobacco" in line four hundred and fifty-seven the words "or any substitute thereof," and let it stand for further conference. The proviso presented by the Senator from Michigan does not avoid the difficulty I suggested, that between the two forms of snuff and snuff-flour the Government may lose more than would be gained the other way.

The PRESIDING OFFICER. The Chair does not understand the Senator from Michigan as moving an amendment. The question is on the amendment of the Senator from New Hampshire. The amendment was agreed to.

Mr. CLARK. I propose further to amend by striking out the four hundred and sixtieth, four hundred and sixty-first, and four hundred and sixty-second lines of section ninety-three, which are in the words: "On tobacco, fine-cut, sold or delivered loose, in bulk, or in packages, papers, wrappers, or boxes, thirty-five cents per pound;" and inserting in lieu thereof:

On fine-cut chewing tobacco, whether manufactured with the stem in or not, and however sold, whether loose, in bulk, or in packages, papers, wrappers, or boxes, forty-five cents per pound.

It will be observed that I have increased the percentage on the article from thirty-five to forty-five cents a pound. This fine-cut is made of the very finest kind of tobacco produced in the country, and I am told by those people who are acquainted with it and know it that it will bear a tax of forty-five or fifty cents a pound. I have retained it, therefore, in this form, hoping to increase the tax upon it, and get a little more revenue.

The amendment was agreed to.

Mr. DOOLITTLE. Now, I hope the Senator from New Hampshire will allow us to take up the question in the next clause on striking out "seven" and inserting "eight," and let that be disposed of.

Mr. CLARK. I cannot do that, because I have got that whole matter of cigars under further consideration. I propose further to amend the bill on the 144th page by striking out from the four hundred and forty-sixth to the four hundred and fifty-second lines, inclusive, of the ninety-third section, which are in these words:

On tobacco, cavendish, plug, twist, and manufactured tobacco not otherwise provided for, of all descriptions, (not including snuff, cigars, fine-cut, smoking tobacco made exclusively of stems and not sweetened or otherwise prepared, nor shorts or other refuse separated from fine-cut tobacco in the process of manufacturing,) and on stemmed tobacco, thirty-five cents per pound.

And inserting the following in lieu thereof:

On cavendish, plug, twist, and all other kinds of manufactured tobacco not herein provided for, from which the stem has been taken in whole or in part, or which is sweetened, thirty-five cents per pound.

On smoking tobacco manufactured with all the stem in, the leaf not having been butted or stripped from the stem, and on refuse tobacco known as fine-cut shorts, twenty-five cents per pound.

Mr. CHANDLER. I move to amend that amendment by striking out "twenty-five cents" and inserting "twenty cents" in the last clause. My object in moving this amendment is to increase the revenue. I believe we shall receive more revenue from a tax of twenty cents than we shall from a tax of twenty-five cents, and I really believe we should receive more from a tax of fifteen cents than a tax of twenty cents, because any man can step into a store and purchase a leaf of tobacco which pays no tax and with his jack-knife make precisely as good smoking tobacco as can be made by any manufacturer in the United States. I think I will first propose to strike out "twenty-five" and insert "fifteen" as a revenue measure, as a measure which I believe will yield more revenue than can be obtained from a tax of twenty-five cents.

Mr. CLARK. I hope that will not be done.

Mr. JOHNSON. It would be better at twenty cents.

Mr. CHANDLER. I will put it back at twenty cents.

Mr. CLARK. I hope it will not be made twenty, because the Senate will observe that we have a further provision in the four hundred and fifty-third line of this section, that on smoking tobacco made exclusively of stems, there shall be

a duty of fifteen cents a pound, and that provides a cheap kind of tobacco. I had this matter of fixing the duty on smoking tobacco at 'twenty' or twenty-five cents under consideration, and while the gentlemen whom I may say the Senator represents, and from whom he gets his information, advised that there should be but one rate of tax, and that at twenty cents, I thought it was better to put the low kind at fifteen cents, and this kind at twenty-five cents, because if you do not have a cheap kind of tobacco taxed with the stems in at fifteen cents, which the people will use, they will get it from the farmers to some extent. I came to the conclusion, and that was the conclusion of a large number of persons engaged in this matter, who seemed to be honestly for the Government, that it was better for the Government to retain the higher duty on this article and put a little lower on the other. I propose to make two grades of smoking tobacco—that which is manufactured of the stems and leaf, including the fine-cut shorts, at twenty-five cents, and that which is manufactured exclusively of the stem, at fifteen cents. I think it is better for the Government, notwithstanding that I differ from the Senator from Michigan.

Mr. CHANDLER. I am informed by large dealers and manufacturers that the price of stems is from two to three cents a pound, while the price of the quality of tobacco from which smoking tobacco is manufactured is from three to five cents, a very slight difference indeed. Now, I am told that if we make this large difference of ten cents a pound in the tax, the effect will be to raise the price of stems absolutely above the value of the leaf itself. A further effect will be to drive smokers of this low grade to the use of the leaf prepared by themselves, and so the revenue, instead of being increased, will be largely diminished.

There is another item in this account, the shorts. I am informed that small manufacturers, those who pay from five hundred to a thousand dollars a month tax to the Government, find no difficulty in getting rid of their shorts, while large manufacturers, who pay from ten to twelve thousand dollars a month to the Government, accumulate them very largely. Now, the Senator professes to put on shorts a tax of twenty-five cents a pound as well as upon smoking tobacco. These shorts are the refuse of chewing tobacco. They will not sell to-day for the amount that you propose to put on in the shape of a tax. They accumulate largely upon the hands of the large manufacturers. It would be a hardship and an injury, which I think ought not to be inflicted upon them: I think that the tax should not exceed fifteen cents a pound; but still, if the Senate sees fit to put twenty cents a pound upon smoking, shorts, and all, perhaps it would be satisfactory to all parties, and I am sure it would increase the revenue of the Government.

Mr. CLARK. The Senate cannot expect—and if it does expect it cannot succeed in the expectation—to satisfy all the manufacturers of tobacco; but I am very glad that the Senator has called the attention of the Senate and called my attention to this matter of the shorts, because it is a matter in which the manufacturers defraud the Government as much as in anything else. The shorts, proper, are the refuse or fine dust of the tobacco as it drops out in manufacture. You may add to that almost any of the fine tobacco, and still call it shorts, and have it go into this very low grade which the Senator would put at fifteen cents. I did propose to put the fine-cut shorts into the high grade at thirty-five cents, because they defrauded the Government so much in that matter; but on conference with large numbers of tobacco dealers they all agreed, with the exception of the gentleman to whom the Senator refers and from whom he gets his information, that they should go into the twenty-five cent rate. The Government is very liable to be defrauded by the mixture of a very good article with the shorts. It only needs to pulverize it and put it in with the shorts, and the result is the very best kind of smoking tobacco; and that the Senator would have at fifteen cents a pound. It is better, in my judgment, that it should be put in with the twenty-five cent kind.

The Senator will observe that as this bill came from the House of Representatives all smoking tobacco was put in the twenty-five cent grade ex-

cept that manufactured from stems exclusively, and these shorts; all that manufactured from the leaf and stem together, all the smoking tobacco, was in the thirty-five cent tax. We proposed to take it out of that, because that would be too high in the judgment of the committee, to bring it down to twenty-five cents, and make another grade and put the low-priced smoking tobacco at fifteen cents; and in the judgment of the committee that is the better way. The committee of course are not tobacco manufacturers; they must rely on the information they get. I have seen the gentleman to whom the Senator refers several times; and I have also had long conversations with and information from a great many other people, and the best conclusion that I can arrive at is that which I have presented to the Senate, and I hope the Senate will adopt my amendment and leave the matter for further consideration between the two Houses. The effect of it is to leave the whole matter open.

Mr. HENDERSON. I have one remark to make before the vote is taken. I pass no opinion upon the amount of tax that is levied upon manufactured tobacco; but if a tax of thirty-five cents is to be retained upon manufactured tobacco, this proposition submitted by the Senator from New Hampshire, of twenty-five cents upon smoking tobacco, manufactured with the stem in, is low enough. I mean to say that if this is lowered the strong probability is that much fraud will be committed. It is a very well known fact that the very finest article of tobacco is manufactured as smoking tobacco. Frequently tobacco that has been raised in this country the first year from the Cuba seed is taken and cut up, the leaf and the stem together, and used by smokers; in fact the tobacco cannot be purchased for less than twenty-five, thirty, or forty dollars now. It is used by a great many smokers in preference to the Cuba cigar.

The Senator from New Hampshire, instead of following the House provision which taxes smoking tobacco thirty-five cents, just the same as manufactured tobacco, (and in reality just as valuable tobacco is put up for smoking purposes as for chewing purposes, and indeed it is generally the case now that a superior article is put up for smoking purposes, and a great many persons use it with pipes in preference to cigars,) instead of laying the same tax on tobacco manufactured either for the purposes of smoking or chewing, has reduced the tax on smoking tobacco manufactured with all the stem in from thirty-five to twenty-five cents. I understand that for smoking purposes it is almost as good manufactured with the stem in as it is without. He provides that if manufactured with all the stem in, the leaf not having been stripped from the stem, it shall pay a duty of twenty-five cents per pound. All I have to say is that if the manufactured tobacco is taxed thirty-five cents this ought to be taxed, I think, twenty-five cents; in fact it ought to be taxed on some qualities higher, but, inasmuch as he has put in fine-cut shorts here, perhaps twenty-five cents is enough.

I agree with the Senator from Michigan that upon refuse tobacco called fine-cut shorts twenty-five cents would be too high perhaps; but it is not the case with this smoking tobacco. A large quantity, in fact the larger quantity of the smoking tobacco now is made of very superior tobacco cut up with the stem in it, and especially of fine tobacco grown from the Cuba seed the first year. The second or third year I understand it is pretty much like our tobacco that is grown in this country; but for the first year the stem is very small and it is a valuable tobacco.

I think it would be well enough to retain the proposition at least so far as smoking tobacco is concerned; but the fine-cut shorts might be separated and the tax on them reduced to fifteen cents as the Senator from Michigan suggests. I am not conversant with that refuse tobacco called fine-cut shorts, and it may be, as the Senator says, much less valuable, but it would be very dangerous to separate smoking tobacco and reduce the tax upon it, because large quantities of tobacco will be cut up with the stem in, the finer article now selling in the leaf probably for fifty cents a pound, and will be branded "smoking tobacco," and the inferior tax will be levied upon it.

I pass no opinion now on the tax here proposed. I simply state that if a tax of thirty-five cents be

retained on manufactured tobacco, and I understand that to be the intention of the committee on tobacco manufactured for chewing purposes, this tax ought to be retained on smoking tobacco.

Mr. CHANDLER. I think the Senator from Missouri is under a misapprehension in regard to this matter. Chewing tobacco is not only cut, but manufactured; it is sweetened with licorice and other ingredients, so as to prepare it for the mouth. The smoking tobacco is cut dry. There can be no misapprehension between smoking and chewing tobacco. They are as unlike as it is possible to have the same article made. The Senator, I think, is under a misapprehension in another respect, and that is that any considerable quantity of this valuable tobacco is ever cut for smoking. The amount is infinitesimally small; and had the question been put to me I should have said none at all was cut. Detroit is, I believe, the second or third city in the Union as to the amount of manufactured tobacco, and I do not believe a single pound of this valuable tobacco was ever cut there into smoking tobacco. It is the low grades of tobacco, tobacco worth to-day not to exceed five cents in the leaf, it is the damaged tobacco, tobacco which having gone through what is called the process of sweating has deteriorated instead of having improved; that is the kind of tobacco which is used for smoking purposes; and I should say that throughout the whole United States there is not one pound of the valuable tobacco cut where there is five hundred pounds of the inferior grade cut.

I think the Senator is under a misapprehension. He certainly is, so far as my knowledge and experience go. I still think that a tax of twenty cents a pound would yield a greater revenue, for that is what I am after. Show me that fifty cents will yield a greater revenue than fifteen, and I will vote for fifty. I want what will yield the largest amount of revenue to this Government, but I am honest and sincere in the conviction that an excise of twenty cents a pound will yield a larger revenue than twenty-five cents, and I think that even a lower rate would yield a larger revenue.

The PRESIDING OFFICER. The question is on the amendment to the amendment.

Mr. CHANDLER called for the yeas and nays, and they were ordered.

Mr. HENDRICKS. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, June 1, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

### ENROLLED JOINT RESOLUTION SIGNED.

Mr. POMEROY, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled joint resolution of the Senate No. 57, to amend the charter of the city of Washington; when the Speaker signed the same.

### THE BANKRUPT LAW.

Mr. SPALDING demanded the regular order of business.

The SPEAKER proceeded, as the regular order of business, to call the committees for reports, beginning with the select committee on a bankruptcy law.

Mr. JENCKES, from the said select committee, reported back, without amendment and with the recommendation that it do pass, bill of the House No. 424, to establish a uniform system of bankruptcy throughout the United States.

Mr. CRAVENS. That bill has never been considered by the select committee.

The SPEAKER. The gentleman from Rhode Island states that he reports the bill from the select committee.

Mr. CRAVENS. I make the point of order that the bill has never been considered by the committee.

The SPEAKER. The Chair overrules the point of order. The gentleman from Rhode Island, who is a member of the select committee, states that he reports the bill from that committee. The Chair has no means of ascertaining the deliberations of the committee and is bound to receive the report.

Mr. JENCKES. Mr. Speaker, I take pleasure in introducing into this House a subject for its action which is entirely unconnected with political or partisan questions. It relates solely and entirely to the business and men of business of the nation. Its consideration at the present time is demanded by every active business interest. It is a subject which we can discuss without acrimony, and differ upon without anger. If a division is had upon it, the lines will not be those of party. It is a green spot amid the arid wastes of party strife, and one to which the fiery scourge of civil war has not yet extended. It presents unusual claims upon us at the present time, when all the business interests of the country are in a state of constant agitation. The life of the nation is in the prosperity and energy of its active men. While they are encouraged, and their rights and interests protected by just legislation their efforts will continue and the nation will endure.

Mr. Speaker, this measure is called for by the direct language of the Constitution:

"Congress shall have power to establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States."

The Constitution also precludes the States from legislating upon the subject, by depriving them of the power of passing laws impairing the obligation of contracts. The grant of the power implies its exercise as a duty. The power granted in the first clause of the sentence has been exercised since the early days of the Constitution, uniformly, constantly, and the laws enacted in pursuance of it are still in force. The power which is now invoked has been exercised intermittently, at long intervals, to meet special emergencies in the business of the country, and the laws have been repealed before they have formed even the basis of a system of legislation.

What is now proposed is to enact a law with a different purpose from the ephemeral laws which have preceded it, and which shall form the basis of a permanent and uniform system of legislation and jurisprudence on the subject of bankruptcies throughout the country; that there shall be no longer upon this subject one law in Maine and another law in Wisconsin, a third in California and a fourth in Kentucky, and so on throughout all the States, but one law for all, which the citizens of the United States, inhabiting each and all the States, may acknowledge, live under, and enjoy, and feel it to be as stable as the Constitution upon which it stands. All that we can now propose is the basis of such a system. A nation like ours can hardly find precedents, and must seek out rules and make laws for itself. The experience of other States and nations must be carefully explored, and their systems and the tendencies of their systems fairly studied, before their laws and jurisprudence can be copied and adopted into ours. The fact that all the attempts to frame a system which should meet the requirements of the Constitution have been failures, have made your committee most careful in consideration of this subject and to explore into and seek out the principles upon which a permanent system should rest. We have not sought to avoid the rocks upon which other navigators have been wrecked, but rather to find and make them the basis of the structure which we wish to rear. The principles of the laws of trade and commerce are like the light-houses and beacons which guide the mariner upon the seas, and these principles we ask to be held up before all who adventure upon the perilous ocean of business.

It has been shown by actual count that more than nine tenths of those who enter upon commercial life fail during their early career. How beneficent, how wise, how necessary is it, therefore, to enact laws which shall be their guide from such disaster or to save them from the ruin which it brings. Every commercial country has such legislation. There is none that can be found without laws upon this subject since the system of bankruptcy was introduced into the jurisprudence of the Roman empire and made universal by the Christian emperors. No country of the Latin race has been without it. The Teutonic nations have adopted it, and in England it has been the law for nearly three centuries. The framers of our Constitution deemed the passage of such a law a matter of course. They foresaw the great field which American citizens would occupy in the business of the world, and in the same clause

of that great instrument they provided both for welcoming the industrial and commercial adventurers from other countries, and also gave power to make provision for the casualties that might arise from the spirit of adventure which must ever govern those who would develop the resources of a new and great country. The wise foresight of our fathers has been overlooked, forgotten, or willfully ignored. Now, in the midst of civil war, when all the business interests of the nation are afloat upon a sea of uncertainty, when the States have found that their imperfect legislation on the subject of insolvency has become, under the prohibitory clause of the Constitution, of little use to the citizens of the United States, we are called upon to carry into effect this great unexecuted provision of the Constitution.

The bill before you intended to be a thoroughly practical one. It contains no theories; it anticipates no undiscovered emergencies. It deals with the fact called bankruptcy. Every one knows what that is. It is insolvency beyond the reasonable chance of recovery. The signs and proofs of it are well known. The first principle of all such systems of laws is, that when that fact occurs, the administration of the bankrupt's effects belongs to his creditors and not to himself. Coupled with this is also the merciful provision, that if the insolvent surrenders all his property for such administration, and shows that he has been honest and faithful in conducting his affairs, he should be discharged from the obligations which by accident or misfortune he has not been able to perform. If hopeless insolvency be commercial death, then the bankrupt laws open to the honest bankrupt freedom from his debts, and the road to a new commercial life.

In this country there neither is nor can be any privileged class who should enjoy the benefit of such a system of laws. All are liable to insolvency, and all are equally entitled to relief. If time permitted it would be interesting to give the history of the English bankrupt laws, which were originally confined to traders, and which have been gradually enlarged to include all persons, like the one which we now report.

The tests of this insolvency beyond reasonable hope are of two classes:

I. The bankrupt's own admission of it.

II. The proof of the facts, which are the best evidence of the insolvent's hopeless condition, and which are conclusive of it unless explained by equally satisfactory evidence.

The bill therefore contains provisions both for voluntary and involuntary bankruptcy.

In the course of true, healthy, honest business, the person who finds himself in a condition of hopeless insolvency, whatever may be his occupation, should at once call his creditors together and submit to them what he should do for their mutual interest, and both creditors and debtor should unite upon some plan which will secure the rights of each and all. But unfortunately under the common law, and under that law as controlled and regulated by the laws of the several States, such a notification from the debtor would only prompt the creditor whose claim was soonest due to seek the privilege which legal proceedings for the collection of his debt would give him, and the debtor would either be deprived of his property by process of law, or deprive himself of it by assignment in favor of some of his creditors to the entire exclusion of others. Those who receive nothing will give the debtor no discharge, and the law as it stands in nearly all the States makes the debtor upon the verge of insolvency, and his creditors, common enemies, with such melancholy results as we see all over the land.

The bill now presented is believed to be the first attempt in this country to bring the failing debtor and his creditors upon a ground of negotiation and settlement equally beneficial to each. The bankrupt act of 1800 was for the benefit of creditors only. It was a careful digest of the English statutes of bankruptcy to that date, without any study as to their adaptation to the exigencies of business in this country. Any lawyer or man of business, by even a cursory examination of its provisions, can see the causes of its failure.

The bankrupt act of 1841 was substantially for the benefit of debtors only. It was reported originally as a purely voluntary system. In the course of discussion certain amendments were ingrafted upon it which seemed to favor credit-

ors, but which were soon found out to be almost entirely illusory. This objection to the law was well taken in the debate before its enactment, and was one of the causes, if not the main cause, which induced its sudden repeal.

The points aimed to be secured by the bill now reported are:

1. The discharge of the honest debtor upon the surrender of his property.

2. The protection of the creditor against the fraudulent practices and reckless conduct of his debtor.

I presume the first question that every one will ask, for it is the question which has caused the greatest difficulty to the committee, will be, how can this be done with the present judicial system of the United States without great and inordinate delay and expense? The failing of the former laws was in a great degree owing to the inefficient and cumbersome machinery by which they were attempted to be carried into effect, and to the want of uniformity in the proceedings and practice. The answer to this question will be found in the first twelve sections of this bill. The district courts are made courts of bankruptcy. All initial proceedings must be had in them. If the judge cannot dispose of the cases in a reasonable time, he may have an assistant. But experience has shown that nine tenths of the business in courts of bankruptcy and insolvency is of a mere formal character. Heretofore this class of business has wasted the time of the courts, and no substantial benefit has been obtained by the appointment of commissioners, who exercised an undefined and in a great degree an irresponsible jurisdiction. Appeals from their decisions filled the courts. This system wasted the time of the courts, the funds of the bankrupt's estate, and brought the system into disrepute.

The committee have proposed to remedy the faults of the old system by the creation of a class of officers called registers. They are authorized to transact all the business of the court when there is no opposing interest. If they find an opposing interest in any case they are authorized to state the question in writing and certify it into the court for the decision of the judge. They are the hands and the eyes of the court, but are not clothed with its powers or its discretion. They are to be paid a limited salary out of a fund to be collected by fees, and their interest as well as their duty is to discourage litigation.

The first idea of such officers originated in Massachusetts and was incorporated into their insolvency law. It was copied thence into the bankrupt law of England of 1861. The committee have adopted and modified it to make it applicable to the wants of this country, which are far beyond those of any individual State, like Massachusetts or England. The uniformity of proceedings and practice under the law are secured by a provision for general rules which shall be applicable to all the judicial districts.

Under the bankrupt law of 1841 every district judge was authorized to make rules for the practice in his courts. Each of them exercised this power. The consequence was that instead of the country's having a uniform system of bankruptcy there were as many systems of practice as there were districts.

The uniformity of practice under the proposed bill will be secured by a code of rules to be established by commissioners appointed by the Supreme Court. Before they take effect they must have the sanction of one of the judges of that tribunal. It is impossible to make provisions in any statute for all the details of proceedings and practice in the courts, and it is essential that uniformity should be secured in all the courts of the United States. It seemed best to the committee that all such rules should be framed and carried into effect under the highest judicial sanction.

The committee have adopted the system of creditors' assignees, and have rejected all the cumbersome machinery of official assignees, accountants, registry of courts, and accountant generals. Insolvency is a matter between the bankrupt and his creditors, and can best be managed by them under the direction of the courts.

In the respects just named this bill differs from former laws. Every question raised by litigants contesting the bankrupt's discharge must be heard and decided by a responsible judge in open court, upon an issue made up by the justice or stated

by one of the registers of the court. It may be taken for granted that no question will then be raised which is not one which ought to be thus heard and decided. The interests of the parties would be opposed to delay or to the presentation of frivolous questions.

The mode of proceeding in voluntary bankruptcy will be found in the thirteenth section.

The powers, duties, and obligations of assignees will be found in sections fourteen to twenty-one, inclusive. It is sufficient to state that they are at all times under the control of the creditors and of the court.

The proof of debts, the protection of the fund, the rejection of fictitious debts and of fraudulent claims, the examination of the bankrupt, the distribution of the estate, the limitation of preferences, and the requisites to procure a discharge are also provided for, and will be found within sections twenty-two and forty-eight.

The limitations upon the discharge will be found in sections thirty-six and thirty-seven.

In sections thirty-eight and forty-eight will be found two important provisions. One is an allowance to the bankrupt out of the fund, if he is an honest debtor, so that he may not be turned adrift upon the world without a dime if he has honestly surrendered his effects for administration and distribution by his creditors.

The other gives him an opportunity of meeting his creditors, and if they are satisfied of his integrity and ability, to permit them to wind up his affairs under a trust deed with the same effect as if the proceedings had been conducted throughout in the court of bankruptcy.

Here the debtor and his creditors meet upon the common ground of obligation and duty which underlies all these systems, and this provision compels obedience to the dictate of duty.

There are creditors who systematically refuse a discharge; men who profess to be Christians with Shylock's principles. I have met many of them, and I presume many of us have. It is to prevent the tyranny of such creditors that laws like this should be passed.

Consider the effect of this conduct upon those who have met with misfortune in business. If they have dealt with one of these Shylocks they have no hope of relief. All the other creditors may be willing to receive the proffered dividend if satisfied of its fairness, but none desire that one shall have an advantage over the rest. The consequence is that the debtor continues to secrete and hold his property, to cover it up by the ingenious network of fraudulent contrivances and conveyances that no court, in the absence of a bankrupt law, and in the face of the strong swearing of the debtor and his friends, has ever been able to break through. The debtor hides himself behind all sorts of subterfuges. He loses all sense of mercantile honor; he borrows the name of some irresponsible person, behind which he may use his secreted capital; he advertises himself as agent for his father, son, or, in some States, even of his wife. All these false principals stand ready to help him by positive testimony, and the debtor commences and carries on a career of fraud from which there is no honorable escape.

Or if he possesses integrity and ability, those very qualities are a disadvantage in any attempt to procure a discharge. The creditor says to him, "Some day you will recover yourself, or your friends will set you up in business, and then I can secure my debt." The qualifications for success are thus made to increase the penalties and sufferings of misfortune.

The proposed system establishes a sound basis of business and regulates credits. The reason is obvious. This law will underlie all the local laws governing the relations of debtor and creditor, and all will know the terms upon which they deal with each other. When it shall be understood that there can be no preferences upon the eve of failure, no seclusion or abstraction of property for the benefit of the debtor's friends or relatives, no transfers which cannot be inquired into, no settlements by an insolvent upon his wife or children which cannot be reached and declared void through the courts of bankruptcy, and when, at the same time, it shall be understood that the debtor who finds himself in failing circumstances, and comes forward and meets his creditors, and shows that he is entitled to his discharge and can procure it by a surrender of his effects, I venture



to assert that fraudulent bankruptcies will be as few in this country as they are in other countries, under wiser and better commercial systems. Indeed I believe much fewer; for I have a strong belief in the wisdom and honesty of the American people.

Under this system of voluntary bankruptcy and of composition deeds, I believe that after a reasonable time proceedings in involuntary bankruptcy will be void, except in cases of attempted fraud. But it will be perceived by reading sections forty to forty-seven that such proceedings are provided for, and that they are complete and thorough. They meet and obviate every objection which was raised to the bankrupt act of 1841 by its opponents, and which gave a partisan character to that law.

This bill includes corporations. It has a complete system of involuntary proceedings, and provides for composition settlements, and is of unquestionable constitutionality. These were the grounds which gave the opposition to the law of 1841 a party character, and they no longer exist. There is now no good reason why corporations should not be included under a general bankrupt law. They are subject to bankruptcies, and State laws must be enacted for their relief. Why should these artificial persons have a privilege different from natural persons? Whenever there is a personal liability for the debts of the corporation, we may be sure the stockholders will not claim such privileges either for the corporation or for themselves.

This bill is also self-sustaining, and may become a source of revenue.

It may be objected to this bill that it is retroactive or retrospective. I maintain that it is not retroactive or even retrospective. It is applicable to the business of the country as it is, and to the men of business in their present actual condition.

With regard to proceedings in involuntary bankruptcy, there can be no question. No person can be proceeded against except for causes happening or continuing after the approval of this bill. Acts of bankruptcy are facts, and such facts or events happening after this bill shall become a law, can alone become the basis of involuntary proceedings. These facts must be proved, as required in the bill, before any warrant can issue for the seizure of the bankrupt's effects. But with regard to voluntary proceedings the filing of the petition is declared to be an act of bankruptcy. Before the petitioner can entitle himself to a discharge, he must bring himself by competent evidence within the provisions of the bill. His debts have accrued. His property may have been applied honestly under State laws to the payment of his debts. He may now have no assets. He may be indebted to the assistance of his friends for the means of applying for the benefit of the law. The debts which he has long owed without means of payment may be discharged in these proceedings.

But in what sense is this bill retroactive or even retrospective upon such obligations? The bill applies to the present fact. A person in the position described could not be proceeded against under this bill, because he is not capable of committing an act of bankruptcy. He has not been capable of doing so since he parted with or was deprived of his property. The only mode in which he can commit an act of bankruptcy under this bill is to file his petition for relief. That petition applies to his present condition. He thereby becomes a bankrupt, subject to the provisions of this bill, and must in all respects comply with its provisions before he can receive his discharge. If a bankrupt law like this had been passed immediately upon the adoption of the Constitution it would have operated upon the then state of business in the country, and would have been retroactive and retrospective in every case of voluntary application in the same manner as proposed in the present bill. Every case of voluntary or involuntary application hereafter for many years must operate upon debts incurred before the passage of this bill.

Such proceedings in no sense impair the obligation of contracts. No contract has been entered into since the adoption of the Constitution which has not been subject to be discharged by the operation of a bankrupt law which Congress might pass at any time.

Why should this state of things continue? Of

what advantage can it be to creditors or to the country that so many tens of thousands of the active men of this country should be held in thrall? They bear upon their limbs no visible chains; they have no masters who will yield them food for their toil, yet they are in the power of those who may sweep off their earnings at any time, and in some States may incarcerate their persons in prison.

Although this actual imprisonment of the person has been abolished, except for temporary purposes, in most of the States, yet in all there still exists that life-long incarceration, more terrible to the honest and sensitive mind than the other, in the chain network of insoluble debt. For crimes the term of imprisonment is limited by law, the bolts of the jail or the penitentiary are driven and unloosed, and the penalty is paid. But for debt there is no release in life. The Roman law of the twelve tables, *de corpore debitoris in partes secundo*, by which the relentless creditor could obtain a dividend of his debtor's body, if not of his effects, passed away with that code.

The law formerly in force by which the creditor could keep his debtor in prison for an indefinite period, without relief, has been abolished in all Christian countries. But there may be a punishment of death without the knife, and an imprisonment without the bolts and bars of the jail. When in this country one enters the gates of hopeless insolvency, all his life must be passed within the imprisonment of mercantile dishonor, the pain of uncanceled obligations, the surveillance of creditors, and there is no release except by death. Who enters here may thereafter write over such habitation as he may have during the remnant of his life, the motto that the poet found inscribed over the gates of hell:

"Who enters here abandons hope."

To him—

"Hope cometh not that comes to all."

Whatever may be his talents, whatever his skill, the result of long business experience, whatever his opportunity, so long as creditors stand unwilling to release him, his life is one continuous thrall, without the power of relief by his own exertions, and beyond the aid of his friends. Why should this be, and for what good? To what end? Do the public gain by it? Do the creditors? No one can answer in the affirmative.

How many thousands and tens of thousands now stand waiting the action of this Congress for the relief which is due to them! Never was there an occasion when the passage of a law like that now reported was so necessary, nor the demand for it so urgent. Thousands were wrecked in the panic of 1857 who have never yet regained a firm foothold in any business. Thousands more were stranded in the repudiation of southern debtors in 1860, ruined beyond retrieval. Many of these were old men, who saw large fortunes swept away from beneath their feet, and found themselves amid the quicksands of hopeless insolvency ere they could make a trial-balance of their books. Many of these we know, aged men, and see verified in them the description of the caprices of fortune:

"It is still her use

To let the wretched man outlive his wealth,  
To view with hollow eye and wrinkled front  
An age of poverty."

And many of more vigorous years, the young members of ancient houses, are borne down by a weight of debt beyond their strength, condemned throughout their lives to eat the bitter bread of penury, and, unless we intervene, without hope. What to them are the guarantees of the Constitution? Why should they love the Government and yield it a hearty allegiance? Many, indeed, have gone forth to the war for its support, to lay their bones upon battle-fields, or to return to a life-long servitude and degradation. The fault is here and not with them or with the Constitution if they owe it slack allegiance. Upon this subject the Constitution is as it should be. Thank God, it needs no amendment to declare this emancipation. It rests with Congress alone to say whether more than a hundred thousand of the most intelligent, most active, and most patriotic men of the country should have the opportunity of liberating themselves from their bondage of debt, and walk free in the exercise of those rights which the immortal Declaration declares inalienable.

The power to make this declaration of freedom stands written upon the face of the Constitution. With the cry of these hundred thousand in our ears, and of the thousands more dependent upon them for subsistence; with the present state of the nation before us, in which no one is so blind as not to see that when the ebb-tide of this factitious paper money prosperity comes, as come it must, the shores of the great seas of trade will be strewn with more wrecks than ever yet were seen in any panic or revulsion, does it not become the duty of this Congress to acknowledge its constitutional obligation, and exercise its power to remedy and anticipate these evils? How can we be excused for the non-performance of this plain duty?

Let no one say in excuse that the portion of the country he represents is agricultural and not commercial. Every section of the country is commercial. Do not the agricultural districts sell their surplus products? Do they not buy their needed supplies from the seaboard? Is not this commerce? All parts of this country, not now in arms against the constitutional Government, are so connected, interlaced, and interwoven with each other, that the prosperity of one part is the prosperity of all, and the neglect or injury of one part is to the injury of all.

Let us, then, by this beneficial measure unite in placing all upon a just equality, and, by the performance of the constitutional obligation, bind all sections more firmly together, make greater uniformity in these laws, and add to the resources of the country the labor and skill of thousands who now stand waiting in grief and without hope except from us, and take away from the hundreds of thousands who are now engaged in active business the fear that by the chances of war, the revulsions of business, or the senseless panics among speculators, they may become no longer of use to themselves or of service to their country. Let it be the honor of this Congress to lay aside for a day its party strife and fierce contentions, and, meeting on a common ground of mercy to the unfortunate and justice to the active business men of the nation, pass with unanimity a measure so fraught with beneficence to all, and for which they will receive the blessings of thousands. It is a measure of unquestionable good; it is demanded by the people; and it is authorized and required by the Constitution. Let it then become a law.

#### INSPECTORS OF STEAMBOATS.

Mr. WASHBURN, of Illinois. I rise to a privileged question. I desire to make a report from the committee of conference on the disagreeing votes of the two Houses on bill of the House No. 426, to create an additional supervising inspector of steamboats and two local inspectors of steamboats for the collection district of Memphis, Tennessee, and two local inspectors for the collection district of Oregon, and for other purposes.

The SPEAKER. Did this House or the Senate ask for the committee of conference?

Mr. WASHBURN, of Illinois. This House.

The SPEAKER. Has the Senate acted upon the report of the committee of conference?

Mr. WASHBURN, of Illinois. It has not.

The SPEAKER. According to the Digest, the House asking the conference leaves the papers with the other House.

Mr. WASHBURN, of Illinois. I supposed that the House asking the conference had the papers. I am not clear as to the rule.

The SPEAKER. The Clerk will read from the Digest.

The Clerk read as follows:

"In all cases of conference asked after a vote of disagreement, &c., the conferees of the House asking it are to leave the papers with the conferees of the other."

Mr. WASHBURN, of Illinois. I withdraw the report.

#### MILITARY ROAD IN MISSOURI.

Mr. BOYD, by unanimous consent, introduced a joint resolution authorizing the President to construct a military road from Rolla, Missouri, to Springfield, Missouri; which was read a first and second time by its title, and referred to the Committee on Military Affairs.

#### SEWERAGE AND DRAINAGE IN WASHINGTON.

Mr. STEELE, of New York, by unanimous consent, introduced a joint resolution as to sewer-

age and drainage in the city of Washington; which was read a first and second time by its title; and referred to the Committee for the District of Columbia.

#### THE BANKRUPT BILL—RESUMED.

Mr. SPALDING. I would ask the Chair if the morning hour has expired?

The SPEAKER. It has not.

Mr. SPALDING. Then I desire to know what is the position of the bankrupt bill?

The SPEAKER. The question is, "Shall the bill be engrossed and read a third time now?"

Mr. SPALDING. I wish, by the permission of the House, to say that the committee desire to challenge a critical examination of that bill, and therefore they propose to continue its consideration in the morning hour for discussion, and if there is no member now ready to go on, I hope the subject will be passed over until to-morrow.

Mr. FARNSWORTH. I hope this bill will be disposed of as soon as possible, and be taken out of the way, so that other committees may have an opportunity to report.

Mr. HOLMAN. I desire to enter a motion to postpone the bill until the second Tuesday in December next.

The SPEAKER. That motion is in order.

Mr. FARNSWORTH. I hope that will not be done. If no other gentleman desires to speak, let us pass the bill now. It has been printed for a long time, and members have had an opportunity of examining it.

Mr. FERNANDO WOOD. I hope the motion of the gentleman from Indiana will not carry. This is an important bill, and ought to be passed at this session.

Mr. SPALDING. I will ask for a vote upon the engrossment of the bill now.

The SPEAKER. The vote must be first taken on the motion to postpone.

Mr. SPALDING. Well, sir, I demand the previous question on the motion to postpone.

The SPEAKER. The Chair will state that the previous question, if ordered, will extend only to the motion to postpone.

Mr. SPALDING. Very well; I ask the previous question on that.

The previous question was seconded, and the main question ordered to be put.

On the motion to postpone there were—ayes 42, noes 63.

Mr. HOLMAN demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 63, nays 74; as follows:

YEAS—Messrs. James C. Allen, Allison, Ancona, Baxter, Blaine, Jacob B. Blair, Boyd, Cravens, Creswell, Dawson, Denison, Eckley, Eden, Edgerton, Eldridge, Finck, Grier, Hale, Hall, Harding, Harrington, Charles M. Harris, Holman, Hutchins, Philip Johnson, Kalfsbeisch, Kernan, Knapp, Law, Leazer, Littlejohn, Loan, Mallory, Marcy, McClurg, McDowell, Morrill, Morrison, Anas Myers, Leonard Myers, Noble, Charles O'Neill, Orth, Patterson, Pendleton, Potham, Price, Robinson, Edward H. Rollins, James S. Rollins, Ross, Schenck, Scott, John B. Steele, William G. Steele, Stiles, Srouse, Wadsworth, Whaley, Wheeler, Chilton A. White, and Wilson—63.

NAYS—Messrs. Alley, Ames, Arnold, Ashley, Augustus C. Baldwin, John D. Baldwin, Beaman, Blow, Brooks, Broomall, James S. Brown, Chanler, Ambrose W. Clark, Cobb, Coffroth, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Donnelly, Driggs, Eliot, English, Farnsworth, Fenton, Frank, Ganson, Gooch, Grinnell, Griswold, Herriek, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hubbard, Jenckes, Kelley, Francis W. Kellogg, Orlando Kellogg, King, Le Blond, Long, Marvin, McAllister, McIndoe, Samuel F. Miller, Moorhead, Daniel Morris, Nelson, Odell, Pike, Pomeroy, Radford, Alexander H. Rice, John H. Rice, Seofield, Shannon, Sloan, Spalding, Stevens, Sweat, Thayer, Thomas, Upson, Van Valkenburgh, Ward, William B. Washburn, Williams, Wilder, Windom, Winfield, Fernando Wood, and Woodbridge—74.

So the motion to postpone was disagreed to.

Mr. SPALDING. Has the morning hour expired?

The SPEAKER. It has expired.

#### MESSAGE FROM THE SENATE.

A message from the Senate was received, by Mr. FORNEY, their Secretary, notifying the House that the Senate have agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 395) to provide a national currency secured by a pledge of United States bonds, and to provide for the redemption and circulation thereof.

Also, that the Senate have passed bills of the House of the following titles with amendments;

in which he was directed to ask the concurrence of the House:

An act (No. 383) to incorporate the Home for Friendless Women and Children; and

An act (No. 290) for the relief of Rhoda Wolcott, widow of Henry Wolcott.

Also, that the Senate have passed without amendment a bill and joint resolution of the House of the following titles:

An act (No. 474) to amend an act relative to the public printing; and

Joint resolution (No. 51) relative to the claims and letters patent of William Wheeler Hubbell.

Also, that the Senate have agreed to the amendment of the House to the title of the bill of the Senate (No. 218) to repeal the first section of a joint resolution therein named.

Also, that the Senate have passed a bill (No. 289) for the relief of Ida Hoffman, in which he was directed to ask the concurrence of the House.

#### WASHINGTON RAILROAD COMPANY.

Mr. DAVIS, of New York, by unanimous consent, reported a bill from the Committee for the District of Columbia to amend the charter of the Washington and Georgetown Railroad Company; which was read a first and second time, recommended to the Committee for the District of Columbia, and ordered to be printed.

#### PURCHASE OF SUBSISTENCE.

Mr. HOTCHKISS, by unanimous consent, introduced a bill to enable persons in the civil service to purchase fuel and subsistence stores from the commissary department at cost; which was read a first and second time, and referred to the Committee of Ways and Means.

#### DEPOSIT VILLAGE.

Mr. HOTCHKISS, by unanimous consent, also introduced a bill in relation to the village of Deposit, Delaware county, New York; which was read a first and second time, and referred to the Committee on the Judiciary.

#### NATIONAL CURRENCY.

Mr. HOOPER, from the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 395) to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof, reported that the committee, after a full and free conference, had agreed to recommend to their respective Houses as follows: that the House of Representatives recede from its disagreement to the fifteenth amendment of the Senate, and agree to the same with an amendment, to strike out the words "the bonds," and insert in lieu thereof the words, "in excess of bonds beyond one third of the capital stock, and;" so that it will read:

*Provided*, That nothing in this section shall prevent an association that may desire to reduce its capital or to close up its business and dissolve its organization from taking up its bonds upon returning to the Comptroller its circulating notes in the proportion hereinafter named in this act, nor from taking up any excess of bonds beyond one third of the capital stock, and upon which no circulating notes have been delivered.

That the House recede from its nineteenth amendment, to add in section twenty-two after the word "issued" the words "or the amount of capital stock of the associations organized;" so that it would read:

Sec. 22. *And be it further enacted*, That the entire amount of notes for circulation to be issued or the amount of capital stock of the associations organized under this act shall not exceed \$300,000,000.

That the House recede from its disagreement to the thirty-sixth amendment of the Senate, which is to add, in the thirty-first section, after the word "Albany" the word "Leavenworth."

That the House recede from its disagreement to the thirty-seventh amendment of the Senate, which is to strike out after the word "San Francisco" the words "and Portland," and to insert in lieu thereof the words "Buffalo and Providence, Rhode Island;" and agree to the same with an amendment, to strike out the words "Buffalo and Providence, Rhode Island," and insert in lieu thereof the words "Washington city."

That the House recede from its disagreement to the thirty-eighth amendment of the Senate, and agree to the same with an amendment, to strike from the Senate amendment the words "at a rate of exchange for all cities west of the Alle-

ghany mountains not exceeding one quarter of one per cent., and for all cities east of the Alleghany mountains," and to insert after the words "at par" the following:

And nothing in this act shall be construed to prevent all the shares in any of the said associations, held by any person or body corporate, from being included in the valuation of personal property of such person or corporation, in the assessment of taxes imposed by or under State authority, at the place where such bank is located, and not elsewhere; but not at a greater rate than is assessed on other moneyed capital in the hands of individual citizens of said States: *Provided further*, That the tax so imposed under the law of any State upon the shares of any of the associations authorized by this act shall not exceed the rate imposed on shares in any of the bank organizations under the authority of the State where such association is located.

So that the section will read:

Sec. 32. *And be it further enacted*, That each association organized in any of the cities named in the foregoing section shall select, subject to the approval of the Comptroller of the Currency, an association in the city of New York at which it will redeem its circulating notes at par. And nothing in this act shall be construed, &c.

Mr. HOOPER moved the previous question on the adoption of the report.

The previous question was seconded, and the main question ordered.

Mr. NOBLE. I ask unanimous consent to put a question to the gentleman from Massachusetts.

There was no objection.

Mr. NOBLE. I wish to know how the bill stands in reference to the right of States to tax these banks for State purposes.

Mr. HOOPER. It leaves the right to the States to tax these banks at the same rates as they tax other moneyed property in the State.

Mr. GANSON. I would like to ask the gentleman from Massachusetts whether it authorizes the tax to be imposed on the body-politic or simply on the shares.

Mr. HOOPER. It is to be imposed on the persons holding the shares, at the place where the bank is located.

The question was taken; and the report was agreed to.

Mr. HOOPER moved to reconsider the vote by which the report of the conference committee was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### BRIDGE ACROSS THE HUDSON RIVER.

Mr. DAVIS, of New York, by unanimous consent, introduced an act relative to the construction of a bridge across the Hudson river at Albany, New York, for postal and other purposes; which was read a first and second time, and referred to the Committee on Commerce.

#### MISSOURI CONTESTED ELECTION.

Mr. DAWES. I rise to a question of privilege. I am directed by the Committee of Elections to submit a report in the case of James H. Birch, contesting the right of Austin A. King to a seat upon this floor from the sixth congressional district of Missouri.

Before making that report, I desire to state to the House that this case is kindred in its nature to the case of Bruce against Loan, already decided by the House. The Committee of Elections came to the same conclusion in this case as they did in that case, but the committee accept the decision of the House in that case as instruction to them in this one; at least they look upon it as a *res adjudicata*. While the opinion they have formed in this case is the same as that they reported in the case of Bruce and Loan, nevertheless they do not desire to reopen the discussion of these questions. They have submitted their views to the House, but the House has come to another conclusion.

It is proper for me to state in addition that in this particular case the testimony, all of it, or nearly so, was found to be irregularly taken—not in strict conformity to the provision of the statute. But that whole matter is within the control of the House. I may say that it does not present a stronger case of military or other interference than that of Bruce against Loan.

Now, the House having decided after deliberate discussion, the committee have changed their conclusions on the subject, and instructed me to report back the papers in the case of Birch against King, and to move that they be laid upon the table.

Mr. BIRCH, (contestant.) I ask the gentleman from Massachusetts to withdraw the mo-

tion to lay upon the table, so that I may make a statement.

Mr. DAWES. I will withdraw it so that the contestant may make a statement in reference to his being heard; but, as this motion is made under direction of the Committee of Elections, I am not at liberty to withdraw it altogether. I will leave the matter to the House. If the House think that the contestant should be heard in the case, they can so decide. While I have no personal objection, still, acting under the instruction of the committee, I can only withdraw the motion to lay upon the table temporarily.

Mr. BIRCH. Mr. Speaker, having had an intimation a few days ago that the committee would reach such a conclusion as is now reported by its chairman, I have prepared as well as I could, out of courtesy to the House that I might not utter a sentence unfit for its hearing, an *exposé* of this case, the reading of which will occupy an hour or an hour and a half. Not having had the opportunity, or having failed to cultivate the opportunity, of becoming acquainted with gentlemen on the other side of the Chamber, I trust that I may rely upon their courtesy, while I do not know the rules of order and proceeding here, to so pilot this report that I may be allowed to read the *exposé* that I have prepared. I desire to say that upon that statement I am willing to risk my future standing with gentlemen upon this floor.

Mr. HOLMAN. If it be in order, I will move that the contestant have the usual time to be heard on his case.

The SPEAKER. The motion to lay upon the table is not debatable.

Mr. DAWES. I leave the matter with the House.

Mr. HOLMAN. I ask that the motion be divided.

Mr. BIRCH. I have not finished what I desire to say in the way of preface.

According to every essential element of your past adjudications, this case is contradistinct from the case from the seventh district of Missouri which was decided a few days since. I make that statement most deliberately, under a sense of the courtesy which has sustained me here for six months awaiting your action, and in view of my future relations to this House by their final vote upon this case. I take the risk of being mistaken as well as the risk of satisfying the House that there never was such a case here; and I trust there never will be another. But perhaps I should be out of order if I proceed in this vein of remark.

The SPEAKER. The gentleman is not in order now; the motion is to lay upon the table, which is not debatable.

Mr. GRINNELL. I wish to inquire of the Chair whether it is in order to move that the contestant and sitting member have leave to print their remarks.

The SPEAKER. That can be done by unanimous consent.

Mr. HOLMAN. That would hardly be showing sufficient courtesy to the contestant.

The question being taken on the motion to lay the papers on the table, it was not agreed to.

The SPEAKER. The question recurs on the motion to discharge the committee from the further consideration of the case, and upon that question the contestant is entitled to the floor.

Mr. BIRCH took the floor.

Mr. KING. If the gentleman will allow me, I would like to have an understanding as to the point to which the argument shall be addressed in this case. The committee has reported that the testimony taken by the contestant has not been taken in accordance with law. This House decided in the case of Blair vs. Knox, on the 11th of March, that no testimony should be received by the Committee of Elections except that which was taken in pursuance of and in accordance with law. Now the committee has reported that this testimony has not thus been taken, and I submit to the House whether or not the merits of those depositions should be gone into until the point as to their admissibility shall have been adjudged by the House. I admit that the House may overrule the decision of the committee upon that point, and I admit that the House may agree to take into consideration that testimony which the committee has said has been taken without any authority of law.

The SPEAKER. The Chair would state that

the questions now to be debated by the House are as to whether the committee shall be discharged from the further consideration of all that evidence, and all the questions growing up under it.

Mr. KING. The point I wish to ascertain is, to what question the argument is to be directed.

The SPEAKER. The contestant can speak to any question pertaining to the election, the question being upon discharging the committee from the further consideration of all this evidence.

Mr. KING. Can the merits of these depositions be gone into in the arguments now made without the House first determining whether it is testimony?

The SPEAKER. The Chair supposes it can, whether evidence or not. The question is, "Shall the committee be discharged from the further consideration thereof?"

Mr. BIRCH. In reply to what the gentleman has said, I have but to say that I shall argue the question here precisely as I argued it before the committee, who supposed that the evidence had been taken in such a manner as to ascertain the truth, and upon that adjudication founded their report. I believe I might assume that upon the question of admissibility of the depositions and their entire credibility there was no substantial division in the committee.

I will now proceed to read what I have prepared, trusting to the indulgence of the House to allow me to conclude my remarks if they should exceed the hour allotted to me, particularly as it will be seen that I shall in no respect trifle with the dignity and indulgence thus invoked. I have made the argument as compact and condensed as I could possibly do from the records of the committee. If they had reported the facts in this case as they did in the case from the seventh district of Missouri, I would have asked but half an hour for my commentary upon those facts, but as I am compelled to read from the depositions in order to make myself understood, I must of course rely on the fairness, justice, and manhood of the House to permit me to read what I have thus prepared. I will proceed, therefore, directly to what I have to say on this case; previous to which, however, and before proceeding to avail myself of the permission which has been accorded me, it is deemed appropriate to thus respectfully record my appreciation of the Committee of Elections, to whom I have so long borne the relation of a contestant. They heard me courteously, intelligently, and, as I doubt not, impartially; and I hence ascribe such division as was apparent upon their ultimate finding to a want of perspicuity in my own imperfect presentation of the case, which it is trusted I may in some measure supply in my more matured and deliberate argument to-day. To this it will be of course excusable to add that should anything escape me unfit for the House to hear it will be neither from impulse or inadvertence, but because the deliberate cautiousness of even a written exposition has failed to sufficiently chasten the manner of presenting the wrongs of which I am here the humble yet accredited representative. Trusting to be appreciated and borne with accordingly it is deemed proper to premise that the duty thus briefly denoted would have been respectfully recoiled from, after the action of the House upon a previous case from my State, had it not been felt that the case now pending had been in no substantial respect prejudged to my disadvantage, but the exact reverse. If, therefore, I can succeed in propitiating the attention of the House to the preliminary distinction which I propose to present between the two cases I shall not despair of such subsequent consideration of the vitiating record which I shall read as will demonstrate that upon all the elements of your past adjudications the pretended "election" I am here to contest should be branded as at least a nullity.

Perhaps I cannot better "inaugurate" the preliminary distinctions thus briefly alluded to than by referring to the opening sentences of the speech of the gentleman from the seventh district, [Mr. LOAN,] whose case was considered and passed upon on the 10th of last month. Whatever difference of opinion may have prevailed in respect to the vitiations which were alleged against his election, he could at least advance to the discussion of them in the defiant consciousness that he was neither personally nor officially tainted with the dishonor of having incited them; and so of

the gentleman from the fifth district, [Mr. McCURR,] whose case remained to be disposed of. In that respect (as will presently be seen from the testimony) the cases are so wholly unlike, as upon that ground alone to justify a different finding, particularly when the argument as to the augmented political majority for the gentleman from the seventh district, as evidenced by the result of the subsequent judicial election, will be seen to absolutely disapply in the present case.

The distinction is no less radical and conclusive in several additional and concurring respects, which will be briefly glanced at in this connection, in order to be resumed and verified from the record (if necessary) in appropriate subsequent connections. Thus, it was argued, in practical avoidance of the overawing which was complained of in the seventh district, that not only had a large majority of its votes been polled in the congressional election, but that the entire increase in the subsequent judicial election would have been insufficient if added to the congressional vote of the contestant to have overcome the majority of the sitting member. Now, sir, while all this was at least as fairly arguable in that case as any argument could be, predicated upon the proverbially small vote of a judicial election in comparison with a political election, it will of course suffice to demonstrate that the exact reverse was true in the case under consideration, in order to suggest and enforce a finding the exact reverse. I refer, therefore, thus early to the record (page 5) to demonstrate that while the presidential vote in my district was 20,760, the congressional vote was but 9,370, "less than a quorum," according to our language here. Of this minority the congressional vote of the sitting member was 4,243, being a plurality over the contestant of 1,336; while it will be seen by the official certificate, which I hold in my hand, that even the increase in the judicial vote over the congressional vote not only overcame that plurality, but that the party whose candidate the contestant was in the congressional canvass outvoted the congressional party of the sitting member 4,130 votes in the subsequent judicial election. It will not, of course, impair the point thus established against the sitting member, when it comes to be listened to from the record, that between the period of these two elections he abandoned his congressional party and sought to become a leader in my party! That portion of the testimony may indeed additionally suggest the every-day fairness of remitting him to the ordeal of a new election upon our now common platform, instead of countenancing him in the betrayals and assumptions which constitute alone the aggregate of his pretensions here.

The cases will be found wholly dissimilar in another important aspect, which is this: it cannot be argued in this case, as it was in the one from the seventh district, that as there was no threatening or overawing previous to the election the testimony should expend itself in the exclusion of the particular poll at which it establishes a special violence. In this case it will be seen from the testimony that the overawing was commenced and prosecuted systematically for weeks preceding the election, that it was at the incitation and with the judicial and military coöperation of the sitting member himself, and that it but naturally culminated on the day of the election. Of course not only every lawyer, but every intelligent gentleman, who will do himself the justice to reflect upon the difference which will be thus established from the testimony as to the modes of intimidation which were resorted to in the cases respectively, will not only concur in the distinction I have suggested, but when it shall be shown from the testimony in this case that the overawing was collusive and systematic, collusively inaugurated, and publicly and overawingly encouraged by the sitting member as a judicial officer, and thus coöperatively prosecuted throughout the district for weeks before the election, and "on the day of the election, with menace and violence, such as would deter a man of ordinary firmness from approaching the polls and tendering his vote;" when it shall be demonstrated from the testimony that the language thus quoted from the speech of the gentleman from Maryland [Mr. DAVIS] is as applicable to the district at large in this case as it was to particular precincts, in the case he was then arguing, I shall expect his in-



# THE CONGRESSIONAL GLOBE.

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genuous concession that upon his own theory and in his own subsequent language, "that election is void."

There are still other points of difference in the two cases, prominent among which will be noticed the inability of the sitting member to get into our record any such testimony as was dwelt upon in the previous records in regard either to the character of my witnesses or my supporters. No raising of secession flags, no tearing down of the national banner, no holding back at any time from duty in the loyal militia, but the exact reverse, if necessary, will be demonstrated in respect to my outlawed "sympathizers" as we pass along. Invoking, therefore, a continuance of the courteous attention with which I have been thus far honored, I will proceed to so address myself to the record in this case that unless it be the understanding and determination of the dominant party that such and similar outrages upon the freedom of discussion and the ballot shall be systematically excused or encouraged, such action may, at least, be proposed as to elicit the official facts in the case, should my own recital of them be in any sense impugned in the reply of the sitting member. This, I take leave to add, will be left entirely to gentlemen of the dominant party; to those, if any, who may feel that there is a distinction in the cases; since with them alone exists the power to redress the wrongs which I will proceed to make manifest. If they propose no further or additional consideration of the case my more immediate friends and myself must fain be content to carry our appeal to the country as best we may. It is but added, therefore, in this connection that if I shall be able to demonstrate from the record that upon every principle of past adjudications this case enforces and demands a different judgment to that which the majority have rendered in the previous case from my State, I shall fain rely upon gentlemen of that majority to so shape the final issue as to elicit a direct vote upon the merits of the controversy which has so long detained me here.

I have prepared for this purpose what has seemed to my friends upon this side of the House an appropriate resolution; but as they concur with me, not merely that the result of the controversy depends upon the distinctions to which I have adverted, but that courtesy as well as justice demands that such a resolution, if presented at all, should proceed from such gentlemen upon the opposite side of the House as I may be able successfully to impress with those distinctions, I will simply read it for information or reflection, and proceed without further preliminary to the record of the case:

*Resolved*, That the election under which Austin A. King occupies a seat in this House as a Representative from the sixth congressional district of Missouri was not "free and equal," in the sense ordained by the constitution of that State, and that the said seat is hereby declared vacant.

Without in any sense distrusting the ultimate action of the House upon such a resolution, it is deemed sufficient to premise that the constitutional guarantee therein alluded to was not only successfully held up in my State as a counterpoise and an answer to all the specious arguments in favor of the rebellion then and yet pending, but I may add, without immodesty, as a citizen whose residence and associations for the last six and thirty years entitle him somewhat to speak the sentiments of its staid and considerate men, that you have it more in your power to strengthen the true Union sentiment of the State by giving practical and public effect to that guarantee, in a case like the present, which admits of no dispute, than you could do by either penalties or arms.

Coming, therefore, without further preliminary to the consideration of the record in the case, from which it will be seen that every exception which was taken to the previous one is either met or avoided in the present one, it is of course conceded that the great practical issue is, whether the "judicial and military terrorism," which is charged by the contestant, was of a character which so overawed a portion of the qualified

voters of the district as to have brought about the return of the sitting member in contravention of that guarantee. Unless, therefore, the testimony in the case shall bring it fairly within the exception recited by the gentleman from Michigan, [Mr. Urson,] when reading from the rulings of the committee in the case of Wing and Bidle—unless, in the language of that report, "corruption shall appear sufficient to destroy all confidence in the purity and fairness of the whole proceeding"—I shall of course submit to a verdict against me of having raised here a "false clamor," instead of having presented a true indictment against the sitting member.

As already stated, it appears from the deposition of the secretary of State, at page 5 of the printed testimony now upon your tables, that the aggregate vote of the district at the presidential election in 1860 was 20,760, while the aggregate vote for Congress in 1862 (the election here in controversy) was but 9,370. Of this minority vote of the district, the sitting member received 4,243, the contestant 2,857, and two other candidates the remainder. It further appears from the testimony that the sitting member became a candidate for Congress shortly after he had received the appointments of circuit judge and aid-de-camp to the commander-in-chief of the State militia; and that he gave out his purpose to hold on to his judicial station, as he did to his military position, until the regular recurrence of the judicial election, which was a year after the congressional election. The testimony of the colonel of his own county regiment is to the effect, in this connection, that in consequence of the positions he thus held in the judicial and military departments of the State government, his opinions were "but naturally listened to with consideration and deference in respect to the military operations of the times"—"that all the principal orders which were issued from his headquarters, in respect to subsistence, assessments, impressments, enrollments," &c., had, at least, his ready and entire concurrence—and the record will be seen to be such throughout as to identify him inextricably with the overawings of the State military authorities, in this and other portions of the district.

When to this it is added, as will presently be seen, that the colonel already alluded to has felt constrained to acknowledge, in response to the direct interrogation of the contestant, (page 8,) that the whole course of the public speaking and less public conversations of this candidate, aid-de-camp, and judge was apparently calculated and designed to overawe that class of voters who had been enrolled under military order No. 24, and constrain them to either change their votes against their free will or to abstain from voting at all, and when it will be seen by those whose patience and attention I may be able to retain that such testimony abounds throughout the record in respect to that and other counties of the district, the inquiry which will doubtless suggest itself to every ingenuous juror in this case will be, whether there was anything in the fact of such a military enrollment which could be legitimately held to interfere with the voting prerogative of the citizens. So much of that order, therefore, as is deemed pertinent to this inquiry is here reproduced, as follows:

## [General Orders, No. 24.]

HEADQUARTERS MISSOURI STATE MILITIA,  
ST. LOUIS, August 4, 1862.

General Orders No. 23, from these headquarters, dated July 28, 1862, is hereby revoked.

All the loyal men of Missouri, subject to military duty, will be organized into companies, regiments, and brigades, as ordered in General Orders, No. 19, from these headquarters, dated July 23, 1862.

All disloyal men, and those who have at any time sympathized with the rebellion, are required to report at the nearest military post, or other enrolling station; be enrolled, surrender their arms, and return to their homes or other ordinary places of business, where they will be permitted to remain so long as they shall continue quietly attending to their ordinary and legitimate business, and in no way give aid or comfort to the enemy. Disloyal persons, or sympathizers with the rebellion, will not be organized into companies, nor required nor permitted to do duty in the Missouri militia.

It will be seen by reference to the testimony on page 32 that the practical effect of this and subsequent orders was that the men thus enrolled in the military service were to be mounted, armed, and subsisted (where necessary) by those who were to be enrolled on what came to be denominated "the sympathizing list"—a mere military arrangement, which it is not further the province of the House to here consider than as it may be shown from the testimony that the sitting member took advantage of—to judicially misimpress and overawe that class of the people in respect to their right to vote. The point, therefore, to be kept mainly in mind is, that the absolute duty of enrollment under this general military order was explicit and imperative—so unequivocally so, not only according to the terms of the order itself, but by the official testimony, as to leave neither the enrolling officers nor the people any discretion whatever in regard to those who, had at any time sympathized with the rebellion, however, then "protesting (as they have since abundantly proven) their loyalty to the Government of the United States." Upon this cardinal point the testimony of one of the enrolling officers, which I will read from page 19, is as follows:

"I have resided in the town of Plattsburg, Clinton county, Missouri, for about eighteen years last past, and am a judge of the county court of said county. I have been provost marshal of said county since the 12th day of August, 1862, and yet am. In connection with that office, I had the duty assigned me by Lieutenant Colonel Swearingen of enrolling the citizens of said county on what was called the 'loyal and disloyal lists.' On the loyal list it was my duty to enroll for military purposes all persons between eighteen and forty-five years of age, (being male citizens,) and on the (so called) disloyal list it was my duty to enroll all male citizens, of whatever age, who had at any time sympathized with the southern rebellion. I had no discretion in the matter, nor had the people."

I respectfully desire that this sentence be borne in mind, should the contestant here (as in the committee-room) attempt to draw a distinction between voluntary and involuntary enrollments upon this sympathizing list. Having fully analyzed his testimony in that respect, I shall be ready (if necessary in replying to him) to demonstrate that if he did upon some occasions attempt such a distinction, as it may be argued from his testimony that he did, the distinction could only have been conceived and presented in aid of the same judicial fraud and overreaching which constitutes the principal issue between us. I respectfully suggest, moreover, that if he will have the fairness to read all that his witnesses say, (as I shall read all that mine say,) it will be seen that not one of them was present during all of either of the speeches to which my witnesses testify, and that hence there is no discrepancy in the testimony. To this I but add, in this connection, that in the testimony which I shall read in conclusion, as to the judicial construction which he put upon the right of these same sympathizers to take the oath and vote in the judicial election, the sitting member will be made a witness against himself in respect to his judicial misteachings (and consequent overawings) in the congressional election.

In respect to the enrollment, the witness continues as follows:

"The enrollment for the county was made, therefore, as directed in General Schofield's Order No. 24, and the explanatory circular of Brigadier General Hall, dated September 26, 1862. The said disloyal enrollment was not completed before the election which was held on the 4th of November last, nor have I yet completed it. The number enrolled up to the time of election was about four hundred. During the period of said enrollment Brigadier General Hall was commandant of the military district in which this county was situated, and hence I acted upon his orders in connection with those of General Schofield."

With regard to the speeches of the sitting member, of which I will presently produce a perfect cloud of testimony, this witness deposes as follows:

"I heard a portion of the speech which was made by Austin A. King in the court-house in the town of Plattsburg, Clinton county, Missouri, on the 13th day of October, 1862. He was very distinct in his expressions, and in conveying the impression that if any man who was enrolled on the disloyal list—so he phrased it—presumed to vote in the election then approaching, and did so, he would perjure himself, and be indicted by the grand jury. He brought this over several times, varying the phraseology, but still hold-

ing out the menace or fear of indictment to those who were enrolled disloyal and attempted to vote. After the making of this speech I was conversed with by several persons, at different times, as to the right of sympathizers to vote. A number agreed with Governor King, and one of the militia, belonging to a company stationed at Halesville, was very earnest in his declaration that King had stated the law correctly, and that such sympathizers ought not to be allowed to vote, and would not be allowed to vote. In the enrollment of the county, as a general rule, every man whose sympathies were regarded as being with the South was entered on the so-called disloyal list, although protesting his loyalty to the Government of the United States."

In other words, the enrolling officers followed out the imperative direction of the Order No. 24, and would not permit those who had at any time sympathized with the rebellion to serve in the State militia, although protesting that they were then loyal to the Government of the United States. Yes, sir; then loyal—then willing and anxious to be enrolled on the fighting list, instead of the subsistence list—even then willing to take the soldier's oath of loyalty, as well as subsequently, at the election, to take the voter's oath of loyalty, but overawed to feel that the only way to avoid the menaced indictments of their judge was not to vote against that judge for Congress.

While upon this point I will come presently to even stronger depositions than the one I have just recited—showing at once the judicial overreaching and the judicial insincerity by which the sitting member dishonorably terrorized himself into the seat he has so long contrived to occupy among you. I will for the present resume my classification by counties, to the end that each member of the House can decide for himself, county by county, as I pass along, upon the validity of such an election as the one here in controversy.

Going back, therefore, to the county of the sitting member, it will be seen from the deposition, at page 17, that in a public speech which he delivered at Russellville, shortly before the election, he stood forth in the judicial and military panoply with which he was invested to exasperate the soldiery to the outlawry of his competitor for Congress, whom he denounced as being "as grand a traitor as Jeff. Davis ever was," and "declared, in continuation, that any man who voted for him ought to be placed upon the disloyal list!" The witness thus continues:

"At that point of his speech, Lieutenant (or Adjutant) Henry, who was upon the stand with him, in full uniform, and who was also recognized as an assisting enrolling officer, rose from his seat, waved his hat above his head and proclaimed aloud, 'Yes, Governor, and I will place or see to it that every man is placed upon the disloyal list who does vote for him,' or words to that effect. I left the speaking shortly after this, and from conversations with and among the people directly afterwards, became satisfied that such a speech from the judge of the court, accompanied by such a threat from a high military officer, would operate very much to the disadvantage of Birch in the election, and it did so. Some who I knew had intended to vote for Birch, before listening to the speech and the menace, changed their purpose and finally voted for King or Samuel, under the fear with which they acknowledged that the speech of the judge and the threat of the adjutant had inspired them, with respect to their personal safety and that of their property if they voted for Birch, whilst others, as I understood and believe, did not vote at all. Having been at the election in my township, (which is one of the heaviest in the county,) and mingled as usual in conversation with my acquaintances, I have no hesitation in expressing the opinion that Birch would have gotten at least twice as many votes as he did if it had not been that the people were intimidated and overawed by the speeches of the judge and the threats of the military, who were understood to be his partisans; and I concur in the opinion I have heard repeatedly expressed by well-informed citizens in different parts of the county, that if the election had been an untrammelled or a free one Birch would have carried the county."

Throwing out in this connection (as I have already intimated) the consideration of another deposition concurring with the foregoing, it appears from still another deposition, (at page 40,) that in this county, as in others, its military organization and police was in the hands of the partisans of the sitting member; and it is expressly testified to by the colonel of his home regiment that "it was understood and expected that such and similar means (as those above recited) would avail to bring about such an ultimate influence, by intimidation, as to prevent Birch from carrying the county." Observe, gentlemen, I am quoting the reluctant admissions of a witness who had been the neighbor, the friend, and the partisan supporter of the sitting member; and I respectfully demand of you, upon your oaths and your honor, as judges and as Representatives, whether a certificate of election thus conspired for and thus ignobly won shall longer entitle its

possessor to claim among you the immunities of an equal or a peer? Am I replied to that this is but a single county, and that the majority of 498 which he there obtained by means so lawless and dishonoring should alone be deducted from the poll of the sitting member? I answer, not merely that the same will presently be proven in respect to other counties, but that by reference to the testimony of the same regimental commander it will appear that a similar reliance upon the workings and effect of military intimidation was entertained in respect to the district at large, and that the sitting member received as many votes as he had at any time calculated upon, and more than it had been thought would suffice to elect him! That I may avoid all risk of injustice in respect to a point so delicate and conclusive, the testimony of the witness in this regard will be here recited at length, from page 8, as follows:

"I was colonel of the enrolled Missouri militia of Ray county during the canvass for Congress in the year 1862. Judge Austin A. King was aid-de-camp to the Governor and an assistant inspector general, and as such, in connection with his position as a lawyer and a judge, was but naturally listened to with consideration and deference in respect to the military operations of the times. My recollection is that all the principal orders that were issued from my headquarters, in respect to subsistence, assessments, enrollments, &c., had at least his ready and entire concurrence; and being here expressly interrogated as to whether his whole course of public speaking, and his less public suggestions and conversations, in respect to the right of voting in my county, was not apparently designed and calculated to overawe that class of voters who had been enrolled, under Order No. 24, on what was called the sympathizing or disloyal list, and either constrain them to ultimately change their votes against their free will or to abstain from voting at all, a regard for truth admits of no other reply than that it was. I heard Lieutenant Henry, who was employed as an assistant enrolling officer, and who was known and recognized as a supporter of Governor King, (as I then was,) declare openly and repeatedly that any man who voted for Birch ought to be enrolled on the disloyal list, and otherwise dealt with as a disloyalist; and it cannot be denied that it was understood and expected that such and similar means would avail to bring about such an ultimate influence over the people, as, by intimidation, to prevent Birch from carrying the county, which his friends at one time expected he would do.

"A similar reliance was also entertained in regard to the district at large. From expressions I heard from Governor King, from time to time during the canvass, and particularly from a remark which he made when the returns were received, (in which he claimed that all the loyal men of the district voted for him,) I am confident he received as many votes as he had at any time calculated upon, and even more than it had been thought would suffice to elect him. It is deemed but just to myself, and to both the parties herein concerned, to add that from the political course of the Governor since the election, I am as much opposed to him now as I was once in favor of him; and that such, within my own knowledge, is the feeling of a large proportion of those who most prominently and earnestly supported him in the canvass of 1862, and whom he then affected to regard as the only true Union men of the district. I need scarcely disclaim the exercise of any undue favoritism (as I then looked at it) in the election referred to, or withhold the opinion that it was the apprehension of military punishment instead of any real danger, which had the effect of overawing such portion of the supporters of Judge Birch as ultimately gave way before it."

So much for the county of Ray, the home of the sitting member, to which I have given precedence in the arrangement and classification of my testimony simply because it was his home, and as such would be but naturally looked to as denoting the plan of the campaign, and furnishing "the key-note" upon which his partisans were to act throughout the district.

Passing next to the county of Carroll, over which he also continued to preside as judge, and where the opinion is likewise intelligently expressed in the testimony that a majority of the electors were in favor of the contestant for Congress, as they had been at the previous election between the same candidates for the convention, the testimony will at once dishonorably and vitiatingly disclose why it was that the contestant received but seven votes for the seat here in contest, leaving to the sitting member a majority of 625 of those which were permitted to be polled! It will be seen upon page 11 that when I was about half through the speech I was addressing to the electors assembled in the court-house, I was peremptorily forbidden to proceed further in it by the military commandant of the post, who was a partisan supporter of the sitting member, and by whom I was also forbidden to even attempt to fill my three remaining appointments in other portions of that county. (Submitting parenthetically to the representative honor and manhood I am privileged to address, whether there is even one of you who would consent to the absolute ignominy of occupying a seat here upon a certi-

cate which had been won in overawing repression of the elective good will of his people in conspiringly preventing his competitor from assigning before them the reasons why he would support or oppose particular public measures just as you all do here, the additional outrages under consideration will be resumed from the record.) On the day following a public meeting seems to have been held, the leading members in the organization of which are proven to have been then the military partisans of the sitting member, and to have included the sheriff of his court and the subsequent foreman of his grand jury! At this improvised meeting, it will suffice to recapitulate from the proceedings (pages 11 and 12) that, after specifically indorsing the congressional candidacy of the sitting member, and bestowing a correspondent approval upon the previous day's suppression of all further discussion of the issues involved in the canvass, they no less lawlessly announce their edict against a free election in these words:

"Resolved, That we recognize in said Birch a decided secessionist, and shall for all purposes treat his supporters as secessionists."

For a purpose which will presently become apparent it is proper to recite in this place, from page 11 of the printed testimony, the names of the officers and "spokesman" of this meeting, as follows: chairman, William Sumard; secretary and speech-maker, George Pattison; committee-men, Samuel Winfrey, Samuel Turner, O. J. Kirby, James Minnis, Levi Shin, James O'Gorman, and David Utt. To the basely slanderous outlawry thus publicly proclaimed against my friends and myself, as well as to the kindred fulminations in the public speech of the sitting member in his own county, it is my good fortune to refer, in refutation, to the entire record of our controversy here, including, of course, my cross-examination of his own witnesses. From that record it will be seen that the imputations upon my loyalty have no other support than the mere calumnious assertions of the sitting member and his then military partisans, and these will of course no more be confounded with the testimony here than they were in the committee-room. It will hence, of course, suffice to demonstrate that such proceedings, carried forward under auspices which denoted at least a judicial immunity, had but the natural effect they were designed to have, as testified to by the commandant of his own county regiment not only in regard to that county but to the district at large. To assume nothing, therefore, as to the number who were influenced by such a process of intimidation to change their votes, it will be seen by a comparison of the congressional with the presidential vote of this county, that there was a falling off of nearly one half, and that in a community where less than two years previously I had been honored with a majority of 80 votes against him, when he was not an aid-de-camp or a judge. He did not scruple to so prostitute these high official stations, as by the inspiration of an official terrorism, to essay the distinction which he here enjoys, and which he had been premonished would be differently bestowed by confidence and good will! Lest, however, the extremity to which he may feel himself reduced should suggest the reading of the unsupported calumnies of this mob assemblage of his military partisans at Carrollton as a justification for the lawlessness with which they foreshadowed the terrorism they inspired, it is deemed at least pardonable to recite from the record the testimony of the senators and representatives who heard my current speeches in the adjoining counties, which is as follows:

"We heard the speeches delivered by Judge Birch in our respective counties during his canvass for Congress. Some of us so far concurred in his sentiments and opinions as to support his election, while others of us supported one of the other candidates. We concur, however, that there was nothing in his utterances or sentiments which we regarded either as disloyal to the Government of the United States, or as transcending the legitimate range of discussion involved in the canvass; he was then prosecuting for a seat in Congress."

This joint deposition having been taken at the capital of Missouri during the session of its Legislature, and including, among others, the names of the senators and representatives from the county of the sitting member—and there being no testimony in the record that the contestant spoke otherwise in his canvass than the sitting member has voted here—will it not obtrude itself upon the

practical understanding of every member of the House that these exasperating denunciations against me were but the collusive pretexts for the systematic outlary you are here called upon to repair and redress? It was not in this case, as was suggested in extenuation of an alleged impulsive patriotism in the previous cases, but it was the calculating and systematic strategy by which one portion of the people were to be appalled and practically divested of their franchise, to the end that the candidate in whose interest it was conceived and executed might thereby obtain the certificate of a Congressman while wholly unable to obtain the vote of a Congressman. When it is borne in mind that to be thus banned by the military and judiciary as a "traitor" or "a secessionist" was equivalent in that district to such oppressions and perils that even the bravest might hesitate to incur such enmities as foreshadowed the revenges of military assessments, imprisonments, and assassinations, could it be possible to have even devised a more effective system of coöperative and all-embracing intimidation, or one more emphatically to be reprehended and redressed, than that which is developed in the record before you?

That the meeting at which these outrages were so distinctly and unredressively foreshadowed was essentially a partisan and a military one, satisfactory testimony will be found in the deposition of a witness who resided in another county, and who was hence not afraid to testify, for the reason which I have satisfactorily established before the committee for having failed to procure direct or resident testimony as to this and several other counties of the district. At pages 15 and 16, Williamson P. Gibson testifies, as follows:

"From the nature of my business I have been a good deal in and through the counties of Ray, Carroll and Charlton during the past year; have sojourned considerably in Carrollton and its vicinity, and have become acquainted, personally and otherwise, with the sentiments, opinions, and callings of a number of the leading men in different parts of the county.

"*Question by contestant.* Do you know the public positions which were held, respectively, by William Sinar, George Pattison, Samuel Winfrey, Samuel Turner, O. J. Kirby, James Minnis, Levi Shain, James O'Gorman, and Lieutenant David Utt, on or about the 1st of October, 1863?

"*Answer.* Having been in Carrollton shortly after a public meeting had been held, in which Judge Birch and his friends were denounced as secessionists, my recollection is that all these names were mentioned as having been leaders in that meeting, as friends of Governor King, and that in some manner or other they all belonged to the military police of the county, and that therefore the resolutions and declarations of the meeting would be carried out. I am not personally acquainted with all the gentlemen, but during subsequent visits to Carrollton I have learned that Sinar, Winfrey, and Shain constituted the board of military assessors; that Minnis was the provost marshal for the county; that Kirby was the adjutant of the regiment of enrolled Missouri militia for that county; that Utt was lieutenant in one of the companies, (not Stanley's); that O'Gorman was a private in Stanley's company; that Turner was (as he yet is) the sheriff of the county; that Pattison was a candidate for the Legislature, and was elected. I am satisfied that the information I have received upon this subject is correct, and that the proceedings of that meeting had the crowning effect they were intended to have, in deterring the friends of Judge Birch from making any further effort in his behalf, and of keeping them from the polls on the day of the election.

"*Question by contestant.* Have you heard such an expression of opinion among the people of that county as to have yourself formed an opinion as to what would have been the relative strength of King and Birch had the election been a free and fair one?

"*Answer.* All with whom I have conversed upon the subject, including one of the prominent friends of Governor King, expressed the opinion unhesitatingly that the political position of Judge Birch was more acceptable to a majority of the people of the county than King's was; and that he would have received that majority had the people felt that they were free to vote for him, without danger at the polls or otherwise. Such also were the opinions I have heard similarly expressed in passing, on the same business, through the adjoining counties of Ray and Charlton, and I concur in those opinions. In the election canvass, Judge Birch seemed everywhere to have the countenance of the constitutional or pro-slavery party, while the support of Governor King seemed to proceed mainly from what was termed the radical party, though he and they seem to have become radically antagonistic within the last few months.

"*Question by contestant.* Have you heard Captain Stanley converse recently in respect to the part he took against Birch, when in command of Carroll, as published in connection with the proceedings of the meeting you have alluded to? If so please state the substance of his conversation.

"*Answer.* I have heard him speak of the part he thus took against Birch, and say he would not do so if the thing was to do over again. This was not long since, and was spoken by Stanley in connection with the course King was pursuing toward the radicals, who claim that he has deserted them after they had elected him. Stanley does not command at Carrollton now, but does at Utica."

It having been previously established that the

persons thus identified were, respectively, the chairman, secretary, and committee-men of the meeting under consideration; nothing need of course be added in respect to the object it was intended to accomplish, and which it did accomplish. But when in connection with this it is taken into consideration (page 40) that Pattison, who was the spokesman and secretary of this unlawful and indictable mob, was appointed a year afterwards by the sitting member to be the spokesman or foreman of a grand jury, which had been summoned by the sheriff of his court (another committee-man) as the last one which was permitted by the limitation law of our State to even investigate this widespread defiance of our election laws; and when it is seen by the deposition of the prosecuting attorney, at page 39, that the judge was everywhere significantly silent in his charges to the grand juries in respect to these audacious outrages upon the freedom of election, and that consequently no indictment was anywhere found against any of his supporters and sympathizers—when all this is seen and reflected upon, the duty of redressing this all-embracing and demoralizing public crime in the only manner which pertains to the national dignity and authority would seem too imperative for either party parley or additional elaboration.

Passing, therefore, to the county of Saline, it will be seen by a comparison of the dates which are mentioned by the witnesses, respectively, that the extended publication which was ordered to be made of these military proceedings in Carroll had been "just in time" to beget a corresponding avowal of violence toward the supporters of the contestant in other counties, of which the following depositions may be permitted to speak for themselves.

William H. Lightfoot testifies as follows:

"About the middle of October last Lieutenant Colonel William A. Wilson, in command of the militia of Saline county, put up at the 'Sedalia House,' of which I am clerk. The conversation turning upon the subject of the congressional election then pending in the sixth congressional district, Colonel Wilson publicly declared his intention to arrest any man in Saline county who voted for Judge Birch, as a traitor, and punish him as a traitor."

And Eli L. Beeding, as follows:

"I am a merchant, and reside at Cambridge, Saline county, Missouri, and have resided in that place and vicinity for the last nineteen years. On the day of the election I was at Marshall, (the county seat,) and went to the polls, with five other gentlemen, to vote. A ticket had just been read out for Mr. Samuel and the State and county officers, when I presented myself and remarked that I would vote the same ticket, substituting only the name of Judge Birch for Congress instead of Mr. Samuel. Upon saying this, one of the judges of the election replied to me that if I voted for Birch I would be put in prison before sundown. I asked if that was the fact; and upon his replying very earnestly in the affirmative, I told him I would, under those circumstances, vote for Mr. Samuel; and myself and the five other gentlemen cast our votes accordingly. Judge Birch seemed to be the accepted candidate of the constitutional or pro-slavery party of my county, and I entertain no doubt whatever that, in a free election, he would have greatly outvoted Governor King."

It is deemed but necessary to add in this connection, that the congressional vote in this county was 543, (of which I received but 52,) against a presidential vote of 1,964 votes; of which more anon.

I will direct your attention in the next place to the county of Caldwell where, also, the sitting member continued to be "the judge;" and here, too, it will be quite sufficient to permit the deposition of a single unimpeached and intelligent witness to speak for itself. It reads as follows:

"I reside at Kingston, Caldwell county, Missouri; am a physician and surgeon by profession, and the proprietor of a drug store in Kingston. I have had ample means of understanding the public sentiment of my county in respect to the recent congressional election between James H. Birch and Austin A. King, and repeat the opinion I have so often and undoubtingly expressed that but for the judicial and military terrorism which was brought to bear against him, Judge Birch would have received a majority of the votes of that county. I was present and listened to the speech of Austin A. King, one of the candidates for Congress, and then and yet the judge of this judicial circuit. That speech was delivered on the first day of the October term of the Caldwell circuit court, being, as I believe, the first Monday in October last. At many points in that speech he used language of great severity in reference to that class of citizens whom he suspected of being unfavorable to his election, denouncing them as rebels, disloyalists, and sympathizers, who had forfeited their right to vote, and would not be permitted to vote. It was distinctly stated in his speech that those who had been or should be enrolled on the disloyal list, or as southern sympathizers, would not be allowed to vote; or if they should attempt it, and even succeed in doing so by having to take the preliminary oath, they would perjure themselves, and would

be liable to indictment by the grand jury of the county, and punished accordingly. These and similar statements and denunciations were made in the presence of the enrolled militia then stationed at Kingston, and were followed by the most unequivocal menaces on the part of said militia toward those citizens, whom in many instances they very unjustly charged with being disaffected or disloyal. Persons in many instances who had always been orderly and law-abiding citizens, if suspected to be friendly to the election of Judge Birch, were thus insulted, intimidated, and oppressed by said militia or with their countenance in divers ways. The sole object seemed to be to deter them from coming to the polls to cast their votes agreeably to their wishes; and they were so deterred almost in a body. I was myself of the number; and cannot be mistaken in what I am stating. I had previously for simply extending to Judge Birch the courtesies of a gentleman and former acquaintance been most rudely insulted and mistreated by the military friends of Governor King while simply attending in the most quiet and orderly manner to the business of my profession.

"For many weeks pending the election contest it was publicly stated by the friends of Judge King, and by the military who were in his interest, that Judge Birch was a rebel, and that all of his friends were such, and could not live in the county, and would be banished the county or put out of the way; and since the election, some of the best citizens have left the county, or are preparing to do so at great sacrifices, in order to avoid, if possible, the fearful consequences which they have been made to apprehend. Judge Birch had himself narrowly escaped secret assassination at the hands of two of the military friends of King, (as was witnessed and believed by myself and two other gentlemen who happened to be riding with him away from Kingston, after he had spoken in reply to King, at the October court,) and so notorious and so desperate was the open partisanship of this class of the friends of Judge King, that scarce any man felt himself safe in being even suspected to be the friend or supporter of Judge Birch. A reign of unparalleled terror was thus inaugurated and kept up until after the election was over, resulting as already stated; every feasible means having been apparently resorted to by Judge King and his friends to frighten, harass, and intimidate every citizen who was even suspected of being opposed to his election to Congress.

"As already stated, it was by the inspiration of an almost universal terror throughout the county that the friends of Birch were either silenced and kept from the polls or, in many instances, overawed and constrained to vote for King. Instances of the latter description came under my personal observation on the day of election at Kingston, and still other instances have been reported to me by the parties themselves. Others, friends of Birch, less intimidated than the great body of them had been who stayed at home, came to Kingston to vote for him, but relinquished the idea and returned home, after hearing and seeing the condition of things by which they were overshadowed and deterred. Men with but little property and large families were made to fear that it would be pressed or taken from them by the military if they voted for Birch, and men of larger means that they would be additionally assessed; and all this, it was argued, would be but naturally upheld by King, as the continuing judge. I may safely add to this, (such had been the conduct and such the denunciations of a portion of the militia,) that the additional fear of assassination, conspiring with the fear of indictments, rendered the election in my county the most 'quiet and orderly' I ever witnessed, but it was emphatically the quiet of despotism upon the side which had all the arms of the county in their hands, and of submission upon the side which had been wholly disarmed, and who consequently felt themselves at the feet of their intolerant oppressors, who everywhere denounced and prevented either a fair or a full election. If I have, in hastily throwing together the foregoing statements, spoken too warmly, it is because the outrages to which I have adverted are yet fresh in my memory, and that of hundreds of my countrymen, who were proscribed and overawed as I have attempted to describe. And the only regret for which I feel myself responsible is, that my pen is inadequate to more fully describe the condition to which we were reduced. It will, perhaps, suffice to add that it was such, in all its concurring circumstances and surroundings, that our candidate for Congress received but thirty-two votes in the county, one or two of which (alone) were cast at the county seat; and that, as already stated, he was, in our estimation, the preference and the choice of a majority of the legal voters of the county."

Having thus grouped together the testimony which has specific relation to four out of the ten counties of the district, it is deemed appropriate to the simplification of the issue to draw attention at this point to the fact that by the rejection of the poll of these counties alone, it would leave the contestant with a majority of 214 votes in the remaining counties of the district—the vote of those remaining counties not thus unquestionably invalidated being officially certified as follows:

	Birch.	King.
Charlton.....	277	330
Clay.....	592	139
Clinton.....	453	273
Jackson.....	128	354
La Fayette.....	14	450
Platte.....	877	583
Totals.....	2,343	2,199

Such being the aggregate footings of the election, and such, of course, sufficiently suggesting, at least, its recomittal to the people, such additional testimony as I may be permitted to throw together by the courtesy of the House will be



with a view of additionally demonstrating that the judicial and military overawing which is charged upon the sitting member and his partisans was not only collusive and systematic, but operated to the practical exclusion of indefinite thousands whose only crime consisted in preferring that the contestant, instead of the sitting member, should represent them in this national forum. As this, however, furnishes but an additional or a cumulative reason why such an election should at least be stamped as a nullity, I of course cast myself upon the courtesy of the House, in the hope that I may be patiently listened to for that purpose while reading from a few pages more. They will have relation mainly to my own county, where the sitting member was also "the judge," and where my majority was cut down to 193 instead of "at least 400," as it will presently be listened to—it probably would have been had it not been for the "judicial and military terrorism" which I have charged upon the sitting member, and which is additionally disclosed in the following testimony.

At page 20 John W. Moreland corroborates the testimony of Judge Vignini, which I read half an hour or more ago, as follows:

"I am a resident of Clinton county, Missouri; am the representative elect of this county to the next General Assembly of the State; joined the military service in company of three years' United States volunteers in November, 1861, and was honorably discharged on the 10th of August last, on account of physical disability. I was present at the opening of the October circuit court for the county of Clinton, and heard Austin A. King, a candidate for Congress, and being at the time, as he yet is, the circuit judge for this judicial circuit, make a speech as a candidate aforesaid. Among other things, he declared that the rebels had no rights which any honest man ought to respect; that the men who had enrolled on the disloyal list, as he phrased it, ought not and would not be permitted to vote; and that if they did vote they would be guilty of perjury and would be indicted. The whole tenor of his speech was calculated to inflame the militia then in camp and under arms, and to incite them to interfere at the elections and prevent men from voting. I subsequently heard leading officers and members of the militia declare that no man enrolled as a sympathizer should vote. The impression which he (King) seemed anxious to make upon the people was, that no sympathizer would be permitted to vote, or, if he was permitted to vote, he would be indicted for perjury, under his instructions to the grand jury; and this was believed by a great many."

On the same page and the following one James D. Vanhook testifies as follows:

"I am a physician and surgeon, and reside in the town of Plattsburg, Clinton county, Missouri. I heard the electioneering speech of Austin A. King at the October term, 1862, of the circuit court of said county. His views in relation to the settlement of our present difficulties were of a radical character, being opposed to all compromise until the rebels laid down their arms; while those of Judge Birch (whose speech I also heard) were in favor of an adjustment on the basis of the Crittenden compromise, or its equivalent. In other respects the spirit and tenor of King's speech was calculated to exasperate and excite the militia of the county, who were generally favorable to his election, against the men who were styled southern sympathizers, and who had been enrolled by military authority on what was called the disloyal list, (and who were understood to be favorable to the election of Judge Birch,) and to induce them to so interpose their bayonets at the polls or elsewhere as to prevent such sympathizers from voting. He stated in his speech distinctly that southern sympathizers had no right to vote, and that if they did vote they would lay themselves liable to be indicted at the next session of the grand jury."

On page 21 Henry Essig testifies as follows:

"I am a physician and surgeon, and reside in the town of Plattsburg, Clinton county, Missouri, and have resided there for the last twenty-six years. I heard Austin A. King make an electioneering speech at the court-house during the October term, 1862, of the circuit court of Clinton county. He was speaking as a candidate for Congress, and that portion of his speech which related to the present disturbed condition of the country was calculated to deter those persons who were denominated southern sympathizers from voting at the November election, (then approaching,) particularly those who were enrolled on what he (King) denominated the disloyal list. His object seemed to be to incite the militia (who were generally in his favor) to interfere in such a manner as to prevent southern sympathizers from coming to the polls or offering to vote; but seeming to fear that this might not be sufficient to keep them away, he labored to impress it upon the audience that all of that class who did vote would commit perjury, and would be liable to indictment, and that they would be indicted. I cannot, of course, recall his precise expressions, but they were of the purport above stated, and the emphasis, countenance, and gestures with which he accompanied his expressions could leave no doubt upon any one that he designed that this class of voters should be overawed from voting, from the double fear of the militia and the court of which he was judge. Judge Birch (who was one of the competitors of Judge King for Congress) was regarded as a Union man, and was voted for accordingly by Union men, (myself among the number,) while the more just and liberal ground which he took in respect to the manner of restoring the Union gave him the general countenance and support of what were called southern men or southern sympathizers, or, as Judge King called

them, disloyalists. He was emphatic in his declarations that rebels had no rights, and hence had no right to vote; and he used the term 'rebel' and 'southern sympathizers' on the disloyal list as synonymous, when inveighing against their right to vote."

On the same and the following page, Columbus Jones testifies as follows:

"I am a farmer, residing about three miles from Plattsburg, Clinton county, Missouri. It was my misfortune, at the commencement of the present political troubles, to kill a citizen, who was a secessionist, in an affray growing out of a dispute upon questions involved in the present civil war. Judge King was then practicing law, and I employed him to defend me. At our last circuit court (in October last) he took me aside, after he had made his speech as a candidate for Congress, and after calling my attention to the balance I was owing him as his fee, entered into conversation with me about the election. In that conversation he stated to me with great earnestness that a southern sympathizer had no more rights than a slave; that they had no right to vote, and would not be allowed to vote; that they were rebels, and if they did vote they would perjure themselves. He said the militia would be on hand; and it was through them that I understood him to mean that the rebels or sympathizers would not be permitted to vote; but that if any of them did vote they would perjure themselves and be handled for it. I was not in the court-house when he made his speech; but from the whole drift of his conversation to me I was given to understand that it would not be safe for a southern man to attempt to vote, much less to actually vote. After King's speech I heard several militiamen say that they would back him in his views; that a rebel or a sympathizer had no right to vote, and should not vote. The militia from all parts of the county were then encamped at Plattsburg."

On pages 22 and 23, William Morris testifies as follows:

"I reside in the town of Plattsburg, Clinton county, Missouri, and have done so for the last twenty years. I was a candidate for a county judgeship at the recent election, and mingled much with the people, privately and publicly, in all parts of the county. I have no doubt, from all I saw and heard, that a great number of people were deterred from voting in the recent election—enough, had they all voted, to have given Judge Birch at least four hundred majority for Congress in this county. The reasons, in my opinion, why so many staid away from the polls were mainly referable to the declarations of Governor King and the militia, impugning the right of southern sympathizers to vote, and threatening them with the consequences. Quite a number told me they would go forward and offer to vote, but that they did not want to be insulted and refused. I heard the speech of Governor King, (Austin A.), who was a candidate for Congress, at the October term of the Clinton circuit court. The attendance was large, including a number from several of the adjoining counties of the district. His speech was extremely ultra, especially in respect to that class of citizens who were denominated southern sympathizers, who had to be enrolled on what he called the disloyal list. He said such men had no right to vote, and would not be permitted to vote; or that if they were permitted to vote they would commit perjury and be liable to indictment and punishment accordingly, and that all that would be properly seen to. There grew up, in consequence, a general impression that it was not safe for a southern sympathizer to vote, especially for Birch, for whom, it was generally understood, they were inclined to vote; and, as I have already stated, I am satisfied that many staid away from the polls entirely, especially at the Cameron precinct, where I was on the day of the election. On the morning of the election I went into Cameron with John Snow, one of the judges of the election. He remarked, in the course of conversation as we went to town, that so far as he was concerned, no man who sympathized with the South, or ever had done so, could vote at the Cameron polls, of which he was one of the judges. There was a squad of militia in town, understood to be there to 'look after the election;' and, as already stated, it was understood that sympathizers would not be allowed to vote, or that if they did vote they would be liable to indictment. I staid there until about two o'clock, up to which time Judge Birch had received but one vote."

On the same page, George W. Davis testifies as follows:

"I am a farmer, residing in the neighborhood of Miller's Mill, a voting precinct in Clinton county, Missouri, and was at the election which was held at that precinct on the 4th of November last. Only between sixty and seventy votes were polled there at that election. At the previous election, two years before, 221 votes were given there. From my general acquaintance with the people of the township, my opinion is that Governor King received the votes of all who were favorable to his election, while great numbers of those known to be friendly to the election of Judge Birch refrained from going to the polls at all. Having heard the speech that was made by Governor King, at the court-house in Plattsburg, some four weeks before the election, together with what was understood to be the purpose of a portion of the militia, and having also heard many of the people talking on the subject before the election, I am confident that many of the friends of Birch were deterred from coming to the polls, at that precinct, from fear of the consequences (judicial and military) which might result to them from voting for him. A squad of the enrolled militia belonging to the township (all friends of King) were there, with their arms, &c., for what purpose I do not know; but the understanding that they were to be there contributed, among other reasons, to deter great numbers of citizens, as already stated, from going to the election at all."

"Several who voted for Judge Birch yet fear that they are to be indicted for voting, and to be tried before King, as judge; for such was understood to be the menace held forth in his speech already alluded to."

Referring to the official testimony on page 24, where it will be seen that at this precinct the sitting member received 35 votes to my 29, (out of a presidential total of 221,) I read from the testimony which will explain it, as follows:

John R. Black:

"I am a farmer, and reside in the township in Clinton county, Missouri, of which Miller's Mill is the voting place. I was friendly to the election of Judge Birch to Congress, and would have voted for him at the election which was held the 4th of November last; but from what I heard that Judge King had said in his speech at Plattsburg about sympathizers having no right to vote, and that if they did vote they would be liable to indictments for perjury, I did not go to the election at all. This I know was the case in my neighborhood generally, where the people were almost unanimously for Birch, but were afraid to vote for him, and did not vote for him, from fear, as already stated. I think it entirely safe to say that but for the terrorism and apprehensions which were created by the public and private declarations of King, who was judge of the circuit court, and was understood to intend to hold on to that station for nearly a year after the election, and who, it was understood, would instruct the grand jury to find indictments against all 'sympathizers' who voted, Birch would have gotten at least two or three votes to King's one at that voting place."

James P. Arterburn:

"I am a farmer, and reside in the township of which Miller's Mill is the voting place, in Clinton county, Missouri. I live about four miles from the residence of John R. Black, whose deposition has just been read to me by the notary. What he states of himself and his neighborhood is true of myself and neighborhood, every one of whom would have voted for Judge Birch for Congress, but that we were afraid to do so for the reasons stated by Black. Before the speech of Governor King we had all intended to vote for Birch; but after that speech, which I heard, we all concluded it would be unsafe for us to vote, and staid away from the polls accordingly."

That I may be relieved of all necessity to canvass the judicial interpretations thus intimidatingly foreshadowed by the sitting member, whereby entire neighborhoods of my supporters were overawed from the polls in the congressional canvass, I proceed to demonstrate, in the last place, from the testimony of the same unimpeached and intelligent witnesses, that the venerable judge himself had reached an opposite and correct conclusion with respect to the rights and duties of the same class of citizens, after he had deserted the party which elected him to Congress, and when he was seeking to have them beaten in the judicial elections of the following year. Upon this point William Morris testifies as follows:

"Question by contestant. As you have previously given testimony in respect to Governor King's speech when he was a candidate for Congress, (in respect to the qualifications of voters,) please state whether you heard his speech a year afterwards, (a few weeks ago,) when he was addressing the people from the same stand in favor of one of the judicial tickets which was voted for on Monday last; and if so, was his language and his teachings substantially the same, or substantially different?"

"Answer. I heard a portion of both speeches, and never heard two that were more essentially different in respect to the right and duty of the people to give their votes. His Congress speech was of a character (as stated in my previous deposition) to create the impression that it was unsafe for any of the so-called 'southern sympathizers' to vote, (while he continued as judge,) while his judicial electioneering speech was of a character to encourage them all to vote. And I think I can safely say that no one was afraid to vote at the recent election in this county who was entitled to a vote under the convention ordinance."

Upon the same point, the representative of the county testifies as follows:

"Question by contestant. Having stated, in the depositions which you gave in this case on the 12th of December last, of which this is intended as a continuation, the substance of Judge King's denunciations against 'southern sympathizers,' and of his declarations in opposition to their right to vote, and the consequences they would incur if they did vote, will you please state whether you also heard his speech from the same stand, and upon the same points, on the first day of last October court; and if so, did he maintain the same sentiments and opinions which he put forth in his congressional speech, or opposite ones?"

"Answer. I listened to both speeches with great attention, and they were wholly unlike, both in the sentiments he expressed in regard to the southern sympathizers, and their right to vote. In his last speech he was exceedingly earnest in urging them all to vote, as otherwise the radicals might succeed in electing their ticket for judges, which, he argued, would lay the foundation for the utter ruin of the country. He repeatedly proclaimed that southern sympathizers had the same right to vote that the radicals had, and that it was their highest and most urgent duty to do so; and that if any person interfered with them in any manner, (emphasizing the remark,) either before or after the election, for voting for just whoever they pleased to vote, they would be made to suffer for it most severely and undoubtedly. His whole speech, indeed, was so totally different from what his congressional speeches had been, that the remark was quite common, directly afterwards, that he was at last aiming to ride the same horse that Birch had all along ridden; and in many respects it seemed clear that they had come to occupy a common platform."

Judge Vignini testifies as follows:

"Question by contestant. As you have stated in a previous

deposition the substance of Governor King's language (in his speech) when he was a candidate for Congress in October, 1862, please state whether he held the same language in his speech in October, 1863, in respect to voters and voting in the then approaching judicial election?

*Answer.* He did not hold the same language or anything like it. On the contrary, it was a common remark, among those who heard him, that he had at last got on to Birch's platform as to the right to vote, as well as several things else. He warmly urged the people (sympathizers and all) to turn out and support the anti-radical ticket, assuring them that they had the right to vote just as every one else had, and that if any person interfered with them in any manner for exercising that right, either before or after the election, they would be punished for it with a vengeance; but that there really was no danger that any person would dare to so molest or interfere with them. The whole tenor of his speech in this respect was as different in tone and emphasis from his congressional speech as it could be; and the effect was that with the exception of half a dozen or less who were excluded by the express terms of the convention oath for having been in arms since the 17th of December, 1861, no one seemed afraid to vote in the election just past."

William P. Hooper, as follows:

*Question by contestant.* Please state whether you heard the speech made by Judge King when he was a candidate for Congress in October, 1862, and also his speech in opposition to the radical ticket for supreme court judges in October, 1863; and if so, please state the resemblance, or the want of resemblance, in respect to the right and the duty of that class of people who are called 'southern sympathizers' to vote.

*Answer.* I heard what he said in both speeches upon that subject, and was astonished at the change which his opinions seemed to have undergone in the course of the year. The convention oath remained the same, and the rights and duties of that class of the people whom he denounced as 'southern sympathizers' were, of course, the same, yet in his Congress speech he held up to them the penalties of perjury and military punishment to deter them from voting; while in his speech against the radical candidates for judges he vehemently urged them to vote, assuring them of their perfect right to do so, and that they need not apprehend the slightest danger from any quarter. I certainly never heard two speeches that seemed to me more entirely opposite in their tenor and teachings; and such was the general opinion of those who heard both speeches, and who have since conversed with me upon the subject.

"I am the clerk of the county court and the keeper of the election records. The vote in this county at the judicial election on Tuesday last was greater than its proportionate vote in the previous judicial election; whereas the congressional vote at the last election was several hundred short of the vote in the previous election for a Congressman."

And John Cox, as to the manner in which he spoke in his own county, as follows:

*Question by contestant.* Did you hear King make a speech at Richmond on the day of the election for the supreme judges, on the 3d of this month? If yes, how did he speak in respect to the right of southern sympathizers, as they were called, to vote?

*Answer.* He very earnestly exhorted them all to vote, alleging that they had the same right to vote that other citizens had; and he also called upon the refugees from Jackson and Cass counties, who had fled into Ray under the order of General Ewing, to come forward in like manner, and cast their votes against the radical ticket, which he spoke against with great bitterness and disrespect, both politically and professionally."

As comment upon such a record would be but little short of a contempt to the understanding of the House, I will copy but a single deposition to demonstrate how it was that the terrorism complained of extended to the ranks of the militia itself, and that if such and similar overawings are to be indorsed instead of rebuked at the hands of those upon whom the Constitution devolves the duty to "judge of the elections" under which we meet each other here, the position of a Congressman will cease to command even the *prima facie* consideration which should be accorded to the real Representative of the people. In other words, the mere military commandants will soon become everything, while the people and the soldiery, who fight the battles and feed the armies and pay the taxes of the Republic, will become practically nothing.

At page 34, Edward Brooking testifies as follows:

"I reside on the eastern edge of Clinton county, Missouri, near the line of Caldwell and Ray. In a running conversation between two of my neighbors and myself, concerning the unfairness and terrorism of the election, and in which I repeated what I had heard concerning an extra stack of hay which it had been said would be assessed against one of Birch's friends because he had voted for him, these neighbors replied that that was nothing; that they themselves had preferred Birch as their candidate, and would have voted for him if things had not got so tight that they were afraid to do so, and hence did not vote at all, or words to that effect. Both those neighbors were in service in the enrolled militia at the time of the election, and one of them has since enlisted in the volunteer or regular service. This conversation with these two militiamen took place shortly after the congressional election last year; and I have reason to believe that there were several others in my neighborhood who were similarly afraid to vote for Birch, and hence did not vote at all."

As every man who knows the meaning of "extra duty and no promotion" will but readily appreciate the point of the foregoing, it needs, of course, no additional explication. As little need it be explained that the same considerations will generally deter the soldier from even testifying to the displeasure of his commander; and that thus "the iron wheel" is preserved intact. It is the supervision and the repression of this House alone that can turn aside this fruitful affluence of corruption and oppression; and this can only be done by the stern rejection of every ballot which was not "free" in the sense ordained by the Constitution which you have severally sworn to support.

I come, lastly, in the absence of local testimony from the remaining counties, to the deposition of a witness upon whose judgment and candor I was induced to rely in selecting him for the service which is testified to, as follows:

*Question by contestant.* Please state whether you canvassed this congressional district for Judge Birch during his race for Congress in 1862. What was the object of that canvass; and what then were, and yet are, your opinions in respect to its then probable results?

*Answer.* I was engaged in distributing the circulars of Judge Birch and his notices to address the people as a candidate for Congress, in the various counties in the sixth congressional district for nearly three weeks, during the month of September, 1862. I was induced to undertake this service for the judge, in order not merely to serve him in that particular respect, but to obtain such a view of the canvass for him (as his friend) as might probably be relied upon in respect to its results. I found, in passing through the district, that he was everywhere regarded, and would be supported, as the candidate of the constitutional pro-slavery party; and I did not hesitate to express the opinion to him, on my return, that, if there was no military interference against him, he would beat Governor King at least eight or ten thousand votes. I am yet of the same opinion. Mr. Samuel was then scarcely counted in the canvass; and the support of Governor King seemed to be almost exclusively by the radicals, including the newly-organized militia. There were symptoms of military interference against Birch as I passed through the district; and the fear was then even entertained, in some places, that it would take the public shape it afterwards assumed; but the judge did not seem to think it would be possible for his adversaries to get it up to such a pitch as to defeat his election; nor did I."

That the opinions thus entertained may have such circumstantial corroboration as they are entitled to from other portions of the record—referring to which the case on my part will be closed for the present—it is deemed sufficient to state that in the county of La Fayette, where (as in several other counties) I was unable to obtain any legal testimony beyond the official vote on file in the office of the Secretary of State, the falling off from the presidential vote was 2,064; and that of the comparatively few votes that were given in that county, the sitting member received 450, and myself but 14. For the single purpose I have in view, it will be unnecessary for me to read, in this connection, the authorized official statements, which not only "unearthed" the sitting member before the committee, but gave him the lead, in this county as elsewhere, in the repression of the popular voice, which was everywhere impatient to repudiate and consume him. It will hence suffice to repeat that, while his entire vote in the district was but 4,243, its aggregate falling off, between the presidential and congressional election, was 11,390.

If, therefore, upon the whole record in this case, there be not developed such a concurrence of vitiations as to invoke against them the marked discountenance of the House, it needs no moral seer to predict the status of your future associates in this thence dishonored forum of the American peerage.

It is but added, therefore, that having reserved for my rejoinder or conclusion the explication of such additional facts and circumstances as may become necessary to the harmonious elucidation of the entire record in this case, I shall intermediately trust to the intelligent action of the House to discriminate, if necessary, between what is replied from the testimony and what is not.

That being the only additional favor which I ask at the hands of this dignified national judiciary there remains to be rendered but the tribute of a respectful and self-respecting thankfulness for the patience with which you have listened to me, and to commit the case of my outraged and overborne constituency to your upright and intelligent decision.

[Here the hammer fell.]

Mr. HOLMAN. I hope the gentleman will be allowed to proceed.

Mr. PRICE. I object to an extension of the time.

Mr. DAWES. I renew my motion to lay the whole subject on the table.

Mr. HOLMAN. I trust the time will be extended.

The SPEAKER *pro tempore*. (Mr. ARNOLD in the chair.) How much time does the gentleman desire?

Mr. BIRCH. I have read eighteen pages, and there are ten still to be read. I will not ask over half an hour.

Mr. HOLMAN. I trust there will be no objection to the contestant finishing his remarks.

The SPEAKER *pro tempore*. Objection is made.

Mr. FERNANDO WOOD. I would remind the gentleman from Iowa that this is the first instance at this session when such an objection has been made to a contestant proceeding under similar circumstances.

Mr. PRICE. I will say in reply to the gentleman that I would have no objection to hear this gentleman talk, or any other for that matter, if it did not occupy the time of the House and of the country. But the speech is not benefiting the House or the country. There are not a dozen gentlemen listening to this speech. I propose to go on with the business that appertains to the legislation of the country. Let the gentleman print the balance of his speech. I will even buy the book, if necessary. [Laughter.]

Mr. DAWES. If the sitting member does not desire to reply to the contestant, I will renew the motion to lay the whole subject on the table.

Mr. KING. I do desire to reply, but I am willing to wait until the House decides whether the contestant shall have more time or not. I shall not ask for more than my hour.

Mr. HOLMAN. I trust there will be no objection to the contestant finishing his remarks.

Mr. WASHBURN, of Illinois. I rise to ask a question of the gentleman from Massachusetts. His motion is to lay the whole subject upon the table. If that motion be carried, will it not leave the sitting member in his seat?

Mr. DAWES. Certainly, that will be the result of it. But if the sitting member desires to reply to the contestant, I do not feel it quite right for me to shut him off. I am prepared myself to dispose of the case now. The Committee of Elections have not desired to discuss this matter, and it would have been more agreeable to them to have disposed of it without discussion. But after the House has permitted the contestant to speak, the question whether the sitting member shall reply is hardly within my control, and I think I ought not to make the motion to lay on the table.

The SPEAKER *pro tempore*. Does the gentleman withdraw his motion?

Mr. DAWES. I do for that purpose, but not for any other.

Mr. HOLMAN. I presume that there is no objection to the contestant printing the balance of his speech.

Mr. FARNSWORTH. I object.

Mr. UPSON. I would like to inquire of the contestant how much longer time he wants to finish his remarks?

Mr. BIRCH. I have only ten pages of manuscript left, and I think I can read them in half an hour. I will read as rapidly as I can.

The SPEAKER *pro tempore*. Does the gentleman from Iowa withdraw his objection to the contestant proceeding?

Mr. PRICE. No, sir; I do not withdraw it.

Mr. BLAINE. I move that the contestant have leave to print the balance of his speech.

Mr. FARNSWORTH. I have objected to that.

Mr. ELDRIDGE. I move that the House do now adjourn.

Mr. DAWES. I suggest to the gentleman from Wisconsin that the time of the House is of such importance that we ought to dispose of this case at once.

Mr. ELDRIDGE. If the contestant is allowed to go on and finish his remarks I will withdraw the motion to adjourn.

Mr. UPSON. I submit that the motion of the gentleman from Wisconsin is not in order. He was not entitled to the floor to make it.

Mr. DAWES. I yielded the floor to the sitting member. I thought that after the contestant had had an hour it would be hardly fair for me

to move to lay the whole subject on the table without the consent of the sitting member. The gentleman from Wisconsin, therefore, hardly had the floor to make his motion.

Mr. ELDRIDGE. The gentleman from Massachusetts had taken his seat when I made my motion, and I was duly recognized by the Speaker.

Mr. DAWES. I took my seat with the remark that I would yield the floor to the sitting member.

Mr. ELDRIDGE. The gentleman from Missouri, the sitting member, did not take the floor.

The SPEAKER *pro tempore*. Does the gentleman from Missouri [Mr. KING] desire to proceed now?

Mr. KING. I want the House first to determine in regard to the contestant being allowed to proceed with his speech.

Mr. DAWES. One word more. I would like to inquire of the gentleman from Wisconsin if these parties have not both been treated properly by the Committee of Elections. They have treated them both alike. They would have been content that the whole case should be disposed of without debate; but inasmuch as one of them has debated the question for an hour, it is right that the other should be heard. I did not agree with the position occupied by the sitting member; but I think that he has a right to be heard if he insists upon it.

Now, Mr. Speaker, if the sitting member does not care to be heard I will insist upon my motion. If he does I will yield the floor to him.

Mr. KING. I will say this: that if the gentleman insists upon his motion to lay the report on the table, and the House lays the report on the table, as a matter of course I do not care to be heard. It would be somewhat gratifying to me to reply to some of the remarks of the contestant, but I will forego that. If, however, the House refuses to lay the report on the table, I then desire the floor to reply to the contestant.

Mr. DAWES. If the House refuses to lay the report on the table the sitting member will then of course be entitled to the floor. I will now yield the floor to the gentleman from Wisconsin [Mr. ELDRIDGE] to reply to my question.

Mr. ELDRIDGE. I believe there is no complaint whatever made of the Committee of Elections for the manner in which they have treated this case. But this is the first instance in which a contestant claiming a seat on this floor has desired to extend his speech beyond an hour that he has not been permitted to do so. I think the same common courtesy ought to be extended to the gentleman whose speech is now cut off in the middle.

Mr. UPSON. I desire to ask the gentleman whether he remembers the case of Mr. ELIOT, of Massachusetts?

Mr. DAWES. The Committee of Elections have directed the motion to be made, and I now renew the motion, to lay the whole subject on the table.

Mr. ELDRIDGE. I raise the question of order that the gentleman from Massachusetts yielded the floor, I rose, was recognized by the Chair, and moved that the House adjourn. I submit that that is the motion before the House.

The SPEAKER *pro tempore*. (Mr. ARNOLD in the chair.) The Chair overrules the question of order. The Chair understood the gentleman from Massachusetts to yield the floor to ascertain whether the sitting member desired to speak, and for no other purpose.

Mr. ELDRIDGE. But the gentleman from Missouri did not rise.

The SPEAKER *pro tempore*. The Chair overrules the question of order.

Mr. HOLMAN. I raise this question of order, that the gentleman from Massachusetts moved to lay the whole subject on the table. Upon that motion the House voted and declined to lay the report on the table. No business has intervened since that motion was put, and it is not now in order to renew the motion.

Mr. DAWES. What we have been doing for some time seems very much like business. [Laughter.]

The SPEAKER *pro tempore*. The Chair overrules the question of order.

Mr. HARRINGTON. Will it be in order to appeal from the decision of the Chair overruling the question of order raised by the gentleman from Wisconsin, [Mr. ELDRIDGE?]

The SPEAKER *pro tempore*. It is too late, another question of order having been raised and decided by the Chair.

Mr. HARRINGTON. I appeal from that decision.

Mr. DAWES. I move to lay the appeal on the table.

Mr. HARRINGTON. On that motion I demand the yeas and nays.

Mr. HOLMAN. I move that the House do now adjourn.

Mr. HARRINGTON. I demand the yeas and nays on that motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 7, nays 84; as follows:

YEAS—Messrs. Eden, Eldridge, Finck, Kalbfleisch, Knapp, Law, and Schenck—7.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Ashley, Baily, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boyd, Broomall, James S. Brown, Cobb, Coffroth, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Dawson, Donnelly, Driggs, Edgerton, Eliot, English, Farnsworth, Frank, Ganson, Gooch, Higby, Holman, Hooper, John H. Hubbard, Hulburd, Ingersoll, Francis W. Kellogg, Orlando Kellogg, Kernan, Lazear, Loan, Longyear, Marcy, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Morrison, Amos Myers, Leonard Myers, Noble, Charles O'Neill, Otis, Pomeroy, Price, Radford, William H. Randall, John H. Rice, Edward H. Rollins, Ross, Scofield, Sloan, Spaulding, Stiles, Strouse, Sweet, Thayer, Tracy, Upson, Ward, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Joseph W. White, Williams, Wilder, Wilson, Windom, and Woodbridge—84.

So the House refused to adjourn.

Mr. HOLMAN. If it be in order I will withdraw the point of order submitted by me, and I hope some reasonable limit will be agreed on for this debate. It seems to me the time of the House is too valuable at this period to be spent in this way.

Mr. HARRINGTON. I must object to my colleague withdrawing his point of order.

The SPEAKER. No action having been taken on the appeal, the gentleman has the right to withdraw his question of order.

Mr. HOLMAN. I will withdraw it.

Mr. DAWES. Now, understanding that the sitting member desires to address the House for a short time, I will withdraw my motion to lay on the table.

Mr. WASHBURN, of Illinois. I rise to a question of order. It was the understanding that the gentleman from Missouri [Mr. KING] was not to claim the floor while the motion to lay on the table was pending. If that motion did not prevail he was to have the floor; but if it did prevail he did not want the floor, for then he would have his seat.

Mr. DAWES. The gentleman from Missouri made such a statement, but he now asks the indulgence of the House for a few remarks, and under that appeal I have withdrawn my motion.

Mr. WASHBURN, of Illinois. Then I hope the motion will not be renewed, but that the House will vote on the question of which of these gentlemen is entitled to the seat.

Mr. SWEAT. I desire to make a suggestion to the House. I think the contestant will be satisfied to have the rest of his speech printed. If in order, I move that the privilege be extended to him.

Mr. DAWES. I hope that privilege will be granted.

The SPEAKER. Is there any objection to allowing the contestant to print the remainder of his remarks?

There was no objection.

Mr. LE BLOND. Under the rules established in contested-election cases, is not the contestant entitled to the closing speech if the sitting member makes his speech?

The SPEAKER. There is no standing rule on the subject. There have been two election cases in which that rule was adopted by unanimous consent; but in the absence of unanimous consent the gentleman must be confined to the hour rule. The contestant has spoken his hour, and therefore he is not entitled to the close.

Mr. HOLMAN. That was the rule in the Barrett and Blair case.

The SPEAKER. That was done by unanimous consent on the suggestion of Mr. Phelps, of Missouri. It was also done twice during this session. In this case no such arrangement was made, and it is therefore governed by the rule of

the House, which is that a member cannot speak longer than an hour, and cannot speak twice on the same subject while any other member desires to speak.

Mr. SWEAT. I ask unanimous consent of the House that the contestant be allowed half an hour to reply.

Mr. FARNSWORTH. I object.

Mr. DAWES. I think that in a case where the committee submits it without discussion, if the parties are permitted to speak one hour each, that is all that can be asked of the House.

Mr. KING. Mr. Speaker, if I had consulted my own feelings I am sure that, seeing what has transpired in the House I would have agreed that the contestant should have the time he asked to conclude his speech. And I state now that if the gentleman from Iowa [Mr. PRICE] will withdraw his objection I will yet give way, and give the contestant an opportunity to do so. I have no objection, though it may be unfair to me, that he shall print a speech which I have not heard delivered, and which, therefore, I cannot reply to. I now ask the gentleman from Iowa if he is still disposed to stick to his position.

Mr. PRICE. Mr. Speaker, once for all I will say that my sole object in objecting to the contestant concluding his speech was to save time. I have been sick at heart with the manner in which the time of the House has been squandered. I knew when I made my objection that I would be misunderstood, and that it would be attributed to wrong motives. I am only sorry that I did not commence objecting at the beginning of the session to any extension of time, for a man who cannot tell his story in an hour cannot tell it at all. [Laughter.] That is my opinion. I do not withdraw the objection.

Mr. WASHBURN, of Illinois. I approve the gentleman's determination, and hope he will interfere in every such case that arises.

Mr. KING. Mr. Speaker, this case is very different from any that has been presented to the House. It is a personal attack upon me. If it was only to be heard by the people of my district, I would not condescend to reply to any remark which the contestant has made. He commenced his canvass for Congress in June, and brought it down to November. I never met him, I never went to hear him, I never saw him, to counteract one single word that he ever uttered to the people of my district, although it was detraction and abuse of me from beginning to end. Why? Because I had lived among those people more than twenty-five years, and he had been there yet longer. I met him twice: once at his own county town, when I was there holding court. I came in contact with him then for the first time; and I met him two weeks after that at the Liberty court, where my duties called me. That was the second time I met him. These were the only times I ever met this contestant in the canvass. I knew what his course was. I have his circulars here in which he made the most outrageous misrepresentation of my true position that could possibly be concocted. But I paid no attention to them.

The burden of his charges was judicial and military tyranny. I have said, and I say now without fear of contradiction, that I have presided over that circuit for some fourteen years, and that never, until it escaped from the lips of this contestant, have I ever heard that I ever was charged with judicial corruption.

Now as to my military career. My heart has been in the defense of my country. I was against the rebels. I was against the rebellion. In the dark days of 1861 I said that it was necessary we should have troops. The rebels had possession of the whole country, my own county as well as others. I had a son in command of a regiment of what were called six months' men. It was found necessary to raise three years' men. He ascertained that he was unable to leave his men, he being in command of raw recruits. I volunteered my services to raise his regiment. I applied to General Schofield, not to be commissioned, not to be a division inspector, not to be an aid, but to help my son to raise his regiment and to put it into the field. I applied to General Schofield that when I had recruited a company I might muster them in and make an end of it. He said that he would arrange the matter; that he would get the Governor to appoint me an aid, with the rank and title of colonel of cavalry. He



said further, that when the Governor should appoint me an aid with the rank of colonel of cavalry, he would appoint me division inspector, and that under the law I would have the right to muster into the service of the United States. General Schofield went to Governor Gamble and obtained a commission for me. He then brought it to me and appointed me division inspector, with authority to recruit a regiment. Here I have it under his own authority, in his own handwriting. I received it in the month of December, during the winter of 1861-62, the coldest winter with perhaps the exception of last winter which we ever had in Missouri. The country was full of rebels, and I was admonished by my friends not to undertake to raise a regiment. They told me that I would be killed. I could not get a Union man to travel around with me to raise a regiment. I circulated a printed notice that I would be at certain places to receive recruits. I went through the different counties with a servant to guide my mules. By the 1st of March I had a regiment ready. They were not mustered in until April, because the Government was unable to furnish them clothing and outfits.

So far as my duties were concerned they were ended in March. I have never held any position since. True, I have not said to Governor Gamble to revoke my commission. He knew that since then I have not been aid to the Governor. I have had nothing to do with the military since that, but I am proud to know that the military—and I have yet to learn that they ever thought otherwise—looked upon me as their friend when I became a candidate for Congress. I am proud to know that I had their sympathy and support.

Now, I ask this House where the evidence is that the military interfered with the voting of any man in my district? There is none whatever. And I say further that there was no military order emanating from the commander of that district. General Curtis was in command, and he did not, so far as I have learned, interfere directly or indirectly with the elections in that State.

But what did our Governor do? At the instance of somebody, I know not who, he issued an order that men should be detailed at the various places of voting, not to see whether disloyal men voted, not to see that they did not vote, but to protect all legal voters, under the constitution and under the ordinance of Missouri, in voting just as they pleased. Although I did not ask for the order, I saw no objection to it; and I have never heard that on the day of election in my district any military man in any county or any precinct ever undertook to question the right of any man to vote. There was no military order fixing the qualification of voters. The ordinance of the convention of Missouri fixed the qualification of voters, and the judges of elections had the right to judge of those qualifications. What were those qualifications? The oath required to be taken by a voter was read before this House in the case of Loan and Bruce, and I will not trouble the House by reading it now. It prescribed the qualification of voters. Every voter had to take it, and there was no question as to whether a voter should take it or might vote without taking it, as every man, loyal or disloyal, had to take it. Under the ordinance of Missouri every man who came forward and took that oath was entitled to vote.

Now, it is said that I shaped my course so as to prevent men from voting. That is not true.

Well, this ordinance, as to the qualification of voters, says that any man who takes a false oath shall be subject to indictment for perjury; and further, that the judges of the court should give that ordinance in charge to the grand jury. Well, Mr. Speaker, I always tried to do my duty while a judge, and I simply said to the grand jury, "Here is the ordinance in reference to the oath to be taken by voters, and it is made my duty to bring it to your consideration; and therefore I give the ordinance in your charge." I was bound to do that. The judge is not obliged to present to the grand jury a great part of the criminal law, but I generally gave the whole criminal code in charge to the grand jury, for every offense criminal by our laws was indictable.

There was such a turmoil and strife in Missouri at that time that no man who was not there can imagine the state of excitement and the many wondrous opinions that men got up. The coun-

try was full of constitutional lawyers, some interpreting the law and constitution one way, and some another; and they were constantly asking me what is to be done with the man who takes this oath falsely and votes. I said upon the stump that if he takes the oath falsely he is liable to be indicted; but after all, said I, it is a matter of conscience with the voter; but if he takes it he is entitled to vote. It is a matter of conscience with him, and I do not see how you can indict a man who will take the oath in that way. I urged further that it was their duty to vote, and that I wished them to vote. This is what my witnesses prove that I said to the people. Am I to be held responsible for what Dick told Tom that I said, and Tom told Jim, and Jim told somebody else? Not one in ten of these men heard my speeches; one heard one portion, and another another portion, and there are several of them that are unworthy of credit; and if I had believed that the testimony taken by the contestant would be admitted here, their evidence could have been disproved.

Now, sir, let me relate to the House the manner in which this testimony of events at Russellville in my county was obtained. The depositions which I took show that they were taken on the 10th of March, 1862. The deposition which the contestant took in reference to what I said at Russellville was taken in the November following. When he was at Richmond cross-examining my witnesses, he took Colonel Black out and asked him if he was at Russellville on the day I spoke. "Yes," said the colonel, "I was there." "Did you hear Judge King speak?" "I did." "What was the purport of his speech in reference to the matter now under consideration?" "Governor King made no such declarations as you charge upon him; he did not threaten that anybody should be put on the disloyal list; Lieutenant Emery was not upon the stand with him, but after the candidates had done speaking he made a speech."

Now, Lieutenant Emery is a very clever young man, but afflicted with a good deal more zeal than discretion. He came down pretty heavily on Birch, and rebels generally, and he did talk something of what ought to be done with men that would vote for Birch. Colonel Black has stated that when Lieutenant Emery came down from the stand Governor King reprimanded him, took him to task, and told him that he regretted that he had heard such remarks fall from his lips. I did so, and told him that I wanted it understood that I was not responsible for such remarks, although he had been speaking very favorably of me. "Well," said this young lieutenant, "I do not ask you to be responsible; I am responsible for what I say myself." And everybody who knows the young man, knows that that is his temper, and perhaps his greatest fault is a little more zeal than discretion. Out in our country men talk as they please. We do not muzzle men; and if friends of mine say indiscreet things, am I to be held responsible? In our election discussions we generally go into what may be called committee of the whole, where every man has a right to speak, and if what a man says is not very interesting, he has hard work to get an audience. We have no previous question or hour rule there. I took the depositions of five witnesses, four of whom heard what I said at Russellville, and the contestant did not ask any one of them a single question in reference to what I did say. Why? Because he found that they would put me right. He waited until the next November, after I had left home to come on to Washington, to take the deposition of a fellow by the name of Cox, whom he suborned and took up into his own county to obtain his deposition. And who is this fellow Cox? I did not know who he was, but I have letters from responsible men in the township in which he lives who tell me that they can get fifty men to swear that what he states in his deposition is a lie, and that he is unworthy of credit anywhere. I can prove that by the best men in my county. I knew nothing about this deposition until the contestant inveigled it into the hands of the Speaker, and had it referred to the Committee of Elections.

But he took another deposition of a young man of the name of Ellis, a refugee, a man who raised the first secession company in my county, and who afterwards wrote a most treasonable letter to his brother-in-law in the southern army down in Mississippi, for which he was arrested; and if he had

not broken jail he would now have been serving his time in the penitentiary at Alton or somewhere else. He broke jail, and the last I heard of him he was in the gorge of the Rocky mountains. No notice was given to me of the intention to take the deposition of Ellis. I have a copy of the letter from him written to his brother-in-law, in which he says: "I saw Judge Birch last week, and told him his proper place to be a candidate was for the congress at Richmond, not at Washington." That is the only truth in the letter.

I now want to state to the House how these depositions were got before the Committee of Elections. The law says that after the canvassers have declared the result of an election, any person desiring to contest the election shall give notice to the person getting the certificate within thirty days after the canvassers have declared the result; and the person receiving the certificate shall have thirty days longer to put in his answer, and then each party has sixty days to take depositions. After that time expires no deposition shall be taken in the case except by resolution of the House of Representatives. The time expired for taking depositions on 10th March, 1862. But the contestant was in such a hurry that, ten days before the result was declared by the canvassers, he notified me that he would contest my seat. The notice was served on me on the 12th of December, and the canvassers did not declare the result till the 12th. The contestant gave me notice at the same time that he would take depositions; and the only batch of depositions I care a straw about were those which he took the identical day the canvassers declared the result, on the 12th of December, 1862. I paid no attention to the notice. It was not in accordance with the law. The depositions were not, as the law requires, immediately sealed up and sent to the Clerk of the House. The testimony of the man who took them, and who was not authorized under the law to take them—a notary public—is that, at the request of the contestant, he laid them away subject to the order of the contestant. He put them in his safe, instead of sealing them and sending them to the Clerk of the House of Representatives. They lay there till the next May, when Jo. Hart, with his marauding band, passed through the county, went to the court-house, and among other things removed these depositions and took them to the brush. Finding, as the testimony shows, that they were private papers, and, as I say, that they would be of more use to his friend Birch than they could possibly be to him, he sent them back to Birch. Birch carried them in his pocket without being sealed up till they were worn sleek. He went to the Missouri convention and made a speech in which he said, "Here are depositions which I have taken, and which I intend to use at Washington ultimately, but it will do no harm to use them here." He quoted them, and they were printed in his speech and circulated through the State. This contestant has had them in his possession since they were so returned to him.

The contestant took a number of other depositions, but not a single one of them ever found its way to the Clerk of the House of Representatives. How did he get them before the Committee of Elections? I learn that he had procured my colleague [Mr. ROLLINS] to offer them. He went to my colleague and said that he would be obliged if he would give notice that he would contest my seat. I told my colleague that if he would offer these depositions I intended to object to their going to the Committee of Elections. This contestant finding that out, went to the Speaker, and with all that bland palaver manner which he is so capable of, said, "Here are my depositions. Mr. ROLLINS is out of his seat; I would be glad if you would take them and lay them before the House, that they may go to the Committee of Elections." The Speaker, not knowing what they were, as a matter of course laid them before the House, and I, sitting in my seat, somewhat a novice in legislative affairs, made no objection. If I had known as much then as I do now, I would have risen in my place to a question of privilege and brought the matter right up. But they were referred in that way to the Committee of Elections, and when I named the matter to the Speaker, he said he knew nothing about it, and I have no idea he did. He said to me that it was a good point to make before the Committee of Elections. I did

not want the Speaker to tell me that, for I thought so and intended to make the point.

Well, as soon as I went before the Committee of Elections I filed the motion in a legal form to suppress these depositions. I will say I do not think the committee did precisely what they ought to have done with that motion. I have no desire to censure them, but I think they should have decided the motion for me or against me; I believe they ought to have decided for me; I am sure a majority of the committee would never have decided against me. They, in fact, only indirectly decided the question at all by referring the whole matter to the House with the statement that these depositions were not taken in accordance with law. Why, sir, there is not a justice of the peace in any township in any county in my district who would have hazarded his judicial reputation so far as to allow them to be read before him in any matter in controversy. If I had any indication that the committee would allow these depositions to be read in evidence against me, I would have asked permission to have taken depositions to counteract them, for it would be very easy to do it. But the committee did not so decide as to make it necessary for me to do it. Not knowing, however, whether I was to be assailed by legal or illegal testimony, I took the precaution to take the affidavits of several gentlemen, and I will read some of them simply to show the positions I took in that canvass.

"David P. Whitmer, of lawful age, being duly sworn according to law, deposes and the following answers makes to the interrogatories propounded by Joseph E. Black, agent of the aforesaid Austin A. King, contestee:

"Question 1. State whether you live in the sixth congressional district of the State of Missouri, and in the county of the residence of Austin A. King, contestee as aforesaid, and whether you heard the speeches of said King during the last canvass for Congress in said congressional district, during which Austin A. King, James H. Birch, and others were candidates to represent said district in the Thirty-Eighth Congress.

"Answer. I reside in Richmond, in Ray county, Missouri, in the sixth congressional district in said State, and heard part of the speeches of said King, (who lives in the same county that I do,) made by him in the canvass above alluded to. I heard him in Richmond, in Carrollton, Kingston, Plattsburgh, and Liberty, but cannot say that I heard his entire speech at either place.

"Question 2. Have you read the charges preferred by James H. Birch, contestant as aforesaid, against Austin A. King, denying that the said King was legally elected to represent the sixth congressional district in the Thirty-Eighth Congress of the United States, and denying that the election was fairly and legally conducted, for reasons set forth in said charges?

"Answer. I have read what purports to be a copy of all charges, in the handwriting of said King, and which said Birch, now present, admits to be sufficiently accurate for all the purposes of this examination.

"Question 3. Did you hear the speeches of said Austin A. King in said canvass? If so, state whether there was anything in them justifying the charge of judicial or military terrorism; and if so, what.

"Answer. In the parts of the speeches of said King in said canvass, as I have above stated, I heard nothing, as I thought, justifying the charge of military or judicial terrorism.

"Question 4. State if you are an attorney in the judicial circuit in which said King presides as judge, and if you heard the charges of the said King to the grand jury in reference to and in connection with the troubles of the country; and if so, whether or not they were such as became an impartial judge, and such as gave general satisfaction to the people.

"Answer. I am an attorney at law, and was appointed circuit attorney within and for the fifth judicial circuit in this State about the time that the said King was appointed judge within and for the same, and I heard the charge of the said King at each court held since said appointment, with the exception of the court held at Kingston last spring, and I thought that said charges, as by him given to the grand jury in each case were such as became an impartial judge, and I heard nothing to the contrary but that said charges gave general satisfaction to the people, so far as I can now recollect. I know I have heard men of different parties commending said charges.

"Question 5. State what the said King said in his speeches to the people, while candidate for Congress as aforesaid, as to the duty of men entitled to vote, under the ordinance of the Missouri State convention, and their privilege to do so.

"Answer. I heard him say that it was not only their privilege to vote, but that it was their duty to do so, as it would be a step in the right direction.

"Question 6. What did said King say in his speeches in reference to his frequently being asked if disloyal men could vote, and what did he say was his reply, and what did he say about men being forced upon the disloyal list?

"Answer. I have heard him say frequently that he had stated, and advised persons, that men who were regarded as disloyal had a right to vote; and if my recollection now serves me right, I heard him make such statements in his public speeches in said canvass, and I heard him frequently say that men were often placed on the disloyal list against their will, and for which they were not responsible. But as to men whose names were placed on the disloyal list at their own request, I think he stated, substantially, that he did not see how a man could consistently take the conven-

tion oath and vote, who, by his own voluntary act, had placed himself upon the record as disloyal, but that it was a matter of conscience with them.

"Question 7. State whether the tenor of the speeches of the said James H. Birch were not calculated to obtain the favor of southern sympathizers, and to secure their votes, and did they not vote for him.

"Answer. I understood the speeches of Judge Birch, which I heard him deliver in said canvass, to be of such a character as to encourage men of southern sympathy to vote for him, and I can state that they were generally for him, and voted for him, so far as my observation extended, and I think they generally voted in my county.

"Question 8. Did you not consider, then, from the character of said Birch's speeches, that he wished, by the sentiments contained in his speeches, to curry favor with the southern sympathizers?

"Answer. I thought, from the tenor of his speeches, that he was soliciting the votes and influence of men of that class.

"Question 9. Did you not hear many southern sympathizers say the reason they did not vote for James H. Birch was because they had no confidence in him, although they were pleased with his doctrines?

"Answer. I can state that I heard such talk, but that I cannot now state who it was that made such statements.

"George W. Dunn, of lawful age, being duly sworn according to law, deposes and the following answers makes to the interrogatories propounded by Joseph E. Black, agent for the aforesaid Austin A. King, contestee:

"Question 1. State whether you live in the sixth congressional district of Missouri and in the county of the residence of Austin A. King, contestee aforesaid, and whether you heard the speeches of said King during the last canvass for Congress in said congressional district, during which Austin A. King, James H. Birch, and others were candidates to represent said district in the Thirty-Eighth Congress.

"Answer. I live in the sixth congressional district of the State of Missouri, in the county of Ray, being the same county in which Austin A. King, contestee, resides, and I heard a part of the speeches made by said King in the last canvass for Congress, in which he and James H. Birch and others were candidates. I heard all of his speech in Richmond, and parts of his speeches in Kingston, Plattsburgh, and Liberty.

"Question 2. Have you read the charges preferred by James H. Birch, contestant as aforesaid, against Austin A. King, denying that the said King was legally elected to represent the sixth congressional district of the State of Missouri in the Thirty-Eighth Congress of the United States, and denying that the election was fairly and legally conducted, for reasons set forth in said charges?

"Answer. I have read what purports to be a copy of charges of the said James H. Birch, (the same being now before me,) in the handwriting of said King, and which said Birch, who is now present, admits to be substantially a copy of the charges.

"Question 3. Did you hear the speeches of said Austin A. King in said canvass? If so, state whether there was anything in them justifying the charge of judicial or military terrorism; and if so, what.

"Answer. I have heard the speech of said King in Richmond in full, and parts of his speeches in Kingston, Plattsburgh and Liberty, (as already stated,) and I heard nothing from him that in my judgment justified the charges of judicial or military terrorism. If he had resorted to either I would not have voted for him.

"Question 4. State if you are an attorney in the judicial circuit in which said King presides as judge, and if you heard the charges of the said King to the grand jury in reference to and in connection with the troubles of the country; and if so, whether or not they were such as became an impartial judge, and such as gave general satisfaction to the people.

"Answer. I am an attorney-at-law, engaged in the practice of law in the circuit courts of the fifth judicial circuit, being the circuit in which the said King presides as judge, and I heard the charge of the said King as judge to the grand jury in Ray county in full, and I heard parts of his charges to grand juries in some other counties, and what he said in said charges in reference to the troubles of the country, so far as I heard said charges, was, in my opinion, such as became an impartial judge, and I have heard the charges commended by Union men and men of southern sympathies. I listened attentively to the entire charge in Ray county, and heard nothing in it that I deemed improper. His references to the troubles of the country were such as I expected from an able and upright judge.

"Question 5. State what said King said in his speeches to the people while candidate for Congress, as to the duty of men entitled to vote under the ordinance of the Missouri State convention, and their privileges to do so.

"Answer. There is considerable difficulty in stating, so long after the speeches were made, what he said. The substance of what he said in his speeches to the people in reference to the right of the people to vote under the ordinances of the State convention, requiring an oath of the voters testing their loyalty and their duty to do so, was, that it was the right of every citizen of the State, possessing the necessary qualifications of age and residence, who could take the oath prescribed by the convention, to take the oath and vote, and that he regarded it as their duty to do so, and said it was a step in the right direction.

"Question 6. What did said King say in his speeches in reference to his frequently being asked if disloyal men could vote, and what did he say was his reply; and what did he say about men being forced upon the disloyal list?

"Answer. Said King in his said speeches said that he had frequently been asked whether disloyal men could vote, and he said that his reply was that he could not see how a man who had voluntarily enrolled himself on the disloyal list could take the oath prescribed by the convention and vote, but that it was a question for the conscience of the voter. He said that where a man had been placed upon the disloyal list by the enrolling officer against the protestations of the man who was being enrolled, this act of the enrolling officer ought not to deprive the man of his right to vote.

He said he did not think that an enrolling officer ought to force a man upon the disloyal list against his will, but that men ought to be encouraged in returning to their allegiance. He pointed out the inconsistency of a man voluntarily placing himself on the record as a disloyal man, and then taking the convention oath, which presupposed that he was at the time of taking it a loyal man; and said that the ordinance of the convention visited upon the party taking the oath falsely the penalties of perjury, but he (King) left it to his (the voter's) conscience.

"Question 7. State whether the tenor of the speeches of the said James H. Birch was not calculated to obtain the favor of southern sympathizers and to secure their votes, and did they not vote for him.

"Answer. The tenor of the speeches of the said James H. Birch was calculated to win the favor of the southern sympathizers and obtain their votes, (they were better pleased with his speeches than the speeches of either of the other candidates,) and most of the votes that he obtained in this county were of those called southern sympathizers. Some of them, however, voted for King, and some for Samuel."

That is what I said. Here was the order that loyal and disloyal men should enroll. Every man had a right to choose his position. And when a man said "Put me on the disloyal list," it was a declaration, in fact, that he was against the Government. It put him in a position to be suspected, but, nevertheless, if he saw fit to take the convention oath, I never said he ought not to be allowed to vote. I did say that I did not see how a man who declared himself disloyal to his Government could conscientiously vote, but that whether he would vote or not was a matter for his own conscience to decide. I say so now.

I read again from the testimony of the same witness:

"Question 8. Did you not consider, then, from the character of said Birch's speeches that he wished, by the sentiments contained in his speeches, to curry favor with the southern sympathizers?

"Answer. I thought he regarded his positions as being more acceptable to men of southern sympathies than the positions of either of the other candidates, and that he relied mainly upon men of that class for his election.

"Question 9. Did you not hear many southern sympathizers say the reason they did not vote for James H. Birch was because they had no confidence in him, although the sentiments of his speeches pleased them well?

"Answer. I think I have heard persons having southern sympathies, who praised his speeches, express a want of confidence in him, but I cannot now designate any one who did so."

It was, however, to a great extent, from that class of men that he obtained his votes. I do not mean to say that all the southern men voted for him. Many did not vote for him, not because they were afraid to do so, but because, as they expressed themselves to me, they had no confidence politically in him.

Now, sir, I desire to read one more affidavit.

"James W. Black, of lawful age, being duly sworn according to law, deposes and the following answers makes to the interrogatories propounded by Joseph E. Black, agent of Austin A. King, contestee:

"Question 1. State whether you live in the sixth congressional district of the State of Missouri, and in the county of the residence of Austin A. King, contestee aforesaid, and whether you heard the speeches of said King during the last canvass for Congress in said congressional district, during which Austin A. King, James H. Birch, and others were candidates to represent said district in the Thirty-Eighth Congress.

"Answer. I live in the sixth congressional district in the State of Missouri, in the county of Ray, being the same county in which Austin A. King, contestee, resides. I heard some of the speeches made by said King in the last canvass for Congress, in which he and James H. Birch and others were candidates. I heard his speeches in Richmond, his speech at Lexington, and part of a speech at Russellville, Ray county.

"Question 2. Have you read the charges preferred by James H. Birch, contestant as aforesaid, against Austin A. King, denying that the said King was legally elected to represent the sixth congressional district of the State of Missouri in the Thirty-Eighth Congress of the United States, and denying that the election was fairly and legally conducted for reasons set forth in said charges?

"Answer. I have read what purports to be a copy of the charges of the said James H. Birch (the same being now before me) in the handwriting of said King, and which said Birch admits to be substantially a copy of the charges.

"Question 3. Did you hear the speeches of Austin A. King in said canvass? If so, state if there was anything in them justifying the charge of judicial or military terrorism; and if so, what.

"Answer. I heard the speeches of said King at Richmond, one at Lexington, and part of one at Russellville, Ray county. I did not hear anything introduced into those speeches that, in my judgment, would justify the charges of judicial or military terrorism.

"Question 4. State if you are an attorney in the judicial circuit in which said King resides as judge, and if you heard the charges of said King to the grand jury in reference to and in connection with the troubles of the country; and if so, whether or not they were such as became an impartial judge, and such as gave general satisfaction.

"Answer. I am an attorney-at-law, engaged in the practice of law at Richmond, Missouri, it being in the judicial circuit in which said King presides as judge. I heard the charge of said King, as judge, to the grand jury in Ray

county, at the March term, A. D. 1863, and I heard nothing in this charge but what became an impartial judge. The impression it made upon the people, as far as I can learn, was a very favorable one. His reference to the troubles of the country was, in my estimation, such as should come from one clothed with the majesty of the law.

"Question 5. State what said King said in his speeches to the people, while candidate for Congress, as to the duty of men entitled to vote under the ordinance of the Missouri State convention, and their privilege to do so.

"Answer. So far as I can recollect, after the lapse of so much time since I heard the remarks of said King in reference to the right of the people to vote under the ordinance of the State convention, requiring an oath of the voters testing their loyalty and their duty to do so, was in substance as follows: that it was the right of every citizen of the State, (that was duly qualified in respect to age and residence,) who would take the oath prescribed by the convention, to take the oath and vote; and he regarded it as incumbent upon him to do so, and expressed himself to the effect that it was a step in the proper direction.

"Question 6. What did said King say in his speeches in reference to his being frequently asked if disloyal men could vote; and what did he say was his reply; and what did he say about men being forced upon the disloyal list?

"Answer. Said King in speeches that I heard took this position in reference to disloyal persons voting: that he could not see how a man who had voluntarily enrolled himself in the disloyal list could take the oath prescribed by the State convention; but if he came forward after voluntarily enrolling himself disloyal and voted, it was a matter that rested with his own conscience. In relation to men being forced upon the disloyal list, the impression left upon my mind from the speeches of said King, and from conversations I had with him when acting as enrolling officer, was that no man should be placed upon the disloyal list unless he placed himself there voluntarily. As I understood said King's views in this matter, men were to be encouraged in returning to their allegiance.

"Question 7. State whether the tenor of the speeches of the said James H. Birch were not calculated to obtain the favor of southern sympathizers, and to secure their votes; and did they not vote for him?

"Answer. The tenor of the speeches of the said James H. Birch was, in my judgment, of such a character as to conciliate the favor of the southern sympathizers, and induce them to vote for him. His speeches were more favorably received by them than the speeches of either of the other candidates. The most of the votes received in Ray county by the said James H. Birch were from southern sympathizers. Some of them, however, voted for King, and some for Samuel.

"Question 8. Did you not consider, from the character of said Birch's speeches, that he wished, by the sentiments contained in his speeches, to curry favor with the southern sympathizers?

"Answer. It was my opinion, on hearing said Birch's speeches, that he considered the views he took on the political questions of the day as more in accordance with the views of the southern sympathizers than the views of the other candidates, and that he appeared to rely, in a great measure, on this class of voters to secure his election.

"Question 9. Did you not hear many southern sympathizers say the reason they did not vote for James H. Birch was because they had no confidence in him, although the sentiments of his speeches pleased them well?

"Answer. I have heard some southern sympathizers say that they liked the speeches of said James H. Birch, but that they put no confidence in him. I could not at the present time point out who those persons were.

"Question 10. State what military position you hold.

"Answer. I hold the position of lieutenant colonel in the fifty-first regiment enrolled Missouri militia, and am at present in command of the military post at Richmond, Missouri.

"Question 11. Please state, if the only manner in which said King has been engaged in the military line was last winter in recruiting a regiment for the United States service under his son, Colonel Walter King, and if that regiment did not go to the southwest part of the State last spring, and has not been in this district since, and if said King did not, by his efforts, put the regiment in the field when it was thought no one else would be able to do it.

"Answer. The only manner in which I have known said King to be engaged in the military line was last winter in recruiting a regiment for the United States service under his son Colonel Walter King. This regiment went to the southwest part of the State last spring, and has not returned to this district since. It was the impression through this county that said King put this regiment into the field by his persevering efforts when no one else would have been able to have effected it."

Right here I want to say, in reference to the remark of the contestant that I changed my position in order to get into his party, that it is the last thing I should do. God forbid that I should ever seek to get into any party in which he is recognized. During his political career for the last thirty years he has belonged to every party known in Missouri, and he never belonged to one but to betray it. What party he belongs to now God only knows, for I cannot trace him at all. If I knew where he thought his interest was, I could tell. He split from the party to which I belonged in 1849, and went off with a band of men whose leaders have become traitors, and who then sought to break down and destroy the only great man Missouri ever had, Colonel Benton. But he was a man that Colonel Benton would not deign to meet in the canvass, though repeatedly invited to do so.

The contestant has been a standing candidate in my State for Congress now for more than thirty

years! He has sought this position in the ranks of every party, and on every side of every question. He now ought to be content. He has achieved the privilege of making a speech in this Hall, and this has been the *summum bonum* of his ambition, which ought now to be gratified. He has strutted his brief hour on the stage here; he has loomed up, like the frog in the fable, to his largest proportions in the American Congress; and, although he has made a speech which would disgrace any other living man, he need have no fear that his reputation will be damaged by that or any other act which he may perform. It is a fixed fact. He has never gone through with a canvass without the man he was opposing refusing to speak to him or to allow him to speak to him. Why? There were no moral restraints upon his conduct during a canvass. He set out first to be a candidate for Governor. The convention said that the election should come on in August. He took it into his head to be Governor. He went to Price's army at Springfield. He was there on Christmas day. He saw General Price, Governor Jackson, and all the leading rebels of Missouri. What they talked over I do not know, but I have heard him say that he was given the privileges of the camp, and, by special invitation, dined with General Price, and helped him demolish a gobbler that day for dinner, and while the champagne was being indulged in, that this contestant was invited to go back and put himself upon the southern "chute." If they had elected him Governor we would have been in a worse fix than we were with Claiborne F. Jackson. I know both men, and I would take Jackson before the contestant. He announced himself as a candidate for Governor, and set out to make the canvass, making addresses all over the State. It was all the loyal men could do to prevent his being arrested. Finally he got down to the Springfield district. He there made a speech and was arrested for his treasonable speech and sent to St. Louis. After some time he was discharged by the provost marshal, but I do not know how.

As I have said he was a candidate for Governor. In June the convention met, and they concluded that it was best not to have the election for Governor before next November. There was no chance left for him then but to become a candidate for Congress. He at once issued a circular which I have here. I will not show the position he gave me, but it is false in every particular. He said that the St. Louis Democrat was saying that he ought to be arrested; that the St. Louis Union was "down on him," and so on. When I came to inquire into it I found that all the loyal papers of Missouri were doing the very thing of which he complains here to-day. Am I to blame for what was caused by his own misconduct? He was arrested because he was producing a spirit of insubordination.

But to pass on. This contestant throughout the canvass for Congress made several speeches; but, as I have already said in the opening of my remarks, I only met him at two places. I made a speech at Plattsburgh in which I said nothing calculated to arouse him. My constituents know that I did not shun him because I dreaded him. He got up in Plattsburgh after I spoke, and assailed me in such a way that I confess I made up my mind, as near as I could, "to skin him alive" at the Clay court. And I did it. I think I drew him to the life, and after I was through I told the people I had not to go abroad to prove the truth of what I said. I appealed to the old citizens of Clay county for the truth of what I said, and I was answered that I could prove it. I had denounced him as a traitor. He tried to make the people believe that I, although a slaveholder, was willing to sacrifice all their interests in reference to slave property, and was really an abolitionist. That was no new thing to me, because when they attacked Colonel Benton they classed me with the abolitionists. When I denounced the invasion of Kansas I was called an abolitionist. When I denounced the repeal of the Missouri compromise as injurious to our interest, I was again ranked with the abolitionists. And the contestant attacks me in a circular, because in some heated moment, when the question was asked, "What will you do with the negroes; will you give them up, or resist the Government when they attempt to take them from us?" I said "If to give up my negroes will restore the Government

to peace and harmony, I will not only give up all the negroes I have, and all my other possessions, yea, but I will, at my advanced age of life, start the world anew, if to do so will restore harmony and peace to my country." That is what I said then, and that is the way I feel to-day. For that the contestant charged me with being an abolitionist. I was willing to bear all that.

I have a letter here showing that the contestant made a speech last October, a month before he came on here, in which he said:

"I hold out the olive-branch to this rebellion; if the rebels will take it, with all their rights to their negroes and everything else, then it will be right; but if they refuse to accept this, then I am for letting them go in peace. And I will never vote a man or a dollar of money to carry on this war as long as that proclamation of the President stands in the way."

Jeff. Davis wants no better offer than this.

I said I regretted that the proclamation was issued, and denied the authority of the President to issue it. I said it was not worth the paper it was written on only so far as it could be enforced by the Army and Navy of the United States. That is my opinion to-day. I believe the President could accomplish all he desired by his Army and Navy. I maintained before the people the right of our Army when it goes into the South to lay their hands upon everything they can seize, and to take away from the rebels everything which would strengthen us and weaken them. I quoted to sustain me the law of nations upon the subject. I contended that the rights of non-combatants should be respected. There were thousands and thousands of non-combatants in the South, and the President's proclamation did them injustice. But that proclamation I could not control, and I declared then, as I declare to-day, that although an attempt is made to enforce it, I would not therefore turn traitor to my country, but would get along with it the best I could.

With reference to the laws that had been or might be passed, I said that though they might be inexpedient or unconstitutional, yet until they are declared unconstitutional or are repealed by Congress they are the laws of the land to me, and I never publicly or privately uttered a sentiment against a submission to or support of any laws passed by Congress in reference to this rebellion. Many of them I found objectionable; but I said if they were of such vital importance in their nature I would endeavor to amend them here; and if unconstitutional, that those who had a right to make a case should do so and bring it before the Supreme Court of the United States; and that if the Supreme Court should declare them unconstitutional they would then cease to be the law of the land to me; if constitutional, I would feel myself bound by them. That was the position I took then, and that is the position I take now. No gentleman upon either side of the House will object to that. The decisions of that tribunal I am willing to stand by.

I have no opinions to change in reference to this rebellion. I have no terms to make with rebels with arms in their hands, and who are trying to shoot down me and mine. But when they cease their rebellion and come in and seek the benefit of the amnesty proclamation I cannot find it in my heart to want to scalp or murder or assassinate them. I will watch them when they lay down their arms, and no man who has been a prominent leader in getting up this rebellion will ever receive my vote for any office whatever, because we might get into a position where he might deceive me a second time. I desire peace, but I know of no way of getting it except by breaking the armed power of that military tyranny which has borne down and oppressed the South.

I am a southern man. Not a drop of blood courses through my veins that is not thoroughly southern. The remains of my father and mother, my brothers and sisters lie mouldering in southern soil. My relatives are all there, and I must be allowed to have some feeling for the South, but I scorn their treason, and detest and hate the traitors. I am for carrying on this war vigorously. Let the traitors lay down their arms and acknowledge the supremacy of the Constitution if they desire peace, and when they do that I will be ready to talk about terms, but not until they do it, for they are the aggressors.

I knew that General Doniphan heard several of my speeches during the canvass, and I wrote to him and propounded certain questions to him, tell-



ing him that it might become necessary for me to take his deposition. He tells me that he heard me speak at Plattsburgh on the question who was entitled to vote and who was not, and that he has read the depositions. I read from his letter. He says:

"I have placed your questions together, so that my answer may be brief and free from repetition. I heard your speech mainly at Plattsburgh on the day indicated. When I entered the court-room I was informed you had been speaking about fifteen minutes. I heard all your speech after I came, and also Judge Birch's. When I had been listening to you about twenty-five or thirty minutes you commenced answering some questions you said had been propounded to you touching the right of voting under the late ordinances of the State convention. I understood you first to assert that it was the duty and privilege of all legal voters to vote at the approaching election; that it would be a recognition of the provisional government and of the success of civil government in the State for a full vote to be cast. My recollection is that you then divided the citizens into three classes: 1. That all men who then were and had been engaged actively in the rebellion to overthrow the Government had the right to dangle at the end of a rope. 2. That those who in the enrollment of the militia (that was just terminating) had voluntarily enrolled on the disloyal list would have to take the convention oath of loyalty, and the ordinance made it perjury to take it falsely; but that as all men had a right to change, that you left it with the conscience of each to judge and act for himself, but such voting would have a very bad appearance. 3. That all voters who had enrolled on the loyal list, and all those who had been forced to enroll on the disloyal against their expressed wishes at the time, had the right to vote, and it would be the most effectual means of showing their loyalty by taking the oath and voting; that a military commander had no right or power to force any man on the disloyal list against his wishes, and that it was against the policy of the Government.

"I was at the courts of Ray, Clay, and Clinton at every term while you were judge. I never saw anythingavoring of unfairness or improper conduct. Your charges to the grand juries, several of which I heard, I thought eminently patriotic and applicable to our then distracted condition. I never heard or saw anythingavoring of terrorism, or using your official position to advance your political purposes. I have read the evidence of several gentlemen taken by Judge Birch, and regret that our recollections of the tenor of your speech should so far differ, for I know these gentlemen are as incapable of bearing false testimony as myself; but on the other hand it affords me real pleasure that my old and valued friend, Judge Dunn, (whose judgment and memory are seldom at fault), recollects your speeches substantially as I do.

"This is but a synopsis of your positions; of course in a short and hasty letter no more could be expected."

Sir, he might well say that, for he has lived in my circuit ever since I was made a judge in the spring of 1837, and I held the office until I was made Governor, and have lately held it for two years since that time. The whole country was in an uproar. The Governor of the State sent me a commission asking me to try and put our courts into operation. I wrote to the Governor that I did not want the position, as I intended to be a candidate for Congress. When the people of the circuit ascertained that I was about to abandon the office, I was importuned by members of the bar and by the people of the circuit to hold on to it on the ground that having been judge so long, I could do more to bring order out of chaos than any other man in the circuit. Under these circumstances I continued to hold the office. In the brief which this contestant has published he states that he had offered his services to the Governor for any position from that of county judge up to that of judge of the supreme court; but the Governor gave him no position; and why? Because he knew him too well.

I submit the case to the House, and leave it to be disposed of by the House as it may deem right.

#### ENROLLED BILLS.

Mr. POMEROY, from the Committee on Enrolled Bills, reported as truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 120) to reestablish the principal port of entry for the district of Champlain at Plattsburgh, and for other purposes;

Joint resolution (H. R. No. 51) relative to the claim and letters patent of William Wheeler Hubbard;

An act (H. R. No. 474) to amend an act relative to the public printing; and

An act to repeal the first section of a joint resolution relative to the transfer of persons in the military service to the naval service.

#### DAKOTA CONTESTED ELECTION.

Mr. SCOTFIELD, from the Committee of Elections, made a minority report in the contested-election case of Todd and Jayne; which was laid on the table, and ordered to be printed.

#### MISSOURI CONTESTED ELECTION—AGAIN.

The House resumed the consideration of the contested-election case from the sixth congressional district of Missouri.

Mr. DAWES. I now move to lay the whole matter on the table.

Mr. FARNSWORTH. I ask the gentleman from Massachusetts to withdraw that motion that I may offer a resolution as an amendment to the report.

Mr. DAWES. I cannot, inasmuch as I make this motion under instructions from the committee.

The question was taken on Mr. DAWES's motion, and it was rejected; there being, on a division—ayes 45, noes 50.

Mr. FARNSWORTH. I now offer the following resolution:

Resolved, That neither Austin A. King nor James A. Birch is entitled to a seat in this House as a Representative in the Thirty-Eighth Congress from the sixth congressional district of Missouri.

Mr. UPSON. I move that the resolution be laid upon the table, and upon that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 52, nays 56; as follows:

YEAS—Messrs. Allison, Baile, Brooks, Broomall, James S. Brown, Coffroth, Cole, Dawes, Donnelly, Eckley, Eliot, English, Frank, Ganson, Gooch, Grinnell, Griswold, Hale, John H. Hubbard, Hulbard, Kalbfleisch, Kernan, Longyear, Marcy, Marvin, Moorhead, Morrill, Daniel Morris, James R. Morris, Nelson, Noble, Odell, Charles O'Neill, Pike, Pomeroy, Radford, James S. Rollins, Schenck, Shannon, John B. Steele, William G. Steele, Thayer, Upson, Wadsworth, William B. Washburn, Webster, Whaley, Wheeler, Wilson, Windom, Woodbridge, and Yeaman—52.

NAYS—Messrs. James C. Allen, Alley, Ames, Ancona, Anderson, Arnold, John D. Baldwin, Beaman, Blow, Boyd, Ambrose W. Clark, Cobb, Thomas T. Davis, Denison, Driggs, Eden, Edgerton, Eldridge, Farnsworth, Finck, Harding, Harrington, Charles M. Harris, Holman, Asahel W. Hubbard, Ingersoll, Jenckes, Philip Johnson, Kelley, Francis W. Kellogg, Orlando Kellogg, Knapp, Le Blond, Loun, Long, Morrison, Amos Myers, Leonard Myers, Orth, Patterson, Pendleton, Price, William H. Randall, John H. Rice, Edward H. Rollins, Ross, Scofield, Stiles, Tracy, Elihu B. Washburne, Chilton A. White, Joseph W. White, Williams, Wilder, and Fernando Wood—36.

So the House refused to lay the resolution on the table.

Mr. FARNSWORTH moved the previous question on the adoption of the resolution.

Mr. KING. I hope the gentleman from Illinois will allow me to offer a resolution.

Mr. FARNSWORTH. I decline to yield; the gentleman has had his hour.

Mr. MORRIS, of Ohio. Mr. Speaker, is a motion to recommit in order?

The SPEAKER. It is not, under the demand for the previous question.

Mr. JOHNSON, of Pennsylvania. I move that the House do now adjourn.

Mr. FARNSWORTH. I will hear the resolution of the gentleman from Missouri.

The resolution was read, as follows:

Resolved, That the report of the Committee of Elections in the contested case of Birch against King, from the sixth congressional district of Missouri, be recommitted, with instructions that the committee dispose of and decide the motion filed by the contestant King to suppress certain depositions taken by contestant Birch; and in deciding said motion the committee are instructed to exclude depositions not taken in pursuance of the law regulating testimony in contested-election cases.

Mr. FARNSWORTH. I decline to withdraw the previous question for that purpose.

Mr. JOHNSON, of Pennsylvania. Then I insist upon the motion to adjourn.

The question was taken; and the House refused to adjourn.

The previous question was seconded, and the main question ordered, which was first on agreeing to the resolution offered by Mr. FARNSWORTH.

Mr. ELDRIDGE. I move that the House do now adjourn.

The motion was not agreed to.

The question being on the adoption of the substitute, on division, there were—ayes 38, noes 58.

Mr. FARNSWORTH demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 39, nays 72; as follows:

YEAS—Messrs. James C. Allen, Ames, Ancona, Anderson, Baxter, Blow, Boyd, Cole, Thomas T. Davis, Dawson, Denison, Driggs, Eden, Edgerton, Eldridge, Farnsworth, Garfield, Harrington, Charles M. Harris, Holman, Jenckes, Philip Johnson, Kalbfleisch, Orlando Kel-

logg, Knapp, Le Blond, Long, Morrison, Pendleton, William H. Randall, Edward H. Rollins, Ross, Stiles, Elihu B. Washburne, Chilton A. White, Joseph W. White, Williams, and Fernando Wood—39.

NAYS—Messrs. Alley, Allison, Arnold, Baile, Augustus C. Baldwin, John D. Baldwin, Beaman, Blaine, Brooks, Broomall, James S. Brown, Ambrose W. Clark, Coffroth, Dawes, Donnelly, Eckley, Eliot, English, Finck, Frank, Ganson, Gooch, Grider, Grinnell, Griswold, Hale, Harding, Asahel W. Hubbard, John H. Hubbard, Hulbard, Ingersoll, Kelley, Francis W. Kellogg, Kernan, Littlejohn, Longyear, Marcy, Marvin, Moorhead, Morrill, Daniel Morris, James R. Morris, Amos Myers, Leonard Myers, Nelson, Noble, Odell, Charles O'Neill, Perham, Pike, Pomeroy, Price, Radford, John H. Rice, James S. Rollins, Scofield, Shannon, John B. Steele, William G. Steele, Thayer, Tracy, Upson, Van Valkenburgh, William B. Washburne, Webster, Whaley, Wheeler, Wilson, Windom, Winfield, Woodbridge, and Yeaman—72.

So the substitute was rejected.

The question then recurring on the motion to discharge the committee from the further consideration of the subject, it was put and decided in the affirmative.

Mr. DAWES moved to reconsider the vote by which the committee was discharged from the further consideration of the subject; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. WILSON. I move that the House take a recess until half past seven o'clock.

Mr. WASHBURN, of Illinois. I should like to know whether the gentleman proposes that there shall be any business transacted to-night.

Mr. WILSON. I propose that the session shall be held under the rules of the House.

#### BLAIR VS. KNOX.

Mr. DAWES. I desire to give notice that to-morrow, immediately after the reading of the Journal, I will call up the contested-election case of Blair and Knox.

Mr. STILES moved that the House adjourn.

Mr. ALLEY demanded the yeas and nays on the motion.

The yeas and nays were not ordered.

The motion was agreed to.

And thereupon (at five o'clock) the House adjourned.

#### IN SENATE.

THURSDAY, June 2, 1864.

Prayer by the Chaplain, Rev. Dr. BOWMAN.

The Secretary proceeded to read the Journal of yesterday.

Mr. CONNESS. I move to dispense with the further reading of the Journal.

The PRESIDENT *pro tempore*. It will require the unanimous consent of the Senate. The Chair hears no objection.

#### PETITIONS AND MEMORIALS.

Mr. WILSON presented three petitions of men and women of the United States, praying for the abolition of slavery, and for such an amendment of the Constitution as will forever prohibit its existence in any portion of the Union; which were referred to the select committee on slavery and freedmen.

Mr. SUMNER presented twenty-three petitions of men and women of the United States, praying for the abolition of slavery, and for such an amendment of the Constitution as will forever prohibit its existence in any portion of the Union; which were referred to the select committee on slavery and freedmen.

#### REPORTS FROM COMMITTEES.

Mr. TEN EYCK, from the Committee on Commerce, to whom was referred a bill (H. R. No. 450) to provide for the repair and preservation of certain public works of the United States, reported it with amendments.

He also, from the same committee, to whom was referred the petition of John Fridgeon, of Detroit, Michigan, praying that an American enrollment may be granted to the Canadian-built propeller Michigan, reported adversely thereon.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred a bill (H. R. No. 397) to regulate commerce among the several States, reported it without amendment.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom was referred a bill (H. R. No. 195) for the relief of Margaret L. Stevens, widow of General Isaac L. Stevens, reported it without amendment, and adversely.

## BILLS INTRODUCED.

Mr. WILKINSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 295) making additional grant of lands to the State of Minnesota, in alternate sections, to aid in the construction of a railroad in said State; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 296) in relation to the fees and emoluments of the marshal, attorney, and clerk of the supreme court of the District of Columbia, and for other purposes; which was read twice by its title, and referred to the Committee on the Judiciary.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 297) making a grant of land to the Territories of Dakota and Montana, in alternate sections, to aid in the construction of a railroad in said Territories; which was read twice by its title, and referred to the Committee on Public Lands.

## FORT PILLOW MASSACRE.

Mr. FOSTER submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Pensions be instructed to inquire whether any further legislation is necessary to provide suitable relief for the widows and children of the colored soldiers in the service of the United States who were lately massacred at Fort Pillow; and that said committee have leave to report by bill or otherwise.

## RECIPROCITY TREATY.

Mr. McDOUGALL submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Foreign Relations be instructed to inquire and report what legislative action, if any, is necessary in regard to the reciprocity treaty with Great Britain; and whether it be desirable, if the treaty continue in force, that the Pacific coast should be included in its operation; and that, in view of the foregoing, the committee be instructed to report to the Senate upon the commercial results of the treaty thus far.

## NATIONAL CURRENCY BILL.

Mr. ANTHONY submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That three thousand additional copies of the act to provide a national currency be printed for the use of the Senate.

## BILLS BECOME LAWS.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that the President of the United States had yesterday approved and signed the following acts and joint resolution:

An act (S. No. 65) to provide for the payment of the claims of Peruvian citizens, under the convention between the United States and Peru of the 12th of January, 1863;

An act (S. No. 248) in relation to franked matter; and

A joint resolution (S. No. 57) to amend the charter of the city of Washington.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 395) to provide a national currency, secured by a pledge of United States bonds, and for the circulation and redemption thereof.

## COLLEGE RANCHO.

Mr. CONNESS. I move to postpone all prior orders and take up House bill No. 179, concerning lands in the State of California, which was referred to the Committee on Public Lands and reported to them favorably. It is a bill that will excite no debate.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The patent of the United States was issued on the 28th of February, 1861, to Joseph S. Alemany, as the bishop of Monterey, and his successors, for the tract of land or rancho known as Cañada de los Pinos, or College Rancho, situated in the county of Santa Barbara, California, "to have and to hold" the same to him and them "in trust for the religious purposes and uses" therein mentioned. The bill proposes to allow

Joseph S. Alemany and his successors, as the grantees of the patent, to lease, mortgage, or sell the rancho or any part thereof, and to apply the proceeds under the direction of the Roman Catholic archbishop of San Francisco, and his successors in office, or other proper authority of the Roman Catholic church in the State of California, for the purposes of education anywhere within that State, anything in the patent or in the original grant or concession of the rancho, or other title whereby the same was acquired from and under the authorities of Spain or Mexico, to the contrary notwithstanding; and all trusts, conditions, provisions, or covenants, precedent or subsequent, expressed or implied in the patent, grant, concession, or title to the contrary, and all breaches of the same, are by the bill waived, abrogated, discharged, dispensed with and released on the part of the United States, for the purposes of the act; and any conveyance or disposition made in pursuance of it is to operate to pass the estate or interest conveyed or disposed of free and discharged from all such trusts, conditions, provisions, or covenants.

Mr. CONNESS. I wish to say in explanation of this bill that it is a House bill which proposes to authorize the Catholic archbishop of California to sell a certain ranch or estate located in the county of Santa Barbara in that State, which was confirmed by the courts of the United States and a patent issued to him as an officer of that church, as the patent described "in trust for the religious purposes and uses" of that religious body. This bill proposes to authorize the archbishop and the ecclesiastical authority he represents to sell this property and to apply the moneys derived from the sale to the general purposes of education among their people in the State. As the grant was made with this condition it is deemed by them necessary to obtain this additional authority from Congress. That is all that the bill contains. There is no question in regard to it. I hope it will be passed without any more consumption of time.

Mr. DOOLITTLE. Has this bill been before the Committee on Public Lands and been reported by that committee?

Mr. CONNESS. It is a House bill which has been reported favorably by the Committee on Public Lands of the Senate.

Mr. TRUMBULL. I observe that the last three or four lines of this bill are in these words:

And any conveyance or disposition made in pursuance thereof shall operate to pass the estate or interest conveyed or disposed of free and discharged from all such trusts, conditions, provisions, or covenants.

I do not like such provisions in acts of Congress. I know nothing about this case. My attention has just been called to it. If the bill simply proposes to surrender all interest the United States has got I have no objection to it; the United States do not want to claim anything about it; but to undertake to determine what may be the effect of this surrender on third parties, if there are any third parties, I think is a dangerous species of legislation.

Mr. CONNESS. I explained it when up before. This land comprises what is known as one of the old missions of California.

Mr. TRUMBULL. How much land is it?

Mr. CONNESS. That is not stated in this bill. I suppose it is several leagues. It is a Mexican grant comprising one of the California missions. When up before I stated that in the decree of confirmation by our courts the confirmation was made in trust for the religious purposes and uses of that Christian denomination. It was by reason of their religious organization that they were in possession of a title from the Government of Mexico to that land, and we, as we agreed to do, confirmed their title. They now ask for additional authority to dispense with that condition, so that they may apply the proceeds of the sale of those lands for the purposes of general education among their people; and, as a matter of course, it is provided in the lines read by the Senator that the title that they shall give under that sale shall be free from the restriction imposed in the act of confirmation. That is all there is in it.

Mr. McDOUGALL. I suppose there is nothing in this bill except simply giving the *jus disponendi* fully where the party holds an eleemosynary trust, giving him the right to control it for the purpose of disposition or sale. He might pos-

sibly by applying to a court of equity get the same authority; but as the title is held by a patent under the United States, it is necessary for the United States to clothe him with the *jus disponendi*. There can be no possible objection to it.

Mr. TRUMBULL. I do not think the Senator from California understood the suggestion that I made. I have no objection to this bill; I do not wish to be considered as opposing it if it is satisfactory to the Senators from California; but the suggestion that I made was that this grant is a Mexican grant, as I understand, confirmed by our courts; and, according to the terms of the grant as confirmed by the courts, it is coupled with certain conditions. That I understand from the bill.

Mr. CONNESS. In trust for the religious purposes and uses of that church.

Mr. TRUMBULL. It is a grant by the Mexican Government coupled with certain conditions and confirmed by the courts, if I understand the character of it. That being so, is it competent for the Government of the United States to change those conditions? If the bill simply provided that the Government of the United States released any title it might have, there could be no objection to it. If the Senator from California is satisfied that it is proper for the Government to release them from the conditions imposed in the grant by Mexico as confirmed by the court, I have nothing to say about it. That is the only suggestion I have to make in regard to it.

Mr. McDOUGALL. The title in the archbishop of San Francisco is derived from the United States; it is held under our patent, and our patent defines the trust; and the reason for asking the legislation of Congress is to conform to that old maxim that governs the law, *Cujus est dare ejus est disponere*: he who makes the grant may direct and control it to a certain extent; that is, we can release these parties from the conditions that restrain them.

Mr. TRUMBULL. So far as we are concerned; but does not the bill go further than that?

Mr. McDOUGALL. I do not see any possible objection to it.

Mr. TRUMBULL. The last clause of it provides:

And any conveyance or disposition made in pursuance thereof shall operate to pass the estate or interest conveyed or disposed of free and discharged from all such trusts, conditions, provisions, or covenants.

If it added, "so far as the United States are concerned," there could be no objection to it.

Mr. CONNESS. The United States could not discharge them from any other trust. There is no question as to the title of this land. The United States has parted with its title. It has patented the land to this religious body. They simply ask for a modification of the confirmation of their title, so that the proceeds of the land may be diverted in part from religious uses and purposes to educational uses and purposes. What objection can there be to that? It seems most extraordinary that there should be any objection; but it is our misfortune that no question can be presented here from our State that is not impeded by objections of this character.

Mr. HARLAN. My recollection of the character of this claim, I perceive, is erroneous from the statement made by the Senator from California, [Mr. CONNESS.] It was examined, if I remember correctly, by the Senator from Oregon, a member of the Committee on Public Lands, not now in his seat, [Mr. HARDING;] and, if my memory is correct, he represented it as being a small church property in the country worth but a few hundred dollars, and that the proprietors desired to sell it and to invest the money in other property somewhere else. The committee saw no objection to authorize them to sell their property and reinvest the money somewhere else; but the Senator from California says that it includes several leagues of land.

Mr. CONNESS. I presume it does. I do not say that it is so.

Mr. McDOUGALL. I think not. I believe it is a small mission tract that is left there.

Mr. CONNESS. It may be a very small estate.

Mr. McDOUGALL. I believe it only includes the orchard and mission house.

Mr. CONNESS. But I cannot perceive how that enters into the question at all. The property is theirs, and it is simply for us to say whether

we will modify the condition that was coupled with the confirmation of their title, and allow them to use it for educational purposes instead of religious purposes. That is all there is of it. It is not a question that we have much to say about on the modification of that condition. It is no matter about the extent of the estate; we have confirmed it to them; it is their property "for religious purposes." They ask us to modify that condition so that they may use it for the purposes of common education among their people.

Mr. HARLAN. I think it would be well enough to let it go over. I should like to look into it.

Mr. CONNESS. I object to that.

Mr. HARLAN. I move that the further consideration of the bill be postponed until to-morrow.

Mr. CONNESS. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. McDUGALL. I trust the bill will not be postponed. I do not see that anybody except the California delegation is interested in this matter.

Mr. HARLAN. I wish to say this merely: this bill was referred by the Senate to the Committee on Public Lands, and to some extent I suppose the Committee on Public Lands is answerable for the character of information to be presented to the Senate to inform its judgment in order that it may arrive at a correct conclusion. As the chairman of that committee, I now state to the Senate that I am not satisfied that the committee was well informed as to the facts in the case, and I ask that the bill may go over until we may obtain the necessary information. If the Senate choose to act on it in advance of that information, of course I have no personal objection.

Mr. McDUGALL. I think my colleague was not well advised in regard to these mission lands. Under the act of 1824 nearly all the lands that had been held by the missions were granted by colonization grants to different proprietors, they reserving generally simply the garden, the church buildings, their orchard and vineyard. I think that in this case there is but a small amount of property, consisting of the mission buildings, a vineyard, and an orchard, in a part of the country where property is of very little value. Of course it has some value, and can be converted so as to be used for the purpose designed. I think there can be no objection to the bill, and I should like to see it passed at once.

Mr. HARLAN. The Senator from California states the case as the committee understood it at the time, that it was a small property in the country that ceased to be of practical utility for the purposes indicated in the deed of conveyance to them, and that they desired to dispose of that property that it might pass into the hands of private individuals and they be permitted to reinvest the proceeds for educational purposes elsewhere. It was in that belief of the facts connected with the case that the committee made the report. But the Senator from California [Mr. CONNESS] suggests that this probably will affect a large property, including several leagues of land. That was not the understanding of the committee, and hence their report was made on a false basis, and I desire to be informed now before the Senate is called on to vote on this bill as to the state of facts connected with the case. I am not opposed to the bill if the facts are as I understood them at the time the committee reported it, and I expect to vote in favor of the bill; but I wish to be informed first. As it was originally referred to the committee I suppose for the purpose of making the necessary investigations and laying the facts before the Senate, in order that the Senate might act understandingly upon an examination of the case, and give an enlightened opinion in their votes, I desire that it may go over for a day in order that we may get that information. If, however, the Senate are of a different opinion, I of course have no personal objection.

Mr. CONNESS. I regret very much the course taken by the honorable Senator from Iowa in regard to this question. Admit now, for the sake of the argument, that it does apply—I did not say that it did; I said that perhaps it did apply—to a larger amount of land than the Senator understood it to apply to: this bill simply provides that the condition that our courts appended to the confirmation, namely, that it should be held in trust by

the archbishop of that church "for religious uses and purposes," shall now be modified by us so that it may be used for common educational purposes. Now, what is there in the suggestion of the Senator? I regret very much to oppose any request that the Senator makes as a Senator, much less as the honorable chairman of one of the committees of the Senate; but the Senator must see very clearly that it is almost impossible to get up a California measure here. The time and attention of the Senate are occupied with important business. I have struggled day after day to get up a measure of importance here, and when I do succeed in getting it up I find gentlemen, Senators from other States, understanding the question so much better than we do, that we cannot get action upon it, and it goes over. We ask for very little legislation for the State of California, very little indeed, and I think a spirit of wider generosity might be exercised toward us than we meet with here. I think it is properly and legitimately a matter of complaint that it is not so.

Mr. McDUGALL. I will suggest to the Senator from California that there is now in this city a gentleman who has charge of those mission grounds, who can satisfy the chairman of the Committee on Public Lands at any moment in regard to this bill, and it might be as well to let it go over now until to-morrow, as I do not think there will be any opposition to it then.

Mr. CONNESS. I will let it go over, and move to take up Senate bill No. 109.

Mr. COWAN. I should like to inquire if the title to this mission is complete?

Mr. CONNESS. It is complete.

Mr. COWAN. Has it been confirmed?

Mr. CONNESS. It has been confirmed.

Mr. COWAN. Then I should like to know whether this application ought not to be made to the Legislature of California?

Mr. CONNESS. The Legislature of California have nothing to do with it.

Several Senators. That subject is disposed of. The PRESIDENT *pro tempore*. The Chair will suggest that it has not passed from the consideration of the Senate, but by unanimous consent it can be laid over.

Mr. COWAN. I think I had the floor upon it.

Mr. CONNESS. I believe the Senator from Pennsylvania took the floor from me.

Mr. COWAN. I want to understand this bill. If the honorable Senator from California expects us to vote adversely upon it, he had better allow us to understand it.

Mr. CONNESS. I was about to withdraw it. I am much obliged to the Senator from Pennsylvania and will give way; but I wish, with the consent of the Senate, although I see so many Senators on the floor, to call up another California bill. I have tried for several days to obtain the floor to call it up, and if the Senate will consent to the withdrawal of this measure, I move to take up Senate bill No. 109.

The PRESIDENT *pro tempore*. By unanimous consent the bill may be postponed until to-morrow.

Mr. TRUMBULL. I object to its withdrawal until I can say a word. The motion to postpone it, I believe, is pending.

The PRESIDENT *pro tempore*. That is the pending motion.

Mr. TRUMBULL. That motion cannot be disposed of, I take it, until the Senate agrees to have it disposed of. It is not in the power of the Senator from California.

The PRESIDENT *pro tempore*. The Chair was stating that it might be postponed by unanimous consent.

Mr. TRUMBULL. Unanimous consent has not been given.

The PRESIDENT *pro tempore*. The Chair will ascertain whether unanimous consent is given to its postponement.

Mr. TRUMBULL. I object to it.

Mr. President, in the very few suggestions that I made in regard to this bill I did so more to call the attention of the Senators from California to it than anything else. I have no objection certainly to the bill. I supposed that they would be desirous to have the bill in proper form, and more so than anybody else; and in looking into the bill it occurred to me it was possible that it might involve some difficulty, and therefore I made the suggestion, not from any hostility to the bill or

any disposition to interfere with California matters. It was in that spirit, and that spirit alone, that I called attention to it.

But it seems that the Senator from California [Mr. CONNESS] is not willing to permit members in this body to make suggestions in regard to a bill, and we are to be lectured in regard to our course here and as to what course we shall pursue, and the intimation is thrown out that somebody opposes a measure because it is a California measure. The Senator has neither warrant nor authority for making such insinuations. He may regard them as becoming. It may be consistent with his sense of public duty when measures are before the Senate, to suppose that members of the body are to be controlled by such considerations. I am sure they will have no influence upon me. I think the people of California, if they should ever look to the proceedings of Congress and at the action of an individual so humble as myself in regard to measures affecting that State, will have no reason to suppose that I was ever actuated by hostility to their interests. I think there is no reason for the imputation that Congress entertains any such feelings.

My objection to the bill going over was simply to reply to these remarks and insinuations of the honorable Senator from California. He will learn, if he has not already learned, at least so far as my course is concerned, that he will never accomplish his ends any quicker by attempting to cast imputations upon me for the course which I feel it my public duty to pursue in this body.

Mr. CARLILE. I move that the Senate now proceed to the consideration of Senate bill No. 238. It is the bill to which I alluded on Monday morning last.

The PRESIDENT *pro tempore*. The Chair understands the Senator from Illinois as withdrawing his objection to the postponement of the bill before the Senate.

Mr. TRUMBULL. Yes, sir; I have no objection now to its postponement.

The PRESIDENT *pro tempore*. Is there any objection?

Mr. CONNESS. Before that is done I wish to say to the honorable Senator from Illinois—

The PRESIDENT *pro tempore*. The question is on the postponement of the bill.

Mr. CONNESS. I know that. It is my right to reply to the honorable Senator, I believe, in a few words.

The PRESIDENT *pro tempore*. The Senator from California will pardon the Chair for stating to the Senate what is the question before the Senate, without interruption from the Senator from California.

Mr. CONNESS. The Senator from California understands that very well.

Mr. President, the language of the honorable Senator from Illinois applied to me comes nearer to a lecture than any I have delivered here. I think I was entirely warranted in saying that whenever a California measure comes up it does meet with objection. The Senator has no right to presume that I object to a full examination of every measure that is proposed here from California; but I submit that the objections taken this morning to this bill are of the character that I have described. We are near the end of the session; it is important to these parties to pass this bill and obtain the modification that I have mentioned of the conditions that are coupled with the confirmation of their title; the Senator from Illinois objects, and states in the same breath that he has no objection to the passage of the bill. Then why not let it pass? If there be objections to it, why not state them? I will inform the honorable Senator from Illinois that notwithstanding the curt lecture I have received from him this morning I shall regulate my conduct and my language here under my own sense of propriety and not with regard to the estimate that may be placed upon it at any time by the honorable gentleman. If it is the wish of the Senate that this measure shall go over now I have no objection.

Mr. HALE. Has it gone over?

The PRESIDENT *pro tempore*. It has not. The Chair will ascertain whether there is any further objection to the postponement of the bill. The Chair hears no objection, and it is postponed.

#### LAND TITLES IN CALIFORNIA.

Mr. HALE. I move that the Senate postpone



all prior orders, and proceed to the consideration of Senate joint resolution No. 50.

Mr. HARLAN. I have no objection to the postponement of prior orders, but I do think the bill referred to by the Senator from California ought to be taken up and acted upon. It is in relation to the perfection of the titles to property in the city of San Francisco, and also changing the mode of executing the surveys of private land claims in that State. It has been before the Senate I believe once or twice. The committee have labored on it for a long time, and have taken the advice of some of the best legal minds of California on the subject. It is a question of vast consequence to the people of the city of San Francisco at least, and of very considerable public consequence as the Committee on Public Lands think, and I think that that measure ought not to be postponed for the consideration of anything of less public interest. I do not know what the bill is that the Senator from New Hampshire desires to take up, but I do think the bill of which I have spoken ought to be taken up and acted upon at an early period.

Mr. CONNESS. If the honorable Senator from New Hampshire will allow me to take up that bill I shall be very much obliged to him.

Mr. HALE. The measure that I propose to take up is not a private matter; it does not relate to me or my constituents; it relates to a little concern in which the whole country is interested—the Navy of the United States. That has been supposed to be a matter of some consequence, and I have been trying for a month to get this joint resolution up. I have not the slightest objection to the Senator's bill.

Mr. CONNESS. If the Senator will permit it to be taken up now I shall not interfere with him again.

Mr. HALE. I gave way to the Senator the other day.

Mr. CONNESS. With the consent of the Senator from New Hampshire I will move to take up Senate bill No. 109. It is of the importance that the Senator from Iowa has described. I have tried for weeks to get action upon it. It has been lying on our table for over two months. It has been twice reported favorably from the Committee on Public Lands, and I ask to have it considered now, if the Senator from New Hampshire will consent. I will not throw myself in the Senator's way again.

Mr. HALE. I will consent; but perhaps I may call upon the Senator sometime to give me a certificate that I am not opposed to the Administration by yielding on this occasion. [Laughter.]

The PRESIDENT *pro tempore*. Does the Senator from New Hampshire withdraw his motion?

Mr. HALE. Yes, sir.

Mr. CONNESS. Then I move to take up Senate bill No. 109, to expedite the settlement of titles to lands in the State of California.

The motion was agreed to; and the Senate resumed the consideration of the bill, the pending question being on concurring in the amendment, in the nature of a substitute, made as in Committee of the Whole.

The amendment was concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### CONTRACTORS FOR DOUBLE-ENDERS.

Mr. HALE. I now move that the Senate proceed to the consideration of Senate joint resolution No. 50.

Mr. HENDRICKS. I hope that motion will not prevail. Yesterday there was pending a joint resolution for the relief of the State of Wisconsin; the discussion upon it proceeded for a considerable time; the morning hour expired while the Senator from Vermont [Mr. COLLAMER] was in the middle of his argument, and I think there is a propriety and right that that resolution should be completed before we take up a new matter in the morning hour. We can never complete any business satisfactorily if a debate is allowed to go on on one subject for a time and a speech is stopped in the middle, and then we abandon that and go on with other legislation for a week. We forget what has been said before, and the whole debate has to be gone over again. I now appeal to the Senator to let us finish the resolution that we had up yesterday. It has been discussed three or four times and it ought

to be finished; especially the Senator from Vermont ought to be allowed to finish his speech.

Mr. HALE. I can only say that every word the Senator says about that resolution is true of this resolution, only that this is older than that; its consideration was broken off by an interruption longer ago than the Wisconsin case. I must insist on my motion.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 50) for the relief of the contractors for the machinery of the side-wheel gunboats known as "double-enders."

Mr. GRIMES. I move to strike out all of the resolution after the word "that," where it first occurs, and to insert what I send to the Chair as a substitute:

All claims based upon or arising from the contracts of persons who contracted with the United States Government for the machinery and engines of the side-wheel gunboats commonly known as "double-enders" be, and the same are hereby, referred to the Court of Claims for examination and adjudication.

The resolution under consideration provides for the creation of a commission to be selected by the Secretary of the Navy to whom shall be referred the claims, or alleged claims, of certain persons who have constructed machinery for twenty-eight side-wheel gunboats commonly known in the Navy as "double-enders." It then proceeds to direct that after a report shall be made by these three commissioners and approved by the Secretary of the Navy, whatever amount shall thus be found, in the estimation of those commissioners, to be due, shall be paid out of the Treasury to these respective parties. What I propose is, instead of committing the investigation of this subject to three commissioners, who have no power to send for persons or papers, or to examine witnesses, and are in no way responsible to us, and who are not passed upon and approved by us in executive session, that the whole matter shall be referred to the Court of Claims who have the proper machinery for investigating a subject of this kind, and then when they report we shall have some tangible facts before us upon which to predicate our action instead of putting the whole Treasury of the United States into the keeping of three commissioners who may be appointed by the Secretary of the Navy.

I will say furthermore that I understand this is only the opening or entering wedge to further claims on the part of other contractors. This is to be followed by the contractors for the hulls of vessels, for the hulls and machinery of other classes of vessels; and if this shall be successful, as perhaps it may be, and I am not now going to say it ought not to be, we shall have the same rule applied not alone to the Navy but to the Army, and to every branch of the public service.

Mr. HALE. If the Senate had listened to the report of the committee which was read, which I hardly think they did—I do not believe it was heard by a single member—they would see the ground on which this claim rests.

I may be permitted to say at the outset that so far as I am concerned I am not acquainted with a single one of these gentlemen, except as they made themselves acquainted with me in prosecuting this matter before the Committee on Naval Affairs. When the subject was under consideration before, the Senator from Iowa asked if the committee had consulted with the Secretary of the Navy upon it. I replied that we had, and we had his answer, but I had it not in my desk at the time, and for that reason it was postponed.

The claim that these petitioners make is this: certain propositions for the construction of the machinery of these double-enders were issued by the Government; certain representations were made to them, and they accepted them verbally, and they went on and made large expenditures before the contracts were submitted to them in writing; I do not remember how many months; but at any rate they had gone so far on the verbal statement that it would have been ruinous to them to withdraw at the time the contracts were made. The contracts then were made, so far as the Department make any contracts; that is, they do not sign them themselves, but send them out to the party, and he signs them and returns them, and they are put on file. The contractors contend that when the contracts were sent to them they were entirely different in their character and requirements from what they understood when they

entered into the contracts. The Secretary of the Navy, in answer to the application made by the committee, looks very hard against these claimants. As I have the letter I will read it, and also call attention to another letter of his in relation to the allegation of the petitioners on the same subject. Here is the letter of the Secretary:

NAVY DEPARTMENT, April 27, 1864.

SIR: I have the honor to acknowledge the receipt of your letter of the 16th instant, inclosing the petitions of contractors for the machinery and hulls of the double-end gunboats, praying an additional allowance upon their contracts, and asking whether, in the opinion of the Department, these claims justify legislative action, and requesting me to communicate to the Senate Committee on Naval Affairs such facts and suggestions upon the subject of the memorials as may seem to me proper.

The contracts in question were made under a public advertisement fully expressing all the requirements; and all the offers under this advertisement will be found on page 789 of the documents accompanying the President's message of December, 1862. From that exhibit it will be seen that the Department accepted the offer made by responsible ship-builders who were well acquainted with such matters. Some of the offers were at most exorbitant rates; and the average price, to which the petitioners refer is no guide as to the value, it happening that the lowest bidders were parties of great experience and known reputation.

The contract for the hulls expressly stipulates that when the vessel is fully completed and ready for the machinery the final payment shall be made, reserving only as much as may be actually necessary to finish the vessel; and the contractors were released from all responsibility and charge of every kind after such delivery of the vessel. Notwithstanding the statement in their petition, they were not subject to any expense of insurance or for preservative repairs. The amount retained from them was \$5,000 only.

The hulls were all completed within the time specified in the contract and none of them were liable from delay. Whatever rise there may have been in materials or labor took place within the time contemplated by them for the execution of the work. All these parties voluntarily accepted the offer of the Department and applications were made for contracts on the same terms by other parties after the Department had agreed for all the vessels it wanted. The parties knew the vessels were to be completed in every respect for naval service, and their contract stated, as they say it does, that there were to be no extra bills on that account.

With regard to the steam machinery of these vessels, it is of a well-known type, and many of the petitioners had already constructed similar machinery for the Department. The specifications were so complete and the form of machinery so well known that it is believed the builders in this case, as they did in that just referred to, could without difficulty have made their own drawings. It is well understood that the estimate of cost is always made from the specifications. The advertisement was very full and the Department has exacted no more than what was expressed in it and the specifications. A considerable number of these engine contracts were taken after the work had been commenced by other parties.

The price and time offered by the Department were those of the lowest bid on the advertisement, by a large and experienced builder who is one of the petitioners. The terms were voluntarily accepted by the others and the time of completion has been greatly exceeded by all. It was fully understood by all these contractors that the Department wished the vessels at the very earliest day, and upon their agreement as to time the contracts for the hulls were made upon which their builders claim, on that account, to have suffered loss.

The Department makes and sanctions no contract with the understanding that its conditions are not to be complied with, and it always furnishes the fullest information as to the quantity and quality of its work, and the petitioners have on these points only expressed their own views and wishes.

These contracts were made with care and deliberation for the true interest of the Government, and only reasonable offers of experienced persons well known and competent to do such work were accepted. The Department has not increased the cost of this work by any action of its own, and if by any causes beyond its control these contractors have, as they state, suffered a loss, it is for Congress to exercise such liberality as in its wisdom it may see proper. This Department has no funds and has made no estimate to supply any such cost as this exercise of liberality will occasion, and it is unwilling to assume the position of encouraging additional expenditures after having taken all proper means to obtain the work on the best terms for the public interest.

I am, sir, very respectfully, &c.,

GIDEON WELLES,

Secretary of the Navy.

Hon. JOHN P. HALE, Chairman Committee on Naval Affairs, United States Senate.

When this letter was sent to the committee it was submitted to these contractors. The contractors alleged that they had written evidence from the Secretary himself that he had forgotten some of the particulars. I hold in my hand a letter from the Secretary of the Navy, or rather from B. F. Isherwood, chief of the Bureau of Engineering, dated September 12, 1862, and directed to one of the firm of Boardman, Holbrook & Co., of the Neptune Works, New York. Mr. Isherwood says:

NAVY DEPARTMENT,  
BUREAU OF STEAM ENGINEERING,  
September 12, 1862.

GENTLEMEN: Your letter of the 11th instant has been re-

ceived in regard to the time of completion of the machinery of the two paddle-wheel steamers.

The Department, being fully aware of the difficulties under which all contractors for this species of work now labor, authorizes me to inform you that it will not exact a vigorous compliance with the strict terms of your contracts in regard to time and forfeiture for delay; but in consideration of this liberality on its part will expect you to remit no effort and to use all possible means to complete the contracts in the least time practicable.

The contracts you refer to as having been returned unsigned have not been received. When they arrive they will be sent back to you.

I am, very respectfully, your obedient servant,  
B. F. ISHERWOOD,  
Chief of Bureau.  
Messrs. BOARDMAN, HOLBROOK & Co., Neptune Works,  
New York.

In that connection I do not know the fact, but I will give the statement of the petitioners, that when they received the contracts they sent them back, saying it was impossible for them to proceed, and thereupon they received this answer from the bureau, stating—

"The contracts you refer to as having been returned unsigned have not been received. When they arrive they will be sent back to you."

As they allege, upon this showing the contracts were entered into.

Mr. President, these gentlemen—I think there are eighteen of them—comprise the great majority of those who are engaged in manufactures of this kind; the Government must rely upon them; and it is for the Senate to say whether it is necessary to the public welfare or the public interest or the public honor to deal too harshly with these gentlemen. They contend, as is said by the Secretary in his letter, that many of them had entered upon the work and proceeded far in it before the contracts were furnished to them. What is the proposition contained in this joint resolution? It is not to give these men anything, it is not to open the Treasury to them, but it is to refer the matter to the very Department that knows all about it, for the provision of the resolution is:

That the Secretary of the Navy be, and he is hereby, authorized to appoint a board of competent persons to examine the claim of the contractors with the United States Government for the machinery of the side-wheel gunboats commonly known as "double-enders" for additional compensation for constructing the same, and to report to the Department what losses have been suffered by said contractors on their contracts, how far they are justly entitled to relief, and what, if any, additional allowances ought in equity to be made to them by the Government; and that upon the report of said board receiving the approval of the Secretary of the Navy, the Secretary of the Treasury be, and he is hereby, authorized to pay to said contractors, severally, the sums adjudged to be due them in equity by said board, out of any money in the Treasury not otherwise appropriated: *Provided*, That such additional compensation shall in no case exceed an amount which, compared with the price stipulated in the contract, shall be in due proportion to the excess in weight of the engines built over such as were contracted for, except for alterations in form or material made by express order of the Government.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) The morning hour having expired it becomes the duty of the Chair to call up the special order, which is the unfinished business of yesterday.

Mr. HALE. I will ask the chairman of the Committee on Finance—I have done my speech—if there is any objection to letting us take a vote on this resolution.

Mr. FESSENDEN. The Senator from Iowa will probably have something to say about it.

Mr. GRIMES. I have considerable to say on the subject. I am willing to say it now, though, if this resolution is to be proceeded with.

Mr. FESSENDEN. I think we had better go on with the regular order of business.

The PRESIDING OFFICER. The special order will be proceeded with, unless postponed by special vote, and is now before the Senate.

Mr. HALE. I move to postpone the special order for the purpose of considering this joint resolution. I think it is a matter that ought to be closed one way or the other.

Mr. CLARK. I will simply say that I hope that matter will not be permitted to supersede the tax bill. It is of great importance to dispose of it as early as possible. We are now losing money that the Government ought to have, and I am not aware that those parties are losing anything upon that bill.

The motion was not agreed to.

#### INTERNAL REVENUE.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 405) to provide internal revenue to support the

Government, to pay interest on the public debt, and for other purposes, the pending question being on the amendment of Mr. CHANDLER to strike out "twenty-five" and insert "twenty" in the seventh line of the amendment proposed by Mr. CLARK from the Committee on Finance, which was in section ninety-three to strike out from lines four hundred and forty-six to four hundred and fifty-two, inclusive, in the following words:

On tobacco, cavendish, plug, twist, and manufactured tobacco not otherwise provided for, of all descriptions, (not including snuff, cigars, fine-cut, smoking tobacco made exclusively of stems and not sweetened or otherwise prepared, nor shorts or other refuse separated from fine-cut tobacco in the process of manufacturing,) and on stemmed tobacco, thirty-five cents per pound.

And to insert in lieu thereof:

On cavendish, plug, twist, and all other kinds of manufactured tobacco not herein provided for, from which the stem has been taken in whole or in part, or which is sweetened, thirty-five cents per pound. On smoking tobacco, manufactured with all the stem in, the leaf not having been butted or stripped from the stem, and on refuse tobacco known as fine-cut shorts, twenty-five cents per pound.

Mr. CLARK. I simply desire to say a word or two more in regard to this matter. The Senator from Michigan proposes to strike out the tax of twenty-five cents upon the highest grade of smoking tobacco and to insert twenty, and he thinks that by that course we shall get more revenue. Now, I desire to state that when we lose revenue by imposing a rate of taxation, we always lose the revenue from the lowest grades. For instance, we impose a heavy tax upon whisky. That heavy tax upon whisky does not affect the finer kinds of whisky, nor does it affect the drinking of that kind of whisky by the people who pay large prices for their whisky; but I am told it does affect the lower grades of whisky; that the people who would ordinarily drink the cheap kind drink beer and other drinks instead. It is precisely so in regard to this article of smoking tobacco, in my judgment. We have divided it into two grades, the higher and the lower, one at twenty-five cents and the other at fifteen. If by the imposition of the tax there is any falling off in the use of tobacco, it will be in the lower grade. People will get the leaf and manufacture it into smoking tobacco and use it instead of paying the smaller tax; but the gentlemen who use the better kind of tobacco will not object to paying the tax, and therefore we should retain this tax upon the higher grade.

Mr. CHANDLER. The Senator still seems to be acting under the idea that there is a considerable amount of this high-priced tobacco which is cut. Since making my few observations last evening I have talked with several persons, and they tell me there is absolutely none of the high grade of tobacco cut. The difference in the cost of this article upon which you levy a tax of fifteen cents and the ordinary kind of tobacco which is cut for smoking purposes is only two cents a pound.

Now, sir, if a tax of half a dollar a pound would yield a larger revenue than a tax of fifteen cents or twenty cents, I would go for a tax of half a dollar; but this matter of cut tobacco for smoking purposes, as I said before, has no science in it.

Any man who smokes can buy his leaf of tobacco and cut it with a jack-knife and make just as good smoking tobacco as any cutter in the United States; and they will do it. People will raise in their gardens their little plots of tobacco, and your revenue will actually be depleted by putting on the high duty that you now propose. The misapprehension on the part of the Senator, in my judgment, is in regard to the fact that this high grade is cut at all.

In England and France, as is well known, they put an absolute prohibition upon the product of tobacco. They do not allow a tobacco seed to be planted in their country. In this country you find tobacco grown all over the country. In every State in the Union there is more or less tobacco grown; and each man will grow and cut his own tobacco if you put a prohibitory tariff upon it.

I honestly believe that fifteen cents per pound would yield a larger revenue on cut smoking tobacco to the Government than thirty-five cents. I believe it would yield three times as much as a tax of thirty-five cents. But, sir, on the suggestion of the Senator from Maryland [Mr. JOHNSON] I gave up the proposition of fifteen cents and

substituted twenty cents, and I hope that amendment will be adopted. I think it ought to be adopted. I believe it to be for the interest of the Treasury that it should be adopted.

Mr. CLARK. As the Senator from Michigan states that he has consulted with individuals since he moved his amendment, I desire to state that this matter was thoroughly examined by the Committee on Finance upon the best information we could get in regard to it. But after the amendment was moved by the Senator from Michigan last night I took especial pains to make inquiries of the best sources of information that were at my hand, and they were very good, and I learned entirely contrary to what the gentleman from Michigan learned: that the tax, instead of being lower, ought to be made higher if anything. I have seen gentlemen who have been in the tobacco business for twenty years, I have seen collectors from the city of New York who understand the tobacco business from the beginning to the end, and all the operations of these tobacco manufacturers and dealers to evade the tax, and I learn from them that this tax, instead of being lower, if moved at all, should be carried up. But I think the committee have placed it on the right grade, or perhaps as near right as they can make it. We cannot have a grade for every kind of tobacco. If a man will cut up a very good grade of tobacco for smoking tobacco, as is done, he should pay a higher tax. There are some grades, however, which are poor, which perhaps would not pay quite so high a tax as this; but upon the average, smoking tobacco will well bear the tax we have imposed upon it.

I desire to say further, that many leading men in the tobacco business in various parts of the country, in New York and Baltimore, understanding that this motion was made, and feeling that it would seriously affect the revenue, took the pains to send to me this morning to say that they had no part in it, for they did not desire the amendment made. I know the source from whence the gentleman gets his information. I have had the same access to it that he has. I have talked with those men, but their opinions failed to convince me, because they have been outweighed and counterbalanced by the opinions of other men. We cannot fix this tax to suit everybody. One man will want a tax of fifteen cents, another twenty, another thirty, perhaps. I have found men who, in adjusting this tobacco tax, have asked me to carry it as high as seventy-five cents a pound, and others to sixty cents. They were men, it would be ascertained very soon, who were in the interest of those who had a very large stock on hand, who wanted a very high tax in order to appreciate all the tobacco they had on hand. We have to take the information that we can get from all quarters, and act upon the whole information that we can get. I do not know how the Senate can be better informed, I mean in a body like this, than by following their committees. There are Senators, perhaps, who have a knowledge of the tobacco trade, and will think the committee are wrong in regard to it; but upon the best information the committee have, we believe the tax we have fixed upon to be the best on the whole.

Mr. POWELL. My impression is that the amendment of the Senator from Michigan ought to prevail. I have listened attentively to the argument of the Senators who advocate the taxing of this description of tobacco at twenty-five cents; but they have failed to convince me that it is right. They have failed to convince me that we would get more revenue by taxing it twenty-five cents than by taxing it twenty cents. I believe it would be beneficial to the revenue and to the tobacco interest to place this tax at twenty cents.

The Senator from New Hampshire tells us that this will be very fine smoking tobacco, and he tells us he has had a very large intercourse with persons engaged in this business. Sir, I have had some intercourse with persons engaged in this business, and they gave me information of a very different kind from that given to the Senator from New Hampshire. My impression is very distinct and very clear that the tobaccos which are used in the manufacture of this description of tobacco are not fine tobaccos. I will read the proposition of the Senator from New Hampshire:

On tobacco manufactured with all the stem in, the leaf not having been butted or stripped from the stem, and not sweetened, twenty-five cents per pound.

We all know that the stem is by far the most inferior part of the tobacco leaf; we know that it is worked up into the most inferior kind of tobacco in use; and I put it to the Senate if a man who is making an attempt to manufacture fine tobacco would mix a very fine grade of leaf with the stem? If he would, he would destroy all the good qualities that are in it. I am advised that it is the lower grades of tobacco—what we call the lugs—that are worked up with the stem in this form. I do not believe that any sensible operator in tobacco would work up fine leaf tobacco with the stem in it, because if he did he would destroy the quality of the fine leaf by mixing with it the large fiber, the stem, which is the most inferior quality of tobacco when used in any form, either as smoking or chewing tobacco.

I believe that the position of the Senator from Michigan is correct. I believe you will get greatly more revenue out of the tax of twenty cents than out of the tax of twenty-five cents. He is very correct also in another thing, that if you make the tax on this inferior kind of smoking tobacco very high, persons will use the raw leaf by rubbing it with their hands or cutting it with a jack-knife. I hope the amendment of the Senator from Michigan will prevail. It is not my purpose to take up the time of the Senate by any elaborate argument on the subject. I have given my views to the Senate very briefly.

Mr. CLARK. The Senator from Kentucky fell into an error perhaps inadvertently, and perhaps he used the expression inadvertently, "this inferior kind of smoking tobacco." Sir, this is the very best kind of smoking tobacco, the highest grade.

Mr. POWELL. If the Senator will allow me, I do not think that any tobacco that is manufactured with the stem in, the leaf not having been butted or stripped from the stem, is the finest kind of smoking tobacco. I believe, to make the finest kind of smoking tobacco, you must take out the large fiber; you must take the finest leaf and work that up into it. That is my opinion about it, and I do not think I am mistaken.

Mr. CLARK. I think I can assure the Senator, upon good information, that in the manufacture of this tobacco, in perhaps the very best kind that is made—that is the fine-cut chewing tobacco—they cut up the stem; and we found it necessary to make an amendment to impose a tax on fine-cut, whether used in the stem or not. Now here are two kinds of tobacco; one with the stem in, the leaf and the stem together. It may be of the best kind of tobacco that is manufactured, the very best, if a man chooses to make it, and on that we propose to put twenty-five cents a pound, which is very low. On the other, which is made exclusively of stems, using up the stems, only fifteen cents. A man who is very nice about it, or a man who has been accustomed to use good smoking tobacco, will not hesitate to pay the tax, whether it is twenty or twenty-five cents. The Government, therefore, may just as well have the twenty-five cents. But if he uses the poorer kind, which pays fifteen cents, he will perhaps use the leaf. We cannot prevent that. We cannot impose a tax on the leaf, in my judgment.

Mr. HENDERSON. My State is very largely interested in this subject, though I have no interest whatever personally in it. I never owned half a pound of tobacco in my life, purchased with a view to sale. I once used it as a chewer and a smoker, but with that exception I have never had anything to do with it. I know something about its manufacture, because large quantities of it are manufactured in my State, but I have no interest in it personally, and never expect to have.

I have looked over the amendments suggested by the Senator from New Hampshire, and, in my opinion, they are about as good as can be made on the subject as they now stand. The Senator from Kentucky falls into a very serious error in regard to the amendment that is now pending. He reads from the printed and not from the written amendment which is now pending. The amendment that is now before the Senate is this:

On smoking tobacco, manufactured with all the stem in, the leaf not having been butted or stripped from the stem, and on refuse tobacco, known as fine-cut shorts, twenty-five cents per pound.

The Senator from Kentucky is laboring under the impression that it is a tax on tobacco not sweetened. That is not so. There are two grades of smoking tobacco as now provided by the amend-

ment of the Senator from New Hampshire. As he very properly states, he intends to charge upon manufactured chewing tobacco of all grades thirty-five cents per pound. Then he designs to charge twenty-five cents per pound upon tobacco which is cut up and which may be used for smoking purposes. Then there is a third quality made exclusively of stems, for smoking purposes, upon which he proposes to charge fifteen cents per pound. As I stated yesterday, the very best quality of tobacco may be manufactured for smoking purposes; that is, the very finest quality of leaf may be cut up with the stems in it, and for smoking purposes, as I understand it, the stems do not injure it. I doubt very much whether fine-cut smoking tobacco ought to be placed below the grade of chewing tobacco. Therefore I think the amendment, as suggested by the Senator from New Hampshire, ought to be adopted.

Now, once for all, I desire to state this: I am very well aware that in my State the tax now proposed to be levied upon tobacco will be regarded as a very heavy and very burdensome tax by some persons; but I do not so regard it at present. In the present state of the currency of the country, with my desire to diminish the vast amount of that currency, I believe that a very heavy tax ought to be laid upon those articles that can bear it; and I am very well aware that tobacco is an article that can bear that tax. I would not propose any increase upon the rates suggested by the Senator from New Hampshire. I do not desire to suggest any increase of those rates, because I think they are large enough; I do not think they ought to be increased. The fact is, it will be regarded as a very heavy tax, as I have before stated, as it now stands. But, sir, it is necessary to lay the tax somewhere; it must fall upon something; and I think that the people of the West are so largely interested in the reduction of the volume of the currency that they can very well afford the tax proposed upon tobacco. While they lose in one respect, they will gain in another. I hope, therefore, that the amendment suggested by the Senator from New Hampshire will be adopted just as he has offered it.

Mr. CHANDLER. The Senator from Missouri and myself seem to be after the same object; but we arrive at different conclusions from the same premises. I will vote for the tax which will give the largest revenue. Satisfy me that a tax of twenty-five cents will yield more revenue than a tax of twenty cents, and I will vote for a tax of twenty-five cents. But the point is this: there is no necromancy about cutting smoking tobacco; it is the simplest process in the world. I can take an axe and a leaf of tobacco and make just as good smoking tobacco as any cutter in the United States can make. You put no duty upon the leaf. Any man can step into a grocery and buy one leaf, two, three, or a dozen, and cut them up with a jack-knife and he will have better smoking tobacco than if he bought the article that had paid twenty-five cents tax. You will utterly destroy your revenue from smoking tobacco and leave every man to purchase his leaf and cut it for himself. That is why I am in favor of reducing this tax. It is the tax that I am after, the largest revenue; therefore I say make the tax twenty cents a pound, because it will yield a larger revenue than a tax of twenty-five cents.

Besides, there is no reason why you should tax stems which cost say two or three cents a pound fifteen cents, and then tax the leaf which only costs four or five cents a pound twenty-five cents. The difference is too great; it will lead to fraud; it will diminish your revenue. I would prefer a tax of fifteen cents, as I first proposed yesterday, because it will yield a larger revenue; but, as I said before, at the suggestion of the Senator from Maryland, I gave up the smaller sum and adopted the larger one: I hope my amendment to the amendment will prevail. It ought to prevail as a financial measure.

Mr. HENDERSON. Let me ask the Senator if there is not some danger in this respect if his amendment be adopted, making such a very great difference between smoking and chewing tobacco. Under the amendment either may be sweetened and perfumed, and the leaf may be used also with the stem; will there not be danger that the finest article of tobacco will be cut up and marked smoking tobacco, and used by chewers all over the country as chewing tobacco? They may use it either for smoking or chewing. This fine-cut

is frequently used for smoking purposes. It is put up for chewing, but gentlemen purchase it and smoke it, which they may very well do. If this great difference be made, is there not danger of fraud on the revenue?

Mr. CHANDLER. I will answer the Senator, not the slightest in the world. Chewing tobacco is manufactured; it is prepared; foreign substances are mixed with it. Any man who ever chewed tobacco must understand that thoroughly. Smoking tobacco is simply ground up and made up tobacco.

Mr. HENDERSON. Sweetened and perfumed?

Mr. CHANDLER. Not at all. There is not a thing put in with it; it is simply cut tobacco; while chewing tobacco is mixed with licorice and divers and sundry other commodities, and manufactured into an article that some men are foolish enough to put in their mouths. There is no such danger whatever as the Senator apprehends.

Mr. HENDERSON. I have two reasons for supporting the amendment of the Senator from New Hampshire. The first is, representing as I do a large tobacco-growing State, I wish to prevent any frauds on the revenue; and the other is, that twenty-five cents per pound upon it now is not more than twelve and a half was when we first levied this tax two years ago; and I believe, as I said before, the object ought to be to reduce the volume of currency as rapidly as possible.

Mr. POWELL. I was laboring under a misapprehension that the printed amendment was now before the Senate. However, the amendment proposed in writing does not materially differ from that I read. The one as written, to which the Senator from Michigan proposes an amendment, is this:

On smoking tobacco, manufactured with all the stem in, the leaf not having been butted or stripped from the stem, and on refuse tobacco known as fine-cut shorts, twenty-five cents per pound.

My own impression is that the reasons I assigned against the printed amendment apply equally to this. I do not think with the Senator from Missouri that the thing is changed. It only inserts the word "smoking" before "tobacco," and strikes out the words "not sweetened," and introduces the words "on refuse known as fine-cut shorts." That is all the difference.

Mr. HENDERSON. It may be sweetened, and this may be a very fine article.

Mr. POWELL. It does not say it shall be sweetened.

Mr. HENDERSON. It may be.

Mr. POWELL. Yes; but I do not think there is any material difference between the two provisions, the one printed and the other written.

The question being taken by yeas and nays, resulted—yeas 16, nays 22; as follows:

YEAS—Messrs. Brown, Buckalew, Carlile, Chandler, Davis, Doolittle, Hale, Hicks, Howard, Johnson, Powell, Ramsey, Richardson, Sumner, Wade, and Wilkinson—16.

NAYS—Messrs. Anthony, Clark, Collamer, Conness, Fessenden, Foot, Foster, Grimes, Harlan, Harris, Henderson, Hendricks, Howe, Lane of Kansas, Morgan, Morrill, Pomeroy, Sherman, Ten Eyck, Trumbull, Van Winkle, and Wilson—22.

ABSENT—Messrs. Cowan, Dixon, Harding, Lane of Indiana, McDougal, Nesmith, Riddle, Saulsbury, Sprague, Wiley, and Wright—11.

So the amendment to the amendment was rejected.

The amendment was agreed to.

Mr. CLARK. I move further to amend the bill on page 145, line four hundred and fifty-three, by striking out the word "cut" after the word "on," and in lines four hundred and fifty-four, four hundred and fifty-five, and four hundred and fifty-six, by striking out the following words:

And not sweetened or otherwise prepared, and on shorts or other refuse separated from fine-cut tobacco in the process of manufacture.

And to insert:

And not mixed with leaf or leaf and stem.

So that the clause will read:

On smoking tobacco, made exclusively of stems, and not mixed with leaf, or leaf and stem, fifteen cents per pound.

Mr. HENDERSON. I suggest to the Senator to strike out the words "or leaf and stems." It would be sufficient to say "made exclusively of stems and not mixed with leaf," because it shows there is a distinction drawn between the leaf and stem.

Mr. CLARK. I want to use those words, because they may grind up the leaf and stems to-



gether and attempt to mix them unless we insert these words.

Mr. HENDERSON. That is included without them.

Mr. CLARK. I do not want them to mix any tobacco with these stems. This is smoking tobacco.

Mr. CHANDLER. I move to amend the amendment by inserting before the words "fifteen cents per pound" the words "and on shorts."

Mr. CLARK. Let me say to the Senator that we have just adopted an amendment including shorts under the twenty-five cent tax. Shorts are in the other grade.

Mr. CHANDLER. I think it is a mistake if shorts are in the other grade.

Mr. CLARK. They are there.

Mr. CHANDLER. Shorts certainly cannot stand more than fifteen cents. They are the refuse or sweepings of the floor. I am told that large manufacturers find it very difficult to get rid of the shorts at any price. I will move the amendment to insert the words "and on shorts" before the words "fifteen cents per pound."

Mr. CLARK. We have just provided for fine-cut shorts, which are the same thing, under the twenty-five cent tax. Certainly we do not want to provide for them in both places, because that would only be a complication.

Mr. CHANDLER. If this amendment be adopted I will move to strike it out in the other clause.

Mr. CLARK. Mr. President, there is nothing that opens a wider field for fraud than this matter of shorts. Some manufacturers can manufacture them very closely, so as to leave the mere refuse. Others can leave them with a great deal of very fine tobacco in, which makes a very good kind of smoking tobacco, and if we mean to protect the Government in that way we must impose a tax on shorts in the twenty-five cent grade, or else the door is entirely open for fraud.

Mr. CHANDLER. I beg the Senator's pardon. These shorts are the refuse of the fine-cut and are prepared for chewing. They are not suitable for smoking. It is true they sometimes smoke chewing tobacco, but it is not prepared for that purpose. I am informed by large manufacturers that these shorts accumulate very greatly upon their hands. One manufacturer told me that he had something like ten tons of them that had accumulated, and he could not get rid of them; they would not sell even for the duty you put upon them now. I think that is a very unjust discrimination. I hope the amendment to the amendment will be adopted.

Mr. CLARK. There is no doubt that at times shorts and other kinds of tobacco will accumulate in the hands of certain manufacturers. For instance, a man gets one hundred hogheads of tobacco, and he is a manufacturer of chewing tobacco. He selects all that will do for chewing tobacco, and then he has the rest on hand. It is for the interest of that man to have the tax on refuse tobacco as low as it can possibly be made. I know very well the interest that the Senator represents. But there are other people who would select out the best kind and have a very excellent quality of shorts with a great deal of what you may call fine-cut in it; and if that is put into the low grade it will undoubtedly lead to fraud. You cannot have it in both places. It is necessary to put it into that grade which will protect the revenue. We thought at first of putting it into the higher grade of chewing tobacco, but afterwards, on a fuller consideration of the subject, we thought it had better go into the middle grade; that that was the proper place to put it, and we put it there. It is not a matter that has escaped the attention of the committee.

The amendment to the amendment was rejected.

Mr. HOWARD. I desire to ask of the Senator from New Hampshire whether pure stems is the only kind of smoking tobacco which this bill recognizes?

Mr. CLARK. No, we have a grade very much better than that, which we have been discussing this morning.

Mr. HOWARD. What is the tax on it?

Mr. CLARK. Twenty-five cents per pound. The amendment was agreed to.

Mr. CLARK. I simply desire to say now that all the provisions in regard to cigars will

have to be amended, because, as they are left by the House bill, the assessor can fix two rates of tax, and they run one into another; but I am not quite prepared with the amendment at this time. I may desire, if the bill is not immediately passed, to call the attention of the Senate to it by and by.

Mr. CHANDLER. In line four hundred and sixty-four of section ninety-three, on page 145, I move to strike out "seven," and insert "eight."

The PRESIDING OFFICER. (Mr. FOSTER.) The Chair will suggest to the Senator from Michigan that the clause which he proposes to amend is itself an amendment, which has been agreed to in committee, and therefore it is not now subject to amendment. It will, however, be subject to amendment in the Senate on the question of concurring in that amendment made as in Committee of the Whole.

Mr. BUCKALEW. I have a small amendment to propose of page 170, by inserting before the word "circulation," in line sixty-one of section one hundred and thirteen, the word "average;" so as to read "all newspapers whose average circulation does not exceed fifteen hundred copies."

Mr. POMEROY. We have amended that section once, and I should like to know how it stands.

Mr. BUCKALEW. We made it fifteen hundred copies instead of two thousand.

The amendment was agreed to.

Mr. CHANDLER. In line ninety-four of section ninety-three, on page 130, I move to strike out "one cent" and insert "two cents;" so as to make the clause read:

On ground coffee, and on all ground substitutes for coffee, or preparations of which coffee forms a part, and on all unground substitutes for coffee, a duty of two cents per pound.

We charge a very high duty on pure coffee, and there are a great many vile concoctions in the shape of ground coffee that are sold as substitutes for coffee. There is an immense profit on these products. Nobody knows what he gets when he buys them. They purport to be coffee when often there is not a single grain of coffee in a pound. These preparations will bear a duty as high as coffee and ought to pay as high a duty as coffee.

Mr. FESSENDEN. I do not know enough about the subject to say that the Senator is not right, and that the tax may not be raised somewhat; but in the course of the investigation upon the subject two years ago, when we passed the original act, the matter came under the examination of the Committee on Finance, and we became satisfied that all these substitutes for coffee were not so injurious to the community as many people suppose. We understand that the business is carried on by regular manufacturers; and what they buy is perfectly understood by those who purchase at retail. It is divided off into bins; one contains rye, another chicory perhaps, and so on through the various substitutes for coffee. Persons who want the article buy at a price according to the mixture that is made. None of them is unwholesome. They make a substitute for coffee which the poorer class of the community purchase and get along with very well. They do not have the pure article as people of more ability to pay have, but still they get an article which serves their purpose very well as a drink.

I understand that the cultivation of the article of chicory which is used very largely has already been commenced in this country. We now import a great deal of it, and it pays a very considerable duty; if I mistake not six or seven hundred thousand dollars; but I am not quite certain as to the amount. Instead of being injurious, it has been decided by medical examination to be in reality healthful and useful, and it serves a very considerable purpose.

Now if it is true—and I have every reason to believe it is true—that none of the articles which are used as substitutes for coffee are injurious, but on the contrary are beneficial and are only a cheaper kind which the poorer classes and those less able to pay use in place of coffee because they cannot afford the pure article as others can, it is hardly worth while to designate it as miserable stuff or to tax it beyond what it should reasonably bear as an article of manufacture. How far the tax can go without imposing a duty too onerous upon such a manufacture is a question for the Senate to consider.

Mr. JOHNSON. Is it taxed now?

Mr. FESSENDEN. It is taxed one cent a pound by this bill.

Mr. JOHNSON. Was it taxed by the former bill?

Mr. FESSENDEN. Yes, sir; and the Senator from Michigan proposes to double the tax, on the ground, as I understand him, that the substitutes for coffee are deleterious articles and very profitable to the manufacturer and will bear this high rate of taxation on the manufacture. If his experience and knowledge are such that he can make that assertion to the Senate of his own knowledge, I really do not possess sufficient information to contradict him, although such information as the committees of both Houses had would lead them to suppose that a duty of one cent a pound on these articles is all that ought to be laid. It is, however, for the Senate to judge.

Mr. CHANDLER. I have no practical experience in this matter, but I am informed, by those who know, that the profits upon these preparations are enormous. It is a very common thing now for a farmer to go to his grocer and buy say ten pounds of barley and two pounds of the very best coffee, burn them both, and grind them, thus preparing a very fair substitute for coffee. But when these preparations are made by the grinders of these substitutes and sold, the producers do not know what they get and do not know what they are paying for. That is well understood by the grinders, and they charge enormous profits. They assert that a preparation is one half coffee and charge accordingly, when it is not one tenth coffee. I am told by those who know and in whose judgment I have faith and confidence, that these preparations will bear a tax of two cents a pound.

The amendment was agreed to.

Mr. CHANDLER. I move in the ninety-seventh line of the ninety-third section, on page 130, to strike out "one cent" and insert "two cents;" so as to make the clause read:

On ground pepper, ground mustard, ground pimento, ground cloves, and ground clove stems, ground cassia, and ground ginger, and all imitations of the same, a duty of two cents per pound.

Mr. FESSENDEN. I think that would be hardly advisable. Is the Senator aware what percentage that would be on the manufactured article? These are all manufactures.

Mr. CHANDLER. I am not aware what the percentage would be.

Mr. FESSENDEN. The bill throughout, with some special exceptions, is calculated at about five per cent. on manufactures. These articles are for convenience sold ground, and we put a tax on them because they are sold in that way; but if you raise the tax so high as not to make it advisable or to the interest of men to prepare them as manufactures, these articles will be prepared by people at home for themselves, and we shall defeat our own object by still stopping the manufacture, whereas by putting on a low duty we can get a revenue out of it.

Mr. CHANDLER. My attention has been called to this matter, and I am told that this is a very profitable branch of business and will bear a tax.

Mr. GRIMES. It seems to me that one cent a pound on ground cloves would be very small.

Mr. FESSENDEN. Does not the Senator know that the duty on cloves which is paid by the importer is very high?

Mr. GRIMES. Yes.

Mr. FESSENDEN. This is simply on the process of grinding, one cent a pound on the process of manufacture by grinding. The fact that the article is valuable does not make any difference in this view of the case, because the question is whether you will get something or nothing out of the manufacture.

Mr. GRIMES. Perhaps I ought to have preceded what I said by repeating a conversation which was occurring around me, that this would be a larger percentage than five per cent. on the manufacture of the article. I say it will not begin to be five per cent. on ground cloves, although it may be five per cent. on the article of ground mustard.

Mr. FESSENDEN. I ask the Senator if he knows how much is added to the value of a pound of pepper by grinding it.

Mr. GRIMES. I do not think there is much

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added except in the extraneous matter that is added by the men who grind it, just as there is in grinding coffee. That is the way the addition is made. If they ground it pure, there would not be anything added to it; but hardly any of these articles such as cloves are ground pure, I apprehend, although mustard may be ground pure. I imagine that with most of these articles foreign substances are mixed in the process of grinding. I am not particular about this amendment; I do not know that one cent a pound is too little; but in regard to the other proposition upon which we have just voted relative to ground coffee, I should like to put on five cents.

The amendment was rejected.

Mr. CHANDLER. I now move to amend the ninety-third section, in line four hundred and fifty-two, on page 144, by striking out "thirty-five" and inserting "forty-five." That is in the clause relative to manufactured tobacco. By an amendment adopted last night, there was an invidious distinction made between plug and cut tobacco. The duty upon fine-cut was raised from thirty-five to forty-five cents. The effect of my amendment will be to raise the same revenue from cavendish, plug, and twist that you now raise upon fine-cut. There should be no distinction between the two.

The PRESIDING OFFICER. The Chair will suggest to the Senator from Michigan that the clause to which he refers has been already stricken out and another clause inserted in lieu of it, and therefore his amendment is not now in order.

Mr. CHANDLER. I must wait until the bill gets into the Senate, I suppose.

Mr. JOHNSON. I propose to amend a part of the ninety-third section, which will be found on page 140, lines three hundred and forty-six and three hundred and forty-seven, by striking out the word "five" and inserting "three." As the clause now stands it imposes a duty of five per cent. *ad valorem* on quicksilver. I have very good reasons for believing that that will be a most ruinous tax. This interest can afford to pay three per cent., although there is some doubt about that. It is very important to the development of gold and silver in California, particularly of gold, that quicksilver should be made as cheap as it can be made, and in order to accomplish that it is necessary that the development of quicksilver mines should be encouraged rather than discouraged. It is possible that the large mines now in operation might be able to bear a heavy tax of this kind, but there are now being discovered in California, and Oregon too, I believe, certainly in California, a variety of other mines, which promise a fair remuneration to the discoverers if they can be worked at anything like a moderate expense, and it is very important to us that we should encourage them, so that we may compete with the quicksilver mines of Spain.

From information which I have, and on which I think reliance may be placed, considering the sources from which I get it, it seems to me that a duty of five per cent. is rather more than it would be politic to impose. The Senators from California, perhaps, are in possession of information on this subject, and I appeal to the one whom I have the pleasure to see before me on the other side of the Chamber, [Mr. CONNESS:] the other Senator not being now in his seat, whether a tax of three per cent. would not be as great a tax as, under all the circumstances, this particular article should have imposed upon it.

Mr. CONNESS. As has been stated by the honorable Senator from Maryland, quicksilver is used very largely for mining purposes, and the tax of five per cent. here imposed, in addition to being a tax upon quicksilver, is also a tax on the production of gold and silver. There is no gold or silver extracted from ore without the use of quicksilver. There is one great quicksilver producing mine in California, the New Almaden mine, that we have all heard of. A tax of five per cent., although it would be a very heavy tax on them, I have no doubt the proprietors of that mine could well afford to pay. But it is unlike a

tax on gold. While the value of gold is established by law, and any tax applied to it is so much taken away from it, and cannot be added to its value to the consumer, the contrary is the fact with quicksilver, and in that respect it is like any manufacture. If five per cent. should be imposed as a tax upon quicksilver it would simply be put by the producer of quicksilver upon its price, and added to the cost of the production of gold.

But the chief impolicy of the tax as it is proposed in this clause of the bill, is that while the proprietors of the New Almaden mine could afford to pay the tax, it would perhaps effectually stop many experiments that are being made in California in the production of quicksilver. There is a company in the Napa valley, not far from Napa, that have been operating for nearly three years past, and they are still in operation, but they have never produced any considerable amount of quicksilver yet. They are mining and producing the ore and endeavoring to reduce it. There are many others. A tax of five per cent. on them would have the effect, probably, of stopping their works.

I think that if the honorable chairman of the Committee on Finance would give his attention to it, if the matter were allowed to be passed over now until we get into the Senate, the provision might be reconstructed so as to give us quite as much tax as the five per cent. amount, and a much more just one as applied to those engaged in experimental effort in producing quicksilver. My opinion decidedly is that this particular provision should be reconstructed. I have explained that the tax on quicksilver, whatever it may be, will be added to the cost of the production of gold, and to that extent it is an indirect tax on that production. I will say that I am in favor of indirect provisions for taxing that product, because I think it is the most unobjectionable way. I do not make so much complaint of that; but I suggest that a duty should not be imposed upon companies who do not produce quicksilver enough to pay their expenses. The experiments that are being made to produce quicksilver by other companies than the New Almaden, should be encouraged rather than the contrary, because that company now has a pretty thorough monopoly of the quicksilver in the American market, and in addition sends its quicksilver all over the world. If it be not voted upon now, I think the matter should be taken into consideration when we get into the Senate.

Mr. FESSENDEN. If this amendment be withdrawn now it can be moved again in the Senate.

Mr. McDOUGALL. Before that is done I wish to suggest an amendment that I desire to propose, in order that the chairman of the Finance Committee may consider it. I propose to leave this clause as it stands, but to add the words "on the gross proceeds less the cost of production, such proceeds and cost of production to be ascertained and determined by such rules and regulations as may be prescribed by the Secretary of the Treasury." A tax of five per cent. would not be objected to if it was upon the results of the mine. The five per cent. as it stands in the bill is equal to fifteen per cent. on the net proceeds of the mine. Two per cent. on the gross proceeds would be six per cent. on the net. This interest has always been favored by the Mexican Government, and premiums awarded by the *Junta de Minería* of Mexico for the purpose of developing quicksilver mines, quicksilver being essential to the production of gold and silver. That has been considered a matter of policy on the part of the Spanish Government and the Mexican Government, and should be by our Government. A tax of five per cent. on the net proceeds would not be objected to; and I think the amendment which I have suggested is in such form as to accomplish that object. But even three per cent., as suggested by the Senator from Maryland, would be too much as a tax upon gross proceeds. The working of quicksilver mines is a very expensive business; and according to the best information I have,

the five per cent. as it is in the bill would be about fifteen per cent. on the net proceeds. I suggest the amendment now; I do not care about taking it up until the bill comes into the Senate.

Mr. FESSENDEN. I hope the Senator from Maryland will withdraw his amendment, and we can consider the question after the bill shall be reported to the Senate.

Mr. JOHNSON. Very well, I withdraw it.

Mr. HARRIS. I propose an amendment to the one hundred and second section of the bill on page 155. That section as it now stands imposes a duty of two and a half per cent. on the gross receipts of railroads and steamboats. I propose to amend the section so as to embrace all common carriers, to impose a duty of two and a half per cent. upon the gross receipts of all persons and corporations engaged in carrying passengers or freight. This amendment if adopted will, in my judgment, add perhaps millions to the receipts of the Government under this bill, and I am quite aware that it will affect more largely my own constituents than the people of any other State; but such is my confidence in their patriotism and their willingness to contribute their full share to the revenues of the Government in this crisis, that I believe I shall secure their commendation rather than their censure for moving this amendment.

The PRESIDING OFFICER. The amendment will be read.

The Secretary read the amendment, to strike out all after the word "that," in line one of section one hundred and two, down to and including the word "respectively" in line twenty-one, and to insert the following in lieu thereof:

Every person, firm, company, or corporation, owning or possessing, or having the care or management of any railroad, canal, steamboat, ship, barge, canal-boat, or other vessel, or any stage-coach or other vehicle engaged or employed in the business of transporting passengers or property for hire, or in transporting the mails of the United States, or any canal the water of which is used for mining purposes, shall be subject to pay a duty of two and a half per cent. upon the gross receipts of such railroad, canal, steamboat, ship, barge, canal boat, or other vessel, or such stage-coach or other vehicle: *Provided*, That the duty hereby imposed shall not be charged upon any vessel exclusively engaged in carrying persons or property or both to or from any port of the United States to or from any foreign port.

Mr. JOHNSON. I would ask the honorable member from New York whether the description of common carriers embraced by his amendment, and not embraced by this section of the bill as it stands, is not already taxed in some other portion of the bill. I rather think so.

Mr. FESSENDEN. Express companies are.

Mr. JOHNSON. They are common carriers.

Mr. SHERMAN. They are provided for by the next section.

Mr. JOHNSON. Will they not be included in this too?

Mr. SHERMAN. They do not own the roads or vehicles in which they transport goods.

Mr. JOHNSON. Let the amendment be read again. I do not know that I understand it thoroughly.

The PRESIDING OFFICER. It will be read again.

The Secretary again read it.

Mr. JOHNSON. Now I submit to the honorable member from New York that that embraces express companies, which are already embraced in the next section of the bill as it stands. The express companies, most of them if not all of them, own the carriages in which they carry their freight, and at times they carry passengers, I believe. They own the boats in which they transport freight through the canals, and they use the cars on several railroads in which they carry the freight upon the railroads; and they are taxed in a succeeding part of the bill. They will be found to be taxed in the one hundred and third section on pages 156 and 157. If it be proper to amend the bill as proposed by the honorable member from New York, the express companies ought to be excepted in some way or other from that amendment.

Mr. FESSENDEN. I do not think this amendment covers express companies.

Mr. JOHNSON. I cannot make myself understood. I know they are not described by this section of the bill as it stands, and are therefore only taxed by the one hundred and third section, which appears on pages 156 and 157; but as the Senator from New York proposes to amend by striking out the one hundred and second section as it stands, and proposes an amendment in relation to common carriers, he includes express companies, because he applies it to all companies who own the vehicles in which they carry freight, and as I have just stated that is the case with most of the express companies as regards the cars which they run upon the railroads. They pay the railroads for the privilege of running their cars, but the cars themselves are theirs.

Mr. FESSENDEN. The Senator can say "except express companies."

Mr. JOHNSON. "Except express companies as included in the next section."

Mr. HARRIS. I had proposed myself to amend the next section so as to make the duty upon express companies the same, two and a half per cent., as upon other common carriers. It seems to me there is no difficulty about that.

Mr. JOHNSON. That is all I want to guard against, and that I am sure is the purpose of the Senator, because it is just in itself that they should not be taxed twice.

Mr. HARRIS. Certainly not.

Mr. TRUMBULL. If the Senator from Maryland will allow me, I will suggest to him to amend this amendment so as to have a tax of two and one half per cent. on all common carriers upon whom no duty is assessed by any other provision of this bill.

Mr. JOHNSON. I was about to suggest such a modification to the honorable mover.

Mr. SHERMAN. I will remark that for one reason that may seem unimportant to Senators, it is better to leave the provision in two sections. There are many references in this bill to such and such a section of the bill, and any derangement of the sections may produce embarrassment. Therefore it is as well to have two sections, one in regard to common carriers, the other in regard to express companies.

Mr. JOHNSON. That I have no objection to; but I do not want express companies taxed twice.

Mr. FESSENDEN. Is the Senator as a lawyer apprehensive that if we should adopt the amendment and then leave the next section as it stands, the result would be to put five and one half per cent. on express companies, two and one half per cent. by this amendment and three per cent. by the next section?

Mr. JOHNSON. I am afraid of it.

Mr. FESSENDEN. Under no possible construction could it be done, because the two are distinguished by the act; but the Senator can reach it very well by simply saying "except express companies."

Mr. JOHNSON. That is what I propose. If we are about to adopt the amendment proposed by the honorable member from New York, I will make again a suggestion that I made some days ago in relation to this subject, and I think the propriety of the change which I am about to state will address itself at once to the Senate. By the section as it now stands and as it will stand if it should be amended as proposed by the honorable member from New York, you tax steamboats two and a half per cent. on their gross proceeds. There is a line of steamboats—and that is the case in other sections than in the section to which I am about to refer—that runs from Baltimore to Philadelphia and to New York by the inland water route. They go through the Chesapeake and Delaware canal and through the Delaware and Raritan canal, and they have to pay for going through each of those canals the tolls which those canal companies are authorized to charge and do charge. They pay, therefore, say in the course of a year in running to Philadelphia—it is much larger than the sum I am about to state, I am sure—several thousand dollars to the Chesapeake and Delaware canal; but before they pay it and as the fund with which they pay it, they receive it from their customers. A man who wants his goods carried from Baltimore to Philadelphia or from Philadelphia to Baltimore, and in the same way as between New York and Baltimore, and Philadelphia and New York, has to pay a sum made up of what the steamboat owner

ought to receive and is to keep as profit for his own investment in his own boats and for his own disbursement, and in addition the amount that the owner has to pay to the canals through which his boat has to pass. He gets, therefore, from his customer when he leaves New York or where ever the money is paid, a sum made up of these two items, his own charge proper and a sum in addition to his own charge proper which he wants in order to meet the expense of going through the canal. It is true that that ought to be taxed in some form or other; but if you tax the owners of the boats upon their gross receipts, you tax in part what they pay to the canal proprietors, and then you have in another portion of the bill a tax upon the gross receipts of the canal, so that if the canal receives in the course of a year \$100,000 from these steamboat owners you tax two and a half per cent. upon that \$100,000 as against the steamboat owners and you tax the same \$100,000 as against the proprietors of the canal, which is obviously a double tax. I had intended when the proper time should arrive—and it is not improper to suggest it now—to add to the section of the bill which contains the tax this proviso:

*Provided, That steamers traversing canals in whole or in part, shall be allowed a deduction in the return of their gross receipts of such sum as may be paid by them for toll.*

It seems to me that would be proper, because supposing now that they pay in toll one half of the gross receipts which come into their possession, your tax upon them of two and a half per cent. upon gross proceeds is virtually a tax upon them of five per cent. upon what belongs to them, and if you tax the canal proprietors two and a half per cent. on that half which they receive, you levy a tax of five per cent. upon that sum, which would seem to be unjust.

The injustice, if it be unjust, (and I think it is not what the Senate designs to do,) may be avoided by authorizing the companies whose steamboats go through the canals, and have to pay toll, to be allowed a deduction out of their gross receipts, of the amount which they may have to pay in the way of toll.

Mr. POMEROY. I like a portion of this amendment of the Senator from New York, but I think there are some portions of it that should be changed. It ought to be remarked that not all expresses are express companies. There are only perhaps five large express companies, and yet there are in this country nearly five hundred expresses. There are said to be four hundred and fifty expresses in this country and only a very few express companies, and this provision bears equally and hard on those small expresses that run for the accommodation of our people out of the cities a little way, and in the cities carry packages for the accommodation of persons who purchase goods. While I think the express companies can bear a tax, and perhaps a large tax, it would be very heavy on these small expresses, and these small expresses outnumber the express companies as one to one hundred.

Again, there is in this amendment of the Senator from New York two and a half per cent. tax upon the gross receipts of all the stage companies. In the old States stage companies have passed away; staging is done away with pretty much; but in the new States stage-coaches are quite an institution. Senators are aware that all the mails are contracted to be carried under what are called star bids; that is, the contractors can carry the mails without having stage coaches for passengers, but the people in the community insist in almost all instances that those who get a contract to carry the mail under a star bid shall carry it in coaches; and they influence them in various ways to put on coaches. Under this amendment of the Senator from New York the receipts of coaches for carrying passengers are to be taxed two and a half per cent., which will discourage the putting on of coaches, and in the new States in some instances perhaps will entirely destroy them.

Then in the third place there is a large stage interest that runs across the continent called "the overland stage." Two and a half per cent. on the gross receipts of that company, of course, would be very large. That is particularly objectionable at this time, because they are carrying that mail at a most enormous expense. They have to do their business in the western part of the country on a gold basis, and are receiving for

compensation the currency of the country, which is very far depreciated below gold. Then, again, to support their stages, they are paying a most fabulous price now in the vicinity of the Rocky mountains in consequence of the great immigration there to the mines; they are paying more than ten dollars a bushel for oats and corn, and to put on the gross receipts of such a company as that two and a half per cent. would be most onerous and burdensome. But I do not care so much for that company as for the new States where we are trying to induce those who carry the mails to carry them in coaches for the accommodation of the people. The influence of this tax will be to drive the coaches off, and the contractors can carry the mails under star bids on horseback or mules. If they do that, the community will get none of the benefits of having coaches. I suppose the Senators from the old States where they have got through using coaches, perhaps will see no point in this.

Mr. COLLAMER. I suggest to the gentleman that in the town in which I live we have thirty coaches a week out and in.

Mr. POMEROY. In States where the roads are well made and where there is a regular established coach business, where it is not starting the thing anew, the stage-coaches may bear this extra tax; but in a new country where the population is so sparse that it is almost impossible to support a stage-coach, and where they have the right to carry the mail on the back of a mule, it will drive off the coaches entirely, and that will be a great inconvenience to our people.

Mr. GRIMES. There may be some companies in the State of Kansas that may be driven out, but I have never come across any such in that portion of the West which I have known, so far as my experience for about thirty years in staging has gone, and I have done a good deal of it in that time. They charge amply sufficient to afford to pay this percentage, and will be only inclined to add the percentage to the amount they have heretofore charged. I do not know a reason why stage companies should not pay their proportion of the revenue in this shape just as well as any other companies, just as well as railroad companies. Every other class of the community is compelled to pay its proportion.

Mr. POMEROY. I have been through the State of Iowa two or three times in stage-coaches, and I confess I think they can stand a tax there very well.

Mr. GRIMES. One of them is one of the richest companies and one of the most profitable companies in the world. I think they can afford to pay taxes as well as other people.

Mr. FESSENDEN. I wish simply to say in regard to this amendment offered by the honorable Senator from New York that I believe with him, that if adopted it will add a very considerable sum to the revenue—how much I do not know—and as I do not see anything wrong about it, I am rather under obligations to him for proposing the amendment. At any rate I do not see any such objections as would induce me to oppose it.

The amendment was agreed to.

Mr. HARRIS. I feel obliged again to bring to the attention of the Senate my constituents who are engaged in the manufacture of leather mittens—

Mr. SUMNER. Allow me to ask the Senator if he does not propose to make a motion in reference to the next section, concerning the express companies.

Mr. HARRIS. Yes, sir; I will first attend to that. In section one hundred and three, I move to strike out "three" in line three and to insert "two and a half."

Mr. SUMNER. I venture to suggest to my friend from New York, while he is engaged in amending that section, to go still further and to decrease the tax to two per cent., which is what it was in the last act. The Senator is aware that the income tax in the bill now under consideration, applicable to express companies, is increased. By the clause under consideration it is proposed also to increase the direct tax upon express companies. The communications that I receive from my part of the country go to show that the business cannot bear this increased tax, being a double increase, first on the income, and secondly on this direct tax. I would suggest,



while we have this subject under consideration, the propriety of reducing the tax from three per cent. to two per cent.; that would make it what it was made two years ago.

Mr. HARRIS. I think it is desirable to secure uniformity in these taxes as much as possible, to equalize them; indeed I think the bill in that respect is in some parts of it objectionable. I have offered this amendment to charge the same duty upon those engaged in the express business as upon other common carriers. It is for that reason that I have moved to make the duty two and a half per cent., the same as is proposed in the preceding section on other common carriers; I prefer, therefore, that it should be two and a half rather than two.

The PRESIDING OFFICER. The question is on the motion of the Senator from New York to strike out "three" and to insert "two and a half."

Mr. POMEROY. I should like to inquire whether the words "express business" embrace all the expresses of the country?

Mr. HARRIS. Undoubtedly.

Mr. FESSENDEN. "Any person, company, or corporation carrying on or doing an express business" is the language.

Mr. POMEROY. That includes them all.

The amendment was agreed to.

Mr. HARRIS. In the one hundred and second section I think there should be an amendment in the twenty-third line by inserting the word "ferry" after the words "toll road." There are a great many little ferries in the country which earn nothing; they are a convenience to the community, but really bring in no income.

Mr. POMEROY. I think it would be an improvement to say "ferry-boats." There are a thousand little streams where we run a rope ferry to accommodate individuals; and some of our manufacturing establishments have conveniences to ferry across in hand-boats. Do you mean to tax them? A ferry-boat propelled by steam, or something recognized by the committee, I think properly should be taxed; but I do not believe we ought to go down and tax every one of these ferries.

Mr. HARRIS. If the Senator had read the provision he would see that his remark does not apply. It is, "any toll road, ferry, or bridge, authorized by law to receive toll."

Mr. POMEROY. I do not know but that these others are authorized to receive toll.

The amendment was agreed to.

Mr. HARRIS. This amendment will require that the same word should be inserted after the words "toll road," in the twenty-fifth line.

The PRESIDING OFFICER. The word "ferry" will be inserted in that place in order to make the section consistent.

Mr. HARRIS. I now ask the attention of the Senate to the amendment I propose in relation to the manufacturers of gloves and mittens. On page 141, line three hundred and seventy-one of section ninety-three, I move to insert after the word "oil" the words "and kid;" so as to read "on oil and kid-dressed leather," &c.

Mr. FESSENDEN. There is already in the three hundred and sixtieth line a duty on kid of five per cent. *ad valorem*.

Mr. HARRIS. The duty in the three hundred and sixtieth line I have no objection to; let that stand; that is on kid skins.

Mr. FESSENDEN. On kid "tanned or dressed in the rough."

Mr. HARRIS. There is a peculiar mode of dressing sheep skins which is called kid-dressing. It is a mode of dressing sheep skins for the purpose of manufacturing gloves.

Mr. FESSENDEN. I think that is hardly fair. I do not say that for the Senator, but for the gentleman whom he represents in this matter. That gentleman has been about here for the last three or four weeks; a very clever gentleman he is, I should think; I have not a word to say against him. He proposed, in the first place, to insert "kid." It is because it comes in competition with him that he wants it. He does not make it.

Mr. HARRIS. Certainly he does.

Mr. FESSENDEN. Why does he want the duty put on? He has been protesting against the duty all along.

Mr. HARRIS. I am going to offer another amendment in a moment to correspond with it.

The fact is that there is a county in the State of New York the inhabitants of which are chiefly engaged in the manufacture of gloves and mittens, a very industrious people, who are paying a very considerable revenue to the Government. This is the process: they take mostly sheep skins; they get such deer skins as they can, but they cannot get enough for their purpose. Most of these sheep skins are imported from the Cape of Good Hope, the south of Africa, and pay to the Government an import duty of fifteen per cent. now. They take the sheep skins and dress them; some of them are what are called oil-dressed, and they are manufactured into that article known in the market as leather mittens. Some of them are "kid-dressed, another mode of manufacture which gives them the color and appearance of gloves, and they manufacture them into gloves. There is the oil-dressed sheep skin and the kid-dressed sheep skin. The one is manufactured into leather mittens, the other is manufactured into gloves, a coarse kind of glove, but a glove that is sold and used considerably now, not as fine as the imported glove, but a useful glove. This is the article they are manufacturing. They purchase these sheep skins, they dress these sheep skins, and then they themselves manufacture them into gloves and mittens. Now, what they desire and what I on their behalf desire is that they shall be taxed upon their manufacture, upon their gloves and mittens. They take these skins from the importer, they dress them, oil-dress them or kid-dress them, and cut them up and work them up into mittens and gloves, and then put them into the market.

There is no reason in the world why they should be first taxed upon the skins that they have dressed and then taxed again upon their gloves and mittens. That is all there is about it. They are willing to pay one tax, and let Congress put upon them such tax as it sees fit. They do not object to that. The tax now is three per cent. upon their manufacture. It is proposed to put five per cent. upon it by this bill. If that is not enough, put on more; but do not tax it twice, that is all. They manufacture the article, they import the sheep skin, or they purchase the deer skin wherever they can get it. They dress it, and then themselves make it up into gloves and mittens. I propose to add the word "kid" where I have suggested, and then I shall propose this provision further:

*Provided, That when the manufacturer of such leather or skins shall use the same in the manufacture of gloves, mittens, or moccasins, the duty shall be charged upon such gloves, mittens, or moccasins, and not upon the leather or skin used in the manufacture.*

It is just taking the *ad valorem* price of the article they put into the market and charging them the duty upon that article, but not charging them with a duty upon the material out of which they make it before they manufacture it.

Mr. FESSENDEN. If the word "kid" is not put in, and the other provision suggested by the Senator from New York be made, the effect will be that these manufacturers will pay only five per cent., because they will pay nothing on the raw material. The Senate will see that now it speaks of "oil-dressed leather and deer skins." The Senator from New York would make the Senate believe, or rather the gentleman who makes these representations to him, that they want "kid" put in. For what purpose? Certainly it would seem to get the tax on kid. At present it is out; there is no tax on it. The reason why they want it put in is that they fear the competition of kid in some way, and they want to impose the same tax upon it when dressed in that way. This gentleman wrote me a note in which he proposed in the first place to put in "kid" as being of advantage to him. Then he wrote me a note in which he said, "If you will only put in the words 'when sold or removed for sale' I will not ask you to put in 'kid.'" That we acceded to, and now he gets the Senator from New York to move to put "kid" in.

Mr. HARRIS. He told me that, and I suggested to him the trouble. He made that bargain with you undoubtedly, but the trouble is here: there is a provision in this bill of which he was not aware, which entirely destroys the effect of that amendment.

Mr. FESSENDEN. What is that provision?

Mr. HARRIS. It is on page 126, as he understood your amendment and as I have under-

stood it; but for this provision on page 126, in section ninety-two, all would have gone well.

*Provided, That whenever a producer or manufacturer—*

Like this man is—

shall use, or shall remove for consumption or use, any articles, goods, wares, or merchandise, which if removed for sale would be liable to taxation, he shall be assessed upon the salable value of the articles, goods, wares, or merchandise so used or so removed for consumption or use.

Mr. FESSENDEN. That was stated also, and in order to prevent that and make it perfectly clear what that proviso means I have had the word "used" struck out and the word "consumed" put in; that is to say, if he consumes them himself, to apply precisely the same rule to these manufacturers as to all others, that they shall pay a duty on what they consume for their own purposes. That is all it means.

Mr. HARRIS. So far as it has been construed by the Commissioner, it means that the consumer of these skins for the purpose of manufacturing them into gloves and mittens pays a tax on the skins consumed, the skins worked up, and then the provision in a preceding clause of this same section provides that he shall pay a tax on gloves and mittens manufactured. It is a double tax.

Mr. FESSENDEN. It may be so and it should be so. There is not a tax levied upon articles of that kind that is not a double tax. Take manufacturers of leather they pay a tax on the leather in the first place, and then they pay a tax on the boots and shoes manufactured. You do not deduct the first tax. So it is with a great number of articles. What these gentlemen want and what they get by the amendment we made, and I am satisfied the amendment is wrong—

Mr. HARRIS. I am, too.

Mr. FESSENDEN. It ought to be struck out.

Mr. HARRIS. I do not think it amounts to anything.

Mr. FESSENDEN. They ought to pay the double tax as much as anybody else. The fact is in regard to them that they stand in an anomalous position. Instead of making the raw material, as many other persons do, and then paying a tax on it and selling it as raw material to the person who buys it and makes it up, and pays another tax, they work up their own raw material into gloves or mittens. Although everybody else, where an article in process of manufacture goes through two different hands, pays ten per cent., these people, because they not only prepare the raw material but manufacture it themselves, want to get off with paying five per cent. That is their object, and that gives them a monopoly of the market. The thing itself is not just. I would not have said anything about it if they had not chosen, after we have endeavored to examine this matter, to push it still further. I do not see any reason in the world why they should be exempted from the same kind of tax that others are subject to, and I am opposed to all the amendments that the Senator proposes.

Mr. HARRIS. The effect of this provision as it now stands is to tax these manufacturers ten per cent. on their products.

Mr. FESSENDEN. Very well; many others are taxed ten per cent.

Mr. HARRIS. Two years ago in the old bill it was provided that they should pay a tax of three per cent. on skins manufactured, and then that they should pay an additional tax upon the increased value when they were converted into gloves. To that I have no objection; that is fair; that is what is provided in other cases in this bill; but it is severe and I think unjustly severe; it is an unjust discrimination against these manufacturers to tax them ten per cent.; it is hard on their manufacture. It is not what is done in another case, I apprehend, in this bill; at any rate I have not seen it. It would be far better, I would prefer, that you should say at once, if the Senate mean to do it, that they shall be taxed upon their gloves and mittens ten per cent.; but the Senate would not be willing to do that, and yet indirectly they are doing just that thing.

Mr. CLARK. Let me suggest to the Senator from New York that there are parties in the country who manufacture the gloves that do not manufacture the leather.

Mr. HARRIS. No, sir.

Mr. CLARK. I beg the Senator's pardon. I know it.

Mr. HARRIS. Nineteen twentieths of this business is done in one county in New York.

Mr. CLARK. I know parties who manufacture the gloves without manufacturing the leather.

Mr. HARRIS. Where do they get the leather from?

Mr. CLARK. There is an establishment in my own State. They buy it.

Mr. COLLAMER. Under my own eyes at home large quantities are manufactured in that way.

Mr. CLARK. Where one party manufactures the leather, he will have to pay a tax on leather, and another party who manufactures gloves will have to pay the tax on gloves, which makes ten per cent. altogether. If these people choose to do both, they should pay ten per cent.

Mr. TEN EYCK. I moved yesterday, but it was then out of order, to strike out the words "when sold or removed for sale" from this paragraph of the section. To accomplish the object I have in view, it would be perhaps more strictly in order to wait until the bill shall have been reported to the Senate and then to move the amendment which I moved yesterday; but inasmuch as this whole subject is now under consideration and the object is to understand the effect of this paragraph in all its bearings, it may be perhaps as well now to consider it. It may perhaps be more appropriate and more convenient to have a full understanding of the whole matter now than to postpone it until the motion may properly be made at a later period, and by an understanding now perhaps we may arrive at an adjustment of the paragraph in the way in which it should be corrected.

This exception which it is sought on the part of the Senator from New York to apply to a certain branch of trade in a certain county of his State also applies to other very important branches of trade in each one of the northern States of this Union. He has a particular interest in this manufacture of mittens, gloves, &c., and the paragraph exempts from a duty all oil-dressed leather as well as deer skins, and the operation of the section is very extensive, very unjust, and very unequal, because it makes a particular discrimination between classes of manufacturers who are equally meritorious. The clause in this section that all this kind of leather shall be exempt from this duty of five per cent. *ad valorem* "when sold or removed for sale," creates the exception which has already been referred to. This exception is in behalf of the man who manufactures gloves and mittens who is also the manufacturer of the skins or the article out of which they are made. It does not stop there, but it goes on and exempts all the oil-dressed leather, and all the harness and all the shoes and everything of that kind made in this country out of oil-dressed leather from the tax or duty of five per cent. *ad valorem* in the hands of the man who manufactures the oil-dressed leather into harness and into shoes; whereas his competitor in the same town in the manufacture of harness and shoes who does not manufacture the original oil-dressed leather has a duty of ten per cent. imposed on his business, because there is a duty of five per cent. imposed on the leather itself, which is not made up to the man who makes it, and then five per cent. afterwards on the manufacture.

I can state a case. Boots and shoes I have mentioned. I know of a very large manufactory of cavalry belts and things of that kind; I know two of them in one town supplying in a great measure the Army. One of those manufacturers of cavalry belts manufactures the leather himself. Mr. A does that, and he has to pay a duty of but five per cent. Mr. B, who buys the leather for the purpose of manufacturing it into belts, has to pay a duty of five per cent on the leather, and he is also subject to a duty of five per cent. on his manufacture, so that you make a discrimination between two manufacturers in the same town in the same branch of business, simply because one has a little more capital than the other, and one is enabled to manufacture the original stock which the second man has to purchase and pay for. I do not see the reason or propriety of that.

Then, again, there is another discrimination in favor of this kind of business or manufacture as between the person who is exempted from this duty of five per cent. being the manufacturer of

the original stock and all other branches of manufacture in this country which do not come within the category of this paragraph, and which are equally entitled to consideration when we come to lay duties upon them, as the manufacture of mittens and gloves in the county referred to in the State of New York. Some of my constituents are as much interested in the manufacture of harness and boots and shoes as the constituents of the Senator from New York can be in the manufacture of mittens and gloves for the hand.

I think the whole section ought to be amended so as to correct this inequality, and I trust it may be done by abiding by the section as it was reported by the committee and striking out the provision which restricts the duty of five per cent. *ad valorem* on articles which are not sold before they are manufactured. I ask for the yeas and nays on the amendment of the Senator from New York.

The yeas and nays were ordered; and being taken, resulted—yeas 14, nays 17; as follows:

YEAS—Messrs. Anthony, Brown, Carlile, Davis, Harlan, Harris, Hicks, McDougall, Morgan, Powell, Ramsey, Saulsbury, Sumner, and Wiley—14.

NAYS—Messrs. Buckalew, Clark, Collamer, Cowan, Doollittle, Fessenden, Foot, Foster, Henderson, Hendricks, Howe, Johnson, Morrill, Sherman, Ten Eyck, Van Winkle, and Wilson—17.

ABSENT—Messrs. Chandler, Conness, Dixon, Grimes, Hale, Harding, Howard, Lane of Indiana, Lane of Kansas, Nesmith, Pomeroy, Richardson, Riddle, Sprague, Trumbull, Wade, Wilkinson, and Wright—18.

So the amendment was rejected.

Mr. CLARK. I move further to amend the bill, on page 230, by inserting after the word "acts," in line thirty-six; the words "on drawbacks the right to which has already accrued or which may hereafter accrue under said acts."

The amendment was agreed to.

Mr. VAN WINKLE. I move to amend the bill on page 212, by inserting after the word "use," in line ten of section one hundred and sixty-two, the words "or record." In line five it speaks about these papers being "recorded or admitted or used in evidence," and in line twelve the "register or recorder" is spoken of. It is therefore necessary to insert the words "or record" after "use," in the tenth line.

The amendment was agreed to.

Mr. VAN WINKLE. In the same section I move to insert after the word "stamp," in line seventeen, the words "or stamps," so as to agree with the residue of the section.

The amendment was agreed to.

Mr. VAN WINKLE. I move also to amend section one hundred and sixty by striking out, in line one hundred and thirty-seven, the words "an affidavit has been made showing the reason why," and inserting "satisfactory proof has been made that." The section provides that stamps spoiled or rendered useless may be replaced by the Commissioner of Internal Revenue on a mere affidavit—it does not say whose affidavit—being made that they cannot be returned. I merely wish to insert that satisfactory proof shall be made that they cannot be returned.

Mr. JOHNSON. Satisfactory proof to whom?

Mr. VAN WINKLE. To the Commissioner of Internal Revenue.

Mr. JOHNSON. I suggest that the words "to the Commissioner of Internal Revenue" be inserted.

Mr. VAN WINKLE. The previous line speaks of the Commissioner of Internal Revenue, and therefore the insertion of the words "to him" will be sufficient.

Mr. FESSENDEN. The proof must be made to him and to nobody else, because he is the person authorized to perform the act.

The PRESIDING OFFICER. Does the Senator from West Virginia accept the modification of his amendment?

Mr. VAN WINKLE. Certainly; I have no objection to inserting the words "to him."

The PRESIDING OFFICER. The question is on the amendment as modified.

The amendment was agreed to.

Mr. HARRIS. I wish to move two amendments on pages 90 and 92. There are in the large cities of the country, especially New York, a class of persons called bill brokers, whose business it is to sell, as agents, promissory notes and domestic bills. They are generally unfortunate merchants, who obtain a scanty and precarious living

by the selling of these bills and notes. There may be, perhaps, in the city of New York a hundred of them, perhaps more. They receive a commission of one fourth of one per cent. for negotiating the sale of a promissory note. By the provisions of this bill they are taxed one twentieth of one per cent. The amount is reduced very considerably from what was proposed by the House of Representatives. This class of people, having no capital in business, obtaining in this way a very scanty and precarious living, are classed by this bill under the head of "brokers" like stock brokers, and are required to take out a license, and pay for it fifty dollars. My object is to transfer this class of persons from that class of brokers to commercial brokers, so that they will take out a twenty dollar license instead of a fifty dollar license. I know it is not a large affair, and yet it affects seriously a very worthy class of people, not numerous, but very worthy. My amendment, therefore, is to strike out the words "promissory notes or other securities," in line ninety-five of section seventy-eight, on page 90, and to insert those words in line one hundred and thirty-seven, on page 92, to transfer these bill brokers from the class of brokers to the class of commercial brokers for license purposes.

Mr. FESSENDEN. I doubt the propriety of making that amendment. It may be that there are some few persons that do not do much business in that line, but there are a great many persons who do a very large business. If you could pick out the individuals whose business is so small, it might do to put a lower tax on them; but I am afraid we should let off a great many who do a very large business and who ought to pay more than is proposed under the head of commercial brokers. "Promissory notes or other securities" that covers a very large class.

Mr. HARRIS. I only propose to cover those engaged as dealers in promissory notes and domestic bills of exchange.

Mr. FESSENDEN. Domestic bills of exchange are a very large concern. I think it would be dangerous and lead to confusion to make the amendment. A great many persons would escape paying the license they ought to pay in consequence of it. It is unsafe to legislate for a few individuals. All these laws bear hard upon somebody, I suppose. I should like very much to relieve anybody that needs relief.

The amendment was rejected.

Mr. HARRIS. On page 12 I propose to offer two or three amendments. In line twenty-two of section fourteen, on page 12, I move to strike out all after the word "summon" to the end of the line. The words to be stricken out are "by subpoena to be served by any assistant assessor."

Mr. FESSENDEN. How would you have it served?

Mr. HARRIS. I would have a provision for that.

Mr. FESSENDEN. I hope the Senator will offer his whole amendment.

Mr. HARRIS. I have a very strong objection to the provisions of this section. I do not know but that arbitrary arrests are necessary in these times, but we are becoming quite too much familiarized to them. I object entirely to allowing an assessor or an assistant assessor when he thinks an individual has disobeyed the requirements of his summons to arrest him and take him before a public officer. It is an anomalous thing; it is not required; and I have endeavored so to amend this section as to avoid that great objection. The proposition that I submit is this: that the assessor, when he desires to examine a person in relation to the subject of examination, his income, his tax, whatever it may be, may summon him to appear before himself, that that summons may be served by the assistant assessor; and that if he disobeys that summons, if he fails to appear or refuses to appear, then upon an affidavit showing the facts he may apply to the district judge, or to a commissioner having the powers of a judge, at chambers for an attachment, in the ordinary way in which individuals are punished for disobeying legal process, and that the assessor shall not have the power himself without authority of law, except under the provisions of this section, without applying to a court or a judge, to arrest an individual and take him before a tribunal. I object entirely to this mode of giving authority to this class of persons to make an ar-

rest without legal process. For that purpose I propose to strike out the clause I have mentioned, and I propose then to strike out from line thirty-two all the provision that has been inserted there, and to the end of line thirty-five, and to insert in lieu thereof these words—

**THE PRESIDING OFFICER.** The Chair will suggest that after line thirty-two to the end of line thirty-five was an amendment proposed by the Committee on Finance which was not agreed to, and which, therefore, is not in the bill, but a substitute was inserted for it, which the Senator from New York can move to strike out in connection with other matter.

**Mr. HARRIS.** I propose to strike out all that has been inserted after the word "aforesaid" in line thirty-two down to the beginning of line thirty-six, whatever there is in the section between those two points, and to insert in lieu of those words:

Such summons may be served by any assistant assessor of the district. In case any person so summoned shall neglect or refuse to obey such summons according to its exigency, or to give testimony, or answer interrogatories as required, it shall be lawful for the assessor upon affidavit proving the facts to apply to the judge of the district court or a commissioner authorized to perform the duties of such judge at chambers, for an attachment against such person as for a contempt. It shall be the duty of such judge or commissioner to hear such application, and if satisfactory proof be made to issue an attachment directed to some proper officer for the arrest of such person; and upon his being brought before him, to proceed to a hearing of the case, and upon such hearing the judge or commissioner shall have power to make such order as he shall deem proper to enforce obedience to the requirement of the summons and punish such person for his default or disobedience.

**Mr. FESSENDEN.** I think the more simplicity and the more rapidity you have in these proceedings the better they are for the purpose which you wish to accomplish. My friend from New York spoke of arbitrary arrests. It is the first time I ever heard an arrest by process of law authorized by statute designated as an arbitrary arrest. I supposed that by "arbitrary arrest" was understood an arrest without any law at all.

**Mr. HARRIS.** Without process of law.

**Mr. FESSENDEN.** This process is legal when we make it legal by statute. The only question is, who shall issue the papers? The question here really depends altogether on this, whether the assessor shall himself issue a warrant for the arrest of the person, or whether in the first place he shall file an affidavit and take out a warrant from a court. It must be obvious to everybody that to require the latter will take longer time and make the proceeding much more expensive. As the section now stands, if the assessor arrests a person he must take him directly before a court of the United States for adjudication; he cannot make any adjudication himself. The difference between that and this amendment is that the amendment puts the assessor under the necessity of going to the court in the first instance for a warrant, and puts the Government of the United States to the expense of paying for a warrant and such expenses as may arise thereon and thereafter. The chance is that in ninety-nine cases out of a hundred, if the arrest of a man were ordered, he would produce the book and there would be no further expense. Once in a while you might find a contumacious individual who would refuse to do it until he was finally compelled to do it by imprisonment or other process.

It will be noticed that none of these proceedings can be had until after due notice. It is a section providing for a case where a man has been notified that his statement is not satisfactory, and he refuses to make any other. Then the section says that the assessor may notify him to produce his books, that they may be examined, and he then refuses to produce his books. He having in the first place refused to account, and then having refused to produce his books, it is provided that the assessor may issue his warrant and arrest him, and take him directly before a court for adjudication. Under such circumstances, is not that all that such a man has a right to demand? Is there any necessity for going to a court, in the first instance, with an affidavit to procure a warrant, and have it issued on a statement of the facts? I think it would embarrass and delay the whole matter, and create unnecessary expense.

I may add what I said once before to the Senate in another connection, that men who have practiced law in courts as long as the Senator

from New York and myself, and especially men who have had the additional advantage which he has had and I have not had of administering the law as a judge, are too apt, in my judgment, to attach undue consequence to the regular form of proceeding to which they have been accustomed. In my judgment, it is necessary in cases of this kind, and under statutes of this kind, in some degree to disregard that lengthy form of proceeding which is required in ordinary cases. I believe nobody will be hurt by it.

**Mr. HARRIS.** I confess, Mr. President, I am a little disappointed in finding this proposition resisted by the chairman of the Committee on Finance. I had thought that having contrived a way for punishing delinquents under the provisions of this bill without any violation of the ordinary rules of law in respect to the arrest and punishment of individuals, he would have been quite willing to accept it. Now, sir, I confess that I am very much opposed to allowing arrests by executive officers; I think we are familiarizing ourselves quite too much to that sort of thing. I dislike very much the provision in this section that an executive officer, when he thinks an individual has been guilty of a contempt of his authority, may, without process of law, take that individual and carry him through the country to find a court. I desire never to see such a thing as that in this country. It is trifling with the liberties of the citizen unnecessarily, in my judgment. But if the Senator from Maine thinks it fit to retain this provision, and to authorize an assistant assessor, when he thinks a party has been guilty of contempt, to arrest him himself without judicial process, without applying to any judicial tribunal, I shall not resist it further; but it seems to me it is far better to do in this case just what is done in ten thousand other cases where a person has been guilty of default or any delinquency, to apply to a judicial officer for process of arrest. It can be done without difficulty. It is done every day in other cases. Why not do it in this?

**THE PRESIDING OFFICER.** The first question is on the amendment of the Senator from New York, to strike out the words "by subpoena to be served by any assistant assessor," in the twenty-second line of the fourteenth section.

The amendment was agreed to—ayes sixteen, noes not counted.

**THE PRESIDING OFFICER.** The next question is on the amendment of the Senator from New York, to strike out the word "appear," in the twenty-sixth line, and to insert "before such assessor," and then after the word "aforesaid," in the thirty-second line, to strike out down to line thirty-six, and to insert in lieu thereof the words which have been read.

The amendment was agreed to.

**Mr. COLLAMER.** I have some amendments to propose, some of which are verbal and some material. In the first place, I wish to call attention to an amendment that I proposed the other day in relation to titles to land. I move to insert at the end of section one hundred and fifty-seven, on page 207, this proviso:

*Provided, That the title of a purchaser of land by a deed duly stamped shall not be defeated or affected by the want of a proper stamp on any deed conveying said land, by any person through or under whom he claims or holds title.*

**Mr. FESSENDEN.** I fear that that is hardly specific enough. I think the latter clause would read better if it were "any person through or under whom his grantor claims or holds title."

**Mr. COLLAMER.** I have no objection to that; and I so modify my amendment.

The amendment was agreed to.

**Mr. COLLAMER.** The next amendment which I wish to propose relates to a feature which was in the former bill, but has been left out of this, and I desire in some shape to put it in. In the present law a distinction is made as to the income tax between resident citizens and non-resident citizens of the United States. We do not desire that our citizens who have incomes in this country, dividends of banks, and incomes from other corporations and from interest on the public debt, should go out of the country, reside in Paris or elsewhere, avoiding the risk of being drafted or contributing anything personally to the requirements of the country at this time, and get off with as low a tax as anybody else. The law as it now stands makes a difference to those persons of two per cent. in the income tax on account of the ob-

ligations which are avoided by those who reside abroad, and endured by those who stay at home. I think that is a wise and wholesome distinction, and it ought to be preserved. It ought not to be allowed to drop out of this law. It has been dropped out of the bill by the House of Representatives, I do not know exactly upon what ground. The bill provides:

That there shall be levied, collected, and paid annually upon the annual gains, profits, or income of every person residing in the United States, or of any citizen of the United States residing abroad, whether derived from any kind of property, rents, interest, &c.

They have put in a provision that they mean to collect a tax off those citizens who reside abroad; and therefore the distinction could not have been left out for the reason that it was supposed the additional tax could not be collected, as some of my friends suggest to me. I propose that the words "or of any citizen of the United States residing abroad" be stricken out in the fourth line of the one hundred and fifteenth section, on page 170, and then to insert in line sixteen of that section these words:

And upon the annual gains, profits, and income, rents and dividends, accruing upon any property, securities, and stocks owned in the United States by any citizen of the United States residing abroad not in the employment of the Government of the United States, there shall be levied, collected, and paid a duty of two per cent. more than upon resident citizens of the United States.

**Mr. CONNESS.** I should like to hear the reason for that amendment.

**Mr. COLLAMER.** I have stated the reason.

**Mr. CONNESS.** I was out of the Chamber. The Senator will excuse me for asking the question.

**Mr. COLLAMER.** In the first place this is the law now and has been for two years past, but it has been left out of this bill without any reason that I know of. I wish to preserve it. Then, that there is a good reason for making a distinction between resident and non-resident citizens of the United States I think is quite obvious. If a man draws his income from our public debt, or from property here, and resides in Paris, skulking away from contributing his personal support to the Government in this day of its extremity, he ought to pay a higher income tax.

The amendment was agreed to.

**Mr. COLLAMER.** On page 161, line six of section one hundred and nine, after the word "banking," I move to insert "and except such savings banks as confine their business to receiving deposits and loaning the same for the depositors, and do no other banking business whatever."

**Mr. FESSENDEN.** I think the Senator had better put it in some other place; say after the clause in reference to national banks.

**Mr. COLLAMER.** In the eleventh line, after the word "three,"

**Mr. FESSENDEN.** We shall have to insert more words there in reference to the banking bill; when it is approved we shall have to insert the date there; and therefore let the Senator move to put in his amendment immediately preceding the word "and," in the eleventh line. Then it will keep its place whatever we put in before it.

**Mr. COLLAMER.** I do not care about the place. I will have it inserted immediately before the word "and," in the eleventh line of section one hundred and nine, on page 161.

**Mr. JOHNSON.** That makes no limitation as to the business in which those banks may be concerned.

**Mr. COLLAMER.** The exception is of those that confine themselves to taking deposits and lending them for the depositors, and do no other banking business whatever.

**Mr. JOHNSON.** No matter what the amount of deposits may be?

**Mr. COLLAMER.** That is immaterial.

**Mr. JOHNSON.** I have no objection to it. I only wanted to know the effect of it.

**Mr. HALE.** It strikes me that the amendment is a little too limited. I will make the suggestion that I have in my mind to the Senator from Vermont, and then if he thinks it is unnecessary to make the amendment, I will not move it. Some of these savings banks receive large deposits which they do not loan and are not able to loan, and they invest them, for instance, in United States bonds.

**Mr. COLLAMER.** That is loaning. They



do not act like the banks who take deposits, with other business, and pay the depositors on demand, and loan the deposits on their own account. These savings banks of which we speak do nothing of that kind; but merely take money and loan or invest it for the depositors.

Mr. HALE. I was going to suggest that the words "or invest" should be inserted after "loan."

Mr. COLLAMER. I have no objection to say "loaning or investing the same."

Mr. TRUMBULL. I should like to inquire if that would not allow them to invest in bills of exchange, and do that kind of business.

Mr. COLLAMER. The amendment says "and do no other banking business whatever."

Mr. TRUMBULL. But they are authorized to invest; may they not invest in bills? That is the chief business done by banks in the West.

Mr. COLLAMER. But ordinary banks and western bankers take deposits, and invest them for themselves, buy bills of exchange, and all that; but it will be observed that that is not done for the depositors: it is done by the bank or banker; and they are held to the depositor for his deposit any way. That is not the case with our savings banks. They merely take the money from the depositors and loan or invest it for them, and get what they can on it for the depositors, and if they lose it the depositors lose.

Mr. HALE. Let me state to the Senator from Illinois that in the town in which I live we have a small savings bank and its funds amount to over half a million belonging to the workmen there, and the females who work in our mills. It is frequently the case that those deposits are so large that there is no demand for them by which they can be loaned, and they invest them in the fifty-two and other bonds of the United States. I want simply to preserve that.

Mr. COLLAMER. The word "invest" will cover that.

Mr. HALE. Certainly it will cover it.

Mr. HENDERSON. I should like to ask the Senator from Vermont if there are any banks in the eastern States doing a business such as is specified in this amendment; that is, receiving special deposits and loaning them specially for the particular depositor. If the amount is lost does the particular depositor making the deposit lose the money, or is it a general loss?

Mr. COLLAMER. The word "special" is not used in my amendment. I will state to the gentleman what is the character of the banks that exist that I am talking about. A general act in most of the States empowers certain corporations to do this business; or by legislation there is a corporation established to carry on a savings bank. There are a president, four or five directors, and a treasurer. They have no banking house in the country generally; in some of the large cities they have a building. They receive deposits, from fifty cents and upwards, from the laboring people almost entirely, people who work in our factories; they deposit their savings there. The directors act as a mere matter of charity—they are paid nothing; the president is paid nothing. They meet once a week, living in the neighborhood of the bank. They pay nothing except to the treasurer; they pay him for keeping the accounts. They appoint a committee of investment from their own body. They receive deposits, and give to every person that deposits a little book of deposit in which is entered what is put in. Whenever a depositor brings his book and wants any of his money, he is paid on the book being presented, and it is entered on the book how much he has taken out. I believe in the city of Boston there is one institution where they take ten cents. I believe most of them, if not all, limit the amount of deposits; they will not take more than ten or twenty dollars from the same person at the same time. They loan the money out as well as possible. They desire to have a lengthy loan. They will, say, lend a man on six months or a year on a good note with underwriters, when an ordinary bank would lend him only for sixty days. In order to get their money out they make long loans; they do not want it coming back on their hands; they want as little trouble as possible. Sometimes they have a quantity on hand; money is plenty and they cannot lend it. Then they will go and buy United States bonds, or they will buy a share in

some good bank, and in that way keep their account, and render it annually, and report it to the State under oath. They have nothing to do with buying or selling exchanges or doing banking business. If they make an investment with some of their deposits in a mortgage which turns out to be bad, or if they have taken a man's note with underwriters to it that were not good, and they lose it, that makes the balance less and it is deducted from the whole amount deposited; the depositors lose it. The directors have no interest about it one way or the other. They do the best they can. The money is lent for the depositors. I do not mean that if a man puts in a quarter of a dollar they lend that twenty-five cents by itself; but they lend whatever they have in hand, and upon as good security as they can get; they do not mean to take any but what is good. Sometimes they fail, and in that case there would be a loss. After paying their treasurer for his attention to the books, they divide what is made among the depositors. Our regular rate of interest is six per cent., and they generally divide about five per cent. in New England, and they pay it to all that leave their money in three months. If they draw it out short of three months they get no interest.

I have now described to the gentleman, as well as I can, the great number of these institutions, and what their course is.

Mr. HENDERSON. The only difficulty that suggested itself to my mind, and it still presents itself, is that banks of this character may receive very large deposits, and indeed may loan their money, and, as suggested by the Senator from Illinois, may actually make investments in bills, and in that way large deposits may be actually made in the savings banks and they may take off a very large amount of business from other banking institutions, so that in reality they would pay no tax. I suppose investments in bills could be made by them, and investments in loans, and it would be just as profitable to a party making the deposit to put it there as in any other banking institution whatever. I have no objection to the design of the Senator; I think that it is altogether proper that institutions of the character he has described should be exempted; but at the same time I think he ought to limit the amount of deposits, or further describe them, so that there could be no difficulty such as I suggest.

Mr. FESSENDEN. I will simply say to the Senator that these banks are nothing more nor less than this: if he has \$50 or \$100 which he wants to lend, or \$500 if you please, (though they generally limit the amount they receive,) instead of investing it himself in a mortgage on real estate or in United States bonds, or anything else, he puts it into the hands of a savings bank and they collect the interest for him, and pay it over to him.

Mr. HENDERSON. The only question is whether the words used will apply simply to savings banks proper. I have no objection to the design.

Mr. FESSENDEN. They do no business of any other kind or description except to collect the interest and pay it over to the depositor.

Mr. COLLAMER. I thought I had made it as definite as I could when I provided that the savings banks should be those that received deposits and loaned them for the depositors. I have put those words in. It will not apply to cases where a bank loans its deposits for its own benefit, but only to those which loan them for the depositors. Our people do not put large sums in a savings bank as they would in an ordinary bank.

Mr. CLARK. I will state to the Senator from Missouri further that those banks generally will not take large sums on deposit, because they are liable to be called on for them.

Mr. HENDERSON. Let me suggest that the amount of deposits be limited, so as to apply simply to a savings bank such as has been described by the Senator from Vermont. There is some fear that this provision may take an immense amount of money away from taxation. Parties may go on depositing large sums in these banks; there is no limitation in the amendment.

Mr. COLLAMER. There is a savings bank in Boston that takes deposits of ten cents, and yet they amount to millions of dollars in the aggregate.

Mr. HENDERSON. Suppose you limit it to those savings banks where the deposits are under \$100 each.

Mr. JOHNSON. It is true that such an exception as the Senator from Vermont proposes will take from taxation a large amount of money.

Mr. FESSENDEN. The Senator will see that it does not take a dollar from taxation. It pays its five per cent. just like everything else. These banks pay the five per cent. on their dividends like other banks.

Mr. JOHNSON. But they do not pay on deposits.

Mr. FESSENDEN. Because the deposits are not used.

Mr. JOHNSON. That I understand very well. The savings banks throughout the United States must have now what may be considered as capital, although it is in their hands in the name of deposits, some two or three hundred million dollars. I think the savings banks in the New England States, from a statement which I saw not long ago, and which came before me in the consideration of a case which I argued, have a deposit of about one hundred million dollars. In New York and Pennsylvania and Maryland the deposits are very large. In Maryland no depositor is authorized to deposit beyond a certain amount, but he may go on depositing that amount from day to day or week to week as the regulations may be until he may have hundreds of thousands of dollars to his credit. That money is loaned out by the managers of the institutions, who get no pay. It is loaned out just in the way in which the Senator proposes that these loans are to be made which are to operate as an exception to the right of taxing. They loan them out on mortgage, and they invest them in United States securities or in State securities. They do not do a banking business in the general acceptance of that term.

What occurred to me, and I think I suggested it some two or three days ago, was to exempt from this tax only such of these savings banks whose deposits on the average of a year do not exceed some twenty or thirty thousand dollars. The savings banks in the city of Baltimore now I think have about three, perhaps four million dollars on deposit. The State taxes them. The question in the case to which I alluded just now made it necessary, as I thought, to examine into the amount which these banks held. It was a case in which the State undertook to tax that portion of the deposits which the bank had invested in United States securities, such securities as are upon their face exempted from taxation. The court decided that that could not be done; but the State taxes are all paid. I do not know how it may be in other States.

Mr. COLLAMER. My State would have no more idea of taxing these savings banks than it would of taxing contributions for the support of the poor.

Mr. JOHNSON. So I understand, but you do not deal in as large figures as we do in the cities. Your savings banks, I suppose, have some thirty or forty thousand dollars on deposit each.

Mr. COLLAMER. Less than one hundred thousand dollars each.

Mr. JOHNSON. But our savings banks, and I suppose it is so in Boston and New York, have millions of dollars.

Mr. FESSENDEN. Let me ask the Senator a question. Suppose the people who deposit their money in the savings banks should withdraw it and loan it out themselves on bond or mortgage as individuals, is there any way of taxing it?

Mr. JOHNSON. You might tax mortgages. We tax mortgages in our State; we tax the mortgagor and mortgagee too. But that is not the ground on which we tax the savings banks. We tax them on the ground that their charter enables them to do the business. We tax them because the franchise under which they are permitted to aggregate their money in this way, and loan it out so as to get a dividend of five per cent., is granted by the State. They could not do it without that franchise. We suppose, therefore, in Maryland, that there is as much right to tax a savings bank as any other bank.

I admit, with the Senator from Vermont, that it would be very hard to tax those poor people, who from time to time deposit their small earnings in a savings bank, and who pay taxes in other ways, for whatever they buy of taxable property is taxed in their hands. I am not to be understood as maintaining the policy of the tax

on savings banks. On the contrary, in the case to which I have adverted, I argued against the policy, and the court decided that at any rate the State of Maryland had no right to tax that portion of the deposits of these banks which they had invested in United States securities. All I mean to say is that the Senate ought to act understandingly on the subject, that they are exempting from taxation perhaps some three hundred million dollars.

Mr. CLARK. I will state to the Senator from Maryland that the policy of the State of New Hampshire has been a different one from that of the State of Maryland, as I understand it. The policy of our State has been to encourage these institutions. We have regarded it as fit and proper to encourage a person who had got a little money to put it somewhere where he could have a little something on his earnings, and thus learn to accumulate. The savings banks generally say that they will only take such an amount, and they do not go beyond it. They pay an interest of five per cent. per annum to the depositors, dividing it once in three months, and then if, after paying expenses, there is an accumulation of interest, they divide that out, some at the end of one year and some at the end of five years, so that the depositors get everything that is earned except the mere payment of the treasurer. Not a director or committee-man, on loans or anything of that kind, receives a dollar for his expenses. I have been connected with one of these institutions for twenty years, and I have never had a cent for my services. I have given my services gratuitously, for the purpose of encouraging persons who have small sums to put them into bank and thus preserve them. We have a pretty large deposit, and so far as we have been able we have aided the Government with it in this emergency.

Mr. HENDERSON. In my section of country we have no institutions such as have been described by the Senator from Vermont. I desire very much to relieve those banks that he speaks of; I think they ought to be relieved. I find by looking at the returns from his State that the amount of deposits in the savings banks there in 1863 was \$1,339,793. That would be a very small item, and would show that the banks there were of such a character as he describes.

Mr. COLLAMER. There are six or eight of them.

Mr. HENDERSON. But when I come to the State of New York I find that in 1863 there were deposited in the savings banks in that State \$76,538,183. I do not know the character of those banks. They may be called savings banks and yet may be doing a banking business. In the returns which I have before me they are put under the head of savings banks. When I come to New Hampshire I find that in 1863 there were deposited in the savings banks of that State \$6,560,308. When I come to Massachusetts I find that there are ninety-three savings banks in that State, and that their deposits in 1863 were \$50,404,623. So it is in other States.

Looking to New England I really find that the savings banks have rather a small amount of deposits, and must be of the character described by the Senators from New England. But unless this amendment is very carefully worded, will there not be some danger of removing an immense amount of money in some of the other States from taxation as provided by the amendment now under consideration? The amount is much larger than the Senator from Maryland suggested. There are between three and four hundred million dollars deposited in the savings banks so called. I do not know whether they are all such savings banks as have been described here. Some of them may be banks of capital where dividends are made and divided among the stockholders. They may not be such banks as have been described by the Senators from New England. I think the amendment ought to be carefully worded, so as to confine this exception to that class of banks alone where small deposits are made by poor persons—such banks as were suggested by the Senator from New Hampshire a moment ago, where the directors themselves receive no compensation, where it is not intended that they should do a banking business except for the purpose of loaning the small deposits of poor persons who work in the factories, &c., and to realize something from those deposits for them. There is danger that an

immense banking business may be done under the head of savings banks, and thereby the Government be deprived of an immense revenue.

Mr. CLARK. The amendment of the Senator from Vermont provides that they shall do no other business whatever except merely to receive the money and loan it out for the benefit of the depositors. I suggest to the Senator from Missouri that you cannot fix it by the amount of deposits, because different banks receive different amounts from depositors but all precisely in the same way.

Mr. SHERMAN. I do not want to detain the Senate, but I must suggest that you are legislating for savings banks in Vermont and you are using descriptive words which may cover banks all over the country that may have enormous deposits. In some of the States "savings bank" is a mere name of an ordinary bank. Some banks are called "savings banks" just as others are called "farmers' banks" and "merchants' banks."

Mr. CLARK. Was the Senator giving his attention? The amendment provides that they shall be banks which receive money and loan it out for depositors only, and do no other business.

Mr. SHERMAN. They receive money for poor people and invest it. Why should they not pay tax? I do not see any reason in the world.

Mr. FESSENDEN. They pay the income tax.

Mr. SHERMAN. Why should they not pay a tax on deposits?

Mr. FESSENDEN. They do not use their deposits.

Mr. SHERMAN. In ordinary country banks some people make deposits of small sums drawing no interest, simply depositing the money in bank for their own convenience; and yet the bank is taxed on those deposits. When individuals choose to deposit their money in one of these savings banks they get some profit; they get the interest. Why should they not pay a tax?

Mr. FESSENDEN. Why should they pay a tax on them, and then pay an income tax too? Why should they pay it any more than we should say to the Senator from Ohio, "Sir, you have loaned \$1,000, and shall pay five per cent. on your income, and in addition you shall pay another tax because you have loaned it; you have deposited \$1,000 with the Senator from Iowa, and you shall pay, therefore, a tax on your deposits and a tax on your income too." There is no difference between the cases.

Mr. SHERMAN. I will answer that by this familiar case: suppose the Senator from Maine loans me \$1,000—

Mr. FESSENDEN. The Senator from Maine cannot do it; he has not got the money; it is not a supposable case. [Laughter.]

Mr. SHERMAN. Take the case as a supposable case. He has to stamp the note. Somebody has to pay for the stamp. Why should he be required to pay for the stamp? This tax on deposits is equivalent to a stamp tax or something of that kind. I am afraid that in endeavoring to exempt poor people in Vermont from this small tax you will exempt a great many people who are not so poor, and you will defeat a very important object in endeavoring to reach an exceptional case. That is the way it strikes me.

Mr. COLLAMER. It amounts to just this: if a poor man has loaned and saved together \$100, if he loans it himself it is all very well, there is no tax to be paid; but if a number of poor men get together and get somebody who they suppose is more competent to attend to it than they are to loan it for them, then you say you have something that you can lay your hand on and get a tax from, because it is a deposit. Right is one thing. Power to do the thing is another. The Senator from Ohio wants to touch these deposits because we have the power.

Mr. GRIMES. If my recollection serves me aright, the Senator proposed such an amendment to the last tax bill—

Mr. COLLAMER. It was adopted.

Mr. GRIMES. I want to know whether any bad result has flowed from that? I can see that there ought to be a difference between a savings bank that merely acts as the trustee for poor men and invests their money which comes in in small dribbles in larger sums, and a bank that receives deposits and buys and sells bills of exchange. I do not want to exclude the latter from paying taxes under the operation of this provision, and

I do not understand, a similar provision having been adopted in the former bill, that such a provision as this would prevent their paying their just proportion of tax, and hence it seems to me that it is manifestly proper that this amendment should be adopted if it is strictly to apply to those banks that are legitimate savings banks.

Mr. HENDERSON. That is the only question.

Mr. GRIMES. It seems there has been a construction given to this language.

Mr. HENDERSON. I do not know about that. I do not know what the assessors do.

Mr. COLLAMER. The expression is that savings banks shall be excepted that confine their business to receiving money for depositors and loaning the same for them.

Mr. HENDERSON. Every bank just does that. ["No," "No."]

Mr. COLLAMER. If they make a bad investment the depositors lose.

Mr. GRIMES. Other banks do not loan money for the depositors.

Mr. HENDERSON. The only difference is the difference between a mutual insurance company and an insurance company with capital. It makes very little difference to me whether I insure in a mutual insurance company or whether I insure in a company where the capital has been subscribed and paid in. I am in favor of the proposition made by the Senator from Vermont, but I do not desire to vote upon it in its present shape, and I suggest that it be passed over for the present, so that we can look to the wording of it, and exempt only those banks described by the Senator from Vermont.

Mr. COLLAMER. The motive I had in the description contained in this amendment was to make it certain that only our savings banks should be excepted.

Mr. HENDERSON. I am aware of that, but I do not want to be called upon to vote just now, because I wish to see that that is certain.

Mr. COLLAMER. Very well; let it pass over.

THE PRESIDING OFFICER. The further consideration of this amendment will be passed by by unanimous consent unless a vote is insisted upon by some Senator. It will be laid aside for the present.

Mr. COLLAMER. I have a number of verbal amendments that I wish to call attention to. The first is on page 59—

Mr. FESSENDEN. Before that is done, if the Senator will allow, I wish to make a motion that at half past four o'clock the Senate take a recess until seven o'clock. It is quite a comfortable and cool evening, and I think we can make some progress.

The motion was agreed to—ayes twenty-three, noes not counted.

Mr. LANE, of Kansas. I desire to take the sense of the Senate on adjourning over from Saturday until Wednesday. ["No," "No."]

Mr. FESSENDEN. We cannot do it by the Constitution.

Mr. LANE, of Kansas. I make the motion that when the Senate adjourns on Saturday it be to meet on Wednesday.

Mr. COLLAMER. I have no objection to the gentleman making the motion.

Mr. LANE, of Kansas. I do not want to make the motion if it is to be defeated. I want the Senate to adjourn over the Baltimore convention.

THE PRESIDING OFFICER. The Chair can entertain the motion made by the Senator from Kansas only by common consent.

Mr. WILSON. I object.

THE PRESIDING OFFICER. Objection being made, the motion cannot be entertained.

Mr. WILSON. I have been requested by several Senators to withdraw my objection, for the purpose of taking the sense of the Senate, and as I believe the sense of the Senate will be against having anything to do with that matter at Baltimore, I withdraw the objection.

#### ARMY NEWS.

The PRESIDENT *pro tempore* read to the Senate the following communication received by him from the Secretary of War:

WAR DEPARTMENT,  
WASHINGTON, June 2, 1864.

Sir: A dispatch from General Grant's headquarters, dated yesterday, June 1, at ten a. m., has been received. It states:

"At five p. m. yesterday Sheridan, perceiving a force of

rebel cavalry at Cold Harbor, which proved to be Fitzhugh Lee's division, attacked, and, after a hard fight, routed it, together with Clingman's brigade of infantry, which came to Lee's support. Sheridan remained in possession of the place. He reported at dark that he had a considerable number of prisoners, and there were many rebel dead and wounded on the field. He was ordered to hold the position, and at ten p. m. the sixth corps (Wright's) set out to occupy it.

"We have not yet heard from Wright or Sheridan this morning, and do not know whether the former has got his troops to the destination. Smith (Baldy) must be close upon Wright's column. This morning the enemy are also moving a heavy column in the same direction. The order has just gone to Warren to fall upon their flank.

"Wilson had a fight last evening near Hanover Court-House with Young's brigade of cavalry. He routed Young, killing and capturing many, but there has been a good deal of artillery firing in that direction this morning.

"Warren reported last night that in his fight of Monday afternoon, near Bethesda Church, Colonel Tyrrell, thirteen Virginia, and Colonel Willis, commanding Pegram's brigade, were killed. Colonel Christian, forty-ninth Pennsylvania, was wounded and captured; so was the acting adjutant general of Ramsay's brigade, name not reported. Ten other commissioned officers and seventy privates were captured. Sixty rebels were buried on the field.

"In our center Burnside reports his advanced lines as being within a mile and a half of Mechanicsville."

E. M. STANTON,  
Secretary of War.

#### ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolution; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 218) to repeal the first section of the joint resolution relative to the transfer of persons in the military service to the naval service, approved February 24, 1864;

A bill (H. R. No. 120) to reestablish the principal port of entry for the district of Champlain, at Plattsburgh, and for other purposes;

A bill (H. R. No. 395) to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof;

A bill (H. R. No. 474) to amend an act relative to the public printing; and

A joint resolution (H. R. No. 51) relative to the claim of William Wheeler Hubbell.

#### COMMITTEE SERVICE.

Mr. SAULSBURY. I wish to make a personal request of the Senate, as I am about to leave the city. I move that the Senate excuse me from further service upon the Committee on Commerce. The motion was agreed to.

#### HOUSE BILL REFERRED.

The bill from the House of Representatives (No. 483) granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget sound, on the Pacific coast, by the northern route, was read twice by its title.

Mr. JOHNSON and Mr. RAMSEY. Let it be referred to the Committee on Public Lands.

Mr. CONNESS. I hope that bill will go to the Committee on the Pacific Railroad. I ask for a vote on the question of its reference.

Mr. RAMSEY. The bill ought to be sent, I think, to its friends, and not to its enemies.

Mr. CONNESS. I should like to know on what reason the honorable Senator from Minnesota now claims or undertakes to say that the Committee on the Pacific Railroad are the enemies of this bill.

The PRESIDING OFFICER. There being a question as regards the reference, the Chair will put the vote first on the motion to refer this bill to the Committee on Public Lands. The Senator from California suggests the Committee on the Pacific Railroad.

Mr. CONNESS. I desire to say to the Senate before the vote is taken that I for one am not opposed to this bill; on the contrary, I am in favor of giving any grant they want in reason; but the business of this bill appropriately is with the Committee on the Pacific Railroad, and I hope it will be so referred.

Mr. JOHNSON. I introduced a bill of the same kind with the one which is now before the Senate, and I supposed it was proper, and therefore made the motion, to refer it to the Committee on Public Lands, which was done. I think this bill ought to take the same direction.

Mr. GRIMES. What do we have the Committee on the Railroad for?

Mr. McDOUGALL. The grant in aid of a road by the northern route from St. Paul to Puget sound involves nothing more than a grant of lands. Therefore I think it might well go, as all bills of that kind have gone, to the Committee on Public Lands. I suggest to my colleague that as it involves nothing but the administration of the public lands of the United States, it should properly go to that committee. It has been so before.

Mr. CONNESS. I was quite aware of that; but I thought it was rather invidious, as this bill proposes a railroad to the Pacific ocean, to take it away from the committee specially constituted in this body to consider that question. I am not aware of one single voice against it in the committee. Gentlemen, I think, mistake if they apprehend that there is any enmity to it in that committee. I thought it was rather invidious to propose to send it to another committee when there was one created for the purpose of considering the question.

The PRESIDING OFFICER. The question is, "Shall this bill be referred to the Committee on Public Lands?"

The motion was agreed to.

The PRESIDING OFFICER. Under the order of the Senate, the Chair announces that a recess will now take place until seven o'clock this evening.

#### EVENING SESSION.

The Senate reassembled at seven o'clock, p. m.

#### RELEASE OF PROPERTY FROM ATTACHMENT.

Mr. HARRIS. I move that the Senate proceed to the consideration of House bill No. 355.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 355) to authorize the Secretary of the Treasury to stipulate for the release from attachment or other process of property claimed by the United States, and for other purposes. It provides that whenever any property owned or held by the United States, or in which the United States have or claim an interest, shall, in any judicial proceeding under the laws of any State, District, or Territory, be seized, arrested, attached, or held for the security or satisfaction of any claim made against said property, it shall be lawful for the Secretary of the Treasury, in his discretion, to direct the Solicitor of the Treasury to cause a stipulation to be entered into by the proper district attorney for the discharge of such property from such seizure, arrest, attachment, or proceeding, to the effect that upon such discharge the person asserting the claim against such property shall become entitled to all the benefits of this act; and in all cases where such stipulation shall be entered into, and the property shall in consequence thereof be discharged, and final judgment shall be given in the court of last resort to which the Secretary of the Treasury may deem proper to cause such proceedings to be carried, affirming the claim for the security or satisfaction of which such proceedings shall have been instituted, and the right of the person asserting the same to enforce it against such property by means of such proceedings, notwithstanding the claims of the United States thereto, such final judgment shall be denied, to all intents and purposes, a full and final determination of the rights of such person, as against the United States, to such rights as he would have had in case possession of the property had not been changed; and if such claim be for the payment of money, and the same shall by such judgment be found to be due, the presentation of a duly authenticated copy of the record of such judgment and proceedings shall be sufficient evidence to the proper accounting officers for the allowance thereof; and the same is thereupon to be allowed and paid.

The Committee on the Judiciary reported the bill with an amendment, to add the following proviso:

*Provided*, That the amount so to be allowed and paid shall not exceed the value of the interest of the United States in the property in question: *And provided further*, That nothing herein contained shall be considered as recognizing or conceding any right to enforce by seizure, arrest, attachment, or any judicial process any claim against any property of the United States, or against any property held, owned, or employed by the United States, or by any department thereof, for any public use, or as waiving any objection to any proceeding instituted to enforce any such claim.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in and ordered to be engrossed and the bill to be read a third time. It was read the third time, and passed.

#### PROFESSORS AT WEST POINT ACADEMY.

Mr. HARRIS. I now move that the Senate proceed to the consideration of Senate joint resolution No. 58.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. No. 58) in relation to the professors of the Military Academy at West Point. It provides that the thirty-first section of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, shall not be construed to abridge the privileges usually allowed to the professors of the Military Academy of being absent during the suspension of the ordinary academic studies of that institution.

Mr. GRIMES. I should like to know what is the necessity for that resolution. The professors at West Point are not Army officers.

Mr. HARRIS. They are. The thirty-first section of the act for enrolling and calling out the national forces will preclude them from drawing their salary during the vacation.

Mr. GRIMES. It would if they were Army officers, but where is the law making them Army officers?

Mr. HARRIS. They so understand it, and the War Department so understand it, and it is at their instance that I introduce this resolution. It can do no harm.

Mr. GRIMES. It will do no harm, I suppose, except that we may thereby recognize them as Army officers. I recollect very distinctly that this question was discussed here since I have been a member of the Senate, before the Senator from New York took his seat here, and at the time when Mr. Davis was chairman of the Committee on Military Affairs.

Mr. HARRIS. I do not know how that is; I never looked into the question; but these gentlemen suppose they will not be allowed to visit their friends during the vacation without losing their pay unless this resolution is passed.

Mr. GRIMES. I remember very well that the effort was made to make them Army officers.

Mr. JOHNSON. Are they not put upon the footing of Army officers generally?

Mr. GRIMES. No; they have a salary; they are not Army officers at all. An effort was made some years ago to make them Army officers and put them into the engineer corps, but it was resisted here.

Mr. HARRIS. This will not make them such.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### LIEUTENANT COLONEL JOSEPH BAILEY.

Mr. WILSON. I move that the Senate take up the joint resolution (S. No. 60) tendering the thanks of Congress and for the presentation of a medal to Lieutenant Colonel Joseph Bailey, of the fourth regiment of Wisconsin volunteers.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

Mr. DOOLITTLE. I introduced this joint resolution, but as the Committee on Military Affairs have reported it with an amendment in the nature of a substitute, with which I am perfectly content, I suppose it will not be necessary to read the original resolution.

The PRESIDENT *pro tempore*. The amendment of the committee only will be read, if there be no objection.

The Secretary read the amendment, which was to strike out all of the original resolution after the enacting clause and to insert in lieu thereof:

That the thanks of Congress be, and they are hereby, tendered to Lieutenant Colonel Joseph Bailey, of the fourth regiment Wisconsin volunteers, acting engineer of the nineteenth Army corps, for distinguished services in the recent campaign on the Red river, by which the gunboat flotilla under Rear Admiral David D. Porter was rescued from imminent peril.

Sec. 2. *And be it further resolved*, That the President of the United States be requested to cause a gold medal to be struck, with suitable devices and inscriptions, to be presented to Lieutenant Colonel Bailey, with a copy of this resolution. And a sufficient sum of money to carry this resolution into effect is hereby appropriated out of any money in the Treasury not otherwise appropriated.



Mr. GRIMES. I move to strike out the second section of that amendment.

Mr. JOHNSON. What is the objection to it?

Mr. GRIMES. I am willing to render any kind of honor to Colonel Bailey he deserves, but we have granted only one gold medal during this war to a military or naval officer, and that was to General Grant. I do not think it wise to begin to be lavish with the expenditure of these gold medals. It is a great thing, and ought to be so regarded, to receive the thanks of Congress by a special act.

The amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

The joint resolution was ordered to be engrossed for a third reading, and was read the third time.

Mr. JOHNSON. I think the member from Iowa and the Senate have stricken out more of the resolution than they intended to strike out. A portion of the section stricken out directs a copy of the resolution to be sent to Colonel Bailey.

Mr. GRIMES. I did not mean to strike out that part.

Mr. WILSON. I think it is all right as it is now, since we have agreed to amend it. Of course we shall have to change the title.

Mr. GRIMES. I propose only to strike out the first clause of the second section.

The PRESIDENT *pro tempore*. If there be no objection the second section of the resolution, instead of being stricken out, will be regarded as modified to read as follows:

Sec. 2. *And be it further resolved*, That the President of the United States be requested to cause a copy of this resolution to be transmitted to Lieutenant Colonel Bailey.

The joint resolution was passed. Its title was amended so as to read: "A joint resolution tendering the thanks of Congress to Lieutenant Colonel Joseph Bailey, of the fourth regiment of Wisconsin volunteers."

#### SUPERANNUATED FUND SOCIETY.

Mr. JOHNSON. I move that the Senate proceed to consider Senate bill No. 293.

Mr. FESSENDEN. I hope it will not take long.

Mr. JOHNSON. It will not take any time. It simply proposes to authorize a charitable institution called the Superannuated Fund Society of Maryland to receive property under a devise.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 293) to empower the Superannuated Fund Society of the Maryland annual conference to hold property in the District of Columbia and to take a devise under the will of the late William Doughty.

A certain William Doughty, of Georgetown, in the District of Columbia, by his last will, bearing date on the 29th of April, 1859, duly admitted to probate, devised and bequeathed certain real and personal property and estate—part to take effect at his death, and the residue at the death or marriage of his widow—to a society incorporated by act of the General Assembly of Maryland by the name of the Superannuated Fund Society of the Maryland annual conference, and called in the will the Superannuated Fund Society of the Methodist Protestant Church for the district of Maryland. It has been questioned whether the corporation can lawfully take and hold the property, in virtue of the will, without the leave and assent of Congress. The bill therefore proposes to give the assent of Congress to the aforementioned devise and bequests to the Superannuated Fund Society of the Maryland annual conference; and the society are authorized and empowered to take and hold the property and estate devised and bequeathed to it, agreeably to the tenor and provisions of the will, and to dispose of and enjoy the same to every intent and effect as if the society had been originally incorporated by act of Congress. That corporation is also empowered to hold real and personal property located in the District of Columbia, acquired or that shall be acquired by gift, purchase, devise, or bequest, and to enjoy, rent, lease, or convey it at pleasure, as freely as any person or body corporate can do, but the net yearly income of such property is not to exceed \$20,000.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### INTERNAL REVENUE.

Mr. FESSENDEN. I move now to proceed with the consideration of the tax bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 405) to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes.

Mr. COLLAMER. Previous to the recess I was moving some few amendments to this bill. I wish now to call attention to this provision on page 59, section fifty-four, line nineteen:

And the said duty shall be a lien on such spirits and also on the interest of all persons in default in the distillery used for distilling the same, with all the stills, vessels, fixtures, and tools therein, and in the lot or tract of land whereon the said distillery is situated, until the said duty shall be paid.

I move to strike out the words "such spirits, and also on the interest of all persons in default in."

The amendment was agreed to.

Mr. COLLAMER. In the same clause, line twenty-two, I move to strike out the word "in" and to insert "on;" so as to read, "and on the lot or tract of land," &c.

The amendment was agreed to.

Mr. COLLAMER. On page 92, section seventy-eight, I find this provision:

14. Commercial brokers shall pay twenty dollars for each license. Any person or firm, except one holding a license as wholesale dealer, or produce brokers, whose business it is, as a broker, to negotiate sales or purchases of goods, wares, produce, or merchandise, not otherwise provided for in this act, or seek orders therefor, in original or unbroken packages, or to negotiate freights and other business for the owners of vessels, or for the shippers or consignors or consignees of freight carried by vessels, shall be regarded a commercial broker under this act.

Any person who does this kind of business is regarded as a commercial broker and required to take out this license, except a person who has a license as a wholesale dealer. A person who is licensed as a wholesale dealer may, under that license, do this business without taking out any other license. If I understand the language, that is the meaning. The wholesale dealer who has a license as a wholesale dealer may do this work without taking out this license as a commercial broker.

Mr. JOHNSON. There are two exceptions there. Produce brokers are excepted also.

Mr. COLLAMER. I am talking of this exception now. I will talk of the other directly.

The man who is a wholesale dealer may by virtue of being that be a commercial broker; but if we turn to page 88, line thirty-eight, we find this provision:

Nor shall any license as a wholesale dealer allow any such person to act as a commercial broker.

Here he is expressly forbidden to act as a commercial broker, and yet in the other clause it is declared that he may do so without taking any particular license. The gentleman from Maine can have it whichever way he pleases, either that he shall be or shall not be allowed to act as a commercial broker; but one or the other of those clauses ought to be stricken out.

Mr. FESSENDEN. That provision has occasioned a good deal of consideration. The Senator contends that that is the effect of it. I, and I believe you, sir, have been unable to perceive that that was the effect with all the study that we have been able to give to it.

Mr. COLLAMER. Will you tell me what is the meaning of that exception?

Mr. FESSENDEN. I read it in this way: commercial brokers are to pay twenty dollars for each license. Then comes a specification of what persons shall be considered as commercial brokers. "Any person or firm"—I leave out the exception—"whose business it is, as a broker, to negotiate sales or purchases of goods, wares, produce, or merchandise, &c., shall be regarded a commercial broker under this act." The exception is, "except one holding a license as wholesale dealer." I take the meaning of that to be that a person holding that license shall not be regarded as a commercial broker, although he may carry on the same business.

Mr. COLLAMER. That is the same thing. If he carries on the business he may do it without any other license except the one as a wholesale dealer. If he is a wholesale dealer, he may do

this business without the license of a commercial broker.

Mr. FESSENDEN. As the Senator is so positive about it, and I do not regard the matter as of any very great importance, I will not object to striking out those words, "as wholesale dealer," so that it will read:

Any person or firm, except one holding a license as produce brokers, whose business it is, &c.

Mr. COLLAMER. Now, I call the Senator's attention to this: then he would allow the produce broker to be a commercial broker without taking out this license. If he will turn to the previous clause he will find that a produce broker only pays ten dollars for a license, and he may act as a commercial broker without taking out the twenty dollar license. The result will be that no commercial broker will take out the twenty dollar license. He will take out a license as a produce broker, and that will make him a commercial broker, and save him ten dollars.

Mr. FESSENDEN. Then you would advise to strike it all out.

Mr. COLLAMER. No, I do not. I do not advise the striking out of either of them. I want you to fix it and leave it either ten or twenty dollars.

Mr. FESSENDEN. I wish to understand whether the Senator makes a motion.

Mr. JOHNSON, (to Mr. COLLAMER.) What do you propose to do?

Mr. COLLAMER. I desire the committee to select which way they would have it; whether they would have it without the license or not. My idea would be to strike out both those exceptions altogether.

Mr. FESSENDEN. Well, strike them out.

Mr. COLLAMER. On page 92, line one hundred and thirty-four, after the word "firm," I move to strike out the following words, "except one holding a license as wholesale dealer or produce broker."

The amendment was agreed to.

Mr. COLLAMER. On page 89, line sixty-five, I take it the word "and" should be "or;" so that it will read:

Every person who shall sell or offer for sale foreign or domestic spirits, wines, ale, beer, or other malt liquors in quantities of three gallons or less, or whose annual sales, including all sales of other merchandise, do not exceed \$25,000, shall be regarded as a retail dealer in liquors under this act.

Mr. FESSENDEN. What is the necessity for that change?

Mr. COLLAMER. If the gentleman will look at the clause above defining the wholesale dealers he will see that it reads in this way:

Every person who shall sell or offer for sale any distilled spirits, fermented liquors, or wines of any kind in quantities of more than three gallons at one time to the same purchaser, or whose annual sales shall exceed \$25,000, shall be regarded a wholesale dealer in liquors.

If he either sells liquor in larger quantities than three gallons, or if his sales amount to \$25,000, he is to be a wholesale dealer. The clause below defines a retail dealer in contradistinction to a wholesale dealer:

Every person who shall sell or offer for sale foreign or domestic spirits, wines, ale, beer, or other malt liquors in quantities of three gallons or less, and whose annual sales, including all sales of other merchandise, do not exceed \$25,000, shall be regarded as a retail dealer in liquors under this act.

The other clause is in the alternative: if he sells liquor in certain quantity, or has such an amount of sales, he is to be considered a wholesale dealer. So it should be in this clause to make it conform to the other. I move to strike out the word "and," in line sixty-five, and to insert the word "or," so as to read, "or whose annual sales."

Mr. FESSENDEN. I do not object to the amendment.

The amendment was agreed to.

Mr. COLLAMER. I wish to call attention to the clause on page 99, line three hundred and eighteen, in regard to the license of apothecaries. It reads as follows:

31. Apothecaries shall pay ten dollars for each license. Every person who keeps a shop or building where medicines are compounded or prepared according to prescriptions of physicians, and sold, shall be regarded an apothecary under this act.

In the small towns in the country generally, there are very few of the apothecaries who keep shops and sell medicines—perhaps scarcely any—who make up prescriptions of physicians. In the

country the physicians carry their own medicines with them, and compound them, and deal them out themselves. The druggists or apothecaries keep medicines for sale. This license would not extend to any apothecary unless he was one who prepared and compounded medicines according to the prescriptions of physicians and sold them. For selling other medicines he would not be required to have any license. I take it the word "and" there should be "or." Perhaps that will correct it entirely.

Mr. FESSENDEN. In that case a person might sell any amount of medicines and be regarded as an apothecary. He might sell them by wholesale.

Mr. COLLAMER. Have you anything in the bill that covers the case of apothecaries such as exist in the country generally?

Mr. FESSENDEN. That is all there is.

Mr. COLLAMER. That does not cover it. There are two apothecaries in the town in which I live. One of them I believe compounds prescriptions when he can get them, but he has nothing to do but to stop that business—and he does not put up a dozen of them in a year—and he will not have to pay a license; and yet that man sells medicines to the amount of a good many thousand dollars a year, and does a successful business.

Mr. FESSENDEN. As I said, if the amendment suggested by the Senator is made, any person might sell medicines under the apothecary's license for ten dollars to any amount.

Mr. COLLAMER. Can he not as the bill stands now?

Mr. FESSENDEN. No, sir; because he would be a wholesale dealer; and that is a much higher license.

Mr. COLLAMER. The point with me is this: my apothecaries under this clause would not be required to have any license. I want them to have them, and to pay for them. As the bill stands now, a wholesale dealer if he follows that business would have to take a license for that; but my apothecary is not a wholesale dealer; still he sells several thousand dollars' worth a year; and yet he does not make up prescriptions for physicians.

Mr. FESSENDEN. I think if a comma were put after the word "compounded" it would answer the purpose. It would then read:

Every person who keeps a shop or building where medicines are compounded, or prepared according to prescriptions of physicians, &c.

Mr. COLLAMER. I would not care if he did not compound any, if he sold them I would make him take out a license.

Mr. JOHNSON. What the Senator from Vermont desires could be accomplished by striking out the word "and" and inserting the words "or where medicines are." That will do it, and that is right, too. Otherwise, if you say "or sold," that would apply only to medicines compounded.

Mr. COLLAMER. It would read:

Every person who keeps a shop or building where medicines are compounded or prepared according to prescriptions of physicians and sold."

Mr. JOHNSON. "Or where medicines are sold."

Mr. FESSENDEN. That would have no different effect.

Mr. COLLAMER. None at all.

Mr. FESSENDEN. I will not object to the amendment if the Senator will look at the clause more particularly and move the proper amendment.

Mr. COLLAMER. Gentlemen can see, as it now is, that the apothecaries generally through the country could sell up to any amount that did not make them a wholesale dealer, and not take out any license whatever.

Mr. JOHNSON. The difficulty I have is that if you only leave the words "or sold" in it will mean that it shall apply only to those that are compounded or prepared according to the prescription of physicians. They sell a great many that are not compounded; I suppose ninety-nine in one hundred in the country.

Mr. FESSENDEN. The alteration which the Senator from Vermont proposes would cover that by inserting the word "or" instead of "and," and I do not know but that it is right. At any rate, I do not object to it.

Mr. COLLAMER. I will not move to insert it unless you think it right. On reflection, I will accept the suggestion of the gentleman from Mary-

land and move in line three hundred and eighteen to strike out the word "and" and to insert the words "or where medicines are." So that it will read:

Every person who keeps a shop or building where medicines are compounded or prepared according to prescriptions of physicians, or where medicines are sold, shall be regarded an apothecary under this act.

The amendment was agreed to.

Mr. COLLAMER. I desire now to move to strike out the proviso to section one hundred, on page 153. It is the section relating to slaughtered cattle, swine, and sheep. The section reads in this way:

Sec. 100. And be it further enacted, That there shall be paid by any person, firm, company, or agent or employe thereof, the following duties or taxes, that is to say:

On all cattle and calves exceeding three months old, slaughtered for sale, except when slaughtered for the hides and tallow exclusively, forty cents per head.

On all cattle and calves under three months old, slaughtered for sale, five cents per head.

On all swine slaughtered for sale, ten cents per head.

On all sheep and lambs slaughtered for sale, five cents per head.

Now comes the proviso. But first I will remark that there is no tax levied in this section on anything but what is slaughtered for sale. There is nothing in this section that implies that a man may not kill a pig of his own for his own family; but it must be something slaughtered for sale; and yet it goes on with a great proviso, in these words:

Provided, That cattle, not exceeding five in number, and calves, swine, sheep, and lambs, not exceeding in all twenty in number, slaughtered by any person for his or her own consumption, in any one year, shall be exempt from duty.

Why on earth are they exempt from duty? There never was anything subject to duty except what was killed for sale. I think that proviso should all be stricken out.

Mr. SHERMAN. I was going to suggest to the Senator, since he is looking over the bill for verbal criticisms—

Mr. COLLAMER. This is not verbal.

Mr. SHERMAN. Well, as he wishes to get rid of a great deal of useless verbiage, what is the use of defining a lawyer, apothecary, doctor, and all these sorts of employment in the law, instead of simply saying, "lawyers shall pay so much," &c.

Mr. COLLAMER. If it was not anything worse than that I would not say anything about it.

Mr. SHERMAN. It is simply tautology.

Mr. COLLAMER. That proviso is utterly inconsistent with the immediate preceding portion of the section. It would lead a person to suspect that he could not kill a calf or a turkey for his own use in his own yard without being subject to this duty, and that we had inserted this particular exception in the bill in order to allow him to do so. I desire that that proviso be stricken out.

Mr. JOHNSON. The whole of it?

Mr. COLLAMER. Yes, sir.

Mr. JOHNSON. Then what becomes of the subsequent provision:

And all sheep slaughtered for the pelts shall pay two cents only per head.

Mr. COLLAMER. There is no use in it, but if gentlemen wish to save that provision I will move only to strike out the preceding portion of the proviso. In my own town I have known sometimes a man to kill fourteen thousand sheep for the pelts in one season.

Mr. JOHNSON. That would give us something.

Mr. COLLAMER. That will give something if you wish to keep it in. They kill them not only for the pelts, but also for the tallow.

Mr. FESSENDEN. I enjoy the humor of the honorable Senator from Vermont very much—

Mr. COLLAMER. If the gentleman can show me any use of that proviso I will sit down.

Mr. FESSENDEN. The use intended to be made of it was this—perhaps it is not very well expressed—that any person who slaughtered more than that number of cattle should be regarded as slaughtering them for sale; it meant to make a liberal allowance for family consumption; but under the operation of the law it has been found that persons having considerable of a stock would slaughter them for their own use and then sell a very considerable portion in the market, declaring that they did not slaughter them for sale,

but slaughtered them for their own use, and in that way interfering a good deal with the trade. They slaughter them for their own use at their farms, and then carry a very large part into market.

Mr. COLLAMER. That was not the intention.

Mr. FESSENDEN. I may be permitted to speak of what was intended. When I admit it was not well expressed, I hope my friend will allow me to state what I understand by it myself. It would be a little hard to apply that to me, that I do not know what I meant, although it might be inferable by my not expressing it right.

The idea was precisely what I say: that it was found that persons having a very large stock slaughter in fact a good deal more than they have any use for themselves, and sell a very large portion of what they slaughter. The intention and the effect of this proviso would be and it would be so construed to mean simply that all cattle over that amount slaughtered by any one person shall be regarded as slaughtered for sale and the duty shall be paid.

Mr. JOHNSON. That is all right; but the intention certainly is not clearly expressed in the proviso.

Mr. FESSENDEN. That, I am disposed to admit, and therefore I shall feel obliged to those two honorable gentlemen who are so critical in the use of language, if they will suggest something that will meet the idea more correctly instead of striking it all out, because that is the evil we intended to remedy.

Mr. COLLAMER. The gentleman did not draw this provision, and though he thinks that was the intention, I do not believe the man who drew it up ever thought of such a thing. It could not effect the object in that way. Suppose you say to a man, "If you kill above so much for your own use, you shall be presumed to kill them for sale," and he proves that he did not kill them for sale, then the presumption is done away with. How are you going to raise the question in court? You prosecute a man, for what? For selling without a license. You would of course be obliged to prove that he sold them. That would not be within this proviso. This proviso is that he may slaughter them for his own use. It could not possibly have been intended by anybody who drew it up to cover the idea which the gentleman speaks of.

Mr. FESSENDEN. There is no license in this section, and it has no relation to licenses.

Mr. COLLAMER. The man takes out a license as a butcher; he makes a return.

Mr. FESSENDEN. Besides his license he pays this tax.

Mr. COLLAMER. He makes returns; but the man who slaughters them does not. I repeat that I do not wish, nor do I intend, to make any amendment to this bill which is not entirely satisfactory to the gentleman from Maine. I have not made any, and I do not intend to make any.

Mr. FESSENDEN. I am much obliged to the Senator for what he has done.

Mr. COLLAMER. There is another idea in regard to that proviso. If it is stricken out, any man who kills but one and sells it without paying this duty will be subject to prosecution; and it is just so if he kills fourteen, no more, no less. The proviso therefore is totally useless. You will raise the presumption if he kills fourteen and sells them, that he was selling with a license, and just so if he sold one.

Mr. FESSENDEN. If the Senator will move to strike out all of the proviso after the word "that" down to the word "all," in the seventeenth line, we will let it go, and see if we cannot amend it in the committee of conference.

Mr. COLLAMER. Very well; I will move that amendment.

The PRESIDING OFFICER, (Mr. Foot in the chair.) The Senator from Vermont proposes to amend section one hundred, line twelve, by striking out the following words:

Cattle, not exceeding five in number, and calves, swine, sheep and lambs, not exceeding in all twenty in number, slaughtered by any person for his or her own consumption in any one year, shall be exempt from duty, and.

So that the proviso will read:

Provided, That all sheep slaughtered for the pelts shall pay two cents only per head.

Mr. CLARK. I have a recollection of this matter when it was in committee, and I think the difficulty is met by striking out the words "for

sale" in the fifth, in the eighth, in the ninth, and in the tenth lines. That is what we intended, for I recollect particularly discussing the proviso, and I recollect the question occurring in committee about a man not being allowed to sell a given number of sheep, and some of the committee remarked that would be too many.

Mr. JOHNSON. I rather think that depends on the size of his family.

Mr. CLARK. We concluded that it did.

Mr. COLLAMER. If the gentleman will strike out the words "for sale" in the previous part of the section in the clause "slaughtered for sale," I have no objection to the proviso standing, and I withdraw my amendment to ascertain if he will do that.

Mr. CLARK. I move, in the fifth, eighth, ninth, and tenth lines of the one hundredth section, to strike out the words "for sale."

The amendment was agreed to.

Mr. FESSENDEN. I should like to make an amendment on the 79th page, sixty-eighth section, in order to make it correspond with an amendment made by the Senator from Vermont to the fifty-fourth section. I move, in the eleventh line, after the word "upon," to strike out "the interest of all persons in default in;" so as to make the clause read:

And, until such duties with such additions shall be paid, they shall be and remain a lien upon the distillery where such liquors have been distilled.

The amendment was agreed to.

Mr. FESSENDEN. In the thirteenth line of that section I move to strike out the words "or in" and insert "and upon."

The amendment was agreed to.

Mr. FESSENDEN. In the fifteenth line, after the word "belonging," I move to amend by inserting "and upon the lot or tract of land whereon such distillery or brewery is situate."

Mr. JOHNSON. Sometimes, the Senator will remember, the site belongs to one man and the distillery to another.

Mr. FESSENDEN. The policy of this act is the same as the former one, and that is to hold the premises where the work is carried on responsible. There is no other way in which you can secure it.

Mr. JOHNSON. My idea was that the lien on the distillery would be sufficient without making a lien on the land, because the landholder has no control over it.

Mr. FESSENDEN. It is made a lien on land in the fifty-fourth section. The owner of the land leases it for this purpose.

Mr. JOHNSON. It is pretty hard, though.

The amendment was agreed to.

Mr. MORGAN. I offer an amendment on the 190th page, at the end of section one hundred and twenty-four, to insert the following:

But no tax shall be imposed or collected from any hospital duly incorporated for the relief of the sick: *Provided*, The sick and disabled soldiers in the service of the United States, or those who have been honorably discharged therefrom, shall be entitled to participate in the benefits of such institution gratuitously: *And provided further*, That such institution shall have first procured from the Secretary of the Treasury a certificate showing that it comes within the intent and meaning of this act, and is justly entitled to such exemption.

The object of the amendment is mainly for a particular institution. Mr. James H. Roosevelt, recently deceased in New York, made a will in which he gave his property to the amount of a million dollars it is estimated, for the purposes of a hospital. I have a copy of the will, and I will read a portion of it. He gives "all the rest and residue of his personal estate" to certain persons named "or their survivors," &c., "for the establishment in the city of New York of a hospital for the reception and relief of sick and deceased persons, and for its permanent endowment."

The section as drawn is general, and I do not know that there can be any objection to it in that form. The hospital must be gratuitously supported. We are doing a good deal for the soldiers by the payment of bounties and otherwise; but we have not yet done much for them after they return from the war disabled, and it seems to me to be well to encourage efforts like this. I cannot think there is any doubt about the propriety of the exception.

Mr. CLARK. I suggest to the Senator from New York, as that may be a matter of some im-

portance, that he have his amendment printed, and that he let us look at it and let us look at the will.

Mr. MORGAN. I have no objection.

The PRESIDING OFFICER. The Chair understands the amendment of the Senator from New York to be withdrawn for the time being.

Mr. MORGAN. Not withdrawn; but I do not ask action on it now. Let it be laid on the table and printed.

The PRESIDING OFFICER. If there be no objection, the amendment will be printed as an amendment to be proposed at some other time.

Mr. SUMNER. The Senator from New York has proposed the exemption of a class of hospitals. I am in favor of his proposition. It is not now, however, under discussion; but in a similar spirit I move to strike out on the 135th page lines two hundred and twelve, two hundred and thirteen, and two hundred and fourteen, as follows:

On all printed books, magazines, pamphlets, reviews, and all other similar printed publications, except newspapers, a duty of five per cent. *ad valorem*.

I merely wish to make one remark on this tax. We do not tax wheat or corn, because they are the staff of life. I think that a tax on books is less defensible than a tax on wheat or corn. I believe that books are the staff of life, and I believe that our country would do itself honor at this moment when it is imposing a heavy tax upon the country if it deliberately exempted books. The tax that is proposed is applicable to all books; books for the family reading, for the library, and also for the school. All that we can get from the tax will be very small indeed. It will not add sensibly to your Treasury, but it will impose a burden upon knowledge. I hope, therefore, that the Senate will strike the words out.

Mr. FESSENDEN. I have simply to say that the reason why we do not tax wheat is that it is not a manufacture. We should tax flour but for one reason; and that is, that by the reciprocity treaty we should have foreign flour brought in upon us at so great an advantage that we could not afford to tax it. That is the difficulty in that case. We do tax clothing, all kinds of clothing, hats, caps, everything that goes into wear, everything that we use, that is a manufacture, that we can reach. If the Senate is disposed to make a distinction between food for the body or clothing for the body and food for the mind or clothing for the mind, if you please, they can do so. I see no good reason for it. It is well known that this business of printing and publishing books is a profitable one. It will be exceedingly profitable with the duty that we propose to put upon the importation of books in our tariff bill, if we put no duty whatever upon it in this country. I do not see any reason why we should exempt this kind of business which is carried on very largely and which would yield a very considerable revenue to the Government simply because some part of it is learning. A very large part of it is no advantage to anybody. There is no reason upon that principle.

Mr. JOHNSON. The Senator will permit me to ask him whether books that are imported will be liable to a duty in the hands of the owner?

Mr. FESSENDEN. Books that are imported pay a duty on importation under the tariff.

Mr. JOHNSON. That I understand; but, having paid that, would they be taxed in the hands of a subsequent owner?

Mr. FESSENDEN. Oh, no; this is only a tax on those printed and published in this country; that is all.

Mr. McDUGALL. I should like to have the Senator from Massachusetts state his amendment again, or let it be read from the desk.

Mr. SUMNER. Let it be reported.

The Secretary read the amendment, on page 135, to strike out the following clause:

On all printed books, magazines, pamphlets, reviews, and all other similar printed publications, except newspapers, a duty of five per cent. *ad valorem*.

The amendment was rejected.

Mr. SUMNER. On page 149, section ninety-seven, line four, I move to strike out "one fourth" and insert "one tenth;" so that it will read:

SEC. 97. And be it further enacted, That there shall be levied, collected, and paid on all sales of real estate, goods, wares, merchandise, articles, or things at auction, includ-

ing all sales of stocks, bonds, and other securities, a duty of one tenth of one per cent. on the gross amount of such sales.

The tax in the last bill on auctions is one tenth of one per cent., and I propose in this bill to put it where it was in the other. I have received communications from Boston, New York, and Philadelphia, all in the same sense, all representing that the tax at one fourth of one per cent. will be very onerous to the business; in short, that the business cannot bear it. One communication which I have from Boston says:

"The undersigned desire respectfully to call your attention to the proposed tax on sales by auction. On the larger portion of such sales the tax would be prohibitory. The distinction between the broker and the auctioneer is not only unjust but unwise; its effect being to throw sales exclusively into the hands of the broker without increasing the revenue," &c.

I have also a communication from a very eminent house in Philadelphia, which I know something about personally and in which I have great confidence, from which I will read a passage:

"Now, while we believe in taxes, yet the charge upon us is so onerous that we hope you will use your exertions to let it remain as last year, one tenth of one per cent. We paid last year nearly \$2,000 under that law to the United States, which comes out of our own pockets, as we do not charge it in the account of sales. Besides this, we pay \$2,000 per annum for a license to the State, and also, I think, thirty dollars license to the United States, and on all foreign goods we pay one and a half per cent. to the State. In addition to all this, add the quarter per cent. now proposed, and I think you will agree with us that the charges are very onerous, and will have a tendency to drive us out of the business."

As I understand it, the auction business is peculiar in this respect. It pays a local State tax. I believe the business of a broker does not pay a local State tax.

Mr. FESSENDEN. They can tax it.

Mr. SUMNER. That I understand; but I am speaking of the fact, of the actual condition of this business. For instance, in the State of New York there is a very heavy local State tax imposed upon the auctioneer. All goods, for instance, sold at auction that come from the east of Cape Horn pay a tax of one half of one percent. to the State, and another class of goods pay a still higher tax. The sum total of that tax, as gathered in New York, I understand to be very considerable. So, also, is it in Pennsylvania. The auctioneer pays, in the first place, that local tax. He then pays our license, and then pays this second tax, which is under consideration this moment. There are three classes of taxation, and the question is whether we do not pile too much upon them. On this question I speak from the information that has been given to me, and it seemed to me we could not do better than to adhere to the rule adopted two years ago in the first bill, and put this tax at one tenth of one per cent.

I have been induced to ask myself the question, why should the auctioneer be taxed in this way more than any other business man? What is the business of an auctioneer as now conducted? Is it materially different from that of a commission merchant? He is a commission merchant who does everything in connection with one piece of business all on one day with a flag at his door; but his relation to the goods sold is that of a commission merchant, and he steps in also as a guarantor as a commission merchant. We impose no such tax on the commission merchant, nor does the State impose any tax upon the commission merchant. Why then should the auctioneer be selected, be individualized for this cumulative tax? I cannot see the reason myself, except it is that the business is peculiar; it stands out conspicuously; it attracts attention; it is transacted with a flag at the door; and therefore the Government come forward and impose upon it an extra tax; but I cannot from the nature of the business see any reason why we should impose an additional tax upon the auctioneer as compared with other merchants, commission merchants, if you please, or persons in other kinds of business. Especially do I see no reason why we should impose this additional tax on the auctioneer as compared with the broker.

I have likened the business of an auctioneer to that of a commission merchant. It may be likened also to that of a broker. In many respects it is that of a broker. But the very fact that this extra tax is imposed upon the auctioneer, as I understand, has the effect of throwing a very large and valuable class of business into the hands of



brokers who do not pay the same high tax, because the persons who own the property that is sold by a broker can make larger profits when they are not obliged to pay this heavy taxation. I hope, therefore, the Senate will bring this tax down to where it stood in the last bill.

Mr. JOHNSON. The objection of the honorable member from Massachusetts is not so much to the amount of tax which we propose to levy as to the amount of State taxation. The amount that we propose to levy, as compared with State taxation, is, comparatively, very small—I mean the amount proposed by the committee, which is one fourth of one per cent. The member has said very correctly that the States impose upon these auctioneers a much higher tax, and it is because of the imposition of that higher tax that he supposes the auctioneer would not be able to carry on his business if he was subjected to the additional tax of one fourth of one per cent. Nothing is more clear than that the United States have the right to tax everything for the wants of the Government that is taxable at all under the authority of Congress; and if the amount which the States impose is a sufficient objection against the amount which the United States want, then the power of the United States to tax is comparatively inefficient.

I think the honorable member is mistaken in supposing—and he takes it upon the representations of the auctioneers, to whom he has adverted, and who no doubt are very respectable men—and they are mistaken in supposing that they will not be able to charge this tax to their own customers. One thing is certain; that they do it with reference to the State taxation. If a man sends his goods to auction for sale, he will find when he gets the return of the sale that from the gross proceeds of the sale the auctioneer deducts all the expenses; he deducts the expense, if there be any, of a tax imposed by the municipal authorities where he may be, and the tax imposed, if there be any tax imposed, by the State. All that the customer gets is what remains after these expenses are deducted, and after he charges for his own services his commission.

Now, if, as unquestionably is the fact, they are able to charge the whole amount of State taxation to their customers, and they should be unable, because the amount would be too large in the aggregate, to charge this one fourth of one per cent. to their customers, the whole effect would be that with reference to this tax the profits of the auctioneer will be diminished; that is to say, he will have to pay this one fourth of one per cent. out of his profits; but has the honorable member any knowledge of the profits these auctioneers make in the States? I do not know how it is in the other States—I speak of the State of Maryland particularly—and I suppose it is the case in most of the States, these auctioneers are to be found only in the larger cities, and their number is limited; they give bond; they are selected for their integrity and their skill, and they are not made so numerous that the business will not be profitable to each one of them.

The difference, therefore, between brokers and commission merchants who pay no licenses and auctioneers is, that every man can play the broker and every man can play the commission merchant; but that is not the case with this particular business. This is a business, to use the language of the Senator, set apart, and it is set apart, not for the purpose of being taxed because it is set apart, but it is set apart because it is a very peculiar business, and a very profitable business to the auctioneer. I suppose that half the property, I was about to say half the personal property, in the course of several years, and a great deal of the real estate within the area over which the licenses of the auctioneers extend, passes through the hands of the auctioneers, and they take their commission. If they guaranty where they sell upon credit, as sometimes they do, as well as the brokers and commission merchants—if they guaranty the payment of the purchase money, they charge a commission for that guarantee. If my friend could look at the accounts of the larger auctioneers in New York, in Philadelphia, and in Baltimore, he would find that their profits are very heavy.

It does not appear to me, therefore, that there is any weight, I was about to say—certainly there is some, because the honorable member moves it,

and moves it upon authority upon which he has a right to rely—in the objection that this would be too heavy a tax, a tax which, if imposed, would prevent these gentlemen from carrying on their business. That it will not have that effect I am perfectly satisfied is certain. If it has any effect injurious to them, it will only be that to the extent of this one fourth of one per cent. they will not have it in their power to charge it to their customers.

Mr. SUMNER. Of course there is no question about the constitutional authority of Congress in this matter. We may impose the tax if it is thought desirable; and the only question I have undertaken to present is simply this: whether under the circumstances the increased tax is advisable.

The Senator reminds us that if we take notice of this State tax, and on account of the existence of the State tax we forbear to tax, we to a certain extent submit to a constraint that comes from a State tax. Now, it does seem to me that we must look at the thing as it is. We are endeavoring to arrange a system of taxation that, so far as possible, shall be equal and even, and not too onerous upon individuals or different classes of business. That is the object of every one of us; and in carrying out that object we are bound, I submit, to look at existing State laws or usages to see how they affect different classes of business. Looking at those laws and usages, we find that there is one class of business peculiarly affected by them. It is that of the auctioneer, which is brought within the sphere of State taxation. In that respect it differs from almost every other business, the business of the manufacturer, of the commission merchant, and of the broker; not that the State may not tax all of those persons, but in point of fact the State does not tax them.

I submit that while we are arranging our system of taxation we ought to take the actual facts into consideration, and not to make our tax bear unduly hard. The fact is that there is a very heavy State tax imposed upon the auctioneer, and it seems to me we ought to recognize it. We did recognize it two years ago, and after a considerable debate—I think it ran over half a day, and I do not know but a whole day—we put it at one tenth of one per cent.; and I believe the business has gone on very well upon that tax since. I have heard no reason for increasing it to one fourth of one per cent., while on the contrary I do hear objections. I hope, therefore, that the tax will be put where it was two years ago.

Mr. CLARK. I want to ask the Senator from Massachusetts this question: when we are increasing the tax imposed on all other sorts of products and business to get a revenue, why should not this be increased proportionably? Why should we leave it as it was?

Mr. SUMNER. If this business can bear the increase, I say increase it.

Mr. CLARK. We find that other kinds of business can bear it, and it must bear it. I wish to suggest to the Senate and the Senator from Massachusetts that while they tax auctioneers in Massachusetts, New York, and Pennsylvania, there are many States that do not tax them at all, and the question for us to consider is what these people can bear in the States of the Union and leave the States to adjust their State taxation to the whole class as they exist throughout the Union. It seems to me that the tax on auctioneers and upon their business is not too large. I myself was very reluctant to agree in committee to the tax on commercial brokers. I thought it was too low. We have got it at one twentieth of one per cent.

Mr. FESSENDEN. That is on the sale of stocks and money and those things; on merchandise it is one eighth of one per cent.

Mr. CLARK. Then there is not so much difference as I supposed there was; but I think the tax is not too high as it stands here on auctioneers.

Mr. SUMNER. Allow me to ask, why should the business of the auctioneer be taxed one fourth of one per cent. and that of the broker one eighth?

Mr. CLARK. I suggest it is because of the different manner in which he does his business, at public outcry. The other man is obliged to go around and seek a customer or invite a customer to come in and find his place of sale; but here the

auctioneer stands in his place of business, puts out a flag and sells at public outcry. That is the difference.

Mr. SHERMAN. There is another reason: the auctioneer gets from two to five per cent. commission and the broker only one half or one fourth of one per cent.

Mr. CLARK. That is another reason, because he gets a higher commission. I was answering the question why we tax auctioneers differently from brokers.

Mr. FESSENDEN. I can make another answer to the Senator. We had a sort of delegation of auctioneers from the city of New York, and they complained very bitterly that while we taxed them one fourth of one per cent. we did not tax the brokers of merchandise at all; they were excluded in the first tax that was laid upon brokers. It was only laid on those who sold coin. The Senator will notice on page 151 that we have inserted this clause:

Upon all sales of merchandise, produce, or other goods, one eighth of one per cent.

That delegation stated to us that if we would put one half the tax on brokers that we put on auctioneers it would make it about right.

Mr. SUMNER. The explanation of that I understand is this: there is a large class of business that may go into the hands of an auctioneer or of a broker equally. For instance, take a cargo of teas. A cargo of teas from China arrives in Boston or in New York, and the owner of it may dispose of it through a broker or through an auctioneer. The tendency, as I understand, of business now is to dispose of a cargo of teas through a broker, for the reason that the broker does not pay so high a tax as the auctioneer. The consequence of that is that the auctioneer loses that class of business which has in times past belonged to him naturally.

Mr. FESSENDEN. I do not think that makes any difference.

Mr. POMEROY. I will inquire whether this tax would apply to the men who sell the public lands of the United States. All the public lands are sold at public sale.

Mr. FESSENDEN. The Senator must look through the bill and see. He looks at the land question and does not look at anything else.

Mr. POMEROY. I have looked through the bill and I cannot find whether it does or not.

Mr. FESSENDEN. We shall not affect sales by the Government a great deal.

Mr. President, I wish to state one fact in regard to this matter. It is very difficult indeed to tell how much reliance may be placed upon persons doing different kinds of business who come to see the committee. Some of them, and perhaps the greater part of them, are honest men, but all of them are plausible, and it is pretty difficult to distinguish between those who may be entirely trusted and those who may not. One thing, however, is observable, to the credit of the country be it said, that all are very desirous that a heavy tax should be laid and money should be raised to support the Government: "Tax, tax, that is all right; there never was so good a time as now to put on the tax; but with regard to our particular business it is a little hard." [Laughter.] They are very apt to make that exception in all cases: "We are perfectly willing that you shall tax, but be very careful about the business in which we are interested; that requires a great deal of care and discrimination, and a low tax on that will always produce a much greater revenue than a higher one." That was almost invariably the story, until it got to be so entirely common that we at last began to think that we must exercise some little judgment of our own on the subject.

With regard to this matter of auctioneers, the Senator speaks of the principle upon which they are taxed. He is, perhaps, aware that, whether rightly or wrongfully, all countries that have laid this internal revenue tax have singled out this kind of business for taxation. There is a book published on the subject, with reference to the English system, exclusively devoted to auction sales. I looked it over two years ago, but my memory is not a very good one, and I do not remember much of it. It satisfied me, however, that it was a very convenient and proper subject of taxation on account of its peculiar nature. The States seem to be of the same opinion; and I think, inasmuch as we have established the principle

that we will tax auction sales as being a peculiar kind of business, which in its very nature will bear taxation, it being a mere agency paying well, the only question that remains to be considered is the amount of the tax.

I was struck by the fact that the auctioneers who first came here and talked with us about it stated that the only difficulty was between them and the brokers with regard to these sales, and they said distinctly that if we put half the tax upon the brokers who sold merchandise and the same things that they sold that we put upon them, it would be about right. Accordingly, not perceiving why the brokers should not pay a reasonable tax, we did it. The next thing was, we had a delegation saying that owing to the peculiar nature of the business, as carried on in New York, it would not do to tax them at all. The gentleman who came to us was a very clear-headed and excellent gentleman, and in a very few remarks he gave his opinion, stating that he came as a delegation, and went off after giving his opinions. We, however, remained of the same opinion as we were before, that under the circumstances the tax of one fourth of one per cent., inasmuch as we put a tax of one eighth on brokers of merchandise, &c., which they do not seem to complain of, would be about right.

The House of Representatives did not put any tax on the sale of merchandise. We impose a tax of one eighth of one per cent. With regard to the sale of stocks, &c., that is an entirely different kind of business; the profit is very small, almost minute; and on full consideration we came to the conclusion that a tax of one twentieth of one per cent. was as much as that business would bear, and we fixed it accordingly at that rate.

I can only say that the bill as it stands is the result of the most careful and deliberate and, I certainly may say, unprejudiced consideration that the committee could give to the whole subject. If Senators can throw any further light on the subject, and satisfy themselves that the committee is wrong, I shall be very glad to have anything wrong in the bill corrected. I have no private opinion about it, as I stated before. My own opinion is, this tax had better stand.

Mr. SUMNER. The Senator will understand that I do not come forward in any spirit of criticism of the committee.

Mr. FESSENDEN. I understand that perfectly.

Mr. SUMNER. All I have said I have said in the way of honest contribution to the perfection of the bill.

Mr. FESSENDEN. I assure the Senator I do not take it in any other sense.

Mr. SUMNER. I did not suppose the Senator did; but I wish to exonerate myself from all possibility of any such suggestion. As I have already stated, I have received several letters on the subject. The Senator from Maine may remember, but probably he has forgotten it, that two years ago I interested myself in this very question, when the bill was originally before the Senate; and now, my own impression, after looking into the matter, is that if we persevere in the rate adopted two years ago, all things considered, that would, perhaps, be the best, though I see the difficulties in that. Those difficulties grow out of the fact that any uniform rule, applicable to all cases, is productive of some hardship. Different kinds of auction sales produce different degrees of profit, and they might pay, therefore, a different rate of tax. There is a certain part of the business of an auctioneer, that to which I have already referred, as, for instance, the sale of a cargo of teas on a large scale, where the tax which is now proposed would be very onerous indeed, and out of proportion.

Mr. HARRIS. I do not expect or suppose that the proposition of the committee will be changed by the Senate, and yet it is my belief that this tax is too high. The auctioneer in the State of New York pays that State three fourths of one per cent. every year, and now if we add to that another fourth, it makes one per cent. discrimination against him, and in favor of the commission merchant. I understand that the auctioneer, such is the nature of the business, cannot charge the whole amount of this tax over to his customer; he pays it now out of his own pocket. I do not know what there is in the nature of the auctioneer's business that would justify this discrimina-

tion between him and the commission merchant. He is, as the Senator from Massachusetts has said, but a commission merchant. The only difference between them is the mode in which they make their sales. Each sells goods for another. He is an agent for the principal, and sells goods for the principal. I cannot see why the auctioneer should be made to pay a tax of one per cent. when the commission merchant pays only one eighth of one per cent.

I am not very observing nor have I much experience in relation to commercial affairs, but I have observed in the course of my business life that the amount of auction business in the city of New York has been reduced, I think one half; certainly there is not near the amount of auction business now that there was formerly, and there is a great deal more commission business done. The commission merchant, in my judgment, is getting the advantage of the auction merchant in consequence of this tax. It seems to me there is no good reason why the auctioneer should be taxed in this bill a quarter of one per cent. and the commission merchant only one eighth of one per cent.

Mr. SHERMAN. I wish to add one or two words to the statements that have already been made in regard to this tax. If the auctioneer sold only the same character of goods as the commercial broker, there would be no justice in discriminating between them. There is no reason why, because goods are sold at public outcry, the tax should be higher than when sold by samples; but there is this difference: an auctioneer sells a very different kind of merchandise. It is true that formerly the auctioneer in New York sold teas, coffees, and the like; but I am informed that that business has now chiefly gone into the hands of mercantile brokers, who, by hiring a little office in Wall street or some other street in New York, sell cargoes of coffee, teas, and other products by small samples. People who desire to buy large quantities of such goods go and inspect the samples and buy from the samples. They take the place of auctioneers in a great measure.

But auctioneers besides selling, sometimes, cargoes of this kind, sell furniture, dry goods, and a great variety of articles that are not sold by the broker and cannot be sold by the broker; that are only sold by inspection, each person seeing the article before buying it.

An auctioneer receives as his commission for selling these goods from three to five per cent., while the commercial or mercantile broker never receives over one half of one per cent., and I believe the usual commission in New York is one fourth of one per cent. It is manifest, therefore, that if you apply the same rate of taxation to both employments you do injustice to the commercial broker. The tax of one eighth of one per cent. on the commercial broker is much higher in proportion to the amount received by him than a tax of one per cent. on the auctioneer. Every county in the United States has an auctioneer. Their sales are varied. They sell generally personal property, horses, cattle, and furniture, and they sell at open outcry. There a tax of one per cent. is very small indeed. As we must apply some general principle of taxation, it seems to me to make it less than that it would be utterly insignificant. In New York, perhaps, and in the very large cities, it may operate unjustly, especially when applied to the sale of cargoes of coffee and tea; but I do not know of any other auction sales where the tax would be considered too high.

Mr. GRIMES. I have no controversy with the proposition of the committee to fix the percentage upon auctions at one fourth of one per cent. and shall vote against the amendment of the Senator from Massachusetts; but if I can get an opportunity I shall move to strike out the word "eighth" in the thirteenth line of the ninety-eighth section and substitute the word "sixth," so as to make commercial brokers pay one sixth instead of one eighth of one per cent.

Mr. SUMNER. That will come up when this amendment is disposed of.

Mr. GRIMES. Yes, sir. If the Senator from Ohio knows of any branch of mercantile business in New York that is not done through a mercantile broker, he knows something that I do not. I know that there are mercantile brokers in almost every branch of business. There are hard-

ware brokers; there are brokers who deal in almost every particular kind of domestic manufacture, and in various kinds of foreign imported articles. I agree with the Senators from New York and Massachusetts; I cannot conceive of any earthly reason why a man who goes into the Corn Exchange in New York or Chicago, and there makes a sale upon that public ground of a large amount of produce or merchandise, ought not to pay, pretty nearly as large a percentage as the auctioneer who sells in his own domicile, and who is at the expense of renting and keeping it open.

It is said that the auctioneer gets a larger percentage. So he does, providing he guarantees the sale; and so does the broker when he guarantees the sale. They both sell by samples. I think the Senator from New York, [Mr. MORGAN,] who is familiar with sales in New York, will bear testimony to that fact. They both sell by samples; and it is true, as has been stated here to-night, the tendency has been to have the business of the country done in these cities through these brokers. Every new corn exchange, and they are establishing exchanges of different kinds, and have even got that of boots and shoes in some of the States—tends to break up the business of the auctioneers and puts this business into the hands of the brokers. If there can be any reason assigned why the broker should not pay as much as the auctioneer I am not able to discover the reason.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Massachusetts.

The amendment was rejected.

Mr. GRIMES. I now propose—

Mr. CLARK. You cannot offer that amendment until we get into the Senate.

Mr. GRIMES. Very well.

Mr. SUMNER. There is one amendment that is not perhaps strictly in order and I cannot offer it until we get into the Senate, but I call the attention of the chairman of the committee to it, and perhaps he will have it made, and save the trouble of referring to it in the Senate. It is on page 234, the new section relating to consuls of foreign countries. There is this proviso to the section:

*Provided, That the countries which such consuls may represent shall extend similar exemption to the consuls of the United States.*

It will be apparent that the assessors or collectors cannot easily have the means of knowing what the laws of foreign countries on this subject are, and I would suggest the addition of these words: "and the certificate of the Secretary of State shall be the evidence of such exemption in foreign countries," so that the assessors shall address the Secretary of State in order to ascertain whether our consuls in foreign countries have the exemption which it is proposed to allow to them in ours.

Without some such provision as that it seems to me the section would be very difficult to carry into execution; indeed, I do not know how the assessors will ascertain that fact.

Mr. FESSENDEN. I was about to remark that probably the Commissioner of Internal Revenue could ascertain the fact in regard to it and instruct the assessors. Those things generally go through the Commissioner. I have no manner of objection, however, to the amendment suggested, except that the certificate could not well be furnished to each assessor. I think there will be no difficulty about it as it stands, because the Commissioner of Internal Revenue would ascertain the fact and inform the assessors.

Mr. SUMNER. Very well; I will not offer the amendment.

Mr. ANTHONY. I move to amend the bill on page 17, section nineteen, line four, by inserting after the word "be" the words "if not, then in some newspaper in the collection district most accessible;" so that the advertisements shall be published somewhere at all events. It will then read:

That the assessors for each collection district shall, by advertisement in some public newspaper published in each county within said district, if any such there be, if not, then in some newspaper in the collection district most accessible, and by notifications to be posted up in at least four public places within each assessment district, advertise, by not less than ten days' notice, all persons concerned of the time (or which not less than ten days' notice shall be given) and place within said county when and where appeals will be received, &c.

Mr. FESSENDEN. I do not suppose there is a district in the United States where there is not a newspaper.

Mr. ANTHONY. Yes, sir, there are.

Mr. FESSENDEN. I do not think that amendment is necessary.

Mr. ANTHONY. At any rate it cannot do any harm, and if there is any necessity for it it is desirable to have it done. There are districts where there are no newspapers.

Mr. FESSENDEN. I will not object to it if the Senator thinks it necessary; but "most accessible" would hardly do.

Mr. ANTHONY. Say "nearest thereto."

The PRESIDING OFFICER. That modification will be made.

The amendment, as modified, was agreed to.

Mr. ANTHONY. Now, on page 34, section twenty-nine, line eleven, after the words "in writing," I move to insert "a copy thereof to be sent by mail."

Mr. FESSENDEN. We thought that in a case of that sort it would be hardly advisable to allow the notice to be sent by mail. It will be noticed that that section provides for the seizure and sale of real estate, and that is so important a matter that if a person has a place of residence or business in the district, we thought that before his estate was seized and sold he should have actual notice. There are not many such cases, and notice can be served in person or left at his last usual place of abode without difficulty. That matter came up for consideration, and the committee thought, on the whole, that in so important a proceeding as the seizure and sale of real estate for taxes there ought to be special pains taken to give actual notice to the parties.

Mr. ANTHONY. Unquestionably. But this is in addition to the notice in fact.

Mr. FESSENDEN. If you give the notice in person or serve it at his house what is the use of sending it by mail besides?

Mr. ANTHONY. I can see no objection to it. It is an additional precaution.

Mr. FESSENDEN. It is imposing an additional duty on the officer.

Mr. ANTHONY. It is taking every precaution. The person may not be at his house, he may be away, and notice might reach him by mail that would not reach him if left at his house. It has this merit, that it is an additional notice.

Mr. CLARK. The committee considered that there could be no sort of necessity for that. In the first place the original notice is given to the man in hand or left at his last usual place of abode; and then if you require the officer to send a copy of the notice by mail, the original not having gone by mail, it not only imposes the duty of sending a copy through the mail, but obliges the collector to preserve evidence of having sent a copy so that he may perfect the sale. When you have given the man the notice in hand or left it at his place of abode, there seems to be no sense and no necessity for putting a copy of that notice into the mail.

Mr. FESSENDEN. The notice is an extended notice. He has to state a good many things in it. The amendment was rejected.

Mr. ANTHONY. The Clerk will find these amendments in the printed amendments that were offered, by my colleague who is not in his seat, and at whose request I take charge of them.

In section fifty-eight, line thirty-two, I move to insert after the word "used" the words:

*Provided, That whisky distilled and consumed in the production of fabrics for wearing apparel, at the place of such production, upon which a duty of five per cent. is assessed upon the gross amount thereof, shall be exempt from tax.*

Mr. FESSENDEN. That is exempting all that is used in manufactures.

Mr. ANTHONY. In manufactures on the premises.

The amendment was rejected.

Mr. ANTHONY. On the same page, after section fifty-nine, I move to insert as a new section:

*And be it further enacted, That the owner or owners of any manufactory of cotton or woolen goods may provide, at his or their own expense, a warehouse, established in conformity with such regulations as the Secretary of the Treasury may prescribe, and such warehouse, when approved by the collector, is hereby declared a bonded warehouse of the United States, and shall be used only for storing cotton or woolen goods, and to be under the custody of*

the collector or his deputy. And the duty on the cotton or woolen goods stored in such warehouse shall be paid before they are removed, in pursuance of law.

This is to give the domestic producer the same advantage in paying his duties that is given to the foreign producer. A man imports fabrics and he places them in a bonded warehouse, and when he desires to put them upon the market he pays the duty. There are two seasons of the year when fabrics of this kind are mainly sold, in the spring and in the fall; but the production goes on all the time, and the importation goes on all the time. The importer has the privilege of placing his goods in bond and paying the duties only when he puts them on the market. Why should not the domestic producer have the same privilege? He can put them in bond under regulations of the Secretary of the Treasury as I propose.

Mr. FESSENDEN. The imported goods are put in public stores.

Mr. ANTHONY. This is in public stores.

Mr. FESSENDEN. No, his own store.

The amendment was rejected.

Mr. ANTHONY. I have not got quite through. I must try to get something out of the chairman of the Committee on Finance if I can.

In section eighty-five, line thirty-seven, I move to strike out "First. Freight from the place of deposit, at the time of sale, to the place of delivery," and to insert:

First. For all sums paid for storage, freight, insurance, and labor, from the place of manufacturing to the place of deposit or sale and delivery, and for actual interest from the commencement of production to the date of sale.

The object of the section, I take it, is that goods which are sold at the place of production shall pay the same duty as goods sold in commission houses consigned to other places, and the section exempts one of the expenses. I do not see any reason why that expense should be deducted rather than all the others. It seems to me that the goods sold at the place of production, or the goods sold at the place of distribution, should be reduced to precisely the same basis for taxation, and that is the object of the amendment.

Mr. FESSENDEN. In other words that until the goods are sold by the manufacturer the Government shall pay him interest on them.

Mr. ANTHONY. Not so.

Mr. FESSENDEN. That is the provision proposed.

Mr. ANTHONY. It is not that the Government shall pay him interest, but that the manufacturer shall not pay duty on the interest which he pays.

Mr. CLARK. You allow him interest.

Mr. ANTHONY. No, it is only the duty on the interest that is to be deducted.

Mr. JOHNSON. Read it again.

The Secretary read the amendment.

Mr. ANTHONY. The Senator from Maine might as well say that the Government pays the manufacturer freight on his goods as that it pays him interest. It merely exempts the duty from interest and from freight. If the provision of the section is correct the amendment is proper. It merely carries out the same principle which is acknowledged in the bill, but only imperfectly carried out. I hope the Senator from Maine will yield to us this amendment; he has been rather hard on us.

Mr. FESSENDEN. It does not depend on the Senator from Maine, though the Senator from Maine thinks the amendment a very absurd one. [Laughter.]

Mr. ANTHONY. Then I hope the Senate will vote him down.

The amendment was rejected.

Mr. ANTHONY. On page 116, line forty, of the same section, I move to insert after the words "per cent." the following words:

*For guarantee not exceeding three per cent. actually paid, and for such amounts of interest as will reduce time sales to cash, for customary allowance for wear and tear of machinery used in the production of the article taxed.*

That is precisely on the same principle as the preceding amendment. They both ought to be adopted. They both reduce the goods that are sold at the point of distribution to the same rate of taxation as the goods that are sold at the point of production. I cannot see how the committee can assent to the exemption they have made in this section and not agree to go to the extent now proposed.

The amendment was rejected.

Mr. ANTHONY. In section ninety-three, line nineteen, I move to strike out the words "by the purchasers thereof;" and insert "one half by the purchasers and one half by the sellers thereof;" so as to make the proviso read:

*Provided, That in case of contracts of lease of coal lands made prior to the passage of this act the lessee shall pay the tax, if not otherwise agreed; and all duties or taxes on coal mined and delivered by coal operators on contracts heretofore made shall be paid one half by the purchasers and one half by the sellers thereof, if not otherwise agreed by the parties.*

The amendment was rejected.

Mr. ANTHONY. The next amendment which I propose to offer is so reasonable and just that I hope the Senator from Maine will agree to it. It is to insert after line four hundred and thirty-eight, of section ninety-three, this proviso:

*Provided, That if any of the articles named herein are manufactured in one district and receive final process in another, if manufactured by one and the same party, the tax shall be assessed in the district in which the article as aforesaid receives its final process.*

There are a great many articles of manufacture that go through different processes at different places; and where the same producer finishes the perfect article, taking it from the raw material, this amendment allows him to pay the tax upon the whole value of the article when finished, instead of paying it from time to time at different stages of its manufacture.

Mr. JOHNSON. Suppose he does not finish it?

Mr. ANTHONY. Never finishes it?

Mr. JOHNSON. Suppose he sells it in an unfinished state?

Mr. ANTHONY. Then the provision does not apply to him.

Mr. JOHNSON. But he gets off without any tax.

Mr. ANTHONY. Certainly not. The amendment only applies where the article receives final process. If he sells it before it receives final process it does not apply to him.

Mr. JOHNSON. But then he pays no tax.

Mr. ANTHONY. If a man violates the law, he is subject to its penalties.

Mr. COLLAMER. By "final process," I suppose, is meant that process which subjects the article to taxation.

Mr. ANTHONY. I mean that process which places it in the hands of the consumer ready for consumption.

Mr. COLLAMER. It would be considered finished when subject to tax, though it might not have received final process.

Mr. ANTHONY. The term "final process" may be an indefinite one. I do not know as much as the Senator from Maine and the Senator from Vermont on almost anything else, but I do know more about manufacturing, and I know this amendment will be a very great convenience.

Mr. FESSENDEN. It will enable a manufacturer to escape a part of the tax.

Mr. ANTHONY. I take it you do not want to make the bill unnecessarily odious to the people.

Mr. COLLAMER. Suppose you take a piece of muslin-de-laine, all finished except the printing, is it not subject to taxation then?

Mr. FESSENDEN. Certainly.

Mr. COLLAMER. Then it has its "final process" for the purpose of taxation; but if you go on and have it printed in another place, and call that the final process, it may escape the first taxation altogether.

Mr. ANTHONY. I cannot see it so. I hope that certainly those Senators whose constituents are concerned in textile productions will vote for this amendment.

Mr. FESSENDEN. My constituents are, and I will vote against it.

Mr. CLARK. I desire to ask Senators why when a man carries on these two branches of manufacture he should be allowed to be taxed differently from the persons who carry on each a different branch. One party may make printing cloths and pay the tax at the end of that process; another party may make printing cloths and print them, and he wants to pay the tax all at the end of the printing, whereas somebody else might print the first printing cloths. Why not let us all be taxed together? One man may be fortunate enough to own establishments to carry on the whole, but it is not so with everybody. Let everybody stand alike under the law.

Mr. ANTHONY. I can answer the Senator's



question. The reason why a man who carries on both processes should be taxed differently from the man who carries on but one, is because it will be a great deal more convenient to him and just as well for the Government; and it seems to me that we ought in laying these taxes to make them as convenient to the people as we can. A man escapes no taxation, but it is much more convenient to him.

Mr. CLARK. It does not always follow that because it is more convenient to the individual it is more convenient or safe to the Government. The amendment was rejected.

Mr. ANTHONY. I have got one more amendment yet. On page 156, section one hundred and two, line thirty-seven, I move to insert after the word "notwithstanding" the following words:

*Provided further, That when the production of any manufactured article shall not realize a net profit more than sufficient to keep the apparatus, machinery, or manufactory in efficient repair, meaning thereby that a customary amount shall remain to the manufacturer for the wear and tear of his apparatus, machinery, or manufactory, the tax of five per cent., as heretofore provided upon the gross amount of products, shall be remitted.*

Mr. FESSENDEN. That is, the Government must insure the manufacturer a profit! The amendment was rejected.

Mr. ANTHONY. I want to call the attention of the chairman of the committee to an amendment that was passed by and no question taken upon it, at page 139; and if the committee shall assent to the proposition which I shall suggest, I should like to have it adopted; otherwise I shall reserve it until we get in the Senate. On page 139, line three hundred and twelve of section ninety-three, the tax on stoves is raised from \$1 50 to \$5; that is two hundred and thirty-three per cent. Stoves are used mainly by the poorer classes of people. Almost all the tenement houses are built now without fire-places. The fire-places take up a great deal of room and cost a good deal in construction. The houses are built with small chimneys, merely to carry off the smoke from the stove-pipes. The taxes on the raw material of which stoves are manufactured have been, as we all know, very largely increased. Iron which was worth from sixteen to eighteen dollars a ton a few years ago is now sixty dollars, I think. I think this imposes rather a larger tax than the committee would intend on articles intended for the poorer classes of people.

Mr. SHERMAN. The amendment of the Senator would not now be in order. I thought myself that five dollars a ton on hollow-ware was out of proportion, but it cannot be acted on in committee.

Mr. ANTHONY. I thought, perhaps, the committee would agree to my suggestion. If not, I shall move my amendment in the Senate.

Mr. FESSENDEN. I am satisfied it is about right as it stands.

Mr. ANTHONY. Very well; I am satisfied we cannot do anything with the Senator from Maine this evening. [Laughter.] We shall have to wait until we get into the Senate.

Mr. POMEROY. I thought of moving an amendment that where the words "States and Territories" are used they shall be construed to include the District of Columbia. The bill does not apply to the District of Columbia now; so I thought that at the close of the bill we should say that where the words "States and Territories" are used in this act they shall be construed to include the District of Columbia, where such a construction is not inapplicable.

Mr. CLARK. We have inserted "the District of Columbia" very frequently.

Mr. POMEROY. I see it inserted only once or twice.

Mr. FESSENDEN. If the bill is not correct in that respect, the Senator will have an opportunity to move an amendment at another time. That is a matter which I believe is under the consideration of the Senator from Wisconsin.

Mr. POMEROY. There are half a dozen places where it should be inserted.

Mr. FESSENDEN. I think that had better be left until we get into the Senate.

Mr. POMEROY. If the Senator from Wisconsin will attend to it, very well.

Mr. FESSENDEN. The Finance Committee have a considerable number of amendments which they propose to offer, but not until the bill gets into the Senate, as they are not all quite prepared

yet, and we want to take the bill out of Committee of the Whole to-night if we can.

Mr. COWAN. I have a single amendment that I am instructed by the Committee on Finance to propose. It is on page 138, line two hundred and ninety-eight of section ninety-three, after the word "rods" to insert "ax-poles."

The amendment was agreed to.

The bill was reported to the Senate as amended. The PRESIDING OFFICER, (Mr. FOOT.) The question is on concurring in the amendments which have been made as in Committee of the Whole.

Mr. CLARK. On conference with the chairman of the Finance Committee, it is deemed advisable to let all the amendments stand non-concurred in until we have been over the bill and have perfected it. If that can be done, and the record properly kept, the committee would desire to take that course.

Mr. FESSENDEN. It is impossible probably to single out now the amendments upon which Senators will want separate votes. We propose, therefore, to let the bill stand and let Senators call for separate votes on such amendments as they please, and after they get through with those to adopt all the other amendments in gross.

The PRESIDING OFFICER. The order of proceeding is entirely in the control of the Senate.

Mr. CLARK. If we were to concur now, it might be that we should concur in amendments that ought to be further considered.

Mr. TRUMBULL. I should like to inquire if it would be practicable to print these amendments by themselves.

Mr. FESSENDEN. I do not think there is time.

Mr. TRUMBULL. I do not mean the whole bill, but the amendments.

Mr. FESSENDEN. It would be impossible to pick them all out and print them in time, they are so numerous.

Mr. COLLAMER. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, June 2, 1864.

The House met at twelve o'clock, m.

The Journal of yesterday was read and approved.

### POLICY OF THE ADMINISTRATION.

Mr. GRIDER, by unanimous consent, obtained leave to publish in the Globe remarks on the policy of the Administration. [The speech will be published in the Appendix.]

### MISSOURI CONTESTED ELECTION.

Mr. DAWES. I rise to a question of privilege. I desire to call up the case of Knox vs. Blair from the first congressional district of Missouri.

Mr. MORRILL. I rise to a privileged question. I suggest to the gentleman from Massachusetts that it is very important, if the House expects to transact its business so as to adjourn before August or September, that it should proceed with the special order for to-day. I trust the gentleman has had enough of these Missouri contested-election cases to satisfy him for the present.

Mr. GANSON. I rise to a question of privilege, and desire to present the report of the minority in the case called by the gentleman from Massachusetts.

Mr. WADSWORTH. As two questions of privilege and one privileged question only are before the House, I think I ought to have an opportunity of offering a resolution. [Laughter.]

Mr. DAWES. I must object.

The minority report submitted by Mr. GANSON was received, laid upon the table, and ordered to be printed.

Mr. DAWES. I gave notice some two weeks ago of my intention to call up on a particular day named this case of Knox and Blair. Upon that day, at the earnest solicitation of the parties in another election case, I gave way, and there have intervened two of these cases since that time.

I am aware that the House is tired of these election cases; I will not say of Missouri cases particularly, but of these questions of privilege which the Committee of Elections very inopportunistically is forever compelled to thrust on the House. But, sir, they are questions of importance to the

parties and of importance to the House. They affect the rights of members to their seats. The Committee of Elections have hastened them forward as fast as the amount of labor devolved on that committee has enabled them to do. We have been aware that the time would come toward the close of the session when these questions would become very irksome to the House, and when they would hardly receive the amount of consideration due to questions of such importance. They have, therefore, desired to bring them before the House as early as possible, and they do not feel that they are guilty of any neglect in the delay which has occurred.

Now, Mr. Speaker, here is a case which has involved the committee in some embarrassment. One of the parties to the contest is not present in the House, and we have had some difficulty in arranging a hearing of the case in consequence of that fact. We have sought by conferences with those representing that party, who is now in the field, to make some arrangement, but it has been found difficult, if not impossible. They have been compelled, as a matter of duty to this party, to bring the matter up at this time. While I recognize the importance of the measure which the gentleman from Vermont [Mr. MORRILL] represents to the whole House and to the country, still I have to say if this case is to be heard at all this session, it does seem to me that it should be heard now; and I do not feel at liberty, therefore, to yield the position which the rules entitle me to. While any motion may be made in reference to it, I should regret to see the matter postponed.

Mr. MORRILL. I move that the subject be postponed for one week after to-morrow; and on that motion I demand the previous question.

Mr. GANSON. I ask the gentleman to yield to me for a moment.

Mr. MORRILL. I withdraw the demand for the previous question for that purpose.

Mr. GANSON. I submit the report of the minority of the Committee of Elections in this case, and move that it be laid upon the table and ordered to be printed.

The motion was agreed to.

Mr. MORRILL renewed the demand for the previous question.

The previous question was seconded, and the main question ordered.

Mr. DAWES demanded the yeas and nays on the motion to postpone.

The yeas and nays were ordered.

The House divided; and there were—ayes 78, noes 25.

So the further consideration of the subject was postponed for one week from to-morrow.

### ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled House bill No. 395, entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof;" when the Speaker signed the same.

### PACIFIC RAILROAD.

Mr. STEVENS, from the select committee on the Pacific railroad, reported back House bill No. 438, to amend an act entitled "An act to aid in the construction of a railroad and a telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July, 1862, with a substitute; and moved that it be ordered to be printed, and its further consideration postponed until Thursday next after the morning hour.

The motion was agreed to.

Mr. STEVENS moved that it be made the special order for Thursday next, and from day to day until disposed of.

Mr. HOLMAN. I object.

### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, its Chief Clerk, informed the House that the Senate has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 426) creating an additional supervising inspector of steamboats and two local inspectors of steamboats for the collection district of Memphis, Tennessee, and

two local inspectors for the collection district of Oregon, and for other purposes.

#### MESSAGE FROM THE PRESIDENT.

A message from the President of the United States, by Mr. NICOLAZ, his Private Secretary, informed the House that he had approved and signed bills and a joint resolution of the following titles:

An act (H. R. No. 345) for the relief of Frederick A. Beelen, late secretary of legation to Chili;

An act (H. R. No. 381) to amend an act entitled "An act making a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of certain railroads in said State," approved May 15, 1856;

An act (H. R. No. 494) to incorporate the Newsboys' Home; and

A joint resolution (H. R. No. 63) to settle the accounts of James Keenan, late consul at Hong Kong, China.

#### BUSINESS OF JUDICIARY COMMITTEE.

Mr. MORRILL. As this day has been set apart for the consideration of business from the Committee on the Judiciary, I move that that business be postponed to the day after the House has disposed of the tariff bill, after the morning hour. The motion was agreed to.

#### TARIFF BILL.

Mr. MORRILL. I wish to say that it is the intention of the Committee of Ways and Means to give up this entire day to the discussion of the tariff bill, and to-morrow to consider amendments under the five minutes rule. I now move that the House shall take a recess from five o'clock to half past seven o'clock p. m.

Mr. ANCONA. I object to five o'clock; say half past four o'clock.

Mr. MORRILL. I agree to that modification.

The motion, as modified, was agreed to.

Mr. MORRILL moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union on the tariff bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SCHENCK in the chair), and proceeded to the consideration of the special order, being House bill No. 494, to increase duties on imports, and for other purposes.

Mr. MORRILL. Mr. Chairman, I am not about to make an elaborate speech. The only ambition I have is to make such a statement of the character and purpose of the bill now before us as will save the time which would otherwise be spent in explanations during the progress of the bill through the committee.

While sudden and frequent changes of tax and tariff bills are undesirable because of the shock and revolution they bring upon the trade and commerce of the country, the reasons for some change now are potential and obvious. The Treasury requires a larger supply of means, and such sources of revenue as have not already yielded their maximum contributions must now be sought, so that we may fill the measure of our wants. This has made an increase of internal duties necessary, and that increase to a considerable extent imposes upon us the duty as well as affords us the power of obtaining an increased revenue from duties on imports from abroad. The withdrawal of the large number of men now in the field from industrial pursuits leaves a paucity of numbers at home, thereby advancing wages and the cost of living, so that a bushel of corn, a pound of wool, a yard of cloth, or a ton of iron cannot now, even reducing the currency to a specie standard, be produced at the same cost they were three years ago. With the tariff considerably increased, and even if we had no internal taxes to pay, our people will hardly find it less difficult to compete with foreign productions and manufactures than they did in times of peace without any increase of the tariff. And when we impose a tax of five per cent. upon our manufactures and increase the tariff to the same extent upon foreign manufactures, we leave them upon the same relative footing they were at the start, and neither has causes of complaint. The rates proposed are high nominally, and may

be so regarded by foreign nations; but considering the weights carried by our own people, other nations will still be able to continue the race with us upon nearly the same terms as heretofore. It may be said that duties upon imports are paid in specie while the internal tax is paid in currency, but it must be noted that the specie is paid on a foreign specie valuation, while internal revenue is paid on the currency valuation which obtains here, and this very accurately equalizes the one with the other. By this adjustment we have it in our power to obtain five per cent. upon all foreign and domestic manufactures sold and consumed in the country without inflicting any other injury than the increased cost to the consumer. That this is an evil, especially so far as the ordinary necessities of life are concerned, is cheerfully admitted. To some extent the consumption will be economized and curtailed. I would gladly, if I knew how, at any time, and especially at this, do anything by which the number of days' labor required by man to furnish himself and family with food and raiment should be diminished. But so far as the luxuries of life or the elegant or vulgar vices of habit, or the expensive and ornamental follies of fashion are concerned, any tax upon them or any reduction of such superfluous expenditures may be personal inconveniences, but instead of an evil it might prove at this time a great public blessing, and doubly so if the funds thus saved can be made instrumental in the suppression of the rebellion. This sort of "baggage and champagne" should not incumber us in this campaign.

In the present exigency of the country, individuals, as well as the Government, must recognize and obey the obligations of economy. The genius of war is not more a terrible scourge than a merciless spendthrift. The fighting armies, in the smoke and carnage of battle cannot know aught of economy; they have no time to count the cost; but those who have to support such armies must study that homely virtue, praised so much oftener than practiced, or wage short and little wars only. We have a great one on our hands. The earth never trembled under a greater or one more bloody. The duration of the present contest into which we have been so cruelly plunged by rebel conspirators of thirty years' standing cannot, in the light of all history, be foretold; yet, according to the modest but electric words of General Grant, he is to "fight it out on this line if it takes all summer;" and it may not be long before the stars and bars will give place everywhere to the stars and stripes, but we as prudent legislators must grapple with the possible contingencies which may include a war of some years instead of months. I have no idea the war will be protracted by the people of the South one moment after the rebel armies shall have been annihilated, but I do expect it to continue until that annihilation, utter annihilation takes place.

The primary object of the present bill is to increase the revenue upon importations from abroad and at the same time shelter and nurse our domestic products, from which we draw much the largest amount of revenue, so that the aggregate amount shall not be diminished through the substitution of foreign articles for those which we have been accustomed to find at home.

In making an estimate of the effect of such a war tariff as is now proposed, it is important that we should bear in mind that as we increase the cost of any article we diminish the number of those who will be able to consume it. In some cases this is to be regretted, but in the case of such articles as spirituous liquors, old wines, and cigars, it will not excite any particular lamentation. The large tax imposed on domestic spirits, ale, and beer, compels us to place a still larger duty upon spirits, wines, ale, and beer of foreign production. Two dollars per gallon on spirits, and two dollars and a half upon brandy, and the heavy increase on wines will, beyond doubt, for a time reduce the consumption to some extent, but not so much as to prevent a considerable additional revenue from this source, and the additional amount upon wines will be large. It is remarkable that our importations were as large last year, or about four million gallons, as in 1860.

The increase upon sugars is very slight, and might not perhaps have been increased at all but for the heavy duty imposed upon native sugars

produced from the sugar-cane. From the latter we shall obtain some increased revenue, but from the former not much addition to the revenue can reasonably be expected. I am free to say that I would have been willing both the internal tax and the tariff should have been something lower; but if we maintain the rates fixed in the internal revenue bill, as this House has agreed, then the rates upon foreign sugars now proposed are no more than just. Upon molasses it is proposed to increase the duty one hundred per cent., or from six to twelve cents a gallon. The duty has been heretofore below that upon sugar in proportion to the saccharine matter contained therein, and this has operated rather to curtail the importation of sugar and to increase that of molasses. One hundred pounds of molasses is, theoretically, supposed to be equal to thirty-nine pounds of sugar. If this were practically true there would yet remain a discrimination in favor of molasses sufficiently large to protect those engaged in the manufacture of sugar from molasses. If an equal *ad valorem* tax were levied it would bring the duty on molasses somewhat higher; but this is an article consumed by persons of moderate circumstances and it is proper that an advantage should be given in their favor. The present home value of molasses is from seventy-five cents to one dollar per gallon, or an average of eighty-seven and a half cents. An *ad valorem* duty of twenty per cent. on the home valuation would give seventeen and a half cents per gallon. We propose twelve cents only. The present price of brown sugars is from fourteen to twenty cents per pound, or an average of seventeen cents. An *ad valorem* duty of twenty per cent. on the home valuation would be three cents and four mills per pound. We propose in the present bill three, three and a half, and four cents per pound, according to grade and quality, or upon an average three cents and a half per pound. The present proposition approaches more nearly to a relative equalization of the two articles, whether we consider the intrinsic or market value, and will secure a large increase of revenue. But in making the calculation I am free to say the cost of manufacturing sugar from molasses, about one cent per pound, and the tax of two and a half per cent. on sales was not considered, and therefore the duty should be made something lower than proposed. The finances of few nations are found to be in such a condition as to enable them to forego duties on sugars. The consumption is large the world over, but larger in proportion to population in the United States than in any other country.

	Pounds.
In 1860 we imported of sugar.....	694,879,785
In 1860 maple sugar produced.....	38,863,884
In 1860 cane sugar, (Louisiana). ....	300,000,000
Total.....	1,033,743,669
	Gallons.
In 1860 we imported molasses.....	30,922,603
In 1860 molasses produced, (Louisiana).....	16,313,903
In 1860 sorghum produced.....	7,176,942
Total.....	54,412,548

Supposing that four millions of this was distilled in the manufacture of New England rum, it leaves for the consumption of the United States over a billion pounds of sugar and over fifty million gallons of molasses and sorghum. Bring the molasses into the equivalent of sugar, and the whole consumption of sugar would then be about thirty-five pounds per head, and, not counting slaves, over forty pounds per head. If we could collect all the duties proposed, internal duties included, we should obtain over thirty millions of revenue upon sugar and molasses alone; but about thirty per cent. should be deducted for the States over which we have no control. After due allowance for sorghum, maple sugar, and diminished consumption, the increased revenue cannot be less than \$3,000,000.

The existing duty upon coffee of five cents per pound, considering the unusual price it now bears in the countries of its growth, is thought to be quite large enough, especially if we pay a proper regard to the consumers, among whom the United States, in behalf of the soldiers, may be reckoned as one of the chiefest. There is another article, whether used to adulterate coffee, as some say, or to give it higher flavor, as others declare, which it has been considered legitimate to tax at

# THE CONGRESSIONAL GLOBE.

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the same rate as coffee, and therefore upon chicory, though a much cheaper article, a duty is proposed of four cents in the root and five cents when burnt or ground. An article so largely used as a substitute for coffee it is quite clear should bear an equal tax, and if it is more healthful, or has a more delightful flavor, as is contended for by its commercial friends, such an equality in the eye of the law should meet with no objection.

It is most unfortunate that our currency is subject to so great fluctuations, as the tendency is to draw even solid men into the arena of speculators where they may invest legal tenders in stocks or other property with a view to a rise. This makes it for the interest of all property holders, and especially large holders of merchandise, to depress the value of legal tenders. A decisive victory, whenever it comes, will prove a sharp remedy; but at present, as I profoundly believe, an equally heroic remedy would be to cease the future issue of legal tenders, to cut that base, and rely exclusively on loans and the sale of United States stocks. As soon as our new internal revenue and tariff bills get into operation, even with the present rate of funding, it is true there will no longer be any necessity for a further issue of legal tenders of any description. I think some portion of the amount now afloat should be withdrawn even at the cost of higher rates of interest. This speculative fever enables all holders of merchandise, whether manufacturers or merchants, to realize larger prices and larger profits than they could otherwise do. With the idea that merchandise is sure to rise, they advance prices and realize gains in advance. But it is so uncertain and fictitious that even these would hail solidity and permanence of values as a great boon.

It is also true that many large holders of merchandise urge heavy additions to the duties upon certain articles and assume that they will be so laid to promote the interests of the public Treasury. Meantime, whether currency goes up or not, or whether the tariff goes up or not, prices do go up and all are on the alert to secure the profits based on prophecies destined not to come to pass. Men get drugged with these ideas and are powerless in the hands of skillful operators. But a combination takes place and high prices are in the ascendant. The consumer, more or less panic-stricken, forgetting that the entire wealth of the nation, earned and unearned, stands behind the United States legal tenders, easily becomes a willing dupe and no longer rejects anything in consequence of the price, if the seller will only accept of "greenbacks" in payment for his commodities. I allude to this matter to show that it is not taxes or the tariff which so much enhance prices. Drugs have been affected in this way, spices to some extent, and possibly teas—affected by what it has been boldly proclaimed Congress would do. It may be said that it requires some boldness to say what Congress would not do, as the times have seemed to require some exceptionable measures, or at least do not permit things to remain in their former repose.

The existing duties upon teas of all kinds, and I speak without reference to the fifty per cent. addition recently made by the joint resolution, is twenty cents per pound. It is thought prices have already been advanced as far as they can be sustained if we raise the duty upon teas to twenty-five cents per pound. Although not entirely relevant now—it will be on the second Tuesday of December, when the reciprocity treaty again comes up—I desire to show in connection with teas how the American tea trade with the British provinces now stands, as it will illustrate their system of levying duties. The Canadian tariff imposes on teas three cents per pound, and fifteen per cent. *ad valorem* at the port or place whence last imported. (It is now somewhat changed by law of 1862.) Black teas cost about twenty-five cents and green teas about thirty-five cents per pound upon an average in China. The cost to import teas per pound, not including the cost in China, is, with gold at 185, about seventy-five cents per pound, which brings

the first cost of teas in New York at \$1 10 per pound. Their value then is from that sum to \$1 40, say \$1 25. Now the specific duty is say three cents, then fifteen per cent. *ad valorem* when imported from the United States would be levied on \$1 25, and is eighteen cents and seven mills, making twenty-one cents and seven mills. When the same tea is imported to Canada from China the specific is the same, three cents, and the fifteen per cent. *ad valorem* is, on thirty-five cents, five cents and two mills, making eight cents and two mills; so that tea cannot be exported from the United States to Canada without paying about thirteen and a half cents more than when it is brought there from China. And this is the discrimination intended to practically exclude and does exclude us from their trade.

No more has been proposed because, in proportion to its original cost, that is a high duty; more would be as likely to diminish as to increase the revenue, and with our people it has been an article of necessity which "cheers but does not inebriate." In times of peace teas have been admitted free of duty, and we may hope for that time again, but not now. We consume of green teas about 13,000,000 pounds, and of black about 14,500,000 pounds, or in all 27,500,000 pounds. The actual importations of 1863 were 29,761,037 pounds. The increased revenue from this source may be estimated at one and one fourth million dollars.

One question has more perplexed the Congress of the United States than almost any other that I am aware of, and that is the adjustment of the duties on wool and woollens so as to obtain revenue and at the same time to distribute justice to all parties. Some encouragement has been intended always to increase the production of wool. But up to 1860 the increase on the growth of wool was less than the increase of almost anything else of which the census makes any return. From 1850 to 1860 the increase was less than ten million pounds. Population increased thirty-five and wool only fifteen per cent. The tariff of 1861 was intended to obtain some revenue upon the importations of such wool as comes into competition with American wools. To this end a duty of three cents per pound was placed on all wools costing between eighteen and twenty-four cents, and nine cents per pound on all above twenty-four cents per pound. Wool below eighteen cents was intended to cover only coarse wools for carpets, of which very little is grown here, and on this only five per cent. was placed. I then thought that the coarse wools should have been fixed below fifteen cents, but others thought differently. In fact, at that time all the woolen manufacturers, save one, that I knew, gave the tariff of 1861 the cold shoulder. It had very little support from them, although in the duties upon woollens a specific duty upon the pound of woolen cloth was proposed, reckoning two pounds of American wool as equivalent to one pound of cloth; and this was intended to cover and did cover all or nearly all the duties proposed on wool. The woolen manufacturing establishments have since prospered, and I am rejoiced that they have prospered. Before this time their capital invested was not worth seventy-five cents on the dollar of first cost. Now they are generally worth par or a premium. We now manufacture many millions more of woolen goods than ever before, and our importations are at least eight to ten millions less, though still very large. The wool-grower has so far prospered, also, as to increase the stock of American-grown wools more in three years than three decades before, and yet he has not kept pace with the wants of the woolen manufacturers. The clip of wool for 1863 may be estimated at eighty to eighty-five million pounds, and will not be (with the ten millions produced in the seceded States) much less than one hundred millions for 1864. There is much of last year's clip of wool now on hand unsold, and at a time when we cannot afford to hoard it and send away gold to pay for foreign wools. This shows there is some defect in the law that must be remedied, and that

the manufacturer is in a better position than the wool-grower. This more clearly appears from the trade in wools:

Pounds.  
Wool imported from abroad in 1863 was..... 72,837,993  
Wool imported under the reciprocity treaty was 1,989,053  
74,838,046

To this must be added the amount of waste or shoddy (in 1862 it was 6,231,077 pounds,) estimated at 8,000,000 pounds, making 82,838,046 pounds, or nearly as much as was raised in the United States the same year, which it may be a liberal estimate to call 85,000,000 pounds, and this makes 167,838,046 pounds.

The capacity of our woolen mills in 1860 did not exceed 100,000,000 pounds of wool, and the addition of new machines and increased speed does not now probably go beyond 150,000,000 pounds, and they cannot be supposed to have actually worked up much over 140,000,000 pounds. Supposing there are 25,000,000 of loyal people to clothe, and that it requires four pounds of wool for each, it would amount, with the not less than 40,000,000 pounds worked up into Army cloths, blankets, &c., to 140,000,000 pounds manufactured in the United States. This would leave 20,000,000 pounds or more of domestic wools of last year's clip on hand to serve no other purpose than to depress the price of this year's clip. Ought such a state of facts to continue?

Of the immense amount of imported\* wools, (74,838,046 pounds,) almost equal to the whole clip of the United States, there was valued above eighteen cents only 7,617,861 pounds; leaving 67,220,185 pounds—valued abroad upon an average of seventeen cents per pound—which paid a duty only of five per cent. less the free wool under the reciprocity treaty.

I will give in tabular form the amount of wool and woollens, domestic and foreign, consumed in the United States:

Wool—Pounds.			
	1840.	1850.	1860.
United States.....	35,802,114	52,516,969	60,511,343
Imported.....	15,066,410	18,669,794	34,588,857
Total.....	50,868,524	71,186,763	95,099,000

  

Woollens.			
United States,...	\$20,696,999	\$43,207,535	\$68,865,963
Imported.....	9,071,184	17,151,609	37,936,946
Total.....	\$29,768,083	\$60,359,144	\$106,802,909

The facts shown here are that our domestic wools had not doubled in twenty years, while the importation of foreign wools had more than doubled. Our woolen manufactures in the same time had more than trebled, and the importations of foreign woollens had more than quadrupled. This is far from creditable to us as a great nation. The market price of wool has advanced recently about six cents per pound, or for good fleece wool to about eighty cents; but when reduced to a specie standard by discounting the premium on gold, now at about ninety per cent., it brings the price down to less than it was at the depressed period of 1861, when, according to Mr. Livermore's (Boston) tables, fine wool was selling at forty-four cents per pound. Under these circumstances the woolen manufacturers should be the first to recognize, with their business so extended, with the high price of cotton and the multiform fabrics introduced for ladies' and gentlemen's summer wear, and not likely soon to go out of fashion, all requiring a very large stock of the raw material, that their business might be seriously embarrassed and imperiled by checking the growth of sheep in this country or compelling the wool-growers to take the prices for which wool can be produced on the grassy but uncultivated plains of Russia, South America, and Australia, or where they slaughter bullocks for their hides and horses for their tails. It is very clear they will not and

\* The importations of wool in 1862 were 42,931,937 pounds, of which 1,917,794 pounds came in free under the reciprocity treaty.



cannot afford to do it in the north, east, and middle States. It follows that the wool-grower must rely upon the American market solely for the sale of his wool, and the manufacturer must pay more for it than for foreign wools. The adjustment must be made unselfishly, for if too hard terms are imposed upon the manufacturer by the wool-grower both fail together, and it were better at once to cut the sheeps' throats.

The next question to settle is how much, if any, duty should be levied on the lowest cost wool.

The value of wool imported in

1841 was.....	07.2
1849.....	06.5
1850.....	09.
1855.....	11.
1857.....	12.8

And in 1863 the major part of it was from sixteen to seventeen cents per pound. From this it would seem that coarse wools might be obtained at twelve cents or under, and I am informed that even last year when the United States proved so large a purchaser they were bought at eleven cents or under. I do not think they are likely to rise, for if all the American wools are purchased, there must be less competition abroad. Three cents per pound duty on these wools has been proposed, and the duties on coarse carpets and blankets have been increased correspondingly. If they have not, so far as I am concerned I am willing they shall be. On wools above twelve and not over twenty-four cents, six cents per pound is proposed. This will include most of the wools now brought from abroad, and if reckoned as an *ad valorem* upon sixteen cents per pound, would be very high. It is said that it requires four pounds of this wool to make a pound of cloth, or nearly twice as much as it does of washed American wools. If that be so, then the duty is equal to twelve cents per pound in specie on American wools, or, in currency, about twenty cents per pound. And with two pounds of American wool or four pounds of foreign wool for a pound of cloth it would indicate a specific on cloth of twenty-four cents per pound. To cover this it becomes necessary to place higher duties on woollens, and twenty cents per pound is proposed, with thirty-five per cent. *ad valorem* for revenue purposes, and to cover internal taxation on American manufactures when sold. This is payable in specie. Twenty-four cents per pound is not proposed for the reason that it is not supposed all foreign wools will shrink so much as to require more than three and a quarter to three and a half pounds for a pound of cloth. I may be mistaken, and if so, then the duty per pound should be twenty-four cents, or the duty on wool should be reduced one cent per pound.

It must be remembered that we tax American manufacturers five per cent. on their sales. If prices advance the Government get so much the more. For instance, a carpet that sold for \$1 50 per yard in 1861 now sells for \$2 50, and of course pays a tax of twelve and a half cents per yard. Besides this, the duty now proposed on wool and that existing on the linen yarn for the backs of carpets is at least twenty cents more, while carpets have advanced abroad but very little. American manufacturers labor under another disadvantage. While they use the same machines, the same dyes, and work with equal skill, some purchasers give an insane preference for foreign goods to the extent often of ten or fifteen per cent. In 1862 there were imported 559,928 yards of carpeting, and probably more in 1863. Such importations are not likely to cease. As fine or high-priced woolen goods are generally light, it is proposed to add five per cent. more upon goods weighing less than ten ounces to the square yard and upon those costing over two dollars per square yard. This is needed for protection, and it is also needed in order that we may tax fine goods more than we do coarse. The protection now afforded to wool will increase its price, but it may be only for a short time. The main purpose is revenue, but its result will be protection. Protection was never defended on any other ground than that in the end the consumer obtained his supplies more cheaply. The inevitable effect must be to stimulate production, and as wool can be grown in every State of the Union, it will be increased most where it can be raised cheapest. It may be raised in western States (and especially in California, where the sheep breed twice a year) for one half what it costs in Vermont, New York,

or Ohio; and such States as the latter will in the end abandon the business, or cling to it only as Virginia clings to slavery, in order to supply stock for richer soils. If these rates continue but a few years the production of wool ought to exceed the consumption of the country, and then it will again come into competition with the wools from abroad.

I know sound policy dictates that for proper encouragement of manufacturers all raw materials should be free, and where nations manufacture for exportation no other policy can be maintained. This accounts for the course of France and England upon this subject. They export largely, we do not. Many excellent legislators and even wool-growers (as the late consul Jarvis of Vermont) have argued that the only way to protect wool was by encouraging American manufacturers. But until we reach the point of supply for our own country, I do not see why encouragement may not be given to the wool-grower as well as to the manufacturer.

The tariff of 1861 upon cotton goods was based upon the idea, then true, that fine, light goods cost more than coarse and heavy. But now the high price of cotton makes coarse and heavy goods often the dearest. Then a duty of one cent was placed upon ordinary cotton-sheetings though none could be imported, and they were worth from eight to ten cents per yard. Now they sell at forty-five cents per yard and we place a tax upon them of five per cent. *ad valorem*, or two cents and two mills per yard, and it must be noted the raw cotton is also taxed two cents per pound, which makes nearly one cent more per yard. Self-preservation, therefore, requires very much higher rates in the tariff on all cotton goods.

We imported last year forty-nine million yards of worsted or stuff goods upon which only a small amount of revenue was derived. In order to secure a more liberal and certain amount on such of these as are dress goods, which most of them are, a small square-yard duty has been proposed in addition to an *ad valorem*.

Drugs and preparations composed in part of alcohol, as far as the Committee of Ways and Means have been able to obtain accurate information, have been raised to meet the increased cost of alcohol. If Congress were to allow experts to be summoned here to give sworn testimony on subjects like this and many other subjects requiring special knowledge, according to the practice of the British Parliament, not leaving it all to self-constituted experts, who come at their own expense, it would be a great improvement upon the present laborious and not entirely satisfactory mode by which information percolates through committees to this House upon such subjects as the tariff.

In adjusting the tariff upon iron the principle has been to give an increase upon the tariff of 1861 equal to the internal duties. In some special descriptions the figures go slightly beyond this point, as in the case of thin hoop and band iron, and also in the very small or very large sizes of iron, because, in the first place, the revenue will not be diminished, and in the second place it more justly applies a duty according to the value or labor represented. The duty on locomotive tire and cables is also advanced for the reason that it requires the highest quality of metal for such articles, and the quantity produced here of either is limited. The difficulty of obtaining workmen, even with advanced wages, and time reduced, has largely increased the cost of iron, but this prevents any great addition to the home competition from the opening of new mines, furnaces, or forges, or from increasing the force at present employed in the old, even though it is conceded the business has been unprecedentedly prosperous. With the enormous demand of the Government for iron, and with some protection against the influx of unlimited importations, the trade could not be otherwise than prosperous. We shall not now import as much iron under the present bill, but we shall, I think, get a little more revenue.

With all the facilities for its manufacture it is strange that until recently we never made much headway in the manufacture of steel. Since the tariff of 1861, when for the first time it obtained a little more than one half of the duties levied on iron, its progress has been satisfactory, and the American product has at least been doubled. It may be anticipated that at no remote period such

skill will be developed as will supply at least our own market and perhaps something over with steel unsurpassed in quality or cheapness. It will be seen that the new duty on this article, being made from iron already once taxed, should be made to cover the new internal duties both on iron and steel. This has been proposed and not ungrudgingly, though the whole duty is less than upon most other manufactured articles, but properly so, as it is in some sense a raw material or used extensively in the manufacture of many other articles.

The committee have not recommended any change in the duties on salt for the reason that present cost and prices have been very largely increased the past year, and they have felt unwilling to advance the tax further upon an article of such prime necessity. The duties upon the foreign article, in bulk, are eighteen cents per hundred pounds, or twenty-four cents in bags. This is a very large per cent. on the foreign cost, as it is purchased by the ton at a price not exceeding what we sometimes pay here for a barrel. But American made salt is much the purest.

The importers protest against any further advance, and say that American salt is now driving all other salt out of the market. In 1857 we imported 17,165,704 bushels, and there has been no other year when we have imported so much. The imports for the year 1863 were 10,700,189 bushels. The salt boilers in some parts of the country represent, and I think truly, that their coal now costs six cents per bushel instead of three, that labor costs \$1 50 per day instead of \$1, that barrels cost forty cents instead of twenty cents, and that their profits, always moderate, are now, after being taxed, so reduced that they must close up their establishments unless the tariff is slightly increased. For such an article we really ought not to be dependent on foreign nations, especially should a foreign war ever arise. The annual production of the country in 1860 was 12,190,253 bushels, and may be now about as follows:

	Bushels.
New York.....	8,000,000
Michigan, Illinois, and other western States....	1,500,000
Pennsylvania.....	1,000,000
Ohio.....	2,000,000
	12,500,000

This leaves out Virginia, where two million bushels were formerly made annually. This may be a liberal estimate for all but New York; but the amount will not vary much from this. On the whole, as we have increased the internal duty on salt to six cents per hundred pounds, though the duty placed upon foreign salt was raised that amount last year, the present status might not be much changed if the House should conclude to add to the duties on foreign importations two cents per one hundred pounds.

The duties proposed on silks are largely increased. Notwithstanding we manufacture several millions of these goods, (sewing silks, ribbons, and trimmings,) we imported thirteen millions last year; and it will be conceded that those who now consume silks and velvets can readily afford to pay the increased duties.

There is nothing else in the bill which may not be explained in the five minutes' debate. I estimate that the present bill will increase the revenue not less than fifteen millions, and possibly more.

The Committee of Ways and Means, in proposing the present bill, have not seen fit to recommend extravagant or prohibitory duties, for the most cogent reasons. The Government seeks revenue, and such duties would defeat that object. With the home taxation, now unavoidable, we are forced to levy far higher duties than usual in order that the industry of the country may not languish, and that we may largely and properly stimulate the productive energies of the nation to create that wealth of which we daily use and destroy so much. But to go beyond this point for the mere benefit of those with large stocks on hand, or to create higher prices where prices are already high enough, would be attended with great danger, as we should advance prices upon the consumer so much as to create discontent among the people, and with no benefit to the Treasury. Absolute prohibition would be better than a policy which continued a tariff upon foreign importations, but at so high a point as to relieve manufacturers from all check and all competition. When

the profits of any business are suddenly increased, new and inexperienced men rush in, and in a short period create the severest competition which trade and manufactures ever have to encounter. At this time it would not be wise to encourage more men to adventure upon new enterprises than the country will be able to sustain at the close of the war, as whenever that comes, as come it must, a crisis will be upon us for which prudent men should set their houses in order.

It is not expected that any tariff law can be made perfect; but there are not probably more imperfections in the present bill than are incident to all such measures; and these may be removed in its progress through the House. This is intended as a war measure, a temporary measure, and we must as such give it our support.

I believe the country as a whole will approve of the moderate course we have here proposed. So far as the bill goes, or the articles therein embraced are concerned, the bill is an entirety and complete in itself; and all other articles not embraced will, after the 1st of July next, be subject to the same duties which were in force prior to the passage of the late joint resolution increasing the duties fifty per cent.

Whatever there is wrong about the bill I trust the House will correct. But let us pass it speedily. Every day's delay in the passage of this and the internal revenue bill costs the Treasury not less than \$500,000. Let me then invoke the earnest and unremitting attention of this House to the only measures, on our part, which can directly sustain the credit of the Government. While some other nations would seize the opportunity to profit by our misfortunes, let us be watchful to do what is right toward all the interests of our country, oppressing none, and preferring them now and forever to all others.

Mr. COX. Mr. Chairman, the honorable gentleman [Mr. MORRILL] who reported this bill has just assured us that it is only a war measure of temporary duration. Feeling the necessity of apologizing for the bill, which is an aggravation of the tariff of 1862, the gentleman terms it a war measure. If it were not that we are already immersed in a war whose excitements are so absorbing that no time is left for reflection upon other subjects of policy, this tariff might well be called a war measure. Its oppressive character is enormous enough to produce revolution.

On the 25th of February, 1861, I came to this House from a sick-bed to protest against the tariff bill then pending. I denounced it as a great fiscal tyranny, a mountainous burden on the West. While favoring a revenue tariff to meet our then small expenditures, I opposed bounties, special advantages, and class legislation. I showed that the bill as then designed raised bounties from the consumers of the West and South, to be paid to the iron-masters of Pennsylvania and the manufacturers of New England. That bill was urged as a measure of protection, protection to western interests. I then said "that the West could take care of itself. It is rich by nature in its resources; and if the people of Pennsylvania cannot live by working their forges, with their own natural resources; and if the people of New England cannot live by working their spindles, with their native ingenuity, without the aid of other classes of industry and the bounty of the Government, let them move to the West, and there the God of nature will protect them in the cultivation of the soil if they have the industry to work and the frugality to save."

Since then, sir, that tariff so burdensome has been enormously increased. Our debt, then so small, being only \$67,281,591, with an interest of only about four millions, was, on the 15th day of March, 1864, \$1,580,201,744. On that day we had a paper currency, including certificates of indebtedness, amounting to \$779,683,922. Since then these sums have been increased. Figures fail to express the magnitude of our burdens and liabilities. Nor do I intend to complain of them now. The war has brought them. Neither will I discuss now who are responsible for either the war or its incidents. I accept the existing facts. Having voted against the high tariffs, the paper system, and the whole scheme of finance in all its stages, I am not in anywise responsible for their existence. We are spending \$3,000,000 a day; \$1,000,000,000 a year. Irrespective of loans,

we are striving to meet this enormous outlay by the tax bill, which is to raise \$200,000,000 per year, and the tariff, which will meet perhaps \$50,000,000 more.

I do not oppose the raising of these sums. The credit of the Government demands it. I accept events, but I do not accept every plan to raise these sums, nor any plan because proposed by the dominant party or its committees in this House. We have no business here as Representatives if we do not question every plan, especially if it affects unfairly our own State or constituents. I am not a Representative, but a slave, if I yield to the clamor of one section or class for benefits which affect unjustly another section or class. I do not represent the rich, they can take care of themselves; nor the poor altogether; but a principle which requires that taxation shall fall equally on all; that the benefits of legislation shall not inure to one class, and its burdens be laid upon another. I propose to prove that this is the effect of the existing and proposed legislation.

By the joint resolution passed a few weeks ago, we increased the tariff rates of 1862 fifty per cent. The present bill, while repealing that resolution after the 1st of July, does not lessen but increases largely the same rates. It adds to them, on most articles, the amount of the internal tax. The duties are paid in gold. This adds the premium of gold to the tariff rates. So that in considering the effect of these measures I must consider them as affected by the paper money which has been showered upon the country with such prodigality.

What, then, are the benefits accruing to the manufacturing classes, and the burdens imposed upon the agricultural and consuming classes, by the present tariff system and a depreciated paper currency? What, particularly, are their operations upon the industrial interests of New England and the western States as contrasted?

Before resorting to an arithmetical demonstration to show the effects of the tariff and "greenback" systems combined, I propose a few self-evident propositions as the basis of my calculations.

1. In the commercial transactions between two foreign countries, in fact all countries, the basis of exchange must be specie, and the currency of the countries must be reduced to their par values.

At present the gold currency of the United States contains more alloy than that of Great Britain, the difference in their values being about nine cents on a dollar; eight and three quarters according to Tate's Cambist. This rate varies in actual commercial transactions according to the demand and supply of exchange. Therefore, in order to equalize the gold currencies of the two countries, it is necessary to add eight and three quarters per cent. to each American dollar. This will make it equal in value to a dollar of the same weight in the gold currency of England. In other words, the merchant in New York who would pay \$1 to the merchant in Liverpool must send him \$1.083 of our gold. The exchange on England generally ranges above this rate. It depends upon demand and supply, and the freight and risk of transporting specie.

2. If the currency of one country is a depreciated paper currency, and of the other specie, the rate of exchange is according to the depreciation of the paper currency of one country and the gold or standard specie currency of the other. For example, the United States paper currency as compared with United States gold, the latter being, to say the least, at a premium of sixty per cent., taking the average of the past year, is depreciated thirty-seven and a half per cent. That is, it takes \$1.60 of the United States paper to buy \$1 of United States gold; that is to say, \$1 in United States paper is worth only sixty-two and a half cents in United States gold.

Now, in order to pay \$1 in Liverpool in United States paper at the above rate of depreciation, namely, in the ratio of \$1.60 for \$1, it would require \$1.74. To the demonstration:

\$1.083 of American gold is equal to \$1 of English gold.  
60 rate of depreciation of American paper as compared with American gold.

63 25  
108 75  
\$174 00

Therefore the rate of exchange between the pa-

per currency of the United States and the gold currency of England is seventy-four per cent. In other words, it takes \$174 of United States depreciated paper in New York to pay \$100 in Liverpool.

And this result corresponds with the actual market prices of gold and exchange. I see in the stock market of Boston, as reported in the Boston Courier on February 29, 1864, that gold was quoted at \$1.58½ to \$1.59, and exchange on England, sixty days to run, at 73 and 74.

Mr. PRUYN. Exchange is more than that now. It is a dollar.

Mr. COX. Of course, if gold is at ninety, as it is now, the price of exchange rises in the ratio of its increase. Therefore, in order to buy \$100 worth of gold in England the American merchant must pay \$174 in the depreciated paper currency of the United States when gold is quoted only at \$1.60.

When he brings that \$100 worth of goods to this country, in order to reimburse himself he must sell it for \$174 of our currency with freight and duty superadded.

The Government requires that these duties shall be paid in gold. The importing merchant, therefore, must purchase the gold with depreciated paper, paying for it the market premium.

For instance, if the duty on the merchandise is 40 per cent. *ad valorem*, or \$40 on each \$100 of value imported, he must add 60 per cent. to the \$40, which is equal to \$24. That sum added to the \$40 is equal to \$64. Thus, in order to pay a specie duty of 40 per cent. on \$100 of merchandise, the merchant must pay in paper, depreciated with ratio of \$160 to \$100, a duty of \$64, or 64 per cent. To which is to be added the increased duty of 50 per cent. on the former rates, under the recent joint resolution, which would add \$20 more to the cost; but as that, too, has to be paid in gold and the gold purchased, there would be \$12 more to be added, making \$32.

Now, let me demonstrate what it will cost in United States paper, depreciated only in the ratio of \$160 to \$100, to import merchandise costing \$100 in England:

First cost.....	\$100
Difference of exchange.....	74
Duty of 40 per cent., exchanged to paper.....	64
Fifty per cent. additional duty recently put on, exchanged to paper.....	32

Actual cost, exclusive of freight and other charges .	270
Deduct first cost.....	100

Leaving additional cost in consequence of exchange, duties, and paper money.....	\$170
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Thus the consumers, in consequence of the depreciation of paper money and the duties payable in gold, have to pay \$270; or 170 per cent. in addition to the cost for every \$100 worth of goods imported from England into this country. To this is to be added the freight and charges, and at least 10 per cent. profits to the importer.

4. The elements of cost, therefore, upon merchandise imported from foreign countries into the United States, are: 1, the first cost abroad; 2, difference of exchange; 3, duty; 4, freight, insurance, and other charges of importation; and, 5, the importer's profits on all the preceding items, which we reckon at 10 per cent.

5. At this point of cost the imported article comes in competition with the corresponding article of the home manufacturer in the American market. And the aggregate of the items above mentioned constitute the protection or bounty which the tariff system gives to the manufacturer. The consumers of the domestic article, of course, pay this bounty to the manufacturer. This is now reduced to an axiom in political economy. It is as clear as the proposition that the object of a tariff for protection is to increase the price of the article. If this were not the case who would care for protective bounties? Not the manufacturer, certainly. If not he, who then?

6. Thus the system taxes the labor and capital employed in one class of industrial interests for the benefit of the labor and capital employed in another class of industrial interests.

#### BOUNTIES ON IRON.

In order to demonstrate by facts and figures the truth of the foregoing propositions I propose to take three descriptions of iron, namely: pig, rail-

road, and bar, showing the quantities imported, the cost in England, and the cost in this country in depreciated paper, with duties, freight, and importer's profits superadded. I omit insurance and other minor charges of importation. I take the importations of 1861 as the basis of my calculations, because I have not at hand the importations of later years. The principles upon which the demonstrations are made apply to the importation of all years. My calculations are also based upon gold at the rate of \$160 in the depreciated paper currency of the United States. The rates of duty are those of the tariff of 1862, without adding thereto the 50 per cent. on those rates of the recent law, and without adding the increase proposed by the present bill. I take these different kinds of iron because the specific duty required to be paid upon each of them can easily be reduced to the *ad valorem* standard. Also, for the purpose of economizing in figures, I will call the rate of exchange between England and this country 70 per cent. instead of 74, which will be more favorable to the manufacturer.

**Pig iron.**—Quantity imported in 1861, 39,538½ tons, cost \$14 per ton; duty \$6 per ton, or 43 per cent. *ad valorem*, equal to 68 per cent. in paper money.

Cost in England.....	\$542,952
Difference of exchange at 70 per cent.....	380,066
Duty 43 per cent. in gold, 68 per cent. in paper.....	369,207
Freight at \$6 per ton.....	236,231
Importer's profit 10 per cent. on first cost, exchange, duty, and freight.....	156,845
	<u>\$1,685,301</u>

Thus, when this quantity of iron, with its original cost, difference of exchange, freight, and duties paid, is offered in the market of the United States it costs \$1,685,301. At that point it comes in competition with the product of the home manufacturer; consequently his protection, or bounty, is the difference between the first cost and the cost when the foreign iron enters into competition with him in the home market.

Let us see what that protection or bounty is:

From cost in our market.....	\$1,685,301
Deduct first cost in England.....	542,952

Leaving a bounty on same quantity to the home manufacturer of.....\$1,142,349

or 210 per cent.

Same calculation on a specie basis:

Cost of pig iron imported in 1861.....	\$542,952
Difference of exchange at 9 per cent.....	48,865
Duty at 43 per cent.....	233,409
Freight at \$6 per ton.....	236,231
Importer's profits at 10 per cent.....	106,151
	<u>\$1,167,608</u>

At this point of cost, it comes in competition in our market with the article produced by the home manufacturer.

From its cost in our market.....	\$1,167,608
Deduct original cost abroad.....	542,952
	<u>\$624,656</u>

or 115 per cent.

**Railroad iron.**—Quantity imported in 1861, 63,140 8-20 tons; cost, \$1,858,979, or \$29 44 per ton. Duty, \$15 50 per ton; or, 46 per cent. *ad valorem*, nearly or equal to 73 per cent. paper money.

Cost in England.....	\$1,858,979
Difference of exchange, 70 per cent.....	1,301,285
Duty, 46 per cent. gold; 73 per cent. paper.....	1,357,054
Freight, at \$6 per ton.....	378,840
Importer's profits on first cost, exchange, duties, and freight, at 10 per cent.....	489,615
	<u>\$5,385,773</u>

At this point of its cost it comes in competition with the home manufacturer in our market.

From cost in our market.....	\$5,385,773
Deduct first cost in England.....	1,858,979
	<u>\$3,526,794</u>

or 190 per cent.

Same calculation on a specie basis:

Amount of railroad iron imported in 1861.....	\$1,858,979
Difference of exchange at 9 per cent.....	167,308
Duty at 46 per cent.....	885,130
Freight at \$6 per ton.....	378,840
Importer's profits at 10 per cent.....	629,025
	<u>\$3,612,282</u>

At this point of its cost, it comes in competition with the product of the home manufacturer.

From its cost in our market.....	\$3,612,282
Deduct first cost abroad.....	1,858,979
	<u>\$1,753,303</u>

or 94 per cent.

**Bar Iron.**—Quantity imported in 1861, 83,984 7-20 tons; cost in England \$3,356,300, or \$40 per ton. Duty \$17 or 42½ per cent., *ad valorem*, equal to 67 per cent. in paper money.

Cost in England.....	\$3,356,300
Difference of exchange at 70 per cent.....	2,349,100
Duty, 42 per cent. gold; 67 per cent. paper.....	2,248,721
Freight at \$6 per ton.....	503,904
Importer's profits on first cost, difference of exchange, duty, and freight, at 10 per cent.....	845,833
	<u>\$9,303,858</u>

At this point of its cost it comes in competition with the article of the home manufacturer.

From cost in our market.....	\$9,303,858
Deduct first cost in England.....	3,356,300
	<u>\$5,947,558</u>

or 170 per cent.

Same calculation on a specie basis:

Amount of bar iron imported in 1861.....	\$3,356,300
Difference of exchange at 9 per cent.....	302,067
Duty at 42 per cent.....	1,409,646
Freight at \$6 per ton.....	503,904
Importer's profits at 10 per cent.....	557,191
	<u>\$6,129,108</u>

At this point of its cost it comes into competition with the product of the home manufacturer.

From its cost in our market.....	\$6,129,108
Deduct cost abroad.....	3,356,300
	<u>\$2,772,808</u>

Leaving a bounty to home manufacture, of... \$2,772,808 or 80 per cent.

Thus under the present system of depreciated paper money and the existing tariff it costs the people of the United States:

To pay for \$542,952 of pig iron.....	\$1,685,301
To pay for 1,858,979 of railroad iron.....	5,385,773
To pay for 3,356,300 of bar iron.....	9,303,858
On the whole 5,758,231.....	<u>16,374,932</u>
	5,758,231

Leaving..... \$10,616,701 profits or bounties on the same quantities produced by the home manufacturer, or nearly 200 per cent.

After all expenses of importation are added, the cost in the wholesale market of the different kinds of iron would be as follows: Pig iron, 39,538 tons, \$1,685,301; equal to \$46 17 per ton. Railroad iron, 63,140 tons, \$5,385,773; equal to \$55 85 per ton. Bar iron, 83,984 tons, \$9,303,858; equal to \$110 78 per ton.

Below I give the quotations in the Boston wholesale market, reported in the Boston Courier of March 7, 1864. In that paper of the same date gold is quoted at 158½ to 169; exchange on England, sixty days, 73 to 74:

"English common, \$110 to \$115; English refined, \$120 to \$125; English sheet, 7 to 8½ cents; Russia sheet, 21½ to 25 cents; Jarlsberg, \$50 to \$52; No. 1, other brands, \$50 to \$52; American No. 1, \$48 to \$50."

Thus showing that my calculations are correct.

Whole quantity of pig iron produced in the United States in 1860 is 884,474 tons. Value of 884,474 tons of pig iron at \$14 per ton, the cost in England is \$12,382,636.

Value of the same in our market, at \$46 17 per ton, is.....	\$40,735,164
Deduct cost in England.....	12,382,636

Leaving..... \$28,352,528 bounty to the home manufacturer, in consequence of the difference of exchange and duty, freight, and importer's profits, or more than 200 per cent.

Whole quantity of bar and rolled iron produced in the United States in 1860 is 406,298 tons. Cost in England of bar iron..... \$40 00

" " of rolled iron..... 29 44

Average cost..... \$34 72

406,298 tons at \$34 72 is \$14,106,666.

Average value in our market:

Bar.....	\$110 78
Railroad.....	55 85

\$166 63

Average value..... \$83 31

Value of 406,298 tons of bar and rolled iron in our market, at \$83 31 per ton, is \$33,848,686.

Value.....	\$33,848,686
Deduct.....	14,106,666

Leaving..... \$19,742,020

bounty to the home manufacturer, or nearly 150 per cent.

Recapitulation

Foreign manufacture	Tons	Cost in England	Value in our market
Pig iron imported.....	39,538	\$542,952	\$1,685,301
Railroad iron imported.....	63,140	1,858,979	5,385,773
Bar iron imported.....	83,984	3,356,300	9,303,858
		<u>\$5,758,231</u>	<u>\$16,374,932</u>

Domestic manufacture	Tons	Valued at \$14	Valued in our market at \$46 17
Pig iron.....	884,474	\$12,382,636	\$40,735,164

		Valued at \$34 72	Valued at \$83 31
Bar and rolled iron....	406,298	14,106,666	\$33,848,686

	1,290,772	\$26,489,302	74,583,850
			<u>26,489,302</u>
			<u>\$48,094,548</u>

Thus the cost of importation, namely, the first cost in England, difference of exchange, freight, and duties, reduced to the paper standard, and profits of importers, enables the home manufacturer to realize \$48,094,548 on a manufacture of \$26,489,302, or 180 per cent.!

In these calculations I have embraced only three descriptions of iron. The importation of iron in all forms amounts to millions in value more, which comes in competition with the home manufacture of similar description of articles. Thus my calculation fails to give all the enormous profits realized by the home manufacturer on the article of iron.

In order to pay those exorbitant profits to the iron manufacturers, labor and capital employed in other pursuits of industry must necessarily be taxed in corresponding proportion.

"But we must have revenues. The war must not suffer for the want of money," says some one with more zeal than reflection. Now, will some adept in figures please inform me what proportion of this immense sum of \$48,094,548 realized by the home manufacturer on iron goes into the Treasury to support the war and pay the expenses of the Government? The whole revenue of the tariff on all articles is not much greater. The truth is, the revenue is not only lessened, the Treasury defrauded, and the people deluded by this clamor for bounties, but, by oppressive and unjust discrimination, one class waxes fat and rich out of the labor and means of another.

If, then, this amount does not go for revenue, but is for most part a bounty paid to the manufacturer by every consumer of iron in all its manifold shapes and uses, how can an increase of the duties on iron as proposed by the bill now before the House, be justified? On pig iron alone the duty is increased by this bill from six to nine dollars per ton; on railroad iron nearly in the same ratio, and on bar iron much more; and still the iron masters clamor for more. Does their clamor proceed on the principle laid down by Dr. Wayland—Political Economy, page 147—that "when once a duty is imposed for the protection of a particular branch of manufactures it is not long before home competition begins, ruin threatens, and a larger protective duty is demanded?" Or is it because these iron cormorants, having tasted the sweets of inordinate gain, place no limit upon their insane greed? If I should fix the price of gold at 190 instead of 160, if I should add the recent 50 per cent. increase of the tariff to this protective bounty, or the increase proposed by the present bill, I would be justified in fixing the average tax which the consumer pays to the manufacturer at over 200 per cent. on all kinds of iron! Nor would our people then wonder that whereas they once bought all articles into which iron enter at small prices, these articles are now enormously enhanced in price. Of course such articles as are increased in price by the increased value of the labor put on them, and into which little iron and more labor enters as an element of cost, are double their old prices. A hatchet which before the tariff of 1862 and the paper money system, cost twenty-five cents, now costs



double. So with plows. A hoe that formerly cost but thirty-seven and a half cents, now costs over a dollar. Articles into which less labor and more iron enters are greater still in the ratio of increase. A keg of nails which in 1860 cost but \$2 10, now brings over \$7! Every article of iron from a bodkin to a boiler, from an anvil to an engine, from a buckle to a buggy spring, from a hammer to a harrow-tooth, from a wood screw to a woman's hoop, from a steel shirt collar to an iron steamship, all pay their tribute to the iron-makers of the United States, and particularly of Pennsylvania, who, as the annexed table will show, manufacture nearly three fourths of the iron of the United States:

Tons of Iron produced in the United States in 1860.

	Pigs.	Bar and other rolled.
New Hampshire and Vermont.....	3,224	1,170
Massachusetts.....	13,700	20,355
Maine.....	-	5,300
Connecticut.....	11,000	2,060
New York.....	63,145	38,275
New Jersey.....	29,048	25,006
Pennsylvania.....	553,560	259,209
Maryland.....	30,500	7,000
Ohio.....	94,647	10,439
Indiana.....	375	2,000
Michigan.....	10,400	-
Wisconsin.....	2,000	-
Illinois.....	22,000	4,678
Kentucky.....	23,362	6,200
Virginia.....	9,096	17,870
Tennessee.....	18,417	5,024
North Carolina.....	-	1,007
South Carolina.....	-	275
	884,474	405,708

I now pursue a similar system of demonstration with regard to other leading manufactures of the country, beginning with the

## COTTON MANUFACTURES.

The duties imposed upon cotton manufactures by the tariff of 1862 are so involved and intricate that it is impossible to reduce them precisely to the *ad valorem* standard without the aid of the amount of duties actually received upon the amount of goods imported. That amount can be ascertained only from the Treasury Department of the United States.

The duties on cotton goods seem to have been expressly devised to deceive and mislead the consumer, while giving a most exorbitant bounty to the home manufacturer.

For instance, on certain classes of goods, specific duties, varying from one and three quarter cents to five and a half cents, according to the number of threads in the square inch, per yard, are imposed; and on other classes, namely, colored prints, specific duties, varying from two and three quarters to five and one half cents, and an additional duty of ten per cent. *ad valorem* per yard are imposed.

This complicated system of levying duties defies the intelligence of any man to unravel who is not engaged in the trade, or has not access to the custom-house returns at Washington. The present bill does not simplify but complicates still more this pernicious system of duties.

Its obvious purpose is to deceive the consumer, and to give an unreasonable protection or bounty to the home manufacturer; to tax and impoverish the consumers, and to build up an aristocracy of manufacturers, residing mostly in Massachusetts and the other New England States.

But one fact it cannot hide from plain people: that whereas three years ago our farmers' wives bought a yard of calico for ten or twelve cents, the same costs now from twenty-five to twenty-eight cents.

Mr. MALLORY. More than that. Forty cents at least.

Mr. COX. Well; this I know, that whereas a yard of muslin, three years ago, cost ten cents, it now costs forty-five cents. What could be once bought with two and one third days' labor, now requires nearly four. Coffee, sugar, tea, and all the necessities of life have not only been enhanced in their nominal price by the paper money standard, but really enhanced by the tariff also. But these taxes are patent to all. It being impossible to ascertain the precise duty imposed on cotton goods reduced to the *ad valorem* standard, it therefore can only be approximated. It probably ranges from 40 to 60 per cent. But to make a calculation on a basis most favorable to the manufacturer, I

assume that the duties on cotton goods when reduced to the *ad valorem* standard would be 35 per cent., the ordinary *ad valorem* duty, when that form of duty is used, under the tariff of 1862 and the bill before the House. Upon this basis the following calculations are made:

Amount of cotton goods imported in 1861, \$24,647,648; duty, according to the *ad valorem* standard, 35 per cent. payable in gold, equal to 56 per cent. in the paper currency of the United States:

Cost in countries whence imported.....	\$24,647,648
Difference of exchange at 70 per cent.....	17,253,353
Duty at 56 per cent.....	13,802,672
Importer's profits at 10 per cent.....	5,570,369
	\$61,274,042

At this point of their cost, the imported cotton goods come in competition with the products of the home manufacturer in our market.

From cost in our market.....	\$61,274,042
Deduct first cost abroad.....	24,647,648

Leaving a bounty on same amount of goods, viz, \$24,647,648, to the home manufacturer of \$36,626,394 or 148 per cent.

In order to show the enormous gains which the home manufacturer of cotton goods makes in consequence of our depreciated paper currency, and which, of course, come out of the pockets of the consumers, I estimate upon the same data the profits he would make if the currency were gold, of the American standard of value:

Cotton goods, first cost abroad.....	\$24,647,648
Difference of exchange at 9 per cent.....	2,218,283
Duty, 35 per cent.....	8,626,676
Importer's profits at 10 per cent. on cost, difference of exchange, and duty.....	3,549,260
	\$39,041,867

At this point they come in competition in our market with the home manufacturer.

From cost in our market.....	\$39,041,867
Deduct first cost abroad.....	24,647,648

Leaving a bounty on same amount as imported to the home manufacturer of.....\$14,394,219 or 58 per cent.

Thus it will be seen that the home manufacturer, operating under a specie currency of the American standard of value, with a duty paid to the Government of 35 per cent. *ad valorem*, in consequence of the difference of exchange, duty, and importer's profits, actually realizes a protection, or bounty, equal to 58 per cent.

And in the demonstrations above made no estimate is made of freight, insurance, and other charges, which would increase the bounty which the people pay to the manufacturer. Neither have I added the fifty per cent. additional to the former rates of the recent law. Nor have I added the increase proposed by this measure.

## WOOLEN MANUFACTURES.

As in the case of cotton goods, it is impossible, without the actual amount of duties received, to estimate the precise duty imposed upon woolen goods by the tariff of 1862 reduced to the *ad valorem* standard. The duties on woollens are a mixture of specific and *ad valorem*, well devised to hoodwink and deceive the uninitiated.

On some classes of woolen goods a specific duty of eighteen cents per pound and an *ad valorem* duty of 30 per cent. are imposed, and on other classes a specific duty only, and on some trifling articles an *ad valorem* duty simply. In order to do more than justice to the home manufacturer, indeed to be liberal with him, I assume the duty to be 35 per cent. *ad valorem* on all importations of woolen goods, which will be found to be less than the duty actually laid upon this class of manufacturers by the tariff of 1862, and far less than that proposed by the present bill.

Amount of woolen goods imported in 1861, \$27,750,371. Duty, according to the *ad valorem* standard, and payable in gold, 35 per cent., equal to 56 per cent. in the paper currency of the United States.

Cost in countries whence imported.....	\$27,750,371
Difference of exchange at 70 per cent.....	19,425,259
Duties at 56 per cent.....	15,540,207
Importer's profits at 10 per cent.....	6,131,583
	\$68,847,420

At this point of cost they come in competition

with the goods of the home manufacturer in our market.

From cost in our market.....	\$68,847,420
Deduct first cost.....	27,750,371

Leaving a bounty on same amount of goods to the home manufacturer of.....\$41,097,049 or 148 per cent.

Same calculations upon a specie basis:

Cost of goods abroad.....	\$27,750,371
Difference of exchange at 9 per cent.....	2,497,533
Duty at 35 per cent.....	9,712,629
Importer's profits at 10 per cent.....	3,996,053
	\$43,956,586

At this point they come in competition with the home manufacturer in the American market.

From cost in our market.....	\$43,956,586
Deduct first cost abroad.....	27,750,371

or 58 per cent.

## MANUFACTURE OF PAPER.

Under the tariff of 1862 paper of all kinds pays a duty of 35 per cent. *ad valorem* upon a specie basis. In the greenback currency it is equal to 56 per cent.

Amount imported in 1861.....	\$509,542
Difference of exchange at 70 per cent.....	356,478
Duty at 56 per cent.....	285,343
Importer's profits at 10 per cent.....	115,564
	\$1,266,928

At this point of its cost it comes in competition with the home manufacture.

From cost in our market.....	\$1,266,928
Deduct first cost abroad.....	509,542

Leaving a bounty on same amount as imported to home manufacturer of.....\$757,178 or 148 per cent.

Same demonstration on specie basis:

Amount of paper imported in 1861.....	\$509,542
Difference of exchange at 9 per cent.....	49,858
Duty at 35 per cent.....	178,338
Importer's profit at 10 per cent.....	73,773
	\$811,512

At this point of its cost it comes in competition with the home manufacture.

From its cost in our market.....	\$811,512
Deduct its first cost abroad.....	509,542

or 59 per cent.

## MANUFACTURE OF LEATHER, (TANNED.)

The duty on tanned leather imposed by the tariff of 1862 is 30 per cent. *ad valorem*, specie standard; 43 per cent. paper standard.

Amount of leather imported in 1861.....	\$2,437,592
Difference of exchange at 70 per cent.....	1,706,314
Duty at 48 per cent.....	1,170,444
Importer's profits at 10 per cent.....	531,435
	\$5,845,785

At this point it comes in competition with the home manufacture in the American market.

From its cost in our market.....	\$5,845,785
Deduct its first cost abroad.....	2,437,592

Leaving a bounty to the home manufacturer of \$3,408,193 or 140 per cent.

Same demonstration on a specie basis:

Amount of leather imported in 1861.....	\$2,437,592
Difference of exchange at 9 per cent.....	219,583
Duty at 30 per cent.....	731,277
Importer's profits at 10 per cent.....	338,625
	\$3,727,077

At this point the foreign article comes in competition with the domestic article.

From its cost in our market.....	\$3,727,077
Deduct its first cost abroad.....	2,437,592

or 53 per cent.

## MANUFACTURED CLOTHING.

The duty imposed by the tariff of 1862 upon manufactured clothing is 35 per cent. *ad valorem*, or 56 per cent. in the "greenback" currency of the United States.

Amount imported in 1861.....	\$1,401,057
Difference of exchange at 70 per cent.....	980,339
Duty at 56 per cent.....	784,591
Importer's profits at 10 per cent.....	316,604
	\$3,482,651

Another fact is to be remarked in connection with the statement above. The importation was a quantity of seeds for the benefit of the farmer and gardener. They are taxed a duty of 30 per

cent. *ad valorem*, payable in gold. In a table which I will hereafter insert, the House will see that all raw materials, dye stuffs, &c., used in manufacturing, are taxed with very low duties, and some are admitted duty free, rags, for instance, and some 71,000,000 pounds of wool nearly free. This is justified by the speech just made by the gentleman from Vermont, [Mr. MORRILL.] Thus the tariff of 1862 discriminates in almost every particular in favor of the manufacturer and against the farmer.

How long will the class which I represent—the agricultural portion of the community, the class which possesses in the aggregate three fourths of the capital of the country, who produce the greatest share of its annual income, and who pay the greatest portion of its taxes—submit to be despoiled for the benefit of the manufacturing classes under the specious pretext that it is done to stimulate the industry of others, is necessary for revenue to put down the rebellion and save the Union?

#### RECAPITULATION.

I now propose to show the results of the preceding calculations in the condensed form of tables.

Table I,

Showing the cost of sundry articles imported from abroad at the place of importation; the cost in our market at the point of competition with the home manufacturer, including original cost; difference of exchange; freight, on iron only; duties, and importer's profits, and bounties on the same amount of goods to the home manufacturer in dollars and rates per cent., reckoned upon the basis of the standard gold currency of the United States:

Articles.	Cost at place of importation.	Cost in our market, including exchange, &c.	Bounty to home manufacturer.	
			In dollars.	Rate per cent.
Iron, pig, railroad.....	\$542,932	\$1,167,068	\$629,710	115
Iron, bar and rolled.....	1,538,979	3,619,287	1,760,363	94
Cotton, manufacture of.....	3,336,300	6,130,108	2,792,868	80
Woolen, manufacture of.....	24,647,648	39,041,867	14,394,219	58
Paper, manufacture of.....	509,543	49,665,986	16,206,215	53
Leather, manufacture of, (tanned).....	2,437,692	3,727,325	1,289,485	53
Clothing, manufactured.....	1,401,057	2,919,973	818,216	58
Boots and shoes.....	108,933	172,579	40,536	58
Soap and candles.....	232,687	447,761	63,635	58
India-rubber goods.....	\$64,965,538	\$101,394,009	163,074	58

These articles are selected because they come in competition with the largest classes of American manufactures. This and the following tables are constructed upon the basis of the importations of 1861, the census returns of 1860, and the rates of duty imposed by the tariff of 1862, reduced as nearly as they may be to the *ad valorem* standard. I have not included the fifty per cent. additional upon previous rates imposed by the recent joint resolution; nor the additional tariff of the present bill.

Table II,

Showing the cost of sundry articles imported from abroad at the place of importation, the cost in our market at the point of competition with the home manufacturer, including original cost, difference of exchange, freight, (on iron only,) duties, importer's profits, and bounties on the same amount of goods to the home manufacturer in dol-

lars and rates per cent., reckoned on the basis of the paper currency of the United States, depreciated at the rate of only \$160 in paper to \$100 in gold:

Articles.	Cost at place of importation.	Cost in our market, including exchange, &c.	Bounty to home manufacturer.	
			In dollars.	Rate per cent.
Iron, pig, railroad.....	\$542,932	\$1,685,301	\$142,349	910
Iron, bar and rolled.....	1,538,979	5,385,773	3,596,794	180
Cotton, manufacture of.....	3,336,300	5,947,558	3,596,794	170
Woolen, manufacture of.....	24,647,648	61,274,040	36,226,412	148
Paper, manufacture of.....	509,543	68,987,420	41,237,049	148
Leather, manufacture of, (tanned).....	2,437,692	5,845,785	757,178	140
Clothing, manufactured.....	1,401,057	3,482,651	3,408,193	146
Boots and shoes.....	108,933	173,632	9,081,594	149
Soap and candles.....	232,687	270,856	103,185	149
India-rubber goods.....	\$64,965,538	\$158,377,794	151,704	150
			419,871	148

Table III,

Showing the value of sundry manufactures produced in the United States in 1860, the bounties received by the home manufacturer under the tariff of 1862, in rates per cent. and in dollars, and the aggregate of original value and bounties, reckoned according to the standard gold currency of the United States:

Articles.	Value.	Rate per cent.	Bounty.	Aggregate value and bounty.
Iron, pig, railroad.....	\$19,530,000	115	\$22,425,000	\$41,955,000
Iron, bar and rolled.....	52,000,000	87	19,140,000	71,140,000
Cotton, manufacture of.....	115,000,000	58	66,700,000	181,700,000
Woolen, manufacture of.....	69,000,000	58	40,020,000	109,020,000
Paper, manufacture of.....	17,500,000	53	9,262,500	26,762,500
Leather, (tanned).....	72,000,000	53	38,160,000	110,160,000
Clothing, manufactured.....	70,000,000	58	40,600,000	110,600,000
Boots and shoes.....	90,000,000	58	52,200,000	142,200,000
Soap and candles.....	17,000,000	58	9,860,000	26,860,000
India-rubber goods.....	5,729,900	58	3,323,342	9,053,242
* Average duty on iron—				
	Rolls, 94			
	Bar, 80			
	9)174			
	87 per cent.			
* Average duty on iron—				
	Bar, 170			
	2)360			
	180 per cent.			

Table IV,

Showing the value of sundry manufactures produced in the United States in 1860, the bounties received by the home manufacturer under the tariff of 1862 in rates per cent. and in dollars, and the aggregate of original value and bounties reckoned according to the paper currency of the United

States, depreciated only in the ratio of \$160 in paper to \$100 in gold:

Articles.	Paper basis.	Per cent.	Bounty.	Aggregate value and bounty.
Iron, pig, railroad.....	\$19,530,000	115	\$22,425,000	\$41,955,000
Iron, bar and rolled.....	52,000,000	87	19,140,000	71,140,000
Cotton, manufacture of.....	115,000,000	58	66,700,000	181,700,000
Woolen, manufacture of.....	69,000,000	58	40,020,000	109,020,000
Paper, manufacture of.....	17,500,000	53	9,262,500	26,762,500
Leather, (tanned).....	72,000,000	53	38,160,000	110,160,000
Clothing, manufactured.....	70,000,000	58	40,600,000	110,600,000
Boots and shoes.....	90,000,000	58	52,200,000	142,200,000
Soap and candles.....	17,000,000	58	9,860,000	26,860,000
India-rubber goods.....	5,729,900	58	3,323,342	9,053,242
* Average duty on iron—				
	Bar, 170			
	2)360			
	180 per cent.			

Estimated according to the standard gold currency of the United States on an aggregate value of \$497,729,900 of manufactured goods of the description stated in the foregoing tables, the home manufacturers, by reason of the difference in exchange, duties, and other expenses of importation of foreign articles of the same kind, together with the importer's profits, derive, through the agency of the system of protection established by the tariff of 1862, an aggregate bounty of \$302,753,342.

The tariff and the other expenses of importation enable the home manufacturers to charge and levy upon the people of the United States that enormous sum every year in gold; supposing the manufactures of the country to be the same in amount as in 1860, and the tariff the same as that of 1862.

If the rates are more, as this bill proposes to make them more, the sum would be greater; if less, it would be less accordingly.

The population of the United States in 1860 was 31,445,080 souls. Consequently the proportion per head of this enormous bounty exacted by the manufacturers in gold is \$9 62.

Estimated upon the basis of the irredeemable paper currency of the United States, depreciated only in the ratio of \$160 in paper to \$100 in gold, the aggregate bounty levied by the home manufacturers on the people of the United States on the same amount of domestic manufactures, namely, \$497,729,900, is \$750,250,252, or \$23 88 per head.

When, therefore, I propose to amend this bill so as to have these duties payable in the paper currency like other public dues, I intend, with full knowledge of its effect, to strike off at least \$14 26 per head from the burdens which labor pays from its hard earnings to protect and pamper the "splendid paupers" who are thus living upon the bounty of others. I intend to save from the grasp of the millionaire and manufacturer and for the benefit of the poor man and consumer, the sum of \$447,496,910 on the rates of the tariff of 1862. If the people must pay bounty to the capitalist, is it not enough to pay it in the ordinary paper currency by which we are measuring other values? Is it not enough to pay a bounty in paper equal to the sum of \$302,753,342 now levied in gold upon the articles enumerated? Think of it! For the iron which we use in all its varieties of adaptation; for the cotton we wear, whether printed or plain, in the calico dress or the shirting; for the wool in blanket, carpet, or clothing; for the newspaper, book, and pamphlet; for the leather we use when tanned or manufactured into boots and shoes; for the clothing we buy already made up; for the soap and candles and India-rubber goods; for these only, under our tariff of 1862, and not counting our recent increase or the proposed



increase of this bill, we pay as gratuity to one class of persons the enormous sum of \$750,250,252.

Will any one pretend that all this is for revenue? What! when the tariff does not raise one tenth of that sum on all articles of importation! What, then, is this \$750,250,252 paid for? Not for war, not for debts, not for expenses. Is it possible that we have to pay on some ten articles only, in paper money, \$750,000,000 to get less than \$50,000,000 of revenue from them? Mr. Hays, comptroller of Chicago, with keen analysis once showed that, by the tariff acts of 1846 and 1857, the people paid the startling sum of \$338,000,000 to afford the Federal Government a revenue of \$54,000,000; and he prophesied that by the tariff of 1862 the loss to the community would be still greater. How much greater is apparent from my calculations on the depreciated paper system and the increased duties of 1862!

"What, then, do you propose? To abolish all tariffs?" Yes, God save the people from these indirect and insidious robberies! In their name let such tariffs be abolished. Since you have begun on internal taxation, let all our revenues be thus levied. If you abolish the tariff of 1862, then, to pay the other taxes, you give to the people an increased ability to the amount of \$750,250,252 on the few articles alone which I enumerated; and how much more on all manufactured articles! Abolish your tariffs, and if your direct taxes are unfair they are not unfair, and can be speedily corrected. Abolish your tariffs, and let every interest stand undisguised before the law; the farmer the equal of the manufacturer; the laboring man the equal of the millionaire. "No mask of industry over the features of capital; no unjust discriminations; no despoiling one class of labor under the pretense of stimulating another; no unhealthy drugging of any one business by the robbery of another."

But instead of mitigating you propose to aggravate these oppressions. By your joint resolution the other day you have added to these onerous rates of 1862 fifty per cent. more. If this is not to be continued after the 1st of July, we are at least to pay a large increase by the present bill. We are expected, we of the West, to pay our share of it—as I shall show, the larger share—without murmur; because the war, instigated by the section which reaps most of these gigantic sums from our toil and sweat, demands our support!

Very well. For over two years we have submitted. But if we are to keep on patiently in submission, a few years will see all our resources sucked from us by these vampires of the East. If taxes must be raised for war or for debts, to pay for the peculations of scoundrels or for the patriotic service of soldiers, let them be levied directly, fairly, justly, that all may feel their operations, and the burdens, sufficiently great for a whole people, may not be borne by a part, and that part which is least able to bear them.

The people are the victims of the joint robbery of a system of bounties under the guise of duties, and of an inconvertible and depreciated paper currency under the guise of money. Is it a cause of wonder that the manufacturers accumulate wealth so rapidly that they grow rich within a year if they were poor before? This system is rapidly building up an aristocracy, composed of manufacturers and gamblers in irredeemable paper money. In the same proportion it is impoverishing the masses of the people. It is rapidly reducing them to the same level of destitution and degradation as that of the people of Europe. Only here it is worse, for here it is in combination with a depreciated paper-money system, which the aristocrats of Europe do not tolerate. This combination is rushing the American people along with headlong speed to inevitable ruin. In the name of the laboring people of my district and State, in behalf of those the results of whose toil is thus torn from their families to pamper wealth and arrogance, I protest against this system of oppression. In behalf of the poor men who work from day to day in shop and field, from whose labor at least all these millions are wrung; in behalf of those who cannot and do not combine to subsidize the press, fee lawyers, importune Congress; who cannot afford to take their little all from their families to pay sharp men for keen devices to "cheat by statute;" in their behalf I do challenge the honesty and justice of these measures.

Mr. Chairman, no man is now so wise and gifted that he can save this nation from bankruptcy. I believe the gentleman from Vermont [Mr. Morrill] himself expressed his belief in our ultimate ruin.

Mr. MORRILL. I ask the gentleman to yield to me to correct his remark. I made no prophecy on the subject.

Mr. COX. I am glad to be put right. I so understood him.

No borrowing system can save us. The scheme of making greenbacks a legal tender, which enabled the debtor to cheat his creditor, thereby playing the old game of kingcraft, to debase the currency in order to aid the designs of despotism, may float us for a while amidst the fluctuations and bubbles of the day; but as no one possesses the power to repeal the law of the Almighty, which decrees (and as our Constitution has established) that gold and silver shall be the standard of value in the world, so they will ever thus remain, notwithstanding the legislation of Congress. Congress may make paper the measure of prices but it can never make paper the standard of value. Such a paper system in connection with this tariff will, sooner or later, crush labor in this country. What then? When our laboring masses shall have become sufficiently impoverished by this system will not the transition from a republic to a despotism be easy? Will not that phenomenon of tyranny, the armed soldier accompanying the tax-gatherer, occur here? Does not the question of taxation, therefore, involve the problem of liberty? Does not this system, against which in its every stage I have protested, involve an enormous wickedness against the interests and happiness of mankind?

The present tariff system has been devised for the benefit of the manufacturer, at the expense of the people, and yet it does not really aid the Treasury. If it makes the rich richer and the poor poorer, then by this concentration of wealth in a few the less is the proportion of it which will be paid into the Treasury. Sismondi, page 79, says that all returns show that the great amount of revenue is not paid by the rich, or even by the middle classes, but by the poor and those just above them. He holds that all attempts at taxation on luxuries have failed in productiveness. The state of the revenue depends mainly on the power of the poor to purchase the necessities and comforts of life. Hence any system like this, which aggrandizes wealth in a few, destroys the great resources of revenue upon which we are to depend at last for our credit and our safety.

Again, as many of the duties are prohibitory, no revenue is derived from them, and the Treasury again loses. The duties on paper, boots and shoes, soap and candles, India-rubber fabrics, in fact nearly all the articles named in the foregoing tables, enjoy a monopoly in our market, while in many instances the tariff of 1862 permits certain articles used by the manufacturers to be imported either free or at nominal duties. For instance, rags, free; India rubber, raw, 10 per cent.; lasting for ladies' boots and shoes and for soles, 10 per cent. In 1867, \$904,842 worth of paper rags were imported duty free. Those rags went into manufactured paper, and upon that amount of stock, duty free, the paper makers were permitted to charge their enormous profits. And so with regard to other articles admitted with slight duty for the benefit of the manufacturer.

When the manufacturer produces an ample supply of goods for the home market, and has a large surplus for which he is compelled to seek a market abroad, it is just to exempt the raw material which he uses from duty, because he again carries it out of the country in the shape of manufactured goods. In that case, it operates so far as a drawback. Such is the policy of Great Britain. But when the manufacturer has the substantial control of the home market, through the agency of prohibitory duties, there can be no greater iniquity practiced on the people than to permit him to tax his enormous profit upon the very article which the Government admits duty free, or nearly so. Is it not legalized robbery, more detestable in its enormity than the actual crime? Yet the party in power have inaugurated a tariff system which authorizes and sanctions this very iniquity.

The estimates from which I draw these conclusions cannot be precisely accurate. It is not

assumed that they are. It is only claimed that they are an approximation to the truth. The most important element of error is the basis of the value of home manufactures in the census tables of 1860, whether the actual cost or the price by wholesale in market. Therefore, in order to state the case in the most favorable form for the home manufacturer, I will assume that upon the basis of the depreciated paper currency of the United States their profits or bounties are at the rate of 100 per cent., or in the aggregate \$497,729,900, or \$15 83 per head of the population of the United States.

To recapitulate: rate of profit or bounty, reckoned upon the specie standard: \$497,729,900, it is \$302,753,342 bounty, or \$9 62 per head. Paper standard: \$497,729,900, it is \$750,250,252 bounty, or \$23 88 per head. Bounty at rate of 100 per cent.: \$497,729,900, it is \$497,729,900 bounty, or \$15 83 per head.

It will be observed that the first estimate I make upon the present tariff is on a specie basis. On this basis, the taxation, or tribute to the manufacturer, is at the rate of \$9 62 per head. My second estimate is made upon the same tariff and a paper money basis depreciated in the ratio of \$160 to \$100. On this basis the taxation or tribute is \$23 88 per head. My third estimate is upon the basis of allowing the manufacturer to pay a tribute of 100 per cent. On this basis the taxation or tribute is \$15 83 per head. These estimates are embodied in the three following tables, from which it will appear how the tribute is levied upon the various States:

TABLE 1, (Specie basis.)

States	Population.	Per head.	Tribute.
Indiana.....	1,350,428	\$9 62	\$12,991,117
Illinois.....	1,711,931	9 62	16,468,963
Iowa.....	674,913	9 62	6,492,663
Kentucky.....	1,155,684	9 62	11,117,680
Kansas.....	107,206	9 62	1,031,321
Michigan.....	749,113	9 62	7,206,467
Minnesota.....	172,123	9 62	1,655,823
Missouri.....	1,182,012	9 62	11,370,950
Nebraska.....	28,841	9 62	277,355
Ohio.....	2,339,511	9 62	22,506,095
Wisconsin.....	775,581	9 62	7,463,975
Aggregate.....	10,247,663	\$9 62	\$90,682,414

TABLE 2, (Paper basis.)

States	Population.	Per head.	Tribute.
Indiana.....	1,350,428	\$23 88	\$32,248,220
Illinois.....	1,711,931	23 88	40,880,928
Iowa.....	674,913	23 88	16,116,923
Kentucky.....	1,155,684	23 88	27,597,734
Kansas.....	107,206	23 88	2,560,079
Michigan.....	749,113	23 88	17,885,078
Minnesota.....	172,123	23 88	4,110,287
Missouri.....	1,182,012	23 88	28,326,426
Nebraska.....	28,841	23 88	689,723
Ohio.....	2,339,511	23 88	55,667,532
Wisconsin.....	775,581	23 88	18,528,032
Aggregate.....	10,247,663	\$23 88	\$244,713,728

TABLE 3, (Bounty 100 per cent.)

States	Population.	Per head.	Tribute.
Indiana.....	1,350,428	\$15 83	\$21,377,975
Illinois.....	1,711,931	15 83	27,100,184
Iowa.....	674,913	15 83	10,683,672
Kentucky.....	1,155,684	15 83	18,294,472
Kansas.....	107,206	15 83	1,697,321
Michigan.....	749,113	15 83	11,838,458
Minnesota.....	172,123	15 83	1,697,070
Missouri.....	1,182,012	15 83	18,711,250
Nebraska.....	28,841	15 83	450,553
Ohio.....	2,339,511	15 83	37,634,459
Wisconsin.....	775,581	15 83	11,882,196
Aggregate.....	10,247,663	\$15 83	\$169,193,115

Thus, it appears from the preceding tables that the tribute which the eleven western States pay to the manufacturers of the country, residing mainly in the eastern States, in consequence of the falsely called protective system and paper money system of this country is as reckoned:

On the specie basis.....\$99,582,414, or \$9 62 per head.  
 " paper basis.....\$244,713,728, or 23 88 "  
 " basis of 100 per cent.....\$169,193,151, or 15 83 "

Whole consumption of the articles of manufacturers named in the preceding tables three and four, including cost and tribute or bounty, is as follows:

On the specie basis.....\$25 45 per head.  
 " paper ".....39 71 "  
 " basis of 100 per cent.....31 66 "

On reflection, every intelligent man will perceive that allowing the manufacturers at the rate

of 100 per cent. profit on these various fabrics and goods enumerated in the preceding tables, \$31 66 per head is not a large average consumption of the people of the United States. The preceding tables and calculations develop the most astounding results. They show that a tariff system under the pretext of raising revenue for the use of the Government of the United States has, in this period of war when every dollar is needed, been so devised as to give the most extraordinary and unreasonable bounty to the manufacturing classes, in the case of many articles, virtually prohibiting the introduction of the competing article into the country.

#### PROTECTED AND NON-PROTECTED STATES.

From the facts which we have presented, and the tables showing the leading productions of the western States, it will be perceived that the States of the Union may be divided into two great classes—the protected States and the unprotected States. We speak in regard to their industrial interests.

The manufacturing States, mainly the New England States and Pennsylvania, are the protected States. The agricultural States are the unprotected States.

States that produce a commodity in such abundance as to furnish an ample supply for home consumption and a large surplus for markets abroad can derive no benefit from protective duties.

Our Government might impose a duty on wheat and flour which would be absolutely prohibitory, and it would not increase the prices of those articles in Chicago or New York. Thus the agricultural States derive no protection from the duties imposed by the present tariff on articles produced by agricultural industry. The men who devised the present tariff, knew that a duty on corn, wheat, tobacco, or cotton, was of no possible benefit to the producers of those articles. They were only tugs thrown to the whale, put in the tariff for the purpose of deluding the ignorant and unreflecting with the mere pretense of justice.

Mr. MORRILL. I would like to ask the gentleman if he did not vote here the other day against the termination of the reciprocity treaty, the termination of which would admit all the agricultural products of Canada free of duty, and if it is possible to levy duties upon those agricultural products without a termination of the treaty?

Mr. COX. I do not precisely remember how I did vote upon it, but I know how I ought to have voted. The question got a little complicated. I am for allowing the largest liberty of interchange possible. I never was afraid of buying in the cheapest market and selling in the dearest market I could find. That is my doctrine, which I learned from a distinguished citizen of New England. I have never departed from that doctrine, and therefore I am in favor of the largest reciprocity treaty; believing that the larger it is the better it is for the mass of our people.

Mr. MORRILL. How does the gentleman propose to remedy the matter by having a treaty of perfect reciprocity and a system of tariff duties at the same time?

Mr. COX. I propose to extend it to all other articles as soon as I can reach them, and to abolish all indirect and insidious taxation in the shape of tariffs.

When interrupted I was showing that the tendency of the present tariff system, and in fact of all tariffs, revenue or protective, more or less is to drain wealth from the unprotected States and accumulate it in the protected States.

It can now be understood why New England accumulates wealth so much more rapidly than the western States. I know it is arrogantly said, "New England has more intelligence, thrift, invention, and industry." I need not deny that, and yet I can account for her immense gains on another principle.

The interests of New England, and especially of Massachusetts, are all subjects of protection or bounty directly from the General Government. We have shown how her leading manufacturing interests are protected. Her fishing interests are also encouraged by a direct bounty from the Treasury of the United States; a half million, I believe it is, being yearly paid to the fishermen of Massachusetts as a mere bounty, a gratuity without consideration. We in the West ask and get no bounty for the white fish of our lakes or the cat fish of our rivers.

We refer more particularly to Massachusetts for the reason that to her agency more than to any other is to be attributed the civil war which now devastates our country and threatens the destruction of its civil institutions and of republican liberty. That State has been the unceasing and unprincipled agitator, the fomentor of discord between the sections, the disseminator of fanatical and dogmatical opinion, and the assailant of the constitutional rights of other States; and has thus done more than all other States to bring our present calamities upon us. It is meet, therefore, that we should consider how much she has been benefited by the Union whose very existence she has put to such fearful hazard.

It is proper also, in this connection, to remark that while Massachusetts has been most benefited during the present war by the agency of the combined tariff and paper money system, she has done the least to support the war. Under the various calls for troops up to March 1, 1864, Massachusetts has been reported deficient 20,592 men, a much larger number in proportion to her population than any other State; and in order to fill her quotas, instead of sending her own meddlesome and mischievous citizens into the field, and exposing their precious persons to the hazards of camp and battle, she has ransacked almost every State in the Union, and even Canada and Europe for men, filling her regiments with worthless substitutes and negroes. She is coining money out of the precious blood of the land and the enormous waste of wealth in this terrible war, while she takes care that her own blood shall be preserved. She is the most arrogant and mischievous State, the most selfish and timid in the war which her mischievous propensities have provoked, and she has the least title of any of the States of the Union to the favors of the Government.

Mr. DAWES. It is not only an old story, but it had its origin and was nursed into growth by the men who are now arrayed as rebels against the Union; and my friend from Ohio is but repeating their old and stale charges, ground into impalpable powder by the truth long ago.

Mr. COX. I have heard the gentleman say that once before. I learned my principles not from any one in the South, but from Dr. Wayland, known in New England and throughout the country as a good and great man; and it would not invalidate his doctrines if Davis and Toombs should repeat them from morning till night and from year to year. It would not prove the truth or falsity of his principles. If Jefferson Davis should tell the gentleman that two and two make four, he would deny it. When Davis says that two and two make five, I deny it. Because a man now in rebellion, when once here stated the truths and facts in economy, which I believe, while I disbelieve in secession, it does not militate against these economic truths that he believes in secession. It is not relevant to the argument for the gentleman to bring the heresies of secession here to disprove the injustice of the protective system on tariffs. I know many abolitionists—among them Wendell Phillips—who are free-trade men. Does it follow therefore that Wendell Phillips is a disunionist? I know he is a disunionist; but for another reason, and not for that.

Mr. DAWES. I am not troubling the gentleman with the inquiry as to where he learned his principles. That is a thing I have not the least concern about. What I said was that his charges against New England were an old story, first taught by the men who plotted and are now carrying on the rebellion, and the gentleman is but repeating them here. Where he got his principles will be a matter of the least concern to us of New England, who have no disposition to follow them out or adopt them. The charges which he brings against New England to-day can be found, *in hæc verba*, in the speeches of southern nullifiers from John Calhoun clear down to the last of them who took his leave of us in this House in the Congress before the present.

Mr. COX. That will do.

Mr. DAWES. That is all I want.

Mr. COX. Because John C. Calhoun and those men disfavored the idea of bounties to manufacturers, and also favored that of secession, therefore his opposition to bounties is a fallacy like secession! According to that reasoning, Adam Smith was a secessionist; and the great body of eminent men who have been true econ-

omists—Sismondi, McCulloch, Cobden, and including even the venerable Dr. Wayland—who have laid down the doctrine which I have to-day advanced, must all be, regardless of the foolish anachronism, secessionists! Such is the result of the sapient argumentation of the gentleman from Massachusetts. Daniel Webster himself advocated free-trade once for New England, and John C. Calhoun advocated protection. As Webster was for free trade, he was a secessionist, I suppose! The principles which I have applied to the facts stated do not depend upon who have announced them, but upon their truth. If those men in rebellion have argued in favor of truth on one subject, am I to give it up? If the devil should tell the truth, am I to deny it? The gentleman himself may; but he yields to the devil when he does it. I do not; therefore I do not yield to the gentleman. Neither is it true that I have copied in this argument the speeches of southern nullifiers *in hæc verba*. No argument on the tariff has ever been made on the basis of the census of 1860, and in connection with and in relation to our paper money system. I venture to say that these views are as new as they are true.

The CHAIRMAN. (Mr. SCHENCK.) The hour of the gentleman from Ohio has expired.

Mr. MALLORY. I hope the gentleman will be allowed to conclude.

Unanimous consent being given;

Mr. COX proceeded, as follows:

It may not be gratifying to the gentleman, but I propose to prove all I said, and shall exhibit, without fear of the charge of secession, the interests of Massachusetts which enjoy the protective bounties of the Federal Government at the expense of the people of other portions of the Union.

Capital invested and production of Massachusetts in the following manufactures in 1860:

	Capital invested.	Production.
Cotton*.....	\$33,300,000	\$36,745,864
Woolen.....	10,179,500	12,781,514
Leather.....	10,540,058	10,540,058
Boots and shoes.....	11,169,277	46,440,209
Fisheries.....	-	9,300,542
	\$54,648,777	\$115,632,185
In all manufactures.....	133,000,000	266,000,000

\* Cotton manufacture in New Hampshire, owned mainly in Massachusetts, should be added..... 13,780,000 16,661,531  
† Capital not given in the census tables.

In the above exhibit the House can see what immense interests Massachusetts possesses which enjoy protection and bounty, and why it is her Representatives are so sensitive when we of other States undertake to call her to account for her unrighteous gains. By applying the principle of calculation herein before applied to the manufacturing interests of the whole country, it can be ascertained how much in dollars and cents Massachusetts unjustly abstracts in the form of protective bounties from the people of the Union. Nor, in view of this exhibit, can any one be surprised that Massachusetts, located in a rigorous climate and possessed of a sterile soil, should accumulate wealth more rapidly than any other State.

We close our view of the operations of the tariff and paper money system by appending sundry tables showing some of the leading unprotected products, contrasting the New England and western States. Perhaps my friend from Massachusetts may think before I am done, that the census was taken in Massachusetts by secessionists.

#### UNPROTECTED PRODUCTS.

	Lumber.
New England States.....	\$12,099,895
Western States.....	33,274,793

	Cattle.
New England States. Head.	Western States. Head.
Maine..... 377,067	Illinois..... 1,505,581
New Hampshire..... 304,467	Indiana..... 1,170,005
Massachusetts..... 379,814	Iowa..... 536,254
Vermont..... 364,917	Kansas..... 87,859
Rhode Island..... 39,105	Kentucky..... 534,267
Connecticut..... 241,907	Michigan..... 119,006
	Minnesota..... 119,006
	Missouri..... 1,168,984
	Ohio..... 1,639,830
	Wisconsin..... 512,866

8,130,771  
In New England States..... 1,567,377

Balance in favor of western States..... 6,563,374

Swine.		Western States.	
New England States.	No.	Western States.	No.
Maine.....	54,763	Illinois.....	2,379,722
New Hampshire.....	51,935	Indiana.....	2,498,528
Vermont.....	49,433	Iowa.....	921,161
Massachusetts.....	73,948	Kansas.....	128,309
Rhode Island.....	17,478	Kentucky.....	2,330,595
Connecticut.....	75,120	Michigan.....	374,756
	322,697	Minnesota.....	101,252
		Missouri.....	2,354,425
		Ohio.....	2,175,623
		Wisconsin.....	333,957
			19,498,328
			322,697

Number in New England States.....	
Balance in favor of western States.....	13,175,631

Value of Slaughtered Animals.		Western States.	
New England States.	Value.	Western States.	Value.
Maine.....	\$2,780,179	Illinois.....	\$15,159,343
New Hampshire.....	3,767,500	Indiana.....	9,592,392
Vermont.....	2,549,001	Iowa.....	4,403,463
Massachusetts.....	2,915,045	Kansas.....	547,450
Rhode Island.....	713,725	Kentucky.....	11,640,740
Connecticut.....	3,181,992	Michigan.....	4,080,790
	\$15,927,442	Minnesota.....	732,418
		Missouri.....	9,844,449
		Ohio.....	14,293,972
		Wisconsin.....	3,368,710
			73,663,567
			15,927,442

Value in New England States.....	
Balance in favor of western States.....	\$57,736,145

Wheat.		Western States.	
New England States.	Bushels.	Western States.	Bushels.
Maine.....	233,877	Illinois.....	24,159,500
New Hampshire.....	238,966	Indiana.....	15,219,120
Vermont.....	431,127	Iowa.....	8,433,205
Massachusetts.....	119,783	Kansas.....	168,597
Rhode Island.....	1,131	Kentucky.....	7,394,415
Connecticut.....	431,127	Michigan.....	8,313,185
	1,456,011	Minnesota.....	2,195,812
		Missouri.....	4,327,586
		Ohio.....	14,532,570
		Wisconsin.....	15,812,625
			190,656,455
			1,456,011

Bushels raised in New England States.....	
Balance in favor of western States.....	99,200,534

Indian Corn.		Western States.	
New England States.	Bushels.	Western States.	Bushels.
Maine.....	1,546,071	Illinois.....	115,296,779
New Hampshire.....	1,414,638	Indiana.....	69,641,591
Vermont.....	1,463,029	Iowa.....	41,116,994
Massachusetts.....	2,157,063	Kansas.....	5,678,834
Rhode Island.....	458,912	Kentucky.....	64,943,633
Connecticut.....	524,857	Michigan.....	12,152,110
	7,564,551	Minnesota.....	2,967,570
		Missouri.....	72,892,157
		Ohio.....	70,837,140
		Wisconsin.....	7,505,290
			462,012,098
			7,564,551

Bushels raised in New England States.....	
Balance in favor of western States.....	454,447,547

Butter.		Western States.	
New England States.	Pounds.	Western States.	Pounds.
Maine.....	11,687,781	Illinois.....	28,337,516
New Hampshire.....	6,936,764	Indiana.....	17,934,767
Vermont.....	15,601,834	Iowa.....	11,526,092
Massachusetts.....	8,397,936	Kansas.....	1,012,775
Rhode Island.....	1,914,856	Kentucky.....	11,716,609
Connecticut.....	7,620,912	Michigan.....	14,650,384
	51,180,083	Minnesota.....	2,961,591
		Missouri.....	12,704,837
		Ohio.....	50,493,745
		Wisconsin.....	13,651,053
			164,991,279
			51,180,083

Made in the New England States.....	
Balance in favor of western States.....	113,811,196

Cheese.		Western States.	
New England States.	Pounds.	Western States.	Pounds.
Maine.....	1,799,862	Illinois.....	1,595,358
New Hampshire.....	2,232,092	Indiana.....	569,574
Vermont.....	8,077,689	Iowa.....	901,220
Massachusetts.....	5,294,090	Kansas.....	28,053
Rhode Island.....	177,232	Kentucky.....	190,400
Connecticut.....	3,898,411	Michigan.....	2,009,064
	21,479,396	Minnesota.....	193,904
		Missouri.....	259,633
		Ohio.....	23,738,738
		Wisconsin.....	1,104,459
			30,615,403
			21,479,396

Made in the New England States.....	
Balance in favor of western States.....	9,136,107

Recapitulation.		Western States.	
New England States.	Value.	Western States.	Value.
Lumber, value.....	\$12,099,895	Lumber, value.....	\$33,274,793
Cattle, head.....	1,567,377	Cattle, head.....	8,130,711
Swine, number.....	322,697	Swine, number.....	13,498,328
Slaughtered animals, value.....	\$15,927,442	Slaughtered animals, value.....	\$73,663,567
Wheat, bushels.....	1,456,011	Wheat, bushels.....	100,656,455
Indian corn, bush.....	7,564,551	Indian corn, bush.....	462,012,098
Butter, pounds.....	51,180,083	Butter, pounds.....	164,991,279
Cheese, pounds.....	21,479,396	Cheese, pounds.....	30,615,403

Balance in favor of western States.	
Lumber, value.....	\$21,204,898
Cattle, head.....	6,503,634
Swine, number.....	13,175,631
Slaughtered animals, value.....	\$57,736,145
Wheat, bushels.....	99,200,534
Indian corn, bushels.....	454,447,547
Butter, pounds.....	113,811,196
Cheese, pounds.....	9,136,107

#### Classification of States and Territories according to the Census of 1860.

N. England States.	Middle States.	Western States.	Southern States.	Pacific States.
Maine, N. York, N. Hamp't, Penn'a, Vermont, N. Jersey, Massac'ts, Delaware, R. Island, Maryland, Connecticut, Dist. Col.	Ohio, Indiana, Michigan, Illinois, Wisconsin, Minnesota, Iowa, Missouri, Kentucky, Kansas, Nebraska, Tennessee.	Virginia, N. Mexico, N. Caro'a, California, S. Caro'a, Oregon, Florida, Alabama, Louisiana, Texas, Mississippi, Arkansas, Nebraska, Tennessee.		

Value of Cotton Manufactured in 1860.	
New England States.....	\$80,301,535
Middle States.....	26,272,111
Southern States.....	7,172,283
Western States.....	1,391,967
Aggregate.....	\$115,137,926

Massachusetts.....	\$36,745,864
New Hampshire, (owned chiefly in Mass.).....	16,661,531
	\$53,407,395

In consequence of the diminished supply of cotton this branch of manufacture has considerably fallen off, but to what extent I have not the means of calculating.

Value of Woolen Manufactures in 1860.	
New England States.....	\$38,509,080
Middle States.....	24,100,488
Southern States.....	2,303,303
Western States.....	3,718,092
Aggregate.....	\$68,630,963

#### In Massachusetts.....

Since 1860, stimulated by the diminished supply of cotton goods, the woolen manufactures of the country have been more than doubled. In relation to the increase of the woolen manufacture in the United States, the Boston Shipping List, under date of December 11, 1863, thus remarks:

"We have lately called attention to the rapid increase of woolen machinery and the questionable policy of introducing woolen machinery into cotton mills now idle. The rush for woolens for some time past is starting up new mills in all directions. It is estimated that there has been added within the past eighteen months about 1,000 sets, an increase of 40 per cent., and manufacturers of machinery are full of contracts for several months in advance. The above does not include the woolen machinery in operation in Pennsylvania and other parts of the United States, which was not less than 1,000 sets eighteen months since, and the increase has doubtless been quite equal to the increase in the New England States. The product of all the machinery is estimated at from \$135,000,000 to \$150,000,000 worth of goods per annum."

Value of Boots and Shoes made in 1860.	
New England States.....	\$54,767,077
Middle States.....	22,588,291
Southern States.....	2,720,327
Western States.....	9,465,205
Aggregate.....	\$89,549,900

In Massachusetts.....	\$46,440,762
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Value of Leather manufactured in 1860.	
New England States.....	\$16,333,871
Middle States.....	36,314,548
Southern States.....	4,074,406
Western States.....	5,980,457
Pacific States.....	351,469
Aggregate.....	\$63,084,751

In Massachusetts.....	\$10,354,056
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Value of manufactured Clothing in 1860.	
Whole amount.....	\$64,002,975
For product of each State see Preliminary Report of Census for 1860, page 175.	

Value of Paper manufactured in 1860.	
Amount.....	\$17,500,000
Census Report, page 191.	

Value of Soap and Candles manufactured in 1860.	
Amount.....	\$17,000,000
Census Report, page 191.	

Value of India-rubber goods made in 1860.	
Amount.....	\$5,729,900
Census Report, page 185.	

#### Discriminations in favor of the Manufacturer.

Articles used in manufacturing, with duty annexed, under the tariff of 1862.	Rate of duty.
Cowhides, raw.....	10 per cent.
Emeralds.....	5 "
Diamonds.....	5 "
Goat-skins, raw.....	10 "
Dyewood, extract of.....	10 "
Gems.....	5 "
Hatter's fur, cleaned.....	15 "
Lastings for shoes, &c.....	10 "
Sumach.....	10 "
Hare skins, undressed.....	10 "
Hides, pickled.....	10 "
" raw.....	10 "
" salted.....	10 "
India rubber, unmanufactured.....	10 "
" " milk of.....	10 "
Orchill.....	10 "
Pig tin.....	15 "
Reindeer skins, raw.....	10 "
Rubies.....	5 "
Sheep-skins, in the wool.....	10 "
Shoddy.....	20 "
Silk.....	25 "
Skins, pickled.....	10 "
" dried.....	10 "
" fur, raw or undressed.....	10 "
" kid, undressed.....	10 "
Soda ash.....	free.
Muriatic acid.....	10 "
Nickel.....	10 "
Rags for the manufacture of paper.....	free.
Hair of alpaca goats, and of other animals unknown, costing 18 cents per pound.....	5 "
Wool, where the value is less than 18 cents per pound.....	5 "
Wool in the skin.....	10 "

This last duty on wool admits a large portion of the raw material used by the woolen manufacturer substantially free. In 1863 there was imported into the United States 71,882,128 pounds, costing \$12,290,630, averaging less than 17 cents per pound. The duty therefore on the quantity imported was about 8½ mills per pound. The wool is of very fair grade, although dirty. It comes directly in competition with the American wool-grower. It is a discrimination in favor of the manufacturer against the farmer. And upon this quantity imported the manufacturer charges upon the consumer the enormous bounty which the combined tariff and paper-money systems enable him to charge.

I have shown to what an enormous extent labor is being robbed by the unjust discriminations in favor of the privileged few. We punish the robbery of one individual by another. We hang those who take human life with malice prepense. But what shall we say of a Government which robs one class by wholesale, to gratify the avarice of another, or of a Congress which takes away from the laboring poor the "means whereby they live," which is life itself to them? Even political economy, rising out of its unimpassioned logic into the higher sphere of moral science, contemplates the existence of such outrages only to denounce them with indignation. That great and good man to whom I have referred, and from whose lips I learned the lessons of political economy and moral science, Dr. Wayland, thus analyzes, reprehends, and pictures the consequences of such oppressive legislation as that now proposed. He says:

"The right of property may be violated by society. It sometimes happens that society or government, which is its agent, though it may prevent the infliction of wrong by individuals upon individuals, is itself by no means averse to inflicting wrong or violating the right of individuals. This is done where Governments seize upon the property of individuals by mere arbitrary act, a form of tyranny with which all the nations of Europe were of old too well acquainted. It is also done by unjust legislation; that is, when legislators, how well soever chosen, enact unjust laws by which the property of a part or of the whole is unjustly taken away, or unjustly subjected to oppressive taxation."

"Of all the destructive agencies which can be brought to bear upon production, by far the most fatal is public oppression. It drinks up the spirit of a people by inflicting wrong through means of an agency which was created for the sole purpose of preventing wrong, and which was intended to be the ultimate and faithful refuge of the friendless. When the antidote to evil becomes the source of evil, what hope for man is left? When society itself sets an example of peculation, what shall prevent the individuals of the society from imitating that example? Hence, public injustice is always the prolific parent of private violence. The result is that capital emigrates, production ceases, and a nation either sinks down in hopeless despondence, or else the people, harassed beyond endurance and believing that their condition cannot be made worse by any change, rush into all the horrors of civil war; the social elements are dissolved; the sword enters every house; the holiest ties which bind men together are severed; and no prophet can predict at the beginning what will be the end."—Wayland's Political Economy, page 115.

From the same wise source I have been taught



that wars may keep the most enterprising and industrious nation always poor; and that had Great Britain not expended in wars the incalculable sums—almost equal to our own expenditures—which the past hundred years might otherwise have added to her operative capital, there would hardly have remained the recollection of poverty on her shores.

We are pursuing her career, with this difference, that in war we are our own enemies; while we are exhausting our foe we are exhausting ourselves. We are approaching the abysses of poverty, therefore, inconceivably faster than ever England did.

No scheme like the present and proposed tariff was ever before devised in this or any other country which accelerates a nation to so sure a downfall. No scheme ever operated so thoroughly and rapidly to transfer wealth from the pockets of the many to those of the few; from the hands of labor to the coffers of capital, and that, too, without a particle of consideration. If this system shall continue in operation even for the small period of five years it will change the whole face of society in this country; nor can I fail to see that the rich, who are rioting in the honest gains of the poor man, may share with the poor the horrors of that future. If in this 'once happy and prosperous land poverty rises in its ghastly multitudes to cut the throat of wealth and then gash itself in the wild impatience of its own hard fate, let the authors of this war and its unequal burdens bear the crime and curse, and seek such mercy as Heaven may grant to those who despoil the poor for the gratification of their unhallowed avarice. Gradually we are approaching that terrible future. This iniquitous tariff system is accomplishing the results aimed at by the leaders of old Federalism—the distinctions of classes, the subjugation of labor to capital, the degradation of the masses, and the inauguration of a concentrated and strong Government.

Hence, said I not truly that this question involved the problem of liberty? For the party in power, in addition to their oppressive taxation, strike at the individuality and independence of the States—the great distinctive and conservative feature of our national system, and which is absolutely essential to the preservation of the liberties of the people. They have established a paper-money banking system, under the control of the General Government, which concentrates power in the Administration for the time being, and gives it control over the property and pecuniary interests of the people. They expend the people's money without scruple or stint, never listening to the suggestions of economy nor the admonitions of prudence, nor heeding the sufferings which follow from the burdens of taxation. Here they vote appropriations for every conceivable project, constitutional or not. They squander the public lands, one of the sources of revenue which can help to relieve the people from taxation, on every conceivable project suggested by speculation. They support and educate at the expense of the people the negroes whom they have set free in violation of the Constitution. They boldly and shamelessly bring the power of the national Government, both civil and military, in conflict with the freedom of elections and the liberty of the press. They virtually suppress these great franchises of the American people. In short, the party in power has instituted a crusade of perfidy against the institutions of the country and the liberties of the people, which they preach with exulting and shameless audacity, on the pretext of preserving the Union!

As the proper concomitant of these acts we have this tariff system, which is to be thrust on the patience of a hitherto long-forbearing people. Will they meekly bow to this new burden? It may be that there is no retributive justice in Heaven. We cannot, however, yet believe that the almighty Ruler of nations has abandoned our bleeding country to the caprice and wickedness of the leaders of the party in power. Despot thrones, supported by absolute authority, have in the lapse of time been shaken and have fallen before the wrath of the Supreme Avenger, manifested through the awful might and passion of outraged peoples. Such is the lesson of history. Warned by such examples, the men now in power in this country need not hope to escape that retributive vengeance which their crimes against

our country and constitutional liberty so justly merit.

Mr. BLAINE. It has grown to be a habit in this House, Mr. Chairman, to speak of New England as a unit, and in assailing the New England States to class them together, as has been done to-day by the gentleman from Ohio [Mr. Cox] throughout his entire speech. In response to such attacks, each particular Representative from a New England State might feel called upon to defend the whole section. For myself, sir, I take a different view. I have the honor to represent in part only one State, the State of Maine, and I have no more to do with the local and particular interests of the rest of New England than with any other State in the Union. The other New England States are ably represented on this floor, and it would be officious and arrogant in me to attempt to speak for them. But when the gentleman from Ohio presumes to charge here that the State I represent receives from Federal legislation any undue protection to her local interests, he either ignorantly or willfully misrepresents the case so grossly, that for ten minutes I will occupy the attention of the House in correcting him.

If the gentleman from Ohio who has given us such a learned lecture on political economy were at all well posted in regard to the industrial pursuits of the people of Maine he would know that two great and leading interests are lumber and navigation. Now will the gentleman be good enough to tell the House what protection is extended by the laws of the United States to the lumber interest? At no time in our history, sir, did lumber receive more than a feeble protection, and even that was taken away ten years ago by the gentleman's political associates when they formed the reciprocity treaty, and thus broke down the only barrier we had and threw in the whole lumber product of the British provinces to compete with us. And in regard to our great interest of navigation will the gentleman be good enough to tell the House when a ship is launched from a Maine ship-yard to engage in the commerce of the world what protection is given by the United States laws against competition with foreign bottoms? Not a particle, sir. These two great leading interests of my State derive no advantage from Federal legislation, while one of them has been very greatly damaged by the treaty-making power of the Federal Government. I do not hesitate to declare here to-day that the State of Ohio has upon her products and her manufactures ten dollars of protection from Federal legislation where Maine has twenty-five cents.

But, sir, let us take another view of this matter. The State of Maine consumes every year five hundred thousand barrels of flour, all of which with a very trifling exception is brought from the West, and a large proportion, I presume, from the State of Ohio. Now if the gentleman's logic be good, it would be a very admirable idea for this country to so change its domestic industry as to detach the six hundred thousand people of Maine from their present pursuits and convert them into producers instead of consumers of breadstuffs and provisions. And let this change be made throughout all the manufacturing and commercial districts of the Union, converting the five million consumers into producers of grain and meats, and the withering effect on the gentleman's State and on the entire West would be too apparent to require a speech of an hour and a half to demonstrate it. Sir, I am tired of such talk as the gentleman from Ohio has indulged in to-day, and in so far as it includes my own State as being a pensioner upon the General Government or dependent upon the bounty of any other State, I hurl back the charge with scorn. If there be a State in this Union that can say with truth that her Federal connection confers no special benefit of a material character, that State is Maine. And yet, sir, no State is more attached to the Federal Union than Maine. Her affection and her pride are centered in the Union, and God knows she has contributed of her best blood and treasure without stint in supporting the war for the Union; and she will do so to the end. But she resents, and I, speaking for her, resent the insinuation that she derives any undue advantage from Federal legislation or that she gets a single dollar that she does not pay back. As compared with Ohio, whence this slander comes, I repeat, sir, that Maine receives from Federal legislation no protection worth reckoning.

Mr. COX. I beg leave to correct the gentleman. He could not have made these remarks if he had listened attentively to my speech. I referred to the lumber interest only to show that it was unprotected. My remark, therefore, was in favor of the gentleman's State. I said the lumber interest of the West by the census of 1860 amounted to over \$33,000,000, while that of New England was only about \$12,000,000. Hence, lumber was unprotected.

Mr. BLAINE. The gentleman arraigned the New England States, and I did not hear him make any exception.

Mr. COX. I did arraign New England as a whole, but not in regard to the lumber interest.

Mr. BLAINE. I would like to know in regard to what interests the gentleman arraigns my State?

Mr. COX. I named ten articles on which they have special protection.

Mr. BLAINE. Will the gentleman name one article on which the State of Maine has especial protection, only one; that is all I ask for.

Mr. COX. I will say to the gentleman that I made no reference particularly to the State of Maine.

Mr. BLAINE. But the State of Maine is in New England, and the gentleman's sweeping charges were against New England as a whole.

Mr. COX. I gave the statistics of cotton, woolen, and iron manufactures, clothing, &c. If any of these are in Maine, my remarks will apply. Maine generally sustains the rest of New England in her exactions.

Mr. BLAINE. Why, sir, your own State is protected in iron to the amount of millions of dollars more on that single article than Maine ever received on all her products together.

Mr. COX. It does not necessarily follow that I am to stand up for one particular interest in my State if I deem it against the general interests of the whole State, or militates a just principle of taxation.

Mr. BLAINE. No, sir; but the gentleman comes up here and classifies the States of the Union as "protected" and "unprotected" States, and he puts my State in the "protected" class, while the most youthful page on this floor who has studied Mitchell's Geography knows that the gentleman's own State derives from the General Government an immeasurably larger degree of protection for her local interests than the State of Maine does. And I tell the gentleman that he shall not with impunity include my State in his wholesale slander.

I observe, sir, that a great deal has been said recently in the other end of the Capitol in regard to the fishing bounties, a portion of which is paid to Maine. I have a word to say on that matter, and I may as well say it here. According to the records of the Navy Department, the State of Maine has sent into the naval service since the beginning of this war six thousand skilled seamen, to say nothing of the trained and invaluable officers she has contributed to the same sphere of patriotic duty. For these men the State has received no credit whatever on her quotas for the Army. If you will calculate the amount of bounty that would have been paid to that number of men had they enlisted in the Army, instead of entering the Navy as they did without bounty, you will find it will foot up a larger sum than Maine has received in fishing bounties for the past twenty years. Thus, sir, the original proposition on which fishing bounties were granted—that they would build up a hardy and skillful class of mariners for the public defense in time of public danger—has been made good a hundred and a thousand fold by the experience and the developments of this war.

Thus much, sir, I have felt called upon to say in response to the elaborate and carefully prepared speech of the gentleman from Ohio. I have spoken in vindication of a State that is as independent and as proud as any within the limits of the Union. I have spoken for a people as light-toned and as honorable as can be found in the wide world. I have spoken for a particular class—many of them my constituents—who are as manly and as brave as ever faced the ocean's storms. And so long, sir, as I have a seat on this floor the State of Maine shall not be slandered by the gentleman from Ohio, or by gentlemen from any other State.

Mr. GRINNELL obtained the floor.

Mr. DAWES. I ask the gentleman from Iowa to yield to me for a few minutes.

Mr. GRINNELL. I yield to the gentleman from Massachusetts.

Mr. DAWES. I do not desire to enter into any controversy with the gentleman from Ohio, or to undertake to make any invidious comparisons between States; or, with the gentleman from Maine, to select my State out from any share of the opprobrium sought to be heaped on New England. For one, as a representative from Massachusetts, I am perfectly willing that my State shall take it all. Massachusetts has the honor of having always been, while the rebellion was brewing, the best hated State in the Union; and so long as she maintains that honor for the same reason that gave it to her, I am perfectly content. The gentleman from Ohio [Mr. Cox] assumed this morning, for the first time, to deal in facts. I do not know that he has ever before attempted to play that rôle. His rôle has always been general denunciation. I suggest to him the propriety of consulting the authorities from which he has derived his figures a little more carefully than he has done. He has attempted here, with an array of figures, to show that New England, or, as my friend [Mr. BLAINE] prefers not to have Maine counted in, Massachusetts, and Rhode Island where his old teacher of political economy lives, have not only got all the special legislation in their favor at the expense of the West—and I suppose the gentleman means his own district particularly—but that they have not furnished their share of men and money. Massachusetts alone has the honor of being singled out, by name, by the gentleman from Ohio, and I congratulate Massachusetts on the fact that no other State is deemed worthy of this renewal, this reviving of the old and stale calumnies on New England, as a State which has not furnished her share of men in this war. Well, sir, that was the charge brought by a South Carolina rebel against Massachusetts, touching her share in the Revolution; but when the figures were turned to it was found that Massachusetts had furnished four soldiers to the revolutionary war for every one furnished by the State from which the charge originated.

Now, my friend from Ohio says that Massachusetts falls short of her share about twenty-one thousand men. Now, let me just correct the gentleman in this statement, and I will not detain the House longer. Massachusetts, in a settlement made on the 1st day of May with the Provost Marshal General of the United States, after being allowed fifteen thousand men whom she has sent into the Navy, was found to be behind her quota four thousand instead of twenty-one thousand, as the gentleman charges. And, sir, Massachusetts has not only sent to the Navy fifteen thousand men, but fifteen hundred of these men have been sent from a single town; while the State of Ohio—and I suggest this to my friend from the Columbus district—was ten thousand men behind her quota at the same time when my distinguished friend was arraigning the State of Massachusetts.

Now, let me call the attention of the House to the amount which Ohio, with nineteen Representatives upon this floor, pays for the support of this Government in this war in the shape of taxes as compared with what Massachusetts pays, with ten Representatives upon this floor. Massachusetts in ten months paid in taxes, \$4,800,000; while Ohio for the same period of time, with nearly double her population, and with more than twice the same amount of minerals, of real estate, and of the substantial wealth of the country, pays a less amount of tax. I have before me the exact figures, which are as follows: Massachusetts in ten months paid in taxes, \$4,830,500 86; Ohio, for the same period, paid \$3,217,490 70; making a difference in favor of Massachusetts of \$1,613,020 16.

And now let me ask what is the comparative amount paid by my district and by the district of the gentleman who now arraigns Massachusetts upon this floor. My district for the same period of ten months paid \$553,000; the gentleman's district paid \$166,493 70; making a difference of \$386,514 30.

Now, sir, I do not care to make those comparisons; they ought not to be made here. When I should be found arraigning any of the States of this Union in this emergency I would, in my

judgment, be found departing from my duty here; and I only refer to these figures to show the gentleman from Ohio what little ground there is for standing up here and asking the indulgence of the House for an extension of time for the purpose of arraigning a sister State of this Union upon false charges which he brings in here.

I have no disposition to enter upon any such system of arraignment as this; nor into any comparison between the different States of this Union. The State of Massachusetts is ready to bear her full share of the blood and treasure which are to be expended in this war. She has no drop of blood, she has no dollar of treasure which is not consecrated to the salvation of this country; she shed the first blood in this war, and she is ready to shed the last. Come weal come woe, come poverty come riches, she will turn her back never upon the flag which floats over your head. She cares not whether the gentleman's district or the gentleman's State shall be behind or before her; up to the measure of her capacity she consecrates all her energies to carrying this Government through this great struggle.

Mr. KELLEY. I simply want to suggest that the 18th of April was before the 19th, and as Pennsylvania blood was shed on the 18th of April, I state to the gentleman from Massachusetts that the first blood shed in this war was that of a colored man from Pennsylvania. I expect to repeat this fact until it will be recognized by Massachusetts men as a fact. [Laughter.]

Mr. GRINNELL. I yielded a portion of my time to the gentleman who has preceded me [Mr. DAWES] for the purpose of correcting the statements of the gentleman from Ohio, [Mr. Cox.] Sir, let me add I have heard of the sophistry of figures, and before proceeding to discuss this subject as I intended I shall call the attention of the House to some figures which are found in this volume published by Congress in regard to my own section of country, which the gentleman from Ohio has seen fit to misrepresent and traduce upon this floor.

If we are to take the statements of the gentleman from Ohio we in the West are a set of nomads, a half-civilized, barbarous race, raising nothing but corn, wheat, and pork for our support. Now, sir, here is a fact in regard to the manufactories of the western States. While I find that New England has four hundred and fifty-three manufactories, and the middle States seven hundred and forty-eight, the western States have four hundred and seventy-nine manufacturing establishments. It will be observed, therefore, that the western States had some twenty or thirty manufactories more than New England in 1860; and have increased fifty per cent. the last four years. The people of New England and Pennsylvania are denounced as vampires, feeding upon the wealth of the people of the West, enjoying all the benefits of Government and the new States none.

Sir, I have no words which I can use to excrete sufficiently such language, in arraying the sections in opposition during a time of war; as if we were not one people, descended from one stock, having one interest, and bound up in one destiny.

The gentleman remarked if this were not a war measure at this time it would produce revolution. I dissent entirely. I believe this tariff bill, presented from the Committee of Ways and Means by the gentleman from Vermont, [Mr. MORRILL,] will not be associated with the degradation sought to be attached to the Morrill tariff of 1861 by those who were for disunion. I think that the country will regard it as one of the measures of protection and necessary for a revenue, which will tend to assure us of an independence of our enemies abroad.

The gentleman has said that this tariff law would be oppressive to the West; that all tariff laws are oppressive to the South, and I leave him to answer for that section. I would join in any measure of oppression upon the South that would bring them to a knowledge of their great crime of rebellion. But I shall prove that this measure at this time will not be oppressive to the West. It will lead us hereafter to guard those interests which we have heretofore neglected; I mean the industrial and manufacturing establishments of the West.

I notice the gentleman assumes to speak for

the whole West. There are six or seven States west of his own. They do not mean in the future, if I understand their domestic economy, simply to raise grain and send it to Europe; they do not desire to confine themselves to raising pork and beef; no, sir, we mean also to encourage, increase, and extend our manufacturing interests, and build up a noble rivalry between the Mississippi and the Merrimac. If they can manufacture cheaper upon the Merrimac than we can upon the Mississippi, then let them and not England manufacture for the United States. We are new States, rich in soil favored by climate, and we mean to invite emigrants from all nations of the earth and to add to our natural wealth, and make the home of manufacturing industry throughout the whole West.

Let me say in regard to tariff policy, if I had time I could show that Washington and Jefferson, and the fathers of the Republic, were in favor of tariff for protection in time of peace, and they were called statesmen. What, then, becomes us now but to forget party and locality, and provide means to meet our war expenses in preparation, I trust, for an era of real peace and prosperity before unknown?

Sir, the first gun fired at Fort Sumter, in 1861, seems to reverberate still. Its wide throat had power to drown much of the clamor of home free traders, sweep away the theories of peace societies, and move from their foundation the cornerstones of American slavery. The last tariff was framed under the frowns of the European lords of the shop, the mill, and the loom; all previous ones were enacted with regard to the prejudices of free traders, in subjection to the policy of slave-owners and on the basis of a national peace establishment. This is a new era. Our pecuniary burdens imposed by war have brought a small compensation for suffering in a desire to escape foreign vassalage, and that colonial dependence which was felt a century ago, under restraint, by the policy and power of the mother country. It was then the avowed policy "to keep a watchful eye over the colonies, to restrain them from setting up any of the manufactures which are carried on in Great Britain, and any such attempts should be crushed in the beginning." The first convention of the colonies protested against the exercise of that power which compelled them to be mere producers of raw staples, and to make exchanges with their oppressors if they would enjoy the comforts of fabrics made by machinery. It was oppression, blocking up the way to colonial wealth and independence by placing the heavy burdens of transportation on the former and separating the producer from the consumer by the ocean.

A few years preceding the Declaration of Independence the colonies had resolved to cease buying foreign fabrics, and to assert their commercial independence, except their rights were regarded.

As early as 1771, Benjamin Franklin, writing from London, expressed what I wish might be read by every theoretical free trader. He says:

"If your country people would well consider that all they save in refusing to purchase foreign gawags and in making their own apparel, being applied to the improvement of their plantations, would render those more profitable as yielding a greater produce, I should hope they would persist resolutely in their present commendable industry and frugality."

"Every manufacturer encouraged in our country makes part of a market for provisions within ourselves, and saves so much money to the country as must otherwise be exported to pay for the manufactures he supplies. Here in England it is well known and understood that, whenever a manufacture is established which employs a number of hands, it raises the value of lands in the neighboring country all around it; partly by the greater demand near at hand for the produce of the land, and partly by the plenty of money drawn by the manufacturer to that part of the country. It seems, therefore, the interest of all farmers and owners of land to encourage young manufactures in preference to foreign ones imported among us from distant countries."

These philosophic observations were founded upon a knowledge of the natural capacity of our soil and spirit of our people, stung by the effects of arrogant commerce, which was arraigned as a cheat. His theories have never been successfully controverted, and when the guide of our legislators the country has found prosperity; when abjured, revulsion, pecuniary disaster, and national vassalage. At that early day, anterior to the Revolution, when the clearings were scarcely out of sight of the ocean, and when in but few of the rich valleys the methods to enhance the value of

lands were understood to be by the introduction of manufactures, even then it was an accepted axiom, "population is wealth." The exception to this is when there is found a low grade of civilization, and in the great cities.

In no country is there furnished a more striking illustration of the relation of population to wealth than in our own. Land suited to farming in New England and in the manufacturing portions of New York and Pennsylvania is worth from one to two hundred dollars the acre; that of the same quality on the railway in Ohio is worth fifty dollars the acre; in Illinois thirty dollars; in Iowa fifteen dollars. This difference in values is not attributable to climate, but to density of population which secures cheap exchanges in trade, and a community of interests which even higher rates of duty than those proposed in this bill would facilitate, concentrating population and bringing the operative from the Old World to our shores.

Franklin at the same writing expresses his gratification that the spirit of industry and frugality continued with the people, and "that the merchants had not departed from their agreement of non-importation." They did not, and commerce yielded to the claim of patriotism, while skill and enterprise prepared a hitherto dependent people to pass through the Revolution, achieving first political, and later, pecuniary independence of their oppressors.

It is a pleasing incident and relief in this time of party strife and national peril to find an honorable gentleman on this floor [Mr. STREIBER] from the great city of the continent, not a formal supporter of the Administration, forgetting the local claims of commerce and party ties to reclothe the policy of the philosopher of the Revolution, and prove the necessity of encouraging home industry and independence of rival nations. I regret that ill health will deprive us of listening to his voice on this, one of the great measures of Congress, and I quote his language in a speech made on the internal revenue bill. Anticipating a high tariff, he said:

"A bill which shall strike down that part of our foreign commerce which fills the land with the extravagant luxuries of the Old World, should speedily follow this one. It should also establish a tariff of duties so high on other articles that every part of our manufacturing industry will spring into active and vigorous life. We Americans should live within ourselves during the continuance of this war."

Referring to the sympathy of France and England for the rebels, he continues:

"We have nothing to ask from these two nations. Their policy has already destroyed or rendered useless the greatest commercial marine in the world. All the injuries they could inflict have been inflicted. Let us, then, labor hereafter only for the certain reestablishment of the American Union upon a basis as broad and as long as this continent, so that we may 'establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity.' Make your legislation conform to this idea, and see what a splendid spectacle the American people will present to the world. Prohibit the exportation of every dollar of gold and silver, of every bushel of grain, of every pound of beef and pork, or adopt the policy of a prohibitory tariff, and thus announce to mankind in every part of the globe that America will perpetuate her great principles throughout all time; and that, until the question as to her power and right to do so is definitely settled, she will draw the resources for the contest in which she is engaged from her own broad domain, and from the inexhaustible treasury of her own prosperous people; that she will hold no intercourse with foreign nations until after the war, none whatever. Sir, such a course would secure a triumphant success to the American arms, to American industry in its multifarious branches, and render us forever independent of the world."

The organization of the Ladies' National Covenant Associations, founded on the pledge to forego the purchase of foreign fabrics during the war, is making practical the idea of this statesman. I hail this patriotic movement, with its manifold promise of an arrest in the drain of gold from the country and an encouragement to those who would wear what is simple and becoming, and who would encourage home industry and not the introduction of foreign fabrics. It is a movement which will enhance the value of our currency and cheapen food to the Government and the soldier's family. In history it will be mentioned as a noble attestation of the love of wives and daughters for our holy cause.

The devotees of fashion may decry patriotic women who refuse to fill the coffers of our foreign enemies. Those of doubtful loyalty may rest in indifference to the soldier's sufferings and his sister's sacrifice, who gladly shares with them,

saving from the wardrobe to make richer contributions to the hospital supplies; but so true as the national exchequer is in greater danger than our Army, the ladies of the "Covenant" will not be forgotten; they will live in history, and have a remembrance for doing "what they could" with pure and patriotic motives.

If I might speak in the ear of fashion and to those reckless in expenditure as I do to those who can mold public opinion, I would cite as an example for us an historic incident. In the time when Europe was shaken with the tread of armies, and Prussia had drawn the sword and thrown away the scabbard, the king instituted the Order of the Iron Cross to reward his subjects for sacrifices which they were called upon to make in behalf of their country. These symbols were held as at once the evidence of past wealth and succeeding patriotism, and even the emperor appeared in public decorated with the new order.

Then art, genius, and industry were turned into a new channel. The women universally sent their precious ornaments to the public treasury and received in return a beautiful ornament in bronze with this simple inscription: "I gave gold for iron, 1813." This is the origin of the iron cross so highly prized in every country of Europe. Chivalry cannot boast of a nobler fountain of honor, nor fashion of a more touching memorial of virtue, and it is this patriotism which is being imitated by our loyal women in 1864, whose covenant badge will for centuries be a record of our national grief and peril, and represent the virtues of those who wore them.

Passing from this, Mr. Chairman, there are reasons why the grain States should not look on the policy of high duties with disfavor. You can feed the world, is the address often made to our local pride. This has stimulated production, and we have defied nature to furnish the proof that a distant country should be the workshop and the new States the Egyptian granary. The drain on the natural properties of the soil which produce wheat has often been stated as the gift of millions of pounds for a hundred; and nature has cried out against an infraction of her laws by decreasing the crop and compelling the grain-producer to seek the virgin soil for his home or diversify his labors.

Many press on and on, slow to learn the lesson that the discriminations of trade are all against him who is distant from market and relies on the sale of heavy products to gain a competence. He must confront these figures. Taking New York or Boston for the market, and the average price of our staples for the past ten years, his corn for exportation is worth nothing fifty miles from a railroad, his wheat valueless at one hundred miles, pork at four hundred, beef at five hundred, wool at four hundred miles.

Railroad markets will furnish the same comparative values, which necessitate this conclusion, that the closer the proximity of the exchangers, the grower and the fabricator, producer and consumer, the greater the advantage to the former. Hence the ready assent to this proposition: if we cannot have the factory and the forge near, let us cherish them at home on our soil and not abroad. Wars and blockades have done for other countries what this war may do for us, but we cannot hope that until the fruits of diversified labor are seen that the real vassalage of the distant agriculturist will be apparent.

Two fifths of the market value of the farmer's grain is now expended by him in effecting a foreign exchange with the manufacturer of woolen, cotton, leather, and hardware, while the fabricator may reach our market with his light concentrated articles, by a transportation tax of two per cent. of their value. As political economists it becomes our duty to reduce these home burdens by one fifth, as we may when the manufacturer shall be on our own soil, and make a still further reduction by establishing our artisans by the nearest water-power or coal-bed.

Let me give an illustration of the arm's-length expenses and exchanges by the farmers of the Northwest.

The keeper of a herd has an exchange with the bootmaker. For a pair of boots he will pay six dollars, and the hide of a bullock, which he exchanges fifty miles from a railroad, is worth three dollars. And how is this price determined? Not

by a tannery process in his own village, where he may find indigenous weeds and can bring from abroad concentrated tannin, but by first selling the hide to the country dealer, he to the merchant at the depot, he to a Chicago dealer, who consigns to a commission house in New York, who finds a tanner for a purchaser in Greene county, New York, who sells to a leather dealer in New York, who finds a customer in a Massachusetts bootmaker, who sells his stock to a Boston jobber, and he finds a customer in a Chicago merchant, and he wholesales to the town retailer, who supplies the farmer from whom the bullock's hide was bought two years before, after the hide has paid transportation for three thousand miles, passed through eleven hands, including the tanner and bootmaker, with a commission to each. The wonder is that there is no greater disparity in the price of that which he raised and that which was bought. It is three dollars, and that money is obtained by the price of wheat in Lynn, where he fed the bootmaker, which would be about six bushels; thus the raiser of a heavy product distant from a customer got but half a price for what he sold, and was taxed three prices, regarding his means of payment, for what he was compelled to buy. Such exchanges properly expose our western grain-raisers to the ridicule of the Englishman by the German tradesmen when they boasted that they bought from the Englishman the skin of a fox for a groat and then sold him the tail for a shilling.

The proposition is too plain to require proof that the future wealth and independence of the new States is to be found in establishing home manufactures which will bring population to the State, and by a diversified industry enrich rather than impoverish the soil. Let those who have no manufactures encourage a home industry, and a national currency will tend to equalize interest, and cheap food and fuel will attract the operative, and all will conspire to the general welfare. If it be said that this policy will depress commerce, I answer that it will promote profitable home trade, and by it our foreign commerce will be increased and become more profitable by dealing in concentrated values rather than gross products after a few years of prosperity, as in France. Granted that a portion of the capital now employed in foreign commerce should be diverted, that does not imply its destruction. The money required to build a ship will build a factory, and it is as honorable to employ a spinner as a sailor; while, if the history of nations proves anything, it does that a people who protect their own industry will enjoy the most profitable commerce. Our sea-captains and merchantmen have a world-wide fame; and the generosity and patriotism of gentlemen who, trusting to the ocean winds and waves and adventurous life, have retired with fortunes, is well known; but they cannot ask us to credit the ship which only carries between a people with similar soil and climate as the great producer, nor can the poetry of sails whitening every sea, and keels vexing every shore, and national pride which would make us first on the ocean, draw from distant States the contributions of the farmer in sending abroad heavy products at great cost, while the fabricator of another country performs his part in making the exchange with trivial expense.

The great cities of antiquity which are now no more seemed to have a temporary use as centers of rude society and nomadic races and for protection, but would domestic commerce and suitable protection to our industry congregate hundreds of thousands where the masses climb in despair to garrets or go down to the death-damps of cellars, struggling like a pitcher of tamed Egyptian vipers each to get the head above the other?

Jefferson, who saw our great cities at less than half their present size, designated them as the "eye-sores on the body-politic." To prefer foreign to domestic commerce is to decimate the country and contribute to the colossal growth of the city, aggravating rather than ameliorating the miseries of the race, who are described not inaptly in the large cities as being in those larger prisons to the soul, "like cages to birds or pounds to beasts."

It is in the city supported by commerce that crime abounds. Their government costs double that of the same number of people in the country, and since all who can flee the city's tainted air in



the months of summer do so, the claims of commerce for the part which it performs in building up the city cannot be regarded with favor on any theory of morals, of advantage to the masses, or public economy.

There is a practical question for occupations, interests, and localities; and their immediate representatives will inquire what should we yield and what can we justly ask.

I will enumerate some of the articles on which protection was sought to be afforded by the tariff of 1862. They were tobacco, woolen manufactures, iron, and wool. These come in direct competition with our home industry.

Tobacco was protected from twenty-five to thirty-five cents a pound, and in its production there is invested from seventy-five to one hundred million dollars; and it has since the rebellion advanced in price 75 per cent.

Woolen cloth had an average protection of eighteen cents specific and thirty cents *ad valorem*, and in its production there is invested \$50,000,000. Goods during the last three years have appreciated 65 per cent.

Iron has an average protection of eighteen to twenty dollars per ton, and in its manufacture there is invested \$50,000,000. Its advance in price has been 100 per cent. within three years.

Wool has protection in specific duty of from three to nine cents per pound, yet on an *ad valorem* tax, with a foreign valuation, three fourths of the importation paid only nine mills a pound. There is an investment of \$100,000,000 in its production, and the price has appreciated less than 40 per cent. since 1860.

Whatever other interests may ask, it is plain that the American wool-grower, while more wool has the past year been brought into the country than has been raised at home, receives next to no protection. The present tariff bill, such are the tricks of foreign trade, will furnish unequal protection to this great interest. As we pass to the details I hope to see it improved.

Passing to a more general discussion, I will say that the increase of spindles will augment the home production with proper encouragement; and no producer of food or wool or any fabricator of iron can desire to remove these home looms and spindles across the ocean. That would necessitate his payment of freight, insurance, and commissions on his heavy productions, which would so much lessen the value of grain, wool, and iron exported. There is no party to war against the manufacturers. They have honored their employment and placed themselves in the front rank as artisans, and established communities which commanded the praise of De Tocqueville, the philosopher, in this language:

"The civilization of New England has been like a beacon lit upon a hill, which after it has diffused its warmth around, lingers the distant horizon with its glow."

Intelligent travelers, however prepossessed in favor of foreign countries, can but concur in this:

"In no country in the world are industrial, social, and educational advantages so equally diffused or so highly enjoyed as in our manufacturing States. In no land enjoying centuries on the road of improvement is there the same proportion to the number of square miles of school-houses, churches, and printing offices. In no country in the world is intelligence so widely spread, or morality so general, or domestic comfort so universal."

A well-earned preëminence, which would arouse none but a base mind to jealousy, and may well stimulate newer communities and more remote from the seaboard to a generous rivalry. Every western farmer will prefer to make his exchanges in New England to Old England, sparing himself the tolls of middle-men and the ocean transportation of heavy products. He is well assured, too, that this protection will, at no late day, redound to his benefit in a newer locality.

Concentration, and the domestic economy of districts, will be studied; and to-day it is learned that land, however rich, is dear to the occupant if far removed from a railroad, except he be a gold-hunter or content with semi-barbarous society.

In this age of steam the law of the movement of manufactures is toward the coal-measures, and since the once strong free-trade party is powerless and railroad communication is so well established that the East and the West have formed intimate business relations, and a national currency will tend to a uniform interest on the Mis-

issippi and the Merrimac; it being also demonstrated that in the new States where the raw material is found and numerous consumers that fuel and food are cheaper by from thirty to fifty per cent. than in the older States, for not a long period shall we wait for the presence and benefits of numerous manufactures.

This tariff bill, in the main, looks to a stable policy; it will quiet the fears of the timid capitalist, while from actual observation and the figures of the census we shall not be slow in demonstrating that equal longevity and comfort may be found toward the setting sun, where the star of empire takes its way.

The war prices of cotton goods have again brought into use the wheels and the loom, and as if by magic the factories are springing up which will give an exchange of wool for cloth, thus sparing our people the heavy burdens of transportation, commissions, and insurance, and cheapening to the masses the price of fabrics. That glow is a welcome light in our horizon, and the more welcome as it promises to illumine and enliven the solitudes of the water-fall and exhaustless coal-beds, diverting our people from the wasting of their lands as wheat exporters to efforts at home production; that the deputed exchangers by the ocean may not be our masters; that enterprise and capital from the manufacturing States and sweltering crowds from the cities may find employment and wealth by the side of the producer. More mills and good profits should be the motto of this Congress.

Natural laws and the benefit of all parties require such an increase, making protection to our industry not dependent upon a party or upon the representatives of a locality, but upon a well-understood national policy.

In advance, for one I am prepared to advocate a gradual increase of duties which shall look to a prohibition of such articles as are made from our raw material, which are readily produced here; and since for the present we must import merchandise or men, let us bring the men to our shores, and make those now poorly clothed and fed operatives in the mill producers in the field and consumers, the value of whose presence may be estimated by the well-considered statement that the immigration for the last decade was two and a half million people, who brought with them in coin \$100,000,000, and whose labor added to the national wealth not less than \$1,500,000,000. With the alternative presented to the distant farming communities of the Northwest of sending at their own cost heavy products to Europe and making there their exchanges or inviting laborers where their toil can be lightened and food cheapened and pay increased, there can be but one rational choice.

In the Old World population and poverty have been synonymous, while here population is wealth, and more emphatically in the new States where but ten persons are found to a square mile, and not a hundred and fifty, as in Massachusetts, where population is not too much crowded for social comfort and prosperity.

A high tariff will establish our manufacturing interest on a permanent basis, and until the capacity of home looms is equal to our wants the revenue on goods imported will be considerable, and higher wages paid here than in Europe, and a less demand for foreign fabrics will stimulate emigration, and bring about that to which good policy looks, a national community of interests and a cheapening of exchanges.

We have not hitherto been one. The South clamored for free trade and a transfer of the wealth by commerce to her own ports. The great West aspired to grow grain for the world, and I do not remember that she ever made a plea for the manufacturing interests. History furnishes no such record of success as ours, whereby a sparse population has exported \$100,000,000 a year in grain; but is that all to which that great country aspires? They have paid \$40,000,000 out of every \$100,000,000 to get their grain to a market. They have defied the God of nature, who does not allow the properties which secure a wheat crop to abide indefinitely. Without compensation three years is the limit of the soil's endurance of exhaustion.

Since the learning of this dear lesson the champions of the wheat are not the farmers, but the

free-traders, the brokers, and ship-masters, who have a direct interest in extending that hallucination, that our new States to be rich must aspire to feed the world. Correcting this erroneous policy there has been a concentration of grasses and corn into well-fattened animals for export which has brought a fair return. Even in this the producer has paid fifty per cent. of the value of his farm to the exchangers, while the foreign manufacturer has been taxed less than two per cent. to bring his light expensive fabrics to us. To spare the soil and escape the burdens of transportation on heavy articles to a distant market, manufacturing and wool-growing are engrossing more of the attention of our farmers, and these occupations will have their place in the front rank from considerations of local adaptation and the laws of trade which the intelligent agriculturalist will not overlook. With these economical facts in mind the once advocate of free trade and lukewarm friend of home manufactures becomes a convert to the policy of concentration as a great national idea, and to such protection for skilled labor that it may flourish near to us and indirectly bring us revenue and people from the Old World.

Let me say, without offense to other sections I trust, that the prairie States of the West are the proper home of the flock; a fact which furnishes a potential reason why this interest may at least ask indirect protection.

It is there that the animal attains to its highest perfection, and regarding outlay and labor, promises the largest returns. Every true American was proud of the high standing attained by our "bloods" at the world's sheep exhibition at Hamburg, in 1863, when on a second trial, as on the first, American merinos, for beauty of form, strength of constitution, weight and quality of fleece, secured the award of premiums over the first of European flocks, which had been bred with princely care and skill in varying climes for a half century, and in attestation to their superiority were purchased at almost fabulous cost by rival exhibitors to lay the foundation of American stock, being held in the highest repute of any on the globe.

The commentary on our policy was far from being complimentary when our estimate of the "golden-hoofed" animal was determined by the comparatively few flocks kept on our rich and wide domain. It was shown that France, with a stock far inferior to ours, and with a crowded population, on a territory not larger than the States of Michigan, Wisconsin, Minnesota, and Iowa, folds eight million more sheep than all the United States, and in addition maintains three hundred people to the square mile; while these States, with one fifth of the number of flocks, have only one twentieth of the population. Great Britain, too, with an area little larger than the States of Illinois and Missouri, has several millions more than all in North America; having not less than a sheep to each acre, exclusive of mountain and forest. The damaging comparison is this, that the best clothed people in the world have but twenty-five million sheep, giving the range of one hundred acres to each, and are submitting to a drain of their country of gold by importing one hundred million pounds of wool and cloth, an amount equal to our entire home production.

Can it for a moment be doubted which is the true policy, that of the crowded States of Europe augmenting their flocks, or that of our Government refusing to yield protection to wool, which neglect was followed by a decrease in the flocks during the last decade in all the New England States save Maine, and in Pennsylvania, Ohio, New York, New Jersey, Maryland, Illinois, and Indiana? Higher prices and a more rational policy has arrested this decline, and it becomes the American economist and legislator to look forward to that day when we shall not only produce all the wool required for home consumption, but export a light product with little toil, the raising of which enriches the soil rather than those heavy products that crush the laborer and tend to impoverish the field.

What a domain is ours awaiting settlement! Not in the world is there spread out such beauty of surface and richness of soil, rendered attractive by diversity of climate and the promise of health to the landless of all nationalities, embracing a range of latitude which furnishes the natural home

for the animal-races and soil for the growth of cereals and the culture of the vine which distinguishes the country between St. Petersburg and Constantinople, within which extremes of latitude are concentrated so large a proportion of the enterprise, wealth, and happiness of civilized society.

Our natural advantages are preëminent, and no political economist can justify the policy of such a country as ours, richer in grasses than Assyria or Andalusia, with hundreds of millions of acres unoccupied, stretching from the upper Mississippi to the Rio Grande, in the annual average importation of 75,000,000 pounds of wool, and cloth to the value of \$15,000,000. The fact is suggestive of our dependence, and awakens the inquiry, how can we change that balance-sheet which shows our imports for twelve months to be more than \$100,000,000 in excess of our exports? True patriotism will create a demand only for home-made fabrics, and when a policy of national independence is aroused our native resources will be developed as an astonishment to the world, to show that the new State of Iowa alone has greater mineral wealth than Great Britain, and annually produces a sufficiency of grass which is unclipped and left to be consumed by autumnal fires, to feed all the flocks of the United States.

This is the argument. It will be for the advantage of the producer of the cereals to be spared the heavy tax of transportation, which can be done by the extension of our home manufactures; and it will be proved more for the grain-grower's interests still when capital shall pass to the new States, where food is cheap, motive-power abundant, and to which population may be attracted. Then will follow the enhancement of the value of grain, animals, and wool, by so much as the producer in the West now pays in freight, exchange, and commissions.

These considerations justify a policy of protection to manufactures of iron, cotton, and woolen goods. The revenue derived from imports and the elevation of American labor will give further assurance of the continuance of the protective policy. Here, I ask, has the farmer, brought into direct competition with the producer of grain, meat, and wool the same claim to protection as the manufacturer of cloth and iron? It is as plain as any demonstration by figures that since more than three fourths of our imported wool paid a duty of only nine mills a pound, that the tariff of 1862 did not afford adequate protection, being rather a discrimination against a great interest. I have shown that good policy will encourage the home fabricating of the goods necessary for our population; that the motive-power is at hand; that the skill of our artisans is unrivaled, and that to furnish near consumers of our textile staples is a question of pecuniary concern to our agriculturists.

It is conceded that the manufacturing communities of laborers in intelligence, patriotism, and morality have reflected honor on the national character. Can less be said of the rural people of the new States? When have they been found wanting in the time of national conflict and peril? Never. Their simplicity of life has developed the sternest virtue; the integrity and courage of intelligent freemen, illustrated by the revolutionary fathers when

"They left the plowshare in the mold,  
The flocks and herds without a fold,  
The sickle in the unshorn grain,  
The corn half garnered on the plain,"

as examples to their children, who, with heroic sacrifices, in these years of rebellion have, as agriculturists, perpetuated the fame of their fathers by promptness of enlistment and sturdy valor, which properly moves the legislator to devise for the most profitable culture of the untilled and deserted farm; for the maimed returning soldiers, and the orphans incapable of severe labor, yet competent to watch the flock and bestow those little attentions which are indispensable to successful sheep husbandry.

Where shall we find and how shall we economize labor is a problem not easily solved in the rural districts. I cannot forget the sacrifices of the people of my own State, where few dwell in cities or thrive by commerce or contracts. Iowa furnished ten thousand soldiers in excess of all calls by the Government, and then in the warmth of her patriotism made a proffer of ten thousand men additional for temporary service, draining

the farming districts of more than one third of their laborers.

If it be said of their achievements in campaigns and battles that they have seemingly eclipsed those of troops bred to other pursuits, it will not be attributed to superior courage or patriotism, but to muscular development and capacity for endurance which distinguishes a rural population; and I shall not waste time in proving that such a people should be encouraged in their employments; that they have a right to protection equal to any class of our citizens. None of our operatives are brought to the condition of the pauper laborer of Europe; and can Government reasonably ask the flock-master, wounded in our battles, returning home to his farm, a man of education, meeting the responsibilities of a citizen and the head of a family, to compete with nomads, the half clothed tribes of South America and South Africa who sleep in huts, subsist on tropical fruits, contributing nothing to social order and the stability of government, races who now flood our markets with wool?

These pioneer farmers have entered upon the least-favored and poorest-requited labor of American citizens; yet the vanguard of civilization, reclaiming States from the savages, and by reason of their remoteness from market, as the rule, have left little else as a heritage to their children than lands on the frontier without a cash value, and the stern virtues of a people whose daughters are to-day supplying the places of their brothers-in-arms, dropping the corn in the furrows, vying in patriotism with the youth in our universities and colleges, who have, as one man; professors and students, suspended the scanning of Virgil to scan our murderous foe; dropped their Euclid with problems unsolved, donning the soldier's uniform and seizing the gun to solve the bloody problem of war.

It is not enough that such men carry victorious banners, and that their place is assured in the hearts of a grateful people by the records of history, song, and traditional heroism. Government should recognize their service to the nation in the midst of its perils, confer honor upon industry by furnishing protection to those in States remote from the marts of trade, who, while competing with the labor of squalid hirelings, offensive barbarians, and Australian convicts, in climates which never produce men, are converting into wool and food that which, for unknown centuries, has gone to waste and been swept by fires, thus directly opening the route for that railway which is to join with bonds of iron the golden gate of the Pacific, the rich quartz mines of the Territories, the prairie farms, the forges of the mountains, and factories by the eastern shore. As legislators, that blending of sympathies becomes us which is found among our soldiers when they forget their State and locality in devotion to the common cause. Let, then, the weakest in numerical strength have just consideration. Let the poorest requited and honorable industry have protection, and every rural scene will have a well-bred flock in the foreground. Give incipient art encouragement, and if eventually enterprise and capital do not distribute their blessings in the West generously, as nature does the sunshine and the rain, we will forget localities, to devise for and rejoice in general prosperity, and cherish the regard for each other of a Joseph and a Benjamin, though one was reared in Egypt and the other in Canaan; and, until an honorable peace is attained for our bleeding country, we will war upon the enemies of liberty in the name of God:

"Still as the breeze but dreadful as the storm."

Mr. WARD. Mr. Chairman, the importance of proper tax and tariff bills is evident. The present financial condition of the country invites our earnest attention, and every effort should be made to maintain the public credit. A fundamental error was long ago committed in enacting the system of legal tender; and the earnest convictions of many who knew better than to depart from truth and reality have been changed into faint scruples and then entirely overcome. The spectral doctrine that we can make money by printing it has superseded the dissolving views of specie payments; and the effect of all the redundancy of paper is that \$100 in gold will buy national securities to the amount of \$190. This is the deliberate estimate placed upon our system, our credit, our honor, and the policy we are pur-

suing by the capitalists of our own country and of the world.

I speak of things as they are. The national debt is increasing, and will continue to increase. We can judge of the future in no better way than by the experience of the past; and if the Secretary of the Treasury has hitherto, when the prevailing temper of the people has naturally been more sanguine and enthusiastic than it will be hereafter, found himself unable to place any larger proportion of the public debt in the shape of permanent loans; it is impossible to avoid the darkest forebodings as to the future. Every day the war continues we grow poorer and poorer; the most vigorous and energetic portion of our people, those who are best capable of productive labor, are transferred from the fields of ordinary industry to the work of mutual destruction, and their number is diminished to an extent which already has fearful results upon the actual income of the nation.

We must treat the public debt as something to be actually paid. We must treble our revenue by a well-considered system of taxation, pressing as lightly as possible upon the working and producing classes, and we must cease to inflate the currency by fictitious values. There is no subject of more essential and permanent importance to the people than this collective indebtedness. One dollar raised by taxation is, as has been said by the Secretary of the Treasury, of more real value to the country than two made as money is now supposed to be made; and the tariff should be so arranged as to yield the largest possible revenue to the country with the least possible inconvenience to the people.

When the war is over, and the enthusiasm and passion it has created and kept alive have subsided, the monument of debt will remain. It cannot be obliterated by brave words and patriotic apostrophes. The public creditor will demand that the mortgage he holds upon the bones and sinews of the producing population shall be satisfied to the last fraction. Our legislation, therefore, should tend to no inflation of prices. We should make our money go as far as we can, by no means creating artificial values and incurring liabilities to be paid when the currency will be measured by a different standard.

For my own part I do not believe it is now possible to end this war without having incurred a debt of at least \$4,000,000,000. Our expenses are increasing with the rise of prices and the increased necessity of more vigorous exertions. Under the policy we have adopted no spirit of reunion with us exists in the southern confederacy. Some of its people—many of them—desire peace, but as was remarked by the honorable member from Maryland, on the other side of the House, during the present session, who knows them well, it is not peace and union but peace and disunion. They desire peace, but only with victory and triumph for themselves and defeat of our forces. Under these circumstances it is impossible to foresee how long the war will continue or what will be its ultimate cost in money or in men; but, in my judgment, the debt we shall incur cannot be less than \$4,000,000,000, and may be far more.

I take it for granted that, under the policy of the Administration, we are engaged in a war of subjugation, and I assume, for the purpose of this argument, that the party at present in power will realize its wishes, will conquer and forcibly revolutionize, by external force, the whole political, social, and industrial system of the South, in direct opposition to the opinions, or, if we choose so to call them, the prejudices, most cherished by them—forming their habits and the basis of their thoughts and sentiments.

Let us calculate the cost of retaining the fruits of the victories we have yet to gain. We may be sure that we cannot compel a population numbering eight millions, and equaling ourselves in courage, determination, and all the essential elements of military character and power, to submit to the absolute control of our Government unless we have a standing army of at least three hundred thousand men. At sea we shall need a force quite as powerful as at present. Our civil list will be increased by the large number of officials necessary to collect the additional revenue required for the support of the Army and Navy. I endeavor to estimate, on the most moderate basis, the amount of our expenditure when such a peace as is sought

by the majority of this House shall be attained. We shall need annually, at least, for—

The War Department.....	\$300,000,000
The Navy Department.....	100,000,000
Interest on public debt, of say \$3,000,000,000.....	180,000,000
Civil list, collection of revenue, foreign interest, course, and miscellaneous.....	40,000,000
Interior, pensions, Indians, &c.....	25,000,000
Total.....	\$645,000,000

If the South should willingly return to the Union we shall, at least, need an army of a hundred thousand men. Taking this estimate and reducing the cost of the War Department by two thirds, there will yet remain the necessity for a revenue of \$450,000,000, to be paid by taxation and duties.

As England is the only country on the globe which is cursed with so large a national debt as we shall incur before the war is ended, comparisons are often made with her as to ability to pay the principal and endure the interest. What are the facts? The real and personal property of the British Isles is stated to be \$32,000,000,000. The value of the property, both real and personal, in the States of the Union which are supposed to adhere to the national Government is about \$11,000,000,000, and that of the free States is little more than \$9,000,000,000. By this it appears that Great Britain has three times as much property as the United States, and therefore has, in this respect, three times as much ability to pay her debt. Ultimately as our country is developed and our population augmented, the relative position will be changed, but the disparity in our present resources is even greater than this. The wealth of Great Britain is largely in manufactures and commerce, easily convertible into money and paying large revenue upon the investment. That of the United States is principally in land and in agriculture which is not easily convertible into money, and which pays but a small per cent. upon the investment. Great Britain has immense colonies in all parts of the world, whose wealth and productive industry, through the medium of her commerce and manufactures, contribute to her prosperity. If peace should now be made it would be three times more difficult for the United States to pay their debt than for Great Britain, whose statesmen and people, in consequence of the vast magnitude of the obligation, never expect to discharge its principal.

Now, sir, let us look at the interest of the respective debts. That of England is from three to three and a half, that of the United States from five to seven per cent. The interest of our debt, estimating it at even \$3,000,000,000, will be \$180,000,000, while the interest on the British debt is \$140,000,000; in other words \$180,000,000 interest money will have to be collected off our \$11,000,000,000 of property, while England only collects \$140,000,000 from her \$32,000,000,000 of property. The burden of our interest will therefore be three times as great as that of Great Britain, whose debt in this comparison with ours appears light. For generations to come the laboring men of the United States must labor for several hours more per day. They must stint themselves and their families in necessary comforts, not to speak of accustomed and almost necessary luxuries, in order to repair the results of this deplorable war.

I have mentioned these facts because it has been too common upon the floor of this House to exaggerate the manufacturing, agricultural, and commercial resources of the country, so far as regards their ability to bear taxation with the present population, after the vast destruction which the war has produced among the most valuable classes of our producers. I know the ultimate magnitude of our resources, but no true and wise friend of his country can speak of our appalling debt as if it were an affair of trifling moment, and could be discharged as readily as it has been and yet continues to be created. I believe there is a disposition on the part of the people to sustain the Government in this war and to bear the just burdens which result from this source. It is of vital moment that this rebellion should be put down, and that the problem of self-government should be successfully solved. The revolt is an attempt on the part of the few to create a revolution against the wishes of the many. If we admit the right of secession there is an end to the Government; and if we cannot

put down the rebellion this Republic will cease to occupy its proper position among the nations of the world.

I believe, Mr. Chairman, that the city of New York is willing to agree to any just tariff to meet the exigencies of the country. But all the communications that I have received on the subject are to the effect that the tariff should be for revenue and not prohibitory. In the tax bill I noticed some peculiar features in the imposition of taxes where taxation was injudicious. It passed from one extreme to another; from a disposition to tax lightly it rushed to inordinate and indiscriminating taxation. The same course also has been pursued in reference to this tariff bill.

I pass now to the consideration of the joint resolution in reference to the tariff which passed Congress some time since. I suppose that scarcely ever has such a spectacle been exhibited in any legislative body so free and so well disposed as this. The joint resolution raised the tariff fifty per cent. upon all articles, without regard to what effects it might produce, whom it might injure, or what it might prohibit. Some articles would bear the increased taxation; and others would not; yet this was a tariff to continue only for sixty days, and included goods in bonded warehouse and on shipboard. What is the effect of it upon goods on hand? There are large firms which, upon the first intimation that congressional action was expected, probably took from the custom-house merchandise of the value of millions and millions of dollars. They at once put up the price of these goods at rates corresponding to this new tariff of fifty per cent., although they paid no portion of the increase; while others, of smaller pecuniary means, being unable to remove their property from the warehouses upon such a brief notice, were compelled to pay the additional duty. Goods on shipboard were also subject to this increase. There is no equality or justice in such hasty action.

I object on behalf of the great interests I represent to this kind of abrupt, unstable, and temporary legislation. It creates a feeling of danger and insecurity exceedingly prejudicial to the public welfare. Impose a tariff fair and just, impose taxes which are liberal, and my constituents will submit to them cheerfully; but what I ask for them is that they shall not be subject to fluctuations in legislation which shall break up and destroy their trade.

My statements may be illustrated by reference to our action on the subject of taxing liquors on hand, a subject which is very familiar to this House. A tax of forty cents was imposed upon whisky on hand, and in conformity with the general tenor of these measures my proposal in this House to exempt foreign liquors which were in bonded warehouses or on shipboard *in transitu* to this country was defeated. The bill passed the House, went to the Senate, passed that body in an amended form, came back, and was returned to the Senate again. The Senate finally receded from their amendments to which we had disagreed, thus striking off the tax on domestic whisky on hand, but leaving it to operate upon imported liquors. Thus our importing merchants were compelled to pay a duty or tax of forty cents per gallon on foreign liquors on hand.

I think few enactments can be more likely to alienate important interests from the support of the constituted authorities than this system of legislation and taxation. No Government can afford to destroy or weaken the friendship of those who propose to support it, and who intend to support it honestly, fairly, justly, and liberally. The measures to which I have referred were no sooner passed than a discontented feeling was created. And now to-day that tax of forty cents on foreign liquors on hand is charged to the importers of New York, while there is none on liquors of domestic manufacture. I opposed and voted against the imposition of any tax on stock on hand. I believe it would have been far better for the Government if the House had, when the revenue bill was reported, promptly passed the bill putting a liberal tax on liquor thereafter manufactured, but leaving stock on hand untouched. We should have realized a larger revenue, for we should not have lost two months during which the bill was pending between the two Houses in the collection of additional taxes.

I have seldom thought proper to quote in this

House from articles published in the newspapers. I will, however, read an extract from an article published in one of the most sound, impartial, reliable journals in this country, entirely in conformity with my own views. In speaking of this tariff resolution it says:

"The suddenness and absoluteness of this sixty days' tariff savors more of the edict of some absolute monarch than the acts of representatives of a free people. Not the least consideration is shown for the convenience of traders, although they are the parties to whom the Government has to look for its chief support. The contracts of importers are totally disregarded, and they are treated as though they had no other business than to pay the levies of arbitrary enactments. Such conduct tends to convulse and paralyze legitimate business; it goes on the supposition that merchants have no interests that ought to be respected by the Government, and that they are bound to submit to every whim and caprice of an arbitrary power without warning or redress. There is no Government in Christendom that, in these days, would be found guilty of such discourtesy and injustice toward foreign traders and the large class of domestic merchants whose interests are interwoven with foreign commerce. Such legislation is producing the most serious alarm among commercial men, and wearing their affections from a Government which they have proudly esteemed as the truest protector of commerce, because the truest representative of the people, in whom all the interests of commerce are invested."

It will be seen that there is a great deal of truth and force in the article. Now, all I ask of the House is to so adjust the tariff duties as to do justice to my region as well as to others. I am willing you should tax liberally, but to whatever extent you prohibit or prevent the importation of foreign goods to that extent you diminish the power of the foreigner to purchase the produce of this country. We injure ourselves when we injure the foreign laborer. I am willing that the tariff shall be largely increased on many articles; but I ask that you shall not tax articles on hand, and that you shall not by these sudden and violent changes affect the great interests of the country disastrously.

I trust before this session closes the House will correct much of its past legislation. If you do that, you will appeal powerfully to the support of the people of my section. The interests affected are too great to be treated hastily with immature or hostile consideration. Let us not make rash experiments where so much of the welfare of our country is at stake. We passed a measure called the gold bill because honorable members alleged this would put down the price of gold; but it ought to have been evident to every member of this House that the sale of \$11,000,000 would not reduce the relative value of the precious metal. The steady increase in price is caused by the inflation of the currency, and until that is diminished the price cannot be permanently reduced. The nominal value of specie did not go down upon the passage of the gold bill, but continued to go up, and I presume that to-day it is over ninety per cent. premium.

The House took an alarm, and we sought by legislation to do that which no nation in the world has ever accomplished, to reduce the price of gold by legislation. But as gold continued to increase steadily, a sort of panic was created in the House, and the cry was, "Tariff! tariff! tariff!" "Tax! tax! tax!" This has been done indiscriminately. I ask the House to deliberate upon these questions, affecting, as they do, all the interests of the country. I trust that we shall not permit ourselves to commit injustice because gold may have gone up or down. Calm and deliberate legislation is absolutely needed in an emergency like this. I ask that we shall not legislate hastily or intemperately on any subject. But as men comprehending the great issue before the country and the great stake involved in the gigantic war on our hands, we should consider measures carefully in all their aspects, and endeavor to raise as large a revenue as possible with the least injustice to any interest.

I have no doubt that by a judicious system of internal revenue and by duties on imports we shall be able to raise in time a sufficient revenue to meet the exigencies of the country. But we shall certainly gain nothing by such a course of legislation as we have pursued for the last sixty days. Every member who will reflect one moment on the subject must see that it is far better for us to be deliberative rather than hasty, and to examine and weigh well every measure, and see what are to be its results and effects. In appealing to the House in behalf of the city of New York, I appeal to them in behalf of a city equal



# THE CONGRESSIONAL GLOBE.

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in population to one or two of the smaller States of the Union, and in behalf of a community that has a large and vital interest in everything affecting the preservation of the Union. That city has done everything in its power to aid the Government, and it will continue to do it whatever may be said to the contrary.

Now, Mr. Chairman, with regard to this question of taxation and tariff, there are many features in the modern policy of England, enacted there by the earnest advocacy and efforts of the middle and laboring classes, which, I think, we might advantageously adopt. My colleague, [Mr. STEBENS,] whose absence I regret, said, in substance, during his remarks on the tax bill, that he was in favor of our surrounding ourselves as with a Chinese wall, isolating ourselves from all foreign communication and commerce, and making ourselves, as it were, a self-sustaining machine. "Prohibit," said he, "the exportation of every dollar of gold and silver, of every bushel of grain and every pound of beef and pork, or adopt the policy of a prohibitory tariff." He would "hold no intercourse with foreign nations until the war was over; none whatever." In my judgment, we need all the support we can derive from every source, and none of the accustomed supplies should be cut off. We should derive all the strength we can from profitable commerce as well as agricultural and manufacturing industry. Perhaps this thought also was suggested to the mind of my colleague, for almost in the next breath he told us that we should derive \$100,000,000 from such an increase of the duties on imports as would not be prohibitory. It would be a very unwise policy for us to isolate ourselves now from the rest of the world. We are in a position when we cannot well afford to lose the sympathies of the people of foreign nations, especially when so great an effort is now being made on the part of the confederate States to secure it. We should not needlessly and unprofitably alienate from ourselves the laboring and producing population of other countries.

Mr. THAYER. I desire to ask the gentleman a question if he will allow me, whether, in referring to the sympathies of foreign nations, he refers to the English sympathy which this nation has experienced since the war began?

Mr. WARD. I do not refer to the sympathy of any nation in particular. I merely ask whether it is our duty or advantage to pursue an isolating and alienating policy.

Mr. THAYER. The gentleman used the expression that we could not afford to dispense with the sympathy of foreign nations. I should like to know to what nation we are indebted for that sympathy.

Mr. WARD. Mr. Chairman, the gentleman wants no sympathy from Great Britain or any other nation. I am free to confess that in some instances the British Government has behaved very badly toward us; but it is not clear to me that this has been the case with a majority of the people. If Great Britain and France had taken a position of open antagonism to us at the beginning of the contest it would have been very injurious. If other nations have, for a time, gone wrong, there is no reason why we should not allow them to go right. The gentleman from Pennsylvania knows very well that if those nations should now engage in a war with us, that, with the war already on our hands, would be perhaps more than we could attend to.

Mr. THAYER. I did not say that I did not wish the sympathy of foreign nations. All I asked the gentleman to do was to point to the foreign nation whose sympathies we have had in this great struggle for republican institutions since the war began. While I would be glad to have the sympathy of every free and enlightened nation in the world, I say that we are not indebted to that country which is most of all concerned in the settlement of our tariff for one grain of sympathy in our great struggle. On the contrary, she has been in the position of a public enemy of this country ever since this struggle began. I therefore ask what

country the gentleman alludes to when he speaks of the sympathy to which we are indebted.

Mr. WARD. I allude to all foreign nations. Mr. THAYER. I must except, in the remarks which I have made, the empire of Russia, from which we have received some sympathy. I deny that we have received one grain of sympathy from either of those nations that are most intimately concerned in the construction of an American tariff.

Mr. WARD. Mr. Chairman, all this amounts to nothing. I am willing to concede that Great Britain has done many acts which have weakened my respect for her. Some other nations have done so, likewise. I presume no one will deny that foreign Governments have looked on this rebellion as something that would tend to break up our republican institutions. There always has been, probably, a certain amount of sympathy with the confederate States. But, in the main, foreign nations have conducted themselves fairly, with certain exceptions; while it is indisputable that if foreign nations had interfered in favor of the confederate States we should have lost them long since. What I desire to say is simply this: that we should legislate as statesmen, not as partisans; we should legislate in a manner to comprehend all the great interests of the country. Let us do justice to other nations, even though they do not do justice to us. I have yet to learn that two wrongs make one right.

As to the sympathy of foreign Powers I do not ask for it. I only ask justice, and I want to do justice. I hope Congress will rise above partisan prejudices and consider all leading questions in their broad and international aspect. If the gentleman from Pennsylvania has anything more to say, I will yield for that purpose.

Mr. THAYER. I have nothing more to say; for I understand the gentleman to have taken back all he said. I do not understand him now to say that we are indebted to any nation for sympathy in the great cause in which we are embarked.

Mr. WARD. The gentleman clings to the word "sympathy;" I simply mean that other nations have to a considerable extent observed a sort of neutrality which has been beneficial to our cause. We had better get rid of one war before we commence another.

Mr. THAYER. My friend hardly calls that sympathy, I presume. It is no more sympathy than the act of the thief in keeping his hand out of my pocket.

Mr. WARD. My time will not permit me to give way further to the gentleman.

Mr. MORRILL. I ask the gentleman to allow me to put a question to him. I merely desire to know if he is aware of the sympathy manifested by the British manufacturers and members of the British Parliament in signing a certain pledge by which they became known as members of a southern association?

Mr. WARD. I have not seen that paper. I presume there are a great many in England whose sympathies are with the confederate States.

Mr. MORRILL. I have seen that paper.

Mr. WARD. I will be obliged to the gentleman if he will give me his authority.

Mr. MORRILL. I saw it published in the New York Times, with the names and all appended.

Mr. WARD. Whether that was so or not, this House has the common sense to perceive that it would not be prudent for this Government at present to legislate so as to lead these Governments into a more hostile condition than they now are. I think we had better devote our energies first to putting down this rebellion, and when the time comes we will adjust our difficulties with other nations, if any exist.

Now, what I understand we desire to attain in the adoption of a new tariff system in this country is to secure the most revenue in the best way, and that it should be derived as far as practicable more especially from articles of luxury; and while my friend feels great hostility to the British Government, there are still certain features in

the policy of that Government which I presume he will admit we may follow to advantage so far as they are beneficial to the masses of the people. Now, in Great Britain the receipts in 1862 from customs were \$120,000,000, and of that amount ninety per cent. was obtained from five or six articles, namely: coffee, tea, sugar, spirituous liquors, and tobacco, as will appear in the following statement:

The revenue of the United Kingdom in 1862 was about \$355,000,000, and was derived as follows:

Customs.....	\$120,000,000
Excise.....	90,000,000
Stamps.....	45,000,000
Lands and assessed taxes.....	15,000,000
Property tax.....	55,000,000
Post Office.....	18,000,000
Other receipts.....	12,000,000

Total.....\$355,000,000

Of the receipts from customs ninety per cent. are obtained from six articles, namely, coffee, spirits, sugar, tea, tobacco, and wines, as will appear from the following statement:

Coffee, duty 6 cents per pound.....	\$2,000,000
Spirits, duty \$2 50 per gallon.....	13,000,000
Sugar, duty 3 cents per pound.....	35,000,000
Tea, duty 35 cents per pound.....	128,000,000
Tobacco, duty 75 cents per pound.....	28,000,000
Wines, duty 50 cents per gallon.....	5,000,000

Six articles.....	\$109,000,000
All other articles.....	11,000,000

Total.....\$120,000,000

The published accounts show some remarkable facts.

1. That of the whole revenue of \$355,000,000, spirits contribute \$63,000,000, or 17½ per cent.; beer contributes \$30,000,000, or 8½ per cent.; tea and coffee contribute \$30,000,000, or 8½ per cent.; tobacco contributes \$28,000,000, or 8 per cent.; sugar contributes \$33,000,000, or 9 per cent.; wine contributes \$5,000,000, or 1½ per cent.; stamps contribute \$45,000,000, or 12½ per cent.; income and property contribute \$55,000,000, or 15½ per cent.; land tax contributes \$6,000,000, or 1½ per cent.; excise, besides spirits, contributes \$10,000,000, or 2½ per cent.; post office contributes \$18,000,000, or 5 per cent.; assessed taxes contribute \$9,000,000, or 2½ per cent.; sundries contribute \$23,000,000, or 6½ per cent.

2. The whole amount of revenue is double the amount of circulation, thus disposing of an alleged necessity for a great expansion of currency in order to collect high taxes.

One of the objects of a tariff bill, as of every description of tax bill, is to realize as large an amount as can be raised on articles of luxury, to simplify the whole system, to diminish the expense of collection, prevent smuggling or illegal trade, and subject the public to as little vexation and inconvenience, as few unnecessary burdens as possible; to relieve the masses of the people as far as possible from any increased price in the necessary articles of living; but we, on the contrary, as will be noticed by this bill now before us, propose to put a tariff upon almost every article that is imported.

Now, Mr. Chairman, in conclusion, I hope this House will endeavor, in the course they may pursue in regard to this and every other measure affecting the revenue, to adopt such a policy as will enable me to support the bill. At the proper time I shall move some amendments to the different sections of the bill, and I hope it may be so amended as to obviate the objections which now present themselves to my mind.

## ARMY NEWS.

The CHAIRMAN. The Chair will state that a communication from the Secretary of War has been placed upon his table containing dispatches relative to army movements, which, if there be no objection, the Chair will have read.

There being no objection, the Clerk read as follows:

A dispatch from General Grant's headquarters, dated yesterday, June 1, at ten a. m., has been received by the

War Department. It states that at "about five p. m. yesterday, Sheridan, perceiving a force of rebel cavalry at Cold Harbor, (which proved to be Fitz Lee's division,) attacked, and after a hard fight, routed it, together with Clingman's brigade of infantry, which came to Lee's support."

"Sheridan remained in possession of the place. He reported at dark that he had a considerable number of prisoners, and that there were many rebel dead and wounded on the field. He was ordered to hold the position, and at ten p. m. the sixth corps set out to occupy it."

"We have not yet heard from Wright or Sheridan this morning, and do not know whether the former has got his troops to their destination. Smith must be close upon Wright's column."

"This morning the enemy was also moving a heavy column in the same direction. The order has just gone to Warren to fall upon their flank."

"Wilson had a fight last evening near Hanover Court-House with Young's brigade of rebel cavalry. He routed Young, killing and capturing many; but there has been a good deal of artillery firing in that direction this morning."

"Warren reported last night that in his fight of Monday afternoon near Bethesda Church, Colonel Tyrrell, of the thirteenth Virginia, and Colonel Willis, commanding Pegram's brigade, (rebs,) were killed, Colonel Christian, of the forty-ninth Pennsylvania, was wounded and captured; so was the assistant adjutant general of Ramsey's brigade—name not reported. Ten other commissioned officers were captured and seventy privates. Sixty rebels were buried on the field."

"In our center, Burnside reports his advanced line as being this morning within a mile and a half of Mechanicsville."

#### TARIFF BILL.

Mr. FERNANDO WOOD obtained the floor. Mr. ELDRIDGE. If the gentleman from New York will yield me the floor, as it is but eight minutes of the time for taking a recess, I will move that the committee rise.

Mr. FERNANDO WOOD. I yield the floor for that purpose.

Mr. MORRILL. I desire to say that I understand there is no gentleman who desires to speak upon the tariff bill except the gentleman from New York who has the floor. The gentleman will understand, therefore, that the evening session will be for the purpose of transacting business.

Mr. ELDRIDGE. I now move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. SCHENCK reported that the Committee of the Whole on the state of the Union had, according to instructions, had the Union generally under consideration, and particularly the bill (H. R. No. 494) to increase the duties on imports, and for other purposes, and had come to no resolution thereon.

#### LAND GRANT TO MINNESOTA.

Mr. WINDOM, by unanimous consent, introduced a bill making an additional grant of land to the State of Minnesota, in alternate sections, to aid in the construction of railroads in the said State; which was read a first and second time, and referred to the Committee on Public Lands.

#### PAY OF CONTESTANTS.

Mr. WADSWORTH, by unanimous consent, introduced the following resolution:

*Resolved*, That the Clerk of the House be directed to pay out of the contingent fund of the House to Colonel J. W. McHenry the mileage of a member for one session, and the monthly pay from the beginning of this session to date, as compensation for contesting the seat of Hon. GEORGE H. YEAMAN.

Mr. HOLMAN. I move to amend the resolution so as to include Judge Birch.

The amendment was agreed to.

The resolution, as amended, was then referred to the Committee of Elections.

#### GOLD BILL.

Mr. HOOPER. I ask the unanimous consent of the House to take from the Speaker's table Senate bill No. 106, to prohibit certain sales of gold and foreign exchange, with a view to moving an amendment, having it printed, and its further consideration postponed to another day.

Mr. PENDLETON. I do not object to the printing of the amendment, but I do object to taking the bill up out of its order.

The proposed amendment, by unanimous consent, was ordered to be printed.

#### DISTRICT OF COLUMBIA BUSINESS.

Mr. STEELE, of New York. Mr. Speaker, to-morrow has been set apart for the consideration of business relating to the District of Columbia; but as the tariff bill will consume all of this

week, I move that that business be postponed till the day after that fixed for reports from the Committee on the Judiciary.

The motion was agreed to.

#### CARLISLE DOBLE.

Mr. DONNELLY, by unanimous consent, moved to take from the Speaker's table Senate joint resolution No. 40, for the relief of Carlisle Doble.

The motion was agreed to.

The joint resolution was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

#### NAHUM WARD.

Mr. HALE, by unanimous consent, introduced a joint resolution to refer the claim of Nahum Ward back to the Court of Claims.

The joint resolution was read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HALE moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

It now being half past four o'clock p. m., the House took a recess until half past seven o'clock, p. m.

#### EVENING SESSION.

The House, at half past seven o'clock, p. m., resumed its session.

#### BANKRUPT BILL.

The SPEAKER stated the first business in order to be the bankrupt bill, on which the gentleman from Ohio [Mr. SPALDING] was entitled to the floor.

#### TARIFF BILL.

Mr. GARFIELD moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SCHENCK in the chair.)

The CHAIRMAN stated the question before the committee was the tariff bill, on which the gentleman from New York [Mr. FERNANDO WOOD] was entitled to the floor.

Mr. FERNANDO WOOD. Mr. Chairman, it is quite impossible to say anything new on the general principles involved in this bill. I think if there is any subject of legislation that has been exhausted it is this one. Not only in this country, but in every commercial nation of Europe, the theories governing tariffs or of collecting duties on imports have been the subject of mature investigation, deliberation, and concern. England especially has paid a great deal of attention to these questions. In the debates of the Twenty-Seventh Congress, when the tariff was under discussion, reference was made to the care with which England always approached the consideration of any proposed alteration or modification of its tariff. So cautious is Parliament that Mr. Hume, of the House of Commons, for the purpose of gathering information bearing on the different interests to be affected by a tariff, instituted a special committee for a thorough investigation into all the interests, manufacturing, agricultural, and commerce, to be affected. The information then obtained was used as a basis on which to frame a judicious law. In this country until within the last two years no attempt has been made to make any alteration in a measure of this character without proceeding with extraordinary deliberation and care. Ever since the Federal Government had authority to collect duties on imports, which was given by the present Constitution, all the revenue, except what has been derived from public lands, has been obtained from this source. We have until within three years supported the Government altogether in this way. We have built this Capitol and the costly Government structures throughout the country, borne the expenses of the wars, that of 1812, the war with Mexico, the Indian wars, the acquisitions of territory, the purchase of Louisiana and Florida, the purchase from Mexico by which we acquired

California and our Pacific possessions; and the other immense expenditures from 1789 down to the present time have been procured from a revenue created in this way.

And hence, sir, in the consideration of the various revenue bills which have from time to time been adopted, the subject has commanded the ablest intellects. As was said here to-day in the debate upon this subject between the gentleman from Ohio [Mr. COX] and the gentleman from Massachusetts, [Mr. DAWES,] that Calhoun upon the one side and Webster upon the other (probably two of the greatest statesmen known to the legislative history of this country) changed positions on the tariff question; in consequence, doubtless, so far as Mr. Webster was concerned, of the change of local influences and interests of his section. When New England had her interest in navigation and importations exclusively, she was opposed to a high tariff because it was supposed that it would restrict the commerce and trade of that section. But when the manufacturing interest predominated, her interest changed, and very naturally the views of her public men changed. I have no complaint to make of that. I repeat that the very best intellects this country has ever produced have fully exhausted all the principles and theories that can be conceived or invented with reference to this question. Therefore I assert it is impossible to say anything new, it is impossible to advance a single original idea upon this subject; and certainly I have not the temerity to make the attempt.

But, sir, representing, as I do, a commercial constituency, I have felt bound to say something upon this subject, and I therefore have examined with some degree of care the details of the bill which is now before the committee for its action. Bills of this character are either for protection or for revenue. If for revenue and protection together, it is a very nice question of adjustment. If the object be to derive income, and to so regulate the duty proposed to be imposed upon any specific article to accomplish that object, the calculation is nice, and requires practical ability, information derived from men whose practical professions and avocations give them peculiar personal knowledge with reference to the article upon which it is proposed to impose the duty.

If the object be protection exclusively, there again you require particular information. If you want to protect home industry a variety of questions arises. It will not do to advocate any measure that is proposed to protect a particular branch of industry, nor will it do to propose any measure that will in itself favor any particular section of country at the expense of the other. Other interests besides manufacturing have a right to the care and protection of the Government, provided it is the legitimate function of the Government to travel out of its way for the purpose of protecting private interests or interfering with them at all either to their advantage or disadvantage, which I for one entirely disavow. But if your object be protection, I contend that you must protect equally all branches of private interests; that agriculture must not suffer in your efforts to protect manufactures; and that commerce and navigation and the trading interests, mainly important to this great country, and upon which we have heretofore relied for our support and the development of our great and varied resources, and which have so far furnished the entire revenue until this war, should not be sacrificed for the purpose of aiding the other two.

Therefore I repeat, that if you propose to pass a bill of this character, it requires the utmost care and calculation, and the most delicate adjustment of the interests to be affected.

Is the object prohibition? It has been said here by gentlemen, in the discussion of the various bills of this character in this House during this session, that it was desirable that the Government should prohibit these extraordinary importations. It has been argued here at times that the only way to check the advancing price of gold was to check the importation of foreign merchandise. Associations of great magnitude, patronized by high functionaries, are being formed now in this country, having for their avowed object the curtailment, by non-consumption, of some articles which pay a heavy interest to your Government. Therefore, sir, I repeat that in levying imposts, there is not only the question of revenue to be

considered, not only the question of our home interests to be considered, but there is this greater question, which is entirely new in the polity of this Government, to be considered, that of prohibiting entirely by the imposition of extraordinary duties the importation of a particular class of articles.

Now, this bill—although I think it has been printed only about forty-eight hours—has already been examined by practical men in the city of New York—practical men, importing merchants whose interests will be directly affected, and who have extraordinary facilities for the investigation of bills of this character.

I will now ask the Clerk to read an extract from the Shipping and Commercial List of New York, a paper of an entirely non-partisan character, and that never contains a word of politics of any kind, name, or nature in its columns.

The Clerk read, as follows:

"The least that can be said concerning the new tariff bill is that it fails altogether to meet the public expectation. We have not devoted much attention to its examination ourselves as yet, but we have seen enough of it to warrant us in indorsing the verdict of the mercantile public that it is an abortion, and in asserting, without fear of contradiction, that almost any half dozen intelligent New York merchants could, in five days, frame a bill eminently better calculated to meet the requirements of the Government and the public expectation than the miserable conglomeration which is now put forth as the fruit of a five months' deliberation on the part of Congress.

"This may seem like rather strong language, but it must be considered that in view of the painful situation of our national affairs, the immense issues of paper money, and its consequent great depreciation, and of the fact that the country has looked to Congress with the confident expectation that it would provide ways and means for carrying the war to a successful issue, and at the same time provide for a contraction of the currency and a gradual extinction of the national debt, something a little more commensurate with the requirements of the times was to have been expected of our national Representatives. The tariff and tax bills have been looked to during all these months as the predestined source of relief from all our financial troubles; and the public impatience has meantime been repressed by the vain hope that Congress would grasp the subject in its full scope, and that the result of their labors would prove satisfactory to the general public. And yet the crudeness of the tariff bill just published appears to be even more apparent than almost any of its predecessors. In the free list, which many people looked to see almost wholly done away with, are contained many articles which could far better afford to pay a higher rate of duty than many other articles, the duty on which has been doubled. Among these we may cite indigo. Can any one tell why this article should not pay a duty commensurate with its value as an article of merchandise? The mercantile public confidently expected that a pretty heavy tariff would be laid on foreign fruits, &c., &c.; instead of which they are either left on the free list or come in at the old rates, while it is well known that they would easily bear a moderately heavy tax. Many other crudities might be cited, but these are sufficient to indicate the general character of the new tariff bill, which it has taken Congress over five months to bring forth.

"There is much doubt as to whether the bill is really a new bill, or the old one revised. If it is a new bill, then very many articles on which duties have hitherto been paid, and of which there is no mention made in the bill, are included in the free list; but if it is the old bill revised, they are left untouched, and, of course, come under the old rates; while a great proportion of them would bear an addition of fifty per cent. to the duties hitherto paid. The expectation that a large revenue would accrue to the Government from this source is destined to be disappointed if the bill becomes a law, and it undoubtedly will, unless some steps be immediately taken to arrest its progress. We would suggest that hereafter, whenever the consideration of any such important measure touching commerce and trade as the revision of the tariff bill may be rendered necessary, the New York Chamber of Commerce, or a committee of merchants from each of the principal cities, be consulted, with a view of obtaining the benefit of their mercantile knowledge and experience. We respectfully suggest that the country has had quite enough of the loose kind of legislation now in vogue, and the sooner Congress makes haste to retract its steps the better it will be for its own reputation and the country at large. It may not be too late even now to induce Congress to ignore the major part of the recommendations of the Committee of Ways and Means, and it would be well for the Chamber of Commerce to put forth the endeavor to procure a revision of the new bill before action shall have been taken upon it.

Mr. FERNANDO WOOD. Mr. Chairman, these views are the views of the entire mercantile interest of the city of New York. I repeat, and I challenge contradiction, that the views expressed in the slip of paper which the Clerk has just read, taken from the great commercial paper of the country, having no political bias whatever, and never having contained a paragraph or a word on any political subject, are the views of all the men in this country who are capable of giving a disinterested opinion upon questions of this character. Sir, I acquit the distinguished member of the Committee of Ways and Means who has charge of this bill, [Mr. MORRILL,] of any design to propose any measure that is not in his judgment for the true interests of the country; but I

complain that in the formation of a bill of this kind the committee should have abstained from calling to their aid the information which only practical experienced men could give them, and that relying upon their book knowledge, upon their investigation of previous tariff bills, and upon the speeches of men who have dealt in theories and not in facts, instead of doing what English statesmen have always done under similar circumstances, have given us a bill, which, as has been properly stated in the extract which has been read, is an exceedingly crude and improper measure.

Now, if revenue is the object, why is there so large a free list?

Mr. MORRILL. I merely desire to say that more gentlemen representing the commercial interests of New York have appeared before the Committee of Ways and Means during the present session than those representing any other interest.

Mr. FERNANDO WOOD. I have no doubt that particular individuals, whose individual interests are to be affected, have appeared before that committee to protect themselves. But I would ask whether the committee have called to their aid the leading and disinterested retired merchants of New York, and whose individual interests are not to be affected by the passage of your bill. They have not sought information of that character from that class of persons who could give them not only a disinterested opinion but judicious counsel.

Mr. MORRILL. I desire to say, in response to the gentleman from New York, that the present bill is based upon the bill of 1861. When that bill was framed, gentlemen from all parts of the country were here, some of them voluntarily and some of them by invitation of the Committee of Ways and Means. As suggested in my remarks upon this bill to-day, the Committee of Ways and Means have no power to summon gentlemen from abroad, or to ask them to come here except at their own expense. It is not to be expected that they will do that. If we had the power, I admit that it would be of incalculable service to the Committee of Ways and Means to summon gentlemen from all parts of the country, including the gentleman's constituents, and to put them upon their oaths in relation to these matters. I believe it would be better for the country if we had that power. But in framing this bill, it was only intended to make an increase of duties on such articles as becomes necessary in consequence of the operation of the internal revenue bill.

Mr. FERNANDO WOOD. Then, Mr. Chairman, the gentleman admits that so far as this bill is concerned, the Committee of Ways and Means has not sought the information which, in my judgment, it should have sought.

Mr. MORRILL. I beg pardon of the gentleman again. The Committee of Ways and Means has sought information from various individuals, but not extending over the whole country as it would have done if it had the power.

Mr. FERNANDO WOOD. I understand the gentleman entirely. He says that on a previous occasion the Committee of Ways and Means did seek information, but that on the present occasion it has had voluntary information from gentlemen who could afford to pay their own expenses in coming here to influence the action of the committee. Outside of them the committee has not sought information.

Mr. MORRILL. Again I beg the gentleman's pardon. The committee has sought information to some extent outside of them; and gentlemen have been brought here to give the committee information.

Mr. FERNANDO WOOD. Then I misunderstood the gentleman. I regret if the Committee of Ways and Means has sought the information, that it has not sought it in quarters capable of giving it good advice. I assume that the Committee of Ways and Means is earnestly desirous that Congress shall pass a tariff bill, and that it has attempted to frame one for the purposes of revenue. Do I understand that to be the object of the bill? I wait for a reply.

Mr. MORRILL. Mr. Chairman, I have already stated, and think the repetition unnecessary, that we have raised the duties on imported goods wherever it became necessary in consequence of our action on the internal revenue bill, and, in ad-

dition to that, wherever we thought any considerable amount of revenue would be obtained.

Mr. FERNANDO WOOD. Mr. Chairman, I think the gentleman is not entirely frank in his reply. Is it a bill for revenue or not? I desire an answer to that one question.

Mr. MORRILL. Mr. Chairman, I think I have been perfectly frank. The bill is for the purpose of revenue. We could not obtain the revenue from the internal duties unless we had put an equivalent tax on imported goods.

Mr. FERNANDO WOOD. Very well, sir. Then if it be a bill for revenue I think it is really open to the objection made to it to-day by the gentleman from Ohio, [Mr. Cox,] with this addition, that it omits entirely duty upon almost every article that enters into New England cotton manufactures. They remain, as under existing tariffs, on the free list, while it proposes that all articles that enter into the employment and consumption of agriculturists and of the commercial and trading communities shall bear increased duties. If revenue be the object, why is it that the article indigo, the importation of which amounts to millions and millions of dollars into the port of the city of New York alone every year, is exempt from any duty whatever? Not only is that the case, in regard to indigo, which is exclusively used in the cotton manufactures of New England, but barrilla, madder, sumac, and dye-woods of all kinds, numbering some ten or twelve different classes, which are used to make different dyes and colors, and are used almost exclusively in the manufacturing institutions of the country, are on the free list; while iron of every character and kind, an article that enters into the necessities of husbandry, in ship-building, and indeed in almost all the pursuits of life, is very heavily taxed under this bill. I repeat, if the object of the bill be revenue, why is it that importations, amounting to millions and millions per annum, of a peculiar kind of foreign products pay no duty whatever? The same may be said of spices, fruits, and other articles of luxury, on which the proposed increase is either nothing at all or very small.

Then, sir, with reference to foreign fruits, an article of luxury of which there is a large consumption and a large importation, the duty is not raised at all.

I have no doubt that if the Committee of Ways and Means, with the practical information they have before them now, would take up the various lists of articles that are imported into the various collection districts of the country, and frame a bill exclusively for revenue, without thinking of the protection of particular articles or particular classes of industry, they would produce a bill which, in my judgment, would produce double the amount which this bill will, without any detriment to the country whatever.

But, sir, there are other objections to this bill. The fourteenth section, as well as the fifteenth, introduces a new principle in the legislation of the country. It says, in substance, that an importer who is aggrieved by the decision of the collector of the port of New York shall have no redress aside from the right to appeal to the Secretary of the Treasury. But if the appeal is not made within a limited period there is no redress whatever. He cannot go to the courts for redress.

It is the first time in the history of the legislation of the country, the first time even in the extraordinary legislation of the last two years, that such a principle has been introduced into any bill proposed in either House of Congress.

Let me illustrate. I am an importing merchant in the city of New York. I receive a cargo of wine, or any other article of merchandise which pays an *ad valorem* duty. The *ad valorem* duty is regulated by the invoice, or cost price at port of exportation, the invoice properly certified according to all the requirements of law. My entries are made at the custom-house. My invoices are sworn to and everything is regular. The collector of the port, through caprice or ignorance, takes exception. The collectors at that port are sometimes lawyers, although, in my judgment, they should invariably be merchants. I say through ignorance or through caprice, or from some motive, the collector says my invoice is a false invoice, and that the duty should not be collected upon it. An appraisement is made, and fifty or one hundred per cent. is added to the invoice value. I have no recourse; my goods may



have been seized, or if I pay, say under protest, I am denied the usual judicial remedies. I cannot prove the correctness of my invoice without sending to a foreign port; the testimony is out of the way. In the mean time weeks and months elapse, and the period covered by the limit of time in this bill is passed.

I repeat that it is the first time it has been attempted by Congress to pass an act which substantially and in effect virtually would prevent an aggrieved party from seeking a judicial remedy.

Again, it will be recollected that in March, I think it was, Congress passed a resolution imposing an additional duty of fifty per cent. upon all imported goods. Without any notice to the importer, without any notice to this House, and without notice, I believe, to some members of the Committee of Ways and Means, the joint resolution was precipitated upon the House, immediately to take effect, imposing this large addition upon all duties under the existing law.

It was said to be a necessary "war measure," and of course it became a law. It was defended here on the principle that the highwayman seeks his prey on the road, "Your purse or your life." But as extraordinary necessities may require a resort to this extraordinary species of legislation, I cannot complain. It only becomes necessary for me, in reference to this bill, to refer to the fact.

Now, sir, under the operation of that joint resolution the merchants and importers in this country everywhere have bonded their goods, so far as practicable. Instead of paying the additional duty, or any duty imposed by the operation of this law, they have preferred to put their goods in bonded warehouses and hold them until the expiration of the sixty days, the period for which the joint resolution is operative, in the expectation that this law may relieve them from these extraordinary additional burdens. Well, sir, they were right in doing that. In the various tariff bills which heretofore have been passed in this country there is not a single exception where goods in bonded warehouses have not been protected. That has been the policy of this country and of every other country as far as I know. As early as March, 1861, when a similar question arose, the Secretary of the Treasury, Mr. Chase, issued a circular, reaching a case analogous to this, in which he said:

"The same privilege will be extended to all merchandise in public store, unclaimed on the 1st proximo, when entered for consumption or warehousing in pursuance of law; and all merchandise in warehouse under bond on the 1st proximo will be entitled to entry for withdrawal at rates of duty now existing, or if the rates of duty on the merchandise are lessened by the tariff of 1861, the entry thereof may, at the option of the importer or owner, be made at the lesser rates."

Mr. Chairman, in this connection, as directly pertinent to this question, I will read an extract from a letter which I received yesterday from the very largest importing house in this country:

New York, May 31, 1864.

DEAR SIR: I take the liberty to address you in regard to the new tariff proposed to go in operation after July 1st next. Under the present tariff, with the fifty per cent. extra duties for two months from April 30 last, a good many goods are warehoused in the expectation that they can be withdrawn after July 1, at the rates charged under the expected tariff. At least such privilege has so far always been given whenever a tariff was altered, and a clause to that effect has been inserted in the tariff bill. Some parties, however, pretend that under the law being made now, such a privilege would not be granted, and that goods being bonded between May 1 and July 1 would have to pay the fifty per cent. extra duties no matter when withdrawn. As this would work to great disadvantage to the parties concerned, in fact would be imposing a fine on parties who are utterly enough to have imported goods during these two months, (which must of necessity be the case with almost every regular importing house.) I take the liberty to call your attention to this matter and transmit you a circular of the Secretary of the Treasury of March 20, 1861, the contents of which if inserted in the new tariff law will protect the interests of the importer.

Very respectfully yours,

HOB. FERNANDO WOOD, Washington City.

Mr. Chairman, my object in these extracts is for the purpose of calling attention to the fact that in my opinion this bill carefully avoids protection to bonded goods coming in since its adoption of the joint resolution. If I am right in this construction of the nineteenth section, we should not tolerate legislation of that character. At the proper time it will be my duty to offer an amendment that will remedy this omission.

Now, Mr. Chairman, notwithstanding what I have said in reference to the interests of the im-

porter, I think I am justified in saying that it is stability of legislation that the importing interest requires more than anything else. They want to know upon what to depend. They want all laws regulating the banking and commercial interests of the country established permanently, so that they may pursue their business with some reliance on the future. It is impossible for any man transacting any business of this character in this country at this time under this species of legislation to tell anything about his interests or property; ay, sir, or his life or liberty.

It is this instability of legislation and imbecility of administration that is destroying this great and glorious country. Look at this House. Take our proceedings on the gold question. Suddenly one fine morning the chairman of the Committee of Ways and Means rose and reported a bill authorizing the Secretary of the Treasury to sell the gold on hand. It threw the city of New York into a state of excitement, because what affects gold affects not only the value of the Government's irredeemable currency, but also the value of all merchandise, labor, exchange, and directly the importing interests of the country.

Mr. MORRILL. I dislike to interrupt the gentleman from New York, but I must insist that the discussion shall be confined to the pending bill. The gold bill is not now before the House.

Mr. FERNANDO WOOD. It has direct connection with this question. After we discussed that measure here one or two days the chairman of the Committee of Ways and Means rose in his place and asked that the bill should be recommended. Of course the House consented to it. It was taken back into committee, and we were told next day that the committee disagreed entirely on the subject, and we thought we had heard the last of it until my colleague, [Mr. STEBBINS,] who is a member of that committee, suddenly reported the bill again. The belief was that it would reserve in the sinking fund gold to pay the interest on the public debt, but such was not the case. The bill was forced through under the pretext that it was necessary to depress the price of gold.

Again, in reference to the joint resolution increasing the tariff to which I have referred, I made an effort to protect goods already imported and in bonded warehouses. It was voted down at the instance of the gentleman, but it was not a fortnight afterwards when the Senate adopted the proviso I had attempted to ingraft on the resolution, and it passed this House unanimously. It is vacillation like this; the continual change of policy; that has characterized the legislation of the country. It has been manifested in the prosecution of the war, it has been manifested in the execution of your laws, and flagrantly and corruptly manifested in the various departments of the Government for the last three years.

Mr. Chairman, I have no disposition in a debate of this character to allude to political matters. The session is near its close, and every moment should be devoted to necessary business.

So far as I am personally concerned, I believe I have occupied but a small portion of the attention of this House. I have rarely attempted to introduce any extraneous subjects whatever; but when a bill of this character, directly affecting the home policy of the country, is proposed, when we are asked to raise a revenue of \$100,000,000 from my constituents, when I attempt to show that by your wrong legislation and by your extravagant policy measures of this kind become necessary, I am told it is necessary for me to confine the discussion to the bill immediately under consideration. The bill is to be discussed by details under the minute rule, and I had supposed that this anticipatory debate was to deal with the general principles and questions appertaining to the bill in its general character and features. It would be legitimate to discuss the war upon this bill, because but for this war this bill would not be here. It would be legitimate to discuss the conduct of this war, the weakness and folly with which the war has been prosecuted, and the popular errors pervading the land, affecting not only this country, but liberty throughout the civilized world.

Mr. Chairman, I am earnestly desirous that this bill, if it be necessary for the purposes of the Government, may be rectified of its various and manifest errors. If we are to have a revenue I want all interests to contribute: I do not want the agricultural interests of the country to pay all the

taxes, or to pay any more than other interests pay. I want duties imposed for revenue and not for protection at all. I believe the manufacturers of this country can protect themselves; I believe that circumstances alone will protect them; I believe cotton manufacturers are amassing fortunes upon fortunes out of this war, and I do not believe it is necessary for the Government to interfere in their behalf, and add to the immense wealth they have accumulated during the last few years.

Therefore, Mr. Chairman, desirous that the imperfections of this bill may be amended, and hoping that the gentlemen who have charge of it will, at the proper time, upon the different sections as they come up, lend an ear to any suggestions we may make, and desirous, personally, to contribute my feeble aid toward the perfection of a judicious measure, which shall be just and proper not only to the Government but to all the interests to be affected by it, I am very sure it will give me pleasure to vote for it if it shall be so framed and amended as to meet the approbation of my judgment.

Mr. STEVENS. I do not rise to make a speech, nor did I design to make any remarks; but I have a word or two to say, suggested by the remarks made by the gentleman from New York who has just taken his seat. He has asked several times what this tariff was designed for. In my judgment it was designed for two things: to raise a revenue and to protect domestic industry. If it fails in either of those objects, it fails in its legitimate purpose.

Mr. Chairman, we are bound to put upon the people large burdens if we intend to carry on this war and pay the expenses of it. This Congress has that unpleasant duty assigned to it. Those burdens are to be placed in the shape of excises—which you may call direct taxes upon personal property—and duties upon imports laid for the same purpose of raising revenue and paying expenses. At the present time about three hundred millions are required, and at a future time no doubt more will be required. In some way that has to be raised; and I pray gentlemen who can easier find fault than correct an error—gentlemen who can easier pull down than build up—to tell us how this is to be raised; to tell us where it is to come from; or to say frankly that they do not wish it to come from any quarter, because they do not wish to sustain the Government. Let them tell us one or the other of these things. If they are for sustaining the Government, for carrying on the war, and discharging the public obligations, let them tell us how to do it if they find fault with our system of taxation, by internal taxes upon foreign importations. I know of no other way.

The burden of internal taxes which are to be laid upon the people will, in any event, be more than two thirds of the whole. It will be three fourths of the whole; for every dollar that we raise by imports we shall raise three dollars by excise. Now, how are you to raise your income? Under your internal revenue law there are various small sources from which you derive some revenue, but, according to my estimation, more than two thirds of the whole is to be raised from the manufactures of the country. And when gentlemen know that two thirds of this vast amount required to sustain the Government is to be a burden upon the manufacturing interests, will they seriously complain of that protection which we give to those people for the purpose of enabling them to carry on their business? If you do not protect these interests it would be impossible to raise these large sums. They could not pay them, for their establishments would go down, and that large revenue under the internal tax law, amounting, as I understand it will, to the sum of \$150,000,000, will be lost. And yet I hear gentlemen across the way complaining that the dyestuffs which are used in Massachusetts—and it is because they are used in Massachusetts, and she has been guilty of the unpardonable sin of being from the first, and consistently, a supporter of universal liberty, so odious to gentlemen on the other side of the House—are not subject to a prohibitory tax, or so burdened that the manufacturers must necessarily go down.

The gentlemen opposite complain that this bill is "crude and defective." I have heard these words "crude and defective" used in regard to

this bill often. I am a member of the Committee of Ways and Means. I do not attempt to vindicate its action from the criticism of the very learned gentleman who uses such epithets, without telling us in what respect the bill is crude or defective.

I understood the gentleman from New York to say that we had not provided for goods in bonded warehouses. I may have misunderstood him.

Mr. FERNANDO WOOD. I said that this bill did not protect goods now in the bonded warehouses imported since the passage of the joint resolution. I know that they are under the existing tariff.

Mr. STEVENS. That shows that so "crude" was this bill, according to the gentleman's idea, that he sickened and nauseated at it before he got through reading it, and that he did not read the nineteenth section.

Mr. FERNANDO WOOD. I did read the nineteenth section; I read it two or three times, and tried very hard to understand it in connection with previous sections of the bill; and, sir, I reached the conclusion that even the ingenuity of the gentleman himself, or of the Secretary of the Treasury, could not construe that section so as to protect goods imported since the passage of that joint resolution.

Mr. STEVENS. The resolution provides that all goods, wares, and merchandise which may be in public stores on the day aforesaid, (that is to say, on the 1st July), shall be subject to no other duties than the entry thereof. The gentleman knows that is a technical term.

I did not say the gentleman could not understand that; I only said that plain provision was there, and there it is. I have read it, and every other member of the House does understand it, I presume.

Mr. FERNANDO WOOD. This is an exceedingly important reference, and I shall be very happy indeed to find that I have been mistaken. But, as I understand the nineteenth section of the bill, it protects the goods imported after "that day." I understand "that day" to be the day referred to in the previous section, which designates the time at which this law is to be operative, 1st day of July, 1864.

Mr. STEVENS. Yes, certainly.

Mr. FERNANDO WOOD. Well, if imported after that day they cannot be contracted, although already imported and in bonded warehouses.

Mr. STEVENS. Any goods in bonded warehouses on the 1st day of July, when they are entered for consumption, will pay the same duty as if they were imported the day after. I did not like that provision myself, but it was the decision of the committee.

Mr. FERNANDO WOOD. Will the gentleman from Pennsylvania excuse me one moment?

Mr. STEVENS. Certainly.

Mr. FERNANDO WOOD. Mr. Chairman, I hope that the construction of the gentleman's colleagues and of the Treasury Department will concur with the construction he now gives it. The honorable chairman of the Committee of Ways and Means construed his joint resolution some time since to protect goods in bond; but the Secretary of the Treasury did not so construe it, and the two distinguished gentlemen differed as to the construction of the law which the gentleman himself framed. I hope there will be no difference in this case.

Mr. STEVENS. I can no more make the Secretary of the Treasury know and understand it right than I can make the gentleman from New York. But we at once told the Secretary of the Treasury what it did mean, and it was just as plain as this.

Now, I said before that with respect to manufactures from which two thirds and I think three fourths of the whole revenue is to be derived, the question is whether they are to be protected and whether you are to enable them to manufacture so largely as to produce this amount of taxation. If you break them up you lose that whole large amount which we are desirous to raise. And how are you to enable them to go on and do their business unless you favor them in two ways? Those things that cannot be produced in this country, and the introduction of which free of duty does not affect domestic industry, and which enter as essential parts into the manufacturing establishments of the nation—such as dye-stuffs and chem-

icals—must be admitted free of duty. How else can you possibly enable manufacturers to compete with European labor? The bill was framed in that view. And for a statesman to tell me that these are the articles to raise a few hundred thousands of revenue on, and to exclude \$150,000,000 of revenue by the very fact, looks to me as being as crude as the bill of the Committee of Ways and Means. [Laughter.]

Now, sir, that is one of the reasons why these things are left free. But as we have raised the tax almost one half on this important and productive industry of the country, it becomes us to take care that the place of these manufactures shall not be taken and filled by foreign fabrics. It becomes us to take care that while we are asking manufacturers to pay \$150,000,000 a year on the net proceeds of their labor we shall not let the pauper labor of Germany, France, and England supply our market with goods, and fill up all the places that ought to be left open to our own manufactures, and on which foreign goods we could not raise more than \$80,000,000. That was the distinct object we had in framing this bill.

I know how easy it is for newspaper editors, who have never attempted to frame a bill, who have never worked day and night for a session, to get up a tax bill and a revenue bill. I know how easy it is for such sciolists as the gentleman from New York to tell us that after six months nothing has been produced but a crude tax bill and a crude revenue bill. But let them produce something themselves. When they are attempting to destroy these things let them show their ingenuity and their ripe scholarship in these matters, which will do credit to the country, and which I will not call crude, whatever it may be. Are we here for no other purpose but to growl and grumble, and find fault with those who are attempting, according to the best of their humble abilities, to do those things which would support the country, at the least burden to the interests that are least able to bear it?

Sir, I do not find fault; the committee do not find fault; the distinguished gentleman who has charge of this bill does not find fault. He has a name for skill, industry, and talents which will go down to posterity with this very legislation when all the rest of us are unknown ten days after our death. Therefore neither he nor we have in any case found fault with the criticisms that are passed upon us. But there is one thing I do complain of: I do complain that in this day of our trouble, that in this day when the effort of every man who loves his country is required to put down the rebellion, men should attempt to make political capital by arraying section against section, by complaining of one particular portion of the country and attempting to raise hostility in another portion toward it, when every portion ought to be united and act together as a single man. He who in this time will pursue such a course of argument for the mere purpose of party can never hope to be ranked among statesmen; nay, sir, he will not even rise to the dignity of a respectable demagogue. I move that the committee rise. [Laughter.]

Mr. ODELL. I ask the gentleman to withdraw the motion for the purpose of enabling me to ask a single question.

Mr. STEVENS. I will withdraw it.

Mr. ODELL. The nineteenth section of this bill, to which reference has been made by my colleague and the distinguished gentleman himself, does not use the words "bonded warehouse." It simply says "public store." My attention has been called to it from the fact that a number of importers have written to me to know whether it was the intention of this bill to make that expression cover bonded warehouses.

Mr. STEVENS. Several of the authorities hold them to be the same. When the Government declares them to be in public storehouse, all in bonded warehouses are covered by the expression. However, to avoid any difficulty on the part of the distinguished gentleman from New York and the distinguished Secretary of the Treasury, I propose at the proper time to move to amend, by putting in the words "bonded warehouses."

Mr. ODELL. The gentleman will have no difficulty with the gentleman from New York, but in the city of New York, among the merchants there, the term "public store" is an expression

of particular significance, always meaning among the merchants there simply the appraiser's stores. Hence the inquiry was suggested by the merchants as to the meaning of the term in this section.

Mr. STEVENS. The definition known to the authorities of "public store" is any place where goods are in public warehouses.

Mr. ODELL. The explanation is perfectly satisfactory to me.

Mr. STEVENS. I renew the motion that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. SCHENCK reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill of the House (No. 494) to increase the duties on imports, and for other purposes, and had come to no resolution thereon.

E. F. AND S. A. WOOD.

The SPEAKER stated the business first in order to be the joint resolution (H. R. No. 85) repealing the act entitled "An act for the relief of E. F. and Samuel A. Wood," assigned as a special order for to-day at the morning hour.

The joint resolution was read. It repeals the act passed during the present session authorizing the issue of duplicate bonds of the Oregon war debt claimed to have been lost.

Mr. HALE. I am informed by the gentleman who had this bill in charge that the bonds issued to these particular parties have not been found. Other bonds have been found, but these particular ones have not been. I therefore hope this bill will not pass.

Mr. STEVENS. Does the gentleman from Pennsylvania desire to have it postponed?

Mr. HALE. I do.

Mr. STEVENS. The bonds provided for in the act which this joint resolution is to repeal were lost in the steamer Golden Gate. Some of these bonds have been recovered, and have been presented at the Department. The mail of that steamer was, I believe, all recovered. If my colleague, however, desires to have the resolution postponed, and will name the day, I will not object.

Mr. HALE. I will suggest this day week.

There being no objection, the joint resolution was postponed for one week, and continued as a special order after the morning hour.

BUSINESS ON THE SPEAKER'S TABLE.

Mr. STEVENS. I do not know whether there is anything requiring immediate action on the Speaker's table, but I suppose we might as well dispose of what there is. I move to go to the business on the Speaker's table.

The motion was agreed to; and the bills on the Speaker's table were accordingly taken up in their order, and disposed of as indicated.

FRIENDLESS WOMEN AND CHILDREN.

House bill No. 383, to incorporate a home for friendless women and children, with amendments of the Senate thereto, was taken from the Speaker's table, and referred to the Committee for the District of Columbia.

RHODA WOLCOTT.

The next bill on the Speaker's table was House bill No. 290, for the relief of Rhoda Wolcott, widow of Henry Wolcott, returned from the Senate with the following amendment:

Strike out the following:

That the Secretary of the Interior be, and is hereby, directed to issue to Rhoda Wolcott, widow of Henry Wolcott, deceased, who was a private in the company of "New York United States detached militia" of the regiment commanded by Colonel Thomas B. Benedict, a certificate of pension, which shall grant to the said Rhoda Wolcott a pension of four dollars per month, commencing on the 24th day of December, 1812, the time of the decease of said Henry Wolcott, and to continue during the natural life of the said Rhoda Wolcott: *Provided, however,* That in the event of the marriage or death of the said Rhoda Wolcott the said pension shall cease: *Also provided,* That all pledges or mortgages of the said pension shall be void, and that the said pension shall inure solely to the use and benefit of the said Rhoda Wolcott.

And in lieu thereof insert as follows:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Rhoda Wolcott, widow of Henry Wolcott, who was a private in a company of New York United States detached militia of the regiment commanded by Colonel Thomas B. Benedict,

in the war of 1812, on the pension roll at the rate of four dollars a month, said pension to begin on the 1st day of January, 1861, and to continue during her widowhood.

Mr. KERNAN. I move that the amendment of the Senate be non-concurred in, so that the whole subject may go to a committee of conference.

Mr. HOLMAN. I hope that the gentleman's motion will not be adopted, but that on the contrary the amendment of the Senate will be concurred in. It conforms to the uniform practice of the Government up to within the last one or two years, that of paying the pension from the time the application was made, and not from the time the injury occurred which is the foundation of the pension. It seems to me to be safer to pursue the old practice, which has been adhered to for so many years, than to go back beyond the period of the application.

Mr. KERNAN. The gentleman from Indiana correctly states the difference between the original bill and the amendment of the Senate. Yet I shall regret if it turns out that this widow will only get a pension of four dollars a month from the 1st of January, 1861. The papers sent to this House from the Pension Office show that the only reason for rejecting her claim at that office was that a captain, who is proved to have been an intemperate man, omitted to make some entry upon the muster-roll. I was not before the committee, and do not know all of the facts precisely, and only take an interest in this bill because the widow lives in my district.

I want the case to go to a committee of conference for examination, and to see whether this woman has not been entitled to this pension for some fifteen or twenty years. She is now seventy years of age, and a pension in the future would last but a few years. It may be that the Senate will be willing to allow a pension back to the time that the application has been pending in the Pension Office.

Mr. HOLMAN. When was the application made for this pension to the Pension Office?

Mr. KERNAN. I think that they would allow it for the time that the application has been pending in the Pension Office. I have not examined it, but I am told that it has been there for eight or ten years. I have moved that it be referred to a committee of conference, to see whether it is not proper to allow her a pension for that time. She is an ignorant woman, without friends to look after this matter; and I hope that the amendment of the Senate will be non-concurred in, so that she will get paid at least from the time her application was pending in the Pension Office. If she had had friends to look after it she would have had it long since.

Mr. WASHBURN, of Massachusetts. If it be in order I move that the bill and amendment be referred to the Committee on Invalid Pensions. If the bill allows the pension to run back to 1812, then it is different from what the committee intended. Our rule always has been to make the pension begin at the date of the application here.

Mr. KERNAN. Is the gentleman a member of that committee?

Mr. WASHBURN, of Massachusetts. I am, and I want the bill to go there for examination.

Mr. KERNAN. I should prefer to have it go to a committee of conference.

Mr. WASHBURN, of Massachusetts. It was never the intention of the committee or the House to have any pension run back to 1812, and there must be some mistake here which I want corrected.

Mr. HERRICK. There could be no mistake before the committee on the subject. The bill was prepared and a majority of the committee authorized it to be reported to the House. It was reported to the House and passed.

My colleague [Mr. KERNAN] has stated the reason why this pension has not been paid before. This man died in December, and his name appears upon the muster-roll for January, and the Pension Office refused to take parole evidence to override that record. It was afterwards proved by half a dozen witnesses, who attended his funeral, that the man died in December. If the fact had been properly reported, the widow would have had her pension long ago.

The SPEAKER. The Chair will state to the gentleman from Massachusetts that this bill came from the Committee on Revolutionary Pensions,

not, as he has supposed, from the Committee on Invalid Pensions.

Mr. WASHBURN, of Massachusetts. Then I move that this bill be referred to the Committee on Invalid Pensions, where it properly belongs.

Mr. HERRICK. It is not a pension for an invalid.

Mr. FENTON. I merely wish to say that this is a proper case for an invalid pension, and I hope it will be referred to the Committee on Invalid Pensions.

The SPEAKER. The first question is upon the motion to concur in the Senate amendment.

Mr. HOLMAN. If the resolution is pending to refer the bill to the Committee on Invalid Pensions I will withdraw the motion to concur, and allow it to be referred.

The question was put on the motion to refer, and it was not agreed to.

The question recurring upon the motion that the House non-concur in the Senate amendment, and ask a committee of conference, it was put and agreed to.

Mr. KERNAN moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### EXPENSES OF LAND SURVEYS.

The next bill taken from the Speaker's table was a joint resolution (S. No. 28) explanatory of the tenth section of an act to reduce the expenses of the surveys and sale of the public lands in the United States, approved May 30, 1862; which was read a first and second time, and referred to the Committee on Public Lands.

#### SAILORS' LOSS OF CLOTHING.

The next bill taken from the Speaker's table was a joint resolution (S. No. 35) to compensate the sailors on the gunboat Baron de Kalb for loss of clothing; which was read a first and second time by its title.

The resolution authorizes the proper accounting officers of the Treasury, in settling the accounts of the petty officers, seamen, sailors, and others of the crew of the gunboat Baron de Kalb, to allow to each a sum not exceeding fifty dollars as a remuneration for damage they may have sustained in the loss of clothing by the destruction of said vessel.

Mr. GARFIELD. I move to refer the bill to the Committee on Naval Affairs.

Mr. RICE, of Massachusetts. I hope the gentleman will withdraw that motion, as I desire to offer an amendment.

Mr. GARFIELD. Of course I will withdraw it.

The SPEAKER. The Chair will state that the bill makes an appropriation, and can be considered in the House now only by unanimous consent.

Mr. WASHBURN, of Illinois. I object. I want to hear the bill read.

Mr. RICE, of Massachusetts. The gentleman will not object if he understands what the bill is.

Mr. WASHBURN, of Illinois. I do not understand it.

Mr. RICE, of Massachusetts. I will explain it.

The SPEAKER. The gentleman from Illinois objected, and the bill has gone to the Committee of the Whole.

Mr. WASHBURN, of Illinois. I simply asked to have the bill reported that I might know what it is.

Mr. RICE, of Massachusetts. The amendment I desire to offer is in the shape of a general law to cover all cases like those embraced in the Senate resolution. Since the breaking out of the present rebellion there have been a great many instances in which vessels have been lost in action or in which they have been so far disabled as that the officers and crew have lost their clothing and personal effects. There is no provision of law now which will allow the accounting officers of the Treasury to settle the accounts of officers and seamen on board of vessels in such cases, and recourse must be had in all cases to a special act of Congress. That would answer very well in times of peace when there would be only occasionally a loss of a vessel, but it is the opinion of the Navy Department that in justice to all parties interested in these losses there ought to be some general law which will authorize the settlement of their accounts, upon the proper evidence being

furnished to the proper accounting officers of the Department that actual losses have been sustained.

If the House will grant their indulgence so far as to hear the substitute I propose read, I have no doubt they will assent to it.

Mr. WASHBURN, of Illinois. I am opposed to any general bill upon this subject. I do not think there are many cases of this kind, and they can be brought before Congress. I fear that a general bill would lead to abuses, but I will not object to the present bill being considered, if the motion to substitute a general bill is not made.

No objection being made, the resolution was considered in the House, and ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### WARREN W. GREEN.

The next bill taken from the Speaker's table was an act (S. No. 217) for the relief of Warren W. Green; which was read a first and second time by its title.

The bill directs the Secretary of the Treasury to pay to Warren W. Green the sum of \$47 79, being for his services on the Fort Kearney and Honey Lake wagon road in the year 1857.

Mr. HOLMAN. I move that the bill be referred to the Committee of Claims.

The motion was agreed to.

#### GOLD SALES.

Bill of the Senate No. 106, to prohibit certain sales of gold and foreign exchange.

Mr. STEVENS. I hope that by unanimous consent that bill will be allowed to remain on the Speaker's table. There are some amendments which a colleague of mine on the Committee of Ways and Means desires to offer, but he is not here.

Mr. PENDLETON. I would suggest that this bill be referred to the Judiciary Committee.

Mr. STEVENS. Oh, no! I would rather that we should pass it over informally.

Mr. PENDLETON. I think the Judiciary Committee ought to examine a bill of so much importance as this.

The SPEAKER. The gentleman from Massachusetts, [Mr. HOOPER,] who has the charge of this bill, and who desires to offer some amendments, is now absent from the House. If there is no objection, therefore, the bill will be passed over informally. The Chair hears no objection.

#### LAND GRANT TO MINNESOTA.

Joint resolution (S. No. 17) relative to a certain grant of land for railroad purposes made to the Territory of Minnesota in the year 1857 was read a first and second time by its title, and referred to the Committee on Public Lands.

#### GARRET R. BARRY.

Joint resolution (S. No. 41) for the relief of Garret R. Barry, a paymaster in the United States Navy, was read a first and second time by its title.

Mr. HOLMAN. That bill seems to involve the question of a great many claims. I think it ought to have consideration in some committee. I move its reference to the Committee on the Judiciary.

The motion was agreed to; and the bill was so referred.

#### CLERKS IN UNITED STATES NAVY-YARDS.

Joint resolution (S. No. 44) for the relief of clerks at the Kittery and Philadelphia navy-yards was read a first and second time by its title, and referred to the Committee on Naval Affairs.

#### DISCHARGE OF COAL-HEAVERS.

An act (S. No. 236) to provide for granting an honorable discharge to coal-heavers and firemen in the naval service was read a first and second time by its title.

Mr. GARFIELD. I move that that bill be referred to the Committee on Naval Affairs.

Mr. RICE, of Massachusetts. I appeal to the gentleman to allow that bill to be put upon its passage at once. It merely provides for putting coal-heavers and firemen on the same footing as



ordinary seamen, landsmen, and boys employed in the Navy.

Mr. GARFIELD. Well, I will not insist on my motion.

The bill was ordered to its third reading, received its third reading, and was passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PATENT LAWS.

An act (S. No. 162) amendatory of an act to amend an act entitled "An act to promote the progress of the useful arts," approved March 3, 1863, was read a first and second time by its title, and referred to the Committee on Patents.

#### GRADE OF LINE OFFICERS.

An act (S. No. 276) to amend an act entitled "An act to establish and equalize the grade of line officers of the United States Navy," approved July 16, 1862, was read a first and second time by its title, and referred to the Committee on Naval Affairs.

#### SURGEON SOLOMON SHARP.

The next bill on the Speaker's table was joint resolution (S. No. 51) authorizing the acceptance of a certain testimonial from the Government of Great Britain.

The joint resolution was read a first and second time. It authorizes Surgeon Solomon Sharp, of the Navy of the United States, to accept a piece of plate presented to him by the Government of Great Britain as a mark of its high appreciation of the unremitting attention and kindness shown by him to certain officers of the Greyhound while in the naval hospital under his charge at Norfolk, Virginia.

The joint resolution was ordered to be read a third time; and was accordingly read the third time, and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### FRIENDLY INDIANS IN MINNESOTA.

The next business on the Speaker's table was an act (S. No. 225) for the relief of certain friendly Indians of the Sioux nation in Minnesota.

The bill was read a first and second time, and referred to the Committee on Indian Affairs.

#### SALARY OF AN INDIAN AGENT.

The next business on the Speaker's table was an act (S. No. 247) in relation to the salary of the United States agent for the Indians near Green Bay.

The bill was read a first and second time. It directs that the salary of the agent of the United States for the Indians in the vicinity of Green Bay shall be hereafter \$1,500 a year, to commence next fiscal year.

Mr. STEVENS. I think that bill had better go to the Committee on Indian Affairs.

Mr. WINDOM. I make that motion.

The motion was agreed to, and the bill was referred to the Committee on Indian Affairs.

#### ELLEN M. WHIPPLE.

The next business on the Speaker's table was an act (S. No. 2) granting a pension to Ellen M. Whipple, widow of the late Major General Amiel N. Whipple, of the United States Army.

The bill was read a first and second time, and referred to the Committee on Invalid Pensions.

#### GENERAL BERRY'S WIDOW.

The next business on the Speaker's table was an act (S. No. 44) granting a pension to the widow of the late Major General Hiram G. Berry.

The bill was read a first and second time, and referred to the Committee on Invalid Pensions.

#### EFFICIENCY OF THE NAVY.

The next business on the Speaker's table was an act (S. No. 253) to amend the act of the 21st of December, 1861, entitled "An act to further promote the efficiency of the Navy."

The bill was read a first and second time, and referred to the Committee on Naval Affairs.

#### SWAMP LANDS.

The next business on the Speaker's table was an act (S. No. 164) to extend the time within which the States may select their swamp lands.

The bill was read a first and second time, and referred to the Committee on Public Lands.

#### THE YOSEMITE VALLEY.

The next business on the Speaker's table was an act (S. No. 203) authorizing a grant to the State of California of the Yosemite valley, and of the land embracing the Mariposa Big Tree Grove.

The bill was read a first and second time.

Mr. ALLISON moved to refer it to the Committee on Public Lands.

Mr. WASHBURN, of Illinois. Would it be in order to move to refer it to the Cleveland convention? [Laughter.]

The SPEAKER. The Chair thinks not, as that convention is not known to the rules. [Renewed laughter.]

Mr. GRINNELL. I hope the House will pass the bill now.

The question was taken on Mr. ALLISON's motion; and it was agreed to.

So the bill was referred to the Committee on Public Lands.

#### RAILROAD LANDS IN MICHIGAN.

The next business on the Speaker's table was an act (S. No. 250) to amend an act entitled "An act making a grant of alternate sections of public lands to the State of Michigan to aid in the construction of certain railroads in said State, and for other purposes."

The bill was read a first and second time.

Mr. UPSON. I desire that the bill be acted upon now.

Mr. WILSON. Does this bill allow lands to be taken in the State of Kansas?

Mr. UPSON. No, sir. The object of the bill is not so much to increase the amount of the public lands granted to the State of Michigan as it is to apply the grant to the whole line of the road and secure its early completion. The line has been extended beyond its original location, and the lands cannot be got now continuous and exactly opposite the line. The Committee on Public Lands is familiar with the whole question.

Mr. WASHBURN, of Illinois. Has this bill ever been before any committee of the House?

Mr. UPSON. A bill similar to it has once been before the Committee on Public Lands. This bill was reported unanimously by the Committee on Public Lands in the Senate, and was passed unanimously, I believe, by the Senate. It has been considered informally by the Committee on Public Lands in the House, and there is no objection to it.

Mr. SCHENCK. How many million acres are appropriated by this grant?

Mr. UPSON. The original grant was for about seven hundred thousand acres.

Mr. SCHENCK. It cannot go with that. I think about three million acres would take it through. [Laughter.]

Mr. NELSON. I rise to a question of order. I think I am entitled to an answer to the question I asked some time ago, how many acres of public land are left?

Mr. UPSON. That information had better be drawn out on some other bill. This bill does not increase the amount of the grant per mile at all. It merely extends the line of the road and also the limit within which the land may be selected from fifteen to twenty miles on each side of the road, in accordance with all the bill which have been passed for Iowa, Wisconsin, and Minnesota. It is no new grant.

Mr. HUBBARD, of Iowa. I would like to inquire of the gentleman how many acres will be transferred to the State of Michigan by this bill?

Mr. UPSON. I have already stated that the original grant was for about seven hundred thousand acres, and that this bill does not change the amount of that grant. It merely extends the limit within which the lands may be selected five miles each side of the road and extends the line of the road.

Mr. ALLISON. I will say that this bill has been informally considered by the Committee on Public Lands, and so far as they are concerned they have no objection at all to its passage. It

makes no new grant; it merely provides where the lands may be selected.

Mr. UPSON. The explanation of the gentleman from Iowa shows that the reference of this bill is not necessary, for the Committee on Public Lands have already examined it, and they recommend its passage. It only makes the same provision which has been made in other cases, and I see no reason for its delay. I therefore move the previous question on its third reading.

On seconding the demand for the previous question, 36 rose in the affirmative and 36 in the negative—no quorum voting.

Mr. WILSON. I suggest to the gentleman from Michigan that he withdraw his demand for a division, and allow the bill to go to the Committee on Public Lands, with leave to report at any time.

Mr. UPSON. I will consent to that.

Mr. WASHBURN, of Illinois. I object.

The SPEAKER. The Chair will then order tellers on seconding the demand for the previous question.

Mr. STEVENS. I think we have done a pretty good amount of business this evening, and as I see that Judge SPALDING is not here, [laughter.] I move that the House do now adjourn.

Mr. KERNAN. Before the vote is taken, I simply desire to say in reference to the committee of conference which is ordered on my motion, that I do not wish to serve on that committee, and hope in my place the gentleman who reported the bill will be appointed.

Mr. HIGBY. I hope the gentleman from Pennsylvania will allow this bill to be referred or disposed of in some way.

Mr. UPSON. I am willing that the bill shall be passed over informally.

Mr. WASHBURN, of Illinois. I object.

Mr. STEVENS. I think the vote may as well be taken on my motion to adjourn.

The motion was agreed to—ayes 48, noes 41; and thereupon (at half past nine o'clock p. m.) the House adjourned.

#### IN SENATE.

FRIDAY, June 3, 1864.

Prayer by the Chaplain, Rev. Dr. BOWMAN.

On motion of Mr. HENDRICKS, and by unanimous consent, the reading of the Journal was dispensed with.

#### PETITIONS AND MEMORIALS.

Mr. TRUMBULL presented a petition of officers of the circuit and district courts of the United States for the southern district of New York, praying for an increase of compensation; which was referred to the Committee on the Judiciary.

Mr. WILSON presented seven petitions of men and women of the United States, praying for the abolition of slavery, and for such an amendment of the Constitution as will forever prohibit its existence in any portion of the Union; which were referred to the select committee on slavery and freedmen.

He also presented a petition of men and women of Massachusetts, praying for the suppression of the use of intoxicating liquors in the United States Army, and that the Senate refuse to confirm the nomination of any general or surgeon who has not an unblemished character for personal sobriety and freedom from the companionship of intemperate associates; which was ordered to lie on the table.

Mr. MORGAN. I present to the Senate a preamble and a series of resolutions adopted by the Chamber of Commerce of the State of New York in relation to a naval depot. I will read to the Senate the concluding portion of this memorial:

"And whereas a majority of the said board, after devoting more than two months to a careful, laborious, and thorough survey and examination of said sites, and after a full discussion of their advantages, immediate and incidental, came to the conclusion 'that the harbor of New London possessed the necessary capacity and fitness for such yard, and that the public interests would be promoted by its establishment there instead of League Island;' and whereas during the present session of Congress the Naval Committee, together with a delegation from the Military Committee and the Committee of Ways and Means, have visited and personally examined the said sites, and a majority has recently reported in favor of the harbor of New London: Therefore,

"Resolved, That in view of the importance of this question to the whole country, and especially to the interests of commerce and navigation, which are especially protect-

ed by the Navy, and in which this city is so deeply interested, this Chamber fully concurs in the expression of opinion of the said board of naval officers and engineers and of said Naval Committee, and do earnestly urge upon Congress to speedily pass a law establishing the navy yard and depot at New London, and to appropriate the necessary means for carrying the same into effect."

I move that the document be referred to the Committee on Naval Affairs, and be printed.

The motion was agreed to.

#### REPORTS FROM COMMITTEES.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a resolution to print three thousand additional copies of the act (H. R. No. 395) to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof, reported it without amendment; and the Senate proceeded to consider the resolution, and it was agreed to.

Mr. HOWARD, from the Committee on the Pacific Railroad, to whom was referred a bill (S. No. 280) to amend an act entitled "An act to facilitate communication between the Atlantic and Pacific States by electric telegraph," approved June 16, 1860, reported it with an amendment.

#### MARQUETTE AND ONTONAGON RAILROAD.

Mr. CARLILE. The Committee on Public Lands have instructed me to report back, with a recommendation that it be passed, the bill (H. R. No. 469) extending the time for the completion of the Marquette and Ontonagon railroad of the State of Michigan. It merely extends the time for the completion of this work five years, and I am requested by the committee to ask for the immediate consideration of the bill.

By unanimous consent the bill was considered as in Committee of the Whole. It proposes to extend the time limited for the completion of the Marquette and Ontonagon railroad of the State of Michigan for the term of five years beyond the time fixed for its completion by the act of Congress of June 3, 1856, "making a grant of alternate sections of the public lands to the State of Michigan to aid in the construction of certain railroads in said State, and for other purposes;" but the State of Michigan is to have the same control over the grant of lands hereby extended for the benefit of the railroad which was given to the State under the original act of Congress; and the State may prescribe the time within which the several sections of the road shall be completed.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### BILL INTRODUCED.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 298) to incorporate the Potomac Ferry Company; which was read twice by its title, and referred to the Committee on the District of Columbia.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the following bill and joint resolutions of the Senate:

A bill (No. 236) to provide for granting an honorable discharge to coal-heavers and firemen in the naval service;

A joint resolution (No. 35) to compensate the sailors of the gunboat *Baron de Kalb* for loss of clothing; and

A joint resolution (No. 51) authorizing the acceptance of a certain testimonial from the Government of Great Britain.

The message further announced that the House had passed a joint resolution (No. 90) to refer the claim of Nahum Ward back to the Court of Claims; in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had disagreed to the amendment of the Senate to the bill of the House (No. 290) for the relief of Rhoda Wolcott, widow of Henry Wolcott, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. ANSON HERRICK of New York, Mr. W. B. WASHBURN of Massachusetts, and Mr. JAMES T. HALE of Pennsylvania, managers at the same on its part.

The message further announced that the House of Representatives had agreed to the report of the

committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 426) to create an additional supervising inspector of steamboats and two local inspectors of steamboats for the collection district of Memphis, Tennessee, and two local inspectors for the collection district of Oregon, and for other purposes.

The message further announced that the House of Representatives had passed the bill of the Senate (No. 250) to amend an act entitled "An act making a grant of alternate sections of public lands to the State of Michigan to aid in the construction of certain railroads in said State, and for other purposes," with an amendment; in which it requested the concurrence of the Senate.

#### BILLS BECOME LAWS.

The message further announced that the President of the United States had yesterday approved and signed the following acts and joint resolutions:

An act (H. R. No. 345) for the relief of Frederick A. Beelen, late secretary of legation to Chili;

An act (H. R. No. 381) to amend an act entitled "An act making a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of certain railroads in said State," approved May 15, 1856;

An act (H. R. No. 484) to incorporate the Newsboys' Home; and

A joint resolution (H. R. No. 63) to settle the account of James Keenan, late consul at Hong Kong, China.

#### JAMES P. JOHNSON.

Mr. HARLAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Claims be instructed to examine the claim of James P. Johnson, for services as a veterinary surgeon in the fourth Iowa cavalry, under a contract with the colonel of said regiment, and, if found to be just, to report a bill for his relief.

#### LAND CLAIMS OF WISCONSIN.

On motion of Mr. HENDRICKS, the Senate resumed the consideration of the joint resolution (S. No. 8) for the relief of the State of Wisconsin.

Mr. COLLAMER. I was submitting some remarks on this joint resolution when it was last up. I understood the honorable Senator from Iowa to suggest that we ought to pay over to the State of Wisconsin the five per cent. of the proceeds of the sales of the public lands in that State, and to leave the State to settle with the company. Did I understand him aright?

Mr. HARLAN. That was my suggestion.

Mr. COLLAMER. I think that will hardly do. It is difficult to talk about this matter without going into a history of how the case arises. The United States owe to the State of Wisconsin five per cent. on the sales of the public lands in that State since the State was admitted into the Union. That account has not been settled. That money remains in the Treasury of the United States for the State of Wisconsin. The reason it has not been settled and paid, as I understand, is that it is understood that the State of Wisconsin has in its hands some money which really belongs to the United States, money which the State obtained while a Territory for some public lands that it sold. The account of the money which it received for that public land has not been adjusted. When adjusted, it should be deducted from the amount of the five per cent. coming to the State from our Treasury. The object of the present joint resolution is to adjust that business, and not to withhold any longer the five per cent. from the State, but to ascertain whether, in point of fact, the State has any such money in her hands as I have supposed; and if she has, how much, so that it may be deducted from what we owe her, and have the question settled in relation to the five per cent. I would here inquire of the Senator from Wisconsin about how much the five per cent. amounts to.

Mr. HOWE. It was \$249,000 in 1861.

Mr. COLLAMER. It is a little more than that now, I suppose.

Mr. HOWE. There has not been much increase since that.

Mr. COLLAMER. Probably in these times the increase would not be very great. Let us suppose that \$250,000 is due to that State, lying in our Treasury, which the State wants. I take it she is willing to account for whatever she received for the lands which she sold. If she really

received money for them she is willing to account to us, but she wants to settle the whole; hence the object of this joint resolution is to adjust the accounts.

In settling and adjusting the accounts, if I understand the subject aright, and I think I do, a difficulty arises about the claims to the money which, as I say, is held by the State—claims between the United States and a certain canal company. The origin of that dispute can be readily stated. The United States made a grant to the Territory of Wisconsin of certain alternate sections of land to construct a certain canal, and a company was organized for the purpose of doing that, and the Territory was to sell those sections of land at \$2 50 an acre in order to carry on that enterprise. The Territory sold some of the land and paid over some of the money to the company. The company went on and put in money of their own, together with the money received from the Territory. They worked on the canal for awhile; but at last, however, I know not for what cause, and I will not ascribe it to any bad cause, the Territory of Wisconsin refused to go any further with it; the Territory directed its agents who had charge of the sale of the lands to sell them at \$1 25, and to put the money into the treasury and use it for their ordinary governmental purposes. They did so; but I understand they did not sell all the land. When the Territory came to be admitted as a State, there was a particular provision in the law for her admission which declared that the State should stand in the same relation and be subject to the same responsibilities as the Territory was under in relation to the sales of that land. The State assumed that obligation.

As a matter of course when those sales stopped, or when the proceeds ceased to be appropriated to the purpose for which the grant was made, the work on the canal ceased. It is said now that it could hardly have succeeded at any rate for the want of water, or something of that kind. No matter about that now, for I understand that the company do not desire to go any further with their enterprise, but they want to be paid for what they have laid out of their own money; and it seems to be agreed on all hands, if I understand the report of the legislative committee in Wisconsin, that they ought to be paid.

Now, the question is how to arrange this business. The joint resolution provides for arranging it. It provides that the Secretary of the Interior shall adjust the account. In the first place he is to make out how much is due to Wisconsin for her five per cent. which we have in our Treasury. Then he is to adjust the account with the State for all those canal lands which the Territory sold and got pay for, at whatever price it realized beyond what it paid to the company, and to deduct that sum from the five per cent. fund, and pay the balance to the State of Wisconsin. Then we, having reserved in the Treasury the money which Wisconsin got from the sale of the canal lands, have the fund with which to settle with the company; and the Secretary of the Interior is directed by the resolution to go on and adjust the account of that company and to settle with them with that money, not exceeding the amount reserved from the State.

That I understand to be the outline of the resolution. On this plain statement of it I have nothing to say against it except in two respects, which may perhaps be considered small matters. The first question is whether Wisconsin ought to be called on to account merely for what she obtained from the sale of the canal lands, or whether she ought to be called on to account for them at \$2 50 an acre, the price stipulated at the time the grant was made. The act making the grant fixed the price at \$2 50 an acre. The Territory of Wisconsin sold much of it for less than that. What she sold at \$1 25 was sold at that rate without any license or authority from this Government to do so. I believe it is said that we fixed the price of that land too high. They understood perfectly well what the price was at the time the land was granted. They knew the price the Government fixed on it. I do not know why they should have had any right to sell that land for less than \$2 50 an acre. I do not know why they did it. I believe they did it; and this resolution only holds them to account for the amount which they actually received. To my mind they ought to account in justice and propriety for the land at \$2 50 an

acre. It is not for them to complain that we fixed the price too high. They might at least have had the common prudence of the man who broke into a store and would not steal the goods because they were marked so high. [Laughter.] They had nothing to do but let the land alone if they did not like the price; but they actually took it and disposed of it for \$1 25 an acre; and the joint resolution only calls upon them to pay over what they received. The question is whether they should not be called on to account at \$2 50 an acre. I will not occupy further time on that point. I state it to the Senate, and they can do what they please.

But there is another matter. The five per cent. which by a general law is payable to the new States out of the proceeds of the sales of the public lands within their limits, was originally confined to the making of roads and bridges under the direction of the State. When the State of Wisconsin was admitted, she asked Congress to change that, and to permit her to hold the five per cent. as a school fund for common schools. Congress consented to that, and it was agreed that that should be a school fund. You will perceive, Mr. President, that by the operation of this joint resolution, what the State received for the canal lands being deducted from the amount to be paid over to her as a school fund, the result is that she is permitted to pay off her old debt out of the school fund so far as it goes. I object to that perversion of the fund. When we granted Wisconsin the five per cent. for common schools at her request, which was all right enough, I choose that it shall be kept to that purpose. As to this old debt of hers for the money she received for the canal lands, for which she is accountable, it should not be paid out of the school fund. I speak now for the children and for the cause of education, for the purpose for which the grant was made; and in order to secure that I propose the following amendment as an additional section, and if it be adopted I shall have no further objections to the resolution:

*And be it further resolved,* That this joint resolution is passed on the condition that before anything is paid to said State under the same, the State shall make provision that whatever sum is deducted from the five per cent. on the sales of public lands in said State, in pursuance hereof, shall by said State be replaced for the use of schools in said State.

Before taking my seat I will make a few remarks in response to the suggestion of the Senator from Iowa that we should do nothing in regard to settling with the canal company. What will be the result if we settle with the State and pay her the five per cent. and make no deduction of the money which she received for the canal lands and which should go to pay the company as far as they laid out money of their own and which all agree should be paid? It follows as a matter of course that the company will at once come to us and make a claim on us to pay them. They will say to us, "You have taken the fund which you appropriated for building this canal, and in reliance upon which we laid out our own money; and with it you have settled your debt with the State as far as it would go, and if you do that you should certainly pay us." I do not know how much the claim of the company is. I presume, however, it is a great deal less than the amount of money which the Territory received for the canal lands which it sold. But if, as suggested by the Senator from Iowa, we do not make any settlement with the State about the canal lands, but deduct the money received from them from the five per cent. fund and just pay the State the balance, and leave the company to make a claim on the State, it will be an injustice to the company whom we created in fact under the grant, for I doubt very much whether they will ever get anything from the State. There is a further objection that we leave that amount of money in the hands of the State. If she settles the account of the company, which is a great deal less than what the State received from the canal lands, she will take the balance entirely to herself; it will not go to pay us, or pay anybody else. It seems to me that is a very great injustice. It is a risk which we certainly ought not to run to leave the State in possession of the money even if it should settle the company's account, and we ought not to put off the company and refer them to the State.

The amendment which I have offered is nothing but a simple provision that whatever amount of the five per cent. fund is deducted for the pur-

pose of paying this old debt shall by the State be replaced in the school fund.

Mr. HARLAN. The Senator from Vermont I think is in error in this. The five per cent. of the net proceeds of the sales of public lands, as well as five hundred thousand acres of the public lands, were granted to each new State for the purpose of carrying on works of internal improvement within its limits, under the direction of the State government, and not for the support of schools.

Mr. COLLAMER. The five per cent. was for roads and bridges.

Mr. HARLAN. Roads and bridges and canals may be denominated works of internal improvement. By a general provision of law the five per cent. of the net proceeds of the sales of the public lands within its limits and five hundred thousand acres of public lands were given to each new State to aid in carrying on such works of internal improvement as the State might inaugurate. But Wisconsin, in her application for admission as a State, requested leave to divert this five per cent. fund as well as the five hundred thousand acres from the original purpose intended by Congress, enacted in 1841, when this system was originated, to school purposes; and this diversion was acquiesced in by this Government. But before this diversion was made lands had been received by Wisconsin and applied to the original object, to aid in the construction of a canal. The amendment proposed by the Senator from Vermont [Mr. COLLAMER] provides that the value of these lands thus applied to a work of internal improvement in accordance with the original policy of the Government, and in accordance with law, shall be also added to the school fund by the State of Wisconsin, so as to make her school fund equal to the entire amount of the five per cent. of the proceeds of the sales of the public lands, and the whole of the value of the five hundred thousand acre grant. This Government had provided other means for the support of schools—the sixteenth sections and university lands. It was not the interest of the United States to divert the internal improvement fund to the support of schools. The construction of roads and bridges and canals through the public lands would enhance their value and hasten their sale. This Government was therefore interested in the application of this internal improvement fund as originally designed. The diversion was adverse to the interest of the United States. It was agreed to because Wisconsin deemed it to be advantageous to her as a State. I do not, therefore, perceive any sufficient reason for compelling Wisconsin to add to the school fund of the State the value of lands which were never school lands, and which were sold and applied to the purposes indicated by Congress before she became a State of the Union.

I will now come to the main proposition, and state the facts as I understand them as briefly as I can. While Wisconsin was a Territory, Congress made a grant of land, not to the canal company but to the Territory of Wisconsin, to aid the Territory in constructing a canal. It is true that preceding this grant a company had been incorporated by the Legislature of Wisconsin for the purpose of constructing a canal, and in that charter they were authorized to petition Congress for a grant of land to the company; but when the subject was considered by Congress they did not make an appropriation of lands to the company in pursuance of its request, but they made the grant directly to the Territory of Wisconsin, and provided the mode in which the land should be disposed of. The law provided that the proceeds of the sales of the land should be applied in the construction of the proposed canal, the whole amount to be credited to the Territory of Wisconsin for the use of the future State as so much full-paid stock. It was not to be turned over to the company and become the property of the company as it was derived from the sales of the lands, but was to be invested in this work by the Territory of Wisconsin, and held by her as so much full-paid stock to become the property of the State.

The work was commenced. The company paid in some money, some sales of lands were effected and applied. But in the course of a few years the territorial authorities, despairing of final success, declined to make further invest-

ments in the canal enterprise, and diverted the proceeds of the sales of the canal lands to other purposes.

The law of Congress granting the lands to aid in the construction of the canal contained the condition that if the canal should not be completed in ten years all the lands sold should be accounted for to the United States by Wisconsin at the rate of \$2 50 per acre. The work was not completed, and accordingly the State stands charged with the value of the land at the rate named. This bill proposes to reduce the estimated value of the land as charged from \$2 50 to \$1 25 per acre. This would operate as a credit to the State to the amount of about \$156,000. The amendment proposed by the committee provides for the payment to the canal company the total amount of the means invested by it in this work out of the five per cent. fund, now due the State from the United States, not exceeding the above credit.

It will be seen, if I am correct in this statement of facts, that this Government never did charter the company, never came under obligations to pay its debts or to guaranty the success of the work, but made provisions to enable the Territory of Wisconsin to become a joint owner of the work, stipulating that if she should in the future so decide she might purchase the whole, paying, however, only the amount invested by the company from its own funds.

Mr. HOWE. Will my friend allow me to suggest one mistake he has fallen into on a question of fact?

Mr. HARLAN. Certainly.

Mr. HOWE. And that is, that the State could ever have any stock, ever be beneficially interested in any stock of the canal company. The proceeds of the grant were, to be sure, to be invested in stock, but the State was only to hold the stock as it held the land, in trust; and whenever, from the dividends on the State stock, or from any other cause, the private stock was extinguished, then the stock was to be held for the public, and there were no tolls to be collected thereafter more than sufficient to keep the work in repair. The treasury of the State never could get a dollar of benefit either from the grant or from the stock.

Mr. HARLAN. I do not perceive that the fact stated by the Senator affects the question either one way or the other. It is true that Congress stipulated that after the work should have been completed and after it should have become the property of the State of Wisconsin, no higher tolls should be charged than sufficient to keep the work in repair; but I do not see that that affects the liability of this Government the one way or the other. This Government never chartered the company, never organized the company, never donated or promised to donate a dollar to its funds, but simply provided means to enable the State of Wisconsin to become a joint owner. This Government never guaranteed, either directly or indirectly, the success of the enterprise; never agreed to reimburse the stockholders the capital invested, if the enterprise should fail. The enterprise was a private voluntary undertaking. The hazard was their own. The right was secured to Wisconsin to purchase out the stock to the extent of the private means invested if she chose to do so; but this was left for her to decide according to her own volition. She was not required either by the terms or the spirit of the law to make the purchase, nor was this Government in any way thus obligated either by the letter or spirit of the law. The character of the future tolls, whether small or great, could not affect this question in the least.

As I was about to observe, Wisconsin probably distrusted the ability of the company to complete the canal. By an examination of the history of this case as it will be found in a report made by a commissioner of the State of Wisconsin, appointed under a law of the State, it will appear that the company invested a very small amount of its own means. Their charter provided that they might raise stock to the amount of \$1,000,000. One hundred thousand dollars' worth of stock was subscribed, and it is said that but a small amount was actually paid in; I think not exceeding \$14,000. The company does not claim to have paid in exceeding forty or fifty thousand dollars from the beginning to the suspension of the work. The Territory paid over \$30,000 of money; the company probably much less. The commissioner previously mentioned also states that the company



had exhausted its means; were unable to collect the stock subscribed, were unable to borrow money, and were absorbing the proceeds of the sales of the lands only in prosecuting the work and paying the salaries of their officers. The estimated cost of the work by the company's engineers was nearly one million dollars; they had secured subscriptions of stock only to the amount of \$100,000; probably not more than one sixth, certainly less than one half of this was ever paid in. The land grant amounted to less than one hundred and forty thousand acres, which was being sold very slowly at the rate of \$1 25 per acre to settlers and \$2 50 to others. It was perfectly manifest that with these means only the work could never be completed, and that all future investments by the Territory from the proceeds of the land grant would be a total loss. The Territory therefore suspended any further investments and applied the proceeds of the sales to other uses. This was clearly her right as one of the parties in interest, when the other party failed to meet her engagements. But the company, the defaulting party, the party unable to pay the stock she had subscribed, unable to raise an additional dollar, demands to be indemnified for the capital invested! Such a proposition made by an individual in the private affairs of life would not be entertained for a moment. And yet this is the purport of the committee's amendment, which was sustained by the speech of the Senator from Vermont.

I suggest to the Senator that the claim would be quite as valid if set up by the State of Wisconsin against the company. Why should not the company be compelled to pay the State of Wisconsin the \$30,000 that she invested and lost in this futile effort to build a canal? On every principle of justice and equity with which I am acquainted the claim of the State to indemnity from the company is the stronger. The company first failed to fulfill its engagement; it never paid the \$100,000 of stock subscribed; according to the report of the commissioner it never paid over \$14,000 of it. The company was not carrying out in good faith its own contract to build the canal; it failed to pay in the money subscribed; it tried in vain to borrow. It was after this that Wisconsin, despairing of the success of the work after having paid in and thrown away about thirty thousand dollars of money, suspended future payments. If either party has a right to be reimbursed by the other, it is the State of Wisconsin. It will be seen by examining the report previously mentioned that the company claims indemnity for all losses on the value of land purchased along the line of this work, and also salaries of officers and agents, and the cost of lobbying here to secure the land grant, as well as money invested in the work, and interest on the aggregate amount up to the present moment, amounting in all to over two hundred thousand dollars.

If I am correct in these statements, it follows that this Government at least is under no obligations to the company. And it is not material to the real question at issue to decide the liabilities of the State of Wisconsin. This Government made a grant of land to Wisconsin to aid in constructing this canal, conditioned that if the work was not completed in ten years the State should pay the United States for the land at \$2 50 per acre. The work failed; the liability was incurred; and the State stands charged on the books of the Treasury on this account to the amount of over three hundred thousand dollars. This account has been credited the amount falling due to Wisconsin on the five per cent. fund from year to year since 1851. As the account now stands the State owes this Government over sixty-three thousand dollars.

The only remaining question which arises is, has Wisconsin been charged too much for these lands? She agreed in receiving the land, if the work should not be completed within ten years, to pay the Government of the United States for the land at the rate of \$2 50 an acre, which amounts to \$313,579 55. Most of the lands were, however, sold by Wisconsin at \$1 25 an acre. It is not necessary that I should narrate how this occurred. It was done to protect settlers on the land, with the consent of the company. The policy was afterwards indirectly approved by Congress. The quantity of land sold amounted

to 125,431 acres; leaving unsold when Wisconsin became a State 13,564 acres. At her request this was conveyed to her as a part of the 500,000 acres due to the State on becoming a member of the Union.

Under existing laws Wisconsin has no right to a reduction of the price of the land. But should this Government insist on a technical advantage? It was doubtless the purpose to place the new land States on a footing of equality in making these grants. Each of the other new land States receives the total five per cent. of the net proceeds of sales of public lands and 500,000 acres for internal improvement purposes. Wisconsin has received under this head in money and in credits on the books of the Treasury the five per cent. fund and 625,000 acres—125,000 acres more under this head than the other new land States. For this excess this Government has charged her at the rate of \$2 50 per acre; but she sold the lands at about \$1 25 per acre. This does not seem to me to be just. Hence I propose an amendment which if adopted will reduce this charge against the State for this excess of lands from \$2 50 to \$1 25 per acre, the price at which they were mostly sold.

Mr. HOWE. I wish my friend when he undertakes to state the liabilities of Wisconsin would state upon what evidence it rests. He says that Wisconsin agreed to pay the United States \$2 50 for these lands. I never saw the agreement. I never saw the slightest evidence of it.

Mr. HARLAN. I do not feel inclined at this time to enter into an argument of that kind. Attorney General Cushing and Attorney General Crittenden, after examining that subject, fully decided, in their official capacity as the law officers of this Government, that the State of Wisconsin had obligated herself to pay this Government \$2 50 an acre for the land on the failure of the construction of that canal. I choose, therefore, for the purposes of my statement here this morning, to consider that as *res adjudicata*. The State, in receiving the five per cent. fund and the five hundred thousand acres of land and disposing of it in the mode indicated by the Congress of the United States, has availed herself of the advantage growing out of that agreement. It seems to me it is now too late for her to come in and deny its existence and the obligations it imposes on her. I therefore assume that she did obligate herself to pay \$2 50 an acre for the land; but she sold the land for \$1 25 an acre, and I suppose that this Government ought not to charge her more than the minimum price, at any rate not more than she derived from the sales, being not less than \$1 25 an acre.

Mr. HENDRICKS. I desire to call the attention of the Senator to the fact that that is just what this joint resolution provides.

Mr. HARLAN. I know it is; but the joint resolution also provides that the State of Wisconsin shall be credited for all the money she has invested in the work. This will operate as an additional grant.

The joint resolution also provides that this Government shall ascertain how much the canal company has invested, and pay it out of the five per cent. fund due the State. Why should this be done? What right has this Congress to assume that Wisconsin is indebted to the canal company or any other party? And if thus indebted, what right has this Congress to authorize a suit to be brought against the State, and to institute a court under the name of a commissioner to hear such a cause? But if the authority exists, is it expedient? is it courteous to Wisconsin? Why not permit her to settle with her own creditors? If she has incurred liabilities either directly or indirectly to individuals or companies in the construction of a public work within her limits, why not let her discharge them? What right have the creditors of a State to come here and garnish the Government of the United States? for this is the effect of the proposition. This company says, "Wisconsin owes us, and Wisconsin declines to pay us; you owe Wisconsin, and now we will attach the money in your hands and have it paid over to us, and thus coerce our dishonest debtor that is withholding from us our just demand." This is the only interpretation that can be placed on such a transaction. Is not this a severe reflection to be cast on the people of Wisconsin? Are they thus dishonest? Have they

persistently, for more than twenty years, refused to pay an honest debt? I will not admit the probability of such an aspersion. I have too much faith in the honesty of men to permit it. If, through prejudice or passion, one Legislative Assembly should fail to do justice, the Legislatures change; the term of office of the members expires; other incumbents are elected from year to year. To suppose that legislative bodies thus constituted would persist in refusing or delaying justice would be to pronounce republics a failure and man incapable of self-government. The presumption with me is that the State of Wisconsin can be more safely trusted in adjudicating a cause between herself and her own people than any tribunal that this Government would be likely to institute; if, indeed, this Government has the constitutional right to coerce the collection of a claim against a State.

I am not willing as a member of this body to assume that Wisconsin is dishonest, that she is disposed to defraud these creditors of hers if they are such. In my opinion, personally, Wisconsin does not owe the company one dime. The company is under as much obligations to pay Wisconsin all the money that she invested in the work as Wisconsin is to pay the company the money that the company invested. It was all money thrown away; but that ought not to influence the judgment of the Senate in deciding the question of the price per acre to be charged Wisconsin on the excess of land received by her above that granted to other new States.

We are under obligations to do justice to Wisconsin, and when we shall have charged her at the rate of \$1 25 an acre for this excess and then shall have credited her with the five per cent. of the net proceeds of the sales of the public lands, she will have been put on an equal footing in this respect with the other States.

The PRESIDENT *pro tempore*. It becomes necessary for the Chair to call up the order of the day at this hour.

Mr. HENDRICKS. I ask that this bill be assigned for fifteen minutes after twelve o'clock to-morrow. I do not want to struggle for the floor to get it up. I should think it would be the pleasure of the Senate now, since the discussion has gone so far, to complete this matter. I suppose it will take about half an hour longer, and I ask that it be postponed to and made the special order for a quarter past twelve o'clock to-morrow.

Mr. COLLAMER. I shall have to request the yeas and nays on that motion, making special orders in the morning hour.

Mr. HENDRICKS. Rather than have the yeas and nays called, I will withdraw the motion and struggle again for the floor.

Mr. DOOLITTLE. I wish to inquire whether this resolution does not come up itself in the morning hour as unfinished business.

The PRESIDENT *pro tempore*. The Chair is of opinion not.

Mr. DOOLITTLE. Has there been any change in the rule on that subject?

The PRESIDING OFFICER. There is no such rule.

#### INTERNAL REVENUE.

The Senate resumed the consideration of the bill (H. R. No. 405) to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes.

The PRESIDENT *pro tempore*. The question is on concurring in the Senate with the amendments made as in Committee of the Whole.

Mr. GRIMES. I ask to except—

The PRESIDENT *pro tempore*. It has been agreed that all the amendments shall be excepted for the present until other amendments are received.

Mr. DAVIS. I wish to offer an amendment as an additional section.

Mr. FESSENDEN. I will inform the Senator from Kentucky and all gentlemen who were not present when we adjourned last evening that the understanding was that the amendments which had been made in committee should none of them be acted on until all gentlemen had an opportunity to request a separate vote on anything upon which they desire a separate vote, and to offer any other amendments they may wish to present.

Mr. DAVIS. I was present when the Senate adjourned last night. I wish to offer an amend-

ment as an additional section to the bill. I am willing to defer it.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The amendments made as in Committee of the Whole are first in order; but those amendments are subject to amendment.

Mr. FESSENDEN. I wish to offer an amendment on page 161, line seven of section one hundred and nine, to strike out the word "an" be- "act," and add a final "s" to "act," making it "acts," and inserting the words "the several," so as to read, "the several acts, to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof;" to strike out the quotation marks, and strike out the words in lines ten and eleven, "approved February 25, 1863;" so as to make it read:

Other than associations organized and established under and by virtue of the several acts to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof.

Both those acts have the same title, and this exception should apply to associations organized under both acts.

The amendment was agreed to.

Mr. FESSENDEN. I wish to make the same amendment in line forty-two and the following lines of the same section, on page 162, so as to read, "of the several acts to provide a national currency."

The amendment was agreed to.

Mr. HOWE. I have some amendments which I am instructed by the Finance Committee to offer; and if it is in order to offer them before the amendments of the Committee of the Whole are acted upon, I will offer them now. I propose to amend the first section in the eleventh line by striking out the word "who" after "dollars" and putting in the enacting clause of a new section, "And be it further enacted, that such Commissioner," &c.

Mr. FESSENDEN. You mean to close the first section with the word "dollars."

The PRESIDING OFFICER. That section has already been amended, and the Clerk will report the amendment as made in Committee of the Whole to that section.

The Secretary read the amendment made as in Committee of the Whole, which was to strike out after the word "same" in line six to the word "who" in line eleven, and to insert in lieu thereof "the Commissioner of Internal Revenue, whose annual salary shall be \$4,000, shall be charged," &c.

Mr. FESSENDEN. That was for the purpose of retaining the Commissioner without having him reappointed.

Mr. HOWE. Is there any amendment in that section after line twenty-seven?

The PRESIDING OFFICER. There is none.

Mr. HOWE. Then I propose to divide the section after the word "advertisements" in line twenty-eight, by striking out "and" and inserting "Section 2. And be it further enacted, That."

The amendment was agreed to.

Mr. HOWE. I move to amend that section in line twenty-eight, as it now stands, by inserting after the word "may" the words "at any time prior to the 1st day of July, 1865;" so as to read:

That the Secretary of the Treasury may at any time prior to the 1st day of July, 1865, assign to the office of Commissioner of Internal Revenue such number of clerks, &c.

The amendment was agreed to.

Mr. HOWE. I move to amend the bill further by striking out section two, in the following words:

SEC. 2. And be it further enacted, That it shall be the duty of the Commissioner of Internal Revenue to pay over to the Treasurer of the United States monthly, or oftener if required by the Secretary of the Treasury, all public moneys which may come into his possession, for which the Treasurer shall give proper receipts and keep a faithful account; and at the end of each month the Commissioner shall render true and faithful accounts of all public moneys received or paid out, or paid to the Treasurer of the United States, exhibiting proper vouchers therefor, and the same shall be received and examined by the Fifth Auditor of the Treasury, who shall thereafter certify the balance, if any, and transmit the accounts, with the vouchers and certificate, to the First Comptroller for his decision thereon; and the Commissioner, when such accounts are settled as herein provided for, shall transmit a copy thereof to the Secretary of the Treasury. He shall at all times submit to the Secretary of the Treasury and the Comptroller, or either of them, the inspection of moneys in his hands, and shall, prior to the entering upon the duties of

his office, execute a bond, with sufficient sureties, to be approved by the Secretary of the Treasury and by the First Comptroller, in a sum of not less than \$100,000, payable to the United States, conditioned that said Commissioner shall faithfully perform the duties of his office according to law, and shall justly and faithfully account for and pay over to the United States, in obedience to law and in compliance with the order or regulations of the Secretary of the Treasury, all public moneys which may come into his hands or possession, and for the safe-keeping and faithful account of all stamps, adhesive stamps, or vellum, parchment or paper bearing a stamp denoting any duty thereon; which bond shall be filed in the office of the First Comptroller of the Treasury. And such Commissioner shall, from time to time, renew, strengthen, and increase his official bond as the Secretary of the Treasury may direct.

The amendment was agreed to.

Mr. HOWE. I move to amend the bill further by striking out the sixth section, as follows:

SEC. 6. And be it further enacted, That the cashier of internal duties, whose salary shall be \$2,500 shall have charge of the moneys received in the office of the Commissioner of Internal Revenue, and shall perform such duties as may be assigned to his office by said Commissioner, under the regulations of the Secretary of the Treasury, and before entering upon his duties as cashier he shall give a bond with sufficient sureties, to be approved by the Secretary of the Treasury and by the Solicitor, that he will faithfully account for all the moneys or other articles of value belonging to the United States which may come into his hands, and perform all the duties enjoined upon his office according to law and regulations, as aforesaid; which bond shall be deposited with the First Comptroller of the Treasury.

The amendment was agreed to.

Mr. HOWE. I move to amend the bill on page 14, section fifteen, lines ten and eleven, by striking out after the word "exceeding" the words "three hundred" and inserting "one thousand."

The amendment was agreed to.

Mr. HOWE. In line eleven of that section after the word "for" I move to strike out "six months" and insert "not exceeding one year," so as to read, "he fined in any sum not exceeding \$1,000, or be imprisoned not exceeding one year, or both."

The amendment was agreed to.

Mr. HOWE. I move to amend the bill further on page 22, line four of section twenty-one, by striking out the word "fail" after "shall," and inserting the words "willfully neglect," and in lines six and seven strike out "not being prevented by sickness or other unavoidable accident."

The amendment was agreed to.

Mr. HOWE. In the same section, in line fourteen, I propose to strike out after "fine of" the words "\$500 and to a forfeiture of his compensation as assessor or assistant assessor," and insert "not exceeding \$1,000."

The amendment was agreed to.

Mr. HOWE. In the sixteenth line, after the word "for," I move to insert "not exceeding" before "one year."

The amendment was agreed to.

Mr. HOWE. In the eighteenth line I move to strike out the words "internal revenue laws" and insert "Government of the United States."

The amendment was agreed to.

Mr. HOWE. On the 23d page, line twelve of section twenty-two, after the word "actually" I move to insert the words "and necessarily."

The amendment was agreed to.

Mr. HOWE. In the same line after "expended" I move to strike out "with the approval of the Commissioner of Internal Revenue," and insert:

But no account for such rent shall be allowed or paid until it shall have been verified in such manner as the Commissioner shall require, and shall have been audited and approved by the proper officer of the Treasury Department.

The amendment was agreed to.

Mr. HOWE. On the same page, in line fourteen, after the words "per annum," I move to strike out the words "the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, is authorized to allow each assessor such clerks as he may deem necessary for the proper transaction of business, and to fix their compensation;" and to insert:

And the several assessors shall be paid, after the account thereof shall have been rendered to and approved by the proper officers of the Treasury, their necessary and reasonable charges for clerk hire, but no such account shall be approved unless it shall state the name or names of the clerk or clerks employed, and the precise periods of time for which they were respectively employed, and shall be accompanied by an affidavit of the assessor stating that

such service was actually required by the necessities of his office and was actually rendered, and also by the affidavit of each of his clerks stating he has rendered the service charged in such account on his behalf, and that he has not paid, deposited, or assigned, nor contracted to pay, deposit, or assign any part of such compensation to the use of any other person, or in any way directly or indirectly paid or given nor contracted to pay or give any reward or compensation for his office or employment or the emoluments thereof.

Mr. COLLAMER. It seems to me that when you require a clerk to swear that he has rendered the service, he should also state that he has received the amount. He should at least state that he has had his pay, or what it is to be. Neither of them is required to be stated in the amendment.

Mr. HOWE. I have modified the amendment to meet the suggestion of the Senator from Vermont, so as to read:

And the several assessors shall be paid, after the account thereof shall have been rendered to and approved by the proper officers of the Treasury, their necessary and reasonable charges for clerk hire, but no such account shall be approved unless it shall state the name or names of the clerk or clerks employed, and the precise periods of time for which they were respectively employed and the rate of compensation agreed upon, and shall be accompanied by an affidavit of the assessor, stating that such service was actually required by the necessities of his office, and was actually rendered, and also by an affidavit of each of his clerks, stating he has rendered the service charged in such account on his behalf, the compensation agreed upon, and that he has not paid, deposited, or assigned, nor contracted to pay, deposit, or assign any part of such compensation to the use of any other person, nor in any way directly or indirectly paid or given nor contracted to pay or give any reward or compensation for his office or employment or the emoluments thereof.

Mr. WILSON. I ask the committee if they think we ought not to have more limitations, restrictions, and checks. I think under this provision we shall find precisely what we find now, that the clerks are not paid in proportion to the amount of labor needed and performed, but according to the conscience of assessors. Now, in some offices where double the work is done that is done in others, the clerk hire is less. I know that to be so because I have examined the returns of nearly every district in the country. I think we ought not to allow the officers to go beyond a certain amount for clerk hire. I think the sum of \$3,000 large enough in any district of country, and the officers have already carried it up to \$4,000 and over, I think, in some districts. I am glad that this oath is to be required; it was adopted in the office and some of the officers would not settle by it. I am glad that it is to become the law by legislation instead of being only a rule in the Fifth Auditor's office; I do not think we ought to give this large discretion to men to say what number of clerks they think they need. Take the number of pages written in these offices; they are all easily ascertained; we find the greatest inequalities. We are giving too much power to these men; it ought to be limited, and certainly no office should exceed \$3,000 for clerk hire.

Mr. CONNESS. I wish the Senator from Massachusetts would suggest a better mode than the one contained in this proposition. I would ask the Senator who should determine and who should know what amount of aid is necessary in an office but the head of that office.

Mr. WILSON. That is a very easy thing to settle. It is the easiest thing in the world to take and compare every office in the country and see precisely what they need. It is all a matter of record before you; it is an easy thing to ascertain the number of dollars collected, the number of clerks employed, the number of pages written in every office in the country. I have given some little attention to this subject, and I think it is a thing easily enough ascertained and settled. In a majority of these offices in the country the business is well conducted, but there are offices where it has been dishonestly conducted. There ought not to be an office that should exceed \$3,000 for clerk hire; I think that sum abundant for the largest office.

Mr. CONNESS. It is very easy to make general statements such as the honorable Senator is engaged in making. By qualifying those general statements, too, they appear to be just. "I know," he says, "that in some of the offices it is all right; but I tell you that in some others of them it is all wrong." That is the kind of statement. My cure, if I find delinquencies in my State, is to report those delinquencies at once and specify them.

Mr. WILSON. The Senator will allow me: I did that five months ago, and it has been done more than once; facts and dates were given, and some of those dishonest officers have been held responsible for their conduct, and I have reason to believe others will be so held. I have reason to believe, and in fact I have read statements going to show, that there are some other offices where the practices are not what they ought to be. Sir, the internal revenue department of the Government is too loosely administered, and in many of the districts dishonestly administered. Every check which can be put in this bill we ought to put into it; and I thank the Senator from Wisconsin, who is now doing some of the work that is needed.

Mr. CONNESS. When I made the suggestion that I did as to the remedy to be applied in the class of cases referred to by the Senator, I did not doubt but that he would report a case of palpable error which had come to his mind. Now I suggest again that the only cure and only remedy is what I stated. These difficulties are purely administrative in their character. You cannot carry on a Government rightly the offices of which are in the hands of bad men; it is simply impossible; and unless we have a guarantee in the persons who shall dispose of these appointments and in the conduct of Senators and Representatives who recommend persons for appointment, I do not know any other way by which we can reach those evils that result from bad administration. I too am very glad that such safeguards and conditions are to be thrown around the law as will give us whatever security we can get; but the Senator is not entirely right, I think, in the general declarations that he makes that there is infinite and immense corruption in connection with the Treasury Department, or in other words in the collection of the revenue. I think the Senator is not right in this. Such statements are very easily made. They are very general and very loose.

Mr. WILSON. Allow me to say to the Senator that I did not use the word "infinite," but what I did say was that there were dishonest practices in some of the offices; shameful practices that men of honor ought to have nothing to do with. In some of the offices the accounts were held up for months by the accounting officers. We cannot put too many guards upon these revenue officers.

Mr. CONNESS. I presume the Senator is speaking from his information and experience. I am very sorry to hear such descriptions of officers coming from the Senator from Massachusetts as occurring in that State. I am very certain that no such vile abuses as the Senator has been describing— I was addressing myself to the Senator from Massachusetts, and I find that he is not listening.

Mr. WILSON. I will listen to the Senator.

Mr. CONNESS. I simply said that I regretted to hear the Senator give us so woeful an experience from the State of Massachusetts. I had really believed that in that State in administrative places they had reached and practiced a degree of exactness that was not known in our newer community; but I can assure the Senator that those practices are not carried on in the State that I in part represent here. I believe that the internal revenue officers in that State do their duty with as much fidelity as any officers of this Government, and I think that it would perhaps be a pretty good thing to change the officers in Massachusetts and suppress and put a stop to these little practices. I do not hear the Senators from other States complaining, and I am very sorry indeed to have my opinions changed of that State and office-holders there. I thank the Senator for having given so much of his attention to this subject. I hope he will continue it and hunt them down.

Mr. HOWE. I will say a single word. The committee undoubtedly felt as desirous of throwing every limitation about these expenditures that was possible or practicable as the honorable Senator from Massachusetts. They did deliberate upon the expediency of imposing just such a limitation as the Senator suggests. Upon consideration, however, it was the opinion of the committee that they had not data enough as yet upon which to venture to fix the limit, and therefore they thought it wiser at present to impose these

restrictions and await further developments before they undertook to tie up the action of this bureau more closely than is now proposed.

The amendment was agreed to.

Mr. FESSENDEN. I ask my friend from Wisconsin to allow me to make a little amendment here for fear I may forget it. On page 138, line two hundred and eighty-four of section ninety-three, I move to strike out the words "or rods" after "bars."

The amendment was agreed to.

Mr. HOWE. I move to amend the bill further on the 24th page, in the thirty-sixth line of section twenty-two, by inserting after the word "business" the words:

*Provided, That no such account shall be approved unless it shall state the date and the particular items of every such expenditure, and shall be verified by the oath or affirmation of such assessor or assistant assessor.*

Mr. FESSENDEN. I should like to know whether the Senator retains the words, "and the compensation herein specified shall be in full for all expenses not otherwise particularly authorized?"

Mr. HOWE. That is to be retained.

Mr. FESSENDEN. Is that a part of the proviso? If so, it would stand awkwardly to put in a proviso in that way before you get to the end of the section.

Mr. HOWE. I do not know how the words which follow affect the proviso.

Mr. FESSENDEN. Perhaps it will do as it is.

The amendment was agreed to.

Mr. HOWE. I now move to amend that section further by striking the proviso, beginning with line thirty-eight and ending in line forty-seven, out of that place and making it a new section, and preceding it with the words, "and be it further enacted." The amendment is to strike out the word "provided," and make it a new section to follow this section.

The amendment was agreed to.

Mr. HOWE. I move to amend by inserting after "same," in line four of section twenty-three, the words "verified by oath or affirmation."

The amendment was agreed to.

Mr. HOWE. In the sixth line of section twenty-three I move to strike out all after the first "and," down to and including the word "final" in the sixteenth line of the twenty-third section, and to insert what I send to the Chair.

The Secretary read the words proposed to be stricken out, as follows:

If it appear just and in accordance with law, he shall indorse his approval thereon, but otherwise shall return the same with objections. Any such account so approved may be presented by the assistant assessor to the collector of the district for payment, who shall thereupon pay the same, and, when receipted by the assistant assessor, be allowed therefor upon presentation to the Commissioner of Internal Revenue. Where any account, so transmitted to the assessor, shall be objected to, in whole or in part, the assistant assessor may appeal to the Commissioner of Internal Revenue, whose decision on the case shall be final.

The words to be inserted are:

Shall transmit it with his approval thereof or his objections thereto indorsed thereupon to the Commissioner of Internal Revenue, to be audited by the proper accounting officers of the Treasury Department.

Mr. GRIMES. I want to inquire of the gentlemen who have charge of this bill if that is the only provision for the payment to deputy assessors.

Mr. HOWE. It is the only provision reported by the Committee on Finance.

Mr. GRIMES. That may be; but I am fearful that this is not enough. They have hitherto, I believe, had their accounts audited by the man who appointed them, and who of course felt an interest in their success and prosperity. This amendment proposes that they shall be sent to the Commissioner of Internal Revenue and let him audit them.

Mr. HOWE. As other similar accounts are audited.

Mr. GRIMES. How is this officer here in Washington to know what have been the demands upon the time and attention of an assistant assessor in Oregon or in the rural districts of New York, and how many days it has been necessary for him to expend in the public service? You have at last to come right back to the personal integrity of the deputy assessor, who is appointed

by the assessor living in the district where he does his business, and not by anybody here who can eject him from his place.

Mr. HOWE. Mr. President, I am glad to know that the Senator from Iowa is alarmed. I am glad to see that he recognizes the necessity of guarding these expenditures more carefully than they have been guarded heretofore; and if he will now turn his attention to the manner of doing it, and will invent a better one, as I have no doubt he can, I, for one individual, shall be very glad to accept it. I have given considerable attention to this subject. The auditing officers will not be destitute entirely of the means of settling these accounts, for in addition to the certificate of the assessor and the affidavit of the assistant assessor or stating the number of days' work done, and the actual dates on which the work was rendered, they know in what quarter of the country the service was rendered, and may ascertain what such services are worth in that quarter of the country, and they have before them a great part of the actual work done. The work of that assistant assessor is returned to the assessor, and by him is sent up to the Commissioner. They have, therefore, the opportunity of inspecting actually the very work done by the assistant assessor. Still, in spite of these things, abuses may occur, and I have no doubt if we had time, and if the Senator from Iowa would really give as much attention and as much thought to the subject as I have, he would devise a better method of protecting the Treasury than I have. This is the best that occurred to the committee, and this is the one I am instructed to offer. I think the Senator will admit it is a great deal better than the section as it stands.

Mr. GRIMES. Yes, sir; I admit it is an improvement on the law as it stands.

Sir, this is no fresh alarm on my part, as some Senators very well know, in regard to the way these deputy assessors have been paid, for I have called the attention of Senators and of the Senate also to it once or twice before.

Mr. FESSENDEN. We have been trying to do something in that direction.

Mr. GRIMES. I am glad that the committee have made as good progress as they have; but I would in some way or another connect the collector of the district, whose interests are not identical with the deputy assessor or with the assessor himself, with this matter, and cause some returns or some investigations of the duties performed by the assessors to be reported to the Department by the collector; but I have not thought enough about it to give any very correct information on the subject. I want to see some check put upon the swindling that has been going on in this regard; and I am fearful that an accounting officer here in Washington will not know very much about the duties of an assessor out in Illinois or Iowa.

Mr. FESSENDEN. My friend will have time, probably, in the course of to-day and to-morrow, to elaborate that idea and provide something that will be better, if he will give his attention to it, and we shall be very glad to receive it.

The amendment was agreed to.

Mr. HOWE. I suggest that a period should follow the amendment that has just been made, and the word "and" should commence with a capital.

The PRESIDING OFFICER. That change will be made.

Mr. HOWE. On page 27, section twenty-four, line nineteen, after the words "official business," I move to insert the words "but no such account shall be approved unless it shall state the date and the particular items of every such expenditure, and shall be verified by the oath or affirmation of the collector;" so that the clause will read:

And there shall be further paid, after the account thereof has been rendered to and approved by the proper officers of the Treasury, to each collector his necessary and reasonable charges for stationery and blank-books used in the performance of his official duties, and for postage actually paid on letters and documents received or sent, and exclusively relating to official business; but no such account shall be approved unless it shall state the date and the particular items of every such expenditure, and shall be verified by the oath or affirmation of the collector.

The amendment was agreed to.

Mr. HOWE. On page 30, section twenty-seven, line twenty-five, after the word "taxes,"



I move to insert the words "with the penalty aforesaid;" so that the clause will read:

And if such person shall not pay the duties or taxes with the penalty aforesaid and the fee of twenty cents and mileage as aforesaid, within ten days after the service or the sending by mail of such notice, it shall be the duty of the collector or his deputy to collect the said duties or taxes and fee of twenty cents and mileage, with ten per cent. penalty as aforesaid.

The amendment was agreed to.

Mr. HOWE. On page 40, section thirty-two, line thirteen, I move to strike out the word "final" before "account," and to add the letter "s" to the word "account," so as to make it plural.

The amendment was agreed to.

Mr. HOWE. On page 41, section thirty-two, line fifteen, after the word "and" I move to strike out the words "within six months from and after the day when he shall have received the collection lists from the said assessors or assistant assessors, as aforesaid," and to insert "at least once in each month;" so that the clause will read:

And each of the said collectors shall complete the collection of all sums assigned to him for collection, as aforesaid, shall pay over the same into the Treasury, and shall render his accounts to the Treasury Department as often as he may be required, and at least once in each month.

The amendment was agreed to.

Mr. HOWE. On page 41, section thirty-three, line six, after the word "thereto" I move to strike out the words "and amount of penalties or forfeitures collected, and shall be credited with all payments of duties or taxes collected," and to insert in lieu thereof "with the par value of all stamps deposited with him, and with all moneys collected for passports, penalties, forfeitures, fees, or costs, and he shall be credited with all payments made as provided by law, with all stamps returned by him uncanceled to the Treasury, with the salary, fee, and commissions allowed by law;" so that the section will read:

Sec. 33. *And be it further enacted*, That each collector shall be charged with the whole amount of taxes, whether contained in lists delivered to him by the assessors, respectively, or delivered or transmitted to him by assistant assessors from time to time, or by other collectors, and with the additions thereto, with the par value of all stamps deposited with him, and with all moneys collected for passports, &c.

The amendment was agreed to.

Mr. HOWE. On page 42, section thirty-four, line nine, after the word "amount" I move to strike out the words "of the taxes;" and in line twelve, after the word "ascertainable," to strike out the words "in the office of the Commissioner of Internal Revenue;" so that it will read:

That if any collector shall fail either to collect or to render his account, or to pay over in the manner or within the times hereinbefore provided, it shall be the duty of the First Comptroller of the Treasury, and he is hereby authorized and required, immediately after evidence of such delinquency, to report the same to the Solicitor of the Treasury, who shall issue a warrant of distress against such delinquent collector, directed to the marshal of the district, therein expressing the amount with which the said collector is chargeable, and the sums, if any, which have been paid over by him, so far as the same are ascertainable.

The amendment was agreed to.

Mr. HOWE. On page 44, section thirty-five, line nine, after the words "fine of" I move to strike out the words "\$500 and to a forfeiture of his compensation," and to insert "not exceeding \$1,000;" and in line eleven, before the words "one year," I move to insert the words "not exceeding;" so that it will read:

That each and every collector, or his deputy, who shall be guilty of any extortion or willful oppression, under color of law, or shall knowingly demand other or greater sums than shall be authorized by law, or shall receive any fee, compensation, or reward, except as herein prescribed, for the performance of any duty, or shall willfully neglect to perform any of the duties enjoined by this act, shall, upon conviction, be subject to a fine of not exceeding \$1,000, or to be imprisoned for not exceeding one year, or both, at the discretion of the court, and be dismissed from office and be forever thereafter incapable of holding any office under the Government.

The amendment was agreed to.

Mr. HOWE. On page 45, section thirty-six, line two, after the words "assistant assessor" I move to insert the words "revenue agent," so as to allow revenue agents to enter any brewery, distillery, &c., in the day time for the purpose of examination.

The amendment was agreed to.

Mr. HOWE. On page 49, section forty-two, line eight, after the word "compensation" I move to insert the words "and for allowances."

The amendment was agreed to.

Mr. HOWE. On page 71, section sixty, line fifty-two, there is a misprint, I suppose. The word "or," at the commencement of the line, should be "on."

The PRESIDING OFFICER. That correction will be made.

Mr. HOWE. On page 158, section one hundred and five, line seven, after the word "him," I move to insert these words: "to be transmitted to the Commissioner of Internal Revenue, there to be charged to the account of such collector;" so that it will read:

Sec. 105. *And be it further enacted*, That for every passport issued from the office of the Secretary of State, there shall be paid the sum of five dollars; which amount may be paid to any collector appointed under this act, and his receipt therefor shall be forwarded with the application for such passport to the office of the Secretary of State, or any agent appointed by him, to be transmitted to the Commissioner of Internal Revenue, there to be charged to the account of such collector.

The amendment was agreed to.

Mr. HOWE. I am not instructed by the committee to move the amendment which I am about to move, but I will move to amend this same section in the third line by striking out "five" and inserting "ten" before the word "dollars."

Mr. SHERMAN. I think that would operate very hard upon the poor people who are naturalized in going back to their own country. A person who travels for pleasure ought to pay \$100; but there are a great many people who cross the ocean to see their friends in Germany and the old countries, and I think ten dollars for a passport would be an unreasonable tax and would be oppressive. Their fare is only about seventeen dollars, from ten to twenty-five dollars.

Mr. HOWE. I agree that an unreasonable tax would be oppressive. This does not strike me as an unreasonable tax. It is true it would be a large sum for a poor person to pay; but the number of poor persons who visit Europe I suppose to be very small. Indeed, I did not suppose poverty went so far to make a visit. I know that a great many people are in the habit of going to Europe who are not poor, and I never happened to know of one proposing to visit that distant country to whom the payment of ten dollars for a passport would be any obstacle. Such people may make such a trip; I have not happened to know them.

Mr. GRIMES. I have known a great many of them, men from my own town, neighbors of mine who are in quite moderate circumstances, quite poor, who, upon the death or in consequence of the sickness of their relatives in Sweden or Norway or Germany, have raked and scraped together money enough to enable them to go to the old country; but if you now put a burden of ten dollars upon them in place of allowing them, as we did last year or the year before, to go free—

Mr. FESSENDEN. Under the old bill we charged them three dollars.

Mr. GRIMES. And now to raise it to ten dollars would be burdensome to that class of people.

Mr. COLLAMER. I will ask the gentleman if very many of those people are naturalized, because foreigners do not have to obtain any passport.

Mr. GRIMES. They are naturalized generally. I think the amendment ought not to be adopted. The amendment was rejected.

Mr. HOWE. On page 179, section one hundred and nineteen, line twenty, I move to strike out the words "Commissioner of Internal Revenue" and to insert the word "collector."

The amendment was agreed to.

Mr. HOWE. On page 182, section one hundred and twenty-one, line twenty-seven, I move the same amendment, to strike out the words "Commissioner of Internal Revenue" and to insert the word "collector."

The amendment was agreed to.

Mr. HOWE. On page 184, section one hundred and twenty-two, line twenty-six, I move to strike out the words "Commissioner of Internal Revenue" and to insert "Treasurer of the United States."

The amendment was agreed to.

Mr. HOWE. On page 209 I move to strike out all of the one hundred and sixtieth section after the words "that the Commissioner of Internal Revenue," and to insert what I send to the Chair as a substitute.

Mr. FESSENDEN. I presume it is unnecessary to read the section proposed to be stricken out. Let the Secretary read what is proposed to be inserted.

The PRESIDING OFFICER. That course will be pursued, if there be no objection.

The Secretary read the words proposed to be inserted, as follows:

Shall cause to be printed or engraved upon all stamped vellum, paper, and adhesive stamps prepared after the passage of this act the date of the approval thereof, and thereafter he shall cause all stamped vellum, parchment, paper, and adhesive stamps to be distributed and delivered to the several collectors of internal revenue throughout the United States without prepayment therefor, so that each of said collectors and each of his deputies shall be kept constantly supplied therewith; and said collectors and deputy collectors shall at all times sell the same to parties applying therefor at the par value thereof. And each of said collectors shall be allowed a commission upon all such sales not exceeding four per cent., in addition to the compensation herein provided for other services, which commission shall be determined by the Secretary of the Treasury. And all sales of such stamped vellum, parchment, paper, or adhesive stamps, after the passage of this act, by the Commissioner of Internal Revenue or by any party other than such collectors, deputy collectors, their vendors, or by those who at that date were the bona fide holders thereof, is hereby prohibited: *Provided*, That the Commissioner of Internal Revenue may from time to time furnish, supply, and deliver to any manufacturer of friction or other matches, cigar lights, or wax tapers a suitable quantity of adhesive or other stamps, such as may be prescribed for use in such cases, without repayment therefor, on a credit not exceeding sixty days, requiring in advance such security as he may judge necessary to secure payment therefor to the Treasurer of the United States within the time prescribed for such payment. And upon all bonds or other securities taken by said Commissioner under the provisions of this act suits may be maintained by said Treasurer in the circuit or district court of the United States in the several districts where any of the persons giving said bonds or other securities reside or may be found, in any appropriate form of action.

The amendment was agreed to.

Mr. HOWE. On page 211, section one hundred and sixty-one, line eight, I move to strike out the word "thereof" and to insert "therefor." It is a mere verbal amendment.

The amendment was agreed to.

Mr. HOWE. On page 218, section one hundred and sixty-nine, I move to strike out all of the section after the word "that," in the first line, down to the commencement of the stamp schedules, and to insert in lieu thereof:

The Commissioner of Internal Revenue shall, immediately upon the passage of this act, deposit with the Treasurer of the United States, or with the Assistant Treasurer nearest to the place of engraving, all stamped vellum, parchment, paper, and adhesive stamps on hand and unsold, keeping an account thereof; and all subsequent issues of such adhesive or other stamps shall be deposited in like manner daily. And the Commissioner aforesaid shall demand and receive from all persons employed in the printing or engraving of such new issues sworn statements in duplicate, showing the whole number and par value of such new issues printed or engraved each day, one copy of which statements shall be preserved by the said Commissioner, and the other deposited with the First Comptroller of the Treasury. And the Secretary of the Treasury may, from time to time, make such further regulations as he may find necessary to insure the safe-keeping and prevent the illegal use of all such stamped vellum, parchment, paper, and adhesive stamps.

The amendment was agreed to.

Mr. HOWE. I move further to amend the bill by adding the following as additional sections:

*And be it further enacted*, That from and after the 1st day of July, 1864, the gross amount of all moneys received for duties, taxes, charges, or revenue, received by virtue of the act entitled "An act to provide internal revenue to support the Government and to pay the interest on the public debt," approved July 1, 1862, or any other act in force connected with the internal revenue, shall be paid by the officer, collector, or agent receiving the same into the Treasury of the United States without any abatement or deduction on account of salary, fees, costs, charges, expenses, or claims of any description whatever, any act or part of an act to the contrary notwithstanding.

*And be it further enacted*, That so much money as may be necessary for the payment of the expenses incident to carrying into effect the various acts connected with internal revenue which are or may be authorized and payable after the 1st of July, 1864, be, and is hereby, appropriated for that purpose, payable out of any money in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of the Treasury. And it shall be the duty of the collector or deputy collector of internal revenue, as the Secretary may direct, to act as disbursing agents to pay the aforesaid expenses without increased compensation therefor, who shall give good and sufficient bonds for the faithful performance of their duties as such disbursing agents for such sum and in such form as shall be prescribed by the First Comptroller of the Treasury; subject to the approval of the Secretary of the Treasury: *Provided*, That the aforesaid appropriation shall continue in force to the 30th day of June, 1865, and thereafter the Secretary of the Treasury shall embrace in his annual estimates the amount which, in his opinion, will be required for the expenses of this branch of the public service.

And be it further enacted, That all moneys now directed by law to be paid to the Commissioner of Internal Revenue shall, from and after the 1st of July, 1864, be paid into the Treasury of the United States, the party making such payment taking a certificate therefor, which certificate shall state the name of the depositor and on what specific account the deposit was made. The certificate of deposit, when transmitted to and received by the Commissioner of Internal Revenue, shall be considered a compliance with the law requiring payment to be made to such Commissioner, any act or part of an act to the contrary notwithstanding.

Mr. HENDRICKS. Some of these amendments seem to be very elaborate, and it is impossible to tell their effect from merely hearing them read. I think it is due to the Senate that the gentlemen who present them should make a very brief statement of them.

Mr. FESSENDEN. Do you mean the one just read?

Mr. HENDRICKS. I have noticed several proposed by the Senator from Wisconsin to the bill. My purpose merely is to suggest that a brief explanation ought to be made of the effect of the amendments. Of course I do not want a discussion upon them.

Mr. FESSENDEN. I will tell the Senator what all these amendments mean.

Mr. HENDRICKS. That is what I want to know.

Mr. FESSENDEN. We came to the conclusion, and the Secretary of the Treasury came to the same conclusion, that the system which has heretofore prevailed of making the Commissioner of Internal Revenue an officer who received large sums of money and disbursed large sums of money ought to be abandoned, and we should make him merely an executive officer, and disconnect him entirely with all that matter, as other officers of the Government of a similar description are, and therefore we had to make a great many amendments to the bill to accomplish that object. The last amendment, the Senator will notice, provides for the payment of all this money into the Treasury of the United States, and that the payments out of it shall be made by draft in the ordinary form. With the exception of a few verbal amendments, the other amendments that have been adopted on the motion of the honorable Senator from Wisconsin, who was charged by the committee with the duty of examining the bill thoroughly to see where it should be altered, were the necessary alterations to carry that improved system into effect.

The amendment was agreed to.

Mr. HOWE. I wish now to move an amendment upon my own responsibility, and then I will yield the floor. On page 49, section forty-three, line one, after the word "that" to strike out the words "the Commissioner of Internal Revenue, subject to regulations prescribed by;" in line four, after the word "Treasury" to strike out the words "shall be, and;" and after the word "authorized" in the same line to strike out the words "on appeal to him made, to remit, refund, and pay back all duties erroneously or illegally assessed or collected, and all duties that shall appear to be unjustly assessed or excessive in amount, or in any manner wrongfully collected, and also," and to insert the word "to;" so that the section will read:

That the Secretary of the Treasury is hereby authorized to repay to collectors or deputy collectors the full amount of such sums of money as shall or may be recovered against them or any of them in any court, for any internal duties or licenses collected by them, with the costs and expenses of suit, and all damages and costs recovered against assessors, assistant assessors, collectors, deputy collectors, and inspectors, in any suit which shall be brought against them or any of them by reason of anything that shall or may be done in the due performance of their official duties, and also compromise such suits and all others relating to internal revenue.

Perhaps I ought to say a word in explanation of this amendment. The amendments which the Senate has already agreed to have made a very essential change in the character of this bill. As the bill stood originally this whole revenue was placed under the control of the Commissioner of Internal Revenue. It was not only in his custody, but it was subject to his disposition. He audited the accounts and claims, and I do not know that there was any limitation to his authority to charge that fund with expenditures. He procured the printing of the stamps provided for the purpose of collecting a part of this revenue. He contracts for them as a matter of fact. The law gave him no directions whatever.

It has charged him with the duty of providing revenue stamps, but did not tell him how to do it, gave him no directions, no instructions, and imposed upon him no limitations; so that as a matter of practice, I understand, he contracts with competent engravers to furnish the Government with stamps, and they keep on hand enough to supply the Government. Stamps are like money in one respect, and in another respect they are a mere article of merchandise, because the law authorizes the Commissioner of Internal Revenue to sell them at a discount, to put them into the market and sell them by wholesale at a discount, and they are retailed at the price fixed by law; so that it was impossible upon that system of doing business for the Commissioner or for anybody else to know whether the amount of stamps afloat in the community was one million or one hundred million dollars. There was no possibility of his knowing anything about it.

The amendments which the Senate has already agreed to have provided that all the revenues collected under this bill shall be paid by the collecting agents just as the revenues derived from customs are paid into the Treasury of the United States, and being in the Treasury of the United States, they are under the same protection that the revenues derived from customs are, and can be only paid out upon appropriation; and every such payment is to be audited and adjusted hereafter as other payments have been heretofore. They provide also for placing these stamps under some restriction. That they are adequate for the protection of the Treasury I do not undertake to say. They afford some security, whereas before we had none.

There is one very essential advantage, I think, gained by these changes. The law as it stood, in addition to allowing the Commissioner to sell these stamps to everybody who would buy in sums of fifty dollars and upwards at a discount of five per cent., allowed him to sell such stamps as are required by the owners and proprietors of medicines at a discount of ten per cent., and then allowed him to select depositories wherever he chooses to do so, and to deposit with them these stamps without prepayment, and to allow them the highest rate of commission, which is ten per cent. for selling, taking of them a bond to pay over the proceeds once a month. By these amendments your stamps are disposed of by collectors. They are deposited with the collectors and their deputies throughout the whole country, and they are disposed of upon commission, never to exceed four per cent. in any case; and you have all these collectors and their deputies as their guardians. They are made the exclusive vendors of the stamps; they are made the guardians of this part of the revenue, and have an interest in watching over it and allowing no competitors in the work of selling stamps; so that I think this revenue is, by the amendments already adopted, placed in a more safe position than it was before.

But still there is one power given to the Commissioner of Internal Revenue in the section which I am now proposing to amend, which, it seems to me, if the Senate adhere to it, makes all the amendments you have agreed to entirely futile and useless; for I conceive that this section in the very words which I have proposed to strike out still gives the Commissioner of Internal Revenue unlimited and unrestricted authority over this whole revenue, all that part of it, at least, that is not derived from stamps; because it will be noticed that the words which I propose to strike out authorize the Commissioner of Internal Revenue—under regulations to be prescribed by the Secretary of the Treasury, to be sure—

On appeal to him made, to remit, refund, and pay back all duties erroneously or illegally assessed or collected, and all duties that shall appear to be unjustly assessed or excessive in amount, or in any manner wrongfully collected.

On appeal made to him, the Commissioner is authorized and empowered to remit and pay back to any man and every man just such part or the whole of his tax as he sees fit. This is on appeal to him, it is said; but it will be understood that this is not an appeal brought up to him regularly; it is an *ex parte* application made to him. It is heard on just such a case as the party sees fit to make up, subject, of course, always to the vigilance and integrity of the Commissioner of Internal Revenue.

The present law provides that these different

kinds of taxes shall be assessed by the assistant assessors. It gives to every man assessed a right to appeal to the assessor. It gives also to the Government the right to appeal to the assessor from the work of the assistant assessor. It is a qualified and *quasi* appeal that the Government has, and it is only to be exercised in certain cases. If an individual makes a return of the property he has to be assessed under oath, and the assistant assessor or the assessor is not satisfied with it, if he thinks it is not true, he may have a rehearing and investigation of it; he takes proof, examines witnesses, looks into papers, books, and all that on the subject of inquiry makes up the case, and if he judges the return to be untrue, then he imposes an additional tax, and the individual assessed can appeal also to the assessor, but the judgment of the assessor is final. After he has pronounced upon the sum that ought to be paid there is no further appeal. Then the warrant goes to the collector, and he is told the precise amount of money for him to collect of every individual. He collects it and it is paid into the Treasury. But when it gets to the Treasury, this provision which I propose to strike out tells any and every individual, "Let those papers, that evidence, that proof, remain with the assessor, but make your own application to the Commissioner; he has authority to remit any part of the tax that he sees fit." As I said before, if you give him that authority you will never know whether you have \$10,000,000 in the Treasury belonging to you or \$100,000; you will never know to whom the money in the Treasury belongs. It is for the Commissioner to tell you how much is yours and how much belongs to these individuals, and it is a power substantially in the Commissioner to adjust the taxation of every individual who is subject to taxation. I do not know of anything more dangerous than it is.

But now it is said that this authority must be somewhere, and it is said furthermore that it will not do to have this authority final in assistant assessor or in the assessor; I put it to the judgment of every Senator if it be not better made final with the assessor than with the Commissioner. The assessor is nearer the residence, the locality, of the person assessed. He has better opportunities of getting evidence, of examining the evidence in the case. He is likely to be as uninfluenced as the Commissioner, and is likely to be as unprejudiced as the Commissioner. Then he acts in the very community where the applicant lives, that is, in the very region, and the result of his action is going to be known. If he is perjured, if he is bribed, if he is dishonest, corrupt, or weak, and he remits the amount of this man's tax, it is known to the community. Then the collector knows how much the man pays. He makes it known to his neighbors, and the neighbors know whether he pays a less tax than those living about him. But when he makes an application to get a part of the tax he has paid out of the Treasury of the United States nobody knows anything about it.

It does seem to me that the only party who is ever going to be wronged in the assessment of these taxes is the Government. Individuals cannot be wronged. The power exists in the assistant assessor to do wrong, but he must do it willfully. In the first place, there is the oath of the party. Every man can limit the amount of his own tax by his own oath under this bill, unless his statement can be impeached by proof. When an individual goes to the assistant assessor with the schedule of the property that ought to be assessed and swears that that is true, the assistant assessor must take that as true unless he can impeach it upon proof. If he can find evidence that it is not true and submits that evidence to the assessor, the assessor may impose a higher tax. When the individual will not swear to his property, then the assistant assessor is directed by the law to get at the best estimate he can of the amount of property to be taxed, and to add a certain penalty, a certain percentage to it. It is meant to doom the man to pay an extravagant tax for refusing to make an exhibit of his property. In that case he may be injured, but it is his own fault, because he ought to have presented his schedule himself and sworn to it, giving this evidence himself. Therefore I see no probability, scarcely a possibility, for a man who is willing to pay an honest tax and will make an honest

return ever to be oppressed by the action of the assessor or assistant assessor.

But suppose we admit there is a possibility of this, can any one tell me that that possibility or probability is any greater or any more imminent if you allow final jurisdiction to be exercised by the district assessor than it is when it is exercised by the Commissioner of Internal Revenue? The Commissioner of Internal Revenue having this final jurisdiction, there is just one man who has in his power the whole revenues of the Union. But if you give this final jurisdiction to the several district assessors, if any one or more of them are utterly corrupt, the jurisdiction of each one is limited to his own district; some of them will prove honest and faithful, and you will get some revenue; you will have the satisfaction of believing that it is not all under the control of any one man.

The revenues collected from customs are put into the Treasury. When a man wants to get his duties remitted he must come to Congress, or, after there has been a trial in the courts and a judgment, upon the record of that judgment he may appeal to the Secretary of the Treasury, as I understand the law. Here no such necessity is imposed upon the party dissatisfied with the amount of taxes he pays under this bill. Without any trial, without any proof, without any contestant, he can appeal to the Commissioner, and the Commissioner has the authority to remit just as much of his tax as he sees fit.

I think the amendment ought to be adopted, and I hope it will be. I had not the authority of the committee to move the amendment. There was not a majority of the committee in favor of it.

Mr. FESSENDEN. I will simply say that the view which the committee had in relation to it (for this matter was discussed in committee) was simply this: they thought, taking the United States through, considering the number of officers and the number of persons in the community to be taxed, there would be very likely to be a great many errors in the assessment of these taxes, and that it would be rather oppressive to oblige every man who felt himself injured, and upon whom the taxes had been illegally assessed, to pay those taxes on the judgment of the assessor, and then come to Congress for relief; that there must be some officer charged with examining these matters and correcting the errors made by the assessors and assistant assessors. They concluded, therefore, to leave this section substantially as it is. We know how very difficult it is to get a bill through Congress, and we supposed that the matter would cost a great deal more to individuals than they would think it worth while to contend for by following it up. Besides the matter of fact, it might be very embarrassing to Congress itself. They concluded, therefore, to leave the Commissioner in the possession of this power.

The theory of our Government is that high officers are competent to discharge their duties and are honest men. If they are not, they should be removed and men in whom we have confidence should be appointed in their place. We cannot go upon the supposition that a man will abuse his power, especially a man holding an office of so much importance as this. It is an office of importance to almost every one under the Government.

The views which have been presented by my friend from Wisconsin are very strong, to be sure, but the committee could not, on the whole, come to the conclusion to strike out the section. It is for the Senate to decide. We have no feeling on the subject except to make the bill as good as possible.

Mr. HENDRICKS. I wish to ask the Senator from Wisconsin if by his amendment he proposes to take away from the Secretary of the Treasury the power to refund a tax after it has been paid into the Treasury because of an error on the part of the assessor.

Mr. HOWE. The Secretary of the Treasury has no such authority; it is the Commissioner of Internal Revenue; but it is all the same. I propose to take it from all of them.

Mr. HENDRICKS. I am not prepared to go that far.

Mr. CLARK. I hope this amendment will not be made, for the Senate will see at once that if all these assessors have the final power of adjudicating, and their decisions are to be final, we may have

a great many very different decisions in different parts of the country. A man in one State may be compelled to pay a tax at a different rate or on almost a different article from another man in another State. An assessor in one State will hold this to be right, and an assessor in another State or district will hold that to be right. There should be some supervising power; there should be some head to whom we can all come. If I pay taxes in New Hampshire and another man pays taxes in Missouri, he should pay the taxes upon the same rate and principle that I do. If this amendment should be adopted the assessor in New Hampshire may say, you shall pay so and so, and the assessor in Missouri may say, you shall pay differently; and there will be nobody to whom we can appeal to say how that fact shall be. There should be somebody to whom we can come, and the committee saw no better way than to retain this provision in the bill, and I hope it will be retained.

Mr. HENDRICKS. The amendment was lengthy, and the argument of the Senator from Wisconsin upon it was very able and lengthy; but I do not understand it very fully. It seems to me that when a tax has been paid into the Treasury, it ought not to be paid back again upon the discretion of any Treasury officer, but a correction should be made if a man is illegally assessed before the money is paid. I admit all that the Senator from New Hampshire says, that there are likely to be errors in the assessment; but they ought to be corrected before the tax is paid. If a man is wronged in the assessment, he ought to make his application before he pays the money. If the bill does not provide a relief of that sort, it should be so amended as to give him a remedy before he pays the money; but I am not in favor of allowing the Secretary of the Treasury to pay money out of the Treasury unless Congress appropriates it. It seems to me that money cannot be paid out except by an appropriation made by Congress.

Mr. CLARK. This does not provide for that. There is a provision, however, that the Commissioner may refund it; but if the section is retained, that may be corrected; so that we can have the appeal without the payment of the money, and have the assessment corrected.

Mr. HOWE. The difficulties which the Senator from New Hampshire desires to avoid I think are just as likely to be encountered by retaining this section, and a great deal more so, than by making the amendment that I propose. He says, if this jurisdiction be final with the several district assessors you may have a different rule of taxation in one district from what you have in another. The Commissioner of Internal Revenue under this bill as it stands is never going to settle any rule of taxation by any decision that he makes. Why? Simply because it is an *ex parte* application made by this individual or that to the Commissioner for some reason or other to remit a part of the tax that he has paid. He makes out his own case. The public never knows what it is unless the Commissioner sees fit to make it public.

But if such a provision was inserted in the bill as the Senator from Indiana suggests the case would be very different. The assistant assessor adopts some wrong principle or comes to some wrong conclusion from which the individual appeals to the assessor, or upon some appeal to the assessor the assessor adopts a wrong principle or comes to a wrong conclusion: what then? The individual is dissatisfied, still complains, and still prosecutes his appeal to the Commissioner of Internal Revenue or the Secretary of the Treasury. What is the result? Then the papers, the very proof which the assistant assessor or the assessor is acting upon, go out; the fact that there is an appeal is known to the community; the fact that this individual protests against the sum imposed upon him is known to the community; they look at the case; it becomes a piece of litigation in which the neighborhood are more or less interested, and with which they are more or less conversant. That makes a cause, and when that cause is decided that judgment will be as public as the cause was.

There is but little danger from such a course of procedure except the danger that arises from overwhelming the head of a single bureau with the number of these applications. Whether there is

any great danger of that or not, I cannot say. I should not have serious objection to such a provision as that; but this is a very different thing. This is an authority which allows the Commissioner to put his hand right into the Treasury, or rather to make the Secretary put his hand in any time on the application of any man to draw out to the extent of the whole fund there, or rather to the extent of that portion of the fund which the applicant has paid in.

The amendment was rejected.

Mr. CHANDLER. I now move to amend the amendment which has been adopted in committee on page 144 by striking out "thirty-five" and inserting "forty-five;" so that it will read:

On cavendish, plug, twist, and all other kinds of manufactured tobacco not herein provided for, from which the stem has been taken in whole or in part, or which is sweetened, forty-five cents per pound.

That will make it correspond with the tax already imposed on fine-cut.

Mr. HENDERSON. I hope that amendment will not be adopted. The Senator from Michigan seems to place its adoption upon the ground that forty-five cents has been levied upon fine-cut chewing tobacco. I do not know what is the state of case in Michigan; but in my State the very finest qualities of tobacco are put in fine-cut; there is no common or ordinary tobacco ever put up in that shape. So far as I am concerned, I should like to see tobacco graded so that the quality of tobacco that sells for less than twenty cents should be taxed so much, that over twenty cents so much, and that over thirty cents so much; but the Committee on Finance, as I understand, prefer not to grade tobacco, not to fix the price of the article, because in that way frauds have been committed. They have therefore undertaken to distinguish it by different kinds of manufacture. They place this tax of thirty-five cents on "cavendish, plug, twist, and all other kinds of manufactured tobacco not herein provided for." That includes tobacco which does not cost in my State over three, four, or five cents per pound in the leaf. Vast quantities of tobacco are manufactured in that shape; and to pay a tax of forty-five cents a pound on the manufacture of it seems to me to be a most exorbitant rate.

I will state that there is one article of manufactured tobacco named here, the article of twist, which in my State always includes in the manufacture a very fine article of tobacco; and the Senator might include "twist" in the forty-five-cent schedule; but I do not think we should include cavendish tobacco, which simply means plug tobacco. The word "plug" need not have been used after it in this clause. Cavendish, as I understand, was formerly a plug weighing so much, say eight or sixteen ounces, a half pound or a pound plug; but they now use the words "plug" and "cavendish" to mean the same thing. Either one would have been sufficient.

To charge forty-five cents a pound upon ordinary tobacco, a great deal of it lug tobacco that is put in the plug, will be doing injustice to the parties who manufacture that tobacco. It is now proposed to put it on an equality with fine-cut tobacco. I understand that in my State the very finest quality of leaf tobacco is manufactured into fine-cut. The manufacturer can very well afford to transport it, bulky as it is, because of its fine quality. It would be very hard upon the manufacturer of plug tobacco in the extreme West to compel him to pay a tax equal to the tax that is levied upon the very finest quality of tobacco. I know the Senator can answer me that very fine tobacco is put up in the plug. I am aware of that. The very finest qualities of tobacco are sometimes put up in that shape, and if it could be graded by the value of the article I should be perfectly willing to see it done; but inasmuch as the committee leave all these descriptions of tobacco together in this clause, of course it includes a very inferior quality of tobacco. I think it would be exceedingly unjust to put upon an equality with the fine-cut tobacco, which is generally put up in small parcels, and which can afford to be put in tin-foil. I think the amendment ought not to be adopted.

Mr. CHANDLER. The same qualities of tobacco precisely are cut and packed. In fact, some of the very highest grades, the highest-priced tobaccos are put up in the shape of a Virginia plug. What is called Virginia plug is a tobacco that sold for about a dollar a pound when this fine-cut



sold for sixty or seventy cents. I repeat, the same grades precisely are used in the fine-cut and in the plug and twist. This is an unjust discrimination, to charge upon one article of the same value forty-five cents, and upon the other thirty-five cents. I would not object to the Senator's proposition to tax them by grades; but I am told by the Committee on Finance that it is found utterly impossible to prevent frauds if they make these grades, and therefore they have adopted the policy of charging the same upon all of a particular kind of manufacture. I care not whether this tax be raised to forty-five cents or the other reduced to thirty-five cents; all I ask is that no unfair, unjust discrimination shall be made against the fine-cut. That is a business which is growing very rapidly, and is becoming a business of enormous magnitude. I should think the city of Detroit must have paid over a million dollars into the Treasury on the fine-cut upon the small tax we assessed last year, and will this year undoubtedly pay two or three millions; but the largest manufacturers there tell me that this discrimination of ten cents a pound will utterly destroy the business. I simply ask that they be equalized.

Mr. HENDERSON. Will the Senator permit me to ask him a question?

Mr. CHANDLER. Certainly.

Mr. HENDERSON. I really do not know what may be the case in his State, and I desire now to get some information on that subject, because it will control my vote in reference to the other point. I desire to ask him if the common grades of tobacco are ever cut in his State.

Mr. CHANDLER. They are sometimes; but there has been a competition among our tobacco-nists to produce the best article that can be found in the United States, and I think perhaps in Detroit they cut a better quality of tobacco than they do in any other State. There has been a sort of emulation, a competition between our manufacturers to see who should make the best article, and I think they cut, perhaps, a better tobacco than they do anywhere else; but still they do cut all grades. They cut every grade that they pack.

Mr. HENDERSON. But for fine-cut chewing tobacco do they cut any except the best grades?

Mr. CHANDLER. I say ordinary tobacco is cut.

Mr. HENDERSON. Commercially the word is understood, "fine-cut chewing tobacco." That is always a fine grade.

Mr. CHANDLER. They cut as many different grades as they pack. It is a mere matter of choice with them whether they will cut the finest or that which is not so good. Any chewer of tobacco will understand that he purchases very different qualities at different places, and that is owing to the quality of the leaf which is cut.

I hope this amendment will be adopted. I believe it will increase the revenue. If it should not be adopted I shall ask that the fine-cut be restored back to the tax of thirty-five cents a pound, where it stood before the committee took it out of that list. I think the amendment ought to be adopted. I think this is an unjust discrimination, and I think the Senate will not be disposed to make such an unjust discrimination against the cutters of our tobacco. I call for the yeas and nays upon the amendment.

The yeas and nays were ordered.

Mr. CLARK. I must confess I am somewhat in doubt whether this amendment offered by the Senator from Michigan ought not to be made. I do not feel entirely certain that we should discriminate between those different kinds of tobacco. When I offered the amendment in regard to fine-cut, I acted upon such information as I thought assured me in making that amendment. I am not entirely certain upon information that I have since received and a more thorough examination whether there should be any discrimination.

But there is another point to which I want to call the Senator's attention, and that is, the price of chewing tobacco. I have all the time been rather in doubt whether the tax of thirty-five cents upon chewing tobacco was high enough, and whether it would not be better to put on a higher tax. I submit to the Senate whether it may not be better to adopt this amendment, make the tax forty-five cents upon the grades of chewing tobacco, and then it will go to the committee of conference, and if there is a necessity of altering anything it can

be done. The difficulty that arises here is this: one man manufactures this kind of tobacco, another man manufactures that, and a third another kind; there is a rivalry between them; they are trying to crowd their own interest a little by the other, and I query whether we have not put a discrimination on fine-cut that ought not to be put upon it by the amendment that we have heretofore adopted.

Mr. HENDERSON. When the Senator from New Hampshire suggested the increase upon fine-cut chewing tobacco my idea was that the fine-cut chewing tobacco perhaps could stand an increase over and above the cavendish or plug tobacco, for the simple reason that in the plug tobacco there is a very ordinary quality of tobacco very frequently manufactured. Large quantities of it are manufactured in my State that will not cost over five cents a pound. I never heard of a cutter of tobacco there putting up tobacco unless it was a very valuable article, that is, very fine chewing tobacco; but it is a well-known fact that large quantities of very inferior ordinary tobacco are manufactured into plug. As fine-cut tobacco, therefore, was made of a higher grade I thought it could stand a superior tax. The Senator from Michigan says that inferior tobacco is sometimes put up as fine chewing tobacco. I was not aware of that. If such be the fact I am perfectly willing to put them on an equality.

My opinion is that thirty-five cents on all qualities of plug tobacco would be a very high price. I know there is a large quantity of plug tobacco that can stand forty-five cents, and I am perfectly willing to see it imposed; but if the committee will not make a discrimination as to price or grade I am unwilling to drive out of the business a large number of manufacturers in my State.

I have no interest in this. I am not in the interest of the tobacco manufacturers or anybody else. I do not own a pound of this article; I never did, and never expect to do so. I have been urged by some manufacturers in my State to see that a tax of fifty cents a pound be put upon tobacco; but I find that they are the owners of large stocks on hand, and they can afford to have a high tax. I find that the planters are unanimous against it. I find no farmer in the State in favor of an increase over and above thirty-five cents.

If, therefore, the Senator from Michigan insists on putting this tobacco on equality with fine-cut, if he thinks that otherwise it will discriminate against his State—I am sure I do not wish to discriminate against anybody—and if it be but just in the estimation of the Senate to put all qualities at the same rate, I am perfectly willing to vote so; but I do not think it would be just to impose this very extraordinary tax upon the large quantity of common tobacco that is put up in the western States. I could go on to state how it would operate very harshly against our manufacturers and farmers in the West; but I do not wish to occupy the time of the Senate or delay its action.

I have stated these facts, and I think I know of what I speak, without being influenced by the say-so of anybody. I have been urged by various parties to reduce or increase; but I have looked at it from a disinterested point of view. I am in hopes that no increase of this tax will be made. I would rather decrease the amount of the tax on fine-cut if it is calculated to be unjust, or I should be perfectly willing to put twist tobacco, which is always a superior quality of tobacco, with the fine-cut, and impose the same tax upon it. I never heard of twist tobacco that was not made of the very finest quality. Twist and fine-cut are always put up of the very best quality of tobacco, according to my notion of the manufacture, and I have seen an immense deal of it; but the plug tobacco is put up with an immense quantity of licorice put over it. It is common lug tobacco, as it is called by the planters. It is sent up the Mississippi river into Wisconsin among the choppers in the pineries, and is sent to the Indians in the Northwest. They buy large quantities of it, and it is put up expressly for that trade. Thirty-five cents would be a most exorbitant tax upon it. We know very well that the article that is chewed by individuals who can afford to pay these heavy prices is the fine-cut tobacco and the twist tobacco. I should be perfectly willing to put twist tobacco in that first grade; I would have no objection to that; but I do object to taxing all plug tobacco forty-five cents.

I think it would be exorbitant, and I do not think it would be well to do it.

The question being taken by yeas and nays, resulted—yeas 19, nays 14; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Collamer, Conness, Fessenden, Foster, Harlan, Harris, Morgan, Morrill, Ramsey, Sumner, Ten Eyck, Van Winkle, Wade, Wilkinson, Wiley, and Wilson—19.

NAYS—Messrs. Brown, Carlisle, Davis, Foot, Grimes, Henderson, Hendricks, Hicks, Johnson, Lane of Kansas, McDougall, Powell, Richardson, and Sherman—14.

ABSENT—Messrs. Buckalew, Cowan, Dixon, Doolittle, Hale, Harding, Howard, Howe, Lane of Indiana, Nesmith, Pomeroy, Riddle, Saulsbury, Sprague, Trumbull, and Wright—16.

So the amendment was agreed to.

Mr. CLARK. I move further to amend the bill on page 121, section eighty-nine, line thirty-six, by striking out the words "stemmed tobacco," to conform with the other amendments that have been made. We impose no tax on stemmed tobacco, and it is not necessary to retain those words. I move, also, in line thirty-eight, to strike out the words that were inserted by the committee, "or place of stemming," and the same words in line forty-four, "or place of stemming." They are not now necessary. I move, also, to strike out the words "stemmed tobacco" in line fifty-one and also in line fifty-three. On page 124, section ninety, line two, I move the same amendment, to strike out the words "stemmed tobacco." On page 125, section ninety-one, I move the same amendment, to strike out the words "stemmed tobacco" where they occur in lines four, eight, and twelve.

The PRESIDING OFFICER. (Mr. ANTHONY.) Those amendments will be made, if there be no objection.

Mr. CLARK. On page 125, section ninety-one, line eight, after the word "cigars," I move to strike out the words "upon which the duty imposed by law has not been paid," and to insert "which have not been inspected, branded, or stamped as required by this act, or upon which the tax has not been paid if it has accrued or become payable;" so that it will read:

That if any person other than the manufacturer shall sell, or consign, or remove for sale, or part with the possession of any manufactured tobacco, snuff, or cigars, upon which the duties imposed by law have not been paid, with the knowledge thereof, such person shall be liable to a penalty of \$100 for each and every offense. And any person who shall purchase or receive for sale any such tobacco, snuff, or cigars, which have not been inspected, branded, or stamped as required by this act, or upon which the tax has not been paid if it has accrued or become payable, with knowledge thereof, shall be liable to a penalty of fifty dollars for each and every offense.

The amendment was agreed to.

Mr. CLARK. On page 123, section eighty-nine, line forty-seven, after the word "manufacturer" I move to strike out the words "whether manufacturing for himself or others," and to insert "or the person for whom the goods are manufactured, as the assessor may deem best for the collection of the revenue."

The amendment was agreed to.

Mr. CLARK. On page 145, section ninety-three, I move to strike out from line four hundred and sixty-three to line four hundred and seventy-five, inclusive, in the following words:

On cigars known as cheroots or short sizes, made of ref. use tobacco, and valued at not over \$7 per thousand, \$3 per thousand.

On cigars, not otherwise provided for, valued at not over \$10 per thousand, \$5 per thousand.

On cigars, valued at over \$10 and not over \$20 per thousand, \$5 per thousand.

On cigars, valued at over \$20 and not over \$40 per thousand, \$15 per thousand.

On cigars, valued at over \$40 and not over \$75 per thousand, \$25 per thousand; valued at over \$75 per thousand, \$40 per thousand.

And to insert in lieu thereof the following:

On cigarettes made of tobacco inclosed in a paper wrapper, valued at not over \$7 per hundred packages, each containing not more than twenty-five cigarettes, \$1 per hundred packages.

On cigarettes made wholly of tobacco, and also on those known as cheroots or short sizes, valued in each case at not over \$6 per thousand, \$3 per thousand.

On cigars, valued at over \$6 and not over \$15 per thousand, \$8 per thousand.

On cigars, valued at over \$15 and not over \$30 per thousand, \$15 per thousand.

On cigars, valued at over \$30 and not over \$45 per thousand, \$25 per thousand.

On cigars, valued at over \$45 per thousand, \$40 per thousand.

And the valuation of cigars herein mentioned shall in all cases be the value of the cigars exclusive of the tax.

This amendment is necessary not only to pro-

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vide for the cigarettes, but also to prevent certain of these valuations from escaping the tax. For instance, take the cigars valued from \$10 to \$20 per thousand. If they cost \$11 without the tax and you impose a tax of \$8, they will not come up to the value of \$20; but if you impose the \$15 they do come up to that and will pay the tax; so that one assessor might impose the tax of \$8 and another of \$15. It is the practice of the assessors to value them with the tax on. I propose to change that and make it the rule for them to value them with the tax off. I leave the valuation or prices very much as they were in the old bill.

The amendment was agreed to.

Mr. FESSENDEN. With the leave of the Senator I move that at half past four o'clock the Senate take a recess until seven o'clock.

The motion was agreed to.

Mr. CLARK. I have one further amendment to offer. It is to insert at the end of section ninety-three, on page 146, the following:

And every cigar maker or apprentice cigar maker, or other person, before making any cigars, after the passage of this act, shall apply for and procure from the assistant assessor of the district in which he or she resides, a permit authorizing such person to carry on the trade of cigar making, for which permit he or she shall pay said assistant assessor the sum of fifty cents.

And every cigar maker or apprentice cigar maker, or any other person employed or working at the business of cigar making in any other district than that in which he or she is a resident, shall, before making any cigars in such other district, present said permit to the assistant assessor of the district where so employed or working, and procure the indorsement of said assistant assessor thereon, authorizing said business in said district, for which indorsement the assistant assessor shall be entitled to receive from the applicant the sum of ten cents.

And it shall be the duty of every assistant assessor, upon application of any cigar maker or apprentice cigar maker, or other person residing in his district, to furnish a permit, or to indorse upon the permit of the applicant, if resident in another district, authority to pursue the trade of cigar making within the proper district of such assistant assessor. Said assistant assessor shall keep a record of all permits granted or indorsed by him showing the date of each permit, the name, residence, and place of employment of the party named therein, the name and district of the officer who originally granted the same, or who may have made any subsequent indorsement thereon, and the name or names of the party or parties by whom the cigar maker or apprentice named in such permit is employed, or, if working for himself or herself, stating such fact.

And every person making cigars shall keep an accurate account of all the cigars made by him, for whom, and their kind or quality; and if made for any other person than himself, shall state in said account the name of the person for whom the same were made and his place of business; and such person shall, on the first Monday of every month, deliver to the assistant assessor of the district a copy of such account, verified by oath or affirmation that the same is true and correct.

And if any person shall make any cigars without procuring such permit, or the proper indorsement thereon, he shall be punished by a fine of five dollars for each day he shall so offend, or by imprisonment for such time as the court may order for each day's offense, not exceeding thirty days in the whole upon any one conviction. And if any person making cigars shall fail to make the return herein required, or shall make a false return, he shall be punished by a fine not exceeding \$100, or by imprisonment not exceeding thirty days.

And if any person, firm, company, or corporation shall employ or procure any person to make cigars who has not the permit or the indorsement thereon required by this act, he or they shall be punished by a fine of ten dollars for each day he or they shall so employ such person, or by imprisonment not exceeding ten days. And if any person shall be found making cigars without such permit or the indorsement thereon the collector of the district may seize any cigars or tobacco for making cigars which may be found in possession of such person, and the same shall be forfeited to the United States and sold, and one half of the proceeds paid to the United States and the other half to the collector making the seizure.

This amendment is necessary to prevent a great many frauds that are committed in the large cities by persons who manufacture cigars in out-of-the-way places, in cellars or garrets, and move about almost from day to day so that you can get no trace of them. They make cigars and go into the market and sell them and pay no tax on them at all. This amendment requires every cigar maker to procure a permit at a small price; the assistant assessor is to grant a permit to anybody who applies; and then they are to keep a record of the number of cigars they make and make returns to the assistant assessor, so that he can trace the matter. If he goes into a place and finds a

man making cigars in this way without a permit, he can take what he has got there and appropriate it; but as the law now stands he may go into a place where he finds a man making cigars in this way, but he cannot seize them; and when he comes back the next day he is gone. In that way, the business becomes, you may say, transitory and fraudulent.

Mr. FESSENDEN. It is a very good provision.

The amendment was agreed to.

Mr. HARRIS. I move a reconsideration of the vote taken a little while ago increasing the duty on plug tobacco from thirty-five to forty-five cents a pound.

Mr. CLARK. Allow me to inquire of the Senator if he desires to keep up the distinction or wants to reduce the tax on the low-priced.

Mr. HARRIS. I have no anxiety about it myself; but at the request of a Senator who desires to make a statement, I have moved the reconsideration.

The PRESIDING OFFICER. The Senator from New York moves to reconsider the vote increasing the rate of duty on "cavendish, plug, twist, and all other kinds of manufactured tobacco not herein provided for, from which the stem has been taken out in whole or in part, or which is sweetened," from thirty-five to forty-five cents per pound.

Mr. POWELL. I hope the Senate will reconsider that vote. The Senator from New Hampshire wished to know what was to be done after the reconsideration. I will state that I am willing to vote to reduce the fine-cut to thirty-five cents. That is the object I have in view. I am clearly of opinion that this manufacture will not bear a tax of forty-five cents a pound. I think it will ruin the business.

Mr. CLARK. I hope the vote will be allowed to remain as it is now. The tax is simply on the chewing tobacco, and each Senator can form his own judgment on the question whether chewing tobacco will stand the proposed tax. I suppose every Senator desires to have as large a tax imposed upon it as it will bear.

Mr. HENDERSON. I desire to correct the Senator. The first clause does not confine it to chewing tobacco; it does not say "all plug tobacco which is chewing tobacco." It does not define ~~it~~ to be chewing tobacco. Tobacco is very frequently put up in that shape and smoked.

Mr. CLARK. No person is compelled to smoke it; he need not do so unless he chooses; he can get the ordinary smoking tobacco, which pays twenty-five cents duty. If he chooses to take the plug, twist, or fine-cut that pays forty-five cents, and chew it, nobody will object, I think, and the Government will get the tax.

Mr. HENDERSON. You define the other as smoking tobacco.

Mr. CLARK. It is not necessary to define this as chewing tobacco, because everybody knows it is; but if a man chooses to smoke it there is no objection if he pays the tax.

Mr. HENDERSON. A cheap article of smoking tobacco is very frequently put up in plugs.

Mr. CLARK. It need not be put up in that shape.

Mr. HENDERSON. Certainly not.

Mr. CLARK. If a man desires to avoid the high tax he will not put it up in that shape; but if he does put it up in that shape as chewing tobacco, why not let him pay the tax? It is entirely at his option. This will not tend, as I understand it, to diminish the production of tobacco, because people will chew; and I apprehend they will chew just about as much if the tax be forty-five as if it be thirty-five cents. If you now put it back to thirty-five cents it will be precisely the grade fixed by the House of Representatives, and the question will not be before the committee of conference for consideration. I suggest that it had better be left as it is now, though I have no wish about it except to arrive at a correct conclusion, and give the country as large a tax on

the article as it will fairly bear, and not by and by carry it up again.

Mr. HENDERSON. I was perfectly willing to make a distinction between the different qualities of tobacco, to take the more valuable and impose a tax of forty-five cents a pound on it, and then take that which is less valuable and impose a tax of thirty-five cents a pound; but some of our western friends insist that it will not do to make any discrimination; and as our eastern friends too say it will not do to make a discrimination, and they get up first one quality and then hitch up another quality by dividing us, I insist that we reconsider this vote and then that we put them upon an equality if gentlemen will not make any distinction between the finer qualities of tobacco. My understanding is that fine-cut chewing tobacco is the very finest quality, and that it will not do to put up an ordinary article of tobacco in that shape. I thought, therefore, that that would stand a tax of forty-five cents; but if you impose a tax of forty-five cents a pound on the plug tobacco, one half of which is of the most ordinary quality, I say you almost ruin the business in Iowa and Missouri, and several other western States. The Senator from Michigan has stated a fact of which I was not before aware, that an ordinary quality of tobacco is put up and called fine-cut. I had thought differently. I know that the manufacturers who manufacture fine-cut very largely in my State always use a superior quality of tobacco. But if we are to be hitched up in this way, first on one side and then on the other, I insist that Senators representing States that are interested in this production do not suffer this interest to be entirely overcome and destroyed. For my part, rather than see a tax levied upon plug tobacco which it cannot stand, I will vote with the Senator from Michigan to reduce fine-cut to thirty-five cents. I wish to be perfectly frank on this subject and let gentlemen understand my position, not that I do not think the superior qualities can stand a tax of forty-five cents, but if Senators will make no discrimination I will accept the proposition and make none myself.

Mr. GRIMES. It seems to me that there is something radically wrong in the system that we have attempted to adopt here in regard to the tax on tobacco. Why there should be the same tax imposed on the meanest and most miserable quality of tobacco that there is on the highest quality of tobacco, I am utterly unable to perceive. We all know that the finest tobacco which is raised in this country is raised in the Connecticut valley. Such tobacco as finds a market at Springfield and Greenfield, Massachusetts, and Hartford, Connecticut, is worth four times as much as the best quality of tobacco that is raised in the West. Under this bill, although a million pounds of tobacco in the Connecticut valley may be worth \$4,000,000, and a million pounds of the best tobacco in Missouri or Iowa is only worth \$1,000,000, you tax that million pounds in Iowa or Missouri precisely as the \$4,000,000 worth of tobacco in the Connecticut valley. That seems very hard to my sense of justice and right.

Then, in order to make the thing still worse, we have to-day adopted an amendment by which we have declared that the meanest kind of lug tobacco, which is made out of the outside leaves of tobacco, such as the farmers in New Hampshire and Maine and Vermont use to destroy the hoof-rot in sheep and kill "ticks" in lambs, and which is hardly fit for any other purpose in the world, shall pay the same tax as the finest quality of cavendish tobacco that was worth a dollar a pound before this rebellion began. Does that look reasonable? Is it right that we should tax that miserable tobacco, which is hardly ever used except for the purpose I have stated, thirty-five or forty-five cents a pound, as much as we tax cavendish tobacco that gentlemen were willing to pay a dollar a pound for before the rebellion began? It seems to me not.

I trust that this amendment will be reconsidered, and that some scheme will be devised so that we shall have an equitable rule established by which

tobacco is to be assessed and pay according to what it is legitimately worth, and not to absolutely fix the same tax upon every quality of tobacco, whether it be good, bad, or indifferent.

Mr. CLARK. The Senator from Missouri speaks about hitching up one side and then hitching up the other. Will the Senator from Missouri bear in mind at whose suggestion one side was first hitched up?

Mr. HENDERSON. I can state that the Senator asked me about the grades of tobacco, and I told him that the finer articles of tobacco, the twist and fine-cut, could stand a higher tax. I stated so in my remarks; I state so now. I have stated every time I have been on the floor that there ought to be a discrimination between the superior quality of tobacco and the ordinary quality. I have stated that fine-cut and twist tobacco can better stand forty-five cents than ordinary plug tobacco can stand twenty cents; but I cannot get that discrimination; Senators will not let me have it. The Finance Committee insist that there can be no discrimination; that to allow it will lead to fraud. I do not desire to have the manufacturers in my State of the ordinary quality of tobacco broken up in order to get what I think is right. I think it is right to impose a superior tax on superior tobacco.

Mr. CLARK. Allow me to inquire whether the Senator is willing that the tax on fine-cut, which is now fixed at forty-five cents, shall go back to thirty-five with the rest.

Mr. HENDERSON. I do not think that is right; but rather than vote to break up the manufacturers of my State, I will vote to put these grades back on an equality.

Mr. CLARK. I desire mainly to avoid the discrimination; I do not care so much myself whether the tax is thirty-five cents or forty-five cents; I am willing to leave that to the judgment of Senators.

Mr. HENDERSON. I will not divide the western Senators on a subject of this sort. I desire to carry the measure, and I do not wish our people to be oppressively taxed.

Mr. CLARK. Everybody will see that you cannot have such a tax as the Senator from Missouri or the Senator from Iowa proposes. You cannot say that tobacco used to kill "ticks" shall be taxed but five cents a pound; that tobacco of the finest quality shall be taxed so and so, and the next quality so and so.

Mr. HENDERSON. Let me ask whether tobacco cannot be examined and graded by the inspectors just as well as whisky. You establish a grade for whisky; you say that a gallon of first proof shall pay so much, and that if it is double proof it shall pay double as much. Individuals acquainted with this business, inspectors appointed for the purpose, can tell the quality of tobacco just as well as a man can tell whether whisky is first or second proof. There is no difficulty about it. But the Finance Committee insist that it shall not be done; I say it ought to be done. I noticed the other day a sale of tobacco in Louisville, Kentucky, at four dollars a pound in the leaf. Suppose that tobacco is put up into chewing tobacco, is it right that it should pay no more tax than the lug tobacco spoken of by the Senator from Iowa which is put up into plug tobacco? I say not. That tobacco is not worth over three, four, or five cents a pound at the outside, even at the present high prices, and ordinarily it was worth from a cent and a half to two cents before the rebellion.

Mr. CLARK. Commercially, I suppose first proof and second proof are well known and established in reference to spirits. There is no first proof of tobacco.

Mr. HENDERSON. But there is first quality, second quality, third quality.

Mr. CLARK. But they run into each other; there is no distinct line of division. You may have plug tobacco good or bad, you may have twist good or bad, you may have cavendish good or bad, you may have fine-cut good or bad. You have to tax by the kind.

Mr. HENDERSON. You can have inspectors.

Mr. CLARK. Different inspectors would have different lines. Neither can you value it by the price; for if you say that tobacco valued at such a number of cents per pound shall pay so much tax, and so on, you would have the line fluctuating continually, and the man who was sharp

would get his tobacco of good quality under the line, and you would have continued frauds all the time. You must take some well-defined line, as between smoking and chewing, or the grades of chewing and smoking.

Mr. HENDERSON. I will suggest to the Senator, with his permission, that whatever efforts may be made by the manufacturers in my State with the view which he suggests, the very moment the tobacco is sent to New York and looked at by a purchaser there, he can tell the exact quality of the tobacco, and precisely what to pay for it. The difference in quality and price will be known to the inspectors and purchasers. When a box of tobacco is opened, I care not how it is branded, a man who knows anything of the business can tell within half a cent what it is worth.

Mr. CLARK. Let us see how that would work. A hoghead of tobacco is sent to the New York market. It is opened or sampled. The man who goes to buy it knows what he is willing to give for it. "I will give you so many cents," but can you leave that to an assessor about a tax? Can you permit the assessor to go and look into a hoghead and say what kind of tobacco that is, and how much tax he will put upon it? The law has got to fix the tax before he sees the tobacco.

Mr. HENDERSON. The very thing to which the Senator objects was done in the law of 1862.

Mr. CLARK. I beg the Senator's pardon. In the present law it is just as it is here: cavendish, plug, &c., fifteen cents; it is not graded by quality.

Mr. HENDERSON. It is in the law of 1862. I have it before me, and I will read from it:

"On tobacco, cavendish, plug, twist, fine-cut, and manufactured of all descriptions, (not including snuff, cigars, and smoking tobacco prepared with all the stems in, or made exclusively of stems,) valued at more than thirty cents per pound, fifteen cents per pound; valued at any sum not exceeding thirty cents per pound, ten cents per pound."

Mr. CLARK. If the Senator will go on he will find:

"On smoking tobacco prepared with all the stems in, five cents per pound."

And if he will go further he will find it more distinctly defined still.

Mr. HENDERSON. The Senator will admit that by that law the value of tobacco at thirty cents a pound was the dividing line; all over that was taxed fifteen cents; all under ten cents.

Mr. CLARK. As to that particular kind; and the frauds under that particular kind have been such that it is found absolutely necessary to ignore that line of division, or you will get the lowest tax on all.

Mr. HENDERSON. I am so informed by members of the Finance Committee; but I heard nothing before of frauds of this sort.

Mr. CLARK. I have occasion to know from information I have from the largest districts of the country where most of the tobacco is manufactured and sold, that such is the state of the case, and that the tax cannot be well enforced if that line of distinction be continued, and hence the House Committee of Ways and Means left it out entirely, and I believe the Finance Committee of the Senate are unanimous that you cannot tax it in that way and secure a revenue. We think the dividing line between smoking and chewing tobacco is distinct, and we have made but one grade of smoking tobacco for the purpose of securing the duty. I have no particular wish about this matter except that the tax should be made equal on the same kind. I was induced to recommend a tax of forty-five cents on fine-cut upon limited information. I do not think that distinction should be made.

Mr. GRIMES. I should like to inquire of the Senator why a distinction cannot be made as to the value of tobacco for the purpose of assessing it, as well as a distinction in the value of cigars?

Mr. CLARK. Because the value of cigars, as I am told, is determined very much by the way they are made; and we have provided that every box of cigars before it is put into the market shall be inspected by an inspector. We have several grades. He goes through and determines which of those grades the particular cigars fall within, and puts a stamp upon them. There is no such provision in regard to tobacco; there cannot be.

Mr. GRIMES. There is no such provision in the bill, I know; but perhaps the Senator is aware

that in tobacco-growing States there always have been inspectors of tobacco under State authority who have done that.

Mr. CLARK. Not in that way.

Mr. GRIMES. If the Senator would inquire of gentlemen representing tobacco States, of the Senators from Missouri and Kentucky, he would find that it is so.

Mr. CLARK. There are inspectors of chewing tobacco, but not in the way we have provided for cigars. The Senator asked me to give a reason why it should not be done in reference to tobacco as well as in reference to cigars.

Mr. GRIMES. I know there is no such provision here in reference to tobacco; but the Senator has failed to show me why such a division cannot be made in regard to tobacco as it is in regard to cigars. He says the cigars are made in different ways. So is tobacco. Nearly all cigars—we know how they are made—are made of Connecticut-grown wrappers, and the best qualities filled with Cuba filling. What is there peculiar about that? They are going to continue to make them precisely as they have been making them. I cannot see any reason why an inspector of tobacco cannot just as readily determine the value of the article as the inspector of cigars can determine the value of the cigars.

Mr. HENDERSON. I desire to be perfectly frank in relation to this matter. I think that the proposition as it has been adopted, as I told the Senator from New Hampshire at the time that he charged me with having told him that I—

Mr. CLARK. I charged the Senator with nothing.

Mr. HENDERSON. The Senator said that I suggested that the finer qualities of chewing tobacco could stand forty-five cents.

Mr. CLARK. No. I inquired who first made the suggestion.

Mr. HENDERSON. I admit that I so suggested, and I did it for the purpose of making a revenue; but I had no idea at that time that the Senator would take the most common qualities of tobacco and put them on an equality with the finest chewing tobacco. I stated to the Senator that a discrimination ought to be made between fine tobacco and the common kind, that they ought not to be put upon the same footing. Now, while I am up and am talking on this subject, I desire to call attention to an outrageous discrimination which has just been alluded to by the Senator from Iowa; and I have suggested it to the Senator from New Hampshire, but have never said a word about it in the Senate. A tax of 45 cents a pound upon common chewing tobacco which costs say five, six, or seven cents a pound after it is manufactured is a very high tax. If the tobacco costs 7 cents, a tax of 45 cents would be over 600 per cent. When you come to cigars, what is the tax? The article of which cigars are made is grown largely in the New England States, very largely in the State of Connecticut. What sort of discrimination is made here? While you impose a tax of three, four, or five hundred per cent. on manufactured tobacco which is grown in the western States, when you come to the article of cigars made of tobacco grown in New England, what sort of discrimination do you make?

On cigars valued at over \$10 and not over \$20 per thousand, \$5 per thousand.

Cigars worth \$20 per thousand pay \$8 a thousand as tax, 40 per cent., while you tax us five or six hundred per cent. I said at the same time to the Senator from New Hampshire, as he will bear me witness, that these cigars ought to be taxed higher.

Again:

On cigars valued at over \$20 and not over \$40 per thousand, \$15 per thousand.

Cigars worth \$40 a thousand are taxed \$15, or only 37½ per cent. Is there any equality about a thing of this sort? I say there is not, and I mentioned the matter in conversation to the Senator at the same time.

On cigars valued at over \$40, and not over \$75 per thousand, \$25 per thousand; valued at over \$75 per thousand, \$40 per thousand.

Cigars valued at \$75 or \$100 a thousand are taxed only \$40 a thousand by this bill, while you are taxing us three or four hundred per cent. on various articles of manufactured tobacco. If there is any justice in this I have failed to see it. I have never opened my mouth in the Senate in re-



gard to this discrimination, but I feel it my duty now to do it, and I call attention to it.

I called the attention of the Senator from New Hampshire to it, and I asked that it should be made equal. I said to him that I thought a tax of 35 cents a pound upon the various articles of plug tobacco was exorbitant. At the same time I stated to him that a tax of 45 cents a pound may be very well laid upon the finest article of fine-cut tobacco and upon twist tobacco, but it will be injurious to the other articles. If no other discrimination can be made, if the committee will consent to none other, then I will vote with the Senator from Michigan to reduce the tax entirely to 35 cents. I do not wish to be sectional; but if the manufacturers in our country are to be broken up, if Senators from New England will vote in a body and will make no discrimination, if after raising the finer quality with a view to get revenue they then bring up the coarser qualities of tobacco, I, for one, am ready, and I am frank in saying so, to go back and put it all at 35 cents apound.

**THE PRESIDING OFFICER.** It being now half past four, the Senate will take a recess until seven o'clock this evening.

#### EVENING SESSION.

The Senate reassembled at seven o'clock p. m.

#### EXECUTIVE COMMUNICATION.

**THE PRESIDENT pro tempore** laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 29th of April, a copy of the report made by the military commission appointed to examine into military operations in the Western department, of which commission Major General McDowell was president, together with all letters in the War Department touching the subjects embraced in that report; which was ordered to lie on the table.

#### HOUSE BILL REFERRED.

The joint resolution from the House of Representatives (No. 90) to refer the claim of Nahum Ward back to the Court of Claims was read twice by its title, and referred to the Committee on Claims.

#### D. FITZGERALD AND J. BALL.

**MR. CHANDLER.** I ask leave to withdraw the motion to reconsider the vote by which the Senate passed the bill (S. No. 244) for the relief of Daniel Fitzgerald and Jonathan Ball.

**THE PRESIDENT pro tempore.** It requires unanimous consent.

**MR. HALE** objected to its withdrawal, but subsequently said: Some explanation has been made to me which induces me to withdraw my objection to the withdrawal of the motion to reconsider by the Senator from Michigan.

**THE PRESIDENT pro tempore.** The objection is withdrawn; and the motion to reconsider is withdrawn if there be no further objection.

#### PUNISHMENT OF COUNTERFEITING.

**MR. VAN WINKLE.** I move to take up for consideration the bill (H. R. No. 455) to punish and prevent the counterfeiting of coin of the United States.

The motion was agreed to by unanimous consent; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that if any person, except as now authorized by law, shall hereafter make or cause to be made, or shall utter or pass, or attempt to utter or pass, any coins of gold or silver, or other metals or alloys of metals, intended for the use and purpose of current money, whether in the resemblance of coins of the United States or of foreign countries, or of original design, he shall, on conviction, be punished by fine not exceeding \$3,000, or by imprisonment for a term not exceeding five years, or both, at the discretion of the court, according to the aggravation of the offense.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### CENSUS IN 1865.

**MR. HARRIS.** I move to take up for consideration Senate joint resolution No. 45.

**MR. HALE.** What is it?

**MR. FOOT.** Before the question is put upon

giving unanimous consent, I think the mover or the Chair ought to direct that the title of the bill or joint resolution should be given so that Senators may know what it is, in order to decide whether they are to give unanimous consent or not.

**MR. HARRIS.** It is simply in relation to the taking of a census.

**THE PRESIDENT pro tempore.** The Senator from New York asks unanimous consent to take up Senate joint resolution No. 45 in relation to the taking of a census in the year 1865. Is there any objection to its present consideration?

**MR. COLLAMER.** I object on account of the present condition of the Senate. I wish to have such matters taken up in the Senate only when it is reasonably full.

#### COAL LANDS AND TOWN PROPERTY.

**MR. HARLAN.** I ask unanimous consent to take up for consideration Senate bill No. 264, for the disposal of coal lands and of town property on the public domain. I think it will not originate any discussion.

By unanimous consent the bill was read the second time.

**MR. FESSENDEN.** I think that is too much of a bill to be taken up in the present state of the Senate. We had better not proceed any further with it to-night.

**MR. HARLAN.** I will state to the Senator that it has been carefully examined by the Commissioner of the General Land Office and by the Committee on Public Lands. The object is to enable persons to obtain titles to town lots in advance of public surveys. Frequently towns spring up and have thousands of inhabitants many years before the public surveys are extended to them.

**MR. FESSENDEN.** I do not know but that it is all right; but in the present thin state of the Senate, with no one's attention called to it, it is hardly wise to take up a bill of that character.

**MR. HARLAN.** I will state to the Senator that this is a bill which will bring some money into the Treasury from the proceeds of coal lands and town lots.

**MR. FESSENDEN.** I do not know that I have any objection to it.

**MR. HARLAN.** We usually report bills appropriating money.

**MR. FESSENDEN.** We give something for the money we get, then; do we not?

**MR. HARLAN.** We are realizing nothing whatever from them now. The coal lands are lying idle.

**MR. FESSENDEN.** I have very great confidence in the Senator from Iowa, and in what he says; but I think the bill is too important to be considered in this thin Senate. I think we had better proceed with business regularly.

**MR. HARLAN.** I will consent to let it go over.

#### INTERNAL REVENUE.

**THE PRESIDING OFFICER (MR. ANTHONY in the chair).** The business before the Senate is bill H. R. No. 405, to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes. The pending question is on the motion of the Senator from New York [Mr. HARRIS] to reconsider the vote agreeing to the amendment of the Senator from New Hampshire [Mr. CLARK] raising the duty on certain descriptions of tobacco from thirty-five to forty-five cents.

**MR. CLARK.** I would not detain the Senate further if it had not been for a remark or two made by the Senator from Missouri [Mr. HENDERSON] in regard to this matter. He called the attention of the Senate to what he said was an outrageous discrimination in this bill, a discrimination between the tax on tobacco manufactured and on cigars, and then he called the attention of the Senate to the difference between the tobacco of the West and the tobacco of the East, and mentioned Connecticut.

Now, Mr. President, I desire to say, and I think the Senator from Missouri will believe me when I say, that in all this consideration of the taxation of tobacco or cigars, whether it was on chewing or smoking, it did not once enter my head at any time where the tobacco was manufactured, or where the tax would be levied. I had not thought over that until it was mentioned by the Senator; and I desire now entirely to put from me and that

the Senator should put from him all considerations of that kind; and if it shall turn out that tobacco of one kind is taxed unjustly when compared with another, I hope the Senate will rectify any mistake of that kind.

The Senator says that cigars are made in Connecticut, or rather the tobacco made for the covering of cigars is grown there, wrappers as they are called I think. I never use tobacco in any way, and perhaps if I mistake the terms I may be pardoned; I certainly should be at a loss to judge as to the quality, for I do not know anything about it from its use, though I have some information as to the manufacture. If it should turn out that there has been any injustice done to any portion of the country in that particular, I desire that it should be corrected; but I will ask Senators to turn their attention to the present law on the subject; and here I will state that I was entirely right before the recess as to what was the rate of taxation on tobacco now. I said there was no line of valuation in the tax. The Senator said there was in the act of 1862, and he read the act of 1862; but that is not the act under which tobacco is now taxed. There is no valuation of manufactured tobacco as now taxed. Tobacco is taxed under the act of March 3, 1863, and the provisions of that act are these:

"On tobacco, cavendish, plug, twist, fine-cut, and manufactured of all descriptions, (not including snuff, cigars, and smoking tobacco prepared with all the stems in or made exclusively of stems,) fifteen cents per pound."

Just in the same way that we propose to tax it, only not described in the same way. The act under which tobacco is now taxed lays a tax on all kinds of manufactured tobacco alike, a tax of fifteen cents a pound, with no valuation, no grade. We propose to follow the policy of the Government. The Government never did value manufactured tobacco except for a part of one year, and after a short experience they altered the law, and laid that valuation entirely aside, because it was so productive of frauds. We only propose now to follow the policy adopted more than a year ago, taxing the tobacco in the same way, but increasing the tax; and now, if the Senator from Missouri will give me a moment's attention, I think I shall show to him from the present state of the law and what we propose to do that we have not been unjust to the West nor partial to New England, taking it for granted that the tobacco from which chewing tobacco is made comes from the West, and taking it for granted, as he seems to suppose, that tobacco from which the best cigars are made comes from Connecticut. The present rate of taxation on manufactured tobacco is fifteen cents a pound. That is the tax we propose to make forty-five. That is just trebling the tax, making it three times as much as it was a year ago. Now, what is the present rate in regard to cigars? That will determine whether we have made an unjust discrimination or not. The present law is:

"On cigars valued at not over \$5 per thousand, \$1 50 per thousand."

We bring the tax on those cigars up to three dollars a thousand in this bill. Again:

"On cigars valued at over \$5 and not over \$10 per thousand, \$2 per thousand."

We say in this bill that the tax on cigars valued at over \$6 and not over \$20 a thousand shall be \$8 a thousand, four times as much. Then on cigars between \$20 and \$35 a thousand in value, we here put a tax of \$15 a thousand. By the present law cigars between \$10 and \$20 a thousand pay \$2 50 per thousand, and over \$20, \$3 50. We make a tax of \$40 a thousand, eleven times as much as it was before, and that is discriminating in favor of Connecticut. We only put three times the present tax on chewing tobacco, and we put eleven times on the higher-priced cigars, and that is an outrageous discrimination in favor of Connecticut. I hope the Senator will agree with me that I did not think anything about Connecticut when that tax was proposed; I had it not in my mind. My desire was to get the most revenue for the Government out of these things and not drive them out of consumption.

Now, let me make a suggestion to gentlemen of the West. They disagree among themselves as to the amount of the tax. If they will settle among themselves how their different grades of tobacco shall be taxed, giving the most revenue to the Government, I shall be entirely content,

provided the scheme is not full of frauds. I know the Senator from Michigan wants to raise revenue.

Mr. CHANDLER. Certainly I do.

Mr. CLARK. One Senator wants a discrimination between fine-cut and cavendish; another does not want it. If these gentlemen will settle among themselves what it ought to be—it is a matter of their own "superstition," as the Senator from Ohio [Mr. WADE] once said—and give the Government the revenue, I shall be entirely content. If there is any discrimination in favor of Connecticut, let the Senator from Missouri propose a higher tax on cigars, and if he can satisfy me that it will not drive them out of the market (and I shall be readily satisfied) I will go with him. All I desire is that the Senate shall fix the rate for itself; Senators can judge pretty much what the article will bear. They will bear in mind that this manufactured tobacco is the very best kind of tobacco used. Out of one hundred hogheads, perhaps thirty or forty can be used for manufactured tobacco; the very best production is assorted for that purpose. If this vote is reconsidered and the rate put down, if that is thought to be best, I am satisfied, or if it is retained I am satisfied; or if it is just that there shall be a discrimination, I am satisfied with that. I think a discrimination is not just; but if the Senate shall decide otherwise, I shall be content. I am not for a discrimination in favor of any article or any section.

Mr. HENDERSON. I desire simply to state that in 1863, when the original bill was passed, I made a lengthy argument in relation to the very distinction which was made between manufactured tobacco and manufactured cigars. I am upon the record on that subject.

Mr. CLARK. The Senator did not understand me as referring to his course?

Mr. HENDERSON. The Senator's remarks, however, would leave the impression that heretofore, two years since, when the discrimination was made, it passed and I made no complaint about it. I did make complaint when the original act was passed, and pointed out these very difficulties. I remember it distinctly. I have not referred to it since, but I did make an argument against the distinction made at that time. I said nothing then about the East or the West, the North or the South; but I did this morning refer to locality, and in speaking of it I did not intend to charge the Senator with designing to give any preference to the East or to any part of the country, but I did intend to let him know that I thought he did not understand the subject perfectly well. There are parties here who are eternally missing upon this thing and that thing being done for their own private interest; and the Senator, I think, does not know enough about this tobacco question (and he confesses that he does not) to discriminate clearly between the right and the wrong as may be suggested to him. That is my honest opinion about him, and I intended to say nothing more. I do not think the Senator intends to benefit any section of the country; I do not desire to be so understood; but I do think he has been imposed upon in regard to this thing.

Mr. CLARK. I have only this explanation to make: I did not refer to the Senator's course, nor did I intimate to the Senate how he had ever voted or what he had ever said on this subject, except what he said just before the recess in regard to a discrimination in favor of Connecticut. I endeavored to show that we had carried up the tax on cigars as much as we had on tobacco. That was the drift of my argument.

Mr. HENDERSON. You did not carry it high enough in the beginning; you did not make the proper discrimination at first.

Mr. CLARK. That is a prior matter. The Senator referred to me as making the discrimination. I only desired to show that on the basis of taxation which the Senate and House of Representatives had previously fixed, I had carried up cigars even higher than tobacco. I did not refer to the Senator. Now, it may be that I am deceived about this; I do not deny that I may be deceived; I have not so much information about it as I wish I had; but if I have been deceived, I am trying to correct one of the mistakes I have made in my judgment, because I think there should be no discrimination; but if the Senators will agree among themselves—

Mr. HENDERSON. The Senator insists that there shall be no discrimination. He has constantly used that phrase. Does he mean to say that an article of tobacco which costs two dollars a pound manufactured ought to pay no more revenue than the article the poor man buys at twenty cents a pound? Does he mean that there shall be no discrimination in that way?

Mr. CLARK. I do not mean any such thing, and I cannot well understand how the Senator can suppose that I mean any such thing. He knows very well that cavendish, plug, twist, and fine-cut were all proposed by the committee to be taxed thirty-five cents a pound. Upon the recommendation of some one, the tax on fine-cut was put up to forty-five cents a pound. What I mean by "no discrimination" is that fine-cut, plug, cavendish, and twist should stand alike.

Mr. POWELL. You mean that all chewing tobacco should stand alike?

Mr. CLARK. I mean now what I am saying to the Senator from Missouri.

Mr. HENDERSON. Do I understand the Senator to say that he thinks they ought all to be taxed exactly alike?

Mr. CLARK. Cavendish, twist, plug, and fine-cut. I think as they are manufactured and sold they are not always of the same grade. Sometimes just as fine tobacco is used in cavendish as in fine-cut, and so in plug, and so in twist.

Mr. HENDERSON. I desire to ask the Senator if he himself did not propose to amend this bill originally so as to leave the tax of thirty-five cents on cavendish, plug, and twist, and to put the fine-cut chewing tobacco at forty-five cents?

Mr. CLARK. I did on the recommendation of the Senator from Missouri.

Mr. HENDERSON. When the Senator asked me if there was no article of fine chewing tobacco that could stand a higher tax than this I did state to him, and I now again state to him, that if he will make the discrimination there are qualities of fine chewing tobacco which can better stand forty-five cents than the lower grade of plug tobacco can stand twenty cents. I told the Senator distinctly that I thought thirty-five cents was enough. But he had this matter in charge, and when he asked me the question I answered it as honestly as I could. He acted on the suggestion; he proposed it to the Senate and got the Senate to act on it, and put thirty-five cents on one quality and forty-five on another. I supposed that then it was settled; but since that the Senator himself votes for the proposition to increase the thirty-five cents tax, to put them all on the same footing. If they are all to go on the same footing, I say let it be thirty-five cents; and I hope the Senators from tobacco-growing States will stand by me.

Mr. CLARK. I think it will be sufficiently understood without my pursuing the matter further. I will only say that unless we adhere to some rule we shall leave the door open for frauds. I have been shown a specimen of one fraud that is practiced which I intended to present to the Senate; but I have not the sample here now; perhaps I may have it before the debate closes.

Mr. POWELL. It is not my purpose to occupy the Senate's time at any length. My impression is that the duty placed on manufactured tobacco in this bill is entirely too high, and the Senator from New Hampshire indicates that gentlemen from the West can fix the duty. I believe that if the Senate would allow us to fix it, we could come to a conclusion very readily, and make it very equitable and very just. I am clearly of the opinion that all these manufactured tobaccos should not bear the same taxation, there should be a discrimination between them. In the matter of cigars, I think there are proper discriminations. I believe there are five or six values of cigars, and they are taxed in proportion to their values. That, I think, is just and proper. Certainly you should not tax a cigar that is worth seven dollars a thousand as much as you do one that is worth seventy-five dollars a thousand. This bill properly discriminates between cigars, dividing them into something like five or six classes.

Now, sir, allow me to state to the Senate that there is just as much difference in the price and quality of manufactured tobaccos as there is in cigars, and why not make the discrimination in the manufactured tobacco? Before this war, in old

times, there was a great deal of manufactured tobacco sold in the box at eight cents a pound. There were other and finer qualities that sold for perhaps eighty cents, and some very fine perhaps for one dollar a pound. These were the prices before the war; there was every variety of price, from eight cents to eighty or ninety cents or one dollar before the war which caused tobacco to rise. Is there any reason why you should tax a pound of tobacco that is worth ten cents as much as you tax a pound of tobacco worth two dollars? There is certainly no reason why you should do it, yet it is done in this bill. There is no discrimination in this bill as it now stands between the manufactured tobaccos, I mean those manufactured for chewing purposes; they are all taxed the same amount, forty-five cents a pound; while on your cigars the tax is from three dollars a thousand to forty dollars, and when the difference in the qualities of the cigars is no greater than the difference in the qualities of tobacco. Why, then, do you make such a discrimination in cigars and not make it in regard to chewing tobacco? There is no reason for it.

I understand the Senator from New Hampshire says you cannot get along without having the chewing tobaccos all at the same rate without fraud. The Senator is very much mistaken in that. The only reason why he does not discriminate between the various prices of manufactured tobacco is that it will open the door for fraud. That is the Senator's reason, as I understand. Now, I say that there is just as much and as wide a door open for fraud in the cigars on the scale you have it here, as there would be in manufactured tobacco. How is it that you fix the amount of tax you lay on the cigars? It is on inspection and valuation by the agent of the Government, the assessor or inspector appointed by the Government. He inspects the cigars, he values them, and on those which do not cost over seven dollars a thousand the tax is fixed at three dollars a thousand, and he stamps them with the Government stamps prepared. Then those cigars that are not valued at over ten dollars a thousand are taxed five dollars; it runs on to six grades, I believe; and on cigars worth seventy-five dollars a thousand the tax is forty dollars. How do you ascertain these various grades of cigars and their value? By inspection and valuation, and when that is done they are stamped. Is there any more difficulty in ascertaining in the same way the prices and qualities of chewing tobacco? Not a bit. I know that some manufacturers have given the Senator information on which he relies, that you cannot ascertain the values and the prices of the manufactured tobacco, but I speak of what I know when I speak of this matter. I have had an experience in regard to the tobacco plant from my earliest recollection. I have seen it in every grade and in every form; and I do not care who it is that tells the Senator it is impossible to prevent frauds under a discriminating duty if you have honest appraisers who are judges of the article; that party who tells the Senator so is either mistaken or his purpose is to misrepresent and mislead the Senator.

Why cannot you examine and value and appraise the manufactured tobacco as readily as you can the cigars? What is the process by which you do it? If the manufactured tobacco is in a cask made of staves or in the form of a box, all you have to do is to open it and take out the tobacco and examine it. If your cigars are in boxes or bales, or in any other way in which you put them up, all you have to do is to open the box containing them and examine the cigars. A manufacturer, a man skilled in the article of tobacco, can tell the indifferent from the fine manufactured tobacco; and tell you all the grades, just as readily as any cigar manufacturer can tell you, on examination and inspection, the grades of all the cigars; and I will say to the honorable Senator that any man at all acquainted with tobacco and with this trade will tell the difference in the prices and qualities by inspection just as quickly and as promptly as the most skillful manufacturer in cotton goods in New England will tell him the difference between the coarser osenburgs and the finest goods which are worked up into shirts. They can value and fix the price and grades of the manufactured tobaccos just as easily as cigars. All that you have to do is to open the cask, the box, or whatever it is that contains the two, and inspect them.

Let the inspector, whoever he is, be a judge of tobacco and the price, and he will reach the result as unerringly and justly for the Government and all concerned in one case as the other.

My impression is that in order to tax tobacco justly, it is necessary to grade it. On that tobacco which is worth say thirty cents a pound, fix one tax, that which is worth forty cents fix a higher tax, that which is worth fifty cents fix a higher tax, that which is worth sixty or seventy cents or one dollar fix a still higher tax. I think the cigars are taxed in a proper and equitable mode in this bill. I think the grades are proper, and I tell the Senator what I know of my own personal knowledge, that there is no more difficulty in inspecting the manufactured tobaccos than there is in inspecting the cigars and fixing the proper value.

I have been beset by a great many persons about the tax bill. If a man comes about who has a large quantity of whisky on hand, in nine cases to one he will tell you that it will bear a very heavy tax; and if a man comes about that has a very large quantity of the lower grades of manufactured tobacco on hand, he will tell you to tax it all very high. We are surrounded, these lobbies are filled with men who have their personal interests to subserve, and they seek every Senator here and strive to impress him with that kind of knowledge which will cause him they think to subserve their interests. I dare say there are persons in my hearing now who are engaged in doing that. I am not going to censure them very harshly, for I know that in these times almost everybody is looking out for himself; but I want to look out for all, or at any rate for the greatest number.

The tobacco trade is a very important interest in the West; indeed, it is an important interest throughout the whole country. I know it is an article that will be taxed heavily, and it ought to be taxed heavily; but we ought to tax it justly. I hope this vote will be reconsidered, and that some gradation will be made in these taxes. Arrange the manufactured tobacco as you have the cigars; that which is low-priced fix a low tax upon; that which is high put a high tax on. If you impose a tax of forty-five cents a pound on tobacco which was worth only eight cents before the war, tobacco used by poor people, it will fall heavily and onerously on them; it is not right. On cigars that poor people use, the price of which is \$7 per thousand, you put a tax of \$3 a thousand, and it is plenty. Those that are worth \$75 a thousand you say shall pay \$40 tax; the rich men who use these fine cigars should pay for the luxury. So it ought to be in regard to tobacco. The Senator from New Hampshire is impressed with the idea that you cannot do it without fraud. I can assure him that he may dismiss that fear. Any Senator here who is personally acquainted with this business will bear me out in the assertion that you can readily arrive at the truth about the value and quality of tobacco. It is just as easy, and indeed many of the manufacturers tell me it is more easy, than it is to find out the quality of cigars.

But, Mr. President, if we have to stand a uniform tax, I greatly prefer that it should be thirty-five rather than forty-five cents; and if this vote shall be reconsidered, and the Senate will not make any grades, I shall then vote to reduce the fine-cut down to thirty-five cents. I would prefer to have this portion of the bill as it came from the Committee on Finance than to have it in its amended form.

Mr. CLARK. I hope I shall be pardoned a moment by the Senate, and not become tedious. The pending motion is a motion to reconsider the vote by which the Senate brought up cavendish, plug, and twist to forty-five cents, and put it on an equality with fine-cut. The motion is to reconsider that vote so as to let the tax stand forty-five cents upon fine-cut, and thirty-five upon cavendish, plug, and twist; but it does not involve all the discrimination of which the Senator from Kentucky has been speaking. There is no proposition before the Senate now to tax tobacco in that way, and therefore I shall not follow him in his line of remark. But I have had put into my hand, as I supposed I might before the session was through, an article of tobacco, a fraudulent article, put up to evade the tax, [exhibiting it.] Here is a leaf of tobacco put up in this way; there is no manufacture to it; the stem has been taken

out; it has been dipped in licorice and sweetened; it is of the very best quality; retails for \$1 50 a pound, and yet has paid no tax. It retails for that in this city, and has been bought since the Senate took the recess.

Mr. JOHNSON. What does that prove?

Mr. CLARK. It proves that somebody defrauds the Government. It proves, on the general principle of the proposition we have now before the Senate, that one method of taxation would have avoided this very fraud.

Mr. JOHNSON. The uniform measure for manufactured?

Mr. CLARK. No, sir. This tobacco is not manufactured, but it is sweetened. We have a provision in this bill that if the stem has been taken out, in whole or in part, and sweetened—

Mr. GRIMES. Let me ask the Senator what is the process of manufacturing tobacco?

Mr. CLARK. Not this.

Mr. GRIMES. I want to know what it is?

Mr. CLARK. Simply sweetening does not constitute it.

Mr. HENDERSON. The Senator from New Hampshire has produced an article of tobacco here that I suppose is worth one dollar a pound. It is a very superior article of tobacco, I can assure him. It is an article that the fine-cut tobacco is generally made of.

Mr. CLARK. The case is worse than I supposed. I find that this has not even been stemmed. I infer from this that fine tobacco will bear this tax.

Mr. FESSENDEN. I desire to give notice that if Senators do not come to a vote on this question pretty soon, I shall have to try to leave off chewing tobacco, and that will diminish the revenue largely. [Laughter.]

Mr. HENDERSON. I hope the vote will be reconsidered, and perhaps we can agree upon something in the course of a few minutes. I think it is but just that the vote be reconsidered, and then we can determine whether we shall put the rate back to thirty-five cents or else have a gradation.

Mr. FESSENDEN. The Senator is aware that however we may fix it in the Senate it has got to go to a committee of conference of the two Houses. Our action will not be conclusive. I think he will stand just as well by letting it go to a conference as it is now.

Mr. HENDERSON. But the period is so late, we are so near the close of the session that I fear the committee of conference may agree to the proposition as it is.

Mr. FESSENDEN. I suppose it is probable the bill will take the same course it did two years ago; the House of Representatives will refuse to concur in all our amendments and send it to a committee of conference at once, because if they attempt to go through with the bill in the House and act on each amendment, we may as well give up the idea of getting through this year.

Mr. HENDRICKS. I asked a member of the House of Representatives about that very question yesterday, and he said that there was no probability of that course being taken, but that the House would consider the amendments.

Mr. FESSENDEN. If they desire to stay here two or three months longer, they will; but my impression is that they will follow the usual course.

Mr. HENDERSON. The House of Representatives fixed the tax at thirty-five cents. If we reconsider this vote, and put it all again at that rate, there will be no difference between the two Houses for a committee of conference to consider; this point will be settled.

Mr. JOHNSON. There is a good deal of the inferior kind of tobacco if there be any difference in the kind (in my opinion it is all bad enough) made in Maryland, and from what I understand it is of that kind that will not bear a tax of forty-five cents. It is supposed—and in that opinion the Senator from Missouri concurs—that the finer kind of tobacco, fine-cut tobacco, will bear forty-five cents, and he and those who agree with him have no objection to levying a tax of thirty-five cents upon the other three kinds which are not able to bear the forty-five cents, and levying a tax of forty-five cents on the better kind which is able to bear it. But the honorable member from New Hampshire—and in that no doubt to a great extent he is correct—supposes that unless there is a uniform rate of taxation, fraud upon the revenue will be perpetrated, because it will be difficult, if not impossible, to prevent their bringing the

finer cut to look in appearance like the lower kind, so as to reduce all practically to the one tax of thirty-five cents. Now, if that be true, if that cannot be avoided, it would be most unjust to bring up the other three kinds which are not able to bear the tax of thirty-five cents to the tax which the better kind is able to bear. It would be much better, if uniformity is desirable for the reason stated by the Senator from New Hampshire, that we should put them all at a uniform rate of taxation. Then there can be no fraud perpetrated at all. It will be a specific tax upon chewing tobacco of every description. I hope, therefore, that the vote will be reconsidered, and that either the discrimination will be permitted to remain as against the fine-cut, or that all will be brought to a tax which the inferior kinds will be able to support.

Mr. CHANDLER. What I have been contending for is uniformity. If it is the judgment of the Senate that thirty-five cents is enough upon all classes of tobacco, fine-cut as well as plug, I am content; but it is this discrimination to which I object. A discrimination of twenty-five per cent. would utterly ruin every tobacco cutter in the United States, and yet the discrimination is greater than twenty-five per cent.; it is ten cents on thirty-five cents. As I stated before, if it is the judgment of the Senate and if the Committee on Finance will consent to fix the rate at thirty-five cents on the whole, I am satisfied, perfectly content. But I object to reconsidering this vote unless they intend to reconsider the vote by which forty-five was placed upon fine-cut, and I would ask the Senator from New Hampshire or the Senator from Missouri if it is his intention, should this be reconsidered, then to move to reconsider the vote by which forty-five cents was placed on fine-cut.

Mr. HENDERSON. I certainly shall do so if it be the desire of the Senator from Michigan. I have not changed my mind in regard to it. I think that tobacco can stand the tax, as I have stated repeatedly, a great deal better than the lower qualities; but if the Senator insists that they cut any considerable quantity of tobacco in his State of an inferior quality, I do not wish to oppress the manufacturers of that. I am sure the manufacturers of plug tobacco in my State cannot stand over thirty-five cents, but I do not desire to separate the interest of the tobacco-growing regions of the country, so that we in our own divisions will inflict a heavy and burdensome tax upon ourselves.

Mr. CHANDLER. Are the Committee on Finance satisfied that thirty-five cents is enough? I ask the Senator from New Hampshire. I object in toto to a reconsideration of this vote unless the vote placing forty-five cents on fine-cut is to be reconsidered.

Mr. FESSENDEN. I suggest to the Senator that by voting we shall ascertain what the Senate intends. Do let us vote. It has been discussed for hours.

Mr. CLARK. I will say to the Senator from Michigan that I am well satisfied it can bear a tax of forty-five cents; and I want to keep it there.

Mr. CHANDLER. Then I hope the vote will not be reconsidered.

The motion to reconsider was agreed to—ayes twenty-four, noes not counted.

Mr. CHANDLER. I now move a reconsideration of the vote by which fine-cut was taxed forty-five cents.

The PRESIDING OFFICER, (Mr. ANTHONY.) The question now is on the amendment which has just been reconsidered—the amendment of the Senator from Michigan to strike out “thirty-five” and insert “forty-five.”

Mr. JOHNSON. Upon the whole?

Mr. FESSENDEN. Upon cavendish, plug, twist, &c. All we have done is to reconsider the vote agreeing to that amendment. Now we must put the question on the amendment.

The amendment was rejected.

Mr. CHANDLER. I now move to reconsider the vote by which forty-five cents was levied upon fine-cut.

The PRESIDING OFFICER. The Senator from Michigan moves to reconsider the vote on the amendment on page 145:

On fine-cut tobacco, whether manufactured with the stem in or not, or however sold, whether loose, in bulk, or in packages, papers, wrappers, or boxes, forty-five cents.



Mr. POWELL. That was adopted in committee. The motion should be to strike out "forty-five" and insert "thirty-five."

Mr. CHANDLER. I move, then, to strike out "forty-five" and insert "thirty-five."

The PRESIDING OFFICER. The proper motion would be to concur with the Committee of the Whole in this amendment.

Mr. CLARK. A motion to amend can be made before concurring.

The PRESIDING OFFICER. The Senator from Michigan moves to amend this amendment by striking out "forty-five" and inserting "thirty-five."

Mr. CHANDLER called for the yeas and nays; and they were ordered.

Mr. CHANDLER. Mr. President, this is a proposition to break down every single cutter of tobacco in the United States. There is not one of them who can live a week under that unjust and wrong discrimination. If you make your tax forty-five cents or fifty-five or seventy-five, I do not care where you put it, let cutters stand on an equality with packers; do not make this unjust, wrong discrimination that will utterly destroy their business. The city of Detroit alone paid about a million dollars of your revenue last year, and under this new law she will pay from two to three million dollars the coming year; and yet you will shut up every single tobacco cutter in that city with this discrimination. No business can stand it for a month. There is not a tobacco cutter throughout the country that will not tell you the same thing. You will find a few men who have large stocks on hand who think they can make more by the rise on tobacco than they can by their legitimate business, who have been here lobbying to have a heavy tax put upon this tobacco. But every legitimate tobacco cutter in the country will tell you that a discrimination of twenty-five per cent.—and it is more than that—will break down every one of them. I supposed when the other motion to reconsider was made that the Senate had decided to make the tax thirty-five cents all around instead of forty-five, and that satisfied me. I had no complaint to make of that; if that was to be the judgment of the Senate I would not contest it; but I supposed it was distinctly understood that you intended to reduce the tax on all to thirty-five cents, as it originally stood. I hope that Senators will do justice, and not shut up and utterly destroy the business of all the tobacco cutters in the country. It is unjust.

Mr. POWELL. I hope the amendment of the Senator from Michigan will prevail. I am confident that thirty-five cents is as much tax as they can bear, and I think it ought to be reduced to that. When you bring it to thirty-five cents, that will be what it was left by both the House bill and the report of our committee. When we undertook to reconsider, it was my understanding that we would vote to bring it all down to thirty-five cents where it stood. I hope gentlemen in the tobacco interest will so vote. That will leave it precisely where it was when the bill came from the other House, and the way it was when our committee made their report. I hope the motion of the Senator from Michigan will prevail.

Mr. CLARK. I will say again what I have said so many times, that I think there ought to be no discrimination. If the Senate do not assent to forty-five, bring it down.

Mr. HENDERSON. As I have said repeatedly, so far as my own State is concerned, only the finer qualities of tobacco are there made into fine-cut, and it could stand a tax of forty-five cents very well, and so could twist; those are the finest qualities of tobacco. But the Senator from Michigan says that in his State they cut an inferior quality of tobacco and call it fine-cut. I am perfectly willing to see it reduced to thirty-five cents in consideration of the fact that they cut inferior qualities of tobacco; but so far as my State is concerned, the manufacturers could stand forty-five cents on this much better than thirty-five on the other qualities.

Mr. DAVIS. I never had but one chew of tobacco in my life, and I never had in my mouth but one cigar, and that only for a very short time, for it made me very sick. Still, I know something about tobacco. There are some counties in my neighborhood that are very heavy tobacco-producing counties. Any man that ever worked in

tobacco, the most ignorant negro that ever worked in tobacco, knows that there is a very great difference in the qualities of tobacco naturally as they are produced, and he knows that an inferior article of natural tobacco can never be manufactured into a superior article of manufactured tobacco. The grades in tobacco exist as distinctly, and are just as easily detected, as they exist in cloths of woolen or cotton or any other products of manufacture. You cannot manufacture an inferior article of tobacco in any form that will enable it to pass with a judge or connoisseur of tobacco as superior tobacco. The Senator from New Hampshire brought a specimen of tobacco into the Senate this evening. It is perfectly preposterous to say that such an article of natural tobacco as that would ever be attempted to be manufactured and sold as an inferior tobacco. It is like making a Christian and a good Christian; you must first have a good man to begin with or you will never make a good Christian. To make a good article of manufactured tobacco, you must have a good original article of tobacco, you must have a good leaf. It is just as easy for any man that has been engaged in the rearing or manufacture or sale of tobacco to detect the difference of quality, of price, and of value, as it is for any one to detect them in any other article. It is easier, as my colleague has said, to discriminate in the qualities of tobacco than in the qualities of cigars; and any tax bill upon either of those subjects ought to make classes and discriminations. I think the Committee on Finance ought to make four or five different classes of tobacco, and in that way the tax would operate much more justly on tobacco producers, tobacco manufacturers, and tobacco sellers, and would yield a much larger amount of revenue.

Mr. HALE. I do not pretend to know anything about tobacco, but I think there is one principle for which the honorable Senator from Michigan contends in regard to which he is entirely wrong, and that is that there should be no discrimination between high and low-priced tobacco.

Mr. CHANDLER. The Senator has misunderstood me altogether. I never took that position. I simply say that the tobacco manufactured into plug is the same kind and material that is made into fine-cut. Discriminate in price, if you will, but do not discriminate against this particular kind of manufacture when the same identical grade is used in this as in the other.

Mr. HALE. I do not understand it to be so.

Mr. CHANDLER. It is so.

Mr. HALE. The Senator says it is so in Detroit. I do not understand it to be so generally. The denunciation of discrimination strikes me as entirely wrong, for the whole bill is founded on discriminations; it is discriminating constantly between a good article and an inferior article. I understand that the fine-cut tobacco proposed to be taxed 45 cents a pound is the highest-priced tobacco we have of that character, and the honorable Senator from Missouri, who is conversant with it, says he thinks it will stand it. If so, I think there might be a little discrimination there as well as anywhere else. I do not know anything about tobacco, but I do know something about common sense, and I think common sense is that you should discriminate and tax a high-priced article more than you do a low-priced one.

Mr. BROWN. Permit me to suggest to the Senator from New Hampshire that the objection which is taken is not to a discrimination as to the price or quality of different kinds of tobacco, but an objection which is predicated simply on the difference between fine-cut and plug, the method of manufacture. He contends that the same tobacco takes both shapes.

Mr. CHANDLER. And he discriminates between the man who manufactures his tobacco into plug and the man who cuts his tobacco in strips. That kind of discrimination, I say, is unjust.

Mr. HALE. I do not understand the fact to be so.

Mr. CHANDLER. I will inform the Senator that the same grade of tobacco is used in fine-cut and plug, and if there is any difference, it is actually a higher grade that goes into plug. What you propose to do is to make an unjust discrimination between the manufacturers of the article, and say that because this man packs and that man cuts, therefore the man who cuts shall pay

you forty-five cents a pound, or thirty per cent. more than the man who packs. I say that is an unjust discrimination.

Mr. HALE. As Senators undertake to post me up on tobacco, I want to inquire whether this fine-cut when it is—

Mr. CHANDLER. Learn to chew, and then you will know. [Laughter.]

Mr. HALE. I am afraid that if I take that cure, I shall take something I do not want. [Laughter.] My question is whether, when it is manufactured into fine-cut, it does not then become a finer tobacco than plug?

Mr. CHANDLER. No; it does not.

Mr. HALE. I give up. I see I do not know anything about tobacco.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Michigan, to strike out "forty-five" and insert "thirty-five."

The question being taken by yeas and nays, resulted—yeas 32, nays 3; as follows:

YEAS—Messrs. Anthony, Brown, Buckalew, Carlile, Chandler, Clark, Collamer, Cowan, Davis, Doolittle, Fessenden, Foot, Hale, Harlan, Harris, Henderson, Hendricks, Howard, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morrill, Powell, Ramsey, Richardson, Sherman, Ten Eyck, Van Winkle, Wilkinson, Wiley, and Wilson—32.

NAYS—Messrs. Grimes, Morgan, and Sumner—3.

ABSENT—Messrs. Conness, Dixon, Foster, Harding, Hicks, McDougall, Nesmith, Pomeroy, Riddle, Saulsbury, Sprague, Trumbull, Wade, and Wright—14.

So the amendment was agreed to.

Mr. WILSON. I offer an amendment to the fifty-fourth section. I move to strike out from the word "of," in the fifth line, to the word "which," in the fourteenth line, and to insert:

On and after the 1st day of July, 1864, and prior to the 1st day of October, 1864, a duty of \$1 25 on each and every gallon; on and after the 1st day of October, 1864, \$1 50 on each and every gallon; and on and after the 1st day of July, 1865, a duty of \$3 on each and every gallon.

Mr. HENDRICKS. I had designed to offer an amendment to this section as representing, to some extent, the interest that is affected by this legislation. If the Senator from Massachusetts, however, assumes to know what are the true interests of the production which he proposes now to tax, perhaps I cannot well appeal to him to withdraw his amendment that I may present the one which I have considered.

Mr. FESSENDEN. Let us vote on this. It will be easier in that way to reach yours.

Mr. HENDRICKS. My amendment is to tax whisky \$1 for one year, and \$1 50 after that. It is substantially the House proposition, which I think is fair to the interest and fair to other sections of the country.

Mr. FESSENDEN. I will state to the Senator that from the opinions expressed by Senators I should not suppose there was the slightest chance of his amendment being adopted; but we can take the vote and see.

Mr. HENDRICKS. I do not wish to discuss it, but to vote upon it.

Mr. WILSON. I do not know that there is any chance to secure the adoption of this amendment, and I do not know that there is any chance to make a bill to obtain the revenue the country requires at this time. I do not suppose that any man in the Senate believes we shall raise by this bill within one hundred and twenty-five or one hundred and fifty millions of the sum the country ought now to have. I believe we ought to increase the duty on whisky; I have made this motion because I believe it, and I am also ready to increase the duty on manufactures. I would most cheerfully put manufactures at seven per cent., and I would rather vote to put the tax ten per cent. than allow it to stand at five per cent. Better overtax than undertax now. In voting to increase taxation I vote for the best interests of the whole people of the country. This bill is not I am now sure to accomplish what we have been talking about all winter. We all said that we intended to raise the amount of \$350,000,000 to support the Government; and we have this measure which we all admit will not do it. We may raise by the 1st of January two dollars per gallon on whisky. We ought to have the duty on tobacco higher than it is in this bill. I make this motion, and I am ready to move to increase the duty on manufactures in the ninety-third section of the bill. The tax is now five per cent., and I am ready to put it up to seven, and where it is three

per cent. to put it up to five, and by that means we may raise nearly the amount of revenue we ought to raise now to support the sinking credit of the country.

Here we are to-day, sir, with General Grant in front of Richmond, with General Sherman in Georgia, with the country full of hope and confidence in the success of our armies, and yet during this week gold is going up in the city of New York. The Government wants millions to meet the immediate demands upon the Treasury to pay the Army. Here we stand on this the 3d day of June higgling about the rates of taxation!

Mr. JOHNSON: I do not know whether the honorable member means to impeach at all the wisdom of the Senate. [Mr. Wilson. Not at all.] I suppose he does not mean to impute the delays and the results which have been the consequences of the delays to any procrastination on the part of the Senate or on the part of the committee of the Senate to whom the subject has been referred. Whatever unnecessary delays may have existed, if there have been any, which I do not propose to assert, are to be referred to another branch of Congress. When the honorable member tells us that gold is going up and our armies are apparently about triumphing over the foe, and he intimates perhaps, or will be understood as intimating, that Congress is not willing to lay such an amount of taxes as will be adequate to meet all the wants of the country, I am sure, from the manifestation of the opinion of the Senate, that he does great injustice to the Senate. I suppose there is not a member of the Senate who is not willing to tax to the whole extent that may be necessary to meet the demands which the exigency requires. He supposes that this bill will not raise as much as those exigencies do require. The estimate as I understood—whether I have been informed correctly or not I do not know; I did not get it from the Department itself—of the probable proceeds of this bill was some \$250,000,000. Whether the taxes proposed in the bill as it was originally drafted have been in the aggregate reduced or increased, I do not certainly know; I rather think they have been increased. The honorable member is better acquainted than I am with what the support of the armies may require; but if we can get \$250,000,000 or \$260,000,000 from this bill, and get an increased amount of revenue from the tariff bill so as to reach a total of \$100,000,000, making \$350,000,000 or \$400,000,000, I should suppose it would really meet all the demands that the occasion may require; but of one thing I think the country must be satisfied, I am sure they should be satisfied, from the exhibition which the Senate has made of its own opinion as a body and the opinion of each one of its members, that as far as depends on this branch of the Legislature there will be no want of patriotism and no want of wisdom in exerting the whole power with which it is clothed to meet to the utmost every possible demand which there may be upon the Treasury.

As to gold going up at this time, it is not at all to be wondered at. The currency of the country has been very much inflated; whether unnecessarily inflated to any extent I am not prepared to say, but to a certain extent it was necessary to inflate it. The demands of the Treasury required, in order to be met at all, that they should be met by an issue of paper; and while those demands were being met in that way, the demands in the country, the business demands of the country, which are supplied more or less by bank accommodations, also required that the circulation of the banks should be increased partially, and the effect of the increase from both sources has been to cause an inflation of the currency which must inevitably lead to the appreciation of gold; gold now being an article of commerce, of trade, and not a measure of value, not money in the ordinary acceptation of the term, not used as money but used as an article of traffic, will go up from time to time in spite of us. My friend who is near me [Mr. SHERMAN] supposed that by each of the two measures which he so zealously advocated, (and in that opinion I believe he had the concurrence of the Secretary of the Treasury,) the appreciation of gold might be arrested to a certain extent if those measures were adopted. They were adopted, but they have had no practical effect.

Mr. SHERMAN. My friend will allow me to say that the measure we discussed here has

never been adopted by the House of Representatives. It has not been acted upon.

Mr. JOHNSON. One was adopted.

Mr. SHERMAN. One is pending.

Mr. JOHNSON. One was adopted and gold still goes up. I do not think we can avoid it by legislation of that description. I think we can only avoid it ultimately—I do not mean to-morrow or next week or next month, but soon; I do not mean any indefinite period, but soon we shall be able to bring about a better state of things, and that will be later or sooner just as may be the success of our arms and just as may be the determination of Congress to meet by legislation in the form of taxation every demand which there may be upon the country.

Mr. SHERMAN. I do not intend to delay the Senate by repeating my conclusions about the whisky matter. The subject was discussed the other day at full length. I was then asked by Senators what I supposed was the amount of stock on hand and what was the amount of manufacture since the proposed increase of tax. I have taken the pains to get a statement from the Bureau of Internal Revenue, and I find that even my anticipations were largely too low. The amount of whisky on which a tax has been paid since the 1st of December last is 41,400,619 gallons, an amount more than ever was manufactured in the same length of time before in this country; and this does not include the large amount of whisky now held by distillers in bond or removed for consumption and held in bond in bonded warehouses. The only effect of a graduated tax is to encourage the manufacture of it from this until the 1st of January next, adding to the enormous stock there must now be on hand.

The Commissioner estimates the stock on hand as equivalent to one half year's supply, but it is obvious that the stock on hand, I think, is fully equivalent to one year's supply, because if a tax has been paid on 41,000,000 gallons in five months, (and this does not include the month of May; it is only to the last day of April,) and you add the amount that was made in May, which was probably equivalent to 8,000,000 gallons, that having been the average of the five preceding months, and add to that the amount already in bonded warehouse upon which the tax is not paid, and it would show an enormous aggregate of whisky manufactured in this country since the 1st of December. I take it that until that stock is pretty well exhausted you cannot get much revenue from the largely increased tax. Therefore I think it is better to fix the standard of taxation you intend to put on this article, and allow these people to rest on that standard. I do not think with any rate of taxation, even a dollar a gallon, you will have much revenue from this article, because the market is now glutted. Everybody who can hold it is now holding it. The idea of encouraging the manufacture for the next six months by a graduation scale, it seems to me, is unwise. It is better for us to put a tax upon the stock on hand, according to my proposition; but as the Senate is evidently opposed to that, then make the standard which you will adopt as the tax on whisky, and let it rest at that without any attempt to compel or induce the manufacture of whisky from now until the 1st of January next. I think the best way would be to adopt a dollar standard, commence with that, and let it go for a year. If that is too low, make it higher; but at any rate fix the standard and let it stand so that people can buy their corn and carry on business with a view to the manufacture in the future.

I will send a table, with the letter of the Commissioner of Internal Revenue, to the Secretary's desk. It contains some information which may have a bearing on this subject, and I ask that it be read.

The Secretary read, as follows:

TREASURY DEPARTMENT,  
OFFICE OF INTERNAL REVENUE,  
WASHINGTON, May 23, 1864.

SIR: I transmit herewith a monthly statement of the distilled spirits upon which taxes have been reported to this office from September, 1862, to April, 1864, amounting in all to 81,552,107 gallons. From the 1st of September, 1862, to March 1, 1864, there had been exported without payment of duties 8,975,000 gallons, and this had probably reached 10,000,000 gallons by the close of the month of April. This would make the number of gallons accounted for to this office since the passage of the excise law to the 1st of the current month 91,552,107 gallons.

From the information from time to time received, I am

led to believe that through defective or fraudulent inspection, and other methods of evasion practiced by distillers, at least ten per cent. of the quantity distilled, or a total of over 10,000,000 gallons, has escaped taxation.

I have no means of forming any satisfactory estimate of the quantity of distilled spirits on hand at the time the law took effect. It was probably a full half year's supply.

Very respectfully,

JOSEPH J. LEWIS,

Commissioner.

Hon. JOHN SHERMAN, United States Senate.

Statement of Distilled Spirits upon which a tax has been collected from September 1, 1862, to April 1, 1864.

	Gallons.
1862. September.....	22,069
October.....	31,445
November.....	115,930
December.....	343,481
1863. January.....	793,933
February.....	2,265,580
March.....	3,180,756
April.....	2,558,094
May.....	3,501,316
June.....	3,824,086
July.....	5,231,045
August.....	4,056,746
September.....	4,034,389
October.....	4,685,804
November.....	5,506,914
December.....	7,529,579
1864. January.....	10,064,138
February.....	9,069,977
March.....	7,247,821
April.....	7,489,104

Mr. GRIMES. It is possible, Mr. President, that the Senator from Indiana may not recognize my right to entertain or express an opinion on the subject of taxing whisky, as he seemed to intimate that the Senator from Massachusetts had not the right to offer an amendment on this subject. Yet I regret to say that the State of which I am a citizen produces a good deal of corn which is manufactured into whisky, and if it did not I should still claim the right to entertain and to express my own opinions on this subject as on all others. I know no reason why the Senator from Massachusetts or any other Senator shall not offer an amendment to the Senate in relation to this subject as well as to any other. I am in favor of the amendment that has been proposed by the Senator from Massachusetts, and I think that no stronger argument could be furnished to the Senate and the country in favor of that proposition than has been afforded by the Senator from Ohio. He tells us what is true, that there is already enough whisky manufactured in the country for one year's supply, and what does he propose to do? He tells us that there is no probability of there being any manufactured during the next several months: What are we passing this bill for? To raise revenue. It is our purpose, then; if we want to raise revenue to stimulate the production of whisky. How are we going to do it? By the very scheme I think that the Committee on Finance have embodied in their proposition, and which is carried out to a still greater extent by the Senator from Massachusetts.

It is proposed to place a tax of \$1 25 on every gallon of whisky that shall be manufactured from the passage of the bill until the 1st of October. That will stimulate the distillers to use up all the corn of last year's crop that is within their reach which can be easily converted into whisky. Then it is proposed to increase the tax on whisky that shall be manufactured between the 1st of October and the 1st of January next to \$1 50 and after the 1st of January to \$2. The result will be that there will be more whisky manufactured between the 1st of October and the 1st of January next, during those three months, than was ever made in the same length of time in the whole civilized world; and why? Because the distillers will think, and I think they will justly come to that conclusion from the several decisions that have been made by the Senate, and by both Houses of Congress, indeed, that it is the settled policy of the Government not to tax whisky on hand or any other kind of property that has once been taxed. That decision has been reached against my judgment, but it has been reached, and I think it may be considered as settled. Knowing that whisky on hand is not to be taxed, it will be their policy to manufacture just as much as they possibly can between the passage of the bill and the 1st of October, so as to avoid the imposition of the additional twenty-five cents of taxation then, and between the 1st of October and the 1st of January they will again be stimulated to produce just as much as possible in those three months in order to avoid the additional taxation of fifty cents.

The result will be that we shall derive, in my conviction, more revenue during these three months from the production of whisky alone than you will probably derive—I was going to say—from all other sources of revenue combined.

Do we want the money, and shall we not receive the money at just the time we do want it, during the outgoing of the present year and the first four months of the succeeding year? A large amount of the whisky which will be manufactured between the 1st of October and the 1st of January will go into bond. The duty will not be paid on the 1st of January, but it will be paid some time during the first four months of the coming year, and the time when I apprehend we shall most need money will be during the last three months of the present year and the first four months of the next year.

Now, what is the antagonistic proposition? To tax all whisky that shall be manufactured during the coming year one dollar, with the admission on the part of at least one of the Senators who professes himself to be in favor of that proposition, the Senator from Ohio, that none, or comparatively none, will be manufactured. If we are to look at this measure as a revenue measure, and not as one affecting the question of temperance or the morals of the community, it seems to me that the Committee on Finance have advised precisely the scheme that will best promote the interests of the Treasury, and that the proposition of the Senator from Massachusetts is an improvement upon the Finance Committee's scheme, and hence it will receive my most cordial support.

Mr. HENDRICKS. I regret that the Senator from Iowa supposed that I questioned the right of any Senator to offer an amendment. I was going to suggest to the Senator from Massachusetts that he should withdraw his amendment and allow an amendment more favorable to the interest to be taxed, first to be considered by the Senate; but when I commenced the sentence I concluded that I had no right to do so, and therefore I modified what I had intended to say.

Mr. GRIMES. I beg the Senator's pardon. I certainly misunderstood him.

Mr. HENDRICKS. I do not question that. I do not intend to discuss the proposition of the Senator from Massachusetts just now, but to refer more particularly to what has been said by the Senator from Ohio. I suppose his argument is intended again to bring to the attention of the Senate the proposition to tax liquor on hand, and I am very glad the Senator from Ohio has brought to the attention of the Senate the information derived from the Treasury Department, for it shows—

Mr. SHERMAN. The Senator will allow me to say that I make no such proposition. The Senate having once decided against me by a majority of two to one, I do not intend to press that question again, though I should be glad to realize such a tax.

Mr. HENDRICKS. I am glad to hear the Senator say that he does not propose to raise that question again. But I wish to call the attention of the Senate to the fact that the production of whisky in the northern part of the United States has very much decreased under the taxation imposed. The table from the Treasury Department, presented by the Senator from Ohio, shows that for the nineteen months closing with April, 1864, the production of whisky was 81,552,107 gallons. The Commissioner of Internal Revenue supposes, though he does not profess to have much information on that subject, that 8,000,000 gallons have been exported; but that does not appear in the 81,000,000. That would be about 90,000,000, according to his own showing, produced in the United States for the nineteen months closing in April last. The census of 1860 shows that the production of whisky in the United States for the year ending the 1st day of June, 1860, was 80,453,089 gallons. There was almost as much produced in the year from June 1, 1859, to June 1, 1860, as was produced in the nineteen months closing in April last; and yet Senators have been under the impression all the while that the production has been stimulated and greatly increased.

Mr. SHERMAN. Allow me to mention to the Senator the fact that after the revenue law of 1862 took effect in September, for five or six months there was scarcely any manufactured. The immediate effect of the tax was to stop the

manufacture of spirits at once, just as the effect now of a large increase of the tax will be to stop it. The manufacture of whisky was so enormously pushed forward in the summer of 1862, that in September of that year only about 20,000 gallons were made, and it increased slowly.

Mr. HENDRICKS. In September, 1862, over 22,000 gallons were manufactured according to this table, and September is a month in which but little liquor is ordinarily manufactured. It is proper, I should state here that the census of 1860 includes the production of the southern States as well as the northern States; but Tennessee, Virginia, North Carolina, South Carolina, Georgia, Alabama, Texas, and Arkansas contributed only 1,231,167 gallons to the total, leaving in the States not within the rebellion about 80,000,000 gallons produced in the year ending June 1, 1860. How does that correspond, I will ask the Senator, to the five months to which he called the attention of the Senate, the months of December, 1863, and January, February, March, and April, 1864? and the Senate will observe that these are the months during which nearly all the liquor is produced. It is not expected that in the summer months very much liquor will be produced; it is not the interest of the country that it should be so. During these five months the production has been 41,400,619 gallons. In 1859 and 1860, in the northern States, not now in rebellion, the year's production was 80,000,000 gallons. In the five months to which the Senator has called particular attention, December, 1863, January, February, March, and April, 1864, the months when the production is largest, possibly, the entire production according to the Treasury Department is 41,000,000 gallons, one half of the production of 1860, the favorable five months producing about one half of what was produced in a year before a tax was imposed. I am very glad the Senator has brought these facts to our attention. I had not concurred in the general impression that this interest had been stimulated and that the production had increased, though I had not the facts before me to enable me to arrive at a satisfactory conclusion about that. But now it is very clear that since the war and since the imposition of the tax of twenty cents on the gallon, the production of liquor has certainly not been increased. I hope the Senate will not adopt the amendment proposed by the Senator from Massachusetts. I do not propose to discuss that, as the chairman does not favor it.

Mr. WILSON. I think the figures presented by the Senator from Ohio go to show us that we should have made some money for the Government if we had taxed the whisky on hand; but that question is settled; it is too late to discuss it now.

The Senator from Maryland expressed the hope that I did not mean to impeach the motives or the wisdom of the Senator. Certainly not, sir. I suppose that all of us are actuated by substantially the same motives, but we have differences of opinion in regard to the details of the bill, that is all. Nor did I wish to reflect in the slightest degree upon the action either of the Committee on Finance or of the Senate. This bill came to us at a very late day; I think it should have come from the House of Representatives weeks before it did; but it is now here. The Committee on Finance have devoted days and nights to its examination, and they have improved it in almost every section, and have been generally sustained by the Senate in the amendments which they have proposed. A vast deal of labor has been bestowed on the bill by the Committee on Finance and by the Senate. Those amendments are nearly all adopted and we are about to pass the bill. My own judgment is, and it is the judgment of some of the best minds of the country, that this bill will not produce all the income we ought to have at this time. All admit that we ought to raise from three to four hundred million dollars by internal taxation. I think we can do it by increasing the duty on whisky and tobacco and by taxing manufactures seven per cent., and as the representative of a manufacturing State, I am willing to put seven per cent. upon manufactures instead of five.

I have offered this amendment to increase the tax on whisky because I believe it can bear it; it will not diminish the consumption; its effect in that way will be hardly perceptible. The heavy taxes put upon spirits in England have not diminished the consumption there, and they will not

here. The Senator from Indiana tells us that under our taxation the production has been diminished. I apprehend that at the close of last year and the beginning of the present year it was rather stimulated in view of the fact that there would be an increased duty imposed; everybody saw that it must be so; and it was diminished in the spring for the reason that the manufacture always diminishes in the spring. The latter months of autumn and the winter are the portions of the year when distilling is most active. If we adopt the amendments we shall raise \$300,000,000 during the coming year by this act. This will tend to restore the waning credit of the country, improve the currency, and will enrich the Government and the country. The country demands increased taxation. The demand comes from all quarters of the country, and especially from the business men, the manufacturers, the mechanics, the merchants all over the land. I have moved this amendment from a sincere conviction that the needs of the country demand it, and that the good of the people requires that we shall adopt it; and if it be adopted I intend, if nobody else will, to move an increase of the tax on the articles taxed in the ninety-third section.

Mr. FESSENDEN. During the consideration of this bill I have refrained as much as possible from entering into general discussion; and have said as little as I could consistently with the duty which was imposed on me to explain the different provisions of the bill if I should be called on to explain them. I anticipated that we should have a full discussion of this particular branch of the bill when it came up in the Senate, and I was desirous that we should have a session this evening for the purpose of settling this question at least, if we could. I think, sir, we may as well take some things for settled, and when they are settled, and we have come to the conclusion that they are settled, let them alone. Now, the Senator from Ohio says that he regards the question of putting a tax upon liquors on hand as settled by the Senate. I suggest to him, then, whether it is not as well to drop the subject.

Mr. SHERMAN. I have said that I do not propose to raise that question again.

Mr. FESSENDEN. I understood the Senator to raise it just now, for he predicated his action on this question by our action in regard to taxing liquors on hand. Now, allow me to say that the only way in which you can avoid (and then only partially and to a very limited extent, in my judgment) the difficulty that arises from the state of things as it is as it affects the revenue is to tax liquors on hand. If you put a tax upon those, you save a certain amount of money, or rather an uncertain amount; some Senators think more, some less. Before the Senator from Ohio introduced his tables I was inclined to think that we might save more than I now think we could; for, with the Senator from Indiana, I am somewhat surprised at the result of the tables themselves. If only about eighty million gallons have been manufactured in the last nineteen months—that is the amount, I believe, exclusive of what is exported, and which you do not count—I should like to know what amount of stock there is on hand at the present time, making allowance for all that has been used in the ordinary way, and all that has been used for manufactures in the country. Manufactures of course would make but a small percentage, perhaps not over ten per cent. of that; but the table certainly shows, because the use has been going on for the whole nineteen months, the use both for manufactures and by way of ordinary consumption, that the distillation has not been greater than the average before that time.

Under these circumstances, taking those tables as correct, I should like to know what becomes of these broad statements that are made that there are fifty or sixty million gallons on hand at the present time. If those tables may be relied upon nobody can believe that for a moment. We have had before the Committee on Finance all manner of statements with regard to the quantity on hand. It has gone from twelve millions up to sixty or seventy millions. As I remarked, one gentleman in particular who was very anxious a year ago and insisted that it was a ruinous policy and an improper policy in every way to put a tax on liquors on hand had changed his views expressly upon the ground that there was so much of it you



could get a large amount of money out of it. It was wrong in principle before, but it became right in principle because you could get more money out of it! Those tables would go to show that after all if we do not impose that tax we do not lose so much as we supposed we might be losing, and as I supposed we might be losing, or rather not get.

The result, work it how you may, is inevitable. If there is a large quantity on hand—take that for an assumption—the time must come when there will be a lull and a loss of revenue arising from the fact that the chance of speculation stops the inducement for manufacturing; and the fact of having a stock to meet an anticipated rise in the tax induces the lull, if I may call it so, in the manufacture. The question then simply is, as it must come, when shall it come? If you put a dollar upon liquor now, and follow out the proposition of the honorable Senator from Indiana, and say that a year hence there shall be half a dollar more, the result will be that you will stop the manufacture immediately; that is to say, until the next stock comes in, and then they will begin again, in my judgment. If you put a tax on now and raise it up by degrees, graduate it up to the 1st of January and then stop, you will stimulate production up to that time, and, if a large stock is accumulated, all that will be made after that time will be just as much as they are obliged to make in order to carry out the operations of the distilleries with reference to the cattle, hogs, &c.; they will manufacture no more than they are obliged to do until there is such a consumption of the article as again renders it necessary to produce.

That, it strikes me, is the plain common sense about it, that that time must come somewhere; and the mistake that gentlemen who desire to get revenue make, in my judgment, is this: they try to accomplish an impossibility, to get revenue out of it by some species of legislation all along. The only way to do it that I know of is to keep increasing, expanding the currency of liquor from three months to three months to the end of time, or to the end of that time when we want revenue from the article. You cannot do that, because there is a limit beyond which you cannot go; and, in my judgment, it is not quite so certain, from certain facts that I have heard and some to be still decided, that you may put almost any amount of duty upon liquor and the consumption will not be diminished. I have been induced to hesitate a little upon this subject, ever since this bill was brought into the Senate; for I understand on very good authority that many of the poorer classes who formerly drank liquor are getting in the habit of drinking beer instead. Of course the tax makes no difference to those who do not care how much they pay for a glass of whisky, provided they get a good one. But I am told that that has been the effect to a very considerable extent, or to some extent, to say the least, among the poorer classes. If that be true it may render it doubtful whether there is not a limit beyond which we cannot go, even for the purposes of revenue; and I look upon the whole subject with reference to revenue alone.

Now, sir, let me give you a history of this idea of grading. So far as I know it originated with the honorable Senator from Ohio, [Mr. SHERMAN.] He was the first that ever suggested it that I know of, and in the Committee on Finance, when the bill came from the House of Representatives at the first part of the session, we followed out his suggestion. To be sure the amount imposed was small; that is to say, ten cents or five

Mr. SHERMAN. Ten, I think.

Mr. FESSENDEN. We put on ten cents. It shows you how the ideas of men expand. We thought a little while ago that twenty cents a gallon on whisky was a good tax. We came together at this session, and when it was imposed we thought sixty cents was a good tax, a large tax. Not satisfied with the sixty cents that came from the House of Representatives, we graduated it and increased it to eighty by putting on ten cents at a certain date and then ten cents more at another period. The House of Representatives adopted our system with reference to that matter. They argued as we did on the subject that it would stimulate production; and that was the exact ground upon which it was placed. We all know

what the result was with regard to that bill. We passed it, certainly, and it stands so to this day; it has not been repealed.

But when the House of Representatives came to consider this question anew under this bill, they went a little further, and they raised it to a dollar and a dollar and a quarter, grading it in the same way, but going over from May or June until January. We were induced to believe that it would be wise to make the increase begin on the 1st of October for the reason that that would strike the coming crop, and if we did not do that a very great effort would be made to make all the whisky possible between October and January and then stop; but we came to the conclusion also that it would bear an additional tax, and therefore we increased it to \$1.25 in October and put on an additional quarter of a dollar in January. My reasoning was this: that although they would be disposed to stop when it came to January, yet, from the nature of things, it would be difficult for them to do so, and they must continue the manufacture for the very reason that was given by the honorable Senator from Indiana in the debate on the other bill, that having their hogs and their cattle on hand, they must necessarily continue the manufacture for a certain time, until they were disposed of; and that reason, if it was good then, is good now.

The Senate can take its choice between the two systems. I believed then, and I believe now, that the time must come when there will be a lull in the manufacture, and we shall not get revenue from this article; and it makes very little difference when it comes, because, necessarily, the system must continue for years in order to obtain the taxes that will be required. I believe that the article will bear \$1.50; and I believe that at this crisis, when we want and shall want revenue from now until the opening of the spring, the system we have suggested and which has been adopted is the one that will be most likely to give us the largest amount of revenue. If it stops then, we shall suffer a loss of revenue for a time, but the period will come when it will begin again; and, as I have said once or twice before, the stopping point must come some time or other from the very nature of the case. You cannot devise a system of taxation upon such an article that will not produce that result. I believe—I do not pretend that my opinion is good for much, but such as it is I am bound to give it—the system we have adopted of gradually increasing the tax is the best one for the revenue at the time when we want revenue; and that we may as well take our revenue now and from this time henceforth up to the period when it will stop by a gradual tax as to put on the whole amount of duty we intend to get ultimately at this particular time, which would have the effect of stopping the revenue because it would cause the manufacture to cease, except so far as is absolutely necessary in order to keep the distilleries in operation.

The system proposed by the Senator from Indiana does not meet my view, although the Senate may take a different view of it. I cannot say that I feel indifferent to the result, because, believing that the public good depends upon our action to a certain extent, I naturally prefer that which, in my judgment, seems best calculated to promote it. I shall be happy, should the Senate adopt a different system, if it turns out that I was entirely mistaken; because I am always willing, I trust, to be found to be mistaken when my being so is in its results productive of benefit to the public. The whole matter is before the Senate, and I hope we shall be able to settle it before we adjourn.

Mr. JOHNSON. Will the Senator permit me to ask him what is his opinion of the amendment suggested by the Senator from Massachusetts? He said nothing about that.

Mr. FESSENDEN. With reference to that, if the Senate shall so determine, I do not think the two dollars would be a very unreasonable tax. I think the article would bear two dollars; but I think there is some risk about it, after all. My opinion, deliberately formed, and that of the committee, was that \$1.50 was as high as we could afford to go, with our present light on the subject. As I said before, we have been gaining light every day. Not long ago we thought twenty cents was a high tax; we have got now to \$1.50; and I should not be surprised if in a short time

we got it higher still, because it seems we expand in our ideas (whether we grow wiser or not) with the progress of time. Time only can tell whether it is wisdom to increase so much.

With regard to the other proposition that my friend from Massachusetts has made on the subject of manufactures, I will suggest to him that he cannot do it in a single clause by adding two per cent. or anything else. He must go over the thing item by item, and be prepared to go through and move an increase upon every one. They are not all fixed at five per cent.; they are five, three, two, and one, throughout; and if he undertakes to do it I trust he has a sufficient knowledge of all those items to decide wisely. I confess I have not. With all the study I have been able in the time I have had to give them I have not been able to acquire the information, and I have relied with very great confidence on the great labor and examination that was given to the bill by the Committee of Ways and Means. I believe they devoted themselves untiringly and with a close examination of facts in order to arrive at a right conclusion, and in many particulars I rested upon them. If the Senator is prepared with information which justifies him in going further, so be it.

He says that he represents a manufacturing community, which is true, and that many of the manufacturers are willing for you to put on ten per cent. I have no doubt of it at all, not the slightest. The larger the manufacturer is the more wealthy he is, and the greater stock he has on hand the more he is willing that you put on the stock. A tax of ten per cent. would be wonderfully for the benefit of the rich manufacturer, but very much against the interest of the small and poorer one. That is the simple truth of it. In the first place they make large sums on the amount of stock which they have accumulated, and they are able to stand it, because the more you put on, experience has shown, the more they will make. If you call it five per cent. they will tax their customers seven; if you call it ten they will tax their customers fifteen; experience has shown that that is the result. Therefore I place very little reliance on the subject of manufactures of cotton, or tobacco, or whisky, or anything else upon the recommendation of the very large and wealthy manufacturers who can stand anything and make their profits out of it at the expense of the community and of those whom they would very willingly crush.

Mr. POWELL. I have been very much struck with the latter part of the speech of the honorable Senator from Maine, and I think that in every respect it is correct. I think we have some evidence of that kind by the declarations of gentlemen who have large stocks of whisky on hand. I have no doubt those who have large stocks on hand would not care if you tax it four dollars a gallon at this hour.

I am of the opinion, however, Mr. President, that a tax of \$2 or even \$1.50 will yield to the Government less revenue than a small tax. I confess that I was a great deal astonished this evening when I heard the statement that was sent to the Secretary's table by the honorable Senator from Ohio read, showing the amount of production for the past five months, and then when the production for 1860 was read by the Senator from Indiana. I really had supposed that more whisky had been made in the past year than was made in the year 1860; but such does not seem to have been the fact. For some time past the price has been high. We thought that inducements existed to stimulate the manufacture of the article; it was believed that an increased tax would be laid and that on hand would be exempt. That of itself tended very much to stimulate the manufacture of whisky; and yet it appears that no more was made than in 1860.

I have no doubt, sir, that some people will drink whisky at any price, but I am equally sure that if you lay a tax of even \$1.50 on whisky you will greatly diminish the consumption; and by doing that you will, of course, diminish the production. I am satisfied that less of it will be drank, and the people will resort to other and cheaper beverages. I believe that you would get more revenue from whisky in the next five years if you were not to tax it higher than sixty cents than if you tax it any higher sum. As I said the other day, I believe a dollar a gallon the very outside that you should tax it if revenue is the

object; and I believe that when the matter is tested my opinions will be found to be true.

I am, therefore, opposed to the amendment offered by the Senator from Massachusetts. Indeed, I am opposed to that offered by the Committee on Finance. I think the tax should be so regulated as not to go over a dollar a gallon; indeed, if I thought I could carry the proposition I would advocate that the highest tax should be sixty cents. Not being able, in the present temper of the Senate, to carry that, I would not put it higher than a dollar. You might have for some months an amount less than that, if you chose, but that should be the outside amount. My own impression is that it would bring more revenue than it will if you put it to \$1 50, and afterwards to \$2. I know that this is an article off which we ought to raise as much revenue as we conveniently can, having due regard to the interests of the corn-growing region. I do not believe we ought to lay a tax upon it with a view to prevent the production of the article, for it is a very heavy interest in the western country. The corn, hog, and cattle interests in the valley of the Mississippi are very much interested in this subject of the production of whisky. I think we should have due regard to the great agricultural interests of the West, for they are all deeply connected with it. I therefore shall advocate even a lower tax than that proposed by the Committee on Finance.

Mr. GRIMES. I call for the yeas and nays on the amendment of the Senator from Massachusetts.

The yeas and nays were ordered.

Mr. SUMNER. Before the vote is taken I wish to make a suggestion to my colleague, which, it seems to me, will be an improvement of his amendment. I am for his amendment precisely as the Senator from Iowa [Mr. GRIMES] said he was for it, because it is an improvement on the proposition of the committee; but it seems to me his amendment would be improved still further if it were so contrived as to bring the tax to bear more between October and January than it does; and for this reason: it is in October that the crops have come in, that the material for the distillery has accumulated; it is the best time for the distiller. The distiller through that period, from October to January, may make the most money, unquestionably. I start with that proposition. During the autumn, from October to January, is the harvest time of the distiller.

Mr. FESSENDEN. It is no better than from January to March.

Mr. SUMNER. I beg your pardon; but even supposing it is no better than from January to March, we do propose to put a tax of \$2 at January. Now, I propose to my colleague that he should alter his amendment in this way, so that it shall begin at \$1 50, and from October to January it shall be \$1 75, and from and after January, \$2. Assuming, as the Senator from Maine suggests, that it is a good time for the distiller from January until March, I would put the tax of \$2 upon him during that time; from October to January let him be taxed \$1 75.

Mr. FESSENDEN, (to Mr. Wilson.) How much does your amendment raise from July?

Mr. SUMNER. My colleague's amendment begins at \$1 25, and then from October to January it is \$1 50. I propose that it should begin at \$1 50, and from October to January it should be \$1 75, and after January \$2.

Mr. RICHARDSON. The Senator from Massachusetts is greatly mistaken when he supposes that the distillers can make more from October to January than in any other season of the year. In the fall season of the year the distillers lay in their stock of corn, their hogs, and their cattle, from which they make their greatest profit. If you break down their establishments in January you destroy them utterly. They make their whole arrangements in November or October, when the corn begins to come in; they have their stock on hand, and they are compelled to carry on the distilleries till May or June. Hence it is that they are not able to stop the large establishments after they get under way until their stock is fattened and taken to market. Therefore, so far as the Senator's argument is concerned, it does not apply to these cases at all.

Mr. HOWE. As the yeas and nays have been called and I have got to vote against the amend-

ment of the Senator from Massachusetts, I want to tell him why. It is not because I believe he proposes to put a higher duty on whisky than it will bear. I know of no reason why whisky will not pay \$3 a gallon in this country. I am told it pays \$2 80 in England; I am told it pays \$5, and I was told so by very high authority. I have not any positive evidence as to what it does pay. My own understanding is that it pays \$2 80.

Mr. COWAN. Two dollars and forty cents—ten shillings.

Mr. HOWE. The people who drink it in this country are as able to pay a heavy tax as the English whisky-drinking population are. Here whisky has no rivals; there it has several—more and better beer, more and better porter, and a great many cheaper wines than we have here to compete with; and if it can pay \$2 40 there I do not know why it cannot pay \$3 or \$4 here; and therefore I do not refuse to vote for the amendment of the Senator from Massachusetts because I believe it is a higher rate of duty than this article will bear.

My idea is that in settling this tax the first question the Senate ought to answer to itself is, how much tax can you put on so that with the aid of the new crop in September or October next the manufacturer can recommence the work of distillation and sell his product in competition with the stock on hand? That is the first question to be settled. Whisky made now pays sixty cents a gallon. It seems to me just as clear as the light of midday that all the tax you want to put on up to the time the new crop comes in ought to be put on now. If you think distillation can start at a dollar a gallon, or a dollar and a quarter a gallon, or a dollar and a half a gallon, you ought to put it on now, and let it stop there until the new crop comes in; and why? Because by leaving it off, whatever the increase is in October, you hold out just so much inducement to the manufacturer to crowd his distillery and keep producing between now and then, when the interest of the country is, as was explained the other day, that no more of the material which the Government wants for other purposes should be put into this article.

If it be conceded that you can start with \$1 25 a gallon, you must understand that the manufacturer who wants to commence manufacturing in the fall puts the question to himself whether he can do so. He knows that there is a large quantity of this whisky on hand, that it has just so much advantage in the market as the difference between the tax it has paid and the tax we put on it. If you raise the tax to a dollar now, and it stands at that price on the 1st of October, then this stock unconsumed has an advantage in the market of forty cents, and to compete with the holders of that stock the manufacturer must make his whisky at forty cents less. But if you suppose that they can start with \$1 25 then the difference is sixty-five cents a gallon.

If, however, you do not fix the rates so high but that the manufacturer can recommence distillation, then what can you do afterwards? Several Senators assume that in three months after that you can raise the duty again twenty-five cents. If that be so, I ask Senators if it is not better both for the Government and for the manufacturer, instead of levying a tax of \$1 25 for three months and then putting on \$1 50, to raise it ten cents every month? Then you get it up in the course of three months to thirty cents instead of twenty-five cents; and if the distillation is seven million gallons a month it has paid \$700,000 to the Treasury for the first month, and \$1,400,000 for the second month, and \$2,100,000 for the third month. There is an aggregate of \$4,200,000 that you get into the Treasury by raising it ten cents a month instead of letting it run at an even \$1 25 for three months, and then putting it up a quarter of a dollar.

There is another advantage in raising it in that way. If you let it run at a fixed sum for three months, the speculator, whether he be a distiller or not, the man who has capital, has a great inducement to invest it in this article and hoard it, and thus to cripple the poorer manufacturer who has not that capital to use. He has this inducement, because every gallon that he sells when the three months come around will be worth twenty-five cents more in the market. But if you raise

it ten cents at a time, and he saves say in the month of October a certain number of gallons, he has got to save that for three months before he can realize an increase on it, before the new rate is imposed. The leakage, the loss, the depreciation in whisky, I am told, is very nearly five per cent. a month. I am told that the average loss is about six per cent. on the transit of whisky from Illinois to New York. That is a serious discouragement in the way of this hoarding. The whisky that he saves in the second month, in November, pays an additional ten cents to the Government. Then he has but sixty days, to be sure, to hold that; there is but sixty days' depreciation to sustain; but he has paid an additional ten cents. That which he makes in December he suffers a depreciation on of only thirty days; but he has paid twenty cents additional tax on that; so that for the manufacturer it is materially better that you should raise this tax gradually and frequently than that you should raise it by large sums and at periods more remote from each other.

I shall therefore vote against every proposition which proposes to raise this duty once in three months twenty-five or fifty cents at a time. I am willing to put on the duty now at any sum which the Senate agrees will not prevent the manufacturers from starting their distilleries in the fall. I am willing then to raise it ten cents a month, and to continue to do so just as long as any one pleases, at least till it gets up as high as three dollars a gallon. I think for the reasons I have endeavored to state that that is the safest way in which we can get up to the maximum rate which this article will bear.

The question being taken by yeas and nays, resulted—yeas 11, nays 21; as follows:

YEAS—Messrs. Anthony, Brown, Foot, Foster, Grimes, Harlan, Harris, Morrill, Ramsey, Sumner, and Wilson—11.

NAYS—Messrs. Buckalew, Carlile, Clark, Collamer, Cowan, Davis, Doolittle, Fessenden, Hale, Henderson, Hendricks, Howe, Johnson, Lane of Indiana, Morgan, Powell, Richardson, Sherman, Ten Eyck, Van Winkle, and Wiley—21.

ABSENT—Messrs. Chandler, Conness, Dixon, Harding, Hicks, Howard, Lane of Kansas, McDougall, Nesmith, Pomeroy, Riddle, Saulsbury, Sprague, Trumbull, Wade, Wilkinson, and Wright—17.

So the amendment was rejected.

Mr. HENDRICKS. I move to amend the bill on page 59, section fifty-four, by striking out from line seven down to and including the word "gallon" in line fourteen, and as follows:

October, 1864, a duty of \$1 on each and every gallon; on and after October 1, 1864, and prior to the 1st day of January, 1865, a duty of \$1 25 on each and every gallon; on and after the 1st day of January, 1865, a duty of \$1 50 on each and every gallon.

And to insert:

July, 1865, a duty of \$1 on each and every gallon; and on and after the 1st day of June, 1865, a duty of \$1 50 on each and every gallon.

I desire to submit a very few remarks in favor of the amendment which I have proposed; but the Senate is thin to-night, and I would rather no vote would be had upon it.

Mr. COWAN. I think it is time to adjourn, and I will make that motion.

Mr. FESSENDEN. Let us settle this question to-night. I really want to get through with the bill to-morrow.

Mr. HENDRICKS. I hope the Senator from Maine will not insist on a vote to-night. There are several Senators absent, and this is an important question.

Mr. FESSENDEN. I know that. I am afraid the committee's proposition will lose by their absence, instead of gaining.

Mr. HENDRICKS. I have some hopes of that myself; but it is fair that we should have on so important a question a full Senate.

Mr. FESSENDEN. The Senator must be aware that if we now adjourn and leave this question unsettled and open for debate, we cannot possibly get through with the bill to-morrow night, when it is important to close it.

Mr. HENDRICKS. It has not been customary in our night sessions to take an important vote.

Mr. GRIMES. We have just taken an important vote.

Mr. HENDRICKS. What was that?

Mr. GRIMES. On the proposition of the Senator from Massachusetts.

Mr. HENDRICKS. I was not much afraid of that. I did not think the Senate would adopt that.

Mr. FESSENDEN. Then the importance of a question depends on whether the Senator is afraid of it or not.

Mr. HENDRICKS. But we are now coming to an important question, one which affects the people I represent very largely, and I hope a vote will not be taken to-night. I do not want to speak at any length on the amendment that I propose, and would just as lief, so far as that is concerned, speak now as at any future time.

The PRESIDENT *pro tempore*. The question will be on the amendment offered by the Senator from Indiana.

Mr. HENDRICKS. I believe there was a motion made to adjourn.

Mr. COWAN. I withdraw it.

Mr. HENDRICKS. I renew the motion to adjourn.

Mr. FESSENDEN. I must ask for the yeas and nays upon that motion.

The yeas and nays were ordered; and being taken, resulted—yeas 9, nays 22; as follows:

YEAS—Messrs. Buckalew, Cowan, Davis, Harris, Henderson, Hendricks, Powell, Richardson, and Sumner—9.

NAYS—Messrs. Anthony, Brown, Carlile, Clark, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Howe, Johnson, Lane of Indiana, Morgan, Morrill, Ramsey, Sherman, Ten Eyck, Van Winkle, Wiley, and Wilson—22.

ABSENT—Messrs. Chandler, Collamer, Conness, Dixon, Harding, Hicks, Howard, Lane of Kansas, McDougall, Nesmith, Pomeroy, Riddle, Saulsbury, Sprague, Trumbull, Wade, Wilkinson, and Wright—18.

So the Senate refused to adjourn.

Mr. HENDRICKS. The proposition which I have felt it to be my duty to submit to the Senate, is that from the 1st day of July, 1864, until the 1st day of June, 1865, the tax upon liquors distilled in the country shall be \$1 a gallon, and after the 1st of June, 1865, \$1 50 a gallon. I suppose every Senator is desirous of raising revenue, but the first question to be considered is whether this is a fair measure with a view to revenue. I do not think any Senator can say with confidence from the experience we have had under the past legislation that the revenue will be increased by going over a dollar on the gallon. The tables furnished by the Senator from Ohio show that since the enactment of the law two years since the production of liquor in the country has decreased; that for the nineteen months closing with April last the production was eighty-one million gallons, while for the twelve months ending June 1, 1860, the production was eighty-one million gallons; so that under the law taxing liquor it required nineteen months to produce the amount of whisky that was produced in twelve months in 1859-60. Then how can any Senator say that there is the same amount produced, whether it be taxed or not taxed? Something has caused a decrease in the production. What is that cause? Is it because the country has become more temperate in the use of it? I do not think any Senator can say that. The cause is in the fact that the price of liquor has gone up, not altogether owing to the fact that it was taxed twenty cents on the gallon, but in part owing to the fact that the increase of the currency has increased the price of this article with everything else. I do not say it is all chargeable to the fact that the tax has been imposed upon it. But the production has been decreased is the important point to be considered by Senators when they are voting upon this question with a view to volume.

But, sir, the important question to which I wish the attention of the Senate to be given is the effect upon a large interest which I represent—the corn-growing interest of the Northwest. Senators say that whisky will bear a tax of a dollar or a dollar and a half or two dollars, and I believe the Senator from Wisconsin expressed the opinion that perhaps it would bear a tax of \$2 50 on the gallon. I ask Senators if they ask that question in respect to any other interest of the country?

The Senator from Massachusetts, in making his proposition, stated with great apparent generosity and frankness that he was willing to increase the tax upon New England manufactures to seven per cent.—a very liberal proposition. But what is that? It is an increase on the tax of 1862 of slightly over one hundred per cent. The proposition that I now submit to the Senate is to tax a western production five hundred per cent. more than it was taxed in 1862. The tax of 1862 was but twenty cents on the gallon. I propose

a tax now of five hundred per cent. upon that; and is not that increase enough? When the Senator from Massachusetts proposes to increase the tax upon the production of his section of the country one hundred per cent. do I not make a sufficient answer to his liberality when I go five hundred per cent. upon a western production? I think this is too high. It is not according to my judgment that whisky should be taxed five hundred per cent. more than it was in 1862; but I see from the temper of the Senate that it is not worth while for us to ask less, and I have gone to what I think a very extreme figure in agreeing to one dollar on the gallon.

But Senators say it will bear this. I repeat the question, do Senators ask that in respect to any other proposed tax? When the Senator from Massachusetts proposes but seven or ten per cent. upon New England production, does he say that it will bear no more? Who in this Senate asks the question how much New England manufactures and Pennsylvania minerals will bear? I dare say that we might put twenty per cent. upon New England production, and it would bear it. It would bear it, because the people of the Northwest have to buy your cotton and your woolen goods. Twenty per cent. upon the productions of the mines of Pennsylvania perhaps would be borne, for the reason that the people of the West and of all sections of the country have to buy the iron that is produced in Pennsylvania, whatever it may cost. But you do not ask what it will bear. You ask the question in respect to every other interest, "What is right in view of the taxes that are imposed upon other productions?" and for a northwestern production I ask that you shall apply the same fair and equitable rule which you do in taxing every other interest in the country. If you say but five per cent. is a fair tax, not what it will bear, but a fair tax upon New England production, is it not right for me to say that when the tax upon a western production is increased five hundred per cent. that is enough?

Mr. President, I care but little about the interest of the distiller. There are not very many distillers; one hundred distilleries furnish a market for perhaps a thousand farms, ten thousand, thirty thousand farms. I look to the interest of the corn-grower. You say it will bear so much; but how? By increasing the price upon the consumer, and by taking away from the corn-grower the profit that he ought to make upon his labor. When you tax this interest I ask that you shall leave some margin for profit to the man who produces the corn which makes the whisky. Does any Senator dispute that a tax upon an article already manufactured is a tax upon every article of value that goes into that manufacture? Every New England Senator admits that. He admits it when he asks a free list or a low list in the tariff of those articles that are important for his manufacturing purposes. Do you not admit, then, according to the same reasoning which you apply in that class of legislation, that when you tax whisky you tax the corn that goes into the whisky?

Then I ask of Senators when they tax this article, that they shall leave some room for profit, not only to the distiller, which he ought to have, but to the corn-grower. Mr. President, I think we may well ask this now for the Northwest. As I suggested the other day, our market is cut off. Heretofore we have sold our corn down the Ohio river. We cannot find a market there any more. We must find our market somewhere, and if we bring our corn to the East the profit or labor on the northwestern farm is consumed in transporting that article into market. If it is converted into whisky, then it may be transported and find a market that will pay to the producer of the corn; but if you cut off this use of the corn, and compel us to seek a market now, what is our condition? No other section of the country is circumstanced just as the corn-growing region of the Northwest is, cut off from her usual market, a profitable market, a desirable market. We now ask that you shall leave us that production which enables us to find a market in another direction.

Mr. President, if Senators are willing to tax every other interest in the like proportion, then put whisky at \$2 a gallon; but I am not content to sit quietly in the Senate and see an increase of from three to five per cent. upon the productions of another region of the country, and five hundred per cent. refused as too low upon a northwestern

production. When it is asked that it shall be put on a thousand per cent., I think I have a right to object. We want some profit left, not only to the producer of the whisky, but to the man who raises the corn.

I make this appeal to the Senate, to the sense of right and of fairness on the part of the Senate. I have conceded, and I think the Northwest is willing to concede on this floor, a fair tax upon whisky, such as will bring you all that you are sure you can get by any other tax. You can put a high tax on this article and stop the production, but you will not get any revenue. I understand every Senator to say that his vote will be governed by the consideration of producing a revenue. A high duty may cut off production, may injure us, but not benefit the Government. I ask a fair thing. This proposition according to the opinion of many Senators will give to the Government all the revenue that she can realize from this article. Go higher and you will get less revenue, but you will injure a section of the country which under the circumstances ought not to be injured. I ask for the yeas and nays upon my amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 10, nays 21; as follows:

YEAS—Messrs. Buckalew, Carlile, Davis, Henderson, Hendricks, Johnson, Lane of Indiana, Powell, Richardson, and Sherman—10.

NAYS—Messrs. Anthony, Brown, Clark, Cowan, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Howe, Morgan, Morrill, Ramsey, Sumner, Ten Eyck, Van Winkle, Wiley, and Wilson—21.

ABSENT—Messrs. Chandler, Collamer, Conness, Dixon, Harding, Hicks, Howard, Lane of Kansas, McDougall, Nesmith, Pomeroy, Riddle, Saulsbury, Sprague, Trumbull, Wade, Wilkinson, and Wright—18.

So the amendment was rejected.

Mr. CARLILE. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

FRIDAY, June 3, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

### POSTMASTER GENERAL'S REPORT.

Mr. ALLEY, by unanimous consent, submitted the following resolution:

*Resolved*, That one thousand extra copies of the report of the Postmaster General, and appendix, be printed for the use of the Post Office Department.

The resolution, under the rules, was referred to the Committee on Printing.

### PAY OF CONTESTANTS.

Mr. DAWES. I rise to a privileged question. I move to reconsider the vote by which the House referred to the Committee of Elections a resolution for the compensation of two contestants for seats upon this floor. I do this for two reasons: the resolution is of such a nature that it cannot be reported back except when the committee is called in its regular order; it is not a question of privilege and cannot be reported at any time; and secondly, there is no occasion to refer such resolutions to the Committee of Elections, for the House understands the merits of these cases just as well without reference as they will after reference. The Committee of Elections have presented their views time and again on the subject. I think, therefore, that the resolution had better be now disposed of. It may be weeks before the committee is called in the ordinary way for reports. I demand the previous question on the motion to reconsider.

The previous question was seconded, and the main question ordered.

The resolution was read, as follows:

*Resolved*, That the Clerk of the House be directed, out of the contingent fund of the House, to pay John H. McHenry, Jr., and John H. Birch, the mileage of a member for one session, and monthly pay from the beginning of this session, for contesting the seats of Hon. George H. Yeman and Hon. Austin A. King.

Mr. WILSON moved to strike out the name of John H. Birch.

Mr. WASHBURN, of Illinois, moved that the whole subject be laid upon the table.

The House was divided; and there were—ayes 46, noes 49.

Mr. GRINNELL demanded the yeas and nays. The yeas and nays were ordered.



The question was taken; and it was decided in the affirmative—yeas 66, nays 60; as follows:

YEAS—Messrs. Alley, Allison, Ames, Ancona, Ashley, John D. Baldwin, Beaman, Blow, Broomall, Ambrose W. Clark, Cobb, Cole, Henry Winter Davis, Thomas F. Davis, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Fenton, Garfield, Gooch, Grinnell, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubbard, Ingersoll, Jenckes, Kelley, Francis W. Kellogg, Littlejohn, Longyear, Marvin, McIntoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Charles O'Neill, Orth, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Shannon, Sloan, Smithers, Spalding, Stevens, Thayer, Tracy, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, Windom, and Woodbridge—66.

NAYS—Messrs. James C. Allen, Anderson, Bailly, Blaine, Bliss, Brooks, James S. Brown, Chanler, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, Finck, Ganson, Grider, Griswold, Hall, Harding, Harrington, Herrick, Holman, Hutchins, William Johnson, Kalbfleisch, Kernan, Knapp, Le Blond, Long, Mallory, Marey, McAllister, McDowell, James R. Morris, Morrison, Noble, Odell, Pendleton, Perry, Prun, Robinson, Ross, Smith, John B. Steele, Stiles, Strouse, Sweet, Thomas, Wadsworth, Ward, Webster, Wheeler, Chilton A. White, Joseph W. White, Winfield, Fernando Wood, and Yeaman—60.

So the whole subject was laid upon the table.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the subject was laid upon the table; and also moved that the motion to reconsider be laid upon the table.

Mr. DAWSON demanded the yeas and nays upon the latter motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 62, nays 61; as follows:

YEAS—Messrs. Alley, Allison, Ames, Arnold, Ashley, John D. Baldwin, Blow, Broomall, Ambrose W. Clark, Cobb, Cole, Thomas T. Davis, Donnelly, Driggs, Eliot, Farnsworth, Fenton, Gooch, Grinnell, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubbard, Ingersoll, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Longyear, Marvin, McIntoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Charles O'Neill, Orth, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Shannon, Sloan, Smithers, Spalding, Stevens, Thayer, Tracy, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Windom, and Woodbridge—62.

NAYS—Messrs. James C. Allen, Ancona, Anderson, Bailly, Blaine, Bliss, Brooks, James S. Brown, Chanler, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, Finck, Ganson, Grider, Griswold, Hale, Hall, Harding, Harrington, Herrick, Holman, Hutchins, William Johnson, Kalbfleisch, Kernan, Knapp, Law, Le Blond, Long, Mallory, Marey, McAllister, McDowell, Morrison, Noble, Odell, Pendleton, Prun, William H. Randall, Robinson, Ross, Smith, John B. Steele, Stiles, Strouse, Sweet, Thomas, Wadsworth, Ward, Webster, Wheeler, Chilton A. White, Joseph W. White, Winfield, and Fernando Wood—61.

So the motion to reconsider was laid upon the table.

During the vote,

Mr. ALLISON stated that his colleague, Mr. KASSON, was detained from the House by illness.

The vote was then announced as above recorded.

#### INSPECTORS OF STEAMBOATS.

Mr. WASHBURNE, of Illinois, from a committee of conference, made the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 426) to create an additional supervising inspector of steamboats and two local inspectors of steamboats for the collection district of Memphis, Tennessee, and two local inspectors for the collection district of Oregon, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from their first amendment.

That the House recede from their disagreement to the second amendment of the Senate and agree to the same.

Z. CHANDLER,

J. W. NESMITH,

Managers on the part of the Senate.

E. B. WASHBURNE,

THOMAS D. ELIOT,

W. A. DUTCHINS,

Managers on the part of the House.

Mr. FENTON. Will the gentleman from Illinois explain the effect of the report?

Mr. WASHBURNE, of Illinois. The committee recommend that the Senate recede from their first amendment which struck out that provision of the House bill abolishing the board of inspection at Wheeling. The committee also recommend that the House recede from their disagreement to the Senate amendment in relation to bringing the inspectors of hulls of the smaller class of steamboats under the steamboat law, and agree to the same.

I demand the previous question upon agreeing to the report.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the report was agreed to.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the report was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### CIVIL EXPENSES OF THE GOVERNMENT.

Mr. STEVENS, from the Committee of Ways and Means, reported a bill making appropriations for sundry civil expenses of the Government for the year ending June 30, 1865, and for other purposes; which was read a first and second time by its title.

Mr. WASHBURNE, of Illinois. I ask that the bill be read.

Mr. STEVENS. I desire to have the bill printed, and referred to the Committee of the Whole on the state of the Union.

Mr. HOLMAN. To avoid the necessity of reading this bill now, I suggest that the points of order which may be raised to this bill may be made in Committee of the Whole the same as if the bill were read and the points of order raised now.

Mr. STEVENS. Will not the bill be opened to points of order when it comes up for consideration?

Mr. HOLMAN. Not if it is now referred to a Committee of the Whole. I wish to have it, by general consent, opened to points of order the same as if it was now read in the House.

Mr. STEVENS. I do not understand how that can be done.

The SPEAKER. It would require unanimous consent to reserve the point of order.

Mr. WASHBURNE, of Illinois. I object. I insist upon the bill being read. It contains provisions not in accordance with law, and I shall raise the point of order on everything which is not intended to carry out existing laws.

Mr. MORRILL. I desire to proceed to the consideration of the tariff bill.

Mr. WASHBURNE, of Illinois. As the gentleman from Vermont desires to proceed with the consideration of the tariff bill, if this bill can be postponed I will not insist upon its being read at this time.

The SPEAKER. If the House pass over this bill now, the question will be upon seconding the demand for the previous question upon the unfinished business pending last evening in relation to a land grant to Michigan.

Mr. HOLMAN. Will not the gentleman from Vermont allow this bill to go to the Committee of the Whole with an understanding that the points of order may be raised there?

Mr. STEVENS. I suppose we can move to postpone the further consideration of this bill, and I move it be postponed until Wednesday next, and be printed.

Mr. WASHBURNE, of Illinois. I will agree to that, not waiving, however, my right to have the bill read when it comes up.

Mr. STEVENS. I have no objection to having it postponed, with the understanding that the points may be raised when the bill comes up.

Mr. PENDLETON. I make no objection to reserving points of order which may properly come up on the third reading of the bill; but I object to raising those points of order which were waived on the first and second reading of the bill.

The SPEAKER. The Chair thinks the gentleman from Illinois raised the point of order in time.

The bill was then postponed until Wednesday next, and ordered to be printed, reserving the right to raise the points of order at that time.

#### GRANT OF LANDS TO MICHIGAN.

The question recurred, as the next order of business, on seconding the demand made last evening for the previous question upon the bill (S. No. 250) to amend an act entitled "An act making a grant of alternate sections of public lands to the State of Michigan to aid in the construction of certain railroads in said State, and for other purposes."

Mr. WASHBURNE, of Illinois. I would ask the gentleman from Michigan if there is any limit to the time in which this road shall be built?

Mr. UPSON. There is a limitation to the year 1866, leaving two years unexpired.

Mr. WASHBURNE, of Illinois. I hope the gentleman will put in a provision that the time shall not be extended. I think the bill may now be construed so as to allow the road to be built during an indefinite period.

Mr. MORRILL. I desire to ask the gentleman from Michigan whether this bill does not give additional privileges to the company in the selection of lands?

Mr. UPSON. The original act allowed the company to go within six miles of the road, or, where the land could not be found in that distance, within fifteen miles. This bill, following the precedent in the cases of Iowa, Wisconsin, and Minnesota, extends the right to make up the deficiency within twenty miles.

Mr. MORRILL. Then I understand the bill gives the company the right to select better lands elsewhere if they do not find good lands within the twenty miles.

Mr. UPSON. I would say in reply to the gentleman from Vermont that they can only go outside of the six miles to make up any deficiency, just like all other railroads which have received land grants from the Government.

Mr. MORRILL. And of course in making up the deficiency, if they can find better lands within twenty miles than within fifteen they will take them.

Mr. SLOAN. They can only go outside of the limits prescribed by the original act in case they cannot find lands within the original limits, and then they are confined to the odd sections, so that they have no chance to select the best lands outside of the original grant.

Mr. MORRILL. I understand that this bill has not been considered by any committee of the House, and that the Committee on Public Lands of the House had under consideration a similar proposition, which was rejected, as I hope this will be.

Mr. UPSON. The Committee on Public Lands have informally considered this measure, and have no objection to it.

Mr. MORRILL. I had my information from a member of the Committee on Public Lands, and I supposed it to be correct.

Mr. CRAVENS. I must object to further debate. I believe that no debate is in order.

Mr. WASHBURNE, of Illinois. I will now move an amendment, with the consent of the gentleman from Michigan, [Mr. Urson.]

Mr. UPSON. I will withdraw the previous question for that purpose.

Mr. WASHBURNE, of Illinois. I move to add to the bill the following proviso:

*Provided, further,* That the time prescribed in the original act within which this road shall be built shall not be extended.

I now demand the previous question.

Mr. MORRILL. Will the gentleman let me move that the bill be referred to the Committee on Public Lands?

The SPEAKER. The motion is not in order pending the demand for the previous question.

Mr. MORRILL. Then I hope the House will vote down the previous question.

Mr. UPSON. I hope the gentleman from Illinois will permit the chairman of the Committee on Public Lands to answer the question of the gentleman from Vermont.

Mr. WASHBURNE, of Illinois. I withdraw the previous question for that purpose.

Mr. JULIAN. I have been absent from the House for several days, but I understand the fact to be that the Committee on Public Lands unanimously agreed to this bill provided there was no extension of the time within which the road is to be built. It was only upon that condition that we agreed to report the bill, and if that provision is not in this bill it ought to be amended.

Mr. MILLER, of New York. I wish to say that I am on the Committee on Public Lands, but I am not aware that this bill has been before that committee since it came from the Senate. It has certainly never been submitted to me, and there must be some mistake in the statement that that committee unanimously indorsed this bill. A similar project was at one time before the committee, but they did not favor it, and I will say that one serious objection I have to it is that it proposes to give lands in the northern portion of the State to build a road in the southern portion of the State where there are no lands.

Mr. UPSON. The bill has been changed in that respect, and I now call for the previous question.

The previous question was seconded, and the main question ordered to be put.

The amendment was agreed to.

The bill, as amended, was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. UPSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PRINTING OF CURRENCY BILL.

Mr. HOOPER, by unanimous consent, submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That five thousand copies of the act to provide a national currency, &c., be printed in pamphlet form for the use of the House, and two thousand copies for the use of the Treasury Department.

#### ADJOURNMENT FOR TEN DAYS.

Mr. SMITH asked the consent of the House to introduce the following concurrent resolution:

With a view to afford time to the Doorkeeper to have the ventilators of the Hall cleaned and prepared for warm weather,

*Ordered*, (the Senate concurring,) That when the House adjourns to-day, it adjourn to meet on Monday, the 13th instant.

Several MEMBERS objected.

#### RACHEL MILLS.

Mr. HOTCHKISS, by unanimous consent, introduced a bill granting a pension to Rachel Mills, widow of Peter Mills, deceased, late a major in the United States Army; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### TARIFF BILL.

Mr. MORRILL. I now propose to move to go into committee, but before doing so will move that all general debate upon the tariff bill be closed in one minute after its consideration is resumed in committee.

The motion was agreed to.

Mr. MORRILL. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. SCHENCK in the chair,) and resumed the consideration of the bill of the House (No. 494) to increase the duties on imports, and for other purposes.

The CHAIRMAN stated that general debate having been closed, the bill would be read by sections for amendment.

Mr. MORRILL moved in line thirty-six of page 2 to strike out "twelve" and insert in lieu thereof "eight;" so as to make it read:

On molasses from sugar-cane eight cents per gallon.

The amendment was agreed to.

Mr. MORRILL. I move in line one, page 3, after the word "that" to amend by striking out the word "from" and inserting in its place the word "on;" so that it will read "that on and after the day," &c. I shall make the same amendment wherever the word occurs under like circumstances in the bill.

The amendment was agreed to.

Mr. COLE, of California. I move to amend in line seventeen by increasing the tax on wines valued at not over fifty cents per gallon from twenty to forty cents per gallon. If the amendment shall be adopted I will follow it up by moving to increase the duty on wines valued at more than fifty cents and not more than \$1 a gallon, from fifty to eighty cents per gallon; and on wines valued at over \$1 a gallon, from \$1 to \$1 50 per gallon.

Mr. Chairman, I think this article will very well bear this tax as well as it will the tax in the bill. It is well understood that most of the wines imported evade their proper duty by being valued at much less than their real value. To impose the additional duty I have proposed will afford, perhaps, some little protection to the producers of domestic wines in some portions of the country—as a gentleman suggests, particularly in California, and especially in my district. [Laughter.] I therefore propose this amendment.

Mr. MORRILL. I hope the amendment will not be adopted. If it should be we should present the anomaly of taxing these low-priced medicinal wines at higher rates than are imposed on those of the most costly and luxurious character. These low-priced wines are now taxed in the bill not less than 65 per cent. *ad valorem*, and I do not think we can properly raise the price higher. Twenty cents per gallon and then 25 per cent. in addition on these lower-priced wines, costing less than fifty cents per gallon, is more than double the rate they have been heretofore taxed.

The amendment was disagreed to.

Mr. COLE, of California. This amendment having been rejected I will not propose the others indicated by me.

Mr. MORRILL. I move to amend the following proviso:

*Provided further*, That all imitations of brandy, or spirits, or of wines, and all wines imported by any names whatever, shall be subject to the duty provided for the genuine article which it is intended to represent.

So as to make it read as follows:

*Provided further*, That all imitations of brandy, or spirits, or of wines, imported by any names whatever, shall be subject to the highest rate of duty provided for the genuine article respectively intended to be represented, and in no case less than \$1 per gallon.

The amendment was agreed to.

Mr. MORRILL. I move on page 5, section three, line one, to strike out the word "from" and in lieu thereof to insert the word "on;" so that it will read:

*Sec. 3. And be it further enacted*, That on and after the day and year aforesaid, in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned, there shall be levied, collected, and paid on the goods, wares, and merchandise hereby enumerated and provided for, imported from foreign countries, the following duties and rates of duty, that is to say, &c.

The amendment was agreed to.

Mr. MORRILL. I move in section three, page 6, line thirteen, to strike out the word "four" and in lieu thereof to insert "two;" so that it will read:

On bar iron, rolled or hammered, comprising flats not less than one inch or more than six inches wide, nor less than three eighths of an inch or more than two inches thick; rounds not less than three fourths of an inch nor more than two inches in diameter; and squares not less than three fourths of an inch nor more than two inches square, one cent per pound. On bar iron, rolled or hammered, comprising flats less than three eighths of an inch thick or more than six inches wide; rounds less than three fourths of an inch or more than two inches in diameter; and squares less than three fourths of an inch or more than two inches square, one cent and one fourth per pound.

*Provided*, That all iron in slabs, blooms, loops, or other forms, less finished than iron in bars, and more advanced than pig iron, except castings, shall be rated as iron in bars, and pay a duty accordingly: *And provided further*, That 35 per cent. *ad valorem*.

The amendment was agreed to.

Mr. GRISWOLD. I move to add the following:

Flats less than one fourth of an inch in thickness, and rounds and squares less than seven sixteenths of an inch thick, also slit rods and all other descriptions of rolled or hammered iron not otherwise provided for, one cent and one half per pound.

Mr. Chairman, I will say to the Committee of Ways and Means that by adopting this amendment a subsequent portion of the bill may be stricken out. If the amendment be adopted I will at the proper time move to strike out, on page 8, lines fifty-three to fifty-six, inclusive; also, lines sixty to sixty-two, inclusive, on same page. My object is to increase the duty on small iron, less than seven sixteenths, used by wire-drawers and wood-screw manufacturers, the rate of which as proposed, in my judgment, is not in proportion to rates on larger-sized iron. Indeed, the protection on this small iron will be less, considering the internal revenue tax and increased tariff on the raw material, than it is under the present tariff. I cannot suppose the committee intended this, and trust they will correct what is obviously an injustice to the makers of this class of iron and a discrimination against them.

Mr. MORRILL. On this description of iron the tariff was originally \$20 a ton of 2,240 pounds, and on larger descriptions of iron \$15 a ton. As the bill is reported it is \$1 25 per hundred pounds, making nearly \$8 a ton more than under the tariff of 1861, and it is taxed in the internal revenue bill, I think, only \$6 per ton.

Mr. GRISWOLD. Do I understand that the

present duty on that description of iron is only \$20 per ton?

Mr. MORRILL. That is one cent and a quarter per pound.

Mr. GRISWOLD. What does the present tariff make it?

Mr. MORRILL. Under the former internal revenue bill the manufacturers of this description of iron were paying five per cent., a very much larger duty than they pay under a specific duty of \$6 a ton. There was a mistake which ought to have been remedied, and it may have been by the Senate. The increase of duty provided by this bill is from \$20 on the gross ton to \$25 on the net ton on small iron, and from \$15 on the gross ton to \$20 on the net ton on large iron.

The amendment was rejected.

The Clerk read, as follows:

On slit rods and all other descriptions of rolled or hammered iron not otherwise provided for, one cent and one fourth per pound.

Mr. HALE. I move to increase the duty from one cent and one fourth per pound to one cent and a half.

Mr. Chairman, the bill does not increase the duty as much as the internal tax is increased in this description of iron, and for that purpose it is necessary to adopt my amendment. If the duty be increased from one and one fourth to one and one half it will make this bill in this particular harmonize with the internal revenue bill; and I hope that my amendment will be accepted by the Committee of Ways and Means.

Mr. MOORHEAD. I hope that the amendment of my colleague will be adopted. I know that in practice iron merchants go to Pittsburg to buy common iron, as it is called, and to New York for fine iron. We can make fine iron here, but to do so this duty must be made one cent and one fourth.

Mr. MORRILL. This section includes "iron of all other descriptions." I suppose it would be indispensable for my friend from Pennsylvania to show that he was on the alert when this section on iron came up; or his constituents would find fault with him. I do not find any fault with him for that; but now the speech has been made, I hope that the House will let the bill stand as it is.

The amendment was rejected.

Mr. GRISWOLD. I move, in the same paragraph, after the word "rod," to insert the words "all iron, round or square, smaller than seven sixteenths."

Mr. MORRILL. If that be inserted there will be two places where the same description of iron will be provided for, and at different rates of duty.

The amendment was rejected.

The Clerk read the following:

On screws, commonly called wood screws, two inches or over in length, six and one half cents per pound; less than two inches in length, nine and one half cents per pound.

Mr. J. C. ALLEN. I move to amend by striking out "six and one half" and inserting "one and one half." It is known that under the present tariff of 1862 there have been no wood screws brought into this country. It is known further that a single company has a monopoly of the manufacture of these screws in this country. It is further demonstrable that one year ago the cost of manufacturing these screws, two inches and over in length, did not exceed forty cents per gross, and that while the manufacturers were manufacturing them at forty cents per gross, they were selling them at \$1 60 per gross, realizing a profit upon each gross of \$1 20.

Now, sir, the Committee of Ways and Means propose to increase the tariff upon this article from one and a half cent per pound to six and a half cents. What is the purpose of this? Certainly not to get revenue, for at a duty of one and a half cent we derived no revenue from it. What, again I ask, is the purpose of this increased duty? It is that the gentlemen engaged in this manufacture may increase their profits upon their sales. A tax is proposed of six and a half cents per pound, which, on screws of two inches and over in length, will be equal to a duty of thirty-nine cents per gross. The purpose is to enable this company who have the monopoly of this manufacture to add to their profits of one dollar and twenty cents per

gross an additional profit of twenty-six cents per gross.

I ask if it is fair and just that they should be thus protected? Is it fair and just that those who are compelled to use this article—and no man in this country is so humble that he is not occasionally obliged to use them—shall pay this enormous profit to swell the revenues of this monopoly? It is wrong in principle. And I discover, upon examining this bill, that the same pernicious principle runs throughout many of its provisions. This is not a bill to raise revenue, but to protect manufacturers. The purpose is not to raise revenue, but to enable those engaged in manufacturing to compel the consumer to pay whatever tax may be assessed upon this article. I say it is wrong in principle. They ought to bear their fair proportion of the burden of taxation. The mere fact that they are engaged in the manufacture of this article is no reason why they should not be compelled to bear their fair proportion of taxation.

If the purpose be to derive revenue from the duty placed upon wood screws, you must lower the tax so as to enable the foreign manufacturer to compete with them. If we have not been able to derive a revenue at one and a half cent per pound, how much less at six and a half cents! It is a wrong principle, and it runs throughout many of these sections.

[Here the hammer fell.]

Mr. MORRILL. The gentleman has made a very excellent speech, but it is in the wrong place, and he should have fitted it to some other article, for it so happens that we have not proposed to raise the duty upon wood screws at all, for this rate here proposed is precisely as the law is now.

Mr. J. C. ALLEN. Let me call the attention of the gentleman to the act of 1862.

Mr. MORRILL. I state the fact, and the gentleman will find that it is so; and I will give him time to study it out.

I want to say in behalf of these inventors and manufacturers that by our laws we give them a special right to use their invention free of competition for a certain length of time, and we should not reproach them for what we give them by our laws. They have that right until the expiration of their patent. This patent on screws will, as I believe, very soon expire. Now, under our internal revenue laws and tariff bills we have very much increased the price of iron used by these manufacturers, about which they make no complaint; and it takes two pounds of iron to make one pound of screws. Now, as we have not proposed to increase the duties at all upon this article, but have increased the duty upon the articles which enter into the manufacture, and have levied a tax upon the amount of their sales, I do not see that the gentleman's argument meets the case at all.

Mr. MALLORY. I would ask my colleague on the Committee of Ways and Means if the action of the House just now in refusing to increase the duty on small bar iron was not a bonus to these monopolies that we are talking about? I understand that these wood screws are made from the small bar iron imported into this country. An effort was made a short time since to increase the duty on that class of iron, but the proposition was voted down. It seems to me that this is giving a sort of bonus to these monopolies.

Mr. MORRILL. If the gentleman had listened to what I said he would have understood that I would have been perfectly willing to increase the duty on small iron if the internal tax had been increased on the same article; but as the internal tax bill did not increase the tax upon this description of iron, I was unwilling to increase the tariff upon it.

The amendment was disagreed to.

Mr. BALDWIN, of Massachusetts. On page 10, line one hundred and eighteen, I move to strike out the word "nine" and insert "six," so that the clause will read:

On old scrap iron, six dollars per ton: *Provided*, That nothing shall be deemed old iron that has not been in actual use and fit only to be remanufactured.

Mr. MORRILL. I desire to say merely that this is an article which competes with pig iron, and is worth full as much if not more. It ought not to have a less duty upon it than is levied upon pig iron.

Mr. BALDWIN, of Massachusetts. This is

the material out of which the small bar iron is made.

The amendment was disagreed to.

Mr. WINFIELD. I move to add at the end of line one hundred and sixty, on page 12, the words "valued at over three dollars per dozen, fifty cents per dozen and forty per cent. *ad valorem*," so that the clause will read:

On penknives, jackknives, or pocketknives of all kinds, valued at three dollars or less per dozen, fifty cents per dozen, and in addition thereto twenty-five per cent. *ad valorem*; valued at over three dollars per dozen, fifty cents per dozen and forty per cent. *ad valorem*.

It is evidently an omission on the part of the committee.

The amendment was agreed to.

Mr. KERNAN. On lines one hundred and seventy-four and one hundred and seventy-five, on pages 12 and 13, I move to strike out the words "and twenty-five cents;" and I move, also, to strike out, in line one hundred and seventy-six, the word "sixty" and insert "forty" in lieu thereof; so that the clause will read:

On bituminous coal, and shale, one dollar for a ton of twenty-eight bushels, eighty pounds to the bushel; on all other coal, forty cents per ton of twenty-eight bushels, eighty pounds to the bushel.

Mr. Chairman, every one knows that coal has been exceedingly high, almost double what it used to be, and it seems to me that this is very high protection. I trust, therefore, that my amendment will be adopted.

Mr. MORRILL. The present tariff on this article is wholly inoperative under the reciprocity treaty, which is eternally thrusting itself before the House, and which cannot be helped until next December. All the coal imported comes in free, or nearly all, and there is no necessity for the amendment of the gentleman from New York.

Mr. KERNAN. Do they not import coal from Europe?

Mr. MORRILL. Very little.

Mr. KERNAN. I understand that the amount imported is very large.

Mr. STEVENS. Very little coal is imported now from Europe. Most of that imported comes from Nova Scotia.

The amendment was disagreed to.

Mr. FERNANDO WOOD. I propose to add after line twenty, on page 14, the words "on indigo, dye-woods, barilla, and madders, thirty per cent. *ad valorem*." This is one of the manufacturing interests of the country, and as the chairman of the Committee of Ways and Means has stated that the object of this bill is to sustain the war and derive a revenue, I propose to add several millions of dollars a year to the revenue of the country.

Mr. MORRILL. It is hardly necessary, Mr. Chairman, to make any remarks on that proposition. It comes from a quarter that aims at striking down every manufacturing interest in the country. I trust it will not be adopted.

Mr. FERNANDO WOOD. I desire to state that none of these articles pay at present any duty whatever.

The CHAIRMAN. Debate on this amendment is exhausted.

The amendment was rejected.

Mr. MORRILL. I move to amend the fourth section by striking out on page 15, lines thirty-four and thirty-five, the words "except while on the sheep."

The amendment was agreed to.

Mr. MORRILL. I move to amend the same section by striking out in the following line the words "fifty per cent. of" and inserting in lieu thereof the word "double."

The amendment was agreed to.

The proviso, as amended by the last two amendments, reads:

And provided further, That wool which shall be increased in value by being scoured or cleansed shall pay in addition to the duties herein provided double the amount of such duties.

Mr. HUBBARD, of Connecticut. I move to amend the fourth section by striking out, on page 14, lines nine and ten, the word "twelve" and inserting in lieu thereof the word "thirteen;" so that it will read:

On all wool, unmanufactured, and all hair of the alpaca, goat, and other like animals, unmanufactured, the value whereof at the last port or place from whence exported to the United States shall be 13 cents or less per pound, 3

cents per pound; exceeding 13 cents and not exceeding 24 cents per pound, 6 cents per pound; exceeding 24 cents per pound, 10 cents per pound, and in addition thereto 10 per cent. *ad valorem*.

I believe that these coarse wools do not come in competition with any wools of native growth; and there is danger that the price of them at the ports of importation may rise above 12 cents. As carpets are manufactured entirely from that description of wools, and as the Government is deriving a large revenue on them under the internal revenue bill, I think that if the price of wool should be raised it would increase the cost of carpets to such an extent as that they would be entirely unsalable, and the Government would lose largely thereby. I therefore hope that the Committee of Ways and Means will not object to the amendment.

Mr. MORRILL. The proposition of the gentleman from Connecticut is not a very unreasonable one; but at the same time, as this matter has been fully considered by the Committee of Ways and Means, I hope the amendment will not be adopted, and that no change will be made. As I stated yesterday, never in the history of the country has this description of wool ever cost so much as even 12 cents per pound. I think that, as it stands, both the wool-grower and the manufacturer can have fair profits.

The amendment was agreed to.

Mr. BEAMAN. I move to amend the fourth section by striking out on page 14, lines nine and ten, the words "twenty-four," and inserting in lieu thereof the word "twenty;" so that it will read:

On all wool, unmanufactured, and all hair of the alpaca, goat, and other like animals, unmanufactured, the value whereof at the last port or place from whence exported to the United States shall be 19 cents or less per pound, 3 cents per pound; exceeding 19 cents and not exceeding 20 cents per pound, 6 cents per pound; exceeding 20 cents per pound, 10 cents per pound, and in addition thereto 10 per cent. *ad valorem*.

Mr. MORRILL. I trust the amendment will not be adopted.

The Chair ordered tellers; and appointed Mr. BEAMAN and Mr. GARFIELD.

The committee divided; and the tellers reported—ayes 24, noes 70.

So the amendment was rejected.

Mr. GRINNELL. I now ask the gentleman from Vermont to insert "twenty-two" instead of "twenty-four" in that clause.

Mr. MORRILL. Oh, no.

Mr. GRINNELL. I will not move the amendment, lest the committee should be broken up for want of a quorum.

Mr. MORRILL. It is precisely what the gentleman himself agreed it should be.

Mr. BROOKS. I move to amend the fifth section by striking out the clause as to carpets. I wish to call the attention of the gentleman from Vermont to the clause in regard to tapestry and Brussels tapestry carpets. I am informed by some of my constituents who are in that trade that the duty proposed in this bill would be a virtual prohibition of the trade in imported carpets. As the ostensible object of the bill is to provide revenue, there should be only such duties imposed as would tend to increase the revenue, and not tend to prohibit importations. The manufacture of these carpets is confined, in this country, to two houses. One is in the State of Massachusetts. I will not say where the other is. The patent right by which all the Brussels and Brussels tapestry carpets are manufactured is owned in the State of Massachusetts. I may perhaps add in this case that Massachusetts comes decidedly in conflict with her particular admirer, that distinguished Englishman, John Bright, who is also a very large manufacturer of tapestry and Brussels carpets; so that while this duty which the bill proposes will prove a benefit to these gentlemen in Massachusetts, it will prove a great detriment to John Bright in his trade with the merchants and importers of New York.

The honorable gentleman from Vermont, [Mr. MORRILL,] I am informed, is as well acquainted with these facts as I am, having had access to the same sources of information. I do not rise, therefore, so much to address the House upon this subject as through the Chair to address the gentleman from Vermont, and to call his attention to it.

Mr. GRINNELL. I desire, with the consent of the gentleman from New York, to ask him



whether he proposes to strike out this section in order to benefit John Bright?

Mr. BROOKS. Oh, yes; I want to benefit John Bright, of course. He is a good man for this country. I respect John Bright, but I respect the revenue of the Government more than I do John Bright or even these gentlemen in Massachusetts who manufacture these carpets. I desire such a rate of duty as will produce the most revenue, and I shall not ask whom it will benefit.

Mr. BALDWIN, of Massachusetts. Do I understand the gentleman from New York to say that only two manufacturers in the country make tapestry carpets?

Mr. BROOKS. I believe the whole tapestry carpet manufacturing is in the hands of one man. Mr. E. P. Bigalow holds in his hands the patent right for the manufacture of these carpets exclusively, as I understand.

Mr. BALDWIN, of Massachusetts. I can inform the gentleman that there are many other manufacturers of these carpets.

Mr. BROOKS. I speak now of tapestry carpets only.

Mr. MORRILL. The gentleman from New York is slightly mistaken as to the extent of the manufacture of these carpets in this country. There are others interested in this matter besides the gentleman in Massachusetts whom he names. He makes the higher grades. Many others make the lower. In fact, that gentleman does not manufacture the kind of carpets to which he refers at all. The carpets manufactured by the Mr. Bigalow to whom he refers, of Massachusetts, are the velvet tapestry or Brussels carpet, by the Jacquard machine, a very different article from that to which the gentleman from New York refers.

Now, in brief let me say, that the House may understand this question, what the facts are. In the first place, the manufacturers of these carpets are compelled to use a quality of wool not grown to any extent in this country. They are worsted wools, and the wool from which they comb their worsted requires nearly two and a half pounds for a yard of carpet. They will, therefore, under the rate of duty imposed on wool in this bill, pay a duty of fifteen or sixteen cents a yard upon the wool they consume in obtaining the worsted they use. They use also three fourths of a pound of linen yarn, on which we levy a duty of thirty-five per cent. *ad valorem*, which will add about six cents per yard to the duties they pay to the Government.

Then, in addition to that, they are compelled to pay five per cent. *ad valorem* upon the value of the goods when manufactured and sold in the shape of internal revenue, making still another addition of from eight to twelve and a half cents per yard which they pay into the Treasury.

Under these circumstances, I believe we do not leave them any better off than they were before the internal revenue tax was imposed upon them, and in view of the tax levied by this bill upon wool, I will simply add what I stated yesterday, that last year we imported carpets to the amount of more than half a million yards. Now, sir, I hope this duty will be imposed, and let those who buy the best of imported carpets pay for them, for they are able to do it.

Mr. BROOKS. I withdraw my amendment. Mr. MALLORY. I renew the amendment, and I wish to say that according to the statement just made by the gentleman from Vermont, the taxes imposed upon the materials from which these carpets are made will amount in all to some thirty-five cents per yard. The duty imposed by this bill is eighty cents per yard. But the House will observe this difference between the duties paid by the manufacturer in this country and that imposed upon the manufactured article which is imported: that the duties imposed upon the manufacturer are paid in the currency of the United States, in legal-tender notes; while the duty paid by the importer is to be paid in gold, which, at the rate of two for one, would be equal to a tax of \$1 60 per yard.

Mr. MORRILL. The gentleman will allow me for a moment. All the duty that they pay on linen yarn and all the duty that they pay on wool they have to pay in specie. And I ought to have added to my statement that in combing the wool from which they obtain their worsted, as I am informed, the noils or hair which is taken out has

been estimated as entailing a loss of about ten cents more under the present high price of wool.

Mr. MALLORY. That would be the effect if all of these articles were imported; but nothing is paid in gold and silver if they are not imported but purchased in this country.

Mr. MORRILL. Linen yarn is not purchased here.

Mr. MALLORY. Linen is not, but a great deal of the wool is. The case stands thus: the protection furnished to this species of manufacture amounts to \$1 60 in the currency of the United States, whereas the tax against which it is proposed to protect it cannot exceed one dollar a yard. So, then, I agree with the gentleman from New York, [Mr. Brooks.] I do not see any good reason why a bounty of \$1 60 a yard should be paid to this manufacture to indemnify it for a tax which has been imposed of one dollar per yard. I do not wish to vote to strike out this whole section, but I should like to have the gentleman from Vermont [Mr. Morrill] modify his amendment. I think that the protection afforded in this case is too high.

Mr. MORRILL. The old duty was fifty-five cents per yard upon the highest quality of carpets, and here, now, we propose to make it fifty-five, seventy, and eighty cents, according to the value. Up to this time the importer has been able to compete with the American manufacturer, and I will say that in my opinion the American manufacturer will have a sharper competition under this tariff than heretofore.

The amendment was rejected.

Mr. BROOKS. I move to amend on page 16, line fifteen, by striking out "fifty-five cents" and inserting in lieu thereof "forty-five cents;" so that it will read:

*Provided*, That no carpeting, carpets, or rugs of the foregoing description shall pay a duty of less than fifty per cent. *ad valorem*. On Brussels and tapestry Brussels carpets and carpeting, printed on the warp or otherwise, forty-five cents per square yard. On all treble-ingrain, three-ply, and worsted-chain Venetian carpets and carpeting, forty cents per square yard.

Mr. Chairman, the great object of this bill, we are told, is to create revenue. It is the opinion of carpet dealers that this duty of sixty-five cents per square yard will be the destruction of revenue, and that this species of tapestry carpeting will not be imported.

As I stated before, this whole tapestry carpet business in this country is in the hands of two manufacturers, and the patent right for weaving this carpet is in the hands of another. So, then, three persons have the entire control of the whole manufacture of tapestry carpet in the country. The effect of this bill is, for the protection of these three men, to destroy all revenue from the importation of tapestry carpet. The cost of this tapestry or Brussels carpet in England, of John Bright, is two and sixpence sterling. Under this rate of duty and exchange it is \$2 15 and \$2 28 for an article which costs in England only sixty cents. In this bill, then, a prohibitory duty is levied, and the whole carpet interest is given to the control of three persons, and only three persons. The object of a tariff bill ought to be, while raising revenue, as much as possible to discourage men who hold monopolies. The duty of forty-five cents per square yard which I propose will admit of the importation of this tapestry carpet, and, as I am informed and believe, a duty of fifty-five cents will act as a prohibition to all importation of that article. These three gentlemen live in Massachusetts. They are ingenious men. They are wealthy, and they have become wealthy by the protection which has been given to them. I do not object to their wealth. I do not object to their protection. I am glad that they have great wealth; they deserve it. But while that is so, do not let us throw the whole tapestry carpet manufacture of the country into the hands of three men by increasing the duty till it amounts to prohibition.

Mr. MORRILL. I do not know that our time will be spent very profitably by going into a history of the individuals who are engaged in the manufacture of carpets. But I will say this in behalf of the gentlemen who have made this manufacture their business, that they have not, until a very recent period, made a dollar from the manufacture of carpets. Never until the invention and use of this Jacquard loom did they make a single dollar. So I am informed.

I desire to say further in reference to this mat-

ter, that in levying our internal duties, no matter what the price may be abroad, if it is worth here \$2 10 or \$2 50 per yard, five per cent. is levied upon the price sold for here. Under the circumstances I do not think it necessary to argue this question further.

I will say, however, that the Committee of Ways and Means have taken unusual pains to examine this matter. They have heard representations from all sides, and have not yielded to the pressure brought to bear upon them upon the part of the manufacturers, some of whom demanded a much higher rate than what we have proposed—even to the extent of ten and fifteen cents per yard. I think the committee have proposed the right sum, and I hope it will be sustained by the Committee of the Whole.

Mr. ELDRIDGE. Upon the amendment I call for tellers.

Tellers were ordered; and Mr. ELDRIDGE and Mr. ORTH were appointed.

The committee divided; and the tellers reported—ayes 35, noes 57.

So the amendment was not agreed to.

Mr. MALLORY. On page 16, line eleven, I move to amend by striking out "eighty" and inserting "fifty," so as to make the duty commensurate, in my judgment, with the internal tax imposed upon the materials of which these carpets are composed. If my amendment is adopted the clause will read:

On Wilton, Saxony, and Aubusson, Axminster, pattern velvet, Tournay velvet, and tapestry velvet carpets and carpeting, Brussels carpets wrought by the Jacquard machine, and all medallion or whole carpets, valued at \$1 25 or under per square yard, 70 cents per square yard; valued at over \$1 25 per square yard, 50 cents per square yard.

Mr. MORRILL. That is less than the present tariff.

The amendment was not agreed to.

Mr. MORRILL. In line thirty-two, page 17, I move to amend by inserting after the word "twenty" the word "four;" so that the clause will read:

On woollen cloths, woollen shawls, and all manufactures of wool of every description, made wholly or in part of wool, not otherwise provided for, 24 cents per pound, and in addition thereto 35 per cent. *ad valorem*.

That will make the duty exactly equivalent to the duty on wool.

The amendment was agreed to.

Mr. MORRILL. In line forty-two, page 17, I move to amend by inserting after the word "machines" the words "twenty cents per pound, and in addition thereto;" so that the clause will read:

On endless belts or felts for paper, and blanketing for printing machines, 20 cents per pound, and in addition thereto 35 per cent. *ad valorem*.

The amendment was agreed to.

Mr. MORRILL. In line forty-four, page 17, I move to strike out "twelve" and insert "eighteen;" so that the clause will read:

On flannels, uncolored, valued at 30 cents or less per square yard, 18 cents per pound, and 30 per cent. *ad valorem*.

The amendment was agreed to.

Mr. MORRILL. In line forty-seven, page 17, I move to insert after the word "twenty" the word "four;" so that the clause will read:

On flannels valued at above 30 cents per square yard, and on all flannels, colored, printed, or plaided, not otherwise provided for, and flannels composed in part of cotton, 24 cents per pound and 35 per cent. *ad valorem*.

The amendment was agreed to.

Mr. MORRILL. In line fifty, page 17, I move to insert after the word "wool" the words "twenty-four cents per pound, and in addition thereto;" so that the clause will read:

On hats of wool 24 cents per pound, and in addition thereto 35 per cent. *ad valorem*.

The amendment was agreed to.

Mr. MORRILL. In line fifty-four, page 17, I move to insert after the word "twenty" the word "four;" so that the clause will read:

On woollen and worsted yarn, valued at 50 cents and not over \$1 per pound, 20 cents per pound, and in addition thereto 25 per cent. *ad valorem*; valued at over \$1 per pound, 24 cents per pound, and in addition thereto 30 per cent. *ad valorem*.

The amendment was agreed to.

Mr. MORRILL. In line sixty-two, page 18, I move to insert after the word "twenty" the word "four;" so that the clause will read:

On clothing, ready-made, and wearing apparel of every description, composed wholly or in part of wool, made up

or manufactured wholly or in part by the tailor, seamstress, or manufacturer, except hosiery, 24 cents per pound, and in addition thereto 40 per cent. *ad valorem*.

The amendment was agreed to.

Mr. MORRILL. In line sixty-eight, page 18, I move to insert after the word "twenty," the word "four," and the same amendment in line seventy-three; so that the clause will read:

On blankets of all kinds, made wholly or in part of wool, valued at not exceeding 28 cents per pound, 12 cents per pound, and in addition thereto 20 per cent. *ad valorem*; valued above 28 cents and not exceeding 40 cents per pound, 24 cents per pound and 25 per cent. *ad valorem*; valued above 40 cents per pound, 20 cents per pound and 30 per cent. *ad valorem*. On Balmorals, and goods of similar description, or used for like purposes, composed of wool, worsted, or any other material, 24 cents per pound, and in addition thereto 35 per cent. *ad valorem*.

The amendment was agreed to.

Mr. WARD. In line forty-eight, page 17, I move to amend by inserting after the clause in reference to flannels the following:

And provided, That no flannels, whether colored or uncolored, printed or plaided, shall be subject to any higher rate of duty than 40 per cent. *ad valorem*.

The reason why I move the amendment is this: I think the duty provided is altogether too high. These flannels are used chiefly for soldiers' shirts, and the present duty is 25 per cent. The duty now proposed is 51 per cent. *ad valorem* in gold, or 96 per cent. in currency, computing gold at 90. It seems to me that an article of that kind used for such purposes ought not to have a prohibitory duty imposed upon it.

Mr. MORRILL. I hope the committee will perceive that the additional duty here proposed is not the ninth part of a hair more than the duty imposed upon the wool consumed.

The amendment was disagreed to.

Mr. MORRILL. On page 18, line sixty-nine, I move to insert after the word "twenty" the word "five;" so that it will read:

On blankets of all kinds, made wholly or in part of wool, valued at not exceeding 28 cents per pound, 12 cents per pound, and in addition thereto 20 per cent. *ad valorem*; valued above 28 cents and not exceeding 40 cents per pound, 20 cents per pound and 25 per cent. *ad valorem*; valued above 40 cents per pound, 25 cents per pound and 30 per cent. *ad valorem*.

The amendment was agreed to.

Mr. MORRILL. On the same page in line seventy-nine I move to insert after the word "twenty" the word "five;" so as to read as follows:

On all manufactures, not otherwise provided for, and ladies' dress goods, composed wholly or in part of wool, worsted, mohair, or goats' hair, gray or uncolored, not exceeding in value the sum of 40 cents per square yard, 4 cents per square yard, and in addition thereto 25 per cent. *ad valorem*.

The amendment was agreed to.

Mr. MORRILL. On the same page and in the continuation of the same clause I move to strike out the word "four" and insert "six," and in line eighty-two: to strike out "twenty-five" and insert "thirty;" so that it will read:

Exceeding in value 40 cents per square yard, 6 cents per square yard, and in addition thereto 30 per cent. *ad valorem*.

The amendment was agreed to.

Mr. WILSON. I do not know if the amendments which have been made to the paragraph will do away with the objection which has occurred to my mind in relation to it; but, sir, the paragraph just read is certainly very objectionable.

The CHAIRMAN. Does the gentleman propose an amendment?

Mr. WILSON. I do. In lines eighty-five and eighty-six I move to strike out the words "four cents per square yard" and to insert in lieu thereof "forty-five per cent. *ad valorem*." As I understand this paragraph, the highest duty is levied upon the lowest class of goods. The gentleman says he is going to remedy that, but as the section now stands the goods which are consumed by the laboring and middle classes are required to pay a higher duty than the goods consumed by the wealthier classes. The gentleman in the previous paragraph has increased the duties upon the class of goods consumed by the laboring and middle classes, so as to make them heavier than the duties imposed on the silks, which are used exclusively by the wealthier classes. I hope there will be some change in this. It seems to me that if we levy duties on silk goods according to the *ad valorem* principle, we ought to do the same with

goods that enter into the consumption of the middle classes of the country. Instead of taxing these goods at from 102½ to 182½ per cent.—adding the premium on gold—the duty should be reduced so that it would not amount to more than 45 or 50 per cent. *ad valorem*.

Mr. MORRILL. Mr. Chairman, I agree with the gentleman from Iowa in regard to the duties on silk. The Committee of Ways and Means, ever since I have been a member of it, has striven for information that would enable them to have duties imposed on silk goods in a specific form; and until recently we have never had any encouragement or assistance of the importers to accomplish that object. Latterly it has been found by the importers themselves that they cannot compete with foreigners engaged in the same trade, who send out these goods on their own account, or who undervalue them when they are brought into the country. I hope that before this bill becomes a law we shall have obtained sufficient information to enable us to report a specific duty on silks. We shall certainly do so if we can, and then, perhaps, ask the Senate Committee on Finance to incorporate it into the bill.

In relation to the particular goods embraced in this item, I will say that there are immense quantities of them consumed in this country. Imported, as most of them are, from Saxony, the *ad valorem* duty is merely nominal and produces hardly any revenue. These are goods, many of them, which American manufacturers do not and cannot produce. I have a large number of samples of them at my desk which any gentleman may examine. If we levy a small rate on these goods, as a specific tax, we shall secure some revenue, and shall not increase their cost to any appreciable extent. This duty is proposed to be calculated per square yard. The general width of these goods is about five eighths of a yard. The tax will amount to about two and a half cents per yard. When we reach a higher class of these goods, sold here at from seventy-five cents to a dollar, we shall perhaps obtain three and a half cents per yard on the specific rates and more than that on the *ad valorem* rates. I do not consider it unreasonable, but a just and fair duty, one which can be collected, and off those fully able to pay it.

Mr. WILSON. I ask the gentleman from Vermont which amendment he intends to propose.

Mr. MORRILL. I propose to increase the rate of four cents per square yard, in line eighty-seven, to six cents.

Mr. WILSON. Then I withdraw my amendment.

Mr. MORRILL. I move the amendment which I have suggested.

Mr. WARD. Mr. Chairman, I desire to say a few words in the direction indicated by the gentleman from Iowa, and to present a few facts to the attention of the committee. The present duty is two cents per square yard, and thirty per cent. *ad valorem* when the goods cost under forty cents per square yard; on goods costing over forty cents, thirty-five per cent. The proposed duty is four cents per square yard, and thirty per cent. when the cost is under forty cents per square yard, and four cents per square yard and thirty-five per cent. when the cost is over forty cents. Thus, gold at 90, an article costing twopence sterling, or four cents, would, if twenty-three inches wide, pay a duty of—

	Per cent. in gold.	Per cent. in currency.	Present duty in currency.
Costing 3d.	93	177	114 per cent.
" 4d.	70	133	93 "
" 5d.	54	103	87 "
" 6d.	43	82	80 "
" 12d.	40	76	70 "

12d., costing over 40 cents, 44 per cent. in gold, or 84 per cent. in currency, over 66½ per cent.

I merely mention these facts to show the extraordinarily high rates proposed on the articles referred to by the gentleman from Iowa. The duty on these articles should be less than on articles of greater luxury. I therefore hope that the amendment of the gentleman from Vermont will not be adopted, in order that I may renew the amendment of the gentleman from Iowa.

Mr. WILSON. I move further to amend the paragraph by striking out, in line eighty-five, "four" and inserting "three;" so as to make the clause read:

On all goods of similar description, if stained, colored,

or printed, not exceeding in value the sum of forty cents per square yard, three cents per square yard.

I do that for the purpose of stating to the committee upon information which has been furnished to me, and which I have examined with what care I could, the difference which the Committee of Ways and Means in their report of this bill make between the lower and higher grades of goods.

Now, sir, as the bill was reported by the Committee of Ways and Means the duties upon the different grades of goods comparatively are about as follows, taking them at sterling cost:

Goods costing twopence per yard would pay a duty of 92½ per cent. in gold, which in currency, at the present rate of premium, would amount to about 182½ per cent.

Goods that cost threepence per pound sterling would pay 70 per cent. in gold or 133 per cent. in currency.

The grade of goods costing fourpence per yard sterling would pay a duty of 60 per cent. in gold or 114 per cent. in currency.

The grade costing fivepence per yard pays a duty of 54 per cent. in gold or 102½ per cent. in currency.

The grades costing eightpence sterling per yard pay a duty of 50 per cent. in gold or 95 per cent. in currency.

Those costing ninepence sterling per yard pay a duty of 43 per cent. in gold or 81½ per cent. in currency.

Those costing twelve pence sterling per yard pay a duty of 40 per cent. in gold or 75 per cent. in currency.

Those costing thirteen pence sterling per yard pay a duty of 44 per cent. in gold or 83½ per cent. in currency.

Those which cost eighteen pence in gold pay a duty of 42 per cent. in gold or 80 per cent. in currency.

It will be seen, therefore, that the higher grades of goods used by the wealthier classes pay a much lower comparative rate of duty than the lower grades used by the poorer classes. Unless some amendment such as I have proposed is adopted, the bill will, in respect to these articles at any rate, make a discrimination against the poor and in favor of the rich of nearly one half the rate imposed.

Mr. MORRILL. I recognize the validity of the argument of the gentleman from Iowa. So far as I am concerned, at least, I have always endeavored to provide that the lowest grades of goods should pay the lowest rates of duty. The gentleman, however, will perceive in the preceding paragraph that we have levied a duty of four cents per yard upon these goods when they are gray or uncolored or cost less than forty cents per square yard. We ought of course to retain an equal specific rate of duty on the colored or printed goods.

Then I desire to say further that we have provided, when we come to the *ad valorem* duties, that the higher-priced goods shall pay a higher rate of duties. Then, how will they stand if the section is allowed to remain as it now is? These higher grades of goods will pay a specific duty amounting to fifty per cent. more than the lowest, and an *ad valorem* duty of five per cent. more. I think that ought to satisfy my friend from Iowa. If gentlemen, however, will examine the articles these provisions apply to, now before me, I do not believe there will be any objection to the rates of duties we have provided.

Mr. WILSON. I move to amend the amendment so as to make it 3½ cents per yard instead of 3 cents. I do it for the purpose of answering the argument of the gentleman from Vermont: The gentleman has told us that a higher rate of duty is imposed on the finer articles than on the lower grades; and has called attention to the *ad valorem* duty imposed. Now, the gentleman had just before called our attention to the fact that in practice these *ad valorem* duties amounted to very little, inasmuch as they are evaded by the importers; so that it matters not whether they are high or low.

Then, again, the amendment which the gentleman made to the preceding paragraph should be amended to meet the modification I have proposed to the section under consideration, by making the duty 3 cents instead of 4 cents. It does seem to me that there ought to be a discrimination between these lower and higher grades of goods.

# THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

MONDAY, JUNE 6, 1864.

NEW SERIES....No. 171.

Mr. MORRILL. I will say to the gentleman from Iowa that we have already accomplished the object he seeks to accomplish.

Mr. WILSON. No, sir; it is only partially accomplished. I prefer the bill as modified to the section as originally reported, but a change should be further made from four cents to three cents.

I withdraw the amendment to the amendment. The amendment was rejected.

Mr. WARD. I move the following amendment:

Page 19, line eighty-eight, after the words "*ad valorem*" add:  
*Provided*, That no higher rate of duty than shall be equal to 40 per cent. *ad valorem* shall be levied upon any description of ladies' dress goods of whatever materials composed, except silk goods in the piece.

Mr. Chairman, I do not propose to discuss this amendment, because the discussion already had substantially embraces what I had to say on it. My main object is to get a vote of the House.

Mr. MORRILL. I will not discuss the question; but I will say that the House having already voted down almost the identical proposition, I hope it will be voted down again in this instance.

The amendment was rejected.

Mr. MALLORY. I call the attention of the gentleman from Vermont to the section which has just been read. It is provided that forty per cent. shall be paid on all oil-cloths other than those mentioned in this paragraph. It then provides thirty cents on all oil-cloths.

Mr. MORRILL. I thank the gentleman for calling my attention to it. I move to insert after "fifty cents" the words "or less;" so that it will read:

On oil-cloths for floors, stamped, painted, or printed, valued at 50 cents or less per square yard, 30 per cent. *ad valorem*; valued at over 50 cents per square yard, and on all other oil-cloth, 40 per cent. *ad valorem*.

The amendment was agreed to.

Mr. WARD. I move the following amendment:

Page 21, line fifty-seven, after the words "*ad valorem*" add:  
*Provided*, That no cotton goods in the piece, of any description, whether bleached, unbleached, printed, colored, or stained, shall pay any higher rate of duty than shall be equal to 40 per cent. *ad valorem*, the specific and *ad valorem* duties hereinbefore stated to the contrary notwithstanding.

Mr. Chairman, this amendment is in the same direction as those I have already submitted; and whatever may be the action of the committee, I feel it to be my duty to present the amendment, and to explain the effect of the section.

Now, sir, the specific duty of 1½ cents per square yard is raised to 5 cents on low and medium priced unbleached cottons. Thus, on an article costing 2½ pence sterling, or about 5 cents the running yard, the percentage of duty is raised from 16 to 65 in gold, or 123 in currency, being a much higher duty than on expensive dress goods, and amounting to the prohibition of all importations of goods costing less than 5 pence sterling, or about 10 cents.

The increase on low-priced goods is enormous. The higher-priced kinds of colored cottons, costing over 16 cents per square yard, paid under the tariff of 1863 35 per cent. duty, but are by the present project subjected to a duty of from 42 to 50 per cent. in gold, or from 80 to 95 per cent. in currency.

When the cotton cloth is colored or printed, and over 100 but less than 140 threads to the square inch, the duty is raised from 3½ cents per square yard and 10 per cent. *ad valorem* to 5½ cents a square yard and 15 per cent. *ad valorem*. On an article costing 3 pence sterling, or about 6 cents, the duty would be equal to 76 per cent. in gold, or 145 per cent. in currency. Under the tariff of 1863 it was 49 per cent. in gold.

I bring these points to the attention of the committee to show that this instead of being a tariff for revenue is a prohibitory tariff. It will cause the tariff to fall off seriously. My amendment will help to cure that defect, and I hope that it will be adopted.

Mr. MORRILL. I know that the House will be tired of hearing the same argument over and

over again; but when the same proposition comes up, if the argument is a true one it has to be used if anything is proper to be said at all.

Mr. Chairman, under a normal state of things the ordinary manufacture of cottons required no protection in this country. But this Congress has imposed a duty of two cents per pound on all cotton, whether imported or the production of our own country. We have also imposed a duty of five per cent. on manufactured cotton goods. Now on cotton goods brought into the country there is no internal tax; and our whole cotton manufacture would be revolutionized unless we made some change in the tariff. In a fair field our common cotton goods ask no favor. I think that the change proposed by the Committee of Ways and Means is a just one. I do not expect that it will increase the price of fabrics or the revenue to any great extent. Our people who manufactured heretofore will continue to manufacture them—that is, they will not be destroyed by our taxes—and so far as they have been imported they will be imported still. I hope the amendment will not be adopted.

The amendment was rejected.

Mr. HOLMAN. On page 20, in the following clause—

On all manufactures of cotton, (except jeans, denims, drillings, bed tickings, gingham, plaids, cottonades, pantaion stuff, and goods of like description,) not bleached, colored, stained, painted, or printed, and not exceeding one hundred threads to the square inch, counting the warp and filling, and exceeding in weight five ounces per square yard, 5 cents per square yard; if bleached, 5½ cents per square yard; if colored, stained, painted, or printed, 5½ cents per square yard, and in addition thereto 10 per cent. *ad valorem*—

I move to strike out the words "and in addition thereto ten per cent. *ad valorem*."

It will be observed that a duty of 5½ cents per square yard, and an additional duty of 10 per cent. *ad valorem*, is imposed upon the lower quality of cotton manufactures, unbleached and unprinted, the common fabric made use of by the common and poorer class of citizens. This duty exceeds 60 per cent., perhaps reaches 65 per cent., of the original cost of the fabric. Indeed, I am not certain that it does not exceed 100 per cent. These low grades of cotton goods did not cost to exceed 6 or 7 cents a yard before the imposition of the tariff of 1861. Now the duty is made 5 cents per square yard, in addition to a duty of 10 per cent. *ad valorem*. It seems to me that in that we are imposing an unreasonable burden upon the laborers of the country. It will be observed that by the same section the duty imposed upon the higher grade of cotton goods, the more expensive and valuable grades, is only 35 per cent. *ad valorem*, while certainly, at the lowest estimate, 60 per cent. duty is imposed upon those cheaper fabrics which are in common use by the laboring classes of men throughout the entire country.

If this bill is intended for purposes of revenue, it ought at least to be so framed as not to fall heavily upon the labor of the country; in other words, wealth, and not the labor of the country, ought to pay the taxes. The laborers, the real producers, whose wages have not advanced anything like the advance in the price of commodities, ought not now to be subject to severe and heavy taxation. I am aware that this bill has been framed with a view to its passage. I presume it will be passed; and I presume, whether intended or not, the labor of the country will bear a burden which it never before has borne, and that, too, at a time when it ought to be peculiarly favored. We are inviting from abroad, by a liberal policy, persons from the Old World for the purpose of filling the places of those whom we have sent into the field to fight our battles. A large number of this latter class are made poorer by the result of their service in behalf of the country; and many thousands of them must soon resume their ordinary pursuits of life; and it seems to me exceedingly unwise, inasmuch as it is upon this element of labor that the prosperity of the country now rests, to subject it to a dis-

proportionate amount of taxation. I repeat, the tax should fall upon the wealth of the country, and not upon the labor.

Mr. MORRILL. My friend from Indiana would defeat the very purpose of his argument if his amendment should succeed. It will be observed that we have levied a duty upon unbleached goods at one rate, when they are bleached at another and higher rate, and when they are colored, stained, or printed at the highest specific rate, adding thereto 10 per cent. *ad valorem*. Now, take goods which cost 5 or 6 cents per yard across the water, and a duty of 10 per cent. *ad valorem* would only amount to one half a cent; but if they cost 20 cents a yard, the 10 per cent. *ad valorem* would be 2 cents per yard. So if the gentleman's motion should carry the very object he has in view would be defeated. I trust it will not be carried.

Mr. HOLMAN. With that view of the matter, though I do not concur in it, I will withdraw my amendment and move to strike out the words "five cents" where they first occur in the clause which I have read, and insert "three cents." This five cents per square yard would be imposing upon this species of cotton goods just about one half the amount which the article would have cost under the tariff of 1861. These fabrics, I suppose, cost about six cents a yard, and this amendment reduces the amount two cents. Fixing the tax at two or three cents per yard would impose a tax equal to one half the cost prior to the tariff of 1861. It may be true and it is true that upon this lower grade of cotton goods an *ad valorem* duty of 10 per cent. is small, and as the value increases of course the duty increases.

But here is an article that originally costs 6 cents and it is proposed to tax it 5 cents, which would amount to a tax of 50 per cent.; add the *ad valorem* duty of 10 per cent., and it makes a tax of 60 per cent. upon these cheap fabrics, which constitute the clothing of the laboring classes of the country, while the more valuable cotton fabrics pay only a duty of 5 per cent. This is a discrimination against the laboring classes, and in favor of the wealth of the country.

Mr. MORRILL. I beg the pardon of the House for having to repeat myself so often. If my friend from Indiana had listened to me yesterday, perhaps he would not have made this motion. I do not blame him for not listening, because it is not a very interesting subject; but the gentleman must bear in mind that these cottons have vastly increased in price in consequence of the increase of the price of cotton throughout the world. Cotton goods that even a year ago brought 10 cents a yard now bring from 40 to 45 cents a yard. We levy an internal duty, which, at 5 per cent. *ad valorem*, amounts to 2 cents and 2 mills a yard on such goods, and we have then levied a duty on the raw cotton of 2 cents per pound, or upon the goods consumed from ½ of a cent to a cent more. I trust the amendment will not prevail.

The amendment was disagreed to.

Mr. MORRILL. On page 24, line twelve, I move to insert before the word "silks" the words "dress and piece;" so that the clause will read:

On all dress and piece silks, ribbons, and silk velvets, or velvets of which silk is the component material of chief value, 60 per cent. *ad valorem*. On silk vestings, pongs, shawls, scarfs, mantillas, pelerines, handkerchiefs, veils, bouquets, hats, caps, turbans, chemisettes, hose, mitts, aprons, stockings, gloves, suspenders, watch chains, webbing, braids, fringes, galloons, tassels, fringes, lace cords, and trimmings, 60 per cent. *ad valorem*.

The amendment was agreed to.

Mr. WILSON. I move to amend that paragraph by striking out "60 per cent." and inserting "80 per cent.," and I call for tellers on that motion.

Tellers were ordered; and Messrs. WILSON and HOLMAN were appointed.

The committee divided; and the tellers reported—ayes 13, noes 62; no quorum voting.

Mr. WILSON. I withdraw the amendment.

Mr. HOLMAN. I move to amend the paragraph by striking out "60 per cent." and inserting "100 per cent." It will be observed that the



question is what duty shall be imposed on costly materials, silken goods, silk ribbon, silk velvet, velvets of all kinds, and other articles, which are mere articles of luxury. It is pretended that this is a measure for revenue and not for protection. When we attempt to reduce the duty of 60 or 70 per cent. on the low-priced cotton fabrics, worn by the masses of the people, we could not accomplish it. I know it may be argued with some degree of propriety that in that case we are affording protection to manufacturers of cotton goods in our midst; but here on an article which can bear a very heavy duty, and the duty on which is to be paid by the wealth of the country, there being no interest in this country to protect, gentlemen shrink from imposing a heavy duty. The women of the country have taught a lesson to Congress. They have met together and resolved that they will not buy these foreign fabrics; that while so many of the brave men of the country are sacrificing their lives, and while so many thousands and tens of thousands are suffering under terrible wounds in this fearful war they will not indulge in those luxuries which endanger the very foundations of public credit. And yet when gentlemen from New England come to act upon a tariff bill for revenue, they do not tax the wealth of the country. Labor must bear the burdens, not only of fighting the battles of the country, but of paying the taxes. If there were looms at work all over New England to fabricate these costly shawls and these costly silks, we should hear a different argument before the House; but the gentleman who controls the Committee of Ways and Means, talking about this measure as a war measure, has allowed all those articles which should bear the highest duty to escape with but a slight tax. It ought to be known, and gentlemen do know it, that the extravagant habits that are being adopted through the country are such as that the importation of these expensive goods, no matter how high the rate of duty imposed, will still go on. And yet, according to this bill, while a duty of 60 per cent. is levied on the material composing the poor man's shirt, the lady of wealth and affluence has to pay no higher rate on the costliest silks and velvets in which she is arrayed. The wife of the humble laborer pays the same rate of duty on the poor material she wears as the lady pays who wears a \$700 shawl.

Mr. Chairman, when it comes to the question of taxation, I am in favor all the time of the interests of labor, and of imposing the burdens of taxation on the wealth of the country, not upon its industry. By the opposite course you will sap the foundations of prosperity, impair the industry of the country, and create a storm of indignation which it will be difficult to allay.

[Here the hammer fell.]

Mr. MORRILL. Mr. Chairman, I am surprised, on listening to the eloquence that has burst forth from my friend from Indiana, that he was not awake when this other question of taxing tapestry carpets was before the committee. I noticed then that my friend voted in favor of reducing the tax on these luxurious and costly carpets that are used only by the wealthy classes; and now he comes forward and is very eloquent over a proposition to increase the duty on silk. While we have provided, Mr. Chairman, for a specific duty on certain descriptions of cotton goods, and then on all other descriptions for an *ad valorem* tax of thirty-five per cent., we have provided in the case of silks, that where they are dress silks, velvets, trimmings, bonnets, silk hosiery, &c.—articles consumed only by the rich—they will pay sixty per cent., a higher rate of duty than has ever been imposed upon them since the foundation of the Government, and on all other descriptions of silk fifty per cent. I think the committee will be satisfied with the proposition of the Committee of Ways and Means, and I trust the gentleman from Indiana [Mr. HOLMAN] is satisfied with his speech, and that the bill will be allowed to remain as it stands.

The question being on Mr. HOLMAN's amendment,

The CHAIRMAN ordered tellers; and appointed Messrs. GUINNELL and HOLMAN.

The committee divided; and the tellers reported—ayes 18, noes 80.

So the amendment was rejected.

The Clerk proceeded to read the ninth section of the bill.

Mr. MORRILL. Before proceeding any further I ask, by direction of the Committee of Ways and Means, to be allowed to report to-morrow any other articles that may be recommended for an increased duty, embracing spices, fruits, and chemicals, and that they may be inserted in their appropriate places in the bill. I do not know that any of them will come properly into this section, but I deem it right to ask this permission now.

There being no objection, permission was granted.

Mr. FENTON. I desire to indicate an amendment to which I presume the gentleman who has charge of the bill will make no objection. I move to insert in the seventy-second line after the words "Bohemian glass" the words "black or dark glass, demijohns, carboys, &c."

Mr. MORRILL. I will suggest to my colleague on the committee that his amendment is unnecessary, I think. If he will look to the latter portion of the paragraph he will see that it embraces all glass not otherwise provided for.

Mr. FENTON. I had noticed that, but it struck me there might be some ambiguity as to the class in which these articles should be placed.

Mr. MORRILL. I have no objection to the gentleman's amendment.

Mr. GARFIELD. I will suggest to the gentleman from Vermont that the seventy-sixth line to which he refers does not provide for these articles. It reads, "and all glass bottles or jars filled with sweetmeats not otherwise provided for."

Mr. MORRILL. I refer to the preceding line, "and all manufactures of glass, or of which glass shall be a component material, not otherwise provided for."

Mr. GARFIELD. That may make the amendment of the gentleman from New York unnecessary; but I think it also makes the seventy-sixth line unnecessary.

Mr. FENTON. That is outside my amendment. I believe there is no objection to that.

Mr. STEVENS. None at all.

Mr. KALBFLEISCH. I hope the amendment will not prevail. There is no necessity for it.

The amendment was disagreed to.

Mr. DAVIS, of New York. I desire to offer an amendment on the 25th page.

The CHAIRMAN. The committee has passed that, and cannot return without general consent.

Mr. DAVIS, of New York. I ask unanimous consent.

Mr. PRICE. I object.

Mr. MORRILL. I move to amend in the tenth section by inserting after the word "zaffre" the words "terra alba;" and by striking out at the end of the paragraph the words "washing crystals, twenty per cent. *ad valorem*."

The section would then read:

First. On annatto seed, extract of annatto, aniline, crude, barytes, nitrate of, elufstone, carmined indigo, extract of safflower, finishing powder, gold size and patent size, nickel, cobalt, oxyd of cobalt, smalt, zaffre, and terra alba, twenty per cent. *ad valorem*.

The amendment was adopted.

Mr. THAYER. I move to strike from the eleventh and twelfth lines of the same paragraph the words "nickel, cobalt, oxyd of cobalt."

Mr. MORRILL. I will suggest to the gentleman from Pennsylvania that the Committee of Ways and Means have had permission to add to this section any articles upon which we may find the duties can be properly increased.

Mr. THAYER. That will not interfere with my amendment, which is to strike out.

Mr. MORRILL. The whole section, however, will be open to amendment, and the gentleman can offer his amendment then.

Mr. THAYER. With that understanding I will withdraw my amendment at this time.

Mr. COFFROTH. I move that the committee rise for the purpose of taking a recess.

Several MEMBERS. Oh, no!

Mr. MORRILL. I am not sure but the committee ought to rise if it is proposed to take a recess, as the vote must be taken upon the motion before half past four o'clock.

Mr. MALLORY. I hope I will be permitted to say that I hope there will be no recess to-day. I hope we shall sit until a reasonable hour, and then adjourn.

Mr. MORRILL. It is proposed to finish this bill to-morrow.

Mr. MALLORY. We can easily do that without an evening session.

Mr. COFFROTH. I ask for a vote on my motion.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. SCHENCK reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill of the House (No. 494) to increase the duties on imports, and for other purposes, and had come to no resolution thereon.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 469) extending the time for the completion of the Marquette and Ontonagon railroad of the State of Michigan; and

An act (H. R. No. 426) to create an additional supervising inspector of steamboats and two local inspectors of steamboats for the collection district of Memphis, Tennessee, and two local inspectors for the collection district of Oregon, and for other purposes.

#### MICHIGAN CANALS AND HARBORS.

Mr. DRIGGS, by unanimous consent, introduced a bill giving consent to an act of the Legislature of Michigan concerning the construction of canals and harbors and the improvement of the same; which was read a first and second time, and referred to the Committee on Commerce.

#### LEAVE OF ABSENCE.

On motion of Mr. VAN VALKENBURGH, by unanimous consent, leave of absence was granted to Mr. ROLLINS, of Missouri, for one week.

#### PRINTING OF CURRENCY BILL.

Mr. A. W. CLARK, from the Committee on Printing, reported the following resolution, on which he demanded the previous question:

*Resolved*, That five thousand extra copies of the bill to provide a national currency, &c., be printed in pamphlet form, with marginal notes and an index, for the use of the House, and two thousand for the use of the Treasury Department.

The previous question was seconded, and the main question ordered to be put.

The resolution was adopted.

Mr. A. W. CLARK moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

Mr. MORRILL. I move that the House take a recess.

Mr. MALLORY. I move that the House adjourn.

The motion was disagreed to.

Mr. MORRILL's motion was agreed to.

And thereupon (at four o'clock and twenty-five minutes) the House took a recess until seven and a half o'clock this evening.

#### EVENING SESSION.

The House, at half past seven o'clock, resumed its session.

#### NAVY-YARD AT NEW LONDON, CONNECTICUT.

Mr. WARD, by unanimous consent, presented the memorial of the Chamber of Commerce of the city of New York in favor of the establishment of a navy-yard at New London, Connecticut; which was referred to the Committee on Commerce, and ordered to be printed.

#### GRANT OF LANDS TO DAKOTA AND MONTANA.

Mr. JAYNE, by unanimous consent, introduced a bill making a grant of lands in alternate sections to the Territories of Dakota and Montana to aid in the construction of a railroad in said Territories; which was read a first and second time, and referred to the Committee on Public Lands.

#### ABOLITION OF SLAVERY.

Mr. WILSON. I desire to submit a motion to the House in reference to the Senate joint resolution proposing to the several States an amend-

ment to the Constitution for the abolition of slavery, and that is, that its further consideration be postponed for one week from Monday next, after the morning hour, and that it be then taken up and discussed until not later than four o'clock Tuesday afternoon, when the vote shall be taken; if the discussion be closed sooner, then the vote shall be taken as soon as the discussion is closed.

Mr. PRUYN. This was made the subject of discussion this morning by members on both sides of the House, and I believe it was agreed that Tuesday would be a better day to which to postpone the further consideration of the Senate joint resolution, and then to let the discussion run over to four o'clock Wednesday. If the gentleman from Iowa prefers Monday I do not know that there will be any objection on this side of the House. Some gentlemen have left, however, under the impression that it would be Tuesday.

Mr. WILSON. Members on this side have preferred Monday.

Mr. FINCK. I hope the gentleman from Iowa will not press his motion at this time, as this side of the House is very thin.

Mr. WILSON. I thought the proposition I make would meet with general approval from that side of the House.

Mr. PRUYN. I will say to the gentleman from Ohio that there was a consultation this morning between members on both sides of the House, and it was agreed that this joint resolution should be postponed to a day certain. Some have left this evening and others will leave in the morning under the impression that it would be postponed to Tuesday and not Monday week.

Mr. FINCK. I do not object if the gentleman will say Tuesday instead of Monday.

Mr. WILSON. I agree to that. My motion is that the joint resolution shall be postponed until Tuesday week after the morning hour, and that the vote shall be taken on Wednesday at four o'clock, and sooner if the discussion be closed sooner.

There was no objection; and it was ordered accordingly.

#### WILLIAM SAWYER AND OTHERS.

Mr. THAYER, by unanimous consent, from the Committee on Private Land Claims, reported a bill for the relief of William Sawyer and others, of the State of Ohio; which was read a first and second time, ordered to be printed with the accompanying report, and recommitted to the same committee.

#### MARINE HOSPITAL AT CHICAGO.

Mr. WASHBURNE, of Illinois. I hope there will be no objection to some legislation which I desire to propose for the benefit of sick and wounded sailors and soldiers.

There was no objection.

Mr. WASHBURNE, of Illinois, by unanimous consent, from the Committee on Commerce, reported a bill authorizing the Secretary of the Treasury, in his discretion, to sell the marine hospital at Chicago, and out of the proceeds to build a hospital on a more eligible site; which was read a first and second time.

The bill was read *in extenso*.

Mr. WASHBURNE, of Illinois. The present marine hospital at Chicago is in the heart of the city near the railroad depot, and with two or three sewers running under it, and is altogether in an improper place. It can be sold for a sum of money which will buy a new site and build a better hospital. I ask that the letter of the Secretary of the Treasury be read.

The Clerk read, as follows:

TREASURY DEPARTMENT, May 31, 1864.

SIR: I have the honor to acknowledge the receipt of your letter of the 30th instant, inclosing a bill to authorize the sale of the marine hospital and grounds at Chicago, with your request for my views thereon.

The marine hospital at Chicago occupies a most unsuitable locality. The depots of the various railroads surround it, and the continual noise is very injurious to the sick seamen in that institution. Two large sewers are also discharged near the premises, rendering the air insalubrious. Other inconveniences attend the present site which are exhibited on the map and diagram lately submitted for your consideration by Mr. Haven, the collector of the customs at that port.

Hollis White, Esq., special agent of the Treasury Department, is familiar with the merits of the project and has been instructed to confer with you on the subject.

I have reason to believe that the property could now be disposed of for a sum amply sufficient to purchase a new

site and erect a building without further appropriation by Congress. The bill is herewith returned.

I am, very respectfully,  
S. P. CHASE,  
Secretary of the Treasury.  
Hon. E. B. WASHBURNE, Chairman of the Committee on Commerce, House of Representatives.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### BANKRUPT BILL.

The SPEAKER stated the next business in order to be the consideration of the bankrupt bill, on which the gentleman from Ohio [Mr. SPALDING] was entitled to the floor.

Mr. SPALDING. Mr. Speaker, I design to occupy but little of the time of the House. The select committee have presented for our consideration a bill which I believe is as perfect as any one we can devise under present circumstances, and which I think is called for by the best interests of the people of this Union.

For the compilation of the bill we are indebted to the industry of the gentleman from Rhode Island, [Mr. JENCKES,] who illustrated its principles in his remarks yesterday. With a few amendments which have been suggested by members of the House, and which I ask the indulgence of the House to submit upon this occasion, I think the bill will be ready for the action of the House. The gentleman from New York, over the way, [Mr. WARD,] desires to say a few words before the vote is taken, and he undoubtedly will have an opportunity. When that is done I hope the House will proceed to act finally upon the bill. I now submit the amendments which I have to offer. I move to insert in line forty-four, page 16, after the word "attachment," the words "levy or seizure."

Mr. SLOAN. It strikes me that the gentleman's amendment does not remedy the difficulty at which he aims by his amendment. It strikes me that the words inserted there should be "for levy and sale on execution."

Mr. SPALDING. The purport is the same. "Levy or seizure" embraces everything contemplated by the gentleman. I have no objection, however, to adding the words "and sale on execution." I will accept the addition of those words as a modification of my amendment.

The amendment, as modified, was agreed to.

The clause, as amended, reads as follows:

And the judge of the district court, or, if there be no opposing party, any register of said court, to be designated by the judge, shall forthwith, if he be satisfied that the debts due from the petitioner exceed \$250, issue a warrant, to be signed by such judge or register, directed to the marshal of said district, or to one of his deputies, or to some suitable person specially deputized for that purpose, authorizing him forthwith, as messenger, to take possession of all the estate, real and personal, of the debtor, except such as may be by the laws of the State in which such judicial district is situated exempt from attachment, levy, or seizure and sale on execution, and of all his deeds, books of account, and papers, and keep the same safely until the appointment of an assignee.

Mr. SPALDING. On page 41, in line four, I move to insert after the word "creditors" the words "shall then be," and after the word "called" the words "by the court."

The amendment was agreed to.

The clause, as amended, reads as follows:

SEC. 31. And be it further enacted, That the like proceedings shall be had at the expiration of the next three months, or earlier, if practicable, and a third meeting of creditors shall then be called by the court, and a final dividend then declared, unless any action at law or suit in equity be pending, or unless some other estate or effects of the debtor afterwards come to the hands of the assignee, in which case the assignee shall, as soon as may be, convert such estate or effects into money, and within two months after the same shall be so converted the same shall be divided in manner aforesaid.

Mr. SPALDING. On page 57, line twenty-two, I move to insert after the word "days" the words "such debtor not having sufficient property to pay his debts in full;" and also in the thirty-fifth line, on the same page, to insert "fraudulently" before the word "stopped."

The amendments were agreed to.

The section, as amended, reads as follows:

That any person residing and owing debts as aforesaid, who, after the passage of this act, shall depart from the State, District, or Territory of which he is an inhabitant, with intent to defraud his creditors, or being absent, shall,

with such intent, remain absent; or shall conceal himself to avoid the service of legal process in any action for the recovery of a debt or demand provable under this act; or shall conceal or remove any of his property to avoid its being attached, taken, or sequestered on legal process; or shall make any assignment, gift, sale, conveyance, or transfer of his estate, property, rights, or credits, either within the United States or elsewhere, with intent to delay, defraud, or hinder his creditors, or who has been arrested, or his property seized, attached, levied on, or taken, under or by virtue of mesne process, attachment, or execution, issued out of any court of any State, District, or Territory within which such debtor resides or has property, founded upon a demand in its nature provable against a bankrupt's estate under this act, and for a sum exceeding \$100, and such process is remaining in force and not discharged by payment, or in any other manner provided by the law of such State, District, or Territory, applicable thereto, for a period of seven days, such debtor not having sufficient property to pay his debts in full, or has been actually imprisoned for more than seven days in a civil action, founded on contract, for the sum of \$100 or upwards; or who, being bankrupt or insolvent, or in contemplation of bankruptcy or insolvency, shall make any payment, gift, grant, sale, conveyance, or transfer of money, or other property, estate, rights, or credits, or give any warrant to confess judgment, or procure or suffer his property to be taken on legal process, with intent to give a preference to one or more of his creditors, or to any person or persons who are, or may be, liable for him as indorsers, bail, sureties, or otherwise, or with the intent, by such disposition of his property, to defeat or delay the operation of this act; or who, being a merchant or trader, has fraudulently stopped, or suspended and not resumed payment of his commercial paper within a period of fourteen days, shall be deemed to have committed an act of bankruptcy, and, subject to the conditions hereinafter prescribed.

Mr. SPALDING. On page 19, line sixteen, I move to insert after the word "levy" the words "and sale."

The amendment was agreed to.

The clause, as amended, reads as follows:

That as soon as said assignee is appointed and qualified, the judge, or, where there is no opposing interest, the register, shall, by an instrument under his hand, assign and convey to the assignee all the estate, real or personal, of the debtor, except such as is exempt from attachment or levy and sale upon execution by the law of the State in which such judicial district is situated, &c.

Mr. SPALDING. Having offered all the amendments I desire, I yield to the gentleman from New York.

Mr. WARD. I am indebted to the courtesy of the gentleman from Ohio for the opportunity of making a few remarks. I feel very reluctant, having been so frequently before the House of late, to occupy its time at present, nor would I do so if this were not a subject vitally affecting commercial and manufacturing interests of the city which I have the honor in part to represent. The large cities will be much more affected than the agricultural districts by the passage of a bill of this character; but a just and reasonable settlement of the questions involved must be beneficial to all parties of the community, and I hope this Congress will have the honor of passing a bill that will relieve a large number of well-disposed but insolvent debtors from a bondage so nearly akin to slavery.

I have already during the last session of Congress addressed the House at length on this topic. The members of this honorable body do not often look into the details of statistics on a subject of this kind, and I feel it my duty, not only to this House, but to my constituents, to present briefly some of the main facts to be considered in this connection.

A large number of those who will be relieved by the passage of this act became bankrupt from causes originating in the present war; from causes which they could not foresee and over which they could not possibly exert any control. The indebtedness of the southern to the northern States in 1861 was carefully estimated to be \$300,000,000, of which \$159,000,000 were due to the city of New York, \$24,100,000 to Philadelphia, \$19,000,000 to Baltimore, and \$7,600,000 to Boston. The practical annihilation of this large amount of assets produced wide-spread, undeserved, and unexpected insolvency in the chief commercial cities of the North. It may be urged as an objection to the passage of this bill that it will release debtors in the southern States. A little reflection will lead us to the conclusion that as the principles of human nature are nearly the same everywhere, northern creditors will, on the restoration of peace receive a larger percentage of their claims against debtors resident in the South, under the mingled operations both of the voluntary and compulsory clauses of this national bill, than if the laws regulating the relations of debtor and creditor are left subject to a system of preferential assignments or whatever other policy may be the choice of State or local governments.

To demonstrate more particularly the immediate effect of the war on the mercantile interests of my constituents I will state the fact that in 1861, after the rebellion began, nine hundred and thirteen mercantile houses in New York became insolvent, whose liabilities in no case were under \$50,000, and in some cases amounted to several millions. Out of two hundred and fifty-six solvent dry-goods houses in New York at the beginning of the war only sixteen remained at the end of the same year.

I propose now to call the attention of the House to a few more statistical facts of importance in their bearings on this subject. I derive my information from one of the best and most reliable authorities on this subject.\* These statistics refer exclusively to failures of at least \$5,000 each, and are as follows:

	No. Failures.	Liabilities.
1857.....	4,932	\$291,750,000
1858.....	4,225	95,749,662
1859.....	3,913	64,394,000
1860.....	3,676	79,897,845
1861.....	6,993	207,210,437
1862.....	1,652	23,049,300
	25,391	\$761,961,264

It is estimated that in 1857-8-9 the liabilities of swindling and absconding debtors were.....\$10,635,500  
Liabilities paid in full.....39,315,000  
Paid preferred creditors.....286,400,000

During the same period of three years the average settlement when made was 31 per cent.; of these 42 per cent. failed again in payment.

In 1857-8-9-60-61, the liabilities of insolvents in the eastern States were.....\$120,521,921  
In the middle States.....376,937,955  
In the western States.....153,787,978  
In the southern States.....86,910,638

Total.....\$738,158,462

Amount of Liabilities in the Principal Cities of the United States, (to far as ascertained,) through Failures, in 1857, 1858-9-60-61-62.

New York.....	\$264,805,411
Buffalo.....	6,101,000
Boston.....	75,231,921
Philadelphia.....	74,357,289
Chicago.....	19,589,759
Cincinnati.....	15,871,021
New Orleans.....	17,597,000
St. Louis.....	7,417,874
Providence.....	7,090,000
Baltimore.....	13,979,500
Detroit.....	5,239,675
Louisville.....	3,817,189
Dubuque.....	3,685,000
Charleston.....	3,581,000
Richmond.....	2,500,965
Total.....	\$520,768,614

Failures in Northern and Southern States.

Year.	Northern States.		Southern States.	
	No.	Amount.	No.	Amount.
1857.....	4,257	\$255,818,000	675	\$25,932,000
1858.....	3,113	73,608,747	1,112	22,140,915
1859.....	2,959	51,314,000	954	13,080,000
1860.....	2,733	61,739,474	943	18,068,371
1861.....	5,935	178,639,170	1,058	28,578,257
1862.....	1,652	23,049,300	-	-
	20,649	\$634,161,691	4,742	\$107,799,543

The city of New York, from its commercial character and the extent of its business, is always, in every monetary crisis, the largest sufferer. No accurate statement of the insolvencies of last year has come under my notice, but the amount of their liabilities is computed to be about \$50,000,000. I think it will be readily perceived by the House that the enormous aggregate of indebtedness can never be relieved except by means of a general law including the various States. In the absence of such an act the energies of a large portion of the people are crushed. There are probably twenty or thirty thousand individuals in this country who are now unable to extricate themselves from the evils of insolvency. If they could be discharged by a full and fair surrender of their

assets they would again become useful members of the commercial community.

I trust that the House will pass this bill. The subject has been fully discussed before Congress and in the country at different periods, and such a measure as is now proposed has, with scarcely any exception, been universally approved by the leading organs of public opinion throughout all parts of the United States.

During the last Congress no less than from thirty to forty thousand persons petitioned for the passage of a bankrupt law. I am satisfied that its enactment will benefit creditors as well as debtors; for the very moment that the avenue to escape is opened men in failing circumstances will extricate themselves from their embarrassments by surrendering their property for the benefit of their creditors, and thus the creditor, instead of being paid as at present a small percentage of his debt, or frequently none at all, will receive a much larger dividend, as the necessary and direct tendency of the proposed law is to cut off the system of preferential assignments yet permitted by law but prejudicial to the interest of creditors in general and frequently adopted by debtors, because no other means of escape are open to them.

It has been urged as an objection to a general and permanent law of bankruptcy that under the experimental and temporary law of 1841 only a small percentage of dividends was paid to the creditors. To arrive at a just conclusion on this point it is necessary to remember that for a long period before the passage of that law, including the disastrous year of wide-spread insolvency, 1836-37, no national remedy existed for the relief of debtors. In the mean time, for the purpose of maintaining their families, insolvents, having no legal means of restoration to an honorable position were naturally but too frequently induced or driven to resort to indirect methods of concealing some portions of their property which had thus become gradually exhausted, so that when the law was passed there were few assets. A permanent law tends to produce a contrary result, and to prevent the waste of assets, both by its compulsory clauses and by opening out avenues of future and hopeful employment to every debtor who passes through the ordeal with an unblemished reputation.

I regard it as a stigma on the age and country that, after we have abolished imprisonment for debt, and done so much toward enlarging the privileges and rights of debtors, we should not have a bankrupt law.

It is often said that if a man in failing circumstances will give up his property his creditors will release him; but practically it is well known that there is seldom a case in which there is not some creditor who will insist on having his pound of flesh. If nine tenths of a man's creditors are willing to release him on the surrender of his property, the other one tenth should be compelled to acquiesce and not force the debtor to pay them a hundred cents on the dollar, to the injury of the more liberal creditors, and at the risk of forcing the debtor to the adoption of a preferential assignment, or some other arrangement equally injurious to the general interests of his just creditors.

Every member of this House is, or should be, familiar with those principles of legislation which are to be considered in reference to a bankrupt law, an enactment demanded alike on the grounds of expediency, humanity, and justice. The United States alone, among all commercial nations, refuse this measure of relief to the honest but unfortunate debtor and at the same time permit in its stead a system of preferential assignments, unjust to the creditor and demoralizing to the public. I advocate no new and untried theory. Legislation which has existed for several centuries in England, France, and the other leading nations of Europe, where it has been found by experience to attain the object for which it was enacted, compelling the just treatment of creditors and affording relief to honest and unfortunate debtors, is worthy of our most earnest and respectful consideration. It is far more needed in this country, where monetary fluctuations are frequent, unforeseen, and violent, than in the Old World, where the changes of trade are less common and embarrassing. It is in especial accordance with the spirit of our institutions and of our people, who desire the protection of the weak, and that none shall be hopelessly oppressed. In all other respects our laws are lenient to the

debtor. But let no one regard this side of the subject alone.

The interests of the creditor are also to be considered. It is proposed to render the estate of the debtor available in payment of his debts before it has been dissipated by bad management or delay, or concealed by fraudulent contrivances. The creditor, as soon as due investigation, just to all parties concerned, can be had, is to receive his share of the bankrupt's estate; and if there has been no profligacy, no culpable carelessness, nor any attempt at fraud on the part of the debtor, he is set free once more to resume his accustomed labors for the benefit of his family and society. This course, while it is more profitable to the creditor and more humane to the debtor than the customs already prevailing, tends also to create and maintain a higher standard of mercantile integrity and honor—a possession of inestimable value to the nation.

The number of debtors who became insolvent in the northern States in 1861, the first year of the war, was, as I have already stated, nearly six thousand, (5,935,) more than double the number of the same class in each of the previous years. These people were the victims of casualties which neither they nor the statesmen and Government of our country were able to foresee. At other times the sudden contraction of paper money and banking facilities, after a long period of expansion and easy credit, has produced unmerited calamities like those by which merchants and others dependent upon the southern trade were overwhelmed in that truly calamitous year. It is our duty to provide for these people a ready and legitimate method of extrication from their difficulties. They have been left—the victims of the war—wounded and disabled on the field of commerce.

I am satisfied that no law which it is in the power of Congress to pass will be more acceptable to the people, or more beneficial to the country, than the one now under consideration. I therefore hope it will be promptly passed. I now move the previous question.

Mr. BROWN, of Wisconsin. I hope the gentleman will not insist on his demand for the previous question at this time. I am very desirous of supporting this bill, but I have some amendments which I desire to offer, and which seem to me to be vital to the bill.

Mr. WARD. I am acting under instructions, and do not feel at liberty to withdraw the demand for the previous question.

Mr. GARFIELD. I hope the demand for the previous question will be voted down.

Mr. JENCKES. I desire to say to the gentleman from New York that I have a few verbal amendments I wish to offer to the bill.

Mr. WARD. I will yield to the gentleman from Rhode Island, who introduced the bill, of course. I withdraw the demand for the previous question and surrender the floor to him.

Mr. JENCKES. I move on page 16, line forty-five, to insert after the word "papers" the words "relating to the property of the debtor." The amendment was agreed to.

Mr. JENCKES. On page 56, line thirteen, I move to strike out the word "his" before the word "property" and to insert in place of it the word "whose."

The amendment was agreed to.

Mr. JENCKES. In the thirty-seventh line I move to insert before the word "seized" the words "has been."

The amendment was agreed to.

Mr. JENCKES. I should now like to hear the amendments the gentleman from Wisconsin has to propose.

Mr. GARFIELD. Will the gentleman yield to me?

Mr. JENCKES. I will.

Mr. GARFIELD. I desire only to say that I agree with the gentleman from New York that this bill is one of the most important that has been brought before the House, except those directly connected with the prosecution of the war; but I am surprised that gentlemen should present a bill of this magnitude, a bill of seventy-four printed pages, a bill more sweeping in its character than any that has been introduced into this House, a bill intended to be permanent in its operations, to continue for all time, affecting the

\* The annual reports of R. G. Dun & Co.'s Commercial Agency, New York.

† Does not include California.

‡ The failures in the southern States, except those in Baltimore, Louisville, and St. Louis, the State of Delaware, and the District of Columbia, are computed up to May 1, 1861, only; as also are those of St. Louis and Louisville for 1862.



interests of every man who owns property in this country, affecting to a greater or less extent every citizen from one end of the land to the other. I say I am surprised that a bill of this character should be introduced, and after two speeches on the general subject, without any consideration of its details, two amendments most vital in their character having been introduced within the last fifteen minutes, and without which I should regard it as a most dangerous measure, should be attempted to be put through under the previous question.

I most sincerely hope that this House will not legislate in so reckless a manner on such a subject. I agree with gentlemen that some such bill is needed; that perhaps this bill—for I have the greatest respect for the legal and statesmanlike ability of the gentleman who drew it up, [Mr. JENCKES]—should be passed. I believe it is very ably drawn; but, sir, the experience and counsel of the hundred and eighty-six gentlemen in this House ought not to be ignored in maturing such a measure. The bill ought to be examined by them, and such amendments as may be suggested considered.

Sir, we have just been told that \$300,000,000 were owed by men in the South, now in rebellion, to people in the North at the breaking out of the war; and are we, by one sweeping provision, to wipe out those debts, to ruin hundreds of men in the North in consequence of these men in the South having squandered their property in the cause of the rebellion. I do not think this bill gives us sufficient protection in that direction.

Mr. SPALDING. I should like to ask my colleague if he has ever read this bill.

Mr. GARFIELD. I have.

Mr. SPALDING. I am satisfied the gentleman never has read it, or he would not make the remark he has just made.

Mr. GARFIELD. I decline to yield the floor to a gentleman who implicates my veracity.

Mr. SPALDING. I do implicate it.

Mr. GARFIELD. Very well; I hold no further colloquy with the gentleman.

Mr. Speaker, I regret, I say, the hasty manner in which it is proposed to pass such a measure as this, and however much I may desire to vote for a bill on this subject, and perhaps after proper consideration, I will not vote for it under such circumstances as these. I am in favor of a bankrupt law; I believe that many of our people desire one; but I am not willing to risk the passage of a bill of this gigantic magnitude, affecting, as I have said, the vital interests of all the property in the Republic, with practically no consideration or discussion.

Mr. Speaker, I ask the attention of the House to another consideration. Does any one claim that this country is in immediate need of a bankrupt law? When has there been a time of more general prosperity in all commercial transactions in the North than the present? Consult your market registers, consult your commercial journals, and where do you see the lists of failures such as we saw in 1857, such as we saw in 1861? I ask whether, in this time of remarkable commercial prosperity, when every energy of the agricultural and manufacturing population is in full and profitable play, when both capital and labor bring quick and bountiful returns, it is wise for us to suggest and predict financial disaster by pressing to its immediate passage, without debate, a sweeping bankrupt bill, a bankrupt bill for the future as well as for the present and the past? I claim that no existing emergency calls for any such haste, when everybody is engaged in business, when capital is plenty, and no man is complaining that he has nothing to do.

The gentleman from New York [Mr. WARD] has referred to the history of the bankrupt legislation in England. I call his attention to a fact in that history. In the great war which England carried on for twenty successive years at the close of the last century and the beginning of this, and which was only not greater than our present war, her Parliament did not pass a bankrupt law until three years after the general treaty of peace. The great crises of nations occur in those periods of transition in which they pass from a state of peace to a state of war, and from a state of war to a state of peace. There was a revulsion in 1861 when we were adjusting our affairs from a peace basis to a war basis, and we may look for another revulsion when we again return to a basis of peace.

Mr. WARD. Will the gentleman yield to me for a moment?

Mr. GARFIELD. Certainly.

Mr. WARD. I wish to put the gentleman right. He stated that in England a bankrupt law was passed only after the war. It was not only passed after the war to which he has referred, but centuries before that war. And, sir, it may not be inappropriate here to add that almost from the earliest period of history, and among all nations where laws have prevailed as a system, provision has been made for the relief of the honest and unfortunate debtor. The Jewish dispensation, one of divine authority and commission, provided for the periodical discharge of the debtor from his debts; and the provisions of the Roman law, discharging those unable to pay their debts, were early adopted by the continental nations into their jurisprudence. (Story's Com., vol. 3, chap. 16.) In England for three centuries statutory provisions have existed in the nature of bankrupt laws, the earliest being the statute of 34 Henry VIII, c. 4, (A. D. 1543), and from that period to the present time numerous statutes have been passed, until within the present century, by the acts of 6 George IV and of 1 William IV, the whole have been consolidated into a general bankrupt law, thoroughly digested and systematized, the operation of which has been generally approved as of great utility to that highly commercial nation. I may add that within the last two years England has further modified its bankrupt law, making it broader and more comprehensive.

Mr. GARFIELD. I agree entirely in what the gentleman has said. There was frequent legislation in England at various periods, but it was fragmentary and temporary in its character. It was in 1819, more than three years after the conclusion of the war against Napoleon, that England consolidated and adopted a complete system of bankruptcy. She waited until the war was over.

Mr. JENCKES. Let me make an explanation.

Mr. GARFIELD. I have only a word further.

The SPEAKER. The gentleman from Rhode Island has the right to resume the floor at any time.

Mr. JENCKES. I will ask the gentleman a question.

Mr. GARFIELD. The floor having been taken from me, I decline all further colloquy.

Mr. JENCKES. I only wish to ask the gentleman a question.

Mr. GARFIELD. If I understand I have the floor, and the gentleman interrupts for a question, I will answer.

The SPEAKER. The gentleman from Rhode Island has the floor, and has yielded to the gentleman from Ohio.

Mr. JENCKES. Has the gentleman from Ohio any amendment to offer to this bill? He declines to answer.

Mr. GARFIELD. I do not decline to answer if I have the floor; but the floor has been taken from me, and I decline to answer.

Mr. JENCKES. I suppose that the gentleman has no amendment, and that he is opposed to any bankrupt system. This bill was presented early in the session, printed early in February, again printed about the middle of April, five thousand extra copies printed by order of the House, and several thousand out of the House; and it has been thoroughly distributed and discussed throughout the House and the country. I have had a correspondence with both debtors and creditors throughout the United States, and I have received only one or two suggestions from all the people who have written to me on the subject. If the gentleman wants to move an amendment, I am willing to give way for it.

If any member of this House wishes to speak upon this subject I am ready to concede that privilege to him; but I protest against the attempt to thrust aside a bill which has been perfected with as much care as this has been, by mere declamation upon the part of gentlemen who do not care to know anything about it. The country understands it and demands it. Who demands it, says the gentleman from Ohio, [Mr. GARFIELD,] in this time of great prosperity? Indeed it is a time of great apparent prosperity, but there are at least one hundred thousand active business men in this country, men of talent, industry, and integrity, who ought to take part in this universal prosper-

ity, but who are fast in the chains of debt and who look to the action of this Congress for relief.

It is for that reason that we press this bill. We heed the cry of these people more than we do of those who enjoy this apparent prosperity, but all of whom see before them a time of trouble soon to be upon them. We are legislating not only for those unfortunate ones but for those who are now floating upon this fair sea, as it were, of prosperity. They know, as well as we know, that their time will come. When there is no panic in the land, no revulsion of business, when we can consider an act like this with calmness and deliberation, then, of all times, is the time to take it up and pass it. Now we are not influenced by persons besieging our doors from recent troubles. We are not to be shaken from our propriety by the cry of this and that class of people throughout the land. We must look at the subject fairly, and legislate not for the present hour or the next hour, but we must lay the basis of a system which shall endure as long as our country shall endure.

Mr. BROWN, of Wisconsin. I fully concur with the gentleman from Rhode Island in his ideas as to the necessity and advantage of a proper bankrupt bill. Whatever may have been the objection to a bill of this character at a different time, the peculiar condition of our country makes the business success of our citizens dependent, not upon their personal calculations, but upon circumstances entirely beyond their control. The operations of Government, the success of armies, and the whimsical and changing policy of national finances may render futile the best schemes of commercial operations. And when misfortune happens to the citizen, not through his own recklessness, but through the inability of Government to maintain order, or through its unusual demands upon national resources, then I maintain that it is the duty of Government to guard the citizen, so far as it has power, against the effect of the bankruptcy which may follow.

But it is necessary that a bill of this kind should be fully considered. It vests enormous powers in the courts and in individuals, and each line of each section should be carefully weighed. I concede that the committee who reported this bill have given us full time to consider and examine it, but under the idea that it would be taken up and read section by section, and thoroughly discussed in the House, I have not given it that attention which ought to be given to it, before I am called upon to vote on the measure. I have noticed, on a casual glance at it, one or two things to which I will call the attention of the House now.

On page 3, lines eighteen, nineteen, twenty, and twenty-one, there is a provision limiting the time within which action shall be brought. It appears to me that the language used has the double effect first of utterly destroying the effect of State statutes of limitation, and secondly of being retroactive in its effect. It says:

No suit at law or in equity shall, in any case, be maintainable by or against such assignee, or by or against any person claiming an adverse interest, touching the property and rights of property aforesaid, in any court whatsoever, unless the same shall be brought within two years from the time the cause of action accrued.

The additional words "for or against the assignee" would limit the effect of the provision to two years from the time the assignee was appointed, and thereby prevent its being retroactive. As it stands the limitation would bar a right of action against property in the hands of the assignee which accrues two years before the appointment of the assignee, instead of being purely prospective, and having the limitation commence from the date of the right accruing to the assignee or against him personally. For instance, a man has been in possession of land for ten years in a State where twenty years are the period of limitation, and then assigns his property: the owner of the legal title, after the assignee is in possession, brings an action to recover that land. By this clause he would be defeated two years from the time "the right of action accrued" would have elapsed. But by adding the words "for or against the assignee" would remove that difficulty by preventing this retroactive effect. It is true courts might not sustain such retroactive legislation, but that is no reason why Congress should enact such laws.

There should also be a further amendment, to the effect that nothing in this section should be construed to repeal or affect the statutes of limita-

tion of the several States as applied to the property or debts or claims within those States.

I would like to have the gentleman from Rhode Island consider these suggestions, and, if they meet his approval, adopt them.

Mr. JENCKES. I do not profess to say, Mr. Speaker, that the phrase in regard to this limitation is the best phrase that could be used; but it is entirely clear to my mind that it does not affect the State limitation as to any rights of action for or against the bankrupt. This is a special limitation with regard to actions by or against the assignee. It is adopted in this act because its language, which has been used in previous acts, has received a judicial construction, removing entirely the objection which the gentleman from Wisconsin makes to it.

Mr. BROWN, of Wisconsin. I think the gentleman from Rhode Island is mistaken in regard to its legal effect.

Mr. JENCKES. I have the language of the former act before me; and I had it before me when this section was drawn.

Mr. BROWN, of Wisconsin. I still think the gentleman is mistaken as to the legal effect of it.

Mr. JENCKES. It may be so; but I have known judicial decisions on that very language, taking the view which I have taken of it.

Mr. BROWN, of Wisconsin. The point which I make is this: the State act of limitations does not destroy the right; it merely closes the courts to the remedy. This creates a new tribunal, and provides a new limitation. Of course, by this very provision, under the exclusive power vested by the Constitution in Congress as to bankrupt cases, the application of all these State statutes is excluded. Under the Constitution of the United States, an act of Congress passed in pursuance of the power given in relation to bankrupts overrides all State statutes inconsistent with it. At any rate, it can do no harm to have my suggestion adopted.

Mr. JENCKES. I understand that precisely as the gentleman from Wisconsin does.

Mr. BROWN, of Wisconsin. There is another objection, but I do not know that it would be, in my mind, of vital importance. Still, I think the language of the third section, on page 5 and line three, is objectionable. It vests in the register appointed by the court the power of making an adjudication of bankruptcy, and makes that adjudication a binding decree on which the right of the assignee to hold the property depends. It appears to me that it is such a judicial power as ought not to be vested in a register. Striking out the words "adjudication of bankruptcy" would remove my objection to that. There is still one further practical objection to this bill; but it likewise is not vital in its character. It is a question of convenience. Provision is made in it for the appointment of additional circuit and district judges whenever they become necessary through the increase of judicial labors created by the bankrupt cases. They would not necessarily, under the bill, be appointed, but it appears to me that the appointment of additional circuit and district judges in each district would be the practical effect of the provision, and that independently of their necessity in fact. I should prefer that the provision were not inserted. Still, I do not deem the objection as one of vital importance.

Mr. JENCKES. There may be three districts where it will be necessary to have additional judges appointed; but there cannot be more than three. They will not be appointed, under the terms of this bill, unless the necessity for the appointment exists. If the gentleman from Wisconsin will examine the bill more closely he will find that neither of his objections is of any force, as he himself admits that they are not vital. As I understand the bill it is not susceptible to his criticism on these points. If any member has an amendment to offer I will yield for the purpose of hearing and considering it.

Mr. PRUYN. In the last clause of the bill, on the 74th page, I suggest to the gentleman that he strike out the word "September" and insert "January," so that the bill shall take effect at that time. It is not supposed, I presume, that this bill shall become a law much before the 1st of July, and it seems to me that sixty days' notice is a very short one for the people of the country to have of a law of this character.

Mr. JENCKES. My object was to allow the

bill to go into operation in time for matters under it to be brought before the fall term of the courts. However, if the gentleman will be satisfied with the 1st of October or the 1st of November, I will not object to such an amendment.

Mr. PRUYN. It seems to me that a bill working such radical changes and intended to be so permanent in its character ought to have more than sixty days before going into effect. I hope the gentleman will accept the 1st day of January.

Mr. JENCKES. I am willing to accept the 1st of October if that will satisfy the gentleman.

Mr. PRUYN. I think that is too short a time.

Mr. STROUSE. Has the morning hour expired?

The SPEAKER. It has.

Mr. STEVENS. I move to go to business on the Speaker's table.

The motion was agreed to.

#### GOLD BILL.

The SPEAKER. The first business before the House is the consideration of Senate bill No. 106, prohibiting speculative transactions in gold, silver, or foreign exchange, and for other purposes.

Mr. HOOPER. I desire to call attention to the word "privilege," in the first line of the fifth section, which should read "privileges." I move that amendment.

The amendment was agreed to.

Mr. HOOPER. I have now an amendment which I offer as a substitute for the first section of the bill, and on which I propose to call the previous question.

The amendment was read, as follows:

Strike out the first section of the bill, as follows:

That all sales or agreement to sell gold, silver, or foreign exchange are hereby declared null and void, unless the full amount of the purchase money for such gold, silver, or foreign exchange shall be paid at the time of such sale or agreement to sell. And all money paid in partial payment, or as a margin on the sale or agreement to sell gold, silver, or foreign exchange may be reclaimed or recovered in any court of competent jurisdiction at the suit either of the person paying such money or of the United States upon the information of any person; and it is hereby made the duty of the several district attorneys of the United States to prosecute such suits in the name of the United States. And one third of the amount recovered shall be paid to the informer, one third to the district attorney prosecuting the case in lieu of all other fees allowed in such cases, and one third to be paid into the Treasury of the United States.

And insert in lieu thereof the following:

That it shall be unlawful to make any contract for the purchase or sale or delivery of any gold coin or bullion to be delivered on any day subsequent to the day of making such contract, or for the payment of any sum, either fixed or contingent, in default of the delivery of any gold coin or bullion, or to make such contract upon any other terms than the actual delivery of such gold coin or bullion, and the payment in full of the agreed price thereof, on the day on which such contract is made, in United States notes or national currency, and not otherwise; or to make any contract for the purchase or sale or delivery of any foreign exchange to be delivered at any time beyond ten days subsequent to the making of such contract; or for the payment of any sum, either fixed or contingent, in default of the delivery of any foreign exchange, or upon any other terms than the actual delivery of such foreign exchange within ten days from the making of such contract, and the immediate payment in full of the agreed price thereof on the day of delivery in United States notes or national currency; or to make any contract whatever for the sale or delivery of any gold coin or bullion of which the person making such contract shall not, at the time of making the same, be in actual possession. And it shall be unlawful to make any loan of money or currency not being in coin to be repaid in coin or bullion, or to make any loan of coin or bullion to be repaid in money or currency other than coin; or to make any other contract containing any stipulation for payment otherwise than in lawful money.

Mr. HOOPER. This section has been very carefully prepared, to obviate any interference with regular legitimate business, and I think will accomplish the purpose for which the bill is intended, to prevent speculative transactions in coin and gold. Now, sir, unless some persons desire to discuss the amendment, I will move the previous question on this section.

Mr. PENDLETON moved that there be a call of the House, and demanded the yeas and nays on the motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 38, nays 62; as follows:

YEAS—Messrs. Ancona, Augustus C. Baldwin, James S. Brown, Chanler, Coffroth, Thomas T. Davis, Dawson, Eden, Edgerton, Finck, Grider, Griswold, Hall, Harding, Harrington, Charles M. Harris, Herrick, Holman, Asahel W. Hubbard, Julian, Knapp, Lazear, Le Blond, Long, Mallory, McDowell, James K. Morris, Pendleton, Perry, Pruyn, John H. Rice, Smithers, Strouse, Upson, Ward, Chilton A. White, Joseph W. White, and Woodbridge—38.

NAYS—Messrs. Alley, Allison, Ames, Ashley, Bailly,

John D. Baldwin, Baxter, Beaman, Blaine, Bliss, Boyd, Broomall, Ambrose W. Clark, Cobb, Cole, Driggs, Eckley, Eliot, Farnsworth, Fenton, Frank, Ganson, Gooch, Grinnell, Hale, Higby, Hooper, Hotchkiss, Ingersoll, Kelley, Francis W. Kellogg, King, Littlejohn, Loan, Marvin, McAllister, McClurg, McIndoe, Moorhead, Daniel Morris, Amos Myers, Charles O'Neill, Orth, Patterson, Perham, Price, Alexander H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Spalding, Stevens, Thayer, Thomas, Tracy, Van Valkenburgh, Eliza B. Washburne, William B. Washburn, Williams, Wilder, and Wilson—62.

So the House refused to order a call.

Mr. MALLORY moved that the House adjourn, and called for tellers on the motion.

Tellers were ordered; and Messrs. MALLORY and HOOPER were appointed.

The House divided; and the tellers reported—ayes 27, noes 68.

So the House refused to adjourn.

Mr. STEVENS. I hope, by unanimous consent, this bill will be allowed to remain on the Speaker's table, and that we shall take up the tariff bill.

Mr. FENTON. This bill is to come up as the first business in the morning, I understand.

Mr. STEVENS. Yes.

Mr. HOLMAN. I object to that.

Mr. PENDLETON. I move that the House go into the Committee of the Whole on the state of the Union.

Mr. STEVENS. I move that the House adjourn.

Mr. HOLMAN. I call for tellers on the motion.

Tellers were ordered; and Messrs. INGERSOLL and EDEN were appointed.

The House divided; and the tellers reported—ayes 48, noes 45.

So the motion was agreed to; and thereupon (at nine o'clock and five minutes) the House adjourned.

#### IN SENATE.

SATURDAY, June 4, 1864.

Prayer by the Chaplain, Rev. Dr. BOWMAN.

On motion of Mr. SHERMAN, and by unanimous consent, the reading of the Journal was dispensed with.

#### PETITIONS AND MEMORIALS.

Mr. GRIMES presented resolutions of the levy court of the county of Washington, District of Columbia, in favor of the passage of an act authorizing that court to levy and collect a tax on the assessable property in Washington county outside the limits of the cities of Washington and Georgetown, sufficient to raise the portion of the direct tax imposed by the act of August 5, 1861, chargeable on the county of Washington, and that the tax may be apportioned between the cities and the county according to the assessment made last prior to the passage of that act; which were referred to the Committee on the District of Columbia.

He also presented a memorial of the levy court of the county of Washington, District of Columbia, in favor of the passage of the bill (S. No. 184) to amend an act entitled "An act to define the powers and duties of the levy court of the county of Washington, District of Columbia, in regard to roads, and for other purposes;" which was ordered to lie on the table.

Mr. FOOT presented a memorial of citizens of Burlington, Vermont, remonstrating against the extension of the Goodyear patent for the manufacture of vulcanized India rubber; which was referred to the Committee on Patents and the Patent Office.

He also presented a petition of farmers, wool-growers, and citizens of Rutland county, Vermont, praying that the duty on imported wool may be so increased as to produce the largest revenue and at the same time protect American interests; which was referred to the Committee on Finance.

Mr. MORGAN presented a petition of citizens of the United States, praying for the passage of the bill (H. R. No. 276) to secure to persons in the military and naval service of the United States homesteads on confiscated or forfeited estates in insurrectionary districts; which was referred to the Committee on Public Lands.

Mr. LANE, of Kansas, presented the petition of Jacob Steeg, praying for the payment of alleged arrears of pay for services rendered as band leader of the third regiment Michigan volunteers; which was referred to the Committee on Claims.

He also presented the petition of Mrs. Brandt, widow of Frederick Brandt, praying to be reimbursed for loss sustained by the sacking of Lawrence, Kansas, by Quantrell and his band on the 21st of August, 1863; which was referred to the Committee on Claims.

Mr. SUMNER. I offer petitions from 90,062 men and women calling upon Congress to pass an act of immediate emancipation throughout the United States, being from Connecticut, 4,738; Tennessee, 31; Virginia, 205; Rhode Island, 314; Missouri, 845; Pennsylvania, 1,754; New Hampshire, 3,537; Indiana, 2,945; Illinois, 14,766; Iowa, 6,638; Kansas, 500; Maine, 7,089; Minnesota, 1,396; Massachusetts, 3,438; North Carolina, 22; Ohio, 8,686; New York, 13,349; New Jersey, 1,110; Vermont, 4,392; Wisconsin, 8,314; Michigan, 5,892; Nebraska Territory, 101. I ask the reference of these petitions to the select committee on slavery and freedmen.

Mr. DAVIS. Permit me to make a suggestion to the honorable Senator. Will he have the kindness to write to these petitioners to petition Congress to change the negroes into white people, and then he will have the thing done? [Laughter.]

Mr. SUMNER. Does the Senator understand that that is within their power?

Mr. DAVIS. If they can do it, it is.

The petitions were referred to the select committee on slavery and freedmen.

#### BILLS INTRODUCED.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 299) authorizing the levy court of Washington county, in the District of Columbia, to levy and collect its portion of the direct tax imposed by the act of Congress of August 5, 1861; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 300) to amend an act to incorporate the Washington and Georgetown Railroad Company, approved May 17, 1862; which was read twice by its title, and referred to the Committee on the District of Columbia.

#### ARMY REGISTER.

Mr. ANTHONY submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That five thousand additional copies of the Army Register be printed for the use of the Senate.

#### PAYMENT OF OHIO MILITIA.

Mr. SHERMAN. I move to take up House bill No. 293. I know there will be no objection to it when it is read, and it ought to be passed at once.

The motion was agreed to; and the bill (H. R. No. 293) to provide for the payment of the second regiment, third brigade, Ohio volunteer militia, during the time they were mustered into the service of the United States, was considered as in Committee of the Whole. It provides that the second regiment, third brigade, Ohio volunteer militia, mustered into the service of the United States at Cincinnati, on the 4th day of September, 1862, notwithstanding irregularity may have occurred in the manner of their mustering into the service of the United States, shall be paid for the time the officers and men were in the service, respectively, after being so mustered, not, however, to exceed the period of thirty days.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### PERE MARQUETTE AND FLINT RAILROAD.

Mr. HOWARD. I move to take up Senate joint resolution No. 42, extending the time for the completion of the railroad from Pere Marquette to Flint. I will say that the joint resolution has been considered by the Committee on Public Lands, and they have reported it back favorably, with a short amendment to which I have no objection.

The motion was agreed to; and the joint resolution (S. No. 42) to extend the time for the reversion to the United States of the lands granted by Congress to aid in the construction of a railroad from Pere Marquette to Flint, and for the completion of said road, was considered as in Committee of the Whole. By its terms the time specified in the fourth section of the act of Con-

gress approved June 3, 1856, entitled "An act making a grant of alternate sections of the public lands to the State of Michigan to aid in the construction of certain railroads in said State, and for other purposes," for the reversion to the United States of the lands granted by that act to aid in the construction of a railroad from Pere Marquette to Flint, and for the completion of the road, is to be extended for five years.

The amendment of the Committee on Public Lands was to insert the words "and a railroad from Little Bay de Noquette to Marquette, and thence to Ontonagon" after "road," in line eleven.

The amendment was agreed to.

The joint resolution was reported to the Senate, and the amendment was concurred in. The joint resolution was ordered to be engrossed for a third reading, and was read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the bill of the Senate (No. 217) for the relief of Warren W. Green.

The message further announced that the House of Representatives had passed a bill (No. 504) to authorize the Secretary of the Treasury to sell the marine hospital and grounds at Chicago, Illinois, and to purchase a new site and build a new hospital; in which it requested the concurrence of the Senate.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolutions; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 236) to provide for granting an honorable discharge to coal-heavers and firemen in the naval service;

A bill (H. R. No. 426) to create an additional supervising inspector of steamboats and two local inspectors of steamboats for the collection district of Memphis, Tennessee, and two local inspectors for the collection district of Oregon, and for other purposes;

A bill (H. R. No. 469) extending the time for the completion of the Marquette and Ontonagon railroad of the State of Michigan;

A joint resolution (S. No. 35) to compensate the sailors on the gunboat Baron de Kalb for loss of clothing; and

A joint resolution (S. No. 51) authorizing the acceptance of a certain testimonial from the Government of Great Britain.

#### BILLS BECOME LAWS.

The message further announced that the President of the United States had yesterday approved and signed an act (H. R. No. 395) to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that the President had yesterday approved and signed an act (S. No. 218) to repeal the first section of the joint resolution relative to the transfer of persons in the military service to the naval service, approved February 24, 1864.

#### RAILROADS IN MICHIGAN.

On motion of Mr. HARLAN, the amendment of the House of Representatives to the bill (S. No. 250) to amend an act entitled "An act making a grant of alternate sections of public lands to the State of Michigan, to aid in the construction of certain railroads in said State, and for other purposes," was concurred in. The amendment was to add the following proviso to the first section of the bill:

*Provided further*, That the time specified in the fourth section of the act hereby amended for the completion of said railroad shall not be extended.

#### ARMY NEWS.

The PRESIDENT *pro tempore* submitted the following communication from the War Department, which was read to the Senate:

WAR DEPARTMENT, June 4, 10 a. m.

SIR: Dispatches from General Grant's headquarters, dated at three o'clock yesterday afternoon, have just been received.

No operations took place on Thursday.

Yesterday, at half past four o'clock in the morning, General Grant made an attack on the enemy's lines, of which he makes the following report:

"We assaulted at half past four o'clock a. m., driving the enemy within his intrenchments at all points, but without any decisive advantage.

"Our troops now occupy a position close to the enemy—some places within fifty yards—and are remaining.

"Our loss was not severe, nor do I suppose the enemy to have lost heavily.

"We captured over three hundred prisoners, mostly from Breckinridge."

Another later and official report, but not from General Grant, estimates the number of our killed and wounded at about three thousand.

The following officers are among the killed: Colonel Haskell, thirty-sixth Wisconsin; Colonel Porter, eighth New York heavy artillery; Colonel Morris, sixty-sixth New York.

Among the wounded are General R. O. Tyler, seriously, will probably lose a foot; Colonel McMahon, one hundred and sixty-fourth New York; Colonel Byrnes, twenty-eighth Massachusetts, probably mortally; Colonel Brooks, fifty-third Pennsylvania.

Very respectfully, &c.

EDWIN M. STANTON,  
Secretary of War.

HON. DANIEL CLARK, President of the Senate.

#### HOUSE BILL REFERRED.

The bill from the House of Representatives (No. 504) to authorize the Secretary of the Treasury to sell the marine hospital and grounds at Chicago, Illinois, and to purchase a new site and build a new hospital, was read twice by its title, and referred to the Committee on Naval Affairs.

#### RHODA WOLCOTT.

The Senate proceeded to consider its amendment to the bill (H. R. No. 290) for the relief of Rhoda Wolcott, widow of Henry Wolcott, disagreed to by the House of Representatives; and On motion of Mr. FOSTER, it was

*Resolved*, That the Senate insist upon its amendment to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

*Ordered*, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

Messrs. FOSTER, BROWN, and BUCKALEW were appointed.

#### LAND CLAIMS OF WISCONSIN.

On motion of Mr. HOWE, the Senate resumed the consideration of the joint resolution (S. No. 8) for the relief of the State of Wisconsin, the pending question being on the amendment of Mr. COLLAMER to add the following as an additional section:

*And be it further resolved*, That this joint resolution is passed on the condition that before anything is paid to said State under the same, the State shall make provision that whatever sum is deducted from the five per cent. on the sales of public lands in said State in pursuance hereof, shall by said State be replaced for the use of schools in said State.

Mr. HOWE. I beg leave to say in reference to the amendment that I was not prepared to hear it, and I do not understand why it should be offered. The Senator from Vermont clearly concedes what I asserted in the outset, that no liability attaches to the State of Wisconsin for the administration or maladministration of the canal grant other than that which I stated myself, to account for the money received on the sale of those lands. That we have been ready to account for ever since the State government of Wisconsin was organized, that we are still ready to account for. The United States have in their Treasury a large sum of money belonging to the State of Wisconsin, and which was granted to that State, as the Senator from Vermont rightly says, for purposes of education. The United States have held on to that fund down to this time. Why? To compel the State, it now seems, to pay back the fund which she has always been willing to pay back. The Senator does not insist that we ought to be charged for that any more than we are willing to be charged for. He intimates that he would give the right to charge us twenty shillings an acre, but he does not insist upon that amount being paid. Still, what we received, he says, ought to be paid. We are willing to pay it. But he says that before you will take it and pay us the five per cent. fund we must raise the amount that would so be applied out of the five per cent. fund to pay this balance in our hands and make the school fund good. There are just two objections to that.

In the first place, if the theory of the Senator from Vermont is correct, you never appropriated



this whole five per cent. fund, which now amounts to about \$250,000 in round numbers, to our school fund; you appropriated \$250,000, provided we would pay back this balance. That is the theory of the Senator from Vermont, and it is my theory, and the right theory. You appropriated so much of the \$250,000, which is now the aggregate of the five per cent. fund, as was not necessary to make us pay the balance of the canal fund, which is about \$100,000; so that all you appropriated to the school fund, all that belongs to the school fund of the State of Wisconsin is the difference between the five per cent. fund and the canal fund. But if the whole five per cent. fund belonged to the school fund of that State, I wish the Senate would answer a question. You have held on to the whole school fund of that State down to this time to secure the payment of the \$100,000, or whatever it is, which is the balance of the canal fund in our hands. Now, the Senator's proposition says that you will hold on to it still until we raise that \$100,000 and put it into the school fund; and why? The Senator says that he speaks in behalf of the cause of education there; he does not want that to suffer. It seems to me that he is taking a very peculiar and extraordinary care of the cause of education in our State when he insists upon holding on to \$249,000 or \$250,000 of money which belongs to that fund, for fear we shall cheat you out of \$100,000. If you settle with us, all we can cheat the school fund of our own State out of is the amount of the canal fund in our hands, which we apply to the payment of the five per cent. fund. That is a wrong, says the Senator. I agree. That he wants to guard against. Very well. But how does he propose to guard against it? By holding on to \$250,000 which belongs to that same fund until he sees that that is made good. That may compel us to do it; but I ask if it is treating the State of Wisconsin, or any State, fairly to assume such a guardianship over her. I ask if the imputation is deserved, if it is right to throw out the intimation that the United States must take this supervision of her affairs to prevent her from plundering her own educational fund.

I am very sorry the amendment is offered. I hope the Senate will not agree to it. I do not think it is necessary to cast that reproach upon the State; I do not think she deserves it; and I do not think it is benefiting the cause of education for the United States to retain this fund of \$250,000 under the pretense of compelling the State to put \$100,000 into the fund.

The question being put on the amendment, there were, on a division—ayes 7, noes 17; no quorum voting.

Mr. SHERMAN called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 12, nays 23; as follows:

YEAS—Messrs. Clark, Collamer, Cowan, Foot, Foster, Grimes, Hicks, Johnson, Morgan, Sherman, Sumner, and Wilson—12.

NAYS—Messrs. Anthony, Brown, Buckalew, Carlile, Chandler, Davis, Doolittle, Hale, Harlan, Harris, Henderson, Hendricks, Howard, Howe, Lane of Indiana, Morrill, Nesmith, Powell, Ramsey, Richardson, Van Winkle, Wilkinson, and Wiley—23.

ABSENT—Messrs. Conness, Dixon, Fessenden, Harding, Lane of Kansas, McDougall, Pomeroy, Riddle, Saulsbury, Sprague, Ten Eyck, Trumbull, Wade, and Wright—14.

So the amendment was rejected.

Mr. HARLAN. I now offer my amendment.

The PRESIDENT *pro tempore*. Before that amendment can be received, it will be necessary to reconsider the vote concurring in the amendment made as in Committee of the Whole. The Chair will put the question on reconsidering that vote.

The reconsideration was agreed to.

The PRESIDENT *pro tempore*. The question recurs on concurring in the amendment made as in Committee of the Whole.

Mr. HARLAN. I move to amend the amendment by striking out the following words after "Interior," in line three:

Be, and he is hereby, authorized to allow to the State of Wisconsin five per cent. of the net proceeds derived from the sale of the public lands within the State, as provided in the act of Congress approved August 6, 1846, and shall in the settlement of that account charge the said State the amount of the proceeds.

And inserting in lieu thereof:

Shall, in adjusting the amount due the State of Wisconsin under existing laws as five per cent. of the net pro-

ceeds of sales of the public lands within her limits, estimate.

So as to read:

The Secretary of the Department of the Interior shall, in adjusting the amount due the State of Wisconsin under existing laws as five per cent. of the net proceeds of sales of the public lands within her limits, estimate the value of the one hundred and twenty-five thousand four hundred and thirty-two and eighty-two hundredths acres of land granted to the Territory of Wisconsin, &c.

Mr. HENDRICKS. This amendment, proposed by the Senator from Iowa, is mainly one of phraseology, and I care but little about it; but I propose to him to modify his amendment by inserting after the word "estimate" the words "and charge against her;" so as to make the sense very clear that this is to be charged against the State in the adjustment of the account.

Mr. HARLAN. I do not object to the modification. I do not understand that it will practically affect the question in the least, for the State is now charged on the books of the Department at the rate of \$2 50 an acre. The phraseology I have used, I think, will be sufficient to change the amount of charge from \$2 50 to \$1 25 an acre; but I have no objection to the modification; it will certainly make it clear and certain.

Mr. HENDRICKS. With that modification I have no objection to the Senator's amendment.

Mr. HARLAN. I accept the modification. The amendment to the amendment was agreed to.

Mr. HARLAN. I move further to amend the amendment by striking out in line fourteen the words "valuing the same" after "State."

Mr. HENDRICKS. That is an amendment of phraseology. I see no objection to it.

The amendment to the amendment was agreed to.

Mr. HARLAN. I move further to amend by striking out all after the word "price" in line seventeen.

The words proposed to be stricken out were read, as follows:

And shall credit said State with the amount that has been legally and properly applied by said State or Territory toward the cost of selling said land and toward the construction of said canal. And the said Secretary shall also settle and allow to the Milwaukee and Rock River Canal Company such sums of money as have been properly expended by said company in the survey and location of said canal, in the construction thereof as far as the same has been constructed, together with dams, locks, and slack-water navigation, and in the management and keeping the same in repair; and the same shall be paid to the said canal company out of any money in the Treasury not otherwise appropriated, not exceeding in amount, however, the balance charged against the State of Wisconsin upon the sales of said canal lands, as above required, after deducting the sum allowed said State for money paid by her out of the same fund. The same to be received by said canal company in full payment and satisfaction of all claims of said company against the State of Wisconsin and of the United States on account of said canal land grant, or on account of any action of the Territory or State of Wisconsin or of the United States in relation thereto.

Sec. 2. And be it further resolved, That the Commissioner of the General Land Office, and he is hereby, appointed commissioner to adjust the accounts herein provided for, under the supervision of the Secretary of the Interior, and to determine what sum shall be charged to said State of Wisconsin for the lands granted for the construction of said canal; and what sums shall be credited, respectively, to said State and said company for the moneys expended by them in the construction of said locks and canal as herein provided.

Mr. HENDRICKS. I am not able to read in this amendment proposed by the Senator from Iowa. This joint resolution as it was reported from the Committee on Claims was very carefully considered, I believe, by every member of that committee, and although it became my duty to report it to the Senate I believe some modification of it was made by almost every member, particularly by the chairman of that committee who now presides over the Senate.

This question of the equities of the canal company as protected in this joint resolution has been considered very frequently. As I stated before, it was considered in the House of Representatives as early as 1842; an elaborate and able report was then made by the present Senator from Michigan, [Mr. HOWARD,] then a member of the House of Representatives, which was concurred in by the House, and the petition of the Territory of Wisconsin to be relieved from this trust was denied expressly upon the ground that the canal company was the beneficiary and that it must be protected in any change of the grant that might be made. The judiciary committee of the Senate of Wisconsin as late as 1860 reviewed this whole subject and arrived at the same conclusions as

were presented by the House Committee on Public Lands in 1842, asserting the equities of the canal company very emphatically indeed. The Committee on Claims of the Senate at this session were unanimous on this subject, and after a great deal of consideration decided on the proposition now before the Senate. If the amendment of the Senator from Iowa is agreed to by the Senate I think it destroys this resolution; it puts it in such a shape that it ought not to pass. It was a condition of the grant of the five per cent. fund to Wisconsin that she should adjust these equities. When she asked of Congress to modify the five per cent. grant in 1848, it was made a condition of that modification that the money should not be paid to her except upon an adjustment of the equities due to this canal company. I will not occupy the attention of the Senate longer. I think the question is sufficiently understood. I hope the amendment proposed by the Senator from Iowa will be disagreed to.

Mr. HOWE. I want to state in very few words what change the amendment of the Senator from Iowa will make in the resolution as reported by the committee. The resolution as reported by the committee charges the State of Wisconsin just as the Senator's amendment proposes to do; and it credits the State just as the Senator's amendment proposes, except that the committee's resolution allows the State all that she paid over to the company under the direction of the act of Congress which made the grant; the amendment of the Senator refuses to allow to Wisconsin that sum of money, whatever it is. There is one difference.

The resolution reported by the committee proposes to have a settlement between the canal company and this fund before it is disposed of. The canal company claims a part on the whole of the fund; the United States also claims it. The State has no interest in that, and is willing the right owner shall have it. The resolution as reported by the committee proposes to have that settled. The Senator from Iowa by his amendment proposes to have no settlement of it, to leave that open, and let it come back into the Treasury without any provision for settlement.

These are the two changes proposed by the Senator. The State of Wisconsin of course is directly interested in the first proposition of his amendment, which is to withhold from us an allowance for that money which we paid over to the company under the express instructions of the grant. With regard to the second part of the amendment, the State cannot have any interest, so to speak, except that justice be done.

Mr. HARLAN. I ask for the yeas and nays on my amendment to the amendment.

The yeas and nays were ordered.

Mr. HARLAN. I wish simply to state that as this case now stands, Wisconsin is charged on the books of the Treasury of the United States for the canal land at \$2 50 an acre, being in the aggregate \$313,579. The resolution as it will stand if my amendment shall carry will be in effect to credit Wisconsin \$156,789, and she will then be charged on account of the canal grant the full amount of \$156,789 to be deducted from the accumulated five per cent. fund. This will make it necessary for this Government to pay over to Wisconsin this year about \$93,000. If my amendment shall not carry, it will become necessary to pay over during this year a much larger sum to the State, and an indefinite amount to the canal company. The assumption of the debts of this company would be, I fear, a dangerous precedent. Other companies in this and other States employed as agencies in the application of similar grants will not be slow to follow such an example. A company engaged on the improvement of the Des Moines river in Iowa will have as good, I think a better claim. So it will be, I fear, in very many cases of improvement of rivers and the construction of canals and railroads. This company claim that having invested money in this work which proved to be a loss, they have a right to come to the Federal Treasury for the money invested and lost because the Federal Government did not advance enough means to complete the work, although the company itself did not collect and apply the money subscribed by stockholders. This was a private corporation, organized with authority to raise a million of stock; a hundred thousand was subscribed, but on their own show-

ing not over \$46,000 was ever paid. The Territory paid in over \$30,000 and were able to pay more, but the company was not. The company failed to pay, were unable to pay any more. The Territory of Wisconsin constituted the company's president its agent to go and borrow money on the joint credit of the Territory of Wisconsin and this canal grant, and the credit of the company itself, and he labored month after month in the money markets of the world to borrow money and failed to raise the necessary means. Hence the company was unable to proceed with the work, and it thus failed.

As I remarked yesterday, Wisconsin has as strong a claim on the company to refund to the Territory the amount of money which she paid in and thus lost as the company has to claim of Wisconsin the payment of the money which the company paid in and lost. They made a joint risk, a joint investment, and all lost. The whole was lost. Wisconsin was not bankrupt; she could have paid in some more, but the company could not.

Mr. DOOLITTLE. My friend from Iowa will allow me to state that the money that was paid in created a great water-power in the city of Milwaukee, which the company now holds, and which it rents and receives the rents for.

Mr. HARLAN. Does Wisconsin get any of those rents?

Mr. DOOLITTLE. Not a dime.

Mr. HARLAN. Then the case is stronger against the company than I supposed. All the effects of the joint investment made by the company and the Territory of Wisconsin are in the hands of this company; they are owning it, using it, enjoying it, and have never paid over to Wisconsin a single dollar of the proceeds. They have, however, invested more money, probably, than the work is worth, and because in that joint investment money is lost, they come in and claim of the copartner in the work, the Territory of Wisconsin, to be indemnified for their loss. Who will indemnify Wisconsin? There is nobody to indemnify Wisconsin for her loss if the company do not, unless we do, and I believe that is contemplated by the part of the amendment of the committee which I propose to strike out, and which the Senator from Indiana insists on, that Wisconsin shall be credited for the whole amount of money which she paid in, and that that shall be taken out of the Treasury of the United States. I suppose if two men enter into business, and invest their money jointly, and the business fails, and the capital is all lost, no one of those parties would have the right to claim indemnity from the other. But in this case the committee's amendment provides indemnity for both parties for their mutual and joint losses from the Treasury of the United States!

Mr. HOWE. My friend will allow me to say that we never were in partnership with the canal company. We were simply a trustee holding a fund which you gave us, and part of which we paid over as you told us to do, and part of which we did not. What we paid over we want you to credit us with. What we did not pay over we are willing to turn in this settlement with you. We never had any interest in the canal company, and never could have got any interest in it by any possibility or in any contingency, as I have stated before.

Mr. HARLAN. Wisconsin had an interest in this way, that the grant of lands was made to her.

Mr. HOWE. Upon what evidence is that stated?

Mr. HARLAN. Upon the evidence of the laws of the Territory and the laws of the United States.

Mr. HOWE. I do not so understand it.

Mr. HARLAN. The grant was made to Wisconsin for the benefit of Wisconsin to build a work within her limits, out of which she was to derive profits as the work proceeded, she to receive stock or a credit in the nature of stock to the full amount of the money to be invested.

Mr. HOWE. That stock could only be held for the benefit of the public. She could not put a dollar into her treasury from the dividends on that stock. Let me set my friend right. The grant was petitioned for by the canal company, not by the Territory. It is true it was granted to the Territory, but, as I said before, it was granted to

the Territory for a specific purpose and to be expended by a specific agent, to wit, the canal company. We had no control of it. We could not control the company. We could not regulate its tolls. We could do nothing with it but sell the land and pay over the money, and the State of Wisconsin had a right to own an amount of stock equal to the money paid over, but that stock she was to hold simply to use the dividends in purchasing up the stock of individual owners; and when it was all purchased up, then it was to become public property; never could a dollar go into the treasury of Wisconsin under any circumstances.

Mr. HARLAN. I do not see that the statement of the facts mentioned by the Senator affects the question that I am attempting to elucidate. It is true that the law of Congress making the grant stipulated that after the work should have been completed, and after all the stock should have been purchased with the money derived from the sales of the lands granted and the rents of the work for the benefit of the State, then no higher rates should be charged for transportation along this thoroughfare than sufficient to defray the expenses of keeping it in repair; but for whose benefit? For the benefit of the people of Wisconsin, her own people, her own citizens, the persons for whom her Legislature makes laws; a work entirely within her limits, a work for the benefit of her own people.

It seems to me that the provision requiring light tolls does not affect the question of ownership in the least.

The point that I was attempting to present I may state thus: Wisconsin pays in money—if the Senator prefers it I will say for the Government of the United States—and under the laws of Wisconsin a corporation bind themselves to pay in money for a common purpose; the work proceeds until the corporation fail, are unable to pay in the stock which they subscribe, are unable to raise another dollar in the market. Then Wisconsin, as our trustee, if the Senator prefers it, having money, being able to go on, but ascertaining that the copartner, the corporation, is unable to furnish any more means, suspends further investments, deeming it adverse to her interest to proceed with an insolvent associate, and provides by law for the diversion of the residue of the grant to other uses, which is finally approved by the United States when the insolvent corporation claim damages from the solvent associate. Now, if the Senator prefers to consider the United States, and not Wisconsin, the real party, the point I make is that the United States have the same right, if not a better right, to claim of them indemnity for the money that was put in by them and lost. The work failed; the investment was a loss to both parties. The investment was a mutual risk. The United States invested more than the company did, as I understand, and were able to go on with the work. The corporation put in some money, but exhausted their whole capital, all that was paid in, and were unable to go on, and consequently the work stopped. If either party should be indemnified by the other for what they invested and lost, it is clear to my mind that the corporation is the culpable party. I cannot perceive even a decent pretext for their claim; for the funds, diverted by Wisconsin to other uses, were not the property of the corporation, and never had been. This money was the property of the United States; and if it had not been diverted, and had been invested in the prosecution of the work as contemplated in the grant, it would not have become the property of the corporation, but in that case would become the property of the State of Wisconsin. The only thing which the company could possibly lose by the diversion was their proportion of the joint profits of the investment, had the work been completed and proved remunerative.

But on this point it is clear to my mind that the corporation has no reason to complain, because they were under the same obligation to make continuous advances as a joint partner, and failed to do so; it is said were unable to raise an additional dollar. Their inability to fulfill their part of the undertaking is admitted. Their claim for indemnity for losses grows out of their inability or refusal to fulfill their part of the contract, and the ability of Wisconsin to advance her part of the means necessary to continue the work. The insolvent partner, with all the appearance of injured

innocence, claims indemnity from the solvent partner for losses growing out of the suspension of a work on account of his failure! Honesty itself could not be more bold than such brazen-faced impudence! And as Wisconsin, your trustee, if the Senator prefers to consider it in that light, Wisconsin, understanding all the facts and circumstances of the case, has steadily for more than twenty years rejected the claim. Then the parties come to Congress and demand payment from the Treasury of the United States on the false allegation that they were building the work for this Government!

But then the character of the claim, as stated by themselves, is enough to shock the sensibilities of any honest man. I alluded to this yesterday. They do not claim dollar for dollar what they put in only, but, in addition, all the expenses that they incurred in the prosecution of this work, and all the losses that they incurred by investments in lands that failed to be as profitable, on account of the failure of the work, as they otherwise might have been, and all the money that they expended in lobbying the bill through Congress, and footing it all up it amounts to about two hundred and seven thousand dollars.

Mr. HENDRICKS. I want to ask the Senator if he claims that that is in this joint resolution.

Mr. HARLAN. It is the claim set up by the corporation.

Mr. HENDRICKS. I ask the Senator if that is in this joint resolution which I have reported to the Senate.

Mr. HARLAN. The resolution reported by the Senator authorizes a commission to be instituted to adjust the claim between that company and the State of Wisconsin, and to pay out of the Treasury of the United States the amount that may thus be found to be due. It does not particularize; they are left to prove up their claim afterwards.

Mr. HENDRICKS. I desire to repudiate any such construction of the joint resolution, and I say that the Senator is not justified in saying that I have advocated an allowance of a claim for lobbying through Congress or anywhere else.

Mr. HARLAN. It is not mentioned in the amendment in so many words, and was not contemplated by the Senator who reported it. But I was speaking of the character of this claim as set forth by the claimants. I have read the printed report of the commissioner appointed under a law of Wisconsin—it is in the hands of one of the Senators from Wisconsin—in which he gives a history of the whole subject; and I was naming the items charged by the company and the aggregate of the figures exhibited by the commissioner as the result of that investigation; and they are as I have stated.

The PRESIDENT *pro tempore*. The Chair must interrupt the Senator to call up the order of the day.

Mr. HENDRICKS. I appeal to the chairman of the Committee on Finance to allow us to dispose of this joint resolution. I suppose the Senator from Iowa is nearly through his argument, as I think he has passed over again the points he occupied yesterday, and we shall then soon come to a vote.

Mr. FESSENDEN. I cannot possibly agree to that, for I want to have the tax bill disposed of to-day.

Mr. HENDRICKS. Probably in fifteen minutes now this joint resolution may be concluded, whereas if it goes over till Monday the whole argument may then be repeated.

Mr. FESSENDEN. I do not see how I can yield with propriety. If I give way the discussion will continue.

Mr. HOWE. We can take the vote now, I understand.

Mr. FESSENDEN. If the vote can be taken without further discussion, I shall not object; but if there is to be another word said by anybody I must interpose.

Mr. HENDRICKS. I want just three minutes; I will agree to stop at the end of three minutes.

Mr. FESSENDEN. I must object to any discussion.

Mr. HENDRICKS. I will agree to take the vote without debate if the Senator from Iowa will consent.

Mr. HARLAN. Very well.

The PRESIDENT *pro tempore*. Is there any

objection to the further consideration of Senate joint resolution No. 8?

Mr. FESSENDEN. The Senator from Indiana must recollect that I have refused uniformly to give way to anything.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Iowa to the amendment made as in Committee of the Whole to the joint resolution.

The question being taken by yeas and nays, resulted—yeas 16, nays 17; as follows:

YEAS—Messrs. Carlile, Chandler, Davis, Fessenden, Foot, Foster, Grimes, Harlan, Harris, Howard, Morgan, Ramsey, Sherman, Sumner, Wilkinson, and Wilson—16.

NAYS—Messrs. Anthony, Clark, Conness, Doolittle, Henderson, Hendricks, Hicks, Howe, Johnson, Lane of Indiana, Morrill, Nesmith, Powell, Richardson, Ten Eyck, Van Winkle, and Willey—17.

ABSENT—Messrs. Brown, Buckalew, Collamer, Cowan, Dixon, Hale, Harding, Lane of Kansas, McDougal, Pomeroy, Riddle, Saulsbury, Sprague, Trumbull, Wade, and Wright—16.

So the amendment to the amendment was rejected.

Mr. HARLAN. I move to amend the amendment further by striking out all after the word "canal" in the twentieth line.

Mr. FESSENDEN. I now insist on the regular order.

The PRESIDENT *pro tempore*. Objection being made the joint resolution cannot be further considered. The order of the day will be resumed.

#### INTERNAL REVENUE.

The Senate resumed the consideration of the bill (H. R. No. 405) to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes.

Mr. HARRIS. I move to amend the one hundred and third section by adding:

The amount paid for transportation to any railroad company or corporation shall be deducted from the amount of gross receipts upon which a duty is to be charged under the provisions of this section.

This section provides for a tax of two and a half per cent. upon the gross receipts of express companies. The preceding section provides for a similar tax upon the receipts of railroad corporations. Unless there is some such provision as this which I now submit inserted in this section there will be a double tax. An express company hires a car from a railroad company, and the railroad company receives compensation for it, and the railroad company pays two and a half per cent. on the receipts from the express company. Unless there is a provision like this, the express company will pay another tax on the gross receipts from its customers to compensate it for the amount it pays to the railroad company. I simply propose to add this provision in order to save double taxation.

Mr. FESSENDEN. I ask the Senator if he has any doubt that this whole matter goes into the expenses and is an item in the charges for express business. It is not a question whether the express companies pay it, but it is a separate and distinct business. It is only saying this substantially, that express companies may be taxed on their net receipts, while all other companies are taxed on their gross receipts.

Mr. HARRIS. I do not understand it so.

Mr. SHERMAN. Whatever the express companies pay to the railroad companies is part of the ordinary expense of their business, and if you take that off you only tax them on their net receipts.

Mr. HARRIS. No; they have their employees, their agents, &c.

Mr. FESSENDEN. They have some other expenses; but this will take out a large portion of their receipts.

Mr. HARRIS. It would be unjust, it seems to me, to tax an express company the amount paid to a railroad company upon which the railroad company itself pays a tax.

Mr. FESSENDEN. That is simply a part of the expense of the express company, and it is a question whether they should be let off or not on a part of the necessary expense of their business. The amount so paid goes into the computation of their charges, as much as any other expense.

Mr. JOHNSON. That is certainly true; but that does not meet the difficulty which the honorable member from New York supposes to exist, and which seems to me to exist.

Mr. FESSENDEN. There are many cases where a double tax is paid. Take the manufacture of boots and shoes: you first tax the leather five per cent., and then you put five per cent. on the manufacture of boots and shoes. Why not deduct the first five per cent. paid?

Mr. JOHNSON. I understand that. That is a different article altogether.

Mr. FESSENDEN. So with everything that goes into a store. You may just as well deduct anything else which is an expense of business. It arises from the nature of the business, and is a part of their expenses. As I said before, the amendment is merely making a distinction in their favor, and saying that whereas we charge other companies on the gross receipts, in regard to express companies we will not tax them on gross receipts, but will deduct a very material part of their expenses. They charge it over and count it in their expenses to customers for carrying, and it comes out of those for whom they operate, finally, like other taxes. If it did not it would make a difference.

Mr. JOHNSON. That may or may not be the case. That depends upon the willingness of the community to pay. I mentioned the other evening, and I understood the chairman to consent to the justice of the proposition so far as that particular case was concerned, the case of a line of steamers that go to Philadelphia and New York through the canal. They pay very heavy tolls to the Chesapeake and Delaware, and the Delaware and Raritan canals, and on those tolls you propose to tax them. What I thought was that it was right they should be permitted to deduct from their gross receipts the amount which they are compelled to pay for navigating those canals, and I thought the member agreed to that.

Mr. FESSENDEN. It struck me there was some force in it when first stated, but on reflection I am not so certain. In this case it is perfectly manifest to me that it is only making a distinction between this kind of business and others, as I stated.

Mr. HARRIS. I ask for the yeas and nays. The yeas and nays were ordered.

Mr. GRIMES. I should like to have some of the Senators who are in favor of this provision explain to me the difference between this case and the case of anything manufactured, for instance out of iron. We tax the iron in the bloom, in the bar, in all its crude forms; and then we tax it again whenever it is manufactured, into any other article. Where is the difference in principle between taxing a railroad company and taxing a subordinate company that has some connection with it by paying the railroad company a sum of money for a privilege it enjoys from the railroad company? Why not charge each party, because each party derives a profit? We charge these men because of the profit that they are supposed to make. I do not know of any property in the whole land so valuable as these express companies, and I know no corporations that can so well afford to pay this amount of tax as these express companies. They have been about me; I have heard them, I have listened to them as patiently as I could. They have besought me to interpose in their behalf as a great many other men have who want to avoid taxation, but I have never heard any substantial argument urged by any one of them.

Mr. FESSENDEN. Besides it makes a discrimination between those which go upon railroads and all other expresses. There are many other expresses.

Mr. HARRIS. It has seemed to me that this was so manifestly unjust that the Senate would not hesitate to adopt my proposition. Here is an express company engaged in carrying merchandise, articles for its customers. For the purpose of carrying them it hires from a railroad company a car for transportation. It pays a specific price for that car, and for the money received by the railroad company for the use of that car the Government exacts from that railroad company a duty of two and a half per cent. Now, that the Government should exact that same duty for that same money of the express company seems to be unjust. I cannot see it otherwise. If the Senate think differently I have nothing more to say.

Mr. FESSENDEN. I will ask the Senator one question. Suppose I am engaged in a par-

ticular business which requires me to travel by railroad, and that is the kind of business I do, and in that way I get a gross income upon which I am taxed; for we are taxed on our gross incomes. The Senator might just as well propose that I should deduct what I paid to the railroad because the railroad pays a tax on their receipts, and if I am taxed it is taxing the same thing twice.

Mr. HARRIS. If such a case were in this bill I should join with the Senator in moving to strike it out. I do not know of any case where a man is taxed on his gross income. I think the Senator is mistaken about that.

The question being taken by yeas and nays, resulted—yeas 17, nays 14; as follows:

YEAS—Messrs. Anthony, Buckalew, Chandler, Davis, Doolittle, Foster, Harris, Hendricks, Hicks, Johnson, Morgan, Powell, Ramsey, Sumner, Ten Eyck, Van Winkle, and Wilson—17.

NAYS—Messrs. Clark, Collamer, Cowan, Fessenden, Foot, Grimes, Hale, Henderson, Lane of Indiana, Morrill, Richardson, Sherman, Wilkinson, and Willey—14.

ABSENT—Messrs. Brown, Carlile, Conness, Dixon, Harding, Harlan, Howard, Howe, Lane of Kansas, McDougal, Nesmith, Pomeroy, Riddle, Saulsbury, Sprague, Trumbull, Wade, and Wright—18.

So the amendment was agreed to.

Mr. HARRIS. I desire now to add an amendment at the end of the first paragraph of the preceding section, section one hundred and two. It is an amendment to the amendment which was adopted on my motion a day or two ago. It is to insert after the word "vehicle," in that amendment, these words:

Excepting nevertheless from such gross receipts the amount paid for canal or other tolls and tonnage duties.

Mr. FESSENDEN. I should like to have that read in connection with the paragraph proposed to be amended, so that we may understand it.

The Secretary read, as follows:

That every person, firm, company, or corporation, owning or possessing, or having the care or management of any railroad, canal, steamboat, ship, barge, canal-boat, or other vessel, or any stage-coach or other vehicle engaged or employed in the business of transporting passengers or property for hire, excepting express companies, or in transporting the mails of the United States, or any canal the water of which is used for mining purposes, shall be subject to and pay a duty of 2½ per cent. upon the gross receipts of such railroad, canal, steamboat, ship, barge, canal-boat or other vessel, or such stage-coach or other vehicle, excepting, nevertheless, from such gross receipts the amount paid for canal or other tolls and tonnage duties.

Mr. JOHNSON. I do not understand that. I ask the Senator to explain it.

Mr. HARRIS. It is this: the provision which has been adopted by the Senate charges a duty of 2½ per cent. upon the gross receipts of canal-boats and upon sailing vessels. I propose by this amendment to deduct from the gross receipts on which this duty is to be levied the amount those canal companies have to pay for tolls to the State, and which the vessels have to pay for tonnage duties to the Government; that they shall not be regarded as a part of the gross receipts upon which the duty is to be paid. A canal-boat navigating one of the canals of New York pays a duty to the State. That duty that is paid to the State should not be regarded as part of the gross receipts upon which this tax is to be levied, and where a sailing vessel pays a tonnage duty to the Government that should be deducted from the gross receipts. That is the whole of the amendment.

Mr. JOHNSON. I wish to know if it covers the case to which I referred just now. We have steamboat lines that traverse the Chesapeake and Delaware and Raritan canals on their way to Philadelphia and on their way to New York. They pay a toll to the company; but I am not sure that this provision would cover that case.

Mr. HARRIS. Yes, sir, it does.

Mr. FESSENDEN. This amendment shows precisely the extent to which this thing may go when you once begin making exemptions from taxation. We have a law in operation which lays a tonnage duty on all vessels. Foreign vessels pay on each voyage they may make; coasting vessels pay by the year. It is but a small tonnage duty which we thought it best to levy. It passed during the last session or the session before, I do not know which; and at that time we made all the vessels carrying passengers, steamers, pay a duty. We have thought it advisable in the present state of the revenue to go further and lay a duty on freight. The Senator's amendment, however, substantially repeals the tonnage duty; that is to say, you levy the tonnage duty, but you take it out of the freight, reduce it so much.



Now, which amounts to the most in the course of a year, the tonnage duty or the freight, I do not know.

Mr. JOHNSON. I think we had better strike out the tonnage duty.

Mr. FESSENDEN. I suppose the Senator from New York is not prepared to state that. He is legislating in the dark. I say very frankly that so far as my own immediate constituents are concerned, as well as the constituents of the Senator from New York, they will get rid of burdens by this amendment.

Mr. HARRIS. I will strike out all relating to the tonnage duty. I had some doubts myself whether to put it in or not.

Mr. JOHNSON. I think that amendment had better be made.

Mr. HARRIS. I will strike out that, leaving in the tolls.

The PRESIDENT *pro tempore*. Does the Senator from New York so modify his amendment?

Mr. HARRIS. Yes, sir. The tonnage duties are very small.

Mr. FESSENDEN. I know they are small, but still they pay something.

The PRESIDENT *pro tempore*. The question is on the amendment as modified.

Mr. FESSENDEN. I object to this amendment on the same principle that I objected to the other; but as the Senate voted me down on that occasion, I shall not call for a division, because the principle if applicable in the other case is quite as applicable in this.

Mr. SHERMAN. I call for the yeas and nays upon it. I desire a reconsideration of the other vote, and I hope we shall have it.

The yeas and nays were ordered.

Mr. SHERMAN. As a matter of course if the other amendment prevails, allowing express companies to deduct the amount paid to railroad companies, this ought to prevail also. There is no reason to distinguish between them. If the Senate adhere to the vote taken a moment ago, as a matter of course this amendment ought to be carried in the affirmative; but I assure Senators that if that is done we shall lose all revenue from the large express companies and also the majority of the revenue from transportation companies on canals. Take Adams's Express Company, and I will venture the assertion that two thirds or three fourths of all the expenses paid by them are paid to railroad companies. All the expenses they pay for transporting express goods on railroads would be deducted under the amendment of the Senator from New York, and the balance of their expenses are the mere cost of agents to deliver these little packages at the places of delivery.

Mr. FESSENDEN. More than that; I suggest to my friend there is no knowing what kind of arrangement may be made. They may make any arrangement they see fit.

Mr. SHERMAN. This matter has been carefully considered by the Committee on Finance. They had a conference with the officers of the principal express companies in the United States. They presented this point to us. We considered it carefully and deliberated upon it. I think it would be better to entirely exempt express companies from the operation of your tax, rather than to make this exception. I would rather see all these express companies relieved from taxation than to make an exception which will substantially repeal the tax. The effect would be that all the large express companies which can pay this tax, which are making large profits, would be exempted from taxation. They would report their gross proceeds at say \$1,000,000 a year; they would report their payments to railroad companies at \$800,000 a year, leaving \$200,000, or substantially their net income, to be taxed. That would be the result of it, while you apply a different rule to all stage companies and to all express companies in wagons and those of inferior grade, where the profits are much less.

In order to show the injustice of this proposition, suppose we compare a large stage company with a transportation company on railroads. If the transportation company on railroads deducts the amount paid to railroad companies from the aggregate receipts, all the expenses of the company except the mere payment of the officers and agents at the place of delivery and place of receipt are deducted. Take the case of a stage company. Why should not the stage company de-

duct the amount they pay for oats and grain to feed their horses? They are indispensably necessary to be paid. Why should they not be allowed to deduct therefrom their gross receipts? There is no reason for not doing so if you allow an express company to deduct what it pays to a railroad company. Both are necessary expenses. You have adopted a principle by which instead of levying a tax on the gross receipts from transportation you levy it on the net receipts, and there is no reason why you should make a deduction in favor of an express company on railroads that you do not make in favor of a transportation company in stage-coaches or any other common carrier.

Mr. HENDRICKS. I should like to make an inquiry of the Senator from Ohio, as he understands this subject much better than I do, before he takes his seat.

Mr. SHERMAN. Certainly.

Mr. HENDRICKS. I voted for that proposition with this understanding, and I want to know whether this is the fact: \$100,000 for example are received by the express company; the tax is 2½ per cent. Then they have to pay to the railroad company \$50 per hundred, and you tax that in the hands of the railroad company 2½ per cent. I want to know if in transporting the same class of articles that is not a tax of 5 per cent. That is the understanding on which I voted for it.

Mr. SHERMAN. You may say the same of almost any class of business. If you allow the deduction in one case you must allow it in another. Why not allow the stage proprietor, who transports by stage coach, to deduct what is absolutely paid by him to the farmer for grain, &c.? The cases are substantially similar; I see no difference.

Mr. GRIMES. Take the case of the shoe you have on your foot, Mr. President. You pay first a tax when the animal is killed by the farmer; then you pay a tax on the leather in the hands of the tanner; and then a tax when it is in the hands of the carrier; you pay a tax on the leather in the hands of the maker of the shoe; and you pay a tax again on it in the hands of the merchant who sells it. Where is the difference between that and the case of an express company? There are four taxes accumulated on the consumer of the shoe. It is just so in the case of the express company, save and except that we only tax the express company in two cases, whereas in the case of the leather which composes the shoe or boot on the Senator's foot there are five taxes.

Mr. JOHNSON. I may be mistaken, but to my mind there is all the difference in the world between the case supposed by the honorable member from Iowa and the case before us. One thing I suppose we will all admit: that we ought not to attempt to tax more than we have got. There must be a limitation upon the taxing power, and that limitation must be that we can only tax the estate, real and personal, that we have. The taxing power cannot be used so as to add to the subjects of taxation. That would be very clear apparently. If we have one thousand millions of personal property in the United States you cannot by your taxing laws make it two thousand millions of property.

Mr. CHANDLER. I move to reconsider the vote by which express companies were exempted a short time ago.

The PRESIDENT *pro tempore*. The pending question is on the amendment offered by the Senator from New York.

Mr. JOHNSON. I will give way to the Senator from Michigan if he desires to make any remarks.

Mr. FESSENDEN. He merely wants to move a reconsideration.

Mr. JOHNSON. He can do that afterwards.

Now, if I am right in what I have said, you are about to tax say \$100,000, a portion of the property belonging to the people of the country, twice. If you think proper to tax that \$100,000 5 per cent., there can be no objection to that; but you have come to the conclusion that it ought not to be taxed more than 2½ per cent. There is no doubt Congress may levy any amount of tax upon that \$100,000 which it thinks is right; but when it has come to the conclusion that it is only right to tax 2½ per cent. upon the \$100,000, and then proposes to lay 2½ per cent. on the same \$100,000 in somebody else's hand, it does virtually, prac-

tically, levy a tax of 5 per cent. upon the \$100,000. In the case of the express companies, the amendment which has been adopted, and the vessels included in this particular amendment, receive in the course of their business, say, \$1,000,000, and they have to pay out of that \$1,000,000, not an uncertain tax, not a tax depending upon the rise and fall in the market of oats or of anything else that may become necessary in the transaction of their business, but they have to pay a specific tax for the purpose of using a canal which you have constructed, or the States have constructed, and which have been authorized to charge against those who use it that specific tax. Those who use the canal make no profit upon that disbursement. They do not charge—it would not be honest to charge as things now are—a profit upon the tolls which they pay on the canal. They charge only a profit upon their own disbursements. They receive from their customers the amount which they pay to the canal; but they receive it merely for the purpose of paying that amount to the canal. It is the money of the latter, not of the former. What they charge in addition for their own services and for the use of their own vehicle is compounded of what their own services and vehicles are worth with the addition of such a sum as is a reasonable profit upon the aggregate amount, but they never charge a profit upon what they pay specifically, which is not theirs, nor received as their own. Every man with whom they deal would know that they do not advance any money to the canal company, that what they pay to the canal company is a certain specific sum paid them for the purpose. They become verily but the paymaster of the customer to the canal company, and upon such amount they charge no profit. On the contrary, if you think proper to impose your 2½ per cent. upon the amount which they pay to the canal company, they will charge a profit, and then it falls upon the customer.

My friend from Iowa illustrates what he supposes to be the principle involved in this amendment by the pair of shoes he has on. He says we charge a tax upon the calf that produces the skin, and we charge a tax upon the skin, and we charge a tax upon the skin after it is tanned and before it goes into the hands of the shoemaker, and when it gets into the hands of the shoemaker we charge a tax upon the shoe. That is all true, but that is not a double tax, in any sense. We charge upon your shoe what your shoe is worth, and your shoe is worth just what may be the worth of all the elements of which the shoe consists, of the skin with which it is made, of all the material which enters into the manufacture of the shoe, and the services of the artisan by whom the shoe is prepared. In the hands of the artisan it is worth so much, because he can get so much for it. Upon the foot of my friend from Iowa it is worth what he gives for it, because he cannot do without it, and he pays a profit to the shoemaker upon the whole expense to which the shoemaker has been subjected in bringing the shoe into existence. But that is not the case with these companies as the law now stands. If you do impose this tax, it will be the case with the customer. They will have to pay for the services rendered by these express companies more than they pay now; and just in proportion as you add to the expenses to which they are subjected now, will more or less interfere with the business of the community.

Mr. GRIMES. The statement of the Senator from Maryland is undoubtedly correct that if we impose this tax these express companies will be compelled to pay more than they are compelled to pay now; but if I understand the theory upon which we are proposing to pass this bill into a law it is this, that we believe the public interests will be subserved by levying a certain amount upon the supposed profits of every branch of trade. Let me illustrate as applicable to this case: we have a railroad running between Washington and Baltimore; upon that railroad runs an express company; that express company owns none of the rolling stock; but it hires of the railroad company the privilege of running one or two cars, which they obtain at a very moderate rate, only paying about 25 per cent. as much, I believe, as is paid for transportation for private individuals. Here is another company that proposes to establish a rival line, not to run by railway, but by horse express. The one uses horse

carriages. The carriages are all taxed, and we propose by this bill to increase the taxation upon those carriages. It requires as much capital and as much taxed capital under this bill to establish this horse express that is to be the rival of the railroad express as it requires to be annually expended by the present express company that runs its line over the railroad. I ask my friend from Maryland why he cannot demand of the Senate with as much show of plausibility and reason that there should be no imposition of tax upon the horse express company because their carriages and other attachments are taxed under this bill as that you should exempt the express company that runs over the railroad, the annual expenditures in each case amounting to the same aggregate. Where is the difference in principle? In the one case, in the case of the horse express, there is a gross amount of capital employed, belonging to the company; in the other case there is not any capital employed, but there is a regular annual, monthly, weekly, or daily rent paid, the aggregate of which will amount to as much as the interest and the deterioration of the capital in the other express company.

I should like to know with what show of reason it can be claimed that this kind of express, because, instead of owning the stock with which it carries on its business, it uses the franchise of a corporation and pays a rent for it, should be excepted and all other expresses should not be excepted. Is it because the railroad company is taxed on its franchise a certain amount upon its receipts and the other property owned by the horse express is not taxed? That cannot be the case, because the property of the other company is taxed in some form or other, and taxed quite as heavily as the property of the railroad company.

**The PRESIDENT pro tempore.** The question is on the amendment offered by the Senator from New York to the one hundred and second section in regard to railroads, steamboats, &c., on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 7, nays 23; as follows:

**YEAS**—Messrs. Harris, Hendricks, Hicks, Johnson, Morgan, Powell, and Sumner—7.

**NAYS**—Messrs. Anthony, Brown, Chandler, Clark, Collamer, Cowan, Davis, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Henderson, Howe, Lane of Kansas, Morrill, Nesmith, Sherman, Ten Eyck, Van Winkle, Wade, and Willey—23.

**ABSENT**—Messrs. Buckalew, Carlile, Conness, Dixon, Doollittle, Harding, Howard, Lane of Indiana, McDougall, Pomeroy, Ramsey, Richardson, Riddle, Saulsbury, Sprague, Trumbull, Wilkinson, Wilson, and Wright—19.

So the amendment was rejected.

**Mr. CHANDLER.** I now move to reconsider the vote on the previous amendment offered by the Senator from New York.

The motion was agreed to.

**The PRESIDENT pro tempore.** The question now will be on the adoption of the amendment, which was to add to section one hundred and three the following words:

The amount paid for transportation to any railroad company or corporation shall be deducted from the amount of gross receipts upon which a duty is to be charged under the provisions of this section.

**Mr. HARRIS.** On that I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 11, nays 19; as follows:

**YEAS**—Messrs. Anthony, Davis, Harris, Hendricks, Hicks, Johnson, Morgan, Powell, Ramsey, Sumner, and Van Winkle—11.

**NAYS**—Messrs. Chandler, Clark, Collamer, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Henderson, Howe, Lane of Indiana, Morrill, Nesmith, Sherman, Ten Eyck, Wade, Wilkinson, and Willey—19.

**ABSENT**—Messrs. Brown, Buckalew, Carlile, Conness, Cowan, Dixon, Doollittle, Harding, Howard, Lane of Kansas, McDougall, Pomeroy, Richardson, Riddle, Saulsbury, Sprague, Trumbull, Wilson, and Wright—19.

So the amendment was rejected.

**Mr. HARRIS.** I propose to make one more effort to do justice to the manufacturers of oil-dressed leather. Under the law of 1862 these manufacturers paid a duty of three per cent. As this bill now stands, as they construe it, and I am inclined to think they construe it right, although the chairman of the committee, I believe, thinks otherwise, they will be required to pay a duty of ten per cent. upon their manufacture. It is a duty which has not its equal or parallel in this whole bill. It is undoubtedly wrong, and it is grossly

unjust toward this class of manufacturers. I propose now to put the provision in the same shape in which it was put two years ago, and in the same shape in which a dozen other provisions are found in this bill, one of which was offered by the chairman of the committee himself the other day in relation to furs. Take the case of furs. By the bill, as it came from the House of Representatives, manufactures of fur were taxed ten per cent. The committee reported a reduction of that tax to five per cent., and then they have added the proviso which I will read:

*Provided, That all manufactured furs on which a duty has been previously assessed and paid before manufacture shall be assessed only on the increased value thereof when so manufactured.*

That was the provision in relation to these manufactures of gloves and mittens two years ago. I propose to insert the same provision on page 141, after line three hundred and seventy-three. The clause now reads:

On oil-dressed leather and deer-skins, dressed or smoked, when sold or removed for sale, a duty of five per cent. *ad valorem.*

I desire to add this proviso:

*Provided, That when leather or skins upon which a duty has previously been assessed and paid shall be manufactured into gloves, mittens, or moccasins, the duty shall only be assessed upon the increased value thereof when so manufactured.*

**Mr. FESSENDEN.** I suppose if the Senator succeeds in that amendment he will strike out the words that were inserted by the Committee on Finance, "when sold or removed for sale."

**Mr. HARRIS.** I have no objection to do that.

**Mr. TEN EYCK.** This matter was up and under discussion in rather another shape a day or two ago. It now assumes a different aspect. The proposition, as it came before the Senate two days ago, involved other interests with which certain persons from whom I have received communications were largely connected. I have had no communication on the subject of these gloves and mittens, and articles manufactured from deer-skins, dressed or smoked, and therefore, so far as the amendment proposed by the Senator from New York is concerned, I am not disposed to make any objection to it; and yet for the life of me I cannot see the reason why there should be any exemption or discrimination made in behalf of the manufacture of gloves and mittens out of deer-skins, dressed or smoked, and the manufacture of harness, shoes, and other articles made out of oil-dressed leather. They are all in the same category.

If this exception from the effect of the tax is to be made in relation to gloves and mittens, I do not see why it should not be made with respect to the manufacture of harness, boots, shoes, cavalry belts, and articles of that description, which employ infinitely a larger amount of capital and infinitely a larger amount of men, and concerns in a far greater degree the industrial pursuits of the country than this simple manufacture of the covering for the hands which is embraced in the Senator's amendment. I should claim in behalf of a very large number of industrious men throughout the length and breadth of this land, if the amendment of the Senator from New York should be adopted, that they should also be recognized. I do not see why the manufacture of gloves and mittens in a local district of this Union should be particularly the object of our care and solicitude, when tens of thousands of hardy, industrious men are laboring day by day in the manufacture of shoes, harness, and everything that is made from leather, and are subject to this duty, and not relieved from the exemption asked for by the Senator from New York.

If it is thought to be judicious, because we have relieved furs from such a duty, I would vote for the amendment of the Senator from New York, provided the Senate with a full knowledge of the effect of that amendment would also vote to amend the bill in the particulars to which I have referred. Then, as I understand, the Senator from New York is willing that the amendment introduced by the committee in this clause which relieves all this class of leather from the duty of five per cent. when sold or removed for sale shall be stricken out. That feature of it ought to be taken out unquestionably; because there can be no reason in the world why Mr. A who manufactures gloves, mittens, harness, shoes, or cavalry belts from leather which he makes

himself should only be liable to a duty of five per cent., when Mr. B, who has not capital enough to go into the business of making the leather, tanning the leather, and also manufacturing the article after the leather is tanned, shall be subject to a duty of ten per cent.

With this explanation, it is for the Senate to determine whether they will relieve this particular branch of business alone from the effect of the duty under the amendment as proposed by the Senator from New York, or whether if they make the exemption in that case they will extend it to these other articles of manufacture. All I ask is that these industrial pursuits shall be put upon the same footing, and that all classes of manufactures so far as regards this branch of business shall be equally subject to duties and equally have the benefits which Congress should extend to all men alike. I therefore would oppose the amendment of the Senator from New York on the ground that I have stated.

**Mr. HARRIS.** I suppose that if this bill provided that the yarn in a cotton factory should be taxed, and then when that yarn was woven into cloth and ready for market it should be taxed again, there would not be a vote in favor of sustaining that proposition. It is impossible for me to discriminate between this case and that. These men import skins, deer-skins and sheep-skins. They pay a duty of fifteen per cent. to the Government upon their importation. They take them to their factory and they work them up. They dress them, oil-dress them, kid-dress them, and make them into an article which when cut up and sewed together makes gloves and mittens. It is all one continued series of proceedings in the same hands, just as much as the manufacture of cotton into yarn and from yarn into clothing. The amendment that I propose is simply this: that you may tax the skins when they are dressed, and then when they are cut into gloves and mittens and moccasins, and made ready for market, you may tax them again upon their increased value, but that you shall have but one tax of five per cent. on the whole.

Now, sir, I happen to know the fact, it is a well-ascertained fact, that more than ninety per cent. of all this business is done in the factories in one county in the interior of New York, and it is this one proceeding. These skins when they are dressed are not an article of commerce at all. There may be a few now and then sold; but generally those are principally used for making the pads in pianos. A little piece as big as a ten cent piece is used for certain purposes in a piano. With that exception, however, they are only used for the manufacture of gloves and mittens. This amendment simply allows those people to pay five per cent. upon their manufacture when it is prepared for commerce, for sale; and that is all there is about it. If you leave the provision as it now is, without the amendment I have proposed, you tax these poor people ten per cent. upon their manufacture, and they cannot stand it.

**Mr. TEN EYCK.** I do not wish to run this thing down. I think it is generally understood. The articles proposed to be exempted from this tax in the mode proposed are deer-skins dressed or smoked. Now, I imagine that the deer-skins that are used in the manufacture of these gloves and mittens are not imported into this country.

**Mr. HARRIS.** Nearly all of them are.

**Mr. TEN EYCK.** I do not know to what extent, but certainly we have a great deal of that raw material in this country; and I imagine we do not import when we have the material of our own exclusively. I do not think we disregard the raw material we have, throw it away, and import similar material. Doubtless we do import some. So it is with regard to oil-dressed leather. That goes into the manufacture of boots, shoes, harness, &c. We manufacture a great deal of leather that comes from the backs of cattle slaughtered in our own country. We also import hides, or did so formerly to a very great extent. The same reasoning which the Senator from New York has used for the purpose of exempting this particular class of business from the operation of this duty applies with equal force to the kind of business to which I have referred. We import leather from South America and other foreign countries which is oil-dressed and goes into the manufacture of harness, shoes, boots, &c.

**Mr. HARRIS.** Harness is not oil-dressed.

Mr. TEN EYCK. It is oil-dressed afterwards. If it is not so, then the argument goes for nothing. It is common neat leather or cows' leather tanned and curried in a certain way by the use of oil.

Mr. HARRIS. This is oil-dressed leather.

Mr. TEN EYCK. But oil-dressed leather is tanned and curried with the use of oil. Certainly that which goes to make boots and shoes and harness is prepared in that way. If that is so, then the same reason will apply to that class of articles.

I do not mean to take up any more time on this subject. The matter has been discussed more fully and extensively, perhaps, than it ought to have been. If the exception is proper with regard to the pursuit which the Senator from New York has in charge, it is proper with respect to this other branch of business. I can see no difference or distinction between them myself. If his amendment should be adopted will the Senator from New York extend it so as to apply to this whole subject?

Mr. HARRIS. No, sir.

Mr. TEN EYCK. Then I think we ought not to make the exception, but should vote the amendment down.

Mr. CLARK. When the amendment was offered by the Senator from New York the other day in regard to this matter, it was in a very different shape, and I opposed it. I am inclined to support his amendment now in its present shape, and I think I can give a good reason for it, and I think the reason will be of some consideration to the Senator from New Jersey why this exception should be made in this case and not in the case which he mentions of harness. These gloves, mittens, and moccasins come in conflict with a certain other kind of manufacture, and have to compete with them; that is, the leather glove competes with the woolen glove; the leather mitten with the woolen mitten; and the moccasin with the India-rubber and the leather shoe. You only require of the man who makes the woolen glove and the woolen mitten to pay the increased value of the manufacture upon the yarn, and the man who makes the leather glove or leather mitten has hard competition now with the woolen glove and woolen mitten, because that work is done by machinery. I would not impose an unjust burden upon this class of manufactures. I am afraid it would increase the competition in such a way that it would be onerous. You will get the tax upon the leather and then on its increased value when made into moccasins, gloves, or mittens, as I understand it, by the amendment of the Senator from New York, just as you get another tax on the yarn when it is manufactured into woolen gloves or mittens. I do not see any objection to the amendment in that view, because this class of articles comes in competition with another class.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The question is on the amendment of the Senator from New York.

Mr. HARRIS. On that I will ask for the yeas and nays.

Mr. CLARK. I think we can carry it without the yeas and nays.

Mr. HARRIS. I withdraw the call for the yeas and nays.

Mr. GRIMES. I call for the yeas and nays. The yeas and nays were ordered.

Mr. DAVIS. I will ask the Senator from New Hampshire a question for information. In the instance given by the Senator from New Jersey, and also, I believe, referred to by the Senator from New York, if cotton yarns are purchased and the purchaser weaves them into fabric, what is the tax which the manufacturer of the fabric has to pay? Again, there are iron rods that are purchased in that form, and are manufactured into various other articles. There is an iron bar, for instance, that is rolled for the purpose of making horse-shoes. Suppose a manufacturer purchases these iron rods or these iron bars to manufacture into something else, is there any deduction of duty from the person who manufactures the iron rod or the iron bar into a different article in consequence of its having been subjected to a duty previous to that time?

Mr. CLARK. Upon textile fabrics the increased value is ordinarily assessed over the value of the yarn; but upon iron I do not now remember of any case, though there may be cases, where

it is taxed in that way. It does not ordinarily come into competition with any other article. I only desire this tax to be put in this way because these gloves and mittens come in competition with articles on which we do make the same discrimination precisely.

Mr. GRIMES. What manufacture?

Mr. CLARK. That of woolen mittens and gloves. It is provided for in the bill in precisely the same way that we ask in regard to these mittens.

Mr. GRIMES. I believe the Senator said also that the moccasins came in competition with shoes.

Mr. FESSENDEN. That was a mistake.

Mr. CLARK. They do to a certain extent.

Mr. GRIMES. But we tax the shoes four times before they reach the consumer.

Mr. CLARK. They do come in competition with the leather shoe.

Mr. GRIMES. I should like to know where moccasins are taxed in the bill except in the sheepskins when first imported.

Mr. FESSENDEN. Let me call the Senator's attention to this clause on page 141:

On leather of all descriptions, curried or finished, a duty of five per cent. *ad valorem*: *Provided*, That all leather previously assessed in the rough and upon which duties have been actually paid shall be assessed on the increased value only when curried and finished.

Mr. HARRIS. There is the same provision in relation to yarn.

Mr. CLARK. I will state for the information of the Senator from Iowa that this leather is manufactured into a peculiar kind of shoes, the top of which is made of this kind of leather and the bottom of ordinary leather; and it comes in direct competition in that way. I am not quite sure whether that would be called a moccasin or not.

The question being taken by yeas and nays, resulted—yeas 23, nays 5; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Cowan, Davis, Foster, Hale, Harlan, Harris, Henderson, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Powell, Ramsey, Richardson, Sumner, Van Winkle, Wilkinson, Wiley, and Wilson—23.

NAYS—Messrs. Collamer, Fessenden, Grimes, Sherman, and Ten Eyck—5.

ABSENT—Messrs. Buckalew, Canille, Conness, Dixon, Doolittle, Foot, Harding, Hendricks, Hicks, Howard, Howe, McDougall, Morrill, Nesmith, Pomeroy, Riddle, Salsbury, Sprague, Trumbull, Wade, and Wright—21.

So the amendment was agreed to.

Mr. FESSENDEN. As that amendment has been adopted, I move that the Senate non-concur in the amendment made in committee inserting after the word "smoked," in that clause, the words "when sold or removed for sale." I suppose when we come to vote on concurring in the amendments made in committee, gentlemen will indicate those on which they desire a separate vote; but in this case we can take the vote now.

The amendment was non-concurred in.

Mr. SHERMAN. I desire to amend section one hundred and nine, on page 161, the section relating to banks and banking, not to change the amount of the tax, but to change the time of the payment of the tax so as to have a monthly tax instead of a semi-annual tax. I have prepared some amendments to carry out that idea. In line two I move to strike out the words "one quarter" and to insert the words "one twenty-fourth." I have made quite a number of changes.

Mr. FESSENDEN. Perhaps the shortest way would be to withdraw the other amendments made in committee.

Mr. SHERMAN. I can withdraw them, if that is the sense of the Senate.

Mr. COLLAMER. I want to amend this section also.

Mr. FESSENDEN, (to Mr. SHERMAN.) Have you prepared all the amendments that will be necessary to be made?

Mr. SHERMAN. Yes, sir; and I can offer them very rapidly.

Mr. FESSENDEN. Then perhaps you had better go on.

Mr. SHERMAN. In line two I move to strike out "one quarter" and insert "one twenty-fourth;" in line three to strike out the words "half year" and insert the word "month;" so that it will read, "one twenty-fourth of one per cent. each month."

Mr. COWAN. The Senator had better say "two per cent. per annum, payable monthly." That would make it better English.

Mr. SHERMAN. I desire to conform to the language of the section. In line eleven—

Mr. FESSENDEN. I think we had better take a vote on one of the amendments first, and settle the question whether the section shall be so altered.

Mr. SHERMAN. Very well; let the question be taken on that amendment in the second and third lines; and if that is agreed to I will not send up the rest to the desk. The only effect of the amendments, as I have stated, is to require a monthly return instead of a semi-annual return and a semi-annual tax.

Mr. COLLAMER. Do they make any difference in the amount of the tax?

Mr. SHERMAN. Not a particle. I assure the Senator he can examine the amendments to his heart's content, and he will find that they do not change the tax which has been agreed upon.

Mr. COLLAMER. I thought they did.

Mr. SHERMAN. Not the slightest.

Mr. COLLAMER. But suppose that to be the case, my objection to it is this: I know that in relation to the banks in New England, and I presume it is so in the West, at certain seasons of the year when money is wanted for the purpose of moving the productions of the country to market in any part of the country, that is the time when the people call for large sums of money from the banks. Now, the great point made against the State banks consists in this, that they inflate the currency and the amount of circulation. In the region of country where I live, for instance, their principal product is wool. Take the period of the shearing, in June, when the time comes for purchasing up the clips of wool. Then application is made to the banks by the people who are going into the business of purchasing this wool to take it to market for the money with which to pay for it; and so you will have out, say in the month of July, after shearing time, in a country bank more than double the amount that you will have at any time between that and the last part of the fall of the year, when they take out the money to take cattle into market. The greater part of it will return in the course of some sixty days.

Now, I apprehend it is sought to obtain monthly returns from the banks, so that persons may take those returns for the months in which they do the largest business, and say that even in three months they inflate the currency double, and they do it every year. I undertake to say that the amount of circulation of every bank in the part of the country where I live from April until July is more than doubled. Then we shall have imputations and arguments without number that they inflate the currency even in three months.

Mr. SHERMAN. If I understand the Senator from Vermont, the only objection he has to requiring these returns is that they will furnish arguments against the State banks.

Mr. COLLAMER. My objection is, the great trouble of making these monthly returns.

Mr. SHERMAN. His principal objection is, that it will furnish arguments against the banks that they inflate the currency. The only effect of the amendment is to require of these banks monthly returns, the same returns that are required of the national banks, so that the public at large and the Secretary of the Treasury shall know precisely the amount of circulation of the State and national banks at the beginning of every month.

Mr. FESSENDEN. You do not require monthly returns of the national banks.

Mr. SHERMAN. Yes, sir; they are required to make monthly returns. They pay their tax quarterly, but monthly returns are required from the national banks. If they have much circulation, they pay at the beginning of the month for amount of circulation; if they have but little, they pay but little; so that it is not unjust to the banks at all. It simply enables the officer in the Treasury Department to know at the beginning of every month the whole amount of the currency of the country. I hope, therefore, the amendment will be adopted.

The amendment was agreed to.

Mr. SHERMAN. I will now read the other amendments together. In line eleven I move to strike out "one quarter" and to insert "one twenty-fourth;" in line twelve to strike out the words "half year" and insert the word "month;"



inline fifteen to strike out the words "April and October of each year" and insert the words "every month;" in line twenty-seven to strike out the words "the said months of April and October" and insert the words "each month;" in line twenty-eight to strike out the words "one quarter" and insert "one twenty-fourth;" in line twenty-nine to strike out "one quarter" and insert "one twenty-fourth;" in line forty-seven to strike out "one half" and insert "one twelfth;" in line forty-eight to strike out the words "half year" and insert the word "month;" in line fifty-one to strike out the words "half year" and insert the word "month;" in line fifty-three to strike out the words "April and October of each year" and restore the words "each and every month" as they were in the bill as it came to us from the House of Representatives; in line sixty-nine to strike out the words "of April and October of each year" and insert the words "in each and every month."

Mr. FESSENDEN. I will ask the Senator, if the simple object is to get a return of the circulation, why his object would not be accomplished by simply altering the part of the section which he is now proposing to amend? It reads:

On the average amount of such notes, bills, or other obligations in circulation during the preceding month, or which have been issued, shall remain in circulation; and shall on the first Monday of—

Then leaving in those words "each and every month," as they were originally; so that it will read in this way—

And shall, on the first Monday of each and every month, make and deliver to the assessor of the district in which such bank, association, or corporation may be located, or in which such person may reside, a true and accurate return of the amount of notes, bills, or other obligations so issued, whether in circulation or in its vaults or elsewhere on deposit.

Mr. SHERMAN. In answer to that, my idea is that when the return is transmitted to the Secretary of the Treasury—

Mr. FESSENDEN. Everything is paid to the collector, and the original provision in this section, which we altered to every half year, provided for a return to be made every month.

Mr. SHERMAN. I have no objection so that the return is made; but I think we had better let it stand with monthly payments, because it will be no hardship to the banks except the making of the monthly returns.

Mr. COLLAMER. They lose the interest on the amount of the tax.

Mr. SHERMAN. The interest on a tax of one per cent. on their circulation.

Mr. FESSENDEN. I think the whole object can be accomplished in that way by leaving in the clause commencing on line fifty-two:

And shall, on the first Monday of each and every month, make and deliver to the assessor of the district in which such bank, association, or corporation may be located, or in which such person may reside, a true and accurate return of the amount of notes, bills, or other obligations so issued, whether in circulation or in its vaults or elsewhere in possession or on deposit.

And then adding the clause which is found in the sixty-eighth line:

And shall, within ten days from the first of each and every month, pay to such collector the said duty of one per cent. on the average amount, &c.

Mr. SHERMAN. That only provides for a return of circulation, and not for a return of deposits and capital invested in United States bonds.

Mr. FESSENDEN. That is so.

Mr. SHERMAN. I will continue with these amendments. In line seventy I move to strike out the word "half" and insert the word "twelfth;" in line eighty-five, to strike out the words "one and one half" and insert "one fourth of one;" and in lines eighty-five and eighty-six, to strike out the words "half year" and insert the word "month." I believe that will make the section all right.

Mr. FESSENDEN. I suggest to the Senator whether it would not be as well to leave the proviso as it is. It is a sort of penalty. However, I will not interfere with the Senator's amendments.

Mr. SHERMAN. I ask the Secretary to read the section as amended, and the Senator will find that it will levy a tax of one half of one per cent. on deposits, one per cent. on capital in excess of that invested in United States bonds, one half of one per cent. on capital invested in United States bonds, one per cent. on circulation up to ninety per cent. of its capital, and three per cent. on cir-

culation above ninety per cent. That is the effect of it.

The Secretary read the section, as proposed to be amended, as follows:

#### BANKS AND BANKING.

SEC. 109. *And be it further enacted*, That there shall be levied, collected, and paid a duty of one twenty-fourth of one per cent. each month upon the average amount of the deposits of money, subject to payment by check or draft, with any person, bank, association, or corporation engaged in the business of banking, other than associations organized and established under and by virtue of the several acts to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof, except savings banks, &c., and a duty of one twenty-fourth of one per cent. each month, as aforesaid, upon the average amount of capital stock invested in such business beyond the amount invested in United States bonds; and on the first Monday of every month, a true and accurate return of the amount of deposits and of capital as aforesaid shall be made and rendered to the assessor of the district in which such bank, association, or corporation may be located, or in which such person may reside, by all such persons, banks, associations, or corporations, with a declaration annexed thereto, and the oath or affirmation of such person, or of the president or cashier of such bank, association, or corporation, in such form and manner as may be prescribed by the Commissioner of Internal Revenue, that the same contains a true and faithful statement of the amount of capital and deposits as aforesaid; and shall also deliver a copy of said return to the collector of the district, and shall within each month pay to said collector the duty of one twenty-fourth of one per cent. on the amount of deposits, and of one twenty-fourth of one per cent. on the capital so returned. And for any neglect to make or render such return and payment as aforesaid, every such person, bank, association, or corporation shall be subject to and pay a penalty of \$1,000, besides the additions, penalties, and forfeitures in other cases provided; and the amount of deposits and capital shall, in default of the proper return, be estimated by the assessor upon the best information he can obtain, and every such penalty, together with the duties as aforesaid, may be recovered for the use of the United States in any court of competent jurisdiction; and every person and every bank, association, or corporation, other than associations organized and established under and by virtue of the several acts to provide a national currency, secured by a pledge of United States stocks, and to provide for the circulation and redemption thereof, issuing notes, bills, or other obligations, calculated or intended to circulate as money, shall pay a duty of one twelfth of one per cent. each month on the average amount of such notes, bills, or other obligations in circulation during the preceding month, or which, having been issued, shall remain in circulation; and shall, on the first Monday of each and every month, make and deliver to the assessor of the district in which such bank, association, or corporation may be located, or in which such person may reside, a true and accurate return of the amount of notes, bills, or other obligations so issued, whether in circulation or in its vault or elsewhere in possession or on deposit, and shall annex to every such return a declaration, with the oath or affirmation of such person, or of the president or cashier of such bank, association, or corporation, in such form and manner as may be directed by the Commissioner of Internal Revenue, that the same contains a true and faithful statement of the amount of circulation as aforesaid; and shall deliver a copy of said return to the collector of the district in which said person resides, or in which the said bank, association, or corporation is located; and shall within ten days from the first Monday in each and every month pay to said collector the said duty of one twelfth, half of one per cent. on the average amount of its circulation as aforesaid not including that in vault or on deposit for said bank. And for any neglect to render or make such return and payment as aforesaid, every such person, bank, association, or corporation, shall pay a penalty of 5 per cent. on the amount of notes, bills, or other obligations issued as aforesaid, which amount shall, in default of the proper return, be estimated by the assessor, upon the best information he can obtain; and every such penalty may be recovered for the use of the United States in any court of competent jurisdiction: *Provided*, That this tax shall not apply to any bank in the process of liquidation: *Provided, also*, That all banks, associations, corporations, or individuals, issuing notes or bills for circulation as currency, shall be liable to, and pay, the further duty of one fourth of one per cent. in each month, upon the average amount of such currency issued beyond the amount of 90 per cent. of its capital. In the case of banks with branches, the duty herein provided for shall be imposed upon the circulation of each branch, severally, and the amount of capital of each branch shall be considered to be the amount allotted to, or used by, such branch. And the additional duty herein provided for shall be collected and paid at the time and in the manner hereinbefore specified. And so much of an act entitled "An act to provide ways and means for the support of the Government," approved March 3, 1863, as imposes any tax on banks, their circulation, capital, or deposits, is hereby repealed.

Mr. FESSENDEN. Those amendments being made, I think the penalties that are named there are too high. They are higher than those named in the other bill. I will move to amend the penalty in the thirty-third line for neglect to render a return, which is here put at \$1,000, and which neglect may occur accidentally, by making it the same as that imposed upon the national banks for a similar neglect, \$200.

Mr. DAVIS. Do I understand the amendments offered by the Senator from Ohio to have been made?

The PRESIDING OFFICER. They have not been made. The question has not been put.

Mr. DAVIS. So I supposed.

The PRESIDING OFFICER. The first amendment has been adopted.

Mr. DAVIS. I suppose the Senate would like to be informed how those amendments will affect and modify the tax on the banks.

Mr. SHERMAN. I thought I stated that to the Senate as clearly as I could.

Mr. DAVIS. I will make this apology to the Senator, that the colloquy held between him and the Senator from Maine could not be heard by me.

Mr. SHERMAN. I will try and make myself heard by the Senate. The bill as it was agreed upon in committee fixes a tax of one half of one per cent. on capital in excess of that invested in United States bonds, one half of one per cent. on all deposits, 1 per cent. on circulation up to 90 per cent. of its capital, and 3 per cent. on all circulation above 90 per cent. of its capital. The amendment that I propose leaves the tax the same in the aggregate, but makes it monthly instead of semi-annual, so as to secure monthly returns of the circulation, capital, and deposits. That is the only effect of the amendment. It is no more burdensome to the banks except so far as making monthly instead of semi-annual returns is concerned.

Mr. HENDERSON. I wish to make one remark before the vote is taken. I hope the amendment proposed by the Senator from Ohio will not be adopted, and my reason for it is simply this: I understood that the Senate intended to put the national banks and the State banks on a perfect equality; and every vote in the Senate has indicated that that was the intention of the Senate. I desire the Senate to adhere to those votes. The very same percentage is levied upon circulation up to ninety per cent. of their capital upon the State banks and the national banks, the same upon deposits, and the same upon the capital; but the national banks are only required to pay every six months; that is, if they do not pay at the end of the month, all that the Secretary of the Treasury has to do is to retain the interest of the bonds that are on deposit in the Treasury, and the interest, instead of being paid over to the bank, is retained by the Secretary. The payments, therefore, in reality are only made semi-annually by the national banks. They are not compelled to pay, and are under no penalty to pay at the end of each month. If they do not pay, the Secretary of the Treasury merely retains the interest on their bonds. That is my understanding of the bill, and if I state it incorrectly I will be corrected by Senators who are more familiar with it.

This amendment requires the local banks under a very heavy penalty to make the actual payment at the end of each month. That is a discrimination against the local banks. I have no objection to the monthly payments except that it is an absolute discrimination against these banks. If the Senator insists that they shall make monthly reports I have no objection to it, but let them make semi-annual payments. Why compel these banks, under this penalty, to make out a statement twelve times a year, under oath, and to make these payments? Of course it is a great inconvenience to make out these statements and furnish them to the assessors and collectors, and to make these payments. I think in that respect they ought to be left upon an equality with the other banks. It is very well known that I am opposed to that whole banking system, and it is not at all strange that I should desire to see no preference given to that system over this. That is all I desire to say now, and I sincerely hope that the chairman of the Committee on Finance may not consent to this amendment.

Mr. FESSENDEN. I do not consent to it at all. I have no power to consent to it. It is for the Senate to settle entirely.

Mr. HENDERSON. I am very well aware that if the Senator does consent the Senate will adopt it. We know very well that other Senators are like myself. I am controlled ordinarily by his views, and by his opinions on this subject; and though I have desired to offer some amendments to this bill I have refrained from doing so simply because they were against his wishes in regard to the matter. I sincerely hope, however, that the banks may be left just as they are now fixed by this bill.

Mr. SHERMAN. It is the strangest thing in

the world to me that the Senator from Missouri should continually seek to make a discrimination in favor of these local banks that does not apply to any other person under this bill. We require the manufacturers to make out monthly returns; we require the brewers to make out monthly returns; we require the distillers to make out monthly returns. Everybody, almost, engaged in any business, except the business of making paper money, is required to make out those returns; and why should this discrimination be made in favor of these banks? Why should they not make out their statement and be required to make monthly payments of taxes like any other persons? The reason given in regard to the national banks is obvious. They receive and draw their money only semi-annually from the Treasury of the United States, and this tax will be retained from them semi-annually. I say, when the return is made it is convenient to send in the tax. The idea of making a discrimination in favor of these banks, of revising and redrawing this section merely for the purpose of preserving a uniformity that need not be preserved is absurd. If these State banks would only subject themselves to the restrictions and limitations and qualifications of the national banks that is all we want; but the trouble is they are too strong here to enable us by law to compel them to be subject to the provisions and limitations and restrictions we put upon the national banks. I hope, therefore, the amendment will be adopted.

Mr. HENDERSON. Mr. President, the Senator admits by his argument that he is making a discrimination against the local banks. He says it will not do to change this bill. Why, sir, according to the bill as it now stands, they are upon a perfect equality with the national banks. The national banks deposit the Government bonds here, and they are not entitled to the interest—that is the contract they made with the Government—they are not entitled to the interest until the end of six months. Why compel the State banks to prepay to the Government while the national banks can hold their funds there, and pay with the Government securities at the end of six months? Is it not a perfect equality to make all banks pay at the end of six months? That is all I ask.

The Senator seems to insist that I am defending the State banks at the expense of the national banks. Sir, that is very unjust to me. I am attempting to put them on a perfect equality, and it is the Senator that is insisting upon a discrimination, not myself. He admits that the national banks only pay at the end of every six months; but he wishes to compel the State banks by this amendment to pay in advance at the end of every month. I say that that is unjust. All I desire is that they remain just as they are in the bill. I do not propose to make any alterations at all.

The Senator ought to reflect that there is a provision in this bill—I have no idea that we have any power to do any such thing, but it is there—levying a tax of three per cent. on the circulation of the banks over ninety per cent. of their capital stock. I do not believe we have any power to pass any such provision, but it has been done. The majority disagree with me in regard to it, and I am disposed to make no complaint here about it. The State banks are limited now to the very amount that may be issued upon the Government bonds by the national banks, even though they have coin enough in their vaults to redeem every dollar of their circulation. That is the case with the banks in my State, I can assure the Senator, although he said the other day that the banks of my State were not in good repute. I have received since that speech was delivered a report from those banks which I will read:

*Report of Banks of Missouri, January 1, 1860.*

Notes in circulation outstanding.....	\$7,884,885 00
Capital stock.....	9,082,951 11
Coin on hand.....	4,160,912 03

*Report January 1, 1864.*

Notes outstanding.....	\$2,101,852 00
Capital stock.....	10,976,990 29
Coin on hand.....	3,233,685 67

It will be seen that instead of expanding their circulation in the four years between January 1, 1860, to January 1, 1864, the Missouri banks reduced their circulation from \$7,884,885 to \$2,101,852. The amount of notes retired in this short time is \$5,773,033. Hence the charge of deteriorating the currency does not lie against them.

Again, it will be seen that their circulation outstanding at that time was \$2,101,852, and that their coin on hand was \$3,233,685 67, showing a surplus of largely over one million dollars more than sufficient to redeem their whole circulation.

I therefore object to discriminating against such banks in favor of the wild-cat system proposed in what is known as the national bank system.

I would not object to the amendment, however, if the payments were only made at the end of six months; but the Senator requires the payments to be made at the end of each and every month, and the amendment will compel the payment to be in advance at that time. Inasmuch as the Government will get the whole amount of revenue just as well at the end of each six months, I hope the bill may remain just as it now stands.

Mr. JOHNSON. I am not sure that I understand exactly the manner in which the amendment is worded. Is it possible to divide it so as to take the question on the obligation to make monthly returns, and then on the obligation to pay their tax at the end of each month? I am in favor of the provision which would compel them to make monthly returns; but from my present understanding I am inclined to vote against the proposition to pay monthly, making a discrimination against the State banks in that particular and in favor of the national banks, as stated by the Senator from Missouri, who pay only half yearly. I ask that the amendment be read.

The Secretary again read it.

Mr. JOHNSON. I move to strike out the latter words requiring them to pay each month.

Mr. SHERMAN. The Senator must go to work to reframe the whole section.

Mr. JOHNSON. I can very readily imagine that the country will be benefited by their having at the end of every month information of the state of the State banks. But then to make the State banks pay at the end of each month, while you require the national banks to pay only at the end of six months, is, I think, in the first place, unnecessary. It will produce no good effect. It will impose some loss on the State banks, and do no good to the country; but is particularly objectionable because it will make a distinction in this particular between the one set of banks and the other set of banks. I do not know whether it is possible to avoid the objection that I have to it by a single amendment, or whether it may be necessary to redraft the whole section.

The PRESIDING OFFICER, (Mr. ANTHONY.) Does the Senator from Maryland move an amendment?

Mr. JOHNSON. No, sir; I do not. I cannot understand the frame of the amendment sufficiently.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Ohio.

Mr. SHERMAN called for the yeas and nays, and they were ordered.

Mr. FESSENDEN. It must be taken as one amendment.

The PRESIDING OFFICER. The first amendment has been adopted; there was no division called for.

Mr. FESSENDEN. That can be reconsidered.

Mr. GRIMES. I should like to know whether this amendment is not capable of such a division as to allow us to vote on the question of returns separate from the question of the payments monthly. I want to compel the banks to make monthly returns.

The PRESIDING OFFICER. That can be done by taking the vote on each separate amendment.

Mr. FESSENDEN. It cannot, because they are so mixed up together that it would require a redraft of the whole section.

Mr. HENDRICKS. We had better reconsider the vote adopting the amendment requiring monthly payments, if that has been adopted.

The PRESIDING OFFICER. That has been adopted.

Mr. HENDRICKS. I move to reconsider it.

Mr. FESSENDEN. It had better be reconsidered now, and then take the vote on the whole amendment as one.

Mr. HENDRICKS. I move to reconsider.

The PRESIDING OFFICER. It is moved to reconsider the amendment just adopted.

The motion to reconsider was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment offered by the Senator from Ohio. It will be taken as one vote.

Mr. DAVIS. I presume that is an amendment which is susceptible of division, and that separate votes may be taken on its different branches.

The PRESIDING OFFICER. It is divisible on the request of any Senator.

Mr. DAVIS. I ask for a division.

Mr. FESSENDEN. I suggest to the Senator that they are so interwoven that they cannot be divided without redrafting the section. It is substantially one proposition.

Mr. DAVIS. All that I ask a separate vote upon is on that branch of the amendment which requires monthly payments by the State banks. I suppose we can vote on that proposition understandingly distinct from all others that are embodied in this multifarious amendment. I should like the Chair to decide what its understanding of the parliamentary law is.

The PRESIDING OFFICER. It is susceptible of division.

Mr. FESSENDEN. It is well, perhaps, that the Senate should understand exactly how this matter presented itself before. The bill as it came from the House of Representatives required half-yearly payments of the tax upon deposits, and half-yearly payments of the tax on the capital, but required monthly payments of the tax on circulation.

Mr. JOHNSON. The whole circulation?

Mr. FESSENDEN. Yes; they provided for half-yearly payments of the tax on deposits and capital, and monthly payments of the tax on circulation, and required monthly returns. We changed the whole section so as to make half-yearly payments on all, thinking it was best to have them all alike. It seems the other House had the same view in regard to the circulation which the Senator from Ohio has. A careful scrutiny of this provision will show that in order to divide the two and put them back again as they stood before, the Senator from Ohio will have to go over it again in the same manner. I do not know that anything more is required really than the payments and returns upon the circulation. The Senator from Ohio understands better than I do what the wish is upon that subject. By going over it again and carefully scrutinizing it, the amendment may be made so as to conform to the original section. For my part I feel disposed and bound by my vote to carry out the instructions which the committee gave me on the subject, to vote for the amendment moved by the committee; but really, sir, I do not see any very great difficulty or objection to making the whole monthly. It does not strike me as attended with any injury one way or the other.

Mr. COLLAMER. The point made is not as to conforming to what the House of Representatives made this bill, but as to conforming to what the national bank bill is. If you take this as the House of Representatives passed it it is the end of all State banks.

Mr. FESSENDEN. The Senator from Missouri referred to a remark I made, that all the object of the committee was to conform the two systems together in that particular. In that, however, I wish to be limited entirely by the amount of the tax. There was no other question considered by the committee, except simply the amount of tax paid, not the time of paying it. That they did not consider of any consequence, though we made these alterations to make it half yearly.

Mr. HENDERSON. I was speaking of the tax. It would make the State banks pay more.

Mr. FESSENDEN. Paying monthly would make a difference perhaps; I do not know how much, but very little.

Mr. DAVIS. There is a good deal of conversation in the Chamber among Senators that I do not have the benefit of and do not hear. Of course I cannot be expected to talk or to vote with a view to light that does not reach me. I understand the two matters of difference between the Senator from Missouri and the Senator from Ohio to be very simple. The text of the bill, as I understand, requires semi-annual returns both from the State and the national banks, and semi-annual payments of duty. But the compound amendment offered by the Senator from Ohio requires the State banks to make monthly returns. I understand that there is no member of the body

who has any objection to that feature of his amendment; at least I have not; but the other feature of his amendment amounts to this, that while it makes no change as to the payments of duty which the national banks are to make, but leaves them to the semi-annual periods, it discriminates in favor of the national banks and against the State banks by requiring the State banks to make monthly payments of duty. I think that is wrong, and I am opposed to it. In the aggregate of the payments of all these duties by all the State banks, it is a very material and a very large amount.

As the Senator from Missouri says, I am opposed to the whole scheme of national banks. I believe it is unconstitutional, impolitic, and in many of its features a direct and flagitious infringement upon the rights of the State banks. Where provisions have been agreed upon by the Senate, as these provisions in relation to the returns and condition of the State banks and the payment of duties were, fixing a uniform rule in relation to both classes of banks, I am against a discrimination now. I have been against making a change of the principle, thus to discriminate in favor of the national banks and against the State banks.

**The PRESIDENT pro tempore.** The question is on the amendment of the Senator from Ohio.

**Mr. DAVIS.** I cannot see why a division may not be had upon the different propositions of amendment of the Senator from Ohio, and why a separate and distinct vote may not be taken upon that portion of his proposition which requires monthly payments from the State banks.

**The PRESIDENT pro tempore.** Does the Senator desire a division of the question?

**Mr. DAVIS.** I do if I can have a division that will produce a separate vote on that proposition.

**The PRESIDENT pro tempore.** In the opinion of the Chair, the question is susceptible of division.

**Mr. DAVIS.** I call for a division.

**The PRESIDENT pro tempore.** The first branch of the amendment then will be to make the tax one twenty-fourth of one per cent. a month.

**Mr. SHERMAN.** I want the Senator from Kentucky to see the position in which he has placed himself by calling for a division. I ask the Secretary to read the first amendment.

The Secretary read the first amendment, which was in line two of section one hundred and nine to strike out "one fourth" and insert "one twenty-fourth," and in line three to strike out "half year" and insert "month;" so as to read:

That there shall be levied, collected, and paid a duty of one twenty-fourth of one per cent. each month upon the average amount of the deposits, &c.

**Mr. SHERMAN.** I think the Senate had better take the vote on the whole. They understand the subject. I do not want to take time. Let us take it on the whole together.

**Mr. DAVIS.** I shall not object to that course.

**The PRESIDENT pro tempore.** If it be the pleasure of the Senate the question will be taken on the whole amendment unless a division be desired. The question will be taken on the whole amendment. The yeas and nays have been ordered and the call will proceed.

The question being taken by yeas and nays, resulted—yeas 15, nays 16; as follows:

**YEAS**—Messrs. Anthony, Brown, Conness, Grimes, Hale, Harlan, Harris, Lane of Kansas, Morgan, Morrill, Ramsey, Sherman, Sumner, Wilkinson, and Wilson—15.  
**NAYS**—Messrs. Buckalew, Carlile, Clark, Collamer, Davis, Doolittle, Fessenden, Foster, Henderson, Hendricks, Hicks, Johnson, Powell, Ten Eyck, Van Winkle, and Wiley—16.

**ABSENT**—Messrs. Chandler, Cowan, Dixon, Foot, Harding, Howard, Howe, Lane of Indiana, McDougall, Neahm, Pomeroy, Richardson, Riddle, Saulsbury, Sprague, Trumbull, Wade, and Wright—18.

So the amendment was rejected.

**Mr. SHERMAN.** I now desire separate votes on the various amendments of the committee to this section one hundred and nine, and especially a separate vote on the last amendment of the committee to the section. I have endeavored to correspond with the views of the Senate; but since I cannot do it I desire to present my own, and I ask specially for a separate vote on the amendment to the eighty-fifth line of the section.

**Mr. COLLAMER.** I some time since moved an amendment to this same section relating to savings banks, but it was passed over at the time, and not finally acted upon. I wish now to present it in a somewhat qualified form, make it perhaps a little more explicit. I move, before the

word "and," in line eleven of section one hundred and nine, to insert:

Except savings banks that have no fixed capital, and whose business is confined to receiving deposits and loaning the same for the depositors, exclusively for their benefit, loss, or gain, and who do no other banking business whatever.

**Mr. SHERMAN.** I am opposed to that amendment, and I think for very good reasons. In the New England States they have what they call savings banks, in which the depositors are paid the profits. A person with \$100,000 capital doing a manufacturing business may use a savings bank precisely as an ordinary bank. He may deposit his money there. That money will be loaned for his benefit, and under this narrow exception he will be exempted from taxation.

There is no reason in the world for these exceptions. Every exception made in a tax bill contains an element of injustice. I am opposed to them, I do not care under what color or pretense they are offered. It is true that this may be intended, and it is no doubt designed by the honorable Senator from Vermont, to cover the little accumulations of interest on the deposits of the poor; and if we could make an exception confined to cases of that kind I should be perfectly willing to grant it; but, in my judgment, it may also be made to cover an exception of the deposits of the rich, which would be a groundless exception. There is no justification for it, in my opinion. I might fill up this code of laws—because it is nothing but a digest of the old revenue laws—I might enlarge it to ten times its present volume with exceptions. I might except the herse which carries the poor man to the grave; I might make a thousand exceptions in this bill, just as justifiable as the exception in favor of savings banks. If we make all the exceptions which appear to be just, instead of a tax code we might have a digest of all the laws and pandects; we might write Justinian over again. We cannot provide for all these cases. All these exceptions of particular classes or banks or individuals or sections are wrong, and I for one am opposed to them. I call for the yeas and nays on the adoption of this amendment.

The yeas and nays were ordered.

**Mr. HENDERSON.** The other day when this proposition was up, I alluded to it, and since that time I have looked into the question of savings banks a little, and without consuming the time of the Senate I desire simply to refer to some statistics on the subject and to assure the Senator from Vermont that in my opinion a good deal of difficulty may arise under the provision that he now proposes to introduce as an amendment to the bill.

I find that in Rhode Island there are twenty-one savings banks, and on the 1st day of January, 1863, they had thirty-seven thousand seven hundred and seventy-four depositors, with a deposit account in the banks of \$9,945,867, making for each depositor \$263. I find that Rhode Island at the same time had eighty-eight banks of circulation, and the whole deposit account in all those banks was at that period \$5,594,394, making the deposit account in the savings banks nearly double what it was in the banks of issue. Massachusetts had ninety-three savings banks in October, 1862. I have not the returns from Massachusetts later than that time. In those banks there were then two hundred and forty-eight thousand nine hundred creditors as depositors, and their deposits amounted to \$50,404,623, making for each depositor an average of \$203. To show how this savings bank business has increased in Massachusetts for several years past, I may mention that in 1834 there was an average deposit account in the savings banks of \$5 58 cents per head for each inhabitant of Massachusetts; in 1840, \$7 88; in 1850, \$13 73; in 1855, \$24 12; and in 1860 there was an average credit for each individual in Massachusetts in the savings banks of \$36 59; and I suppose it has largely increased since, because the deposit account of all the banks has increased since that time, there being more surplus currency. In October, 1862, Massachusetts had one hundred and eighty-three banks of issue, with a deposit account of only \$37,471,133. She had \$13,000,000 of deposits more in the savings banks than in the banks of circulation.

**Mr. FOSTER.** If the Senator will allow me I desire to ask him whether he supposes that what are called in the statement to which he re-

fers "deposits in savings banks" is money held in the banks over and above their other funds, as is the case with deposits in banks of discount and deposit where they keep the account of deposits separate from every other account? Does the honorable Senator understand that the savings banks have this amount of deposits which they hold in their vaults over and above their other funds?

**Mr. HENDERSON.** I cannot answer the Senator in one respect. I do not know the character of the savings banks in Massachusetts; but I suppose they are banks without any fixed capital where moneys are received upon deposit and loaned for the use and benefit of the depositors.

**Mr. FOSTER.** I will inform the Senator that so far as that is concerned, what is there returned as deposits is not money which the bank has in its vaults.

**Mr. HENDERSON.** Certainly not, but money that has been received from the depositors and loaned out.

**Mr. FOSTER.** Certainly; and not a dollar of it is in the bank. If the savings banks have any money on hand they deposit it in a bank of discount and deposit, and keep an account there. They never have a dollar in their own bank on deposit.

**Mr. HENDERSON.** I will state to the Senator from Connecticut that upon an examination of the returns of the savings banks in Massachusetts, I find a statement of their profits for a number of years past, the rate per cent. they have made, and the character of their investments. A large portion of this money is invested in United States stocks, and another portion upon notes, and upon bonds and mortgages on real estate. I have a list here showing exactly how this money has been invested, every dollar of it.

**Mr. FOSTER.** My purpose was to understand whether the Senator understood that this was money on deposit in bank.

**Mr. HENDERSON.** I do not. I understand it is money that has been placed there for the purpose of being loaned for the use and benefit of the depositors. It is used by the directors or the managers of the institution. It is loaned out upon mortgage security or otherwise, the interest collected and paid over to the depositors. In Connecticut I have the report of April 1, 1863. There were forty-nine savings banks in that State then, with one hundred and three thousand seven hundred and twenty-seven depositors, and a deposit account to their credit of \$23,446,936, making an average to the credit of each depositor of \$227. Connecticut at that time had seventy-five banks of circulation, and those banks only had upon deposit \$8,890,237. There was nearly three times as much money on deposit in the savings banks of Connecticut at that time as there was in the banks of issue.

**Mr. FOSTER.** The gentleman is entirely mistaken, if he will permit me. My word for it, there was not a dollar in one of these savings banks at that time when he says there were \$23,000,000; that is, not a dollar of deposits in the way that the gentleman would seem to understand.

**Mr. HENDERSON.** I mean to say there had been that much money deposited in the banks and loaned out. I do not say that the money was there then subject to the draft of the depositors; but I mean to say that the officers having this matter in charge, who are compelled to make reports on the subject, report as deposited in the savings banks of Connecticut \$23,500,000 on the 1st of April, 1863, and in the banks of issue only \$8,890,000.

**Mr. FOSTER.** There were \$8,000,000 in the banks of issue and not a dollar in the others.

**Mr. HENDERSON.** It had been deposited with them and loaned out.

**Mr. FOSTER.** Then it was not there.

**Mr. HENDERSON.** The mortgages, bonds, and other securities were there. They held the bonds and securities. I think there is no difference between the Senator and myself. I mean simply to say that that much money had been deposited and loaned out.

**Mr. FOSTER.** It is just as if the banks of deposit and discount, which the Senator says held \$8,000,000, had had previously \$20,000,000, and it was all gone. That which was in the savings bank was in the savings bank just as much as that which had been in the banks of discount and issue and had been drawn out.



# THE CONGRESSIONAL GLOBE.

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Mr. HENDERSON. I suppose there will be no misunderstanding among Senators in regard to this matter. I do not know that I can make myself understood by the Senator from Connecticut. I find that the officers reported in New Hampshire, January 1, 1863, twenty-seven savings banks, with thirty-nine thousand three hundred and fifty-eight depositors, and the deposits were \$6,560,308.07. There were fifty-two banks of circulation in New Hampshire January 1, 1863, the date of the report, with only \$1,725,866 on deposit—a difference of nearly four to one in favor of the savings banks; that is, four times as much was deposited in the savings banks as in the banks of circulation.

In Vermont, July 1, 1863, the report shows eleven thousand and forty-five depositors, with a deposit account of \$1,712,231. At the same time there were forty banks of circulation in that State, with a deposit account of \$1,843,153. There were about one hundred thousand dollars more deposited in the banks of circulation than in the savings banks.

In Maine I find eleven thousand eight hundred and thirty-three depositors in savings banks, and the deposits amounted to \$2,641,476. At that time, December, 1863, there were sixty-nine banks of circulation; there being in Maine only fifteen savings banks. The deposit account of the banks of circulation was \$6,421,005; being more than double as much deposited in banks of circulation as in the savings banks.

In the State of New York I have the report of January 1, 1863. There were seventy-five banks called savings banks, with three hundred and forty-seven thousand one hundred and eighty-four depositors. The deposits in these banks were \$76,538,183. New York at that time had three hundred and eight banks of circulation, with a deposit account of \$200,824,776. I have not looked through the other States.

In fact, the New England States having a most perfect system of savings banks have provided that these banks shall make reports just as banks of circulation do. In many of the States there is no such supervision and control over these banks, and such supervision and control ought to be had in all the States. The system in New England is perfectly proper and ought to be adopted in each and every State; but it is utterly impossible for me now to ascertain the amounts of money on deposit in the institutions called savings banks, except where the law requires the bank superintendents, bank commissioners, and others to look into this matter and to cause these banks to make reports to him. By examination, it will be found that in the six New England States and the State of New York there is in the savings banks a vast amount of money; in Rhode Island there is within a fraction of \$10,000,000; in Massachusetts \$50,000,000; in Connecticut \$23,000,000; in New Hampshire \$6,000,000; in Vermont \$1,712,000; in Maine \$2,641,000; and in New York \$76,000,000.

It strikes me that much of what has been said by the Senator from Ohio is correct, that we shall find not less than three or four hundred million dollars perhaps on deposit in the different States of the Union in the savings banks; and in that way deposits may be made in such institutions and nothing realized under this provision of the bill. I really feel very favorable to the object designed by the Senator from Vermont if we could properly discriminate, but I very much fear that instead of having a limitation upon it such as certainly ought to be imposed, restricting it to a certain amount of deposits so as to confine it to the poorer classes, it will be found that rich individuals will make their large deposits in these banks, and thereby escape any taxation under this provision. I have said all I desire to say.

Mr. COLLAMER. It is very difficult to disabuse any man's mind of the impressions which are worn down into it by what he knows of the state of things around him, and with which he is acquainted from having always lived there. He cannot readily realize the condition of things in

other parts of the country with which he has been unacquainted. The Senator from Missouri talks about deposits in banks of circulation, and compares them with deposits in a savings bank. I have endeavored to describe a savings bank in my amendment in such a manner that the description must exclude all other banks. It will be observed that I have described it as a bank whose business is confined to receiving deposits and loaning them for the depositors, the profit or loss being to the depositors, and not to the bank; and I have also provided that it shall be a bank which has no capital, and which does no other business whatever.

I have two or three times undertaken to describe these banks, but I have never succeeded in getting the attention of anybody who did not understand it before; and now I am asked again what these banks are and how they do their business. They are mere charitable institutions, and really in principle you might as well levy a tax upon the contribution box for the poor of the parish. I will endeavor again to state their character. The returns which the Senator from Missouri has read show to any man who understands the subject that the proportion of money deposited in the savings banks is just about in proportion to the operatives in the factories in the various places. That is the reason why the deposits in Rhode Island and Massachusetts are so much more than in Maine and Vermont. In Vermont we are but slightly a manufacturing people as compared with Massachusetts or Rhode Island. Connecticut is a great deal more so. Maine is but little, perhaps not as much as we, and hence we have comparatively little in the savings banks in proportion to our population.

Now, let me state what a savings bank is. By an act of incorporation there are certain men, called managers or trustees, who take charge of the business. The President of the Senate is one of them in his own city. These trustees do the business for nothing; they receive no compensation. They do it for the cause of humanity. They superintend the business of the bank. They have one officer, called a treasurer, whom they hire and pay for his work. He has an office, and all persons may call if they please and deposit money in the savings bank. He takes their money, and enters it upon the books, and he gives a little book to each depositor in which he enters what the depositor has put in; and when people draw their money out when they want it, they do so by bringing that book and having what they take out charged to them. That book is a muniment between the depositor and the bank. The trustees proceed to loan the money received whenever there is enough received to be worthy of a loan, say fifty, or one hundred, or five hundred dollars. They loan it upon a good note where they know the parties, or upon a mortgage upon real estate. Sometimes they buy State stock or bank stock with the money. Then, with the interest they receive on these securities, they are enabled to pay the expense of the treasurer and divide about five per cent. annually to the depositors; and they give that percentage to every one who has left his money in three months. If they have any more than five per cent. they divide the excess, and if there is a loss in any respect they divide less. The bank, as you call it, really an imaginary thing, is nothing more than what I have now described. I have drawn my amendment in such a shape as to exempt only those savings banks whose business is confined to receiving deposits and loaning them for the depositors for their loss or gain, and who have no capital, and do no other business whatever. The question is whether that sort of institution ought to be subject to a tax of one half per cent. per annum on its deposits, so called.

I think I have described the savings banks just such as exist all over New England. The Senator from Missouri has told us by reading the figures that there are a great many millions of dollars, more or less, deposited in these savings banks in the different States. What does he con-

clude from that? He runs a parallel between the deposits in these savings banks and the deposits in the banks of issue. The things are entirely different and distinct. According to his notion, and if this exception be not made, all the money deposited in these savings banks, and which is loaned out, the whole aggregate of these millions, is to be subject to a tax of one half per cent. per annum—not one half per cent. upon the interest which is received, but one half per cent. upon the whole aggregate amount.

Now, take a bank of issue which receives deposits. Do they loan those deposits for the benefit of the depositors? Not at all. They make issues and loans for their own benefit. Whatever they earn they take to themselves and keep to themselves. All that a bank of issue enters on its books as deposits is the money that is put in which they loan out for their own profit, not for the profit of the depositor. This is entirely a different matter.

Now, why should the deposits so called in the savings banks be taxed? Suppose I have some money, say \$1,000, and I loan it, do you tax me anything on that loan? Not at all. I know that if I have an income from that and other sources amounting to more than \$600, I am subject to pay a tax on my income. But take the plain, straight case, that I have got \$1,000, if you will, and I loan it, does the Government get a single cent of tax upon it in any way? None at all. I know that if I have got an income from that or any other source falling within the description of the law, I must pay five per cent. income tax according to this bill; but that is all.

Now, what are you doing with these depositors? A poor boy or a young woman working in a factory at Manchester; if you please, instead of taking care of her own money, goes and says to the honorable President of the Senate, "Mr. Clark, I have got fifty dollars, my earnings for the past few months; I ask you to put this money into your savings bank, and I ask you to divide between me and the other depositors what you make on the money we put in." Some people put in \$200 or \$300, some \$400 or \$500, some \$50. In some States the average will be \$200 or \$300, the savings of two or three, or four or five years, put into the savings bank. What do you propose to do here? To levy a tax of one half per cent. not on what the girl gets for interest upon that money, but one half per cent. on the whole of her \$50 as a tax. It is not one half per cent. on her income but on the aggregate amount of her capital. You require her to pay twenty-five cents tax on the \$3 which she gets, supposing that she gets six per cent., and she cannot get any more, and really will not get more than five per cent., and you require her to pay a quarter of a dollar on the \$2.50 which she gets, or ten per cent. To what principle in the bill can you assimilate that? What resemblance has it to anything else in the bill?

But, Mr. President, it is said that perhaps wealthy people may put their money in savings banks, and the Senator from Ohio says that a man with capital carrying on a great manufacturing business may put his money into a savings bank. I can tell the Senator that a man carrying on a great manufactory has very little capital but what he uses himself; he generally has to borrow money. He does not have any money to deposit, or if he has it is not deposited long enough to make anything.

Mr. HALE. Will the Senator from Vermont also mention the circumstance that the money thus deposited is not subject to be taken out on call? It can only be taken out at certain periods of the year.

Mr. COLLAMER. It can only be taken out from three months to three months, generally, on notice. The savings banks do not all have the same regulation on this point. Some of them have a regulation that if you deposit money, you may withdraw it at any time upon giving five days' notice, but if you do it within three months you shall have no interest. Others have a little dif-

ferent regulation, and say that you shall give three months' notice, and take it out at the end of three months from a certain day, because they cannot be attending to it all the time. When the savings banks have any money on hand more than they have invested, they do not keep it in the savings bank, but they put it into the bank of discount and deposit in their neighborhood, and keep an account there. If there is anything on hand not invested it is deposited in that bank on which we have a tax.

But, Mr. President, suppose a wealthy man should put his money into a savings bank, what of it? Does a wealthy man who has money to lend, whether he deposits it or lends it himself, pay anything to the Government? Not at all. He may as well deposit it in a savings bank as keep it. If he keeps it in his own desk he pays nothing on it; but if he puts it in a savings bank the tax on dividends to which that bank is subject will make him pay something. There is another point: if this man of wealth has income he pays upon his income. If he puts his money in a savings bank and receives interest upon it, that interest is part of his income, and you tax it. But you are contriving here to try to get a tax from those who have not \$600, and some of whom have not \$100. You are trying to levy a tax on them even to a larger amount than you levy on income. Suppose I have an income large enough to be taxed, how much am I taxed? If I have \$1,000 invested, I receive \$60 interest, and you charge me a tax of 5 per cent. on the \$60, which is \$3. Here you are putting one half per cent. on the aggregate money on these people who have no \$600, or if they have it is part of the income, and can be reached in that way. There is a very broad difference between deposits in banks of discount and deposit and deposits in savings banks which are loaned out for the benefit of the depositors. I hope the Senate will see the propriety of the distinction.

Mr. HENDERSON. I suggest to the Senator from Vermont, if he insists on the amendment, that he limit the amount of deposits. If these deposits are made by very poor persons would it not be better to say:

And except savings banks which, having no fixed capital, confine their business to receiving time deposits and loaning or investing the same for the depositors, and which receive no deposit from any person at one time exceeding in amount \$20.

Mr. COLLAMER. A man wants to deposit \$100; he can deposit \$20 this minute, \$20 more in five minutes, and \$20 more in ten minutes, and in fifteen minutes \$20 more. It is utterly impossible to apply any such limitation. The truth is, that whatever deposits there are, if the depositors get from them more than \$600 income, you tax them.

Mr. HENDERSON. My only fear is that the amendment may defeat the whole object of the law, which, if I understand it properly, is to get a tax on parties who have surplus funds that they can afford to deposit in bank. The tax is levied on the deposits in the bank only as a means of getting it out of the individuals who have the surplus funds to deposit, and the object of this bill is to levy a tax on deposits, because the supposition is that parties who have the money to deposit can afford to pay. If this amendment be adopted, unrestrained as it is, unlimited in the amount of deposit, will not savings banks or something of that sort grow up in the country everywhere, and all the surplus capital in the country fall into them?

I have shown that in seven States there are \$171,000,000 deposited in savings banks now; and will not these institutions spring up in all the cities, and the deposits be made in them? You do not confine it to a time deposit in this amendment. Why not say a "time deposit" in this amendment? If, as the Senator from Vermont says, it is time deposits only that he intends to provide for, why not say "time deposits," so that no immediate deposit can be affected that is a deposit subject to draft?

Mr. HALE. The Senator speaks of these deposits as being made from the surplus of the depositors. The fact is that it is exactly the other way; it is of their very necessities. The deposits are not made by those who have any surplus, but by those who use these charitable, eleemosynary institutions as a convenient way for keeping the

very little they have to live upon. The Senator from Massachusetts [Mr. Wilson] proposed a tax on incomes the other day. This is unfair. While you do not tax people who really have income, you tax these people ten per cent. on what they receive, because they never get more than five per cent. Suppose, for instance, a person has in a savings bank \$100, and receives \$5 interest; of that \$5 he has to pay 50 cents in this tax. In other words, the very poorest people on earth out of their poverty are taxed upon what they get from savings banks ten per cent.

The question being taken on Mr. COLLAMER's amendment by yeas and nays, resulted—yeas 22; nays 8; as follows:

YEAS—Messrs. Anthony, Buckalew, Carlile, Clark, Collamer, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harris, Howe, Johnson, Lane of Kansas, Morgan, Powell, Sumner, Ten Eyck, Van Winkle, Wiley, and Wilson—22.

NAYS—Messrs. Brown, Conness, Davis, Harlan, Henderson, Hendricks, Ramsey, and Sherman—8.

ABSENT—Messrs. Chandler, Cowan, Dixon, Harding, Hicks, Howard, Lane of Indiana, McDougall, Morrill, Nesmith, Pomeroy, Richardson, Riddle, Saulsbury, Sprague, Trumbull, Wade, Wilkinson, and Wright—19.

So the amendment was agreed to.

Mr. TEN EYCK. I rise to move a reconsideration of the vote by which the amendment of the Senator from Ohio [Mr. SHERMAN] in relation to monthly returns was lost. I do it to oblige certain Senators who were not here to vote.

The motion to reconsider was agreed to.

The PRESIDENT *pro tempore*. The question recurs on the adoption of the amendment of the Senator from Ohio.

Mr. DOOLITTLE. In relation to that amendment of the Senator from Ohio, there is one part of it that I like very much indeed, and that is that these banks shall make return of the amount of their discounts, &c., every month, but I wish an amendment could be framed so as to allow the payment of the taxes to be semi-annually, as on the national banks, and then they would all stand on an equality.

Mr. SHERMAN. I thought it was a very small matter, and I have really made a calculation to show the difference to a bank of \$100,000 capital, between paying a tax of \$83 and some cents a month monthly, and paying six months' tax semi-annually, and it amounts to the insignificant sum of less than \$20 a year, and that is the point on which we have been higgling so long. It seems to me it is scarcely worth while to draw over this section, and I say again to Senators that in order to carry out the idea of the Senator from Wisconsin you will have to redraw the section. The Senator from Maine stated correctly that the bill was sent to us on a different basis; the Committee on Finance changed it so as to correspond with their views; and now to change it back again and to draw a distinction between the time of making the return and the time of paying the duty will require a revision of the whole subject, and will open it to further debate and cause the loss of time. As Senators concede that the principal object I wish to accomplish, the making of the monthly returns, is an object that is desirable or at least important, certainly the difference between the monthly payment of this tax and the semi-annual payment is insignificant and scarcely worth troubling ourselves about.

Mr. JOHNSON. That depends on the character of the banks and upon the business they do. It would make a very material difference to the larger banks who do a very heavy business. As I have said to the Senator, rather than not have the monthly returns I shall vote for the amendment in the form in which he has presented it, because I think it all-important to the country that monthly returns should be had. But I do not see that he is right when he says that the monthly returns may not be provided for without providing also for the payment of the tax monthly, without remodeling the whole section. Why is it that at the end of this section which provides now for a semi-annual return and a semi-annual payment, we cannot add a clause saying that each bank shall make monthly return of its capital, its deposits, and its circulation? I do not see any difficulty about it.

Mr. FESSENDEN. If the Senator does not see any difficulty, I wish he would do it. The thing cannot be accomplished in the way gentlemen want it without redrawing the section.

Mr. JOHNSON. The Senator speaks of

course with more knowledge than I have of the language of this section. What I understand the section to have been originally is that it imposed on the banks the obligation to make semi-annual returns and semi-annual payments; that is all.

Mr. SHERMAN. The Senator will find on reading the section that he is not correct. The House framed the bill on the basis that a portion of this tax, the tax on deposits and capital, should be paid semi-annually and returns made semi-annually, while the tax on circulation was to be paid monthly and returned monthly. It was a complex thing. I will state that if the committee of conference can sit down and take this section up in detail and examine it, and they think proper to make this variation, they can do it readily. It can be done there much more readily in a committee of conference than in the Senate. If I had brought in a new section on banks and banking redrawn to carry out the Senator's idea, it would have to be printed, and would take a great deal more trouble. The whole subject will be left open to a committee of conference, and they will then be able to carry out the idea. The difference between the Senate and the House of Representatives is radical. The House impose a tax of three per cent. on all circulation. The conferees will probably have to agree on some intermediate plan. I do not know how.

The amendment was agreed to.

Mr. TEN EYCK. I have a small amendment to propose. On page 144, line four hundred and forty of section ninety-three, I move to strike out "ten" and insert "five," so as to read:

On all diamonds, emeralds, precious stones, and imitations thereof, and all other jewelry, a duty of five per cent. *ad valorem*.

I offer this amendment at the instance of a number of respectable firms engaged in the manufacture of jewelry, who very succinctly state why they think this alteration ought to be made. They state that these firms in the fifth collection district of New Jersey manufacture more than one third of all the jewelry in the northern States, as appears by the returns to the office of the Commissioner of Internal Revenue. They ask for this amendment on the ground that they believe more revenue will accrue to the Government by reducing it to five per cent. than suffering it to stand at ten per cent., as it now is in the bill. They think it will be a restriction upon the trade to impose a duty of ten per cent., and there will be less made, and less revenue accruing to the country. I understand that the bill, as it was originally introduced in the House of Representatives, was in that way. That is about the amount that is to be levied on articles of manufacture generally. Some are less. It was altered, I believe, in the other House, and comes here in that shape. My object simply is to request the Senate to consider this matter, and to lay before them the reasons which have been assigned in the letter which has been sent to me.

The amendment was rejected.

Mr. GRIMES. On the 172d page, I move to strike out all after the word "annum" in line thirteen of section one hundred and sixteen to the word "dollars" in line twenty-six. The words which I move to strike out are:

And there shall also be deducted the income derived from dividends on shares in the capital stock of any corporation or joint stock company, and the interest on any bonds or other evidences of indebtedness of any corporation or joint stock company, which shall have been assessed and the tax paid by said corporations or joint stock companies, as hereinafter provided; also the amount paid by any person for the rent of the homestead used or occupied by himself or his family.

I have not offered the amendment because I am opposed to a portion of the principle embodied in this clause, or because I suppose it will remain stricken out as a part of the law whenever the bill shall be passed into a law, but to give the committee of conference an opportunity to perfect the clause which I think they will not otherwise have an opportunity of doing with the amendments which have already been made to it.

It will be observed that this section provides that there shall be a deduction from every individual's income of the amount that he has received from corporation stocks of whatever description he may own, whether bank, telegraph, railroad, or anything else. The reason is because the man who owns the stock pays this amount not by himself but through another, through the

agency of the corporation of which he is a member. If I have an income of \$100,000 under this bill derivable from stocks of various descriptions, I virtually pay through the agency of these corporations 5 per cent. on that amount. The Senator from Vermont, who is my neighbor, gets an income also of \$100,000, but he receives his from iron or coal mines, or from manufactures, or from commerce; and if he will turn to the 171st page he will observe that he must pay  $7\frac{1}{2}$  per cent. on his income; upon all over \$10,000 he must pay  $7\frac{1}{2}$  per cent.; whereas I, owning my property entirely in the stock of corporations, through those corporations pay 5 per cent. only. That is inequitable; that operates to the disadvantage of commerce and manufactures and of the owners of real estate in our cities whose incomes are derivable from property, who ought not to be compelled to pay any more than men who own property in stocks.

It is said that this can be regulated by some rule to be established by the Commissioner. I am unwilling to agree to any bill that has to be amended by a Commissioner or a Secretary of the Treasury or any other public officer when my attention is called to a provision of this kind and it is susceptible of being perfected in the Senate. Then I have a great many doubts whether we can authorize any change of the absolute law of Congress on the subject. I propose, therefore, to strike out this clause in order to enable the committee of conference, when the bill shall be referred to a committee of conference, to perfect this matter and put it on the right basis, so that parties who are deriving an income from stocks or from any other species of property shall stand upon a perfect equality.

Mr. FESSENDEN. I hope the words will not be stricken out. That would present the bill in a most anomalous and ridiculous condition. The bill would simply stand then, as it goes out of the Senate, that a man shall have his 5 per cent. deducted in the first place from the income on his shares by the bank, or other corporation in which he holds shares, and then that he shall pay 5 per cent. again on the same income. That is the way it would stand. For the credit of the Senate I do not want to have the bill go out in that shape.

I have no sort of doubt about how the thing will operate. We confer on the Commissioner of Internal Revenue power to make rules and regulations for the collection of this income tax, and to call upon everybody for a return of what his income is. All a man has to do is to make a return of his sources of income, and that is the way in which it is done, specifying this source, that source, and the other. Then they estimate it upon that. If any item has been deducted once, there is an end of it. I was obliged to return a statement of what I had received as my salary here; I shall be obliged to do it again; but I shall not be charged with 5 per cent. on it, because the law provides that it shall be deducted before the salary is paid over to me. If it appears from my return of the whole of my income that it is more than \$10,000, I am charged with  $7\frac{1}{2}$  per cent. on the excess over \$10,000.

The thing is simple in its operation if the Commissioner does his duty. If you take it for granted that he will not do his duty, there is an end of it; but if the Senator desires to amend it, he should fix something that is an amendment. I am not prepared at a moment's warning to do it. The gentleman proposes an amendment to strike out a part of the bill, because he thinks it wants to be redrawn and something else provided. My capacity does not go as far as that; but if the Senator wishes that the committee of conference shall consider it, they are perfectly able to consider it on the amendments that have been made. We have struck out two very important parts of the bill there and inserted others, and on those the committee of conference can, if they think it necessary, make a provision that will answer the purpose. It stands just as well now for that purpose as it would with the whole clause struck out.

Mr. GRIMES. I should like to have some indication as to what the sense of the Senate is upon this subject, whether it is deemed necessary or not to make an amendment. As I understand it, the Senator admits that my criticism is correct.

Mr. FESSENDEN. I admit that if the Com-

missioner does not do what he has a perfect right to do, and what he will undoubtedly do if he understands the bill, a consequence of that sort may follow, but the same sort of consequence may follow in five hundred other places in the bill.

Mr. GRIMES. The Senator admits that there would be this inequality between the incomes derived from stocks and the incomes derived from mines, manufactures, commerce, or real estate, unless it was made up by some sort of management on the part of the Commissioner. If he will make any intelligible statement of the mode in which the Commissioner is going to do this, the intelligence of my brother Senators is much greater than mine, but I confess I do not comprehend it. I insist that the Commissioner has not got any such authority. The bill says absolutely what shall be deducted and what shall not be deducted. It says that the taxation, if the income exceeds \$10,000, shall be  $7\frac{1}{2}$  per cent. Has the Commissioner a right to vary that? I understand not. It then says that on the income derived from stocks a man shall not be compelled to pay anything if the company whose stock he holds has paid the tax. Has the Commissioner or the Secretary of the Treasury any right to add to or deduct from that? I apprehend not. The proposition I have submitted here may be ridiculous, but I submit that it is not quite as ridiculous as the proposition which I propose to amend; and I submit to the judgment of the Senate on that point.

The amendment was rejected.

Mr. COLLAMER. I desire to have a vote at some time upon the proviso to section seven on page 7. I do not know but that it was attended to when I was not present.

The PRESIDENT *pro tempore*. The Chair will suggest to the Senator from Vermont that that whole section was stricken out and an amendment inserted.

Mr. COLLAMER. Let the new draft be read that we may see how it stands.

The PRESIDENT *pro tempore*. The amendment made to that section will be read.

The Secretary read, as follows:

SEC. 7. And be it further enacted, That the President of the United States may divide the respective States and Territories of the United States, and the District of Columbia, into convenient collection districts, and may alter such districts as the public interests may require, and may include any of said States and Territories, and the District of Columbia, in one district; but the number of districts in any State shall not exceed the number of Senators and Representatives to which such State shall be entitled in the present Congress.

Mr. COLLAMER. The substance of the proviso to which I have referred is there. It seems to me a little difficult to execute this proviso consistently with the present law. By the existing law the districts were not to be greater in number than the number of Representatives in the last Congress; but it further provided that if any State should have a greater number of Representatives under the new apportionment, the number of districts might be equal to that number of Representatives. It made no provision, however, for States which would lose under the apportionment, but it gave them a number of districts equal to the number of Representatives in the last Congress. Some of the States have lost in the apportionment. The present bill provides that the number of districts shall not exceed the number of Senators and Representatives in this Congress. I am not prepared to say that there may not be States which have lost more Representatives by the apportionment than the provision of this bill, including their Senators, would make up to them. I am not prepared to say exactly how that stands; but I fear that under this provision, which is that the whole number of districts shall not exceed the Senators and Representatives in the present Congress, you may have to destroy some of the districts which are now in existence, which, I take it, is hardly intended. According to my present view I do not want the number of districts increased in my State at any rate; and yet if this provision be adopted there may be ground to apprehend that result. The State is conveniently divided; and I take it other States are conveniently divided into collection districts according to the number of their congressional districts. Because there may be some few States that want more districts on account of the extent of their geographical limits, it is hardly worth while on

that account to make a provision that may disturb the districts in all the States.

When any provision is made by which any State can have more men in office there is no peace and no quiet in that State until the appointments are made. For instance, in the little State in which I live, where we have three districts, well enough, convenient enough, the moment a provision like this is passed people will see that any State may have a number of districts equal to the number of its Senators and Representatives, and the effect will be that the moment we reach home we shall be beset at once. People will say to us, "Why not let us have two more collectors and two more assessors and their deputies; other States are going to have them under this law; will you not let the State of Vermont have them; are you not going to help your friends; shall we not have more money spent here by it; will there not be \$40,000 more paid out by the United States for collectors and assessors and their deputies, and so on?" We cannot live under that importunity, we shall have no peace. I do not want any such importunities; I do not want to give any occasion for them. I do not think there is anything in the necessities of the State that requires that we should be thus troubled or that the Government should be in any way, or that we should be put to the expense of having such a number of new officers to be paid. I wish, therefore, to have this provision struck out and let the matter stand as the law now is. I take it that provision of the law has not been repealed, or at any rate we can save it from the repealing clause in this bill.

Mr. FESSENDEN. I fear the result would be to abolish districts in New York.

Mr. COLLAMER. Not at all.

Mr. FESSENDEN. The Commissioner is apprehensive of that. The districts in New York have been decreased by the present apportionment. There are not as many Representatives in this Congress from New York as there were in the last.

Mr. COLLAMER. The previous law was that the number of districts should not be greater than the number of Representatives in the last Congress, except that those States whose representation was increased by the apportionment of 1860 might have districts according to the increased number of Representatives.

Mr. FESSENDEN. New York has not gained, it has lost, by the apportionment. The districts there were made according to the number of Representatives in the last Congress. The provision in the bill as it came from the other House was that each State should be entitled to the same number of districts that it has Representatives in the present Congress; and the representation in the present Congress is not just what it was in the last.

Mr. COLLAMER. The existing law provides for the number of districts; and I take it that whatever number of districts was made under that law stands now unless you pass a clause repealing that portion of the law. The existing law is:

"Provided, That the number of districts in any State shall not exceed the number of Representatives to which such State shall be entitled in the present Congress."

That was the last Congress—

"excepting such States as are entitled to an increased representation in the Thirty-Eighth Congress, in which States the number of districts shall not exceed the number of Representatives to which the State shall be so entitled."

If that law as it stands is not superseded by any new law the State of New York will have the number to which she was entitled under the then apportionment, and we shall not have to unmake any district. If you let that law stand as it is New York will not be deprived of any district. My proposition is to leave the existing law as it is.

Mr. FESSENDEN. The Senator's proposition was to strike out this proviso.

Mr. COLLAMER. And leave the old law to stand.

Mr. FESSENDEN. But by another section of this bill that law is repealed with certain exceptions.

Mr. COLLAMER. We can put this provision among those exceptions.

Mr. FESSENDEN. But the Senator's proposition was simply to strike out the proviso; and doing that simply has the effect to leave no law upon this particular subject. If it was a part of



his idea to adopt the old law in this respect, he did not suggest it by way of amendment. The statement of the Commissioner was on the supposition that the old law was to be repealed, and this bill to be adopted in lieu of it; and what he said was perfectly true, that the effect of leaving it in that way would be to dispense with one district in New York. If the Senator proposes to provide for that case, I have no objection to his amendment; for surely I do not want to increase the number of districts. I have the same objection to that that he has, though I do not anticipate any such difficulty as he supposes. I do not think we shall be teased into making new offices for our friends contrary to the public interest; and I am sure that the last man to do anything of that sort would be my friend from Vermont.

Mr. HENDERSON. I move that the Senate adjourn.

Mr. SUMNER and Mr. McDUGALL addressed the Chair.

Mr. SUMNER. Before the motion is put, if the Senator from Missouri—

Mr. HENDERSON. I withdraw the motion temporarily.

Mr. SUMNER. I was going to ask that this bill, with all the amendments, be printed for the use of the Senate, that we may find it on our tables on Monday. It seems to me that we have arrived at such a stage now that in order to act advantageously and definitively upon it, we ought to see the bill with the amendments.

Several Senators. It cannot be done.

Mr. SUMNER. The bill can be printed I have no doubt; at any rate an attempt can be made to print it.

Mr. CONNESS. It would not be very profitable to make an attempt at printing and fail. I would like to ask the Senator from Maine whether there are not a number of amendments not yet acted upon in the Senate.

Mr. FESSENDEN. None of the amendments made in committee have been acted on. The idea was simply this, and I think it was a very correct one in a bill of this kind, that the Senate, in committee, having made a great many amendments, if any Senator desired a separate vote on any one that had been adopted in committee, he might have it, and after that process had been gone through with, then the amendments should be adopted in a body.

Mr. CONNESS. That vote has not been reached yet.

Mr. FESSENDEN. It has not been reached because Senators have not got through presenting amendments.

Mr. CONNESS. Then I do not see the propriety of printing the bill now.

Mr. FESSENDEN. Now that I am up I will say that I am very anxious to get through the bill to-night, unless gentlemen are disposed—

Mr. McDUGALL. I ask the floor on a question of business belonging to the day, not for general discussion.

Mr. FESSENDEN. I understand that I am entitled to the floor at the present time.

Mr. McDUGALL. Certainly, if the Chair says so. I sought the floor some time since.

Mr. FESSENDEN. The process is a very simple one. Ordinarily, when we have bills of any size, we call upon Senators to except or request a separate vote upon any particular amendment, and the rest of them are adopted in a body. In this case I thought it would be more fair to the Senate, instead of following the usual course, as Senators might not recollect precisely the amendments on which they might wish to have a separate vote, to leave all the amendments open and allow Senators to go through and move for a separate vote on such as they desired to have voted on, and when that was gone through with to adopt the rest in a body. It was only reversing the usual process, and affording Senators a better opportunity on a bill of this description.

Mr. McDUGALL. If the Senator from Maine will allow me, I have sought to make a particular amendment.

Mr. FESSENDEN. I am desirous of affording the Senator an opportunity. I do not want to push the bill too persistently, but to leave it open a sufficient length of time until every Senator is satisfied that he has made his motion upon every point upon which he desires to make it.

When that is through, then adopt the amendments. I will say to the Senator from Massachusetts that I have given, I believe, every clause a careful attention from the beginning to the end of the bill; so have the other members of the committee; and I think the bill stands in a very good shape at the present time, and there is no need of our losing two or three days, as we must if we adopt his suggestion. It would take the clerks a couple of days, I presume, with hard work to prepare the bill to send it to the printer in the first place, and it would take two more certainly to print it, and we should gain nothing then in my judgment. I hope, therefore, that any motion of that sort will not be adopted.

But one thing more. I am very desirous of closing the bill to-night. If we are ever to get through with this session and do the business, we had better come to the conclusion that we will finish it.

Mr. McDUGALL. I ask the chairman of the committee to allow me to move an amendment which I desire to make, as it will not be possible for me to be here this evening. I believe with the Senator.

Mr. FESSENDEN. Certainly the Senator will have a chance in a moment, if he will wait until I get through, as I have told him once or twice before.

Mr. SHERMAN. Allow me to say that I know some Senators have engagements for this evening, supposing that there would be no night session on Saturday night, it not being usual. I think we can have an understanding that on Monday we shall sit this bill out and have a night session if necessary.

Mr. FESSENDEN. We ought not to require any understanding to sit it out; and at this period of the session I do not think that one day, and the importance of one day to the revenue of the country, (which, as the Senator knows, is probably half a million dollars,) should yield to the mere fact that some Senators have engagements for this evening. I do not think it any argument at all. I should like to go through with the bill and close it, and in my judgment the sooner we do it the better. If Senators will exercise a little forbearance on the subject, and believe that after all they may not know with so very great exactness that a thing is positively wrong, and that what is wrong may be amended by the committee of conference when they come to consultation, and look at the whole bill from beginning to end, we shall get it through a great deal sooner than otherwise. I propose to sit right on now.

Mr. HENDERSON. I hope the Senator will not insist on anything of that sort. I am aware that there are a great many amendments yet to be offered, and the Senator says he is perfectly willing to give every member an opportunity. I have none myself, but I know there are several amendments to be offered that will take a good deal of time. And I desire to suggest another fact to the chairman of the Committee on Finance, that there are some Senators in doubt as to the true state of the bill at the present time, and if they have an opportunity between now and Monday morning to examine it, it is my opinion that we shall save time. I see no probability of getting through with it to-night. They really do not know the character of the amendments, and in offering amendments they do not know exactly how to word them. Either print the bill or give them an opportunity between now and Monday morning to examine it, so that they can so shape their amendments as to take but little time in the Senate, and with that view I move that the Senate do now adjourn.

Mr. McDUGALL. I appeal to the Senator from Missouri—

Mr. HENDERSON. I cannot withdraw the motion.

The question was taken on the motion to adjourn, and fourteen voted in the affirmative.

Mr. SHERMAN. I call for the yeas and nays. The yeas and nays were ordered.

Mr. DAVIS. Mr. President—

The PRESIDENT *pro tempore*. It is not in order to debate the question.

Mr. DAVIS. I am not going to debate it. I have no objection to the question being taken on this bill on Monday, and that it be sat out on Monday; but I want to offer some amendments,

and I want to say something upon the bill, and it is impossible to get through with it to-night.

The question being taken by yeas and nays, resulted—yeas 16, nays 21; as follows:

YEAS—Messrs. Buckalew, Collamer, Cowan, Davis, Grimes, Hale, Harris, Henderson, Hendricks, Powell, Ramsey, Richardson, Sherman, Sumner, Van Winkle, and Wilkinson—16.

NAYS—Messrs. Anthony, Brown, Clark, Conness, Doolittle, Fessenden, Foot, Foster, Harlan, Howard, Howe, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Morrill, Ten Eyck, Wade, Wiley, and Wilson—21.

ABSENT—Messrs. Carlile, Chandler, Dixon, Harding, Hicks, Nesmith, Pomeroy, Riddle, Saulsbury, Sprague, Trumbull, and Wright—12.

So the Senate refused to adjourn.

Mr. McDUGALL. I move on page—

Mr. COLLAMER. I believe I had a motion pending.

The PRESIDENT *pro tempore*. The Senator did not indicate what he desired stricken out. The Chair will recognize the Senator from Vermont.

Mr. COLLAMER. If I understand it aright, the seventh section was stricken out and another one put in the place of it; and which other one has the same proviso in it.

The PRESIDENT *pro tempore*. It has not any proviso in it.

Mr. COLLAMER. I understand the great and essential difference between this section and the other consists in the difference between "but" and "provided." This one has the word "but" and the other has the word "provided." Is that what the Chair means?

The PRESIDENT *pro tempore*. The Chair means that there is no proviso in it, and he desires the Senator to indicate the words which he wishes to have stricken out. If the Clerk has got it, the Clerk is entirely satisfied. The words which the Clerk understands are to be stricken out will be read.

The SECRETARY. It is moved to strike out the following words in section seven:

But the number of districts in any State shall not exceed the number of Senators and Representatives to which such State shall be entitled in the present Congress.

Mr. COLLAMER. I desire the existing law to remain on that subject, and I was aware and said that I did not know the manner in which the repeal of different sections and the reservation of different sections from repeal was prepared and presented by the Presiding Officer. I could not see exactly how that stood.

The PRESIDENT *pro tempore*. If the Senator will pardon the Chair, the Chair will state to the Senator from Vermont that he can move to strike out these words, and to insert here the words of the former law.

Mr. COLLAMER. If that will effect my purpose, I move, then, to strike out the words which have been read, and insert in lieu thereof the proviso in the former act.

The PRESIDENT *pro tempore*. That will be read.

Mr. COLLAMER. That will not answer, because it was drawn up in the last Congress.

The PRESIDENT *pro tempore*. The Senator can alter it and make it read "the Thirty-Seventh Congress" instead of "the present Congress." The words which the Senator desires to have inserted will be read from the desk, so that the Senate may understand it.

The Secretary read, as follows:

Provided, That the number of districts in any State shall not exceed the number of Representatives to which such State was entitled in the Thirty-Seventh Congress, except in such States as are entitled to an increased representation in the Thirty-Eighth Congress, in which States the number of districts shall not exceed the number of Representatives to which any such State may be so entitled: And provided further, That in the State of California the President may establish a number of districts not exceeding the number of Senators and Representatives to which said State was entitled in the Thirty-Seventh Congress.

Mr. HENDRICKS. I am willing to stay here to an anything like reasonable time to let this bill go through, but I am well satisfied that it cannot probably pass to-night, and therefore I renew the motion to adjourn.

Mr. JOHNSON. Will the Senator withdraw the motion for a moment?

Mr. HENDRICKS. Certainly.

Mr. JOHNSON. I am sure we all see that it is very important to have this bill passed at the earliest possible day, and I suppose it can be understood generally by the Senate that the bill will

be acted on finally in the course of Monday. While I was in the Senate before—I do not know what has been the practice since—these understandings were frequently entered into and were always complied with. I do not know whether it would be proper to make the motion formally, but I shall vote for the motion to adjourn, as far as I am concerned, with a determination to bring the bill to a final vote in the course of Monday.

Mr. HENDRICKS. I renew the motion.

Mr. FESSENDEN. Although no debate is allowed on a question of adjournment—

Mr. HENDRICKS. I withdraw the motion, if the Senator desires to make any remarks.

Mr. FESSENDEN. I wish to say simply that I have no motive to push gentlemen, as I think they will give me credit for, for I have sat here as patiently as I think any other member of the Senate would have been able to sit during the number of days, eleven days, that we have been debating this bill, a large part of it in the evening. I deem it of very great importance that we should finish this bill speedily if we are to pass it at all; and my great objection to adjourning is that Senators are very apt when they begin a day to think there is plenty of time before them, and to discuss every question at very considerable length, even after it is very well understood by all who are disposed to understand it. I have no confidence that if we adjourn over to Monday we shall finish it on Monday. I think it will be just as likely then to last all next week as it was on Monday last to keep on through this week, from the disposition to discuss and rediscuss, to open and reopen, to reconsider every question that has been passed upon by the Senate several times, and on which the opinion of the Senate has been definitely and distinctly expressed over and over again. If that is to be done over and over again in separate and new shape on these matters which are so interesting, the Senate can see just as well as I can that there is no such thing as getting to the end of it. Of course it is of no more consequence to me than to every other Senator.

Mr. McDUGALL. I suggest to the Senator from Maine that so far as I am concerned I will enter into no pledge of getting through with it on Monday. If I think it proper for me to discuss the bill in all its details, I will take such time as may be involved in that discussion.

Mr. FESSENDEN. I have no doubt of that, and I think it very likely that disposition may be general; I cannot tell precisely; but if Senators are disposed to aid in passing the bill instead of aiding in protracting the session by protracting discussion, we must come to a conclusion soon; otherwise we must go on to such time as Senators determine. For my part, I have only to say that while I have tried very sedulously to get through in some sort of season, still affording ample opportunity for all discussion on the subject, I have rather come to the conclusion that I may as well cease all my efforts in that direction and let the bill float according to the disposition of Senators for the future.

Mr. HENDRICKS. I do not desire that the Senator from Maine or any other Senator shall suppose that I have made an unreasonable motion. In my view of this matter this bill is a very lengthy one in the first place; the amendments proposed to the House bill by the Committee of Finance were very lengthy, many of them, and very numerous. They were printed however, and we could master them; we could know something about them; but I think the course of the Committee on Finance has been very proper, no question about it; but an extraordinary one. The bill has now as I should judge, as near as I can guess, one fourth of matter that has been brought into it by the Committee on Finance since the report of that committee, which has not been printed, which we can only know about by having heard it read. We scarcely understand it sometimes then. Surely the Senator will admit that the Committee on Finance in introducing new amendments during this week has occupied more of the time of the Senate than all other Senators put together. If the rest of us ask a reasonable time to know something about the changes that the committee has made in this bill certainly it will not be regarded as unreasonable, and therefore I renew my motion to adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

SATURDAY, June 4, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING. The Journal of yesterday was read and approved.

### LAWS OF UTAH.

The SPEAKER laid before the House the laws of the Territory of Utah; which were referred to the Committee on Territories, and ordered to be printed.

### FRENCH OCCUPATION OF MEXICO.

Mr. DAVIS, of Maryland. Mr. Speaker, I ask the unanimous consent of the House to present a report from the Committee on Foreign Affairs relative to the correspondence between this country and France, referred to that committee a few days ago, not with a view to its consideration, but merely to have it printed and recommended to the committee to await its regular order.

Mr. BROOMALL. I object.

Mr. DAVIS, of Maryland. I hope that the gentleman from Pennsylvania will withdraw his objection. I do not contemplate gaining any advantage, but only to have the report printed for the use of the House when it comes up to be considered when the committee is regularly called for reports.

Mr. BROOMALL. I cannot withdraw my objection.

### WARREN W. GREEN.

Mr. HOLMAN, by unanimous consent, from the Committee of Claims, reported back Senate bill No. 217, for the relief of Warren W. Green, with the recommendation that it do pass.

The bill provides that the Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to Warren W. Green the sum of \$47 79, being for his services on the Fort Kearney and Honey Lake wagon road in the year 1857.

The bill was ordered to be read a third time, and it was accordingly read the third time, and passed.

Mr. HOLMAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### REPORT OF POSTMASTER GENERAL.

Mr. A. W. CLARK, from the Committee on Printing, reported the following resolution, on which he demanded the previous question:

*Resolved*, That one thousand extra copies of the report of the Postmaster General, and appendix, be printed for the use of the Post Office Department.

The previous question was seconded, and the main question ordered.

The House divided; and there were—ayes 32, noes 8; no quorum voting.

Mr. WILSON. Will the type for this report have to be reset?

Mr. A. W. CLARK. I do not know.

Mr. WILSON. As chairman of the Committee on Printing I think the gentleman ought to have informed himself, so that he could inform the House.

The SPEAKER. Debate is not in order.

Mr. WILSON. I move that the resolution be laid on the table.

The SPEAKER. That motion is not now in order.

Mr. A. W. CLARK demanded tellers on the adoption of the resolution.

Tellers were ordered; and Messrs. A. W. CLARK and CRAVENS were appointed.

The resolution was adopted; the tellers having reported—ayes 68, noes 25.

Mr. A. W. CLARK moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### AGRICULTURAL REPORT FOR 1863.

Mr. A. W. CLARK, from the Committee on Printing, reported the following resolution, and demanded the previous question on its adoption:

*Resolved*, That there be printed, by the Superintendent of Public Printing, one hundred and fifty thousand extra copies of the annual report for 1863 of the Commissioner of Agriculture, with the accompanying documents, for the use of the present House, and thirty thousand extra copies for

distribution by that Department, with the engravings interspersed throughout the volumes in their proper places; and that five hundred copies shall be printed for the use of said Department on fifty-six pound paper.

Mr. KELLOGG, of Michigan. I ask the gentleman to withdraw the demand for the previous question, so that I may move an amendment.

Mr. A. W. CLARK. I withdraw it for that purpose.

Mr. KELLOGG, of Michigan. I move to reduce the number of copies to be distributed by the Department of Agriculture to ten thousand.

Mr. BALDWIN, of Michigan, demanded tellers.

Tellers were not ordered.

The House was divided; and there were—ayes 55, noes 40.

So the amendment was agreed to.

The resolution as amended was adopted.

Mr. A. W. CLARK moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### IDAHO.

Mr. CRAVENS. I ask unanimous consent to report back from the Committee on Territories House bill No. 486, to amend an act entitled "An act to provide a temporary government for the Territory of Idaho."

Mr. SPALDING. I object.

### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate has passed, without amendment, an act (H. R. No. 455) to punish and prevent the counterfeiting of coin of the United States.

Also, an act (H. R. No. 293) to provide for the payment of the third regiment, third brigade, Ohio volunteer militia, during the time they were mustered into the service of the United States.

### PERSONAL EXPLANATION.

Mr. GARFIELD. I ask the unanimous consent of the House to make a personal explanation.

There was no objection.

Mr. GARFIELD. Mr. Speaker, I shall occupy the attention of the House but a few moments. I regret to detain the House by a matter personal to myself, and there is nothing I so much deprecate as a difficulty between members, and especially between members of so small a family as that of the delegation upon this floor from Ohio. However, from what occurred here last evening, I deem it a duty to myself and to truth to make a personal explanation.

It may have been observed that I displayed unusual earnestness and perhaps some heat in my remarks on the bankrupt bill last evening; and in order to set myself right before the House in regard to the whole matter I wish to have read a letter which will in part explain the reason of my earnestness. In the first place, I ask the Clerk to read a slip which was inclosed in the letter to which I refer, and which will serve as a part of the history of the transaction. The slip is an advertisement cut from one of the leading dailies of the city of Cleveland a short time after my colleague [Mr. SPALDING] moved the appointment for the select committee on bankruptcy.

The Clerk read the slip, which was as follows:

"BANKRUPT LAW.—Persons who are desirous that a bankrupt law should pass the present session of Congress, and are willing to aid in the matter, will confer a favor by addressing W. C., Post Office, Cleveland, Ohio, when further information will be given."

"CLEVELAND, January 22, 1864."

Mr. GARFIELD. It appears that an insolvent debtor, seeing the advertisement, addressed a letter to "W. C." asking for further information, and the letter I now desire to have read is in response.

The Clerk read the letter, as follows:

ASHLAND, OHIO, January 27, 1864.

DEAR SIR: Your letter to W. C. was forwarded to me here. Although I do business in Cleveland, my family live here. There has been formed a General Bankrupt Association, headquarters in New York. I have been appointed by the association to correspond, &c., in Ohio; and am devoting my time to it free of charge. The executive committee is now in Washington looking to the matter; they find it necessary to secure the influence of influential persons to aid in the matter. They require about three or four thousand dollars at once to pay expenses, &c., at Washington. Men are generally paying from five to twenty dollars for this object. Also, I inclose you a blank note to be filled up payable only if the law is passed. It will re-

quire \$20,000. The notes are filled up from fifty to five hundred dollars. Now if you will aid in the matter fill up the note and inclose to me with such an amount of money as you can, and send it to me here as soon as possible.

I am well known in Cleveland. You can ask most any one about me. Will see you personally when next in the city; but the matter engrosses all my attention at present. The secretary writes me everything looks encouraging, and with the means, they will put the law through. We must aid in the matter and push it through this session. Please reply at once.

Yours, in haste,

P. S.—My business place in the spring and summer is at 31 Superior street.

A. F. WHITMAN, Esq.

Mr. GARFIELD. Will the Clerk now read the printed blank which accompanied the letter? The Clerk read, as follows:

Thirty days after the passage of a general bankrupt law by Congress I promise to pay to the order of the treasurer of the National Bankrupt Association the sum of \_\_\_\_\_ dollars, payable at \_\_\_\_\_.

Mr. GARFIELD. That letter and its inclosure were in answer to the queries of the gentleman to whom it was addressed. He is a resident of Cleveland; and though I am not personally acquainted with him, he sent the letter to me as a member of this House, with an indorsement which I ask the Clerk to read.

The Clerk read the indorsement, as follows:

CLEVELAND, Ohio, January 31, 1864.

DEAR SIR: A man of your discernment will comprehend at once my opinion of this document. If it is just that such a law be passed, and it really be needed, are we poor insolvents obliged to lobby and pay law-makers to do us justice? Thousands and maybe millions of good honest men are in the same fix as your humble servant—the effect of the panic of 1857. Must we always remain under the harrow? I, for one, am not able to buy justice. Let it be done, and given freely.

Respectfully,

General GARFIELD.

Mr. GARFIELD. Mr. Speaker, I received that communication in the early part of February, a short time after the committee was appointed upon the motion of my colleague from the Cleveland district, [Mr. SPALDING.] I laid the letter away, intending—in consequence of the imputation it contained that Congress was being manipulated by outside parties—to give the bill a careful consideration when it came up, and do what I could to guard its provisions against fraud. I have therefore given it a more careful study than any other one with which I have not been connected as a committee-man, and I had intended to speak on the whole subject, but the great pressure of duties in connection with the Treasury Department investigation prevented me.

When I came into the House last evening and found that the bill, on which but one speech had been made, and that one in its favor, was about to be put through under the pressure of the previous question, I called upon a member of the committee and suggested several amendments in the details of the bill, which I requested to have considered and adopted, or I could not vote for the bill at all. The gentleman from Rhode Island [Mr. JENCKES] told me that the amendments should be made as suggested. I believe they were made. I heard at least one of them introduced and adopted last evening.

Under all the circumstances, with this gross imputation hanging over the House of Representatives, I felt very earnestly indeed the necessity of postponing the matter, and therefore asked leave to speak, and did speak earnestly. When taken off my feet by the gentleman from Rhode Island [Mr. JENCKES]—

Mr. JENCKES. The gentleman certainly does not mean that I took him off the floor.

Mr. GARFIELD. I correct myself. When I understood myself to be taken off the floor by the gentleman from Rhode Island, I felt that it was an unfair interference with the freedom of debate upon that subject. But, understanding from himself and from the Speaker what he did and intended to do, I am satisfied I was incorrect in my impression of his action, and that he did nothing of which I had a right to complain, nothing of which I now complain; and here, in the presence of the House, I ask his pardon for having spoken severely in reference to what I thought an interference with my rights.

So much for that: I now refer to the other branch of the matter. I also said in the course of my remarks that I feared if this bill passed, the

southern confederacy, which was \$300,000,000 in debt to northern men, would reap a very large share of the benefit of it. I said it because I then believed, as I now believe, that the bill does not adequately provide that the estates of rebels in arms shall not escape the operations of the law. I made no personal reference whatever; I assailed no gentleman; I called no man's honor in question. My colleague from the Cleveland district [Mr. SPALDING] rose and asked if I had read the bill. I answered him, I believe, in courteous language and manner, that I had read it, and immediately on my statement to that effect he said in his place in the House, and it has gone on the record, that he did not believe I had read it; in other words, that he believed I had lied, in the presence of my peers in this House. I felt, under such circumstances, that it would not be becoming my self-respect or the respect I owe to the House to continue a colloquy with any gentleman who had thus impeached my veracity, and I said so.

It pains me very much that a gentleman of venerable age, who was in full maturity of life when I was a child, and whom I have respected since my childhood, should have taken occasion here in his place to use language so uncalled for, so ungenerous, so unjust to me, and disgraceful to himself. I have borne with the ill-nature and bad blood of that gentleman, as many others in this House have, out of respect to his years; but no impunity of age shall shield him or any man from my denunciation who is so lacking in the proprieties of this place as to be guilty of such parliamentary and personal indecency as the House has witnessed on his part. I had hoped that before this time he would have acknowledged to me the impropriety and unjustifiableness of his conduct and apologized for the insult. But he has not seen fit to take that course. I leave him to his own reflections, and his conduct to the judgment of the House.

Mr. SPALDING. I ask the unanimous consent of the House to make a personal explanation.

No objection was made.

Mr. SPALDING. Mr. Speaker, without intimating an opinion in regard to the policy of throwing these sensational papers before the House and the country, I desire to say that I have never at any moment, in any place, or under any circumstances, had any knowledge of this combination or which the gentleman speaks in regard to the passage of a bankrupt law through this House. I knew nothing of that publication in the city of Cleveland, or of the correspondence produced here, and I think I do not know the person whose name has been mentioned here. I am entirely ignorant of that whole matter. No person from Cleveland, from New York, or from any quarter, has approached me from the commencement to the ending of this whole matter with anything in the shape of a promise of money, influence, or anything else to induce my action on this bankrupt bill. I say this, and I challenge the universal world to produce any evidence to the contrary. My own conscience acquits me of everything of the sort.

And now, in regard to any harsh or uncourteous treatment of my colleague, I have only to say that my colleague appeared in the House last evening exhibiting an unusual degree of temper, and when I ventured to ask him the question civilly whether he had read the bankrupt bill introduced into this House by the select committee, in order to know whether he had seen the prohibition against the benefits of that bill accruing to persons in rebellion against the Government, the gentleman answered me that he had read it. Well now, sir, without much reflection, I ventured to express a doubt whether he had read it. I said to the gentleman in the presence of the House that I doubted it. Well, sir, the gentleman took that doubt as an imputation upon his veracity. He gave it a wrong construction. The inference should have been not against the gentleman's veracity but against his competency to read and understand the bill. [Laughter.] I say, sir, that it was a mark of respect to the gentleman's intelligence, and I wish him to understand it in that sense. I never had any occasion to impugn the gentleman's veracity and I have not wished to do it. But I wish to declare here now that if the gentleman had read the bill carefully and still came to the conclusion which he stated here I can-

not respect his intelligence; and it was out of the respect which I have always entertained for his intelligence that I made the statement which I did. That is all I have to say.

Mr. JENCKES. I understand that this matter is not regularly before the House, but that any discussion that is to take place must be by unanimous consent. I desire to say a word in explanation.

The SPEAKER. The Chair hears no objection.

Mr. JENCKES. I confess that I have been very much astonished to hear the gentleman from Ohio [Mr. GARFIELD] rise here and read anonymous extracts from newspapers and letters which are equally anonymous so far as this House is concerned—for the gentleman from Ohio does not pretend to vouch for their genuineness—in order to impeach the integrity of some one in the House. The particular direction at which it is pointed is not indicated.

Mr. GARFIELD. The gentleman will allow me to say that I did not impeach the integrity of any one.

Mr. JENCKES. Then I cannot imagine for what purpose the extract and letter were read.

Mr. GARFIELD. I read them simply for the reason that I desired to inform the House of the evidence I had in my possession of the existence of this money corporation outside of the House, with the view and design of getting this bill through the House. I was very careful not to impugn the motions of any gentleman here, and I did not do it.

Mr. JENCKES. Then the gentleman has read or caused to be read papers which are a slander upon the whole House.

Who in the House or in the country believes that any member of this select committee or of the House, who is profoundly convinced of the wisdom of a bankruptcy law, has ever sat upon a committee or reported a bill to the House or advocated a bill in the House under any "thirty days" influences or any other influences, unworthy or corrupt in their nature? Sir, it is simply giving encouragement to the horde of lobbyists who throng our doors, and whom we are continually thrusting behind us, and I am very sorry the gentleman from Ohio has seen fit in this or any way even to recognize their existence.

Mr. GARFIELD. The gentleman will do me the justice to say that I did not read an anonymous communication. The names are all appended.

Mr. JENCKES. I did not understand the gentleman from Ohio to say that he knew any gentleman whose name appears.

Mr. GARFIELD. The one who wrote me the letter is a prominent banker in the State of Ohio. And let me remark as a somewhat singular circumstance that the rich bankers and merchant-princes of New York are very desirous of the passage of this bill.

Mr. JENCKES. It seems the gentleman referred to is not.

Mr. GARFIELD. He is, and is an agent to procure its passage.

Mr. JENCKES. I did not so understand the letter.

Mr. GARFIELD. The letter itself is from the banker. The comment upon the letter from this agent is by the insolvent debtor who desired to avail himself of the benefit of the law, but objected to having to pay for it.

Mr. JENCKES. Still I do not learn the object of the gentleman from Ohio in introducing this correspondence here. It is a slander upon some one if not true, and if the facts are true some one should be arraigned. If they are not true, and the name of no member is indicated, then it is a slander on the whole House.

Mr. GARFIELD. The gentleman will allow me to repeat that I introduced these communications simply for the purpose of placing the House in possession of the information I had in my possession in reference to the existence of a money association having for its object the influencing of the passage of this bill.

Mr. JENCKES. Well, Mr. Speaker, I hope that hereafter the gentleman from Ohio will be very careful in investigating the correspondence which he presents to this House, for this is not the first time he has arraigned persons out of the House, at least, here, upon correspondence which



on investigation would not stand the test of investigation.

Now, I challenge him, and I challenge the country and the world, to show one single instance, to produce one single individual, who has ever had communication with this committee of this House in reference to this law, except for the public good, without regard to private interests. If such a man lives, let the gentleman from Ohio [Mr. GARFIELD] produce him.

Mr. Speaker, one word further on this matter of personal explanation. The gentleman from Ohio has said that last evening he was instigated by this correspondence to make the remarks that he did. I submitted to him then, and I submit to him now, that if he wishes in this age of the world to come before the American Congress, the Legislature of a civilized nation, and undertake to argue that a bankrupt law is not politic, I am willing to meet him. I want to hear such an argument from a man who claims to be a statesman. If the House will set apart a day for those to be heard who oppose this bill on principle, there are those who will meet them; but, sir, I will not yield any time, not an hour or a minute, for those who get off mere declamation, or make opposition to the measure, based upon newspaper paragraphs or anonymous correspondence. When the bill is up regularly I shall have something further to say.

#### WAR NEWS.

The SPEAKER laid before the House the following letter of the Secretary of War:

WAR DEPARTMENT,  
WASHINGTON, June 4, 10 a. m.

Sir: Dispatches from General Grant's headquarters, dated three o'clock yesterday afternoon, have been received. No operations took place on Thursday. Yesterday morning at half past four o'clock General Grant made an assault on the enemy's lines, of which he makes the following report:

"We assaulted at half past four this morning, driving the enemy within his intrenchments at all points, but without gaining any decisive advantage. Our troops now occupy a position close to the enemy, some places within fifty yards, and are remaining. Our loss was not severe, nor do I suppose the enemy to have lost heavily. We captured over three hundred prisoners, mostly from Breckinridge."

Another later official report (not from General Grant) estimates the number of our killed and wounded at about three thousand.

The following officers are among the killed: Colonel Haskell, thirty-sixth Wisconsin; Colonel Porter, eighth New York heavy artillery; Colonel Morris, sixty-sixth New York.

Among the wounded are General R. O. Tyler, seriously; will probably lose a foot. Colonel McMahon, one hundred and sixty-fourth New York; Colonel Byrnes, twenty-eighth Massachusetts, probably mortally. Colonel Brooks, fifty-third Pennsylvania.

EDWIN M. STANTON,  
Secretary of War.

Hon. SCHUYLER COLFAX,  
Speaker of the House of Representatives.

#### ADJOURNMENT OVER.

Mr. SMITH. I rise to a privileged motion. I move that when the House adjourns to-day it adjourn to meet on Wednesday next.

Mr. MALLORY. I ask my colleague whether this adjournment is not for the purpose of permitting gentlemen on the other side to attend the Baltimore convention which meets early next week?

The SPEAKER. Debate is not in order.

The House divided; and there were—ayes 24, noes 90.

So the motion was disagreed to.

#### GOLD BILL.

Mr. MORRILL. I move that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union on the tariff bill.

Mr. HOOPER. Is not the gold bill the regular order of business?

The SPEAKER. It was, but the motion to go into committee takes precedence. If the previous question had been called on the gold bill last evening it would have been first to be considered.

#### BUSINESS OF THE COMMITTEE ON COMMERCE.

Mr. ELIOT. If there be no objection, I will make a statement. This day, after the morning hour, was set apart for the consideration of reports from the Committee on Commerce. It is very evident that the whole of this day will be consumed with the tariff bill, and I therefore ask the House to postpone the reports from the Committee on Commerce to the third day after the day on which the tariff bill may be disposed of.

Mr. DAWES. The two days after the tariff bill shall have been disposed of have already been assigned, and the case of Knox vs. Blair has been postponed for one week. I hope the House will not assign away further time next week so as to cut out the case of Knox vs. Blair.

Mr. WASHBURN, of Massachusetts. I hope the gentleman from Massachusetts will not insist on his objection to the proposition of my colleague on the Committee on Commerce. There is one bill which that committee has to report to prevent smuggling, that will not take an hour to pass.

The SPEAKER. The question of privilege from the Committee of Elections would not override the designation of a day by the House as a special order, although it would override the reports of committees in the morning hour.

Mr. DAWES. I know that, and have therefore called attention to the facts; but, as I understand that the Committee on Commerce will not occupy more than an hour or two, I will not object.

Mr. HOLMAN. I will not object if the day does not fall on Friday, as I want that day to be devoted to the consideration of the Private Calendar. With that understanding I do not object to the gentleman's proposition.

Mr. ELIOT. I agree to that understanding also. There being no further objection, it was ordered accordingly.

The question then recurred on Mr. MORRILL's motion; and it was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SCHENCK in the chair,) and resumed the consideration of

#### THE TARIFF BILL.

The Clerk read, as follows:

On acetate or pyrolignite of ammonia, 70 cents per pound; of baryta, 40 cents per pound; of copper, iron, strontia, and zinc, 50 cents per pound; of lead, 30 cents per pound; of magnesia and soda, 50 cents per pound.

Mr. MORRILL moved to strike out the word "copper," and to strike out "thirty" and insert "ten."

The amendment was agreed to.

Mr. MORRIS, of New York. I move to amend the eleventh section by adding, in the seventeenth line, 29th page, the following items:

Benzoic acid, 30 cents per ounce; balsam copaiva, \$3 per pound; aloes, 30 cents per pound; asafetida, 60 cents per pound; tonqua beans, \$1 per pound.

Mr. BROOKS. I should like to have some explanation of the amendment.

Mr. MORRIS, of New York. The items have been submitted to members of the Committee of Ways and Means, and, I understand, have met with their approval.

Mr. MORRILL. The Committee of Ways and Means does not profess to know much about this matter; but as the gentleman from New York seems to be a competent judge, we are willing to leave it to him and the Committee of the Whole to be disposed of as may appear proper.

Mr. MORRIS, of New York. I have offered the amendment at this point that the items of the same character may come in in alphabetical order. I have informed myself fully on the point, and am satisfied that the amount of the duty proposed in the amendment shall be imposed. It will be for the benefit of the Government and will work no injury to any one.

Mr. BROOKS. The first reason given by the gentleman is that his amendment is in alphabetical order. I think he is in error in that, because it begins with benzoic acid, before it gets to aloes or balsam. In the next place I wish to state that unless there be some formal explanation of it, or some investigation, I am loth to assent to amendments so suddenly prepared. On the other side of the House they only allow one honorable gentleman to make a tariff—and that is the honorable gentleman from Vermont, [Mr. MORRILL.] On this side of the House we follow their lead. Unless the honorable gentleman from Vermont rallies his side of the House—"up, boys, and vote"—for these particular items, we on this side are loth to go for it. I am opposed to this large tax on aloes and asafetida and other drugs, without any report or examination and without any statistics in regard to the imports, and without elaborate discussion.

The question was taken; and the amendment was rejected.

Mr. MORRILL. I am instructed by the Committee of Ways and Means to move to amend the eleventh section, page 29, line twenty-one, by increasing \$6 to \$12, so as to make the paragraph read, "on brimstone crude, \$12 per ton."

Mr. THAYER. I hope the committee will not adopt that amendment. The article on which the gentleman recommends this very great advance of duty is the foundation of all the chemical industry of this country. The duty heretofore has been \$3 per ton. It is proposed in the bill to advance that to \$6—doubling the former duty—and it is proposed by the amendment now offered to increase that to \$12, quadrupling the present duty. This duty is not, of course, for protection, for the article is not produced in this country. It will fall very heavily upon those engaged in chemical manufactures. There are in my district a large number of persons interested in that branch of industry. We must remember also that all manufacturers have been subjected by the recent internal revenue law to an advance of 2 per cent. on the gross amount of their sales. Besides, sir, there is not proposed in this bill any counterpoise to the immense tax proposed to be laid on brimstone, in the shape of duties on articles into the manufacture of which that article enters. I hope the committee will not quadruple the present duty. I had intended to move an amendment reducing the duty on brimstone from \$6 to \$3 per ton. I believe, from information which I have received from gentlemen engaged in chemical manufactures, of which this article constitutes the basis, that the present duty is as large, coupled with the additional taxation imposed by the revenue bill, as should be imposed upon it. I believe that the doubling of it, as proposed in the bill reported by the Committee of Ways and Means, would be laying an unequal burden on that branch of industry; and the proposition to quadruple it would, in my opinion, be a gross injustice. I hope, therefore, that the amendment offered by the gentleman from Vermont will be rejected.

Mr. KASSON. I wish to say a few words in support of the amendment, and to acquaint my friend from Pennsylvania with the reason for it. I think he cannot be fully acquainted with the matter, or his action would be the reverse of what it now is.

The CHAIRMAN. It will be necessary for the gentleman to propose an amendment to the amendment, as debate is exhausted.

Mr. KASSON. I move to amend the amendment by making the duty on brimstone two cents per pound. According to the latest commercial statistics about forty million pounds of brimstone are annually imported into this country. It is also used in the manufacture of powder, but not by any means to the largest extent. Only twelve per cent. of the ingredients of powder is brimstone. Eight pounds of powder contain about one pound of brimstone. It is also used in the manufacture of the oil of vitriol, of which large amounts are manufactured. I have taken pains to inquire of one of the manufacturers of vitriol, who, by the way, happens to be a member of this House, and he told me that a tax of three cents a pound upon crude brimstone would affect the price of the oil of vitriol to the amount of one cent per pound only.

But I must be short, as my health will not permit me to speak at length. Let me therefore say in brief that the investigations I have made and the information I have received from parties interested and disinterested lead me to the conclusion that no duty you can impose upon an imported article will be felt so lightly by the consuming interests of the country as the proposed duty upon brimstone. And although I have said two cents per pound, I really believe the article will bear it better than many articles in the bill will bear the rates you have put upon them.

The protection to manufactures we have made most emphatic. We have almost lost sight in this bill, in some respects, of the consumers. It does not lie in the mouth of the manufacturer to come here and say that a tax like this does injustice to them. Let us raise our revenue as far as possible from those things consumed by individual consumers in small amounts, instead of putting it where the consumption is large and the tax largely felt. It is upon that principle that I advocate this amendment.

I say now that the recommendation of the committee, in my judgment, is too small. I, however, stand by the action of the committee at this time. A duty of 1 cent per pound, amounting to \$20 a ton, would not have an appreciable effect upon the price of articles manufactured out of the article of brimstone. I hope no change will be made in the way of reduction; if any is made it should be in the way of increase. I say again that manufacturers are largely protected and fully cared for, and they consume very small quantities of those articles which we have largely protected.

Mr. MORRILL. This is perhaps the only article in which my immediate constituents or townsmen are directly interested. In my own town there is an immense quantity of sulphate of iron, which, if this duty should be put upon brimstone, would be of incalculable value. I was willing, before the action of the Committee of Ways and Means, that it should not have a protection beyond the extent of \$6 per ton. I think my friend from Iowa [Mr. Kasson] is somewhat mistaken as to the extent to which this article is used in various chemicals. If the duty should be raised even as high as proposed by the Committee of Ways and Means, and much more if raised to the extent proposed by the gentleman's amendment, it would raise very much the price of many articles now manufactured by our chemists, so much so that it would be impossible hereafter to produce them. At the present moment the United States are very large consumers of brimstone, as it enters largely into the composition of gunpowder. It also enters into the business of manufacturers in various ways. The first draft of the bill doubles the duty and the amendment offered in behalf of the Committee of Ways and Means quadruples it.

I will not discuss the matter further, but leave it to the committee to decide.

Mr. KASSON. I withdraw my amendment.

Mr. THAYER. I move to amend the amendment offered by the gentleman from Vermont, by striking out "twelve" and inserting "three." I must be allowed, sir, to say that the gentleman from Iowa, when he talks about protecting manufacturers, and in the same breath advocates such a burden upon one of the most important of those interests as that which he has just proposed, falls into a great inconsistency. Let him tell us what other articles are taxed as he proposes by his amendment to tax this article—at the rate of one hundred per cent. Before he sat down I believe he said he would advocate a duty of one cent a pound, which would be a tax of two hundred per cent. Now, sir, is that a scale of duties which has heretofore been applied by Congress to raw materials not produced in this country, entering largely into the industry of the country, and not in the list of luxuries?

The gentleman's last proposition is to lay a duty of two hundred per cent. upon an article not produced in this country, which forms the basis of all the chemical industry of the country, and that when there is not in the bill a single counterpoise, or a single correlative advantage in favor of the manufacturers of the articles into which brimstone enters as a constituent.

Sir, the injustice as well as the folly of such a proposition as that, it seems to me, must be self-evident. I do not know why the House should go out of its way to impose an unusual and unequal tax upon this branch of industry—a tax which will be a heavier burden upon it than any which has been laid upon any other manufacturing interest. I do not see, sir, why any particular discrimination should be made against the manufacturers of chemicals in adjusting this tariff. If the House adopts a rate of duty on this article proportioned to the other rates of duty imposed upon foreign raw materials used by manufacturers, it will be a rate with which this interest will be perfectly satisfied, and with which I think everybody should be satisfied. I see no reason why an exception to the ordinary rate which is adopted should be made against this interest of the manufacturers of chemicals.

Mr. Chairman, in looking over the provisions of this bill I am obliged to say that I have felt some surprise at some of its features, and I have been equally surprised at some of its omissions. I observe, for instance, that there is no tax imposed anywhere on soda in any of its shapes; and yet in this very bill there is a prohibitory

duty imposed upon glass and soap—articles in the manufacture of which soda is principally used. Is the Government entitled to no compensation for the prohibition of glass and soap, in the shape of a small duty on soda?

Mr. MORRILL. I beg the gentleman's pardon. We have not increased the duties very much on glass, and on some articles of glass there is no increase at all.

Mr. THAYER. It is increased nearly fifty per cent.

Mr. MORRILL. The glass manufacturers in the gentleman's neighborhood are claiming that we are going to ruin them, because they have not sufficient protection.

Mr. THAYER. I am not aware that there are many glass manufacturers in my district.

Mr. MORRILL. There are in New Jersey.

Mr. THAYER. I would say to the gentleman that I do not live in the State of New Jersey, and if I did I would not ask for what is unjust; but gentlemen from that State can speak for its interests. I am informed, by gentlemen in whose knowledge upon this subject I have great confidence, that a small duty on soda in its various forms would add to the revenue \$1,000,000. Yet the Committee of Ways and Means have put a prohibitory duty on glass and soap, and have not put a cent of duty on soda into their new bill. But, nevertheless, they wish to discriminate against one of the great interests of the country by putting on a duty of \$12 per ton on brimstone, where the duty has heretofore been but \$3; and if the House should adopt the idea of the gentleman from Iowa, [Mr. Kasson,] who speaks of protecting manufacturers, they would put on it a duty of 200 per cent.

I will not take up the time of the committee further; but it seems to me, sir, that both of these propositions are unjust. I feel that they are unjust to a large industrial interest of a portion of my constituents. I trust, therefore, that the committee will adopt the amendment which I have proposed; but if they do not agree to that, I hope they will vote down the amendment offered by the gentleman from Vermont, and leave the duty as it was originally reported in the bill.

Mr. KASSON. A single word in reply to the gentleman. The price of this article in the market is now about \$70 per ton; and this is only a tax of 20 per cent. *ad valorem*. In regard to the article of soda, to which the gentleman refers, I think he is right in saying that a tax ought to be imposed upon it.

The amendment to the amendment was disagreed to.

The question recurred on the amendment.

Mr. FENTON demanded tellers.

Tellers were ordered; and Messrs. THAYER and FENTON were appointed.

The committee divided; and the tellers reported—ayes 41, noes 53.

So the amendment was rejected.

Mr. MORRILL. On page 29 I move to insert after line twenty-two the following:

On castor beans or seeds, 60 cents per bushel of fifty pounds.

The amendment was agreed to.

Mr. MORRILL. I now move to insert the following:

On cassia, 25 cents per pound; on ground cassia, 6 cents per pound; on cinnamon, 40 cents per pound.

The amendment was agreed to.

Mr. KELLOGG, of Michigan. I move to increase the duty on chicory from 5 cents to 10 cents per pound. I believe it is imported for the express purpose of adulterating coffee, and I can see no reason why it should be admitted at the same rate of duty as coffee. I hope we shall not encourage the use or growth of it. I look forward to the day as not being far distant when we shall be able to import coffee duty free; and I do not want to commence the practice of adulterating coffee, which is so universally practiced in every part of the world. It is almost impossible in England to get a cup of good coffee. Half or two thirds of what is used as coffee is chicory. I have drank some of it there myself and know something about it. I hope Congress will do nothing to encourage the adulteration of coffee, a drink which has become so general; and I hope my amendment will be adopted.

Mr. MORRILL. I hope the amendment will not be adopted. I believe the almost universal testimony is that chicory is at least a harmless article. Some contend that it is even healthful; and many contend that it improves the flavor of coffee. That is a question of taste upon which I give no opinion. I know it is generally used for that purpose, as well as to cheapen the article. If we leave the duty as it is proposed we shall have a large amount of revenue; and I think the duty recommended is sufficient protection for the dandelion roots of Michigan or of my own State.

The amendment was rejected.

Mr. DRIGGS. I move to amend by inserting after line twenty-four "on pepper, allspice, ginger, cloves, and all other spices, a duty of 25 cents per pound." I have looked over this bill and I find no additional duty on spices recommended.

Mr. MORRILL. If the gentleman will allow me, I will say that the Committee of Ways and Means intend to offer in the proper place, an amendment which will cover spices.

Mr. DRIGGS. If the gentleman will offer such an amendment to come in at the proper place I have no objection. I see no reason why these articles should be exempted from additional duty.

Mr. MORRILL. I will do so.

Mr. DRIGGS. I withdraw my amendment on the promise of the gentleman from Vermont to introduce an additional clause covering the duty on spices.

Mr. MORRILL. I move to amend, by inserting after line thirty, page 29, "fusil oil, or amylic alcohol, \$2 per gallon."

The amendment was agreed to.

Mr. MORRILL. I move to amend, by inserting after line twenty-four, page 29, "on cloves, 40 cents per pound."

The amendment was agreed to.

Mr. MORRILL. I move to amend, by inserting after line twenty-two, page 29, the following: On bristles, 15 cents per pound; on hogs' hair, 1 cent per pound; on isle or Tampico fiber, 1 cent per pound.

The amendment was agreed to.

Mr. MORRILL. I move to amend, by inserting after the last amendment, "on brushes of all kinds 40 per cent. *ad valorem*."

The amendment was agreed to.

Mr. MORRILL. I move to amend, by inserting, on line thirty-four, page 30, after the word "red" the words "and litharge;" so as to make the paragraph read:

On lead, white or red, and litharge, dry or ground in oil, 3 cents per pound.

The amendment was agreed to.

Mr. MORRILL. I move to amend by inserting after line forty-two, page 30, "on nutmegs, 75 cents per pound; mace, 50 cents per pound."

Mr. HOOPER. I hope the amendments increasing the duties on spices will not be adopted. The quantity of these articles imported is not very large except of pepper and pimento; and it seems to me that such extravagant duties must lead to an increased trade with the Canadas; that our supply of these articles will come in across the Canada line; with the proposed increase of duty they will be so large in value and so small in bulk that great inducement is held out for smuggling them. The cost of mace is about 23 cents per pound, and of nutmegs about 30 cents; the addition of this duty will make the price of these articles about \$1 per pound. So heavy a duty upon them will only encourage a smuggling trade with the Canadas, and will not increase the revenues of the Government.

The amendment was agreed to.

Mr. MORRILL. I move to amend in line forty-four, page 30, by inserting after the word "gallon" the words "castor oil, \$1 per gallon."

The amendment was agreed to.

Mr. MORRILL. In line forty-five, same page, I move to amend so as to make "onanthic ether" read "anathic ether."

The amendment was agreed to.

Mr. MORRILL. I move to amend the forty-sixth line of the same section by adding the following:

Peanuts, or ground beans, 4 cents per pound; shelled, 6 cents per pound.

The amendment was agreed to.

Mr. MORRILL. I move to amend by insert-

ing the following, to come in before line forty-seven, same section:

On pimento, black, white, red, or cayenne pepper, 20 cents per pound; on ground pimento, or pepper of all kinds, 25 cents per pound.

The amendment was agreed to.

Mr. MORRILL. I move to insert after line forty-two the words "on nitrate of lead, 30 per cent. *ad valorem*."

The amendment was agreed to.

Mr. MORRILL. I move to insert in line fifty-one, page 30, "on santoline, \$2 50 per pound."

The amendment was agreed to.

Mr. HOLMAN. In line forty-seven, page 30, I notice a duty of ten cents per gallon on crude petroleum and coal illuminating oil. Now I desire to ask the gentleman from Vermont whether any tax at all is imposed by the internal revenue bill on these crude oils.

Mr. MORRILL. None at all.

Mr. HOLMAN. The effect of the bill, then, in this respect is to prohibit the importation of this article, which is produced to a very large extent in the States of Pennsylvania, Ohio, and West Virginia. Inasmuch as the oil merely boils out of the earth and is produced so cheaply, I take it for granted that a duty of ten cents per gallon would prove entirely prohibitory upon any importation of the raw material. And as this oil is used by all classes of people of this country in the production of light, and it is an article of prime necessity, particularly in view of the fact that the price of petroleum is rapidly increasing, it seems to me unwise that we should fix a duty upon this raw material.

The CHAIRMAN. The Chair will suggest to the gentleman from Indiana that no remarks are in order unless he moves an amendment.

Mr. HOLMAN. I move to amend by striking out from the bill as follows:

On petroleum and coal illuminating oil, crude, 10 cents per gallon.

Now, sir, here is a provision imposing a duty of 30 cents per gallon on refined coal oil, which of course is absolutely prohibitory. When the oil is obtained at so little cost and is easily refined, it is beyond doubt impossible ever to import a gallon with a duty of 30 cents per gallon, and the duty of 10 cents on the crude oil will also prove prohibitory; so that as far as this article is concerned it destroys the argument that this bill is a bill for revenue, for you cannot obtain revenue to the extent of one cent so far as coal oil is concerned. In behalf of the interest of the great mass of the people of the country, therefore, I object to this duty upon crude illuminating coal oil.

I desire to say, also, in the same connection, that this is an article which is exported from this country to a very large extent; so that if this duty is to be levied a drawback must be provided for. It does seem to me that the peculiar interests of Pennsylvania are sufficiently protected by this bill, and in respect to these articles of domestic production which are obtained so cheaply, and the price to the consumer of which is so rapidly rising, we are not called on in this manner to increase the fortunes of the men who have made them, not in regular business transactions, but from their fortunate discoveries of oil.

Mr. MORRILL. I presume the gentleman from Indiana is not yet satisfied with the reciprocity treaty, and wants to give the Canadas a little further advantage. I do not expect, Mr. Chairman, that the Government will derive much revenue from the importation of this article, whatever may be the rates of duty. So far as I am concerned, I do not object to reducing the duty to 5 cents a gallon, nor do I care particularly if the duty is excluded altogether. The kind of coal oil produced in Canada is a much inferior article to that which is produced in this country; it makes a much poorer light, has a more offensive odor, and cannot come into competition with American petroleum to any considerable extent, with or without duty. But gentlemen must recollect that this article can be produced from Nova Scotia coal, and that it can be brought in here in any quantity. I take it for granted, therefore, that there should be some duty placed upon it, and I hope that some duty will be imposed upon it.

Mr. A. MYERS. I move to make it "15 cents." The gentleman from Indiana [Mr. Hol-

MAN] says that the price of petroleum is going up rapidly. Very likely that is true. If that be true it is important we should have some tariff on that which may come in from other countries, although it may be as bad smelling as that from Canada. The pretty high price may induce that garlicky stuff to come over and offend the nostrils of our loyal people, and I think that there should be some tariff on this article. The gentleman from Vermont [Mr. Morrill] has hit the nail on the head. In the British provinces they have coal lands and they can manufacture oil at a low rate. For these reasons I think that the duty is not a cent too high. I now withdraw my amendment to the amendment.

The question recurred on Mr. HOLMAN's amendment, and it was rejected.

Mr. HOLMAN moved to strike out "10," and insert "5."

The amendment was rejected.

Mr. MORRILL moved to insert the following:

On salt in sacks, barrels, or other packages, 25 cents per hundred pounds.

On salt in bulk, 20 cents per hundred pounds.

The amendment was agreed to.

The Clerk read, as follows:

1. On annatto seed, extract of annatto, aniline, crude barites, nitrate of, clifstone, carmined, indigo, extract of safflower, finishing powder, gold size and patent size, nickel, cobalt, oxyd of cobalt, smalt, and zaffre, 20 per cent. *ad valorem*; terra alba and washing crystals, 20 per cent. *ad valorem*.

Mr. MORRILL moved to insert after the word "indigo" these words, "crude pica."

The amendment was agreed to.

The Clerk read, as follows:

2. On alumen, asbestos, asphaltum, crocus colocottra, bone or ivory drop black, murexide, rose red, ultramarine, Indian red, and Spanish brown, 25 per cent. *ad valorem*.

Mr. MORRILL moved to insert after the words "crocus colocottra" the words "blue or Roman vitriol, sulphate of copper."

The amendment was agreed to.

Mr. THAYER. I move to strike out the words "nickel, cobalt, oxyd of cobalt" in the preceding paragraph, and to add the words "on nickel, cobalt, and oxyd of cobalt, 50 per cent. *ad valorem*."

Mr. Chairman, the business of manufacturing nickel, cobalt, and oxyd of cobalt, is entirely a new one in this country. Until recently these metals have not been produced in this country at all. Latterly, however, and before the passage of the law repealing the nickel coinage, manufacturers in my State in some localities had entered very largely into the business of extracting nickel from the ore, a difficult, nice, and expensive process; and having invested in that business a pretty large sum of money, I think that they ought to be encouraged. The manufacture will be broken up unless this duty is imposed, for then every pound of these articles will be imported from abroad. I hope that my amendment will be adopted.

Mr. MORRILL. Mr. Chairman, no such duties are proposed on any other article in this bill. It is particularly objectionable so far as nickel is concerned. Nickel has heretofore only borne a duty of 10 per cent. It is largely used in the manufacture of German silver and argentane, and if the amendment be adopted it will be destructive of that manufacture. I hope that the House will not make the duty so high in this instance.

Mr. STEVENS. I move to amend the amendment so as to make it 51 per cent., and I do so for the purpose of saying a word. I hope that the duty on nickel will be increased. By doing away with the nickel coin these nickel miners have lost their chief customer, and unless this interest is protected these nickel mines will fail. I hope, therefore, that my colleague's amendment will be adopted. I withdraw my amendment to the amendment.

Mr. MORRILL. If this nickel manufacture could be sustained under a duty of 10 per cent. with the United States as a customer, I think it can be sustained with 20 per cent. duty without the United States as a customer. Although I voted against the change in the ingredients of the smaller coin of the country, I am not willing to vote this as a compensation, because we do not use nickel any longer in our coinage. I think it would be extravagant, and I trust we shall not vote for it. There is but one establishment in

this country, so far as I am informed, that produces this article, and while I am willing to do ample justice to that establishment, I think that to increase the duty beyond twice what it is now would be going a little too far.

Mr. STEVENS. I withdraw my amendment to the amendment.

The amendment was not agreed to.

Mr. WARD. I move to amend on page 31, line sixty, by reducing the duty on oxyd of zinc, dry or ground in oil, from 2½ cents per pound to 1 cent. My reasons are that the duty proposed by the bill is 57 per cent. *ad valorem*, an increase of nearly 300 per cent. over that levied under the bill for 1861. This would make the price of the oxyd of zinc 11.34 cents per pound in the present currency, while the current price or quotation of the day for American zinc is from 6½ to 7½ cents. The Belgian zinc will therefore, at a duty of 25 per cent., be 70 per cent. higher than the American. Therefore there will be no injurious competition, and a revenue will be derived from this source. But if the proposed duty of 2½ cents be imposed, no importation will exist, and of course there will be no revenue to the Government. My impression is that this rate is entirely too high, and that there is danger it will amount to a prohibition. I have moved to reduce it to 1 cent per pound, but I would accept 1½ cent.

Mr. STEVENS. If the gentleman will say 2 cents, perhaps that will be a sufficient duty.

Mr. WARD. I will modify my amendment and make it 2 cents.

The amendment, as modified, was agreed to.

Mr. MORRILL. I move to insert after line sixty, page 31, the following:

On articles not otherwise provided for, made of gold, silver, German silver, or platinum, or of which either of those metals shall be a component part, 40 per cent. *ad valorem*.

The amendment was agreed to.

Mr. MORRILL. I move to insert after the last amendment, "on watches, gold or silver, 25 per cent. *ad valorem*."

Mr. BROOKS. Does the gentleman suppose that valuable gold watches will stand so high a duty? Who is going to buy such watches in New York when he can buy them so much cheaper just across the line?

Mr. MORRILL. I know the wonderful facilities there are for smuggling these articles, and the great temptation. I doubt very much whether we can obtain any more revenue from them at this rate than we do under a duty of 20 per cent., which is the present rate. But it was the vote of the committee that we should raise it. We shall collect 5 per cent. internal duties of American manufacturers of watches, and it is theoretically fair to increase the tariff to that extent.

Mr. BROOKS. I am sure it will not yield any more revenue.

The amendment was agreed to.

Mr. MORRILL. I move to insert after the last amendment the following:

On wood pencils filled with lead or other materials, 50 cents per gross, and in addition thereto 25 per cent. *ad valorem*.

The amendment was agreed to.

Mr. PRICE. I move to amend section twelve by striking out of line three the word "50" and inserting "75" in lieu thereof, so as to make the duty on the articles mentioned in that section 75 per cent.

On a division, no quorum voting.

Mr. PRICE withdrew the amendment.

Mr. MORRILL. I move to amend on page 31, in line seven, by striking out "artificial flowers" and inserting "artificial and ornamental feathers and flowers, or parts thereof," so as to bring all those articles into the list of articles paying 50 per cent.

The amendment was agreed to.

Mr. DRIGGS. I move to amend by inserting after the word "ginger," in line nine of section twelve, the words "crude, ground," so as to subject ginger in that state to the same tax that we impose upon preserved or pickled ginger.

Mr. MORRILL. I suppose the gentleman's object is to obtain more revenue from the article; but by his amendment we should not get half as much as we now get.

Mr. DRIGGS. Then I understand the duty on this crude and ground ginger is not changed at all.



Mr. MORRILL. If this bill is passed there will remain a specific duty on it under existing laws, though not maintained in the present bill.

Mr. DRIGGS. I thought as we were raising additional duties on spices we ought not to forget that article, but under the gentleman's statement I withdraw the amendment.

Mr. MORRILL. I move to insert on page 32, after the word "statuary," in line twenty-nine, the words "brocatella, sienna, and verde antique," and to insert in line thirty, after the word "foot," the words "and in addition thereto 25 per cent. *ad valorem*;" so that the clause will read:

On marble, white statuary; brocatella, sienna, and verde antique, in block, rough or squared, \$1 25 per cubic foot, and in addition thereto 25 per cent. *ad valorem*.

The amendment was agreed to.

Mr. MORRILL. In line thirty-two I move to strike out "75" and insert "50;" so that the clause will read:

On veined marble and marble of all other descriptions, not otherwise provided for, in block, rough or squared, 50 cents per cubic foot, and in addition thereto 20 per cent. *ad valorem*.

Mr. GOOCH. I desire to ask the gentleman from Vermont his reason for increasing the duty upon marble to the extent proposed by the amendment which he now proposes?

Mr. MORRILL. I suppose the gentleman from Massachusetts asks that question for the purpose of basing an argument upon it, and not because he is ignorant of the purpose.

Mr. GOOCH. I ask the question in good faith.

Mr. MORRILL. Of course, I understand that. The main object is to increase the revenue. Under an *ad valorem* system the importation of marble, although it sells here for from one to four dollars per cubic foot, I am informed it can be invoiced at any price the importers may please, and if the duty is an *ad valorem* one they will pay comparatively nothing; and I will say to the gentleman that the various interests engaged in this business are entirely satisfied with this proposition of the committee, both those who import and those who have quarries. This will certainly secure to the Government, on the marble imported of this character, 50 cents per cubic foot, and a small *ad valorem* duty. I am informed that marble is invoiced at 64 cents a square foot which sells here at a very much higher price.

Mr. GOOCH. I oppose the amendment of the gentleman from Vermont, and I intend to move to reduce the duty still farther. By the last act, that of 1863, the duty on the better qualities of marble was 75 cents per cubic foot, and upon marble of all descriptions, not otherwise provided for, 40 per cent. *ad valorem*.

Mr. MORRILL. I rise to a question of order. The gentleman is not opposing my amendment but arguing in favor of it; that is, of a reduction.

Mr. GOOCH. I am opposed to the amendment in the form in which it is. I am opposed to the House changing the rate from 75 cents to 50 cents, because I think another and different change should be made. I am, therefore, opposed to it; and I move, as an amendment to the amendment, to strike out all after the word "squared," in the thirty-second line, down to the word "thereto," and to insert in lieu thereof "80 per cent.;" so as to make the duty 80 per cent. *ad valorem*.

I think this is a proposition which should satisfy everybody. We propose now to double the amount of duty on marble, and that I think should satisfy those who are engaged in the marble interest in this country. I believe that the duty in the form in which it is proposed by the Committee of Ways and Means will virtually be prohibition and will not give us any revenue at all from marble. As the bill was originally reported, the tax was from a hundred and forty to a hundred and fifty per cent. on the value of the article, and was designed, it seems to me, to prohibit the importation of marble instead of being designed to regulate it and give us a revenue from it, and it was for that reason that I asked the gentleman from Vermont the reason why this duty was proposed.

Mr. WOODBRIDGE. I certainly hope that the amendment of the gentleman from Massachusetts will not prevail. There is no member on the floor of the House whose constituency is so deeply interested in this question as myself. Almost all the marble of the country, certainly

all the fine marble, so far as I know, is quarried within my district. It is known, or should be known, to members of this House, that the Italian marble quarries are owned by importers, that the cost of labor amounts to but a mere trifle in that country, and that the freight is very low, as the marble is brought in ships from the Mediterranean in ballast.

My wish was—and I should have deemed it just to the Government, and a wise measure, as far as revenue is concerned—to have raised the specific duty to 75 cents, and 20 per cent. *ad valorem* in addition thereto. But a good deal of feeling existed in regard to the matter; and after the report of the committee came in, providing for those rates, the representatives of the importers of Italian marble came here, and, on consultation held between that interest and the interest which I represent, they came to the conclusion that the amendment, as proposed by the gentleman from Vermont, would be satisfactory to all parties. The gentlemen representing the quarried marble interest would be perfectly willing to have 100 or 125 per cent. *ad valorem* duty imposed, because the article is invoiced at just such price as they see fit to invoice it at, as they are the owners of the quarries. It has been invoiced at 64 cents a cubic foot. Should it become necessary, under an *ad valorem* duty, it could just as well be invoiced at 40 cents. The importers know this, and have sought to retain an *ad valorem* rather than a specific duty, to which the representatives of the marble interests of this country most seriously object.

For the sake of giving a due and proper protection to the marble interest of this country, to these importers of foreign marble, the representatives of both interests got together and agreed upon the rates reported by the gentleman from Vermont in his amendment; that is, a specific duty of 50 cents per cubic foot instead of 75 cents. The importers say that under that duty their business can still be carried on. The representatives of the marble interest in this country, though not entirely satisfied with that, came to the conclusion not to object to that, and signified their views to the member of the Committee of Ways and Means, my colleague, [Mr. MORRILL.] In accordance with that agreement made by these two interests, fully and fairly represented, it was concluded that both interests would accept the 50 cents duty as provided in the amendment offered by my colleague. While I do not think it is enough, while I do not think it protects the labor of the country, the cost of which has increased within the last three years nearly if not quite 75 per cent., yet I am willing, under all the circumstances, to go for the amendment as proposed by my colleague, and I hope it will be agreed to. In my judgment it is not too high a duty, but is rather too small. Had I my own way I certainly would propose the duty as first proposed, 75 instead of 50 cents per cubic foot. But I am bound in honor to agree to the rate of 50 cents, and I hope the amendment will be agreed to.

Mr. GOOCH. I move to amend the amendment so as to make it 40 instead of 50 cents per cubic foot.

Mr. Chairman, I do not understand this matter precisely as it is understood by the gentleman from Vermont who spoke last. I do not understand that the marble manufacturers of this country are satisfied to accept this provision as it is now proposed to amend it by the Committee of Ways and Means. I understand that the question which was submitted to them was whether they would have 50 cents or 75 cents per foot, and of course they would take 50 cents rather than 75.

Mr. WOODBRIDGE. I ask the gentleman to allow me to say a word in explanation.

Mr. GOOCH. I will if it does not come out of my time.

The CHAIRMAN. It will come out of the gentleman's time.

Mr. GOOCH. Then I cannot yield. I apprehend that very few parties who are affected by this change have been here. I have heard of only two or three who have been here at all in connection with this matter, and the proposition before them was simply between 50 and 75 cents per foot. But I understand from men who have not been here at all that they are opposed to this legislation. They cannot understand why a duty of 144 per cent. should be imposed upon the article of marble,

when it is in conflict with the general principles which have been observed in the imposition of duties upon other articles. They are at a loss to see why this particular article should be selected and made to pay a duty of 144 per cent., as the clause in the original bill provided.

The committee now propose to strike out 75 and insert 50 cents per foot, leaving a duty of more than 100 per cent. on the article of marble.

Now, sir, it seems to me that there must have been some other object in view in the framing of this bill than merely the raising of revenue. I can understand very well why the gentleman before me [Mr. WOODBRIDGE] is in favor of the highest duty named. He states his reason very frankly—if no marble was imported the value of Vermont marble would be increased and the interests of his constituents would be promoted. That is true, but should we increase the revenue of the Government by it? The very argument shows that it is not revenue but protection that was sought in framing this bill. I protest against a protection of over 100 per cent. on the article of marble although it may be beneficial to the State of Vermont or any other State in this Union.

It is true, as the gentleman says, that the invoices of this marble are at the rate of 65 cents per cubic foot, but nobody objects that that is not a fair price. The gentleman says that it may as well be invoiced at 40 cents per cubic foot. It has not been done, it has been invoiced at 65 cents, which is conceded to be a fair price; and it will continue to be invoiced at the same price. If my amendment is adopted, and the *ad valorem* system continued, I think the 80 per cent. I have proposed is quite sufficient.

But, sir, the change which this bill proposes to make from *ad valorem* to specific duty will work a considerable disadvantage to the Government. If specific duties are adopted instead of *ad valorem*, the labor of the Government will be increased, and the expenses of the importer, in determining the amount of duty to be paid.

Mr. Chairman, it seems to me that this is clearly one of the provisions of this bill where the House should not follow the Committee of Ways and Means, but that we should bring down the rate of duty to some fair standard of increase, especially when we consider that while the committee have been thus anxious to increase the duty on the raw material, they have left a duty of only 50 per cent. upon manufactured marble.

Mr. MORRILL. I am a little surprised at the extreme earnestness of my friend from Massachusetts. I should rather hear from some gentleman coming from a marble district in that State. It is perfectly evident that the gentleman from the Malden district, which produces no marble, has been, I will not say crammed, but has received his information from some one who represents an interest, perhaps, within his own district, but not the interest of his State. Now, sir, I am not here to ask for protection upon this article; I am here merely for the purpose of having justice done between the marble quarry men, the marble manufacturers, and the Government. Under our system it is evident that this material in the rough block is not subjected to anything like the tax it ought to be, and that it cannot be done. When the article in this country sells at \$4 a foot, is it not perfectly obvious to every man in this House that it cannot be fairly valued if it is introduced as costing only 64 cents? Let me inform you what the process is on the part of these gentlemen who do not happen to own a quarry in Italy. I give the facts as they have been reported to me, whether true or not I do not know. They go there, I am credibly informed, and around these quarries find hundreds and hundreds of blocks of refuse marble valued at nothing. The owners would be glad to have them removed, and ask nothing. The purchaser will buy five hundred of these blocks, never intending to remove but one hundred, and comes here with an invoice of those blocks at the designated average price of the five hundred, and real purchasers at *bona fide* prices find labor so cheap in Italy and freight by water so low that marble can be landed on our shores at very considerable prices.

Now, the gentlemen who are conducting this very business admit with the rate we propose that they can continue their business—that it is not prohibition—so that the Government will not only receive what it did before, but a very largely in-

creased revenue. The whole amount is not large, to be sure; but there will be a positive increase of revenue if this be adopted.

I will also add that these gentlemen were perfectly willing to have an *ad valorem* duty of 100 per cent. put on this article. Why? Simply because they can have the first valuation at so low a price that they would pay less than under the moderate specific proposed. Under the circumstances it is clear if we want to obtain revenue at the proper rate we must fix some specific duty. The rate proposed by my amendment I do not think is too high, and I hope it will be adopted.

Mr. ODELL. I want to say a word.

Mr. GOOCH. I withdraw my amendment.

Mr. ODELL. I renew the amendment. On page 32 I move to strike out "75 cents per cubic foot" and to insert "40 cents."

I think, Mr. Chairman, that that is as high a rate of duty as should be placed upon that article. And I want to say to both the gentlemen from Vermont that I think they have unnecessarily reflected upon the merchants who are engaged in the importation of these marbles. I happen to know those men, and they would scorn what it is intimated they would do. They are governed in the importation of marble by the very same laws that govern the importation of all other articles.

Mr. MORRILL. Will the gentleman let me ask him a question?

Mr. ODELL. Certainly.

Mr. MORRILL. The gentleman has seen this gentleman and conversed with him. Did he not inform the gentleman from New York that he was satisfied with the duty now proposed by the committee?

Mr. ODELL. I will answer the gentleman. The gentleman representing the importing marble interest informed me that he had made an arrangement with the gentleman from Vermont, together with a gentleman who seemed to be here in the marble quarry interest of this country.

Mr. MORRILL. Also from New York.

Mr. ODELL. Yes, sir. I object myself to any tariff which may be made in that style; I object to any arrangement made in this Hall with members on the floor and members of the Senate, as this gentleman assured me that he had made an arrangement. I have my own judgment about this matter, and not the judgment of the gentleman from New York referred to by the gentleman from Vermont.

This bill makes an advance of 60 cents on the present tariff; the gentleman said to me that he had made such an arrangement; but it was the best that he could do. Thinking he could do no better he has left the city and gone home.

Mr. MORRILL. There were several gentlemen here representing the marble interest, all from New York. They represented different interests. I told them if they would agree on what was a fair and proper reduction of the rates in the printed bill, provided it was such an agreement as would secure the Government increased revenue, I would be willing to support it.

Mr. ODELL. I have no doubt the gentleman speaks truly; but I object to the arrangement. I repeat it, I object to an arrangement by which the lobby outside decide upon what we members of Congress shall do in fixing the rate of duty upon the articles which are in this tariff bill, even though the gentleman representing Vermont upon this floor may agree to it.

Now, this article costs 60, 65, and sometimes as high as 70 cents a foot, and those invoices are just as honest and just as true as any presented at the New York or any other custom-house in the country, and they are guarded against fraud in just the same way, the Government being protected against fraud by its consular certificates; and I think it unfair for the gentleman from Vermont to get up on this floor and impugn the honesty and integrity of the merchants engaged in this Italian trade.

[Here the hammer fell.]

Mr. MORRILL. I will say one word in reply. I do not impugn the integrity of these men. I was very favorably impressed with their appearance. My impeachment is of the *ad valorem* system as a whole. It seems we cannot suit gentlemen here. Some find fault because the Committee of Ways and Means do not consult outsiders. When we do consult them we are then found fault with.

Mr. ODELL. My remark in regard to the impeachment of the integrity of these gentlemen connected with this trade had reference to the statement made by the gentleman's colleague and his own, when he said these men would invoice this marble at just what they chose, and that they were willing to pay an *ad valorem* duty even as high as 100 per cent.

Mr. MORRILL. What I said in reference to 100 per cent. is true, nevertheless.

Mr. ODELL. That may be true, and my proposition is to make them pay 100 per cent.

Mr. MORRILL. Does the gentleman believe that if this marble were fairly invoiced any party would be willing to pay 100 per cent. upon its value?

Mr. ODELL. I do believe it, but I do not believe they are willing to pay 160 per cent.

The amendment of Mr. ODELL to the amendment of Mr. MORRILL was not agreed to.

The amendment offered by Mr. MORRILL was agreed to.

The amendment of Mr. Gooch was not agreed to.

Mr. KASSON. I move to amend, on page 33, in line forty-two, by striking out the words "on palm-leaf fans, 2 cents." In calling the attention of the committee to this subject, I will say that I had a statement, taken from the Journal of Commerce, of New York, which I believe was reliable, and which stated that the stock on hand amounts to about five years' consumption; that there were about fifteen thousand cases on hand, when the annual consumption is probably about three thousand. The only effect of putting on the high tariff, amounting to three or four hundred per cent., will be to prevent all importations for some years to come, and the tax will inure to the benefit of a few persons who hold this stock; whereas a lower rate of duty might leave a chance for some revenue by allowing importations. I call the attention of the committee to these statements, and if they are true I hope they will act upon them.

Mr. STEVENS. I think, if we intend to lay any tax, 2 cents is low enough. If there is a stock on hand for five years no more will be imported at any rate, and if they do import them, 2 cents per fan on a hot day is not too much.

Mr. BROOKS. I move to amend the clause proposed to be stricken out, by adding thereto the words "on and after January, 1866." The price of these fans in China is less than a cent, something like three quarters of a cent. It is one of those little things which the speculators have found and wholly monopolized. Under some influence or other the subject has been introduced to the attention of the Committee of Ways and Means, and they have imposed upon this little article of palm-leaf fans, worth three quarters of a cent, a duty of 2 cents. If you do that these speculators will have the control of the market for three or four years, and have all the profits.

Let me suggest to the committee that the greatest liability they are under to be imposed upon, is from outside men who have the control of little articles, and who come here, after the monopoly is acquired, and demand a high duty upon the importation of those articles.

It is the "whisky-on-hand" story over again, applied in this case to palm-leaf fans. If gentlemen want to foil speculators they had better adopt my amendment.

Mr. MORRILL. It is utterly impossible for the Committee of Ways and Means to suit all sides of this House. If we did not levy a heavy duty on spices, then gentlemen would go abroad to the people and say, "Here are articles of luxury which you have not taxed; you have increased the taxes upon the necessities of life but not upon the luxuries."

In relation to spices, while for one I thought that the rates were sufficiently high, as they exist under our present laws, other gentlemen did not think so. Inquiries came to the Committee of Ways and Means from all sides of the House to know whether we were not going to raise the duty on spices.

I have no doubt that there are many gentlemen in New York, or at least some, who have large stocks of these articles on hand; perhaps enough to supply the country for a year or two; but we must begin to levy duties at some time. I do not understand that either the gentleman from New

York or the gentleman from Iowa complains that this tax is going to increase the price of these articles unnecessarily high or to such rates that they will not still be freely purchased.

I presume there are parties in New York who have large quantities of these articles on hand; but I will tell my friend from New York that gentlemen outside of the Committee of Ways and Means are sometimes liable to be imposed upon by parties who have these same articles now on shipboard coming here under fresh invoices and upon which they might not make under the new rate of the tariff a ready and profitable sale. I do not say that the gentleman from New York has seen any such persons, but it is as fair to assume that such is the fact as it is to assume that gentlemen who have been before the Committee of Ways and Means have stock on hand.

For myself I care nothing at all about this article, whether it is included in this bill or not. I can see no particular harm in excluding it altogether.

The amendment to the amendment was rejected.

The question recurring on Mr. KASSON's amendment to strike out the whole clause, it was put, and the amendment was rejected.

Mr. MORRILL. On page 33, line fifty-three, I move to strike out the word "twenty" and insert in lieu thereof "ten," so that the clause will read: "On pens, metallic, ten cents per gross, and in addition thereto 25 per cent. *ad valorem*."

Mr. LE BLOND. I wish to call the attention of the gentleman from Vermont to the fourteenth section of the bill, which provides that—

On the entry of any vessel or of any goods, wares, or merchandise, the decision of the collector of customs at the port of importation and entry, as to the rate and amount of duties to be paid on the tonnage of such vessel or on such goods, wares, or merchandise, and the dutiable costs and charges thereon, shall be final and conclusive against all persons interested therein, unless the owner, master, commander, or consignee of such vessel in the case of duties levied on tonnage, or the owner, importer, consignee, or agent of the merchandise, in the case of duties levied on goods, wares, or merchandise, or the cost and charges thereon, shall, within ten days after the ascertainment and liquidation of the duties by the proper officers of the customs, as well in cases of merchandise entered in bond as for consumption, give notice in writing to the collector on each entry, if dissatisfied with his decision, setting forth therein, distinctly and specifically, the grounds of his objection thereto, &c.

Is it intended by the use of the words "on each entry" in the sixteenth line that the notice shall be indorsed on the entry made in the custom-house, or is it merely intended that notice shall be given to the collector?

Mr. MORRILL. It is merely intended that notice in writing shall be given to the collector at the time of the entry of the goods.

Mr. LE BLOND. Then I move to strike out the words "on each entry." I offer that amendment because I think that all that should be required is that notice shall be given to the collector. If the gentleman is at all familiar with custom-house operations—and I have no doubt he has had more experience in such matters than I have—he must know that these entries pass through the hands of innumerable clerks, and that it is almost impossible under any circumstances to keep track of them.

Mr. ODELL. I would ask the gentleman from Vermont if the term "on each entry" applies to each entry made of goods?

Mr. MORRILL. That is all. It merely applies to the entry of goods.

Mr. LE BLOND. All I desire is that the notice shall simply be given to the collector, and that an individual shall not be required to hunt up his entry and indorse the notice on that.

Mr. MORRILL. That is just what the section means now.

Mr. LE BLOND. Then I withdraw my amendment.

Mr. KELLEY. I ask leave of the committee to go back to lines forty-four and forty-five of section eleven on page 30, for the purpose of offering an amendment in relation to the duty on oil of cloves.

Mr. MORRILL. I believe it is necessary that we should go back. We have raised the duty on cloves very largely, and the duty on oil of cloves ought also to be raised.

Mr. LE BLOND. I must object, because I have not yet done with this fourteenth section.

Mr. KELLEY. I beg the gentleman's pardon.

He withdrew his amendment, and I thought he was through with the section.

**Mr. LE BLOND.** I move to amend the fourth section by striking out the words "ninety days" where they occur in the twenty-fourth and also in the twenty-eighth lines, and inserting in lieu thereof the words "one year," so that the clause will read:

And such vessel, goods, wares, or merchandise, on costs and charges, shall be liable to duty, accordingly, any act of Congress to the contrary notwithstanding, unless suit shall be brought within one year after the decision of the Secretary of the Treasury on such appeal for any duties which shall have been paid before the date of such decision on such vessel, or on such goods, wares, or merchandise, or costs, or charges, or within one year after the payment of duties paid after the decision of the Secretary.

**Mr. Chairman,** I offer the amendment for these reasons: a great many of these cases are brought into the district courts of the United States; and if the time be limited to ninety days that only multiplies these cases. If the time be extended to one year, then when the party brings his suit he must embrace all the causes of suit he has on hand up to that time. This will be a benefit to the Government; for the Government receives the duties at the time the entries are made, and retains the money till the suit is decided. Therefore the Government will not suffer by this, while it does suffer from a multiplicity of suits, which this would to some extent prevent.

I have also another amendment which I propose to offer, and which, if adopted, will I think save the Government a considerable amount of money. Gentlemen will recollect that but a few days ago there were some one hundred and forty cases decided in the district court of the United States in New York, growing out of this very state of things; whereas if the time for commencing suit had been extended to one year there would have been a less number of suits, and the Government would have had to pay a less amount of costs; for all these cases were decided against the United States. I think that the longer the time for commencing suits is extended the less number of cases will be brought, which will be to the interest of the Government.

**Mr. MORRILL.** Mr. Chairman, I am quite satisfied that the gentleman from Ohio has not carefully considered this section, for it is designed by the law officers here and in New York to remedy the very evil of which he complains. It is to prevent the accumulation of suits against the United States until the decision of the Secretary of the Treasury can be adopted. It does not bar any man, who may consider himself aggrieved by having to pay a wrong amount of duties, from commencing a suit; but he must commence it within a certain time. It will not allow, as heretofore, a long period to elapse before suits come up for decision. I think that if the gentleman will read the section carefully he will find it does remedy the very evils which he proposes to remedy. It is certainly so designed; and the section is introduced by the Committee of Ways and Means on consultation, as I said, with the law officers of the Treasury Department, and with the officers of customs in New York.

**Mr. LE BLOND.** Mr. Chairman, my sole object is to consolidate these cases, instead of having them divided up. I will make a brief statement to the committee in regard to the manner in which these cases are carried on in New York. I noticed, as I said before, that last week or the week before, there had been one hundred and forty cases disposed of in a single day in the district court of the United States in New York. They all went on a decision which had been made by the district court of the United States as far back as 1856. Yet, as the law now stands, the decision of the district court must receive the approval of the Secretary of the Treasury before the collector can act upon that decision.

The Secretary of the Treasury believed that the district court of the United States had erred in the decision made in 1856. In consequence of his judgment on that question he declined giving any instruction to the collector of New York. The result is that the collector has continued to exact the duties from importers; and they have paid the amount under protest, and then instituted suits. The court is burdened with that class of cases. [Here the hammer fell.]

The question was taken, and the amendment was rejected.

**Mr. LE BLOND.** I move to amend by inserting at the end of the section as follows:

*Provided,* That when adjudication has been had in any of the district courts of the United States upon any questions arising under the provisions of this act or of any act of which this is an amendment, the collectors of the several ports shall be governed by said decision, and no instructions from the Secretary of the Treasury shall be necessary for said collectors to be governed thereby.

**Mr. STEVENS.** Mr. Chairman, that will never do, because that would be an intermediate *non prius* decision. I think the law had better be left as it is.

**Mr. LE BLOND.** I thought I had the floor. **The CHAIRMAN.** The gentleman from Ohio is entitled to the floor.

**Mr. LE BLOND.** I supposed I had the floor. **Mr. Chairman,** I offered this amendment in good faith; I did it for the purpose of compelling either the Secretary of the Treasury or the collectors of ports to prosecute some of these cases to a final hearing, and establish a precedent in the matter. Now, as I was saying before, a large class of cases have gone up, and decisions have been made. The Secretary of the Treasury differs with the courts in their construction of the law, and declines to give any instruction to collectors to follow the decisions made, and the effect is that these cases come into court day after day upon the same question, are carried to the same judge, passed upon by the same judge, and decided in each instance against the United States. Now, sir, I undertake to say, and I think it can be well authenticated, that the United States pay in the city of New York alone every year over one hundred thousand dollars' costs upon these very questions which have been so often adjudicated upon in the district courts of the United States, and yet the Secretary of the Treasury declines or refuses to comply with these decisions, and neglects to have any of them carried up for final adjudication in the Supreme Court of the United States.

In every one of these cases, one hundred and forty of which were passed upon last week in the city of New York, the Government pays the district attorney thirty dollars, and whenever he argues a case he receives an additional sum from the Government. And so the Government continues to pay the cost in those cases notwithstanding the adjudication upon them. I think this bill ought to pass, and I hope it will pass.

**Mr. GANSON.** I would suggest to the gentleman from Ohio that the construction of his amendment might cut off the right of appeal altogether from the district court to a superior court. I presume that is not his intention, and therefore suggest to him that the language of his amendment had better be modified.

**Mr. LE BLOND.** I do not think the amendment will have that effect. I will, however, add to it "unless, where the decision is against the United States, an appeal is taken from that decision."

**Mr. HOLMAN.** Let me suggest that the same difficulty would still occur unless there is added something to this effect: "unless the decision is reversed upon appeal."

**Mr. LE BLOND.** I will accept that modification.

The amendment, as modified, was read, as follows:

*Provided,* That when adjudication has been had in any of the district courts of the United States upon any questions arising under the provisions of this act, or of any act of which this is an amendment, the collectors of the several ports shall be governed by said decision, and no instructions from the Secretary of the Treasury shall be necessary for collectors to be governed thereby, unless reversed on appeal.

**Mr. BROWN,** of Wisconsin. I move to amend the amendment by striking out "unless reversed on appeal" and inserting "unless an appeal be taken from said decision and prosecuted."

The amendment to the amendment was disagreed to.

The amendment was rejected.

**Mr. KELLEY.** Mr. Chairman, I now ask unanimous consent to go back to section eleven, page 30, lines forty-four and forty-five, to strike out the words "one dollar and fifty cents" and insert in lieu thereof "six dollars," so that it will make the duty on cloves six dollars per pound.

There being no objection, the amendment was received.

**Mr. KELLEY.** The amendment is to restore the relation that has existed heretofore between

cloves and the oil of cloves. The oil of cloves is as fifteen to one upon the raw material. The duty heretofore has been ten cents upon the oil of cloves; we have made it forty cents. The object of this amendment, therefore, is simply a restoration of the old relation of duty between cloves and the oil of cloves.

The amendment was agreed to.

**Mr. ALLEY.** I move to amend in line five of section eighteen by inserting after the word "except" the words "linsed, hides, and skins."

The amendment was agreed to.

The Clerk read, as follows:

*Sec. 19. And be it further enacted,* That all goods, wares, and merchandise which may be in the public stores on the day and year aforesaid shall be subjected to no other duty upon the entry thereof than if the same were imported respectively after that day.

**Mr. MORRILL** moved, after the words "public stores" to insert the words "or bonded warehouses."

The amendment was agreed to.

**Mr. MORRILL** moved to add to the section the following:

And so much of the act of August 6, 1846, as requires the sale of fire-crackers deposited in bonded warehouses is hereby repealed.

The amendment was agreed to.

**Mr. STEVENS.** I do not agree to this section, and I want a vote of the House on it. I move to strike out the whole section and insert the following in lieu thereof:

That all goods, wares, and merchandise which may be in the public stores or bonded warehouses, or bonded for transportation, on the day this act takes effect shall, when entered for home consumption, pay the duty under which they were imported.

**Mr. Chairman,** we have already passed a joint resolution by which those were relieved who took out goods before the passage of the resolution imposing 50 per cent. of duty additional, and paid the new duty of 50 per cent. on them. We relieved them and allowed them to pay the duty which existed when the goods were imported; and we provided that the duty should be refunded to them, so far as it exceeded the old law. Now it seems strange that the principle cannot work both ways. We know when they were taken from the bonded warehouses they should pay the duties on them when they were imported; and I think as soon as this law is passed there ought to be precisely the same rule, or else the Government will lose revenue at both ends. If they have been imported within sixty days let them pay the same duty as if they had entered into consumption at once.

I know that it will be said that the joint resolution increasing the duties 50 per cent. additional was temporary. We know that it was necessary. We know that the merchants hastened their goods in so as to get rid of the additional duties. I know that during the week before that law passed \$8,000,000 of goods were imported into New York alone, a larger amount than ever before in one week; and that escaped the 50 per cent. additional duty. If put into the bonded warehouses, although imported under that law, we will let them out under this provision. We will reverse the principle on which we have refunded to them the 50 per cent. additional duty if in the warehouse before the joint resolution was passed. It seems to me that this is all wrong. Hence, I say let those in the bonded warehouses, when entered for consumption, pay precisely the duty as when imported, and neither higher nor lower when this goes into effect.

**Mr. WILSON.** Does the gentleman propose to have goods imported prior to the passage of the joint resolution pay duties which were in force prior to that time?

**Mr. STEVENS.** That we have already decided by a joint resolution which we have sent to the other House.

**Mr. WILSON.** I think that that was an erroneous action on the part of the House. A great many members were deceived as to its effect.

**Mr. STEVENS.** We will make it still worse by this provision in the bill.

**Mr. WILSON.** I do not think so.

**Mr. MORRILL.** Mr. Chairman, I think that we ought to exercise common justice toward the commerce of the country. Now, as I understand it, in all previous legislation it has been the practice of Congress in all cases to allow the merchant to take his option. If we decreased or diminished



the duties, then they were allowed to come in under the lower and latest tariff; and if we increased the duties, they were allowed to take them out under the rates levied before the new tariff went into operation. There will be sufficient notice on the part of gentlemen—importers can take out merchandise before the 1st of July where rates are increased—and we shall not gain anything by sharp practice on the merchants of the country. If they can make anything by taking them out before the 1st of July they will do it. The joint resolution which we passed was passed for merely a temporary purpose—passed until we could prepare this more mature bill. If we obtain what we shall obtain under this matured plan, is it not all that Congress should ask? I think it is.

Then, again, let me say that under the operation of this proposition there might be three or four different rates of duty under which goods in bond would be taken from the custom-house. They might be taken from the custom-house under the rates of duty which prevailed before the joint resolution passed, and they might be taken out under the rates of the joint resolution, or under the present tariff. And let me say further that a very incongruous state of things would result out of the fact that the joint resolution which we last passed explanatory of the previous resolution had not passed the Senate, and may not.

Under the circumstances I trust the House will allow this to pass in its usual and common form.

Mr. KALBFLEISCH. I move to strike out the last word of the amendment. Let me show the position in which the amendment of the gentleman from Pennsylvania would place on importer. In the importation of nitrate of silver we have to send out our orders six months ahead. The man who had a cargo arrived before the passage of the joint resolution paid a tariff of 1 cent a pound upon it. I had a cargo which arrived day before yesterday, and I have to pay, under the joint resolution,  $1\frac{1}{2}$  cent a pound. Now if the gentleman's amendment prevails, the man who brings in a cargo in July will have to pay only 1 cent a pound. If you will impose an increased duty of 50 per cent. and keep it there, I will have no objection. I withdraw my amendment.

The amendment offered by Mr. STEVENS was not agreed to.

Mr. HOOPER. I move to amend section nineteen by inserting after the word "thereof" the words "for consumption;" so that it will read:

That all goods, wares, and merchandise which may be in the public stores on the day and year aforesaid shall be subjected to no other duty upon the entry thereof for consumption than if the same were imported respectively after that day.

Mr. PENDLETON. They may be entered for other things than for consumption. They may be entered for transportation and reshipment.

Mr. HOOPER. Then there is no duty paid. Mr. PENDLETON: But when they are entered for consumption afterwards there is a duty to be paid. I object to the amendment proposed by the gentleman from Massachusetts, and propose that the same rule shall be applied, no matter for what purpose the goods may be entered.

Mr. HOOPER. The gentleman misunderstands the purpose of the amendment. The original entry of goods is for warehousing; then there is another entry for exportation, and of course there is no duty payable. The section does not apply to that, but only applies to the entry for consumption, and therefore I wish to designate that entry.

Mr. PENDLETON. I would rather the section should stand as it is.

The amendment was agreed to.

Mr. STEVENS. There is one little amendment we have passed somewhat hastily, and which I believe is wrong. By unanimous consent I will go back to page 30, where we inserted nitrate of lead, and imposed a duty upon it of 30 per cent. *ad valorem*. All agree that that is too low, and we propose to change it to  $3\frac{1}{2}$  cents a pound.

Mr. WASHBURN, of Illinois. If it can be done without raising any discussion I will not object to going back.

Mr. STEVENS. It will not consume any time. I move to amend by striking out "30 per cent. *ad valorem*," and inserting " $3\frac{1}{2}$  cents per pound."

The amendment was agreed to.

Mr. FENTON. I ask unanimous consent to go back to page 11 to supply an omission in line

one hundred and forty-five. It is to insert after "dollar," the words "and fifty cents," so that the clause will read:

On all handsaws not over twenty-four inches in length, 75 cents per dozen; and in addition thereto 30 per cent. *ad valorem*; over twenty-four inches in length, \$1 50 per dozen, and in addition thereto 30 per cent. *ad valorem*.

Mr. BROWN, of Wisconsin, objected.

Mr. KASSON. I move to insert after section twenty the following as a new section:

Sec. 21. And be it further enacted, That during a period of one year from the passage of this act there may be imported into the United States, free of duty, any machinery designed for and adapted to the manufacture of woven fabrics from the fiber of flax or hemp, including all the preliminary processes required thereof; also, all machines for plowing, operated by steam power, and imported for the use or at the request of any State or county agricultural society organized in pursuance of the laws of either of the United States.

Mr. Chairman, I wish to say, with the permission of the committee, that there have been applications made in behalf, I think, of the State Agricultural Society of New York, and from one or two other sources, for leave to introduce one such plowing machine, operated by steam, for the purpose of experiment and of testing its capacity for use in this country. These machines have been invented in England and have been used to some extent in Egypt and on the delta of the Nile. I need not call the attention of gentlemen from the West to the peculiar adaptation of the soil of the western States to the use of these machines, if they are practical ones; nor, on the other hand, to the very great necessity that exists in the West, where labor has become so scarce in consequence of the large contribution of men to the war, for the introduction of such machines to save labor.

I offer my amendment, so far as relates to that, to enable gentlemen who, in the interest of an agricultural society, or at the inspiration of such a society, may be willing to stake the original cost of one of these machines, which amounts to several thousand dollars, on his faith in the experiment, to do so without the added expense of the tariff duty upon it.

As to the other branch of the subject I desire to say this: certain gentlemen from Illinois have been investigating the capacity of machines in use in England and other parts of Europe to manufacture the fiber of flax and hemp into a material that will be a substitute for gunnybags and other things of that kind. As a new branch of industry I think the least that the United States ought to do is to say to those gentlemen who are willing to engage in this enterprise that they will be permitted for a year to introduce such machinery as is adapted for that purpose free of duty. This machinery for the manufacture of the fiber of flax and hemp is not made anywhere in the United States, and under our present tariff we have only the right to import free of duty the molds for the purpose of illustrating the character of the machinery. Gentlemen say that that is inadequate, and that they must have the machinery itself to put up, and try and see whether they can develop this new industry.

I ask members who think it important to stimulate the agricultural interests of the country to agree to this amendment, and allow this machinery to be introduced free of duty; permit any one who is willing to stake his money on such enterprises to do so, as it will be for the benefit of the country.

Mr. GRISWOLD. I hope the amendment of the gentleman from Iowa will be agreed to. I know that in my own State—

Mr. STEVENS. The gentleman is not opposing the amendment. I propose to do so; and then the gentleman from New York can offer an amendment to it, and speak on that.

Mr. Chairman, I am opposed to this system of allowing special favors. If we allow this privilege to one State or to one individual, we must allow it to all others. Under the present tariff patterns of all machines used in Europe can be imported into this country free of duty, whether the patterns be made of wood or of metal. That, I think, is sufficient. Let them import the patterns and manufacture the machines here. I understand that a New York company has been got up to manufacture these very machines. Let them import the patterns and manufacture them here. The idea that this country is to be flooded with these machines free of duty, each of which is to

cost about \$20,000, is contrary to all the principles of the tariff which we have adopted, either for revenue or for protection. It is not at all necessary when every pattern of the latest and most improved kind of these machines can come in free of duty. It looks to me absurd to ask that the manufactured article shall be brought in free of duty, instead of its being manufactured here. I trust that no modification of the law in that respect will be made.

Mr. GRISWOLD. I propose to amend the amendment by limiting the number to ten for each State. I can state from my own knowledge that under the operation of the tariff regulations that have existed heretofore not a solitary establishment for the manufacture of duck and linen goods exists in the country to-day. Our entire Navy is supplied with these goods from abroad, for the reason that the home establishments, under the operation of the tariff, have been broken down and no longer exist. I know gentlemen in my own State who have investigated this subject, and who have sent agents abroad for the purpose of examining the best machinery in use with a view to bring it here, and who are making an effort to re-establish the manufacture of that particular kind of goods, but in the present state of this interest it is necessary that we should encourage these gentlemen, who are willing to embark their money and have the enterprise to send agents abroad for the purpose of introducing improved machinery here.

Mr. ARNOLD. I oppose the amendment of the gentleman from New York, [Mr. Griswold,] and I am in favor of the proposition of the gentleman from Iowa, [Mr. Kasson.] The proposition of the gentleman from Iowa will not lessen the revenue of the country, and it is of great importance, and especially to the Northwest, that the manufacturers of flax shall be encouraged. There is a very large quantity of it grown in that section for the purpose of seed; but the fiber is lost in consequence of there being no establishments suited to its manufacture. It is very important, therefore, to that interest that the amendment proposed by the gentleman from Iowa should prevail, in order that the large quantity of flax raised for the purpose of seed may not be lost to the country, but that this branch of manufacture may be fostered and encouraged. The encouragement proposed is a very slight one. It is simply that for a single year the machinery necessary to induce this kind of manufacture shall be permitted to be imported duty free.

Mr. WASHBURN, of Illinois. Under the existing law all models of machinery can be imported duty free. I would ask my colleague what objection he has to having the models imported and letting the mechanics at Chicago have the job of manufacturing the machinery.

Mr. ARNOLD. I will tell my colleague what is the objection. If those gentlemen who are disposed to embark in this enterprise are permitted for one year to import the necessary machinery duty free, and this branch of manufacture can be successfully established, then there will spring up not only the business of manufacturing flax, but also the business of manufacturing this machinery. But in order to accomplish that result we must hold out some encouragement in the beginning to these manufacturers, because this is an experiment in which men will not embark unless they receive some aid from the Government, and this certainly is a very slight encouragement, as they are only to be permitted to import this machinery duty free for one year. I trust that the amendment of my friend from Iowa will prevail.

Mr. GRISWOLD. I withdraw the amendment to the amendment.

Mr. HOTCHKISS. I ask the gentleman from Iowa to accept as a substitute for the latter clause of his amendment the following:

Steam agricultural machinery and implements may be imported free from duty for one year from the passage of this act.

Mr. Chairman, it is a very slight boon that benevolent men ask of the Government, that they shall have the privilege, for the benefit of the agricultural interests of the country, of trying this experiment for one year.

The objection raised to the amendment is that models can be imported and our own mechanics can construct the machinery. Gentlemen who make that objection should bear in mind that

there is as great a scarcity of mechanical labor now as there is of agricultural labor. We have not mechanics who are at liberty to construct these machines. The labor is not in the country. It is known to every man that we are at this time encouraging the importation of laborers, and yet the moment a proposition is made to permit the importation of this machinery duty free for a short space of time, we are met with the objection that the machines can be constructed here.

Now, Mr. Chairman, unless this privilege is extended, I venture to say that during the next year there will not be a single machine, operated by steam, introduced into this country. Now is the time of all others to introduce, if practicable, such machinery into use in this country. The Secretary of the Treasury favors this measure. His letter to the Committee of Ways and Means on this subject is in the House now, as I understand, favoring this very proposition.

I hope the amendment will be adopted, and that any individual under the auspices of an agricultural society who chooses to invest his money will be encouraged.

It is much better for the Government to contribute a small amount from its revenue to introduce these labor-saving machines than to expend it in importing the laborers to supply its place. It is said that we may import the models of these machines and manufacture them ourselves. That is impossible. The experiment has been tried, and it has proved a failure. Our mechanics will doubtless improve upon the machines sent from Europe, when they have those machines here in actual operation. I am informed that the experiment has already been tried of introducing the models of these machines from Europe for the purpose of constructing machines, and that it has failed. But, sir, let the machines themselves be introduced, and, if successful, our mechanics will then construct them afterwards.

Mr. MALLORY. I hope the amendment of the gentleman last up will not prevail, but that the amendment as originally offered will be adopted. I think it is very highly important that the machinery which has been alluded to for the manufacture of flax and hemp should be imported and the experiment of its practicability tried; and it is certainly important that the steam agricultural machinery now in its infancy should be imported duty free for at least one year. It is nothing more than the people of the United States have the right to expect from their Government. If they were to ask the Government to introduce the steam plows at its own expense and distribute them among the agricultural societies at the West, it would not be an unreasonable request, for the purpose of testing the usefulness of applying such machinery to the cultivation of our immense fields in the West. Camels were introduced into the country some years ago by the Government for the purpose of testing their usefulness for transportation over the deserts which lie on the route to the Pacific, resembling in many respects the African deserts where the camel is used with so much success. And I see no reason why steam plows should not also be introduced by the Government to see whether they may not be rendered available in the cultivation of the immense prairies of the West.

The gentleman intimates that all this machinery may be constructed by the mechanics of this country, and that we need not bring it from abroad. I apprehend that will not be done. No mechanic or business man will be found investing his money rashly in the construction at large expense of new machinery before he is satisfied that when constructed it can be sold by him in the country. If this amendment be adopted, however, it may not be twelve months before we shall be able to witness the operation of the steam plow in breaking up the virgin soil of the West.

Mr. STEVENS. I move that the committee rise for the purpose of closing debate upon this amendment.

Mr. FENTON. I ask the gentleman from Pennsylvania first to allow a letter from the Secretary of the Treasury to be read upon this subject.

Mr. STEVENS. I will withdraw the motion for that purpose.

The Clerk read, as follows:

TREASURY DEPARTMENT, May 17, 1864.

SIR: I have the honor to transmit herewith a communication from Mr. E. Cornell, of Ithaca, New York, soliciting

the coöperation of the Government to the extent of being allowed to import one entire set of the different models of steam agricultural machinery from England free of duty.

Mr. Cornell writes: "The great scarcity of agricultural labor, caused by the heavy demand of the Government for men to fill the ranks of our Army, has led to an organized movement in the State of New York for the introduction of steam in the cultivation of farms."

The obvious importance of this enterprise commends it to the favor of Congress, and may, perhaps, warrant the free admission of steam agricultural implements for a limited period, under the same general principle which is now recognized in the free admission of articles for the use of the United States.

The whole matter is respectfully submitted for your consideration.

I am, very respectfully,  
S. F. CHASE,  
Secretary of the Treasury.

HON. THADDEUS STEVENS, Chairman Committee of Ways and Means, House of Representatives, Washington, D. C.

Mr. STEVENS. I now move that the committee rise, for the purpose of closing debate.

Mr. FENTON. I think there will be no more debate.

Mr. STEVENS. If there is not, I will, of course, withdraw the motion.

The question was stated on the amendment to the amendment.

Mr. KASSON. I will accept that as a substitute for the latter portion of my amendment.

Mr. HOLMAN. I move to amend the amendment by striking out the word "steam." There is no reason why this discrimination should be made in favor of large capitalists engaged in farming and against the small capitalists; and the whole of this thing is in favor of large capitalists. There is no good reason why this should be so. I live in a country where there is no steam machinery used in agriculture. This may be important to the regions where men have a thousand acres each under cultivation. My constituents are small farmers and do not need this machinery. They have to pay duty on the agricultural implements which they use, which I think ought to come in duty free.

Mr. KASSON. I hope that the gentleman from Indiana will not press his amendment to the amendment. And, sir, our own manufacturers of agricultural implements not only can supply but do supply the entire demand cheaper than we can import them. That is not a practical benefit to agriculture; this is; and instead of being opposed by those who fear that a like profit will be taken from some of the manufacturers of machinery it ought generally to be supported, for if successful it will set every shop in the country at work in order to supply the machines here at home.

If this be adopted the result will be that only three or four machines will be imported, as it takes time to get the order out and the machinery imported. I hope the amendment will be allowed to stand as it is.

The amendment to the amendment was rejected.

The question then recurred on Mr. KASSON's amendment.

The House divided; and there were—ayes 68, noes 42.

So the amendment was adopted.

Mr. BROWN, of Wisconsin. I move to adopt the following as an additional section:

SEC. 23. And be it further enacted, That whenever goods, wares, and merchandise shall be entered in bond, and the owner shall desire to transfer such goods, wares, and merchandise to another port of entry in bond, he may appear before the collector of the port to which the same are to be transferred, and may prove the value and produce invoices of the goods so imported, and give the bond in the same manner as by provision of law he is now required to prove value and give bond to the collector of the original port of entry; and he shall, thereupon, be entitled to have his goods, wares, and merchandise forwarded in bond to the port of destination in the manner now provided by law.

Mr. Chairman, the object of that amendment is to relieve merchants who are not upon the seaboard from some of the inconveniences of being forced to appear before the collector of the original port to enter and make these proofs.

The amendment was rejected.

Mr. MORRILL. I move this as the last amendment of the Committee of Ways and Means, to come in at the end of the last section:

And provided further, That the duties on all goods, wares, and merchandise imported from foreign countries not provided for by this act, shall be and remain as they were according to existing laws prior to the 29th of April, 1864.

The amendment was agreed to.

Mr. MORRILL moved that the committee rise and report the bill to the House.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. SCHENCK reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration and particularly House bill No. 494, to increase duties on imports, and for other purposes, and had directed him to report the same back to the House with sundry amendments.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 293) to provide for the payment of the second regiment, third brigade, Ohio volunteer militia during the time they were mustered into the service of the United States; and

An act (H. R. No. 455) to punish and prevent the counterfeiting of coin of the United States.

#### TARIFF BILL—AGAIN.

Mr. MORRILL. On page 25, lines nine and ten, I move, in the following paragraph, to strike out the words "and stoneware above the capacity of ten gallons;"

On all brown earthenware and common stoneware, gas retorts, stoneware not ornamented, and stoneware above the capacity of ten gallons, twenty-five per cent. *ad valorem*.

And I call for the previous question on the bill and amendments.

The previous question was seconded, and the main question ordered.

The amendments were agreed to *en masse*, with the exception of the following, on which separate votes were asked.

The first amendment upon which a separate vote was asked was to insert after the word "except," on page 37, in line five of section eighteen, the words "linseed, hides, and skins and."

Mr. DAWSON called for tellers.

Tellers were ordered; and Mr. Dawson and Mr. FRANK were appointed.

The House divided; and the tellers reported—ayes 18, noes 75.

So the amendment was not agreed to.

The next amendment upon which a separate vote was requested was the following, as a new section:

And be it further enacted, That during a period of one year from the passage of this act, there may be imported into the United States, free of duty, any machinery designed for and adapted to the manufacture of woven fabrics from the fiber of flax or hemp, including all the preliminary processes required therefor; and that steam agricultural machinery and implements may be imported free of duty for one year from the passage of this act.

Mr. STEVENS demanded the yeas and nays. The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—ayes 68, nays 42; as follows:

YEAS—Messrs. Allison, Arnold, Ashley, Blow, Boyd, Brooks, James S. Brown, Ambrose W. Clark, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Dawson, Driggs, Edgerton, Eldridge, Fenton, Finck, Frank, Ganson, Gooch, Grider, Grinnell, Griswold, Charles M. Harris, Herriek, Higby, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Hutchins, Jencks, Julian, Kasson, Orlando Kellogg, King, Le Blood, Littlejohn, Loan, Long, Longyear, Mallory, Marvin, McClurg, McDowell, Samuel F. Miller, Moorhead, Daniel Morris, Morrison, Orth, Patterson, Perham, Prunyn, Ross, Scofield, Shannon, Smithers, Tracy, Upson, Van Valkenburgh, Wadsworth, William B. Washburn, Wheeler, Joseph W. White, Wilder, and Windom—68.

NAYS—Messrs. Ames, Ancona, Bully, John D. Baldwin, Baxter, Beaman, Bliss, Coffroth, Denison, Eckley, Elliot, Garfield, Harding, Harrington, Holman, Ingersoll, Kelley, Francis W. Kellogg, Lazarus, Marcy, Morrill, James R. Morris, Amos Myers, Leonard Myers, Noble, Odell, Charles O'Neill, Pendleton, Perry, Price, John H. Rice, Edward H. Rollins, Starr, Stevens, Strouse, Thayer, Ward, Elihu B. Washburne, Chilton A. White, Williams, Wilson, and Woodbridge—42.

So the amendment was agreed to.

During the roll-call,

Mr. SWEAT stated that upon all tariff questions he was paired with Mr. KELLEY.

Mr. WILLIAMS stated that Mr. BROOMALL was paired with Mr. CHANLER.

Mr. DAVIS, of Maryland, stated that Mr. CRESWELL was absent on account of sickness, and that Mr. WEBSTER was paired upon this bill with Mr. HARRIS, of Maryland.

Mr. HOLMAN stated that Mr. ENGLISH was detained from the House by sickness in his family.

Mr. BLAINE stated that Mr. PIERCE had been detained from the House for three days past by illness.

Mr. ANCONA stated that his colleague, Mr. JOHNSON, had gone home sick, and had paired with Mr. ANDERSON; also that Mr. MILLER, of Pennsylvania, was paired off.

The result was then announced as above recorded.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. HOLMAN demanded the yeas and nays upon the passage of the bill.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 82, nays 26; as follows:

**YEAS**—Messrs. Allison, Ames, Ancona, Arnold, Ashley, Baily, John D. Baldwin, Baxter, Blaine, Blow, Boyd, Ambrose W. Clark, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Denison, Driggs, Eckley, Eliot, Fenton, Frank, Garfield, Gough, Grinnell, Griswold, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, King, Little, John, Loan, Longyear, Marvin, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Anos Myers, Leonard Myers, Odell, Charles O'Neill, Orth, Patterson, Perham, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Smithers, Starr, Stevens, Strouse, Thayer, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William D. Washburn, Wheeler, Williams, Wilder, Wilson, Windom, and Woodbridge—82.

**NAYS**—Messrs. Bliss, James S. Brown, Edgerton, Eldridge, Finck, Grider, Harding, Harrington, Charles M. Harris, Herriek, Holman, Hutchins, Le Blond, Long, Mallory, Marey, McDowell, Morrison, Noble, Pendleton, Perry, Pruyn, Ross, Wadsworth, Chilton A. White, and Joseph W. White—26.

So the bill was passed.

During the roll-call,

Mr. MOORHEAD stated that Mr. McALLISTER, who would have voted for the bill, was paired off with some gentleman on the other side of the House.

Mr. WASHBURN, of Massachusetts, stated that Mr. BOUTWELL was paired off with Mr. MIDDLETON.

Mr. ODELL stated that Mr. STEELE, of New York, was called home in consequence of sickness.

Mr. MORRIS, of Ohio. I have paired off with Mr. BLAIR, of West Virginia. I had forgotten the fact, and if I have given any vote which will change the result I ask to have it withdrawn.

Mr. MORRILL moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### LEAVES OF ABSENCE.

Mr. PRUYN. I ask leave of absence for one week.

There was no objection, and the leave was granted.

Mr. HALE. I ask leave of absence for my colleague, Mr. McALLISTER, for one week.

There was no objection, and the leave was granted.

Mr. GRINNELL. I ask leave of absence for myself from Wednesday next, on account of sickness in my family.

There was no objection, and the leave was granted.

Mr. BOYD. I ask leave of absence for five days.

There was no objection, and the leave was granted.

And then, on motion of Mr. FENTON, (at twenty minutes past five o'clock, p.m.) the House adjourned till Monday.

#### IN SENATE.

MONDAY, June 6, 1864.

Prayer by the Chaplain, Rev. Dr. BOWMAN.

The Secretary proceeded to read the Journal of Saturday.

Mr. SHERMAN. I do not see that any one is listening to the reading of the Journal, and I therefore move that it be dispensed with.

The PRESIDENT *pro tempore*. The further reading will be dispensed with, if there be no objection. The Chair hears none.

#### PETITIONS AND MEMORIALS.

Mr. WILSON presented seventeen memorials of citizens of Massachusetts, remonstrating against the extension of the Goodyear patent for the manufacture of vulcanized India rubber; which were referred to the Committee on Patents and the Patent Office.

The PRESIDENT *pro tempore* presented a petition of men and women of Candia, New Hampshire, praying for the abolition of slavery and such an amendment of the Constitution as will forever prohibit its existence in any portion of the Union; which was referred to the select committee on slavery and freedmen.

The PRESIDENT *pro tempore* also presented a memorial of commanders and lieutenant commanders in the United States Navy praying for an increase of the grades of captain and commander in the Navy; which was referred to the Committee on Naval Affairs.

Mr. RAMSEY presented a memorial of the Chamber of Commerce of St. Paul, Minnesota, remonstrating against action at the present session of Congress terminating the reciprocity treaty between the United States and Great Britain, and praying that the whole subject be referred to an international commission; which was referred to the Committee on Foreign Relations.

Mr. MORGAN presented a petition of citizens of the United States praying for the passage of the bill (H. R. No. 276) to secure to persons in the military and naval service of the United States homesteads on confiscated or forfeited estates in insurrectionary districts; which was referred to the Committee on Public Lands.

Mr. SUMNER presented seven petitions of men and women of the United States, praying for the abolition of slavery and such an amendment of the Constitution as will forever prohibit its existence in any portion of the Union, which were referred to the select committee on slavery and freedmen.

#### REPORTS FROM COMMITTEES.

Mr. HENDRICKS. The Committee on Public Lands, to whom was referred a bill (S. No. 277) making a grant of lands to the Territories of Dakota and Idaho, in alternate sections, to aid in the construction of certain railroads in said Territories, to connect with the railroad system of Minnesota, have directed me to report it without amendment, and with a recommendation that the further consideration thereof be postponed to the next session of Congress, on the ground that the committee has not sufficient information in respect to the localities and the geography of that country to make a report in favor of the bill at this time.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred a bill (H. R. No. 240) making appropriations for the current and contingent expenses of the Indian department; and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1865; reported it with amendments.

Mr. HENDRICKS, from the Committee on Public Lands, to whom was referred a memorial of O. C. Nielson, reported a bill (S. No. 301) for the sale of a lot of land in Iowa, in the Fort Crawford reservation; which was read and passed to a second reading.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a resolution to print five thousand additional copies of the Army Register for the use of the Senate, reported it without amendment.

The Senate proceeded to consider the resolution, and it was agreed to.

#### PRINTING OF NATIONAL CURRENCY BILL.

Mr. SHERMAN submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That two thousand copies of the currency act be printed for the use of the Comptroller of the Currency.

#### AFRICAN SLAVE TRADE.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the President be requested, if not incompatible with the public interests, to communicate to the Senate any information that may have been recently received in regard to the condition of the African slave trade, and measures for its suppression in the island of Cuba.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the following bills; in which it requested the concurrence of the Senate:

A bill (No. 494) to increase the duties on imports, and for other purposes; and

A bill (No. 511) to provide for the more speedy punishment of guerrillas, and for other purposes.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; which were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 293) to provide for the payment of the second regiment, third brigade, Ohio volunteer militia during the time they were mustered into the service of the United States; and

A bill (H. R. No. 455) to punish and prevent the counterfeiting of coin of the United States.

#### LAND CLAIMS OF WISCONSIN.

Mr. HENDRICKS. I move to take up, with a view to dispose of it if possible, Senate joint resolution No. 8.

The motion was agreed to; and the Senate resumed the consideration of the joint resolution (S. No. 8) for the relief of the State of Wisconsin.

The PRESIDENT *pro tempore*. The question is on concurring in the Senate with the amendment made as in Committee of the Whole, as amended.

The amendment, as amended, was concurred in.

The joint resolution was ordered to be engrossed for a third reading, and was read the third time.

Mr. SHERMAN. I notice that the Senator from Iowa [Mr. HARLAN] is absent, and I think he had an amendment that he desired to offer or was about to offer when this resolution went over on Saturday. I hope, therefore, it will be passed over for the present.

Mr. HENDRICKS. He did offer his amendment. He had several amendments which were offered.

Mr. FESSENDEN. He rose to offer an amendment when the resolution went over.

Mr. SHERMAN. I understand he rose to offer another amendment when it went over. As we dispensed with the reading of the Journal this morning, we commenced business a little sooner than ordinary, and I suppose he will be in presently. I do not wish to delay it myself. Let it lie over for a few minutes until he comes in, and then I will make no objection to it.

Mr. HENDRICKS. I had not observed that he was not present.

The PRESIDENT *pro tempore*. The bill will be passed over for the present.

#### SHIP CANAL IN WISCONSIN.

Mr. CARLILE. If the Senator from Indiana is not ready to proceed with that resolution, I will move to take up the bill (S. No. 211) granting to the State of Wisconsin a donation of public land to aid in the construction of a ship canal at the head of Sturgeon bay, in the county of Door, in said State, to connect the waters of Green bay with Lake Michigan in said State.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to grant to the State of Wisconsin, for the purpose of aiding the State in constructing and completing the canal, two hundred thousand acres of public lands, to be selected in subdivisions, agreeably to the United States surveys by an agent or agents to be appointed by the Governor of the State, subject to the approval of the Secretary of the Interior, from any lands lying east of the eighty-ninth meridian of longitude and north of the forty-fourth parallel of latitude, within the State of Wisconsin, and the upper peninsula of the State of Michigan, subject to private entry. The lands thus granted are to be subject to the disposal of the Legislature of the State for the purposes mentioned, and no other, and the canal is to be and remain a public highway for the use of the Government of the United States, free from toll or other charge upon the vessels of the Government engaged in the public service, or upon vessels employed by the Government in the transportation of any property or troops of the United States. If the canal is not commenced within three and completed within ten years the State of Wisconsin is to be bound to pay to the United States the amount which may be received upon the sale of any part of the lands by the State, not less than \$1 25 per acre, the title to the purchasers under the State remaining valid.



The Legislature of the State is to cause to be kept an accurate account of the sales and net proceeds of the lands granted, and of all expenditures in the construction, repairs, and operating of the canal, and of its earnings, and return a statement of them annually to the Secretary of the Interior; and whenever the State shall be fully reimbursed for all advances made for the construction, repairs, and operating of the canal, with legal interest on all advances until the reimbursement of the same, or upon payment by the United States of any balance of such advances over such receipts from the lands and canal, with such interest, the State is to be allowed to tax for the use of the canal only such tolls as shall be sufficient to pay all necessary expenses for the care, charge, and repairs of the same. Before it shall be competent for the State to dispose of any of the lands to be selected the route of the canal is to be established, and a plat or plats thereof to be filed in the office of the Commissioner of the General Land Office; but the canal is to be at least one hundred feet wide, with a depth of water of fifteen feet.

The Committee on Public Lands reported the bill with amendments. The first amendment was in section one, line five, to strike out the word "two" and insert "one," so that it will read:

That there be, and is hereby, granted to the said State of Wisconsin, for the purpose of aiding said State in constructing and completing said canal, one hundred thousand acres of public lands, &c.

The amendment was agreed to.

The next amendment was in section one, line nine, after the word "lying" to strike out the following words:

East of the eighty-ninth meridian of longitude and north of the forty-fourth parallel of latitude, within the State of Wisconsin, and the upper peninsula of the State of Michigan, subject to private entry.

And to insert in lieu thereof:

Within sixty miles of the western terminus of said canal, subject to private entry: Provided, That all lands to which the right of preemption or homestead settlement has attached, and lands heretofore reserved to the United States by any act of Congress, or in any other manner by competent authority, as also mineral lands, be, and they are hereby, excepted from the grant herein made.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. GRIMES. I observe that this bill embodies what I understand to be a new principle in granting the public lands; and I merely rise to inquire of the Committee on Public Lands whether they are prepared to recommend that Congress shall adopt as the settled policy in the future the principle upon which I think this bill is based. Heretofore it has been the rule, if I am not mistaken, that lands have always been granted in alternate sections, the reserved sections being invariably increased in value in consequence of the grant to the State or Territory or company, and thus the Federal Government has not been the loser pecuniarily by the grant. This bill, I observe, allows the State to take the lands to be granted in a solid body anywhere beyond a certain parallel of latitude. Thus they can take up one hundred thousand acres of land and retain it entirely exempt from taxation or settlement, or occupation of any kind, and much to the detriment, it seems to me, of the public interests. It is unlike any bill that I have known that has passed Congress.

Mr. HARLAN. My colleague is right in the statement of the fact and principle involved in this bill. There are no reservations made of alternate sections. It is intended that the State may select any public lands within a limit of sixty miles to an amount not exceeding one hundred thousand acres, to aid in constructing this work. The reason the committee authorized the report of the bill with that amendment, reducing the amount of land granted, was because of their conviction of the great importance of the work itself. They believed that the work was of sufficient consequence to justify the Government in making a direct appropriation from the Treasury, but they were not willing at this time in the condition of the country to recommend an appropriation of the money. Hence they agreed to report a bill making a direct appropriation of lands instead of money. It is on a new principle. There are no reservations made, and the Government will derive no advantage from the "construction of the work in the increased value to other lands that

may be retained adjacent to the work." It is due to the Senate that that fact should be stated. The principle that controlled the committee was this: they thought the work was of sufficient importance to justify a direct appropriation of the money from the Treasury. They believe that this will make one of the best harbors on the lake, and that it ought to be improved for the purpose of protecting our commerce. With this statement I leave it to the Senate.

Mr. DOOLITTLE. It is due also to the Senate to state that it is not entirely without precedent. In the grant of lands to create the Sault St. Marie canal the same principle was adopted. This bill follows that. It was a grant of so many acres of land to be selected within a certain region of country to aid in the construction of the Sault St. Marie canal, which connected Lake Superior with Lake Huron and Lake Michigan. This bill, therefore, is not altogether without precedent.

The honorable Senator from Iowa has hardly stated the importance of the opening of this point as a harbor on the west coast of Lake Michigan in as strong language as the facts will bear. It is a long distance between the harbor of Sheboygan, the only one that is open to vessels in a storm, and Death's Door upon the north, the entrance of Green bay, one hundred and fifty miles probably; and on that coast shipwrecks sometimes take place. The opening of this canal of only a mile and a half will connect the deep waters of Green bay with Lake Michigan, and will shorten the navigation for all vessels that desire to go to Green bay when they are on the way to Chicago probably one hundred and fifty miles on the round trip.

The bill was ordered to be engrossed for a third reading; was read the third time, and passed.

#### LAND CLAIMS OF WISCONSIN—AGAIN.

Mr. DOOLITTLE. The Senator from Iowa [Mr. HARLAN] is now in his seat, and I hope the resolution called up by the Senator from Indiana a short time since will now resume its place and be taken up for consideration.

Mr. CONNESS. I hope the Senator from Indiana will consent, as that resolution will probably occupy the morning hour, to allow me to call up the bill in relation to the College Rancho in California, which was under consideration the other day and which will not now excite any discussion, as we are agreed upon it, and let it be passed. It will only occupy a moment. With his consent I will make the motion to take up that bill.

The PRESIDENT *pro tempore*. Does the Senator from Wisconsin withdraw his motion?

Mr. DOOLITTLE. I will say to my honorable friend from California that I do not know that this resolution is to be discussed any more than it has been discussed; we are ready to vote as I understand it.

Mr. CONNESS. I hope that will be the case. I have no objection to its being taken up if that is so.

The motion was agreed to; and the Senate resumed the consideration of the joint resolution (S. No. 8) for the relief of the State of Wisconsin.

The PRESIDENT *pro tempore*. The question is on the passage of the resolution.

Mr. HARLAN. I moved on last Saturday to amend the amendment adopted in Committee of the Whole by striking out all of the amendment after the word "canal" in the twentieth line.

The PRESIDENT *pro tempore*. It will be necessary for the Senator to reconsider the vote ordering the resolution to be read a third time.

Mr. HARLAN. I offered that amendment at the moment the special order was called up on last Saturday, so that I think the question was not put upon it at the time.

The PRESIDENT *pro tempore*. The Senator may not be aware of the fact that the resolution has been up this morning and been ordered to a third reading when the Senator was out of his seat.

Mr. HARLAN. Then I move a reconsideration of the vote ordering the resolution to be read a third time.

Mr. HOWE. I do not wish to take any advantage, but really I suppose the Senator is not authorized to move a reconsideration of that vote, as he was not present.

Mr. TRUMBULL. I was present, and I will make a motion to reconsider the vote by which the joint resolution was ordered to a third reading.

The motion was agreed to.

Mr. HARLAN. I now make the motion to amend the amendment by striking out all after the word "canal" in the twentieth line to the end of the amendment.

The PRESIDENT *pro tempore*. There is another vote that will have to be reconsidered first, and that is on concurring in the amendment made in Committee of the Whole as amended. That will be regarded as reconsidered by unanimous consent, if there be no objection.

Mr. HARLAN. I now move to strike out all of the amendment after the word "canal," in the twentieth line, in the following words:

And the said Secretary shall also settle and allow to the Milwaukee and Rock River Canal Company such sums of money as have been properly expended by said company in the survey and location of said canal, in the construction thereof as far as the same has been constructed, together with dams, locks, and slack-water navigation, and in the management and keeping the same in repair; and the same shall be paid to the said canal company out of any money in the Treasury not otherwise appropriated, not exceeding in amount, however, the balance charged against the State of Wisconsin upon the sales of said canal lands, as above required, after deducting the sum allowed said State for money paid by her out of the same fund. The same to be received by said canal company in full payment and satisfaction of all claims of said company against the State of Wisconsin and of the United States on account of said canal land grant, or on account of any action of the Territory or State of Wisconsin, or of the United States, in relation thereto.

Sec. 2. And be it further resolved, That the Commissioner of the General Land Office be, and he is hereby, appointed commissioner to adjust the accounts herein provided for, under the supervision of the Secretary of the Interior, and to determine what sum shall be charged to said State of Wisconsin for the lands granted for the construction of said canal; and what sums shall be credited, respectively, to said State and said company for the moneys expended by them in the construction of said locks and canal as herein provided.

I ask for the yeas and nays upon this amendment.

The yeas and nays were ordered.

Mr. TRUMBULL. I should like to have an explanation of the effect of that amendment before voting upon it. I do not know that I understand it. I hope that the Senator from Iowa, or some other Senator, will explain the effect of it.

Mr. DOOLITTLE. I do not wish to take up time in discussing it, but I will simply say this to my friend from Iowa: originally those of us who have represented the State of Wisconsin have made the same claim which the Senator from Iowa now makes in our behalf; that is to say, that it belonged to us to settle with our incorporated companies and did not belong to Congress; yet, from the fact that the committees of the House of Representatives and the committees of the Senate have always reported that we stood in the position of a trustee for the benefit of this company, holding these lands, and that we were so related to them that it was necessary that Congress should make some provision or some kind of settlement with the company, we have felt ourselves constrained to yield to the judgment of the committees and have consented that this settlement should take place in this way. I shall, therefore, be constrained to vote against the amendment of the Senator from Iowa because I want this thing to come to an end; it is nearly twenty years old, and unless we accede to what the committee report we shall never get an end to this thing and never have it settled and Wisconsin will be out of her five per cent. fund.

Mr. POMEROY. I will say in addition to what the Senator from Wisconsin has said that the committee have had the matter in charge for two years. We made a report upon it last year, but the committee were not unanimous, and we did not press it to the vote. This year the same subject was before the committee and we have agreed finally, unanimously, to this report, and I think the bill ought to pass as the committee have reported it.

Mr. TRUMBULL. The committee were not unanimous. I understand the Senator from Iowa, the chairman of the committee, to object to it.

Mr. POMEROY. This resolution was reported from the Committee on Claims and not from the Committee on Public Lands. I never knew that the Committee on Public Lands had anything to do with it.

Mr. CLARK. I do not think this amendment

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ought to prevail. The Committee on Claims considered this matter very carefully, not only this year, but they have considered it for several years, and they have always refused to allow the State of Wisconsin to have her five per cent. until this company were finally settled with. The committee desire to adjust the whole matter. They are further aware that unless it is adjusted in this way this company must always be the losers. They were drawn into an investment of their money in this enterprise by the understanding with them on the part of the Territory of Wisconsin that it was to be carried forward and to be made effectual. By the withdrawal of the proceeds of the land from the purposes of the grant, this company were left entirely without the benefit that they expected from the canal after expending their money; and now the committee think it would be a hardship, when the Territory was acting as trustee for that company and held these funds and withdrew them from the purposes of the grant, to allow the Territory, or what is now the State, of Wisconsin to have her five per cent. of the public money for schools, which has been retained, without a settlement with that company. She was the trustee in some sort for the company as well as for the Government; and the question now is, in my judgment, whether we will allow her to have her settlement and have her five per cent. fund and leave that company to hunt the State of Wisconsin, but never to receive what they ought to have had. In my judgment, it is very much better, if anything be done, that the whole matter be settled now and settled satisfactorily by the Commissioner of the General Land Office, if it can be done. The committee were willing if this matter could be settled up with all three parties, the Government, the State of Wisconsin, and the canal company, to let the settlement be made in this way.

I hope, therefore, the resolution will not be amended as now proposed by the Senator from Iowa. I certainly should feel bound to vote against it if it was. I doubt very much whether the State of Wisconsin has not been more to blame than the canal company, if anybody has been to blame. It is said that the scheme was impracticable. I think it was impracticable; but if it was impracticable, that is no reason why the canal company should lose its investment. It was a corporation within that State; and, it is said, they did not pay in their funds. They had no funds to pay in. When the Territory of Wisconsin withdrew the land grant they could not command the funds to carry it on. It was impossible; it was without their control. I am imputing no blame to the State of Wisconsin; I am imputing no blame to the canal company; I am merely showing, if I can, why the company should be settled with, and why the work was not carried on. I think this amendment should not be made.

Mr. WILKINSON. I think this amendment ought to be adopted. The simple question, as I understand it, is this: the Government of the United States owes the State of Wisconsin about two hundred and fifty thousand dollars. The original resolution proposes to pay that sum, which has lain in the Treasury of the United States for a great many years, to the State of Wisconsin, upon one condition, that there shall be deducted therefrom about one hundred thousand dollars, which Wisconsin had received for certain land, which land was appropriated to this canal company, and which money Wisconsin had appropriated to her own use. The balance of the money, being about one hundred and fifty thousand dollars, by the report of the Committee on Claims, is either to be paid to the canal company in Wisconsin or to lie in the Treasury of the United States. I am opposed to saddling upon the State of Wisconsin in this resolution the unliquidated claims of this canal company. I do not think it is fair that a defunct, bankrupt company should come in, when Wisconsin asks to be paid her percentage upon the sales of the public lands, and undertake to saddle this unliquidated claim upon this resolution. The portion of the amendment

of the committee which is now proposed to be stricken out does not provide that Wisconsin shall pay anything over to this company, but it provides that the money which would otherwise be left in the Treasury of the United States shall be paid over to this company, as I understand it. Am I not right?

Mr. HARLAN. It will come out of the five per cent. fund.

Mr. WILKINSON. A portion of this five per cent. fund is to be kept back from the amount which would have been due to the State of Wisconsin had she not received this land. It is proposed further, in addition to settling with the State of Wisconsin and paying over to her what is justly and equitably due, after deducting all reasonable offsets, that out of what is left of this sum we shall establish a commission to adjudicate the claims and interests of this company. I do not believe it is right. I do not believe this system of legislation is right. I do not believe it is fair for us to incorporate into a resolution of this nature, which ought to be a plain and simple settlement of the accounts of Wisconsin, the interest and claims of a defunct company in that State, and attempt to saddle it upon this resolution. If there is anything due to this company why cannot they bring in their independent bill and let the Committee on Claims report upon it? And if they say it is right I will vote for it. So far as the State of Wisconsin is concerned, her account can be settled very easily. It is known how much land she received; it is known just how much money she paid to this company; and charging her with the balance and taking it out of the \$250,000, or thereabouts, which was due to the State of Wisconsin settles the whole thing, so far as the State is concerned, very easily.

It is said that here is a just and honest claim of the State, but this company, as I understand it, like the dog in the manger, says to the State: "You shall not have this money unless we can saddle our claim on the resolution, and let your good bill carry our bad one through Congress." I do not like such legislation.

Mr. CLARK. The Senator from Minnesota mistakes this matter very much, I think. If he will look a little into the history of the transaction he will find that there was a provision passed by Congress that the State of Wisconsin should be entitled to her five per cent. when she had settled with the canal company. Congress imposed it upon the State of Wisconsin that she should settle with the canal company.

Mr. HARLAN. I think the Senator is in error.

Mr. DAVIS. I do not understand the law to be so.

Mr. CLARK. That is the way I interpret the law, and the way the law has been held for some time, for the State of Wisconsin has been continually coming to ask to be settled with without reference to the canal company, and Congress has said, "No, we will hold you to settle with the canal company." They have failed to do it. They now come and ask to be settled with; but, instead of holding them to settle with the canal company, we propose that Congress shall retain the money which would belong to them and settle with the company themselves; in that way the thing may be settled. That is the way I understand the matter, and I think it is the fair interpretation of it. It is saddling no debt upon the State of Wisconsin.

Mr. WILKINSON. I understand that.

Mr. CLARK. The Senator says he understands that. He said a moment ago that if the canal company would come to the Committee on Claims and present their claim and they should report in favor of it, he would vote to pay it. This resolution provides that the claim shall be ascertained, and, after the State of Wisconsin is fairly settled with, they agree to take what they are entitled to, not exceeding the fund, and the committee are inclined to say that they ought to have it, and that the thing had better be adjusted at the same time. As I understand it, it is saddling no-

body with any debt, taking no money from anybody, but giving to the company their fair expenditure, what they have fairly put into this fund.

I think the Senator from Iowa was very— I was about to say, unjust; I will not say that, because he is never unjust—I think perhaps he was a little hard in his talk about lobbying a claim through, and that the United States was called upon to pay it. Nobody contends or pretends, that I am aware, that such is the case. I do not believe the commissioner or anybody else would allow that. It was urged in the committee that we should allow the interest. The committee did not think it best to do it, but thought the whole matter might be fairly adjusted in this way. It is very true, as the Senator from Vermont [Mr. COLLAMER] stated, the public might be deprived of the benefit of the school fund which the State of Wisconsin would otherwise have, but that will result from the previous legislation. I have no objection that Wisconsin should be held to keep that school fund good, not the least; but I think it is important that this whole matter should be adjusted.

Mr. HARLAN. I have been greatly surprised that I should differ from the Senator from New Hampshire on a subject of this kind, for I know how very clear his perceptions are, how careful he is in the examination of subjects, and I know how just he is, but I think he does misapprehend the facts and the law in this case. If I understand it correctly, he has misstated it this morning.

Wisconsin became entitled to the five per cent. on the entire proceeds of the sales of the public lands, not by virtue of the law admitting her into the Union, but under a law enacted in 1841, providing for the distribution of the sales of the public land, and granting preemption rights. After the enactment of that law each of the new States thence afterwards to be admitted into the Union became entitled to this five per cent., and also to five hundred thousand acres of the public lands to be selected by the new States. The law to which the Senator has referred is a law authorizing Wisconsin to divert this fund from the original purpose to a new purpose. In ceding to the State to make this diversion from internal purposes to the support of schools the Government imposed the condition that the State of Wisconsin should pay the obligations of the Territory of Wisconsin arising under this canal grant. That is the true state of the case. Wisconsin would have been entitled to this five per cent. and to the five hundred thousand acres of public lands under the law of 1841.

Mr. CLARK. I hold the law in my hand, and by the act of May 29, 1848, for the admission of Wisconsin into the Union, it was provided:

SEC. 2. And be it further enacted, That the assent of Congress is hereby given to the first, second, fourth, and fifth resolutions adopted by said convention, and appended to said constitution; and the acts of Congress referred to in the said resolutions are hereby amended so that the lands granted by the provisions of the several acts referred to in the said first and fourth resolutions, and the proceeds of said lands, and the five per cent. of the net proceeds of the public lands therein mentioned, shall be held and disposed of by said State in the manner and for the purposes recommended by said convention.

Provided, That the liabilities incurred by the territorial government of Wisconsin under the act entitled "An act to grant a quantity of land to the Territory of Wisconsin for the purpose of aiding in opening a canal to connect the waters of Lake Michigan with those of Rock river," hereinafter referred to, shall be paid and discharged by the State of Wisconsin.

Mr. HARLAN. Certainly; that is as I understood it, Mr. President. There is no new grant in that law, none whatever. It refers to the original laws under which the State would have been entitled to this five per cent. and to the five hundred thousand acres of land. There is no new grant; but Wisconsin in her application to become a State of the Union asks leave to divert that fund from works of internal improvement to school purposes, and in permitting this diversion Congress says, "You may make this diversion, provided you will pay the liabilities of the Territory of Wisconsin originating under a law appropriating land for canal purposes." Wisconsin then derives nothing from that law whatever. She

agrees to fulfill the obligations of the Territory, and the only obligation pertinent for examination here to-day, as it seems to me, is her obligation to pay the United States \$2 50 an acre for that land, provided the canal should not be completed in ten years. It has been thus understood from that time to the present, and she has been charged with the whole of that land at that rate from that time to this.

The case then stands thus: Wisconsin has a right to five per cent. of the net proceeds of the sales of the public lands. She has received the whole of this in money as it fell due up to 1851, and since then in credits which have been entered on the books of the Treasury of the United States; so that she has received up to this time the whole of that five per cent., either in money or in credits on the books of the Department. But she has received since then her 500,000 acres of land, and had received before that 138,000 acres of land, which was diminished by 13,000, I think, which was added to and became a part of the 500,000 acres, leaving an excess appropriated to Wisconsin of 125,000 acres of land more than the other new States received. She has received in money and in credits the whole of the five per cent.; she has received in land 625,000 acres, 125,000 acres of land more than enough to make her equal with the other new landed States in this respect. For that excess of 125,000 acres she has been charged at the Treasury Department at the rate of \$2 50 an acre.

What I seek to do is to so modify that charge as to hold her responsible for this excess of one hundred and twenty-five thousand acres of land at the rate of \$1 25 an acre, not that she will be entitled to this under the law technically, but as she sold the land for \$1 25 an acre, as it is said, and I think truly, it would seem to me to be wrong to hold her responsible for the \$2 50 an acre for this excess. It would be unjust to Wisconsin. If we charge her that amount she would not then be equal to the other new States in this respect; she will have been charged too much. But if you charge her \$1 25 an acre only she will stand on an equal footing with the other new States. If the amendment I suggested on Saturday should prevail this will be settled in that way, putting her on an equal footing with the other States, giving her the whole of her five per cent. and the whole of her five hundred thousand acres of land.

But the Committee on Claims propose to modify this, first, by giving Wisconsin an additional credit. You charge her with one hundred and twenty-five thousand acres of land at \$1 25 an acre, and then credit her with "the amount that has been legally and properly applied by said State or Territory towards the cost of selling said land, and towards the construction of said canal." If that remains in the amendment of the committee you will have given Wisconsin that much in excess of the other new States. But then the committee proposes, in the next place, to take out of the treasury of Wisconsin indirectly, to take out of her school fund, to diminish her five per cent. the whole amount that may have been applied to this work by a corporation existing in Wisconsin, to take the money provided for by Congress in 1841 and granted to all the new States, which the most of them have since diverted for the support of schools, to take it away from the school fund and turn it over to this rotten corporation; and they do this on what ground? Because they say it is probable that Wisconsin will not pay that company. Why do they mistrust Wisconsin? Why do they suppose that the State of Wisconsin will not pay that claim if it is a just claim? Do they suppose that the people of Wisconsin are an unjust community; that the Legislature of Wisconsin cannot be trusted to settle claims between their own corporations and the State itself? There is no other pretext alleged here on this floor.

Mr. HENDRICKS. If the Senator will allow me, I will answer his question on that particular point by stating to him that the State of Wisconsin pleaded the statute of limitations by her Governor.

Mr. HARLAN. But that would not control the Legislature. I suppose the statute of limitations in Wisconsin is a creature of the Legislature itself. The Legislature that enacted that statute of limitations can modify or repeal it; so that the answer of the Senator goes for naught.

Mr. HOWE. Allow me to make one remark in regard to the answer of the Senator from Indiana. I do not know upon what authority he asserts that the State of Wisconsin pleads the statute of limitations. I do not know that she has ever done it. I do not know that she has ever been impleaded in this cause or by this company. I know that by her constitution her courts are open to the suits of her citizens and of all the citizens who can sue in any of the courts of the United States, and this company has not commenced a suit against her; and therefore the State has had no opportunity to plead the statute of limitations.

Mr. HENDRICKS. I will state to the Senator that an act of the Legislature of Wisconsin in the extra session of 1862 provided to ascertain and settle the liabilities of the State toward this company, and provided to do it through arbitrators; but the Governor and officers of the State required as a term of submission to the arbitrators that it should be provided for that the statute of limitations should be a defense. That is the mode in which it was pleaded.

Mr. HOWE. I understand the facts to be a little different from what the Senator alleges: that the commissioners who were authorized to submit this to arbitration a year or two since were required to waive the statute of limitations and declined to do so.

Mr. HARLAN. I do not perceive that the settlement of that question between the Senator from Wisconsin and the Senator from Indiana can weigh anything the one way or the other in this controversy. If the Legislature of Wisconsin has enacted a certain statute of limitations, the same Legislature can repeal it, modify it, or relax it by special law in relation to this particular case.

So the question returns, why do you want to take the money out of the Treasury of the United States due to Wisconsin as a part of her school fund and turn it over to this company? There can be no other reason assigned only that the company distrust the honesty or the justice of the State of Wisconsin; the one or the other. If they believe their claim to be a good one, then they mistrust the honesty of Wisconsin. If they believe their claim to be a rotten and bad one, as I do, then they distrust the honesty and integrity of the Legislature of Wisconsin.

The Senators from that State take the same view that I do, but they will vote for the report of the committee against their better judgment, because these men are lobbying around Congress, and have induced the members who have reported this resolution from time to time to believe or they do believe that the resolution ought not to pass without payment to this company. Because this impression exists, not because either of the Senators from Wisconsin believes it, but because other Senators have acquired that opinion in some way, therefore they will waive their own judgments and permit this unjust claim to be paid, which is of over twenty years' standing, for the sake of receiving on their part what little may yet be remaining after the payment of that claim.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The morning hour having expired, it becomes the duty of the Chair to call up the special order, which is the unfinished business of yesterday, the tax bill.

Mr. MORRILL. I move to postpone the special order in order that we may proceed with and close this subject.

Mr. GRIMES. The understanding was that we should take up the tax bill and sit it out to-day; but if we are going to occupy another hour or two with this business, I do not pledge myself to sit here through the night in order to get through with the tax bill.

Mr. POMEROY. I think a vote may be taken very soon. The Senator from Iowa has spent three mornings upon this resolution, and I presume he has not got much more to say, and we can take the vote when he has concluded.

Mr. HENDRICKS. I have a few remarks to make.

The motion was not agreed to.

#### INTERNAL REVENUE.

The Senate resumed the consideration of the bill (H. R. No. 405) to provide internal revenue for the support of the Government, to pay interest on the public debt, and for other purposes, the

pending question being on the amendment offered by Mr. COLLAMER to the seventh section of the bill, line fifteen, by striking out the words:

But the number of districts in any State shall not exceed the number of Senators and Representatives to which such State shall be entitled in the present Congress.

And inserting in lieu thereof the following:

*Provided*, That the number of districts in any State shall not exceed the number of Representatives to which such State was entitled in the Thirty-Seventh Congress, except in such States as are entitled to an increased representation in the Thirty-Eighth Congress, in which States the number of districts shall not exceed the number of Representatives to which any such State may be so entitled: *And provided further*, That in the State of California the President may establish a number of districts not exceeding the number of Senators and Representatives to which said State is entitled in the Thirty-Seventh Congress.

Mr. COLLAMER. I have examined with some care the seventh section as it now stands, and I think, consistently with the order which has been taken in relation to this bill in reference to these amendments which were offered by the honorable member from New Hampshire [Mr. CLARK] and were adopted, the much better way of effecting my object will be to strike out the seventh section as it now stands and insert in place of it what I send to the Chair. The object of my motion is instead of making new districts to preserve the old law, and for that purpose I offer this amendment.

The PRESIDENT *pro tempore*. The Senator from Vermont moves to strike out the amendment which was adopted and in lieu of the seventh section to insert what will be read.

The Secretary read, as follows:

Sec. 7. *And be it further enacted*, That the second section of an act entitled "An act to provide internal revenue to support the Government and to pay interest on the public debt," approved July 1, 1862, shall remain and continue in full force.

Mr. JOHNSON. Is there nothing in any other portion of this bill inconsistent with that section?

Mr. COLLAMER. I believe not.

The amendment was agreed to.

Mr. HENDRICKS. I move to amend the Senate amendment in section one hundred and fifty-seven, on page 207, by adding the following:

Unless subsequently duly stamped, which may be done by the holder or other person interested therein if the proper party refuses or is unable so to do: *Provided*, The same shall be invalid and of no effect between the parties thereto and in the hands of any person or persons with notice, although subsequently stamped, when made, signed, or issued without being duly stamped, with the intent on the part of the parties thereto to evade the provisions of this act.

I desire the amendment to come in immediately after the amendment originally proposed by the Committee on Finance, and before the amendment which was adopted on the motion of the Senator from Vermont. The effect of this amendment will be to provide that an instrument, when made and not stamped, may be subsequently stamped by the parties interested in it, and that it shall be good after being thus subsequently stamped; provided, however, that if the parties to the instrument at the time of the making thereof have failed or neglected to put a stamp upon it with a view to defraud the revenue, then it shall not be valid in their hands or in the hands of a holder with notice.

Mr. JOHNSON. How is the holder to know that?

Mr. HENDRICKS. I have provided in the amendment that "the same shall be invalid and of no effect between the parties thereto and in the hands of any person or persons with notice, although subsequently stamped, when made, signed or issued without being duly stamped, with the intent on the part of the parties thereto to evade the provisions of this act."

Mr. JOHNSON. I do not know that I understand the amendment very clearly, but, as it strikes me, it will in a great measure defeat the provision.

Mr. FESSENDEN. Entirely.

Mr. JOHNSON. There is not one case in one hundred where testimony of the intent could be found. I speak from some experience under a stamp act which we had in Maryland for several years. Papers were very seldom stamped as long as they remained in the hands of the original parties. Each party would agree that the stamp should not be put upon it until there was a contest, and then they put a stamp on, and as those contests arose very rarely, there was not a stamp put upon a great many, perhaps a majority, of the notes that were issued. It strikes me, and I



submit it to the Senator, that if he wishes to derive a revenue from stamps, he will in a great measure defeat the object by the amendment he proposes. There is no hardship in it, because every man who takes a note or any other instrument required to be stamped under this law knows when he receives it that it is not stamped.

The objection met by the amendment of the Senator from Vermont rests upon entirely a different ground. In the record of a deed or of any other instrument of writing which the law requires to transmit property, real or personal, it is very difficult in point of fact to record the stamping; and, independent of that, it would be necessary to go through a whole line of title in order to ascertain whether there was not some link in the chain of title which was deficient because of the omission to put on a stamp. That does not apply to such a case as is provided for in the amendment of my friend from Indiana. With the view I take of it, therefore, I should be disposed to vote against the amendment.

Mr. HENDRICKS. I desire the attention of Senators to this amendment, for I think it is really a very important one. The Senate Committee on Finance amended the bill of the House. The bill of the House rested on the policy of the old law that the instrument lacking a stamp should not thereby be made void, but that the parties should subject themselves to a penalty. That I believe was the policy of the last legislation of this sort.

Mr. FESSENDEN. No.

Mr. HENDRICKS. I do not understand that the instrument was declared void before.

Mr. FESSENDEN. Always.

Mr. HENDRICKS. Then the proposition of the House was that the Government should be secured by the penalties that should be imposed on the parties making an instrument without a stamp. The Senate proposes to declare all instruments executed with or without a fraudulent intent to be absolutely null and void if they lack the stamp. I am not willing to vote for that proposition. I think that it is unnecessarily disturbing contracts that were good between the parties, made in good faith, without a sufficient return to the Government for such injury done to trade and commerce. The Senator from Maine, in answer to the amendment as I proposed it the other day, said that so few cases would come before the courts that the evil would not be met, and therefore I have now provided in this amendment that if parties make a contract requiring a stamp and leave the stamp off for the purpose of defrauding the revenue such a contract shall be void forever as between the parties making it and in the hands of persons taking it with notice of such fraudulent intent. But suppose that an instrument has been made with the intent as between the parties to defraud the revenue and subsequently the parties put a stamp upon it, and that stamp is defaced, giving the date of the defacement of the stamp the same with the date of the instrument. There is nothing upon that instrument to show that it is void, and yet if I purchase the instrument in the course of trade, void in fact at the time, but fair and right upon its face, it is invalid by the provision introduced into this bill by the Finance Committee. I do not think it ought to be so. I think it is enough to say that the parties who make an instrument, the parties who receive the money upon an instrument that is not stamped shall be liable to punishment if they do it with a view to defraud the revenue, and enough further to say that as to all parties to such instrument if the stamp is omitted with a view to defraud the revenue it shall not be curable, but that persons omitting the stamp without any fraudulent intent by inadvertence may correct that by putting the stamp upon it, but if they intended to leave it off to defraud the revenue they shall be denied that privilege. It seems to me this sufficiently protects the revenue and at the same time protects innocent and honest parties.

Mr. FESSENDEN. I desire to say a few words in reply to the Senator, but before doing so I ask that the Senate will excuse me from serving on the committee of conference on the legislative, executive, and judicial appropriation bill. I was in hopes that I should find time to attend to it, but the tariff bill has now come before us, and we shall have to take that up in the Committee on Finance immediately, and I do not see that I shall be able to give my personal

attention to the settling of the legislative appropriation bill. I therefore ask to be excused.

The request was granted.

The PRESIDENT *pro tempore* appointed Mr. SHERMAN to fill the vacancy.

Mr. FESSENDEN. I do not see that this amendment of the honorable Senator from Indiana places the matter one whit better than his former amendment, which was rejected by the Senate. I regard this as a mere question whether the stamp duties shall be good for something or good for nothing. In the first place the provision with reference to a fraudulent intent amounts to nothing. In the infinite majority of cases the question never comes before a court at all. It is precisely as I stated with regard to the other amendment, it avoids none of that difficulty. In the next place, where it comes before the courts, in the few cases in which it would come, how would it be possible to prove the fraudulent intent? These are mere words that amount to nothing. The fraudulent intent rests entirely between the parties, and it is not likely they would "poach" on each other; and it leaves the whole thing, therefore, perfectly inoperative. I hope the Senate will adhere to its vote on this subject, because I am well convinced that upon it depends many millions of revenue which we cannot afford to lose.

This tremulousness and fear that we shall do some harm to somebody that is careless about obeying the provisions of the law may be a very praiseworthy feeling, but it is costly to the Government. The fact is, citizens must accustom themselves to know what the law is and must obey it. The Senator from Maryland has stated what the effect was in Maryland while they had a stamp act there. It will be precisely the same here. No harm has come, while a great deal of good has arisen, from this provision in the former bill. As I before stated, we have already extended the time, we have made good everything up to the present time, and, if necessary, we can make it good again if there is any danger arising out of it; and it is much better to do that than it is to just inform the whole country that all they have to do is to omit putting on a stamp, if both the parties agree, and if the case comes into court they can put it on there. The result will be that in almost every case it may be that people will pay no attention to the stamp law, and if they go into court it will be utterly impossible to prove any fraudulent intent, and we shall get comparatively nothing from our stamp law.

The amendment was rejected.

Mr. MORGAN. I desire to call the attention of the committee to line one hundred and sixty-two of schedule B on page 223, where a stamp for passage tickets is required. I understand that it was the intention of the committee of the House of Representatives to have the tax for steerage passengers at 50 cents, and for other passengers \$1 or more, according to the price of passage. I learn that the price of passage for steerage passengers from Liverpool to New York has been raised to \$35. The point is whether the \$30 mentioned here should not be raised to \$35, if it is the intention of the Finance Committee to have it apply to steerage passengers. That is my question. I do not propose to make any motion.

Mr. FESSENDEN. If the Senator thinks that would be the effect of it he can move to insert "five" after "thirty," and I will not object to it.

Mr. MORGAN. Then I make that motion. On page 223, line one hundred and sixty-two of schedule B, I move to insert "\$35" instead of "\$30."

The amendment was agreed to.

Mr. FESSENDEN. The same amendment must be made in the next line.

The amendment was agreed to.

Mr. MORGAN. I now propose the amendment which was offered the other evening, laid over, and printed, to insert at the end of section one hundred and twenty-four:

But no tax shall be imposed or collected from any hospital duly incorporated for the relief of the sick: *Provided*, The sick and disabled soldiers in the service of the United States, or those who have been honorably discharged therefrom, shall be entitled to participate in the benefits of such institution gratuitously: *And provided further*, That such institution shall have first procured from the Secretary of the Treasury a certificate showing that it comes within the intent and meaning of this act, and is justly entitled to such exemption.

Mr. FESSENDEN. I should like to have my friend give some reason for that.

Mr. MORGAN. There is to be a large hospital established in the city of New York, established under the will of Mr. James H. Roosevelt, a copy of which will I have, in which he provides, among other things:

"All the rest and residue of my personal estate, including all lapsed legacies, together with all my estate not heretofore well and effectually disposed of, I give in trust to the several and successive presidents *ex officio* for the time being of the respective managing boards of those five certain incorporations in the city of New York known as The Society of the New York Hospital, The College of Physicians and Surgeons in the city of New York, The New York Eye Infirmary, The Demilt Dispensary, and The New York Institution for the Blind, and to my friends the Hon. James I. Roosevelt, Edwin Clark, Esq., John M. Knox, Esq., and Adrian H. Muller, Esq., all of said city, and to the survivors or survivor of them, for the establishment in the city of New York of a hospital for the reception and relief of sick and diseased persons, and for its permanent endowment."

This amendment is offered by me at the instance of the managers of this hospital, and it is to apply particularly to it; but, as the Senate will see, I have made it general in its operation, to apply to any hospital where the sick and disabled soldiers in the service of the United States, or those who have been honorably discharged therefrom, shall be entitled to participate in the benefits of the institution gratuitously. We have not thus far, Mr. President, done very much for the soldiers after they have returned disabled. We do a good deal for them before they go; we pay them large bounties; but we do very little for them after they return. Some steps have been taken, but it has not been decided positively whether what is to be done for them shall be done by the General Government or by the States, especially in regard to providing hospitals for those that are permanently disabled; I mean those who have, perhaps, lost both arms, or both legs, or both eyes, and can do nothing.

Until something is done, it has seemed to me proper to make this amendment to this bill to encourage the establishment of such institutions. In relation to this will, we shall realize money on it, because Mr. Roosevelt is dead, and his will will be carried out. The amount is about a million dollars. The trustees applied to the Legislature of New York, and the Legislature at once granted an act of incorporation. I may say that in case the Legislature of New York did not grant the act of incorporation, another provision was made in his will, which I shall read:

"I direct my trustees promptly to apply to the Legislature of this State for proper acts to incorporate, secure, and perpetuate said hospital."

"And should such Legislature for two years next after my decease (provided the youngest of my said individual trustees living at my said decease, and my said nephew, or either of them, shall so long live) refuse or neglect to grant a liberal charter for the safe organization, conduct, and perpetuity of such hospital establishment, in accordance with the provisions of my will, I, in that event, direct my trustees, from time to time, to pay over the above bequests that may come into their possession under my will to the Government of the United States of America, trusting that Congress will pass such law or laws in respect thereof as will effect, in substance, as near as may be, the general objects I have in view. But, to prevent legal difficulties in this case, I declare my wishes so expressed to be not an imperative trust, but a mere recommendation to the Government, having full confidence that Congress will do whatever justice and right may require."

The Legislature of New York did, however, pass the law, and Congress has nothing further to do with it. It would be a little severe, they would regard it so, to have a tax imposed; and it has seemed to me to be very proper to encourage others to found similar institutions by exempting them from taxation.

Mr. FESSENDEN. There are many cases in which it seems to be a little hard, to use that expression, to exact revenue; but the same reasoning that applies to this institution would apply to all eleemosynary institutions which have capital invested; and yet, if we undertake to make distinctions in connection with revenue, there is no knowing where we shall stop. We have had several bills before us to exempt from taxation in certain cases where, perhaps, there was no very good reason, except that we deemed it improper to make exceptions.

There is no danger that the tax imposed would prevent any man from carrying out any good will that he might have toward founding an institution or aiding in the support of an institution already founded. The considerations that induce

him to do it are such as would not in any sense be affected by the fact that his money thus invested did, like all other money vested in the same way, aid in supporting the Government; and I see no reason why money thus invested should not so aid. It is all for the benefit of the people, and the personal benefit to be attained to the people is to provide them with a good Government and to support that Government.

The committee on thinking this matter over came to the conclusion that to begin to make exceptions would lead to infinite confusion; the amount would be very large in the end; every effort would be made to bring cases within the principle, if we tried to adopt a principle in reference to it, and we thought it would be entirely unsafe. We therefore objected to introducing anything of this kind into the general bill providing for the raising of revenue.

I hope that the amendment will not be adopted. I will not quarrel with my friend for suggesting it, because it is very proper for him to suggest it for the consideration of the Senate. But the best reflection which I have been able to give it, and which others of the committee were able to give it, led us to the conclusion that it would be entirely unsafe to begin a system of exemptions anywhere, and that it is best to leave all the property of the country to the operation of the general law.

The amendment was rejected—ayes eight, noes not counted.

Mr. WILSON. I move to strike out on the 134th page, in line one hundred and eighty-one of section ninety-three, the word "five," and insert "ten;" so as to read:

On screws, commonly called wood screws, a duty of 10 per cent. *ad valorem*.

The House of Representatives made this duty 10 percent. We have stricken "10" out in committee and substituted "5." I am satisfied that we had better let it stand as the House passed it. It is well known that this business is done mainly by one company, that the company has made immense sums of money. Everybody that ever looked at or heard of the company almost has grown rich. [Laughter.] It was said, it will be remembered, when we framed the tariff here a few years ago, that this company had particular favors; and now if this is stricken out I am inclined to think the same idea will go out; in fact it has already. Therefore I move to strike out "5" and substitute "10."

Mr. FESSENDEN. I do not know that it makes any sort of difference whether you fix the tax at 5 per cent. or 10 per cent., so far as the company are concerned; they will add it to the price of the screws. That is just the amount of it. We have got to put on, of course, a sufficient protection for the tariff. Whatever duty we put here, we must put a corresponding duty in the tariff bill in order to meet the burden put upon them. This company feel, as I am told, and I have no doubt it is true, that provided that is done they do not care whether you put on 5, 10, 15, or 20 per cent. It is all the same to them, because the consumers pay it; it comes out of those who buy and those who use, and not out of the company. It will not affect their profit one way or the other. It was intimated to the committee that the duty of 10 per cent. was unusually high, that it was making a distinction between this and most other articles, and that it was really higher than the system ought to be, and the committee changed it with a view to have a conference with the other House on the subject. If we adopt 10 per cent. the matter is fixed and concluded, and there is nothing further to be said about it.

If my friend from Massachusetts is perfectly satisfied on the examination he has given the subject that it is better to say 10 per cent., be it so. I confess that I am not satisfied in regard to it, and I really do not care what the Senate do with it. My own opinion was that it was better to leave the matter open for a little further discussion. Perhaps the Senator from Rhode Island can give us a little further information.

Mr. ANTHONY. These gentlemen who have committed the great offense of getting rich are my constituents. I do not know what reason there is why a duty of 10 per cent. should be put upon their production when a duty of 5 per cent. is put on other manufactures. I do not know of any reason. It is true the business has been very prof-

itable; but it is not remarkably profitable to all the men who now own the property; for although to the original stockholders it has been exceedingly remunerative, much the largest portion of the property is in the hands of men who have bought it at a price corresponding to its profits; and a man is no more likely to make a good investment by buying the stock at the price at which it rules than he is in buying stock in any other manufacturing property.

The reason that they have a monopoly of the business is because they make a better article and sell it at a cheaper price than anybody else can. They have no other monopoly except that which their patent gives them. If a man invents a machine which is valuable the Government of the United States guarantees to him fourteen years' exclusive right to use it. This company have invented, or have purchased of those who did invent, the machinery for the manufacture of screws. The price of the article is much less than it was when they commenced business, and it is a great deal better. The English article has been driven out of the market entirely, and cannot compete with the production here, if it is untaxed, unless by the use of the machinery which was invented by this company, or which they purchased of the inventor.

I hope they will be allowed to stand on precisely the same footing with all other manufacturers. This company pays to the Government now a tax of nearly two hundred thousand dollars a year.

Mr. FESSENDEN. For income?

Mr. ANTHONY. No, besides the income tax, a tax of nearly two hundred thousand dollars a year made up of the duty on the iron they import, for a part of their product must be made from imported iron, and the excise duty. Altogether, I think, they pay between one hundred and eighty and two hundred thousand dollars. I do not know of any reason why they should be singled out for a higher duty than other producers. One of the largest customers of this company is the Government. I think the Government at one time—so I have been informed—took nearly one half their entire product, so that the Government, on what it consumes, will merely collect a revenue, and then pay it back again, for the company must put the additional tax upon the article and cover the expense of collecting it.

Mr. GRIMES. That is a very extraordinary statement which the Senator from Rhode Island has just made. It may be true, but it astonishes me that the Government takes one half of all the screws that are being made by this company. I cannot conceive what on earth the Government does with them. Nobody else manufactures any.

Mr. ANTHONY. For all the arms the Government uses they make the screws.

Mr. GRIMES. But there is not a house in the whole land that has not more or less screws in it. There is not a piece of machinery hardly that has not got more or less screws in it. The Government I should not suppose could use 5 per cent. of the amount that is manufactured by this company. The Senator insists upon it that this company ought not to be singled out and any distinction made in regard to it from any other company; that is to say that we ought not to impose any larger amount of tax upon this company than upon any other. The truth is that we have regulated the tax already in other instances; we charge upon some 2½ per cent., upon others 5.

Mr. ANTHONY. Five per cent. is the highest on anything else.

Mr. GRIMES. We have regulated it, put some low and some high, because the article to be manufactured would stand the imposition of tax, and that is the reason, I suppose, that my friend from Massachusetts has proposed to increase this taxation from 5 to 10 per cent. There is no other article manufactured in America, except it be whisky and tobacco, that will stand a high rate of taxation so well as this article of screws. This company that manufactures them—and it is the only manufactory there is in the land—is the most odious monopoly there is on the continent. It has made fortune after fortune, and I believe that \$1 of actual original paid in cash represents to-day about \$100. Whenever an effort has been made to establish another screw company in opposition to them, they have always had the means to crush it down, so that

they have the entire control of the market on this continent, or at any rate in the United States.

Here is one company that alone manufactures screws. Through the agency of a single assessor and collector we can levy 10 per cent. upon them, and derive perhaps three times as much as we are deriving now, or have during the past year received into our Treasury from this tax. The amount that we shall receive will not actually come off them, as the Senator from Maine says; it will really come out of the people of the country generally, but it will be very evenly distributed through the country; and I know nothing that a large tax could be imposed upon more easily and more safely and more justly than upon screws, unless, as I said before, it be upon tobacco and whisky. I might with as much propriety protest against the levying of a tax upon the whisky and tobacco produced in Iowa, over and above 10 per cent., as the Senator from Rhode Island can protest against the imposition of more than 5 per cent. upon these screws. My constituents pay much more of the amount than the Senator's.

Mr. ANTHONY. I was in error in stating the amount of tax paid by this company. The amount of excise tax is about one hundred and eighty thousand dollars, and the duties, in gold, about seventy-five thousand dollars more; and those duties will be increased, I suppose, under the tariff bill. I hope that if these gentlemen are to be taxed, they need not be held up to public odium also. The Senator from Iowa calls them an odious monopoly. What is there odious about it? They have invented a machine which has cheapened and improved an article of universal consumption. They make a better article; they sell it at a cheaper price than the country ever paid before; and because they have made money out of it honestly, by the use of the patents, which are protected by the Government, as all other patents are, and by the use of their mechanical skill and their capital, the Senator says they are an odious monopoly; they have crushed everybody else. How have they crushed everybody else? By no other means than by selling the article cheaper than anybody else could. That is all the crushing they have done. There have been, I believe, some twenty attempts to manufacture screws in this country, and all but this and one other, I think, have failed, not through any agency of this company, but because they had not the skill or they had not the capital to stand the first loss, or they had not the processes, the machinery.

Mr. GRIMES. Because they had not the capital.

Mr. ANTHONY. Very well. Is it a crime to manufacture screws?

Mr. GRIMES. I will tell the Senator what I have understood to be the process adopted by this company, as he has raised the issue. It is a company of vast capital. It has a large stock of the manufactured article on hand. Whenever another company has made an attempt to manufacture the same species of article, it floods the market with the surplus it has already on hand as screws, and thus cuts out from any opportunity to sell, the rival company that is seeking to force itself into existence.

Mr. ANTHONY. If the Senator makes this charge and will tell what company has ever been treated in that way, I will endeavor to answer. I think he has been entirely misinformed. These gentlemen are as respectable as any man's constituents, and I believe the only way in which they have crushed out other companies is by fair and honest competition, and that they never have reduced their price below a fair profit.

Mr. DAVIS. Will it be in order to move to amend the amendment that has been proposed?

The PRESIDENT *pro tempore*. The Chair is of opinion that it will not.

Mr. ANTHONY. I only ask that this manufacture shall be put on the same basis as all others. It is a very profitable business, and I am willing it should pay the highest tax that any manufacture of the kind pays. Whisky and tobacco are of course exceptional articles, but I am willing it shall pay the highest tax that any article that enters into general consumption for useful purposes can stand.

The PRESIDENT *pro tempore*. The Chair will state to the Senator from Kentucky that if a motion were made to concur in the amendment

made in Committee of the Whole, in another view of the case, it would then be in order to amend the amendment.

Mr. CONNESS. I cannot conceive why the Senator from Rhode Island opposes the increased duty on this article because it is produced in his State. It is not consumed in his State, if produced there. The people of California will pay the 10 per cent. tax if it is imposed; the people of the West and the people of the East that use the article will pay it. I apprehend that the State of Rhode Island, while they make more of this article, use less than perhaps any other State in the Union. The reason for imposing this increased tax, I think, is a very good one. The peculiarity of the question is this: that this company have, by a patent process, produced an article that has superseded all others in use. They produce what is known by mechanics as the gimlet-pointed screw; none other is used or has been used since they have been produced, or to any great extent. No aperture has to be made when it is inserted in a piece of wood; it makes the aperture as it is turned into it; and the saving of labor in thus inserting it in any mechanical article of production is so great that the percentage added, if you add 10 per cent., will be as nothing to the consumption. The manufacturers do not pay this tax. There is not a single reason why this article should not bear the tax. If the object is to get money, and the object in getting money by taxation is to diffuse the burden and make it as light as possible by making it universal, or nearly universal, you cannot adopt a better means of doing that than by increasing the tax on these wood screws, so called. I happen to know something about them, and I cannot conceive that there is any reason in the Senator's objection to this increase of tax because the article is produced in his State. I regard the invention, simply in its character, as one of the greatest that has ever been made in America, and I think the company that is producing the article, or those who are its inventors, are entitled to great consideration; but they have become immensely wealthy, and that is all right, by the use of their invention. The community has been benefited, and the Government can now be benefited by adding a small percentage to an article of almost universal use and consumption. The consumers will pay this tax. The Senator from Rhode Island should not object simply because the screws are made in Rhode Island.

Mr. ANTHONY. I can pardon the Senator from California for not comprehending why I do not wish an interest in my State to be taxed 10 per cent., for I was utterly unable to comprehend why he would not consent to have an interest in his State taxed 1 per cent.; and as I could not understand his reason, I shall excuse him for not understanding mine. But I hope, Mr. President, that men will not be punished because by the use of their mechanical skill, their ingenuity, their capital, they have saved money and have become rich. I hope men will not be punished for benefiting the community. I am perfectly willing that this article shall be taxed. The manufacture is very profitable, although not nearly as profitable as Senators think, because the stock in the hands of many of the present owners cost its full value. I may be mistaken—I would not like to say positively—but I do not believe the stock divides more than 10 or 12 per cent. on the capital invested in it at present prices, and much of it has passed at those prices. I do not know accurately the value of the stock or the dividend; I never owned a dollar of it. I am willing that my constituents should bear their share of taxation.

Mr. GRIMES. How much money does the stock now represent?

Mr. ANTHONY. I cannot tell. A million or more.

Mr. COWAN. How much have they saved the nation by cheapening screws?

Mr. ANTHONY. They have saved the nation by cheapening screws half of what the screws cost.

Mr. CONNESS. When I was up I stated that I was at a loss to know a good reason for the opposition of the honorable Senator from Rhode Island to the proposed increase of tax, because the article was manufactured in his State. He responds to me, as he doubtless thinks very clearly and very smartly, by saying that he is not as-

tonished when I cannot perceive a reason for taxing an interest in my State 1 per cent.

Now, Mr. President, permit me to say to the honorable Senator that it is not worthy of his general acumen if he cannot see the difference between levying any amount of tax if it were 40 per cent. upon screws, and 1 per cent. upon the article of gold. The argument is contained in one sentence, namely, that the usages and laws of the civilized world have established the value of gold and silver, and no tax that you can impose upon it will enhance or increase its value. Therefore the tax, whatever it is, is paid by the possessor of the gold and silver. All you have got to do to take all the gold and silver that any man has is to multiply your tax a given number of times, and you get it all, for each time that you tax it you take a part of it away. That is the fact in regard to gold, and I am sorry the Senator cannot perceive it.

Mr. ANTHONY. Perhaps I could if there was a mine of gold in our State. [Laughter.]

Mr. CONNESS. Mr. President, there is too much of this kind of legislation here, and too much of this kind of opinion. The honorable Senator replies to me by saying that perhaps he could if they had a mine of gold and silver in his State. I honor the State of Rhode Island for its productions, and its people for their intelligence and their industry, and I have no motive that goes to taxing any product because it is a product of that State. But the logic of this case is against the Senator. The 5 per cent. or 10 per cent. that is added to the price of these screws, as I before said, is paid by me when I buy a paper of them for consumption, paid by every mechanic in America; nay, it is paid abroad, because they are exported very largely, nothing being produced in the world equal to them. Now, I cannot see any similarity in the two cases, and I am sorry that the perceptions of the Senator were not equal to my own simple perceptions on the subject.

Mr. JOHNSON. I ask the honorable chairman whether there is a tax of 10 per cent. on any other manufacture except this?

Mr. FESSENDEN. There was one on one article, but that we reduced to 5 per cent. I do not remember the article now.

Mr. GRIMES. We put thirty-five cents on tobacco manufactured in the Senator's own State of Maryland.

Mr. JOHNSON. I know you did. I was about to say that if there is not a tax of this amount on manufactures of the same description—I mean mechanical manufactures—I should be unwilling to discriminate. There is no ground to discriminate, because people have grown rich.

Mr. SHERMAN, and others. Jewelry.

Mr. FESSENDEN. Jewelry has been reduced to 5 per cent. on the motion of the Senator from New Jersey, [Mr. TEN Eyck], I think.

Mr. JOHNSON. I suggest to the Senator from Massachusetts who proposed this amendment to make the tax on this particular manufacture 10 per cent., that perhaps if he would go a little further and make it 10 per cent. on all manufactures he would raise about as much money as we want. I think he intimated the other day that he was willing to increase the tax on manufactures generally; and certainly in regard to manufacturers; who are now doing remarkably well and making money, there is just as much reason for taxing them 10 per cent. as there is for taxing this particular manufacture 10 per cent.

I think it will be found perhaps in the end that the anticipation of revenue from the bill, as it stands, will be disappointed; it will not produce as much as we want. The estimate, I understand, is about two hundred and forty or two hundred and fifty millions. That estimate will be realized, and perhaps more than realized, if the tax upon those manufactures which are known to be prosperous, the woolen manufactures, and others of that description, should be increased to 10 per cent. It seems to be admitted by the chairman that unless the tax is carried to a great extent—and the admission is no doubt correct—there will be no loss in point of fact to the manufacturer, because he will charge the additional cost to which he is subjected by the tax to his customer; and if that is true of the manufacturer of screws, it will be equally true of the manufacturer of other commodities which the public want, and which they must have. We want the money; no doubt about that. We shall want all the money we can get

that can be derived from a system of taxation which may not go to the extent of depressing manufactures or causing the whole loss to fall on the manufacturers. If the honorable member, therefore, proposes to follow up his amendment by an amendment of the same description on other profitable manufactures, I should vote with him; but I cannot agree to take this alone and leave the others to stand at 5 per cent. or less.

Mr. WILSON. I will state to the Senator from Maryland that the reason why I made this motion was that I thought this company, that has the monopoly of this manufacture in the country, could well afford to pay a tax of 10 per cent., that the article was one of general and universal consumption, and it was a good subject upon which to raise the tax imposed by the House of Representatives, 10 per cent. I understand that the members from Rhode Island in the House of Representatives were very well satisfied with this as it stood. I thought this article stood very much like whisky or tobacco, and could afford to pay a higher tax than the average of other manufactures. Therefore I propose to put this at 10 per cent. I am willing to increase the duties on manufactures generally; at any rate I would be willing to vote to raise them to 7 per cent., and I am inclined to think I shall make that motion before we are through. In fact I have two or three small amendments that I propose to move, with a view of adding to the revenue, but I certainly hope this amendment will be adopted, and that the others will, and I think we can add from seventy-five to one hundred million dollars.

Mr. COLLAMER. If I understand it aright this clause stood 10 per cent. in the House bill. We have never altered it.

Mr. WILSON. The committee altered it.

Mr. COLLAMER. We have never accepted the report. Let a separate vote be called upon it.

Mr. WILSON. Very well, and therefore I drop it now.

Mr. FESSENDEN, (to Mr. WILSON.) Call for a separate vote now.

Mr. WILSON. Very well. I call for a separate vote on concurring in the Senate in the amendment made in committee.

Mr. FESSENDEN. The Senate, in Committee of the Whole, adopted the amendment of the Committee on Finance to reduce this tax from 10 to 5 per cent. We are now in the Senate, and the question is whether the Senate will concur with the Committee of the Whole. That is the mode in which I want this question put. There is a difference between this and manufactures generally, as it is very easy to show. It may be very proper to increase the tax here, but it does not follow that it would be proper elsewhere. I have no particular opinion about it. If the Senate determine to fix it at 10 per cent., so be it.

The PRESIDENT *pro tempore*. The amendment is withdrawn. The bill is still open to amendment.

Mr. WILSON. No, sir. I call for a separate vote now on the question of concurring in this amendment of the Committee of the Whole.

The PRESIDENT *pro tempore*. The question is, will the Senate concur in the amendment made in Committee of the Whole, striking out "10" and inserting "5 per cent." as the rate of duty on wood screws?

The question was put, and it was declared that the amendment was non-concurred in.

Mr. ANTHONY. I think that vote was not understood, the form of the motion having been changed. I ask for a division. I think Senators voted under a misunderstanding.

The PRESIDENT *pro tempore*. The Chair will put the question again on concurring in the amendment.

Mr. GRIMES. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 12, nays 19; as follows:

YEAS—Messrs. Anthony, Buckalew, Clark, Cowan, Fessenden, Harris, Henderson, Howard, McDougall, Morgan, Van Winkle, and Wiley—12.

NAYS—Messrs. Brown, Cardie, Chandler, Collamer, Conness, Foot, Grimes, Harlan, Hendricks, Johnson, Pomerooy, Powell, Ramsey, Richardson, Sherman, Sumner, Ten Eyck, Wade, and Wilson—19.

ABSENT—Messrs. Davis, Dixon, Doolittle, Foster, Hale, Harding, Hicks, Howe, Lane of Indiana, Lane of Kansas, Morrill, Nesmith, Riddle, Sautsbury, Sprague, Trumbull, Wilkinson, and Wright—18.

So the amendment was non-concurred in.



Mr. WILSON. I propose to add as an additional section to the bill the following:

*And be it further enacted,* That there shall be levied, collected, and paid a stamp duty of 10 cents on every bill of sale of goods, wares, or merchandise of any kind or description, exceeding in amount \$10 and not exceeding in amount \$100; and one fourth of one per cent. on all sums exceeding \$100; and any person or persons who shall make, sign, or issue, or who shall cause to be made, signed, or issued, any bill of sale of goods, wares, or merchandise, or shall accept or pay, or cause to be accepted or paid, any such bill of sale without the same being duly stamped, or having thereupon an adhesive stamp for denoting the duty chargeable thereon, with the intent to evade the provisions of this act, shall for every such offense forfeit the sum of \$200, and such bill of sale shall be invalid and of no effect.

I intend to occupy but a few moments, as I am anxious to get this bill through, but I am still more anxious to have it go through in a form by which the required revenue can be raised. This proposition is, I think, a very simple one. It provides that on all bills of sale exceeding \$10 and up to \$100 there shall be a stamp of ten cents; on all bills of sale over \$100 a stamp of one quarter of one per cent.; and that, I think, will give us somewhere from fifteen to twenty-five million dollars revenue, and I do not think there will be the least difficulty in the world in enforcing it any more than there is in enforcing the stamp on bank checks. I am told that the easiest part of the existing law to administer is the stamp part of it. By law there are eighty-three stamps; seventy-eight of those stamps are now in use; and it is said that there is no difficulty in carrying out that part of the law. There can be none in putting the stamps on bills of sale, if you make a bill of sale an illegal document without a stamp, any more than there is in putting a stamp on a bank check or any other document. No man will settle a bill illegally to save a few cents or a few dollars. It will not require an additional man in the country to administer it, it will add nothing to the clerical force employed. I wish to quote from a letter written by Dr. James W. Stone, dated on the 9th of January, 1863, in which he says in regard to stamps:

"In my judgment the stamp sections of the act not only work to much better advantage than the other sections, but it will be no inconsiderable benefit to the Government if the stamp duties could be substituted in many if not in all instances for the other method of collecting the internal revenue: first, on account of simplicity of operation; second, on account of self-execution, the illegality of the unstamped instrument rendering suits to enforce the use of stamps needless; third, on account of the ante-payment of taxes, the stamps being purchased, in many cases, months if not years before they are used; fourth, from the surty against fraud or collusion between the numberless officers in different parts of the country, and those disposed to defraud the Government when payment is made without stamps; and lastly, from the great diminution of expense in the collection of the revenue."

I am told by collectors and by assessors that it will take not a single man more to execute the law than now; it requires no cost, no expense, except to provide the stamps, to send them out, and to sell them. There will be no more difficulty in enforcing the law in that respect than in the enforcement of the use of stamps upon any other instrument; the main strength of the position being in declaring the unstamped document itself illegal and of no effect.

Mr. JOHNSON. I think the amendment would be evaded constantly. There will be no bills of sale. Goods pass from hand to hand with bills of parcel, or they pass without any writing; and where that is the case there would be no stamp required by the amendment.

Mr. WILSON. I am told by business men, some of them dealing to the extent of millions, that there would not be one case in a hundred of any amount where the bill of sale would not be made and stamped, because nobody will risk property on any other arrangement. On little small matters it may be different, and I have exempted all transactions under ten dollars.

Mr. JOHNSON. The honorable member does not understand me. What I meant to say was that in the way the amendment is drafted the stamp would not be required unless there was a bill of sale; and therefore if there is no bill of sale the contract could not be declared void. If he proposed to make it more comprehensive than it would be by applying it merely to cases of bills of sale he might apply it to bills of parcel, and that would include a variety of cases that would be excluded if the amendment stands as it is proposed by the honorable member. If I understand it, I think the amendment would be construed to mean that the

stamp is required only where the sale in question is evidenced by a bill of sale, which, as I say, will not be and need not be, for the purpose of making the contract a valid one, done once in a thousand times.

Mr. FESSENDEN. This is the old proposition in a new shape, a tax on sales. We have had it before the Senate during the last two years some half dozen times, and always to no effect. I have neither the strength nor the disposition to argue these things over and over and over and over again. I have stated what is true, that a tax upon sales, whether you put it on the sale itself, or whether you put it on in the shape of a stamp upon every bill of parcel, is new in any country. It never has been adopted, and, as it has been deliberately considered by the committees of both Houses at three sessions of Congress and rejected, I should not suppose there was the slightest probability of its passing now. I know that some gentlemen have the same opinions with the Senator from Massachusetts. They talk with outside gentlemen who have not considered the whole subject, I think, and who state only the argument on one side. I really hope the Senate will not adopt it.

Mr. McDUGALL. The chairman of the Committee on Finance has said that the proposition to tax sales has been considered deliberately at three sessions of Congress. I take the liberty of saying, notwithstanding the observation of the Senator, that it has not been deliberately considered at any session of Congress. I remember well that three eminent gentlemen from Massachusetts came here pending the discussion on the first tax bill, and I have not seen an abler delegation come from any part of the country. They were sent as a deputation from the Boston Board of Trade. They were heard for fifteen minutes by the Committee on Finance of this body. Perhaps that was consideration for so grave a question! I remember well that as against the bill from the House of Representatives before the Committee on Finance two years ago, the idea of raising our revenue from a tax on sales was best approved by a majority of the committee. I remember well that at the solicitation of the chairman of the Committee on Finance I consented that he might report the House bill as amended in the Committee on Finance. I consented, otherwise he would not have had an opportunity to report it. When the House bill was reported by the chairman, not by the concurrence of a majority but by the acquiescence of a majority, it was understood that the then Senator from Rhode Island (Mr. Simmons) could present his views, and that I, having presented a bill embodying the principle of the tax on sales, should present my proposition before the Senate. When we did so the chairman of the Committee on Finance claimed that his bill was a report of the Committee on Finance; and the views of the Senator from Rhode Island and the views that I designed to embody as representing the advice of the Board of Trade of Boston, the Chamber of Commerce of New York, the Board of Trade of Philadelphia, and the Chambers of Commerce of Cincinnati and Chicago and all the principal cities, all concurring in the same views, were ignored and not allowed a hearing on this floor. Therefore it has not been considered.

I believed then that the advice they gave in regard to the manner of raising revenue was the best advice, and I believe it still. There was not one of those three members of the committee of the Boston Board of Trade who would not have honored the floor of this Senate; and their views were indorsed by all the organized commercial bodies of the United States. I am very glad to see the proposition brought forward again. It is a tax more easily and more justly levied, and will do more to aid the revenues of the Federal Government and secure us money to carry on the war than any of your mere stampacts. This is now taking the form of a stamp tax, as it was not as I proposed it then; but still it will bring us more money even than those subjects of taxation that have been made the basis of the revenue bill. I, by way of vindicating a sound policy as against a most immature one that was organized without reference to the lessons we had learned from abroad, favor this as a better system, better considered, more economical, and producing greater results; and I shall therefore vote with the Senator from Massachusetts.

Mr. WILSON. I wish to call the attention of

Senators for a moment to an extract from a letter from a gentleman of Philadelphia; and I must say that I think the gentleman whose letter I am about to read understands this whole subject of taxation exceedingly well. He says:

"This immense source of revenue in England?"—

That is, stamps on bills of sale—

"where every bill, large and small, is stamped, has been ignored with us. Now, that the wants of the Treasury can be no longer smothered, it is well to place taxation upon some sources of revenue, of which bills of sale can be made, I repeat, a very large one. Many of the objects upon which stamp taxes have been imposed can be successfully passed from hand to hand, evading the stamp duty. A bill of sale is not one of these."

It is certain that it will cost the Government nothing for additional officers. If we sell one million, two million, five, ten, or twenty-five million stamps, and they are used, we gain so much. Therefore I hope we shall try it. There is no harm in trying it. It is simply a stamp tax on bills of sale, and if there are no bills of sale made we shall get nothing, and nobody is harmed.

Mr. FESSENDEN. The very distinguished gentleman from Philadelphia who writes that letter does not know anything about the subject, and he is like a good many other gentlemen who sit quietly at home and think they understand the whole revenue system. A letter from them is conclusive on the subject when they look only at a single thing, and they and the honorable Senator from Massachusetts give no credit whatever to the many men who have studied this subject, and looked at it all they could for hours and days and weeks, and tried to come to a just conclusion with all the light they could get from books and from the hundreds of letters, not from one distinguished gentleman but from a great many distinguished gentlemen; and therefore I think more importance is given really to the suggestion than ought to be, because it takes for granted that the committees have had no suggestion made to them, though they have been in the receipt of bushels of suggestions on all these questions.

Mr. ANTHONY. I ask the Senator from Maine to explain the difference—I do not precisely understand it—between this proposition and the tax on all receipts in England. I understand this is a tax on every receipted bill there.

Mr. FESSENDEN. There is a tax in this bill on receipts.

Mr. ANTHONY. Is not this a tax on receipts?

Mr. FESSENDEN. Substantially. If the Senator will allow me a moment I will explain, and I will continue to stand here and explain these things over and over again as long as my physical strength holds out, day after day until this time next year, if Senators insist on trying these questions so many times. We put a tax upon bills of sale of ships. Wherever, in order to make a sale valid there must be evidence of it in writing registered or recorded, you can reach it, because the document must so exist; and it is so with regard to ships. It is not so that I am aware of with any other article of personal property, because personal property passes by delivery. A man comes to me and buys a horse, or any other article, no matter what; I pass the thing over to him and he pays me my money, and there is the end of it; or if I give him credit on my books, when he comes and pays me the money I balance my books and there is the end of it. You cannot oblige a man to make a bill of sale; he does not need it; the thing is past.

Delivery is as good as any writing. Therefore it is useless to attempt to put a tax on papers that the law does not require, because anybody disposed to avoid it will simply say, "Here is my money, give me the goods, and that is the end of it." But people want a receipt for money paid. That is a thing that is important, and a tax, as I said before, is put upon receipts for money. The committee did not like the wording of that clause exactly, and they struck it out for the purpose of having it more deliberately considered in a committee of conference as they supposed it would be. If I supposed it would not be considered in the committee of conference I would non-concur in what was done by our committee in that respect and restore the tax on receipts to where it stood in the bill. I am inclined to think we can get considerable money out of it, because a receipt for money a man will have when it is due. That is as far as we can go, unless you pass a

law compelling every man when he makes a sale to give a bill of sale or a bill of parcel, and that, I think, we are hardly prepared to do. If you pass it, you cannot enforce it, that I can perceive, and it would be useless.

To meet what the distinguished gentleman who writes the letter to my friend means to cover, and all he can cover, is merely to put a tax upon receipts, and that will amount to something, because the necessity of having a receipt will control the question of the stamp; but it is not so in regard to mere common sales of property which pass by delivery. The amendment proposed by the Senator from Massachusetts as it stands would simply have the effect of saying to a man, "If you choose not to be content with delivery, and require a bill of sale, you must pay ten cents or twenty cents, or whatever it may be; but if you are satisfied to get possession of your goods when you pay the money, you save it." That will be the result. It will amount to just nothing. It has some sound to it, but really in my judgment no sense.

Let me say to my friend that if he intends to carry this system out, it needs a great many provisions. The bill which was introduced by the honorable Senator from California, [Mr. McDougall,] some two years ago, was a bill of some sixty or seventy sections, and all of them necessary to carry out any such system of stamps. That was predicated, if I recollect aright, on a system of stamps. But if you required stamp duties on all things of that kind, I will say to Senators it was conceded then that you would need, and that bill provided for, an infinity of officers to carry it out. You must have them, because it covers every shop of whatever description it may be throughout the whole country, and it would involve and would require a force and a system peculiar to and belonging to itself. That is the conclusion to which we came.

My honorable friend from California has gone over the history of two years ago on this subject, and charged me before the Senate with having reported a bill here from the Committee on Finance—a tax bill—without leave of the Committee on Finance.

Mr. JOHNSON. With the acquiescence of the committee.

Mr. FESSENDEN. With the acquiescence of the committee, but that they never exactly approved it. That is the idea. That is true to a certain extent. Some gentlemen approved one part and some approved another part; but all, even the Senator from California, consented that I should report the bill from the Committee on Finance, and I reported it. The Senator from Rhode Island, who was then a member, (Mr. Simmons,) had his system. He introduced it. It was not accepted by the Senate. He supported it at length, and he was voted down, and the report of the committee was accepted.

Mr. JOHNSON. Did the Senator from California propose his amendment?

Mr. McDUGALL. Allow me to ask the Senator from Maine a question. Did not the committee decline to authorize you to report the bill until I had acquiesced, and did I not cast the vote in committee authorizing you to report it?

Mr. FESSENDEN. I cannot say but that that was so. I remember that the Senator from California was very kind and accommodating.

Mr. McDUGALL. Was it not on the distinct understanding that the Senator from Rhode Island and myself might bring our propositions before the Senate?

Mr. FESSENDEN. Unquestionably. Every member had that right.

Mr. McDUGALL. My vote in committee gave the majority.

Mr. FESSENDEN. Everybody was willing that I should report the bill, even the Senator from California; but they entered a caveat that they should offer their own amendments, which was agreed to.

Mr. McDUGALL. I beg the Senator's pardon. Many were not willing at the start to let the bill be reported, but it was on my acquiescence. I had my bill printed before the committee, and the committee found fault with me afterwards, I may say to the Senate, that I had myself given the consent of the committee to the report made by the chairman.

Mr. FESSENDEN. They did not say anything to me about that. The Senator from Cal-

ifornia came in here; he offered his proposition; he took his day. He argued it, I think, for two or three hours.

Mr. McDUGALL. About an hour and a half.

Mr. FESSENDEN. He made a long speech on the subject, and he finally took a vote, and he got his own vote and one other honorable gentleman's who said he would not leave the Senator to vote alone. That was the result of it, as many of the Senate will recollect. I recollect it very distinctly. The Senator will certainly remember that when I came to reply and wind up the argument on the subject, he made a special request to me that I should not comment on his bill, because he only got a single vote for it, to which I acceded.

Mr. McDUGALL. I think the Senator's recollection is wrong.

Mr. FESSENDEN. I cannot be mistaken about that, and finally the Senator used an argument to me that he was going to vote for my bill, and therefore I might save myself the trouble of replying, and he did so vote.

Mr. McDUGALL. There is another mistake. I had voted against the Senator's bill, and the Senator appealed to me that it was a necessary measure and that the bill must pass, and therefore I yielded and changed my vote from what it was in the first instance.

Mr. FESSENDEN. It got every vote in the Senate except one or two. I did not need the Senator's vote at all. What I said to the Senator was, "You promised if I would not comment on your bill to vote for this one, and therefore I claim your promise," and the Senator performed it.

Mr. McDUGALL. I do not remember that.

Mr. FESSENDEN. I do most distinctly. That was the whole matter. There was no feeling about it. The bill introduced here, the bill that the committee acceded, if you please, to my reporting—

Mr. McDUGALL. Will the Senator allow me to say one thing, as this controversy has been brought in by myself? I remember that during that discussion, after the understanding that I have stated in committee, I had the honor of sitting in the chair which the President fills, and a controversy grew up between the Senator from Rhode Island and the chairman of the committee, in which, at that time, he ignored what I understood to be the understanding in committee. I left the chair for my place on the floor, and I will say now that the reason why I found it useless to even undertake to argue *in extenso* the measure I introduced was that the Senator insisted upon his position as chairman of the Committee on Finance, and did not allow either the Senator from Rhode Island or myself to have a fair hearing.

Mr. FESSENDEN. I do not see how it was in my power to prevent it.

Mr. McDUGALL. The chairman of the Committee on Finance is potential.

Mr. FESSENDEN. It is true that after a full discussion by the Senator from Rhode Island of his propositions, arguing them at length as much as he pleased, and some reply made by myself, the Senate voted him down; and as I said before, when the Senator from California took his turn and argued his measure at length, I did not reply, and the Senate voted him down. That is the whole story about it.

Mr. McDUGALL. The conclusion was waived by me after advancing my opinions.

Mr. WILSON. I wish simply to say to the chairman of the committee that in anything I say here on any proposition I make, I have certainly no disposition to undervalue the services of the chairman of the committee or of the Committee on Finance, or to compare my own knowledge on the subject of this bill to theirs. I have certainly some convictions in regard to this matter of taxation; I have reflected somewhat upon this bill and read it with some degree of care, and listened to all that has been said upon the subject. I moved this amendment because I thought it would give us some revenue, which we so much need at this time. I think we ought certainly to do all that we can to increase the income of the Government. The condition of the country we all know; it is understood by us all, and we have some experience in our own history in regard to these matters. During the Revolution there were a class of men who advised raising money to pay bills; another class thought they would issue paper money. We got through the Revolution and

we repudiated two hundred and fourteen millions of paper money. We paid our foreign debt, our debt to our soldiers, our debt to the States, amounting to about eighty millions, and repudiated two hundred and fourteen millions. Let our paper money run down; let our debt be overwhelming, and we shall have as soon as the war is over a party of repudiation here. We had better pay all we can now.

Mr. HENDRICKS. I want to ask the Senator how he provides for the case of sales where no bill of sale is given.

Mr. WILSON. This amendment applies to bills of sale given for goods, wares, and merchandise, and nothing else.

Mr. ANTHONY. It is a voluntary tax. If there is no receipt, there is no tax.

Mr. WILSON. I take it merchants and business men will go on with this tax precisely as they do now, and that men will not once in a hundred times buy goods where they do not take a receipt.

Mr. GRIMES. But they can do it.

Mr. WILSON. There is a possibility of it.

Mr. ANTHONY. There is no penalty.

Mr. GRIMES. All a man has to do is to have the books balanced, and receive the goods, and there is the end of it.

The amendment was rejected.

Mr. WILSON. I propose another amendment, with a view of increasing the revenue. In section one hundred and fifteen, lines twelve and thirteen, page 171, I move to strike out the word "ten" in each of those lines and insert "two," so that if the amendment should carry, the provision will be that all incomes under \$600 will be exempted from taxation; and on all incomes from \$600 to \$2,000, 5 per cent. is to be paid; and on all over \$2,000, 7½ per cent. I do it for two reasons: first, I think it will increase the revenue from incomes very largely, because we shall get 7½ per cent. from \$2,000 to \$10,000, where we get only 5 per cent. under the bill as it stands. In the next place, men of wealth think they ought not to be discriminated against because they have got a large sum of money. Perhaps some persons over \$10,000, and there are a great number in the country, would feel that they might lower their taxes enough, or try to make up the difference. But if we tax all persons that have an income over \$2,000 7½ per cent. it will reach so large a class in the community, so many men who are able to pay, that I think there will be no objection to this form in which the bill will have been placed, and we shall certainly add a great deal to the revenues of the Government.

I move to strike out "ten" and insert "two," so that all persons who have an income over \$2,000 shall pay the income tax of 7½ per cent., and from \$600 to \$2,000 pay 5 per cent.

Mr. FESSENDEN. I will simply say that I think that is too much of a tax on such small incomes.

Mr. HENDRICKS. Say \$5,000.

Mr. WILSON. Well, I will say \$5,000 on the suggestion. I move to strike out "ten" and insert "five," so as to put a tax of 7½ per cent. on incomes over \$5,000.

The question being put, there were on a division—yeas 14, nays 8; no quorum voting.

Mr. WILSON. I call for the yeas and nays. We have a quorum about the building.

The yeas and nays were ordered.

Mr. GRIMES. Is this amendment susceptible of being amended so as to make all over \$15,000 pay 10 per cent.?

Mr. FESSENDEN. That cannot be done now. After this amendment is made you can have a vote on the amendment below.

Mr. GRIMES. I am perfectly content to vote for the amendment of the Senator from Massachusetts, if we should carry out the system of gradation and let the big fellows who get from \$25,000 up to \$100,000 a year pay a proportionate rate.

The question being taken by yeas and nays, resulted—yeas 18, nays 11; as follows:

YEAS.—Messrs. Brown, Carlile, Chandler, Collamer, Connors, Davis, Doolittle, Grimes, Harlan, Harris, Hendricks, McDougall, Morgan, Pomeroy, Ramsey, Sumner, Ten Eyck, and Wilder—18.

NAYS.—Messrs. Anthony, Clark, Cowan, Fessenden, Foot, Henderson, Howe, Powell, Richardson, Van Winkle, and Wiley—11.

ABSENT.—Messrs. Buckalew, Dixon, Foster, Hale, Harding, Hicks, Howard, Johnson, Lane of Indiana, Lane

of Kansas, Morrill, Nesmith, Riddle, Salisbury, Sherman, Sprague, Trumbull, Wade, Wilkinson, and Wright—20.

So the amendment was agreed to.

Mr. GRIMES. I move now that the Senate do not concur in the amendment made by the Senate in Committee of the Whole on page 171, by which the committee agreed to strike out the words:

And not exceeding \$25,000; and a duty of 10 per cent. on the excess over \$25,000.

The committee struck out the provision of the House bill that all persons who had an income over \$25,000 should pay 10 per cent. We have established now the rule that all over \$5,000 shall pay  $\frac{7}{8}$  per cent. Now I propose to continue this gradation and make all those who receive over \$20,000 pay 10 per cent.

Mr. FESSENDEN. Why not say over \$10,000?

Mr. ANTHONY. On the excess, not on the whole?

Mr. GRIMES. It is all on the excess.

Mr. HENDRICKS. Say \$15,000.

Mr. GRIMES. I hear on all sides the proposition that I shall say all over \$15,000, 10 per cent., and some say \$10,000, and others \$20,000. I will strike the balance and say \$15,000.

Mr. HENDERSON. Certainly a tax of that sort will never affect me, but I should like to know on what principle a larger tax is imposed on an increased income. It seems to me that perfect justice requires that the same tax shall be levied on the same amount of property anywhere. I suppose that a duty of that sort will not affect the incomes in the West much; but I do not see exactly the justice of imposing a tax so heavy upon incomes, even though they be elsewhere than in my particular section of the country, unless it be imposed on other incomes. We exempt \$600; that is for the poor man; and beyond that it seems to me that incomes ought to bear the same rate. I do not see the justice of such legislation.

Mr. GRIMES. As to the practice, we have established that already by a very decisive vote of the Senate. As to the principle on which it is based, I will refer the Senator from Missouri to the Senator from Massachusetts [Mr. SUMNER] and the array of authorities which he read to us the other day from Say and other political economists, showing us that this was the principle on which all income taxes ought to be assessed, and it is not for me to controvert the authorities which the Senator from Massachusetts exhibited here in the Senate to so great an extent, and it seems that they have made such an impression on the minds of Senators that we have reversed the decision that we made at that time, and have decided exactly to the contrary to-day. Now, I propose to carry that principle out to a little greater extent, and cause these men who have large fortunes and derive therefrom large incomes to pay a little amount, only  $2\frac{1}{2}$  per cent., in addition to the rate paid by the small men who exhaust nearly all of this income in the support of their families. If there is any class of men that the distinction ought to be made in favor of and not against it is the very class of men we have discriminated against, and now we reach a class of men who have a surplus over and above the money that is necessary to meet their family expenses, and it is that class that I propose to reach and tax by the amendment that I propose.

Mr. FESSENDEN. I humbly hope it will be fixed some way or other to-day, because if we do not fix it now, to-morrow it will be fixed some other way, and gentlemen will want to argue it over again, and it will be so every day in the week. Let us have it somehow.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) The question is on the amendment of the Senator from Iowa to the amendment made in Committee of the Whole, by striking out "twenty-five" and inserting "fifteen" in the following clause:

And not exceeding \$25,000; and a duty of 10 per cent. on the excess over \$25,000.

Mr. FESSENDEN. The other amount at present is out of the bill, and those words that have been stricken out in committee have got to be restored before they can be amended. The first question will be on concurring in striking out those words.

Mr. GRIMES. I propose my amendment as a separate part of the bill.

Mr. FESSENDEN. If those words are in the bill you can make the amendment; but at present you cannot make the amendment as long as they are out of the bill.

The PRESIDING OFFICER. The question is on concurring in the amendment made in Committee of the Whole, and that is open to amendment in the opinion of the Chair.

Mr. CONNESS. As I understand the chairman of the Committee on Finance, if the Senate vote "ay" upon the proposition of the committee, then the Senator from Iowa will move to strike out the words adopted, and insert those he proposes.

Mr. FESSENDEN. Those words are now out of the bill by a vote of the Senate. The question is on concurring with the committee in striking out those words. Those, therefore, who want them stricken out will vote "ay;" those who, like the Senator from Iowa, do not want them stricken out will vote "no."

Mr. SUMNER. Before the question is put on concurring with the committee, those words are open to amendment as I understand.

The PRESIDING OFFICER. They are, in the opinion of the Chair.

Mr. SUMNER. And therefore the motion of the Senator from Iowa is in order to amend that proposition, and then the next question would be on concurring with what has been done in committee with that amendment.

The PRESIDING OFFICER. The Chair understands that the amendment made in committee can be amended before the question on concurrence is taken. The Chair may be wrong, but that is the decision the Chair makes. The first question will be on the amendment of the Senator from Iowa, to amend the amendment made in committee, by striking out "twenty-five" and inserting "fifteen."

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question now is on concurring in the amendment made in committee, striking out the whole clause, as it has been amended.

The amendment was non-concurred in.

Mr. GRIMES. In the same clause, line sixteen, I move the same amendment, to strike out "twenty-five" and insert "fifteen" before the word "thousand," in order to make it conform to the amendment just adopted.

The PRESIDING OFFICER. The other amendments necessary to make the sentence complete will be made if there be no objection.

Mr. McDUGALL. On page 140, line three hundred and forty-six, I move to strike out the word "five" and to insert the word "two;" so that the clause will read:

On quicksilver produced from the ore, a duty of 2 per cent. *ad valorem*.

I do not care to discuss this amendment. I believe it is understood very well by the Senate. The tax as it stands in the bill is a tax on the gross proceeds, and would amount to a duty on the net proceeds of something like 15 or 18 per cent. I believe there is no objection to the amendment. Two per cent. *ad valorem* will make a duty on the net proceeds of about 6 or 8 per cent.

The amendment was agreed to.

Mr. HENDRICKS. I ask a separate vote upon the amendment proposed by the committee on page 73, section sixty-three, line four. I understand that the Senate in committee have inserted there "twenty-five cents," making the tax upon beer \$1 25 a barrel. From all I understand of the subject I think a tax of one dollar is quite enough. I ask for a separate vote upon that amendment.

The PRESIDING OFFICER. The question will be on concurring in the amendment made as in Committee of the Whole, to insert the words "and twenty-five cents" after the word "dollar," in line four of section seventy-three; so that it will read:

That there shall be paid on all beer, lager beer, ale, porter, and other similar fermented liquors, by whatever name such liquors may be called, a duty of \$1 25 for each and every barrel, &c.

Mr. FESSENDEN. I really hope the Senate will concur with the committee in that amendment. I think it is very desirable to leave the question open for the consideration of the committee of conference. There is no disposition whatever on the part of anybody to put this tax

beyond what it ought to be; but if we adopt it as it came from the House of Representatives there is an end of it, and we cannot vary it, however we may see fit to vary the tax on whisky, and therefore we shall have it in precisely its present shape, and can neither raise nor reduce it. We do not know exactly what the result will be on consideration; but as there is really no disposition anywhere to put this tax beyond what the article can bear, I think it would be very much safer to leave it to a committee of conference.

Mr. HENDRICKS. I cannot think it possible that the House of Representatives will, without investigating the amendments made to this bill by the Senate, just pass a vote to disagree to the amendments, and appoint a committee of conference. I have been told by a member of the House that that would not probably be the case. I do not believe it is a very good system of legislation, and I would not vote for such a system if I were a member of the House.

Mr. FESSENDEN. It is the only system of legislation possible on a bill of this size, if you want to get through it in any time.

Mr. CONNESS. It will be remembered by the Senator from Indiana that this is a pretty vexed question. It involves the question of taxing the stock on hand. The Senate has adhered to their position upon that proposition very tenaciously; the House of Representatives have been equally tenacious, or nearly so; and I think the entire question had better be left open and left to the committee of conference. I think it would be subject to better adjustment there. I hope that course will be taken.

The PRESIDING OFFICER. The question is, will the Senate concur in the amendment made in committee? The amendment made in committee was to insert "25 cents" instead of "50 cents" after the word "dollar."

Mr. HENDRICKS. I do not want the vote just in that shape, because that would be even more objectionable. I move to strike out both "50" and "25 cents."

Mr. FESSENDEN. If the Senate do not agree to the first question, to concur in the amendment made in committee, the question would then return on the amendment proposed by the Committee on Finance.

Mr. HENDRICKS. What I want is the provision of the House bill on this subject.

Mr. FESSENDEN. Exactly; but it will require two votes. I hope it will remain as it is.

Mr. GRIMES. I hope the Senator from Indiana will withdraw his amendment. I am with him in reducing the tax to \$1; but I do not want the committee of conference, if it shall be raised on this bill, instructed by a vote of the Senate, if we shall decline to change it, to adhere to a tax of \$1 25 or \$1 50, or any higher sum than \$1.

Mr. HENDRICKS. I will say to the Senator from Iowa that if we stand by the tax of \$1, then the Senate concurs with the House, and there is no question of disagreement between the two bodies. If it is the pleasure of the Senate that this tax should be \$1, which I think from all the information I have is as high as it ought to be taxed, then there is no disagreement, and the bill is concluded in respect to this subject.

Mr. GRIMES. I think \$1 is as high as it ought to be taxed, and I think it is higher in proportion than whisky is taxed by the bill; but I would rather leave it to the committee of conference, I believe, than, not knowing what the sentiment of the Senate might be, to allow a vote to be taken with the risk of an adverse vote being given which might be regarded by any future committee of conference on the subject as a sort of instruction on the part of the Senate to stick to \$1 25 rather than to \$1 a barrel.

Mr. HENDRICKS. I do not represent this interest in any large degree, and do not feel authorized to control it, and as Senators who agree with me in opinion about it think it had better be left in this shape, of course I will yield my judgment to theirs.

The PRESIDING OFFICER. That amendment is withdrawn.

Mr. HENDRICKS. I desire a separate vote on the amendment of the committee inserting the proviso to section one hundred and nine, on page 164. I do not intend to discuss it, but this is a discrimination against State banks which I do not think ought to find its way into this bill. If you



tax State banks, I think it ought to be the same tax throughout. In some of the States, Indiana among others, the security is so ample, because of the mutual responsibility of the branch imposed by the Legislature in chartering the State banks, that the banks may with safety to the bill-holders issue more than the amount of their capital stock. The State Bank of Indiana has proved to be a very safe bank through a period of thirty years. It has proved to be a very safe bank up to this time. It has furnished a great deal of currency, beyond 90 per cent. of its capital, with which the people were well content. Their issues do not now exceed 90 per cent. as I understand; but still as the State in the charter has said that they might issue more than that, I do not think Congress ought to tax a privilege which the State has given to a bank more than the other issues of State banks, and of the national banks.

Mr. FESSENDEN. The committee regarded this provision as absolutely essential to prevent an improper inflation of the currency. It is only a tax on the excess of circulation over 90 per cent. of their capital. The national banks are expressly confined to a circulation equal to 90 per cent. of their capital. We do not undertake to prevent the issue of any amount over that by the State banks, but we provide that if they do they shall pay this tax; so that it will be giving a great advantage to the State banks over the national banks if we do not put this tax on their circulation over 90 per cent. I will say to the Senator also, that while there may be some good banks in the country, there are apt to be some very poor ones, and it will not do to omit a provision useful in itself because it may affect some who will not abuse the privilege. I hope the Senate will adhere to its action on this subject.

The PRESIDING OFFICER. The Chair will state the question. It is on concurring in the Senate in the amendment made as in committee. The committee inserted a proviso to this section, and the question now is whether the Senate will concur in the amendment made in committee.

Mr. HENDRICKS. I will ask for the yeas and nays on that question.

The yeas and nays were ordered.

Mr. FESSENDEN. Those who are for retaining the provision will vote "yea," and those who wish to strike it out will vote "nay."

The Secretary read the amendment, which was on page 164, section one hundred and nine, line eighty-two, after the word "liquidation" to insert the following proviso:

*Provided, also, That all banks, associations, corporations, or individuals, issuing notes or bills for circulation as currency, shall be liable to pay the further duty of one fourth of one per cent. in each month upon the average amount of such currency issued beyond the amount of 90 per cent. of its capital. In the case of banks with branches, the duty herein provided for shall be imposed upon the circulation of each branch, severally, and the amount of capital of each branch shall be considered to be the amount allotted to or used by such branch. And the additional duty herein provided for shall be collected and paid at the time and in the manner hereinbefore specified. And so much of an act entitled "An act to provide ways and means for the support of the Government," approved March 3, 1863, as imposes any tax of banks, their circulation, capital, or deposits, other than is herein provided, is hereby repealed.*

The question being taken by yeas and nays, resulted—yeas 23, nays 9; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cowan, Doolittle, Fessenden, Foster, Grimes, Harlan, Harris, Johnson, Morgan, Pomeroy, Ramsey, Sherman, Sumner, Trumbull, Van Winkle, Wilkinson, Wiley, and Wilson—23.

NAYS—Messrs. Carlile, Collamer, Davis, Foot, Henderson, Hendricks, McDougall, Powell, and Ten Eyck—9.

ABSENT—Messrs. Baskalew, Dixon, Hale, Harding, Hicks, Howard, Howe, Lane of Indiana, Lane of Kansas, Morrill, Nesmith, Richardson, Riddle, Saulsbury, Sprague, Wade, and Wright—17.

So the amendment was concurred in.

Mr. SHERMAN. I wish to test the sense of the Senate upon the subject of the tax on manufactures, without occupying any time upon it, because it has already been sufficiently debated. I will therefore move to strike out the word "five" in line four hundred and two, page 142, and to insert "ten." If this amendment should be made, I will then follow it up with the corresponding changes that will be necessary in this section of the bill. If the Senator from Massachusetts [Mr. WILSON] wishes a vote on a tax of 7 per cent. in the first instance I have no objection to a vote

being taken on that. The clause, if amended as I propose, will read thus:

On cloth and all textile or knitted or felted fabrics of cotton, wool, or other materials, before the same has been dyed, printed, or bleached, and on all cloth painted, enameled, shirred, tarred, varnished, or oiled, a duty of 10 per cent. *ad valorem*.

Mr. WILSON. I move to amend the amendment by striking out "ten" and inserting "seven."

Mr. SHERMAN. I suggest that perhaps it would be better to allow the vote to be taken on inserting "ten" first, and then, if that should not be agreed to, on inserting "seven."

Mr. WILSON. I would rather vote on the "seven" first.

Mr. CONNESS. The vote will be taken on inserting the largest number first.

The PRESIDING OFFICER. Does the Senator from Ohio withdraw his amendment?

Mr. SHERMAN. If the word "seven" is inserted I understand I cannot move to strike it out. I shall therefore insist on my amendment to insert "ten."

Mr. FOOT. I will suggest that, as it is proposed to insert different grades of taxation, the proper motion would be in the first place to move to strike out the word "five." If that is carried, it leaves it a blank, and then Senators can move to insert seven, eight, or ten, and the question will be taken in order, beginning with the highest.

Mr. SHERMAN. I will follow the suggestion of the Senator from Vermont. I simply wish to get the sense of the Senate on the tax on manufactures, and I will therefore move to strike out the word "five."

Mr. FESSENDEN. I wish to say simply this: the rate of duty on manufactures was fixed on great consideration by the Committee of Ways and Means, and adopted by the House of Representatives, and I think the Committee on Finance on the part of the Senate on the same consideration concluded that that was as high as the duty ought to be put upon these articles at present. I believe there is a great deal of unnecessary fright about what this bill will raise. I believe, moreover, that there is a limit to the capacity of manufactures, taken as a whole, to bear a tax. It is very different here from what it is in England. The great bulk of the manufactures there are owned by large companies, composed of men of great wealth. It is so in part to some extent in this country, but that by no means includes all manufactures. A great many of them have a hard struggle to get along, and they have not that superabundance of capital which is necessary in order to meet all contingencies.

Sensors will recollect this duty is to be paid at once on the sales. The sales are necessarily made on credit of six months, or four months, and three months. Three or four months is the ordinary rate. It requires, therefore, a large amount of money to make the payments in advance, and to await the returns of the sales; and only those possessing a large capital and having great facilities for raising money can meet them. If we attempt to put on such very heavy duties, in my judgment the result will be to put a great deal of money in the hands of rich companies having large stocks on hand, and who can stand the tax very well, while there will be other companies which are not able to keep those stocks, and which have not that power; and I am afraid the effect will be very disastrous upon them. We cannot possibly do all these things at once.

I think the mistake which my friend from Ohio makes is in supposing that all we have to do in relation to these things is to consider how much money we can get out of a given tax provided it is all paid; that it makes no difference in reality whether the tax is 5, 10, 15, 20, or even 50 per cent. I believe he thinks we can get a tax of 50 per cent. from manufactures without difficulty, because people will pay it. The result of all these things is to embarrass business to a very great extent. You must depend on the manufactures of the country for a very large and important part of your revenue, and depending upon them for a very large and important part of your revenue, the tax must be so laid as to enable them to pay it.

While in New England—and I suppose my friend from Massachusetts [Mr. WILSON] will bear me out in saying that—there are some large and wealthy manufacturing companies, there are

many smaller ones that are coming into existence and have a hard time to live, not so much perhaps manufacturers of cotton or manufacturers of wool, which are not so extensive, but there are very many small manufacturing establishments growing up in different sections of the country. The revenue you will get from one large establishment is larger perhaps than from two smaller ones, but the great mass of small manufacturing establishments after all pay the most revenue. It is the policy of the country to sustain them, and not to break them down in your effort to get more revenue out of the matter than you can well get, by simply considering, as we are too apt to do, some very large and rich companies, which perhaps could meet it and would be very glad to meet it, for the very great advantages they would derive from it over their rivals who are less able than themselves, and who are springing up all around them. I do not believe it would be for the advantage of the revenue.

Mr. SHERMAN. I do not vote for a tax of 10 per cent. on manufactures, which I know is a pretty heavy tax, with any view to discriminate against manufactures, because I know this tax will be added to the price of the article, and will be paid by the consumer, poor and rich alike. But, in my judgment, the amount of revenue that will be yielded by this bill is not sufficient during a time of war. The Comptroller of the Currency estimates the amount at \$250,000,000. I think the Senate have added to it considerably, especially in the liquor tax. But the aggregate during the next year will not exceed \$250,000,000, which, in my judgment, is inadequate to sustain the present expenditures. The additional 5 per cent. on all manufactures will yield some fifty or sixty million dollars. It will be a tax as equally distributed as any we can assess. It will be from comparatively few persons; because, although it will reach to almost every article of wear and consumption, it will be collected from the manufacturers, many of whom will pay a largely increased tax, and therefore it will be a cheaper tax to collect than one collected from a great number of individuals.

The argument on this subject is perfectly apparent to every one. It is only a question as to the rate of taxation. I have no doubt of the capacity of our people to pay a tax of 50 per cent. on manufactures if it should be necessary. It would add 50 per cent., or 60 per cent. probably, to the cost of all manufactured articles; but I believe an assessment of this kind is an easier form of taxation than any other that could be proposed. As I said in discussing this matter a few days ago, when the framers of the Constitution were first exercising their exclusive power of laying duties on imports, they hesitated on the rates of duty as between 3, 5, and 10 per cent. The first tariff law levied duties of 5, 10, and 12½ per cent. They looked upon this tax on internal manufactures very much in the same light as we do now, and they hesitated between a tax of 3 and 5 per cent.

Mr. FESSENDEN. A tax on imports is a very different thing from a tax on manufactures.

Mr. SHERMAN. I cannot distinguish between them.

Mr. FESSENDEN. The distinction is simply this: in levying a tax on imports you do not call upon the manufacturer to pay the tax on the sale of the article; but it is paid on the importation, and the importer adds the cost of importation to the price at which he finally proposes to sell it.

Mr. SHERMAN. The only difference is that the tax in the one case is collected from the importer, and in the other case it is collected from the manufacturer. In either case the cost of the duty is added to the cost of the goods in some form or other. That is the only difference that I know of. In the one case the manufacturer pays the tax, and in the other the importer. Both are mere agents of the Government to collect the tax and distribute it among the people. I cannot, therefore, see any difference between an internal tax and a duty on imports. However, it is a matter which any Senator can decide for himself.

Mr. HENDRICKS. A few days ago I insisted that the Senate should not impose a very high or unreasonable tax upon a western production. To some extent my judgment on that question was not agreed to by the Senate; but I do not intend on this question to be governed by what I thought

was wrong policy adopted by the Senate then. I think 5 per cent. is a very high tax on manufactures. It is an increase over the last tax of about 60 per cent., I understand. I think it was 3 per cent. before, and now it is 5. I think that is very high, and I shall not vote for any change from the 5-per cent.

Mr. JOHNSON. The tax you complained of was an increase of 500 per cent.

Mr. HENDRICKS. I know the increase I complained of was 500 per cent.; but the Senate said we could bear it. The Senator from Ohio repeats that argument now. How much manufactured articles will bear is a hard question to decide. Cotton and woolen goods must be worn. Common decency requires that the people should be dressed and clothed, and they must be; and perhaps if you put the tax at 50 or 100 per cent., still the people would not go naked. You can force upon the necessities of the community an enormous tax perhaps, especially if you inflate the currency according to the policy of the Administration to correspond. I will not disguise the fact, however, that my judgment on this question is to some extent controlled by the belief that the tax to be paid by the manufacturer will be put on the price of the article and finally be paid by the consumer, and I think 5 per cent. is high enough.

Mr. CLARK. I desire to make a suggestion or two in regard to a principal branch of manufacture which perhaps has not come to the notice of the Senate, though it may perhaps to some Senators; and that is the cotton manufacture. During the past year most of the cotton manufactories have been closed either wholly or partially. They had worked up the stock they had on hand when the rebellion broke out, and from the rise in cotton they made very good products and very good profits. After working up that stock on hand, they generally closed up their manufactories. They have within a few months past attempted to start again; but the supply of cotton is a very uncertain one; it is not known where it is to come from yet; the whole section of the country that formerly produced the cotton is in a very unsettled state; and the suggestion I wish to make to the Senate is whether at the present time it is desirable to increase the tax on that branch of manufacture more than two fifths or two thirds what it was before.

I will state further, as illustrating this matter, that in the city where I live, one of the cotton manufactories there has gone into the woolen manufacture, and another has recently sent an agent to England to bring out the proper machinery for the manufacture of flax, because they desire to go forward with some manufacture. They have been entirely closed as regards cotton manufactures, and they do not know where they are to get a supply of cotton.

The PRESIDING OFFICER. The question is on striking out the word "five" as the duty on manufactures.

Mr. ANTHONY. What is the idea of striking out the duty of 5 per cent.?

Mr. FESSENDEN. With a view to insert 7½ or 10.

Mr. ANTHONY. I think the amendment proposed is a pretty sweeping one. After the consideration the subject has received, I hope we shall not vary the tax.

Mr. SIEMAN. We have been considering the subject ever since the bill has been before us.

Mr. COLLAMER called for the yeas and nays; and they were ordered.

Mr. CLARK. The simple question, I understand, is on striking out "five," with a view to raising it.

The PRESIDING OFFICER (Mr. POMEROY.) That is the question.

The question being taken by yeas and nays, resulted—yeas 13, nays 16; as follows:

YEAS—Messrs. Cressess, Davis, Doolittle, Grimes, Harlan, Henderson, Johnson, Powell, Richardson, Sherman, Ten Eyck, Trumbull, and Wade—13.

NAYS—Messrs. Anthony, Clark, Collamer, Cowan, Fessenden, Foot, Foster, Harris, Hendricks, Howe, Morgan, Pomero, Sumner, Van Winkle, Willey, and Wilson—16.

ABSENT—Messrs. Brown, Buckalew, Catlett, Chandler, Dixon, Hale, Harding, Hicks, Howard, Lane of Indiana, Lane of Kansas, McDougall, Morrill, Nesmith, Ramsay, Riddle, Stansbury, Tappan, Wilkinson, and Wright—23.

So the amendment was rejected.

Mr. SUMNER. I move to insert on page 144,

after the four hundred and forty-fifth line, the following:

On tobacco in the leaf, a duty of 20 cents per pound, which shall be a lien thereon until the duty has been paid.

Mr. President, we are looking around in every direction to find an income for our country. We are looking to whisky, and we are looking to forty other different things. Now, I present one single article, which, if taxed according to the proposition I send to the Chair, will, in all probability, bring some fifty millions. It will certainly bring that unless I have been misinformed. I have a letter in my hand from a gentleman who resides in a tobacco-growing part of the country, in which he calls attention to the importance of a tax on tobacco in the leaf as a source of revenue to the country. His statement is very short and explicit, and, in short, it contains the whole case; therefore I will read it:

"The suggestion which I am about to make may reach you too late to be acted upon, even if it shall strike you favorably. I always hesitate about making any suggestion in relation to a matter pending in Congress, and when I do make one it is with diffidence and reluctance. This matter of which I am about to speak, though it has been talked about in Congress, may not have been brought to your attention. It has been brought very specially to mine. It seems to me not to have received the attention in Congress which its importance demands. This is a tobacco-raising region."

That is, where this gentleman lives—

"tobacco is now a leading product here, and it bids fair soon to become the chief product. Have you ever thought what a revenue might be derived from even a small tax from tobacco in the leaf as well as in the hands of the producer? The crop of the whole country in 1860 was about four hundred and thirty million pounds; last year the crop was two hundred and eighty million pounds; and the crop for the current year is estimated at two hundred and sixty million pounds. While it may be supposed that the crop will be smaller this year than last, here it bids fair to be much larger. A tax of 10 cents per pound, which would be very light, on two hundred and sixty million pounds would yield \$26,000,000; a tax of 20 cents per pound, which the article would well bear, would yield \$52,000,000. Such a tax would not reduce the consumption of tobacco materially; I doubt whether it would reduce it perceptibly. I do not believe it would diminish the export, for I do not see where else the world is to get its tobacco. I believe that under such a tax the production would go on increasing as rapidly as it is now increasing throughout the North. Tobacco is a luxury, and therefore one of the most fit subjects for taxation. Fifty-two millions a year! Can the country afford to lose it?"

Mr. JOHNSON. Where does the writer reside?

Mr. SUMNER. In a tobacco part of the country.

Mr. HENDERSON and others. Give us the name.

Mr. JOHNSON. What part of the country? Mr. SUMNER. In an eastern State.

Mr. JOHNSON. I suppose in Connecticut, where they raise a very fine tobacco.

Mr. SUMNER. I am not quite done, if the Senator pleases.

Mr. JOHNSON. I beg your pardon, I thought you were through.

Mr. SUMNER. The last words of this letter are:

"Fifty-two millions a year! Can the country afford to lose it?"

Mr. President, I have done my duty in presenting this question to the Senate. I believe it ought to be considered. It remains to be seen whether there are any sufficient objections to this tax. If there are, I am not aware of them. They may be developed by discussion, but they have not presented themselves to my mind in the inquiry which I have been able to give to the question since my attention has been directed to it.

You cannot fail to perceive, in the first place, the large sum that may in this way be touched; in the second place, the comparative facility with which it may be touched, particularly as compared with many other taxes which we now impose by this bill. Here, in one large lump, by a tax on a single article, we may touch a very large sum. I believe in applying our taxation to a few articles, from which we may get large sums respectively, we do much better than by distributing the taxation over a vast number of articles from which respectively we may get comparatively small sums. If I were to make a criticism on the bill now under consideration, it would be that, discarding the best examples of other countries, it taxes a large number of articles instead of a few leading articles. I find that in 1857 in England the whole amount of the excise collected

amounted to £17,000,000. I speak in round numbers.

Mr. JOHNSON. Eighty-five million dollars.

Mr. SUMNER. Yes, sir. Out of that seventeen million pounds sterling, which was the sum total of the excise tax in 1857, upwards of fifteen million pounds sterling came from the tax on two articles—spirits and malt. Of course the Government were able to abandon the multitudinous taxes on other articles, on paper, if you please, on windows, on the light of heaven; and in a much easier way, with less odium, to receive a larger return from the people. I propose that, so far as possible, we in our country should imitate that authoritative example, that we should be taught by it, and that we should apply our taxation to a few articles so far as possible, and to avoid imposing it upon the large number of articles. As an approximation to what seems to me the right rule, I move the tax on tobacco in the leaf.

Mr. JOHNSON. The honorable member certainly is right in bringing the subject before the Senate, because it comes recommended to him by a gentleman in whom he has confidence, and he is still more right if he thinks with the authority upon which he speaks. I had supposed before I inquired where the writer of that letter resided that he resided in the East, and in the tobacco-growing portion of the East, where they make a very fine kind of tobacco; a tobacco that is used almost exclusively in wrappings for cigars, and demands some sixty, seventy, or eighty dollars in the hundred. But the larger portion of the tobacco-growing region makes a very inferior tobacco. It makes so inferior a tobacco that upon an average it does not sell for more than eight or ten cents in the pound.

The honorable member proposes, if I understand his amendment, to levy, not an *ad valorem* tax upon leaf tobacco, which would cause the leaf tobacco of Connecticut and Massachusetts, if there is any grown in Massachusetts, and I believe there is, to pay a tax upon the actual value of that production; but a specific tax of twenty cents upon every pound of leaf tobacco. That as applied to Maryland tobacco and Kentucky tobacco and Tennessee tobacco would be a tax of some six or seven hundred per cent. on the value of the article, and as they are unable to sell that kind of tobacco abroad, where the most of it is sold, at a price which will justify the exportation of it and the purchase of it by the exporter at a larger amount than some eight or ten cents a pound, it would prevent the production altogether; and the effect of that would be that the entire production would be found in the eastern States, or at least would be found to consist of that very fine kind of tobacco which can only be produced in certain sections and in certain latitudes.

My friend from Massachusetts says that we ought to follow the English practice of taxation; that we ought to tax some few articles; that it would simplify the system, and would enable us to get clear of the necessity of taxing everybody and everything which enters into the use of man; but he does not propose that now. He has no idea of changing this bill, I suppose, for the purpose of modifying it so as to meet that view. He does not mean, therefore, to select tobacco for the purpose of getting clear of the other taxes to be found in this bill; but he proposes to tax tobacco some six or seven hundred per cent. higher than it has ever been taxed before. I think my ear could not have misled me, that when it was proposed just now to strike out the tax of 5 per cent. on manufactures, my friend voted against that proposition, and he voted against it with the knowledge that it was intended to fill up the blank which would have existed in the bill if the motion to strike out had prevailed, with an increased taxation beyond the amount which the committee had recommended, to seven or ten per cent. I suppose the honorable member would be willing to admit—I am sure if he will for a moment turn his mind inwardly and think of the subject he would admit—that a vast variety of the commodities which are manufactured in New England could bear a taxation exceeding 5 per cent. His colleague stated in the course of the day's session, and he stated it on Saturday, that he thought it could even bear an increase of double the amount which the committee proposed.

Mr. SUMNER. May I interrupt the Senator there?

Mr. JOHNSON. Certainly.

Mr. SUMNER. I will say that I voted on that question with great hesitation.

Mr. JOHNSON. Still you voted.

Mr. SUMNER. Still I voted, certainly. The Senator is entirely right in the statement he makes. I voted with great hesitation. I want the tax on all articles to be as much as they will bear. I was not satisfied that manufactures would bear an increased tax. There were some reasons that led me to believe that they might bear an increase perhaps to 7 per cent.; but entertaining a serious doubt on the question I voted against the change.

Mr. JOHNSON. I do not find any fault with the Senator.

Mr. SUMNER. I understand that; but I wish the Senate to know precisely what governed me.

Mr. JOHNSON. Whether the Senator hesitated or not in giving his vote was a matter that I could not know until he stated it. He voted the very moment his name was called.

Mr. SUMNER. I beg the Senator's pardon; what is very unusual with me, I forbore to vote when my name was first called.

Mr. JOHNSON. I did not observe that. He does not forbear to vote usually, and he generally speaks out loud enough.

Mr. CONNESS. His constituents will be glad to hear that he hesitated about his vote.

Mr. JOHNSON. But the result of the hesitation rather strengthens what I am about to say. He hesitated to vote; and now he says he hesitated because he doubted whether the manufacturers of the East could bear this increase of taxation. If he will hesitate again over the amendment which he now proposes, he will withdraw that amendment, because I am sure he will see that all leaf tobacco cannot bear this increased tax; and that it is just as just to us in Maryland, Tennessee, and Kentucky to be encouraged, or not to have the production stricken down in our hands, to be encouraged in the production of this tobacco, as it is in Massachusetts to have their manufacturers encouraged in their particular manufacture. I put it to him if it is not probable, or, to state it more strongly and more truly, if it is not absolutely certain, that the tobacco of the constituents whom I in part represent, and those of the contiguous States of Virginia and Kentucky and Tennessee, will not be able to bear upon their leaf tobacco such a tax as he proposes.

The honorable member perhaps, like myself, is not in the habit of using tobacco, and his thoughts may not have been turned that way. Mine have not been from choice, but because of the position which I hold. I have been somewhat instructed in relation to this commodity because of the proposal to tax it. It was proposed by the Commissioner of Internal Revenue, I think, and perhaps by the Secretary of the Treasury in his message, to tax leaf tobacco 20 cents. It alarmed all our tobacco-growing people. It alarmed our tobacco merchants in New York, Baltimore, and elsewhere who buy and export the tobacco which we make. They all said that it would not bear the tax; not because people would not chew the noxious weed or smoke it, but because with reference to that kind of tobacco which we make, they could on the Continent make just as much as they wanted, although of an inferior kind, yet not so far inferior as not to be able to compete with our articles, and the result would be that the production in Maryland and in the States to which I have adverted would be stricken down in the hands of the planters.

Mr. President, I am sure that I do not make an appeal to the honorable member in vain when I say that there ought, at least as we now stand, to be some consideration paid to the condition in which Maryland, Virginia, Tennessee, and Kentucky are. The war has rendered almost valueless our former industry in all its branches except in this one branch. The whole business of the country, as far as manufactures and other things which are found necessary for the wants of the country are concerned, has gone from us. These southern States who, false to duty and false to honor, have left us, have left us comparatively without a market. We have nothing to sell but tobacco, comparatively speaking, and that we sell abroad. Now, impose such a tax as the one suggested by the honorable member, and you take away from us that article of wealth or of comparative wealth and prosperity. I hope, therefore,

that the amendment proposed by the honorable member will not be adopted.

Mr. FESSENDEN. I will state to the honorable Senator from Massachusetts that this matter has been very carefully and thoroughly studied and considered in all its aspects in the Committee of Ways and Means, as I was informed from time to time, and they came to the conclusion that it would be very unwise in the present state of the country to put this tax on the unmanufactured article. I hope the time will come when we can do it without injuring the business. If it could be done without injury, I really should not make any objection to it; but at present I really believe it would be unwise to do it, and I believe the Committee on Finance concurred in that view.

Mr. SUMNER. If the experts testify according to the Senator from Maryland, then I see clearly that at this moment the tax that I propose might not be judicious; but I ask, what is the evidence? Of course I do not in any respect doubt the statement of the Senator; but do the experts say that such a tax as I have proposed is more than this article can bear? Do the experts say that tobacco with the tax I propose could not find a market in Europe?

Mr. JOHNSON. They do.

Mr. SUMNER. I have not so understood.

Mr. JOHNSON. Our tobacco in a great measure now is substituted by the German tobacco. The sales are falling off very much. If the Senator means by experts those dealing in the commodity, all the buyers of the article for exportation, without exception, have united in saying that a tax like the one proposed by the Secretary of the Treasury, which is the one the Senator now proposes, would be fatal to production.

Mr. SUMNER. I am not quite sure that it would be fatal to production. Of course my own judgment is of no value against the judgment of those who, from their position and lives, are familiar with the article. I must act according to the information that I receive according to my inquiries; and taking all these and their results into consideration, I must say I am not satisfied that tobacco would not bear the tax that I have proposed. But if it would not bear a tax of 20 cents, then call it 10 cents, which would give us something over \$20,000,000.

It seems to me there are two articles in our country on which we should make taxation bear, and we should shape everything in the future to that result: I mean tobacco and whisky. We can make those two articles support the Government without throwing the burden upon the multitudinous list which is in the present bill.

Whatever may be the result of the motion I have now brought forward, I am glad to have had the opportunity of calling the attention of the Senate to it, and I hope, if nothing comes of it now, that it will not be forgotten hereafter.

Mr. HENDERSON. I do not intend to argue this question, or to expend the time of the Senate upon it. I will simply say to the Senator from Massachusetts that if he will investigate the matter closely he will find that his correspondent owns a very large stock of manufactured tobacco at present on hand.

Mr. SUMNER. Not at all. He is a collector in a tobacco district.

Mr. HENDERSON. Then he may be interested in increasing his fees in that way as collector. I can state to the Senator from Massachusetts that there is not a producer of the article in this country who will tell him that any such tax can be borne. Why, sir, when the proposition was made by the Secretary of the Treasury to tax tobacco in the leaf, numbers of individuals in my State wrote to me to inquire whether it was probable that such a tax would be levied or not; that if so, they would burn their tobacco. The Senator from Ohio, [Mr. SHERMAN], I believe received similar letters in reference to this article in his own State. It is an article which perhaps is worth and is selling at \$4, \$4 50, and \$5. Individuals may take up a wrong notion in regard to such a tax; but they have a notion that it would require the selling of their farms in order to pay the twenty cents a pound on tobacco. It would not only require the sale of the tobacco, but it would require the sale of the farm on which it is grown in order to pay such a tax.

As stated by the Senator from Maryland, it is a tax of five or six hundred per cent. on various

qualities of tobacco. Any man who will suggest a tax of this sort is certainly suggesting a proposition that will ruin the growth of the article in this country. We are exporting large quantities of it now from this country; but already European countries have gone into the growth of it. We ought to encourage this production here, because it makes exchange for us in Europe; and, as was very properly stated by the Senator from Maryland, since we have lost the cotton of the South we need something upon which to build exchanges. I think, therefore, we ought to encourage the production of the article in this country upon that ground if upon no other.

This correspondent of the Senator from Massachusetts says that a tax ought to be levied on the leaf in the hands of the producer. I thought in all probability he had purchased up a large quantity of leaf tobacco, and wanted to impose a tax simply upon the leaf in the hands of the producer, not in his own of course; and I expect, if the matter were inquired into now, it would be found in all probability that he is the owner of a large amount of tobacco. I do not doubt it, because no reasonable man would make any such proposition.

Since this question of taxing tobacco and whisky, and other articles, has been before the Senate, we have been besieged here by individuals owning large stocks of those articles, and who can make fortunes out of them by a single turn of the wheel. Why, sir, a tax of 1 per cent. on some of these articles will put large fortunes into the pockets of various parties in this country. They have been thronging these lobbies ever since we have had this question under discussion; they meet you at every corner and every turn—men who expect to realize half a million by the settlement of this question. Whenever they can impose upon a gentleman in regard to these things they do it, and my friend from Massachusetts is certainly very much imposed upon when he thinks that this article can bear any such taxation as he now proposes.

If the Senator is so exceedingly anxious to increase the revenue as he professes to be, I think he ought to have voted for the proposition of the Senator from Ohio a moment ago to strike out the duty of 5 per cent. on manufactures and increase it to 7½ or 10 per cent. I do not ask him to do so, but I certainly do ask that he will look with some degree of allowance upon those gentlemen in Maryland, in Missouri, and in Kentucky and other States of the Union that produce something that is not produced perhaps in his own State.

Why, sir, some individuals regard tobacco not as a luxury, but as a necessary of life. Coffee is not a necessary or a luxury to me. I do not want it at all; but various parties must have it. There are various individuals to whom tobacco is almost as necessary as bread. Because the Senator from Massachusetts does not use the article himself, he ought not to desire to impose these taxes entirely upon everybody else or upon other people who do use it. Sir, I say this proposition is absurd.

Mr. POWELL. It is not my purpose to make a speech on this subject; but I am sure the Senator from Massachusetts has not informed himself about this tobacco trade, if he thinks he can get any revenue by taxing leaf tobacco. Is the Senator aware how much tobacco is grown in Europe with which we have to come into competition?

Mr. SUMNER. I know there is a great deal. Mr. POWELL. Why, sir, the American product is not one half what is grown in the world. Europe grows some 450,000,000 pounds, while this country produces about half that amount. In many countries of Europe where very little tobacco has been grown, Hungary, for instance, where formerly they only grew enough for their own consumption, in 1863 grew 88,000 hogheads of 1,200 pounds each, while in that year we only exported 101,000 hogheads. They are driving us out of the market all over Europe; and if you put any tax on leaf tobacco you will stop the production altogether. Heretofore we have got sometimes thirteen millions and sometimes twenty millions of money from our exportations of tobacco; but if you lay this tax on tobacco in the leaf, in my opinion we will not produce another pound for exportation.

Mr. SUMNER. I am content with the expression of opinion that has taken place, and with the permission of the Senate I will withdraw the



amendment. But before I do I will remark to my friend from Missouri that he has entirely misunderstood the character of the correspondent whose letter I read. If he knew him he would not attribute to him any such idea as he did. The letter was written in good faith, founded on what he saw in his own district under his own eyes. It was a sincere, honest suggestion, patriotically made for the good of the country.

Mr. HENDERSON. Then he did not know what he was writing about.

The PRESIDING OFFICER. The Chair understands the amendment to be withdrawn.

Mr. CLARK. It is very desirable to get through with this bill to-day, if possible, and I therefore move that the Senate take a recess from half past four o'clock until seven.

Mr. POWELL. I will suggest that we meet at six instead of seven. That will give us plenty of time to get our dinners.

Several SENATORS. Say half past six.

Mr. POWELL. Well, I will say half past six, if gentlemen prefer that.

Mr. FESSENDEN. We cannot very well get dinner in that time.

Mr. ANTHONY. I hope it will be fixed at seven o'clock. I would rather sit here without taking a recess; but if we are to go home at all we ought to have a little more time than is necessary to go home and come right back. It takes me three quarters of an hour to go home.

Mr. CLARK. Senators desire the recess to last until seven o'clock, and I do not feel disposed to shorten the time. I can come at any time that may be fixed upon. I will adhere to my motion, that the Senate take a recess from half past four o'clock till seven.

The motion was agreed to.

Mr. HARRIS. I desire to perfect an amendment that has been adopted to section one hundred and two, on page 155. I propose to strike out the proviso to that amendment and to substitute in lieu of it what I send to the Chair. It does not change the provision, but simply perfects it. It is to strike out the proviso adopted in that section and insert the following:

*Provided, That the duty hereby imposed shall not be charged upon receipts for the transportation of persons or property or materials between the United States and any foreign port.*

It is merely a change of phraseology.

The amendment was agreed to.

Mr. HARRIS. I desire also to amend that provision by striking out the words "except express companies." The words are inappropriate where they are placed, and those companies are provided for in the one hundred and third section.

The amendment was agreed to.

Mr. HARRIS. The Committee on Finance have increased the duty on stoves and hollow-ware as it was imposed in the bill by the House of Representatives from \$3 to \$5. I desire a separate vote upon that amendment proposed by the committee. I have hesitated myself to call up the subject, but my own judgment is that that tax is too high—too high in proportion to the other duties imposed upon manufactures of iron. I therefore ask for a separate vote upon that amendment. It is the clause on page 139, line three hundred and twelve:

On stoves and hollow-ware and castings of iron exceeding ten pounds in weight for each casting, not otherwise provided for, a duty of \$5 per ton.

Mr. ANTHONY. I hope that the views of the Senator from New York will prevail. The present duty upon those articles is \$1 50 a ton. The House have increased it to \$3, and the Senate have increased it to \$5. I think that is too much. All the raw material that enters into the manufacture of these articles has been increased enormously in price, three times at least. Stoves are used most largely by the moderate and poorer classes of the people. All tenement houses now are built without fire-places, and with chimneys merely for the stove-pipes. I think that tax is rather too high.

The PRESIDING OFFICER. The question will be on concurring in the Senate with the amendment made in Committee of the Whole. That amendment was to strike out "three" and insert "five."

Mr. FESSENDEN. I hope the Senate will concur with the committee in that amendment. The amendment was suggested to us by a man

of very considerable experience and knowledge. He said that much more revenue might be derived from this source without injury to anybody. I took the pains to consult with a member of the Committee of Ways and Means, in whose judgment I have a great deal of confidence, on the subject, and he concurred in it. The fact is, they stand on a different footing altogether from everything else in the manufacture of iron.

We had before us a very intelligent gentleman, a constituent of my friend from New York, who was a large manufacturer of stoves. He objected to it, not on the ground that the article would not bear it, but he said it was a tax higher than on any other manufacture of iron, and what he objected to was the discrimination. I asked him if the discrimination would affect the trade in any way. He did not say that he should sell a stove less, or that it would affect the trade in any way. I adverted to the fact that the trade was an exceedingly profitable one, extensively carried on; that almost everybody had stoves; and that it did not come in competition with any manufacture of iron whatever. He admitted that to be so. His only argument was not a matter respecting his interest, but as arising from the appearance of the thing; that they were taxed higher in proportion than other manufactures of iron. He failed utterly, being a very frank man and answering truly about it, to give any satisfactory reasons to the committee, except that it was a discrimination. He did not contend that the discrimination would be in any way injurious to the trade, but he did not like the looks of it. I suggested to him that we could not very well spare the money on that account, if we could get it. He said that the previous tax had not been adequate. He admitted that the trade was very profitable. He said that if we imposed a tax of \$3 as it stood in the House bill he thought that could be borne, but if we imposed \$5 they should be obliged to add something to the price of the stoves. I concluded that the small amount that would be added by an additional tax of \$2 on a ton of iron used in the manufacture of stoves would not amount to any more than the purchaser of a stove could well bear.

That is the question, and the whole question, as it stands. We looked at it with care and a disposition to do what was right about it. We had that gentleman before us. He appeared to be frank and upright and manly, and perhaps it was for the very reason that he was frank and manly about it that he entirely failed to satisfy us on the subject. I think it had better stand as it is.

Mr. COWAN. I do not think my honorable friend quite does justice to the gentleman who was before us on the subject of stoves and hollow-ware. I recollect very distinctly that he gave as a reason why this tax should not be raised that it would lessen the consumption; that the people who had a stove with a broken door or a cracked plate would struggle along with it for a long time rather than pay an increased price for the article; that they would get it mended rather than buy a new one. That is, perhaps, the only argument that can be adduced against the imposition of this additional tax other than that suggested by the honorable Senator from Rhode Island; and that is, that it is more than is placed upon any other article of the same kind and nature. I might add, too, that it goes further than to the stove of the poor man. It goes not only to his fireside, his fireplace, but it goes to the pot and to the skillet in which his dinner is cooked, and to the pan in which his beefsteak is fried. It covers all the class of hollow-ware, which is especially the necessity and the property of the poor.

I know of no reason why it should be taxed \$5 a ton when other articles of the same material are only taxed \$3. I hope the Senate will reduce it.

The PRESIDING OFFICER put the question and decided that the amendment was concurred in.

Mr. HARRIS. If it be not too late I will call for a division on that question.

Mr. FESSENDEN. I suggest that it is rather too late to call for a division. The result was declared deliberately.

The PRESIDING OFFICER. The Chair will put the question again if a division is demanded.

Mr. HARRIS. I wish to have another vote on the question.

Mr. FESSENDEN. We will fix it in the committee of conference.

Mr. HARRIS. I am afraid you will have too many things to fix there.

The PRESIDING OFFICER. The question is on concurring in the amendment made as in Committee of the Whole.

The amendment was concurred in, there being, on a division—ayes 16, noes 9.

Mr. ANTHONY. On page 168, line sixteen, there is a little grammatical error. It now reads, "duplicate to the assistant assessors of the respective districts." It should read, "duplicate to the assistant assessor of the district."

Mr. FESSENDEN. I think that is right.

Mr. ANTHONY. That is my amendment, and the only one I expect to get in this bill.

The PRESIDING OFFICER. That amendment will be considered as agreed to if there be no objection.

Mr. DAVIS. I have two or three amendments to offer, and I suppose the Senate might as well dispatch one of them now as to wait until after the recess. I move to insert the following as a new section:

*And be it further enacted, That the judge of each United States district court shall appoint a commission to inquire and report the nature, amount, and value of any property belonging in whole or in part to any loyal person that may have been appropriated or destroyed for the public service by any military or naval officer, or any other person, under the authority of the United States; and also the nature, amount, and description of any property belonging in whole or in part to any loyal person that may have been held, occupied, or used for the public service by any military or naval officer, or any other person, under the authority of the United States, and how much the use or occupation of such property may have been worth; and also whether any property so occupied or used was thereby damaged, and the amount of such damage. And the commission aforesaid shall report to the said judge as well in vacation as in term time, who shall thereupon confirm said report, or remand it for further proceedings; and when the report shall be confirmed by said judge, it shall be final and conclusive between the United States and the owner or owners of said property. And in all cases where the report shows any amount to be coming to any loyal owner or owners of any property, upon the presentation of an official copy thereof, with a copy of the order of the judge confirming it, to the Treasurer of the United States, at the Treasury Department, the amount reported in favor of the loyal owner or owners of such property shall be paid out of any money in the Treasury collected and paid under this act not otherwise appropriated.*

I do not propose to debate the amendment. I simply ask for a vote upon it.

The amendment was rejected.

Mr. DAVIS. I will offer another amendment of the same character, except that it is restricted to the State of Kentucky instead of being general for the United States.

Mr. FESSENDEN. I suggest to the Senator, who is a constitutional lawyer, that all laws for taxes must be uniform throughout the United States, and I suppose this amendment proposes to lay a tax on Kentucky. [Laughter.]

Mr. DAVIS. You will better understand the uniformity of it when you have heard it read.

The Secretary read the amendment, which was to insert the following as a new section:

*And be it further enacted, That the judge of the United States district court of Kentucky shall appoint a commission to inquire and report the nature, amount, and value of any property belonging in whole or in part, to any loyal person that may have been, or that may be, appropriated or destroyed for the public service by any military or naval officer, or any other person under the authority of the United States in the State of Kentucky, and also the nature, description, and quantity of any property belonging in whole or in part to any loyal person or persons within the State of Kentucky that may have been, or that shall be, held, acquired, or used for the public service by any military or naval officer, or other person under the authority of the United States, and how much the use or occupation of such property may have been worth, and also whether such property so occupied or used was thereby damaged, and the amount of any such damage. And the said commission shall report to the judge aforesaid as well in vacation as term time, who shall thereupon confirm said report, or remand it for further proceedings; but when the report shall be confirmed by said judge it shall be final and conclusive between the United States and the owner or owners of said property. And in all cases where said report shows any amount to be in favor of any loyal owner or owners of any property, upon the presentation of an official copy thereof, with a copy of the order of the judge confirming it, to the Treasurer of the United States at the Treasury Department, the amount reported in favor of the loyal owner or owners of such property shall be paid out of any money in the Treasury, equal to the amount collected and paid in the State of Kentucky under this act, except so far as the same may have been applied to the payment of the claims of the people in that State and herein provided for.*

The amendment was rejected.

Mr. DAVIS. I will offer another amendment, to insert the following as a new section:

*And be it further enacted, That no money raised under this act shall ever be applied to pay or subsidize any armed*

negroes in the service of the United States for any period of time after it goes into operation and effect.

Mr. President, I will read some facts in support of this amendment. I can as well present them before the recess as afterwards, as they will not occupy much time. I submit, of course, to the pleasure of the Senate in that regard.

Mr. HOWARD. I am very anxious to hear the Senator from Kentucky on this very important subject. It is new; it is a very novel question; and I shall be extremely happy to have him exhaust himself upon it. [Laughter.]

Mr. DAVIS. I shall be very happy to enlighten my honorable friend. I have no doubt he needs light on this and many other subjects. [Laughter.]

Mr. HOWARD. Undoubtedly. I feel the impression of the darkness that is upon my understanding, and I desire him to dispel it if he can.

Mr. DAVIS. Well, I will endeavor to do it.

Mr. GRIMES. I wish to call the attention of the Senator to the fact that his amendment does not include mulattoes. It only speaks of negroes. [Laughter.]

The PRESIDING OFFICER. It becomes the duty of the Chair to announce that, by order of the Senate, the Senate will at this hour take a recess until seven o'clock.

#### EVENING SESSION.

The Senate reassembled at seven o'clock p. m.

#### INTERNAL REVENUE.

The Senate resumed the consideration of the bill (H. R. No. 405) to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes; the pending question being on the amendment offered by Mr. DAVIS.

Mr. DAVIS. I ask that the amendment be reported.

The Secretary read the amendment, which was to insert, as a new section—

*And be it further enacted, That no money raised under this act shall ever be applied to pay or subsidize any armed negroes in the service of the United States for any period of time after it goes into operation and effect.*

Mr. DAVIS. The Senate is very thin, but I suppose that I have quite as large an amount of intelligence and a little more of attention and decorum than I should have if it were fuller, so that I prefer to go on at the present time.

I propose the amendment, Mr. President, as an economical measure, not only as a measure of right and justice to the owners of this class of property, but as one favoring the economical war administration of the Government; and in support of this position it is more my purpose to read some facts bearing upon the question rather than to make any remarks myself in support of it. I will read first from a correspondent of the Springfield (Massachusetts) Journal, writing from Port Hudson, Louisiana, on the 15th ultimo. I presume that that correspondent was a black Republican, as he was writing to a black Republican editor of a black Republican newspaper, and consequently that what he says in relation to the subject of slaves in that locality may be received by his political friends in this body as true, and is entitled to all the consideration which the truths that he relates may merit at the hands of the Senate.

Mr. POMEROY. I would inquire whether the black Republicans are the class of armed negroes that you refer to in the amendment as not being entitled to compensation. The amendment speaks of armed negroes. My inquiry is whether they are black Republicans.

Mr. DAVIS. If the Senator will have a little patience he will soon discover the bearing of the facts which I am about to read, and he will concede that they are entirely pertinent to the occasion for this reason, they prove conclusively that the negro soldier is far inferior to the white; that he is much more wasteful of the Army supplies that are furnished to him, and that he renders less service and is much more expensive to the Government that employs him; and I suppose in these views the facts that this writer relates are altogether pertinent, and go to sustain the propriety of adoption of the amendment.

"THE CORPS D'ARRIQUE."

I suppose that is a sort of classical French. I am no French scholar—

"This body of troops, organized and equipped by order of General Banks, and intended to include about fifteen thou-

sand men, having their headquarters at this post, has recently been subjected to several important changes. When the order of organization was promulgated, it contemplated the formation of eighteen regiments of five hundred men, with the same number of officers as in the regiments of one thousand."

There is one item of added expense for this description of soldiers. They are half regiments fully officered, and would consequently in that respect be twice as expensive as white soldiers.

"There were already three full regiments organized several months previous as 'Louisiana Native Guards,' and General Ullman"—

I believe he is the man who was known as the Hindoo candidate for the Presidency a few years ago—

"General Ullman had already commenced recruiting for the five regiments known subsequently as Ullman's brigade. These eight regiments were made the nucleus of the new corps, and during the summer and autumn of 1863, through the channels opened by the progress of the campaign, there were men enough enlisted to swell the number of regiments to about twenty-five, and General George L. Andrews was placed in command of the corps. But, unfortunately, it was found that the physical qualifications of the negroes were not equal to the hardships of drill and fatigue duty, many of them having in them the seeds of old and surely fatal diseases brought on by the vicious habits of plantation life, and many others being as yet young and immature in body and marked by hereditary taints. It is surprising to one unacquainted with the subject, to contemplate the terrible rate of mortality and to learn how many have lung and heart diseases, or are broken down by rheumatic affections, over-work, and ill usage. Thousands died, were discharged for disability, or deserted. The regiments dwindled down from five hundred to two hundred or three hundred; recruiting was stopped by an order from General Banks which contemplated the retention of as many able-bodied blacks as possible on the Government plantations; officers began to grow discouraged; resignations became the order of the day; disappointment on the pay question demoralized the men. All these causes combined to have an unfavorable effect on the corps.

"When the campaign commenced this season, four regiments were ordered to the field. To fill them up to six hundred each it was necessary to transfer men from three to four other regiments, leaving to each company in the latter only its officers and ten men. Then came the action of the War Department, changing the regimental numbers and designations to United States infantry, artillery, &c., and requiring a maximum of one thousand. Very little remains of the original corps, save in the regretful recollections of its past officers, and the formidable fortifications its men have erected here since the surrender of Port Hudson. General Andrews has gone North on leave, General Ullman succeeding to the command, and a full and careful inspection of all the works and forces here last week by General T. W. Sherman, who lost a leg in the siege of Port Hudson, has given rise to a rumor of a further change of commanders.

"What the future of the corps will be depends now upon the question of expediency: will the possible interests or necessities of our standing army warrant the enormous expense of organizing and drilling colored troops and bringing them up to the standard of white troops? As the resources of the South, agriculturally, are called out, the demand for labor of acclimated blacks will increase; if the available number is diminished by the requirements of a large army, there will be an increased opposition to maintaining black regiments. The question is of immediate and great importance. To fill up the black regiments in this department alone would require twenty thousand new recruits, and the relative mortality of white and black troops seems to indicate that it would be better to let the present black organizations die out and supply their places, if the necessity continues, from the army of foreigners now seeking our shores. Besides this reason there is another entering into the consideration of the subject, namely, the great cost of maintaining colored troops. They are, undeniably, idle, lazy, unproductive, and wasteful. The loss by wear and tear, such as the expense of keeping up their uniforms and equipments, of camp and garrison equipage, and all kinds of military stores and property, promises to exceed very greatly the corresponding expenditure for white troops, and it is scarcely a matter for doubt that their services are far less valuable, both in quality and quantity, to the Government. The subject is one which commands itself very forcibly to all who have an interest in the future character and condition of our national troops."

I presume that the honorable Senator from Kansas is entirely satisfied of the relevancy of the facts here detailed in connection with the subject of continuing the negro soldiers in the service, and particularly of adding to that class of soldiery. If it was not for fanaticism and partisan and political purposes individually and party, this inefficient, inferior, and expensive force never would have been enlisted. If the same considerations did not now impel to their continuance and augmentation, a sound political economy in the administration of the finances of the Government in the matter of war, and the greatest efficiency of the Army according to the number of men enrolled in it, would, in my judgment, immediately bring the Senate to the adoption of the proposition which I have presented in the amendment.

I will say, also, that in other points of view it was eminently improper to have employed this kind of soldiers. There were great and sufficient reasons not only connected with economy and

efficiency in the Army, but of humanity to the black troops themselves, and to the white troops also, that ought to have forbidden the policy of making the negro slave either an object of, or a force in, carrying on this war.

I had a friend from the town of Mount Sterling in the State of Kentucky, Captain Samuel McKee, who raised a company about eighteen months ago and joined the service. There was not and is not now any more true and trustworthy Union man in all this broad land than he; and he is yet a friend and a sustainer of this Administration, notwithstanding the effect which its peculiar measures have had upon the institutions and the industrial interests of his State. He was captured by the rebels more than a year since and confined in Libby prison. He passed through here on his exchange some three or four weeks back. He had been in Libby prison thirteen months. He informed me that the aggregate number of Union prisoners that had been carried to Libby prison and to Belle Isle during his captivity was about eighteen thousand; that the prisoners in Libby were provided for about as well as the rebels had the means, and were sheltered; that on the island they were furnished with as much food and of various classes as they had it to bestow; but there were no huts to protect them against winter; there were no hospitals; the tents were much worn, and very insufficient for the protection of the prisoners. The consequence was that there was the most frightful mortality among them. He said that he had no doubt that fully six thousand of those eighteen thousand prisoners had perished from exposure, short allowance of rations and food, and consequent disease. He told me of the fraction of a Kentucky mounted regiment, when it was captured, numbering eighty-seven, of which every man had died there but three. He informed me of the fragment of a Missouri regiment of two hundred and forty odd men, which, with this Kentucky fragment, were prisoners upon Belle Isle, and of that number he said there were remaining, when he left Richmond, only about eighty survivors, and all the others had died.

Mr. President, this friend whom I have known from his infancy, whose father and whose grandfather I knew and were my neighbors and friends, had been a prisoner there for more than a long weary year, and the aggregate of those prisoners had been confined there from a period dating before the commencement of winter. The long imprisonment and the frightful mortality of those white prisoners was one of the baleful effects of the enlistment of negro soldiers. It has been said and published hundreds of times that the confederate authorities refused to exchange for negroes, or for officers commanding negro soldiers. But I have repeatedly seen published in our public prints what purported to be extracts from theirs, which represented that when negroes who had previously been slaves were captured by them they were returned to their masters into a state of slavery, but they had always been willing and had offered to exchange negro prisoners who were free before their enlistment, and their officers just as white prisoners. I suppose that this statement of the case is true.

But, sir, in support of a resolution which I offered on this matter early in the session I assumed this position: that humanity, policy, and sheer justice to the Union white prisoners who were in the hands of the rebels required that where they could be exchanged they ought to be then and there and at once exchanged, without any regard to negro troops or their officers, or if the rebels did refuse to exchange them, that because the rebels decided not to exchange a certain class of captives, it was no just ground and ought not to have been assumed by our Government as a reason or an obstacle to the exchange of such of our white troops as they were willing to exchange. This friend of mine ventured to me this opinion, that if that vast number of prisoners who had perished there by exposure and want and disease had been speedily and in good time exchanged, the vast majority of them would probably not have perished, but would now have been living. They might have returned to their homes as exchanged prisoners, and have rejoined the service, those of them whose terms had not expired, instead of dying in a prison without any of the attentions and solaces of family, of mothers, of sisters, and of wives. The policy of not delivering them from

imprisonment, want, wasting disease, and a premature death, though the confederates refused to exchange all negro prisoners and their officers, established by Lincoln and Stanton, was not only cruel but it was murderous. It was their high duty to make every effort for the safety of the negro prisoners and their white officers, but the detention as prisoners, or even the execution of one or two hundred, or any number of them, by the rebels, in no degree mitigates the conduct of our authorities in permitting eight thousand of our white troops, who might have been exchanged, to perish in such horrible captivity. Their sufferings and death in no degree mitigated the captivity or death of the negro soldiers and their officers.

If the negro had not had arms placed in his hands, this deplorable history would never have been made.

I will name another case to illustrate the mistaken policy of incorporating into our armies negro soldiers. We read that General Wild commanded some negro forces down in the front of Richmond. He had a conflict with the enemy. Some of his troops were captured by the rebels, and his corps captured some of them. It has been published, and I have heard it stated in conversation, that General Butler, commanding that department, heard that the negro troops captured from General Wild's corps had been put to death by the rebels. Immediately he sent forward and reclaimed the rebel captives, whom he had ordered to some position up the river or North, I do not recollect where, with a view, if he ascertained that any of those negro troops had been put to death, to apply the bloody and ferocious law of retaliation to the rebel captives.

Sir, is this war to degenerate into a war of retaliation, of no quarter and general carnage? If that is to be the savage and ferocious principle—exploded ages and generations ago from all modern and civilized warfare—how shall it be applied, and to what extent? I admit the obligation imposed both by policy and humanity upon the General Government to protect all of its soldiery so far as it can do it without committing horrible outrage upon humanity. If the rebel troops put negro prisoners to death, and they who do the foul deed could be captured and identified, although I, with every man of common humanity, would feel shocked at the application of that atrocious law, I would not enter at least any open protest against their execution, but at the same time I would feel that it would outrage all humanity, that it would violate and shock the universal sentiment of Christendom; and if that principle of warfare is introduced into this contest and spreads, it will inevitably call the nations of the Christian and civilized world to interpose in the cause and for the protection of universal humanity.

But, sir, if those who murder the prisoners cannot be identified and the foul cruelty and crime fixed upon them, would our authorities put to death innocent men? Butler, I suppose, would; but I do not believe that the President of the United States could be brought to assent to it. Stanton might. Butler would, I have no doubt, if allowed, bring up and array in line men who were innocent of the crime, and because they belonged to the army that perpetrated that foul and bloody crime would himself have these innocent men bound, blindfolded, and put to death by the guns of a file of soldiery of equal or double their numbers. I maintain that such an act would be a cruel and a bloody and a most outrageous murder. The returned rebel prisoners could not be guilty, because the crime was committed after they had been captured. Sir, the soldiers in neither army are free agents. They are subject to the will and command, at the peril of life, of those who command them. It may be possible that some man who is a brute and a monster among the rebel soldiers—I do not know whether it is true or not—would, in cold blood, order the murder of these negro prisoners. If you can get the man who ordered the deed to be done, or those who voluntarily took part in it, they are the proper subjects for retributive, stern, and, if you please, bloody justice. But an unwilling instrument, a mere machine, a greater slave than the negro ever was—because every soldier is a greater slave, be he black or white, to his commander and to the military authorities under which he is placed than any man can be in any other condition—the man who is thus forced by the rigor of the universal

rule of military law to execute the order of his superior, or himself to be executed and his life to be taken for disobedience to orders or mutiny, should not be held responsible. This is true especially in regard to men who had no part in the horrible transaction and were not present when it was enacted, whose souls revolt at such a deed as much as yours or anybody's; because they happened to belong to the same army, that they should be deliberately brought up and marshaled in a line of death, and a brute, clothed with a little brief authority, should undertake to immolate them, to murder them simply because they belonged to the same cause, is an act among the most atrocious that can be conceived.

Now, sir, the employment of this most expensive and inefficient soldiery has brought our country and our Government into that cruel dilemma. There is another point of view in which I object to the enlistment of the negro—its cruelty to him. The system has been pretty much from the start, and before any authority of law, for certain regiments and corps to receive all this population that would flock to their camps. I saw it done before the President was authorized by the first act upon the subject to organize negroes for the service of the United States. I saw on one occasion, in my native town, sixty or seventy negro men inveigled into the camp of a regiment, and move off with it in its march toward Tennessee. I knew many of the owners of those negroes, and the most of them were true, loyal, Union men. They sought the commander, a Colonel Adkins, of the State of Illinois, and asked permission to go in his camp and to take their slaves home. He denied them that right. They commenced proceedings in our civil courts against him, and went with the officers of the law, bearing the process of a sovereign State in their hands, and sought to have this process executed upon the colonel, and to replevy the slaves from him. Both were denied them, and I saw soldiers, by the command of his subordinate officers, present their bayonets and force the officer of the law from the ranks in the execution of this process.

Sir, there were many officers and soldiers from the northern and northwestern States in Kentucky who demeaned themselves in the most proper and exemplary manner; regiments from Indiana, Ohio, and other States. There was a Colonel Pierce, of the veteran twenty-ninth Massachusetts. He commanded the post in my town six or seven months. He was a soldier and a gentleman. He knew his own duties and powers, and he respected the authority of Kentucky and the rights of her loyal people. So of another Massachusetts colonel and his regiment that were stationed for a considerable time in Mt. Sterling. Our people regretted when these patriotic soldiers and true gentlemen left, and cherish for them pleasant and grateful recollections. This statement applies also to Colonels Harris, Sill, Vandever, Norton, and Fyfe, of Ohio, and Curtin, of Pennsylvania, and their noble commands, and many others that I could name, and particularly from Indiana.

But, sir, the number of negroes that have perished prematurely by exposure, by want, by starvation, disease, and pestilence, from being seduced to go to the armies and the camps of the United States soldiers cannot be numbered with any proximate certainty; but it is great, fearfully great. I have no doubt that the premature deaths resulting from these causes, among the whole mass of negro population in all the localities where the armies of the United States have held post, and have moved, would number from one to two hundred thousand, judging from the statistics I have seen of particular localities. The privations, the suffering, the disease, that they never would otherwise have been subjected to, and the premature mortality resulting to these unfortunate people by being thus connected with the armies of the United States, in its mass is incalculably greater than would have befallen them in centuries of slavery as it exists in the southern States.

Why, sir, about Vicksburg and Port Hudson, and down about Berwick bay, large numbers of old men and women and children were literally starved to death, died in the woods or on the river side or the beach from exposure, want, and disease, without any attention whatever. A gentleman from the locality of Berwick bay in-

formed me that many women who passed with General Banks when he retreated at one time across Berwick bay threw their children with perfect callousness into the bay to perish; and that around all those localities there had been such mortality among this then nomadic and neglected population, going out in secret places, in bushes, in covers formed under the banks of the river, wherever they could find a shelter from the sun, and falling down and unable to proceed further, lay thickly over the whole locality, and, dying, the atmosphere had become most offensive from the effluvia of their decaying bodies.

Now, sir, I think that this mistaken and deplorable policy ought to be reversed. I think that the Government ought to retrace its steps in relation to the enlistment of negroes as soldiers. They never have and they never will prove themselves when they are brought into conflict with the white man anything like as effective. If the white man could not have been had in sufficient numbers to have filled up our armies for the prosecution of this war, and there was no other resort, there might have been some plea, some pretext for resorting to the negro. You give him now the same pay, &c., that you do the white man; and that is so large, so much greater in our service to that of any other Government in the world, that while so much inducement is offered to the white men there can always be obtained enough of soldiers of that superior race. They are more efficient, they are less wasteful of all the supplies of a soldier, they are more economical in every sense of the word.

The employment of negroes as teamsters or laborers would not shock or violate the rights of any portion of the community justly. In that sort of employment they would be useful, valuable. I suppose there are as many white men now performing these more menial and less soldierly offices as there are negroes in the service; and if the negroes, instead of being dressed up in uniform and armed with musket and sword and straps upon their shoulders, had been put to the offices of labor, it would have relieved as many white men from the performance of those menial offices, and would have placed them in the ranks where they would have been much more effective as a soldiery than the negroes who would have been thereby displaced.

I have no hope, Mr. President, of reaching the understanding or producing conviction with any man who is not already satisfied on this subject; but I think it due to the occasion, due to myself, due to my people, due to my country and to its Government, to present to the Senate these or any other pertinent facts touching upon this problem of making a soldier of the negro.

Mr. WILSON. Mr. President, it is my purpose to occupy but for a moment the time of the Senate at this hour by replying to the remarks made in support of this proposition. We have in our employment seventy thousand colored soldiers. We have fifty or sixty thousand colored men in other employments connected with the Army; and the Secretary of War said to me the other day that he wished he could get forty thousand more as laborers. He would take all he could get, and we need thousands more than we can obtain. From Cairo to New Orleans, the Mississippi at nearly every point is guarded by colored soldiers. The localities are unhealthy. These soldiers have been forced to work night and day to throw up fortifications and do the drudgery of the Army. They have suffered, toiled, labored as no troops in the service have toiled and labored. We have lost unquestionably a great many of them on the Mississippi, as we have on the Atlantic coast, for wherever there is a colored regiment, and there is drudgery to do, the drudgery is put upon them.

But, sir, I rose to send to the Chair a letter sent to me a few days ago by Adjutant General Thomas, who knows all about this question. He has been engaged for months in raising colored troops, in observing their conduct and their action, and he is about going to Kentucky to raise several colored regiments in that State.

THE PRESIDENT *pro tempore*. The letter will be read, if there be no objection.

The Secretary read, as follows:

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,  
WASHINGTON, May 30, 1864.

DEAR SIR: On several occasions when on the Mississippi river I contemplated writing to you respecting the colored



troops, and to suggest that as they have been fully tested as soldiers their pay should be raised to that of white troops, and I desire now to give my testimony in their behalf. You are aware that I have been engaged in the organization of freedmen for over a year, and have necessarily been thrown in constant contact with them.

The negro in a state of slavery is brought up by the master from early childhood to strict obedience, and to obey implicitly the dictates of the white man, and they are thus led to believe that they are an inferior race. Now, when organized into troops they carry this habit of obedience with them; and their officer—being entirely white men, the negro promptly obeys his orders. A regiment is thus rapidly brought into a state of discipline. They are a religious people, another high quality for making good soldiers. They are a musical people, and thus readily learn to march and accurately perform their maneuvers. They take pride in being elevated as soldiers, and keep themselves neat and clean, as well as their camp grounds. This I know from personal inspection and from the reports of my special inspectors, two of my staff being constantly on inspecting duty.

They have proved a most important addition to our forces, enabling the generals in active operations to take a large force of white troops into the field; and now brigades of blacks are placed with the whites. The forts erected at the important points on the river are nearly all garrisoned by blacks—artillery regiments raised for the purpose—say at Paducah and Columbus, Kentucky; Memphis, Tennessee; Vicksburg and Natchez, Mississippi; and most of the works around New Orleans. Experience proves that they manage heavy guns very well. Their fighting qualities have also been fully tested a number of times, and I am yet to hear of the first case where they did not fully stand up to their work. I passed over the ground where the first Louisiana made the gallant charge at Port Hudson, by far the stronger part of the rebel works. The wonder is that so many made their escape. At Milliken's Bend, where I had three incomplete regiments, one without arms until the day previous to the attack, greatly superior numbers of rebels charged furiously up to the very breastworks. The negroes met the enemy on the ramparts, and both sides freely used the bayonet, a most rare occurrence in warfare, as one or other party gives way before coming in contact with the steel. The rebels were defeated with heavy loss. The bridge at Moscow, on the line of railroad from Memphis to Corinth, was defended by one small regiment of blacks. A cavalry attack of three times their number was made, the blacks defeating them in the three charges made by the rebels. They fought them hours, until our cavalry came up, when the defeat was made complete, many of the rebel dead being left on the field. A cavalry force of one hundred and fifty attacked three hundred rebel cavalry near the Big Black with signal success, a number of prisoners being taken and marched to Vicksburg. Forrest attacked Paducah with seven thousand five hundred. The garrison was between five and six hundred; nearly four hundred were colored troops very recently raised. What troops could have done better? So, too, they fought well at Fort Pillow until overpowered by greatly superior numbers.

The above enumerated cases seem to me sufficient to demonstrate the value of the colored troops. I make no mention of the cases on the Atlantic coast with which you are perfectly familiar.

I have the honor to be, very respectfully, your obedient servant,

L. THOMAS,  
Adjutant General.

Hon. H. WILSON.

Mr. WILSON. This is the testimony of Adjutant General Thomas, who well understands the subject upon which he speaks. He has two members of his staff constantly inspecting the posts on the Mississippi, and nearly all these posts are defended by colored troops. On the Atlantic coast, from Virginia to Florida, in every battle in which the colored troops have been engaged, they have extorted the admiration and commanded the approval of the officers under whose eye they have fought. Fitzhugh Lee hurled his chivalry the other day upon General Wild's black brigade, and the chivalry were shivered. Everywhere they have fought well and fought bravely; and everywhere they have been called upon to use the shovel, to throw up fortifications, do the drudgery, and they have by universal consent, by the admissions of officers under whom they have fought, excelled the white soldiers in the amount of labor they have performed for the country.

These are the facts. We want troops. We ought to have two hundred thousand men to-day more than we have. Everybody would reverently thank God if we had fifty thousand men to send to General Grant now. Here we have a proposition not to use any of the money we propose to raise or to pay the one hundred and twenty thousand colored men we have in the service of the Government who are doing their whole duty with unfaltering fidelity to the country. Can any loyal statesman say ay to such a proposition?

Mr. JOHNSON. Mr. President, I have but a word to say. If I understand the amendment, it prohibits the application of any part of the money that may be the produce of this bill toward the payment of the African troops.

Mr. DAVIS. If armed.

Mr. JOHNSON. I do not know the number.

The chairman of the Military Committee says there are over one hundred thousand of these men now in arms as I understand him. Does the Senator from Kentucky propose that they are not to be paid for past services?

Mr. DAVIS. That is not the proposition; but it is that the pay shall cease to them as soldiers after the passage of this act.

Mr. JOHNSON. Then how are they to be paid? The recognition of the obligation to pay, if I understand the honorable member, up to the time of the passage of this bill is to be made, but out of what fund are they to be paid?

Mr. DAVIS. With the permission of the honorable Senator I will answer. They might be paid as laborers. The simple object and effect of the amendment if it is adopted will be to take arms out of their hands, as I understand.

Mr. JOHNSON. Discharge them. I suppose that to be the motive, because, however he may be opposed to this kind of troops, the honorable member will not be so unjust as to deny them payment for the services they may have rendered under the contract between themselves and the Government. I suppose, therefore, that his object was that on the day of the passage of this bill they are to cease to be soldiers in the Army of the United States. It may be true, and perhaps it is to some extent, that they are not as efficient as white troops. I know there are differences of opinion among the officers of the Army as to their present efficiency; but all history must be false, the history of our own Government during the period of the Revolution must be false if it be not true that after a while they will become as good soldiers as the white men. These men have now been in the service some six or seven months or longer, I forget how long, and they are more or less disciplined. They are perhaps now better than the same number of white men who may be enlisted in their stead, until they shall receive the same kind of military education; and that being the case, and as we want the troops, (however, I may think with the honorable Senator from Kentucky that it would have been better to have done without this description of troops if we could have got white troops in sufficient numbers,) it seems to me it would be very bad policy to discharge them. If they are not carried into the field and made to bear the brunt of the very severe fighting that is now going on, they take the places of those that are sent forward to share in the dangers and glories of that fighting. Forts are to be garrisoned, railroads are to be guarded, the communication with the Army is to be protected, and for all these duties these troops are just as efficient as any other troops; so that even conceding to the honorable member that they are not as efficient in all respects as veteran white troops, it seems to me to be clear that as they are efficient for the purposes for which they may be used, it would be bad policy to discharge them, particularly at this time.

I have no doubt—perhaps that is using too strong a term, but it is one that suits my own conviction—I have no doubt of the ultimate success of the Government in its present effort to restore itself; but it requires very great effort. The struggle which is now going on, and to which we are listening for its actual results from day to day with great solicitude, if that result shall be favorable to the United States, may terminate this war, and the deluded masses of the South may be brought back to the allegiance under which, by observing which, they were the happiest people that ever the sun of heaven shone upon. But the leaders will not permit them to return as long as they have any force in the field which they can wield for the purpose of keeping them in the condition in which they now are, a condition of unequaled suffering. What I desire to do, and what I am sure the honorable member from Kentucky equally desires to do, is by any force that the laws of civilized warfare authorize us to resort to, to put down this rebellion; and I should think, so far from its being a measure calculated to effect that object, the dismissal of one hundred and twenty thousand or one hundred and fifty thousand men from the armies of the United States would very materially serve to aid and comfort the rebels. I know that that is not the purpose of the honorable member from Kentucky; I know that in his heart he longs for the restoration of this Union as earnestly as any loyal man that breathes.

We differ only as to the means which from time to time it may be thought necessary to resort to, and the measures which it may be the proper policy of the Government to adopt; but I submit to him unless he is ready to supply one hundred and twenty thousand men now, now at this moment, to take the place of these black troops, he, instead of doing a service to the Union of which he is an honored member, would be doing a great service to the foe.

Mr. DAVIS. But a few words in reply. My proposition does not propose to discharge a single negro from the service of the United States. It only proposes to take the guns and arms out of his hands. I admit his efficiency for labor, and especially his efficiency for labor in the South. It was because his constitution is adapted to the southern climate, to its malarias, and can resist the diseases incident to the climate and locality better than the white man, that he was originally brought from his native Africa to the lower latitudes where rice and sugar and cotton and indigo are cultivated. I believe that if this Government had the magnanimity and the will to correct the error in relation to the employment of the negro soldiers and to correct other flagitious errors in its war policy, it would strengthen the Union cause and the Union Army and the Government, and operate as a force for the restoration of the Union twenty-fold more than the retention of these negroes in the Union Army. But, sir, I simply ask that they shall be disrobed of their habiliments as soldiers; that they shall take the inferior position where our common Creator has placed them; that where they can be made effective and valuable equally with the white man they shall be used; but that they shall not be used as soldiers, to shock the sentiment and the principles of two thirds of the people of the United States, including the rebel States, and to constitute an impassable and irremovable barrier between our present condition and reconstruction.

The number of negroes and the service they rendered in the revolutionary war was not felt in that contest. It was of so small and insignificant a character that it was not more than a drop in the bucket; and so with the service that they rendered in the war of 1812. I admit that General Jackson was right in employing all the negroes he could obtain in the siege of New Orleans. The loyal slaveholders of Kentucky or anywhere else have not objected to the negro being appropriately applied to the purposes of the Government in this war, not as a soldier, but as a laborer. If it had been essentially necessary, if it had been eminently valuable for the preservation of our Union, of our Constitution, and of our popular liberties, that the negro should have been engaged in the war as a soldier, I know no owner of a slave in the State of Kentucky who would have objected. I have the misfortune to own a few myself, and if it had been a life and death struggle between the rebellion and the Government, the loyal men and the traitors, whether the Union under the Constitution with the preservation of all its principles and all the rights and liberties which it guarantees to the people should perish or should be supported and continued by the services of the negroes, all that I have, and this feeble and withered arm itself, and this decaying citadel of life, would have been given freely to the cause. But, sir, I know that this great and holy cause has been prejudiced, weakened, brought into danger, and is now threatened, still threatened with final overthrow just by reason of the perverted manner in which a false and mistaken policy has applied the negro.

Sir, I know something of this General Thomas myself. I proposed here two sessions ago to raise a committee to investigate his loyalty. It was denied by this body. I was then prepared to prove that he was a rebel sympathizer, engaged and colleague with rebels at the onset of this war; that there were cannon and other property for the use of rebels loaded on a small craft near Georgetown, and that he was apprised of that property being there and of its destination, and he was invoked to interfere for the purpose of seizing that property. He refused to do so, as I was informed credibly, and as I have no doubt I should have proved by evidence entitled to all weight, until the property was carried off to secession. He then was a traitor to his Government; he was a traitor to his country; he was a

traitor to that Government that had given him his military education and his high promotion in its armies. But, sir, he became a double traitor by betraying the traitors with whom he had linked himself. A man who is once a traitor should stand dishonored in the judgment of all men; but a man who is twice a traitor, who is a double traitor, ought to be scorned and damned to eternal infamy. That is the position of the witness who is here presented.

Sir, I do not believe a word of what he says in relation to the efficiency of negroes as soldiers. As laborers I know it is all true. From observation I know it is all true. But this race never invented an alphabet or figures; it has had every opportunity of civilization, to a greater or less extent, by contact with the most refined and civilized nations of the world, and yet it has never emerged from barbarism; it has proved its inefficiency; its physical organization is different and marks an inferiority to our race in many points, according to all the ethnologists of the world, both those who favor slavery and those who are opposed to it. And yet this race has its advocates for a claim to equality and amalgamation and miscegenation with the white race. Sir, in proportion as this system of miscegenation goes on it deteriorates the white race; and that is the reason of the inefficiency and degeneracy and premature decay of the powers on the south of us. It is the great admixture of this inferior race and the commingling with the white race.

How did the negro troops behave in Florida? How at Fort Pillow? How at all the points of collision where they came into contact with the white man in arms on anything like equal terms? I have seen a report of their prowess against Fitzhugh Lee down here in the neighborhood of Richmond, but that comes from General Butler, as I understand. A gallant soldier, a comrade of his, from his own State, who entered the service with him, and who knows him, pronounced him to me to be the greatest poltroon and villain that he knew. I never heard of his being at but one battle, except by his own proclamations—those proclamations that he has issued down from about Bermuda Hundred. I will warrant that he is far off from danger when the storm of battle, with its iron and leaden hail, is hurdling through the air. He was in a battle at Lowell. He has property that he rented to some gentleman, and this gentleman employed a man to put some pipe along under the ground, and the mechanic was engaged in that work. Butler came along, and in his insolent, imperious way, cowardly, (because every base coward is a tyrant unless he is in the presence of danger,) insolently directed that man how to do that work. The man went on and did it in his own way. He directed him again. The man looked at him: Said he, "This is not your work; I am not engaged to do this work for you," or words to that effect, "mind your own business;" and Butler kicked him insolently.

Oh, if a slaveholder, if a southerner had so acted toward that stalwart and honest and brave mechanic, who was there operating honestly in his vocation, how it would have called down the denunciations and the execrations of some of the pseudo-philanthropists of our country! Butler kicked him! In less than no time the old man, sixty-two years of age, who was in the ditch, sprung up, and in less time than it takes me to tell it, he had Butler on his back, and he throttled him there until he was about nearly choked to death. He let him up, and he just tucked his tail and marched off. It was the only battle I ever heard of Butler being engaged in personally, and in that one he was routed, horse, foot, and dragoons.

Mr. FESSENDEN. Will the Senator let me appeal to him to let us get through with this bill to-night?

Mr. DAVIS. I have done, but I have something to say on this bill at length. I have done with this proposition.

The amendment was rejected.

The PRESIDENT *pro tempore*. Does any Senator desire a separate vote on any further amendment made as in Committee of the Whole? If no Senator desires a separate vote, the question will be, will the Senate concur in the amendments made as in Committee of the Whole?

Mr. POMEROY. I believe the bill has not been made yet to apply to the District of Columbia in

all its provisions, and I thought of offering this amendment as a new section:

*And be it further enacted, That wherever the word "State" is used in this act it shall be construed to include the Territories and the District of Columbia, where such construction is necessary to carry out the provisions of the act.*

Mr. FESSENDEN. It can do no harm.

The amendment was agreed to.

Mr. SUMNER. There is an amendment which I moved while in committee, and which I desire to move again and on which I desire to have a deliberate vote of the Senate. It is on page 135, to strike out lines two hundred and twelve, two hundred and thirteen, and two hundred and fourteen of section ninety-three, the tax on books.

The Secretary read the words proposed to be stricken out, as follows:

On all printed books, magazines, pamphlets, reviews, and all other similar printed publications, except newspapers, a duty of 5 per cent. *ad valorem*.

Mr. SUMNER. I am sorry to occupy the attention of the Senate, even for a moment, especially at this late stage of a protracted discussion. But I feel that the question which I have now presented has not been adequately appreciated. I venture to say that, in point of principle, few questions of equal importance have arisen on this bill.

The tax on books is peculiar, and, so far as I know, without a precedent in other countries. In England paper has been taxed, but books not. Here paper is to be taxed and books too. For instance, there is to be a tax of 3 per cent. on paper, and then 5 per cent. additional on books, making a sum total of 8 per cent. on books.

The tax of 3 per cent. on paper seems to me contrary to sound policy. But the additional tax of 5 per cent. on books is more indefensible still. I have already likened it to a tax on wheat or flour or bread, which you do not think of imposing. More than either of these is a book "the staff of life." It may be likened also to a tax on the light of day, like the English window tax, which you do not think of imposing. Better shut out the light of day than the light of books.

The book in some cases may be a luxury, but in most cases it is a necessary, while always it is the handmaid of civilization. It is for all ages and all conditions. It is for young and old; for rich and poor. It is for the family circle as well as the library; but it is especially for the school. In all these places you will enter and demand 8 per cent. on every book. Every book, if it had a voice, would repel the demand.

Why not be instructed by the example of England, which has taxed everything taxable? Read the extensive list of articles taxed at the period of most searching and wide-spread taxation, and you will not find books. Read that marvelous enumeration, made by the genius of Sydney Smith; you will not find books. Here it is:

"Taxes upon every article which enters into the mouth, or covers the back, or is placed under the foot; taxes upon everything which it is pleasant to see, hear, feel, smell, or taste; taxes upon warmth, light, and locomotion; taxes on everything on earth, and the waters under the earth; on everything that comes from abroad, or is grown at home; taxes on the raw material; taxes on every fresh value that is added to it by the industry of man; taxes on the sauce which pampers man's appetite, and the drug that restores him to health; on the ermine which decorates the judge, and the rope which hangs the criminal; on the poor man's salt, and the rich man's spice; the brass nails of the coffin, and the ribbons of the bride: at bed or board, couchant or levant, we must pay. The school-boy whips his taxed top, the beardless youth manages his taxed horse with a taxed bridle on a taxed road; and the dying Englishman, pouring his medicine which has paid 7 per cent. into a spoon that has paid 15 per cent., flings himself back upon his chintz bed which has paid 22 per cent., and expires in the arms of an apothecary who has paid a license of £100 for the privilege of putting him to death. His whole property is then immediately taxed from 2 to 10 per cent. Besides the probate, large fees are demanded for burying him in the channel; his virtues are handed down to posterity on taxed marble; and he is then gathered to his fathers, to be taxed no more."

A passage so exquisite in wit and language cannot be out of place, especially when considering what shall be taxed; but I ask you to bear in mind that the English tax-gatherer never laid his hand on a book. Everything else he might touch; but a book never.

And yet in our country it is now proposed to tax books. This is the land of public schools, and you boast that education, like justice, is free to all at the public cost. But a tax on books is in direct conflict with this beautiful principle.

Every argument for free schools pleads also for free books, at least so far as taxation is concerned. It will be a curious inconsistency to rear the school-house, often costly, where every child is welcomed without charge, and then compel him to pay a tax of 8 per cent. on every book which he carries in his satchel.

There is one term which fitly characterizes this tax. It is a term which has been adopted abroad, but which is more justly applicable to a tax on books than to any other tax. I mean a *tax on knowledge*. Such is the tax which is now proposed. And this tax, which cannot be named without awakening just condemnation, you are now asked to make an American institution. After a long struggle in England the various *taxes on knowledge* have been abandoned. I hope that our country, representative and defender of liberal ideas, will not commence a system which liberty and civilization must disown. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. POMEROY. If the Senate could discriminate between the kind of books I would agree to it myself. There are some kinds I should like to tax and some I would not. There is a cheap kind of literature which is said to be very profitable, and I think is very destructive, and it should be taxed. It is a little revolting to me to tax all books. I would not like to tax Bibles, spelling-books, and the publications of the American Tract Society; but I do not know where we can discriminate.

Mr. SUMNER. I think there is a difficulty in making the discrimination. No people has ever undertaken to impose such a tax, and I hope we shall not begin now.

The question being taken by yeas and nays, resulted—yeas 8, nays 19; as follows:

YEAS—Messrs. Collamer, Davis, Harlan, Howard, Pomerooy, Powell, Sumner, and Wiley—8.

NAYS—Messrs. Anthony, Brown, Curllie, Clark, Conness, Doolittle, Fessenden, Foster, Grimes, Harris, Henderson, Hendricks, Howe, Johnson, Ramsey, Ten Eyck, Trumbull, Van Winkle, and Wilson—19.

ABSENT—Messrs. Buckalew, Chandler, Cowan, Dixon, Foot, Hale, Harding, Hicks, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Morrill, Nesmith, Richardson, Riddle, Saulsbury, Sherman, Sprague, Wade, Wilkinson, and Wright—22.

So the amendment was rejected.

Mr. ANTHONY. I move after section fifty-nine to insert the following as a new section:

*And be it further enacted, That the owner or owners of any manufactory of cotton or woolen goods may provide, at his or their own expense, a warehouse, established in conformity with such regulations as the Secretary of the Treasury may prescribe, and such warehouse, when approved by the collector, is hereby declared a bonded warehouse of the United States, and shall be used only for storing cotton or woolen goods, and to be under the custody of the collector or his deputy. And the duty on the cotton or woolen goods stored in such warehouse shall be paid before they are removed, in pursuance of law.*

This is an amendment I offered in committee, and there was no division on it. Since we give whisky, and very properly, I think, the privilege of being bonded, and all foreign goods have the privilege of being bonded, I cannot see why the privilege cannot be extended to our own productions.

Mr. FESSENDEN. I trust that provision will not be adopted. It would make infinite expense.

The amendment was rejected.

Mr. ANTHONY. I have one more amendment which, like the one I have just offered, is in the printed list of amendments that was proposed to be offered by my colleague, who is absent. I have altered the word "final" to "finishing." In section ninety-three, line four hundred and thirty-eight, after the word "thereof," I move to insert the following proviso:

*Provided, That if any of the articles named herein are manufactured in one district and receive finishing process in another, if manufactured by one and the same party, the tax shall be assessed in the district in which the article as aforesaid receives its finishing process.*

This amendment, I believe, was rejected before because the term "final process," which is a legal term, was in, and therefore I have altered it to "finishing process." The amendment will be of great convenience to many tax-payers, and not the slightest loss or inconvenience to the Government. If the object is, as I am sure it is, on the part of the committee, to make the bill as little burdensome as possible to the tax-payers,

# THE CONGRESSIONAL GLOBE.

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while rendering all the revenue that can be collected from the articles taxed, I hope they will agree to this amendment.

The amendment was rejected.

The PRESIDENT *pro tempore*. The question is on concurring in the amendments made as in Committee of the Whole not otherwise disposed of.

The amendments were concurred in.

Mr. HENDERSON. On page 224 I move to strike out from line one hundred and ninety to line two hundred and twelve, of schedule B, and to insert a provision in lieu of it. I offer the amendment merely for the purpose of opening that subject to a committee of conference between the two Houses.

The words to be stricken out were read, as follows:

Warehouse receipt for not exceeding fifty barrels of flour held in storage in any public or private warehouse or yard, 5 cents; exceeding fifty barrels and not exceeding one hundred barrels, 10 cents; exceeding one hundred barrels, for every additional one hundred barrels or fractional part thereof, 10 cents.

Warehouse receipt for not exceeding fifty bushels of grain held in storage in any public or private warehouse or yard, 5 cents; exceeding fifty bushels and not exceeding one hundred bushels, 10 cents; exceeding one hundred bushels, for every additional one hundred bushels or fractional part thereof, 10 cents.

Warehouse receipt for not exceeding fifty barrels of whisky, or beef, pork, bacon, or other salted, cured, dried, or preserved meats, held in storage in any public or private warehouse or yard, 10 cents; exceeding fifty barrels and not exceeding one hundred barrels, 20 cents; exceeding one hundred barrels, for every additional one hundred barrels or fractional part thereof, 10 cents.

Warehouse receipt for not exceeding fifty tierces of beef, pork, bacon, or other salted, cured, dried, or preserved meats, held in storage in any public or private warehouse or yard, 50 cents; exceeding fifty tierces and not exceeding one hundred tierces, \$1; exceeding one hundred tierces, for every additional one hundred tierces or fractional part thereof, 50 cents.

The words proposed to be inserted were also read, as follows:

Warehouse receipt for property, goods, wares, or merchandise, not otherwise provided for in any public or private warehouse, when the property or goods so deposited or stored shall not exceed in value \$500, 10 cents; exceeding in value \$500, and not exceeding \$1,000, 20 cents; exceeding in value \$1,000, for every additional \$1,000, 10 cents.

Mr. FESSENDEN. Had not the Senator better move that in addition rather than to strike out the clause?

Mr. HENDERSON. If stricken out, it will leave the whole subject open.

Mr. FESSENDEN. So, if he moves that in addition, the whole subject will be open, because that can be amended in any way that may be necessary.

Mr. HENDERSON. The Senator sees my design. The next clause provides that a "warehouse receipt for any goods, merchandise, or property of any kind, not otherwise provided for, held on storage," &c., shall pay 25 cents. If it happens to be pork, or wheat, or flour, a warehouse receipt may cost \$5 or \$10, but if the article happens to be cotton, or hemp, which is very largely grown in my State, it will cost but 25 cents, though the man may have \$50,000 worth on deposit in warehouse. If it happens to be sugar or wool or any article of that character, no matter how much may be stored, the warehouse receipt is only 25 cents, because it is not otherwise specially provided for. My object is to provide that all property stored, no matter what may be its character and quality, shall pay a duty in proportion to its value. I am not particular about it; I only want to open the subject.

Mr. FESSENDEN. I am not disposed to make any objection to it.

Mr. HENDERSON. If the Senator desires that my amendment shall be in addition to the clause in the bill, and thinks that will accomplish the object better, I will agree to it; but I think the way it stands now it will open the whole subject. If you strike out the clause and insert what I have proposed, if the House of Representatives insist on retaining it as it is, the conference committee can insert this as an addition.

Mr. FESSENDEN. Very well.

The amendment was agreed to.

Mr. WILKINSON. The vote was taken on concurring in the report of the Committee of the Whole a few minutes ago while I was out. I wish to object to the amendment of the committee on page 28 at the end of section twenty-five, from line sixteen after the word "collector" to line nineteen, and if necessary I move to reconsider the vote by which that amendment was concurred in.

The PRESIDENT *pro tempore*. The Senator can have a separate vote on it by unanimous consent without reconsideration. If there be no objection, the Chair will put the question on that amendment.

The Secretary read the amendment, to insert at the end of section twenty-five:

And the salary and commissions of assessors and collectors heretofore earned and accrued shall be adjusted, allowed, and paid in conformity to the provisions of this section, and not otherwise.

Mr. WILKINSON. I do not know upon what principle or idea the Committee on Finance reported this amendment. It seems to me that it clearly interferes with the amount of salary earned and due to collectors and assessors before the passage of this act.

Mr. TRUMBULL. They get more under it, do they not?

Mr. WILKINSON. No, they get less, as I understand it. I may be mistaken in this. This section relates to the auditing of the accounts of the assessors and collectors, and provides how it shall be done. There is an amendment in the former part of the section which says that hereafter in the adjustment of the accounts of assessors and collectors of internal revenue "which shall accrue after the 30th of June, 1864," and the Committee on Finance added, also, "for services after that date, the fiscal year of the Treasury shall be observed," &c. Those amendments of the committee are proper, because they refer to the services after the passage of this act; but then at the end of the section they add this, which I think entirely neutralizes the amendments which they have inserted in the former part of the section:

And the salary and commissions of assessors and collectors heretofore earned and accrued shall be adjusted, allowed, and paid in conformity to the provisions of this section, and not otherwise.

I called the attention of the Commissioner of Internal Revenue to this section to-day, and he says that it will materially cut down the salaries of collectors if this provision is adopted.

Mr. SUMNER. Is not that provision inconsistent with what is at the top of the page?

Mr. WILKINSON. I think it is.

Mr. DAVIS. It should be "hereafter" instead of "heretofore."

Mr. SUMNER. I intended to call attention to this. I am very glad the Senator has done it, for I find I had made a memorandum on the margin in regard to this matter. There is evidently some inaccuracy somewhere. I am not able precisely to explain it; whether the Senator from Kentucky, by his suggestion that "heretofore" should be "hereafter," is right, I do not know. There is something wrong about the passage.

Mr. FESSENDEN. I can explain it very readily. We provided a maximum in the former bill; we said that no collector should receive over \$10,000 a year in the whole. It has been found that where a collector holds his office six months in a large district, and he collects enough to give him his \$10,000, and he dies or resigns, and another one comes in, and in the remaining half year he collects enough to give himself \$10,000, they both claim the maximum of \$10,000. We have established a rule here that where there is more than one collector in the same year they shall not both of them receive the salary for the year fixed for the collector; and then we say that the salaries of the last year shall be settled on the same principle, which is the correct principle. Like all other office-holders, pretty much, not satisfied

with what the law allows them, they will get the pay for a whole year's salary out of half a year's service if they can. The First Comptroller of the Treasury, who is a very valuable officer, when he came to settle their accounts refused to settle them on any such principle. He said the manifest meaning of the law was that the \$10,000 should be paid for a year's service, and some accounts are hung up there for that reason, and we had the suggestion of the First Comptroller when we adopted this very amendment, providing that the same principle should apply to the settlement of former accounts. If they have any rights against the law and against the intention of the law, let them enforce them.

The Senator from Minnesota says, undoubtedly very truly, that he called the attention of the Commissioner of Internal Revenue to it to-day. The Commissioner has been making a fuss about it for a week. He came to me about a week ago, very anxious about it for some reason or other, and all the reason I could get out of him was that he was afraid it would counteract some legal principle or other, and he was a law-abiding man. That was about the amount of it. He said the greater number of them where this question had arisen had settled upon the principle of this bill, had recognized its justice and agreed to it, but there were some few who hung out and said they would not settle in that way, and we now just authorize the Comptroller to settle their accounts precisely on the principle on which they should have been settled in the first place; and then if they have any other rights let them enforce them.

Mr. WILKINSON. I do not understand that the controversy between the Comptroller and the Commissioner is precisely as the honorable Senator has stated it.

Mr. FESSENDEN. The Commissioner stated it to me himself. I take it from his own mouth.

Mr. WILKINSON. I do not know what the Commissioner stated to the honorable Senator, but I will state what I understand to be the controversy. The Comptroller assumes to adjust these accounts on this principle, as I understand: he is to adjust them quarterly, and if the collector in the first three quarters of a year collects but very little, he allows, according to his construction, for the amount collected during those three quarters, and applies it upon the salary for three quarters of the year; and if during the other quarter he collects enough to bring his salary up to the maximum, he only allows him at the rate of one quarter's salary. That is what I understand to be the construction that the Comptroller of the Treasury puts upon it, and I think, and the Commissioner thinks, that it is an improper construction of the law.

Mr. FESSENDEN. This section has nothing to do with that. That is applicable to one man; this is applicable to where there is more than one collector during the year. It says that two or three, or however many there shall be, shall not receive more than the maximum of the law.

Mr. WILKINSON. I think I can show that this section does have something to do with it. This says that the fiscal year shall end on the 30th June of each year. Now, suppose that last year a collector collected but very little during the first three quarters of the year; he was appointed, for instance, in August or September, and last quarter he collected enough to bring his percentage up to the maximum limited by the former act. He has been in office nine months; he collected say \$300,000 in the first three months, and in the next three months \$400,000. By the construction which the Comptroller places on the law it reduces the actual amount which should be allowed as the other officers of the Government construe this law, and as I believe the Secretary of the Treasury construes it.

Mr. HENDRICKS. I think the Senator is mistaken about the construction that must have been given to the law, for this is old legislation in respect to the sales of public lands. There was a maximum fixed for a register and receiver of public lands. If they sold during the first quar-



ter of a year so much land as that the percentage amounted to the maximum, they got no salary for the other three quarters, but if they sold not half so much during the first half of the year and a greater quantity the latter half, they were paid up. That has been the construction for a great number of years. The Senator must be mistaken.

Mr. WILKINSON. I know that there was a case in the Supreme Court in regard to the salaries of receivers and registers of the Land Office, and I know that the Supreme Court reversed the action of the Commissioner of the General Land Office, and said that the rules of the Department could not govern and control the law in relation to their salaries.

Mr. HENDRICKS. What case was that? Does the Senator recollect?

Mr. WILKINSON. It was the case of the United States vs. Dixon, 15 Peters, 141. It is quoted in a pamphlet that I have now before me upon this very question, and that case is urged as against the construction which the Comptroller of the Treasury places upon the original revenue law. The court say in their decision:

"We do not perceive what connection the mode of keeping the accounts in the Treasury Department has with the compensation allowed by law to any public officer."

Mr. GRIMES. When was that decision made? Mr. WILKINSON. It is reported in 15 Peters.

Mr. GRIMES. Many years ago.

Mr. WILKINSON. I do not see what necessity there is for this clause in this bill if it is not to relate to back salaries.

Mr. FESSENDEN. It is to relate to cases where there were two or more officers in the same year.

Mr. WILKINSON. The honorable chairman of the Committee on Finance stated that some of the collectors and assessors had had their accounts suspended. I am informed that the Comptroller has not passed one single case under the internal revenue law, but has held every one of them back.

Mr. FESSENDEN. Every one where this question has presented itself.

Mr. WILKINSON. I understand they are not allowed at all, that he has not passed a single case.

Mr. HENDRICKS. We cannot remedy that in this bill.

Mr. WILKINSON. I am opposed to this retroactive legislation. I do not believe it is legal. I do not see any necessity for it. If the Comptroller is right he does not want any legislation to aid him in his decision. If his decision is wrong it is unjust to aid it by legislation.

The PRESIDENT *pro tempore*. The question will be on concurring in Senate in the amendment made as in Committee of the Whole to the twenty-fifth section.

Mr. WILKINSON. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 22, nays 5; as follows:

YEAS—Messrs. Anthony, Brown, Carlile, Clark, Collamer, Doolittle, Fessenden, Foster, Grimes, Harlan, Harris, Hendricks, Hendricks, Johnson, Pomeroy, Powell, Ramsey, Ten Eyck, Trumbull, Van Winkle, Wiley, and Wilson—22.

NAYS—Messrs. Chandler, Davis, Howard, Sumner, and Wilkinson—5.

ABSENT—Messrs. Buckalew, Conness, Cowan, Dixon, Foot, Hale, Harding, Hicks, Howe, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Morrill, Nesmith, Richardson, Riddle, Saulsbury, Sherman, Sprague, Wade, and Wright—22.

So the amendment was concurred in.

Mr. FESSENDEN. There are one or two little amendments which I have overlooked, that are necessary, in consequence of the changes in the section relative to banks. In line thirty-three of section one hundred and nine, page 162, I move to change the penalty from \$1,000 to \$200. We have made the returns monthly instead of half-yearly.

The amendment was agreed to.

Mr. FESSENDEN. On page 164, line seventy-five of section one hundred and nine, I move to reconsider the vote by which the Senate concurred in the amendment striking out "one" and inserting "five."

The motion to reconsider was agreed to.

Mr. FESSENDEN. I move that the Senate do not concur with the committee in that amendment.

The PRESIDENT *pro tempore*. The Chair will put the question on concurrence.

The amendment was non-concurred in.

Mr. WILKINSON. On page 63, section fifty-seven, line two, I move to strike out the words "Secretary of the Treasury" and insert "collector;" so as to read:

That there shall be appointed by the collector of every collection district where the same may be necessary, one or more inspectors of spirits, &c. &c.

Mr. FESSENDEN. I hope that will not be agreed to. I do not see why the inspector should be appointed by the collector.

Mr. HOWARD and Mr. CHANDLER. He knows more about it.

Mr. WILKINSON. Under the law as it stands the collector selects the men to make the inspections of all spirits, oils, tobacco, &c.; and the reason why I move this amendment is that the collector, if he is a fit and proper man to hold the office, knows better who to select in his district to make these inspections than the Secretary of the Treasury does who lives a thousand miles away.

Mr. FESSENDEN. The Secretary of the Treasury can learn and ought to learn in regard to these things. If the collector has the appointment, it puts everything in the hands of the collector, and there is no check on him. It is necessary that some of these officers should be a check on others. I do not want the collector in any district to have the appointment of all the inspectors of coal oil, tobacco, and spirits, and everything else.

Mr. HOWARD. Allow me to ask if this amendment is not the same as the provision in the law of 1862.

Mr. FESSENDEN. This change was intended to remedy the defects of that law in a great many instances. This is one of them.

Mr. HOWARD. I prefer the old law most decidedly.

The amendment was rejected.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time.

Mr. POWELL. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. DAVIS again addressed the Senate. [His remarks will be published in the Appendix.]

The Secretary proceeded to call the roll on the passage of the bill.

Mr. HENDRICKS. Before the vote is announced I move that when the Senate adjourns to-day it adjourn to meet on Wednesday next.

The PRESIDENT *pro tempore*. The Senate is dividing.

Mr. HENDRICKS. I ask unanimous consent to interpose that motion.

Mr. FESSENDEN. You cannot do it without a quorum.

Mr. HENDRICKS. I wished to make the motion before it was ascertained that we had no quorum.

Mr. GRIMES. I move that the Sergeant-at-Arms be directed to request the attendance of absent members.

The PRESIDENT *pro tempore*. The Senate is dividing, and it is not ascertained that there is not a quorum.

The result was then announced—yeas 22, nays 3; as follows:

YEAS—Messrs. Anthony, Brown, Clark, Collamer, Doolittle, Fessenden, Foster, Grimes, Harlan, Harris, Hendricks, Howard, Howe, Johnson, Pomeroy, Ramsey, Sumner, Ten Eyck, Trumbull, Van Winkle, Wiley, and Wilson—22.

NAYS—Messrs. Davis, Hendricks, and Powell—3.

ABSENT—Messrs. Buckalew, Carlile, Chandler, Conness, Cowan, Dixon, Foot, Hale, Harding, Hicks, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Morrill, Nesmith, Richardson, Riddle, Saulsbury, Sherman, Sprague, Wade, Wilkinson, and Wright—24.

So the bill was passed.

#### HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 494) to increase the duties on imports, and for other purposes—to the Committee on Finance.

A bill (No. 511) to provide for the more speedy punishment of guerrillas, and for other purposes—to the Committee on Military Affairs and the Militia.

#### ORDER OF BUSINESS.

Mr. SUMNER. I now move that the Senate proceed to the consideration of House bill No. 51.

Mr. DAVIS. Let us know what it is.

The PRESIDENT *pro tempore*. The title of the bill will be read.

Mr. FESSENDEN. I have no objection to the bill being taken up if the Senator wants that done, but I must move to-morrow to take up the fortification bill. I do not suppose, however, it will cause much debate.

Mr. SUMNER. I appeal to the Senator. Here is a bill which it is known to Senators about me for four weeks I have been pressing.

Mr. FESSENDEN. At this period of the session we must pass the appropriation bills before anything else.

Mr. SUMNER. I am with the Senator always on all those measures; but this is a bill for the establishment of a Bureau of Freedmen's Affairs. I gave way—

Mr. FESSENDEN. I do not know how long that will take when it comes up.

Mr. SUMNER. I do not think it will take a day. I hope the Senator will allow it to be taken up.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Massachusetts to take up the bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs.

Mr. POWELL. I hope the motion of the Senator from Massachusetts will not prevail. I made an effort to get the ear of the Chair for the purpose of moving to take up Senate bill No. 37, to prevent military interference with elections. That bill has been up and discussed four days, and I think it could be completed in a few hours. It is one of the most important bills that have been before the Senate, in my judgment. I hope the motion of the Senator from Massachusetts may be voted down, and the Senate may order this bill to be taken up and continue its consideration until it is disposed of.

Mr. HENDRICKS. Is yours an older bill?

Mr. POWELL. Yes, sir; mine is the older of the two. It has been debated for four days. I have tried frequently to get it up without avail. I hope the Senate may now take it up and finish it.

Mr. TRUMBULL. I move that the Senate adjourn.

Mr. HENDRICKS. I wish to appeal to the Senator from Illinois to withdraw his motion for a moment. I made a motion a few minutes ago that when the Senate adjourns to-day it adjourn to meet on Wednesday next.

Mr. FESSENDEN. You cannot do that, because the yeas and nays will be called, and there is not a quorum present.

Mr. HENDRICKS. We can call the yeas and nays on anything.

Mr. TRUMBULL. As I am opposed to adjourning over, I insist on the motion to adjourn. We shall accomplish nothing by sitting here to-night.

Mr. HENDRICKS. If the Senator himself is opposed to adjourning over, I appeal to him. It is his right, of course, to vote against it; but it is his right, simply because he is individually opposed to it, to say that no other Senator shall have the right to express his desire on the subject?

Mr. TRUMBULL. Certainly not; but we are having a struggle between three or four Senators as to the order of business, and the Senator cannot get the floor to make the motion except by unanimous consent.

The PRESIDENT *pro tempore*. This whole debate is out of order, in the opinion of the Chair.

Mr. TRUMBULL. These gentlemen are insisting on their rights, and the Senator from Indiana cannot make his motion.

Mr. HENDRICKS. Will the Senator from Illinois withdraw his motion?

Mr. TRUMBULL. It would require unanimous consent to interpose the motion to adjourn over, and the Senator cannot get it. I should object to it.

The PRESIDENT *pro tempore*. The question is on the motion to adjourn.

The motion was not agreed to; there being, on a division—yeas 8, nays 8.

The PRESIDENT *pro tempore*. There is no quorum voting.

Mr. ANTHONY. I move that the Sergeant-at-Arms be directed to request the attendance of absent members.

Mr. FESSENDEN. I will ask for the yeas and nays on the motion to adjourn if the Senator will withdraw his motion.

Mr. ANTHONY. I will. I will do anything. Mr. FESSENDEN. Let us have the yeas and nays on the motion to adjourn.

Mr. POWELL. I ask for another division on the motion to adjourn, if the Senator from Maine will allow me.

Mr. FESSENDEN. Very well.

The motion was agreed to; there being, on a division—yeas 14, noes 8; and

The Senate adjourned.

## HOUSE OF REPRESENTATIVES.

Monday, June 6, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of Saturday last was read and approved.

The SPEAKER proceeded, as the regular order of business, to call the States for bills and joint resolutions for reference only, and not to be brought back into the House by motions to reconsider.

### COPYRIGHT LAWS.

Mr. JENCKES introduced an additional act supplementary to the act to amend the several acts respecting copyrights; which was read a first and second time by its title, and referred to the Committee on Patents.

### CIVIL APPROPRIATION BILL.

Mr. PENDLETON, in pursuance of previous notice, introduced a bill making appropriations for sundry civil expenses of the Government for the year ending 30th of June, 1865, and for other purposes; which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. PENDLETON moved to reconsider the vote by which the bill was referred; and also moved to lay the motion to reconsider on the table. The latter motion was agreed to.

### PAY OF MEMBERS OF CONGRESS.

Mr. J. W. WHITE introduced a bill allowing compensation to members of the Senate, members of the House of Representatives of the United States, and to the Delegates from the Territories; which was read a first and second time by its title, and referred to the Committee of Ways and Means.

### UNION GAS-LIGHT COMPANY.

Mr. FENTON introduced a bill to extend the time for opening books of subscription to the capital stock of the Union Gas-Light Company of the District of Columbia; which was read a first and second time by its title, and referred to the Committee for the District of Columbia.

### DIRECT TAXES IN INSURRECTIONARY STATES.

Mr. FENTON also introduced a bill to provide for the collection of direct taxes in insurrectionary States, &c.; which was read a first and second time by its title, and referred to the Committee on the Judiciary.

### STEAMBOAT PASSENGERS.

Mr. WASHBURN, of Illinois, introduced a bill further to regulate the carriage of passengers in steamboats and other vessels; which was read a first and second time by its title, referred to the Committee on Commerce, and, together with the accompanying papers, ordered to be printed.

The SPEAKER then proceeded, as the next business in order, to call the States and Territories for resolutions.

### COMMITTEE ON NORTHEASTERN DEFENSES.

Mr. RICE, of Maine, introduced the following resolution, upon which he demanded the previous question:

*Resolved*, That the special committee on defenses of the northeastern frontier be continued during the present Congress.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. RICE, of Maine, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

### RENDITION OF FUGITIVE SLAVES.

Mr. HUBBARD, of Connecticut, submitted the following resolution, upon which he demanded the previous question:

*Resolved*, That the Committee on the Judiciary be instructed to report to this House a bill for the repeal of all acts and parts of acts which provide for the rendition of fugitive slaves, and that they have leave to make such report at any time.

The SPEAKER. The latter part of the resolution would require unanimous consent.

Mr. HOLMAN. I object.

Mr. HUBBARD, of Connecticut. Then I will strike out the latter part of the resolution.

Mr. WILSON. I hope the previous question will not be sustained. That subject has already been passed upon by the Committee on the Judiciary.

The question was put; and the House refused to second the demand for the previous question.

Mr. HOLMAN. I rise to debate the resolution.

The SPEAKER. Debate arising on the resolution, it goes over under the rule.

### OCEAN MAIL SERVICE.

Mr. HERRICK, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Navy be directed to furnish this House with a list of the United States steam vessels suitable to be employed in carrying the mails to and from foreign ports, together with a statement of the reduction that may be made, according to the suggestions of his annual report, in the crew and armament of each, when employed in such service, including, also, an estimate of the expense per month respectively of such vessels as he may report suitable for such employment when so reduced in crew and armament.

### GUERRILLAS.

Mr. GARFIELD. I am directed by the Committee on Military Affairs to report back bill of the House No. 429, to provide for the more speedy punishment of guerrillas, and for other purposes. The bill was read *in extenso*.

Mr. ANCONA. How does that bill come in under this call?

The SPEAKER. Under the call of States for resolutions bills may be introduced. That has been the uniform practice of the House.

Mr. ANCONA. Let the rule be read.

The SPEAKER. The Clerk will read the 115th rule.

The Clerk read, as follows:

"115. Every bill shall be introduced on the report of a committee, or by motion for leave. In the latter case, at least one day's notice shall be given of the motion in the House, or by filing a memorandum thereof with the Clerk, and having it entered on the Journal; and the motion shall be made, and the bill introduced, if leave is given, when resolutions are called for; such motion, or the bill when introduced, may be committed."

The SPEAKER. Bills are in order when resolutions are called for.

Mr. GARFIELD. I call for the previous question.

Mr. LE BLOND. I move that the bill be referred to the Committee of the Whole on the state of the Union.

The SPEAKER. That motion is not in order during the demand for the previous question.

Mr. LE BLOND. Is a motion to refer to a standing committee in order?

The SPEAKER. It is not now in order.

Mr. LE BLOND. I move, then, that the bill be laid on the table.

Mr. ELDRIDGE. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. ELDRIDGE. I withdraw the demand for the yeas and nays to see whether the previous question is seconded or not.

The motion to lay on the table was disagreed to.

The House was then divided; and there were—yeas 60, noes 35.

So the call for the previous question was seconded.

Mr. ELDRIDGE moved that the bill be laid on the table.

Mr. BLAIR, of West Virginia, demanded the yeas and nays.

Mr. ELDRIDGE demanded tellers on the yeas and nays.

Tellers were ordered; and Messrs. ELDRIDGE, and COLE of California, were appointed.

The House was divided; and the tellers reported—yeas thirty-five.

So (more than one fifth voting in favor thereof) the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 35, nays 67; as follows:

YEAS—Messrs. James C. Allen, Ancona, Bliss, James S. Brown, Cox, Cravens, Dawson, Edén, Edgerton, Eldridge, Finck, Grider, Harding, Harrington, Charles M. Harris, Herrick, Hutchins, William Johnson, King, Le Blond, Long, Mallory, Marcy, McDowell, James R. Morris, Morrisou, Noble, Pendleton, Perry, Robinson, Rogers, Ross, Scott, Chilton A. White, and Joseph W. White—35.

NAYS—Messrs. Allison, Ames, Arnold, Ashley, Bailly, John D. Baldwin, Benman, Blaine, Jacob B. Blair, Broomall, Ambrose W. Clark, Cobb, Cole, Creswell, Thomas T. Davis, Dawes, Dixon, Donnelly, Driggs, Eliot, Farnsworth, Fenton, Frank, Garfield, Grinnell, Griswold, Hale, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Ingels, Jenckes, Julian, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Longyear, Marvin, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Charles O'Neill, Orth, Patterson, Perham, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Scofield, Shannon, Sloan, Smithers, Spalding, Thayer, Tracy, Upson, Elihu B. Washburne, William B. Washburn, Whaley, Wilder, Willson, Windom, and Woodbridge—67.

So the bill was not laid on the table.

During the vote,

Mr. SMITH stated that he was paired with Mr. KERNAN; that his colleague Mr. RANDALL was paired with Mr. STILES; and that his colleague Mr. ANDERSON was absent on account of sickness.

Mr. KELLEY, not being within the bar when his name was called, asked leave to vote.

Mr. HARRINGTON objected.

The vote was then announced as above recorded.

The bill was ordered to be engrossed and read a third time.

Mr. ANCONA asked to have the engrossed bill read.

The engrossed bill was read.

Mr. GARFIELD demanded the previous question on the passage of the bill.

Mr. LE BLOND. I hope that my colleague will not press the passage of the bill at this time.

Mr. GARFIELD. Why?

Mr. LE BLOND. The bill has not been printed, and we do not know what are its provisions.

Mr. GARFIELD. I will yield to any inquiry.

Mr. LE BLOND. We understand on this side that the bill provides for the punishment of civilians as well as men in the military ranks. It ought to be referred to another committee.

Mr. GARFIELD. The gentleman is entirely mistaken in regard to that. This bill is for the amendment of two other acts referred to in it, and which affect exclusively the Army in the field and the department commanders. It is to have no effect where civil courts are established.

Mr. LE BLOND. Then I ask my colleague why he will not let the bill be printed, in order that every member may be able to judge for himself. We prefer, on this side of the House, to judge matters for ourselves.

Mr. GARFIELD. I will state to my colleague that the bill was printed in the Globe more than two weeks ago, and has been placed before every member of the House.

Mr. DAWES. I appeal to the gentleman from Ohio to withdraw the demand for the previous question so as to allow the gentleman, [Mr. LE BLOND,] or any other member, to state what objection he has to the punishment of guerrillas who fire upon our wounded men and lie in wait to commit murder.

Mr. GARFIELD. I have stated that if the gentleman, or any other, desires to ask a question or to offer an amendment I will yield for that purpose.

The SPEAKER. The Chair will state to the gentleman from Ohio that as the bill was introduced under the call of States for resolutions it is governed by the same rule as prevails in regard to resolutions, that is, that if the previous question be not moved and seconded upon it, and a gentleman rises to debate it, it goes over.

Mr. GARFIELD. Then I insist on the previous question.

Mr. MALLORY. Does it not go over under the rule if any gentleman rises to debate it?

**The SPEAKER.** It does not, for the previous question was not withdrawn.

The previous question was seconded and the main question ordered, which was on the passage of the bill.

**Mr. ALLEY** called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 72, nays 37; as follows:

**YEAS**—Messrs. Alley, Allison, Ames, Arnold, Ashley, Baily, John D. Baldwin, Beaman, Blaine, Jacob B. Blair, Broomall, Ambrose W. Clark, Cobb, Cole, Creswell, Dawes, Frank, Donnelly, Driggs, Elliot, Farnsworth, Fenton, Dixon, Garfield, Gooch, Grinnell, Hale, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Longyear, Marvin, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Charles O'Neill, Orth, Patterson, Perham, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Scofield, Shannon, Sloan, Smithers, Spaulding, Thayer, Tracy, Upson, Elihu B. Washburne, William B. Washburn, Whaley, Williams, Wilder, Wilson, Windom, and Woodbridge—72.

**NAYS**—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Bliss, Coffroth, Cravens, Henry Winter Davis, Dawson, Denison, Eden, Edgerton, Eldridge, Finck, Grider, Harding, Harrington, Charles M. Harris, Hutchins, King, Knapp, Le Blond, Long, Mallory, Marcy, McDowell, Morrison, Noble, Pendleton, Perry, Robinson, Rogers, Ross, Strouse, Voorhees, Wadsworth, Chilton A. White, and Joseph W. White—37.

So the bill was passed.

During the roll-call,

**Mr. DAWES** stated that his colleague, **Mr. BOUTWELL**, was necessarily absent, and was paired off with **Mr. MIDDLETON**.

**Mr. DAVIS**, of New York, stated that he was paired off with his colleague, **Mr. STEELE**.

**Mr. GARFIELD** stated that his colleague, **Mr. SCHENCK**, was confined to his room by sickness.

**Mr. A. W. CLARK** stated that his colleague, **Mr. VAN VALKENBURGH**, had been called away on business.

**Mr. ALLISON** stated that his colleague, **Mr. KASSON**, was absent on account of illness.

**Mr. RICE**, of Maine, made a similar statement in reference to his colleague, **Mr. PIKE**.

The vote was announced as above recorded.

**Mr. GARFIELD** moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### RIGHT OF ASYLUM.

**Mr. COX** introduced the following resolution, and moved the previous question on its adoption:

*Resolved*, That the recent extradition of a Spanish subject, by the action of the Chief Executive of the United States, in the absence of a law or treaty on that subject, was a violation of the Constitution of the United States and of the law of nations, and in derogation of the right of asylum, which has ever been a distinguishing feature of our political system.

**Mr. COX** called for tellers on the previous question.

Tellers were ordered; and Messrs. Cox and Cobb were appointed.

The House divided; and the tellers reported—yeas 38, nays 57.

So the previous question was not seconded.

**Mr. WILSON.** I move to refer the resolution to the Committee on the Judiciary.

**Mr. COX.** I move to amend by referring it to the Committee on Foreign Affairs.

The amendment was not agreed to.

**Mr. FARNSWORTH.** I move to amend by referring the resolution to the select committee on emigration.

**Mr. COX.** I suppose the object of the gentleman is to break down the right of asylum.

The amendment was rejected.

**Mr. WILSON** moved the previous question. The previous question was seconded and the main question ordered.

**Mr. FINCK** called for the yeas and nays on the motion to refer to the Judiciary Committee.

The yeas and nays were ordered.

**Mr. WASHBURNE**, of Illinois. I demand the reading of that resolution.

**Mr. COX.** I do not think it has been understood on the other side of the House. I insist on the reading. [Laughter.]

The resolution was again read.

**Mr. WASHBURNE**, of Illinois. That is sufficient. I see the resolution is in reference to a man-stealer and slave-dealer.

**The SPEAKER.** Debate is not in order.

The question was taken; and it was decided in the affirmative—yeas 72, nays 43; as follows:

**YEAS**—Messrs. Alley, Allison, Ames, Arnold, Baily, John D. Baldwin, Beaman, Blaine, Jacob B. Blair, Broomall, Ambrose W. Clark, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Dixon, Donnelly, Driggs, Elliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Hale, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Longyear, Marvin, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Charles O'Neill, Orth, Patterson, Perham, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Scofield, Shannon, Sloan, Smithers, Spaulding, Thayer, Thomas, Tracy, Upson, Elihu B. Washburne, William B. Washburn, Whaley, Williams, Wilder, Wilson, Windom, and Woodbridge—72.

**NAYS**—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Bliss, James S. Brown, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, Finck, Ganson, Harding, Harrington, Charles M. Harris, Holman, Hutchins, William Johnson, King, Knapp, Law, Lazear, Le Blond, Long, Mallory, Marcy, McDowell, James R. Morris, Morrison, Pendleton, Perry, Robinson, Rogers, Ross, Scott, Strouse, Wadsworth, Wheeler, Chilton A. White, and Joseph W. White—43.

So the resolution was referred to the Committee on the Judiciary.

**Mr. WILSON** moved to reconsider the vote by which the resolution was referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### JUDICIARY BUSINESS.

**Mr. WILSON.** Has the morning hour expired?

**The SPEAKER.** It has expired. The remainder of the day is, by the order of the House, set apart for the business of the Committee on the Judiciary.

**Mr. COX.** Before the House proceeds to the consideration of the judiciary business, I ask the consent of the House to have printed a report of the Committee on Foreign Affairs relative to Mexican affairs.

**Mr. WILSON.** I have been appealed to by many gentlemen around me to yield; and that I may not do injustice to any, I must decline the first request that comes.

**Mr. COX.** The gentleman will understand that no action is asked; it is merely to print the paper.

**Mr. WILSON.** If I yield to one I must to others; I decline.

#### WISCONSIN CIRCUIT COURT.

**Mr. WILSON**, from the Committee on the Judiciary, reported back Senate bill No. 55, in relation to the circuit court in and for the district of Wisconsin.

**Mr. BROWN**, of Wisconsin. I desire to move an amendment to that bill.

**Mr. WILSON.** I will hear the gentleman's amendment.

**Mr. BROWN**, of Wisconsin. I propose to add the following proviso:

*Provided*, That nothing herein contained shall be construed to interfere with the execution of processes or orders of sale, already in part executed, but the same shall proceed as if this act had not been passed.

**Mr. WILSON.** I see no objection to that.

The amendment was agreed to.

The bill, as amended, was ordered to a third reading; and was accordingly read the third time, and passed.

**Mr. WILSON** moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### VIRGINIA JUDICIAL DISTRICTS.

**Mr. WILSON**, from the same committee, reported back Senate bill No. 256, to change and define the boundaries of the eastern and western districts of Virginia, to alter the names of said districts, and for other purposes.

**Mr. DAWES.** I wish to make a suggestion to the gentleman from Iowa. The county of Berkeley has been by the old State of Virginia recently transferred to the State of West Virginia, and accepted by the State of West Virginia. It will therefore fall by this bill within the limits of that judicial district, for I perceive by the provision of this bill that the district courts of the United States are to conform to the State lines, and there may difficulty arise if jurisdiction should be attempted to be exercised by the district court of West Virginia and this county.

I suggest, therefore, to the gentleman from Iowa that there should be a provision inserted into this bill for the ratification of the transfer of that county.

**Mr. WILSON.** If the facts be as stated by the gentleman from Massachusetts, the interests of that county will not be affected at all by this bill. That question is not at all involved in the questions presented by this bill, and I would prefer that it should be provided for in a separate bill.

**Mr. DAWES.** I have no objection at all. I merely made the suggestion to the gentleman.

**Mr. BLAIR**, of West Virginia. I assure the gentleman that no difficulty will arise out of this matter, and the object sought by him will be provided in a separate bill.

**Mr. WILSON.** I demand the previous question.

**Mr. DAVIS**, of Maryland. I ask the gentleman to allow me to offer an amendment.

**Mr. WILSON.** I will hear it.

**Mr. DAVIS**, of Maryland. I will state that the law now requires the circuit court of Virginia to be held at Richmond. The district court is now administering justice; or injustice, very arbitrarily at Alexandria.

**Mr. WILSON.** I will state to the gentleman that that matter is now before the Committee on the Judiciary on a resolution introduced by myself.

**Mr. DAVIS**, of Maryland. Will the gentleman allow me to offer an amendment to the bill?

**Mr. WILSON.** I prefer not to, as the subject is now before the committee, and it will be impossible to meet the difficulty by a few lines in this bill.

**Mr. DAVIS**, of Maryland. The gentleman will hear my amendment read?

**Mr. WILSON.** Of course.

**Mr. DAVIS**, of Maryland. It is this:

*And be it further enacted*, That the circuit court of Virginia shall be held at Alexandria so long as Virginia is the theater of military operations.

Surely there can be no objection to that.

**Mr. WILSON.** The gentleman will find many difficulties springing up as to the matter of jurisdiction under an amendment of that kind. I prefer that the committee report a separate bill to meet that case. I demand the previous question.

The previous question was seconded, and the main question was ordered to be put; and under the operation thereof the bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

**Mr. WILSON** moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### SUMMARY TRIAL OF MINOR OFFENSES.

**Mr. WILSON**, from the Committee on the Judiciary, reported back, with a recommendation that it do pass, an act (S. No. 52) to provide for the summary trial of minor offenses against the laws of the United States.

The bill, which was read, provides:

That it shall be lawful for the judge of any district court of the United States to hold a special session of said court at any time, whether in term or vacation, for the trial of minor offenses against the laws of the United States as hereinafter provided.

**SEC. 2.** *And be it further enacted*, That whenever a complaint shall be made against any master, officer, or mariner of any ship or vessel belonging, in whole or in part, to any citizen or citizens of the United States, of the commission of any offense, not capital or otherwise infamous, against any law of the United States made for the protection of persons or property engaged in commerce or navigation, it shall be the duty of the district attorney to investigate the same, and the general nature thereof, and if, in his opinion, the case is such as should be summarily tried under the provisions of this act, he shall report the same to the district judge, and the judge shall forthwith, or as soon as the ordinary business of the court will permit, proceed to try the cause, and for that purpose may, if necessary, hold a special session of the court.

**SEC. 3.** *And be it further enacted*, That at such trial it shall not be necessary that the accused shall have been previously indicted, but a statement of complaint, verified by oath, in writing, shall be presented to the court, setting out the offense in such manner as clearly to apprise the accused of the character of the offense complained of, and to enable him to answer the complaint. And the said complaint or statement shall be read to the accused, who may plead to or answer the same, or make a counter statement.

**SEC. 4.** *And be it further enacted*, That the said trial shall thereupon be proceeded with in a summary manner, and the case shall be decided by the court, unless, at the time for pleading or answering, the accused shall demand a jury, in which case the trial shall be upon the complaint and plea of not guilty.



Sec. 5. *And be it further enacted*, That it shall not be lawful for the court to sentence any person convicted on such trial to any greater punishment than imprisonment in jail for one year, or to a fine exceeding \$500, or both, in its discretion, in those cases where the laws of the United States authorize such imprisonment and fine.

Sec. 6. *And be it further enacted*, That it shall be lawful for the court to allow the district attorney to amend his statement or complaint at any stage of the proceedings, before verdict, if, in the opinion of the court, such amendment will work no injustice to the accused; and if it appear to the court that the accused is unprepared to meet the charge as amended, and that an adjournment of the cause will promote the ends of justice, such adjournment shall be made until a further day, to be fixed by the court.

Sec. 7. *And be it further enacted*, That at such trial, if by jury, the United States and the accused shall each be entitled to three peremptory challenges. Challenges for cause shall be tried by the court without the aid of triers.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. WILSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### WAR NEWS.

The SPEAKER laid before the House for its information the following letter from the Secretary of War:

WAR DEPARTMENT,  
WASHINGTON, June 6, 7 a. m.

SIR: We have dispatches from General Grant's headquarters down to six o'clock last evening, which state that there had been no fighting during the day.

The enemy made an attack Saturday night upon Hancock, Wright, and Smith, but were everywhere repulsed. Hancock's lines are brought within forty yards of the rebel works.

The rebels were very busy Saturday constructing intrenchments on the west side of the Chickahominy, at Bottom's Bridge, and toward evening threw a party across to the east side.

A dispatch from General Sherman, dated yesterday afternoon, June 5, half past three o'clock, at Altoona creek, states that "the enemy, discovering us moving round his right flank, abandoned his position last night, and marched off. McPherson is moving to-day for Ackworth. Thomas is on the direct Marietta road, and Schofield on his right. It has been raining hard for three days, and the roads are heavy. An examination of the enemy's abandoned line of works here shows an immense line of works, which I have turned with less loss to ourselves than we have inflicted upon them."

The army's supplies of forage and provisions are ample. Very respectfully, your obedient servant,

EDWIN M. STANTON,  
Secretary of War.

Hon. SCHUYLER COLfax,  
Speaker of the House of Representatives.

#### NATURALIZATION LAWS.

On motion of Mr. WOODBRIDGE, the Committee on the Judiciary was discharged from the further consideration of the memorial of sundry citizens of Butler county, Ohio, praying for an amendment of the naturalization laws; and the same was laid on the table.

#### WISCONSIN AND MINNESOTA BOUNDARY LINE.

On motion of Mr. WOODBRIDGE, the Committee on the Judiciary was discharged from the further consideration of the petition of D. G. Morrison and others, citizens of Superior City, Douglas county, Wisconsin, asking for the passage of an act authorizing a change of the boundary line of Wisconsin and Minnesota; and the same was laid on the table.

#### CONFISCATION ACT.

On motion of Mr. WOODBRIDGE, the Committee on the Judiciary was discharged from the further consideration of a bill (H. R. No. 329) to amend the laws providing for the confiscation of rebel property; and the same was laid on the table.

#### LIMITATION OF ACTIONS.

Mr. WILSON, from the Committee on the Judiciary, reported back, with a recommendation that it do pass, an act (S. No. 42) in relation to the limitation of actions in certain cases.

The bill, which was read, provides that whenever, during the existence of the present rebellion, any action, civil or criminal, shall accrue against any person who, by reason of resistance to the execution of the laws of the United States, or the interruption of the ordinary course of judicial proceedings, cannot be served with process for the commencement of such action or the arrest of such person, or whenever, after such action, civil or criminal, shall have accrued, such person cannot, by reason of such resistance of the

laws, or such interruption of judicial proceedings, be arrested or served with process for the commencement of the action, the time during which such person shall so be beyond the reach of legal process shall not be deemed or taken as any part of the time limited by law for the commencement of such action.

The bill was ordered to be read a third time, and it was accordingly read the third time, and passed.

Mr. WILSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### INDICTMENTS—WHEN FOUND.

Mr. WILSON, from the Committee on the Judiciary, reported back, with a recommendation that it do pass, an act (H. R. No. 274) in relation to the computation of time within which an indictment may be found against persons charged with crimes against the laws of the United States.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### SUITS AGAINST THE GOVERNMENT.

Mr. WILSON, from the Committee on the Judiciary, reported back Senate bill No. 28, relating to members of Congress, heads of Departments, and other officers of the Government.

The bill was read. It prescribes penalties for members of Congress, heads of Departments, or other officers engaging as attorneys or counselors in suits against the Government.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. WILSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PAY AND EMOLUMENTS OF OFFICERS.

Mr. WILSON, from the same committee, reported back House bill No. 281, to amend the sixteenth section of the act entitled "An act to define the pay and emoluments of certain officers in the Army, and for other purposes," approved July 17, 1862.

The bill was read. It provides additional guards against officers of the Government being engaged in speculations upon the Government.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PUNISHMENT OF COUNTERFEITING, ETC.

Mr. WILSON, from the same committee, reported back the bill of the House to prevent the selling and circulation of counterfeit coin and counterfeit and altered Treasury notes and postage currency bills.

The bill was read. It provides a penalty of \$5,000 fine and not exceeding ten years imprisonment for passing or circulating counterfeit coin, counterfeit or altered Treasury notes or postage currency bills. It also makes it the duty of the national banking associations and collectors of the Government to break such counterfeit coin as may come into their possession, and to stamp or write upon counterfeit or altered Treasury notes or postage currency, in such manner as shall prevent their circulation, being responsible to the party for any genuine money so broken or stamped.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### DEPOSIT VILLAGE.

Mr. WILSON, from the same committee, reported back House bill No. 497, in relation to the village of Deposit, Delaware county, New York.

The bill was read. It states that the village of Deposit is located partly in Delaware county and partly in Broome county, and provides that for all national purposes it shall be considered as wholly in Delaware county.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### HEIRS OF JOSEPH NOURSE.

Mr. WILSON, from the same committee, reported back the memorial of the legal representatives of Joseph Nourse; which was laid on the table, and the committee discharged from its further consideration.

#### WILLIAM D. SHIPMAN.

Mr. WILSON, from the same committee, reported adversely upon the memorial of William D. Shipman for increased pay of the judges of the district court; which was laid on the table.

#### AGRICULTURAL COLLEGE GRANTS.

Mr. WILSON, from the same committee, reported back, with a recommendation that it do not pass, House bill No. 286, to extend the time for the acceptance of the act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, and to amend said act.

The bill was laid on the table.

#### SALARIES OF UNITED STATES JUDGES.

Mr. WILSON, from the same committee, reported back, with a recommendation that it do not pass, House bill No. 275, to fix the salaries of the justices of the Supreme Court and certain of the judges of the district court of the United States.

The bill was laid on the table.

#### PUNISHMENT OF INSURRECTION, ETC.

Mr. WILSON, from the same committee, reported back, with a recommendation that it do not pass, joint resolution H. R. No. 17, repealing part of the joint resolution explanatory of an act "to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862.

The resolution was laid on the table.

#### MEMPHIS CIVIL COMMISSION.

Mr. WILSON, from the same committee, reported back, with the recommendation that it do not pass, House bill No. 90, to legalize and establish the civil commission at Memphis.

The bill was laid on the table.

#### GOLD CONTRACTS.

Mr. WILSON, from the same committee, reported back, with a recommendation that it do not pass, House bill No. 248, to regulate contracts for gold.

The bill was laid on the table.

#### KENTUCKY REBEL RAIDS.

Mr. WILSON, from the same committee, reported back the resolutions of the State of Kentucky to reimburse the State for losses by rebel raids; which were laid on the table, and the committee discharged from their further consideration.

#### PUNISHMENT OF TREASON, ETC.

Mr. WILSON, from the same committee, reported back, with a recommendation that it do not pass, House bill No. 6, to repeal joint resolution No. 63, approved July 17, 1862.

The bill was laid on the table.

#### A. F. ALLEN.

Mr. WILSON, from the same committee, reported back the petition of A. F. Allen asking compensation for loss of building; which was referred to the Committee of Claims.

Mr. KING, from the Committee on the Judiciary, reported back with amendments and with the recommendation that it do pass, joint resolution (H. R. No. 87) amendatory of an act to provide for the deficiency in the appropriation for the pay

of officers and men actually employed in the western department or department of Missouri.

The amendments reported by the committee are as follows:

1. After the word "thus," in the fifteenth line, insert the word "actually."
2. Strike out in the sixteenth and seventeenth lines the words "with six per cent. interest from the date of the payment."

Mr. KING demanded the previous question. The previous question was seconded, and the main question ordered.

The amendments were agreed to.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. COX moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### JURISDICTION OF COURT OF CLAIMS, ETC.

Mr. WILSON, from the same committee, reported back bill of the House (No. 305) to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermasters' stores and subsistence supplies furnished to the armies of the United States.

The bill was read. The first section provides that the jurisdiction of the Court of Claims shall not extend to or include any claims against the United States growing out of the destruction of or damage to property by the Army or Navy, or any part of the Army or Navy, engaged in the suppression of the rebellion from the commencement to the close thereof.

The second section provides that all claims of loyal citizens for quartermasters' stores actually furnished to the Army of the United States may be submitted to the Quartermaster General of the United States, accompanied with such proof as each claimant can present of the facts in his case, and that it shall be the duty of the Quartermaster General to cause such claims to be examined, and if convinced that they are just, and that the stores have actually been received or taken for the use of the Army, then to report such cases to the Third Auditor of the Treasury with a recommendation for settlement.

The third section provides that all claims of loyal citizens for subsistence actually furnished to the Army may be submitted to the Commissary General of Subsistence, accompanied with such proof as each such claimant can offer, and makes it the duty of the Commissary General of Subsistence to cause each claim to be examined, and if convinced that it is just, and that the subsistence has been received or taken for the use of the Army, to report such case to the Third Auditor of the Treasury with a recommendation for settlement, and that the action of the Quartermaster General or of the Commissary General of Subsistence, as the case may be, and of the accounting officer of the Treasury shall be final and conclusive upon such claims, which may be thereupon paid; provided that no claims shall be examined, audited, or allowed under the provisions of the bill until the claimant shall have taken and subscribed and filed with his claim the oath prescribed by the act "to prescribe an oath of office," approved July 2, 1862, excepting so much of said oath as relates to the discharge of the duties of officers, and every person falsely taking said oath under the provisions of this bill shall be liable to the penalties prescribed in the act of July 2, 1862.

Mr. WILSON. I call the previous question on the engrossment of the bill.

Mr. THOMAS. I hope the gentleman will withdraw that call for a single moment.

Mr. WILSON. I will do so for a moment to hear what the gentleman has to say.

Mr. THOMAS. The House will remember that this subject was under consideration a month or two ago, and they will recollect that a more comprehensive bill than the one now before this body was sanctioned by a very large majority of the House. After the principle of that bill was sanctioned, the majority thought it advisable to commit the bill to the Judiciary Committee, with a view to its revival and amendment. That bill has been considered by the committee, and has been reported with sundry amendments. It is now

in Committee of the Whole on the state of the Union. It is a bill, of course, which I individually prefer very much to the one now before the House. But, in view of the late period of the session and the inevitable consequence growing out of any discussion of this subject—the defeat, perhaps, of both measures—I prefer that the bill now before the House shall pass and go into the Senate, because I know that a more comprehensive bill is under consideration before the Judiciary Committee of the Senate; and if a majority of that committee favor that measure, they can send it back to us in lieu of the one which we are now about to send to the Senate. Under these circumstances I waive, so far as I am concerned, all objection to substituting for the bill now before the House the bill which is in Committee of the Whole on the state of the Union. If gentlemen who are friendly to the payment of these claims differ from me as to the proper course to be pursued, I would suggest that this bill be referred to the Committee of the Whole on the state of the Union, that then the House resolve itself into the Committee of the Whole on the state of the Union, and that both bills be considered together, and that one passed which will meet the sanction of the majority. But I prefer that the bill now before the House be passed, and subjected to the scrutiny and amendment of the Senate.

The bill was engrossed, and read a third time.

Mr. WILSON moved the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. GARFIELD. I ask whether this bill covers anything more than property taken for the use of the Army.

Mr. WILSON. No, sir.

Mr. GARFIELD. It does not extend at all to damages?

Mr. WILSON. No, sir.

Mr. WASHBURN, of Illinois. All right, GARFIELD.

The question was taken; and the bill was passed.

Mr. WILSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### DISABILITIES OF TRAITORS.

Mr. WILSON, from the Committee on the Judiciary, reported back an act to exclude traitors and alien enemies from the courts of the United States in civil cases, and from the public lands; which was ordered to be printed, and recommitted.

#### CONFISCATION OF REBEL PROPERTY.

Mr. WOODBRIDGE, from the same committee, reported back adversely a bill (H. R. No. 329) to amend the laws providing for the confiscation of rebel property, and asked that the committee be discharged from the further consideration of the same.

It was so ordered.

#### REPEAL OF FUGITIVE SLAVE LAW.

Mr. MORRIS, of New York, from the same committee, reported, for several bills referred to the committee on that subject, a substitute entitled "A bill to repeal the fugitive slave act of 1850 and all acts and parts of acts for the rendition of fugitive slaves;" which was read a first and second time.

The bill repeals sections three and four of the act respecting fugitives from justice and persons escaping from the service of their masters, passed February 12, 1793, and an act to amend and supplementary to the same, passed September, 1850.

The bill was ordered to be printed, and recommitted.

Mr. HOLMAN moved to reconsider the vote by which the bill was recommitted to the Committee on the Judiciary; and also moved to lay the motion to reconsider on the table, and called for tellers on the latter motion.

Tellers were ordered; and Messrs. MORRIS, of New York, and COFFROTH, were appointed.

The House divided; and the tellers reported—ayes 26, noes 57; no quorum voting.

Mr. WILSON called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 44, nays 66; as follows:

YEAS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Jacob B. Blair, Bliss, James S. Brown, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, Finck, Grider, Harding, Harrington, Charles H. Harris, Holman, William Johnson, King, Knapp, Law, Lazar, Le Blond, Long, Mallory, Marey, McDowell, James R. Morris, Morrison, Noble, Pendleton, Perry, Robinson, Rogers, Ross, Strouse, Sweat, Wadsworth, Wheeler, Chilton A. White, and Joseph W. White—44.

NAYS—Messrs. Alley, Allison, Ames, Arnold, Ashley, Baily, John D. Baldwin, Beaman, Blaine, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Thomas T. Davis, Dawes, Dixon, Donnelly, Diggs, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Hooper, Hotchkiss, John H. Hubbard, Hubbard, Ingersoll, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Longyear, Marvin, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Charles O'Neill, Orth, Patterson, Perham, Price, Edward H. Rollins, Scofield, Shannon, Sloan, Smithers, Spalding, Thayer, Thomas, Tracy, Upson, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, and Windom—66.

So the House refused to lay the motion to reconsider on the table.

Mr. WILSON moved the previous question on the motion to reconsider.

The previous question was seconded and the main question ordered; and under its operation the vote by which the bill was recommitted was reconsidered.

Mr. MORRIS, of New York, withdrew the motion to recommit.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. MORRIS, of New York, moved the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. HOLMAN called for the yeas and nays on the passage.

The yeas and nays were ordered.

Mr. MALLORY. I desire to ask the gentleman from New York a question if he will withdraw the previous question.

Mr. MORRIS, of New York. I decline to withdraw it.

Mr. MALLORY. Then I wish to state to the House the reason why I asked the gentleman to withdraw it.

The SPEAKER. Debate is not in order.

Mr. MALLORY. I wish to say only a word.

Mr. HOLMAN. If I have the floor I move that there be a call of the House.

Mr. MORRIS, of New York. If the gentleman from Kentucky does not want over two minutes I am willing to yield to him.

Mr. COX. Think of it! They condescend to give us two minutes to discuss the repeal of the Constitution!

Mr. MALLORY. Mr. Speaker, Kentucky is the only State still adhering to the Union which has not abolished or taken the initiatory steps to abolish slavery. Missouri has already passed an ordinance of emancipation, and it is generally conceded, I believe, that the convention now in session in Maryland will abolish it in that State; Kentucky, then, in a short time, will be the only State, of all those adhering to the national Union, in which slavery will remain.

A MEMBER. What of Delaware?

Mr. MALLORY. I think slavery has been abolished in Delaware, or at any rate only exists there nominally.

Mr. GARFIELD. It has badly gone.

Mr. MALLORY. As the gentlemen on the other side of the House regard this as the fact, and as they know that the Constitution orders the surrender of fugitive slaves, I demand, as an act of justice to my State, that the fugitive slave act be permitted to remain on the statute-book. If you say that it will be a dead letter, so much less excuse have you for repealing it, and so much more certainly is the insult and wrong to Kentucky gratuitous. This act by which you declare your intention not to obey the injunction of the Constitution is wanton and useless, except for the purpose of bravely exhibiting your contempt for that instrument and the rights of the States. This act, remember, is the forerunner of an act to amend the Constitution so as to authorize Congress to abolish slavery throughout the United States. You must think you will fail in that effort, or you would not press this.

Mr. Speaker, if the fugitive slave law is repealed, and your provost marshals and recruit-

ing officers draft and recruit the slaves of Kentucky; if this policy is continued, what need, think you, will there be to abolish slavery by constitutional amendment? Sir, I warn you against the course this Congress is pursuing. Already you have crushed out every feeling of love of the Union in the people of the revolted States, and you are besotted if you think that acts of oppression and wrong can be perpetrated in the border slave States without producing estrangement and even enmity there. Kentucky has remained true to her faith pledged to the Government, and I warn you not to persevere in inflicting on her insult and outrage. The framers of the Constitution gave us the right to reclaim fugitive slaves. It was conceded not as a favor, but as a right. No one disputed it; no one dared to dispute it. No one disputes it now. The President, and every respectable member of the Republican party, have again and again admitted the right. Do not indicate your contempt of it now by the passage of this repealing act, useless as you know it to be.

If you are determined to do it, will the gentleman from New York [Mr. MORRIS] who has charge of the bill withdraw the call for the previous question, to enable me to offer an amendment excepting my State from its operation, in order to save her from insult and do her justice?

Mr. MORRIS, of New York. I must decline—

Mr. MALLORY. I did not expect that he would yield. Justice is a thing that I have long ceased to hope for from that side of the House.

Mr. HOLMAN moved that there be a call of the House.

Mr. PENDLETON demanded the yeas and nays.

The yeas and nays were ordered.

Mr. PENDLETON moved that the House adjourn.

Mr. ANCONA demanded the yeas and nays.

The yeas and nays were ordered.

Mr. STROUSE moved that when the House adjourns to-day it adjourn to meet on Wednesday next.

Mr. DAWSON demanded the yeas and nays.

Mr. ELDRIDGE demanded tellers on the yeas and nays.

Tellers were ordered; and Messrs. ELDRIDGE and FENTON were appointed.

The House was divided; and the tellers reported—ayes twenty-five.

So, more than one fifth voting in favor thereof, the yeas and nays were ordered.

The question first recurred on Mr. STROUSE's motion for an adjournment over to Wednesday next; and it was decided in the negative—yeas 13, nays 87; as follows:

YEAS—Messrs. Ancona, Dawson, Denison, Eldridge, Griswold, Holman, Mallory, Moorhead, Morrison, Noble, Strouse, and Thomas—13.

NAYS—Messrs. James C. Allen, Alley, Allison, Ames, Arnold, Ashley, Beaman, Jacob B. Blair, Bliss, Broomall, James S. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Coffroth, Cole, Cox, Thomas T. Davis, Dawes, Dixon, Donnelly, Driggs, Edgerton, Eliot, Finck, Frank, Garfield, Gooch, Grinnell, Harrington, Charles M. Harris, Herrick, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, William Johnson, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, King, Knapp, Lazear, Le Blond, Littlejohn, Long, Longyear, Marvin, McDowell, Samuel F. Miller, Daniel Morris, James R. Morris, Amos Myers, Charles O'Neill, Orth, Patterson, Pendleton, Perham, Perry, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Scofield, Scott, Shannon, Sloan, Smith, Smithers, Spalding, Sweat, Thayer, Tracy, Upson, William B. Washburn, Whaley, Wheeler, Chilton A. White, Joseph W. White, Williams, Wilson, Windom, and Woodbridge—87.

So the motion was disagreed to.

The question then recurred on the motion to adjourn; and it was decided in the negative—yeas 8, nays 88; as follows:

YEAS—Messrs. Ancona, Bliss, Eden, Eldridge, Morrison, Pendleton, Strouse, and Whaley—8.

NAYS—Messrs. Alley, Allison, Ames, Arnold, Ashley, Augustus C. Baldwin, John D. Baldwin, Beaman, Blaine, Jacob B. Blair, Broomall, James S. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Coffroth, Cole, Henry Winter Davis, Thomas T. Davis, Dawson, Denison, Dixon, Donnelly, Driggs, Edgerton, Eliot, Farnsworth, Fenton, Finck, Frank, Ganson, Garfield, Gooch, Grinnell, Harrington, Charles M. Harris, Herrick, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, William Johnson, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, King, Knapp, Lazear, Le Blond, Littlejohn, Long, Longyear, Marvin, McDowell, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Noble, Charles O'Neill, Orth, Patterson, Perham, Perry, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Scofield, Shannon, Sloan, Smithers, Thayer, Tracy, Upson, Elihu B. Washburne, William B. Washburn, Chilton A.

White, Joseph W. White, Williams, Wilson, Windom, and Woodbridge—88.

So the House refused to adjourn.

The question next recurred on the motion that there be a call of the House; and it was decided in the negative—yeas 44, nays 66; as follows:

YEAS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Jacob B. Blair, Bliss, James S. Brown, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, Finck, Grider, Harding, Harrington, Charles M. Harris, Holman, William Johnson, King, Knapp, Law, Lazear, Le Blond, Long, Mallory, Marcy, McDowell, James R. Morris, Morrison, Noble, Pendleton, Perry, Robinson, Rogers, Ross, Strouse, Sweat, Watworth, Wheeler, Chilton A. White, and Joseph W. White—44.

NAYS—Messrs. Alley, Allison, Ames, Arnold, Ashley, Baily, John D. Baldwin, Beaman, Blaine, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Thomas T. Davis, Dawes, Dixon, Donnelly, Driggs, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Hooper, Hotchkiss, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Longyear, Marvin, McDowell, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Charles O'Neill, Orth, Patterson, Perham, Price, Edward H. Rollins, Scofield, Shannon, Sloan, Smithers, Spalding, Thayer, Thomas, Tracy, Upson, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, and Windom—66.

So the House refused to order a call of the House.

The SPEAKER. The question recurs on seconding the demand for the previous question.

Mr. DAVIS, of Maryland. Is it in order to move to postpone this bill?

The SPEAKER. It is not, pending the demand for the previous question.

Mr. ANCONA. I move that the House adjourn.

Mr. COX. Would it be in order to appeal to the gentleman to postpone the bill?

The SPEAKER. Not without unanimous consent.

Mr. COX. I ask unanimous consent.

Consent was given.

Mr. COX. I ask the gentleman from New York to allow this bill to be printed in the first place. Although I have not consulted with gentlemen upon this side of the House in reference to the time when a vote can be taken, I can say that we cannot do justice to this bill this evening. The excitement incident to the Baltimore convention and other matters has incapacitated gentlemen on that side of the House for considering constitutional questions. The United States courts have decided that this law is constitutional, and it is the only refuge left to a certain class of our citizens to protect their rights. Its repeal will help the rebels; help Jeff. Davis, and perhaps defeat Lincoln's nomination. I hope, then, the gentleman will postpone the bill, for the present at least.

Mr. MORRIS, of New York. To what time does that side of the House propose to postpone the question and have a vote taken upon it?

Mr. COX. Let it be referred back to the Judiciary Committee.

Mr. FENTON. With leave to report at any time?

Mr. HOLMAN. I object to that.

The SPEAKER. The question is on the motion to postpone.

Mr. ELDRIDGE. Upon that I demand the yeas and nays, and call for tellers on the yeas and nays.

Mr. MORRIS, of New York. I suggest that if the other side of the House will consent to the designation of a particular day when action shall be had upon the bill, I shall be inclined to postpone the consideration of the question.

Mr. HARDING. And allow discussion?

Mr. MORRIS, of New York. Meanwhile the bill can be printed.

Mr. COX. There will be no objection to postponing this bill, provided action be not attempted at once upon the day fixed upon.

Mr. WILSON. In order to do justice to the Judiciary Committee, I desire to say it was the intention of the committee, by having this bill re-committed and printed, to allow every member of the House to have full time to examine it before it should be brought back by a motion to reconsider. But the other side of the House, by entering a motion to reconsider, compelled this action to lay that motion on the table. The committee did not intend until that action by the other side of the House to press this bill to a vote to-day. Now, I presume it will be satisfactory to the

committee if a particular time is agreed upon for taking this vote. If that is not done, I cannot see that anything is gained by postponing the bill.

Mr. HOLMAN. There is certainly no advantage to be gained by postponing this bill for the purpose of having it printed, as there is no gentleman upon this floor who does not understand the full effect of the bill. It is one of those subjects upon which there can be no misunderstanding; so that nothing is gained, by way of information to the House, by a postponement. The only benefit will be to enable gentlemen who desire to discuss the subject to do so. I therefore suggest to the gentleman from New York to postpone the bill until some future day, and allow it to be open for debate for a reasonable time.

Mr. MORRIS, of New York. How long a time will they ask for discussion?

Mr. GANSON. I suggest to my colleague that he postpone it until after we have amended the Constitution.

Mr. WILSON. Does the gentleman expect to vote for the amendment to the Constitution?

Mr. GANSON. I have no doubt I may be convinced of its propriety when I hear the chairman of the Judiciary Committee make an argument upon that subject.

Mr. WILSON. I hope the gentleman will vote for it, as I am satisfied he desires to do so if he can break loose from the party that now hampers him.

Mr. MORRIS, of New York. I renew the inquiry, how long a time do gentlemen ask for discussing this question?

Mr. HOLMAN. Such time as may be deemed reasonable.

Mr. MALLORY. I will state to the gentleman from New York that I do not think it will be proper to fix any time within which this discussion must take place. The gentleman and his friends will have the control of that matter, as they can move the previous question and close the debate. Why should the gentleman be solicitous to know how long we want to discuss the bill, as long as his friends can control the matter? It is impossible to tell how many gentlemen desire to make speeches.

Mr. COX. I would suggest that the bill be postponed until Friday next.

Mr. WILSON. There is a question of privilege set down for that day.

Mr. COX. Say Tuesday of next week.

Mr. WILSON. That day also is set apart for considering the proposed amendment to the Constitution.

Mr. COX. Say the first day after that is disposed of.

The SPEAKER. The Chair will suggest that Monday of next week is not assigned for anything.

Mr. COX. I have no objection to Monday.

Mr. MORRIS, of New York. I am willing to set it down for that day with the understanding that the vote shall be taken on that day.

Mr. PENDLETON. I shall not agree to any understanding with reference to a vote on this bill; but I am willing, if I may be permitted to say so, to have it set down for any day the gentleman desires, and let it be printed in the mean time, and then when it comes up let it stand in the same position it does to-day; that will give gentlemen entire control of it.

Mr. MORRIS, of New York. I am willing to have it set apart for next Monday.

The SPEAKER. The Chair will state that it will have as high preference if the House postpones it as it has now.

Mr. PENDLETON. I understand that; and therefore I do not object to its being made a special order.

Mr. MORRIS, of New York. And I suggest that after reasonable discussion the vote shall be taken on that day.

The SPEAKER. The gentleman from New York suggests the postponement of the bill until Monday next after the morning hour; and he desires to have unanimous consent in regard to the time when the vote shall be taken.

Mr. PENDLETON. There can be no unanimous consent in regard to taking the vote. I do not object to making it a special order.

The SPEAKER. Then the Chair hears no objection to the bill being postponed until Monday next after the morning hour, and made the special order.



Mr. WILSON. Does that include any arrangement by which the vote shall be taken?

The SPEAKER. It does not.

Mr. WILSON. What effect will that have on the order of the House in relation to the consideration of the joint resolution in reference to the amendment of the Constitution?

The SPEAKER. The effect will be that the bill will be debated on Monday, and on Monday evening, if there be an evening session, and if not disposed of, it will then come up again after the joint resolution in relation to the constitutional amendment shall be disposed of.

Mr. ANCONA. I withdraw the motion to adjourn.

#### JUDICIAL DISTRICTS OF MICHIGAN.

Mr. MORRIS, of New York, from the Committee on the Judiciary, to whom was referred certain petitions and resolutions, reported a bill to detach the counties of Calhoun and Branch from the western judicial district, and to annex the same to the eastern judicial district for the State of Michigan, which was read a first and second time.

Mr. KELLOGG, of Michigan. I wish to say a few words on that measure. It is one about which the delegation were divided.

Mr. MORRIS, of New York. Let the bill be read.

The Clerk read the bill.

The first section provides for detaching the counties of Calhoun and Branch in the State of Michigan from the western judicial district, and annexing them to the eastern judicial district of that State. The second section provides that this act shall not affect in any manner any suit or proceeding now pending in the court of the western judicial district, but that the same shall be proceeded in and determined in said court in the same manner as if this act had not been passed.

Mr. MORRIS, of New York. I intend to move the previous question on the bill; but before doing so, will yield for a few moments to the gentleman from Michigan.

Mr. KELLOGG, of Michigan. It is well known to the older members of the House that the State of Michigan was divided into two judicial districts, I think about two years ago, and this is a proposition to detach two counties from one of the districts and transfer them to the other. The petitioners no doubt think they have good reasons for asking this change, and I am not disposed to comment on them or to consume the time of the House; but I think the reasons that they allege can be answered satisfactorily, perhaps, to them before another session of Congress. I therefore move to postpone the further consideration of the bill till the second Tuesday in December next, when I will not object to its passage, unless the petitioners are satisfied in the mean time with the present arrangement.

Mr. MORRIS, of New York. I cannot yield to the gentleman to make the motion to postpone.

Mr. KELLOGG, of Michigan. Then I hope the bill will be voted down.

Mr. UPSON. I hope not.

Mr. MORRIS, of New York. I move the previous question on the bill.

Mr. KELLOGG, of Michigan. I move to lay the bill upon the table.

The question was put; and there were—ayes 30, noes 38; no quorum voting.

Mr. UPSON. I ask my colleague to withdraw his motion for a moment to allow me to make a statement.

Mr. KELLOGG, of Michigan. I will withdraw it for a moment.

Mr. UPSON. I wish to state that these two counties, in one of which I reside and the other of which is a little north of that, were placed in the western judicial district without their knowledge and without their being consulted. Their business relations are wholly with the city of Detroit, and the people of the counties have to pass through Detroit in order to get to Grand Rapids, which is the seat of justice of the western district.

Mr. WASHBURN, of Illinois. Will the gentleman answer me this question: was there any necessity whatever for creating that additional district last Congress?

Mr. UPSON. My colleague [Mr. Kellogg] can answer that question. I do not want to interfere with it any further than to have these two

counties put back in the eastern district, as the inhabitants desire. The board of supervisors of the county of Branch unanimously requested me to have it done; and more than seven hundred and fifty electors of the county have petitioned for that course to be taken. I am informed by my colleague from the fourth district [Mr. LONGYEAR] that a similar application has been made by the people of Calhoun county. There can be no injury done by this to the people of the western district, and it will be simple justice to the two counties in question. They lie, the one on the Central road and the other on the Southern road, and are in immediate communication with Detroit, where they can go and attend to their business in half the time they could go to the western district. It is a matter of simple justice to them that this bill be passed.

Mr. KELLOGG, of Michigan. I withdraw the motion to postpone.

The previous question was seconded, and the main question ordered; and under its operation the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MORRIS, of New York, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ADMIRALTY PROCEEDINGS IN NEW YORK.

Mr. MORRIS, of New York, from the Committee on the Judiciary, reported back, with a recommendation that it do pass, a bill (H. R. No. 184) to facilitate proceedings in admiralty and other judicial proceedings in the port of New York, and for other purposes.

Mr. DAVIS, of New York. I desire to move that the bill be postponed till some day in December next, if my colleague will yield for that purpose.

Mr. MORRIS, of New York. I will not yield for that purpose. I am willing to consent to its postponement for some days, in order that the gentlemen from New York [Messrs. KALBFLEISCH and ODELL] who represent the city of Brooklyn may be present. They are not now in their seats. Their constituents are interested in this measure. I am willing, therefore, to consent to a postponement for a week or ten days. I make the motion that it be postponed for ten days.

Mr. WASHBURN, of Illinois. I move to amend by postponing it to the third Tuesday in December.

Mr. COX. I will help my friend from Illinois on that.

Mr. WASHBURN, of Illinois. That is right. [Laughter.]

Mr. FENTON. I suggest that the bill be postponed to two weeks from to-day.

Mr. MORRIS, of New York. I am willing to modify my motion in that way.

Mr. GANSON. I suggest to my colleague that one of the Representatives from Brooklyn to whom he has referred is now in the House.

Mr. WASHBURN, of Illinois. I withdraw my amendment.

Mr. MORRIS, of New York. I move the previous question on the motion to postpone for two weeks.

The previous question was seconded, and the main question ordered; and under its operation the bill was postponed for two weeks and ordered to be printed.

Mr. FARNSWORTH moved to reconsider the vote by which the bill was postponed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. DAVIS, of Maryland, addressed the Chair. The SPEAKER. Has the gentleman from New York concluded his reports from the Judiciary Committee?

Mr. MORRIS, of New York. I was about to remark that I have one bill more to report; but I notice that the member from Oregon who is interested in it is not now in his seat, and I propose to withhold it, and to yield for a moment to my colleague, [Mr. DAVIS.]

Mr. DAVIS, of Maryland. If the Judiciary Committee has concluded its business, I claim the floor.

The SPEAKER. The gentleman from Maryland has been recognized by the Chair.

#### EUROPEAN INTERVENTION IN MEXICO.

Mr. DAVIS, of Maryland. I ask leave to report from the Committee on Foreign Affairs on the correspondence referred to it the other day.

Mr. ARNOLD. I object.

Mr. DAVIS, of Maryland. Then I move to suspend the rules.

Mr. FENTON. I appeal to the gentleman from Maryland to withhold the report until my colleague, [Mr. POMEROY], who is a member of the Committee on Foreign Affairs, may be present. I know that he takes great interest in the question. I hope the report will not be made to-day.

Mr. COX. Allow me to say in response to the gentleman from New York that my colleague on the committee [Mr. POMEROY] is anxious to have this report printed, but wants to have it debated. We do not propose to take it up and adopt it now.

The SPEAKER. The Chair will say to the gentleman from Ohio that a motion to suspend the rules is not debatable.

Mr. WASHBURN, of Illinois, called for the yeas and nays on the motion to suspend the rules.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 43, nays 55; as follows:

YEAS—Messrs. Allison, Ancona, Augustus C. Baldwin, Cox, Henry Winter Davis, Dawson, Eden, Edgerton, Eldridge, Fluck, Ganson, Garfield, Grider, Griswold, Harding, Harrington, Charles M. Harris, Herrick, Holman, Jenckes, King, Knapp, Lazear, Le Blond, Long, Mallory, Marey, James K. Morris, Morrison, Noble, Odell, Orth, Pendleton, Perry, Robinson, Ross, Scott, Spalding, Strouse, Sweat, Wadsworth, Chilton A. White, and Joseph W. White—43.

NAVS—Messrs. Atley, Ames, Arnold, Baily, John D. Baldwin, Beaman, Blaine, Jacob B. Blair, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Coffroth, Cole, Thomas T. Davis, Dawes, Dixon, Donnelly, Driggs, Eliot, Farnsworth, Fenton, Frank, Gooch, Grinnell, Hale, Hotchkiss, John H. Hubbard, Ingersoll, Kelley, Orlando Kellogg, Littlejohn, Longyear, Marvin, Samuel F. Miller, Daniel Morris, Amos Myers, Charles O'Neill, Patterson, Perham, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Shannon, Smithers, Thayer, Tracy, Upson, Elihu B. Washburne, William B. Washburn, Whaley, Wilson, and Wyndom—55.

So the rules were not suspended.

#### THANKS TO COLONEL BAILEY.

On motion of Mr. SLOAN, by unanimous consent, the Senate joint resolution (No. 60) tendering the thanks of Congress to Lieutenant Colonel Joseph Bailey, of the fourth regiment of Wisconsin volunteers, was taken from the Speaker's table, received its several readings, and unanimously passed.

Mr. SLOAN moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MILITARY BUSINESS.

On motion of Mr. GARFIELD, by unanimous consent, Thursday of next week was set apart for the consideration of the business of the Committee on Military Affairs.

#### BUSINESS ON THE SPEAKER'S TABLE.

Mr. BEAMAN moved to proceed to business on the Speaker's table.

The motion was agreed to.

The bills on the Speaker's table were then taken up and disposed of in their order, as follows:

#### RELEASE FROM ATTACHMENT.

House bill No. 355, to authorize the Secretary of the Treasury to stipulate for the release from attachment on Government process of property claimed by the United States, and for other purposes, with an amendment of the Senate thereto, was taken from the Speaker's table.

Mr. ELIOT. I move that the House concur in the amendment of the Senate.

The motion was agreed to.

Mr. ELIOT moved to reconsider the vote by which the House concurred in the Senate amendment; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### WITHDRAWAL OF GOODS FROM PUBLIC STORES.

An act (S. No. 282) to amend an act entitled "An act to extend the time for the withdrawal of goods from the public stores and bonded ware-

houses, and for other purposes," approved February 29, 1864, was taken from the Speaker's table and read a first and second time, and, on motion of Mr. FENTON, referred to the Committee of Ways and Means.

#### PORT ORFORD AND CAPE PERPETUA.

An act (S. No. 283) to abolish the collection districts of Port Orford and Cape Perpetua, in the State of Oregon, was taken from the Speaker's table and read a first and second time.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### RED RIVER OF THE NORTH.

An act (S. No. 272) to facilitate trade on the Red river of the North was taken from the Speaker's table, and read a first and second time.

Mr. WASHBURN, of Illinois. I do not think there can be any objection to that bill, and I hope it will be put on its passage.

Mr. FENTON. I think the bill had better be considered by the Committee on Commerce before the House determines to pass it.

Mr. WASHBURN, of Illinois. If the gentleman from New York has any objection to the bill, I should be glad if he would state it.

Mr. FENTON. I do not know whether I have or not. I desire to have it referred for the purpose of ascertaining—

Mr. DONNELLY. I hope at this stage of the session this bill will not be referred.

Mr. WASHBURN, of Illinois. I will suggest to the gentleman from New York that there may be some doubt whether the Committee on Commerce will be called again.

Mr. FENTON. I have no objection to the bill being passed over informally.

There being no objection, the bill was passed over informally.

#### VETO POWER IN WASHINGTON.

An act (S. No. 285) to regulate the veto power in the Territory of Washington was read a first and second time.

Mr. WASHBURN, of Illinois. I move that the bill be referred to the Committee on the Judiciary.

Mr. COLE, of Washington. I move to amend by referring it to the Committee on Territories.

Mr. UPSON. I desire to ask whether the Delegate from Washington Territory has the right to make that motion.

The SPEAKER. Under the practice of the House, Delegates have the right to make motions but not to vote.

Mr. BEAMAN. I call for the previous question on the bill.

The previous question was seconded, and the main question ordered to be put.

The motion to refer to the Committee on Territories was not agreed to.

On the motion to refer to the Committee on the Judiciary, 35 voted in the affirmative, and 50 in the negative; no quorum.

The SPEAKER ordered tellers; and appointed Messrs. BEAMAN and LAZEAR.

The House again divided; and the tellers reported—ayes 44, noes 48.

So the bill was not referred.

The bill was ordered to a third reading, and was accordingly read the third time.

Mr. COLE, of Washington, took the floor.

Mr. COX. The gentleman from Washington yields to me to move that the House do now adjourn.

#### GOVERNMENT EMPLOYÉS.

Pending the motion to adjourn,

Mr. A. W. CLARK, from the Committee on Printing, moved that the committee be discharged from the further consideration of a memorial of three hundred Government employés, male and female, in regard to their hours of labor.

The motion was agreed to; and the memorial was laid upon the table.

#### AIDS-DE-CAMP.

The SPEAKER laid before the House a letter from the Secretary of War in answer to a resolu-

tion of the House transmitting a list of additional aids-de-camp appointed under act of August 5, 1861, showing their rank, &c.; which was laid upon the table, and ordered to be printed.

#### PERE MARQUETTE AND FLINT RAILROAD.

Mr. SLOAN, by unanimous consent, moved to take up Senate joint resolution No. 42, to extend the time for the reversion to the United States of lands granted by Congress to aid in the construction of a railroad from Pere Marquette to Flint, and for the completion of said road.

The motion was agreed to; and the joint resolution was taken from the Speaker's table, read a first and second time, and referred to the Committee on Public Lands.

#### LOCATION OF LANDS IN MISSOURI.

Mr. THAYER, by unanimous consent, from the Committee on Private Land Claims, reported back House bill No. 435, concerning a certain location of lands in the State of Missouri; which was ordered to be printed and recommitted to the same committee.

#### ALEXANDRIA AND WASHINGTON RAILROAD.

Mr. DAVIS, of New York, by unanimous consent, introduced a bill to amend an act to extend the charter of the Alexandria and Washington railroad, and for other purposes, approved March 3, 1863; which was read a first and second time, and referred to the Committee for the District of Columbia.

#### COMMITTEE ON NAVAL AFFAIRS.

Mr. RICE, of Massachusetts, by unanimous consent, moved that Saturday of next week be set apart for the consideration of business from the Committee on Naval Affairs.

The motion was agreed to.

#### WASHINGTON AND GEORGETOWN RAILROAD.

Mr. DRIGGS. I ask unanimous consent to introduce the following resolution:

Whereas it is provided in section nine of the act incorporating the Washington and Georgetown Railroad Company, that said company "shall run cars thereon during the day as often as every five minutes, except as to Seventh and Fourteenth streets, and on these once in fifteen minutes each way," or as often as the public interest may require; and whereas the cars are withdrawn from the service of the public on Sundays, contrary to the usage in other cities, and greatly to the inconvenience of the citizens and members of Congress in visiting hospitals and in attending to other necessary duties: Therefore,

Resolved, That the Committee for the District of Columbia be instructed to inquire into the reasons why said company do not run their cars on each day of the week in accordance with the act of incorporation.

Resolved, That the committee be further instructed to report to this House, with as little delay as practicable, such further measures, if any, as may be necessary to secure the running of the cars on each and every day of the week.

Mr. PRICE. I object.

The motion to adjourn was agreed to.

And then (at ten minutes past four o'clock p. m.) the House adjourned.

#### IN SENATE.

TUESDAY, June 7, 1864.

Prayer by the Chaplain, Rev. Dr. BOWMAN.

On motion of Mr. FESSENDEN, and by unanimous consent, the reading of the Journal was dispensed with.

Mr. FESSENDEN. I should like very much, if the Senate will allow me, to take up the fortification bill now. I think we can pass it in a short time.

Mr. HOWARD and Mr. CONNESS. I hope we shall be allowed the morning hour.

Mr. FESSENDEN. Of course I shall not press the motion against the wishes of gentlemen.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Interior, accompanied by a letter of the Commissioner of Indian Affairs, concerning the claim of the confederate tribes of Kaskaskia, Peoria, Piankeshaw, and Wea Indians, arising out of the provisions of the treaty of May, 30, 1854, with those Indians; which was referred to the Committee on Indian Affairs.

#### PETITIONS AND MEMORIALS.

Mr. SUMNER. I offer a series of resolutions adopted by the Synod of the Reformed Presbyterian Church, June 1, 1864, signed, "by order

of the Synod, R. Z. Wilson, clerk," which I have been desired to present to the Senate. One of these resolutions, which gives an idea of the whole, is as follows:

"That we demand, in the great name of that God with whom there is no respect of persons, the immediate and unconditional emancipation of all persons held in slavery in the United States, the abolition of all laws making odious distinctions on account of color, and such an amendment of the Constitution as will forever prevent involuntary servitude, except for crime, in the United States."

I ask the reference of these resolutions to the committee on slavery and freedmen.

They were so referred.

Mr. SUMNER. I also present eleven petitions of men and women of the United States praying for the abolition of slavery and such an amendment of the Constitution as will forever prohibit its existence in any portion of the Union. In offering these petitions I beg to remark that the mass of the petitioners, now amounting to three hundred thousand, asking for immediate emancipation by act of Congress, I am instructed, are from the working classes. If you will look at the signatures you will find it so. In many letters the signers say their names have all been written on the anvil, the rail fence, the plow, or the work-bench. It may be remarked that Illinois is two thousand ahead of all the other States, "the fruit," my correspondent remarks, "no doubt of the seed sown by the ever-faithful Owen Lovejoy." I ask the reference of these petitions to the committee on slavery and freedmen.

They were so referred.

#### REPORTS FROM COMMITTEES.

Mr. GRIMES, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 299) authorizing the levy court of Washington county, District of Columbia, to levy and collect its portion of the direct tax imposed by the act of Congress of August 5, 1861, reported it without amendment.

Mr. POMEROY, from the Committee on Public Lands, to whom were referred the following bills, reported them severally without amendment and with a recommendation that their further consideration be postponed to the next session of Congress, the committee not being sufficiently advised as to the routes of the proposed roads:

A bill (S. No. 295) making additional grant of lands to the State of Minnesota, in alternate sections, to aid in the construction of a railroad in said State; and

A bill (S. No. 297) making a grant of lands to the Territories of Dakota and Montana, in alternate sections, to aid in the construction of a railroad in said Territories.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a resolution to print two thousand copies of the currency act for the use of the Comptroller of the Currency, reported it without amendment.

The Senate proceeded to consider the said resolution, and it was agreed to.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred a resolution instructing the committee to inquire into the expediency of amending the neutrality laws, asked to be discharged from its further consideration; which was agreed to.

Mr. HARLAN, from the Committee on Public Lands, to whom were referred the following bills, asked to be discharged from their further consideration; which was agreed to:

A bill (S. No. 121) donating public lands to the several States for the support and education of the orphan children of soldiers and sailors who die in the military and naval service of the United States; and

A bill (S. No. 239) to grant aid for the construction of certain railroads in Minnesota.

He also, from the same committee, to whom was referred a bill (H. R. No. 493) for the relief of William Brindle, submitted an adverse report; which was ordered to be printed.

Mr. HARRIS, from the Committee on Private Land Claims, to whom was referred a bill (H. R. No. 422) to amend an act entitled "An act to confirm certain private land claims in the Territory of New Mexico," reported it without amendment.

He also, from the same committee, to whom was referred a letter of the Secretary of the Interior, communicating papers relative to the ap-

plication of Richard Fitch for bounty land, asked to be discharged from its further consideration, and that it be referred to the Committee on Public Lands; which was agreed to.

Mr. HOWARD. I ask the unanimous consent of the Senate to move to take up the bill—

The PRESIDENT *pro tempore*. Reports are still in order.

Mr. SUMNER. The Committee on Foreign Relations, to whom was referred the bill (H. R. No. 487) to provide for the execution of treaties between the United States and foreign nations respecting the consular jurisdiction over the crews of vessels of such foreign nations in the waters and ports of the United States, have had the same under consideration, and have directed me to report it back with a recommendation that it pass. As the interests of justice will be promoted by the immediate passage of this bill—and I think it will take no time—I venture to ask the Senate to act upon it now.

Mr. HOWARD. I have just asked the unanimous consent of the Senate to consider a bill of mine, and the motion was not entertained, and I object to this.

The PRESIDENT *pro tempore*. The Chair understood the Senator from Michigan to move to postpone all prior orders and proceed to the consideration of the bill. The Senator from Massachusetts asks for unanimous consent to consider the bill just reported.

Mr. HOWARD. I do not see any difference in principle, and I must object to it.

The PRESIDENT *pro tempore*. Objection being made, the bill cannot be considered at this time.

#### MARQUETTE AND ONTONAGON RAILROAD.

Mr. CARLILE. The Committee on Public Lands, to whom was referred the bill (H. R. No. 469) extending the time for the completion of the Marquette and Ontonagon railroad of the State of Michigan, have instructed me to report it back without amendment. The Senate a few days ago passed a similar bill, but it originated in this body. This bill has passed the House of Representatives, and if it can be acted upon by the Senate now it will only need the signature of the President to become a law. The committee thought it best, therefore, to ask for the immediate consideration of the bill.

The PRESIDENT *pro tempore*. Is there any objection to its present consideration?

Mr. HOWE. I hope it will lie over.

The PRESIDENT *pro tempore*. If the Senator objects it will lie over.

Mr. HARLAN. Allow me to make this explanation. The Senate has passed a bill substantially the same as this; but the House of Representatives having passed this bill, if the Senate should now concur in it it would become a law.

Mr. HOWE. I understand that the bill which the Senate passed interferes with the rights of another company.

Mr. HARLAN. If the Senator desires to examine it, I have no objection to its going over.

The PRESIDENT *pro tempore*. It cannot be considered to-day if objection be made. The bill will lie over.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had passed the following bills and joint resolution of the Senate:

A bill (No. 28) relating to members of Congress, heads of Departments, and other officers of the Government;

A bill (No. 42) in relation to the limitation of actions in certain cases;

A bill (No. 52) to provide for the summary trial of minor offenses against the laws of the United States;

A bill (No. 256) to change and define the boundaries of the eastern and western judicial districts of Virginia, and to alter the names of said districts, and for other purposes;

A bill (No. 283) to abolish the collection districts of Port Orford and Cape Perpetua in the State of Oregon; and

A joint resolution (No. 60) tendering the thanks of Congress to Lieutenant Colonel Joseph Bailey, of the fourth regiment of Wisconsin volunteers.

The message further announced that the House

of Representatives had passed the bill of the Senate (No. 55) in relation to the circuit court in and for the district of Wisconsin, and for other purposes, with an amendment; in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had agreed to the amendment of the Senate to the bill of the House (No. 355) to authorize the Secretary of the Treasury to stipulate for the release from attachment or other process of property claimed by the United States, and for other purposes.

The message further announced that the House of Representatives had passed the following bills and joint resolution; in which it requested the concurrence of the Senate:

A bill (No. 274) in relation to the computation of the time within which an indictment may be found against persons charged with crimes against the laws of the United States;

A bill (No. 281) to amend the sixteenth section of the act entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," approved July 17, 1862;

A bill (No. 284) to prevent the selling and circulation of counterfeit coin, and of counterfeit and altered Treasury notes and postal currency bills;

A bill (No. 305) to restrict the jurisdiction of the Court of Claims and to provide for the payment of certain demands for quartermaster's stores and subsistence supplies furnished to the Army of the United States;

A bill (No. 497) in relation to the village of Deposit, Delaware county, New York;

A bill (No. 513) to detach the counties of Calhoun and Branch from the western judicial district and annex the same to the eastern district of the State of Michigan; and

A joint resolution (No. 87) amendatory of an act to provide for the deficiency in the appropriation for the pay of officers and men actually employed in the western department or department of Missouri.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 217) for the relief of Warren W. Green; and

A bill (S. No. 250) to amend an act entitled "An act making a grant of alternate sections of public lands to the State of Michigan, to aid in the construction of certain railroads in said State, and for other purposes."

#### BILLS BECOME LAWS.

The message further announced that the President of the United States had approved and signed, on the 3d instant, the following acts and joint resolution:

An act (H. R. No. 120) to reestablish the principal port of entry for the district of Champlain, at Plattsburgh, and for other purposes;

An act (H. R. No. 474) to amend an act relative to the public printing; and

A joint resolution (H. R. No. 51) relative to the claim and letters patent of William Wheeler Hubbell.

#### COLLEGE RANCHO.

Mr. CONNESS. I now move to take up the bill (H. R. No. 179) concerning lands in the State of California, which I think will create no discussion. It will be remembered that this is the bill which was discussed the other day, authorizing the Catholic archbishop of San Francisco to dispose of certain lands. I think there is no opposition to it now.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

Mr. HARLAN. It will be remembered that when this bill was under consideration on a previous day, the committee was unable to report the facts connected with it. I have now a letter from the Commissioner of the General Land Office on this subject, which I will ask to have read by the Secretary.

The Secretary read it, as follows:

GENERAL LAND OFFICE, June 3, 1864.

SIR: I have the honor to acknowledge the receipt of your letter of the 2d instant, inclosing House of Representatives bill No. 179 herewith in regard to the ranch known as Cañada de los Pinos, or College Grant, patented

under date 24th February, 1861, to Joseph S. Alemany, Bishop of Monterey, and his successors.

I reference to the subject, I inclose herewith copy of my letter of February 1, 1864, to the honorable chairman of Public Lands, House of Representatives, and, in answer to your inquiry, have to state that the area of the ranch is 35,499.37 acres, its locality in the county of Santa Barbara, California, some twenty-five or thirty miles northeast of Point Conception, on which the light-house is situated, and some twelve or fourteen due north from the nearest shores of the Pacific. It is near the promontory on which are found the bituminous or asphaltum deposits from springs having their source far down in the bowels of the earth, the center of the spring being liquid and warm, often ranging to a temperature of 200° Fahrenheit, and which it is supposed are inexhaustible, extending under the bed of the ocean to an unknown distance seaward, covering the earth with an oily substance resembling coal-oil. I have not such data as will enable me to answer with any degree of accuracy as to the probable value of the ranch in question; but satisfactory information in that respect can doubtless be had from members of the congressional delegation from the State.

With great respect, your obedient servant,  
J. M. EDMUNDS,  
Commissioner.

Hon. J. HARLAN, Chairman of Committee on Public Lands, United States Senate.

Mr. CONNESS. Here is another letter on the same subject, which I ask to have read.

Mr. McDUGALL. Before that is done I wish to ask the Secretary if the amount of the land is stated at thirty-five thousand in that letter. That is the way it was read. I think it is a mistake; it should be thirty-five hundred acres.

The SECRETARY. Thirty-five thousand four hundred and ninety-nine and thirty-seven hundredths.

Mr. McDUGALL. That is a mistake, I think. The Secretary read the following letter:

GENERAL LAND OFFICE, February 1, 1864.

SIR: I have the honor to return you herewith the "bill concerning certain lands in the State of California," received with a letter of the 28th ultimo from the clerk of the committee.

This bill refers to a patent dated February 28, 1861, as recorded in the California Record, volume three, pages 225 to 235 inclusive, in favor of "Joseph Sadoc Alemany, Roman Catholic Bishop of Monterey," California.

In his petition to the board of land commissioners, the bishop claimed "the confirmation to him and his successors of the title to certain church property in California, to be held by him and them in trust for the religious purposes and uses to which the same have been respectively appropriated; said property consisting of church edifices, houses for the use of the clergy and those employed in the service of the church, church yards, burial grounds, gardens, orchards, and vineyards, with the necessary buildings thereon and appurtenances, the same having been recognized as the property of the said church by the laws of Mexico in force at the time of the cession of California to the United States."

A decree of confirmation was rendered by the said board accordingly, an appeal taken therefrom to the United States district court for the southern district of California, and as said appeal was afterwards dismissed, the decree of the board became final, and the patent was thereafter issued to the said "Joseph S. Alemany, Bishop of Monterey, and to his successors, in trust for the religious purposes and uses to which the same have been respectively appropriated."

The bill inclosed seeks congressional legislation so as to make it "lawful for the said Joseph S. Alemany, and his successors as the grantees of said patent, to lease, mortgage, or sell the said tract or ranch, or any part thereof, and all proper conveyances in that behalf to make and deliver, and the proceeds thereof to apply, under the direction of the Roman Catholic Archbishop of San Francisco, in the State of California, and his successors in office or other proper authority of the Roman Catholic church in said State, for the purposes of education anywhere within said State; anything in said patent or in the original grant or concession of said tract, or ranch, or other title whereby the same was acquired from and under the authorities of Spain, or Mexico, to the contrary notwithstanding."

"And all trusts, conditions, provisions, or covenants, precedent or subsequent, expressed or implied, in said patent, grant, concession, or title, to the contrary hereof, and all breaches of the same, are hereby wholly waived, abrogated, discharged, dispensed with, and released on the part of the United States for the purposes of this act. And any conveyance or disposition made in pursuance thereof shall operate to pass the estate or interest conveyed or disposed of free and discharged from all such trusts, conditions, provisions, or covenants."

The bishop, as the grantee and chief ecclesiastical authority in that region, is undoubtedly the proper judge as to the manner in which the interests of the church in the matters can be best subserved; and as the United States have now no proprietary right in the premises, I can see no objection to the bill in question being matured in a law.

With great respect, your obedient servant,  
J. M. EDMUNDS,  
Commissioner.

Hon. G. H. JULIAN, Chairman of the Committee on Public Lands, House of Representatives.

Mr. HARLAN. I move to amend the bill by striking out in line twelve the words "lease, mortgage, or," so that if the amendment shall be made the bill will confer on the bishop in the name of the church the right to sell this land, and not to hold it and appropriate the profits from year to year forever.



Mr. CONNESS. I really do not see any object in that amendment, considering the land and where it is located and situated. If it was valuable city land, or there was ever to be a city there, or it had any considerable value that would induce their leasing it, then it might be desirable in the bill to confine the church to the right to dispose of it alone, and not to lease or mortgage it; but this land is probably not worth on the average thirty cents an acre. It is composed, necessarily, from the country in which it lies, of hills and mountain ridges, having a great altitude. There are scarcely any valley lands in that locality. It is near the coast range, where there are no running streams. There may be perhaps a creek running through it having a very narrow bottom; but it is land fit for sheep-ranges and pastures for cattle, and eminently fitted for the cultivation and production of the grape. Those are about the only purposes to which it is pertinent or useful. I doubt very much the propriety of imposing this restriction upon the bill. I am entirely satisfied, from my knowledge of the country and of this application, that the purpose is not to reserve an estate in it, but to sell and dispose of whatever they desire and have a customer for, and apply the proceeds in their own way for the purposes of education. It may be answered to that, that if their only purpose is to sell and dispose of the land the amendment is altogether right; but it is a restriction that we impose upon them that is not imposed upon any other person in connection with other lands.

Mr. HARLAN. I have but a word to say. It is manifest that they have not now the right to mortgage, lease, or sell this land, or they would not be here for the leave to be granted by Congress. There is an objection in the minds of the people of this country to immense estates passing into the hands of corporations which never die. We discard in this country all ideas of primogeniture, on the ground that it is better for the people of the country for the real estate to be disposable and to change from hand to hand at the death of the owner.

If this is an objectionable feature in other countries, and has resulted frequently in the ruin of the laboring people, we ought to guard against the accumulation of immense estates in the hands of corporations in this country. It is said that the chief cause of difficulty to a stable Government in Mexico has been that the landed property of Mexico has been rapidly passing into the hands of the leading church in that country, and thus is held from ownership on the part of those that cultivate the soil. I do not know how valuable this estate may be. It is a very large estate, and, judging from its appearance on the map, I infer it is a very valuable tract of country, selected many years ago by a people who always act very wisely in the selection of their locations. If it should be a very valuable estate, I see no objection to their selling it and permitting it to pass into the hands of private holders; but if they are permitted to lease or mortgage it, and thus hold it from century to century, I think it is subject to the objection to which I have alluded.

The question being put, there were, on a division—ayes ten—

Mr. HARLAN. If I were sure that the attention of Senators had been directed to this subject I would not ask for the yeas and nays; but I fear it has not been. I therefore ask for the yeas and nays on the amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 21, nays 8; as follows:

YEAS.—Messrs. Anthony, Brown, Carlile, Clark, Davis, Donnell, Fessenden, Foster, Grimes, Harlan, Harris, Pomeroy, Rainey, Sherman, Sprague, Sumner, Ten Eyck, Wade, Wilkinson, Wiley, and Wilson—21.

NAYS.—Messrs. Conness, Henderson, Howard, Johnson, McDougall, Richardson, Saulsbury, and Van Winkle—8.

ABSENT.—Messrs. Buckalew, Chandler, Collamer, Cowan, Dixon, Foot, Hale, Harding, Hendricks, Hicks, Howe, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Powell, Riddle, Trumbull, and Wright—20.

So the amendment was agreed to.

Mr. JOHNSON. I have no objection to the object of the bill. The only objection I have is founded upon a doubt as to the authority of Congress to pass it. I do not know that I comprehend the exact nature of the estate with which the bill deals. It is an estate granted by Mexico. It is held, therefore, a complete Mexican grant. Under the act of 1851 all grants—differing in that re-

spect from the laws which were passed in carrying out the treaties by which we obtained Florida and Louisiana, which dealt only with inchoate titles—all grants, whether consummated grants or inchoate grants, were to be brought before the board of commissioners and confirmed by that board. If they were not confirmed Congress undertook to say they should revert to the United States. This grant was brought before the court; it has been confirmed, and the United States have issued a patent as they do in all such cases. The title having passed out of the United States, it seems to me we have no more authority over it than we should have had if consummate titles, that is to say, titles under a grant on the part of Mexico, had not been provided for by the act of 1851, but left to stand upon their own footing. This bill undertakes, as I collect from the reading of it, to discharge the grantees from trusts connected with the original title. It seems to me that over those trusts we have now no control. The matter is one to be settled between the State of California, or its proper authorities, who may be invoked at the instance of the grantee who holds the legal title, or at the instance of the *cestui qui trusts* for whom the title is held. That is the only difficulty I have to the passage of this bill. If the honorable members from California can satisfy me that the object cannot be accomplished except by this act of Congress, it would remove my objection to it.

Mr. CONNESS. My understanding of this case is that the United States Government never had a title to this land; that it is, as the Senator has properly stated, a perfect Mexican grant. We agreed by treaty with Mexico when California was ceded to us that we would inquire into and ascertain what Mexican citizens had title to property within the limits of that State, and that we would allow and confirm those titles as perfect which we found to be correct. In process of time this claim was presented under that treaty or the laws made in pursuance thereof; and in the act of confirmation the court of the United States in adjudicating the matter, which court was created by act of Congress, continued the restriction that was originally imposed by Mexico on the church, limiting the application of the proceeds of this estate to the religious uses and purposes exclusively of the church. That condition first imposed by Mexico in making the grant was continued by a court of the United States organized under the jurisdiction of Congress and by a congressional act. To whatever extent we indorsed and affirmed and enacted that condition, the owners of this estate come here and ask the competent congressional authority to remit it.

I am of the opinion that they have a full and perfect right to sell this land and do with it as they might without coming here. That is my opinion about it; but they have chosen to come. Why have they chosen to come? Because, the world over, persons are very careful in regard to the perfection of titles to estates; and to remove any doubt or any cloud that might hang over the transaction where parts of this estate were sold and the proceeds of which might be used for another purpose or other purposes than those contained in the original grant and in the act of confirmation and the condition accompanying it, they come here and ask us to modify, so far as an act of Congress can, the condition that was imposed upon them. I see no objection to its being done.

Mr. McDOUGALL. I think the Senator from Maryland is mistaken in regard to the facts. The possessions acquired by the missions in California were acquired by the consent, or rather they were permitted by the Government, not in the forms of concessions or grants to the mission churches, but a mission was established here and there in different points in the country where there was a large Indian population with very much the same purpose that *presidios* were established at military posts in other parts of the country for the purpose of acquiring a command over the Indians. The mission acquired just as much country as they should find available and as they could populate with the Indian tribes that were assigned to them as dependencies. They never had a concession. They occupied with the consent of the Government and as a part both of the Spanish and Mexican policy. In 1824 they passed a law for the secularization of the church lands, and under that law all the church lands,

particularly in the northern part of California, were secularized, with the exception of the church buildings, orchards, and vineyards.

I think the report as read from the desk, from the Commissioner of the General Land Office, is a mistake, and that the fact is properly stated in the letter sent to the chairman of the Committee on Public Lands of the House of Representatives, which has been read, that this property comprises the church buildings, their out-buildings, their college buildings, their vineyards, and orchard. I called upon the acting United States district attorney, who has had charge of the mission grants in California, and who is now in this city, and inquired of him as to the amount of land embraced in this particular college grant, and he informed me it was about half a league. In one of those letters it is stated at thirty-eight thousand acres. That would be an immense grant, such as was not reserved to any single mission in California. It is a mistake in the making out of the papers, or else it is an aggregation of all the public lands that have been conceded from some misapprehension of the clerk.

When the lands were secularized, it was done under a law that did not provide a concession either to the local clergy or to the superior clergy; but the law still permitted them to occupy and enjoy the church building, their out-buildings, vineyards, and orchards, and the small quantity of land to be assigned to them with a limitation as to its extent; so that in point of fact, previous to the acquisition of California by the United States, the clergy had no title by concession in these lands.

But as a matter of equity, upon their application to our courts, under the treaty of Guadalupe Hidalgo, from the fact of their having been in possession and having had the use of the lands, they were conceded the title as a church, and according to the usage of ecclesiastical bodies, particularly of the Roman Catholic church, the head of the ecclesiastical body took the title conceded on the part of the United States in trust. I hold that as the entire title came from the United States with limitations prescribed by the United States, it is competent for the United States to withdraw those limitations and make it a full and unqualified concession. I do not see any objection to it. It certainly can work no wrong, and they think that it will work a great convenience to them.

Mr. JOHNSON. This bill seeks to accomplish two things, if I apprehend it. It says that so far as the United States are concerned, trusts, which they have by their patents said are to be connected with the title, may not be observed; but there is another thing in it. It authorizes the grantee to dispose of the property, to sell it. Now, for the soul of me I cannot imagine how any authority of the United States to sell can give any title to sell, inasmuch as there is no estate in the United States. The honorable member from California [Mr. CONNESS] is right in saying that the United States have now no interest in the property. I think he is right about the whole extent of that statement; but if the statement is wrong in any particular it is in reference to the trusts. The United States may perhaps be considered as themselves the trustee or creating the trusts in which the *cestui que trust* may be interested, and they may, so far as they are concerned, say that these trusts need not be executed; but how they can authorize the grantee to sell the estate puzzles me, inasmuch as the United States have no estate in the lands which they can authorize to sell. The whole title passed out of Mexico by virtue of the original Mexican grant. The whole title, if under the act of 1851 any title could have inured to the United States, passed out of the United States when the Mexican title was affirmed and the patent was issued. It seems to me they have no more control over the land, no more authority to authorize the land to be sold, than Maryland would have.

Mr. COLLAMER. I have the bill before me, and it not only provides to discharge them from any of the trusts which were imposed on the grant on the part of the United States, but it goes further and says:

And any conveyance or disposition made in pursuance thereof shall operate to pass the estate or interest conveyed or disposed of free and discharged from all such trusts, conditions, provisions, or covenants.

It is not only a discharge of the trust on the

part of the United States, but the United States are to undertake to guaranty it.

Mr. HARLAN. I will suggest an amendment to the latter clause of the bill by striking out all after the word "pass" in the thirtieth line in the following words:

The estate or interest conveyed or disposed of free and discharged from all such trusts, conditions, provisions, or covenants.

And to insert these words:

All the right and interest of the United States in said land to the grantee.

So that it will read:

And any conveyance or disposition made in pursuance thereof shall operate to pass all the right and interest of the United States in said land to the grantee.

Mr. CONNESS. I would just as soon the honorable Senator from Iowa would move to postpone this bill indefinitely as move that amendment; and with that amendment, for one, I do not ask the passage of the bill. When we state here that which is the fact, namely, that the United States have no interest in this land, never had any interest in it, cannot acquire any interest in it, why should we pass an act to cede the right, title, and interest of the United States?

The honorable Senator from Maryland, who is very able and always extremely exact in his presentation of legal questions, suggests that he does not see what right we have to pass this act, because, as I understand him, there is no title in the United States; the United States have parted with their title. In other words, what right has Congress to pass an act authorizing any disposition of lands where they have no title? Do not legislative bodies constantly authorize the disposition of lands and provide for the conveyance of a legal and complete title in the cases of heirs without hesitation, where the United States have no title and never had any title except the title that might be derived from their ownership of the public lands? Do I understand the honorable Senator from Maryland to say that the Congress of the United States, the law-making power, have no right to pass any act authorizing the disposition of real estate unless they, the United States, have a title in the same? I apprehend that that is not a sound proposition, although I concede very freely that the honorable Senator is a great lawyer, while I am very willing to affirm that I am not a lawyer at all.

Mr. JOHNSON. If the member will permit me—

Mr. CONNESS. Certainly.

Mr. JOHNSON. The difficulty is that over the subject of this legislation the United States have no control. If I am right, it is a case in which the lands are subject to the exclusive jurisdiction of California, and if they are subject to the exclusive jurisdiction of California, what right have Congress to legislate so as to authorize the sale of those lands? Will the honorable member for a moment admit that it is in the power of Congress to legislate in relation to the real estate of California? I presume not. If, therefore, this be a portion of the real estate within the limits of California, over which the jurisdiction of that State exists, then he admits a case in which the United States have no power, because where the jurisdiction of the State exists upon a subject of this sort it is exclusive; it is outside of the jurisdiction of Congress.

Mr. CONNESS. The honorable Senator, in place of reconciling his own proposition, has pursued another course. I asked the Senator whether he undertook to say that it was incompetent for the Congress of the United States to give authority concerning the disposition of lands where they did not have title. He does not answer that. But, sir, I do not desire to pursue this discussion. I wish to say, in conclusion, that the reason these people ask for an act of Congress, I suppose, is very palpable and plain, namely: that this land, in the confirmation of its title, passed the courts of the United States; that it is within the jurisdiction of the United States, although within the police jurisdiction of the State of California; the courts of the State of California did not confirm this land claim; and I think they have very properly come to the United States to ask a modification of the order that was made. I hope, and I ask, without any further discussion, that the question be taken upon the amendment offered by the honorable Senator from Iowa.

Mr. SHERMAN. If this bill is going to take up any more time—

Mr. CONNESS. I ask for a vote; and I do not think we shall have any further discussion.

Mr. SHERMAN. I desire to take up and pass to-day the joint resolution amendatory of the joint resolution temporarily increasing the duties on imports; and I shall therefore move to postpone this bill, if there is to be any further discussion upon it. The joint resolution to which I refer has been lying on our tables for some time, and it is important that action should be had upon it.

Mr. HARLAN. I can say to the Senator from Ohio that I think a vote will be taken on this bill in a minute or two.

Mr. SHERMAN. Very well.

Mr. HARLAN. I wish to say four or five words in relation to the point suggested by the Senator from Maryland. We have passed similar bills to this repeatedly during every session of Congress since I have been a member of this body, and have at this session, where it was a matter of great doubt whether the United States had any title to the lands. The bills were passed, however, for the purpose of removing a cloud upon the title. We passed a bill through the Senate a few days since in relation to a very valuable property in California, in which it was probable that the United States had no title whatever. It was maintained, however, by some that they had; and for the purpose of clearing the title, removing this cloud upon it, a bill was passed relinquishing all the title, if any did in fact exist in the United States, to the holder. This I suppose is the only benefit that can grow out of the passage of this bill, to pass from the United States to the grantee, if the trustee should choose to sell the land, whatever rights the United States may have, if any do exist in the United States. If there are none, then nothing passes. If there is anything in the United States, it will enable them to sell it.

Mr. DOOLITTLE. I suggest to the Senator from Iowa and the Senator from California that perhaps an amendment in this form, instead of the one moved by the Senator from Iowa, may do what the Senator from California desires and at the same time meet the point which the Senator from Iowa desires to meet; and that is that this bill operate by way of quit-claim as against the United States without affecting the rights of other parties.

Mr. HARLAN. I suppose that will be the effect of the amendment I have offered.

Mr. DOOLITTLE. I will suggest an amendment which I think would cover the case, if the last clause of the bill was made to read in this way:

And any conveyance or disposition made in pursuance thereof shall, as against the United States and all persons claiming under them, operate to pass the estate or interest conveyed or disposed of from and discharged from all such trusts, conditions, provisions, or covenants.

The fact as it stands here is this: the United States hold this title; at all events it assumed to patent this land to the Catholic bishop of Monterey; and in the patent which it gave to the bishop it put certain conditions and restrictions. The effect of the passage of the bill in this form would be, in substance, to give to him, so far as the United States is concerned, a clear quit-claim of the title, and he would have a right, as against the United States or any persons claiming under the United States, to dispose of it in fee absolutely discharged from the trusts.

Mr. CONNESS. I hope the question will be taken without further discussion on the amendment offered by the Senator from Iowa. There is no difference between the amendment suggested by the Senator from Wisconsin and that offered by the Senator from Iowa. I say that the United States have no title and never had any title in that land, and consequently we do not want this bill amended so as to quit-claim anything nor to cede the right of the United States to anything. I hope we shall come to a vote and let this bill be disposed of in some way. I am really tired of it. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. McDUGALL. Before this vote is taken I desire to say one word. I differ somewhat with my colleague on this subject. The title to this land did rest, as I understand it, in the United

States, by the acquisition of California, by the treaty of Guadalupe-Hidalgo. It was the United States that charged this land with these eleemosynary trusts, different from any other trusts, and governed by a somewhat different law. The party granting an estate, and charging the persons holding it for a charity or a religious purpose, has a right to affix terms, and that same person making the grant also has the right, according to the rule of English law obtaining in our country, and the law governing all charities, to relinquish those trusts, for the very reason that he had made the grant, and with the acquiescence of the person who had made the grant. Upon the ancient maxim that trusts cannot be divested, it might be granted a hundred times, and yet it would stand charged in whosoever hand the estate came, they having created the trust. The owners of the estate being vested with the charity, with the estate, they have a certain right of direction. They have under the English law, and the same rule has been recognized by our own courts with regard to eleemosynary grants, in various parts of the United States, and particularly in New England, and it has been the subject of one of the most learned and labored discussions in the Supreme Court of the United States. There is reason why the United States should cede to these parties the full *ius emendi*, so that the lands may be parted with without being charged with the trust imposed upon them by the grant under which they will have to claim title. I trust the bill may be passed substantially as it was introduced.

Mr. CONNESS. Do I understand my colleague to say that he is in favor of this amendment?

Mr. McDUGALL. No, sir; of course not.

Mr. DAVIS. I will say a single word on this bill—

Mr. SHERMAN. I ask the Senator from Kentucky to yield to allow me to move to take up the joint resolution in relation to the duties on imports, which ought to receive the consideration of the Senate.

Mr. CONNESS. I understand the Senator from Kentucky is willing to allow us to have a vote without further debate. The yeas and nays have been called.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) Does the Senator from Kentucky yield the floor?

Mr. DAVIS. I will withdraw my application to make any remarks; but I shall be forced to vote against the amendment and the bill.

Mr. SHERMAN. If there is no further discussion I will not press my motion.

Mr. CONNESS. There will be no further discussion.

Mr. CARLILE. I propose at least to test the sense of the Senate on this bill without voting upon amendments as they may be offered. As I understand it, the Congress of the United States has no more right to pass such a law as this than the legislative body of any other country. The power to grant this sale and change this trust, if it belongs anywhere, belongs to the Legislature of the State of California wherein the land lies. It is not pretended that the United States has any claim to this land, that there is any cloud about the title in consequence of any supposed claim of the United States. I therefore move for the indefinite postponement of the bill, and ask for the yeas and nays upon that motion.

The yeas and nays were ordered.

Mr. SHERMAN. That will undoubtedly lead to debate, and I therefore renew my motion to postpone all prior orders with a view to take up House joint resolution No. 81.

Mr. CONNESS. I hope the Senate will not do that. We can come to a vote in a few minutes. This bill has been up twice. The Senator from Ohio has no more right to the attention of the Senate than we have for the consideration of this bill. He may claim that he presents a public measure. But, sir, I will not occupy time upon it. The yeas and nays have been ordered upon the amendment offered by the Senator from Iowa. That will be a sufficient test vote, and I therefore appeal to my friend from Virginia to withdraw his motion. I think the bill will only occupy about five minutes longer.

Mr. SHERMAN. It is manifest that at this period of the session all private bills, and all bills of a minor character, must give way to public

measures. That has been the universal custom of the Senate, after the morning hour, to allow bills upon which the action of the body must be had to take precedence of any private bills. Unless that rule be insisted upon by the Senate it will be difficult to get along at this stage of the session. As a matter of course, it is entirely within the power of the Senate; but it is my duty to submit the motion. The resolution that I propose to take up is a joint resolution amendatory of the joint resolution to increase temporarily the duties on imports, approved April 29, 1864. A great many lawsuits and a great deal of litigation have grown out of that resolution, and it is very important to have action upon this amendatory resolution at an early day.

**MR. CONNESS.** It is only ten minutes past the morning hour. I call for the yeas and nays on the motion of the Senator from Ohio.

The yeas and nays were ordered.

**MR. HOWARD.** I desire to inquire of the Senator from Ohio what the resolution he proposes to take up relates to.

**MR. SHERMAN.** The Senator will remember that some time since we passed a joint resolution temporarily increasing the duties on imports fifty per cent. There is some doubt as to the precise time when that resolution took effect, and whether it operated upon goods in bond. Litigations and disputes have arisen upon it, and it is very necessary to act upon this resolution in order to define the precise time when it took effect. I do not think it will take long to consider it.

The question being taken by yeas and nays, resulted—yeas 15, nays 16; as follows:

**YEAS**—Messrs. Anthony, Brown, Buckalew, Carlile, Clark, Cowan, Foster, Grimes, Harris, Johnson, Powell, Richardson, Sherman, Ten Eyck, and Wilson—15.

**NAYS**—Messrs. Conness, Davis, Doollittle, Harlan, Howard, Howe, McDougall, Pomerooy, Ramsey, Sautsbury, Sprague, Sumner, Van Winkle, Wade, Wilkinson, and Willey—16.

**ABSENT**—Messrs. Chandler, Collamer, Dixon, Fessenden, Foot, Hale, Harding, Henderson, Hendricks, Hicks, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Riddle, Trumbull, and Wright—16.

So the motion was not agreed to.

**MR. CONNESS.** I hope we shall now have a vote without further discussion.

**THE PRESIDING OFFICER.** Is the Senate ready for the question on the proposed amendment?

**MR. CONNESS.** I believe the yeas and nays have been ordered upon that; but I will withdraw the call, with the consent of the Senate.

**MR. CARLILE.** I made a motion to indefinitely postpone the bill and the amendment, and asked for the yeas and nays upon that, which will test the sense of the Senate.

**MR. CONNESS.** I have no objection to having a test vote upon that.

**THE PRESIDING OFFICER.** The question is on indefinitely postponing the bill, and on that question the yeas and nays have been ordered.

**MR. CARLILE.** I will withdraw my motion if it is desired, and allow the question to be taken on the amendment.

**THE PRESIDING OFFICER.** The motion may be withdrawn by unanimous consent. The Chair hears no objection. The question now is on the amendment of the Senator from Iowa, and upon that question the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 18, nays 14; as follows:

**YEAS**—Messrs. Anthony, Buckalew, Carlile, Clark, Collamer, Doollittle, Fessenden, Foster, Grimes, Harlan, Harris, Johnson, Powell, Richardson, Sherman, Sprague, Ten Eyck, and Willey—18.

**NAYS**—Messrs. Brown, Conness, Davis, Howard, Howe, McDougall, Pomerooy, Ramsey, Sautsbury, Sumner, Van Winkle, Wade, Wilkinson, and Willey—14.

**ABSENT**—Messrs. Chandler, Cowan, Dixon, Foot, Hale, Harding, Henderson, Hendricks, Hicks, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Riddle, Trumbull, and Wright—17.

So the amendment was agreed to.

**MR. DOOLLITTLE.** After the word "State," in the nineteenth line, I move to insert the words "not inconsistent with the laws thereof;" so that it will read:

Or other proper authority of the Roman Catholic church in said State, for the purposes of education anywhere within said State, not inconsistent with the laws thereof.

The amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendments were concurred in.

**MR. COLLAMER.** I hardly know how to vote on this measure, and I desire to have the bill read, with the amendments, so that we may see how it now stands.

The Secretary read the bill, as amended, as follows:

*Be it enacted, &c.,* That under the patent of the United States issued on the 26th day of February, 1861, to Joseph S. Alemany, as the bishop of Monterey, and his successors, for the tract of land or rancho known as Cañada de los Pinos, or College Rancho, situate in the county of Santa Barbara, State of California, as described in such patent, to have and to hold the same to him and them "in trust for the religious purposes and uses" therein mentioned, it shall be lawful for the said Joseph S. Alemany and his successors, as the grantees of said patent, to sell the said tract or rancho, or any part thereof, and all proper conveyances in that behalf to make and deliver, and the proceeds thereof to apply, under the direction of the Roman Catholic Archbishop of San Francisco, in the State of California, and his successors in office, or other proper authority of the Roman Catholic church in said State, for the purposes of education anywhere within said State, not inconsistent with the laws thereof, anything in such patent or in the original grant or concession of said tract or rancho, or other title whereby the same was acquired from and under the authorities of Spain or Mexico, to the contrary notwithstanding, and all trusts, conditions, provisions, or covenants, precedent or subsequent, expressed or implied, in said patent, grant, concession, or title to the contrary hereof, and all branches of the same, are hereby wholly waived, abrogated, discharged, dispensed with and released on the part of the United States, for the purposes of this act; and any conveyance or disposition made in pursuance thereof shall operate to pass all the right and interest of the United States in said land to the grantee.

The amendments were ordered to be engrossed and the bill ordered to be read a third time. It was read the third time.

**MR. CARLILE.** If I understand this bill, the Congress of the United States has no power to grant the authority assumed in the bill. The only effect that it can possibly have will be probably to convey the impression that rights may be acquired under this act of Congress. If what is desired ought to be granted, application should be made to the Legislature of California, wherein the land lies, for authority such as is proposed to be conferred by this bill, or it may be made to the judicial tribunals of that State. Certainly this Government has derived no power to pass such a law simply because of a patent issued under a grant which had been made by the Mexican Government. I therefore propose to record my vote against this bill, and I ask for the yeas and nays upon its passage.

The yeas and nays were ordered.

**MR. HOWARD.** I confess that I see no such difficulty as the Senator from Virginia seems to see in this bill. I do not think that Congress is transcending its power under the Constitution in passing it. There was a time at least when the United States had an interest in the land in question—a time at which the United States had precisely the same interest in the land that was possessed by the republic of Mexico which made the original grant to the church. If I understand it properly, this grant was made by the republic of Mexico to a religious corporation, either sole or aggregate. I presume the grant was made to the bishop of the diocese, who, by the usages of the Church of Rome, under certain very ancient orders of the Pope, was the proper person to hold the title. The grant was made upon certain trusts and conditions, and the object of the grant was the promotion of the Roman Catholic religion and the maintenance of the Roman Catholic priesthood in that diocese. That was the object and purpose of the republic of Mexico in making the original grant.

The only question for us to determine, therefore, is whether the United States by acquiring this title, by becoming, in other words, the successor of Mexico to the sovereignty of the country, did not charge itself with whatever trusts and duties pertained to Mexico previous to the cession of the territory to the United States. I think the United States are the successor of Mexico in respect to this land, and that the United States are bound by precisely the same obligations, whatever they were, which were once incumbent on the republic of Mexico. It certainly cannot be denied that the republic of Mexico was bound to see to it in some form that the conditions and trusts of this grant were carried out in good faith, and that the land should be appropriated for the support and maintenance of the church, or of the priesthood; at all events, that it should be applied to the purposes intended by the republic of Mexico. The whole effect of the bill now before us

is to waive any right, power, or authority which would otherwise pertain to the United States in reference to the continuation of this trust thus attaching to the land under the original grant. The United States does not seek to interfere in any way whatever beyond the mere abandonment of any right, power, or privilege which the Government of the United States might exercise, or ought to exercise, in the enforcement of this trust. So far, most assuredly, Mr. President, it is fit and proper for the United States to pass this bill. We simply cut ourselves off for the future from denying the right of the bishop or whoever may be in possession of this land to make a conveyance of it, and to sell it and transfer it from hand to hand. That is the sole effect of our deed, and the sole effect of this bill, as I understand it. Hence I see no difficulty whatever, and shall vote for the bill.

**MR. CARLILE.** I understand that all the United States had to do with this land was made its duty by virtue of the treaty entered into between us and Mexico, and that was to carry out in good faith the grants which had been made by the Mexican Government. That has been done by the United States in the issuing of the patent with the condition and covenants contained in it and which were imposed by the grant. Any future disposition of this property or the enforcement of any of the conditions contained in the grant must be made or must be had through the Legislature or through the State of California, which has entire and sole jurisdiction over the lands within its limits. After the Government of the United States had performed its duty in relation to this grant under the treaty entered into with Mexico, all authority which it had over the land ceased so far as related to the enforcement of the grant, the changing or altering of the grant, or the release of the grantee from any of the covenants attached to the grant. Any application to change the grant or to dispose of it or which seeks to make an entirely different diversion of the fund should be made to the State of California and not to the Government of the United States. Why, sir, the grantees under patents of land held in the Senator's own State issued by the Government of the United States might as well come to the Congress of the United States and claim a change in those grants or an alteration of them as this Bishop of Monterey.

The question being taken by yeas and nays, resulted—yeas 20, nays 13; as follows:

**YEAS**—Messrs. Anthony, Brown, Conness, Doollittle, Fessenden, Harlan, Howard, Howe, McDougall, Pomerooy, Ramsey, Richardson, Sherman, Sprague, Sumner, Van Winkle, Wade, Wilkinson, Willey, and Wilson—20.

**NAYS**—Messrs. Buckalew, Carlile, Clark, Collamer, Davis, Foster, Grimes, Harris, Henderson, Johnson, Powell, Sautsbury, and Ten Eyck—13.

**ABSENT**—Messrs. Chandler, Cowan, Dixon, Foot, Hale, Harding, Hendricks, Hicks, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Riddle, Trumbull, and Wright—16.

So the bill was passed.

#### HOUSE BILLS REFERRED.

The following bills and joint resolution from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 274) in relation to the computation of the time within which an indictment may be found against persons charged with crimes against the laws of the United States—to the Committee on the Judiciary.

A bill (No. 281) to amend the sixteenth section of the act entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," approved July 17, 1862—to the Committee on Military Affairs and the Militia.

A bill (No. 284) to prevent the selling and circulation of counterfeit coin, and of counterfeit and altered Treasury notes and postal currency bills—to the Committee on the Judiciary.

A bill (No. 305) to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermaster's stores and subsistence supplies furnished to the Army of the United States—to the Committee on the Judiciary.

A bill (No. 497) in relation to the village of Deposit, Delaware county, New York—to the Committee on the Judiciary.

A bill (No. 513) to detach the counties of Calhoun and Branch from the western judicial dis-



trict of the State of Michigan—to the Committee on the Judiciary.

A joint resolution (No. 87) amendatory of an act to provide for the deficiency in the appropriation for the pay of officers and men actually employed in the Western department or department of Missouri—to the Committee on Finance.

#### COURTS IN WISCONSIN.

The PRESIDENT *pro tempore*. The House of Representatives have returned the bill (S. No. 55) in relation to the circuit court in and for the district of Wisconsin, and for other purposes, with an amendment, which will be read.

The Secretary read the amendment, to add at the end of the bill the following proviso:

*Provided*, That nothing herein contained shall be construed to interfere with executions, processes, or orders of sale already in part executed, but the same shall proceed and be perfected as if this act had not been passed.

Mr. DOOLITTLE. My colleague is not in the Chamber at this moment, and I ask that that amendment may be allowed to lie on the table until he comes in, so that we may have a consultation about it, and determine whether it is proper to ask for a committee of conference.

The PRESIDENT *pro tempore*. It will lie upon the table for the present.

#### DUTIES ON IMPORTS.

Mr. SHERMAN. I now move to postpone all prior orders with a view to take up House joint resolution No. 81.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 81) amendatory of the joint resolution to increase temporarily the duties on imports, approved April 29, 1864. As the joint resolution to increase temporarily the duties on imports was approved by the President on the 29th of April, at thirty minutes past seven o'clock p. m., but was not promulgated until the day following, the resolution provides that that joint resolution shall not be deemed to have taken effect until the 30th of April, 1864. It is not to be construed to include goods in public store, bonded warehouse, or bonded for warehousing or transportation prior to the 30th of April, 1864; and any duties which have been exacted and received contrary to the provisions of this resolution are to be refunded by the Secretary of the Treasury.

The Committee on Finance reported the joint resolution with an amendment, to insert after "1864," in line five, the following words:

Nor shall said resolution be held to apply to goods which had been actually entered and the duties paid, and received by the collector, under the laws existing at the time of the passage of said resolution, before the collector had knowledge of its passage.

Mr. SHERMAN. I trust the Senate will not agree to this amendment of the Committee on Finance. I do not know whether it will be persisted in or not. The amendment if agreed to will release from duty all goods in the bonded warehouses of the United States. It is a very important amendment, and I trust it will not be adopted.

Mr. FESSENDEN. The Senator is mistaken. The amendment now before the Senate has reference merely to goods imported up to a certain date.

Mr. SHERMAN. I will ask that it be read again, and the Senate will see what it is.

Mr. JOHNSON. Let the resolution be read as it will read if amended, so that we may understand it.

The Secretary read, as follows:

*Resolved, &c.*, That the said joint resolution shall not be deemed to have taken effect until the said 30th day of April, 1864; nor shall said resolution be held to apply to goods which had been actually entered and the duties paid, and received by the collector, under the laws existing at the time of the passage of said resolution, before the collector had knowledge of its passage. And the said resolution shall not be construed to include goods in public store, bonded warehouse, or bonded for warehousing or transportation prior to the said 30th day of April, 1864; and any duties which shall have been exacted and received contrary to the provisions of this resolution shall be refunded by the Secretary of the Treasury.

Mr. SHERMAN. I should explain that the amendment now under consideration is intended to apply only to ports where notice had not been received and payment of duties had been made prior to the actual notice. To avoid the necessity of this amendment I will propose another, which, if it is in order, I will offer now, to insert after

the word "until," in the fourth line, the word "after;" so that it will read:

That the said joint resolution shall not be deemed to have taken effect until after the said 30th day of April, 1864.

That will allow one full day for notice to all the ports in the United States, and it is presumed that for every port of the United States where goods are in warehouse that day will be sufficient for notice.

The PRESIDENT *pro tempore*. The Chair will suggest to the Senator from Ohio that his amendment is not now in order, not being strictly an amendment to the amendment.

Mr. SHERMAN. Then I hope the Senate will not agree to the amendment of the committee, so that I can modify the resolution in this particular.

Mr. CONNESS. I rise to suggest to the Senator from Ohio that, if the purpose of Congress now is to have the law take effect from the time the notice was given, it is but just to the Pacific coast to allow at least one day more, because one day is not sufficient for telegraphic dispatches with certainty to go to San Francisco. An average of two days, or three days, is more nearly the time. I make this suggestion because it is but simple justice that such an addition be made to their time. Of course my purpose is not to exempt them from the payment of any duty that they should pay. But, as I stated before, if the purpose of Congress is that the law should be deemed to have taken effect from the time at which they received notice, I should like to have it so amended. I leave the language to the Senator, but suggest that the same privileges be extended to importers on the Pacific coast that would be extended under the amendment proposed to importers on this side of the continent.

Mr. FESSENDEN. This resolution as it was originally drawn and came from the House of Representatives provided that the previous resolution should not take effect until the 30th of April. It was thought that that was hardly time enough, and therefore the Committee on Finance proposed an amendment that it should not take effect until notice was received at the different places. The Secretary of the Treasury was of opinion that that would produce confusion, and we had some very considerable doubt about it. The amendment suggested by the Secretary is the amendment which the Senator from Ohio now proposes, that it shall not take effect until after the 30th of April. The 30th of April came on Saturday, the 1st day of May was Sunday, and the result would be that it would not take effect for any business purpose until Monday. That gives all the time that is necessary anywhere.

Mr. JOHNSON. That would be the 2d of May.

Mr. FESSENDEN. Yes, sir.

Mr. CONNESS. That would do.

Mr. FESSENDEN. That amendment was drawn with that view. As the 1st of May came on Sunday, and no duties are paid on that day, it substantially gives all the time necessary everywhere. I do not see any objection to the amendment of the Senator from Ohio.

The PRESIDENT *pro tempore*. The question will be upon agreeing to the amendment reported by the Committee on Finance.

The amendment was not agreed to.

Mr. SHERMAN. I will now move in the fourth line of the resolution, after the word "until," to insert the word "after;" so that it will read:

That the said joint resolution shall not be deemed to have taken effect until after the said 30th day of April, 1864.

The amendment was agreed to.

Mr. SHERMAN. I move to strike out in the tenth line the word "not" and to insert the word "remaining," after the word "goods," in the same line; and in the eleventh line to strike out the words "prior to" and insert the word "after;" so that it will read:

And the said resolution shall be construed to include goods remaining in public store, bonded warehouse, or bonded for warehousing or transportation, after the said 30th day of April, 1864.

This subject was discussed when the other resolution was under consideration, and the Senate decided to apply these increased duties on goods in store, and I hope the Senate will adhere to that decision. If my amendment should be agreed to,

as a matter of course that will be the effect of it. I have before me a copy of the English law on this same subject. The English always apply the increased duties to the goods in store. I will read an extract from the law as it now exists in England. It is as follows:

"All goods whatsoever which now are or may be deposited in any warehouse or place of security, under any act of Parliament passed or to be passed for the warehousing of goods, without payment of duty upon the first importation thereof, or which may be imported and on board any ship, shall, upon being entered for home consumption, be subject to such and the like duties as may at the time of passing such entry be due and payable on the like sort of goods, under any act or acts passed for imposing any duty or duties of customs which shall or may be in force at the time of passing such entry, save and except in cases where special provisions shall be made in any such act or acts to the contrary."—16 and 17 Vic., cap. 107, sec. 20.

Mr. JOHNSON. I have not looked at the British statute; but I rather think the honorable member will find there is a very material difference between the warehousing acts of England and our acts on this subject. The ground which I maintained and presented to the Senate on this question when it was before it on a former occasion was that there was as between the importer or owner of goods in warehouse and the United States a contract, which was such a proposition as my friend proposes would, as I thought, violate; it would not be keeping good faith with the importer. When goods are stored by the importer, he enters into a bond by which he is bound to pay the amount of duty then imposed, and the penalty of the bond is fixed with a view to that amount, and the amount that would be recovered by any of the bonds that these gentlemen have given would be the amount of duty to which the goods at the time when they were bonded were liable for.

The British law as I think—I speak not from a very distinct recollection, but a general recollection—does not require any ascertainment of the duties to which the goods are liable at the time when they are bonded. They are permitted to go into a warehouse, and when they are taken out they are to pay the duties which such goods are then liable for. It is, therefore, as I think, reasoning illogically, reasoning falsely, if I can use such a term, to apply the example in England to our own case. The practice of England is always to observe with studious good faith every promise which the Government makes to its merchants. If the Government of England had a law like ours which gave authority to warehouse upon condition that the owner would enter into a bond to pay the duties to which the goods were then liable, they never would have thought of telling him he should not take them out afterwards and sell them unless he would pay any additional duty which the Government might think proper to exact. There is, therefore, a difference between the two cases.

It is true that the Senate, when this matter was before them some days ago, thought it was right to impose such additional duty upon goods in warehouse; but it is very evident from the passage of this resolution by the House of Representatives that the House in the original resolution which this is intended to explain, never contemplated levying a tax upon goods in warehouse. It is for us to say, if the House committed a blunder from a want of such clear, unambiguous phraseology as would make their purpose clear, whether the Senate will hold the House to the consequences of that mistake. It is clear to my mind that but for that mistake these additional duties never could have been levied upon goods in warehouse. It was not suggested as the effect of the original resolution. The House passed the resolution, therefore, without any idea that that was to be its effect, and it was not until the Secretary of the Treasury placed upon it the construction which brought these goods within the operation of that resolution, that the House saw they had committed the mistake, and at once, as far as they had the power, endeavored to correct it by passing the explanatory resolution now upon your table. The object of my friend's amendment is to defeat that explanatory resolution, so as to make the House stand by the consequences of their original mistake.

Mr. SHERMAN. There can be no doubt but what the joint resolution to be modified by this resolution applied to goods in bonded warehouse. That was the construction put upon it by the Committee on Finance of the Senate. It was the

construction put upon it by the Senate after debate, and that construction was adopted by the Senate on a motion to correct the resolution in that particular. It is also the construction put upon it by the Treasury Department, and which has been acted upon since. The goods in bonded warehouse after the date referred to in this resolution when withdrawn for consumption paid the duties. If we propose now to refund all the duties that have been paid on goods in bonded warehouse since the 1st day of May, and to release all the goods still in bonded warehouse, as a matter of course, notwithstanding all we hoped to get from that resolution, we shall derive but very little benefit from it. I see no breach of faith in the matter. Congress has a right to levy the duty at the time when the goods enter into the consumption of the country. The importer may if he chooses put the goods into public warehouse, and he may reexport them without the payment of duty; but if they enter into the consumption of the country there is no hardship in requiring him to pay the duty.

If any other construction was adopted, it would be a large bounty to the importers. Their goods have advanced already in the market equivalent to the duty, and if they now can enter their goods for consumption at the prices that prevailed before the increase of duty, it is substantially a bounty to them of the amount of the duty. At this time, it seems to me, the Government is in no condition either to refund the duty paid or to give them the benefit of that bounty. The law that I have read shows that in England, where this matter is well understood, they impose the duty in force at the time the entry is made for consumption.

I am also told another fact, that since we have imposed the increased duties on goods on shipboard, they have changed the form of the bond, and the condition of the bond now has been for more than a year that the importer shall pay the duty in force at the time of the entry; so that the point raised by the honorable Senator from Maryland does not now exist, and has not existed since the change of the law placing the increased duty upon goods on shipboard and *in transitu*. It seems to me, therefore, the whole reasoning upon which he bases his argument falls. I will not go over the ground now, because the Senate have discussed this matter fully before, and by a vote held that it was right under the circumstances in which we were placed to put this duty on goods. Perhaps ordinarily it would be wiser and better not to levy the increased duties until all the goods on shipboard, all the goods that have been ordered, and the goods *in transitu* in any form had been entered for consumption at the old rate of duties, but I think there is no faith involved in it, no principle involved in it. The Government has the right to levy the duty at the time the goods are entered for consumption in the country, and now it seems to me it is just and right to do so.

Mr. HENDERSON. If the amendment suggested by the Senator from Ohio be adopted it will make the resolution originally passed operative upon the 30th day of April.

Mr. SHERMAN. After the 30th day of April.

Mr. HENDERSON. That would be Monday morning, the 2d of May, I understand. I desire to state a fact in connection with this amendment that has come to my knowledge this morning. There is a large amount of railroad iron imported by the railroads of Missouri that is at New Orleans and has been there since 1861. No notice whatever reached New Orleans of the passage of the joint resolution increasing the duties within time to enable them to take out that iron. It would have been utterly impossible for them to take it out before the 1st day of May. No notice whatever could have reached the parties at St. Louis in time to allow them to do so. I allude to the Pacific Railroad Company. For a long time it was supposed the iron had been used by the confederates in making gunboats, and in the confusion that resulted from the taking of New Orleans it was in fact lost sight of, and they refused to deliver it to the railroad company, and the matter has been but recently adjusted. It would certainly operate very hard to make this additional duty payable by constituents of mine when in fact it would not be payable at other points. For instance, in New York, Philadel-

phia, Boston, and all the ports upon the Atlantic coast there was no difficulty about getting the notice, and they had sufficient time to pay the duties and take the goods out of bond. It would certainly operate very harshly if this amendment were adopted without giving sufficient time for it to operate also in New Orleans.

Mr. SHERMAN. So far as that particular case is concerned it might be a ground of exception from the rule by an express exception, or in a private bill; but it would not do to extend the time in all the ports.

Mr. HENDERSON. Certainly you should make it operative alike throughout the country. You should not make one pay and another not.

Mr. SHERMAN. It would be better to make an exception in favor of that importation of iron by the Pacific Railroad Company than to make it general. If the Senator is in possession of all the facts in that case, and can state them definitely in an amendment, excepting from the operation of this joint resolution the importation made by the Pacific Railroad Company of the iron actually in New Orleans at the time the law took effect, I will vote for it.

Mr. HENDERSON. Why not extend it a sufficient time to cover all?

Mr. GRIMES. What is the case in regard to the Pacific Railroad Company has been the case in regard to numerous persons doing business in all the western cities. As an illustration, some of my neighbors, who are dealers in crockery, buy most of their goods at Liverpool. They had imported a large quantity of goods, and they were stored in bonded warehouse in New York. When the resolution increasing the duties was passed a few weeks ago, the merchants in New York, being aware that it was under consideration, and having banking facilities by which they could immediately secure the money with which to discharge their liabilities, took their goods out of the bonded warehouses. These gentlemen, removed from the seaboard, fifteen hundred or two thousand miles away, not at all conscious that any such legislation was about to take place, and not having the facilities with which to pay up their bonds, have been obliged under the operation of that resolution to pay the additional duty, and hence they are compelled to compete in the market with men who have obtained their goods at a price less than this new imposition of duty. It is not only the case in the instance I have stated, but in regard to a great many merchants in Detroit, Chicago, St. Paul, Cincinnati, and all the western cities, who are in the habit of importing in that way. It seems to me there ought to be some uniform law on this subject. If the English law be, as has been stated by the Senator from Maryland, that the bond provides that the person shall be responsible for any duties assessed or that may be assessed, then they execute the bond with a fair and distinct understanding on their part.

Mr. SHERMAN. I can state that that is in our bond. Our bond was changed a year ago, in conformity with our law which imposed the duty on goods on shipboard.

Mr. JOHNSON. Our bonds have not been changed.

Mr. SHERMAN. Yes, sir, they have.

Mr. FESSENDEN. By regulation of the Treasury Department.

Mr. JOHNSON. When?

Mr. SHERMAN. For a year past.

Mr. HENDERSON. Not in accordance with law. The law distinctly says that the bond shall be taken for the payment of the duties at the time; and if such a change has been made it has been made without any law. They have got no law for it. I looked at the law when this question was up before, and my vote was entirely regulated by that law.

Mr. GRIMES. It seems to me we ought to have a law to that effect if we have not got any, and the bonds ought to be executed in compliance with that law, and then the parties who sign these bonds have a distinct understanding of what they are going to be called upon to do. Then it would be no hardship upon them, and they could not claim that we were perpetrating any wrong on them in imposing an additional tax; but it does strike me as rather hard when a man has entered into a bond in pursuance of a law that he will pay us a certain amount of money by a specified day, and we here, without any action on his part and

without his knowledge, by a voluntary act of legislation, declare that he shall pay just double the amount that he agreed to pay.

Mr. FESSENDEN. This matter excited some discussion several times when it was up, either last year or two years ago; I think it was two years ago, when we passed the tariff law and made a specific provision for the non-exemption of goods on shipboard to pay the duties. I stated then that that provision was according to my judgment, and that I thought also the law should be changed so as to apply to goods in bonded warehouse when they were entered for consumption. I saw no reason why that should not be adopted as a rule. I said that I should be willing to support that; that the great increase of value which was given by our law might very well be made available to the Government. When the resolution upon which this resolution was predicated was up the other day I objected to it. My reason was that I thought then and think now that when a change of system thus important is made, it should be made on fair notice. While I was for a change of system, my objection to that was that it was sprung upon the country without a moment's warning. In that tariff bill we gave a fortnight's notice, as the bill did not come into operation until some fourteen or fifteen days after its passage.

Mr. JOHNSON. About three weeks.

Mr. FESSENDEN. The Senator says three weeks. We gave ample notice, and I have since steadily stood by that provision as the settled policy of the country. I am still in favor of that policy. I see no reason, with the Senator from Ohio, why it should not be adopted as the policy that goods, when they are entered for the purpose of consumption, should be subject to the duties that may be imposed upon them at the time they are thus entered. But I think in ordinary fairness that that should only be done on fair notice, and that to seize at the instant upon goods that may happen to be in a particular position is not exactly carrying out the idea which I had when I gave that notice with reference to my own action in relation to goods that might be in bonded warehouse.

I was influenced also very considerably the other day by the argument of the honorable Senator from Maryland with regard to the contract entered into between the importer and the Government. I understand, however, as a matter of fact, that the bond actually given within a certain date—I do not know when; the Senator from Ohio is probably better informed than I am—at the ports of entry now is and has been for some period that they would pay the duties assessed at the time and such further duties as might be assessed when they were entered.

Mr. JOHNSON. That cannot be so.

Mr. FESSENDEN. I am informed it is so.

Mr. HENDERSON. It may be so, but there is no law for it.

Mr. FESSENDEN. That is another question.

Mr. JOHNSON. What I meant to say was that I thought it was a mistake. I think the Senator is mistaken in point of fact.

Mr. FESSENDEN. I think not. I have information which I think is direct upon that subject. My impression is it has been done under the direction of the Secretary of the Treasury.

Mr. SHERMAN. That is my understanding; but if there is any doubt upon that very material point we might lay this resolution over until to-morrow.

Mr. FESSENDEN. I think it would be well to let it lie over until to-morrow.

Mr. COLLAMER. It would be well to let it lie over that we may have the law on the subject.

Mr. SHERMAN. The Senator from Maryland read from the law.

Mr. JOHNSON. Oh, no; the law of 1846.

Mr. HENDERSON. I looked the law up and gave it to the Senator from Maryland, the law of 1846; and there has been no law passed since.

Mr. FESSENDEN. I do not think at any rate that would be likely to have any effect. As the Senate is very thin we might as well allow the resolution to lie over until to-morrow, and ascertain how the fact is. I wish to say in regard to it, however, that if the bond stands under the old law, that is to say, the law of 1846, which provides definitely what bond shall be given, it

might raise a question whether, after all, any rights were gained under a bond given in the way stated here unless you hold bonds given with a full understanding that they were good at common law if not as statute bonds. There might be a difference of opinion on that point. I suppose my friend from Vermont might think it was good for nothing, and perhaps I might agree with him on the subject.

But I understand as a matter of fact that the merchants, or a very large body of them at any rate, are not affected by the law that has been passed. The fact that such a bond had been required was known; and the notice that had been given here more than once was a notice which had in fact operated upon their minds to make them aware that hereafter goods in bond were liable or would be made liable to the duties that might be imposed up to the time when they were entered for consumption. At any rate, the Senate decided here the other day to impose them. I have great respect for the Senate, and ordinarily should yield to it and not contend any longer; but yet with regard to this resolution that has been called up by my honorable friend I do not feel instructed by the action of the Committee on Finance in retaining that provision, because you will remember, sir, that the vote in that committee stood equally divided, three and three, in reference to it, and it was simply reported because there was not power enough to strike it out. The opinions of the committee were equally divided, as it happened to be at that time; and I confess that after the decision of the Senate on the original resolution I was very much inclined to adopt the view which the Senate had adopted and adhere to it throughout. As there may be some doubt about the law I think the resolution had better be laid over, in order that the Senator from Ohio may get the Secretary's views on that subject, and ascertain specifically how the fact is and how it is founded, and it may give us some light.

Mr. JOHNSON. Certainly there may be a law on the subject.

The PRESIDENT *pro tempore*. Does the Senator make the motion that the joint resolution lie over?

Mr. FESSENDEN. I will, if it is agreeable to the Senator from Ohio. I do not wish to interfere with his action on the subject.

Mr. SHERMAN. I am perfectly willing that it should be laid over.

The motion was agreed to.

#### CONGRESSIONAL GLOBE.

Mr. ANTHONY. I move that the Senate proceed to the consideration of House bill No. 421.

Mr. SUMNER. I do not wish to cross the path of my friend from Rhode Island, but the bill that I have spoken of every day I should like to bring forward as quick as I can. Is this bill likely to take any time?

Mr. ANTHONY. This is the bill to provide for the continuation of the Congressional Globe. The Senate is thin, and I have no desire to press the bill at a time when any Senators are absent who desire to discuss it; but it has been upon the table for some time, and I should like to have it disposed of.

Mr. SUMNER. Why not dispose of it now, and let it be understood that the bill I have in charge may be taken up and proceeded with tomorrow, if the Senate chooses?

Mr. ANTHONY. I do not know that this bill will take ten minutes. I do not know what the disposition of the Senate is on the subject.

Mr. SUMNER. I do not object to it. I only wish to make a continual claim as it were.

Mr. ANTHONY. Then I move to take up the bill (H. R. No. 421) to pay in part for publishing the debates of Congress, and for other purposes.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

The bill was reported to the Senate without amendment.

Mr. WILSON. I hope we shall not adopt that old system of voting books to members of Congress. At the time we increased the compensation of the members it was understood that that system should cease. It was odious to the country; it was the subject of great abuse; and the revival of it, I think, will bring new abuses.

I certainly hope we shall not adopt that mode. If we cannot print the Globe at the present rates, let us pay them the money. It will cost a great deal more to adopt this system; and I think it will be of but very little benefit to members of Congress, and be a subject of just reproach on the part of the country.

Mr. JOHNSON. Is the proposition to increase the compensation for the printing of the Globe hereafter, or is it to furnish members with the Globe as it has been printed from the first?

Mr. ANTHONY. I will explain the bill. I explained it the other day, but I suppose Senators have forgotten it or did not attend to it.

Mr. JOHNSON. I was not here.

Mr. ANTHONY. It is necessary, if the Congressional Globe is to be continued, that there should be an increase of compensation. I suppose that is so apparent to every one that it is not necessary to go into the reasons of it. The late publisher of the Globe, Mr. Rives, submitted to the Joint Committee on Printing two propositions, either of which he would accept, for the continuation of the publication. One was an increase of fifty per cent. on the price paid; and the Superintendent of Public Printing, on whose judgment we placed more reliance than any other person in the matter, thought the proposition was not an unreasonable one considering the great advance that had taken place in all the materials and all the cost of publication, but that such an arrangement if entered into should be temporary, as we hope the prices will go down.

The other proposition, and the one which the publisher of the Globe desired to have adopted, was to return to the original contract which he made with Congress, and which was violated by Congress without consulting him. The original contract was that every member of Congress should be furnished with the Globe and Appendix from the commencement of its publication. In order to carry out that part of the contract, the publisher stereotyped the work and printed the back numbers to a considerable extent, and stored them away in a fire-proof building to await the calls for them as new members were elected to Congress. This part of the contract was abrogated by Congress, not, I think, as my friend from Massachusetts says, in consequence of the compensation law which provided that all books furnished to members of Congress should be paid for by themselves. I do not think the Congressional Globe was included in that act; I was not here at the time. I think it was not considered as one of the books that were furnished to members of Congress. The books that had been furnished were books outside, the works of Jefferson, the works of Franklin, the Annals of Congress, and a great many other books that amounted, I believe, in all to seven or eight hundred dollars, which some members of Congress did not receive but receipted for them, and took the money compensation, which was justly thought to be a very great abuse. I do not think the furnishing of the Globes is an abuse of the nature to which my friend from Massachusetts refers.

Without having any preference as to the two modes which the late proprietor of the Globe and his successors submit to Congress, this is the plan that the representatives of Mr. Rives prefer, because it is the original contract, and because they think it will give permanency to the publication. Mr. Rives was very decidedly in favor of that proposition, and I think it was on account of his preference for it and the delay of our committee to come into it that the bill has been delayed so long. The difference in the cost for this Congress will be about fifteen thousand dollars. This proposition will cost about fifteen thousand dollars for this Congress more than the other; but it will be seen that for subsequent Congresses, as the number of new members will of course be smaller than they are now, as the distribution has been interrupted for several years, the amount will probably be less. I suppose for the next Congress that this will be the cheapest rate.

Mr. SUMNER. I would ask the Senator whether the object he has in view might not be accomplished more directly, perhaps, by distributing these books among libraries throughout the country. If they are distributed among the members, I would ask how many of them would not get sacrificed, get lost, the sets broken and dispersed, so that perhaps as a whole set very few

would reach any public library. The great object we should have in printing this large addition, it seems to me, should be to supply the libraries all over the country, not only the large town libraries but village libraries. I would have every library in the country supplied with this book. Eventually it will be a great source of historical knowledge which will constantly be referred to hereafter by anybody who is undertaking to write on the events of the time or to discuss them. It seems to me if we require directly that they should be distributed among libraries, that then we should not positively offend against the statute which we have passed. As I understand it, the existing statute with reference to the pay of members of Congress positively requires that they shall not vote themselves books without having the value deducted from their pay. Now it is proposed to do that. It seems to me we had better avoid that, and if it is thought advisable to take these books of the successors of Mr. Rives—on that I express no opinion—then to distribute them among the libraries of the country.

Mr. TEN EYCK. It is impossible for a Senator, who is not a member of the Committee on Printing, without taking considerable pains, to understand exactly this matter as it is. I believe I have the outline of it. I understand that the printing of the Globe cannot be continued on the present terms, and it becomes a question whether the reports of the proceedings of both Houses of Congress shall be discontinued or not. If I understood the Senator from Rhode Island aright, he states that there are two modes in which this printing of the Globe can be continued: one is by taking the back numbers and furnishing to each new member of Congress a back set of the Globes, and by doing that it will strengthen the hands of the publishers and they can continue the work; the other mode is by increasing the pay for the present issue of the Globe fifty per cent. We have those two questions before us: whether we will discontinue the Globe altogether and trust to the ordinary limited, condensed reports from the reporters' gallery and other sources, or whether we shall continue to have an accurate history of the transactions of Congress as they occur from day to day. I think the public mind and the public eye have been so long resting upon this publication that it ought not to be discontinued now, and cannot be discontinued without a very just complaint on the part of the country, especially as these reports, for accuracy and fidelity, have never been surpassed, if ever equaled, by any other work in the whole history of stenography.

If we were not in the midst of scenes which require a vast expenditure of money, if we were not driven to our wits' ends to tax everything under heaven for the purpose of raising money, perhaps it would be judicious to take the back numbers of the Globe, and either distribute them among individuals or have them placed in libraries as is suggested by the Senator from Massachusetts. I do not myself believe there is any necessity for any regulation of that sort if all members act as some few Senators that I have knowledge of do. They generally supply all the libraries in their States with the numbers of the Globe. I am sure I do. I send a copy of the Globe to every library I know of in the State of New Jersey.

Mr. FESSENDEN. This is to give a full set of the back numbers to new members.

Mr. TEN EYCK. Exactly, and that might be desirable if we were full of money and knew not what to do with it. I think, however, we had better not now undertake to go into the wholesale book business, but if it is necessary, to continue the publication of the Globe, to put it in a shape by which we shall increase the pay as a temporary expedient lasting for the present year, and we can in future adopt a system which convenience, economy, and the public necessity will demand or require.

I shall be opposed to this movement of distributing the Globe or giving to every new member all the back sets. I think it would not be justifiable, and although I am not more subject to the opinion of the country than any one else, I should hesitate a good while before I would give a vote of this kind under the circumstances.

Mr. CONNESS. In regard to whether back



# THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

THURSDAY, JUNE 9, 1864.

NEW SERIES.....No. 175.

numbers of the Globe shall be authorized to be purchased and circulated, I must say for one that I have little feeling. I think the suggestion made by the honorable Senator from New Jersey is worthy of a great deal of consideration; that while it would be a very fair and proper expenditure in ordinary times it may be now too expensive to undertake it, although I in part represent a State here, new in its organization, new, necessarily, in its libraries, and therefore unsupplied with the records that the Congressional Globe furnishes, and which cannot be obtained from any other source. I find myself frequently called on for books for the purpose of circulation that I am not able to furnish. Since I have been here I have sent copies of the Globe, first, to each newspaper in my State, and then to each library; and that exhausted about all I was entitled to receive.

By some regulation of this Senate I discovered myself entitled to but one half the number of books that belonged to a Senator. I was a little surprised when I discovered that regulation. I called upon the Vice President before he left to look into the matter. We discovered this condition of things: that an order had been made by my predecessor transferring to another Senator of this body half the number that the seat I occupy, so to speak, was entitled to receive. It occurred to me that it was a regulation "more honored in the breach than in the observance." It seemed to be a strange thing to me that an outgoing Senator was entitled to a very large number of books that he might pass over to another by a simple order, while the incoming Senator had the responsibility of the circulation of intelligence such as is communicated by those books to his constituency.

I have said that I have observed the rule suggested by the two Senators on my left, the honorable Senator from Massachusetts and the honorable Senator from New Jersey, of circulating these books among all the libraries in my State, both cities and villages; and I am now without books to supply ordinary demands. I have a letter on my desk, received this morning from one of the most prominent and valued citizens of our State, asking me to send him the Congressional Globe. I have none. I have scores of such applications. They do not ask them as mere property; but they would be well placed in the hands of many such citizens, and I think any reasonable appropriation to aid in a fair dissemination of this valuable record would be money well spent. As to whether each member shall be entitled to the back numbers or not, I confess I am not free to advocate or sustain it now, and prefer leaving that question to be determined by older Senators, and with a view to the economy involved in that proposition.

Mr. FESSENDEN. Mr. President, as to the question of continuing the publication of the Congressional Globe I presume there can be but very little if any difference of opinion among us. I have no doubt, I have no question of the great importance of continuing that publication; I believe it is part of the history of the country. Nothing is more important than that there should be a correct record kept of our proceedings. I believe the opinion of the country has settled down upon that. It is very important, in my judgment, to the protection of members themselves, and that has been found so. Without the Congressional Globe we are at the mercy of everybody who chooses to misrepresent our opinions and our acts, and it would be impossible utterly in the nature of things to counteract the effect that might be produced. Depending, so far as I am concerned, entirely upon the Congressional Globe for a record of our proceedings, and regarding any other record as of no very great importance beyond the day and the hour, I prefer, myself, as an individual to trust to it. I think it is equally important to all of us.

The only question, then, that arises is, what is the cheapest and the best mode of continuing the publication? And upon that question I am not pre-

pared to give any advice. I usually follow committees of Congress and their recommendations with reference to those matters, believing that in the nature of things they can come to very much better conclusions than I can.

The Senator from California spoke of applications that have been made to him for books. I suppose each Senator receives the Congressional Globes for the sessions during which he is a member of the body. The Globes to which the Senator has alluded were probably of the last session. The reason why the Senator has none to give is that he is not entitled to any except for this session. They will come to him for this session as the member entitled to them; and he will find that under the existing laws he will probably have as many as he cares to dispose of. I think under the law as it stands we get something like eighty or ninety copies of the Globe apiece, as published from Congress to Congress. As I understand this proposition, it is a proposition to furnish full sets of the Globe. They are stereotyped I suppose.

Mr. ANTHONY. Stereotyped and printed.

Mr. FESSENDEN. And the publisher supposes that he can make as much by being employed in printing and stereotyping the back numbers, and furnishing a certain number to new members, as he can make by an addition to his compensation for printing and publishing. It is very clear that one thing or the other ought to be done. The suggestion made by the Senator from Massachusetts struck me as a very valuable one; and that is, that there should be a provision inserted in the bill that they should be furnished by the members to libraries. It would take off any imputation that might possibly be thrown upon individual members for voting upon the subject, and at the same time would accomplish the most valuable purpose that we wish to accomplish, by placing them permanently at different points, where they can be consulted by those who wish to consult them, and information obtained as to any question upon which persons might desire to consult them. It is merely a matter of computation; and if the chairman states that his committee have examined the question, and are satisfied that it can be done in this way as well as in the other, I do not see but what we accomplish as much good by adopting this proposition as we should do by adding to the price in any other way. I take it, about the same amount is to be paid out of the Treasury in either case for the publication of the Globe; and in this way we multiply the number of full sets of the Globe to be distributed among our constituents. It is a matter of entire indifference to me how it is done, provided it is done in the cheapest possible way, and we accomplish the purpose of continuing the publication, which I deem to be a matter of absolute, imperative necessity.

Mr. POWELL. The Joint Committee on Printing have given this matter very careful and mature consideration. As has been said by the chairman of the committee, the Senator from Rhode Island, something must be done, or the publication of the Congressional Globe must stop. There were two propositions before the committee. One was to increase the price, and the other to fall back upon the original contract made with the publisher of the Globe. After several sessions of the committee, and a full consideration of the subject, the committee came to the conclusion that the bill, as reported by the chairman, which has passed the House of Representatives, was the better proposition, and the one that would ultimately cost the Government less money. The proposition under consideration will cost some fifteen thousand dollars more this year than the other, but it will cost greatly less in all subsequent years, and it places the Globe upon a permanent foundation. We furthermore thought that it was but carrying out the contract originally made with the publisher of the Globe, which was abrogated by Congress without his consent. I have no question that the Joint Committee on Printing have adopted the wisest and best system

to continue this work, and one that will ultimately result in the saving of money to the Government. I believe that was the unanimous opinion of the Committees on Printing of both Houses when we had this matter under consideration, and we had several meetings on the subject. The gentlemen of the House committee, as well as the gentlemen of the Senate committee, had very accurate calculations made about the cost, the result of which has been presented by the chairman of the Committee on Printing.

I have no hesitation in saying that this is the best proposition we can adopt for the continuation of this work. While it will cost more at this session it will cost less at any subsequent session. Moreover, I think Congress, in abrogating the contract with the publisher of the Globe, notwithstanding which he has gone on and printed it as far as he could, and placed himself in a condition to execute his part of it, to say the least of it, in my opinion, have not acted in good faith. I hope the proposition reported by the Joint Committee on Printing, which has passed the House of Representatives, will be adopted by the Senate. In the end it will be found to be the most economical proposition that can be adopted to have the Globe published, and I believe it will be carrying out the contract with the publisher of the Globe in good faith.

Mr. JOHNSON. I suppose we all desire to see the Globe continued. It has produced in the past, and will no doubt produce in the future, great public good; but the measure before the Senate is one which if it passes will place the establishment upon some permanent footing, as I understand the chairman of the joint committee to tell us, and as that is the case I think it would be better that the Senate should be more full than it is at present before the final vote is taken on the question.

As to myself, I am comparatively unadvised now, notwithstanding the explanation of my friend from Rhode Island, of the operation of this bill. The bill gives one cent for every five pages over a certain number, which was originally given and was afterwards taken away, a fact that Mr. Rives, I think, always complained of; but this gives it to him in the future. The honorable member tells us that there were two alternative propositions before the committee. The first was to increase the charges fifty per cent.; the other was to distribute the Globe as is proposed to be done by one of the sections in this bill. I understood him to say that the difference between the two modes would not average more than \$15,000; and that perhaps would not be the average in a series of years. I think he is very much mistaken. I make the suggestion, in order that if the measure be postponed he may think of it very maturely, that he is very much mistaken when he says it will only cost some \$15,000 more than would be the cost of fifty per cent. additional. Over the expenditure of fifty per cent. we shall have some control.

There is—and I think Congress hereafter will see it their duty to correct the printing in that particular—there is a great deal of matter published which need not be published. It may be contracted beneficially certainly to the Government, and beneficial to the reader. Who is there that wades through all the matter in the Globe? Speeches—I do not speak of the Senate; I do not mention the Senate—but speeches that are not made are published; speeches that are only partially made are published as prepared or after prepared. That should not be the business of a paper like this. It ought to give the debates as they fall from the lips of the speakers.

But over the other proposition, if we enter into this agreement, we shall have no control. I stated that my friend perhaps was mistaken as to the probable amount that the Treasury would have to pay if the bill passes as is proposed. I understand the section of the bill which relates to the distribution of the Globe to provide that every member of Congress now belonging to either body, or who shall hereafter become a member

of either body, if he has not at the time when he is a member a complete set of the Globe, is to be furnished with a complete set: I had the honor to be a member of Congress in 1845, and continued until 1849, four years. Several members of the Senate are here for the second term; it is certainly true of the House of Representatives; but there is not a member of Congress I think in either body, and there never will be in any future Congress, who has a complete set of the Globe.

Mr. FESSENDEN. I have one.

Mr. SUMNER. I have one also.

Mr. JOHNSON. For what time? Because you have been continuously a member.

Mr. SUMNER. I have one from the beginning.

Mr. FESSENDEN. When I first came into the Senate they were furnished under the law.

Mr. JOHNSON. How were they furnished? Those who have been furnished of course would not receive them, but those who have not been furnished with a full set are to be furnished under this resolution; and I do not know how many copies will be called for from time to time. I rather think that the immediate draft upon the Treasury will be some eighty or one hundred thousand dollars.

Mr. TRUMBULL. All members were furnished with them until 1854.

Mr. ANTHONY. I can give the Senator from Maryland the exact figures.

Mr. TRUMBULL. Since 1854-55 only the current numbers have been furnished; but all who were members of Congress prior to 1854 had a full set up to that time.

Mr. JOHNSON. Then I did not look after my interest, for I did not get mine.

Mr. TRUMBULL. Every new member on entering Congress got the back set up to that time; but when we passed the new compensation law in 1855-56 that was cut off; but the members of the House of Representatives got them until 1856. They passed a resolution to that effect.

Mr. SHERMAN. I beg the Senator's pardon. I was a member of that Congress. I came here in 1855, and we did not get them for that Congress. The last Congress that received the full sets of the Congressional Globe and documents was the Thirty-Fourth Congress.

Mr. TRUMBULL. The Senator from Ohio is a little mistaken. The House of Representatives passed a resolution to furnish themselves, and they coupled with that resolution a provision that they should be deposited in libraries and in public institutions. The Senate refused to agree to it. I recollect the controversy between the two Houses very well; but it was carried out in regard to the House of Representatives, and put on an appropriation bill, I believe.

Mr. SHERMAN. I beg the Senator's pardon. I was a member of that Congress, and, though I should have liked very well to get the books, I never got them.

Mr. TRUMBULL. You received them. Not for yourself but for public libraries.

Mr. WILSON. I understand that a portion of the members of that Congress did get them, but the matter was stopped in some way. There was a difficulty about it; but I know that some members of the House of Representatives did get them.

Mr. JOHNSON. My object in what I have said, if I may be permitted to state it now, was to move the postponement of this bill until the Senate should be full.

Mr. ANTHONY. I have no objection to its postponement if it is desired; but as it is a matter which relates to the business of the Senate, if it is to be postponed I should like to have it made a special order, if the Senator who has charge of the financial bills will consent to it.

Mr. FESSENDEN. I have no objection, provided it does not come in the way of my bills.

Mr. WILSON. Say Friday next.

Mr. ANTHONY. Well, I will say Friday next at half past twelve o'clock. But before that motion is put I wish to answer the Senator from Maryland. There is no doubt about what the cost of this is going to be. The Senate can adopt either proposition. Of course the compensation for the Globe is in some degree uncertain, because we do not know precisely how long the debates will be or how voluminous the reports will be; but the pay of the Globe is predicated upon three thousand pages for a long and fifteen hundred

pages for a short session. If the Globe exceeds that number of pages, there is to be an allowance of one cent for every five pages additional. That of course is a somewhat uncertain element of the cost.

Mr. SHERMAN. That was repealed.

Mr. ANTHONY. But in this bill it is proposed to be reestablished. That was a part of the original contract. Now take for illustration the last Congress, the debates of which were pretty voluminous. The cost of the Globe was \$166,570. Fifty per cent. additional to that would be \$83,285. The back volumes of the Globe for both Houses will cost \$47,120, and adding to that the excess of one cent for every five pages, \$42,000, it will make altogether \$98,544, showing a difference of \$15,000 between the two propositions.

Mr. WILSON. I understand the Senator to say that the sets will cost about two hundred and fifty dollars apiece. If that be so, I think if we amend the first resolution so as to provide "that a copy shall be purchased for each congressional district and one for each Territory," that then they will cost about the same that it would to add this eighty-four or eighty-five thousand dollars every Congress. I think the cost of furnishing them to libraries in that way would be a little short of eighty-four thousand dollars. Then let the delegate and the member designate to what library they shall go in those districts. I am willing to vote for such a proposition as that. I am willing that at every Congress we shall vote a copy of the Congressional Globe for every representative district and every delegate district, to go into such library as the member may designate in that district.

But, sir, for one, I am opposed to returning to this system which was odious in the country, which led to great corruption here as everybody knows who was here at that time, and which was condemned by the country and condemned by Congress. I hope we shall not resort to it. I am willing to agree to this proposition if it shall be amended so as to require the Clerk of the House of Representatives to furnish each representative and delegate district represented in the present and succeeding Congresses, one complete set of the Globe and Appendix, to be placed in some library to be designated by the Representative and Delegate of each representative and delegate district, or something to that effect.

Mr. TRUMBULL. I have now before me the deficiency bill of the 3d March, 1857, and the Senator from Ohio will now see that I was correct in my statement:

"To indemnify the Clerk for such sums as he may have expended for books under resolution of the House of Representatives of June 11, 1856, and to enable him under said resolution to furnish for each member and delegate of the House of Representatives who has not heretofore received the same the following enumerated books, namely: Gales & Senton's Register of Debates, Congressional Globe and Appendix, Public Land Laws, Instructions and Opinions, Elliott's Debates, Diplomatic Correspondence, Opinions of the Attorneys General, in five volumes, Finance Reports, Gales & Senton's Annals of Congress, John Adams's works, Jefferson's works, to be supplied from the numbers of said work now in charge of the Librarian, Hickey's Constitution, and Mayo & Moulton's Pension and Bounty Land Laws, \$138,000, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated."

That was passed on the 3d of March, 1857. The Clerk of the House of Representatives under a resolution of the House furnished a number of the members with the books, and then an appropriation was made by Congress to enable him to furnish the whole of them.

Mr. SHERMAN. Were not those distributed to libraries?

Mr. TRUMBULL. Certainly; but they were distributed under the direction of the member. The members were required to distribute them. I so stated before. They were furnished to each member.

Mr. SHERMAN. I only know that I never got mine.

Mr. TRUMBULL. There is a proviso requiring them to be distributed among libraries, and I presume the Senator from Ohio carried out the requirement of the law and distributed his in some library. The proviso is in these words:

"Provided, They be furnished at prices not exceeding those for which they were heretofore supplied: And provided also, That said books be forwarded by the Clerk to such public library in the district of each of said members and delegates as may be designated by said member or delegate."

I do not know how faithfully that was carried out; but I suppose it was carried out according to its terms. They were furnished to each Representative and Delegate, I think, of the Thirty-Fourth Congress, and this was the appropriation to pay for them.

Mr. SHERMAN. I now remember the circumstance since it has been recalled to my mind. The Thirty-Fourth Congress, previous to the passage of the compensation act, passed the usual order for books for new members, and the Clerk had got some copies and it was said gave them to favored members before the repeal of the resolution by the compensation act. Seven or eight members got them. Subsequently, in the next Congress, this resolution was passed to authorize them to be distributed among the public libraries. The set allotted to me is now in one of the libraries in my district. I have never seen them.

The PRESIDENT *pro tempore*. The Chair understands that the motion is to postpone the bill.

Mr. ANTHONY. I will assent to the motion to postpone it if it can be made the special order.

Mr. TRUMBULL. Why not act upon it now?

Mr. ANTHONY. Senators desire to have it postponed for further consideration.

Mr. COLLAMER. I object to making any special orders in the morning hour without the vote of two thirds of the Senate.

Mr. ANTHONY. I hope the Senator will withdraw the objection, and for this reason: this is a matter which concerns the business of the Senate; it is almost a privileged question, I think; a matter which concerns our organization and the mode of transacting business, and there is no way of reaching it, unless we make it a special order.

Mr. COLLAMER. I have no objection to making it a special order if it is not made a special order in the morning hour.

Mr. ANTHONY. Will the Senator from Maine allow us to make it a special order for one o'clock? It is no use undertaking anything without his consent, and I am not going to place myself in the position of a rebel. I will ask his assent in the first place to allow us to make this bill the special order for one o'clock on Friday next.

Mr. FESSENDEN. I will make no objection.

Mr. ANTHONY. The Senator from Maine assents, and I therefore make that motion, that the bill be made the special order for Friday next at one o'clock.

The motion was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had disagreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 40) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1865, asked a further conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. JAMES F. WILSON of Iowa, Mr. GODLOVE S. ORTH of Indiana, and Mr. ROBERT MALLORY of Kentucky, managers at the same on its part.

The message further announced that the House of Representatives had passed a joint resolution (No. 45) to enable the Secretary of the Treasury to obtain the title to certain property in Carson City and Territory of Nevada, for the purposes of a branch mint located in said place; in which it requested the concurrence of the Senate.

#### FREEDMEN'S BUREAU.

Mr. WILSON. I move that the Senate proceed to the consideration of executive business.

Mr. SUMNER. Before that motion is put, with the consent of my colleague, I will ask the Senate to take up the bill which I moved to take up last night, that it may be in order for one o'clock to-morrow. It is House bill No. 51, to establish a Freedmen's Bureau. I want to have it disposed of.

The PRESIDENT *pro tempore*. Does the other Senator from Massachusetts withdraw his motion?

Mr. SUMNER. He will for a moment to enable me to make this motion.

Mr. WILSON. I withdraw it for that purpose.

Mr. SUMNER. I now move to take up the bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs.

Mr. POWELL. I hope the motion of the Senator from Massachusetts will not prevail. I desire to take up the bill to prevent military interference with elections, which has been discussed elaborately here, and have action upon it. We have legislated a great deal for the negro, and I think we ought to give a day or two for the white man. My bill is to protect white men in their rights, and I do hope we may be allowed to finish it. We discussed it four days, and I do not think this freedmen's bill ought to intervene and prevent it from being disposed of. I want to finish the bill. I have been waiting for the financial measures to get through. I have been urging it at every chance I could get. I hope the Senate will vote down the motion of the Senator from Massachusetts, and then I will move to take up my bill and have it left as the unfinished business, so that we can conclude it to-morrow.

Mr. SUMNER. The bill that I move to take up is one that comes from the House of Representatives; it has been lying on the table of the Senate for some time, and it ought to be acted upon. I have tried again and again to press action upon it, and now it seems to me the opportunity has come.

Mr. GRIMES. I will inquire of the Senator from Massachusetts why he does not go on with his bill to-day? We have got two hours yet before the usual time of adjournment.

Mr. SUMNER. Because my colleague is about to move an executive session.

Mr. GRIMES. I think the Senator's bill of more consequence than going into executive session and confirming a quartermaster or a commissary.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator to take up the bill indicated by him.

Mr. SAULSBURY called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 24, nays 6; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Collamer, Comess, Doolittle, Fessenden, Foster, Grimes, Harlan, Harris, Howe, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Wilkinson, Wiley, and Wilson—24.

NAYS—Messrs. Carlile, Henderson, McDougall, Powell, Richardson, and Saulsbury—6.

ABSENT—Messrs. Brown, Buckalew, Cowan, Davis, Dixon, Foot, Hale, Harding, Hendricks, Hicks, Howard, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Riddle, and Wright—19.

So the motion was agreed to.

#### MARQUETTE AND ONTONAGON RAILROAD.

Mr. CHANDLER. As that bill is now up, I will move that the Senate proceed to the consideration of executive business.

Mr. HOWE. I ask the Senator to allow me to introduce a motion to bring back a bill which has gone to the other House.

Mr. CHANDLER. Certainly, if the Senator will renew the motion.

Mr. HOWE. It is House bill No. 469, extending the time for the completion of the Marquette and Ontonagon railroad of the State of Michigan. It has been signed by the President *pro tempore*, and is now in the hands of the Enrolling Committee in the House of Representatives. I think it passed through inadvertence. The same identical bill has been reported from the Committee on Public Lands this morning. I move to have that bill recalled from the House of Representatives, in order that a motion to reconsider may be entered.

The PRESIDENT *pro tempore*. That order will be made if it has not gone to the President, if there be no objection.

Mr. HOWE. The bill has not gone to the President.

The PRESIDENT *pro tempore*. The order will be made, if there be no objection.

Mr. HOWE. I suppose a motion to reconsider should be entered at the same time.

The PRESIDENT *pro tempore*. It is not necessary now.

#### EXECUTIVE SESSION.

On motion of Mr. CHANDLER, the Senate proceeded to the consideration of executive business; and after some time spent therein the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, June 7, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

#### REPORT OF COMMISSIONER OF PATENTS.

Mr. ORTH, by unanimous consent, submitted the following resolution; which was read, considered, and under the rules referred to the Committee on Printing:

*Resolved*, That there be printed thirty thousand extra copies of the report of the Commissioner of Patents, twenty thousand for the use of this House and ten thousand for the Commissioner of Patents.

#### ADMISSIONS UPON THE FLOOR OF THE HOUSE.

Mr. LAW, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Rules of the House be, and they are hereby, instructed to inquire into the expediency of so amending the 134th rule providing for the admission of persons on this floor that, in addition to the persons named in said rule who are entitled to admission on this floor, ex-members of Congress shall be admitted within the Hall of the House while the House is in session.

#### ADVERSE REPORTS.

Mr. WASHBURN, of Illinois, from the Committee on Commerce, made adverse reports in the following cases; which were laid upon the table:

Memorial of citizens of Cincinnati relative to the width between piers of bridges on the Ohio river;

Memorials of the city of Milwaukee, for an appropriation for preserving the harbor at that city;

Memorial of the city of Baltimore in favor of South American Steamship Company;

Petitions of citizens of Malone, and of Saint Lawrence county, for ship canal round the falls of Niagara;

Petition of J. C. Stimpson, to change the name of a propeller;

Petition of Baber and Morrill to change the name of the ship *Aureola* to *Southern Cross*;

Resolution to change the name of the steamboat *Gem* to *Emma Boyd*, No. 2;

A bill (H. R. No. 398) to regulate commerce among the several States;

A bill (H. R. No. 471) in addition to acts in relation to the registry of vessels; and

A bill (H. R. No. 349) providing that the port of Portland, Maine, shall be placed on the same basis as the ports enumerated in the ninth section of the act of May 7, 1822.

#### WAYS AND MEANS.

Mr. HOOPER, from the Committee of Ways and Means, reported a bill to provide ways and means for the support of the Government; which was read a first and second time, ordered to be printed, and recommitted to the same committee.

Mr. HOOPER. I now ask that the committee have leave to report at any time.

Mr. COX. I object to that.

Mr. HOOPER. The loan bills expire at the close of the present month, and this is to provide ways and means for the coming fiscal year. It is important that the bill should be reported.

Mr. HOLMAN. There will be no objection if the consideration will not be urged in less than one day after the bill is printed.

Mr. MORRILL. There will be no difficulty on that point.

No objection being made, it was agreed that the committee might report at any time.

#### LAND FOR MINT IN NEVADA.

Mr. BOUTWELL, by unanimous consent, reported back from the Committee on the Judiciary a joint resolution (H. R. No. 45) to enable the Secretary of the Treasury to obtain a title to certain property in Carson City, and Territory of Nevada, for the purposes of a branch mint located in said place, with an amendment.

The amendment was to add to the bill the following proviso:

*Provided*, That the cost of said land, and the expenses of the purchase and conveyance thereof, shall not be a charge upon or a claim against the United States.

Mr. WASHBURN, of Illinois. I would inquire of the gentleman from Massachusetts whether or not this is Government land?

Mr. BOUTWELL. The facts are these: certain persons claim a preemption upon these lands, and the citizens of Carson City have agreed to

contribute the necessary expenses to relieve the land of that claim. The Attorney General has given an opinion that under existing laws the Secretary cannot receive the title, and the purpose of the resolution is to enable the Secretary to receive the title. The proviso recommended by the committee precludes the possibility of any charge upon the Treasury.

Mr. WASHBURN, of Illinois. Then I understand there is a vested right in the preceptors which the Government desires to obtain.

Mr. BOUTWELL. Certainly.

The amendment was agreed to.

The resolution was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. BOUTWELL moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### GRANT OF LAND TO WISCONSIN.

On motion of Mr. SLOAN, an act (S. No. 241) to grant to the State of Wisconsin a donation of public land to aid in the construction of a ship canal at the head of Sturgeon bay, in the county of Dorr, in said State, to connect the waters of Green bay with Lake Michigan, in said State, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Public Lands.

#### RANCHE BOLSA DE TOMALES, CALIFORNIA.

Mr. HIGBY, by unanimous consent, reported back from the Committee on Public Lands an act (S. No. 216) to grant the right of preemption to certain settlers on the Rancho Bolsa de Tomales, in the State of California.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. HIGBY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### B. C. BAILEY.

On motion of Mr. HALE, the Committee of Claims was discharged from the further consideration of an act (S. No. 48) for the relief of B. C. Bailey, and the same was referred to the Committee on Commerce.

#### DANIEL DOLAND.

On motion of Mr. WASHBURN, of Massachusetts, the Committee on Invalid Pensions was discharged from the further consideration of the petition of Daniel Doland, of Roxbury, Massachusetts, for an increase of pension; and the same was laid on the table.

#### ELIZABETH P. MEANS.

On motion of Mr. WASHBURN, of Massachusetts, the Committee on Invalid Pensions was discharged from the further consideration of a bill (H. R. No. 273) for the relief of Elizabeth P. Means; and the same was laid on the table.

#### WILLIAM R. MUDGE.

On motion of Mr. WASHBURN, of Massachusetts, the Committee on Invalid Pensions was discharged from the consideration of the petition of William R. Mudge for relief; and the same was laid on the table.

#### MAJOR GENERAL SAMUEL R. CURTIS.

Mr. WILSON asked unanimous consent to offer the following resolution:

*Resolved*, That the President be requested to communicate to this House the defense of Major General S. R. Curtis against the report made by the McDowell commission, including in such communication all papers and evidence submitted on behalf of General Curtis in said defense.

Mr. HOLMAN. With the amendment that he shall also communicate the report itself of McDowell, I will not object.

Mr. WILSON. That has been communicated to the Senate.

Mr. HOLMAN. I suggest to the gentleman that he amend his resolution, so as to require the Secretary of War to communicate to the House the report of the commission itself also.

Mr. WILSON. I will say to the gentleman that the report of the commission has already been communicated to the Senate.

Mr. HOLMAN. Well, in that case I presume we do not need it.



Mr. ODELL. Oh! I think we had better call for it.

The SPEAKER. The resolution calling for information from one of the Executive Departments can only be considered to-day by unanimous consent.

Mr. HOLMAN. I would like to know if the report has been printed in the Senate?

The SPEAKER. All executive communications are ordered to be printed.

Mr. HOLMAN. It is suggested to me that it would be better for the House to call for the report of the commission, and I wish to include also the defense made by Colonel James R. Slack, of Indiana.

Mr. WILSON. I trust the gentleman from Indiana will not insist on adding anything to this resolution. I presume there will be no objection to the adoption of a resolution covering the case to which the gentleman refers, but I have a particular desire that we shall get this defense of General Curtis separately.

Mr. ODELL. I move to amend the resolution so as to call for the report of the commission.

The SPEAKER. The resolution is not yet before the House.

Mr. HOLMAN. It seems to me very important that we should get the report of the commission before the House. It affects a great many gentlemen from my own State as well as from the State of the gentleman from Iowa.

Mr. ODELL. I shall object to the reception of the resolution unless the gentleman from Iowa will accept my amendment.

Mr. WILSON. I did not hear the gentleman's amendment.

Mr. WASHBURN, of Illinois. I suggest that the gentleman from Indiana draw up his resolution now on the spot and offer it when this is disposed of.

Mr. ODELL. My amendment is that the resolution shall include a call for the report of the commission.

Mr. WILSON. It has been communicated to the Senate.

Mr. ODELL. I am aware of that, but we want it in the House also.

The SPEAKER. The Chair will state that papers transmitted by the Executive Departments are printed but once, and the Department will have of course to copy the entire papers again and send them here.

Mr. WILSON. I am informed that the report has been ordered to be printed by the Senate.

Mr. HOLMAN. That does not give us control of the document at all. The Department could send the printed document here without any difficulty.

Mr. WASHBURN, of Illinois. Let the gentleman draw up a resolution calling for the defense of Colonel Slack. There will be no objection to it.

Mr. WILSON. Let it come in as a separate resolution.

Mr. HOLMAN. I desire to have the report itself brought before the House.

Mr. WILSON. Well, if the resolution is going to create any difficulty I will not press it now, but will wait until the States are called for resolutions. I offered it for the purpose of doing justice to a brave and patriotic gentleman, a resident of my own district; but if objection is made I will withdraw it.

Mr. HOLMAN. I do not wish to stand in the position of objecting, and therefore I withdraw my suggestion.

No objection being made, the resolution was received and agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### INDIAN TREATIES.

The SPEAKER laid before the House a letter from the Secretary of the Interior, recommending an appropriation to fulfill treaty stipulations with various Indian tribes; which was referred to the Committee of Ways and Means, and ordered to be printed.

#### SALES OF GOLD.

Mr. WASHBURN, of Illinois, called for the regular order of business.

The SPEAKER stated the regular order of business to be the consideration of the bill (S. No. 106) to prohibit certain sales of gold and foreign exchange, coming up as unfinished business, the question being on the amendment offered by Mr. Hooper to strike out the first section of the bill, and insert in lieu thereof the following:

That it shall be unlawful to make any contract for the purchase or sale or delivery of any gold coin or bullion to be delivered on any day subsequent to the day of making such contract, or for the payment of any sum, either fixed or contingent, in default of the delivery of any gold coin or bullion, or to make such contract upon any other terms than the actual delivery of such gold coin or bullion, and the payment in full of the agreed price thereof, on the day on which such contract is made, in United States notes or national currency, and not otherwise; or to make any contract for the purchase or sale or delivery of any foreign exchange to be delivered at any time beyond ten days subsequent to the making of such contract; or for the payment of any sum, either fixed or contingent, in default of the delivery of any foreign exchange, or upon any other terms than the actual delivery of such foreign exchange within ten days from the making of such contract, and the immediate payment in full of the agreed price thereof on the day of delivery in United States notes or national currency; or to make any contract whatever for the sale or delivery of any gold coin or bullion of which the person making such contract shall not, at the time of making the same, be in actual possession. And it shall be unlawful to make any loan of money or currency not being in coin to be repaid in coin or bullion, or to make any loan of coin or bullion to be repaid in money or currency other than coin; or to make any other contract containing any stipulation for payment otherwise than in lawful money.

On this amendment the previous question has been moved.

Mr. THAYER. I appeal to the gentleman from Massachusetts to withdraw the previous question, in order that I may move to amend the amendment by striking out the last two lines—"or to make any other contract containing any stipulation for payment otherwise than in lawful money."

Mr. HOOPER. I withdraw the previous question to give the gentleman from Pennsylvania an opportunity to make a statement.

Mr. THAYER. These last two lines prohibit the making of any contract containing a stipulation for payment otherwise than in lawful money. It certainly cannot be within the contemplation of the Committee of Ways and Means to prohibit all contracts for the exchange of property where payment is to be made in merchandise or labor, or any other matter, not pertaining at all to dealings in gold or in bills of exchange, but which would fall within the letter and meaning of this provision. I cannot vote for the bill if this provision be retained. I do not think that its force will be in any degree impaired if these words are struck out.

Mr. MORRILL. I would also suggest that a payment in coin would be a payment in lawful money. I see no necessity for that clause.

Mr. THAYER. I move to amend the amendment by striking out the words I have indicated.

Mr. HOOPER. I accept the amendment.

Mr. GANSON. The gentleman from Massachusetts who offered this amendment said that it was drawn with great care and deliberation. I desire to invite that gentleman's attention to the first clause, which declares it to be unlawful to make a contract for the delivery of gold coin or bullion. If a person in Chicago has \$1,000 in coin or bullion he cannot under this act go to an express company and make a contract for its delivery at New York. If a person having gold coin or bullion in California desires to have it transported to New York and delivered there, he could not, under this bill, make a lawful contract for that purpose. I do not suppose that the gentleman intended that his amendment would have such an effect as this. It strikes me that the proposition should not be seriously entertained by the House.

Furthermore, Mr. Speaker, the next clause declares that for the sale or actual delivery of any gold or bullion the payment of the price must be in United States notes or national currency, and not otherwise. This, of course, would make it unlawful to pay for coin or bullion in the currency of the State banks, or in a check upon a bank. And I take it for granted that the gentleman from Massachusetts does not seriously entertain the idea of prohibiting transactions of that kind.

The next clause refers to foreign exchange. Under it a person in New York cannot sell a cargo of grain and buy exchange with the cargo.

He cannot draw against the cargo. He cannot take a bill or a check on a bank for the purchase price of his cargo of grain. I do not see what necessity or propriety there is of interfering with these daily and necessary transactions of business. It certainly cannot tend to strengthen the Government; and the only effect will be to cause an entire disrespect for the legislative body that would pass any such enactment, or sanction any law containing any such provisions.

I understand that the gentleman from Massachusetts [Mr. Hooper] has consented to withdraw the last provision, which is more absurd than any other, if that be possible.

But I do not wish to discuss these matters. I think that it is enough to call the attention of the House to these provisions. I do not see the aim and the purpose of the bill. It cannot strengthen the credit of the Government. The only measures which will serve effectually to restore and sustain the credit of the Government are a reduction of the present redundant irredeemable paper circulation, the raising of money for the purposes of the Government by loans, and collecting by imports and taxes revenue sufficient to pay the interest and create a sinking fund for the ultimate payment of such loans. This bill can do nothing but throw absurd obstacles in the way of ordinary business transactions of the country.

Mr. DAVIS, of New York. Mr. Speaker, I desire to call the attention of the House to the last provision of the amendment offered by the member from Massachusetts. It seems to me that it is unconstitutional. It is there provided that it shall be unlawful to make any loan of money or currency not being in coin to be repaid in coin or bullion, or to make any loan of coin or bullion to be repaid in money or currency other than coin. I insist that that provision is against the Constitution. We have a Constitution which allows a man to pay gold for any indebtedness whatever; and if I make a contract payable in "greenbacks" I have a constitutional right to pay in gold. I say that Congress cannot take away that right. I may not have the disposition to pay in gold, still I have the constitutional right to do so.

We are proposing to legislate here against the terms and provisions of the Constitution. I for one shall vote for any reasonable proposition which this Administration may want to carry on its financial operations. I believe we are legislating on subjects which we cannot reach by legislation.

I have already addressed my views to the House on this subject, and I do not propose to detain them by any repetition of them at this time. I propose to add the following to the amendment:

*Provided, however, That during the operation of this act the laws of trade and the law of gravitation be, and they are hereby, suspended.*

Mr. J. C. ALLEN. I desire to call the attention of the gentleman from Massachusetts to the question which struck me on reading the Senate bill. It is provided, in the printed copy I have here, that it shall be unlawful to make any transactions in gold or foreign exchange. Without stopping to inquire whether it is right or wrong, whether it would be beneficial or otherwise, it strikes me, if the bill become a law, it will not be effective in controlling transactions in gold and foreign exchange. There is no penalty provided for the violation of the law. The bill declares that it is unlawful, but by what law will you punish the broker, or speculator, or gold gambler for violating this law?

Mr. HOOPER. Let me call the gentleman's attention to the remaining sections of the bill. The gentleman has only the amendment that I propose. He will find that section four of the Senate bill provides for the punishment of any infraction of the law.

Mr. J. C. ALLEN. I have not seen that bill. Mr. PENDLETON. Mr. Speaker, the amendment and the original bill are intended to accomplish one single result, and that is to prevent all sales and transfers of gold, unless the gold is delivered at the instant of transaction, and the payment is at the same time made in the notes of the United States or notes of the national banks. Whatever may be the language of either the amendment or the bill, that is the sole object of both. And I desire for a moment to call attention to the sweep-

ing character of the proposition. No man shall sell gold unless he delivers it at the moment of sale or within the day. No man shall buy gold unless he pays for it in the notes of the United States or national currency notes. That is all of the Senate bill and of the amendment, so far as they relate to transactions in gold.

The gentleman from Pennsylvania [Mr. THAYER] called attention to a very grave objection to the amendment of the gentleman from Massachusetts, [Mr. HOOPER.] He objected to the last clause of the amendment. That clause provides that it shall be unlawful "to make any other contract containing any stipulation for payment otherwise than in lawful money." He objected to it because it would prohibit any bargain in which the consideration was to be other than lawful money, because it would prohibit a sale of merchandise or land for gold. The gentleman from Massachusetts, [Mr. HOOPER,] yielding to that objection, assented to strike out the last lines of his amendment. I submit to the gentleman from Pennsylvania that this does not accomplish his purpose. In line eleven of the amendment it is provided that no sale or transfer of gold shall be valid unless the consideration is paid in Treasury notes or national bank notes.

Now, sir, I contend that under this clause of the amendment a man cannot sell his horse for gold; he cannot sell his land for gold; he cannot sell his wheat for gold. All transactions in gold are made illegal unless the price is paid in the notes of the United States or the notes of national banks. I agree with the gentleman from Pennsylvania [Mr. THAYER] that this is a most extraordinary provision, and as fatal as extraordinary.

Mr. GANSON. How will it apply to California, where they have nothing else but gold?

Mr. PENDLETON. I am coming to that. Under this provision as it stands, no article of value except notes of the United States and notes of national banks can be paid in exchange for gold. It prohibits transactions in gold except upon the delivery of the consideration in that particular currency. The friends of the bill will say that a contract for the delivery of a horse for a price to be paid in gold is the sale of a horse, not the purchase of gold. If they yield that point they open wide the door for the evasion of the bill. They sacrifice their object over a quibble. But if that be true, the bill and amendment both provide that the gold shall be delivered within the day on which the contract is made. And if I am mistaken in the interpretation I give to the language of the eleventh line of the amendment offered by the gentleman from Massachusetts, I submit that it is very clear that the transaction must be completed immediately. A man cannot sell upon credit any article at all for gold. There must be delivery of gold upon the day the sale is made and the article is delivered. If I am mistaken in supposing that the provision is as sweeping in relation to the consideration to be paid, I am not mistaken in the time in which the gold must be delivered; and a man cannot sell his horse, a bill of goods, his wheat, or his whisky for a price to be paid in gold, unless he receives the money in hand.

Are gentlemen willing to go that length? Even if it be necessary to pass a law to accomplish the avowed purpose of this bill, are gentlemen willing to go to the extent of these provisions?

On the Pacific coast all transactions are in gold. Amid all the fluctuations of the currency gold has maintained its normal position as money, and United States notes and notes of national banks are quoted as below par. Will you change all their transactions there? A man there does his marketing with gold, runs up his bills at stores and pays them in gold. The farmer keeps his account with his commission merchant and the balance is payable in gold. Men draw all their bills of exchange payable in gold; make their contracts for the future, and if breach is made the forfeiture is payable in gold. Is it to be pretended that under the idea of accomplishing what the gentleman from Massachusetts wants we shall sweep out of existence all their transactions and substitute the system of this bill?

If it is not out of order in the House to allude to the Constitution of the United States, I would like to have the gentleman from Massachusetts explain to me under what clause of the Consti-

tution the Federal Government has power at all to touch this subject. Where does it come from? The practical operation of this bill is to prevent dealings in gold in the city of New York between citizens of that city. Will the gentleman tell me where the Federal Government gets the power to interfere between citizens of the same State in relation to contracts to be executed entirely within the limits of the State? Where does it come from? Congress has power to regulate commerce, but it must be commerce between the States. It is not pretended that this bill is to be operative only on contracts between citizens of different States or contracts to be executed in another State. Congress has power to coin money. I submit to every gentleman whether this bill is in aid of the power to coin money? There is no provision in the Constitution of the United States under which this power can fairly be brought.

When the gentleman from Massachusetts moves the previous question upon this bill, as I suppose he will, I desire before he does it to give us the particular provision of the Constitution under which he derives the power of regulating contracts between citizens of the same State to be performed within the jurisdiction of that State. If the gentleman desires to make an answer I will yield to him now with great pleasure.

And, sir, at the end of the bill there is the provision authorizing the Secretary of the Treasury to sell in open market any gold in the Treasury of the United States not necessary for the payment of the interest of the public debt. I have no disposition to detain the House with any further comments upon that part of this bill. It was debated at length in both Houses, and the bill intended to confer that power passed. I see it stated that within a day or two past \$1,000,000 in gold has been sold by the Secretary of the Treasury. I desire to call the attention of gentlemen to the prophecies which were made to us at the time that bill was urged upon the House. If I recollect, one gentleman, supposed to be very familiar with all these transactions, and whose experience certainly entitled him to speak with authority, said here that if that gold bill was passed, for the next two years gold would never be above 130. It has not yet reached that point, and I doubt much whether it has ever been, except for a single day, since the passage of that bill, five per cent. below the point it was at when the bill passed. These are all vain, inefficient devices, for the purpose of bolstering up a redundant paper currency, and the sooner we come to the conclusion that if we desire to keep up the proper relation between the value of Government paper and gold in the country we must reduce the amount of circulation, and not attempt to hinder transactions in gold by any device of this kind, the sooner will we be able to arrive at a true solution of the difficulty.

I do not desire, Mr. Speaker, to detain the House further. My only object was to call the attention of gentlemen who are not willing to go blindly to every length asked by the Secretary of the Treasury to look into the provisions of this bill and see whether they are prepared to usurp the power which is necessary to pass it, and whether they believe that after they have usurped that power the bill will accomplish the purpose designed.

Mr. WOODBRIDGE. Mr. Speaker, no member of this House is more desirous of doing everything within the power of Congress to facilitate the action of the Administration in the present emergency. I would strain every point of law for the purpose of doing that which the Government in its wisdom deem it necessary for Congress to do; and, sir, I would cheerfully vote for the amendment of my friend from Massachusetts if I supposed that, under the Constitution or under any law whatever, it could be sustained.

Sir, I favored the previous legislation of the House upon the gold bill. I believe that legislation was under the Constitution and the law. I do not believe that this amendment is under either. There can be no legislation, in my judgment, restraining speculative operations in gold except upon the principle that such operations are *contra bonos mores*; that gold, being the standard of value among civilized nations, is not an article of commerce, and hence that speculations in the article are in the nature of gambling and may be restrained by law.

But, sir, it seems to me that the amendment cannot be sustained under the Constitution, and hence there is no power in Congress to pass it.

By a fair construction of the amendment a man could purchase a bill of goods in Paris or Liverpool upon credit. In relation to foreign exchange a different principle may prevail. Foreign exchange is an article of trade and commerce. The custom of merchants has made it so, and it is doubtful whether Congress can pass a law saying that a contract for the delivery of a bill of exchange shall not be good unless that bill of exchange is delivered presently, or within ten days from the date when the contract is made. Can Congress say that a merchant shall not purchase a cargo of goods in the port of New York for which gold necessarily must be paid, or that which represents the value of gold in the port from which the goods started, upon a credit of thirty or sixty days? And yet, if we pass this amendment, such may be the fair construction. It seems to me that it is a regulation of the laws of contract which the Government has no power to enforce. I would do anything, not only to support the Government, but would do anything that I properly could do to foil the gold gamblers in New York, who are making money at the expense of the Government by their unpatriotic and dishonest dealings. But in order to do that I would not pass the amendment under consideration, which, in my judgment, is not warranted by the Constitution. I believe that if we were to adopt this amendment it could not be sustained in the courts; and I certainly, for one, will never consent to stultify myself by voting for a measure which I believe entirely illegal.

#### CONSULAR AND DIPLOMATIC BILL.

Mr. KASSON. I rise to a privileged question. I call up the report of the committee of conference to the consular and diplomatic appropriation bill.

The report was read. The committee agreed to recommend to their respective Houses as follows: that the House recede from its disagreement to the second amendment of the Senate, which was to insert the words "and twenty-five consular pupils," and agree to the same with an amendment, to strike out "pupils" and insert "clerks." That the House agree to the twenty-eighth amendment of the Senate, as follows:

And the salaries of the consuls at Brindisi, Gibraltar, St. Helena, Boulogne, Zurich, Clifton, Coaticook, Erie, Goderich, Kingston in Canada, Port Sarnia, Prescott, Saint Lambert, and Longueuil, Toronto and Windsor, shall be \$1,500 each; and the salaries of the consuls at Ceylon and Piræus shall be \$1,000 each; and the salary of the consul at Chin Kiang shall be \$3,000; and the salary of the consul at Bankok shall be \$2,000; and the salary of the commercial agent at Madagascar shall be \$2,000; and the salary of the consul at Nassau shall be \$4,000, to commence after the close of the present fiscal year, and to continue during the present rebellion; and the salary of the consul at Lyons shall be \$2,000, to commence after the close of the present fiscal year; and the salary of the consul at Manchester shall be \$3,000, to commence after the close of the present fiscal year.

That the Senate recede from its twenty-ninth amendment after the enacting clause:

That the second section of an act entitled "An act making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th June, 1853," approved February 7, 1857, be, and the same is hereby, repealed.

And agree to the following amendment in place of it:

That the President be, and he hereby is, authorized, whenever he shall think the public good will be promoted thereby, to appoint consular clerks, not exceeding thirteen in number at any one time, who shall be citizens of the United States, and over eighteen years of age at the time of their appointment, and shall be entitled to compensation for their services respectively at a rate not exceeding \$1,000 per annum, to be determined by the President; and to assign such clerks, from time to time, to such consulates and with such duties as he shall direct; and before the appointment of any such clerk shall be made, it shall be satisfactorily shown to the Secretary of State, after due examination and report by an examining board, that the applicant is qualified and fit for the duties to which he shall be assigned; and such report shall be laid before the President. And no clerk so appointed shall be removed from office except for cause stated in writing, which shall be submitted to Congress at the session first following such removal.

That the Senate recede from its thirtieth amendment, which was:

That the President may, in his discretion, by and with the advice and consent of the Senate, appoint an envoy extraordinary and minister plenipotentiary to the kingdom of Belgium, who shall receive no higher compensation than is now allowed to a minister resident.

And agree to the following in place of it:

That an envoy extraordinary and minister plenipotentiary, appointed at any place where the United States are now represented by a minister resident, shall receive the compensation fixed by law and appropriated for a minister resident, and no more.

That the House recede from its disagreement to the thirty-first amendment of the Senate, and agree to the same, as follows:

SEC. 4. *And be it further enacted*, That the third section of an act entitled "An act making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1860," approved March 3, 1859, is hereby repealed. And the fee for certifying invoices to be charged by the consul general for the British North American provinces, and his subordinate consular officers and agents, for goods not exceeding \$100 in value, shall be \$1, and the same fee shall be charged for certifying the growth or production of goods made duty free by the reciprocity treaty: *Provided, however*, That no such certificate of growth or production shall be required for goods not exceeding in value the sum of \$200.

Mr. HOLMAN. I suggest to the gentleman from Iowa that he permit this report to lie over for some days. There are many members absent who desire to vote upon it.

Mr. KASSON. I would very gladly adopt the suggestion of the gentleman from Indiana but for the fact that I intend, if possible, to leave the city for a few days, to try and recover from an illness under which I have been suffering for the last ten days.

The first point of difference with the Senate related to the matter of consular pupils. It was proposed by the Senate that twenty-five of them should be appointed; which it was sought to accomplish by repealing the repealing clause of a former act, thus restoring the original act, as designed by Mr. Marcy, Mr. Cass, and other gentlemen. Instead of that, it was thought by at least some members of the Committee on Foreign Affairs that if authority were given for the appointment of such pupils it should be accompanied with some provision against their removal after they had made themselves useful to the commercial interests of the country by acquiring experience and a knowledge of languages. In lieu, therefore, of the section as it stood, the conference committee substituted mainly the section of the original law of 1856, with a proviso that clerks should not be removed except for cause, to be stated in a report to Congress. It is there provided that the number, instead of being twenty-five, shall be reduced to thirteen; and I desire to state to the House that the Committee on Commerce of the Senate were unanimous and extremely earnest for the appointment of these clerks, as required by the necessities of the commerce of the country. They also asserted, and I believe it to be true, that when the act was originally passed fixing the salaries of the consuls of the United States as they are now fixed, it was provided that these twenty-five pupils, as then called, should be appointed, who should serve as clerks to the principal consulates where the business needed them most. We have now increased the duties of these consuls very essentially, and they are obliged to employ clerks at their own expense. The Committee on Commerce of the Senate say they regard it as due to the principal consulates, where the labor is heavier, that the Government should supply them with clerks to aid them in the transaction of their business. It was yielded on the part of the House to the extent of thirteen, which are intended for the most laborious consulates.

Then as to another amendment which was the cause of considerable debate in the House, that amendment came from the Senate with a provision to authorize the President to appoint the minister resident at Belgium envoy extraordinary. To that the House dissented, and the Senate receded, and instead of that amendment proposed the first section of the act of 1855, by which we provided for sending envoys to all the ports where we now have them, and also to half a dozen other ports in Europe and South America, at the same time fixing the salaries for those envoys at the same rate at which they are fixed for ministers resident. We also agreed to that proposition. The President has power to send envoys where he pleases in lieu of ministers resident. This section provides, as the first section of the act of 1855 does, that if they go by the action of the President they shall only go at the same salary as ministers resident. This has been acted on by the Senate, and those who were opposed to the ori-

ginal measure waived that objection and agreed to this.

There is only one other amendment needing explanation. On motion of the gentleman from Vermont [Mr. MORRILL] it was provided that the payment of the salaries of our consuls in the British provinces—at Halifax, and most of the ports of the British provinces—should be in currency. These were not uniform, and it would be inconvenient, the Department having no system of accounts that would allow it to be done without great derangement. Further than that, it was found that at the more remote consulates, and, in fact, at the nearest, this currency could not be used except at an enormous discount on the part of the consuls themselves. These consuls are necessary to prevent smuggling, and we could not employ any respectable business man for less than \$1,500. Any private establishment would be obliged to pay that much for the same character of service. Under the provision referred to the salary of these consuls would be about eight hundred dollars. Therefore, it would be impossible to get good men at this salary to go there and undertake to perform these duties. Under the circumstances I do not think that we could ask a consul to go abroad and expect respectable talent for less than we pay a first-class clerk in Washington. The conference committee have left the salaries of these consuls to stand as for consuls anywhere and everywhere, the salary being fixed at \$1,500.

This is all I have to say until I have heard what shall be said by other gentlemen. If necessary, I shall then have something to say in reply.

Mr. MORRILL. Mr. Speaker, I am reluctant to oppose a report of the committee of conference at any time, and especially at this time, when the gentleman from Iowa [Mr. Kasson] is evidently indisposed. But on the question arising on this bill this House has defined its position. Now a report is brought in here, one which will not only evade the position the House has taken on a former occasion, but will open the door to half a dozen cases like the one objected to. I do insist that if we raise the grade of our foreign ministers, the time will not be long before their friends will come here and demand salary in proportion to their rank. I regard the proposition, therefore, as more mischievous than the original one, which only embraced one minister. We have decided that we would neither raise the grade nor the pay of the minister to Belgium. This report asks us to grant permission to raise the grade and pay of a half dozen, including Belgium, of course, without mentioning it by name. I do not think this will be agreed to. And then upon the other question in relation to consular pupils, while I admit that by changing the name to clerks the rose does smell sweeter, and by reducing the number from twenty-five to thirteen, and fixing it so that they cannot be removed, a part of the objection is avoided, yet the great objection is that after they have been educated abroad they may resign, as they will resign, and quit our employment whenever they can do better. There is no provision to avoid that objection, and we shall find that such will be the practical operation of the bill.

In relation to the salaries of these consuls in Canada, why, there are, I presume, in the pockets of almost every gentleman here from the northern border States numerous applications for appointments as consuls in Canada under the original proposition. If they are to be paid in gold, everybody sees that their actual salary is not only \$1,500, but more than \$2,500. If we shall adopt the report, and pass the bill, the applications will be far more numerous than they are now. I do not know but there may be some points in the provinces where the salaries should be more than \$1,500, but certainly immediately along the borders they need not be more than \$1,500.

I move that the consideration of this report be postponed until one week from to-day.

Mr. KASSON. I hope that will not be done.

Mr. COX. Before that question is put I desire to say that I do not see any special necessity for postponing it for a week. I had entertained hopes that the Congress of the United States would be about ready to adjourn in a fortnight.

Mr. WASHBURN, of Illinois. I would inquire of the gentleman from Vermont if he does not think we can adjourn in two weeks if we devote ourselves to business.

Mr. MORRILL. So far as the House is concerned we can adjourn in about a fortnight. From indications in the Senate, I do not think we shall adjourn so soon as that.

Mr. COX. This bill was introduced early in the session and has received a great deal of consideration. This conference report has been before us, perhaps, ten days without any action being taken, and the time has come when we had better dispose of it. I think the committee of conference has disposed of the matters committed to them very justly. I was not here when this matter of the consular pupils was considered, but I had the pleasure of reading the remarks made by the eloquent gentleman from New Hampshire, [Mr. PATTERSON,] and he fully convinced me, if I was not before convinced by the arguments of Mr. Marcy and Mr. Seward, as well as from information furnished me from the Department of State, that these consular clerks are of great public utility in our foreign commerce, indeed almost indispensable. I am glad that the committee of conference changed their names. They call them consular clerks instead of pupils. Our consuls need more clerical force, and a force of a more permanent character. This need arises from a change of our revenue system in reference to triplicate certificates, which imposes a large and increased amount of labor upon the consulates.

Many of our consulates do not pay. There is a consulate at Manchester which a year ago, I think, before this system of triplicates, only paid a salary of \$2,000, and \$200 for office rent. Now that same consulate pays into the Treasury \$15,000 over and above the salary of the consul. Our different consulates paid into the Treasury \$100,000 more than last year, in consequence of the triplicate certificates and the additional fees for them; but there is no corresponding increase of clerical force over what there was before this new system went into effect. Therefore, I think that the committee in making this compromise, giving to these principal consulates thirteen out of the twenty-five clerks asked for, did nothing more than justice. It will enable the consuls to do their duties when first they take their office because of the assistance rendered by these permanent and accomplished clerks. It will assist to remunerate them for actual service, and induce them to stay at their places after they have reached their posts and learned their duties. I presume that no one who understands this matter will object to that part of the conference report.

As to the other clause which they recommended I will read it:

That an envoy extraordinary and minister plenipotentiary appointed at any place where the United States are now represented by a minister resident shall receive the compensation fixed by law and appropriate for a minister resident, and no more.

It is a general provision of law, so that these ministers resident shall not have their salaries increased in case they have their rank increased. That is all. I do not see any objection to that. It does not follow that the salaries are to be increased, as I understand it.

Mr. MORRILL. I would ask the gentleman from Ohio if he does not know from his experience in this House that it will be most likely to follow, and that speedily; that these salaries will be increased just in proportion to the rank of the ministers?

Mr. COX. Well, that is not my experience, for we never had a case of this kind before.

Mr. MORRILL. Did not we have the case of the consul general of Italy?

Mr. COX. I do not recollect that as a parallel case. This provision will certainly not have that effect after the earnest protests that have been made again and again by the gentleman from Vermont and others. I have no doubt these protests will be all potential in future to prevent the increase of salaries, and that no gentleman who takes an office of this kind will ask an increase of salary. This is a fair proposition, a general one, having no special bearing, and it ought not to meet with any objection. That is all I have to say.

Mr. PATTERSON. Mr. Speaker, I should have been very willing to let this matter lie over till those gentlemen who are absent could have been present to consider it; but inasmuch as the matter has now come before the House, I am very desirous that it shall be settled one way or the other.



My friend from Vermont [Mr. MORRILL] says that the House has expressed itself very emphatically upon these questions. I suppose he is aware that the Senate expressed itself quite as emphatically as the House. It is because there was a difference of opinion between the House and the Senate that a committee of conference was appointed. Such differences are ordinarily compromised. There is no other way in which we can arrive at joint action in cases of this kind.

Now, in relation to consular pupils I have expressed myself very fully upon another occasion, and do not care now to go over that discussion anew. I will say, however, that a member of the Committee on Commerce in the Senate, who was also a member of this conference committee, stated that applications had been sent to that committee through the Secretary of State from almost all our consuls asking for an increase of salary, or that the Government would pay consular clerks; and that the committee set aside all those applications, with three exceptions, with the expectation that provision would be made in part at least for this demand on the part of all our consuls by this very bill providing for twenty-five consular pupils.

You are aware, sir, that this matter was first brought up in 1856, by Mr. Marcy, when he was Secretary of State. He asked that there should be seventy-five consular pupils appointed instead of twenty-five. The number was cut down to twenty-five, and now the committee of conference have cut down the number still further to thirteen, and hence this provision, if it pass, will take only \$13,000 out of the Treasury.

As I said when this matter was up before, it is very important that these consular clerks should be intelligent Americans, with some experience in consular duties. A case has come to hand since that debate bearing upon this very question. I send to the Clerk a paper containing extracts from a communication which has been sent to the State Department, and ask that it be read.

The Clerk read as follows:

"MONTREAL, May 31, 1864."

"Since the death of Mr. Giddings the consulate in this city has been in the hands of an inexperienced clerk, and valuable papers and dispatches are carelessly lying about the consulate. And I find that a person by the name of J. W. Howes, formerly vice consul, has possession of the office to-day."

"He was formerly vice consul, and is now connected with the express business. He has possession of the office, and is reading dispatches which arrived from the State Department this day. Should this be so? The enemies of our country may take advantage of this condition of things to the detriment of our country."

Mr. PATTERSON. Mr. Giddings had no one with him, as I understand, but a young boy, sixteen or seventeen years of age, who was inexperienced in these matters. On his death the consulate was left entirely in charge of that boy; and this Mr. Howes, who is suspected of being disloyal, and with all a little dishonest, so that he cannot properly be trusted with the affairs of the consulate, took charge of the office without any authority.

Mr. SPALDING. I would ask the gentleman if he is not aware that there are at least twenty persons seeking that office, and among them even Senators and Representatives.

Mr. PATTERSON. That may be so, but I do not see how it bears upon this question. This man Howes, before an appointment could be made, worked his way into the consulate without authority from any source whatever, and has taken possession of the private papers of the consulate and of communications from the State Department, some of which have reference to himself, while others are of such a character that for good reasons they should not come to his knowledge. He has possession of those papers, and may make such use of them as he sees fit. The moment a knowledge of these facts came to the State Department, measures were taken to have him removed from the consulate. I ought, perhaps, to say that provision had been made previously for filling the place temporarily.

Mr. MORRILL. The gentleman from New Hampshire has reflected on the character of J. W. Howes, when I am satisfied he does not know Mr. Howes. I have known him for years, and I know this, that, unless he has changed very much within a short period, he is as honest and true a man as the country affords. He has oc-

cupied very responsible positions in an express company, and I have never heard his integrity impeached. I know he belongs to one of the first families in Vermont, and I cannot but believe that any impeachments of his character are slanders.

Mr. PATTERSON. I can only say in reply that Mr. Giddings, having had confidence in this Mr. Howes, communicated his impressions to the State Department in respect to him; the State Department communicated with the Treasury Department and received information there that he could not be trusted, and that he should be removed from the consulate. There is no reason why he should be there now. I may be misinformed in relation to the gentleman; I trust I am. But how came he there? How has this honorable man worked his way there? He had no authority for taking the position. But I do not wish to discuss that question further.

I wish now to say a word in reference to the Belgian mission. I think the gentleman labors under a mistake. He says that the proposition is to raise the grade of the minister to Belgium. That is not the proposition. That authority already rests with the President. The proposition of the committee is not to authorize the President to increase the grade of a minister, but simply to enable him by an act of law to raise the grade without increasing the salary.

Mr. WILSON. I desire to ask the gentleman from New Hampshire a question.

Mr. PATTERSON. I yield for that purpose.

Mr. WILSON. As I understand the gentleman from New Hampshire the President has now the power to increase this grade of a minister resident. If so, why is it proposed to confer that power upon him?

Mr. PATTERSON. We do not seek to confer it.

Mr. WILSON. Then why is it necessary to have any such provision in this bill?

Mr. PATTERSON. In 1855 a bill was passed providing that from and after the 13th of June, the President of the United States should, by and with the advice and consent of the Senate, appoint representatives of the grade of envoy extraordinary and minister plenipotentiary to certain countries. After the passage of that bill certain interrogatories were put to the Attorney General by the then Secretary of State. Among them was this, "Can the President of the United States, without the advice and consent of the Senate, appoint envoys extraordinary and ministers plenipotentiary in place of ministers resident, and secretaries of legation to each of them?" Mr. Cushing, the then Attorney General, taking the materials collected by Mr. Marcy, then Secretary of State, worked out his very elaborate and learned opinion, which is printed in the volume that I hold in my hand, and in which he gives the precedents and law on that subject, showing that the practice of the Government from its foundation had been for the President to appoint ministers of all grades without any action by Congress.

The reason why the impression had gone abroad that it was necessary to have a specific act in order to give the President authority to appoint ministers was that in the consular and diplomatic bills the places were mentioned by name at which certain salaries should be paid. That, however, did not take place until the last session of Congress under the Administration of Mr. Madison. Previously to that the language of those appropriation bills had been general. Subsequently the consular and diplomatic bill of 1856 was introduced and passed. In that act the word "shall" was omitted, because it was thought to be unconstitutional to direct the President to appoint ministers. It is now claimed that the act of 1860, authorizing the appointment of a minister to Sardinia, adopted the language of 1855. So it did. But it does not follow that this act reasserted or established the constitutional right of Congress to limit or prescribe the action of the President in these appointments.

And what is the history of that matter? After the Italian campaign, ending with the battle of Solferino, the Government wished to express its sympathies for, and to pay a compliment to, the Italian Government. A bill was drawn looking to the appointment of a minister plenipotentiary to that court, and it was under consideration a long time in the Senate Committee on Foreign

Relations. The phrase used was that the President "may" appoint. Mr. Mason, who was then chairman of the Committee on Foreign Relations, saw the difficulty, and desired that the phrase should be modified. The committee authorized him so to correct the language of the act that it should not be extra-constitutional. He labored over it for a long time, but was not able to put it in a form that would suit the object of paying a compliment to Italy and at the same time keep within the language of the Constitution; and so he gave it up, leaving it to stand as it was. He did not wish, however, to take the direction of the bill on its passage, and asked Mr. SUMNER to do so. It thus appears that the words were placed there solely for the sake of doing a complimentary thing to the new Government of Italy. This is the history of the whole matter. The passage of that bill was offensive to Austria, and doubtless was one reason why that Government protested against the appointment of Mr. Burlingame as minister to Vienna, which resulted in his transfer to his present position in China.

Mr. WILSON. I may not understand correctly the answer of the gentleman from New Hampshire, but it does not to my mind afford an answer to the question I propounded. It is stated by the gentleman that the President has now the power; by virtue of the Constitution, to appoint ministers of any grade; that he has the constitutional power to raise the grade of the minister to Belgium from that of minister resident to that of envoy extraordinary and minister plenipotentiary. Now, if the President possesses this power under and by virtue of the Constitution, can we confer any further power upon him by act of Congress? If we cannot, why should we attempt to do that which we cannot do? That is the question I desire to have answered.

While I am up I will put another question, so that the gentleman may answer both at the same time. I ask him whether the provision in this bill, in regard to fixing the rank of our ministers abroad, has not arisen out of the case of the minister to Belgium, and whether it is not sought to put through the case of the minister to that Power by this general provision, so as to avoid the objection made before of special legislation?

Mr. KASSON. I ask my friend from New Hampshire to let me answer. I think I can satisfy my colleague in reference to the point that he has raised. The President has the right to appoint ministers plenipotentiary, but the bill provides that these ministers plenipotentiary shall receive seventy-five per cent. of the salary fixed for envoys. If he raises the grade from minister resident to that of envoy, he also raises the salary, and that is not desired, because the expense of living is more regulated by the court than by the grade of the minister. In order to avoid the necessity of increase of salary the committee of conference provided that whenever such change is made he shall only receive the salary of minister resident. That fixes the compensation by the law of 1855.

Mr. PATTERSON. I prefer now to proceed with my remarks. I will say, in relation to the first question, that it was not the purpose of the committee of conference to give the President any power which he does not now possess, or to attempt to give him by an act of Congress powers which he holds by virtue of the Constitution. The object was to reduce the salary of any gentleman whom he should choose to appoint envoy extraordinary and minister plenipotentiary at any court where we now have a minister resident. That is the only object of the proposition which the committee have laid before the House.

In relation to the appointment of the present minister resident at the court of Belgium to a higher grade I know little and care less. He is a gentleman of whom I have but little knowledge, and I do not care the value of a straw about this matter, so far as it concerns him. I think, however, there is a misapprehension as to the nature of the proposition before the House.

Mr. WILSON. I think there is a misapprehension on the part of the conferees of the House in relation to their own report. It is said by the gentleman from New Hampshire [Mr. PATTERSON] and by my colleague [Mr. Kasson] that it is not proposed in this report to confer this power on the President—that he has it already by the Constitution, and that consequently it is not ne-

cessary for Congress to undertake to confer that which the Constitution has already conferred. It is provided that envoys extraordinary and ministers plenipotentiary appointed at places where the United States is represented by a minister resident shall receive the compensation fixed by law and appropriated for ministers resident, and no more. I understand in the bill as it is proposed to be amended it is provided that whenever the President deems it necessary for the public good he may increase the rank of these ministers.

Mr. PATTERSON. That is out.

Mr. WILSON. That was the provision in the bill as originally reported. The gentleman says that that is not the recommendation of the committee. Then it amounts to this: the committee proposes that the President may, if he sees proper, exercise the power which he has under the Constitution to increase the rank of a minister resident to that of envoy extraordinary, and that the person whose rank is thus increased shall not receive any additional compensation. It seems to me that it is not in accordance with the proper respect due on the part of this House to the dignity which should be maintained by this Government abroad to say that an officer shall have increased rank but not receive the compensation due to his increased rank.

By reading this report, I see that so far as an attempt upon the part of the committee to confer power upon the President is concerned I was in error, as is also the gentleman from New Hampshire; and therefore the answer of my colleague is complete in that regard; but that does not do away with the difficulty of tacitly inviting the President to increase the rank of the minister at Belgium, who represents us at the court of a foreign Power which has been most active in bringing about the establishment of Maximilian as emperor of the new empire of Mexico. Now that is a thing, when viewed in connection with the action this House has taken heretofore, which I think we ought not to do; neither should we invite the President, directly or indirectly, to do it.

Mr. WASHBURN, of Illinois. It was not my good fortune to be present when this matter was discussed on the original consideration of the bill, and I did not hear what I have since read, the very elaborate and exhaustive speech of the gentleman from New Hampshire [Mr. PATTERSON] upon the question of consular pupils, a question which in the first instance ought to have been referred to the Committee on Commerce. But, while I have no very fixed opinions upon the subject of consular pupils, I must say I am unalterably opposed to raising the grade of this minister at Belgium, for the reason that I think, as my friend from Iowa has suggested, it must necessarily bring with it an increase of his salary, and I think it ought to. I undertake to say that if this provision is adopted, by the next Congress we shall have a provision in the civil and diplomatic appropriation bill to pay this minister the full amount of salary corresponding with the grade, and I think he ought to have it.

It is conceded that the President has authority, without any act of Congress, to appoint these ministers wherever he pleases; yet by putting in this provision here we invite the raising the grade in this instance and in many others; and this raising the grade, I say, will necessarily bring with it a demand for a corresponding salary.

I must therefore vote against the report of the committee of conference, with the hope that the bill will go to another committee, which will at least cut out this provision for raising the grade of this minister at Belgium, a court which, as the gentleman has said, is more hostile to us than almost any court in Europe. Indeed, I recently received a letter from a gentleman occupying a diplomatic position in Europe in which he spoke of the hostility of this court, and in which he expressed a hope that no action of our Congress would give any increased dignity to that court by raising the grade of our minister.

Mr. SPALDING. When this matter was up before it was fully discussed, and the House, after a great deal of deliberation, voted against both of these propositions. They voted decidedly against the appointing of these consular pupils, as they were then termed, some twenty-five in number, and now by the arrangement made by the conference committee the number is proposed to be lessened to thirteen, and their names changed

from pupils to clerks, the principle remaining the same. This whole matter is an innovation upon the long-established usages of our country. Heretofore there has been no difficulty in finding among the great mass of our citizens a sufficient number to attend to the duties of these consulates, and yet it is now proposed to institute a favored class of individuals, who are to have fixed salaries, be educated, and who are not to be removable except under certain circumstances. To all that I object.

I object also to this specific legislation, under the guise of general legislation, to raise the grade of the minister resident at Belgium. It was said when this matter was before the House on a former occasion that the present incumbent was a man of affluence and needed no increase of salary. Now, I object to raising the rank for the convenience of any man, be his circumstances affluent or otherwise. I know the professed object now is to make the bill general and to accommodate it to all our foreign missions, but I cannot shut my eyes to the true object as developed when this measure was before us some weeks since. Then the provision was specific; then it was to accommodate the incumbent of the office at Belgium; and I cannot come to any other conclusion than that the true object now is, under a general provision, to accomplish that same purpose. I object to that.

I regret that this measure is reported when there are so many members of the House absent. I am sorry that this measure is to be sprung upon the House at this time; but if gentlemen are determined to press it to a vote I shall content myself with voting now as I have heretofore done, against these measures.

The learned gentleman from New Hampshire tells us that information comes either from the Committee on Commerce of the Senate or from the State Department that from nearly all our consulates a demand has come for an increase of salary. Why, sir, that is nothing unnatural or unexpected. We have not an officer in the service of the Government at this time who would not be glad to have an increase of his salary, and very many of them have sent in demands for an increase.

Mr. PATTERSON. Will the gentleman allow me to explain for a moment?

Mr. SPALDING. With pleasure.

Mr. PATTERSON. I wish to say that the salary of consuls was fixed by the act of 1856, with the expectation that these consular pupils or clerks would be appointed, and by the act of last Congress requiring triplicate invoices of all goods imported into this country the labors of consuls were very much increased. That act has saved to the Government many thousands in consular fees, and has saved to the revenue, it is estimated, \$10,000,000 by the prevention of frauds. But it has so increased the labors of consuls that where they formerly hired only one clerk they are now required to employ three or four, and they are consequently unable to pay for clerical hire.

Mr. SPALDING. I give my friend from New Hampshire full credit for that explanation. I was about commenting upon it, for I understood him to say substantially when he was up before that the duties of consuls had been largely increased; that they were appointed under the expectation that they would have the benefit of these consular pupils or clerks; that is to say, clerks employed at the public expense and not at their own; and that now they are compelled to employ and pay their own clerks. I grant that their duties have perhaps been increased and made more arduous, but that is the case with most of the employés of the Government. I appeal to the gentleman if it is not the case with members of Congress even, and if our duties are not four times as arduous and embarrassing as the duties of members of Congress were six years ago? And yet our pay is not raised. These foreign consuls all receive their pay as heretofore, in coin, and, as compared with the salary we receive for our poor services, their pay is nearly two dollars for our one.

Now, I wish to put this plain question to the gentleman from New Hampshire, if, with all this information from the Committee on Commerce of the Senate, and all this information from the State Department as to the demands of our foreign consuls for an increase of pay or an increase of their

salaries by the employment of consular clerks, he has heard of one solitary individual of them who has intimated a purpose of resigning his place unless his demands are complied with? If he will give me one instance I will give up to him the whole argument.

Mr. PATTERSON. I will give the gentleman one or two instances. The consul at Glasgow has intimated to the State Department that he shall be obliged to resign and come home, for he cannot live on his salary. The consul at Marseilles has intimated the same thing, and has overrun the income of the office three or four thousand dollars a year.

Mr. COX. With the permission of my colleague, I will say that I have here a paper from the State Department, which shows the additional amounts paid for clerk hire by several of the most important consuls, who expected to have the assistance of these clerks. It is stated in this document that the necessary clerical and office expenses in 1858 were as follows—these expenses are paid entirely by the consul, from their own compensation—namely: at Liverpool, \$4,000; at Havre, \$3,000; at Hilo, \$2,000; at Lahaina, \$3,000; at Calcutta, \$5,590; at Aspinwall, \$600; at Honolulu, \$3,000; at Havana, \$4,000. The consul at Paris states that he now pays for clerk hire \$2,755 per annum. At Shanghai, the same item, \$6,550. This additional clerical force, I presume my colleague understands, is in consequence of our own legislation. Mr. Seward, in his letter of January 9, 1864, upon this subject, says:

"Under the provisions also of the act of the 3d of March last, by which all invoices of goods imported into the United States, instead of a few only, as was formerly the case, are required to be authenticated, and that, too, in triplicate, the clerical work in the consulates has increased many fold; and while the amount of consular fees paid into the Treasury is largely augmented, the consuls have received no increase of compensation for the additional labor and clerical expense to which they are thereby subjected."

Then follows a statement of additional fees paid into the Treasury by consuls, showing an increase in the past year of over one hundred thousand dollars.

Mr. WASHBURN, of Illinois. I understand from the gentleman from Ohio that this increased cost for clerk hire is owing to the law of last Congress in regard to triplicating invoices.

Mr. COX. A large amount of the additional labor thrown upon consuls was in consequence of that law. It was fully understood at the time that the law was enacted that it would increase the clerical labor in the consulates.

Mr. WASHBURN, of Illinois. That I understand; and I think it affords a very good reason why there should be an increase of these clerks. I understand, further, that the law has operated very much to the benefit of the Government in the detection and prevention of commercial frauds.

Mr. COX. I see by a statement made in the Senate by the Senator from Michigan that some ten million dollars has been saved to the Treasury of the United States in the detection of attempted frauds owing to this new system of invoices. The Government really loses nothing, but gains much by increasing the number of consular clerks. It is a question not merely of economy but of justice to consuls who have to pay their clerks out of their own salaries.

Mr. KASSON. I believe the ground has been as fully covered in this debate as we can expect it to be. I move the previous question.

Mr. MORRILL. I withdraw the motion to postpone, but I hope the House will reject the report.

Mr. STROUSE. I desire to submit a few remarks to the House.

Mr. KASSON. I will withdraw the previous question in favor of the gentleman from Pennsylvania.

Mr. STROUSE. I thank the gentleman from Iowa for withdrawing the previous question. Mr. Speaker, I very rarely take up the time of the House for the purpose of delaying necessary legislation; but I think it due to the subject before the House now to say a few words upon it. It is surprising to me, Mr. Speaker, to see opposition made when matters of this kind come up. There are certainly some moments when the bitter feelings of partisan antagonism can be relaxed in this House. After all, I believe we are yet

American citizens and Representatives of the American people. If there ever was a time when it was our duty to let the world know that we intend honestly and conscientiously to maintain the integrity and honor of the Republic, that time is now. We can show that spirit in one way by exercising liberality toward our representatives abroad. I am astonished that gentlemen who pride themselves on their patriotism and loyalty, and who represent patriotic and loyal districts, should rise here and oppose measures that are calculated to bring credit and honor to the country.

I have heard one gentleman remark, in the course of this debate, that our consuls abroad are paid in gold. Certainly they are. In what else should they be paid? We, here, are content and are compelled to take paper money at par, and we do not grumble at it, because it is the currency of the country at present. But I would like to ask that gentleman, or any other gentleman of his peculiar political persuasion, what he could purchase for a bushel of greenbacks at Ningpo, Manila, Shanghai, Jeddo, St. Petersburg, Nassau, Gibraltar, Bremen, Hamburg, Bordeaux, Rio de Janeiro, or even at Quebec, on our very borders? Why, he would not get a breakfast for a shipload of them.

I am astonished to hear this sort of twaddle in the Hall of the House of Representatives of the United States of America. Is gold so scarce? It is not scarce. We have more gold in this country now than there is in the rest of the world. Our Pennsylvania farmers have gold by the thousands of dollars. Gold is not scarce. It is not appreciated; paper is depreciated. We simply keep up the credit of greenbacks by mutual confidence. And we, who are denounced daily as copperheads, are the men who help to give them credit. We take this currency; we pay it out; we buy and sell for it; we look upon it as the currency of the country, because it has that ancient and patriotic title, "The United States promise to pay." Greenbacks are a "necessary evil."

Now, sir, I want to hear no more of this. Let our consuls, our ministers resident, our ambassadors, our envoys extraordinary and ministers plenipotentiary, who are the representatives of the United States abroad, whether, like the late Mr. Giddings, in Canada, or in Japan, be paid in gold. Let them be paid liberally; let them be able, under all circumstances and in whatever country, be able to stand up under the American flag and say proudly, "I am the representative of the United States of America." We want no "small potato business" here. [Laughter.] We want our men paid well. We want them paid in coin. We want them paid in the money of the world. We want them paid in gold, the standard of value, the money of the Constitution. If we take "greenbacks" that is our own business. We do not propose to let outsiders interfere in our internal affairs; I am for the Monroe doctrine in everything. When we go among foreign nations let us show that we not only have paper money but gold.

Why, sir, we have more gold than any other nation. Our mines in California and elsewhere are continually producing gold. And, sir, not only that, I represent the great coal and iron mines of Pennsylvania, which produce enough to pay the whole *corps diplomatique* in sound metal. Our resources are inexhaustible and we should deal liberally by all of our representatives at home and abroad, to give strength, credit, and renown to our Republic, which will, in a short time, under Democratic rule, be again the *United States of America*!

Mr. KASSON. Mr. Speaker, I desire to say a few words in reply to what has been said. I think that the question involved is a very plain one. It is whether under the existing law when ministers resident are raised to the rank of envoys their salaries shall be increased as is provided in the law of 1855. It is deemed proper at this time, when we do not wish to increase these salaries, that a provision to that effect should be incorporated into this bill. That is all there is of it. I certainly think that the House, as well as the Senate, will yield to that amendment. It is simply an economical provision and nothing else.

As to the other question, it is generally conceded that it is to the interest of commerce to adopt this

provision; that it is a duty we owe to the commerce of the country to give these additional clerks. Some of the members of the Committee on Commerce I know are interested in this matter. We leave the power where it is, but take away the necessity of raising the pay of these ministers; that is all there is of it.

Mr. WARD. Mr. Speaker, with the permission of the gentleman from Iowa I will say a few words. It seems to me there has been one oversight in considering this proposition. Gentlemen have failed to mention the annoyance and mortification of our ministers resident abroad, when they see the representatives of fourth-rate Powers taking precedence of the representatives of this great nation. In my judgment, this state of affairs is derogatory to our dignity and injurious to our interests. The critical state of our international relations constitutes a cogent, strong, and urgent reason for its immediate correction. I think that their rank ought in many cases to be raised; and I am in favor not only of raising the rank, but also of increasing the pay of these ministers resident. I would place them in a position where they would not be subjected to the present humiliation, or be injured in the influence legitimately belonging to them as the representatives of this Government. In regard to the clerks for whom this bill is intended to provide I would say that provision is rendered necessary in consequence of Congress failing to carry into effect the law concerning consular pupils. Our principal consuls have been compelled to employ their own clerks, and to pay them out of their own salaries. The intention of the original act was to give them pupils in place of clerks; and I think that this provision is just and proper.

The question then recurred on agreeing to the report of the committee of conference.

The House was divided; and there were—ayes 37, noes 52; no quorum voting.

Mr. WILSON demanded tellers.

Tellers were ordered; and Messrs. WILSON and Cox were appointed.

The report was rejected; the tellers having reported—ayes 39, noes 55.

Mr. MORRILL moved that there be a further conference on the disagreeing votes between the two Houses.

The motion was agreed to.

#### GOLD BILL—AGAIN.

The SPEAKER. The House will now resume the consideration of the gold bill.

Mr. STROUSE moved that the House adjourn.

The motion was disagreed to.

Mr. HOOPER. Mr. Speaker, before calling the previous question I wish to say a few words in reply to the objections which have been urged against the bill. It seems to me those objections are ingenious and technical rather than practical.

The gentleman from New York [Mr. GANSON] objects on the ground that a contract for the transportation of gold would be prohibited by the term "delivery," as contained in this bill. It occurs to me that the express man is acting as the agent for the purchaser, and the delivery referred to in my amendment takes place when the gold is put into his possession for transportation. But to meet the objection I will modify my amendment by striking out the word "or" in the fourth line and inserting "and;" so that it will read "sale and delivery," &c.; and I make the same modification in line thirteen, after the word "sale;" and also in the twenty-second line.

The gentleman from Ohio [Mr. PENDLETON] asks me upon what phrase in the Constitution this bill is founded. I would call his attention to the eighth section, which authorizes Congress to provide for the general welfare; and also to the next paragraph but one, which grants the power to regulate commerce with foreign nations. There is also the power to coin money and regulate the value thereof. I move the previous question on the bill.

Mr. DRIGGS. Will the gentleman allow me to say one word? I ask but for a minute.

Mr. HOOPER. I will, if the gentleman will renew the demand for the previous question.

Mr. DRIGGS. I will. I desire simply to say that though my experience in gold speculation is probably not greater than that of other members, at the same time I am decidedly opposed to any attempt by legislation to regulate transactions

between individuals. I conceive that we should only make ourselves ridiculous by the attempt. This bill provides that it shall be unlawful to make any contract for the delivery of gold or to pay in any other currency than that of the United States. Now, sir, suppose I were the owner of a house and lot, or of any other property which I desired to exchange for gold. Can the Congress of the United States prevent any such transaction between myself and my neighbor? I think not. If I might be allowed to offer an amendment I would move to strike out all after the enacting clause, and the bill would then be more valuable than it is in its present shape. I renew the demand for the previous question.

The previous question was seconded, and the main question ordered to be put.

Mr. PENDLETON moved to lay the bill on the table.

Mr. COX called for the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 53, nays 47; as follows:

YEAS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, James S. Brown, Chanler, Cox, Driggs, Eden, Edgerton, Eldridge, Finck, Ganson, Griswold, Hale, Harding, Harrington, Charles M. Harris, Higby, Hutchins, William Johnson, King, Knapp, Law, Long, Mallory, Marcy, McDowell, James R. Morris, Morrison, Noble, Pendleton, Perry, Price, Samuel J. Randall, Robinson, Ross, Scott, Starr, William G. Steele, Strouse, Sweet, Thomas, Tracy, Upson, Voorhees, Wadsworth, Ward, William B. Washburn, Wheeler, Chilton A. White, Joseph W. White, Williams, and Winfield—53.

NAYS—Messrs. Alley, Allison, Arnold, John D. Baldwin, Baxter, Beaman, Jacob B. Blair, Boutwell, Ambrose W. Clark, Cobb, Henry Winter Davis, Thomas T. Davis, Dawes, Dixon, Donnelly, Eliot, Fenton, Frank, Gooch, Grinnell, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubard, Ingersoll, Jenckes, Julian, Kasson, Kelley, Littlejohn, Longyear, Marvin, Samuel F. Miller, Morrill, Daniel Morris, Charles O'Neill, Orth, Alexander H. Rice, Edward H. Rollins, Sloan, Spalding, Thayer, Elihu B. Washburne, Webster, Wilson, and Windom—47.

So the bill was laid on the table.

During the roll-call,

Mr. HOLMAN stated that he was paired off with Mr. KELLOGG, of Michigan, otherwise he would have voted in the affirmative.

Mr. ANCONA stated that Mr. MILLER, of Pennsylvania, was detained from the House by sickness.

Mr. GANSON moved to reconsider the vote by which the bill was laid on the table; and also moved to lay the motion to reconsider on the table.

Mr. WASHBURNE, of Illinois. Upon that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was put; and there were—yeas 51, nays 51; as follows:

YEAS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, James S. Brown, Chanler, Cox, Driggs, Eden, Edgerton, Eldridge, Finck, Ganson, Griswold, Harding, Harrington, Charles M. Harris, Higby, Hutchins, William Johnson, King, Knapp, Law, Long, Mallory, Marcy, McDowell, James R. Morris, Morrison, Noble, Odell, Pendleton, Perlham, Perry, Price, Samuel J. Randall, Robinson, Ross, Scott, Starr, William G. Steele, Strouse, Sweet, Thomas, Tracy, Voorhees, Wadsworth, Ward, Wheeler, Chilton A. White, Joseph W. White, and Winfield—51.

NAYS—Messrs. Alley, Allison, Arnold; John D. Baldwin, Baxter, Beaman, Jacob B. Blair, Boutwell, Ambrose W. Clark, Cobb, Henry Winter Davis, Thomas T. Davis, Dawes, Dixon, Donnelly, Eliot, Fenton, Frank, Gooch, Grinnell, Hale, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubard, Ingersoll, Jenckes, Julian, Kasson, Kelley, Littlejohn, Longyear, Marvin, Samuel F. Miller, Morrill, Daniel Morris, Charles O'Neill, Orth, Patterson, Alexander H. Rice, Edward H. Rollins, Sloan, Spalding, Thayer, Upson, Elihu B. Washburne, William B. Washburn, Webster, Wilson, and Windom—51.

The SPEAKER. The Chair votes in the negative, and the motion is not laid on the table.

The question recurred on the motion to reconsider.

Mr. WILSON. I demand the previous question on the motion to reconsider.

The SPEAKER. The previous question is hardly necessary, inasmuch as the motion will not be debatable.

Mr. WASHBURNE, of Illinois. I move to postpone the motion to reconsider until to-morrow, and on that motion I demand the previous question.

Mr. COX. I move to postpone it indefinitely.

Mr. WASHBURNE, of Illinois. The gentleman has not the floor to make that motion.

Mr. MORRILL. I suggest to the gentleman from Illinois that he move to postpone it until Saturday next.



Mr. WASHBURN, of Illinois. I withdraw the demand for the previous question, and now move to postpone the further consideration of the motion until Saturday next, after the morning hour, and upon that motion I demand the previous question.

Mr. COX. I move to lay the whole subject on the table, including the gentleman's motion and everything else.

The SPEAKER. That motion is in order, another motion having intervened since the question was last taken upon laying on the table.

Mr. COX. I call for the yeas and nays on my motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 49, nays 53; as follows:

YEAS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, James S. Brown, Chanler, Cox, Eden, Edgerton, Eldridge, Finck, Ganson, Griswold, Hale, Harding, Harrington, Charles M. Harris, Higby, Hutchins, William Johnson, King, Knapp, Law, Long, Mallory, Marcy, McDowell, James R. Morris, Morrison, Noble, Odell, Pendleton, Perry, Price, Samuel J. Randall, Robinson, Ross, Scott, William G. Steele, Strouse, Sweet, Thomas, Tracy, Voorhees, Wadsworth, Ward, Wheeler, Chilton A. White, Joseph W. White, and Winfield—49.

NAYS—Messrs. Alley, Allison, Ames, Arnold, John D. Baldwin, Baxter, Beaman, Jacob B. Blair, Boutwell, Broomall, Ambrose W. Clark, Cobb, Henry Winter Davis, Thomas T. Davis, Dawes, Dixon, Donnelly, Eliot, Fenton, Frank, Gooch, Grinnell, Hooper, Hotchkiss, Asahel W. Hubbard, Hulbard, Ingersoll, Jenckes, Julian, Kasson, Kelley, Littlejohn, Longyear, Marvin, Samuel F. Miller, Daniel Morris, Charles O'Neill, Orth, Patterson, Perham, Alexander H. Rice, Edward H. Rollins, Sloan, Spalding, Starr, Thayer, Upson, Elihu B. Washburne, William B. Washburn, Webster, Wilson, Windom, and Woodbridge—53.

So the House refused to lay the whole subject on the table.

During the roll-call,

Mr. A. W. CLARK stated that his colleague, Mr. VAN VALKENBURGH, was absent from the city.

The result of the vote having been announced as above recorded, the question recurred on the demand for the previous question on the motion to postpone until Saturday.

The previous question was seconded, and the main question ordered; and under the operation thereof the motion to postpone was agreed to.

#### CALIFORNIA LAND TITLES.

On motion of Mr. HIGBY, by unanimous consent, Senate bill No. 109, to expedite the settlement of titles to land in the State of California, was taken from the Speaker's table, read a first and second time by its title, and referred to the Committee on Public Lands.

#### VETO POWER IN WASHINGTON TERRITORY.

The SPEAKER stated the next business in order to be the consideration of the unfinished business of yesterday, being the bill of the Senate in regard to the veto power in Washington Territory, the pending question being on the passage of the bill.

Mr. THAYER. I move that the House do now adjourn.

Mr. WASHBURN, of Illinois. I trust my friend from Pennsylvania will not press that motion. The gentleman from Washington [Mr. COLE] has the floor upon the pending bill, and I am sure we shall all be very much gratified to hear him. I hope he will be permitted to proceed with his remarks.

Mr. THAYER. Very well, sir; I withdraw the motion.

Mr. COLE, of Washington. Mr. Speaker, I could not allow this measure, which affects the people whom I have the honor to represent on this floor, to pass without entering my solemn protest against it. By what influence the Senate was induced to pass the bill is unknown to me, except so far as appears from the record of the action of that body in regard to it.

I do not know any one in the Territory of Washington who desires the passage of this act. I have been asked by several members, since this matter was up yesterday, why it is that the Territory of Washington should be made an exception to all the other Territories in this matter of giving the veto power to the Governor. I would reply to that inquiry by giving a short history of the organization of that Territory.

In 1848 the Congress of the United States passed an act organizing all our then possessions on the Pacific coast beyond the Rocky mountains into the Territory of Oregon. All that country north

of the forty-second parallel and south of the forty-ninth parallel, lying between the Rocky mountains and the Pacific ocean, was organized into the Territory of Oregon. There was a population there which had formed a provisional government, made its own laws, elected its own Governor and various territorial officers, its Legislature and its judges, and governed itself until the year 1848, when Congress saw fit to organize that country into a Territory of the United States.

The people who had settled that country were mostly from the frontier States of the West, from Illinois, Iowa, Indiana, Michigan, Minnesota, and Missouri. They had traversed the plains and had endured hardships innumerable. They had, in fact, settled in favor of the Government of the United States the question of title between it and the Government of Great Britain to all that country on the Pacific coast. Finding that this people had done so much to give to the United States our vast Pacific possessions, and that they had shown themselves so competent for self-government, Congress, in providing an organic act for the Territory, left out, contrary to the usual custom in organizing new Territories, the provision giving the veto power to the Governor. Congress also gave to that Territory other legislation which it has never given to any other Territory of the United States. In the year 1850 Congress passed an act giving to an actual settler on the public lands in the Territory of Oregon, which then comprised Washington Territory, six hundred and forty acres if he were a married man, and three hundred and twenty acres if he were a single man, conditioned upon four years' residence and cultivation. This was done probably for the same reason as that for which Congress gave to the Territory a liberal organic act, as a remuneration in part for the essential service rendered by that people to the Government.

I had the honor of taking some part in the early legislation of the Territory of Oregon. I became a resident of Oregon in 1850, and was a resident of it during eight years of its territorial existence. About a quarter of the population of the Territory was embraced within the present limits of Washington Territory, prior to its organization. The population were of the same character and class—a permanent, industrious people, not a migratory people like those of California or of the new Territories of Idaho and Montana. It is true that a portion of Idaho was taken from Washington, in fact all of present Idaho; but it was settled up, not by the old settlers of Washington Territory, but principally by Californians and people from the States.

In 1853 the organic act of Washington Territory was passed by Congress, and the people were allowed the same privileges in regard to enacting their laws that the people of Oregon Territory were in the act organizing that Territory. In order that the House may understand just what powers were given to the people of Washington Territory in their organic act, I will ask the Clerk to read a section from the law organizing the Territory.

The Clerk read, as follows:

Sec. 6. And be it further enacted, That the legislative power of the Territory shall extend to all rightful subjects of legislation, not inconsistent with the Constitution and laws of the United States. But no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. All the laws passed by the Legislative Assembly shall be submitted to the Congress of the United States, and, if disapproved, shall be null and of no effect: *Provided*, That nothing in this act shall be construed to give power to incorporate a bank or any institution with banking powers, or to borrow money in the name of the Territory, or to pledge the faith of the people of the same, for any loan whatever, directly or indirectly. No charter granting any privileges of making, issuing, or putting into circulation any notes or bills in the likeness of bank notes, or any bonds, scrip, drafts, bills of exchange, or granting any other banking powers or privileges, shall be passed by the Legislative Assembly; nor shall the establishment of any branch or agency of any such corporation, derived from other authority, be allowed in said Territory; nor shall said Legislative Assembly authorize the issue of any obligation, scrip, or evidence of debt, by said Territory, in any mode or manner whatever, except certificates for service to said Territory. And all such laws, or any law or laws inconsistent with the provisions of this act, shall be utterly null and void. And all taxes shall be equal and uniform; and no distinctions shall be made in the assessments between the different kinds of property, but the assessments shall be according to the value thereof. To avoid improper influences, which may result from intermix-

ing in one and the same act such things as have no proper relation to each other, every law shall embrace but one object, and that shall be expressed in the title.

Mr. COLE, of Washington. It will be seen, Mr. Speaker, that the powers of the Legislature of Washington Territory are very limited, that they hardly exceed those of the board of supervisors of a county in the State of New York. Besides this, all laws of the Legislature are to be submitted to the Congress of the United States, and if disapproved by Congress they are to be null and void. Here you have an absolute veto. All laws inconsistent with the organic act are null and void; and the court to decide upon them is a court appointed by the President of the United States. At the time of its organization the population was about five thousand. Its present population is three or four times that number—somewhat less, not much—and with about the same ability to sustain a State organization as two of her sister Territories which are about to assume position in the family of States, if their people listen to the voice of politicians instead of consulting their own interests. The principal interests of our people are farming and lumbering. But a small amount of mining is carried on within the present limits of our Territory, though good mines exist throughout its entire eastern section. But the adjacent mines in Idaho present greater inducements at present.

Men who are elected to the Legislature are generally men who are interested in the welfare of the Territory, and I venture the assertion that no Territory possesses a better code of laws or are the people in any better satisfied with their condition. We have had some half dozen Governors, none of whom, if we except the present incumbent, has desired the veto power.

The people have not abused the power with which the Legislature has been clothed. No conflict between the Territory and the General Government has ever arisen. The plan, so far as our Territory is concerned, has worked well. And I may add, for the eight years of the territorial existence of Oregon I was a citizen of that Territory, it worked equally well there. The people there as well as in Washington Territory proved themselves abundantly able to make their own laws. No portion of the people of my Territory have asked for this change. No acts on the part of the people or the Legislature coming in conflict with any interests of the General Government have ever been perpetrated or enacted. And no considerable number of the people of the Territory, and I doubt if any of its permanent residents, would look upon this change with favor. It was stated in the other branch of Congress when this bill was before it for consideration that the Federal officers of the Territory had asked it. It may be true that the Governor of the Territory, and perhaps some other of the Federal officials—though I think not many—may desire it and they may have asked for it. But I am quite certain no permanent citizens of the Territory of any party desire it. Were we always certain of having a Governor selected from among our own citizens, or could the people of the Territory elect their Governor, the case would be different, as the legislative power would then be entirely in the hands of those who are identified with our interests and understand our wants. But gentlemen all know what kind of men are generally sent out to new Territories by the party in power, it makes no difference what party that may be.

I am certain that gentlemen who represent the new States, and were residents of those States when they were Territories, will agree with me when I say they are not generally men noted for their talents, and their morals are not always calculated to improve and elevate even a frontier community. They are more frequently men who are anxious for place, as a requital for services rendered, or supposed to have been rendered, to the party appointing them. They are known generally to be unfit for position in the States, and they are therefore sent off to the Territories not so much because they are supposed to possess the necessary qualifications for the position, but they are "troublesome fellows," and the Administration must get rid of them. Having received their commission, signed by the President, with the broad seal of the Union affixed, they set out for their destination. Arriving in the Territory, they very frequently imagine themselves, if not

"monarch of all they survey," at least decidedly "some pumpkins." Coming in contact with the people they endeavor to impress them with their importance by "putting on airs," (as it is termed in the expressive language of the country,) and playing the cheap lion on all occasions. Frontiersmen are generally good judges of human nature, and these would-be great men soon find their true position. It may be that it would be safer and more conducive to the interests of the people of the Territory to place legislation under the control of such a person, if such, perchance, should occupy the gubernatorial chair; but it will be very difficult to make the people of my Territory so understand it. They have been accustomed to make their own laws for eleven years without the intervention of an executive veto used by the stranger your Executive sends among them, and they have duly appreciated the power conferred upon and the trust reposed in them, and they will feel it a hardship that this abridgment of their liberties should be made without cause.

The people of Washington Territory are a loyal people. They are loyal to the Government and to the Constitution. They deeply sympathize with that band of heroes who are bravely fighting to restore obedience to the Constitution and the laws. It is true they have not been called upon to shoulder the musket in defense of their country in its present struggle for existence among the nations of the world, yet they have given largely in proportion to their means to the sanitary cause, and in times past have bared their bosoms to the Indian arrow and bullet. They are attached to the Union. They pay without murmuring the taxes you impose, though they have no voice in imposing those taxes. With them "representation does not go with taxation," an evil of which our forefathers bitterly complained. It is true a Delegate from a Territory may speak and make motions, (though even that poor privilege was questioned by a gentleman on the opposite side of the House yesterday,) but he has no right to vote. I am not complaining of this, but what I do complain of is your abridging our right to enact such little local legislation as may be found necessary from time to time to provide for and protect our own local interests.

I repeat, our population is of a permanent character, and men are not likely to get into the Legislature who have not the interests of the people at heart. It was stated in the other branch of Congress when this bill was under discussion that the Delegate from the Territory desired the passage of this bill; that he said the people were of a transient character, and many men got into the Legislature who had no interest in the country, and burdened the people with oppressive taxes; and it was upon such false representations as these that the bill passed the Senate. No such opinions were ever entertained or expressed by me, and no person was ever authorized to place me in that position. Whenever the people of my Territory feel themselves incompetent to exercise what rights they now possess, and desire the General Government to resume a portion of them, they are abundantly able to say so, and it will then be competent for Congress to act upon the matter. Or if any gentleman upon this floor will point out wherein they have misused their rights to the injury of the General Government, I will then listen with some patience to a proposition to abridge them.

As the Delegate from that Territory this House will bear me witness that I have not been backward in introducing measures to the consideration of the House which I thought to be conducive to the interests of the Territory. Some of those measures have been favorably considered by the House and the Senate, and have become laws; others are still sleeping in committees (I wish I had power to get them out) which have been favorably considered by them; and other very important measures to the people of my Territory have been consigned, I fear, to the "tomb of the Capulets." Had I desired the passage of this bill I would have been very likely to have introduced it and asked for it the favorable consideration of the House. If the majority of this House desire to pass it, they have the power and the right to do so; but I must be allowed to enter my most solemn and emphatic protest against it in the name of the people of my Territory. Were I to neglect doing so I should be alike untrue to myself

and unfaithful to them. I did not know such a bill was under consideration in the Senate until it had passed that body and came in here for the concurrence of this House. I tried to send it to the Committee on Territories, so as to get it out of the way for this session at least. Failing in that, and the House, by the vote upon the question of reference, indicating a disposition to pass it, I must be allowed to say that I think it a most unwise measure, and not calculated to do any good either to my Territory or to the country.

The question does not present itself to the House in the light of an original proposition in the organization of a new Territory, when the organic act is first given the people to govern them, however questionable its propriety then. But you propose to take away rights the people have been accustomed to exercise for sixteen years: five years as an integral part of Oregon, and eleven years as citizens of Washington; and that, too, without cause, without their having betrayed or violated the trust reposed in them. They will inquire into the cause of this abridgment of their liberties. They will feel aggrieved at your action, and if it is done at the instance of Federal officials you have sent among them, it will be a cause of irritation toward them, and may lead to serious results. You may think it a trifling matter, but they will think it a serious matter. Parties in that far-off Territory are not altogether divided upon questions upon which parties are organized here. The most natural division, and, in fact, the real division, is that of Federal clique party and the People's party. It is true all the people do not belong to the people's party, for you can find some in every community who can be influenced by the arguments which power and patronage can yield, men who

"crook the pregnant hinges of the knee,  
Where thrift may follow fawning."

We are not altogether free from them in our Territory; yet the substantial citizens are generally made of different stuff.

As a whole the people of my Territory are a people it were an honor to serve even in the capacity of a territorial delegate. I have been identified with their interests and that of their immediate neighbor, Oregon, for nearly fifteen years. I know their feelings. I have witnessed their many and untold hardships in crossing the sandy plains and mountain steeps, and in driving back the savage foe, and hewing out homes for themselves and their children in the forest and prairie wilds. I know the jealousy they feel toward the stranger clothed with a "little brief authority" to rule and lord over them you send among them upon every change in the national Administration. And now if those whom they look upon already as at least not of them seek to increase their power, by depriving them of a moiety of liberty they now possess, I know the chagrin and mortification it will cause them. It is true a Territory at best is but a state of semi-vassalage, yet my Territory has enjoyed comparative freedom in matters of local legislation within the scope of the organic act given them by Congress, which is quite circumscribed, yet they have been accustomed to a certain amount of freedom, and any abridgment of it without cause will, I repeat, Mr. Speaker, be to them a sad grievance. We are in a remote section of the Union. It will be a long, long while before we will be populous enough for a State. We shall have to endure our territorial vassalage many years to come; make it, I entreat you, Mr. Speaker, as light as possible. Brighten, encourage, build up a love for the Union and the Constitution of our beloved country in that weak, dependent, and distant ward: one day she will repay you for all the kindness you have displayed and all the favors you have bestowed upon her. I do not say you can drive her from you by harshness and severity, but I do say it is better to soothe than to ruffle her spirit. Your income tax, your license tax, your direct tax, and your import duties, fall equally upon us as upon yourselves. We pay all without a murmur. You have increased those taxes nearly two-fold this Congress. Although it is taxation, as I said before, without representation, yet the people of my Territory will pay it, believing it to be necessary to sustain the Government in this trying crisis; but do not, Mr. Speaker, insult them by the passage of this bill at the instance of those who are not sufficiently identified in feelings and interests with the people

to use the power you propose to rob the people of to give to them.

If men sometimes find their way into our Legislature who are not sufficiently identified with the interests of the people to properly represent them, how can we expect the stranger reared in a distant land, intrusted with the lever of the veto power, to better that condition of things? I know it is said it is but a qualified veto; but we prefer no veto to a qualified veto. I know it is said in other Territories the Governor is clothed with the veto power, and in the instance of Utah it is absolute. The old lady, when remonstrated with for skinning eels alive, said, "Oh! that is nothing; they are used to it; I have done that these thirty years!" Well, Mr. Speaker, we are not used to it. It will not help the condition of these Territories by depriving us of a portion of our rights. You have been very indulgent toward us; but your indulgence has not spoiled us. We deserve no chastisement; and pray do not inflict it upon us. With these remarks, Mr. Speaker, I leave the question, and move to lay the bill on the table, and on that question demand the yeas and nays, in order that the people of my Territory may be apprised who are the men in this House so anxious to serve them without their aid being sought.

Mr. THAYER moved that the House adjourn.

#### REVISION OF LAWS OF DISTRICT OF COLUMBIA.

Pending the motion to adjourn, Mr. DAVIS, of New York, by unanimous consent, moved to take up Senate joint resolution No. 59, to provide for the revision of the laws of the District of Columbia.

The motion was agreed to; and the resolution was taken up, read a first and second time, and referred to the Committee for the District of Columbia.

#### PATENT OFFICE REPORT.

Mr. BALDWIN, of Massachusetts, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That there be printed thirty thousand copies of the annual report of the Commissioner of Patents; twenty thousand for the use of the House, and ten thousand for the Patent Office.

#### PAY OF CONTESTANTS.

Mr. WADSWORTH. I ask unanimous consent to introduce the following resolution, for reference:

*Resolved*, That the Clerk of this House be directed, out of the contingent fund, to pay Colonel John H. McHenry, jr., and James H. Birch, lately contesting seats in this House, each the monthly pay of a member of Congress, from the beginning of this session to the 1st of June, instant, to reimburse them their expenses incurred in conducting said contests.

Mr. BEAMAN. I object.

The motion to adjourn was then agreed to.

And then (at a quarter to four o'clock, p. m.) the House adjourned.

#### IN SENATE.

WEDNESDAY, June 8, 1864.

Prayer by the Chaplain, Rev. Dr. Bowman.  
The Journal of yesterday was read and approved.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Interior, communicating, in obedience to law, the accounts of the superintendent of Indian affairs for the southern superintendency for the first quarter of the year 1864; which was ordered to lie on the table.

#### PETITIONS AND MEMORIALS.

Mr. TEN EYCK presented a memorial of citizens of the United States engaged in the manufacture and working of marble, remonstrating against any increase of the present duty on marble; which was referred to the Committee on Finance.

#### REPORTS FROM COMMITTEES.

Mr. ANTHONY, from the Committee on Naval Affairs, to whom was referred a memorial of Israel Deming, praying to be relieved from the further fulfillment of his contract for furnishing rations for the marines at Washington, Philadelphia, and New York, for the year 1864, asked

to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a bill (H. R. No. 504) to authorize the Secretary of the Treasury to sell the marine hospital and grounds at Chicago, Illinois, and to purchase a new site and build a new hospital, reported it without amendment.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred a bill (S. No. 296) in relation to the fees and emoluments of the marshal, attorney, and clerk of the supreme court of the District of Columbia, and for other purposes, reported it with an amendment.

#### HOUSE BILL REFERRED.

The joint resolution from the House of Representatives (No. 45) to enable the Secretary of the Treasury to obtain the title to certain property in Carson City, and Territory of Nevada, for the purposes of a branch mint located in said place, was read twice by its title, and referred to the Committee on the Judiciary.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LYON, its Chief Clerk, announced that the House of Representatives had passed the bill of the Senate (No. 216) to grant the right of preemption to certain settlers on the "Rancho Bolsa de Tomales," in the State of California.

The message further announced that the House of Representatives had passed a bill (No. 486) to amend an act entitled "An act to provide a temporary government for the Territory of Idaho," approved March 3, 1863; in which it requested the concurrence of the Senate.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolution; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 28) relating to members of Congress, heads of Departments, and other officers of the Government;

A bill (S. No. 42) in relation to limitations of actions in certain cases;

A bill (S. No. 52) to provide for the summary trial of minor offenses against the laws of the United States;

A bill (S. No. 256) to change and define the boundaries of the eastern and western judicial districts of Virginia, to alter the name of said districts, and for other purposes;

A bill (S. No. 283) to abolish the collection districts of Port Orford and Cape Perpetua, in the State of Oregon;

A bill (H. R. No. 355) to authorize the Secretary of the Treasury to stipulate for the release from attachment or other process of property claimed by the United States, and for other purposes; and

A joint resolution (S. No. 60) tendering the thanks of Congress to Lieutenant Colonel Joseph Bailey, of the fourth regiment of Wisconsin volunteers.

#### BLUE MONT COLLEGE.

Mr. HARLAN. I move that all prior orders be postponed, and that the Senate proceed to consider the bill (S. No. 73) to enable the trustees of Blue Mont College to perfect title to their land.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to amend the act to enable the trustees of the Blue Mont College to preempt a certain quarter section of land, approved March 2, 1861, so that the trustees may locate the college quarter for the use and benefit of the college with any military bounty land warrant of the act of 1855, the location to be made in accordance with the rules and regulations of the Commissioner of the General Land Office.

The Committee on Public Lands reported the bill with an amendment, after the word "amended" in line six to strike out the following words:

That said trustees herein named may locate said college quarter for the use and benefit of the college with any military bounty land warrant of the act of 1855, said location to be made in accordance with the rules and regulations of the Commissioner of the General Land Office.

And to insert in lieu thereof:

As to authorize the legally constituted trustees of said college to locate on said tract of land any military bounty

land warrant or land warrants issued under the military bounty land warrant act of 1855, said warrants being the property of said college, in the name and for the benefit and use of said college, said location to be made in accordance with the rules and regulations of the General Land Office, and not inconsistent with the provisions of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed; and its title was amended to read as follows:

A bill to amend an act entitled "An act to enable the trustees of the Blue Mont College to preempt a certain quarter section of land," approved March 2, 1861.

#### CHARGES AGAINST GENERAL BUTLER.

Mr. HARRIS. I move that the Senate proceed to the consideration of the bill (H. R. No. 422) to amend an act entitled "An act to confirm certain private land claims in the Territory of New Mexico."

Mr. DAVIS. Will the Senator from New York allow me a moment to say a word personal to myself?

Mr. HARRIS. I have no objection.

Mr. DAVIS. I have received a letter, which I will read to the Senate:

HEADQUARTERS IN THE FIELD, June 3, 1864.

SIR: I have read your resolution of inquiry. You can do me no greater favor than to have every act of my political life, which began on the first Tuesday of November, 1839, and ended on the 15th day of April, 1861, most thoroughly scrutinized.

I will thank you, also, to have every act of my official life, which began as brigadier general of the Massachusetts militia, April 16, 1861, and will end when this war does, if not sooner, subjected to the like examination. I have no favors to ask and but one act of justice, that the inquiry should not be *ex parte*; i. e., one-sided.

Your obedient servant,

BENJAMIN F. BUTLER,

Major General United States Volunteers.

GARRETT DAVIS, Esq., Member of the Senate of the United States from Kentucky.

Mr. President, this letter is couched in terms which every man would suppose an individual, conscious of his innocence and resenting imputations against him, would use. The terms of the letter certainly appreciate General Butler in my estimation, and are somewhat *prima facie* evidence of his innocence. He may be innocent of the charges imputed in the resolution which I offered a few days ago. He may not be innocent. I had no personal information on the subject. I have no personal prejudice against General Butler. I never saw him that I am conscious of. If he and all men against whom such charges can be made can challenge in the indignant terms that he uses an investigation, and come out unscathed by such an investigation, to me it would afford satisfaction. I am conscious that I never felt an impulse or a disposition to have an innocent man punished, nor an innocent man charged; and it always affords me pleasure for a man who is charged and who is innocent to have an opportunity and be able to exculpate himself.

General Butler says in this letter that he had read my resolution. Of course he understands its terms and its effect. He is a man of ability and large experience, and no doubt of parliamentary learning, and fully and correctly appreciates the appropriate effect of the resolution if it should pass. He not only in this letter desires but he challenges investigation and scrutiny. Of course he invites it according to the terms of the resolution which I have offered. That resolution is that a select committee of three be raised by the Chair to investigate the conduct of General Butler, according to the terms expressed in the resolution; that it have power to sit during vacation of the Senate, and to send for persons and papers. I understand General Butler to have accepted the gage, and to take it up just in the form in which it has been tendered to him. Now, sir, as a Senator and as a man I feel perfectly confident to do General Butler justice in this matter; to enter upon the investigation and the judgment of his action upon the facts that may be collected with an entirely just judgment, and to render him justice according to the truth of his case.

I therefore hope, in obedience to his wishes and request, that the Senate will permit the resolution to be read; that they will vote upon it without any debate; that they will pass it; that they will authorize the committee to be raised, and authorize

it to proceed to the execution of the matters which the resolution would charge it with, as General Butler seems to desire. I therefore ask that the resolution be read, and that the Senate pass it.

Mr. HARRIS. I hope that it will be postponed until after I have passed my bill.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from New York.

#### PRIVATE LAND CLAIMS IN NEW MEXICO.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 422) to amend an act entitled "An act to confirm certain private land claims in the Territory of New Mexico." It proposes to amend the sixth section of the act to confirm certain private land claims in the Territory of New Mexico, approved June 21, 1860, so as to enable the heirs of Luis Maria Baca to raise and withdraw the selection and location of one of the square bodies of land confirmed to them by that act, heretofore located by them on the Pecos river, adjoining the Fort Sumner reservation, and to select and relocate it in the manner provided by that act, at any time before the 21st of June, 1865, upon any of the public lands, unoccupied and not mineral, within the limits of the Territory of New Mexico, as those limits were known and defined by law on the 21st of June, 1860; and upon such selection and relocation, the title to that square body of land—being the one fifth part of the private claim confirmed to those heirs—so selected and relocated, is confirmed to them as fully and perfectly as if it had been selected and located within three years from and after the approval of that act.

Upon such selection and relocation all rights, title, and interest of those to the square body of land heretofore selected and located by them on the Pecos river, adjoining the Fort Sumner reservation in New Mexico, is divested and declared null and void, and are to revert in the Government of the United States.

Mr. HARRIS. It appears that a family by the name of Baca were entitled to a grant of land in New Mexico, to a pretty large extent, called the *Los Vegas* grant. In June, 1860, Congress passed a law authorizing the heirs of Baca to locate this grant in five square bodies upon any unappropriated lands in New Mexico. They were allowed three years within which to make this location. Those heirs proceeded to locate their lands. Four of these square bodies were located; and the location was approved by the surveyor general of New Mexico. In June, 1863, the fifth body was located on a tract of land a little less than one hundred thousand acres. It was located upon the Pecos river, near Fort Sumner, in that Territory. Since that time the Government have seen fit to locate the Indians of that region, with which we have been long at war, upon a reservation; they have selected forty miles square with Fort Sumner for its center as a reserve for these Indians; and they have settled several thousand Apache and Navajo Indians upon that reservation. The location of this fifth square of this *Los Vegas* grant in favor of the heirs of this Spaniard is in the center of this Indian reservation, and it is deemed important by the Government to have this location withdrawn and removed to some other part of the Territory so as to give up the whole of this forty miles square for the Indians. It is in the center of the Territory, with Fort Sumner for its center, and the Indians are all around this location. The provisions of this bill are simply that the heirs of Baca shall be at liberty to withdraw their location on the Pecos river and to relocate it somewhere else upon other unappropriated lands in New Mexico.

Mr. CONNESS. I think this is the most important bill relating to lands that has come before this Congress. The act of 1860, referred to by the Senator from New York, was, to say the least of it, a very extraordinary act in its provisions. It allowed private parties declared entitled to a certain amount of land to locate that land, and that I believe equal to five hundred thousand acres. Am I not right?

Mr. HARRIS. Nearly that.

Mr. CONNESS. Nearly five hundred thousand acres, to locate it in five different bodies where they pleased. All the locations in accordance with that act have been made. I desire to call the attention of the Senator from New York, and of the Senate, to



the fact that since the last location so made there has been more development of the resources of the Territory of New Mexico, particularly of its mineral resources and wealth, than had ever taken place before that time. Since that period the country has been occupied by a very large number of American soldiers, every man of whom is an experienced miner, all of them having been raised in the State of California. Very many of them, located at the posts in the interior, have given their attention at intermediate periods to mining, and many of their friends have been induced to follow them; so that at the present time there is a white population, experienced in discovering the precious metals, throughout the two Territories of Arizona and New Mexico. Until a recent period the population of both those Territories was confined almost exclusively to persons of Mexican origin. They are now being opened up to the settlement of our own people, as I before observed, entirely experienced in the search for the precious metals.

I had a series of conversations lately with a very intelligent officer from New Mexico, who was absent on leave. He considers himself the owner by discovery of one of the most valuable silver mines perhaps on the continent. He had with him some small blocks of silver which was the product of some of the ores submitted to test by him. He told me in the series of conversations I had with him that New Mexico and Arizona were undoubtedly the richest portions of the United States in the precious metals, particularly in silver; that they but awaited the establishment of law and protection to capital, and for the introduction of capital and its application to those mines, to add to the wealth of the United States enormously. Now you propose at this period of time to allow one hundred thousand acres of land to be selected where these heirs will in that Territory.

I submit that if the question of mineral lands was not concerned or involved at all, whether the act of 1860 gave the power to these heirs to thus locate these large bodies of land or not; they having once exercised that power and privilege, it is a very dangerous proceeding now to authorize them to relocate at this time as large a body as one hundred thousand acres without even the surveillance of the General Land Office or land department of the United States. If we should give them this power, they would be the veriest fools in the world and the most neglectful of their interests, if they did not make themselves as rich as Cæsar by the operation. Look upon the map that I have upon my desk here, and take the Mariposa grant in California. I cannot name the number of acres in it; but it is, I believe, largely within the amount of one hundred thousand acres; and that property has changed hands recently, and is now stocked for \$10,000,000. There is not a silver mine upon it. It is but rich in its minerals to the extent that it contains gold, and mines of gold are always more precarious, more uncertain, and less continuous, as has been discovered by miners and by all experience, than mines of silver.

I submit it to the honorable Senator from New York, as well as to the Senate, that before anything further should be done with this bill, a very careful investigation should be made. I am not aware of the extent to which the committee from which this bill has come to the Senate have investigated the matter; but I think that from what I have said it will be seen that it is a very dangerous power to grant even with restrictions such as we might impose by amendments that might be offered and adopted to the bill. With this statement of the case and suggestion, I have done.

Mr. HARRIS. If the Senator from California had had an opportunity to give a little closer attention to the provisions of this bill the line of his argument would have been changed. The bill expressly prohibits these heirs from locating their grant upon mineral lands. They are not allowed to go upon the mineral lands in New Mexico and locate upon them.

Again, sir, this square body of land which is the subject of this bill has been located within a year past. The location was on the 25th of June last. I will state further that it is not the heirs who make this application for a change of location, but it is the Government. The Government needs this land for its own purposes; and to show that

this is so and that this is not a subject that has been acted upon without sufficient proof, I will read a paragraph or two from the letter of the surveyor general of New Mexico upon the subject. He says:

"By reference to the inclosed map of New Mexico, you will see that the Indian reserve covers the fifth location made by the heirs of Baca as above; but to disembarass the Government the heirs have signified (through their attorney, Judge Watts,) their willingness to remove this location, provided they shall be authorized to relocate the same under the same conditions, except as to time, provided in the original act of confirmation. The act now before Congress as above, authorizes this change of location, and gives them until 21st June, 1865, to make their new selection. This is little time enough, considering that it is unsafe now to move outside of the settlements in New Mexico without military protection. The justice and necessity of the act can, I think, but commend itself to your favorable consideration.

"The Navajo tribe of Indians, for whom with the Apaches the reserve on the Pecos is made, have consented to leave their country west of the Rio Grande, and remove with their flocks and herds to the Pecos. Already several thousands of them have reached their new home. The people of New Mexico are hopefully looking forward to the day when they shall have peace throughout their Territory, a condition of things not often nor for long periods enjoyed by that people."

It goes on further to state the importance of locating these Indians on this tract, with Fort Sumner as its center, where these Indians can be protected, and where the people can be protected against them.

Mr. CONNESS. I have but to say in conclusion that a statement from the surveyor general of New Mexico—whom I do not know—does not appear to me to be sufficient grounds upon which to pass this bill. It too often happens—I do not know that it is so in this case—that surveyor generals do not sufficiently consider the public interests. I hold in my hand, for instance, now, an article from a leading paper in San Francisco, going to show that a surveyor general of the United States in that State, a gentleman who has a very high reputation for ability and integrity, has absolutely, according to this statement, used his office to aid a few private parties in locating school land warrants upon nearly seven thousand acres of land within the corporate limits of the city of San Francisco; that the knowledge that the land was surveyed as public land never was published by him until the parties entered the register's office at San Francisco with the warrants to locate the land. An act of this kind certainly shows that we should not rely upon the statement of a surveyor general.

But, sir, my purpose is not to embarrass the proceedings of the honorable Senator in asking for the passage of this bill, but to do my duty in making such suggestions as I think are due in the premises. I will say in conclusion, that in my opinion it will be very difficult indeed to locate one hundred thousand acres of land in a solid body in that Territory now, without including mineral lands within it.

The bill was reported to the Senate without amendment, ordered to a third reading, and was read the third time.

Mr. CONNESS. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 21, nays 7; as follows:

YEAS—Messrs. Anthony, Buckalew, Chandler, Clark, Collamer, Doolittle, Fessenden, Foster, Harlan, Harris, Lane of Indiana, Morgan, Pomeroy, Ramsey, Richardson, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, and Willey—21.

NAYS—Messrs. Conness, Davis, Grimes, Henderson, Hendricks, McDougall, and Powell—7.

ABSENT—Messrs. Brown, Carlile, Cowan, Dixon, Foot, Hale, Harding, Hicks, Howard, Howe, Johnson, Lane of Kansas, Morrill, Nesmith, Riddle, Saulsbury, Sherman, Sprague, Wilkinson, Wilson, and Wright—21.

So the bill was passed.

#### JURISDICTION OF FOREIGN CONSULS.

Mr. SUMNER. I now move that the Senate proceed to the consideration of Senate bill No. 487, reported from the Committee on Foreign Relations. It is somewhat important that it should be acted upon at once.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 487) to provide for the execution of treaties between the United States and foreign nations respecting consular jurisdiction over the crews of vessels of such foreign nations in the waters and ports of the United States.

In all cases where it may have been or shall hereafter be stipulated by treaty or convention between the United States and any foreign nation to the effect that the consul general, consuls, vice consuls, or consular or commercial agents of the two nations, respectively, shall have exclusive jurisdiction of controversies, difficulties, or disorders arising at sea or in the waters or ports of the one nation, between the master or other officer or officers and any of the crew, or between any of these last themselves, of any ship or vessel belonging to the other nation, such stipulations are to be executed and enforced within the jurisdiction of the United States, but before this act is to take effect as to the ships and vessels of any particular nation having such treaty with the United States, the President of the United States is to be satisfied that similar provisions have been made for the execution of such treaty by the other contracting party, and issue his proclamation to that effect, declaring this act to be in force as to such nation.

In all cases within the purview of this act the consul general, consul, or other consular or commercial authority of such foreign nation charged with the appropriate duty in the particular case, may make application to any court of record of the United States, or any judge, or to any commissioner appointed under the laws of the United States, to take bail or affidavits, or for other judicial purposes whatsoever, setting forth that such controversy, difficulty, or disorder has arisen, briefly stating the nature of it, and when and where it occurred, and exhibiting a certified copy or extract of the shipping articles, roll, or other proper paper of the ship or vessel, to the effect that the person in question is of the crew or ship's company of such ship or vessel; and further stating and certifying that such person has withdrawn himself, or is believed to be about to withdraw himself, from the control and discipline of the master and officers of the ship or vessel, or that he has refused, or is about to refuse, to submit to and obey the lawful jurisdiction of such consular or commercial authority in the premises; and further stating and certifying that, to the best of the knowledge and belief of the officer certifying, such person is not a citizen of the United States; and thereupon such judge, commissioner, or other judicial officer, on inspection of such application, the same being in writing and duly authenticated by the consular or other sufficient official seal, is to issue his warrant for the arrest of the person so complained of, directed to the marshal of the United States for the appropriate district, or in his discretion to any person, being a citizen of the United States, whom he may specially depute for the purpose, requiring such person to be brought before him for examination at a certain time and place; and if on such examination it shall be made to appear that the person so arrested is a citizen of the United States, he is to be forthwith discharged from arrest and left to the ordinary course of law. But if this shall not be made to appear, and such judge, commissioner, or other judicial authority shall find upon the papers heretofore referred to a sufficient *prima facie* case that the matter concerns only the internal order and discipline of such foreign ship or vessel, or, whether in its nature civil or criminal, does not affect directly the execution of the laws of the United States or the rights and duties of any citizen of the United States, he is forthwith, by his warrant, to commit such person to prison where prisoners under sentence of a court of the United States may be lawfully committed, or to the master or chief officer of such foreign ship or vessel, in his discretion, to be subject to the lawful orders, control, and discipline of the master or chief officer for the time being of such ship, and to the jurisdiction of the consular or commercial authority of the nation to which such ship or vessel may belong, to the exclusion of any authority or jurisdiction in the premises of the United States or any State. The expenses of the arrest and the detention of the person so arrested are to be paid by the consul general, consuls, or vice consuls; and no person is to be detained more than two months after his arrest, but at the end of that time is to be set at liberty, and is not again to be arrested for the same cause.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

## CENSUS IN 1865.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of Senate joint resolution No. 45.

Mr. SUMNER. Is the Senator aware that there is a special order for one o'clock?

Mr. TRUMBULL. We can get through with this resolution by one o'clock.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. No. 45) in relation to the taking of a census in the year 1865. It provides that the Legislatures of the several States be requested to cause an enumeration of the inhabitants of such States and a census of their industrial interests on the 1st of June, 1865, to be taken upon the plan of the United States census, and to supply a copy of the original returns to the Census Office of the United States, at Washington.

The Secretary of the Interior is directed to prepare and forward to the Governors of such States as shall make provision for taking such enumeration and census the necessary schedules and instructions for that purpose.

The Secretary of the Interior is also directed to forward a copy of these resolutions to the Governor of each State, and to facilitate the object thereof in such manner as he may deem expedient.

The returns herein provided for may be transmitted through the mails free of charge, subject to such regulations as the Postmaster General may prescribe.

Mr. TEN EYCK. I agreed to the reporting of this resolution; but two days since, when the matter was agitated, I understood the Senator from Vermont [Mr. COLLAMER] to declare distinctly that he was not satisfied with the resolution, and desired to have it looked into, and I understood him as being opposed to it. He has just stepped out of the Chamber, and I think it would perhaps be a surprise upon him if we were to pass it under these circumstances. In order to afford him an opportunity to be present when it is acted upon, although I do not wish to antagonize with the chairman of the committee, I will move that it be laid over for the present.

The PRESIDENT *pro tempore*. The hour of one o'clock having arrived, the Chair will call for the order of the day, being House bill No. 51.

Mr. POWELL. I move to postpone all prior orders for the purpose of taking up the bill (S. No. 37) to prevent officers of the Army and Navy, and other persons engaged in the military or naval service of the United States, from interfering with elections in the States.

Mr. SUMNER. I hope the Senate will proceed to the consideration of the bill which is the order of the day, being the bill from the House of Representatives to establish a Bureau of Freedmen's Affairs. It has been already awaiting the action of the Senate too long, and I hope it will not be postponed for anything else.

Mr. POWELL. I hope the Senate will take up the bill I have indicated. It is a bill of the utmost importance. It has been discussed pretty elaborately by the Senate, and I do not think it will take more than an hour or two to have action upon it. I do not think it is economizing time to take up bills and discuss them four or five days and then lay them aside without any action upon them. This bill concerns a matter of the very greatest moment and importance. The object of the bill is to protect and preserve the purity of the elective franchise. I hope that all prior orders may be postponed, and the bill may be taken up and proceeded with to-day. I ask for the yeas and nays on my motion.

The yeas and nays were ordered; and being taken, resulted—yeas 12, nays 17; as follows:

YEAS—Messrs. Buckalew, Carlile, Davis, Grimes, Henderson, Hendricks, Johnson, Lane of Indiana, Powell, Richardson, Van Winkle, and Willey—12.

NAYS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Doolittle, Fessenden, Foster, Harlan, Harris, Morgan, Pomeroy, Sherman, Sumner, Ten Eyck, Trumbull, and Wilson—17.

ABSENT—Messrs. Collamer, Cowan, Dixon, Foot, Hale, Harding, Hicks, Howard, Howe, Lane of Kansas, McDougall, Morrill, Nesmith, Ramsey, Riddle, Saulsbury, Sprague, Wade, Wilkinson, and Wright—20.

So the motion to postpone the special order was not agreed to.

## FREEDMEN'S BUREAU.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs. The select committee on slavery and freedmen reported the bill with an amendment to strike out of the bill all after the enacting clause and insert the following in lieu thereof:

That an office is hereby created in the Treasury Department to be called the Bureau of Freedmen, meaning thereby such persons as have become free since the beginning of the present war, under the care of a Commissioner, with an annual salary of \$4,000, who shall be appointed by the President, by and with the advice and consent of the Senate; and there shall be a chief clerk, acting also as disbursing officer, under bonds to the United States, with an annual salary of \$2,000, and also such number of clerks, not exceeding two of each class, as shall be necessary, who shall be appointed by the Secretary of the Treasury.

SEC. 2. *And be it further enacted*, That the Commissioner shall have authority, under the direction of the Secretary of the Treasury, to create departments of freedmen within the rebel States, so far as the same may be brought under the military power of the United States; and each department shall be under the supervision of an assistant commissioner, with an annual salary of \$2,000, to be appointed by the Secretary of the Treasury, and with authority to appoint local superintendents and clerks, so far as the same may be needed, at a compensation not exceeding the ordinary rate for similar services, subject, in all respects, to the approval of the Secretary.

SEC. 3. *And be it further enacted*, That the military commander within any department shall, on the application of the assistant commissioner thereof, supply all needful military support in the discharge of the duties of such assistant commissioner, unless there are controlling military reasons for withholding the same; and any military commander may be appointed assistant commissioner, without increase of salary.

SEC. 4. *And be it further enacted*, That the Commissioner, under the direction of the Secretary of the Treasury, shall have the general superintendence of all freedmen throughout the several departments, and it shall be his duty especially to watch over the execution of all laws, proclamations, and military orders of emancipation, or in any way concerning freedmen, and generally, by careful regulations, in the spirit of the Constitution, to protect these persons in the enjoyment of their rights, to promote their welfare, and to secure to them and their posterity the blessings of liberty.

SEC. 5. *And be it further enacted*, That the assistant commissioners shall have authority, within their respective departments, to take possession of all abandoned real estate and all real estate, with the houses thereon, liable to sale or confiscation, or to any claim of title by the United States, and not already appropriated to Government uses; and also to take possession of all personal property found on such estate, and to rent or lease all such real estate, or any part thereof, with the personal property thereon, and to act as inspectors of the same; or in case no proper lessees can be found, then to cause the same to be cultivated or occupied by the freedmen, on such terms, in either case, and under such regulations, as the Commissioner may determine: *Provided*, That no freedmen shall be held to service on any estate above mentioned, otherwise than according to voluntary contract reduced to writing and certified by the assistant commissioner or local superintendent, nor shall any such contract be for a longer period than twelve months.

SEC. 6. *And be it further enacted*, That the assistant commissioners and local superintendents shall be ready, as advisory guardians, to aid the freedmen in the adjustment of their wages, or where they have rented plantations or small holdings, in the organization of their labor; that they shall take care that the freedmen do not suffer from ill-treatment or any failure of contract on the part of others, and that on their part they perform their duty in the premises; that they shall further do what they can as arbitrators, to reconcile and settle any differences in which freedmen may be involved whether among themselves or between themselves and other persons; and in case such differences are carried before any tribunal, civil or military, they shall appear as next friends of the freedmen, so far as to see that the case is fairly stated and heard. And in all such proceedings there shall be no disability or exclusion on account of color.

SEC. 7. *And be it further enacted*, That leases heretofore made by the supervising special agents of the Treasury Department, under the authority of the General Order 331, of the Secretary of War, dated October 9, 1863, and in accordance with the regulations of the Treasury Department, shall have the same effect as if made by assistant commissioners under this act; and such agents shall have the same powers in the premises as are given herein to assistant commissioners: *Provided*, That no lease shall be made by them for a longer period than one year, and that immediately upon the organization of any department of freedmen, such agents shall cease to execute their functions within such department, and shall deliver over to the assistant commissioner thereof all property and papers held by them as agents. But all expenses necessarily incurred by such agents in any department, prior to its organization under this act, shall be defrayed by the Secretary of the Treasury out of any moneys in his hands arising from the leases made by such agents.

SEC. 8. *And be it further enacted*, That the Commissioner shall apply the proceeds arising from leases in the several departments to pay the salaries and other expenses under this act, so that the bureau herein established may become at an early day self supporting; and any proceeds over and above the annual expense thereof shall be paid into the Treasury of the United States.

SEC. 9. *And be it further enacted*, That it shall be the duty of all officers, civil and military, charged with the execution of any law, proclamation, or military order of emancipation, or in any way concerning freedmen, not mustered into, nor regularly engaged in the military service, to make

return to the Commissioner of all their proceedings in execution thereof, under such regulations as shall from time to time be prescribed.

SEC. 10. *And be it further enacted*, That the Commissioner shall, before the commencement of each session of Congress, make full report of his proceedings to the Secretary of the Treasury, who shall communicate the same to Congress. And the assistant commissioners shall make quarterly reports of their proceedings to the Commissioner, and also such other special reports as from time to time may be required.

Mr. SUMNER. Mr. President, the Senate only a short time ago was engaged for a week in considering how to open an iron way from the Atlantic to the Pacific. It is now to consider how to open a way from slavery to freedom.

I regret much that only thus tardily we have been able to take up the bill for a Bureau of Freedmen. But I trust that nothing will interfere with its consideration now. In what I have to say, I shall confine myself to a simple statement. If I differ from others I beg to be understood that it is in no spirit of controversy, and with no pride of opinion. Nothing of this kind can enter justly into any such discussion.

I shall not detain the Senate to expose the importance of this measure. All must confess it at a glance. It is at once a charity and a duty.

By virtue of existing acts of Congress, and also under the proclamation of the President, large numbers of slaves have suddenly become free. These may now be counted by the hundred thousand. In the progress of victory they will be counted by the million.

As they derive their freedom from the United States, under legislative or executive acts, the national Government cannot be excused from making such provisions as may be required for their immediate protection and welfare during the present transition period. The freedom that has been conferred must be rendered useful, or at least saved from being a burden. Reports, official and unofficial, show the necessity of action. In some places it is a question of life and death.

It would be superfluous to quote at length from these reports, which all testify alike, whether from Louisiana, South Carolina, Fortress Monroe, Vicksburg, Tennessee, Arkansas. I know not where the call is most urgent. It is urgent everywhere; and in some places it is the voice of distress.

Wherever our arms have prevailed the old social system has been destroyed. Masters have fled, and slaves have assumed a new character. Released from their former obligations, and often adrift in the world, they naturally look to the prevailing power. Here, for instance, is testimony which I take from an excellent report made in the department of Tennessee, under date of April 29, 1863:

"Negroes, in accordance with the acts of Congress, free on coming within our lines, circulated much like water; the task was to care for and render useful."

"They rolled like odds around military posts; many of the men employed in accordance with Order No. 72, district West Tennessee; women and children largely doing nothing but eating and idling, the dupes of vice and crime, the unsuspecting sources of disease."

From this statement Senators may form an idea of the numbers who seek assistance.

But the question is often asked as to the disposition of these persons to labor. Here, also, the testimony is explicit. I have in my hand the answers from different stations on this point.

"Question. 'What of their disposition to labor?'"

"Answer, Corinth. 'So far as I have tested it, better than I expected; willing to work for money, except in waiting on the sick. One hundred and fifty hands gathered five hundred acres of cotton in less than three weeks, much of which time was bad weather. The owner admitted that it was done more quickly than it could have been done with slaves. When detailed for service, they generally remained till honorably discharged, even when badly treated. I am well satisfied, from careful calculations, that the contrabands of this camp and district have netted the Government, over and above all their expenses, including rations, tents, &c., at least \$3,000 per month, independent of what the women do and all the property brought through our lines from the rebels.'"

"Cairo. 'Willing to labor when they can have proper motives.'"

"Grand Junction. 'Have manifested considerable disposition to escape labor, having had no sufficient motives to work.'"

"Holly Springs and Memphis. 'With few exceptions, generally willing, even without pay. Paid regularly, they are much more prompt.'"

"Memphis. 'Among men, better than among women. Hold out to them the inducements, benefit to themselves and friends, essential to the industry of any race, and they would at once be diligent and industrious.'"

"Bolivar. 'Generally good; would be improved by the idea of pay.'"

Here, also, is a glimpse at Newbern, North Carolina, under date of February 26, 1864:

"Immediately on my return here, on the 12th of October, I instituted measures for placing the different abandoned plantations within our lines in this State under proper management and cultivation. As soon as it became known that as supervising Treasury agent I had charge of this property, I was visited by hundreds (and I might correctly say thousands) of contrabands, along with numerous white persons, desiring to obtain privileges to work upon the same."

And here is the testimony of General Banks, in Louisiana:

"Wherever in the department they have been well treated and reasonably compensated, they have invariably rendered faithful service to their employers. From many persons who manage plantations I have received the information that there is no difficulty whatever in keeping them at work if the conditions to which I have referred are complied with."

I do not quote further, for it would simply take time. But I cannot forbear from adding that the report from the commission on freedmen, appointed by the Secretary of War, accumulates ample testimony on this head, all showing that the freedmen are anxious to find employment. But your Treasury testifies to their productive power, for it contains at this moment more than a million dollars which have come from the sweat of freedmen.

It is evident, then, that the freedmen are not idlers. They desire work. But in their helpless condition they have not the ability to obtain it without assistance. They are alone, friendless, and uninformed. The curse of slavery is still upon them. Somebody must take them by the hand; not to support them, but simply to help them to that work which will support them. Thus far private societies in different parts of the country, at the East and the West—especially at all the principal centers—have done much toward this charity. But private societies are inadequate to the duties required. The intervention of the national Government is necessary. Without such intervention, many of these poor people, freed by our acts in the exercise of a military necessity, will be left to perish.

The service required is too vast and complex for unorganized individuals. It must proceed from the national Government. This alone can supply the adequate machinery, and extend the proper network of assistance, with that unity of operation which is required. The national Government must interfere in this case precisely as in building the Pacific railroad. Private charity in our country is active and generous, but it is powerless to cope with the evils arising from a wicked institution; nor can it provide a remedy where society itself has been overthrown.

There are few who will not admit that something must be done by the Government. Cold must be that heart which could turn away from this call. But whatever is done must be through some designated agency, and this brings me to another aspect of the question.

The President in his proclamation of emancipation has used the following language: "I recommend to them"—that is, to the freedmen—"that in all cases, when allowed, they labor faithfully for reasonable wages." Such is the recommendation from that supreme authority which decreed emancipation. They are to labor, and for reasonable wages. But the President does not undertake to say how this opportunity shall be obtained; how the laborer shall be brought in connection with the land; how his rights shall be protected; and how his new-found liberty shall be made a blessing. It was enough, perhaps, on the occasion of the proclamation that the suggestion should be made. Faithful labor and reasonable wages! Let these be secured, and everything else will follow. But how shall these be secured?

Different subjects as they become important are committed to the care of special bureaus. I need only refer to patents, agriculture, public lands, pensions, and Indian affairs, each under the charge of a separate Commissioner. Clearly the time has come for a Bureau of Freedmen. In speaking of a Bureau of Freedmen, I mean a bureau which will be confined in its operations to the affairs of freedmen, and not travel beyond this increasing class to embrace others, it may be of African descent. Our present necessity is to help those who have been made free by the present war; and the term

freedmen describes sufficiently those who have once been slaves; and it is this class which we propose to help during the transition period from slavery to freedom. Call it charity or duty, it is sacred as humanity.

But here a practical question arises with regard to the Department in which this bureau shall be placed. There are reasons for placing it in the War Department—at least during the continuance of the war. There are other reasons for placing it in the Department of the Interior, which has charge of the public lands, Indian affairs, pensions, and patents. But whatever may be the reasons on general grounds for placing it in one of these two Departments, there are other reasons, of special importance at this moment, which point to the Treasury Department. Indeed, after careful consideration, the committee were satisfied that it was so clearly associated with other interests already intrusted to this Department, that it could not be advantageously administered elsewhere. Although beginning this inquiry with a conviction in favor of the War Department, I could not resist the conclusion of the committee.

Look, for one moment, at the class of duties already imposed upon the Treasury Department in connection with the very homes of these freedmen.

Congress has, by special acts, conferred upon the Secretary of the Treasury extraordinary powers with regard to trade in the rebel States. There was, first, the act of July 13, 1861, entitled "further to provide for the collection of duties on imports and other purposes," which declared that commercial intercourse with any State or part of a State in rebellion, when licensed by the President, "shall be conducted and carried on only in pursuance of rules and regulations prescribed by the Secretary of the Treasury." And it is further provided that

"The Secretary of the Treasury may appoint such officers at places where officers of the customs are not now authorized by law, as may be needed to carry into effect such licenses, rules, and regulations."—*Statutes at Large*, vol. 12, p. 257.

There is another act of Congress, approved July 13, 1862, supplementary to the latter act, which confers additional powers upon the Secretary of the Treasury with reference to trade with "any place in the possession or under the control of insurgents against the United States."

There is also the act of June 7, 1862, entitled "An act for the collection of direct taxes in insurrectionary districts within the United States, and for other purposes." In this act it is provided (section nine) that where the board of commissioners shall be satisfied that the owners of lands "have left the same to join the rebel forces, or otherwise to engage in and abet this rebellion, and the same shall have been struck off to the United States at said sale, the said commissioners shall, in the name of the United States, enter upon and take possession of the same, and may lease the same, together or in parcels, to any person or persons who are citizens of the United States;" and (section ten) the commissioners "shall from time to time make such temporary rules and regulations and insert such clauses in said leases as shall be just and proper to secure employment and support, at wages or upon shares of the crop, of such persons and families as may be residing upon the said parcels or lots of land, which said rules and regulations are declared to be subject to the approval of the President." (*Statutes at Large*, volume twelve, page 424.) The execution of this act is lodged in the Treasury Department.

Then comes the act of Congress, approved March 12, 1863, entitled "An act to provide for the collection of abandoned property and for the prevention of frauds in insurrectionary districts within the United States." Under this act the Secretary was authorized "to appoint a special agent or agents to receive and collect all abandoned or captured property in any State or Territory, or any portion of any State or Territory of the United States, designated as in insurrection against the lawful Government of the United States." The act proceeds with details on the subject.

Such are the powers conferred by Congress upon the Treasury Department concerning trade and abandoned property in the rebel States.

These were followed by a general order from the War Department, as follows:

[General Orders, No. 33.]

WAR DEPARTMENT,  
ADJUTANT GENERAL'S OFFICE,  
WASHINGTON, October 9, 1863.

The President orders:

1. All houses, tenements, lands, and plantations, except such as may be required for military purposes, which have been or may be deserted and abandoned by insurgents within the lines of the military occupation of the United States forces in States declared by proclamation of the President to be in insurrection, will hereafter be under the supervision and control of the supervising special agents of the Treasury Department.

2. All commanders of military departments, districts, and posts will, upon receipt of this order, surrender and turn over to the proper supervising special agent such houses, tenements, lands, and plantations not required for military uses as may be in their possession or under their control; and all officers of the Army of the United States will at all times render to the agents appointed by the Secretary of the Treasury all such aid as may be necessary to enable them to obtain possession of such houses, tenements, lands, and plantations, and to maintain their authority over the same.

By order of the Secretary of War:

E. D. TOWNSEND,  
Assistant Adjutant General.

By this order, as it appears, the Treasury Department has been substituted to the War Department in jurisdiction over "houses, tenements, lands, and plantations deserted and abandoned by insurgents within the lines of military occupation." This is broad, but it is positive.

In pursuance of these acts of Congress, and of this order of the War Department, the Secretary of the Treasury has proceeded to appoint special agents and to establish a code of regulations. I have in my hands now a small volume, entitled "Commercial Intercourse with States Declared in Insurrection and the Collection of Abandoned and Captured Property," containing the statutes and also the departmental regulations on the subject. It appears that there is now an organization under the Secretary of the Treasury, and also a system, both of reasonable completeness, to carry out these purposes.

In determining where the Bureau of Freedmen should be placed it becomes important to consider the interests which it is proposed to guard; and this brings me to another aspect of the question.

Looking at the freedmen, whose welfare is in question, we shall find that their labor may be classified under two different heads: first, *military*; and secondly, *predial*, or relating to farms. There will be still other laborers, including especially mechanics; but these will be chiefly in the towns. The large mass will be included in the two classes I have named. It is, therefore, these two classes that are to be particularly considered.

1. The first class is already provided for. It appears that one hundred thousand freedmen are already engaged in the military service as soldiers or laborers. Others will continue to be engaged in this way. These are all naturally and logically under the charge of the War Department; nor do they need the superintendence of the proposed bureau. The act of Congress equalizing their condition in the Army of the United States is better for them than any bureau.

2. But there will remain the other larger class, consisting in the main of women and children and farm laborers, who must find employment on the abandoned lands. To this labor they are accustomed. These lands are their natural home. But this class must naturally and logically come under the charge of the Department which has charge of the abandoned lands. Conceding that all in the military service fall under the superintendence of the War Department, it follows with equal reason that all who labor on the lands must fall under the superintendence of the Treasury Department, so long, at least, as this Department has charge of the lands.

This conclusion seems so reasonable that your committee were not able to resist it. But the testimony of persons who have given particular attention to the question is explicit also, so that experience is in harmony with reason. I have in my hands a letter from Colonel McKaye, an eminent citizen of New York, and also a member of the commission to inquire and report on this subject, appointed by the Secretary of War. After visiting South Carolina and Louisiana, expressly to study the necessities of freedmen, and to ascertain what could be done to benefit them, he thus expresses himself:

"In the first place, everybody who has had any practical



experience of the working of the plantations or of the superintendence of negro labor will tell you that the control of the abandoned plantations and the care of the colored people must be in the same hands."

You will not fail to observe how positive this expert speaks. According to him all who have had "practical experience" insist that the care of the freedmen and of the plantation should be "in the same hands;" and so important does he regard this point that he names it first of all—"in the first place."

But Colonel McKaye is not alone. Here is a letter from Hon. Robert Dale Owen, chairman of the Commission on Freedmen, appointed by the Secretary of War, which testifies as follows:

"It will never do to have Treasury agents who lease the lands to white men and War Department agents who assign the same lands to colored people. Nothing but confusion and conflict of authority can result. It will not work at all. But even if it would, why employ two sets of agents to do what one set can do much better? And who is to inspect the leased plantations and see to it that neither employers nor employed are wronged? The men who gave the leases? But they are Treasury agents, and have nothing to do with freedmen. Or the freedmen's commissioners? But what authority can they have over men who do not hold their leases from them? The men who have the care of the laborer ought to have the leasing of the land and the inspection of the leases; and they should be authorized to lease equally to white and to colored people."

Such a statement is an argument.

This conclusion has the support also of General Banks, in a letter addressed to one of the Freedmen's Commission. Here are his words:

"The assignment of the abandoned or forfeited plantations to one Department of the Government, and the protection and support of the emancipated people to another, is a fundamental error productive of incalculable evils, and cannot be too soon or too thoroughly corrected."

The able and elaborate report from the Freedmen's Commission, just published, considers this question carefully. Nothing could be more explicit than the following testimony:

"But in the judgment of the commission the most serious error in connection with the present arrangements for the care and protection of these people arises out of the assignment to a different agency of the care and disposal of the abandoned plantations. To enter into the detail of all the evils and abuses that have arisen out of this error, and which are unav avoidable so long as it continues to exist, would occupy too great a space in this report. Suffice it to say that it is the source of the greatest confusion, and a perpetual collision between the different local authorities, in which not only the emancipated population, but the Government itself, suffers the most serious injuries and losses."

"And this is the purport of all the testimony which the commission has been able to obtain, not in the department of the Gulf only, but everywhere in relation to this matter."

"The unhesitating judgment of every person, official or other, not interested in the opportunities it affords for speculation, with whom we have consulted, coincides with that of General Banks. All without exception declare that no system can avail to effect the great objects contemplated that does not assign to one and the same authority the care and disposal of the abandoned plantations, and the care and protection of the emancipated laborers who are to cultivate them."

"And after the most thorough investigations I am authorized in saying that this is the deliberate judgment of the Commission."

It was on this ground of reason, and yielding to the influence of such authoritative opinions, that the committee were led to believe that there was no alternative on this practical question.

In the course of their inquiries the committee sought the opinions of the Secretary of the Treasury. With the heavy burdens of his Department resting on his shoulders, he does not desire any additional labor, but he does not conceal his conviction that the care of the freedmen must for the present be associated with the care of the lands. He would be glad to be relieved of all the responsibilities connected with the subject; but he hopes that it will not be divided between two different Departments. In that event it is feared that there will be little good from either.

I have dwelt with some minuteness on this question, because it seems to be the practical point on which there may be a difference of opinion. Already gentlemen have taken sides, and newspapers also. I regret this difference; but I trust that a calm and dispassionate consideration of the subject will render it innocuous. The first thought of all should be the cause.

There is another question which ought not to be passed over in silence, arising out of the desire to protect the freedmen from any system of serfdom or enforced apprenticeship. It is well known that among the former slave-masters there are many who continue to count upon appropriating the labor of their slaves, if not under the name of

slavery, at least under some other system by which the freedmen shall be effectually bound to service. This very phrase "bound to service," standing alone, is the pleonastic definition of slavery itself. One of these slave-masters in a public speech said, "There is really no difference, in my opinion, whether we hold them as absolute slaves or obtain their labor by some other method. Of course we prefer the old method, but that question is not now before us." Such barefaced avowals were not needed to put humane men on their guard against the conspiracy to continue slavery under another name.

The bill now before the Senate provides against any such possibility by requiring, first, that the assistant commissioners and local superintendents shall not only aid the freedmen in the adjustment of their wages, but that they shall take care that the freedmen do not suffer from ill-treatment or any failure of contract on the part of others; and secondly, that the contracts for service shall be limited to a year. The latter provision is so important that I give it precisely:

"Provided, That no freedmen shall be held to service on any estate above mentioned otherwise than according to voluntary contract, reduced to writing, and certified by the assistant commissioner or local superintendent; nor shall any such contract be for a longer period than twelve months."

Here is a safeguard against serfdom or enforced apprenticeship which seemed to your committee of especial value. In this respect the House bill was thought to be fatally defective, inasmuch as it interposed no positive safeguards.

I do not know how extensive the desire may be to set slavery again on its feet under another name. But when we take into consideration the selfish tendencies of the world, the disposition of the strong to appropriate the labor of the weak, and the reluctance of slave-masters to renounce their habitual power, I have felt that Congress would not do its duty on this occasion if it did not by special provision guard against any such outrage. There must be no slavery under another alias. This terrible wrong must not be allowed to skulk in serfdom or compulsory labor. "Once free, always free:" such is the maxim of justice and of jurisprudence. But any system by which the freedmen may be annexed to the soil, *adscripti glebe*, will be in direct conflict with their newly acquired rights. They can be properly bound only by contract; and considering how easily they may be induced to enter into engagements ignorantly or heedlessly, and thus become the legal victims of designing men, it is evident that no precautions in their behalf can be too great.

It is well known that in some of the British West Indies an attempt was made, at the period of emancipation, to establish a system of apprenticeship which should be an intermediate condition between slavery and freedom. But the experiment failed. In some of the islands it was abandoned by the planters themselves, who frankly accepted emancipation outright. And in all it finally fell, blasted by the eloquence of Brougham. Here is a passage from one of his speeches:

"They who always dreaded emancipation, who were alarmed at the prospect of negro indolence, who stood aghast at the vision of negro rebellion should the chains cease to rattle, or the lash to resound through the air, gathering no wisdom from the past, still persist in affrighting themselves and scaring you with imaginary apprehensions from the transition to entire freedom out of the present intermediate state. But that intermediate state is the very source of all their real danger; and I dispute not its magnitude from myself. You have gone too far if you stop here and go no further; you are in imminent hazard if, leaving loosened the fetters, you do not strike them off; if, leaving them ineffectual to restrain, you let them remain to galling and to irritate and to goad. Beware of that state yet more unnatural than slavery itself, *liberty bestowed by halves*."—*Third Series Hansard's Parliamentary Debates*, volume 40, p. 1312.

"I have demonstrated to you that everything is ordered, every previous step taken, all safe, by experience shown to be safe for the long-desired consummation. The time has come, the trial has been made, the hour is striking; you have no longer a pretext for hesitation or faltering or delay. The slave has shown by four years' blameless behavior and devotion to the pursuits of peaceful industry that he is as fit for his freedom as any English peasant, ay, or any lord whom I now address. I demand his rights; I demand his liberty without stint; in the name of justice and of law, in the name of reason, in the name of God, who has given you no right to work injustice."—*Ibid.*, p. 1314.

But surely there is no need of eloquence or persuasion to induce you to set your faces like flint against any such half-way system. Freedom that

has been declared must be secured completely, so that it may not fail through any pretension or fraud of wicked men. The least that can be done is what is proposed by your committee.

Much more might be said on the whole subject; but I forbear. I have opened to consideration the two principal questions. If the Senate agree with the committee, first, on the importance of keeping the superintendence of the freedmen and of the lands in the same hands, so as to avoid local conflict and discord, and, secondly, in the importance of providing surely against any system of serfdom or adscription to the soil, the bill of the committee must be adopted.

For the sake of plainness, I ask your attention to the main features of this bill, under the following heads:

1. It provides exclusively for freedmen, meaning thereby "such persons as were once slaves," without undertaking to embrace persons generally of African descent.

2. It seeks to secure to such freedmen the opportunity of labor on those lands which are natural and congenial to them, and on this account it places the superintendence of the freedmen in the Department which has the superintendence of the lands.

3. It provides positively against any system of enforced labor or apprenticeship, by requiring contracts between the freedmen and their employers to be carefully attested before the local officers.

4. It establishes a careful machinery for the purposes of the bill, both as regards the freedmen and as regards the lands.

But the bill may be seen not only in what it does, but also in what it avoids doing. It does not undertake too much. It does not assume to provide ways and means for the support of the freedmen; but it does look to securing them the opportunities of labor according to well-guarded contracts, and under the friendly advice of agents of the Government, who shall take care that they are protected against abuse of all kinds. It is the declared duty of these agents "to protect these persons in the enjoyment of their rights, to promote their welfare, and to secure to them and their posterity the blessings of liberty." Under these comprehensive words all that is proper and constitutional will be authorized for their welfare and security, while liberty and labor will be made to go hand in hand. Thus far in the sad history of this people Labor has been compelled by Slavery. But the case at last will be reversed. It will be Liberty that will conduct the freedman to the fields, protect him in his toil, and secure to him all its fruits.

In closing what I have to say on this subject, allow me to read the official testimony of the Commission on Freedmen, appointed by the Secretary of War, in their recent report on this subject:

"We need a freedmen's bureau, not because these people are negroes, but because they are men who have been for generations despoiled of their rights. The commission has heretofore, to wit, in a supplemental report made to you in December last, recommended, to effect the above objects, the establishment of such a bureau; and they believe that all that is essential to its proper organization is contained, substantially, in a bill to that effect, reported on April 12, from the Senate committee on slavery and freedmen."

This is the bill which is now under consideration.

It will be for the Senate to determine, under the circumstances, what it will do. My earnest hope is that it will do something. The opportunity must not be lost of helping so many persons who are now helpless, and of aiding the cause of reconciliation, without which peace cannot be assured. In this spirit I leave the whole subject to the good judgment of the Senate. If anything better than the work of the committee can be found I hope that it will be adopted; but meanwhile I ask you to accept that which is now offered.

Mr. HENDERSON. Mr. President—

Mr. SUMNER. I hope the Senator will allow me to perfect the bill. There are a few amendments that I wish to make.

Mr. HENDERSON. Certainly.

Mr. SUMNER. In section one, line five, after the word "have" I move to strike out the words "become free since the beginning of the present war," and to insert instead "once been slaves;" so that it will read:

That an office is hereby created in the Treasury Depart-

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ment to be called the Bureau of Freedmen, meaning thereby such persons as have once been slaves, &c.

The amendment to the amendment was agreed to.

Mr. SUMNER. In section one, line ten, I move to strike out the word "bonds" and to insert the word "bond," making it singular instead of plural.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) That amendment will be made.

Mr. SUMNER. After the words "United States," in the same line, I move to insert the words "for the faithful discharge of his duties."

The amendment was agreed to.

Mr. SUMNER. In line thirteen of the same section I move to strike out the word "who" and insert the words "all of whom."

The PRESIDING OFFICER. That is a clerical amendment, and will be made, if there be no objection.

Mr. SUMNER. In section two, line seven, after the word "dollars" I move to insert the words "under bond, as required for the chief clerk."

Mr. GRIMES. How will it read then?

Mr. SUMNER. "And each department shall be under the supervision of an assistant commissioner with an annual salary of \$2,000 under bond, as required for the chief clerk."

Mr. GRIMES. I should like to know what the amount of the bond to be given is. He is to give a bond similar to the chief clerk. What is that?

Mr. SUMNER. It is understood that the amount of the bond is to be regulated by the Department. The committee did not think it worth while to go into that detail. It is sufficient to require the bond, leaving to the Department to regulate the amount in the rules that it may establish.

The amendment to the amendment was agreed to.

Mr. SUMNER. In section five, line seven, after the words "found on" I move to insert the words "and belonging to," so that it will read:

And also to take possession of all personal property found on and belonging to such estate.

The amendment to the amendment was agreed to.

Mr. SUMNER. In line nine of the same section I move to strike out "thereon" and to insert "aforesaid."

The amendment to the amendment was agreed to.

Mr. SUMNER. In section six, line two, I move to strike out the words "be ready" and to insert the word "act;" so that it will read:

That the assistant commissioners and local superintendents shall act as advisory guardians, &c.

The amendment to the amendment was agreed to.

Mr. SUMNER. In line five of the same section I move to strike out the word "organization" and to insert "application."

The amendment to the amendment was agreed to.

Mr. SUMNER. In line eight of the same section I move to strike out the words "in the premises" and to insert the words "under any contract entered into by them."

The amendment to the amendment was agreed to.

Mr. RICHARDSON. Mr. President, I am opposed to both the bill and the amendment—

Mr. WILSON. Will the Senator yield to me for a moment?

Mr. RICHARDSON. Certainly.

Mr. WILSON. I desire to have this bill go over until one o'clock to-morrow for the purpose of taking up a bill relating to the military service, in regard to which we have a special message from the President. Would the Senator just as soon speak to-morrow?

Mr. RICHARDSON. Certainly.

Mr. SUMNER. I will ask my colleague first whether it would not be better to allow this bill to go on for an hour and take up the message an hour later.

Mr. WILSON. Then we should not be able to pass it to-day.

Mr. SUMNER. I will ask my colleague if the bill that he proposes to take up will occupy much time.

Mr. WILSON. That I cannot tell. The bill that I propose to take up is the bill introduced by the Senator from New York [Mr. MORGAN] in regard to the commutation for military service. The President has sent us a special letter on the subject.

The PRESIDING OFFICER. Does the Senator submit a motion?

Mr. WILSON. As I suppose this bill will take a few hours, at any rate, I think we ought to attend to the other measure at once. I do not wish to interrupt the consideration of this bill, although I intended, if this matter had not come in, to have moved some amendments to the bill.

Mr. SUMNER. I am not aware that there is to be any debate about it. Indeed I was not prepared to expect any extended debate on this question. I thought Senators might differ on some practical questions, but I have had no reason to suppose that there would be any extended debate upon it occupying time. I am in the hands of my colleague on this question. He knows that I do not wish to put any impediment in the way of such a proposition as he intimates, if it is one which grows out of the exigencies of the hour.

But the question now under consideration is one of vast importance, which has its own exigencies. It has already been too long postponed, and I humbly submit that the Senate ought to reach some conclusion upon it.

Mr. WILSON. Well, I will allow it to go on for an hour or two.

Mr. RICHARDSON. So far as the intimation comes from the honorable Senator from Massachusetts that this bill must be passed speedily, I will only say that it will not pass the Senate without full and thorough discussion, so far as I am concerned.

I was about stating, Mr. President, when interrupted, that I was opposed to both the amendment and the original bill. The issue, as I think, is now fairly presented, whether we shall by law of Congress make the white people of this country support the colored. The Senator from Massachusetts presents an extraordinary position in relation to this subject. But a few days ago he was urging us to confer upon these freedmen the right of suffrage in the District of Columbia and in the Territories. He is here to-day urging us to extend to them charity and support, confessing in his argument, as is confessed both in the bill and the amendment, that they are incapable of taking care of themselves. The Senator during the progress of his remarks said that they presented this extraordinary condition in the States where our armies had advanced: the masters had fled from their plantations, leaving their slaves; that the slaves thus abandoned cannot support themselves; and he calls upon us now to establish a bureau to take charge of and protect those slaves upon whom on other occasions he seeks to confer the right of suffrage.

But I said that the bill and the amendment to the bill confess before the country that this population is incapable of taking care of themselves and that provision is made in both measures to take care of them. This is the provision in the original bill:

And the said Commissioner, and by his direction the said Assistant Commissioners, shall have power to permit persons of African descent—

Mr. SUMNER. That is the House bill; not the Senate bill.

Mr. RICHARDSON. I say it is in both bills. I shall explain my meaning very fully to the Senator before I get through. I repeat it is in both bills; the provision in the House bill is in these words:

And the said Commissioner, and by his direction the said Assistant Commissioners, shall have power to permit persons of African descent, and persons who are or shall have become free, as aforesaid, under such rules and regulations as may be from time to time prescribed by said Commissioner and approved by the Secretary of War, to occupy, cultivate, and improve all lands lying within those districts now or heretofore in rebellion, which lands may have been or may hereafter be abandoned by their former owners, and all real estate within such districts to which the United States shall have acquired title, and which shall not have

been previously appropriated by the Government to other uses, and to advise and aid them, when needful, to organize and direct their labor, adjust with them their wages, &c.

In the amendment proposed by the Senator from Massachusetts it is as follows:

That the Assistant Commissioners and local superintendents shall be ready, as advisory guardians, to aid the freedmen in the adjustment of their wages, or, where they have rented plantations or small holdings, in the organization of their labor; that they shall take care that the freedmen do not suffer from ill-treatment or any failure of contract on the part of others, and that on their part they perform their duty in the premises; that they shall further do what they can as arbitrators, to reconcile and settle any differences in which freedmen may be involved whether among themselves or between themselves and other persons; and in case such differences are carried before any tribunal, civil or military, they shall appear as next friends of the freedmen, so far as to see that the case is fairly stated and heard. And in all such proceedings there shall be no disability or exclusion on account of color.

So that both the bill and the amendment make the broad statement to the country that these people are incapable of taking care of themselves, and that is urged as a reason why this bureau shall be organized, that we may take care of them. But, sir, the idea now sought to be carried out and consummated by this bill, to make war for, to feed, to clothe, to protect and care for the negro, to give him advantages that the white race do not receive or claim, is one that has characterized the legislation of Congress and all the acts of the President and his Cabinet for the past three years. The negro has been fed and clothed at the public expense. In the amnesty proclamation of the President of the United States, sent to Congress with his message at the beginning of this session, we have this declaration:

"The persons excepted from the benefits of the foregoing provisions are, all who are, or shall have been, civil or diplomatic officers or agents of the so-called confederate government; all who have left judicial stations under the United States to aid the rebellion; all who are or shall have been military or naval officers of said so-called confederate government, above the rank of colonel in the army or of lieutenant in the navy; all who left seats in the United States Congress to aid the rebellion; all who resigned commissions in the Army or Navy of the United States and afterwards aided the rebellion; and all who have engaged in any way in treating colored persons, or white persons in charge of such, otherwise than lawfully as prisoners of war, and which persons may have been found in the United States service as soldiers, seamen, or in any other capacity."

He will forgive any person who has treated the white soldiers of the United States in any other manner than as prisoners of war; but if they treat the black soldiers in any other way he will not forgive them. Why is this so? Is not the crime as great if they kill, when captured; white soldiers as black ones? And yet the President of the United States says, "I will forgive you for the one, but I will not forgive you for the other. You may commit murder, rape, violate the usages of civilized warfare upon the whites; I will forgive that; but touch the negro and you shall not be forgiven."

Mr. President, this exclusive regard for the interests of the negro is not only true in reference to the President of the United States, but it is true in reference to Congress. How many applications have been made here to investigate cases where white men have been, in violation of law, imprisoned, which, by a party vote, have been laid on your table, and all investigation stifled? What was the vote of the Senate when a negro was turned out of one of the street cars in this city? By that same vote that you laid those inquiries in reference to white men on your table, you caused one of the committees of this body to investigate the facts, to ascertain whether a negro had been turned out of a street car or not. The white man can be imprisoned, mobbed, or murdered—you do not care for that—but turn the negro from the cars, and you, with the speed of lightning, resist it.

The same doctrine that is laid down in the President's proclamation follows your action here, and not only here but everywhere else. Down in North Carolina, some little time ago, the rebels captured a portion of our troops who were natives of that State. They killed them. No investigation was ever had about them. No talk was ever

had here about it. Nothing was ever said about it here. But, sir, when the rebels took Fort Pillow, and destroyed the negroes garrisoning that fort, you did not leave it to the military authority to inquire into the subject, but you sent a special committee in hot haste from here to inquire into all the facts. In the first instance it was the white man that was killed; you do not care about that, nor does the President; in the other it was the negro; you must send your committee to look after it, and the President, in a stump speech at Baltimore, tells the public that we must retaliate upon the rebels for the massacre of his beloved race at Fort Pillow; but is silent then, and at all other times, about the whites who were massacred in North Carolina.

I might extend the instances and exhaust the day. I have only alluded to these for the purpose of calling the attention of the country to the fact established by official records of the action of the Executive and of both branches of Congress. The negro must live and not toil. The white race must toil and fight to free him, to feed and clothe him. To consummate this is the aim and purpose of Mr. Lincoln and his followers. He and they have no ambition beyond this.

But, Mr. President, the Senator during the progress of his remarks congratulated the country that the black soldiers had been placed on terms of equality with the white, and we are told here and elsewhere, day by day, that they are as good soldiers as our white soldiers; that they are being employed for the purpose of fighting our battles. Sir, I deny it. It is not true in point of fact. Will the Senator from Massachusetts tell me where they, with a single exception, have borne the stars and stripes of the country in the storm of battle?

Mr. SUMNER. Which is the single exception?

Mr. RICHARDSON. Port Hudson. Do you remember any other?

Mr. SUMNER. The Senator forgets Fort Wagner, where Colonel Shaw, of the Massachusetts fifty-fourth, fell on the very heights of the fort, and his dead body was covered by the dead bodies of his colored soldiers.

Mr. RICHARDSON. I am glad the Senator has corrected me. I want to do full justice to all men. The negro was not called into the service to fight battles, but to do garrison duty. The President of the United States, in his proclamation of January 1, 1863, tells us what he is going to do with the colored soldiers:

"And I do further declare and make known that such persons of suitable condition will be received into the armed service of the United States to garrison forts, positions, stations, and other places, and to man vessels of all sorts in such service."

Where are your negro soldiers with the army of the Potomac to-day? In the thirty days' fighting that has taken place, such as no country has ever seen upon the face of the earth, in what engagement have they been? They are in the rear garrisoning forts and positions that have been taken by the valor of white men.

There are, I am told, over seventy thousand negro troops in our Army. They are paid as much, fed and clothed as well as the white soldiers, and in this respect the equals of the whites, but in no other. Outside of forts they have fought twice, at most. In all other engagements where they have taken any part it has been inside of fortifications taken by white men's valor or made by white men's toil directed by white men's skill.

This talk about negroes fighting is a delusion and a myth. The President, the Commander-in-Chief of our Army and Navy, never intended and does not now intend that they shall do any other service in the Army except "to garrison forts, positions, and stations" which have been won by white men.

Mr. President, the continuance in office of Mr. Lincoln and his Cabinet would insure the success of measures which place the black race above the white if mere laws passed by man could do so. God has made the negro inferior, and such laws cannot make him equal. I have watched the progress of things for a good while. You did not pass your bill here the other day to allow negroes to vote in this District. I was not astonished at the arguments that were made in opposition to it. You were told that elections were coming on, and if you conferred the right of suffrage upon the negroes in

this District you would not be able to carry some of the States. That was the ground upon which some Senators on the other side opposed it, the ground of expediency, for the purpose of carrying popular elections. We may infer from the arguments which were made in opposition to that bill that as soon as the presidential election is over the right of suffrage will be conferred upon negroes everywhere. The Senator from Massachusetts will be able to carry his proposition next winter, if the people can be deceived to reelect Lincoln.

Mr. SUMNER. I hope this summer.

Mr. RICHARDSON. You have no show in the world this summer. If you could carry that proposition now, you could not carry one of the northwestern States this fall. These gentlemen who are hanging behind now, who are with the rear guard, will be in the advance after awhile. If you are successful they will be with you and in the van. If we are successful they will lead us I say, therefore, the American people need not be deceived on this point unless they wish to be.

How is it, Mr. President, in regard to many of the generals in the Army? The instances are rare where a general agreeing with the President of the United States in his negro policies has been retired from active service, and in no instance has such a one been dismissed. As a general rule where a general in the field has agreed and proclaimed that the negro was his equal in all respects, and that the negro furnished and was the standard of loyalty and patriotism, no matter what faults or blunders he may have committed, no matter what disasters may have befallen our arms by his stupidity and ignorance, no matter what fields have been lost that should have been won, he has been sustained and promoted by the President. Take as instances Generals Banks, Butler, Schenck, and Milroy on the one side; Generals Buell, Fitz John Porter, Andrew Porter, and Keyes on the other. Banks, Butler, Schenck, and Milroy sung hosannas to the negro and lost fields; Buell, the Porters, and Keyes did not rely upon hallelujahs to the negro to beat the rebels; they relied upon courage, strategy, and war. The first class, except Schenck, command to-day; the second are out of the Army.

General Banks lost battles in Virginia that a general should have won; abandoned positions that could have been advantageously held by competent commanders. By his blunders and ignorance he has lost the Southwest, supplies, camp equipage, and munitions of war enough to enable Kirby Smith to maintain himself this year's campaign. He is still in command. He is sound on the negro policies of the President. He can pronounce the shibboleth, negro equality and loyalty, exactly right.

General Buell, an accomplished officer bred to arms, when, miles away from Pittsburg Landing saw and knew that our forces there under General Grant would be assailed by superior forces, hurried from Nashville to save Grant's gallant army, and reached the battle only in time to save the fortunes of the field and turn defeat into victory, as Dessaix saved Napoleon at the battle of Marengo. He fought and won the battle of Perryville. He lost no fields. He was not sound or was rather suspected of being unsound on the negro policies. He was retired from active command.

General Butler, at the outset of this war, in the preliminary engagements was a private in the ranks of Jeff. Davis. It is believed that his is the only instance in the world's history where a man commenced as a private on one side and rose to the rank of general on the other without fighting a single battle. Since his promotion he planned the battle of Big Bethel; it did not result advantageously to our arms. We have the authority of Governor Pierpont for saying that he has been more successful in getting silver fruit-baskets, spoons, the contents of banks, stores, &c., than he has been in winning fields. If one tenth that is charged against him is true he ought to be shot as a confirmed brigand, a highwayman. I suspect the fact to be that half of his crimes are concealed. He is still in command; he has risen upon the negro's credit. A short time ago it was thought his days were numbered. It was apparent to everybody that fighting was to be done that required both courage and skill. As Butler possessed neither of these it was thought General Smith would supersede him. Butler issued an

order that the negroes on the boats running between Baltimore and Fortress Monroe should eat dinner at the same time and table as the whites. He was retained in command, and General Smith was placed under him. Butler was up to a few things; he is in favor of the President's policies; he can pronounce the shibboleth, negro superiority, exactly.

General Fitz John Porter has won many a hard-fought field. One of them has no parallel in history.

When General McClellan found he could get no support from here in his campaign against Richmond, not even thirty thousand men, though there were over one hundred thousand here and in the neighborhood, he commenced his retreat, fighting and falling back, bringing off his command, his munitions of war, and all that pertained to his army. The army reached Malvern Hill with Fitz John Porter in command of the rear. The rebels, confident of victory, assailed him with a force three to one. He repulsed them with great slaughter, gaining over them as complete a victory as has been won during the war. Porter, covering the retreat, displayed more ability and as much courage as Ney, Napoleon's brave marshal.

If Porter's fame rested on this battle alone it would carry his name down to the last syllable of recorded time. He is not now in the service. I will not proclaim the means by which he was dismissed the service, because it is not creditable to my country. He was supposed to be unsound upon the President's policies.

General Schenck's military fame rests upon the feat of dumping his men from a railroad car upon a battery at Vienna. His promotions were in consequence of soundness upon the President's proclamation. The President admired this so much that he agreed verbally to hold his commission as major general as an escrow, while Schenck served two years in Congress, and at the end of the time to hand it back to him.

General Milroy lost Winchester, with part of his command, ammunition, and supplies. But that did not matter; he was sound on the policies; he could pronounce shibboleth to suit Lincoln.

Andrew Porter and Keyes, although thorough soldiers, experienced officers, displaying on many fields their courage, skill, and science, are not trusted upon the policies.

This whole Government is being run to-day on the question of making all interest yield to that of the negro. If I were to bring a bill that would cost the Government the same amount this will for the benefit of the widows and orphans of the white soldiers who have been killed or died, I could not obtain for it over ten votes in this Senate. You will pass this, I fear. I wish we could defeat it. It is true the bill and amendment both, I believe, propose to pay over into the Treasury the residue of the money to be raised by leasing abandoned estates, &c. No dollar will ever go into the Treasury from this source, but every cent that freedmen want for food, for clothes, for every necessary of life, will be drawn from the Treasury as it is now. When the confiscation bill was passed there was a like provision in it. When the advocates of that measure were urging its passage, they said it would pay the interest on the national debt, and after a while pay the debt itself. The truth is, that all the sales of confiscated property do not now pay the expenses and never will. Each year millions are drawn from the Treasury to keep that in motion. But the Senator from Massachusetts tells us we must support these people by charity, and provides in the bill to pay the balance into the Treasury.

Mr. SUMNER. I have not said they should be supported. The Senator puts words into my mouth which I did not say. I said we owed to them care and protection during this transition period from slavery to liberty.

Mr. RICHARDSON. I beg the Senator's pardon. I accept what he says; but the Senator will permit me to call his attention to one remark in his speech, that this was "a great national charity." The Senator will remember that he used these words.

Mr. SUMNER. Certainly. I said it was at once a charity and a duty.

Mr. RICHARDSON. Of course he thinks it a charity and a duty. Why the provision in the bill that the residue of the money is to be paid into the Treasury? It is to mislead the public



mind. With your "charities and duties" in this direction you have brought us to bankruptcy, the nation to ruin, and our people once so happy and prosperous to toil and woe.

This "charity and duty" has united the South and divided the North. At the commencement of these difficulties we had, or thought we had, a large party in the South who were opposed to this rebellion. Mr. Lincoln notified us that there was a very large majority against secession. It was claimed that every State was devotedly attached to the Union except South Carolina. I believe that was true. Where are they now? This policy of yours has united them so completely that southern women are in the ranks, discharging the duties of soldiers, handling the musket and firing the cannon.

But still you say, let us go on. It does seem to me that, as reasonable men, we ought to stop, we should pause, we should hesitate. I am not often in the habit of thinking that anything Wendell Phillips says is either good or true; but he said the other day that for which any Democrat, if he had said it, he would have been confined in a fort. I cannot give his exact words—I quote from memory—but he said substantially that Jeff. Davis made a revolt, but Abraham Lincoln made a southern confederacy.

The reign of those who disregard all right does often receive the popular applause, but sooner or later even-handed justice deals to them the violence they have inflicted upon others.

The thought forces itself upon my mind often that all this effort to keep the negro before the public is for the purpose of attracting attention from the effort to overthrow liberty and establish despotism in this country. The wicked rebel and the negro, is the reply to any fear expressed that we shall lose our liberty in this contest.

Mr. President, in no country was liberty ever more menaced and endangered than it is in this country to-day. Like all countries in revolution, the people have conceded a little here and a little there on the ground of necessity until there is but little left. Cromwell in the revolution in England turned out the Parliament upon the plea of necessity. Napoleon when he ascended the throne of France with the bayonet drove the Assembly of France from its chamber. He permitted none to take their seats but those who supported him. A minority of that convention declared for him as emperor. The bayonet did the work.

Sir, what is our situation to-day? Where is trial by jury, your *habeas corpus*, your freedom of speech, your freedom of press, your liberty of conscience? Where are your free ballot, the first great birthright of Americans, and without which liberty cannot exist anywhere for a single moment? A few days ago certain newspapers in New York published a bogus proclamation, and they were suppressed by an order from Washington and the editors imprisoned.

Mr. JOHNSON. They were not imprisoned. They were ordered to be imprisoned, but Major General Dix did not do it.

Mr. RICHARDSON. The order was given from here. Not only does the President and Cabinet imprison citizens who have committed no crime, but generals and colonels and second lieutenants who do not know the difference between Webster's spelling-book with the leaves all out and the leaves all in, and it is justified and sustained by the President. The only hope for liberty in this country is the defeat of Mr. Lincoln this fall.

Throughout the entire North to-day, in every congressional district, you have provost marshals. You have them in your country, too, sir; [to Mr. JOHNSON.] The provost marshals claim the right to try all cases that arise, criminal and civil. They doubtless have never heard that there was a provision in the Federal Constitution that the military should be subordinate to the civil authority. They are contesting with our courts whether they shall try any cases in the courts or not. That great right conferred by the Constitution of the United States, that no man shall be tried for his life or liberty unless upon due presentment by a grand jury, is gone. A lieutenant, who has never seen the inside of a law-book, who would not know what you meant if you told him that there was such a thing as liberty proclaimed in every article of the Federal Constitution, he would tell you, "Here is a military necessity."

I know it may be replied to me, as it has been, that these things are done in pursuance of a law passed by Congress. True it is so; but before you passed your law, before it had an existence you had your provost marshals in every district throughout the country. Civil liberty, the liberty of the citizen, was stricken down and it is gone. And now the gentleman from Massachusetts tells us that we must have universal freedom. Sir, I am in favor of freedom too; freedom for the white race.

Mr. President, I care not who administers this Government. The time has been when I felt anxious to elevate a statesman and friend to that position. That time has gone with me forever. Give me the man for President who will give me a free ballot, trial by jury, the freedom of speech, the liberty of the press, and the right of conscience, and I care not by what name you call him, nor who he is; but so help me God I will resist to the utmost of my power always the one who has stricken down all these great rights.

When the conscription bill authorizing the establishment of military courts was pending and under consideration in the Senate, I moved an amendment to limit its operation to one year. That amendment was adopted unanimously. It passed the House, as I believe. The committee of conference struck it out, as I suppose. At all events it is not in the bill now. The object and intention is to have military tribunals to take the place of courts. You intend to overthrow the judiciary and make a despotism. The machinery you have now in full operation. I do not believe that all or even half that voted for this bill are in favor of this, but the power is exercised by those who will do it. I repeat, then, I have no doubt that the Senator from Massachusetts will press and pass this bill. No matter what becomes of the white man; let him go; let him starve; let him fight your battles; send him to the front, and leave the negro behind; let his wife and children perish wherever they may be; but you must take care of the negro.

Mr. SUMNER. If the Senator will permit me, I wish the negro to go to the front.

Mr. RICHARDSON. You said he would go.

Mr. SUMNER. I want us to allow him to go. He is anxious to go forward and perform military service. I want him to do it, and to save our fellow-citizens.

Mr. RICHARDSON. I know of no Senator and of no man in America who could do more to lead them to the front than the Senator himself, if he will go. I have no doubt if the Senator will go down to General Grant he can get at the head of those negroes, and if he will make one of his glowing speeches in favor of universal liberty and the black man's superiority, they will go with him to the front. I want them to go to the front, too; but, sir, they will not go. They will eat your rations and they will take your pay; they will guard your posts that do not need guarding; and that is all they will do.

Sir, I am opposed to this bill and all similar bills. The time has now come, when we must talk in reference to these things and talk plainly, and, for one, I intend to do so.

Mr. WILSON. I move that the further consideration of this bill be postponed until to-morrow at one o'clock.

Mr. SHERMAN. Why not go on with it now?

Mr. WILSON. I want to pass another bill.

Mr. SUMNER. Before the question is put, I must say a word. This bill has been intrusted to me by a committee of this body. It is one which is watched with great interest by the public justly. Its prompt passage is required by the public interests. I think the Senate ought to make haste with it. If my colleague tells me there is other business which concerns the public interests, and which, in his judgment, is of higher importance than this bill, I shall yield; but I desire it to be distinctly understood that I take no responsibility for it. I do not consent to abandon this measure except in deference to his judgment as chairman of the Committee on Military Affairs. If he tells the Senate that within his knowledge there is business that ought to be attended to in preference to this, of course I shall yield.

Mr. WILSON. All I can say about it is simply this: the President of the United States has sent a message here to-day, which I believe has not been read, with a letter from the Secretary of

War and a statement of the Provost Marshal General, urging the passage of the bill that is now pending before the Senate in order to raise men to reinforce our armies, and I think that any question for raising men to reinforce our armies is before any and all other questions in this country.

The PRESIDING OFFICER. (Mr. POMEROY.) It is moved that the bill before the Senate be postponed until to-morrow.

Mr. SUMNER. And made the special order for one o'clock.

Mr. HENDRICKS. Has it been made a special order?

The PRESIDING OFFICER. That is the motion before the Senate.

Mr. SHERMAN. It is now unfinished business.

Mr. HENDRICKS. I desire to say one word. Every proposition to make a special order for the last two weeks has been resisted, and successfully resisted, I believe, by the majority, upon the ground that the public interests would not allow special orders at this stage of the session.

Mr. SUMNER. I beg the Senator's pardon. Every proposition to make a special order during the morning hour, as the Senator will remember, has been resisted; but I am not aware that a proposition for a special order after the morning hour has been resisted.

Mr. HENDRICKS. I cannot say whether the Senator is certainly correct upon that or not. The argument has been made and objection urged that the condition of the public business of the Senate now as we are approaching the close of the session would not allow special orders to be made. Why is it that other bills are not allowed in view of the public interest to be made special orders, and this can be made so? This is a House bill. It has passed the other House; it is here; and if it goes back amended, of course it will receive the immediate consideration of that House. When it has been proposed that Senate bills that have never yet passed the House, and which must pass soon if they are to be considered in the House at all, shall be made special orders, the majority have voted it down. Certainly the interest that is peculiarly represented by the Senator from Massachusetts has occupied very much of the time of this session of Congress, and I cannot see that it is proper to make a special order upon this bill when it has been refused upon other bills.

The question being put, there were, on a division—yeas 12, nays 7; no quorum voting.

Mr. WILSON. I ask for the yeas and nays.

The PRESIDING OFFICER. It requires two thirds to make a special order, and it cannot be a vote.

Mr. WILSON. We must have the yeas and nays before the question can be decided, as there was no quorum on the division.

The yeas and nays were ordered.

Mr. HOWE. I wish the Senator from Massachusetts would modify his motion so as to postpone this bill until to-morrow. I am very anxious to get up in the morning hour to-morrow a joint resolution which has been before the Senate now for several days in the morning hour. I hope to conclude it in the morning hour; but if not, I do not wish to be precluded from having it considered after one o'clock.

Mr. SUMNER. Let this bill be postponed, then, until to-morrow at one o'clock.

Mr. HOWE. Very well.

Mr. SUMNER. I am willing that it shall be postponed until to-morrow at one o'clock, as my colleague first moved.

Mr. HOWE. I take it there is no objection to that, and it is not necessary to call the yeas and nays.

The PRESIDING OFFICER. The call will proceed.

The question being taken by yeas and nays, resulted—yeas 21, nays 8; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Doolittle, Fessenden, Harlan, Harris, Henderson, Howe, Morgan, Pomeroy, Sherman, Sumner, Ten Eyck, Van Winkle, Wade, Wilkinson, Willey, and Wilson—21.

NAYS—Messrs. Buckalew, Canfield, Davis, Hendricks, Johnson, McDougall, Powell, and Richardson—8.

ABSENT—Messrs. Colman, Cowan, Dixon, Foote, Grimes, Hale, Harding, Hicks, Howard, Lane of Indiana, Lane of Kansas, Morrill, Nesmith, Ramsey, Riddle, Sauts-bury, Sprague, Trumbull, and Wright—20.

The PRESIDING OFFICER. The motion is agreed to, two thirds of the Senate concurring

therein, and the further consideration of the bill is postponed to and made the special order of the day for to-morrow at one o'clock.

Mr. HOWE. The motion was not to make it a special order.

Mr. WILSON. I now move to take up Senate bill No. 286.

Mr. HOWE. Before that is done I wish to remind the Chair that that part of the motion which proposed to make this bill a special order was waived, and it is simply postponed until to-morrow at one o'clock.

Mr. WILSON. The Senator is right. It was not specially assigned, but was postponed until one o'clock to-morrow.

The PRESIDENT *pro tempore*. The Chair understands that the question was put upon making it the special order; but with the consent of the Senate, that being the understanding of the Senate, the record will be made to conform to it.

Mr. SHERMAN. There can be no question about the fact. The motion was modified and the bill was simply postponed until one o'clock to-morrow.

The PRESIDENT *pro tempore*. If there is no dispute about the fact, the Journal will be so made up.

Mr. WILSON. The whole Senate so understand it.

The PRESIDENT *pro tempore*. The Journal will be so corrected.

#### ARMY NEWS.

The PRESIDENT *pro tempore*. The Chair has received the following dispatch, which will be read:

The Secretary read, as follows:

WAR DEPARTMENT, WASHINGTON,  
WEDNESDAY, June 8, 1864, 12 noon.

A dispatch from General Grant, dated yesterday afternoon, 3.05 p. m., reports: "All has been very quiet to-day. No casualties reported."

A dispatch from General Sherman, dated at Acworth yesterday evening, 6.30 p. m., says:

"I have been to Altoona Pass, and find it very admirable for our purpose. It is the gate through the last or most eastern spur of the Alleghenies. It now becomes as useful to us as it was to the enemy, being easily defended from either direction. The roads hence (from Acworth) into Georgia are large and good and the country more open."

Details of the position of our troops and contemplated movements are given, but are not needed for public information. The dispatch further states that "the enemy is not in our immediate front, but his signals are seen on Lost Mountain and Kenesaw."

Dispatches from General Canby, dated June 3, have been received, which report satisfactory progress in the organization of his command.

EDWIN M. STANTON,  
Secretary of War.

The PRESIDENT *pro tempore* subsequently laid before the Senate the following dispatch:

WAR DEPARTMENT,  
WASHINGTON, June 8, 1.30 p. m.

A dispatch from Mr. Dana, at General Grant's headquarters, dated last night at 8.30 p. m., announces a victory by General Hunter over the rebels beyond Staunton, and that the rebel General Jones was killed on the battle-field. The dispatch is as follows:

"The Richmond Examiner of to-day speaks of the defeat of General W. E. Jones by General Hunter, twelve miles beyond Staunton, Virginia. General Jones was killed on the field. His successor retired to Waynesboro, and now holds the mountains between Charlottesville and Staunton. The paper further states that no hospitals or stores were captured by Hunter."

Another dispatch announces that our forces occupy Staunton. Hunter's victory and that our troops occupy Staunton is confirmed by the following dispatch just received from General Butler:

"All quiet on my line. Richmond papers of June 7 give intelligence of a fight at Mount Crawford between General Hunter and General Jones, in which Hunter was victorious, and Jones, rebel commander, was killed. Staunton was afterwards occupied by the Union forces. The fighting was on Sunday."

EDWIN M. STANTON,  
Secretary of War.

#### PERFORMANCE OF MILITARY DUTY.

Mr. WILSON. I renew my motion to take up Senate bill No. 286.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 286) to prohibit the discharge of persons from liability to military duty by reason of the payment of money.

It proposes to repeal so much of the act for enrolling and calling out the national forces, and for other purposes, approved March 3, 1863, and the acts amendatory thereof, as authorizes the discharge of any drafted person from liability to military service by reason of the payment of \$300

for the procuration of a substitute, or otherwise; but nothing contained in this act is to be construed to alter the provisions of existing laws relative to persons actually furnishing substitutes.

The Committee on Military Affairs and the Militia reported the bill with an amendment, to add the following additional sections:

SEC. 2. *And be it further enacted*, That nothing in the act approved February 24, 1864, amending the act approved March 3, 1863, for enrolling and calling out the national forces, shall be construed to repeal that part of the said act approved March 3, 1863, which requires that the board of enrollment, in making drafts, shall "make a draft of the required number and fifty per cent. in addition."

SEC. 3. *And be it further enacted*, That section twelve of the "Act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, be, and is hereby, so amended that the notice to be served on drafted men may be served within ten days after such draft or at any time within six months therefrom.

Mr. WILSON. Those sections are explanatory of two sections of the old act. I will allow the question to be taken on those amendments, and then I desire to move a further amendment.

The PRESIDENT *pro tempore*. The Chair will put the question on the first amendment reported by the committee.

Mr. WILSON. I will simply say that there is some doubt about the construction of that act. The old law provided that there should be drafted fifty per cent. more than the number called for. It was not intended to change that provision; but there is some doubt of the construction of the law as it now stands, and this section is intended to put that right; to allow them where there is a call for one hundred men to draft one hundred and fifty, as under the old law, so that they may have a surplus of fifty. If the law is understood simply to require them to draft for the number called for, they will have to draft over and over again. If they were one short it would require a new draft.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is on inserting the following as a new section:

SEC. 3. *And be it further enacted*, That section twelve of the "Act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, be, and is hereby, so amended that the notice to be served on drafted men may be served within ten days after such draft or at any time within six months therefrom.

The amendment was agreed to.

Mr. WILSON. I now offer an amendment which I propose shall come in as the second section of this bill:

*And be it further enacted*, That the President of the United States is hereby authorized, on and after the passage of this act, to call out, for a period not exceeding one year, such number of men as the exigencies of the service may require by draft, according to the provisions of the act approved March 3, 1863, entitled "An act for enrolling and calling out the national forces, and for other purposes," and the act, approved February 24, 1864, entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes.'"

Mr. WILSON. I now ask to have the message of the President and the letter of the Secretary of War and the communication from the Provost Marshal General read.

The PRESIDENT *pro tempore*. The Chair will now lay before the Senate the following message from the President of the United States, which, with the accompanying communication, will be read.

The Secretary read, as follows:

To the Senate and House of Representatives:

I have the honor to submit for the consideration of Congress a letter and inclosure from the Secretary of War, with my concurrence in the recommendation therein made.

ABRAHAM LINCOLN.

WASHINGTON, D. C., June 8, 1864.

WAR DEPARTMENT,  
WASHINGTON CITY, June 7, 1864.

Sir: I beg leave to submit to you a report made to me by the Provost Marshal General, showing the result of the draft now going on to fill the deficiency in the quotas of certain States, and recommending a repeal of the clause in the enrollment act commonly known as the \$300 clause. The recommendation of the Provost Marshal General is approved by this Department, and I trust that it will be recommended by you to Congress.

The recent successes that have attended our arms lead to the hope that by maintaining our military strength and giving it such an increase as the extended field of operations may require an early termination of the war may be attained. But to accomplish this it is absolutely necessary that efficient means be taken, with vigor and promptness, to keep the Army up to its strength and supply deficiencies occasioned by the losses sustained by casualties in the field. To that end resort must be had to a draft, but ample expectation has now shown that the pecuniary exemption from

service frustrates the object of the enrollment law by furnishing money instead of men.

An additional reason for repealing the \$300 clause is that it is contemplated to make the draft for a comparatively short term. The burden of military service will therefore be lightened, but its certainty of furnishing troops is an absolute essential to success.

I have the honor to be, your obedient servant,  
EDWIN M. STANTON,  
Secretary of War.

To the PRESIDENT.

WAR DEPARTMENT,  
PROVOST MARSHAL GENERAL'S OFFICE,  
WASHINGTON, D. C., June 6, 1864.

Sir: In accordance with the amended enrollment act approved February 24, 1864, and your orders on the subject, I am now conducting a draft in various sub-districts for their respective deficiencies on quotas of troops heretofore assigned. The results of this draft, so far as shown by reports of this date, are worthy of attention. They are, briefly, as follows:

Number of drafted men examined.....	14,741
Number exempted for physical disability....	4,374
Number exempted for all other causes.....	2,632

Total exempted .....	7,016
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Number paid commutation money.....	5,050
Number who have furnished substitutes....	1,416
Number held for personal service.....	1,259

(This last includes some who may yet pay commutation money.)  
Total not exempted..... 7,725

These reports come from sub-districts in eight different States. I invite your attention to the small proportion of soldiers being obtained under the existing law. I see no reason to believe that the Army can be materially strengthened by draft so long as the \$300 clause is in force, nor do I think it safe to assume that the commutation paid by a drafted man will enable the Government to procure a volunteer or substitute in his place. I do not think that large bounties by the United States should be again resorted to for raising troops. I recommend that the \$300 clause, as it is known, be repealed.

I am, sir, very respectfully, your obedient servant,  
JAMES B. FRY,  
Provost Marshal General.

Hon. E. M. STANTON, Secretary of War.

Mr. WILSON. Mr. President, I have always been anxious that the enrollment act should be as tender in its provisions as possible to the mass of the people, who are to bear the burdens of the draft. I have believed, and the commutation clause was inserted in the act originally in the conviction that it would lighten the burden of that draft to the mass of the people. I have no doubt it has done so. During this session of Congress, when we amended the original act, I stood alone in my committee in favor of retaining that provision, and I am exceedingly reluctant to give it up even now, and I did not vote for reporting this from my committee, but experience shows that we cannot raise men under that act so rapidly as we ought to do, and as the needs of the country now require. It will be seen from the statement of the Provost Marshal General that five thousand men paid commutation, while only one thousand rendered personal service, and fifteen hundred obtained substitutes.

It is now proposed to make this change, to allow substitutes to be obtained as formerly, to prevent the payment of money, and to reduce the term of service from three years to one year. I think we can raise the men for a short time very readily. The Government has no power to draft under the present act, although the Secretary seems to speak of it as if they had, for any time less than three years. Under the old militia law they had power to draft for nine months; but they do not propose to draft under that law. The enrollment act, as it now stands, is almost perfect in its framework, being the result of a great deal of experience. But, sir, I think it would be very hard to draft men for three years and not give them the privilege of paying this commutation. I cannot vote to do so. We want men now; and if we can obtain men by drafting for one year we ought to do so, for we hope the work will be done in that time. I move this amendment so that the time shall not exceed one year, for I want these two provisions to stand together, the one repealing the clause allowing the payment of commutation money, and the other reducing the time from three years to one year, leaving it discretionary with the Government to fix the number of the months.

Mr. JOHNSON. I ask for the reading of the amendment proposed by the Senator from Massachusetts. I do not understand it as he states it.

The Secretary again read it.

Mr. JOHNSON. I am not sure that the amendment proposed by the chairman of the Military Committee accomplishes his purpose. I understand him to say that he is against the repeal of the commutation clause provided a call can be made by the President for troops for the period of three years or any period longer than one year, and the amendment that he has offered he has offered for the purpose of taking from the President the authority to make the call for a longer time than one year. He does not repeal the acts which are now in force, and I am by no means sure that unless they are repealed, or those portions of them which authorize the call to be made for a period of three years, the President may not have the alternative of making the call for three years or any longer period than one year, not exceeding three years, even if the amendment is adopted. The object of the honorable member of course is to deny him the right to make a call for a longer time than one year. If he will phrase it, if it is not already done—it does not strike me as being very plainly done by the amendment—so as to say no call shall be made under those antecedent laws for a longer period than one year—

Mr. COLLAMER. It provides that the term for which the draft is hereafter to be made shall not exceed one year.

Mr. JOHNSON. Under this act. That is what it says. That is what struck me.

Mr. WILSON. No; it mentions the title of both the other acts.

Mr. JOHNSON. Then it will accomplish the purpose.

Mr. COLLAMER. The first expression in the amendment is perhaps doubtful. I think it says that the President "may" do this, instead of "shall."

Mr. JOHNSON. It ought to be put beyond doubt.

Mr. WILSON. I do not object to putting it beyond doubt. Certainly I want to give the President the authority to call men out for a term of one year or less.

Mr. JOHNSON. But he thinks he has that power now.

Mr. WILSON. I know they think at the other end of the avenue sometimes that they have got authority to do things which some of us think they have not, and we have taken occasion to say it. I have no doubt on the point that under the enrollment act the draft must be made for three years. It cannot be made for a day more or less.

Mr. JOHNSON. It cannot be made for a day more, that is very certain; but I suppose the ground upon which the Department and the President hold that under that act they may make a draft for a period short of three years is that the greater period includes the less. They are authorized to make a draft for three years, but they may make a draft for a less time. That is the view they take of it.

Mr. DAVIS. If the Senator will permit me, I will state that I have just read the amendment offered by the Senator from Massachusetts. It authorizes the President to call for one year's men under the bill that is now before the Senate. Under the previous laws he can call for three years' men.

Mr. JOHNSON. That is what I supposed.

Mr. COLLAMER. It does not confine it.

Mr. JOHNSON. That is what I thought when I first rose. We can put it into shape so as to leave it without any doubt. I was about to say further, and I might as well say it now as at any other time, after the amendment shall have been reduced to form to accomplish the purpose of the honorable member—

Mr. CONNESS. I call for the reading of the amendment.

The PRESIDENT *pro tempore*. It will be again read, if there be no objection.

The Secretary read it, as follows:

And be it further enacted, That the President of the United States is hereby authorized on and after the passage of this act to call out for a period not exceeding one year such number of men as the exigencies of the service may require by draft, according to the provisions of the act approved March 3, 1863, entitled "An act for enrolling and calling out the national forces, and for other purposes," and the act approved February 24, 1864, entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes.'"

Mr. JOHNSON. That certainly requires amendment.

Mr. WILSON. In what respect?

Mr. JOHNSON. He would still be authorized to call for three years' men under that provision.

Mr. WILSON. Certainly not.

Mr. JOHNSON. That is not the purpose, and we can amend it in a form to leave it beyond all doubt.

I was about to say, assuming that this difficulty is obviated by an alteration of the amendment so as to answer the purpose, that even with that alteration, which is to limit the power of the President to a call for three years, I cannot vote for the repeal of the commutation clause. I would very much prefer, if it is found that the commutation clause does not provide a sum sufficient for the purpose of procuring a substitute, that the amount be increased, and for this reason: when the law was first passed, as nobody knows better than the chairman of the committee who advocated it, it became exceedingly unpopular, and there was an attempt made to persuade the public mind that it drew an invidious distinction between what are called the poor and the rich; that whereas the rich man could easily pay his \$300 and get clear of the draft, the poor man would not be able to pay his \$300; but it was soon found by experience that even in the case of men who were too poor out of their own means to advance the \$300, if their condition in their neighborhood was such, in the estimate of those by whom they were surrounded and who were in better circumstances, that it was a very hard case to compel them to take the field and leave their families unprotected, the \$300 were raised by others for them. If this bill passes repealing the right to commute, there will be a much better ground for appealing to popular opinion as against the equality of this legislation, because of the difference in pecuniary means between men. You leave still to the man drafted the right to procure a substitute. That the rich man can do.

The theory of the Executive, and of those at whose instance he advises it, is, that the \$300 are not sufficient in the hands of the Government to procure a substitute. Why? Because the price for which alone a substitute can be procured will be \$600, or any larger sum. If that is true—and to a certain extent it will be true—those who are able to raise their \$600 or \$1,000, and go into the market, can get clear of personal service by procuring a substitute; while the poor man who cannot raise the money, neither by himself nor by his friends, will be compelled to render personal service. The only possible way in which equality of duty founded upon allegiance can be brought about by what is proposed by the War Department and the President is by rendering the draft imperative upon all, that all who are drafted shall render personal service without substitutes. If the honorable chairman and the Senator will reflect for a moment they will see that we are saying to the poor man, "You must go into the field and risk your life, and absent yourself from your family, but he who has the means of procuring a substitute shall not go, if he thinks proper, into the field." He may procure a substitute and remain at home, safe out of harm's way.

Personally, therefore, unless absolute equality is to be enforced, I very much prefer, if the \$300 commutation money is not adequate, so as to enable the Government to procure a substitute, to increase it to four or five hundred dollars. But just as certain as you enlarge the number who will require substitutes—and you do it to the whole extent of your draft as far as relates to those who are able to procure substitutes—will you increase the price of the substitute; and the consequences of that will be that our poor fellow-citizens will be forced to take the field, while their rich neighbors stay at home and discharge their duty to the country in dollars and cents, their bodies being out of danger and their families not being subjected to the agony to which the families of the land are now being subjected by losing husbands and fathers and brothers.

I shall, therefore, vote against the proposition to repeal the \$300 clause, being perfectly willing to enlarge it to five or six hundred dollars.

Mr. GRIMES. I propose to amend the amendment by adding the following section to it:

And be it further enacted, That all persons who have been drafted under the acts, or either of them, of which this is

amendatory, and who have been discharged from their liability to military duty by the payment of commutation money, shall be liable to any future draft as though no such commutation money had been paid.

Mr. JOHNSON. That would not be keeping faith.

Mr. CONNESS. If I understand the amendment of the Senator from Iowa, it provides that persons from whom the Government has taken money to the amount of \$300, with the agreement that they should be exempted from the draft for three years, shall now be declared to be subject to the draft again. If it is to be so understood I cannot vote for it.

While up, I will say that while I am prepared to vote for the repeal of the commutation clause, and allow the act to stand, leaving the person drafted the right to present a competent substitute upon such terms as the parties may see fit to arrange between themselves, I cannot vote for a proposition which shall reduce the period of the draft to one year. It appears to me that the proposition to reduce the period of the draft to one year is very nearly equivalent to a proposition to abandon the war. That is how it strikes my mind. After it shall be adopted I shall expect next a modification that the draft shall be for the period of ninety days, so as to come up to the first estimate made of the continuance of this war.

I think it is not the time, Mr. President, when our armies are in the field and in conflict, some of them suffering reverses and others engaged in the death-throes of battle with insufficient reserves behind them, to teach the country that we are to have hereafter but a single campaign; or, in other words, that the war shall last, so far as our declarations are concerned, but for one year. I think it is time, in the face of those facts, to exercise the power of the Government to call out the citizen wherever he shall be found, who is subject properly to military duty, and to teach the enemy, the world abroad, and our own people, that we intend to continue this war. I look with disfavor and will cast my vote against the proposition to reduce the period of the draft to one year. I regret very much that there is any evidence that it is adopted as the policy of the Government or the Administration.

The PRESIDENT *pro tempore*. The question will be on the amendment of the Senator from Iowa to the amendment of the Senator from Massachusetts.

Mr. BROWN. I should like to have the Senator from Iowa offer his amendment as a separate proposition, and after the vote shall be taken on the amendment of the Senator from Massachusetts, if he will so shape it. I desire to vote for his amendment, and I desire to vote against the amendment of the Senator from Massachusetts. I believe, sir, that any attempt now to make the period of enlistment or of conscription one year will be virtually an abandonment of the war. I believe with the Senator from California on that point, and I do not believe in putting it in the power of this Administration to take that attitude. I shall, therefore, desire to vote against the amendment of the Senator from Massachusetts, and to vote for that of the Senator from Iowa, if he will so shape it that I can do it.

Mr. GRIMES. I will withdraw my amendment until after the question is taken on the amendment of the Senator from Massachusetts.

The PRESIDENT *pro tempore*. The amendment to the amendment is withdrawn.

Mr. COLLAMER. If the amendment of the Senator from Massachusetts be made intelligible—and without that I suppose it is of very little value any way—so as to require the draft to be made for a period of one year, I am inclined to vote in favor of it. I am not very much of a military man; but my impression has been that we can very much better do that now than we could at the beginning. The regiments which we have formed have been all organized. We have probably as many of them as we shall ever want, and if we could keep them full it would be all that would be necessary. I suppose they are kept pretty well officered. The vacancies occasioned by the loss of officers could be filled up by appointing men from the ranks, raising them up to positions. Then we should have organized regiments with a considerable number of veteran troops among them. I think it altogether the better way to order a draft from time to time to fill up those regiments.



Let them remain the same, putting in the new drafted men with the old experienced men in the ranks; and they have all been pretty much filled up by reenlistments for three years until this campaign came off, which has decimated them. They should be filled, as I think, by drafting, and draft men from year to year, and by filling your ranks with those men you will keep the regiments in very good condition.

This idea of drafting men for three years and compelling their service is more than has yet been attempted in this country. I am not prepared to say what the effect will be; but this I will say: if you take away commutation, the price of substitutes of course will rise very much; they will be entirely beyond the reach of poor men or those having a moderate competence. Whenever you dispense with this commutation money so that men can ask just what price they please as substitutes, substitutes will be entirely beyond the reach of men of moderate competence and ordinary people in my quarter of the country, and therefore they must go into the service. If they are drafted to go away from their families and farms for one year, some exertion might be made by friends and others in some measure to supply their labor at home for a single campaign; but if you draft these men for three years at a time and under such circumstances, doing away with the commutation, as compels them to go, it is an unreasonable and an unnecessary call upon them. If you call them for the campaign to fill up your old regiments, and let them go home at the end of one year and fill the regiments up again with others, that will be requiring in some degree a turn-about among men, so that each may furnish some proportion of his service; but this drafting of poor men, and arranging your law in such a manner that they cannot pay the substitution money and cannot hire substitutes, on account of their high price, and drafting them for three years at a time, seems to me to be a very unnecessary and unreasonable burden, not called for even by our extreme exigencies. I think it should not be done. If the time were fixed at one year, and then you repealed your commutation clause, it might be endured; but even then it is subjected to all the objections which the Senator from Maryland has made to it; there are serious objections to it; but the great and serious difficulty is, that you go to a man and say to him, "You must leave your wife and children for three years together, but your neighbors are not to go at all." That ought not to be done.

Mr. WILSON. I am sorry to disagree with some Senators in regard to this question of time. I think it of vital importance to obtain men now within a few weeks, and I think it much easier to obtain men for one year than to obtain men for three years. It is a very hard thing to go to the people of the country and say to them, "We draft you into the service of the United States for three years; we will not allow you to pay commutation." It is especially a very hard thing to do when you do it in communities that have been hard pressed by previous efforts to fill their quotas, as some portions of the country have been. Sir, I believe we can obtain ten men by drafting for one year easier than we can obtain one man for three years.

Mr. BROWN. How?

Mr. WILSON. I believe if you put the term at one year men will say, "I will not pay the commutation money; I will not try to get a substitute; I will go into the service and do my part for one year." But three years is a large portion of a man's life; he feels the burden; he feels the interruption of all his social relations and all his business affairs; and it is very hard to say to him, "You shall go; you shall not pay any commutation." Some Senators talk as though drafted men ought not even to have the privilege of procuring substitutes, and of paying the large price for substitutes which they will have to pay if we pass this bill. They average some \$500 at the present time. The bounty for substitutes or enlisted men throughout the United States to-day will average at least \$500; and if you repeal this portion of the enrollment act the bounty will go up to double or treble that amount.

Sir, I think by adopting this proposition we can obtain all the men we want and put them into the field much sooner than in any other mode; and the time is of great importance to us, espe-

cially at a period like this, when we want men to sustain our armies that are advancing. Experience is proving to us that the old regiments in the field that have been filled up by drafted men, by substitutes, and by enlisted men during the past winter, have fought well and bravely, equal to any troops that have ever fought in the country. I am told by officers who have had two or three hundred of these raw men put into the old regiments during the present winter that the new men behaved admirably in every respect. What we now want is to fill up the regiments that have been cut down by the late battles; and it is an act not only of sound policy but of humanity to the people to have it understood that the term of service shall not exceed one year.

Mr. CONNESS. The Senator from Massachusetts, if he will excuse the expression on my part, seems to me to be engaged in an effort to reason away the courage of the country. When the enrollment bill was before this body, and the honorable Senator was conducting it here as the chairman of the Committee on Military Affairs, his proposition to limit the period of draft to two years was received with no favor in the Senate. That was about three months ago or thereabouts. What change is it that has come over the spirit of the dream of the country, or those who are conducting its Government, that should make them demand that the period of service now should be but for one year? I know there is a great deal of force in the suggestion made by the honorable Senator from Vermont, that new men in old regiments, under experienced officers who have been in the field and understand the duties and fatigues and labors of war, are worth more than new men in a comparatively disorganized condition with new officers and scarcely any organization.

But, sir, shall we not avail ourselves of the value of those new men in the old organizations for a longer period of time than one year? I ask, is there any prospect to-day in the aspect of military affairs that demands that we should ask for a less period of service than we have heretofore asked for? Has the alternative not existed presented by the term of "three years or the war"? If the war shall be ended before three years, will not these men be subject to be discharged? Do you mean to teach the men of the country who are fit to be soldiers that they are fighting for the money they receive? Do you mean to unlearn them the lesson that we have endeavored to teach them, and which they themselves, I think, understand, that they fight for their own country, and for the perpetuated liberty of their people?

Mr. President, the difficulty that has stood in the way of drafting from the beginning of this war has been the irritation the draft has caused to the people, and from the application of the draft, the Government have gone to the offering of bounties in extravagant sums to obtain soldiers. Why did the Government not persist in the system of draft? I apprehend it was because they preferred to pay a large amount of money rather than to subject the people to irritation. Are you going to subject them now to irritation annually to fill the ranks of your armies? Are the people to be taught at this period of the war that they will have a draft regularly once a year, and then in addition as often as there shall be spasms at headquarters? Is that to be the policy upon which this war is to be continued hereafter? If it is, I can but say that my soul is sad; that my fears are superior to my anticipations of the future.

It is not my office to condemn here, but the contrary; at least so I feel it; but why is it that with the power to draft, our armies should be engaged in single contests as they are at this time, without one hundred thousand additional troops ready at any moment of time to be pushed forward as reinforcements? When only a few days since a proposition came from a few of the Governors of the northwestern States to furnish one hundred thousand men for one hundred days, what lesson did it teach? It taught this unmistakably: the country were indirectly, if not directly, told by the proposition and its acceptance and its indorsement by Congress that this campaign would end the war. I trust in God that this campaign will end the war; but I say it is unwise, I say it is unsafe to make the impression in the country, and to have these spasmodic jerks substituted for the persistent determination

that becomes a great and intelligent people in the conduct of a great contest like this. There is nothing that astonishes the people who come here from the Pacific coast more than the half-hearted courage with which this war is being conducted.

Sir, there is power enough in the nation, there are resources enough in the nation, if God would only give us some power to organize it and to precipitate it against the enemy to win these battles, and to close this contest within a short time. If God would but inspire somebody, if He would but plant in some mind in authority the power to organize and then the power to direct, this great contest would be closed with more glory to the American people than ever before fell to the lot of any portion of mankind.

But, sir, instead of that we have had promises to the people and the world that the war was to last ninety days and then close; that we should end it in the next year certainly. We have the power to call out men by draft, but we fail to exercise that power; and now it is proposed to declare by the legislative authority that we will not call upon the men of America to fight this great battle lest they should be disturbed in their civil avocations, lest they should suffer some hardship by being removed from the theaters of peace to the great theater of war. All this is proposed to be done, sir, while day by day, if not hour by hour, there come to our tables dispatches that tell us of sanguinary conflicts where thousands and tens of thousands and continual tens of thousands of our brave heroes fall.

I undertake to say it here, Mr. President, that this war could have been closed long ago if the courage of the leaders of the people was equal to the courage of the people themselves. Why, sir, love of country among the people is a passion. To-day it but wants to be appealed to; it but seeks a leader; it but craves a master hand and a master spirit to guide it. Only recently you have had a magnificent exhibit of it. From having had chloroform in homœopathic doses administered to the courage of the people by its military leaders, the country has reached out and welcomed the hero Grant who now leads our forces so near the rebel capital. I say here, God give him power, for he shows a persistence, a tenacity, and a heroic courage unparalleled at least in the history of this war thus far. Now that you have found one man at least worthy of the homage of the nation, are you going to leave him by failing to build up a courage behind him? Why, sir, your military leaders cannot have courage so long as by your acts you demoralize the courage of the body of the people.

I hear much here and elsewhere upon the proposition of whether we shall use white men and black men in carrying on this war. Why, sir, I would use the beasts of the field; I would invoke the powers of heaven; and I would commend those from the infernal regions, that each might do its part in eating out and tearing out from the heart of the nation the malignancy that is directed at its vital seat; and while it was being done it would be the performance of a high office could a portion of that be directed at the craven cowardice, the shilly-shallying, the modifications by spasmodic jerks that are not characteristic of the spirit of the noble people who first planted themselves upon this continent, that are not characteristic of the advanced intelligence of the noble and magnificent courage that lies to-day, as certain as we sit here, in the bosoms of our people.

But Senators say "Dealeasily with the people." The people say "Command your hosts forward." Why, sir, what is the fact? and no better test, no better proof, can be presented. Let Grant take Richmond to-morrow, and though your convocations nominate civilians for the highest office in your gift, the people with acclamation would take him up and blot out all your flimsy work at one stroke.

I tell you, sir, the hearts of the most courageous men in your midst, the hearts of the purest men in your midst, the hearts of that portion of the people without whom you cannot maintain your Government, without whom you cannot conduct the war, without whom you cannot be wise in council, demand at your hands another spirit than that which you show, a spirit equal to that which the great body of the people feel who never, thank God, have a motive but to be right.

Mr. President, I do not imagine that any word

that I can say will change a vote here. I do not imagine that a measure asked for—if this be asked for; I do not know that it is—by the Administration will have a vote less, by anything that I shall say, than my own. But I regret—and when the vote is taken I desire to put my vote on the record against it—that this proposition has been introduced here. Let it not go abroad among your own people, send it not back to the armies that are struggling in the field, send it not abroad across the wide sea where palpitating hearts and expectant hope stand trembling together looking at our contest, that we here in the highest body of the nation have determined that hereafter this war shall be conducted by jerks, by spasms, by mere puerile attempts that are unworthy of us, and unworthy of the great cause which we love, and for which so many thousands and tens of thousands and hundreds of thousands of people lie cold in the grave to-day.

Mr. President, let us take care that we shall not die as a nation by a rotting to pieces, by inanition. In my opinion it is our great danger. Let us not hesitate to make drafts because of the effect of it upon the people, because of political campaigns, because it may affect this or that moneyed interest, because this or that branch of industry may stand still; but let us in God's name go forward and meet the just expectations of the people to fight the cause of right and of God, and let us in this our period be its great leaders and ministers.

Mr. WILSON. As I listened to the earnest, intense, not to say passionate words of the Senator from California, I almost wished that I too was a man of courage, that I too had this confidence, this hope, and this boastfulness. The Senator from California speaks of the spasmodic action of the administrators of the Government in raising men during the last few months. Does the Senator know that we have raised or reenlisted since the 17th day of October last six hundred thousand men, not to count black men, and that within the last year we have put in the field seven hundred thousand men; that we have made an exertion such as few nations ever made, and few nations can make; that we have spent \$125,000,000 in bounties; that we have drafted; that we have used the whole power and influence of the Government to increase our military forces? Sir, we have put forth an effort that excites the astonishment and commands the admiration of the world; yet the Senator from California, whose constituents are not drafted nor called upon, rises to-day and rebukes the Administration, rebukes us, and talks glibly of the timid counsels of men who are quite as hopeful, determined, and brave as himself.

Mr. CONNESS. Let me say at this point of time just this of my constituents: that they have asked and prayed to be let into this war; that of some seven thousand men who have enlisted and are filling up your western posts in comparative idleness, but very laborious idleness, every man of them offered to reenlist, and that without your bounties, if you would let them go where the enemy is. There is no people on this continent, in proportion to their numbers, that are so ready to go into the field as those constituents of mine. Let this much be said for them.

Mr. WILSON. Mr. President, I do not question the devotion or the courage of the men of California. They have proved their devotion to the country on more than one occasion. But, sir, that Senator should remember that some of us live in communities where the calls are over and over again; where sons, brothers, relatives, friends, neighbors, all have been summoned to the field of duty, and have responded to these calls. While we, their representatives, are ready to vote men and to vote money, we want to make these sacrifices of men and of blood bear as lightly as possible upon our people. Humanity and justice alike demand it.

General Grant is in front of Richmond. This rebellion is "coiled," to use the language of General Hooker, at Richmond, and within ten miles of that capital of treason. We have sent forty-eight thousand men to reinforce General Grant since the commencement of the march toward the rebel capital. Within thirty days we have gathered up over the country these reinforcements, two thousand of whom are the one hundred days' men raised in the State of Ohio.

Mr. WADE. Over two thousand have gone.

Mr. WILSON. Two thousand of them are already there, and others are hastening to that field of duty. The Government is casting a dragnet over the country, gathering up all the soldiers it can and hurrying them forward to the support of General Grant. If we had fifty thousand or one hundred thousand fresh men to send to his support to-day this rebellion would, I believe, go down within sixty days to rise not again.

Mr. CONNESS. I ask the Senator why we have not got them?

Mr. WILSON. We have raised men during the past eight months as rapidly as we could do it, and we have put them into the field. Since the 17th day of October we have put seven hundred thousand men in the field, and it is an unparalleled exertion of the power and the patriotism of the people. It requires time, it requires money, it requires organization to put such vast masses of men in the field. The Government now desire to continue that great work. It now asks us to repeal the commutation clause of the enrollment act to enable it to fill more readily the wasting ranks of our regiments in front of the rebel legions. The drafted man who pays his commutation to-day, if there is a new draft to-morrow, is liable to be drafted again to-morrow. It is proposed by the War Department to take away from the drafted man the power to commute by money, and I propose to shorten the time of service. Why? Because we can get the men far easier and quicker now when they are so much needed. Why, sir, there is not a man in the country who does not believe that we could by volunteering or by draft obtain the personal service of five men for a year easier than we could the services of one man for three years. It is to strengthen the country now, to strengthen it at once, to support General Grant and General Sherman, and our generals who are in the heart of the rebel regions, that I make this proposition to shorten the time of service. I believe it to be good policy now; I believed it to be so last winter; and I believe if we had adopted one year then as the time, and had ordered a draft for half a million of six or twelve months' men, we probably should have had one hundred and fifty or two hundred thousand more men in the field than we have to-day—have had all the men that would be necessary to reinforce General Grant and supply the immense losses he has made, and must make, before he can crush Lee's army and enter the rebel capital.

Mr. President, I do not believe in all this talk that we have in the newspapers, and which is sometimes indulged in here, about bad management, shortcomings, timidity, and cowardice. When the history of this rebellion is written, when men study it, they will see that this nation has put forth an effort such as no nation in this century has put forth; that the people have given money and given blood with a lavish hand; that the Government, while it has made some mistakes growing out of inexperience, has directed the affairs of the nation with eminent ability. Sir, I believe history will pronounce that the Government of the United States and the public men of the United States have administered public affairs with ability, and that the people of the United States have manifested a patriotism and a devotion such as no nation ever manifested in the tide of time.

I see no reason for excitement about this proposition, no reason for indulging in reproaches, none for insinuations about timid counsels.

Sir, we agreed the other day to accept the services of a certain number of hundred days' men. Some of us thought the time was too short. If it had been six months or nine months or twelve months, I do not know that anybody would have objected to the proposition. But, sir, the State of Ohio promptly redeemed her pledge. Other States that made the same pledge are doing very well; but Ohio having a larger body of men organized was able at once to redeem her promise to the Government; and the capital of the country is protected to-day by these hundred days' men of the West.

Mr. SHERMAN. We have furnished eight thousand more than our quota.

Mr. WILSON. The Senator says that Ohio has furnished eight thousand more than her quota of those men.

Mr. FOSTER. If the Senator will permit me, the State of Ohio in the month of May sent to the field forty-two regiments, forty-five thousand men strong, and the Government clothed, armed, and equipped those men as soldiers in one month's time.

Mr. WILSON. I thank the Senator for the information. I did not know the number; but I knew Ohio had done exceedingly well.

Mr. HENDRICKS. If the Senator will allow me, that shows there is no necessity of a draft, when one hundred thousand men are raised in the Northwest in twenty or thirty days under the volunteering system.

Mr. WILSON. But the Senator will remember that these are one hundred days' men, men called out for but a short time. As much as we doubted the policy of calling them out, in the condition of the country, in the advance of our Army, in the need to use every soldier we had to aid General Grant, these one hundred days' men are rendering a service to the country surpassed by no body of men in the country. I wish we had one hundred thousand more of them; for I believe that if we had one hundred thousand men that we could push forward to the support of General Grant, the power of this rebellion would soon go down forever. General Lee carries the flag of this rebellion. Destroy his army, or capture that army, and this rebellion may linger for a few months, and there may be some small actions, but the backbone of the rebellion will be broken.

Sir, if I am to accept this repeal of the commutation clause I want to couple with it the authority to the Government to draft for a time not exceeding one year. I am told it is the purpose of the Government to do so. In fact, the Secretary so states in the communications before us; but they have no authority to do it under the law. The law is clear and plain; there can be no mistake about it. It requires that drafted men shall be drafted during the time of the rebellion, if it does not exceed three years, thus putting them on the same footing with the three years' enlisted men.

Mr. GRIMES. Mr. President, very erroneous ideas might be formed by Senators and by the country from the allusion that has been made to the State of Ohio. It is not true that the other States in the Northwest have responded as promptly as Ohio to the call for one hundred days' men. No one of them has filled up its quota, so far as I know, except Ohio.

Mr. WILSON. I spoke of Ohio because I understood that she had filled her pledge, and more too. It was understood at the time of the call that she had probably more than half these men organized in regiments and could send them at once, whereas the other States had no organizations, and it would take more time to raise the men.

Mr. GRIMES. I suppose they had them organized in what was known as the national guard, and organized in such a way that they could immediately respond to the call of the Governor. I have no doubt that the people of Illinois, Wisconsin, and Iowa would have responded with equal promptitude if there had been any organization through which the people could have been reached; but the call went to them when there was no such organization, and the result is that no State except Ohio, so far as I know, has been able to fill up its quota.

But I should like to make one inquiry in regard to the proposition now under consideration. Certain States have filled their quotas entirely of three years' men; other States have not filled up their quotas. Is it proposed that hereafter, under the provisions of the section which the Senator from Massachusetts has introduced for the consideration of the Senate, the States that are now in arrear shall be credited with a full three years' man by the draft that is to be made of a one year's man? For instance, suppose, as an illustration, that my State—which is not true, for she has an excess of twelve thousand three years' men—but suppose she had a deficiency of twelve thousand, and you go on and make a draft in that State of one year's men. Under this bill, if it shall become a law, are we to be credited with the full twelve thousand that may be raised there? Would that be fair toward the other States to say that a State that had been holding back and not filling up its quota might, by the operation of this new

rule which you propose, now discharge all its liabilities by sending its men into the field for only one year, while the adjacent State that was more patriotic filled up its quota with three years' men? It seems to me that the bill, if it is adopted, will operate unequally and unjustly in that regard.

Mr. WILSON. Some of the States—the Senator's State is one of the number—have more than filled their quota. There are, however, only sixty thousand in the whole United States short. On the 1st day of May the State of Massachusetts was four thousand and seventy short in her quota. I state this on the authority of the adjutant general of the State. We had the whole month of May to fill our quota, and draft has been going on for three weeks. I have no idea that this measure will apply to her in the draft now going on. I do not intend it shall do so, at any rate. I only intend it to apply to calls that may be hereafter made. If we draft for a year in one State, and another State has furnished for three years more men than was called for, she ought to have the benefit of it, and the Government has acted upon the plan of giving full credit to States upon the three year basis.

Mr. LANE, of Indiana. I am certainly in favor of the repeal of this commutation clause. The Senate will bear me witness that in the beginning of the session I introduced a proposition to repeal the \$300 commutation clause, and then stated that instead of raising men under that provision you would simply raise money by lottery; and it turns out to be true. Your draft, as far as it has advanced, has only got five per cent., as I understand, of men, and the balance has been paid in money. This proposition now is to repeal the commutation clause; and the amendment of the chairman of the Committee on Military Affairs is that hereafter, if that clause be repealed, you shall draft for one year.

But, Mr. President, this is no time for rash counsels or idle words. I am for fighting this thing out, whether it lasts one year or two years or one hundred years, until the rebellion shall be suppressed; and I am not overly sanguine that one year will accomplish the object. But it seems to me that there is some plausibility in the argument that you should not draft for but one year until you shall draft again in another class who have not been called upon at all. It does not, as I understand it, affect the State which I in part have the honor to represent, for it is not deficient upon any call that has been made by the President of the United States.

It seems to me that the argument of the chairman of the Committee on Military Affairs is defective in one thing. He says if you reduce this call from three years to one year you will get the men easier and more speedily, and fill up your armies at once. Why do you draft men at all? Because they will not volunteer; and if you draft them you draft them precisely as speedily for three years as you can draft them for one year. It seems to me that argument is altogether fallacious. If they are ready to volunteer, you do not need a draft; and if you have to draft you will get them for three years precisely as readily and as speedily as you will get them for one year.

I only arose to say that I am now for the repeal of the commutation clause as I was at the beginning of the session. I told you then, as this Senate will bear me witness, that before the Senate adjourned you would repeal that clause. I am now ready to repeal it; and I am ready to go further, and repeal the right of substitution; so that whenever a man shall be drafted he shall go into the service if he is an able-bodied and competent soldier. If this rebellion goes on, as I hope in God it may not, for another year, the right of substitution will be repealed, and all conditions as to age may be repealed, until every man able to bear arms will be required to bear arms; and when the last soldier shall have fallen we will hand the contest over to the women and children, and the old flag will triumph whether you have men under forty-five or not to bear it.

Mr. WILSON. I think the Senator will agree with me that in the draft of fourteen thousand men that has been made, if the time, instead of being three years had been one year, and the commutation remained the same as it is, we should have obtained more substitutes, and more men for one year than we now have. Many of the men who have paid the money would have obtained

substitutes, because substitutes would have been cheaper for one year than three years, or they would have gone themselves rather than pay the commutation of \$300 and be liable to draft the next call, as they are by law. That is the point I make.

Mr. BROWN. I will inquire of the chairman of the Committee on Military Affairs whether this bill was not unanimously offered and reported by the Military Committee as it stands on the table?

Mr. WILSON. Certainly it was reported by the unanimous assent of the committee, although I have ever been for the commutation, and do not know that I shall vote for the bill.

Mr. BROWN. Then I ask where the Senator from Massachusetts gets the ground upon which he predicates the amendment which he has offered? Does it come from the Department? Is it a suggestion of the Administration? Or what is the ground on which he puts it? Or is it simply an amendment offered on his own motion?

Mr. WILSON. The Senator will remember that some two or three weeks ago I offered this proposition as a joint resolution, at that time intending to press it to a vote in my committee, but the expression of opinion in the committee showed me that it would be voted down. The Senator will find that the Secretary of War, in the communication he now makes, states that the intention is to draft for a shorter period than three years. He sustains the idea embodied in the amendment I offer, and the President is in favor of this policy I am confident.

Mr. BROWN. Then I presume the Secretary of War goes upon the ground that he already has the right to do so. Is that the case?

Mr. WILSON. I think the Secretary of War assumes—he certainly must assume from what he says in his letter—that he has that right; but he certainly has not the right. I will read the act if the Senator desires to hear it.

Mr. BROWN. Yes, sir; I should like to hear it.

Mr. WILSON. There cannot be a doubt on this point. It must be a careless reading to leave any doubt of it. The eleventh section of the act of 1863 says:

"That all persons thus enrolled shall be subject, for two years after the 1st day of July succeeding the enrollment, to be called into the military service of the United States, and to continue in service during the present rebellion, not, however, exceeding the term of three years."

They are to go into the service for the present rebellion; but if the present rebellion lasts more than three years, then they are to go out at the end of three years. The drafted men are put on precisely the footing of the three years' men. The act says:

"Not, however, exceeding the term of three years; and when called into service shall be placed on the same footing, in all respects, as volunteers for three years, or during the war, including advance pay and bounty as now provided by law."

In every respect they were put on the same footing, and were intended to be the same as three years' men; and the three years' men are enlisted for "three years or during the war."

Mr. BROWN. I will only ask one other question of the Senator in order that we may get at a full comprehension of the scope of his amendment; and that is, is it in contemplation in the amendment offered by the Senator from Massachusetts that the power to call out men by conscription for three years shall be taken away from the Government?

Mr. WILSON. My amendment is simply this: it authorizes the Government to call out men for a term not exceeding one year; they can draft men for that period. Here is a proposition to repeal the commutation clause of the old act. I assented to report it to the Senate to take the sense of Congress, but I think if we had time enough it would be the best and wisest policy to retain the commutation clause. The Senator has always advocated the repeal of the provision and so have all the members of the Committee on Military Affairs. If it is to be repealed now, I want to adopt this provision to authorize the President hereafter to call out men for a term not exceeding one year. I think this policy a wise and humane one; that it will bear more lightly upon the people and fill more rapidly the wasting ranks of our armies.

Mr. COLLAMER. I desire to shape an amendment with a view to cover the point sug-

gested by the Senator from Iowa, and also by the Senator from Indiana, in relation to the effect of calling for one year's men so that they shall not count as three years' men; but I cannot do it at the moment at my table. For that reason I desire to move that the Senate now adjourn.

Mr. CONNESS. Will the Senator from Vermont withdraw his motion for a moment to allow me to say a word?

Mr. COLLAMER. I withdraw it. The PRESIDENT *pro tempore*. The motion is withdrawn.

Mr. CONNESS. I simply desire to say that I listened with some attention to the honorable Senator from Massachusetts to hear from him arguments and reasons why his amendment should be adopted; but I listened mostly to a defense of the Administration against the remarks that I had the honor to submit. I will not undertake to reply. While I am not desirous of entering the lists in competition with the honorable Senator, that it may be ascertained, either for our satisfaction or the satisfaction of the country, which of us, the Senator or myself, is the best friend and the truest supporter of the Administration, I will say to the honorable Senator that I think, though he is exceedingly patriotic and I have no doubt exceedingly attached to the Administration, he has no advantage of myself on either point.

Mr. WILSON. I do not question the Senator's patriotism, his earnestness, his devotion to the country, or his support of the Administration, but I did think that in the Senator's remarks, while he was exceedingly earnest, he reflected rather sharply not only upon the Administration, but upon some of its supporters here. I am not the Administration's slave. I generally support their policy. On some things I have to condemn them, as does the Senator, and all of us.

Mr. CONNESS. I fully understand that, and will simply say that the only difference that I can see between the honorable Senator and myself on these subjects is that sometimes I breathe a little louder than he does. [Laughter.]

Mr. JOHNSON. Will the honorable chairman of the committee inform us, if he can inform us, how many men it is proposed to call for by the Government?

Mr. WILSON. I do not know.

Mr. JOHNSON. That may in some measure influence my vote.

Mr. WILSON. I can ascertain by to-morrow morning.

Mr. JOHNSON. Do you know how many men are now in the Army?

Mr. WILSON. I do not, and if I did I should not feel at liberty to say, because it has been the policy of the Secretary of War to keep it away from our own people; for, as he says, if he should let everybody know it, the enemy would soon know it; that he would give a great deal if he only knew how many men they had, and he supposed they would if they knew what we had.

Mr. JOHNSON. If he makes a call for a specific number of men they will find that out very soon.

Mr. WILSON. They will find that out; but they do not know the number of men in our service. We have got a large force in the field, but still we want more.

Mr. JOHNSON. I do not understand the President or the Secretary of War to be limited as to the period of service. They want the law to remain as it is as far as I can get their opinion from the message.

Mr. WILSON. I think the Senator will find in the letter of the Secretary of War that he proposes to draft for a shorter period than three years. Under the militia law he can do it, but not under the enrollment act. That is as clear as sunlight.

Mr. COLLAMER. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, June 8, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

## INDIAN ACCOUNTS.

The SPEAKER laid before the House a letter from the Secretary of the Interior, transmitting



the accounts of the superintendent of Indian affairs of the southern superintendency; which was laid upon the table, and ordered to be printed.

DANIEL M. DENMAN AND EBENEZER TOWNLEY.

Mr. PRICE, by unanimous consent, from the Committee on Revolutionary Claims, made an adverse report on the memorial of Daniel M. Denman and Ebenezer Townley, heirs of John Denman and George Townley, for compensation for beef furnished during the revolutionary war; which was laid upon the table.

#### NIAGARA FALLS CANAL.

Mr. LITTLEJOHN, by unanimous consent, moved that the Committee of the Whole on the state of the Union be discharged from the further consideration of House bill No. 126, to construct a ship canal around the falls of Niagara, and that it be postponed to the second Tuesday of December next, the day to which the Illinois canal bill was postponed.

It was ordered accordingly.

Mr. LITTLEJOHN moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### IDAHO.

Mr. CRAVENS, from the Committee on Territories, reported back House bill No. 486, to amend an act entitled "An act to provide a temporary government for the Territory of Idaho."

The bill provides that the Governor of the Territory of Idaho be authorized to reapportion the Territory for the election of members of the Council and house of representatives of the Legislative Assembly, provided the apportionment shall be based on an enumeration of the inhabitants and qualified voters of the several counties and districts of the Territory to be taken by such persons, and in such mode as the Governor shall designate and appoint, and the persons so appointed shall receive a reasonable compensation therefor, to be paid out of the territorial treasury; provided further, that the act shall not be construed to divest any member of the council, elected at the first election in the Territory, of any rights he may have acquired by virtue of that election, who was elected from any county or district within the present limits of the Territory of Idaho; and that the annual election in the Territory for the election of all officers provided for by the laws of the Territory, for the year 1864, shall be held at such places as is now provided by law, and such other places as the Governor may direct, on the second Monday of October.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. CRAVENS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### FRANCIS MUNSON.

Mr. SPALDING, by unanimous consent, from the Committee on Revolutionary Pensions, reported a bill for the relief of Francis Munson; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

#### AMENDMENT OF THE RULES.

Mr. COX. I am directed by the Committee on the Rules to report the following:

That rule 134, page 94 Barclay's Digest, be so amended as to include admission to the floor of the House, in addition to those named in that rule, of ex-members of Congress, provided that said ex-members of Congress subscribe a statement to be filed with the Speaker that they have no interest directly or indirectly in the prosecution of any claim or bill before Congress, and that they will not use the privilege of their admission for forwarding the interest of any one before Congress.

Mr. PENDLETON. I move to strike out the proviso to that proposition.

Mr. COX. That proviso will keep out more than are now kept out. I know that it was a crying sin when I first came to Congress seven years ago that ex-members came within the bar and occupied our seats writing letters, lobbying claims, &c., until it became a nuisance, so that when we moved to the new Hall we adopted the rule excluding them

Mr. MORRILL. When my resolution was before the House for devoting the old Hall to the reception of statuary, the gentleman objected that the statue of Jeff. Davis would be included.

Mr. COX. I never made that objection that I remember. I helped the gentleman with his proposition. I always favored art in all its manifestations. I am sure of that.

I am very certain if the gentleman's party succeeds—and no doubt he thought it would until Fremont appeared—there will be no danger of Jeff. Davis's appearance here!

Mr. MORRILL. I think the resolution should be amended so as to require them to take the oath of allegiance at any rate.

Mr. COX. I object to such an amendment; for I think the gentleman's object is to break down this resolution.

Mr. MORRILL. Not at all.

Mr. ELDRIDGE. I would inquire of the gentleman from Vermont whether it would not be well to require them to take the oath which is required to be taken in Kentucky to enable a man to vote—to support the Administration?

Mr. MORRILL. I think if they subscribe the oath now required it will be sufficient.

Mr. COX. I do not think the gentleman is in earnest. There is no danger of disloyal men and secessionists referred to coming here just now, while Generals Grant and Hancock are fighting them. There is no danger of disunionists or any such obnoxious men coming here and taking any part, at least upon this side of the House. And if they came this resolution would not prevent them from being properly arrested, properly tried, and properly hung.

Mr. MORRILL. Would not the resolution now admit the friend of the gentleman from Ohio, who is now sojourning in Canada?

Mr. COX. Of course, it would not exclude my former colleague; and the very first gentleman to welcome my former colleague would be the gentleman from Vermont, owing to the old friendship existing between them. He is not inculpated in this rebellion; and the gentleman from Vermont himself has often acted with him in a social and sometimes in a political way. He does not believe in a dissolution of the Union. These amendments and such unkind remarks unjustly prejudice and complicate this matter; and I insist that it is not germane to make allusions of this character upon such a question as this.

Mr. MORRILL. I insist upon my amendment.

Mr. COX. The President himself said my former colleague (Mr. Vallandigham) was not guilty of anything; and the only reason he gave for his action in exiling him was that he feared that he might at some time or other be guilty of something. So much for that fling at the absent.

Mr. ELDRIDGE. I am opposed to the amendment proposed by the gentleman from Vermont, for I think that if we will only leave the doors open and induce Jeff. Davis to come here, that is the only way we will ever catch him. I would like to have him come here, so that we could catch and hang him.

Mr. BALDWIN, of Massachusetts. Is another amendment in order?

The SPEAKER. An amendment to the amendment is in order.

Mr. BALDWIN, of Massachusetts. In order to complete, in my estimation, the amendment offered by the gentleman from Vermont, I move to add thereto the words "and who have never been engaged in rebellion against the Government."

The SPEAKER. The Chair would say that the oath already required to be subscribed is to that effect.

Mr. COFFROTH. I move to lay the resolution and amendments upon the table.

Mr. COX. I do not yield to any motion of that kind.

This resolution came in the first place from the gentleman from Indiana, [Mr. LAW,] whom I do not see now in his seat. The motive he had in presenting it was entirely of a social character. He expects some time or other to come back to this House, and meet here his old friends; and it would not be either pleasant or comfortable for an ex-member to come here and be shoved off into the gallery, when he could make his visit delightful by intercourse with his old friends and

associates here upon the floor. We guard by this amendment against any wrongful interference with the business of Congress upon the part of any ex-member. I hope this matter will be treated seriously and properly, and that the resolution will be passed without amendment. I demand the previous question.

Mr. WASHBURN, of Illinois. I hope the gentleman will withdraw that call.

Mr. COFFROTH. I move to lay the report and amendments on the table.

Mr. WASHBURN, of Illinois. I desire to say a word or two.

Mr. COX. I withdraw my call in favor of the gentleman from Illinois.

Mr. COFFROTH. I withdraw my motion also.

Mr. WASHBURN, of Illinois. I hope the report will be laid on the table. I was compelled to differ with a majority of the committee in relation to this matter. The present rule was adopted after great deliberation. The whole subject, as the Speaker will very well recollect, was referred to a committee two or three Congresses ago, who revised all the rules, and they recommended this rule excluding from the floor of the House almost everybody, and particularly ex-members of Congress. That rule was adopted by a very large majority, and I think it has worked admirably. I do not believe in this thing of admitting ex-members of Congress and giving them a sort of exclusive lobby privilege. I am aware of the provision in the proposed rule that they shall certify, but I do not think that any gentleman who came here would want to be compelled to take such an oath, and I am opposed to a modification of this rule. I hope the motion of the gentleman from Pennsylvania will prevail, and that we shall lay the whole subject on the table.

Mr. COFFROTH. I move to lay the whole subject on the table.

The motion was disagreed to—ayes 34, noes 60.

So the House refused to lay the whole subject on the table.

The question recurred on the demand for the previous question.

The previous question was seconded, and the main question ordered, being first upon the motion of Mr. MORRILL to add to the proposed rule the following proviso:

*Provided further, That such ex-members shall also take and subscribe before some competent officer the oath of allegiance required of members of Congress, so far as the same shall be applicable.*

Mr. COX. I hope the gentleman will withdraw that amendment.

The SPEAKER. The gentleman cannot withdraw it unless by unanimous consent.

The question was taken on the amendment, and it was agreed to—ayes 54, noes 41.

The question recurred on the motion to strike out the proviso as amended.

Mr. COX demanded tellers.

Tellers were ordered; and Messrs. Cox and WASHBURN, of Illinois were appointed.

The House divided; and the tellers reported—ayes 49, noes 49.

The Speaker voted in the negative.

So the proviso was not stricken out.

Mr. CRAVENS moved to lay the whole subject on the table.

The motion was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the whole subject was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. DAVIS, of Maryland, from the Committee on Rules, reported the following as an additional rule:

The names of members not voting on any call of the yeas and nays shall be recorded in the Journal immediately after those voting in the affirmative and negative, and the same record shall be made in the Congressional Globe.

The amendment to the rules was agreed to.

Mr. DAVIS, of Maryland, moved to reconsider the vote by which the amendment was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. WASHBURN, of Illinois, from the Committee on Rules, reported the following as an amendment to come in at the end of rule 145:

On Monday of every week, at the expiration of one hour

after the Journal is read, unless the call of States and Territories for bills on leave and resolutions has been earlier concluded, the Speaker may entertain a motion to suspend the rules.

The amendment of the rules was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the amendment to the rules was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### LANDS IN MISSOURI.

Mr. THAYER. I ask unanimous consent to report back from the Committee on Private Land Claims, for action at this time, House bill No. 435, concerning certain locations of lands in the State of Missouri.

Mr. WADSWORTH. I object.

#### VETO POWER IN WASHINGTON TERRITORY.

Mr. SPALDING called for the regular order of business.

The SPEAKER stated that the regular order of business was the consideration, as unfinished business, of the bill (S. No. 285) to regulate the veto power in the Territory of Washington; the question being on the motion of Mr. COLE, of Washington, to lay the bill on the table.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, its Chief Clerk, announced that the Senate had passed the internal revenue bill, and a bill concerning lands in the State of California, severally with amendments; in which he was directed to ask the concurrence of the House.

#### INTERNAL REVENUE BILL.

Mr. MORRILL. I move that the internal revenue bill, with the Senate amendments just reported from the Senate, be referred to the Committee of Ways and Means and ordered to be printed. I was inclined to make a motion at once to non-concur with the Senate amendments, and to ask for a committee of conference. I suppose that it would facilitate the passage of the bill and save some time. But there are a number of important amendments; there are a large number of amendments in all; and many of them are of an important character, in which various members of the House feel an interest. Therefore it may be well that the bill shall be printed and referred to the Committee of Ways and Means, which will act expeditiously upon it, and report it back at a very early day.

Mr. WASHBURN, of Illinois. I was in hopes that the gentleman from Vermont would have made another motion which I think would be more agreeable to the majority of the House; that is, that the House non-concur in the amendments of the Senate, and that the amendments be referred in the first instance to a committee of conference.

Mr. FENTON. I hope that the suggestion of the gentleman from Illinois will be adopted by the House. I am inclined to think that that course will be generally acceptable to members, and will save a good deal of time.

Mr. HOLMAN. I rise to say that if the subject be not referred to the Committee of Ways and Means these amendments should be considered in the House. I shall certainly object to a general motion to non-concur in all the amendments and to refer them to a committee of conference. The effect would be to prevent the House acting on the several amendments. I have no objection to the reference of these amendments to the Committee of Ways and Means; but otherwise I shall demand a separate vote on each amendment.

Mr. DAWES. Mr. Speaker, it seems to me that a bill of this magnitude should not be left entirely to a committee of conference. There is too much at stake in it. It would be an entire surrender of the functions of the House to deliver it over bodily to a committee of conference without any consideration of amendments of such vast importance as those in this bill. I am therefore opposed to the proposition.

Mr. MORRILL. If it was the unanimous consent of the House to refer the amendments to a committee of conference at once, I would have no objection; but as there is a difference of opinion about it I hope the House will consent to have the amendments printed and referred to the Committee of Ways and Means.

Mr. WASHBURN, of Illinois. I desire to say that if there be any general dissent to my proposition I will withdraw it. But I think it might as well go in the first instance to be adjusted by a committee of conference.

The question was taken on Mr. MORRILL's motion, and it was agreed to.

So the Senate amendments were referred to the Committee of Ways and Means, and ordered to be printed.

#### VETO IN WASHINGTON TERRITORY—AGAIN.

The House resumed the consideration of Senate bill No. 285, to regulate the veto power in the Territory of Washington.

Mr. BEAMAN moved the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. HOLMAN called for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 72, nays 45, not voting 65; as follows:

YEAS—Messrs. Allison, Ames, Arnold, Baily, John D. Baldwin, Beaman, Blaine, Jacob B. Blair, Bliss, Blow, Boutwell, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Thomas T. Davis, Dawes, Dixon, Donnelly, Driggs, Elliot, Farnsworth, Fenton, Frank, Gooch, Grinnell, Griswold, Hale, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburg, Ingersoll, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Longyear, Marvin, McIndoe, Samuel F. Miller, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Charles O'Neill, Orth, Patterson, Price, Alexander H. Rice, John H. Rice, Scofield, Shannon, Sloan, Spaulding, Starr, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, Williams, Wilson, Windom, and Woodbridge—72.

NAYS—Messrs. James C. Allen, William J. Allen, Ancona, Augustus C. Baldwin, William G. Brown, Chasler, Coffroth, Cox, Cravens, Denison, Eden, Edgerton, Eldridge, Finck, Ganson, Grider, Harding, Harrington, Herrick, Holman, Hutchins, William Johnson, Kalbfleisch, King, Knapp, Long, Marcy, McDowell, McKinney, James G. Morris, Morrison, Odell, Noble, Pendleton, Samuel J. Randall, Robinson, Rogers, Scott, William G. Steele, Strouse, Sweet, Ward, Wheeler, Chilton A. White, and Joseph W. White—45.

NOT VOTING—Messrs. Alley, Anderson, Ashley, Baxter, Francis P. Blair, Boyd, Brandegee, Brooks, James S. Brown, Clay, Cresswell, Henry Winter Davis, Dawson, Deming, Dumont, Eckley, English, Garfield, Hall, Benjamin G. Harris, Charles M. Harris, Hotchkiss, Philip Johnson, Kasson, Kernan, Law, Luzzar, Le Blond, Loan, Malloy, McAllister, McBride, McClurg, Middleton, William H. Miller, Moorhead, Nelson, Norton, John O'Neill, Perham, Perry, Pike, Pomeroy, Pruyn, Radford, William H. Randall, Edward H. Rollins, James S. Rollins, Rose, Schenck, Smith, Smithers, Stebbins, John B. Steele, Stevens, Stiles, Stuart, Voorhees, Wadsworth, Webster, Wilder, Winfield, Benjamin Wood, Fernando Wood, and Yeaman—65.

Mr. BEAMAN moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### BANKRUPT BILL.

The SPEAKER stated that the next business in order was the consideration of the bankrupt bill, on which the gentleman from Rhode Island [Mr. JENCKES] was entitled to the floor.

Mr. JENCKES. Mr. Speaker, the select committee on a bankrupt law have agreed to certain amendments, which will remove all the objections to the bill which have been made on the floor. I will send them to the Clerk's desk, and ask that they be adopted.

The Clerk read the amendments, as follows:

#### First amendment:

Add to section two the words, "For or against each assignee: *Provided*, That nothing herein contained shall revive a right of action barred at the time such assignee is appointed;" so that it will read:

Sec. 2. *And be it further enacted*, That the several circuit courts of the United States within and for the districts where the proceedings in bankruptcy shall be pending, shall have a general superintendence and jurisdiction of all cases and questions arising under this act; and, except when special provision is otherwise made, may, upon bill, petition, or other proper process, of any party aggrieved, hear and determine the case as a court of equity. The powers and jurisdiction hereby granted may be exercised either by said court, or by any justice thereof, in term time or vacation. Said circuit courts shall also have concurrent jurisdiction with the district courts of the same district, of all suits at law or in equity, which may or shall be brought by the assignee in bankruptcy against any person claiming an adverse interest, or by such person against such assignee, touching any property or rights of property of said bankrupt transferable to or vested in such assignee; but no suit at law or in equity shall, in any case, be maintainable by or against such assignee, or by or against any person claiming an adverse interest, touching the property and rights of property aforesaid, in any court whatsoever, unless the same shall be brought within two years from

the time the cause of action accrued for or against such assignee: *Provided*, That nothing herein contained shall revive a right of action barred at the time such assignee is appointed.

The amendment was agreed to.

#### Second amendment:

On pages 56 and 57, in section forty-three, in lines thirteen and fourteen, strike out the words "or whose property has been seized, attached, levied, or taken," and insert the words "and held in custody;" and on page 57, in line fifteen of the same section, strike out the word "attachment," and also in line twenty-two of the same section strike out the words "such debtor not having sufficient property to pay his debts in full;" so that it will read:

Sec. 43. *And be it further enacted*, That any person residing and owing debts as aforesaid, who, after the passage of this act, shall depart from the State, District, or Territory of which he is an inhabitant, with intent to defraud his creditors, or being absent shall, with such intent, remain absent; or shall conceal himself to avoid the service of legal process in any action for the recovery of a debt or demand provable under this act; or shall conceal or remove any of his property to avoid its being attached, taken, or sequestered on legal process; or shall make any assignment, gift, sale, conveyance, or transfer of his estate, property, rights, or credits, either within the United States or elsewhere, with intent to delay, defraud, or hinder his creditors; or who has been arrested and held in custody under or by virtue of mesne process, or execution, issued out of any court of any State, District, or Territory, within which such debtor resides or has property, founded upon a demand in its nature provable against a bankrupt's estate under this act, and for a sum exceeding one hundred dollars, and such process is remaining in force and not discharged by payment, or in any other manner provided by the law of such State, District, or Territory, applicable thereto, for a period of seven days; or has been actually imprisoned for more than seven days in a civil action, founded on contract, for the sum of \$100 or upwards, &c.

The amendment was agreed to.

#### Third amendment:

Add to section forty-one, page 55, the following: *Provided*, That whenever any corporation by proceedings under this act shall be declared bankrupt, such decree of bankruptcy shall work a forfeiture of all the franchises of such corporation, and the affairs of such corporation shall be wound up in the manner provided in this act in respect to natural persons.

The amendment was agreed to.

Mr. FRANK. I move in section thirteen to strike out "\$250" and in lieu thereof to insert "\$500;" so that it will read:

Sec. 13. *And be it further enacted*, That if any person residing within the jurisdiction of the United States, owing debts payable under this act exceeding the amount of \$500, shall apply by petition, addressed to the judge of the judicial district in which such debtor has resided or carried on business for the six months next immediately preceding the time of filing such petition, or for the longest period during such six months, setting forth his place of residence, his inability to pay all his debts in full, his willingness to surrender all his estate and effects for the benefit of his creditors, &c.

The amendment was agreed to.

Mr. CRAVENS. I wish to enter my protest against the passage of this bill, and I ask the gentleman from Rhode Island to yield to me for that purpose.

Mr. JENCKES. I will yield to the gentleman from Indiana for five minutes. My time is limited or I would yield to the gentleman longer.

Mr. CRAVENS. As one of the select committee to whom was referred the subject of a bankrupt law, I have not been able to agree with the majority of the committee in recommending the passage of the bill now under consideration. The few minutes allowed me to speak on the subject will not permit me to refer to the details of the bill, but I have no hesitancy in saying that the committee have labored to avoid many of the defects found to exist in former laws on the subject of bankruptcy; and with all the pains taken to perfect this bill I believe it will be found to be radically defective and impracticable.

I have listened to the able speeches made in favor of the measure, and after giving the subject all the attention that I could bestow on it, I have come to the conclusion that this bill ought not to pass. I am aware that it is considered by some very ungracious to offer any opposition to a measure of this kind, which is claimed to be for the relief of a meritorious but unfortunate class of our fellow-citizens. I have heard, and not without feelings of sympathy, the eloquent appeals that have been made in behalf of the oppressed debtor. I would not be insensible to those appeals if I could. The distresses of mankind never fail to awaken in my mind emotions of sympathy. I have never in my life collected one dollar by suing, and I hope I never may be compelled to resort to that mode to collect an honest debt. It has always been the policy of those who have plead

before Congress for the passage of bankrupt bills to portray the deep distress of the unfortunate debtor. Not more so on this occasion than has been the custom. In these times of civil commotion justice must be consulted, and our legislation should conform to its most rigid rules; and by those rules I have attempted to judge of the wisdom and expediency of this measure, and I find it condemned.

I believe the bill is not warranted by the Constitution of the United States, it is *ex post facto*, and it does impair the validity of contracts, which is forbidden by the Constitution.

I am not prepared to believe the framers of that instrument ever designed that the debtor should have it in his power to release himself by his own act and on his own motion, from his honest debts, incurred by valuable considerations received, and yet that is what this bill in substance proposes. I think it unsettles the very foundation of our whole social system, and adds another incentive to profligacy and reckless speculation, which now rages like a fever and deranges the public mind to an alarming extent.

I am not satisfied that this bill, should it pass and become a law, will not be rendered odious before the people on account of the facilities it will afford the dishonest debtor to release himself from his obligations to pay. That it may result to the advantage of some honest and worthy men I will not pretend to say; but they will be the last and the smallest in number who will enjoy its immunities. The reckless spendthrift, the speculator, and the stock-jobber are the men who will be the first, I apprehend, to take the benefit of the law. I think it safe to say that the western people, without respect to party, do not desire the passage of the law. There have been no petitions from the West, to my knowledge, asking Congress to pass a bankrupt bill. Such petitions are confined to commercial localities, and it is not a little strange that those localities where the Government has expended the largest amount of the public money during this war are those from whence come the most urgent demands for the law. Thousands there have grown rich on the misfortunes of the Government, and thousands more have determined to become wealthy without going through the slow and painful process of obtaining riches by economy and honest industry. Remove that dread of perpetual obligation to pay debts contracted, and will not the young and ambitious be tempted to embark in gambling in stocks on Wall street and elsewhere more readily? If the Government will stand ready to release whenever the unfortunate debtor has failed, what will there be to restrain him from the most reckless adventures? To my mind, the effect of this bill will be demoralizing.

Those who have urged the passage of the measure have not failed to refer us to the precedents furnished by the English statutes on the subject of bankruptcy. I am satisfied that, on examination of the statutory law of England running through a period of more than three hundred years, you will find no law which can be claimed as furnishing a precedent for this bill. The main feature and object in all English law on the subject of bankruptcy has been to protect the creditor, and the relief to the debtor has been merely incidental.

The American people have had ample experience on this subject. It is not a new theme to them; they have on more than one occasion passed judgment against the measure. In 1800 a bankrupt bill was passed for a limited period, but before the five years' time for which it was limited had expired the bill was repealed. In the troubled condition of the finances of the country generally, the subject was renewed in Congress in 1819-20, but it failed to receive the sanction of Congress.

The old Whig party made a bankrupt law one of the links in the great chain of measures which were to give relief to the country and the people on the triumph of that party to power in 1840. The party did triumph, and a bankrupt bill was passed at the extra session of Congress in 1840. But so glaring were the frauds practiced under the operations of that law that it was repealed the next year by a large majority in both Houses of Congress, but not until it had rendered odious all who had favored the law, and infamous nearly all who had the benefit of it. To such extent was this the case in my section of the State of Indiana

that I know of no insult a man will resent quicker than a charge that he had taken the benefit of the bankrupt law. We want no such law. And especially is this true with the agriculturists of the West, and I believe it true of that entire interest in the western States. We have no objections to your adopting such regulations by your States as may not necessarily encroach upon our rights. If your commercial interests demand more protection than you now have, go to your States for relief, but do not ask us to consent to the passage of a law which will unsettle all our business and social relations.

I do not hesitate to predict that if this bill passes, as I now believe it will, the people will demand its repeal and it will be repealed before two years. This is not a proper time to pass such a law as this. The general depreciation of the currency is practically accomplishing all that could reasonably be desired by the unfortunate debtor. When paper depreciates to 200, as it will be in a few days, half your debt is paid by the operation of your legal-tender laws.

I am opposed to the principles of the bill now before us, and shall vote against it on its final passage. But these are revolutionary times, and I suppose the bill will be passed through, and when you have taught the people to repudiate their individual debts you must expect there will be less compunction about repudiating national debts.

Mr. FARNSWORTH. I simply rose to say that the gentleman from Indiana is mistaken. Petitions have been sent to me to be presented to the House for the passage of a general bankrupt law.

Mr. ARNOLD. I desire to say that a large number of petitions have come from my district earnestly urging the passage of the bill.

Mr. WILSON. I ask the gentleman from Rhode Island to yield to me in order that I may move as an amendment to this bill a provision which shall include municipal and other corporations.

Mr. JENCKES. I cannot yield for that purpose. It will not do to destroy the local governments of any portion of the country. It would diminish by just so much the administrative and executive power of the Government, and leave the territory within a municipal jurisdiction without any government.

Mr. WILSON. I think all that difficulty could be obviated by a section which I have prepared with special reference to that point. I certainly do not feel like sustaining the previous question upon this bill, or voting for it, unless an opportunity can be had to amend the bill in this and some other respects. I understand the committee at one time agreed to this principle; and all the difficulty the gentleman from Rhode Island suggests can be avoided, and it should be done.

Mr. JENCKES. At the request of the gentleman from Maine I yield to him five minutes of my time.

Mr. SWEAT. I have but a few words to say upon the subject. I have heretofore had my share of prejudice against what are called bankrupt bills—bankrupt bills as they have been heretofore passed and placed upon our statute-books. But I think this is of a different nature from any bill before presented to the Congress of this country; and I really hope it will become a law, and if there are any imperfections in it, let them be remedied by future legislation. I am in favor of the passage of this bill because it is clearly in accordance with the provisions of the Constitution, and, in my judgment, is demanded by the best interests of the country. When the framers of the Constitution declared that Congress should have power to "establish uniform laws on the subject of bankruptcies throughout the United States," they intended not only to give the power, but to make it the duty of Congress to pass such a law.

As it has been said, the law of 1800 was a law more especially for the benefit of the creditor than the debtor. The law of 1840 was especially for the benefit of the debtor, disregarding in a great measure the interests of the creditor. It does seem to me that gentlemen upon the committee who have had this subject under consideration have for the first time met this question; and I think they have presented it in such a way as needs only to be thoroughly examined and understood to receive the support of very many gentle-

men in this House who have heretofore opposed the passage of a bankrupt bill.

Now I would ask the gentleman from Indiana, who has just spoken, and who claims incorrectly that the demand to be relieved from their honest debts comes alone from New England, whose interests are in opposition to the passage of a comprehensive, fair, and just bankrupt bill, such as is provided for by the Constitution? The only two classes of persons, as I view it, who can be opposed to the passage of a bankrupt bill under the Constitution are the grasping, merciless, and soulless creditors—and there are always more or less of those persons in every community who will never consent to the discharge of a debtor, though a vast majority of his creditors may be willing—and on the other hand the dishonest debtor. Now the dishonest debtor who has means at hand is not the man who will come forward and ask for the benefits of this law; but one of the peculiar advantages of this law is that it permits the creditor to force the dishonest debtor to have his goods, effects, and credits transferred to the proper assignee, and have his whole affairs investigated by and be subject to judicial action.

The gentleman from Indiana [Mr. CRAVENS] thinks that there is no necessity for the passage of this bill now. I should be very glad to believe as he does, that there is no necessity for it, and that there will be no necessity for it in the future. If he is correct I submit that the bill, being upon the statute-book, can do harm to no one. If there is no necessity for it, no man will claim its privileges or be subject to its conditions and obligations. But I do not agree with him; I think the necessity for its passage is apparent to every man, and more now than ever before, when there is such an increased demand for all the productive energies of the country, occasioned by the exhaustions of the war.

[Here the hammer fell.]

Mr. SWEAT. I did not understand that the gentleman limited me to five minutes.

Mr. JENCKES. My time is limited; but I will yield to the gentleman three minutes more.

Mr. SWEAT. There is one point I have not heard publicly asserted upon this floor, but which I know is asserted outside. The bill is said to be contrary to the history of this country. It is said to be undemocratic. I claim to have always belonged to a party that has stood between the Constitution and its assailants, giving them unflinching battle from the earliest days of our Government down to the present time, and I support this because it is a constitutional and necessary measure. It is said that there is no man who voted for the law of 1841 who is not now dead politically. I have yet to know of any man whose political position or life is of sufficient importance to weigh against measures like this. This bill seems to be one of the very few designed for the benefit of white men during this Congress, and I see no good reason why the claims and interests of one hundred thousand white debtors, embracing many of our most valuable business men, should not receive the favorable consideration of this House. If my political life and position are to be sacrificed for sustaining such a measure as this, then I have only to say that I shall esteem it a sacrifice made for a very worthy and noble object.

As my time is limited, I cannot of course extend my remarks. I can but express the hope that this bill may become a law. Place it upon your statute-book and you will give buoyancy, hope, and strength, for honest, useful effort, to tens of thousands who can never be released from their thralldom in any other way, and whose unrestrained services would be of invaluable benefit to the whole country.

Mr. CRAVENS. I desire to say one word in reply to the gentleman. I have not charged that this is a political or party measure. On the contrary, I am glad to know it is not. In my district I know no one, either Democrat or Republican, who asks the passage of such a bill as this. I know of no man of any party or of any shade of party who demands its passage.

As a member of the "special committee" I desire to say that I have had no opportunity to examine the provisions of this bill. It was considered in my absence. Hence I have urged no objections to the details of the bill. Perhaps it is as perfect as gentlemen could make it. I object to it, as I did to the bill of 1841, for it proposes



to sponge out honest, individual debts of every nature.

**Mr. CHANLER.** Mr. Speaker, I have no arguments to add to those advanced by the gentleman who introduced this bill. It stands upon its merits as introduced by him, and upon its merits, I judge, it will eventually pass. But, sir, there is something in this bill so national and reasonable, that I feel called upon to add my voice in presenting to the House a few facts connected with the history of bankruptcy. The necessity for this law exists in the exigencies of the times and in the requirements of a great nation with its varied and conflicting interests; a necessity suggested by experience to every people, of establishing some just system of law, which shall give security to enterprise and reward and protect trade through all its risks, and bring wealth and prosperity to the whole country. Upon the same principle the light-house is built, which directs the mariner traversing the ocean to seek a harbor in the midst of a storm, where he may shun utter ruin and refit his shattered fortunes.

Sir, no assault can be made on this bill upon principle. The assault against it is made upon time-worn prejudices alone. The gentleman from Indiana tells us that the support of this bill does not come from the West. I believe that position is untenable; but that there does exist a great prejudice against the bankrupt law in all agricultural countries I must admit, for all history proves it.

Owing to the brief space of time allowed me in this debate, it will be impossible for me to enter at large into the historical review of bankruptcy from this point. But the hint may serve to show the way to others, and by reference to the following facts I believe a fair illustration may be had of the course of legislation against class prejudices.

The origin of courts of bankruptcy is sufficient to prove that every farmer feels a natural antagonism to anything in favor of the trader. In the earliest part of the reign of Edward III, when for the first time among the English people traffic assumed a form, those markets that are now common in all commercial countries first began in England. Then the English trader first made his appearance. His differences and competition with the farmer became a source of difficulty. The trader's dishonesty became a source of loss to the farmer. This state of things continued till the time of Henry VIII. So heinous had then become the offenses of the traders that bankruptcy was treated as a crime, and the bankrupt became a felon.

The first statute against bankrupts passed in England was the 34 and 35 Henry VIII, entitled "An act against such persons as do make bankrupt;" and the preamble was as follows:

"Whereas divers and sundry persons craftily obtaining into their hands great substance of other men's goods do suddenly flee to parts unknown, or keep their houses, not minding to pay or restore to their creditors their debts and duties, but at their own wills and pleasures consume the substance obtained by credit of other men for their own pleasure and delicate living against all reason, equity, and good conscience."

The penalty fixed as punishment for such offenders was marked with all the cruelty which the customs of that age and the prejudice of the ruling agricultural interest of England could invent.

Upon complaint made to the Lord High Chancellor and other high personages, they were empowered to seize the body and effects and land of the offender. Such the spirit of English law remained even to the reign of George II, of Hessian memory, when the system pursued against bankrupts was full of cruelty and injustice, and a bankrupt for not surrendering upon the day appointed for him to do so was declared guilty of felony and liable to the punishment of death.

As commercial prosperity and a more liberal policy developed in Europe, the odium attached to bankruptcy began to disappear, and enlightened statesmen turned their minds to the noble task of eradicating the popular and prevailing prejudice against the victims to the vicissitudes of trade and freaks of fortune.

The severities of old laws were relaxed, and although the fraudulent bankrupt is still liable to punishment, his life is safe, and imprisonment limited to a term of years.

But statutes which remove penalties and free

the body often fail to illumine the mind and dispel popular prejudice—a fact which the whole course of legislation on this subject in modern times establishes with irresistible force. That ancient prejudice against trades among all classes of landed proprietors still exists in the popular mind, and forms, I believe, the basis of every argument against a national bankrupt law that has been advanced in this or any other legislative body.

Having endeavored to show what is the natural prejudice between the commercial and agricultural interests, I will pass to another point. I do not range myself in this debate, nor have I sought to do so at any time, as the representative of commercial interests exclusively, in antagonism to the gentleman from Indiana, [Mr. CRAVENS] as the representative of agricultural interests. But certainly it is becoming in us, representing different interests, to overcome those prejudices which have characterized all legislative bodies and have brought woe upon the people. By reference to the statistics of my colleague, [Mr. WARD,] gentlemen will find, Mr. Speaker, abundant proof of the numerous and just grounds of complaint against Congress for failing to redress the undeserved wrongs of a large and worthy class of our fellow-citizens made bankrupt by no fault of theirs, victims of a fickle fortune or a false friend. I alluded to the history of British law in this respect, and of the conflict between traders and non-traders. When the existing prejudice against including the agricultural non-trading interest in the same category with bankrupt traders was adjusted, the difficulty was insurmountable. I appeal, therefore, to gentlemen to be superior to these prejudices, and to examine the bill on its own merits, and I am confident that they will find that this bill is based on principles established by all commercial nations; that it does no injustice to any class of our citizens, but on the contrary that it redresses the wrongs of a large and deserving class, and is in consonance with the practice of all the insolvent courts of the United States. The great quality of this particular law is in its spirit; it possesses a great and good principle as well as a wise policy as its foundation; it seeks not only to do away with all those difficulties that have prevented men once under the ban of bankruptcy from finding relief without cringing to the creditor and undergoing the law's delay, but also abolishes by practical working of the system introduced that remnant of feudal prejudice which favors the lords of the soil and humbles the trader before the farmer, aiming to strengthen and renew that glorious privilege of equality among all classes in the State which underlies our Constitution. In reply to the argument that this bill is not in accordance with the Constitution, and hostile to the principles of American law, I will point all objectors to this one fact, that the Constitution of the United States, framed in view of the American system of Government, provides that Congress shall have power to establish a general bankrupt law.

Such is this law. It is the result of one of the requirements of the Constitution. And we wish that this session shall not close, this day shall not pass, without leaving on our records some small testimony that we are marching on, with all other great commercial and agricultural nations of the world, in perfecting the system of our jurisprudence.

#### MESSAGE FROM THE PRESIDENT.

A message, in writing, from the President of the United States, by Mr. HAY, his Private Secretary, was received.

#### BANKRUPT LAW—AGAIN.

The House resumed the consideration of the bankrupt law.

**Mr. JENCKES.** Mr. Speaker, this bill has been very widely distributed. It has been studied, I presume, by members of the House, and I know it has been studied by men out of the House. Every suggestion of amendment has been considered, and, so far as proper, has been adopted. Its passage has been recommended from the principal Boards of Trade in the country, by the representatives of the debtor interest and by the representatives of the creditor interest. We have files of letters from both sides recommending its immediate passage. It seems to me that the reason

urged by the gentleman from Indiana [Mr. CRAVENS] ought to be no objection to its passage—that the district he represents will not in the least be affected by it. The commercial districts will be affected by it. They ask for it as a healthy measure in the administration of commercial law. They ask it, representing as they do the greater portion of the property of the country. These districts include a large portion of the active business of the country, and why not concede to them the very beneficial measure which they request at our hands? They agree that it is a necessity for them, and the prosperity of their business is the wealth and prosperity of the nation. It is but fair and just that we should yield to them what they demand.

**Mr. Speaker,** I do not believe it is the wish of the agricultural portions of the country that this bill should not pass. I appeal to the gentleman from Michigan [Mr. DRIGGS] whether the contrary is not the case.

**Mr. BROWN,** of Wisconsin. Let me ask the gentleman from Rhode Island whether he has adopted the suggestions which were made for the amendment of the bill?

**Mr. JENCKES.** I have.

**Mr. DRIGGS.** In answer to the appeal of the gentleman from Rhode Island I will say a few words. The gentleman from Indiana [Mr. CRAVENS] has stated that in his district he does not know of a single man who is in favor of the passage of this bill. I wish to say that in my own district, and in any State west of my own, I do not know of a single individual opposed to the passage of a bankrupt law. I have been through all parts of my district, and I know that to be the case there. I think, from the little time I have had to examine the bill, that the special committee have prepared as good and wise a measure as we can hope to have, one founded on previous laws and experience; and I believe that the interests of the country demand its passage. I believe that the majority of the people of my State are in favor of the passage of such a law. I hope, therefore, that the bill will pass.

**Mr. JENCKES.** Mr. Speaker, this bill contains a provision to enable the House to make proper amendments if it be imperfect in any respect. It provides for the appointment of commissioners under the authority of the Supreme Court to provide rules for pleading and practice under it which shall be uniform in every district of the United States. I wish the bill to become a law at this session of Congress, so that the commission may enter upon their labors, and at the next session present to us their report on the subject. We may then have intelligent recommendations for future action. It is true that we cannot anticipate all the wants of the business of the country, but if we make a provision for the study of the law in the mean time, then we shall be able during this Congress to make corrections in its own work if there be errors in it. I now call for the previous question.

**Mr. CRAVENS** demanded the yeas and nays on the passage of the bill.

**Mr. STEELE,** of New Jersey, moved that the bill be laid upon the table.

**Mr. HOLMAN** demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 49, nays 65, not voting 68; as follows:

**YEAS**—Messrs. James C. Allen, William J. Allen, Ancona, Bailly, Jacob B. Blair, Bliss, Freeman Clarke, Cox, Cravens, Denison, Eden, Edgerton, Eldridge, Finck, Grider, Hale, Harding, Harrington, Charles M. Harris, Holman, William Johnson, Knapp, Law, Luzzar, Le Bond, Long, Marey, McDowell, James R. Morris, Morrison, Amos Myers, Noble, Charles O'Neill, Orth, Patterson, Pendleton, Price, Samuel J. Randall, Robinson, Rogers, Scofield, Scott, William G. Steele, Strouse, Tracy, Voorhees, Wadsworth, Chilton A. White, and Joseph W. White—49.

**NAYS**—Messrs. Allison, Ames, Arnold, Augustus C. Baldwin, John D. Baldwin, Beaman, Blow, Boutwell, Broomall, James S. Brown, Chandler, Ambrose W. Clark, Cobb, Coffroth, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Dixon, Donnelly, Driggs, Eliot, Fulton, Frank, Ganson, Gouch, Guinnell, Griswold, Herrick, Hooper, Asahel W. Hubbard, John H. Hubbard, Hubbard, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Longyear, Marvin, McIndoe, Samuel F. Miller, Morrill, Daniel Morris, Leonard Myers, Odell, Alexander H. Rice, John H. Rice, Shannon, Sloan, Spaulding, Stark, Sweet, Thayer, Thomas, Upson, Van Valkenburgh, Ward, William B. Washburn, Wheeler, Williams, Wilson Windom, and Woodbridge—65.

**NOT VOTING**—Messrs. Alley, Anderson, Ashley, Baxter, Blaine, Francis P. Blair, Boyd, Brandegee, Brooks,

William G. Brown, Clay, Cresswell, Dawson, Deming, Dumont, Eckley, English, Farnsworth, Garfield, Hall, Benjamin G. Harris, Higby, Hotchkiss, Hutchins, Ingersoll, Philip Johnson, Kaibfleisch, Kasson, Kernan, King, Loan, Mallory, McAlister, McBride, McClurg, McKinney, Middleton, William H. Miller, Moorhead, Nelson, Norton, John O'Neill, Perham, Perry, Pike, Pomeroy, Pruyn, Radford, William H. Randall, Edward H. Rollins, James S. Rollins, Ross, Schenck, Smith, Smithers, Stebbins, John B. Steele, Stevens, Stiles, Stuart, Elihu B. Washburne, Webster, Whaley, Wilder, Winfield, Benjamin Wood, Fernando Wood, and Yeaman—68.

So the House refused to lay the bill upon the table.

Mr. CRAVENS demanded tellers on seconding the call for the previous question.

Tellers were not ordered.

The House was divided; and there were—ayes 58, noes 43.

So the previous question was seconded.

Mr. CRAVENS demanded tellers on ordering the main question.

Tellers were ordered; and Messrs. CRAVENS and JENCKES were appointed.

The House was divided; and the tellers reported—ayes 52, noes 44.

So the main question was ordered.

Mr. WILSON moved to reconsider the vote by which the main question was ordered.

Mr. THAYER moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

The bill was then ordered to be engrossed and read a third time.

Mr. CRAVENS. Is the bill engrossed?

The SPEAKER. It is not.

Mr. CRAVENS. I call for the reading of the engrossed bill.

Mr. GRINNELL. I hope the gentleman will withdraw that call—will not indulge in that kind of cruelty.

Mr. CRAVENS. I will withdraw it if gentlemen will withdraw the bill.

Mr. JENCKES. I move that the House do now adjourn.

Mr. CRAVENS. Gentlemen have not been disposed to be gracious in assigning the floor.

Mr. JENCKES. I yielded to the gentleman all the time I could. I ask the gentleman to withdraw his call for the reading of the engrossed bill.

Mr. CRAVENS. If it is the desire of the House that I shall withdraw it, I will withdraw it.

Mr. J. C. ALLEN. I renew the demand.

Mr. JENCKES. I move that the House do now adjourn.

The motion was not agreed to.

The SPEAKER. The bill, not being engrossed, goes to the Speaker's table.

Mr. JENCKES, at a subsequent time, moved to reconsider the vote by which the House ordered the bill to be engrossed and read a third time.

The motion to reconsider was entered.

#### MESSAGE FROM THE PRESIDENT.

The SPEAKER, by unanimous consent, laid before the House a communication from the President of the United States; which was read, as follows:

WASHINGTON, D. C., June 8, 1864.

To the Senate and House of Representatives:

I have the honor to submit for the consideration of Congress a letter and inclosure from the Secretary of War, with my concurrence in the recommendation therein made.

ABRAHAM LINCOLN.

WAR DEPARTMENT,  
WASHINGTON CITY, June 7, 1864.

SIR: I beg leave to submit to you a report made to me by the Provost Marshal General, showing the result of the draft now going on to fill the deficiency in the quotas of certain States, and recommending a repeal in the clause of the enrollment act commonly known as the §300 clause.

The recommendation of the Provost Marshal General is approved by this Department, and I trust that it will be recommended by you to Congress. The recent successes that have attended our arms lead to the hope that by maintaining our military strength and giving it such increase as the extended field of operations may require, an early termination of the war may be attained. But to accomplish this it is absolutely necessary that efficient means be taken, with vigor and promptness, to keep the Army up to its strength, and supply deficiencies occasioned by the losses sustained in the field. To that end resort must be had to a draft; but ample experience has now shown that the pecuniary exemption from service frustrates the object of the enrollment law by turning money instead of men.

An additional reason for repealing the §300 clause is that it is contemplated to make the draft for a comparatively short term. The burden of military service will there-

fore be lightened, but its certainty of furnishing troops is an absolute essential to success.

I have the honor to be your obedient servant.

EDWIN M. STANTON,  
Secretary of War.

To the President.

WAR DEPARTMENT,  
PROVOST MARSHAL GENERAL'S OFFICE,  
WASHINGTON, D. C., June 8, 1864.

SIR: In accordance with the amended enrollment act approved February 24, 1864, and your orders on the subject, I am now conducting a draft in various sub-districts for their respective deficiencies on quotas of troops heretofore assigned. The results of this draft, so far as shown by reports to this date, are worthy of attention. They are, briefly, as follows:

Number of drafted men examined.....	14,741
Number exempted for physical disability.....	4,374
Number exempted for all other causes.....	2,642

Total number exempted.....	7,016
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Number paid commutation money.....	5,050
Number who have furnished substitutes.....	1,416
Number held for personal service.....	1,259

(This last includes some who may yet pay commutation money.)	
Total not exempted.....	7,725

These reports come from sub-districts in eight different States. I invite your attention to the small proportion of soldiers being obtained under the existing law. I see no reason to believe that the Army can be materially strengthened by draft so long as the §300 clause is in force, nor do I think it safe to assume that the commutation paid by a drafted man will enable the Government to procure a volunteer or substitute in his place. I do not think that large bounties by the United States should be again resorted to for raising troops. I recommend that the §300 clause, as it is known, be repealed.

I am, sir, very respectfully, your obedient servant,  
JAMES B. FRY,  
Provost Marshal General.

Hon. E. M. STANTON, Secretary of War.

Mr. FARNSWORTH. I move that the communication be referred to the Committee on Military Affairs and printed, with leave to the committee to report at any time.

The SPEAKER. The latter part of the motion requires unanimous consent.

Mr. PENDLETON. I object to that.

Mr. FARNSWORTH. I withdraw the latter part of the motion.

The motion, as modified, was agreed to.

The SPEAKER. The next business in order is the consideration of business from the Committee for the District of Columbia.

#### WATER TAX IN GEORGETOWN.

Mr. MORRIS, of Ohio, from the Committee for the District of Columbia, reported back, with a recommendation that it do pass, an act (S. No. 129) to amend an act entitled "An act to authorize the corporation of Georgetown, in the District of Columbia, to lay and collect a water tax, and for other purposes," approved May 21, 1862.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MORRIS, of Ohio, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### SIXTH STREET WEST.

Mr. MORRIS, of Ohio, from the Committee for the District of Columbia, reported back, with an amendment in the nature of a substitute, a bill (H. R. No. 364) authorizing the opening of Sixth street west.

The substitute was to strike out all after the enacting clause, and to insert the following:

That the corporation of the city of Washington be, and are hereby, authorized and required to open Sixth street west from the canal to Maine avenue, under the direction of the Commissioner of Public Buildings, in accordance with a plan approved, in May, 1822, by James Monroe, President of the United States.

Mr. WASHBURN, of Illinois. I would like to hear some explanation of that bill.

Mr. MORRIS, of Ohio. The House, I suppose, is well aware that according to a plan approved by President Monroe in 1822, Sixth street west was extended through and across the Government reservation west of the Capitol. I cannot see any reason why that street should not be extended according to the original plan. It is one of the important streets of this city. The wharf at the foot of Sixth street is one of the best and most important landings we have, and the fact that the street is closed across the reservation

compels the citizens of that street to go around by Four-and-a-half street, and compels persons going to Alexandria to go by that street also, or by Seventh street. I can see no reason or propriety in this state of things.

Mr. WASHBURN, of Illinois. Then I understand the object of the bill is to open the street so that passengers can pass along it across the canal and through the reservation over on to the island.

Mr. MORRIS, of Ohio. That is the object.

Mr. J. C. ALLEN. I would inquire if the obstruction of Sixth street is in violation of the Monroe doctrine? If so, I will go for the bill. [Laughter.]

Mr. WASHBURN, of Illinois. The bill is carrying out the Monroe doctrine, as it is in accordance with the plans of President Monroe.

Mr. MORRIS, of Ohio. The original plan was approved by President Monroe.

The substitute was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURN, of Illinois. I move to amend the title by inserting after the word "authorizing" the words "and requiring."

The amendment was agreed to.

Mr. MORRIS, of Ohio, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### SERVICE OF PROCESS.

Mr. PATTERSON, from the Committee for the District of Columbia, reported back bill of the House No. 434, to authorize bailiffs of the orphans' court in the county of Washington, District of Columbia, to serve process issued by said court, and for other purposes.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PATTERSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### SCHOOLS IN THE DISTRICT OF COLUMBIA.

Mr. PATTERSON, from the Committee for the District of Columbia, reported back, with an amendment in the nature of a substitute, bill of the Senate No. 26, to provide for the public instruction of youth in the county of Washington, District of Columbia.

Mr. PATTERSON. As this bill has not been printed, perhaps I ought to say a word in the way of explanation, especially as it is an important bill for the District of Columbia. It will be observed by comparing the Senate bill with the substitute, reported by the House committee, that there are several minor amendments, some of them intended to perfect the bill, and others designed to bring it into more complete conformity with the best results of the experience in those States where systems of education have been most liberally and successfully sustained.

In the twentieth section we have endeavored to give efficiency to the system by requiring attendance at school under a penal enactment. This is in accordance with the school laws in most of our northern cities, and would seem to be especially necessary here, where education has been so long and so generally neglected.

In the nineteenth section we provide for an increase of the school fund by requiring all penalties and forfeitures imposed for the violation of the laws of the United States to be paid into the hands of certain officers, who are made the custodians of this fund, and are required to expend it for school purposes.

But the most important feature of the amendment is to be found in the seventeenth and eighteenth sections, and in the proviso to the nineteenth section, which provides for separate schools for the colored children of the District. To accomplish this we have provided that such a proportion of the entire school fund shall be set apart for this purpose as the number of colored children between the ages of six and seventeen bear to the whole number of children in the District.

These are the principal points of difference between the Senate bill and the substitute report-

ed by the Committee for the District of Columbia. I may say that the committee were unanimous in their approval of these provisions, and I trust that that foreshadows the unanimity in the House.

We may have differences of opinion in regard to the proper policy to be pursued in respect to slavery; but we all concur in this, that we have been brought to a juncture in our national affairs in which four millions of a degraded race lying far below the average civilization of the age and depressed by an almost universal prejudice are to be set free in our midst. The question now is, what is our first duty in regard to them?

#### WAR NEWS.

The SPEAKER. With the permission of the gentleman from New Hampshire the Chair will lay before the House a communication from the Secretary of War.

The Clerk read, as follows:

WAR DEPARTMENT, WASHINGTON CITY,  
WEDNESDAY, June 8, 1864, 12 noon.

SIR: A dispatch from General Grant dated at five minutes past three yesterday afternoon reports: "All has been very quiet to-day. No casualties reported."

A dispatch from General Sherman dated at Acworth yesterday evening at half past six says: "I have been to Alatoona Pass and find it very admirable for our purpose. It is the gate through the last or most eastern spur of the Alleghenies. It now becomes as useful to us as it was to the enemy, being easily defended from either direction. The roads hence from Acworth into Georgia are large and good, and the country more open." Details of the position of our troops and contemplated movements are given, but are not needed for public information. The dispatch further states that "the enemy is not in our immediate front, but his signals are seen on Lost mountain and Kennesaw."

Dispatches from General Canby dated June 3 have been received, which report satisfactory progress in the organization of his command.

Very respectfully, your obedient servant,

EDWIN M. STANTON,  
Secretary of War.

Hon. SCHUYLER COLFAX,  
Speaker of the House of Representatives.

#### SCHOOLS IN THE DISTRICT—AGAIN.

Mr. PATTERSON. I think there can be no difference of opinion on this, that it is our duty to give to this people the means of education, that they may be prepared for all the privileges which we may desire to give them hereafter.

I move the previous question on the bill.

The previous question was seconded, and the main question ordered.

The substitute reported by the committee was agreed to.

The bill was then ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. PATTERSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### WASHINGTON CITY RAILROAD.

Mr. DAVIS, of New York, from the Committee for the District of Columbia, reported back, with a recommendation that it do pass, a bill (H. R. No. 495) to amend an act entitled "An act to incorporate the Washington and Georgetown Railroad Company."

Mr. DAVIS, of New York. I move to amend the third section by inserting after the word "Washington" the words "on relation of the complainant;" so that it will read:

SEC. 3. *And be it further enacted*, That for each and every violation of the foregoing provisions the said company shall forfeit and pay a sum not less than five dollars and not more than \$100, which may be recovered with costs of suit, on complaint of any person aggrieved, in any court of competent jurisdiction in the District of Columbia. Such action may be prosecuted in the name of the city of Washington, on relation of the complainant, and one half of the penalties recovered shall be for the use of the city of Washington, and the other half for the use of the complainant.

The amendment was agreed to.

Mr. DAVIS, of New York. I move to amend by striking out the proviso to the third section, as follows:

*Provided, however*, That any party complainant shall, before commencing such action, file with the clerk of the supreme court of the District of Columbia a bond to be approved by the clerk of the said court with at least one surety, to be approved by said clerk, and in a penalty of \$100, conditioned that the complainant shall well and truly save harmless and indemnify the said city against the payment of all costs and charges which shall be recovered against said city by reason of the failure of the complainant to prosecute or maintain his said complaint.

And inserting in lieu thereof as follows:

*Provided, however*, That in no event shall the city of

Washington be liable for any costs in any such suit, when judgment may be rendered against the relator of all costs, in case of his failure to prosecute or maintain his complaint.

The amendment was agreed to.

Mr. WASHBURN, of Illinois. I move to amend the first section by striking out "three" and inserting "two," so that it will read, "that the railroad company shall run one car each way every two minutes."

The amendment was agreed to.

Mr. DAVIS, of New York. I move to amend by inserting at the end of section six as follows:

Each of which tickets shall entitle the holder to one passage in any car of the company for any distance on either main line of railway, or on either branch thereof, or between the terminus of either of said branches and any point on said railway or branch.

So as to make it read:

SEC. 6. *And be it further enacted*, That it shall be the duty of said company, within twenty days from and after the passage of this act, to have prepared tickets for passage on their cars, and to keep them at their office for sale by the package of twenty-five, or over, at the rate of twenty-five for the dollar; each of which tickets, &c.

The amendment was agreed to.

Mr. DAVIS, of New York. I move to amend the bill by inserting the following as an additional section:

*And be it further enacted*, That if the said railroad company shall refuse or neglect to make the returns required by the act, it shall forfeit and pay, for the use of the Treasury of the United States, the sum of \$100 per day for each and every day of such neglect; and it shall be the duty of the Secretary of the Senate to notify the district attorney of the United States for the District of Columbia of such refusal or neglect, and he shall forthwith commence proceedings for the recovery of the penalties aforesaid.

The amendment was agreed to.

Mr. DRIGGS. I move to amend the first section of the bill by adding the words "every day, including Sunday;" so that it will read, "that from and after the passage of this act the Washington and Georgetown Railroad Company shall, during all sessions of Congress, run one car each way every day, including Sunday, every two minutes."

Mr. BEAMAN. It seems to me, Mr. Speaker, that that is rather too stringent a provision. Even if the propriety of running the cars on Sunday be conceded, it is not necessary that they shall run so frequently as on week days.

Mr. DRIGGS. As I prepared my amendment in a hurry, I will say briefly to the House what it is that I desire to accomplish. I think that the existing law, if properly construed, means that the cars shall run every day of the week. I withdraw the amendment which I offered, and will substitute this for it:

*Provided*, That the Company shall hereafter cause the cars to be run on said road and all its branches each and every day of the week.

Mr. HOLMAN. I want to call the attention of the gentleman from Michigan to the fact that while it is important that cars shall run on Sundays on account of the hospitals at the termini of the road on Seventh and Fourteenth streets and Pennsylvania avenue, it is a matter of the utmost importance that the cars should run on that day especially for the convenience not only of the citizens generally, but of ladies and men who are visiting this capital for the purpose of seeing patients at the hospitals.

Mr. DRIGGS. If the gentleman will allow me—

Mr. HOLMAN. While it is a matter of the first importance that the street cars should run on Sunday, still there is not the same necessity to have them run as frequently on Sunday as on other days of the week. I think, therefore, on Sundays that the cars should not be required to run oftener than every fifteen or twenty minutes.

Mr. DRIGGS. Mr. Speaker, it is well known that in all the principal cities where they were originally opposed to the running of cars on Sunday they have after experience been compelled to yield their objection. It has been found necessary to have the cars run on Sunday for the transit from one portion to another of persons who desire to attend to the Sabbath services at the different churches. Now there is no city where the cars are more needed on Sunday than Washington. It is well known that we cannot go about to the several hospitals unless at vast expense for coach hire. Last Sunday I was compelled to pay \$8 for the use of a carriage for one hour. If it is not wrong to go out in carriages I do not see why it

is wrong to go in the street cars. There is no feeling of reverence for the Sabbath involved in the question. We are obliged now to keep livery stables open on Sunday as well as other days.

Mr. STROUSE. I am in favor of the amendment.

Mr. MORRIS, of Ohio. With the permission of the gentleman from Pennsylvania I will move a substitute for the amendment of the gentleman from Michigan. I think it will better accomplish the object which he seeks. I move that there be a provision that the cars shall be run on such railway according to the original act.

Mr. WASHBURN, of Illinois. I think that will cover the whole case.

Mr. MORRIS, of Ohio. According to the original act they are required to run every five minutes on Pennsylvania avenue, and on Seventh and Fourteenth streets every fifteen minutes.

Mr. STROUSE. Mr. Speaker, I am in favor of this amendment; and when I say that, I have leave also to say that I yield to no man in my devotion to the sentiment and feeling of strict observance of the Sabbath day. But, sir, I look on it as a mockery to suspend the running of the street cars on that day in this or any other city, when we permit, not only permit but grant a general license to everybody who can afford it to ride in his or her carriage to church or any other place on that day. You or any member here can hire a barouche or phaeton and go to any place of public worship on Sunday morning; there is nothing wrong in that, forsooth; but the poor man, the laboring man and his family cannot have the street cars either to go to church or to refresh themselves from the heat and dust of the city in the green fields of the country.

Now, Mr. Speaker, I say to you and to this House that we must exercise a more enlarged liberality, a little more feeling and disposition toward securing the means for the benefit and comfort of the masses of our people, and not alone for the favored few. Let these street cars run on Sunday. Let the laboring man, he who works from morn to night and earns his daily bread by the sweat of his face, use them to go wherever he pleases for five cents. Let us act in a liberal spirit. There is no outrage on any religious observance due to that day. We can afford to be liberal in this country. Let him who goes to chapel, let him who goes to the green fields and meadows around here, let the servant-maid, the washerwoman, everybody, in fact, who chooses to, ride in these cars on Sunday as well as any other day. Let them have the same privilege as those who are able to ride in carriages. Let us act fairly and impartially.

I am glad we have at last a question devoid of party politics; one in which we do not find the inevitable negro. I see that we have cars where "colored persons" are admitted. I have not the slightest objection to that; if they pay they have the right to ride. As I have already said, we ought to act in a liberal spirit toward the citizens of Washington.

But now, sir, the city of Washington has become truly metropolitan, and the cars run from the navy-yard to Georgetown, and from the river to the extreme northern limits of the city, and we may have other roads. The world is moving; let us move with it. Let the cars run every day. There should be no objection here, and whatever the feelings, sentiments, and opinions of our friends here may be in relation to a violation of the Sabbath, let them sink such considerations when they remember that those who can afford to, ride in their carriages everywhere and anywhere on the Sabbath; whereas the poor man is obliged to walk or remain at home for want of a conveyance. Now Washington has become an important place. The population, permanent residents and sojourners, amounts to two hundred thousand, and they want facilities of locomotion from one part of the city to another.

We are the Legislature of the District; we make the laws, and we have no right to stint or circumscribe any right or privilege the citizens may demand. Let us act with a liberal, humane, charitable, and enlarged spirit, and let us grant what the people demand for the benefit of all classes, irrespective of any private feelings, private considerations, or sinister motives.

Mr. HALE. I trust this amendment will not prevail. We surely are not going to set an ex-



ample to the people of this country of such a violation of the Sabbath day as this amendment would bring about. If gentlemen have no conscientious scruples on the subject, some respect at least is due to those who have. The Congress of the United States should not at any time, but least of all now, authorize any act which, in the estimation of a large portion of the American people, involves a violation of the law of God.

So far as I know, no city in the Union authorizes or compels street cars to run on Sunday.

Mr. DRIGGS. The gentleman is mistaken. The cars are authorized to run on Sunday in Boston, New York, Detroit, and many other cities.

Mr. HALE. I was not aware of the fact, and I am sorry to hear that it is so. I did not suppose there was any city in this country which permitted cars to run on Sunday. I still hope there are none which compels a corporation to violate the Sabbath as this amendment does.

I certainly shall never vote to permit, much less require, a corporation of our own creation to violate what I believe to be a law of God. There is no necessity for it in this case. The street railroad has only been in use here for a comparatively short time, and people got along without street cars any day in the week, but now they say we cannot do without cars on Sunday. They are no doubt a great convenience on week days, but on Sundays as all the offices are closed members cannot use them for that purpose.

The principal reason given for compelling the company to run cars on Sunday is that the rails lead out to one or two hospitals in the neighborhood, and a few members of Congress would be accommodated easier or cheaper than in any other way in getting to them. This reason would be wholly insufficient if there were no other means of conveyance, as the distance is by no means too great to walk; but there are, and always will be, ample modes of getting there without using the cars. By this law we compel the drivers and conductors of these cars to work on Sunday, on pain of losing their places if they are too conscientious to break what they may regard as a law of God.

The horses, too, who drag these cars six days in a week are fairly entitled to rest on the seventh, by the law of humanity as well as the "higher law."

I make no impeachment of the motives or principles of gentlemen who advocate this measure; but I doubt the wisdom and policy of it, to say nothing of its moral aspect, which with me is conclusive, as I could not vote for it without doing what I regard a moral wrong.

I therefore earnestly hope the House will not adopt the amendment.

Mr. DAVIS, of New York, demanded the previous question.

Mr. MORRIS, of Ohio. I ask the gentleman to withdraw that until I can perfect the amendment.

Mr. DAVIS, of New York. I yield for that purpose.

Mr. MORRIS, of Ohio. My amendment is to add to the end of the first section the following:

*Provided, That on Sundays the said company shall run cars at the same intervals of time as prescribed in the original law for other days of the week.*

Mr. DAVIS, of New York. I renew the demand for the previous question.

The previous question was seconded.

Mr. CHANLER. My object in rising is not so much to enter upon a discussion of the religious aspects of the matter as to address myself to a practical aspect of the question. I should be very sorry if, in voting against the gentleman who last spoke, I should be considered as acting contrary to religious rules, or to the good of society; but experience in New York has proved that one of the best means of controlling that element of disorder which is set at liberty on Sundays in the streets of the city, is to furnish them with cheap means of getting out of the city and dispersing through the country. If left in the city they horde in places which certainly are objectionable, and where they indulge in the lowest habits. By tempting them out in the fresh air we remove them from the very sources of vice.

The main question was then ordered.

Mr. HALE demanded the yeas and nays on agreeing to the amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 59, nays 40, not voting 83; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Allison, Ames, Aucona, Arnold, Augustus C. Baldwin, Baxter, James S. Brown, Chanler, Coffroth, Cole, Cox, Cravens, Henry Winter Davis, Thomas T. Davis, Dawes, Donnelly, Driggs, Eden, Edgerton, Eldridge, Farnsworth, Fenton, Ganson, Herrick, Holman, Hooper, Ingersoll, Jenckes, Kalbfleisch, Francis W. Kellogg, Knapp, Law, Le Blond, Long, Marcy, Marvin, McDowell, McIndoe, Morrill, James R. Morris, Morrison, Leonard Myers, Noble, Patterson, Pendleton, Alexander H. Rice, Robinson, Scott, Shannon, Starr, Strouse, Tracy, Voorhees, Ward, Elihu B. Washburne, Wheeler, and Williams—59.

NAYS—Messrs. John D. Baldwin, Beaman, Boutwell, Broomall, Ambrose W. Clark, Denison, Dixon, Elliot, Finck, Frank, Hale, Charles M. Harris, Higby, Asahel W. Hubbard, John H. Hubbard, Hubard, Julian, King, Littlejohn, Daniel Morris, Amos Myers, Odell, Charles O'Neill, Orth, Price, Samuel J. Randall, John H. Rice, Scofield, Sloan, Spalding, William G. Steele, Thayer, Thomas, Upson, Van Valkenburgh, Wadsworth, William B. Washburn, Joseph W. White, Wilson, and Woodbridge—40.

NOT VOTING—Messrs. Alley, Anderson, Ashley, Bailly, Blaine, Francis P. Blair, Jacob B. Blair, Bliss, Blow, Boyd, Brandegee, Brooks, William G. Brown, Freeman Clarke, Clay, Cobb, Creswell, Dawson, Deming, Dumont, Eckley, English, Garfield, Gooch, Grider, Grinnell, Griswold, Hall, Harding, Harrington, Benjamin G. Harris, Hotchkiss, Hutchins, Philip Johnson, William Johnson, Kasson, Kelley, Orlando Kellogg, Kernan, Lazear, Loan, Longyear, Mallory, McAllister, McBride, McClurg, McKinney, Middleton, Samuel F. Miller, William H. Miller, Moorhead, Nelson, Norton, John O'Neill, Perham, Perry, Pike, Pomeroy, Pruyn, Radford, William H. Randall, Rogers, Edward H. Rollins, James S. Rollins, Ross, Schenck, Smith, Smithers, Stebbins, John B. Steele, Stevens, Stiles, Stuart, Sweet, Webster, Whaley, Chilton A. White, Wilder, Windom, Winfield, Benjamin Wood, Fernando Wood, and Yeaman—83.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. DAVIS, of New York, moved the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. PRICE moved to lay the bill upon the table.

Mr. HALE demanded the yeas and nays on that motion.

The yeas and nays were not ordered.

The question was put; and the House refused to lay the bill upon the table.

Mr. THAYER demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 61, nays 36, not voting 85; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Ames, Aucona, Arnold, Augustus C. Baldwin, Baxter, Jacob B. Blair, James S. Brown, Chanler, Coffroth, Cole, Cravens, Henry Winter Davis, Thomas T. Davis, Dawes, Donnelly, Driggs, Eden, Edgerton, Eldridge, Eliot, Farnsworth, Fenton, Grider, Harrington, Herrick, Holman, Ingersoll, Jenckes, Kalbfleisch, Kelley, Knapp, Law, Le Blond, Littlejohn, Long, Marcy, Marvin, McDowell, McIndoe, Morrill, James R. Morris, Morrison, Leonard Myers, Noble, Odell, Patterson, Pendleton, Robinson, Scott, Shannon, Starr, Strouse, Tracy, Van Valkenburgh, Ward, Elihu B. Washburne, Wheeler, Chilton A. White, and Williams—61.

NAYS—Messrs. John D. Baldwin, Beaman, Broomall, Ambrose W. Clark, Cobb, Denison, Dixon, Finck, Frank, Hale, Charles M. Harris, Higby, Asahel W. Hubbard, John H. Hubbard, Hubard, Julian, Francis W. Kellogg, King, Daniel Morris, Amos Myers, Charles O'Neill, Orth, Price, Samuel J. Randall, John H. Rice, Scofield, Spalding, William G. Steele, Thayer, Thomas, Upson, Wadsworth, William B. Washburn, Joseph W. White, Wilson, and Woodbridge—36.

NOT VOTING—Messrs. Alley, Allison, Anderson, Ashley, Bailly, Blaine, Francis P. Blair, Bliss, Blow, Boutwell, Boyd, Brandegee, Brooks, William G. Brown, Freeman Clarke, Clay, Cox, Creswell, Dawson, Deming, Dumont, Eckley, English, Ganson, Garfield, Gooch, Grinnell, Griswold, Hall, Harding, Benjamin G. Harris, Hooper, Hotchkiss, Hutchins, Philip Johnson, William Johnson, Kasson, Orlando Kellogg, Kernan, Lazear, Loan, Longyear, Mallory, McAllister, McBride, McClurg, McKinney, Middleton, Samuel F. Miller, William H. Miller, Moorhead, Nelson, Norton, John O'Neill, Perham, Perry, Pike, Pomeroy, Pruyn, Radford, William H. Randall, Alexander H. Rice, Rogers, Edward H. Rollins, James S. Rollins, Ross, Schenck, Sloan, Smith, Smithers, Stebbins, John B. Steele, Stevens, Stiles, Stuart, Sweet, Voorhees, Webster, Whaley, Wilder, Windom, Winfield, Benjamin Wood, Fernando Wood, and Yeaman—85.

So the bill was passed.

Mr. DAVIS, of New York, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

WAR NEWS.

The SPEAKER laid before the House the fol-

lowing communication, just received from the War Department:

WAR DEPARTMENT, WASHINGTON CITY,  
WEDNESDAY, June 8, 1864, 1.30 p. m.

SIR: A dispatch from Mr. Dana, at General Grant's headquarters, dated last night at 8.30 p. m., announces a victory by General Hunter over the rebels beyond Staunton, and that the rebel General Jones was killed on the battle-field. The dispatch is as follows:

"Richmond Examiner of to-day speaks of the defeat of General W. E. Jones by General Hunter, twelve miles beyond Staunton, Virginia. General Jones killed on the field. His successor retired to Waynesboro', and now holds mountains between Charlottesville and Staunton. The paper further states that 'no hospitals or stores were captured by Hunter.'"

Another dispatch announces that our forces occupy Staunton.

Hunter's victory and that our troops occupy Staunton is confirmed by the following dispatch just received from General Butler:

"All quiet on my line. Richmond papers of June 7 give intelligence of a fight at Mount Crawford between General Hunter and General Jones, in which Hunter was victorious and Jones, rebel commander, was killed. Staunton was afterwards occupied by the Union forces. The fighting was on Sunday."

Very respectfully, your obedient servant,  
EDWIN M. STANTON,  
Secretary of War.

HON. SCHUYLER COLFAX,  
Speaker of the House of Representatives.

General applause on the floor and in the galleries followed the reading of the communication.

VOTES RECORDED.

Mr. COX asked and obtained unanimous consent to have his vote recorded on the passage of the tariff bill. He voted "no."

Mr. J. C. ALLEN asked and obtained similar consent, stating that he had been absent by reason of sickness when the vote was taken. He voted "no."

Mr. L. MYERS asked and obtained similar consent in reference to the vote on the passage of the bill for the punishment of guerrillas. He voted "ay."

WASHINGTON GAS-LIGHT COMPANY.

Mr. DAVIS, of New York, from the Committee for the District of Columbia, reported back, with amendments, the bill (S. No. 77) to amend the act incorporating the Washington Gas-Light Company.

The bill provides that from and after March 1, 1864, the Washington Gas-Light Company shall not receive from consumers more than thirty-three and a third cents per hundred cubic feet of gas furnished by it, subject to a discount of not less than ten per cent. on all bills for gas if paid at the office of the company within five days from the rendition thereof, provided all arrears have been paid.

The first amendment reported from the Committee for the District of Columbia was to strike out the word "March" and insert in lieu thereof the word "June."

Mr. TRACY. I move to amend the amendment by inserting the words "from and after the passage of this act."

The amendment to the amendment was agreed to; and the amendment as amended was then agreed to.

The next amendment reported from the Committee for the District of Columbia was to insert before the words "from consumers" the words "more than thirty-one cents per hundred cubic feet of gas furnished by it to the Government, nor."

Mr. PATTERSON. Mr. Speaker, I regret that the Committee for the District of Columbia has not been unanimous in its action on this bill. There are, I think, other interests to be protected by that committee and by this House besides those of the Washington Gas-Light Company, or of any other corporation. After this bill had been introduced in the House, a memorial from the common council and aldermen of the city of Washington and signed by the mayor was laid before us, earnestly protesting against any increase in the price of gas. I will read a protest and petition signed by hundreds of the people of this city which was also laid before our committee:

To the Honorable the Senate and House of Representatives of the United States of America:

The undersigned, residents and gas consumers of the city of Washington, respectfully protest against any increase in the price of gas, believing such increase to be unjust and unfair toward the people of said city; and also pray your honorable bodies to grant an act of incorporation

to the "People's Gas-Light Company," who agree to furnish the United States Government, corporation of Washington, and citizens with gas for \$2.50 per thousand feet—the same as is now charged in other large cities of the Union.

It was such representations from the people and the authorities of the city that induced the minority of the committee to investigate this subject. We find as the result of our inquiries that in Brooklyn, New York, and Boston the gas companies charge only \$2.50 per thousand feet for gas, paying the Government tax themselves, while in the city of Washington, where the average cost of gas to the Government and the people, after deducting the discount of ten per cent., is \$2.61, that tax is imposed upon the consumers. The stock of the New York gas companies which charge only \$2.50 per thousand feet is very much above par. The fifty dollar shares of one of these companies are selling at \$300, which is an advance of six hundred per cent. If the representations of this Washington company, in respect to the cost of making gas and the necessity of suspending operations at present prices are correct, how could that be the fact in relation to the New York companies?

One word now in relation to the profits of the Washington Gas-Light Company of this city in previous years. According to the statement of the superintendent of these works, the company has reserved \$50,000 from its profits since its organization in 1848, which it has expended in repairs and the extension of its pipes and mains, and in addition to this has cleared a net profit of seven and one fifth per cent. on all the capital invested from the first. It is admitted, also, that they have divided a dividend of ten per cent. per annum since January, 1856, to January, 1864, at which time they failed to declare a dividend.

These statements should be taken in connection with the fact that the original outlay of \$50,000 in the erection of rosin works was nearly all sunk in the failure of those works.

In 1852 the capital stock was increased by an act of Congress to \$300,000. This was expended in the erection of the island works and the extension of mains. And, sir, it was stated before the committee by a gentleman whose sacred profession should entitle him to credit, and who was formerly the superintendent of the company, that members of the company were the original contractors of this work and sub-let it from twenty-five to forty cents on the original cost, payable in stock, and by selling the remaining stock at and above par realized by the operation almost one half of the \$300,000 as profit.

But, sir, instead of \$50,000, it may be shown that more than \$250,000 have been laid aside from the profits of this company in addition to the annual dividends of ten per cent.

The original capital stock by the act of July 8, 1848, was.....	\$50,000
Increase of capital stock by the act of August 2, 1852, expended according to Mr. Brown's statement in erecting the island works and laying ten miles of mains by.....	300,000
Cost of present works and holders, built in 1858.....	200,000
Forty-six miles of mains laid averaging, say seventy-five cents per foot.....	181,000
Gas meters and services.....	50,000
Total cost.....	781,000
Deducting the amount alleged to be due and outstanding.....	\$31,000
Profits expended in works.....	\$750,000

In this communication I wish to lay before the House a correspondence carried on in 1862 between Mr. Brown and Commodore Smith, chief of the Bureau of Yards and Docks. The first is a letter from Mr. Brown, called out by a section in the naval appropriation bill making provision for the erection of gas works at the navy-yard:

OFFICE GAS-LIGHT COMPANY,  
WASHINGTON, July 22, 1862.

DEAR COMMODORE: I notice in the naval appropriation bill an item for gas works at the Washington navy-yard.

Since the estimate was approved by you for this expenditure Congress has (by act of July 11, 1863,) reduced the price of gas to all consumers, fixing the net cost to the Government at only \$2.52 per thousand feet, instead of \$3.15 as heretofore, being the very heavy reduction of sixty-three cents, and allowing only two cents more per thousand than is paid in New York, Boston, Baltimore, &c.

I speak from an experience of fourteen years in the business, and am not mistaken when I aver that this is less than gas can be made and distributed for at any works which may be erected at the navy-yard so long as coal costs by the twenty thousand tons eight dollars in the sheds, as is now the case.

This company, at the instance of the Government, expended nearly twenty thousand dollars to carry its mains, &c., from the Capitol to the navy-yard, for the particular accommodation of that establishment; as there was no prospect of nor has there been any private consumption of gas on the line at all justifying such an outlay. The clear profit on this whole line of mains has not reached five per cent. per annum, and to take the navy-yard consumption from us now would reduce it to less than one per cent., and thus involve a loss to us of the whole sum expended, as before remarked, at the instance of, and as an accommodation to, the Government. This injustice I know you will not permit to be done. The company thinks in common fairness it has a right to furnish all the gas used by the Government in Washington, since that same Government, by the exercise of a questionable power, has so seriously reduced the price of gas as to hazard the very existence of the company; for the price of \$2.52 allows only a profit of three cents per thousand feet beyond the actual cost of gas at our counter in 1861, and of course we can only live by a largely increased consumption of gas, (which was the argument used in Congress to justify a reduction in price,) instead of a withdrawal of so heavy a consumer as the navy-yard.

I have the honor, &c.

J. F. BROWN, Secretary in charge.

Commodore SMITH, Chief Bureau, &c.

Now, will the Clerk read the Commodore's reply?

The Clerk read, as follows:

NAVY DEPARTMENT,  
BUREAU OF YARDS AND DOCKS, July 23, 1862.

SIR: I have received and duly considered your letter of the 22d instant.

Having found the gas bills for the Washington navy-yard so heavy, averaging about \$811 per month, I considered it my duty to the Government to endeavor to obtain gas at a less cost.

I therefore asked an appropriation to erect gas works in the yard, and feel confident we can make gas from petroleum at a cost of not exceeding \$1 per thousand cubic feet. We pay for gas used at the navy-yard and hospital near New York \$1.50 per thousand cubic feet.

I am, very respectfully, your obedient servant,

JOSEPH SMITH.

J. F. BROWN, Esq., Secretary (in charge) Washington Gas-Light Company.

NAVY DEPARTMENT,  
BUREAU OF YARDS AND DOCKS, August 1, 1862.

SIR: Your communication of the 22d ultimo, calling the attention of the bureau to the naval appropriation bill—item, "gas works" at the Washington navy-yard—and also reduction of the price of gas to consumers, &c., has been received, and the civil engineer of this bureau consulted on the subject. A copy of his report is herewith transmitted.

Respectfully, your obedient servant,

JOSEPH SMITH.

J. F. BROWN, Esq., Secretary (in charge) Washington Gas-Light Company.

Mr. PATTERSON. Commodore Smith referred the letter of Mr. Brown to the chief engineer at the Bureau of Yards and Docks for a report upon its contents. I call the attention of the House to his reply. It will be found both interesting and instructive:

The Clerk read, as follows:

BUREAU OF YARDS AND DOCKS,  
NAVY DEPARTMENT, August 9, 1862.

SIR: I have examined the communication from Mr. Joseph F. Brown, secretary of the Washington Gas Company, in reference to the construction of gas works at the Washington navy-yard, and respectfully report:

When the gas was introduced into the yard it was reported that there was an understanding between the gas company and the Navy Department that if the company would extend their main from the Capitol to the navy-yard the Government would become a consumer at the yard. I have no knowledge of the existence of such an understanding, except the reports at the time; but if such was the fact, the Department certainly expected and would have the right to claim that the yard should be amply supplied with gas of good quality.

The consumption at the yard commenced in July, 1855, and from the first there were many complaints of the irregular burning of the gas and of insufficient light. On the 22d February, 1856, I was obliged to report to the commandant that since the introduction of the gas there had been constant reports and complaints from the watchmen of the failure of some of the lamps to burn regularly, and that on several occasions they were entirely without gas light in the yard. These complaints continued and became so frequent, and the quantity of gas charged became so large, that on the 27th January, 1857, only about eighteen months after the introduction of the gas into the yard, I again reported on the subject and recommended the erection of gas works in the yard.

The statements made by Mr. Brown merit particular notice, and I respectfully call your attention to some of them. He says: "This company, at the instance of the Government, expended nearly \$20,000 to carry its mains, &c., from the Capitol to the navy-yard, for the particular accommodation of that establishment." I do not know what Mr. Brown means by "mains, &c.," unless he means the lamp posts, lamps, and side branches, along the avenue and Eighth street, none of which were put up for the particular accommodation of that establishment, (navy-yard.) The only expense which could have been incurred for the accommodation of the navy-yard is the cost of the mains, and that not entirely, because the same main supplies a large number of street lamps, marine headquarters, and private consumers, and at this time two Army hospitals. From a very correct map of the city, I find the length of main re-

quired to convey gas from the Capitol to the navy-yard is 6,312 feet. This pipe can be purchased here at 55 cents, and laid for 16 cents per foot, making a total cost of 71 cents per foot; but to provide for contingencies I estimate it at 80 cents per foot, making an aggregate of \$5,056, instead of near \$20,000, as stated by Mr. Brown. An examination of the gas bills shows that the amount paid the gas company for gas at the navy-yard during seven years is \$20,750. How much of this is profit it is difficult to determine; but I have no doubt it is fully 50 per cent., and if so the profit has been \$10,375, in seven years, on an expenditure of \$5,050. Taking it for granted that the main was for the exclusive use of the yard, which, however, is not the fact, because, as before stated, it supplies a number of street lamps, the marine headquarters, and private consumers, now a profit of \$10,375, on an investment of \$5,050, is at the rate of more than 205 per cent. in seven years, or very nearly 30 per cent. per annum.

Mr. Brown states that at \$2.52 per thousand there is only a profit of three cents on the thousand; if this be so, then the profit on the gas supplied to the yard has been as follows: during five and a half years of the seven, the price paid was \$3.50 per thousand, and the remaining one and a half year \$3.15 per thousand. If the cost of manufacture is \$2.49, then the profit \$3.50 per thousand is \$1.01 per thousand, or more than forty per cent., and at \$3.15 it is sixty-six cents per thousand, or more than twenty-six per cent.

I have endeavored to ascertain the cost of the manufacture of gas in the different cities, and learn from good authority that in New York, Philadelphia, and Baltimore, the cost ranges from ninety cents to \$1.20 per thousand, and there is pretty good evidence that it does not exceed those prices in the fact that the Brooklyn Gas Company have voluntarily entered into a contract to supply the Brooklyn yard for three years at \$1.50 per thousand, and this is certainly at a profit, otherwise they would not undertake it.

Upon the presumption that the Washington company can manufacture the gas as cheap as the establishments in other cities, I assume \$1.20, the highest price named, as the cost of its manufacture, and find their profit for five and a half years has been \$2.30 per thousand, or more than 191 per cent.

The Washington works are probably constructed in the best manner, and doubtless they are ably managed; the only cause then which should produce a difference in the cost of the manufacture of gas is a difference in the cost of coal, which I presume in ordinary times is not material.

This company seems to exhibit great anxiety to prevent the construction of gas works in the yard, that they may retain the navy-yard as a consumer. Now, to show of how little value the profit on that consumption is, if the statement made by Mr. Brown in regard to the cost of manufacture be correct, I submit this calculation: Mr. Brown says at \$2.52 the profit is only three cents per thousand feet, making the actual cost of manufacturing gas \$2.49 per thousand. A profit of three cents on an expenditure of \$2.49 is about one and two tenths per cent.; and as in ordinary times, when the workmen are not employed at night, the gas bills for the yard amount to only about \$100 per month, according to Mr. Brown's own statement, the profit would be only \$1.20 per month on the whole consumption of the yard.

This sum would not pay the expense of attending the meters, and is too insignificant to warrant any exertion on the part of the company to defeat the erection of works in the yard. I am satisfied, however, that Mr. Brown has made a very extravagant estimate of the cost of manufacture; but if his estimate be correct, the establishment must be very badly constructed or badly managed, neither of which do I believe to be the fact. I believe the works are as well constructed and as well managed as any gas works in the country, that the secretary has made a great error in his estimate, and that the actual cost of gas is far less than stated by him.

Probably no article of manufacture affords a greater profit than gas; and this is evident from the fact that the stock of gas companies is seldom in market except upon the death of a stockholder, or when one meets with adversity to render a sale necessary. That the profits of this company are enormous I have no doubt, for it is said that the capital stock is \$500,000, and that they have expended over \$800,000 in the construction, enlargement, and extension of their works; this extra \$300,000 and upwards, then, has been expended from the profits of the establishment, while, at the same time, the dividends to stockholders have always been ten per cent. I believe it can scarcely be said that a full and sufficient supply has ever been furnished the yard by the company. During the past year much night-work has been done, and I have heard many complaints of the insufficiency of light. Under these circumstances I do not conceive that the company have any just cause of complaint if the Department erect its own works and manufacture its own gas, the company having failed to meet the reasonable expectations based upon the alleged understanding referred to.

Very respectfully, your obedient servant,

W. P. S. SANGER,

Engineer of Bureau, &c.

Bear Admiral JOSEPH SMITH, Chief of Bureau of Yards and Docks.

Mr. PATTERSON. So much in respect to the past. It seems to me, sir, that a company which has enjoyed such golden opportunities for amassing wealth through sixteen years of peace should share the sacrifices of this time of war with the Government and the people who are beginning to feel the burdens of taxation.

It is said the price of coal, which in 1862 was \$8, has now advanced to \$13.50, and that there should be a corresponding increase in the price of gas. That does not follow, if the profits heretofore have been exorbitant, which I think has been clearly shown. But I have some doubt as

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to the fact. Coal costs by the single ton in this city at the present time, as is stated, \$13 50; it is obtained, however, by the cargo, as I am told by the able and accomplished superintendent of the insane asylum in this District, at \$9 50 per ton.

But, sir, if gas light can be furnished with a fair profit in Boston, Brooklyn, New York, Philadelphia, and Baltimore at \$2 50, why should the price be advanced here, where the Government is now paying \$2 52 and the people \$2 70 per thousand feet, and where the Government tax is charged to the consumer, as it is not in those cities? The cost of coal and labor is not greater here than in most of those places. I have inquired somewhat carefully to ascertain the actual cost of gas at the present time. From New York I learn that the cost there is \$1 80 per thousand feet at the moment of delivery to the consumer.

At the insane asylum of this District, already referred to, gas of a superior quality is made from the refuse of petroleum oil, a more expensive article than coal, at one dollar per thousand feet, or, including the interest on all outlays for the construction and repair of works, at something less than two dollars per thousand feet. These, it will be borne in mind, are private works. Public works can manufacture gas at a much lower rate.

I now call attention to an estimate which I have made of the cost of producing gas in this city. I think it will be found to approximate very exactly to the facts in the case, and if there is any variation that it is in favor of the company.

A ton of coal will yield, allowing four feet of gas to the pound, 8,960 feet. Value of 8,960 feet of gas at \$2 70 per thousand feet is \$24 19. At \$2 52 per thousand the cost to Government is \$22 58.

*Cost of making 8,960 feet of gas.*

A ton of coal.....	\$13 50
Labor in manufacture at 25 per cent.....	2 70
Interest on outlays, works, contingencies, wear and tear, &c., at 15 per cent.....	2 05
	\$18 25
Less the value of coke and tar produced at 12½ per cent.....	1 97
Total cost of 8,960 feet.....	\$16 28
Net profit on each ton of coal manufactured into gas for the Government.....	\$5 30
Net profit on each ton to the citizens.....	7 61
Cost of gas per thousand.....	1 81
Profit on each thousand furnished to Government.....	71
Profit on each thousand furnished to citizens.....	89

The members of this House should remember in connection with these estimates, made upon what I regard as good authority, that the Government is paying this company over \$100,000 a year.

It is urged that the depreciation of the currency has lessened the profits of the company. I admit it, but claim that the increased quantity of gas consumed in hospitals and other public buildings, resulting from the war, renders a full equivalent for the loss on the currency.

I do not wish to detain the House further upon this subject. I have simply done what I believed to be my duty in presenting these facts. I think an increase in the price of gas in this city would be a wrong done both to the Government and the people; and I therefore earnestly desire that the bill may be defeated.

Mr. DAVIS, of New York. I have no desire to inflict any outrage upon this House or upon the people of this city, but I wish to deal with this question simply as a practical business question. My friend from New Hampshire [Mr. PATTERSON] has dwelt so long with the stars and the planets that it is perhaps difficult for him to come down and look upon sublunary affairs in a practical light.

I undertake to say that the price which this company now receives from the Government for its gas will not pay the cost of the crude article of coal they use in its manufacture and the cost of manual labor necessarily employed. I care not what have been the past profits of this company; I care not what profits may have been made by the original contractors in building the works;

and I care not what speculations may have been put forth before this House in reference to the navy-yard, or officers connected with the same. I will show the cost of the materials of which the gas is manufactured and the cost of labor, and then we can determine definitely whether or not we are paying the company a fair and reasonable rate for what they give us. While I would not inflict any wrong upon this community, I am not willing that the Government of the United States shall descend to petty larceny by the use of its power to compel this company to furnish gas for less than the cost of its production; and I say that unless we come, as we should do, to the relief of this company, we shall be doing them a great wrong, and shall subject the good faith and honor of the Government to merited censure.

The gentleman from New Hampshire has introduced before the House a memorial signed, he says, by many distinguished men of this city and by some of the city officials, protesting against increasing the price of gas. Sir, that was a memorial praying Congress to charter a new gas company, and it was got up by the parties who were pressing the committee for a charter. We have granted that charter, but at the same time the men who signed that petition, representing the city government, have said to individuals of that committee that the present company should be relieved and be permitted to increase the price of their gas.

Now, sir, there are certain facts which are stronger than arguments. Coal costs to-day in the city of Washington \$13 88 a ton at wholesale, delivered, and that is what this company paid for the last coal they purchased. And I have a letter from the president of the Manhattan Company of New York saying that coal costs them in the city of New York \$10 50 a ton; and they buy in immense quantities. I know also the price of coal in Philadelphia, in Buffalo, in Albany, and other places, because I have for years been interested in the sale of gas coal. I have sold and am selling gas coal now in the city of Albany for ten dollars a ton, or more than that sum.

Now, the quantity of gas produced from a ton of coal depends very much upon the quality of the coal. It varies from seventy-five hundred to ninety-three hundred feet, and in some instances very pure coal will yield ten thousand feet. The coal used here is a very fair quality of gas coal, and fifty-seven tons, the daily consumption of this company yields four hundred and sixty-five thousand feet of crude gas, as it goes into the first meter. That is not the amount which goes to the consumer, but the amount prepared by the company and kept on hand, subject to leakage and condensation. Now, I appeal to a member of this House—and I could state the fact from my own observation and experience—but I appeal to the gentleman from New Jersey, [Mr. STARR,] who is familiar with this subject, to state what is the loss of gas by condensation and leakage, taking the average of gas companies in the United States.

Mr. STARR. I will say, being somewhat professionally acquainted with the business, that the average loss, taking all the works in the United States, is not less than sixteen per cent. In large cities like New York and Philadelphia the loss runs from thirteen to sixteen per cent.; but the average, taking all the works in the United States, is sixteen per cent. on the aggregate products of the works.

Mr. WASHBURN, of Illinois. I would ask the gentleman from New Jersey if gas stock is not considered the most valuable stock to be had, and if it does not generally pay the largest dividends.

Mr. STARR. I can say that investments in gas stock are generally considered good, better, perhaps, than the average investments of the country.

Mr. DAVIS, of New York. Having received the answer to my question from the gentleman from New Jersey, I will proceed with my calculation. The result of the daily consumption of fifty-seven tons of coal is 465,000 feet of gas by

actual measurement. Now, sir, to be liberal in the premises, I have deducted but fifteen per cent. for condensation, and that I undertake to say from personal knowledge is a very reasonable and low estimate. The result of that deduction is 395,250 feet as the product of the consumption of fifty-seven tons of coal. I will call it in round numbers 400,000. The cost of the coal per day at \$13 50 a ton is \$769 50. But the actual price paid to-day for coal is \$13 88. The cost of the coal then is \$769 50 per day, and the labor upon it is \$375. Wages are \$2 50 a day. That is what is now paid by this company and other companies. And for that reason, and by reason of the enhanced value of coal, all our gas companies which are restricted by legislation are appealing to the legislative authorities for relief. Those not so restricted are obtaining relief by raising their prices. Computing the price of the coal and of the labor, you have \$1,142 60 as the cost of the coal and the labor on it in the production of this gas, that is the manual labor only without reference to the interest upon capital invested, the incidental expenses, taxes, insurance, and salaries for superintendents. In payment for this expense for manual labor and coal, they receive, at the present price of gas, which we permit them to charge, but \$1,045 per day.

Figures, according to an old adage, do not lie. Men may be in error in their estimates, and their errors may be perfectly honest. I would indorse my honorable friend from New Hampshire [Mr. PATTERSON] for honesty the world over, but I cannot indorse the correctness of his opinions in regard to the cost of producing gas on earth, of which cost he has no personal knowledge. His professional avocations have taken him too long into the upper regions of space—where, according to the nebular theory of La Place, in which both the honorable gentleman and myself are believers, gas is furnished in untold quantities, and at very reasonable cost—to permit him to know or consider the cost of its production here below, where coal and machinery and labor all range at higher prices.

Mr. WILSON. I desire to ask the gentleman a practical question.

Mr. DAVIS, of New York. I will certainly yield for that purpose.

Mr. WILSON. My question is this: if this gas company is losing money every day, why is it that its stock keeps at par or above?

Mr. DAVIS, of New York. The reason is that the company has cherished (perhaps delusively) confidence in the good faith and integrity of Congress, and has believed that the Government would have honesty and fairness enough to come forward and give reasonable protection to their interests and capital.

I am informed by one of the prominent directors of the company, (Colonel Freeman,) a gentleman of high standing and unimpeachable integrity, whom I have known most favorably for some years, that unless this relief be extended to the gas company it will not be able to and cannot supply either the Government or this city with gas.

Mr. PATTERSON. The gentleman has suggested that I have dwelt so long among the nebulae that I do not understand this question practically. I will ask him whether if I should purchase a coal mine in Pennsylvania and sell coal to this gas company it would make my views more practical.

Mr. DAVIS, of New York. I rather think it would. I should most certainly hope for such a result, but no coal comes from western Pennsylvania to Washington, and before it can do so, under the laws of trade now existing, both the honorable gentleman and myself will cease to be members of this House.

Mr. BAXTER. I would ask the gentleman what the stock of this company was worth on the 1st of January, 1864.

Mr. DAVIS, of New York. I have learned from directors of the company that it was held at about 120, but without sales.



Mr. WASHBURNE, of Illinois. Does the gentleman mean to say that this company, with its stock at twenty per cent. premium, comes here begging for relief?

Mr. DAVIS, of New York. I understand that this stock is held largely by minors and widows and orphans, who are dependent for support entirely upon its dividends, and I think I might mention many western railroads of which the gentleman may know something whose stocks are held above their real value.

Mr. BAXTER. What dividends has the company made?

Mr. DAVIS, of New York. It has already been stated by the gentleman from New Hampshire [Mr. PATTERSON] that the company, taking their outlay and receipts from the beginning, have made on the average a little over seven per cent. I believe that to be true; but for the last six months they have made no dividend and they could make none. They are now in debt for the very coal which they have provided for the use of the Government and the city for the last six months.

Mr. BAXTER. What is the reserve capital of the company?

Mr. DAVIS, of New York. I do not know, nor do I care. If the gentleman means surplus, they have not a dollar.

Mr. BEAMAN. I would ask the gentleman if the dividend of seven per cent. was not made after the improvement of the mains?

Mr. DAVIS, of New York. I suppose the fact to be this, that the parties who originally owned this stock years ago did make money on the construction of the work, but that is no reason why the present innocent holders of the stock should be losers. I have very great respect for the integrity of every member of this House, but I doubt very much if any gentleman here would have been conscientiously unwilling to make money under such circumstances. Certainly I should not, and I am honest enough to own it. I believe that every man who has enterprise enough to go into these investments and spend his capital and money in them should receive a fair remuneration. But that has nothing to do with the present case.

But, Mr. Speaker, I cannot take up the time of the House by going into further details on this matter. I undertake only to say that the cost of coal to-day is such that the company cannot pay for it with the price which it receives for gas, without any reference to interest, incidental expenses, insurance, taxes, or anything of that kind. I may also allude to the fact that in the making of gas there is a large quantity of lime used, the price of which has also gone up very high.

I will point the House now to a significant fact as indicating what is true in regard to gas companies all over the country. I see in the Syracuse Journal of the 1st of June, 1864, a notice that the price of gas has been raised there by the action of the common council—which has the control of the company there in respect to price—from \$2 50 per thousand feet to \$4 10. In the city of Utica the price is raised to \$4 20. And yet the price of coal in the city of Utica is only \$8 50 per ton, and in the city of Syracuse \$8 per ton, or about that; and these prices will be increased if the cost of material and labor shall continue to advance.

This state of things exists all over the country. It could not be otherwise in these times of inflated currency. Everything is now enhanced in price. We pay our laborers more. We pay our servants more. We pay more for everything that we eat, drink, and wear. And it is right that we should. And yet it is sought to defeat the meritorious application of this company, because two or three years ago, when coal was lower, when labor was cheaper, when everything cost less, gas could be profitably supplied here at less rates than the Government authorized to be charged.

The sole purpose of this bill, Mr. Speaker, is to allow this company to charge a reasonable increase in the price of gas. It receives now from ordinary consumers \$2 70 per thousand feet, and from the Government \$2 52. This bill authorizes it to charge the Government \$2 89, and to charge private consumers \$3, which is \$1 10 less per thousand feet than is charged in the city of Syracuse, and \$1 20 less than is charged in the city of Utica, and less by like amounts than is charged in other cities throughout the country.

There is another consideration which the House should bear in mind. Washington has been aptly styled "the city of magnificent distances." We all know how much space there is in it unoccupied by houses, and we also know that the profits of gas companies depend largely upon the number of tenements furnished with gas upon a given length of main. This company has extended its mains from the navy-yard to the city of Georgetown. Members know very well how much of the intervening space is unoccupied by dwellings. All over the city it has laid fifty-seven miles of mains. The consumers of gas in this city do not average, per mile of main, one fourth of the average of other cities. I am simply desirous of having justice and equity done to this company, nothing more. I move the previous question on the passage of the bill.

Mr. WASHBURNE, of Illinois. I move that the bill and amendments be laid on the table.

The motion was agreed to.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill and amendments were laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### WASHINGTON INSURANCE COMPANY.

Mr. HALE, by unanimous consent, introduced a bill to incorporate the National Insurance Company of Washington; which was read a first and second time, and referred to the Committee for the District of Columbia.

#### FERRY RAILWAY COMPANY.

Mr. WHEELER, from the Committee for the District of Columbia, reported back, with a recommendation that it do pass, a bill (H. R. No. 186) to incorporate the Baltimore and Washington Depot and Potomac Ferry Railway Company.

And then, on motion of Mr. KELLOGG, of Michigan, (at twenty-five minutes past four o'clock p. m.,) the House adjourned.

#### IN SENATE.

THURSDAY, June 9, 1864.

Prayer by the Chaplain, Rev. Dr. BOWMAN.

On motion of Mr. FESSENDEN, and by unanimous consent, the reading of the Journal was dispensed with.

#### PETITIONS AND MEMORIALS.

Mr. FESSENDEN presented the petition of William Pierce, of San Francisco, California, praying for an issue to him of duplicate bonds in place of four Oregon war bonds alleged to have been lost by the burning of the steamer Golden Gate on the 27th of July, 1862; which was referred to the Committee on Claims.

He also presented a memorial of importing merchants of New York, praying for the imposition of a duty of fifteen per cent. *ad valorem* on merchandise of countries beyond the Cape of Good Hope, when imported into the United States from countries this side of the Cape of Good Hope, and that raw silk may no longer be excepted from such duty; which was referred to the Committee on Finance.

Mr. MORGAN presented a petition of citizens of the United States, praying for the passage of the bill (H. R. No. 276) to secure to persons in the military and naval service of the United States homesteads on confiscated or forfeited estates in insurrectionary districts; which was referred to the Committee on Public Lands.

Mr. POWELL presented a memorial of chiefs of the Wyandott tribe of Indians, remonstrating against the allowance of a claim in favor of Ahelan Guthrie against the Shawnee Indians; which was referred to the Committee on Indian Affairs.

Mr. CHANDLER presented a communication from the Secretary of State, addressed to him as chairman of the Committee on Commerce, relative to telegraphic communication between the eastern and western continents; which was ordered to be printed.

#### REPORTS FROM COMMITTEES.

Mr. MORGAN, from the Committee on Commerce, to whom was referred a bill (S. No. 134) to repeal all acts granting allowances or bounties on the tonnage of vessels engaged in the Bank or

other cod fisheries, asked to be discharged from its further consideration; which was agreed to.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the memorial of Perry McDonough Collins, reported a bill (S. No. 302) to encourage and facilitate telegraphic communication between the eastern and western continents; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill (H. R. No. 477) to abolish the collection districts of Cape Perpetua and Port Orford, reported it without amendment.

Mr. HARRIS, from the Committee on Private Land Claims, to whom was referred a bill (H. R. No. 149) concerning certain school lands in township forty-five north, range seven east, in the State of Missouri, reported it without amendment.

#### HOUSE BILL REFERRED.

The bill from the House of Representatives (No. 486) to amend an act entitled "An act to provide a temporary government for the Territory of Idaho," approved March 3, 1863, was read twice by its title, and referred to the Committee on Territories.

#### CONSULAR AND DIPLOMATIC BILL.

The Senate proceeded to consider the resolution of the House of Representatives disagreeing to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 40) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1865, and asking a further conference on the disagreeing votes of the two Houses thereon; and

On motion of Mr. FESSENDEN, it was Resolved, That the Senate further insist upon its amendments to the said bill, disagreed to by the House of Representatives, and upon its disagreement to the amendment of the House to the thirty-first amendment of the Senate to the said bill, and that it agree to the further conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. TRUMBULL, Mr. HARRIS, and Mr. VAN WINKLE.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the following bills of the Senate:

A bill (No. 129) to amend an act entitled "An act to authorize the corporation of Georgetown, in the District of Columbia, to lay and collect a water tax, and for other purposes," approved May 21, 1862; and

A bill (No. 285) to regulate the veto power in the Territory of Washington.

The message further announced that the House of Representatives had passed the following bills and joint resolution; in which it requested the concurrence of the Senate:

A bill (No. 186) to incorporate the Baltimore and Washington Depot and Potomac Ferry Railway Company;

A bill (No. 364) authorizing and requiring the opening of Sixth street west;

A bill (No. 434) to authorize the bailiff of the orphan's court, in the county of Washington, and District of Columbia, to serve processes issued by said court, and for other purposes;

A bill (No. 495) to amend the charter of the Washington and Georgetown Railroad Company; and

A joint resolution (No. 89) as to sewerage and drainage in the city of Washington.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; which were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 422) to amend an act entitled "An act to confirm certain private land claims in the Territory of New Mexico;" and

A bill (H. R. No. 487) to provide for the execution of treaties between the United States and foreign nations respecting consular jurisdiction over the crews of vessels of such foreign nations in the waters and ports of the United States.

#### WAGON ROADS IN MICHIGAN.

Mr. HOWARD. I ask the unanimous consent of the Senate to postpone all other orders and

take up the bill (H. R. No. 227) granting lands to the State of Michigan for the construction of certain wagon roads for military and postal purposes.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The Committee on Public Lands reported the bill with various amendments. The first amendment was in section one, line seven, to strike out the word "even" and insert "odd;" and after the word "of" to insert "public;" and after the word "land" to insert "not mineral;" and in line twelve to strike out the word "even" and to insert "odd;" and after the word "of" to insert "public;" and after the word "land" to insert "not mineral;" so that it will read:

That there be, and hereby is, granted to the State of Michigan, for the construction of a wagon road for military and postal purposes, from Saginaw city in said State, by the shortest and most feasible route, to the Straits of Mackinaw, every alternate or odd section of public land not mineral for three miles in width on each side of said road to the extent of three sections to the mile. Also for a road from Grand Rapids, in said State, through Newaygo, Traverse City, and Little Traverse, to the Straits of Mackinaw, every alternate or odd section of public land not mineral for three sections in width on each side of said road to the extent of three sections to the mile.

The amendment was agreed to.

The next amendment was in section one, line twenty-one, after the word "be" to strike out the words "lawful for the commissioners or agents to be appointed by the Governor of said State to select (subject to the approval of the Secretary of the Interior) from the even vacant sections of land belonging to the United States," and to insert "the duty of the Secretary of the Interior to select such lands from the odd sections or parts of sections."

The amendment was agreed to.

The next amendment was in section one, line thirty-three, to strike out the words "Governor of the" before the word "State."

The amendment was agreed to.

The next amendment was in section four, after the enacting clause, to strike out the words, "that the benefits of this act shall be forfeited by the State of Michigan unless the Governor thereof shall officially communicate his acceptance of the same to the President of the United States within six months from the approval of this act: *Provided*, That when the Governor shall have so accepted the grant and shall have the lines of said roads located, upon his furnishing the Commissioner of the General Land Office," and to insert in lieu thereof, "that when the Governor of the State of Michigan shall furnish the Secretary of the Interior."

The amendment was agreed to.

The next amendment was in section four, line ten, after the word "charts" to strike out the word "definitely," and in line eleven to strike out the word "same" and insert "definite location of the line of each of said roads;" so that it will read:

That when the Governor of the State of Michigan shall furnish the Secretary of the Interior with maps and charts, showing the definite location of the line of each of said roads, it shall be his duty to have the land granted to each of said roads withheld from market, and reserved exclusively for the purposes aforesaid.

The amendment was agreed to.

The next amendment was in section four to strike out the following proviso:

*Provided further*, That in case the Governor of the State of Michigan shall deem it necessary to the letting of contracts for building the roads to sell or transfer any or all the lands hereby granted, it shall be lawful for him to do so, with the express provisions, however, that all such certificates for deeds or patents as he may find it necessary to give shall be in the form of contracts for deeds or patents, to be given only when the conditions of this grant are fully complied with; and when the commissioners appointed by the Governor shall certify, under oath, that any ten consecutive miles of either of said roads are completed, and the Governor is satisfied that the same has been done in accordance with the third section of this act, he may give final certificates for patents for three sections of land to each mile of road thus completed; and upon the presentation of such certificates to the Secretary of State of the State of Michigan, it shall be lawful for him to execute to the party or parties named in said certificates, or to his or their assigns, patents for the amount of land called for in said certificates.

And to insert in lieu thereof:

And when the said Governor shall certify to the Secretary of the Interior that any ten consecutive miles of either of said roads have been completed under the provisions of this act, and in accordance with the third section thereof, stating definitely where said completed section of road commences and where it terminates, it shall be the duty of the

said Secretary to cause patents to issue to said State for three sections of land for each mile of road thus completed, as aforesaid, and soon until the whole of said roads is completed.

The amendment was agreed to.

The next amendment was in section four, line forty-two, after the word "be" to strike out the words "valid if;" in line forty-four, after the word "road" to insert the words "or for any road or for any part of any road made before the passage of this act;" in line forty-six, after the word "for" to strike out "the first" and to insert "each;" and in line forty-seven to strike out the words "and so on till the road or roads are completed," and insert "completed according to the provisions of this act;" so that the proviso will read:

*Provided further*, That no patents shall be given for any of the aforesaid lands before the completion of ten consecutive miles of road, or for any road or for any part of any road made before the passage of this act, or for any greater quantity than thirty sections for each ten miles completed according to the provisions of this act.

The amendment was agreed to.

Mr. HARLAN. I move to amend the fourth section of the bill by adding to the end of the section these words:

Nothing in this proviso, however, shall be construed so as to prevent the application of so much of the said three sections per mile as may be necessary to finish any part of said road partly made before the passage of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. COLLAMER. I wish to inquire of the chairman of the Committee on Public Lands whether this bill is agreeable to his views, and whether it has been before his committee.

Mr. HARLAN. The bill has been before the Committee on Public Lands, and the amendments that have been adopted by the Senate in Committee of the Whole were those proposed by the Committee on Public Lands.

Mr. COLLAMER. I do not desire to disturb anything about it that I know of. I suppose it is intended by our western friends that this Government shall never get another dollar out of these public lands. I only wanted to know whether there was a fair division of the spoils among themselves. [Laughter.] If they agree about it, I have nothing to say.

Mr. HARLAN. I think the passage of this bill will result in advantage to the Government in this: the roads proposed to be built will be constructed through a dense forest in the State of Michigan not now inhabited, or at least very sparsely inhabited, and if the roads should be built and alternate sections of land used for that purpose it will probably bring into market the remaining sections of the public lands.

Mr. HOWARD. I will add one single word. One effect of the passage of this bill will be to establish a post route between Saginaw, in the State of Michigan, and Mackinaw, in the same State, through a dense wilderness, as has been justly remarked, and through which hitherto the Government has had no means of transporting the public mail except by means of a train of dogs that has passed and repassed over that route during the winter, accompanied by men upon snow shoes, delaying the mail sometimes three or four weeks in its passage between those two points.

The amendments were ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

#### INTERCOURSE WITH INSURRECTIONARY STATES.

Mr. MORRILL. I ask the Senate to take up a very important bill for consideration at the present time. It is Senate bill No. 232, in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured and abandoned property and the prevention of frauds in States declared in insurrection.

Mr. DAVIS. I will not oppose that motion, but I ask the privilege of presenting a joint resolution, that it may be read and printed for the information of the Senate.

Mr. MORRILL. If the Senator will allow this bill to come up, I will not object.

The motion of Mr. MORRILL was agreed to.

#### PEACE RESOLUTIONS.

Mr. DAVIS. I now offer the joint resolution. The PRESIDENT *pro tempore*. The Senator

from Kentucky asks the unanimous consent of the Senate to introduce a joint resolution without previous notice. The Chair hears no objection. The first reading of the joint resolution.

The joint resolution was read a first time by its title, as follows: "A joint resolution to restore peace among the people of the United States."

The PRESIDENT *pro tempore*. The resolution will now be read a second time.

Mr. GRIMES. I call for the reading of it.

Mr. HOWARD. Let us hear it.

The Secretary read it, as follows:

A joint resolution to restore peace among the people of the United States.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That three years of civil war in which the enormous expenditure of blood and treasure has no parallel in the world's history, and whose wide-spread rapine and diabolical cruelties have shocked Christendom, and which, from alternating success, has produced no essential results, prove that war was not the proper remedy for our national troubles.

*Resolved*, That if the people of America would save and restore their shattered Constitution and avert from themselves and their posterity the slavery of a military despotism and of a public debt, the interest upon which all the avails of their labor and economy will never meet, they must bring this war to a speedy close.

*Resolved*, That the President of the United States be, and he is hereby, authorized to propose a cessation of arms and an amnesty to the authorities of the confederate States of America, with a view to a convention of the people of all the States to reconstruct their Union; and if that cannot be effected, then that said convention agree upon the terms of a separation of the States without the further effusion of blood, and of a lasting peace among them.

Mr. SUMNER. I object to the reception of those resolutions.

Mr. DAVIS. They have been already received.

Mr. SUMNER. They cannot have been received in the dark.

Mr. HOWARD. I desire to know what the motion is before the Senate, and whether that paper has been received yet by the Senate for its action. If it has not been received, I object to its reception.

The PRESIDENT *pro tempore*. The Chair will state the position of the resolution as the Chair understands it. The Senator from Kentucky desired to introduce it and the Chair called for an objection. After the reading of it by its title the Senator from Iowa desired that it should be read at large for further information, and it now being read, the Chair is of the opinion that it is within the power of any Senator to object to it at the present time.

Mr. SUMNER and Mr. HOWARD. I object to it.

Mr. DAVIS. Mr. President—

Mr. HOWARD. I call the Senator from Kentucky to order.

Mr. DAVIS. Will the Chair permit me—

The PRESIDENT *pro tempore*. Objection being made, the resolution cannot be received.

Mr. HOWARD. It is not then subject to debate.

Mr. DAVIS. I just rise to a question of fact.

The PRESIDENT *pro tempore*. The Senator from Kentucky can go on by unanimous consent.

Mr. HOWARD and Mr. CHANDLER. I object.

Mr. DAVIS. The Chair does not state the transaction as it occurred.

The PRESIDENT *pro tempore*. It is in the power of the Senator from Kentucky to appeal from the decision of the Chair, and that question is open to debate.

Mr. DAVIS. Then I appeal from the decision of the Chair.

The PRESIDENT *pro tempore*. Then the question will be, "Shall the decision of the Chair stand as the judgment of the Senate?"

Mr. DAVIS. I just ask to state the facts without any comment upon them. I asked leave to present a joint resolution. The Chair replied that it would be read if there was no objection. It was read by its title, and the Chair announced that the resolution having once been read it was now upon its second reading. That is the fact.

Mr. JOHNSON. I submit to the Chair if that is the fact, as stated according to the recollection of the member from Kentucky, it is too late now to object to the reception of the resolution; and I will suggest, with all the respect which I feel for the Senator from Kentucky, that the better way to dispose of it is to vote upon it at once.

Mr. DAVIS. I do not care what disposition the Senate makes of it. I should like to have the resolution printed.

The PRESIDENT *pro tempore*. The Chair will state that as the resolution was about to be read a second time the Senator from Iowa called for its reading at large for information.

Mr. DAVIS. The Chair announced that it was on its second reading.

Mr. COLLAMER. I take it when a resolution is introduced here, and it is read by its title, we do not know from that what it is, and gentlemen wish before making objection to the reception of a paper that the paper be read, and it is read that time for information, to see whether we will object to it or not. Otherwise men are obliged to make their objections without knowing what the thing is at all.

Mr. DAVIS. Will the honorable Senator allow me to say a word? All I ask is that the resolution be printed. I have no objection to the Senate making any disposition of it that it may please.

Mr. COLLAMER. I take it that the gentleman by having it offered and objected to and not received will get it printed in the Globe; but I take it it cannot be printed by the Senate until it is received.

The PRESIDENT *pro tempore*. The question will be on the appeal taken from the decision of the Chair.

Mr. JOHNSON. The difference between the course proposed by members who have objected to the reception of the resolution and the point which I suggest will, I think, be in the public estimation very important. The objection to the reception of the resolution rules the resolution out, if I understand the rule, if a majority of the Senate shall sustain the objection. If that is taken now, it will appear by that vote, apparently unexplained, that there is but a majority of the Senate, or may be but a majority of the Senate, opposed to the resolution. I think the resolution is of that character that it is very important to have the Senate decide upon it at once, so that the public may know, and that the rebels may know, what is the opinion of the Senate upon this proposition.

It is hardly necessary to say for myself that I shall vote against the resolutions, each one of them, not only because I think them ill advised in the ordinary acceptance of the term, but because I think their adoption would be seriously mischievous to the cause in which we are now enlisted. I should very much prefer, therefore, that the Senate should at once come to a vote (to which I do not understand that the member from Kentucky has any objection) upon the resolutions themselves, and see how many Senators there are opposed to the propositions contained in the resolutions and how many in favor of them, a fact which will not be ascertained by a mere question upon their reception.

Mr. CONNESS. I am willing that the vote shall be taken now, and would prefer that it should be taken, but not upon the adoption of the resolutions. Sir, those are extraordinary resolutions. They contain, among other language, a recognition or admission that there is such a Power as the confederate States of America. I object to that, and to the reception of any document containing that language. If the Senate could take a direct vote upon the reception of the resolutions I think it would be well to ascertain how many Senators there are who are willing to receive such a paper; but for one, I am not in favor of letting the resolutions pass to the question of their adoption or rejection.

Mr. POMEROY. I am sure the decision of the Chair is entirely in harmony with the course that the Senate pursues every day. These resolutions were presented by the Senator from Kentucky by the courtesy of the Senator from Maine who had just had a bill brought up before the Senate. He asked leave of the Senator from Maine to introduce these resolutions. The Chair received the resolutions in order that the Senate might know what was their character. The final question upon their reception or whether Senators should object or not could not be determined until they were read. The Senator from Iowa desired to have the resolutions read in detail.

They have been read. Then was the proper time for the Senate to decide whether they would

receive them or not. As soon as they were read, the almost spontaneous sentiment of the Senate was that they should not be received. That is the decision of the Senate which I think should be sustained.

Mr. LANE, of Indiana. If these resolutions are properly before the Senate—

Mr. POMEROY. They are not before the Senate. The decision of the Chair is that they are not.

Mr. LANE, of Indiana. The decision of the Chair as I understand is that they are before the Senate, but not for present consideration, objection being made. If they are before the Senate I move their rejection.

The PRESIDENT *pro tempore*. The question is on the appeal taken from the decision of the Chair.

Mr. DAVIS. With the permission of the Senate I will withdraw that appeal and simply ask that the resolutions be printed by order of the Senate, and the Senate can vote whether they will print them or not.

Mr. POMEROY and Mr. SUMNER. I object to their printing.

The PRESIDENT *pro tempore*. Does the Chair understand the appeal to be withdrawn? Mr. DAVIS. Then I will not withdraw it.

Mr. HOWARD. If I understand the posture of this question rightly, it is this: the Chair has decided that the document offered by the honorable Senator from Kentucky has not been received by the Senate, and is not, therefore, the proper subject of its action; for such I believe would be the consequence of the non-reception of the paper. If we have not received it we cannot act upon it; it is not before us for consideration in any sense. I understand the Senator from Kentucky to have taken his appeal from that decision of the Chair; and the question now before the Senate is one of fact simply, and nothing but fact; and it is, whether we have actually received this paper which has been presented by the Senator from Kentucky for our consideration, or whether we have not received it. Upon that subject I have but one opinion. I hope the question will be taken on the subject-matter of the appeal whether we have received it or not; in other words, whether the simple reading of a paper to the Senate for the information of the Senate as to its contents, and for the purpose of enabling the Senate to determine in their own minds whether they will receive the paper is, in itself, a reception of the paper. It seems to me to involve such an absurdity as not to admit of any discussion.

Mr. MORRILL. I rise to call for the order of business of the Senate.

Mr. LANE, of Kansas. Let us dispose of this.

The PRESIDENT *pro tempore*. The Chair is of opinion that it is too late for the Senator from Maine to object, this having been undertaken by unanimous consent.

Mr. LANE, of Kansas. I should like for us to set our foot on this thing at once and put an end to it.

Mr. GRIMES. When this resolution was introduced it was read a first time by its title. The Chair then said that the resolution would be read a second time, and I called for its reading at large. I take it that the resolution was before the Senate, having been read once in the ordinary form in which bills and joint resolutions are read. Hence it seems to me that the motion of the Senator from Indiana is in order to reject the resolution, and in that way we can have a positive and direct vote and a fair expression of the sentiment of the Senate on the subject embraced in the resolution.

Mr. DAVIS. I wish to state one single fact. The Senator from Michigan and myself do not recollect the facts exactly alike. When the Senator from Maine moved to take up his bill out of its order I rose and addressed the Chair, and said that I would object simply for the purpose of presenting a joint resolution, merely to have it read and printed for the information of the Senate. The Senator from Maine then requested me to waive my objection to his motion until his bill was taken up, and then he would not object to my presentation of the resolution for the purpose which I had declared. After his bill was taken up and the Chair had announced that it

was before the Senate, I rose and addressed the Chair and the Chair addressed me. I then presented a joint resolution. The Chair announced that the Senator from Kentucky asked leave to present a joint resolution and it would be read for the information of the Senate. Any gentleman had the privilege at that stage of the business to call for its reading at large, but no Senator asked for its reading at large, and the Clerk proceeded to read it by its title. It was then read by its title, and the Chair announced that the resolution having been read once the question will be, "Shall it be read a second time?"

The PRESIDENT *pro tempore*. The question is, "Shall the decision of the Chair stand as the judgment of the Senate?"

The question being put, the decision of the Chair was sustained, and the joint resolution was not received.

#### INTERCOURSE WITH INSURRECTIONARY STATES.

Mr. MORRILL. I now call for the consideration of my bill.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 232) in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured and abandoned property and the prevention of frauds in States declared in insurrection, which had been reported by the Committee on Commerce with amendments. The first amendment was to strike out the first, second, and third sections of the bill, after the enacting clause, in the following words:

That sales of captured and abandoned property under the act approved March 12, 1863, may be made at such places in States declared in insurrection as may be designated by the Secretary of the Treasury, as well as at other places now authorized by said act.

SEC. 2. And be it further enacted, That in addition to the captured and abandoned property to be received, collected, and disposed of, as provided in said act, the said agents shall take charge of and lease, for periods not exceeding twelve months, the abandoned lands, houses, and tenements within the districts therein named, and shall also provide, in such leases or otherwise, for the employment and general welfare of all persons within the lines of national military occupation within said insurrectionary States formerly held as slaves, who are or shall become free. Property, real or personal, shall be regarded as abandoned when the lawful owner thereof shall be voluntarily absent therefrom, and engaged, either in arms or otherwise, in aiding or encouraging the rebellion.

SEC. 3. And be it further enacted, That all moneys arising from the leasing of abandoned lands, houses, and tenements, or from sales of captured and abandoned property collected and sold in pursuance of said act or of this act, or from fees collected under the rules and regulations made by the Secretary of the Treasury, and approved by the President, dated respectively the 28th day of August, 1862, the 31st day of March, and the 11th day of September, 1863, or under any amendments or modifications thereof, which have been or shall be made by the Secretary of the Treasury and approved by the President, for conducting the commercial intercourse which has been or shall be licensed and permitted by the President, with and in States declared in insurrection, shall, after satisfying therefrom all proper and necessary expenses to be approved by the Secretary of the Treasury, be paid into the Treasury of the United States; and all accounts of moneys received or expended in connection therewith shall be audited by the proper accounting officers of the Treasury.

And to insert in lieu thereof:

That the first section of the "act to provide for the collection of abandoned property and for the prevention of fraud in insurrectionary districts in the United States," approved March 12, 1863, is hereby extended so as to include the descriptions of property mentioned in an act entitled "An act further to provide for the collection of duties on imports, and for other purposes," approved July 13, 1861, and an act entitled "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862, respectively; and that the sales provided for in said act first mentioned may be made at such places as may be designated by the Secretary of the Treasury. And section six of said first-mentioned act is hereby amended so as to include every description of property mentioned in the acts of July 13, 1861, and July 17, 1862, aforesaid; and that all property, real or personal, described in the acts to which this is in addition, shall be regarded as abandoned when the lawful owner thereof shall be voluntarily absent therefrom, and engaged, either in arms or otherwise, in aiding or encouraging the rebellion.

The amendment was agreed to.

The next amendment was in section four, line three, after the word "thereto" to strike out the words "are hereby extended" and to insert "shall apply;" and in line six, after the word "being" to insert the words "within districts;" so that it will read:

SEC. 4. And be it further enacted, That the prohibitions and provisions of the act approved July 13, 1861, and of the acts amendatory or supplementary thereto, shall apply to all commercial intercourse by and between persons residing or being within districts within the present or future lines of



national military occupation in the States or parts of States declared in insurrection.

The amendment was agreed to.

The next amendment was to add at the end of the fourth section the following:

Whether with each other or with persons residing or being within districts declared in insurrection and not within those lines; and that all persons within the United States not native or naturalized citizens thereof shall be subject to the same prohibitions in all commercial intercourse with inhabitants of States or parts of States declared in insurrection as citizens of loyal States are subject to under the said act or acts.

The amendment was agreed to.

The next amendment was in section six, line one, after the word "that" to insert the words "so much of;" in line three, after the word "two" to insert "and the fourth section of the act approved March 12, 1863, as directs;" and in line five to strike out the word "directing;" so that the section will read:

SEC. 6. *And be it further enacted*, That so much of the fifth section of the act approved May 20, 1862, and the fourth section of the act approved March 12, 1863, as directs the manner of distributing fines, penalties, and forfeitures, is hereby repealed, and that in lieu of the distribution thereby directed to be made to informers, collectors, and other officers of the customs, the court decreeing condemnation may award such compensation to customs officers, informers, or other persons, for any service connected therewith, as will tend to promote vigilance in protecting the public interests, and as shall be just and equitable, in no case, however, to exceed the aggregate amount heretofore directed by the said fifth section.

The amendment was agreed to.

The next amendment was in section seven, line three, after the word "States" to strike out the words "not under the laws of blockade," and in line six, after the word "provided" to insert the words "in this act and;" so that it will read:

SEC. 7. *And be it further enacted*, That no property seized or taken upon any of the inland waters of the United States by the naval forces thereof shall be regarded as maritime prize; but all property so seized or taken shall be promptly delivered to the proper officers of the courts, or as provided in this act and in the said act approved March 12, 1863.

The amendment was agreed to.

The next amendment was to strike out the eighth section, as follows:

SEC. 8. *And be it further enacted*, That it shall be lawful for the Secretary of the Treasury, with the approval of the President, to authorize agents to purchase for the United States any products of States declared in insurrection, at such places therein as shall be designated by him, at such prices as shall be agreed on with the seller, not exceeding the market value thereof at the place of delivery, nor exceeding three-fourths of the market value thereof in the city of New York, at the latest quotations known to the agent purchasing: *Provided*, That no part of the purchase money for any products so purchased shall be paid, or agreed to be paid, out of any other fund than that arising from property sold as captured or abandoned, or purchased and sold under the provisions of this act. All property so purchased shall be forwarded for sale at such place or places as shall be designated by the Secretary of the Treasury, and the moneys arising therefrom, after payment of the purchase money and the other expenses connected therewith, shall be paid into the Treasury of the United States; and the accounts of all moneys so received and paid shall be rendered to and audited by the proper accounting officers of the Treasury.

The amendment was agreed to.

The next amendment was to insert the following as additional sections:

SEC. —. *And be it further enacted*, That so much of section five of the act of 13th of July, 1861, aforesaid, as authorizes the President in his discretion to license or permit commercial relations in any State or section the inhabitants of which are declared in a state of insurrection, is hereby repealed.

SEC. —. *And be it further enacted*, That all officers and privates of the regular and volunteer forces of the United States, and all officers, sailors, and marines in the naval service, are hereby prohibited from buying or selling, trading, or in any way dealing in the kind or description of property mentioned in this act, and the act to which this is in addition, whereby to receive or expect any profit, benefit, or advantage to himself or any other person directly or indirectly connected with him; and it shall be the duty of such officer, private, sailor, or marine, when such property shall come into his possession or custody, or within his control, to give notice thereof to some agent appointed by virtue of this act, and to turn the same over to such agent without delay. And for any violation of the provisions hereof the officer, private, sailor, or marine so offending shall be liable to the penalties mentioned in the sixth section of the act of 12th of March, 1863, aforesaid, and shall also be liable to indictment as for a misdemeanor, and fined not exceeding \$5,000, and to punishment in the penitentiary not exceeding three years, before any court competent to try the same.

The amendment was agreed to.

Mr. MORRILL. The importance of this bill justifies and perhaps demands that I should state to the Senate its character and effect.

The PRESIDENT *pro tempore*. The Chair will

have to interrupt the Senator to call for the special order of the day.

Mr. MORRILL. What is the order for one o'clock?

Mr. WILSON. The bill that we adjourned upon last night, and which it is very important should be acted on to-day. We want to get it to the House of Representatives, so that the Military Committee of that House may have it to-morrow morning. I will ask the Senator if he thinks he can get this bill through in a brief time.

Mr. MORRILL. I suppose it will not occupy much time. I cannot answer for it. It is a bill of great importance, and it is desirable that it should pass at an early day and go to the House of Representatives; but still I cannot assure the Senator that it will not be likely to give rise to much discussion.

Mr. WILSON. I think the Senator had better give way, and let the bill we adjourned on last night be taken up and considered.

The PRESIDENT *pro tempore*. The special order is before the Senate.

Mr. CHANDLER. I move that the special order be postponed with a view to proceed with this bill.

Mr. WILSON. Let it be done informally.

Mr. MORRILL. If the bill occupies much of the time of the Senate I shall not insist upon it.

Mr. CHANDLER. I do not think it will lead to debate.

Mr. HENDERSON. I hope this bill may go over. I have not had time to examine it; but I find that it is a bill that will very seriously affect the people I represent.

Mr. MORRILL. Will the Senator allow me to explain it?

Mr. HENDERSON. I have no objection to that; but I do not want it acted upon to-day, as I have not had time to examine it.

The PRESIDENT *pro tempore*. If there be no objection, the special order will be informally postponed to allow the present consideration of the bill which has been before the Senate.

Mr. WILSON. After the suggestion made by the Senator from Missouri, it seems to me that this bill is likely to take some little time, and I think it is of great importance to dispose of the other measure to-day.

Mr. HENDERSON. Let the Senator from Maine make an explanation of the bill. I should like to hear it.

Mr. JOHNSON. A mere explanation will take but very little time.

Mr. WILSON. Very well.

The PRESIDENT *pro tempore*. If there be no objection, the special order will be postponed to allow the Senator from Maine to proceed. The Chair hears no objection.

Mr. MORRILL. I will state in the first place, Mr. President, the general character of the bill. It is twofold. It relates to the commercial intercourse between the loyal States and the States in insurrection, and it provides for the collection of abandoned and captured property. I will refer the Senate to the statutes which are affected by it. By the act of March 12, 1863, it was provided that the Secretary of the Treasury should appoint certain agents whose business it should be to collect, in the States declared by the President in insurrection, property, which was denominated in that act abandoned property. By the act of July 17, 1862, certain property was declared to be forfeited to the United States; or, in other words, all the property of certain classes or persons in rebellion against the United States was declared forfeited, and denominated prize of war. By the preceding act, the act of July 13, 1861, certain property was declared forfeited which should be found in transit between the States in insurrection and the loyal States. In other words, all intercourse between the States in insurrection and the loyal States was declared illegal, and all property attempted to be carried from one section of the country to the other was declared forfeited.

The first amendment of the Committee on Commerce to this bill extends the provision of the act of 1863, whereby the Secretary was authorized to appoint agents to collect abandoned property, to the two preceding acts, and makes it his duty to collect, within our lines, all property both abandoned and declared forfeited by those acts to the Government of the United States; and that is the extent of the bill on that subject. By the act of

July 13, 1861, as I have already stated, all intercourse between the States in insurrection and the loyal States was declared illegal; but there was this proviso:

"*Provided, however*, That the President may, in his discretion, license and permit commercial intercourse with any such part of said State or section, the inhabitants of which are so declared in a state of insurrection, in such articles, and for such time, and by such persons, as he, in his discretion, may think most conducive to the public interest; and such intercourse, so far as by him licensed, shall be conducted and carried on only in pursuance of rules and regulations prescribed by the Secretary of the Treasury. And the Secretary of the Treasury may appoint such officers at places where officers of the customs are not now authorized by law as may be needed to carry into effect such licenses, rules, and regulations; and officers of the customs and other officers shall receive for services under this section, and under said rules and regulations, such fees and compensation as are now allowed for similar service under other provisions of law."

It will be seen, then, that upon this statute of 1861, as a general proposition, all commercial intercourse between the loyal States and the States in insurrection was absolutely prohibited, with the proviso that the President might authorize and permit such trade in such articles as he deemed necessary between those States. Under that proviso the Secretary of the Treasury ordained certain rules and regulations for the trade between the insurrectionary and the loyal States; and it is understood that a very large trade has sprung up under those regulations; so that the committee were led to believe that the exception came very near being the rule itself; that the intercourse which the act of 1861 had declared illegal between the States had been rendered legal by the rules and regulations of the Treasury Department, and trade between those sections, that is, the contiguous sections, was very little restricted; and under those rules and regulations it is believed that a system of general abuse grew up.

The committee, therefore, to restore the statute of 1861 to its original purpose, provided for the repeal of that proviso, and as the bill now stands, as reported by the committee, all commercial intercourse between the States in insurrection and the loyal States is declared illegal.

Mr. HENDERSON. Tennessee has been declared in insurrection. Would this bill prevent any trade with any part of Tennessee?

Mr. MORRILL. Yes, sir; the bill of the committee prevents any commercial intercourse between any State declared by the President to be in a state of insurrection and the inhabitants of a loyal State.

Mr. HENDERSON. But suppose some of the ports were declared open under another law?

Mr. MORRILL. That would be an exception.

Mr. HENDERSON. I do not find it in this bill.

Mr. MORRILL. If I am understood, then, two propositions are contained in the bill: the first is to prohibit all commercial intercourse between the States and sections which by the act of 1861 are authorized to be declared in a state of insurrection by the President, and the proviso of the act of 1861 which authorizes the President to grant and permit licenses in such cases is absolutely repealed.

The next proposition is that it shall be the duty of the Secretary of the Treasury to appoint agents whose business it shall be within our lines to collect all abandoned property and all property which by the act of 1861, and the subsequent act of 1862, was declared to be captured, and proceeds upon the idea that, it being the property of the United States by those acts, it is to be converted for the support of the Army and for the Treasury.

Perhaps I ought to state one other section, the seventh section of the amended bill, which is only in addition by way of enforcing the foregoing provisions. It has been found that in all this region of country a very large trade sprang up, and it is believed to have proved very injurious to the public service. Officers of the Army and officers of the Navy have been largely engaged in one way or another in trade in the products of that country. Section seven prohibits officers of the Army and of the Navy, and soldiers in the Army and sailors and marines in the naval service from engaging in trade or in any way interfering with this property, except as their duty may require them to turn the property over to the commercial agents appointed by the Secretary of the Treasury.

It was found, moreover, Mr. President, that in the naval service large quantities of cotton had been captured by officers of the Navy and claimed to be prize of war, out of which has arisen a great deal of trouble between the officers of the Navy and the commercial agents. This bill provides that none of this property which by the previous acts is declared to be forfeited to the United States shall in any contingency whatever be considered prize of war, and the officers of the Navy are prohibited from so treating it, or reducing it to their custody, or in any way whatever interfering with it, except to turn it over to the commercial agents.

Mr. COLLAMER. I suppose that provision does not include captures made at sea.

Mr. MORRILL. Of course not. It carefully excludes captures made at sea. I believe I have now given a brief statement of the character of the bill.

Mr. JOHNSON. I am not quite sure that I understand the bill from the explanation made by the honorable member from Maine, although it has been made in a very lucid way. I do not understand it because I am not sure that I understand the antecedent legislation; and if the honorable member will answer the questions which I am about to ask, he may remove the objections to which it seems to me the bill is obnoxious.

The act of 1861 prohibits all trade between the insurrectionary States and the loyal States; but it has within it an authority which I believe is in the proviso which this bill seeks to repeal, an authority to the President to declare any port or section of any such State to be a port or section between which and the loyal States trade may be had. The State of Tennessee, the whole State, has been declared to be in a state of insurrection; and under the general provisions of the act of 1861, if we had done nothing more, there could have been no trade carried on between the people of the loyal States and the people of Tennessee; it would all have been prohibited; but under the proviso contained in that act the President declared Memphis to be a port with which trade might be carried on, and a very heavy trade has from that time to this, whenever the river has been open, been carried on between the States above and Memphis. Perhaps nearly the whole trade upon the river that Missouri has had since the war commenced has been a trade with the port of Memphis, and they were authorized to have that by virtue of the authority conferred on the President by the proviso. Now, the honorable member from Maine proposes by this measure, if I understand him aright, to repeal that proviso, so as to take from the President the authority to except any place out of the operation of the act of 1861, which declares all those States to be in a condition that no trade can be carried on with them, so as to put Tennessee—I illustrate it by Tennessee—in a condition where no trade can be carried on with her.

We were told, and we rejoiced over the result when it was accomplished, that the opening of the Mississippi river was all-important to the loyal States upon the river, and to ourselves on this side, for a good deal of that trade makes its way to the Atlantic coming this way, either coming entirely through by our railroads, or stopping at Cincinnati or other places, and going by rail around to New York. We succeeded in making the river open practically; and when that was done a very considerable trade was carried on between the States bordering upon the river and the port of Memphis, because the President, under the authority conferred upon him by the proviso of the act of 1861, authorized trade to be carried on with that portion of Tennessee; but if you repeal that proviso it cannot be carried on in the future, and the whole State of Tennessee will be excluded from the privilege of trade with States below or above her, and the loyal States above will be excluded from the privilege of trading with her. I can only guess at the probable result. The honorable member from Missouri [Mr. HENDERSON] is of course more familiar than I am with the extent of the trade that has been carried on, and the effect of now arresting it; but I can imagine that the repeal of that proviso would be very fatal to the loyal citizens of Missouri, and be exceedingly obnoxious.

Mr. MORRILL. I do not understand the bill to have the effect contemplated by the Senator from Maryland. By the fifth section of the act of

1861, which contains the proviso, the President is authorized to declare in a state of insurrection any State or section of a State; but from time to time he may change that declaration; so that if I am right in this construction, the effect would be that to-day he may declare the whole State of Tennessee in a state of insurrection, and then, according to the provisions of this bill, all trade would be prohibited; but to-morrow the circumstances of the country may be changed, and he may declare one half of the State of Tennessee to be in a state of insurrection, and the other half not; and then, under the provisions of this bill, that half not declared to be in a state of insurrection would be open to trade and commerce. The simple proposition of the Committee on Commerce is that while we are proceeding against a section of the country in a state of war, and declaring it to be in a state of insurrection, we will not hold that that section of country is in such condition that it is safe to maintain commercial relations with it; that when we declare a State or a section of a State to be in a state of insurrection, that condition is inconsistent with the idea of commercial relations, and with that section of country we shall hold no commercial relations whatever.

As there seems to be a desire to take time to look into the bill, and I agree that it is of the utmost importance and should be carefully considered, I have no objection that it shall now subside.

Mr. COLLAMER. I desire to say a very few words before the bill is postponed. The act of 1861, which authorized the President to declare insurrectionary States to be in a state of insurrection, and provided that thereupon commerce with them should cease, and that all intercourse with them by land or water should be unlawful, and that the vessels and vehicles engaged in it might be forfeited, was a necessary condition to a state of war. The idea of carrying on a war with any people, and at the same time holding commercial intercourse with them, is a paradox; it cannot be. The Senator from Maine is right when he says that if we can carry on commerce with them we can furnish all the supplies to make war on us. And I undertake to declare, whatever gentlemen may say to the contrary, that if this business of trading with the enemy is suffered to go on, our war never can end.

I wish now to say a word in relation to the clause of the act of 1861 to which allusion has been made. The proviso was put in for a purpose. We understood in passing that act that when the proclamation was issued under it there would be a state of war, absolute, unconditional war; and the Supreme Court of the United States in the prize cases held unanimously that that was our condition after the act of 1861 and the proclamation under it. As we stopped all intercourse and had an actually existing state of war, a question arose whether there might not be a practical difficulty in ever putting an end to it under such a law. As our Army went on, as we hoped it would, in the occupation of the enemy's country, and that country was opened to the loyal part of the United States, it was apprehended that intercourse might be needed to feed the towns and cities in the rear of our armies; and the question immediately arose whether that could be done consistently with the laws of nations, as we had now put the United States in a state of war with the insurrectionary States, to be governed of course by the laws of nations. Thereupon examination was made, and it was ascertained distinctly that by the law of nations the power to declare war, in modern times, within the last two hundred years at least, has been considered among nations as a power that may modify that war; it may license intercourse with particular parts and sections under peculiar circumstances. We wanted the President to have power to permit intercourse as we progressed in the possession of the country; and inasmuch as the President had not the war-declaring power, that being in Congress, it became necessary in order to invest him with that authority to have an act of Congress, the war-declaring power, to enable him to do it; and therefore the proviso which has been referred to was put in the act of 1861 that the President might license intercourse in such articles and by such persons as he might deem safe, in such sections of the country as he had declared to be in a state

of insurrection, as the public service might require.

I have read the bill of the Senator from Maine with some care, but I do not know that I understand it sufficiently to see how it relieves the difficulty. I understand it to repeal the proviso of the act of 1861. It repeals the power given to the President for such a contingency as I have stated. Suppose we should get possession of Richmond next week, and our troops being there, some of our people being there, could any intercourse be held with Richmond to carry provisions in there to keep the people of the town from starvation then? Virginia has been declared to be in a state of insurrection; a state of war exists between that country and this, and intercourse has necessarily ceased. The insurrection in Virginia has not been suppressed, but we have got possession of some part of the country; it will not do for us to say that where we have military possession we will permit the people to starve; intercourse must be, temporarily at least, restored to them. I desire to know how this is to be done under this bill? Suppose you repeal the proviso which I have mentioned, how are we to get along in relation to any part of the country that we take possession of when we have not suppressed the rebellion?

I wish it to be borne in mind at the same time that, as I understand it, all attempts to undertake to say that a particular section of a State, or a whole State, if you please, when one tenth of its inhabitants declare themselves to be loyal, is reclaimed from a state of insurrection, are practically impossible; the thing is a failure. I need not go over the experiment that has been made under that. What has been done in Florida? You take possession of two or three towns, invite the people to take the oath of allegiance, and then in a few weeks you are compelled to leave there and turn over those people whom you have thus induced to take the oath of allegiance to the mercy of their enemies if they have any; you abandon them to the enemy. It has been done in Florida twice already; it has been done in part of North Carolina; and I think it has been done to some extent in Texas. How many of those good people who have been thus practiced upon have actually lost their lives by it, I do not know, but I think large numbers. The truth is that to reclaim any State or part of a State to allegiance to this country, and reestablish an entire government overit according to the genius of our institutions, with proper local legislation and United States legislation, is a thing impracticable until the whole insurrection, all its military power, is put down everywhere. The army of the rebels has been hunted out of Tennessee, but it is down on the borders of Georgia, fifty or one hundred miles off; the war is going on; one half the people of Tennessee are looking to that rebel army with a hope of its return, and the rest of them are looking to it with a fear of its return. How can any State be expected to be reclaimed, I mean quietly, satisfactorily, and safely, in that way? It never can be done. The truth is that the military force of this insurrection must be subdued everywhere before you can reclaim and return to their allegiance people anywhere.

I wish to call the attention of the Senator from Maine to another point in connection with this bill. I do not agree with him that the President, after having to-day declared a State to be in insurrection, can to-morrow declare that a certain part of it is not in insurrection. There is nothing of that kind in the power given to him by the act of 1861; that law does not contain any such thing. It does give power to license an intercourse where he thinks the public service requires it and it can be safely done; but the power to declare a State or a part of a State to be in insurrection does not authorize him afterwards to declare a part of that State to be reclaimed from insurrection. That is entirely a different power. He may license intercourse, and he ought to have that power, to be exercised when the condition of things produced by military force may require it. But if the power is taken from the President to grant these licenses, I desire to know what the bill provides in lieu of it. I do not ask the Senator from Maine to answer now, but in due time, when the bill comes up again, to say how intercourse is to be permitted where we have reclaimed a part of the country, when the necessities of that country require it. Who is to decide that, and how is it to be decided?

Mr. HENDERSON. Before this bill goes over, I desire very much that the Senator from Maine, who has charge of it, will turn his attention to it, and attempt to secure something in another direction from that which he seems to be now pursuing. Although a great many of the people of Missouri have been long disposed to complain most bitterly of the rules and regulations imposed upon trade, I have not been inclined to complain of the Secretary of the Treasury on that subject. I know that some of the regulations are very onerous and burdensome upon trade that our people desire to carry on, and that might be very advantageously carried on with certain portions of the country that have been subjected to our arms; but I have always thought that the rules and regulations upon such trade ought to be very stringent lest frauds should be committed, lest arms and ammunition and the means of carrying on war should be given to the rebels. But if the proposition now made by the Senator from Maine shall carry, it cuts off all trade entirely. The Senator from Vermont is perfectly correct upon that subject. The act of 1861, without the proviso which has been referred to, cuts off all trade between the loyal and insurrectionary States, and any property coming from one of the States declared to be in insurrection is confiscated, and may be seized by the officers of the Government immediately on coming within our lines. The only trade that can be possibly carried on, the only interchange of commodities between the States declared in insurrection and the loyal States is carried on by virtue of the proviso to the fifth section of the act of 1861, but if the Senator from Maine succeeds with his bill no trade whatever can be carried on, for it repeals that proviso.

Now, Mr. President, I desire to state a fact which ought to be taken into consideration by the Senate. I will go as far as any Senator toward cutting off an improper and contraband trade between the loyal and seceded States. I know that our people are very desirous to open up unrestricted trade, indiscriminate trade with the southern States. I know that they argue in my State that that will do more toward converting the people of the South and bringing them back to a return of peaceful relations than anything else which can possibly be done. In fact, many of them argue that commerce will do a great deal more than our arms toward bringing about a return of peace. I have differed and differed materially from gentlemen who thus argue, and I have desired at all times to see such regulations adopted as will prevent the carrying to the rebels of anything that may aid them in their work of treason. But suppose we cut off all trade entirely, what will be the result? I desire to call attention to that consideration especially. In the State of Tennessee, where there is perfect peace in large portions of it, say for instance at the city of Memphis, there would have been very great suffering, indeed, but for the trade which has been allowed. What course shall we pursue? Because the State of Tennessee has been declared to be in a state of insurrection, shall we say that we will starve to death all the people in that State? Suppose we take the country, and our armies, as they have a right to do, seize upon and use the corn and the hay and all the provisions the people there have to sustain themselves, what shall be done? Will the Government of the United States feed the people of Tennessee at its expense, furnish rations to them as we have been compelled to do there and in various other States, or shall this restricted trade be opened up so that the people of that country can give us cotton in return for something to eat? It is a plain proposition: we have either got to starve those people or to furnish them with rations under the direction of the Federal armies at the expense of the Government, or else we must open up a restricted trade, so as to let them exchange commodities with us. There is no question of that.

One other consideration. I have no doubt that the Committee on Commerce have been led to report a bill of this character in consequence of the numerous frauds committed by Treasury agents in the southern States. I have been informed that those frauds have been great. But the Secretary of the Treasury is not to blame for this; the President is not to blame for this. Until we can make all men honest by legislation such things will occur, and they will occur in all de-

partments of business. The temptations upon the Treasury agents in the southern States are very great; the temptation is presented to them almost every day to make a fortune; and I have no doubt that numbers of men who went down there believing themselves to be honest men have turned out to be fraudulent and corrupt individuals. But are we to do a very great wrong because some men turn out to be dishonest? I say not, and I hope no such measure as this in the present state of the country will be adopted.

The Senator from Vermont, according to my view, is perfectly correct in holding that when the President has once declared a State to be in insurrection he is *functus officio* on that point, he has discharged his duty, he has no power then to proclaim that the State is not in insurrection so as to allow intercourse with it. He can open a port of entry where he thinks it desirable to allow foreign trade, but not by virtue of that act. If this bill shall be passed it will cut off all trade, not only the contraband trade but that which is advantageous to our own Government, to the people of the West, and to the poorer people in the southern States who perhaps have been loyal at all times.

I think, therefore, that this bill deserves a very close examination, and I hope that it will be passed over for the present. I thought it necessary to say something while it was now before the Senate. I hope that no act will be hastily passed which will inflict such very great injury on the Government and on the people of the West and on the people behind our armies, many of whom are loyal, and many of whom will become so by proper and restricted trade.

Mr. TEN EYCK. The Committee on Commerce, who reported this bill, regarded it as one of the utmost importance, and with the knowledge derived from investigations of the matters involved in it, as a member of that committee regarded it as of as much importance as the passage of the bill which it is proposed to take up in place of this. Still, I am willing that this shall now give place to that bill, and that this may be laid aside with a view of perfecting it and meeting some of the questions which have been proposed by Senators on this floor in relation to its probable operation. I think it highly important and worthy of consideration, and every day that we refrain from the passage of this bill not only inflicts a gross injury on the Union cause, but encourages, I had almost said, thousands of men to depart from the line of rectitude which has characterized them throughout life and engage in a wholesale raid upon southern productions in the shape of cotton and other things; and not only that, sir, but goes to prolong the war.

It would be a very serious thing, I admit, to starve all the Union people within the lines of our armies as they advance; and perhaps it would be a very serious thing to starve those who are not Union people, though I should not regret their sufferings as much as I would those who have Union sentiments, if such a calamity should happen. But, sir, while we are looking to the protection and comfort of the Union men and women who have suffered in consequence of their fidelity to the ancient flag, we must not overlook the fact that we have prolonged their sufferings, prolonged the rebellion, strengthened the arm of traitors by allowing this very trade, in consequence of which not only Union men and women but rebels of the deepest dye have been fed and have had their pockets crowded with greenbacks, by means of which they could carry on the rebellion. Under this permission to trade, supplies have not only gone in, but bullets and powder, instruments of death which our heroic soldiers have been compelled to face and meet upon almost every field of battle in which they have been engaged in the South. I am not at liberty to mention any of the evidence that has come before the committee of which I happen to be a member, on this subject; but if I were to mention the facts, they would make the cheeks of every American Senator tingle with shame.

I am greatly afraid that in some quarters the movements of our armies have been directed more with a view to carry on trade and to procure the productions of the southern country than to strike down the rebels and put rebels under their feet. I fear it, sir. I am so greatly convinced of it that I am anxious that this bill shall be perfected and

passed at the earliest possible period, so that if possible not even a day shall pass over our heads before we put an end to these nefarious transactions.

Sir, the whole valley of the Mississippi along the line of this permitted trade has been debauched; not merely the Treasury agents, (for that is a very small matter,) but men engaged in carrying our flag, not only upon land but upon the internal waters; and I am greatly afraid that under the plea of maritime capture raids have been set on foot, extending inland many miles, and money has been paid for the products of the country, and even gone into the hands of rebels with a perfect knowledge that they were such.

I intended to do nothing more than call the attention of the Senate to the importance of passing a bill of this kind, and passing it speedily; but I am willing to defer to the wishes of the chairman of the Military Committee in order that the bill in regard to a draft may be taken up and passed without any further delay.

Mr. SAULSBURY. I am very glad that this revelation of facts, which the public have believed for a great while, comes now with so distinguished an indorsement. The honorable Senator from New Jersey will pardon me for an inquiry which I propose to make: whether the acts and things which he has condemned have been done by members of his own party, or by that unfortunate class of people in this country who are denominated "copperheads."

Mr. TEN EYCK. Sir, in this matter I know no party and I know no distinction between members of different parties. I have made no revelation; I have simply intimated my fears and my doubts on this subject, and they are so strong as to include members of the party to which the gentleman belongs as well as members of the party to which I belong. Without discrimination and distinction, I for one am anxious to tear up the whole thing by the roots, to destroy it root and branch, and I trust this bill will do it.

Mr. WILSON. I call for the order of the day.

#### COURTS IN WISCONSIN.

The PRESIDING OFFICER. (Mr. Floor in the chair.) Before taking up the order of the day the Chair will, with the indulgence of the Senate, lay before the body the amendment of the House of Representatives to the bill (S. No. 55) in relation to the circuit court in and for the district of Wisconsin.

The amendment was read. It was to add to the bill the following proviso:

*Provided, That nothing herein contained shall be construed to interfere with execution-processes or orders of sale already in part executed, but the same shall proceed and be perfected as if this act had not been passed.*

The amendment was concurred in.

Mr. DOOLITTLE subsequently said: My attention was not called to the vote concurring in the amendment of the House of Representatives to the bill relative to the circuit court in Wisconsin. I move that that vote be reconsidered.

The motion was agreed to.

Mr. TRUMBULL. I think the amendment ought not to be concurred in. The very object of the bill was to prevent an inconvenience arising from having part of the records in the district and part in the circuit court. This amendment destroys that, and I think it should be non-concurred in.

The amendment was not concurred in.

#### HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on the District of Columbia:

A bill (No. 186) to incorporate the Baltimore and Washington Depot and Potomac Ferry Railway Company;

A bill (No. 364) authorizing and requiring the opening of Sixth street west;

A bill (No. 434) to authorize the bailiff of the orphans' court, in the county of Washington and District of Columbia, to serve processes issued by said court, and for other purposes;

A bill (No. 495) to amend the charter of the Washington and Georgetown Railroad Company; and

A bill (No. 89) as to sewerage and drainage in the city of Washington.



The bill (No. 486) to amend an act entitled "An act to provide a temporary government for the Territory of Idaho," approved March 3, 1863, was read twice by its title, and referred to the Committee on Territories.

#### PERFORMANCE OF MILITARY DUTY.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 286) to prohibit the discharge of persons from liability to military duty by reason of the payment of money.

**THE PRESIDING OFFICER.** The pending question is on an amendment moved by the Senator from Massachusetts, [Mr. WILSON.]

**Mr. WILSON.** The Senator from Vermont [Mr. COLLAMER] has prepared some amendments that cover the point intended to be covered by my amendment, and I think more fully and in better guarded language. I therefore withdraw my amendment for the purpose of allowing the Senator from Vermont to offer his.

**Mr. COLLAMER.** Last night this bill was laid over at my suggestion, as I desired to prepare some amendments. I have prepared them and shown them to the chairman of the Military Committee, and he is willing to adopt them. I move now to amend the bill by adding the following additional sections:

*And be it further enacted,* That all calls for drafts hereafter made under the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, and of any act in addition to or amendment thereof, shall be for a term not exceeding one year.

*And be it further enacted,* That this act shall not extend to or include drafts to be made in any district or subdivision thereof, to fill its quota on calls already made, but the same shall be completed under the laws in force before the passage hereof.

*And be it further enacted,* That no person drafted on future calls shall be liable to be again drafted until the present enrollment shall be exhausted.

*And be it further enacted,* That the number of men furnished from any district for the service of the United States beyond and above its quota on calls heretofore made, and the term of service of such men, shall be considered and allowed to said district in calls hereafter made.

**THE PRESIDING OFFICER.** The question will be taken on each separate amendment in its order, as each section is a distinct proposition. The first question is on the first additional section.

**Mr. COLLAMER.** I do not wish any division of the question.

**Mr. CONNESS and Mr. HENDERSON.** I ask for a division.

**THE PRESIDING OFFICER.** It is the right of any member to have a distinct vote on each separate proposition of amendment.

**Mr. COLLAMER.** When a call is made for a division it is proper of course.

**THE PRESIDING OFFICER.** The first section of the amendment will be read:

The Secretary read as follows:

*And be it further enacted,* That all calls for drafts hereafter made under the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, and of any act in addition to or amendment thereof, shall be for a term not exceeding one year.

**Mr. COLLAMER.** The bill before the Senate is a bill to repeal the \$300 commutation clause of the existing law. My proposition is not to strike out from the bill, but to add these additional sections to it, and I wish to explain for a few moments the relations which these different sections bear to each other, making a system by themselves. The first one, which has just been read and which is to be first voted upon, provides that the future drafts shall be for a term not exceeding one year. I made my remarks on that proposition yesterday, explaining my views. If you repeal the commutation clause, the necessary consequence is, as was suggested by the honorable Senator from Maryland, a very great rise in the price of substitutes; they will not fall within the reach of ordinary people. Then, in relation to people of ordinary circumstances, to say to them that we will repeal the commutation clause, of course elevating greatly the price of substitutes, and draft them for three years, and make all go who are able to go, is an extremity which I do not believe the service of the country demands.

In the next place, I believe that in the present state of our Army affairs, the drafting of twelve months' men and putting them into the regiments already existing, which are officered by officers

of experience, with considerable bodies of experienced men, will give us a good organization, and the men thus drafted in a very short time will make as good and efficient soldiers as if they were all veterans. Hence I believe it will be best to make your drafts for shorter periods and to make them so as always to have a reserve force to fill up our Army when it is necessary. Undertaking to draft men when you are actually in the presence of the enemy in the field cannot answer the purpose. Our present great service immediately before Richmond cannot be relieved by men drafted now. I am not now speaking of volunteering or of the States that may turn out from their existing organizations some militia for short periods; but the bill before us relates to drafting from our national forces agreeably to our laws of draft; and I say nothing can be derived through that channel and from that source which can furnish any present relief to the Army. The bill, therefore, looks to the future, and looking to that future, I believe the better way is that the draft be made in the autumn, that it be made for a year, that the drafted men be put into existing regiments with the experienced men, and by the opening of the spring campaign these men together with the experienced men who are with them will form an efficient force for the whole campaign; and then in the succeeding fall another body of men should be drafted so as to be ready to fill up the Army when the terms of their predecessors expire; and that plan of drafting from time to time and filling up your armies as they need it should make a system.

In order to preserve the consistency of the system, the next section which I propose is that this drafting by the year shall not apply to making up the quotas of States which are in arrear on past calls. That section is a necessary part of the system. It is that any district which is in arrear, shall fill up its arrearages with three years' men under the law as it now exists and under which other States have filled theirs.

Not only are there States in arrear, but there are other States that are a good deal in advance of the calls, that have furnished more men than the calls required; and the next section of my amendment provides that in all cases where districts have furnished a larger number than was necessary to fill the quotas which were required of them on calls heretofore made they shall have their excess of men reckoned according to their term of service toward the future calls. So you perceive, Mr. President, that this section and the preceding one provide in relation to districts in arrear and in relation to districts in advance.

Another section is, leaving past drafts to be governed by existing law, that in future drafts for a year's service a man who is drafted shall not be put back for draft again until the roll is through. That is, you shall not call on a man and send him for a year and then put him back in the list and draw him again, when his neighbor under the same circumstances has not gone.

**Mr. JOHNSON.** Is not that the law now?

**Mr. COLLAMER.** No. There is a law of that kind in relation to certain kinds of substitutes, but it is not the law generally, though to my mind it ought to have been, and it certainly ought to be now if we go by this system, so that people shall take their turns in this matter. These different sections constitute my system, and hence I desire that the question should be taken on them all together as one amendment; but those unfavorable to the system, who desire to defeat it, of course want the question taken by parts.

**Mr. BROWN.** I trust, Mr. President, that the amendment offered by the Senator from Vermont will not be adopted; and permit me here to recur to the manner in which this measure comes before the Senate. This question having had the consideration of the Committee on Military Affairs was reported upon, and the bill reported is now before you; but a motion was made on the strength of it which changes the whole system, a motion made by the chairman of the committee without any concert with that committee, and I do not know as yet from what source it emanates. I must object for one to that mode of dealing with questions of such gravity. I believe the Senate will bear me out in the statement that in the discussion which transpired here before it was insisted upon strongly by those most conversant with our military management,

and those most intimately connected with the War Department in their personal relation, that the length of service for three years was one of the best features connected with the enlistment. As long as the question of volunteering was open, it was insisted upon all the time that we should have the longest term of service; and it was said, and said very properly, that as a purely military question it had been found that one year was not long enough within which to fit troops for the field, within which to fit them for enduring those hardships which campaigns involve them in. It is not simply the equipping of troops, it is not simply putting arms in their hands, but it is, so to speak, the seasoning of the bodies of the soldiers to the endurance of those fatigues that makes the soldier and makes the value of the soldier; and I say that within the period of one year you cannot expect to have that effective soldiery which you will have within two years or three years. I believe I am sustained when I say that that has been the representation which has come to us continually from the War Department, and that no counter representations have ever come to us from the Military Committee in this body.

But it is now proposed to change that mode and to make all future drafts for simply one year; and why? I have heard no reason assigned for this change, which is going to make a very serious change in our military arrangements, except the one fact that it will probably fall lighter upon those who are drafted. If that consideration is to obtain, I see no reason why you should fix the period at one year rather than at six months, or at six months rather than at three months, or at three months rather than at one month. So far as the question is concerned of the *onus* upon the person drafted, of course the shortest time will be the most preferable to him; but I believe in this question we should not consider the *onus* to the person who is drafted, but the necessity of the Government and the necessity of an effective service.

It may be said, and has been said, that there will be a greater willingness to enter into the service where the term is for only one year than where it is for three years; but it must be considered that we are now on the subject of a draft and not the subject of voluntary enlistment, and, as was well explained by the Senator from Indiana [Mr. LANE] yesterday, the question of time is not a question that enters into the consideration of our carrying through this draft effectively. If we see fit to draft these men we do it for three years by the same machinery, at the same cost, with the same equipment, that we do for one year, so that the whole outlay and expenditure of the Government is the same in the one instance as in the other. Furthermore, we have the same means of enforcing the draft for the three years that we have for the one year; the persons drafted report themselves, or where they abscond are found, and the means of putting them into the service is precisely the same. It is simply a question on their part of indisposition or disposition to serve, which the Government has never taken into account heretofore, and I do not think ought to take into account now.

I do not desire to enter into the larger considerations as to the nature of this service, but I think I am safe in saying that the Government heretofore, and within a very brief time, has given evidence that it deemed it necessary that enlistments for the future should be for a longer period than one year. It has not only done so, but it has gone to the extreme point of paying large bounties to a very large number of soldiers who had a part of the service of one year or less to serve, to induce them to go into the service for three years.

I assume that in the discussion of this question, so far as its military aspect is concerned, we have a right not only to know what the views of the Government and of the military arm are, but that it is our duty, so far as it may be consistent, to consult its experience and to accord to its views. Now I ask, what is the strongest assurance which has been given of the views entertained by the War Department on this subject? Is it not the reenlistment within the last sixty days of a large part of the Army, and the offering to them of enormous bounties if they would reenlist for the term of three years? That, I believe, is an uncontroverted fact; and yet it was provided in that reen-

listment that they should have that privilege even where they had one year still to serve. What is the natural inference? It is that the Government condemns the policy of enlisting soldiers for a single year. If it is going into the enlistment of men for one year to-day, what was the sense of paying these enormous bounties not sixty days ago to those who had one year still to serve, or within a sufficient amount of that time to cover the campaign that would probably take place during the year?

That is the argument that I address to the bill as it connects itself with our military administration; and I say that not only have I the right to assume here that the judgment of the Military Committee of this body is against the amendment, but that the judgment and the action of the War Department are against the amendment also. It remains, therefore, for those who advocate such a radical change in our war policy to show some controlling reason why we should depart from that mode which assures us an efficient service for one which at best is doubtful, which the best military authorities contend is inefficient. I have not heard any such reasons advanced, except that it would be more acceptable perhaps to those who are drafted. As to the simple question of justice or of equalizing this burden, I say that when you establish a system of draft by lottery it is just as equal that the term of service shall be for three years as that it shall be for one year. The equality is the same. The simple fact that the term calls for a longer period does not change its justice or its injustice.

I do not desire to enter into that part of the discussion which has been presented by the Senator from California [Mr. CONNESS] as to the effect that this change in our policy may have upon our standing and the prosecution of the war. He has shown, I think, very clearly, that the only effect it can have is that of discouragement, of raising the question in the public mind whether you are able to finish this war in one year, and if you are not able to finish it in one year, what are going to be the consequences of the discharge of all the troops that have been engaged in that service who shall have been drafted under these drafts, and the substitution of new troops for them. I say he has well shown that the only effect of that can be the effect of discouragement upon the public mind; and I think the effect of it will be to show itself in discouragement upon the public mind as far as our moneyed condition is concerned. When the people see a policy which certainly has not the marks of vigor about it that the older system had, when they see us engaging in it at this time, shortening the period of enlistment, they will begin to raise the question whether you are as much in earnest about carrying this war through to the end or not, and its only effect in a financial point of view will be that of depression, as it will be in the other point of view.

I regret, sir, that the amendment has been offered. I regret that an amendment involving so much of a change, so wide a departure from the military policy heretofore, has not been submitted to those who are intrusted by this body with the discussion and examination of that matter and all similar matters, that they might confer more lengthily with the Department of the Government that is conducting the war, and learn from it the views which it may entertain as to the effect and as to the result of this proposition. I trust, sir, that the amendment will not be adopted.

Mr. HENDRICKS. I expect, Mr. President, to support the amendment proposed by the chairman of the Military Committee; but I do not then expect to vote for the bill which proposes to repeal the law that allows the drafted man to pay \$300 and be discharged on that payment. I shall vote for the amendment because I think, now that it has been announced to the Senate that this war is to be prosecuted for twenty years, if necessary, the horror of the draft ought to be divided among the people; that if one set of men are drafted this year to serve twelve months, and they have to go because the power of the Government makes them go whether they can go well or not, then at the end of the year their neighbors should be subjected to the same horror, and let this dreadful demand upon the service, upon the blood, and upon the life of the people be distributed upon all. It is not right to say to twenty men in a neighborhood, "You shall go; you shall leave your

families whether you can or not; you shall go without the privilege of commutation whether you leave starving wives and children behind you or not;" and then to say to every other man of the neighborhood, "Because we have taken these twenty men for three years you shall remain with your wives and children safely and comfortably at home for these three years." I like this feature of the amendment, because it distributes the horror of the draft more equally and justly over the whole of our people.

There has been some force in the argument presented by the Senator from Missouri, that a man taken fresh into the field is not so good a soldier as the veteran; but I understand from the chairman of the Committee on Military Affairs that it is not proposed out of these drafted men to organize new regiments, but that they shall take their place in the old and trained regiments, and I understood from him that the experience of the war has demonstrated that when the newly enlisted soldier is placed by the side of the veteran in the midst of trained regiments he does almost equally good service with the veteran. I understand him to take his position on that proposition.

If, then, the Senator who is at the head of the Military Committee, and who represents the War Department in this body, informs us that, being thus distributed, the drafted men will do as good service or almost as good service during the first year as during the second or third, the only consideration for us is what is right, what is justice, when we do make this demand upon the people for their service, their blood, and their lives? I say let one set of men go for one year, another for another, and then take the remaining third for the last year. But I desire to say that I do not agree with my colleague when he says, and I do not respond to the sentiment, that this war is to be supported until all the men of the country have failed, and that then we shall hand it over to the women and the children. Sir, I suppose that we represent a wise people; that there is some wisdom in the Senate; that this is a body which is governed by considerations of public policy and public good, and not by sentiments of passion alone. Is this war prosecuted to gratify a passion, or is it prosecuted to save a Government, to save a people? If prosecuted to save a people and a Government, then the sentiment of my colleague cannot be well supported. His sentiment is that we shall bring upon ourselves, as well as upon the southern people, entire destruction; that we shall leave no people here; that the law with its iron hand shall take hold of every man in the country without respect to age provided he has the physical strength to endure a campaign. I will say to my colleague that he will not be supported in his extreme views by the people. The people expect great results from this campaign; and when another year comes rolling around, and it is found that this war is not yet closed, and that there is no reasonable probability of its early close, my colleague and Senators who agree with him will find that the people will say that this effusion of blood must stop; that there must be some adjustment. I prophesy this. Of course I cannot say that it is so now; but I say that if another year rolls around with this war as far apparently from a close as we now perceive it to be my colleague and other Senators will find this to be the sentiment of the people.

But, sir, I want to say a word or two upon this measure as it comes from the Committee on Military Affairs. Last winter I opposed the repeal of the commutation clause, and the Senate agreed in that view. The Senate disagreed to the proposition that a man should not be allowed to commute; and it remained the law of the land that there should still be reserved to the citizen when drafted the right to pay his money and not go to the field. I ask the Senator who is at the head of the Military Committee of this body, and who represents the War Department here, what there is in the history of the country since the Senate took its position last winter on this question that authorizes a departure from the policy we declared then? We then said that we would resort to volunteering rather than to the draft. That was the view of the Senate. What is there in the history of the last few months which shows that we ought to abandon the policy that we sustained at the last vote on this question? I know of nothing, sir.

A call was recently made in the Northwest; whether wise or unwise, whether for good or bad motives, whether to get a force in the field, or for political considerations, I will not stop now to discuss. A force of one hundred thousand men was called for from a few of the northwestern States, and what was the response? In a very few weeks, I believe, Ohio furnished the full amount demanded of her. Indiana has furnished, as I understand, about one half—about ten thousand men. I am not informed in respect to the other States. This much, however, is certain, that a call being made, a short call to meet this present campaign, the response was immediate. That is the only call for volunteers since we amended the conscription law, and it met a ready response, an immediate response from the people, because they hoped this war could be brought to a close this year. I am free to say that if a demand had been made upon the people to volunteer for three years your regiments would not have been so filled up. The people now are not ready to go for three years as they were at first; and I believe it will be slow work to fill up the regiments for three years, even if the bounties be ever so large. But the point I make—

Mr. WILSON. Will the Senator allow me simply to make a suggestion on that point?

Mr. HENDRICKS. Certainly.

Mr. WILSON. The State of Ohio that has sent thirty-eight regiments so promptly and readily into the field for a short term of one hundred days owes several thousand men to the country for three years, and we must have a draft there to make them up.

Mr. BROWN. I suggest to the Senator that the simple reason of that is because the Government has not enforced the draft there.

Mr. HENDRICKS. That was not the case in Indiana. Indiana has given more than her quota, and I believe she has several thousand men in advance; and yet her Governor proposed to furnish twenty thousand men for one hundred days, and the response of ten thousand came up at once. Whether we can fill up the other ten regiments I am not prepared to say; I have not the information. But the point I make to the Senator who represents the War Department upon this question is this: he led the party in the Senate that was opposed last winter to the repeal of the commutation clause; he said it was not sound policy to repeal it; he advocated the propriety of allowing a man to pay his money when drafted, and that this money when paid into the Treasury should be used to pay bounties and secure volunteers; I want to know of that Senator—his speech yesterday failed to give us the information—what has occurred in the history of the country since that time to justify a change of position on the part of Congress. It is not enough for me to know that the Secretary of War has written us to do it. I have not yet bent the knee so humbly as that a mere demand of the Secretary of War is to be responded to by me. It was my judgment last winter that there should be reserved to the citizen this right of paying his \$300, for there are so many of the people who cannot go without utter destruction to their interests. That was my judgment then. I have observed the condition and progress of the war from that time to this, and there is nothing, so far as I have observed, to justify me in abandoning the position that I took when I voted upon the very proposition of the Senator from Massachusetts. Now, when the Secretary of War addresses us, and says to us, "Abandon this policy, change it," I want him to give us the facts that shall justify the Senate in abandoning that which it thought right last winter. Why are we not informed of the number of men in the field? When the Secretary of War asks of us to abandon a position deliberately taken, why are we not told how many men are now away from the farms and the workshops of the country? Is it seven hundred thousand or is it one million of men that we have in the field, and where are they and how are they being used?

I do not agree that the head of a Department may write to Congress and say, "It is my pleasure and will that you shall abandon a policy." If he will give us reasons, facts that justify it, of course then those reasons and facts will have their proper weight and influence upon our judgments. But what reason does he give? The reason that he gives

is that the Provost Marshal General has informed him that in some eighteen districts in eight different States he has commenced the draft, and out of fourteen thousand drafted men he has secured but two thousand six hundred men. I believe that is the information which comes to us from the Provost Marshal General's office. That is a very limited view of the subject. When three hundred thousand men are wanted, is the Provost Marshal General to select out a few districts where the men drafted amount in all to fourteen thousand? What districts they are, in what States they occur, he does not inform us; but he selects a few districts, amounting in all to fourteen thousand drafted men, and he wishes Congress to be governed by the result of the experiment in those districts. Is that enough to justify us in abandoning the policy that we adopted? I do not believe many men are going to be obtained by a draft; I do not believe a very good army will be got by a draft; I do not believe an army will be put in the field by a draft that will whip General Lee. Under the system of volunteering men who can go well go willingly; but by the draft men are forced to go when their interests will scarcely allow them to go. They go into the field, not as volunteers with pride in the cause, but they go into the field because the iron hand of the law has taken them and dragged them into the field. It is not the army that you must have if you are to have success.

But the Senator from Vermont has said you cannot draft men now and get them into the field in time to help General Grant before Richmond. I think that is plain enough to any Senator. You cannot get this draft immediately. If they are to help General Grant, it must be done very shortly, unless a siege takes place, which is hardly to be expected. But I agree with the opinion of the Senator from Vermont that the draft will not bring into the field for the present campaign an army of much service.

The military operations of the country last year did not amount to much after the taking of Vicksburg on the 4th of July. That substantially closed the campaign in the Southwest. Very little was done upon the Potomac after that. And why should we assume now that the fall months will be full of military operations, more than they were last year? If a draft is to be had, let it come under the law that we have; let the money be paid into the Treasury by men who cannot well go, and let that money be used to pay bounties and to secure the services of men to go as a voluntary act on their part. In that way you will get better soldiers; you will get them more readily; you will fill up your army sooner, and you will fill it up with a better material.

But, sir, my opposition to the measure just now is because the Secretary of War has not furnished us any facts that justify the Senate in changing its position. I take it that Senators voted last winter from an understanding of the subject. It was fully discussed. The volunteering has been as successful during this spring as any Senator expected it would be; as many reenlistments of the veterans have been secured, I suppose, as the Senator from Massachusetts expected; I believe he said in the Senate that it was a success; it is not questioned that it was a success. Then let each man that cannot go to the field under the draft pay his \$300, and let that be used for the purpose of encouraging men to volunteer that can go. The country is not yet stripped of men that have not families dependent upon them; and being encouraged by large bounties, by bounties paid by the Government, by bounties paid by the States, by bounties paid by the counties and cities, I apprehend that unless the belief is fastened upon the public mind that this war is not to end within any reasonable time, the armies can be filled up again.

There is one argument that was used by the Senator from California [Mr. CONNESS] and the Senator from Missouri [Mr. BROWN] that I intended to refer to when I was speaking of the subject to which I first alluded. They said it would discourage the country to call out men for but one year. I look at it from another point of view. We are now in the midst of a campaign that it was said was to close this war: it was proclaimed all over the country, it was announced to foreign Governments that this campaign, with the mighty military power that we brought into the

field last winter and spring, was to crush the rebellion and to restore the Union. That was the assurance given to the country and to the world; and that expectation fastened itself upon the public mind; and now will it be said that even another year will not do it, that we are not safe in drafting men for a full year from this time, but that we must go full three years more? What will be the effect? The country will say, "The Senate now declares that this war is not to be closed by this campaign, it is not to be closed within a twelve-month, but it is to go on eating out the life of the country, eating up the resources of the people, consuming the blood of the people for yet three years more." That is the position, that is the argument of the Senator from California and of all Senators who insist that this draft shall be for full three years. If there is a draft ordered for one year, the country will say, "That is to complete this campaign with success, and if necessary to meet one more campaign in the spring;" but if you say the draft shall be for three years, it is a giving out on the part of Congress that we cannot close this war in a year, that we must have soldiers in the field yet for three years. The argument I think destroys itself.

I shall vote for the proposition of the Senator from Massachusetts, that the President may have power to make a draft for twelve months instead of three years. For that single proposition I shall vote, because then you conform the conscription law to the laws which allow volunteers. Under the present law the President is authorized to call volunteers into the field for any term not exceeding three years. It is under that law that he has called men out for a year. It is under that law he has accepted volunteers for one hundred days. Conform the conscription law in that particular to the law authorizing the calling for volunteers, and I think it will be well; I see no objection to it. I am willing to give to the President that discretion. Let the responsibility be upon him. Let us say simply that the President may enforce the conscription law for such a term as in his judgment the public service requires, not to exceed three years; for that will mitigate its severity. I am willing to vote for that, but I am not willing to go further simply because the Secretary of War demands it of us, and to repeal the commutation clause.

Mr. NESMITH. Mr. President, I favor the bill which was offered by the Senator from New York, [Mr. MORGAN] referred to the Military Committee, acted upon by them, and reported back to the Senate, for the simple repeal of the commutation clause in the enrollment act. When the amendatory enrollment bill was before the Senate last January, I offered an amendment to it, repealing the commutation clause. The question was discussed at some length in the Senate by the Senator from Missouri and by the Senator from Indiana; and I thought that the reasons that were then presented ought to have been sufficient to induce the Senate to dispense with that clause of the law. The predictions which were then made, I think, have been fully realized. It was stated then that we should be driven to the necessity of repealing that clause of the law, or else we should be compelled to dispense with the services of men in the field. The time has arrived when men will not volunteer for a period which is calculated to render them efficient as soldiers; the country is in an extremity which demands their services; and the only remedy that is left is to take such steps as will bring men to fill up the ranks of the Army.

There have been periods in the history of every Government and every country when it has become necessary that a portion of its citizens should devote themselves to the service of their country, and die for it if necessary. That period I think has arrived here; that crisis is now upon us; and whatever we may say or whatever we may desire to do in relation to the accommodation of the draft to the wishes of the majority of the people, we must consult at the same time the interests of the country. It is due to the country that we should be impressed with the importance of the considerations which now weigh upon it, and the necessity of men not for a few days or a few months, but men who are to devote themselves to that service, and to become veteran soldiers for the defense of the country.

I thought that I foresaw at the commencement

of this rebellion that it was not to be terminated in either thirty, sixty, or ninety days. I take but little credit to myself for that foresight, for I think any man of ordinary intelligence should have known that a war of the magnitude of that upon which we were then about to enter could not be closed in that brief period; that ten million people, who were determined to consummate the crime of overthrowing and destroying the Government, could not be subdued in any period so brief, particularly when they inhabited a country of such vast extent. In 1861, when the incipient measures were taken here for the raising of new regiments, the proposition was made that the system which had heretofore prevailed of raising soldiers for five years should be dispensed with, and that in order to fill up the new regiments the period of enlistment should be two or three years. I opposed it as a member of the Military Committee, and I was in favor of the period being continued at five years. I thought I foresaw the necessity of a standing army, and the necessity for an army involved the necessity for veterans.

I said that I should be glad to accommodate the people; I would be glad to popularize this conscription law if possible; I would be glad to concede what the Senator from Vermont states is eminently just. He states that it is unjust for a portion of the people to be called into the field to serve as soldiers for a period of three years while their neighbors remain at home and render no service at all. That may be practically true; but the Government is to be served upon the one side, while the interests of the people are to be consulted upon the other, and I think, as I stated before, that the crisis has arrived when we must consult the interests of the Government. If the commutation clause had been left out of the conscription law originally when it was passed by the Senate, or if it had been repealed last winter, none of these difficulties would now have to be met. In place of reducing your patriotism to a money standard, a paltry sum of \$300 which is to discharge all the liabilities that a man owes to the Government, instead of filling your coffers with money, you would now have your ranks filled with men; and when it became necessary to resort to stringent measures to raise troops, those measures should have been executed without any faltering, and the Army should have been filled up. It might have been filled up if the conscription law had been executed, divested, as it should have been, of the commutation clause. I predicted then that before the adjournment of this session of Congress we should find a necessity for its repeal. The necessity existed at that time, and I believe now it is forcing itself upon the minds not only of the country but of Senators that it must be repealed.

The Senator from Vermont suggests that one year is a sufficient period of time for which to draft men; that it is onerous; that it is a burden upon the people to take one man from his home while you leave his neighbor by his side to remain and demand of him no service. That, it is true, is his misfortune; the country demands his services; and if one man is so unfortunate as to be drafted while another escapes the draft, that is a mere difference of circumstance or a difference in fortune. The Senator thinks that one year is a sufficient period, and he suggests, in order to remedy the difficulties which will occur by reason of the reduction of the Army, that this system of drafting can be constantly going on; that new men can be drafted to fill up the ranks as the service of the one year men expires. I think that would render the entire system nugatory. You would have two streams passing backward and forward; one stream of transportation going to the Army, and another stream of transportation returning from the Army; one stream of soldiers going and another returning, and neither of them remaining there long enough to become efficient, or to render any service to the country. You would enhance the cost of the war perhaps one hundred fold by resorting to this temporary expedient for the purpose of popularizing a system of drafting men, which never can become popular. There is no popularity about it. There is a question of fairness about it, but there is no popularity in it. I say the men should be drafted for a period necessary to close the war if possible. I do not know that it can be closed in three years, or in five years, or in ten years; but whatever the term is,



we should have men who become inured to the hardships and the toils of the field, who will make good soldiers, and who when they are there will remain. I do not mean to keep them there compulsorily, or in violation of their contract, or in violation of the law; but I would make the law such that when you get a man into the ranks, and he becomes an efficient soldier, his services shall not be dispensed with at the end of ninety days or six months, and then some raw man be taken who is to go through the same process, thus enhancing the expense of the thing two or three hundred fold. The success of the southern armies has resulted from the very circumstance that their services are perpetual. They discharge no man from their army. A man once got into the southern army, and made a soldier, is a soldier for the war, perfectly regardless of the time for which he originally enlisted or the law under which he enlisted; he is compelled to serve so long as his leaders conceive that they need his services.

I think the recent campaign, and in fact all the battles of the last year, have demonstrated the benefit to be derived from old soldiers. One of them is certainly worth five or six raw recruits on the field of battle. Suppose, sir, that Lee's army, with its present experience and discipline, was confronted by an army of raw recruits; suppose that the army to-day under General Grant was such an army as was led to the battle of Bull Run, how long would they face the enemy? Why, sir, they would be driven from Virginia like sheep; they could not stand a moment; one regiment would drive a division of them. But now our men have come to a point where they are irresistible. They have been reduced to perfect discipline. They have been inured to the hardships of the field; they have become perfect soldiers in every respect; and if you undertake now to change your policy as to the term of enlistment, when you dispense with these soldiers you will never have an army again; you will have a volunteer rabble as you had at the commencement of the war, and you will not keep men in the ranks sufficiently long to reduce them to discipline, or even subordination.

I oppose the amendment, because I believe that it is fraught with the greatest danger. I think this is no time to resort to a temporizing policy in order to popularize the draft or to make it more palatable to the people. The country is in an extremity. We must have the services of men, and we must have their services for a sufficient time to make them efficient and valuable to the country. I shall vote for no such measure as this amendment. I shall merely vote for the naked proposition to repeal the commutation clause as recommended by the Military Committee, and that will make the bill efficient. Then we shall be able to raise troops for three years and to fill the ranks at once; not fill our coffers with greenbacks, but raise substantial men, men capable of carrying the musket and the bayonet, and of driving the rebels off the continent if necessary.

Mr. LANE, of Indiana. Mr. President, the legislation upon the subject of conscription, as I understand it, has been this: early in 1863 we passed a conscription law allowing the right of substitution and the right of commutation by paying \$300. At the beginning of the present session an amendment was proposed to that original conscription law, and then a motion was made to repeal the \$300 commutation clause. At that time we had had but slight experience in the enforcement of the draft. For the first draft we received some thirty-five thousand men, who did not pay their commutation money; some forty-seven thousand paid it. I thought I saw at that time that the operation of the law would never be effective while the commutation clause was retained in it, and hence I moved to repeal it; and in my speech I gave it as my opinion that if that provision of the law remained in force you would not get more than twenty per cent. of all the men drafted under it. The report now of your Provost Marshal General shows that instead of getting twenty per cent. you have got only seven per cent. Only seven men out of every hundred have been brought to the ranks of the Army under the effect of this commutation clause. It does seem to me it is too plain for argument. You draft a man, and say to him that he may buy his exemption for \$300, when at the same time he can get seven or eight hundred dollars bounty if he wishes to go into

the Army. He will never come in under a draft. It is wholly inoperative. If a young man wishes to go into the Army he will not enter under the draft, because he can buy his exemption for \$300, and he can get seven or eight hundred dollars bounty as a substitute. It is the plainest possible proposition, as it seems to me.

But my distinguished colleague asks, what is there in the changed condition of the country since the first of this session which renders it necessary to repeal that clause now and not necessary at that time? The force of that argument does not strike me, for I was for the repeal of the \$300 commutation at the beginning of this session of Congress, and so voted and so spoke. But many things have transpired since that time which it seems to me authorize this change. At that time it was said by gentlemen with great confidence, and I doubt not with great candor, that the draft would be effective; that it would bring men into the field and in sufficient numbers to uphold the standard of the country. I feared then that such would not be the result; and what was then prophesied, what was then simple apprehension, is now history. It is now shown that the law is inoperative.

But my distinguished colleague takes another position which I think the history of the country does not sustain. He says you cannot by draft procure an army which will ever conquer Lee's army. Every single soldier that Lee has in the field has been brought there by draft and conscription. From the beginning of the rebellion there is no man there that is not there by draft and conscription; and if that argument be true it goes to this extent, that a man drafted in the North is not equal to a man drafted in the South. That is the whole of it, for their army is an army of conscripts. Does not my distinguished colleague remember that the Army of 1812 was filled in a great degree by drafted men; that many of those who fought that second war of independence and closed in glory at New Orleans that second contest for independence and nationality were drafted into the Army? I suppose simply because you draft a man, you do not change his nature, you do not change the free current of his Anglo-Saxon blood which makes him the representative of the conquering race of mankind upon the whole earth.

Another position assumed by my distinguished colleague was in answer to the few desultory remarks which I made yesterday, in which I expressed the opinion that this contest was to be fought out to the bitter end, that this fiery and bloody ordeal through which the country was passing should lead to a nation's redemption; and if I understood aright his position to-day, it is that at the present the people are not for peace, but if the war be prolonged for more than one year then the people will be for peace, because of the drain caused by the war upon the industrial interests of the country and the blood of the country. I dissent utterly and entirely from that whole position. Would my distinguished colleague send commissioners to-day to treat with rebels in arms? Would he favor an amnesty proclamation of peace to the rebels to-day? Would he say to the condemned traitor felon, trembling under the gallows with a halter around his neck, that he shall dictate terms to the judge and to the executioner? I am for no peace except a peace which shall come at the end of a successful war, whether that war lasts one year, two years, five years, or one hundred years. Let gentlemen make up their minds to it. I hope the war may be closed and closed speedily; I hope much from this present campaign; but even though your armies shall be unsuccessful, I still fall back upon those eternal, God-given, liberty-loving instincts which warm the human heart, and I will rally by draft, by conscription, by volunteering, another army. This is the conflict of ages, and the battle for all ages to come; and I contemplate no time when I shall be willing to lay down our arms short of the entire submission of the people of the South to the laws and Constitution of the United States. I know of no terms short of those which will satisfy the American people; and with great respect to the opinions of my distinguished colleague, I cannot for a moment believe that the people will tire of this contest simply because it is protracted. Is there anything in the history of the loyal, true-hearted, noble men of the country that authorizes an inference like that? Whenever your President has made a call for troops it has been promptly responded to. Again and again the peo-

ple have answered the calls of the President, and more than answered them. Is there any evidence that the people are relaxing in their determination to suppress the rebellion? Are the grand interests at stake less now than they were three years ago, when the contest began? They are infinitely higher and greater and beyond what any man contemplated at the beginning of the rebellion. The whole interests of mankind are now involved in it, the whole interests of free government and free institutions, and I ask you to rise to the dignity of the grand argument before you, rise above the murky mists which surround the base of the mountain, get up to the patriotic view in the bright sunshine of freedom, and recognize what the people expect in this crisis and what God demands.

Shall there be a relaxation in our efforts simply because the struggle has been prolonged and has been protracted? That is the argument. We hear it again and again. It crops out at every point in newspapers and platforms and speeches and joint resolutions in this body, and I wish once and forever to put the seal of condemnation upon any such thing. I would carry this war on if in order to subdue the rebellion you make a pathway of desolation from the Potomac to the Gulf of Mexico. Do you believe the people will tire of the war in one year? No, sir; the whole history of the past forbids it. More than a million of men have gone forth to battle in this controversy, and my distinguished colleague asks how many men are now away from the workshops and the fields, how many men are now in your Army, and he seems to find fault with the Secretary of War because he cannot answer that question. No power of intelligence this side of God in heaven can now answer it. You know how many you have called into the service; but how many languish in your hospitals, how many have found graves upon the battle-field, how many have been disabled, the grand roll-call of eternity will alone disclose. How many men we have now at this moment in the service of the country is not known. But because these great sacrifices have been made is that a reason why we shall now abandon the contest? The greater reason why we should prosecute the contest successfully. If we were even inclined to be recreant to what I conceive to be our duty, a voice of rebuke would rise up from the hundred thousand graves dotted all over the battle-fields of the South. Is this contest an idle sport, or is it a contest for a great principle—the grandest principle for which men have ever contended? Have you called out your million of men in vain? Have you lost one hundred thousand soldiers in vain? Have your fields been wasted in vain? And if you now accept an ignoble, and what to my mind would be a disgraceful peace with rebels with arms in their hands, it seems to me that the whole fruits of the contest will have passed away.

Three years ago gentlemen told you upon this floor that if you suspended the privilege of the writ of *habeas corpus* the people would rise and rebuke the Administration, a reaction would come about, and the war policy would fail. Three years have passed away, and yet, thank God, the people's nerves are strung to a yet higher tension, and the great heart of the nation yet beats more hopeful of final triumph. Then you were told that arbitrary arrests were to work the great reaction; and what is that reaction? A reaction against loyalty, against truth, against patriotism? A reaction that will put one party in power and another out of power? I, upon an occasion like this, love my country more than party. I am intent upon saving the country and not looking to the interests or behests of party.

You were next told that if the emancipation proclamation was issued, that would produce a reaction, and make the people wonderfully tired of the war. Has such been the effect? Have the people shown any greater disposition to abandon the contest since that? No, sir. That grand decree has but nerved the hearts of the loyal patriots of the country, for when they felt that it was necessary, in order to save free government, to free an oppressed race, they accepted with alacrity the alternative, and Abraham Lincoln—I ask your pardon—the President of the United States, is now an instrument in the hands of God, writing the grandest decrees that have ever revolutionized human society or changed the grand current of

human history. That then did not bring about a reaction and make the people tired of the war.

Next, you were told that the arming of slaves was to make the people abandon the contest and abandon the war; that it was nothing for you or your sons or your brothers to die in the defense of the country, but when you touched the slave you must lay your hand gently upon the lion's mane; that was a species of property sacred above all other property. It was nothing that your sons bleed, nothing that your brothers bleed, but the moment you called a slave into the service of the country, that very moment you heard this cry of "reaction" and "peace upon any terms!" I am for arming the free negroes, for arming the slaves, for arming every one upon the continent; and I tell gentlemen that the war will not cease until slavery is extinguished, until the sun in heaven at noonday does not look upon a slave on earth. That is written, and written irrevocably, in the book of fate, and all the waters of another deluge cannot wash it out. To save the nation it is necessary that slavery should die, and die it will. And a man who has once served in the armies of the country should be a free man, and free forever. The poor, trembling slave who seeks a city of refuge under the broad folds of your national banner, who lays hold of the altar of freedom, is free, and free forever; and the man who would dare to return him to slavery will cover his name with an eternity of infamy.

These things have not brought about the reaction that was spoken of, nor will they bring it about. I hope, as I before said, that the war is not to be prolonged; but whether it is or not, I look to no peace brought about by truckling to rebels. Peace and the blessings of peace carry benefactions everywhere; but there are some things more desirable even than peace, and some of those things, as I understand, are liberty, manhood, nationality, free institutions, and a Christian civilization which shall outlive the fleeting and temporary scenes that surround us.

A few words now in reference to the present position of the question. I shall vote for the report of the Committee on Military Affairs simply repealing the \$300 commutation clause. If that report shall not pass, then I shall vote with great cheerfulness for the amendment proposed by the distinguished Senator from Vermont, which amendment, it seems to me, is most aptly calculated to effect the objects intended, first, to limit the draft to one year, and secondly to credit the States in arrear with that draft in the proportion of one to three. Take, for instance, his own noble State of Vermont, the north star in American patriotism which never sets; there is no danger of a draft there; she has filled her quota; he proposes to credit these drafted men for one year in the proportion of one to three against her three years' drafted men. It seems to me that is perfectly fair, just, and honest. That far I go.

I will vote for his amendment provided the report of the committee fails; but I shall first vote for that, believing that the draft is an arbitrary thing, and that it will bring men into the field for three years precisely as soon as for one year, and believing that short enlistments have been the bane of all armies from the Revolution down to the present time. Every single commander has always complained of it. The staple of General Washington's letters during the whole Revolution was a complaint against short enlistments, and it was the same with every officer commanding in the war of 1812. Give us men for three years, and if necessary then fill your Army again. For every veteran who dies with the flag in his hand upon the battle-field even at the end of three years more send another noble soldier to take his place.

Let not gentlemen "lay the flattering unction to their souls" that the war is to end short of the entire subjugation of the rebellion. When that shall have been accomplished, in one month, or one year, or two years, or one hundred years, then the patriots may felicitate themselves upon a triumph which will be permanent; then they may know that they have added more than a thousand years to the lifetime of the grandest republic upon earth.

Mr. RICHARDSON. Mr. President, I do not propose to enter at large into the discussion in reference to this subject, but only to refer briefly to some of the views which have been discussed

here. The Senator from Indiana who has just taken his seat and the Senator from Oregon have held up the example of the so-called southern confederacy as one that we should follow—

Mr. LANE, of Indiana. The Senator will pardon me: I simply referred to a historical fact in reply to my colleague, showing how they raised their armies.

Mr. RICHARDSON. I was going on—if the Senator had permitted me to finish the sentence—to say that he held up to us their example in reference to the mode of getting men for the Army. Sir, they may do a great many things down there that we cannot do here. They started at the outset by placing in their army soldiers during the war, as I understood. They first raised volunteers, many of whom reenlisted for the war, and then they commenced a conscription of soldiers during the war. We did not adopt that policy. We adopted a different policy. We followed the policy that we had pursued from the foundation of the Government up to that time; and at this period of time we should not change our policy unless the United States Senate is prepared to indorse the entire doctrine laid down to-day by the Senator from Indiana, that this war is to be continued until the last man and the last woman upon our side and theirs shall perish if you do not conquer them. I am not prepared to indorse that doctrine. I had fondly hoped, until this discussion arose here, that with the million of men we have in the field, seven hundred thousand of them having come in since the 1st day of last October, this campaign would scatter and destroy the armies of the southern confederacy. I had hoped and believed so. Senators, however, have now stated that probably this campaign will not accomplish that end. I regret very much to hear it. I regret very much that it will not terminate the war.

But, sir, it strikes me that this is probably the worst time to appeal to our passions for the purpose of guiding our deliberations. If it is true, as is stated by Senators, that this campaign, with a million of men on our side, will not result in scattering the organized armies of the southern confederacy, we are brought to a position where we ought gravely to deliberate as to the best mode of carrying on the war hereafter. If, sir, a million of men, or if seven hundred thousand men, to state it at that number, are not enough in the field, I do not know what you would do with three or four hundred thousand more, and that is all I believe that it is proposed to call out. The question is presented to the Senate, and we have to determine it, whether we shall adhere to the policy we have heretofore adhered to, or whether we shall repeal all commutation and place the men who are drafted in the field for the period of three years or more to carry on the war.

The Senator from Indiana is mistaken as to one historical fact. The men who fought the battle of New Orleans were not drafted men. Some of them were men who had not been in the service twelve months. Those men who displayed there such valor as reflected the highest credit upon us, who conquered the heroes of Wellington and the conquerors of Europe, were volunteers, and many of them had seen less than twelve months' service. They fought, and fought successfully, men who had gone through nearly all the battle-fields of Europe.

But gentlemen tell us now that one veteran is worth five or six raw recruits. Let me say that you can make as efficient soldiers in five months where you have experienced officers and enough experienced men to act as guides as you can in three years. The Senator from Vermont was entirely correct when he said that you may take the men who are conscripted or who volunteer this fall, place them in your Army, and if you place them in an old regiment with one half experienced men you will have by spring as efficient soldiers as those who have been in the Army for three or four years. There is a great deal of equity, too, as has been shown, in taking men for twelve months, and when they are done taking others for twelve months more, giving the winter season for the purpose of drilling them. If we are going to conduct this war for a period during the lives of all of us, all our people will have to become soldiers and inured to arms, and I do not know but that they will have both my friend from Indiana and me. We might do very well at a stand, but I do not think we should do

very well at a retreat, because we could not run; we should have to stand up and fight; we are too old to run. [Laughter.] For this reason I shall favor the proposition of the Senator from Massachusetts.

I am opposed to the provision of the bill to repeal the commutation clause; and I will state very briefly why I am opposed to it. After you have allowed the men in the States where a draft has taken place to pay out, I do not think it is exactly fair to force our people in Illinois, who, up to this time, have sent to the field all that were called for, to fight out. I do not think that is even-handed justice; and if we are going to repeal the commutation clause I am for going back and taking those men who have paid out and forcing them to fight out also, as well as forcing our people to fight when you come to lay a draft on them. I am for drawing no invidious distinction between the soldiers of one part of the country and of another. Before you are entitled to call upon Illinois for another soldier, in fairness, in common honesty you ought to furnish the men that you owe in the States where you have not furnished them. If you repeal this commutation clause now, although we have furnished more than we were required to furnish by voluntary enlistment, you will take our men and place them in the field, keeping up that inequality, and you tell us, "We paid for our men, but we will not let you pay for yours."

At the beginning, like other Senators, I was opposed to the commutation clause. I believe it has worked well, however; it has popularized the conscription; and gentlemen may talk as much as they please about not popularizing these measures. I know they and I depend very much on the popular will as to the positions we have occupied in the past, and I suspect that we shall have to do it in the future. Is it not acceptable to the people? You have tried it for twelve months; it has worked your machinery along very well; you have placed in the field five hundred thousand men under it; and now you turn around and tell me, "We cannot get any soldiers at all;" and the Department send here the returns from a few districts throughout the United States, some of them where half the people were sick; and in some of those places I imagine they will be sick again. It is a sickly season, the Senator from Oregon suggests; probably it is a sickly country. [Laughter.] I am in favor of the amendments of the Senator from Vermont, and opposed to the original bill.

Mr. HENDRICKS. I have but a very few words, sir, to add to what I have already said in the course of this discussion. The question before the Senate is whether we shall repeal the law which allows a man when drafted to pay \$300, and for the time being to be discharged. That is the question before the Senate. I am opposed to the bill, but in favor of the amendment proposed by the Senator from Massachusetts, to allow the draft under existing laws to be for one year if the President so desires, instead of three years.

My colleague has said in reply to what I suggested to the Senate, that the judgment of the Senate last January in voting down the present proposition of the Senator from Massachusetts was guided by the fact that the Senate was assured that a draft under that law would bring men into the field. My colleague did not receive that assurance from me. I did not then believe, I do not now believe, that a draft will bring an army into the field. I recollect, sir, in the course of debate to have produced from the Provost Marshal General's office a statement of the number of men that had been drafted, the number of men that had been excused or discharged from the draft because of sickness, the number of men discharged for other causes, the number of men that had paid their commutation money and thus been released, and from that array of facts and figures I attempted to show to the Senate during that debate that the draft would not fill the army, but that the volunteering system encouraged by bounties would fill the army, and the figures then produced from the Provost Marshal General's office, accompanied by the statement of the Secretary of War that the commutation money had been used in paying bounties and bringing men into the field, supported the proposition which I then advocated that the volunteering system was the right sys-

tem when a Government was attempting to maintain its existence. Has it come to that point in supporting the Government that we may not rely upon the voluntary efforts of the people? Has this war become so odious that men will no longer volunteer? We know that at one time they would volunteer. We know that in 1861 and in 1862 the calls were no sooner announced by the Governors to their people than the regiments were full. They sprang up from the farms in Indiana and other northwestern States like the Highlanders upon the mountain sides of Scotland at the sound of the bugle of their chieftain. And why, sir? Because my colleague and other Senators had voted this sentiment, that this war was not a war of subjugation, that it was not a war to break down the institutions of any of the States, but that this was a war to restore the Union and to maintain the authority of the Constitution and laws.

My colleague supported that resolution, but now he says to the Senate that this war is not to stop until the institutions of one half the States of the Union are prostrated, until one half of the Union is subjugated. If there is a difficulty in raising men it is not because of the original policy of the Government as declared by Congress; and I say to my colleague that it is known to him as well as it is known to myself that the earnestness with which the men of Indiana volunteered did not abate until the President's proclamation was announced to the country, and then for long months no regiment was raised in Indiana. Why, sir, why? Because the war-making power of this Government, the power that had the right to declare the purpose and policy of the war, had said that it should be for one purpose, and the President had undertaken to say that it should be for another purpose.

But I do not intend, sir, to be drawn off into a discussion of that sort. I did say last winter, and I believed then as I believe now, that a drafting system will not secure the army that is to restore the Union, if war is to restore it at all. If we are to have an efficient army it must be raised as it was in 1861, as it was in 1862; and now let my colleague say why there was no need of a draft in 1861, no need of a draft in 1862, and why a draft is necessary now.

Mr. LANE, of Indiana. Does my colleague desire an answer now?

Mr. HENDRICKS. Yes, sir.

Mr. LANE, of Indiana. My colleague asks why a draft is necessary now and was not in 1861 and 1862. If my colleague will pardon me for a moment I will endeavor to answer him. After the firing upon Fort Sumter, the whole country was a unit in the suppression of the rebellion; but early in 1862 a knot of Democratic politicians got together in Washington and organized a systematic opposition to the Government and discouraged enlistments and volunteering and held out to the people that the whole character of the war had changed, that instead of a war for the suppression of the rebellion it was a war for the abolition of slavery, and I believe the only reason why we may not rely upon the volunteering of the people is that they have been taught to believe that they have been mistreated and misled by their representatives in Congress and by the President of the United States. The reason why a draft is now necessary and was not then necessary is further shown in this fact, that the loyal people of the United States, the patriotic people of the United States, have volunteered to fill the ranks of your Army, and the disloyal, those who sympathize with treason, have remained at home, and, instead of looking to the grand boon of universal freedom, nationality, the supremacy of the laws, and the vindication of the Constitution, have been looking and pleading for petty partisan triumphs.

Mr. HENDRICKS. I am very glad that my colleague has announced the fact that when Sumter was fired upon the country was a unit. The country was a unit when my colleague voted for the resolution that this war was to be prosecuted for a restoration of the Union and for the maintenance of the authority of the Constitution and laws. A change came round. My colleague says that a knot of politicians in the city of Washington announced to the people that the policy of the Government had changed. A knot of politicians in Washington! And who were they,

sir? I recollect an address sent out to the country by some Democrats in the city of Washington, and I recollect the glorious sentiment in that address, "The Union as it was and the Constitution as it is." That was the sentiment that was sent out by the knot of politicians to whom my colleague refers. Does my colleague object to that sentiment, "the Union as it was and the Constitution as it is"? It is that sentiment of devotion to the Union upon the basis of the Constitution that has given to the Democratic party the power that it now has in this country, and a power that it will exhibit to the astonishment of my colleague and other Senators in November next.

Sir, the first announcement that was made to the country that the declaration of Congress was not to be respected, the first announcement that was made to the country that Congress had not the war-making power, at least so far as to control the purpose and policy of the war, was by the proclamation of the President. I called my colleague's attention to the fact that after that proclamation was issued volunteers ceased to present themselves upon the fields of Indiana. It was known to him; it was known to myself; and why was it, sir? Not because somebody communicated to the people that such a proclamation had been issued, but because the purpose of the war was no longer solely and exclusively to restore the Union and to maintain the authority of the Constitution, but because another purpose was interposed. Then the people began to hesitate and to doubt whether the war could be successfully prosecuted for any other purpose than to maintain the Union of the States and the authority of the Constitution. That doubt my colleague cannot charge to the Democracy. That doubt he must charge to the President whose reelection he will advocate.

But, sir, the question that I asked my colleague was why a draft is necessary now, when it was not in 1861 and 1862. He says a knot of politicians announced to the people that the purpose of the war was changed. Let me tell my colleague that the sentiment of that address, "the Union as it was, the Constitution as it is," was responded to by one hundred and thirty thousand Democrats in Indiana and by every Democrat in every loyal State. That is not the difficulty; that is not the reason. My colleague mistakes when he attributes so great a result to so small a cause. No address of politicians can control the public mind as my colleague has supposed. It is too considerable a power. There must be some great impression made on the public mind by a startling fact that will bring about such a change.

But, Mr. President, the question is whether there shall be a draft without the right of commutation. My colleague has said that nothing has abated the ardor of the people. He repeated that twice in his speech. He said that the proclamation of the President was issued, and the ardor of the people was not yet abated; that the negroes were brought into the Army, and the ardor of the people did not then abate; and several other instances of the conduct of the Administration were alluded to by my colleague, and at each reference he said that the people were still as earnest as ever for the prosecution of the war. If he is right in that let me repeat the question, why is it necessary to have a draft now when it was not in 1861 and 1862, if there is the same zeal, the same earnestness? Mr. President, let it be made known to the people of the United States that this war is prosecuted for the restoration of the Union, and not for the destruction of the liberties of the people, and they will spring up to save this Union as they did in 1861 and 1862. To make that known to the people, to satisfy them that that is the honest purpose of the party in power, is not within my power; it is within the reach of my colleague and the politicians with whom he acts.

My colleague has said in the course of the argument that the draft of 1812 brought men into the field that fought as well as volunteers. I was not aware that there was a draft then in the sense that we have a draft now. We have a draft now by the law of the United States bringing the people directly into the field. As I understand, it is claimed that this law is authorized by the provision of the Constitution which empowers Congress to raise and support armies and to make rules for the government and regulation of the

armed forces of the United States. I understand that the men who fought in the war of 1812 were called for under the provision of the Constitution which gives Congress power "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions;" that the appeal was made to the States, and that the States brought the men into the field.

Mr. LANE, of Indiana. Does not my colleague know that the States had a draft system and that men were brought into the Army by draft?

Mr. HENDRICKS. Very likely; but there was no draft by the United States Government; the States furnished the men and turned them over to the Government, as was done in 1861 and 1862 when the President issued a call to the States; the Governors of the States repeated the call and furnished the men. The Senator from Illinois has answered my colleague in respect to his reference to the conscripted army of the South, so that I have no occasion to allude to that.

My colleague, going outside of the subject that is before the Senate, has asked if I, to-day, would send commissioners to the South; if I would not respond to his sentiment that this war is to be prosecuted till the last man is called out, and that then it shall be handed over to the women and children of the country. Mr. President, I will tell you when I shall be willing to send commissioners to the South. Whenever a peace can be secured which will restore this Union upon the basis of the Constitution and save our liberties, a peace honorable to the North, fair to the South, and that will restore to us our former prosperity. I am ready to meet any foe upon that proposition. Whether the Senator calls them "felons" or "rebels," it is a war now upon such a gigantic scale that all over the world among all civilized nations they are recognized as belligerents, and with them, or with any foe of my country, I would treat whenever I could get a fair adjustment of the difficulties between us. Has the Senator a difficulty with his friend, a difficulty with his enemy, the bitterest foe he has upon earth, and he can adjust that difficulty upon terms that secure his just and legal rights, and that do not sacrifice his honor and his pride, will he not accept them? As a Christian gentleman, I know he would; and what is right in respect to the conduct of an individual, is it not right for a Government?

My colleague would never treat for terms, never receive or send propositions, I suppose, but it must now be "subjugation!" He would leave one pathway of ruin and desolation from the Potomac to the Gulf! And then what Union does he restore? A union with the dead South, a union with the carcass of that which once contributed so much to the prosperity of the people whom my colleague so ably represents here. Sir, I am ready for adjustment, ready for peace, ready for compromise whenever and at the very earliest day we can restore this Union upon the basis of the Constitution, upon terms honorable to us and that will restore to us our prosperity. In Indiana we cannot well consider the question of separation. Our life, the life of our prosperity, depends upon the Union. Our trade is upon the great rivers of the west. Our market has been with the people of the South. My colleague's neighbors and constituents have been made rich because they traded with the people of the South, because they sent their corn, their wheat, their flour, their bacon, and their beef upon the friendly waters of the Ohio and the Mississippi, and found all along the shores a friendly people who were ready and willing to buy from us and pay us with the proceeds of their slave labor. No constituent of my colleague and myself ever objected to finding a market there because the productions of that country were the result of slave labor. Sir, I do not want the brand to go all over the South; I do not want the plowshare of destruction to leave naught there which will again furnish us that market. Will my colleague not respond to the sentiment that when we can restore the Union and renew our trade with the South, so that we shall pour wealth into her lap, and in return she shall pour her wealth into our great lap in the Northwest, we ought to do so? Is he not content with such a result? Would he not pray for it?

But my colleague has gone yet further and said that this war is not to stop until slavery shall cease to exist. Sir, more than two years ago it



was my duty to address the people of Indiana in a very important political convention. In that convention I said just what I now believe, that with slavery, according to the almost unanimous declaration of Congress in this war, we have nothing to do, that with the slave we have nothing to do. I said then, as I now repeat, that if our commanders as they make their march toward the South can use the black labor so as to relieve our white soldiers from the burdensome part of their duty I should acquiesce in it and support such a policy; but I am now as much opposed as I was then to shedding our blood and wasting our northern treasures for an end which we cannot arrive at except we do it over a broken Constitution and violated law. The institution of slavery exists by virtue of the laws of the States, not by virtue of the laws of the United States, and the validity of those laws, their supremacy and authority is guaranteed by that Constitution which my colleague as well as myself took a solemn oath to support as long as we hold seats in this body. If slavery shall disappear during the progress of the war as an incident of the war, as a necessary consequence of the war, let it take its fortunes like other property. We see the house of the southerner disappear, we see his fences disappear, his improvements disappear. This is the consequence of the passage of great armies over any country. If slavery disappears so, it takes its fortune in the chances of war; and the men of the South who inaugurated this war, as I believe without a sufficient reason, brought their property thus in danger. But as Senators we have no right, in my judgment, to make this war for the purpose of destroying the institution of slavery except (as the Senator qualifies his argument) it be necessary to restore the Union; and now, if it were anywhere else, I would say that that argument—I have heard it so often—is a jesuitical one. It is never, in my judgment, politic or right to do wrong. To save the Constitution it is never necessary to violate the Constitution. The Constitution has guaranteed to the States their institutions and the validity of their laws, and if these laws create distinctions in society, give to the black man a certain status and condition, with these laws we have nothing to do, and it is not for us to shed blood and waste treasure to strike them down. That part of my colleague's argument I certainly cannot agree to. While by my votes I shall support appropriations of money to sustain the Army in the field, I shall never support that policy which looks as a purpose to the destruction of any institution whatever which is guaranteed by the Constitution I have sworn to support.

A word or two now, Mr. President, on the measure before the body. The draft is a dreadful measure upon the people. I know how they feel about it. When a neighbor is drafted who is in such poor circumstances that he cannot pay his commutation money, and it is destructive to him and his family for him to go into the field, his neighbors cheerfully make up the money to modify what they regard as the hard fortune under which he is placed. This does mitigate the severity of the measure. It encourages volunteering, because it places in the coffers of the Government an amount of money which can be used to pay bounties and get volunteers. It is safe to the Government, for it secures the services of volunteer soldiers instead of drafted soldiers. Neither my colleague nor any other Senator will question that the volunteer soldier is as good, to say the least, in the field as the drafted man. He goes cheerfully; his pride, his honor become involved from the very day that he writes down his name as a volunteer soldier. Then I think the policy is, if you have a draft, to let those who cannot go pay their money in, and let that money be used to encourage volunteering. It has so far filled up the Army. But I wish to repeat to the Senator who has this measure now in charge, the Senator who supported the views I now present on the particular measure (not my other views) last winter, the question which I put a little while ago. I thought my colleague could have answered it, inasmuch as he was upon the committee, and was attempting to make an argument upon it.

The question I asked was, what are the facts that justify a departure from the policy adopted after mature deliberation last winter? and in the course of that inquiry I asked what was the num-

ber of men in the field. I can look at the list of men that have been called for and that have been drafted in the past, and I see that it foots up to two million two hundred thousand men. More than two million men have been brought into the field when you add up the different calls that have been made by the President. I do not know whether all the States have filled up all these calls; I know Indiana has. Two million two hundred thousand men have been called for in the different proclamations of the President; and where are they? Some of them have been discharged, some discharged at the expiration of their term and reënlisted. When the Secretary of War makes a demand upon us to change our policy, have we not a right to ask of him, to ask of the chairman of the Military Committee, of my colleague, a member of that committee, to know how many men there are in the field now? If we are to resort to this hard measure, which the President of the United States I believe denominated as "dragging the bullock to the slaughter pen," have we not a right when such a hard vote is called for from us as against our constituents to know the necessity of it? The Senator representing the War Department last winter told us to what extent the Army ought to be filled up, to how many hundreds of thousands. It was provided for. The response has come from the country. The regiments have passed through here like a deep and broad river until now Richmond is approached by a mighty host. Are there enough of them? If not, where are the men, and upon what service are they engaged? We have a right to know this, and the Secretary of War may not demand of the Senate a change of its policy without a reason. It is a fair question that I put to my colleague and to the chairman of the committee, how many men are in the field? My colleague says that can only be answered at the great call of the muster-roll when the dead respond. Sir, that is a long roll. That roll is responded to by many a sad and weary heart in the North. Before we send more men, let us know what is the necessity for doing so. Does my colleague wish it to be understood in the Senate that when men are killed in battle the number is not known at the War Department? Is our system so loose and inaccurate that the War Department is not informed of the number of killed and wounded men and the state of the regiments after each battle?

Mr. LANE, of Indiana. Does my colleague wish an answer now?

Mr. HENDRICKS. If the Senator desires to give one.

Mr. LANE, of Indiana. Those statements are made out on the pay-roll at the end of each two months, as I understand. In the interval no one can tell how many have been killed, how many have been furloughed, &c. The reports are made, as I understand, at the end of every two months, or sometimes, when payment is delayed, not for three or four or five or six months.

Mr. HENDRICKS. I do not agree with my colleague that the payment of the soldiers is the only way in which we know of the number of dead and wounded men. As I understand, in every well-regulated army a return is daily made by the captain of each company to the proper regimental officer of the number of men fit for duty, how many men have dropped out by the way-side foot-worn and weary, how many are sick, how many are in hospital, how many are in green graves. Those returns are then made to the commander of the army, and so on till they reach the Department here. At the end of every battle a return of that kind goes with the reports to the War Department. I think my colleague's answer is not a sufficient one in response to the fair question put by me to him and to the chairman of the committee, and the proper answer to which is necessary to guide a vote on this matter. When we are called upon to draw the bullocks up to the slaughter pen, in the language of the President, let us know the reason of it, if there is to be no exemption from the horrible draft. When a man volunteers, he goes voluntarily, cheerfully; his neighbors flock around him; he has their support and their encouragement; but when he is drafted he has not that support, he has no friends around him except the few that are related to him; it is a very different thing. When we are called upon now to exercise so high a

power, we have a right to demand of the War Department to know the number of men in the field and the number of men required. Shall we never know? Are we never to know, but simply to legislate upon the call of the Department? It is a reasonable question; but without reference to that information, my mind is made up that volunteering encouraged by the bounties which the Government may well pay from the commutation money, is the best system to secure an army readily, and an efficient army, and in that view the chairman of the Military Committee concurred last winter.

Mr. DOOLITTLE. Mr. President, in the course of this discussion two or three questions have arisen, one of which is—and to that I will refer first—whether conscripts, or men who are drafted into the Army, make good soldiers. Sir, what is our experience in the course of this war? I will not undertake to speak for other States; but from my own State some men have been drafted who have gone into the service and into the field; and generally speaking the drafted men have been fully as able-bodied men, and perhaps more so, comparatively, than those who volunteered; and they have proved themselves to be as good soldiers when they have fought by the side of volunteers. There are some in one of the new regiments of Wisconsin that have lately gone to the front. I refer to the thirty-sixth Wisconsin regiment, which, on the 17th of May, went under fire, and was under fire almost every day until it joined in the charge under General Hancock that took the intrenchments of the enemy. They were new soldiers, too, Mr. President, and new men, and some of them conscripts. And what does the history of all wars show; what do the wars of Napoleon show but that his conscript soldiers were the best soldiers he ever had?

Mr. President, that is enough on that subject for my purpose. Another question arises whether it is wise now to repeal what is called the commutation clause. It is believed by the War Department, upon the evidence before them coming up from the provost marshals all over the country, that in the present state of the currency and the present state of the country, in view of the high price of labor and the great demand for labor in all the walks of life, if men can be excused from going into the service for \$300, very few soldiers will be obtained; and in fact the returns of the provost marshals show that only seven per cent. of the men called for are forthcoming under the operation of the present law. If, therefore, we are wise men, and are satisfied that we must have men to fill up the ranks of the Army, let us repeal the commutation clause; and for myself, I do not know but that I am prepared to repeal what is called the substitution clause; but that question is not now before the Senate, and I will not discuss it at the present time.

But another question arises, and that question is perhaps the most important one, whether in the present state of the country it is wise for us to authorize the War Department to draft men into the service for any period of time less than three years or the war, whether we shall allow them to be drafted for a single year. I shall give my support to the proposition offered by the Senator from Massachusetts, not because I do not fully understand the benefit of having veteran regiments; I know that very well; but we have the veteran regiments, a thousand of them, I suppose, with all their organization, with their officers, colonels, lieutenant colonels, majors, and captains, and, what is of equal importance, with their sergeants and their corporals, all men who have seen service and have gone through many a battle during the present war. I remember very well a conversation I had with one of the ministers of the great Powers of Europe here in Washington directly after the Bull Run defeat of 1861, when he said to me: "The fault is not in your men; I will tell you where the fault is; it is in your officers of the line, your captains, your lieutenants, your sergeants, your corporals, that have not seen service and do not know how to hold a line firm and strong in the face of an enemy." But, sir, when you have a veteran organization, when you have officers that have seen service for two or three years, and have gone through many a bloody battle and have faced danger and death in every form, when you have sergeants and corporals and some of the veteran men themselves standing in

the ranks, and put new men into the ranks by the side of them, those new men in six weeks will fight as well as they ever will fight. That is the real truth, and such is the proof growing out of our experience of this war. Why, sir, refer to that very thirty-sixth regiment of Wisconsin to which I have alluded, and what does its history show? When it led under Hancock in the charge upon the intrenchments of the enemy, it was a new regiment. Colonel Haskell fell at the head of the regiment, but the men did not falter; and it was an entirely new regiment, without the advantage of having even an old organization. But, sir, when under the operations of your draft you call upon the men and put them into the old regiments side by side with veterans, and under the command of sergeants, corporals, lieutenants, captains, majors, and colonels who have seen service, officers that will not shrink, the men will never shrink. When you have veteran officers throughout, down through the companies, when there is a sergeant or a corporal that stands within reach of every man, that can put his hand upon him and say, "Steady, boys, steady," there will be no shrinking on the part of the men.

Mr. President, let me refer to a few instances in history. Let me take the instance of Napoleon, the great warrior of modern times. When he was defeated and overthrown in Russia, not by the valor of the Russians nor the armies of his adversaries, but by the frosts and snows of Russia, when his whole army became utterly demoralized so that they were mingled together, infantry, cavalry, and artillery, pell-mell without distinction, when the generals and marshals of his army were walking side by side in an indiscriminate mass with his privates, hungering and starving on their way homeward, Napoleon on the 18th of October, 1812, was persuaded to leave this retreating mass and to go home to Paris. On the 12th of January, 1813, Napoleon called together the Senate of France, and by what was denominated a decree of the Senate three hundred and fifty thousand conscripts were raised. On the 15th of April Napoleon left Paris at the head of his young legions. On the 1st of May he was at Lutzen, where he attacked the combined army of the Russians and Prussians and overwhelmed them, with fifteen thousand killed and wounded on the field of battle, and captured more than two thousand prisoners. His army was composed of young recruits. The law authorizing their being raised passed on the 12th of January, and on the 1st of May with his young conscripts he conquered the combined armies of Russia and Prussia. In his order of the day addressed to these soldiers after the battle, he said:

"Soldiers: You have fulfilled my expectations. The battle of Lutzen stands beside the battles of Austerlitz, of Jena, of Friedland, and of Moscow."

Sir, those who say that young recruits are not good men to fight when you take them and put them into old regiments under old organizations by the side of veteran soldiers, under veteran sergeants and corporals and lieutenants and captains, it seems to me, overlook the teachings of history altogether, and overlook our own experience in this war, and overlook our own knowledge of human nature.

Mr. President, one or two other questions have arisen here to which I beg leave to call attention for a moment. It seems to be assumed by the Senator from Indiana (Mr. HENDRICKS) and the Senator from Illinois (Mr. RICHARDSON) that Senators on this side of the Chamber concede that the present campaign will not result in the dispersion or capture of the army of General Lee. Sir, I have listened to this debate with great attention, and I have heard no Senator on this side of the Chamber say any such thing. I believe we can all say with confidence that if we sustain General Grant properly in this present campaign he will crush the army of General Lee. I believe it; I think all Senators around me believe it also. No man can foresee the eventualities of war, it is true; it is possible that we may not succeed; and therefore I do not believe it is wise for us to say that we know the war must close with the present year. But that is not at all involved in the proposition that we draft fresh men for one year at a time and put them into the old regiments. We draft, if you please, one or two hundred thousand men and put them into the old regiments to fight for one year. We be-

lieve that the war will be finished within the year, or at all events that the great armies of the rebellion will be crushed and broken in that time. But suppose they should not be, and the men whom you draft to fight for one year are permitted to go home, and you draft other men to take their places, what harm is there in that? I do not see any. I agree that if you were to begin from the beginning to raise new regiments with new and inexperienced officers as well as new and inexperienced men, I should not be willing to raise them for a single year; but if you take men now and put them into old regiments by the side of veteran soldiers and under veteran officers of the company and the line, I believe they will fight in six weeks as well as they ever will in the world. That is my belief, and therefore I shall join with the Senator from Vermont in support of this proposition.

But, Mr. President, one other suggestion has been made. It has been said by some Senators that there is a determination to fight this war even if it should desolate the whole South from the Ohio to the Gulf. Sir, I believe there is a determination on the part of this people which will not give over this controversy, never give it over until we succeed; but I do not believe that any such result will come, or if desolation comes it will be but temporary, upon that region of the country. I believe that we shall have a union of all the States, a union of the United States, and of all the States united and free as the result of this great contest, and that union will be a better union than any we have had. Sir, I believe that when the system which has cursed Virginia, as it has cursed the other States south of the Potomac, shall have passed away, Virginia will come to be settled up with a population such as has settled up Ohio, broken into small farms, covered with villages, all her water-falls turned to account in turning the wheels of industry and manufactures, with her harbors and all her elements of wealth equal, if not superior, to New York itself; and the time will come resulting beyond this period of gloom when Virginia will rise regenerated, rejuvenated, and instead of having a population of one million of white men and five hundred thousand black men, Virginia, like New York, will have three, four, or five million inhabitants, and will be to the Union by far a more powerful State and a better State than she has been in her whole history. And what is true of Virginia will become true of Kentucky, of Tennessee, and of the other States of the South; so that my confidence is unabated that we are to have a Union, and a better and a more glorious Union, and a more profitable Union, than we have ever had in the history of the country.

Mr. President, allow me for one moment to speak of Wisconsin in comparison with Virginia. Wisconsin was born of Virginia, like the other States west of the Ohio. She is one of the youngest born. She was admitted into the Union in 1848-49, scarcely fifteen years ago. Virginia had at the close of the American Revolution twice as much white population as the State of New York. She was the Old Dominion, the mother of States and of statesmen; but now, while Virginia has but about one million of white population, including the whole district of West Virginia, New York has four millions. Virginia, though you include West Virginia with her, has sunk down to the seventh or eighth rank among the States of the Union. How is it with Wisconsin? Though but fifteen years a State within this Union, Wisconsin has a white population more than three-fourths as numerous as Virginia herself. Wisconsin can raise as many troops and more bread to feed them than Virginia. And why all this difference between young Wisconsin and old Virginia? No answer can be given to it but one, patent to all the world: Virginia clung to the institution of slavery and hugged it to her bosom, though she abolished it for Wisconsin and all the States west of the Ohio. Had she abolished it for herself when she abolished it for the north-western territory, Virginia this day would have been the empire State of this Confederacy. Sir, I look upon the time as coming, though there are clouds and darkness around us, though there is gloom and agony and blood before us, when we may look beyond these dark clouds to the bright day which is yet to dawn upon Virginia, when regenerated, redeemed, rejuvenated, republican-

ized, Virginia shall be in this Union what she was in the beginning, only the more glorious, when no stain or plague-spot will rest upon her escutcheon.

Mr. CONNESS. I move that the Senate do now adjourn.

Mr. SHERMAN called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 12, nays 24; as follows:

YEAS—Messrs. Buckalew, Conness, Davis, Henderson, Hendricks, Howard, Johnson, Powell, Ramsey, Richardson, Salisbury, and Sprague—12.

NAYS—Messrs. Brown, Carlile, Clark, Doolittle, Fessenden, Foot, Grimes, Harlan, Harris, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Morrill, Nesmith, Sherman, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Wilkinson, Wiley, and Wilson—24.

ABSENT—Messrs. Anthony, Chandler, Collamer, Cowan, Dixon, Foster, Hale, Harding, Hicks, Howe, Pomeroy, Riddle, and Wright—13.

So the Senate refused to adjourn.

Mr. McDUGALL. I desire particularly to say that from the commencement of this war it has been my opinion that we should bring forth our strength by exact rules of law. I had thought that persons well-advised in our own country, who had charge of Federal legislation understood the lesson that had been taught by the French Revolution when after volunteer force failed under the Directory, the consular power came in the ascendancy, and conscription became the law, and France became powerful.

It is the duty of every man who has been bred beneath the shelter of our laws to yield his prompt assistance in maintaining them, whether they be the laws of town or village or county or State, or the great laws that shelter the entire Republic. That was a duty taught to the young men of my time, taught to those of older time, and should have been taught always. I am afraid that that teaching has not impressed itself firmly upon the opinions of those who have now the authority to conduct affairs, otherwise we should have had no \$300 provision, we should have had no \$500 bounty in towns, \$200 in counties, \$100 in villages, robbing the wealth of the old men and the old ladies to buy foreign force to go into the field, for the whole aim and purpose and object of it is to bring out a force that does not belong to us. Sir, your sons, your kindred and mine, ask no invitation to the field. They go there free-hearted and strong-armed, and go willingly, and these are the men who must maintain our flag and must reestablish this Republic in its integrity if it ever shall be reestablished. The system to which I have alluded and to which I object has been false from its commencement and is false now. I have been against it from its early start. I have been against it here in a national assembly. I have been against it in all the departments of Government where I have had a voice. It is wrong, radically wrong, and ignores the idea that lies at the foundation of a great republic.

Who was it that won the battle of Marathon? I understand, if I read history aright, that they were Athenian citizens, not slaves, not bondsmen, but the citizens of Athens, who went out there, and under Miltiades won a triumph with ten thousand men against all Persia. So it was through all the legends of the ancient Greeks; and that is what was always put by Demosthenes in his philippics against Macedon, that Athenians should fight, not hirelings, not men bought from foreign States, not men hired to do their offices in the islands of the Ægean, but men who belonged to the city, and who were free citizens of Athens. Sir, there will be no triumph for us until we shall exact of the rich man as well as of the poor man service to his country; until we shall require all men who are able to bear arms to bear arms in defense of the country when occasion may require. I say all men, although they may have the reverend quality of Senators or the dignified position of Representatives, or hold other offices, and can be paid to stay at home. I say all men who owe the State service should be required to render service.

What said the great master, not the greatest, but the great master? After having been imprisoned at Athens, accused of crimes that enemies had produced against him, that he was not loyal to the gods and not true to the system of government of the Athenians; friends met about him after he had been condemned and ordered the hemlock. They said to him, "We have a ship at

the Piræus; you will be safe; we will carry you into one of the islands of the Ægean sea, where you will be received as a great teacher." "No," said he, to his friends, "I was born under Athenian laws; I have enjoyed the benefits of those laws; I have enjoyed their protection; I have grown to be a man of many years; I am now an old man; I have raised up children, and I have taught divine philosophy—all these things have I done, and I have done them because I have been protected by the laws of Athens; otherwise I would not have done them. I, who have taught obedience to laws, will not violate them; therefore I remain; therefore I do not escape."

It is that principle which was taught in the early days in Sparta and in Athens among the old Greeks, and which was taught too among the old Romans in their better days, that made them great peoples, and they continued two centuries. We have not yet ourselves accomplished a single century. This idea of hiring vassals, hirelings, to fight our battles instead of making the individual citizen fight, is a thing that they ignored, and it was ignored by the men of the nobler days of the old republic, and must be ignored by us if we undertake to maintain ourselves as a republic. I say that the rich man is more bound to fight. What to him is \$300? Nothing. Take the lawyer, the artisan; what is \$300 to him if he does not want to fight? Nothing. In this great war, while we have sent from the West particularly our young men, our best blood, from the North and the East they have sent hirelings, men bought to fight and who cannot fight. The great difference between our battles in the West and in the East has resulted from that difference in the soldiers. The young men of the West dare not go home to see their wives and sweethearts if they have not been gallant in battle, and hence in the West we have triumphed generally, and in the East we have had to a large extent, with many exceptions—I do not wish to make an invidious remark—men who have received bounties of from \$300 to \$1,000 to induce them to fight. Sir, the man who does not fight because he is willing to maintain the flag is not fit to follow the great standard of the Republic. I would pay not one of them a cent, I would conscript them all.

Mr. WILSON. Mr. President, I hope we shall now come to a vote upon the amendment that has been offered. There are many things that have been said this afternoon that I should like to notice, and especially the remark which is made by the Senator from California in regard to the fighting East and West. After what has transpired in the last thirty days, I think that thing ought to be dropped.

Mr. McDUGALL. Allow me to say that I mean to make no invidious distinction between the East and the West. I mean simply to say that these large premiums have induced persons who do not belong properly to Massachusetts or New York or anywhere else to join the Army. I am a northern and eastern man to some extent myself. I mean no invidious remark.

The PRESIDENT *pro tempore*. The question is on the first section of the amendment offered by the Senator from Vermont, [Mr. COLLAMER.]

Mr. BROWN called for the yeas and nays, and they were ordered.

Mr. LANE, of Indiana. As the yeas and nays are to be taken, it becomes necessary for me to say one word. My colleague [Mr. HENDRICKS] has been called away; and after what has transpired to-day it is unnecessary to say that we are on different sides of this question, and therefore I have agreed to pair off with him, and I shall not vote unless my vote may be necessary to make a quorum.

The Secretary commenced the call of the roll; and Mr. ANTHONY responded.

Mr. SHERMAN. I wish simply to move to amend the amendment by striking out the word "shall" and inserting "may," and that will present a question which I think is important. The amendment now compels future calls and drafts to be for one year. I wish to leave that discretionary with the Government. I think it probable that the exigencies of the service now would be satisfied by one year men; but I do not wish to make that peremptory. I hope the amendment will be amended as I propose.

The PRESIDENT *pro tempore*. The amendment to the amendment can be entertained only

by unanimous consent. The call of the roll was commenced, and one Senator answered.

Mr. JOHNSON. The mover of the amendment is not here at this moment, and I do not think he would agree to the modification.

Mr. RICHARDSON. I object to it.

Mr. WILSON. I think it had better stand as it was framed by the Senator from Vermont.

Mr. SHERMAN. Then I shall vote against it.

The call of the roll was concluded, and the result announced, as follows:

YEAS—Messrs. Anthony, Buckalew, Clark, Collamer, Davis, Doolittle, Fessenden, Foot, Foster, Harris, Howard, Howe, Lane of Kansas, Morrill, Powell, Richardson, Sumner, Van Winkle, Wade, Wilkinson, Wiley, and Wilson—52.

NAYS—Messrs. Brown, Carlile, Chandler, Conness, Grimes, Harlan, Henderson, Johnson, McDougall, Morgan, Nesmith, Pomeroy, Ramsey, Sherman, Sprague, Ten Eyck, and Trumbull—17.

ABSENT—Messrs. Cowan, Dixon, Hale, Harding, Hendricks, Hicks, Lane of Indiana, Riddle, Saulsbury, and Wright—10.

So the amendment was agreed to.

The remaining sections of Mr. COLLAMER's amendment were agreed to.

Mr. WILSON. I propose to amend the first section of the bill by adding these words to the proviso, "or to apply to drafts ordered to fill the calls already made."

I desire simply to explain the effect of this amendment. The first section of the bill repeals the commutation clause. We are short in the whole country on former calls about sixty-two thousand men divided among eight or nine States. We are drafting for these men now for three years, and we have provided in this bill in the amendment already adopted that the one year provision shall not apply to them. We already provide in this first section that it shall not affect the right to get substitutes. I propose to add to it that it shall not affect the drafts now making on the old calls, that it shall not affect the commutation. Let that go on and be finished; it will probably be finished in the course of the next two or three weeks. The States, then, will all be full; and those that are in excess will have their credits by the provision already adopted. We do not want to disturb or interrupt what exists and is already going on.

Mr. GRIMES. I should like to know whether I understand the purpose of this amendment. If I do understand it, the intention of the chairman of the Committee on Military Affairs is to declare that of the sixty-two thousand now in arrears not drafted, all such persons can be either liberated or exempt themselves from going into the Army by the payment of \$300.

Mr. WILSON. We do that for this simple reason—

Mr. GRIMES. Is that it?

Mr. WILSON. I will state what it is precisely. We have provided in the amendment already adopted that drafts hereafter shall be made for one year. We have provided, however, that that shall not apply to any State that is short now. Those States have got to draft for three years, to go on and fill up their quota for three years. This amendment provides simply that in executing the draft for the old calls that is now going on in eight or nine States of the Union, this repeal of the commutation provision shall not apply, but that it shall apply when we make a new call. It puts the whole bill in harmony.

Mr. GRIMES. Now, Mr. President—

Mr. McDUGALL. I rise to a question of privilege.

The PRESIDENT *pro tempore*. The Senator from California.

Mr. McDUGALL. I am advised that gentlemen are on the floor of the Senate who have no right here. I should like to inquire whether the rules have been obeyed, and I should like the President to be informed by the Sergeant-at-Arms.

The PRESIDENT *pro tempore*. The Chair has no information on the subject.

Mr. McDUGALL. I give the Chair information that there are gentlemen on the floor who have not the privileges of this body.

Mr. GRIMES. I hardly think that is a question of privilege.

Mr. McDUGALL. It is my privilege that nobody shall be here who has not the right.

Mr. GRIMES. It is my privilege to occupy the floor. It occurs to me that if the amendment of the Senator from Massachusetts—

Mr. McDUGALL. I ask if that is a question of privilege or not. I should like to have that settled.

The PRESIDENT *pro tempore*. It is rather a question of order than a question of privilege.

Mr. McDUGALL. It is a question of privilege. It is my privilege to be on the floor of the Senate with those persons who have a right to be here, and without being disturbed by those who are foreign to the Hall.

The PRESIDENT *pro tempore*. The Chair will not recognize it as a question of privilege, but a question of order; it is a question of observing the order of the Senate.

Mr. McDUGALL. I say to the President that I am informed that persons having no privilege on the floor are here.

Mr. GRIMES. I think I am entitled to the floor.

The PRESIDENT *pro tempore*. If the Senator rises to a point of order, the Chair will recognize the Senator from California.

Mr. GRIMES. It seems to me that if the amendment proposed by the chairman of the Committee on Military Affairs shall be adopted, we may as well abandon all efforts to replenish the Army with fresh men. He told us yesterday that there were sixty-two thousand men now in arrears from the various States and Territories upon which calls have been made for men. Now, in order to fill up the Army, to replenish it in a time when he says the public exigencies very much demand that we should use every effort in our power, he proposes to abolish the commutation clause, and yet the same bill that abolishes the commutation clause is to contain a provision that that repeal of the commutation clause shall not apply to the States that have been so unpatriotic as to let an arrear of sixty-two thousand men accumulate against them.

Mr. WILSON. I would not use the word "unpatriotic."

Mr. GRIMES. If any other term is more acceptable to the Senator, I am willing to adopt it; but there are sixty-two thousand men in arrears against certain States. The Senator comes here with this bill and insists that we shall pass it, and pass it immediately, without an adjournment, because it is absolutely necessary that the Army should be filled up; and yet, although we propose to go on with the draft and fill up these arrears of sixty-two thousand men, he also proposes in the same bill that abolishes the commutation to declare that the commutation as to these sixty-two thousand men shall be continued.

Mr. CONNESS. Will the Senator pardon me while I suggest to him a question? Would it not be more profitable, and should we not get more soldiers, and get them more rapidly, by abandoning the sixty-two thousand, the debt owed the Government, repealing the commutation, and going on under the new law?

Mr. GRIMES. Yes, sir, in that way we should get more soldiers, but probably not so much money. I introduced a proposition yesterday, but it seemed to be scouted from all sides of the Chamber, declaring that all persons who had been drafted and paid commutation money under previous drafts, should be subject to any future drafts that may be made. These sixty-two thousand men whom the Senator from Massachusetts proposes to except from the performance of military duty by the payment of \$300 each are to be excluded from any future draft for one year at least.

Mr. WILSON. They will come into the next draft.

Mr. GRIMES. They will come into the next draft, provided the amendment I proposed be adopted; not otherwise. First we cut the Government out virtually of the possibility of getting any of the sixty-two thousand men that are now in arrears from these States, because we agree that notwithstanding we have abolished the commutation as to all others, these particular men may come in and discharge themselves from their liability by the payment of \$300. I cannot conceive of a more suicidal proposition that could possibly be adopted by the Senate.

Mr. WILSON. I must certainly express my surprise that the Senator from Iowa or any other Senator should oppose this amendment. It is in perfect harmony with the bill we are framing. What do we propose? How are we situated? We have called, since the 17th day of October last, for seven hundred thousand men. We have



raised them all within about sixty thousand. We here ordered drafts in the States that have failed to fill their quotas; and here let me say that New England, as a whole, has more than filled her quota. The drafts which have been ordered are going on in the States which are deficient, and the men are responding by paying money, getting substitutes, or going themselves. The drafts are nearly all completed. They have been ordered in nearly all the States; and executed in most of the districts, and in a very few days will be entirely completed. Now, we propose to abandon the commutation clause, and to provide that on future calls men may be drafted for one year, but that the States which have failed to fill their quotas under former calls shall go on and fill those quotas for three years. Now I propose that in filling up those delinquencies, the States which are behind-hand shall stand just like the States that have filled up their quotas, and that the law under which the calls were made shall not be changed until the quotas have been filled up. You have been called for a given number of men. Go on and finish the calls under the existing law, but change the law if you choose for new calls. That recognizes the right of every State and gives credit to every State and creates no trouble.

But suppose you refuse to agree to this proposition; what then? You have called on one State for so many men, and it has responded and filled up its quota under the pressure of an impending draft by which the men could have paid money or got substitutes. There is another State a little short, a State perhaps equally in earnest, and where perhaps greater exertions have been made, but where it is more difficult to raise men because labor is better rewarded or because a great many have been sent into the Navy as some States have sent several thousand for which they received no credit; and now you say to it, "We called on you for so many men, you have not furnished them, but if they were drafted they would have had the right to get substitutes or pay their commutation; now the time is out, you are now drafting to fill up your quota, but we will take away your right to pay the money."

Mr. JOHNSON. How many men in Massachusetts?

Mr. WILSON. Massachusetts is less than four thousand behind, and she has put into the naval service not less than ten thousand sailors for whom she has no credit.

Mr. WILKINSON. I should like to inquire of the honorable Senator if in his estimate of the amount that Massachusetts and other States are behind he counts the three months' men that were raised at the commencement of the war.

Mr. WILSON. The three months' men, the nine months' men, the twelve months' men, the three years' men are all counted in all the States and all equalized. A three months' man makes so much of a three years' man; a nine months' man makes one fourth of three years; a twelve months' man one third; &c. The adjustment at the War Office is perfect. It gives credit for every man raised.

Mr. HOWE. Allow me to ask the Senator how many clerks Massachusetts has in these Departments?

Mr. WILSON. I have not the slightest idea. This is a very plain proposition, and a very just one. We execute the drafts already ordered under the law as it now stands; and the Government proposes to make a new call; we have fixed the time at twelve months for the new call, and the men who have paid the money are liable to be drafted again.

Mr. POMEROY. I do not see that we are going to take a vote on this question, and I move that the Senate adjourn.

Mr. TEN EYCK called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 25, nays 13; as follows:

YEAS.—Messrs. Buckalew, Carlile, Chandler, Collamer, Conness, Davis, Foot, Grimes, Harris, Henderson, Howard, Howe, Johnson, Lane of Indiana, Nesmith, Pomeroy, Powell, Richardson, Saulsbury, Sherman, Sprague, Van Winkle, Wade, Wilkinson, and Willey—25.

NAYS.—Messrs. Anthony, Brown, Clark, Doolittle, Fessenden, Foster, Harlan, Lane of Kansas, Morgan, Morrill, Sumner, Ten Eyck, and Wilson—13.  
ABSENT.—Messrs. Cowan, Dixon, Hale, Harding, Hendricks, Hicks, McDougall, Ramsey, Riddle, Trumbull, and Wright—11.

So the motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, June 9, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

### INCORPORATION OF RAILROAD COMPANY.

THE SPEAKER stated the business first in order to be the unfinished business of yesterday, being House bill No. 186, to incorporate the Baltimore and Washington Depot and Potomac Ferry Railroad Company, reported from the Committee for the District of Columbia with amendments.

The amendments, having been severally read, were adopted.

Mr. WASHBURN, of Illinois. Does this bill contain a clause providing for commutation tickets similar to that reported yesterday?

Mr. WHEELER. It does.

The bill, as amended, was ordered to be engrossed and to be read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WHEELER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

### SEWERAGE OF WASHINGTON.

Mr. STEELE, of New York. I ask the unanimous consent of the House to allow me to report from the Committee for the District of Columbia House joint resolution No. 89, as to the sewerage and drainage in the city of Washington, District of Columbia.

Mr. WASHBURN, of Illinois. If it does not consume time, I will not object.

Mr. STEELE, of New York. It will not.

There being no objection, the joint resolution was reported back. The resolution was read. It authorizes the Secretary of the Interior to cause surveys to be made and plans and estimates to be prepared and submitted to Congress for such additional facilities for sewerage in the city of Washington as in his judgment are necessary for the introduction of the Potomac water into the city, and for the health of the city; also for deepening the channel of the Potomac in front of Washington so far as may be necessary for the purposes of drainage; and also for furnishing an adequate supply of water for the insane asylum.

The resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEELE, of New York, moved to reconsider the vote by which the joint resolution was passed, and also moved to lay the motion to reconsider on the table.

### NEW YORK AND WASHINGTON RAILROAD.

Mr. BRANDEGEE, from the select committee on that subject, reported a bill to provide for the construction of a line of railway communication between the cities of Washington and New York, and to constitute the same a public highway and military road and postal route of the United States; which was read a first and second time.

Mr. BRANDEGEE. I ask that the bill may be printed and recommitted to the committee, with leave to report at some particular time—I will say one week from to-day.

Mr. DAVIS, of Maryland. I object to granting the committee leave to report at any particular time.

Mr. BRANDEGEE. If I cannot have a particular day assigned, I shall be compelled to ask for the previous question on the bill.

Mr. WEBSTER. I rise to a question of order. I understand the chairman of this select commit-

ttee to say that he reports a bill to be printed, and that he has been instructed by the committee to have it recommitted to the committee, and not to have it put on its passage. My point of order is that under these instructions the gentleman cannot have it put on its passage.

Mr. BRANDEGEE. I do not intend to put it on its passage now, nor have I asked it at this time.

THE SPEAKER. The Chair understands the chairman of the committee to have properly reported the bill to the House. The bill has been read a first and second time. The gentleman from Connecticut or any member of the House has the undoubted right to demand the previous question.

Mr. WASHBURN, of Illinois. I understand the gentleman from Connecticut to have reported a bill which is prevented from having a particular time fixed for its consideration by an objection which has been made. I therefore suggest to the gentleman that the bill be considered now, not with a view of moving the previous question at once, but of allowing gentlemen on the other side to state their objections to it.

Mr. BROOKS. That bill was not here considered in committee at all.

Mr. WASHBURN, of Illinois. I rise to a question of order. I desire to know whether that bill was reported from a committee.

THE SPEAKER. It was reported from a committee.

Mr. BROOKS. I understand this bill to be reported by the gentleman from Connecticut, the chairman of the committee, to be printed and recommitted to the committee. Am I right?

Mr. BRANDEGEE. So far.

Mr. BROOKS. Now, will the gentleman state the other point?

Mr. BRANDEGEE. Mr. Speaker, I have not been present at the meeting of the committee during the last week, having been called home by sickness in my family, but I have been informed by the gentleman from Wisconsin [Mr. SLOAN] who presided in my absence what are the facts. I am authorized by that committee, as I understand, to report this bill to the House for the purpose of having it printed and recommitted to the committee, and to have a day assigned by order of the House for its consideration. Gentlemen on the other side of the House object to the bill being printed. If they object to the House ascertaining what is its character, if they are willing to put the bill on its passage without knowing what it is, I am ready for the proposition; and I demand the previous question and trust that the House will sustain me.

I submit to the gentlemen who seem to oppose action on this bill that this is an important measure, and that it ought to be printed. I believe that no one disputes that the bill ought to be printed.

Mr. BROOKS. No one objects to that.

Mr. BRANDEGEE. I suggest to the House that a day be fixed for the consideration of this bill. This every man knows is necessary in reference to the business of the session which is now near its close. I suggest that some day be fixed when a hearing can be had, so that the House may dispose of it as it pleases. If the House vote it down, well; if they pass the bill, so much the better. All I want and all I am authorized to ask is that the bill shall be recommitted to the special committee with leave to report it back at some designated day for consideration. I will hear any suggestions that gentlemen may have to make.

Mr. BROOKS. I do not believe that we shall differ as to the understanding of the committee. But a small portion of the committee have seen or read the bill. It was agreed that it should be reported to the House and ordered to be printed, with instructions that it should go back to the committee when it was printed to be fully considered. The question has not been settled until it goes back to that committee. It is not certain that they will not amend it; it is not certain that they will not change it in one form or another, or altogether, or lay it on the table in the committee.

Mr. SLOAN. Was it not a part of the instructions to the chairman that the committee should ask the House to fix a day when the bill should be again reported and considered?

Mr. BROOKS. I will not deny or affirm that, because I am not positive.

Mr. SLOAN. I affirm that that was a part of the instructions. The gentleman from Massachusetts [Mr. ALLEY] will remember it.

Mr. ALLEY. If my friend will yield a moment I will state the case as I understand it. And I must say I am surprised that any proposition should be made here to-day to put this bill on its passage when the distinct understanding of the committee was that no such action should be taken, but that it should simply be reported to the House, ordered to be printed, and recommended with the understanding that some future day should be assigned for its further consideration.

Mr. WASHBURN, of Illinois. I rise to a point of order. I make the point of order that the gentleman is not in order, that it is not in order to refer to what has occurred in a committee-room.

The SPEAKER. The Chair sustains the point of order.

Mr. ALLEY. I will say nothing further on that subject.

The parties in interest expect to have a hearing before the committee on this bill. I know that was the express understanding, that they should be heard before the committee previous to their final report. No objection was made to its being reported that it might be ordered to be printed. Therefore, I cannot understand why my friend from Connecticut should insist on the bill being put on its passage.

Mr. BRANDEGEE. If I have been so understood, I have been misunderstood. I have only moved the previous question on the motion to print the bill, recommitting it with the understanding that it shall be again reported on a designated day and considered.

I moved the previous question upon that, and not upon the passage of the bill.

The SPEAKER. The gentleman could not move the previous question upon the latter part of the motion, as that part requires unanimous consent.

Mr. BRANDEGEE. Then the previous question is called upon that part of the motion which is pertinent. Now, as I believe I have the floor, for all these gentlemen have occupied it only by my consent, I will state to the Chair, and through the Chair to the House, what I do propose, and which I think is a fair proposition. It is very evident from the state of feeling which has been manifested here that this is an important question, so considered both by gentlemen who are opposed to it and those in favor of it. If it is a question of such importance either to public or private rights it is desirable that it should be settled one way or the other, and all I ask of this House is that the matter should be put in such a shape that it shall be considered and settled by this Congress at this session, as it ought to be.

Now, here is the bill; the House does not know what it is; some gentlemen of the committee say they do not know what it is. That is their fault, not mine, as it has been before the committee. I do not desire, upon the floor of the House, to refer unparliamentarily to the action of the committee. The bill is here, and I am instructed by the committee to ask the House to have it printed. That is a proper request. The gentleman from Maryland [Mr. DAVIS] will concede that; the gentleman from New York does. It should be printed, and it should then be recommitted to the committee for the purpose of having it considered again in a more solemn manner, if necessary. Then I ask further—and I submit to every gentleman that it is a fair request—that the bill should not be consigned to the tomb of the Capulets by referring it to that committee without leave to report at any time, for that committee will not be called again during this session, in all probability.

Now, what I ask of this House is, that they shall designate some particular day, within the probable existence of this session, when we shall be allowed to report it back. If you are not willing to do that, then I may ask action upon the bill as it stands, trusting this House will consider it from day to day until they understand it, and are ready to vote either for it or against it.

Mr. DAVIS, of Maryland. I do not know anything about the character of this bill other than by its title, except I am informed that it may very seriously affect the local interests of Maryland. How that may be I shall not know until I can consider the bill. I desire to have it printed; whether it be recommitted to the committee or not is immaterial to me. I shall object to the designation of any day for its consideration. Whenever the bill shall be reached regularly, and the House shall be ready to consider it, I shall be ready to give a vote upon it. At present I am ignorant of its provisions.

Mr. BRANDEGEE. After the statement of the gentleman from Maryland that he shall object to the bill being printed and recommitted to the committee with power to report it to the House on a day designated, I shall, under what I consider to be a very imperative sense of duty, feel myself constrained to consider the bill now during the morning hour, and from day to day until the matter is determined.

Mr. DAVIS, of Maryland. I rise to a point of order. It is that it appears from the statement of all the gentlemen upon the committee that there has been no order of the committee to report this bill.

The SPEAKER. The Chair overrules the point of order. The bill has been reported and read a first and second time; and the House can do something with the bill. It is for the House to determine what they will do, debate it, postpone it, or recommit it.

Mr. DAVIS, of Maryland. Cannot the House act upon the statement of the chairman of the committee, so as to see that he had no authority to report the bill except to have it recommitted?

The SPEAKER. The Chair would ask the gentleman from Maryland how the gentleman from Connecticut can compel the House to recommit it if they do not see fit to do so?

Mr. DAVIS, of Maryland. The question is whether the gentleman has authority to report the bill. He has not, according to his own statement. The committee ordered him to report it, ask to have it recommitted, and have a day assigned. The order is upon all three points, and if any one fails, there is no order to report the bill.

The SPEAKER. If the Chair should recognize that usage the House would often find itself in a very serious dilemma. When the chairman rises and reports a bill he states what he desires to have done with it. When that is done the House can do as they choose, whether it suits the committee or not. Committees sometimes report in favor of a bill being rejected, but the House passes it. The gentleman was authorized to report the bill with a further recommendation. That recommendation was frustrated by objections and by the rules. The bill was, however, before the House, and the House can do what they see fit. After the gentleman from Connecticut surrenders the floor the gentleman from Maryland can move to lay the bill on the table, or make any other legitimate motion; but until then he cannot.

Mr. DAVIS, of Maryland. I do not wish to take any such course, for it is palpable that the House has not the judgment of the committee on this bill; and that is the meaning of the report.

Mr. ALLEY. I wish to say that it appears to me that the bill is before the House by order of the committee. The committee instructed the chairman, as he has stated to the House, to report this bill for a certain purpose; that it should be printed and recommitted, and that it should be postponed for further consideration till some future day. Now, if the House is unwilling to do this, and objections are interposed, I would submit whether it is fair, under the circumstances, to the parties in interest who have not had a hearing, and to whom we promised a hearing, to put this bill upon its passage now. I do not know what may be the view the chairman of the committee may take, but it seems to me that in view of the understanding and promises of the committee, and of the pressing business before the House, it would be well, as the committee proposed, to recommit, print, and postpone its further consideration to some day within the limits of the session; for that is the only way in which justice to all parties can be done, and the bill reached and considered by the House at this session. I appeal, therefore, to the gentleman from

Maryland, [Mr. DAVIS], as having charge of the interests of the State of Maryland and of gentlemen connected with corporations in that State, that he withdraw his objection, and allow the bill to go back to the committee, to be further considered and reported at some future time for the action of the House.

Mr. DAVIS, of Maryland. So far as the application to me is concerned, I am not charged here with the especial interests of any railroad corporations or even the interests of the State of Maryland. I am here charged simply with the interests of the United States, and, in subordination to the interests of the United States, the interests of my district. This measure is one of no more importance than another which I had the honor to ask leave of the House to report on Monday last, which leave was refused by the whole of this side of the House with but three exceptions. So far as I am concerned, this bill must take the regular course.

Mr. BRANDEGEE. If I understand aright the appeal of the gentleman from Massachusetts [Mr. ALLEY] it is to me as chairman of the committee charged with this subject to proceed on what he claims is the principle of fairness; he appeals to my liberality and courtesy to allow the bill to be recommitted to the committee on a motion to print, without any further order relative to the day when the committee shall have leave to report. Now, if I was acting here simply as a member of the House no man could exceed me in matters of courtesy, as the gentleman from Massachusetts, I think, will readily admit; but I stand here charged by the committee to do a certain thing. I stand here charged by the committee of which I have the honor to be a member to ask of this House a certain thing, to wit, that this report shall be printed, recommitted to the committee, and a day assigned by the House for the reception of the report. I stand here, also, in another capacity, and that is as the person who originally introduced a resolution upon this subject. I stand committed before the country to this House that this question shall be decided by this Congress in one shape or another. I am not willing, therefore, to have the bill sent back to the committee, where everybody knows it must, under the rules of the House, be smothered during the rest of this Congress, because everybody knows the committee will not be called again.

The gentleman from Maryland [Mr. DAVIS] says that he stands here charged with the interests of the American people, and especially the interests of his constituents. Let me say to that gentleman that he will consult the interests of his State if he will allow this measure to come up at a proper time, after the bill has been printed and spread before the House. If he will not do that, I shall have to ask that the bill be put upon its passage under the previous question. If the gentleman will designate a day when the committee shall be permitted to report this bill, I will agree to it.

Mr. DAVIS, of Maryland. Mr. Speaker, courtesy and coercion are altogether incompatible. My honorable friend from Connecticut says that I alone stand in the way of fixing a day for the consideration of this bill, and that the interests of my constituents would, perhaps, be better consulted by my allowing him to fix a day. If it were an appeal to my courtesy I might possibly so consider it, but if the gentleman says that otherwise he will move the previous question, I say, then come.

Mr. WEBSTER. Mr. Speaker, as a member of the committee, I of course feel considerable interest in this bill. The chairman of the committee has very properly said that he was acting here this morning not in his individual capacity as a member of the House, but as chairman of the committee and its mouthpiece. That is the fact, sir. He has rightly said that as the mouthpiece of this committee he had been instructed to report this bill in order to have it printed and recommitted. That is the only purpose for which he was authorized to report the bill. And I put it to that gentleman, as the mouthpiece of the committee, how can he ask that any other action shall be taken by the House than that authorized by the committee? That is the point for him to decide. There is not a member of the committee present who will not say that the committee simply authorized the reporting of the bill for the purpose

of having it printed and recommitted, and having some day assigned for its consideration by the House. The committee is bound by that action; but my colleague, [Mr. Davis,] having nothing to do with the committee, is not bound by its action. And because he takes a different course, does that excuse the chairman of the committee, or any other member of it, in disregarding the instructions of the committee? I hold that it does not. I hold that the chairman of the committee is bound by its action, whatever my colleague or any other member of the House may do on the subject.

There is not a member of the committee present who will not say that this bill has not been determined upon at all in committee. It has not been read in the committee. It has not been considered in the committee. It was in order that it might be considered in the committee that the chairman was instructed to ask the House to have it printed and recommitted.

Mr. FARNSWORTH. I desire to ask the Chair a question, whether this bill cannot be postponed to a day certain by a vote of the majority of the House.

The SPEAKER. Certainly it can be. A majority of the House has the right to postpone the bill without sending it back to the committee, if it see fit to do so.

Mr. WEBSTER. Would the House take a bill out of the hands of a committee which has not considered it?

The SPEAKER. The Chair cannot tell whether the House would do it or not. [Laughter.]

Mr. SLOAN. Will the gentleman from Maryland yield to me for a question?

Mr. WEBSTER. Certainly.

Mr. SLOAN. I ask the gentleman from Maryland if the chairman of the committee did not state fully and fairly the instructions given him in reference to this bill.

Mr. WEBSTER. I will allow my colleague on the committee [Mr. BRANDEGEE] to state his instructions. I desired to state them fairly and fully, and if I have not done so my colleague can do so.

Mr. SLOAN. While the committee did instruct the chairman to report this bill and ask to have it printed and recommitted, with leave to report back at a certain day, it was the desire of the committee that action should be had on it before the close of this session. I venture to say that all the friends of the measure are willing to have the instructions of the committee carried out. They are willing to have this bill printed and recommitted, with leave to report at a certain day. That delay is asked on behalf of those whose interests are adverse to the bill.

The gentlemen who desire this delay, and who are opposed, object to having the bill printed and recommitted, with authority to report it back at a given time. I undertake to say that, so far as expressed, it was the desire of the committee to have the bill considered at this session.

Now, if members who are opposed to this measure are not willing to have the instructions of the committee carried out, it seems to me that the chairman of the committee can do no more than he is doing. The bill has been reported, and is in possession of the House. The committee have lost control of it, unless the House chooses to carry out their wishes, and if those who are adverse to the passage of such a measure prefer to compel the consideration of the bill now, if it is to be considered at all during this session, it seems to me the friends of this measure are not responsible for the result. On the contrary, the gentleman from Maryland [Mr. Davis] and others who are opposed to the passage of this bill, and who object to its being considered on some day named, which would prevent it from being considered at all during the present session, are responsible for the action of the chairman of the committee in bringing up the bill for consideration at the present time.

Mr. WEBSTER. When the gentleman speaks of the gentleman from Maryland objecting to the assignment of a particular day for the consideration of this bill, he does not, of course, refer to me.

Mr. SLOAN. Not at all. I refer to the gentleman's colleague, [Mr. Davis.]

Mr. WEBSTER. I have not made any such objection, and I am not speaking as an opponent of the bill at all. I am merely speaking as a mem-

ber of the special committee on this subject, and I am only demanding that the directions of the committee shall be carried out. As a member of this House I have not stated to-day, and I do not intend to, whether I am for or against this bill. I only ask that the chairman of the committee shall comply with the instructions of the committee, nothing more.

Mr. SLOAN. I hope the gentleman will allow me to suggest that the chairman has tried to carry out those instructions but was prevented by the objection of the gentleman from Maryland.

Mr. WEBSTER. He was prevented not by any member of the special committee, but by the objection of a member of the House, who had a right to object if he saw fit. And that, I think, does not give the chairman of that committee the right to put this bill on its passage. He very well knows that this bill could never have been reported from that committee for any such purpose. He very well knows that the bill could not have been reported for any purpose except to have it recommitted, so that the committee could consider it. And it is but right, fair, and proper, under the rules which govern the action of members of this House and members of committees, that that bill shall be recommitted, so that it may be considered by the committee.

Mr. BRANDEGEE. How many minutes of the morning hour still remain?

The SPEAKER. Twenty-eight.

Mr. BRANDEGEE. In answer to my excitable friend from Maryland—

Mr. WEBSTER. Not at all.

Mr. BRANDEGEE. And who still seems to retain the spirit of the Baltimore convention where I had the pleasure of seeing him yesterday, [laughter,] I will say that so far as my action on this bill is concerned, I think I have followed the instructions of the committee specifically. Now, if the gentleman will give me his attention for a moment, I will state fairly what were my instructions and what I have done.

I state in the first place that I was instructed to report that bill to the House. Is that so? I was then instructed by the committee to ask that the bill be printed. Is that so? I was then further directed to ask that a day be assigned for the consideration of that bill, and upon that day being assigned, to ask that the bill be recommitted to the committee. Is that so?

Mr. WEBSTER. Not precisely in that way.

Mr. BRANDEGEE. In what respect is it not so?

Mr. WEBSTER. The committee was directed to ask that the bill be recommitted, and then to ask the House to fix some day for its consideration.

Mr. BRANDEGEE. I was instructed to ask that the bill be recommitted if a day was assigned for its consideration, but not otherwise. I ask the gentleman from Maryland if those were not the instructions of the committee?

Mr. WEBSTER. I will answer the question with a great deal of pleasure. He has stated the facts to a certain extent correctly. When the committee was called the gentleman reported the bill, as he had the right to do, and asked to have it printed, recommitted, and a day fixed for its consideration; but I submit that it was only to be reported on condition that it should be recommitted. The committee could not determine that. The committee never authorized him, if the House refused to set a day, that he should ask the bill to be put on its passage. On the contrary the committee would have refused any such thing.

Mr. BRANDEGEE. The House have not decided whether they will assign a day or not. That is what I ask them to do. The gentleman insists that I should send the bill back into the committee before the House determine whether they will fix a day or not. It is my duty to ask the House shall fix a day. If the House shall refuse to designate a day, then the House is all-powerful, and can take the whole question out of my hands. I will be satisfied if the gentleman will be as calm as I am, and let me take the sense of the House on the motion I have made that the bill shall be ordered to be printed, recommitted, and that a day shall be designated on which it is again to be reported and disposed of.

I notify the gentleman from Maryland and other gentlemen that in twenty-five minutes the morning hour will expire, and that if this question be not determined before then, the bill, by parlia-

mentary law, will go over until to-morrow, and be considered from day to day as unfinished business.

Mr. COX. What is the question?

The SPEAKER. Shall the bill be engrossed and read a third time?

Mr. COX. Has that given rise to this extraordinary debate?

Mr. RANDALL, of Pennsylvania. Mr. Speaker, I think that I can make a suggestion that will obviate all objection. It has been decided that the last part of the motion of the gentleman from Connecticut is not in order except by unanimous consent. I propose that he shall divide his proposition. I think that in that way we may arrive at a rightful understanding and proper action. Let the bill be ordered to be printed and recommitted to the committee for the purpose of considering it. Then we can act on the question of fixing a day for its future consideration.

Now, as the action of the committee has been more than once alluded to, and if permitted for a moment, I propose to encroach on the rule of the House. I was not present when this action was had, but I was at the previous meeting when this bill was presented. It is a long bill, and there was not time to consider it. When printed the bill ought to be referred to the committee for its action, as it has not yet been fully considered by that committee.

Mr. BRANDEGEE. I will yield to the gentleman from Rhode Island.

#### BANKRUPT BILL.

Mr. JENCKES. I rise to a privileged question. I call up the motion which I submitted yesterday to reconsider the vote by which the bankrupt bill was ordered to be engrossed and read a third time. I withdraw that motion, and move that the bill be put on its passage.

Thereupon, the bill having been actually engrossed, it was accordingly read the third time under the order of the House of yesterday.

Mr. JENCKES called for the previous question on the passage of the bill.

The House was divided; and there were—ayes 47, noes 39.

So the previous question was seconded.

The main question was then ordered.

Mr. CRAVENS demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 64, nays 65, not voting 53; as follows:

YEAS—Messrs. Alley, Allison, Ames, Arnold, Ashley, Augustus C. Baldwin, John D. Baldwin, Beaman, Blow, Brandegee, Brooks, Brownell, James S. Brown, Chamber, Ambrose W. Clark, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Dixon, Donnelly, Driggs, Eliot, Farusworth, Fenton, Frank, Ganson, Griswold, Herrick, Asahel W. Hubbard, Hubbard, Jenckes, Kalbfleisch, Kasson, Kelley, Orlando Kellogg, Littlejohn, Longyear, Marvin, McDougal, Samuel F. Miller, Moorhead, Daniel Morris, Leonard Myers, Norton, Odell, Alexander H. Rice, John H. Rice, Shannon, Sloan, Spaulding, Starr, Sweet, Thayer, Thomas, Upson, Van Valkenburgh, Ward, William B. Washburn, Webster, Wheeler, Wilder, Windom, and Woodbridge—64.

NAYS—Messrs. James C. Allen, William J. Allen, Ancona, Bailey, Baxter, Blaine, Jacob B. Blair, Bliss, Boutwell, Boyd, Freeman Clarke, Cobb, Coffroth, Cox, Cravens, Dawson, Denison, Eckley, Eden, Edgerton, Eldridge, Finck, Gooch, Hale, Charles M. Harris, Higby, Holman, Hutchins, Ingersoll, William Johnson, Julian, Knapp, Lazar, Le Blond, Loan, Long, Mallory, Marcy, McDowell, Morrill, James R. Morris, Morrison, Amos Myers, Noble, Charles O'Neill, Orth, Pendleton, Perham, Price, Samuel J. Randall, Robinson, Rogers, Ross, Scheuck, Scott, Stevens, Stiles, Strouse, Tracy, Voorhees, Wadsworth, Chilton A. White, Joseph W. White, Wilson, and Winfield—65.

NOT VOTING—Messrs. Anderson, Francis P. Blair, William G. Brown, Clay, Creswell, Dening, Dumont, English, Garfield, Grider, Grinnell, Hall, Harding, Harrington, Benjamin G. Harris, Hooper, Hotchkiss, John H. Hubbard, Philip Johnson, Francis W. Kellogg, Kernan, King, Law, McAllister, McBride, McClurg, McKinney, Middleton, William H. Miller, Nelson, John O'Neill, Patterson, Perry, Pike, Pomeroy, Pruyn, Radiator, William H. Randall, Edward H. Rollins, James S. Rollins, Scofield, Smith, Smithers, Stebbins, John B. Steele, William G. Steele, Stuart, Elihu B. Washburne, Whaley, Williams, Benjamin Wood, Fernando Wood, and Yeaman—53.

So the bill was rejected.

During the roll-call,

Mr. GRIDER stated that Mr. HARDING, who would have voted in the negative, was detained from the House by illness.

Mr. SCOFIELD stated that he was paired with Mr. GRINNELL, who would have voted in the affirmative, while he (Mr. SCOFIELD) would have voted in the negative.

The result was then announced as above recorded.



Mr. CRAVENS moved to reconsider the vote by which the bill was rejected; and also moved to lay the motion to reconsider on the table.

Mr. BRANDEGEE demanded the yeas and nays.

The yeas and nays were ordered.

Mr. CRAVENS withdrew the motion.

Mr. BOUTWELL, at a subsequent period, moved to reconsider the vote by which the bill was rejected.

The motion was entered.

#### ENROLLMENT LAW.

Mr. FARNSWORTH asked unanimous consent to report a bill to amend the enrollment law, and for other purposes.

Mr. ANCONA objected.

Mr. WASHBURNE, of Illinois. Has the morning hour expired?

The SPEAKER. It has, and reports are in order from the Committee on Commerce.

#### OCEAN STEAM NAVIGATION.

Mr. WASHBURNE, of Illinois. In accordance with the directions of the Committee on Commerce, I report back the memorial of the Chamber of Commerce of the city of New York in reference to ocean steam navigation, and ask that the committee be discharged from the further consideration thereof.

The committee was discharged accordingly, and the memorial laid on the table.

Mr. WASHBURNE, of Illinois. My colleague, from the minority of the committee, desires to present a minority report, and have it printed.

Mr. WARD presented a minority report; which was laid on the table, and ordered to be printed.

#### PASSENGERS ON STEAMSHIPS.

Mr. WASHBURNE, of Illinois, from the Committee on Commerce, reported back, with a recommendation that it do pass, a bill (H. R. No. 510) further to regulate the carriage of passengers in steamships and other vessels.

The bill was read.

Mr. BROOKS. This is a very important bill, and though I have no doubt that it has been very well considered, yet I would like to have from the gentleman from Illinois some little explanations on points which I am not able to reach without reference to some older legislation. The first section provides

That the term "contiguous territory," in the first section of the act entitled "An act to regulate the carriage of passengers in steamships and other vessels," approved March 3, 1855, shall not be held to extend to any port or place connecting with any interoceanic route through Mexico.

I would like to have the gentleman explain that.

Mr. WASHBURNE, of Illinois. I have sent for the volume of laws which contains the provision referred to. It is the act to regulate the carriage of passengers in steamships and other vessels, and, among other things, it provides

That no master of any vessel owned in whole or in part by citizens of the United States, or by a citizen of any foreign country, shall take on board such vessel, at any foreign port or place, other than foreign contiguous territory of the United States, a greater number of passengers than in proportion of one to every two tons of such vessel, &c.

That clause has been held not to apply to steamers sailing from New York to Panama, and the object of this section is to declare that it is not to be held to extend to any port or place connected with any interoceanic route through Mexico.

Mr. BROOKS. The tenth section provides

That all steamers and other vessels belonging to a citizen or to citizens of the United States, and bound from any port in the United States to any other port therein, or to any foreign port, or from any foreign port to any port in the United States, shall, before clearance, receive on board and securely convey all such bullion, coin, United States notes and bonds, and other securities as the Government of the United States, or any Department thereof, or any minister, consul, vice-consul, or commercial or other agent of the United States abroad shall offer, and promptly deliver the same to the proper authorities or consignees on arriving at the port of destination, and shall receive for such service such reasonable compensation as may be allowed by the head of the proper Department.

What is the "proper Department?" spoken of?

Mr. WASHBURNE, of Illinois. The Treasury Department.

Mr. BROOKS. Do I understand that the bill provides that those vessels may take bullion or coin only for the United States and not for individuals?

Mr. WASHBURNE, of Illinois. They may take from individuals as much as they please, but when they take it for the Government they shall not be permitted to charge their own price, as they have been doing, but the compensation shall be settled by the Treasury Department.

Mr. BROOKS. Does the section compel them to take the bullion for the Government and then allow the Treasury Department to settle the compensation? Is that fair and equitable?

Mr. WASHBURNE, of Illinois. I presume there will be no difficulty at all. I think it proper and right, in return for the privileges these steamers receive from the Government, that they should transport the coin, bullion, and other property of the Government at a fair and just price to be determined by the proper Department, which is the Secretary of the Treasury.

Mr. BROOKS. I would suggest that this section applies as well to European and other steamers, which receive no privileges or benefits from the Government, and over which the Government has no power. Would it not be fair to provide in the bill that the same amount shall be paid them that is paid to express and other transportation companies for similar services?

Mr. WASHBURNE, of Illinois. If the gentleman will shape an amendment to that effect, I will not make any objection to it. This is a report from a committee and I am not authorized to accept the amendment, but I will not object to it.

Mr. BROOKS. Then I move to amend the tenth section by striking out in line fourteen the words "by the head of the proper Department," and inserting in lieu thereof the words "to other carriers in the ordinary transaction of business."

Mr. WASHBURNE, of Illinois. I have no objection to that amendment.

The amendment was agreed to.

Mr. WASHBURNE, of Illinois. I move to amend section five of the bill by striking out in line twenty-one the words "exceeding \$3,000 nor less than \$1,000," and inserting in lieu thereof the words "less than \$10,000," so that the last clause of the section will read:

And if such master or commander shall refuse or neglect to comply with the requirements of this section, he, together with the owner or owners of said vessel, shall be subject to a fine of not less than \$10,000, and such fine shall be a lien upon the vessel until paid.

I offer that amendment for the purpose of enforcing this provision of the law. It is a very simple one and yet a very important one, and if it is not conformed to I think this penalty ought to be enforced. It may be considered a very large and heavy one. Gentlemen from California say that it is not too high, and that the bill as reported by the committee imposes a penalty so light that the profits from a very few passengers would pay the fine, and hence that it would amount to nothing whatever.

Mr. GANSON. I would ask the gentleman from Illinois what he means by inserting in the fourth section a provision that before a vessel shall be allowed to depart the master or other person in charge of such vessel carrying passengers shall file with the collector or other officer of customs granting the clearance a list verified by oath of all the passengers, &c.

Mr. WASHBURNE, of Illinois. That question goes to the very gist of the bill. It is in order to erable the number of passengers to be fixed. The great thing which we want to provide against by this bill is the over crowding of these steamers, and this provision in the fourth section is intended to require a list of passengers who are going upon a steamer to be returned to the custom-house and sworn to.

Mr. GANSON. I would ask the gentleman from Illinois to what class of vessels this fourth section applies. Does it apply to any vessel on our inland navigation?

Mr. WASHBURNE, of Illinois. It does not. That is expressly provided against. The section refers back to the steamboat act of 1862.

Mr. GANSON. Does it apply to vessels on the sounds?

Mr. WASHBURNE, of Illinois. It does not.

Mr. BROOKS. Let me suggest to the gentleman from Pennsylvania that the fine of \$10,000 which he now proposes is an enormous fine to impose upon the owner of a vessel the master or commander of which neglects his duty. It strikes me that the fine of \$3,000, originally proposed in

the bill, is amply sufficient. I know there is a warm feeling on the California coast about these steamers, but we ought not to impose excessive punishments; for excessive punishments defeat themselves. A fine of \$3,000 is an ample punishment.

Mr. WASHBURNE, of Illinois. The answer to that suggestion is that the passage money of half a dozen passengers will pay this whole fine, and the steamboat companies can afford to violate the law and make a great deal of money by it. I am certain that the gentleman from New York is in favor of the spirit of this bill. I do not wish to put anything in it that would be unreasonable.

Mr. BROOKS. Let me suggest to the gentleman from Illinois that a fine of \$10,000 for this violation of the law would be a great inducement, almost a bribe, to get up fraudulent lists of passengers. It strikes me that the sum first fixed by the Committee on Commerce was quite high enough. I do not believe that this penalty of \$10,000 would produce any practical result. It would only lead to frauds and to attempt to evade the law.

Mr. WASHBURNE, of Illinois. The simple remedy for that is for the master or commander, or party in charge, to make a fair return. Let him comply with the law, and he is not fined anything.

Mr. HIGBY. Mr. Speaker, there is no difficulty in finding out at all times the number of passengers on board a ship. It is well known by all who have been in the habit of going back and forward between New York and San Francisco that the passenger laws are constantly violated. We are determined, if possible, that there shall be such restrictions imposed upon steamboat proprietors as will make them pay more attention to this matter. A penalty of \$3,000 is a matter of no consideration for them, if they can set the law at defiance. It is a very easy matter to make up that fine from the profits of overloading a ship. But where the penalty amounts to \$10,000 it will require a large number of extra passengers to permit the fine to be paid; and such an increase of passengers it will be easy to detect.

It is remarked by the member from New York that it seems to be a great burden that the failure of the commander of a ship should be visited on the owner. I do not think so. It will put the owners of ships on the alert to see that they have proper commanders, men of responsibility as masters of vessels. The penalty is not too severe, and I hope the amendment will be agreed to.

Mr. SIANNON. Mr. Speaker, I undertake to say that if the penalty of \$3,000 originally reported be retained in the bill the bill will not be worth the paper on which it is written, or worth a moment's consideration in the House. Ten passengers additional will make the ship-owner even, after the payment of this penalty. The law can be violated with impunity every time that a steamer leaves New York with passengers for California. If the penalty be increased to \$10,000 that will be a different matter. That is the gist and quintessence of the whole proposition. Unless the penalty be so high as to make it the interest of these steamship companies to obey the law, it will be entirely nugatory. I undertake to say that there is no nation in the world which is so imposed upon and has such loose laws in regard to passengers as the United States. The law relating to passengers leaving the United States in these vessels is simply no law at all. It is violated with impunity every day that a steamer leaves one of our ports. Thousands of lives have been sacrificed, and thousands are daily subjected to being sacrificed, in consequence of the law not being enforced. The law as it now exists does not impose such heavy penalties as are necessary in order to compel parties to obey the law. If the penalty in this bill be left at \$3,000 there will be no good accomplished by its passage.

Mr. BROOKS. Mr. Speaker, I have heard what the gentlemen from California have had to say. I am aware of the old fight that has been going on with these steamboat companies. I do not sympathize with that quarrel on either side; and I am quite as anxious as they can possibly be that the travel between New York and California shall be well regulated. But it seems to me that in this respect they overshoot the mark. It is a law of

the Government, and a law of society, that when revengeful penalties are inflicted the laws are violated more frequently than if the penalties be just. The penalty for forgery in England was for a long time that of hanging. The consequence was that juries seldom or never convicted anybody of forgery, because the punishment was too severe for the offense. Here is a fine of \$10,000 to be inflicted on the owner of the vessel for the violation of a simple rule by the master or commander. The Committee on Commerce, after a careful consideration of the subject, considered \$3,000 amply sufficient. The amendment of the gentleman from California making the penalty \$10,000 is revengeful; it is not intended as a remedy; it is a punishment, and as such is not proper to be adopted.

Let me tell the gentleman from California that he vastly mistakes when he supposes the overcrowded state of the steamers from New York to California is greater than in any other part of the world. When he shall have gone all over the earth, when he shall have visited the Mediterranean and gone from one port to another, he will be able to say there the steamers are crowded three or four times over beyond what the California steamers are under the present regulations.

Now, I tell the gentleman from California that by this mode of fighting these California steamship companies he will gain nothing as the result, unless he can succeed in placing an additional number of steamers on the route. The only effect will be to unite the companies for the purpose of resisting this attack upon them, and induce them to increase the rate of fare between New York and California. If he could enforce his \$10,000 fine he would enhance the cost of travel between New York and California. The proper remedy for overcrowding the steamers is to increase the facilities of travel between the two oceans; it is to strengthen the overland mail route. The natural route to California is not by steam; it is overland; and the proper course of regulating this difficulty in respect to the steamship company is to increase, by the cooperative action of the Government, the facilities of travel directly across the continent. The gentleman will not accomplish his object in this way; and he must not exaggerate the evils under which he labors. A growing country like California, Oregon, and Washington Territory will always attract a large number of immigrants, and no law can relieve the disadvantages of overcrowding while so large a number of passengers desire to travel over the route, unless the facilities of travel are increased.

Mr. HIGBY. I can answer all the gentleman has said by stating a single fact. It is the city of New York that he in part represents that is to blame in this matter; let them put as good steamers, as large steamers, with as fine accommodations on the route between New York and Aspinwall as we have running between San Francisco and Panama; and the whole evil is remedied. The steamers running between Aspinwall and New York are a disgrace to the great city of this continent; they are nothing but tubs, miserable, scumy, lousy things, in comparison with the palaces that float on the Pacific. That statement disposes of the whole argument.

Mr. WASHBURN, of Illinois, resumed the floor.

Mr. DAVIS, of New York, asked the gentleman to yield to him for a moment.

Mr. WASHBURN, of Illinois. I do not think we ought to occupy a longer time with this matter. I move the previous question.

The previous question was seconded, and the main question ordered to be put.

Mr. WASHBURN, of Illinois, called for tellers on his amendment.

Tellers were ordered; and Messrs. WASHBURN, of Illinois, and Brooks, were appointed.

The House divided; and the tellers reported—ayes fifty, a further count not being demanded. So the amendment was adopted.

Mr. WASHBURN, of Illinois. I ask the unanimous consent of the House to move another amendment in line nineteen. I desire to insert the words "or shall knowingly make false returns of the list of passengers."

There being no objection, the amendment was received and adopted.

Mr. ODELL. I want to ask the gentleman from Illinois a single question, with the consent

of the House. Does this bill provide the same penalties for carrying an excess of passengers provided for in the original law.

Mr. WASHBURN, of Illinois. The original law imposed a fine for carrying excess of passengers. The object of this law, as the gentleman will perceive, is to define that expression, "contiguous countries," under which they claim the right to be exempt from the operation of that law.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, was accordingly read the third time, and passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 487) to provide for the execution of treaties between the United States and foreign nations respecting consular jurisdiction over the crews of vessels of such foreign nations in the waters and ports of the United States.

An act (H. R. No. 422) to amend an act entitled "An act to confirm certain private land claims in the Territory of New Mexico."

#### SEAMEN.

Mr. ELIOT, from the Committee on Commerce, reported a bill regulating certain provisions of law concerning seamen on board of public and private vessels; which was read a first and second time.

The bill provides that so much of the act entitled "An act for the regulation of seamen on board the public and private vessels of the United States," approved 3d March, 1813, as makes it not lawful to employ on board any of the public or private vessels of the United States any person or persons except citizens of the United States or persons of color, natives of the United States; and so much of the thirty-fifth, thirty-sixth, and thirty-seventh sections of "An act concerning the navigation of the United States," approved 1st March, 1817, as concerns the crews of vessels therein named; and so much of the first section of an act entitled "An act to repeal the tonnage duties upon ships and vessels of the United States, and upon certain foreign vessels," approved 31st May, 1830, as makes discrimination in favor of vessels a certain proportion of whose crews shall be citizens of the United States shall be repealed, provided that officers of vessels of the United States shall in all cases be citizens of the United States.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PREVENTION OF SMUGGLING.

Mr. ELIOT, from the Committee on Commerce, reported back Senate bill No. 266, to prevent smuggling, and for other purposes, with the following substitute:

That, from and after the passage of this act, all goods, wares, and merchandise, and all baggage and effects of passengers, and all other articles imported into the United States from any contiguous foreign country or countries, except as hereafter provided, as well as the vessels, cars, and other vehicles and envelopes in which the same shall be imported, shall be laden in the presence of and be inspected by an inspector or other officer of the customs, at the first port of entry or custom-house in the United States where the same shall arrive; and to enable the proper officer thoroughly to discharge this duty, he may require the owner or owners, or his, her, or their agent, or other person having charge or possession of any trunk, traveling bag or sack, valise, or other envelope, or of any closed vessel, car, or other vehicle, to open the same, or to deliver to him the proper key; and if such owner, agent, or other person shall refuse or neglect to comply with his demand, the said officer shall retain such trunk, traveling bag or sack, valise, or whatsoever it may be, and open the same, and as soon thereafter as may be practicable examine the contents; and if any article or articles subject to the payment of duty shall be found therein, the whole contents, together with the envelope, shall be forfeited to the United States, and disposed of as the law provides in other similar cases. And if any such dutiable goods, article or articles, shall be found in such vessel, car, or other vehicle, the owner, agent, or other person in charge of which shall have refused to open the same or deliver the key as herein provided, the same, together with the vessel, car, or other vehicle, shall be for-

fected to the United States, and shall be held by such officer, to be disposed of as the law provides in other similar cases of forfeiture.

Sec. 2. And be it further enacted, That to avoid the inspection at the first port of arrival, required by the first section of this act, the owner, agent, master, or other officer of any such vessel, car, or other vehicle, or owner, agent, or other person having charge of any such goods, wares, merchandise, baggage, effects, or other articles, may apply to any consular officer of the United States, duly authorized to act in the premises, to seal or close the same under and according to the regulations hereinafter authorized, previous to their importation into the United States; which officer shall seal or close the same accordingly; whereupon the same may proceed to their port of destination without further inspection: Provided, That nothing contained in this section shall be construed to exempt such vessel, car, or vehicle, or its contents, from such examination as may be necessary and proper to prevent frauds upon the revenue and violations of this act: And provided further, That every such vessel, car, or other vehicle shall proceed, without unnecessary delay, to the port or place of its destination, as named in the manifest of its cargo, freight, or contents, and be there inspected, as provided in section one.

Sec. 3. And be it further enacted, That the Secretary of the Treasury be, and he is hereby, authorized and required to make such regulations, and from time to time to change the same, as to him shall seem necessary and proper, for sealing such vessels, cars, and other vehicles, when practicable, and for sealing, marking, and identifying such goods, wares, merchandise, baggage, effects, trunks, traveling bags or sacks, valises, and other envelopes and articles; and also in regard to invoices, manifests, and other pertinent papers, and their authentication.

Sec. 4. And be it further enacted, That if the owner, master, or person in charge of any vessel, car, or other vehicle, sealed as aforesaid, shall not proceed to the port or place of destination thereof named in the manifest of its cargo, freight, or contents, and deliver such vessel, car, or vehicle to the proper officer of the customs, or shall dispose of the same by sale or otherwise, or shall unload the same or any part thereof, at any place, than such port or place, or shall sell or dispose of the contents of such vessel, car, or other vehicle, or any part thereof, before such delivery, he shall be deemed guilty of felony, and on conviction thereof before any court of competent jurisdiction, pay a fine not exceeding \$1,000, or shall be imprisoned for a term not exceeding five years, or both, at the discretion of the court; and such vessel, car, or other vehicle, with its contents, shall be forfeited to the United States, and may be seized wherever found within the United States, and disposed of and sold as in other cases of forfeiture: Provided, That nothing in this section shall be construed to prevent sales of cargo, in whole or in part, prior to arrival, to be delivered as per manifest and after due inspection.

Sec. 5. And be it further enacted, That if any unauthorized person or persons shall willfully break, cut, pick, open, or remove any wire, seal, lead, lock, or other fastening or mark attached to any vessel, car, or other vehicle, crate, box, bag, bale, basket, barrel, bundle, cask, trunk, package, or parcel, or anything whatsoever, under and by virtue of this act and regulations authorized by it or any other act of Congress, or shall affix or attach, or in any way willfully aid, assist, or encourage the affixing or attaching, by wire or otherwise, to any vessel, car, or other vehicle, crate, box, bag, bale, basket, barrel, bundle, cask, package, parcel, article or thing of any kind, any seal, lead, metal, or anything purporting to be a seal authorized by law, such person or persons shall be deemed guilty of felony, and upon conviction before any court of competent jurisdiction shall be imprisoned for a term not exceeding five years, or shall pay a fine of not exceeding \$1,000, or both, at the discretion of the court. And each vessel, car, or other vehicle, crate, box, bag, basket, barrel, bundle, cask, trunk, package, parcel, or other thing with the cargo, or contents thereof, from which the wire, seal, lead, lock, or other fastening or mark shall have been broken, cut, picked, opened, or removed by any such unauthorized person or persons, or to which such seal or other thing purporting to be a seal has been wrongfully attached as aforesaid, shall be forfeited to the United States.

Sec. 6. And be it further enacted, That the eighth section of the act of the 3d of March, 1799, be amended so as to include all goods, wares, and merchandise taken from any bonded warehouse and placed on board any vessel for exportation under bond.

Sec. 7. And be it further enacted, That from and after the passage of this act the penalty for violating any of the provisions of the first section of the act entitled "An act to further provide for the collection of the revenue upon the northern, northeastern, and northwestern frontier, and for other purposes," approved July 14, 1862, shall be a fine of \$100, and the same shall be disposed of and applied as herein provided for the distribution of fines and penalties recovered by virtue of this act; and so much of the said first section as conflicts herewith is hereby repealed.

Sec. 8. And be it further enacted, That the Secretary of the Treasury be, and he is hereby, authorized to appoint, whenever he shall think it necessary, additional inspectors of the revenue for the districts named below, as follows, to wit: Passamaquoddy, Maine, four; Portland and Falmouth, Maine, eight; Boston and Charlestown, Massachusetts, fourteen; Pembina, Minnesota, two; Chicago, Illinois, eight; Michigamackine, Michigan, two; Sandusky, Ohio, one; Cayahoga, Ohio, three; Erie, Pennsylvania, one; Dunkirk, New York, one; Buffalo Creek, New York, six; Niagara, two; Genesee, two; Oswego, five; Oswegatchie, two; Champlain, four; Vermont, four.

Sec. 9. And be it further enacted, That the Secretary of the Treasury shall have authority to remit, in whole or in part, and upon such terms as he shall judge right, the fines, penalties, or forfeitures incurred or accruing under the provisions of this act or of said act approved July 14, 1862, if in his opinion the same shall have been incurred without willful negligence or any intention of fraud in the person or persons incurring the same; and he shall have authority to ascertain the facts upon applications for remission

under this act in such manner and under such regulations as shall be by him prescribed. And all fines, penalties, and forfeitures recovered by virtue of this act shall, after deducting all proper costs and charges, be disposed of and applied as provided in the ninety-first section of the act entitled "An act to regulate the collection of duties on imports and tonnage," approved on the 2d of March, in the year 1799.

The substitute was adopted.

Mr. ELIOT. I propose to call for the previous question on the passage of the bill.

Mr. BROOKS. I ask the gentleman to yield to me for a moment.

Mr. ELIOT. Certainly.

Mr. BROOKS. I suppose, Mr. Speaker, it is necessary that this law should be passed. It makes another country of the United States. A stranger now comes to a different country from that we had a few years ago. The tariff bills and the internal-revenue laws we have passed, I suppose render it a dire necessity to which we must submit with all European nations.

But I desire to call the attention of the gentleman from Massachusetts [Mr. ELIOT] to the provision for the increase of the number of officers. I want to know whether the committee has inquired whether they are necessary. I suppose they are, or he would not introduce the provision. It provides for sixty additional inspectors of the revenue. We have provided in the tariff bill for additional officers. We have provided in the internal revenue law for additional officers. I wish to know whether these are necessary in addition to those provided in other bills. I also wish the gentleman to inform me what is to be the salary of these officers, for it does not seem to be fixed in the bill.

Mr. ELIOT. I will reply to the last question put by the gentleman from New York. The compensation to be paid will be that fixed by law for inspectors of this class, which, I think, is \$2 50 per day.

In reply to the other question which he has propounded, I will say that it has been ascertained to be necessary to provide for these additional officers. How many will be necessary it is not possible to say now. Hence the provision leaves it discretionary with the Secretary of the Treasury to make the appointments when they are needed.

As the gentleman has said, the necessities of the time demand this legislation.

Mr. WASHBURN, of Illinois. I desire to say that I cannot consent under any circumstances to any increase of offices except upon the showing of an absolute necessity. When the bill was first sent to the Committee on Commerce, I was opposed to it upon the ground that it created new offices and increased the salaries of officers already existing. But upon an examination of the question, and ascertaining the immense amount of smuggling going on, and frauds upon the revenue, amounting to hundreds of thousands, yes, millions of dollars, I was constrained to give my consent to the reporting of this bill. I think it is demanded imperatively by the Treasury in order to prevent smuggling.

Mr. ELIOT. I demand the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the substitute was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### FOREIGN COASTING TRADE.

Mr. ELIOT, from the Committee on Commerce, reported back, with a recommendation that it do pass, an act (S. No. 223) to regulate the foreign and coasting trade of the northern, northeastern, and northwestern frontiers of the United States, and for other purposes.

The bill was read.

Mr. HOLMAN. I would inquire of the gentleman from Massachusetts as to the effect of this bill. Does it increase or diminish the salaries of the officers mentioned in it?

Mr. ELIOT. It does not bear upon any officers except the collectors of the customs. It regulates the collection of the customs on the northern, northeastern, and northwestern frontiers, and

repeals the act of March, 1831, under which the mode of compensating those officers is ascertained. It is a very crude and uncertain mode, and provides that "in lieu of fees now allowed by law, collectors shall receive annually, in full compensation for services, an amount equal to the compensation received by the officer during the last year;" that is, 1830. And there is no way now of ascertaining the compensation of those collectors, except by referring back to the statistics of 1830, and determining from them the amount. Since that time the changes have been so great that confusion has been occasioned, and it is almost impossible now to determine what the compensation is. The effect of this law will be to enlarge the amount received in some cases, and in other cases it will not enlarge it. The salaries will all be made uniform, and the collectors upon the northern, northeastern, and northwestern frontiers will be put upon the same footing with the collectors who are upon the Atlantic coast. I demand the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### SAMUEL BEASTON.

Mr. O'NEILL, of Pennsylvania, from the Committee on Commerce, reported a bill for the relief of Samuel Beaton, master of the schooner George Harris; which was read a first and second time by its title.

The bill appropriates \$500 to reimburse Samuel Beaton for a fine of \$500 collected from him as master of the schooner George Harris by the collector of the port of New Orleans on the 16th of August, 1858.

Mr. HOLMAN. Is there a report accompanying this bill?

Mr. O'NEILL, of Pennsylvania. I have some papers which I desire to have the Clerk read. I ask the Clerk to read a letter from the Secretary of the Treasury, which states the facts in the case.

The Clerk read the letter, as follows:

TREASURY DEPARTMENT, January 25, 1862.

SIR: I have the honor to acknowledge the receipt of your letter of the 24th instant, inquiring on behalf of the Committee on Commerce into the propriety of refunding to Captain Samuel Beaton a fine of \$500 imposed upon him by the collector of customs at New Orleans, on the 16th of August, 1858, and paid by him under protest.

It appears from the papers on file in this office that, on the 16th of August, 1858, a fine of \$500 was imposed on Captain Samuel Beaton of the schooner George Harris for a violation of the fifty-seventh section of the general collection act of March 2, 1799, in not having on board the said vessel one hundred bundles, containing twenty-five thousand cigars, called for by the manifest.

On a summary examination before the judge of the United States district court for the eastern district of Louisiana, it appeared that the entry of the cigars in question on the manifest was made in error by the shippers, the cigars having been refused on board for want of room.

On this showing, my predecessor issued a warrant of remission on the 3d of January, 1859. The warrant was canceled, it appearing from the report of the collector at New Orleans that the fine of \$500 had been paid into the Treasury before the said warrant was issued.

I inclose copies of all the papers in the case.

I am, very respectfully,

S. P. CHASE,

Secretary of the Treasury.

Hon. JOHN P. NIXON, of the Committee on Commerce, House of Representatives.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. O'NEILL, of Pennsylvania, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### E. F. AND SAMUEL A. WOOD.

The next business in order was the consideration of joint resolution of the House (No. 85) reported by the Committee of Ways and Means, repealing an act for the relief of E. F. and Samuel A. Wood.

The resolution was read. It provides for the repeal of the act for the relief of E. F. and Samuel A. Wood, authorizing the Secretary of the Treasury to issue duplicate bonds of the United States for the Oregon war debt, amounting in the

aggregate to \$7,350, claimed to have been lost, approved March 28, 1864.

Mr. STEVENS obtained the floor.

Mr. HALE. I have some papers relating to this claim which I wish to submit to the chairman of the Committee of Ways and Means, and I think he will not then press the consideration of the resolution. I ask that it be postponed until he can examine those papers.

Mr. WASHBURN, of Illinois. I would ask the chairman of the Committee of Ways and Means, who reported this bill, what the facts are in this case.

Mr. STEVENS. I have received a communication from the Register of the Treasury, which I will send to the Clerk's desk to be read presently. It seems that these bonds were in the mail on board the Golden Gate when she was sunk. It appears from the letter of the Register that the mails have all been recovered from that vessel, and that several bonds which were known to be in the same mail as these have made their appearance. I will ask now for the reading of the letter of the Register together with a communication from the Secretary of the Treasury.

The Clerk read, as follows:

TREASURY DEPARTMENT, May 24, 1864.

SIR: I have the honor of herewith transmitting copy of a communication from the Register of the Treasury, dated 20th instant, relative to a recent enactment of Congress for the relief of E. F. and Samuel A. Wood, by which the Secretary of the Treasury is directed to issue duplicates of certain Oregon bonds to the amount of \$7,350, with coupons attached.

Your attention is respectfully invited to the statements of the Register, in order to such further action in the premises as you may think proper.

With great respect,

S. P. CHASE,

Secretary of the Treasury.

Hon. T. STEVENS, Chairman Committee of Ways and Means, United States House of Representatives.

REGISTER'S OFFICE, May 20, 1864.

SIR: Congress has passed at the present session a bill for the relief of E. F. and Samuel A. Wood. It directs you to issue duplicates of certain Oregon bonds, amounting in all to \$7,350, with coupons attached. The act does not state upon its face any reason for its passage; but I understand it is claimed that the original bonds were deposited in the mail which was sent by the steamer Golden Gate, which steamer was sunk on her passage, and that the bonds so sent had never been received by the parties to whom they were addressed.

This Department has already paid a considerable number of Oregon bonds which were sent in the same mail and upon the same steamer, and the evidence is on file in this bureau establishing beyond question the fact that said mail has been recovered. I think there can be no doubt that the original bonds are still in existence and outstanding as obligations against the Government. And it seems scarcely probable that Congress would have passed the act referred to if they had been aware of the existence in this Department of such evidence.

I address you this note in order that, if you think proper, the attention of Congress may be called to the subject.

I am, very respectfully, your obedient servant,

L. E. CHITTENDEN,

Register.

Hon. S. P. CHASE, Secretary of the Treasury.

Mr. STEVENS. I will now hear anything my colleague has to say.

Mr. HALE. I have in the first place an affidavit of Mr. E. F. Wood, who is part owner of these bonds. He resides in Boston, while his partner resides in California. Since the introduction of this resolution repealing the former law Mr. Wood, of Boston, who is a very respectable merchant in that city, has filed an affidavit that he has never received or heard of the recovery of any of the bonds lost in the Golden Gate, and his agent in New York, to whom they were addressed, also swears that they have never been received. I have also a certificate from gentlemen in Boston in regard to the respectability of Mr. Wood, to which I call the attention of my friend from Boston, [Mr. RICE.] I have, then, the statement of Mr. Chittenden, that these bonds have never been received or heard of, and also the statement of the chief clerk of the Treasury Department, that a satisfactory bond has been filed by Mr. Wood amply sufficient to cover any loss the Treasury could sustain in consequence of the reissue of these bonds. I ask for the reading of Mr. Chittenden's letter.

The Clerk read, as follows:

REGISTER'S OFFICE, June 9, 1864.

SIR: Your letter of this date, inquiring whether this Department is in possession of evidence showing that certain bonds of the United States alleged to have been lost on the steamer Golden Gate, and said to have belonged to E. F. Wood & Co., have been received, is received.



In reply I have to say that there is no evidence to my present knowledge concerning said bonds, specifically, on file in this Department, except such as relates to their issue. I should state further, however, that shortly after the reported sinking of said steamer, certain parties, claiming to be the owners of similar bonds, made application to this Department for relief, and produced proof that their bonds were duly deposited in the mail which was sent by said steamer from San Francisco, that said steamer was sunk on the passage, and that the parties to whom the bonds had been addressed had never received them. According to the practice in such cases, the application was suspended in each of these cases, in order to give a reasonable time to ascertain whether in fact said bonds were lost. While the cases were so suspended, the bonds were produced at the Treasury for redemption and redeemed, and are now in the possession of this bureau. Proof was furnished and is now on file that the mail containing the bonds embraced in those applications had been recovered from the said steamer Golden Gate by the California Diving Company.

Yours, respectfully,

L. E. CHITTENDEN,  
Register.

JOHN A. WILLS, Esq.

Mr. HALE. That shows that the bonds have never been heard of. I now ask for the reading of the letter from the chief clerk in the Comptroller's office, showing that this claim was made eighteen months ago.

The Clerk read, as follows:

COMPTROLLER'S OFFICE, June 9, 1864.

An application was made at this office and at the Secretary's office some eighteen or twenty months ago for the issuing of certain duplicate drafts and bonds in lieu of others alleged to have been lost by the burning of the steamer Golden Gate on the Pacific, the property of E. F. Wood & Co.

These gentlemen were advised that under the proof furnished, the drafts might be duplicated upon the filing of a proper bond of indemnity, but that it would be necessary to procure an act of Congress to authorize the reissue of duplicate bonds.

Accordingly a satisfactory bond having been furnished, the Secretary directed the issuing of duplicate drafts, which was accordingly done.

The drafts and bonds were lost at the same time, and in the same mail.

The act of Congress recently passed, requiring a bond of indemnity prior to the reissue of duplicate bonds, has been complied with by the Messrs. Wood, and the bond approved by the Secretary of the Treasury.

WILLIAM HEMPHILL JONES,  
Chief Clerk.

Mr. HALE. I now ask for the reading of the affidavits of Mr. Wood and of his agent in New York.

The Clerk read, as follows:

POLICE COURT OF THE CITY OF BOSTON.

State of Massachusetts, County of Suffolk, ss:

I, Seth Gobeze, clerk of said court, hereby certify that A. Kingsbury, before whom the within proceedings were had, is and was at the time thereof a justice of the peace, duly commissioned and sworn, and acting in his official capacity; that his signature thereto is genuine; that said court is a court of record, and that I, as clerk thereof, have custody of its seal.

Witness my hand and the seal of said court, at [u. s.] Boston aforesaid, this 6th day of June, A. D. 1864.

SETH GOBEZE,  
Clerk of said Court.

I, Ezra F. Wood, of the firm of E. F. Wood & Co., of Boston in the county of Suffolk and State of Massachusetts, being first duly sworn on oath, depose and say: that I am one of the claimants for duplicates of United States bonds which were lost in the steamer Golden Gate, in 1862; that the deponent and Samuel A. Wood, of California, are the only members of said firm; that I have never recovered said lost bonds or any of them, and have no knowledge that any of them have ever been recovered, and I have every reason to believe that they are irrecoverably lost. I never received any information from the Diving Bell Company, or any other company, or person or persons, that such bonds, or any of them, had been recovered.

EZRA F. WOOD.

JUNE 6, 1864.

State of Massachusetts, County of Suffolk, ss:

Personally appeared the above-named Ezra F. Wood, and made oath that the foregoing statement by him subscribed is true. Before me,

A. KINGSBURY,  
Justice of the Peace.

State of New York, City and County of New York, ss:

Nathan A. Rogers, of the said city, being sworn, says: that none of the Oregon war bonds lost on board the steamer Golden Gate, in regard to which this deponent some time since made an affidavit, have been recovered to deponent's knowledge or belief; that deponent has never seen any of said bonds, and has never heard from the said E. F. Wood & Co., or from any other person, that the same, or any of them, have ever been found upon or recovered from the wreck of said vessel, or that there was any probability that they would or could be recovered.

N. A. ROGERS,  
68 Pearl Street, New York.

Sworn to before me, this 6th day of June, 1864.

JOHN H. WILSON,  
Notary Public, New York City.

Mr. HALE. I will ask the Clerk now to read the indorsement of Mr. Wood.

The Clerk read, as follows:

It having been represented to us that the Finance Committee of the Senate contemplates a recommendation for the repeal of the special act of Congress authorizing the Treasury Department to issue to Messrs. Ezra F. Wood & Co., of Boston, duplicates of the United States bonds held by them, and which were lost in the Golden Gate, in August, 1862, we, the undersigned, respectfully request that, before final action is taken in the matter, the committee will consider the high character and standing of the claimants as merchants of Boston. And we would respectfully represent that the firm of E. F. Wood & Co. is well known as having for many years conducted an extensive business in the shoe and leather trade, adding much to the manufacturing interests and prosperity of Massachusetts. By the energy, high-minded and honorable dealing of its members the firm has acquired a position of the first rank as honorable merchants, possessing the entire confidence and respect of the mercantile community.

CHAS. G. NAZRO,

President North Bank.

S. R. SPAULDING,

Geo. W. THAYER,

President Exchange Bank, Boston.

WILLIAM CLAPLIN,

FRANKLIN HAYEN,

FOSTER & TAYLOR.

I know personally each of the parties whose names are annexed; they are all persons of high integrity and ample pecuniary responsibility.

ALEX. H. RICE.

Mr. HALE. I will call upon my friend from Massachusetts [Mr. Rice] to say whether the individuals who signed that paper are worthy of credit.

Mr. RICE, of Massachusetts. I understand, Mr. Speaker, that my friend from Pennsylvania desires me to state to the House what I know of the character and standing of the gentlemen whose names are appended to the document which has just been read. I take great pleasure in saying that I believe I know each of those gentlemen personally, that they are gentlemen of the highest integrity and responsibility, and that I should have entire confidence in any statement that they might make. I know nothing, sir, of the case now under discussion, I have no acquaintance with the parties who are the claimants, but I have such confidence in the gentlemen whose names are affixed to the paper to which the House has listened that I have no doubt whatever of the entire respectability and integrity of any person whose character is certified by them.

Mr. HALE. Mr. Speaker, it seems, then, that the fact that the bonds were lost is not disputed. The allegation, however, is that some portion of the bonds mailed at that time in the steamer Golden Gate has been recovered. But the Register of the Treasury, whose letter I sent up to the Speaker's table, says he has no knowledge that any of the bonds alluded to in the claim of the Messrs. Wood have ever been recovered. None have ever been presented at that office. Some bonds that were sent at the same time by the steamer Golden Gate have been recovered; but it is a well-known fact, I suppose, that these mails are in numerous bags. Some of the bags may have been recovered, and some not. From the character of the Messrs. Wood, and from the fact that they have filed a bond with the Treasury Department indemnifying it in case the lost bonds should ever turn up, there can be no injury arising to the United States Government from the reissue of these bonds. I have a letter here which I wish to be read.

The Clerk read, as follows:

Boston, May 28, 1864.

DEAR SIR: Messrs. E. F. Wood & Co. lost \$7,200 in United States coupon bonds on board the steamer Golden Gate. A law has been passed by Congress to issue duplicates. As some portion of the contents of same mail has been received, we understand the Treasury Department refuse to issue the duplicates to Messrs. Wood & Co. This refusal may have arisen from the Department not feeling entire confidence in the indemnity bond given by them. If any question of the kind is raised, we wish you would be good enough to interpose in behalf of these gentlemen on being called upon to do so by their agent. The responsibility of the parties to the bond given by them is beyond a question. If further names should be thought necessary, both members of our firm would gladly sign the bond. Anything you can do to secure to Messrs. Wood & Co. the duplicate bonds will be serving the ends of justice, and obliging.

Very truly, your obedient servants,

FOSTER & TAYLOR.

Hon. ALEXANDER H. RICE, M. C., Washington, D. C.

Mr. HALE. I ask the gentleman from Massachusetts to state the responsibility of the gentlemen who have signed that letter.

Mr. RICE, of Massachusetts. They are very wealthy men; men of large fortune.

Mr. HALE. I now submit to the chairman of the Committee of Ways and Means whether,

under the circumstances, he will press this resolution. The Government of the United States is in no danger of being a loser by this transaction. It is beyond question that the bonds were sent by this steamer, and that they were lost. So far as is known they have not been recovered. There is no evidence that any portion of the bonds claimed by the Messrs. Wood has ever been recovered. Other bonds of the same kind have been. I submit that the gentleman ought not to press his resolution under the circumstances, which might do injustice to these gentlemen. Additional security is proffered here to indemnify the Government.

I think there should be some evidence that the bonds claimed here have been recovered before we undertake to repeal the law allowing duplicates to be issued. The allegation that some of the bonds have been recovered by the Diving Bell Company is no proof that these bonds or any portion of them have been recovered. Unless it is affirmatively shown that the bonds claimed by the Messrs. Wood have been recovered, the bill should not be repealed. I submit that to the fairness and justice of the chairman of the Committee of Ways and Means. I have no other motive in the matter than to do justice to the claimants. Their character is above suspicion. They have given all the security that was asked, and are prepared to give any further security that may be required. I have done my duty in the matter, and will leave it in the hands of the House.

Mr. STEVENS. Mr. Speaker, I do not see that any injustice can be done by passing this resolution. If it finally turns out, on further investigation, that these bonds are irrecoverably lost and destroyed, Congress will, at a future session, do these men justice. At present I do not feel satisfied that they are lost or destroyed. The evidence is that they were in the mail on board the Golden Gate. The evidence is just as clear that those mails were all recovered, and that a portion of the bonds in the same mail have been already presented at the Department and paid. These bonds are negotiable by delivery.

Mr. HALE. No, sir; they are not. That was established on the former hearing of the case. They are Oregon war bonds, which are specially made payable to the holder. That was stated by the gentleman from Oregon.

Mr. STEVENS. I do not know about these bonds in particular. I know that most of the United States bonds are made payable to bearer and pass by delivery.

Mr. HALE. Coupon bonds are; not registered bonds.

Mr. STEVENS. I do not know whether the party in California has made his affidavit.

Mr. HALE. No, sir, he has not; and for the very good reason that there has not been sufficient time. The gentleman from Pennsylvania will recollect that the proof on the former hearing of the case was that these bonds were mailed in San Francisco. They were sealed up and delivered by an agent of the Post Office Department, and were put on board the steamer Golden Gate. That ship was destroyed by fire.

Now, before disposing of this subject, I desire to say one other word. The gentleman says all the mails have been recovered. There is no proof at all upon that subject. A portion of the mails have been recovered; some of the bonds known to have been in the mails on board the Golden Gate have been received. The gentleman will recollect that Mr. Chittenden says, in the letter I sent up to the Clerk's desk, that none of these particular bonds have been presented to the Treasury.

Mr. STEVENS. Still I do not see the propriety of passing this law, and arresting the action of the Department for the present. I do not recollect the proof on which the original bill was reported. I did not know that it had passed. It came from a committee with which I was not connected, and I did not pay much attention to it.

Mr. HALE. The bill first passed the Senate.

Mr. STEVENS. Perhaps that was it. At any rate I have no proof on which it was passed, except that which is now before us. The facts I understand to be these: the steamer Golden Gate, on her way from California on the Pacific ocean, took fire, and I think she was scuttled and sunk.

Mr. WASHBURN, of Illinois. She was run ashore.

Mr. STEVENS. The evidence shows that all her mail has been recovered. A portion of these bonds have been presented at the Treasury. If these particular bonds had been taken out there, they would of course have been delivered to the partner in California. Now, there is no evidence before the House that these bonds have been destroyed. The presumption is that they were recovered with the other mail. There is no evidence that the partner in California did not get them. I think it is proper, therefore, to suspend the action of the Department until further evidence be had; this bill does nothing more. I suppose the claimants of these bonds will come here now and ask the immediate action of the Department, unless Congress shall decide that no action shall be taken by the Department until further evidence is obtained.

Mr. HALE. I will say to my colleague from Pennsylvania that if the bill is postponed until the meeting of the next session in December, while of course I cannot control these parties, I am quite confident that they will not call for the bonds until that time; They want nothing from the Government that is not right.

Mr. STEVENS. I have no doubt at all that the gentleman would attempt to prevent them from applying at the Department, but there is no law that will prevent their application.

Mr. HALE. There is the character of the parties to prevent it.

Mr. STEVENS. If, however, they should happen to change their minds, as men of character sometimes do in this world, they might go to the Department with their applications notwithstanding the protest of the gentleman.

Mr. HALE. I submit that the evidence is sufficient to show that these are men above reproach, they are honorable men.

Mr. STEVENS. They are honorable men and I do not want anything to occur to tarnish their honor. I do not want to give them an opportunity to tarnish their honor by obtaining these bonds from the Treasury. [Laughter.]

Mr. PENDLETON. My attention has just been called to this resolution and to the proofs upon which it is sustained. I find among the papers of the case a letter from the Register of the Treasury. I have not been able to examine all the proofs that are here, but this letter states that application was made for bonds to be issued in place of the lost bonds; but while the application was pending in the Department some of these lost bonds were received and redeemed at the Treasury Department.

Mr. HALE. Not these bonds.

Mr. STEVENS. Bonds that were in the same mail.

Mr. HALE. But not these particular bonds.

Mr. STEVENS. Well, sir, I see no harm in authorizing the Department to withhold these bonds until it shall be ascertained whether they have been recovered or not.

Mr. HALE. I have just read the letter of the Register of the Treasury, in which he says that he never heard of these particular bonds.

Mr. PENDLETON. I desire to read the explanation which the Register of the Treasury gives.

Mr. HALE. The letter has already been read to the House.

Mr. PENDLETON. Very well. Now, if that relates to this compensation, it is a clear case that this law ought to be repealed.

Mr. WASHBURN, of Illinois. I only wish to say a word. I think that the passage of the original proposition for the relief of these parties reported by the gentleman from Pennsylvania [Mr. HALE] illustrates the consequences of hasty, ill-considered, and improvident legislation, and under all of the circumstances I am somewhat surprised to see that he resists the passage of this repealing law. The original law was objected to by many gentlemen upon the ground that it was not sufficiently apparent to the House, by the evidence, that these bonds were destroyed, which was said to be the case, and urged as the reason why the law should be adopted. We were repeatedly told that these bonds were destroyed, that they were no longer in existence, and would, therefore, never again come to light. That was the sole ground, as I understood, upon which the application was made; and one of the parties, whose

respectability has been vouched for, and I will not undertake to question it, one of these Messrs. Wood, made an affidavit, on which this House acted, and in which he swore that the mails of the Golden Gate had been destroyed by fire. Mr. Wood made that oath; and on that oath came before Congress, and Congress passed the law on the supposition that what he had so solemnly declared was true. He distinctly declared "that said steamer, with said mails and Oregon war bonds on board, sailed from the city of San Francisco to Panama about the 1st of July, 1862, and that said steamer, these mails and their contents, were destroyed by fire on the voyage to Panama."

Now, it is not contended by the gentleman from Pennsylvania, or any gentleman here, that these mails were destroyed by fire as alleged by Mr. Wood. It is not denied that they have come to light, and that, although these particular bonds have not been presented to the Treasury, other bonds which were sent by that same mail have been.

In some remarks which I submitted I used this language:

"It is alleged, and perhaps may have been proved, that these bonds were lost on the steamer Golden Gate and now it is proposed to issue duplicates of them, with a proviso that a bond shall be taken to hold the Government harmless."

"There are two reasons why I think this sort of legislation should not be adopted. In the first place, we are establishing a precedent, and no man can tell where it will end. How many bonds out of the \$100,000,000 of the national debt may have been or may be lost, or may be alleged to be lost? If we pass this bill parties will come in and, on the allegation that they have lost bonds, ask Congress to authorize the issue of new bonds."

In reply to the gentleman from Ohio [Mr. ASHLER] I further suggested that, if there were to be any legislation, there should be a general law introduced; and I find by the record in the Congressional Globe that the gentleman from Ohio [Mr. SCHENCK] moved that the subject be referred to the Committee on the Judiciary, to report some general provision to cover not only this but all other like cases.

The debate proceeded as follows:

"Mr. WASHBURN, of Illinois. Let some general law be passed. But as the matter stands now I am utterly opposed to having special legislation on the subject. It is said that these bonds have been lost on board the Golden Gate. I understand that divers are at work fishing up valuables from this wreck every day. It may not be long before the safe in which these bonds were will be found, and the bonds put on the market."

"Mr. HALE. These bonds are all numbered."

"Mr. WASHBURN, of Illinois. Suppose they are! They can be passed from hand to hand. The gentleman from Pennsylvania might purchase one of these bonds to-morrow, and would never think of going to the Treasury to see whether there was not a duplicate of it issued."

"Mr. SCHENCK. Are these coupon bonds transferable by delivery, or are they registered bonds? They may be good in the hands of the holder without any assignment or indorsement."

"Without inquiring, however, further into the case, I move that the bill be referred to the Committee on the Judiciary. I think it proper, as the gentleman from Illinois [Mr. WASHBURN] has suggested, that, if any provision should be made in regard to this case, some general law should be framed in reference to bonds alleged to have been lost. If there be any legislation needed it ought to be general, covering the whole subject."

I have no doubt that these bonds to-day have been recovered, and thrown upon the market. And will gentlemen pretend that the Government is to be an insurer for every man who puts bonds in the mails, and they fail to reach their destination? Are we to indemnify every man who comes here and shows that to be the case? Yet that is the case now presented to this House.

The gentleman from New York [Mr. DAVIS] was almost prophetic in what he said during the previous discussion. He said that he was opposed to this kind of legislation; that he distrusted all such cases, and referred to the case of an express company which was sued for gold that was conclusively proved to have been lost. I will quote his words:

"Mr. DAVIS, of New York. I do not know this special case, and I only look to the principle involved. I think it unsafe for the Government to legislate for the security of these parties without knowing all of the facts. I know nothing of these parties, but I do know if we establish this sort of legislation we will have a good many cases of the same character before us. When it comes to be known that such claims are allowed, men will lay their plans for the purpose of committing great frauds upon the Government and the public Treasury. I have in my mind an action brought against an insurance company in New York for the recovery of insured specie lost coming from San Francisco. That company resisted the claim, because they believed the claim was founded on fraud, though the loss was established by affidavit after affidavit of persons be-

longing to the vessel. Pending the investigation the insurance company took the precaution of sending down and finding the sunken vessel. On reaching the hold and bringing up the boxes said to contain gold, they found nothing but old rusty iron nails. If we act upon the principle of allowing men to receive pay upon bonds which they pretend to have lost, and which they may in this way prove to have been lost, we will expose this Government to great depredations. I protest against such action."

This case has fully proved the truth of what the gentleman from New York then said. This bill was passed under the circumstances which I have recounted. It was put upon the ground that these bonds were destroyed by fire. Mr. Wood swore that they were destroyed by fire. It now turns out that this mail was not destroyed by fire, as bonds which were sent in it have been presented at the Treasury.

The Secretary of the Treasury in the exercise of a just vigilance ascertained that fact, and the Register of the Treasury wrote the letter which has been read at the Clerk's desk, and which was transmitted by the Secretary of the Treasury to the chairman of the Committee of Ways and Means, and the Committee of Ways and Means very properly reported this bill. I do not see, under the circumstances, how any gentleman can refuse to vote for this resolution, and I should think that the committee which reported the bill would be the very first, when they ascertained the circumstances, to come in and ask that the bill might be repealed.

Mr. HOLMAN. The gentleman from Illinois will allow me to make an inquiry. I infer from the letter of the Register of the Treasury that the practice of the Department is to issue duplicates where the proof is conclusive that an instrument has been lost, as he simply states that the application for this particular duplicate was suspended until the fact was established that the bonds were lost. If that be so there was no necessity for the passage of this bill in the first instance, and the repeal of it can do no possible harm.

Mr. WASHBURN, of Illinois. I wish to call the attention of the House for a moment to a portion of the letter of the Register. He says:

"This Department has already paid a considerable number of Oregon bonds which were sent in the same mail and in the same steamer, and the evidence is on file in this bureau which establishes beyond question the fact that said mail has been recovered. I think there can be no doubt that the original bonds are still in existence and outstanding obligations against the Government."

That is what the officer of the Treasury Department says. He has no doubt from the evidence they have upon their files that these bonds are outstanding obligations against the Government.

And now a word in relation to the manner in which these bonds were made negotiable, whether by indorsement or without indorsement from hand to hand. I have looked through all the papers and I cannot find it stated anywhere that they were specially indorsed. It seems to me that if such were the fact—a fact so important to these parties—they would not have failed to show it. I think, as the gentleman from Pennsylvania suggested, that these bonds are generally issued to bearer, or to a particular party who indorses them, and that then they pass from hand to hand. That is the case with many bonds issued by our Government.

Mr. HOLMAN. The point of inquiry was this: giving full effect to the statement of the Register of the Treasury as to the suspension of the application to issue duplicates until the fact of loss could be fully ascertained, suppose the proof is that the bonds were lost, is it not the practice of the Treasury Department to issue duplicates?

Mr. WASHBURN, of Illinois. I do not know. I think the Department ought to have no power to issue duplicate bonds unless specially authorized by Congress.

Mr. STEVENS. When the Committee of Ways and Means had the question before them in regard to notes proved to have been lost, they inquired into it, and they found that unless there was an act passed, the Department did not take it upon themselves to supply duplicates. My colleague on the committee [Mr. PENDLETON] prepared a general law upon the subject which we expected to pass, but did not. I call upon my colleague to know whether it is not so.

Mr. PENDLETON. The committee did prepare a general law, and the reason why it was not offered was that it was not in order to offer a general law as a substitute for a special bill. But I

would remind the chairman of the Committee of Ways and Means that the rule of the Treasury Department is different as to lost bonds which are not negotiable from what it is in reference to lost notes which are negotiable. Where bonds which are not negotiable are lost, duplicates are issued, and substituted for them after the lapse of a certain time, enough to justify the idea that they are lost; but where notes, payable on delivery, are lost, duplicates are not issued except in accordance with a special act of Congress.

Mr. STEVENS. I wish to say that the act which we now seek to repeal makes it imperative upon Congress to issue duplicates. If they had the right to do so previous to the passage of the act then there would not be no necessity for the passage of this repealing act. I think, therefore, it is proper to repeal that law, and leave the matter to stand upon their usage.

Mr. DAVIS, of Maryland. I was not present when the bill which is now the subject of discussion was passed. I confess I heard of its passage with surprise and some alarm. I think the rule applicable to the administration of justice between individuals has been applied very unwisely to dealings between the Government and citizens with reference to its bonds. In the case of a lost obligation between A and B the facts can be judicially established. But before A can secure such remedy against B he has to furnish judicial proof of all the facts, with all the deliberate modes of examination which exist in courts of justice, and which we here cannot possibly apply. Why, sir, an affidavit before Congress can be made to prove anything. As many affidavits as anybody wants can be gotten for any purpose. The great motive for the establishment of the Court of Claims was the perpetual passage by Congress of fraudulent claims sustained by overwhelming and conclusive proof. If this House were to attempt to hold the Government as the insurer for the existence and ultimate payment of every negotiable note or every note passing by delivery, it would open the door to more fraud than any Government in the civilized world was ever subjected to. It is impossible for this House to judge with the accuracy of a jury, still less with the accuracy of a chancellor, the weight, force, and validity of affidavits drawn from every quarter of the country, and in regard to the truth or falsehood of which they have not one judicial test which they can possibly apply.

Then, sir, in the administration of justice between individuals, their obligations are usually of short date; they run out in three or five years, or, if bonds, in ten, twelve, or twenty years. Collateral security has some relation to private obligations; but in reference to the bonds of the Government to talk about collateral security in this country of ephemeral fortunes and shifting property is an absurdity, as I think. We have got to make up our minds that when a note is issued by the Government and is in the hands of the holder, it must rest there on his risk and responsibility, payable only when it is produced; and I am willing to apply that rule not only to negotiable instruments passing by delivery or assignment, but also to those which cannot be transferred. The question to be decided in such cases as this is as to the validity of the proof, and that we never can decide. I am, therefore, equally opposed to the proposed general law as I am to this measure.

Mr. HALE. I am somewhat surprised, Mr. Speaker, at the extraordinary zeal manifested by gentlemen to defeat this bill. It is not necessary to protect the interests of the Government, because the Government is already abundantly protected by the bond, which has been filed, and if that is not sufficient the parties are willing to pledge themselves for an additional amount. Why, then, should there be this extraordinary zeal manifested here?

The gentleman from Maryland [Mr. DAVIS] is mistaken in saying that the collateral security would run out in five or six years; the bond is given to the Government to protect it against loss, whenever these lost bonds may be brought forward, and it may be twenty or twenty-five years.

Mr. DAVIS, of Maryland. Let me call the gentleman's attention to one very practical consideration, and that is, that in this country fortunes are ephemeral.

Mr. HALE. That is another point of view.

That is not the question the gentleman started. It may be true that fortunes are made to-day and spent to-morrow, but we have to deal with facts as they now are. This Government may not be in existence twenty-five years hence. We do not know that it will, though we all hope that it will last for all time to come. This bond protects the Government against this liability, whenever it may arise; it never expires.

I ask gentlemen to put themselves in the position of these men. Suppose you, sir, were in possession of \$7,000 of the obligations of this Government, and sent them by mail, and the vessel in which you sent them was wrecked or took fire or sunk?

The gentleman from Illinois [Mr. WASHBURN] raises an imputation against the character of these men, because they made an affidavit that the mails were burnt in the Golden Gate. Now I submit whether that is fair.

Mr. WASHBURN, of Illinois. I do not wish to do any injustice to these men. I only read what Mr. Wood stated in his affidavit. He swore in that affidavit that this ship and the mails were destroyed.

Mr. HALE. I know what he said, and I know what the gentleman from Illinois said, and I know what the inference he drew was. It was that this gentleman in Boston had sworn what was not true. That was the allegation, and nothing else. I submit to any fair-minded man whether, when he heard that the steamer Golden Gate had taken fire on the Pacific coast and had gone to the bottom, he would not naturally have made an affidavit that the property had been destroyed by fire? Would not any one do so? Would not the gentleman from Illinois do so?

Mr. WASHBURN, of Illinois. No, sir; the gentleman from Illinois would never do it.

Mr. HALE. I think he would.

Mr. WASHBURN, of Illinois. The gentleman must judge me by himself. I do not desire to be judged by that standard in this respect.

Mr. HALE. I believe, Mr. Speaker, that no just, fair-minded man could object to letting this joint resolution be postponed for the present. The Government is amply secured. According to the statement of the Register, these bonds have not been found—have not been heard of. The affidavit of the owner is produced that he had not heard of them. Now, what objection can there be to letting this joint resolution be postponed? I can see none. As I said before, the Government is amply protected. These duplicates need not be issued for some time, until the Government is satisfied that the bonds are lost. I will therefore move, if it be in order, that the resolution be postponed till the second Tuesday in December next.

Mr. STEVENS. Are the merits of the question open on the motion to postpone?

The SPEAKER. The motion is only debatable as to the propriety of postponing the bill.

Mr. STEVENS. I will let the vote be taken on that, and then I will say a single word.

Mr. HALE. If the gentleman wishes to say anything now, I will withdraw the motion.

Mr. STEVENS. I want to say this: the gentleman from Indiana [Mr. HOLMAN] has asked what was the custom of the Department in reference to lost bonds. The custom is this: in one year after the maturity of a negotiable note—for instance a seven-thirty bond—upon clear proof of its being destroyed, and upon indemnity being given to the Government, the Treasury will pay the amount. But new notes are never issued for lost ones. They are paid when they have matured, or one year after, giving sufficient time to have them presented by the holder. I think that is the true rule. If the bond or note of an individual is lost he cannot be sued for the amount until it is due. I think that is a very good rule in regard to the Government.

It appears that these Oregon bonds fall due in 1881. Before 1881 these lost bonds may be presented, but they cannot be paid until they fall due. If within a year, or a reasonable time, after 1881, it be proved to the Government that they are lost, the Government will without any new law, without any imperative law, pay them. But the Treasury never issues duplicate bonds without an imperative law. Hence it is that this act was passed. I think it better to repeal it, and to leave the matter to the ordinary action of the Government and to the rule which applies to individuals,

of paying at maturity. I think that a better rule. Although I was once in favor of a general law on this subject, I have changed my views altogether.

If my colleague [Mr. HALE] now wishes to move to postpone I will let him make that motion; and then I will move the previous question.

Mr. HALE. I will yield to my colleague, [Mr. SCOFIELD].

Mr. SCOFIELD. I understood my colleague [Mr. HALE] to claim, when this matter was last up, that these bonds were lost beyond hope of recovery; I now understand him only to claim that they are beyond the control of the owner. They may be in somebody else's hands; but there is no evidence of their destruction.

Mr. HALE. This bill passed the Senate and came to the House. The Committee of Claims on examining the case reported the bill back with the recommendation that it do pass; the fact appeared—and if my colleague had been attending to what had been stated he would have known it—that these bonds were sealed up and registered at the post office, after which they were deposited in the mails which were placed on the Golden Gate. The Golden Gate, as is well known, took fire upon the Pacific coast and was destroyed, with everything therein. Now I submit that it could not have been properly inferred that these men were there and saw the mail burnt up; they could not testify from their own personal knowledge that the Golden Gate sank to the bottom of the ocean; but from the facts presented I submit that as reasonable men they were authorized in making the statement that these bonds were destroyed.

Mr. SCOFIELD. They state positively in their affidavits that the mails were destroyed.

Mr. HALE. I think they were justified in taking it for granted that the bonds were destroyed. I think almost any man would have taken that for granted. We have now no evidence that they were not destroyed. We have evidence that some portions of the bonds in the same mail have been recovered; but the proof of the Register of the Treasury is that these bonds have never been heard from. I call the attention of the House to that fact. Mr. Chittenden says that while the mails have been recovered, there is no evidence that these particular bonds ever have been. Now, if you are to take any part of Mr. Chittenden's statement, you must take it as a whole. If you take his statement that all the mails have been recovered, you must also take his statement that these bonds have not been heard from. All the mails were sunk with the ship in the bottom of the ocean; and gentlemen know very well that so large a quantity of mail matter is put into a large number of mail bags, and a portion of these mail bags may have been recovered and others not recovered. I submit, therefore, that the presumption is that these bonds have not been recovered, especially when that presumption has been sustained by men whose character is above suspicion. It is not to be supposed that men of known character and wealth would indorse these claims and give security to the extent of five times the amount of the bonds for the protection of the Government against loss should they ever be recovered hereafter unless they were known to be men of honor and integrity.

I repeat, therefore, that under no circumstances can the Government suffer in reference to these bonds should they be recovered; they are registered bonds and cannot be used until properly indorsed, and the Government has an additional protection in that respect.

Mr. Speaker, I do not propose taking up the time of the House further in this discussion. These bonds have been lost; if they are never recovered the Government ought in fairness to issue new bonds. If they are recovered, ample security has already been given, and if not, the parties are ready to add to it to any extent required to insure the Government against any possible loss. There can be no possible harm done by a postponement of this bill, and I now move to postpone it till the second Tuesday of December next, and on that motion call the previous question.

The previous question was seconded, and the main question ordered to be put.

On the motion to postpone 39 voted in the affirmative and 46 in the negative; no quorum.



Mr. HALE called for the yeas and nays. The yeas and nays were not ordered. The SPEAKER ordered tellers; and appointed Messrs. DAVIS, of New York, and WADSWORTH. The House again divided; and the tellers reported—yeas 44, noes 54.

So the joint resolution was not postponed. Mr. STEVENS moved the previous question on the engrossment of the joint resolution. The previous question was seconded, and the main question was ordered to be put.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, was accordingly read the third time.

Mr. STEVENS moved the previous question on the passage of the joint resolution.

The previous question was seconded, and the main question ordered to be put.

The joint resolution was passed.

Mr. STEVENS moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PRINTING OF PUBLIC DOCUMENTS.

Mr. A. W. CLARK, from the Committee on Printing, reported back Senate bill No. 265, to expedite and regulate the printing of public documents, and for other purposes.

The bill was read *in extenso*.

Mr. WASHBURN, of Illinois. I suggest to the gentleman that as this is an important bill it be ordered to be printed and recommitted. It will not lose its place, for the Committee on Printing can report it back at any time.

Mr. A. W. CLARK. I make that motion.

The motion was agreed to.

#### PACIFIC RAILROAD.

Mr. STEVENS, from the select committee on the subject, reported back House bill No. 438, to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862.

Mr. BROWN, of Wisconsin, moved that the House adjourn.

Mr. STEVENS. The bill I have just reported will come up as unfinished business.

The SPEAKER. It will come up the first thing on Saturday morning as unfinished business.

The motion to adjourn was agreed to.

And then (at five minutes past four o'clock, p. m.) the House adjourned.

#### IN SENATE.

Friday, June 10, 1864.

Prayer by the Chaplain, Rev. Dr. BOWMAN.

The Journal of yesterday was read, containing the following entries:

"Mr. DAVIS asked the unanimous consent of the Senate to introduce, without previous notice, a joint resolution to restore peace among the people of the United States, which, having been read by its title, Mr. GRIMES called for the reading of the resolution; and the resolution having been read at length by the Secretary, Mr. SUMNER objected to its reception.

"The President *pro tempore* decided that, objection being raised to the reception of the resolution, it could not be received.

"From this decision Mr. DAVIS appealed; and

"On the question, 'Shall the decision of the Chair stand as the judgment of the Senate?'

"It was determined in the affirmative.

"So the Senate determined that the resolution should not be received."

Mr. DAVIS. The Journal does not recite the facts as they took place in relation to the joint resolution which I offered yesterday; the Senator from Iowa [Mr. GRIMES] stated the facts just as they occurred; but it is a matter that I feel no interest about. I therefore do not choose to move to have the Journal corrected; I will merely remark that it does not correctly recite the facts.

The PRESIDENT *pro tempore*. No correction being suggested, the Journal stands approved.

#### PETITIONS AND MEMORIALS.

Mr. WADE presented a petition of pilots of gunboats in the service of the United States on western waters, praying that the rank of officers may be assigned them; which was referred to the Committee on Naval Affairs.

Mr. SHERMAN presented a petition of wool-growers of Licking county, Ohio, praying an increase of the duty on foreign wool; which was referred to the Committee on Finance.

Mr. SUMNER. I offer a petition from the Yearly Meeting of the Religious Society of Progressive Friends, in session at Longwood, Chester county, Pennsylvania, signed by their two clerks, sixth month, 3d, 1864, in which they respectfully but earnestly entreat Congress to pass a law abolishing slavery in every part of the United States; and they add, "In time of peace we could not conscientiously ask you to enact such a law; but slavery being now in open revolt against the Government, we hold that under the powers incident to a bloody struggle for the national life you have a clear constitutional right to destroy it, root and branch, as a nucleus of treason and rebellion." I move the reference of this petition to the select committee on slavery and freedmen.

The motion was agreed to.

#### PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. SPRAGUE, it was

Ordered, That the memorial of Margaret A. Lawrie, on the files of the Senate, be referred to the Committee on Claims.

#### REPORTS FROM COMMITTEES.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the bill (H. R. No. 453) to increase the pension of Isaac Allen, reported it without amendment.

He also, from the same committee, to whom was recommended the bill (S. No. 150) for the relief of Jesse Gould, widow of Daniel Gould, of Portland, Maine, submitted an adverse report thereon; which was ordered to be printed.

Mr. MORRILL, from the Committee on Claims, to whom was referred the memorial of the auditor of the State of Minnesota, praying for an appropriation to reimburse that State for the expenses incurred in suppressing Indian hostilities, asked to be discharged from its further consideration, and that it be referred to the Committee on Finance; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 209) for the relief of Mary Throckmorton, reported adversely thereon; and on his motion it was postponed indefinitely.

#### PRINTING OF INDIAN TREATIES.

Mr. DOOLITTLE submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That there be printed one thousand copies of all Indian treaties, one hundred copies to be deposited in the Library, two hundred for the use of the Senate, and the remainder for the Interior Department.

#### BILLS INTRODUCED.

Mr. WILKINSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 61) amendatory of an act entitled "An act for the protection of overland emigration to the States and Territories of the Pacific," approved March 3, 1864; which was read twice by its title.

Mr. WILKINSON. I should like to have the resolution put on its passage now. I can explain it in a moment.

Mr. GRIMES. Let it be referred to the Committee on Military Affairs. The original bill came from that committee.

The joint resolution was referred to the Committee on Military Affairs and the Militia.

Mr. LANE, of Kansas, asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 62) for the recognition of the free State government of the State of Arkansas; which was read the first time, and ordered to be printed.

#### BILLS BECOME LAWS.

A message was received from the President of the United States, by Mr. NICOLAY, his Private Secretary, announcing that on the 7th instant he had approved and signed the following acts and joint resolutions:

An act (S. No. 217) for the relief of Warren W. Green;

An act (S. No. 236) to provide for granting an honorable discharge to coal-heavers and firemen in the naval service;

An act (S. No. 250) to amend an act entitled "An act making a grant of alternate sections of

public lands to the State of Michigan to aid in the construction of certain railroads in said State, and for other purposes;"

A joint resolution (S. No. 35) to compensate the sailors on the gunboat Baron de Kalb for loss of clothing; and

A joint resolution (S. No. 51) authorizing the acceptance of a certain testimonial from the Government of Great Britain.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed without amendment the bill (S. No. 223) to regulate the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, and for other purposes; and with amendments the bill (S. No. 26) to provide for the public instruction of youth in the county of Washington, District of Columbia; and the bill (S. No. 266) to prevent smuggling, and for other purposes.

The message also announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

A bill (No. 510) further to regulate the carriage of passengers in steamships and other vessels;

A bill (No. 519) repealing certain provisions concerning seamen on board public and private vessels of the United States;

A bill (No. 520) for the relief of Samuel Beaton, master of the schooner George Harris; and

A joint resolution (No. 85) repealing an act entitled "An act for the relief of E. F. and Samuel A. Wood."

#### JUAN MIRANDA.

On motion of Mr. CARLILE, the bill (S. No. 238) to ascertain and settle certain private land claims in the State of California was considered as in Committee of the Whole. The original bill, as introduced by Mr. McDUGALL, proposed to allow within four months after the passage of the act any person claiming lands in California by virtue of any right or title derived from the Spanish or Mexican Government to present his claim in the name of the original grantee or claimant under Spain or Mexico (unless the validity of the claim of such original grantee or claimant had already been passed upon by the courts of the United States) to the district court of the United States for the district in which the land claimed is situated, together with such documentary evidence and testimony of witnesses as he relies upon in its support. The district courts were to adopt rules for the presentation and hearing of the claims, to render judgment upon the pleadings and proofs of the claimants and of the United States, and to enter such decrees, confirming or rejecting the claims, as may be just, and to grant an appeal to the Supreme Court of the United States in behalf of any party, if applied for within six months thereafter.

The Committee on Public Lands, through Mr. CARLILE, reported an amendment to strike out the original bill, and in lieu of it to insert the following:

Be it enacted, &c., That the district court of the United States for the northern district of California be, and hereby is, authorized and required to hear and determine upon its merits the claim of any person claiming title under a Mexican grant to Juan Miranda for the place known as the "Rancho Arroyo de San Antonio," situate in the county of Sonoma, State of California, who shall present his claim to said court within six months after the passage of this act: *Provided*, That any testimony heretofore taken before the board of land commissioners under the provisions of the act entitled "An act to ascertain and settle the private land claims in the State of California," approved March 3, 1851, in cases numbered forty-five and eight hundred and twelve, may be filed by the claimant or by the United States, subject to all just exceptions to its competency, and that further testimony may be taken by either party under the order and direction of said district court.

Sec. 2. And be it further enacted, That it shall be the duty of the said district court, upon the pleadings and proofs, to enter its decree, confirming or rejecting any claim presented under the provisions of this act as may be just, and to grant an appeal to the Supreme Court of the United States if applied for by any party within six months from the entry of the decree.

Sec. 3. And be it further enacted, That for any claim finally confirmed a patent shall issue to the confinee or his legal representatives in the manner prescribed by the thirteenth section of said act of March 3, 1851.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The PRESIDING OFFICER, (Mr. Foot in

the chair.) The question is on ordering the bill to be engrossed for a third reading.

Mr. CONNESS. Before that be done, I should like to get the attention of the Senate to this bill, as it is one of great consequence. This is a bill to authorize the alleged grantees of a very large and valuable tract of land in California, upon which the city of Petaluma, in the county of Sonoma, is situated, to go into the United States district court for the northern district of California, and have the privilege of attempting there to establish their claim to the land in question. Before I say anything about it I should like to be preceded by the Senator who has reported the bill to the Senate. It is a bill very much at variance with the interests of the people of California, and, as I believe, with justice. I should like first to hear the Senator from Virginia who reported the bill say what can be said in its favor, and then I will present some views and some documents in regard to it.

Mr. CARLILE. There is a report accompanying the bill giving the views of the Committee on Public Lands, which I send to the Secretary and ask to have read.

The Secretary read the following report, which was made by Mr. CARLILE on the 9th of May:

The Committee on Public Lands, to whom was referred bill S. No. 538, "to ascertain and settle private land claims in California," have had the same under consideration and beg leave to report:

That the mischief designed to be remedied by the bill had better be corrected, and relief, where justice demanded it, afforded by special acts rather than by a general law, and have therefore reported an amendment by way of substitute for the bill, to the end that justice may be done and the nation's faith, under our treaty with Mexico, maintained in the only case which, in the opinion of the committee, called for the action of Congress.

It appears from the decisions of the Supreme Court of the United States, delivered at the term commencing in December, 1859, and again in 1863, in the case of the United States vs. E. E. White, administratrix, &c., and of E. E. White vs. The United States, that the title to the tract of land known as the "Rancho Arroyo de San Antonio," is not in the United States, but in the heirs or legal representatives of one Juan Miranda, who settled upon the land in the year 1837, under a provisional grant made by General Vallejo, as director of colonization, and so continued in possession, residing upon the land until his death in the winter of 1845-46, leaving his children in possession, who remained in possession thereof and held the same when the country was ceded to the United States by the treaty of Guadalupe Hidalgo.

The archives of the Government of Mexico which contained the evidence of the final grant to Miranda for the land named, which was ordered on the 30th May, 1844, and which, on the 8th October, 1844, was confirmed by formal decree or grant, were not discovered until Mr. Stanton, the present Secretary of War, reached California as agent of the United States Government under the Administration of Mr. Buchanan.

In 1859 the Supreme Court clearly expressed the opinion that the claimant of the tract of land under the Miranda grant, who was no party to the suit, had a right to intervene in the district court and assert his claim to the land in question, but the district court decided otherwise, which decision of the district court was affirmed by the Supreme Court after argument upon application for a mandamus. The Supreme Court thus reversing its own opinion as expressed in 1859.

With the admission of the highest court in the land on the record, that the United States have no claim or title to this land, the committee cannot conceive that we should adhere to a rigid, technical construction of the law of 1851, which was doubtful in words and character, and acting under which the party, by a common error of the profession in its construction, and which was subsequently sanctioned by an opinion of the Supreme Court, did not proceed in time under that law, which, by its own limitation, has now expired.

It seems to the committee that the Government of the United States cannot take advantage of the provisions of that law and claim this land as public land, which is the necessary result if the party claiming under Miranda is not entitled to be heard.

All that the bill now reported by the committee provides for is, that those claiming under the Miranda grant shall have a hearing. If he or they can establish his or their claim, well and good; if they cannot establish it, the land will then belong to the Government of the United States. That is the whole effect of it.

The land is claimed under a sale made by a decree of a probate court in California; but as there may be objections to that sale, the committee have so drawn the substitute for the bill as to allow the heirs of Miranda to obtain title to the land if they have not, by their own act or that which binds them, divested themselves of the title. If they have, their vendee, or whoever claims the land under a valid purchase and is of right entitled to the Miranda grant, will, under this bill, obtain the land.

Mr. CONNESS. I move at this stage that the bill be indefinitely postponed. I prefer that the question be taken in that way. The reason why I offer that motion rather than to have the question taken on the engrossment or passage of the bill is this: the attempt to get this case into court has been made again and again before Congress, and as long as these attempts are simply put over from session to session, no matter what degree of

pretense, whether it be little or much of title there is in behalf of these parties, it constitutes a cloud upon the title of one of the most thriving and important towns in California; and therefore I desire, if it shall meet the sense of the Senate when they have heard the facts in the case, that the vote shall be to indefinitely postpone the bill so as to allow these people to enjoy their property in peace hereafter. I make that motion.

Mr. McDOUGALL. I think I understand the facts in this case, having been once counsel adverse to the present applicant, and thinking that I do understand the question of title; the facts in the case of which my colleague speaks should be understood by the Senate. If he has any facts in the case that I am not advised about, I should like to be informed before I say anything; but if he cannot advise me I will say now what I have to say.

Mr. CONNESS. I hope the Senator will proceed. It belongs to the affirmative of this proposition to state what they have to state in advocacy of the bill.

Mr. McDOUGALL. Certainly, I will oblige my colleague.

Mr. HOWARD. I hope the Senator from California will allow me to make an inquiry as to the fact in this case. Was there ever a title to this land emanating from the Spanish Government or from the Mexican Government?

Mr. McDOUGALL. There was.

Mr. HOWARD. Was it a perfected title?

Mr. McDOUGALL. It was as perfected as any of our grants; but there was a dispute between two grantees, Ortega and Miranda.

Mr. HOWARD. The question which I put is whether it was a mere concession, a mere inchoate, imperfect title involving the necessity on the part of the grantee of performing some act in order to perfect and mature his title, or whether that proceeding had been completed and the title had become perfect.

Mr. McDOUGALL. I will answer the Senator exactly. The first concession was to one Ortega, but before the—

Mr. CARLILE. Allow me to interrupt the Senator from California for a moment, to inform the Senator from Michigan that if he will read the opinions of the Supreme Court in 1859 and 1863, which I now send to him, he will obtain the information he desires.

Mr. McDOUGALL. It happened as an occasion of my business as a lawyer in California to be employed by the parties adverse to this claim. I studied the question carefully as counsel. My opinion, as it was the opinion of the bar generally in California, was that the question was fairly put so as to be brought up for judgment by the Supreme Court. It was not, however, so considered by the judgment of the court of final resort, and they only expressed an opinion affirming that the interest I represented had not the right, but that the Miranda title had the right. That was expressed in clear and distinct language in the judgment of the Supreme Court. All that is sought for now is simply the bare privilege of asking the judgment of that court as to the validity of the title. To deny that would be to deny a right. While I am not with these claimants except in the sense of wishing to see right done, and while all the interests with which I have been connected at home have been hostile to their claim, I say that it is our duty to give them the opportunity to maintain their right. It is no grant of land that they ask. They ask the bare privilege of appearing in our courts. Here I will be bold enough to say that I think the Supreme Court when it laid down the ultimate rule that they had not the right to interplead made a mistake. It is possible for the court to make mistakes. The Supreme Court, however, has said that these persons have a just right, and this proposition is simply to authorize an appeal to the courts now to have their rights determined.

Mr. CONNESS. I will detain the Senate but comparatively a little while, if I can get their attention, in regard to this measure. This is a case where parties, a man named T. B. Valentine, and another named Brooks, profess to hold a title to a grant of land located in the county of Sonoma, upon the site now known as the town of Petaluma, one of our largest interior towns; a grant alleged to have been made to a native Californian or Mexican named Juan Miranda or John Miranda.

There was another pretended grant for the same land to a party named Ortega, who was also a Mexican, and who was the son-in-law of Miranda, having married Miranda's daughter.

It will be remembered that under our treaty with Mexico, by which we acquired the title to California, we bound ourselves to inquire into and ascertain the rights of Mexican citizens to lands in California. To that end, in 1851, the Congress of the United States established what is known as the land commission; created a board of three commissioners, who were authorized to receive petitions from all claimants of that character to land within the bounds of California; and the act, which I have before me, provided that that preliminary court or board should be opened for the period of three years for that purpose. The period of existence of that board, as created in 1851, was finally extended to 1856, making a period of five years. During the period of the existence of that board, the claimants under the pretended or alleged Ortega title presented their case. It was known by a given number on the docket of that court. The heirs of Miranda, namely, Valentine and Brooks, presented their claim to the same land also, in the name of Miranda. The two claims were for the same ranch or parcel of land.

Mr. DAVIS. How were they Miranda's heirs?

Mr. CONNESS. The Senator asks me how they happened to be heirs of Miranda. "Thereby hangs a tale." I did not intend to go into that and occupy the attention of the Senate too long. After Miranda died, which was at a very early period, these parties entered into some arrangement with the heirs, and the will of Miranda was probated in the county of Marin in California, which is the county next adjoining Sonoma, not the county in which the property was located. The county judge, who was the probate judge under the laws of California, appointed a special administrator, and that special administrator ordered a sale of this real estate or the title of these parties in it, at which the present pretended owners of the title were purchasers. That was how they obtained their title. It subsequently turned out that the probate judge who ordered this sale in this eminently legal way became at the same time an owner of one half the title, which he passed over to other parties and they passed back again. Suffice it to say that how they came into possession of the title is not very creditable to the parties concerned. I do not wish to go into that longer at the present time. But it was clear that two parties in the board of land commissioners could not establish their claim to the same piece of land. They knew that; consequently they entered into a contract each with the other which I have here before me.

Mr. McDOUGALL. Will the Senator please read it? I should like to hear it.

Mr. CONNESS. I have here before me a copy of the contract entered into by the two parties by which they agreed, each with the other, that Valentine and Brooks, the parties who now ask the passage of this bill to let them into court again, would withdraw their claims from the board of land commissioners, and engaged to give their efforts to the confirmation of the Ortega claim, they agreeing when the Ortega claim was confirmed to sell the land and divide the proceeds between them. The document is not a very long one. If it is desired I will read it or send it to the desk that it may be read; this is from the original records in the case.

Memorandum of agreement made this 29th day of January, in the year of our Lord 1855, between James F. Stewart, G. B. Post, George T. Upham, Joseph A. Post, Volney E. Howard, and E. O. Crosby, presenting and prosecuting claim No. 538, [the Ortega claim], before the United States land commissioners for settling private land claims in California, parties of the first part, and Thomas B. Valentine, claimant, and Benjamin S. Brooks, Esq., attorney of record in cases Nos. 45 and 812 [the Miranda cases] on the docket of the said United States land commissioners, parties of the second part.

The said parties of the first part, for and in consideration of the sum of one dollar, to them in land paid, and of divers other good causes and considerations thereunto moving, have covenanted, promised, and agreed, and by these presents do covenant, promise, and agree to and with the said parties of the second part, their executors, administrators, and assigns, in manner and form following: that upon request, after the execution of this indenture, they will appoint an agent to make sales of land described in said claim, and, after deducting expenses, all moneys received for said land shall be divided as follows: for the sale of that portion of the claim known as the lower half of the Miranda claim, one third of all moneys received

shall be paid over to Thomas B. Valentine for the benefit of whomsoever it may concern, and for the sale of the balance of the claim No. 558; [the Ortega claim.] one half of the proceeds shall be paid over to Thomas B. Valentine for whomsoever it may concern. And we, the parties of the first part, agree with each other that we will each deduct from our interests, which we now have or may have in consequence of a confirmation of said claim No. 558, that proportion which our interest bears or may bear to the amount which may be paid over to Thomas B. Valentine under and in pursuance of the foregoing agreement.

It is further agreed that in the appointment of the above agent and in the prices to be fixed for the sale of the land above described, Thomas B. Valentine shall be consulted according to the interest he may have and may represent in the matter, and if any disagreement shall arise as to the appointment of said agent, or as to the prices to be put upon said land, then the same shall be settled by arbitration.

In witness whereof, the parties to these presents have hereunto interchangeably set their hands and seals the day and year first above written.

[L. s.] JAMES F. STEWART,  
[L. s.] G. B. POST,  
[L. s.] GEORGE T. UPHAM,  
[L. s.] JOSEPH A. POST,  
[L. s.] E. O. CROSBY,  
[L. s.] V. E. HOWARD,  
[L. s.] T. B. VALENTINE,  
[L. s.] B. S. BROOKS.

In presence of—

E. L. BENSON, Notary Public,  
and certified to by him.

This agreement, made this 20th day of January, in the year of our Lord 1855, between Thomas B. Valentine, claimant in cases Nos. 45 and 812 before the United States board of land commissioners, and Benjamin S. Brooks, Esq., attorney of record for said claimant therein, of the one part, and James F. Stewart, G. B. Post, George T. Upham, Joseph A. Post, Volney E. Howard, and E. O. Crosby, of the other part: Witnesseth that the said Valentine and Brooks, for and in consideration of the sum of one dollar to them in hand, and of divers other good causes and considerations then thereunto moving, have covenanted, promised, and by these presents do covenant, promise, and agree to and with the said James F. Stewart, G. B. Post, George T. Upham, Joseph A. Post, Volney E. Howard, and E. O. Crosby, their executors, administrators, and assigns, in manner and form following, that is to say: That the said Valentine and Brooks will withdraw and discontinue the said claims Nos. 45 and 812 before said board, at the next public session of said board, and will also cause to be withdrawn the depositions of Theodore Miranda and Francesca Miranda, taken before Commissioner Lott, January 17, in said case No. 558, and will use their best endeavors to procure the confirmation of said claim No. 558.

In witness whereof, the said Thomas B. Valentine and Benjamin S. Brooks have hereunto set their hands and seals the day and year first above written.

[L. s.] T. B. VALENTINE,  
[L. s.] B. S. BROOKS.

Certified to by

E. L. BENSON, Notary Public.

This was the agreement under which this case got out of court, and now they ask the Congress of the United States by special act to put them in court again. Why do they want to get in court now? They were out of court but a comparatively short time, a year or thereabouts; I will not undertake to be accurate in that. It will be remembered that the date of this agreement is 1855, and the commission finally ceased in 1856. There is an old homely adage that when rogues fall out honest people get their rights. The parties very soon quarreled; and the Ortega men, finding the Miranda men out of court, and being fully satisfied that they could get their claim confirmed, refused to carry out their part of the agreement; whereupon the Miranda men, as I shall call them, the parties now asking the passage of this act, engaged counsel, went into the courts of the United States, and up to the last term of the Supreme Court held during this session of Congress, in this Capitol, have had special counsel engaged from the day they quarreled until the Ortega claim was finally rejected, as it was at the last term of the Supreme Court. The Miranda men engaged special counsel to secure its rejection. They knew very well that if the Ortega claim was confirmed, of course they had no chance of claim at all; if the Ortega claim was rejected then their next resort was to come to Congress and get it by special act to put them back into court again, and then use the experience of many years to find where their title was defective, and make that defect up. It is not hard to make up defects when certain classes of witnesses are required, particularly in connection with some of these claims in California.

Now, sir, without going any further, I should like to ask what equity these parties have in coming before Congress to put them in court. They voluntarily withdrew from court, took their cases off the docket, put themselves out of court to engage in a corrupt bargain for money, for a division of spoils, to confirm a corrupt claim to a very large portion of valuable land in California.

Mr. McDOUGALL. I should like to ask the Senator from California why he uses the term "a corrupt claim?" Will he inform me? I think I know more about it than the Senator himself does.

Mr. CONNESS. My colleague is doubtless well informed about some things; perhaps he is about this; but if my colleague will perform his simple duty here, before I get through I think he will vote with me for the indefinite postponement of this bill.

Why do I call the Ortega claim a corrupt claim? Is that question asked me?

Mr. McDOUGALL. I asked that question.

Mr. CONNESS. The Supreme Court of the United States have determined that it was not a correct claim, that it was not a claim that deserved consideration, and they have rejected it. Now, if the Miranda claim was a good claim when it was withdrawn by these persons voluntarily, why did they withdraw it? I will show you that they did not regard it as a good claim. I cannot occupy the time of the Senate by following the whole history of this case, but I will turn immediately to the testimony of the main party in this cause, who is doubtless in the Senate now, T. B. Valentine. He appeared as a witness in a case where Benjamin S. Brooks, his copartner in this title, sued a man named Luning for professional services. Luning was mixed up in this claim; he was induced at one time to loan a very large amount of money and take a mortgage upon it. As mortgagee he was not consulted when they withdrew the claim, nor was he made a party to the withdrawal or to the bargain upon which it was founded. A lawsuit grew up between them, and Valentine, who asks the passage of this bill, came into court and testified thus to save his partner from paying money, to save him harmless in this suit, and to establish that Luning lost nothing by the claim being withdrawn from court.

"The plaintiff then called as a witness T. B. Valentine, who being duly sworn, said: 'I am the claimant under the Miranda grant which was before the land commissioners. I know the defendant's interest in the claim and his agreement with Brooks to prosecute the claim. I searched everywhere for testimony at that time, and four witnesses were examined by Brooks and their testimony taken. Brooks likewise went with me to the Mission to search for evidence. The result of all the investigations was that we ascertained that the Miranda grant was never signed by the Governor, and was worthless. This I ascertained from De la Rosa, who took the grant down to get it signed. Ascertaining this, we—Brooks and myself—made a compromise with those interested in the Ortega grant and claim.'"

"I told him [one of the claimants under Miranda] of the proposals we had made to Stewart, and he said it was perhaps the best that could be done with it, as the Miranda grant was not good, we had better get something out of it in this way; that is, that the Miranda claims should have part of the rancho."

This is Mr. Valentine's testimony in regard to his own title, after years of examination and after he had withdrawn it from court. He may have found some testimony since, but my opinion is that he should not be let into court to try it or to use it. At the session of Congress of 1863, it may be remembered by some Senators that a bill passed this body of a similar character to the one now before us. While it was pending it created a great degree of excitement in California. The Legislature of that State were then in session. Remember, sir, that it affects the title to most valuable property, one of our largest towns. Resolutions were introduced in the Legislature asking Congress not to pass the act. They were debated fully for about a week; and I send now to the desk the concurrent resolutions of both Houses of the California Legislature on this particular bill and question, and ask that they be read.

The Secretary read, as follows:

STATE OF CALIFORNIA,  
DEPARTMENT OF STATE.

I, William H. Weeks, secretary of State of the State of California, do hereby certify that the annexed is a true, full, and correct copy of original resolutions of the Legislature of the State of California, adopted February 24, 1863, now on file in my office.

Witness my hand, and the great seal of State, at office, in Sacramento, California, the 21st day of March, A. D. 1863.

WILLIAM H. WEEKS,  
Secretary of State.

By A. A. H. TUTTLE, Deputy.

Senate concurrent resolution No. 2. Concurrent resolutions relative to the Miranda claim to Rancho Arroyo de San Antonio:

Whereas an attempt is being made to revive, by an act of Congress, the Miranda claim to the Rancho Arroyo de San Antonio; and whereas the reviving of said claim would

be an act of great injustice to the people of Sonoma county; and whereas the public interest requires that land titles in California should be settled as speedily as possible, and which once settled should not be disturbed: Therefore,

Be it resolved by the Senate, (the Assembly concurring,) That our Senators in Congress are instructed, and our Representatives requested, to oppose the reviving or opening of said claim, and also to oppose the opening of any Mexican grant claim in California which has been settled by law.

Resolved, That his excellency the Governor be requested to forward a copy of the above resolutions to each of our delegation in Congress.

Adopted, February 24, A. D. 1863.

Mr. CONNESS. Mr. President, I have but a very few words more to say.

The PRESIDING OFFICER. (Mr. Foot.) The morning hour having expired, it is incumbent on the Chair to call up the special order of the day.

Mr. CONNESS. I hope we shall be allowed to vote on this bill.

Mr. FESSENDEN. I move that all previous orders be dispensed with for the purpose of taking up the Indian appropriation bill.

Mr. CONNESS. I think we shall get through with this bill in a few minutes. I have no more to say, and I should like to get a vote on it. It is a matter of great consequence.

Mr. FESSENDEN. I should like to take up the appropriation bill, and then by common consent it may be laid aside for a few minutes to dispose of this bill.

Mr. CONNESS. Very well.

Mr. JOHNSON. This bill cannot get through for an hour.

Mr. SHERMAN. Several Senators around me mean to speak on it, I know.

Mr. CONNESS. Then I give way.

#### ORDER OF BUSINESS.

The PRESIDING OFFICER. The bill which has been under discussion during the morning hour is already superseded by the expiration of the morning hour, and the consideration of the special order of the day now comes up under the rules of the Senate, and the Senator from Maine moves to postpone all special and prior orders with a view to proceed to the consideration of the Indian appropriation bill.

Mr. WILSON. There is a bill upon which we adjourned last night that I think we ought to finish, and it seems to me it is very important to act upon it now.

Mr. FESSENDEN. I think we can finish the Indian appropriation bill to-day. If the Senate think there is anything of more importance, of course I must yield. It is a question for the Senate to decide.

Mr. SUMNER. I merely wish to remark, as my colleague has remarked in regard to himself, that I have a bill also which was under consideration and on which I desire to get a vote. I doubt whether there will be much more debate upon it. It is a bill to create a Freedmen's Bureau; I am very sorry to see it got out of place; and if I allude to it now, it is not to interpose any objection to the motion of the Senator from Maine, but, as I have said on another occasion, by way of continual claim, as I want to get the bill before the Senate that it may be in condition to be acted upon just as soon as possible.

Mr. FESSENDEN. I feel bound to bring the Indian appropriation bill to the consideration of the Senate.

Mr. WILSON. On reflection I will yield to allow that bill to be taken up, in the hope that we may be able to get through with it to-day.

Mr. FESSENDEN. I think we can get it through to-day.

Mr. ANTHONY. There was a special order made for to-day: the bill (H. R. No. 421) in regard to the Congressional Globe. I do not propose, however, to press it against the Senator from Maine, because I know that I should fail if I attempted to do so.

The PRESIDING OFFICER. The Chair will state that there are two special orders for to-day, one by special vote of the Senate and the other the unfinished business of yesterday. The House bill (No. 421) to pay in part for publishing the debates of Congress, and for other purposes, was assigned for to-day at one o'clock as a special order. The unfinished business of yesterday, however, supersedes the consideration of that bill, as it takes precedence among the special orders, and that unfinished business is the bill (S. No. 286) to prevent the discharge of persons from



liability to military duty by reason of the payment of money.

Mr. ANTHONY. I desire to ask what becomes of the other special order, the bill in regard to the Congressional Globe? Does that lose its place entirely?

The PRESIDING OFFICER. That depends on whether it is thrown over beyond this day by the consideration of other business.

Mr. ANTHONY. I should like to take it up and make it the special order for some time when we can consider it. I suppose if it be made the special order for any day at one o'clock, it will then always be superseded by the unfinished business of the preceding day. If it should be made the special order for any later hour, say two o'clock, would it then come up regularly in its order at the proper time in preference to the bill at that time under consideration?

The PRESIDING OFFICER. Such a motion would hardly be in order at this time, as there is a motion pending, that made by the Senator from Maine.

Mr. SHERMAN. If the Senator from Maine insists on his motion, I shall as a matter of course vote for it, although I know the importance of taking a vote on the bill reported by the Senator from Massachusetts, [Mr. WILSON.] I think we ought to dispose of that bill, and I think we can do it this morning without further debate.

Mr. FESSENDEN. If I thought it could be done without further debate, I should have no objection; but I know we cannot do that. I hope Senators will allow me to take up the Indian appropriation bill and the fortification bill which stand in their way; the fortification bill will take but a very short time, and then I shall consent to let them have next week for other business, and they can battle for what business shall be taken up free from the appropriation bills entirely. I expect to be engaged all next week in a committee of conference, and it will be impossible for me then to give any attention to the appropriation bills. It is important to pass them here and let them go back to the other House for action on our amendments. It is important for the public business, I think, that the Indian appropriation bill should be disposed of promptly, and therefore, with great deference to Senators, I insist on my motion, and I should like to have the sense of the Senate upon it.

The PRESIDING OFFICER. The question is on the motion of the Senator from Maine to postpone all prior orders and to take up for consideration the Indian appropriation bill.

The motion was agreed to.

#### ARMY APPROPRIATION BILL.

Mr. HOWE. Before proceeding with the bill which has just been taken up, I ask the consent of the Senate to allow me to make a report from a committee of conference.

The PRESIDING OFFICER. The Chair will receive the report, if there be no objection.

Mr. HOWE submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 198) making appropriations for the support of the Army for the year ending the 30th June, 1865, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from their amendment to the seventh amendment of the Senate and agree to the same.

That the House recede from their disagreement to the eighth amendment of the Senate, and agree to the same with an amendment as follows, and the Senate agree to the same: strike out all after the enacting clause (being section four) and insert in lieu thereof the following:

That all persons of color who were free on the 19th day of April, 1861, and who have been enlisted and mustered into the military service of the United States, shall from the time of their enlistment be entitled to receive the pay, bounty, and clothing allowed to such persons by the laws existing at the time of their enlistment. And the Attorney General of the United States is hereby authorized to determine any question of law arising under this provision. And if the Attorney General aforesaid shall determine that any of such enlisted persons are entitled to receive any pay, bounty, or clothing in addition to what they have already received, the Secretary of War shall make all necessary regulations to enable the pay department to make payment in accordance with such determination.

That the Senate recede from their ninth amendment.

T. O. HOWE,  
L. M. MORRILL,  
C. R. BUCKALEW,  
*Managers on the part of the Senate.*  
THADDEUS STEVENS,  
THOMAS T. DAVIS,  
*Managers on the part of the House.*

Mr. SUMNER. I should like to inquire of the Senator from Wisconsin how that leaves the case, for instance, of the colored troops enlisted in South Carolina?

Mr. HOWE. It makes no provision for the pay of colored troops unless they are persons who were free at the breaking out of this war.

Mr. SUMNER. But the Senator is aware that there are two regiments, very faithful and noble regiments, that were gathered together at Hilton Head and at Beaufort, mainly freedmen from South Carolina, and the claim has been made for them to be put upon the same footing with the other colored regiments who receive thirteen dollars a month.

Mr. HOWE. It was, I believe, the opinion of the committee that if the law gives any class of these colored persons any more pay than they have already received, they will at some time get it; but just now, in order to settle the controversy arising upon this appropriation bill, it was not thought best to go any further than to provide for adjusting the dispute which arises on a question of law, as I understand it, as to the amount of pay that that class of colored people who were free at the breaking out of the war are entitled to.

Mr. SUMNER. But the Senator, it seems to me, has not covered the whole case, that is assuming that the Senator is, as he doubtless is, a party to this amendment. As I understand, there are two regiments in South Carolina and also four in Louisiana, a large number of the soldiers in which were once slaves, who were enlisted under a promise of thirteen dollars a month, but they have never received it. So far as they were slaves, they will be excluded from the thirteen dollars a month under this amendment, as I understand it. The amendment is limited to those who were free on the 19th of April, 1861; and of course, therefore, it embraces the Massachusetts regiments, and so far as I am a Senator from Massachusetts that contents me; but then as one interested in the adjustment of this question on principles of justice, and in securing the rights of all enlisted men in every part of the country, which I am free to say I have at heart not less than securing the rights of those enlisted in Massachusetts, the amendment is not satisfactory, it is not complete, it does not go far enough. I think it had better lie on the table for the present, that we may have an opportunity of looking into it, especially as my colleague is not in his seat, and I do not know that he is aware of it.

Mr. HOWE. I do not know that he is.

Mr. SUMNER. Then I think it had better be passed over for the moment. I suppose there is no objection to that.

Mr. HOWE. I have none.

The PRESIDING OFFICER. It requires a motion for that purpose, unless by unanimous consent.

Mr. SUMNER. I hope by unanimous consent it will lie on the table for the present.

Mr. POMEROY. I should like to have the Senator who has made the report explain it. I do not understand, for instance, whether the regiment which was raised in my State is to be paid, according to the report which has been made.

Mr. HOWE. If the men were free on the 19th of April, 1861.

Mr. POMEROY. We have no means of knowing that. They were raised in a free State, and were the first regiment of colored troops raised. We have no means of knowing whether they were free or not; we never asked that question.

Mr. HOWE. The Secretary of War is authorized to establish regulations for the execution of this law if it is agreed to.

Mr. SUMNER. I think we had better look into it.

The PRESIDING OFFICER. It is suggested that the report be passed over for the time being.

Mr. POMEROY. I have no objection to its going over, but I want a modification of it before we agree to it.

The PRESIDING OFFICER. The report will lie on the table for the present, to be called up at any time by any member.

#### INDIAN APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 240) making appropriations for the current and contingent expenses of the Indian department, and for ful-

filling treaty stipulations with various Indian tribes for the year ending June 30, 1865.

The first amendment of the Committee on Finance was in the appropriations for the Wingabagoes, in line seven hundred and fifty-seven of the bill, to strike out the words "one hundred thousand" after "million," so as to make the clause read:

For interest on \$1,000,000 at five per cent., &c.

The amendment was agreed to.

The next amendment was after line eleven hundred and twenty-nine to insert the following items:

Eastern bands of Shoshonees:

For first of twenty installments, to be expended under the direction of the President in the purchase of such articles as he may deem suitable to their wants, either as hunters or herdsmen, per fifth article treaty 2d July, 1863, for the fiscal year ending June 30, 1864, \$10,000.

For second of twenty installments, to be expended under direction of the President for same object, per fifth article treaty July 2, 1863, for the fiscal year ending June 30, 1865, \$10,000.

Mr. DOOLITTLE. I desire to amend that amendment of the Committee on Finance before it is adopted, and will do so now, or pass it over until the reading of the bill is finished.

Mr. SHERMAN. What does the Senator propose?

Mr. DOOLITTLE. I propose to strike out the word "four" in line eleven hundred and thirty-six, and insert "five," and then to strike out from line eleven hundred and thirty-eight to line eleven hundred and forty-three. The present fiscal year is so near its end that the Committee on Indian Affairs, upon looking into the matter, are of opinion that it will be as well to begin these installments in 1865, which will save an appropriation for the present year of \$10,000.

Mr. SHERMAN. I have no objection to that.

Mr. DOOLITTLE. I move to strike out "four" and insert "five" in line eleven hundred and thirty-six, so as to make the year "1865" instead of "1864."

The amendment to the amendment was agreed to.

Mr. DOOLITTLE. I now move to strike out from line eleven hundred and thirty-nine to eleven hundred and forty-two that whole paragraph.

The amendment to the amendment was agreed to, and the amendment, as amended, was adopted.

The next amendment was to insert after the preceding one:

Northwestern bands of Shoshonees:

For first of twenty installments, to be expended under the direction of the President in the purchase of such articles as he may deem suitable to their wants, either as hunters or herdsmen, per third article treaty 30th July, 1863, for the fiscal year ending June 30, 1864, \$5,000.

Mr. DOOLITTLE. I move to strike out "1864" and insert "1865."

The amendment to the amendment was agreed to, and the amendment, as amended, was adopted.

The next amendment was:

For second of twenty installments, to be expended under the direction of the President for same object, per third article treaty July 30, 1863, for the fiscal year ending June 30, 1865, \$5,000.

Mr. DOOLITTLE. I move to strike that out from the amendment of the Committee on Finance for the same reason.

The motion was agreed to.

The next amendment was to insert after the one previously adopted:

Goshop bands of Shoshonees:

For first of twenty installments, to be expended under the direction of the President in the purchase of such articles, including cattle for herding, or other purposes, as he shall deem suitable for their wants and condition, either as hunters or herdsmen, per seventh article treaty October 12, 1863, for the fiscal year ending June 30, 1864, \$1,000.

Mr. DOOLITTLE. I move to amend that by striking out "1864" and inserting "1865."

The amendment to the amendment was agreed to, and the amendment, as amended, was adopted.

The next amendment was to insert:

For second of twenty installments, to be expended under the direction of the President for same object, per seventh article treaty October 12, 1863, for the fiscal year ending June 30, 1865, \$1,000.

Mr. DOOLITTLE. I move to strike that out. The motion was agreed to.

The next amendment was to insert after the preceding amendment:

Creek nation:

For interest on \$200,000, at five per cent. per annum, as permanent annuity, to be paid them in money, or for such mechanical labor, or useful articles as the Secretary of the Interior may from time to time direct, per third article

treaty September 3, 1863, for the fiscal year ending June 30, 1864, \$10,000.

Mr. DOOLITTLE. I move to strike out "1864" and insert "1865."

The amendment to the amendment was agreed to.

Mr. DOOLITTLE. Before the amendment of the committee is adopted I desire to add at the end of the word "dollars" in line eleven hundred and seventy-seven the words "payable on condition that the said nation ratify the amendments made by the Senate."

The treaty has been ratified by the Senate, and it is wise the appropriation should be made, but whether the Creek nation will ratify the amendments of the Senate or not has not been proclaimed. The amendments are very important amendments.

The amendment to the amendment was agreed to; and the amendment, as amended, was adopted.

The next amendment of the Committee on Finance was to insert:

For interest on \$200,000, at five per cent. per annum, for same object, per third article treaty September 3, 1863, for fiscal year ending June 30, 1865, \$10,000.

Mr. DOOLITTLE. I move to strike that out. The motion was agreed to.

The next amendment was to insert:

For payment of first installment, to be expended for their benefit in the purchase of stock, horses, sheep, clothing, and such other articles as the Secretary of the Interior, with the council of said nation, may direct, per fourth article of treaty September 3, 1863, as amended by the Senate, for the fiscal year ending June 30, 1864, \$40,000.

Mr. DOOLITTLE. I move to change "1864" into "1865" in that clause.

The amendment to the amendment was agreed to.

Mr. DOOLITTLE. I move the same words in addition, "payable on condition that the said nation ratify the amendments made by the Senate."

The amendment to the amendment was agreed to; and the amendment, as amended, was adopted.

The next amendment was to insert:

For second of five installments, to be expended for their benefit, for same object, per fourth article of treaty September 3, 1863, as amended by the Senate for the fiscal year ending June 30, 1865, \$20,000.

Mr. DOOLITTLE. I move that that be stricken out.

The motion was agreed to.

Mr. SHERMAN. The word "agents," in line eleven hundred and ninety-nine, should be "agent." There is but one now in California.

Mr. DOOLITTLE. I have some amendments on that subject to conform the bill to the law which we passed. Let that be passed over for the present.

Mr. SHERMAN. Very well. I withdraw the amendment now.

The next amendment of the Committee on Finance was to insert after line twelve hundred and seventy-five the following:

Cherokee nation:

For interest on the "abstracted bonds" belonging to the national funds, \$14,385.

For interest on the "abstracted bonds" belonging to the school fund, \$3,270.

For interest on the proceeds of sales of school lands in Alabama, sold at different times from and including the second quarter of the year 1850, to December 31, 1860, computed to March 1, 1864, \$16,758 04.

The amendment was agreed to.

Mr. SHERMAN. I am instructed by the Committee on Finance to offer two or three other amendments to the bill. In lines eleven and twelve, on page 1, I move to reduce the general appropriation "for the pay of superintendents of Indian affairs and of Indian agents," from \$101,200 to \$98,800. This reduction is made necessary by the changes in the system in California.

The amendment was agreed to.

Mr. SHERMAN. In line eighteen, on page 2, I move to strike out "temporary" before "clerks," to strike out the letter "s" at the end of the words "clerks" and "superintendents," and in lines nineteen and twenty to strike out "one for the northern and one for the southern district," and to reduce the appropriation from \$3,000 to \$1,800; so as to make the clause read:

For pay of clerk to superintendent of Indian affairs in California, \$1,800.

The amendment was agreed to.

Mr. SHERMAN. In line twenty-one I move to strike out "five supervisors" and insert "four

agents;" and in line twenty-two to strike out "\$9,000" and insert "\$7,200."

Mr. DOOLITTLE. I think it will be more simple to strike out the twenty-first, twenty-second, twenty-third, and twenty-fourth lines, and to insert:

For pay of four agents, \$7,200.  
For pay of one blacksmith, one assistant blacksmith, one farmer, and one carpenter, \$2,400.

That will carry out the law of the present session in regard to the Indian service in California.

Mr. SHERMAN. That will answer the purpose, and I accept it.

The amendment was agreed to.

Mr. DOOLITTLE. I observe that as the bill is printed, the appropriation of \$1,000, which should be at the end of the fifty-seventh line, is omitted. I move to add it.

The amendment was agreed to.

Mr. DOOLITTLE. From the Committee on Indian Affairs I move the following amendment, to come in after line two hundred and eighty-three, on page 12:

For the salary of an agent for the Kioway, Apache, and Comanche Indians, for the fiscal year ending June 30, 1865, \$1,500.

Mr. SHERMAN. I should like to have some explanation of that.

Mr. DOOLITTLE. The bill was passed by the Senate some time since providing for the establishment of an agency for the Kioways, Apaches, and Comanches, which are wandering tribes, and it is necessary in the estimation of the Department that there should be an agent for them.

Mr. JOHNSON. Is there no provision in the bill as it stands for them?

Mr. DOOLITTLE. No, because this is a new agency, established at the present session by a bill we have recently passed.

The amendment was agreed to.

Mr. DOOLITTLE. There is another amendment necessary after line thirteen on the 1st page of the bill to carry out a bill which we passed some time since, giving an additional salary to the agent at the Green Bay agency:

For the salary of the agent at the Green Bay agency to make the sum \$1,500, an additional sum of \$500.

The amendment was agreed to.

Mr. DOOLITTLE. By the Committee on Indian Affairs I am instructed to offer the following amendment, to come in after line seven hundred and sixty-four, on page 32:

For deficiencies in subsistence and expenses of removal and support of the Sioux and Winnebago Indians of Minnesota during the fiscal year ending June 30, 1864, \$137,293 40: *Provided*, That the portion expended in behalf of the Winnebagoes shall be reimbursed to the Treasury upon the sale of their lands in Minnesota.

This is a pretty large appropriation for a deficiency, and I desire to state to the Senate the facts upon which the Committee on Indian Affairs felt called upon to recommend the adoption of the amendment. It will be remembered by the Senate that growing out of the Indian hostilities in Minnesota, not only the Sioux who were engaged in those hostilities but the Winnebagoes were also removed from the State of Minnesota to a reservation upon the upper Missouri. It will be remembered that Congress in the action which it took confiscated to the Government of the United States the annuities in the hands of the Government belonging to the Sioux. The Winnebagoes, however, not having been engaged in hostilities, provision was made for the sale of their lands in the State of Minnesota and for their removal. The Sioux and the Winnebagoes have been removed, and in consequence of that removal expenses have been incurred which have created this deficiency, and it is necessary that it should be provided for. It is one of those necessities which have grown out of the Indian hostilities in Minnesota.

Mr. JOHNSON. Have the expenses been paid in point of fact?

Mr. DOOLITTLE. The expenses have been paid and incurred.

Mr. JOHNSON. The expenses have been incurred of course, but I want to know whether they have been paid by the Government, and if so, out of what fund.

Mr. DOOLITTLE. I will read the letter of the superintendent of Indian affairs:

WASHINGTON, D. C., March 14, 1864.

SIR: Under your instructions of September 28, 1863, I have had delivered, and being delivered, at their agency,

provisions for the Sioux and Winnebago Indians for their subsistence until the 1st day of May next. These provisions were, under your instructions, purchased partly on credit. The time has expired in which they were to be paid for, and I have not received the balance of the estimate, \$33,763 40, which amount is required to meet my engagements. I wish respectfully to call your attention to this subject, and ask that a requisition may be drawn in my favor for that amount.

In this connection I would further state that there is no provision made for subsisting those Indians for the months of May and June, (the balance of the fiscal year.) This must be provided to avoid anticipating the regular appropriations. I estimate as follows, to wit: three thousand two hundred Indians, sixty-one days, at fifteen cents each per day, \$29,280.

Very respectfully, your obedient servant,  
CLARK W. THOMPSON,  
Superintendent of Indian Affairs.

HON. WILLIAM P. DOLE,  
Commissioner of Indian Affairs, Washington, D. C.

These Indians were removed last year to this reservation on the upper Missouri, but there was in all the western part of Minnesota and Iowa and all that region of country, such a drought as has not been experienced for years and years before, and actually nothing was raised for their support, and in consequence of that provisions had to be purchased to prevent them from starving, and transported from Iowa and Minnesota to the Missouri river for their support. They have been purchased from necessity, and these liabilities have been incurred by the superintendent of Indian affairs, and it is believed to be a necessity that this appropriation should be made. The Senator from Minnesota is now in his seat, and he is more familiar with all the facts, as the matter transpired in his own State, than I am; and if the Senate desire any further explanation, I have no doubt he can give any explanation which is needed. The committee have regarded it as a matter of necessity.

Mr. SHERMAN. I do not yet understand how the full amount is made up.

Mr. POMEROY. I wish to inquire whether when we ordered this removal last year, there was not an appropriation made to meet the expenses of it.

Mr. DOOLITTLE. There was something of an appropriation.

Mr. POMEROY. How much?

Mr. DOOLITTLE. I believe it was \$50,000 last year and \$50,000 the year before.

Mr. POMEROY. And this is in addition.

Mr. DOOLITTLE. This is to make up a deficiency for liabilities actually incurred.

Mr. POMEROY. I really do not understand this matter; I presume it must be right; but I have noticed that in addition to the \$100,000 already spent, we appropriated last year \$250,000 to pay the State of Minnesota for depredations committed by these Indians; and then they have a claim before our Committee on Claims now of \$125,000 for deficiencies, and here is an item of \$137,000 for deficiencies. It is a most remarkable state of facts. That is all I can say about it.

Mr. DOOLITTLE. I see nothing remarkable in it. We confiscated to the Government of the United States the property of the Sioux nation which was in our hands to the amount of between two and three million dollars, and by the legislation of Congress in special acts which we passed we assumed out of that property in our hands belonging to the Sioux nation to make some reparation to the citizens of Minnesota for the damages committed by those Indians during the Indian war. We first appropriated \$200,000, and put the money into the hands of commissioners to go to the State of Minnesota to inquire into the facts and to distribute that amount of money among those who were most needy, and who had suffered most in consequence of the war. The same commission were also authorized to inquire into the amount of damages which had been incurred by the people of Minnesota, and they reported the amount of those damages to Congress through the Secretary of the Interior, and a bill was passed by the House of Representatives, was referred in this body to the Committee on Finance, and has since been passed by the Senate, appropriating nearly eight or nine hundred thousand dollars more to pay those damages.

These are the facts; but all that has nothing to do with this question. That was legislation to pay the damages which were inflicted by these Indians upon the citizens of Minnesota. Now, as the Government determined upon the removal of the Indians and we did remove them, the question

was, should we let them starve upon our hands, or was it the duty of the Interior Department to keep them from starving? That was the necessity which compelled the incurring of these liabilities.

Mr. POMEROY. It was no part of my purpose in the inquiry I suggested to raise any question in regard to letting the Indians starve. I of course am willing and anxious that the Government should do everything in the premises that it is its duty to do. But I notice that efforts have been made to secure payment for losses sustained in my own State, and the committees have generally reported that all such payments are to be made, if ever, after the war. The losses to which I now refer were not losses sustained at the hands of Indians, but from Quantrell's and other bands of bad men, as bad as Indians at any rate.

Mr. DOOLITTLE. Allow me to interrupt the Senator. Certainly, as a member of the Committee on Finance here, he ought not to put himself in antagonism to the Committee on Indian Affairs, when it is that committee of which he is a member that reported the bill to pay those very damages in Minnesota. The Indian Committee had nothing to do with it.

Mr. POMEROY. The Senator is mistaken if he supposes that I am a member of the Committee on Finance. His remarks may apply to somebody, but they do not apply to me. I do not happen to be on that committee.

Mr. WILKINSON. Mr. President, it was thought wise by Congress to have these Indians removed from Minnesota, and such was the necessity of the case that an appropriation was made of I think about one hundred thousand dollars to remove the Sioux and Winnebago Indians from that State. That was done last summer. They had to be taken upon boats and carried to St. Louis, and from St. Louis up the Missouri river. The Senator from Kansas is well aware of the difficulties of navigation in the Missouri river last year. The amount appropriated was actually consumed in the removal of the Indians. A part of the money now asked for has been expended, first in building some houses, building a stockade and protection for these Indians, for on the north and on the west of them there were hostile Sioux Indians. The Department of the Interior authorized the expenditure of \$54,240, anticipating an appropriation which had been made for other purposes, and directed the superintendent to expend it immediately for the subsistence of these Indians. In addition to that sum, late in the fall, it having been very dry and nothing having been raised, the Secretary of the Interior authorized the superintendent to enter into a contract to supply them with beef and pork. That contract amounted to \$53,763 40, not one cent of which has yet been paid, but all the supplies under the contract have been delivered to the Indians. I will state here that a large portion of that contract was for cattle, and that the contract price for those cattle to be delivered on the Missouri river was but four cents a pound.

The remaining \$29,280 of the amount now proposed to be appropriated is the estimate which is made for the subsistence of these Indians for the months of May and June, in addition to the expenditures I have already stated. The total amount is made up in this way: \$53,763 40 is a debt due under a contract entered into under direction of the Secretary of the Interior; \$54,240 has been actually expended; and \$29,280 is the estimate of the amount necessary to be expended in order to carry them to the end of the present fiscal year. In settling down upon this item of \$137,000, the committee concluded to strike out all the other estimates which were made for these Indians amounting to eighty or ninety thousand dollars for other purposes. It was the judgment of the committee that we would pay up all claims which were actually due, and appropriate \$29,280 in addition, and that that would be enough, and then we could leave out the other estimates which had been made for them.

It will be observed that the \$53,763 40 and that \$54,240 Congress is in honor bound to appropriate. I think we have no reasonable discretion in regard to allowing those two sums, because the Government is bound to pay them; it has entered into a contract under which the property has been delivered. Then the additional \$29,280 is a reasonable estimate, and it takes the place of nearly \$80,000 which the Indian department had esti-

mated, as will be seen by the printed estimates on the tables of the members of the Senate. This is really cutting down those estimates more than one half. The Indian Committee now is not allowing in this bill over one half what was estimated to pay up the obligations of the Government to these Indians.

I will say in answer to the Senator from Kansas, who seems to feel rather bad because Congress has seen fit to pass an appropriation to pay the sufferers in Minnesota, that that appropriation was made in pursuance of a law, or to carry out a law, which was passed a year ago, and Congress had no discretion about it. The United States confiscated over two million dollars of the Sioux money and appointed commissioners to adjust the damages. Those commissioners made their report, and the Finance Committee reported the appropriation in pursuance of the existing laws.

Mr. POMEROY. I do not desire to make any particular opposition to this measure; we are now acting as in Committee of the Whole; but I desire to reserve the right to have a separate vote on it when we come into the Senate.

Mr. HARLAN. The truth is, that the money has been spent to support these Indians. I do not know whether it has been rightfully expended or not; but the presumption is that it has been rightly expended. It is a debt incurred. The office in their statement of the case have not given the whole of it. They state that they have expended \$53,763 40, and they estimate that \$29,280 will be necessary to support the Indians for the months of May and June of the present fiscal year; but they do not include in this statement the anticipation of the entire appropriation as named in the bill for the coming year of \$54,240. They had intended to wait until that appropriation should fall due to these Indians under the present appropriation bill, and use it to pay the back debts that have been incurred. The committee thought it better to meet the entire deficiency at once, to meet it squarely in the face, and to allow the appropriation which the bill provides for to be used the coming year in buying goods that may be needed. If that amount of \$54,240 were diminished, the result would be that they would go on credit for the coming year, and anticipate the appropriation of the following year. Then, to come to the facts of the case, they have incurred a debt of \$137,000 in the support of these Indians which was not provided for in any law heretofore enacted, and the question is whether we shall pay it.

Mr. JOHNSON. I suppose the statements of fact made by the committee are to be relied upon, as certainly they are. The Interior Department, as I understand, anticipated the wants of these Indians, rendered necessary by our determination to remove them, by applying to that purpose, as far as it would go, \$54,000 which had been by Congress appropriated to some other purpose. Whether the Department had a right to appropriate a sum given by Congress for a different purpose to this, is a matter perhaps about which there can be no difference of opinion; but still they applied it to an object which Congress would have promoted if they had been in session. There is great danger in suffering the Department to resort to one fund which Congress has appropriated for a specific object, to carry out some other object for which Congress either has made no appropriation or has made an inadequate appropriation. But it never would have done for the United States to suffer these Indians to starve; and rather than to have that happen, the Interior Department, I think, under the circumstances, did right in providing some mode by which such a result as that should be avoided. But that was not enough; and having no other fund to which they could resort under their control, they contracted a debt of some fifty-three thousand dollars more for provisions furnished the Indians, and now they tell us that in addition to the \$54,000 which they have taken from the purpose for which it was given and applied to this purpose, and the \$53,000 of debt which they have incurred, it will be necessary to incur a debt of some twenty-nine thousand dollars more; and they ask that an appropriation shall be made, amounting in the aggregate to the \$54,000 which they have applied, the \$53,000 debt which they have incurred, and the \$29,000 which they will be obliged to incur, provided the Indians are to be supported dur-

ing the two months up to the termination of the present fiscal year, and the aggregate of these sums amounts to the sum proposed to be appropriated, \$137,000.

Mr. DOOLITTLE. Perhaps I ought to say one word further. It will be remembered by the honorable Senator from Maryland that by the act of February 21, 1863, after these hostilities in Minnesota, Congress directed the President to set apart a new reservation for the Winnebagoes outside of the State of Minnesota.

Mr. JOHNSON. I understand it.

Mr. DOOLITTLE. It was substantially imperative on the Executive Department to do it, and we appropriated not money out of the Treasury of the United States, but from the funds of the Winnebagoes themselves what was supposed to be enough to pay for their removal. They were removed. It is now nearly two years ago, and the extreme drought, as I mentioned to the Senate, prevented their raising anything for their support, and it has compelled the department to the necessity of allowing the superintendent to run in debt to get things to save the Indians from starvation. It has been compelled by necessity to do what has been done.

Mr. JOHNSON. The Senator certainly does not understand me as finding fault with it.

Mr. DOOLITTLE. No, sir.

The amendment was agreed to.

Mr. DOOLITTLE. I move, also, the following amendment, to come in after the one just adopted:

To enable the Secretary of the Interior to take charge of certain stray bands of Winnebago and Pottawatomie Indians now in the State of Wisconsin, with a view to prevent any further depredations by them upon the citizens of that State, and for provisions and subsistence, \$10,000: *Provided*, That the proportion of annuities to which such stray bands of Pottawatomies and Winnebagoes would be entitled if they were settled upon their reservations with their respective tribes shall be retained in the Treasury to their credit from year to year, to be paid to them when they shall unite with their said tribes, or to be used by the Secretary of the Interior in defraying the expenses of their removal, or in settling and subsisting them on any other reservation which may hereafter be provided for them.

For the salary of a special agent to take charge of said Indians, \$1,500.

I desire to explain to the Senate facts which perhaps have not come to their knowledge in regard to this matter. About the same time with the troubles in Minnesota there were some bands of Winnebagoes and Pottawatomies, about one thousand in number, stray bands that really belonged to the Pottawatomies in Kansas and to the Winnebagoes in Minnesota, which were wandering about in the State of Wisconsin through five or six counties. Shortly after the outbreak in Minnesota it was believed that an outbreak or something of a massacre would occur in the State of Wisconsin. One woman, a Mrs. Salter, was massacred by an Indian, and one or two other murders were committed at the same time. The result was to produce a great state of excitement on the part of the people of Wisconsin, and it looked so alarming that some military force was called out at one time, and there was an appearance of an uprising of the people, and perhaps an indiscriminate slaughter of all the Indians that were remaining in the State of Wisconsin. But some of the public men in that section of the State, among whom was my honorable colleague in the other House, [Mr. McInnes], were active in taking the matter in hand, striving to keep down the excitement, and looking to some mode of taking care of the Indians with a view to their ultimate removal, and the people of the State became satisfied to leave the matter in the hands of the Government, and that these Indians should be provided for in some way.

The House of Representatives, acting upon this subject, have passed a bill, which is now before the Senate, providing for their removal, the Winnebagoes to join the Winnebagoes that were removed from Minnesota to the valley of the Missouri, and the Pottawatomies to join the tribe of Pottawatomies in the State of Kansas, and appropriating for that purpose the sum of \$30,000. When the question came before the Senate Committee on Indian Affairs it was believed by our committee that this sum of \$30,000 would be found inadequate if we should attempt the removal of these Indians in the present state of things in Wisconsin, as they are scattered about in small bands. It was thought that it would be more



advisable to make a small appropriation of \$10,000, and appoint some one as an agent to look after these scattered bands, to prevent their making depredations on the whites, and with a view to their ultimate removal when they should come under the control of an agent, and the proper time shall arrive, as it undoubtedly will, when peace shall be restored and affairs in the Indian Territory shall resume their normal condition. The policy of the people of Kansas, and so far as I know the policy of the Government, is that the Pottawatomies in Kansas shall be removed, when peace comes, to the Indian Territory, and to try and gather all the Indians we can within the limits of that Territory. We shall then expect and hope to have the Pottawatomies removed from Wisconsin to the tribe of the Pottawatomies to which they belong, and the Winnebagoes from Wisconsin to the Winnebagoes on the Missouri. But in the present state of affairs, owing to the fact that the Pottawatomies are still in Kansas, and that the people of Kansas have been overrun by Indian refugees from the Indian Territory, we thought it would be unwise, and was asking more of the people of Kansas than we would desire to ask, to have another band of Indians removed to that State at the present time.

It was with this view that the committee recommended this appropriation of \$10,000 to gather these Indians together, and for the appointment of an agent whose duty it shall be to look after these stray bands and prevent any disturbance of the peace in Wisconsin. If such a thing should occur, the expense would be very much greater, of course, as is always the case.

The amendment was agreed to.

Mr. DOOLITTLE. On page 36, after line eight hundred and fifty-nine, I move to insert:

For the erection of a saw and grist-mill, in accordance with the provisions of the fourth article of the treaty of June 9, 1855, \$10,000.

This relates to the western coast, in the State of Oregon. There is a treaty with the Walla-Walla, Cayuse, and Unatilla tribes, by the fourth article of which we bound ourselves to build a mill. I regret that the honorable Senator from Oregon [Mr. NESMITH] is not in his seat; but the facts which we learned from him and from the report of the Commissioner of Indian Affairs are that the mill has never been erected, and it is with mortification that I am called upon to state, but the truth compels me to say, that the agent who was appointed as long ago as 1856 or 1857, instead of using the money to build the mill, actually appropriated it to his own private purposes. At all events the money is gone, and the mill has not been erected.

Mr. JOHNSON. Did he not give bond?

Mr. DOOLITTLE. I do not know that I can answer the question.

Mr. POMEROY. As this provision is in the treaty, I do not know that we have any right to refuse to erect the mill. I will merely say that in regard to all cases where we have made provision in Indian treaties for the erection of a mill, I have never known one erected that was good for anything. I believe there is a provision for a mill in the treaties with almost all the tribes in my State; I know that we appropriated \$10,000 for a mill for the Sacs and Foxes and then \$10,000 more, and I do not know how much that mill finally cost, but it never amounted to anything, and you cannot make a saw-mill among Indians amount to anything. They do not want a saw-mill; they will not use the lumber. I do not know how we can avoid making the appropriation if the treaty requires it; but it has been neglected so long that I do not think it will hurt to neglect it a little longer.

Mr. DOOLITTLE. It is not only a saw-mill, but it is a flouring-mill attached. Certainly that is in the treaty, and that is the purpose of the amendment. I do not know but that what the honorable Senator from Kansas says may be true in many instances, but I believe that the agent who has just been appointed for these Indians, Mr. Wilbur, from all the recommendations we have of him, and from what we know of him, will faithfully apply the money, if appropriated, to the purposes for which it should be applied.

Mr. POMEROY. I have no doubt in regard to the agent. I only say that in the Indian country, away from facilities to keep a mill in repair, I have never known one kept long in repair, and

I have seen a great many that have been built. I do not know whether this is intended to be a water or a steam mill; but if it be a water mill the first thing we shall hear will be that the dam has gone off, and then there will have to be an appropriation to rebuild it. If it is a steam mill something about the machinery will get out of order; and there being no machine shop perhaps within a thousand miles, it will never be repaired. I only speak of the facts as I have known them to exist wherever there is a mill among the Indians. It is hardly ever a thing which is of any use. It is nearly always out of repair so as to be of no advantage. I do not know of an instance where any benefit has been received from it.

Mr. DOOLITTLE. The Senator from Oregon is not at this moment in his seat. I understand that this is to be a water mill. There is good water power at the place where it is proposed to build it. If there is any objection to the proposition, let it lie over until the Senator from Oregon comes in.

Mr. POMEROY. I shall not object.

Mr. JOHNSON. The treaties generally do not provide that the mill shall be kept in repair by the Government, but only that the mill shall be built. I do not know how it is in this case.

Mr. DOOLITTLE. I will read the article:

"In addition to the consideration above specified the United States agree to erect at suitable points on the reservation one saw-mill and one flouring-mill, a building suitable for a hospital, two school-houses, one blacksmith shop, one building for a wagon and plow maker, and one carpenter and joiner's shop and one dwelling for each, two millers, one farmer, one superintendent of farming operations, two school-teachers, one blacksmith, one wagon and plow maker, and one carpenter, and to each the necessary buildings and outbuildings, and to purchase and keep in repair for the term of twenty years all necessary fixtures and mechanical tools, medicines, and hospital stores, books, stationery for schools, and furniture for employes."

Such is the provision, that we are to keep the fixtures in repair, and those are the machinery.

Mr. POMEROY. Has there been any estimate? As it is supposed that \$10,000 will build the mill? Why make the appropriation unless there is a reasonable certainty that a mill can be built for that money in that country at this time?

Mr. DOOLITTLE. If the Senator is disposed to resist the amendment I shall ask that it shall lie over until the Senator from Oregon is in his seat, because he can explain the particulars, and the committee relied very much on his statement of facts and on other facts which they ascertained. I understand it to be an excellent water power, and the sum of \$10,000 I have no doubt will build a saw-mill with a run of stones attached sufficient for the purposes of the Indian tribes to grind their corn and saw their lumber.

Mr. POMEROY. If there is any reasonable prospect that that sum will build a mill, I shall make no objection at this time.

The amendment was agreed to.

Mr. DOOLITTLE. I am also instructed by the committee to offer this amendment to come in after line eleven hundred and eleven, page 46:

New Mexico superintendency:

For deficiency in the appropriation for the Indian service in New Mexico for the fiscal year ending June 30, 1884, \$25,000.

The amendment was agreed to.

Mr. DOOLITTLE. After line eleven hundred and sixty-three, page 48, under the head of "Goship Bands of Shoshonees," I move to insert the following:

To pay James Duane Doty for services rendered as commissioner to negotiate treaties with the Shoshonee or Snake Indians and treating with them and with bands of the Utah and Goship nation for peace, commencing on the 19th day of June, 1863, and ending on the 30th day of August, 1863, being one hundred and sixty-five days, at eight dollars per day, \$1,320.

I will explain this amendment to the Senate. The gentleman who was employed by the Department to negotiate this treaty was Governor of the Territory of Utah, but not, by virtue of his office, superintendent of Indian affairs. The Department having confidence in his experience and capacity employed him to go into the Territory adjoining to negotiate those treaties at an expense probably less than would have been incurred by employing and sending a person from here to negotiate them. The committee thought that this amount was but reasonable, and that it was economical on the part of the Government to employ him rather than to send another commissioner there.

Mr. TRUMBULL. I submit whether that is not a private claim and not in order upon this bill. I should like in making that suggestion to ask a question if it is to be considered, where was the superintendent of Indian affairs for that Territory that it was necessary to appoint another officer to make this treaty? I suppose there is a superintendent of Indian affairs there. But, sir, the 30th rule of the Senate provides:

"And no amendments shall be received whose object is to provide for a private claim, unless it be to carry out the provisions of an existing law or a treaty stipulation."

This, I should think, under that rule was clearly a private claim.

Mr. SHERMAN. It is certainly not to carry out an existing law, because there is no law authorizing it.

Mr. TRUMBULL. And I suppose there is no treaty providing for it.

Mr. HARLAN. I suppose the money has been paid really by the Commissioner of Indian Affairs to this party as his agent to negotiate the treaty.

Mr. TRUMBULL. Then let him pay it out of his own salary.

Mr. HARLAN. In most cases the Governor of a Territory receives a separate salary for acting as superintendent of Indian affairs within the Territory. In this case, however, there is no salary paid to the Governor as superintendent of Indian affairs.

Mr. TRUMBULL. Was there no superintendent there?

Mr. HARLAN. There was no superintendent of Indian affairs in the Territory at the time, as I understand it, and the Commissioner of Indian Affairs here appointed Governor Doty to act for the Government, and I suppose he has paid him.

Mr. SHERMAN. This is the second time I have heard the remark made by gentlemen on the Indian Committee that the money is already paid. If I believed that that was absolutely so, that the money had been paid, I certainly never would vote for it under any circumstances. If it was paid at all, it was paid in plain violation of law, and in disregard of the constitutional obligations of the oath taken by our officers which forbids the payment of money from the Treasury of the United States except in pursuance of law and in pursuance of an appropriation made by Congress; so that if, as the Senator supposes, the Commissioner of Indian Affairs has paid this money, I for one would insist, whatever may be the amount, that he should pay it out of his own pocket and lose it, as an example to every other officer in the Government, because no money can be paid from the Treasury of the United States except in pursuance of law and in pursuance of an appropriation made after the passage of the law.

Notwithstanding the declaration of the honorable Senator from Iowa, my impression is that it is simply a debt incurred, and not money yet paid. If it is money paid, I certainly will insist upon the person who paid the money without law losing it; but in either event it would be a private claim. In the one case it would be money due to the Commissioner of Indian Affairs for money illegally paid, or paid without authority of law; in the other case it is money due to Governor Doty for private services, not in pursuance of any law. It is not a recommendation made to us in the ordinary way, through the ordinary channel of communication. I think, therefore, it ought to rest on its own merits as a private bill, and be sent to the committee over which you, sir, have the honor to preside, so that its merits and legality may be examined.

Mr. HARLAN. I do not perceive anything in the point raised by the Senator. We have just agreed to an amendment making an appropriation of \$137,000, which is entirely similar in some respects. There was no law authorizing the payment of \$137,000 to prevent the Winnebagoes from starving, none whatever.

Mr. SHERMAN. If the Senator will allow me, I looked at the report on that very point, and I found that the money was not paid; it was simply a debt incurred. In that case I will further state that there was an existing appropriation, but the amount having been exhausted, the agent wrote that the amount was not sufficient, that he had incurred a liability of \$53,000, and that he wanted the money to make it good.

Mr. HARLAN. The principle, if I comprehend it, is precisely the same. They contract to pay the money, and a debt is incurred. If it is without authority of law, of course it is a liability incurred by the party himself as an individual, and if he applies to Congress for an appropriation to meet it, it is a private claim; it was not authorized by law, and of course must go by the board; so that in every case where an officer of the Government exceeds an appropriation, if the Senator's idea should be carried out, he must present a private claim to Congress. It seems to me that that principle has never been acted on here. An emergency arises, and the officer of the Government believing the emergency justifies him in making provision for the case, either incurs a debt or takes the money from some other appropriation and meets it, expecting that Congress will approve what has been done, and make the appropriation when Congress shall again convene. I do not doubt myself that this money has been paid; that is, informally paid. I do not perceive how the party could proceed to negotiate this treaty without the expenditure of either his own money or the money of the Government. The presumption is that he drew on the Commissioner and the Commissioner sent him an amount of money sufficient to defray the expenses. It may not have been charged to any account; it probably has not been; but it is a liability incurred by the officer in carrying out the duties of the office for the Government, and not for any individual. It seems to me it does not involve the principle stated by the Senator from Ohio.

Mr. DOOLITTLE. I requested the chief clerk of the Commissioner of Indian Affairs to sit by my side while we were acting upon this bill in order that if any difficulty arose I might inquire of him and get information as to some particular facts. He informs me that the expenses of Governor Doty were paid. He also presented to the Department his account at eight dollars per day for his services; but the Department could not allow it, and it rests in that way. In their estimates for deficiencies the Department have estimated this among the deficiencies to enable them to meet what is a just claim. I will state to my honorable friend from Ohio that I do not look upon this as in the nature of a private claim. It is a deficiency incurred by the Department in the performance of its duty as such and in the negotiation of these treaties.

Mr. JOHNSON. Have we authorized them to make those treaties?

Mr. DOOLITTLE. Yes, sir; they were authorized to make them; the treaties have been confirmed; and as this amendment provides for a deficiency I think we had better allow it to go on this bill.

Mr. POMEROY. I wish to say in reply to a remark made by the Senator from Ohio, that if this is a private claim the examination and investigation of it certainly do not belong to the Committee on Claims. By a law of Congress, all claims growing out of contracts, either express or implied, go to the Court of Claims. It could not be considered by the Committee on Claims unless there was a special resolution passed giving that committee jurisdiction of it.

I wish to say in addition, that I consider this as one of the most economical appropriations to make a treaty in that part of the country that could have been made. If you had sent a man from the Indian office out there to make the treaty, his expenses, his stage fare and railroad fare in going across the continent would have consumed half this amount. This is one of the most economical measures, at any rate, that could have been conceived of to make a treaty in that section of the country. If there was a law of Congress authorizing that treaty to be made, this is a legitimate expense growing out of a law of Congress. I do not know whether there was or not; but if there was, it was a legitimate expenditure of the Indian office, and the Commissioner had the right to make it.

Mr. TRUMBULL. If this is not a private

claim, I do not know how you can get a private claim. Here is a person who claims pay for services that he has rendered. He was employed without any authority of law. The Senator from Kansas knows very well that a law is not passed to make a treaty. The treaty itself comes here and is ratified by the Senate. The Senate may or may not ratify the treaty.

Mr. POMEROY. The Senator is aware that no treaty can be made unless the party making it is authorized to do so either by a law of Congress or by the decision of the Department.

Mr. TRUMBULL. I am not aware that a treaty cannot be made without a law being passed to authorize it. I suppose all or nearly all our treaties are made without consulting Congress. The executive authority takes it upon himself to negotiate a treaty with some foreign Power, and that treaty—

Mr. POMEROY. In reference to Indian treaties there is a special law.

Mr. TRUMBULL. And when the treaty is concluded or agreed upon by the parties it is submitted or rather sent for ratification to the Senate, and unless it is ratified it amounts to nothing. These agreements that we enter into with the Indians we call "treaties." I think it a misnomer myself. They are little more than enactments of Congress. We change and alter them pretty much as we please after we have made them. But I think this is a private claim. I submit the question to the decision of the Chair, whether it is not a private claim.

The PRESIDENT *pro tempore*. The Chair has no any doubt that it is a private claim.

Mr. TRUMBULL. Then it is not in order on this bill.

Mr. SUMNER. I will state that I believe this case is not unlike some that have occurred in connection with our foreign relations, and they have been treated as private claims. There are one or two instances that come to my mind now.

Mr. DOOLITTLE. I can only say that if it be a private claim I believe it is a good one. I shall not raise any question on the decision of the Chair.

I now offer an amendment for the purpose of carrying into effect the late treaty which was ratified between the United States and the Red lake and Pembina Indians of Minnesota in that large purchase. The amendment includes several appropriations to carry out the several articles of the treaty.

The Secretary read the amendment, which was to insert after line eleven hundred and ninety-five, page 49, the following:

Chippewas of Red Lake and Pembina:

For this amount as annuity to be paid *pro rata* to the Red lake band of Chippewas, during the pleasure of the President, per third article of treaty of October 2, 1863, and second article supplementary to treaty April 12, 1864, approved April 25, 1864, \$10,000.

For this amount to the Pembina band of Chippewas, per same article and treaty, during the pleasure of the President, \$5,000.

For the first of fifteen installments to be expended annually for the purpose of supplying them with gilling twine, cotton matter, calico, linsley, blankets, sheeting, flannels, provisions, farming tools, and for such other useful articles, and for such other useful purposes as may be deemed for their best interests, per article of the supplementary treaty April 12, 1864, \$15,000.

For the first of fifteen installments for same objects for the Pembina band of Chippewas, per third article of the supplementary treaty April 12, 1864, \$4,000.

For the first of fifteen installments for the pay of one blacksmith, one physician who shall furnish medicine for the sick, one miller, and one farmer, per fourth article supplementary treaty of April 12, 1864, \$3,500.

For first of fifteen installments for the purchase of iron and steel and other articles for blacksmithing purposes, per fourth article supplementary treaty April 12, 1864, \$1,500.

For first of fifteen installments to be expended for carpentering and other purposes, per fourth article of supplementary treaty April 12, 1864, \$1,000.

For this amount to be expended in building a saw-mill with a run of mill-stones attached, per fifth article supplementary treaty April 12, 1864, \$5,000.

For this amount to be paid to the chiefs of said bands through their agents, per fourth article treaty October 2, 1863, as amended March 1, 1864, and modified by the sixth article supplementary treaty April 12, 1864, \$25,000.

For this amount for the payment of claims of injured persons for depredations committed by said Indians on the goods of certain British and American traders at the mouth

of Red lake, and for exactions forcibly levied on the proprietors of steamboats plying on Red river, to be paid in full and the remainder to be paid *pro rata* upon the debts of said tribe incurred since the 1st day of January, 1859, to be ascertained by the agents in connection with the chiefs, per fourth article treaty October 2, 1863, as amended March 1, 1864, and modified by the sixth article supplementary treaty April 12, 1864, \$75,000.

For this amount to defray the expense of cutting out a road from Leach lake to Red river, per fifth article of treaty October 2, 1863, \$5,000.

For the first of fifteen installments to defray the expense of a board of visitors to consist of not more than three persons to attend upon the annuity payments of the said Chippewa Indians, whose salary shall not exceed five dollars per day, nor more than twenty days, and ten cents per mile traveling expenses, and not to exceed three hundred miles, per sixth article of treaty October 2, 1863, \$390.

For insurance and transportation of annuity goods and provisions and material for building mill, including machinery, iron, and steel for blacksmiths, &c., for the Chippewas of Red lake and Pembina tribe, \$10,000.

For this amount to defray the expense of bringing on the delegation of Chippewas of Red lake and Pembina tribe, and to defray their expenses while detained in this city in making treaty, and their return to their home, \$17,500.

For this amount to defray the expense of a board of visitors, to consist of not more than three persons, to attend upon the annuity payments of the Mississippi and the Pottawamie and Lake Winnebagoish bands of Chippewa Indians in Minnesota, whose salary shall not exceed five dollars per day, and not to be employed more than twenty days to attend upon any one payment and the duties connected therewith, and ten cents per mile for travel, not exceeding three hundred miles, per Senate amendment to seventh article treaty of March 11, 1863, for the fiscal year ending June 30, 1864, \$390.

Same for fiscal year ending June 30, 1865, \$390.

Mr. FESSENDEN. Are all those appropriations to carry out the treaty?

Mr. DOOLITTLE. There is one item in that amendment which is not in the treaty, and about which I should like to make an inquiry of the Senator from Minnesota, [Mr. WILKINSON,] whom I do not now see in his seat. I had supposed that each of the provisions of the amendment was to cover something contained in the treaty. I will ask, therefore, that the matter stand open for the time being, by unanimous consent, until I can see the Senator from Minnesota about it.

The PRESIDENT *pro tempore*. The Chair will suggest that if it should be adopted now, it will come up again in the Senate, and then it can be amended, if necessary.

Mr. DOOLITTLE. Very well. Let it be passed now, and I can move to amend it, if necessary, when the bill shall be reported to the Senate.

The amendment was agreed to.

Mr. DOOLITTLE. On page 49, lines eleven hundred and ninety-eight and eleven hundred and ninety-nine, I move to strike out the words "superintending agents," and to insert "superintendent and agents;" so that the clause will read:

For the general incidental expenses of the Indian service in California, including traveling expenses of the superintendent and agents, \$7,500.

The amendment was agreed to.

Mr. DOOLITTLE. On page 50, line twelve hundred and two, I move to strike out the words "for the northern district of," and to insert the word "in;" and in the same line to strike out "35" and insert "55;" so that the clause will read:

For the purchase of cattle for beef and milk, together with clothing and food, teams and farming tools, for Indians in California, \$55,000.

The bill as it stands appropriates for the northern and southern district of California, whereas there is but one district in conformity with existing law.

The amendment was agreed to.

Mr. DOOLITTLE. I now move to strike out from line twelve hundred and four to line twelve hundred and seven inclusive, in the following words:

For the purchase of cattle for beef and milk, together with clothing and food, teams and farming tools, for Indians for the southern district of California, \$30,000.

The amendment was agreed to.

Mr. DOOLITTLE. There is no provision in the bill as it stands for the expenses of the Indian service in Dakota. On the recommendation of the Secretary of the Interior and the statement of the Commissioner of Indian Affairs of the necessity of an appropriation for the Indian service in

that Territory, I send the following amendment to the Chair to be inserted after line twelve hundred and fifty-one, on page 51:

For general incidental expenses of the Indian service in the Territory of Dakota, including the purchase of goods and other articles, with a view to the preservation of peace, \$10,000.

The amendment was agreed to.

Mr. DOOLITTLE. There is one other amendment in relation to the deficiencies in the Indian service, and that is for the Territory of Utah, and then I believe I am done on that subject. It is to insert after line twelve hundred and fifty-nine, page 52, the following:

For deficiency in the appropriation for the Indian service in Utah Territory for the fiscal year ending June 30, 1864, \$15,000.

For the transportation and necessary expenses of delivery of provisions, &c., to the Indians within the Utah superintendency for the fiscal year ending June 30, 1865, \$22,500.

Mr. FESSENDEN. I should like to have some explanation of that amendment.

Mr. DOOLITTLE. I have here a letter from the acting Governor and ex officio superintendent of Indian affairs of the Territory of Utah, which I will read:

SUPERINTENDENCY INDIAN AFFAIRS,  
GREAT SALT LAKE CITY, February 24, 1864.

Sir: Some time since I wrote to Governor Doty asking him to explain to you the necessity of my having funds for the Indian service, and ask you to place to my credit with the United States Assistant Treasurer in New York city ten thousand dollars, (\$10,000.) He telegraphed to me to send you a bond in the penal sum of \$10,000 approved, which I herewith inclose, and which I hope will be satisfactory to you.

This has been the most severe winter we have had in this country for many years; very severe on the Indians; and it has been more laborious to attend to them than any season we have been here. They have given signs of disturbances in various parts of the Territory, especially in the west, on the overland mail route. It is of the utmost importance that they should be kept quiet, not only for general peace and the safety of the overland mail line, but in view of the extensive development anticipated for the coming season of the immense mineral wealth of this Territory, which you will readily understand is of the greatest importance in every respect. It has been necessary to feed and clothe the Indians quite extensively. I need this money immediately, and trust you will have it placed to my credit as soon as possible, and inform me by telegraph, addressing me by the title under which you deposit it, that I may know how to draw drafts, as I shall need to draw immediately. I wish it so as to keep it distinct from my funds as acting Governor, and also my funds as secretary of this Territory, in the same depository.

I cannot get along with less than \$10,000, and it really ought to be \$15,000; otherwise I will probably be obliged to call on you again early in the next quarter.

From the great press of current and necessary business of the three departments that I have to attend to that is crowded upon me constantly, together with an illness for the past three weeks, I have been unable thus far to forward my accounts for the 31st of December. I trust circumstances will excuse this delay. I shall forward them now in a few days.

I have the honor to be, most respectfully, your obedient servant,

AMOS REED,  
Acting Governor, and  
Ex Officio Superintendent Indian Affairs.

Hon. WILLIAM P. DOLE,  
Commissioner of Indian Affairs.

Upon this and other statements the Secretary of the Interior and Commissioner of Indian Affairs estimated for and recommended the appropriation of \$15,000. They also estimate for the transportation of supplies the amount stated in the amendment.

The amendment was agreed to.

Mr. DOOLITTLE. I now move to insert at the end of the bill the following section, which in effect confiscates the annuities of those Indians who are in hostility to the United States for the benefit of the friendly Indians:

And be it further enacted, That the Secretary of the Interior be, and he is hereby, authorized to expend such part of the amount herein appropriated to carry into effect any treaty stipulation with any tribe or tribes of Indians, all or any portion of whom shall be in a state of actual hostility to the Government of the United States, including the Cherokees, Creeks, Choctaws, Chickasaws, Seminoles, Wichitaws, and other affiliated tribes, as may be necessary to support such individual members of said tribes as have been driven from their homes or reduced to want on account of their friendship to the United States, and enable them to subsist until they can support themselves in their own country: *Provided*, That an account shall be kept of the sums so paid for the benefit of the said members of said tribes, which account shall be rendered to Congress at the commencement of the next session thereof; and all purchases of articles for the purposes above set forth shall be made of the lowest responsible bidder after sufficient public notice by advertisement in appropriate newspapers: *Provided*, also, That the said Secretary shall not be required to accept any bid which is, in his judgment, unreasonable in its character.

This is substantially the same provision con-

tained in the last two or three Indian appropriation bills, having reference particularly to the Choctaws, Chickasaws, Wichitaws, and those Indians who are in hostility to the United States, allowing the use of their annuities to support the friendly and suffering Indians who are loyal to the United States.

Mr. LANE, of Kansas. The Congress of the United States, in providing for the subsistence of the refugee Indians, inserted a proviso that no portion of the funds should be expended until the Indians had arrived in the Indian country, or in connection with their removal. I want the same provision added to this amendment. I presume the chairman of the Committee on Indian Affairs will not object to it.

The PRESIDENT *pro tempore*. The Senator can reduce his amendment to writing and send it to the Chair.

Mr. LANE, of Kansas. I move to amend the amendment by adding the following proviso. I have not the verbiage used in the other bill, but it is the sense of it:

*Provided further*, That no part of said annuities shall be expended outside of the Indian country, or in connection with their removal to that country.

Mr. HARLAN. I think it would not be safe to adopt that amendment. The superintendent for that district is removing the Indians; he is on the way down with them to their own homes; but the condition of the country is unsettled; they might be driven back. A part of those Indians are not being removed, on account of their condition. One whole tribe is down with the small-pox, and they cannot get them off. It would not be right to withhold the application of this money if a contingency of that kind should arise. I would have no objection to it if the country was at peace and there were no impediments to their removal and the Indians were in a condition to be removed. I have a letter on my desk now that I received in the morning mail, stating that a majority of one of those tribes cannot be removed on account of their condition; they are down with the small-pox. I think the Senator from Kansas had better not insist on the adoption of his amendment.

Mr. LANE, of Kansas. I do insist upon my amendment, and it covers the case put by the Senator from Iowa by the words "or in connection with their removal." The medicating them preparatory to their removal can be provided under my amendment. After a full discussion of the proposition such a provision was attached to the appropriation of \$153,000 to the refugee Indians. I desire to have the Senate understand how this matter is, so far as the State which I in part represent is concerned. The refugee Indians are in our State. They live upon our people. They are a nuisance among us. If the citizens of Kansas are to feed them I want them to have the claim for feeding. I do not want a set of heartless speculators to draw the Government money and put it in their pockets and compel our people to feed them in addition.

Mr. HARLAN. If the Senator will allow me, it seems to me it will be worse for his people if this amendment should be adopted than if it were not. The amendment is to prevent the use of the money outside of the Indian Territory. If rebel guerrillas should drive back the loyal Indians from the Indian Territory into Kansas, which is nearer to them than any other State where they would be likely to live in peace, and you cannot apply this appropriation in aiding their support, of course the people of Kansas would have to provide the entire amount necessary for their support.

Mr. LANE, of Kansas. They will have to do that anyhow, I will say to the Senator.

Mr. HARLAN. They would be relieved to the amount of this appropriation if the amendment offered by the Senator from Wisconsin should prevail.

Mr. LANE, of Kansas. Not by any means. The speculators who pretend to feed the refugee Indians would put the money in their own pockets and we should still have to feed them. These Indians are being removed; and they are as safe at Fort Gibson or in any portion of the Indian country as they are in our State. The same army that protects Kansas protects the Indian country. Fort Smith is the strategic point with which we defend Kansas, and that protects the Indian country. I should like to call the atten-

tion of the Senate to the terrific misfortune that it is upon our people to have these refugee Indians among us. I believe the Indian department are doing their utmost now to remove the Indians. I want to hold that department where the proviso to the \$153,000 appropriation placed them. I appeal to the Senator from Iowa and the Senator from Wisconsin that it would be better not to appropriate this money at all unless my amendment be adopted; keep it in your vaults or wherever it is and not allow one dollar of it to be expended upon the refugee Indians in Kansas. Our people have to feed the Indians, and the creatures who are preying upon the Government are putting your money in their pockets.

Mr. POMEROY. I can very well conceive of a condition of things in which it would be very necessary to have this appropriation expended in my State. These Indians have been down once into the Indian country, and a portion of them have come back again. The Government are now making an effort to take down all of them that can be removed. A great many of them are sick and not in a condition to be moved. They cannot all be moved this year. Besides it is so late in the season there would be but little use in taking them down, as they could not raise a crop, and if we take them down we shall have to feed them from the commissary stores of the Army or in some other way. If they must be fed it will be vastly cheaper for the Government to feed them in my State. If you take them down to the Indian country, the goods furnished to them will have to be transported from the Missouri river by land to the Indian country, and it will cost just about twice as much to feed them down there as to feed them in my State.

I am as anxious as my colleague is to have them removed; but it is out of the question to remove them all at present. As the Senator from Iowa has very well said, a large portion of one of the tribes is not in a condition to be removed; it is utterly impossible to move them, and the department ought at least to have an appropriation to sustain them while they are in the State. These Indians are on a reservation. I am not informed whether they mingle very much among the settlements of the whites or not. They are on the Sac and Fox reservation, which is somewhat removed from any white settlement. I am not so well informed, perhaps, as I ought to be; but I certainly think this amendment of the committee should not be put in such a way as to prevent the department, in case some portion of these Indians are obliged to remain in the States, from taking care of them there.

Mr. LANE, of Kansas. The result of the amendment offered by the Senator from Wisconsin will be to retain all of the refugee Indians in Kansas. Where they can be fed by the Government, they will remain among the white people. If the Government consents for them to remain on the Sac and Fox reserve, there they will remain in the very center of our State within ten or twelve miles of the town where I live and surrounded by four or five other towns.

The statement that they cannot raise a crop in the Indian country I cannot indorse.

Mr. POMEROY. It is too late in the season to raise a crop this year.

Mr. LANE, of Kansas. We plant corn in Kansas about the middle of July. I planted a crop of corn last year in the bottoms of Kansas after the 15th of July, and raised a fine crop. That is further south than we are. So far as a crop of vegetables is concerned, they can raise a crop of vegetables after the 1st of July with ease.

But here is a nuisance inflicted upon our State; and not only that, it is a political corruption fund in our State; and I propose as far as I can to remove that. I ask to have the provision attached to this proposition that was affixed by Congress to the other appropriation. I hope it will be granted.

Mr. POMEROY. I think there cannot be a doubt of this fact: if the Indians who are now sick in my State and are not removed have to make the journey to the Indian country and then prepare their land after they get there for a crop, this season will certainly be gone. It is now almost the middle of June. They cannot be got down there before the middle of July.

Mr. LANE, of Kansas. They are on their way there now.



Mr. POMEROY. I am speaking of that portion who are not in a situation to be moved, and I think Senators will certainly see it is very clear they cannot make a crop this year. In the first place they are not there; it will take them half the season if they were there, and it is hardly worth while to talk about it.

Mr. LANE, of Kansas. I ask for the yeas and nays upon the adoption of my amendment to the amendment.

The yeas and nays were ordered.

#### ARMY APPROPRIATION BILL.

Mr. HOWE. The Senator from Massachusetts [Mr. Wilson] is now in his seat, and if there is no objection I should like to postpone this bill for a moment to take up the report of the committee of conference on House bill No. 195.

The PRESIDENT *pro tempore*. The Senator from Wisconsin desires the unanimous consent of the Senate to consider at the present time the report of the committee of conference on the bill (H. R. No. 195) making appropriations for the support of the Army for the year ending June 30, 1865. The Chair hears no objection, and it is before the Senate. The question is on concurring in the report.

Mr. FESSENDEN. I should like to have it explained, so that we may understand what the committee have agreed upon.

Mr. HOWE. The House recede from their disagreement to the seventh amendment of the Senate, and we recede from our ninth amendment. The eighth amendment was the one about which the controversy arose, and we have agreed to a substitute for that section.

Mr. FESSENDEN. What is the substitute?

Mr. HOWE. Perhaps the Secretary had better read the section we agreed upon as a substitute for the fourth section of the bill.

The Secretary read a portion of the report of the conference committee, as follows:

That the House recede from their disagreement to the eighth amendment of the Senate, and agree to the same with an amendment as follows, and the Senate agree to the same: strike out all after the enacting clause (being section four) and insert in lieu thereof the following:

That all persons of color who were free on the 19th day of April, 1861, and who have been enlisted and mustered into the military service of the United States, shall from the time of their enlistment be entitled to receive the pay, bounty, and clothing allowed to such persons by the laws existing at the time of their enlistment. And the Attorney General of the United States is hereby authorized to determine any question of law arising under this provision. And if the Attorney General aforesaid shall determine that any of such enlisted persons are entitled to receive any pay, bounty, or clothing in addition to what they have already received, the Secretary of War shall make all necessary regulations to enable the pay department to make payment in accordance with such determination.

Mr. WILSON. I desire an explanation of this report. The fourth section of the Senate amendments provides that colored persons—not free persons, but colored persons—who have enlisted into the service, if they were promised that they should have full pay, shall receive that pay, and the Secretary of War shall determine the question. It was thought that under that section, two Massachusetts regiments, two or three raised in South Carolina under General Hunter who had authority to raise them at full pay, and one or two regiments raised by General Butler at New Orleans, perhaps in all some ten regiments in the country, would receive the back pay of thirteen dollars a month; that the question would be left to the Secretary of War; and there would be no difficulty about their payment. It also provided that the pay of these other colored regiments, more than one hundred in number, raised by the Government with the distinct understanding that they were to have only this sum of money, that is, ten dollars a month, should not be interfered with; but after the 1st of January of the present year they should have full pay.

If I understand the substitute reported by the committee of conference, it is simply this: all colored soldiers who were free on the 19th day of April, 1861, are to receive the pay that the law allows them; and the Attorney General is to decide what that pay is to be. Why limit it to those who were free in April, 1861? These South Carolina men were not free at that time. The men enlisted in Colonel Higginson's regiment and Colonel Montgomery's regiment, who were enlisted under the authority of General Hunter and General Saxton, and those enlisted by General Butler at New Orleans and mustered into the service

were not free men. They were mostly, certainly in South Carolina, slaves. I think in Louisiana many of them were free men; but they were mixed. There is no doubt that those South Carolina regiments ought to have this pay; and I think it is very wrong in the Government to quibble about it. Some of the men in those regiments have absolutely worked for the Government for nearly two years, and have not received pay enough to pay their expenses for clothing. The Massachusetts regiments have never received any pay at all. Several of these regiments have been almost in a state of mutiny. It is with the greatest difficulty that mutinies are kept down in some of those regiments on account of the feeling in regard to their pay. The fifty-fourth Massachusetts regiment has lost more than half of its men in killed and wounded in the war. It seems to me to limit this provision to men free in 1861 leaves out the men who were slaves at that time, and who ought to have equal justice done them. If that is the understanding of the report, certainly I am opposed to it; but it may be that the committee can explain it so that it will be satisfactory.

Mr. POMEROY. I am certain that this report of the committee of conference is very unjust to one or two regiments in my State. It provides that if a man was free on a certain day in April, 1861, he can be paid. There are two regiments of colored men raised in my State who are now in the service. They have no means of proving that they were free at that time. We never heard any questions asked whether they were free or not. This committee of conference now propose to say that if they were free on a certain day they can be paid. It throws the burden of proof on them to show that they were free, when it ought to be the other way. I want the Government, or somebody else, to prove that they were slaves if they can. Under this proposition a colored man may be in the Army, perhaps in front of the enemy, and yet when the paymaster comes along he says to him, "If you can prove that you were free on the 19th of April, 1861, I can pay you." The poor man will reply, "I cannot prove anything about it; here I am in the enemy's country; here I am for the flag; for the cause; I cannot prove anything about that; that is making me prove what I cannot prove." I do not suppose there is a colored man in my State who can prove that he was free on any given day. He concludes that he is free. We conclude that he is free. Nobody has ever been after him. We found him in the State, like the rest of us. We came from various States and got together there, white and colored. We have not asked them where they came from. It may be the presumption that they were all runaways from Missouri or Arkansas, because they are black; but that we do not know. But, sir, they were taken into the service of the United States; were mustered into that service, and have not been paid, I am sorry to say; and under this report of the committee of conference they cannot be paid, because they are unable to prove either that they were free or slaves on any given day.

Mr. CONNESS. I should like to hear some reason for this, as it seems to me, most unreasonable and unjust discrimination contained in this report. I have no speech to make further than to say, in addition to what I have now said, that of all the propositions that have been submitted to the Senate on this subject of the payment of colored troops, the one contained in this report seems to my mind the most ridiculous, the most extraordinary, the most inconsistent, and the most difficult to be applied. Pay a man who is carrying your arms and fighting your battles because he was free on a certain day, and not because he fights! Pay a man because he was free by chance or accident, and refuse to pay a man who is made free by the proclamation of the President! Pay a man who was free, who perhaps has made a very poor soldier indeed, and refuse pay to a man who was a very hero when heroes were needed! Of all the forms this proposition has assumed from the beginning, I think it has finally succeeded in this form in assuming the most ridiculous one. I should like to know how it came in such a shape.

Mr. HOWE. Mr. President, I feel rather flattered by the comments of the distinguished Senator from California. I hardly know how to make

my acknowledgments of the fine terms in which he has spoken of the humble efforts of the last committee of conference that undertook to reconcile the two belligerent Houses of Congress. I think I may say, however, on behalf of this committee, that if they had undertaken to reflect the views of individual members, certainly if they had undertaken to reflect my views, or if they had confined themselves exclusively to an effort to reflect the views of either House of Congress, they probably would not have produced precisely such a report as they have; but it will be borne in mind by the Senate that there was a collision here between the two Houses, a collision of opinions which it seemed to be a little difficult to get out of. I think this is the third committee which has been convened to consider these difficulties.

Upon this one point the House of Representatives and the Senate, by their respective action, seemed to concede that the law made a difference between the pay of soldiers with color and soldiers without any color to speak of; but the House insisting that with or without color they were worth just about so much proposed to put colored soldiers upon the ground of a *quantum meruit*, and to provide by law for the payment of colored soldiers at the same rate as white soldiers are paid upon the same very plain ground that they are worth just as much. The Senate, seeming to deny that they were worth as much on the whole, proposed to pay them upon the ground of a special contract, not made with the Government, but made with some officer of the Government with or without authority.

The committee found some difficulty in agreeing to the proposition that negroes were worth as much as soldiers as white men, and then fore they were not willing to agree to the House proposition. Other gentlemen were disinclined to agree to the proposition that they would pay a man more than he is worth simply upon the ground of a contract which was made without any authority, and therefore they were unwilling to agree to the Senate proposition. In the mean time this committee, or at least a majority of them, were of the opinion that the law was at the time these men were enlisted that they should have the same rate of pay as white troops; that the law made no distinction between the payment of white and colored troops; and they were willing to submit that question to the Attorney General of the United States. Those who thought that the negro was not worth as much as a soldier as a white man still had no very good reason for refusing to pay them what the law gave them, and therefore had no very good objection to offer to this proposition. They agreed to it. They agreed to that sort of arbitration.

But there was another difficulty to get along with. There were those who, although they were willing to refer the question whether negroes who were free at the breaking out of the war should receive this amount of pay, were so firmly of the opinion that the men who had been made free in the progress of the war had received a very large compensation for their services as soldiers, that they were not willing to refer the question to the Attorney General as to whether they should have this back pay or not. That was the case with some. That was one of the opinions that we found.

If I may be allowed to speak for myself I will say that I did anticipate, and do now believe, that if the law shall be settled that black men who were free before the 19th of April, 1861, were entitled to thirteen dollars a month, it will be settled that those who were made free afterwards were entitled to the same rate of pay; that the disputed question, if there is any as to the question of law, is as to whether the law made a distinction between the pay of black and white troops, but there can be, I think, no pretense that there is a discrimination made in the law between the pay of those black troops who were free before a certain date and those who were made free afterwards. Whether there ought to be such a discrimination is another question. I do not think there is any such discrimination now made in the law.

There was another difficulty in undertaking to regulate this matter upon the ground of a contract. It raised a question of fact which I understand is going to be a very ugly one to settle, upon which the controversy is, I understand, a little violent, and it was desired to avoid that. I think, how-

ever, if the Senate see fit to adopt this report they will save the bill, which is an object of itself, and they will obtain an adjudication from the law officer of the Government upon the question, as to what the legal rate of pay was for these persons. If it should be adverse to the claims of these persons, still the law will be settled, and they will have nothing to say except that the law did not give them the pay which they ought to have had; and they can come in hereafter as claimants, not upon the ground of contract, but upon the ground that the law did not do them justice. If it is settled in their favor, then they will get just what they claim, and you will have the principle settled. You will not have it settled upon the principle of special legislation, but the pay will be given to them upon an adjudication of the laws as they now stand.

Mr. SUMNER. The last chapter of *Rasselas* is entitled "a conclusion in which nothing is concluded," and I think that title may be properly given to the report of this committee. It surely does not settle any of the questions which have been in discussion here in this Senate relating to the pay of colored troops, and which have been in discussion between the two Houses.

Mr. HOWE. I have just simply one favor to ask of the Senator from Massachusetts, and that is, that he will leave the humor of this debate to my friend here from California. Let him give us the logic.

Mr. SUMNER. That I gladly do.

Mr. CONNESS. I hope you will leave no more of it to me; I have done with it.

Mr. SUMNER. However, the Senator will allow me to observe very plainly that the report does not seem to settle the question in issue. It does settle the question with regard to two Massachusetts regiments, the fifty-fourth and fifty-fifth Massachusetts regiments, and that is all. As I said before when this report was first called up, if I were here merely to look after the interests of my own constituents, I might rest satisfied; but there are certainly two regiments enlisted in South Carolina, and I have reason to believe, also, four regiments enlisted in Louisiana, with regard to which there has been a question in this Chamber, and also in the other House, whose cases are not touched by this report except unfavorably; that is, those regiments that have been claiming compensation during all this session get none under this report. Now, sir, I am unwilling to sanction any such report. Much as I desire to have the case of the Massachusetts regiments settled, I do not want to see them settled except in company with those other cases. They are all to a certain extent on an equality, and they ought to be settled at once by the same statute, or, if you please, by the same report.

It seems to me, therefore, that we ought to cut this question short by rejecting the report of the committee, and then by a vote to insist upon the Senate amendments, and ask for another committee of conference. The Senate amendments, as it seems to me, are an ultimatum on this question. I do not see how we can substantially depart from them without a gross and crying injustice. I will not use language quite as strong as that of my friend from California, but I must say that I do think this whole subject under the report of our last committee has dwindled down to the little end of nothing.

Mr. HOWE. I desire to say to the Senator from Massachusetts that this report of the committee of conference, as I understand it, does not settle even the cases of the Massachusetts regiments. We did not propose to settle any cases. We proposed to refer all these cases. We did not propose to pay any portion of the Army, white or black, anything in addition to what the law gives them. We proposed to pay them that. Inasmuch as there is a dispute between different authorities as to what the law does give them, whether one rate of pay or another, we propose to refer that to the law officer of the Government to say what it gives them. If the Senate are willing to make that reference I see no objection to the adoption of this report. If they are not willing to make that reference I think the Senate ought to reject the report.

It will be seen, therefore, that the claims of the Massachusetts regiments are to be settled as other claims are of the same class of troops. But I wish to make this remark: if the report be re-

jected it will be very easy to have another committee of conference; but I think our experience has demonstrated that if you insist upon a law now putting all colored troops from the time of their enlistment upon the footing and upon the pay of white soldiers, you cannot carry the bill through both Houses with that provision in it. If you insist, on the contrary, upon a provision paying only colored troops who have been promised a special rate of pay to the exclusion of those of equal value who have not been enlisted under a special contract, you cannot carry that through both Houses. I think our experience has demonstrated that; and if I am right in these conclusions it is for the Senate to say whether they will accept the other alternative.

Mr. JOHNSON. The report of the committee of conference really does settle nothing, and it is not intended to settle anything except contingently. The amendment of the Senate applied to all persons of color who may have enlisted in the military service of the United States, and provided that all such persons should be paid the same amount that is paid to the white soldiers. The difficulty which has existed between the Government here, and particularly the Governor of Massachusetts, has been, whether under the laws in force, and the only laws that are now in force, there was any authority to enlist people of color. The Governor of Massachusetts supposed, and that view has been taken by the Senators from that State here, that under the acts of Congress under which enlistments have taken place there was no distinction drawn between persons on account of color, and that all persons, therefore, who were enlisted in the armies of the United States are entitled to be paid alike.

The Senate, in order to guard against the doubt and to remove the difficulty which was the result of a different interpretation of the law in force made by Massachusetts and made by the Government, provided that all persons of color in the military service of the United States shall be paid alike, provided there was as between such persons and the representatives of the United States enlisting them an understanding that they were to be paid alike. So far as that limitation upon the authority to receive is concerned, the committee of conference decide favorably to these people of color, because they provide that in the absence of any understanding between the person enlisting and the officer enlisting him, he is to be paid the same amount under the laws in force whether those laws in force considered by themselves embrace persons of color or not. In that respect it places all persons of color who are free and who are now in the service of the United States upon the same footing, making no difference between those who have gone into the service under any special agreement and those who have come in without any agreement.

But the other limitation, which is not found in the Senate amendment, is for the first time incorporated in the amendment as proposed by the committee of conference; for while they provide that persons of color who have been enlisted shall be entitled to payment under the acts of Congress if the Attorney General shall so decide, they limit the right of persons of color to those who have come into the service who were free at a particular date. The Attorney General is to decide, therefore, two questions, under the proposition of the committee of conference: the first is, which of those persons of color were free at the designated date; and the other is, whether persons of color are embraced at all by the acts of Congress.

Mr. HOWE. Will the Senator allow me to interrupt him for a moment?

Mr. JOHNSON. With pleasure.

Mr. HOWE. I think the Senator is mistaken in saying that the Attorney General would have jurisdiction over the first of those questions. The proposition submitted by the committee, I think, gives jurisdiction over that to the Secretary of War. The Attorney General is authorized to decide what was the law regulating the pay of this class of soldiers, not to determine who were or who were not free on the 19th day of April. That is to be determined under regulations to be provided by the Secretary of War.

Mr. JOHNSON. The Senator may be right, that that particular question is not submitted to the decision of the Attorney General. Then to whom is it submitted? Who is to decide it?

Mr. HOWE. I have just stated; it is to be determined under regulations to be provided by the Secretary of War.

Mr. JOHNSON. I understand, I was going to say, it is to be decided by the Secretary of War, and under regulations prescribed by the Secretary of War. Has the Senator thought for a moment what questions will arise upon which the Secretary of War is to decide conclusively the status of those who may be entitled to be paid under the acts of Congress, if the Attorney General shall decide affirmatively in their favor the question submitted to the Attorney General? Nobody is to be paid except those that were free at the designated date. Who were free at the designated date? Slavery existed in South Carolina, in Maryland, in Tennessee, in Kentucky, in Virginia. The presumption in those States, the legal presumption in those States—whether it was a humane presumption, whether it originated in error or not, is immaterial, it was the legal presumption in point of fact—was that all persons of color were presumed to be slaves.

Mr. HOWE. Will the Senator allow me?

Mr. JOHNSON. With pleasure.

Mr. HOWE. I do not speak for the committee of conference now but for myself when I say that if such be the presumption of law in the State of South Carolina, I submit to the Senate and to the Senator such is not the presumption of American law nor of the statutes of the United States.

Mr. JOHNSON. With due deference to the honorable member, I should say he is mistaken about that; but it is not necessary to dispute that. About one thing I am sure there can be no difference of opinion between my friend and myself, and that is, that whether the slaves in South Carolina and Maryland, and the other States in which slaves may have been enlisted, were free or not at the designated period, will bring up for the consideration of the Secretary of War, if he is to decide it, the legal efficacy of the proclamations of the President.

Mr. HOWE. They have been issued since the date named.

Mr. JOHNSON. I know, but it relates back; and then it will bring up for consideration this question: does a slave who enlists into the service of the United States become by virtue of that enlistment a free man? I have always held, and have more than once so stated in the Senate, that the United States were under an obligation, as between the slaves and themselves, to treat him as a free man; that they should never permit him to return to bondage after having used him as a soldier; but whether he is free in point of law by the mere fact of enlistment is a legal question which may be decided either way by different persons. And the whole question, therefore, as it seems to me, is as the honorable member said was the purpose of the committee in a great measure left open. It does not settle the Massachusetts question. The honorable member from Massachusetts seemed to think that the decision provided for the Massachusetts regiment. It is not so. He was correctly told by the honorable member from Wisconsin speaking for the committee of conference, or his understanding of the view of the committee of conference, that it decides no such thing. They will be paid or they will not be paid, not because any engagement was entered into between the soldier and the officer of the Government, but as the Attorney General may decide whether the acts of Congress on the subject as they existed at the time of the enlistment, and as they will exist now unless they are changed, embraced soldiers of color. If he decides that they do not, (and that has been the decision of the Government up to the present time,) then they get nothing. When I say it has been the decision of the Government, I say it because of the fact that the Government have refused to pay, and they have refused to pay because the Government must have been of opinion that, whether with or without an understanding, as the law stands existing there is no authority to pay those soldiers as white soldiers are paid.

I do not know how the Senate is to accomplish its purpose, clearly expressed in its amendment, except by adhering to the amendment, and if the body does adhere to the amendment it does not provide for very many other cases in which there

was no understanding at all, inasmuch as the amendment includes only cases in which there was an understanding.

I have been of opinion that there ought to be no difference. A soldier of the United States fighting to maintain the very existence of the Government, even more than to vindicate the honor of its flag, ought to be the peer of all other soldiers; and he should be especially considered the peer if at our instance, we being white men, to save ourselves from the dangers of the strife, we should invoke him to come to our aid and stand the hazard of the battle; call upon him to save our blood by running the hazard of pouring out his own blood in defense of our institutions. But that object is not accomplished by the proposition of the committee of conference, not accomplished to any extent, provided the Attorney General shall give the opinion upon which the Government has all along acted in relation to the question; and it is not to be supposed that the President of the United States and the Secretary of War have, in opposition to the advice of the Attorney General, refused to liquidate these demands. The legal presumption, the charitable presumption, is that they were all honestly of opinion that under the statutes as they now stand upon your statute-book unmodified in that particular those soldiers could not be paid. In my view you are just as likely to attain the object which the Senate had in view, even in relation to the class of soldiers of this description embraced by their amendment, by submitting the question of law again to the Secretary of War and the President as by submitting it to the Attorney General. I do not know, Mr. President, what the practice of this Administration is; but having had some experience in other Administrations personally, and a knowledge of the practice which governed all Administrations up to the inauguration of the present Administration, I say that no question of this kind ever was decided without taking the opinion of the Attorney General. It was not always observed; it was not binding; but he is placed there for the very purpose, when called upon by the President or either of the heads of Departments, to advise them upon all legal propositions which may be involved in the duties of their respective offices; and I can hardly believe it possible that Mr. Secretary Stanton, with or without the knowledge of the President, has pronounced a decision which has cut off from these Massachusetts troops the compensation which was specially promised them without taking the opinion of the Attorney General in writing, or at least without consultation with him; and if so, of course if you refer it back as the committee of conference propose to do to the Attorney General to decide, Massachusetts will be where Massachusetts has been, unable to recover the amount which she thinks she ought to receive for the benefit of these her soldiers.

Mr. HOWE. I shall only occupy the floor a moment, and principally to tender my thanks to the Senator from Maryland for the very noble sentiment he just now expressed when he declared that a soldier, though ever so black, wearing the American uniform and fighting for the American flag, and fighting for the life of the American States, is the peer of the soldier of any other color. When he said that he simply gave very eloquent expression to a sentiment which I have always entertained. But I did not propose to incorporate that sentiment into the report of the committee of conference, for two reasons: first, at the time we were deliberating upon this difficulty into which the two Houses are involved, that particular sentiment did not occur to me; and secondly, if it had occurred to me, I should not have had faith to believe that it could be carried through the two Houses of Congress. What is or is not due to these soldiers is a question not only upon which the two Houses are divided, but it is a question upon which there is a great variety of opinion in each of the two Houses; it is a question upon which there is a great variety of opinion among the different officers of the Government; and we had a measure pending, the salvation of which was thought to be very essential and important. Some provision ought to be ingrafted upon it for the solution of this difficulty. To the last committee of conference which had the matter under consideration, this seemed to tend toward a solution of it, not being a solution of it as the Senator from Massachusetts [Mr.

SUMNER] rightly observed: it was not intended to be, but it was intended to open up a way which would lead to a right solution of the whole question.

Mr. SUMNER obtained the floor.

Mr. POWELL. If the Senator will allow me I will move an adjournment.

Mr. SUMNER. I hope we may settle this question now. I merely wish to observe that it seems to me this debate to-day shows that we have got to proceed still further before we can reach a conclusion. Everything that has fallen from every Senator, as well from the Senator from Wisconsin as from the Senator from Maryland, all tends to one conclusion—that nothing is settled. Now let us settle something by our vote. I hope, therefore, without taking up any further time, that the Senate will unite in rejecting the report of the committee of conference, determine to adhere to its own amendment, and ask for another conference.

Mr. FESSENDEN. In the first place the original amendment had no business in the bill. We had passed originally the bill of which the amendment was a copy, and sent it to the House of Representatives and it is there yet. The Senator from Massachusetts, the chairman of the Committee on Military Affairs, [Mr. WILSON,] to make all sure, insisted upon putting it into this bill, the Army appropriation bill; a thing that the Senate ought not to have permitted; but I know perfectly well at the time that it was of no sort of use to object to it under the steam that was got up in reference to paying these soldiers. I knew it must go anywhere, but I apprehended difficulty from it. I repeat that, in my judgment, it ought not to have been put there; it was extraneous legislation with reference to other matters which the Senate had already legislated upon, and its legislation was before the House of Representatives, and which the House could settle.

Now, on this Army appropriation bill, which perhaps in the present existing state of affairs is the most essential bill, the one of all others that we must pass, we have had, because of this extraneous question, outside question, three committees of conference; and the dispute is with reference to paying a very small number of troops. Two of the committees agreed. The first committee did not agree. Two have agreed. The House of Representatives rejected the report of the second committee, and now it is proposed that the Senate shall reject the report of the third. All I have to ask on a question of this sort is when a conclusion is arrived at, is it not very much better that we should adopt the report, and settle the Army bill and have that passed? Shall we be quarreling all the session, and hazard a bill so essential, on this question, which to be sure is an admirable one for eloquence, and upon which we have had a great deal, speech after speech, which has rung through the country and through the newspapers; but out of it I think gentlemen have got all the glory that they can get by any possibility. If they try a month longer and speechify continually on paying the negro soldiers, I do not believe they will be a bit better off in the way of glory than they are to-day. If this report is not satisfactory to gentlemen, the bill of the Senate now before the House of Representatives can be taken up, and they can pass another law to pay these soldiers. Is it worth while for us because we do not have our own way this time, and the House does not have its way that time, when a conclusion for the second time is reached by a committee of conference of both branches who have deliberated long and carefully upon the subject and tried to save the Army bill, is it wise to keep quarreling and dividing upon a question of this kind, which there is abundant time to settle by itself if the House and Senate are disposed to do so? I really do appeal to Senators, and ask them whether it is not better, instead of expending more eloquence upon it, to just adopt the bill as it is and let it go.

Mr. WILSON. The Senator from Maine tells us that this amendment ought not to have been put in the bill. I think the necessity ought not to have been imposed upon us to put it upon this bill; but it was expected, and justly expected, that Congress, early in the session, would pass a bill to pay the colored troops who had been enlisted with a promise that they should be paid the same as other troops. The Senate passed a bill

to that effect, but it remained in the House of Representatives, to the amazement of everybody, for many weeks in the hands of the Committee on Military Affairs. While that bill was lying there, great dissatisfaction grew up in the regiments that had not received the pay which they had been promised; and in one of those regiments we had a mutiny, and the leader of the mutiny was shot. Officers in the field told us that it required every exertion to prevent a mutiny because the men had not been paid what they had been promised. They believed the Government had broken its plighted faith, and, smarting under the wrong, they demanded their full pay or a discharge from the military service.

The amendment of the Senate to carry out this object was put upon the Army appropriation bill, not to make speeches or to gain glory, but to do justice to brave men fighting for the country; and if the House of Representatives had taken the amendment which we put upon the bill, the question would have been settled; and from the 1st day of January of this year all our troops would be put upon the same pay, having the same rights.

Mr. FESSENDEN. That is settled by this bill.

Mr. WILSON. I understand that. By that amendment if it were agreed to by both Houses, another point would have been settled, that all colored men enlisted under the call of October 11, 1863, and subsequent calls liable to draft should receive the same pay as other men; and we should have settled one other point, which is the disputed point, that the regiments that were enlisted under the promise to receive thirteen dollars a month should receive that compensation, and the Secretary of War should determine the question. That provision would have covered at most some ten or twelve regiments. Most of the other regiments were filled up by men who enlisted with no expectation of receiving more than ten dollars a month.

But the House of Representatives put on an amendment which provided that all free colored men who enlisted should receive the same pay, and the same bounty as other soldiers. That is to say, colored men who were freed by the proclamation of the President were to receive bounty and full pay, but the men who were enlisted by General Hunter and General Saxton and General Butler under the promise of full pay were not to get anything, because they were slaves. The House amendment really discriminated against the very men that we had been struggling to give their rights to, and gave the increased pay to the men who were enlisted with the expectation of receiving no more than ten dollars a month. We could not agree to that, and we did not agree to it.

Now we have this final proposition, and, as I understand it, it does not settle the case of the fifty-fourth and fifty-fifth Massachusetts or the first South Carolina or the Louisiana regiments raised by General Butler. It settles nothing, but it refers the whole matter of back pay to the Attorney General of the United States. The Attorney General has given a legal opinion applicable to a colored officer, holding that he is entitled to the same pay that he would receive if he were a white man. The Attorney General has not settled the question that colored soldiers are entitled to full pay, but the logic of his opinion, I think, goes that way, and I do not see how he can avoid coming to that conclusion.

Mr. FESSENDEN. Then why not trust it to him?

Mr. WILSON. I am inclined to do it in view of the entire debate here and of the difficulty in which we find ourselves, and of the fact that stands patent before the country, that the men in the House of Representatives who are opposed to employing or paying the negro at all have insisted upon paying the highest pay to regiments who were enlisted without the expectation of having more than ten dollars a month. If the question is referred to the Attorney General, I think that according to his previous decision he must logically hold that these men are all entitled to full pay from the beginning. If the Senator from Maine is ready to refer the whole question to the Attorney General, let it go to the Attorney General and let him decide it. But if he shall decide against allowing them this pay, I shall regard the question as an open one, and I shall insist upon it at all times and on all occasions, and press it upon Congress that the Massachusetts fifty-fourth



and fifty-fifth, the South Carolina first, and the Louisiana regiments shall be paid thirteen dollars a month.

Mr. FESSENDEN. Do not insist upon it on every appropriation bill.

Mr. WILSON. I will insist upon it at all times and on all occasions and wherever I can, for I say a great wrong has been done these men. After the correspondence that I had had with the officers, knowing the feeling among the men, when the Senate passed the bill giving them the back pay, I sent word to the men, and my letter was read in the regiments and understood by the men that we had passed in the Senate a bill that would become a law which would give them their full pay of thirteen dollars a month which they had been promised. Now, if I did not believe that the Attorney General would decide promptly that they were entitled to that pay, I should vote against this proposition to the last; but I am willing to trust him, and I hope that his decision will be made immediately; and that if it shall be against these troops, we can before the adjournment of Congress pass a special act doing justice to the men who were enlisted under the pledge that they should have full pay. I shall therefore run the risk of it for the reason that the bill as it now stands settles the question of equality from the 1st of January last, and in the next place it settles the question of bounty to colored men who are liable to be drafted in the loyal States, and it puts their matter in the control of the Attorney General, whose opinion, I think, cannot be anything else than that these men have the right which they claim.

Mr. HENDERSON. In July, 1862, Congress passed an act enabling the President to receive into the service negroes. Previous to that time, I believe they were not received into the service at all; but Congress passed an act on the 17th of July, 1862, the twelfth section of which reads as follows:

"That the President be and he is authorized to receive into the service of the United States, for the purpose of constructing intrenchments, or performing camp service, or any other labor, or any military or naval service for which they may be found competent, persons of African descent; and such persons shall be enrolled and organized under such regulations, not inconsistent with the Constitution and laws, as the President may prescribe."

Under that provision I understand that the President did receive into the service not only free negroes but slaves. When the Army appropriation bill was before the Senate, in order that we might get a proper understanding of it, the Senate adopted a provision of this character, that all persons of color, not all free persons of color, because that would not include the regiments which Massachusetts had enlisted in the southern States, but "that all persons of color who have been enlisted and mustered into the service of the United States, shall be entitled to receive the pay and clothing allowed by law to other volunteers in the service, from the date of their muster into service; provided, that the same shall have been pledged or promised to them by any officer or person, who, in making such pledge or promise, acted by authority of the War Department; and the Secretary of War is hereby authorized to determine any question of fact arising under this provision."

Why was that provision put upon this bill? As the Senator from Maine very properly remarked, the provision ought never to have been put upon the bill. What was the object of it? It was simply to pay some two or three regiments of troops that had been enlisted into the service at the instance of Governor Andrew, of Massachusetts, and which I understand were received as Massachusetts troops. It did not include the slaves from my State that went into Kansas and enlisted. Those slaves went there in 1861. The Senator from Kansas spoke of them a little while ago. They went from Missouri and enlisted into the service, and have been in the service from that day to this. Under that provision they could not be paid. They were as much entitled to payment as the negroes enlisted by the Massachusetts Governor. They were runaway slaves from our State, enlisted in Kansas; but notwithstanding they had run away they were just as much entitled to pay as those slaves that were enlisted at Port Royal. No discrimination ought to have been made, but the discrimination was made. Who had the authority to make any such pledge

or promise as this? The President had no authority to receive these troops except under the law. What was it? When you turn to the law of 1862 you will find this provision:

"All persons who have been or shall be hereafter enrolled in the service of the United States under this act shall receive the pay and rations now allowed by law to soldiers according to their respective grades: *Provided*, That persons of African descent who under this law shall be employed shall receive ten dollars per month and one ration, three dollars of which monthly pay may be in clothing."

The President had no authority to receive them except under that law, and I care not who may have made the pledge at Port Royal or elsewhere that they were to receive thirteen dollars a month, I say no officer had authority to do it. But we permitted this amendment to go through on the bill; we permitted it to be adopted here merely because it was desired by the Massachusetts Senators, and I myself made no opposition to it, although I regarded it as unjust at the time.

But, sir, when we sent this bill to the House of Representatives providing for the pay of the Massachusetts regiments, what did the House do? There were some gentlemen from Pennsylvania and other States that said, "The provision as it comes to us from the Senate only allows payment to the Massachusetts soldiers, and we object to that; we intend now that the free negroes who were enlisted in the States of Pennsylvania and New York and other northern States shall be paid also according to the provision adopted in the Senate."

Mr. WADE. I ask the gentleman if he will not give way to a motion to adjourn?

Mr. HENDERSON. I am not going to take up the time of the Senate. I merely wish to state the case as I understand it, and I will get through in five minutes. The House of Representatives adopted this provision:

"That all free persons of color who have been or may be mustered into the military service of the United States, shall from the date of their enlistment receive the same uniform, clothing, arms, equipment, camp equipage, rations, &c., and bounty, as other soldiers of the regular or volunteer forces of the United States of like arm of the service."

When the provision was thus amended the free negroes of the northern States, those enlisted in Iowa, those enlisted in Kansas, were put upon the same footing exactly with the negroes enlisted by the Governor of Massachusetts. That was altogether proper; but what effect does it have? When this provision is adopted, it excludes, of course, all the slaves that were enlisted, and leaves the slaves to the pay of the law of 1862, which was ten dollars a month.

The committee of conference have adopted a different provision from either. They say that "all persons of color who were free on the 19th of April, 1861, and who have been enlisted and mustered into the military service of the United States, shall from the time of their enlistment be entitled to receive the pay, bounty, and clothing allowed to such persons by the laws existing at the time of their enlistment; and the Attorney General is authorized to determine any question arising under this provision; and if the Attorney General shall determine that any of such enlisted persons are entitled to receive any pay, bounty, or clothing in addition to what they have already received, the Secretary of War shall make all necessary regulations to enable the pay department to make payment in accordance with such determination."

This is dodging both the provision of the House and the Senate, and leaving the whole matter to the Attorney General. If the Attorney General decides that any of the persons of color who were free on the 19th of April, 1861, shall be entitled to the same pay allowed to white persons who are enlisted, the Secretary of War must make arrangement to pay them; otherwise they will not be entitled to pay, except the ten dollars a month which we understood at the time they would be entitled to under the law.

Now, so far as I am concerned, I desire to pay each and every negro in the Army, whether he was a slave or a free negro, the very same amount. We had a law, and these negroes were enlisted under the law. We had a law paying them ten dollars a month. It was distinctly understood that if a negro was enlisted he was to receive ten dollars a month. Now the proposition is brought up here to allow them more than that. Why shall we do it? I do not desire that we shall allow any more. I am willing in the future to allow them

the same pay as white soldiers; but for the past I am unwilling to do it, and I go back to the original principle and oppose all propositions whatever that will pay them one dollar more than they were entitled to at the time. Is the condition of our Treasury such that we can afford to go back and pay more money to the white soldiers? We have recently raised their pay to sixteen dollars a month. Are we able to go back and pay them sixteen dollars a month ever since they entered the service? It is equally just to do so, and we ought to do so if we pass a measure of this character. If we go back and pay to these negroes, whether slave or free, an amount of money that we did not contemplate at the time, it will be an immense drain upon the Treasury.

Now, let me say in reference to the slaves in my State, they do not expect any such pay, they do not ask it, and they understood perfectly what their pay was to be at the time they went into the service; and I apprehend that those negroes who were enlisted for Massachusetts understood perfectly well at the time what they were to receive. I am unwilling to say that because A, B, or C, who enlisted slaves, made a false promise, one not justified by the laws of the land, we shall go back and allow them a pay not justified by the law. It is perfectly unjust to ourselves, it is unjust to the Treasury in our present condition to do it.

I have as much sympathy for the negro soldiers as have many other Senators, and I say now as a matter of justice that if the free negroes of this country are to be paid thirteen dollars a month, the slaves of my State ought to be paid the thirteen dollars a month. But what is this proposition? It does not come up to that; it does not cover their case, as has been justly remarked by the Senator from Kansas. I therefore come back to the justice of the thing, which is to pay the negroes, slave or free when they entered the service, the amount allowed by the law as it then stood; and as to the future I am willing to join Senators in saying their pay shall be the same as that of white soldiers. We have already made that provision for the future; but I am unwilling to go behind this date and pay them more than they agreed to receive at the time they enlisted. I do not think it is just.

Mr. WILSON. The interpretation put by the chairman of the Finance Committee on this report is such that I am willing to take it; but if the doctrine maintained by the Senator from Maryland and by my colleague as to what is referred to the Attorney General be correct, of course I cannot take it, and I understood the explanation of the Senator from Wisconsin to concur with them. If the case of all the troops, slave and free, those from South Carolina and Louisiana as well as those from Massachusetts, was to be referred to the Attorney General, I was willing to accept that arrangement, because then if the Attorney General should decide improperly we could correct the error by legislation at this session. But it is said by my colleague and by the Senator from Maryland that that is not the proper interpretation: lawyers disagree in regard to it. I am therefore in some doubt as to what I should do.

Mr. FESSENDEN. All I have to say is that if the chairman of the Committee on Military Affairs is willing to lose the Army appropriation bill on a matter of this sort, because he cannot have it exactly his own way, be it so; he must take his own course about it.

Mr. COWAN. I think the report of the committee of conference will settle the question quite as effectually as if we were to debate it till the 4th of July.

Mr. BUCKALEW. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, June 10, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved. The SPEAKER stated the first business in order to be the call of committees for reports of a private nature.

KNOX vs. BLAIR.

Mr. DAWES. I rise to a question of privi-

lege. I move to take up the case of Knox vs. Blair.

The Clerk read the resolutions, as follows:

*Resolved*, That Francis P. Blair, jr., is not entitled to a seat in this House as Representative in the Thirty-Eighth Congress from the first congressional district in Missouri.

*Resolved*, That Samuel Knox is entitled to a seat in this House as a Representative in the Thirty-Eighth Congress from the first congressional district in Missouri.

Mr. BROWN, of Wisconsin. Mr. Speaker, neither the sitting member nor the contestant is present in the House this morning. I consider that from some quarter the views of the minority should be presented, and if necessary I desire to do so; but I am not prepared to-day. Nor do I think that the case is in a condition in which it should be debated. Mr. Blair, the sitting member, is now with the army under General Sherman, and is utterly unable to attend. I therefore suggest to the gentleman from Massachusetts that this case be postponed for four or five days.

Mr. GANSON. I also join in the request made by the gentleman from Wisconsin that there be a postponement of this case. As already stated, neither the sitting member nor the contestant is present. The sitting member left town a day or two before any report was made or any decision reached by the Committee of Elections. I understand that the majority report was signed by five members and the minority report by four members of the Committee of Elections—as I understand that the gentleman from Kentucky concurs in the opinion of the minority. A gentleman relied on to present the views of the minority left yesterday for his home. He had prepared himself fully to give the views of the minority. Under the circumstances I hope that the gentleman from Massachusetts will agree to the postponement of this case.

I do not think that any public interest will suffer by a postponement. Mr. Knox, I understand, is not in a condition to take his seat now, and will not be for four or five days. I believe that the postponement would be gratifying to members on the other side of the House as well as on this.

Mr. DAWES. Can the gentleman fix any day when the sitting member is likely to be here?

Mr. GANSON. I do not ask it on account of the contestant. The gentleman from Massachusetts who made this report will present his case.

Mr. DAWES. I inferred from the remark of my friend from New York that he had some day in his mind when the sitting member would be present to submit his case. But the fact that the sitting member is absent does not amount to anything.

I would also inquire whether my friend can indicate any day when the contestant will be present if we agree to postpone the case.

Mr. GANSON. I only desire that the views of the minority may be presented properly and fairly to the House.

Mr. DAWES. I will go as far as possible to aid my friend in doing that. I only wanted to know whether he could fix a day when the sitting member or the contestant could be present, and to which this case might be postponed. As he cannot do so, then he must speak for the gentleman who left yesterday, in view of the order of the House setting apart this day for this case. Can he state when that gentleman will be present?

Mr. GANSON. I will inform the gentleman that it is out of regard to those who are left here.

Mr. DAWES. Then leaving out of consideration all the remarks of both of my friends that pertain to anything except themselves, they will allow me to say that some two weeks ago, while the gentlemen were here, I indicated a day when this case would be called up, and, knowing they are industrious men, I supposed they would prepare themselves at once. When the case came up on that day I postponed it another week, and gave notice of the particular day when I would call it up. When the case came up on that day my distinguished friend from New York [Mr. GANSON] interposed a minority report, which I supposed must have been the result of deliberation. I do not know how that may be, but I supposed it was the result of preparation. Then the House postponed the case until to-day.

Now, so far as I am concerned I have not the slightest objection to its being postponed until next week or any other time. The only difficulty which occurs to me about its being postponed

until next week is this, that every day next week has been appropriated, by the unanimous consent of the House, to other business, and even a question of privilege could not come in. That is an obstacle which, so far as the House is concerned, is in the way. That does not trouble me, and if the House thinks the public business requires that this case should be postponed I will not object. So far as I am concerned, I would be most happy to accommodate the gentleman, but I regret to hear the gentleman from New York [Mr. GANSON] say in the House, after having put in a minority report of sixteen pages, which is very elaborate, and, as I hope to be able to show to the House, learned besides, that he is not prepared to go on now.

Mr. GANSON. I am surprised that my friend from Massachusetts should not know that that would exhaust anybody. [Laughter.]

Mr. DAWES. While I did suppose it would exhaust my friend, I supposed that in the course of a week he would be able to fill up again. [Renewed laughter.]

Mr. BROOMALL. I merely desire to say that I hope neither the gentleman from Massachusetts nor the House will consent to have this matter postponed any longer. If there should be any further delay in the matter I should deem it my duty, as a member of this House, as a question of privilege, to ask that the name of the so-called sitting member shall be stricken from the roll, as upon the evidence he must be utterly incapable of occupying a seat here. I hope, therefore, the matter will be taken up at this time and disposed of, and that we shall not have our ears shocked by hearing every day the name of a major general in the field called to answer yea or nay on questions before this House.

Mr. DAWES. I am in the habit of trying men before hanging them. If my friend is in the habit of hanging them first, it is a new rule to me and I do not propose to adopt it. I propose to proceed with this case and give this man a hearing, whatever may be my convictions upon the subject, and they are very clear and decided. I do not propose to postpone this case myself, for I do not feel that it is such a courtesy as my colleagues upon the committee can properly call upon me for.

Mr. HALE. I wish to suggest to the gentleman from Massachusetts that this day belongs to the consideration of private bills. It is objection day, too, and we have had scarcely a Friday during the last six weeks which has not been taken up by a special order or a privileged question. I ask him, at any rate, to postpone it for a short time.

Mr. DAWES. Those are considerations for the gentleman from Pennsylvania to submit to the House upon the motion of the gentleman from Wisconsin to postpone, which I understand is now pending. I would be very happy to accommodate the gentlemen from New York and Wisconsin, but really as this matter has been postponed from time to time with my acquiescence, I do not feel at liberty to consent to a further postponement.

The SPEAKER. The Chair would state to the gentleman from Pennsylvania, in regard to a question of fact, that the whole of next week, with the exception of Friday, has been assigned, by unanimous consent, to various matters of business, which a question of privilege will not override.

Mr. BROWN, of Wisconsin. One word further. I am very sorry that the gentleman from Pennsylvania [Mr. BROOMALL] should be so much troubled by the name of a major general being called here. The sitting member is not here, and the report of the committee involves the question of his original election; and it involves, likewise, the right of this House to do what it is asked to do in this case, to seat a man who has not received a sufficient number of votes. I do not propose to criticise the claim of the sitting member, who is actually in the field, and who, I believe, does not desire to hold the seat; but his name is upon the roll, and I think it due to the House that the matter should be fully investigated. I trust, therefore, that the House, in justice to itself, will postpone this question until Friday next.

Mr. UPSON. This case has already been postponed several times, once by consent of the chairman of the Committee of Elections, and another time by a vote of the House. It seems to

me that it is not asking too much of the House at this stage of the session that the matter should be disposed of. A postponement now would be equivalent to a decision not to determine this question until the next session of Congress.

Mr. GANSON. I wish to call the attention of the House to the fact that the sitting member in this case is now in the field with General Sherman, and that the contest is not as to whether his right to the seat has been invalidated by virtue of his military commission. An effort was made to dispose of the case on that ground, and the gentleman from Michigan opposed it. I desire to say further that the contestant is not here, and is not in a condition to take his seat probably during this session. Under these circumstances I do not think it is asking too much that the case be postponed. It will not take up more time hereafter when it comes up than it will now, and no injustice will be done either to the sitting member or the contestant.

Mr. DAWES. I demand the previous question. The previous question was seconded, and the main question ordered.

Mr. GANSON demanded the yeas and nays on the motion to postpone.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 57, nays 72, not voting 53; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Baily, Jacob B. Blair, Bliss, James S. Brown, Chanler, Clifford, Cole, Cox, Dawson, Denison, Eden, Edgerton, Eldridge, Fluck, Ganson, Grider, Griswold, Hale, Harding, Harrington, Charles M. Harris, Holman, Hutchins, William Johnson, Kaldelsch, King, Knapp, Lazaar, Le Blond, Long, Mallory, Marcy, McDowell, McKinney, James R. Morris, Morrison, Odell, Pendleton, Samuel J. Randall, Robinson, Ross, Scott, John B. Steele, William G. Steele, Stiles, Stuart, Thomas, Tracy, Wadsworth, Ward, Webster, Wheeler, Chilton A. White, Joseph W. White, and Winfield—57.

NAYS—Messrs. Alley, Allison, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Boyd, Brandegee, Broomall, Cobb, Cravens, Henry Winter Davis, Thomas T. Davis, Dawes, Dixon, Donnelly, Driggs, Eliot, Farnsworth, Fenton, Frank, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Jenckes, Julian, Kelley, Francis W. Kellogg, Littlejohn, Loan, Longyear, Marvin, McClurg, McDuffie, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Perham, Pike, Price, Alexander H. Rice, John H. Rice, Schenck, Scofield, Shannon, Sloan, Spalding, Starr, Stevens, Upson, Van Valkenburgh, Ellihu B. Washburne, William B. Washburn, Whaley, Williams, Wilson, Windom, and Woodbridge—72.

NOT VOTING—Messrs. Ancona, Anderson, Augustus C. Baldwin, Francis P. Blair, Brooks, William G. Brown, Ambrose W. Clark, Freeman Clarke, Clay, Creswell, Deming, Dumont, Eckley, English, Garfield, Gooch, Grinnell, Hall, Benjamin G. Harris, Herrick, Hubard, Philip Johnson, Kasson, Orlando Kellogg, Kernan, Law, McAllister, McBride, Middleton, William H. Miller, Nelson, Noble, John O'Neill, Patterson, Perry, Pomeroy, Pruyn, Radford, William H. Randall, Rogers, Edward H. Rollins, James S. Rollins, Smith, Smithers, Stebbins, Strouse, Sweet, Thayer, Voorhees, Wilder, Benjamin Wood, Fernando Wood, and Yeaman—53.

So the motion to postpone was not agreed to.

Mr. COX stated, during the roll-call, that Mr. ROLLINS, of New Hampshire, was paired with Mr. VOORHEES.

Mr. GANSON. I desire to state to the House that one of my colleagues upon the Committee of Elections, who desires to be heard upon this case, is necessarily absent from the House. I therefore move that the case be postponed until a week from Monday next.

The SPEAKER. Does the gentleman from Massachusetts yield for that purpose?

Mr. DAWES. I must decline to do so.

#### BANKRUPTCY BILL.

Mr. BOUTWELL. Will my colleague yield to me to call up the privileged question of the motion to reconsider the vote by which the bankruptcy bill was rejected yesterday?

Mr. DAWES. I have no objection, if it will cause no delay.

Mr. BOUTWELL. I will move the previous question.

Mr. DAWES. I will yield for that purpose.

The SPEAKER. This being private bill day, if the contested-election case be waived for the present, the motion to reconsider cannot be called up and decided if there be any private bills called up. These would take precedence of all other business, excepting a question of privilege affecting the right of a member to his seat.

Mr. BOUTWELL. If there be no objection?

The SPEAKER. It can be done, of course, by unanimous consent.

Mr. BOUTWELL. My colleague [Mr. Dawes] yields, that I may ask unanimous consent to call up the question of reconsideration of the vote by which the bankrupt bill was rejected.

Mr. HALE. I object.

Mr. BOUTWELL. I do not propose any debate of the question, but simply to offer a motion to postpone.

Mr. DAWES. I do not see why the motion to reconsider cannot as well be made at any other time as it can be to-day.

The SPEAKER. The Chair will say that to-morrow the gentleman can call up the motion to reconsider as a matter of right.

Mr. DAWES. I understand that the objection to calling up the motion to reconsider is withdrawn. With the understanding that it is not to cause debate, I will yield for the purpose of having the vote taken.

Mr. J. C. ALLEN. I object.

Mr. MORRILL. I will say to the gentleman from Illinois [Mr. J. C. ALLEN] that it is merely for the purpose of moving to postpone the bankruptcy bill till next session.

The objection was not withdrawn.

#### MISSOURI CONTESTED ELECTION—AGAIN.

Mr. DAWES. I call for the reading of the resolutions reported from the Committee of Elections.

The resolutions were read, as follows:

*Resolved*, That Francis P. Blair, jr., is not entitled to a seat in this House as Representative in the Thirty-Eighth Congress from the first congressional district in Missouri.

*Resolved*, That Samuel Knox is entitled to a seat in this House as a Representative in the Thirty-Eighth Congress from the first congressional district in Missouri.

Mr. DAWES. Mr. Speaker, it will be seen by the House at a glance that the question heretofore raised, and alluded to by the gentleman from New York [Mr. GANSON] a moment ago—namely, the effect, on the right of the sitting member to his seat, of holding a commission as major general in the Army—is not involved in this case. Whatever conclusion the House may come to as to the effect of his holding the commission of major general, still the petition of Samuel Knox and the evidence on which this claim rests depends upon the question whether at the election in St. Louis Samuel Knox or Francis P. Blair, jr., received a majority of the votes cast. Therefore the investigation, both in the committee and in the House, would necessarily proceed in the same manner as if the question of the major generalship had never been raised. Samuel Knox, of course, could not have received a majority of votes if a majority had been cast for Francis P. Blair; and no question that can arise on the consideration of this case will be waived or disposed of by any conclusion that the House may come to on the question of the major generalship. It may not be improper for me to state that the Committee of Elections has had that matter referred to it, and in due time I doubt not it will present a report on that question which, I trust, will be satisfactory to the House.

The question now before the House is, which of these two gentlemen received a majority of the votes cast at the election held, according to law, in the State of Missouri on the 4th of November, 1862. The first district of Missouri is composed of seven wards of the city of St. Louis and three small townships called St. Louis township, St. Ferdinand township, and Central township. At that election there were three candidates. The votes as between the two highest, Blair and Knox, were returned and canvassed by the proper authorities, giving to Mr. Blair 4,741 votes and to Mr. Knox 4,588 votes—the official canvass giving Mr. Blair a majority over Mr. Knox of 153 votes. Mr. Knox, within the time prescribed by the statute, served a notice on Mr. Blair of his intention to contest Mr. Blair's right to the seat. The notice contained very many specifications, and, in due time, it was answered by as many and as curious ones on the part of the sitting member.

The specifications of the contestant and sitting member are contained in Miscellaneous Document No. 16. They are very numerous, very much involved, very complicated, and it is hardly worth while for me to consume the time of the House in reading them. I assume in the discussion of this case that the members of the House have

read the report, and not only this Miscellaneous Document No. 16, but the views of the majority and minority submitted to the House on this question. Therefore, assuming that to be the fact, it is hardly necessary to go further, certainly at the present time, than to state the conclusions to which the committee came, and the principles on which those conclusions were founded.

The committee submitted their report to the House on the 5th day of May. On the 2d day of June following, the minority of the committee submitted their views. I do not know whether it is the intention of the minority to offer any remarks to the House in support of their report or not. If it be their desire I am ready to yield to them at any time in order that they may be made. Otherwise, at the conclusion of the statement I shall make I shall perhaps call the previous question. I would inquire of the gentlemen who represent the minority if it is their desire to submit any views upon this question.

Mr. BROWN, of Wisconsin. I have already informed the chairman of the Committee of Elections that I was not prepared to discuss the questions involved in the case to-day; that other members of the committee had intended to do it, or at least one member of the committee whom I supposed desired to discuss the report was absent, and I asked him, for the purpose of giving me the opportunity of making a reexamination of the testimony, to postpone this case for one week. It has pleased the members on the other side of the House in the high appreciation they have of what is due to a soldier in the field to refuse the request, and to insist on going on in this case without any preparation made to present our reasons for not concurring in the majority report.

I do not now intend to occupy any time in the discussion of this matter. I shall, however, listen to the remarks of the honorable member from Massachusetts, and it is possible may say a few words in reply. At any rate, it will be but a few moments that I shall occupy of the time of the House on this question, if any at all.

#### MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. NICOLAY, his Private Secretary, informing the House that he did on the 8th instant approve and sign bills of the following titles:

An act (H. R. No. 293) to provide for the payment of the second regiment, third brigade, Ohio volunteer militia, during the time they were mustered into the service of the United States;

An act (H. R. No. 426) to create an additional supervising inspector of steamboats and two local inspectors of steamboats for the collection district of Memphis, Tennessee, and two local inspectors for the collection district of Oregon, and for other purposes; and

An act (H. R. No. 455) to punish and prevent the counterfeiting of coin of the United States.

#### MISSOURI CONTESTED ELECTION—AGAIN.

Mr. DAWES. The majority of 153 reported by the canvassers in favor of Mr. Blair is made up among other votes of those cast for Mr. Blair in what is called the Abbey precinct within the city of St. Louis, at which precinct there were cast for Blair 424 votes; for Knox 41 votes; for Bogy 11 votes. The qualifications for voters by the constitution of Missouri require citizenship of the United States, and a residence in the State of one year, and in the precinct where the vote is cast for three months. There is a special provision of law, however, permitting a man to vote out of his own precinct within the district, provided he then and there make oath that he has not and will not vote in any other precinct at that election.

The Abbey precinct is a small one out of the thickly peopled part of the city proper, but within the charter limits. It contains very few inhabitants, and they well known to each other. It is a portion of the city which indicates from year to year no particular change. The inhabitants there are for the most part permanent residents, and are well known to everybody there, and can easily be recognized at all times. It has cast heretofore a very small vote. At the congressional election in 1858 93 votes were cast. At the next election only 138 votes were cast, and at the one subsequent to the election under consideration, 141. At

this election, I have already stated, there was the astonishing result of 424 votes cast at this poll for Mr. Blair, 41 for Mr. Knox, and 11 for Mr. Bogy, making an aggregate vote of 496 votes cast at that precinct, although at the very next election it fell down to 140, and at the immediately preceding election it stood at 138. There were about four times the number of votes cast at this poll that were ever cast before in that precinct; more than four times what were cast at the election for Congress in 1858, only a little less than four times the number cast in 1860 and 1863.

It is very obvious, Mr. Speaker, if there were four times the number of legal votes cast in this precinct it must be a large precinct, or so situated for some reason or other that this importation of inhabitants into this district for the space of three or four months must be a matter which could not have failed to arrest the notice of the residents, could not have failed to have been recognized, and there would be no difficulty in showing it, and showing the cause for it. Such is the peculiarity of voting in the city of St. Louis that every man who approaches the polls has his name recorded and a number affixed to it, and also put upon the back of the ballot, so that every man who votes at any election has his name recorded, and there is no difficulty in telling particularly from year to year who votes at any precinct, and for whom he voted. In comparing this poll list of 496 with the poll list of 93, cast at the preceding election of 1858, there are only found 19 who had voted at the preceding election for Congress in 1858, 13 of those who had voted at the congressional election of 1860, and 36 of those who had voted at the election a year afterwards. So of these 496 voters, they were all strangers to the polls except from 19 to 36.

We have also the testimony of the residents there. The oldest inhabitants appear and testify that, although they went frequently to the polls on this occasion, they found very few voters there that they had ever seen before. One of these witnesses lives near the polls, and he has testified that he could see but two faces there that he had ever seen before, besides the judges. They were mostly persons in the uniform of soldiers, and that those who were not soldiers were strangers to the inhabitants. There were situated about a mile and a half from these polls the Benton barracks, and at that place there were quartered at that time from fourteen to fifteen hundred paroled prisoners, United States soldiers who were prisoners on parole, coming from Iowa, Illinois, and the State of Missouri, outside of the city of St. Louis. It is shown that there were fourteen to fifteen hundred paroled prisoners there from the various States outside of Missouri. Belonging to other States, they of course had no right to vote in the State of Missouri. They had no sort of right to cast their votes at these polls. There were also employed some two or three hundred teamsters and others at a corral near that place. An officer of a regiment from the seventh congressional district examined the names which appeared upon this poll-list and found that there were fifty-six members of his own company, which was stationed at the Benton barracks, who had voted almost in a body at this election. There were other United States soldiers at Jefferson barracks on the opposite side of the city, and about fifteen miles distant from this point. Some of these, together with the soldiers at the Benton barracks, voted at these polls. They were shown by the testimony to have started with the avowed purpose of casting their votes for the sitting member, saying, as they started, that they "voted for Blow down here and for Blair up there." Thirty of their names are found recorded among the four hundred and ninety-six to which I have referred.

It is also shown that one of the judges of the election, getting tired of the discharge of his duties, and being more interested in the voting than in receiving votes, changed places with a bystander and went into the crowd to electioneer for the sitting member. The judge changed places with a bystander against the provisions of the law, leaving him, an unqualified judge appointed without authority of law, to officiate, and thereby vitiating the whole proceeding. The question is submitted to the House whether under the circumstances and with this evidence, and with nothing by the sitting member to control it, whether this is not one of those cases of which the precedents



are very numerous, and particularly in this very district, in former contests, where the polls should be rejected entirely. The committee were of opinion that this was one of those cases in which fraudulent voting was carried to such an extent that it implicated the officers of the election, and which led the committee to believe that it could not have been done against their will, if the polls had been properly guarded by them. Such was the extent to which the fraud was carried that it was impossible to ascertain truly how many legal votes were cast at these polls either for the sitting member or the contestant. I quoted a precedent, and I believe no one questioned the precedent, and least of all the sitting member; for upon his claim four years ago to have votes rejected under similar circumstances, the votes of four precincts in that district were rejected.

The only question is whether the evidence is sufficient to bring this case within the known rule of law. Here the names of all these men were appended to the notice of contest, so that the sitting member had notice of every one of those who were alleged to be illegal voters. If they were voters in the precinct it was the easiest thing in the world for him to have shown it. It is a small precinct in which everybody who resides in it is known and in which every resident could be pointed out, with the list before him. If they came from other parts of the city, and had the right to come there and vote if they took the oath that they had voted nowhere else, it would have been an easy thing, with the list before him, to point out where they did reside. He has done no such thing; he has attempted no such thing; but has contented himself with saying that they might have proceeded from the Government corrals and from Government employes at the Benton barracks, from those who, though employed there, were still voters. And it is true they might have proceeded from those sources, but the difficulty about it is that seventy or eighty of them are traced to other quarters, and the difficulty about the rest is that nobody has showed that they did come from that quarter. The committee were able to trace eighty of them to soldiers not entitled to vote.

It is claimed now by the sitting member that it is incumbent upon the contestant to show affirmatively that the others were fraudulent voters, and that he was not called upon to show that they were legal voters. And it is true as a proposition of law. But when he has shown that there does not exist in the precinct any such names as those; that there never was cast at any time before a quarter part of the number of votes; and when he shows by the old residents of the district that they are all strangers to them, and when he shows further that a quarter part of those fraudulent votes are actually traced to men who reside in other States or districts; and when he shows still further the informality and illegality of a judge of election leaving his place and his duties and giving it up to an irresponsible and unqualified person; and when he shows still further that it was openly avowed at the polls that the voting was to be all one way, and that men were not permitted to vote who would not vote for the sitting member, the contestant has, in the opinion of the committee, shown sufficient to call upon the sitting member to do that which it was so easy for him to do, namely, to show that these are legal voters in that precinct and district, their names having been before him for sixty days. The committee were therefore of opinion that the votes returned from that precinct should be rejected.

The remainder of the case mostly depends upon the votes of soldiers. With reference to the vote of soldiers, it is claimed by the sitting member and by the contestant that there were many fraudulent votes cast on the one side and the other, and that many votes of persons not residents and not soldiers at all were cast in camp according to the provisions of law which entitles soldiers only to vote in that manner outside of the district; that many of the soldiers who did vote were minors, and were not entitled to vote at all; and that many others had their own residence in other districts of that State and in other States. It is hardly possible for me to go through with the investigation; but I desire to state to the House the principle upon which the committee came to the conclusions which are stated in their report. To support the allegation of the contestant, that

men who were not soldiers voted at camp under the law authorizing soldiers to vote, and that minors voted at camps, and also men who were not residents of the first congressional district of Missouri, the contestant introduced papers purporting to be the muster-rolls of several regiments.

It was objected by the sitting member that those papers were not properly authenticated, and upon that question the evidence is that they are copies found in the adjutant general's office in Missouri, sworn to by the persons who took the copies. The law regulating contested elections permits the introduction of sworn copies. It is claimed by the sitting member that inasmuch as the law of Congress does not require copies of the muster-rolls to be kept in that office at all; these papers in the adjutant general's office are only copies, and therefore that the papers produced here are copies of copies, and therefore are not legal testimony. But these were regiments of Missouri militia, organized at first under the laws of Missouri, and after such organization mustered in the United States service. The muster-rolls of those regiments were the muster-rolls of the militia of Missouri, organized under the law of Missouri, which requires the muster-rolls to be deposited in the office of the adjutant general of Missouri; but they were afterwards mustered into the service of the United States, and consequently a copy of the papers, or you may call it an original of the papers, was deposited in the office of the adjutant general. The committee were of opinion that the one was original as well as the other, and that therefore a copy of the one was as good as a copy of the other; and the question then comes up, what does the muster-roll prove? Upon that point it was contended by the contestant that the muster-roll contained evidence of the residence of the man when he enlisted, because the muster-roll gives the names of the men and the places where they were mustered in. It is claimed by the contestant that wherever the muster-roll shows that a man is mustered in, whether at Sedalia or at St. Joseph, that is evidence that he was not a resident of this district in St. Louis when he was mustered into the service. But the committee were of the opinion that the muster-roll is no evidence of the residence of the soldier, because it purports only to set forth the point where a man was mustered in; and it is a known fact that men go from all parts of a State to a certain point to be mustered in. In Massachusetts they go to Boston, in Missouri to St. Louis, and in Pennsylvania to Philadelphia. The law in relation to the mustering in of men does not require that the residence of the man enlisted shall be ascertained; and therefore a muster-roll does not purport to be evidence of the citizenship or residence of the soldier; and, so far as the contestant introduced muster-rolls as evidence of the residence of any voters, they were rejected. The muster-roll shows the age of the man enlisted, and the law requires his age to be ascertained. It is therefore *prima facie* evidence of the age of the soldier, subject, of course, to be rebutted by any other evidence.

The contestant introduced muster-rolls for another purpose, and that was to show that men who voted as members of particular regiments were not upon the muster-rolls of those regiments; and it was claimed by him that because their names did not appear upon the muster-rolls presented by him, they were not members of that regiment on the day of the election.

The committee was of opinion that whether a muster-roll was evidence of the fact of the man's being a member of that regiment on the day of election would depend upon the time when the muster-roll was made out. A muster-roll made out at any particular time purports and is certified to contain the actual condition of the regiment at that time. But it does not contain any sure evidence of who might have belonged to that regiment a year before, or who might belong to it a year afterwards. Men are continually being discharged, and others are being continually added to it by recruits. Therefore the actual condition of the muster of a regiment is constantly undergoing changes. What it is to-day is very unlike what it was a month ago, or what it will be a month hence. On that point the committee laid down this rule: that all the muster-rolls offered by the contestant, except such as were made out

at or about the time of the election, should be rejected, so far as they were offered as evidence of the names of those who actually belonged to the regiment.

Mr. BROWN, of Wisconsin. I ask the chairman of the committee whether these muster-rolls were produced before the commissioner within the time allowed to take testimony, or whether they were produced subsequently and in violation of the act of Congress.

Mr. DAWES. My friend is quite as familiar with the fact as I, having sat patiently and listened to all the evidence and the arguments. My recollection is that the muster-rolls were produced as part of the testimony of Thomas Slade. I am not certain about that, but if I am not right in it my friend can correct me.

Will the gentleman tell me at what time Thomas Slade's depositions were taken? That will determine it. While my friend is looking at this point I will assume that the testimony of Thomas Slade was taken within the time allowed by law. On this principle both the sitting member and the contestant proceeded to purge the polls, one and the other casting out all who were not entitled to be counted by this rule.

Mr. GANSON. I call the attention of the gentleman from Massachusetts to the affidavit of Slade. It was taken on the 24th of December, 1863.

Mr. DAWES. I did not inquire when the affidavit of Slade was taken, but when the depositions were taken. If the gentleman has his depositions there I would be obliged to him to give the date of them. He will find that the deposition was taken February 21, 1863, and that the affidavit was rejected by the committee.

By that rule, Mr. Speaker, the parties to this contest proceeded to examine the returns and to sift them of what both allege to be illegal votes.

There was another element which entered into this case. It was this. The canvassers rejected a large number of returns from different regiments for different reasons. There was only one reason that was claimed to have been an improper one; it was this: a portion of the returns were rejected because they did not contain an abstract of the votes. The law requires the returning officer to return an abstract of the votes. In some instances the officers returned in full the actual number of votes cast for each party, and it was considered by the canvassers that because they had not added up and abstracted—that is, given the result in figures, the returns should be rejected. But the committee was not of that opinion. The committee was of opinion that while the law of Missouri requires of the election officers to add up and give this abstract of returns, their failure to do so did not render the returns void. That is a thing which the committee could do as well as the election officers. It seemed to be absurd to claim that because the election officers had not acted with precision the returns should be rejected. The committee therefore admitted all the returns that had been rejected for that defect. The results of the vote at the election were summed up, and they showed a majority of 49 votes for Mr. Knox.

The only question before the House—and on that question I have no doubt each member has for himself examined the evidence—is to see whether the principles laid down by the committee were correct, and afterwards whether the evidence brought the case within those principles. If so, the result must be as has been stated by the committee. The minority of the committee had some objections which they desired to support, and if they desire to do so now I will yield the floor; otherwise I will demand the previous question.

Mr. BROWN, of Wisconsin. I should not only do injustice to the sitting member, but injustice to myself and to the House, were I to attempt from a mere recollection of what I have read two or three months ago to discuss the merits of the proposition now before the House. I am willing to accept the past action of the House in the case of Bruce and Loan, the vote which has just been taken upon the question of giving a fair opportunity to the sitting member to be heard, as a test by which I am to judge of the effect of any argument which might be urged for the purpose of influencing the determination of this body upon the pending proposition. If gentlemen on the other side of the House are willing to kick over the

ladder by which they have climbed into power, if they are willing to decide contests of this kind by these minor divisions which they have among themselves, I, as not being interested in these private or minor contests which occur among members of the same party, will not undertake to interfere with their decision. But I hold it to be due to the man whom you now propose to reject from his seat that a statement of facts should be made. As a member of the committee, having neither sympathy for him nor his opponent, having no political affiliation with either, I have not been able to find any legal testimony (as I look upon the law) by which the committee could arrive at the result indicated in these resolutions.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKY, their Chief Clerk, notifying the House that the Senate have disagreed to the amendment of the House to the bill of the Senate (No. 55) in relation to the circuit court in and for the district of Wisconsin.

#### MISSOURI CONTESTED ELECTION—AGAIN.

Mr. BROWN, of Wisconsin. While I do not propose to discuss the merits of this case, for the purpose of showing the manner in which the reasoning faculties of the gentlemen who sustained the majority report have been perverted, I propose to call the attention of the House to one or two of their positions.

The first specification in the notice given by the contestant is that 400 illegal votes were cast at the Abbey precinct. Now, under the act of Congress, so far as the Abbey precinct is concerned, that was the only point to which the sitting member was obliged to direct his attention. And it was obligatory upon the contestant to prove that 400 illegal votes had in fact been cast at that precinct.

Now, the majority of the committee concede that these allegations were too loose in law to form the basis of any decision whatever; and while they undertake to decide upon them they do it with a protest that it shall not be taken as a precedent. Yet while the gentlemen who make this report are thus willing to abandon the act of Congress in this particular case for the purpose of arriving at a result in favor of the contestant, which the pleadings of the parties do not warrant, they still as against the sitting member press to the very letter a compliance with the act, and reject testimony presenting facts important in the case because not taken within the limited ninety days. In other words, for the purpose of establishing the claim against the sitting member, the committee were unwilling to reject allegations and proof not coming within the limitations of the act, but the very moment the attempt was made to explain the proof—if you can call that proof which the contestant presented—by positive testimony, these gentlemen then hold up this act of Congress which they had previously been willing to disregard for the purpose of excluding the testimony. Now, sir, I believe that we should abide by the act of Congress entirely or reject it entirely.

Mr. UPSON. Did we not, by a vote of the House, order the committee to reject it?

Mr. BROWN, of Wisconsin. The House ordered the committee to proceed according to the act of Congress. I do not understand by what principle you enforce the rule as to one single item of testimony and reject it in regard to all other testimony. If you reject it you ought to have rejected it from the foundation of this proceeding.

Mr. UPSON. What other testimony was taken within the time?

Mr. BROWN, of Wisconsin. Some objections grow out of the time, and some objections grow out of the testimony itself. Time may be waived by the parties, but no consent can make much of the testimony of the contestant available as the foundation of a sound adjudication. In its own nature, as being mere suspicion or supposition, it is unfit to induce a conclusion in a legal mind.

Let us apply the law to this case, or let us reject it and base our action on abstract justice. In either case the resolutions submitted by the majority of the committee would be wrong.

One word further. While the committee have rejected, under the allegation of the notice, this entire and complete precinct, (the Abbey precinct,)

I deny that there is proof which under any allegation would justify this action. The honorable chairman of the Committee of Elections has said that as a general rule the man who alleges shall prove his allegation; but while he concedes that to be the general rule he finds an exception in this case, and insists that the sitting member must under the circumstances show that the voters named were legal voters. He states that before this election no such vote had been thrown in that precinct.

I insist that by the universal rule of law the burden of proof rests upon the man who alleges fraud, although it is here changed so that proof of innocence is shifted from the accuser to the shoulders of the innocent party. And as an answer to the deductions of the committee from the increased vote, I would call attention to the laws of Missouri under which a citizen is not forced to vote in the district in which he lives, but he may vote in any other district. It was shown that by reason of the civil war which has prevailed in Missouri and in the whole country, bodies of soldiers were stationed at different barracks, and that at Carondelet there was a large collection of workmen; that soldiers at these barracks and the workmen voted within this precinct. It was the most convenient poll at which they could vote. This was a sufficient explanation of the increased vote, and as the right to challenge existed, and each party must swear in his vote, the presumption is that each person voting was legally authorized so to do. The names of voters were preserved, so that the contestant could easily impeach the legality of the votes if, in fact, it was illegal. I therefore contend that the vote is to be considered fair and just until the reverse is shown. You cannot throw the burden of proof on the sitting member to show the votes cast at this precinct not to be illegal. Some attempt was made to show that certain soldiers were not entitled to vote. For that purpose copies of copies of muster-rolls were introduced. I must confess my surprise that good lawyers, such as I know the majority of this committee to be, should be willing to take these rolls as proofs of the allegations of the contestant. They were made for a different purpose. Suppose the chairman and myself should enter into a contract, and in it recite matters prejudicial to the rights of third parties, could it be used as proof against them? As between the parties to the contract the recitals would be binding, but I apprehend that no court would allow them to affect strangers.

But even if you admit the proof to be competent in its nature, how are these contracts proven? Did they go to the proper office and get certified copies? No, sir. They allow the clerk of the contestant to take such copies as he pleased and swear that he took correct copies, not from the office in which by law they are lodged, but from some place in which it is alleged that copies are kept.

I have not made these remarks with a view of entering into a discussion of the merits of the case, for as I stated on rising that would be doing injustice equally to the sitting member and to myself, but for the purpose of showing that the minority in their report have proceeded upon safe legal grounds, and that some strange prejudice must have influenced the minds of the majority to do, not what they thought to be wrong—I know neither of those gentlemen would do that—but to come to a conclusion alike unwarranted by the testimony and by the law under which they acted.

Some little prejudice has been excited by the present position of the sitting member. In regard to that I have to say there was no difference of opinion, so far as I could ascertain, among the members of the committee as to his present right. The very fact that he acts as a major general in the service of the United States excludes him from a seat here. He cannot act in a double capacity. The position of officer or soldier in the service of the United States, and the absolute obedience which such position requires, are inconsistent with the duties of a member of Congress, who is to judge and act independently, and freed from every improper influence. The resolutions involve only the validity of the original election. But the committee, instead of following the precedents set in other cases, that is, vacating the seat and referring the matter back to the people, have attempted to deprive the people

of St. Louis of the right of electing their own member, and by the action of the House to substitute a member who never received a majority of the votes of that district.

Mr. ELDRIDGE. I understand my colleague to state that the committee were agreed that the sitting member was not entitled to a seat at this time from the fact that he holds an office in the Army. If that be so, was it not originally so when he came here as a member? He then held an office under the Government of the United States, and the same office which he now holds. He had merely deposited his resignation in the hands of the President conditionally. Did not that prohibit his holding the office of member of Congress when he came here as much as it does now when he has gone back into the Army?

Mr. BROWN, of Wisconsin. I will answer the gentleman. I stated what I understood to be the opinion of the members of the committee. So far as the question which my colleague suggests is concerned, if it was an original question to be decided by myself, I should decide that he must either abandon his military office from the moment his term here commences, or he ceases to be a member of Congress. But there are adjudications by Congress the other way, which I should be forced to respect; and beyond that, that question was not presented to the committee. It was not presented by the papers which the parties themselves made, and it was upon the issue only which the papers presented that the committee were instructed to decide.

It will be seen that my objections to the resolutions of the majority of the committee do not grow out of their effect upon Mr. Blair, because I hold that he has in legal effect vacated his seat, but out of the grave wrong done to the public.

Hard as it is for an individual to suffer under an unjust decision in a case where the injustice is palpable to every eye, his sufferings are of little consequence as compared with the scandal done to public justice. Such a case settles into a precedent and gradually weakens that innate sense of right which, natural to all minds, more guards judicial proceedings than can penal laws.

Mr. GANSON. I do not desire to discuss this question, but simply to explain the matter involved in the interrogatory put by the gentleman from Wisconsin, [Mr. ELDRIDGE.] The committee had no evidence before them that the sitting member was ever a commissioned officer in the service of the United States. The question was not before them. The issue presented to them by the record was whether at the election which took place in Missouri, the sitting member received a majority of the votes, or whether the contestant did. The question as to whether the sitting member was in the military service of the United States, a commissioned officer, is not involved in the issue; and the committee have no legal evidence that he ever was; and as that question was not submitted to them, they have made no report upon the subject. Nor has this House acted upon that question at all. It is entirely foreign to the purposes of this discussion, and the decision which is to follow upon it. And being forewarned by some gentlemen who refused to postpone the consideration of this case to a future day, that one side of this House had already made up its mind, before any discussion was had, that the sitting member was not entitled to a seat, I have too much respect for myself to engage in any discussion before any body which has come to any such conclusion before the case has been heard.

Mr. ELDRIDGE. I wish to make another inquiry of the gentleman. I understood the gentleman from New York [Mr. GANSON] that there was another question involved in the fact of the sitting member having resigned his office as major general conditionally when he came here. Now, the question of his right to the seat because of having gone back to the Army was not before the committee at all, and it is not before the House now. That question was not decided by the committee, and is not presented to the House.

Mr. GANSON. I would say in reply to the gentleman that that question was not agitated before the committee when the case was under consideration, nor when it was disposed of. The question related solely to the original election, and the question was not involved as to whether the sitting member was in the military service of the United States, either as a commissioned

officer or otherwise. The committee had no jurisdiction of that subject. It is proper that the facts should be stated frankly and fully, so that the House may not act under a misapprehension. The question whether the sitting member is disqualified by virtue of holding a military commission, or whether he has, by accepting that military commission, resigned his seat, was not before the committee.

Mr. ELDRIDGE. I understood my colleague [Mr. Brown] to say that the committee were unanimous in deciding that the sitting member forfeited his seat in consequence of his accepting a commission in the Army.

Mr. GANSON. I would say to the gentleman from Wisconsin that I have no doubt, from my knowledge of the character of the gentlemen who compose the Committee of Elections, that if they had had any legal proof of the fact that the sitting member after his election had accepted a commission as major general in the Army of the United States, they would have voted to unseat him; but there was no issue of that kind before the committee.

Mr. DAWES. As I presume no other gentleman desires to address the House upon this case, I demand the previous question.

The previous question was seconded, and the main question ordered.

Mr. DAWES. I stated in the outset of this discussion the reasons why, in the opinion of the committee, this question of the major generalship had nothing to do with the question before the House.

I desire now to say a few words in reply to the gentleman from Wisconsin, who submitted some views in support of the minority report. The minority report is of such a strange character that it is hardly proper for me to pass it by without some notice, supported as it is by the speech of the gentleman from Wisconsin. To begin with: the minority of the committee did not until long after the report was made and printed indicate their intention to make a minority report at all. It was not until the day which had been fixed for the consideration of the case arrived, and it was called up for action, that the gentleman from New York [Mr. GANSON] introduced this minority report. The case has been postponed until the report was printed, and is now before the House. The minority report is of such a singular character that I can only account for it from the fact that the case has been so long delayed that these gentlemen of the minority have entirely forgotten what it is, and the position taken by the contestant and sitting member before the committee, or else that it was prepared by some one who had not been in the committee-room at all, and never knew anything about what transpired at the hearing. I think that is one of the two conclusions that must necessarily be come to by every member of the House according to these gentlemen, as I do, no intention to mislead the House, but to state this thing precisely as they understood it.

One allegation in the minority report is that the committee, of its own motion, departed from the pleadings in this case in relation to the Abbey precinct. Mr. Speaker, the committee was in the habit—and I suppose the gentlemen themselves did not forget it when they drew up their minority report—of taking a case as it is presented. And, as the testimony is taken, if neither party objects to the positions taken by the other party, but proceeds to the hearing himself upon those positions, the committee is in the habit of presuming these positions to be yielded as sound in matter of law. When one party produces testimony which the other party believes to be not covered by the allegations, it is the custom of the latter to object to the testimony; and if he does not object, he is treated by all courts of law and by the Committee of Elections as having waived the objection. That would be a sufficient answer to the position taken by the minority, for the reason that the positions taken, the arguments addressed to the committee both by the contestant and the sitting member touching the Abbey precinct, and all the testimony introduced, were without objection that the allegations were not broad enough to reject the whole vote. That of itself would be sufficient.

But there is another reason. The allegations, according to the strictest requirements of the law

of 1851 governing this case, were amply sufficient; and I beg the attention of the gentleman from Wisconsin, and of his colleagues who signed this report, to the reading of it, in order that I may invoke their review of the positions taken.

It will be borne in mind that 424 votes were cast in the Abbey precinct for the sitting member. The allegation in regard to the Abbey precinct is in these words:

"1. That at least 400 illegal votes were cast for you at a precinct known as the Abbey precinct, in said district. That the persons voting had not been citizens or inhabitants of the State of Missouri for one year previous to said election, nor had they been residents of said district for three months previous to said election. Many of said voters were minors under the age of twenty-one years. A list of the voters whose votes are contested is annexed to and made a part of the notice."

I turn to that list and find that 424 votes were obtained there. The names of the voters are given, and the allegation is made that every one of them is a fraudulent vote. Therefore the allegation is as broad as it possibly can be to cover every vote cast at the precinct. It is more particular in that regard than is customary among contestants and sitting members in cases of this kind. It is the first case I have known for many years where the parties have gone so far as to furnish the names of the voters alleged to be illegal voters. The specification has set out the facts more precisely, under the law of 1851, than any case that now occurs to my recollection. So much as to the sufficiency of the notice touching the allegations.

This minority report goes further and states that the Committee of Elections rejected the testimony of Captain Constable, which was introduced by the sitting member to controvert the testimony that had been already introduced by the contestant. It was not the committee, Mr. Speaker, that rejected that testimony. It was ordered by the House on the 11th of March, 1864, that the testimony then offered be referred to the Committee of Elections and printed, to be considered by the committee with other evidence before them taken after the time provided by law, with a proviso that the resolution shall refer only to affidavits and depositions, and that all such as have been illegally taken shall not be considered by the committee.

That was a strict inhibition against the considering of a deposition which is not taken in conformity to the law of 1851, and was so designed by the House. The question was discussed here. It was urged on the one side and opposed on the other. It was therefore the House and not the committee which rejected that deposition and the statute of the United States that required the committee to submit all such testimony to the House for direction.

The gentlemen are made to say in the minority report that the committee required the sitting member to show in the first instance that the votes for him were legal; and the gentleman from Wisconsin [Mr. Brown] intimated that I took that position in the remarks I have submitted to-day. Said the gentleman from Wisconsin, "While the chairman of the committee concedes the legal position that he who makes an allegation must prove it, he requires in this instance the sitting member to controvert the position before the contestant is required to introduce testimony." That is an entire mistake, Mr. Speaker. The gentleman has misunderstood altogether the report and what I said.

The committee required the contestant to show that these were illegal voters. I stated in the opening of the case what the testimony was upon which the committee came to the conclusion that the burden of proof was shifted to the sitting member, and that he was required to show the thing which I said was so easy to show, was so entirely within his power to show if it existed, and that the lack of an attempt on his part to show it added weight to the testimony introduced by the contestant. But the gentlemen in the minority have permitted themselves to put their names to a statement still further wrong in reference to this subject, and to say there was testimony showing that the voters who thus cast their votes were legal voters. They have been made by this minority report to appear to quote in support of this statement the testimony of a witness named Pasquier. This is what is said in their report:

"On what principle of law or common sense is it that Mr. Blair is required to fortify the double presumption of

the legality of the votes cast, arising from, first, their names being on the poll-list, and second, from the testimony of Pasquier, a witness for contestant, proving them to be qualified voters, testimony which should be decisive for Mr. Blair with every fair-minded man, not only because it is given by a witness of his opponent, who is manifestly candid and truthful, but because the contestant himself could and unquestionably would have contradicted it by the rolls of the quartermaster referred to by the committee, if the statement had not been true."

And they are made to append to their report what purports to be an "extract" from the testimony of Pasquier. I am sorry to say that they, or rather their report, has garbled that testimony.

Mr. GANSON. I will say to the gentleman from Massachusetts that in some way in printing that report some five or six lines were dropped out. They were inclosed with the rest of the testimony in that report, and were in some way omitted by the printer.

Mr. DAWES. Allow me to inquire what was left out?

Mr. GANSON. A portion of the testimony.

Mr. DAWES. Is it in the mind of the gentleman what was left out?

Mr. GANSON. A part of the direct testimony.

Mr. DAWES. To what point was it directed? What did the witness testify which the gentleman says was left out by accident?

Mr. GANSON. It was a portion of his direct testimony.

Mr. DAWES. I am aware that the gentleman stated that it was a portion of direct testimony, but my interrogatory is, what did the witness testify to that was left out by mistake?

Mr. GANSON. I leave the House to tell that.

Mr. DAWES. I am glad it was left out by mistake. I was about to tell the House what was left out. I was about to ask the gentleman to explain how it was that there appears in the testimony as printed the interrogatories an answer from the fifth to the eighth, and then skips to the eighteenth interrogatory, which is inserted with the nineteenth and twentieth, and then jumps to the fiftieth without the slightest indication that it is not a continuous statement. The eighteenth interrogatory appears as printed in this appendix to refer to what was printed immediately preceding; the pronouns are by this juxtaposition made so to refer when in fact they really referred to an entirely different matter, and thus this so-called "extract" makes the witness lie right out. I am very sorry that it was left out, but having been left out by mistake, it is a very singular fact that these gentlemen of the committee in their minority report say this witness testifies that certain men who were legal voters cast their votes there; and according to the reading of this testimony as printed it is so, but how is the testimony of the witness presented to make that out? He testifies in one place that Captain Constable had three hundred or three hundred and fifty teamsters in his employ, and then he goes on to testify further on about six wagon loads of laborers who are off in another direction by a grocery two or three miles away; immediately following that come the following questions and answers:

"Question 18. Did they state where they had been, and for what purpose?"

"(Objected to by counsel for contestee.)"

"Answer 18. I think they told me they had just been to the Abbey, and had voted, and were going home."

"Question 19. How far was the Abbey from where you met them?"

"Answer 19. I judge about two miles and a half."

"Question 20. How far is Benton barracks from the Abbey?"

"Answer 20. About a mile."

Now, the witness here is testifying about these six wagon loads of men, but they put the testimony immediately following the three or three hundred and fifty teamsters in the employ of Captain Constable, and it is made to appear that they went and voted at the Abbey precinct, while the testimony really was that the six wagon loads of men went a journey in another direction, two or three miles off, and only one witness thought these men said they voted. The witness says in another part of the testimony that he did not see any of the men vote. And that is left out "by mistake." And in another place that he was not there that day at all, and that is left out "by mistake." He is asked who the men voted for, and he answers "I don't know;" and that is left out too.

Mr. GANSON. We left out everything he did not know.



Mr. DAWES. You did more. You not only left out what he did not know, but have made him assert that he did know it. They skip thirty interrogatories in one place, and the "extract" adds, as if nothing had been left out, as follows:

"Question 50. Were most of the men employed at Benton barracks of foreign birth or not?"

"Answer 50. They were mostly of foreign birth."

"Question 51. Do you not know many of them who were unnaturalized?"

His answer to this latter question is left out altogether. The witness says before all this, "I arrived early in May from St. Pierre, where I was engaged in the Indian trade," and "was employed by Captain Constable some time during September last;" that is less than two months before election, which shows how much he knew about the matter. But this does not appear in the "extract." It is to be regretted that so many portions of this testimony in different parts of it "dropped out by accident," and that those portions which did drop out would have made the whole "extract" worthless, or mean entirely different from what it now means.

But let that pass, for there is something else here to which I wish to call the attention of the House. The gentlemen who have signed the minority report of the committee are made to say—I am sure that they would not say anything that they did not know to be so, and hence I remark that in this report they are made to say—that, although the allegation in the contestant's notice was, that he contested certain votes only upon the ground that these are non-residents, soldiers, yet that the committee, the majority of the committee, went further and permitted the contestant against the objection of the sitting member to prove that they were minors. They are made to say in a pert way, if I may use the language, that it might be supposed from this, as non-residence was the only ground upon which the votes of the companies B and K were questioned, and that as the muster-rolls which constituted the only evidence offered to establish it were declared to be incompetent for that purpose, there was an end to the controversy respecting those votes. Not at all. They are made to say further that the contestant claimed the right to impeach them for infancy, and not being members of the companies at the time they voted as such, and offered the rolls as evidence on these points. Mr. Blair objected not only because of the unfairness of making use of testimony in the record to support charges not presented there, even if competent to prove the charges had they been duly presented—it being impracticable for him to get testimony at that stage of the proceedings to meet it—but also because the muster-rolls were not, by law, evidence of the ages of the soldiers, no entry being required by law to be made in them on the subject, as shown by many of the rolls in the record before the committee.

I must repeat that whoever made those statements must either have forgotten what passed in the committee, or else never was in the committee-room during the hearing at all. I will read the tenth allegation, so far as it concerns these two companies, and see if there is not an express allegation of minority:

"10th. I contend that the officers who canvassed and cast up the votes given at the said election included in the votes allowed for you the following votes, viz:

"Company B, thirty-second regiment Missouri volunteers, Infantry."

"Company K, thirty-second regiment Missouri volunteers, Infantry."

"That the poll-books in which the above votes were entered were not legally certified, nor were they returned to the officers authorized by law to receive them, nor by the officers authorized by law to return said books; that the voters whose names are registered in said books were not legal voters; that many of them were minors; that none of them were residents of the State of Missouri for one year previous to said election, nor were any of them inhabitants or residents of said district, or of the county of St. Louis, for three months previous to said election."

There is a direct allegation that these were minors. Nor was there any such objection made by the sitting member as is here drawn from the imagination of the gentleman who made up this report.

This thing was all new to me, and was never heard of in the committee until a month after the report of the committee had been submitted and until we got up the other day to discuss it.

Then it is said that the majority of the committee lay great stress on what they say is proved,

that these fifty-six soldiers from the seventh district voted in a body at the Abbey precinct. The lieutenant testified that they voted there, and he gave the names of some of them. The committee say that they voted in a body. They may not have all voted together. The minority of the committee say that they did no such thing. I mean to say that they voted near to each other, one after another, one, two, three, four, and so on. The witness gave the names of fifty-six of them. And the numbers on their ballots show in what order they voted. The minority are made to use this language in their report:

"Here it is said that these eighty-eight men voted in a body, without question, &c., when there is not a syllable of evidence given by any witness as to the manner of their voting, whether consecutively or not, or who makes any statement at all as to whether these or any other voters were questioned or not; and the only evidence of their having voted at all is the poll-book itself, which contradicts, in the most striking manner, this aspersion on the judges by showing that the men did not vote in a body. The voters are numbered in the order of their votes, and the names in question range from No. 29 to No. 478, (see all the numbers in the appendix,) showing that the votes were scattered throughout the day."

The names are given in the appendix, as testified to by the lieutenant, as follows:

368 Stewart Abbot,	266 John Johnson,
29 James L. Briggs,	603 Patrick Murphy,
326 W. Ballard,	345 Robert McMichael,
313 Alexander Black,	410 Reuben Morris,
369 Moses Burke,	393 Michael Ryan,
351 John C. Comstock,	424 William Smith,
311 David Caldwell,	314 C. A. Maguire,
307 S. C. Downey,	411 James W. Weber,
309 James Fahey,	347 Thomas Welsh,
218 C. Goddard,	384 John Anderson,
161 William Hanker,	319 T. S. Beckett,
106 Charles Meyer,	372 John Bledsoe,
312 John Markwell,	354 John Bunker,
418 William McGown,	325 P. C. Consey,
360 Marion Rouse,	367 Hugh Conner,
420 Jacob Schniteus,	375 Samuel Clemens,
336 Newton Willowford,	T. A. Finley,
348 J. S. Wilson,	276 John Frank,
323 E. D. Adams,	353 Fred. Gates,
316 James Beckett,	343 E. King,
363 Charles W. Blind,	308 Riley Manley,
342 William Beck,	359 George McMillen,
324 Richard Conroy,	373 J. S. Robertson,
369 John W. Craighead,	341 Daniel Shanley,
322 Prior I. Carroll,	347 William H. Unkerfer,
315 J. S. Edwards,	349 Peter Whiskersman,
371 Edmund Fitzgerald,	421 John Weekly,
219 Newton Galpin,	443 Thomas J. Watson.

Now it will be perceived that the minority report has gone to the poll list of the Abbey precinct and prefixed to each name the number attached to it there, not in the order found on the poll-book, which is the order in which they voted, but in the order in which I have read from the minority's appendix. For instance, it appears on the poll-book that Nos. 311, 312, 313, 314, 315, 316, voted in the order in which I have given them. But this minority report has shuffled them up in the most approved style, making 368 come first, then 29, then 326, then 313, then 369, then 361, and then 311; then they go back to 307, and then give a half dozen more before they get to 312, which comes on the poll-book where these numbers were obtained immediately after 311, as do 313, 314, &c., which are still further mixed up. No pack of cards was ever shuffled more thoroughly when the gambler was playing for the greatest stake. Now, sir, whatever happened to Pasquier's testimony by accident, this could not have been the result of accident or chance. This parading of these names and numbers in this order as evidence that the men did not vote in a body was the work of a genius, and he should have the credit of it.

But however it occurred, or whatever it proves, the great and only important fact remains uncontradicted that fifty-six illegal votes were here cast for the sitting member, and the names are given.

As this report is just out, only in time for this discussion, I have not had time to go through it any further. I have called attention to these few points, which I think will show what confidence can be put in the positions there taken. I most cheerfully acquit the gentlemen whose names are affixed to that report from any design to mislead the House by any misstatement it contains. I beg leave to call attention to the "conclusion" of the whole, and then I will leave the matter. It is as follows:

"The contestant fails, therefore, if the House should refuse to sanction the confessedly erroneous procedure of allowing," &c.

Of course, if the House refuses to sanction it, he does fail; but I would like to inquire of the

gentleman from Wisconsin what is meant by the words "confessedly-erroneous procedure?" It is printed in italics, and will the gentleman tell us what it means? Who has "confessed" it?

Mr. BROWN, of Wisconsin. What procedure does the gentleman refer to?

Mr. DAWES. The procedure set forth in the majority report.

Mr. BROWN, of Wisconsin, made an inaudible reply.

Mr. DAWES. Would it not be well to wait until he had confessed it?

Mr. BROWN, of Wisconsin. It is merely a presumption from the known character of the gentleman.

Mr. DAWES. It is a great presumption.

Mr. BROWN, of Wisconsin. In the report of the majority of the committee they refer to the pleadings in this case, and they concede that those pleadings are not in conformity to the act of Congress. The allegation is not that the entire vote is wrong, not that the officers had been guilty of fraud, but that certain individuals were not entitled to vote. There is no proof that those individuals were not entitled to vote. The majority of the committee do not say they were not entitled to vote; but they do say that the contestant himself does not allege that the officers behaved fraudulently, and that the entire proceedings were of such a character as to reject the entire vote of the precinct.

Mr. DAWES. The gentleman did not do me the honor to listen to what I said upon that point, for I said he had omitted to take notice of the fact that there was a list made of the names of every one of those illegal voters, and that that list embraced the entire vote. The gentleman says the majority report admits that the allegations are insufficient in law and do not comply with the requirements of the statute. He cannot find that in the report. The report says "the House will not fail to notice the extraordinary character of many of the allegations," not all of them. I had the honor to state a few moments ago that the particular allegation which the gentleman alludes to was more in conformity to law than many that had come under my notice during my experience upon the Committee of Elections, because it states precisely that A B and C D voted at that precinct, and that they were illegal voters. Nothing can be more particular than that.

Mr. BROWN, of Wisconsin. I ask the gentleman if there is any proof as to the right of any of these persons as individuals whose names are mentioned in connection with the vote of that precinct which shows that they were not entitled to vote. The question is whether there is any proof affecting the individuals whose names are mentioned in that notice as having voted in that precinct, and showing that they were not entitled to vote.

Mr. DAWES. I had the honor to submit a moment ago, what is set forth in the majority report, that we traced fifty-six of them as being citizens of the seventh congressional district, and thirty odd as having already voted once fifteen miles off in another district, and who declared as they went up that they voted for Blair there and for Blair here.

Mr. BROWN, of Wisconsin. Then you have eighty-six.

Mr. DAWES. And I had the honor further to say a few moments ago, that so far as we could trace them they were all alike; also that one of the judges forgot his duties as judge, left his place and put an unqualified man in his place, while he went to electioneering, vitiating the whole proceeding.

Mr. BROWN, of Wisconsin. I would ask the gentleman whether there is any allegation of that kind in the pleadings of the party, and whether he has been enabled to trace these illegal votes beyond the eighty-six he has mentioned; and further, I would ask whether there is any proof in regard to those eighty-six except this improper proof of copies from copies of the muster-rolls.

Mr. DAWES. It is not worth while again to go over the views I submitted to the House upon the sufficiency of these papers. If they were not satisfactory to the gentleman from Wisconsin at that time I cannot hope to make them so now. I will, however, again read to him an extract from the report:

"The House will not fail to notice the extraordinary

character of many of the allegations of both contestant and sitting member, as well in the matter as in the manner of their presentation. For vagueness, uncertainty, and generality they are, in the opinion of the committee, without example, and seem to have been drawn in studious disregard both of the act of Congress and of all precedent."

Now, I will read a single allegation of the contestant and one of the sitting member among several of like character, which will show to what that remark alluded to.

Mr. Knox says:

"17. I contend that persons holding office under the Government of the United States established a newspaper for the purpose of exerting an undue influence on the election; that such newspaper was owned, controlled, and conducted by persons in the pay of the United States Government; that these officers, combining with some large contractors, deriving large profits from their contracts with the United States Government, to coerce their employers and others to vote for you at said election, did, by threatening to discharge from their employment those who were employed by them unless they voted for you, induce, through fear of being deprived of employment, many men who were legal voters to vote for you, when they preferred to vote for me, and did by the same means induce many minors under the age of twenty-one years to vote for you."

Mr. Blair says:

"11. That the political friends and partisans of the said Samuel Knox, with his privity, consent, and approbation, were, and are, guilty of each and every of the several acts of corruption, fraud, and oppression, untruly charged in his said notice against the friends and partisans of this contestant and respondent; that at many of the precincts in said district the partisans of said Knox created disturbances in the vicinity of the polls on the day of election, and by their boisterous and threatening language, and by the use of violence, deterred and kept a great number of peaceable and quiet citizens who were entitled to vote at said precincts, and who were desirous of casting their votes for this respondent, away from the polls, and prevented and hindered them from voting. The number or names of the persons thus prevented from voting not being now known to him, so as to enable him to set forth the same more particularly, but which names and the number thereof he will give evidence of, prove, and establish on the hearing of this case, if it shall seem necessary for him so to do, and he shall be able to procure the testimony of the persons so deterred or hindered from voting, or otherwise establishing such facts."

We thought it right to call attention to such vague and uncertain allegations as those here quoted.

Mr. BROWN, of Wisconsin. The gentleman refers to that cause of the allegation which consists in the charge that Government office-holders interfered in the election and exercised an influence upon the voters, and that contractors of the Government exercised the same sort of influence. I would join with him in setting aside such an election when the country is entirely filled with office-holders. When every tenth man draws his sustenance from the taxes, which the people have to pay, the only salvation that there is for the country is in adopting the principle that any such interference vitiates the election.

Mr. DAWES. The gentleman talks wide of the point at issue between us. I have no disagreement with him on that point. I will not, however, discuss the matter before us further, but will demand the previous question.

The previous question was seconded, and the main question ordered, being upon the first resolution reported by the Committee of Elections, which is as follows:

*Resolved*, That F. P. Blair, Jr., is not entitled to a seat as a Representative in the Thirty-Eighth Congress from the first congressional district in Missouri.

Mr. GANSON demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 81, nays 33, not voting 68; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Cobb, Cole, Cravens, Henry Winter Davis, Thomas T. Davis, Daves, Denison, Dixon, Donnelly, Driggs, Eckley, Elliot, Fenton, Finck, Gooch, Harrington, Higby, Hooper, Horchkiss, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Law, Loan, Longyear, Marvin, McClurg, McLeod, Samuel F. Miller, Moorhead, Daniel Morris, James R. Morris, Amos Myers, Norton, Odell, Charles O'Neill, Orth, Pelham, Pike, Price, John H. Rice, Schenck, Scofield, Shannon, Sloan, Spaulding, Starr, Stevens, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburne, Whitney, Williams, Wilder, Wilson, Windom, and Winfield—81.

NAYS—Messrs. James C. Allen, William J. Allen, Ancona, Blair, Bliss, Brooks, James S. Brown, Chauner, Dawson, Eden, Eldridge, Ganson, Griswold, Herrick, William Johnson, Kathfisch, Knapp, Le Blond, Long, Marcy, McDowell, Noble, James S. Rollins, Ross, John B. Steele, Stiles, Sweet, Thomas, Webster, Wheeler, Joseph W. White, and Winfield—33.

NOT VOTING—Messrs. Bailly, Augustus C. Baldwin,

William G. Brown, Freeman Clarke, Clay, Coffroth, Cox, Creswell, Deming, Dumont, Edgerton, English, Farnsworth, Frank, Garfield, Grider, Grinnell, Hale, Hall, Harding, Benjamin G. Harris, Charles M. Harris, Hubard, Hutchins, Philip Johnson, Kasson, Kernan, King, Lazear, Littlejohn, Mallory, McAllister, McBride, McKinney, Middleton, William H. Miller, Morrill, Morrison, Leonard Myers, Nelson, John O'Neill, Patterson, Pendleton, Perry, Pomeroy, Prunty, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, Robinson, Rogers, Edward H. Rollins, Scott, Smith, Smithers, Stebbins, William G. Steele, Strouse, Stuart, Thayer, Voorhees, Wadsworth, Ward, Chilton A. White, Benjamin Wood, Fernando Wood, and Yeaman—68.

So the resolution was agreed to.

Mr. J. C. ALLEN stated (during the roll-call) that Mr. Cox had paired off with Mr. Rice, of Massachusetts.

The question recurred upon the second resolution reported by the Committee of Elections, which is as follows:

*Resolved*, That Samuel Knox is entitled to a seat in this House as a Representative in the Thirty-Eighth Congress from the first district in Missouri.

Mr. HOLMAN demanded the yeas and nays on the adoption of the resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 70, nays 53, not voting 59; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Cobb, Cole, Henry Winter Davis, Daves, Dixon, Donnelly, Driggs, Elliot, Fenton, Gooch, Higby, Hooper, Horchkiss, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Marvin, McClurg, McLeod, Samuel F. Miller, Moorhead, Daniel Morris, Amos Myers, Norton, Charles O'Neill, Orth, Patterson, Pelham, Pike, Price, John H. Rice, Schenck, Scofield, Shannon, Sloan, Spaulding, Starr, Stevens, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburne, Whaley, Williams, Wilder, Wilson, and Windom—70.

NAYS—Messrs. James C. Allen, William J. Allen, Ancona, Jacob B. Blair, Bliss, Brooks, Chauner, Coffroth, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, Finck, Ganson, Griswold, Hale, Harrington, Herrick, Holman, William Johnson, Kathfisch, Knapp, Law, Lazear, Le Blond, Long, Mallory, Marcy, McDowell, James R. Morris, Morrison, Noble, Odell, Pendleton, Samuel J. Randall, Robinson, James S. Rollins, Ross, John B. Steele, William G. Steele, Stiles, Stuart, Sweet, Thomas, Tracy, Wadsworth, Webster, Wheeler, Chilton A. White, Joseph W. White, and Winfield—53.

NOT VOTING—Messrs. Bailly, Augustus C. Baldwin, Francis P. Blair, James S. Brown, William G. Brown, Freeman Clarke, Clay, Cox, Creswell, Thomas T. Davis, Deming, Dumont, Eckley, English, Farnsworth, Frank, Garfield, Grider, Grinnell, Hall, Harding, Benjamin G. Harris, Charles M. Harris, Hubard, Hutchins, Philip Johnson, Kasson, Kernan, King, Littlejohn, McAllister, McBride, McKinney, Middleton, William H. Miller, Morrill, Leonard Myers, Nelson, John O'Neill, Perry, Pomeroy, Prunty, Radford, William H. Randall, Alexander H. Rice, Rogers, Edward H. Rollins, Scott, Smith, Smithers, Stebbins, Strouse, Thayer, Voorhees, Ward, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—59.

So the resolution was agreed to.

Mr. DAWES moved to reconsider the votes by which the resolutions were severally adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### DAKOTA CONTESTED ELECTION.

Mr. DAWES. I now call up the contested-election case of Todd and Jayne, from Dakota Territory.

Mr. HALE. I think that one contested case ought to be sufficient for one day.

Mr. DAWES. I leave it entirely with the House. I am desirous of getting rid of these contested-election cases. The committee has seven more of them. However, if the gentleman desires to move to postpone this case, I will yield for that purpose, but will vote against the motion myself.

Mr. HALE. Then I move that this case be postponed till to-morrow.

The motion was not agreed to.

Mr. DAWES. I ask to have the resolutions that have been reported in this case read.

The Clerk read, as follows:

*Resolved*, That William Jayne is not entitled to a seat in this House as a Delegate from the Territory of Dakota in the Thirty-Eighth Congress.

*Resolved*, That J. B. S. Todd is entitled to a seat in this House as a Delegate from the Territory of Dakota in the Thirty-Eighth Congress.

Mr. DAWES. Mr. Speaker, by the official canvass in this case Jayne was returned as Delegate by a majority of 16 out of the astonishingly large poll of 458 votes. How many of these votes

were fraudulent, and how many were true votes of legal voters, are the questions to be submitted to the House on the evidence. It was not within the jurisdiction of the Committee of Elections to consider the question whether it is worth while to maintain a territorial government over a Territory which cannot muster more than 458 legal and illegal votes, all told, at the immense cost of some one hundred thousand dollars. It seemed to the committee, however, that, if it had been within our jurisdiction, it would have been quite worth while as a matter of economy to look into the question whether you should not repeal the act organizing this Territory. The question before the Committee of Elections, however, was, how many of the votes—237 reported by the canvassers to be cast for Jayne, and 221 to be cast for Todd—were actually cast by legal voters in the Territory. In order to make up the 237 for Jayne there were counted for him the votes of Brulé precinct—63 for Jayne and 8 for Todd. I will briefly state to the House the circumstances under which this vote was cast.

This election was held on Monday the 1st day of September, 1862. At the Brulé precinct, on the Sunday night previously, and at a time not exactly defined, but between midnight and two o'clock in the morning, there was the form of an election gone through with at a private house, and on a private arrangement entered into there. The law requires that, in order to be a voter, a man must be a citizen of the United States, or declared his intention to become such, and have resided in the Territory for ninety days. There was an interesting contest going on in the county as to where the county seat should be. Brulé precinct and Elk Point had a spirited contest as to which of them would be the county seat. They were, therefore, disposed to show as large a number of votes as they could. Brulé precinct, in order to make the thing sure, held two elections—one the night previous, and the other the day of the election. The night previous they got hold of all the men who had not been in the Territory ninety days. Men were sent out about midnight, on Sunday night, to collect votes of those not legal voters, among whom were Norwegians, some of whom had been in the country only a few days and knew nothing of the language. They operated on them in a way that they called "naturalizing" them. Here is a copy of the certificate given to one of them, who had been in the country about sixty days and could not speak a word of English at the time:

I, Ole Thompson, do declare upon oath that it is *bona fide* my intention to become a citizen of the United States, and to renounce forever all allegiance to any foreign prince, power, potentate, state, or sovereign whatsoever, and particularly to Carl XV, of whom I was last a subject.

OLE THOMPSON.

Subscribed and sworn to before me this 28th day of August, A. D. 1862. A. V. ECKLES, Clerk.

By JOHN B. GLAZE, Deputy.

This they called "naturalization." Those who had conscientious scruples about voting were naturalized in this way; and with those who had no such scruples the ceremony was not observed. In that way they polled 41 votes before two o'clock in the morning. They closed the ceremony by calling up out of his bed the man who owned the house. He came down and found these men around the table. They told him that all those who had not been long enough in the Territory to vote should vote then, because the next day there would be men at the polls to challenge their votes, and they could not vote. So he put in his vote then. His story is interesting, and I give it in his own words:

"Question 1. What is your age, place of residence, and occupation?"

"Answer. I am sixty-four years of age; I reside at Brulé Creek, Cole county, Dakota Territory; I am a farmer."

"Question 2. When did you first arrive in the Territory of Dakota?"

"Answer. I arrived in this Territory on the 2d day of July, A. D. 1862."

"Question 3. State, if you please, whether you have any knowledge of the voting that took place at Brulé Creek on Sunday night, August 31, A. D. 1862."

"Answer. I know of voting having been done between midnight and daylight of September 1, A. D. 1862. Candles were burning upon the table where the voting was being done. It was at my house, on Brulé Creek, in Cole county."

"Question 4. Were you present when this balloting, of which you speak, first commenced?"

"Answer. I was not. I was, at the commencement, up stairs, in bed; heard a noise below stairs, and went down to see what it was about; found a number of persons in

the room; saw three men sitting at a table, with a ballot-box in front of them. One man was writing. Dr. A. R. Phillips and Thaddeus Andrews, my son, were two of the persons seated at the table. They were acting as judges of the election then going on. Mr. Gore handed me a ticket as soon as I got into the room. I took the ticket, which was a Jayne ticket, handed it to Dr. Phillips, the judge, who put it in the box. Immediately after this, Mr. Gore stepped up to Dr. Phillips and said he voted this ticket (which he handed to Dr. Phillips) for another man, whose name he mentioned, but do not remember. He observed that the man was absent from the Territory, and he would vote for him. Dr. Phillips then placed the vote in the box.

**Question 5.** You have stated that you arrived in this Territory on the 2d day of July, 1862, and you voted. Why did you vote at this election, not having been in this Territory, as required by law, ninety days previous to said election?

**Answer.** Governor William Jayne and Mr. Glaze came to my house eight or ten days before election, and Governor Jayne told me that I had a right to vote, and upon his authority I did vote.

**Question 6.** Was Mr. Glaze, of whom you speak, present at the balloting on that night?

**Answer.** To the best of my belief he was.

**Question 7.** Were there any other votes cast while you were present?

**Answer.** There was not. Dr. Phillips, when I handed him my vote, said: "This (Mr. Andrews's) vote is the last vote." And after Mr. Gore had voted, as I before stated, the crowd in the room yet remaining dispersed, and I again retired to bed.

**Question 8.** Were you present at the polls at Brulé Creek on the 1st day of September, A. D. 1862? And if so, state where the polls were held.

**Answer.** I was present at the polls on that day. They were held at the house of Dr. Phillips.

**Question 9.** Did you vote on that day?

**Answer.** I did not.

**Question 10.** How long did you remain at the polls?

**Answer.** Not longer than fifteen or twenty minutes. My son said there would be several persons to dinner, and I returned to my house to acquaint my daughter with that fact.

**Question 11.** Who were the judges and clerks of this election at these polls?

**Answer.** I noticed that Dr. Phillips, M. M. Rich, and my son Thaddeus were the judges. I do not know who acted as clerks.

**Question 12.** Did you not know that the voting on the night previous to the 1st day of September, of which you have spoken, was illegal and contrary to law?

**Answer.** I supposed it to be illegal, and made an observation to that effect; but Mr. Frisbie told me that there was no law that would set it aside.

**Question 13.** Had Mr. Frisbie any interest in this election; and if so, what?

**Answer.** He was a candidate for the House of Representatives of the Territorial Legislature.

**Question 14.** Did Mr. Glaze, of whom you made mention, reside at Brulé Creek at the time of said election?

**Answer.** He did not; he resided at Vermillion, in the adjoining county."

And then they shut this box and took it off to the place appointed by law for holding the election. At nine o'clock in the morning they opened the election; and the votes taken after that were put in on top of those taken in the night. It was held without swearing in any of the officers conducting the election, or qualifying them in any way. In the course of the day about 25 votes were taken, making in all the number returned here of 8 for Todd and 63 for Jayne.

I will not detain the House longer, Mr. Speaker, than by asking the Clerk to read the testimony of one of the judges of election at the Brulé Creek precinct, who states what occurred, and with a brazen face refuses to answer, and then in the same breath confesses it all without seeming to think there was anything wrong in it. I ask the Clerk to read the testimony of Thaddeus Andrews.

The Clerk read, as follows:

"My name is Thaddeus Andrews; I reside at Brulé Creek, Cole county, Dakota Territory. I was present at the election held at the Brulé Creek precinct on the 1st day of September, 1862. I was one of the judges of election at said precinct.

**Interrogatory 1.** Were the judges of election and clerks sworn at said election?

**(Witness refuses to answer.)**

"The polls were opened at said election at the house of A. R. Phillips, at Brulé Creek aforesaid. They were opened at about nine o'clock in the morning on the 1st day of September, 1862. The judges and clerks were present at said election. One of the judges who was appointed by the commissioners refused to serve, and A. R. Phillips nominated Milton M. Rich, who was elected by the persons present in the house; I do not recollect the number present. I think there were about 40 votes cast during the day, after the polls were opened at nine o'clock a. m.

**Interrogatory 2.** Was the ballot-box opened and examined before the voting commenced, after the polls were opened at nine o'clock a. m. on said day?

**(Witness refuses to answer.)**

"I should think there were ballots in the ballot box before the voting commenced after the polls were opened; there were about thirty ballots in the box when the polls were opened. I cannot tell for whom the ballots were cast, but I suppose that they were cast for William Jayne for Delegate to Congress. They were cast for the south half of the northeast quarter of section No. 29, township No. 92 north, for county seat. These ballots were put in the ballot-box by some person; I am unable to state by whom. The

ballots were put in between Sunday evening and nine o'clock Monday morning; I think about three o'clock Monday morning. I think they were put in at A. R. Phillips's house, but I am not sure that that was the place. I was present at the time they were put in; there were quite a number around while this was going on.

**Interrogatory 3.** Do you not know that those ballots were put in the ballot-box at the house of Timothy Andrews?

**(Witness refuses to answer.)**

"I cannot state whether the ballots that were in the ballot-box when the voting commenced were all put in by one man or not. The polls were closed about six o'clock. After the polls were closed we commenced canvassing the votes publicly. We counted all the ballots in the ballot-box. We found that the number of ballots in the box did not agree with the number of names on the poll-list. There were six ballots more in the box than there were names on the poll-list. Six ballots were then picked out from the top of the ballots in the box, which were destroyed; the remainder of the ballots we then canvassed, and returned them to the office of the clerk of the board of commissioners of Cole county. The names of persons voting during the day were taken down by the clerks of the election. There are names of persons upon the poll-list who did not vote during election day. I think there are about thirty names on the list who did not vote.

**Interrogatory 4.** How came those names on the poll-list?

**(Witness refuses to answer.)**

"One of the poll-lists was returned to the clerk of the board of commissioners. The clerks of the election were Mahlon Gore and William C. Betts; the judges were myself, A. R. Phillips, and Milton M. Rich."

**Mr. SCOFIELD.** I wish to ask the gentleman from Massachusetts a question in relation to that evidence. I ask him if that return was not excluded from the count both by the majority and minority of the committee; and if so, whether it has anything to do with the decision of this House, or for what purpose he has had it read here.

**Mr. DAWES.** The minority report does not exclude anything. The minority report deals in technicalities altogether.

**Mr. SCOFIELD.** I beg the gentleman's pardon; the minority report takes the evidence as its basis, and excludes all the returns excluded by the majority, and also the returns from the St. Joseph and Pembina precincts.

**Mr. DAWES.** The minority did not take the trouble to go through with an analysis of the testimony, adopting that of the majority in regard to most of the precincts, and basing their conclusions, as I said, upon technicalities altogether, and there is no impropriety in that; but what I desire is that the House shall understand the facts, for I do not know what positions the parties themselves may take. As I was going on to say, about nine o'clock the polls were opened and some twenty or thirty votes cast. When the election had proceeded thus far one of the judges of election directed the clerk to put on to the book the names of those who voted on Sunday night; but the clerk, not being a party to the transaction, refused to put on their names. He left the stand and another clerk was appointed, who entered the names on the poll-book.

In order that justice may be done to all parties I will ask the Clerk to read the answer of the sitting Delegate to the notice of the contestants in reference to the Brulé precinct.

The Clerk read, as follows:

"More specifically answering as to the voting at said Brulé Creek precinct, the said Jayne avers that immediately previous to said election in said Territory a panic had seized a portion of the citizens of the Territory in consequence of the reports that had just arrived of the terrible Indian massacres of the frontier settlers in Minnesota; that on the day previous to the election a proclamation of the Governor of the Territory was brought to said Brulé Creek settlement announcing the attack of the Indians upon Sioux Falls, the only settlement lying between said Brulé Creek and the scene of the Indian ravages in Minnesota, the murder by them of two of the citizens of said Sioux Falls and the flight of the rest, and calling upon the people of the Territory to arm and organize for its defense.

"Immediately upon receiving a copy of said proclamation, and toward night of the day preceding the election, the citizens of Brulé Creek precinct assembled to organize a military company and prepare means of defense, and continued their session through the night. As the night progressed the alarm of many increased, and they expressed a determination to flee to the settlement as soon as the day dawned. So many expressed their determination thus to leave that it was greatly feared that the said precinct, a new and very flourishing one, would be deprived of its own weight in the pending territorial and county election, in which its citizens felt a strong general and local interest; and thereupon, and for the purpose of receiving the honest votes of those of the legal electors who it was feared would leave, and not for any fraudulent purpose whatever, the judges of the election theretofore appointed according to law did proceed in said assembly in a public manner to receive a few votes before daylight and before the lawful hour for opening the polls. The whole number of votes so cast before the proper time for opening the polls was not over thirty, and the persons who cast them, all of whose names

were afterwards entered upon the poll-book, were all legal electors of said precinct and Territory.

"This irregularity this respondent regrets and believes would not have occurred but for the cause above named, for no settlement in this Territory, or in any other State or Territory, is more orderly and law-abiding than that of Brulé Creek."

**Mr. DAWES.** It is to be regretted that this condition of things set forth by the Governor, who was a candidate for Delegate at the time, and is now the sitting Delegate, did not frighten anybody except those who had been in the Territory less than ninety days. The rest seemed to stand by and vote regularly on election day. The proclamation of the Governor in relation to the Indians seems to have had no effect upon the legal voters at all, nor on the illegal ones so but what they could retire to rest after voting.

I will ask the Clerk to read from the report what the committee say in relation to the election held in Bon Homme county.

The Clerk read, as follows:

"**BON HOMME COUNTY.**—The vote of this county was rejected by the canvassers, and it is claimed by the contestant that there should be counted from this county 26 votes for him, and 13 for the sitting Delegate. The evidence shows (pages 33, 58) that the polls were opened at nine o'clock in the morning, at the house of G. M. Pinney, United States marshal; Moses Herrick, D. C. Gross, and Jacob Kiel acted as judges. Silas G. Irish was originally appointed by the county commissioners of the county, as the law requires, to act as one of the judges. He was notified of his appointment by Harvey Hartsough, one of the commissioners, and accepted the appointment. A few days after this same Mr. Hartsough, one of the commissioners, came to him and said to him "that he didn't care a damn whether he (referring to the Jayne party) had the majority or not; we would swindle them (the Todd party) out of it anyhow." I replied to Mr. Hartsough that "You cannot carry any election that way. As a Republican, I was disgusted with this practice of the Democrats in Kansas, and that no fraudulent vote should go into that ballot-box unless it walked first over me." He turned away from me in seeming disgust at my reply. I heard very shortly after that Mr. Skinner was appointed in my place on the election board."

"Mr. Skinner was not permitted to serve, however. On the morning of the election he repaired to the polls, before nine o'clock, as the witnesses think, at any rate before any voting was commenced, and found Jacob Kiel, the servant of this same Harvey Hartsough, and known as the Dutch boy in this county, (page 38) installed in his place, and the United States marshal refused to admit Skinner into the room, declaring that Jacob Kiel should act as judge. The voting was done through a window. One witness (Snider) thereupon stationed himself at the window on the outside, and requested the voters to vote open tickets, while he took their names, and those who voted for Todd did so, numbering twenty-five in all, whose names he gives, (page 34.) And there were fourteen other voters, making thirty-nine in all. A recess of an hour was taken for dinner, and during that time Moses Herrick, one of the judges, took the ballot-box and carried it away with him into a room in his own house by himself. The balloting continued in the afternoon, and at the close of the polls, when the counting commenced, which is described by the witness, as follows, (pages 35, 36.)

"The judges proceeded to count the ballots, denying admittance to the electors at the polls. The judges first began the canvass of the votes by taking the tickets from the ballot-box and separating the same into two different piles—the Todd tickets in one pile, and the Jayne tickets in the other. The Jayne tickets were distinguishable from the Todd tickets by their blotted surface, the ink showing plainly through the ticket. It became at once apparent that a fraud had been perpetrated by the substitution of ballots during the hour had for dinner. There were at this time about twenty-five persons around the polls, and much excitement ensued. As soon as I saw the excitement I demanded to be admitted, and to have the canvass made public, which was at that time peremptorily refused by the judges, and by Mr. Pinney, who was their spokesman. During this time Mr. Johnson and myself were standing at the window, directly in front of the judges. Upon this refusal of admission into the room the excitement still increased. The judges thereupon gathered up the tickets and threw them back into the box. I then again demanded admission. After some hesitation Pinney suggested that myself and Edward Clifford be admitted; we entered together, and went up to Moses Herrick, one of the judges of election, and asked him to proceed with the canvass, which he refused to do. I then asked him to show me the tickets, whereupon he handed me thirty of the tickets to examine. I looked them over in his presence, and found that I was right in my conclusions. I then asked him to show me the other nine of the tickets, which he refused. I found fifteen tickets, among the number handed me, for Jayne. I then laid them down on the table and remarked to Mr. Herrick that there was *prima facie* evidence of fraud; that there had not been fifteen votes cast for Jayne; whereupon the judges and clerks jumped up, under the lead of G. M. Pinney, and left the room, leaving poll-book, ballots, and all papers connected with the election lying on the table. Great excitement prevailed. The canvass was never completed. The crowd rushed in (page 159) and took possession of the ballot box, poll books, and ballots, and proceeded then to hold a new election."

"The committee were of opinion that the conduct of all parties engaged in this transaction was disgraceful and fraudulent, and that no votes should be counted from that precinct."

**Mr. DAWES.** The board of canvassers, upon the facts as presented to them at the time, show-



ing that there was a disturbance at the polls in Charles Mix county, that a large number of Iowa soldiers had voted—this county was on the borders of Iowa—decided that the irregularities were so great as to render the election invalid, and they therefore rejected the vote of that county. The committee, however, upon the evidence submitted to them, thought they were able to sift the poll and ascertain how many were legal voters and how many were not. They therefore, instead of rejecting the whole poll, rejected from it a certain number, eighty-three, I think, who were Iowa soldiers, and ten half-breed Indians. They saw no reason why the rest should not be counted; they therefore counted that poll 62 votes for Jayne and 70 for Todd. The committee also counted the Pembina vote. It was received a few days after the time required by law. This vote, according to the certificate, was 19 for Jayne and 125 for Todd. And it was on the question whether this vote should be received that there was any material difference of opinion, as I understand, among the members of the Committee of Elections. It was the opinion of the majority of the committee that it should be received and counted, and of the minority that it should not. The minority gave their reasons why it should not be received. They gave them in the views which they have reported; and I have no doubt that they will enforce them.

It seems now to be claimed that this vote should not be received because the return was not in conformity to the law, inasmuch as the law requires the certifying officer to certify to an abstract of the vote.

Mr. HUBBARD, of Iowa. I would inquire of the gentleman from Massachusetts whether there is any evidence of the votes of that county having been canvassed according to law.

Mr. DAWES. I will read the certificate.

ST. JOSEPH, DAKOTA TERRITORY,  
OFFICE OF THE REGISTER OF DEEDS,  
September 5, 1862.

At an election held on the 1st day of September, A. D. 1862, in the county of Kitson and Territory of Dakota, being the seventh council and representative district of said Territory, the following persons received the number of votes annexed to their respective names, to wit:

For Delegate to Congress, J. B. S. Todd had 125 votes.

For Delegate to Congress, William Jayne had 19 votes.

Certified by me, CHARLES MORNEAU,

Clerk of the Board of County Commissioners.

Sworn to before me this 13th day of September, A. D. 1862.

JOHN B. BATTIMAN,  
Justice of the Peace.

DAKOTA TERRITORY, SECRETARY'S OFFICE.

I hereby certify that the foregoing is a true and correct copy of the original abstract returned to this office and now on file in my office; and I further certify that Charles Morneau was, at the date of said returns, a register of deeds in and for the county of Kitson, and also that John Battiman was at the said date a justice of the peace in and for said county of Kitson, and that said returns were received.

In testimony whereof I have hereunto subscribed my name, and affixed the great seal of the Territory.  
[L. S.] Done at Yankton this 12th day of January, 1863.

JOHN HUTCHINSON,  
Secretary.

I was about to say this, that the objection which seems to be raised for the first time is that this certificate does not set forth that this man took with him two justices of the peace to examine these votes, and then to make an abstract of them. It does not say that he took two justices of the peace, but the law presumes that every officer conforms to the law until the contrary is shown. The law does not say that that should be shown in the certificate; but the law does say that he shall certify an abstract. I think the objection was that instead of certifying the whole of the vote he ought to have certified an abstract of the vote. I think that it may be claimed that the two justices of the peace were present, for every man will agree that the law presumes an officer has discharged his duty until the contrary is shown. The question is whether the full vote is as good as an abstract. The committee have said over and over again, and my learned friends on this committee have joined in the report, that a certificate is as good without an abstract as with it. It seems to me that that decision is founded in good sense. We have the number of votes, which is the fact sought for. It is as good in one form as another, so far as the committee is concerned.

I do not propose to go through with acriticism

of the whole of the minority report until it has been supported by the gentleman who made it.

There was another objection in the report of the minority to the reception of this vote; and that was that it was fraudulent. They depend on the testimony of a witness by the name of Buckman. The majority of the committee rejected the testimony of this man Buckman, as it has ascertained that it was taken in this city some considerable time after the time prescribed by the law for taking testimony in this case. In the Missouri election case passed on this morning the House directed the committee to exclude testimony taken in this city after the time had expired according to the statute for taking testimony. The question was presented to the committee whether they would reject the testimony of Captain Constable in the case of Knox vs. Blair, which the House ordered to be excluded, and receive this deposition taken under precisely the same circumstances. The committee came to the conclusion that they would treat both depositions alike. The gentlemen who have signed the minority report agreed that the deposition of Captain Constable should be excluded; and for the same reason the committee think that this deposition of Mr. Buckman should be excluded.

Excepting this, there was nothing before the committee that raised any suspicion of the validity of this certificate, except the suspicion of two or three years ago, when Pembina was in Minnesota, that there was a good deal of fraud there. I always thought there was myself. But the reason that induced the committee to reject the testimony of this witness was the same as that which operated to the exclusion of testimony taken in precisely the same way in another case, that of Knox vs. Blair. The result of this election is properly stated in the report of the majority of the committee—for Todd, 345 votes; for Jayne, 246 votes, making a majority of 99 for Todd. If the deposition of Buckman be received and taken to be true, and if the Pembina vote be rejected, Jayne would have received a majority of 7 votes according to that calculation of the committee. I think the case is narrowed down to the question whether the deposition of Buckman shall be received or not. Beyond that is the question of credibility, upon which the committee thought the evidence was against the credibility of Buckman.

Mr. SCOTFIELD obtained the floor.

ADJOURNMENT OVER.

Mr. DAVIS, of Maryland. I rise to a privileged question. I move that when the House adjourns to-day it adjourn to meet on Monday next.

Mr. MORRILL. I hope the gentleman from Maryland will not press that motion. There are a number of subjects which ought to be disposed of.

Mr. SCOTFIELD. Can the gentleman from Maryland submit his motion when I have the floor?

The SPEAKER *pro tempore*. (Mr. Cobb in the chair.) Does the gentleman from Pennsylvania yield to the motion?

Mr. SCOTFIELD. I have not yielded.

The SPEAKER *pro tempore*. Then the motion of the gentleman from Maryland is not in order, and the gentleman from Pennsylvania will proceed.

Mr. SCOTFIELD. I will say to the gentleman from Maryland if it is his wish to submit the motion, and it will not consume much time, I will yield to him.

Mr. DAVIS, of Maryland. Then I submit the motion.

Mr. MORRILL. I call for the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the negative—yeas 48, nays 69, not voting 64; as follows:

YEAS—Messrs. James C. Allen, Ancona, Baily, Bliss, Brooks, Broomall, Cravens, Henry Winter Davis, Dawson, Denison, Eden, Edgerton, Eldridge, Ganson, Griswold, Hale, Harding, Harrington, Holman, Hotchkiss, William Johnson, Kalbfisch, Law, Loan, Longyear, Mallory, Marcy, McKinney, Samuel F. Miller, James R. Morris, Pendleton, Leonard Myers, Noble, Odell, Charles O'Neill, Pendleton, Samuel J. Randall, Robinson, Schenck, Starr, Stiles, Stuart, Thomas, Webster, Whaley, Wheeler, Williams, and Winfield—48.

NAYS—Messrs. Alley, Allison, Ames, Arnold, John D. Baldwin, Baxter, Blaine, Blair, Boutwell, Boyd, Brandegee, Ambrose W. Clark, Freeman Clarke, Cobb, Coffroth, Cole, Thomas T. Davis, Dawes, Dixon, Donnelly, Eckley, Eliot,

Farnsworth, Frank, Gooch, Grider, Harrick, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Jagersolt, Jeackes, Julian, Kelley, Francis W. Kellogg, Lazear, Le Blond, Littlejohn, Long, Marvin, McClurg, McDowell, Moorhead, Morrill, Daniel Morris, Amos Myers, Norton, Orth, Patterson, Perlman, Pike, Price, Ross, Scofield, Shannon, Sloan, Spalding, John B. Steele, William G. Steele, Sweet, Upson, Wadsworth, Elihu B. Washburne, William B. Washburn, Joseph W. White, Wilson, Windom, and Woodbridge—69.

NOT VOTING—Messrs. William J. Allen, Anderson, Ashley, Augustus C. Baldwin, Beaman, Blow, James S. Brown, William G. Brown, Chauler, Clay, Cox, Creswell, Deming, Driggs, Dumont, English, Fenton, Finck, Garfield, Grinnell, Hall, Benjamin G. Harris, Charles M. Harris, Hulburt, Hutchins, Philip Johnson, Kasson, Orlando Kellogg, Kernan, King, Knapp, McAllister, McBride, McIndoe, Middleton, William H. Miller, Nelson, John O'Neill, Perry, Pomeroy, Pruyn, Radford, William H. Randall, Alexander H. Rice, John H. Rice, Rogers, Edward H. Rollins, James S. Rollins, Scott, Smith, Smithers, Stebbins, Stevens, Strouse, Thayer, Tracy, Van Valkenburgh, Voorhees, Ward, Chilton A. White, Wilder, Benjamin Wood, Fernando Wood, and Yeaman—64.

So the motion was not agreed to.

DAKOTA CONTESTED ELECTION—AGAIN.

Mr. SCOTFIELD resumed the floor.

Mr. BROOMALL. With the consent of my colleague I desire to offer a substitute for the first resolution, and I will assign a few reasons for it if he will extend me the time. I offer the following as a substitute:

*Resolved*, That the election in the Territory of Dakota for Delegate was attended with so much illegality and fraud that neither William Jayne nor J. B. S. Todd is entitled to a seat in this House as such Delegate, and the seat of the Delegate from that Territory is declared vacant.

Mr. DAWES. I rise to a point of order. It was decided by the Speaker a few days ago that from the nature of the case the two must be separated—that you could not get at the right of two persons in the same resolution.

The SPEAKER *pro tempore*. The Chair overrules the point of order, as the substitute, if adopted, disposes of both resolutions.

Mr. BROOMALL. With the permission of my colleague I will give a few reasons, in short, why I have offered that amendment. It would appear from the reports of the minority and majority that they differ only in the one receiving and the other rejecting what has been called the Kitson county vote. The evidence upon that vote I have before me, and the House will see at once that while there may be some reason for rejecting the evidence, yet there is enough in the evidence and enough before the House to show that the people of that Territory should have another chance to vote upon their Delegate, and should vote the next time, as I hope, with a little more regularity. I will read the testimony, premising first that if the testimony is taken as true and as valid, then the minority is right; if the testimony is rejected, then the majority is right. It is the testimony of one Joseph L. Buckman, as follows:

"Joseph L. Buckman, of lawful age, being duly sworn, deposes as follows:

"Question 1. What is your name, age, and occupation, and where have you resided for the past year?

"Answer. My name is Joseph Buckman; age, thirty; occupation, trader; and have resided in Pembina, in Dakota Territory, during the last three years, with the exception of six months in 1861.

"Question 2. Were you generally acquainted with the people composing what is known as the Red River settlement, at Pembina and St. Joseph, in Kitson county, Dakota Territory? If so, state what opportunities you have had of forming such acquaintance.

"Answer. Well, I am pretty well acquainted with nearly all the people living in those places. I am acquainted with all the people in Pembina, and nearly all the residents in St. Joseph. I have been employed as a trader at Pembina, and also generally throughout that whole region of country, for nearly three years; and I have also been postmaster at Pembina since some time in the month of November, 1861.

"Question 3. Was there any increase of white male settlers at Pembina or St. Joseph between June, 1861, and the 1st of September, 1862? And if so, state the number of white male persons who settled at either place during the time specified.

"Answer. There was some increase. The exact amount of increase at St. Joseph I cannot state. At Pembina there was an increase of one, and that was myself. I know personally of two men who settled in St. Joseph during the time specified, and there may have been others.

"Question 4. Could there have been any considerable increase at St. Joseph during the time specified in the former interrogatory without your knowledge?

"Answer. No, sir; not very well. There could not have been an increase of more than fifteen white male settlers.

"Question 5. How many white male persons of twenty-one years of age residing at Pembina were born within the limits of the United States?

"Answer. Well, sir, besides myself, I do not believe that there are more than one.

"Question 6. How many white male persons of twenty-one years of age residing at St. Joseph were born within the limits of the United States?"

"Answer. To the best of my knowledge, there are but two there who were born within the limits of the United States."

"Question 7. How many foreign-born residents of either of these places were naturalized citizens, or had filed their declarations to become naturalized citizens, at the time of the election on the 1st of September, 1862?"

"Answer. I know that there is one naturalized citizen in Pembina, for I have seen his papers; and there are two residents of St. Joseph that I suppose are naturalized citizens, from the fact that they have held offices under the United States Government. And further than this I have no knowledge on the subject."

"Question 8. Do you know any other residents of either of said places who are reputed to be naturalized citizens, or who have filed declarations of intention to become such?"

"Answer. I know of but the two named in my previous answer."

"Question 9. Are Pembina and St. Joseph situated in what is known as the Indian country, or in a district of country which has been ceded by the Indians to the United States Government by treaty?"

"Answer. It is Indian country, and has never been ceded to the United States Government."

"Question 10. Will you state whether the people comprising the settlements at Pembina and St. Joseph, in Dakota Territory, are white persons, or are mainly Indians and half-breeds?"

"Answer. A large majority of them are Indians and half-breeds."

"Question 11. Were you present at an election held, or alleged to have been held, at St. Joseph, Kittson county, Dakota Territory, on Monday, the 1st day of September, 1862?"

"Answer. Yes."

"Question 12. Will you state the names of the persons who acted as judges and clerks of election at that time and place, and whether they were white male persons, who were themselves legal voters, or whether they were aliens, Indians, or half-breeds?"

"Answer. Well, their names were, first, James Grant, N. Laronts, and another man, popularly known as Brother Timothy, who, as I believe, acted as judges. Edward Hay and J. Baptiste Bottineau, I believe, were the clerks. James Grant was of mixed blood, of a class who are generally known as half-breeds. N. Laronts was a half-breed. Brother Timothy is a Frenchman, from France, and claims to be a naturalized citizen. Edward Hay is an Englishman by birth, and was not a naturalized citizen on the day of election. J. Baptiste Bottineau is a half-breed."

"Question 13. How many persons voted for a Delegate to Congress at St. Joseph on the day referred to?"

"Answer. It is my impression that just 46 votes were cast; not exceeding 48 I know."

"Question 14. Of the number of persons who voted there for Delegate to Congress on that day, how many were white male persons twenty-one years of age?"

"Answer. There were not over twenty white persons present on that day, and I do not believe there were more than ten or twelve such persons."

"Question 15. Of the number of white male persons twenty-one years of age who were present at St. Joseph on that day, how many were citizens of the United States, either native or naturalized?"

"Answer. There were just three there who were native-born citizens of the United States, and there were three other persons who claimed to be naturalized, viz: H. S. Donaldson, Charles Morneau, and Brother Timothy."

"Question 16. Were there any present who had made declarations of intention to become citizens?"

"Answer. There were none that I know of."

"Question 17. If more votes were cast at said election than there were legal voters present in the town of St. Joseph, please explain who cast them, and how it was done, and all the circumstances connected therewith."

"Answer. It was the general understanding with a clique of five persons on the day of the election that there should be a certain number of votes returned, whether they were cast or not. The excess of votes over the number of legal voters present were cast by illegal voters, mostly half-breeds."

"Question 18. Were more votes returned than were cast at that election; and if so, how many more, and when and by whom were the names added to the poll list?"

"Answer. There were about 150 votes returned. The excess were added by Edward Hay and J. Baptiste Bottineau after the closing of the poll on the evening of the day of election, and were a little over 100 votes."

"Question 19. How many votes were returned for William Jayne?"

"Answer. It was about 20 votes."

"Question 20. Please state, if you know, how that number of votes came to be returned for Mr. Jayne."

"Answer. They were returned at my request, I suppose. I made the request of Edward Hay, one of the clerks. I knew that they, the clerks, were about increasing the list of votes, and that they contemplated returning them all as cast for Mr. Todd, when I told them that it would look better if they returned a portion of the votes as having been cast for Mr. Jayne."

"Question 21. In the district of country composed of the counties of St. Joseph, Stevens, Chippewa, and Kittson, commonly known as the Pembina district, are there any settlements except at Pembina and St. Joseph?"

"Answer. There are no permanent settlements at any other place, unless you call Fort Abercrombie a settlement, but there is nothing there but the fort."

Well, now, the vote in that district which is in dispute amounts according to the majority report to 125 votes on one side and 19 upon the other. I have said already that if this testimony is taken as valid and believed, the minority is right, and the sitting member is entitled to the seat. The

argument in favor of rejecting this testimony is that it was not taken within the time prescribed by the act of Congress. The answer to that argument is, first, that that act of Congress does not apply to the Territories, and, secondly, that no one Congress can prescribe the mode by which a future Congress shall test the legality of the election of its members. We are as independent as the Congress which passed the election law, and we might as well undertake to decide for them backwards as they for us forwards.

Now, although under the act of Congress this testimony would be rejected, yet we cannot deny the fact set forth in the testimony. They are not denied on the other side, and in face of that fact I do not see how the majority of the committee could make a report in favor of the contestant.

Mr. SCOFIELD obtained the floor.

Mr. DAWES. I trust the gentleman will allow me to say a few words. I will not interfere with his line of remark. It does seem to me that the House should commit itself to some rule upon the subject. It seems to me that when Congress says it will not admit depositions taken under certain circumstances it departs from all consistency when it admits such depositions. Now, this man received the very vote which has been read; whether fortunate or not, he served his time as a member of the Legislature of Dakota, and then he came on here to Washington to get an office, and for that purpose he circulated around here, and he is now back in the Territory as an officer under the United States marshal.

Mr. SCOFIELD obtained the floor.

Mr. TODD. I desire to reply to the member from Pennsylvania, [Mr. BROOMALL.]

Mr. SCOFIELD. I do not propose to occupy more than five minutes myself, and then the gentleman can have as much time as he wants.

Allow me, Mr. Speaker, to make you acquainted with St. Joseph, irreverently called in the hurried speech of the West "St. Jo." You think, perhaps, you had an introduction to this saint in the case of Bruce and Loan, but you are mistaken. You are thinking of "St. Jo." of Missouri, where they nobbed the Massachusetts emigrants a few years ago, and more recently tore down the American flag, about the time that Massachusetts soldiers were murdered on their way to defend the national capital; the same St. Jo. whose bad cause was so tenderly pleaded a few days ago by the forgiving eloquence of the gentleman from Massachusetts, [Mr. DAWES.] This is a saint of another canon; a hermitical saint; a saint of the woods, located more than a thousand miles, by any traversable route, beyond the extreme fringe of western settlement; full a thousand miles beyond where the mule path ends and the Indian trail begins; crowded close under the Canada line, and so deeply buried in the shadows of sunset as to have escaped the observation of American map-makers altogether. Well, sir, this young saint has had an election, and, like its older namesake of Missouri, has thereby got into trouble. But they were not alike in their misfortunes. The complaint from the Missouri St. Jo. was that they had a great many voters, but owing to the mobocratic prejudice against rebels in that locality they got but very few votes; while the complaint from this St. Jo. is that, having but six legal voters, they get 144 votes. I will tell you how it happened. They have but few amusements up there, and, for lack of other excitement, sometimes celebrate the day of the election. They do not call it, however, by that name. It is generally known as Indian day. Well, sir, on that day, in the fall of 1862, a few trappers for furs, a few clap-trappers for politics, a great many Indians, and a gallon or two of whisky got together to exercise the great American privilege, the right of voting. The law of Dakota requires an election board to be composed of three judges and two clerks, who are themselves voters. But these assembled sovereigns did not stand for forms. They selected two Indians and a Frenchman, known as "Brother Timothy," for the judges, and one Indian and an Englishman, named Edward Hay, for clerks. The board being thus organized, six white men, claiming to be citizens, though three of them were foreign-born, deposited their votes for Mr. Todd. Forty Indians and Canadians did the same thing. Forty-six votes were thus cast for Mr. Todd; but this was not supposed to be enough to make the election certain. Not another Indian could be

found, and so the clerks added names enough to make the tally 125 for Mr. Todd. A white man suggested that it would make a better-looking record if a few votes were put in for Mr. Jayne. The Indians acknowledged the superior cunning of the pale-face, and immediately added 19 votes for Jayne.

A Scotch divine was once asked by an incredulous fox hunter how it was possible for Samson to catch three hundred foxes so easily, when a whole bevy of sportsmen, aided by the best dog-blood in the realm, were often unable to bring in a single trophy from a whole day's chase. Shrewdly accommodating his scriptural exposition to the weak faith of his interrogator, he replied that Samson probably had only half a dozen foxes and all the rest were skunks and woodchucks. So with this election. There were half a dozen legal votes and all the rest were myths and red-skins. These votes, thus supervised and thus made up, were forwarded to the proper authorities at the capital of the Territory, but they were not allowed by them. The case now comes before us and the contest for the seat will be settled by the allowance or rejection of this vote. If rejected it leaves Mr. Jayne with a majority of 7 as settled by the report of Mr. Todd's friends on the committee. If allowed, Mr. Todd will have a majority of 99. The majority of the committee concluded to allow the vote. Why? Was the evidence of the fraud conflicting? No, sir; there was not a witness nor a circumstance to contradict the full and clear evidence of Mr. Buckman, who witnessed the pretended election, and who was one of the real citizens who voted for Mr. Todd. On the contrary, he was sustained by the territorial census of 1861, which shows that only a handful of white people reside at this place. Was the character of the witness impeached? No, sir. Nothing worse could be said of him than that he was once a member of the Dakota Legislature; that he was recently intrusted by Judge Blair with an important clerkship in the Post Office Department in Washington, and had been indorsed by a member of the United States Senate, who, amid all the detraction and scandal of American politics, has always been said to possess a clear head and a pure heart. This testimony was taken March 11, 1863. Mr. Todd has thus had one year and three months in which to disprove it. If there had been 144 voters in St. Joseph, surely he might have furnished us some evidence of it in that great length of time. But not a line of evidence to contradict the statement of Mr. Buckman has been presented.

Why, then, did a majority of the committee allow it? Because the deposition of Mr. Buckman was not taken within sixty days according to rule. It was impossible to do so. The election was held on the 1st day of September, but the returns were not sent in until about December, and then the winter made communication with that distant settlement extremely difficult. It was the 11th of March of last year before the evidence was finally obtained. The majority of the committee thought it was better to allow this glaring fraud than to vary a hair's breadth from the sixty-day rule. You might know, sir, that such a decision could only come from a jury of lawyers. There are nine of us on the committee, all lawyers, I think; certainly all but one, and if he is not, he is just as good or bad as a lawyer. It takes nine tailors to make a man, it is said, but it takes nine lawyers, accustomed to follow a rule at all hazards, to conceal a fraud as big as a camel under a rule as small as a gnat. The legal mind can do that and then exclaim without intending it as irony, "Let justice be done if the heavens fall." For the benefit of any one who does not understand English, I ought perhaps to give the Latin, *Fiat justitia, ruat cælum*. And so the untimely evidence was excluded and this great fraud admitted.

This House of Congress may admire such rigid enforcement of a more technical rule, but pause a moment before your approving eyes seek the stern faces of this Roman majority, for they were not always so sternly legal. They could unbend if the desired result required it. Rather than have the heavens fall they would sometimes relax a rule. The law requires the notice of contest to be served after the result of the election is declared; but Mr. Todd, in his haste, served his notice before, and the majority waived this error.

# THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN O. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

MONDAY, JUNE 13, 1864.

NEW SERIES... No. 180.

The law requires the depositions to be taken before a judge of the Territory, a recorder of a county, or the mayor of a city, if such officers can be had. Judge Williams and Judge Bliss were both in the Territory, and every county had a recorder. But Mr. Todd took his depositions before justices of the peace, and the majority waived this error. The law requires the election returns to be made within fifty days, and it was nearly one hundred before the returns came from St. Joseph, and the majority waived this error. The law requires the returns to be jointly certified by two justices of the county and the clerk of the commissioners, but the St. Joseph returns had the certificate of the clerk only, and the majority waived this error.

Mr. FARNSWORTH. Does the law require that the returns should be certified by two justices, or simply that the canvass shall be made by them?

Mr. SCOFIELD. They must not only canvass the votes but certify to the result. It would be an idle thing to require them to count the votes if they were not also required to make a memorandum or certificate of the facts as they found them.

A common man, unacquainted with the habits of the professional mind, might naturally suppose that such conflicting rulings were made with reference to a predetermined conclusion. But you, sir, can readily see that it is susceptible of a more charitable interpretation. The firm adherence to a technical rule for the admission of the St. Jo. fraud—the greatest perpetrated in territorial history since the Cincinnati directory voted in Kansas—may be only a sublime triumph of legal justice over acknowledged but unofficial truth and right. *Fiat justitia, ruat cælum.* And again, when the rule is four times relaxed in favor of Mr. Todd, it may be impulsive honesty breaking through the trammels of professional education. It is strange, to be sure, that Mr. Jayne's cause is injured when the rule is adhered to, and Mr. Todd's always benefited when the rule is relaxed. But that may be one of those singular coincidences that often occur in the mysterious affairs of human life.

Mr. TODD, (contestant.) I shall occupy but a very short period, and shall address myself strictly to the merits of the case, and in reply to the gentlemen of Pennsylvania who have just preceded me. Evidently there is very little known by the members of the House of the manner in which this election in Dakota has been conducted, and I propose to detail a few of the facts touching the manner of holding it and the transactions that occurred. We are a far distant Territory, two thousand three hundred miles from the city of Washington, and but little is known of it. It has seemed, from the remarks of the gentlemen of Pennsylvania who last addressed the House, that they have but a single point upon which to base their argument, and that is technicality. The facts in the case are not touched, and surely they have not looked at the evidence clearly, which has been printed and laid before the House. Now, sir, I desire to call attention to a few of them in connection with this election in our Territory.

This election was held under the auspices of the sitting Delegate, then the Governor of Dakota; and to show the opinions he held on the organization of the Territory, I will read a few extracts from his message transmitting the census returns to the first Legislature of the Territory at its first session, but will first read the returns. This message informs us that in the "western district" (now Charles Mix county) there were, "white population, fifty-three; half-breeds, one hundred and twenty-eight; total, one hundred and eighty-one." And the Governor remarks:

"I also deem it proper and obligatory upon me to state that, in my opinion, the returns of the western district taken by Mr. Morse cannot be relied on as correct; he having, in my opinion, returned more population than there was in that district."

Nearly all of the half-breeds here enumerated held tribal relations to the Yankton Sioux In-

dians, and participated in their annuities; yet counting the entire population of this district in the summer of 1861, and allowing the usual ratio for the males, there will be found only thirty-six persons entitled to vote. In the following year this district cast a vote of 145, although it is well known that there was no material increase of population. This same census return shows a population of fifty-one white males, twenty-five females; mixed males, two hundred and sixty-four; females, two hundred and sixty; total, six hundred in the Pembina district.

In regard to this return, the Governor remarks:

"In transmitting the census returns, I deem it proper to state that from information received from gentlemen living in the Red river district, and also from the fact that many of the residents were absent on the usual summer hunts when Mr. Betts was taking the census of the district, I am satisfied that the population returned is underrated."

Upon these returns the Governor districted the Territory into council and representative districts; and in the apportionment erected Pembina into a separate district, thus plainly recognizing the right of that people to a voice in our councils. I present these facts in relation to Charles Mix county and the Pembina district to show how absurd and inconsistent the gentleman from Pennsylvania is in supporting the sitting Delegate, who as Governor inaugurated and has had the advantage of those stupendous frauds which have so disgraced our young and beautiful Territory, and whose interests had been confided to his hands. In reference to them, we come to this House and ask you to wipe the stain away from us by rejecting the pretensions of the sitting Delegate to a seat in this House. We ask you to countenance nothing of the frauds of the chief executive of our Territory, or any other, and to set the seal of your disapprobation by righting the wrongs we have suffered at his hands. I will allude to him further at the proper time.

How stands it with this much-abused, much-vilified district of Pembina? What are the facts touching her material interests, population, and prospects?

I propose to offer a few proofs in regard to these, and in the first place call your attention to the fact that you have created ports of entry, opened custom-houses, established post routes and post offices, &c., thus showing the interest the Government felt in this district, and the desire she had to foster and promote the welfare of that interesting portion of our Territory.

The great Red River of the North constitutes the main artery of the northern portion of this continent, trending to the Hudson's bay, and through it to the Pacific. The head of this great river is but five miles from the sources of the Mississippi, and, diverging upon the water-shed of the continent, they each pour their mighty torrents into the two great oceans that wash the shores of our common country.

The Red River of the North drains one of the fairest portions of the Northwest. For four hundred miles it forms the boundary between the great State of Minnesota and the embryo State of Dakota. Passing the line that separates us from the British possessions, for six hundred miles it pursues its course to Hudson's bay, and thence finds its final outlet on the shores of the Pacific. Upon its banks is found a hardy, rugged, pioneer people, who have opened up the wilderness and caused it to blossom as the rose. The Government has sent its agents to that distant country to ascertain its interests and what amount of commerce was there, and it has been reported to this House over and over again. Steamboats ply upon its waters, indicative of enterprise, and the people upon its banks ask but your fostering care to warm them into life.

There is the great fur trade of the Northwest; and from this region do you receive those beautiful furs which are alike sought after for comfort and ornament. But this is not all. The merchants in the British possessions are now transporting their merchandise along this very route, thus leaving the old and long-pursued lines of

travel from Quebec to their ports upon the Hudson's bay and Pacific. Nor is this all. The trade of this much-abused people of Pembina with St. Paul is immense. It follows a line across the western half of Minnesota from St. Paul to Sauk rapids till it reaches the boundary of Dakota and pursues its course to the town of Pembina, and thence diffuses itself to the Selkirk and other settlements throughout that vast extent of the northern portion of the American continent.

It is true that it is a difficult route, and to reach these far-distant, remote regions requires spirit and enterprise, and in these people you have an example of what can be accomplished by a people who will to do and dare perform.

Now, sir, a few words in regard to the census taken at Pembina by the agent selected by Governor Jayne. He went there an entire stranger, from the capital of the Territory, knowing no one and caring less for those whose interests and status he was about to report upon. He went to the house of Mr. Charles Bottineau, one of the heaviest traders and enterprising men in that distant settlement, and one of those men in whose veins is to be found a small trace of Indian blood, but who has been classed by this witness Buckman as a half-breed. From his lips he took down the names of those persons only who were then present in the district which he remembered, and omitted all those who were on their hunts or their long journey to St. Paul on their annual trading expedition.

It is well known to gentlemen from Minnesota on this floor that the commerce between St. Paul and Pembina amounts annually to more than two hundred thousand dollars, and that in the early days of that State, when a Territory, this city was largely indebted to that reviled district for much of the prosperity which has made her a name to be envied in the valley of the upper Mississippi. These people travel a distance of six hundred miles from Pembina to St. Paul, and it consumes four months to make the round trip. There are three hundred carts and three hundred men engaged in this business at this season of the year; and all these men were absent from their homes when the agent of the Governor took this census, and are not enumerated in it. Let us see if we cannot discover something more real, more tangible, more accurate than this bogus census, taken by an instructed agent of a corrupt, designing Governor.

In 1860 the eighth census of the United States was taken in accordance with law, and the Government sent its chosen assessor to perform this duty, and surely his report ought to be the best criterion of the number of people in that district and the material interest they represent. I proceed now to show an abstract of the population of the Red River or Pembina district, carefully collated from the original returns made to the accomplished superintendent of the Census Bureau, and which has since been published and laid upon the desks of members of this House. From this abstract I find that there are in this Pembina district five hundred and forty-six white males, three hundred and eighty-nine mixed bloods, commonly known as half-breeds, and thirty-eight Indians who live as white men, all over the age of twenty-one years, making a total of nine hundred and seventy-three persons. They represent a capital of \$395,295, divided as follows: real estate, \$123,000; personal estate, \$272,295; and in the whole district along the Red river and west of it, a capital of \$412,735, or an average of \$375 for each person thus enumerated.

These persons are the representatives of ten foreign nationalities, and of our own country twenty-three different States and Territories, and follow the pursuits incident to their respective professions and associations, such as traders, farmers, merchants, masons, carpenters, clerks, boatmen, brickmakers, blacksmiths, millers, millwrights, and missionaries, lawyers, lumbermen, and laborers, priests, plowmakers, pilots, surveyors, shoemakers, tailors, wheelwrights, and woodcutters. About one hundred of these men are now in the



military service of the United States, composing company C of the Dakota cavalry, and were called to this honorable duty for the protection of their homes and that portion of our northern frontier. Surely men representing this interest, and whose brothers and sons are in the service of our country, may well claim the privilege of citizenship, and be entitled to all the immunities that attach to that proud title; and yet it is attempted to be denied them on the testimony of a suborned witness.

Mr. UPSON. I would inquire of the gentleman whether that is under the territorial or United States census?

Mr. TODD. The United States census.

Mr. UPSON. Has a census been taken since then?

Mr. TODD. Yes, sir; and I have already spoken of that and submitted it.

In regard to the election in Pembina district I have to say that I have listened with much pleasure to the remarks of the gentleman from Pennsylvania, [Mr. SCOFIELD.] If not instructive they were at least amusing, and while I do not profess to be a judge of wit, (and coming as I do from so remote and untitled a Territory where the fanciful is compelled to yield to the practical it will not be expected of me,) yet I can truthfully say that his attempt was decidedly better than his statement of facts, while neither was of a very superior order. The palm of excellence is due the witicism. A comparison that fails to discover any difference between a full-blood Indian and one who has but a sixteenth of that blood coursing through his veins is excusable for any errors of fact which a lively imagination may commit when in search of something to dwell upon, and a case which needs in its support the utmost stretch of it. These people of whom I have been speaking are partially educated, many of them well educated, who have never had any tribal relations with Indians on earth; they live there at their homes with their wives and children, their stock and merchandise, upon their farms and at their places of business, following the usual avocations of white men, and enjoying all that makes life dear to us.

I will not pursue this point further, or lengthen my reply to the facetious remarks of the gentleman from Pennsylvania, but will content myself by saying that all of his argument is based upon the testimony of the man who was elected upon the same ticket with myself and by the same vote at Pembina.

He came to the capital of Dakota and sat as a member of the Legislature throughout the session of 1862-63. In his evidence he says there were but six persons in this Pembina district, native or naturalized, who were legal electors. I have presented you the two census returns, one that of the United States, the other territorial, taken by direction of the Governor, now the sitting Delegate in this House, from which it is shown that there were more than forty times that number. Be you the judges between the two.

But how came this testimony before the committee and the House? When the commission was sitting in the Territory, at its capital, this witness was there, occupying his seat in the Territorial Legislature as the member from Pembina, and the sitting Delegate, then the Governor, was also present. This testimony could have been taken then and there. But it did not suit his (Buckman's) purpose; for he could not return home after betraying the confidence reposed in him by a confiding constituency any more than he could go to the new Jerusalem. We in our country, plain, old-fashioned people as we are, detest traitors, find them where you may. This person was afterwards brought on here to the city of Washington, not certainly within the congressional district of Dakota, and for his evidence incorporated in this book of testimony received his *quid pro quo*. Upon that evidence is based the report of the minority of the Committee of Elections.

I did not expect, sir, to have addressed the House as long as I have when I arose, yet all the points in this case have not been presented; but the report of the committee is so clear, so conclusive, and the evidence so full and overwhelming, showing the frauds perpetrated in the very heart of our people and by whom committed, that I feel that further comment is wholly unnecessary.

#### ADJOURNMENT OVER.

Mr. BROWN, of Wisconsin. I move that when the House adjourns, it adjourn to meet on Monday next.

The resolution was not agreed to.

And then, on motion of Mr. FARNSWORTH, (at four o'clock and thirty-five minutes, p. m.) the House adjourned.

#### IN SENATE.

SATURDAY, June 11, 1864.

Prayer by the Chaplain, Rev. Dr. BOWMAN.

On motion of Mr. CARLILE, and by unanimous consent, the reading of the Journal was dispensed with.

#### HOUSE BILLS REFERRED.

The following bills and joint resolution, which were yesterday received from the House of Representatives, were severally read twice by their titles, and referred as indicated below:

A bill (No. 510) further to regulate the carriage of passengers in steamships and other vessels—to the Committee on Commerce.

A bill (No. 519) repealing certain provisions of law concerning seamen on board public and private vessels of the United States—to the Committee on Commerce.

A bill (No. 520) for the relief of Samuel Beaton, master of the schooner George Harris—to the Committee on Commerce.

A joint resolution (No. 85) repealing an act entitled "An act for the relief of E. F. and Samuel A. Wood"—to the Committee on Claims.

#### PREVENTION OF SMUGGLING.

The Senate proceeded to consider the amendment of the House of Representatives to the bill of the Senate (No. 266) to prevent smuggling, and for other purposes; and

On motion of Mr. MORRILL, it was

Ordered, That the amendment be referred to the Committee on Commerce, and be printed.

#### EDUCATION IN WASHINGTON.

The Senate proceeded to consider the amendment of the House of Representatives to the bill of the Senate (No. 26) to provide for the public instruction of youth in the county of Washington, District of Columbia; and it was

Ordered, That the amendment be referred to the Committee on the District of Columbia.

#### PETITIONS AND MEMORIALS.

Mr. MORGAN presented a memorial of citizens of New York, praying for the passage of the bill (H. R. No. 276) to secure to persons in the military or naval service of the United States homesteads on confiscated or forfeited estates in insurrectionary districts; which was referred to the Committee on Public Lands.

Mr. FOOT presented eleven memorials from citizens of Vermont, remonstrating against the extension of the Goodyear patent for the manufacture of vulcanized India rubber; which were referred to the Committee on Patents and the Patent Office.

Mr. SPRAGUE presented a petition of citizens of Florida, praying for an increase of the salary of the United States judge for the northern district of Florida; which was referred to the Committee on the Judiciary.

#### REPORTS FROM COMMITTEES.

Mr. FOSTER, from the Committee on Pensions, to whom was referred a bill (H. R. No. 406) supplementary to an act entitled "An act to grant pensions," approved July 14, 1862, reported it with amendments.

He also, from the same committee, who were instructed by a resolution of the Senate to inquire whether any further legislation is necessary to provide for the widows and children of the colored soldiers massacred at Fort Pillow, asked to be discharged from its further consideration, as the committee had made provision for their cases in the amendments just reported to House bill No. 406. The motion to discharge the committee was agreed to.

He also, from the same committee, to whom was referred a bill (H. R. No. 392) for the relief of Edward Williams, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom

was referred a bill (H. R. No. 467) for the relief of Mary A. Hyde, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of William W. Thayer, guardian, praying that a pension may be granted to Charles A. Hichborn, submitted a report accompanied by a bill (S. No. 303) for the relief of Charles A. Hichborn; which was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred a petition of citizens of Iowa, praying that a bounty may be granted to Benjamin F. Spafford, of company F, twenty-fifth regiment Iowa volunteers, reported adversely thereon.

Mr. HARLAN, from the Committee on Public Lands, to whom was referred a bill (H. R. No. 247) granting lands to the State of Wisconsin to build a military road to Lake Superior, reported it with an amendment.

Mr. COLLAMER, from the Committee on Post Offices and Post Roads, to whom was referred a petition of George F. Nesbitt, praying for relief from a contract with the Post Office Department to furnish envelopes and newspaper wrappers for the use of that Department, submitted a report accompanied by a bill (S. No. 305) for the relief of George F. Nesbitt. The bill was read and passed to a second reading, and the report was ordered to be printed.

#### ORDER OF BUSINESS.

Mr. CARLILE. I move that the Senate postpone all prior orders and take up Senate bill No. 238, to ascertain and settle certain private land claims in the State of California, upon which the Senate was engaged yesterday morning. We came within a few minutes of disposing of it, and I trust we shall be able to dispose of it in a very short time this morning.

Mr. TRUMBULL. I desire to introduce a bill with a view to its reference.

Mr. CARLILE. My purpose is not to interfere with the morning business. If the Senator will allow the bill to be taken up, I will then give way to morning business.

Mr. TRUMBULL. If we can get through with the morning business, I was going to say something in opposition to taking up that bill and one or two others that have prevented our doing any morning business for days and days.

Mr. CARLILE. I appeal to the Senator from Illinois to allow us to dispose of it this morning.

Mr. TRUMBULL. If that motion is to be now considered, I want to get rid of a mere formal matter, the introduction of a bill with a view to reference.

Mr. CARLILE. I will give way for that purpose.

#### BILL INTRODUCED.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 304) in relation to the circuit courts of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

#### FREE STATE GOVERNMENT OF ARKANSAS.

Mr. LANE, of Kansas, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to furnish to the Senate copies of all correspondence, orders, and documents on file in the Departments in relation to the organization by the loyal people of Arkansas of the free State government of that State.

Mr. LANE, of Kansas, submitted the following amendment, which he intends to propose to the joint resolution (S. No. 62) for the recognition of the free State government of the State of Arkansas, which was ordered to be printed:

And be it further enacted, That this joint resolution shall be in force from and after the acceptance of its provisions by the people of the said State and proclamation of the same by the President of the United States.

#### JUAN MIRANDA.

Mr. CARLILE. I now move to postpone all prior orders, and that the Senate proceed to the consideration of Senate bill No. 238.

Mr. GRIMES. I call for a division of the question on that motion, if it is susceptible of division. I want to have prior orders suspended, but the Senate ought surely to proceed to the consideration of the report of the committee of

conference on the Army appropriation bill, the most important bill we possibly can have before us.

Mr. COLLAMER. The most important bill of the session.

Mr. GRIMES. The most important bill of the session, as my friend from Vermont very well says; and we ought not to allow one moment to elapse without disposing of it.

Mr. CARLILE. I concur with the Senator from Iowa as to the importance of the bill which he desires should be considered by the Senate; but he knows that that bill can be taken up after the expiration of the morning hour. It is only within the morning hour that there can be any hope of the bill which the Senate had under consideration yesterday being considered and disposed of. It will take but a very few moments, I think, now to dispose of it.

Mr. GRIMES. There were three other men on the floor wanting to proceed with other business.

Mr. CARLILE. In my humble opinion the whole three would not have consumed more than fifteen minutes. We could have got through with this bill yesterday morning in fifteen or twenty minutes more but for the expiration of the morning hour.

I will say one thing further. Senators will bear me witness that I have probably occupied less of the time of this body this session than any member of it. There is scarcely a Senator here who has not occupied more of the time of the body than I have. This is a matter in which I have no more interest than other Senators on this floor. It was a subject, however, which it was made my duty by the Committee on Public Lands to consider; and they have instructed me to report it and to see that the bill has the action of the Senate. A similar bill was considered by this body at its last session, and it passed, I believe, without a dissenting voice. It was then considered by the Judiciary Committee and reported favorably by Mr. Bayard, who was then a member of that committee, and the Senate passed it, I believe, without a division. I am anxious to have the bill disposed of. As was told us yesterday by the Senator from California, it is a matter of interest to his State. It involves the settlement of a considerable quantity of land within his State, which is important, we all know, to the interests of the State. I trust that it will be disposed of this morning, and that I shall not again have to trouble the Senate by a similar motion to that which I have to make now in order to get it considered.

Mr. HOWE. I desire to say a word in reply to the Senator from Virginia. I do not wish to stand in his way at all. He knows very well that I have been struggling here in reference to a measure in which the State of Wisconsin is very much interested; but I did not—

Mr. CARLILE. If the Senator will allow me to interrupt him, I have struggled on one or two mornings to get up this bill; but I believe the only time I have thrust myself before the Senate this session was to promote the interests of the Senator's State.

Mr. HOWE. I am very much obliged to the Senator for doing it. I made that remark simply as a preface to the remark I am now about to make. I did not feel authorized to move in that matter, deeply as the State of Wisconsin is interested in it, while this Army appropriation bill was undecided. It was the business on which the Senate was engaged at the hour of adjournment yesterday, and I thought it ought to be the first business to be resumed by the Senate this morning, and I was on the floor to move that the Senate proceed to the consideration of it when I was anticipated by the Senator from Iowa. It is only because I believe it to be of such urgent importance that I venture to move an amendment to the motion of the Senator from Virginia, unless he will withdraw it, as I wish he would; and that is, to substitute the unfinished business of yesterday for the bill indicated by him.

Mr. CARLILE. That is not in order. I made a similar motion the other day, and the President *pro tempore* decided that it was not in order.

Mr. HOWE. I submit to the Chair whether it is in order or not.

The PRESIDING OFFICER. (Mr. ANTHONY in the chair.) In the impression of the Chair it is; but if the permanent Presiding Officer has

decided otherwise, the Chair will follow that decision.

Mr. CARLILE. When the Senator from Indiana [Mr. HENDRICKS] was struggling the other day to take up the resolution in regard to the Wisconsin five per cent. fund, I moved to amend his motion by substituting this bill for the resolution that he proposed to take up, and the President *pro tempore* of the Senate decided that the motion was not open to amendment.

The PRESIDING OFFICER. The Chair will rule as it has been ruled by the permanent Presiding Officer, which is no doubt correct.

Mr. HOWE. Does the Chair rule my motion out of order?

The PRESIDING OFFICER. The Chair does rule it out of order. The question is on the motion of the Senator from Virginia to postpone all prior orders and proceed to the consideration of the bill indicated by him.

Mr. GRIMES. I call for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. GRIMES. I have only one word to say. The issue in this case is between a private bill, a bill confirming the titles to some land in the State of California, on the one hand, and on the other the general Army appropriation bill, the most important and necessary bill that has been under the consideration of the Senate during this session, or which can possibly be under consideration; a bill upon which we have already had three committees of conference, and which we are in danger of losing unless we expedite a conclusion upon it.

Mr. McDOUGALL. The business of the Senate cannot be expedited if we have to take up the same question three or four times in the morning hour instead of disposing of it at once when taken up. This bill has been before the Senate for some time. In the first place, the Senator from Virginia has sought to obtain the floor many times in order to call it up, and this is the third time that the question has been brought before the Senate. It can be disposed of I think in ten or fifteen minutes. We could pass many bills in the hours and hours that are consumed in this kind of debate upon the order of business.

Mr. CARLILE. I desire to say in reply to the Senator from Iowa that the bill to which he refers will come up at one o'clock as a matter of course; it is an appropriation bill, and there will be no objection to its consideration at any time after the expiration of the morning hour. It is only within the morning hour that this bill can be disposed of, and, in my opinion, it involves something more than a mere private claim—it involves nothing more nor less, in my opinion, than the faith of this nation.

Mr. CONNESS. I think the "faith of this nation" is very largely in favor of its defeat.

The question being taken by yeas and nays, resulted—yeas 21, nays 12; as follows:

YEAS—Messrs. Buckalew, Carlile, Conness, Cowan, Doolittle, Harlan, Harris, Hendricks, Hendricks, Bicks, Johnson, Lane of Kansas, McDougall, Nesmith, Pomeroy, Powell, Richardson, Sprague, Van Winkle, Wade, and Wiley—21.

NAYS—Messrs. Anthony, Brown, Collamer, Foot, Foster, Grimes, Howe, Lane of Indiana, Morgan, Morrill, Sumner, and Wilson—12.

ABSENT—Messrs. Chandler, Clark, Davis, Dixon, Fessenden, Hale, Harding, Howard, Ramsey, Riddle, Saulsbury, Sherman, Ten Eyck, Trumbull, Wilkinson, and Wright—16.

So the motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 238) to ascertain and settle certain private land claims in the State of California, the pending question being on the motion of Mr. CONNESS that the bill be indefinitely postponed.

Mr. JOHNSON. I have but a very few remarks to trouble the Senate with upon this bill; but according to my understanding of the case for which it provides it presents a very simple inquiry to the Senate.

The act of March 3, 1851, to which reference has been made, provides for the manner in which all private claims to land are to be ascertained and settled, and directs that all such claims as shall not be presented within a limited time, or which, being presented, shall have been rejected finally, shall be considered as a part of the public domain. It applied the provision to what are called consummate as well as inchoate titles. Some doubt has been expressed whether it was in the power of the Government under that treaty to take away

by such a provision, because of the laches of the claimant in presenting his claim, his title, if it was a consummated title according to the Mexican laws. But in the case of Frémont and the United States—I speak now from recollection, but I am sure I am right—the opinion of the court, which was given by the Chief Justice, states that it was in the power of Congress to pass that provision, because the provision was in the nature of a statute of limitations; that they had a right to say within what time all who should be entitled, or claim to be entitled, to lands under Mexico should present their claims for examination and ultimate decision; that however good the title might be, however clear it was that if presented it would have been confirmed, and however clear it would have been that independent of the particular term of the act of 1851 there would have been no necessity on the part of the claimant under any law which the United States might pass to present his claim for adjudication, still, as the law was passed, he who did not present his claim, although it was a legal, absolute title, and not an inchoate or equitable title, would lose his land. That act of 1851 contained a proviso, which is stated in a report of the opinion given by the Supreme Court of the United States in a case involving the title to this land. That proviso is in these words:

"That if the title of the claimant to such lands shall be contested by any other person, it shall and may be lawful for such person to present a petition to the district judge of the United States for the district in which the lands are situated, plainly and distinctly setting forth his title thereto, and praying the said judge to hear and determine the same; a copy of which petition shall be served upon the adverse party thirty days before the time appointed for hearing the same. And it shall and may be lawful for the district judge, upon the hearing of such petition, to grant an injunction to restrain the party at whose instance the claim to the said lands has been asserted, from suing out a patent for the same until the title thereto shall have been finally decided; a copy of which order shall be transmitted to the Commissioner of the General Land Office; and thereupon no patent shall issue until such decision has been made," &c.

The land in dispute is claimed under two original or alleged original grantees, the one of them named Ortega and the other Miranda. Ortega's claim was presented. Miranda's claim was presented, but was afterwards withdrawn; but the party who held Miranda's title, Mr. Valentine, did what he supposed he had a right to do—he intervened in the case between Ortega and the United States.

Mr. CONNESS. When was that?

Mr. JOHNSON. Intervened at this time, or rather thought he could intervene. I do not know that he interfered in point of fact. He thought he could intervene. But there were differences of opinion whether a party claiming adverse to him whose claim had been presented could or could not intervene under the authority of the act of 1851. Ortega's title was brought up to the Supreme Court of the United States, and it was contested upon the ground that in point of fact the title was in Miranda, the Attorney General who represented the United States admitting that the title was in Miranda, if in anybody, and not in Ortega. He admitted that there was no interest in the United States. The court did not exactly know what to do with the case as it stood. They could not well have declared in favor of Ortega, because in their judgment Ortega's claim was an invalid one. They could not decide against Ortega in that case by deciding in favor of the United States, which was the only mode in which they could have decided against Ortega, because that would have been to hold by the Supreme Court that the title was in the United States, and, as the Attorney General admitted that the title was not in the United States, it became necessary for the Supreme Court to avoid both consequences of either of the alternative decisions. They did it by returning the case to the district court to be disposed of; and in the opinion of Mr. Justice Grier, a copy of which I hold in my hand, he cites the provision in the act of 1851, to which I have adverted, and under which it was supposed by some that Miranda, or any third party claiming title to the land claimed by the individual claimant before the court, could have intervened, and after referring to that proviso the court proceeded to say:

"It appears from the record that Valentine, who purchased the title of Miranda at sheriff's sale, had filed his claim before the board of commissioners for confirmation and afterwards withdrew his petition. Now, if Miranda or his assignee makes no claim, if he admits the tenancy

and does not allege that Ortega has fraudulently overreached him, the Government surely has no right to claim that the land shall be considered as part of the public domain. It cannot set up Miranda to defeat Ortega, or the contrary, admitting it is must that either of them can show a claim worthy of confirmation in the absence of the other. Nor can third persons be admitted to interfere, to use the claim of one to defeat the other.

"If the heirs or assigns of Miranda object to the issuing of the patent to Ortega or his assigns their remedy is clearly pointed out. They can have their rights tried where the witnesses are known, where they may be examined *ore tenus* before the court or before a jury, if the court chooses so to do. They have a far better tribunal to settle this question than if they were permitted to appeal to this court to guess out the truth from conflicting depositions.

"Now, if this court should enter a judgment affirming that of the district court it would appear as if we had decided the title of Ortega to be superior to that of Miranda, and that Miranda was the tenant of Ortega. This we are unwilling to do, for if there be *bona fide* claimants of the Miranda title such a judgment might seem to conclude them. Nor can we reverse the judgment, for this would imply that we considered Miranda had the better title, and that he or his assigns might be justified in attempting to get the judgment of this court in their favor in this oblique and irregular manner under the protection of the Attorney General.

"We have concluded, therefore, to remand the record to the district court."

And it was done. The case came up again. The Senate will discover that the view taken of the act of 1851 by the court upon that appeal was that there was ample remedy for Miranda to have his title recognized and affirmed; that although upon the appeal of the United States he could not be permitted to intervene in the Supreme Court for the purpose of contesting the question there as between himself and Ortega, yet he could proceed under the authority of the proviso in the act of 1851 by presenting to the district court a petition with the particularity required by that act, in which the question could be decided whether the title ever passed out of Mexico, and, if it did pass out of Mexico, whether it was vested in Miranda.

The case came up again, and in the second decision the court evidently took a different view from that which they took upon the first appeal. In the second case they thought there was a right to intervene, and because there had been no intervention, they decided the case against Ortega then absolutely, the effect of which was, looking to the condition of things existing after that decision was pronounced, that the land became a portion of the public domain; for at the time of that decision the time had passed within which the claimant of the Miranda title could proceed to get his title affirmed under the authority of the act of 1851.

This I believe is the second time it has been before the Senate; I have not read the first report, but only the second report, and in it the committee say—and about that there cannot be two opinions, because the language of the treaty is plain, and such would have been the law if the treaty had not specifically so provided—if you obtain by cession territory belonging to another nation, or if you conquer it by war and hold your conquest, the individual titles to the lands which may be within the limits of the territory purchased or conquered still belong to the claimants. Private titles do not change. Nothing becomes the property of the succeeding power or of the conqueror, but that which belonged to the nation from whom the cession was obtained or from whom the territory was conquered. In other words, all the private rights of property either in real estate or in personal estate go into the hands of the grantee or of the conqueror, protected to the same extent that they are protected in the hands of the original owner. There can be no doubt about that.

But this treaty makes it still more obvious, if it could be made more obvious. This treaty provides in so many words that all claims to lands in California shall be recognized; that title shall be guaranteed; and the act of 1851 was passed for the purpose of carrying out that promise upon our part. It was to give effect to the obligation of the treaty. We told Mexico, "In our hands the owners of these lands will hold them just as absolutely as they could have held them under yours;" and we passed the act of 1851 merely for the purpose of ascertaining for ourselves who were the private owners, in order that we might ascertain what portion of the land ceded to the United States by Mexico was public domain. All therefore that the treaty obtained was public domain, was that portion of the territory ceded which had not been segregated from the public

domain in the whole territory belonging to the republic of Mexico.

My friend from California [Mr. CONNESS] read us yesterday some resolutions passed by the Legislature of California. It is not at all to be wondered at that the State of California and all her authorities have been very anxious to have all these titles adjudicated. The very existence of the doubts which have been hanging over a great many of these titles from the time of the cession, and to a certain extent up to the present time, impedes the prosperity of California. Our people have gone from the Atlantic and from the West, in that spirit of enterprise which characterizes the American character, in search of fortune, and as a great many of these claims covered an immense extent of territory and were not evidenced by any ostensible boundary, they settled upon any portion of the territory that they saw in point of fact unoccupied, and they obtained what is known there as a "squatter title;" but like every other man who settles upon land to which it turns out the Government has no title, that the land is not vacant but appropriated, he takes it subject to the consequences of his having committed a mistake. Those people, therefore, who may now be within the limits of this grant, provided the grant is a good one, are there without the color of right in point of fact, not only without the color of right, but without the possibility of obtaining any right from the United States colorably unless the United States were willing to violate their treaty. I think I am almost, I was about to say, as partial to California as the honorable member [Mr. CONNESS] who represents the State with so much zeal and ability; yet there is one thing which I value even more than the immediate prosperity or increase in prosperity of California: it is the preservation of the public faith. In individuals it is all-important; in Governments it is essential.

The Supreme Court having decided that there is no right to these lands in the United States and never was any right in the United States, because the lands had been appropriated before by Mexico so as to segregate these particular lands from the public domain of Mexico, if we do not pass this bill we shall take advantage of a mistake into which these parties have fallen in some measure because of a mistake into which the Supreme Court had fallen in their construction of the act of 1851.

Mr. CONNESS. Will the Senator permit me to interrupt him?

Mr. JOHNSON. Certainly.

Mr. CONNESS. I do not know exactly what the Senator means when he says that these parties fell into an error or mistake. Does he mean by their voluntarily withdrawing from the court of the board of land commissioners? I should like to have the Senator explain why those parties withdrew their case from the court of the board of land commissioners under an agreement to divide the proceeds in case the opposing title of Ortega had been confirmed.

Mr. JOHNSON. I can tell you, without knowing the circumstances to which the honorable member alludes.

Mr. CONNESS. I have got the papers here.

Mr. JOHNSON. That question is not before the Senate. That does not appear in the report, and I only speak of the case as this report presents it. But if I had been the counsel for these claimants, without any such agreement as he asserts, and upon information on which he relies, was made, I should not have deemed it necessary to present the claim before the land commission, and if I had presented the claim I should have withdrawn it, because I should have thought that the parties could intervene in the case of the claim of Ortega; and so the Supreme Court in the last case held; and it was to the benefit of the United States and to the benefit of the claimant. The United States are put to considerable trouble in the prosecution of these claims. It is better for them to have one title decided in one case than to have half a dozen cases before them, or brought to the courts involving but the one title.

Mr. CONNESS. If the Senator will excuse me now, I shall not interrupt him again. I should like to have the Senator understand that this case of the Miranda title was not withdrawn from the board of land commissioners because they believed they could intervene, but because, as the

record shows, they made a deliberate contract with the parties to the Ortega title that they would aid in the confirmation of the Ortega title, and then divide the proceeds evenly between them. The withdrawal, therefore, was not because they thought they could intervene, but because they thought they could fall into possession of a portion of the property under the Ortega title, which has since been rejected.

Mr. JOHNSON. Now, admit that. The Senator from Virginia will answer as to the fact. There is nothing in the report that I have seen about it. But suppose it to be so, ought the United States to take the land? That is the question. It touches the national conscience, and in my view it touches the conscience of each individual Senator. The Supreme Court have said, and the very effort of the parties who are trying to defeat this bill—I do not mean the Senator; I mean those who are interested—

Mr. CONNESS. There are no parties here opposing this bill.

Mr. JOHNSON. Those who are interested and who seek the defeat of the bill—they, by opposing this bill, evidence their apprehension or their conviction that if the case is permitted to be heard, the title will be decided to be in Miranda and in those who claim under Miranda.

But, Mr. President, whether it is in the one or the other, the Supreme Court have held, irrespective of any agreement which may have been made as the condition upon which the claim of Miranda was withdrawn from the board of land commissioners, that the United States have no title; and the whole object of this bill is to ascertain which of the two claimants has title; that is all. My friend's course places the nation in the attitude of holding on to this land as their own after the highest court in the land has decided unanimously that it is no part of the lands belonging to the United States under that treaty, but belongs to individual proprietors. As between private parties, what would be the morality which would govern the decision in a case of that description? Suppose there are in the hands of the honorable member from California \$10,000. My friend from Virginia claims it as his, and I claim it as mine. We submit it to the Senator from California. He decides that it is not mine, but it belongs to the honorable Senator from Virginia; "but," he says, "it becomes very convenient that I should keep it for myself; I have no title to it; it was not put in my hands as my property; but I have got it, and as he has lost," (if that should be the case,) "the opportunity of getting it out of my hands by some statute of limitations, I will hold on to it." Nobody would more instantaneously revolt from such conduct as that, which my friend will pardon me even for supposing him to have been capable of, than the honorable member from California; and yet that is the case substantially which the United States will have *in foro conscientie* if she holds on to these lands, or issues patents to those who are squatted upon the lands under the supposition that she has had title.

I have said all that I propose to say, Mr. President.

Mr. McDUGALL. I desire to say a word in this connection. It becomes my particular duty, having—

The PRESIDING OFFICER. (Mr. ANTHONY.) The morning hour having expired, it becomes the duty of the Chair to call up the special order, the unfinished business of yesterday, the report of the committee of conference on the Army appropriation bill, which is now before the Senate.

Mr. McDUGALL. I shall be through in five minutes.

Mr. DOOLITTLE. I think the Indian appropriation bill comes up regularly this morning, and we can dispose of it very soon.

The PRESIDING OFFICER. The Senator is correct. The Indian appropriation bill was under discussion yesterday and was laid over informally, in order to take up the report of the committee of conference on the Army appropriation bill.

Mr. DOOLITTLE. I understood that the Indian bill was simply laid aside informally, by unanimous consent, without being displaced, in order to consider the conference report, and therefore the Indian appropriation is really before the Senate.



The PRESIDING OFFICER. So the Chair understands.

Mr. SUMNER. I understand that my colleague, the chairman of the committee on Military Affairs, who is not in his seat, has actually gone into the other House in order to confer on this very matter, and therefore I will suggest that the Army appropriation bill be allowed to lie over for a few moments, and that the Senate should proceed with the other bill.

Mr. McDUGALL. I have no objection.

Mr. CARLILE. If my friend from California will give way, I desire to relieve the Senate from any attempts hereafter on my part to get this bill up in the morning hour, by moving to postpone all prior orders. I think Senators can now see that the bill can be disposed of in a very few minutes. The Senator from California can have another opportunity to speak on this subject. I am not willing to interfere with the appropriation bills. I will ask the Senate, therefore, in order that I may not have to trouble them again in the morning hour, that the bill which has just been under consideration may be made the special order for Monday next at half past twelve o'clock.

Mr. HENDRICKS. Why not finish it now?

Mr. CARLILE. Because Senators want to take up the appropriation bill.

The motion was agreed to.

#### INDIAN APPROPRIATION BILL.

Mr. FOOT. The Indian appropriation bill I suppose to be the order of the day as the unfinished business of yesterday. The conference report was interposed by unanimous consent, but it left the Indian appropriation bill as the regular business of the day and unfinished. Is that the decision of the Chair?

The PRESIDING OFFICER. That is the business now before the Senate.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 240) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1865, the pending question being on the amendment of Mr. LANE, of Kansas, to the amendment offered by Mr. DOOLITTLE, from the Committee on Indian Affairs. The amendment of Mr. DOOLITTLE was to add the following section to the bill:

*And be it further enacted*, That the Secretary of the Interior be, and he is hereby, authorized to expend such part of the amount herein appropriated to carry into effect any treaty stipulation with any tribe or tribes of Indians, all or any portion of whom shall be in a state of actual hostility to the Government of the United States, including the Cherokees, Creeks, Choctaws, Chickasaws, Seminoles, the Wichitas and other affiliated tribes, as may be found necessary to support such individual members of said tribes as have been driven from their homes, or reduced to want on account of their friendship to the United States, and enable them to subsist until they can support themselves in their own country: *Provided*, That an account shall be kept of the sums so paid for the benefit of the said members of said tribes, which account shall be rendered to Congress at the commencement of the next session thereof; and all purchases of articles for the purposes above set forth shall be made of the lowest responsible bidder after sufficient public notice by advertisement in appropriate newspapers: *Provided also*, That the said Secretary shall not be required to accept any bid which is, in his judgment, unreasonable in its character.

Mr. LANE, of Kansas, proposed to amend the amendment by adding the following proviso:

*Provided further*, That no part of said annuities shall be expended outside of the Indian country, or in connection with their removal to that country.

Mr. LANE, of Kansas. I desire to state that the Committee on Indian Affairs have agreed to a substitute for that proviso to remove all difficulty. It is to insert at the end of the amendment as a further proviso the following:

*Provided further*, That no part of said annuities shall be expended for Indians outside of the Indian Territory, south of Kansas, except in providing for such individual Indians or families as are sick and unable to remove to that Territory, or such as may be driven out of that Territory by armed rebels after the passage of this act.

The yeas and nays were ordered upon the amendment that I offered yesterday. With the consent of the Senate I will withdraw the call for the yeas and nays.

The PRESIDING OFFICER. The Chair hears no objection.

Mr. LANE, of Kansas. I now withdraw that proviso, and offer this one as an amendment to the amendment of the committee.

Mr. DOOLITTLE. The committee offered an

amendment substantially confiscating the annuities of the rebel Indians to be used by the Department for the benefit of the loyal Indians. The Senator from Kansas now moves a proviso that that money shall not be used outside the Indian Territory unless in the cases mentioned, by those who are sick and unable to go to the Indian Territory, or those that shall be driven out of the Indian Territory by the rebels. With that qualification I do not know that there is any objection to the proviso.

The amendment to the amendment was agreed to. The amendment, as amended, was adopted.

Mr. DOOLITTLE. On page 53, line twelve hundred and ninety-two, I move to strike out the words "and fifty" before and after the word "thousand;" so that the clause will read:

For subsistence and clothing, and general incidental expenses of the Sisseton, Wahpeton, Medawakanton, and Wahpakoata bands of Sioux or Dakota Indians, at their new homes, \$100,000.

The bill, as it comes to us from the House of Representatives, appropriates \$150,050 to the support of the Sioux who made war upon us in Minnesota, precisely the same sum that used to be due to them under the old annuities which belonged to them, which we in fact confiscated to the Government in consequence of their hostilities. It is necessary that some sum of money should be appropriated, but I do not think that we ought to appropriate a sum equivalent to the interest on those annuities, for it might be claimed that such action on the part of Congress would be substantially a repeal of the law confiscating their annuities heretofore; and I think, with the amount which we allowed yesterday by way of making up deficiencies in their support, \$100,000 will be enough; and I therefore move to reduce the appropriation to that amount.

The amendment was agreed to.

Mr. DOOLITTLE. I have another amendment to offer from the Committee on Indian Affairs. It is to add as an additional clause to the bill:

To enable the Secretary of the Interior to settle the claims and carry into effect the provisions of the second article of the treaty of May 30, 1854, with the confederated tribes of Kaskaskia, Peoria, Piankeshaw, and Wea Indians, \$3,164 51.

I will explain the amendment to the Senate. By the second article of the treaty referred to, it was agreed that we should survey the boundary lines of the lands of this tribe of Indians. When we came to survey them, the surveyor, in behalf of the United States, made a mistake and excluded from the reservation lands which really belonged to the Indians. We went on and sold the lands and received the pay for them. When the survey came to be corrected, it was found that the lands actually belonged to the Indians; and this is the amount, \$3,164 51, which is necessary to settle that matter between the United States and this Indian tribe.

The amendment was agreed to.

Mr. DOOLITTLE. The Committee on Indian Affairs have instructed me to move another amendment, which is a very important one. It is to strike out the following clause on page 52:

For payment of interest on \$1,704,300 of non-paying stock held by the Secretary of the Interior in trust for various Indian tribes up to and including the interest payable July 1, 1864, \$350,220.

Mr. LANE, of Kansas. I have not before me all the treaties made with the Indians on this subject; but I have a copy of a treaty made in May, 1854, with the Weas and Kaskaskias, the seventh article of which I desire to read to the Senate:

"ART. 7. The annual payments provided for in article six are designed to be expended by the Indians chiefly in extending their farming operations, building houses, purchasing stock, agricultural implements, and such other things as may promote their improvement and comfort, and shall so be applied by them. But at their request it is agreed that from each of the said annual payments the sum of \$500 shall be reserved for the support of the aged and infirm, and the sum of \$2,000 shall be set off and applied to the education of their youth; and from each of the first three there shall also be set apart and applied the further sum of \$2,000 to enable said Indians to settle their affairs. And as the amount of the annual receipts from the sales of their lands cannot now be ascertained, it is agreed that the President may, from time to time, and upon consultation with said Indians, determine how much of the net proceeds of said sales shall be paid them, and how much shall be invested in safe and profitable stocks, the interest to be annually paid to them, or expended for their benefit and improvement."

A large body of valuable lands in the State of

Kansas belonging to those Indians was sold by the Government for their benefit for gold and silver. That money was brought to Washington and placed in the Treasury of the United States, with the understanding and explicit agreement that it should be invested in such profitable stocks as should be determined upon after consultation with the Indians. No such consultation was had, as was in evidence before our committee, and \$98,000 of the money of this tribe was invested in the bonds of northern States—good States. When the thieves of rebellion set upon the Treasury they took out those bonds and exchanged them for the bonds of Florida, Louisiana, North Carolina, and South Carolina. The interest, of course, is suspended. They require it for their subsistence, so far as this tribe is concerned, and I suppose it is the case with all the other tribes. Let me read a few words from the seventh article of the treaty to which I have referred again:

"It is agreed that the President may, from time to time, and upon consultation with said Indians, determine how much of the net proceeds of said sales shall be paid them, and how much shall be invested in safe and profitable stocks, the interest to be annually paid to them, or expended for their benefit and improvement."

This tribe lives upon the Kansas border and has been stripped of everything. This interest is necessary for their subsistence and support. So strong did the Committee on Indian Affairs deem their claims that they agreed upon a bill to give to this particular Indian tribe \$5,000, not to be counted upon this interest. As we have agreed in this treaty to pay this interest, and as the money was invested without consultation with the Indians, as was agreed in the treaty, I say the honor of the country and the good faith of the nation demand that we should adopt this clause as it came to us from the House of Representatives, appropriating the money to pay this interest.

Mr. BROWN. Will the Senator permit me to interrupt him?

Mr. LANE, of Kansas. Certainly.

Mr. BROWN. I think the Senator from Kansas makes the statement a little too broad when he says that so clearly convinced were the Committee on Indian Affairs of the justice of the claim of the Indians to whom he alludes that they agreed to give them \$5,000 in addition. I think it was because the Committee on Indian Affairs were not satisfied of the justice of this claim and did not wish to recognize it at all that they preferred making a temporary provision.

Mr. LANE, of Kansas. The Senator from Missouri misunderstood me. I said that so strongly were the committee convinced of the necessities of this tribe that they agreed to present to them \$5,000 for their temporary subsistence. The interest that would be due those Indians, if the proposition of the chairman should be disagreed to, will be, I believe, about fourteen thousand dollars. The interest that would be paid under the treaty, as agreed to by the House of Representatives and as agreed to by the Finance Committee, would only amount to \$14,000; and the Committee on Indian Affairs agreed to present then, as a mere boon, \$5,000 of that amount. So far as I am concerned, I think it would be best to carry out the provisions of this treaty in good faith. These people are suffering. They were not consulted with regard to the bonds. Their money was originally well invested, and really it was a theft on the part of the Government officers, it was really a felony, to exchange the bonds of the northern States, interest-paying bonds, for the bonds of these rebel States. I hope the amendment proposed by the chairman will not be agreed to.

Mr. DOOLITTLE. The Senator from Kansas objects to this amendment from the Committee on Indian Affairs, and bases that objection upon the facts which he states as bearing upon one particular tribe of Indians who have some \$93,000 of these non-paying stocks, the interest of which it is computed would amount to \$14,000, which is but a small item compared with the whole amount involved in this appropriation. As to those Indians whose case he has stated thus strongly, and whose case perhaps may stand more strongly than that of the other Indian tribes, when the matter was under consideration by the Committee on Indian Affairs, after looking into it, they came to the conclusion that it was not wise on the part of this Government to assume

But, Mr. President, the facts are these: this provision would recognize an existing indebtedness against the United States of \$1,704,300, and it provides for an appropriation of \$350,220 50 to meet interest which has already accrued upon that amount during some two years on some of them and on others for even a longer period. I will state the names of the tribes and the amount which was invested in these stocks for each, as appears by the Commissioner's report:

Mr. President, I admit there is a dark dispensation of Providence in regard to the Indian. He is fading before us as fast as civilization advances; but that providence can be traced, in a great measure, to the action of the Government itself; and this will only be adding to the calamities that have befallen the Indians. If you take his money and invest it so that he can get neither principal nor interest, you add another weight to the great burden that is already bearing him down. In this way you make the Indian lose entire confidence and faith in the Government. You cannot make an Indian—you can hardly make a white man—understand, if you take his money and agree to pay him interest year by year upon it, and when the year comes round and he comes and asks for it and you tell him you have invested it and lost it, that you are dealing with him in good faith. He does not believe in the Government or the individual that will take his money in good faith on his part for investment, and then, by some transaction of theirs, lose it. I say this will breed dissatisfaction among the Indians, and it will be a very just cause of dissatisfaction, too. We

Name of Title.	Par value.	Original cost.	Interest at 5 percent on original cost.
Choctaw national fund.....	\$354.50	\$738.41	\$53.25
Choctaw school fund.....	173.00	157.25	23.32
Cherokee school fund.....	173.00	40,500.00	6,073.00
Cherokee orphans.....	3,000	2,988.62	1,499.51
Chickasaw orphans.....	2,000	2,000.00	200.00
Chickasaw incompetent.....	5,000	5,219.45	789.92
Chippewa and Christian Indians.....	453.00	407.07	61.05
Chippewa general fund.....	19,005	19,833.51	2,075.09
Choctaw school fund.....	149,850	143,950.82	21,467.70
Greer orphans.....	169,500	179,637.50	24,463.98
Delaware general fund.....	187,000	55,417.50	8,481.35
Idaho.....	55,000	52,017.17	7,812.17
Kansas (schools).....	30,050	32,057.78	11,037.71
Kan-Kas-Kes, Peorias, Vets, and Frankes-haws.....	59,000	69,865.72	10,992.63
Memories.....	22,052	23,330.82	3,119.69
Ojibwa and Chippewa.....	14,000	14,131.31	1,929.89
Ottawas of Blanchard's fork.....	8,000	6,331.12	855.58
Ottawas of Roche de Boeuf.....	1,000	1,043.59	1,006.08
Osage (schools).....	7,000	7,357.23	1,072.55
Portawagones (education).....	73,000	77,463.24	11,320.11
Shawones and Shawnees.....	10,900	10,194.80	
Total.....	\$1,704,350	\$1,594,172.72	\$209,290.50

Thus it will be seen that the Government, in the purchase of these stocks, taking them altogether, made \$100,000 for the benefit of the Indian tribes in the original investment.

could hardly coax them to believe that such a Government as that was worth sustaining. I hope this question may be considered and voted upon fairly at this time by the Senate.

Mr. LANE, of Kansas. Is it in order to amend the original proposition?

The PRESIDING OFFICER. It is.

Mr. POMEROY. Let us take a vote on it as it now stands.

Mr. LANE, of Kansas. I am not prepared to take a vote upon it as it stands. I propose the following amendment to the clause proposed to be stricken out:

But no part of said appropriation shall be paid to any Indian tribe, any portion of which has been in rebellion against the Government.

I desire to state that there is but a small portion of this large amount that is held by loyal tribes. The mass of it is held by the Choctaws and Chickasaws who have been in rebellion against the Government. I wish now to ask the chairman of the committee the question that I proposed to ask when I rose before. It does not sound fairly upon my ear to have such a transaction as was had with the Weas and Kaskaskias indorsed by any member in this Senate; and I put this case to the chairman of the committee. I am guardian for a ward. I have in my possession \$98,000 of good notes of solvent individuals as guardian; I make up my mind to run away; I take those good notes and sell them in the market for the money, and take that money and invest it in the hands of my companions who are about to run away with me; if any portion of my property was left behind, would not that property be liable to that debt?

Mr. JOHNSON. The United States did not run away.

Mr. LANE, of Kansas. That portion of the United States did run away; the miserable hell-hounds who held these bonds ran away, but before they ran away they invested the money of these Indians, our wards, helpless men, women, and children, in violation of a plain and emphatic contract and treaty, in the property of the creatures who were running away with them; and the chairman of the Committee on Indian Affairs stands up in his place in this Senate and says that that is an honest transaction, and that we ought not to repudiate the action of our villainous agents, and stand by our treaty made with these helpless creatures, who have by this war been rendered unable to help themselves! As has been remarked by my colleague, they are upon our border, they have been stripped of everything, and so strong a case was made before the committee that we agreed, instead of paying them their honest dues, \$14,000, to present them \$5,000. What sort of a transaction is that for business men? I owe a man \$14,000; I say to him, "I will not pay you \$14,000, but I will give you \$5,000 to wait a little longer, as an act of charity."

There is but a very small portion of this amount held by loyal Indians, and under my amendment we cut off the amount held by disloyal Indians. I hope the amendment to the amendment will be adopted, and then I hope the action of the House of Representatives and the Finance Committee will be concurred in.

Mr. BROWN. I do not think the amendment of the Senator from Kansas will be found to diminish this appropriation one particle. I think it will be found just as easy to establish the loyalty of these Indians as it is to establish the loyalty of all other claimants that I have ever seen come before the United States. I do not, therefore, attach any practical importance to the amendment which he has offered.

So far as the question of recognizing the claim of these Indians in Kansas is concerned, I have only to state that the committee to which the matter was referred, after an investigation and examination of it, came to the conclusion that it was not a just claim against the Government; that it was not right that the Government should assume this debt. Therefore, as far as the question has been intrusted to the action of the committee of this body, their sentiment is against it, as has already been stated by the chairman of that committee.

Now, as this clause stands coming from the Committee on Finance, I understand it has been reported simply because the provision was in the bill as it came from the House of Representatives, but that the members of the Committee on Fi-

nance concur in the propriety of having this clause stricken out. I trust the Senate will not now pass upon the validity of a claim which will set the precedent, perhaps, for we cannot tell how many claims, amounting to how many millions of dollars; but that if the question is to be decided it will be postponed, and will not be determined upon the bills which have been referred to the Committee on Indian Affairs. I trust, sir, that the Senate will concur in striking out this clause from the appropriation bill.

Mr. POMEROY. I wish to make one remark in regard to the statement read by the chairman of the Committee on Indian Affairs. According to that statement \$73,000 of the money of the Pottawatomie Indians of my State was invested the same as the \$93,000 of the Weas. I should like to know how it is that the interest on that \$73,000 is paid to the Pottawatomies. You commenced paying them in 1861. This same Committee on Indian Affairs—I do not mean the same members—have been able in some way, I do not know how, perhaps it was by treaty, as the Pottawatomies made a treaty—but in some way the Pottawatomies have had their payment year after year on the interest of \$73,000 of these very bonds invested for their benefit; so that if this clause is allowed to remain in the bill it will be no precedent; the precedent has already been established.

Mr. SHERMAN. This large appropriation did not escape the attention of the Committee on Finance. I have not been present during the discussion this morning, and I do not know whether it was explained or not by the chairman of that committee. I do not see him in his seat. The matter was noticed; but as it came to the Senate in a House bill we did not feel it our duty to move to strike it out without a full examination of the claim. That we had not the time to make; nor was the Finance Committee the proper committee to investigate the propriety of the claim. It was therefore left in the bill without amendment; but the attention of the Indian Committee was to be called to it, so that they might examine the matter and pass upon the legality of the claim. The Finance Committee never investigated it, and certainly never gave their sanction to this claim in the sense in which a report of a committee is usually spoken of. I myself shall vote to strike it out on the general principle that I do not believe the United States is bound to guaranty the investments for the benefit of the Indians.

The United States stands toward these Indians precisely like a guardian of a ward. It is bound to use reasonable and due diligence in the care of the funds of the ward; no more, no less. The investment of this money in these bonds was not a bad investment at the time it was made. The secession of the States, and their failure to pay the interest, does not change the liability or make the United States the guarantor of those bonds. No such legal relations exist between the United States and the Indians.

I may here remark that the whole relation between the United States and the Indians is the most absurd that can probably be imagined. We treat these Indian tribes like foreign nations. We send our Governors and ex-Governors and other authorities to negotiate treaties with a people who cannot read or write, who do not know the difference between a dollar and a sovereign, without intelligence, who are dependent upon us for their daily bread. We treat them as we do the most favored nation. We negotiate treaties with them, bring them here, and have them ratified by the Senate.

The whole relation between the Indian tribes and the United States is the most ridiculous possible; and I hope some day or other a gentleman familiar with the subject will bring in a bill abolishing the whole system and providing for the government of the Indian tribes as subjects. Until we treat them as citizens and give them the right to vote, we ought to treat them as subjects to be governed, to be protected in their natural rights, to be looked after and watched over as children. We ought to protect them from our own people. The worst enemies they have got are our own people who go out there and rob and plunder them; and I ought to say further that from some information I have had, I believe the very worst enemies to these people in many cases are the men that the Government of the United States employs

as agents to protect them; who rob and plunder them. That is my information; but the contact between the white and the Indian creates hostility. The white man looks upon the Indian as his natural enemy, as occupying land that ought to belong to himself. Our white people constantly encroach on them and do them great wrong. It is the duty of the Government of the United States to protect them. While we treat them as independent powers to be negotiated with, as a matter of course we cannot protect them. That matter, of course, cannot be changed now on this bill; but if the chairman of the Committee on Indian Affairs would report a bill to regulate our intercourse with the Indians, regarding them in the light of subjects or persons to be taken care of, he might do a great deal of good. The amount appropriated by this bill is \$4,000,000.

Mr. DOOLITTLE. The Senator is mistaken. The whole amount of the estimates was \$2,300,000. Perhaps we have added some \$300,000.

Mr. SHERMAN. The footing up of the clerk of the Committee on Finance, who is very accurate, is over \$3,800,000. There is no doubt about the aggregate. The Indian appropriation bill, some two or three years ago, reached \$3,000,000. The bill as it came from the House of Representatives contained appropriations to the amount of over \$3,600,000; the Committee on Finance added one hundred and fifty or one hundred and sixty thousand dollars on account of new treaties, making an aggregate of about \$3,800,000. The Committee on Indian Affairs have struck off a few items.

Mr. DOOLITTLE. The Senator must be mistaken. I had the estimates before me yesterday, examining them and looking into them, and they footed up but a little more than \$2,300,000, less than they were last year. To be sure, the appropriations we added yesterday add something to that amount; but if this provision be stricken out it will leave the bill pretty much as it came to us so far as the amount of appropriations is concerned, about \$3,000,000.

Mr. SHERMAN. I take the footings of the clerk of the Committee on Finance, who is very careful. I have rarely known him to make a mistake of that character. The Senator says the bill appropriates \$3,000,000. It has been estimated that all the Indians in the United States range somewhere between one and four hundred thousand; it is rather indefinite. We have no census of them. Even different Commissioners of Indian Affairs vary widely in their estimates of the number of Indians. The expense of taking care of them in our mode is very great indeed. The expense of taking care of the Indians *per capita* is much greater than the expense of managing our Government in peace times, including the Army and Navy, on the citizens *per capita*. We do not pay anything to the great body of the Indians; most of them are roaming over the plains of the West at no expense to the Government; and it is manifest, therefore, that those with whom we are brought in contact are the most expensive citizens or subjects of this country, and this mode of dealing with them is radically wrong. I think, therefore, before we appropriate any more money on doubtful claims in favor of the Indians, we should reconsider our whole Indian policy, reorganize it, put at the head of it some good Christian gentleman who will take care of the Indians as children, and I think with one or two million dollars we could then give them a great deal more relief, a great deal more protection than we do under the present system.

In conclusion I shall vote with the Committee on Indian Affairs in this matter, simply because the Committee on Finance have not investigated this subject; and if Senators base their votes upon the idea that the Committee on Finance have investigated and reported in favor of this proposition, they are mistaken. We did not do it, and could not have done it. We simply reported the bill back as it was without amendment, calling the attention of the Committee on Indian Affairs to it. I shall vote with them to strike out this large appropriation.

Mr. JOHNSON. Mr. President, the latter part of the remarks of the honorable member from Ohio perhaps have no direct application to the question before the Senate; but in relation to those remarks, when he tells us that it will be better to reorganize the whole system in relation to In-



Indians, and take them under our own charge, and govern them as subjects, I suppose he means to say that we are to take from them the right to manage their own concerns, and take from them all power of government whatsoever.

Mr. SHERMAN. I did not enter into that; but to give my ideas a little more scope, I will say that I would give the right of self-government to the fullest extent, so far as they are able to exercise it, so far as they have intelligence. The Wyandottes and Delawares, and others of the Kansas tribes, would no doubt make respectable citizens; they take care of their affairs well. The Delawares have managed their affairs with such discretion that I believe they are the wealthiest people per capita in existence.

Mr. JOHNSON. I think that perhaps my friend has fallen into an error when he charges the larger portion of the amount appropriated in this bill, which he says in the aggregate is some \$3,800,000, to the debit of the Indians, and says that they cost us that sum or anything like it. Many of the appropriations that are found in this bill, and they are much the largest items in the bill, are for the purpose of carrying out treaties by which we have obtained from the Indians their lands, which are worth not only as much but more to us than we gave for them, and would sell for more at any time; but that has nothing to do with the particular question before the Senate. Whether the Committee on Finance had or had not this subject before them, is a matter no further important than is the weight to be attached to the opinion of that committee—very considerable, I know, and on most matters it is, as it should be, conclusive; but surely it ought to have no operation at all upon a question on which they have pronounced no decision, so that, if my friend is right, we are here without any opinion from the Committee on Finance on the question, and the matter is before us now as an original matter.

The honorable chairman of the Committee on Indian Affairs, and he is followed in that view by the honorable member from Ohio, likens this case to the ordinary case of guardian and ward, trustee and *cestui que trust*; and yet it would seem to follow from an admission made by the honorable member from Ohio that to apply to these Indians the rules which operate as between trustee and *cestui que trust*, guardian and ward, would be very hard and very unjust. He has told us, and told us correctly, that these Indians are almost entirely ignorant, that they can neither read nor write, that they have no knowledge of business, and especially of such business as it becomes important that a man should be acquainted with when he is about to invest moneys in public stocks.

There are two classes of these investments, if I am correctly informed, as I think I am. Perhaps all the treaties provide that no portion of the money which the Government may receive from the sales of the land is to be invested by the Government except after consultation with the tribe. That is certainly true in reference to the treaty cited by the member from Kansas. I have the treaty before me, which relates, I believe, to a tribe upon the borders of Kansas, which contains the same provision—the treaty of the 30th of May, 1854:

"And as the amount of the annual receipts from the sales of their lands cannot now be ascertained, it is agreed that the President may from time to time, and upon consultation with said Indians, determine how much of the proceeds of said sales shall be paid them, and how much shall be invested in safe and profitable stocks, the interest to be paid annually to them or expended for their benefit and improvement."

That is, to be paid annually by the United States. Now, in relation to one of the tribes, a party to this treaty, their lands sold for \$300,000 in coin. It came, of course, into the hands of the Treasury, and the whole of it was invested in stocks without consulting the Indians.

Mr. HARLAN. I desire to ask the Senator whether he knows that they were not consulted.

Mr. JOHNSON. I do not know it personally. I am not very intimate with the tribe.

Mr. POMEROY. Here is a statement of the chiefs that they were not consulted.

Mr. JOHNSON. The chiefs so state, and it has not been contradicted.

Mr. HARLAN. I think there was no evidence of that fact before the Committee on Indian Affairs.

Mr. JOHNSON. Then if the United States

seek to avoid the obligation which would be upon them if they made the investment without consultation, upon the ground that they made it with consultation, I should rather think they ought to prove that they did consult. Now, in the absence of all proof the other way—

Mr. GRIMES. The question is whether we acted in good faith or not in making the investment.

Mr. JOHNSON. I will come to that in a moment. In the absence of all proof on the part of the United States, and with an affirmation on the part of the Indians that they were not consulted, an affirmation not denied by the United States, the inference would be a legitimate one that they were not consulted.

Mr. HARLAN. If the Senator will pardon me, I think the inference is directly the other way. The Government of the United States has paid officers living with the Indians, an agent living with each tribe. The Government has also a superintendent presiding over several of the tribes. It has a Commissioner of Indian Affairs to take a supervision of the whole subject, and a Secretary of the Interior who has supervision of his conduct. These are all sworn officers appointed by the Government to execute the laws, to execute these treaties. The presumption with me is that they have carried out in good faith their sworn obligation as officers of the Government.

Mr. JOHNSON. That is a question of fact to be decided according to the views taken by Senators on the evidence before them, and I take a different view from that taken by the member from Iowa.

But, Mr. President, suppose it was so, suppose they were consulted, who were they? Helpless, ignorant, poor, dependent. We got their lands and we hold them. They have lost them, and they have lost the money because of the manner in which it was invested by us, either with or without their consent. Who selected the investments? The United States. What were the investments? Stocks of the States of the United States, not the ordinary stocks, but the stocks of component parts of the Government, virtually the stocks of the Government. Why are they not now paying interest? Is it because they are not able to pay interest? Certainly not. Why are they now in a state of rebellion? Why are they permitted to be or to have remained in a state of rebellion up to the present time? Is it the fault of the Indians? Under whose control were they? To whose power were they subjected? Under the control of the United States and subjected to the power of the United States, and the United States have proved up to this time unable to hold them to the discharge of their duty. Whose fault is that? It is not the fault of the Indians. The United States were bound to hold them; and the Indians consented, if they consented at all, upon the supposition that they would hold them. The United States, who know that they were so bound, who are now making efforts to carry out the obligation, tell them "These States of ours, component parts of the United States, are now failing to pay interest, because we do not make them as it was our duty to have made them, and we will not pay you a dollar." It is a hard measure of justice.

Mr. HARLAN. If the Senator will not consider it an interruption, allow me to ask him—I am not sure that I understand him—does he state to the Senate that the Government of the United States was bound to compel the States to pay their bonds?

Mr. JOHNSON. Will the Senator wait for an answer now?

Mr. HARLAN. Certainly.

Mr. JOHNSON. The Government was bound to keep them in the Union, and then they would have been paid. They could have been sued. That obligation the honorable Senator cannot deny, because he is raising armies by hundreds of thousands and expending money by millions for the purpose of complying with that obligation.

Mr. HARLAN. I do not perceive that the sequence follows that they would have paid their bonds if they had staid in the Union. They obligated themselves to pay their debts, but I do not know that the Government of the United States is under any obligation to compel them to pay them; and I do not know when or how we assumed that obligation.

Mr. JOHNSON. I suppose the United States could have sued them if the investment was made in the name of the United States; and if they were able to pay they could have been compelled to pay; and I never heard it doubted before that every southern State was able to pay before; like madmen, they rushed into this rebellion. If we had held them to their duty; if the man who preceded the present incumbent of the presidential chair had been faithful to his own duty, and stopped the rebellion, as I believe he might have done, and these States had remained in the Union, every dollar of these stocks would have been paid.

But there is another reason. The honorable member is not to be told, I am sure, that since the rebellion broke out these stocks would have sold, and sold for a very considerable sum. The stocks of every State in the Union, except, I believe, of South Carolina, were quoted in your market. You held them, you saw them going down from day to day, and you would not sell. As a faithful guardian, what ought you to have done? What would a court of chancery have said in a dispute between a ward and a guardian who had invested his ward's money in stocks good at the time of the investment, who did it in good faith, but who held on to the stocks from day to day, and month to month, and year to year, seeing that the stocks were falling in the market, until they became worthless? There is not a court of chancery in Christendom, governed by principles of equity, that would not have held him responsible for the loss.

Want of good faith is not the only ground upon which you hold a guardian or a trustee responsible. It is the want of reasonable care, which in the eye of a court of equity is evidence of want of good faith; not a want of good faith in the moral acceptance of those terms, but a want of equitable good faith. In other words, the guardian is bound to take care of the estate of his ward as a man of reasonable diligence and care would take care of his own estate; and if the court should come to the conclusion that a man of that description would have sold his stock, and the guardian had not sold the stock, he would be held responsible. These Virginia stocks, Tennessee stocks, North Carolina stocks, I believe are quoted yet; and for a great while after the rebellion broke out they were quoted almost as high as the northern stocks. When my friend from Iowa says that these officers are all expected as far as the investment is concerned to have done their duty, we are to go a little further than the original investment. Suppose they did; they consulted the Indians, and the investments were made in good paying investments and stocks that would now pay; those stocks were by the officers of the Government disposed of and the proceeds invested in other stocks, in southern stocks. What for? With what motive?

Mr. HARLAN. Will the Senator have the answer now?

Mr. JOHNSON. Certainly.

Mr. HARLAN. In some of these cases the bonds had matured, had become payable by the Government, and as the Government had obligated itself to invest the money in bonds and pay over the interest, as it became due and was collected by the Government, to the Indians, it became its duty as a guardian to reinvest the money, the paper in which they first invested having matured and been paid. Then in other cases they were able to procure a larger amount of interest by selling the bonds in which the money was first invested; in some cases, I remember, the money was invested in five per cent. bonds of the United States; the Secretary of the Interior deemed it to be for the advantage of the Indians to sell those bonds and invest the proceeds in State stocks that were paying some of them six and some seven per cent. In other cases they were able to buy the bonds at a discount and receive interest at a larger rate on the par value. Deeming the stocks good and that they would be ultimately paid, they regarded it as advantageous to the Indians to make this change and thus secure a larger amount of money to be disbursed from year to year in their support.

Mr. JOHNSON. I have no doubt about that. That is the case in very many instances, but were the Indians consulted about the change?

Mr. HARLAN. I think this is the only solitary case in all the treaties under which this

fund arises in which the Government did obligate itself to consult with the Indians. It is the isolated case quoted by the Senator from Kansas and quoted by the Senator from Maryland. I know of none other; but if there are others, they are very few. The most of the treaties contain no such stipulation, and I presume that where the stipulation was made the consultation was had.

Mr. JOHNSON. A word more and I shall have done. I think of all the injustices—and I regret to feel myself obliged to say it—of all the injustice that has ever been perpetrated by man upon man the injustice perpetrated upon the Indians is the grossest. They are now reduced to some two or three hundred thousand. We have driven them away from coast to coast, from river to river, from forest to forest. As the feet of our adventurers advanced they were obliged to recede. They are now wanderers upon the earth's surface. These great western States, great now and in prospect to be still greater, have grown up as one of the results of the wrongs perpetrated upon these tribes. We have become a mighty nation, mighty now, as every day in which is continued the gigantic effort in which we are engaged to maintain the Government exhibits; and these poor creatures are houseless and homeless and penniless, the chase having proved insufficient to support them, and Christianized civility having driven them away from the lands that belonged to them. We are asked, because they are considered as not being strictly responsible, if their case could be brought into a court of justice for adjudication, to give them a modicum when compared with what we have received, to support them in the days which are yet left to them, during which their lives are to linger, and to linger in suffering and without hope; and we are told that we ought to take from them this, in the eye of the United States, miserable pittance. I protest against it for the credit of the Government. I protest against it in the name of humanity. I protest against it in the name of that higher humanity, Christian civilization. If there are any of them that have engaged in this rebellion exclude them; but those who have been faithful stand by them, and for the character of your country do naught to suffer them to starve, because you have taken from them the land which was theirs and thrown them upon the wilderness in which they are not able to live.

Mr. DOOLITTLE. Mr. President, by far the larger part of this appropriation has reference to Indians who have been in rebellion against the United States, joined with the traitors who undertook to destroy this Government, and I wish to suggest that in relation to the case which is particularly referred to by the Senator from Kansas, with regard to the Kansas Indians, the Weas, Peorias, and Piankeshaws, there is a separate bill pending, involving the question of their rights and equities, which, I think, had better be considered by the Senate by itself, and not undertake to have it involved in this appropriation bill and in this mass of appropriation which covers the rebellious tribes now at war with the United States.

Mr. JOHNSON. They can be excluded by the amendment proposed.

Mr. POMEROY. The amendment now pending is to exclude from this appropriation all those in rebellion. That is the very amendment pending.

Mr. DOOLITTLE. I am not satisfied to have the appropriation stand in that form; an appropriation which, on the face of it, acknowledges a debt against the United States of \$1,700,000, and that we are liable to pay the interest on all these stocks. If ever we shall have peace with the Choctaws and the Chickasaws, and those Indian nations now at war with us, and engaged in this rebellion, we must make new treaties and new arrangements with them, and this very pending claim might be one of the means which could be used in making proper negotiations with those Indian tribes; and it had better not be settled now, independent of the consideration whether the Government should or should not become ultimately liable to pay the interest on these stocks. To those members of the Senate who believe that it is just that this Government should assume this debt, I appeal to say whether it is wise that it should appear on this appropriation bill. Ought it not to be stricken out and to stand by itself?

Mr. POMEROY. I reply by saying that such a bill has been before the Indian Committee all winter, and it has been impossible for us to get any report on the question.

Mr. DOOLITTLE. The Committee on Indian Affairs did report on that bill, but they did not believe that even in the case of the Weas and Piankeshaws there was a just debt and obligation resting on the Government of the United States. That bill is before the Senate for its action. If the Senate should disagree with the committee, very well.

Mr. POMEROY. The Senator proposes that we take the provision out of this appropriation bill in order that we may consider it on a bill that he reports against. That is precisely the state of the case. I intended to say that we have been trying all winter to get a favorable report and could not do it. We finally got an unfavorable report, and the chairman of the committee now proposes that we shall consider the question on an unfavorable report of his!

Mr. DOOLITTLE. I do not ask the question to be considered on the report, but on the facts and the justice and equities of the case. If the Senate shall think, when the question is fully discussed, that as to the Weas and Piankeshaws there is an obligation resting on the Government to assume that debt, let them discuss that question by itself, and decide it on its merits. If they decide against the committee, very well. If they decide with the committee, that will be the end of it.

But, Mr. President, I desire to say a single word in reply to the Senator from Maryland. I know that men are accustomed to speak of what are called the wrongs perpetrated by the people of the United States upon the Indian tribes. Sir, I do not deny that wrongs are sometimes perpetrated upon them, perhaps by the Government agents sometimes; but the legislation of Congress, and the treaties that have been made by the Government of the United States, have always attempted to provide for and to take care of the Indian tribes, and such has been the history of all our treaties and all our legislation from the beginning. It is true that we have not succeeded in preserving the Indian tribes; but the difficulty is not in the treaties that we have made, nor in the legislation which we have passed. The difficulty is in the case itself. We are a different race. God, in His providence, has opened this New World to the colonization of a different race from that which inhabited it when our forefathers first landed upon the shores of New England. From the day of their landing down to the present hour, the Indian race has been a dying, dying, dying race, and it is fast passing away. It is not that the Government has inflicted wrong; it is not that the Government has not legislated in their interest; that it has not appropriated money liberally and bounteously for the Indian tribes during their whole history; but it grows out of the case itself, the contact of the two races side by side upon the frontiers of Christian civilization.

What do we see, sir, in the relations between the white man and the Indian? We see two classes of men seeking association with the Indians. There is the missionary, and there is the trader and the speculator. The one you may say is the child of Heaven, the other the child of the devil; and they go on the borders of what we call Christian civilization, and between the operations of them both the Indians are continually passing away. There is a great deal of poetry expressed in the old song which we heard in our youth, sung by the Indian chief:

"Oh, why should the white man follow my path,  
Like a hound on a tiger's track?  
Does the flush on my dark cheek waken his wrath?  
Does he covet the bow at my back?"

There is poetry in this, and there is fact in it also. But as a race they are passing away and giving place to another race with a higher civilization, who are to take possession of the country and fill it up with millions, instead of having this vast continent of ours covered by a few hundred thousand wandering savages, hunting through the forests and fishing in the streams. God in His providence is giving this continent to a hundred millions of human beings of higher civilization, of greater energies, capable of developing themselves, and doing good to themselves and the world, and leading the advance guard of human

and Christian civilization. In the poetry in which men sometimes indulge when they speak of the terrible wrongs and sufferings which are inflicted, I may say that the Indian race is passing and fading away before the advancing white race on this continent as the mists before the rising sun. It is almost altogether poetry, and such is history and the experience of the country.

I agree with the Senator from Ohio that it is very possible that our intercourse with the Indian tribes and our legislation might be improved, but it is a very difficult thing, let me assure the honorable Senator, the whole experience of this Government has shown it, to ascertain precisely how it is best to deal with the Indian tribes. By the Constitution of the United States they are placed under the Government of the United States. You cannot turn them over to the States. The most convenient mode in the world to get rid of this whole Indian difficulty would be, if the Constitution would allow it, to say, let each State take care of its own Indians, and let this Government be rid of the responsibility altogether. But the Constitution imposes on this Government the responsibility of providing for them, and in doing it our whole history and practice has been to deal with the Indian tribes in the form of treaties. I will say to my honorable friend from Ohio that circumstances are very different now from what they were at the beginning, when we were a little feeble people just skirting the shores of New England, and many of these Indian tribes were powerful nations, and had power enough to sweep us from the continent. We were glad to deal with them then as independent nations, and as our equals, too, in power; but that time has passed. They are now a feeble people, and we are a great and powerful people.

It may be, as the Senator suggests, that a better system than the treaty system might be adopted. Perhaps by some general legislation we could place the Indian tribes under the control of this Government; but if you do so you must first settle the question, shall the War Department take possession of them, or shall the Interior or some other Department? If the War Department takes and keeps possession of them, which perhaps is the wisest policy, it is by no means a more economical policy than the policy pursued by the Secretary of the Interior. We know very well that some of the moneys which are expended in relation to the Indian tribes are wasted and squandered; I have no doubt that dishonest men get the administration of the funds, and use them to their own benefit sometimes; but upon the whole, bad as it is, I believe that it is as economical as the War Department would administer the same business of taking care of the Indian tribes. There are some reasons why I think it would be better they should be under the War Department than the Interior Department, because the Indian, being a savage, looks to the man who has physical force and power, and he looks to a military man with more respect than he does to a civilian; and perhaps under the control of the War Department they might be better managed than they are under the Interior Department; but I doubt whether they would be managed any more economically.

In relation to the amount involved in this appropriation bill, as I desire not to have anything misunderstood on this subject, I will state it precisely as it is. The clerk of the Committee on Finance made a mistake in looking into the estimates. He judged by the book containing estimates, and counted all under the head of "miscellaneous," which contains some other matters different from the Indian appropriations; he included all under "miscellaneous appropriations for the Interior Department." The amount of estimates for the present year is \$2,367,077; last year the estimates were \$2,657,000. The estimates for the present year are \$289,000 less than last year.

Mr. SHERMAN. I think that only includes appropriations for treaties.

Mr. DOOLITTLE. No, it includes everything. If this amount should be stricken from the bill, which is \$350,220, and the amounts which were added by the amendments yesterday remain, which are \$515,182 or thereabouts, the bill will be about three million dollars, or a little less.

I hope this amendment will prevail, and this clause be stricken from the bill; and to the Senator from Kansas I say frankly that if he desires at any time to call up the question to which he

referred, and let the Senate pass on the merits of it, in relation to the Weas and Piankeshaws, whose case stands perhaps rather stronger than any of the other tribes, I am willing to vote with him to take that matter up, and let the Senate determine it.

Mr. POMEROY. How in regard to paying the Pottawatomies?

Mr. DOOLITTLE. I do not understand that that should be done. If there has been a new treaty formed with the Pottawatomies, that is a different matter; my attention has not been called to it; I do not remember what the Senator refers to.

Mr. HARLAN. I desire to submit a few words on this question. It is not new to the Committee on Indian Affairs, nor to the Senate. Three years in succession Congress has declined to pay the interest on these bonds, and that after a thorough examination by the committee to whom the subject belonged. Three years ago the Committee on Indian Affairs detailed members of that committee to examine the treaties and all the laws bearing on the subject. This sub-committee did so, and made their report to the committee. The judgment of the sub-committee was approved by the Committee on Indian Affairs, and was subsequently approved by the Senate and by Congress. The ground on which the committee came to this conclusion was this: the officers of the Government invested this money under treaty stipulations for the Indians, as guardian or trustee for the Indians; and that as such, if they exercised reasonable care and due diligence and ordinary intelligence in making the investment, they did not become individually responsible or render the Government responsible as guarantors of the paper in which the money was invested. And after listening to the speech of the learned and able Senator from Maryland, I am not shaken in my confidence in the correctness of that conclusion. We obligated ourselves by treaty stipulation to invest this money in safe stocks, and to pay over the interest, as it should fall due and be collected, to the beneficiaries of the trust. We made the investment in good faith, exercising reasonable care and due diligence and ordinary intelligence. The investment at the time was a safe investment, a good investment; the interest was collected by the officers of the Government and paid over to the wards.

But the paper has since become bad. The States owing these bonds have not paid the interest for two or three years past. The States are in rebellion, and the Senator from Maryland argues that on that account, on account of the rebellion of some of the States whose bonds were purchased and their failure to pay interest, this Government is bound to pay the interest. He says we are under obligations to compel these States to pay their debts; and insists that I, among others, have indirectly admitted this conclusion by voting large sums of money and immense armies to compel those States to stay in the Union. I cannot perceive any connection between the two facts. The one is an obligation of the States to pay their debts; the other an obligation of the people of the United States residing within the limits of the rebellious States to obey the laws and Constitution of the United States. I know it was maintained by British creditors of the State of Mississippi and some other repudiating States many years since that this Government of the United States ought to pay the debts contracted by the defaulting States, but I believe that that demand was never countenanced by any American statesman or by the Government of the United States. And never since until to-day, as far as I know, has any one admitted the validity of such a claim. To admit that it is the duty of this Government to compel the individual States of the Union to pay their debts is but another mode of stating the proposition that the United States is the guarantor of their paper. This is a proposition so dangerous to the very existence of this Government that it surprises me to hear it from the Senator from Maryland. [Mr. JOHNSON.] Each State contracts debts at its own discretion. Heretofore it has been supposed that the obligation to pay these debts was thus imposed on the people of the State contracting them; but if the Senator is right in supposing that the people of all the States become obligated to pay any and all debts contracted by an individual State, it would follow that any State of the Union might by its

prodigality bankrupt the nation. I cannot, for one, vote to indorse any such doctrine.

But then the Senator maintains that we held these bonds too long, that as faithful guardians we ought to have sold the bonds as soon as the rebellion commenced, that they could have been cashed at something even since that period. This is not a question of law, but is a question of discretion, and on that point I beg leave to differ with the Senator. As the trustee of this fund, the party holding these bonds for the benefit of the Indians, I do not deem that it would be wise to sell them in the market at this time, nor that it would have been wise at any time since the rebellion commenced. I have full faith that we shall succeed in compelling the people of the rebellious districts to submit to the laws and the Constitution of the United States, that they will be again States of the Union, obedient to the Constitution and the laws; and when that time shall arrive these bonds of course will be worth more in the market than at present; they will then sell for more in the market than they will now command. But supposing, what I think never will happen, that the rebellious States should maintain their separate existence, and should become an independent nation, even in that case the bonds would be worth more in the market than they now are. That would not release the States from the obligations to pay these bonds. They are obligations contracted by them in their State capacity. State obligations will not be vacated on account of a separation, if such a thing were possible; so that, looking at this question from every stand-point taken by the Senator from Maryland, I think his positions are untenable.

But the Senator concludes his speech, as if he distasteful the soundness of his logic, by an indignant protest against the course which has been pursued by the Government for the last three years in relation to these bonds, and says that he does this in the name of these poor helpless Indians. He says we have plundered these children of the forests and the prairies of their lands, of their country, of their homes, of their wealth, and demands to know if we will now withhold from them what we owe them. This, Mr. President, is an assumption of the whole question in controversy. It assumes that the United States owe the Indians the par value of these bonds, when in the opinion of the Committee on Indian Affairs, after a full, candid, and thorough examination of the subject, no such obligation exists. If the committee is correct in the conclusion that this Government is under no obligations to pay these bonds, then refusing to pay the interest is no wrong; and if not a wrong, then his indignation is misapplied so far as this transaction is concerned.

But he would make the Senate and the country believe that we have been depriving them of their land, robbing them of their patrimony, taking from them their possessions, and amassing fortunes for our own people, and aggrandizing ourselves at their expense. I do not agree with him. I have read much of this in books and some little in poetry; but having been born on the frontier, and having become somewhat acquainted with these people from contact with them, I am not prepared to indorse the Senator's poetic notions of their character, nor his denunciations of the conduct of the Government. Who would have given more for these Indian lands than was paid by the United States? He says we have been robbing these Indians in the purchase of their land. I repeat, who would have paid more for their land than has been paid by the United States? When purchased they were an unbroken wilderness, without roads or bridges or means of egress or ingress, inhabited by savages and wild beasts, with none of the necessary appendages and conveniences of civilized life in reach. Who could have been induced to make such a purchase? Certainly no one not able to subdue a wilderness, and this required the energy and power of a nation. These lands were at the time of the purchase perfectly worthless in the market, and have become valuable only after the expenditure of hundreds of millions of money and the application of the labor and toil of vast multitudes of frontier settlers who have exhausted the energies of a lifetime in rendering the country inhabitable. Sir, this glorification of the Indian character, and the poetic tale of his wrongs inflicted by this Government in the purchase of their lands, is all a chimera, a phantom of a poetic

brain. We have paid to these Indians and invested for their benefit millions of money for lands that to them were valueless at the time in the markets of the world, and have thus brought to their doors all the arts of a Christian civilization.

It is said in vindication of the idea suggested by the Senator from Maryland that these people have been melting away. That is true, and it is true of every savage people that come in contact with civilized nations and attempt to maintain their separate existence. If they refuse to merge into and become a part of the superior race, they must necessarily be destroyed. It is a law of humanity that is not necessarily involved in the decision of the question now pending before the Senate.

But the Senator in the conclusion of his speech admitted that the larger portion of this money would be due and payable to those who have been and still are in rebellion against the Government of the United States, and appeals to us to pay at least the interest on the bonds held for the benefit of the loyal tribes. On what principle shall this be done? I have attempted to show, as the committee believe and as the Senate has heretofore maintained, that we are under no legal obligation to pay it to the loyal tribes more than to the disloyal. If the legal obligation does not exist, on what principle does he demand the payment of interest on the principal of those bonds which are the property of loyal tribes? It cannot be demanded on the principles of humanity, for several of these tribes are wealthy; they own more property *per capita*, as has been said to-day, than the people of the United States at large. Some of them are poor, very poor, and for these provision has been made in a different manner. By an amendment to this bill proposed by the chairman of the Committee on Indian Affairs, we have virtually confiscated the annuities due to the disloyal tribes and authorized the proper officers to pay them over to the loyal Indians in all cases of suffering where, on the principles of humanity, relief is required. This provision embraces all the refugee Indians who have been driven from their homes. And nearly all of the remaining tribes who hold any of these bonds are comparatively wealthy, and are sufficiently provided for out of their own funds of a different character; and in the few cases of tribes owning any of these bonds, who are otherwise really poor and need assistance, the committee has proposed direct appropriations from the Treasury which the Senate has thus far approved; so that looking at this question as a humanitarian, giving full scope to the feelings of kindness and benevolence which ought to characterize the conduct of a great nation in its intercourse with a weak and feeble people, I can perceive no sufficient reason for rejecting the amendment proposed by the chairman of the Committee on Indian Affairs; it appears to me to be a proper one, and, as I think, ought to be sustained by the Senate.

Mr. POMEROY. I wish only to reply to a remark made by the chairman of the Indian Committee, and by the Senator from Ohio, that the whole system is bad, which is very likely, and that the Indians are especially badly treated by the agents sent out by this Government, which is unquestionably correct to a great extent. They frequently have, unfortunately, bad agents, dishonest agents; but I want to remind the Senators that while these agents and the wicked traders of whom they speak take a portion of the Indians' annuities, pilfer perhaps a dollar or a hundred dollars, this amendment now proposes to take the whole. In regard to the tribe to which we have had particular reference there is not a dollar appropriated by this bill to them, and this Government has got \$319,000 of their money. Senators are virtuously indignant that a few traders or agents should take a few dollars or a few hundred dollars year by year from these tribes; but, sir, their crime whitens into innocence, it becomes pure as the light, when compared with this transaction of confiscating the whole property of loyal, faithful Indians who have been true to the Government and have responded even to the call of the country in furnishing soldiers for the Army. I submit to Senators whether there can be much fairness in the argument of men who become indignant over the stealing of a few dollars and lead in a measure that takes the whole property of these Indians. I have not any apology to make for men



who steal the annuities year by year, and much less can I make an apology for the Senate or for a committee that proposes to take the whole property of these Indians as is now proposed by this amendment.

Mr. President, we sustain such relations to these people that they are in our hands as perfectly and as entirely dependent as the infant is in the hands of the parent, and we can at any time crush them by withholding what is just to them, or we can sustain them and save them according to the dictates of humanity and religion.

Mr. HARLAN. I know the Senator from Kansas would not mislead the Senate intentionally.

Mr. POMEROY. No.

Mr. HARLAN. He has stated there is no appropriation in this bill for the Indian tribe to which he refers, and leads us to infer that consequently they are to get nothing. That case stands in this way: most of their funds are invested in bonds held by us, and the interest as it becomes due is paid over to them, and consequently no appropriation is necessary.

Mr. POMEROY. Does the Senator mean to say that most of their funds are so invested?

Mr. HARLAN. I understand the greater part of them are. Ninety thousand dollars is in the bonds to which he has referred; but over two thirds of the amount is in interest-paying bonds, and they are receiving the interest annually.

Mr. POMEROY. They had in addition \$25,000 Pennsylvania bonds which the Government made haste to sell even last year; and that money is all the money which has been paid over to the tribe.

Mr. WILKINSON. With the permission of the honorable Senator from Kansas I should like to ask him what Indians he is referring to?

Mr. POMEROY. To the confederate bands of Weas, Kaskaskias, Piankeshaws, and Peorias.

Mr. GRIMES. Why were the Pennsylvania bonds sold?

Mr. POMEROY. On account of the necessities of the tribe. Here is a letter from the Commissioner of Indian Affairs. They were sold because the tribe were destitute, and that was the only means the Government had to relieve them.

Mr. LANE, of Kansas. The sale of the bonds was authorized by a special act.

Mr. POMEROY. The Commissioner says:

"The condition of said tribe is such, caused by losses sustained in consequence of the war and the non-payment of interest on bonds held in trust for them by the Department of the Interior, that they cannot be subsisted without an appropriation of some means for that purpose. Could an appropriation for the interest due them upon said bonds be made, it would relieve a suffering people, and, at the same time, be doing an act of justice toward them."

We cannot disguise the fact that we hold the money belonging to that tribe and other tribes in our hands. To be sure we invested it. They told us we might, on consultation with them, invest it. We have done it without consultation, in violation of the treaty; and when their distress came upon them, the Government had \$25,000 of Pennsylvania bonds which were available, and in their necessities the Government got a special act passed by which they might sell the Pennsylvania bonds. They did sell them. They have had that. That was last year. For the purposes of this year I say there is no appropriation in this appropriation bill to meet the necessities of this tribe. The argument against this clause is that it will commit the Government to pay the whole debt. I do not infer any such thing. The Senator from Iowa has just said that the interest on these bonds was paid regularly until within a few years past, and he hopes it will be paid again in a few years to come. So do I. All we ask of the Government is to pay the interest accruing during these few years. We do not ask them to assume the principal. We ask that during these few years, while these States are not paying, the Government shall pay the pittance to the Indians according to its agreement, according to the stipulations of the treaty. When these bonds become interest-paying again, as the Senator says they will—he is rather more hopeful than I am about it—the Government of course will be relieved from any further advance in this direction.

Mr. WILKINSON. I shall not detain the Senate long in regard to this amendment offered by the chairman of the Committee on Indian Affairs to strike out this clause of the bill:

For payment of interest on \$1,704,300 of non-paying

stocks held by the Secretary of the Interior in trust for various Indian tribes up to and including the interest payable July 1, 1864, \$350,220 50.

This applies to some stocks which were purchased under the old Democratic organization of the Government when southern men ruled this country. They invested pretty much all the money that was due to the Indians in southern stocks, the stocks of Florida and of South Carolina, and sometimes in the bonds of southern towns and cities and villages. They invested a large amount in the stocks of the city of Wheeling. I would not say that they were looking forward to this rebellion when they were doing these things; but it ran along for several years until Mr. Manypenny, of Ohio, was Commissioner of Indian Affairs, and then he invested the money which was in his hands in Ohio stocks. He was from that State, and I am happy to say that I think he was an honorable and upright man. Since the breaking out of this rebellion three years ago the same question which is now presented has been considered, whether the Government should assume to advance the interest on these State bonds and other stocks held in trust for the Indians. We decided two years ago after very full consultation and consideration in the Indian Committee that it was wrong, and the Senate and Congress sustained the action of that committee by deciding that the Government was not legally bound to pay this interest, and that under the circumstances it was not morally bound to pay it.

The Cherokee Indians held \$655,500 of these stocks, and the Choctaws held \$452,000, making \$1,100,000 of those stocks held by those two tribes. At the battle of Pea Ridge the Cherokees had an entire regiment in that fight on the part of the rebels, and the Choctaws had eight full companies. Those two tribes of Indians held the larger portion of these stocks.

The Senator from Maryland says we ought to pay this interest because we allowed the rebellion to break out, and because we have not put it down. Sir, this money does not come out of James Buchanan; it comes out of the people of the country; and I apprehend that they have done everything in their power to put down this rebellion, and they will continue to do so.

If we are not called upon legally and morally to pay this money, why should we impose this tax of \$300,000 now upon the people of this country? The Senator from Kansas [Mr. POMEROY] urges the case in behalf of the confederate tribes in Kansas. It is true that they own a small amount of these bonds, and a bill was introduced here providing that the Government should assume the payment of the bonds and pass to the credit of those Indians the sum of \$80,000. The committee did not wish to assume that position under the circumstances; and hence they decided that they would relieve those Indians for the time being, and the Senator from Kansas who is a member of the committee [Mr. LANE] agreed that the sum of \$5,000 was sufficient for this purpose. At least I understand him so. After the committee decided that it was not wise to establish now the precedent of assuming the payment of the non-interest paying bonds held in trust for the Indians of Kansas, it was agreed that we should advance to them whatever sum might be necessary for their temporary relief, and I understand that the Senator from Kansas agreed to the sum fixed by the committee, \$5,000, as being sufficient.

Mr. LANE, of Kansas. Does the Senator desire an answer now?

Mr. WILKINSON. Either now or when I get through; it is immaterial. I so understood, but I may be mistaken in that regard. The tribes in Kansas own but very few of these bonds, and the committee thought it better, instead of acknowledging the principle that the Government was liable for them, to pay them what might be necessary for their support. Nearly all these bonds are held by Indians who entered into this rebellion. Before Mr. Lincoln took his oath of office Albert Pike went among the Choctaw and Cherokee Indians and exerted such influence among them that they repudiated this Government and went in for the agents sent out there by the rebel government.

I presume that when the Government invested these moneys for the Indians it invested them in good faith. No one claims that we are in law bound to pay the money. We do not owe the debt. The bonds were on deposit in the proper

department of the Government for the benefit of the Indians; and the interest as it was received upon the bonds was always paid to the Indians, and would be now if we received the interest. Are guardians responsible for the acts of God or for the acts of the king's enemy? The honorable Senator from Maryland did not answer that question when he was discussing the law in this regard. I say a trustee is not liable for the acts of the enemies of the Government. There is no legal liability in the case, and the question now is whether it is wise for us to establish this precedent when the greater proportion of these bonds belong to Indians who are in rebellion.

I know that it is popular for gentlemen to talk about the poor Indian; I know that it is popular to invoke for the poor Indian the sympathy of the Christian world. The Senator from Ohio said that the whole Indian system was wrong and ought to be altered. Perhaps it ought to be altered; but when that Senator can alter the physical geography of this country, when he can alter the character of the American people, when he can say that they shall not emigrate to new regions, when he can say that they shall not run in among the Indians, then he can get up a system that will be regular and operate with perfect harmony all over this country. But I say, Mr. President, you should take into consideration the character of this nation; that it is utterly impossible to get up a system that shall regulate the Indian affairs all over this country and carry them on smoothly and harmoniously for all time to come. The character of the Indian country is changing every six months. A gold mine is discovered upon an Indian reservation and you may as well undertake to dam up the Mississippi river and prevent it flowing down toward the Gulf as to stop the tide of emigration in this country. Our people go wherever those developments open an opportunity for wealth and prosperity.

This is the difficulty in regard to Indian affairs in this country, and this is the reason why the appropriations to take care of the Indians are necessarily augmented every year. How many Territories have we organized during the last Congress and this? Nevada, Colorado, Arizona, Idaho, and Montana; and our people are rushing to those Territories because they are rich in minerals. It is a great wonder that we have been enabled to get along in the management of the Indians as well as we have.

It is very popular to say that Indian agents are all dishonest, and that Indian superintendents are all wicked and thieves. Sir, there are no offices in the United States the duties of which it is so difficult to execute as those of Indian agents and Indian superintendents; and why? There are always in all countries a miserable set of vagabonds who hang around the border, who will sell whisky to Indians and goods to Indians, and rob and plunder them. Then again the Indian reservations are perhaps right where emigration goes through, and it is almost utterly impossible for these men to execute all that the country expects that they should execute.

Mr. NESMITH. I should like to ask the Senator a question. He has referred to the obligations the Government entered into by treaty stipulations with the Indians to prevent people from encroaching on their reservations, and he says that when gold mines are discovered there, white people do encroach. Suppose they do, and suppose that in that encroachment the Indian suffers a very great wrong by reason of the Government permitting its citizens to be there in violation of the treaty, is not the Government bound to make good whatever damage the Indians suffer by reason of that violation? I should like to have an answer to that question.

Mr. WILKINSON. This Government pays more to support the Indians, ten times more, than it pays for the support of white men of this country. It was said here a few minutes ago by some Senator that the Delawares were the richest people on earth, and they are. There are Indians in the United States drawing more than a hundred dollars a head for every man, woman, and child in the nation. This Government has not been mean to the Indians. The truth is that they are a lazy, miserable, thriftless set of beings, and although we have spent millions upon millions of dollars to give them homes and farms and furnished them farmers to work their farms, and

have built them in many cases nice brick houses, they abandon them and run off to follow the chase or other native employments. They will not work. Missionaries have failed to elevate them in this regard, and the whole missionary enterprise among the Indians so far as it is applied to this country has been I may say almost an utter and entire failure. This is the testimony of some of the most pious and devoted missionaries who have labored longest among the Indians on this continent.

I wanted to answer one or two other suggestions that have been made in regard to the treatment by the Government of the Indian tribes. I say it has been most liberal in its treatment of the Indians. The great wrong, if there is any wrong in regard to it, is that we have paid them too much money. In my judgment they never should have received a solitary dollar from the Government. Whatever was paid them should have been distributed by the Government in the exercise of its wise discretion and as a matter of humanity; and it should have been distributed to them in such a manner as to prevent them from indulging in their wicked and perverse propensities. The Government undertook to reform them, to allot them land, and to make appropriations to give them farms and build them houses, and to give them cooking stoves in their houses, and other things for the purposes of civilization, and yet everybody knows that the attempt has been a failure. Everybody who knows anything of the Indian tribes and of Indian character knows that it is an utter and entire failure.

Mr. President, the Government is under no legal obligation, as I said before, to pay the interest on the bonds referred to in this section of the bill. But, so far as the loyal Indians are concerned, I am willing to appropriate what is necessary now for their amelioration, and to give them some temporary aid; but at the same time I want it to be understood that these same Indians live upon as rich soil as there is in the country, and if they would labor they could have plenty of corn, of pork, and everything else that is essential to their comfort; but they will not work. There is no reason why these confederate Indians in Kansas should starve, any more than there is reason for the other people of Kansas to starve. If they would work as white men work, they would not starve. The truth is, they will not work. As far as the larger portion of this fund goes to Indians that have been in rebellion against this Government, I for one do not see fit to vote to pay the interest. I think the committee decided wisely in regard to it, and I hope the Senate will do now as it did two years ago, sustain this action of the committee.

Mr. LANE, of Kansas. I am surprised that any man from the West should be found advocating, or even excusing, or attempting to excuse, our Indian system. It seems to me that a man who has been living on the frontier, with common sense and judgment, must have learned that our Indian system is a failure, an utter failure.

Mr. WILKINSON. I should like to know upon what remark of mine the Senator bases his assumption now.

Mr. LANE, of Kansas. I understood the Senator generally as defending and apologizing for the Indian agents and superintendents, and excusing everybody else but the traders that surrounded the tribes. Sir, compare our system with the English system. There is scarcely a county in the United States from the Atlantic to the Pacific, coast, where do not lie bleaching the bones of white men slain by Indians in the different Indian wars. History proves that with another and different system just across our border on the north, there has never been a single white man slain in an Indian insurrection or war. The English system so far as bloodshed is concerned has been the antipodes of ours. The one system secured peace, the other provoked war. Take the expenditure of money, and the English system as compared with ours is a saving of one as to a thousand.

Mr. WILKINSON. Will the Senator be so kind as to tell us what the English system is?

Mr. LANE, of Kansas. I am not prepared to go into the details, and I would not take the time of the Senate now to do so if I was fully acquainted with them. I have a general knowledge of the system, and I know its results. It

would not take our Committee on Indian Affairs a great while to learn the details of the Canadian system; and I propose before the Senate adjourns at this session to move that the Committee on Indian Affairs have leave to sit during the vacation, that they may investigate the evils of our system and the benefits of the English system, so that at the next session of Congress we may have before us both systems, the one in all its terrible deformity, and the other in all its beautiful proportions.

Mr. WILKINSON. If the Senator will permit me, I will tell him what the English system is. It is no system at all. They just organized the Hudson's Bay Company, and gave to the Hudson's Bay Company full power and control over the Indians. Now, I ask the Senator if he is prepared to organize a great monopoly in this country, to give a charter to a company, and give them the political power to control everybody in that country?

Mr. POMEROY. Allow me to say that the English system differs very much from ours. With them every Indian is a British subject, and every Indian agent is a judge appointed by the queen. The differences arising in the tribe are settled by this Indian agent, who is a judge. In our system we do not allow the Indian agent to settle any difficulties that may arise in the tribe. If a murder is committed in a tribe, they go and lay their complaint before the Indian agent, but he is powerless; he can do nothing about it; and then the Indian has to go and avenge his own wrongs, and the near relative or friend has to pursue the guilty man and kill him. That leads to war. The English system is altogether different. They allow no Indian to avenge his own wrongs, but their difficulty is brought to the Indian agent, who is a judge appointed by the queen, and he arbitrates the case and decides it.

Mr. NESMITH. The Senator from Minnesota has defined the English system, and has said that it is entirely under the Hudson's Bay Company. The charter of that company expired in 1859, and the company has ceased to exist. I should like him to inform the Senate who succeeded to them in the management of Indian affairs in British Columbia and the other British provinces.

Mr. LANE, of Kansas. I suppose, admitting the Senator from Minnesota to be right, that the Hudson's Bay Company had some system. I was glad that the Senator from Ohio had the nerve to announce to the country that our Indian system is rotten from its base. I agree with that Senator that it is an absurdity to deal with the Indian tribes as independent sovereign nations. It is not an absurdity that we should pass laws recognizing the Indians as subjects for a time, and then after reaching a certain point of civilization and advancement to recognize them as citizens, and permit them to take the oath of allegiance, if you please, or oath of civilization and advancement.

Now, Mr. President, having said thus much on the question generally I desire to call the attention of the Senate to the subject immediately before it. I have proposed to amend the clause which the committee move to strike out by adding to it:

But no part of said appropriation shall be paid to any Indian tribe who now are or have been in rebellion against the United States.

The theory is that if we conclude to pay this interest it shall be used by the Indian department for the benefit of the loyal portion of the tribes that have been in rebellion. I propose not to pay a dollar of the interest to either of the tribes that have been or are now in rebellion; and here I desire to answer a suggestion of the Senator from Missouri, who said that we should not be able to ascertain what tribes have been in rebellion. Why, sir, they are known just as well as the States that have been in rebellion are known. They have not only been in rebellion against this Government, but they have actually received annuities from the so-called confederate government.

Mr. BROWN. I call the attention of the Senator from Kansas to the fact that it has not been three weeks since he himself was urging before this body the restoration of the rights of individuals among tribes of Indians who had been in rebellion, restoring them to the right to their

annuities. Now, what is to prevent the same thing proceeding in this case?

Mr. LANE, of Kansas. I think the Senator is mistaken. I certainly advocated no such thing that I remember. On the contrary, a few days ago I introduced a resolution asking the Committee on Indian Affairs to inquire as to the propriety of confiscating all lands claimed by disloyal Indians, their entire reservations, and to furnish homes to such as had proved themselves to be loyal.

The theory, as I said, is to expend this money for the benefit of the loyal portion of disloyal tribes. If my amendment be adopted, the appropriation will be only \$14,010 25 for interest on \$98,000 of bonds held by the Weas and Kaskaskias of Kansas. It will not make one dollar of provision for interest on the bonds held by the disloyal Indians. The interest of the other loyal tribes has already been provided for. I desire to call the attention of the Senator from Minnesota and the Senator from Iowa to the fact that Congress has already provided since 1861 for paying the interest on the bonds held by all the other loyal tribes, whose treaties were not as emphatic as the treaty in this particular case.

Mr. HARLAN. I think the Senator is in error. We have not appropriated a single dollar to pay the interest on any of these bonds.

Mr. LANE, of Kansas. The Senator is mistaken. We have provided for paying the interest to the Ottawas and the Pottawatomies. There is no other tribe interested except the one that will be reached if my amendment be adopted.

Mr. HARLAN. The committee did recommend that the Government should assume to pay the interest on bonds that were stolen. There were some bonds that were deposited with an officer of the Government of the United States who it is said stole the bonds; and the committee did recommend that the interest on those bonds should be paid, and the amount placed to the credit of those tribes on the books of the Treasury, and the interest paid to them from year to year. That has been done, and it is provided for in this bill.

Mr. LANE, of Kansas. In making your new treaty with the Ottawas and Pottawatomies you arranged for the payment of the interest on the bonds situated as these are besides the stolen bonds. But here is a case, I say to the Senator from Iowa, that is covered by the vote paying the interest on the bonds stolen, for these bonds were stolen; I mean that after the traitors had determined to make the assault on this Government they changed the bonds of loyal States for the bonds of disloyal States. Therefore it would be covered by that principle. The provision as now drawn, if my amendment be adopted, will include only these particular bonds. I have the treaty before me, and I ask Senators to read that provision of it.

Mr. WILKINSON. With the permission of the Senator from Kansas, I will correct him in a statement which he has just made. These changes were not made to any considerable extent after this rebellion was determined upon. The transactions took place some time ago, longer ago than December, 1860.

Mr. LANE, of Kansas. My understanding was that the changes were made just before the rebellion.

Mr. POMEROY. The treaties with the Pottawatomies and the Ottawas have been made since I have been in the Senate, and I came here in 1861. I helped to ratify both those treaties.

Mr. LANE, of Kansas. The provision of the treaty is:

"And as the amount of the annual receipts from the sales of their land cannot now be ascertained, it is agreed that the President may from time to time and upon consultation with said Indians determine how much of the net proceeds of said sales shall be paid to them, and how much shall be invested in safe and profitable stocks, the interest to be annually paid to them, or expended for their benefit and improvement."

I have said, and the Senators are aware, that this money was invested originally without consultation with these Indians, and that the change which was made in the bonds was not known until long after this rebellion was inaugurated.

Mr. GRIMES. I call the attention of the Senator from Kansas to the fact that this treaty does not require that they should be consulted as to what kind of stocks the money should be invested

in. They were only to be consulted by the President of the United States, who by the treaty was authorized to make the investment, as to how much should be invested in stocks, and how much should be paid to them; but as to what stocks the money should be invested in, and as to what changes might be made in the investment in the future, there was unqualified liberty vested in the President to regulate that matter.

Mr. HENDRICKS. I desire to ask the Senator from Iowa, if that be the true construction of the treaty, and I apprehend he is right, could the President make any investment of any amount until that amount was agreed upon with the Indians upon consultation? Was it not all a breach of trust?

Mr. GRIMES. It is not denied, as I understand, on the part of anybody that there was proper consultation between the President and these Indians at the time the investment was made.

Mr. LANE, of Kansas. On the contrary, I say to the Senator from Iowa that the evidence before the Indian Committee is that the President did not consult with the Indians, but that at the time the purchase was made the Indians had an application to have the entire sum paid over to them.

Mr. GRIMES. I understand my colleague right the reverse; and as is well suggested to me by the Senator from Ohio, they subsequently received the interest from year to year, and therefore ratified any action that might have been had; but I understand that there is an issue between the Senator from Kansas and my colleague as to that point.

Mr. LANE, of Kansas. I should like to hear the Senator's colleague.

Mr. HARLAN. I have stated that I am not aware of any evidence that the treaty was not executed as provided for. I do not remember any testimony that has ever appeared before the Committee on Indian Affairs to indicate that the proper consultations were not had at the time.

Mr. POMEROY. With the consent of my colleague, I will read from a remonstrance of the chief of the tribe of Peorias, in which he states:

"By the treaty of the 30th of May, 1854, provision was made for the sale of the principal part of the lands of our people in Kansas. And by the seventh article of said treaty it is provided, in reference to the proceeds of such sale, that the President should from time to time, upon consultation with our people, determine how much of the net proceeds should be paid to our people, and how much should be vested in safe and profitable stocks, the interest thereon to be paid annually; yet when the sales in June and July, 1857, were over this just and important provision of the treaty was wholly disregarded, and the entire proceeds of the sales, amounting to \$346,791 in gold, were, without any consultation with our people, and against our consent, taken away by the Government, and \$319,602 thereof vested in stocks neither safe nor profitable."

Mr. LANE, of Kansas. In addition I will say to the Senator from Iowa that we had before our committee a letter from the Commissioner of Indian Affairs, admitting that the money was invested without consultation with the Indians. I do not know that the Senator was present when it was read in the committee.

Mr. GRIMES. The Commissioner who made the investment, Mr. Manypenny, or the present one?

Mr. LANE, of Kansas. It goes back.

Mr. GRIMES. Shall we, in a question of this kind that is to settle a precedent that may burden the Treasury with millions of dollars, rely upon a loose statement of the present Commissioner of Indian Affairs, who knows nothing as to what may have occurred at the time this treaty was made years ago between the then Commissioner of Indian Affairs and the Indians? How does it happen that the Senator from Kansas and the Indian Committee have not obtained information from Mr. Manypenny in order to enable us to settle so important a question as this understandingly? for it is virtually an assumption on our part to pay the debt, whatever it may be, that may be due to these Indians, not only the interest, but the principal.

Mr. LANE, of Kansas. I suppose that when the Secretary of the Interior communicates to the Committee on Indian Affairs a fact of that kind, he is governed by the records of the Department.

Mr. GRIMES. Do the records show a want of consultation?

Mr. LANE, of Kansas. I do not now recollect; I speak of the letter from memory. Now I

desire the ear of the Senator from Minnesota. He has said that this particular tribe of Indians live in a good country, and that there is nothing to prevent them from raising their corn, and their hogs, and their cattle. I tell the Senator that there is. When this rebellion commenced, they had all the comforts that he had; they had homes, they had stock, they had their fields. By this rebellion, situated as they are upon the border between Kansas and Missouri, their country has been devastated by the armies of both parties.

Mr. WILKINSON. I have no doubt that that to a considerable extent is true, and it proves what I attempted to state before, that it is not so much the Indian system as the people living around the Indians that destroy them. Bills have been brought in here, coming, I think, from the Senator from Kansas, to pay Indians for horses and cattle, which the people round about them have stolen from them. I have no doubt the Indian system might be improved; I have no doubt that there are grave errors in it; but the people in the State of Kansas have no more regard for the Indians in that State than they have for the beast that perishes; and it is from the people living around them that they are robbed and plundered, and not from our Indian system.

Mr. LANE, of Kansas. I do protest against the Senator from Minnesota judging the people of Kansas by the people of Minnesota. In the intercourse of our people with the Indians they are governed by a Christian and philanthropic principle that I fear does not reach the people that the Senator represents. The country where these Indians live, before this rebellion commenced, was rich in all that the Senator would have them rich in. They had their stock, they had their hogs, they had their corn. The Government agreed to defend them against their enemies; the Government failed to defend them; and now they are reduced to starvation; and the question presented to the Senate is, will you pay them what you owe them, \$14,010, or will you according to the policy of the Senator from Minnesota present them with \$5,000 and permit the \$14,000 to stand?

A word now as to my action on the committee. The Senator from Minnesota knows that I did everything I could to have the Committee on Indian Affairs report in favor of the payment of this interest. After I failed in that I was willing to accept \$5,000 or any other amount for the relief of these people. Five thousand dollars to a starving people will be a boon for which, in my opinion, they will thank you; but they would much rather, as I would, that you should pay them what you owe them; and, Mr. President, I do hope that my amendment will be adopted, and that then the amendment of the committee will be rejected.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The question is on the amendment proposed by the Senator from Kansas to the clause proposed to be stricken out.

Mr. POMEROY. I trust no one has any objection to this amendment, which is simply that in case the money shall be paid it shall be paid only to the loyal tribes.

Mr. WILKINSON. If this amendment should be adopted it will be necessary to change the appropriation from \$350,000 to a less sum.

Mr. LANE, of Kansas. I propose to alter the \$1,700,000 to \$98,000, and the \$350,000 to \$14,000.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Kansas to add to the clause proposed to be stricken out the words "But no part of said appropriation shall be paid to any Indian tribe who now are or who have been in rebellion against the United States."

Mr. JOHNSON called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 17, nays 15; as follows:

YEAS—Messrs. Anthony, Collamer, Doolittle, Fessenden, Foot, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Pomeroy, Sumner, Trumbull, Van Winkle, Wade, and Wilson—17.

NAYS—Messrs. Brown, Buckalew, Chandler, Conness, Davis, Grimes, Harlan, Hendricks, Hicks, Howard, Howe, Sautsbury, Sherman, Sprague, and Wilkinson—15.

ABSENT—Messrs. Carlile, Clark, Cowan, Dixon, Foster, Hale, Harding, Harris, Henderson, McDougall, Powell, Ramsey, Richardson, Riddle, Ten Eyck, Willey, and Wright—17.

So the amendment was agreed to.

The PRESIDING OFFICER. The question now returns on striking out the clause as amended.

Mr. LANE, of Kansas. I now move to amend the clause by inserting \$98,000 as the principal sum, and \$14,010 25 as the appropriation for interest.

Mr. POMEROY. The amendment of my colleague will not make the clause complete. I have a substitute for the whole clause which I think will meet his views.

Mr. DOOLITTLE. If the Senator from Kansas has a distinct proposition to pay the Weas and Piankeshaws, and acknowledge the debt to them, let that be offered as a separate section, and the sense of the Senate taken upon it. I prefer now to take the sense of the Senate on striking out this clause which embraces all the Indian tribes.

Mr. POMEROY. A substitute for the whole section I believe is not now in order; but I will read what I have prepared for the information of my colleague, and I think he will accept it:

That the confederate bands of Weas, Piankeshaws, Kaskaskias, and Peorias be allowed the interest of \$98,000 at five per cent. per annum, this amount being the net interest-paying bonds belonging to said confederate bands, the interest to be paid semi-annually, beginning on the 1st day of January, 1865; and the interest accruing up to the 1st day of July, 1864, at the said rate shall be due and payable on that day.

Mr. WILKINSON. I am willing to vote \$14,000 for the benefit of these Indians; but the committee decided not to recognize the principle of paying this interest. Now, what will be the result of it? They will say that we have established the principle here that the Government is holden legally to pay this interest; and the other Indians, even those in rebellion, will afterwards come in and get it. That is the judgment of the committee; and I think the chairman expressed himself in that way. We are willing to have this amendment, and would have passed it in the Indian Committee if the Senator from Kansas, who is a member of that committee, had not told us that \$5,000 would be sufficient, and we reported a bill to that effect. I presume, however, the Senate will have no objection to voting \$14,000 to the confederate Indians in Kansas if that amount is necessary.

Mr. POMEROY. That is all I am after.

Mr. WILKINSON. But the committee do not wish to frame the terms of the law so as to bind the Government hereafter to pay a debt which the Government does not owe.

Mr. LANE, of Kansas. I have no objection to accepting the proposition of my colleague if it would be in order. I want the Government to recognize this debt of \$98,000; but if they are not willing to do it, let them pay the interest.

Mr. CONNESS. I suggest to the Senator from Kansas to withdraw his amendment, and then let the question be taken on the motion of the committee to strike out the proposition now contained in the bill, and then we can vote on the section offered by the other Senator from Kansas [Mr. POMEROY] as an independent amendment. In that way we shall probably reach a result.

Mr. LANE, of Kansas. It might be reached in another way, by my withdrawing my amendment, and allowing my colleague to offer his instead of mine as a substitute; and I will do that.

Mr. DOOLITTLE. I think it would be better that that should be offered as a distinct section by itself.

Mr. POMEROY. I offer it as a distinct section by itself.

Mr. DOOLITTLE. Then let us take a vote on striking out the proposition in the bill.

The PRESIDING OFFICER. The Senator from Kansas [Mr. LANE] has withdrawn his amendment; and the question now is on striking out the clause as proposed by the Committee on Indian Affairs.

Mr. POMEROY. My colleague withdrew his amendment for the purpose of allowing me to offer mine.

Mr. FESSENDEN. Will not the Senator from Kansas consent to let the question be taken on striking out the clause? He will then be at liberty to move to put in any distinct proposition.

Mr. POMEROY. I am not at all particular about it.

Mr. FESSENDEN. The Senator now offers his proposition as an amendment to the clause to



be stricken out, and that puts it in a very different shape from what it would be in if it were presented as a distinct proposition. The chairman of the Committee on Indian Affairs, I understand, has no objection to it as a distinct proposition.

Mr. POMEROY. I prefer to take a vote first on my amendment, because if that be adopted I shall then vote with the committee to strike out the other clause.

Mr. JOHNSON. I think we had better vote first on striking out.

Mr. FESSENDEN. If we strike it out the Senator can move to insert what he pleases.

Mr. POMEROY. Very well, I withdraw my amendment for the present. I am anxious to take a vote, and I do not want to detain the Senate.

The PRESIDING OFFICER. The question is on the motion of the Committee on Indian Affairs to strike out this clause of the bill.

Mr. HOWARD. I wish to say a word on that proposition. I shall vote to strike out the clause. The clause as it now stands in the bill would require the United States to pay a certain amount of interest upon bonds issued by States and turned over to the Indians in payment of lands purchased from the Indians by the Government of the United States. Upon what ground is it that we are asked to make good, even to the Indians, the interest upon these State bonds? One ground urged by the honorable Senator from Maryland is that it is the duty of the United States to see to it that the several States are retained in the Union, and that because some of the States which issued these bonds, or a part of them, are no longer in the Union, and cannot be retained thus far by the exertion of the armed force of the United States, the Government of the United States is bound in honor and in equity to make good to the Indians the interest which is due on the bonds of these seceding States. I understand that to be the main ground on which the honorable Senator from Maryland would impose upon the United States the obligation of this guarantee implied by the clause as it now stands in the bill. I do not hold that the United States is under any such obligation. So far as appears before the Senate the trade between the United States and the Indians was an honorable and an honest bargain, neither party taking advantage of the other, and the United States have acted in perfect good faith in placing to the credit of the Indians the State bonds which are now in controversy; and they have been accepted by the Indians with their eyes open, and neither the Indians nor their agents have any ground to complain that the United States have at any time sought to take advantage of them in the concoction of the bargain or in the payment of the interest due on these State bonds.

Now, sir, I reject entirely the idea that the United States is under any obligation whatever at any time to meet the obligations of a State, in other words, to pay the debts due from a State, whether those debts are in the form of State bonds or otherwise. Let us look to what this will lead. There are I know not how many millions of State bonds issued by the States of this Union now in the hands of the subjects of foreign countries. There are some hundreds of millions of dollars in the shape of State bonds now held by honest creditors in England, France, Holland, and other European countries, for which, of course, the United States have never made themselves in any way responsible; and shall the Government of the United States hereafter be told that because some of the States issuing these bonds have committed treason and separated themselves from all connection with or dependence upon the Government of the United States, therefore that Government is bound to pay their debts to foreign creditors? Shall we be told that we are bound to pay to British creditors debts due to them upon the bonds of Virginia and South Carolina and other seceding States, because those States have gone out of the Union and we have not yet been able to constrain them back into the Union?

I trust Senators will reflect seriously upon the consequences which will certainly flow from the precedent we are now setting if we pass the clause contained in this bill; for it will be a precedent upon which the creditors of all the seceding States may apply to the Government of the United States and ask to have the debts due from the rebel

States paid out of the Federal Treasury. In the first place, there is no law to justify it. There is no equity in this case particularly as I understand it, and I shall be loth indeed to set a precedent in our legislation which shall give rise to claims as multitudinous and enormous as those will be to which I have referred. I hope we shall strike the clause out of the bill entirely.

The motion to strike out was agreed to.

Mr. POMEROY. Now I move my amendment as an additional section:

*And be it further enacted, That the confederate bands of the Weas, Peorias, Kaskaskias, and Piankeshaws be allowed the interest on \$98,000 at five per cent. per annum, this amount being the non-interest-paying bonds belonging to said confederate bands, the interest to be paid semi-annually, beginning on the 1st day of January, 1865; and the interest accruing up to the 1st day of July, 1864, at the said rate, shall be due and paid on that day.*

Mr. DOOLITTLE. That is substantially the provision of the House bill with one exception. The amendment says \$98,000 and the House bill says \$89,000, \$98,000 being the face of the bonds, and \$89,000 the amount of money we actually received when we invested in the bonds. This question coming before the Committee on Indian Affairs, the committee were decidedly of opinion that they would not adopt that provision at the present time, and they authorized the reporting of the bill which has been presented to the Senate, appropriating \$5,000 for the benefit of these Indians, and I now offer that as a substitute for this amendment. On our inquiry the sum of \$5,000 was supposed to be enough for the immediate necessities of these tribes of Indians. I must say also that in consequence of the recommendation of the Secretary of the Interior, and a settlement to which we have agreed on another amendment which has been offered on this bill, the sum of \$3,100 is also appropriated for the benefit of these Indians, growing out of a mistake in the survey of land which we sold and received pay for that actually belonged to the Indians. The result will be to put at the disposition of the Department for the benefit of these Indians this \$5,000 and \$3,100 besides, making \$8,100, and we believe that will be sufficient for their present necessities.

Mr. POMEROY. I understood the other members of the committee to say that they reduced the sum to \$5,000 because they supposed my colleague consented to that. They were willing to pay \$14,000, but they thought he consented to the \$5,000. The Senator from Minnesota made that remark, and the chairman of the committee also said that he put the sum at \$5,000 because he thought my colleague consented to it. I submit that as \$14,000 and a little more is due, there is no use of talking about making gratuities to the tribe; I do not propose to make a contribution to a man that I owe; and as that is due and should be paid on the 1st of July, I object to this substitute entirely.

Mr. HARLAN. The committee do not admit that we owe them anything. The Senator and the committee differ on that subject. The committee were willing to recommend an appropriation large enough to relieve their immediate wants. If the \$5,000 in addition to what is in the bill by an amendment heretofore adopted is not enough, as a member of the Senate I am willing to vote for more. However, on inquiry made by the committee, it was supposed to be enough, and hence I hope the amendment may be adopted as proposed by the chairman of the committee, unless there are some new facts to be adduced showing that more is necessary.

The PRESIDING OFFICER. The amendment of the Senator from Wisconsin to the amendment of the Senator from Kansas will be read.

The Secretary read it. It was to strike out all after the word "that," and insert:

*For the temporary subsistence of the Weas, the Piankeshaws, the Peorias, and the Kaskaskias, and furnishing the same with clothing, \$5,000.*

Mr. LANE, of Kansas. It seems that the sum of \$5,000 was inserted on my judgment. I do not remember what suggestion I made in committee, but I am now satisfied that \$5,000 is not enough to relieve the immediate necessities of this tribe, and if any one is to be influenced by my judgment, I object to this proposition.

The PRESIDING OFFICER. The question is on the amendment to the amendment.

Mr. LANE, of Kansas. I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 23, nays 9; as follows:

YEAS—Messrs. Anthony, Brown, Buckalew, Chandler, Collamer, Davis, Doolittle, Fessenden, Foster, Grimes, Marlan, Howard, Lane of Indiana, Morgan, Morrill, Sprague, Sumner, Trumbull, Van Winkle, Wade, Wilkinson, Wiley, and Wilson—23.

NAYS—Messrs. Carlile, Foot, Henderson, Hendricks, Johnson, Lane of Kansas, Nesmith, Pomeroy, and Powell—9.

ABSENT—Messrs. Clark, Conness, Cowan, Dixon, Hale, Harding, Harris, Hicks, Howe, McDougall, Ramsey, Richardson, Riddle, Saulsbury, Sherman, Ten Eyck, and Wright—17.

So the amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

The bill was reported to the Senate as amended. Mr. DOOLITTLE. There is one amendment I should like to have excepted, that in regard to the expenses of the Chippewas.

The PRESIDING OFFICER. That amendment will be excepted. The question now is on concurring in the other amendments made as in Committee of the Whole.

The other amendments were concurred in.

The PRESIDING OFFICER. The Secretary will read the excepted amendment.

The Secretary read it, as follows:

*For this amount to defray the expenses of bringing on the delegation of Chippewas of Red Lake and Pombina tribe, and to defray their expenses while detained in this city in making a treaty, and their return to their home, \$17,500.*

Mr. DOOLITTLE. That particular item had not been considered by our committee, and running my eye over it I supposed all these items were correct. Subsequent to the time that it was before the committee we have inquired into it, and we are not satisfied to appropriate so large a sum. I move to strike out the "\$17,500" and insert "\$10,000;" and also I move to amend the amendment by striking out "in this city," and inserting "in the city of Washington."

The amendments to the amendment were agreed to; and the amendment, as amended, was concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed. On motion of Mr. DOOLITTLE the title was amended by adding the words "and for other purposes."

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had passed the bill of the Senate (No. 282) to amend an act entitled "An act to extend the time for the withdrawal of goods from public stores and bonded warehouses, and for other purposes," approved 29th February, 1864, with amendments; in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had passed a bill (No. 521) to amend an act entitled "An act to provide for the payment of the claims of Peruvian citizens under the convention between the United States and Peru of the 12th of January, 1863," approved June 1, 1864; in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had agreed to the amendments of the Senate to the bill of the House (No. 383) to incorporate the Home for Friendless Women and Children.

The message further announced that the House of Representatives had passed a resolution for the adjournment of the present Congress on Thursday, the 23d of June; in which it requested the concurrence of the Senate.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 129) to amend an act entitled "An act to authorize the corporation of Georgetown, in the District of Columbia, to lay and collect a water tax, and for other purposes," approved May 21, 1863;

A bill (S. No. 316) to grant the right of preemption to certain settlers on the Rancho Bolsa de Tomales, in the State of California;

A bill (S. No. 285) to regulate the veto power in the Territory of Washington; and

A bill (S. No. 223) to regulate the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, and for other purposes.

#### BILLS BECOME LAWS.

The message further announced that the President of the United States had approved and signed, on the 8th instant, the following acts:

An act (H. R. No. 293) to provide for the payment of the second regiment, third brigade, Ohio volunteer militia, during the time they were mustered into the service of the United States;

An act (H. R. No. 426) to create an additional supervising inspector of steamboats and two local inspectors of steamboats for the collection district of Memphis, Tennessee, and two local inspectors for the collection district of Oregon, and for other purposes; and

An act (H. R. No. 555) to punish and prevent the counterfeiting of coin of the United States.

#### ARMY APPROPRIATION BILL.

Mr. WILSON. I move now to take up the report of the committee of conference on the Army appropriation bill.

The PRESIDING OFFICER. That question is before the Senate as the unfinished business.

Mr. POWELL. Mr. President—  
Mr. WILSON. I hope we shall settle this report.

Mr. POWELL. I intended to make a motion to take up Senate bill No. 37, but I will wait until this is settled, so as to make my bill the unfinished business for Monday.

The PRESIDING OFFICER. The question is on concurring in the report of the committee of conference.

Mr. WILSON. The report of the committee of conference is not what I had hoped for or what I expected from the committee. I had hoped that the committee of conference between the two Houses would so adjust the matter as to secure the rights of those colored men that had enlisted under certain promises and pledges. But, sir, they have not done so, or if so in any degree, it depends on the action of the legal officer of the Government. I have consulted with some members of the conference committee, have taken carefully into consideration the importance and the condition of the bill and the disposition in both Houses of Congress, and I have concluded to vote in favor of the report of the committee of conference. I do so, sir, with a great deal of reluctance, but I do so because the subject-matter goes to the Attorney General, who has already given an opinion that I think will require him to recognize and adjust the rights of these regiments; and because it does not preclude them from their rights, if the Attorney General shall not decide to give them what we think belongs to them. In that event we can bring the matter up again in Congress. It certainly precludes them from none of their rights or claims, but it leaves that matter entirely open for future action, if the Attorney General shall not give to them what we maintain belongs to them. I shall therefore vote for the report of the committee.

Mr. SUMNER. I stated last night that in my opinion this was a report which undertook to conclude a matter, but did not conclude it. On further consideration, I am not satisfied that I was materially mistaken. It is a conclusion in which nothing is concluded. I may say, sir, too, that I do not think it entirely creditable to Congress, and, so far as I now accept it, it will be with much reluctance. I think it would have better become Congress to recognize a solemn obligation toward those who are now baring their breasts for us in battle, who are falling on the parapets of the enemy, rather than to question their rights to pay as soldiers, rights which I believe are as strong for them as for any white soldier in the service. I regret sincerely that those rights have not been positively recognized in the text of a statute; but after effort in both branches, and the appointment of several committees of conference, our effort to obtain such a recognition has failed. I despair of obtaining it, at least on the present bill. It is on that account that I am induced to look critically at the proposition before us to see whether it does afford any measure of justice. In one sense it affords nothing; and I believe the Senator from Maine, [Mr. MORRILL,] who was on the commit-

tee of conference, will not differ from me on that point; but it does distinctly and unequivocally refer the question to the judgment of the Attorney General of the United States. Substantially Congress agrees to take his opinion on a disputed case. He has already given his opinion. I have it in my hand; it is in a communication dated April 23, 1864, addressed to the President on a case submitted by the President. In that opinion he uses the following language:

"I do not know that any rule of law, constitutional or statutory, ever prohibited the acceptance, organization, and muster of 'persons of African descent' into the military service of the United States as enlisted men or volunteers. But whatever doubt might have existed on the subject had been fully resolved before this order was issued, by the eleventh section of the act of 17th July, 1862, chapter one hundred and ninety-five, which authorized the President to employ as many persons of African descent as he might deem necessary and proper for the suppression of the rebellion, and for that purpose to organize and use them in such manner as he might judge best for the public welfare."

And then in another part of this same opinion he proceeds to say:

"I have already said that I knew of no provision of law, constitutional or statutory, which prohibited the acceptance of persons of African descent into the military service of the United States; and if they could be lawfully accepted as private soldiers, so also might they be lawfully accepted as commissioned officers, if otherwise qualified therefor. But the express power conferred on the President by the eleventh section of the act of 17th July, 1862, chapter one hundred and ninety-five, before cited, to employ this class of persons for the suppression of the rebellion as he may judge best for the public welfare, furnishes all needed sanction of law to the employment of a colored chaplain for a volunteer regiment of his own race."

By the proposition before the Senate it is declared as follows: "And the Attorney General is hereby authorized to determine any question of law arising under this provision." It is in the full confidence that in this way we shall at last, through the opinion of the Attorney General, obtain that justice which Congress has denied, that I consent to give my vote for this report.

Mr. HOWE. I have listened to the declarations made by the two Senators from Massachusetts with a great deal of satisfaction, with all the more satisfaction because it happened yesterday, when this report was made to the Senate, that it was attacked with a good deal of spirit, not to say with some ferocity. My friend from California [Mr. CONNESS] pronounced it ridiculous; the Senator from Massachusetts [Mr. SUMNER] characterized it not so concisely, but possibly with quite as much elegance, as the little end of nothing whittled down. [Laughter.] Now, against these assaults, of course I had nothing to say. I thought that was perhaps a merit in the proposition, for I thought having been reduced to that very small compass, the Senator from Massachusetts would comprehend it, and I felt entire confidence that when he did comprehend it he would, as he has done, agree to it. I have listened, therefore, to his declaration to-day with all the more satisfaction, because it seems I was not mistaken upon either point. [Laughter.]

The report was concurred in.

#### HOUSE BILL REFERRED.

The bill from the House of Representatives (No. 521) to amend an act entitled "An act to provide for the payment of the claims of Peruvian citizens, under the convention between the United States and Peru of the 12th of January, 1863," approved June 1, 1864, was read twice by its title, and referred to the Committee on Foreign Relations.

#### GOODS IN WAREHOUSE.

The PRESIDENT *pro tempore* laid before the Senate the amendments of the House of Representatives to the bill (S. No. 282) to amend an act entitled "An act to extend the time for the withdrawal of goods from public stores and bonded warehouses, and for other purposes," approved 29th February, 1864.

Mr. FESSENDEN. That bill is in the charge of the Senator from Pennsylvania, [Mr. COWAN;] he is not now in his seat, and I move that it lie over for the present.

The motion was agreed to.

#### ORDER OF BUSINESS.

Mr. POWELL. I move to take up Senate bill No. 37.

Mr. SUMNER. What is the bill?

Mr. HOWARD. The military interference bill.

Mr. COLLAMER. I move that the Senate adjourn.

Mr. HENDRICKS. Will the motion of the Senator from Kentucky be the business in order on Monday? ["No."]

The PRESIDENT *pro tempore*. It will not.  
Mr. HENDRICKS. Will it not be the pending motion? ["Oh no."]

The motion of Mr. COLLAMER was agreed to; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, June 11, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

#### OVERLAND MAIL ROUTE.

Mr. ALLEY. I ask unanimous consent to offer a joint resolution and to put it upon its passage at this time, for the extension of the overland mail route act for one year, as it is impossible to report the bill which came from the Senate in time. As that act expires on the 15th of this month, I hope the House will consider this at the present time.

Mr. LOAN objected.

#### WASHINGTON AND GEORGETOWN RAILROAD.

Mr. PATTERSON, by unanimous consent, introduced a bill to amend the charter of the Washington and Georgetown Railroad Company; which was read a first and second time, and referred to the Committee for the District of Columbia.

#### PAYMENT OF PERUVIAN CLAIMS.

Mr. STEVENS, by unanimous consent, from the Committee of Ways and Means, reported a bill to amend an act entitled "An act to provide for the payment of the claims of Peruvian citizens under the convention between the United States and Peru on the 12th of January, 1863," approved June 1, 1864.

Mr. STEVENS. The act which we passed a few days ago did not provide for the payment of the interest on those claims, and this bill is introduced for that purpose.

The bill was read a first and second time.

Mr. BROOKS. What is the amount of interest?

Mr. STEVENS. The amount of interest provided in the last clause is the interest on about \$37,000 from January to July.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### WITHDRAWAL OF BONDED GOODS.

Mr. STEVENS. I am also instructed by the Committee of Ways and Means to report back Senate bill No. 282, to amend an act entitled "An act to extend the time for the withdrawal of goods from public stores and bonded warehouses, and for other purposes," approved 29th of February, 1864, with amendments.

I will explain what it is. Last February Congress passed an act giving further time, to the 1st of May, to withdraw goods for home consumption that had been more than one year in bond. As the 1st of May has now passed, it is proposed to extend the time to the 1st of September next for the same purpose. If there is any objection to its passage, I will move that it be referred to the Committee of the Whole on the state of the Union.

Mr. FERNANDO WOOD. If that be the object of the bill I do not object.

Mr. HOLMAN. Let the bill and amendment be read.

Mr. STEVENS. I will state the amendments of the Committee of Ways and Means. They move to strike out "the 1st day of May, 1864," and some other words, so that it will read that all goods, wares, and merchandise in public stores or bonded warehouses on which the duties are unpaid, and which shall have been in bond for more than one year and less than three years, may be entered for consumption, and the bonds canceled at any time before the 1st day of September, instead of the payment of duties and charges ac-

cording to the laws in force at the time the goods shall have been withdrawn.

Mr. HOLMAN. This is an amendment of a bill which has become a law. I would ask, in behalf of those who are not familiar with these commercial matters, the reason for the extension of time when these goods may be withdrawn for exportation to foreign ports? What is the object of allowing them to be entered for domestic consumption after a certain time?

Mr. STEVENS. For this reason: wherever they have been in bond more than a year they may be entered for exportation and no duty is payable on them. If they enter them for home consumption the Government receives duty. That is the difference, and it is a considerable one to the Government.

The amendments of the Committee of Ways and Means were concurred in.

The bill, as amended, was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### ANSON ATWOOD.

Mr. ELIOT, by unanimous consent, introduced a bill for the relief of Anson Atwood; which was read a first and second time, and referred to the Committee on Patents.

#### PRIVATE BILLS.

Mr. HOLMAN. Next Friday has not been set apart for any particular business, and I move that the morning hour of that day be devoted to the reception of reports on cases of a private nature; and that it be made objection day in the Committee of the Whole House on the Private Calendar.

There was no objection, and it was so ordered.

#### GRANT OF LANDS TO MICHIGAN.

Mr. DRIGGS. I ask the unanimous consent of the House for leave to report back from the Committee on Public Lands the amendments of the Senate to House bill No. 227, granting lands to the State of Michigan for the construction of certain wagon roads for military and postal purposes. The Senate place the grant under the Legislature, which relieves the objection made to the bill in the House, and we consent to that amendment.

Mr. ELDRIDGE. I object.

#### OVERLAND MAIL.

Mr. ALLEY. The gentleman from Missouri withdraws his objection to my reporting the bill in reference to the overland mail.

Mr. STEVENS. I renew it. We ought to have time to consider the bill.

#### HOME FOR THE FRIENDLESS.

Mr. DAVIS, of New York, by unanimous consent, from the Committee for the District of Columbia, reported back Senate amendments to House bill No. 383, to incorporate a Home for Friendless Women and Children.

The Senate amendments were severally concurred in.

Mr. DAVIS, of New York, moved to reconsider the vote by which the Senate amendments were agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### EUGENE FREEANS.

Mr. DAVIS, of Maryland, reported back from the Committee on Foreign Affairs the petition of Eugene Freeans, and asked that the committee be discharged from its further consideration, and that it be referred to the Committee on Commerce. It was so ordered.

#### RENEWAL OF A PATENT.

Mr. FENTON, from the Committee of Ways and Means, reported back the remonstrance of James L. Woodward, of New York, against the petition of Jonathan Ball for relief by the renewal of a patent, and asked that the committee be discharged from its further consideration, and that it be referred to the Committee on Patents.

It was so ordered.

#### FINAL ADJOURNMENT.

Mr. COX. I rise to a question of privilege. I offer the following resolution, and move the previous question on its adoption:

*Resolved, (the Senate concurring,) That the present Congress adjourn finally on Monday, the 20th instant.*

Mr. FARNSWORTH. I ask the gentleman from Ohio to withdraw the previous question that I may offer an amendment.

Mr. COX. I will hear what it is.

Mr. FARNSWORTH. I propose to fix the 25th of June instead of the 20th.

Mr. COX. We have voted almost everything away, and I think we had better vote ourselves away as soon as possible. [Laughter.]

Mr. FARNSWORTH. I think we will be more likely to accomplish the object which the gentleman from Ohio has in view if we say the 25th.

Mr. COX. I accept the amendment, and will say Saturday the 25th.

The SPEAKER. The Chair will suggest that Saturday is not a desirable day for adjournment, as it would be very difficult for the clerks to have the bills engrossed that day.

Mr. COX. Then I will say Thursday the 23d.

Mr. FARNSWORTH. I consent to that.

The resolution was so modified.

The previous question was seconded, and the main question ordered; and under its operation the resolution, as modified, was adopted.

Mr. COX moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### AN ACT ILLEGALLY APPROVED.

Mr. WILSON, from the Committee on the Judiciary, made a report on a resolution of the House instructing that committee to inquire by what warrant the act entitled "An act to provide for the collection of abandoned property and for the prevention of frauds in insurrectionary districts within the United States" was approved on the 12th of March, 1863, and whether said act is in force; and asked that the report be printed, and referred to the Committee of Ways and Means.

Mr. HOLMAN. If the report is not very voluminous I should like to have it read.

Mr. WILSON. It is but short. Let it be read.

The report was read. The conclusion of it is that the act in question having been approved and signed by the President subsequently to the adjournment of Congress did not become a law and is not in force.

The report was referred to the Committee of Ways and Means, and ordered to be printed.

#### PAYMASTER RUSSELL'S ADMINISTRATORS.

Mr. MOORHEAD, from the Committee on Naval Affairs, reported back, with a recommendation that it do pass, a bill (H. R. No. 337) for the relief of the administrators of W. W. Russell, late paymaster in the marine corps, and asked that it be put upon its passage.

Mr. HOLMAN. That bill belongs properly to the business of next Friday. I hope it will be postponed till that time, when it will come up with other private business.

The bill was postponed till Friday next.

#### THE BANKRUPT BILL.

Mr. DAWES called for the regular business, but yielded to

Mr. BOUTWELL, who said: I call up the motion to reconsider the vote by which the bankrupt bill was rejected. I desire to say that my object in moving the reconsideration is to give to the committee on bankruptcy the benefit of the labor which it has bestowed on this bill. It would be a hardship if the labor of the committee were lost by the present rejection of the bill. I have therefore consented to move a reconsideration. If the motion to reconsider shall prevail, I shall then move to postpone the bill till the second Monday in December next, after the morning hour.

Mr. STEVENS. I desire to ask the gentleman from Massachusetts whether the chairman of the special committee on bankruptcy consents to the postponement of the bill if the vote be reconsidered?

Mr. BOUTWELL. He does.

A MEMBER. I understand he does not.

Mr. DAWES. If my colleague is in error about the consent of the chairman who has charge of the bill to postpone it, I cannot give way. But I will yield to my colleague if no opposition be made.

Mr. STEVENS. I hope we will be governed by that fact altogether.

Mr. ASHLEY. I object to further debate.

Mr. DAWES. Then I must object to this matter coming up unless there can be some understanding about it. I resume the floor.

Mr. ASHLEY. I do not think the gentleman from Massachusetts can take the floor from his colleague in that way.

The SPEAKER. The Chair decides that the motion to reconsider is before the House.

Mr. BOUTWELL. I desire to know of the gentleman who reported the bill what his purpose in reference to it is.

Mr. JENCKES. I can only speak for myself. I asked the gentleman from Massachusetts to move to reconsider the vote by which the bill was rejected, and himself move, if he desired it, to postpone it.

Mr. DAWES. Unless there can be some understanding in relation to the postponement I will move to lay the motion to reconsider on the table.

Mr. JENCKES. I think there is an understanding; I think the understanding is satisfactory to the gentleman from Massachusetts.

Mr. BOUTWELL. I do not desire myself to take any responsibility in the matter. I desire the gentleman himself to state whether he will support the motion to postpone or not.

Mr. JENCKES. If the gentleman will withdraw the motion for the previous question, I will state my whole understanding of the matter.

Mr. BOUTWELL. I withdraw it.

Mr. JENCKES. This bill has been the result of the labors of the special committee, who have spent a great deal of time on the subject, and have presented as perfect a bill as they could frame under the circumstances. They, of course, desire the bill to pass. I find that the opinion of the House is that it is not wise in their judgment to pass it at the present time. They have expressed that by their votes, and I yield to that result.

The gentleman from Massachusetts, [Mr. BOUTWELL], who has voted against the bill and who has moved a reconsideration of the vote rejecting the bill, did so upon the understanding with me that he would move to postpone the bill until some day early in the next session. I agreed to the motion to postpone and I shall not oppose it. I find that it is impossible during the present session, if this bill should be passed by the House, that it can be passed by the Senate. It follows, therefore, that nothing will be lost by the friends of the bill by agreeing to postpone this bill as the gentleman from Massachusetts proposes to move.

Mr. BOUTWELL. I now renew the demand for the previous question.

The previous question was seconded, and the main question ordered to be put.

Mr. HOLMAN. I move to lay the motion to reconsider on the table.

Mr. CRAVENS. I call for the yeas and nays on that motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 43, nays 78, not voting 60; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Bliss, Boyd, Eden, Edgerton, Eldridge, Finck, Grider, Harding, Harrington, Charles M. Harris, Holman, Hutchins, Ingersoll, William Johnson, Knapp, Law, Lazear, Le Blond, Loan, Long, Mallory, Marcy, McClung, McDowell, James R. Morris, Morrison, Amos Myers, Noble, Orth, Pendleton, Petham, Samuel J. Randall, Robinson, Rogers, William G. Steele, Stiles, Tracy, Wadsworth, Whaley, Chilton A. White, and Joseph W. White—43.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Blair, Blow, Boutwell, Brandegee, Brooks, Chanler, Ambrose W. Clark, Cobb, Coffroth, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Dixon, Driggs, Eliot, Farnsworth, Fenton, Frank, Ganson, Griswold, Herreck, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Jenckes, Julian, Katsileisch, Kelley, Francis W. Kellogg, Orlando Kellogg, King, Littlejohn, Longyear, Marvin, McIndoe, Moorhead, Morrill, Daniel Morris, Norton, Charles O'Neill, Patterson, Pike, Alexander H. Rice, John H. Rice, Scofield, Shannon, Sloan, Smithers, Starr, Stevens, Sweat, Thayer, Thomas, Upson, Van Valkenburgh, Ward, Webster, Wheeler, Williams, Wilder, Wilson, Windom, Fernando Wood, and Woodbridge—78.

NOT VOTING—Messrs. Ancona, Bailey, Broomall, James



# THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

TUESDAY, JUNE 14, 1864.

NEW SERIES....No. 181.

S. Brown, William G. Brown, Freeman Clarke, Clay, Cox, Cravens, Creswell, Dawson, Dering, Denison, Donnelly, Dumont, Eckley, English, Garfield, Gooch, Grinnell, Hale, Hall, Benjamin G. Harris, Hubbard, Philip Johnson, Kasson, Kernan, McAllister, McBride, McKinney, Middleton, Samuel F. Miller, William H. Miller, Leonard Myers, Nelson, Odell, John O'Neill, Perry, Pomeroy, Price, Pruyn, Radford, William H. Randall, Edward H. Rollins, James S. Rollins, Ross, Schenck, Scott, Smith, Spalding, Stebbins, John B. Steele, Strouse, Stuart, Voorhees, Elihu B. Washburne, William B. Washburn, Winfield, Benjamin Wood, and Yeaman—60.

So the motion to reconsider was not laid on the table.

During the call of the roll,

Mr. PRICE stated that he had paired with his colleague, Mr. KASSON.

The motion to reconsider was then agreed to, and the question recurred on the passage of the bill.

Mr. BOUTWELL. I move to postpone the bill until the second Monday in December next after the morning hour, and upon that motion demand the previous question.

The previous question was seconded, and the main question ordered to be put.

Mr. GANSON called for the yeas and nays on the motion to postpone.

The yeas and nays were not ordered.

The motion to postpone was agreed to.

Mr. BOUTWELL moved to reconsider the vote by which the bill was postponed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## MISSOURI CONTESTED ELECTION.

Mr. DAWES. The Committee of Elections, to whom was referred the memorial and accompanying documents of Thomas L. Price, contesting the seat of Joseph W. McClurg, have instructed me to make a report. This case is kindred to the one of Bruce and Loan, and also of Birch and King. The committee came to the same conclusion that they did in the case of Bruce and Loan, the members of the committee standing upon the question precisely the same. When I submitted the report in the case of Birch and King I stated that the committee, in coming to a conclusion in the case of Bruce and Loan, accepted the decision of the House as instructions in reference to the two other cases. They therefore reported back the papers in that case, which was one of the two, and asked to be discharged from the further consideration of them, and that the whole subject be laid on the table. In conformity with these instructions, the committee still entertaining the same views with reference to the present case but accepting the decision of the House, have instructed me to report back the papers in this case, and move that the committee be discharged from the further consideration thereof, and that the whole subject be laid on the table.

The motion was agreed to.

Mr. DAWES moved to reconsider the vote last taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. DAWES. I now call up the unfinished business of yesterday.

The SPEAKER. The business before the House, then, is the contested-election case of Todd vs. Jayne, upon which the gentleman from Illinois [Mr. FARNSWORTH] is entitled to the floor. Mr. FARNSWORTH took the floor.

## COMPENSATION OF CONTESTANTS.

Mr. HOLMAN. I desire to offer a resolution pertinent to the case just disposed of, if the gentleman from Illinois allows me to present it.

Mr. FARNSWORTH. I yield for that purpose.

Mr. HOLMAN, by unanimous consent, offered the following resolution, upon which he demanded the previous question:

Resolved, That there be paid from the contingent fund of this House to James H. Birch and Thomas L. Price, respectively, the usual mileage of a member for one ses-

sion of Congress, and compensation or salary from the commencement of the present session to the period when their contests were respectively acted upon by the House.

The previous question was seconded, and the main question ordered to be put.

Mr. MALLORY. I hope the mover of the resolution will accept a modification of—

The SPEAKER. Debate is not in order, as the main question has been ordered to be put.

Mr. MALLORY. I move to reconsider the vote by which the previous question was seconded; and I ask unanimous consent to make a statement.

Unanimous consent was given.

Mr. MALLORY. My object is to amend the resolution by inserting the name of John McHenry, of Kentucky. I think he is certainly as much entitled to the compensation proposed to be paid as these two gentlemen; and if the mover of the resolution declines to accept that modification I move to reconsider the vote by which the previous question was seconded.

Mr. HOLMAN. I would say to the gentleman from Kentucky that the two cases embraced in this resolution stand upon precisely the same footing. They were before the House upon precisely the same testimony, and the House has disposed of both of them precisely in the same way; so that the House is not embarrassed by embracing them in the same resolution. And while I concur in the views of the gentleman from Kentucky in reference to the case of McHenry, yet it may be considered by the House as not standing upon the same footing. It is desirable that the House should have an opportunity to pass upon the cases as they stand upon their respective merits; and therefore I hope the gentleman from Kentucky will allow these cases I have included in the resolution to be considered by themselves.

Mr. MALLORY. There is as much similarity between the case of McHenry and Price as there is between the case of Birch and Price. They are homogeneous cases. All three of these gentlemen made their appearance before this Congress and contested the right of sitting members upon the ground that they obtained their seats here by military interference. That, I understand, was the sole question involved in the trial of those cases. That was the ground relied on by each of the contestants, and I see no reason for the discrimination which appears to be proper in the estimation of the gentleman from Indiana. If there are merits enough in the cases of these two gentlemen from Missouri to justify the House in allowing them this compensation, there are merits enough in the case of McHenry to authorize the House in allowing it to him. I see no reason, in anything that has been said by the gentleman from Indiana, why the House should embarrass itself and expend time in acting on each of those cases separately, when, by inserting all of them in this resolution, it can dispose of them now. I therefore hope that the House will sustain the motion that I make to reconsider the vote by which the previous question was seconded, in order that I may offer this amendment to the resolution.

The question was taken, and the vote ordering the main question was reconsidered.

The question recurred on the adoption of the resolution.

Mr. MALLORY. I move to amend the resolution by inserting the name of Mr. McHenry.

Mr. DAWES. I appeal to the gentleman from Kentucky not to press that amendment. The case of McHenry will stand separately just as well as it will in this connection.

Mr. MALLORY. I do not understand the gentleman from Massachusetts.

Mr. DAWES. If the gentleman wants me to speak plainly I will do so. Just as true as he puts that name into this resolution the whole will be voted down. I want the gentleman to understand me. I do not mean to say by that that I should vote against it. But I mean to tell the gentleman from Kentucky that just as sure as he puts in that name the resolution will be voted

down. These two cases of Birch and Price are precisely like that of Bruce. They had the majority of the Committee of Elections in their favor. The committee considered that under such circumstances there could not be any impropriety in paying Bruce. The case of McHenry stands on a different ground. The Committee of Elections reported against McHenry very strongly. There was but one member of the committee disagreeing to that report.

I suggest to the gentleman from Kentucky (not intending thereby to intimate that I would vote against reasonable compensation to Mr. McHenry) that by his pursuing that amendment there will be this result: we will pay one man and refuse to pay another whose case is exactly alike.

Mr. MALLORY. Mr. Speaker, I fail to appreciate the force of the reasons urged by the gentleman from Massachusetts. If I understand him at all the whole tenor of his remarks results in this, that if I insist on putting Mr. McHenry's name in the resolution along with the names of these two gentlemen from Missouri, the objection to paying Mr. McHenry is so strong in the House that the contestants from Missouri will fall with him, and no pay will be given to either. If that be the case, let it be so. The gentleman from Massachusetts has stated that there is a great difference in the cases. I fail to perceive it. I understand that these two gentlemen from Missouri contested the seats of the sitting members on the ground that they obtained their seats here through military interference. The Committee of Elections considered these contested cases and virtually reported that there was not military interference enough to justify the House in saying that these sitting members were not entitled to their seats. On precisely the same ground was the seat of my colleague [Mr. YEAMAN] contested by Mr. McHenry. The Committee of Elections reported that there was not sufficient evidence of military interference to justify the House in deciding that Mr. YEAMAN was not entitled to his seat. There were certain cases of military interference to some extent proved in every one of these cases; and in my estimation enough was proved to justify each of these contestants in bringing the case before the House for its action.

If there is justice in paying one of these contestants there is justice in paying all. If the gentleman from Massachusetts means to intimate that this House will vote down this resolution because the name of Mr. McHenry is inserted in it, or because of an effort on my part to get that name inserted in the resolution, in the name of God let it be voted down. If that sort of a reason is to influence the House, let us know it.

Mr. DAWES. The gentleman from Kentucky will take the suggestion in the spirit in which I have made it. I made the suggestion to the gentleman, and of course he will do what he thinks is his duty. I have nothing further to say upon it.

Mr. MALLORY. I insist on the amendment.

Mr. WADSWORTH demanded the previous question.

The previous question was seconded, and the main question ordered.

The question recurred on Mr. MALLORY's amendment.

The House divided; and there were—ayes seventy-eight, noes not counted.

So the amendment was adopted, and the name of J. H. McHenry, jr., was inserted in the resolution.

Mr. UPSON moved that the resolution be laid upon the table.

The House was divided; and there were—ayes 50, noes 60.

Mr. UPSON demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—ayes 64, nays 63, not voting 54; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Boutwell, Boyd, Brandegee, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Dixon, Driggs, Eckley, Eliot, Farnsworth, Frank, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Inger-

soll, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Longear, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Perham, Pike, Price, Alexander H. Rice, John H. Rice, Schenck, Shannon, Smithers, Spalding, Starr, Stevens, Upson, Van Valkenburgh, Williams, Wilder, Wilson, Windom, and Woodbridge—64.

**YAYS**—Messrs. James C. Allen, William J. Allen, Baily, Augustus C. Baldwin, Blaine, Blair, Bliss, Blow, Brooks, James S. Brown, Chanler, Coffroth, Cox, Cravens, Dawes, Dawson, Eden, Edgerton, Eldridge, Finck, Ganson, Grider, Griswold, Harding, Harrington, Charles M. Harris, Herrick, Holman, Hutchins, William Johnson, Kalbfleisch, Knapp, Law, Lazar, Le Blond, Long, Mallory, Marcy, Marvin, McDowell, James R. Morris, Morrison, Noble, Pendleton, Samuel J. Randall, Robinson, Ross, Scofield, Smith, John B. Steele, William G. Steele, Stiles, Stuart, Sweet, Thomas, Wadsworth, Ward, Webster, Wheeler, Chilton A. White, Joseph W. White, and Fernando Wood—63.

**NOT VOTING**—Messrs. Ancona, Broomall, William G. Brown, Clay, Creswell, Deming, Denison, Donnelly, Dumont, English, Fenton, Garfield, Gooch, Grinnell, Hale, Hall, Benjamin G. Harris, Hubbard, Philip Johnson, Kasson, Korman, King, Littlejohn, Loan, McAllister, McBride, McKinney, Middleton, William H. Miller, Nelson, Odell, John O'Neill, Patterson, Perry, Pomeroy, Pruyn, Radford, William H. Randall, Rogers, Edward H. Rollins, James S. Rollins, Scott, Sloan, Stebbins, Strouse, Thayer, Tracy, Voorhees, Elihu B. Washburne, William B. Washburn, Winley, Winfield, Benjamin Wood, and Yeaman—54.

**THE SPEAKER.** The Chair votes in the negative, and the resolution is not laid upon the table.

The question required on the adoption of the resolution.

**MR. FARNSWORTH** demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 64, nays 62, not voting 55; as follows:

**YEAS**—Messrs. James C. Allen, William J. Allen, Baily, Augustus C. Baldwin, Blaine, Blair, Bliss, Blow, Brooks, James S. Brown, Chanler, Coffroth, Cox, Cravens, Dawes, Dawson, Eden, Edgerton, Eldridge, Finck, Ganson, Grider, Griswold, Harding, Harrington, Charles M. Harris, Herrick, Holman, Hutchins, William Johnson, Kalbfleisch, Knapp, Law, Lazar, Le Blond, Long, Mallory, Marcy, Marvin, McDowell, James R. Morris, Morrison, Noble, Pendleton, Samuel J. Randall, Robinson, Rogers, Ross, Scofield, Smith, John B. Steele, William G. Steele, Stiles, Stuart, Sweet, Thomas, Wadsworth, Ward, Webster, Wheeler, Chilton A. White, Joseph W. White, and Fernando Wood—64.

**NAYS**—Messrs. Allison, Ames, Anderson, Arnold, John D. Baldwin, Beaman, Bontwell, Boyd, Brandegee, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Dixon, Driggs, Eckley, Eliot, Farnsworth, Fenton, Frank, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Jenckes, Julian, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Price, Alexander H. Rice, John H. Rice, Schenck, Shannon, Sloan, Smithers, Spalding, Starr, Stevens, Thayer, Upson, Van Valkenburgh, Williams, Wilson, Windom, and Woodbridge—62.

**NOT VOTING**—Messrs. Alley, Ancona, Ashley, Baxter, Broomall, William G. Brown, Clay, Creswell, Deming, Denison, Donnelly, Dumont, English, Garfield, Gooch, Grinnell, Hale, Hall, Benjamin G. Harris, Hubbard, Philip Johnson, Kasson, Kelley, Korman, King, Loan, Longear, McAllister, McBride, McClurg, McIndoe, McKinney, Middleton, William H. Miller, Nelson, Odell, John O'Neill, Perry, Pomeroy, Pruyn, Radford, William H. Randall, Edward H. Rollins, James S. Rollins, Scott, Stebbins, Strouse, Tracy, Voorhees, Elihu B. Washburne, William B. Washburn, Wilder, Winfield, Benjamin Wood, and Yeaman—55.

So the resolution was adopted.

During the vote,

**MR. KELLEY** stated that he was paired with **MR. HARRIS**, of Maryland.

**MR. DENISON** stated that he was paired with **MR. BROOMALL**.

The vote was then announced as above recorded.

**MR. MALLORY** moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

**MR. UPSON** called for the yeas and nays on the latter motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 63, nays 57, not voting 61; as follows:

**YEAS**—Messrs. James C. Allen, William J. Allen, Baily, Augustus C. Baldwin, Blaine, Bliss, Blow, Brooks, James S. Brown, Chanler, Coffroth, Cox, Cravens, Dawes, Dawson, Eden, Edgerton, Eldridge, Finck, Ganson, Grider, Griswold, Harding, Harrington, Charles M. Harris, Herrick, Holman, Hutchins, William Johnson, Kalbfleisch, Knapp, Law, Lazar, Le Blond, Long, Mallory, Marcy, Marvin, McDowell, James R. Morris, Morrison, Noble, Pendleton, Samuel J. Randall, Robinson, Rogers, Ross, Scofield, Smith, John B. Steele, William G. Steele, Stiles, Stuart, Sweet, Thomas, Wadsworth, Ward, Webster, Wheeler, Chilton A. White, Joseph W. White, and Fernando Wood—63.

**NAYS**—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Beaman, Bontwell, Boyd, Brandegee, Ambrose W. Clark, Cobb, Cole, Henry Winter

Davis, Thomas T. Davis, Driggs, Eckley, Eliot, Farnsworth, Fenton, Frank, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, Ingersoll, Orlando Kellogg, Littlejohn, Samuel F. Miller, Moorhead, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Price, Alexander H. Rice, John H. Rice, Schenck, Shannon, Sloan, Smithers, Starr, Stevens, Thayer, Tracy, Upson, Van Valkenburgh, Williams, Wilson, Windom, and Woodbridge—57.

**NOT VOTING**—Messrs. Ancona, Baxter, Blair, Broomall, William G. Brown, Freeman Clarke, Clay, Creswell, Deming, Denison, Dixon, Donnelly, Dumont, English, Garfield, Gooch, Grinnell, Hale, Hall, Benjamin G. Harris, John H. Hubbard, Hulburd, Jenckes, Philip Johnson, Julian, Kasson, Kelley, Francis W. Kellogg, Korman, King, Loan, Longear, McAllister, McBride, McClurg, McIndoe, McKinney, Middleton, William H. Miller, Morrill, Nelson, Odell, John O'Neill, Perry, Pomeroy, Pruyn, Radford, William H. Randall, Edward H. Rollins, James S. Rollins, Scott, Spalding, Stebbins, Strouse, Voorhees, Elihu B. Washburne, William B. Washburn, Wilder, Winfield, Benjamin Wood, and Yeaman—61.

So the motion to reconsider was laid on the table.

#### ENROLLED BILL.

**MR. COBB**, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act to regulate the foreign coasting trade on the northern; northeastern, and northwestern frontiers of the United States, and for other purposes; when the Speaker signed the same.

#### DAKOTA CONTESTED ELECTION.

**THE SPEAKER** stated the business regularly in order to be the resolutions reported from the Committee of Elections in the Dakota contested-election case, on which the gentleman from Illinois [Mr. FARNSWORTH] was entitled to the floor.

**MR. FARNSWORTH.** I do not intend to detain the House long in the discussion of this question, for I know that gentlemen have become wearied with these contested-election cases; and sympathizing somewhat in that feeling myself, I am the last one to wish to detain the House in the further consideration of the case. But, sir, it seemed to me, from the very fact that members have become wearied with these cases, and that many gentlemen have a disposition to get rid of them in the easiest possible manner, that apparently an act of injustice was about to be done to a friend, and, as I believe, a man who is legally entitled to a seat here. This fact I say prompted me to ask the indulgence of the House for a short time this morning.

I do not entirely concur in the views of either the majority or the minority of the Committee of Elections in this case; and in the discussion of it I shall take, to some extent, a different view from that taken by the majority of the committee in their report.

Before proceeding to a discussion of the report of the majority I propose to examine for a few moments the objections made to that report by a minority of the committee. As I understand it, the minority of the committee go with the gentleman who has introduced a resolution here declaring that neither the sitting Delegate nor the contestant is entitled to a seat in this House. The only objections that were urged were in reference to the alleged fraudulent character of the votes in what is known as the Pembina district, Kittson county, together with the alleged fact, or argument, rather, presented by the gentleman from Pennsylvania from the Committee of Elections [Mr. SCOFIELD] that the returns of the votes from that county are not in proper form. I disagree with that gentleman in regard to the return of this vote. I think the return is legally made, in strict accordance with the statutes of that Territory. I wish to call the attention of the House in deciding this matter to one or two points, and I will put it to any fair-minded lawyer or man in this House whether I am not correct in my conclusions. The sections of the statute referred to, relied upon by that gentleman to prove that the returns are not properly made, are as follows:

"Section thirty-one, page 281, laws of Dakota, 1862.—On the twentieth day after the close of any election, or sooner if all the returns be received, the clerk of the board of county commissioners, taking to his assistance two justices of the peace of the county, shall proceed to open said returns and make abstracts of the votes in the following manner: the abstract of the votes for Delegate to Congress shall be on one sheet; the abstract of votes for members of the Legislative Assembly shall be on another sheet, &c.

"Section thirty-three, page 282.—The clerk of the board of commissioners, immediately after making the abstracts of the votes given in his county, shall make a copy of each said abstracts and transmit it by mail to the secretary of

the Territory at the seat of government; and it shall be the duty of the secretary of the Territory, with the chief justice and Governor, or a majority of them, to proceed within fifty days after the election, and sooner if all the returns be received, to canvass the votes given for Delegate to Congress."

Now, it is urged that in making out this certificate the two justices of the peace named in this act did not sign the returns together with the clerk of the county commissioners. It will be observed that the law makes it the duty of the clerk to canvass the returns, taking to his aid two justices of the peace. The clerk is to make the canvass; the clerk is to make the abstract; the clerk is the man who is to make the returns to the secretary of the Territory; and if the two justices of the peace should add their certificates to that of the clerk, while it would not vitiate the returns, it would simply be regarded as so much surplusage.

I am surprised that my friend from Pennsylvania, who declared upon the floor yesterday that he belonged to the honorable fraternity of the law, should draw the conclusion he did from the statute of the Territory of Dakota. It is the clerk who is to do this, and not the two justices of the peace. They are called to aid and assist the clerk for the purpose of attesting by their presence the fact that a canvass was made, to witness the canvass, nothing more. And what is the presumption of law? The presumption is that a directory statute of this kind is complied with. Until you have proved that these two justices of the peace did not aid and assist the clerk in the performance of these duties, the presumption of law is that the law was complied with and the duty performed.

**MR. SCOFIELD.** I do not suppose that the gentleman designs to misrepresent me, nor do I allege that he does misrepresent me in stating that I spoke of defective returns. I do say as a lawyer, and any Pennsylvania lawyer—I do not know what rules they follow out in Illinois—will agree with me, that where the law requires two justices of the peace to join with the clerk, they must sign the papers as well as the clerk. But the gentleman from Illinois does misrepresent me in reference to the use I made of the incorrect return. I impeached the election because we had the clear evidence of witnesses that only six white men voted, three of them native-born and three foreigners. That the board of judges were composed of two Indians and one Frenchman; the clerks of one Indian and one Englishman; and that there were forty Indians voting and six white men, and that the balance of 144 votes were written out by a man called "Brother Timothy."

And then when the gentleman's friends come in and say you did not prove that within sixty days—a mere technicality—I said that the returns did not come from that district within sixty days. The thing was not heard of in sixty days, and I stated in reply to the sixty days' technicality that you did not happen to have the proper certificate of the two justices as required by the law.

**MR. FARNSWORTH.** The gentleman from Pennsylvania said all that yesterday.

**MR. SCOFIELD.** Yes, sir; but you represent me now as having said something else.

**MR. FARNSWORTH.** The gentleman still takes exception to the return. He says a Pennsylvania lawyer would hold that where a law requires justices of the peace to join the clerk in doing a thing, they must do it. Well, I imagine a lawyer from any other place would know that, but it happens that the statute of Dakota does not require the justices to join with the clerk. It requires simply that the clerk shall make the return, "calling to his assistance" two justices; not that the justices of the peace shall do it with the clerk. Nor does the law require that the justices shall make the returns, with the clerk, to the secretary. The clerk is to make the return, and that he did.

As to the insinuation about lawyers in Illinois, I have only to say that we have a common saying in the West, when something impossible is to be done, that it would require a Philadelphia lawyer to do it, and I have no doubt my friend is so imbued with the spirit of the Philadelphia lawyers that he is capable to do impossibilities.

**MR. SCOFIELD.** I do not know whether a Philadelphia lawyer could show that three foreigners and three natives could make one hundred and forty-four votes and bring them here and get this House to allow them.

**MR. FARNSWORTH.** That is another point,

which I have not yet reached. I have sufficiently disposed of the technical objection made to the return, and I submit to any lawyer in this House if my construction of that law is not correct.

I now come to the other objection made by the gentleman from Pennsylvania that the votes were illegal and fraudulent. How does he prove it? Why, sir, he proved it by hunting up a deposition which has been excluded by an order of the House. He proved it by reading a deposition which this House has declared has not been taken in conformity to the statute—a like deposition to one which in the contested-election case of Knox and Blair was ruled out by the House.

Mr. SCOFIELD. I want to ask the gentleman whether the deposition in the Blair case was not taken here this winter with no chance given for reply. The deposition in this case was taken fifteen months ago, and if you could show that more than fifteen men voted there you had months in which to do it.

Mr. FARNSWORTH. He says the deposition in the Blair case was taken here this winter. But the power of the House extends to the right of extending the time to enable the party to take additional testimony.

Mr. SCOFIELD. Why not count your white men?

Mr. FARNSWORTH. That was not the point on which the deposition was excluded. It was excluded on the solemn judgment of the House because it was an illegal deposition, because it was not taken in accordance with law, but against the law. If I recollect right my friend from Pennsylvania [Mr. SCOFIELD] voted to exclude the deposition in the Blair case. With what kind of a face, then, can he or any other member of the House who voted to exclude a deposition for the purpose of getting Mr. Blair out of his seat and putting the contestant in it, vote now to receive a deposition that has the same defect?

Mr. SCOFIELD. When the gentleman from Illinois comes to a fact, he has a very defective memory. I did not so vote in the Blair case.

Mr. FARNSWORTH. Perhaps not. The House, however, did so vote.

Now I wish to say a word in reference to the deposition of this man Buckman. In courts of justice we not only attack the formality of a deposition, but we have sometimes a method of attacking the credibility of a witness. Who is Buckman who makes this deposition about the Pembina vote?

He was elected to the Legislature of Dakota Territory by the same vote that the contestant in this case received. He went to the Legislature, took his seat, and sat throughout the session. He afterwards came to the city of Washington, and upon the recommendation of the sitting Delegate in this case and his friends he procured a clerkship in the post office, where he is now.

Mr. UPSON. I deny that that is a fact.

Mr. FARNSWORTH. My friends are very technical.

Mr. UPSON. They are truthful.

Mr. FARNSWORTH. Nevertheless, what I said is true, and I will not take it back. The man is a clerk in the post office here to-day, or was until recently. If not now, he has been sent away to Dakota. But he did hold such an office here; and he did hold it, too, on the recommendation of a brother-in-law of the sitting Delegate, the appointment being charged, as I understand, to the State of Illinois. But Buckman was not, and never was, a resident of that State.

Mr. SCOFIELD. Does the gentleman mean to say that a man who obtains a clerkship in the post office on the recommendation of Senator TRUMBULL, of Illinois, is therefore a witness who is not credible? Has the gentleman such a low estimate of Illinois Senators and of Illinois men that the fact of this witness holding a clerkship on the recommendation of Senator TRUMBULL is a circumstance going to show that he is not worthy of credit under oath?

Mr. FARNSWORTH. I have not said that. The gentleman's mind is running on faster than my conversation. He has jumped to a conclusion, perhaps legally and properly, that this man is not entitled to credit as a man of truth and veracity. But I have not said so. I was only asking who the man was and was giving a little item of his history. I said he was elected to the Dakota Legislature by the same vote in Pembina

district which it is claimed that Mr. Todd received. He then came to Washington city, and was appointed clerk in the post office. And it was here that his deposition was taken. He had held a seat in the Legislature for one whole session—the sitting Delegate being the Governor of the Territory and present there, seeing him daily; and yet the sitting Delegate did not then take the depositions of this man. Why did he not do so?

Mr. SCOFIELD. I will answer the gentleman's question if he will allow me.

Mr. FARNSWORTH. Perhaps I will answer it myself before I get through. I know it is said by Buckman in his deposition that the first conversation he had with the sitting Delegate was only a few weeks before the deposition was taken, here in the city of Washington. But is it not a little remarkable that the Governor of the Territory, knowing that his seat was contested, should associate for one whole session with a member of the Legislature without inquiring or finding out something about the vote of Pembina? The law happens to require that depositions shall be taken within the district and within a certain number of days. This deposition was not taken in the district; it was not taken within the time, but long afterwards, and by the judgment of the majority of the Committee of Elections was excluded from their report. In compliance with the order of the House declaring in another case, upon solemn adjudication, a deposition similar to this in every material point should not be received or read to the House, they deemed themselves so instructed.

Now, what would my friend think of a lawyer who in trying a case continually insisted upon reading a suppressed deposition—a deposition that had been suppressed by the very court before which he was arguing his cause?

Mr. SCOFIELD. Will you say that the facts set forth in the deposition are false? That is the point. Do you not know they are true? Is not the proof ample that there were but six white men there?

Mr. FARNSWORTH. The gentleman is troubled about those six white men. [Laughter.] I am now dealing with the gentleman's technicalities.

Mr. SCOFIELD. You are good at that.

Mr. FARNSWORTH. Now, sir, what is to be thought of the deposition of a man who was himself a party to the fraud his deposition professes to expose; who himself procured the very fraud and rascalities in reference to which he testifies; who has himself taken the benefit of the fraud; who has held a seat in the Legislature of that Territory for the full term the law would permit by the same vote which his deposition exposes as fraudulent? In reply to the question of the gentleman from Pennsylvania, I do not think the deposition of such a man sufficient to establish the facts alleged, especially when it stands out alone unsupported by a scintilla of other testimony. Not another witness testifies directly or remotely to any such allegation. His affidavit comes to us unsupported and uncorroborated; and I ask whether this House will perpetrate such gross injustice upon the deposition of a man who by his own admission is covered all over by fraud and corruption, as to deny a man a seat in this House who is otherwise fairly elected.

The gentleman from Pennsylvania complains that the officers at that election—the judges and clerks—were not competent. He says that they were not qualified; that they consisted of one white man and two Indians. All of this is supported by only the testimony of this man Buckman. The whole speech of the gentleman is based upon the testimony of this man Buckman.

Mr. SCOFIELD. Do not you believe every word of it is true?

Mr. FARNSWORTH. I believe every word of the gentleman's speech. I have too high an opinion of the gentleman to believe he would intentionally mislead the House.

Mr. SCOFIELD. And you believe every word of the deposition?

Mr. FARNSWORTH. Well, sir, I must be allowed to say in all sincerity that I do not believe every word of it. I would not decide a case where five dollars was involved upon the testimony of such a man under such circumstances. It is true that this man Buckman does testify that only one of these judges of election was an American-born white man, and that two were half-

breeds; but it is also true that one of these men, Grant, to whom he objects as not a white man, used to hold a seat in the Legislature of Minnesota, and is widely known in that country as an Indian trader. It may be he has a little Indian blood in him; whether he has or not we have no proof except the deposition of this man Buckman.

Now, sir, I am not disposed to go further into the matter of the Pembina vote. I think enough has been said to dispose of that vote; and when you have disposed of it you have disposed of the whole basis of the minority report. If the House will stultify itself and admit that deposition, and if it believes that vote was fraudulent, it should be excluded. But then comes the question, how does the vote stand in the remaining portions of the Territory? and upon this subject I have a word to say. Herein I differ somewhat with the majority of the Committee of Elections in this case. The first county to which I shall call the attention of the House is that of Bon Homme, which the committee in their report exclude. It was also excluded by the canvassers originally in canvassing the vote of the Territory. I ask the Clerk to read, for the purpose of placing the facts before the House, that portion of the report of the committee in which they have incorporated a summary of the testimony in regard to Bon Homme county.

The Clerk read, as follows:

*Bon Homme County.*—The vote of this county was rejected by the canvassers, and it is claimed by the contestant that there should be counted from this county 26 votes for him, and 13 for the sitting Delegate. The evidence shows (pages 33, 58) that the polls were opened at nine o'clock in the morning, at the house of G. M. Pinney, United States marshal; Moses Herriek, D. C. Gross, and Jacob Kiel acted as judges. Silas G. Irish was originally appointed by the county commissioners of the county, as the law requires, to act as one of the judges. He was notified of his appointment by Harvey Hartsough, one of the commissioners, and accepted the appointment. A few days after this same Mr. Hartsough, one of the commissioners, came to him and said to him "that he didn't care a damn whether we (referring to the Jayne party) had the majority or not; we would swindle them (the Todd party) out of it anyhow." I replied to Mr. Hartsough, that "You cannot carry any election that way. As a Republican, I was disgusted with this practice of the Democrats in Kansas, and that no fraudulent vote should go into that ballot-box unless it walked first over me." He turned away from me in seeming disgust at my reply. I heard very shortly after that Mr. Skinner was appointed in my place on the election board.

Mr. Skinner was not permitted to serve, however. On the morning of the election he repaired to the polls, before nine o'clock as the witnesses think, at any rate before any voting was commenced, and found Jacob Kiel, the servant of this same Harvey Hartsough, and known as the Dutch boy in this county, (page 38,) installed in his place, and the United States marshal refused to admit Skinner into the room, declaring that Jacob Kiel should act as judge. The voting was done through a window. One witness (Shober) thereupon stationed himself at the window on the outside, and requested the voters to vote open tickets, while he took their names, and those who voted for Todd did so, numbering 25 in all, whose names he gives, (page 34.) And there were 14 other voters, making 39 in all. A recess of an hour was taken for dinner, and during that time Moses Herriek, one of the judges, took the ballot-box and carried it away with him into a room in his own house by himself. The balloting continued in the afternoon, and at the close of the polls, when the counting commenced, which is described by the witness as follows, (pages 35, 36):

"The judges proceeded to count the ballots, denying admittance to the electors at the polls. The judges first began the canvass of the votes by taking the tickets from the ballot-box and separating the same into two different piles—the Todd tickets in one pile, and the Jayne tickets in the other. The Jayne tickets were distinguishable from the Todd tickets by their blotted surface, the ink showing plainly through the ticket. It became at once apparent that a fraud had been perpetrated, by the substitution of ballots during the hour had for dinner. There were at this time about twenty-five persons around the polls, and much excitement ensued. As soon as I saw the excitement, I demanded to be admitted, and to have the canvass made public, which was at that time peremptorily refused by the judges, and by Mr. Pinney, who was their spokesman. During this time Mr. Johnson and myself were standing at the window, directly in front of the judges. Upon this refusal of admission into the room the excitement still increased. The judges thereupon gathered up the tickets and threw them back into the box. I then again demanded admission. After some hesitation, Pinney suggested that myself and Edward Gifford be admitted; we entered together, and went up to Moses Herriek, one of the judges of election, and asked him to proceed with the canvass, which he refused to do. I then asked him to show me the tickets, whereupon he handed me thirty of the tickets to examine. I looked them over in his presence, and found that I was right in my conclusions. I then asked him to show me the other nine of the tickets, which he refused. I found fifteen tickets, among the number handed me, for Jayne. I then laid them down on the table and remarked to Mr. Herriek that there was *prima facie* evidence of fraud; that there had not been after a vote cast for Jayne; whereupon the judges and clerks jumped up, under the lead of G. M. Pinney, and left the room, leaving portfolios, ballots, and all papers connected with the election,



lying on the table. Great excitement prevailed. The canvass was never completed. The crowd rushed in (page 139) and took possession of the ballot-box, poll-books, and ballots, and proceeded then to hold a new election."

The committee were of opinion that the conduct of all parties engaged in this transaction was disgraceful and fraudulent, and that no votes should be counted from that precinct.

**Mr. FARNSWORTH.** Mr. Speaker, I believe there is no charge in this case, at least there is no charge supported by any evidence whatever, that the contestant is in any manner implicated with any fraud in the election. There is no evidence in the case that he is implicated or connected with any fraud so far as the other precincts and counties are concerned, than the Pembina district.

The Committee of Elections find in Bon Homme county, as they think, sufficient evidence to vitiate the entire returns, and they have thrown out the returns altogether. I think that they did wrong. What has been read will show that we have the uncontradicted testimony of a man who swears that he counted twenty-five men who voted for Todd, which with his own vote would make 26. These were thrown out. They saw evidence of an effort to commit a fraud at that election. The man who was first appointed judge of the election was excluded and a fellow called "the Dutch boy" substituted in his place, from the fact that the judges of the election would not allow any one to witness the canvass of the votes. From these and various other facts connected with that election they thought that there was evidence of an intention to commit fraud. This man, judging from his deposition, is an intelligent, worthy man. He stood at the polls and requested every man to vote an open ticket so that they might see who voted for Todd and who voted for Jayne. He counted, as he swears, 25 votes for Todd, and he says that there were fourteen others who would not show their tickets. When the citizens demanded the right to witness the canvass after the election was over and they refused it; when, becoming clamorous, they were admitted and detected the fraud, that the ballot-box had been stuffed during the hour they had adjourned for dinner; it is proved that when they had detected this fraud and charged it home upon the judges of the election, they in disgust threw the ballots away and refused to complete the canvass.

It does seem to me that the Committee of Elections should have allowed the good votes, which they could have sifted out in this county. If they had done that, giving Todd 25 votes, and giving to Jayne the 14 votes that this man swears he saw voted by men who would not show their ballots, you will still elect Todd, even if you throw out Pembina—Todd is still elected by the votes of the people of Bon Homme county.

The next is that of Brulé Creek precinct. I think that there is no contest between the majority and minority of the Committee of Elections about this, and that they agree that this vote should be excluded. I only mention it to show the general character of this transaction, and the complicity of the sitting Delegate with this fraudulent election.

In the case of the Brulé Creek precinct the evidence shows that they opened the polls at midnight Sunday night before the day appointed by law for that election, and at a house different from the one where it was advertised to be held. At the dead hour of night, by the dim light of little tallow candles, which only served to make their dark crime more dark and hideous, they attempted to perpetrate the great crime of defeating the free exercise by the people of the elective franchise. Who did this? The friends of the sitting Delegate. The evidence shows that the sitting Delegate was there a few days before, and that he, then the Governor of the Territory, told illegal voters that they had a right to vote. Then and there the plan was cut and dried, concocted and hatched, to cheat the people and defeat the popular voice.

Some fellow with a Dutch name had a method of naturalizing persons and giving them certificates which would entitle them to vote. One man voted for another, and the ballot-box was stuffed. At nine o'clock the next day, the hour appointed for holding the election, they moved to the place appointed and again opened the polls and held another election there. The committee did well in excluding the canvass of that precinct.

While upon this point I wish to refer to a little of the testimony in regard to Brulé precinct. On page 84 of the testimony I find the evidence of Timothy Andrews, as follows:

"Question 4. Were you present when this balloting, of which you speak, first commenced?"

"Answer. I was not. I was, at the commencement, up stairs, in bed; heard a noise below stairs, and went down to see what it was about; found a number of persons in the room; saw three men sitting at a table, with a ballot-box in front of them. One man was writing. Dr. A. R. Phillips and Thaddeus Andrews, my son, were two of the persons seated at the table. They were acting as judges of the election then going on. Mr. Gore handed me a ticket as soon as I got into the room. I took the ticket, which was a Jayne ticket, handed it to Dr. Phillips, the judge, who put it in the box. Immediately after this, Mr. Gore stepped up to Dr. Phillips and said he voted this ticket (which he handed to Dr. Phillips) for another man, whose name he mentioned, but do not remember it. He observed that the man was absent from the Territory, and he would vote for him. Dr. Phillips then placed the vote in the box."

"Question 5. You have stated that you arrived in this Territory on the 2d day of July, 1892, and you voted. Why did you vote at this election, not having been in this Territory, as required by law, ninety days previous to said election?"

"Answer. Governor William Jayne and Mr. Glaze came to my house eight or ten days before election, and Governor Jayne told me that I had a right to vote, and upon his authority I did vote."

This Glaze was the man who did the naturalizing.

The Governor of the Territory instructed the men that they had the right to vote, when he must have known that they had no right. Under his direction, and by his authority as Governor of the Territory, they voted, and he now holds a seat in this House. There is more testimony of a similar character.

While upon the subject of the complicity of the sitting member with these transactions I wish to call the attention of the House to the testimony of James Falkenburg, to be found on page 18:

"Question 4. Were you a voter at this September election, and if so, where?"

"Answer. I was; I voted at Yankton, Yankton county, Dakota Territory."

"Question 5. Were you offered any money for your vote at this election; and if so, by whom? State all the circumstances and particulars; how much was paid you, and in what manner you were paid; answer fully."

"Answer. Yes, sir; I was offered money by Governor William Jayne on the day of election. He came to me on election day, on the platform in front of the Ash hotel; he asked me to vote for him. I told him he had not done as he agreed to do. He asked me what he had not done that he had agreed to do. I told him that he had agreed to finish up the house belonging to me for the use of the Dakota cavalry company; that he had used the house for that purpose two months, and that he had not done it, and that I could have rented it had it been fitted up as per agreement, and that it had been idle three months in consequence. He said that he would make that all right with me. He then went for Lieutenant Fowler, quartermaster of the Dakota cavalry company, and came back to me in his company, where I was standing; we then held a conversation in the rear of Collamer's saloon. Jayne and Fowler told me they would give me fifteen dollars per month for the use of the building for three months, while it was lying idle, provided I would vote for Governor Jayne. This conversation was about noon on the day of the election; I had not voted at the time. And Fowler told me to come to his office, and he would give me a voucher for forty-five dollars. I did not go to his office till a day or two after the election; but did go there, and he gave me the voucher for this sum of forty-five dollars. The only consideration for this sum of forty-five dollars was my agreeing to vote for Governor William Jayne for Delegate to Congress. They further agreed that they would continue to occupy the building, for the use of the Government, at fifteen dollars per month, and make some improvements and repairs upon it; but they have not fully completed the finishing of the building. They have continued to pay me for it under this agreement, though they have made very little use of it."

I also refer to the testimony of Parker V. Brown, to be found on page 30:

"Question 4. Did you receive any sum of money for your vote for Delegate to Congress; if so, what sum, and from whom did you receive it?"

"Answer. I did receive money for my vote for Delegate to Congress. I received about seventeen dollars. Governor William Jayne came to me on the day of election and asked me to vote for him; and if I did so, he would pay me twenty dollars. He then drew from his pocket seventeen dollars and gave it to me, saying that that was all he had with him; which money I received, and told him I would vote for him."

"Question 5. Were you approached on the subject of voting at that election by any one else?"

"Answer. Yes, sir; I received two dollars from Lamson, as an additional inducement to vote for Jayne for Delegate on the day of election. Previous to the election day Surveyor General Hill told me that he had a pair of elk at Lac City, Iowa, which he would give me if I would vote for William Jayne for Delegate to Congress."

"Question 6. Do you know of any one else who received any money as a consideration from William Jayne to vote for him?"

"Answer. I did not see Jayne give any one else any money to vote for him; but Samuel Mortimer told me that

he got five dollars for voting for William Jayne for Delegate to Congress."

"Question 7. Did you see Samuel Mortimer at the polls on this day? and if so, state whether or not he voted."

"Answer. Yes, sir; I saw him there, and he voted."

"Question 8. Is Samuel Mortimer now in the Territory?"

"Answer. No, sir; he started for Missouri about a month since."

"Question 9. Who is this Mr. Lamson you have mentioned who gave you two dollars to vote for Jayne?"

"Answer. He was at that time clerk in the surveyor general's office."

**Mr. SCOFIELD.** I want to ask the gentleman, if a man who was indorsed by an Illinois Senator, and who was clerk in the post office, was therefore not a credible witness, whether he will put much reliance upon a man who swears that he got seventeen dollars from one man, two dollars from another, and the promise of a pair of elk from another, for voting?

**Mr. FARNSWORTH.** I do not know that I would upon his testimony alone. But there are other witnesses who corroborate him. It seems that fraudulent voting and bribery were almost universal things up there with the Jayne party. But it so happens that it nowhere appears in this testimony that anybody gave anybody money to vote for the contestant. It nowhere appears that the contestant used any bribery, or had any complicity whatever with any of these frauds. If gentlemen think it would be just to exclude both the contestant and the sitting Delegate because one of them has committed frauds, I cannot sympathize with them. There is no evidence in this record implicating the contestant with any fraud in connection with this election.

Now, I pass on to the consideration of the vote in Charles Mix county. The canvassers in this county excluded the return. They regarded the voting in this county as so corrupt and vicious that they excluded it. The Committee of Elections excluded a portion of the vote and admitted another portion. They have given from Charles Mix county 62 votes for Jayne and 7 votes for Todd. Now, upon what testimony do they do this? I propose to show to the House that the election in Charles Mix county was as fraudulent and as corrupt as the election in Brulé and Bon Homme, both of which are excluded by the committee. If the whole vote is not so vitiated as to exclude it, there are a great many which have not been excluded which should be in this county. The contestant in this case has taken a great deal of testimony in regard to the vote in Charles Mix county. All the witnesses corroborate each other, and all the testimony tends to show that there were nearly one hundred Iowa soldiers who voted at that election, and who had no right to vote. However, I will pass over the testimony taken by the contestant in this case, and take up the testimony upon the part of the sitting Delegate as rebutting testimony.

Now, sir, where it is shown that a man has perpetrated a fraud in his own election, and that at a given precinct a large number of persons voted who ought not to have voted, what should be the proper rule to govern us in considering the testimony in regard to such a case? Should we give all the balances and presumptions in his favor, or should we indulge in any presumptions in his favor? It seems to me not. It seems to me that the presumptions should be against him; that he should be required to make his proof clear and evident as to the number of men who legally voted at the election and how they voted. But I find that the Committee of Elections in this case has given all the presumptions to the sitting Delegate. Many of the witnesses here testify that there were eighty or ninety Iowa soldiers voting at the Charles Mix precinct; and some other witnesses testified that there were about seventy. The Committee of Elections has excluded only 70 votes, taking almost the lowest number designated by any witness. I hold that the Committee of Elections should have taken the highest number designated by a witness who swears positively to the number. I say that these presumptions in favor of this man should not be indulged in.

On page 147 we have the testimony of a man named Hedges. It is shown by all the witnesses on the part of the contestant that this man was actively engaged for the sitting Delegate on the day of election; that he was circulating whisky, treating soldiers, and circulating tickets for the sitting Delegate. He participated largely in the frauds perpetrated. And yet that man, rack his

memory and his brain as much as he may, could only find 49 legal voters on the poll-list of Charles Mix county. I will read an extract from his testimony:

*Interrogatory 4.* About how many persons voted at that time and place who were not soldiers?

*Answer.* About sixty. \* \* \*

*Interrogatory 6.* Were the persons named by you residents of Dakota Territory for the space of ninety days preceding said election?

*Answer.* They were.

In his testimony he gives the names from the poll-list, which was before him to refresh his memory, of all the legal voters he is able to designate who voted at that election.

In a new country like that, a man like Hedges, who has lived there as long as the oldest settler, would be very apt to know every legal voter within the precinct. It is the custom of a new country. The early settlers, those men who participate in elections, when the poll-list is shown them to refresh their memory, as it was in this case to Hedges, do know and can point out every legal voter within the precinct. Every man who has lived in a new country knows that. Hedges testifies that there were only 49 legal voters there; and yet the Committee of Elections give the sitting Delegate 62 votes, and the contestant 7.

I would like now to have part of the testimony of William Hargis read, from page 61.

The Clerk read, as follows:

*Question 3.* What description of persons did you meet there assembled?

*Answer.* I saw there soldiers, half-breeds, and Indians, and some citizens.

*Question 4.* Did you meet there any persons from the Yankton agency?

*Answer.* I did. All the employes of Dr. Burleigh, Indian agent, were there assembled when I arrived there. I saw a team of Dr. Burleigh's filled with Indians and half-breeds, and driven by Mr. Andrew J. Faulk, a partner of the Indian sutler at the Yankton reserve, and father-in-law of Dr. Burleigh, the agent, returning from the polls to the agency. The Indians and half-breeds were drunk.

*Question 6.* Did these soldiers vote at these polls, and if so, state if you know how they came to participate in this election.

*Answer.* They did vote, and by the advice of Major Pattee, then in command of the post. On the morning of the 1st of September, A. D. 1862, I overheard Major Pattee tell the orderly sergeant of company A that "the men might all go plumping, and to have them go as far as Mr. Hedges' store, the place of election." In a few moments after I saw First Sergeant Hodgdon go in the quarters and heard him tell the men that "Major Pattee wanted them to go a plumping, and that he wanted them all to go." I crossed the river shortly after that, and many of the soldiers crossed with me, and they arrived at the polls shortly after I did, well armed, with rifles, pistols, and bowie knives.

*Question 9.* Did you exercise the right of challenge at these polls on that day, and to what extent?

*Answer.* I did. I challenged one vote, that of Edward Higgins, an Iowa soldier, who swore his vote in. I then challenged Corporal Davis, and while in the act I was snatched away from the polls by Charles P. Booge, and held till the vote was deposited. Threats were made by Iowa soldiers, which intimidated me from challenging any further.

*Question 10.* Did you see any whisky at these polls?

*Answer.* I saw a barrel of whisky inside where the judges sat, and a large tin pail, filled with whisky, setting under a shed attached to the house; a tin cup was in the pail; free access was had to the pail—Indians, half-breeds, and soldiers and citizens *ad libitum*. I also saw whisky given from the window where the votes were received.

Mr. FARNSWORTH. Now, Mr. Speaker, in conclusion, I only desire to sum up the votes from these several counties and precincts, as I think they should be allowed. From Bon Homme county I think we should allow the honest votes proved, which is, Todd 25, Jayne 14; then add to that the total vote, as canvassed, 221 for Todd and 237 for Jayne, and it gives to the contestant 246 votes, and to the sitting member 251. Deduct the vote of Burle precinct, which is excluded by both reports, 8 for Todd and 63 for Jayne, and it leaves Todd 238 votes and Jayne 188 votes. Then deduct from Jayne the 9 votes proved in Yankton to have been illegal, and it leaves Todd 238 votes and Jayne 180 votes. Add the 49 votes from Charles Mix county, 7 for Todd and 42 for Jayne, and you have, Todd 245, Jayne 222. That, however, is saying nothing whatever about the Pembina vote. That vote gave to Todd 125 and to Jayne 19, which would leave Todd 370 and Jayne 241.

[Here the hammer fell.]

Mr. PENDLETON. I move that the gentleman from Illinois have leave to continue his remarks.

Mr. FARNSWORTH. I desire only a moment longer.

Leave was granted.

Mr. FARNSWORTH. From the testimony

of the witnesses on the part of the sitting Delegate, it will be seen that in Charles Mix county the committee has allowed him, as I compute it, 20 votes more than he is entitled to. If there were but 49 legal votes cast, 7 being for Todd, then Jayne was only entitled to 42 votes there. The committee has allowed him 62. Including the Pembina vote, Todd is elected by 129 majority; excluding it, it will still leave Todd a majority of 23 votes.

Mr. UPSON obtained the floor.

Mr. MORRILL. I ask the gentleman to yield me the floor for a moment to enable me to ask a question of the gentleman from Illinois. I desire to ask him whether from his investigations into this case he is not fully satisfied that this election case is so covered over with fraud that, in order to do justice to ourselves, we ought to send both of these men back?

Mr. FARNSWORTH. I am fully satisfied that the election case is so covered over with fraud upon the part of the sitting Delegate that he ought to be sent back, but that great injustice would be done to the contestant, who seems not to be mixed up with any of the fraud, and who, by conclusive testimony, is elected from that Territory, to declare that he is not entitled to the seat. Unless you repeal the law and declare that Dakota is not entitled to be represented here, one or the other of these men is entitled to a seat.

#### INTERNAL REVENUE BILL.

Mr. MORRILL. I wish to say to the House that the tax bill, as amended by the Senate, is now printed, and I desire members to obtain copies for themselves, to examine the bill, and ascertain upon what amendments they desire separate votes when the bill is taken up.

#### DAKOTA CONTESTED ELECTION—AGAIN.

Mr. UPSON. It was not my intention to have occupied any of the time of the House in the discussion of this contested-election case, but having joined in the minority report, it may be proper perhaps for me to specify some of the reasons which induced me to dissent from the conclusions of the majority, and to make some statements in answer to some arguments in favor of the contestant which have been presented by the speakers who have preceded me in this debate.

Had the majority of the committee reported in favor of sending the election back to the people, I should not have considered it a matter of so much importance as to have caused me to join in a minority report; but when they proposed not only to deprive the sitting member of his seat, but also to substitute the contestant in his place upon the admission of the vote as returned from the Pembina district, or the district of the Red River of the North, called Kittson county, I felt that to allow their report to be adopted without objection would be to do great injustice not only to the sitting member, but also to the people of the Territory of Dakota.

I have no design, Mr. Speaker, to go over the evidence generally in this case. I am content in relation to most of it to take it as the majority of the committee have reported it, and to adopt their conclusions until they come to this Pembina vote. I believe, from the examination I have been able to give to the testimony, that they have been liberal enough to the contestant, and that in several instances they have given the sitting member fewer votes than from a careful canvass of the returns he was entitled to. So much so that, with the full number of votes to which he is really entitled, his actual majority outside the Pembina district would have been double what the majority of the committee have given him.

I am not disposed, however, to quarrel with the committee in that respect. I believe the chairman of the committee in making his estimates, outside of Kittson county, has proceeded, on the whole, with fairness and impartiality, and I will take up their report only as to the Pembina vote.

There appears to me to be an absurdity and inconsistency on the part of the majority of the committee in admitting evidence taken on behalf of the contestant not in accordance with law, and rejecting testimony taken on the part of the sitting member because it was not technically in compliance, as to time, with the law of 1851.

The testimony on the part of the contestant was taken before two justices of the peace, which, as I will show, was in violation of the law of 1851.

The gentleman from Wisconsin, [Mr. BROWN,] I believe, holds that the law of 1851 is not strictly applicable to the election of Delegates from the Territories, and admits that the depositions taken by the contestant are outside of and independent of that law and in accordance with the practice prior to its adoption, but he nevertheless excludes a portion of the evidence of the sitting member by uniting in the report of the majority. I have said, however, that this testimony on the part of the contestant was taken before two justices of the peace and in violation of the provisions of the act of 1851. Now, under that law before evidence can be taken before two justices of the peace, it must first be shown that there are no other officers entitled to take such depositions in the Territory. The law of 1851, in the third section thereof, designates as the proper officers before whom to take depositions, in the first instance, "any chancellor, judge, or justice of any court of record, or any mayor, recorder, or intendant of any town or city." Now, the contestant does not produce a particle of proof that there were none of these officers in the Territory at that time. The law to which I refer, as to justices of the peace, is as follows:

"Sec. 10. When no such magistrate as is by the third section of this act authorized to take depositions shall reside in the congressional district from which the election is proposed to be contested, it shall be lawful for either party to make application to any two justices of the peace residing within the said district, who are hereby authorized to receive such application and jointly to proceed upon it in the manner hereinbefore directed."

Making it a preliminary requisite that the party must show non-residence or non-existence in the Territory of the other officers before whom the depositions are first to be taken. This objection was made by the sitting member at the time that these depositions were taken. He appeared in the first instance and insisted on his legal right to have depositions taken before those officers first specified in the law to be called upon, and this objection appears in the record. The whole evidence also in this case on the part of the contestant is taken *ex parte*, without any appearance on the part of the sitting member, except to enter his objection to the whole proceeding as illegal, and is without the cross-examination of a single witness. I ask what may not be proved under such circumstances? I am not surprised at some of the evidence that has been brought in here against the sitting delegate and made the ground of personal assault upon him, because the witnesses were sworn and testified without any cross-examination. The contestant could select his own witnesses, ask his own questions, and take down as much or as little of the answers as he pleased. There is no one to show how much has been taken down and how much omitted. There was no cross-examination to sift the conscience of the witnesses.

Further than that, many of the facts contained in these depositions are not referred to in any of the specifications in the contestant's notice. The sitting Delegate never had an opportunity to see these depositions or know what they contained until he saw them in print in the miscellaneous documents in this case, published by order of the House. His own depositions were taken in ignorance of what was contained in the testimony of the contestant, and he has consequently not examined some of the witnesses in reference to some things which he might and probably would otherwise have done in order to protect his own reputation against some statements made by contestant's witnesses.

The gentleman from Illinois, [Mr. FARNSWORTH,] who has severely commented on this evidence referring to the sitting Delegate, seems to be controlled by some personal feeling against the sitting Delegate, or actuated by a feeling of partiality in favor of the contestant rather than by a disposition to arrive at the truth of the case. It is important for the House, in considering this evidence, to bear in mind that this testimony was taken in the absence of the sitting member, who relied upon his objection taken to its validity. Therefore, I submit, was it not proper and right, if this testimony which was so taken by the contestant not strictly according to law was admitted in evidence, to admit also the testimony of the sitting Delegate taken a little beyond the time?

I wish here to say a word in regard to this House being precluded from considering this testimony by the action in the recent case of Knox

vs. Blair, which is urged on behalf of contestant. There the deposition was taken by the sitting member this winter when the House was in session, and without application to the House for leave to take testimony, and on one day's notice, and while the case was on hearing before the committee. The contestant, Knox, had no chance to rebut it, and it was properly excluded by a vote of the House. In this instance the testimony of Buckman was taken nearly a year and a half ago, and when the House was not in session, and it was taken in the presence of the contestant and on notice. The contestant was present during the whole time that the witness was giving in his testimony, and knew all his statements as sworn to by him, and has had all the subsequent time to rebut his evidence if it were untrue. Yet the contestant has not offered a word of proof to contradict or vary Buckman's statements, and the inference is strong that he would have rebutted this proof had it not been true.

I wish, also, to call attention to some printed evidence in this case outside of Mr. Buckman's testimony, and which has not been noticed thus far in this discussion. I refer to the census taken in July, 1861. That census on its face shows the vote in this Red river district to be fraudulent and false. On pages 160 to 170 are given the names, color, age, and sex of the persons who resided at that time in that section of country. In the precinct of St. Joseph, where I think that election was held, there were of white male citizens over twenty-one years of age, native born and foreign, only twenty-four. In this whole Red River district there were only forty-two over twenty-one years of age. I submit to this House that out of forty-two persons, citizens and foreigners, you cannot legally get 140 votes.

It will be borne in mind that this census includes not only native-born white citizens but also all naturalized citizens and white persons of foreign birth, and it is notorious that a great part of this population is foreign born. Now, then, I say that, outside of the testimony of Buckman, there is testimony corroborative of his, to show the non-existence of a requisite population to sustain this vote. I believe the honorable chairman of the committee will agree with me that this is a fair allegation. I believe this census was taken under the organic act organizing the Territory of Dakota, which provided for taking the census preparatory to dividing the Territory into districts for electing members of the Territorial Legislature. The census takers in Dakota at this time would be inclined to make the population as large as possible in order to increase their representation, and certainly had no interest to report the population less than it actually was.

And I wish now to state another fact which appears in the evidence in this case as corroborative of this very claim of fraud. It is that this Territorial Legislature of Dakota, since that election, has repealed the territorial law organizing this election district in that Territory, believing, upon evidence submitted to them since that election, that there is no such voting population to justify that vote, or to entitle them to a district organization and representation. There is now no such election district in the Territory of Dakota, and that fact is strongly corroborative of the position I assume here that gross frauds were perpetrated at that election. Dakota has provided against their future recurrence.

But if we take the testimony of Buckman into consideration in connection with these circumstances, the evidence is overwhelming and conclusive. I submit, taking this census and that vote together, it is enough to condemn this vote as fraudulent, and justify its rejection.

But it is said that this man Buckman is not to be believed; that he was elected by the same vote, and under it served in the Territorial Legislature. Grant the whole of these facts, he had no inducement at that time to divulge that fact, which would have been to his own injury, as it would have ousted him from his seat. But it will be borne in mind, call him what you will, a scoundrel and a dishonest man, at the same time he was elected on the same ticket with the contestant, and was his intimate friend and political associate. If Buckman be a dishonest man, he was then a companion of the contestant and his associates, and when the member from Illinois [Mr. FARNSWORTH] comes in here and claims as credible evi-

dence the statements of contestant's witnesses that they themselves were bribed to vote for the sitting Delegate, can he consistently deny the credibility of the evidence of Buckman? It is an old saying that when rogues fall out honest men get their dues, and no man was better able to judge of these frauds than this Buckman, who was there at the time, and who, they claim, was participating throughout the whole transaction. He was the man who made the suggestion to the returning officers, when they added 100 votes to the poll-list, to return some nineteen of them as cast for Jayne, in order to make the vote look more plausible; and it appears from his evidence that 100 names were added to the vote, in addition to the mixed crowd who voted at the election, in order, as it would seem, to make the vote large enough to insure the election of contestant.

It has been said by the gentleman from Illinois who preceded me that this deposition of Buckman has been excluded. I submit to this House that there has been no action of the House upon it, and it was insisted before the committee that the action of the committee would not preclude the consideration of this evidence by the House, and the report was submitted with that view. The committee could not reject the testimony. It is no part of their function. It is the province of the House to determine what evidence they will receive and act upon, and what is competent evidence, having due reference to the law and the circumstances under which it is taken.

So in this case the evidence was not suppressed, but was referred to the Committee of Elections, and was considered, and is a proper subject for investigation here, to be taken into consideration in weighing this case and coming to a conclusion. Buckman had the means of knowledge, and his testimony is corroborated by the census and by the circumstances attending the election; and if we are going to be technical and nice in rejecting that testimony because it was not taken in time, why not reject the returns from this county of Kittson, which were not made in time as required by the law?

I will not consume time in investigating the forms of that return. My friend from Iowa has a judicial decision upon that point; and it settles the case, and shows that it was informal and not in accordance with the law of the Territory.

But I prefer not to waste time in that consideration, believing that this technical objection on a question of time should not make us reject his testimony, when we have admitted testimony on the part of the contestant which was taken before officers not strictly authorized by law to take it. To show that I am justified in what I say by the record, I will refer to a fact which appears in the case, and which, by some strange inadvertence on the part of the contestant in arranging his testimony for print, has been omitted from the printed case. That is the fact that while the contestant now claims that there were no justices of a court of record, or officers authorized to take these depositions, other than justices of the peace, residing in the Territory at the time the notice was served, he told the contestant in the notice he served that he was going to take them before Chief Justice P. Bliss, then residing in the Territory. That notice is printed in the minority report, page 4, and is as follows:

In the matter of the contested election for the position of Delegate from Dakota Territory in the House of Representatives of the United States for the Thirty-Eighth Congress:

YANKTON, D. T., December 25, 1862.

SIR: You are hereby notified that, in pursuance of an act of Congress entitled "An act to prescribe the mode of obtaining evidence in cases of contested election," passed the 19th day of February, 1851, it is my intention to examine witnesses before Hon. P. Bliss, chief justice of Dakota Territory, the said chief justice being a resident within and for the congressional district, Territory of Dakota, and duly authorized by said act to examine such witnesses, or before some other person duly qualified to take such testimony, at the office of William E. Gleeson, Esq., in the town of Yankton, Yankton county, Dakota Territory, on Tuesday, the 6th day of January, A. D. 1863, at ten o'clock a. m. of said day, and each successive day thereafter, except Sundays, at the same time and place, till the testimony is taken and the witnesses are examined, a list of whom, together with their respective places of residence, is hereto annexed, of all which you will please take notice.

A copy of the subpoena issued by Hon. P. Bliss, to be served on the witnesses to be examined is hereto annexed.

J. B. S. TODD,

By his agents and attorneys, John Currier, William E. Gleeson, and Jesse Wherry.

Hon. WILLIAM JAYNE.

That is the admission of the contestant under his own hand, that Judge Bliss resided then in the Territory. And it further appears in evidence that he was then in the Territory and ready to take the depositions, as was also Judge Williams.

But it appears that the justices residing within the Territory at the time had deputed a certain man to act as their clerk who was obnoxious to the contestant, and that, rather than take the testimony before these justices having that clerk, he declined to take testimony at all before them, and went before two justices of the peace who he thought would answer his purpose better. That is shown in the printed case as being ostensibly the reason why he neglected or refused to take the testimony before the person before whom he notified the sitting Delegate that he would take it.

The notice which I have read to the House is dated December 25, 1862. The deposition of Mr. Buckman is said to have been taken in March, 1863. It is claimed that the sitting Delegate was guilty of gross neglect because he did not take that testimony within the time prescribed, to wit, sixty days. But I submit to the good sense of the House that that is explained when it is made to appear that he himself did not know that that state of facts existed, nor that Buckman could testify to those facts. We are also all aware that that district is over five hundred miles distant from the capital of the Territory, and that it is comparatively a wilderness. Being of such great extent, it is also argued by contestant that a great many votes must have been cast in it; but if that argument were to hold good, we would estimate the number of votes by the number of square miles contained within a district.

If Buckman is such a person as he is represented by the gentleman from Illinois [Mr. FARNSWORTH] to be, his interest was not to disclose sooner this matter of election frauds at Pembina, as he held his own seat in the Legislature through them. But it is made a cause of attack upon him that he has received consideration for making these disclosures. I ask the gentleman from Illinois to point to a single circumstance authorizing him to make such a statement. He says that Buckman is holding office in this city. I ask him to point to a fact in evidence justifying that statement—and I deny that such fact exists—when he assumes, on the part of the contestant in this case, that no fraud is shown against him. I will meet him outside of the Pembina vote by one extract from the testimony to show that the contestant's friends deliberately destroyed ballots, and drew pistols at the polls, and that that was one reason why some votes were excluded by the majority of the Committee of Elections in making their report in this case. To show that the contestant and his friends are not clear in this matter, I will ask the Clerk to read from the testimony of Moses Herrick, commencing at page 150, in regard to the election in Bon Homme county.

The Clerk read, as follows:

"Interrogatory 3. Were you present at said election; and if so, what part did you take in the same?"

"Answer. I was present, and acted as one of the judges of the election."

"Interrogatory 4. Were the judges and clerks of said election duly appointed and sworn according to law?"

"Answer. They were. I was personally knowing to their being appointed and sworn."

"Interrogatory 5. What were the names of the judges and clerks of said election?"

"Answer. Moses Herrick, D. C. Gross, and Jacob Kiel were the judges, and C. E. Rowley and Samuel Hardy were the clerks."

"Interrogatory 6. At what hour were the polls opened, and at what hour were they closed?"

"Answer. They were opened at nine o'clock a. m., and closed at six o'clock p. m."

"Interrogatory 7. Was said election conducted by the judges and clerks without fraud, deceit, or abuse?"

"Answer. It was."

"Interrogatory 8. After the polls were closed were the votes duly counted, canvassed, and proper return thereof made to the county register of Bon Homme county, as required by law?"

"Answer. They were not."

"Interrogatory 9. Why were they not so canvassed and returned?"

"Answer. Because a mob entered the house in which the election was being held, and took forcible possession of the ballot-box, ballots, and poll-books, and drove the judges and clerks from the house, and destroyed the ballots."

"Interrogatory 10. Were the persons who thus broke up the election the friends and supporters of William Jayne, or the friends and supporters of J. B. S. Todd?"

"Answer. They were the friends and supporters of J. B. S. Todd."

"Interrogatory 11. What are their names?"



"Answer. John H. Shober, R. M. Smith, E. W. Gifford, D. C. Gifford, R. M. Johnson, Charles Cooper, W. W. Warford, and several others.

"Interrogatory 12. Did they hold a pretended election on the same night?

"Answer. They did.

"Interrogatory 13. Who were the judges and clerks of said election?

"Answer. Hugh Fraley, Chroel Gifford, and S. G. Irish were the judges of the night election, and W. W. Warford and B. M. Smith were the clerks.

"Interrogatory 14. How many persons participated at the night election?

"Answer. About fifteen or sixteen.

"Interrogatory 15. How many votes were cast at said night election?

"Answer. The judges and clerks announced that 22 votes were cast.

"Interrogatory 16. Explain how fifteen persons were able to cast 22 votes.

"Answer. I heard one of the voters, namely, John H. Shober, say that he knew how certain persons would vote who were absent, and that he would cast their votes for them.

"Interrogatory 17. How many votes were cast at the election sought to be held within the legal hours?

"Answer. Thirty-nine.

"Interrogatory 18. Are any of the judges and clerks who sought to hold an election in the legal hours now absent from the Territory? If so, name them.

"Answer. Jacob Kiel and Samuel Hardy are now absent, having removed during the early part of the last winter.

"Interrogatory 19. Which one of the friends and supporters of J. B. S. Todd who participated in said mob seized and destroyed the ballots?

"Answer. John H. Shober seized and destroyed the ballots, while E. W. Gifford stood by with a pistol, aiding and abetting Shober. The whole mob numbered some fifteen persons.

"Interrogatory 20. Were most of the persons who composed this mob intoxicated?

"Answer. They were."

Mr. UPSON. It will be seen by this, Mr. Speaker, that the skirts of the contestant and his friends are not so clear in this matter as is pretended. I believe it will be found on investigation that the contestant in this case is an adroit political manager, and is well acquainted with the mode of conducting elections in Territories. That is attested, if I mistake not, by the evidence in the celebrated case of the Nebraska contested election, Morton against Daily, in which his name appears somewhat conspicuously. Therefore, when he had an opportunity, as in this case, of taking testimony *ex parte*, selecting his own witnesses, putting down whatever answers he saw fit without cross-examination, it is not surprising that he made out a plausible case for himself. It is only surprising that he did not make it stronger.

I hazard the assertion that I could successfully assail the right of almost any member of the House to his seat, if I might be permitted to go around and select my witnesses and put only such questions to them as I saw fit, writing down so much of the answers as I pleased and having no cross-examination of the witnesses. I therefore dissent from the report of the majority in regard to this Pembina vote, and submit that the evidence is conclusive that the return of the vote from that county of Kitson is an absolute fraud. The last census shows that the number of votes returned from that precinct is four times the number of white persons, native or naturalized or foreign born, who were in that whole district; that within the precinct of St. Joseph where this election was held, there were not twenty-five white persons residing in July, 1861, a little more than a year before this election was held. It seems to me, therefore, that outside of Buckman's testimony there is sufficient evidence to warrant us in rejecting the vote of that precinct. And when in connection with the objection to Buckman's testimony you take into consideration the objections urged against contestant's evidence which is admitted, and the facts that the returns from Kittson county did not come in within the time contemplated by the law, and also that if strict compliance with the law of 1857 is required it was absolutely out of the power of the sitting Delegate to have complied with it by reason of the distant and isolated situation of the district, I think under all the circumstances the House is fully justified in receiving the testimony of Buckman, (which contestant has not attempted to contradict or rebut,) and in deciding that the sitting Delegate is entitled to retain his seat. If, however, the majority of the House should decide this election contest, as the Dutchman decided the lawsuit, that it was bad on both sides, [laughter.] I shall then be satisfied to have the election referred back to the people of the Territory for their

decision, believing that on the whole it will be doing substantial justice in the premises, and that they are properly the ultimate arbiters in the case.

Mr. SMITH. I do not rise to make a speech, but to call the previous question on the adoption of the resolutions.

Mr. SCOFIELD. I rise to a question of order. I ask if the House can by seconding the previous question cut off the right of General Jayne from replying if he desires to do so under the rule of the House entitling a gentleman to speak in reference to his own contest?

The SPEAKER. The gentleman from Dakota has the right to speak upon this contest unless the previous question shall be ordered, which cuts off all debate.

Mr. SCOFIELD. Well, sir, I am sure the gentleman from Kentucky will not insist on his demand for the previous question to the extent of cutting off the sitting Delegate from his right to be heard in his own behalf.

Mr. SMITH. If the gentleman will be quiet for a moment I will finish the remark I proposed to make in connection with my demand for the previous question. I understand that if the previous question is ordered I would have the right to speak for an hour in the closing debate.

The SPEAKER. The gentleman from Massachusetts [Mr. DAWES] would have that right, having reported the resolutions.

Mr. SMITH. Very well; the gentleman from Massachusetts, I should have said. Now, I understand that if the previous question is seconded, the gentleman from Massachusetts does not desire to occupy his whole hour, and will yield to the sitting Delegate as much time as he desires to occupy in his hour.

Mr. SCOFIELD. Very well; I am satisfied with that.

The previous question was seconded, and the main question ordered to be put.

Mr. DAWES. Did I understand the arrangement was that the sitting Delegate should have a portion of my time?

The SPEAKER. It was so stated by the member from Pennsylvania.

Mr. DAWES. It is the first time I have heard of it, but I will yield to the gentleman.

Mr. WILSON. I hope, by unanimous consent, the gentleman will have as much time as he desires.

There was no objection.

Mr. JAYNE. The gentleman from Illinois had a good deal to say in reference to charges against me of bribery, of the use of money in the buying of votes in this election. I have only to say in reference to the charge of using money in that election that it is false, totally false; and to show the kind of testimony which is relied on to sustain the charge, I call upon the gentleman representing the northwestern district of Iowa to say whether he is acquainted with the character of one of these witnesses by the name of Brown, and if so, whether it is such that he would be believed by any respectable man in Dakota?

Mr. HUBBARD, of Iowa. I am acquainted with a man by the name of Brown, whose deposition has been read here to-day, and he has the reputation of being a most notorious liar, so much so that he went by the name of "Gassy Brown." I do not believe there is a single respectable man in that country that would believe anything he would swear to.

Mr. JAYNE. The other districts have been so fully commented on that I will not detain the House any longer by a repetition.

Mr. GANSON. Is Mr. Brown a person who could be bribed?

Mr. HUBBARD, of Iowa. I think it likely that he might be bribed, and I think it likely that he might tell what was untrue. He has a bad reputation. No man in that whole country has so generally the reputation of being a corrupt liar as this man Brown.

Mr. TODD. I wish to say a word in reply to the gentleman from Iowa. There are two Browns. [Laughter.] There is a Brown there who is a most notorious liar, and who is known as "Gassy Brown." He has confounded the two Browns of Dakota, and his statement is not in reference to the right one.

Mr. HUBBARD, of Iowa. I did not think I

was mistaken in the man. If so, I stand corrected. I do know that Gassy Brown had a very bad reputation, and I supposed this was his deposition.

Mr. TODD. One word in reply. This man, "Gassy Brown," was indicted in Dakota for trespassing on the Indian land reservation, and removed from the Territory in 1862, and went to Minnesota. He got there in the midst of the Indian troubles in August, and was killed. [Laughter.]

Mr. HUBBARD, of Iowa. I should like to know whether the gentleman obtained that information from Brown himself. I saw him alive and well on the Missouri river about one year ago, and am informed that he was lately hung in Montana Territory.

Mr. JAYNE. I propose to examine the testimony in this case, and I will say at the very commencement of my remarks that I do not deny but that some illegal votes may have been cast for me as well as many for the contestant. But I do affirm and shall prove from the evidence that a majority of the legal votes cast on the 1st day of September, 1862, in the Territory of Dakota, for a Delegate to the Thirty-Eighth Congress of the United States, were cast for myself. I take it that the decision of this case depends not on the illegal votes, but upon the legal votes cast. I propose to show, and will show beyond all doubt or question, that I received a majority of the legal votes cast for Delegate to Congress.

#### YANKTON COUNTY.

The contestant (Mr. Todd) objects to the votes of Newton Edmunds, George W. Lamson, Abner Wood, Charles McKinley, Cortes Fessenden, D. T. Fessenden, and John Mellon being counted, on the ground that they were not residents of the Territory. Now, there is no positive evidence for whom they voted; various witnesses testify that they believe or have heard that they voted for me. There is no evidence for whom they voted; it is all hearsay.

But let us examine the point, were they legal voters? Mr. Lyman, (page 29,) Mr. Todd's witness, testifies that he challenged six of the above-mentioned seven (all save John Mellon) and that they took the required oath, and then voted.

Now, we find that these gentlemen took the requisite oath that they had resided in the Territory ninety days prior to the election. Have we any other evidence that they were residents of the Territory ninety days prior to the said election? Mr. Pinney (page 146) testifies that Cortes Fessenden, D. T. Fessenden, and John Mellon, were residents of the Territory more than a year prior to the election. Mr. Edmunds, then the chief clerk in the surveyor general's office, and now the present Governor of Dakota, testifies that he himself had been a resident of Dakota since July, 1861; that he was personally acquainted with Abner Wood, Charles McKinley, Cortes Fessenden, D. T. Fessenden, John Mellon, and George W. Lamson, and that they were residents of Dakota ninety days prior to election day. For Mr. Edmunds's evidence see page 152. Now, as a matter of fact, these persons have been residents of Dakota for three years past.

#### BON HOMME COUNTY.

The election in this county was broken up and the ballots seized and destroyed before they were counted and canvassed so as to ascertain for whom a majority of them were cast. This most wanton outrage was committed by a drunken mob, instigated and led on by one John Shober and Byron M. Smith, they all being the friends and supporters of Mr. Todd, as proven by the evidence of George M. Pinney, (pages 145 and 146,) Charles E. Rawley, (pages 144 and 145,) L. H. Litchfield, (pages 142 and 143,) and Moses Herrick, (pages 151, 152, and 153.) This vote, I submit, should not have been counted at all, for Mr. Todd has no right to avail himself of the benefits of his own wrong. But if counted, his own testimony gives him 26 votes and myself 13.

I know that the contestant alleges as an excuse for the illegal and shameful conduct of his drunken friends and supporters in seizing and destroying the ballots, that they thought a fraud had been committed by the officers of the election. We have the evidence of Mr. Rawley, one of the clerks of the election, (page 144,) and Moses Her-

rick, one of the judges of the election, (page 151,) that the election was conducted by the officers of the election without fraud, deceit, or abuse. The evidence of these parties I claim to be good against that of John H. Shober and R. M. Johnson, Mr. Todd's principal witnesses, both of whom, Shober and Johnson, were indicted for perjury by the United States grand jury last fall for fabricating and swearing to false Indian claims, presented to the Sioux indemnity commission, sitting in Minnesota in 1863.

#### CHARLES MIX COUNTY.

The contestant asks that the whole vote of Charles Mix county may be rejected, because he alleges some Iowa soldiers voted in this county whom he insists were not legal voters. For sake of argument admit that fact. Does that vitiate the entire poll? The fact that illegal votes are cast at any poll will not, cannot disfranchise the legal voters of the poll. Nothing could vitiate the entire poll unless it were the fact that the officers of the election had practiced fraud, deceit, or abuse in conducting the election. This is not even alleged.

This attempt to disallow the legal vote of a whole county has no foundation in law or equity. I will not insult the good sense of this House by dwelling on this point any further.

I prove by the evidence of John J. Thompson, that he was one of the judges of the election held in Charles Mix county, at the house of Charles E. Hedges, on the 1st day of September, 1862, (for Thompson's evidence see page 149,) and that the judges and clerks of the election were duly appointed and sworn according to law; that the polls were opened and closed at the legal hours, and that there was no fraud, deceit, or abuse practiced by the judges or clerks, or any one of them, in conducting said election. He also testifies that the friends and supporters of Jayne did not use any threats or violence to prevent the friends and supporters of Todd from voting at said election.

He testifies that only 7 votes were cast for J. B. S. Todd, and 138 were cast for William Jayne.

Charles E. Hedges, (page 147,) A. J. Faulk, (page 147,) and F. Carman, (page 149,) all testify that they were present at said election at the house of Charles E. Hedges, in Charles Mix county, and they all corroborate the testimony of Thompson, and testify that no violence or threats were used by the friends of Jayne to prevent the friends of Todd from voting.

By reference to the laws of Dakota passed at the first session of the Legislature held in 1862, page 1, Private Laws, it will be seen that Collin Campbell, Collin Lamont, Lewis Lacompt, and Benjamin Cadot, half-breeds, had been made citizens by an act of the Legislature, and were therefore legal voters.

I prove by the evidence of T. V. B. Johnson, Daniel Babcock, R. Michael, John Shover, Martin Powell, Reuben S. Dexter, and Benjamin F. Smith, all members of the Iowa regiment stationed at Fort Randall, and all Mr. Todd's own witnesses, that the entire number of Iowa soldiers who voted in Charles Mix county was just 70. For the above evidence see pages from 72 to 79. To the vote of the 70 Iowa soldiers add three half breeds, Balleste Lacont, Boctas Dazaro, and Eluxe C. Young, proved by the evidence of James Maloney (page 67) to have voted, and you find 73 votes to be taken from the 146 votes cast at said election poll, which leaves 73 legal votes beyond any question or doubt. Of which legal vote, if you please, concede Mr. Todd the whole number returned for him, 7, though there is no evidence that Mr. Todd received 7 legal votes; for Mr. Johnson, (page 72,) and Mr. Babcock, (page 73,) Mr. Todd's own witnesses, testify that some of the Iowa soldiers voted for Mr. Todd. Among all his witnesses we only find two who swear that they voted for him; yet conceding him 7 and myself the remainder of the legal votes, and my majority in Charles Mix county is 59. I claim that by Mr. Todd's own evidence it is shown that there were 73 legal votes cast in Charles Mix county. I corroborate this fact by my own witnesses.

I prove by Mr. Hedges (page 147) that 60 legal votes were cast by citizens who were not soldiers, and he further testifies that he was personally acquainted with forty-nine of them, and gives their

names, and states that to his own knowledge they have been residents of the Territory for ninety days prior to the election.

Mr. Carmon (pages 148 and 149) and Mr. Thompson (pages 149 and 150) both swear to the same facts; Mr. Carmon giving the names of fifty-two citizens with whom he was personally acquainted and who had been residents of the Territory for ninety days prior to said election.

By the testimony of the same three parties, Hedges, Carmon, and Thompson, I prove in addition to the citizen voters that Owen Irish, Columbus Irish, Jerome Irish, William Harcomb, N. B. Dempsey, James Hunter, Abraham Shaeffer, and Joseph Charidon, were legal voters, and that they did vote at said election; that they were members of the Iowa regiment, but that they had resided in Dakota at the time and before they enlisted in the fall of 1861.

#### BRULÉ CREEK POLL.

Admitting all that the contestant says in relation to a portion of the votes being cast before the legal hour for opening the poll, and rejecting all votes cast before nine o'clock, how stands the vote at this Brulé Creek precinct?

By the evidence of Mr. Wallace, page 83, and M. H. Somers, page 86, Mr. Todd's own witnesses, it is proved that 37 legal votes were cast at this poll between the legal hours for holding the election, only 12 of which Mr. Todd claims to have been cast for him, leaving me 25, giving me a majority of 13 at this poll.

But I prove by Mr. Allen, the register of the land office in Dakota, pages 153 and 154, that he was personally acquainted with almost every man residing at Brulé Creek; that there were about sixty men residing there at the time of said election, and that they were legal voters; that a portion of them had been there in the fall of 1861, and had made claims at that time, and went back for their families and did not return until about fifty or sixty days prior to the election.

#### RED RIVER DISTRICT.

The election returns from Kittson county, on the Red River of the North, I hold are not to be received and counted, for two reasons. One is that the county of Kittson is situated wholly in the Indian country, and though within the geographical limits, it is, by the act of Congress organizing the Territory of Dakota, without the political limits of said Territory.

Section first of the organic act of Dakota provides that all Indian Territory shall be excepted out of the boundaries of said Territory and shall constitute no part of said Territory.

But I insist for another reason, and a very conclusive one, why the vote of Kittson county shall not be counted. The pretended election held in that county was false, illegal, and a fraud throughout. (See evidence of Buckman, pages 154, 155, 156, and 157.) Mr. Buckman testifies that there were present at the polls on election day only six men who were legal voters; that the officers of the election consisted of three half-breeds, one Englishman, who was not naturalized, and one Frenchman, who claimed to have been naturalized.

Of the whole board of election, there seems to have been but one legal voter among them; while the law requires that every officer of the election should himself be a legal voter. Mr. Buckman testifies that about 46 votes were cast in the day-time, 10 or 12 by white men, and 36 by Indians and half-breeds, and that at night about 100 names were added to the poll-list. That for appearances, to make the returns look well on the face, the officers of the election gave me 19 votes, and the rest were set down for Mr. Todd, returning for Mr. Todd over a hundred majority, as cast at this spurious election.

The two Representatives on this floor from the State of Minnesota are not ignorant of the well-established character of these Pembina voters; nor is the country ignorant of the systematic frauds which have been practiced before this by these same men. They have made for themselves a name. Pembina and Red river are synonymous with fraud and ballot-box stuffing.

In conclusion I would say, taking the official canvass in those counties in which there is no dispute, and Mr. Todd's own evidence in regard to the vote in Brulé Creek precinct, in Cole county,

in Bon Homme county, and in Charles Mix county, the vote stands as follows, giving Mr. Jayne a majority of 20 votes:

	Todd, Jayne.	
Cole county.....	18	12
Elk Point.....	32	6
Willow.....	12	25
Brulé Creek.....	64	66
Clay county.....	66	66
Yankton county.....	26	13
Bon Homme county.....	24	13
Todd county.....	9	11
Dakota cavalry.....	7	66
Charles Mix county.....	258	278
		258
Jayne's majority.....		20

Having passed over all the evidence in this case, and having shown that I received a majority of the legal votes cast for Delegate to the Thirty-Eighth Congress, I propose to close my remarks by briefly noticing the majority report made by the Committee of Elections. I have always felt indifferent whether this case should be settled upon strictly legal principles, holding each party to the law, or upon the merits, without regard to mere technicalities, and the seat awarded to the person having received the highest number of legal votes, conscious that in either case I must be declared elected.

It would seem to be a self-evident proposition that this case should be settled either upon law or the merits; yet the majority of the committee do neither of these things. They confessedly depart from the requirements of the law in behalf of the contestant, while they hold me strictly to the law.

The majority report acknowledges that the contestant at the first step departed from the requirements of the law, for it states that—

"While the statute requires the contestant to serve his notice of contest upon the sitting Delegate within thirty days after the result of the election has been declared by the board of canvassers, the notice in this case was served before the result was declared."

The report, however, proceeds to state that—

"The committee are of opinion that this was a defect which the sitting Delegate could waive, and that by answering after the result had been proclaimed," &c.; "he had waived the right," &c.

Without controverting this position it is difficult to perceive why, if the contestant is to be permitted to avail himself of a notice not strictly in accordance with the statute, I should not have the like liberality extended to myself in relation to a deposition taken on notice to the contestant, when the contestant (Mr. Todd) was present listening to the examination, and consenting to an adjournment for the purpose of completing it. There is, however, a more serious objection, and, if the requirements of the statute are followed, a fatal objection to all the contestant's testimony. It is all *ex parte* and taken before justices of the peace. Now, the act of Congress regulating the taking of testimony in contested elections, passed February 14, 1851, prohibits the taking of any testimony before justices of the peace if there shall be residing in the congressional district in which the contest arises "any judge of any court of the United States, or any chancellor, judge, or justice of any court of record, or any mayor, recorder, or intendant of any town or city."

Now, in this case it so happens that the contestant gave me notice that he should take his testimony before Hon. P. Bliss, one of the United States judges of the Territory of Dakota. I quote from the notice of the contestant, which is as follows:

"It is my intention to examine witnesses before Hon. P. Bliss, chief justice of Dakota Territory, the said chief justice being a resident within and for the congressional district, Territory of Dakota, and duly authorized by said act to examine such witnesses."

But when the day of examination of witnesses arrived the contestant, not in accordance with the statute, but directly contrary to it, and in violation of law, proceeded to examine his witnesses before two justices of the peace—incompetent authority. I protested against the right of the two justices of the peace to act in the case, and declined to appear before them. If the law is to be observed, the contestant has presented no evidence which can be received.

But admitting all the contestant's evidence, thus giving him the benefit of the irregularities shown, still I am entitled to my seat, as pro-

claimed by the territorial canvassers, and so acknowledged by the majority report, unless the Kittson county return is received and counted for the contestant, (Mr. Todd.)

The Kittson county return, commonly known as the Pembina or Red river vote, then decides the fact who is entitled to the seat as Delegate from Dakota, according to the majority report.

I accept this statement of the case. The return from Kittson county, known as the Pembina vote, and situated wholly within the Indian country, is not a copy of "the abstract of votes given in his county," made by the clerk, with the assistance of two justices of the peace, as required by the territorial laws, chapter thirty-two, sections twenty-eight, thirty-one, and thirty-three, but a mere certificate of the clerk; and moreover, it was not received till after the time limited by law when returns could be received, and the canvass had been completed, and therefore, if the law is to be observed, could not be received; and this would leave me entitled to the seat as proclaimed by the canvassers.

But the majority of the committee admit the Pembina vote, notwithstanding it was not in accordance with law, nor received within the time limited by law, and refuse to admit the testimony taken on notice and when the contestant was present, showing the Pembina returns to be fraudulent, because I did not take the testimony before the proper officer and within the proper time. Time is held to be immaterial by the majority for the purpose of admitting the Pembina returns, and material for the purpose of excluding the testimony to show those returns fraudulent.

So the letter of the law is departed from to bring the case of a Delegate within the act of Congress, to make valid the notice of contest given before the canvass was declared, to receive the testimony taken before justices of the peace, and the Pembina vote not returned within the time or according to law, all these departures being for the benefit of the contestant; but when a departure from the strict letter of the law would have admitted the testimony impeaching the Pembina vote, and showing it to have been wholly false, fictitious, and fraudulent, and have been for the benefit of myself, the sitting Delegate, the letter of the law is insisted upon and the testimony is excluded. On what principle can such gross inconsistency be sanctioned?

It does seem that justice and equity demand that if any consideration is to be given to this return made out of time and contrary to the requirements of the law, equal consideration should be paid to the testimony which proves this return to have been fictitious and fraudulent.

I have before referred to the evidence in relation to this bogus return, but, as according to the majority report, the whole case turns on this return, I hope I will be excused if I again briefly notice the testimony in relation to this Pembina return. What is the evidence in regard to this vote?

First, the census, taken about a year previous, shows that in the whole Red River country there were of white males but fifty-one, and of those over the age of twenty-one but forty-two; and these whites were living in different places in the Red River country, some of them two hundred miles apart, thus only a part living in the county adjacent to the precinct where this fraudulent vote is cast.

Then the testimony of Joseph J. Buckman, taken March 11, 1863, before Hon. W. F. Purcell, judge of the orphan's court in the District of Columbia, on notice duly given, both parties being present at the examination. This testimony (pages 154, 155, and 156) shows that there were but six persons, native born and naturalized, present at the place of voting in Kittson county on election day, who were entitled to vote on the day of election; that the board of election consisted of three half-breeds and a Frenchman and an Englishman, only one of the five being a voter, the other four not only being disqualified from acting as members of the board of election, but not even being qualified voters. The witness was the postmaster at Pembina, and had been an Indian trader, and was well acquainted with all persons residing in that country. The witness swears that he does not think that more than ten or twelve white persons were present on the day

of election, and of those but three were native-born citizens of the United States, and three others who claim to be naturalized citizens, and none who had made declaration of their intention to become citizens. He says 46 or 48 votes were cast for Delegates to Congress at that election; that the excess over the number of legal voters present was cast by illegal voters, mostly half-breeds, and that there were added to the votes cast, after the close of the polls, a little over 100 votes; and the witness also testifies that Charles Morneau, who was clerk of the board of county commissioners, and sent his own certificate, and not a copy of the abstract as required by law, to the secretary of the Territory, was himself present at this fraudulent election.

The fact that this pretended election was wholly false and fraudulent, is the true reason why the return was not made in accordance with law, by sending a copy of the abstract of the canvass made by the clerk and two justices of the peace. The election being fictitious, no two justices of the peace could be found to indorse such a fraud, so Charles Morneau, the clerk, himself a party to the fraud, alone makes out a certificate of this pretended election return and certifies to it. The evidence of Buckman is unimpeached, and is corroborated by the census returns. The fact is so notorious that the whole Red River country is almost wholly uninhabited by white persons, who alone, if possessed of the other qualifications, are by law entitled to the right of suffrage, that the Legislature of Dakota at its last session abolished the district as a voting precinct, and repealed the act creating the county of Kittson, because the laws of Dakota require that there shall be twenty voters residing there before a county can be organized. Here we have a bogus return of 150 votes pretended to have been cast, returned from one precinct in Kittson county, while the Legislature of Dakota tell you by a solemn enactment that there are not twenty voters in the whole county of Kittson. Can it be that the House of Representatives will receive a return made out of time and contrary to law, and yet refuse on a mere technicality to receive the testimony which exposes this base and fraudulent vote? Without the aid of this fictitious Pembina vote, every member of the committee admits that the contestant (Mr. Todd) has no claim to the seat.

As to any personal allusions the contestant has seen proper to make, or any attempt to connect me with any of the fraudulent voting, I have only this to say, that it is wholly false; and I may as well say that I have too much respect for my character to notice, care, or concern myself about any such attempts at slander, coming from a man who resigned his place, so says report, from fear of being dismissed from the Army for cowardice; coming from a man whose name the domestic influence of the White House has three times induced the Executive of the United States reluctantly to send to the Senate for confirmation as a brigadier general, and who has three times met with a prompt refusal by the Senate. I should scorn to notice any personal remarks coming from any one bearing the name of the contestant, (Todd,) a family somewhat notorious for their love of office. If they cannot get office under President Lincoln they take it under Jeff. Davis.

A word or two in reply to the remarks of the honorable and distinguished gentleman from Massachusetts, the chairman of the Committee of Elections, and I am done. I understand that the gentleman is a lawyer—a very able and distinguished lawyer—and for this reason I was the more astonished at the course of argument he thought proper to pursue in his speech. I had thought that in the argument of a case a judge of character and pretension always confined himself to the record and evidence in the summing of the evidence in a case. Where do you find it in evidence or record that Mr. Buckman received an office as a consideration for testifying in this case, or that as a further consideration he is now employed in the office of the United States marshal for Dakota Territory? The gentleman from Massachusetts must not suppose that his influential position as chairman of the committee, and the fear that that position is to be wielded against me, will deter me from correcting such erroneous statements. I was not a little surprised that he, the chairman of the committee, a lawyer, and in this case one of the judges sitting in judgment on

this case, should have so traveled out of the record, and made use of idle rumors and false rumors, and brought them into this House to influence the minds of members who should decide this case upon law and evidence.

Not wishing to be misunderstood, I now state plainly that I cannot believe that the distinguished chairman of the committee would deliberately, maliciously, and willfully state that which he knew to be false, and therefore I must say that he has ignorantly stated that which he did not know to be true.

Mr. Buckman is not in the office of the United States marshal for Dakota, nor has Mr. Buckman ever received from me any consideration, either pecuniary or political, for testifying in this case, and exposing the infamous fraud of that pretended and fictitious election on the Red river.

The gentleman from Illinois [Mr. FANGSWORTH] seemed to take much delight while reading and commenting upon the testimony of Messrs. Falkenburg and Brown, endeavoring to implicate me with securing their votes by money. Now, all I have to say is, that all the testimony of these two witnesses in relation to myself is false, wholly, totally false, from the beginning to the end. Be he who he may, whoever asserts that I gave any man money or promised any man money to vote for me utters a most atrocious falsehood.

Mr. DAWES. Mr. Speaker, I do not propose to enter into any discussion of which is the "true, genuine, and original 'Gassy Brown,'" and which is not. I leave the matter of the Brown family of Dakota Territory to the gentleman from Iowa, who seems to have an unction for it. It has nothing to do with the question which is before us.

The Committee of Elections have no desire beyond this, that the House shall understand what is the real issue in this case, and decide fairly between these parties. There is an apprehension in my mind, and I think it generally pervades the committee, that injustice is about to be done. If possible I want that no wrong shall be inflicted upon the Territory of Dakota.

So far as the majority and the minority of the Committee of Elections are concerned, they both agree that Jayne is not entitled to a seat upon this floor as the Delegate from Dakota. On this all parties are agreed, notwithstanding the attempt on the part of those who conducted the election in his behalf in the Territory to put him in a seat by the grossest frauds that could be perpetrated. The committee have not reflected on Mr. Jayne personally. They have not taken into consideration the testimony brought forward for that purpose, and I have no desire to lend the sanction of the committee to it. It is enough that Mr. Jayne had a majority returned for him fraudulently, and that he has no right to this seat.

The only question on which two members of the committee have differed with the others is this—and it is the only question on which there is any substantial difference—whether the deposition taken in this city after the expiration of the time for taking testimony in this case by the sitting Delegate shall be admitted. I wish to allude to two or three of the points taken by the gentleman from Michigan [Mr. URSON] and others, who argue that it ought to be admitted. They say that the law regulating elections to this House does not apply to elections in the Territories, and that we are not, therefore, to be guided by that law. The report of the minority takes that position, that there is no law of Congress regulating a contested election in a Territory, simply because a Delegate has no vote. It is quite enough to know that that matter has received a construction by this House which until to-day has never been questioned, that the contestants of seats of Delegates must conform to the laws of Congress touching this matter. Since the passage of the law there have been seven contests in the Territories which this House has made to conform to it.

The cases of Bennet vs. Chapman and Otero vs. Galligos in 1856, Reeder vs. Whitfield in 1857, Chapman vs. Ferguson in 1858, the same case in 1859, Morton vs. Daily in 1860, were all held by the Committee of Elections and by the House itself to conform to that statute; and this session this very committee have reported unanimously to this House a contested-election case from New Mexico—Galligos vs. Perea—recommending that



it should be dismissed because it does not conform to that statute. I hold the report in my hand, submitted by the gentleman from Delaware [Mr. SMITHERS] in behalf of the committee without a dissenting voice.

Mr. UPSON. Our main consideration in that case was that nobody appeared on behalf of the contestant. Nobody appeared to contest the case.

Mr. DAWES. That is true, but I would not slander the committee by saying that in the absence of a party they turned a man out of a seat without giving him a hearing. It was not upon that ground. I have the report in my hand, and I submit to the gentleman from Michigan that the report never was put upon that ground, although that fact is set out in it.

I consider some things settled by precedent; I consider some things settled by the construction which the House of Representatives put upon the law; and during the last fourteen years, while that law has been standing upon the statute-book, year after year they have required contestants from the Territories to conform to it, and it seems too late to raise the question that the law does not apply to Territories. Then the gentleman from Michigan, and the gentleman from Pennsylvania [Mr. SCOFIELD] who coincides with him, insist that if the law touching elections applies to the Territories, and a deposition was introduced by the contestant not in conformity to law, that would make it right to introduce the deposition of the sitting member, although in other respects it was not in compliance with the statute.

But I submit that the gentleman is mistaken both in his premises and in his conclusions. He is mistaken in his premises because I think, if I could have the ear of this House, that the committee's conclusion was correct. The law provides that the testimony shall be taken before certain officers; if they are not present in the Territory, then two justices shall take the testimony. Now, it seemed to be admitted by everybody at the hearing, that unless the justices of the supreme court of the Territory were residents, then there were no other officers to take the testimony, except the justices of the peace who did take it.

Mr. UPSON. It was the duty of the contestant to show that there were no other officers in the Territory.

Mr. DAWES. I submit that it is not the duty of the Committee of Elections to raise for parties points which they never raised for themselves. That is a duty which I did not suppose either devolved upon a court or upon the Committee of Elections; and now I ask my friend if the idea was suggested before the committee that there were any other officers to take the testimony except the judges of the supreme court of the Territory.

The whole testimony, uncontroverted, shows that the justices of the supreme court did not reside in the Territory. Therefore the duty devolved upon some other officers. The last named in the list are two justices, and nobody claimed before the committee that anybody else was there to take the evidence.

But aside from that there is another fact which settles this question. Suppose that the chief justice of the Territory, who is the only one talked about, did reside in the Territory. Notices were given by him to take testimony "before him, or some other person duly qualified to take said testimony," on Friday, the 5th day of January. There was before the committee a note from the judge saying that he could not stay in the Territory long enough to take those depositions; that he might possibly stay until Friday night, the 5th of January. Now it appears that there was no testimony taken on Friday, but that the testimony was taken on a subsequent day.

Mr. WILSON. I would inquire of the gentleman whether the note to which he alludes, stating that the chief justice could not be in the Territory on a certain day, is evidence to be received by the committee or by anybody else?

Mr. DAWES. Perhaps not generally; but where you want to ascertain a man's residence the law says the best evidence is his own declarations. That is what I am after now. I want to know whether Justice Bliss resided in that Territory; and inasmuch as a man's residence does not depend upon his location merely but on that coupled with his intention, and his intentions can only be ascertained by his declarations accom-

panying his acts, the books of evidence have admitted those declarations as evidence. Besides, the note was used by both parties before the committee without objection.

Mr. WILSON. I desire to make a suggestion.

Mr. DAWES. I cannot yield.

Mr. BROWN, of Wisconsin. I ask the gentleman from Massachusetts if he intends to have a vote to-night.

Mr. DAWES. I did intend to have if I live through this operation. [Laughter.] I was about to remark, Mr. Speaker—

Mr. BROWN, of Wisconsin. We cannot hear a word the gentleman from Massachusetts says on this side of the House.

The SPEAKER. Neither can the Chair.

Mr. ELDRIDGE. The word "operation" has been heard here; and that is the only word heard here for the last half hour. I would like to know what he means in connection with the word "operation."

Mr. UPSON. I hope the gentleman from Massachusetts will read the note to which he refers, so that the House may understand it.

Mr. DAWES. There is no evidence, nor any pretense, that Justice Bliss, or any other man authorized to take this testimony, was present at Yankton on the day it was taken, except the two justices of the peace who officiated. It is claimed by the two gentlemen who made this minority report that Mr. Justice Bliss was authorized to issue a subpoena. He said himself that he was going to leave the Territory on a certain day, which was nearly two weeks before the time fixed for taking testimony. There is not a particle of evidence or a claim that he was there; but, on the contrary, it was admitted that Mr. Justice Bliss was not there when the testimony was actually taken. It was taken on a notice issued by him. The statute provides that all witnesses who shall attend upon subpoena, or shall attend voluntarily at the time and place appointed, of which examination notice shall have been given, shall be examined on oath or affirmation by the magistrate who issued the subpoena, or, in case of his absence, by any other such magistrate as is by law authorized to issue such subpoena.

So that, if Mr. Justice Bliss was not there when the testimony was actually taken on notice issued by him, then it was proper to pick up any of the magistrates designated in the section to take the depositions, and these two justices are so named. That is the fact of the case. And therefore, Mr. Speaker, there is no soundness in the position taken by the gentlemen who join in this minority report, that the testimony was not taken according to law, even if Judge Bliss was a resident, which is against all the evidence. But it does not follow that, if it was not taken in accordance with law, that authorizes the taking of depositions on the part of the sitting Delegate long after the time prescribed by law.

The minority of the committee object to the count of the Pembina vote by this House because it was not received at the office of the secretary of the Territory till after the time fixed by law for the board of canvassers to canvass the votes and declare the result, and was not included therein. This was reason enough for the canvassers but not for this House, which looks after the vote actually cast, not when it was returned. The law fixing the time within which they were to be returned was directory upon the canvassers but not upon this House, which always has and ought to count such votes if they are satisfied that they are genuine. The next objection is that the return itself was not made out in conformity to law, for this reason, as the minority say:

"The return from Kittson county, known as the Pembina vote, and situated wholly within the Indian country, is not a copy of 'the abstract of votes given' in his county," made by the clerk, with the assistance of two justices of the peace, as required by the territorial laws, chapter thirty-two, sections twenty-eight, thirty-one, and thirty-three, but a mere certificate of the clerk."

Now, this is what the law requires the clerk to do:

"On the twentieth day after the close of any election, or sooner, if all the returns be received, the clerk of the board of county commissioners, taking to his assistance two justices of the peace of the county, shall proceed to open said returns and make abstracts of the votes in the following manner: the abstract of the votes for Delegate to Congress shall be on one sheet, the abstract of votes for members of the Legislative Assembly shall be on another sheet," &c.

After having done this he shall do the next

thing, which is required in these words. I read from the statute:

"The clerk of the board of commissioners, immediately after making the abstracts of the votes given in his county, shall make a copy of each said abstracts, and transmit it by mail to the secretary of the Territory at the seat of government."

He "shall make a copy of the abstract"—not that he shall certify that he took to his aid two justices—and "transmit it," that is, the abstract, "by mail." Now, what did he transmit by mail? Here it is:

ST. JOSEPH, DAKOTA TERRITORY.  
OFFICE OF THE REGISTER OF DEEDS,  
September 5, 1862.

At an election held on the 1st day of September, A. D. 1862, in the county of Kittson and Territory of Dakota, being the seventh council and representative district of said Territory, the following persons received the number of votes annexed to their respective names, to wit:

For Delegate to Congress, J. B. S. Todd had 125 votes.  
For Delegate to Congress, William Jayne had 19 votes.  
Certified by me: CHARLES MORNEAU,

Clerk of the Board of County Commissioners.

Now, it is objected that this is no "abstract." What is an abstract of votes? It is the summing up and drawing off the result of several items, that is, the total result of voting of several precincts. But suppose, as is the fact in this case, there is but one precinct, how could you sum it up and draw off a result differing from this actually furnished? If this had only been called an abstract, that is all that would have been necessary, because it is all which would have been possible. But my friends of the minority agreed to a report in the Knox vs. Blair case, just adopted by the House, in which they say that an abstract is not necessary at all. This is the language of that report:

"In the opinion of the committee, all of the polls which were rejected for want of 'an abstract of votes' were erroneously rejected. The abstract is simply a computation or casting up of the votes, not required by law, and, if erroneously done, to be corrected. The name of each voter and the person for whom he voted is given in each case, and the computation left to be made is not only perfectly easy, but is what is being done all the way through this investigation. The committee have therefore taken into the count all polls rejected for this reason."

By this decision of the committee in that case the returns from nine voting places made without an abstract, although the law of Missouri is in this respect precisely like that of Dakota, were nevertheless counted by the committee and the House. I think, therefore, it is altogether too late, both for my friends who signed this minority report and for the House itself, to raise that objection.

The question before the House is then narrowed down to this, and this is the whole of it. Here were before the House yesterday two depositions, both of them taken in this city; both of them taken out of time, after the time had expired for taking depositions. They were taken before a magistrate in this city, both of them. But they were taken in two different cases. They were both printed, and were both before the House. The House refused to permit one of them to be used because it was taken out of time, and decided the case without allowing it to be read. And now the House is asked in this, the very next case, to reverse the rule and to permit this other deposition to be read and considered. If it were right to exclude it in one case, it is not right to read it in the other. That which was right an hour ago cannot under the same circumstances be wrong now.

I submit it to my friend from Pennsylvania, [Mr. SCOFIELD], who I know does not mean to do wrong in this matter, and I ask him to explain the reason why the House should shut its eyes and ears to the one and open them to the other.

Mr. SCOFIELD. Mr. Speaker, in the case of Mr. Blair the deposition was taken this winter about an election occurring in the State of Missouri a year and a half ago, giving the party on the other side no opportunity to be heard or to make any contradictory reply. In the case before us, the deposition taken by Mr. Jayne was taken a year ago last March, on the 10th day of March, 1863. General Todd had all of last spring, all of last summer, fall, and winter, as well as of this spring, to bring witnesses from that Territory for the purpose of disproving this affidavit.

Now one thing further, if the gentleman will allow me. The vote itself from this St. Jo.

precinct could not and did not arrive at the seat of government of the Territory within the sixty days prescribed by law, and Mr. Jayne therefore had no opportunity to avail himself of his rights under the law. And I desire to say furthermore, that a majority of the committee waived the matter of time in respect to General Todd giving his notice of the contest of the election before the vote was declared. They waived that, and yet they insist on the sixty days' limitation in respect to this vote at St. Jo., which had not reached the seat of government at the expiration of sixty days.

Now, sir, in respect to the officers before whom these depositions of the sitting member were taken, they gave notice to Judge Bliss of their intention to take them before him. Judge Bliss was there and said he would take them. Then they said they wanted to take them before Judge Williams. Judge Williams said he would not be there to take them all, but would take as many as he could; and they then went off and took them before two justices of the peace. The majority of the committee waived that irregularity, they waived the irregularity of the notice, and yet when they come to this fraud, which the gentleman from Massachusetts is too honest to swallow—I want the gentleman from Massachusetts to hear this—I say which the gentleman was too honest to swallow, in respect to these 44 votes, when he knows that there was only one man who voted legally, they exclude the proof of that upon these technicalities alone.

Mr. DAWES resumed the floor.

Mr. TODD. I ask the gentleman to yield to me for a moment.

Mr. DAWES. I cannot yield any further. If I understand my friend from Pennsylvania correctly, while he admits that both of these depositions were taken precisely alike without any authority of law, he justifies the conclusion to depart from the rule adopted in one case in the other because the deposition was taken earlier and left an opportunity for Mr. Todd to bring witnesses to controvert it. He omits to state to the House what every lawyer who has been a judge knows, that Mr. Todd had no power to bring a witness here. The authority of the law over the case had expired. He had no authority to take a deposition. It must all be voluntary after that. He could not take depositions; he had no power to reward witnesses by raising them to office here for telling their story. Sir, there is no reason I can comprehend, and I think my friend from Pennsylvania in all fairness will admit there is none, why the committee should have departed in one case from the rule laid down by the House to them in the other. He says that the committee departed from the rule themselves in overlooking the technicality of Mr. Todd giving notice of the contest before the certificate had been given to Mr. Jayne.

Mr. SCHENCK. If the gentleman will allow me I will make a proposition which I think will make a satisfactory adjustment of this question.

Mr. DAWES. I beg the gentleman's pardon. I decline to yield, and I might as well decline going on any further in this case. I have been struggling since yesterday morning to discharge my duty, knowing as well as anybody that it was a disagreeable one; but I find that I cannot have the attention of the House, and I am almost disposed to abandon the whole thing. It is impossible to speak to the House when nobody is disposed to listen. I am sure I do not want gentlemen to listen on my account, for I have ceased to have any further interest in this matter than my duty compels me to take.

Mr. Speaker, the gentleman has introduced a minority report, in which he says he will not controvert the position of the majority in declaring that the defect in the notice had been waived.

The gentleman had notice. The minority of the committee say that they do not controvert the proposition of the majority of the committee in pronouncing all defects in that notice waived. The committee say that, inasmuch as the notice was served before the time—after the time Mr. Jayne answered it without taking objection to it—he thereby waived any defect, and the minority say they do not controvert that point.

Mr. SCHENCK. Mr. Speaker, would it be in order to move an amendment repealing the act organizing the Territory of Dakota?

Mr. DAWES. The gentleman has not the floor to make that amendment.

The SPEAKER. It would not be in order if the gentleman had the floor.

Mr. DAWES. After admitting that the majority report was correct in that respect, it is now too late to object; and he cannot admit a deposition in one case that he refused to admit in another.

Mr. SCOFIELD rose.

Mr. DAWES. I decline to yield further. I want to conclude what I have to say as speedily as possible. I hope this will be received in good temper—I am in good temper myself.

I submit, Mr. Speaker, that there is no reason for making a distinction between the two cases. If we do we are submitting ourselves to the criticism which I have suggested. Whoever is disposed to criticize the action of the House in the last case will say then that you refused to open your ears and listen to a deposition in order that you might turn one man out, and that in the next breath you declared you would have a like deposition admitted to keep another man in. Will you admit a deposition taken in this case out of time, when you refused in the previous case to do the same thing? I do not think any gentleman intends to do wrong; I do not think any gentleman is desirous of doing that which he thinks is wrong; but I submit that we are in danger of putting ourselves in that attitude.

The committee have supposed that the decisions of the House from year to year constituted a code of laws by which they were to be guided. What sort of a code would we have by such contradictory action as this?

Mr. Speaker, I ask the attention of the House for a few moments to the character of this deposition. It is claimed as proof that there were 125 fraudulent votes cast for Todd. Let me ask the House to look to the inside of that deposition. Although it is contrary to ordinary proceeding in law, yet I am compelled by the course taken by the minority, who have read portions of the deposition to the House, to quote other portions of it. This deponent undertakes to show that there were not six legal voters in that precinct. Hear what he says:

"Question 5. How many white male persons of twenty-one years of age residing at Pembina were born within the limits of the United States?"

"Answer. Well, sir, besides myself, I do not believe that there are more than one.

"Question 6. How many white male persons of twenty-one years of age residing at St. Joseph were born within the limits of the United States?"

"Answer. To the best of my knowledge there are but two there who were born within the limits of the United States."

How does he know that?

"Question 7. How many foreign-born residents of either of these places were naturalized citizens, or had filed their declarations to become naturalized citizens, at the time of the election on the 1st of September, 1862?"

"Answer. I know that there is one naturalized citizen in Pembina, for I have seen his papers; and there are two residents of St. Joseph that I suppose are naturalized citizens, from the fact that they have held offices under the United States Government. And further than this I have no knowledge on the subject."

"And further than this I have no knowledge on the subject." Yet my friend is convinced there were only six men there! This man confesses that this contrivance was carried out at his suggestion, and it is proposed here to adopt the deposition of a *particeps criminis*. Now there is no rule of law plainer than that a man shall not be convicted of stealing even a hen upon the uncorroborated testimony of a *particeps criminis*. The testimony of the man who is guilty of the crime or offense with which another is charged is never taken in a court of justice unless it is supported by other testimony; and I submit to the House whether it is worth while for them to depart from a rule established by themselves in the last case, for no other fruit thereof than to admit here and to decide a case upon the uncorroborated testimony of the man who did it himself, and the man who confesses he enjoyed the fruit of it himself, as long as there was any fruit of it to enjoy, to wit, a seat in the Legislature on these votes alone, and who never disclosed the fact that there was a fraud—if there was any fraud—until there was held up to him the prospect of a reward in the shape of an office after the disclosure. I put these facts before the House because I know the House is disposed to decide this case

as it ought to be decided. I submit that if they adopt the amendment proposed by the gentleman from Pennsylvania, [Mr. BROOMALL,] to declare that Todd is not entitled to his seat, they do it upon the testimony of the man who committed the fraud—testimony taken without the law and against the law—and when they have just decided in another case that they would not touch any testimony so taken, and testimony, too, of a confessed *particeps criminis*, with the reward for his story in his mouth while he testifies.

Now, notwithstanding the suggestion of my friend from Michigan, [Mr. URSON,] that there is corroborative testimony, I submit to this House that there is not a word of corroborative testimony; and what he relies upon as cumulative, I beg leave to refer to. That is the census taken fourteen months previously, in which two things are shown: the lie is in the first place given to this deposition of Buckman, for that census could not have been true and this deposition also; because he says there were but six men there, while the census says there forty odd, and this same man Buckman made the report of that fact to the Legislature. And yet he comes here and swears that there were only six. That was fourteen months before. And I submit that in a new Territory the addition of a hundred voters in a place is no remarkable thing.

Whether it be so or not, I wish to submit to this House that they should seek to be consistent. Try a case on the record—and only on the record—made up for trial, and give no occasion for the charge of inconsistency, merely to carry out a prejudice of the members. I do not believe the members of the House are actuated by any such feeling, and I do not desire that any such slander shall be brought upon this House, or that any course they shall take shall subject them to any such accusation as that, because I believe it will be false.

The result of the examination is, all the committee agreeing, that the majority for Jayne was fraudulent, and that he is not entitled to his seat, and, all the committee but two agreeing, that Todd is entitled to his seat. Two of the committee say he is not entitled to his seat because they insist that this deposition to which I have called the attention of the House ought to be read and considered by the House, and ought to be taken as true, when it is shown that it was taken without law, against law, against the very precedent of the House made an hour before this case was taken up. And besides all that, it is a deposition of a party guilty himself, and who held his tongue so long as he could enjoy the fruit of his silence, and only opened his mouth that, immediately after he uttered this deposition, there should be dropped into it a plum.

I now leave the matter entirely with the House. Mr. SLOAN. I wish to ask the gentleman from Massachusetts which of these two men got most of the legal votes which were cast in that Territory?

Mr. DAWES. I would answer the question with pleasure if there were no objection. I merely desire that the House may adopt such a course of action in these election cases as that the Committee of Elections may know precisely what the House does intend and may be guided by it. It is utterly impossible for me or for the committee to understand how we are to act in future cases if, in consulting the record, we find that in one case we are to admit testimony taken outside of the time prescribed in the law, and in another case to reject it. Are we to understand it that the rule is to operate alternately—that in the one case we are to act on the rule of rejecting such testimony, and in the next case not to act on it, and so change alternately? That is a rule which is absurd in itself, and I trust the House will not be guilty of any such absurdity.

The first question was on the amendment offered by Mr. BROOMALL—that the election in the Territory of Dakota for Delegate was attended with so much illegality and fraud that neither William Jayne nor J. B. S. Todd is entitled to a seat in the House as such Delegate, and that the seat of the Delegate of such Territory is declared vacant.

Mr. GANSON called for the yeas and nays on the amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in

the negative—yeas 57, nays 66, not voting 58; as follows:

**YEAS**—Messrs. Allison, Ames, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Boyd, Brandegee, Ambrose W. Clark, Cole, Thomas T. Davis, Driggs, Eckley, Fenton, Frank, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Jenckes, Kelley, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Loan, Longyear, Marvin, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Charles O'Neill, Orth, Patterson, Perham, Pike, Price, John H. Rice, Schenck, Scofield, Shannon, Sloan, Spaulding, Starr, Stevens, Thayer, Tracy, Upson, Williams, Wilder, Wilson, and Windom—57.

**NAYS**—Messrs. James C. Allen, William J. Allen, Al-ley, Anderson, Baily, Augustus C. Baldwin, Blair, Bliss, Boutwell, Brooks, James S. Brown, Chanler, Cobb, Coffroth, Cox, Dawes, Dawson, Eden, Edgerton, Eldridge, Finck, Ganson, Gooch, Grider, Griswold, Harding, Harrington, Charles M. Harris, Herrick, Holman, Ingersoll, William Johnson, Kalbfleisch, King, Knapp, Law, Lazear, Le Blond, Long, Mallory, Marcy, McClurg, McDowell, James R. Morris, Morrison, Noble, Pendleton, Samuel J. Randall, Robinson, Smith, Smithers, John B. Steele, William G. Steele, Stiles, Stuart, Sweet, Thomas, Wadsworth, Ward, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Winfield, and Fernando Wood—66.

**NOT VOTING**—Messrs. Ancona, Arnold, Blow, Broomall, William G. Brown, Freeman Clarke, Clay, Cravens, Creswell, Henry Winter Davis, Deming, Denison, Donnelly, Dumont, Eliot, English, Farnsworth, Garfield, Grinnell, Hale, Hall, Benjamin G. Harris, Hubbard, Hutchins, Philip Johnson, Julian, Kasson, Kernan, McAllister, McBride, McIndoe, McKinney, Middleton, William H. Miller, Nelson, Norton, Odell, John O'Neill, Perry, Pomeroy, Pruy, Radford, William H. Randall, Alexander H. Rice, Rogers, Edward H. Rollins, James S. Rollins, Ross, Scott, Stebbins, Strouse, Van Valkenburgh, Voorhees, Elihu B. Washburne, William B. Washburn, Benjamin Wood, Woodbridge, and Yeaman—58.

So the amendment was rejected.

During the roll-call,

Mr. NORTON stated that he had paired off with his colleague, Mr. FARNSWORTH. He (Mr. Norton) would have voted for the amendment, and his colleague would have voted against it.

Mr. SMITH moved to reconsider the vote by which the amendment was rejected; and also moved to lay the motion to reconsider on the table.

Mr. SPALDING. I call for the yeas and nays on the motion to lay on the table.

Mr. DAWES. I hope the gentleman from Kentucky will withdraw the motion, and let the House take the vote on the resolutions.

Mr. SMITH. I withdraw the motion to reconsider.

Mr. THAYER. I move that the House do now adjourn.

The motion was rejected.

The question next recurred on the first resolution reported by the Committee of Elections—that William Jayne is not entitled to a seat in this House as a Delegate from the Territory of Dakota in the Thirty-Eighth Congress.

Mr. SCOFIELD. I move to lay the whole subject on the table.

Mr. DAWES. I hope the gentleman will recollect that the success of that motion would give the seat to Jayne, who, the gentleman himself admits, is not entitled to it.

Mr. SCOFIELD. It is proper for me to say that I did not design such a result.

The SPEAKER. That would be the result. Mr. SCOFIELD. I withdraw the motion.

Mr. SCHENCK. I renew it. Jayne is bad enough, but he is better than the other. I demand the yeas and nays on the motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 16, nays 95, not voting 70; as follows:

**YEAS**—Messrs. Ashley, Cole, Driggs, Eckley, Frank, Higby, Hotchkiss, Asahel W. Hubbard, Amos Myers, Patterson, Schenck, Shannon, Sloan, Spaulding, Starr, and Williams—16.

**NAYS**—Messrs. James C. Allen, William J. Allen, Al-ley, Anderson, Baily, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Blair, Bliss, Boutwell, Boyd, Brandegee, Brooks, James S. Brown, Chanler, Cobb, Coffroth, Cox, Cravens, Thomas T. Davis, Dawes, Dawson, Dixon, Eden, Edgerton, Eldridge, Eliot, Finck, Ganson, Gooch, Grider, Griswold, Harding, Harrington, Charles M. Harris, Herrick, Holman, John H. Hubbard, Ingersoll, Jenckes, William Johnson, Julian, Kalbfleisch, Kelley, King, Knapp, Law, Lazear, Le Blond, Littlejohn, Long, Longyear, Mallory, Marcy, Marvin, McClurg, McDowell, McIndoe, Daniel Morris, James R. Morris, Morrison, Leonard Myers, Noble, Charles O'Neill, Pendleton, Perham, Pike, Price, Samuel J. Randall, John H. Rice, Robinson, Smith, Smithers, John B. Steele, William G. Steele, Stiles, Stuart, Sweet, Thayer, Thomas, Tracy, Wadsworth, Ward, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Wilder, Wilson, Windom, and Fernando Wood—95.

**NOT VOTING**—Messrs. Alley, Ames, Ancona, Arnold, Blow, Broomall, William G. Brown, Ambrose W. Clark,

Freeman Clarke, Clay, Creswell, Henry Winter Davis, Deming, Denison, Donnelly, Dumont, English, Farnsworth, Fenton, Garfield, Grinnell, Hale, Hall, Benjamin G. Harris, Hooper, Hubbard, Hutchins, Philip Johnson, Kasson, Francis W. Kellogg, Orlando Kellogg, Kernan, Loan, McAllister, McBride, McKinney, Middleton, Samuel F. Miller, William H. Miller, Moorhead, Morrill, Nelson, Norton, Odell, John O'Neill, Orth, Perry, Pomeroy, Pruy, Radford, William H. Randall, Alexander H. Rice, Rogers, Edward H. Rollins, James S. Rollins, Ross, Scofield, Scott, Stebbins, Stevens, Strouse, Upson, Van Valkenburgh, Voorhees, Elihu B. Washburne, William B. Washburn, Winfield, Benjamin Wood, Woodbridge, and Yeaman—70.

During the roll-call, Mr. STEVENS stated that he was paired off with Mr. WINFIELD.

#### MESSAGE FROM THE SENATE.

A message from the Senate was received by Mr. HICKEY, their Chief Clerk, notifying the House that the Senate have agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 198) making appropriations for the support of the Army for the year ending June 30, 1865.

#### WAR NEWS.

The SPEAKER, by unanimous consent, laid before the House the following dispatch from the Secretary of War:

WAR DEPARTMENT,  
WASHINGTON, June 11, 1864, 2 p. m.

SIR: Official reports from the headquarters of the army of the Potomac down to five o'clock yesterday evening detail no movements of importance.

A dispatch from General Sherman, dated yesterday, states that our cavalry yesterday (Thursday, 9th) developed the position of the enemy in a line along the hills from Keneas to Lost Mountain, and we are now marching by the roads toward Keneasaw.

A dispatch from General Butler, dated this morning at one o'clock, reports "all quiet along our lines. Yesterday General Kautz charged the enemy's works at Petersburg and carried them, penetrating the town, but not being supported by General Gillmore, who had withdrawn his forces without a conflict. General Kautz was obliged to withdraw without further effect. General Kautz captured forty prisoners and one piece of artillery which he brought away with him."

A dispatch from General Canby, dated Vicksburg, June 4, states that "General Emory reports that an attempt by Taylor's force to cross the Atchafalaya had been frustrated, the troops that had crossed dispersed, and a large quantity of commissary stores and clothing captured."

General Burbridge, commanding in Kentucky, in a dispatch dated yesterday, at Lexington, reports that, "after concentrating a force at the mouth of Beaver creek, on Big Sandy, I moved against Morgan's force in Virginia, west as far as Gladestown. Morgan, with twenty-five hundred men, moved into Kentucky via Whitesburg. I pursued, and by marching ninety miles in twenty-four hours, came upon him at Mount Sterling yesterday morning and defeated him. By stealing fresh horses, he reached Lexington at two o'clock this a. m. Our forces held the fort, and the rebels did but little damage. He left here at seven a. m. for Versailles. I start in pursuit with a fresh force this evening."

No official report has yet been received from General Hunter.

Your obedient servant,  
EDWIN M. STANTON,  
Secretary of War.

Hon. SCHUYLER COLFAX, Speaker House of Representatives.

Mr. SPALDING. I move that the House adjourn.

#### ARMY APPROPRIATION BILL.

Mr. STEVENS. I ask the gentleman to withdraw his motion to adjourn to enable me to make a report from a committee of conference.

Mr. SPALDING. I will withdraw the motion.

Mr. DAWES. I submit whether it is in order to interfere with the business before the House by a report of a committee of conference.

The SPEAKER. The report of a committee of conference is a question of very high privilege, one which will even interrupt the speech of a member; but the Chair doubts whether, after the previous question has been seconded and the main question ordered on a question of privilege affecting the right of a member to his seat, it can be entertained except by unanimous consent. The Chair has not examined the authorities, but he thinks the report of the committee of conference cannot interrupt the business before the House.

Mr. STEVENS. Very well; if the gentleman objects, I have nothing to say.

Mr. DAWES. I object at this moment. We shall dispose of this contested-election matter in a very few minutes.

Mr. SLOAN. I move that the House do now adjourn.

Mr. ASHLEY called for the yeas and nays on the motion.

The yeas and nays were ordered—ayes 23, noes 75.

Mr. COX. I call for tellers on the yeas and nays. I want to stop this filibustering. [Laughter.]

The SPEAKER. One fifth the members have voted for the yeas and nays, and have the right under the Constitution to order the yeas and nays. The Chair therefore decides that the call for tellers is not in order.

The question was taken on Mr. SLOAN's motion; and it was decided in the negative—yeas 40, nays 71, not voting 70; as follows:

**YEAS**—Messrs. Beaman, Brandegee, Ambrose W. Clark, Cole, Dixon, Driggs, Eckley, Eliot, Frank, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubbard, Julian, Kelley, Francis W. Kellogg, Littlejohn, Longyear, McClure, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Charles O'Neill, Patterson, Alexander H. Rice, Schenck, Scofield, Shannon, Sloan, Spaulding, Starr, Thayer, Tracy, Upson, Williams, Wilder, and Windom—40.

**NAYS**—Messrs. James C. Allen, William J. Allen, Al-ley, Allison, Anderson, Baily, Augustus C. Baldwin, John D. Baldwin, Baxter, Blair, Bliss, Boutwell, Brooks, James S. Brown, Chanler, Cobb, Coffroth, Cox, Thomas T. Davis, Dawes, Dawson, Eden, Edgerton, Eldridge, Finck, Ganson, Gooch, Grider, Griswold, Harrington, Charles M. Harris, Herrick, Holman, Ingersoll, Jenckes, William Johnson, Kalbfleisch, King, Knapp, Law, Lazear, Le Blond, Long, Mallory, Marcy, Marvin, McDowell, James R. Morris, Morrison, Noble, Perham, Pike, Samuel J. Randall, John H. Rice, Robinson, Ross, Scott, Stebbins, Strouse, Van Valkenburgh, Voorhees, Elihu B. Washburne, William B. Washburn, Winfield, Benjamin Wood, Woodbridge, and Yeaman—71.

**NOT VOTING**—Messrs. Ames, Ancona, Arnold, Ashley, Blaine, Blow, Boyd, Broomall, William G. Brown, Freeman Clarke, Clay, Cravens, Creswell, Henry Winter Davis, Deming, Denison, Donnelly, Dumont, English, Farnsworth, Fenton, Garfield, Grinnell, Hale, Hall, Harding, Benjamin G. Harris, Higby, Hooper, Hutchins, Philip Johnson, Kasson, Orlando Kellogg, Kernan, Loan, McAllister, McBride, McIndoe, McKinney, Middleton, William H. Miller, Nelson, Norton, Odell, John O'Neill, Orth, Pendleton, Perry, Pomeroy, Price, Pruy, Radford, William H. Randall, Rogers, Edward H. Rollins, James S. Rollins, Scott, Stebbins, William G. Steele, Stevens, Strouse, Van Valkenburgh, Voorhees, Elihu B. Washburne, William B. Washburn, Wilson, Winfield, Benjamin Wood, Woodbridge, and Yeaman—70.

So the House refused to adjourn.

#### DAKOTA CONTESTED ELECTION—AGAIN.

The SPEAKER stated the pending question to be on the adoption of the first resolution reported by the Committee of Elections.

Mr. HUBBARD, of Iowa. I move to lay that resolution on the table, and upon that motion I demand the yeas and nays.

The yeas and nays were not ordered.

Mr. SLOAN. I move that when the House adjourn it be to meet on Monday next.

Mr. MORRIS, of Ohio. Is it in order to amend that motion so as to adjourn *sine die* on Monday next?

The SPEAKER. It is not in order.

Upon Mr. SLOAN's motion 11 voted in the affirmative and 65 in the negative; no quorum.

Mr. SPALDING. I move that the House do now adjourn.

The SPEAKER. The motion is in order, but the motion to fix the day of adjournment takes precedence. No quorum having voted, the Chair orders tellers, and appoints Mr. SLOAN and Mr. W. J. ALLEN.

The House divided; and the tellers reported—ayes 3, noes 67; no quorum voting.

The question recurred on the motion to adjourn.

Mr. HOTCHKISS called for the yeas and nays on the motion.

Mr. HUBBARD, of Iowa, called for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The motion to adjourn was disagreed to—ayes 30, noes 76.

The question recurred on the motion that when the House adjourns it adjourn to meet on Tuesday next.

Mr. SLOAN moved that there be a call of the House.

The SPEAKER. The previous question having been ordered, and no quorum having voted, under the 132d rule the Chair will count the House, to ascertain whether a quorum is present.

The SPEAKER proceeded to count the House, and announced that 118 members (a quorum) were present; and the motion that there be a call of the House was therefore not in order.

Mr. MALLORY. Is it in order when the Speaker is counting the House for members to



withdraw into the coat-room to prevent being counted?

The SPEAKER. It is not in order, but the Chair has no power to prevent it. The Chair has no control over the actions of members.

Mr. ELDRIDGE. I desire to ask the Chair whether, under the rule recently adopted, the names of the members not voting are published in the Globe.

The SPEAKER. When the vote is taken by yeas and nays the names of members not voting are published in the Journal as directed by the House, and the Chair understands they are published in the Globe.

The question recurred on the motion that when the House adjourns it adjourn to meet on Tuesday next.

The House divided; and there were—ayes 5, noes 89.

So the motion was disagreed to.

The question then recurred on the motion to lay the first resolution on the table.

Mr. ASHLEY moved that the House adjourn.

Mr. ELDRIDGE demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 25, nays 71, not voting 85; as follows:

YEAS—Messrs. Ambrose W. Clark, Cole, Dixon, Driggs, Eliot, Frank, Hooper, Jewkes, Julian, Kelley, Littlejohn, Loan, Longyear, McClurg, Samuel F. Miller, Moorhead, Daniel Morris, Amos Myers, Leonard Myers, Alexander H. Rice, Schenck, Spalding, Tracy, Upson, and Williams—25.

NAYS—Messrs. James C. Allen, William J. Allen, Alley, Allison, Ames, Anderson, Bailly, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blair, Bliss, Boutwell, Boyd, James S. Brown, Chanler, Coffroth, Cox, Thomas T. Davis, Dawes, Dawson, Eden, Edgerton, Eldridge, Finck, Gooch, Grider, Harding, Harrington, Charles M. Harris, Holman, Ingersoll, William Johnson, Kalbfleisch, King, Knapp, Law, Le Blond, Long, Mallory, Marcy, McDowell, McKimney, Morrison, Noble, Pendleton, Perham, Price, Samuel J. Randall, John H. Rice, Robinson, Ross, Smith, Smithers, John B. Steele, William G. Steele, Stiles, Stuart, Sweet, Thayer, Thomas, Wadsworth, Ward, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Windom, and Fernando Wood—71.

NOT VOTING—Messrs. Ancona, Arnold, Ashley, Blaine, Blow, Brandegee, Brooks, Broomall, William G. Brown, Freeman Clarke, Clay, Cobb, Cravens, Creswell, Henry Winter Davis, Deming, Denison, Donnelly, Dumont, Eckley, English, Farnsworth, Fenton, Ganson, Garfield, Grinnell, Griswold, Hale, Hall, Benjamin G. Harris, Herrick, Higby, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Hutchins, Philip Johnson, Kasson, Francis W. Kellogg, Orlando Kellogg, Kernan, Lazear, Marvin, McAllister, McBride, Melndoe, Middleton, William H. Miller, Morrill, James R. Morris, Nelson, Norton, Odell, Charles O'Neill, John O'Neill, Orth, Patterson, Perry, Pike, Pomeroy, Pruyn, Radford, William H. Randall, Rogers, Edward H. Rollins, James S. Rollins, Scofield, Scott, Shannon, Sloan, Starr, Stebbins, Stevens, Strouse, Van Valkenburgh, Voorhees, Elihu B. Washburne, William B. Washburne, Wilder, Wilson, Winfield, Benjamin Wood, Woodbridge, and Yeaman—85.

So the House refused to adjourn.

During the vote, Mr. HUBBARD, of Iowa, stated that his colleague, Mr. WILSON, was paired with Mr. LAZEAR.

Mr. PENDLETON moved that the reading of the names be dispensed with.

Mr. ASHLEY objected.

Mr. WADSWORTH stated that he had met Mr. FENTON going out, who told him that he was on his way to see a sick soldier, and that he did not think the business was important enough to induce him to remain. [Laughter.]

The vote was then announced as above recorded.

Mr. ASHLEY moved that the House take a recess until nine o'clock, and on that motion demanded the yeas and nays.

Mr. COX. What is the object of the recess?

The SPEAKER. Debate is not in order, except by unanimous consent.

Mr. PENDLETON. I object.

The House was divided; and there were—ayes 11, noes 67.

So the yeas and nays were not ordered; one fifth not voting in favor thereof.

Mr. ASHLEY demanded tellers.

Tellers were not ordered.

The motion was rejected.

Mr. ASHLEY moved that the House adjourn. The House was divided; and there were—ayes 34, noes 64.

Mr. ASHLEY demanded the yeas and nays. The yeas and nays were not ordered.

So the House refused to adjourn.

Mr. HUBBARD, of Iowa, moved that the House take a recess until half past seven o'clock.

Mr. SLOAN demanded the yeas and nays, and tellers on the yeas and nays.

Tellers were not ordered, and the yeas and nays were not ordered.

The motion was rejected.

Mr. SCHENCK. I rise to a question of order, that the Speaker cannot count, in a division of the House, members who raise their hands and do not stand.

The SPEAKER. The Chair overrules the point of order.

Mr. SCHENCK. It is not according to the rule of the House.

The SPEAKER. It is according to the usage.

Mr. SCHENCK. Have the rule read.

The SPEAKER. State the number of the rule and the Chair will have it read.

Mr. KALBFLEISCH. If the Speaker has a copy of the rules let the gentleman from Ohio have it to study to-morrow. [Laughter.]

Mr. SCHENCK. If the gentleman will talk in the English language I will understand him. [Renewed laughter.]

The question recurred on the motion to lay the first resolution on the table.

The House was divided; and there were—ayes 15, noes 60; no quorum voting.

The SPEAKER ordered tellers.

Mr. SPALDING moved that the House adjourn.

Mr. PENDLETON. I would like to know whether the motion to lay the first resolution on the table is not to be first put?

The SPEAKER. It is.

Mr. PENDLETON. Does it carry the other resolution to the table with it?

The SPEAKER. It does not.

Mr. DAWES. Laying the first resolution on the table confirms Jayne in his seat.

Tellers were ordered; and Mr. HUBBARD, of Iowa, and Mr. RANDALL, of Pennsylvania, were appointed.

The House divided; and the tellers reported—ayes 22, noes 69.

The SPEAKER. The Chair votes in the affirmative, making a quorum; the yeas have it, and the first resolution is not laid on the table.

The question recurring on agreeing to the first resolution,

Mr. SLOAN demanded the yeas and nays.

The yeas and nays were ordered.

The question was put; and there were in the affirmative—yeas 87, nays 1, not voting 93; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Alley, Allison, Ames, Anderson, Bailly, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blair, Bliss, Boutwell, James S. Brown, Chanler, Ambrose W. Clark, Cobb, Coffroth, Cole, Cox, Thomas T. Davis, Dawes, Dawson, Dixon, Eden, Edgerton, Eldridge, Eliot, Finck, Gooch, Grider, Griswold, Harding, Harrington, Charles M. Harris, Herrick, Holman, Hooper, Ingersoll, Jewkes, William Johnson, Kalbfleisch, King, Knapp, Law, Le Blond, Littlejohn, Loan, Long, Mallory, Marcy, Marvin, McDowell, McKimney, Moorhead, Morrill, Daniel Morris, Morrison, Noble, Pendleton, Pike, Price, Samuel J. Randall, Alexander H. Rice, John H. Rice, Robinson, Ross, Schenck, Smith, Smithers, Spalding, John B. Steele, William G. Steele, Stiles, Stuart, Sweet, Thayer, Thomas, Tracy, Wadsworth, Ward, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, and Fernando Wood—87.

NAY—Mr. Asahel W. Hubbard—1.

NOT VOTING—Messrs. Ancona, Arnold, Ashley, Blaine, Blow, Brandegee, Brooks, Broomall, William G. Brown, Freeman Clarke, Clay, Cravens, Creswell, Henry Winter Davis, Deming, Denison, Donnelly, Driggs, Dumont, Eckley, English, Farnsworth, Fenton, Frank, Ganson, Garfield, Grinnell, Hale, Hall, Benjamin G. Harris, Herrick, Higby, Hotchkiss, John H. Hubbard, Hulburd, Hutchins, Philip Johnson, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, Lazear, Longyear, McAllister, McBride, McClurg, Melndoe, Middleton, Samuel F. Miller, William H. Miller, James R. Morris, Amos Myers, Leonard Myers, Nelson, Norton, Odell, Charles O'Neill, John O'Neill, Orth, Patterson, Perham, Perry, Pomeroy, Pruyn, Radford, William H. Randall, Rogers, Edward H. Rollins, James S. Rollins, Scofield, Scott, Shannon, Sloan, Starr, Stebbins, Stevens, Strouse, Thayer, Upson, Van Valkenburgh, Voorhees, Elihu B. Washburne, William B. Washburne, Wilder, Wilson, Winfield, Benjamin Wood, Woodbridge, and Yeaman—83.

No quorum voted.

During the roll-call, Mr. ASHLEY stated that he had paired off with Mr. CRAVENS.

Mr. BAILY stated that Mr. LAZEAR had paired off with Mr. WILSON on this question.

Mr. ELDRIDGE. I move that the names of

members sitting in their seats and not voting be read over.

The SPEAKER. The gentleman can reserve the names of such members until the question is decided, and they can then be made the subject of a resolution.

Mr. ELDRIDGE. I move such a resolution.

The SPEAKER. It is not in order at this time, nor would it be at any time unless the gentleman specifies the names.

Mr. COX. I would suggest that a large number of members are in the cloak room.

Mr. ELDRIDGE. Will the Clerk give me the names?

The SPEAKER. The officers at the desk do not take any note of the members present and not voting.

Mr. KALBFLEISCH. Is it in order to read the names of the absentees?

The SPEAKER. It is not.

Mr. PENDLETON. I move a call of the House.

The SPEAKER counted the House, and ascertaining that no quorum was present, entertained the motion for a call of the House.

The motion was agreed to.

The roll was called, and the following members failed to answer to their names:

Messrs. Ancona, Arnold, Blaine, Bliss, Blow, Brandegee, Brooks, Broomall, William G. Brown, Freeman Clarke, Clay, Cravens, Creswell, Henry Winter Davis, Deming, Denison, Donnelly, Dumont, Eckley, English, Farnsworth, Fenton, Ganson, Garfield, Grinnell, Hale, Hall, Harding, Benjamin G. Harris, Herrick, Higby, Hooper, John H. Hubbard, Hulburd, Hutchins, Ingersoll, Philip Johnson, Kasson, Francis W. Kellogg, Orlando Kellogg, Kernan, Lazear, McAllister, McBride, Melndoe, Middleton, William H. Miller, James R. Morris, Nelson, Odell, Charles O'Neill, John O'Neill, Orth, Perry, Pomeroy, Pruyn, Radford, William H. Randall, Rogers, Edward H. Rollins, James S. Rollins, Scofield, Scott, Shannon, Sloan, Stebbins, Stevens, Strouse, Van Valkenburgh, Voorhees, Elihu B. Washburne, William B. Washburne, Wilder, Wilson, Winfield, Benjamin Wood, Woodbridge, and Yeaman.

A quorum having answered to their names, Mr. PENDLETON moved that all further proceedings under the call be dispensed with.

The motion was agreed to.

The question was again put on agreeing to the first resolution; and it was decided in the affirmative—yeas 91, nays 1, not voting 89; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Alley, Allison, Ames, Anderson, Bailly, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blair, Bliss, Boutwell, James S. Brown, Chanler, Ambrose W. Clark, Cobb, Coffroth, Cole, Cox, Thomas T. Davis, Dawes, Dawson, Dixon, Eden, Edgerton, Eldridge, Eliot, Finck, Gooch, Grider, Griswold, Harding, Harrington, Charles M. Harris, Holman, Hotchkiss, Ingersoll, Jewkes, William Johnson, Julian, Kalbfleisch, Kelley, King, Knapp, Law, Le Blond, Littlejohn, Loan, Long, Mallory, Marcy, Marvin, McDowell, McKimney, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Morrison, Leonard Myers, Noble, Pendleton, Perham, Pike, Price, Samuel J. Randall, Alexander H. Rice, John H. Rice, Robinson, Ross, Smith, Smithers, Starr, John B. Steele, William G. Steele, Stiles, Stuart, Sweet, Thomas, Tracy, Wadsworth, Ward, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Williams, and Fernando Wood—91.

NAY—Mr. Ashley—1.

NOT VOTING—Messrs. Ancona, Arnold, Blaine, Blow, Boyd, Brandegee, Brooks, Broomall, William G. Brown, Freeman Clarke, Clay, Cravens, Creswell, Henry Winter Davis, Deming, Denison, Donnelly, Driggs, Dumont, Eckley, English, Farnsworth, Fenton, Frank, Ganson, Garfield, Grinnell, Hale, Hall, Benjamin G. Harris, Herrick, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburd, Hutchins, Philip Johnson, Kasson, Francis W. Kellogg, Orlando Kellogg, Kernan, Lazear, Longyear, McAllister, McBride, McClurg, Melndoe, Middleton, William H. Miller, James R. Morris, Amos Myers, Nelson, Norton, Odell, Charles O'Neill, John O'Neill, Orth, Patterson, Perry, Pomeroy, Pruyn, Radford, William H. Randall, Rogers, Edward H. Rollins, James S. Rollins, Schenck, Scofield, Scott, Shannon, Sloan, Spalding, Stebbins, Stevens, Strouse, Thayer, Upson, Van Valkenburgh, Voorhees, Elihu B. Washburne, William B. Washburne, Wilder, Wilson, Winfield, Benjamin Wood, Woodbridge, and Yeaman—89.

So it was decided that William Jayne is not entitled to a seat in this House as Delegate from the Territory of Dakota in the Thirty-Eighth Congress.

Mr. COX moved to reconsider the vote by which the first resolution reported from the Committee of Elections was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The question recurred on the second resolution reported from the Committee of Elections, that J. B. S. Todd is entitled to a seat in this House as a Delegate from the Territory of Dakota in the Thirty-Eighth Congress.

Mr. HUBBARD, of Iowa. I move that the House do now adjourn.

The motion was rejected.

Mr. SMITH called for the yeas and nays on the resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 64, nays 31, not voting 86; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Anderson, Bailly, Augustus C. Baldwin, John D. Baldwin, Blair, Bliss, Boutwell, James S. Brown, Chanler, Cobb, Coffroth, Cox, Dawes, Dawson, Eden, Edgerton, Eldridge, Eliot, Finck, Gooch, Grider, Griswold, Harding, Harrington, Charles M. Harris, Holman, Ingersoll, William Johnston, Kalbelsch, King, Knapp, Law, Le Blond, Long, Mallory, Marcy, Marvin, McDowell, McKinney, Morrison, Noble, Pondleton, Samuel J. Randall, Alexander H. Rice, Robinson, Ross, Smith, Smithers, John B. Steele, William G. Steele, Stiles, Stuart, Sweet, Thomas, Wadsworth, Ward, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, and Fernando Wood—64.

NAYS—Messrs. Allison, Ames, Baxter, Beaman, Ambrose W. Clark, Cole, Thomas T. Davis, Dixon, Frank, Hotchkiss, Asahel W. Hubbard, Jenckes, Kelley, Littlejohn, Longyear, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Patterson, Perham, Pike, Price, John H. Rice, Sloan, Starr, Tracy, Upson, and Williams—31.

NOT VOTING—Messrs. Alley, Ancona, Arnold, Ashley, Blaine, Blow, Boyd, Brandegee, Brooks, Brownall, William G. Brown, Freeman Clarke, Clay, Cravens, Creswell, Henry Winter Davis, Denning, Denison, Donnelly, Driggs, Dumont, Eckley, English, Farnsworth, Fenton, Ganson, Garfield, Grinnell, Hale, Hall, Benjamin G. Harris, Herick, Higby, Hooper, John H. Hubbard, Hulbard, Hutchins, Philip Johnson, Julian, Kasson, Francis W. Kellogg, Orlando Kellogg, Kernan, Lazenby, Loan, McAllister, McBride, McClurg, McIndoe, Middleton, William H. Miller, James R. Morris, Nelson, Norton, Odell, Charles O'Neill, John O'Neill, Orth, Perry, Pomeroy, Pruyn, Radford, William H. Randall, Rogers, Edward H. Rollins, James S. Rollins, Schenck, Scofield, Scott, Shannon, Spalding, Stebbins, Stevens, Strouse, Thayer, Van Valkenburgh, Voorhees, Elihu B. Washburne, William B. Washburn, Wilder, Wilson, Windom, Witfield, Benjamin Wood, Woodbridge, and Yeaman—36.

During the vote,

Mr. MALLORY stated that Mr. HOOPER had been compelled to leave the Hall on account of severe indisposition.

Mr. DAWES moved to reconsider the vote by which the second resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. KNAPP. I ask that Mr. Todd be now sworn in as Delegate from the Territory of Dakota.

Mr. TODD proceeded to the Speaker's desk and took the oath prescribed by the act of July 2, 1862.

And then, on motion of Mr. WHALEY, (at half past six o'clock, p. m.) the House adjourned until Monday next at twelve o'clock m.

## IN SENATE.

MONDAY, June 13, 1864.

Prayer by the Chaplain, Rev. Dr. BOWMAN.

Mr. DOOLITTLE. The record of Saturday is rather long, an appropriation bill having been considered on Saturday; and I move that the reading of the Journal be dispensed with.

The motion was agreed to by unanimous consent.

## EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of May 20, information in relation to the seizure of the silver mine of Sylvester Mowry in Arizona by order of General Carleton; which was ordered to lie on the table and be printed.

He also laid before the Senate the annual report of the Board of Regents of the Smithsonian Institution for the year 1863.

## PETITIONS AND MEMORIALS.

Mr. FESSENDEN presented a memorial of wholesale dealers in glue in the city of New York, remonstrating against the proposed tax of one per cent. on all grades of glue; which was referred to the Committee on Finance.

Mr. MORGAN presented a memorial of importers of peanuts, praying that the duty on peanuts may be fixed at not exceeding one cent per pound; which was referred to the Committee on Finance.

Mr. SUMNER presented the memorial of Henry R. Schoolcraft, praying for an appropri-

ation to enable him to complete his publication relative to the condition and future prospects of the Indians of the United States; which was referred to the Committee on the Library.

He also presented seven petitions of men and women, praying for the abolition of slavery throughout the United States; which were referred to the select committee on slavery and freedmen.

Mr. HARRIS presented a memorial of citizens of the United States, remonstrating against the extension of Goodyear's patent for the manufacture of vulcanized India rubber; which was referred to the Committee on Patents and the Patent Office.

He also presented two petitions of citizens of the United States, praying for the passage of the bill (H. R. No. 276) to secure to persons in the military and naval service of the United States homesteads on confiscated or forfeited estates in insurrectionary districts; which were referred to the Committee on Public Lands.

Mr. FOOT presented a petition of citizens of Shoreham, Vermont, praying for the passage of the bill (H. R. No. 276) to secure to persons in the military and naval service of the United States homesteads on confiscated or forfeited estates in insurrectionary districts; which was referred to the Committee on Public Lands.

Mr. GRIMES presented a petition of Congregational clergymen of Iowa, praying for the establishment of a Bureau of Freedmen; which was ordered to lie on the table.

He also presented a petition of citizens and constables of the District of Columbia and of members of the bar and judges of the supreme court of the District of Columbia, praying for the repeal of the law taking from the county constables the right to execute process requiring the arrest of persons charged with offenses against the laws; which was referred to the Committee on the District of Columbia.

Mr. COLLAMER presented a petition of citizens of Vermont, praying for the passage of the bill (H. R. No. 276) to secure to persons in the military and naval service of the United States homesteads on confiscated or forfeited estates in insurrectionary districts; which was referred to the Committee on Public Lands.

Mr. SPRAGUE presented the petition of Major Morris S. Miller, quartermaster United States Army, praying to be credited in the settlement of his accounts with payments made by him under express orders of the Secretary of War and Adjutant General; which was referred to the Committee on Military Affairs and the Militia.

Mr. SUMNER. I offer the petition of an eminent citizen of New York, well known to the country for his generosity and for his enterprise, Peter Cooper, relating to the present financial condition of our affairs, and calling upon Congress to provide a system of taxation which shall pay the ordinary expenses of the Government and the interest on all money borrowed on the public credit, and also to provide a better system of currency than we now have by superseding any currency furnished by the State banks. The petition is somewhat elaborate, but there are one or two sentences which I will read, with the permission of the Senate, in order to convey more completely his idea. He says:

"Without taxation sufficient to pay interest and ordinary expenses, we may apply the language of Swedenborg and defy the history of the world to show an instance where a nation has been able to legislate a permanent value into a paper-circulating medium."

In a subsequent part of the petition he proceeds to say:

"The assumed power of State Legislatures to authorize local banks to issue bills of credit called dollars in open violation of their constitutional agreement has opened a flood-gate of evil to the country, corrupting the Legislatures and tempting the people into extravagance and prodigality of expenditures in their efforts to live on the borrowed promises of banks instead of their own honest industry. In the opinion of your petitioner, the amount of loss that has fallen upon the community should not fail to receive from the only power authorized by the Constitution 'to coin money and regulate the value thereof' that prompt and decided action so indispensable to the security and welfare of the nation. Great and lasting advantages must result to the business of the country from the adoption by the local banks of one uniform currency secured by the whole property of the States."

I move the reference of this petition to the Committee on Finance.

The motion was agreed to.

## REPORTS FROM COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 511) to provide for the more speedy punishment of guerrillas, and for other purposes, reported it with an amendment.

He also, from the same committee, to whom were referred various memorials and petitions praying for increased facilities for the transportation of mails, passengers, and freight between the cities of New York and Philadelphia, asked to be discharged from their further consideration; which was agreed to.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House had passed the bill (S. No. 293) to empower the Superannuated Fund Society of the Maryland Annual Conference to hold property in the District of Columbia, and to take a devise under the will of the late William Doughty.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 198) making appropriations for the support of the Army for the year ending the 30th of June, 1865.

The message also announced that the House had disagreed to the amendments of the Senate to the amendments of the House to the bill (S. No. 145) to equalize the pay of soldiers in the United States Army, asked a conference on the disagreeing votes of the two Houses thereon, and appointed Mr. R. C. SCHENCK of Ohio, Mr. F. W. KELLOGG of Michigan, and Mr. J. S. ROLLINS of Missouri, managers at the conference on its part.

## BILLS BECOME LAWS.

The message also announced that the President of the United States had approved and signed on the 11th instant the following acts:

An act (H. R. No. 355) to authorize the Secretary of the Treasury to stipulate for the release from attachment or other process of property claimed by the United States, and for other purposes;

An act (H. R. No. 422) to amend an act entitled "An act to confirm certain private land claims in the Territory of New Mexico;" and

An act (H. R. No. 487) to provide for the execution of treaties between the United States and foreign nations respecting consular jurisdiction over the crews of vessels of such foreign nations in the waters and ports of the United States.

A message was received from the President of the United States, by Mr. STODDARD, his Secretary, announcing that, on the 11th instant, he had approved and signed the following acts and joint resolution:

An act (S. No. 28) relating to members of Congress, heads of Departments, and other officers of the Government;

An act (S. No. 42) in relation to the limitation of actions in certain cases;

An act (S. No. 52) to provide for the summary trial of minor offenses against the laws of the United States;

An act (S. No. 256) to change and define the boundaries of the eastern and western judicial districts of Virginia, and to alter the names of said districts, and for other purposes;

An act (S. No. 283) to abolish the collection districts of Port Orford and Cape Perpetua in the State of Oregon; and

A joint resolution (S. No. 60) tendering the thanks of Congress to Lieutenant Colonel Joseph Bailey, of the fourth regiment of Wisconsin volunteers.

## BILLS INTRODUCED.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 306) to grant to the State of California certain lands for State prison purposes; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 307) consenting to an act of the Legislature of Michigan concerning the construction of canals and harbors, and the improvement of the same; which was read twice by its title, and referred to the Committee on Commerce.

## SMITHSONIAN REPORT.

Mr. TRUMBULL submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That five thousand additional copies of the report of the Smithsonian Institution for 1863 be printed, two thousand for the use of the Smithsonian Institution and three thousand for the use of the Senate: *Provided*, That the aggregate number of pages contained in said report shall not exceed four hundred and fifty, without wood-cuts or plates, except those furnished by the Institution; and that the Superintendent of Public Printing be authorized, if consistent with the public service, to allow the Smithsonian Institution to stereotype the report at its own expense, or to otherwise print at its own expense such additional copies as may be desired from the type set in the Government printing establishment.

## ROCK ISLAND.

Mr. TRUMBULL submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be directed to inform the Senate whether the granting of the right of way to the Chicago and Rock Island railroad across the island of Rock Island in the Mississippi river, provided the track of said road should be laid in such manner and upon such line as the Secretary of War should direct, would injuriously affect the use of said island for the purposes contemplated in an act passed at the present session of Congress entitled "An act in addition to an act for the establishment of certain arsenals."

## DISTRIBUTION OF BOOKS.

Mr. WILKINSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 63) repealing the joint resolution of Congress "providing for the distribution of certain public books and documents;" which was read twice by its title.

Mr. WILKINSON. I ask for the consideration of the joint resolution now. The resolution which I propose to repeal is one that was passed at the last Congress distributing among members of Congress all the books and documents then in the Interior Department.

By unanimous consent the joint resolution was considered as in Committee of the Whole.

Mr. HENDRICKS. I desire to inquire of the Senator what the effect of this resolution is. Some of us do not understand the subject.

Mr. WILKINSON. During the last session of Congress, on the 3d of March, 1863, a joint resolution was passed which if it had been understood I think would have received no support in this body at least. I will read it:

*"Resolved, &c.*, That the Secretary of the Interior, and all other custodians thereof, be, and are hereby, authorized and directed to cause equal distribution to be made forthwith among the members of the two Houses of the present Congress of all the books and documents heretofore printed or purchased at the cost of the Government and not actually belonging to any public library, or a library kept for use in any Department of the Government, excepting, however, all such books and documents as are embraced in any existing order for the distribution thereof among the members of either House of Congress."

I understand that this is distributing thousands upon thousands of books that are under the control of the Interior Department, and the Secretary of the Interior has thus far been unable to carry out and execute that resolution. It is entirely impracticable and cannot be carried out.

Several Senators. Why not?

Mr. WILKINSON. He cannot make a distribution of the books so that they will be of any use to anybody; and it is a disgrace to Congress, I think, that any such resolution should stand upon the statute-book.

Mr. FESSENDEN. It ought to be repealed.

Mr. HENDRICKS. It seems to me that if the books are worth anything they had better be distributed. They are lying by thousands of volumes in many of the rooms of the Interior Department. I do not see why it is impracticable for members to send them to their constituents.

Mr. WILKINSON. Then let a law be passed making a proper and just distribution of these books among the people of the United States, and not pass an act for members of Congress to take them and appropriate them all to themselves.

Mr. SHERMAN. Does this resolution come from a committee?

Mr. WILKINSON. No, sir; it is my own resolution.

Mr. SHERMAN. I know the difficulty of carrying into execution the law referred to by the Senator from Minnesota, and I believe it is impracticable. At the same time these books are there in the way; they are cumbersome, and if

they are distributed at all now, it is done by the favor of those who have charge of them, and not by any law. I think they ought to be distributed. I move that this joint resolution be referred to the Committee on Printing, who probably can devise some mode of amending the law so as to provide for their distribution. I remember to have received a circular from the Secretary of the Interior stating that he could not distribute them because he had not enough sets to give one to each member and Senator. I do not think the members or Senators ought to have anything to do with them. It is better to provide by law for their distribution among public libraries, to be selected, if desirable, by members of the Senate and House of Representatives. At any rate they should be out of the way, out of the rooms of the Department of the Interior.

Mr. WILKINSON. I have no objection to the reference if the Senator desires it.

The PRESIDENT *pro tempore*. The Senator from Ohio moves that the joint resolution be referred to the Committee on Printing.

The motion was agreed to.

## COAL BEDS AT DES MOINES.

On motion by Mr. HARLAN, the joint resolution (H. R. No. 55) granting certain privileges to the city of Des Moines, in the State of Iowa, was considered as in Committee of the Whole. It is a relinquishment to the city of Des Moines of all the right and interest of the United States in the coal beds underlying the river Des Moines, within the limits of the city; with a proviso that no disposition or use of them shall be made which shall obstruct the free navigation of the river; nor shall any one grant of the privilege of mining them extend for a longer period than ten years.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

## SCHOOL LANDS IN MISSOURI.

Mr. HARRIS. I move that the Senate proceed to the consideration of House bill No. 149, concerning school lands in Missouri.

The motion was agreed to; and the bill (H. R. No. 149) concerning school lands in township forty-five north, range seven east, in the State of Missouri, was considered as in Committee of the Whole.

It proposes that all of the right, title, and interest of the United States in and to all of the lots, tracts, pieces, and parcels of land within the Grand Prairie common field, in township forty-five north of the base line, in range seven east of the fifth principal meridian line in the State of Missouri, which have not heretofore been disposed of by the United States, shall be granted, relinquished, and conveyed by the United States, in fee simple and in full property, to the State of Missouri, for the support of schools in said township; but nothing in the act is in any manner to abridge, divest, impair, injure, or prejudice any adverse right, title, or interest of any person or persons in or to any portion or part of the lots, tracts, pieces, or parcels of land.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

## SENATORS FROM ARKANSAS.

Mr. LANE, of Kansas. I move to postpone all prior orders for the purpose of taking up Senate joint resolution No. 62.

Mr. CARLILE. I suggest to the Senator from Kansas that there is a special order for half past twelve o'clock, and it is now within a minute or two of that time.

Mr. SUMNER. I understood that the Senator from Kansas was to move this morning the reference of the papers in the case of the claimants for seats from Arkansas.

Mr. LANE, of Kansas. I propose to refer the joint resolution and the credentials.

Mr. SUMNER. The credentials are first on the Calendar. Those were presented some time ago. If the Senator will make that motion, he is aware that it is a privileged motion. The other is not a privileged motion.

Mr. LANE, of Kansas. I move to take up Senate joint resolution No. 62, for the recognition of the free State government of the State of Arkansas.

The motion was agreed to.

Mr. LANE, of Kansas. I now move to refer the joint resolution to the Committee on the Judiciary.

Mr. CONNESS. I hope the Senator will include in that reference all the papers in the case, including the credentials. There is a motion of mine pending to refer the credentials to the Committee on the Judiciary. I hope the whole question will go together.

Mr. LANE, of Kansas. I have charge only of the credentials of Mr. Fishback, and I move that his credentials be referred with the joint resolution to the Committee on the Judiciary.

The PRESIDENT *pro tempore*. They will be included in the motion.

Mr. LANE, of Kansas. At the request of the Senator from Vermont [Mr. Foor] I also move that the credentials of Mr. Baxter be referred to the committee.

The PRESIDENT *pro tempore*. The Chair will regard the credentials of both gentlemen as included in the motion to refer, if there be no objection.

Mr. SUMNER. That opens, as I understand, the whole question.

The PRESIDENT *pro tempore*. Undoubtedly.

Mr. SUMNER. Mr. President—

The PRESIDENT *pro tempore*. The Chair must interrupt the Senator to call up the special order for this hour.

Mr. CONNESS. I hope it will be postponed. I ask the Senator from Virginia to let the bill which is the special order go over until to-morrow and call it up then. I am not prepared for its final disposition this morning.

Mr. CARLILE. I desire to accommodate Senators of course. I am willing that it shall go over if it be made the special order for to-morrow at the same hour. I move therefore that the special order for this hour be postponed until to-morrow at half past twelve o'clock, and be made the special order for that time.

Mr. SHERMAN. I think that is a bad precedent, and I must call for the yeas and nays on that motion.

Mr. CARLILE. Then, with the leave of the Senate, I withdraw the motion.

The PRESIDENT *pro tempore*. The motion may be withdrawn. The special order is before the Senate.

Mr. CARLILE. The Senator from California of course will excuse me now for making the motion.

Mr. CONNESS. Certainly, sir. I am not prepared for a vote this morning on this subject. I do not wish to put the question off; that is not my purpose; but the honorable chairman of the Committee on Public Lands has indicated a desire to have time for a further investigation of the case, which I do not wish to prevent. I hope the Senator from Ohio, in view of this, will withdraw his objection at this time and let this bill go over until to-morrow.

Mr. SHERMAN. I have not the slightest objection to letting it go over until to-morrow. I merely object to making this private bill a special order during the morning hour.

Mr. CONNESS. We can call it up in the morning hour without a doubt.

Mr. McDUGALL. My colleague has protested against the postponement of this bill on several occasions. This subject has been up for discussion, and he has sensibly engaged in the discussion of it. The Senate would have come to a conclusion on Saturday if the question had been proceeded with. It can be disposed of now, I have no doubt, in a few minutes, for I think there is no doubt in the minds of Senators as to what should be done with regard to it. If it is now postponed there will have to be a struggle to-morrow morning again, equal to the time it will take in debate, in order to get it up.

Mr. SUMNER. I ask if the question on which I was about to speak is not a privileged motion.

The PRESIDENT *pro tempore*. The Chair is of the opinion that it is not. It is a motion of the Senator from Kansas to refer a joint resolution.

Mr. SUMNER. I beg the Chair's pardon. It concerns the seat of a Senator. Associated with it, the Chair will bear in mind, are the papers relating to the seat of this claimant.

The PRESIDENT *pro tempore*. The Chair bears in mind what is the motion before the Sen-



ate, to refer the joint resolution, with which the credentials of the Senator from Arkansas was attached, that subject having once been postponed by the Senate, and also the credentials of the other Senator from that State. It cannot alter, in the opinion of the Chair, the joint resolution which was the subject of the motion.

Mr. McDUGALL. I was on the floor when I was interrupted by the Senator from Massachusetts.

The PRESIDENT *pro tempore*. The Senator from Massachusetts rose to a question of order.

Mr. McDUGALL. I do not anticipate any considerable discussion on the bill which is the special order for this morning. The most that will be required to be said will be simple statements of fact. The Senator, my colleague, having engaged in this discussion, and having raised this objection, should be able to state any further facts that may have come to his possession since his past discussion. With regard to the matter I have very little to say, scarcely anything except a brief statement of less than five minutes. I should like to see the bill disposed of. It was a subject of discussion during the last Congress, when it happened that my then colleague and myself concurred, agreeing in the propriety of the measure, about the propriety of which, I think, there can be no doubt. I wish this matter disposed of for the economy of time in the transaction of business.

Mr. CONNESS. What my colleague, the Senator from California, has said in regard to the honorable Senator and his then colleague being in favor of this bill a year ago is doubtless true. It is also true that when the Legislature of the State—the State which he represents—found that the two Senators were engaged in the passage of this bill they passed concurrent resolutions instructing them against its passage. Those resolutions have been read from the desk of the Secretary to the Senate upon this question. It is a question, indeed, of great importance, because if this bill shall be passed it will be necessarily made the precedent for a hundred others of the same kind. It is a question of too much importance to be pressed through this body at the request of private persons. I move that the further consideration of the bill be postponed until to-morrow, and on that motion I will ask for the yeas and nays.

The yeas and nays were ordered.

Mr. TRUMBULL. As I have not been paying any particular attention to this case, I wish to know whether it is proposed to be postponed until to-morrow, with a view of getting some additional information, or simply to get rid of the bill.

Mr. CONNESS. No, sir; it is not to get rid of the bill. I am exceedingly anxious to have the determination of the Senate upon the question.

Mr. TRUMBULL. Then it is merely to obtain further information in regard to it.

Mr. CONNESS. Yes, sir, merely until the chairman of the Committee on Public Lands and myself are better prepared to dispose of it.

Mr. TRUMBULL. If that is the case, I think it had better be postponed until to-morrow. I think there had better be an acquiescence in the motion to postpone under such a statement as that.

Mr. HARLAN. I think I ought to state that papers have been put in my hand since this discussion commenced on a previous day, which I have not had time to examine, and I desire to have time to read them. I therefore should like to have it postponed on that account.

Mr. TRUMBULL. I hope the call for the yeas and nays will be withdrawn.

Mr. McDUGALL. After the statement made by the chairman of the Committee on Public Lands, I have no objection to the postponement.

The PRESIDENT *pro tempore*. Does the Senator from California [Mr. CONNESS] withdraw the call?

Mr. CONNESS. Yes, sir.

The PRESIDENT *pro tempore*. By unanimous consent the call may be withdrawn. The Chair hears no objection.

Mr. SUMNER. I hope we may proceed with the subject which was under discussion when the special order was called up.

The PRESIDENT *pro tempore*. The question

is on the motion of the Senator from California [Mr. CONNESS] to postpone the further consideration of the bill which was made the special order for to-day at half past twelve o'clock until to-morrow.

Mr. CARLILE. I shall have no objection to that motion if I can amend it by making that bill the special order for half past twelve o'clock to-morrow.

Mr. CONNESS. If the Senate sees fit to make it a special order I have no objection.

Mr. McDUGALL. I think that would be but right under the circumstances.

The PRESIDENT *pro tempore*. The Chair is of opinion that the motion cannot be amended, because it requires two distinct votes. A majority may postpone, but it requires two thirds to make a special order.

Mr. McDUGALL. I will ask my colleague to withdraw his motion to postpone and allow the question to be put on the motion to make it a special order.

Mr. CONNESS. I will do that with pleasure.

The PRESIDENT *pro tempore*. The motion to postpone is withdrawn, and the motion now is to assign Senate bill No. 238, to ascertain and settle certain private land claims in the State of California, as the special order for to-morrow at half past twelve o'clock.

The motion was agreed to; two thirds of the Senate concurring therein.

Mr. SUMNER. I now move that the Senate proceed to the subject which was under consideration when interrupted by the special order.

The PRESIDENT *pro tempore*. It is moved that the Senate resume the consideration of the joint resolution introduced by the Senator from Kansas, [Mr. LANE.]

The motion was agreed to.

Mr. SUMNER. Mr. President, I begin by expressing my sympathy with every loyal character in a rebel State. Knowing well, from long experience, the cruel rule and domination of slavery, even in this Chamber, I cannot be indifferent to the trials of loyalty anywhere in these latter days. Show me a man who in a rebel State has stood faithful to the national cause, and I go forth to meet him with my heart in my hand. To have been true at a time when truth was disowned is enough for honor as well as thanks. But the merits of individuals cannot determine the rights of States.

The case is too important. If individual merits, universally recognized, could have saved a State to present rights in the Union, Tennessee would not now be a self-condemned exile. There are few anywhere who have been so entirely true as Andrew Johnson, and not one in all the rebel States who so bravely encountered the rebellion face to face. In himself he was more than ten men, and ten men might have saved Sodom. Besides, he was a Senator on this floor when the State which he represented took its place in the rebel confederacy and joined in war against the national Government. But he stayed behind with his country, and kept his seat here. Persons ignorant of parliamentary law here sometimes argued from the latter circumstance that rebel Tennessee was still entitled to her ancient rights in the Union; but they forgot two principles fixed long ago in England, the original home of parliamentary law, beyond all question: first, that the power once conferred by an election to Parliament is irrevocable, so that it is not affected by any subsequent change in the constituency; and, secondly, that a member, when once chosen, is a member for the whole kingdom, becoming thereby, according to the words of an early author, not merely knight or burgess of the county or borough which elected him, but knight or burgess of England. (Cushing's Parliamentary Law, page 284.) If these two principles are not entirely discarded in our political system, then the seat of Andrew Johnson was not in any respect affected by the subsequent madness of his State, nor can the legality of his seat be any argument for the ancient rights of his State. Nor, again, can the fact that Andrew Johnson has been selected by the convention of a powerful political party as a candidate for the Vice Presidency be any argument for these ancient rights. It is not necessary even that a candidate for President or Vice President should belong to a State.

Mr. JOHNSON. Will the Senator permit me

to ask whether it is not necessary that he should not be an alien enemy?

Mr. SUMNER. If the Senator will bear with me, I was not discussing that question now. I was observing that it is not necessary even that a candidate for President or Vice President should belong to a State. That is all I am on now. It is enough, under the Constitution, that he is a "citizen of the United States." He may be of the District of Columbia, or of a Territory, or of a rebel State; for these are all equally within the rightful jurisdiction of the United States, and this is enough. The jurisdiction of the United States is permanent and indefeasible. Therefore, I repeat again, we must look, on the present occasion, beyond the virtues of individuals. Not all the virtues under heaven can suffice to make a State of this Union, or to give any claim for restoration to ancient rights, where there is a failure to comply with essential requirements.

The question under consideration is of momentous interest. It concerns primarily the claim to a seat in the Senate. But it involves also the right of the State of Arkansas to share at this moment in the national Government by a representation in Congress; and also the other right of participating in the approaching presidential election. And behind this great question looms that other question, "How shall we treat the rebel States?" This question has already been answered by the House of Representatives in a bill which has been passed by that body. But it has not yet been decided by the Senate.

Unexpectedly the great question and all the subordinate questions are now presented for decision. Not only Arkansas, but Louisiana and every other rebel State will await your judgment. No question of equal importance has been presented since it was determined to meet the rebellion by arms.

For the present I forbear all minute discussion, either of history or of principle. It will be enough if I state the case and exhibit the questions involved.

Mr. LANE, of Kansas. With the consent of the Senator from Massachusetts I desire to make a statement. The Senators from Arkansas asking seats on this floor—

Mr. SUMNER. I propose to come to that. I am going to state the facts.

Mr. LANE, of Kansas. I am not going to make a speech, but I desire to make a statement in justice to them. They do not expect seats in this body until these conditions are complied with:

"That the present organized government in the State of Arkansas be, and it is hereby, recognized upon the condition that slavery and involuntary servitude shall never exist in said State except as a punishment for crime.

"That this joint resolution shall be in force from and after the acceptance of its provisions by the people of the said State, and proclamation of the same by the President of the United States."

Mr. SUMNER. William M. Fishback, a citizen of Arkansas, appears before the Senate of the United States and claims membership therein. He asserts that he has been duly chosen to fill the unexpired term of Senator Sebastian, who was expelled in 1861 for complicity with the rebellion; and he produces a certificate purporting to be signed by the Governor of Arkansas.

Shall this claimant be admitted to a seat in the Senate? Such is the immediate question. But I have said that there are other questions, of the most far-reaching character, which must be considered now and here; for they all enter into the present case. If we now admit the present claimant, we must also now admit that other claimant who has presented himself with like-credentials, as a colleague. The question is not, therefore, shall Arkansas have one vote in this Senate? but, shall it have two?

But if Arkansas is now to be fully represented in this Senate, does it not follow that it is to be represented with equal fullness in the House of Representatives? If represented in that Chamber, such representation must be under the existing apportionment act, which assigns to Arkansas two Representatives, who are to be chosen by districts, without reference to the number of votes polled in either.

One privilege will draw after it another. To him that hath shall be given. If Arkansas is admitted to an immediate representation in the national Government, this rebel State, which has

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overthrown the Constitution within its borders, and assumed the front of war, can participate in the approaching election of President and Vice President, by organizing an electoral college; and in case the election of either of those great officers should devolve upon Congress, it can give a vote affecting the result as weighty as that given by Massachusetts, New York, or Illinois; for in such case the vote in the Senate is *per capita*, and in the House it is by States.

Therefore, sir, I repeat, the decision of the question now before us rules all the questions which can arise upon the representation of Arkansas in the Congress of the United States, and also the other question of the participation of Arkansas in the election of President and Vice President for the term of four years next ensuing. The importance of such a subject cannot be exaggerated. It is important constitutionally. It is important practically. It is important also to the peace of the country. It ought to be discussed fully and carefully; especially when it is considered that we are on the eve of a presidential election which may possibly be affected by our decision.

Mr. President, I am against the admission of Arkansas to representation in the national Government at this time and under existing circumstances. There may be a time, and there may be circumstances, when such representation will be proper; but clearly at this moment it is improper, unreasonable, and dangerous. The reasons are obvious.

First. The proposed representation is that of a minority not only of the people, but even of the ancient electors of Arkansas. It is superfluous to say that such a representation is inconsistent with republican principles, and can be vindicated only by an overruling necessity. But this point becomes of peculiar importance when it is considered that the minority, asking representation in the national Government, has acquiesced in rebellion, and, still further, that some of those composing this minority have actively assisted the public enemy. Look at the facts.

The authority and jurisdiction of the United States were wholly overthrown and subverted in Arkansas. By the action of the State Legislature and of a convention called by this Legislature, followed by a popular vote, the State was made *de facto* a member of the rebel confederacy. However much we may deny the rightfulness or the legality of the proceeding, there can be no question with regard to the fact. This at least is undeniable, and it constitutes an essential circumstance in the case. As a fact it must be recognized, whatever may be the consequences—precisely as truth is recognized. But this unquestionable fact was followed by a general acquiescence of the people of Arkansas, so that this State became, in point of fact, as in name, a rebel State, linked with other rebel States arrayed in arms against the national Government. At last, after much bloodshed and various vicissitudes, through the exertion of the military power of the United States, a portion of the territory of this State has been rescued from rebel domination and brought within the lines of our Army. The rest will follow, in process of time and after further bloodshed, until eventually the whole State will be rescued from rebel domination and brought within the lines of our Army. Even then we shall be obliged to wait for the tokens of returning loyalty also. But at the present moment the possession of the State is still contested by opposing armies, and a minority only have signified their adhesion or re-adhesion to the national Government. This objection, of course, may be removed by time; but it existed in full force at the election of the claimant, and is decisive upon the question before us.

Unquestionably, it is according to the genius of our Government that the majority should rule. A majority is the natural base of a republic. To found a republic on a minority is scarcely less impracticable than to stand a pyramid on its apex.

Secondly. The proposed representation of Arkansas in the Senate is unjust and inequitable in its relations to the representation of other loyal

States; and if it be extended to representation in the House of Representatives and in the electoral colleges it will become still more unjust and inequitable. By the original terms of union the other States have agreed that the whole people of Arkansas shall have two Senators and also Representatives according to a fixed proportion; and also electoral votes for President and Vice President according to the number of their Senators and Representatives. Now it would be manifestly wrong to ward all the other loyal States, if not a fraud upon their rights, to assign such representation and such privilege to a fraction of the people of Arkansas, constituting a small minority; so that on all questions of legislation, or of treaties, or of appointments, in the discharge of legislative, diplomatic, and executive trusts, this small minority would wield in the Senate all the power of a loyal State, while in the choice of President and Vice President it might turn the scale.

Thirdly. The military occupation of Arkansas, and the unsettled condition of the community there, cannot be forgotten when we are considering whether to admit the Representatives of a newly organized civil government in that State. Military occupation is practically inconsistent with civil government. Even if the former does not absolutely exclude the latter, yet it is evident that it must exercise a controlling influence in political affairs. It is impossible in time of war to preserve the conditions of peace; especially in time of civil war. Military power, when engaged in subduing revolt, cannot be insensible to political forces. It must win what it cannot overcome. From the nature of the case, ordinary political conditions are disturbed or subverted, and electoral power loses its essential character, so as to be no longer entitled to that peculiar respect which it enjoys under American institutions. These observations I apply solely to a theater of war, and I insist that so applied they are true, just, and indisputable.

But, in point of fact, there is another and kindred force which conspires with the former to disturb suffrage in Arkansas. I mean that which proceeds from the incursions and other operations of the enemy. These prevent elections in some parts of the State, and render them partial in others, and this unhappy condition must continue so long as war prevails in that region. That I do not exaggerate these perils let me quote the testimony of General Gantt, a citizen of Arkansas, who participated in the recent election. "Thousands," says he, "when they started to the polls in the morning felt that at nightfall, when they returned, it might be to a mass of charred and smoking ruins and to a beggared and impoverished family. And yet other thousands knew that the knife of the murderous crew of Shelby, Marmaduke, and others was whetted for their throats and might do their execution before the polls were reached; and all knew that, should the tide of war surge backward over our State, instead of being simply ordered out of the lines, bankruptcy, dungeons, chains, and an ignominious death awaited them." This picture, which is unquestionably authentic, while it interests us for the heroic sufferers, testifies conclusively how incapable Arkansas is at this moment to bear the burdens and discharge the trusts of a State.

Fourthly. The present organization in Arkansas, which seeks representation on this floor, is without that *legality of origin* which is required by the American system of government. It is revolutionary in its character. Nay, more, it may all be traced to a military order. Clearly this incongruity will not be tolerated. A new civil government to be recognized as a State of this Union cannot be born of the military power. Congress has jurisdiction over all those States in which loyal governments have been overturned; and this jurisdiction furnishes a natural, obvious, and constitutional origin for the new government. Without it I am at a loss to see how the connecting link of legality can be preserved between the old and the new. This is not the first time in our national history that Congress has stood between

the old and the new. Such is its natural place and function. At the separation of the colonies from the mother country it interfered by formal resolution to indicate the process by which the new governments should be constituted, although the Tories of that day doubted the power. According to this example, sustained by congenial principles, Congress must set the new government in motion and infuse into it that vital force which is found in liberty regulated by law.

Fifthly. Arkansas is at this moment shut out from commercial intercourse with the loyal States under the proclamation of the President of 16th August, 1861, made in pursuance of the act of Congress of 17th July, 1861. By this proclamation it is placed on the list of States in "insurrection against the United States, and all commercial intercourse between the same and the inhabitants thereof and the citizens of other States and other parts of the United States is unlawful until such insurrection shall cease or has been suppressed;" and all goods, chattels, wares, and merchandise coming from any of the enumerated States and proceeding to any other State by land or water are made liable to forfeiture. (12 Statutes at Large, 1262.) And yet Arkansas, which is still under the ban of a presidential proclamation and a congressional statute establishing non-intercourse with other States asks representation in the national Government. Disqualified for trade with other States, it asks to govern them. The old practice is to be reversed. Thus far in history trade has preceded political power; now political power is to precede trade. Arkansas cannot send her merchants into the loyal States to buy and sell. Can she send her representatives into this Chamber to vote? Can she send her electors into the electoral college to choose a President?

Such, Mr. President, are five distinct reasons, obvious to the most superficial observer, against the recognition of any representation at this time from Arkansas; first, because the representation is founded on a minority; secondly, because any such representation, unjust in itself, is especially unjust toward the loyal States; thirdly, because the military occupation of Arkansas and its exposed condition are inconsistent with civil government; fourthly, because the present organization of Arkansas is without that *legality of origin* which is required by American institutions; and, fifthly, because it is absurd to admit a State to representation which is still by solemn proclamation shut out from commercial intercourse with the loyal States.

The argument thus far applies to the present case without touching that other question, sometimes discussed, whether, in point of fact, Arkansas is still a State of this Union. Indeed, it is evident that Arkansas may have preserved her place in the Union and yet not be entitled at this moment to representation in the national Government. She may be a State, but in a condition of political syncope or suspended animation. Or she may be under such abnormal influences as to render her for the time being incompetent to perform the functions of a State.

But if Arkansas, by reason of her ordinance of secession and her open participation in the war against us, has ceased to be a State of the Union, it is manifest that the Senate cannot now admit the claimant to a seat as one of its members, nor can it admit him at all until Congress, by a joint vote, has restored the State to its original position. The power to admit States into this Union, and, by consequence, the power to readmit them, are vested in Congress, to be exerted by joint resolution or bill, to which the concurrence of both Chambers and the approval of the President are necessary. Here I content myself with a statement. For the present I forbear from all consideration of the status of the seceded States. The argument is complete without it.

It is my desire to present this question on the facts, and not on any theory or hypothesis. I say nothing, therefore, on the questions, what constitutes a State government in this Union; whether a State by a process of suicide may not cease to

exist; whether a State may not by *forfeiture* lose its rights as a State; or whether, when the loyal government is overthrown, a State does not lapse into the condition of territory under congressional jurisdiction, to be treated like other national territory. All these questions I put aside. I choose to present the case of Arkansas on facts which nobody can call in question:

It is enough that the loyal authorities were overthrown, and that there were no functionaries holding office under the State government who were bound by oath to support the Constitution of the United States; and since a State government is necessarily composed of such functionaries, thus bound by oath, there was no State government which we could recognize. Sir, does any Senator recognize the rebel governor of Arkansas? Does any Senator recognize the other rebel functionaries who held the offices of the State? Of course not. It follows, then, that the offices were empty. And this was the practical conclusion of Andrew Johnson when he began to reorganize Tennessee by an address as early as 18th March, 1862. Here are his words:

"I find most, if not all, of the offices, both State and Federal, *vacated*, either by actual abandonment or by the action of the incumbents in attempting to subordinate their functions to a power in hostility to the fundamental law of the State and subversive of her national allegiance."

But if the offices were *vacated*, the machine of government could not work. And now the practical question is, how this machine shall be again put in motion. Obviously, not by any power within; but by some power without.

But it may be said that the new State organization in Arkansas is authorized by the President's proclamation of amnesty, and that the claimant's case stands good according to the promises of this exceptional paper. A glance is enough to dispel this pretension. True it is that the President put forward a plan for reorganizing loyal State governments in the rebel territory, and he proffered a guarantee to these communities against domestic violence and rebel invasion; but he neither proposed nor promised any representation in Congress or in the electoral college. Nor would such a proposition or promise by him have possessed the slightest validity; because, by the Constitution, "each House is to be the judge of the elections, returns, and qualifications of its own members." This provision is inconsistent with any prerogative of the President over this question, even if this prerogative were not controlled by that other provision which reserves to Congress the power to admit "new States into this Union."

The proclamation declared that whenever in any of the States of Arkansas, Texas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, Florida, South Carolina, and North Carolina, a number of persons not less than one tenth in number of the votes cast in such State at the presidential election of 1860, each having taken the particular oath prescribed by that proclamation and not having violated it, and being a qualified voter by the election law of the State existing immediately before its secession, and excluding all others, should reestablish a State government which should be republican and in nowise contravening the proclamation oath, it should be recognized as the true government of the State, which should receive thereunder the benefits of the constitutional provision which declares that "the United States shall guaranty to every State in this Union a republican form of government," &c. But subsequently in the same paper the President declares "that whether members sent to Congress from any State shall be admitted to seats constitutionally rests exclusively with the respective Houses and not to any extent with the Executive." Nothing is said in this paper on the participation of such reorganized State in the approaching presidential election, and the question seems to have been left open for the judgment of Congress, to which it obviously belongs, to be settled by joint action.

It is plain, therefore, that the reorganization contemplated by the President was in its nature provisional. It was not complete or permanent in itself, but evidently looked to the action of the legislative power to determine representation, whether in Congress or in the electoral college. Loyal governments might be established in the manner indicated for the conservation of local

order, and these would be recognized and upheld provisionally by the military power. Considered from this point of view, and in the absence of congressional action on the subject, the President's plan of reconstruction was proper if not necessary, and very little obnoxious to the objections sometimes brought against it. A handful of persons keeping their loyalty might justly look to the military power for support against a hostile majority. Such a handful might be allowed to set up a local government for the management of their local affairs, and to assist the national Government in the work of restoration. All this was natural. But the limitation was clear. Admitting that it was right to authorize the establishment of local government for the benefit of a handful of loyal persons in a rebel State, it does not by any means follow that such local government can be entitled to representation in the national Government as a loyal unit, on an equality with the loyal States of the Union. The two questions are entirely different, and the latter was wisely left untouched by the proclamation.

Besides, the power of the President to institute this Government is only as Commander-in-Chief of the Army. It is therefore military in its character. But what proceeds from this power is, from the nature of the case, *provisional or temporary until it has received the sanction of Congress*. To a certain extent, and from the necessity of the hour, military governments may be constituted by the President; but *permanent civil governments* with—

Mr. COLLAMER. To last beyond the war. Mr. SUMNER. As the Senator from Vermont happily suggests, to last beyond the war, with a right of representation in Congress and in the electoral college, cannot be constituted by the President. Such a power would be open to infinite abuse, and in the hands of an ambitious President might be employed for selfish purposes. The national safety, in harmony with republican principles, requires that it should be exercised by Congress, which must take the lead in calling the new government into being.

Against these conclusions there can be no argument founded on principle. But it may be said that the admission of Senators from Virginia constitutes a precedent applicable to the present case. This is a mistake. The Virginia case is a precedent for nothing, unless it be to make us more careful for the future. It arose at the beginning of the troubles, before the relations of the rebel States had become fixed by pertinacious war, and it was little considered at the time. But beyond all it had this peculiarity, that a large section, geographically, of Virginia had in point of fact declined to recognize the pretension of secession, and had promptly constituted a loyal government without military intervention, so that practically it had never been a part of the rebel government. The circumstances were so exceptional that this case cannot be cited to determine our conduct toward a State which in all its parts, throughout its whole jurisdiction, accepted the pretension of secession and maintained it by arms. Such a State is beyond all question a rebel State, with no title to a place in Congress or in the electoral college until readmission to its ancient rights by a vote of both Houses of Congress.

Surely the readmission of a rebel State to representation is not less important than its original admission into the Union. And when it is considered that what is done for one such State will be a precedent for all, its importance is multiplied by the number of rebel States; and this again is augmented infinitely by the disturbed condition of affairs, and the supreme duty to take every precaution for the restoration of permanent tranquility. It will not be enough if we comply with certain forms or constitute a State only in name. Much more must be done, and all this must be placed under fixed and irreversible guarantees. Vain will be victory on the battle-field if these guarantees are not obtained. It is to make these possible that our armies are now engaged in the deadly shock. It is in order that the future at least may be secure, that the present is given over to blood and slaughter—to graves and epitaphs. And here is the difference between your responsibilities and those of the soldier. The latter sees only the present, but you must see the future also. The soldier meets his enemy face to face.

The statesman, by wise precautions, provides that the enemy, once conquered, shall never rise again. Vain is the work of the soldier if it be not consummated and crowned by the wisdom of the statesman.

For years slavery has been claiming its guarantees in States and Territories, and these Chambers have echoed to the hoarse, inhuman cry. At last another voice has begun to prevail, sounding from basement to cupola, filling chamber and dome with another echo; it is the voice of Freedom claiming guarantees. But in the absence of any constitutional prohibition of slavery it is evident that these guarantees can be obtained only under the sanction of Congress acting in its legislative capacity. And here we are brought again to the question of representation; for it is clear that representation cannot be conceded until the guarantees for freedom have been secured. Therefore, representation can be obtained only under the sanction of Congress in its legislative capacity.

That Congress in its legislative capacity must determine this question is sustained by the necessity of the case; by reason; by authority; and by the President's proclamation itself.

1. I have already shown that guarantees for freedom are a condition precedent to representation, so that by the necessity of the case the latter must be determined by the joint action of both Houses of Congress. Such is one form in which this necessity appears. But there is another.

Congress must have jurisdiction over every portion of the United States where there is no other government; but there can be no other government in the rebel States, so that the words of Chief Justice Marshall are as applicable to a State without a loyal State government as they were originally to a Territory:

"Perhaps the power of governing a Territory belonging to the United States, which has not by becoming a State acquired the means of self-government, may result necessarily from the facts that it is not within the jurisdiction of any particular State and is within the power and jurisdiction of the United States."—*American Insurance Company vs. Carter, 1 Peters, 532.*

The three things which are here affirmed of a Territory may all be affirmed of a rebel State.

First. It has not the means of self-government. Secondly. It is not within the jurisdiction of any particular State.

Thirdly. It is within the power and jurisdiction of the United States.

From these again the necessity of congressional jurisdiction ensues.

2. It would be unreasonable, if not absurd, for each Chamber to determine the question of representation for itself. Suppose, for instance, that the Senate admit claimants from Arkansas and the House reject them. Then we should witness the anomaly of a State admitted to one Chamber and excluded from the other. This would be a case of *semi-admission* into the Union. Part would be in and part out. The Senators and Representatives of the same State would be compelled to separate, as in Grecian mythology, when one of the inseparable twins, Castor and Pollux, was translated to Olympus and the other was left upon earth. Surely the Constitution does not contemplate the repetition of any such fable. Arkansas must stay away until she can be received in both Houses and can be recognized as a unit and not as a fraction; but no power short of Congress can assure this equal reception in both Houses.

3. Authority is in harmony with reason. This question seems to have been anticipated by the opinion of the Supreme Court of the United States as pronounced by Chief Justice Taney in the case of *Luther vs. Borden*, (7 Howard's Reports, 42.) Here are the words:

"The fourth section of the fourth article of the Constitution of the United States provides that the United States shall guaranty to every State in the Union a republican form of government, and shall protect each of them against invasion, and, on the application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic violence."

"Under this article of the Constitution it rests with Congress to decide what government is the established one in a State. For as the United States guaranty to each State a republican government, Congress must necessarily decide what government is established in the State before it can determine whether it is republican or not. And when the Senators and Representatives of a State are admitted into the councils of the Union, the authority of the government under which they are appointed, as well as its republican character, is recognized by the proper constitutional authority. And its decision is binding on every other department of the Government, and could not be questioned in a judicial tribunal."



According to these positive words "it rests with Congress to decide what government is the established one in a State." But Congress can decide only through joint action.

4. The Constitution also, by a positive text, seems to place the question beyond doubt. There are express words, as we have already seen, declaring that "the United States shall guaranty to every State in this Union a republican form of government." If these words stood alone, the case would be clear; but it becomes clearer still when we revert to the other clause by which it is provided that "the Congress shall have power to make all laws which shall be necessary and proper for carrying into execution all powers vested by this Constitution in the Government of the United States." Now, since the guarantee is vested in the Government of the United States, it follows that Congress has the power for carrying it into execution. In Arkansas a republican government has been overthrown by rebellion. Congress must see that such government is restored; and to this end it has all needful power. Congress, and not the President, must decide when the restoration has taken place.

5. There is also the President's proclamation, which, by its very terms, necessarily implies the action of Congress in the restoration of a State to the Union. There is first the positive declaration that "whether members sent to Congress from any State shall be admitted to seats constitutionally rests exclusively with the respective Houses, and not to any extent with the Executive." But the language of the proclamation and of the accompanying message plainly assumes that the rebel States have lost their original character as States of the Union. Thus in one place the President says that "loyal State governments have for a long time been subverted." But if subverted, they are no longer States. In another place he proposes "to reinaugurate loyal State governments." But a proposition to reinaugurate implies a new start. In another place he proposes to "reestablish a State government which shall be republican." But we do not reestablish a government which continues to exist. In another place he proposes to "set up" a State government in the mode prescribed. But whatever requires to be set up is evidently down. In another place he seeks to guaranty and protect a "revived State government." But we revive only what is dead, or at least faint. There is still another place, where the President evidently looks to the possibility of a change of name, boundary, subdivision, constitution, and general code of laws in the restored State. These are his identical words: "And it is suggested as not improper that in constructing a loyal State government in a State, the name of the State, the boundary, the subdivisions, the constitution, and the general code of laws, as before the rebellion, be maintained." Thus the President does not insist that even the name and boundary of a State shall be preserved. He contents himself with suggesting that it will not be "improper" to preserve them "in constructing a loyal State government." Of course this suggestion of what is not improper implies necessarily that in his opinion these great changes were within the discretion of the revived community.

I have called especial attention to the language of the President, because it constantly assumes, in a succession of phrases, that the rebel States are in an abnormal condition, from which they are to be recovered or revived; and since such restoration or revival can be consummated only by the action of Congress, it is reasonable to infer that such was his expectation. At all events, the proclamation, by its repeated assumptions with regard to the rebel States, testifies to the necessity of congressional action.

We have already seen that Andrew Johnson had declared the State of Tennessee "vacated" by all local government which we were bound to respect; and Arkansas was in a similar situation. But this language obviously harmonizes with that of the President.

Such are some of the arguments for the power of Congress over this question. Others might be adduced; but I have said enough. The necessity of the case—reason—the authority of the Supreme Court—the Constitution—and the President's proclamation, each and all tend to the same conclusion, even without resorting to those war

powers which are all within the reach of Congress. But if we glance at the latter we shall find the power of Congress declared beyond question. There is nothing which the President may do as Commander-in-Chief which Congress may not direct and govern, according to the authoritative words of Chancellor Kent:

"Though the Constitution vests the executive power in the President and declares him Commander-in-Chief of the Army and Navy of the United States, these powers must necessarily be subordinate to the legislative power in Congress."  
—Kent's Commentaries, volume 1, 292, note 5.

And these powers, vast as they may be when called into activity by the exigency of war or rebellion, become as constitutional as if specified precisely in a written text.

Mr. President, there is a saying of antiquity which is applicable to this question: *make haste slowly*. Do not fail to make haste; but let your haste be governed by wisdom and prudence. In making haste do not sacrifice all safeguards for the future. In your haste to welcome Senators from rebel States do not forget everything else; do not forget the principles of republican institutions, which are offended by the rule of a minority; do not forget the principles of justice among the States, which will be shocked by the recognition of a fraction of a rebel State to an equality of power with loyal States; do not forget the disturbed condition of the rebel States, rendering the civil authorities subordinate to the military; do not forget the necessity of a connecting link of legality between the old and the new; do not forget that commercial intercourse must be restored, and every ban of proclamation or statute must be removed before representation can be allowed; and still further, do not forget that the rebel States by their own acts, sustained by bloody war, have voluntarily placed themselves outside the pale of political association, until Congress shall recognize them again as entitled to their original equality; and, above all, do not forget that there can be no recognition of a rebel State until its permanent tranquillity has been assured by irreversible guarantees which no local power can disturb. Keep these things in mind; and then make haste.

Of course when within the confines of a State the rebellion is triumphantly subdued, and the great body of the people testifies an unmistakable loyalty; when local elections can be held according to the ordinary municipal forms; when the laws and not arms prevail; and when a government, republican in fact as in name, making slavery forever impossible, has been permanently established, then will Congress, by proper legislative action, rejoice to welcome the newly constituted State to its equal share in the national Government. But such welcome must not be precipitated. It can be offered only after a most careful inquiry into the actual condition of things and the assured conviction that the rebel State has been newly constituted in fact, as in name. And this caution is needed not only for the good of the Union but for the good of the newly constituted State, which must be saved from premature responsibilities beyond the measure of its present powers.

Sir, it is much to be a State in full fellowship and equality with other States represented in this Chamber and in the other Chamber, with a voice in the election of President and Vice President and with a star on the national flag. To be admitted into these prerogatives and privileges a State must be "above suspicion," and it must be able to use well all the great powers which belong to a State. But if a State is not yet "above suspicion," and if it is not strong enough to stand alone, ever against domestic disturbers, it cannot expect immediate recognition. It must wait yet a little longer until, restored at last in character and in strength, it can do all the duties of a State, and with master hand grasp that Ulyssean bow which pretenders strive in vain to bend.

Mr. President, I conclude, as I began, with my heart's gratitude to those brave citizens who again in Arkansas have lifted the national banner. Let them not be disheartened. Their country is with them in all their perils and all their efforts, longing to accept them again into ancient fellowship and equality; but the time for this welcome has not yet come. Meanwhile let them remember that

"They also serve who only stand and wait."

Mr. JOHNSON. I am by no means sure, Mr.

President, that this debate is not to be considered as premature. The motion before the Senate is to refer the right of the gentlemen who are here claiming to be Senators from Arkansas to the Committee on the Judiciary. The only gratification I have, if the debate so far is to be considered as premature, is that if the reference should be made the members of that committee will have had the benefit on the questions which the reference may present of the argument of the honorable member from Massachusetts. I put to him an inquiry while he was delivering his speech, the aim of which he seemed at the time very distinctly to discover, but the answer to which I have listened to him in vain to hear.

Mr. SUMNER. It came in the next sentence.

Mr. JOHNSON. Then I lost the sentence. I am sorry for it.

Mr. SUMNER. It was because it came in the next sentence that I forbore to make any special reply to the Senator.

Mr. JOHNSON. Mr. President, the Senate are already aware, if they have taken any interest in the opinions which I have from time to time expressed on this floor, that upon some of the questions argued by the honorable Senator I have the misfortune, or the good fortune, to differ with him. I have heard him before to-day, and I have read him before, announce as the true doctrine of the situation in which these States are placed, that they are out of the Union; that their citizens are enemies of the citizens of the loyal States; that the States of which they are practically the citizens are to be considered as States at war with the United States, and that the result of the relation between them and the United States is such that they and the territories which they occupy are to be treated, the one as enemies, the other as conquered, if our arms should be successful.

The honorable member, in support of that position, has heretofore relied and relies again, if I have understood him correctly, upon the decision of the Supreme Court in the cases known to the profession as the prize cases. I do not mean to anticipate what may be the opinion that I shall express in the Judiciary Committee, but if his interpretation of that decision is a sound one—that is to say, if, to illustrate it, the State of Tennessee is a State in the relation of an enemy to the United States, if the people within her limits are to be considered the enemies of the United States—then it would seem to me to follow that that very intelligent and patriotic convention by whom the recent nominations, which I suppose have carried pleasure to the honorable member from Massachusetts, were made, have come to the extraordinary conclusion of selecting as a candidate for the Vice Presidency an enemy of the United States; and if the State of which he is a member is now not a State of the United States, but a State outside of the limit of the States which compose the United States, they have selected an alien enemy to represent them in the next highest office in the gift of the people, and, contingently, to represent them in the highest.

Mr. SUMNER. The Senator evidently did not hear what I said.

Mr. JOHNSON. I will listen now attentively.

Mr. SUMNER. I stated that the person selected was within the rightful jurisdiction of the United States. My proposition was that the District of Columbia, a Territory of the United States, and any one of the rebel States, are all within the rightful jurisdiction of the United States.

Mr. JOHNSON. I understand that. The honorable member has always contended for that; that is to say, the United States have the rightful power to punish them all, and that necessarily assumes the existence of jurisdiction over them all. But when the honorable member relies upon the doctrines which he supposes the Supreme Court have announced—

Mr. SUMNER. The Senator will bear in mind that I have not alluded to-day to that decision.

Mr. JOHNSON. No; but you have before, unless you have retracted your former views on the question. I do not understand the honorable member to have done so in his speech to-day.

If that doctrine be true, then it is impossible that any loyal citizen of the United States who believes in that doctrine can vote for the candidate of the party to which my friend belongs for the office of Vice President. The honorable member and the Senate are not to understand me as holding

any such doctrine. On the contrary, I hold an opinion directly the opposite of it. In my view, Tennessee is as much, in the view of the Constitution, now one of the United States as she was before the rebellion commenced, and consequently that the very distinguished and patriotic citizen who has been selected by the friends of the honorable member, is eligible legally to the place for which he has been nominated, and of course will be the constitutional Vice President, if the people should sanction the selection.

But if the honorable member's view is right, I do not see upon what ground he can vote for that nominee. The laws of war, say the honorable member and those who agree with him on that subject—and the official law adviser of the War Department has published quite an elaborate and learned treatise looking to the same end—are the only laws which are to govern the United States in their treatment of the seceded States, and whatever under those laws they could do as against an alien enemy in point of fact, a foreign foe, in the prosecution of a national war, the United States can do as against these enemies, who are to be considered, according to the view taken by the honorable member, as national enemies, extra-territorial enemies, and not as citizens of the United States committing a crime against the allegiance by which they are bound and liable to the punishment which the laws may provide for such a crime.

I have already said, Mr. President, it is not my purpose to express more decidedly the opinion I have upon that question, because, as I suppose, the subject which is involved in the present motion will go before the Judiciary Committee, of which I am a member, and I deem it due to myself and due to the committee and to the Senate that I should not in advance prejudice the question which that reference may present.

The honorable member has thought proper, in the view which I take of that part of his speech, to assail the course of the President. I know he attempted to qualify what unqualified would have been an absolute assault, by construing away (as I think the Senate will see) what the President has actually decided. But he has announced doctrines in debate, and has maintained them with a learning which he always brings to the illustration of every question which he thinks proper to discuss; he has thought over it in his closet, he has given the midnight taper to the thoughts which he has brought before the Senate to-day; and he has told us that the President in his proclamation of amnesty has decided to a certain extent that it is in the power of the people of these States to come back into the Union without legislative sanction. How could he have decided it if he entertained the view taken by the honorable member from Massachusetts? What but clear and palpable usurpation would it have been or would it be in the President of the United States to say to the people of either of these States, "You may come back and I will receive you as one of the States of the Union?" As far as the executive authority of the Government is concerned, he announces that "if the people of any State now in rebellion who comply with the conditions stated in that proclamation shall ask to be received into the family of the States of the Union, they shall be received; all the authority which I may possess necessary to consummate that end I will exercise; I will appoint judges, district attorneys, and marshals." And he has done it; he has done it in this very State of Arkansas. By what authority has he done it?

Mr. SUMNER. The statutes of the United States.

Mr. JOHNSON. Statutes of the United States applicable to a State of the Union?

Mr. SUMNER. The territory has not gone.

Mr. JOHNSON. Where is it?

Mr. SUMNER. It is in the Union.

Mr. JOHNSON. The State is?

Mr. SUMNER. The territory.

Mr. JOHNSON. I did not suppose the land had gone out or seceded.

Mr. SUMNER. The territory is in the Union, the people, the jurisdiction.

Mr. JOHNSON. According to the hypothesis of the honorable member, what authority has the President of the United States, Congress being in session, to say that these States shall have their judges paid out of the Treasury of the United

States, district attorneys, marshals, and all the other officers which the Government could have had in that State, and had in that State before she went out, all to be compensated out of the Treasury of the United States, provided the State of Arkansas was not a State in the Union, politically, not territorially? I do not know what course my friend pursued when the nominations for the offices to which I have adverted were brought here for the advice and consent of the Senate, but they were confirmed. I do not think the honorable member voted against the confirmation. Of that, however, I am not sure. If he did vote for the confirmation, then the President has a right to hold him to the fact that Arkansas is in the Union under his proclamation, and has a right to say to him, "By your vote you have estopped yourself from denying it."

But the President, as the honorable member says, has not attempted to interfere with the action of either branch of Congress on the same question. Certainly not. How could he? Whether these gentlemen are to be received as members from Arkansas, Senators of the State, by this body, or whether any members elected by the people to the other House are to be received by that House as members of that body, depends respectively upon the judgment of the two bodies; and over the judgment of the Senate and the judgment of the House of Representatives, to whom is given by the Constitution the right to decide upon the qualifications of members, the President has no control whatever. But that does not show that he did not go to the entire limit of the power which the Constitution confers upon him as President, when he told the people of Arkansas, "One tenth of you—I do not require more—one tenth of you assemble in convention; and if you, one tenth, decide, whatever the other nine tenths may do—they may be all in rebellion, all upon the battle-field—that the State is to return to the Union, as far as my power is concerned, I tell you in advance, you will be a State in the Union." For the same reason that I said I did not propose to express any decided opinion on the other question to which I before alluded, I do not propose to express any opinion upon this except to say that before one can come to the conclusion that the President is not right, he ought to think well of the question.

Now, Mr. President, I know the tenacity with which the honorable member from Massachusetts holds on to that opinion, which seems to have a stronger hold on him than any other, that slavery is a crime, and should be everywhere upon the face of God's earth put an end to. And he looks to the possibility that as far as that institution is concerned, as to its existence in the United States, it may not be brought to an end as soon as he would have it. Doubts have been entertained whether that can be accomplished except by an alteration of the Constitution. The Senate have provided for that alteration; that is to say, to leave it to the people. The other branch of the Legislature have not, as I believe, decided the one way or the other; and if they sanction the resolution adopted by the Senate, it has to go to the people; and it becomes more or less doubtful whether the constitutional majority required can be received in order to make that change legitimate; and looking to the possible contingency that that mode of getting clear of this, in the eyes of the honorable member, hateful institution may not be entirely successful, he wants, to use an expression which he has used more than once, to strike at it wherever he sees it. One of the ways of striking at it is to maintain the doctrine that none of these States shall be permitted to come back except upon the condition that they first, by their State constitution, prohibit slavery; or, if they do not do it in words, except upon the condition of an act of Congress, which you may pass, providing that slavery shall never thereafter exist in the State.

Has the honorable member refreshed his recollection with the debates which resulted out of the admission of Missouri? Has he consulted the debates which from time to time since have occurred in either branch of Congress? If he has he will find that however upon the first occasion doubts were entertained whether it was in the power of Congress to annex any such condition to a State as a condition upon which it is to be admitted, it was soon after conceded that it was

not in the power of Congress to annex any such condition to the admission of a State, because such condition would produce inequality as between the States. He reads everything that comes out that is worth reading, and he will pardon me for saying he sometimes reads what is not worth reading; and I am sure the honorable member must have read the speech that electrified this body, charmed an immense audience, placed his name high upon the roll of orators, made him for the time the observed of all observers, the speech that Pinckney delivered on that question in this Chamber. It is very imperfectly reported, but the argument is there, and the argument was so overwhelming that although the opposite view was taken by a man of eminent ability, and pure and spotless character, and burning patriotism, (Rufus King was his opponent, and spoke in advance,) he yielded to its masterly power, and stood, if I may be permitted to use what I have heard from those who were spectators of the debate, crest-fallen. And from that day to this, (I speak what I know, Mr. President, for it has happened to be my duty particularly to examine this question professionally,) with rare exceptions every jurist in either branch of Congress who has spoken on the subject, until the last two or three years, has admitted that whether a State is to be received into the Union or not, one thing is certain, she can only come in as an equal; and as Massachusetts might establish slavery if she thought proper to do so, as she once recognized it, as she once, if there could be any enjoyment in such an institution, enjoyed it, as some of her citizens sold the slaves which went out to the South—as she could now establish African slavery within her own limits, it followed that if you prohibited it to Arkansas or to Tennessee, or to any other States, they would not be on an equal footing with Massachusetts. I trust in God the Union is destined to last forever, but it cannot last when once it is understood that each State in the Union is not the equal of every other, equal in everything, equal not only in the power to do right but equal in the power to do wrong; I mean morally wrong. My friend is for blotting out all these State lines which were so valuable to us in the past, around which so many associations that cling round the heart of an American are to be found; associations the result of intercourse, the result of marriage, the result of blood relationship, the result of joint glories and joint trials in the field. He is for blotting them all out and considering these States merely as territory, to return to the United States as territorial acquisitions; or, if the honorable member refuses to admit that that word properly illustrates his own view, to get them back into the United States as Territories, stripped of State power and unprotected by the Constitution of the United States, except so far as that Constitution deals with and protects the Territories of the United States.

Now, I have nothing to say either one way or the other; first, because I do not know what the facts are; secondly, because, if I did, it would not be proper in the relation in which perhaps I shall stand to the question of the right of these gentlemen from Arkansas to seats on this floor; but I may be permitted to remark that there is one aspect in which the question is one of transcendent moment. Why did the President attempt to get back Florida? Why Louisiana? Why Arkansas? Why Tennessee? Why, to the extent that he has succeeded in getting them back according to his view, has he filled up all the offices which the acts of Congress provide for those several States? To have them represented here and in the other branch? That would depend upon the two branches.

But there is another forum to whose decision the questions may be referred. A presidential election is near at hand; electoral votes are important. As these States may be represented in that electoral college, or as they may not be represented, some one man may be elected instead of some other. Suppose they are represented; suppose Arkansas, Tennessee, Florida, and Alabama elect electors, who is to decide the question? Suppose the election of Mr. Lincoln or the election of his opponent—I put it both ways—suppose the man who receives of all the votes counted a majority of the votes, has a majority or not a majority just as these electoral votes may have been legitimately cast or not; who decides it?

Not the Senate of the United States; not the House of Representatives. The President has already decided it in advance; the honorable member from Massachusetts has decided it in advance, provided he has voted to confirm the nominations which have been made in some of these States. They are in the Union now; and if they are in the Union now, under the President's proclamation, although they were out of it or might have been out of it before, they have a right to choose electors. If the reelection of Mr. Lincoln or the election of any competitor of Mr. Lincoln shall be found to depend upon the legality of those votes, God knows what may not be the result.

Let me assume that Mr. Lincoln receives them. What will his competitor, who, I assume, has a majority of all the other votes except these, say? He will hold up the speech of the honorable member from Massachusetts, "Here one of your leaders versed in constitutional law, devoted to your policy, has pronounced on the floor of the Senate, with undoubted confidence, that they have no right to be heard in the electoral college, and therefore their votes, if cast, are to be considered as a nullity." The issue will be a frightful one. God forbid that the contingency should happen; but if it shall happen, look to hear the earth tremble again. It is more especially calculated to excite the public heart and arouse the public blood when we know that it has been asserted, and continues to be asserted from time to time, that the very purpose of bringing back those States, illegally, as the honorable member from Massachusetts insists, is with a view to the presidential election. I do not believe it. I am not here to criminate the President of the United States, nor to assail his motives. As at present advised, I think he has erred, as I think he has erred in a great many other things; but my individual belief or the individual belief of anybody else is a matter of little or no moment. Should the result of the election depend upon the legality of those votes, and those votes should alone give it to him, then I think I can almost hear by anticipation the mutterings of the thunder.

Mr. SUMNER. May I interrupt the Senator?

Mr. JOHNSON. With pleasure.

Mr. SUMNER. Then the Senator must agree with me in the importance of settling this question in advance.

Mr. JOHNSON. I admit that.

Mr. SUMNER. The Senator agrees with me.

Mr. JOHNSON. Certainly. I do not say that I agree with you in opinion. I say it is necessary to settle it in advance.

Mr. SUMNER. The Senator agrees with me as to the importance of settling it in advance.

Mr. JOHNSON. Of course I do; but suppose it is settled against your view and mine, what then?

Mr. SUMNER. Do I understand the Senator to say they are entitled to electoral votes?

Mr. JOHNSON. No, sir; I have said almost directly the reverse. I have forborne, as the Chair will recollect, and as perhaps some of the Senators who have heard me will recollect, to express any decision of the question. I unite with the honorable member—

Mr. SUMNER. I am at a loss to see where the difference is between the Senator and myself. The Senator thinks they are entitled to electoral votes. For instance, take the case of Tennessee or of Arkansas. If either of those States is a State of this Union completely constituted, in the exercise of all the rights and functions of a State, of course it will be entitled to cast its electoral vote. It seems to me that that is a crucial question which determines the case. If the Senator says that those States are not entitled to cast an electoral vote, it must be for some reason. What is it? Because they have not that position in the Union which can so entitle a State; because their position is anomalous; because they are not yet completely on their legs, if I may so say, as a State; or, borrowing the language of the President, because the State government must be re-established; or, again borrowing the language of the President, must be revived; or, again borrowing his language, must be set up. It seems to me that that is the only reason which can sustain the Senator, and therefore the Senator and myself do not differ.

Mr. JOHNSON. I am always happy to agree with the honorable member from Massachusetts, and during the whole of this session I have upon

every occasion which presented itself, made a very honest effort to come to that result, but have very seldom succeeded. The difference between the honorable member and myself is as wide as the poles. I consider the war now being carried on against the citizens of those States as being carried on against them individually; that each man is just as much a citizen of the United States in those States now as is each man in the loyal States; but as those men for the most part are now in arms against the United States, trying to destroy the United States, they are not to be represented in the electoral college because they are criminals, traitors, whom it is the duty of the United States to prosecute as such, and to punish as such. If the President thinks proper to pardon them all, and he has pardoned a great many, or if Congress should think proper itself by some legislative act, with the consent of the President, to wipe out all their sins as against the United States, and they should organize their government again, and come here, they have a right to come; but until they do that they are the enemies of the United States. But that is not the case made by the President.

Mr. SUMNER. How are they to be organized? There is the practical question.

Mr. JOHNSON. By organizing as they did before.

Mr. SUMNER. Who is to set it in motion?

Mr. JOHNSON. They themselves, just as they did it before. If the constitution of Arkansas as it originally existed stands, it has all the power it ever had; but that is a question to be discussed hereafter.

Now, Mr. President, we ought not to be in great haste, says my learned friend. *Festina lente* is his maxim. The ancients tell us that, as he reminds us; but he tells us we ought not to make hurry. I do not think we have made any particular hurry. These gentlemen have been here a good while waiting for the decision of the Senate. There is one thing in which the maxim has been followed, whether by compulsion or not I do not know, but we have certainly made haste slowly in putting down this rebellion. We have been making the effort here some three or four years, and we do not see as clearly as we would wish the end of it yet. I think I see—but I am sanguine—I think I see that the time is comparatively near at hand when it will be put down. I do not believe, speaking with all the reverence in which in common with every Christian man I hold Providence, I do not believe it is in the providence of God that this nation is to die. I believe it will survive, and be the purer and the greater for the trials through which it has passed and through which it is passing.

"We will fight till the triumph is won,  
Till the States form the realm of the Union  
As the stars form the realm of the sun."

Mr. RICHARDSON. Mr. President, like the Senator from Maryland, I do not concur with the position assumed by the Senator from Massachusetts that these States are out of the Union. I do not think one of the parties to the compact that formed the Union, by an ordinance of secession, by a mere resolution which is of itself a nullity, can take a State out of the Union and destroy the compact. I hold and believe that all the States are in the Union. It does not follow, however, from that position, that I am in favor of admitting all who present themselves from those States with credentials in proper form into the Senate. I am opposed to the admission of one certainly of the applicants who are here now from the State of Arkansas, and I shall proceed to give as briefly as I can the reasons why I am thus opposed. If Congress had passed, as I desired they should, a general amnesty act, the objections in part I now urge would not be valid.

Hereafter, when these troubles are all over, if a member, I will not investigate the antecedents of persons presenting themselves, I will then only look to the regularity and legality of the election and the qualification of the applicant.

This is not a propitious time to admit to seats here persons who aided to pass ordinances of secession, persons who have led in rebellion. I am not willing to vote to admit them into the Senate of the United States during the progress of the difficulties. Mr. Fishback, one of the applicants from Arkansas, voted for secession in that State. In a letter of the 28th of May, 1864, ad-

ressed to the Editors National Intelligencer, he says substantially that this vote was given while he was in duress.

If I believed this I would not raise my voice against him. I have examined the case with some care and labor; and if I had to form an opinion in reference to him I should say that he was the leader of the rebellion in the State of Arkansas; certainly one of the leaders in the convention.

There was one statement made by the Senator from Massachusetts in which he has been led into an error. No vote of the people of Arkansas has ever justified secession. In the only vote the people of Arkansas ever took upon that subject they, by a majority of eleven thousand, decided against it. That was in the election of their delegates to the convention, which convention subsequently adopted and signed the ordinance of secession. Among the delegates who were elected to that convention were two from the county of Sebastian, and one of them was Mr. Fishback. On the 4th of March, 1861, that convention met. A majority of the convention—a majority of five, I believe—elected what they denominated a Union president, a president opposed to the secession of the State. Mr. Fishback voted with that majority. On the 7th of March, soon after the convention was organized—they met and organized upon the 4th—Mr. Fishback offered the following resolution for consideration in that convention:

"Resolved, That any attempt on the part of the Federal Government to coerce a seceding State, by an armed force, will be resisted by Arkansas to the last extremity."

Mr. WILSON. Will the Senator read that again?

Mr. RICHARDSON. Certainly.

"Mr. Fishback offered the following resolution:

"Resolved, That any attempt on the part of the Federal Government to coerce a seceding State, by an armed force, will be resisted by Arkansas to the last extremity."

Mr. Fishback was elected to the convention in opposition to secession. Three days after he took his seat he offered a resolution for adoption in that convention which was the very essence of the rebellion itself. And yet, sir, in the statement he makes in his letter of the 28th of May last he says he was coerced to vote for secession. The resolution is as destructive of Government as secession, and is secession. While I am upon this point I will read what he does say, affording him opportunity to be heard upon it. I read from the letter of Mr. Fishback to the editors of the National Intelligencer:

"For some time prior to the rebellion I had been under ban of suspicion in Arkansas as an 'abolitionist,' because of what I conceived to be my liberal views on the slavery question, and more especially because of a letter which I had published concerning the John Brown affair, and which came very near driving me from the State. Nor was this suspicion lessened when the secession agitation began. I made haste to take strong and decided grounds against it."

This was the strong and decided ground that he took against it, pledging Arkansas to resist to the last any attempt to coerce the States that were in secession.

In the same letter he says:

"So active and so successful was my opposition in that part of the State where I resided that threats of taking my life or of driving me from the State became frequent and extensive. The newspapers of the State were especially abusive and menacing. But I was elected to the convention by a large majority after it was decided to have a convention; and on my way to the capital to take my seat I was warned by the secretary of State not to come to Little Rock or I would be hung. I went, however, and at the first session of the convention we voted the ordinance of secession down by a small majority. During my stay in Little Rock my life was constantly threatened, and on my return a mob in the town of Clarksville, through which I had to pass, had provided a half-bushel of rotten eggs for my benefit, and because of my efforts in defeating the ordinance."

"When Sumter was fired on, and the thorough organization of the rebels became developed so suddenly as to take the Union men quite by surprise, the president unfortunately called the convention together again. Upon assembling we found two rebel regiments already in the capital, the arsenal in their hands, Fort Smith captured by another, the Governor receiving troops daily, and the Union men entirely without organization or concert. Immediately upon discovering this state of facts, I became convinced that the State was inevitably gone, and attempted to make my escape to the North. But so great was the bitterness against me, and so keenly was I watched—it was expected that I would attempt to escape, and therefore my movements were closely watched, for they desired an excuse for my assassination—that I found it impossible, and no course was left me but to acquiesce then and to make my escape afterward when suspicion should subside. This I did on the very first opportunity. Nor did I ever assist the rebellion in any way, shape, or form after that vote."

We shall see about that after a while. This, he states, is the reason why at the second session of the convention, which met, I believe, on the 6th



of May, 1861; he voted for the ordinance of secession. We see on the 7th of March, when there was no force called out, no violence threatened, the second resolution offered in the convention was one by Mr. Fishback, pledging Arkansas to stand by the seceded States and see that they were not coerced. The whole essence of secession is in that resolution of the 7th of March, which he proposed when there were no regiments to menace him, and when, according to his showing, he was free and untrammelled. On the 12th of March—this was during the first session of the convention, before the firing on Fort Sumter—Mr. Fishback offered the following resolution:

*Resolved*, That the president of this convention be, and he is hereby, authorized to appoint one commissioner to each of the slaveholding States, to request their cooperation in an effort, through a national convention, to secure an adjustment of our political troubles upon the basis of the resolutions offered by Mr. Thomason on yesterday."

Now, let us see what was the basis of settlement in Mr. Thomason's resolutions. I find the following in these resolutions:

"1. The President and Vice President of the United States shall each be chosen alternately from a slaveholding and non-slaveholding State, but in no case shall both be chosen from slaveholding or non-slaveholding States.

"2. In all the territory of the United States now held, or which may hereafter be acquired, situated north of latitude 36° 30', slavery or involuntary servitude, except as a punishment for crime, is prohibited while such territory shall remain under territorial government. In all the territory now held, or which may hereafter be acquired south of said line of latitude, slavery of the African race is hereby recognized as existing, and shall not be interfered with by Congress, but shall be protected as property by all the departments of the territorial government during its continuance."

"3. Congress shall have no power to legislate upon the subject of slavery, except to protect the citizen in his right of property in slaves."

No sane man who will take the trouble to read Thomason's resolutions would favor them then or now. To urge them was to render secession and rebellion in Arkansas inevitable. It lead the people blindfold into revolution. This took place in March, 1861. Mr. Fishback, in his letter, says that then the ordinance of secession was defeated. That is true; or rather they did not pass the ordinance. The convention, however, conferred on their president power to convene them at any time, every member of the convention acquiescing in that movement, placing it thus in his power to assemble them at any time, to disregard the popular will of Arkansas, and to pass a secession ordinance. This convention, with Mr. Fishback in the lead, prepared the State for what followed. The convention adjourned and went home; but it was convened again soon after the war commenced by the firing upon Fort Sumter. Their president called them together in May. The first thing they did when they met in May was to pass an ordinance of secession; and, in his statement in the National Intelligencer, he attempts to explain that on the first call of the roll every member of the convention voted for that ordinance except five. Among those who so voted was Mr. Fishback.

Mr. HOWARD. Which way?

Mr. RICHARDSON. For the ordinance. Those who voted against it were "Messrs. Bolinger, Campbell, Gunter, Kelley, and Murphy." I read from the record:

"At the call of Mr. President, Mr. President addressed the convention urging unanimity, whereupon Mr. Bolinger, who had voted in the negative, arose and stated in substance that 'I voted against the ordinance declaring the independence of the State, in accordance with my pledges to my people, but to secure unanimity I ask to change my vote to the affirmative, at the same time denying the right of secession.'

"Mr. Bolinger also asked that the explanation be spread upon the journals; which was so ordered, and his vote changed from 'nay' to 'yea.'

"Mr. Campbell, with a similar explanation, also changed his vote from 'nay' to 'yea.'

"Mr. Kelley, with an explanation in substance that 'he was in favor of revolution, but ignored the right of secession,' also changed his vote from 'nay' to 'yea.'

"Mr. Gunter, with a similar explanation, also changed his vote from 'nay' to 'yea.'

"Mr. Fishback explained his vote."

How we do not know. Mr. Murphy refused to change his vote; he stood solitary and alone voting against the ordinance. I believe they have elected him Governor lately; and I think they have done a very meritorious thing. But Mr. Fishback in his letter says that certain interrogatories were propounded to the candidates for the Senate, the fourth of which was:

"Have you ever aided, directly or indirectly, the secession of the State of Arkansas from the Federal Union?"

Mr. Fishback's answer was:

"In no other wise than by my vote in the convention under circumstances such as you all know. I could hardly be considered as aiding a foregone fact, however."

Now, Mr. President, I state the fact to be that he remained in that convention for nearly a month, participating in its debates, offering resolutions, &c., up to the time that it adjourned. He says he aided the rebellion in no way but by voting for the ordinance of secession. Now, let us see; I invite the attention of the Senate to the proceedings of the convention: A resolution had been offered to place the State upon a war footing, and immediately afterwards Mr. Fishback offered the following resolution:

*Resolved*, That the committee on the militia be instructed to report to this body, at as early a period as practicable, a statement of the cost of maintaining one regiment in active service according to existing laws of the United States."

There was not very much in that, perhaps; he wanted to get at the expense of a regiment; but on the same day, May 7, a resolution being offered to notify Jeff. Davis of their proceedings:

"Mr. Fishback offered the following as a substitute for the resolution as amended:

*Resolved*, That the president of this convention be requested to telegraph to the president of the confederate States, officially informing him that the State of Arkansas has dissolved her connection with the Federal Government of the United States of America, and inquire what is the ratio of representation in the government of the confederate States."

He had an eye on Congress somewhere or other. [Laughter.] He said he aided the rebellion in no other way but by simply voting for the ordinance of secession. Mr. President, the man must have forgotten his own record. He says he was a Union man, opposed to secession, loving the old flag and the old Constitution and the old Union; and here we find him proclaiming to those who were struggling to overthrow and destroy that Union, "We have broken our connection with it; how many votes does it take to send a member to your congress?" As the Yankees say, he "wanted in." I do not know what more aid he could have given to Jeff. Davis than that. It was aid and comfort. He could not wait for the news to go by slow coaches; it must go with the rapidity of lightning to cheer Jeff. Davis's heart when he was making his first onslaughts to overthrow the Government and Constitution of our fathers. Mr. Fishback says he did nothing but just vote for the ordinance of secession, and they had two regiments of military there and mobs, and all that sort of thing! Sir, the whole thing from first to last shows that he was easily robbed of his patriotism. Having aided to ruin them let him be content with the mischief, and not desire to aid further in the work of ruin. If he had desired he could have stood with Murphy. A like opportunity will never present itself again to him.

Mr. President, when Arkansas passed her ordinance of secession the convention went on immediately to organize men and put them into the field. Mr. Fishback participated in all those movements. He offered resolutions and offered amendments to resolutions relative to raising a military force and bringing them into the field. He took an active part in bringing all that machinery into motion. I will do him the justice to say that when the question came upon attaching Arkansas to the southern confederacy he voted against that proposition with a number of others, as the journals show.

Now, Mr. President, I am opposed to his case going to the Committee on the Judiciary. Why? There is upon your statute-book a law to which I was opposed—I did not think it a wise or proper law—prescribing an oath which shall be taken by Senators and members of the House of Representatives. I have taken that oath, and every gentleman who is admitted to a seat here must take the same oath. It is an oath that the person taking it has not voluntarily aided this rebellion. Fishback, I understand, is willing to take it. He cannot, he ought not to take it; it is impossible that he can.

Mr. President, this is an unwelcome duty to me. I would much prefer to say words of kindness and encouragement to him and all who have seen the errors of the past. I must, however, discharge my duty. There is another fact which I must bring to the notice of the Senate. Whatever may have been the election in the case of the other applicant for a seat here, Mr. Fishback's

election is not such a one as I would vote to recognize under any circumstances. I have not the official record to produce in regard to that matter as I have in regard to his action in the convention, but I say he was not elected to the Senate by a majority of the legal members of the Legislature. Mr. Baxter, the other applicant, was elected three days before him. Mr. Baxter and Mr. Fishback were the competing candidates. Mr. Baxter got 38 votes and Mr. Fishback got 34 votes. I believe there is no dispute about this fact.

Three days afterwards there were 37 votes against Mr. Fishback, and 42 for him. Where did those additional votes come from? My information is that they came from Little Rock. From the county of Desha there appeared a member that had just two votes, and they were cast for him in the city of Little Rock. One of the members who voted for Mr. Baxter voted for Fishback, and the other seven were votes manufactured in the city of Little Rock, and they were brought into that Legislature and he was sent here by those votes, some of them representing no constituents at all and some having but two votes. That is my information on the subject, and of course I believe it. Some of the votes for Mr. Fishback were from counties in complete possession of the rebels, where no elections were held or could be held. Then, as Mr. Fishback's case stands, in either view of it, in my judgment it is not in such a condition that his claim ought to be supported, or dignified by reference to a committee. If it is referred it is only for the purpose of paying mileage and per diem, where there is no claim.

Mr. President, sometimes people are very complimentary to me; some persons are great flatterers. A friend was kind enough the other day to call my attention to a letter in the New York Times, signed by a man by the name of Gantt, or some such name, in which he vouched for Mr. Fishback's entire loyalty and for his entire fidelity, and said that all that I have alleged was a mistake; that he had never done anything except what a truly patriotic man ought to have done. Mr. Gantt added in the letter that the country would do very well to swap Mr. Fishback for four just such gentlemen as me. [Laughter.] I do not know how that may be; the country might profit by it; but my judgment is that it is putting me down tolerably low. [Laughter.] But, sir, when we get an indorser we generally inquire into his standing. Who is this Gantt? He was a little while ago a general in the rebel army, a traitor to his country, and now he is false to his confederates. Can you conceive of a lower depth of infamy than that? I have heard it often said that there ought to be honor among thieves. Gantt is the word for all villainies and crimes. But these are the men who come forward and talk about us as not being true and loyal. They call us "copperheads," and such beautiful little epithets. Mr. President, if there is in my past history, if there is in my past record, one action that has not been prompted by a desire to advance the great interests of my country, I do not know it. I call Heaven to witness to-day that whatever errors of judgment I may have committed, every pulsation of my heart has been for my country, for her preservation, for her advancement, for her renown. With the conviction of duty discharged to the best of my ability to my country at all times, I can look on complacently when assailed by the traitor and the betrayer of traitors. Their assaults fall harmless at my feet. One of the fearful omens of the times is the fact that such men, steeped in crime, fearful, damnable crime, covered all over with infamy, can get space in a respectable journal to assail public men, or audiences to listen to their teachings.

Mr. President, I beg pardon of the Senate for alluding in their presence to so dirty a dog as Gantt.

Mr. LANE, of Kansas. Mr. President, if there was no reason before for sending these papers to the Committee on the Judiciary, it seems to me that the Senator from Illinois has furnished one. A people who have to-day ten thousand soldiers in the field defending the flag of the country selected Mr. Fishback as their representative by a majority of the Legislature, let me say, for the benefit of the Senator from Illinois, he receiving 42 votes out of 76. The gentleman assailed came to this city recommended to me by

the most loyal of my friends. They tell me, as does Mr. Baxter, the colleague of Mr. Fishback, that there is not and never has been a loyal man in the State of Arkansas who suspected the loyalty of Mr. Fishback. He was opposed to the ordinance of secession, and voted for it only because that vote was indispensable to the saving of his own life. I hope, Mr. President, that without any further discussion, this matter may go to the Committee on the Judiciary that they may investigate the question. I believe that at this time the discussion should not have been indulged in. When the committee reports, it will be time enough for us to discuss the general subject.

Mr. SAULSBURY. It is not my intention, Mr. President, to enter into this discussion, but simply to say that I shall vote against the reference of these credentials to the Committee on the Judiciary, although, in the first instance, I thought that I should vote otherwise. I shall vote against the reference, because if forty thousand Committees on the Judiciary were to report favorably to the admission, not only of Mr. Fishback, but of his colleague, I would not, under any circumstances, vote for their admission, simply on this ground: if they were the most loyal men in the world, they come here as the representatives of what I consider a rotten borough government established by Abraham Lincoln, and not by the people of Arkansas.

Mr. HOWARD. Mr. President, I shall vote against the reference of this subject to any committee of the Senate. I shall vote against the reference of the joint resolution which is the first in order, because I think the time has not yet come for us to take into consideration the propriety of setting aside the President's proclamation declaring certain States of the Union to be in insurrection; and I shall vote against it, because I think that, fairly and properly speaking, at the present time the State of Arkansas is in insurrection. It is not at peace. So far as the resolution relates to that State, I shall treat it as a State in insurrection.

Now, sir, one word as to the reference of the so-called credentials of Mr. Fishback, who has made application to be admitted as a member of this body. By what right does he come here? The President's proclamation of 1861 declared the whole State of Arkansas to be in a condition of insurrection and rebellion against the Government of the United States, and such was the undoubted fact. That State was as much at war against the United States as were the people of England under Cromwell against King Charles. The state of war was as perfect and complete on the part of that community known as Arkansas against the United States, as was ever a condition of war by any community since the world began. What evidence have we, sir, that this state of war does not still exist? Has it ceased, and if it has ceased, in what manner has it ceased, and what is the evidence of its cessation? The President of the United States has not proclaimed to the world that the condition of hostility in Arkansas has ceased or even subsided. He has not in any way modified his proclamation certifying to the world that Arkansas was in a state of insurrection. If it was in a state of insurrection, and if it be still so, I ask some Senator to inform me upon what ground it is, under what right or claim of right, under what law it is that this people, constituting a hostile and belligerent community, so far as the United States are concerned, have elected or assumed to elect members of this Senate and members of the House of Representatives.

Are public enemies entitled to be represented in the Legislature of the United States? Certainly not. No man will so contend. If we were at war with Great Britain no man in this body or elsewhere would pretend that any portion of the British people, whether in Canada or in England, Ireland, or Scotland, had any right to be represented here, and no man would contend that any one of the citizens or subjects of that Government had any right even to hold intercourse, direct or indirect, with the people of the United States. How, then, has it happened, sir, that this hostile people, the inhabitants of Arkansas, have acquired a right to be represented in the Senate of the United States, to appoint successors to those gentlemen who were expelled from this body during the session of 1861? It seems to me to be a solecism, an absurdity in law, to pretend that in

the present condition of things Arkansas has any right whatever to be represented in this Senate or in the House of Representatives, for the plain reason that so far as Congress is informed, the population of Arkansas is still a hostile and belligerent population.

Now, sir, to refer these credentials and to refer this joint resolution to the Committee on the Judiciary or to any committee of the Senate, is so far forth a recognition of the absurdity that such a thing is possible as a rightful representation of a belligerent and rebellious State in the Senate of the United States, and I do not propose, so far as I am concerned, to give the proposition any countenance on my part, direct or indirect. I hope, therefore, that the Senate will not refer or pay any regard whatever to the credentials of Mr. Fishback at present.

Mr. DOOLITTLE. Mr. President, I do not propose to go into the discussion of this question to-day. I am for this reference to the Committee on the Judiciary that it may be considered by the committee, that the facts may be reported to the Senate, and then the Senate will be called upon to discuss them, and to act upon them. It seems to me altogether premature for men now to discuss this question and prejudice this case in advance. There are important questions undoubtedly involved in the case which is presented. Let those questions be submitted to the Judiciary Committee, and let us have their report, and then it seems to me will be the proper time to enter into the full discussion of the subject.

Mr. President, I am myself decidedly for the reference of the whole question. I was for the motion of the Senator from California [Mr. Conness] when it was first made to refer this case to the Committee on the Judiciary. The other question which has been raised, and the joint resolution in relation to Arkansas, I desire to have referred to the committee at once. Let them take it and report upon it, and then we can discuss it and decide it.

Mr. McDOUGALL. Mr. President, I agree exactly with the Senator from Wisconsin. It would be, as all Senators understand, impossible for each individual Senator to investigate primarily the very difficult and grave questions that come before us with reference to matters of law, constitutional and municipal, in regard to finance, in regard to commerce, in regard to our postal relations, in regard to our territorial interests; and therefore committees are organized in the Senate, and those committees are supposed to be selected from men most conversant with the particular subjects referred to those committees; and after their investigation and the presentation in form of the considerations involving their conclusions, Senators, with the facilities afforded by the committees, are prepared to arrive conveniently at conclusions. That is the office of committees.

The questions involved in the present controversy are of the gravest character. They belong to fundamental law, and demand grave consideration. It seems somewhat strange to me that gentlemen in the majority—for this House has a political majority of the Republican party—are not willing to trust to at least the investigation of a committee, the majority of which has been assigned in caucus by the Republican party, and let that committee lay before the Senate such considerations as will at least suggest to them sound conclusions.

I confess myself ignorant as to the true solution of the questions involved in this controversy. I think I have a right to the aid of the Committee on the Judiciary to assist me in my conclusions, not that I shall be coerced to concur with them; but it is their particular office and business to furnish the material for sound conclusions, and, at least, their own course of argument. We have, as a Senate, the right to call for their counsel and advice as a part of the legitimate machinery of the administration of our business in the Senate; and it is strange to me that there should be any objection to the consideration by a learned committee of questions involving the principles of fundamental law. I trust the matter may be referred; and when the committee shall report, I will try then, with the aid of the light they may throw on the subject, to investigate it, so that I may be satisfied in my own conscience as to how I should conduct myself in delivering my vote in the Senate.

Mr. WILSON. Mr. President, Congress has neglected to pass any law for the reorganization of the governments of the seceded States, and therefore we are left to act on every case when it comes up according to its own merits. I hope that we shall now spend but little time upon this question, and that the reconstruction bill, as it is called, which has passed the House of Representatives, will be taken up at an early day and passed, or that some bill like it will be passed. Congress should not adjourn until we pass some general law guiding and governing this matter.

Sir, there are many true and loyal men in Arkansas. Several thousand of them are in the field fighting the battles of the country. They have elected a Governor of the State who was faithful among the faithless. They are here claiming admission by their chosen Senators and Representatives. Now, sir, I do not wish to give a vote to discourage the truly loyal men in any effort they may make to put their State right, and therefore I think we ought to receive and examine their application with respect and with deliberation and care, and pass upon it so as to promote the cause of the country.

But, sir, I desire to say now, once for all, that under no conceivable circumstances will I ever give a vote for the admission into this body of any man who voted to take any State out of the Union, or who has been engaged in this rebellion. I want it understood that so far as depends on me no traitor shall ever more fill any place of honor or profit under the Government of the United States. If we spare the lives that traitors have forfeited to their country, if we allow them to linger out the remainder of their forfeited lives under a Government that they have tried to destroy, it is all they have a right to ask of the Government of the people of the United States. Sir, make the circuit of the hospitals in this city; look at the twenty-five thousand maimed and bleeding and dying heroes who have fought to save this land against this treason; and then, if you can pardon and admit these traitors into the councils of the menaced nation; do so. God in His infinite mercy may pardon those red-handed traitors, but I never can. I cannot look into the pale faces of our dying heroes and clasp the hands of their murderers.

This Mr. Fishback who comes here and asks admission into the Senate has been proved by the record read by the Senator from Illinois to have early engaged in the work of treason. I will never, never vote for his admission into this Chamber, and I think it is an insult to the Senate of the United States to ask his admission into this Chamber. The other day we had here from the State of Alabama Jere Clemens, a man elected as a Union man to the convention of that State, but after he got to the convention Yancey met him and used him. Yancey knew who he was and what he was, and how to rule him. He made a bargain with him, and Clemens betrayed the people that elected him. He betrayed them on the condition that he should be made adjutant general of the State, an office the profits of which were thousands a year. He was appointed to the office, and for twelve months he put the traitors from Alabama into the confederate service—men who have shot down our brothers and our friends and our neighbors. He remained in that office until his associates got sick of him and threatened to abolish the office in order to get rid of him, and then he resigned. He has recently come here, strutted around the city, came into this Chamber, and talked about being a Union man. Sir, I think it is time to have it understood that this class of men are not hereafter to shape the policy of this country or of any State of the Union, or to receive the confidence of the administrators of the Government.

I am willing to refer this subject to the Committee on the Judiciary. I respect the truly loyal men in the State of Arkansas, and I treat with respect their application for organizing civil governments; sir, I do not mean their application to come into the Union, for it seems to me that Arkansas is not out of the Union. We hold that State now with their iron hand of war, and I choose to so hold her until they are ready and ripe for civil government. I would hold all the other rebel States by military power and whip them into obedience as the Senator from Vermont [Mr. Foot] suggests. That seems to me to be the cor-

rect position; but I will examine their application or their effort to organize civil government and see what they have got to say; and as we have no general law under which to act, I will take each case by itself and act on it according to our best judgments. I wish it understood, however, that I will not, while I hold a seat here, vote to admit anybody who voted to carry any State out of the Union or any one who has fought the battles of the rebellion to seats on this floor, nor will I vote to allow such men to hold office of honor or profit under the Government of the United States. No, sir, never.

Mr. LANE, of Kansas. It seems to me that the Senator from Massachusetts might have refrained from insulting a gentleman in his presence, at least when he is here not permitted to say a word in his own defense. I say to the Senator from Massachusetts that Mr. Fishback has as clean a record as a loyal man as he has, with the single exception of having cast a vote for the ordinance of secession in order to save his life. Mr. Fishback comes here with the indorsement of friends as true to the Union as the Senator from Massachusetts, and I have said here to-day that there is not now, and there never has been, a loyal man in the State of Arkansas that doubted the loyalty of Mr. Fishback. I am responsible somewhat for introducing him upon the floor of the Senate. I have said that he came recommended by true men, men as true as the Senator from Massachusetts dare claim to be. After consultation with older Senators, I told him that it was the practice of the Senate to permit those who came here with regular credentials to take their seats within the bar; and so he is here. I put it to the Senator from Massachusetts, when this case is sought by these very applicants to be referred to the Committee on the Judiciary for investigation, if it is chivalric for him to rise in his place in the Senate and assail a helpless man in his teeth. I say to the Senator from Massachusetts that so far as I am concerned, I should feel that I was perpetrating an act of which I would be ashamed, in the Senate of the United States, and before the world, to brand a man who has it not in his power to defend himself, who seeks an investigation, and who, if he cannot show a clean, pure record of loyalty, from his birth to this moment, does not ask a seat on this floor. He perhaps was the only man in the State of Arkansas who could not have voted against the ordinance of secession. He had before the rebellion written a letter in extenuation of the raid of John Brown upon Virginia, and he was known throughout the western States as a radical abolitionist. That is a misfortune in the eye of the Senator from Delaware, I doubt not, but in the eye of loyal men it is an honor to be branded as an abolitionist.

Mr. SAULSBURY. In response to that, I will simply say to the Senator from Kansas that if by the assertion that in the eyes of loyal men it is an honor to be an abolitionist he means to cast any imputation upon me, I do not intend to enter into any discussion of my loyalty with that Senator.

Mr. LANE, of Kansas. The gentleman who has been assailed here was elected to the convention of Arkansas as a Union man. He opposed the ordinance of secession and defeated it at the first session of the convention. Before he finally cast a vote for that ordinance of secession, he went upon a steamboat lying in the Arkansas river at Little Rock and tried to escape, but the officers told him that if they received him their boat would be destroyed. He voted for that ordinance of secession after full consultation with the loyal men of the State, and with the distinct understanding that he voted for it merely to save his life.

Mr. President, I take this opportunity of answering a suggestion made by the Senator from Michigan a few days ago, that this State ought not to be received into the Union unless it was evidenced that they were able to maintain themselves after the army of the Union was withdrawn.

Mr. HOWARD. I think my honorable friend from Kansas need spend none of his time on such a proposition as that, for I think I did not advance any such idea.

Mr. LANE, of Kansas. The suggestion was that without the military aid of the Government they could not sustain themselves.

Mr. HOWARD. The Senator is mistaken. Such an idea never occurred to my mind.

Mr. LANE, of Kansas. I certainly understood the Senator from Michigan, and he will find it in his printed speech, to express the idea that that was to be the test. Does the Senator disavow it?

Mr. HOWARD. What is the question?

Mr. LANE, of Kansas. Does the Senator disavow that he took the ground that Arkansas ought not to be recognized because they could not sustain their State government in the absence of the military power of the General Government?

Mr. HOWARD. I do not know what the report of my speech may be; I have not seen it since I made it here; but I have no recollection of ever advancing such an opinion as that.

Mr. LANE, of Kansas. I should like to understand from the Senator if he entertains that opinion now.

Mr. HOWARD. It is unnecessary to catechize me on that subject. "Sufficient unto the day is the evil thereof." I will answer the question when it properly arises.

Mr. LANE, of Kansas. I so understood the drift of the argument of the Senator, and I was going to answer that proposition by saying that I take it that would affect every State in the Union. The State of Michigan could not long maintain her State government after the armies of the Union were dissolved or withdrawn. The armies of the United States are as necessary to maintain a State organization in Massachusetts, in Pennsylvania, or in Kentucky, as in Arkansas.

I have desired the admission of Arkansas because I believed that it was our true policy to organize State governments in the rear of our advancing armies. In the confederate States there are governments hostile to our Government. There is no true way, in my opinion, to meet those organizations successfully except by State government. It was by a State government organization in Kansas that Kansas was saved to the Union. I think experience will prove that the true policy is to organize our State governments, free State governments, in the rear of our armies as they move forward. It has been for that reason that I have been anxious for the admission of Arkansas.

I desire to say further, Mr. President, that I should be as far as the Senator from Massachusetts from voting for the reception of any man upon this floor who had entertained an opinion, or who had perpetrated an act hostile to the Government. It is not true that Mr. Fishback ever engaged in the armed service of the rebellion. On the contrary, as soon as he could escape from the State of Arkansas he did escape, and he has been engaged during this entire rebellion in organizing troops for the Government. He has organized one entire regiment and almost another one, almost two thousand men. I say to the Senator from Massachusetts, with a knowledge of what I say obtained from others, that there is no man in the State of Arkansas who has the confidence of the loyal people of Arkansas to a greater extent than Mr. Fishback has.

Mr. WILSON. The Senator from Kansas, who assumes to be the champion of the claimant from Arkansas, speaks with a great deal of earnestness, not to say of passion. Sir, I assure the Senator there is no occasion for any excitement or passion in this case. The Senator complains because I have chosen to speak of the claims and position of Mr. Fishback in his presence. How could I speak otherwise when he was present? The question is before the Senate; everything pertaining to the claim, position, and conduct of that gentleman is before us for consideration. Yes, sir, every act of his is before us; and if I speak at all on the subject I must speak in his presence, for the Senator from Kansas has introduced him to this Chamber. Is he introduced here by the Senator for the purpose of imposing silence upon us? When we are considering this question must we be silent in regard to his conduct in voting to carry his State out of this Union? Must we fail to characterize his work of treason as it should be because he is present? I object not to that gentleman coming into this Chamber any more than I object to his coming to the city of Washington; but when he is here, if he chooses to remain and listen to the discussions in the case of Arkansas, he must listen, yes, sir, he must listen to what Senators choose to utter in regard to his acts and his conduct. While this question is before us if I choose to say anything upon the sub-

ject, I shall speak of it precisely in his presence as I would if he were absent. That is all I have to say in regard to the remarks of the Senator from Kansas.

Mr. GRIMES. Mr. President, during the five years that I have been a member of this body I have heard a great many extraordinary debates, but it occurs to me that this is the most extraordinary one that I have ever listened to. Some gentlemen appear before us and present to us credentials from a man calling himself or representing himself to be Governor of the State of Arkansas. That gentleman is recognized by the chief Executive Magistrate of the United States as the Governor of Arkansas. The credentials are presented to us and read, and the proposition is made to refer them for investigation to the Committee on the Judiciary.

The highest prerogative of this body, I undertake to say, is that which relates to the qualifications and admission of its members, and their expulsion. We act in regard to that question purely or almost purely in a judicial character. There are friends here with whom I am always pleased to act, for whose opinions I entertain the highest consideration, who propose that these credentials shall not be thus referred, that we shall not investigate the facts in regard to them, some for the reason that they say this man did not receive the requisite number of votes. How do we know? Shall we not give him a fair opportunity to appear before the organ of the Senate which we have constituted for this particular purpose, and explain to the Senate how that is? Would it be just for us to drive him from the doors of the Senate without giving him an opportunity to have the question investigated?

Others say that he voted for an ordinance of secession in Arkansas: As evidence of it they produce to us a printed document, a book. How do we know that that is not a forgery? Who knows whether that was published by the authority of the so-called confederate State of Arkansas, or, if it was published by that authority, that it does not contain an interpolation? Will you drive this gentleman away from the doors of the Senate Chamber without giving him an opportunity to explain that vote? I am not prepared to say that I would not vote with, and I incline to think that I would, nay, I certainly would, vote with the Senator from Massachusetts [Mr. Wilson] against the admission of any man who had participated in this rebellion unless he could satisfy me, as the Senator from Kansas has said that this committee and the Senate can be satisfied in regard to this man, that he cast that vote under coercion of such a character as to make it absolutely necessary for him to do it in order to save his life. But give the man an opportunity to be heard. It is due to the State of Arkansas, it is due to the dignity of this body, it is due to the country, that we should not thrust him away in this manner without letting his credentials be sent to the organ of this body which we have constituted to investigate questions of this kind.

Mr. HOWARD. Mr. President, the Senator from Iowa seems to regard this as a very extraordinary discussion; the most so, it would seem, that he has ever listened to. I see nothing extraordinary in the discussion. What are the facts which have given rise to the discussion? They are few in number and easily understood. The first is that on the 6th of May, 1861, the people known as the State of Arkansas, then one of the United States, assembled in convention and passed what is called an ordinance of secession by a vote of 69 against 1; and in that ordinance, among other things, they declare:

"We do hereby further declare and ordain that the State of Arkansas hereby assumes to herself all rights and powers heretofore delegated to the Government of the United States of America, that her citizens are absolved from all allegiance to said Government of the United States, and that she is in full possession and exercise of all the rights and sovereignty which appertain to a free and independent State."

This was an open, undisguised declaration of national independence on the part of the State of Arkansas, as plainly such was the declaration of the 4th of July, 1776. It was an assumption by her, contrary to all right and all law, of the rights and powers of a sovereign nation and a sovereign people, and an entire rejection and repudiation of all allegiance to the Government of the United States, of all dependence upon that



Government, and of all friendly connection with that Government. That is one fact.

A second fact is that on the 16th of the same month of May, 1861, this community, claiming thus to be an independent nation in and of itself, sent to the rebel confederacy six representatives, which representatives were received as members of the rebel congress, and are now, as I suppose, for I know nothing to the contrary, acting in the rebel congress in hostility to the Government of the United States.

A third fact is that the delegation of that State in the Congress of the United States either withdrew, and thus vacated their seats voluntarily on the secession of their State, or were afterwards, and shortly afterwards, expelled from their seats in this body or in the other House. I do not know what the particular fact was in regard to the expulsion of members from Arkansas in the other House; but the seats of all the Representatives and Senators from that State became vacant in consequence of this act of rebellion and insurrection committed by the people of the State of Arkansas acting in their convention, and that State shortly afterwards joined the rebel confederacy, and is now, so far as she has any representatives anywhere abroad, a member of the rebel confederacy, and as a political community is engaged in open war with the United States of America.

Is there any doubt about these facts? None whatever. The honorable Senator from Iowa will not deny one of them.

Mr. GRIMES. I do not know whether they are true or not, and this Senate does not know officially that they are true or not. That is the question we propose to investigate through the Judiciary Committee. As my friend from Connecticut [Mr. FOSTER] suggests, I do not know, and I presume the Senator from Michigan cannot tell me, whether or not that convention that assembled in Arkansas was legally called under the Constitution, and by authority of the old constitution of the State of Arkansas.

Mr. HOWARD. That question is entirely immaterial. Of course it was not called in accordance with the old constitution of the State of Arkansas.

Mr. GRIMES. It may be immaterial in the Senator's opinion, not in mine.

Mr. HOWARD. It is not in the slightest degree material to anybody. Is it material for the Senate of the United States to institute an inquiry into this proposition, whether an ordinance of secession is a legal ordinance under the constitution of the seceding State?

Mr. GRIMES. That is not the question.

Mr. HOWARD. That was the question put to me by the Senator from Iowa.

Mr. GRIMES. Not at all; but whether the convention that assembled in Arkansas assembled in pursuance of the provisions of their original or old constitution, the State constitution, or not. The trouble with the Senator is that he begs all the questions which I propose to have investigated by the Committee on the Judiciary.

Mr. HOWARD. Does the honorable Senator from Iowa expect a committee of this Senate to inquire into the legality of that seceding convention? And that is the question which he puts to me now. He seems to intimate that it might have been legal. I take it for granted *in limine*, without discussion or inquiry, that such an assemblage got together for such a purpose was a treasonable and therefore an illegal and unconstitutional assemblage.

Mr. GRIMES. How does the Senate know for what purpose that convention originally assembled? It may have been called in pursuance of the old constitution of Arkansas, and may have been assembled for a legitimate and constitutional purpose, but after it assembled it may have been perverted in its purposes.

Mr. HOWARD. I judge of the character of the assembly from the acts which it performed. I judge the tree by its fruit. If its purpose was not treasonable, it certainly in its fruits greatly departed from the purpose for which it was originally called. It is sufficient for my purpose to know what it actually did, to determine the purpose for which it was called together. I do not wish to spend any time on a question of that kind.

The next fact in the case is the proclamation of the President of the United States declaring to the

nation and to the world that this community, once a State of the United States, was in a state of insurrection against the lawful authority of the United States; and subsequent proclamations of the President duly issued prohibited all trade and intercourse between the people of Arkansas and other portions of the people of the United States, treating it to all intents and purposes as a belligerent community with which the people of the United States were engaged in a defensive war, and that is all you can make of it. That condition of things, so far as we know, still endures. There is the President's proclamation declaring it to be in a state of hostility. Is that revoked? No, sir; it is the same that it ever was, and, so far as we have or can have any information, the state of war between that community and the Government of the United States is still existent.

Now, sir, it is proposed to refer solemnly for a report from the Judiciary Committee of this body the question whether a community, a population engaged in hostilities against the United States, a population who have been decided to be enemies of the United States, and so decided by the Supreme Court of the United States, are entitled at such a time as this and under these circumstances to be represented in this body or to be recognized as a State. Sir, I will spend no time upon a question so absurd, so suicidal to the interests of the United States. Whenever the President of the United States, the Commander-in-Chief of the Army, who has due authority under acts of Congress, shall see fit for causes sufficient to influence him to declare that this state of hostility no longer exists on the part of the people of Arkansas, it will be time for me to take the question again into consideration; and if I find that that State has ceased to be belligerent and hostile as a community—that it has returned as a body-politic and corporate to its allegiance to the Government of the United States—I shall be among the first to hail its return to loyalty, to peace, and to harmony in the Union; but I shall be very careful to take the best possible security the circumstances of the case will afford, and see to it that the cause of this hostility shall have been extinguished. Before I agree to receive that hostile community back into the Union I shall take every precaution that pertains to common prudence that my constituents and my State shall not again be under the necessity of marching through this sea of blood and fire for the purpose of vindicating the honor of the nation, for the purpose of vindicating the nationality of the United States and of putting down this heresy of the right of secession. I shall take as good security as the nature of the case will admit. I will not discuss a question that involves even indirectly the right of a seceded State to claim a seat here or in the other House of Congress.

Mr. HOWE. Mr. President—

Mr. LANE, of Kansas. Will the Senator from Wisconsin permit me to make just one remark? The very first paper that will be laid before the Committee on the Judiciary will be a proclamation of the commanding general of Arkansas declaring that the rebellion is so far crushed out in that State that the people can proceed to organize a State government—the proclamation of General Steele.

Mr. HOWARD. Let me ask my friend from Kansas whether that is sufficient evidence for him to act upon in so grave a matter as this? Would he take the certificate of the general in the field of the fact that the rebellion had been subdued in a State?

Mr. LANE, of Kansas. I understood the Senator from Michigan to state in his place that when such evidence as that was produced, when the military authorities communicated to the Senate that the rebellion was crushed out, he could begin to entertain the proposition. I say that the commander of the department, General Steele, has already made such a proclamation in regard to Arkansas.

Mr. HOWARD. The Senator entirely misunderstood the observation which he supposed I made. I certainly never advanced any such idea as that.

Mr. LANE, of Kansas. The Senator from Michigan certainly said that when the President of the United States communicated such information it would be time for him to act. I say the President of the United States, through his sub-

ordinate commander, General Steele, has already proclaimed that to the world, and proclaimed it to the people of Arkansas, and under that proclamation these proceedings were instituted.

Mr. HOWE. Mr. President, I agree with the Senator from Massachusetts and the Senator from Maryland, that we had better make haste slowly. I am afraid we shall fall into some confusion if we do not. I have a document in my hand entitled "The Constitution of the United States," and here is a clause which reads:

"The Senate of the United States shall be composed of two Senators from each State chosen by the Legislature thereof for six years, and each Senator shall have one vote."

If that is a genuine document [laughter] and that is a binding law, it opens up the inquiry whether the State of Arkansas is a State of the Union. I have another document which is entitled "An act for the admission of the State of Arkansas into the Union, and to provide for the due execution of the laws of the United States within the same, and for other purposes." A clause in that act reads as follows:

"That the State of Arkansas shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States in all respects whatever, and the said State shall consist of all the territory included within the following boundaries, to wit."

I will not read the boundaries. I suppose the body which enacted that law had authority to enact it, and I suppose it to be a law to-day which binds this Senate and binds the President and binds each of the agencies and all the authorities of the United States except the law-making power, unless it has been repealed or abrogated. If it has been repealed, I ask when, and by whom? There are those who say it was repealed by the people of Arkansas. I think they are mistaken. I think the people of Arkansas cannot repeal one of the acts of Congress, and I suspect it will not be seriously contended by anybody on this floor. There are others who suggest, if they do not say, that it has been repealed by the President of the United States. I think they are mistaken also. I do not believe the President of the United States can repeal one of these laws. I do not believe that he has the authority to do it, and what is more, I do not believe he has attempted to do it.

It is said he issued a proclamation which operates as a repeal of this statute. I have looked at the proclamation. I do not think it was intended to have any such effect, and if so designed the terms employed were utterly inadequate to effect any such purpose. He declared, to be sure, that "the inhabitants of the said States of Georgia, South Carolina, Virginia, North Carolina, Tennessee, Alabama, Louisiana, Texas, Arkansas, Mississippi, and Florida (except the inhabitants of that part of the State of Virginia lying west of the Alleghany mountains, and all such other parts of that State and the other States hereinbefore named as may maintain a loyal adhesion to the Union and the Constitution, or may be from time to time occupied and controlled by forces of the United States engaged in the dispersion of said insurgents), are in a state of insurrection."

That portion of this proclamation which I have read does not declare that the people of Arkansas even are in a state of insurrection positively, but only so far as they are not controlled by the military forces of the United States. So far as they are not controlled by those forces he does proclaim that the people are in a state of insurrection against the United States; but what then? What if they are in a state of insurrection, the whole of them, what is the consequence as declared by the President? Simply not that they are out of the Union, not that they are no longer in the Union, not that they are no longer entitled to a representation in this House or the other, not that they are deprived of the functions of a State; the President does not declare either of these things, but simply that "all commercial intercourse between the same and the inhabitants thereof, with the exceptions aforesaid, and the citizens of other States and other parts of the United States is unlawful, and will remain unlawful." When? "Until such insurrection shall cease, or has been suppressed." What then? Why, that "all goods and chattels, wares and merchandise, coming from any of said States, with the exceptions aforesaid, into other parts of the United States without the special license and permission of the President, through the Secre-

tary of the Treasury, or proceeding to any of said States, with the exception aforesaid, by land or water, together with the vessel or vehicle conveying the same, or conveying persons to and from said States, with said exceptions, will be forfeited to the United States."

Give to this paper whatever authority you please, if by it the people of Arkansas are deprived of the power of establishing a State government, of electing a Legislature, which Legislature can elect Senators to this body, if by this paper these prerogatives are taken away from the people of Arkansas, they are taken away from the people of New York unquestionably, because the obligations and the duties charged upon the people of Arkansas and the people of New York are precisely alike. The citizens of Arkansas cannot send commerce to New York; and New York cannot send commerce to Arkansas. They are placed upon precisely the same footing, and if by the terms of this proclamation Arkansas is thrown without the pale of the Union, New York is also without the pale of the Union.

I shall say no more to establish the point that up to this time the act which I read from the statutes of the United States, and which was enacted on the 23d of June, 1836, is not repealed or abrogated.

I have said to the Senate once or twice that in my judgment we ought to act on this question in reference to each of these States. Some of these acts, in my judgment, ought to be repealed. Some of these States in my judgment ought to be declared by the law-making power of the United States to be no longer privileged to elect representatives to this body. Up to this time we have done no such thing. This law still exists in full force. I think it is binding upon the Senate, and if so, the people of Arkansas have a right to be represented in this body. I am told they have sent up here two representatives. I understand this body to be clothed with the power to judge of the qualifications and of the returns of its members. It is proposed to refer this question, which I understand is not an unusual procedure, to one of the established standing committees of this body. It is objected to. For myself I cannot see any good reason for refusing that reference. I shall say not one single word now whether this particular individual ought or ought not to be admitted to a seat here. I do say that the Senate is not clothed anywhere with the authority to say that that State cannot be represented here; and if she has the right to be represented here and sends representatives, we ought to take some measure to determine whether the individuals presented are entitled to that representation or not.

Mr. WADE. Mr. President, the question now before us involves the merits of the whole subject of the admission of members from the seceded States, and on this preliminary motion it will be argued as thoroughly as it will be when that general subject comes up for final determination. There is a bill from the House of Representatives which was referred to the committee of which I am chairman, that undertakes to settle the relations between the General Government and the seceded States; and if we pass it it will undoubtedly cover all the ground on which this debate is proceeding; and it seems to me, as that will settle the general principle, in order to save time in debate, we ought to take that bill up at a very early period, and perhaps we had better do it before we proceed any further with this question. I have said that so far as the relations of the seceded States and the General Government are concerned, that bill, if it be passed, will settle them. As to any personal considerations in regard to this applicant, of course it would not have the effect to settle that. But if the relation of the State is such that we cannot receive Representatives or Senators from it at this stage of proceedings, that bill would settle it.

Now, for the purpose of getting rid of this debate, which I suppose will continue—if it did not I would give way to have the question taken—I suggest that it might be well to lay this subject on the table for the present, and in the mean time I will bring forward the bill and urge it on the consideration of the Senate as soon as I can get an opportunity to do so. I have only waited this long because most important appropriation bills and the tax bill seemed to crowd out every other consideration; but at the very earliest period I pledge the Senate I will move to take up that bill

and have it considered, and if it is passed here as it was in the other House, it would settle the whole question.

Several SENATORS. What is the bill?

Mr. WADE. The title is "A bill to guaranty to certain States whose governments have been usurped or overthrown a republican form of government."

Mr. CONNESS. I suggest to the Senator not to move to lay this question on the table; but let it go to the committee and let the Judiciary Committee act upon it; and in the mean time I shall join the Senator in the importance of the measure to which he has referred, and I will join in aiding to take it up.

Mr. SUMNER. Allow me to make a suggestion to my friend from Ohio. He is aware, every Senator is aware, that when a measure has been reported to the Senate all petitions and other things coming in that concern that matter or any other kindred or cognate questions are naturally and logically allowed to lie on the table until the main question has been considered and disposed of. It is within our experience every day that we present petitions, and if any measure involving those petitions is already on the Calendar, we ask that the petitions may lie on the table. It seems to me, therefore, that the Senator from Ohio is entirely right when he proposes that the papers of this claimant and the other kindred matters lie on the table now.

Mr. GRIMES. Has the Senator from Ohio made that motion?

Mr. WADE. I was about to make that motion, or rather I wanted to see how it would suit all around. I wanted to get rid of as much debate as possible.

Mr. GRIMES. Let us refer the credentials.

Mr. SUMNER. It seems to me that my friend from Ohio is entirely right in proposing that this matter should lie on the table until the main question has been settled. The main question will dispose of this.

Mr. LANE, of Kansas. There are six gentlemen here claiming seats in the two Houses from Arkansas. They are very desirous to have this question decided. The Senator from Ohio is aware—if he is not I am—that the bill to which he refers never will pass Congress, and I desire to state the reason why. The House of Representatives, in the bill, confine the right of voting in the rebel States to the white voters. Our committee have struck out the word "white," and I suppose the Senate will adhere to that amendment. We know enough about the House of Representatives to know that they will never concur in the amendment, and thus, it seems to me, that bill is inevitably lost; it cannot be passed. So far as I am concerned, I would see a thousand such bills defeated before I would consent to confine the voting in the rebel States to men who ought not to have the right of suffrage, the whites. So far as the whites in the rebellious States are concerned, I am clear that they ought not to have the right of suffrage, and that the negroes ought to have it, because they are pretty much the only loyal men there.

Mr. WADE. It is a very strange suggestion coming from the Senator from Kansas, a member of the Committee on Territories, that recommended this bill for passage by the Senate, to get up now and say that we ought to abandon it, because he is very certain—and he speaks for the whole Senate—that it never can pass here.

Mr. LANE, of Kansas. I did not say it would not pass here, but it can never pass the lower House.

Mr. WADE. It has passed the lower House and come to us.

Mr. LANE, of Kansas. Yes; but they put in the word "white," and we have struck it out, and I suppose from the votes heretofore given the Senate will adhere to that position, and then the bill, so amended, can never pass the House of Representatives. We have already seen evidence enough of that.

Mr. WADE. That is a pretty bold assumption when we see the vacillating character of votes in the Senate. We have seen lately a bill precisely in the same predicament which did finally pass both Houses and is now a law.

Mr. McDougall. I wish to suggest to the Senator from Ohio that upon the question before the Senate I believe every Senator is prepared to

vote, and I think we may as well vote upon it without further debate. We are taking up too much time.

Mr. WADE. If I was certain that the debate would cease here and the vote be taken on the motion to refer this matter to the Committee on the Judiciary, I would have no objection.

Several SENATORS. Try it.

Mr. WADE. It was to stop debate that I propose to lay the subject on the table. I think I will try the vote on that motion. I move to lay the whole subject on the table.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio to lay the joint resolution and the credentials on the table.

Mr. LANE, of Kansas, called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 5, nays 32; as follows:

YEAS—Messrs. Chandler, Howard, Richardson, Sumner, and Wade—5.

NAYS—Messrs. Anthony, Brown, Buckalew, Clark, Conness, Davis, Doolittle, Fessenden, Foot, Foster, Grimes, Harlan, Harris, Hendricks, Howe, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Morrill, Pomeroy, Powell, Ramsey, Sausbury, Sherman, Sprague, Trumbull, Van Winkle, Wilkinson, Willey, and Wilson—32.

ABSENT—Messrs. Carlisle, Collamer, Cowan, Dixon, Hale, Harding, Henderson, Hicks, Nesmith, Riddle, Ten Eyck, and Wright—12.

So the motion was not agreed to.

Mr. SUMNER. The question now returns on the reference, and there the question naturally is to what committee this matter should go. The motion, I know, is to refer it to the Judiciary Committee; but should it logically go to that committee according to the usages of the Senate? My friend from Ohio has already referred to a bill of the House of Representatives which is on our tables, House bill No. 244, to guaranty to certain States whose governments have been usurped or overthrown a republican form of government. That bill, the Senate will remember, was referred to the Committee on Territories. It is understood that it has been carefully considered by that committee. At any rate, it is now on our tables reported back from that committee. That committee has, therefore, had this whole subject under consideration. Should it not be allowed to proceed with its consideration in this other aspect of it? Here is a joint resolution moved by the Senator from Kansas who now rises, which in effect is covered by this bill already on our tables.

Mr. LANE, of Kansas. I desire to ask the Senator a question. I ask if, in his long experience, he has ever known the credentials of members claiming seats here to go to any other committee than the Committee on the Judiciary?

Mr. SUMNER. The Senator from Kansas is aware that he himself has moved the reference of the credentials, and the reference also of a joint resolution. That joint resolution raises the question involved in this very bill, which has already been considered by a committee of this body. Why take the subject away from that committee? I began by saying that logically it belonged to that committee unless you wish to assign the same subject to two different committees, so that you may have the advantage of a report one way from one committee and another from another committee. I do not think that can be desirable. It seems to me, in order to give unity to our deliberations and unity to our conclusions, we ought to refer these present papers, with the joint resolution of the Senator from Kansas, to the committee that already has had the whole subject under consideration. I think, therefore, it would be better to substitute the Committee on Territories; but my friend from Ohio, who is chairman of that committee, says, "Let it go to the Committee on the Judiciary." If he is agreed I shall not struggle longer.

Mr. WADE. I am agreed.

The PRESIDENT *pro tempore*. The question is on the motion to refer the joint resolution and the credentials to the Committee on the Judiciary.

The motion was agreed to.

Mr. SUMNER. There is on the table a resolution moved by myself on this subject which ought to take the same reference.

The following resolution, submitted by Mr. Sumner on the 27th of May, was taken from the table and referred to the Committee on the Judiciary:

Resolved, That a State pretending to secede from the

Union and battling against the national Government to maintain this pretension must be regarded as a rebel State, subject to military occupation, and without title to representation on this floor until it has been readmitted by a vote of both Houses of Congress; and the Senate will decline to entertain any application from any such rebel State until after such vote of both Houses of Congress.

Mr. LANE, of Kansas. I desire to present to the Senate a proclamation from the commanding general of the department in which Kansas is situated for the purpose of reference to the same committee, and I ask that it be printed.

Mr. HOWARD. What is the date of the proclamation?

Mr. LANE, of Kansas. In March last.

The proclamation was referred to the Committee on the Judiciary, and ordered to be printed.

#### PERFORMANCE OF MILITARY DUTY.

Mr. WILSON. I desire to call up the bill introduced by the Senator from New York [Mr. MORGAN] to repeal the commutation clause of the enrollment act, for the purpose of acting upon it to-morrow, and I desire to submit some amendments that I intend to offer to it, for the purpose of having them printed.

Mr. TRUMBULL. I have been struggling for some time to get the floor with the view of making a report from a committee of conference.

Mr. WILSON. I wish to have the paper which I presented as an intended amendment to Senate bill No. 286 printed, and I shall desire to call up the bill in the morning.

The amendment was received, and ordered to be printed.

Mr. HENDRICKS. If the amendment is now presented, as it seems to be voluminous, I move that the bill be recommitted with the amendment to the proper committee.

The PRESIDENT *pro tempore*. The Chair will suggest that that motion cannot be entertained at the present time, because the bill is not before the Senate. It was only by unanimous consent that the amendment was received and ordered to be printed.

Mr. HENDRICKS. If the amendment is received my motion is applicable to the amendment; and I desire to say just a word. A committee of this body presents a measure before us. We have a right to suppose that that is the measure the committee is going to stand by; but I have seen committees of the body frequently change the whole proposition. I think it is an objectionable practice, and when the whole thing is gone over again by an amendment, as in this case, I think the matter should go back to the committee.

The PRESIDENT *pro tempore*. The Chair only understands the Senator from Massachusetts to offer an amendment which he intends to propose to the bill for the purpose of having it printed.

#### CONSULAR AND DIPLOMATIC BILL.

Mr. TRUMBULL submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 40) entitled "An act making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1865, and for other purposes," having met, after a full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the second amendment of the Senate and agree to the same with the following amendments: strike out the words "twenty-five" and insert the word "thirteen;" strike out the word "pupils" and insert the word "clerks."

That the House agree to the twenty-eighth amendment of the Senate.

That the Senate recede from all the twenty-ninth amendment after the enacting clause, and that the following be inserted in lieu thereof:

That the President be, and is hereby, authorized, whenever he shall think the public good will be promoted thereby, to appoint consular clerks, not exceeding thirteen in number at any one time, who shall be citizens of the United States, and over eighteen years of age at the time of their appointment, and shall be entitled to compensation for their services respectively at a rate not exceeding \$1,000 per annum, to be determined by the President, and to assign such clerks from time to time to such consulates and with such duties as he shall direct; and before the appointment of any such clerk shall be made, it shall be satisfactorily shown to the Secretary of State, after due examination and report by an examining board, that the applicant is qualified and fit for the duties to which he shall be assigned, and such report shall be laid before the President. And no clerk so appointed shall be removed from office except for cause stated in writing, which shall be submitted to Congress at the session first following such removal.

That the Senate recede from its thirtieth amendment.

That the House recede from its amendment to the thirty-first amendment of the Senate, and agree to the same.

LYMAN TRUMBULL,

IRA HARRIS,

P. G. VAN WINKLE,

Managers on the part of the Senate.

JAMES F. WILSON,

GODLOVE S. ORTH,

Managers on the part of the House.

Mr. TRUMBULL. I will state that the only difference between this report and that submitted by the previous committee of conference is that we have given up on the part of the Senate our thirtieth amendment to this consular and diplomatic appropriation bill. That is the amendment which proposed to raise the grade of the minister to Belgium. The House of Representatives had rejected the report of the previous committee of conference, and on conferring with the committee last appointed on the part of that House they told us that there was no probability of their being able to pass the bill if the Senate insisted upon that amendment. They have given up all the other amendments which were agreed to by the former committee of conference, so that the Senate has already agreed to this report precisely as it now is, with the exception I have stated.

Mr. SUMNER. The chairman of the committee is aware that the proposition was presented in an entirely different form by the last committee of conference.

Mr. TRUMBULL. I know it was.

Mr. SUMNER. It was general, not applicable to Belgium exclusively.

Mr. TRUMBULL. Our amendment was applicable to one country alone. The former committee of conference altered that amendment and made it general, and authorized the raising of the grade without raising the pay of the minister, making it general and applying to all countries excepting those that were specified in the previous act; but the House of Representatives refused to concur in the proposition in that shape, and now we have given up our amendment which provided for raising the grade of the minister to Belgium.

Mr. SUMNER. Then I understand from the chairman that it was not thought practicable to obtain from the other House a recognition of the proposition in the latter form.

Mr. TRUMBULL. We were told distinctly that there was no probability of the other House agreeing to it in either form. In fact they thought it would pass better as a general proposition than in the particular case.

Mr. SUMNER. Doubtless; and I supposed that when it was put in the general form it would be unobjectionable. It would simply authorize the President in the exercise of his discretion to change the grade, which would be a public service in some places, and I think it very important to have it done.

The report was concurred in.

#### MARINE HOSPITAL IN CHICAGO.

Mr. FESSENDEN. I desire, as I suppose the Senate is about adjourning or going into executive session, to call up the joint resolution which has heretofore been under debate with respect to duties on imports, in order that it may come up to-morrow at one o'clock, and I give notice at the same time that I shall desire to follow it by the fortification bill.

Mr. TRUMBULL. If the Senator does not wish to act on that joint resolution now, I hope he will allow me to call up a local bill with a view of passing it.

Mr. FESSENDEN. I understood that it was proposed to go into an executive session immediately.

Mr. LANE, of Kansas. I desire to make that motion.

Mr. TRUMBULL. I desire to call up the bill in regard to the marine hospital at Chicago. It will not consume time.

Mr. FESSENDEN. I do not wish to interfere with anything that may be done to-night, but I want to take up, to-morrow, the joint resolution to which I have referred, because it is absolutely necessary that we should act upon it. I withdraw my motion to accommodate the Senator from Illinois.

Mr. TRUMBULL. I move to proceed to the consideration of the bill for the disposition of the marine hospital at Chicago.

The motion was agreed to; and the bill (H. R. No. 504) to authorize the Secretary of the Treas-

ury to sell the marine hospital and grounds at Chicago, Illinois, and to purchase a new site and build a new hospital, was considered as in Committee of the Whole.

Mr. JOHNSON. Do I understand that the present hospital is first to be sold?

Mr. TRUMBULL. Yes, sir; but possession is to be retained until the new one is completed.

Mr. JOHNSON. But the title will be in the purchaser.

Mr. TRUMBULL. The title will be subject to that condition.

Mr. JOHNSON. But suppose, in the opinion of the Secretary, it is impossible to get as good a one for the same money, what then?

Mr. TRUMBULL. He will make his contract in advance, I suppose. He necessarily must do so. I think the bill is very carefully guarded in that respect. He purchases the ground and makes a contract for the building, and the grounds and building, when complete, are not to cost more than the sum which he receives for the old hospital and grounds. The difficulty about it is that the old hospital is situated at the mouth of the Chicago river, in an undesirable location. I do not know whether the Senator is familiar with it.

Mr. JOHNSON. I am familiar by information, and in no other way. I have no doubt the present hospital ought to be sold, but I suggest that this bill compels the Secretary to sell.

Mr. TRUMBULL. No, it is in his discretion. It does not compel him; it leaves it to the discretion of the Secretary, but I have no doubt he would sell.

The bill was reported to the Senate without amendment.

Mr. GRIMES. Does this bill come from any committee of the Senate?

Mr. ANTHONY. It was referred to the Committee on Naval Affairs, and I reported it back. It is carefully guarded.

Mr. GRIMES. The Committee on Naval Affairs has nothing to do with marine hospitals. It ought to have been referred to the Committee on Commerce.

Mr. ANTHONY. As it was referred to the Committee on Naval Affairs by the Senate, that committee thought proper to take jurisdiction of it.

The bill was ordered to a third reading; was read the third time, and passed.

#### MARQUETTE AND ONTONAGON RAILROAD.

Mr. HOWE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 64) explanatory of the act entitled "An act extending the time for the completion of the Marquette and Ontonagon railroad of the State of Michigan."

Mr. HOWE. The act of which this resolution is explanatory is now before the President awaiting his signature. There is some little ambiguity about it. I have shown this joint resolution to the Senator from Michigan, [Mr. HOWARD], who is particularly interested in the act that has been passed, and to the chairman of the Committee on Public Lands, [Mr. HARLAN], which committee reported that act, and they are satisfied with the resolution, and I should therefore like to have it passed and go to the House of Representatives at once.

Mr. HOWARD. I have not the slightest objection to the passage of this resolution, though I regard it as entirely useless. If the Senator from Wisconsin desires to have it passed as explanatory of the act, I shall not object.

The resolution was read. It provides that the act extending the time for the completion of the Marquette and Ontonagon railroad of the State of Michigan shall be so construed as to extend the time for completing only so much of that road as lies between Marquette and Ontonagon.

Mr. HENDRICKS. I do not recollect the subject very well now, but I believe I had some charge of the original bill. I think I reported it from the Committee on Public Lands, or, at least, I was in the committee when it was discussed.

Mr. HOWE. The Senator is mistaken. The Senator from Virginia [Mr. CARLILE] reported it from the Committee on Public Lands.

Mr. HENDRICKS. I knew that I had it in charge to some extent at some time, and I thought I reported it. It was certainly investigated by the committee when I was present; and I should like



the Senator from Wisconsin to say why he proposes this modification.

Mr. HOWE. It is a question whether this does modify the act; the Senator from Michigan thinks it does not. It is explanatory. The act as passed extends the time for completing the Marquette and Ontonagon railroad, and it is a little difficult perhaps to determine what the Marquette and Ontonagon railroad is. There was a grant of lands made to construct a railroad from Bay de Nequette to Marquette and thence to Ontonagon.

Mr. HENDRICKS. Was there a Senate bill on the subject?

Mr. HOWE. Yes, sir; but the Senate bill—  
Mr. HENDRICKS. That is how I was misled about it. It was the Senate bill that I reported.

Mr. HOWARD. It is all right.

The joint resolution was read three times, and passed.

#### DUTIES ON IMPORTS.

Mr. FESSENDEN. I now renew my motion to proceed to the consideration of the joint resolution (H. R. No. 81) amendatory of the joint resolution to increase temporarily the duties on imports, approved April 29, 1864.

Mr. SUMNER. On the question of taking up the joint resolution of the Senator from Maine, I wish merely to make a single remark. That resolution is of such a character that I cannot doubt the Senate ought to act on it at once. I do not know that there is any business which should take precedence of it. But when the Senator suggested that he proposed immediately after that to go on with the fortification bill, I felt disposed to remind him of what I think he will remember told from him on Friday or Saturday, that he would leave this week for other business. Now, it so happens that there are several questions that the Senate is midway in the discussion of, one that my colleague has in charge and another which I have in charge—the bill to establish a Bureau of Freedmen—and I confess my great anxiety that nothing should be allowed to push that out of the way until it is finally decided.

Mr. FESSENDEN. I cannot make two motions at the same time. The only motion I now make is to proceed to the consideration of the joint resolution in relation to the duties on imports. When that shall be disposed of, the next motion I will make will bring up for consideration another matter.

The motion was agreed to.

Mr. WADE. I rise to give notice that on Friday next at one o'clock I shall move to take up House bill No. 244, and shall give the Senate very little peace until they have acted upon it.

On motion of Mr. WILSON, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

MONDAY, June 13, 1864.

The House met at twelve o'clock, m. Prayer by the Rev. C. CHINERY, of Kankakee, Illinois. The Journal of Saturday last was read and approved.

#### REPORT OF SMITHSONIAN INSTITUTION.

The Speaker laid before the House a letter from Professor Henry, transmitting the report of the Smithsonian Institution for 1863; which was laid on the table, and ordered to be printed.

Mr. COX moved that the usual extra number of copies be printed; three thousand for the use of the House, and two thousand for the use of the Smithsonian Institution; which motion was referred, under the law, to the Committee on Printing.

#### ARMY OFFICERS IN CONGRESS.

Mr. DAWES. I rise to a question of privilege. The Committee of Elections, to whom was referred a message of the President of the United States, of 25th April, 1864, in reference to a military appointment of Hon. Francis P. Blair, jr., representing the first congressional district of Missouri in the present House; and also another message of the President of the United States, of 2d May, 1864, transmitting certain letters, notes, telegrams, orders, and other documents concerning the same general matter, has instructed me

to make a report, and ask that it be laid on the table, and ordered to be printed.

The resolutions reported by the committee are as follows:

*Resolved*, That ROBERT C. SCHENCK, having resigned the office of major general of volunteers which he then held on the 13th day of November, 1863, which resignation was accepted November 21, 1863, to take effect December 5, 1863, was not, by reason of having held such office, disqualified from holding a seat as a Representative in the Thirty-Eighth Congress, whose first session commenced on the 7th day of December, 1863.

*Resolved*, That Francis P. Blair, jr., by continuing to hold the office of major general of volunteers to which he was appointed November 29, 1862, and to discharge the duties thereof till January 1, 1864, the date of his resignation, did thereby decline and disqualify himself to hold the office of Representative in the Thirty-Eighth Congress, the first session of which commenced on the first Monday in December, 1863.

The report was laid on the table, and ordered to be printed.

#### PAY OF SOLDIERS.

Mr. SCHENCK, from the Committee on Military Affairs, reported back the bill of the Senate (No. 145) to equalize the pay of soldiers in the United States Army, with the amendments of the House, disagreed to by the Senate, thereto.

Mr. SCHENCK. I will explain the character of the report to the House, showing the reason why we ask for a committee of conference instead of reporting amendments to the amendments. Senate bill No. 145, to equalize the pay of soldiers in the United States Army—that is, to equalize the pay of colored soldiers and white soldiers—was passed by the Senate. In this House the Committee on Military Affairs reported as an amendment a provision raising the pay of all the soldiers in the Army. While this was pending, the original bill of the Senate was introduced by the Senate and concurred in by the House, as an amendment to an appropriation bill. This disposed of all there was of the original Senate bill, and the bill went back to the Senate with the amendment of the House striking out all of the original bill and inserting a provision increasing the pay of the soldiers.

The Senate have amended the amendment of the House in several particulars. The Committee on Military Affairs are satisfied with some of the Senate amendments, but desire to modify others. The amendments of the Senate, however, being amendments to an amendment, any further amendment would be in the third degree, and it would therefore not be in order for the Military Committee to report further amendments.

I am instructed, therefore, to ask the House to non-concur in the amendments of the Senate to the House amendment, and ask for a committee of conference for the purpose of enabling us to introduce amendments which cannot now be introduced because they would be amendments in the third degree.

The motion was agreed to; and the Speaker thereupon appointed Messrs. SCHENCK, KELLOGG of Michigan, and ROLLINS of Missouri, as such committee on the part of the House.

Mr. SCHENCK moved to reconsider the vote by which the House agreed to request a committee of conference on the bill; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ARMY APPROPRIATION BILL.

Mr. STEVENS. I rise to a privileged question. I present the following report of the committee of conference on the Army appropriation bill.

The Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 198) making appropriations for the support of the Army for the year ending the 30th of June, 1865, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from their amendments to the seventh amendment of the Senate, and agree to the same.

That the House recede from their disagreement to the eighth amendment of the Senate and agree to the same with an amendment as follows, and the Senate agree to the same. Strike out all after the enacting clause (being section four) and insert in lieu thereof as follows:

That all persons of color who were free on the 19th day of April, 1861, and who have been enlisted and mustered into the military service of the United States, shall from the time of their enlistment be entitled to receive the same pay, bounty, and clothing allowed to such persons by the law existing at the time of their enlistment. And the Attorney General of the United States is hereby authorized to determine any question of law arising under this provision. And if the Attorney General aforesaid shall deter-

mine that any of such enlisted persons are entitled to receive any pay, bounty, or clothing in addition to what they have already received, the Secretary of War shall make all necessary regulations to enable the pay department to make payment, in accordance with such provision.

That the Senate recede from their ninth amendment.

T. O. HOWE,

L. M. MORRILL,

C. R. BUCKALEW,

Managers on the part of the Senate.

THADDEUS STEVENS,

THOMAS T. DAVIS,

Managers on the part of the House.

Mr. STEVENS. It will be recollected that the main difference between the Senate and the House was in regard to the pay of colored soldiers. The Senate put it upon the ground of a special contract aside from the law. The House put it upon the ground that all were entitled to be paid alike without regard to special contract. The Attorney General had given an opinion in conformity with the opinion of the House. The Senate would not recede from their position unless it was determined formally that the position of the House was in accordance with the law. The House committee finally agreed to put it upon the legal question, and to make the Attorney General the judge of that question, compelling the War Department to pay according to that opinion, which, unless the Attorney General alters his written opinion, will be just what the House had decided before.

So much for the main point. The first amendment which the House had reported was one of form more than anything else. It limited the bounty to \$100, where it was fixed by law. The House receded from that.

The third amendment of the Senate to which the House receded from their disagreement allowed fifteen dollars, according to some regulation of the War Department, to anybody who enlisted one of these colored soldiers, whether slave or free. This would involve the expenditure of a very large amount of money, as we thought unnecessarily, and the House refused to allow it. The Senate receded from that amendment.

Mr. HOLMAN. Do I understand that the Attorney General has already decided that all these colored soldiers who have enlisted are entitled to the same pay as white soldiers?

Mr. STEVENS. He has already made a written opinion, which has been printed, to that effect.

Mr. HOLMAN. Then why not so declare by act of Congress as well as to arrive at the result in this roundabout way?

Mr. STEVENS. Because the House decided as the Attorney General did; and as we were to adhere to the decision of the House, and the Senate would not agree to it, we put it in the other shape so that the Senate might come to us.

Mr. MORRILL. As I understand the report made by the gentleman from Pennsylvania it amounts to this: by the former report of the conference committee made by me, we gave full pay to all of the colored soldiers who had received any assurance that they were to have full pay, and left the remainder to the adjudication of the proper legal authorities of the Government, and if they were entitled to it under the adjudication of those officers they were to receive it. As I understand the report of the gentleman from Pennsylvania it is the same thing only in different language. All colored soldiers who were free in 1861 are to receive full pay, and if, under the opinion of the Attorney General, the others are entitled under the law they also are to receive full pay. As the former report, with the help of the gentleman from Pennsylvania, was almost unanimously rejected, and as he has now made the same report, I hope, with his help, that it will be adopted unanimously.

Mr. STEVENS. The gentleman from Vermont is mistaken. By the report made by the committee of which he was chairman he selected the cases where special contract had been made by the War Department, and they were to be paid absolutely. All the rest were left, not to the decision of the Attorney General, but to the law. Between the Attorney General and the Solicitor General there is a difference of opinion; and we have selected the one that agreed with us, and rejected the opinion of the other one, that the War Department would have acted on if we had not pointed out the Attorney General as the deciding officer.

It also turned out when we came to examine the matter that there is a great difference as to whom promises had been made by the War De-

partment—the War Department denying absolutely that any promise had been made to the Massachusetts colored soldiers, and the Governor of Massachusetts asserting absolutely that a promise had been made. The report we have made obviates all question of veracity between them.

Mr. BOUTWELL. Am I right in supposing that colored persons not free in 1861, who have enlisted, are prohibited from receiving full pay?

Mr. STEVENS. We leave them to the law, without saying a word about it. There may be a difference between the two cases. The law may be construed differently in regard to the "contrabands."

Mr. BOUTWELL. Is an amendment in order?

The SPEAKER. It is not.

Mr. STEVENS demanded the previous question.

The previous question was seconded, and the main question ordered.

Mr. HOLMAN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 71, nays 58, not voting 52; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnold, Ashley, Bailey, Baxter, Beaman, Blaine, Blair, Blow, Boyd, Brandegee, Ambrose W. Clark, Cobb, Thomas T. Davis, Dixon, Donnelly, Driggs, Eckley, Fenton, Frank, Garfield, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Jenckes, Julian, Kelley, Francis W. Kellogg, Littlejohn, Loan, Longyear, Marvin, McClurg, Meludoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Price, John H. Rice, Scofield, Shannon, Smith, Smithers, Spalding, Starr, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Webster, Williams, Wilder, Wilson, Windom, and Woodbridge—71.

NAYS—Messrs. James C. Allen, William J. Allen, Alley, Augustus C. Baldwin, John D. Baldwin, Bliss, Boutwell, James S. Brown, Chanler, Cox, Cravens, Henry Winter Davis, Dawes, Dawson, Denison, Eden, Edgerton, Eldridge, Elliot, Finck, Ganson, Gooch, Grider, Harding, Harrington, Charles M. Harris, Herrick, Hollman, Hutchins, Kalbfleisch, Kernan, King, Law, Le Blond, Marcy, McDowell, McKinney, William H. Miller, James R. Morris, Morrison, John O'Neill, Pendleton, Radford, Alexander H. Rice, Robinson, James S. Rollins, Ross, John B. Steele, William G. Steele, Sutes, Srouse, Stuart, Sweat, Wadsworth, Wheeler, Chilton A. White, Joseph W. White, and Fernando Wood—58.

NOT VOTING—Messrs. Ancona, Brooks, Broomall, William G. Brown, Freeman Clarke, Clay, Coffroth, Cole, Creswell, Deming, Dumont, English, Farnsworth, Grinnell, Griswold, Hale, Hall, Benjamin G. Harris, Hulburd, Philip Johnson, William Johnson, Kasson, Orlando Kellogg, Knapp, Lazear, Long, Mallory, McAllister, McBride, Middleton, Nelson, Noble, Odell, Perry, Pomeroy, Pruyn, Samuel J. Randall, William H. Randall, Rogers, Edward H. Rollins, Schenck, Scott, Sloan, Stebbins, Voorhees, Ward, Elihu B. Washburne, William B. Washburn, Whaley, Winfield, Benjamin Wood, and Yeaman—52.

So the report was adopted.

During the vote,

Mr. STROUSE stated that his colleague, Mr. RANDALL, had been called home by the serious indisposition of his brother.

The vote was announced as above recorded.

Mr. STEVENS moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The call of committees for reports having been concluded, the House proceeded, as the regular order of business during the remainder of the morning hour, to the call of States for resolutions.

#### AMENDMENT OF THE RULES.

Mr. ASHLEY introduced the following resolution:

*Resolved*, That the Committee on Rules be instructed to inquire into and report at an early day upon the expediency of amending the rules of the House, so that on and after the passage of a joint resolution for the adjournment of Congress, no motion for mere delay shall be in order after the previous question shall have been seconded on any bill or pending resolution before the House, except to lay on the table, to postpone to a day certain, to postpone indefinitely, to reconsider the vote by which the main question was ordered, and to adjourn; which motions it shall not be in order to repeat until after the pending bill or resolution shall have been voted upon.

Mr. COX. I propose to debate the resolution.

The SPEAKER. Then the bill goes over, under the rule.

#### COMMUTATION OF MILITARY SERVICE.

Mr. SCHENCK, in pursuance of previous notice, introduced a bill to amend an act entitled "An act for enrolling and calling out the national

forces, and for other purposes," and of the several acts amendatory thereof, and upon it called the previous question.

The bill was read. It repeals all acts that provide for a commutation of money to be paid by persons enrolled or drafted for military service in lieu of actually rendering such military service, and provides that hereafter no payment of money shall be accepted or received by the Government to release any enrolled or drafted man from obligation to perform military duty.

Mr. HOLMAN. Is this bill regularly before the House?

The SPEAKER. It is. Whenever resolutions are in order bills on leave may be introduced under rule 115, which will be read.

The rule was read, as follows:

"Every bill shall be introduced on the report of a committee, or by motion for leave. In the latter case, at least one day's notice shall be given of the motion in the House, or by filing a memorandum thereof with the Clerk, and having it entered on the Journal; and the motion shall be made, and the bill introduced, if leave is given when resolutions are called for; such motion or the bill when introduced may be committed."

The SPEAKER. The State of Ohio was called for resolutions, and under that call the gentleman from Ohio introduced the bill.

Mr. BROWN, of Wisconsin. Has notice been given?

The SPEAKER. The gentleman from Ohio stated that he gave notice.

Mr. SCHENCK. I have given notice.

Mr. BROWN, of Wisconsin. If it has been given it will be upon the Journal, and I ask if it is on the Journal. I make the point of order, that as all notices of that kind can be proven by the Journal of the House, and by that alone, that the word of a member cannot be taken.

Mr. SCHENCK. The gentleman need not trouble himself, for I appeal to the record myself.

The SPEAKER. On what day did the gentleman give the notice?

Mr. SCHENCK. One day last week.

Mr. BROWN, of Wisconsin. I do not doubt the gentleman's word at all, but I insist that his word has nothing to do with the matter. The proof must be on the record.

The SPEAKER. The Chair will have the record consulted; but the usual custom of the Chair has been, when any gentleman states a fact in his knowledge, to accept it as conclusive.

Mr. BROWN, of Wisconsin. I do not doubt the gentleman's word in any manner, but the notice should be upon the record, and I ask the gentleman if he states that this notice went upon the record.

Mr. SCHENCK. I cannot answer to anything except that I handed in the notice in my own handwriting, and therefore I appeal to the record.

Mr. STEVENS. That the notice was given I have no doubt. Was the previous question called?

The SPEAKER. It was.

Mr. STEVENS. I am sorry for that.

The SPEAKER. If the previous question was not called, it would go over if any gentleman rose to debate it. The Chair would ask the gentleman from Ohio and Wisconsin whether they desire that the Chair shall change his custom in reference to accepting the statement of members?

Mr. COX. This differs somewhat from the usual cases, and we are entitled to the record proof.

Mr. BROWN, of Wisconsin. I do not object to the general practice of the Speaker, but inasmuch as the rules require that the notice shall be on the record, and inasmuch as there is an attempt here to change the fundamental law of enrollment without the slightest chance to debate it, I object in this instance.

Mr. SCHENCK. I object to the gentleman's arguing this matter upon a point of order.

The SPEAKER. The Chair sustains the point of order, and business will be suspended until the record is consulted.

Mr. BROWN, of Wisconsin. I will withdraw my call for the record.

Mr. HOLMAN. I appeal to the gentleman from Ohio to allow me to offer an amendment to the bill.

The SPEAKER. The Chair will state to the gentleman from Wisconsin, if he is willing to accept the statement of the Chair, what will confirm

the statement of the gentleman from Ohio. The gentleman from Ohio came to the Chair and inquired if he gave notice of a bill he could introduce it upon a call of the States for resolutions. The Chair stated that he could do so. The gentleman from Ohio then replied that he would give notice of a bill, and the Chair supposes that he carried out his intention.

Mr. COX. I rise to a point of order. The previous question could not be called by the gentleman from Ohio until the question of the right to introduce the bill had been settled. Before it was settled I proposed to debate the bill.

The SPEAKER. The gentleman from Wisconsin withdrew the demand for the record.

Mr. COX. That was after I proposed to debate it.

The SPEAKER. The gentleman from Ohio is too familiar with the rules not to know that after the previous question is demanded a gentleman cannot rise to debate a proposition.

Mr. HARDING. I rise to a question of order. We want the production of the record.

The SPEAKER. The gentleman from Kentucky makes the objection too late.

The House divided on seconding the previous question; and there were—yeas 45, nays 60.

So the previous question was not seconded.

Mr. HOLMAN rising to debate the bill, it went over under the rule.

#### TREATY OF 1817.

Mr. SPALDING asked leave to introduce a joint resolution in relation to the treaty of 1817.

The SPEAKER. Has notice of the introduction of this joint resolution been given?

Mr. SPALDING. No notice has been given.

The SPEAKER. Then its introduction is not in order under this call.

Mr. SPALDING. Is it not in order to introduce it for reference?

The SPEAKER. The Chair supposes there will be no objection.

There being no objection, the joint resolution was introduced, read a first and second time, and referred to the Committee on Naval Affairs.

#### ELECTORAL VOTE OF REBEL STATES.

Mr. GARFIELD asked leave to introduce a joint resolution on the subject of electors for the Presidency of the United States.

The resolution was read. It resolves that no State declared to be in rebellion by proclamation of the President is entitled to appoint electors of President or Vice President, and that no electoral vote from any such State shall be received or counted until both Houses of Congress, by concurrent action, shall have recognized a State government in such State.

The SPEAKER. Has notice been given of this joint resolution?

Mr. GARFIELD. It has not been.

The SPEAKER. Then it is not in order under this call.

Mr. COX. There is no objection on this side of the House.

There being no objection, the joint resolution was introduced and read a first and second time.

Mr. GARFIELD moved the previous question on the third reading of the bill.

The previous question was seconded, and the main question ordered; and under its operation the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. GARFIELD moved the previous question on its passage.

The previous question was seconded, and the main question ordered.

Mr. McKINNEY. Is it in order to inquire whether Mr. Johnson could be a candidate for the Vice Presidency under that rule?

The SPEAKER. It is not in order to make the inquiry.

Mr. BLAINE. Is it too late now to raise a point of order?

The SPEAKER. It is entirely too late. The joint resolution has received its third reading, and the main question has been ordered on its passage.

Mr. BLAINE. as the morning hour expired?

The SPEAKER. It has; but the House has ordered the main question to be now put.

Mr. BLAINE. I move to lay the joint reso-

lution on the table; and on that I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 104, nays 33, not voting 44; as follows:

**YEAS**—Messrs. James C. Allen, William J. Allen, Allison, Ames, Anderson, Baily, Augustus C. Baldwin, John D. Baldwin, Blaine, Blair, Bliss, Boutwell, Brooks, James S. Brown, Chanler, Ambrose W. Clark, Freeman Clarke, Cobb, Coffroth, Cox, Cravens, Dawes, Denison, Dixon, Driggs, Eden, Edgerton, Eldridge, Elliot, English, Farnsworth, Fenton, Finck, Frank, Ganson, Gooch, Grider, Griswold, Harding, Harrington, Charles M. Harris, Herriek, Holman, Hotchkiss, Asahel W. Hubbard, Hutchins, Ingalls, Jenckes, William Johnson, Kalbfleisch, Francis W. Kellogg, Orlando Kellogg, Kernan, King, Knapp, Law, Le Blond, Littlejohn, Marcy, Marvin, McDowell, McIndoe, McKinney, Samuel F. Miller, William H. Miller, Moorehead, James R. Morris, Amos Myers, Leonard Myers, Odell, Charles O'Neill, John O'Neill, Otis, Pendleton, Perry, Pike, Price, Pruyn, Radford, Alexander H. Rice, John H. Rice, Robinson, James S. Rollins, Ross, Scofield, Sloan, Smith, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweet, Thayer, Thomas, Wadsworth, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Wilson, Windom, and Fernando Wood—104.

**NAYS**—Messrs. Alley, Ashley, Baxter, Beaman, Blaw, Branderage, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Donnelly, Eckley, Garfield, Higby, Hooper, John H. Hubbard, Julian, Kelley, Lazear, Longyear, McClurg, Morrill, Daniel Morris, Norton, Shannon, Smithers, Spalding, Starr, Stevens, Upson, Van Valkenburgh, Williams, and Woodbridge—23.

**NOT VOTING**—Messrs. Ancona, Arnold, Boyd, Broomfield, William G. Brown, Clay, Dawson, Deeming, Dumont, Grinnell, Hale, Hall, Benjamin G. Harris, Hullard, Philip Johnson, Kasson, Loan, Long, Mallory, McAllister, McBride, Middleton, Morrison, Nelson, Noble Patterson, Perry, Pomroy, Samuel J. Randall, William H. Randall, Rogers, Edward H. Rollins, Schenck, Scott, Stebbins, Tracy, Voorhees, Ward, Elihu B. Washburn, William B. Washburn, Wilder, Winfield, Benjamin Wood, and Yeaman—44.

So the joint resolution was laid on the table.

Mr. ORTH. I rise to a privileged question. For the purpose of enabling the gentleman from Ohio to modify his joint resolution, I move to reconsider the vote by which the joint resolution was laid on the table.

Mr. WILSON. If the motion to reconsider prevail, would it be in order to move to refer the joint resolution to the Committee on the Judiciary?

The SPEAKER. It would not, the previous question having been seconded.

Mr. WEBSTER. I move to lay the motion to reconsider on the table.

Mr. DAVIS, of Maryland, called for the yeas and nays on that motion.

Mr. ORTH. I understand that the gentleman from Ohio will withdraw the previous question; and then the joint resolution can be referred.

The SPEAKER. The gentleman from Ohio cannot withdraw it. The House has ordered the main question.

Mr. ORTH. Then I withdraw the motion to reconsider.

#### OBJECTS OF THE WAR.

The SPEAKER stated the business regularly in order to be the motion made two weeks ago by Mr. LAZEAR to suspend the rules to enable him to introduce the following preamble and resolutions:

Whereas the fratricidal war which has for the last three years filled every neighborhood of our once united and happy country with mourning, and has drenched a hundred battle-fields with the blood of our fellow-citizens, and laid waste many of the fairest portions of the land, and yet has failed to restore the authority of the Federal Government in the seceded States; and whereas we believe a misapprehension exists in the minds of a large portion of the people of the South as to the feelings which actuate a large portion of the people of the free States, and which misapprehension we are called upon by every consideration of humanity and a sense of justice to correct and if possible remove, whether we regard in making this effort what we owe to ourselves, to our fellow-countrymen of the South, or to the world: Therefore,

Resolved, That no truly loyal citizen of the United States desires the application of any rule or law in determining the rights and privileges and the measure of responsibility of the people of any of the States but such as shall have been determined by the Supreme Court to be in accordance with and sanctioned by the Constitution and well established usages of the country.

Resolved, That the President, in his capacity of Commander-in-Chief of the Army and Navy of the United States, be, and he is hereby, required to adopt such measures as he may think best, with a view to a suspension of hostilities between the armies of the North and the South for a period not exceeding — days; and that he be also authorized to adopt or agree upon some plan by which the decision of the great body of the people North and South may be secured upon the question of calling a convention composed of delegates from all the States to which shall be referred the settlement of all questions now dividing the southern States from the rest of the Union, with a view to

the restoration of the several States to the places they were intended to occupy in the Union, and the privileges intended to be granted to them by the framers of our national Constitution, who were in our opinion the most enlightened statesmen and purest patriots that ever lived, and than whom we cannot hope to find wiser or better counselors in the present exigency of our national affairs.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. Hickey, their Chief Clerk, informing the House that the Senate have passed a bill and joint resolutions of the House, without amendment, of the following titles:

An act (H. R. No. 149) concerning certain school lands in township forty-five north, range seven east, in the State of Missouri; and

Joint resolution (H. R. No. 55) granting certain privileges to the city of Des Moines, in the State of Iowa.

Also, that the Senate have passed a bill (H. R. No. 240) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various tribes of Indians for the year ending June 30, 1865, with amendments; in which he was directed to ask the concurrence of the House.

#### ADMITTANCE TO HOSPITALS.

Mr. BEAMAN. I ask the gentleman from Pennsylvania who has moved to suspend the rules to yield to me for a moment to ask the unanimous consent of the House to introduce a resolution for reference to which there will be no objection.

Mr. LAZEAR. I will yield to the gentleman.

There being no objection,

Mr. BEAMAN submitted the following preamble and resolution; which were read, considered, and agreed to:

Whereas since the recent battles in Virginia, which resulted in the wounding of many thousands of our soldiers, the most intense anxiety has prevailed among our people at home demanding early and exact information as to the condition of their relatives in hospitals; and whereas members of Congress are daily receiving from their constituents telegrams and letters of inquiry touching the true condition of such wounded soldiers, and also messages from the soldiers themselves, requesting their attention; and whereas in some of the hospitals in this city members of Congress are absolutely excluded from visiting their sick and wounded constituents, and utterly prohibited from seeing them, or any of them, at any time whatever: Therefore,

Resolved, That the committee on the conduct of the war be instructed to inquire and report whether there is any good and substantial reason for such exclusion; and in case they do not find it incompatible with the safety and interest of such sick and wounded soldiers, that they then recommend the adoption of some regulation whereby members of Congress shall be permitted at all reasonable hours to visit any and all of the hospitals of the United States without let or hindrance.

Mr. BEAMAN moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PERSONAL EXPLANATION.

Mr. FENTON. I ask the gentleman from Pennsylvania to give way for a moment to enable me to make, with the leave of the House, a personal explanation, which will involve no reply.

Mr. LAZEAR. I yield to the gentleman.

There being no objection,

Mr. FENTON said: In the Congressional Globe of May 13, Mr. MIDDLETON states that Mr. PERRY was paired off with Mr. FENTON on the Raritan railroad question. The record shows that Mr. FENTON voted for that resolution.

Now, it is due to the House, to Mr. PERRY, and myself, that I should make this explanation. The vote came off on Friday, May 13. A few days previous, on Tuesday perhaps, Mr. PERRY stated that he had paired with my colleague, Mr. FRANK, who was then absent. As I understood him, he desired me, if Mr. FRANK returned in his (Mr. PERRY's) absence, to pair on the Raritan railroad question. To that I assented.

The day the vote came off my colleague, Mr. FRANK, was here not voting. It occurred to me that the pair was still running between him and Mr. PERRY, and I therefore voted for the bill. I understand now that Mr. FRANK had only paired with Mr. PERRY for one day, and that on the Missouri election case of Bruce and Loan.

The following day Mr. PENDLETON called upon me with a dispatch from Mr. PERRY asking why I had voted. I made the same explanation which I now make, which was satisfactory to Mr. PEN-

PLETON, and he so replied to Mr. PERRY. On Mr. PERRY's return I explained the circumstances to him fully, and, as I understood at the time, to his satisfaction.

A few days before this vote came off, at the request of Mr. STEELE, of New Jersey, I endeavored to effect a pair between him and my colleague, Mr. MARVIN, and the arrangement was made; however, without a definite understanding how Mr. MARVIN would vote, as he had gone to New York. At the time of the vote Messrs. STEELE and MARVIN were absent, and their pair announced; and it appears that Mr. STEELE was paired also with my colleague, Mr. DAVIS. Of this I do not complain, nor was Mr. STEELE at fault in the least that I know of, for Mr. MARVIN's position on this bill perhaps was not announced, although I believe he would have voted for the bill and against Mr. STEELE. This, however, has nothing to do with the case of Mr. PERRY and myself; and I only further remark, that if I had supposed Mr. FRANK was not paired with Mr. PERRY, I should not have voted; and as it was, if I had heard the announcement of Mr. MIDDLETON, it would have led to a prompt explanation and withdrawal of my vote, which, however, would not have changed the result.

#### PROCEEDINGS OF A COUNCIL OF WAR.

Mr. MILLER, of Pennsylvania. I ask my colleague to yield to me to offer a resolution of inquiry.

Mr. LAZEAR. I yield for that purpose.

Mr. DAVIS, of Maryland. Has the morning hour expired?

The SPEAKER. It has.

Mr. DAVIS, of Maryland. Then I insist on the regular order of business.

Mr. MILLER, of Pennsylvania. Let my resolution be read. I do not think there will be any objection to it.

The Clerk read the resolution, as follows:

Resolved, That the Secretary of War be requested to transmit to this House a copy of the proceedings of a council of war held in the city of Washington on the 7th of March, 1862, of which General Sumner was president.

Mr. COBB. I object.

Mr. RICE, of Massachusetts. I hope the gentleman will yield to me to offer a resolution.

Mr. DAVIS, of Maryland. I insist on my demand for the regular order of business.

#### OBJECTS OF THE WAR—AGAIN.

The SPEAKER. The regular order of business is the motion to suspend the rules for the purpose of introducing the resolutions submitted by the gentleman from Pennsylvania, [Mr. LAZEAR.]

The House was divided; and there were—ayes 32, noes 65.

Mr. HOLMAN. I rise to a question of order. I understand that these resolutions were before the House for discussion, and that they were laid over because some gentleman objected.

The SPEAKER. The gentleman is mistaken in regard to the fact. Two weeks ago to-day the gentleman from Pennsylvania rose and asked unanimous consent to offer certain resolutions, and objection being made the gentleman moved to suspend the rules in order that they might be introduced. Pending that motion to suspend the rules the House adjourned.

The rules were not suspended.

#### REPEAL OF THE FUGITIVE SLAVE LAW.

The SPEAKER stated the next business in order to be House bill No 512, to repeal the fugitive slave act of 1850, and all acts and parts of acts for the rendition of fugitive slaves, on which the gentleman from New York [Mr. MORRIS] was entitled to the floor.

Mr. MORRIS, of New York. I propose to withdraw the demand which is pending for the previous question, and to allow the discussion to run on for a reasonable length of time. The matter was set down for to-day that there might be discussion. After the bill shall have been debated to a considerable extent, I give notice that I shall renew the demand for the previous question.

#### CONTRACT FOR IRON-CLADS.

Mr. RICE, of Massachusetts. I ask the gentleman from New York to yield to me for a moment to submit a resolution.

Mr. MORRIS, of New York. I yield for that purpose.



Mr. RICE, of Massachusetts. I ask unanimous consent to submit the following resolution:

Whereas the Navy Department on the 28th day of July, 1862, entered into contract with Captain John Ericsson, of the city of New York, for the construction of two imprugnable floating batteries, the Dictator and the Puritan; and whereas experience with a similar class of vessels in actual conflict and during a varied service of more than two years has demonstrated that many improvements could be made to render them more complete and efficient as vessels of war; and whereas these improvements have added largely to the cost of construction of each of these vessels, rendering it impossible for the contractor to complete them under existing arrangements; and whereas it is of the utmost importance to the honor and interests of the country that they should be finished and ready for service at the earliest moment: Therefore,

*Resolved by the Senate and House of Representatives of the United States of America,* That the Secretary of the Navy be, and he is hereby, authorized to amend the existing contract for the construction of these vessels so far as it relates to the Puritan, and to appoint a competent board to ascertain the present value, as far as completed, of that vessel, and of the material on hand deemed actually necessary to her construction, and to pay to Captain John Ericsson, the contractor, the amount of valuation so ascertained, deducting therefrom any sums already advanced toward the completion of said vessel; and that upon said payment being made by the Secretary of the Navy the rights of the contractor to said vessel and material or any portion thereof shall cease and be vested wholly and absolutely in the United States, which shall thenceforth proceed to complete said vessel under such arrangements as may be deemed most advantageous: *Provided, however,* That nothing herein contained shall in any manner affect the contract for the construction of the Dictator, which shall be completed by said contractor upon the same terms and conditions as if this resolution had not been passed: *And provided further,* That no action shall be had under this resolution until said contractor shall have signified to the Secretary of the Navy in writing his acceptance of its provisions, and his willingness to superintend to completion the construction of the Puritan: *Provided further,* That this resolution shall not take effect until the completion and delivery of the Dictator.

Mr. DAVIS, of Maryland. I object.

Mr. RICE, of Massachusetts, moved that the rules be suspended.

The SPEAKER. The motion is not now in order.

#### SUPERANNUATED FUND SOCIETY.

Mr. WEBSTER, by unanimous consent, moved to take from the Speaker's table Senate bill No. 293, to empower the Superannuated Fund Society of the Maryland Annual Conference to hold property in the District of Columbia, and to take a devise under the will of the late William Doughty.

The motion was agreed to.

The bill was taken up and read a first and second time.

The bill recites that William Doughty, of Georgetown, in the District of Columbia, by his last will, bearing date on the 29th of April, 1859, duly admitted to probate, devised and bequeathed certain real and personal property and estate—part thereof to take effect at his death, and the residue at the death or marriage of his widow—to a society incorporated by act of the General Assembly of Maryland by the name of the Superannuated Fund Society of the Maryland Annual Conference, and called in the will the Superannuated Fund Society of the Methodist Protestant Church for the District of Maryland; and as it has been questioned whether the corporation can lawfully take and hold the property, in virtue of the last will, without the leave and assent of Congress, it gives the assent of Congress to all such devises and bequests to the Superannuated Fund Society of the Maryland Annual Conference, and authorizes and empowers the society and body corporate to take and hold the property and estate devised and bequeathed to it, agreeably to the tenor and provisions of the last will, and to dispose of and enjoy the same to every intent and effect as if the society had been originally incorporated by act of Congress. The second section empowers the corporation to hold real and personal property located in the District of Columbia, acquired or that shall be acquired by gift, purchase, devise, or bequest, and the same enjoy, rent, lease, or convey, at pleasure, as freely as any person or body corporate can do, provided the net yearly income thereof shall not exceed \$20,000.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. WEBSTER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PAY OF CONTESTANTS.

Mr. FINCK. I ask unanimous consent to change my vote from the affirmative to the negative on the motion to lay upon the table the resolution to pay contestants on Saturday last.

There was no objection, and it was ordered accordingly.

#### MEMBER EXCUSED.

Mr. MILLER, of Pennsylvania. I have been absent several days on account of sickness, and I ask that I be excused for non-attendance.

Mr. MILLER, of Pennsylvania, was accordingly excused.

#### REPEAL OF THE FUGITIVE SLAVE LAW—AGAIN.

Mr. MORRIS, of New York. I do not yield any further. I ask that the agreement be that we shall take the vote at four o'clock this afternoon on House bill No. 512, to repeal the fugitive slave act of 1850, and all acts and parts of acts for the rendition of fugitive slaves.

Mr. COX. We cannot tell until then.

Mr. WILSON. I suggest that the discussion go on to-day, and that the vote be taken to-morrow at half-past twelve o'clock.

Objection was made.

Mr. MORRIS, of New York. Unless there is some understanding, I shall have to call for the previous question after reasonable discussion has been had. We do not want more than twenty minutes on this side of the House.

I will suggest further, that if any number of gentlemen desire to speak, I will move that there be an evening session to enable them to be heard upon this question.

Mr. J. C. ALLEN. I object to any arrangement.

Mr. COX. I will say to the gentleman from New York that there has been no debate yet upon this subject.

#### TRADE WITH REBELLIOUS DISTRICTS.

Mr. INGERSOLL asked unanimous consent to introduce the following resolution:

*Resolved,* That in the opinion of this House all permits heretofore issued by the Treasury Department to any person or persons allowing such person or persons to trade within the limits of any of the States now or heretofore in rebellion should at once be revoked and no more issued.

Mr. STROUSE objected.

#### REPEAL OF THE FUGITIVE SLAVE LAW—AGAIN.

Mr. KING. Mr. Speaker, the report and bill of the honorable gentleman from New York [Mr. MORRIS] propose to repeal the act of 12th February, 1793, usually called the fugitive slave law. This law was passed in pursuance of and with the view more effectually to secure to the citizen his rights guaranteed to him by the second clause of the second section of the fourth article of the Constitution, and which is as follows:

"No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

This clause was the result of one of the many compromises which brought about the adoption of the Constitution.

In submitting the few remarks which I intend at the present, I desire to draw the attention of the House to the circumstances which gave rise to the adoption of this clause of the Constitution, and then to point out the rights guaranteed thereby to slaveholders. And notwithstanding the institution of slavery has received a fatal stab, mainly at the hands of its friends, yet, as I conceive, there has been no legitimate abolishment of that institution, only so far as it has been effected by the Army and Navy in its approaches into the enemy's country, by the exercise or enforcement of a well-established rule of the laws of war, by depriving the enemy who may be in arms of that which strengthens them and weakens us. The institution is, nevertheless, an existing one among us, and as such I shall treat it in the few remarks I am about to submit.

I know it is sought to be impressed upon the public mind that the institution is gone, and that therefore no rights exist in reference to that species of property at this time, whatever may have been the admitted and adjudicated rights heretofore.

These revolutionary times have originated a new school of commentators upon the Constitu-

tion; they now boldly argue that no rights ever did exist under the Constitution to that species of property. I trust my honorable friend and colleague of the Judiciary Committee who reported this bill to the House does not intend to assume that ground in urging its passage. It is true I see this point pressed with some ability by an abolition writer, who says among other things that—

"We need a President, a Congress, and judges who have done reading the Constitution of the United States through pro-slavery spectacles. The self-contradictory and half-way measures of the Government in regard to the war, and especially to slavery, come from this false reading; this gratuitous pro-slavery construction of that grand abolition document."

And after admitting that the greatest statesmen of the nation have given such construction to our Constitution, he says:

"The most learned statesmen, lawyers, and judges of England gave a like construction to their constitution until a certain clerk in a store, plain Mr. Granville Sharp, by dint of good common sense, some thorough examination, and a number of well-written published articles, compelled Lord Chief Justice Mansfield to see the truth very much against his aristocratic will, and to decide, in the Somerset case, contrary to his former decisions, and to the opinions, dicta, and decisions of the great men of the realm, and thus effected an entire revolution in the construction of the English constitution in regard to slaveholding."

In answer to this I have to say that the constitution of England is formed and made of the old, ancient common-law maxims of Fleta and Braxton, of Littleton and Coke and Bacon, and others, and of concessions extorted from the Crown in every revolution from the days of King John down to the present time, and extending through a long series of ages past, so that the memory of man runneth not to the contrary; and these all combined give direction and point to judicial decisions as well as governmental policy.

But according to our theory of government we have a written Constitution by which our rights are derived and secured and our wrongs redressed. Our system is an improvement upon everything ever known to the republics of Greece and Rome, or any of the Governments of the Old World. Its edifice is that of a written Constitution, and its avowed objects and purposes are declared to be: "to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity." I see it argued by some, and the fanatical sentiment is gaining ground in certain quarters, that from the foundation of our Government we have been living in disregard of the plain, written declarations contained in the preamble to our Constitution, which, among other things, is to "secure the blessings of liberty to ourselves and our posterity;" and then we are told, with an air of triumph, that these declarations were intended for the negro. I have this question to ask those who thus argue: Is the negro of the posterity of those who, in Convention, adopted our Constitution? Were they recognized to be of "we the people of the United States" who sent up the delegates to the Convention? If so, then they properly come under the designation of "posterity." I desire those who thus argue to give a miscegenical answer to these questions.

Lexicographers tell us that the word "posterity" means descendants, and that "descendants and posterity" are terms never applied solely to children, but they are used comprehensively to include children, grandchildren, great-grandchildren, &c., without limitation.

The framers of our Constitution spoke for themselves and their children, and the children of those and their posterity, whose delegates they were. Those who vote to repeal this law, certainly will not attempt to place its passage on any such utopian theories as those to which I have been referring; nor will they, I trust, take the other ground, assumed by those visionary theorists of the same political party to which I have already referred, who take as their theory the exact reverse, and declare that ours is a pro-slavery Constitution, and that the Union of which it is the only bond, by reason thereof, is a lie. "The American Union is an imposture, a covenant with death, and an agreement with hell." It must be overthrown. "Up with the flag of disunion."

I will not do gentlemen the injustice to charge that they take either of the grounds to which I

have been referring: If, however, they do, it will take a little more than the ability of "plain Mr. Granville Sharp," who by his common sense and powerful arguments drove Lord Chief Justice Mansfield from his opinions of constitutional law. They must encounter first the opinions of the framers of our Constitution, and their sentiments uttered by such men as Alexander Hamilton, Fisher Ames, James Madison, Luther Martin, Patrick Henry, and other distinguished statesmen. Yea, more, they must encounter the sentiments delivered by Washington to Congress, by the unanimous order of the Convention, when he submitted the Constitution to Congress. In his letter to the president of Congress, among other reasons for its adoption, he says:

"It is obviously impracticable, in the Federal Government of these States, to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all. Individuals entering into society must give up a share of liberty to preserve the rest. The magnitude of the sacrifice must depend as well on situation and circumstance as on the object to be obtained. It is at all times difficult to draw with precision the line between those rights which must be surrendered and those which may be reserved; and on the present occasion this difficulty was increased by a difference among the several States as to their situation, extent, habits, and particular interests.

"In all our deliberations on this subject we kept steadily in our view that which appears to us the greatest interest of every true American—the consolidation of our Union—in which is involved our prosperity, felicity, safety, perhaps our national existence. This important consideration, seriously and deeply impressed on our minds, led each State in the Convention to be less rigid on points of inferior magnitude than might have been otherwise expected, and thus the Constitution which we now present is the result of a spirit of unity and of that mutual deference and concession which the peculiarity of our political situation rendered indispensable."

These are the sentiments uttered by Washington on behalf of the Convention which adopted our Constitution. How worthy now, in this dark day of our troubles, in the midst of a revolution brought on us by a disregard of these sentiments, that we should emulate the noble example here set us. Would that these patriot ages were now here, in this their country's day of trial, with their lessons of wisdom, and to commend them to national approval.

When the Constitution was referred by Congress to the various States for its adoption, we find the same enlarged views taken, and often by the same men who had been in the Convention, urging reasons why it should be adopted. In the northern States the effort was to satisfy the people of the necessity there was for securing to the South their rights in slave property, and that by the compromise the North received more than an equivalent in the advantages secured to their commerce and navigation. This solemn compact between the slaveholding and non-slaveholding States was adopted by the unanimous votes of the States then present in the Convention. The dissent of a single State might have marred the whole scheme of compromises so elaborately prepared as a basis of the new Constitution, and remitted the States of the Confederacy to a condition little short of anarchy.

That the Constitution of 1787 was in truth founded on a deliberately formed scheme of compromises and equivalents is a historical fact denied by none in terms, but virtually and practically by many who believe themselves to be statesmen, but who are nevertheless politicians merely. The importance of this historical fact justifies, if it does not demand, an exhibition of the evidence, in part at least, by which it is sustained.

Here are the declarations of Alexander Hamilton to the New York convention, assembled at Poughkeepsie, in June, 1788, to pass on the new Constitution submitted to the States by the General Convention assembled at Philadelphia. I read from Eliot's Debates, page 212. He said:

"In order that the committee may understand clearly the principles upon which the Convention acted, I think it necessary to explain some preliminary circumstances.

"Sir, the natural situation of the country seems to divide its interests into different classes. There are navigating and non-navigating States; the northern are properly the navigating States; the southern appear to possess neither the means nor the spirit of navigation. This difference of situation naturally produces a dissimilarity of interests and views respecting foreign commerce. It was the interest of the northern States that there should be no restraints on their navigation, and that they should have full power, by a majority in Congress, to make commercial regulations in favor of their own and in restraint of the navigation of foreigners. The southern States wished to impose a restraint on the northern, by requiring that two thirds in Congress should be requisite to pass an act in regulation of commerce; they were apprehensive that the

restraints of a navigation law would discourage foreigners, and by obliging them to employ shipping of the northern States, would probably enhance their freight. This being the case, they insisted strenuously on having this provision infringed in the Constitution; and the northern States were as anxious in opposing it."

Again:

"Much has been said of the impropriety of representing men who have no will of their own. Whether this be reasoning or declamation I will not presume to say. It is the unfortunate situation of the southern States to have a great part of their population, as well as property, in blacks. The regulation complained of was one result of the spirit of accommodation which governed the Convention, and without this indulgence no Union could possibly have been formed. And, sir, considering some peculiar advantages which we derive, it is entirely just that they should be gratified. The southern States possess certain staples, tobacco, rice, indigo, &c., which must now be capital objects in treaties of commerce with foreign nations; and the advantages which they necessarily procure in these treaties will be felt throughout all the States.

"It became necessary, therefore, to compromise, or the Convention would have dissolved without effecting anything. Would it have been wise and prudent in that body, in this critical situation, to have deserted their country? No. Every man who hears me, every wise man in the United States, would have condemned them. The Convention were obliged to appoint a committee for accommodation. In this committee the arrangement was formed as it now stands, and their report was accepted. It was a delicate point, and it was necessary that all parties should be indulged."

So much for the testimony of a distinguished northern statesman to the fact that the Constitution was a deliberately concocted system of compromises—the work of "a committee for accommodation," specially appointed for the purpose, and in which committee the rights of the slaveholders were distinctly recognized and guaranteed. And stronger still is his evidence as the representative of a great navigating and commercial State, as to the value and importance of the equivalents given by the South for all the concessions made in the Convention by the North connected with the subject of slavery.

The eloquence and fervid zeal of Fisher Ames, who, like Hamilton, was cut off in the full bloom of his intellectual powers, urged the acceptance of the new Constitution in the Convention of Massachusetts. He said:

"Shall we put everything that we hold precious to the hazard by rejecting this Constitution? We have great advantages by it in respect of navigation, and it is the general interests of the States that we should have them. But if we reject it, what security have we that we shall obtain them a second time, against the local interests and prejudices of other States?"

I could refer to the opinions at that day of other distinguished northern statesmen as to the absolute necessity of introducing these compromises into the Constitution, and without which no Union could ever have been formed, but I deem it unnecessary.

To the same effect, and with like arguments, southern statesmen urged in their conventions the adoption of the Constitution. In reference to the fugitive slave clause, Edmund Randolph, in the Virginia convention, said:

"Were it right to mention what passed in Convention on the occasion, I might tell you that the southern States—even South Carolina herself—conceived this property to be secured by these words."

And Judge Iredell, in the North Carolina convention, referring to this clause of the Constitution, says:

"In some of the northern States they have emancipated all their slaves. If any of our slaves go there and remain a certain time they would by their present laws be entitled to their freedom, so that their masters could not get them again. This would be extremely prejudicial to the inhabitants of the southern States, and to prevent it this clause is inserted in the Constitution."

In the South Carolina convention for the adoption of the Constitution we have these emphatic expressions from Charles Cotesworth Pinckney:

"We have obtained a right for the recovery of our slaves, in whatever part of America they may take refuge, which is a right we had not before."

Mr. Speaker, I may add truly no such right existed under our Articles of Confederation, yet it is equally true that this Congress of the Confederation would not pass the celebrated Ordinance of 1787, in reference to the Northwestern Territory, until a clause for delivering up fugitive slaves was inserted.

Mr. Speaker, I could add, if necessary, contemporaneous expressions going to sustain the same view from the Legislatures and conventions of every State to which the Constitution was submitted for its adoption. I now refer briefly to the view taken by the courts and the learned com-

mentators upon the Constitution since its adoption.

The passage of the act in reference to fugitive slaves in 1793 was not called for by any complaints from the South, but it is historically known that, upon a call for remedial legislation upon the subject of the surrender of fugitives from justice, this question also naturally pressed itself upon Congress, many of its members having been in the Convention when the Constitution was adopted.

The owner of a slave, in the absence of any law, has the right under the Constitution, upon the principles of recaption at the common law, to seize and recapture his slave whenever he can do it without a breach of the peace. But cases may often arise when he cannot lay his hands on him by reason of obstacles thrown in the way, and hence the necessity of some legislation. This opinion and position is fully sustained by Mr. Justice Story in the opinion delivered in the case of *Prigg vs. The State of Pennsylvania*. In this decision, announced by a northern judge, he says:

"The full recognition of this right and title was indispensable to the security of this species of property in all the slaveholding States, and was so vital to the preservation of their domestic interests and institutions that it constituted a fundamental article, without the adoption of which the Union could not have been formed."

I will read no more of that decision. It is lengthy, and fully discusses the constitutional question as to the rights of the slave States upon this subject. I am aware that, since the death of Judge Story, some fanatic has procured a note to be appended to the decision, stating that Judge Story had said, out of court, that the constitutionality of the act was not considered in making the decision. The facts of this note are so irreconcilable with the decision that I will not insult the intelligence of the House by further comment upon it. It has emanated from the brain of some abolitionist who never had more than one idea in his head at a time, and that not a very clear one.

To the same effect is the opinion of the supreme court of Pennsylvania, by Chief Justice Tighman, in the case of *Wright vs. Deacon*, 5 S. and R., 63. He says:

"Whatever may be our opinion on the subject of slavery, it is well known that our southern brethren would not have consented to have become parties to a Constitution under which the United States have enjoyed so much prosperity, unless their property in slaves had been secured."

And I may add that all our distinguished writers and commentators upon this subject are to the same effect.

But, Mr. Speaker, I may stop here. Enough has been said to show the undisputed position of this question from the foundation of the Government to the present day. The law now sought to be repealed was passed in the discharge of a solemn duty to the slaveholding States; a duty enjoined by the Constitution, and which cannot, in my opinion, be repealed by Congress without a total disregard of an imperative obligation. While I give honorable gentlemen, who perhaps will vote to repeal this law, credit for the sincerity of their efforts to restore the Union, yet they should remember, even in the present crippled condition of slavery, that all assaults upon this law, all efforts to prevent its execution, all movements to deprive the slave States of its benefits, whether dictated by morbid sympathy with the fugitive slave or by hostility to the system of domestic slavery as it exists, are aimed directly at the Constitution, and consequently the perpetuity of the Union. It is a right guaranteed to those States when they entered the Union, and of which they cannot be deprived so long as the Constitution and Union stand.

Those now in rebellion repudiate our Government, deny the binding force of the Constitution, and refuse submission to the laws; and to bring them to the recognition of the one and submission to the other we have sacrificed hundreds of thousands of our best men. Wives have been made widows, children have become orphans, and the whole country is draped with the habiliments of mourning. We have spent several thousand millions of treasure for the same objects; and does it become us, standing by the Government under the Constitution, in our action here, and upon a subject so irritating as to call forth the declaration that it is the sole cause of the rebellion, to so shape our legislation as to

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show a disregard of constitutional obligations? I can understand how slavery is to be abolished by an amendment to the Constitution, according to the forms prescribed in that instrument, yet I cannot comprehend how, by our legislation, we are to accomplish the same object while the Constitution remains as it is.

Upon what States is this repeal intended to operate? It will not affect Missouri. We, by an ordinance, have abolished slavery, and there remains to us a very short time that we could have any benefits from this law, if it is not repealed. But, practically, it is now repealed to us; we are under duress in reference to our slave property; we are not free to act, we are not allowed to assert our rights under the Constitution and laws, even in our own State, much less to follow it into a neighboring State and demand, as a constitutional right, that it shall be delivered up. The ordinance for the emancipation of our slaves was the result of the will and consent of those who were the owners of that species of property, upon an express consideration and promise, authoritatively made for those who had the power to keep it, that if the ordinance was adopted, we should be protected in our slave property until it should pass off in accordance with its provisions; but so soon as the ordinance was adopted we found those who had been instrumental in making the pledge urging further spoliation upon this species of property, until now we have no encouragement to demand constitutional rights, or the enforcement of municipal laws in reference to our slaves, and much less in reference to the fugitive slave law.

The repeal of this law certainly is not intended to operate upon the States now in rebellion and which are not under our control, neither in a military point of view nor subject to our legislation. They have thrown off their allegiance to the Government, denied the binding effect and force of the Constitution and the laws; they have refused to recognize the common arbiter of our rights, as provided by the Constitution, and are consequently out of the pale of its protection. Upon what State and upon whom is it intended the repeal shall operate? Is it upon Kentucky—noble old Kentucky—that this blight, this mark of disapprobation, this thrust at her constitutional rights, this effort to put the mark upon her forehead as indelible as was the mark upon the forehead of the murderous Cain? If so, I beg of gentlemen to remember that the end of this revolution is not yet; I entreat them to add no more fuel to the flame already burning with irresistible fury. Kentucky, amid the buffeting storm of revolution raging around her, has been made to reel and stagger amid the ingulfing floods; yet she has emerged from all these, and to-day stands as a beacon light upon a far-off distant promontory, inviting the weary mariner safely into port. Amid all the temptations with which she has been surrounded, she has nobly determined to stand by the Government, planting herself upon the compromises of the Constitution as our fathers made it, standing ever ready to do equal and exact justice to men of the North and men of the South. Her position upon this subject is of the very spirit and essence of the Constitution. She seeks to maintain her rights under it, and she has a right to expect this concession from her sister States.

Is this a fit time to press a policy and give it the prestige of governmental sanction as one of its primary objects, when in fact it is a mere incident in the drama of this bloody revolution, and should be made secondary to our united efforts to stop the effusion of blood and restore unity and harmony and fraternity among us? The policy which seems to be pursued by a dominant majority here in its effects has but served to intensify and solidify the eight million of southern people, while an honest difference of opinion among us as to the wisdom of these policies has gotten up a spirit of crimination and recrimination which in the end may prove fatal to all our hopes of success in assuring the friends of liberty everywhere that man is capable of self-government.

We seemingly content ourselves with discussing these secondary and abstract propositions, while our scarred and veteran legions, as the "horsemen of Israel and the chariots thereof," are pouring out their life's blood upon the battle-field almost within the sound of the Capitol. Have we no reason to fear that, having abandoned the original objects and purposes so unanimously agreed among us for which this war was to be prosecuted, we may find ourselves soon and forever, like ancient Israel, "unkingdomed and a widow," and that *Mene, tekul upharsin* may be written on the walls of the Republic and Ichabod on our national colors and columns?

I mean no crimination upon the commanding majority here when I declare that the whole system of legislation is based upon a false hypothesis; that we are separating and dividing upon issues which can be of no practical importance until the rebellion is overcome, and the rightful jurisdiction of the Government over our whole national territory is restored. To give practical effect to our ultra legislation, other hundreds of thousands of our men must yet be called to lay down their lives upon the battle-field. The war must be carried on upon the idea that the man of death must be satisfied. God grant that we may seriously reflect upon these things, and so shape our future legislation that there may be but little ground for difference of opinion among us; and that our united and harmonious efforts may bring peace to our borders, a restoration of our Union, the supremacy of the Constitution, and the observance of the laws. Then will be the propitious time when he of the South will not regard too bitterly his brother of the North for maintaining the heritage of his fathers at all hazards; and he of the North will not treat too harshly his brother of the South; but they will again meet in such a way that

"Their joys will be remembered,  
And their sorrows be forgot."

Mr. HUBBARD, of Connecticut. This, in the estimation of my constituents, is a threadbare subject, and I desire a few minutes only to utter all I wish to say with reference to the bill. I am not about to speak of the demerits of slavery, of its oppressions, and of its crimes culminating in treason, for these are to-day as patent to the world as the sky over our heads or the earth under our feet. Nor do I care to speak of the monstrous incompatibility of the existence of these laws providing for the rendition of fugitive slaves with the present state, condition, and affairs of the Republic; for this, too, is as plain to every man as the "way to parish church." I desire simply to utter the convictions of my own judgment with reference to some objections to the repeal of the act of 1793, discussed in one or the other branch of the present Congress.

I deny that any constitutional question whatever properly arises under the consideration of the subject-matter of the bill. The Constitution does not anywhere provide for an enactment by Congress of any law for the rendition of fugitive slaves; and if it did, I hold that by the treason of slavery the people are absolved from that obligation upon their part. This is so by the common law, and in the nature and fitness of things it must be so.

I am aware, sir, that slavery still exists to some extent in some of the loyal States, but I want to say in the hearing of my friends upon the other side, it is not the fault of the Government that the further existence of the law for the rendition of fugitive slaves has become altogether inconsistent with the honor and safety of the Republic. It is the fault of the institution in which a few individuals in those States happen to hold or claim to hold a little stock. And surely it must be competent for this Congress to repeal any act which it was competent for any other Congress ever to enact. There can be no question about that.

And I want also to say that I make no distinction whatever between the act of 1793 and the act of 1850. To-day they are equally obnoxious, and, in my opinion, equally infamous. I revere the memory of the founders of the Republic, but I

am not so infatuated as to believe that the fathers would ever have passed the act of 1793 had slavery then been in rebellion against them. The presumption they would not have passed it under such circumstances is argument enough for me upon that point of reverence. Could they to-day rise up from the ground or come down from the skies and occupy our seats here, they would repeal the act of 1793 in the twinkling of an eye. And I hold that good policy and the highest and the best interests of the Government require and most imperatively demand the repeal of those infamous acts during the present session. Repeal them, sir, and you will get fifty thousand men during the next six months which otherwise I fear you will not get at all. You cannot draft black men into the field while your marshals are chasing women and children in the woods of Ohio with a view to render them back into bondage. The moral sense of the nation, ay, of the world, would revolt at it. The attempt to draft black men into the service during the existence of the fugitive slave acts would cast such a burden of obloquy upon the Government as would sink it.

But, Mr. Speaker, I asked the floor for five minutes only, and begin to feel that I am trespassing. I therefore conclude by saying that I rejoice that we are to have the yeas and nays upon the question of the passage of the bill. It is fit that American statesmen in this age of the world, at this period of the great American war; at a time when the Republic is smarting and bleeding, if not reeling, under the blows that slavery has given it, and at a time when a hundred thousand black men are fighting for the flag and not one against it; it is fit that American statesmen here assembled to deliberate and act upon this momentous question should have an opportunity to record their votes for posterity to read.

Mr. COX. Mr. Speaker, my friend from Connecticut [Mr. HUBBARD] insists that we should record our names on this question by the yeas and nays. Before doing so, I propose to give a few reasons why I cannot vote in the affirmative. I have listened to what has been said in order to gather from the chaff some grain of reason for the repeal of the fugitive slave law. Very little reason has been used in its favor. I suppose this bill is the result of an indefinite impulse. It is dashed in upon the House without any other consideration than that slavery is in it, and, without regard to the Constitution or its sanctions, or to the judgment of the courts, or to common sense, or good faith, or timely policy, or any other reason. Slavery having been placed before the House; that side of the House is expected to vote one way, and this side, of course, must vote the other. Then, after such an exhibition of votes, gentlemen can go out to the people and say, "We are the friends of human freedom, and the Democracy are its enemies." Is it not time that this contemptible claptrap had ceased?

The gentleman from Connecticut said that he revered the fathers of the Republic, but he thought that they would not vote against the repeal of the fugitive slave law while slavery was in rebellion. I do not know, Mr. Speaker, exactly what the gentleman means by that. I know that slaveholders are in rebellion; but I do not, and cannot, understand that the abstract idea of slavery is in rebellion. Such language is as inappropriate as it is illogical. But does it follow because slaveholders are in rebellion that we are bound to break down every law that was intended to carry out the Constitution with respect to the return of fugitive slaves? Slaveholders are in rebellion; but who believes that they would get the benefit of the law? And for a very good reason: a line of force separates them from us; an abyss of blood yawns between them and us, not to be bridged by laws. No, no. The only persons who will ever be the beneficiaries of the act for the rendition of fugitives are the slaveholders not in rebellion, men faithful to the Government of their country amid all trials and temptations. If the gentleman means anything, he means to say that the patriotic and faithful slaveholders of Missouri, Kentucky, Tennessee, and



other States, shall not have their guarantee for the return of their slaves under the Constitution of the United States, to which they have never wavered in their allegiance. He means to say to them, "You shall go where these revolted slaveholders have already gone. We place the penalties of their treason on your innocent heads. We add to your calamities the ingratitude and treachery of the Government to which you have adhered. We do not want your aid. You shall not have the privilege of having your slaves returned to you, because you have been better, truer, nobler men than some of your brother slaveholders." That is the consequence of the gentleman's argument. I do not think that he ever looked at it in that light before, and it seems to me, from this distance, that there is a little change coming over his features now as he reflects upon it.

Roger Sherman, from the gentleman's own State, voted for the law of 1793, and George Washington signed it.

Mr. HUBBARD, of Connecticut. Will the gentleman from Ohio have the kindness to give me a second of his time?

Mr. COX. More than that, sir. [Laughter.]

Mr. HUBBARD, of Connecticut. I said that, in my judgment, the fathers never would have enacted the law of 1793 had slavery been in rebellion against us. That was my statement.

Mr. COX. That is a curious argument. If the fathers had lived till to-day, I cannot tell what they would have done. But the fathers have gone. We can only judge of what they would do by what they actually did for a Confederacy like ours. They put this clause in the Constitution. They made an injunction on Congress to carry out the provision of rendering back those who should escape from service or labor. They enjoined it in the same breath and with the same sanction by which they commanded us their descendants to return fugitives from justice. They did these things to keep peace, friendship, and faith between the States forever. They were honest men. During their generation and the one succeeding, faith was kept. The men who made the law of 1793, some of them helped to create the Constitution, and the rest were their contemporaries. They were men whose patriotism the gentleman will not dispute. They were men whose names he reverences. But would he reverence them if he believed that to-day they would vote to deprive the slaveholders who are faithful to the Government which they made in wisdom and amid tribulation, of the very remedies and rights which were promised as the reward of fidelity? Would it not be monstrous to reverence men who could so break their own faith? They would be worse than their graceless and degenerate children who propose to do the same thing. But the very idea is an aspersion on their noble fame. Who are these "fathers?" Such men as Fisher Ames, Abraham Baldwin, (an ancestor, I suppose, of my friend from Massachusetts, who has changed very much from his ancestor,) Jonathan Dayton, Elbridge Gerry, Nathaniel Macon, Frederick A. Muhlenburg, and Theodore Sedgwick voted for the act of 1793. In the same Congress the names of Langdon, Ellsworth, Sherman, King, Dickinson, Morris, and Monroe, are found in the Senate. It passed the Senate without a division, and almost unanimously in the House.

Mr. BALDWIN, of Massachusetts. Will the gentleman from Ohio allow me a question?

Mr. COX. Certainly, sir.

Mr. BALDWIN, of Massachusetts. Let me ask the gentleman from Ohio whether the Supreme Court did not decide, in the Prigg case, that the feature of the law requiring State officials to execute it was unconstitutional?

Mr. COX. The fugitive slave law of 1793?

Mr. BALDWIN, of Massachusetts. Yes, sir.

Mr. COX. I will read what the court decided in that case; and I take it that he will abide their decision. I ask him whether he will abide by the decision of the Supreme Court.

Mr. BALDWIN, of Massachusetts. I deny the right of Congress to legislate upon this subject at all.

Mr. COX. I must beg the gentleman from Massachusetts to answer me whether he will abide by the decision of the Supreme Court.

Mr. BALDWIN, of Massachusetts. I will guide my action in this House by nothing but the Constitution upon this question.

Mr. COX. Will the gentleman take the inter-

pretation of the Supreme Court of the Constitution and abide by that upon this question?

Mr. BALDWIN, of Massachusetts. If the gentleman from Ohio will answer my question I will be obliged to him. [Laughter.]

Mr. COX. I will answer the gentleman's question, that I abide by the law; and now I want to know whether he will abide by the decision of the Supreme Court interpreting the law?

Mr. BALDWIN, of Massachusetts. The gentleman has not answered my question. [Laughter.]

Mr. COX. I want no quibbling on this subject. I have answered your question; now answer mine.

Mr. BALDWIN, of Massachusetts. You have not answered my question.

Mr. COX. If I have not, will the gentleman please state it over again, and then I want an answer from him.

Mr. BALDWIN, of Massachusetts. The law of 1793 did not attempt to engage the General Government in the business of catching fugitive slaves; it did not dream of doing that. They waited until 1850, until Mr. Mason's bill, before they directed the Federal officers to deliver fugitive slaves. The Supreme Court decided that portion of the law of 1793 relating to State officers to be unconstitutional.

Mr. COX. I say to the gentleman that the Supreme Court has decided no such thing; but the majority of the court decided that this power was exclusively in the United States, while the minority held the power to be concurrent both in the State and the General Government, and that in the absence of congressional action the States might carry out this clause of the Constitution in aid of the claim of an owner of a slave. Its execution having been committed to the Federal Government by the law of 1850, the laws of the United States in that respect are the paramount laws of the land. Will the gentleman from Massachusetts abide by the decision of the Supreme Court thus interpreting the law?

Mr. DAWES. Will the gentleman yield to me for a moment?

Mr. COX. No, sir. I hope the gentleman from Massachusetts will not come in to help his colleague. [Laughter.]

Mr. DAWES. I want to know whether I understand the gentleman from Ohio.

Mr. COX. Oh yes; I think the gentleman did understand me perfectly, and I object to his coming to the assistance of his colleague, who is large enough to take care of himself. [Laughter.] It is as much as I can do to see through him.

Mr. BALDWIN, of Massachusetts. Then I hope the gentleman will answer my question.

Mr. COX. Now, Mr. Speaker, I want further to tell the gentleman what the Supreme Court did decide in the case of Prigg. He will find it reported in 16 Peters, page 543. It is there decided "that the act of the 12th of February, 1793, is clearly constitutional in all its leading provisions, and indeed, with the exception of that part which confers authority upon State magistrates, is free from reasonable doubt or difficulty." In every other respect they decide it is free from all doubt and difficulty. Now, I want the gentleman from Massachusetts not to turn his back upon me and the subject, but to answer me whether he will abide by the law of 1850, made in correspondence with the decision of the Supreme Court?

Mr. BALDWIN, of Massachusetts. I ask the gentleman to read that part of the decision which relates to State officers.

Mr. COX. I am calling the attention of my friend to the whole decision of the Supreme Court on this law. And when the gentleman says he will vote to repeal the fugitive slave law because it is unconstitutional, I want him to understand, as I have shown him, that the Supreme Court has decided that, in all their leading features, both the law of 1793 and the amendment of 1850 are constitutional.

Mr. BALDWIN, of Massachusetts. I repeat again that the Supreme Court has decided one portion of that law to be unconstitutional, and as an additional reason for it I will state that the gentleman refuses to answer my question. [Laughter.]

Mr. COX. I have answered the gentleman as fully as I was able. I referred him to this de-

cision of the Supreme Court, and read from it to the point; now I want to indulge him further by reading what Judge McLean says upon the same subject:

"Congress have legislated on the constitutional power and have directed the mode in which it shall be executed. The act of 1793 it is admitted covers the whole ground, and that it is the constitutional one, there seems to be no reason to doubt."—16 Peters, 669.

There has not been since the law of 1793 any hostile decision, except in Wisconsin, in the Booth case, which was overruled by the Supreme Court of the United States. In that case the latter court say, speaking of the act of 1850:

"In the judgment of this court the act of Congress, commonly called the fugitive slave law, is, in all of its provisions, fully authorized by the Constitution of the United States."

Suppose the States have concurrent power, as the minority of the Supreme Court of the United States once held, and might exercise such power in aid of the claimant of a slave in the absence of a law of Congress, does it follow that we should break our bond and repeal the law as it exists? Does it not follow that the remedy should be retained and made adequate? We are authorized not only to exercise the power to carry out the specific grant, but, as if to place this question beyond cavil, we are authorized by the Constitution "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department."

Having thus obliged the gentleman, I ask, in common fairness, will he stand by the Supreme Court of the United States?

Mr. BALDWIN, of Massachusetts. I ask the gentleman from Ohio to read that part of the Prigg case which relates to ordering State officials.

Mr. COX. I have read it. With the exception of that part of the law of 1793 which confers authority on State magistrates, all of that law is free from doubt. But how does that help the gentleman? Not a whit. The law of 1850 conforms to that decision, but the anarchists will not agree to abide by either the law or its authoritative interpretation. Some gentlemen, like the gentleman from Massachusetts, have argued that this matter was exclusively in the power of the States. The Supreme Court have said otherwise; and in one case the minority have said that it is concurrent, and that when the power is devolved on the Federal authorities that law which devolves it is of paramount obligation. Will the gentleman stand by that?

Mr. BALDWIN, of Massachusetts. Paramount within the range of the Constitution?

Mr. COX. Yes, sir; under the Constitution, paramount. But I will have done with this trifling. The gentleman does not expect ever to obey the laws of the United States as interpreted by the Supreme Court of the United States. It is not the doctrine of the party of the gentleman from Massachusetts. The President in his inaugural gave to the Supreme Court the benefit of his opinion of their authority in such matters. The Republican party was built on the idea that the Constitution should be interpreted according to the peculiar idea or conscientious conviction of each individual. And one of the chief causes of our troubles to-day is that very idea, nursed in Massachusetts and other States, that they would interpret all laws to suit themselves. Regardless of Federal laws passed in pursuance of the Constitution, they began that practical nullification which secession so well copied. In Ohio, in Wisconsin, and other States, following the teachings of Massachusetts, the party on the other side of the House, on this very matter of fugitives, has raised the standard of sedition and rebellion against the authority of the United States. If the gentleman wants any proof of my assertion, unpleasant as is the retrospect, I can furnish it to him.

The infraction of this very law and the Constitution which required it to be made was the great cause of the trouble between the two sections of the country. One of the reasons for the departure of the southern States was the bad faith of northern States—the fatal infringement of this part of the Constitution. It was because of personal liberty bills, John Brown raids, and general denunciation and intermeddling with slavery; it was because you of Massachusetts would not

take the earnest advice of your venerable Chief Justice Shaw and other conservative patriots like him, and erase from your statute-book all your unconstitutional legislation; it was because in Ohio and other States, members of Congress like those opposite from my own State gave aid and comfort to rebellion against the authority of the United States, going so far as to pledge in the name of the State its military power to break down by armed resistance the law made on this subject. It was because of these outrages, these breaches of the fundamental compact, that the southern States shot so madly from their proper spheres and brought on this terrible conflict. These were the grievances of which they complained, not sufficient to justify their revolution, but of sufficient magnitude and importance to demand from us redress.

Gentlemen say that this matter does not belong to the Federal Congress but to the States. I understand that to be the doctrine of my friend from Massachusetts who sits near me. Does he ever expect Massachusetts to pass a law for the rendition of fugitives from labor? No, sir.

Mr. BALDWIN, of Massachusetts. The question here is not what Massachusetts will do, but what this Congress will do.

Mr. COX. The gentleman proposes that Congress shall repeal this law, and he does not propose that Massachusetts should enact a law to carry out this injunction of the Constitution. Why? Because Massachusetts does not act in good faith.

Mr. BALDWIN, of Massachusetts. I deny that.

Mr. COX. The repeal of this law is not intended in good faith. No man on that side of the House expects that Massachusetts, or Ohio, or Wisconsin will pass a law for the return of fugitive slaves. Who dreams of it? Who proposes it?

Some few years ago when a Democrat in the Legislature of Ohio proposed by resolution to carry out the Constitution by State action, the party on the other side of the House voted to table the resolution. I would not vote for such a resolution myself, because a law of this kind should be uniform throughout the United States. As general power is given to the Federal Government by the Constitution, it was intended to be exercised in a general way. This has been the practice and the interpretation of the Constitution from the beginning of the century down to the present time.

Mr. BALDWIN, of Massachusetts. By what clause of the Constitution?

Mr. COX. By the second section of the fourth article of the Constitution. I am sorry the gentleman has not read a clause so familiar to almost everybody in this country.

Mr. BALDWIN, of Massachusetts. Please read the clause which gives Congress the power to legislate in reference to fugitive slaves.

Mr. COX. I would not have my constituents think I was so ignorant, or had a seat in a body so ignorant, that I had to read that old familiar clause of the Constitution about the return of fugitive slaves.

Mr. BALDWIN, of Massachusetts. The gentleman cannot find it.

Mr. COX. That is because I do not wear spectacles, I presume. I say that from the beginning of the Government to the present time there has been a uniform opinion upon this subject. Why, sir, that great man who presided over the birth of the Constitution, George Washington, and who urged its adoption upon the States, was the same great man who signed the fugitive slave law of 1793. History says, too, that he was the first man to have a slave reclaimed under that law, a slave that escaped and was hidden somewhere in the city of Boston. It is said around me here that the fugitive slave of George Washington took refuge in the district of the gentleman from Massachusetts, but I have no authority upon that point at present. All I can state now is that the fact was stated in a debate here in December, 1859, by General Curtis, of Iowa. It is a curious fact that General Washington, in 1796, had a slave woman who left the service of his wife and went into New England. In a letter to Mr. Whipple he asked for her restoration under the law of 1793. He stated the fact of her escape, and claimed the benefit of the law.

Mr. BALDWIN, of Massachusetts. I will say

that a man who hunts for his liberty finds a great deal of sympathy in my district.

Mr. COX. They who hunt for constitutional liberty in Massachusetts find no sympathy; but they who seek for that liberty which knows no law, and which breaks down constitutional restraints, find there sympathy and devotees by the thousands in Massachusetts.

It is a maxim of the common law, as it is of common sense, that every right to be of any avail must have its remedy. The Constitution is no exception to this rule. For every right therein asserted there must be a remedy somewhere. Where is this remedy, then, if not in Federal legislation? No respectable party ever disputed this. The old Whig party never disputed as to this remedy by Federal legislation. It was left for these men of the higher law dispensation, the new lights of this day of war and revolution, men who have been borne here within a few years past upon the waves of fanaticism, to find out all these new interpretations of the Constitution. The great men of 1793 whom I have named, and those of 1850, your Clays, your Websters, your Douglasses, men of that giant mold and whole-hearted patriotism which took in all the States by a common bond, never questioned the power or the mode and expediency of its exercise by the Federal Government to carry out this clause of the Constitution.

Mr. COLE, of California. I would ask the gentleman if he would return the fugitive slave of a rebel.

Mr. COX. No, sir.

Mr. COLE, of California. In the next place, suppose the fugitive slave of a Union man had joined the Union Army, would you take him out of the ranks of the Army and return him to his master?

Mr. COX. I would comply with the law. I would remand the case to the commissioner to be decided under the law.

Mr. COLE, of California. The gentleman can answer "yes" or "no." If you were the commissioner before whom the case was brought, would you take him from the Union ranks and remand him to his master?

Mr. COX. I would try to carry out the law in every respect.

Mr. COLE, of California. I want a direct answer; would you or would you not?

Mr. COX. I do not see how I can answer my friend any more directly or satisfactorily. I am entirely frank about it. I would comply with the law as it exists. I would break it under no circumstances.

Mr. COLE, of California. I ask the gentleman how he would interpret the law in that respect; whether, under the law as it exists, he would return the slave to his master under such circumstances.

Mr. COX. I would comply with the fugitive slave law; and if the master were a rebel I would catch and try and punish him.

Mr. COLE, of California. Would you return the slave of a Union man?

Mr. COX. Of course I would. Would the gentleman refuse to carry out the law because it happened to be a Union man that owned the slave?

Mr. COLE, of California. Not as I interpret it. The gentleman will not answer my question.

Mr. COX. I have answered his question. He knows it. But how can he act with the other side of the House, who have attained their political position by advising the infraction of this law, and the disregard of the decisions of the courts of the United States? How can he act with that side of the House who declare that they will not obey the Constitution with respect to the fugitive slave law when that Constitution comes in conflict with their own conceptions?

Mr. BLAINE. I want to ask the gentleman from Ohio a question. I was not entirely satisfied with his response to the question propounded by the gentleman from California, [Mr. COLE.] The gentleman is lecturing the House upon his views of the Constitution and the laws enacted under it, and therefore I presume he will not in the slightest degree refuse to give us his views upon any particular application of the law. The laws of the United States now allow the enlistment of negroes, and there are a great many slaves of Union men in the service.

Mr. COX. Come to the question; I want the question; but do not make it too sharp.

Mr. BLAINE. Those negroes are regularly enlisted in the Army, and I want to know if the gentleman would return them to their alleged owners. Do not dodge the question by saying that the commissioner will decide the case when it arises. Here is a negro in the ranks of the Army belonging to a loyal owner; would he return that negro to his master? I do not want the gentleman to go off and say that the commissioner would decide so and so; I wish him to give the House his own view of the law.

Mr. COX. The gentleman does not want me to answer the question except just as he wishes I should.

Mr. BLAINE. I want you to answer yes or no.

Mr. COX. Learn to put your questions directly without preface.

Mr. BLAINE. Would the gentleman return to a loyal owner his slave, found in the ranks of the Union Army, fighting for the preservation of the Government? Is that direct enough to suit the impatient gentleman?

Mr. COX. I would return any slave stolen from his legal master, and let that slave take the consequences of the military law.

Mr. BLAINE. I hear the answer of the gentleman from Ohio, but I cannot catch its meaning.

Mr. COX. And I guess that very few people ever catch their slaves under present circumstances. [Laughter.]

Mr. BLAINE. Then I understand the gentleman to say that unless the slave be stolen he would not return him.

Mr. COX. If I were a commissioner under the law I would return every man whom the law required to be returned.

Mr. BLAINE. But does the law require a man to be returned who is in the ranks of the Union Army? The gentleman skillfully attempts to evade that question.

Mr. COX. The gentleman skillfully puts a question and doggedly shuts his ears to the answer. The law was never made in view of a condition of things like the present.

Mr. BLAINE. Then I understand the gentleman to say that he would return men to slavery from the ranks of the Union Army.

Mr. COX. I would return any man now in arms who has been wrongfully taken from his master, and then I would let the proper tribunal decide whether he properly belonged to the military service or not.

Mr. BLAINE. Are the men who are in the Army wrongfully taken?

Mr. COX. I ask the gentleman that. Were they wrongfully taken?

Mr. BLAINE. No, sir.

Mr. COX. Then I have nothing more to say to the gentleman on that point. The answer is obvious.

Mr. BLAINE. Yes, but obvious as the answer may be, the gentleman fails to give it. But I will put another question. Suppose a runaway slave, one not taken by law from his master, enlists and is found in the ranks of the Union Army and is claimed as a fugitive slave, what does he think about that?

Mr. COX. I will tell the gentleman what I think about it. I opposed putting the black men in the Army in the first place. I said there would be trouble about the exchange of prisoners. I warned the House against that policy earnestly, in the interest of our white soldiers who have been kept in prison by reason of this infamous military policy as to black soldiers. I do not believe that the Army has been strengthened one jot or tittle by these black men. I believe they are a positive weakness to the Union Army and the Union cause. General Grant does not use them. He does not put them in the front. He does not fight them. He knows their worth or worthlessness. He uses them where he can, but takes care where he places them.

Mr. BLAINE. Let me tell the gentleman that there are more than one hundred and fifty wounded negroes in one hospital at Fortress Monroe.

Mr. COX. The gentleman may find one hundred and fifty blacks wounded out of one hundred and fifty thousand soldiers. They were with Butler. The wonder is that any escaped. But General Grant is too skillful and able a general to put himself and black men against General Lee and his white men.

Mr. BLAINE. I do not see the pertinency of that to my question.

Mr. COX. I will show the gentleman. I would be willing to let the black soldiers in our Army be taken home to their loyal owners, and if the war must go on, leave to the white men the honor and duty of carrying on the war for the constitutional liberties of white men.

Mr. BLAINE. Precisely; but I still fail to see the pertinency of the gentleman's harangue. I recognize in it the sentiments and the phrases of a stump speech which I had the pleasure of hearing from him more than once before. But it has no relevancy to my question.

Mr. COX. The gentleman is mistaken. I never discussed the subject-matter of his question before in my life. He imagines it to be a stump speech, because, in his familiar parlance, it is a *stumper* to him. True, I gave him a general answer.

Mr. BLAINE. Quite a general one.

Mr. COX. Then I will not yield any further. If I cannot make him understand, it is not my fault.

Mr. BLAINE. Not at all.

Mr. COX. I do not think the gentleman is so stupid as that he cannot understand it. The trouble is he does not want to understand it.

Mr. BLAINE. I understand distinctly that the gentleman does not wish to give me a direct answer.

Mr. COX. I have answered all direct questions directly; and indirect questions I have answered directly and indirectly. What more can I do?

Mr. BALDWIN, of Massachusetts. You have answered every way but directly.

Mr. COX. Oh, Mr. Speaker, I think the gentleman from Massachusetts has been most thoroughly answered.

The majority want to nullify this constitutional clause as to fugitives by repealing all laws to execute it, and they do not provide any remedy instead of the law, or suggest any other mode for carrying out the constitutional right. They would, in their impulsive movements against slavery, shatter the Constitution. They have undertaken unwisely to keep up this crusade against slavery, with a view, as I charge, to prevent the States South from ever returning to the Union, and to their old relations under the Constitution. They would imbitter the loyal men South against us, and thus weaken the bond of Union. They deepen the abyss between us and the insurgent States.

This is strange enough when we consider that those who thus act call themselves the Union party. But there is still a stranger anomaly. I cannot understand why these gentlemen would destroy the only method of carrying out this extradition system of our Constitution, and yet the other day, when a Spanish subject was arrested by our authorities, and taken from our shores which he sought as an asylum, these gentlemen sustained such extraordinary action. Against the Constitution, without law, without treaty, without evidence, without jury trial, without warrant, without information, by executive power, usurping the treaty power, usurping the law-making power, usurping the power of the judiciary, this Administration delivered to Spain a white refugee; and this Congress, with cringing obsequiousness, bowed before executive dictation and by their legislative action said, "All right, Mr. President, you can seize a white man and take him from the country in defiance of the great right of asylum, but when a black man, escaping from one State to another, and whom we are commanded by the Constitution to deliver up, and under the sanction of our oath to make laws for such delivery, we break down the constitutional clause and the laws sanctioned by the judiciary in order to create in the North an asylum for the blacks of the South." When a white man from another nation is torn away, and the practice and usage of all free and civilized nations is outraged, gentlemen on that side stifle proper resolutions of condemnation.

Mr. MORRIS, of New York. The gentleman will allow me to ask him a question for information. In the case referred to by the gentleman from Ohio, was the man charged with crime or was he not?

Mr. HIGBY. I object to further interruptions.

Mr. COX. I say to my friend from New York that that white man was charged with a crime in

newspapers, by clamor, but not legally. There was no charge, no warrant, no information, and no trial. I defy gentlemen to give me a resolution of inquiry, to ascertain whether the Executive or the Secretary of State had anything in writing but the request of the Spanish minister upon which to base the arrest and extradition of this Spaniard, seeking an asylum in this country. Upon the request of Señor Tassara, the Spanish minister, Mr. Seward issued his rescript and the man was taken from the privacy of his own room, without the knowledge of his wife, who was in the next chamber. He was hurried on board a steamer, was hurried off to Havana, and is there held as a criminal to be tried. Yet gentlemen upon the other side dare not condemn that. Why? Because it was alleged that he was engaged in some way in the slave trade. Well, some one with less sense than sensibility may cry out, "Oh! you are the defender of the slave trade and slave trader." There is only one answer to this: the monosyllabic answer, "Pshaw." I defend no crime when I defend the right of asylum; nor do I defend slavery when I oppose the repeal of the constitutional law for the rendition of slaves.

It has been said that this Spanish subject, Colonel Arguelles, was engaged in the slave trade, and hence an enemy of the human race. The truth is that he was not engaged in that trade. Slaves had been landed in the district of Colon, in Cuba, under his jurisdiction, and those slaves, as it was alleged, he had sold after they were landed and confiscated, and having made money out of the transaction in violation of his duty he had fled to this country. There was no proof of all this. It was the only allegation, however, and it may be true. Suppose it were. The charge is simply that of a breach of the municipal law of Spain. He is not, then, in the legal sense, as Mr. Seward asserted, an enemy of the human race. He was not a pirate in any legal or moral sense, but a criminal under the laws of Spain. He could only be delivered to Spain under a treaty or a statute, and neither existed between this country and Spain. Yet gentlemen who are becoming so careful about the personal liberty of black men as to refuse to render them up in pursuance of the Constitution sustain the extradition of a white man without evidence, law, treaty, or constitutional authority. If there were a treaty between Spain and the United States similar to this authority in our Constitution with regard to the rendition of black fugitives, no indignation would ever have been hurled by a hospitable people, proud of their system of asylum under our once free Government, against its present perfidious administrators. Upon the same principle, or want of principle, by which the Executive gave up this Spaniard, they would have surrendered Thomas Francis Meagher, a criminal convicted by the judicial tyranny of England, Professor Agassiz, the savant whom the world delights to honor, and every other man of great or little note who comes here from abroad.

We have had many humiliations since the present Administration came into power. We have bowed humbly before the throne of the French usurper, at the beck of an arrogant foreign minister, and allowed an Austrian prince and an imperial dupe to bear a crown from Europe to our continent, and sway a scepter over a democratic republic with which we were in friendly alliance. We have had domestic humiliations by the forcible abduction, imprisonment, and exile of our citizens without law or trial. We have had our very thoughts pinioned, our presses manacled, and our writs of right and liberty annulled. For all these we place our hands upon our mouths in shame; but for this last humiliation, by which America is no longer the home of the oppressed or the refuge of the foreigner, by which we are made the hissing and byword of the nations, we cast our mouths in the dust in abject degradation. We are put to cruel shame before all civilized nations, nay, before even half-civilized nations.

Turkey once protected the Hungarian patriot, Kossuth; Switzerland protects all political refugees in the midst of Europe, and stands there in her republican simplicity and faith as firm as her everlasting mountains against the oppressions around her. We protected the half-made citizen Kotza in an Asiatic harbor, and rescued him from an Austrian ship; but this was when we had a

Democrat to represent us in our foreign affairs like William L. Marcy. But while this national Congress stops in the midst of a great civil war to sow new dissensions in our midst by unwise legislation like this for black fugitives, it has shown its servile timidity before the usurpations of our Executive, and has allowed the *lettre de cachet* of the French monarch to be reissued under the great seal of the United States without a murmur of dissent or denunciation. We are disgraced before the world by the violation of the great feature of our system of polity. What new humiliation is in store for us?

I hope, Mr. Speaker, that I am not traveling out of the range of proper discussion by referring to this matter of the extradition of a foreigner without treaty or law. I have considered it fully. I hope before Congress adjourns that the Committee on the Judiciary will report a bill for the purpose of punishing such officers as dare lay their hands upon refugees who are here from countries with which we have no treaty, and in cases where there is no law for their delivery. Such refugees have the right to shoot down the officers who thus arrest them, and be entirely innocent of crime. Refugees under such circumstances would have the right to sue Mr. Lincoln, Mr. Seward, or the marshal of New York for false imprisonment, because of the absence of all law and all treaty in relation to that subject.

What inference do I draw from this? That in my opinion, as to all matters of rendition, whether of fugitives from service or justice, or of political refugees, there is always some law required to carry out in good faith the treaty or agreement upon those subjects. Hence, as between these United States, we had placed here in this second section of the fourth article of the Constitution that any person charged with treason, felony, or other crime fleeing from one State to another should be delivered up, and Congress passed a law to carry that out. For the purpose of delivering up persons accused of crime in one State and fleeing to another, papers are prepared, a *prima facie* case is made out, and a *quasi* trial is had. These are indispensable to executive action among our States. So in regard to fugitives from labor, the same preliminaries are required. Proof, a hearing before the commissioner, and warrants for the delivery up of the fugitive to the claimant, these prerequisites are a part of a system as to all renditions.

It is laid down in every authority on international law, and by statesmen who have had instances before them in this country in the various cases growing out of the treaties with Great Britain, France, and other countries, that there can be no rendition of any one from one State to another, except in pursuance of some treaty or law specially made to effectuate the object.

Indeed, in this very case of Arguelles, when our consul at Havana was informed of the flight of Arguelles to New York with a view to his recalculation, the consul at once said that, in the absence of a treaty, no recalculation could be had; that if it were had it would be an "exceptional measure." In this view he is confirmed by Judge Story in his Conflict of Laws; by the practice of this Government in a case as early as 1792, when Mr. Jefferson urged a treaty with Spain; in another case under the Jay treaty in 1799; in another case under Washington's Administration in 1797, for the rendition to Spain of certain criminals from Florida, then a Spanish province; in another case in 1821, when William Wirt, as Attorney General, held that the Executive had no power to arrest a refugee, except for the violation of our own laws; in another case in 1831, of a Portuguese pirate, wherein Attorney General Taney decided the same principle; and in various other cases up to the time of our civil war, where, in a case of demand by Mr. Seward for rebels held by Spain, the Spanish minister of State himself, Miraflores, insisted on a treaty of extradition as a prerequisite to the delivery. It makes my American blood tingle to read the eloquent vindication of this great right from the lips of the minister before the Cortes of Spain. I insert it here as the better sentiment of what is left of the free white men of America:

"The right to give asylum to political refugees is in such manner rooted in the habits, in such sort interwoven with the ideas of tolerance of the present century, and has such frequent, generous, and beneficent applications in the extraordinary and ensanguined political contests of the times we live in, that there is no nation in the world which dares



to deny this right, and, moreover, not any one that can renounce its exercise. What would become of the most eminent men of our days if, in the political tempests in which success may be against them, they could not protect themselves beneath the inviolable mantle of foreign hospitality, offering to them haply a friendly country, where they may breathe tranquil and safe; haply a shelter whose thresholds their pursuers cannot overstep, or haply, in fine, the shadow of a national flag floating in a port? In such cases it can be said that the flag which shields them is not merely the ensign of a foreign nation, but rather the banner of humanity and civilization, under whose ample folds all those can be received who are pursued because they are enemies, rather than because they are criminals. We are empowered, therefore, and we ought to give asylum on board our vessels of war in the United States to political refugees. *The limitation of asylum lies in the offense. Asylum ought not to serve to give impunity to those guilty of ordinary crimes; that would be to encourage crime, and no civilized nation may do that. But it may be said that it is not easy for the commander of a ship-of-war to know whether the man who presents himself on board, asking for asylum, is or not guilty of ordinary crimes. In such cases the commander should require his word of honor that he has not committed such offenses. But should he give that, and it should afterwards turn out that he has lied, there could be no difficulty in handing over to the authorities a man who to former offenses had added that of the abuse of good faith, in being wanting in his parole. And if the Government of Washington wishes to acquire a perfect and positive right to the delivery to them of those guilty of ordinary crimes, it will be enabled to do so by means of a treaty of extradition, to the conclusion of which the Spanish Government would not oppose itself, as it has not refused to conclude such with other States."*

I need not call the roll of English judges or statesmen who have spoken to the same effect with legal learning and indignant eloquence. The Creole case gave rise to these discussions in the English Parliament. The great names of Aberdeen, Denman, Campbell, Brougham, and others might be cited, to show that the sanctity of asylum can only be invaded in pursuance of treaty or of statute.

Yet, in defiance of all precedent, practice, and authority, this House proposes not to repeal the constitutional clause requiring fugitives from labor to be delivered up, but, preserving that clause, to nullify it altogether by repealing the law by which alone the clause can be executed.

On the charitable assumption that gentlemen on the other side intend to execute the Constitution, I say that it is indispensable that some law should exist to carry it out. As in the case of a treaty, as in the Arguelles case, so in the case of a fugitive slave there must be some law to carry out the treaty or clause of rendition. To repeal the law made for that purpose, is a cowardly blow at the Constitution itself. It is a breach of faith, a breach of treaty; and between independent nations would be a *casus belli*. Between States banded like ours under a Constitution, it is a flagrant violation of a sacred compact.

I know that I may be considered as having wandered in discussing this Spanish case, but the majority here would not allow me to discuss it upon my resolution offered last Monday. They called for the previous question to smother discussion. They referred it by a hostile vote to a hostile committee. Therefore I choose, on the subject of the rendition of fugitive slaves, to show how the Administration is illustrating the rendition of another class of persons. The law in the one case, is analogous to the law in the other. Wherever there has been a treaty with any nation in respect to any person fleeing from one nation to another, there has been a law to carry that out. The gentlemen propose to repeal a similar law in the case of fugitive slaves. What do they propose to do in addition? Nothing. They leave this part of the Constitution a dead letter. They leave it not to law, but to the passions of the claimants to rescue their slaves.

Mr. SLOAN rose.

Mr. HIGBY. I object to any further interruption.

Mr. COX. I have a special reason for yielding to the gentleman. I wish to call the attention of the gentleman from Wisconsin to the fact that the Republicans in his State long since repudiated the fugitive slave law.

Mr. SLOAN. I would like to reply to the gentleman.

Mr. HIGBY. I withdraw my objection.

Mr. SLOAN. I rose for the purpose of asking the gentleman from Ohio whether he believes, as has been announced upon that side of the House, that slavery is dead.

Mr. COX. Then I ask the gentleman does he believe slavery is dead?

Mr. SLOAN. That is the question I put.

Mr. COX. I put it to the gentleman first, as my opinion may be influenced by his judgment.

Mr. SLOAN. I object to that Yankee mode of answering a question.

Mr. COX. I am not a Yankee. I want to know whether the gentleman thinks slavery is dead; and then perhaps I may alter my opinion.

Mr. SLOAN. The question is whether the gentleman from Ohio concurs in the view announced by some gentleman upon that side of the House, that slavery is dead.

Mr. COX. I do not believe that slavery is entirely dead; do you?

Mr. SLOAN. Does the gentleman believe it will be destroyed by this war and rebellion?

Mr. COX. What would be the use of the repeal of the fugitive slave law if slavery were altogether dead? Would not the law be a dead letter?

Mr. SLOAN. That is an evasion of the question.

Mr. COX. Why bring in this bill if slavery is dead?

Mr. SLOAN. In reply, I ask why keep alive this law for the rendition of fugitive slaves if slavery is already dead?

Mr. COX. Because I am informed by gentlemen here from Kentucky, what I know to be true, that there are loyal men yet slaveholders. I would give them the benefit of the compact which our fathers made with their fathers. Would not you?

Mr. SLOAN. That is an evasion. Does the gentleman believe slavery is dead?

Mr. COX. No, sir. Do you?

Mr. SLOAN. I believe it ought to die; [laughter:] and I believe it will die if the loyal people of this country succeed in putting down the rebellion.

Mr. COX. So, on the other hand, I want you to die—politically—but you do not. [Laughter.] God in heaven hasten that day; but you are not entirely dead yet.

Mr. SLOAN. Does the gentleman believe that the institution of slavery will survive the issue of this war and rebellion?

Mr. COX. Now the gentleman compliments me by thinking I am prophetic enough to look through these dark clouds of Republican policy and these red clouds of civil war into our future. I cannot see that the institution of slavery will be altogether eradicated by this war. I think it was dying inch by inch, under the blows of war, until the President revived and stimulated rebellion by his African policies and proclamation. But I do not believe that slavery is yet altogether dead, though we must confess it is rather unhealthy and probably may die.

Mr. SLOAN. There was no compliment in the question I asked. I supposed the gentleman at least possessed the ordinary intelligence of the members of this House, and that he had some settled convictions on the subject of whether this war would extinguish the institution of slavery, and I supposed he must have had an object in desiring to have this fugitive slave law continued upon our statute-book. If slavery is not to survive the war this is a useless and obsolete statute, and ought to be wiped from the statute-book, for it has always been, in my judgment, a disgrace to the nation. But if the gentleman is so strenuous for its continuance upon the statute-book, he must believe that slavery is not dead nor even in the process of dying, but is to survive the convulsions of this war, and is looking to the preservation of the guarantees of that accursed institution after peace is returned.

Mr. COX. I have let the gentleman speak some time; but he has not returned the courtesy by answering my question. I answered his frankly. What I want to know is whether or not he thinks slavery is already dead.

Mr. SLOAN. No, sir; but I think it is dying, and I think the loyal and patriotic men of this country will trample its life out in this civil war and rebellion.

Mr. COX. The gentleman from Wisconsin, of all others, is not the man to talk in that way, for the reason that he was opposed to the execution of this fugitive slave law long before this rebellion broke out. I understood the gentleman upon this floor to confess that he once took the ground that that law should not be executed, and he proposed—to use the tenderest expression—something seditious, something rebellious—a resistance to the Federal Government when it un-

dertook to carry out that law in the State of Wisconsin. I ask the Clerk, as a part of the logic of the history of the gentleman, to read what I send to him.

The Clerk read, as follows:

"Joint resolution relative to the decision of the United States Supreme Court regarding the supreme court of Wisconsin.

"Resolved, That the Government framed by the Constitution of the United States was not made the exclusive or final judge of the extent of the powers delegated to itself, but that, as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself as well of infractions as of the mode and measure of redress.

"Resolved, That the principle and construction contended for by the party which now rules in the councils of the nation, that the General Government is the exclusive judge of the extent of the powers delegated to it, stop nothing short of despotism, since the discretion of those who administer the Government, and not the Constitution, would be the measure of their powers; that the several States which formed that instrument, being sovereign and independent, have the unquestionable right to judge of its infraction, and that a positive defiance of those sovereignties, of all unauthorized acts done, or attempted to be done, under color of that instrument, is the rightful remedy.

"Approved March 19, 1859.

"ALEXANDER W. RANDALL, Governor."

Mr. COX. These resolutions were not the impulsive throbbings of a popular meeting, sympathizing in hot blood "with the panting fugitive," but the cool action of a deliberative assembly of legislative malcontents, determined to provoke, defy, and resist the Federal Government. The gentleman defended that action. Where does he belong? With what grace can he appear here to justify, as a present necessity, the repeal of that law which he defied when no necessity existed, except the necessity for good faith in its execution? He is not the man to make the question for its present repeal. He must justify his forcible resistance to the law anterior to this civil war. He should be placed on the list of rebels; and only one tenth of his nature be allowed, on repentance, to express itself through him!

I wish to say further, just here, that these resolutions are in part copied from the old Virginia and Kentucky resolutions, but not interpreted as we Democrats interpret them. We interpret those resolutions to mean that the mode and measure of redress which any State might take for the remedy of grievances should be in pursuance of the Constitution by the amendments thereof. This is Mr. Madison's interpretation of the Virginia and Kentucky resolutions. But the Legislature of Wisconsin and the gentlemen in its defense, as well as the Republicans in Ohio who proposed similar resolutions in our State, when they sought to array Ohio against the United States, gave to them an interpretation precisely similar to that given by South Carolina and Alabama when they passed their secession ordinances. Claiming the sovereign independence of the State, and that the Federal Government by making itself the exclusive judge of the powers delegated to it, and the unquestionable right of the State to judge of the infraction of the Constitution, these Republican disunionists of March, 1859, hurled down the glove of "positive defiance," and prepared, as they did in Ohio, "the rightful remedy" by forcible resistance. South Carolina bettered their example. With the same plentiful lack of patriotism and the same plentiful supply of sedition, she and her sisters in rebellion imitated this bad example.

Mr. SLOAN. Will the gentleman allow me a word?

Mr. COX. No, sir, not now. I want the other resolution read.

Mr. SLOAN. I appeal to the gentleman in fairness to allow me a word in reply.

Mr. COX. I think I have done very fairly by you.

Mr. SLOAN. I think not.

Mr. COX. Before the Clerk reads the other resolution allow me to say that while the revolutionary resolutions approved by Governor Randall were pending in the Wisconsin Legislature, Mr. Horn offered the following as a substitute, which was rejected by yeas 36, nays 49—a strict party vote; the Democrats voting ay, and the Republicans no.

The Clerk read, as follows:

"Whereas it would lead to anarchy and a dissolution of the Union if the interpretation of the Constitution should be usurped by the different State courts, in opposition to the Supreme Court of the United States, where it was placed by

those who mutually pledged to each other their lives, their fortunes, and their sacred honor? Therefore,

"Resolved, That we will abide by the decisions of the Supreme Court of the United States, declared by said court to be constitutional, without regard to our private views and feelings."

Mr. COX. The gentleman defends this action in voting down such resolutions. He thereby defended and helped along the causes of "dissolution." Is he not, therefore, equally with the revolutionists South guilty of bringing these dire calamities upon the land?

Mr. ASHLEY. I want to ask my colleague at what time the party of which I am a member ever passed such resolutions?

Mr. COX. Such resolutions were adopted in May, 1859, in Ohio, after the rescue case in Cleveland; and the gentleman himself is put down as one of the committee on resolutions on that occasion. I have here the Ohio State Journal of May 26, 1859, in which my colleague figures as one of the leading men in that great secession-abolition movement in Ohio. I will do him the justice to say that four years afterwards, when told, for the first time as it seemed, that his name was recorded as one of the members of that convention, the gentleman's memory had at once all the waters of oblivion rolled over it, and he had forgotten all about the interest he took in that meeting.

Mr. ASHLEY. Will my colleague yield to me for a moment?

Mr. COX. With great pleasure.

Mr. ASHLEY. I want to say that the party to which I am attached never, in State convention in Ohio, passed such a resolution; that I never was present in any convention when such a resolution was passed; and that I never subscribed to that doctrine.

Mr. COX. I did not say it was at a State convention. But now I say that at a State convention of the Republican party on the 13th of July, 1855—the first Republican convention in Ohio—this resolution was passed:

"That the people, who constitute the supreme power in the United States, should guard with jealous care the rights of the several States, as independent governments. No encroachments upon their legislative or judicial prerogatives should be permitted from any quarter."

This was done at the nomination of Mr. Chase for Governor, who on accepting it said that "the independence and sovereignty of the State in her legislature and judiciary must be asserted and maintained." The gentleman supported the resolution and nominee. The object of the party then was to get up a controversy with the Federal authority and break it down by State action.

But the convention to which I had particular reference was a great gathering at Cleveland; as the report says, "the influx of all the surrounding country." About ten thousand men came in with banners, singing revolutionary round-lays; and this great mob of persons was addressed by Governor Denison in a letter, and by Governor Chase in person. My colleague [Mr. SPALDING] presided and made a speech—the only sensible speech of the grand occasion. I always supposed that my colleague was also there in person.

Mr. ASHLEY. No, sir.

Mr. COX. Then my colleague never disavowed it until this moment.

Mr. ASHLEY. I was never called upon to disavow it.

Mr. COX. It was published all over Ohio at the time. The gentleman has received the political benefits of his cooperation with that movement of the "sons of liberty," and it is too late now to disavow it after it has been heralded for months and years as one of the great signs of anti-slavery advancement. I pass by the frothy declamation of the speakers, inciting revolution, to quote for my colleague the "declaration" which was adopted with great enthusiasm:

"This assembly of the people of Ohio, holding—

"That, next to our duty to the Supreme Being, is the obligation to preserve our free institutions and our civil liberties;

"That the greatest tyrants have been those whose titles have been least questioned;

"That every violation of the Constitution should be watched with jealousy and resented with spirit;

"That the history of every free people has shown the impossibility of a cordial compliance with laws which neither embody nor execute the public will;

"That the enforcement of such laws, against an unwilling people, is productive only of evils threatening public order, and the stability of governmental institutions."

The enforcement of law against an "unwilling people!" Why, the sentiment is the very boldness and badness of secession, the parent of civil strife, the source of all our woes. Holding thus, that meeting proceeded to declare:

"That the several States composing the United States of America are not united on the principle of unlimited submission to their General Government, but that by compact, under the style and title of a Constitution for the United States, and of amendments thereto, they constituted a General Government for certain definite powers, reserving each State to itself the residuary mass of right to their own self-government; and that whenever the General Government assumes undelegated powers, its acts are unauthorized, void, and of no force, and being void, can derive no validity from mere judicial interpretation; that to this compact each State acceded as a State, and is an integral party; that this Government created by this compact was not made the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion and not the Constitution the measure of its powers; but that, in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress."

For years in Ohio this doctrine ran its round of ruin, under the sanction of my colleague's [Mr. ASHLEY's] name, and this is his first open disavowal of it! That meeting gave its interpretation of the "mode and measure of redress" by expressions of resistance, which resulted in a pledge from the Republican government to use the arms of Ohio against the Federal authority. Ball cartridges were ordered to be manufactured to carry out these designs of bloody revolution.

Whether my colleague helped to draw these resolutions, or by his absence and subsequent acquiescence in them, with his name attached, tacitly favored them, it does not matter. He voted for a man for judge of the supreme court of Ohio who afterwards on the bench carried out in his decision the identical doctrine declared in the Wisconsin resolutions and copied in these Ohio resolutions. I refer to Judge Brinkerhoff.

Mr. ASHLEY. Does my colleague pretend to say that that decision of Judge Brinkerhoff endorsed these resolutions?

Mr. COX. Yes, sir; almost word for word.

Mr. ASHLEY. Not at all.

Mr. COX. We will see about that presently. Thank God we had a majority on the bench who decided that the fugitive slave law was constitutional; but Judge Brinkerhoff decided the other way, and the gentleman voted for him. And I say now that the reason why that convention and the party which sanctioned it did not succeed in dragging Ohio out of the Union and making revolutionary resistance to the Federal Government was—and I mention this in all confidence to the House—that the committee levied a "fund of liberty" on the citizens of the Western Reserve to pay the lawyers for suing out of the State courts a writ of *habeas corpus*! When they found that they had to pay a dollar a head for breaking out into rebellion they revolted against revolution. [Laughter.]

Mr. ASHLEY. Not being present at that meeting I am not responsible for what was said or done there, but I call the attention of my colleague to the fact that he misrepresents Judge Brinkerhoff in what he says of that decision.

Mr. COX. The gentleman may not be willing to take the responsibility now, but he lived and gathered honors for years under its load. His party constituents who have just nominated him by acclamation are yet faithful to him, and amid all obloquy cling to him for his bold avowals of anti-slavery sentiments. As to Judge Brinkerhoff, I will insert his language in my remarks, when it will appear that my colleague is conveniently ignorant of what the judge did say.

I read from Judge Brinkerhoff's dissenting opinion, (Ohio State Reports, volume nine, page 228:)

"I know of no way other than through the action of the State governments in which the reserved rights and powers of the States can be preserved and the guarantees of individual liberty be vindicated. The history of this country, brief as it is, already shows that the Federal judiciary is never behind the other departments of that Government, and often foremost, in the assumption of non-granted powers. And let it be finally granted that the Federal Government is in the last resort the authoritative judge of the extent of its own powers, and the reservations and limitations of the Constitution which the framers of that instrument so jealously endeavored to fix and guard will soon be, if they are not already, obliterated."

It was upon this reasoning, similar to that employed by secessionists at Montgomery and abolitionists at Milwaukee and Cleveland, that this

judge sought to array the States against the Federal Government by denying the authority of the latter over the question of rendition. He held that the Federal Government was a usurper of State rights, and "denied that the decisions of a usurping party in favor of the validity of its own assumptions can settle anything." He in fact held, as Attorney General Wolcott argued, (9 Ohio Reports, 114,) that "as to these powers, the States stand to each other and to the Federal Government as absolutely foreign nations." Yet my colleague voted for both Judge Brinkerhoff and Mr. Wolcott!

One more word to this Wisconsin gentleman, [Mr. SLOAN,] the gentleman who has more than "ordinary intelligence," the gentleman who, at an early day, helped to bring this war on by just such a course, if not worse, than that pursued by the Republicans of Ohio.

I assert that these gentlemen in their resolutions and conduct proposed to array the States in armed hostility against the Federal Union. Oh yes! they talk now against State rights, as if these rights were the *teterrima causa belli*. If State rights carried into rebellion be the cause, how will these gentlemen escape condemnation? Failing to observe the limitations of the Constitution and the reservations therein to the States, they do not want any State to have its rights now; not now. Not so in 1859. At that time they were for giving the States all sovereign rights, including nullification and resistance by force against the Federal authority. When the Democrats appealed to the country for the right of the Federal Government to exercise the powers clearly delegated to it under the Constitution with respect to fugitives from labor, these devotees of the new gospel of black liberty cried out in chorus: "No, no! All these laws passed in pursuance of the Constitution come in collision with our peculiar notions of the higher law of our conscience and our God. No matter if the Supreme Court have decided the law to be constitutional; we will array our personal liberty bills against your fugitive slave bills, and our courts against the Federal courts. We will release the men you arrest for resisting the Federal authorities, by State writs of *habeas corpus*, or 'rescue' them from their incarceration!" They did not then undervalue the *habeas corpus*. Oh no! It was made for the black man. They were over-zealous then for the great writ of freedom, to prevent the proper exercise of the Federal authority. But now they, I mean you, have ignored that right and nullified that writ. You will not allow it for the white man when imprisoned without warrant and punished without trial. You are against the rendition of the black man in pursuance of the Constitution; and you give up a white man who has sought an asylum on our shores without the form or substance of law or treaty, and in "positive defiance" of the law of nations and the Constitution. Your Executive is a usurper of the powers wisely distributed to the other departments of the Government. Here you sit to-day striving to strike down the only mode whereby one peculiar clause of the Constitution can be carried out, and propose no mode as a substitute either by State or Federal action. You will not allow an individual to take his slave by the sanction of the Constitution alone; you will pass no law to help him. You will not allow him to go into a free State and have his right there by jury trial, because you cannot try the claimant's right to his slave by a jury in a free State. You will not allow the law of 1793, which George Washington assisted in making; yet you strike down all the great rights of personal freedom for the white man fixed by the fathers of the country in our fundamental law, because you are bent, because you are demoniacally bent, upon riving this Union in twain, and separating its parts forever. Your ideas are not those of the higher, but of the lower law. They do not come from the sources of law and light and love above. They sunder all the ties of allegiance and all the sanctions of faith. You are destructionists; you would tear down all that is valuable and sacred in the past and build up nothing in their place. You are revolutionists. You were trying for years by wrongful interference and force to nullify the very law which you now seek to expunge by repeal. You diligently sought to embroil the States in collision with the Federal Government, and have suc-

ceeded in bringing with your advent into power the consequences we predicted, a relentless and bloody war. I charge it upon every man of you on the other side of the House who took any part in these seditious infractions of the Constitution, who counseled individual and State resistance and fomented sectional strife, that you are responsible before God and the country for our present calamities. The enormous burdens of taxation, the widow's tears, the orphan's curse, the wail of the bereaved, and the future destitution and consuming desolation of this land, all cry aloud against you as the authors of this worst evil which ever befell a suffering people!

Mr. SLOAN. Mr. Speaker, I do not desire to detain the House but for a single moment. The gentleman from Ohio who has just taken his seat has alluded to some resolutions passed by the Legislature of Wisconsin. He had the fairness while commenting upon these resolutions to admit that the principles which were announced in those resolutions were the principles contained in the Kentucky resolutions of 1798. The only difference between the resolutions of the State of Wisconsin and the Kentucky resolutions, which formed a part of the Democratic platform in 1852 and 1856, was that they were applied to a different subject. If there was any error on the part of the Legislature of Wisconsin or on the part of the people of Wisconsin it was only in this: that they had seen these Kentucky resolutions of 1798, under the sanction of the Democratic party, doing service in the cause of bolstering up and perpetuating slavery in this country. They took the principles contained in those resolutions and applied them to the cause of human freedom. If the principle embodied in those resolutions was erroneous it was a principle taught them by the gentleman from Ohio and his party. The Legislature of Wisconsin wrested these resolutions of 1798 from the base uses to which the Democratic party of the country had put them, of serving and attempting to bolster up with them the institution of slavery, and applied them to the cause of liberty in the case of a fugitive slave in the State of Wisconsin.

Now, sir, for members who have acted with that party, and who have indorsed those resolutions, to charge it upon our State as a reproach for passing these resolutions is simply self-stultification. It is an inconsistency that no man who belongs to that party and has examined the subject, who has any regard for his own reputation, would be guilty of upon this floor. It may have been an error on the part of the Legislature of Wisconsin to affirm the doctrine that is contained in the resolutions of 1798, and which is reiterated in the report that Mr. Madison made to the Virginia Legislature in 1799; but if it is an error it is one which the gentleman from Ohio and all who belong to that party have taught to the people of Wisconsin, and taught to the people of the whole country.

Mr. COX. Will the gentleman yield to me?

Mr. SLOAN. I will.

Mr. COX. The gentleman does not do me justice. I gave an interpretation to those resolutions which the gentleman has forgotten, and I gave it in the words of Mr. Madison himself, as published in his private correspondence, printed by Mr. McGuire, of this city. He says that the proper interpretation of those resolutions is this: that the mode and measure of redress which a State may take, and the only mode and measure of redress which a State may take for any grievance, is an amendment to the Constitution by the mode proposed in that Constitution. And that is the Democratic doctrine on that subject.

Mr. SLOAN. What mode or measure of redress did the people of Wisconsin propose to take in that case, except by an appeal to the constitutional tribunal?

Mr. COX. They did not propose to appeal to the Constitution. They appealed to force, they took up arms, and the gentleman backed them up in it. I heard him upon this floor say that they were right.

Mr. SLOAN. The gentleman is mistaken in his facts in relation to the people of our State. I deny that any authorized or organized force in that State took up arms to obstruct the execution of the fugitive slave law.

Mr. ELDRIDGE. Will my colleague yield to me?

Mr. SLOAN. Certainly.

Mr. MORRIS, of New York. I rise to a point of order. I object to the gentleman from Wisconsin yielding any further for the discussion of side-bar questions. I insist that the discussion shall be confined to the pending question. I want to get a vote before we adjourn to-day, and I shall object to any further interruption of the gentleman from Wisconsin.

The SPEAKER. All this debate being in reference to the fugitive slave law is in order.

Mr. COX. The gentleman yielded to me before the objection was taken by the gentleman from New York.

Mr. SLOAN. I do not object to yielding to the gentleman from Ohio, although it would be extending a larger measure of courtesy to him than he saw fit to extend to me.

Mr. MORRIS, of New York. I object.

Mr. ELDRIDGE. Does the gentleman object to me?

Mr. MORRIS, of New York. I do.

Mr. SLOAN. Mr. Speaker, I content myself with simply saying that the misrepresentation which is attempted to be put upon the resolutions of the Legislature of Wisconsin by the gentleman from Ohio are unfounded; that, so far as the announcement of principle in those resolutions is concerned, they are an exact copy in language of those famous Kentucky resolutions, and that whatever construction may be put upon the Kentucky resolutions by Mr. Madison or by the gentleman from Ohio can be put upon the Wisconsin resolutions. The offense of which Wisconsin was guilty, as I have said, was in wresting those resolutions, made to do service in the cause of human slavery by the Democratic party in this country, to support the cause of human liberty. The Legislature and the supreme court of the State interposed the principles contained in these resolutions between the fugitive and his pursuers. It rests with no man who has been a member of the Democratic party and supported its platforms and candidates to reproach the State of Wisconsin for the passage of those resolutions. It is a case of self-stultification so gross that I wonder any man can be guilty of it here without the blush of shame mantling his cheek.

Mr. MORRIS, of New York, obtained the floor.

Mr. FARNSWORTH. I ask the gentleman to yield to me for a few minutes.

Mr. MORRIS, of New York. How long?

Mr. FARNSWORTH. A few minutes only.

Mr. MORRIS, of New York. I propose to occupy the floor but five minutes, and then to move the previous question; but I am inclined to give way to my friend for ten minutes.

Mr. MORRIS, of Ohio. I object, unless the gentleman yields unconditionally.

Mr. FARNSWORTH. My friend can yield me the floor and get it again when I get through, can he not?

The SPEAKER. The Chair is not able to answer the gentleman whether he can or not.

Mr. BLAINE. In the colloquy which took place with the gentleman from Ohio—

The SPEAKER. The gentleman from Maine is not in order; the gentleman from New York is upon the floor, and objection is made to yielding.

Mr. MORRIS, of Ohio. I withdraw my objection.

The SPEAKER. Then the gentleman from Illinois [Mr. FARNSWORTH] is entitled to the floor.

Mr. BLAINE. I wish to send to the desk a dispatch in reference to negroes fighting, to which allusion has been made, to be read.

Mr. ELDRIDGE. Gentlemen on the other side have objected to yielding on this side, and now I object.

Mr. BLAINE. I withdraw it.

Mr. MORRIS, of New York. I will ask the Clerk to read it as part of my speech.

The Clerk read the dispatch, as follows:

LOUISVILLE, KENTUCKY, June 12, 1864.

Major FOSTER, A. A. G.:

Am informed that at Frankfort there were in the fort three hundred negroes, unarmed, for refuge. After rebels had captured two guns the negroes were allowed by Governor Bramlette to fight with their fists and knives, and recaptured the guns. General Fry telegraphs camp Nelson, sixteen hundred negro recruits there; very useful fortifying. General Thomas came last night.

R. D. MUSSEY,  
United States Army.

Mr. MORRIS, of New York. I do not propose, Mr. Speaker, to occupy the attention of the House over five minutes; but it is due that I should say a few words with reference to the question involved in the bill before the House.

The Constitution of the United States, in section two, article four, provides that no person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service. Such is the provision of the Constitution, and there has been certain legislation supposed to come within that provision and which is now upon the statute-book. The bill before the House proposes to repeal those statutes. The power authorized to enact those statutes may also repeal them, and the only question is the practical one whether it is wise and proper to repeal them.

I hear but two objections alleged to their repeal. The gentleman from Ohio who has just taken his seat [Mr. Cox] urges one prominent objection, and to illustrate it cites a case which occurred recently in this country where a citizen of the island of Cuba was remanded by reason of crime and surrendered up by the Government. He says it was a monstrous outrage upon the rights of foreign citizens.

Now, sir, the individual who was thus demanded by the Government of Cuba had done, what? He had been guilty of that which is proclaimed by every civilized Government upon the face of the globe as piracy; he had been engaged in taking men by force from their homes and country, and of transporting them to Cuba against their wills.

The gentleman from Ohio deprecates the act of the Government in surrendering up this criminal, but not a word escapes his lips in condemnation of that man for having thus perpetrated a crime, not only offensive to this nation, but also to the civilized world. He concedes that the remanding of this man was, by reason of the commission of a crime, recognized by the laws of the Government of Cuba.

Now, sir, we ask the repeal of this law; and why? Suppose some man from Cuba, like the gentleman alluded to by the gentleman from Ohio, had stolen three hundred negroes from the shores of Africa, and then had brought them to these shores, and a portion of them had been landed and sold in Missouri or Maryland, and then had escaped from their purchaser into another State, under this law the gentleman from Ohio, as commissioner, would have surrendered them up to the claimant. Now, I insist that we should have a court by which such person thus seized in any other State shall have the usual trial by jury in the State where arrested to ascertain whether he is entitled to his liberty or not. By a repeal of these statutes there may such hearing and trial be had in accordance with the Constitution of the United States and the laws of the State where such person is found. I ask that it be repealed for another reason, and my friend from Ohio has given an instance which peculiarly illustrates the necessity of the repeal. Under the laws of the United States, enacted by the present Congress, a colored man in the State of Missouri or Maryland, being a slave, may enlist into the armies of the United States. If he should do so, and should be stationed in the State of New York, under the laws sought to be repealed he might be seized and remanded to slavery; and a further consequence would be that he might be dealt with as a deserter from his post of duty. Here is a conflict in our laws, an absurdity which demands a remedy. Under the laws sought to be repealed our Army may be invaded and our troops consigned to slavery.

But independent of that, I object to these laws. It is conceded by nearly every one that they are a dead-letter upon our statute-book, and from high moral considerations I would strike from the statute-book every law which the people condemn and so despise that they cannot be enforced. The retention and violation of a bad law leads to the contempt and disregard of good ones. I do not object to enforcing laws, but I do object to the retention of a law so unjust, so unpopular, that you can find no citizen willing to execute it. These statutes are repugnant to the sense of every good man who has not been educated to believe that the slave code is more imperative than the Constitution itself. I say, sweep out a law which no man



respects who is not a votary of human slavery. It is an abomination. I would begin with this. It will be one prop knocked down under slavery. Then I would amend the Constitution, and so strike out another and another prop of this iniquitous system, which is conceded by every man to have been the foundation and procuring cause of the war that is now desolating the land, until the whole is swept away. For these reasons I would repeal these obnoxious statutes.

Mr. SPEAKER, I stated that I should occupy the attention of the House but a few moments. I now move the previous question.

Mr. FARNSWORTH. I ask the gentleman to withdraw the previous question, and I will renew it.

Mr. MORRIS, of New York. I withdraw the previous question for the gentleman from Illinois, he promising to renew it.

Mr. FARNSWORTH. Mr. Speaker, I have no intention of detaining the House long; but it seems to me that a bill of this kind, and especially after the speech made on it by the gentleman from Ohio, ought not to be pressed to a vote without giving some little time for reply.

I am in favor of the repeal of the fugitive slave law for divers reasons. In the first place the Constitution does not require such law. I would give to slaveholders what they have got by the letter of the Constitution, and no more, until we can amend the Constitution. I am in favor of its repeal, again, for the reason that I am in favor of striking all the blows I possibly can at the institution of slavery, and just as fast as I can. In the third place I am in favor of the repeal of the fugitive slave law because it is a disgrace, a standing, blasting disgrace upon the statute-books of the nation.

If I understand the argument of the gentleman from Ohio, [Mr. Cox,] he would, armed with this fugitive slave law, go to the field and strip from these valiant sable defenders of the Republic their uniforms, take from them their muskets, and in place of their knapsacks on their backs lay on stripes and chains and manacles, and send them back again to slavery. He would not stop there, but would even follow the wounded black soldier to the hospital, tear him from the hands of his surgeon, and with chains and stripes take him back to his master and slavery. I would like to put the question to that gentleman or to any other who sympathizes with him on that question, whether he is willing to follow out to its logical sequence the argument which he makes; whether he desires to strip the uniforms from all these men who are now soldiers of the Republic, occupying the most honorable position that any man can occupy in the nation—defenders of their country; whether he is willing to go to the field and strip the uniforms off these men, and return them to a dark and dismal slavery.

The gentleman from Ohio expressed his sympathy for Arguelles, the slave pirate—

Mr. COX. I expressed no sympathy at all for Arguelles.

Mr. FARNSWORTH. Why, Mr. Speaker, under this fugitive slave law, the fugitive has no trial until he is taken back to the place from whence he escaped, for the examination before the commissioner is not a trial; you put the iron hand of the law upon him and take him back to his master; and there is the only place where he can have anything like a trial.

Mr. COX. Will the gentleman from Illinois yield to me?

Mr. FARNSWORTH. I cannot be expected to yield any of my time, which is but six minutes.

Mr. COX. The gentleman misinterprets me.

Mr. FARNSWORTH. In the case of a *man-stealer* the gentleman objects to any such summary proceeding. He objects to sending the pirate to the place of his crimes for trial. If he had been charged with some petty crime, if he had been some poor ordinary "cuss," and had been sent back to answer, there would not have been a word of complaint from the gentleman. But he is a *man-stealer*, a towering rascal. He has committed the greatest crime that a man can commit on God's green earth, the *sum of all villainies*, and therefore he is worthy of being made a plank in the Democratic platform. If we have not got a precedent or law for sending back a man like that, we will make one. It is the destiny of republics like this to set precedents, not to follow them.

Oh! Mr. Speaker, I understand where the trouble is with that side of the House. The effect of the action of sending back this rascal to Cuba was the emancipation of *eighty human beings*—that is where the shoe pinches. All the trouble is that upon Arguelles landing in Cuba the chains fell from the limbs of eighty men—that is what troubles my friend upon the other side of the House. If he had stolen money or horses, some petty crime, it would have been all well enough, and you would have heard no dissent; but he is so infamous, his crime so high-handed and God-defying, that he is worthy of a plank in the Democratic platform, and a nail from the Democratic party.

Now, Mr. Speaker, in compliance with my promise, I demand the previous question.

The previous question was seconded, and the main question ordered to be put.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. MORRIS, of New York, demanded the previous question upon the passage of the bill.

The previous question was seconded, and the main question ordered to be put.

Mr. HUBBARD, of Connecticut, demanded the yeas and nays upon the passage of the bill. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 82, nays 57, not voting 42; as follows:

YEAS—Messrs. Alley, Allison, Ames, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Blair, Blow, Boutwell, Boyd, Brandegee, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Dixon, Donnelly, Driggs, Eckley, Elliot, Farnsworth, Frank, Garfield, Gooch, Griswold, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kelley, Francis W. Kellogg, Littlejohn, Loan, Longyear, Marvin, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Price, Alexander H. Rice, John H. Rice, Schenck, Seefeldt, Shannon, Sloan, Spalding, Starr, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Webster, Whaley, Williams, Wilder, Wilson, Winlow, and Woodbridge—82.

NAYS—Messrs. James C. Allen, William J. Allen, Augustus C. Baldwin, Bliss, Brooks, James S. Brown, Chanler, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Harding, Harrington, Charles M. Harris, Holman, Hutchins, Kalbheisch, Kernan, King, Knapp, Loan, Lazear, Le Blond, Mallory, Marcy, McDowell, McKinney, William H. Miller, James R. Morris, Morrison, Odell, Pendleton, Pruyn, Radford, Robinson, James S. Rollins, Ross, Smithers, William G. Steele, Stiles, Strouse, Stuart, Sweat, Wadsworth, Ward, Wheeler, Chilton A. White, Joseph W. White, and Fernando Wood—57.

NOT VOTING—Messrs. Ancona, Anderson, Arnold, Baily, Broomall, William G. Brown, Clay, Deming, Dumont, Fenton, Grinnell, Hale, Hall, Benjamin G. Harris, Herrick, Philip Johnson, William Johnson, Kasson, Orlando Kellogg, Long, McAllister, McKibide, Middleton, Nelson, Noble, John O'Neill, Perry, Pomeroy, Samuel J. Randall, William H. Randall, Rogers, Edward H. Rollins, Scott, Smith, Stebbins, John B. Steele, Voorhees, Elithu B. Washburne, William B. Washburn, Winfield, Benjamin Wood, and Yeman—42.

So the bill was passed.

During the call of the roll,

Mr. SCOFIELD stated that Mr. FENTON was detained at his room by ill health, and had paired with Mr. STEELE of New York.

Mr. COX stated that Mr. VOORHEES had paired with Mr. ROLLINS of New Hampshire.

Mr. LITTLEJOHN stated that Mr. POMEROY had paired with Mr. NELSON.

The vote was announced as above recorded.

Mr. MORRIS, of New York, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ENROLLED BILL AND RESOLUTION.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill and joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 149) concerning certain school lands in township forty-five north, range seven east, in the State of Missouri; and

Joint resolution (H. R. No. 55) granting certain privileges to the city of Des Moines, in the State of Iowa.

#### THE GOLD BILL.

Mr. HOOPER. I rise to a question of privilege. I call upon the motion to reconsider the vote by which the gold bill was laid on the table.

Mr. COX. I move that the House adjourn.

The SPEAKER. The gentleman from Massachusetts is entitled to the floor.

Mr. HOOPER. I propose to submit a few remarks on the motion to reconsider.

Mr. DAWSON. I rise to a question of order. I submit that the motion to adjourn is not debatable.

The SPEAKER. The gentleman from Massachusetts was entitled to the floor, and the gentleman from Ohio, therefore, had not the floor to move to adjourn.

Mr. DAWSON. I submit then that a motion to reconsider a vote laying a bill on the table is not debatable.

The SPEAKER. The Chair sustains that question of order.

Mr. HOLMAN. I move to lay the motion to reconsider on the table.

Mr. DAWSON. I move that the House adjourn.

The motion was agreed to—ayes 66, noes 53.

Mr. HOOPER. I desire to ask the Chair what will be the condition of this motion to-morrow if the House adjourn now?

The SPEAKER. The Chair will answer the gentleman if no objection be made.

Mr. BROOKS. I object.

The SPEAKER. The Chair then announces that the House stands adjourned until to-morrow at twelve o'clock, m.

#### IN SENATE.

TUESDAY, June 14, 1864.

Prayer by the Chaplain, Rev. Dr. BOWMAN.

On motion of Mr. WADE, and by unanimous consent, the reading of the Journal was dispensed with.

#### PETITIONS AND MEMORIALS.

Mr. MORGAN presented a memorial of importers and merchants of the city of New York, praying that goods in bond may be exempted from the operations of the resolution of April 29, 1864, imposing an additional duty of fifty per cent. on goods imported into the United States for sixty days; which was referred to the Committee on Finance.

Mr. SUMNER presented six petitions of men and women of the United States, praying for the abolition of slavery, and such an amendment of the Constitution as will forever prohibit its existence in any portion of the Union; which were referred to the select committee on slavery and freedmen.

The PRESIDENT *pro tempore* laid before the Senate a copy of the acts, resolutions, and memorials, and of the journal of the Legislative Assembly of the Territory of Utah for the thirteenth annual session for the years 1863-64; which was referred to the Committee on Territories.

Mr. LANE, of Kansas. I present a petition of settlers on the Absentee Shawnee Indian reservation in Douglas county, Kansas, praying that in any treaty which may be made with the Shawnee nation of Indians it may be stipulated that settlers upon the said reservation shall not be subject to pay more than an average price of \$1 25; which I move be referred to the Committee on Indian Affairs and printed.

Mr. TRUMBULL. Is it proposed to print a petition?

The PRESIDENT *pro tempore*. That is the motion.

Mr. TRUMBULL. I object to its printing. It is very uncommon in the Senate to print a petition.

Mr. SUMNER. The motion to print ought to go to the Committee on Printing.

The PRESIDENT *pro tempore*. It will be so referred.

Mr. LANE, of Kansas. This petition relates to a matter of material importance to the interests of my State, and I should like Senators to understand it.

Mr. TRUMBULL. It is very unusual to print petitions.

Mr. LANE, of Kansas. I withdraw the motion.

The PRESIDENT *pro tempore*. The motion is withdrawn; and the petition will be referred to the Committee on Indian Affairs.

## REPORTS FROM COMMITTEES.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred the bill (H. R. No. 521) to amend an act entitled "An act to provide for the payment of the claims of Peruvian citizens, under the convention between the United States and Peru of the 12th of January, 1863," approved June 1, 1864, reported it without amendment.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred the bill (H. R. No. 494) to increase duties on imports, and for other purposes, reported it with amendments.

Mr. GRIMES, from the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 495) to amend the charter of the Washington and Georgetown Railroad Company, reported it with amendments.

He also, from the same committee, to whom was referred the bill (H. R. No. 186) to incorporate the Baltimore and Washington Depot and Potomac Ferry Railway Company, reported it with amendments.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 298) to incorporate the Potomac Ferry Company, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 115) for the proper organization of the levy court of the county of Washington, in the District of Columbia, reported it with an amendment.

## BILL INTRODUCED.

Mr. LANE, of Indiana, asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 65) in relation to the public printing; which was read twice by its title, and referred to the Committee on Printing.

## CALIFORNIA STATE PRISON.

Mr. HENDRICKS. The Committee on Public Lands, to whom was referred the bill (S. No. 306) to grant to the State of California certain lands for State prison purposes, have directed me to report the same back with amendments. I understood from the Senator from California, [Mr. CONNESS,] who introduced the bill, that it was very important to have it passed at this session, and I think he would desire its present consideration. I will therefore ask for the present consideration of the bill.

Mr. MORRILL. Will it occupy any time?

Mr. HENDRICKS. I suppose not. I will state that four hundred and fifty acres of land are now occupied by the State prison of California and are used for prison purposes. It was supposed that this land belonged to private individuals; but a doubt has arisen on that subject, and the opinion of the attorney general of California is that the Government of the United States really has a better title. This is but a release to the State of that title.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The amendments of the Committee on Public Lands were to strike out the word "the" in the fifteenth line of the bill, and the words "thesame being about four hundred and fifty acres more or less" in the sixteenth line, and to insert the words "not exceeding in quantity four hundred and fifty acres," and to add at the end of the bill the words "without prejudice to the rights or claims of any other parties;" so that the bill will read:

*Be it enacted, &c.,* That the right of the United States to the lands comprising that portion of the promontory or point known as "Punta de Quintin" or "Point San Quintin," lying east of the north and south line dividing sections No. 3 and 10 from No. 2 and 11, in township No. 1 north, range No. 6 west of Mount Diablo meridian, embracing portions of Nos. 11, 12, 13, and 14 of the said township No. 1 north, range No. 6 west, upon which the State prison of the State of California is now located, not exceeding in quantity four hundred and fifty acres, be, and the same is hereby, ceded, granted, and confirmed to the said State of California.

The amendments were agreed to.

Mr. GRIMES. I should like to know if four hundred and fifty acres of land are necessary for a penitentiary.

Mr. HENDRICKS. That is a question I asked the Senator from California who introduced the bill, and he informed me that that amount of land was being used for the State prison of Cali-

fornia, and for State prison purposes. A part of it is used in the manufacture of brick and a part is cultivated as agricultural land by the convicts.

Mr. CONNESS. I will state for the information of the Senate that it is a piece of land purchased of private parties by the State of California eleven years since. The State finally purchased it from two or three owners. In all they have paid \$90,000 for the land, which is really worth fifty cents per acre. A considerable piece of it is a swampy plat that has been filled up and made into a brick-yard, where the prisoners are employed in making bricks.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

## TERRITORY OF IDAHO.

Mr. WADE. The Committee on Territories, to whom was referred the bill (H. R. No. 486) to amend an act entitled "An act to provide a temporary government for the Territory of Idaho," approved March 3, 1863, have directed me to report it back without amendment; and I ask for its present consideration. It will not take a moment.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Governor of the Territory of Idaho to reapportion that Territory for the election of members of the council and house of representatives of the Legislative Assembly; but the apportionment is to be based on an enumeration of the inhabitants and qualified voters of the several counties and districts of the Territory, to be taken by such person and in such mode as the Governor shall designate and appoint; and the persons so appointed are to receive a reasonable compensation therefor, to be paid out of the territorial treasury. This is not to be construed to divest any member of the council, elected at the first election in the Territory, of any right he may have acquired by virtue of that election, who was elected from any county or district within the present limits of the Territory of Idaho. The annual election in the Territory for the election of all officers, provided for by the laws of the Territory, for the year 1864, is to be held at such places as are now provided by law, and such other places as the Governor may direct, on the second Monday of October.

Mr. WADE. The necessity for this bill arises from the fact that we have divided that Territory during this session, which makes it necessary to have a reapportionment for members of the Legislative Assembly. That is the object of the bill, and that is all there is of it.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

## PRESERVATION OF PUBLIC WORKS.

Mr. CHANDLER. I move that the Senate postpone all prior orders, and take up House bill No. 450, to provide for the repair and preservation of certain public works of the United States. It is a very important measure, and will not occupy two minutes of time, I think.

Mr. DAVIS. I object to taking up that bill until resolutions can be called for. They have become about obsolete in the Senate, and I think it is time to take them up.

The motion of Mr. CHANDLER was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The Committee on Commerce reported the bill with amendments. The first amendment of the committee was in section one, line six, to strike out the words "protecting the commerce of the lakes by causing," and to insert the word "repairing;" and in line nine, after the word "Superior," to strike out the words "to be repaired and made useful for purposes of commerce and navigation;" so that the section will read:

That there be, and hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$250,000, to be expended under the direction of the Secretary of War, in repairing the public works connected with the harbors on Lakes Champlain, Ontario, Erie, Saint Clair, Huron, Michigan, and Superior, so far as the same, in his judgment, may be necessary.

The next amendment was in section two, line five, after the word "repairing," to strike out the words "and rendering useful for purposes of

commerce and navigation;" so that the section will read:

Sec. 2. And be it further enacted, That there be, and hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, the further sum of \$100,000, to be expended under the direction of the Secretary of War, in repairing such of the public works connected with the harbors on the seaboard of the United States as may, in his judgment, need such expenditures.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. HOWE. I wish the Senator from Michigan, who reported this bill, would make some explanation of it.

Mr. CHANDLER. I will do so very readily, if the Senator desires it. A large sum was asked at the opening of this session to carry on these repairs, I think \$651,000. The Committee on Commerce thought it more than they ought to expend this year. They referred the bill to the Secretary of War to know where and how the amount could be cut down. Instead of cutting it down the engineers proposed to raise it very considerably, making it \$2,500,000. The committee thereupon rejected the whole measure. After that rejection the House of Representatives passed this bill appropriating this small sum for needed repairs. For instance, at Plattsburgh, as I am informed, there is a pier that cost \$1,000,000, and it is absolutely washing away, going to decay, and will be absolutely lost unless something is done. Repairs costing \$10,000 will render it safe for a long time to come. It is for such purposes as that that this bill is introduced. It appropriates a small sum, at the discretion of the Secretary of War, to be used exclusively for the repairs of public works that are going to destruction for the want of repair. That is all there is about it.

Mr. HOWE. As I understand the Senator, there is no estimate and no information from the Secretary of War as to where this money is to be expended nor upon what works.

Mr. CHANDLER. No, sir; not any.

Mr. WADE. The same observation the Senator from Michigan has made with regard to the harbor of Plattsburgh, is true of many of the harbors on Lake Erie, and especially at Cleveland. I introduced a bill very early this session to appropriate a much larger sum than this, and specifying each harbor, and I did it according to the estimates of the Department, and I was in hopes that that sum would be appropriated; but that could not be done. The sum that I asked for was not sufficient of itself to put these harbors in the condition in which they ought to be; but something must be done to preserve the public works in these harbors or they will be rendered entirely useless. A small sum now is perhaps better than nothing, and will stay the decay of these works until such time as we can proceed to make them permanent. There is no doubt that all this bill asks for is absolutely necessary, and a great deal more would be useful. Even burdened as we are by debt now, I believe a large sum of two or three millions could be appropriated to this purpose to greater advantage than to almost any other object. But as the committee have thought differently, as they have strong and cogent reasons to be prudent and cautious in the expenditure of money, I am not contending for the larger amount, necessary as I know it to be. I hope, however, there will be no objection to this small sum being appropriated under the direction of the War Department for such purposes as are necessary.

Mr. HOWE. I wish to make an apology or an explanation. I shall not make any objection to the passage of this bill, of course. The inquiry I made was dictated by the very facts, known to me, which the Senator from Ohio has just stated. I knew the necessity was so great for a larger sum of money to be specifically appropriated to specific purposes that I really could not understand why this small sum to be expended merely at the discretion of the Secretary of War was offered here; but certainly I shall not object to the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

JUAN MIRANDA.

The PRESIDENT *pro tempore*. The hour of half past twelve o'clock having arrived, the Chair will call for the special order for that hour, being

the bill (S. No. 238) to ascertain and settle certain private claims in the State of California, the pending question being on the motion of the Senator from California [Mr. CONNESS] that the bill be indefinitely postponed.

Mr. CONNESS. Upon that motion I will call for the yeas and nays.

The yeas and nays were ordered.

Mr. McDUGALL. Before the subject is disposed of I think it my duty to make a simple statement to the Senate.

I have been familiar with this Ortega and Miranda case for a great many years. At one time I was counsel for the Ortega claim. I never had any relation to the Miranda claim and was not a party concerned in it. The position I occupied was one of an antagonist character. Understanding the history of this case and how it was conducted in the court below, that is, in the circuit court, as well as the decisions of the Supreme Court, when the question was presented hereby my former colleague at the last session, I felt it my duty to vote to enable the Miranda claimants to have a hearing before the court. It was by a common error on the part of the bar and I may say of most of the bench in California that the Miranda claim was prevented from having a hearing. I do not undertake to say that the Miranda claim is a good claim. It is not the question here before the Senate. By a misunderstanding even on the part of the Supreme Court as to what the law was they remitted the case back for further hearing and prevented them from having a full hearing. I believe the Supreme Court in giving the opinion held that Miranda had a good right. Whether they could so prove upon a trial of the Miranda case or not I am not prepared to say. It is none of my business, nor is it the business, I think, of the Senate. Having been deprived of a hearing heretofore, I think them entitled, and I shall therefore so vote.

The question being taken by yeas and nays, resulted—yeas 21, nays 16; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Doolittle, Fessenden, Foot, Foster, Grimes, Howe, Lane of Indiana, Morgan, Pomeroy, Ramsey, Sprague, Sumner, Ten Eyck, Wade, Wilkinson, and Wilson—21.

NAYS—Messrs. Buckalew, Cardie, Davis, Harlan, Harris, Hendricks, Johnson, McDougall, Nesmith, Powell, Richardson, Riddle, Sherman, Trumbull, Van Winkle, and Wiley—16.

ABSENT—Messrs. Collamer, Cowan, Dixon, Hale, Harding, Henderson, Hicks, Howard, Lane of Kansas, Morrill, Saulsbury, and Wright—12.

So the motion was agreed to; and the bill was indefinitely postponed.

#### DISTRICT JUDICIAL FEES.

Mr. TRUMBULL. I move to take up Senate bill No. 296. I will state to the Senate that the object of the bill is to save a little money to the Treasury.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 296) in relation to the fees and emoluments of the marshal, attorney, and clerk of the supreme court of the District of Columbia, and for other purposes.

Mr. TRUMBULL. The Committee on the Judiciary reported this bill, with an amendment in the nature of a substitute. I suggest, therefore, that the reading of the original bill be dispensed with, and that the amendment only be read.

The PRESIDENT *pro tempore*. That course will be pursued, if there be no objection.

The Secretary read the amendment, which was to strike out all of the original bill after the enacting clause, and to insert in lieu thereof:

That the fees of the clerk of the supreme court of the District of Columbia, except so far as hereinafter specifically provided, and of the United States attorney and the marshal of said District, shall be the same as the fees respectively allowed to clerks of the district and circuit courts, attorneys, solicitors, and proctors, and marshals, by the act approved February 26, 1853, entitled "An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes;" *Provided*, That the clerk of said supreme court shall not be allowed by the Secretary of the Interior to retain of the fees and emoluments of his said office, for his own personal compensation, over and above his necessary office expenses, the necessary clerk hire included, to be audited and allowed by the accounting officers of the Treasury, subject to an appeal to the Secretary of the Interior, the sum of \$6,000 per annum; and in making out his semi-annual returns, required by the third section of said act, said clerk shall embrace his fees and emoluments of every name and character for any service required of him by law.

SEC. 2. *And be it further enacted*, That no marshal nor district attorney of the United States shall, by reason of the discharge of the duties of his office, now or hereafter required of him by law, or in any case in which the United States will be bound by the judgment which may be rendered in the same, be allowed to retain out of the fees, charges, and emoluments therefor, whether prescribed by statute or allowed by a court or any judge thereof, a greater maximum compensation than that fixed by the act aforesaid; but all such fees and emoluments, of every name and character, shall be included in the semi-annual returns required of marshals and attorneys by the third section of the act aforesaid.

SEC. 3. *And be it further enacted*, That, at the commencement of every suit in the supreme court of the District of Columbia, the plaintiff shall deposit at least eight dollars with the clerk, to be appropriated toward the costs of the suit; and if the plaintiff recover against the defendant a judgment with costs, and said costs do not amount to eight dollars, the overplus shall be paid back to the plaintiff by the clerk: *Provided*, That suits may be prosecuted in said court by poor persons without making the deposit herein prescribed, upon the order of the court, or of one of the justices thereof.

SEC. 4. *And be it further enacted*, That the following fees, and no other, shall be allowed to the clerk of said court for the services following: for all services rendered by said clerk to the United States, in cases in which the said United States is a party of record, five dollars. For each marriage license issued by him, one dollar. For each certificate of official character, including the seal, fifty cents.

SEC. 5. *And be it further enacted*, That nothing in this act shall be so construed as to repeal or modify any of the provisions of an act entitled "An act to authorize the appointment of a warden of the jail in the District of Columbia," approved February 20, 1864; but the duties of said warden, and of the marshal of the United States for said District, in regard to the said jail and the prisoners committed thereto or confined therein, shall remain the same as if this act had not been passed.

Mr. TRUMBULL. In the fifth line of the fifth section of the amendment the word "ninth" should be inserted after the word "twenty," so as to read, "approved February 29th, 1864."

The amendment to the amendment was agreed to.

Mr. TRUMBULL. I will also move to amend that same section by inserting after the word "entitled" in the third line the following words:

"An act concerning the disposition of convicts in the courts of the United States, for subsisting persons confined in jails charged with violating the laws of the United States, and for diminishing the expenses in relation thereto," approved May 12, 1864, or of an act entitled.

The amendment to the amendment was agreed to.

Mr. GRIMES. I move to amend the amendment by inserting at the end of the fourth section the following:

For service of any warrant, attachment, summons, capias, or other writ, except execution, venire, or a summons, or subpoena for a witness, one dollar for each person on whom such service may be made.

The amendment to the amendment was agreed to.

Mr. TRUMBULL. I made no objection to that amendment, but its adoption renders necessary a change in the wording of the same section of the bill. There was no provision in the bill before in regard to the marshal's fees. It will be necessary, therefore, to insert in the third line of the fourth section after the word "court" the words "and the marshal of said District;" so that it will read:

That the following fees, and no other, shall be allowed to the clerk of said court and the marshal of said District, for the services following, &c.

The amendment to the amendment was agreed to.

Mr. TRUMBULL. The phraseology will have to be changed also in the first section. In the sixth line of that section, after the word "District," I move to insert the words "except so far as hereinafter provided."

The amendment to the amendment was agreed to.

The amendment as amended was adopted.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### PUNISHMENT OF GUERRILLAS.

Mr. WILSON. I move to take up the bill (H. R. No. 511) to provide for the more speedy punishment of guerrillas, and for other purposes.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that the provisions of the twenty-first section of an act for enrolling and calling out the national forces, and for other purposes, approved March 3, 1863, shall apply as well to the sentences of military commissions as to those of courts-martial, and hereafter the commanding general in the field, or the commander of the department, as the case may be, shall have power to carry into execution all sentences against

guerrillas, and for robbery, arson, burglary, rape, assault with intent to commit rape, and for violation of the laws and customs of war, as well as sentences against spies, mutineers, deserters, and murderers. The second section provides that every officer authorized to order a general court-martial shall have power to pardon or mitigate any punishment ordered by such court, including that of confinement in the penitentiary, except the sentence of death, or of cashiering or dismissing an officer, which sentences it shall be competent during the continuance of the present rebellion for the general commanding the Army in the field or the department commander, as the case may be, to remit or mitigate; and the fifth section of the act approved July 17, 1862, chapter two hundred and one, is repealed, so far as it relates to sentences of imprisonment in the penitentiary.

The Committee on Military Affairs reported the bill with an amendment in section one, line eleven, after the word "guerrillas," to strike out the following words:

And for robbery, arson, burglary, rape, assault with intent to commit rape, and for violation of the laws and customs of war.

Mr. HOWARD. I do not wish to make this amendment a subject of any discussion in particular, but I hope it will not be concurred in by the Senate. I see no reason why the crimes of robbery, arson, burglary, rape, assault with intent to commit rape, &c., should be taken out of the category of crimes to be punished without a resort to the President of the United States. They are certainly the highest crimes known to the criminal code, whether committed in the Army or in civil life. I hope, therefore, that we shall not concur in the amendment suggested by the Committee on Military Affairs, but suffer the bill to stand as it is, and pass it as it is.

Mr. BROWN. I will state to the Senate the reason which induced the Committee on Military Affairs to move this amendment. It is known that most of the trials which take place in the Army do not proceed by courts-martial, which have all the safeguards which can be conceived of thrown around them, but proceed by military commissions, which are very summary in their character, which are oftentimes very loose, and in which the defendant is very often not sufficiently protected from the judgment of the court. In other words, it is a very rapid and summary mode of dealing with offenses. It is proposed by this bill to put military commissions on precisely the same ground with military courts-martial, and authorize the department commander or the commanding officer in the field to carry into instantaneous execution the sentences of those commissions. The Committee on Military Affairs thought that while it was well and proper that the commanding officer should have authority to carry into effect those sentences as they related to guerrillas, as they related to spies and the cases enumerated in the bill, it was not wise or well to place the lives of our own soldiers under a condition where they might be subject to such careless execution. They therefore preferred to leave those offenses which are committed by our own soldiery to the present state of the law, leaving this summary execution which is to be carried out by commanders in the field to relate to the cases enumerated.

I trust that the amendment of the committee will be agreed to, because I am very sure from my own experience, from the number of commissions which I have seen operating, and whose sentences I have seen reversed subsequently, that if they are to be carried into immediate execution as relates to our own soldiers, we are very apt to suffer harm by it. I think the discrimination is a very good one, and I trust the committee's amendment will be agreed to.

Mr. HOWARD. This amendment was carried in the Committee on Military Affairs by a majority of one, so that very little reliance can be placed upon the action of the Military Committee in behalf of this amendment.

Mr. BROWN. I will inquire of the Senator whether he conceives that a simple majority carries with it no reliance at all? What does he mean by that language?

Mr. HOWARD. That it carried no particular weight.

Mr. BROWN. What does the Senator mean by that?



Mr. HOWARD. Well, if the Senator from Missouri desires to catechise me as to the meaning of the word, I will take some opportunity when I can have a comfortable consultation with him about it. For the present I must premit any further consideration of that part of the subject.

Now, sir, in regard to the subject in hand, this bill as originally framed, and as it passed the House of Representatives, authorizes the commanding general in the field or the commander of the proper department to carry into execution all sentences of military commissions as well as courts-martial against guerrillas and in cases of "robbery, arson, burglary, rape, assault with intent to commit rape, and for violation of the laws and customs of war, as well as sentences against spies, mutineers, deserters, and murderers." The amendment proposes to strike out the words "and for robbery, arson, burglary, rape, assault with intent to commit rape, and for violation of the laws and customs of war;" so that in these cases the sentences cannot be carried into execution without resort to the President of the United States. In all other cases enumerated in the clause the sentences may be put into execution without resort to the President of the United States.

I must confess that I cannot see any just and wise ground for the distinction. The power of the President to pardon crimes exists by the Constitution, and he may exercise that power in reference to any of these offenses or any other offenses whether committed in civil life or in the military or naval service of the United States; and hence I do not see any very particular utility in this amendment. The complaint is that a military man may act hastily, unadvisedly; that a military commission may act without due caution, without due circumspection, and that the accused may be by improper haste hurried forward to a conviction, and even to an execution upon a conviction. Undoubtedly there may be cases of that sort. There are cases of that sort in the administration of criminal justice every where, in all countries, in all communities, and under every condition of the law. All of us who have had experience in the administration of justice know that cases do sometimes occur in which an innocent man is convicted and punished for a crime which he never committed; and it would be very strange if cases of that sort did not happen to occur sometimes in the Army or Navy of the United States.

But the great object of the bill as it passed the House of Representatives was to give some weight, some significance, and some emphasis to a solemn conviction of an accused party, even by a military commission. The object was to enforce discipline in the Army, to preserve the morality of the Army, and to prevent as well as punish the commission of these heinous crimes which are enumerated in this clause; and, for one, sir, having that great object in view, the discipline, and the morality, and the good conduct of the soldiers themselves, I shall vote against concurring in this amendment of the Committee on Military Affairs.

Mr. JOHNSON. The bill itself, as it came from the House of Representatives, if I comprehend it, applies as well to what are called the loyal States as to the disloyal States—

The PRESIDENT *pro tempore*. The morning hour having expired, the Chair must interrupt the Senator to call up the special order of the day.

Mr. WILSON. I hope the Senator from Maine will consent to let that go over informally for a few moments. I think we can pass this bill in a very short time. It is a very important bill to enable our generals to get along in these cases, and as we have now got it up I hope we shall be allowed to finish it. If it consumes any great length of time I will withdraw it.

Mr. FESSENDEN. The Senator from Maryland proposes to discuss it, and I suppose that will lead to further discussion. When a debate commences in this way it is very difficult to tell where it will end.

Mr. JOHNSON. What is the special order? Mr. FESSENDEN. It is the joint resolution in regard to the duties on imports. I suppose there will be a motion made to postpone it. In that case I shall move to take up the fortification bill, which it is very essential to dispose of to-day. I think it will take no time.

Mr. WILSON. Do you object to this bill being considered now?

Mr. FESSENDEN. I would rather have it deferred until I get through with my bills. If it would give rise to no debate I should not object to it, but it is very evident that it will, because the Senator from Maryland proposes to debate it, and very likely it will lead to other debate. I think I can get through with the fortification bill in the course of an hour.

Mr. WILSON. Very well.

#### DUTIES ON IMPORTS.

The PRESIDENT *pro tempore*. The joint resolution (H. R. No. 81) amendatory of the joint resolution to increase temporarily the duties on imports, approved April 29, 1864, is now before the Senate.

Mr. JOHNSON. In relation to that resolution I will state that I have been requested to ask, in behalf of the Senator from Missouri, [Mr. HENDERSON,] who is quite sick and confined to his bed, that that resolution be permitted to go over until to-morrow. He is quite ill, I understand, but of a disease that is likely to terminate soon.

Mr. FESSENDEN. The joint resolution is in the hands of my colleague on the Committee on Finance, the Senator from Ohio, [Mr. SHERMAN.]

Mr. JOHNSON. He told me it was in your hands.

Mr. FESSENDEN. I called it up a day or two since and had it made the special order for to-day; but if he thinks it proper to allow it to go over under the circumstances, I shall not object.

Mr. SHERMAN. I can hardly resist this appeal. The Senator from Missouri is absent, and I know he is interested in the resolution as affecting some of his constituents.

Mr. FESSENDEN. Then I will move that the resolution be postponed until to-morrow, with a view to take up the fortification bill.

The motion was agreed to.

#### FORTIFICATION BILL.

Mr. FESSENDEN. Now, I move to proceed to the consideration of House bill No. 207, commonly known as the fortification bill. It will not take long.

Mr. SUMNER. The Senator from Maine embarrasses me very much by making the motion that he does. He knows very well that there is a bill which has been pending for a long time on which I certainly hope to get a vote to-day, the bill to establish a Bureau of Freedmen. It has been a long time on the Calendar, and it has been one day under discussion. I am not aware that any Senator proposes to discuss it at any length. It is a measure of great practical interest. Every day that it is delayed is a loss to the country and an embarrassment to a great public interest. I do not feel that I ought to allow it to slip out of view without at least entering a protest. The appropriation bill, and particularly the one which the Senator now has in charge, the fortification bill, if I may so say, will take care of itself. It will be sure to pass whenever the Senator really puts it on its passage. I would therefore suggest that the Senate proceed with this important measure on which it has already commenced, and finish it and get it out of the way.

The motion of Mr. FESSENDEN was agreed to.

#### WILLIAM YOCUM.

The PRESIDENT *pro tempore*. Before proceeding with the reading of the bill, the Chair, with the indulgence of the Senate, will lay before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 14th of April, information concerning the papers in the case of William Yocum, now confined in the penitentiary at Albany, New York.

The Secretary read the communication.

Mr. DAVIS. I move that that communication and the accompanying documents be printed for the use of the Senate, and in connection with that motion I will make a single remark.

The PRESIDENT *pro tempore*. The motion to print will go to the Committee on Printing.

Mr. DAVIS. Yes, sir. I did not hear the communication read very distinctly, but, if I understand it, it is not responsive to the material point.

Mr. FESSENDEN. I must object to any dis-

cussion. The fortification bill is properly before the Senate, and I cannot give way for any discussion on this subject.

Mr. DAVIS. How did this matter come up? The PRESIDENT *pro tempore*. The Chair laid it before the body, with the indulgence of the Senate.

Mr. DAVIS. I wonder, then, when it is laid before the Senate with the indulgence of the Senate, if I have not the right to say a word upon it.

Mr. FESSENDEN. I do not think that opens it to debate at all. It was merely presented to the Senate.

Mr. DAVIS. The honorable Senator ought to have objected to the reception of the communication. I do not wish to trespass upon the Senate, nor to violate any rule of the body.

Mr. GRIMES. If the Senator will pardon me, I think he is mistaken as to the character of the paper. I think it is wholly responsive to the resolution.

Mr. DAVIS. I just ask leave to examine it. I do not want to delay the business of the Senate.

The PRESIDENT *pro tempore*. The motion to print will be referred to the Committee on Printing.

#### FORTIFICATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 207) making appropriations for the construction, preservation, and repairs of certain fortifications, and other works of defense, for the year ending the 30th of June, 1865, which had been reported from the Committee on Finance with amendments.

The first amendment of the committee was after line twenty-seven, to strike out the following clause:

For sea-wall of Great Brewster's island, \$40,000.  
For repair of sea-walls on Deer and on Lovell's islands, \$10,000.

Mr. WILSON. I hope the Senate will not strike out those provisions. They have passed the House of Representatives, and they are certainly very important. The works on those islands in that harbor are going to ruin. The very islands on which the Government has built its works heretofore are going to pieces for want of repairs, and I think it of vital importance that those provisions should remain in the bill.

Mr. SUMNER. I hold in my hand one of the last official acts of a very eminent public servant, the late General Joseph G. Totten, being a letter from him with reference to this very appropriation. I have the official copy, which is signed in the autograph of the Secretary of War, "approved, and appropriation recommended. Edwin M. Stanton, Secretary of War." I will read it with the permission of the Senate:

ENGINEER'S DEPARTMENT,  
WASHINGTON, March 15, 1864.

SIR: I have the honor to return herewith the letter of Hon A. H. RICE, of the 23d February, received here on the 8th instant, and to state in reply to his inquiries that the Great Brewster island, Boston harbor, has long been undergoing abrasion by the sea, to such a degree as to make remedial measures a matter of prompt importance.

Long Island head, Boston harbor, is undergoing similar injuries; but the necessity for protection in that case is not so urgent as in the other.

The detritus which is washed out by the lashing of storms from the hilly shores of these islands is carried by the current into the channels of the bay, and deposited in them to their serious injury.

Deer island and Lovell's island have also been subject to wearing by the sea; but it has been averted in these cases by protective sea-walls. In the case of the Great Brewster like protection has been afforded, but only to a part of the extent necessary.

At the Great Brewster, the unfinished work should be recommenced, and completed as soon as practicable.

At Deer island and Lovell's island, the existing structures are sufficient, but now need repairs.

At Long island head the work may be deferred till the more urgent positions are secured.

For expenditure during the next fiscal year there should be appropriated:

For sea-wall of Great Brewster island, \$40,000.  
For repair of sea-walls on Deer and on Lovell's islands, \$10,000.

Very respectfully, your obedient servant,  
JOSEPH G. TOTTON,  
Brigadier General and Chief Engineer.

Hon. E. M. STANTON, Secretary of War.

Those are the two appropriations that are here in question:

For sea-wall of Great Brewster's island, \$40,000.  
For repair of sea-walls on Deer and on Lovell's islands, \$10,000.

The Senate will bear in mind from the testimony of this eminent officer that there is such an abrasion by the sea as to make remedial meas-

ures a matter of prompt importance. That is the testimony. I have from other quarters information going to show that if something is not done, not only the immediate locality will suffer, but the harbor generally; its character as a harbor will be in danger, and other places in the harbor will more or less be affected injuriously by the injury first commencing in this quarter. It is important that the remedy should be applied here and at once, as we have military fortifications on these different islands in Boston harbor.

Mr. FESSENDEN. Not on this.

Mr. SUMNER. Not precisely on this, but on several of the islands in Boston harbor; the situations of all these fortifications are all more or less affected by the injury to which these particular islands are exposed. I believe, sir, if I may so express myself, they all make common cause. There is not a fortification in Boston harbor that has not an interest in having Great Brewster and Deer island put in a proper condition, and protected against injury, according to the recommendation of General Totten. General Totten recommended it while he was still spared to us, our most approved authority on a matter of that kind, our chief engineer, who dealt with the matter, as I understand it, with a view to the interest of the fortifications in Boston harbor. I see the line that possibly may be run between this case and some other cases. General Totten forbore to run that line; the House of Representatives has forborne to run that line. Why should we now undertake to run it? It is enough, sir, that the public interests require that this should be done. I hope, therefore, that the Senate will adhere to what the other House has adopted.

Mr. FESSENDEN. If I had followed my own inclinations with regard to this particular item, I should have been disposed and anxious to retain it in the bill; but acting upon the principle upon which the committee felt bound to act, it was not easy for me to do so. I agree with all that the Senators from Massachusetts have said in regard to the importance of this appropriation which it is proposed to strike out. I took pains to inform myself in regard to it. I have no doubt of the extreme urgency of the case. I have no doubt of the great injury that is accruing year by year to these islands, nor have I any doubt of their indirect connection with the fortifications in the harbor, and more especially with the preservation of the harbor itself, which is of great importance to us in a national point of view, especially as connected with our navy-yard, where we have very large expenditures. That question has been settled by recent surveys, and the opinion of the military authorities is uniform with regard to it.

As stated by the Senator [Mr. SUMNER] the work upon which we have already expended a good deal of money on Brewster's island is very fast disappearing from the want of a small appropriation in order to complete it. It is almost complete, but it needs something more. There is the argument in its favor, and the argument is all in its favor. There is nothing to be said against it in a national point of view.

The answer to it, however, is this: it is put in the fortification bill; this is a bill making appropriations for the military defenses of the coast and other places and those things that are immediately connected with these military defenses; and these two items and one other with regard to the harbor of Buffalo were inserted in the bill by the House of Representatives on full argument, without reference to that particular question. There is no estimate for either of these appropriations in the general estimates furnished to us for the expenditures of the year; but so far as that is concerned, the letter which has been read may be considered as an estimate by General Totten.

Mr. SUMNER. And adopted also and recommended by the Secretary of War.

Mr. FESSENDEN. Undoubtedly. But I mean that it is not one of those things that are included in the general ordinary estimates, as they are called, for the appropriation bills. The great difficulty in my mind is whether it will do to insert what is substantially a commercial improvement in a fortification bill, and perhaps a commercial necessity. It is true it is not altogether commercial, for I agree with the Senator from Massachusetts that indirectly these works are connected somewhat with the military defenses of the har-

bor, but not immediately. They are not so regarded by the officers who have made the estimates for these military defenses.

Under that impression, and carrying out the principle which we have felt bound to adopt in regard to these bills, to keep them within the limits that properly belong to them, the committee felt obliged to strike out these appropriations, thinking that if they were necessary they should be estimated for and stand in a bill for themselves, and that that bill should perhaps cover other things that are if not quite as necessary yet necessary in themselves. The difficulty is that we do not know where to stop when we begin upon these matters. I am very much afraid that gentlemen would feel inclined, if this was adopted, to move similar amendments for different sections of the country, so that there would be no end in fact to the debate that would spring up and to the effort that would be made to put upon a fortification bill other matters which are not properly connected with it and which should not stand in that relation.

That is the simple ground on which the committee put it. They deemed it their duty to strike out these two items. It is for the Senate to decide whether the views of the committee are correct or not.

Mr. SHERMAN. There is one additional fact in addition to those suggested by the chairman of the committee. We have this morning appropriated \$250,000 for general repairs of works of a similar character on the lakes, and \$100,000 for such repairs on the ocean. That bill came from the Committee on Commerce.

Mr. FESSENDEN. That would have been a good place to put this provision.

Mr. SHERMAN. I supposed, as a matter of course, when that bill was passed, all these special appropriations for particular harbors were to be abandoned.

Mr. SUMNER. I had rather rely upon a specific appropriation for these two particular sea-walls than a general appropriation in which they are not named, and which, of course, will be open to question hereafter by the Department that has the expenditure of the money. And, sir, I am led to persevere by this consideration: the House of Representatives, which has the originating of these measures, has, after proper inquiry, made this appropriation. I understood the Senator from Maine to say that the appropriation was not in the general estimates furnished to the House. But can that affect our decision? It appears that it was in a special recommendation of the Secretary of War; and surely that is as good as if it found a place in the general estimates.

Mr. FESSENDEN. He did not recommend that it be put in this bill.

Mr. SUMNER. No, but he recommends it, and I take it that is enough. As long as the Committee of Ways and Means had the special recommendation from the Secretary of War, backed, too, by General Totten, it seems to me that was enough.

Then, sir, behind it all is the great, overruling necessity of the case. The Senator is afraid that propositions will come from some other quarter. If from any other quarter there is an equal necessity, I say let it come. We are here to legislate for such cases, to meet the public exigencies as they arise, not to postpone them, not on any ground of theory or merely for the symmetry or uniformity of a bill to object to a proposition which is in itself intrinsically just.

If any measure really concerns the public interest, and if on inquiry it appears that it is important that it should be acted upon promptly, that it should not be postponed, then I think the time has passed for niceties as to whether it should be taken up on this bill or on another bill, especially when the House of Representatives has already passed it on this bill.

It seems to me the argument in favor of keeping it on this bill where the House of Representatives placed it is absolutely unanswerable, unless it be by the suggestion which fell from the Senator from Ohio [Mr. SHERMAN] and which has been repeated in conversation by the Senator from Iowa, [Mr. GRIMES.] They both have called my attention to the bill which passed the Senate this morning, making a provision as follows:

The further sum of \$100,000, to be expended under the

direction of the Secretary of War, in repairing such of the public works connected with the harbors on the seaboard of the United States as may in his judgment need such expenditures.

The Senate will observe the generality of that appropriation. In the first place it is not specifically applicable to Boston harbor, certainly not specifically applicable to these two sea-walls—

Mr. GRIMES. I ask the Senator what other sea-walls have been recommended by the Secretary of War or General Totten, or what other improvement on the seaboard, save these two sea-walls?

Mr. SUMNER. I am not aware what others on the seaboard have been recommended, but there are several others in Boston harbor—the Senator perhaps is not aware—which need repair.

Mr. GRIMES. My question is, what ones have been recommended by the Secretary of War and officers under him, save those named in the fortification bill?

Mr. SUMNER. I am only aware of those in Boston harbor. Naturally, I have not followed the recommendations elsewhere.

Mr. GRIMES. The inference, I think, is very fair, if they have called the attention of the public only to those in Boston harbor, that Boston harbor would certainly get a very fair proportion of these \$100,000 we have already appropriated this morning, and that bill was passed in the other House some weeks after the appropriation bill was passed there that is now under consideration.

Mr. SUMNER. Very well. Assuming that Boston will get what the Senator calls a fair share—

Mr. GRIMES. All.

Mr. SUMNER. The Senator says we will, get it all. I know nothing of that. Suffice it to say that there is no specific appropriation for this purpose; and when I consider the importance of providing against the abrasion of these islands, and the injury that must ensue not only to the islands but to the harbor itself, and then, as I say, indirectly to all the fortifications which are planted on several of those islands, I feel that we ought not to miss the opportunity of securing the appropriation. I hope, sir, I shall not be considered too pertinacious in this matter. It seems to me that the House of Representatives acted wisely in placing it in the bill, and that the Senate will not act as wisely as the House if it rejects it.

Mr. FESSENDEN. I hope the clause will be stricken out. It is very evident that if any such necessity exists it is provided for by the bill already passed.

The amendment was agreed to.

The next amendment was to strike out "for repairs of sea-wall at Buffalo, \$37,500."

Mr. HARRIS. Why is that?

Mr. FESSENDEN. That is of the same character as the others, not connected at all with any military work.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. GRIMES. I should like to inquire of the chairman of the Committee on Finance or of the Military Committee what is meant by the eighty-sixth and eighty-seventh lines, where there is an appropriation of \$300,000 to provide "obstructions to be moored in the Potomac river to render the shore batteries more efficient for the protection of Washington against maritime attack."

Mr. FESSENDEN. The Senator has all the information we have. It is an amount proposed by the military authorities, the engineers, as necessary. I am not master of the military art, and I cannot judge of the necessity.

Mr. GRIMES. I confess that I should like to have some information about what obstructions we are going to put into the Potomac river in order to protect ourselves. I have seen moored upon a former occasion some obstructions which it was the design to sink in the Potomac river. I should like to know the description of these before I vote for the bill. I move to strike out the eighty-sixth, eighty-seventh, eighty-eighth, and eighty-ninth lines. I do not expect the motion to carry, but I want to put myself on the record against voting blindly any such appropriation without any knowledge on the part of anybody of how the money is to be expended.

The words proposed to be stricken out were read, as follows:

For providing obstructions to be moored in the Potomac river to render the shore batteries more efficient for the protection of Washington against maritime attack, \$300,000.

The amendment was rejected.

Mr. GRIMES. In lines fifty-one and fifty-two there is \$125,000 appropriated for the continuance of the fortification at Sandy Hook. The last I knew about it was that the fort at Sandy Hook was about to depart, the channel was washing it entirely away. I suppose that a fort is very desirable there and ought to be built; but I should like to know what the prospect is of keeping it after we have got it erected. If the committee have any intelligence on that subject to communicate to the Senate I should like to hear it.

Mr. TEN EYCK. I happen to live not very remote from this spot; and being somewhat familiar with it, I am surprised to hear the Senator from Iowa speak of the fort as being washed away by the channel. This fort at Sandy Hook is placed upon a point of a very long spit of land that runs up between the Atlantic ocean and Shrewsbury river, projects a great way toward the harbor of New York, and the fort is constructed there for the purpose of preventing ingress by hostile vessels. It has also been considered necessary to have a fortification there, much more for the safety of the commerce of New York than for the safety or protection of any portion of the State that I in part represent.

The PRESIDING OFFICER. (Mr. POMEROY.) Did the Senator from Iowa move an amendment?

Mr. GRIMES. I asked a question for information.

Mr. TEN EYCK. The chairman of the Committee on Finance, when the Senator from Iowa made the inquiry, turned in my direction and stated that as this was a New Jersey matter he would leave it to me to answer. I do not know how far I shall be successful, but I would simply inform the Senator from Iowa that so far as his information is concerned about the whole of this spit of land being washed away, or the fort being washed away, I apprehend he is in great error. I never heard of it, to begin with, and in the next place it would be a most astounding fact indeed if the War Department or those who have charge of the recommendation of such matters should undertake to recommend an appropriation of \$125,000 toward continuing a public work on a foundation that was being swallowed up in the sea. It is a novelty to me. It may be all true, but I have never heard of it before.

Mr. GRIMES. The astonishment entertained by the Senator and myself is mutual. I am astonished that he, living so near as he does to Sandy Hook, has never heard that there was any danger of this point being washed away. I can tell the Senator that in a conversation I had only a few days ago with the very distinguished chief of the Bureau of Navigation in the Navy Department, he told me that he was one of a board that had been sent by the War and Navy Departments to investigate this subject some months after the estimates were made upon which this bill is based, and that the great purpose the board had to accomplish was to devise some way to prevent the channel taking away this fort that the Government had attempted to erect, and that unless something was done the fort would be lost. I supposed that that fact was notorious. Certainly I had it from the very highest authority. What I wanted to know was whether after this investigation, which I knew had been going on by the coast survey officers, and the military and naval officers, the committee were satisfied that we should make this a permanent and substantial fort, and that there would be a propriety therefore in making the appropriation incorporated into this bill.

Mr. JOHNSON. What do the committee say?

Mr. GRIMES. I do not know. That is what I am trying to find out. I only know that I saw Admiral Davis just after his return, and he told me that he had been there, and he was there some weeks. What the result was I did not inquire particularly. I only know that he said there was great danger of the spit being washed away.

Mr. TEN EYCK. I have been in the habit myself of stealing a very short period of time,

perhaps only a day, during the summer season, to visit this portion of the coast. I am not able to spend as much time as many other persons on the sea-coast who enjoy the sea-breezes during the larger portion of the summer; but I sometimes run down for old association's sake and spend a night and a day. I was in this neighborhood only last year. I am aware that there is an abrasion along the coast; the tide sweeps strongly down from the north, and there is a general abrasion along the whole of the sea-coast there from Sandy Hook down to a considerable distance below Long Branch; and I know that for years past, ever since I was a boy, I have heard about the danger of the coast being washed away, and even of settlements being involved in the destruction which was to flow from this cutting away of the shore. I can say that after a period of eight or ten years have elapsed a wagon road which pleasure seekers had been in the habit of enjoying along that high and dry bank has been cut away; but it is very slow, the progress is very gradual, and I apprehend that it is by no means as alarming in its effects as seems to strike those who are but mere casual observers. Suppose, however, it should be so; here is the only point of land jutting far out toward the harbor of New York, near the main ship channel through which the commerce of the world that finds its mart in the city of New York has to pass; and if it were true that this spit of land was in danger of being carried away, so much the greater necessity for its protection in order that there may be a fortification to guard all this commerce.

I have spoken in relation to this matter, more because I am somewhat familiar with the nature of the coast than because I feel any particular interest as a Jerseyman that this fortification should be continued, or that a large annual expenditure should be made upon it; for so far as we are concerned, it affects us not at all directly, and only indirectly as we are interested in the commerce of the country. The great city of New York and the interests dependent upon commerce there throughout the whole length and breadth of the land are much more interested in it than we can be in the State which I have the honor in part to represent.

I have not of course had an opportunity of seeing any of the reports, and have not had that intimate relation with persons connected with the public service to learn their views in relation to this matter. Indeed, I never for one moment supposed there would be any other course pursued than that the ordinary appropriations for the protection of this work from year to year would be made, as they have been for many years past. It is a very important point to the protection of our commerce, and I for one feel disposed, unless I see something further than has been advanced on this floor, to vote for the continuation of the appropriation.

Mr. FESSENDEN. I suppose it to be very proper to make this appropriation, even if the facts be as the honorable Senator from Iowa supposes. It is perfectly well known that this is regarded as a very important fortification. It has been going on for a considerable number of years; we have been making appropriations for it. This is the amount asked for as necessary to be expended during the coming year, and which, in the opinion of the engineer department, ought to be expended. It is a work in progress recognized by the law. This bill merely makes an appropriation to keep it in progress. If this new information is obtained, and the Government becomes satisfied that it is not wise to spend any more money on the work, no doubt the amount here appropriated will not be expended. No such facts have been communicated to the committee of either House. We stand on the general law, and propose an appropriation based on an estimate made for a certain specific purpose which we very well understand.

I take it, then, it is very proper to make the appropriation. It must undoubtedly be supposed that if there has been any such change as is supposed, men of ordinary intelligence will not spend this money. I take it there must be some mistake about it, or if anything of that sort is going on, the money may be spent in protecting the work as far as it has gone; if that cannot be done, the money will not be spent.

Mr. CONNESS. I move this amendment to come in after line seventy:

For land defenses at San Francisco, \$177,000: *Provided*, That no portion of the same shall be expended on other fortifications now in progress there.

I present some communications which I send to the desk to be read, and I invite the attention of the Senate to them.

The Secretary read, as follows:

WAR DEPARTMENT,  
WASHINGTON CITY, June 8, 1864.

Sir: The chief of engineers has reported to this Department that an additional appropriation of \$177,000 is necessary for the land defenses of the harbor of San Francisco, California, and I have the honor to request that this amount be included in the estimated appropriation for that purpose. Please find inclosed copy of report of chief engineer.

I am, sir, your obedient servant,

EDWIN M. STANTON,  
Secretary of War.

HON. WILLIAM F. FESSENDEN, United States Senate, Chairman Committee on Finance.

ENGINEER DEPARTMENT, May 30, 1864.

The sum of \$177,000 can with great propriety be appropriated to the defenses of San Francisco on the land approaches during the year ending 30th June, 1865, in addition to what is now included in the bill before the Senate.

The amount for the harbor of San Francisco now in Treasury is—

For Lime Point.....	\$146,000
For Fort Point.....	182,000
For Alcatraz.....	80,000
Sum now proposed by the Military Committee,	
For Fort Point.....	\$50,000
For Alcatraz.....	90,000
	140,000

Will be available.....	548,000
Of this we have to pay for land purchased at Lime Point.....	125,000

Leaving.....\$423,000 for the year's operations. Heretofore under favorable circumstances not exceeding \$600,000 has been advantageously expended, and no greater sum can by any judicious arrangement be now expended. Hence \$177,000 may be advantageously applied, and is necessary for the land defenses of San Francisco.

Respectfully submitted,

RICHARD DELAFIELD,  
Brigadier General and Chief Engineer.

Mr. FESSENDEN. That communication was before the Committee on Finance, and it seemed to the committee that the statement there was rather indefinite. We did not understand how this money was to be expended exactly. The argument, as far as we understood it, seemed to be that \$600,000 could be judiciously expended within the year under favorable circumstances, that nearly that sum was appropriated, but they would have to take out \$125,000 in order to pay for land purchased at Lime Point, and that would reduce the money available to about \$423,000, and consequently, to make up the \$600,000, \$177,000 more must necessarily be appropriated. I believe General Delafield, who makes this communication, has but recently returned from the Pacific coast. It seemed to the committee rather indefinite, especially as it was not included in the general estimates which were sent to the committee on the subject, and we therefore did not conclude to make any change in the bill in this respect. Since then, however, I have had a conversation personally with General Delafield, and he has informed me that what was meant by the "land defenses" was the land defenses of these other fortifications. It is necessary to have defenses toward the land in order to prevent an enemy landing and taking the fortifications in the rear. Then the argument presents itself to the Senate whether in addition to the sum appropriated in the bill, which was the amount estimated for, to wit, \$50,000 for Fort Point, and \$90,000 for the fort on Alcatraz island, it is advisable to appropriate \$177,000 more in order to put in the hands of the Department such a sum of money as may be expended under favorable circumstances during the year. The committee could not answer that question, and concluded to leave it to the Senate. If I should be allowed to make a suggestion to the Senator from California on this point, I would suggest the propriety of not asking for the appropriation of the whole of that sum, but confining the proposition to a part of it for the present year, say \$50,000, in order to commence these land defenses. I think that would be more likely to carry in this branch and the other than if he insists on the whole sum named. The Senator, however, makes the motion on his



own responsibility, and I shall not interfere with him in any way.

Mr. CONNESS. It can hardly be said that I make this motion on my own responsibility. It is in accordance with a communication from the proper Department. I certainly have no desire to make any motion here for the purpose of its being reported that I desire appropriations for my own State. If the condition of the fortifications in the harbor of San Francisco as well as the topography of the country there were understood, I do not think the Senate would hesitate to make this appropriation. It does not follow that the money will be expended within the next year, although it may be the wisest expenditure of public money that could possibly be made. There are Senators here who are familiarly acquainted with the location of the ground and the position of that city. The fortifications thus far carried out there relate entirely to the protection of the water approaches of the city, the Golden Gate and the harbor, commanding the city of San Francisco and the entrance to it. Those fortifications consist of the fortress known as Fort Point, in a forward state of progression, and the great fort on Alcatraz island in the harbor, and two batteries now being constructed on the north side of the harbor at a place called Angel island, and still another water battery at a point on the south side of the channel and nearer to the city of San Francisco, and known as Black Point or San José Point. The two latter of which I have spoken are now in progress of construction, and the former are in an advanced state of progress.

I invite the attention of Senators for one moment while I give them the location of the fortifications contemplated by this appropriation recommended by the Department. They are a part of the necessary defenses of San Francisco against foreign invasion; and it will be remembered that San Francisco, so far as the military question is concerned, is really the State of California. It contains now all the war material that the Government has on the Pacific slope; there is a very large number of heavy guns there not in position; and the possession of San Francisco by a foreign Power would not only be the possession of the fortifications now erected for the defense of the harbor, but the possession of the entire State. Back of the city, as the honorable member from Maryland will remember, lying to the south of the city of San Francisco and away from these harbor defenses, is a range of very high hills near what is known as Buri-buri ranch, and nearer the city Russian hill. The contemplated earthworks on these points form a part of the scheme of defense of that great city. Without these defenses there is nothing to hinder a comparatively small army well appointed from landing at Monterey and marching directly on the rear of all these fortifications. They really would fall into the hands of whatever army was able to land there.

In this connection I will suggest that the Government have recently sent a major general of some considerable distinction to the Pacific coast, with an especial view to what may lie in the future for us. I am not telling secrets when I state that I have had something to do with advising in the matter and I know what is contemplated. The Government contemplate no aggression against any foreign Power, but they do contemplate putting the State of California and the Pacific slope in a state of military defense so as to be prepared against aggression; and this slight appropriation if you will grant it will undoubtedly be expended wisely, and I trust the Senate will consent to make it although it comes in rather late. The reason of its coming in at this time is that the matter has been delayed on account of the delay in the selection of a commander for the Pacific department. It was contemplated to appoint a commander of distinction six months ago. The Government had great difficulty in fixing upon whom to select, because most of our men of ability are engaged in the field. As soon as General McDowell was designated to the military command he and General Delafield, the chief of your engineer department, conferred on this subject, and the War Department, coöperating, recommend this as a necessary part of the defenses of San Francisco. I do not ask for the appropriation that money may be expended in the State of California, but I believe conscientiously and truly that no better appro-

priation of money can be made. I believe that within a year it may be needed and it may save that country to us. I need hardly suggest to the Senate that without California we should be in rather a bad condition. Under all circumstances we must make sure of the protection of that country. The preservation of peace and the preservation of their industry is of great value to us. I have nothing further to say to the Senate. I ask for a vote on the subject.

Mr. NESMITH. I have some familiarity with the points stated by the Senator from California, and it has always struck me when I have been there that the fortifications at present constructed for the defense of the entrance at the Golden Gate were perfectly worthless unless some means were resorted to to construct defenses south of them so as to prevent their being taken in reverse. As the Senator from California has stated, there is no difficulty in an enemy landing at Monterey and marching up the coast; nor is there in ordinarily fair weather any difficulty in their landing immediately in the rear of San Francisco, San Francisco being a jut of land running up northward. They would have the advantage of a higher position and would have no difficulty in capturing those works. They are not calculated for any defense in the rear. Their defensive points are all toward the entrance of the bay, and unless some works are constructed in the rear of Fort Point to prevent it being taken in reverse, the works already constructed would, I think, be perfectly useless in the event of a foreign war. They would afford no protection to the city from a force landing at that point to which I have alluded down toward the south, where an army could land at any time when the weather was reasonably fair. In view of the possible contingencies of foreign war, I do not think a better investment could be made than to make this appropriation for the protection of that great city and the works already constructed there.

Mr. JOHNSON. I concur in the view just stated by the Senator from Oregon and the Senator from California. My recollection is, though I may be mistaken, that the original plan for the defense of San Francisco contemplated forts in the rear of what is now called Fort Point. Fort Point is immediately upon the shore, on the water's edge, and it does nothing to protect against an army that may land in the rear of it. The ground in the rear is quite high, and absolutely commands the fort.

In the event of a conflict between ourselves and any foreign nation, such as England or France; although those events, I hope, are not to occur, at any rate for a long series of years—and yet in these changing times they may occur at any moment, and, if they should occur before the commanding points in the rear of the fort shall be themselves taken possession of and fortified, the fort, so far from being of any service, will be worse than useless, for the moment it is commanded by an enemy in the rear it will be almost impossible to hold it, and in a short time it will fall into the hands of the enemy; and if it should, then our own fleet, if we should have any, would find it very difficult to get into the bay of San Francisco, and we should have no outlet to the ocean from there.

The Senate are not to be told that San Francisco is very vulnerable to sea attacks; and even as against a naval attack it is very possible that it would be an easy thing with the iron-clad vessels that England and France are now building to run past these forts and get into the harbor. But there are other forts inside of the harbor. Fort Alcatraz, for which there is an appropriation of \$90,000 in this bill, would go a great way to protect the city as against any attack by water, but then that would not protect the city at all as against a land attack.

It is not necessary to say, we all know, that independent of all questions of honor, which are questions to be looked at by statesmen, it is all-important to the prosperity of the United States that California should be preserved intact. We have as much interest in protecting San Francisco as we have in protecting New York, or Philadelphia, or Baltimore, or any city upon the sea-coast; and if an appropriation of \$177,000 will serve to put it in a state of comparative safety, I would suggest to the Senate from my knowledge of the

locality that it should be a measure about which the Senate should entertain no possible doubt.

The amendment was agreed to.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed; and, on motion of Mr. FESSENDEN, its title was amended by adding the words "and for other purposes."

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the bill of the Senate (No. 106) to prohibit certain sales of gold and foreign exchange, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had passed a bill (No. 512) to repeal the fugitive slave act of 1850, and all acts and parts of acts for the rendition of fugitive slaves; in which it requested the concurrence of the Senate.

#### PAY OF COLORED TROOPS.

The Senate proceeded to consider its amendments to the amendment of the House of Representatives to the bill of the Senate (No. 145) to equalize the pay of soldiers in the United States Army, disagreed to by the House.

On motion of Mr. WILSON, it was

*Resolved*, That the Senate insist upon its amendments to the amendment of the House of Representatives to the said bill disagreed to by the House, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

*Ordered*, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

#### LAND CLAIMS OF WISCONSIN.

Mr. HOWE. I move to take up for consideration the joint resolution (S. No. 8) for the relief of the State of Wisconsin.

Mr. SUMNER. I hope the Senate will now proceed with the bill to establish a Bureau of Freedmen. I hope to be allowed to finish that bill to-day.

Mr. HOWE. I only want to stand by the contract. I have a contract with the Senator from Massachusetts that this joint resolution shall be disposed of.

Mr. SUMNER. Does the Senator think I am bound?

Mr. HOWE. I believe it is fairly understood. It was not reduced to writing, and may not be within the statute of frauds.

Mr. SUMNER. The statute of frauds certainly would not bear on it; but the practical question is whether the understanding between us the other day is applicable to the present time. If the Senator thinks it is, I shall yield entirely to what he says.

Mr. HOWE. I should not say that by its express terms it was applicable to this day; but I hope the Senator will let it stand. I think we can dispose of this joint resolution in a very short time, and I want to get it to the other House as soon as I can.

Mr. SUMNER. Has the Senator any idea of how long it will take?

Mr. HOWE. I think it will take but a very short time. I think the debate is pretty much closed.

Mr. SUMNER. I am desirous of having a vote on the Freedmen's Bureau bill; and I think, if the Senator will allow us to go on with that bill, we can reach a vote very soon.

Mr. HENDRICKS. I think this joint resolution will require but a very short time. I wish to make a very brief explanation to the Senate, and I suppose that will close the debate.

Mr. SUMNER. I give way with the understanding that I shall come next.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Wisconsin.

The motion was agreed to; and the Senate resumed the consideration of the joint resolution (S. No. 8) for the relief of the State of Wisconsin, the pending question being on the amendment offered by Mr. HARLAN to the amendment made as in Committee of the Whole, to strike out the following words:

And the said Secretary shall also settle and allow to the Milwaukee and Rock River Canal Company such sums of money as have been properly expended by said company in the survey and location of said canal, in the construction thereof as far as the same has been constructed, to-

gether with dams, locks, and slack-water navigation, and in the management and keeping the same in repair; and the same shall be paid to the said canal company out of any money in the Treasury not otherwise appropriated, not exceeding in amount, however, the balance charged against the State of Wisconsin upon the sales of said canal lands, as above required, after deducting the sum allowed said State for money paid by her out of the same fund. The same to be received by said canal company in full payment and satisfaction of all claims of said company against the State of Wisconsin and of the United States on account of said canal land grant, or on account of any action of the Territory or State of Wisconsin, or of the United States, in relation thereto.

Sec. 2. *And be it further resolved*, That the Commissioner of the General Land Office be, and he is hereby, appointed commissioner to adjust the accounts herein provided for, under the supervision of the Secretary of the Interior, and to determine what sum shall be charged to said State of Wisconsin for the lands granted for the construction of said canal; and what sums shall be credited respectively to said State and said company for the moneys expended by them in the construction of said locks and canal as herein provided.

Mr. HENDRICKS. There is no Senator that questions the right of the State of Wisconsin to her five per cent. fund, because that is secured to her under the law admitting her into the Union, and the main question is whether the equities of the Milwaukee and Rock River Canal Company ought to be adjusted at the same time. The Senator from Iowa has proposed an amendment to strike out that portion of this resolution which adjusts the claim of the canal company. The committee were unanimously of the opinion that that provision of the resolution ought to be inserted. There was no difference of opinion in the committee, after a very careful investigation of the whole subject. The judiciary committee of the Senate of the State of Wisconsin also, in a very elaborate and able report, recognized the equities to the same extent that the Committee on Claims of this body have in this joint resolution. A committee of the House of Representatives of the Congress of the United States as far back as 1842 recognized precisely the same equity.

But the question is asked why this equity of the canal company should be adjusted at the same time that we provide for the payment to the State of Wisconsin of her five per cent. fund. I will answer that in very few words. The reason is found in this, that Congress by the act admitting the State of Wisconsin into the Union united these two funds, united these two grants, the one of 1838 and the other of 1843. By the act of 1838 the grant of land was made to the Territory of Wisconsin, not for her benefit, but for the benefit of the canal company, and for the purpose of paying off the subscriptions of stock. By the act of 1843, at the request of the constitutional convention of Wisconsin, Congress agreed that the five per cent. fund should be used to support schools instead of making roads, upon the condition that the liabilities incurred by the territorial government of Wisconsin under the act granting land to Wisconsin for the purpose of aiding in opening a canal between Milwaukee and Rock River should be paid and discharged by the State of Wisconsin. It was a condition of the law itself that the State of Wisconsin before she received her five per cent. fund should adjust this claim. Now, what was the claim? That is established by the resolutions of the Territory of Wisconsin passed in 1846. Those resolutions provided that—

"The faith of the Territory and future State of Wisconsin is hereby pledged to repay to the said canal fund the sum which shall be diverted in pursuance of the above resolutions to the purposes aforesaid, whenever the same shall be required to be repaid, for the purpose of executing the trust created by Congress in making the 'canal grant'; and all laws contravening these are hereby repealed."

The Territory of Wisconsin herself in 1846 recognized the trust, that is, that the Territory held these lands in trust for the canal company, and the very resolutions which diverted the fund from the making of the canal to the ordinary expenses of the Territory provided that the State of Wisconsin and the Territory of Wisconsin should be bound to see that fund made whole again; and when Congress provided for the payment to the State of Wisconsin of her five per cent. fund, they made it a condition upon her receiving that five per cent. fund that she should adjust this very obligation which grew out of her breach of the trust in diverting the fund originally.

I do not design to occupy the attention of the Senate longer. The reason that we must adjust both together is, that Congress united them together by this condition of the law which gave to

Wisconsin the five per cent. fund. It has been very fully discussed, and I simply repeat that the committee were unanimously of opinion that justice would not be done unless we carried out this condition of the law of 1848.

Mr. HARLAN. I think the Senator who has just taken his seat draws an incorrect inference in this: he proceeds as if this donation had been made by Congress to this company as a gratuity, and the Territory of Wisconsin was acting merely as a trustee, and holding the property until the company could take possession. This was not the character of the grant. It was not and was not intended to be a gratuity to that company, but was placed in the possession of the Territory of Wisconsin to be used by her as stock; every dollar derived from the proceeds of the sales of that land was to inure to the benefit of Wisconsin, and not to the company. What obligation, then, is the Government of the United States under to pay the company the proceeds of the sales of this land? If it had been a gratuity to the company, something given to them for which no consideration had been returned, the donor would have a right to conclude the grant at any time. Property received without a consideration, of course can be withheld at any time before the possession shall have been taken by the grantee. But then this property was not given to, nor was it intended to be given to, the company. It was provided that they might use the proceeds of the sales of the land in the construction of the canal; but after they had been thus applied, the value of the money thus invested was to inure to the Territory or the State of Wisconsin; and hence the whole argument of the Senator, as it seems to me, falls. All of the grants of land for works of internal improvement, made by Congress to any of the States or Territories, may be said to be grants to the States or Territories, in trust, for the specific purpose named in the grant. The railroad grants are all of this nature. They are given to the State to enable the State to construct a work of internal improvement supposed to be advantageous to the people of the State, and of course to the country at large.

I will suppose that the State of Iowa, after having applied a proportion of a grant made to aid in the construction of a railroad, concludes to suspend the work and refuses to apply any more of the land for the construction of the railroad, would it follow that the company intrusted by the State with the execution of the work would have a right to recover either from the State or from the Federal Government all the money that it might have invested in such work? If so, we are involving the Government every day in immense liabilities. I apprehend that none of these grants would be passed by Congress if it was supposed that Congress was involving itself in the necessity of paying the companies that may be employed by the States to apply the lands all the losses that they may hereafter sustain in the prosecution of the works. We have made an immense grant of land to aid in the construction of the Pacific railroad; it is provided in the bill making this grant that the company shall raise money and apply it in the construction of the work. Will it follow if at any time a State or Territory through which that road may pass shall for any cause ask Congress to suspend the further application of land, and Congress for good reasons shall agree to do so, that Congress will be under the necessity of refunding to the company constructing that railroad every dollar they have paid in? It seems to me that such a proposition is so very extravagant that it ought not to receive much support in this body; and yet this is the character of the claim set up by this company, that they commenced the construction of a canal, that Congress proposed to aid them in the construction by placing lands in the hands of Wisconsin to be sold, the proceeds of which were to be applied as stock to aid in the construction of the work, and for reasons satisfactory to Wisconsin the further application of land for this purpose was stopped, and then the company asks the State and afterwards the United States to refund to them the money they had put in.

If this application were made as a single proposition, I do not believe it would receive ten votes in this body. If this company should apply here to be reimbursed for all the money it has invested in this work, as a naked proposition, I do not

think it would receive ten votes in this body. It would be a proposition so very extraordinary that I cannot conceive that any Senator would give it his support. It is sought to be carried, however, by coupling it with another measure which is just in itself, and they do not propose even to disgorge what they now hold. The amendment of the committee provides that we shall pay them all the money they have paid in, and leave them in the possession of that water power in Milwaukee which was constructed out of the joint proceeds of the sales of the lands and the investments of the company. If this measure is to be carried, it certainly ought to be amended so as to compel the company to turn over to the State the proceeds of this money, that part of the work which has been constructed and is still in their hands, and out of which they are deriving rents from year to year. But the amendment of the committee does not even propose this. It proposes that we shall return to them every dollar they have expended out of their funds, and allow them to hold on to the proceeds of all the money which we invested and which they invested. I agree with the Senator from Wisconsin that such a proposition ought not to require discussion in this body, and it would not if it stood alone. If the company were standing here at the bar of the Senate asking the Congress of the United States to return to them the money they invested in this work, as a naked proposition, I do not believe it would receive half a dozen votes. It is because that demand is coupled with a demand which is in itself just that they will perhaps receive some votes in this body. If the amendment I propose should be adopted it will merely leave them to settle with the State of Wisconsin. If they have any claims on the State—for myself I do not think they have—they can settle them with the State as other corporations within the limits of the States settle with the States. With these remarks I leave the subject.

Mr. HENDRICKS. I have but a few words to say in reply to the Senator from Iowa, and then I presume this question may as well be voted upon. The Senator repeats what he said the other day, that if there is a claim by the canal company in this case, then in the case of any diversion of the funds under any grant made by Congress, there would be a claim in favor of the particular company. The Senator is unable to find a grant like that of 1838 made by Congress at any time. The act of 1838, making the grant of land to the Territory of Wisconsin for the benefit of this company, provided:

"That whenever the Territory of Wisconsin shall be admitted into the Union as a State, the lands hereby granted for the construction of said canal, or such part thereof as may not have been already sold and applied to that object, under the direction of the territorial government, shall vest in the State of Wisconsin, to be disposed of under such regulations as the Legislature thereof may provide, the proceeds of sale to be applied to the construction of the said canal, or of such part thereof as may not have been completed; and the State of Wisconsin shall be entitled to hold, by virtue of the grant hereby made, as many shares of the stock of the said canal as shall be equivalent to the aggregate of all the sums of money arising from the net proceeds of the sales of the said land and applied to the construction of the canal, anything in the charter of the Milwaukee and Rock River Canal Company to the contrary notwithstanding, and shall be entitled to the same dividends on said stock as any other stockholder; and in the event that the said State shall make no other adequate provision for purchasing out the residue of the stock of the said canal, the dividend of the State stock hereby acquired, and all other proceeds of the sales of the lands hereby granted, shall constitute a fund to be applied to the extinguishment of the claims of all other stockholders until the entire stock vested in the canal shall have been acquired by the State."

So that the dividends upon the State stock and all other proceeds of the sales of these lands were dedicated by the grant itself to the extinguishment of the subscriptions made by individuals.

Mr. HARLAN. On that point I desire to be understood and to understand the Senator. Does he consider that that was a beneficial provision to the company; a clause put in the grant which compelled the company to sell its stock to the State if the State chose to buy it? In that particular it is different from other grants, and only in that. Usually the companies are not compelled to sell their stock to the States; but in this case the grant has a clause which limits the benefit to the company in this, that they shall sell all the stock to the State at the naked cost of the work if the State should choose to buy it; but that is the only difference.



Mr. HENDRICKS. The charter given by the Territorial Legislature to this company provided for that very thing:

"And in the event that the said State shall make no other adequate provision for purchasing out the residue of the stock of the said canal, the dividend of the State stock hereby acquired, and all other proceeds of the sales of the lands hereby granted, shall constitute a fund to be applied to the extinguishment of the claims of all other stockholders until the entire stock vested in the canal shall have been acquired by the State."

That very provision was contemplated in the charter itself of the canal company, and the charter provided that the company should apply to Congress for the grant. The company applied. Upon its application the grant was made. It was not made upon the application of the Territory of Wisconsin, and the grant was not made for the benefit of the Territory of Wisconsin. It was made upon the application of the canal company for the benefit of the canal company, and not for the benefit of the Territory or State; and when the grant was made upon the application of the company itself, Congress provided that that grant should be used for the extinguishment of the stock of the subscribers, so that it should become a free canal.

Mr. HARLAN. I do not know whether I understand the Senator or not. Does he state that that was a beneficial provision to the company, giving the right to Wisconsin to compel the company to sell its stock?

Mr. HENDRICKS. Certainly, because it was consistent with the charter itself. Not only was the canal company entitled, according to the provisions of the land grant, to a return of the stock subscribed, but to seven per cent. interest on it. That was the provision of the act of Congress, that it should be refunded out of the proceeds of these lands with seven per cent. interest. That is what Congress said in 1838; and the Territorial Legislature when this fund was diverted pledged the faith of the Territory and of the State to do that thing, and Congress provided for it when Congress said that the State should have the five per cent. fund. Therefore the equities are mingled with the legal rights of the State of Wisconsin.

Mr. HARLAN. I do not yet understand the Senator, or I do not understand the question. Does he maintain that the company had a right to demand the payment of that money with interest, or only that this Government and Wisconsin reserved the right to buy the stock? Did it clothe the company with the right to demand the payment, or was it simply a reservation to Wisconsin of the right to purchase the stock if she chose to purchase it?

Mr. HENDRICKS. The charter granted to the canal company contemplated that eventually it should become a free canal, that the stock should be purchased up by the State, and that right was reserved in the charter itself, and this grant of land was made with a view of carrying that out; and how? By purchasing up the stock. And certainly, if this grant was made to the State or to the Territory for the benefit of the canal company, and it became the interest of the canal company to have the stock repaid to it, it had the right to demand it of the State, because it is clear that the Territory and the State was but the trustee for the benefit of the canal company.

Mr. HARLAN. That is the very point now in controversy, and I desire the Senator to read any clause in the territorial law or in the law of Congress which provided that the company might demand this repayment.

Mr. HENDRICKS. I do not like to read it more than once or twice. Congress made the grant to the Territory for the benefit of the company, and provided in that very grant that the dividends upon the State stock, which State stock should accrue from the sale of the lands, should not go into the coffers of the State, but should go to the payment of the subscriptions made by individuals, and that the subscriptions made by individuals should be repaid to them with seven per cent. interest. The Territory of Wisconsin took the land with that condition as a trust and obligation when she assumed the trust; and now, sir, on this point I will read a few sentences from the report of the committee on the judiciary of the Senate of the State of Wisconsin:

"Your committee think the following propositions established:

"1. That by said act of Congress, passed on the 18th day of June, 1838, the Territory of Wisconsin was constituted a trustee to sell and dispose of said lands, and apply the proceeds thereof in aid of the construction of said canal.

"2. That said grant of land was made expressly to aid in the construction of said canal, and its use restricted by the act of Congress to that purpose, and none other."

"3. That said company, after said grant was made, proceeded to locate the line of said canal, and commenced the construction of the same in pursuance of powers conferred by the several enactments aforesaid, and, as your committee have reason to believe, in good faith.

"4. That said company expended a considerable amount of its own funds in the payment of work done on the canal, but what amount your committee are not informed.

"5. That the Territorial Legislature undertook the office of trustee by passing an act on the 26th day of February, 1839, entitled 'An act to aid in the construction of the Milwaukee and Rock river canal,' and by several subsequent enactments of succeeding sessions, and continued in the execution of said trust until the 17th day of February, 1842, at which time it passed a series of resolutions declaring all connection between the Territory and canal company to be dissolved, without assigning any reason therefor; that the trust had been imposed upon the Territory by Congress; that it would no longer perform the duties of trustee, &c.; and at the same session passed laws repealing the former laws providing for aiding the company by an application of the land or land fund.

"6. That the canal company repeatedly offered to surrender all control of the canal into the hands of the Territory and withdraw entirely from it upon being refunded the amount which it had expended, which at the time was a small sum; that in consequence of the refusal of the Territory to sell the land and apply the proceeds the company was subjected to much inconvenience, difficulty, and damage in prosecuting the work without the promised aid.

"7. That on the 24th day of February, 1845, the Legislature passed a law for the sale of said land without making provision for applying the proceeds to the purposes intended by the act of Congress; but on the contrary in violation of said act and of the trust thereby created the Legislature subsequently passed a resolution, to wit, on the 3d day of February, 1846, directing the money received from the sale of the land to be paid into the territorial treasury, and that the same be paid out as other territorial funds for the public expenditures, pledging the faith of the Territory and of the State of Wisconsin to refund the same to the canal fund when required for the purposes of the trust.

"8. That one of the purposes of the trust was to pay the stockholders of the canal company the amount paid out by them in the construction and maintenance of the canal in lieu of the stock of the company.

"9. That said company has repeatedly requested the Legislature of the Territory and the State to liquidate their claims, but that up to this time this request has not been complied with.

"10. That said company has made its appeal to Congress for the protection of its rights, claiming that good faith on the part of the General Government requires that Congress should see that its engagements be fulfilled.

"For these and various other reasons which might be stated your committee are of the opinion that there is honestly and justly due some amount of money to said company for expenditures made in payment of work done on the canal, and that a fair and honorable settlement ought to be made between said company, the General Government, and the State upon principles of justice and equity, and that said company ought to be paid whatever amount shall be found its just due."

The Senator from Iowa interposes between the canal company and the State of Wisconsin, and he says there is nothing due to this company. Upon what authority does he say that, when I have incorporated in the report which is on the Senator's table this report of the judiciary committee of the Senate of Wisconsin which says expressly that this land was held in trust for the purpose of extinguishing the stock, that there is a sum of money justly due to the canal company, and when Congress has connected the trust with the legal right, and this judiciary committee says it ought to be adjusted between the canal company, the State of Wisconsin, and the Government of the United States? The judiciary committee of the Senate of Wisconsin, interested in representing the State, used this strong language, and I ask the permission of the Senate to read it again:

"For these and various other reasons which might be stated, your committee are of the opinion that there is honestly and justly due some amount of money to said company for expenditures made in payment of work done on the canal; and that a fair and honorable settlement ought to be made between said company, the General Government, and the State upon principles of justice and equity; and that said company ought to be paid whatever amount shall be found its just due."

Then this judiciary committee of the Senate of Wisconsin agreeing with the report made in the United States House of Representatives in 1842, agreeing with every report that has been made to the Senate of the United States on this subject, says that there is an equity in favor of the canal company. Congress has said that this payment of the five per cent. to the State of Wisconsin should depend upon the adjustment of the equity. The Committee on Claims are unanimously of the opinion that the resolution re-

ported secures and adjusts that equity. The committee have regarded this as a case in chancery, if I may so express it, and that this resolution is the proper decree in chancery. The obligations of trustees and the rights of beneficiaries are properly adjusted ordinarily in a court of chancery; and I say there is no Senator here sitting in chancery and knowing all the facts in this case who would fail to give to the canal company its rights under this trust when the legal claim was made by the State of Wisconsin for her five per cent. fund.

I have no interest in the world in this question except to see that right and justice be done in the case. No committee of the Legislature of Wisconsin, so far as I have known, no committee of the House of Representatives, no committee of this body has ever failed in any report made to recognize this equity, and that the claim of Wisconsin to the five per cent. could not be allowed except in connection with the equity of the canal company.

Mr. HARLAN. I will add a single word. The report of the committee of the Legislature of Wisconsin, which the Senator has read, states that the proceeds of these lands were to be used in buying the stock. That is only true in a qualified sense. The law provided that Wisconsin might thus use the fund if it chose. Not one dollar of the money derived from the sale of this land was ever thus used, and not one dollar of it was to be so used, unless Wisconsin chose to buy them out. Exercising her volition or her judgment of her interests, she reserved the right to apply the rents and the proceeds of the money thus applied to the purchase of the stock. It thus diminished the value of the grant to that extent. Usually when grants of this kind are made and money is invested by private individuals and companies, they do not agree to sell their stock at the naked cost and seven per cent. interest. If the stock should be worth more than that, they would not sell it; but in this case if this stock should be worth one hundred per cent. above par, any amount of money whatever, Congress provided that the company should sell it at par with seven per cent. interest to the State of Wisconsin; and because the stock was thus restricted, the Senator claims that the company ought to be permitted to sell it to the Government, whether the State of Wisconsin chose to buy it or not. In point of fact, Wisconsin did not want to buy the stock, never agreed to buy it, and never agreed to pay this company one dollar on that account; and it is because Wisconsin has persistently refused to do it that they come to Congress.

Wisconsin had a right to do it under the charter that she herself gave to the company, and she had a right to do it under the law passed by Congress; but it was a right of which she never availed herself, and never desired to avail herself, because the stock was worthless. If it had been valuable stock, if it had been to the advantage of Wisconsin to make this purchase, she had the right to make the purchase; but the Senator's proposition now is to compel the Government to make this purchase.

That is the difference between the law and the Senator's proposition. He proposes by this joint resolution to compel the Government of the United States, or the State of Wisconsin, to buy this stock at its par value and the interest which he suggests. The law reserved to the State the right to do it if she chose, but she never did choose to buy it, never decided to buy it. It is a proposition on the part of the Senator to compel the Government to buy up this stock of a rotten company, and he says that the committees of the House of Representatives have persistently refused to make this adjustment with Wisconsin unless Wisconsin would pay for this stock. I have never seen any such report. The report referred to by the Senator, and which is incorporated in part in his report, was one made in the House of Representatives before Wisconsin was a State, and the conclusion came to by that committee was that the work would probably be a valuable work to the public, and therefore the construction of the work ought not to be suspended, and hence the land ought not to be diverted from that use; and that is the whole conclusion to which they come. It does not refer to and could not refer to the adjustment of the five per cent. fund, and, as far as I have been able to learn in the examination